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Congressional Record

United States
of America

PROCEEDINGS AND DEBATES OF THE 99th CONGRESS, FIRST SESSION

SENATE—*Wednesday, December 11, 1985*

(Legislative day of Monday, December 9, 1985)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Hast thou not known? Hast thou not heard, that the everlasting God, the Lord, the Creator of the ends of the earth, fainteth not, neither is weary? He giveth power to the faint; and to them that have no might He increaseth strength. Even the youths shall faint and be weary, and the young men shall utterly fall; but they that wait upon the Lord shall renew their strength; they shall mount up with wings as eagles; they shall run, and not be weary; and they shall walk and not faint.—Isaiah 40:28-31.

Everlasting Father, help the Senators to hear these promising words from the prophet Isaiah. Protect them in their weariness of body, mind and emotions, against the breaking point beyond which lies burn out, cyncism, and disillusionment. Protect their spouses from despair through chronic disappointment despite promise after promise that things would be different. Help the Senate find its way to self-discipline which will clothe this body with the dignity—the honor—the greatness—which is its historic precedent. Be present in grace and power today. Prove that You care—that You can enable the Senate to do the impossible. For Your sake, the people's and our families'. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The distinguished majority leader is recognized.

SCHEDULE

Mr. DOLE. Mr. President, under the standing order, the leaders have 10 minutes each. There will be a period for routine morning business until 10 o'clock with Senators permitted to speak therein for not more than 5 minutes each.

Following morning business, we shall turn to the consideration of the conference report on House Joint Resolution 372. We hope to dispose of that this morning or sometime early today because there are a number of conferences going on, and we do not want to clutter up the day with a lot of votes to bring people back and forth from conferences.

Also, there is the unanimous consent agreement on S. 1396, the White Earth Indian Reservation bill, of 4 hours. It is hoped we might be able to complete action on that today.

I do not anticipate many rollcall votes. There could be one on the conference report, I am not sure how many on the White Earth Indian Reservation bill—I hope none. We are not encouraging rollcall votes today, we are discouraging them, so if there are matters that can be resolved without rollcalls, it would be helpful to those 40 or 50 Senators who are scattered around the Capitol in various conferences—on the farm bill, reconciliation, the continuing resolution. Those three conferences, I know, involve at least 25 to 35 Senators.

So, Mr. President, there is still that glimmer of hope—I think it is a little brighter than it was yesterday—that good things could happen this week, that we could complete action on the "must" items and maybe adjourn this weekend until the 21st of January. If not, hopefully, no later than Tuesday of next week.

EXPRESSING CONDOLENCES ON THE DEATH OF MARGARET "PEGGY" GOLDWATER

Mr. DOLE. Mr. President, I know that all my colleagues join me in expressing our sincerest sympathy to Senator BARRY GOLDWATER and the Goldwater family on the loss of his wife Peggy. Mrs. Goldwater died early this morning as a result of complications following surgery.

Peggy was BARRY's partner since 1934. She was by his side during his early business career, and throughout his long and distinguished political career. She was an exemplary mother to their two daughters and two sons, and cherished grandmother to their 10 grandchildren.

In today's world, sharing your life with someone for 51 years is a remarkable feat. But BARRY and Peggy GOLDWATER proved that couples can survive life's ups and downs, and do it with a sense of humor and style.

I know that BARRY will deeply miss Peggy's presence and none of us here in the Senate can fill that void. But I'm sure I speak for everyone in this body when I say we are here to do what we can as colleagues, and as friends.

DOT APPROPRIATIONS FOR 15 REPLACEMENT TURBOPROP AIRCRAFT FOR FAA

● Mr. DOLE. Mr. President, having completed action on House Joint Resolution 465 yesterday, I would like to urge my Senate colleagues, who were selected to serve on the Conference Committee, to take a close look at one provision.

BACKGROUND

During recent consideration of the Department of Transportation appropriations bill, the Senate committee adopted a $27 million offset from fiscal year 1983 funds, thereby eliminating funding for 15 replacement turboprop aircraft for the FAA. The Senate relied upon a recent FAA study indicating that the flight time of 15 aging Sabreliner aircraft could be extended through a Service Life Extension Program [SLEP] at a cost savings of $3 million. The House, however, wisely retained the $30 million appropriation for 15 new turboprop aircraft.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

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COST SAVINGS?

Facts brought to my attention have convinced me that the Senate position is based upon incomplete and misleading information. The Sabreliner aircraft are no longer in production and parts support is increasingly difficult and expensive. Procurement of new, more efficient aircraft, as opposed to repair of the old will lead to a savings of $97.1 million over a 10-year period. New information also shows that the initial capital investment of $30 million will be authorized through reduced operating costs in less than 3 years after the program go-ahead. Further, Mr. President, I believe it is grossly unfair to those companies who have already expended funds to submit their proposals to suddenly have this funding terminated.

RESTORING FUNDING

Mr. President, now that the transportation appropriations bill has been folded into the continuing resolution, I urge my Senate colleagues to recede to the House position on this matter and restore the fiscal year 1983 funding. Let me assure my colleagues that I do understand the cost restraints facing the members of the committee. However, I do believe that an attempt to be fair to those who have already submitted their proposals and to provide cost efficient aircraft for the FAA, that the funding must be restored. Should it not be restored in conference, let me assure you that I intend to pursue its restoration in the fiscal year 1987 budget.

Mr. President, I reserve the remainder of my time.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER (Mr. Gorton). Under the previous order, the Democratic leader is recognized.

Mr. BYRD. Mr. President, I yield 5 minutes of my time to the distinguished Senator from Wisconsin [Mr. Proxmire].

I ask unanimous consent that the remainder of my time may be reserved for me throughout the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I thank the minority leader.

LOOK WHO IS CUTTING MILITARY SPENDING: GRAMM, RUDMAN, HOLLINGS

Mr. PROXMIRE. Mr. President, the country may be facing a 5-year period when, for purely domestic reasons, we may cut back military spending spectacularly. There is no dove in this body of Senators who advocates the kind of unilateral cutback in military strength that the budget reduction measure will require of the Congress. Ah—what an irony! Gramm-Rudman-Hollings happens to be sponsored by three Senators, each of whom has consistently and vigorously championed a stronger military force and still does.

Senator Phil Gramm, both as a Congressman and as a Senator, has been a leader in the fight for a stronger, more vigorously funded Army, Navy, and Air Force. There is no Senator who has taken a more consistent and positive part in working to build a strong American military force in the past few years than Warren Rudman. I have served with Senator Rudman on the Defense Appropriations Subcommittee, which is ably chaired by Senator Stevens. The one Senator who has devoted as much time, energy, and effort to building up our armed services as Chairman Stevens is Warren Rudman. Senator Fritz Hollings has long been the Democratic leader in fighting to give the armed services the sea power, the land power, the air power, and the nuclear power they need to surpass the Soviet Union wherever they might challenge this country for world military supremacy.

So there you have it, Mr. President. This Senator likes and respects each of these three colleagues. I disagree with them often on military procurement policy, on military personnel policy, and on the level of our resources we need to pour into the military in order to provide the most effective national security. But I recognize the very high level of military expertise this Gramm-Rudman-Hollings, three-musketeer trio, represents. This is why I am astonished by the consequences of the Gramm-Rudman-Hollings measure for American defense.

The press has concentrated its interest on the dilemma raised by this budget resolution proposal for the President. After all, this deficit-cutting proposal seems tailormade for what the President has been calling for except that it does not just threaten the national defense that constitutes President Reagan's prime Government interests. It does more; much more. It would end the massive accretion of more ships, more tanks, more planes, more missiles. That is just the beginning. Gramm-Rudman-Hollings will force an actual reduction and a big reduction in the resources we will put into our military arsenals.

Mr. President, if this were any of the five other Presidents who have served this country since General Eisenhower left the Presidency were now in office—if this were Presidents Kennedy or Johnson or Nixon or Ford or Carter—the howls against the devastation this budget cutter will wreak on the military would blow down the walls of the Capitol. If this proposal had been offered by any other combination of Senators than these three champions of military strength—Gramm, Rudman, and Hollings—it would have been roundly condemned as unilateral disarmament or surrender to the Soviets or both.

Have I exaggerated the effect of Gramm-Rudman-Hollings on the military? Just figure it out for yourself Mr. President. This measure will, over the next 5 years, mandate a cut of $200 billion in the deficit. During at least 3 of the 5 years, the budget cuts will be virtually mandatory. Why does this follow? Because the President has announced he will veto any tax increases. Few, if any, Members of the Congress will fall on their reelection swords in a wholly vain act to increase taxes when the President has promised to veto any such increase. This means the deficit reductions can only come from spending reductions. The conference report has determined that 50 percent of these reductions will come from nondefense programs and 50 percent from military programs. Poverty programs will be spared, Social Security will suffer no reductions, interest on the national debt will be paid in full. But three of the Senate's foremost champions of a strong military force and a President who has pushed for a military buildup more vigorously than any President in the nuclear age will be leading the charge for this huge military cutback.

And what a military cutback. This is a cutback that will make even the most dovish Senators concerned about our military strength. In the judgment of this Senator, the consequences of Gramm-Rudman-Hollings on the military is the irony of the year.

MYTH OF THE DAY

Mr. PROXMIRE. Mr. President, my myth of the day is that the social safety net woven out of unemployment insurance is as tight as ever.

While the unemployment rate has dropped from a recession high of 10.7 percent to the current 7 percent, the proportion—not just the number, the proportion—of jobless workers who receive unemployment compensation benefits has fallen even more sharply. In May of 1975, 5.2 million of the 7.7 million unemployed workers, or more than two-thirds, received unemployment benefits. In April of 1983 only 52 percent or 5.7 million out of the 11 million unemployed Americans received unemployment benefits. In October of 1985 only a little over 2 million of the 7.9 million unemployed workers were receiving unemployment benefits. The astonishing decline in unemployment insurance coverage meant that in October only 1 out of every 4 unemployed workers was getting unemployment compensation benefits.

What accounts for this remarkable decline in the coverage by unemployment compensation of unemployed Americans?

First, tighter Federal and State eligibility rules have made it more difficult to qualify for benefits.

Second, two recessions occurred with only a brief upturn between them, leaving many workers without enough recent time on the job to qualify for unemployment benefits.

Third, a larger proportion of the work force is now employed in jobs which are not covered by the unemployment insurance system.

Whatever the reasons, it is clear that the unemployment insurance safety net created during the depths of the Great Depression and vastly expanded in the following 40 years now contains giant gaps resulting in the overwhelming majority of today's unemployed receiving no unemployment insurance benefits.

PERSECUTION OF THE BAHAIS CONTINUES

Mr. PROXMIRE. Mr. President, the persecution of the Bahais in Iran has intensified. According to the October 26, 1985, issue of the Economist, nearly 200 Bahais have been executed by the regime of the ayatollah Khomeini.

The Bahai faith is not just a small Iranian sect subject to persecution. The Bahais have over 3½ million members worldwide; a million in India, 300,000 in Iran, and 150,000 in America.

The Bahai faith accepts all major world religions as stages on the way to truth. They accept Mohammed, Jesus, and various Old Testament figures as genuine prophets and differ from Islam in that they do not accept Mohammed as the final prophet.

The Iranian Government objects to the Bahais because of this difference of doctrine. The Attorney General of Iran expressed the Iranian objection to Bahais as follows:

> The Koran recognizes only the people of the book (Muslims, Christians and Jews) as religious communities. Others are pagans. Pagans must be eliminated.

Mr. President, it is not only the Bahai religious beliefs that fuel Iranian hostilities toward them, but also their material success. Bahais in Tehran tend to be wealthy professionals. The Shah's doctor was a Bahai.

Discrimination against Bahais is widespread and has increased dramatically since the Ayatollah assumed power in 1980. That year marked the increase of government persecution of the Bahais with executions, imprisonment, and anti-Bahai legislation.

Mr. President, the persecution of the Bahais is an example of the abuses of international moral standards that will continue to occur as long as we refrain from condemning it and its deadly successor—genocide. While the Ayatollah's regime in Iran has not made a systematic attempt to eliminate all Bahais, it is certainly persecuting members of an easily identifiable group because of its religious views. These horrible abuses will continue to occur and may escalate unless we take action to prevent such an escalation.

Mr. President, as worldwide defenders of human rights, we must take every action available to us to prevent the persecution of religious groups. I urge my colleagues to join me in support of the most basic of human rights—the right to live without persecution because of one's membership in a national, ethnical, racial, or religious group. The Genocide Convention makes such persecution an international crime and requires those who ratify the convention to act to prevent genocide, and to punish the perpetrators of genocide. The time has come to back up our commitment to human rights and ratify the Genocide Convention.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business not to extend beyond 10 a.m., with statements therein limited to 5 minutes each.

RESCIND NOBEL PEACE PRIZE AWARD

Mr. DOLE. Mr. President, the Nobel Peace Prize is perhaps, the most prestigious of all international honors. It is to be awarded to those who have made unique and enduring contributions to international peace.

While there has been occasional criticism of some past awards, for the most part the recipients of the Nobel Peace Prize have been unquestionably worthy—people like Albert Schweitzer, Martin Luther King, Andrei Sakharov and Lech Walesa.

NOBEL PRIZE COMMITTEE MAKES TRAGIC MISTAKE

Regrettably, the Nobel Committee this year made a tragic mistake. Included in its award of the peace prize to the International Physicians for the Prevention of Nuclear War is the codirector of that organization, Dr. Yevgeni Chazov.

Chazov is not only unworthy of the award—his selection is an affront to the very principles which the peace prize is supposed to represent.

Chazov, who has been the U.S.S.R. Deputy Minister of Public Health, has been actively involved in such inhumane Soviet practices as the psychiatric incarceration of dissidents. He also joined 24 other Soviet officials in signing a letter condemning the activities of Andrei Sakharov, who, as I noted, was himself and very deservedly awarded a Nobel Prize for his work on behalf of international peace—work which won him only harsh mistreatment and abuse by the Soviet state.

WESTERN EUROPEAN DEMOCRATIC LEADERS OBJECT TO AWARD

West German Chancellor Kohl and the leaders of the other major Christian Democratic Parties of Western Europe have already written to the Nobel Committee urging that Chazov not be included in the award or the ceremonies which surround it.

RESOLUTION URGES RESCINDING AWARD

The resolution which was passed by the Senate last evening urges that the Nobel Prize Committee rescind its decision to include Chazov in the 1985 peace prize award. I was pleased to have been joined as an original cosponsor by Senator D'AMATO, the chairman of the Helsinki Commission; and Senator HUMPHREY.

ENERGY TAX CREDITS FOR GEOTHERMAL ENERGY DEVELOPMENT

Mr. HECHT. Mr. President, during the 98th Congress, I chaired hearings in Sparks, NV, to examine the current status and future needs of the geothermal energy industry. As a result of those hearings, I introduced the "Geothermal Steam Act Amendments of 1985." This proposal, if enacted, would permit the Secretary of the Interior to extend the lease-hold period of Federal geothermal leases in those circumstances where the leaseholder can demonstrate that development of the lease has been delayed due to unfavorable market or economic conditions. I anticipate that the Energy and Natural Resources Committee will conduct hearings on this measure in early 1986. Since the majority of U.S. geothermal resources are thought to be located on public lands, I believe it is important that we carefully manage this resource and, at the same time, provide the private sector with reasonable incentives that will encourage its development.

Today, I want to address the need to retain another incentive: The renewable energy resources tax credits, which are scheduled to expire December 31, 1985, unless an extension is approved. The House Ways and Means Committee recently reported out of committee a tax reform proposal which includes a provision to extend these tax credits for an additional 3 years. I urge the Senate Finance Committee and the full Senate to adopt a similar extension as soon as possible.

Our Nation has many large, untapped geothermal prospects which are thought to be suitable for electric power production or space heating. Even though we are currently experiencing an abundance of energy supplies, our continuing dependence upon foreign sources and the volatile nature of energy prices dictate that we should actively encourage the development of domestic energy sources. The U.S. Geological Survey has estimated that 95,000 to 150,000 megawatts of electricity, with a 30-year generating life, could be recovered from our geothermal resources. Given its immense size, this is an energy resource we cannot afford to ignore. The continuation of geothermal energy tax credits for a limited period of time should give geothermal developers the incentive needed to ensure that this resource is developed, and the technology required to convert geothermal energy into useful heat or electricity is adequately demonstrated.

The 1985 installed electric capacity of geothermal energy is about 2,000 megawatts; the 1985-90 projected capacity additions are estimated at 1,200 to 1,700 megawatts. Continuation of the energy tax credit would ensure that this future development, in fact, takes place. U.S. geothermal energy developers appear to be at an important crossroads; despite a commendable track record of rapid, and successful development, there are impediments which can seriously retard full-scale utilization of this resource. Specifically, the geothermal industry must lengthen its track record of successfully characterizing geothermal reservoirs in order to secure the confidence of potential powerplant owners and investors that the energy resource will be available for the life of the powerplant. Second, industry, which has already made significant strides in advancing the demonstration of technologies and hardware to utilize geothermal resources, needs additional time to convince still skeptical utilities that the technology required to use geothermal is available and effective. In other words, several more projects must be constructed and operated before utilities will construct geothermal powerplants themselves, and before investors will fund projects without requiring high returns to compensate for the perceived high risks.

Congress has the opportunity to show its support for energy independence and domestic energy development by extending the renewable energy resources tax credits, thereby encouraging the continued growth of the geothermal energy industry. The potential of this resource is great, and development should be encouraged. I hope that the Congress will have an opportunity to address this issue before the tax credits expire at the end of the year.

For the use and information of other Senators also interested in the geothermal industry, I ask unanimous consent that a brief document describing the state of this industry and the potential of the resource appear at the conclusion of my remarks.

There being no objection, the document was ordered to be printed in the RECORD, as follows:

GEOTHERMAL ENERGY DEVELOPMENT: A BRIEF STATUS REPORT

INTRODUCTION AND BACKGROUND

U.S. geothermal resources are currently providing the energy to generate more than 2000 megawatts of electric capacity.[1]

To date, most commercial development of domestic geothermal resources has taken place at The Geysers, a "dry steam" geothermal field located just north of San Francisco, California. Power production capacity at The Geysers is expected to reach 1,792 megawatts by the end of 1985 and, before the turn of the century, could reach more than 2,700 megawatts.

U.S. industry is also on the verge of widespread commercialization of high temperature, liquid-dominated geothermal resources. These resources are more difficult and expensive to utilize but are thought to be far more abundant than dry steam resources. The U.S. Geological Survey ("USGS") has estimated that liquid-dominated resources, much of which are located on federal lands throughout the western United States and Hawaii and Alaska, contain the energy equivalent of 5,000 quads of energy. Current total U.S. energy use is approximately 75 quads per year (1 quad=180 million barrels of oil). Of this amount of untapped geothermal energy the USGS estimates that as much as 95,000 to 150,000 megawatts of electricity for a period of 30 years could be recovered.[2] Since the late 1970's several pilot plants have been constructed in the U.S. and are currently in operation. These demonstration facilities, along with a decade of concentrated industry and government-supported research and development efforts, have shown the technical feasibility of utilizing some of these high temperature, liquid-demonstrated resources. The success of these research, development and demonstration efforts has resulted in substantial commercialization activities in which industry is now operating or has under construction approximately 300 megawatts of electrical generating capacity powered by liquid-dominated geothermal resources. If delays are not encountered most of this new capacity is expected to be on line during calendar year 1985. An additional 600 to 700 megawatts of capacity to be derived from liquid-dominated resources is also being planned by industry. The development of this additional capacity, much of which could be placed into service during the latter half of the 1980's, is still largely dependent upon continuation of favorable tax incentives like that provided by geothermal energy tax credits.

Not only has the private sector conducted an active program to develop utilization technologies but, since the early 1970's when federal lands were opened to geothermal leasing, industry has conducted an extensive resource exploration and development program. Today, nearly three million acres of federal lands are subject to geothermal leases; and, in excess of 100,000 acres of privately held lands are also under lease.[3] To utilize geothermal resources requires a significant amount of time because resource developers must first discover commercial quantities of a geothermal resource and then accurately define the reservior before work can commence on a power generation project. Resource developers have already spent several years and millions of dollars exploring for and discovering commercial quantities of geothermal resources and then conducting extensive reservoir characterization programs, as well as drilling scores of wells capable of commercial production.[4]

Even after these commercial quantities of geothermal energy have been discovered and evidence is presented that the resource will power an electric generation facility for the useful life of the power plant, electric utilities are reluctant to construct power plants using geothermal resources. Questions about geothermal reservoir life and whether off-the-shelf technology can be successfully adapted to the conversion of geothermal heat into useful forms of energy continue to prevent active development or use of geothermal by utilities. Given these uncertainties, utilities have insufficient assurances that regulatory agencies will permit recovery of an investment in a geothermal power plant. Therefore, with the exception of power plant developments in the central portion of The Geysers field, a power plant in northern Utah, and two demonstration plants in southern California, geothermal power plants are still thought to be too risky and are not being constructed by utilities. Instead, power production facilities utilizing geothermal energy are being undertaken by geothermal resource developers or other third parties.

In order to obtain a return on investments made in geothermal energy development, the resource developer or third party investor must not only discover and develop the geothermal field but also arrange for the financing and construction of the power plant, negotiate the power sales contracts with utilities, and incur all those other costs and time delays associated with power plant construction and operation. Unlike oil and gas drilling programs which promise to yield immediate financial returns, the discovery of a commercially viable geothermal resource is merely the first phase of a project. Now that the geothermal industry has adequately examined potential resources and defined several significant commercial sites, what is left is to develop commercial projects to utilize the geothermal energy located at those sites. When these time-consuming phases of development are considered, and given the current world-wide energy surplus, geothermal energy development has progressed quite rapidly over the last one and one-half decades.

An indication as to the possible usefulness of geothermal energy tax credits in stimulating development is best demonstrated by the amount of generating capacity on-line before 1978 and that amount to be on-line by the end of 1985 as well as the amount of planned capacity to be powered by geothermal resources before the end of the 1990's.

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[1] "Geothermal Electric Power, The State of the World—1985," Ron DiPippo, p. 13 (1985).

[2] U.S. Geological Survey Circular 790 at p. 12.

[3] Information regarding acreage under federal leases obtained from November 1984 telephone conversation with personnel at the Bureau of Land Management, DOI, Washington, D.C.

[4] For example, Dr. Carel Otte of Union Oil Company testified before a Senate subcommittee hearing in June 1983 that his company "alone has spent $100 million out of its own pocket." for development of geothermal resources in California's Imperial Valley. Of the amount invested only $4.0 million in tax credits were claimed. According to Dr. Otte ". . . the reason is that the expenditures so far have been primarily for exploration and other expense items that do not qualify [for tax credits]."

The following table provides a comparison of electric generation capacity available before and after enactment of the geothermal energy tax credit in 1978.

Years	Megawatts of new capacity from geothermal	Status	Location geothermal resource
1960-76	502	Operational	The Geysers dry steam.
1960-78	0	None	Liquid dominated projects.
1979-85	1,290	Operational	The Geysers dry steam.
1979-85	236.7	Operational/in construction.	Various locations liquid dominated.
1986-95	700-900	In construction or planned.	Within and on outskirts of The Geysers.
1986-95	600-700		Various locations liquid dominated.

Besides serving as an incentive for more rapid development of geothermal resources, energy tax credits have also provided a means to attract several new companies into the geothermal business. For example, a number of engineering and construction firms are now developers and owners of geothermal power plants. One reason why these companies, and others, have been attracted to geothermal resource development is because a corporate investment in an otherwise new and high risk venture can be partially offset by taking advantage of the available geothermal energy tax credits.

NEED FOR CONTINUATION OF GEOTHERMAL TAX CREDITS

Because geothermal resources can vary greatly in temperature, pressure and fluid characteristics, several electricity production projects using different geothermal reservoirs must be operated at commercial scale before the financial community will be convinced that the economic and technical risks attendant with the development of geothermal resources are reasonable.[5] This means, first, that industry must construct a sufficient number of conversion facilities to successfully demonstrate that the technology and hardware, which is primarily off-the-shelf equipment, can be utilized to convert a representative sampling of geothermal resources of different temperature, pressure and fluid characteristics into electricity. Secondly, the geothermal industry must establish a positive record of reasonably quantifying the size and other characteristics of a given geothermal reservoir that is intended to supply the energy needed for the useful life of the geothermal conversion facility. To date, neither of these prerequisites has been adequately fulfilled; more time is needed.

Until several geothermal projects have been completed and are operating reliably, equity investors will require a significant return on their investment to compensate for the real or perceived risks and lenders will require a premium for the use of funds that constitute project debt. In addition, lenders will require the guarantees of financially secure entities, either project sponsors or third parties, to protect their loans. Under these current circumstances geothermal projects are expensive to finance. If the cost to produce energy from a geothermal production facility is already projected to be expensive in any case, then high financing costs might lower cash flow from a project so far as to eliminate the possibility that the project will be built.[6] Energy tax credits are important to those geothermal projects now under construction or in planning that rely, in part, on these tax credits to assist in adequately capitalizing a project which is perceived to be high in cost and in risk.

The geothermal energy tax credits, however, will only be available if a project is completed and placed into service by December 31, 1985.[7] A project will not even be attempted if the developer determines that the energy tax credits are essential to the economics of the project but will expire before the project qualifies for the energy tax credit. Yet these same projects are needed to demonstrate to the financial community that the power plant hardware and technology that has been previously used by the utility industry in traditional fossil fuel-fired power plants can be effectively utilized where geothermal resources, not oil, gas or coal, provide the necessary thermal energy. Also, operation of these projects are required to provide important additional experience in the characterization and utilization of a variety of geothermal reservoirs.

If the geothermal industry is able to construct and begin operating those projects now under development the investment and financial community should thereafter have the necessary evidence that geothermal energy can be used reliably with existing power plant hardware and technology and that the industry's characterizations of reservoirs are accurate. Once these dual goals are reached those geothermal project developers who have successfully constructed projects should face less stringent lending terms for geothermal development, more modest requirements for return on investments, and perhaps an ability to finance additional projects with internally generated income. If these facilities are not constructed, then widespread development of geothermal resources in the United States will be substantially or indefinitely delayed until such time as conventional energy prices rise dramatically and the perceived risks of geothermal development are outweighed by higher returns to a project resulting from these increased costs of energy.

SOLUTION SOUGHT BY THE GEOTHERMAL INDUSTRY

Continuation of the existing 15% geothermal energy tax credit for a limited period of time will allow the next generation of geothermal facilities now in planning or under construction to be built. Once constructed and in operation these facilities should provide the necessary evidence of technological feasibility and resource reliability that will then enable the geothermal industry to obtain financing without the energy tax credit incentive.

By extending the tax credit for an additional three years those facilities now under construction or "on the drawing boards" will be completed and placed into service. Further, because large-scale geothermal projects require one and one-half to two years to design and construct, the adoption of a two-year affirmative commitments rule would ensure that proejcts that have been planned by the end of the three-year extension period will also be constructed. The adoption of a two-year affirmative commitments rule could provide that eligibility for the existing geothermal energy tax credit will be tied to activities that must be completed by the project developer/taxpayer by certain dates. If the project development activities are completed on or before the prescribed dates then the energy tax credit would continue to be available for the additional two-year period of time.

BENEFITS OBTAINED BY EXTENSION

The development of our domestic geothermal energy resource can provide the United States with a very substantial source of new energy. More importantly, once a geothermal resource has been identified and the commerical feasibility of the resource established, a new geothermal power generation facility can be constructed within twelve to twenty-four months compared to the seven to fourteen years required to bring a nuclear or coal-fired facility on line. These geothermal facilities will also provide electricity at a projected cost, including the costs to develop the reservoir, of approximately $1,000 to $2,500 per kilowatt of installed capacity compared to the $3000 to $5000 per kilowatt of installed capacity of new nuclear plants scheduled to come on line in 1985 and beyond.[8] Furthermore, the operating records of on-line time for those geothermal plants now operating is in excess of 70%, whereas nuclear power plants and coal-fired power plants average approximately 60%. Because the geothermal resource must be reinjected into the ground after use there is little atmospheric pollution. Also, except in unique circumstances like that encountered near the Salton Sea in California where the precipitation of minerals due to temperature drop has required the filtration and trucking away of some sludge, there is no solid waste residue resulting from utilization of geothermal resources. These cost, reliability and environmental advantages simply mean that the continuous operation of geothermal-based electric energy can provide a unique non-polluting source of energy for the long term needs of the United States.

The cost to the federal treasury of extending geothermal energy tax credits is minimal. Importantly, federal royalty payments, which will be paid directly to the federal treasury if the geothermal resources are located on federal lands, and income taxes which will be collected from the geothermal power production facility, more than offset the initial loss of tax revenues. For example, a typical 50 megawatt flash-steam facility powered by liquid-dominated geothermal resources is projected to cost between $75 to $125 million. With this projected capital

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[5] Even in The Geysers field which has undergone substantial commercial development, utilities and lending institutions still perceive geothermal energy development to be very risky especially in new areas and along the outskirts of the current boundaries of The Geysers.

[6] Geothermal projects can sell electricity under the auspices of the Public Utility Regulatory Policies Act (PURPA) which generally requires a utility to purchase that geothermal-generated power at the utility's avoided cost. A utility's avoided cost is defined as the cost to the utility to purchase power elsewhere or otherwise produce the power itself. Even though PURPA requires the purchase of power at a utility's avoided cost, geothermal project developers are still selling electricity into a regulated market. This generally means that the price to be paid for the electricity produced can be no higher than a pre-established amount. Consequently, even though the risks may be within the range where investors require very high returns commensurate to the perceived risk, the sale of power into a regulated market substantially limits the return on investment.

[7] If a project requires more than two years to construct, section 46(d) of the Internal Revenue Code permits a taxpayer to claim energy tax credits as a qualified expenditure is made. Thus, a qualifying geothermal project may be able to claim the energy tax credit up through the current 1985 expiration date for expenditures actually made on qualifying geothermal property even though the facility is not placed into service until after 1985.

[8] Forbes magazine, Feb. 11, 1985, p. 85.

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cost for the power plant between $11.3 to $18.8 million could be claimed through geothermal energy tax credits. As depicted by the attached chart royalty payments made to the federal treasury if the power production facility uses geothermal resources obtained from lands under federal lease more than offset the losses in tax revenues occasioned by claiming geothermal energy tax credits. In fact, in about eight years, royalty payments will more than offset tax revenue losses.

Also, over the life of a typical 50 megawatt geothermal project the equivalent of 17 million barrels of oil will be saved; the energy tax credit thus equates to an $0.88 subsidy per barrel of oil equivalent.[9]

Finally, the Department of Energy in the most recent National Energy Policy Plan provided the following assessment with respect to future electricity demand:

"According to one set of load-growth projections . . . significant additional generating capacity will be required to meet future demands, to replace obsolete facilities during the 1990's, to displace high-cost fuels (that is, oil and natural gas), and to provide for effective reserve margins. Should these projections prove correct, 438 gigawatts of additional generating capacity would be needed by the year 2000. This translates into the need to build the equivalent of 438 large (1,000 megawatt) electric generating plants. Approximately 25 percent of this additional capacity is currently planned or under construction."

If this assessment is correct then the United States will require additional generating capacity during that same period when geothermal power generation will have been adequately demonstrated and could thereafter provide a substantial supply of electricity to the nation's electric grid. Given the current difficulties of the U.S. utility industry in constructing large central station power plants, there is every reason to believe that new generating capacity will most likely be met by adding much smaller amounts of capacity over shorter periods of time between planning, construction and operation. Geothermal energy can be added in less than 5 megawatt to as much as 110 megawatt increments over very short periods of time from initial planning to construction to operation.

A sensible national energy policy ought to include those government incentives previously provided which industry can demonstrate are necessary for encouraging the development of a very large domestic energy resource. The geothermal industry is currently using the energy tax credit to attract the capital necessary to construct a significant number of pioneer, commercial-sized geothermal powered electric generation facilities. This federal incentive should not be curtailed just at that time when private industry and the government have made substantial investments and progress in developing an energy resource that appears to be competitive in the near term with other sources of conventional energy. More importantly, if the current development path of the geothermal industry is encouraged, then substantial increments of electrical capacity can be expected from geothermal resources just at that time during the 1990's when shortages of electrical capacity are likely to occur.

IN RECOGNITION OF MAYOR CHARLES R. MATHEWS

Mr. BRADLEY. Mr. President, I would like to bring to the attention of my colleagues the achievements of an outstanding New Jersey public servant, Mayor Charles R. Mathews of the town of Newton.

Major Mathews has enjoyed an extensive career in public service for the past 32 years. As a resident of Newton since the age of 15, he has served the town in many capacities, including town clerk, municipal court clerk, registrar of vital statistics, acting town manager, the first financial director, a member of the town planning board for 12 years, a member of the town council for 24 years, deputy mayor for five terms, and mayor for five terms.

Mayor Mathews' career has also included several positions on the county and State level. For the past 7 years, he has served as Sussex County's manpower director and administrator of the Job Training Partnership Act. He also spent more than 11 years as the State motor vehicles agent in Sussex County and more than 5 years as the bureau chief of housing inspection for the New Jersey Department of Community Affairs.

Recently, Mayor Mathews was elected to head the New Jersey League of Municipalities, an organization of most of New Jersey's 567 municipalities. I look forward to his leadership of this important organization on the many important issues which confront them. He has particularly targeted our serious toxic waste problems for attention.

Throughout his distinguished career, Mayor Mathews has demonstrated a tireless commitment to serving the public. He is always available to the citizens of Newton. They know that they can call the mayor or stop by his house whenever they have a problem—day or night.

I commend Mayor Mathews for his outstanding service to Newton and to New Jersey.

A SOLUTE TO MAYOR CHARLES R. MATHEWS

Mr. LAUTENBERG. Mr. President, I rise to recognize the achievements of a prominent New Jerseyan, Mayor Charles R. Mathews of the town of Newton.

Mayor Mathews has dedicated much of his adult life to public service in Newton. Recently, his leadership was recognized when he was elected president of the New Jersey League of Municipalities, representing almost all of New Jersey's 567 municipalities.

As part of his responsibilities as president, Mayor Mathews is now representing New Jersey at the National League of Municipalities Convention in Seattle, WA. New Jerseyans can feel proud that we have such a fine delegate in Mayor Mathews.

A resident of Newton since the age of 15, Mayor Mathews' history of public service and involvement is extensive and impressive. In his 22 years of elected service to Newton, he has served five terms as mayor, in addition to five terms as deputy mayor. His 24 years on the town council represent the longest period of service ever on that body.

Mayor Mathews' other responsibilities in Newton have included 12 years on the town planning board, and periods of service as town clerk, municipal court clerk, registrar of vital statistics, acting town manager, and as Newton's first finance director.

His public involvement has extended beyond the town of Newton, to include county and statewide responsibilities. For over 11 years, Mayor Mathews served as State motor vehicles agent in Sussex County, and for 4 years was bureau chief of housing inspection for the New Jersey Department of Community Affairs. For the past 7 years, the mayor has been Sussex County manpower director, and administrator of the Job Training Partnership Act in the county.

As testimony to his character and leadership qualities, in 1983 Mayor Mathews received the "Man of the Year Award" from the Veterans of Foreign Wars.

Mayor Mathews has enjoyed 47 years of marriage to the former Lucy McDavit, a lifetime resident of Newton. Throughout that time, their door has always been open to the citizens of Newton, and the mayor has served them well. I commend Mayor Mathews on his lifetime of achievement in public life, and congratulate him on his election as president of the New Jersey League of Municipalities.

I ask unanimous consent that the text of an article from the Newark Star-Ledger proclaiming Mayor Mathews as "Jerseyan of the Week" be inserted in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Sunday Star-Ledger, Dec. 1, 1985]

"CHIEF" MAYOR DEDICATED TO SERVING THE PUBLIC

(By Charles Q. Finley)

Charles R. Mathews, the mayor of Newton in Sussex County, is the kind of mayor who does not leave the job when he leaves his office.

"I'm very proud of my town and glad to be a part of it," asserted Mathews, the new president of the New Jersey State League of

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[9] The equivalent barrels of oil produced is calculated as follows:

(a) 1 bbl. of oil = 6,250,000 BTU.

(b) A good heat rate on an oil burner = 9,000 BTU/KWhr.

(c) 1 bbl. at 6,250,000/9,000 = 694.5 KWhr

(d) Therefore, 1 MWhr requires 1,000/694.5 = 1.44 bbls./hr.

(e) 50 MW × 1.44 × 0.9 (efficiency factor) × 8760 hrs. in one year = 567,648 bbls/yr.

(f) 567,648 bbls × 30 year life of the facility = 17,029,440 bbls/30 yr life at 90% efficiency factor.

Municipalities who has been elected mayor of the small, close-knit community six times and plans to run again.

"It's nice to walk down the street and be greeted with so many smiles.

"In the two weeks before each election I knock on just about every door in town. There are very few people in Newton whose hand I have not shaken.

"My telephone is listed and my door has been open to anyone. I couldn't count the times I've received telephone calls at night, some about extremely serious problems and others about such concerns as a leaking water pipe or a cat up a tree.

"But I've never minded. I believe when someone takes public office it's his responsibility to be available."

Mathews who now heads an organization representing almost all of the state's 567 municipalities, was first elected to the town council in 1953. During the 32 years of public service he has served as town clerk, finance director, municipal court clerk, registrar of vital statistics and acting town manager.

He was employed as state motor vehicle agent in Sussex County for almost 12 years and was bureau chief of housing inspection for the New Jersey Department of Community Affairs more than five years.

For the last seven years, he has been Sussex County's manpower director and administrator for the county's participation in the federal Job Training Partnership Act.

John L. Iliff, Newton's deputy mayor who has been associated with Mathews on the town council 20 years, said, "Charlie is an extremely dedicated public servant with bushels and bushels of experience to call upon. And he's always there when needed.

"He's very outspoken; you always know just where he stands. Every council member looks upon him as a true leader and his opinions are highly respected."

Mathews has been a member of the league's legislative committee, which evaluates the effect of proposed laws on the municipalities, 13 years. He received the league's "President's Distinguished Service Award" in 1980 for his outstanding service to local government.

Born in Brooklyn and a graduate of Newton High School, Mathews worked in the aircraft industry during World War II.

"After the war I became justice of the peace in Newton and that sparked a keen interest in public service. I've gained much personal satisfaction serving the public and I find it to be most unfortuante that, in general, politicians still have a poor public image.

"But those who do a fine job are appreciated by the public. For example, and I'm not politicking for Gov. (Thomas) Kean, but when a man carries just about every single community in the state when running for re-election as governor, he must be doing something right and the public knows it."

Mathews and his wife, Lucy, have four children—Charles Jr., an attorney in New York City, Kay, of Brookline, Mass., a teacher of commercial photography, William, of Holland, Pa., in the advertising field, and James, a public relations specialist in Washington, D.C.

Mathews said the State Supreme Court's "Mt. Laurel" decision requiring low- and moderate-income housing in all municipalities "could present problems in some communities.

"The league sponsors or opposes legislation with the good of the municipalities in mind, but it doesn't take sides in issues. The 'Mt. Laurel' decision has little effect on Newton because we have very little open land, but in a community where there is much open land I can see where there might be some problems in maintaining the traditional living environment."

He looks upon toxic waste removal as a major issue and said, in some instances, the local municipalities have a measure of responsibility for removal operations.

"It would seem to me if a municipality knows about a toxic dump site, then covers up the conditions for years, it should take an active part in the removal effort. However, many times the toxic sites come as a big surprise to the community.

"But the situation is complicated by budget restrictions in the municipalities. They simply don't have the money to undertake many of these cleanups."

Mathews said dwindling federal revenue sharing and rising costs are causing a financial pinch for the municipalities, especially in the area of police and fire protection and sanitation.

"Revenue sharing bailed out the budgets of a lot of municipalities in the last five years. Continued cuts could cause some major local budget problems."

Mathew said the increased cost of liability insurance, and the state's cap law which limits the amount of increase in local budgets annually, also will pose difficulties for municipalities in the immediate years ahead.

Mathews is an avid golf enthusiast although he finds the game "aggravating."

THE FARM BILL

Mr. BOREN. Mr. President, it is true that our farmers want a farm bill reported, and they want it as soon as possible. But they do not want a bad bill reported now or ever. Given this state of affairs, we should keep all options in mind. Planting decisions in most parts of the country have already been made, and the bill now in conference will not affect those decisions. It would be far better to pass a good farm bill in January or February than to pass a bad farm bill now.

The Wheat Program being considered by the House-Senate conference actually lowers farm income. Given the deep depression and heartbreak our family farmers are facing, I cannot support any bill that mandates a further reduction in income. In the Ninth Farm Credit District alone, bankruptcies have increased 303 percent in 1 year. It is absolutely necessary that we pass a bill that will give farmers a chance to earn a fair living now.

The current proposals, at a minimum, would reduce farm income by approximately 6 percent the first year. Due to the discretionary powers of the Secretary of Agriculture regarding acreage reduction requirements, income could drop an additional 24 percent the next year. Since it is estimated that income will have dropped 30 percent to 40 percent in 1985, this bill may result in a 60-percent drop in income from 1984 levels by 1987.

The targeting proposals included in the Senate farm bill would have protected the income of family-sized farmers. The current proposal does nothing to protect family-sized farms. Further, wheat exports have declined by 39 percent this year, and this bill does not address the problem even though the mechanism providing for a partial solution is available to us without budgetary impact.

In considering this matter, I urge all of my colleagues to read the story on the front page of the New York Times this morning about a human tragedy that is indicative of the desperate plight of our farmers.

I ask unanimous consent that the text of that article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Deaths on the Iowa Prairie: Four New Victims of Economy

(By Andrew H. Malcolm)

Hills, Iowa, Dec. 10.—When the radio news flashed across the snow-covered prairies Monday for the noon meal, it carried a bulletin that John Hughes, president of the Hills Bank and Trust Company, had been shot and killed. One farmer just outside this town of 550 people turned to his wife and said, "I wonder if it was Dale Burr."

It was.

Mr. Burr, a 63-year-old farmer whose financial troubles were about to claim his land, his machinery, his stored grains and his beloved quarter-horses, went on a killing rampage, shooting three people to death before committing suicide on a lonely road near his home.

It was but the latest in a series of violent outbursts across the Middle West that leave behind investigators, friends, neighbors, and family attempting to reconstruct and understand.

In 1983, James Jenkins, a Minnesota farmer and his son, Steve, who had lost their land, cattle, and credit rating, lured Rudolph H. Blythe Jr., the local bank president, and his loan officer to the abandoned farm and killed them both before Mr. Jenkins shot himself.

Last year an armed Nebraska farmer, Arthur Kirk, was shot and killed after holding a state police special weapons and tactics team at bay for several hours.

In the last three years thousands of farmers, dozens of banks and hundreds of rural businesses have failed. And, according to mental health counselors and rural advocates, numerous other potentially violent incidents are stopped regularly by family, friends and mediators.

Monday's events began when Mr. Burr, an outdoors workaholic, shot his wife of 40 years, Emily, as she apparently sought to stop him from leaving the house with his 12-gauge shotgun.

Then Mr. Burr left a note at home and drove into town. At 11:22 A.M., he walked in the back door of the shiny, modern bank on Main Street where his checking account was overdrawn. He pulled the long, pump-action gun from his overalls and fired one blast at Mr. Hughes' head as the 46-year-old bank president looked up from his office chair. Mr. Burr then pointed the gun at two other bank officers, Dale Kretschmar and Roger Reilly, who froze. But the farmer did not fire.

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Mr. Burr drove east of town a few miles where a farmer saw him fire once into the air. At 11:35 Mr. Burr entered into the farmyard of Richard Goody with whom he had had a minor land dispute several years ago. Mr. Goody had just been spreading manure on his fields for next year's crop. As the 36-year-old man greeted his visitor near some hog-feeding pens, Mr. Burr shot him twice. He also fired at Mr. Goody's fleeing wife and six-year-old son. He missed.

Ten minutes later when David Henderson, a pursuing sheriff's deputy, pulled Mr. Burr onto the shoulder of a gravel road near his home, a muffled blast from within the pickup truck signaled the farmer's suicide.

"It's another tragedy," said Peter Zevenbergen, who runs several mental health programs near here. "It was bound to happen somewhere. And it'll happen again, too."

"For many of these people," said Dan Levitas of Prairiefire, a Des Moines group active in rural counseling and legal aid, "the hammer is coming down. They're shell-shocked. Many keep it all inside. But now it's breaking out. I'm afraid this violence is the beginning of what is to come."

When such incidents erupt, along with a growing number of less publicized rural suicides, Mr. Levitas and others say they can almost predict from experience the characteristics: a farmer of any age above 35, a strong family man, devout churchgoer, well-liked by friends but quiet.

A HARDWORKING FARMER

Such was the case of Mr. Burr, the hard-working son of Vernon Burr, a farmer and bank director. The 6-foot-two-inch farmer was willing to chat, friends recalled, but only for a moment because he always seemed on the way to somewhere. The Burrs were members of Our Redeemer Lutheran Church in Iowa City, eight miles north of this town in eastern Iowa. Their main social activity was a card club.

"Over all these years," said Keith Forbes, a brother-in-law, "I never saw Dale angry."

Mr. Burr farmed around 600 acres with his son, John, 39. Courthouse records show that while few thought Mr. Burr was in financial trouble, he had debts of upwards of $800,000, many of them due last Friday.

Close family friends said the immediate financial pressure involved a $39,000 check for corn that Mr. Burr had deposited with the Government. Because the corn was mortgaged to the Hills bank the check should have been made payable to the bank, too. It was not. Mr. Burr deposited the check in the Hills bank to pay off fertilizer and herbicide bills. The bank found out and sought the money immediately.

Mr. Hughes was widely eulogized as a fine family man, active in many civic causes, a successful, aggressive businessman who had built the Hills bank into a profitable institution with over $200 million in assets, despite his town's small size.

With a temporary president, the bank reopened today with a statement stressing its strength and a poinsetta plant on the desk in the darkened office of its late president, John Hughes.

Capt. Doug Edmonds was heading the Johnson County police investigation. Sheriff Gary Hughes was making his brother's funeral arrangements.

JUSTICE POTTER STEWART

Mr. MATHIAS. Mr. President, the Senate has a constitutional responsibility in the process of appointment of members of the Supreme Court. As we contemplate our duties in that respect, it is constructive to be able to have before us the example of a distinguished Justice of the Supreme Court whose service established some benchmarks for judicial success. The much-lamented death of Justice Potter Stewart and the many comments on and reviews of his life in the press offer such an opportunity to Senators.

Yesterday, the CONGRESSIONAL RECORD republished two editorials on the subject of Justice Stewart's contributions to the Court, from the New York Times and the Washington Post, respectively.

To expand this record and make it more complete and useful to Senators, I ask to have printed in the RECORD two columns on Justice Stewart, one by Edwin M. Yoder, Jr., and the other by Ben Heineman, Jr.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Dec. 10, 1985]

A JUDGE AND THE WAR

(By Edwin M. Yoder, Jr.)

The death of Justice Potter Stewart at 70 is untimely in all but one respect. His admirable Supreme Court career inspires timely reflection upon the qualities that made him a superior judge.

For quite a while after President Eisenhower appointed Stewart to the court in 1958, he served as a kind of loyal opposition to the "Warren Court" majority. His frequent dissents made a literate and penetrating commentary on the judicial activism that was its trademark.

But Stewart, more a maverick than a mossback, found his center of gravity not in judicial naysaying but in a patrician individualism that was difficult to stereotype. Depending on the principle involved, he was often the ally of unexpected causes.

For instance, after his retirement from the court four years ago, Stewart confided to Fred Graham of CBS (the interview was to be sealed until his death) how he had urged the court in the mid-1960s to take a case testing the constitutionality of the Vietnam war and the draft. Had the court done so, it would have engaged in "activism" by anybody's standard, given the long tradition that the court treats great issues of war and peace as "political questions" beyond judicial scrutiny.

At that time of upheaval, there were known to be stray votes within the court for that excursion onto spongy turf. (The court will hear discretionary cases that at least four justices vote to hear.) William O. Douglas, for instance, advertised his sympathy with the anti-war protest; but then he was a liberal activist by inclination. That the urbane, discreet Potter Stewart stood also among the advocates of judicial intervention was not widely noticed at the time.

Yet it was Stewart's view that the war, never formally declared, violated an express constitutional command "The Constitution," he told Graham, "clearly provides that only Congress can declare war. And Congress had never declared war." As for the draft, "here were people being unwillingly taken under that law . . . for peacetime military training and service, and sent thousands of miles away . . . to be shot at and some of them killed."

Stewart knew as well as anyone the practical limits of judicial competence. He was he often said, a lawyer not a philosopher-king. It was therefore the more revealing that a justice such as Potter Stewart was willing to act. And that inclination points to the limited usefulness of facile formulas by which the judicial role is sometimes defined in theory.

It was primarily as a constitutional literalist that Stewart was speaking. But in a longer perspective, it was an outlook of familiar and honorable vintage. Though their views on other matters diverged, there was in Stewart's view on Vietnam an echo of his fellow Ohioan Robert A. Taft.

What Taft was saying with his usual directness in 1950 about the failure to declare war in Korea is all but indistinguishable from what constitutional critics—older but now wiser—were saying some 20 years later about Vietnam.

Taft's views disturbed "internationalist" opinion (they helped him lose the 1952 presidential nomination), but Taft was unsympathetic to the argument that changing circumstance had altered the stated limits of the presidential war power. So, apparently, was Stewart.

Stewart's advocacy failed; and might indeed have caused a destructive uproar had it succeeded and the court taken a Vietnam draft case and declared the war unconstitutional.

But it must have been quite an argument within the court. Among the justices of that period sat Abe Fortas, who had carried his role as a war counselor to Lyndon B. Johnson well beyond the usual limits of judicial discretion. How others divided we do not know.

But the story of Stewart's pursuit of an old maxim ("let justice be done, though the heavens fall") suggests that the qualities of the superior judge are ultimately inseparable from qualities of mind and character. Invoke jurisprudential theory as one will, it leads only to the threshold of understanding how a superior judge views his duties—and not far beyond.

[From the Washington Post, Dec. 11, 1985]

GREAT JUDGE, GREAT JUSTICE

(By Ben W. Heineman, Jr.)

Swing vote, moderate, pithy and witty writer—these were the characteristics of Potter Stewart seen by the public.

What was harder to see—because he was a modest and self-effacing man not given to theorizing in his opinions—was his shrewd and sophisticated view of the Supreme Court and the way constitutional law is, and should be, made.

In essence, he used a "common law" approach to the great open-ended guarantees of the Constitution—due process, equal protection, freedom of speech. These guarantees are not self-executing and, according to most scholars and jurists, must be adapted to a modern society. Yet that still leaves the great puzzle of judicial review: when is it appropriate for the Supreme Court to invoke the Constitution in invalidating laws enacted by federal or state legislative bodies?

Justice Stewart believed deeply in history and in precedent. Yet he recognized that neither may have answers to contemporary constitutional issues. He was an advocate of neither strict judicial restraint nor intemperate judicial activisim. He was neither a liberal nor a conservative. To him, those labels implied an approach to constitutional decision-making that was wrong: imposition of a rigid set of personal beliefs on the specifics of each case.

For him, the solution to the riddle of judicial review under the great open-ended constitutional guarantees was a "common law" approach in which principles emerged slowly and organically from the facts of each case. Cases should, as a general matter, be decided narrowly—and broader principles should emerge only as precedents accumulated. In deciding individual cases on the facts, it was crucial to find an appropriate balance between the legitimate competing concerns presented by the controversy. The court, in his view, could not go far wrong if it stayed close to the particular controversy presented and reached a sensible balance between the values in conflict.

For Justice Stewart, this approach stemmed from two fundamental beliefs. First, as a person of the world, who had served in war, practiced law and been an elected official (and whose father had been a prominent Ohio politician), he knew that economic and social reality was far more complex than judicial rules. Because the Supreme Court decides individual cases on the record presented by the parties, it is often ill-equipped to announce broad prescription because, necessarily, it does not have access to a broad set of "legislative" facts.

He also believed, however, that the Supreme Court's fundamental role was to be a balance wheel in American society. He knew enough about practical politics not to extol in unrealistic measure the virtues of city councils or state legislatures or even Congress. The court sits to ensure a crucial degree of balance between majority rule and minority rights, between congressional and presidential power, between federal authority and state and local autonomy, between robust public debate under the First Amendment and necessary governmental order.

Is it any surprise then that he was himself a balance wheel on the court? Take the abortion issue. Along with Justice Hugo Black, he dissented from the court's seminal case establishing a right to privacy, *Griswold v. Connecticut*, because he could find no such right in the Constitution. Yet, once the court had found such a right, he accepted that result and applied it in *Roe v. Wade* to join the court in holding that the constitutional privacy guarantee encompassed a woman's right to decide whether to terminate her pregnancy. But, in *Harris v. McRae*, he wrote for the court that, while a right to an abortion existed, there was no right to have the government pay for the procedure—the constitutional right did not create an entitlement to public funding. Whether or not one agrees with his opinions in these three cases, they are all models of lucidity that reflect a careful balance between past precedent and present realities.

Despite the attention given to the "liberal-conservative" debates about the court, an argument could be made that Justice Stewart's "common law" approach has been a dominant—perhaps the dominant—method of constitutional decisionmaking in the last quarter century.

On the day he died, a friend said to me: "Great judge, good justice." Yes and no. Great judge, great justice—in the sense of a man with an extremely subtle and well thought out view of judicial review. He was a person of extraordinary intelligence and wisdom who along with a colleague whom he revered, John Marshall Harlan, was the exemplar of an important Supreme Court tradition. Because that tradition cannot be easily summarized, it is easily overlooked. But the Stewart approach will endure.

THE DEATH OF PEGGY GOLDWATER

Mr. DECONCINI. Mr. President, it is very difficult at times for one to say what is felt in his heart—this is one of those times. I know that there are no words which can console my good friend and colleague, BARRY GOLDWATER, during this time of grief and the passing of his dear wife Peggy. Peggy and BARRY celebrated their 50th wedding anniversary this past summer—a sure indication that the relationship they shared was a rare one indeed.

For those of us fortunate enough to have known Peggy, we know what an inspiration she was to BARRY. I remember seeing him in a television interview and taking particular notice of the twinkle in his eye and the irrepressible smile that came to his face whenever the interviewer asked him about his wife. I have heard BARRY say before that the best thing he ever did for Arizona was to move his wife there, and I am sure most Arizonans share in that feeling, especially those people involved with St. Lukes Hospital, Planned Parenthood, the Junior League, and the numerous other charity and community organizations that Peggy put so much time and effort into.

In the words of Jane Welsh Carlyle,

> Never does one feel oneself so utterly helpless as in trying to speak comfort for great bereavement. I will not try. Time is the only comforter for the loss of a friend.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BOSCHWITZ). Without objection, it is so ordered.

INCREASE IN PUBLIC DEBT LIMIT—CONFERENCE REPORT

Mr. DOLE. Mr. President, there is a conference report at the desk to accompany House Joint Resolution 372, the debt limit, and I ask for its immediate consideration.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the report by title for the information of the Senate.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the amendments of the House of Representatives to the amendments of the Senate numbered 1 and 2 to the joint resolution (H.J. Res. 372) increasing the statutory limit on the public debt, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:
>
> That the Senate recede from its amendment to part (2) of the amendment of the House to the amendment of the Senate numbered 1.
>
> Amendment numbered 2: That the House recede from its disagreement to the amendment of the Senate to the amendment of the House to the amendment of the Senate numbered 2, and agree to the same with an amendment.

(The conference report is printed in the House proceedings of the RECORD of December 10, page H11684.)

Mr. JOHNSTON. Mr. President, the question is on the motion to proceed to the conference report?

The PRESIDING OFFICER. The Senator is correct. The question is, Shall the Senate proceed to the consideration of the conference report?

Mr. BYRD. Mr. President, there is no objection on this side and there is no objection on this side to waiving the reading.

The PRESIDING OFFICER. Without objection, the motion is agreed to.

The Senate proceeded to consider the conference report.

Mr. PACKWOOD. Mr. President, I just walked in. Are we now on the conference report?

The PRESIDING OFFICER. The Senator is correct.

Mr. PACKWOOD. I thank the Chair.

Mr. President, it is normal, when considering a complicated bill or conference report, to thank the staff on both sides at the end of debate. But I would like to start out by not only thanking the staff, but the Senators that made this possible in the conference report here and House Members.

When Gramm-Rudman-Hollings was first introduced and passed, there were questions about it in the Senate: questions as to the merits of the whole proposal, assuming it worked as people thought; questions about how it worked, even if you liked the proposal. When we passed Gramm-Rudman-Hollings II, it was significantly different, not in philosophy, but in procedure, from Gramm-Rudman-Hollings I. The Senate conferees had learned a great deal about this bill that they did not know when it was first passed.

On the House side, of course, they had never seen the bill in any way, shape, or form. It was initiated on this side.

I have to compliment especially TOM FOLEY, the Congressman from Washington, who did a giant of a job of leadership in holding together a very disparate group of House conferees.

We were lucky in the Senate. In the first conference, which I was privileged to chair, we had nine conferees. In the second one, which the House chaired, we added four conferees, the three principal sponsors and Senator CHILES, who was them supplanted by Senator JOHNSTON when Senator CHILES was hospitalized.

During all of that time, the Senate conferees were very gracious in, by and large, giving to Senator DOMENICI and myself broad latitude, both in negotiating conclusions, as long as we kept them advised, and in not insisting that all of them be brought into every conference. We discovered when we were meeting in the large conference with all our Members and all 56 of the House conferees, that a meaningful conference was impossible.

During the last 3 weeks, Congressmen FOLEY, PANETTA, and GEPHARDT did the principal negotiating for the House; Senator DOMENICI and myself negotiated for the Senate. On occasion, Senator HOLLINGS, Senator GRAMM, and Senator RUDMAN came in on areas where they were particularly expert and particularly interested. Then again they were gracious enough to leave us alone so we could negotiate in quiet. It worked out.

We now have a bill which is due to the genius of the three principal sponsors—no question about it. They deserve a lion's share of the credit no matter how many others are entitled to some portion of the praise. I think this country is in debt to the three of them.

Let us take a look at the conference report and what it does. I do not think it is news to most people. It has been in the news for the past 3 months. It has been debated, rebutted, reported on, and editorialized on to the point that I think there are no surprises.

Its goal is to statutorily reduce the deficit to zero by fiscal year 1991. That is the goal. It is achieved by setting statutory amounts above which the deficit cannot go, starting with $144 billion in fiscal year 1987. For the fiscal year that we are in now, no one knows what the deficit is going to be, but the projections run from $195 to $215 billion or $220 billion. Considering that we are now a quarter of the way through the fiscal year, and by the time this fully goes into operation we will be about half-way through the fiscal year, we simply decided that we do not want to disrupt Government in an untoward fashion, and we set the figure of $171.9 billion as the maximum deficit amount for this fiscal year. That was the size of the deficit that was in the budget resolution adopted earlier this year by the House and the Senate. We agreed to that.

We then said that to the extent that the actual deficit, as best we can project it, exceeds that we will not require a sequestering—I want to emphasize the difference between sequester and what Congress might do prior to the sequestering—but if there is a sequester, it will not exceed $20 billion on an annualized basis. If the sequester was going to be for 6 months, it cannot exceed $10 billion.

Some programs are exempt. The Senate exempted Social Security, and interest on the debt, of course, which you have to pay. If you try to sequester that, I think you would be sued in the courts, and justifiably so. We also exempted numerous other programs on which there was no argument, such as the Federal Deposit Insurance Corporation, and some trust and reserve funds. But they are relatively minor in their total amount, and there was no quarrel about those.

The big issue is whether or not Social Security should have been exempted. We said it should. The House agreed; and whether eight other programs, sometimes referred to as poverty programs, should be exempted. In the last analysis, the most contentious one was Medicaid, because in the final Gramm-Rudman-Hollings offer that the Senate made to the House we exempted seven programs ourselves. We did not offer to exempt Medicaid, but ultimately agreed to do so.

I find that, too often, people talk about the sequester process without realizing that there is a front half to the process. The front half is that Congress has the right to do anything it wants, assuming the President approves and signs the bill, to negate the possibility of a sequester. Even when Congress knows there will be a sequester, this proposal gives us a month in which to undo what the President has said will happen if we do nothing.

For the moment, I will not talk about fiscal year 1986. Fiscal year 1986 is an aberration. Let us talk about how this process works at the fullest, in fiscal years beginning with 1987.

The President will present a budget within 2 months for fiscal year 1987. That budget must have a deficit not in excess of $144 billion. The year after that, $108 billion, the year after that, $72 billion, the year after that, $36 billion, and the year after that, zero.

The President, when he presents the budget, can get to the total of $144 billion deficit in any fashion he wants. Bear in mind the deficit may be $200 billion this year. So we are talking about the President presenting a budget, within just a few weeks, to cut that deficit by something between $45 and $65 billion from present spending levels. That is an immense cut.

The President can propose a cut in defense and have high social spending figures. Or he can propose an increase in defense spending and lower spending for social programs. Or he can come in with a tax increase if he wants to. Nothing is set in concrete. But he must meet the maximum deficit amount in each fiscal year.

So the President, in February, gives us a budget which has a total deficit of $144 billion.

My guess is, based upon our meetings with the White House while these negotiations and conference meetings have been going on that the President will come in with a budget that has a 3 percent real increase in defense. If inflation is 4 percent, that would be a 7 percent increase. He may propose a termination of 30 to 50 domestic programs costing, on average, about $1 billion apiece.

The exact number of programs involved will depend upon how much money the President has to save to get to the $144 billion total, and that will depend upon the economic projections at the time the budget is presented. He will have no tax increase as he originally presents the budget.

That comes in February. Congress then has from February until September to change the President's priorities. If we think defense is too low, we can raise it. If we think it is too high, we can lower it. If we do not want to terminate 30 to 50 social programs, we do not have to. We can take it out of defense. If we do not want to do that, we can pass a tax increase. When I say we can do this or do that, I recognize that we are not unfettered in this. Any law has to be passed by both Houses of Congress and signed by the President. If he does not sign it, it does not become law.

If we try to cut defense, he will not like that. If we try to increase social spending, the President might not like that. If we try to have a tax increase, he may not like that. There will be significant negotiations between the President and the Congress, and between the House and the Senate during the months of January, February, March, and April on this whole process.

In comes the budget of $144 billion deficit. We have in Congress from January to September to change that. But we must meet the $144 billion deficit total. We can change it in any way we want, and the President will accept, so long as we hit the total.

On September 1, if we have not met that total, the President is required to issue what is called a sequester order, which requires an automatic, across-the-board cut in order to meet the $144 maximum deficit amount. We have not left him a great deal of lati-

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tude. We have exempted some programs, and we have said to the President, with a few minor exceptions, that the remaining programs must be cut across-the-board evenly. He cannot decide to keep all of the Economic Development Administration and terminate Amtrak. If the sequester order calls for a 5-percent cut, he has to cut 5 percent on each one.

So for those who fear that the President is being given unbridled discretion, that is not like the old impoundment authority prior to the passage of the Anti-Impoundment Budget Act.

The President cannot sequester the programs Congress has exempted, and he must sequester equally the ones that we have left. And we have indicated that half of the sequester must come from defense and half must come from nondefense.

If, on September 1, the President issues a sequester order, Congress then has from September 1 until October 1 to say, "No, we do not like that sequester. We do not want to cut spending by 5 percent across the board. We want to get rid of a program totally and we want to keep another program."

Or we can say, "No, we do not want the sequester to be that big. We want to cut both defense and social spending in certain areas but not in other areas."

By October 1, if Congress has not done anything, then the sequester order will go into effect. October 1 is the start of the fiscal year and the cutting will take place across the board.

You can argue that that is bad budgeting because it presumes that no program that is left to be sequestered is worth any more than any other program, that there are no priorities. Education is no more important than Forest Service and the Forest Service is no more important than Amtrak and Amtrak is no more important than any other program when you are going to sequester them evenly across the board.

Congress will have two bites of the apple. We will have from January until September to reorganize the President's priorities as he presents them to us in the budget. We will have the month of September to reorient the sequester order cuts, over which the President has no discretion, if we do not like where they are going to fall.

It is only if we do nothing from January until September and then do nothing in September that the sequester order goes into effect, a ministerial act by the President.

There are those who would say that this amounts to an unbridled delegation of authority to the President. I would say, first, it is not unbridled. It is a delegation but it is not unbridled. It certainly lacks discretion.

I think many of the critics really are saying this: We would rather, assuming Congress does nothing, have a $200 billion or $250 billion deficit than to delegate a rather limited and circumscribed power to the President to order spending cuts.

That is really what we are talking about.

Those of us who support the Gramm-Rudman-Hollings procedure are saying we would rather reduce the deficits with the concomitant good for the economy and the lowering of interest rates. We would rather do that, even if it means delegating to the President the power to put into effect ministerially these spending cuts, than do nothing and have the deficits.

If Congress, in two tries, is unable, for whatever reasons, to get its act together, if we cannot do it because a Democratic House and a Republican Senate cannot agree, or conservatives cannot agree with liberals, that is our fault. It is not the public's fault and certainly not the President's fault.

That is the way the process basically works.

As I say, for fiscal 1986, the fiscal year which started in October, the process is unusual and abnormal because we normally presume that Congress will have 8 months to look at the President's budget and to reorganize priorities. Now we are 3 months into the budget year. So the procedure should not be looked at as typical.

Make no mistake about it. This bill is a historical watershed. If this does not work, or if Congress and the President attempt to frustrate it and are successful in frustrating it, we will lose our last significant opportunity to deal with the deficit.

I am tired of economic theories. I have been on the Finance Committee for 10 years and the Banking Committee for 8 years. I think I have heard all of the great economists in this country and the world testify. Some have had Nobel prizes in economics or have headed some of our great university economics departments. They have all testified. They are nice people.

The Senator from South Carolina can remember that there was one who would come in every January and tell us on the committees what would happen in the ensuing year. I had read what he had said in the previous January as to what was going to happen. It had not happened. When he finished his testimony, I said, "Professor, let me indicate what you said last year" and read his testimony.

> It did not happen. Can you explain why it did not happen?
>
> Yes.
>
> Why did it not happen?
>
> Unforeseen intervening circumstances.
>
> Is there any chance that in the coming year there can be unforeseen intervening circumstances?
>
> No. We have a handle on it now.

Well, the profession of economics is a very respected profession. They just do not agree.

I am convinced, with the sponsors of this bill, that somewhere you pay the piper. You cannot go on with $200 billion deficits. I do not care what you argue about defense spending and other spending, you cannot go on with $200 billion deficits year after year without adverse consequences. Maybe the people who buy Government bonds will quit buying them.

Maybe inflation will come back again. What was it 4 years ago—15 percent and interest rates at 20 percent?

Do you think that cannot happen in this country again?

Of course it can happen. It is more likely to happen with $200 billion deficits than with reduced deficits.

I know we are going to have a lot of debate on this. I do see all of the principal sponsors here. I hope we will adopt this conference report, not because anybody in the House or Senate can guarantee that it will work exactly as we hope it will work. There is no one who can guarantee that with regard to any bill we pass. I think most of us feel, however, we can guarantee what will happen if we do not adopt some process to reduce the deficit. It is worthy of a try.

I think it is constitutional. We know it will be tested in court. We have put into it a procedure to expedite the test in the court.

In my 17 years in the Senate, however, I do not think we will have adopted any piece of legislation for which we have greater hopes, to which greater intellectual effort has been given, and which I see personally as a greater opportunity to steer this country on the right course.

Mr. President, I urge adoption of the conference report, and I pray that what we are about to undertake will work.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I congratulate the distinguished Senator from Oregon, the distinguished Senator from New Mexico, and the many others who have worked on this conference report. This bill is a greatly improved bill. It think it has built-in flexibility. I think many of its sharp edges were taken off. I think it is a much better piece of legislative machinery than when it left this body. It is immensely better than what I called an Armageddon piece of legislation when it was first introduced.

It is in that spirit, Mr. President, that I signed the conference report, because I believe the conferees on both sides of this Capitol worked hard to improve the bill and indeed did make it a better bill.

In that sense and in that spirit I signed the conference report.

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Having said that, Mr. President, I would still say that those who supported this bill initially—and they did overwhelmingly in the Senate before—will therefore want to support it even more strongly because it is a better piece of legislation. That brave, small band of us who opposed it initially—and as I recall, there were only 24 of us—at least in my view will find no comfort in the changes made sufficient to cause us to change our minds. At least speaking for this Senator, I do not. But I think it is useful, since we are making a historic record today, and this is going to pass, and I suspect it will pass by an equivalent proportion to that which it initially received—and indeed, it should because it is a better bill than when it left here—I think it is useful to say how we got here and where we go from here, what the likely results of this bill are.

First, how did we get here? We got here because of the failure of the process—because of the failure of the President of the United States, in my judgment, to do his duty; because of the failure of the Congress, in my judgment, to do its duty; because of the failure of the people of this country to understand what it is all about; and I might say finally to our friends in the fourth estate, the failure of the press to tell the people what the facts are. In a word, Mr. President, we got here because the people, the Congress, the President, and the press all want that which never was and never can be. That is, they want a balanced budget without cuts, without pain, without taxes, without taking the blame, without taking the responsibility, without measuring up to those duties of statesmanship which require occasionally that we say "no" to our most profligate desires to spend and to avoid pain. None of us as institutions—not the President, not the press, not the people, and certainly not Congress—have been equal to the task.

Mr. President, I well remember when a group of southern so-called conservative Senators were called into the White House to speak to the President—I guess it was in 1981—on the eve of consideration of the so-called Kemp-Roth tax cut. That was the 3 years of a 10-percent cut each year. We all remember that eventually was passed into law, but it was at a reduced 10-10-5 reduction level. In any event, on the eve of the passage of that measure, we were called in to speak to the President and Donald Regan who, at that time, was Secretary of the Treasury. The question of linkage was on the minds of many of us, especially myself. That is linkage between those deep tax cuts and the performance of the economy. I said to the President:

> Mr. President, what happens if, after the first year, or indeed, the second year, we do not get the performance in this economy we expect, that is we do not get this supply-side bonus, if deficits are large, if our unemployment is not down, if all of these good things that are supposed to happen to the economy do not happen? What do we do? Cannot we build in linkage that fails to trigger or prevents the triggering of the second or the third year of the tax cut in that event?

About that time, the President said, "Well, we want it as it is." Donald Regan said, "Wall Street insists upon assurances of tax cuts in order that they may act upon them."

That seemed not very persuasive to me, but about that time, my colleague, RUSSELL LONG, who has been around here for 37 years now, said:

> Mr. President, I have heard my colleague speak and while I agree with him, I am not going to require that linkage be built into the legislation because I know from experience that if this thing does not work out as you and Donald Regan say it will, you will be the first one in here to want to rescind that second year or that third year of the tax cut, because Presidents always do that.

I thought to myself, "Well, RUSSELL, you sly old fox. You have been around here. You have had the experience to know that, sure enough, if this thing does not work out, the President will propose the rescinding of that second year or third year of the tax cut."

Sure enough, Mr. President, it did not work out and deficits began to go to astronomical proportions. The national debt doubled inside of a period of 5 years and deficits of a kind and quality and proportion, measured any way you want to measure them—as a percentage of GNP, in nominal terms, in real terms, whichever way you want to say it—have gone through the roof. But my colleague was wrong, Mr. President, because the President of the United States was not deterred by the size of those deficits. Not only did he not propose the cutting of those tax cuts or the restraining of those tax cuts; he said, "Full speed ahead. Just over the horizon there somewhere, there is the pot of gold at the end of this supply side rainbow. It is going to save us."

And somehow, at some point, I do not know when it was, we all began to see that the emperor wore no clothes, that the supply side bonus was implausible to begin with but, at least, we relied upon the fact that somehow, this President was going to restrain his most incontinent desires and propose or at least cooperate with the Congress in restraining that deficit.

But not only has he not proposed it, he has blocked it every step of the way. Most recently, when we had a bipartisan group on the Budget Committee which proposed cutting all programs, including entitlement programs, including Social Security, restraining the increase in those, cutting across the board in all spending programs and having a modest tax increase—oh, no, we could not have that.

Lest we put all the blame on the President, Mr. President, we all know, of course, that Congress has richly cooperated; indeed, at that very meeting when the President shot down the bipartisan proposal, it was a meeting with the Speaker of the House, who is a member of our party and the quintessential Member of Congress, who met with the President out on the lawn and over a bourbon and branch water, said, "Well, we will make a deal. No taxes, no Social Security, let us just charge it all up to the deficit."

So it is the President first, the Congress second. And all the while, the people out there all across America do not know. They think this inside-the-beltway secret we have is indeed something that they are not concerned with; if only we would do what is right and cut fraud, waste, and abuse, we could settle this whole thing easily.

Well, Mr. President, it has not worked and it is a severe indictment of the failure of the President, the failure of Congress, the failure of the press, and, I believe, indeed, the failure of the American people. I would love to believe that Abe Lincoln was right when he said, "You can fool some of the people all of the time, and all of the people some of the time. But you cannot fool all of the people all of the time." It looks like on budgets, you can fool most of the people most of the time, because they have not gotten the message yet.

Well, I guess if we have "all of the time" less "a long time" they will get the message, because there is one thing about the Gramm-Rudman-Hollings bill: there is a message there. It is a strong message and it is a bitter message, and it is coming rather soon.

Will it work? Mr. President, I sincerely hope so. I must say as a member of this conference that I told my coconferees that, although I was opposed to this legislation and continue to be opposed to it, I would do everything I could to be a constructive influence to make it work better.

But, Mr. President, I do not believe it is going to work.

Lest I be regarded as someone who is trying to make it not work, let me just say I am going to do everything I can to help make it work, and I must say I have done so on the conference committee. But let us just examine what I believe is going to happen. It is a message that I do not think has gotten through to the White House. I do not think they have any idea what is going to happen to them under this. And I do not believe the American people do.

We start off the first year—that is, early next year in February—with cuts that will total $11.7 billion. No particular problem there. There will be a small ripple on the radar screen, but no particular problem.

But what is going to happen, Mr. President, is that we have to come down to a $144 billion deficit the next fiscal year, or by September 1, under this timetable. The only way you can get out of meeting that target is for the Congress to pass legislation which cuts $50 billion in outlays or raises taxes by the same amount, or if 60 percent in both Houses vote to waive it and a President signs that waiver.

Now, Mr. President, $50 billion is an enormous amount of outlays to cut. Let us look at what $50 billions means. We are talking about outlays, not about budget authority. Now, again, Mr. President, this business of the difference between budget authority on the one hand and outlays or expenditures on the other hand has been thought up to this time to be another "inside-the-beltway" bit or arcanum that nobody cares about, well, they are getting ready to care because, for example, a $50 billion cut—and that has to be divided between 50 percent in defense and 50 percent from the other side—means that you have to have a $25 billion cut in outlays, which will translate to a budget authority cut of perhaps $75 to $100 billion, which is maybe a quarter or a third of the whole defense budget.

Let me repeat that, Mr. President. By September 1 of next year, unless the Congress otherwise acts and differently acts, you are going to have to cut the defense budget by $25 billion in outlays, which will translate to perhaps $75 to $100 billion in budget authority, which is about a third or a fourth of the entire defense budget.

Now, have we in this Congress acted like we are going to cut the defense budget? Oh, no, of course not. Every time a weapons system comes up here, do we cut it? No. We increase it. Just yesterday, Mr. President, with the so-called strategic defense initiative—the biggest most expensive program by many, many times over in real terms or in nominal terms that any country anywhere on the face of the Earth has ever thought about—we are getting into it deeper. We doubled the budget in the strategic defense initiative just yesterday. When the MX comes up here, we say, "Yes, we will take one of those, too." When the B-1 bomber comes up, "Yes, we will take another 100 of those," and all the while we say we want the ATB, and I am strongly committed to the so-called Stealth or ATB. I am strongly committed to the Midgetman, which is going to probably cost another $50 billion. I am strongly committed to the so-called JCX, which is probably another $20 billion, and that is a very good tilt-wing airplane. And the LHX, the new helicopter, and the attack submarine and the new fighter. The D-5 missile I think is one of the most important new developments in the whole arsenal. Are you going to be able to fund any of these with a third to a fourth cut in the entire defense budget? Of course not.

What is the Congress thinking about with this kind of machinery that says you have to cut that much of the defense budget? Just what are we thinking about? We are acting one way and doing something else. It would be a silly thing, were the consequences not so tragic for this country.

I do not blame Caspar Weinberger for being strongly opposed to this bill.

Now, you say, "Well, yes, this is a train wreck but the Congress can avoid the train wreck by doing something else." Well, by doing what? By getting together with the President and cutting $50 billion out of this budget? Is that how we think we are going to avoid that train wreck? Why, the President said he is against raising taxes and he is against cutting the defense budget. So just where is this meeting of the minds going to come together and cut $50 billion from outlays, not in appropriations, not in budget authority but in outlays? Who thinks the President is going to get together with us that quickly? Why, if he does, he is going to have to back up not on one statement, not on scores of statements. He is going to have to back up on his whole political career, on the whole theme of his Presidency. He has to back up and say, "No, I am sorry, I didn't mean it when I said something about supply side or something about no tax or something about the need to build up against the evil empire and have a stronger defense. No, I did not mean any of that; I didn't mean that, Congress. We are going to get together and cut defense and all these other things. We are going to get together and raise taxes to the tune of $50 billion."

Now, who believes that? Nobody believes that, but that is the kind of train wreck we are setting up here. We are doing it in this piece of legislation.

So that is your alternative. We will either have to dream that "impossible dream" of agreement with the President or we will have this automatic thing take over, and automatically it is going to take all the political pain out.

I guess we can say, "No, I wasn't for that, I wasn't for that set of cuts, Mr. Constituency. I would not have cut your such-and-such program in that way. I had another set of cuts." But if you vote for Gramm-Rudman you are going to have to take the blame for it, and there is going to be a lot of blame. It is not just that you are going to have to look at these little programs back home, the highway program where you are not going to be able to build highways or bridges. You are going to cut the most basic things in this country, because in my judgment we are just not going to be able to make that agreement with the President of the United States.

Well, if it is that bad on defense, if it calls for the impossible cuts in Congress—and even the doves do not think we ought to cut out every defense program, cut it down to the bone—if it is that bad on defense, how is it on the other side? Well, I will tell you, Mr. President, that half of the other cuts—and this is $25 billion in outlays, not in budget authority, not in appropriations again—we have to keep stressing that inside-the-beltway bit of esoterica, because it is going to come like a freight train bearing down on every American, not just the Pentagon but every American—that $25 billion in outlays is going to be spread over a number of programs. Not Social Security; we took that off limits. Not some eight other programs including Medicaid; we have taken those off limits. You are going to be able to get about $5 billion by COLA restraint for which this bill calls. And the rest of the $20 billion is going to be spread over a fairly small area of discretionary nondefense programs—$20 billion in outlays.

How deep are those cuts going to be? Well, it is going to be about a one-third cut in those programs, about a one-third cut across the board. Now, when you get into those cuts, do you have flexibility? Oh, no. Oh, no. The Congress is saying, and when the President signs this they are saying, you have to treat each account alike. Each account, other than these which have been taken off and insulated, are of equal dignity. You have to cut each one, each budget account, each appropriations account by an equal amount. Some will outlay quickly and you will be able to cut them without destroying the accounts. Others will outlay slowly so you have to cut $4 or $5 in appropriations for every dollar of outlays, and it is going to decimate you.

You say, "Well, that's so bad that you will be able to get together with the President." Well, I do not think so.

Mr. President, there is a saying that has gotten to be almost a cliche with respect to the way this bill is described. It is like the person who writes on the bathroom mirror, with lipstick, "Stop me before I kill again." This bill is like that. But when you say, "Stop me," it is like taking poison and being out in the desert and not being anyplace where you can get the antidote, because the antidote calls for the degree of statesmanship and cooperation between the White House and Congress which has not been forthcoming.

The fact that it is going to be a train wreck is not going to be helpful. You are not going to be able to get this President, in my judgment, fundamentally to change his view of national defense and fundamentally to be able to change his view of taxation in order to go along with this bill. It is too inflexi-

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ble, because it cuts each account similarly. It has no flexibility for economic conditions.

Once we get into a recession—and it is not a question of if but a question of when, unless we have repealed the fundamental laws of economics, and no one has ever suggested that, neither conservatives nor liberals. At some time, we will get into a recession. Most say it will be within the next 5 years. What happens to this plan then? Or, what happens to it in the meantime, when you see that you may be tipping over into a recession? There is no fail-safe for that.

What we ought to do in Congress, in my judgment, is live up to our constitutional duty. The duty of this Congress is to raise money and to appropriate money, among other things—that is, to set priorities, to micromanage the budget, to decide what things are more important and how important and when, and how revenues should be raised and when.

Not every appropriation account is of equal dignity. They cannot all be put in large categories of off limits or on limits, or 50-percent defense or 50-percent nondefense, because it simply does not work that way.

In searching for the easy solution, in searching for the political solution that will not hurt anybody, we are creating, in my judgment, the worst of all worlds. We are creating a situation that will not be nearly as easy to get out of as everyone thinks. On the one hand, it is going to take 60 percent of both Houses of Congress plus a Presidential signature. Or, on the other hand, it will take a cooperative effort with the President in cutting defense and in raising taxes, which does not seem to me to be within the realm of possibility, at least not now.

Mr. President, I hope I am wrong. If I am, I will give all the credit to those who have labored hard and in good faith and with a feeling of patriotism and concern for this country and its deficits, and I will say that those who are the leaders of this movement are not the ones who have been chiefly responsible for the problems of deficits. They have, in fact, been in there, willing to join in bipartisan coalitions to cut it. I will give them all the credit.

I fear that it is not going to happen. I fear that it is not going to have that salutary effect.

There was a radio program some years ago called "The Shadow," which started off with the line: "Who knows what evil lurks in the hearts of men? The Shadow knows."

Well, who knows what evil lurks in Gramm-Rudman-Hollings? Nobody knows, Mr. President. But I sure suspect.

[Laughter.]

Mr. HOLLINGS. What about big oil? You have covered everything else.

[Laughter.]

Mr. DOMENICI. Mr. President, I will not speak long, because I know that the original sponsors are waiting to speak. It is pretty difficult to follow Senator JOHNSTON's excellent remarks.

I think the American people sense that something evil is occurring right now, if we cannot get the deficit down. That is why they support this legislation. They may not understand how it is going to work or be convinced that it will work. Some who have lived with this for weeks may have a little trepidation about whether we know exactly how it will work in every detail or whether it will work as we intended it to.

I heard this morning on some of the newscasts that some Senators and Representatives were predicting gloom and decrying a terrible new system we have invented. I was trying to come up with an answer, since I figured somebody would ask me. Basically, I responded this way in my own mind: Could it be any worse than what we have? I concluded, "No."

It is not the greatest way to manage a magnificent country. But we have political gridlock at this point, and the existing processes of our Government, executive and legislative, invite the continuation of the gridlock.

In no way are the principal players in this legislation creating the gridlock with their good intentions and the positive, absolute convictions that were brought to the table. In many quarters, however, there is tacit encouragement for the gridlock to remain, and so long as that attitude is unchallenged, the deficit does not go down; it goes up.

So I ask the question: Difficult as this sequestration is, it is difficult to predict how our political institutions may act in the first year, in 1986, to posture themselves. Some may conclude, "Let's not act; let's see if sequestration occurs." I cannot figure out all those dynamics yet.

If you are concerned about the continuation of $200 billion deficits, with little or no hope of ameliorating them during good times to a substantial degree and in a predictable way, then I can tell you, having been in the middle of this conference, that this bill is more apt to solve the problem than leaving the system the way it is.

I believe that the President will have a difficult time producing a fiscal 1987 budget by February 5 at a $144 billion deficit. On the other hand, he is given the same latitude on details as he is given now, except that the maximum deficit allowed is $144 billion. The President can request as much defense as he wants: He can seek 3 percent real growth; he can put in for 4. That is his right and duty as President. Then he can look at all the rest of the programs of this Government and tell us, "I believe we have to cut substantially more than last year." That is the President's prerogative.

Ultimately, however, how much goes
to defense and how much we cut from
the rest of the programs is a collabora
tive effort between a President an
Congress. Compared with the way th
system works now, I believe that th
chance of our getting together on
budget that will yield a deficit n
greater than $144 billion in a reasona
ble manner, rather than the alterna
tives of one party getting its way ex
clusively or everyone suffering th
across-the-board penalties of seques
tration, are very much enhance
under this process.

So, after more than 3 months o
work and extremely intensive study
the Senate has before it the confe
ence report on Gramm-Rudman-Ho
lings Balanced Budget and Emergenc
Defense Control Act of 1985.

There are some who will still sa
there are unanswered questions. Wel
there are, but few bills on fiscal polic
have received such intensive attentio
Fewer still hold any real promise o
forcing Congress and the administr
tion to confront the problem of hig
deficits. For those who have in th
past talked about balanced budget
constitutional or otherwise, this
month exercise ought to serve at lea
as a notice that it is not as easy
some people thought. It is complica
ed. It is difficult because our prese
$1 trillion budget has a lot of comple
ity and dynamics built into it.

If I may look back over these past
months, Mr. President, I will reca
how the Senate now has come to th
situation. The distinguished Senato
GRAMM, RUDMAN, and HOLLINGS joine
forces to bring to the Senate this ba
anced budget and emergency defi
control act. It was their concept.
was a good concept and it remains
good concept. It came at the rig
time, the exact right time. We we
debating increasing the public de
limit to $2 trillion. It had elemen
that held the promise of forcing so
responsibility from both Congress a
the President. The concept was simp
but forceful: If Congress will not a
prudently, then we will impose acros
the-board impartial cuts in order
reduce deficits.

So I rise today to congratulate t
three original sponsors of this bill f
their concept, and the timeliness a
prudence of their initiative. I ha
worked with them and with the disti
guished chairman of the Finance Co
mittee, Senator PACKWOOD over t
past 3 months. Working together, I b
lieve we were able to improve the bi

After the first conference on t
matter broke down, we were able
further improve the legislation. In a
the Senate passed 75 amendments
this legislation prior to our last conf

ence with the House of Representatives.

In short, the Senate sent its conferees to meet with the House with a good product. We have come back with what I am convinced is even a better product. It is still not a perfect product, but no one can draw perfect legislation on matters as complex as this. I would just say that this is a very good bill, and if it is carried out, it holds the promise of imposing fiscal discipline of the highest order. This bill sets targets for the deficit each year for the next 6 years culminating in a balanced budget in fiscal year 1991. These are not unreasonable reductions.

The bill establishes procedures for congressional and Presidential action if in any one year the deficit targets are not reached. It provides for an even-handed approach, based upon across-the-board percentage cuts for the vast majority of Federal accounts. It treats defense and nondefense programs equally, demanding equal sacrifice from both.

As I see it, this is simply the most ambitious and well-crafted attempt to force a balanced budget that has come before this Senate in all the years this Senator has been here. We have held many hearings and heard many proposals on how the budget should be balanced. We have considered legislation to do the job, including amending the Constitution. But the bill now before us is the best legislative effort I have seen.

Mr. President, I ask unanimous consent to print in the RECORD an explanation of the major features of the conference agreement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985—SUMMARY OF CONFERENCE AGREEMENT

An automatic deficit reduction procedure would be established for FY 1986 through FY 1991, when the deficit would reach zero. The deficit targets for each FY would be as follows: FY 1986: $171.9 billion, FY 1987: $144 billion, FY 1988: $108 billion, FY 1989: $72 billion, FY 1990: $36 billion, FY 1991: Zero.

In the event that the deficit is anticipated to exceed the required levels for any fiscal year, the automatic procedure would be used to achieve across the board reductions in the Federal budget.

1. TRIGGER MECHANISM

The Office of Management and Budget (OMB) and the Congressional Budget Office (CBO) would submit a report to the General Accounting Office (GAO). This report would estimate the deficit for the fiscal year and the amount by which the deficit exceeds the level specified above. If the deficit excess is $10 billion larger than the maximum allowance deficit for fiscal year 1987-90, an automatic deficit reduction procedure would trigger. In the event that this automatic deficit reduction procedure (known as sequestration) is required, both the CBO/OMB and GAO reports would identify the specific budget authority and all other factors (COLA amounts, outlay reductions in the case of direct spending programs, direct loan obligations, etc.) to be sequestered and which are required for the President to write the order at the appropriation account level.

The CBO/OMB report would contain all of the information needed to prepare the Presidential order and, in essence, would constitute a draft order. GAO would review the report provided by CBO and OMB and, with due regard for these findings, would prepare a report to the President.

If any part of these reporting procedures is declared invalid, fallback procedures, using a temporary joint committee on deficit reduction, would apply.

2. THE SEQUESTRATION AMOUNTS AND TIMETABLE

As noted above, the maximum deficit amount for FY 1986 would be $171.9 billion. In January a "snapshot" would be taken of the FY 1986 deficit amounts by OMB and CBO. New economic forecasts would be used. The amount to be sequestered for FY 1986 would be determined by subtracting $171.9 billion from the adjusted deficit amount and multiplying the result by $\frac{7}{12}$'s, with the further stipulation that the maximum sequestration would be $20 billion on an annual basis. For this fiscal year only, sequestration would begin on March 1. Therefore, the $\frac{7}{12}$ fraction is the number of months remaining in fiscal year 1986 divided by 12. In FY 1986 and FY 1991, sequestration would occur if the deficit exceeded the target by any amount.

In FY 1987-90, sequestration would occur only if the deficit exceeded the target amount by at least $10 billion.

The accelerated timetable for FY 1986 would be as follows:

January 10, the "Snapshot" of the deficit for FY 1986 is taken.

January 15, OMB and CBO report to GAO.

January 20, GAO issues the report to the President, based on the finding of CBO and OMB.

January 21, Congress convenes.

January 25, the President submits his FY 87 budget.

February 1, the Presidential order is issued based on the GAO report.

March 1, the order takes effect.

Any cost of living allowance (COLA) scheduled to take effect on January 1 would be deferred beginning January 1 under this plan. If it is later determined that a sequester order will not take effect, the COLA's would be restored retroactive to January 1.

The timetable for 1987 and beyond would be as follows:

August 15, the "snapshot" of the deficit was taken.

August 20, OMB and CBO report to GAO.

August 25, GAO issues the report to the President, based on the findings of OMB and CBO.

September 1, the Presidential order is issued based on the GAO report.

October 1, the order takes effect.

October 5, OMB and CBO issue a revised report to reflect final congressional action.

October 10, GAO issues a revised report to the President.

October 15, the final order, based on the revised report, is effective.

Under this timetable, the month of September would be set aside for a congressional response to the sequestration order.

3. THE PRESIDENTIAL ORDER

The amount to be sequestered is split 50-50 between defense and non-defense to achieve the deficit reduction specified in the GAO report. The non-defense category would consist of the automatic spending increase programs, all non-defense controllable expenditures and half of the Federal retirement COLA's. The defense category would consist of all of budget function 050 and the remaining half of the Federal retirement COLA's.

The Presidential order must strictly adhere to the determinations set forth in the GAO report and must be consistent with that report. For discretionary programs, new budget authority would be reduced on a proportional basis to achieve the required outlay reductions.

The following would apply to defense:

For all years, the sequestration would be made at the program, project and activity (PPA) level. In the President's initial order issued on September 1 (February 1 in the case of FY 1986), budgetary resources (new budget authority plus unobligated balances) and outlays would be reduced at a uniform rate across all PPAs to the extent necessary, given the blended outlay rates for each PPA, to reach the defense outlay target for the year. Actual sequestrations could apply entirely to new BA or entirely to unobligated balances or to a combination of both.

These PPA blended outlay rates would be derived by CBO and OMB from data then available to them as supplemented by additional data from DOD. If the outlay rate for unobligated balances in any PPA were unavailable, CBO and OMB could use the outlay rate for new BA instead. The weighted average of these rates for each account would be compared to the historical account rates previously estimated by CBO and OMB, and the PPA rates could be adjusted by CBO and OMB or by GAO to the extent necessary to make them consistent with the historical rates.

In the President's final order becoming effective on October 15 (March 1 in the case of 1986), he could reduce the amount of budgetary resources sequestered in any PPA and the corresponding outlay reduction, to the extent he was able to achieve the same outlay savings by termination or modification of contracts within that PPA. To take credit for this reduction, these outlay savings, and the reduction in obligated balances necessary to achieve them, would have to be verified by GAO no later than September 30 (February 15 in the case of 1986). If GAO were unable to verify the savings for any contract, no credit could be taken. The President would identify the contracts proposed to be so terminated or modified, together with the claimed outlay savings and reduction in obligated balances, no later than September 5 (January 15 in the case of 1986). In addition to GAO, the President would also notify CBO, OMB, and the House and Senate Committees on Armed Services and Appropriations of his proposed terminations or modifications.

The following special defense flexibility rules would be established for FY 86:

(1) Except as provided in paragraph (2) below, any adjustments can only occur within an account.

(2) The President may exempt all or any part of the military personnel accounts from the uniform sequester percentage—

(A) The President must make his decision on exemption of military personnel accounts on or before January 10.

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(B) The shortfall in outlay savings resulting from any exemption of military personnel accounts must be made up by uniform cuts in budgetary resources from PPAs in all non-personnel accounts, applying the blended outlay rates for each PPA.

(3) Any non-personnel PPA may be reduced by an amount up to twice the total percentage sequester from such PPA.

(4) Items identified as Congressional interest items may not be reduced by an amount larger than the total sequester percentage—

(A) Congressional interest items are defined as those PPAs that have been appropriated in the final Defense appropriation conference report for FY 86 at a level that is at least 110 percent of the President's request for that PPA.

(5) No base may be closed.

(6) No PPA may be increased to a level above its presequestration appropriated level.

4. TREATMENT OF PROGRAMS

Interest on the national debt and the Social Security program would be exempt from sequestration. Eight low-income programs would also be exempt: Medicaid, AFDC, WIC, SSI, Food Stamps, Child Nutrition, Veterans Compensation and Veterans Pensions.

Special rules would apply for: foster care and adoption assistance, unemployment compensation, child support enforcement, guaranteed student loans, and the Commodity Credit Corporation. A number of technical exemptions are also made.

A special procedure (known as category Ia) would also apply for the following health programs: Medicare, Veterans Health, Indian Health, Community Health and Migrant Health. These programs would be subject to a sequestration cut of 1 percent in FY 1986 and 2 percent in FY 1987 and thereafter. The reduction would be calculated after including any scheduled increases. If no increases are scheduled, there would be a reduction below the current level.

The reductions in the remaining non-defense programs must be sufficient to achieve 50 percent of the total sequestration amount.

5. CONGRESSIONAL RESPONSE

In the Senate, a procedure would be established to allow the Senate Budget Committee to affirm, in whole or in part, the sequestration order and provide for a congressional response using a reconciliation-type process involving both instructions to committees and the actual legislative language fulfilling the instructions.

6. ECONOMIC CONDITIONS

Special procedures would be established to allow the Congress to suspend certain provisions of the Act in the event of a recession. This recession escape clause would be triggered, by a CBO notification to the Congress under either of the following circumstances:

CBO or OMB forecast or estimate that real economic growth will be less than zero in any two consecutive quarters during the six quarter period beginning in the quarter prior to the CBO notice; or

Department of Commerce reports that actual real economic growth for any two consecutive quarters is less than one percent.

If either of these circumstances exist, the Majority Leader of each House would be required to introduce a joint resolution suspending the relevant provisions of the Balanced Budget and Emergency Deficit Control Act of 1985 for the remainder of the fiscal year and for the following fiscal year.

The Act specifies the content of the joint resolution and provides that the resolution be referred to the respective Budget Committees. Within 5 days, the Budget Committees must report the resolution without amendment to the respective House or be discharged. The resolution would be considered under expedited procedure in both chambers and would not be subject to amendment.

7. CONSTITUTIONAL ISSUES

Both the House amendment language pertaining to nonseverability and the Senate amendment language pertaining to severability would be deleted.

Expedited judicial review would be provided for Members of Congress seeking anticipatory review of the reporting procedure and the constitutionality of the Act, or questioning Presidential compliance with sequestration procedures. Also, the legislation provides expedited review for Members of Congress and adversely affected citizens challenging the constitutionality of the Act upon the issuance of a sequestration order.

If the President employs a claimed constitutional prerogative not to comply with sequestration procedures, the entire order would be null and void upon a Supreme Court finding that the President's action was valid.

The legislation would also provide for a fallback procedure in the event that any part of the OMB/CBO/GAO reporting procedure is found unconstitutional. Under these circumstances, the OMB/CBO report would be transmitted to a temporary joint committee on deficit reduction, composed of the members of the House and Senate Budget Committees. The joint committee would report a joint resolution which could then trigger sequestration if enacted. Expedited consideration in both Houses would be provided.

8. BUDGET ACT PROCEDURES AND CHANGES IN RULES OF THE HOUSE AND SENATE

The legislation adopts many of the congressional budget reforms proposed in the 98th Congress by the Task Force on the Budget Process, the Committee on Rules, which is commonly called "the Beilenson Task Force" in reference to its Chairman. Specifically the legislation provides for an accelerated congressional and executive branch timetable, expands the application of the Budget Act to cover credit authority, includes off-budget programs in the congressional and executive budgets, and streamlines the congressional budget process by providing for an annual budget resolution and by removing unnecessary obstacles to the consideration of authorization and appropriation bills.

The proposed congressional budget timetable is as follows:

"On or before," action to be completed:

First Monday after January 3,[1] President submits his budget.

February 15, Congressional Budget Office submits report to Budget Committees.

February 25, committees submit views and estimates to Budget Committees.

April 1, Senate Budget Committee reports concurrent resolution on the budget.

April 15, Congress completes action on concurrent resolution on the budget.

May 15, annual appropriation bills may be considered in the House.

June 10, House Appropriations Committe reports last annual appropriation bill.

June 15, Congress completes action on re onciliation legislation.

June 30, House completes action o annual appropriation bills.

October 1, fiscal year begins.

MAJOR CHANGES IN THE BUDGET PROCESS

A new point of order would apply again a budget resolution, of amendments theret in excess of the maximum deficit level. (I the House to waive this point of ord against a conference report would requi ⅗th of members present and voting.[2]

After May 15 appropriation bills may considered in the House.

The May 15 reporting deadline for autho ization bills is eliminated.

Committees would be required to fi 302(b) reports.

In the House of Representatives, Secti 302(a) allocations of new discretiona budget authority, new entitlement autho ity or credit authority would be binding a enforced by a new point of order. In t Senate Section 302(b) allocations of budg authority and outlays would be binding a enforced by a new point of order.

Mr. DOMENICI. Mr. Presider there is an additional item I wish make clear for the record. Contrary reports that have been brought to n attention, there is no implicit exem tion in this legislation for certain fo eign affairs programs that are fund under international agreements.

Section 255 specifically lists all the exempt programs and activiti including three international p grams that are exempt from sequest ization: the Treasury exchange stab zation fund, the foreign military sa trust fund, and payments to the F eign Service retirement and disabil fund. Four other international p grams include prior legal obligatic that are exempt and listed in the a AID housing insurance guarante Export-Import Bank direct loa International Trade Administratic operations and administration, a the Overseas Private Investment C poration guaranteed loan program.

The programs listed in section are the only ones fully or partially cluded from sequesterization. All ot programs, including international p grams that are associated with int national agreements, are subject to quester. For many decades these p grams have been funded through annual appropriations process to extent that funds are available.

There is no truth to the reports t payments to the multilateral devel ment banks, U.N. dues, or payments countries that host U.S. military ba are exempt from sequester. This Se tor can assure the Senate that th programs will be treated the same the many domestic and national se rity programs that will be sequeste in March and October 1986 if Congr and the President fail to meet the deficit target in this legislation.

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[1] February 5 for fiscal year 1987.

[2] In the Senate all points of order created by legislation would require an absolute ⅗th vot waive.

I yield the floor.

The PRESIDING OFFICER (Mr. KASTEN). The Senator from Texas.

Mr. GRAMM. Mr. President, I rise in strong support of the conference report. This is not the hour for debating the merits of the proposal. I think those merits and demerits have been debated in full.

Our colleague from Louisiana raised a question about whether some evil lurks in this bill. I think one thing is clear: In the 7 years I have been in Congress, no bill, at least in my opinion, has received the intense debate and analysis that this bill has. Whether it succeeds or fills obviously will be determined by history.

But if you look at the people who worked on this bill and the amount of time, effort, and energy that has gone into it, this bill is the most thoroughly analyzed piece of legislation that I have observed in my 7 years of Congress.

I think basically there are three relevant issues to be debated here today:

First, how did we get here?

Second, what changes have we made from that first bill that was introduced over 3 months ago?

And, third, where do we go from here?

We have reached this point, Mr. President, because the program adopted in 1981 did not solve all the problems of the country. Let me review the progress, the success, and the failure of that program because it is relevant to how we got here.

In 1981, we adopted a change in Federal policy aimed at changing the country by changing the Government and we promised in that program that we would achieve results. We said we would stop inflation, and we have. Inflation was the No. 1 problem in the country in 1980. It was the scourge of a whole generation. It had made it impossible for people to save and provide for their future and for the future of their children, and a large part of the American people elected Ronald Reagan and many Members of this body to deal with that problem. Whatever anyone would say about the 1981 program, it achieved that result. We have stopped inflation cold in its tracks.

We were in a period of economic stagnation in 1981 and we promised the American people that with budget restraints and tax cuts we would put America back to work, and we have. As of the day before yesterday, 10.1 million jobs have been created in the private sector of the economy: more permanent, productive, taxpaying jobs in the private sector than all the make-work Government jobs programs ever adopted in American history.

We promised we would cut taxes and provide incentives for people to work, save, and invest. We have and the people have.

We promised we would save Social Security, and we have. We promised we would rebuild national defense, and we have.

But there is one promise we made that we have not delivered on and that promise was to balance the budget. This program we are considering today sets into place the mechanism to fulfill that promise.

This, in fact, completes the Reagan program by setting up a mechanism to achieve that final goal.

We got here because in 1981 we adopted a 3-year plan to put the Federal Government on a budget. The first year Congress delivered 90 percent of the savings it promised. The second year only 40 percent. The third year we achieved no savings whatsoever. In the fourth year of the Reagan program, revenues grew by over 10 percent because of the explosion of economic activities, but Federal spending grew by 11 percent and the deficit grew.

Last year revenues again grew by over 10 percent, but spending grew by 12½ percent. The budget process has failed.

We introduced the bill to deal with that problem.

This program is based on a procedure that is now used more or less in 43 States to meet legislative and constitutional prohibitions against deficits.

The distinguished Senator from South Carolina and many other Members of this body have employed a similar system in their State governments as Governors to control spending. The idea here is a simple idea. It is a straightforward idea.

Now, once printed, our bill may be 300 pages long. But that is only because it is technically difficult to do simple things because the Government is complicated and, quite frankly, it is a lot harder to control spending than it is to try to let it run rampant.

Trying to stop the growth in spending is like trying to retrieve land mines once they have been put down. The people who are spending go out and hide these mines beneath the grass, and that is easy. Going around with a bayonet trying to dig up all these spending programs is hard work. That is why this bill looks complicated, but the idea is simple.

How is this bill changed from the first bill that we introduced? If you were for that bill, should you be for this one?

Let me go over the changes. First of all, when we introduced this bill, we had no exemptions except the Social Security system's freestanding trust fund. Social Security is in the black because of changes we made in 1982 in both spending and taxes.

Some have said, "You had no exemptions then and you have eight exemptions now." But let me try to dispel that notion.

When we wrote this bill the first time, we were unable to make many parts of the budget controllable because of the definitions used in the executive branch of Government. When we wrote this bill the first time, all the payments to the States, all the contractual commitments under existing programs, could not be brought into the loop so far as an automatic reduction was concerned.

Before going on, I want to make a point that my colleague from New Hampshire often makes. There has been too much focus on the automatic cuts and too little discussion about the process that we are putting into effect. The automatic cuts are important—they are the disciplining agent—but those automatic cuts after this first year are going to occur only if we fail to do our job.

When we introduced this bill, AFDC, food stamps, guaranteed student loans, CCC, and numerous other programs were uncontrollable because of the way that the executive branch operates.

What happened since that initial introduction is we discovered how to make everything controllable within limits. As a result, you can vote for this bill today knowing that more programs are controllable, more programs are in the pot, a larger volume of dollars are available to be sequestered today, and the program is fairer and broader based today than it was the day the bill was introduced.

We have granted eight exceptions and the truth is we are talking about $75 billion out of a $1 trillion budget. And, in terms of balance, in no way does that weaken the ability of this system and process to work.

We have granted special treatment for medical programs and eliminated a tremendous inequity from the House bill. The House wanted to exempt migrant health centers and impose the full cut against veterans health care. We found that totally unacceptable in the Senate. So we did not exempt any medical program. We put them all in one pot, to be treated exactly the same.

You are going to hear discussion here about defense. What does this do to defense? Well, the truth is that what it does to defense depends on what the American people want done. I go back home and hold town meetings and people say, "Phil, what is this going to mean to defense or what is this going to mean to veterans?"

The American people support a strong defense. And as long as we are efficient in providing it, they are going to support it. This bill is going to force us to pay for defense. It is going to

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force us to set high standards, including high standards on defense. But I believe the American people will pay for defense and they will pay for veterans' programs.

There are programs that will not be funded under this proposal. There are bills today that spend money on benefits that the American people will not voluntarily pay for and, as a result, when we are forced to set priorities, some programs will be terminated.

Defense and the fundamental programs that are broadly supported by the American people will do well under this budget.

We have got more flexibility today in defense than we did in the first bill or the second bill. You will remember that our idea was to allow the opening up of defense contracts to put everything in the pot. We now have a process whereby the Pentagon can determine whether they want to open a contract or not. And they have to certify through GAO that opening a contract will achieve savings. But they decide on which contracts are to be open. They have full flexibility within a program, project, or activity as to whether they want to take savings out of new budget authority, unobligated balances, or existing obligated balances by renegotiating a contract. They did not have that freedom under the original bill. Only after long debate, mostly among several people on this side of the Capitol, we figured out how to do it better and we had time to get that done.

Additionally, we have flexibility in 1986 that did not exist in the previous bills. That flexibility allows us, within an account like track vehicles in the Army, to decide where to take the savings if we have an across-the-board cut. It allows us to take up to twice as much in the way of percentage cuts in some areas in order to exempt others, if that is more efficient.

Finally, in the first year as we transition into the process, we allow the Pentagon to decide not to take any reductions in uniform personnel, to take only part of the reductions, or to take all of them and correspondingly to apply those reductions across the board in other areas.

That is flexibility that did not exist under the existing bill. And I believe that, while none of us want to see a sequester order occur, a sequester order will be far more efficient under the procedure we are considering today.

Finally, Mr. President, I want to talk about where we go from here. There has been a lot of discussion about what this bill means. Does it mean controlling spending? Does it mean raising taxes? The best analogy I have been able to come up with is the analogy about putting fat in the fire. This bill puts the fat in the fire.

We can either rend the lard from that fat, which is my goal by controlling spending, or we can put out the fire by raising taxes.

This bill does not dictate decisions, but it does force decisions. So we have Members here today who support this bill and who want to raise taxes.

We have Members here today who support this bill who want to control spending. And they are both right in supporting the bill because the bill forces decisions. It does not force taxes. It does not force spending cuts. It sets up a process, and that process is a disciplining process that requires that across-the-board cuts stand in place if we do not do our jobs.

I think it is important in looking at this debate that both CBO and OMB currently project for the 5 years of the bill that revenues will grow by $75 billion a year under the existing Tax Code because of economic expansion. To meet the targets of this bill in the first year with the sequester order coming up in March—and the targets will be lower if we adopt the reconciliation bill—in this first year about $40 billion of that $75 billion of new revenues coming from growth would have to be applied to the deficit, and we could spend the other $35 billion.

In each year thereafter we could roughly split the revenue, half going to reduce the deficit, half going to spend on Government programs. I believe if you understand that revenues are going to grow twice the amount of the existing deficit while this bill is in effect, then you understand that the challenge here is to control spending.

What that debate in tax increases versus spending control will get down to is this: What is your vision for America's future? Clearly TIP O'NEILL and those who have opposed this bill have a vision of America's future as a vision where Government is growing and providing more services to more and more people. I have a vision for America's future that is a vision of America growing, where more and more people can provide more things for themselves. And I believe that vision can be realized by controlling spending.

Finally, one last point: I know there will be efforts to amend this bill in a thousand and one ways through legislation that will be passed from this day forward. I want to assure the Members—and I can assure them not just based on what I intend to do, but what our distinguished chairman of the conference, the distinguished chairman of the Budget Committee, and the cosponsors of this bill intend to do as well—that we intend to fight those changes. If the bill needs changing after we have tried it, I will be here working to improve it. But I am not going to stand here and allow this bill to be destroyed before it has a chance to work.

In conclusion, I want to thank BOB PACKWOOD for his leadership on a bill that started out not being his bi
This was a rider put on the debt ce
ing. He had plenty of big fish to fry
the tax debate, and it would have bee
easy for him to be indifferent abo
this bill. He was not indifferent abo
it. He became an expert on it.
became an advocate of it. It is as muc
his bill today as it is the bill of t
three cosponsors.

I want to thank PETE DOMENICI f
his leadership on this key issue. Wit
out PETE DOMENICI's support th
could not have happened. I want
thank the staffs of the Finance Co
mittee and the Budget Committee w
have worked around the clock, som
times 48 hours, without going to bed.

I know I have gotten tired when
worked until midnight several nigh
in a row. But many of these peo
have worked all night long. Th
names will not be on the bill. Th
will not be casting a vote for it.
they are as responsible for it and
the benefits it will produce as a
body.

Finally, I want to thank the t
other cosponsors of the bill. I want
thank Senator HOLLINGS. I have sat
his side of the aisle in the Ho
taking a position that I thought was
the interest of America, and I kn
the seat over there sometimes g
hot. But I want the distinguished S
ator from South Carolina to know h
much I appreciate his leadership.
was important. It helped forge the
partisan support here that made t
bill impossible for the House to
away from.

I want to thank the distinguis
Senator from New Hampshire.
leadership, his knowledge of the l
and his efforts have been critical
making this bill what it is today
help making it the law of the land.

Finally, I repeat a comment I m
the other day. The fact that we
here today reaffirms my faith in
mocracy. We came up with an idea
was appealing to Congress. It was
proved by the Senate on a 75-t
vote. The leadership of the Ho
threw the brakes on and the spe
interest lobbies activated. Every
cial interest group in America c
out against this bill. They sent lett
telegrams, and lobbyists. But
people back home were heard as w
This bill is going to become law
cause the people who do the work,
the taxes, pull the wagon, and m
America work are for it, and t
ought to be for it because it is
them.

I thank everyone who has had
thing to do with this bill. I urge
colleagues to adopt it.

I yield the floor.

Mr. HOLLINGS addressed
Chair.

The PRESIDING OFFICER.
Senator from South Carolina.

Mr. HOLLINGS. I thank the distinguished Presiding Officer.

I also want to thank most profusely and most fully the distinguished Senator from Texas, Senator GRAMM, and the Distinguished Senator from New Hampshire, Senator RUDMAN. It has been a highly political and rewarding activity for me to work with their leadership, their brilliance, and their willingness to compromise and then at other times to be particularly tough because it has been a tough exercise.

You must understand now that it has been 3 months since we started this process. When we started we held the Senate in session over the weekend—Friday, Saturday, and Sunday—and the big complaints at that time were, we were trying to shove this thing through on the weekend, it was not thought out, and things along that line.

When we started we had a document of roughly 40 pages and said, look, folks, here is our plan to start fiscal responsibility and balancing the budget. We had it printed in the CONGRESSIONAL RECORD but now it has been expanded to about 159 pages. If we had come up with a 159-page amendment to the Finance Committee debt limit, we would have been run off the floor. There is no question about that.

It has been far more complicated trying to make it impartial, and trying to make it workable, than we ever realized. That is why we are so indebted to the distinguished Senator from Oregon, Senator PACKWOOD, and Senator DOMENICI, the chairman of our Budget Committee, and to TOM FOLEY over on the House side for their particular leadership. I want to thank them very much for all the great work they have done.

Gramm-Rudman, you cannot understand that gratitude unless you understand the sort of feel that we have—Gramm-Rudman-Hollings—they have me leaving myself out [laughter]. We will argue that case later on. But in any event, Gramm-Rudman-Hollings is a very simple and yet very complicated bill.

Simply stated it says that over a 6-year period we are going to eliminate the deficit so by 1991 the budget is balanced and the Government is back in the black.

Second, it says in order to do that, we will have periodic measurements similar to what we have in 43 States in America where the Governor, and herein the President, receives a certificate from the Comptroller that the expenditures are equivalent to revenues. If they aren't, there is an added measurement, or sequestering—simply put, a cut of an equal amount across the board to put the deficit at a specified level. The duty of the President is ministerial. I can go to one point in answering one of these articles here again in the morning paper about the constitutionality, and the powers given the executive branch.

Have no fear. No Governor nor President would want this particular power. I have never seen a Governor praised for making cuts. On the Federal side, it will be the same way. If there are cuts, voters always talk about Governor so and so's cuts this year. If cuts must be made, they will be the President's cuts. Because cuts will not be popular, the sequestering power will not be a great power. We have made it as ministerial as possible.

It is a complicated plan because the Federal budget is complicated. We followed three sorts of guidelines in coming up with the plan. We started with the idea that it must be impartial; second, that it must be realistic or workable; third, that it be politically attainable. There would be an impartiality between the executive and legislative branches. We still will write, under this particular measure, the budget in the congressional branch.

The plan is impartial in yet another way, with respect to programs themselves. Defense programs and social programs share a 50-50 split.

The guideline of workability was a difficult one to meet in these 150 pages because we had to take into account every contingency. Mind you me, we not only had an adversary press, but we had an adversary staff. We have the best staff around her. You can hear from the Senator from Louisiana all about what perils were set upon us, how it was called nuts and all those other kinds of things—stupid, crazy, what have you.

Necessarily, the staff put the meat to that particular charge.

So we have had every criticism over a 3-month period. Perhaps most difficult guideline to meet was political attainability. But we were successful because we disciplined ourselves and saying here in this particular body we were able to include Social Security in our midsummer plan. We had bitten the bullet in the U.S. Senate and said we had to hold the line on entitlements. And then Dave Broder comes and says, as if he is making a discovery, "Here is a plan." I do not know where he was in July. I do not know where he was in January. I do not know where he was in 1982, 1983, and 1984. I offered a freeze plan every year for the last 4 years and Broder acts as if he never heard of an across-the-board freeze until November 1985.

Be that as it may. We have been working dutifully to try to effect discipline. The Senate was ready to effect self-discipline. We changed the discipline, though, in order to make this thing attainable. We decided we had to put Social Security off limits. Social Security always overtakes any kind of plan. I know that from bitter experience. You cannot argue about senior citizens and who stands tallest and strongest—Democrats or Republicans—in supporting our retired population.

So we made the decision to exempt Social Security. We made a plitical decision for President Reagan by placing Social Security off limits.

The President is smart enough to get what he wants for defense. But you could not expect him to approve—I know I would not if I were President—a free-spending budget, and then permit Congress to tell him to find the revenues. As long as revenues were not mandated, we had the President on board from the very beginning.

On political attainability, our House colleagues had painted themselves into a corner. The original reaction to Gramm-Rudman-Hollings was that we were cutting everything from verteran programs to nutritional programs, everything was to be slashed.

So we said we would cut nothing. The fact of the matter is in order to make the plan politically attainable we would have to adjust the $171.9 billion trigger by some $20 billion.

I knew the level of $171.9 billion was to low. I argued against it in the adoption of the budget back in August. We adjusted the maximum allowable deficit in the first year from $171.9 billion to $180 billion. Then we found out that was not enough so we had to adjust the statistically significant average from 5 percent to 7 percent, and reduce the allowable deficit in 6 years as opposed to 5 years the month before.

The Washington Post printing a deluge of articles, trying to explicate the whole proposition. The reporters were saying that we had added $20 billion, and had not cut anything. Then they turned around and went in the other direction, trying to kill the plan by saying that there was not enough discipline. "If you really want to do it rather than 6 years, do it in 5 and rather than $180 billion let us bring it to $171.9 billion."

What we wanted to do was not to trigger it this year but to make it politically attainable, what we want to do is not to cut $30 billion by Christmastime.

Therein, faced with the complications of the measure in and of itself, and the House having painted itself politically into a corner of that type, we had Senator PACKWOOD of Oregon and Senator DOMENICI of New Mexico, who had the sense enough to allow the House to gracefully get out of that corner and come to the point where we could save this particular initiative.

Now you understand my gratitude. That is what I really wanted to touch on today, going into a little bit of historic perspective.

Yes, it has been improved upon. There is no question about that. The

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opposition has been put to rout. That is not because of Gramm-Rudman-Hollings or any particular combination of Senators, but because of the people in America.

In law, what we say is an exception to the hearsay rules is when the facts speak to the individual rather than the individual speaking to the facts. Therein the people of America are speaking through their representatives. This is what our friend Broder ought to be writing about.

The best test of constitutional government is the people. They have spoken, through their representatives in office. What the people said was that something had to be done about these continuing deficits which are bankrupting the future of America. "And we want something done now," is what they said.

As our distinguished friend on the other side of the room said, this was not settled around the conference table, but around the kitchen tables of America.

This particular initiative is not perfect. But over a 3-month period, with the best minds and the best possible adversary proceedings you can imagine, we have fashioned a document that will enforce discipline. We hope there will never be a need for Gramm-Rudman-Hollings, in a certain sense. If discipline is enforced the plan will never be triggered. There will never be a cut, there will never be a sequester. That is generally the way it works in 43 States in America.

It would be delightful if we could sign this into law, get it to its first stage in the early part of next year, and therein put us to the discipline of doing the job we should have been doing. We will answer then to our responsibilities.

I will stop right there. I want to yield to my distinguished friend from Pennsylvania who must be heard at this particular time. I do thank Senator RUDMAN and Senator GRAMM particularly. They really did a fine job. They could have gone the other way or sort of sat quietly and gone along with the political requirements of the hour, but they took this on and fought for realism and for impartiality and workability. I think they have done a wonderful job. I do congratulate them.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I begin by commending Senators GRAMM, RUDMAN, and HOLLINGS for their fine leadership in bringing before us this proposal. I similarly commend Senators PACKWOOD, DOMENICI, CHILES, and all the others who have been so active in the processes which brought this measure to this point, with the enormous effort which has gone into this undertaking.

The critical question this Senator is concerned with is, how will this proposal work? This is an extraordinarily complex matter. It has come to this point in the process in a highly unusual way—without the customary hearings, without the customary markup, and without the customary deliberation. It has come to this point having been attached to the debt ceiling, which obviously puts an enormous amount of pressure on the process to accommodate this kind of timetable.

There is no doubt about the seriousness of the deficit in this country. It is the No. 1 problem facing the United States on the domestic side, and for the past 5 years, no subject has commanded the attention of the Congress of the United States, especially the U.S. Senate, as has this subject. There is no doubt about the urgency of solving the problem of the Federal deficit.

The question then arises, what will happen with these budget-cutting figures and how will they impact on the programs which have been decreed by legislation by the Congress of the United States and signed into law by the President? Those are very complex questions, indeed.

This country has functioned for almost 200 years with the Congress of the United States having the authority to appropriate funds. Not only is it a constitutional mandate, it is a procedure which has served this country very well, and we are about to make very profound changes in that procedure. Questions have arisen as to constitutionality. They are very serious questions indeed. I have deep reservations about those issues. But that is not what Congress fundamentally has to address.

The concerns which I have relate to the mechanics of what will occur on the programs in the Federal budget. In the course of the past several days and several weeks, I have conferred with many in the executive branch and many of those who are recipients of services and many of those who are parties to contracts, to get, as best this Senator can, an understanding of how this program is going to work. I am very concerned about the consequences on national defense after discussing these matters with the ranking Federal officials who have responsibilities for national defense. I am very much concerned with many of the programs which impact on the poor, notwithstanding the care which has been taken with this bill.

I am very much concerned about many of the social programs in terms of who will make the decisions as to what those funding levels will be.

Earlier today, I discussed with the distinguished chairman of the Committee on Finance a number of questions and because of the shortness of time, I have more grave concerns than I shall state.

I would like to ask the distinguished chairman of the Finance Committee—if I could get his attention—some questions, some of which we have discussed earlier today. The first relates to some of the issues of national defense. This Senator is particularly concerned about a so-called "hit list" that was published last year, which contained 22 military—Air, Navy, Army—installations, 5 of which happen to fall within the Commonwealth of Pennsylvania But let me select one which is not in Pennsylvania, one which is in New Mexico—Fort Wingate Depot activity—and ask the distinguished chairman of the Finance Committee if the customary rules apply which will require congressional action on the closing of that unit, or is there discretion within the Department of Defense unilaterally to close that unit?

Mr. PACKWOOD. There is no discretion. Congress would have to approve it. Defense Department would have to suggest and Congress would have to approve it.

Mr. SPECTER. I would like to ask the distinguished Senator from Texas [Mr. GRAMM] if he concurs in that conclusion, expecially in light of some of his positions taken earlier this year on the Department of Defense authorization bill.

Mr. GRAMM. The Gramm-Rudman-Hollings provision does not increase the power of the Pentagon with regard to the closing of military bases As the Senator is aware, we di strengthen that power in the armed services authorization bill, but they d not have any more power after th bill passes than they had before passed.

Obviously, we are going to be committing the Nation to a reduction i the deficit and that will affect th Pentagon's decisions about budget r quests. But in terms of specific powe they cannot close a base under th bill that they could not have close under existing law.

Mr. SPECTER. When the Senat from Texas talks in terms of power, h says, they may have more liberal authorization after this bill is passe The Finance Committee chairman answer was that they did not have th power. The Senator from Texas ha responded somewhat differently terms both he and I and those listening understand.

I rephrase the question to Senat GRAMM, if I may have his attentio Does the Department of Defense cu rently have the power to close th Fort Wingate Depot activity in Ne Mexico?

Mr. GRAMM. The Department Defense has the power to move for cl sure of any military base in the cou try under existing procedures, as the exist in law. Those procedures are di tated by a series of bills, the last which was our authorization bill f armed services this year. But none those provisions is waived as a result of this bill. The bill specifically says that the provisions of law, and it specifically defines the governing body of law, shall be complied with.

Mr. SPECTER. Does Congress have the final say in the closing of an installation like Fort Wingate?

Mr. PACKWOOD. Mr. President, I wonder if I may answer.

Mr. SPECTER. Mr. President, I have the floor and I shall direct the question to the Senator from Texas if he chooses to answer.

Mr. GRAMM. I shall be glad to answer. The answer is a simple answer. We have prescribed in law in numerous pieces of legislation the procedure for closing military bases. We have required in this provision that is currently before Congress in the conference report that those provisions of law be complied with.

So in terms of base closures, the Pentagon would have no additional power to close a base under this bill relative to what they have under existing law.

Mr. SPECTER. I still do not have an answer, Mr. President, but I shall cease at that point.

Mr. PACKWOOD. Mr. President, would my good friend yield for just a moment?

Mr. SPECTER. Yes, Mr. President.

Mr. PACKWOOD. He blind-sided me. Earlier today, we talked about base closures under this bill. I said they could not be closed under this bill. Is the Senator asking—this bill has not become law—under present law, can a base be closed without congressional action? Or is he asking does Gramm-Rudman-Hollings change existing law?

Mr. SPECTER. I am asking if a base may be closed absent congressional authorization to do so.

Mr. PACKWOOD. Forgetting this bill?

Mr. SPECTER. That is right.

Mr. PACKWOOD. Mr. President, that is a question I do not feel qualified to answer. I am not on the Armed Services Committee. I am not familiar with the details of present law. But the Gramm-Rudman-Hollings bill does not change the present law on base closing.

Mr. SPECTER. That comes to the second question which arises, I say to Senator PACKWOOD. That is with relation to the ability of the Department of Defense to reduce expenditures which might leave an installation with so little activity or so little income that the installation would be closed. For example, the Aircraft Carrier Service Life Extension Program at the Philadelphia Navy Yard, moving away for a moment from New Mexico, may sustain proposed cuts, according to information which I have received from the Department of Defense, of $419 million in fiscal year 1987.

Now, assuming that the Department of Defense does not have the power unilaterally to close the Philadelphia Navy Yard, which I think it does not, and assuming that Gramm-Rudman-Hollings does not make any change in that law, my question now is, can the Department of Defense reduce the amount of money on a program at the Philadelphia Navy Yard which has the practical effect of closing the installation?

Mr. PACKWOOD. First, let me answer it in three parts. One, on any information the Senator may have received from the Department of Defense about the Gramm-Rudman-Hollings bill, simply discount it 100 percent. They do not like the bill. They have a statement this morning in the paper that we are giving comfort to the Russians with this bill. I do not believe anything they say any longer about this bill. So the Senator can take his facts from them if he wants. All I can do is tell the Senator what the bill does. It is an across-the-board reduciton in spending. So if we have a 5-percent defense spending cut, a base can be cut 5 percent. If the Senator is asking me, could a 5-percent reduction in a base's operating moneys result in the base closure because they lost 5 percent of their moneys, I do not think so. But the cuts are across the board.

Mr. SPECTER. I say to the Senator, the figures which I have just cited do not bear on the attitude of the Department of Defense toward Gramm-Rudman. They bear on what the Department of Defense may seek to reduce in dollar amount, and the Senator's answer is that if there is a 5-percent reduction in defense, that that has to be across the board on all of the DOD expenditures as opposed to the discretion of DOD to take more than 5 percent out of the Philadelphia Navy Yard.

Mr. PACKWOOD. I will let the Senator from Texas respond.

Mr. SPECTER. I would prefer to hear the answer of the Senator from Oregon.

Mr. PACKWOOD. As I indicated in my opening statement, which I think the Senator was not here to hear, when we got into the areas of the military, on which I am not an expert—we had in the conference almost consistently Senator GRAMM and Senator HOLLINGS and Senator RUDMAN—there is some slight flexibility, slight, in 1986, which we have given. We kept ourselves within the constraints of the Levin amendment that was adopted on the Senate floor and the way we have adopted this conference report is satisfactory to the Senator from Michigan. But I do not want to leave the Senator with the impression there is not an iota of flexibility anyplace in this bill. There is some slight flexibility.

Mr. SPECTER. I asked the Senator from Oregon because as the manager of the bill and as a matter of legislative history his answer has some importance, but since he has said that the matters were in the hands of others I would at this time like to attract the attention of Senator GRAMM and ask him the same question, which I will repeat so that it is sufficiently pointed. And that is: Under Gramm-Rudman, assuming a 5-percent cut in the Department of Defense budget, does the Department of Defense have the discretion to take out a larger sum from the Philadelphia Navy Yard which might have the practical effect of closing the Navy Yard?

Mr. GRAMM. Under the Gramm-Rudman-Hollings proposal, any reduction in expenditures by the Defense Department must be across-the-board proportional by line item as defined in the last adopted appropriations bill or continuing resolution. Within a line item, programs, projects, and activities must be reduced proportionally except in the first year where flexibility is given so that any program, project, or activity within a line-item account could be reduced by twice the amount of the sequester order. Nothing could be raised above the sequester order. Within a program, project, or activity, the Defense Department has total flexibility and can meet the savings total with new budget authority, unobligated balances or by the renegotiation or termination of an existing contract. That is exactly the same authority they have now under the appropriations process.

Mr. SPECTER. I hear the Senator's answer, and as to the first part I conclude that there could not be a greater program cut than 5 percent except for some additional flexibility in fiscal year 1986, but in the last part of the answer I am unclear as to whether there could be a greater cut so as to have the practical effect of closing an installation like the Philadelphia Navy Yard.

Mr. GRAMM. The question really boils down to whether an installation or function is classified as a program, project, or activity in the last adopted appropriations account. If it is part of the operation and maintenance account generally, and they are required to make an across-the-board reduction in it, and it is some small part of the general O&M account, the fact is, yes, that it could be terminated.

Mr. SPECTER. The Senator is talking about a program, project, or activity?

Mr. GRAMM. That is correct.

Mr. SPECTER. Does the Philadelphia Navy Yard fall within the definition of a program, project, or activity?

Mr. GRAMM. It will depend on how the appropriation bill that was last adopted was written, whether it is

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funded out of a general O&M account or whether it is funded out of a line-item account.

Mr. SPECTER. Does the Senator know how the last appropriation bill was written so that I can get an answer to that question?

Mr. GRAMM. If that facility were in Texas, I would know. But it is not in Texas, and as a result I do not follow it as closely.

Mr. SPECTER. Well, give me a facility in Texas and answer the question as to that one.

Mr. GRAMM. We have Fort Hood.

Mr. SPECTER. How about Fort Hood?

Mr. GRAMM. At Fort Hood we have seven different accounts that are affected. Each of those accounts can be reduced, and within the subject account specific activities on the post could be reduced. No program, project, or activity could be eliminated as a result of the reduction.

But the point I am making, to try to answer the question directly, is that within a program, project, or activity there is flexibility.

Mr. SPECTER. Could Fort Hood be closed?

Mr. GRAMM. No.

Mr. SPECTER. The answer from the Senator from Texas illustrates to me the complexity of defining the underlying issues on the questions which this Senator has raised. Let me move to another illustration, if I could again have the attention of the chairman of the Finance Committee. Moving away from the issue of an installation to a specific contract, and taking for illustrative purposes the field artillery support vehicle contract at Bowen-McLaughlin in York, PA, a contract which the Congress has deliberated on extensively and has decided is important to the national interest, according to the information which I have received from the Department of Defense, this would only be their intention.

The question remains as to what they could do. There would be a total elimination of the $101 million in fiscal year 1986. The question this Senator has, if there is a 5-percent reduction in the Department of Defense appropriation, would that permit the elimination of 100 percent of that contract? Does the distinguished chairman of the Finance Committee have the question?

Mr. PACKWOOD. Frankly, when the Senator put his question, I did not understand it. I was taking another question involving the tax bill.

Mr. SPECTER. Let me repeat the question, if I may. I understand there is a lot happening on the floor—another problem that we have in getting the replies. The question is that the Congress has authorized a certain project for field artillery support for Bowen-McLaughlin in York, PA, for $101 million. Given the reduction as proposed by Gramm-Rudman, the Department of Defense stated an intention, however tentative, to eliminate the contract completely.

This Senator's question is this: Assuming the 5-percent reduction in the Department of Defense budget, would DOD have the power, under existing law, to totally eliminate the full contract at Bowen-McLaughlin-York?

Mr. PACKWOOD. We have to see how it is categorized in the appropriation bill.

Mr. SPECTER. I do not know, from the top of my head, the categorizations of this contract or the dozens today—literally hundreds—of contracts which affect my State and the thousands which affect the United States.

When Congress has established the priorities as to what we consider important, my question is, what is the discretion that is given to the Department of Defense? Do we have to go through the budget line by line and the appropriations process line by line and make an analysis of the various tiers which the Senator from Texas has categorized? If that is so, speaking at least for myself, I need to know a lot more about the details of the Department of Defense authorization bill, which I do not know and could not possibly know, before I am in a position to say "aye" or "nay" on this bill.

Mr. PACKWOOD. This particular part of the sequester power, the programs, projects, and activities, is not particularly new to this bill. It is an issue we debated here 3 or 4 weeks ago.

Mr. SPECTER. I have not worked on Gramm-Rudman-Hollings for the past 3 months. I have a question as to whether even 3 months is long enough for anyone who has worked on it to have answers to these complex questions.

Mr. RUDMAN. Mr. President, will the Senator yield for a comment?

Mr. SPECTER. In a moment.

When we come to the floor of the Senate to consider this issue, there should be at the hands of the proponents, it seems to me, the kind of underlying factual information to respond to a Senator, so that he will then know what the consequences are going to be.

Since the time I have formulated the question, I have been advised by my able staff that the program to which I have referred is an activity under the Department of Defense authorization bill, and then I conclude, as the answer is given by the Senator from Texas, that it could be eliminated completely.

Mr. GRAMM. No. Will the Senator yield? If it is a program, project, or activity——

Mr. SPECTER. I yield for an a
to the question.

Mr. GRAMM. If this project
which the Senator is concerne
program, project, or activity as de
in the last appropriation bill, it c
reduced only by the amount of t
quester rule. If it is part of an o
program, project, or activity, th
can be adjusted. So long as the o
account meets the total, it can
justed in any way by the Depar
of Defense.

Mr. SPECTER. I should like t
tention of the chairman on a
question. Moving away from th
partment of Defense issues and
ing up for a moment on a matte
Amtrak. Assuming the 5-perce
duction sequestration and ass
the $606 million appropriatio
Amtrak, would the maximum cu
percent of the Amtrak appropri

Mr. PACKWOOD. Yes.

Mr. SPECTER. Does the S
from Oregon have a conclusion
what happens to a program
cannot function at the level tha
tains the appropriation for aft
cut?

I do not know if it is so, b
Amtrak officials have represente
anything beyond the current
priation would preclude the ope
there.

Mr. PACKWOOD. As I
Amtrak said they could not o
the system with less than $776
2 years ago, when I was chair
the Commerce Committee. W
them about $100 million. It is am
but they have continued to oper

My impression is that if Amtr
a 5-percent cut, they would no
down their system. They would
their routes, probably long-d
routes, and say, "Here are the
that have the lowest passenge
traffic. We are going to cut of
three routes, and with that save
cent."

I would imagine that the man
any other program faced with a
cut would determine where he
make the cut best.

I can assure the Senator, base
past reductions of Amtrak, tha
have been able to operate mor
with less money than they t
they could before the Commerc
mittee.

Mr. SPECTER. I thank the S
I am inclined to agree with A
flexibility in that respect.

As a factual matter, with 5
sequestration, programs and cat
such as Amtrak, Job Corps, Urb
velopment Action Grants,
sharing, Federal mass transit
dies, or programs of that ca
would be reduced by whatever t
centage sequestration order is.

Mr. PACKWOOD. I suppose t
a point where we cut a program

cent this year and another 5 percent and another 5 percent, and you reach a point where they could not operate as fully as when they had 100 percent. Perhaps you could get them to the place where you cut them down 20 percent and they could only do one-half of what they could do with 100 percent.

That is a speculative matter, unrelated to Gramm-Rudman-Hollings, because they are going to be cut across the board proportionately, to the extent allowed under a sequester, and they will have to make some management decisions as to what they are going to cut.

Mr. SPECTER. I was not asking about the effect of a 5-percent cut or a 100-percent cut. I was asking the base line question that if there is a 5-percent sequestration cut and the 5-percent would be the maximum cut, under that procedure, to be sustained by programs like Amtrak or the Job Corps or Urban Development Action Grants or Revenue Sharing or Economic Development Administration, or the programs in those categories——

Mr. PACKWOOD. As long as it is a program or project by itself, that is correct.

Mr. SPECTER. I yield to the distinguished Senator from New Hampshire, if he has a comment to make.

I thank the distinguished Senator from Oregon for these answers, and I thank the distinguished Senator from Texas for these answers.

I shall consider these categories and consult with those in the Department of Defense and perhaps be in a position a little later this afternoon to include more of the underlying facts in questions, to find some of the answers which may be forthcoming.

I yield the floor.

Mr. HART. Mr. President, the history of the first half of this decade will not be written for years to come but when that objective, unbiased history is written it will most certainly not be the history presented by the Senator from Texas earlier this morning.

The Senator from Texas gave us a review of the achievements of the current administration and all the promises that were fulfilled and ended the rather glowing list by observing that only one promise had not yet been fulfilled and that was to balance the budget.

Mr. President, there cannot be a right thinking objective person in this country who believes that accurately summarizes where this country and its Government stand today.

Why it is inaccurate and self-serving and otherwise unhelpful is that the one last promise is the direct result of having achieved all the others and it is something that has not yet been fulfilled. It has been a disaster for this Nation's economy.

This deficit is the price we have paid for all those other promises being fulfilled: cutting your taxes. Building up the military. Achieving all these other glowing examples that the Senator from Texas attributes to this President, this administration, and the policies which he supports.

Make no mistake about it, Mr. President, we are here today to pay the bill for 5 years of an economics that has failed, period.

The history of this last half decade is as follows: An administration came to power in January 1981 following its predecessor administration which had average annual deficits of $44 billion and that was considered to be economically and politically unacceptable for this country, and that was the platform that Ronald Reagan ran on. He was going to eliminate those annual $44 billion deficits. And what do we have now? Four to five times those deficits. Because of a new economics? No, because of an old economics that said the Russians are coming, they are 30 feet tall; we are totally weak, we are totally inept, we are a small unprepared nation and we have to spend a lot of money to offset those Russians. And what sacrifice are we asking the American taxpayers to pay? We are going to cut your taxes.

Mr. JOHNSTON. Mr. President, will the Senator yield for a question?

Mr. HART. I yield for a question.

Mr. JOHNSTON. Will the Senator agree with me that the first riverboat gamble has been an abject failure?

Mr. HART. Will the Senator repeat?

Mr. JOHNSTON. The first riverboat gamble, as Howard Baker called Reaganomics, program has been an abject failure.

Mr. HART. Absolutely.

Mr. JOHNSTON. Now we are taking the second riverboat gamble by going double or nothing.

Mr. HART. The Senator is absolutely correct, and the Senator from Texas guarantees this as the last time to round out and complete the Reagan program.

I say typically—it is unfortunate he is not on the floor—typically he associates the policies which he has supported with programs that all of those who care about their country have supported and, therefore, if you have not supported these programs you do not care about your country.

That, as I say, is at the very least self-serving and unhelpful and does not in any way accurately express the experience of this Nation in the past 5 years.

We are here today for one reason, and that is to pay the bill. Are we going to pay it the way we ought to? No.

We are not just asking any courage. We were just treated to a half-hour performance by one colleague who wants desperately to support this bill and face deficit reduction, but he does not want it to affect his State. We have heard over and over again the apostles of courage supporting this measure who have laid out and talked about what it does not do, what programs it will not affect, how it is not going to adversely affect our defense, how it is not going to result in any reduction in strength, how it will not be taken out of the pay or benefits or salary of military personnel, how none of these things are going to have adverse impact on anyone anywhere.

Mr. President, you cannot pay the bill for 4 or 5 years of a squandering economics and not have it affect someone. And that is what we are here today to discuss and I am afraid unfortunately to pass.

Mr. President, in the circumstance of abdication of Presidential repsonsibility in the absence of a plausible Democratic alternative, and with clouds of endless deficits enshrouding our future, it is understandable that for some in this Chamber there is no option: Today the Senate will enshrine this policy of convenience and expediency as the law of the land.

A few weeks ago, when this march of folly began, our learned friend from New York, Senator MOYNIHAN, warned us that Gramm-Rudman violated the fundamental principle of responsible budgeting: Setting goals and making choices.

He was right.

This conference report is not about making choices or setting national priorities. It establishes a new budget process—one which will surely and swiftly be judged unconstitutional—which relegates our search for a stronger, more competitive economy to second place. It establishes the balanced budget for its own sake as an abstract end in itself—unrelated to any greater national vision. Gramm-Rudman is the bitter medicine we are now told we must take to cure the disease called "supply side economics"—but it is hemlock. It is based on an economics better suited to setting tolls on a bridge than solving the economic challenge this Nation faces.

For 5 years, if all goes according to plan, the future of this Nation will be downsized, run by a computer, and reduced to a smudgy column of numbers with a zero at its end.

Mr. President, we all agree on the urgent need for deficit reductions. The deficit has overvalued our dollar, making us a second-class competitor in trade. The deficit boosts real interest rates, keeping us from investing in tomorrow's workers, engineers, factories, and innovations.

Reducing the deficit is a national imperative. And if the sole role of Government were the production of an orderly ledger, who could object? Gramm-Rudman may help us slay the

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deficit dragon, but it contradicts any larger, more positive vision we might have for our Nation's future.

The Senator from Colorado believes that more is expected from a Government obligated to promote a prosperous and civilized society.

Does Gramm-Rudman direct the budget toward this goal? In fact, just the opposite.

Will it help us modernize our economy? Gramm-Rudman virtually ensures an inadequately trained American work force.

Will it make us more competitive in trade? Gramm-Rudman virtually guarantees we will take no new actions to promote our exports or expand our markets abroad.

Will it enable us to invest in innovation and the quality of life for our children? Gramm-Rudman virtually seals the fate of student loans and Federal support for education.

The fact is, if our goal is a competitive economy, if our goal is national excellence, if our goal is investments in our future, then all budget cuts are not equal. But that logic is lost on Gramm-Rudman. To paraphrase Anatole France, this law, in its majestic equality, provides that we will cut equally from muscle and fat, from powerless and powerful, from productive minds as well as comfortable constituencies.

Making America trade-competitive; educating young minds; bringing new skills to displaced workers—during the first 5 years of this decade, these are the goals we failed to achieve. By enacting Gramm-Rudman today, let there be no mistake, we are now guaranteeing that failure will continue to the end of the century. It deprives us of the power of choice and substitutes a statutory auto-pilot for the Presidential and congressional leadership we sorely need.

Nearly a quarter century ago, when this country looked to the future with optimism and hope, we were led by a President who elegantly defined a quality that has been in woefully short supply—the quality of courage.

President John F. Kennedy said:

> To be courageous requires no exceptional qualifications, no magic formula, no special combination of time, place and circumstance.
>
> It is an opportunity that sooner or later is presented to us all * * * In whatever may be the sacrifices he faces if he follows his conscience—each man must decide for himself the course he will follow.
>
> The stories of past courage can define that ingredient—they can teach, they can offer hope, they can provide inspiration. But they cannot supply courage itself. For this, each man must look into his own soul.

The vote for Gramm-Rudman may be the easy vote, but it is not the courageous vote. But with its passage today, the cause of conscience and courage will not be over, it will begin anew. I believe that Democrats have learned a lasting lesson which will not be forgotten. Do not count on the disarray of today to last until tommorrow. The rules may be yours—but if this is your vision, the future is ours.

Mr. MOYNIHAN. Mr. President, will the Senator from Colorado yield for a question?

Mr. HART. I yield to the Senator from New York.

Mr. MOYNIHAN. Mr. President, on October 10, the day after the first vote on the Gramm-Rudman-Hollings proposal—the Senate voted 75 to 24 on this matter—the Senator from Colorado and I were on the floor discussing what we had done, in tones of near disbelief. Clearly these tones have not changed in the Senator's eloquent and accurate statement. I asked the Senator from Colorado on that occasion whether, given the fact that Gramm-Rudman-Hollings would mean, effectively, actual cuts in the defense budget, cuts below current outlays for the next 5 years—the first such sequence in, I believe, the postwar history of the United States; certainly since President Ford began the revival of defense outlays, now in about its 10th year—we would be sending a signal to the world that is surely not the one we have been trying to send for a decade. I asked the Senator whether he thought the implications of this vote we had just made were widely understood in the Senate. Did the Senators know what they had done the previous day?

The Senator from Colorado replied: "No, they do not. But, more importantly, they do not care. The one group does not care about domestic stability; the other group does not care about international stability."

And here we are 2 months later with essentially the same proposal, more directed against defense than even the proponents said—as much as you can say they said, because they said very little and kept the bill to themselves. They had, you might say, the first privately printed bill we have adopted around here.

To international stability, we have, since the Carter administration, agreed with our NATO allies to a 3-percent defense increase in real terms each year.

Secretary Weinberger just recently got agreement from four, and perhaps five, NATO allies that their defense expenditures would grow that 3 percent this coming year; that, yes, they will keep to that. A real commitment has just been made for Europeans to increase their defense spending by 3 percent next year. We will be cutting our defense spending by at least 3 percent next year.

Would the Senator wish to suggest what that will do to the notion of alliance solidarity and alliance resolve in the face of the Soviets?

Mr. HART. Mr. President, I
say, in response to the Senator
New York, that there is defens
there is defense. I can confidentl
dict, because the Secretary of De
has said so, that if this bill
effect—in fact, he said it befor
bill was voted on—that he inten
reductions in the so-called n
modernization program, the ru
nuclear arms race that we have
engaged in for the past 5 years
he will not cut back on any of th
tegic systems, either on the dr
board or on the assembly line
that means one thing: That
those so-called defense cuts come
are going to come from what is
the defense of this Nation, no
the terror that nuclear weapons
for deterrence, they will come
the pay and benefits, the trainin
maintenance of our skilled caree
tary personnel, from the weapon
are needed for our conventional
and for the readiness of those fo

Indeed, we may be "stronger"
end of this exercise where n
weapons are concerned—I do not
that is the way to characterize
will continue that buildup. But t
ductions are not going to come
the board in defense. They are
to come right out of the hea
soul of the conventional forces.

Mr. MOYNIHAN. Is the S
suggesting—as I believe he did in
ber—that we find ourselves righ
in the situation John F. Ke
found himself in in 1961 with th
in readiness and personnel, leavi
Nation with only a major nucle
change as an option in case
international crisis?

Mr. HART. I believe that is e
what is going to happen. My re
tion of the 1960 experience is
what different, in that then S
Kennedy said that the weakn
the deficit in defense was on th
sile side. That may or may not b
he found out when he got into

Mr. MOYNIHAN. He found o
erwise and began to build up w
call the conventional forces.

Mr. HART. Precisely. An
legacy of this administration, p
larly on this legislation, is goin
a drastically weakened conve
defense. And all of those adv
the administration's position ar
to find the principal, if not the
exclusive, deterrent that this c
has by 1989 will be nuclear a
conventional.

Mr. MOYNIHAN. Would the
tor wish to further speculate—
thought long and hard about t
the impact of Gramm-Rudm
lings on defense outlays? The S
from Colorado has not been au
cally in favor of whatever was
crease, nor has he been ass
with efforts to decrease defen

lays. He made, it seems to me, a very wise statement once. He said, with respect to defense, "More is not better and less is not better. Better is better." He was then talking about the mix of weaponry and the mix of capacity.

In 1977, President Carter proposed a 3-percent growth rate for NATO, including ourselves. On May 31, 1978, a final agreement was reached with members of NATO. If we now abandon that agreement, what is NATO to do? Can the Senator imagine a NATO national deciding they are bound by a commitment which we entered ourselves and have now broken?

Mr. HART. The Senator is correct. I believe they are going to rely, as we rely, on the so-called nuclear umbrella, and they will follow our pattern and reduce their commitment in conventional forces, or they will go their own way.

Mr. MOYNIHAN. I thank the Senator.

Mr. President, I wish to call to the attention of this body, such as are present, to what Senator HART has said. The Senator from Colorado has made an important statement. It is a statement he began to make the day this issue began to be deliberated.

I would say this to my colleagues, at the time that the Senator from Colorado began these discussions, and some of us joined him, we raised the issues that other Members may not have been familiar with. Our distinguished and irresistible majority leader has a sardonic quality which endears him, but sometimes reveals more than he may have had in mind. He said, about getting on with this legislation:

> Let us move this thing along. When these bills stand around too long, people start reading them.

Well, after 2 months, it can be said we have read this bill. So when we said the bill had not been printed, had never gone to a committee, had not been deliberated at all, we were right then. It cannot be said that we would be right today. Two months is enough time to know what is in this legislation.

Let me tell you some of the things that are in this legislation, Mr. President. In the budget coming up for the next fiscal year, there will be a true reduction in defense outlays—a true, actual reduction; not a slowing of a rate of growth or anything like that, a cut. And it will come out of readiness; it will come out of personnel, not out of any necessarily strategic design, but out of the fact that that is where you get money quickly.

We are going to see a probable reduction as follows—and I speak with some authority in this regard. I hope I will not be pressed to closely with regard to the specifics.

But it is well-known what the Department of Defense thinks in this matter. This morning we read that a Pentagon spokesman, Mr. Robert B. Sims, was quoted as saying that the Gramm-Rudman-Hollings proposal now before the Senate would "send a message of comfort to the Soviets."

Is it our intention to send a message of comfort to the Soviets? If so, say so, warrior classes on either side of the aisle. I have no desire to send a message of comfort to the Soviets.

Is it not an extraordinary thing, Mr. President, that we have read of the Secretary of State and the Secretary of Defense seeking an audience with the President on this matter and not being permitted to see the President? I served on the Cabinet or sub-Cabinet of four Presidents. I cannot imagine a situation in which a Secretary of State would be denied access to the President on a matter of national security, or the Secretary of Defense. We are frittering away, and are speculating on the very security of the Western World.

Our former colleague and beloved friend, Senator Baker, described Gramm-Latta and the 1981 tax cut as a riverboat gamble. Gramm-Rudman is a suicide pact. We are entering into an agreement with the administration to dismantle the defense of the United States of America.

There have been those of us who have been able to say on occasion that perhaps there was such a thing as enough. I believe this Senator, I think, in 9 years in the Senate, has never voted against a major Defense appropriation. President Ford in his last year saw that the rundown in our defense had gone far enough. President Carter continued what President Ford had begun—increased real defense outlays in every year of his time in office. President Reagan came in, and continued on essentially the same path—a 5-year path that President Carter left in his last budget message. Now we break it, and start going down. Let me give you official estimates on what now happens.

I have quoted a Pentagon spokesman. I will now quote the Pentagon. I am privy to the fact that buildings do not talk. But if I could use the image, the Pentagon, let me assure my colleagues I speak of the highest levels of that body in their estimates that what we will see in fiscal 1987 is a 3-percent real dollar decline in defense spending. In 1988, a 5-percent real decline; in 1989, an 8-percent real decline. Those accumulate to as much over time as a cut of at least 15, possibly 20 percent in expenditures, wiping out the work of the 1980's, and breaking an intelligent momentum which has been established, and to which has been ascribed a revival of the confidence, and reinvigoration of alliances, and energizing of national will. I am not to deny it. I do not deny that. I think it is so.

I would like to see it understood that President Ford made the decision in the first instance, and President Carter continued—and President Reagan continued along the path begun by Presidents Ford and Carter. And the Congress supported them all.

We had run-down in defense spending for a long while. We had run down too far. We increased defense spending and sensibly so.

I would like to see this understood to be a bipartisan matter and bipartisan understanding, not shared entirely on either side of the aisle. There has been a majority here. And we have seen it.

What are we to say, Mr. President, on a day when we are about to make this decision—not a riverboat gamble, but a suicide pact—when the administration itself, the Pentagon, issues a formal plea with us, do not do it? They plead, do not do it. Are we nonetheless going to do it? Have we not understood the meaning in the press of statement after statement by some officials asking for anonymity, some officials being very open and direct, saying that this puts the Nation in peril? It is not BOQ's and not the pension systems—we will endanger the Nation.

Let me read from an article of November 4, by two accomplished journalists, Mr. Robert W. Merry and Tim Carrington in the Wall Street Journal on this subject. "By the end of the decade, for instance, the uniformed services might have to be cut by a third according to a congressional staff analysis." Moreover, it says "16 of 24 naval vessels currently under construction might have to be mothballed."

I see our valiant and distinguished colleague, Admiral Denton, is on the floor—"16 to 24 naval vessels currently under construction might have to be mothballed. Spare parts accounts could dry up, warns Gordon Adams, director of a private watchdog group called Defense Budget Project. At the Pentagon, top officials have grown increasingly anguished over the measure."

"Anguished" is not a word that appears frequently in the news accounts of the Wall Street Journal, respecting grown men.

> On Wednesday, Navy Secretary Lehman demanded a meeting with Secretary Weinberger to urge all-out opposition to the plan. At a top-level Pentagon meeting on Thursday "There was sackcloth, ashes and tears" says one Pentagon analyst who was present.

I have not seen admirals cry. I have seen admirals blink messages from prison camps to the American people. But I have not seen them cry. I expect they were not crying. But they were crying out. They were saying "do not do it."

The columnists, Evans and Novak, who are certainly, nothing if not com-

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mitted to, national defense, had this to say on November 18:

> Even its pristine version doomed Reagan's scaled-down "0-3-3" plan for real defense growth (zero in 1986, 3 percent in 1987, 3 percent in 1988).
>
> Under the probable 50-50 formula splitting defense and non-defense spending cuts, for example, even a modest under-shooting of the deficit target would mean $6 billion in defense spending outlays; to get there, Congress would have to cut $27 billion in defense appropriations.

Remember, if you are to cut the outlays, you must cut budget authority three and four times as much.

I could speak to the process that we are about to undertake, Mr. President.

The President, understandably, will send to us a budget, I believe, on February 5, and he will do his best, as he ought, to defend his defense program as much as he can, and that, in turn, will lead to a proposed elimination of somewhere between 30 and 50 programs in the domestic budget. It will astound Members on both sides once they find out. They think there is so much money in that budget that it will not have the effect it will have. It will astound them.

Then, of course, we will immediately turn on defense, or not do what we are supposed to do. The sequestering time will come and the President will have no choice but to bring about, for the first time ever in his term, a negative growth in defense, the first time in a decade, an extraordinarily bad situation.

I do no more than report a spokesman for the Pentagon, Robert B. Symms, who said yesterday that Gramm-Rudman "would be the first negative growth in defense in Ronald Reagan's Presidency" and "would send a message of comfort to the Soviets."

Mr. President, in order that this be part of the record, may I ask that this report by Mr. George C. Wilson, of the Washington Post, be printed in the Record at this point.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Post, Dec. 11, 1985]

Pentagon Warns Antideficit Bill Would Comfort the Soviets

(By George C. Wilson)

The Pentagon warned yesterday that the version of budget-balancing legislation approved by congressional negotiators yesterday would produce "the first negative growth in defense in Ronald Reagan's presidency" and would send "a message of comfort to the Soviets."

Spokesman Robert B. Sims, in what defense official said was a futile fusillade against the Gramm-Rudman-Hollings legislation, said at a Pentagon news briefing that the cuts expected to be triggered this spring by the legislation "would take 3 to 8 percent out of our hide."

Defense Secretary Caspar W. Weinberger authorized the vocal attack on the measure—which President Reagan endorsed last night—because, as one associate put it, "There was nothing to lose at this point by going on record about its impact on defense."

Defense officials said the Joint Chiefs of Staff went to the White House on Friday to warn the president about the impact the antideficit measure would have on military operations.

One member of the Joint Chiefs, who was not identified, reportedly told Reagan that if Gramm-Rudman-Hollings becomes law, the cuts that would have to be made in defense would mean that the military could not fulfill its worldwide commitments, such as rotating aircraft carrier battle groups to distant oceans.

Despite such strong opposition, Pentagon officials were drawing up lists yesterday of the best programs to cut if spending reductions have to be made this spring to reach the deficit reductions required by Gramm-Rudman-Hollings. The White House figures defense may have to absorb a cut of $5.8 billion in fiscal 1986.

One defense official whose job would be to restructure the Pentagon budget in light of Gramm-Rudman-Hollings, said the big target would be the procurement account in hopes of sparing cuts in personnel or in funds needed to operate ships and aircraft to keep forces ready to fight.

The flexibility to take less money out of one budget account and more out of others, rather than cutting across-the-board, was one of the objectives that Weinberger achieved in intensive lobbying within the administration and with Congress.

Of the $276 billion in appropriations recently approved by the House, $87 billion is earmarked for procurement, $77 billion for the readiness accounts called operation and maintenance, $70 billion for military personnel and $33 billion for research.

Pentagon officials said they had not yet drawn up a cut list but said they would probably rewrite a number of contracts for the purchase of ships and aircraft.

By buying fewer ships and aircraft, or stretching out their purchases over a longer period, the Department of Defense would reduce its cash outlays, the spending targeted by Gramm-Rudman-Hollings.

However, defense officials said they would have to reduce money in the bank, called budget authority, $3 to save $1 in actual spending in a given year. This is because the Pentagon pays for weapons on installment, not all at once.

Asked where Weinberger would concentrate spending cuts, Sims said he would "protect those programs which the president has given priority to: strategic modernization, readiness, personnel, naval shipbuilding." He cited the Strategic Defense Initiative, the "Star Wars" missile defense, as one of the programs that would be shielded.

Mr. MOYNIHAN. The headline reads: "Pentagon Warns Antideficit Bill Will Comfort Soviets."

Well, those of the warrior classes on either side who wants to comfort the Soviets will have the opportunity to do so today. How would you like to be one of our negotiators in Geneva talking about arms control and talking about the reduction of nuclear weapons when you know, as the Senator from Colorado said just recently, that the budgetary situation of the United States is going to be more stringent and require more reliance on nu
weapons than ever before?

What do you think, Mr. Preside
going to be the position of our ne
tors who do clearly seem to find t
selves in the situation where the
ets have come to the table to
about real reductions—which
President, to his great credit, ha
sisted upon from his earliest time
he wanted real reductions in nu
weapons—when they see him
budget situation where, and ag
quote official Pentagon figure
fiscal 1987 there will be a real r
tion of 3 percent in defense, a
cent real reduction in 1988, and
percent real reduction in 1989?

We will see an accelerating d
in the levels of real outlays, 3 pe
in 1987, 5 percent in 1988 and
cent in 1989.

We will see that it is forcin
President into a position of great
liance on existing strategic weapo

And what about the strategi
fense initiative, with an esti
total cost of $1 trillion? Clearly
one of the concerns that has br
the Soviets to the bargaining
With what credibility can the s
man for a country that is slashi
defense expenditures look acros
table and say to their negotiating
ners, "You know, if we cannot
an agreement on real reductio
are going to put a trillion dolla
the SDI"?

I am not saying that is their p
position. The present position
are going to put a trillion dolla
SDI regardless.

There is no trillion dollars f
SDI. There will be no SDI and t
viets will know it. Any downs
possibility of negotiating a real
tion, Mr. President, as the Pre
has sought on strategic weapo
appears. It disappears on this
today. Arms control disappe
repeat, if Gramm-Latta was a
boat gamble, this Gramm-Rudm
suicide pact.

I have not been in the admi
tion of four Presidents and
Senate for two terms now not
derstand that in this world you
to make clear that you can
yourself and will defend yourse
nothing is more important.

Today we are saying many
are more important: Reelectio
pearances, explanations, alibis.

All of this will happen, and
does happen people will say, "I
mean that. I meant something
Or, "we will work it out." Or,
knows?"

One of the important facts ab
fense is that you can tell Am
just about anything you want
what is the state of their defen
they will not know. The long
that began under President J

and continued essentially through Mr. Nixon and the first bit of Mr. Ford's term did not make any great impression on the American people. We were not turning out the lights on Main Street. There were just things that were not there, planes that did not fly, submarine missions that were not taken, submarines that were not built. You cannot see a warship that is not built. Only a person of great imaginative power can do that.

The absence of defense is that simple.

So this invisible symbol declined, quietly going to sleep. This happened.

We would not know about it. Our adversaries would know about it and our allies would know about it. It would change our position in the world.

You cannot be the world's largest debtor nation with a declining defense budget and expect to have influence of the sort we have been congratulating ourselves upon these past 5 years.

I will say it again: You cannot be the world's largest debtor nation with a declining defense budget and expect the power and influence about which we have been congratulating ourselves for the past 5 years.

The people who vote for this legislation are voting for a precipitous decline in the position of the United States in the councils of the world.

I do not ask them to take my word for this. I ask them to take the word of the Secretary of Defense who clearly, as Mr. WILSON reports, authorized the release of the statement yesterday saying this bill will give comfort to the Soviets. Pray God, we never hear another proposal from either side of the aisle to get into a small war in Africa or Latin America or Asia to throw back the Communist menace. No, No. "Sorry, we do not have the funds for that. You voted against that today."

I may say, Mr. President, a distinguished Member of this body was making such a proposal yesterday and I was tempted to stand and say I would vote for that small war in Africa if he would promise to vote against the Gramm-Rudman so that we could finance such a war, but I thought that would be difficult.

The whole level of avoidance of the semblance of reality in this situation is astounding. This is probably, in terms of legislation, the single most obvious and consequential disaster the U.S. Congress will have enacted since the enactment in 1930 of the Smoot-Hawley tariff. People may think of the Smoot-Hawley tariff as simply an economic measure that had no consequences other than restricting trade in ways that led to less growth than might otherwise have been desirable. It was much more than that, Mr. President.

When we adopted Smoot-Hawley against the overwhelming advice of the economists of the Nation and Mr. Hoover signed it against a letter signed by about 90 percent of the professional economists at the time, within a very few years the British Empire had gone to colonial preference; the Japanese, recognizing the loss of British and American markets, went to the Far Eastern Co-Prosperity Sphere; unemployment went to 25 percent in Germany and Adolf Hitler was elected in a free election.

And in 5 years, the world was at war. Auschwitz and Hiroshima were ultimately consequences of Smoot-Hawley.

What will be the consequences of what we do here? These are large things, and grown men and women are supposed to make judgments—which clearly we are avoiding. Observe what attention the three-quarters of the Senate who have voted for this measure are paying to those of us who, once again for the third time around, are pleading not to do it—24 of us in this case; 4 from that side of the aisle, 20 from this side, a majority from neither side.

Our case is elemental. Our case is that we have to raise the revenues necessary to defend this country and provide it with that level of domestic programs which the country desires. It may not always need them, but it desires them; and if we desire them, we desire to pay for them. We can do this. We only need the political will here and agreement with the President.

To try to avoid the elemental fact that we need more revenues in order to maintain our defenses and provide the levels of internal provision that we desire, is folly. The thought that you can avoid those choices by some automatic mechanism that will cut, cut, cut—cut veins, cut flesh, cut bone—is a delusion. It is an avoidance of reality. It is not the mark of maturity, it is the mark of panic and of words that I would prefer not to use on the Senate floor.

But we are going to go ahead. As clear as can be, we are going to go ahead.

Could we make a deal? I would vote for the farm bill if everybody who voted for it would vote against Gramm-Rudman. No, I do not guess we could get that.

Could we make a deal on farm credit? Could we make a deal on any of these bills to increase spending above any previous levels that have been voted for by precisely the persons who have twice already voted for automatic reduction?

What is the level of integrity in that behavior? I offer the thought that it is corrupting behavior to stand here on the floor of the Senate and vote automatic draconian cuts that will reduce spending by something like $300 billion in 5 years and simultaneously vote for legislation that will increase it by $300 billion in 5 years, and expect to go home and say "I was in favor of both." That is not worthy of the Senate. Not on an issue of this consequence.

May I make a few predictions? I make the prediction that by March, this place will be in a state of panic, that there will not be 10 people in this body who will claim to have wanted Gramm-Rudman but they will claim to have been forced to support Gramm-Rudman. This is a bipartisan matter—Gramm-Rudman-Hollings-Boren, to be exact. There will not be 10 persons in this body who will say they wanted to do it. They will offer various versions of it. They will offer various versions of "the devil made me do it." Who that devil will be—I suppose Mr. Reagan will be blamed. The President wanted it, although the President perfectly well knows he cannot live with what will be the eventual consequences to his defense program.

I suppose in one form or another, if we induce a recession by this behavior, we will have a certain kind of out. There is always a chance that the judges will save us, and we will perhaps hear for a few weeks a little less about the evils of judicial activism when some court somewhere says that this violates the separation of powers. But I do not know that.

As a regime, it will not endure. But the destruction it brings in its early period will endure. There is no one any longer who argues, as was done in 1981, that a huge tax cut would produce an increase in tax revenues. That argument is gone, but the deficit brought about by that argument remains, and it has brought us to this dismal and degrading situation we find ourselves in at this moment.

Here we are in December. We have not been able to pass appropriations bills, we do not know whether the reconciliation bill will ever be adopted, we do not know whether the continuing resolution will be adopted. We have had to cash in over $25 billion of bonds of the Social Security Trust Fund. Behavior of that sort is actionable when individuals in private life do it. I do not claim that there was any bad faith in the Treasury's action, but they certainly did not tell us about it. They cashed in $5.5 billion in bonds last year and $25.4 billion this year. The Treasury never told the Senate committees; never told the Social Security public trustees. What kind of behavior is that for the U.S. Government? Yet, here we are.

Mr. President, I see there are other persons wishing to speak and I have no desire to speak longer than my allotted time. I have said what I intended to say. I can add to it later. I repeat my proposition that Howard Baker characterized Gramm-Latta as a riverboat gamble; and, boy, did we lose that one. I shall describe Gramm-Rudman-

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Hollings-Boren as a suicide pact. I do not believe the defenses of the United States will recover from it for a decade, if then. It will be under another President. If it turns out to be another party, I shall not be disappointed in that regard, either. The Republican Party is going to take responsibility for this.

It is their majority, their principal sponsors and their President. That is the arrangement that we have in this country. We have elections. I am prepared to let it stand. We will see whose forecast is the more accurate.

And I have no great hope that my forecast should be accurate. I hope I am wrong. But I do not think I am wrong, and the Pentagon does not think I am wrong, and the State Department does not think I am wrong. In his heart the President does not think I am wrong. In his heart I think the President knows we are right, and the question is whether we can save our President from this calamity. There is a large decision being made on this floor, a decision about the security and peace and position of the United States in the world for the rest of this century. I hope we make it with greater deliberative qualities than the last time, when we had to vote on a bill that had not been printed, never been sent to a committee, never held a hearing—indeed, it came the closest thing to a privately printed bill ever enacted by the U.S. Senate.

Mr. President, I do not wish to monopolize this debate.

The majority leader says good. Well, now, what does he mean by "good?" Is he leading me to the thought that I may be making some impression that he would wish not to be made, in which event I might be persuaded to talk longer?

Mr. DOLE. When I heard the Senator defend the Pentagon, I heard enough.

Mr. MOYNIHAN. Just a second, Mr. President. That is exactly what we have had just enough of. Here are people who are desperately assaulting our defenses and the Pentagon says so and the response is, "Since when did you defend the Pentagon?" Is anybody here willing to name a major military armed services appropriation which I have voted against in 9 years in the Senate? When I ran for the Senate in 1976, we had had 10 years of declining defense expenditures, and I said the next President of the United States was going to raise defense expenditures, no matter who he was, Mr. Ford or Mr. Carter. I am talking about the defenses of the United States of America. And I would like to hear of any occasion on this floor when I have spoken against it.

Mr. DENTON. Will my colleague yield for a question?

Mr. MOYNIHAN. I most certainly will yield to my friend, Senator DENTON, from Alabama.

Mr. DENTON. I cannot recall a time, to answer the Senator's question, when he did that. But, Mr. President, I ask the Senator if he finds himself in the same mood that I am in, namely, being extremely troubled about the revolutionary change which the passage of this bill might represent but not being absolutely positive. Are we not, though, in a position to be absolutely positive that men whom we both respect in terms of their——

Mr. MOYNIHAN. Mr. President, may we have order? The Senator is speaking and asking me a question. I want to hear it.

The PRESIDING OFFICER. The Senate will be in order.

Mr. DENTON. I thank the Chair and I thank the Senator from New York. We may be wrong about the impact of the bill, but I think we are absolutely right about one thing. That is that its authors, and many who would be speaking against this bill today, find themselves in a position in which they will admit that the political climate in both Houses is such that they have had to place defense spending, spending for the security of this country, which is the No. 1 purpose of our being here—may we have order, Mr. President?

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Alabama.

Mr. DENTON. The drafters of this bill have been forced by the present political climate to place defense spending in a less protected category than a number of social spending programs, welfare programs, and so on. It is that political climate that I think we both would like to address, and I compliment the Senator for having started to address it as early as October 7. I intend to address it today at some length.

Mr. MOYNIHAN. I thank my friend, the Senator from Alabama, whose gallantry in these matters is a source of pride to the United States of America. I would say to him, and I would repeat what I said earlier, that we have an elemental problem. At this point Americans want more government than they are paying for. They need defense and they want the farm program. Shall we put it that way? They need defense and they want Amtrak. They need defense and they want student loans. Well, I think there is a way to resolve that. Raise revenues, pay your bills. Do not devastate the defense system. You can cut out Amtrak, and you can start it up again. You can go through a few bad years on the farm. If you cut the defenses of the United States, you risk the independence of the United States, and the Senator knows that. The Senator has given his life to that. It was inevitable people would say, "All right, 50-50." Once it
you could see it coming. That
we were talking about defens
the day we began debating this.

I would like to hear from the
tor from Alabama, the Senato
Connecticut, and the Senato
Ohio, but I do not want any mo
about "I am surprised you are
ing the Pentagon." No more of

And the Senator——

Several Senators addresse
Chair.

Mr. MOYNIHAN. I have not
the floor. I see the Senator no
derstanding and the matter is
that all right?

The PRESIDING OFFICE
Senator from Connecticut is
nized.

Mr. DOLE. I will be speaking
will be glad to discuss it at th

Mr. MOYNIHAN. Fine. Th
matter is not over. If the matte
over, I do not see any point in
ing, not when there are person
floor who want to speak. M
dent, I yield the floor.

The PRESIDING OFFICE
Senator from Connecticut.

Mr. WEICKER. Mr. Presid
way of assuring my good frie
New York not all Republicans
responsibility for the matter be
I raise a point of order that
252(a)(2) relating to special se
tion procedures for national
for fiscal year 1986 contained
conference report violates
paragraph 2 of the Standing
the Senate.

Mr. DOLE addressed the Ch

The PRESIDING OFFICE
majority leader is recognized.

Mr. DOLE. Mr. President, co
heard on the point of order?

The PRESIDING OFFICE
Senator may be heard on the
order.

Mr. DOLE. Mr. President, le
dicate first of all that we ha
aware of this possibility thr
the debate. It comes as no sur
fact, we have been aware of th
bility ever since I guess the c
started their work. I think ev
that has been done in confe
relevant, but I would assu
technically it may be bey
scope. One area decided to
Defense Department flexibi
very thing that the distinguis
ator from New York in part
discussing. So we are prepar
understand, the Chair will su
point of order and we will the
the ruling of the Chair, no
frivolous way, not a surpris
been a surprise. We knew s
later we would have to face u
possibility, and so we would a
ruling of the Chair.

Mr. WEICKER addressed th

The PRESIDING OFFICER. Does the Senator wish to be heard on the point of order?

Mr. WEICKER. Yes. Very briefly, on the point of order, the matter I raise relative to the sequestration procedures for national defense is merely used as one example. The fact is that this conference exceeded its authority in hundreds of places. Once we start this, the precedent is set for future conference reports to exceed their scope. I wish to make that point.

The PRESIDING OFFICER. In the opinion of the Chair, the point of order is well taken.

Mr. DOLE. Mr. President, I appeal the ruling of the Chair and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Shall the decision of the Chair stand as the judgment of the Senate? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. EAST], the Senator from Arizona [Mr. GOLDWATER], and the Senator from Vermont [Mr. STAFFORD] are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Mississippi [Mr. STENNIS] is necessary absent.

I also announce that the Senator from Florida [Mr. CHILES] is absent because of illness.

The PRESIDING OFFICER (Mr. SIMPSON). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 27, nays, 68 as follows:

[Rollcall Vote No. 369 Leg.]

YEAS—27

Andrews
Bingaman
Bradley
Bumpers
Burdick
Byrd
Cranston
Eagleton
Exon
Ford
Glenn
Harkin
Hart
Hatfield
Inouye
Lautenberg
Long
Mathias
Matsunaga
Metzenbaum
Moynihan
Pell
Pryor
Riegle
Roth
Sarbanes
Weicker

NAYS—68

Abdnor
Armstrong
Baucus
Bentsen
Biden
Boren
Boschwitz
Chafee
Cochran
Cohen
D'Amato
Danforth
DeConcini
Denton
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Garn
Gore
Gorton
Gramm
Grassley
Hatch
Hawkins
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Johnston
Kassebaum
Kasten
Kennedy
Kerry
Laxalt
Leahy
Levin
Lugar
Mattingly
McClure
McConnell
Melcher
Mitchell
Murkowski
Nickles
Nunn
Packwood
Pressler
Proxmire
Quayle
Rockefeller
Rudman
Sasser
Simon
Simpson
Specter
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Wilson
Zorinsky

NOT VOTING—5

Chiles
East
Goldwater
Stafford
Stennis

The PRESIDING OFFICER. The decision of the Chair does not stand as the judgment of the Senate.

GRAMM-RUDMAN: SOME ARE MORE EQUAL THAN OTHERS

Mr. MATHIAS. Mr. President, once again, the issue of our $2 trillion debt is being cloaked by a debate over changing the Budget Act. It is the debt limit which forces this vote today, but it is the Gramm-Rudman amendment that has prevented us from proceeding. This body has passed one temporary extension after another, unable to authorize the borrowing necessary to pay for what we will spend. We cannot hide from ourselves or the American people the awful truth of our failure. No amount of wishful thinking, rosy economic assumptions nor even changes in the rules can wash this red ink from our hands. As Members of Congress we must play many roles, but Lady MacBeth should not be one of them.

I have already expressed my concerns about how this initiative will affect the way Congress makes the decisions that deficit reduction requires. But the fact is that the fight on Gramm-Rudman is not over procedure alone. The outcome matters. With a yearly deficit once again approaching $200 billion, only drastic program cuts can bring us back in line with the deficit caps allowed in Gramm-Rudman. Because we apparently cannot bring ourselves to address both sides of the budget ledger, all parties to this debate struggle and tug, push and pull to shelter special programs and protect personal priorities from the automatic budget-cutting chopping block.

Among the programs spared from destruction are Social Security, Medicaid, food stamps, veterans compensation and pensions. All are worthy programs, all are priorities that we agreed to fund, but are these programs all more worthy than what is left? George Meany, a Marylander, once gave a pretty good guide for our work on the budget, "What we want is equality of sacrifice, not the sacrifice of equality." As the deficit grows larger, we will protect Social Security but will send Federal retirees, biomedical research, and our children's education to face a fiscal leviathan that we are too frightened to confront. For retired Federal employees in particular, the action of the conference committee in eliminating any cost-of-living increase violates the principle of equal Federal treatment of retirees from the pubic service and those in the private sector. Our approval of this action adds the insult of a broken convenant to the economic injury of the freeze itself.

Good government is about making responsible choices. We must reduce the deficit but not at the expense of all else. At the beginning of the year I characterized this problem as "debtmail." At the end of the year this body has surrendered to it. As elected officials we must make the decisions that we were elected to make. We must not let a procedure of silent and anonymous consent dictate results for us.

Mr. GORTON. Mr. President, I speak today in support of the Gramm-Rudman-Hollings amendment to the debt ceiling increase. This measure provides this body, the House of Representatives, and the administration with our finest chance to regain control over our fiscal policy after we allowed our last great opportunity to do so to slip away last summer.

Thanks to the distinguished Senators from Texas, New Hampshire, and South Carolina, we have a second chance not only to reduce the deficit but also to improve our system of formulating and adopting and enforcing budget resolutions. These changes will stand us and our country in good stead long into the future.

It has been several months now since the Gramm-Rudman-Hollings amendment was first produced, born as a result of mounting frustration. The budget we adopted for this fiscal year was comprised by partisan politics and postelection preoccupations that, in retrospect, precipitated the disillusion that proved conducive to this type of action.

In the weeks since the budget resolution passed, we have been confronted by a not unexpected reality. That reality is that it is proving difficult, through either the appropriations process or the reconciliation process, to adhere even to the meager budget targets we passed last summer, the result of which is that the bills face the threat of a Presidential veto.

This has been the most acrimonious budget battle since I have been a Member of this body, Mr. President. And it has been the most arduous, most urgent, and most disheartening. It has been disappointing to fight for a responsible budget, to end up with a mediocre budget, and to see even those efforts threatened to erode in the reconciliation and appropriations processes.

It is abundantly clear that we must create a much stronger budgetary discipline in order to accomplish the task all of us know to be urgent and essential. No other legislative question before us—and there are a good many which are extremely pressing and important—is so urgent. Our Nation's growth and our children's continued economic well-being depend upon our actions now.

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The Gramm-Rudman-Hollings amendment is akin to the sword of Damocles with the threat of sequester hanging over us by a thread. This threat, I firmly believe, will make the next year's task easier by introducing into the budget process a sequester mechanism that brings the realities of budgetary inaction home to all of us. The process now will have a tool that will automatically do the budget slashing for us, according to the formula painstakingly hammered out by the conferees, led by the distinguished Senators from Oregon and New Mexico and their House counterparts, if we fail again to achieve the goals of the amendment.

Today the consequences of deadlock on the budget, resulting from political posturing and games of chicken, are subtle and mostly postponed until an undefined future. The consequences will not, as a result of the Gramm-Rudman-Hollings, be on our front doorstep, unavoidable, undeniable, and unhideable.

I support the amendment because the sword which is hanging over us is one I never want to see fall. I never want to see an annual sequester order implemented. I hope that, instead, Congress will now make the responsible decisions for which our constituents are asking.

I do not believe that a sequester of significant size need ever be visited upon us. We ought now to negotiate the necessary spending cuts because we are all in the same boat. We are faced with the ramifications that across-the-board indiscriminate program cuts will have on our constituents if we fail to do our jobs correctly. Contrary to superficial and misguided criticism, this action is not a means by which we assuage our frustration and guilt for not having passed a more responsible budget last summer. Given the constraints imposed on last summer's debate by the Oak Tree agreement, we muddled through admirably. Yet this body was not established to muddle through.

This measure will improve the budget process so that we will not in the future muddle through budget matters of importance and urgency.

The question before us is quite simple. Can our national economy and our constituents endure another budget battle as acrimonious and as fruitless as the one we have just undergone? Will not, in all likelihood, the next round simply be worse? I cannot believe there is anyone who believes it will not be worse without the Gramm-Rudman-Hollings amendment, and that it will not be more damaging. We need this amendment. It is vastly superior to our present procedure. For the first time, the consequences of doing nothing will be worse than the consequences of doing something.

Immediately before the last vote, we listened to extended and eloquent criticisms of this proposal by the distinguished Senators from Colorado and New York. I submit, Mr. President, that both of them looked this morning, as they have from the beginning of the discussion of this proposal, through the wrong end of the telescope. Each threatened us with serious and adverse consequences to our national defense. Each, ironically, stated that it was impossible to have an appropriate level of national defense without a tax increase. And each tended to guarantee that we would not in the future, as we have not during the course of the last year or two, look at the relationship among spending programs, and between spending programs and our revenue base as objectively and immediately as is absolutely required.

To debate the Gramm-Rudman-Hollings proposal on the basis of what will happen if Congress does absolutely nothing so that the only budget action in the course of the year is an automatic sequester is, I think, profoundly to misinterpret the impacts of the facets of this proposal.

It is simply because those consequences are so adverse, not just to defense but to many nondefense programs, that we will finally have the motivation to do the job right up front. For the first time under Gramm-Rudman-Hollings, the President of the United States is required to submit to us early in the year a budget which will meet prescribed deficit targets.

That budget is likely to be a draconian one as it comes from the President. It is certain to focus our attention on the real issues facing this country today—the necessity to balance our spending and our revenue-producing programs in a way which is responsible, and does not simply ask our grandchildren to pay for programs we wish to have and are unwilling to pay for ourselves.

And the process in the Budget Committee, on the floor of the House, and on the floor of the Senate under this proposal will be similar. We will find it much more difficult to introduce and support what are commonly called hero amendments to restore major spending programs without paying for them. We will be required to set priorities ourselves in a way we failed to do during the course of the last several years.

Personally, from the point of view of this Senator, I think we will end up with a balance of judicious reductions in spending programs, and judicious increases in our revenue system. I think sooner or later we will force the President to choose between what he honestly believes necessary for the appropriate defense of the United States and his refusal to consider an
nue increases whatsoever.

It is my premonition that
regard his responsibility for
fense of the United States as be
higher of those two prioriti
that at the same time we wil
mine that at least certain vit
portant domestic programs, wh
may be able to take some ad
modest reductions, are impor
the people of the United Stat
portant enough not only to
but to pay for at the same time

Clearly, Mr. President, the sy
passing a budget during the c
the last 10 years has been on
has not met the expectations
who sponsored it in the Budge
1974. Equally clearly, it is an i
ment over its predecessor pr
pursuant to which Members
even know the consequences
they were doing until after t
tions had been completed.

Clearly we have learned
during the course of the past
to create a better procedure a
quire ourselves to talk to one
more, to compromise more, to
modate our respective interests
do so in a fiscally responsible

Last summer, Mr. Presiden
the distinguished Senator fro
da, Senator CHILES, and I prop
outline of a budget which ma
cious choices with respect to s
priorities, it showed the willin
increase $1 revenues to $5 in s
cuts, but a curious combinatio
President of the United States
Speaker of the House of Rep
tives effectively obstructed
consideration of the Gorto
proposal. It seemed to me, M
dent, that the agreement betw
Speaker and the President a
to saying that one side coul
what it wished on defense, th
side could spend what it wishe
mestic programs, and we w
agree to send the bill to our gr
dren.

That is not a responsible
which to operate, Mr. Presid
passage of the Gramm-Rudm
ing amendment will come as
we possibly can to guarante
proposition that we will not ac
fashion again in 1986 or in
until such time as this budge
anced.

It is not only not a disaster.
only not a child for whom no
claim parentage at some tim
future. It offers us the single
opportunity to act as Senator
act—to act responsibly to d
the fiscal challenges that a
this country in an effective,
prompt fashion—than we hav
least since this Senator has
Member of this body.

Mr. President, I should like to commend the distinguished chairmen of the Budget and Finance Committees, as well as all of the other members of the conference committee, and both Senators and Members of the House of Representatives for their hard and distinguished work in achieving an acceptable compromise.

After months of difficult negotiations and some setbacks, they have delivered to us today the workable solution to our budgetary problem. Finally, I want to commend the two principal authors of the proposal, the Senators from Texas and New Hampshire. There must have been a thousand times when the obstacles they faced seemed to them insurmountable.

The fact that two junior Senators were able to formulate this proposal, to present it to the Senate, and to see it develop into one of the most far-reaching pieces of legislation in this century is a tribute to their persistence and intelligence—and also I believe a tribute to this body, and to the free political process that made it possible.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, if I may take a few minutes to explain to my colleagues why a Democrat of aggressive bent is for this. There are some strange alliances on this vote. It is not clear why in all respects we have some of these alliances. But let me outline very briefly.

First, this bill for the first time since I have been in Congress—and I am in my 11th year—faces up to the deficit problem. It is not a perfect bill. It is not like what I would write. It is not like what the Senator form New Hampshire would write or the Senator from Texas or my colleague, JOHN GLENN, or anyone else. But it is doing something. And the critics by and large—I say this with great respect—are not coming up with answers, and doing something about this terrible problem is better than doing nothing.

Second, that deficit is growing, and the interest payments are growing to the point that have to frighten any person who is at all reflective about where our economy is.

For the first time since 1914 we are now a debtor nation. This year we will spend $181 billion on interest. The Presiding Officer, I, and my colleagues all remember, I regret to say, when John F. Kennedy was President of the United States in fiscal year 1962. For the first time we had a total Federal budget of $100 billion. Now we are talking about $181 billion for interest alone—interest is now No. 3 behind Defense and Social Security. If we do not make a change, by fiscal year 1991 interest will be No. 1. We are at the point where interest expenditures will double every 4 or 5 years.

You do not need to be an economic genius to recognize ultimately that has to mean economic chaos.

For those of you who have pencils and for my colleagues who may be listening on the PA system or their staff, let me suggest this is one point on which you may want to jot down a couple of notes. For fiscal year 1980 to this fiscal year, here is the growth in the Federal budget in outlays.

Defense, 88 percent; entitlements, 56 percent; discretionary defense, 20 percent; interest, 240 percent.

How long can we keep that up?

Mr. DOMENICI. Will the Senator yield?

Mr. SIMON. I would be pleased to yield.

Mr. DOMENICI. This is over what period of time?

Mr. SIMON. This is fiscal 1980 to 1986. It is outlays, not budgetary authority.

We are talking about a mammoth growth in interest. And on that $181 billion, one point that I do not hear mentioned and I heard my colleague, to his credit, mention this, Senator BUMPERS, there is a massive redistribution of wealth that takes place with this. Who pays that $181 billion. Well, it is the people who sweep up this Chamber in which we are speaking. Who receives the $181 billion? It is the economically fortunate of this country who receive it.

Senator BUMPERS described this as the most massive redistribution of wealth in modern history. I have no reason to doubt the truth of that statement. But it strikes me as unusual, to put it mildly, that a lot of people will stand up for the poor, for the middle class, and not recognize what is taking place here.

Also, as that incomes grows, you squeeze out an ability to respond to social programs. I want to see this Nation do some things in education that we have not done. I want to see us do some things in health care we have not done. But, frankly, there is not a chance in the world we are going to do those things if we keep seeing interest rates grow at the present growth.

Anyone who is interested in seeing social programs grow in this country ought to be for Gramm-Rudman.

As part of this, I think—and I say this with great regret—the only way of getting hold of the arms race is getting hold of our budget. I see weapons system after weapons system, some of them ridiculous, get approved. When is the last time we turned down a weapons system in this body? We are not going to turn them down until we see we cannot spend all the money we want to spend.

When you take your children into the toy store, you cannot let them buy every toy in the store, and when you take the admirals and generals into the weapons store you cannot let them buy every weapon in the weapons store. There have to be limits.

I want an adequate defense for this country. I served overseas in the Army. I am proud to have served overseas in the Army. But to waste money and to escalate this arms race just does not make sense.

If I may digress for just a moment, my distinguished colleague from New York, Senator MOYNIHAN, made a point that I think is too easily accepted as truth. That is, he equated political power around the world with arms power around the world.

We have to maintain an adequate defense so that we can guarantee the safety of a great many countries. I do not for a moment suggest that we should not do that.

But if you take a look at history over the last three decades, you will see that the Soviets, for example, have increased their arms strength relative to the United States tremendously. But what has happened? All of us can remember the day when China was considered to be a satellite of the Soviet Union. That is no longer the case. All of us remember when all the other Warsaw Pact countries were considered absolute satellites. While there is still too much truth to that it is also true that Romania, for example, voted against the Soviets on Afghanistan.

Look around other spots of the world—Indonesia, the fifth largest nation in the world in terms of population once was totally under Soviet domination; Egypt was moving in that direction.

Building up arms without reason does not automatically equate or turn into political power around the face of the Earth.

Finally, I think this bill is going to force us to face up to something that we talk about privately but too many of us do not talk about publicly. That is the revenue need.

Let us face it: We are not going to solve this deficit without additional revenue. I think we can do it without increasing tax rates, but I think we have to consider things like that suggested by the Republican Members of this body, the oil import fee, a $10 oil import fee bringing in $18 billion. We can start the snowball going in the right direction.

One of the things that happens when we start moving in the right direction is you gradually reduce interest rates.

One economist I talked to guessed that for every $50 billion you reduce the deficit, you reduce interest rates 1 percent.

One of the things that happens when you reduce the interest rates 1 percent when you have a $2 trillion indebtedness is when you decrease ex-

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penditures by $20 billion, you decrease the deficit.

This is not perfect, again, as I said, but I think it will give us a chance to get a hold of the economy. Why has the stock market taken off as it has? I think, frankly, it is because of Senator Gramm, Senator Rudman, Senator Hollings, and the people who voted for this and showed the financial world that we are serious about this thing.

Are there weaknesses to it?

There is one major weakness, and whether we have the courage to stick by this thing, I do not know. The weakness is if next March or a year from now we get down to where it is really tough, we can change the law. I hope we do not, but that could be an easy way out. This is at least an attempt, a serious attempt, however, to deal with the problem.

Senator Moynihan said a few minutes ago that next March we are going to be in a state of panic. Well, we ought to be in a state of panic right now about where that deficit is.

So this seems to me to be a concrete, effective step forward that can protect the economy of our country, protect our ability to respond to social programs, and reduce the likelihood of an arms race. I think it is extremely important that this body affirm this conference report and that we take this step forward.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. Denton). The Senator from New Hampshire.

Mr. RUDMAN. I thank the Chair.

Mr. President, we come here today to the end of a long, arduous, stimulating, and challenging effort to address the No. 1 problem facing America. It is not that I say it is the No. 1 problem facing America, but it is the American people who, in poll after poll after poll, have said, "Enough."

The American people have said, "We no longer will allow you to mortgage not our futures—our futures are mortgaged—but the futures of our children and our grandchildren."

Thus, we come here today to the passage, I am sure in both bodies, of this legislation.

Let me start out by simply saying it would be impossible for us to even be here today were it not for the efforts of Senator Domenici and Senator Packwood and their incredibly competent staffs. I thank them.

Mr. President, I ask unanimous consent to have printed in the Record at this point the names of a number of people, many of whom are staff, who deserve the thanks of this body.

There being no objection, the information was ordered to be printed in the Record, as follows:

Others who deserve special words of thanks include Senator Gramm and Senator Hollings, the two prime sponsors of this bill; Senator Long, Senator Bentsen, Senator Cohen, and Senator Dodd, who provided us with critical support early on; Senator Chiles, who worked with us to produce a better bill despite his misgivings about the entire concept; and the major House negotiators, Congressmen Foley, Gephardt, Panetta, and Aspin.

In addition, there are a large number of House and Senate staff who have devoted their days, nights, weekends, and holidays over the last three months to help produce this measure before us. On the Senate side, they include Steve Bell, Sid Brown, and Nell Payne from the Budget Committee majority staff; Bill Diefenderfer, Frank Cantrell, and Ed Mihalski from the Finance Committee majority staff; Mike Stern and Joe Humphries from Finance minority staff; Rick Brandon of Budget minority staff; Bob Gilmour and Margaret Hostetler from the Governmental Affairs Committee; Steve Camp and Brian Kintisch from Senator Gramm's office; Bob Sneed and Barry Strumpf for Senator Hollings; and Richard Lauderbaugh of Senate Legislative Counsel.

Mr. RUDMAN. Mr. President, I will not extend these remarks to state why this bill is going to pass. It is going to pass because it is the only alternative that this country has to bring these deficits under control.

Charges made against it over the last 3 months have been factually disproven. The charge of giving a President vast new powers? We do not hear about that much any more. On the point that this is some draconian measure—and I heard the senior Senator from New York talking about this measure in those terms—let me note, to keep this in perspective, that we have a $1 trillion Federal budget this year, $1 trillion. We are talking of maybe trying to get $30 to $40 billion out of that budget next year.

If you told the average family or the average company that, out of their expenditures, they might have to reduce them 3 percent to stay alive, they would say, "Fine, we will do it." That is what American families do. That is what they do around Senator Gramm's proverbial kitchen table every week.

Yet we have heard it is draconian. The fact of the matter is that the bill calls for a modest kind of reduction.

I said several months ago that it was a bad idea whose time had come. I meant simply that it is a shame that we face this alternative of essentially adopting institutional courage by statute. But that is precisely what it has come to.

I read in the paper this morning a column by a distinguished columnist, who is entitled to his opinion, decrying the fact that we would not show the courage to do what we ought to do. The Budget Act has been on the books since 1974 and the deficit has increased arithmetically since the adoption of that act. It has not worked.

That columnist went on to say that we ought to do the right thing. This bill will ensure that either we do the right thing or, under the broad light of the Sun, we will be forced to
it and tell the American peopl
we cannot do it. At that point
should throw us all out of offi
discriminately—if Congress cann
stitutionally work with this
ment, which is not a blunt clu
after what this conference has d
a fine surgical instrument.

We come to today because th
no other alternative. We co
today because we are concerned
the future of this country. Mu
been said abcut the seques
process. Let me say that the fro
of this bill, which reforms the
process, makes it far more diffi
do the kinds of irresponsible
that we have done in the past.
the part of the bill that, in m
will bring reason to a disorderl
ess.

If, in fact, we cannot resolve
disputes, then in the second
the procedure equally, with
tions for those programs whi
called the safety net and with
exemptions only, we will ha
automatic sequestration proce
hope it does not happen. It is n
that if it does, it will happe
once.

I conclude these remarks wi
some direct statements abou
friends across the river at a b
called the Pentagon. I came
body a strong proponent of in
defense. I remain that way. Bu
not a proponent of getting in
defense through reckless, wast
profligate spending which,
frankly, I have seen more than
of in that building across the ri

How dare a spokesman for th
tary of Defense state to th
press, as one did yesterday, th
porting this bill gives comfort
Soviets? Comfort to the Sovie
Secretary of Defense has been
on occasion as saying, every
seem to do something he does
that there is dancing in the st
Moscow. I suggest that thos
the street ought to look at the
in the streets of Moscow wh
Government has to borrow $
lion; when America has be
debtor nation; when 40 percen
of the Government's securitie
nance the deficit in the last
were bought by foreign banks
eign individuals. I wonder if th
been dancing in the streets of
as they watched the America
my prepare to destroy itself?

Then we have the Secretary
who appears before the Sena
mittee on Armed Services a
and this is paraphrased but a
the defense budget does not
to deficits; that is not its conc
defense budget responds to th

Well, that, on its face, is es
true and a reasonable stateme

submit to anyone listening, where do the Secretary of Defense and the people who work for him think that defense budget will go if this country falls into recession or worse? I tell you where it will go. It will go where it has always gone: It will get savaged, it will get reduced, it will get destroyed, because that will be the last priority of a country in economic disarray. So I hope that the people across the river in that brick edifice or concrete edifice, or whatever it is—stone edifice; I thank my friend from Texas—I hope they might consider that maybe we are striking a blow for them, that maybe by preserving this economy we can continue a reasonable buildup of defense.

But let me say that there are those of us in this body who are starting to question the expenditure of one-third of that budget in Europe. That is right, one-third—$80 billion in Europe. The chairman of the Defense Appropriations Sucommittee tells me that with all costs, it is probably closer to $100 or $110 billion.

I might say to the people in that stone edifice, maybe they ought to look at some of the disarray they have found themselves in in procurement, in spare parts. They ought to look at the number of people they employ. They would have us believe that every dollar is well spent. But, I say to them that there is no budget with $280 billion in it that does not spill more—spill more—than this sequester will ever reach.

Let me wind up, Mr. President, by saying that I hope those of us who support this bill, those of us who have labored long and hard on this bill—many of whom have labored long and hard for this country in this Chamber and in fields abroad—need not have to read any more that our efforts to strengthen America are a comfort to the Russians. It is offensive, it is distasteful, it is irresponsible, and it is untrue.

I hope that as we cast our votes here today, we recognize that when we come back next year, we will reflect the needs and desires of our constituencies and our own judgment to continue to build sound defense based on truth in expenditures of funds, provide those social services to those citizens in need in this country through the kinds of things that my friend from Illinois would like to do—and I share those views—but to do them within a framework of balanced budgets.

To those in the administration and for those in this body who fear that this may bring new taxes—which I would prefer not to happen—I will say this: If that happens, it will happen within a framework of descending deficits toward a balanced budget; whereas everyone in this body would agree, I am sure, if we put $20 billion of new tax revenue on that table right now without this bill being in place, this Congress would swallow that $20 billion like putting fresh meat in front of a hungry tiger. This bill prevents that. This bill puts responsibility into the system. This bill says to the American people that we care about the economic and national security of America.

That is why it has the support of the people. That is why it has the overwhelming support of this body; and that is why people of goodwill and good intellect have banded together to say, "Enough" to profligate spending of this Government.

I thank the Chair.

Mr. GLENN. Mr. President, I rise to oppose this bill. The bill before us contains possibly the most important piece of budget legislation since the Budget Bureau was found in 1921. In some ways, Mr. President, it is even more important than the 1921 act itself for it drastically changes the way we look at intergovernmental relations, at fiscal policy, at tax policy, and at the constitutional balance of powers between the executive and legislative branches of Government. I believe it is an appallingly bad piece of legislation.

Mr. President, let there be no misunderstanding. I am absolutely unequivocally dedicated to a balanced budget. In fact, I put 2 years of effort into running for the Presidency based largely on the fact that I though we needed a balanced budget and we were headed in the wrong direction. I stressed over and over again, at every single stop I made, proposals which, with the budget deficit at that time of $140 billion, would have gained us about $80 billion. Had we followed those policies, we would be in good shape today. But I will not rehash that campaign over and over again except to repeat once again, I am as much in favor of a balanced budget as anybody in this body. But I am not alone in criticizing this bill.

Nobel laureate economist Franco Modigliani claims that the bill is "calculated to create instability in this country." The Director of the Congressional Budget Office, Rudolph Penner, has cautioned against granting as it does what he called "really a cosmic amount" of decisionmaking to unelected officials. The conservative columnist George Will points out that the bill would "hand a meat cleaver to the executive branch and force the use of it." He further expresses amazement at the fact that "conservatives supporting this deficit-cutting proposal favor a form of executive power far beyond the dreams of liberal politicians."

What I consider to be the most damning commentary on the bill, the Pentagon stated yesterday that this legislation, if passed, would send "a message of comfort to the Soviets."

Mr. President, let me review what this bill does to us as a country. There are six points to make here. No. 1, the bill is a formal admission that the Congress does not know how to balance the budget; that we simply do not have the guts to make the hard choices to bring our fiscal house into order.

I ask, are we really doing our job by enacting a law which says we have failed? The distinguished Senator from New Hampshire, one of the authors of this legislation, who just spoke, was quoted in the press back just a few weeks ago as saying that, "Yes, what this bill is is a substitute for guts."

Well, I say that we need a substitute for guts for the President of the United States, too. The President of the United States is the one who draws up the budgets for this country and submits them to us. Last year he submitted the most unbalanced budget in American history, and it was not 30 days before he was berating the Congress for not cutting more out of what he had just submitted to us 30 days before. Talk about irresponsibility.

Second, the bill takes one of the most important functions of Government, the allocation of our tax dollars, and places it almost entirely at the mercy of some unelected officials whose predictions will trigger the automatic budget cuts. Is this what our constituents sent us to Washington to do?

Let me talk a moment about those automatic budget cuts. Debate on the Senate floor has centered on so much coming out of defense, so much coming out of social programs. Let me pin that down to just a few little things that I think might be of interest because, as I understand this bill, in the second year it is in effect these cuts will be passed right downhill to every line-item program. When cuts are mandated, those will go right down to every single department, every single office within a department, and they will take their proportional cuts.

Now, if that occurs, let me just ask a few questions. What about the people who are out there trying to prevent drugs from getting to our young people? We will cut those people. Their programs will be sliced back right along with everything else. Drug-alcohol programs, rehabilitation, and catching drug pushers and distributors are going to be cut back if this is ever triggered.

How about the people in our Federal prisons? We are going to cut back on prison funds, so does that mean we are going to have to let people out or crowd them up? The courts say we cannot crowd them up. So I guess that

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is going to mean the judges cannot send people convicted of Federal crimes to prison.

Here is another one. We all travel in this country by airline. It means, if we trigger this, that airline inspection teams from the Federal Aviation Administration are going to be cut back. There will be fewer inspections of airliners, fewer inspections to be sure that airline maintenance personnel are coming up with the things that are not being done. It means that we will have air traffic controller cuts along with everything else. I do not see how that can result in more airline safety.

Another area. TV has been covering this past week the fact that NIH may have made some real breakthroughs with regard to cancer. It is hailed as possibly a great new breakthrough. Do not forget, we are going to cut back on those funds now. That program will be cut back right along with everything else. It is not excepted. Once these cuts are passed downhill, NIH cancer research will be cut back right along with everybody else.

How about our funds for antiterrorism? Do we want to cut those back? I suppose we could. If we trigger this, we are saying in effect there is no judgment to be put into place here between one program and another because we are going to meat ax them all. We are going to give them all the same treatment and pass that downhill into every program within every department of Government if this is triggered. So antiterrorism funds will be cut back in addition to those I already mentioned.

Last year we held some hearings in the Governmental Affairs Committee with regard to meat inspection. We have a lot of meat coming in from outside this country where we do not have adequate inspection, and so there was a real health concern. Well, how are we going to catch any rotted meat that gets shipped in from abroad? Under this bill we are going to cut back on our meat inspectors.

How about all these farm programs? We saw in the news media that a farmer in Iowa was so frustrated he went out and killed his family and shot himself. Writeups in the paper say this is not an abnormal attitude among financially distressed farmers right now. But do not forget that under this trigger legislation farmers are going to take their cuts in farm programs right along with all the other things that are going to be cut.

Some people cannot get their money out of banks these days. Do not forget, bank examiners are going to be cut back so we may have a few more fraudulent banks around the country and a few more of them becoming insolvent because we could not put bank examiners out there to do the job that has to be done.

You are going to have to cut back on AIDS research. We are going to meat ax that. We are going to cut that back automatically and say that such research is no more important than anything else instead of the fact that this may be one of the greatest threats to mankind we have ever heard about if we do not get control of it. Are we going to meat ax that? Are we going to cut it back right along with everything else as though it is not any more important than anything else?

How about communities with radioactive waste problems? We have been into that in great detail back home in Ohio.

Suppose you have a hurricane coming into Florida. We are going to cut back on funds to predict hurricane movements, I want you to know, if we trigger this thing. We are going to cut back on funds with which to help warn people to get out of the way of that hurricane. Where hurricanes used to kill several thousand people in a year's time, now that is unusual. We are going to cut back on those programs now if we do things like this. Do not forget that.

These are just a few of the things. Let me mention more.

There is concern about spies in the country. Are we not in need of more FBI out there to catch these people? We are doing a pretty good job right now catching up with some of them. We are going to cut back on that? The FBI will have to take its rub along with everything else. We do not want to catch as many of those spies, I guess.

How about research and development? We helped other nations recover after World War II, and they recovered so well that they are competing with us in some areas. They are putting more into research and new discoveries that will let them be the leaders of the future. What are we doing? We are going to automatically say that in addition to the 29-percent basic research funding this administration cut in the first year, we are going to chop that back further. Research and development outlays are fundamental to whether we are going to remain a technological leader in the world and maintain the technology that will enable us to lead the world in jobs and opportunity. We are going to say that we are going to meat ax that, that it is not more important than anything else.

How about educational programs? We are going to cut back on those funds. We already did somewhat, but we are going to cut back more. It means that at a time of increasing world competition, we are going to cut back on research and on higher education. Great. I cannot think of anything more likely to eat our seed corn and put us in a second-rate position in the world.

How about unemployment be
Come to Youngstown, OH, a
which has been heavily impacte
employment benefits have bee
salvation of some of those con
ties that were hard hit wher
went down. We are saying tha
when it is needed the most, une
ment benefits will go down. Th
be cut back, along with ever
else, as though they were not
tant to keep families together, t
tide people over a period of time
they are really hard hit. W
saying, "No, we do not have th
in Washington to take care of t
we will chop unemployment ben

The administration of Social
ty would also be cut; not the So
curity Fund itself, but if you thi
have trouble getting your check
now, just wait.

Equal employment oppo
funding would be cut. So woul
enforcement—how we put peo
there to deal with toxic waste i
communities—that would be cut

What I am saying is that s
these things have to have ju
attached to them. We cannot j
that these things are going to
automatically, as though there
some greater degree of importa
one of these programs than
other.

Mr. President, that was the
of the points I want to mak
third is this: This bill places
faith in the science of economi
nomics is not that much of a
science. Under this bill, billio
billions of dollars can be excise
the budget if the Governmen
nomic forecasts show that the
will miss the Gramm-Rudman
I ask anybody here how ofter
forecasts by the Government h
accurately.

I think our CBO estimate
been more accurate than any
but they are not accurate enc
make some of the judgment
have to be made under this bill,
they claim to be that accurate.

This means, however, that es
of revenues and spending, w
how one estimates the deficit,
be accurate to within one-ha
percent. If these estimates are
many people may suffer from
cuts that might not have been
sary.

So I ask, are we really going
our economy to some econ
equations that were never m
deal with this kind of policymal

The fourth point: The
Rudman-Hollings amendment
fiscal policy in place for 5 yea
is one of the most amazing as
the bill. It says that all th
policy planners in the country
home and come back in 1991 w
bill expires. Perhaps they

needed more than ever at that time, because fiscal policy will be in such disarray even before 1991 that drastic work will be necessary.

The Gramm-Rudman-Hollings proposal says, in effect, that we can simply point the ship of state in the right direction, then weld its wheel to the deck, and hope that 5 years later we will have reached our destination. Is this a way to make fiscal policy?

Fifth, the amendent plays havoc with our tax system. Governors and Mayors across the country will be forced to raise taxes in order to stem the erosion of governmental services caused by the Gramm-Rudman cutbacks. What this will do, in effect, is transfer billions of dollars of taxing authority from the Federal Government to State and local governments, and maybe that is one of the purposes of this. It takes that taxing authority from a single, relatively efficient taxing mechanism to thousands of relatively less efficient ones. States and cities in declining areas of the country may face financial catastrophe as Governors and mayors attempt to meet essential needs with both a declining tax base and declining Federal funds. Is this what we want to do to our States and cities?

Sixth, the bill makes a mockery of the administration's economic program. The administration wants to spur the economy by cutting taxes, but it supports Gramm-Rudman, which will undoubtedly wind up increasing our taxes. What kind of policy is this?

We have had Kemp-Roth, Gramm-Latta. Senator ROTH said a couple of days ago, and was quoted in the paper this morning as saying, that the passage of this would inevitably mean that we would have to raise taxes quite seriously in the future. I think his judgment on that is right.

The point of all this is that judgments must be made between programs, we must not supply trigger off the program cuts. These programs are not equal in importance to our country and our people.

What got us into this to begin with? It was the one-quarter reduction in revenue, on the theory that with that new money out there and new incentives for business and consumer confidence, this would indeed cause such a surge of new economic activity in this country that it would create more and new revenue than was lost by this one-quarter reduction.

What are the facts? The facts are, flatly, that it did not work.

I can agree with those who support this measure and those who supported that tax reduction, that, yes, inflation is down; yes, interest rates are down, which they point to with great pride. But I say, at the same time, at what expense? It is at the expense of the $200 billion-plus a year deficits. How long can we hope to live on that kind of borrowed money?

Mr. President, I oppose this bill. Many of my constituents oppose it. Even those who support it have the same goal as I: to balance the Federal budget. To do it this way is wrong. It is wrong policy. It is wrong economics. I believe it will be proved unconstitutional as well.

I urge my colleagues to vote against this bill.

Mr. President, I ask unanimous consent to have printed in the RECORD an article by David Broder in this morning's Washington Post, entitled "The 'Rudman-Gramm Balanced-Budget Sham.'"

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE "RUDMAN-GRAMM BALANCED-BUDGET SHAM"

(By David S. Broder)

The label on the "Gramm-Rudman deficit reduction plan" has a nice rhythm and rhyme to it. But a more accurate name for the measure Congress is likely to embrace this week, as a way of dodging the blame for the runaway deficits, is the "Rudman-Gramm balanced-budget sham."

The rationale for reversing the names of the principal sponsors, Sens. Phil Gramm (R-Texas) and Warren Rudman (R-N.H.), is that Gramm-Rudman is the opposite of what it purports to be.

In the name of predictability—a measured five-year progression toward zero deficits—it deliberately invites chaos. In the name of responsibility, it almost guarantees that the deficit hot potato will be passed back and forth between President Reagan and Congress even more often than in the past five years.

In the name of fairness, it grants budgetary immunity to politically privileged programs and guarantees that programs whose beneficiaries are weaker will take a disproportionate share of the cuts.

Under the guise of toughness, it maintains the conspiracy of silence about the need for more revenues and thus invites Reagan to maintain the anti-tax stance that is the principal cause of the deficits. The remarkable thing about Gramm-Rudman is that many of those who are voting for it know it is a scam. Don't take my word for it. Listen to what Rep. Leon Panetta (D-Calif.), one of the conferees who crafted this marvel, told The New York Times: "The theme in what we did was to make this thing so irrational, so ugly that it works as a club."

The "club" is supposed to be the threat of implementing this "ugly . . . irrational" process rather than let the severe slashes in unprotected domestic and defense programs required by Gramm-Rudman go into effect next year, the sponsors say, the president and leaders of both parties in Congress will surely negotiate a more sensible set of budget compromise.

To which the experience of the past five years screams; fat chance. For five years, Ronald Reagan has dug in to protect his sacred cows (strategic weapons and lower tax rates) and the Democrats have been equally vigilant for theirs (Social Security and Medicare). Gramm-Rudman does not require either to yield an inch. Instead, it posits that Reagan and the Democrats will join in an assault on other, unprotected spending. They won't.

What they will do, instead, is try to outfox each other in a game of legislative-executive chicken. That game bears no resemblance to a sensible consideration of the merits of rival budgetary claims. Faced with the mindless Gramm-Rudman mandate to cut unprotected defense and domestic spending, 50-50, across the board, Congress will be invited to appropriate even more lavishly than it does now—and Reagan to veto appropriations even more offhandedly.

Out of this mischief and chaos, the most basic policy of the government of the world's most powerful nation is somehow to emerge.

It is a fraud—and a fright. Any proposal to deal with the deficit crisis that addresses the budget process instead of the immediate and real choices on spending and taxes is a fake. Gramm-Rudman is a dangerous fake, because it invites—indeed, requires—irresponsible behavior at every stage by every one of the major players in the legislative and executive branch.

The case against Gramm-Rudman was conclusively made last month by Sen. Charles McC. Mathias (R-Md.), who is retiring next year and is free of the requirement for political posturing that persuades so many of his colleagues they'd better vote for this travesty.

As he said, Gramm-Rudman "searches for a way to evade the hard choices that deficit reduction demands. It strives for a way to reach that goal without taking responsibility. It represents budget balancing by anonymous consent."

Mathias said he shares the doubts that have been raised about the constitutionality of Gramm-Rudman. The new process invests three sets of appointed civil servants—in the Office of Management and Budget, the Congressional Budget Office and the General Accounting Office—with authority to require one elected official, the President, to impound funds lawfully appropriated by another set of elected officials in Congress. If that is what the Founders intended, it is a puzzle why we even bother with elections.

But beyond that, he said, "the measure before us raises another, equally troubling danger, the danger of abdication of constitutional responsibility. The proposal strives for a system that makes both legislators and the executive impotent spectators of the budget process. But it will fail and it deserves to fail."

Mathias is right, and when the failure and the fraud of Gramm-Rudman becomes evident next year, I hope the voters will deal with those who concocted and supported it.

Mr. BINGAMAN and Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. Will the Senator from New Mexico yield?

Mr. GLENN. Will the Senator yield a few minutes?

Mr. BINGAMAN. I yield.

Mr. GLENN. Mr. President, there is one other point I wish to make.

When the Gramm-Rudman proposal left us to go to conference, it included an amendment which I put on here in the Chamber that I thought was very important. I understand now it came back without that amendment on there.

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Mr. President, this would help immeasurably I think in bringing this whole budget under control, in that the law right now provides for the President to submit a balanced budget to us provided in law. Title 31 of the United States Code, section 1105(c), says if a President submits it to us and there is a shortfall in the budget he submits and he compares that with revenue, he will take appropriate action to close the fiscal gap. That "appropriate action" was defined in the explanatory notes at the end of that section to mean he can ask for borrowing authority, taxes, or other action to deal with that shortfall.

What my amendment which we passed here in the Chamber that day with about a 20 to 1 margin said was that the President in submitting budgets in the future could not ask for borrowing authority or debt increases. He would have to submit to us his idea for a budget other than dealing with the shortfall just by asking for borrowing authority on debt increases. In other words, the President down there with all the thousands upon thousands of people at his disposal who draw up this budget would have to, in fact, submit to us a plan for a balanced budget. The amendment phased in like the Gramm-Rudman-Hollings amendment, but at the same time required the President to give us the additional budgeting information of how he would propose to bring a budget into balance.

That passed here with a 94-to-3 vote in the Senate and why it was dropped in conference I do not know, but I understand in talking in the Chamber here a little while ago with some of the participants, they believe it was dropped. It is a voluminous bill. We have not gone through every item on it yet. I still hope that is in there because to me that is so fundamental. If the President of the United States is serious about this thing, let him submit a balanced budget to us. That is what the law provides. Do not just ask for more borrowing authority. Give us his ideas of where he thinks we should bring this thing back into balance.

Mr. President, I appreciate the forbearance of my distinguished colleague for those additional 3 minutes, and thank him very much.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, the Gramm-Rudman Balanced Budget Act of 1985 will soon be passed by the Senate. After much careful consideration I feel I must vote against this procedure. I strongly support action to reduce the deficit and I will continue to support realistic efforts to do this. But, on balance I believe the legislation before us will do more harm than good.

First, it will as David Broder in today's Washington Post states:

> Maintain the conspiracy of silence about the need for more revenues, and then invite Reagan to maintain the anti-tax stance that is the principal cause of the deficits.

Second, it will lock into place for 5 years a predetermined fiscal policy which may prove totally inappropriate to the economic realities our country encounters.

Third, it will exempt from automatic cuts certain specified programs and insure that the remainder of Government spending will take a disproportionate share of the cuts.

And fourth, it will insure even more budgetary gamesmanship between the President and the Congress than we have seen in recent years.

When Gramm-Rudman was introduced in the Senate my initial instinct was one of suspicion about a procedural fix being offered to a substantive problem. I voted against the measure. After major reworking of the bill in conference, I was persuaded that some of the deficiencies had been addressed and I supported sending the Packwood substitute back to conference for further work. Now that that further work has been completed and additional time has passed, my understanding of the final version leads me to conclude that my initial instinct was right.

Although, in theory the passage of Gramm-Rudman will fix the deficit problem, it is in reality an untested, uncertain course, which may well carry with it the seeds of more budgetary and economic difficulties rather than fewer.

The difficulties of keeping the Nation on pre-set fiscal policy course for a 5-year period are well known. As a nation, we have failed miserably in such an effort throughout our history. To try to conform our fiscal policy to an inflexible course when the economic weather we encounter may require a different and more flexible course seems unwise.

I am not convinced the measure affords adequate protection in the event of an economic downturn, which in my view is a virtual certainty in the next few years. The economic downturn would be intensified by this procyclical automatic fix to the deficit problem. Although it is argued that there is an escape hatch for such a downturn, I am concerned it would either not be used or it could be used too late to avoid serious damage.

The conference agreement excludes many programs. In addition to Social Security, medicaid, and veterans benefits it exempts several antipoverty programs. These are all necessary programs. But their exclusion furthers the hardships that cuts will cause in other worthy and necessary programs. In addition to needed law enforcement, tax collection and compliance, agriculture and environment programs, the programs that wil
hit include those that direct
our national and internatio
petitiveness. These procompet
programs include research,
trade promotion and educati
will be the impact on these
and needed programs?

Clearly if we are serious
ducing the deficit we must
taxes in the equation. No
the possible exception of t
dent, believes that the defic
eliminated solely by cutting
Yet, this process does not ad
need for using taxes, along wi
ing cuts, to reduce the deficit.

The answer to our deficit
must come from a cooperati
by Congress and the admi
which involves deep spendin
well as new taxes. Some a
Gramm-Rudman will be the
for that cooperative effort
they are right, but I doubt it.

I fear that holding out the
of a procedural fix will l
chance of cooperation rather
crease it. Any claim which t
earlier versions, may have
across-the-board spending
been forfeited in its final f
this bill, together with the P
almost daily denunciation of
for new taxes, will make it t
more difficult for Congress
sponsibly.

The seriousness of the de
lem is unquestionable and th
appeal of a procedural soluti
problem is clear. But the
facing our country in the ne
are many and their solutio
quire more leadership and m
than the regimen this bill w

Thank you, Mr. President.

I yield the floor.

The PRESIDING OFFIC
Senator from Michigan is re

Mr. RIEGLE. I thank the

Mr. President, let me begi
mending my colleague from
my colleague from New M
their statements.

This is not a time I think
easy to oppose this measure
can be misinterpreted as an
to bringing a budget into
can be misinterpreted as so
voring excessive spending,
forth.

But I think what both th
from Ohio and the Senator
Mexico have said thought
quietly and after careful ex
makes very important se
think has to be considered
care, and I applaud them fo
tions that they have taken.

I wish to begin by referri
column today by David Bro
Washington Post because
here, all 100—could I have
President?

The PRESIDING OFFICER. The Senator from Michigan is entitled to be heard. Please let us have order in the Senate.

The Senator from Michigan.

Mr. RIEGLE. I thank the Chair.

David Broder, unlike all of us who are elected political figures and have to try and keep our eye on the next election and think about what we say and how we say it, he being in the forth estate is not in quite the same position and is not running for any office now or in the future presumably and is in a position perhaps more than most to call it as he sees it.

I think he is probably as much respected as any political analyst on the national scene that I can think of by Members in both parties because of his evenhandedness and also the seriousness with which he takes the study of government and the assessment and the history of government.

So when one reads his piece today entitled "The Rudman-Gramm Balanced Budget Sham," I think it is worth taking a look at what he actually says in his column reflecting as he does over many long years of experience in dealing with these issues here at the Federal level.

And I wish to read that column. David Broder said:

> The label on the "Gramm-Rudman deficit reduction plan" has a nice rhythm and rhyme to it. But a more accurate name for the measure Congress is likely to embrace this week, as a way of dodging the blame for the runaway deficits, is the "Rudman-Gramm balanced-budget sham."
>
> The rationale for revising the names of the principal sponsors, Sens. Phil Gramm (R-Texas) and Warren Rudman (R-N.H.), is that Gramm-Rudman is the opposite of what it purports to be.
>
> In the name of predictability—a measured five-year progression toward zero deficits—it deliberately ínvites chaos. In the name of responsibility, it almost guarantees that the deficit hot potato will be passed back and forth between President Reagan and Congress even more often thar in the past five years.
>
> In the name of fairness, it grants budgetary immunity to politically privileged programs and guarantees that programs whose beneficiaries are weaker will take a disproportionate share of the cuts.
>
> Under the guise of toughness, it maintains the conspiracy of silence about the need for more revenues, and thus invites Reagan to maintain the anti-tax stance that is the principal cause of the deficits. The remarkable thing about Gramm-Rudman is that many of those who are voting for it know it is a scam. Don't take my word for it. Listen to what Rep. Leon Panetta (D-Calif.), one of the conferees who crafted this marvel, told The New York Times: "The theme in what we did was to make this thing so irrational, so ugly that it works as a club."
>
> The "club" is supposed to be the threat of implementing this "ugly . . . irrational" process: rather than let the severe slashes in unprotected domestic and defense programs required by Gramm-Rudman go into effect next year, the sponsors say, the president and leaders of both parties in Congress will surely negotiate a more sensible set of budget compromises.
>
> To which the experience of the past five years screams: fat chance. For five years, Ronald Reagan has dug in to protect his sacred cows (strategic weapons and lower tax rates) and the Democrats have been equally viligant for theirs (Social Security and Medicare). Gramm-Rudman does not require either to yield an inch. Instead, it posits that Reagan and the Democrats will join in an assault on other, unprotected spending. They won't.
>
> What they will do, instead, is try to outfox each other in a game of legislative-executive chicken. That game bears no resemblance to a sensible consideration of the merits of rival budgetary defense and domestic spending, 50-50, across the board, Congress will be invited to appropriate even more lavishly than it does now—and Reagan to veto appropriations even more offhandedly.
>
> Out of this mischief and chaos, the most basic policy of the government of the world's most powerful nation is somehow to emerge.
>
> It is a fraud—and a fright. Any proposal to deal with the deficit crisis that addresses the budget process instead of the immediate and real choices on spending and taxes is a fake. Gramm-Rudman is a dangerous fake, because it invites—indeed, requires—irresponsible behavior at every stage by every one of the major players in the legislative and executive branch.
>
> The case against Gramm-Rudman was conclusively made last month by Sen. Charles McC. Mathias (R-Md.), who is retiring next year and is free of the requirement for political posturing that persuades so many of his colleagues they'd better vote for this travesty.
>
> As he said, Gramm-Rudman "searches for a way to evade the hard choices that deficit reduction demands. It strives for a way to reach that goal without taking responsibility. It represents budget balancing by anonymous consent."
>
> Mathias said he shares the doubts that have been raised about the constitutionality of Gramm-Rudman. The new process invests three sets of appointed civil servants—in the Office of Management and Budget, the Congressional Budget Office and the General Accounting Office—with authority to require one elected official, the president, to impound funds lawfully appropriated by another set of elected officials in Congress. If that is what the Founders intended, it is a puzzle why we even bother with elections.
>
> But beyond that, he said, "the measure before us raises another, equally troubling danger, the danger of abdication of constitutional responsibility. The proposal strives for a system that makes both legislators and the executive impotent spectators of the budget process. But it will fail and it deserves to fail."
>
> Mathias is right, and when the failure and the fraud of Gramm-Rudman becomes evident next year, I hope the voters will deal with those who concocted and supported it.

Now, you do not have to agree with what David Broder says or, if you agree with it in substance, you do not have to agree with each and every point he makes. But what is significant to me is that someone of that statute, who is not running for office, not concerned about the political implications of this, would take a look at this, study it in a serious way, and yield that kind of a verdict as to what he thinks it is all about.

He is not alone. Most of the serious economists in this country, virtually all of them, I might say—and I could cite the names, some have been mentioned; Dr. Modigliani and many others—have taken the same tack. So has James Kilpatrick, so has the U.S.A. Today, so has the U.S. News & World Report, which calls it a fiscal "Frankenstein," and I could go on citing other instances of outside professional observers who have no political or partisan ax to grind who made the same assessment.

Now, why have they done so? Why is there this overwhelming body of opinion by professional observers outside who think this is a flawed approach and yet there is so much enthusiasm for it inside? Well, I think it basically boils down to the politics of the situation. I think the politics, at the moment, which makes anything that sounds like we have a quick answer for the deficit problem, has great attractiveness, especially if we do not have to do any serious deficit cutting now.

Frankly, Gramm-Rudman says we do not have to do anythi~~ng~~ now. If we pass Gramm-Rudman, we get to leave for Christmas. There are no hard decisions today, tomorrow, the next day, next week, or even next month. No, we are postponing the whole issue.

As a matter of fact, we had a debate in here the last time we had this issue up as to what the first-year target should be for fiscal 1986. Do you know what the first-year target is? Do you know what our guaranteed defict is going to be for fiscal year 1986 under Gramm-Rudman? Well, no one knows because there is no guaranteed target. No one can tell you what the deficit may turn out to be.

It was a marvelous piece of sleight of hand, what was done in the conference on this, because the conference sets out a goal of $171.9 billion as the fiscal 1986 ~~deficit~~ target; roughly $172 billion. But then there is another provision that has been crafted that sets aside any requirement that we actually meet the $172 billion. Frankly, I doubt that there are probably five people today in Washington, whether in Congress or out or in the press corps, who know that, because it is designed so skillfully that you are not supposed to know it. And so, most people do not know it. Hopefully, those that are within the sound of my voice now do know it.

But the way the second provision works, is that if the deficit balloons up to a higher figure for fiscal year 1986, $200 billion, $210 billion, whatever the number—I have been in debates with the Senator from Texas [Mr. GRAMM] where he has now said that he thinks the deficit is going to range well above $200 billion for fiscal year 1986. We

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have locked ourselves in in the second provision where the maximum amount of deficit reduction that can be implemented under the sequestering process is $11.7 billion. Well, if you are taking $11.7 billion off the deficit but you do not know what the deficit is that you are reducing, you have no way of knowing what the ultimate deficit figure is supposed to be. But it is not going to $172 billion.

You might ask yourself: Why did they put the $172 billion figure in the front window, if we do not know and there is no guarantee that that is what the deficit will be for the coming fiscal year? The answer is, it is in the front window designed to mislead everybody. It is there for a very deliberate reason. It is to create a false impression. In fact, it has created, generally, I believe, a false impression that, in fact, we have locked in on that and, come hell or high water, in 1986, when we wind up the fiscal year, we will have committed ourselves, under Gramm-Rudman, to reaching a budget deficit figure of no higher than $172 billion.

But that is not so. It may be $180 billion, it may be $185 billion, and it may be $190 billion. No one knows what it is going to be.

There are no guarantees in here as to what it is going to be. Why is that? Why would it be important to create a misleading presentation about what the 1986 fiscal year target was? Do you suppose it has anything to do with the 1986 elections? Do you suppose it has to do with making sure that this thing does not bite in now in any deep, serious way before the elections of next year? I think so. I think that is precisely why it is there. It is the same finesse in a different form that we have seen two or three other times.

We went after it before, got it out into the light of day, and the people on the other side of this issue got very upset about it. As a result they became more skillful about it in terms of crafting this kind of a new escape hatch. The escape hatch is in there. But the purpose I think is really to mislead people. The purpose is to postpone the deficit reduction effort.

The Senator from Ohio earlier made a very important point to the Senator from New Mexico about American competitiveness and about our standing in the world economy. We are in very tough shape. We are going to have a trade deficit this year in the range of $150 billion. We are hemorrhaging money out of the country and jobs. We have just become a debtor nation for the first time since 1914. We are going to be the leading debtor nation in another 9 months. By 1990 the New York Fed is estimating we are going to owe the rest of the world on balance somewhere between $500 billion and $1 trillion just off of this trade deficit that is out of control.

(At this point, Mr. PRESSLER assumed the Chair.)

Are Federal deficits important? Yes, they are. It is urgent that we reduce them now. They relate to this problem. You have to take these issues together. Our principal consideration I think in this country today should be to restore our competitiveness. That ought to be what drives the debate on tax reform. It ought to be what drives research and development, what we are doing in education, what we are doing in infrastructure, what we are doing with Federal spending, priorities in the budget, size of the deficit, savings incentives, and driving down capital costs in this country.

Everything ought to be directed toward the issue of making this country more competitive. We are not even having that debate in a serious way in the Congress, I am sad to say, because we are off chasing other different kinds of issues.

But the consideration of how any kind of a serious deficit reduction effort is going to work has to be considered and engineered in the context of what is going to make this country more competitive quickly, what is going to close this trade deficit, what is going to create more jobs—and I mean good jobs. I do not mean jobs sweeping up around computer equipment built in Japan or just flipping hamburgers or things of that kind. I am talking about jobs where there are high value-added aspects to what that work involves.

That is what we ought to be considering in terms of framing some kind of a strategy here. We are not doing it. As a matter of fact, we are postponing consideration of all of those questions essentially until we finesse this problem past the 1986 congressional election.

That is obviously what the intent is. I do not say that is the intent of everybody that supports this proposition. But I say it is my belief that is clearly the intent of the principal engineers who have engineered these sort of side-door mechanisms to keep this deficit reduction from happening now.

What is my point? My point is this: We do not need the Gramm-Rudman mechanism to start a serious deficit reduction effort. We can start it this afternoon. I do not know what is on the President's calendar this afternoon. I assume he is involved in some sort of matter or other. But the fact of the matter is if he wanted to convene a meeting today of the leaders of the House and Senate, both parties responsible for running the two institutions and for budget matters, to sit down and work out a budget compromise that would substantially reduce budget deficits, reduce them right now, I would say he could work out an agreement in that group within a week's time.

We could have that unders
worked out before Christma
matter of fact, I think it would
enough to do if there were an i
do it, a desire to do it, and a
effort to do it—that we not on
achieve that kind of a deficit r
package, but we could have it
back here, and I think we cou
it passed in the House and
before Christmas, if we were
about it.

But, frankly, he is not serio
it. I do not think the people th
led this effort with respect to
it forward in this form are
about it either.

I think that requires also j
flection on the history of hov
to this point; that is, in 1981
passed what was called the
Latta approach. The Gramm-
proach promised this country
same way that these number
I claim are not honest numb
sented in this document toda
ised this country a balanced b
1984.

As a matter of fact, we were
going to have a balanced bu
1984 under Gramm-Latta p
1981, but we were going to
budget surplus. It did not w
that way.

We got to 1984. We not only
have a balanced budget, but
underwater, and we had drive
national debt to the tune of
trillion dollars. That is how
Gramm-Latta was. Mr. GRA
not like to talk about that,
Mr. LATTA. I understand why
not like to talk about it. Bu
what the record shows. Gram
has doubled our national d
years—and has given us rec
Federal budget deficits.

Now we have the same arch
work coming back saying
have a problem, new problem,
cits, and we have to solve th
is our plan for doing so. Unfor
we cannot make any real c
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and, by the way, we will e
balance the budget but we wil
ance it until 6 years from now

We are going to take it out
next decade. We are going t
balanced budget in 1991, 3 ye
President Reagan leaves offic
going to have a balanced
maybe.

But we are not going to ha
anced budget at that time in
of this Senator under this p
any more than we had a
budget in 1984 under the firs
which was called Gramm-L
did not get the balanced bud
and we are not going to get it

could be doing some serious things about balancing the budget right today. But we are not doing them.

The question is, Why are we not? Why are we substituting this elaborate sort of Rube Goldberg procedure that is going to stretch out over 6 years with this automatic formula and is going to somehow magically make happen what we need to make happen and what we could do now but will not do now?

Yes. It is a substitute for guts. I quote other people who have said that. I think it was the Senator from New Hampshire, the Senator who is a leading sponsor of the legislation, who said that himself in the beginning. But what kind of an answer is that? What kind of proposal is that? Why should we be substituting something for guts? Why should we not be taking the actions now on a collaborative basis with the President? He says he wants to balance the budget. Why can't we have a meeting about it? Why can't we sit down and get started on it? Because it is political posturing.

Mr. KERRY. Will the Senator yield?

Mr. RIEGLE. I will yield when I am finished to anyone who asks me to yield. I am going to finish my remarks first.

We are not going to see that kind of meeting take place because there is absolutely no desire for that meeting. There is no desire, frankly, to bite into this problem in a serious way until the 1986 elections are over. This is what all the tiptoeing is about. That is why this mechanism is 100—what is it, 167 pages? Let me count—158 pages. This document is 158 pages because it is so intricate and so elaborate because it is basically the way in which a body that does not want to make decisions now has to craft a mechanism in order to sort of sneak around the problem and put it off into the future, which is what we have been doing not just since Ronald Reagan came to town—it has been much worse since he came to town—but even before he came to town.

So we are in the habit of postponing actions on these things and saying, you know, we want to do these things, we want to balance the budget, but we want to do it some time out in the future. We cannot do it now. We cannot get at it now.

I think the single biggest flaw and danger in this proposal today is the recession trigger. I have raised the point before. It has not been changed and improved. The biggest danger lies in an automatic process of this kind where the economy can start to go into a nosedive—an economic downturn. We have never yet successfully predicted these recessions ahead of time, which is what Gramm-Rudman would require us to do. It would require us to have the foresight to predict a recession ahead of time. We never manage to do that.

What will happen here is there is a very high risk that at some point when the business cycle reverses, we go into a decline, we have not seen it coming, we are in the midst of that decline, and the automatic cuts kick into place and drive the economy down at a much faster rate.

I am frank to say the States that still have high residual unemployment—and my State is one, we are now about 9 percent, but we have been over 10 percent for virtually all of the past 65 months. Only 3 months out of the last 65 have we been below 10 percent in unemployment. That is where we start from in Michigan.

So if we find ourselves going into a recession at some point, the recession is accelerated because of the way Gramm-Rudman cuts in on this thing, and drives the economy down at a faster rate. States that are starting at 9 or 10 percent unemployment level may very quickly find themselves at 15, or 20, or 25 percent unemployment.

I do not just make that argument in behalf of my own State. Surely, I do on behalf of my own State, because we have had to take a lot of the hard medicine in terms of what is happening in the economy. But if we see a serious recession develop and if we have any kind of a mechanism that might threaten turning that into something more serious, that is something that I think there is an obligation for us to recognize. I think other States with high residual unemployment also ought to take a look at that recession trigger. I think that is absolutely one of the most dangerous aspects of this proposition.

There is another point made with respect to the fact of, well, if we want to get out of this procedure at some point we can just get out of it.

It is not that simple. Once we change the law and put ourselves in this kind of fiscal straitjacket, if we want to change it at some point in time, that means the House and the Senate and the President together, under the normal procedures, have to agree to that proposition. If the President were to disagree and not go along with that, there is no way we could change any part of this or repeal any part of it.

As a matter of fact, we can find ourselves beyond 1988 with a new President of either party who might want to repeal this and find that even that President could not repeal it if a handful of people here in the Senate, using the rules of the Senate, decided they wanted to prevent this procedure from being undone in any way. They could use the rules, the filibuster techniques and other techniques, to prevent us from even changing the law.

So it is putting us in a situation that we are not necessarily able to change this procedure if and when a substantial majority thinks that that would be required, or that it would make sense.

Why we do it in that fashion seems to me to create new dangers for ourselves. I think it does massive damage to the Constitution on the separation of powers. Others have spoken to that.

Why do we want to put the country into that kind of a jeopardy situation where if we need to change it we can't? What is the point of that, when we do not need it in the first place?

If we had the will, desire, and interest we could sit down today and work out a deficit reduction package.

It seems to me that is another important defect that has to be taken care of.

Here is another one that you may or may not know of. That is this: The Congress may well put together a budget and submit it to the President that meets the reduction target under Gramm-Rudman. But do you know what happens when we send that to the White House and the President does not like the package and vetoes the package even though we have sent down a budget as a whole that would meet the target? If he does not like it and he vetoes it, we do not necessarily have a recourse. He can veto that and set in motion the automatic cuts even though the Congress would have met its responsibility to get this job done ahead of time.

I do not think people know that. I do not think the people in the country know that. I do not think most of the people in the press corps or most of the Senators know that because that is buried in the detail of this document. It is buried in there for a reason. There is a reason why this bill is this long. It is basically to keep people from understanding it. That is why we did not have any hearings on it, not a day of hearing. The sponsors come from the other side of the aisle and control the committee process, they could have had any number of hours of hearings.

Why did they not want the hearings? My view is they did not want them for the same reason for the very clever quip that the majority leader, noted for quips, said one day: "If this thing hangs around here and people take the time to read it, know too much about it, it may not pass."

People got a good laugh. It is one of those pungent insights that he makes.

That is why they did not want the hearings. They did not want expert witnesses coming in and revealing what they thought about this thing and the danger it poses. They wanted to be able to do it under the deadline of the debt limit. They wanted to be able to do it late at night. They wanted to work out the last arrangement at 1:30 in the morning last night. Everybody is tired. It is the end of the

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year. People wear out. There is too much detail to keep track of. Finally, the whole thing gets shoved through. This is not the first time we have seen this tactic.

The last time this happened on this scale oddly enough was 1981 with Gramm-Latta. We see what Gramm-Latta brought us and I am concerned that we will see some of the same effects coming out of Gramm-Rudman over a period of time.

This is going to pass. There is no question about it. The votes are here. Everybody wants to be for balancing the budget. No one more so than I. I want to be able to balance the budget. I think we ought to have across-the-board cuts, with Social Security, being a trust fund, kept aside. Gramm-Rudman says that as well as the President. That is really not a point of dispute anymore. I think in terms of everything else we ought to have across-the-board cuts. We ought to make significant cuts now. We ought to bind ourselves to the $172 billion target for 1986. I am willing to do that. But, frankly, those who make the most noise about balancing the budget are not willing to do that. Gramm-Rudman does not do that.

We could do it if we had the desire to do it. So we are sidestepping that. It is troubling in the extreme.

I will just finish with this thought: I think the American people have to be on guard as to what is likely to follow in the next 12 months, in the next 24 months, in the next 35 months, in the next 48 months. If financial markets and citizens across the country think that suddenly the deficit problems are going to vanish and we are going to have the miracle cure that has been promised here, I think they are in for a shock and a surprise.

My prediction would be that we are going to find ourselves in an incredible set of snarls as we get into the coming year, that the same contradictions in policy that have produced the big deficits will not magically melt away simply because this procedure has been substituted in place of the normal procedure.

I think people will find that there is a lot of possibility for disillusionment.

As we get down the road and balanced budgets fail to materialize, we do not hit the fiscal year 1986 $172 billion target, though that is put out in the front window the way this thing is advertised for 1986, if we do not reach that, there will be a lot of grousing, a lot of griping. People in the financial markets will say, "Congress let us down again."

People ought to be warned right now that a large part of this document is designed for that very purpose, in my view. It is designed to create the impression that we are going to produce a solution because we resolved all the hard issues when none of the hard issues have been resolved, not a single one, zero.

So I think we are in for a rocky road ahead. When the time comes, when the disillusionment sets in, I do not think people ought to be too surprised about the fact that this probably carries with it just as many structural flaws and disabilities as did the Gramm-Latta proposition of 1981.

When the time comes to change it, I would hope that we would set about to make the changes and to make them in as rapid a way as we can and not just stay locked into a concept that may pass with a lot of votes but may not be giving us the results we need.

What I think we need is a deficit reduction package right now which we can work out in the next week, 2 weeks, or next month, which will bring the deficits down by tens of billions of dollars. I think the votes are here to do it. But apparently we are not going to take the action we need to take. We are going to postpone the problem. We are going to try to slip past the 1986 elections. We are going to put the balanced budget off until 1991, 3 years into the next Presidency, and then pat ourselves on the back and say we have done a terrific job.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. DENTON. Mr. President, I want to begin by complimenting the Senators from Texas, New Hampshire, and South Carolina, who have worked so hard and so well intendedly on a bill that requires us to spend more responsibly, and perhaps induce discipline in spending, without the political consequences that might accrue under the present conditions. In other words, that we might be able to have less temptations against cutting spending.

I think this measure would tend to do that. My concern—which I shall express—is not just toward this measure. I think there is a danger to our common defense, which we cannot ignore and let proceed with the bill as it is. There is also with the mood in both Houses, which forced the originators of the bill to make the concessions that place defense spending in a less protected or less esteemed position than certain social and welfare spending programs. I think that mood will be causing our Founding Fathers to spin in their graves, and I think that if we give this further consideration, we might be able to improve, to some degree, the climate and, possibly, to some degree, the measure.

Last night, after having heard that the President had just approved this measure—and I am not saying that he did not—I approached him personally at the Christmas party. After I greeted his wife and him, he turned aside to me, and I said,

> Mr. President, I intend to go to
> tomorrow and oppose the Gramm
> bill on the grounds that I am
> about its effect on the national def

His face seemed to brighter
erably, and he said,

> Jerry, go out on the floor and fig
> prerogative to continue the defens
> to the point where it suitably ma
> requirements for our security.

I think that many who voted
bill, as I did when it fir
through, share that concern
changed the way I am going
and the way I am going to ta
of the others have not. They
plained to me that I am not
get anywhere because, quoting

> I have grown cynical. There is
> fense, anti-military feeling now,
> too tired to fight it any further
> might be a lesser evil than giving
> anti-defense feeling.

I respect that point of vie
ask them to reconsider it in
of what I shall be saying.

Our most distinguished
from New York [Mr. Mo
whose principal distinction in
credentials for his opinions
subject—namely, having serve
bassador to the United Nat
for many years on the Select
tee on Intelligence—referred
coming passage of the
Rudman-Hollings bill on O
with ringing words—ringing a
it, in a death knell for fr
quote him.

> . . . we are putting in place
> which in the long run will bring
> automatic reductions in the defen
> eign policies of the United States.

He goes to say:

> . . . we are putting in place the
> the United States.

On the next day, October
to the Senate:

> You will find yourself retreatin
> world. You are going to find you
> driven from places in the world
> flicted weakness which will origin
> Chamber in the next few days.

This Senator reluctantly b
agrees with that prognosis, w
flection on the originators o
or on the majority leader, w
little spat will the Senator
York. The majority leader is
and always a decent, good hu
well as extremely able, man
not want to take part in tha
exchange.

The measure passed the
75 to 24, with this Senator
bama being persuaded by the
leader, the Senator from T
GRAMM], the author of the
the distinguished chairman
Armed Services Committee [
WATER], to keep his powder d
probably improved bill came
ference. I now bitterly regre
on that day because, as man

what has come from conference is a legislative ticket to a sleigh ride to an avalanche, a historical avalanche, the fall of the United States, the eclipse of the light of freedom in the 21st century AD.

I may be wrong, and I hope I am, about the effect of this measure if it becomes and remains law, but I am not wrong that its drafters were forced by the present climate to place defense spending in a less protected position than the social and welfare spending to which I referred. That is a disaster. I am not wrong in that, and I shall be addressing that political state of mind and make some contribution, I hope, toward changing the climate today.

First, I firmly believe that the Secretary of State, the Secretary of Defense, and the then National Security Adviser to the President, Robert C. McFarlane, were correct to oppose the measure on national security grounds. Mr. McFarlane has since resigned, but it is my belief that his replacement, Admiral John Poindexter, persists in his own disagreement with the defense effects likely from this measure. So we have opposition from those officials in whose hands, with the President, the initiatives and the best opinions regarding the security of the United States should reside. According to the Constitution, a certain prerogative belongs there, a prerogative that I believe we are about to usurp.

The former Ambassador to the United Nation, as I indicated, the senior Senator from New York [Mr. MOYNIHAN], opposes the measure with a prospective gained in his career there and in international affairs. My own career in international affairs of my own—34 years in the service of the United States—is the reason that I oppose it; not for partisan reasons or for reasons of ego, only for intellectual reasons which are, indeed, intense.

Secretary Weinberger has referred to the devastation of defense programs. I would like to offer a way to eliminate that risk at the end of my speech, and I hope that I meet with success.

To the many Members of this body who consider the bill an overall good bill, this Senator would refer them to the Wall Street Journal, not unknown for its concern about fiscal responsibility and the need for a balanced budget. The Wall Street Journal said against the bill, "Gramm-Rudman focuses on the wrong issue, the Federal deficit, instead of on spending."

It goes on and says, "Most seriously, it threatens to gut U.S. defense efforts."

I think that Senator MOYNIHAN was correct when he asked,

> What can the Soviets have been thinking these past several weeks as they approached the summit, watching our budget debate unfold? Can they have been impressed by the resolve of the American President and the United States Congress to maintain a credible and effective military rearmament we have now long been embarked upon? Can they have thought that the tide of history was turning our way or theirs when they watched the Congress voting, by huge majorities—75 to 24 in the Senate on October 9; 74 to 24 on November 6—effectively to cut $4.8 billion out of the current fiscal year's defense budget?

Already, as the mood of Congress has become clear, the Soviets have stepped up their offensive in Afghanistan, their offensive in Angola, and their support for an offensive in Central America.

Khrushchev said, "We will bury you." Brezhnev more recently said, in 1973, "Our aim is to gain control of the two great treasure houses on which the West depends—the energy treasure house of the Persian Gulf and the mineral treasure house of central and southern Africa."

The Soviets continue to make progress in both of those geographical areas, in both of those security areas, in both of those economically poor areas, indeed economically vital areas to the United States, stepping up their efforts as they see us step ours down. And, Mr. President, this is only the beginning. Failing to perceive the tremendous economic effects of weak, irresolute U.S. strategy, and now choosing in the name of economics to weaken that strategy further, is to reach the true heights of political folly, the kind reached by Rome in the folly responsible for its fall, in the folly responsible for the literal fall of nations strewn across the face of history. But the polls in Rome favored bread and circuses over supporting the Roman legions long before the Roman Senate, which knew better, yielded to the suasion of those polls.

Yes, we should balance the budget, but not on the back of national defense. All the polls in Rome after the fall of Rome would have agreed with that statement, retrospectively but too late. We are not here only to read polls. We are here to serve as the Constitution requires. And the Constitution requires that we provide for the common defense first, that we promote the general welfare second.

There has been precious little said or thought in either body about the thing that is the number one reason for this or any government's existence, the defense and security of the country and of her vital interests.

Not only does the legislation appear to contain inadequate provisions to provide for security, but our debate has evidenced little concern about that matter. We cannot provide for the security of our country if we deal with social welfare and entitlement programs, and then try to take care of the common defense from what is left over.

Because of a fundamental misunderstanding of the situation, we are about to abandon our effort toward catching up with an adversary whose buildup of military strength during the past 2 decades has been unparalleled in the history of the world. We should want to catch up not because we are playing some sort of numbers game but because of the imbalance that was created during the decade of the seventies in every category of armed forces and defense preparedness.

In fairness to President Carter, he tried near the end of his term to reverse the defense decline. He also tried other proper moves.

For example, when Angola—little Angola, to whose freedom fighters we refused aid yesterday—was invaded by Cuban troops from Russian ships. As those troops were being transported to Angola, President Carter said to Mr. Brezhnev, "Mr. Brezhnev, if you continue with that invasion, I shall do something to try to make it unpleasant for you and cause you to desist," words to that effect. That night the media and this Congress told Jimmy what to do with that concept. "What are you trying to do, Jimmy, start another Vietnam?" And 3 weeks later, after putting President Carter down, the media were publishing in the news magazine on page 36 his wail: "People, please don't have your President speak with an empty voice."

Mr. President, the imbalance is not principally in military forces. The worst imbalances are in understanding, in realism, in resolve. I do not believe that enough of us understand that those imbalances have been hurting us tremendously in terms of damage to our country's interests. Particularly we do not understand the degree to which those imbalances have hurt us economically and the degree to which those imbalances threaten not only the degree and quality of our security, but indeed our very survival. Complacency cannot last very long in the current international situation and still entail the survival of our way of life.

One of the authors of this bill, the Senator from New Hampshire [Mr. RUDMAN], whom I respect, decries defense spending, condemning the wasteful and profligate spending from the Pentagon, asking how dare the spokesmen for the DOD say that the threat, not the deficit, should determine the fashioning of the defense expenditures. I dare, Mr. President, to say the same thing. It is the way it should be. We should decide how much is required to survive, then spend on desirable other issues. The Senator from New Hampshire did not try to hide his expectation, and even hope, that there will be defense cuts. With him—and I respect his view—it is OK to protect social and welfare spending more than protecting spending to provide for the national defense.

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I believe that is an inversion of our constitutional responsibility, an inversion of the way we are supposed to be governing this country. We are not talking about addressing the imbalance in spending by sharing the burden 50-50, or something along that order, between defense spending and other spending, but really defense will take more than one-half of that burden.

Let me remind my colleagues of some facts to illustrate how far we have strayed from providing security for the United States, from reality, during the past several decades. In 1960, when John F. Kennedy was elected President of the United States, expenditures on national defense amounted to about half of the Federal budget. Expenditures on social and welfare programs were about one-fourth of the budget.

Today, in 1985, that relationship has been reversed. Expenditures on the national defense amount to only one-fourth of the Federal budget, and social welfare expenditures amount to about one-half of the budget. In other words, a total reversal, in only 25 years, of the mandating verbs in the Constitution, "provide" and "promote," and of the commitments. We are spending now proportionately twice for social welfare what we are spending on defense.

I cannot believe that there is anyone in this body—I am pretty sure there is no one in my State—or any informed person anywhere who would argue that the threats that we now face, threats to ourselves, to our lives, and to free and independent countries throughout the world, are less extensive or less serious than they were in 1960.

Indeed, I believe that most of us would agree that the threats now are more serious, more numerous, and more widespread throughout the world than they were then. Why then the reversal?

Let me offer my colleagues a typical frame of reference regarding the military imbalance one that is particularly appropriate today. It illustrates Soviet and United States capabilities to project naval forces. It illustrates the course of change in United States concern and capability to preserve for its use the sea lanes vital to our use—not desirable but vital to our use, to life or death. The example will require some attention.

I am going to use a term called "ship days out of area" as a measure. "Ship days out of area" means the number of days that ships are deployed out of their home waters, the days that they spend projecting naval power.

For our purposes here, let us understand that one ship serving outside her home waters for 1 day is 1 ship day. For example, three ships out of home waters for 2 days would be 6 ship days.

I ask my colleagues to listen to this development: In 1965, the United States had 17 times more ship days throughout the world than did the Soviet Union. The score was 109,500 for the United States to 6,300 for the Soviet Union. By 1972 the Soviet Union, virtually landlocked and independent, on its own, had actually more ship days than the United States did. By 1979 the Soviet Union—never a sea power, not needing to be a sea power—actually had more ship days out of area than the United States did.

The Red Star is now carried by a real, blue-water navy which threatens our lifelines and vital interests. The trend is understatedly sobering, even frightening, for the United States, a maritime nation reliant for its continued existence on freedom of the seas for trade, commerce, and security.

Yes, we have made some progress since the late 1970's. We have been building toward a ready 600-ship Navy, and we had a thousand more ship-days in 1983 than did the Soviet navy, practically a tie. But the Soviets need sea power only to interdict ours. It takes much more sea power to control sea links with allies and trading partners than it takes to interdict sea power, to stop us from our vital activity.

It is clear as the Secretary of the Navy has stated, that we will not be able to sustain a ready 600-ship Navy if we are faced with drastic reductions in our defense budget. Yet, the legislation before us would apparently have precisely that effect. Nor will we be able to sustain the other vital components of our national defense, whether strategic forces, or conventional forces, or readiness, or operations and maintenance. And there is a true military imbalance still favoring the Soviet Union.

If I were Comrade Gorbachev—and I do know how Communists think, because I lived among them for almost 8 years—I would be very pleased at the course of events in the Congress of the United States. I do not mean to insult anyone by that, but that is my firm opinion. I believe they are delighted. As I said, I believe that the step-ups in their activities are only a beginning of their response to what they read in the papers, the Wall Street Journal, in the debates which are taking place in Congress, as to what will develop as a result of passing this bill, and the continuation of the mood that is the true evil.

Perhaps, if we are going to follow the course provided in the amendment, we should seek the cooperation of Mr. Gorbachev. We know he is thought of by some to be a man of public popularity, perhaps even charisma. He is thought of by some to be a man of peace, or at least a man who will deal. Perhaps he will deal. But he will deal on the same basis as Stalin who, when asked about his policie toward the Catholic Church, said "How many divisions does the Pop have?"

Perhaps, since we are going t reduce spending on national defense i our effort to balance the Federa budget, we should ask Mr. Gorbache to cooperate with us. Perhaps, out o altruism, out of the goodness of hi heart, he would agree to reduce hi own spending on strategic program and abandon the testing and develop ment of his SS-24 and SS-25 missile Perhaps he would be willing to de crease the number of SS-20 missile deployed in positions where the threaten our allies and our own force in Europe and Asia.

Perhaps Mr. Gorbachev would b willing to reduce his own spending o defense against ballistic missiles.

Mr. KERRY. Mr. President, will th Senator yield for a question?

Mr. DENTON. I yield, if the Senato will assure me it is a brief questio and without losing my right to th floor.

Mr. KERRY. I was curious about point the Senator made earlier regar ing last night in the White Hous with respect to the President of th United States. I wanted to make su that I understood correctly. I as whether or not the Senator believe that the President, who does not su port the bill, has reason to fear it an should in fact be protecting his ow prerogative.

Mr. DENTON. I cannot read th President's mind. I can only repo what he said to me last night.

I believe that the President is an e tremely troubled man on this matte and that he may or may not yield what he sees as the political facts. Yo cannot wrestle with the facts. I a trying to persuade those who are co tributors that factual situation.

Mr. KERRY. I respect enormous where the Senator is coming from. respect the Senator's experience.

If, as the Senator says, the Preside is in agreement with him and sees th threat and believes that it needs d fending, this Senator wonders why th President of the United States is n concurring in that and defending himself.

Mr. DENTON. I do not know th the President will not decide to ve this bill.

Mr. KERRY. I thank the Senat for answering my question.

Mr. DENTON. Perhaps Mr. Gorb chev would be willing to reduce h own spending on defense against ba listic missiles. Perhaps he would s the benefits in cutting back his ma sive expenditures on convention forces.

After all, the Soviet people do n enjoy the standards of living of th

American people. Indeed, it is a low standard, with rule by terrorism. It is more difficult for Mr. Gorbachev to allocate to defense at the expense of discomfort to his people, but he does it, and the Soviets have done it since they came into power.

But we here want more, more, more spending on domestic programs. Yes, there is poverty, but we can deal with it better, and I will discuss that later. But we do need survival, or there will be nothing for any one.

The President talked about cultural exchanges between us and the Soviet Union. Perhaps we could go into a "legislative exchange" and assist Mr. Gorbachev in controlling his own budget by helping him to formulate the Gramm-Rudman-Hollings amendment, or the Soviet version of it, for the Kremlin.

If we could get the Politburo involved in a discussion of the provisions governing sequester, we might indeed have several years of relative peace and relaxation of tensions. Since we are going to substantially reduce our own defense, we could use those years.

We must learn to understand better.

Mr. President, there is an excellent study, prepared under the direction of Dr. Harlan K. Ullman at the Center for Strategic and International Studies at Georgetown University, dealing with our conventional forces and the impact upon them of reductions in defense spending. Because of its length, I shall not ask that it be included in the RECORD, but I do call it to the attention of my colleagues.

Mr. President, needless to say, the consequences of The Gramm-Rudman-Hollings amendment can only serve to make the situation even worse than that outlined in the excellent Georgetown report.

Mr. President, I understand that the stringencies requiring sequestration of expenditures would not arise unless Congress is unable to pass a budget that falls within the broad guidelines that the legislation provides.

I also understand that Congress simply will not be willing or able to do that. We have not been able to do so before. I do not see why we should expect that we will do it again or do it in the future. In consequence, the real meaning of Gramm-Rudman-Hollings seems to come down to the sequestration proceedings, which is as sad a comment upon the functioning of our legislative system as I could conceive of, but I respect the authors for the motivation to that resort.

In sum, I believe that we are looking right in the eye of a situation in which defense inevitably will have to suffer, because Congress has refused to act to cut other spending, more politically popular spending.

There is no voting constituency for defense. There is a voting constituency, a very voluble and lobbying one, for many other categories of spending. Those nasty guys over in the Pentagon are public servants, about whose retirement pay we are going now to say that they will not get the COLA's that they spent their lives thinking they were going to get. They might have been making a lot more money somewhere else than in the service, and taking a good many fewer risks.

Considering that Congress will no doubt continue to refuse to act, it will have excepted so many other programs from the stringencies for which the bill provides that defense and our national security will suffer badly.

In other words, Congress is looking the situation in the eye and has chosen to blink.

The key problem today is that not enough officials in our Government, especially in Congress, and not enough of our people understand the injury done and being done to this country's interest by communism. We do not understand global communism, its nature, strategy, tactics, modus operandi. We fail in foreign policy by not sufficiently recognizing the relationship between success or failure of our foreign policy and the health of our domestic economy.

We fail to see that and we fail in strategic results and produce economic disadvantage at home. There is a tremendous need for understanding.

We fail in not realizing that there is a relationship between foreign policy, on the one hand, and the lack of sufficient armed forces, or the lack of understanding and will regarding their possible or actual use in peace or war, on the other.

Similarly, we do not understand the phenomenon of terrorism, either as it affects our own interests and citizens or as it has become a major factor in the political contest between freedom and tyranny.

It is the major moving force in international affairs today, and it is something that is practiced en bloc in Moscow and Nicaragua, practiced in Laos or Cambodia, and we do not even know that it is there. We do not understand what it means or how we have to deal with it. And we are going to decrease the funds with which we try to cope, such as we try.

Over half the terrorist movements in the world are considerably influenced or directed by the Soviet Union. Over 98 percent of terrorist activities are supported by the Soviet Union in terms of weaponry, safe houses, or whatever.

The bottom line is that, because of our lack of understanding, we have already suffered a loss of security-related interests as well as economic interests. A drastic deterioration is occurring in the degree of protection afforded our remaining vital national interests around the world as well as a continuing and prospectively worsening rate of adverse effects on our economy.

Congress has become so wrapped up in debates about specific details of foreign and defense policy that it has lost sight of the whats, the ways, and the hows of developing an effective national security policy in the first place. In our infatuation with felling trees, we have forgotten to consider the need to have the forest, to protect it, to preserve it. The forest in our interests, and our consciousness of the threats to them.

In my view, Congress has lost its recollection of its mandate in the separation of powers equation, its sense of what its function is in foreign policy, the need to reach understanding before taking action, and is, in that confusion, causing this Nation to suffer more than any other single cause.

The forest requires some recognition before further congressional interference in foreign policy causes further losses in export trade, in access to raw materials and other essential imports, in respect from our friends and enemies, not to mention the losses for our strategic security.

When we talked about Angola yesterday, and about whether or not to provide the freedom fighters aid, no one said anything about the fact that Angola is one of the most mineral-rich nations in the world.

Brezhnev said, "It is not just to aid people in a nice way, although that is worthy of us. It is a matter of self-interest."

The most needed change in our understanding is that we must see that our enemies are playing hardball, and that we are suffering from not playing the game.

Under such circumstances, our diplomacy can win and can protect our interests only if we have the power to back it up.

It has been a tragedy to a man who has traveled around the world most of his adult life to have to say this, but 100 years ago, debates within Congress, between Congress and the executive branch, indeed within the country as a whole, were solely internal matters of little concern to foreign states of greater power than our own. That is no longer the case today, when what happens in the Halls of Congress, in our internal deliberations, is instantly known to the entire world and when, indeed, it constitutes an essential part of the information that other nations consider when they make their own foreign policy decisions.

During the Vietnam war, it is hardly necessary to point out, there was an undoubted effort by the North Vietnamese and their allies to exploit a substantial segment of American opinion, extending even to divisions in

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Congress, to their own advantage. To put it mildly, they were not entirely unsuccessful in that effort, with disastrous results in Southeast Asia. Since then, and until today, we see efforts by our enemies to feed and encourage movements in our country that are otherwise well-intentioned and sincere but that undermine U.S. understanding and security and serve Soviet goals.

Now, for example, success in the arms control negotiations in Geneva, even in the wake of the President's successful summit meeting, is threatened and perhaps doomed by the talk and action that is now occurring in Congress.

Today the struggle for El Salvador and the fight to retain freedom in Central America is being waged primarily in the Halls of Congress. Grave situations in the Middle East, Southeast Asia, and Southern Africa are similarly leveraged. Most of my colleagues apparently do not understand that, and unless things change, the struggle will be lost, as was Vietnam's struggle, in the Halls of a Congress whose Members yielded populistically and partisanly or ignorantly to breezes mostly blown by polls or by a frequently biased and often dead-wrong media.

No people fighting for freedom can persevere as they see the Soviets hang in to win in place after place, as the U.S. falls out of the game and abandons its allies in the clutch time after time.

Mr. President, we fought and won World War II because we were united behind a goal and because our debates about how to reach that goal were conducted properly. But we probably would not have had to fight that war had we listened to the words of Churchill, which are as applicable today as they were then. He said:

> Each man hopes if he feeds the crocodile enough, the crocodile will eat him last. And all of them hope that the storm will pass before their turn comes to be devoured. But I fear—

He said:

> I fear greatly this storm will not pass. It will roar ever more loudly. It will spread to the north, it will spread to the south.

Winston Churchill's words are true today as we watch the map turn red around the world, as we watch the hypocrisy or the ignorance or the populism of those who will not look the crocodile in the eye. Can they not see the spreading red? Can they not see it coming up in our hemisphere from the south?

We are failing again to listen to the true words of Churchill and the cost will be fantastic, not only to the United States but to the cause of freedom and civilization, if we do not deal properly with the crocodiles now while we can deal with them cheaply.

I am sure that the means by which we deal with the question can be peaceful as far as the United States is concerned if we but deal properly and promptly. I am just as certain that, if we do not deal promptly and properly, the means cannot be bloodless.

There is reason to believe that this measure if passed will cause much shedding of blood, much economic loss, and eventually the loss of freedom if it remains law without modification.

Following World War II, our leaders in the Senate were determined that our Nation should not again be victimized by the kinds of internal disagreement and dissension that characterized the prewar period.

Thus we did see great statesmen like Senator Vandenberg and Senator Connelly here in the Senate, determined that our foreign policy and defense policy should be bipartisan and that "politics should stop at the water's edge." For Vandenberg to do that was an act both of wisdom and dedication.

The spirit of bipartisanship and unity in dealing with vital matters in the United States, particularly foreign policy and Armed Forces matters, continued until we were sundered by the Vietnam war, and bipartisanship was espoused by Democrats as well as Republicans. I commend my colleagues in the House and in the Senate the example of the Senate during the Eisenhower Presidency, when Lyndon Johnson was the exemplar of bipartisanship in foreign policy—a Democrat for a Republican President, as Vandenberg had been a Republican for a Democratic President.

Consider what the world looked like during that time, those two decades when the United States conducted a unified, broadly supported, foreign policy that was truly in the Nation's interest.

By the end of World War II, the United States, undamaged and vigorous, was the world's dominant economic and military power. America was truly the arsenal of democracy, and that arsenal had the capability of being converted overnight into the most productive peacetime economy that the world has ever seen.

Our country was indeed the "bastion of democracy and the beacon of freedom."

The United States had a monopoly of nuclear weapons—and we did not use them—a monopoly that continued until Soviet acquisition of the bomb in 1949, and effectively thereafter for several more years. We did not use them, and yet the issue of the Iron Curtain was there. We did not even threaten their use. We used them only in World War II. And I believe a good and effective case can be made that their use then resulted in more humanitarian results then the lack of their use would have.

But we offered, in the days after World War II, in one of the most magnanimous and self-sacrificing gestures in history, to put the bomb under international control.

The United States took the lead in setting up the United Nations. That body was originally composed primarily of free and mostly democratic nations who were willing to cooperate together for mutual peace and security. The General Assembly voted overwhelmingly with us not because we forced them to, but because we were committed to the same ideals as they. Today, the General Assembly is composed of nations whose leaders do not represent the will of their people. And we have some responsibility in having permitted that to happen by virtue of policies, not just military policies, but other policies we have entertained or failed to undertake.

The United States also took the lead in organizing the postwar international economic, monetary, and trading system. We were the moving force behind Bretton Woods and GATT, and the dollar became the "hard currency" that underwrote the international monetary and trading system.

And the United States was willing to share its considerable wealth and productivity. We can still be proud of the Marshall plan and what it represented. It was perhaps the single major contributor to the economic revival of Western Europe. We even offered to extend the Marshall plan to the Soviet Union and the nations of Eastern Europe, an offer that the Soviet Union refused.

We also confronted and responded to security challenges during the same period. Although the slide of Eastern Europe under the Communist yoke and the communization of China took place before we listened to Churchill's "Iron Curtain" speech, at Fulton, MO we finally learned and we acted. We acted together. President Truman and the Congress reacted strongly to Soviet efforts to extend communism to Greece and Turkey. The Truman Doctrine was a triumph for the executive and the legislative branches working together, a triumph as well for bipartisanship.

And today, recently, I have felt that bipartisanship growing in this body. I am not here to speak to irritate anyone today. I mean that. I believe that bipartisanship on urgent issues is growing in this body.

In 1949, the United States led the way in the formation of NATO, perhaps the most unselfish alliance ever created, and successfully stood up to the Soviet Union's threat to freedom in Berlin.

The following year, the United States was joined by many other free nations, and had the support of the United Nations General Assembly, in opposing Communist aggression in Korea. Although the results of that war were mixed because of an American, after Chinese Communist intervention, decision to limit its objective to the preservation of South Korea, the war was a testimonial to the strength of unified policy.

One result of the successful resistance to aggression in Korea was, after the death of Stalin, the beginning of the process that established summit meetings as a fact of international life. Those meetings came about because of the evident determination of the United States, under President Eisenhower, to resist further Communist aggression and expansionism.

Realistic limitations on power exist, and they were shown in the Hungarian revolution and the Suez crisis in 1956. But we did help to resolve the very difficult situation regarding the Suez Canal.

We began to get a little cloudy, and Cuba fell to Fidel Castro and his unruly mob in 1959. That led to the unhappy episode of the Bay of Pigs. Then John F. Kennedy, a united Congress, a loyal media, and a united people, stood up to the ultimate risk in the Cuban missile crisis, and the stage was set for the major United States victory in October 1962. The Soviet Union learned a lesson then, and I am afraid that we may have slowly started to forget one.

After 1963, the United States found itself increasingly involved in Vietnam and, by that involvement, increasingly sundered domestically. We should have gone in there with the objective of breaking the enemy's will as quickly and as inexpensively, in terms of life and treasure, as possible. We did not. We went in there and twisted their arms. We had tremendous political interference with the military in that war. One major casualty of that conflict was bipartisanship in the formation of policy. Another was an aggravated conflict between the legislative and executive branch, a conflict that is still with us. And I grant that the executive branch overextended itself in terms of prerogatives in the early days of that war.

Thus even our successes, such as the intervention in the Dominican Republic in 1967, were no longer taken with bipartisan support and executive-legislative cooperation. Rather, the conduct of foreign policy had become a controversial domestic issue. The epitome of that was in Vietnam, where our military forces won a military victory that was forfeited by political irresolution and controversy.

From that time, the balance of successes and failures sifted from the very favorable one that I outlined during the first 20 years after the war to the unfavorable one that has prevailed for most of the next 20. On the negative side are Vietnam, Laos, Cambodia; the squelched Czechoslovak revolt; the first aggression by a major power since World War II in Afghanistan; Angola, Ethiopia, and Nicaragua; the OPEC cartel's unjustified increase in the price of oil; and a host of others. On the positive side are but a few instances, the Dominican Republic, Grenada, perhaps the continued survival of Israel in the face of two major wars.

Less obvious consequences are apparent in the economic and political areas. In 1945, as I pointed out, the United States was economically dominant, but unselfishly so. Today, we find ourselves economically disadvantaged in many ways. Just consider the trade imbalances, and our inability to do anything about them, with nations like Japan that are our allies. Just consider the limitations on our access to raw materials in various areas of the world. Just consider the consequences of the increase in the price of oil, about which I shall say more in a few minutes.

Just consider our difficult relationships with our allies in Europe and in Asia.

Just consider the obvious increased boldness of the Soviet Union, which has gone beyond aggression through surrogates to open aggression by its own forces in Afghanistan.

The losses that I have described are not, in my view, attributable to weaknesses of the American system or of the American people. They were not inevitable in the nature of things. Their cause can, I maintain, be found primarily in the failure of the Members of the Congress of the United States to recognize the nature and extent of the challenges that we face, their failure to place the national interest above those of politics and parochialism, and to deal realistically and effectively with those issues, those challenges.

Each loss of a struggle costs us in many ways. When we are seen to fail in any of them, we lose credibility in prospective future struggles, some of which were not even prospective until the last failure made them do.

Would we have needed to fight in Vietnam if we had won decisively in Korea? Would the Soviet Union now be conducting military aggression in Afghanistan had we persevered in Vietnam? For that matter, would we have encountered serious problems in our relations with the OPEC nations, and the vastly increased price of oil, had we kept our commitments in Southeast Asia? I will address that, and include something in the RECORD on that subject.

I want to address it because every international relations expert I have asked on both sides of the political fence has answered "no" to the following question: Would the OPEC nations have tripled the price of oil in 1 day, and would Saudi Arabia have tripled the price in 1 day in 1963 as it did in 1973? They all say "no." Why not? Because those nations did not think they could get away with it.

Did they need that much of a sudden increase? No, they did not.

I helped to pass the AWACS bill here in the Senate. I am not against the Saudis. Had I been a Saudi, I would have tripled the price of oil in 1 day too, because I thought that I could get away with it. Did they need to? No.

I watched 72 ships rotting off the port of Jidda due to the inability of the Saudis to transport to shores the goods they had greedily bought with their profits. I have watched the smaller societies of some of those smaller nations deteriorate socially because they had more money than they could use. They did not need to do that.

What were the effects on the United States? Briefly, every year in the 1970's—1973 through 1979—the effects mounted in terms of inflation caused by the increase in oil, unemployment caused by increase in oil, the decrease in the gross national product, and the increase in the price of oil itself. Those things amounted to more than the deficit is running today.

Let us examine the costs of the perception that the United States was in the process of betraying the vows of four Presidents and rejecting commitment to preserving the freedom of South Vietnam. Rather, let us examine the cost to the American economy in a single commodity area during the years 1973 to 1979.

Under the Carter administration, the Department of Energy examined the cost of the foreign policy failure that produced the oil price increase—"The Interrelationship of Energy and the Economy," 1981, Chapter 2—and a good deal of that information appeared in a study published on February 6, 1984, by the Consumer Energy Council of America, "The Consumer and Energy Impacts of Oil Exports: An Updated Report."

The study concluded that for every 1 percent of our gross national product that the national oil bill increased, the gross national product declined by approximately 1.2 percent, the rate of inflation increased by 0.7 percent, and unemployment increased by 0.4 percent.

For the 1970's, we paid a price of $40 billion to $50 billion every year in constant 1972 dollars because of rising energy prices. We suffered an additional 2 to 3 percentage points of inflation, and lost 1 to 2 million jobs per year.

At least one-quarter of our decline in productivity growth and one-half of the decline in real fixed investment are attributable to rising energy costs.

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The costs that I have just talked about are just those that are totted up. They probably do not begin to extend to the full multiplier effect of the increase in energy prices. Those losses have not been publicized, nor are they understood by our business-industrial community. If they were, our business leaders would not be so bent on cutting our defenses, for an inadequate defense is part of the reason for the lack of success of our foreign policy.

There are other costs as well from the loss of access to resources and to markets. We are a nation whose GNP is heavily dependent on trade. We cannot afford to see trading markets closed to us and trading partners lost to us, as has been the case in Southeast Asia, in Africa, in Afghanistan, indeed in Latin America, and replaced perhaps by trading partners such as the Communist nations which are capable only of borrowing and consuming, not of repaying or providing value in kind.

Nor can we afford unfair trading practices by partners contemptuous of our will to redress the unfairness. They perceive, as perhaps the OPEC members did in 1973, that our country is unwilling or unable to act firmly to protect its own economic interest. Thus we see a situation in which some of our trading partners slap us in the face with their defiance to the principle and practice of free trade. They hurt our farmers and our textile workers and our steel workers. We, however, tend to respond not by turning ourselves to the formulation and conduct of a strong and effective foreign policy but, rather, by falling prey to the siren's song of protectionist legislation. In the long run, that legislation may well have heavy costs for our economy and our welfare.

Let's consider another example. From time to time, the Congress has become very concerned about southern Africa because of the racial politics of the Government of South Africa and that regime's actions toward its neighbors, which I do not agree with to the degree that they are wrong. Many of us are apparently willing to cut our ties, to abandon the effort to define and conduct a policy in the national interest in favor of no policy at all. Yet we have over $6 billion of trade with southern Africa. It is a region that contains immense deposits of strategic minerals that are vital to industrial economies such as ours: The platinum group, 86 percent of world reserves; manganese, 53 percent; vanadium, 64 percent; chromium, 95 percent; and cobalt, 52 percent; as well as a dominant part of world gold and diamond output and an internationally significant output of coal, uranium, copper, and other minerals.

The point of that economic importance is not that we should abandon efforts to produce a rational and moral solution to the problems in the region. It is that we cannot simply rely upon our own simplistic and culturally relativistic definitions of what is right and wrong. We must formulate and adhere to a policy that promotes both our moralistic goals and our economic goals. I could make the same kind of an argument for the Philippines, where we have a similar, although less severe, problem with agreeing on an effective policy.

One reflection of a failure in foreign policy was in Vietnam, where four Presidents vowed that we would hang in there. Our failure to do that convinced the rest of the world they could get away with such things as tripling the price of oil, and subsequently raising the price of oil even more without adequate justification. The cost to us is ignored in economic terms. Here we are going to exacerbate that by further showing weakness in that direction. We keep thinking that the U.S. economy is immune from the issue of what we spend or how we posture our national defense forces.

Earlier this year, the Congress rejected aid of any sort to the Contras in Nicaragua. That ill-advised rejection was preceded by the spectacle of two newly-elected Senators waiting upon the President of Nicaragua, one Daniel Ortega, and was followed by Mr. Ortega's departure on a pilgrimage to Moscow and its political suburbs in Eastern Europe. A substantial number of Members of Congress, who seemed perfectly content with foreign policy by freshmen, were subsequently shocked and angered when Mr. Ortega behaved like what he is, and concluded that they had been misled in some way. Do they need a travel schedule to tell that a Communist is a Communist?

People are referring to the phenomenon that some have referred to as 536 Secretaries of State—I am near conclusion, Mr. President—536 Secretaries of State. Unfortunately, the system was not designed to work that way. And it will not work when we try to work it that way. We might as well try running our automobiles on orange juice.

The way that I would characterize the situation in which we have our 536 Secretaries of State is like what would happen to the Washington Redskins if they were trying to play Vassar if Vassar were not yet coed. Say they are playing them last year, and Theismann is quarterbacking. Every time he says, "Hut," and the ball is snapped, the left tackle and the right end stand up and say, "Hey, Joe, you shouldn't have called student body right, you should have called zig-zag pass left or run it through the middle." That is the way we have been playing the game since about 1970.

If the Redskins had been playing that way, Joe would be in even worse shape than he is in now, and the Redskins' win-loss record would be worse.

Since Vietnam, we have been defeated in every foreign policy issue of major importance confronting our Nation because of that kind of disunity rooted in lack of understanding. We did not win our cause against a tiny little country called North Vietnam, despite infinitely greater power on our part, because of that same self-destructive lack of understanding, of bipartisanship, and of common purpose in serving the interests of this Nation.

The bottomline against the Gramm-Rudman-Hollings amendment is that, in its present form, it ignores survival because it effectively rules out the necessity to pay the price for freedom, and the price for adequate defense. You cannot take what is left over and spend for defense.

Mr. President, in a moment I shall move to recommit the report to the conference with instructions. But, first, I would like to build my colleagues' understanding of what the motion would seek to do.

First, it would give the President discretionary authority in any fiscal year not to sequester funds for defense. I say again, in any given fiscal year the President would have the discretionary authority not to sequester funds for defense. But in order to exercise that authority, the President would have to certify that sequestering would impair essential elements of national defense.

So he would have to certify formally that sequestering those funds would impair the essential elements of our national defense.

Congress would listen to that, and then could suspend or overrule the President's use of discretionary authority by a majority vote of both Houses.

So again, the President would have the discretionary authority not to sequester funds for defense. He would have to certify that those funds, if sequestered, would impair essential elements of our national defense, and Congress could suspend or overrule the President's use of that discretionary authority by majority vote in both Houses.

I think, Mr. President, that it is simple. It relieves doubt about defense. I think it would be an important signal to the Soviet Union. I think it would be an important signal to our people that we do not roll with the polls. We consult, we contemplate, we lead, if necessary, we advise and consent, and we do not devise and dissent.

The vote on my motion will be a vote on defense—no more, no less. I know that many of my colleagues have expressed their concerns about what Gramm-Rudman-Hollings does to defense. I am sure that some of my colleagues have other concerns, and do not agree that defense is a major issue.

I have done what my conscience requires. I have tried to offer a persuasion to take us in the direction that would provide for the common defense by trying to have us not make defense secondary in consideration to other protected spending, in the welfare and social fields. We must and can improve the way we spend in those fields. Some people deserve more than they are now getting. Some deserve less. But it is true what Thomas Sowell, Ph.D. in economics at Stanford University, says. He says that if one-third of the money appropriated for the poor were to reach the poor, we would have no one left in poverty. If one-third of the money we nominally tax for money to help the poor were to reach the poor, there would be no one in the United States in poverty.

We have a number of bad factors about our welfare programs. We need to look at them institutionally and reform them. There is much that can be done. We are too cowardly to undertake the task. We must not remain that way. I think we must undertake the task.

I hope that my colleagues will avail themselves of the opportunity to provide effectively for the defense and security of America. Why do it? Provide flexibility for the President. The threat is there. We must let the President, as the Constitution intended, have some prerogatives, some discretion, as Commander in Chief, and not make it subject to some automatic slot machine payoff which is dependent upon the moods of committees authorizing or appropriating moneys without any restraint imposed upon them because their programs are exempt. What kind of a setup is that?

So I say again, my proposal would recommit to the conference report to the committee on conference with the following language to be added.

First, the President may exercise the discretionary authority not to sequester funds for defense.

Second, the President must certify to both Houses of Congress the the sequestration of funds would substantially impair the abilities of the U.S. Government to provide the essential elements for the national defense.

Third, once he does that, the Congress may suspend or overrule his assertion by majority vote of both Houses.

Mr. SPECTER. Will the distinguished Senator from Alabama withhold his motion so that I might have a brief colloquy with the distinguished manager of the bill, provided that the Senator does not lose his right to the floor?

Mr. DENTON. If I may ask, how long the colloquy will require?

Mr. SPECTER. I have a brief colloquy which would require about 5 minutes.

Mr. DENTON. I would like to offer this and then wait for a vote. I would like to go ahead and just make the motion.

Mr. SPECTER. A parliamentary inquiry.

The PRESIDING OFFICER. Does the Senator yield for a parliamentary inquiry? The Senator from Alabama has the floor. Does the Senator yield for a parliamentary inquiry?

Mr. DENTON. Yes; I will yield on the basis of not losing my right to the floor.

The PRESIDING OFFICER (Mr. ANDREWS). The Senator says he will yield for a parliamentary inquiry without losing his right to the floor.

Mr. SPECTER. May a unanimous-consent request be structured so that at the request of the distinguished Senator from Alabama he could make his motion to recommit and then leave 8 minutes for a statement by this Senator and a colloquy with the distinguished chairman of the Finance Committee?

The PRESIDING OFFICER. The motion of the Senator is debatable. The motion to recommit, which is about to be made by the Senator from Alabama, is debatable.

Mr. SPECTER. In any event, if I gained the floor following the motion made by the distinguished Senator from Alabama——

Mr. PACKWOOD. Does the Senator from Alabama have the motion to recommit in writing and ready to go?

Mr. DENTON. Yes.

Mr. PACKWOOD. I believe the Senator from Pennsylvania and I can have our colloquy following the motion.

MOTION TO RECOMMIT TO CONFERENCE

Mr. DENTON. Mr. President, I move to recommit to the committee on conference the conference report to accompany House Joint Resolution 372, "joint resolution increasing statutory limit on the public debt" with instructions to the managers on the part of the Senate as follows: That the managers on the part of the Senate insist that there be included a provision that will give the President the discretionary authority not to sequester from any funds for any fiscal year provided for any program, project, activity, or account within major functional category 050—national defense, provided that the President certify to both Houses of Congress, at the same time as the issuance of the Presidential order required by such joint resolution, that the sequestration of funds from such major functional category would substantially impair the ability of the U.S. Government to provide for the essential elements of the national defense; provided further that such discretionary authority for such fiscal year may be suspended by a majority vote of those Members, present and voting, of both Houses of Congress.

Mr. President, I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. I thank the Chair.

Mr. President, earlier today there was a coloquy among the distinguished chairman of the Finance Committee [Mr. PACKWOOD], the distinguished Senator from Texas [Mr. GRAMM] and myself. I would like to pursue some of the issue raised at that time and after a brief statement will have questions for the distinguished chairman of the Finance Committee.

The concerns which this Senator expressed this morning related to the discretion on the part of the Department of Defense with respect to implementing the cuts made by the Gramm-Rudman bill. For illustrative purposes, the Senator from Texas and this Senator had discussions about what would be applicable to an installation like Fort Hood, in Texas. This Senator's further inquiry has disclosed that the only item in the defense military appropriations bill as related to Fort Hood, for example, was a $58 million construction project.

There were a number of other line items applicable to Fort Hood. But if the Department of Defense applied a 5-percent reduction, for example, to operations and maintenance nationwide, after taking that 5 percent it could all be allocated to an installation like Fort Hood and that could have the practical effect of reducing virtually all of the activity at an installation such as Fort Hood, which might have the practical effect of having a base closing, albeit short of officially doing so. The technical requirements being complied with, it would have such a base closing.

My statement at this point does not imply agreement or disagreement with the underlying policy goals of such a provision, but only an effort to understand as fully as possible where the authority and discretion would rest for implementing the cuts as required by Gramm-Rudman.

The concerns which this Senator expressed this morning as they related to installations as for example the Philadelphia Navy Yard relate again to where this discretion lies.

Now, coming to the first question I have for the chairman of the Finance Committee, referring to page 56 of the text of the Gramm-Rudman bill, there is language in subsection (i) for funds provided in the annual appropriations acts for each of the affected program, project, or activity as set forth in the most recently enacted applicable ap-

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propriations acts and accompanying reports, et cetera.

My question for the chairman of the Finance Committee is whether the 5-percent sequestration amount would be limited as to apply, for example, to the Aircraft Carrier Service Life Extension Program which is specified in H.R. 3629, the Department of Defense appropriations bill for fiscal year 1986.

Mr. PACKWOOD. I thought the Senator was talking about a report and not the bill.

Let us go back to the first question again. Give me the facts again.

Mr. SPECTER. The facts are that H.R. 3629 suggests $52 million for the Aircraft Carrier Service Life Extension Program [SLEP]. I want to be sure that the Gramm-Rudman bill sequestration order would apply, for example, so that the program in Philadelphia would be limited to whatever the percentage reduction was, 5 percent in fiscal year 1986, and 5 percent in the succeeding fiscal years.

Mr. PACKWOOD. Mr. President, I have not seen that particular appropriations bill, but if that program is in there, he is alright.

Is that an appropriations bill the Senator is referring to?

Mr. SPECTER. Yes, Mr. President.

Mr. PACKWOOD. Then it would be my understanding that if it is listed there, the Senator is OK.

Mr. SPECTER. Moving now to the issue of the report. I now refer to the conference report entitled "Making Appropriations for Military Construction for the Department of Defense for the Fiscal Year Ending September 30, 1986, and for Other Purposes," referring specifically to page 9, which has as amendment No. 1 the language, "The conference agreed to the following in addition to amounts in line items as proposed by the House."

In going over to page 11, I find the designations, "Pennsylvania, Eastern Distribution Center," which I understand is the technical distribution area for New Cumberland, there is the amount $15 million. The question therefore is would that, as covered by a report, be protected with the limitation of the sequestration percentage from the Gramm-Rudman bill?

Mr. PACKWOOD. It would according to page 86 of our amendment, as follows:

> (i) for funds provided in annual appropriation Acts, from each affected program, project, and activity (as set forth in the most recently enacted applicable appropriation Acts and accompanying committee reports . . .

So to the extent that the program, project, or activity is in the report, it is covered as if it were in the act.

Mr. SPECTER. I thank the distinguished chairman.

Moving on to another question for the purpose of clarity, I have page 90, top of page under (ii), the language appears:

> (ii) No order issued by the President under paragraph (1) for fiscal year 1986 may result in a base closure or realignment that would otherwise be subject to section 2687 of title 10, United States Code.

My question is, is it the understanding of the manager of the bill that this would preclude by express language the President from ordering any base closing other than as provided by the law cited?

Mr. PACKWOOD. That precludes it by express language. The Senator will also find on page 99 generic language that says:

> No action taken by the President under subsection (a) or (b) of this seciton shall have the effect of eliminating any program, project, or activity of the Federal Government.

So the Senator is covered both generically and specifically.

Mr. SPECTER. So the language just referred to on page 99 plus the language on page 90 would preclude any such closing?

Mr. PACKWOOD. Yes, Mr. President.

Mr. SPECTER. I now ask the distinguished manager of the bill about language appearing on page 96, paragraph (II):

> (II) the Committees on Appropriations of the House of Representatives and the Senate may, after consultation with each other, define the term "program, project, and activity", and report to their respective Houses, with respect to matters within their jurisdiction, and the order issued by the President shall sequester funds in accordance with such definition.

So even if not covered in any other provisions, if the Appropriations Committees of the House and Senate agree that the definition of the term "program, project, and activity" may be expanded, they may cover it.

Mr. PACKWOOD. My good friend is correct. He is covered on that point, although now he has called it to the attention of Congress, the Committee on Appropriations may be deluged with requests from Senators. But with respect to fiscal year 1986 it is in the bill.

Mr. SPECTER. I thank the Senator for those responses. I thank specifically the chief of staff of the Senate Finance Committee, William F. Diefenderfer III, for his assistance in so promptly identifying these relevant provisions, which are so helpful, and which respond to the concerns this Senator has.

Mr. PACKWOOD. Who, I might add, is from the State of Pennsylvania, and who may have a proprietary interest in the State of Pennsylvania.

Mr. SPECTER. He is from Sharon, PA, with a spouse from Pittsburgh, so the Pennsylvania connection is well established.

Mr. President, those responses satisfy some very important concerns of this Senator. I thank the distinguishe
chairman of the Finance Committee.
yield the floor.

The PRESIDING OFFICER (Mr
DANFORTH). The Senator from Dela
ware.

Mr. ROTH. Mr. President, reluctant
ly, I have had to withdraw my suppor
for the conference report on Gramm
Rudman-Hollings. I remain a stron
supporter of the enforced deficit re
duction concept, but I am not—an
have never been—a supporter of en
forced tax increases. As this amend
ment has developed through the con
ference process, that is just what
has become: "The Mandatory Tax In
crease Act for 1986." Is it not ironi
that on the very day that the House
voting on a bill which reduces Federa
marginal tax rates, the Senate
voting for a bill that will effectivel
raise taxes?

What was begun here as a sincer
effort to reduce the deficit by cuttin
the costs of Government has emerge
from conference as a formula for mas
sive tax increases over the next
years. Our initial concept was base
upon the principle that all program
would suffer equally with any auto
matic Presidential sequester process
the event Congress failed to pass
budget and appropriations to mee
deficit reduction targets. That ever
handed discipine is now abandoned.

As a Senate conferee on this mea
ure, I can tell my colleagues that the
was constant pressure to exempt
grant favored treatment to more d
mestic programs at every stage in th
progress of this bill. The original spo
sors of Gramm-Rodman-Hollings a
sured us that all programs, excep
Social Security, would be given equ
treatment. They—and most of the re
of us—repeatedly stressed critical th
importance of "keeping everything
the pot" so that the beneficiaries of a
programs would have a stake in defic
reduction.

When it turned out that technic
defects in the original bill would hav
exempted significant parts of som
programs, we corrected those defec
in the Senate with the Packwood su
stitute to make sure that all progra
were treated equally. Regrettably, th
conference committee eventually a
ceded to the pleas for program exem
tions and special treatment.

After the first House-Senate confe
ence on this measure broke up in d
agreement, our colleagues in the oth
body added nine programs to the e
empted list. When the bill came ba
to the Senate the second time, on N
vember 5, we specifically rejected th
approach. We categorically vot
down exemptions or special treatme
given to other programs. At th
point, we could all agree with the d
tinguished Senator from Texas wh
he said, "The beauty of this propos

is it allows any Member of the Senate to stand up and say, 'Any item that was on budget that was part of the problem is required to be part of the solution.'" Unfortunately, that statement is no longer correct.

In the second conference process, the Senate conferees yielded to the House position, accepting the very program exemptions that were specifically rejected here.

Other provisions of the bill prescribe the way in which cuts shall be administered for certain programs, although the method is not always clear. The conference agreement appears to protect any increases in Federal or military pay from sequestration. Furloughs and layoffs, however, are permitted but not specifically stated. We do not know what effect this would have on employment levels. Right now, there is a Federal pay freeze in effect, and the President probably will not make any recommendations for increases in the future. However, the House reconciliation bill mandates a 5-percent pay increase for the next 2 years. If that becomes law, such increases will be safe from the Presidential order.

I agree with those who say that all the exempted programs are important. But the programs that remain to be sequestered are also important. They include educational assistance, highway funds, Coast Guard, environmental protection, Amtrak, agricultural extension and conservation, handicap assistance, job training, health research, law and drug enforcement, and small business assistance.

By exempting programs that benefit many millions of Americans, their representatives will have no incentive to make a realistic congressional budget. In fact, they will actually fare better if no budget is adopted, since they are protected under any sequester order issued by the President. At the same time, programs that have not been exempt from a sequester order—the programs that benefit the average American and provide the basic services and functions undertaken by Government—are left to bear the brunt of the burden.

Under the budget deficit now forecast by OMB for fiscal year 1987, we must expect a forthcoming cut of $50 billion. By making the numerous exemptions now in the conference committee bill, we have nearly doubled the impact on the rest. If we cannot agree to change the new program priorities set by the conference bill, remaining domestic programs can anticipate a 17-percent automatic cut next fiscal year. This is simply not supportable.

What we have done is to create a ready-made coalition for massive tax increases. Those whose programs are exempt from cuts will be joined—in desperation—by those whose programs are devastated by the impact of the new Gramm-Rudman-Hollings to support new tax measures that will meet the statutory deficit limits. Instead of cutting the costs of Government, this bill emerges from conference guaranteed to make meaningful cost-cutting impossible and thereby lays the foundation for tax increases.

Finally, I have genuine concerns about the unintended and unknown consequences of this bill. The conference report is the product of repeated long-night and all-night sessions that made innumerable and extremely complex changes in the procedures of the budgetary process, in the rules of the Congress, and in the substance of public policy. In the rush to bring this book-length bill here today, literally no one has had an opportunity even to begin to understand the full extent of these dramatic changes. This is a dangerous outcome, both for this institution and for the country.

For these reasons, I, for one, can no longer support this bill.

Mr. President, I ask unanimous consent to have three exhibits printed in the RECORD.

There being no objection, the exhibits were ordered to be printed in the RECORD, as follows:

BASED ON OMB PROJECTION OF $194 BILLION DEFICIT FISCAL YEAR 1987; GRAMM-RUDMAN MAXIMUM DEFICIT ALLOWED FOR FISCAL YEAR 1987: $144 BILLION

[Hypothetical $50 billion sequester order (50/50 defense/nondefense—in billions of $)]

	Latest Senate-passed [redacted]	Senate offer	House offer	Confer-[redacted] [redacted]
COLA reduction [1]	1.6	1.0	1.0	1.0
Defense: [$25 billion]				
Remaining amount to be sequestered	24.2	24.5	24.5	24.5
Sequester percentage assuming existing contracts	9.7	9.9	9.9	9.9
Sequester percentage assuming no existing contracts	13.9	14.1	14.1	14.1
Nondefense: [$25 billion]				
Remaining amount to be sequestered	24.2	24.5	24.5	24.5
Medicare-Medicaid reduction	[2][9.7]	3.1	1.3	1.9
Sequester percentage [3] (sequester amount base)	10	14.8	17.4	17.4
Nondefense base	$242	$145	$130	$130

[1] COLA's to be divided evenly between defense and nondefense

[2] Latest Senate-passed bill would sequester medical programs to full sequester amount from a base of $97 billion

[3] House based on new BA. Senate based on new BA plus, unobligated [redacted]

Note: Computed from estimates prepared by the Congressional Budget Office based on House and Senate staff specifications

GRAMM-RUDMAN TARGETS REQUIRE DEFICIT REDUCTIONS OF $36 BILLION PER YEAR: FISCAL YEAR 1987—$144 BILLION; FISCAL YEAR 1988—$108 BILLION; FISCAL YEAR 1989—$72 BILLION; FISCAL YEAR 1990—$36 BILLION; FISCAL YEAR 1991—$0

[Hypothetical $36 billion sequester order (50/50 Defense/Nondefense—in billions of $)]

	Latest Senate-passed [redacted]	Senate offer	House offer	Confer-[redacted] bill
COLA reduction [1]	1.6	1.0	1.0	1.0
Defense: [$18 billion]				
Remaining amount to be sequestered	17.2	17.5	17.5	17.5
Sequester percentage assuming existing contracts	6.9	7	7	7
Sequester percentage assuming no existing contracts	9.9	10.7	10.7	10 7
Nondefense: [$18 billion]				
Remaining amount to be sequestered	17.2	17.5	17.5	17.5
Medicare-Medicaid reduction	[2] [6.9]	3.1	1.3	1.9
Sequester percentage [3]	7.1	9.9	12.5	12
Nondefense base	$242	$145	$130	$130

[1] COLA's to be divided evenly between defense and nondefense

[2] Latest Senate-passed bill would sequester medical programs to full sequester amount from a base of $97 Billion

[3] House based on new BA. Senate based on new BA plus unobligated [redacted]

Note: Computer from estimates prepared by the Congress Budget Office based on House and Senate staff specifications

GRAMM-RUDMAN-HOLLINGS

Programs exempted or given special treatment	Millions of [redacted]	Base (billions)
I. Latest Senate-passed bill		
Social Security [OASDI]	37 3	..
[redacted]	..	[2] $242
II. House-passed bill		
Social Security [OASDI]	37.3	
[redacted]		
Hospital insurance	30 8	
Supplemental medical insurance	30.5	
Medicaid	22 5	
Supplemental Security Income [SSI]	3 7	
AFDC	10.8	
Food Stamps	20.1	
Child nutrition	([1])	
Community Health programs	([1])	
Veterans Health programs	([1])	
[redacted]	([1])	
[redacted]		[2] 130
III. Conference committee bill		
Social Security [OASDI]	37.3	
[redacted]		
Hospital insurance	30 8	
Supplemental medical insurance	30 5	
Medicaid	22 5	
Veterans health programs	...	
Veterans compensation	2 6	
Veterans pensions	1 4	
Supplemental Security income	3 7	
AFDC	10 8	
Food Stamps	20 1	
Indian Health programs	([1])	
Child nutrition	([1])	
Migrant Health programs	([1])	
[redacted]	([1])	
Community Health programs	([1])	
Total		([1])

[1] Data not known at the time of publication

[2] Base data provided by the Congressional Budget Office

Note: Beneficiaries are often the recipients of more than one of the Federal programs listed above

Source: Office of Management and Budget, 1986 Budget, Special Analysis.

Mr. ROTH. Mr. President, I yield the floor.

Mr. DIXON. Mr. President, I support the Gramm-Rudman-Hollings proposal. I am pleased to be a cosponsor of this effort—at long last—to try to get Federal deficits and our exploding national debt under control. Failure to act to reduce budget deficits endangers our economic future. We have already waited much too long to impose desperately-needed fiscal restraint; we cannot afford to wait another minute.

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Congress and the President have worked hard on budget issues the last several years, but we and the President have not been able to agree on budget packages that would restrain the growth of Federal spending. The result has been that we've doubled our national debt in just 5 years, and our annual budget deficits are now at levels that seemed incomprehensible just a few years ago.

The Gramm-Rudman-Hollings proposal is an attempt to begin to set things right. It is not a perfect proposal by any means. It is a blunt weapon; and the across-the-board cuts it calls for if Congress and President are unable to agree on an alternative package will cause real pain. Further, it may not be adequately flexible to deal with the effects of economic recession. We are at a stage, however, where there is no other alternative. We have to act, and act now.

The proposal now before the Senate will work to put deficits on a declining path. Instead of $200 billion plus Federal deficits every year, under Gramm-Rudman-Hollings the Federal deficit will decline to $171.9 billion in fiscal year 1986, $144 billion in fiscal 1987, and to $0 by fiscal 1991. It exempts the programs that must be exempted: Social Security, and the programs that are essential to the poorest Americans.

Further, Mr. President, the across-the-board cuts that might be imposed under this proposal are basically fair and equitable. Defense programs will be required to bear 50 percent of any across-the-board cuts; domestic programs will account for the other 50 percent. And across-the-board cuts, by their very nature, help ensure that a few programs are not called upon for disproportionate sacrifice.

Finally, it must be remembered that across-the-board cuts will not go into effect at all if Congress and the President can act on a budget package that meets the deficit reduction targets. What Gramm-Rudman-Hollings provides is added impetus for Congress and the President to act together on a reasonable and balanced program of program cuts, and perhaps revenue increases if the President proposes them, of the kind that are necessary to bring our budget problems under control. Congress and the President have failed to resolve their differences on deficit reduction in the past. Gramm-Rudman-Hollings will help ensure that we and the President will act together in the future.

We are again running out of time, Mr. President. The United States will effectively become bankrupt if Congress is unable to act on this legislation today, so I will not take any more of the Senate's time. Let me just simply say that Gramm-Rudman-Hollings is a hard but necessary step. It can and will create the kind of discripline and will to act that has been

help to break the cycle of ever-increasing Federal deficit, and help restore balanced budgets and the kind of spending restraint we cannot do without.

I yield the floor, Mr. President.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I ask unanimous consent that I be permitted to yield for 2 minutes to my distinguished colleague from Michigan without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. I thank my friend. I thank the Chair.

Mr. President, the legislation which we are passing today is a club over the head of both the President and the Congress designed to force action to reduce the deficit and to produce a balanced budget by 1991. In a sense, it is the "Truth or Consequences Act of 1985"—we either face up to the truth that we can't go on endlessly borrowing against the future to pay for what we are buying now, or we will have to face up to the consequences of deep across-the-board spending cuts. This may well mean that we will need an increase in revenues—other than a general tax increase—in addition to selected spending cuts. But over the long run, it is far worse to continue the current profligate policy of borrow and spend than it is to have a responsible policy of tax and spend.

Some have argued that this legislation is a gamble. That is true. We are taking a gamble, but, at least we are not playing with loaded dice. It is preferable to follow a steady course toward a healthy economy which involves some risk rather than the certain disastrous deficit course we are on now.

We must take firm action against the deficit because the burden of the deficit threatens to destroy the prospect for long-term prosperity. Paying for the loans that the Government needs to finance the deficit will suck out of the economy the money which would otherwise go to finance productive investments. The budget deficit also makes our products less competitive both here and abroad, thereby increasing our trade deficit and costing us jobs. Finally, the deficit threatens to severely limit Government as a tool for bettering the quality of life for all Americans. A lot of people think that the Government should not be involved in as many things as it is. They may look favorably on the idea of shrinking Government. But how many people want to say that the deficit is doing the right thing if it is forcing us to be less aggressive in dealing with the problems of toxic waste, or if it is causing us to slow down the acquisition of oil for our strategic petroleum reserve? The passage of this legislation

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tens of millions of dollars more or less than the President had originally requested in the budget which he submitted in the beginning of the year. Under the original Gramm-Rudman amendment, the President in the sequester order could have looked at this overall spending category and cut in a nonuniform way—ignoring the results of the congressional decisionmaking process—these 253 programs, projects, and activities, as long as the cuts in this category equaled the required amount.

On October 9, after days of intense negotiations, the Senate agreed to an amendment which I offered to require that the spending cuts contained in the sequester order be uniform down to the level of programs, projects, and activities. Using the previous example, this means that each of the 253 programs, projects, and activities within the category "Research, Development, Test and Evaluation, Army" would have to be cut by a uniform percentage. The congressional priorities within that category would be retained. The President would not have the authority to ignore or rewrite them.

During the debate, I stated that:

> The language in the amendment speaks for itself * * * that each affected program and project or activity as defined in the most recently enacted relevant appropriations acts and accompanying committee reports or from each affected account if not so defined," must be uniformly treated.

In response Senator Rudman stated,

> The remarks just concluded by the Senator from Michigan are accurate. They are precise. They are precisely what the drafters of their amendment intend and the plain language speaks for itself.

During the next 2 months the Secretary of Defense and others within the administration strongly urged and continued to lobby the Congress up to the last minute to modify this language to provide greater flexibility to the President during the entire life of Gramm-Rudman to depart within the sequester order from the priorities set by the Congress in those programs, projects, and activities. There were reports that the President might veto the whole Gramm-Rudman package if he was not given this multiyear flexibility. In the end, however, the Congress stood firm in insisting that for all the full years to which Gramm-Rudman was applicable, the cuts within the sequester order be uniform down to the program, project, and activity level. The President was granted very limited flexibility to depart from strict uniformity for fiscal year 1986 because of the difficulties inherent in starting the Gramm-Rudman process for defense in the middle of the year. However, the record of the conference committee of Gramm-Rudman is clear that this exception is only fiscal year

dent for future exceptions to the rule of uniformity down to the program, project, and activity level. To quote from the statement of managers of the conference,

> The conferees have included language which provides limited flexibility in regard to sequestration of defense spending for fiscal year 1986 only. This flexibility is not intended as a precedent for similar flexibility in future years in which sequestration might occur.

Furthermore, Senator Packwood, the floor manager of this legislation, has again stated for the record today that this limited flexibility is for fiscal year 1986 only and that there is no intent that it be a precedent for flexibility beyond fiscal year 1986.

With the priorities set by the Congress over spending decisions thus protected, it is now time to get on with the job of meeting the deficit reduction goals and arriving at the balanced budget invisioned by the Gramm-Rudman plan.

Mr. President, while my friend, the manager, is on the floor, I wish to take the rest of my 2 minutes to commend him, the Senator from New Mexico, and the original cosponsors of this bill, Senators Gramm, Rudman, and Hollings. They have done a very creative and important thing. I particularly commend my friend from Oregon and my friend from New Mexico. They have maintained a steadfast, straight course in conference, and it was critical to the success of that conference. I congratulate them for their success.

Mr. PACKWOOD. I respond in gratitude to the Senator from Michigan and say that it was his amendment, I think, that unlocked the logjam. But for that and the assurance that we were not going to have funny games in broad discretion in the military, we would not have a bill today.

Mr. LEVIN. I thank the Senator.

The PRESIDING OFFICER (Mr. Cohen). The Senator from Arkansas.

Mr. BUMPERS. Mr. President, virtually every Member of this body, at some time during the past few months, has expressed himself on one side or the other of this question. I do not question the integrity—the intellectual or any other kind of integrity—of anyone who chooses to vote on any side of this issue. Everyone is voting for it for what I would consider to be his or her own concerns for the future of the country. I do not question other people's patriotism, and there is nothing as offensive to me as people who do. So I am not castigating people who disagree with me.

As a matter of fact, many of the Members of this body for whom I have the greatest respect intend to vote against the Gramm-Rudman-Hollings amendment. I intend to vote for it.

I know all the arguments against it, and I know all the arguments for it,

me. I will not vote for it without considerable trepidation and reservation.

I read the David Broder column this morning, and it was excellent. If anyone is disposed to vote against this measure, there is plenty of fodder in the Broder column this morning. But let us go back to the original promise and come forward to where we are.

The promise was on January 21, 1981: "If not us, who? If not now, when?"

The American people were exhilarated in the belief that that statement meant we were headed for a balanced budget by no later than 1984.

So the President submitted massive spending cuts to this body; and I voted for them because I thought that is what the American people wanted and that is what they had voted for the President to do—cut spending. And I agreed that spending should be cut.

So we voted for a budget reconciliation bill here in 1981, cutting $56 billion in domestic spending, but we save most of that to the Defense Department. So the bottom line was a wash. We had not accomplished one thing in solving the deficit crisis.

Then the promise was, "If you will but cut taxes by $750 billion over the next 5 years, we will balance the budget. The way to balance the budget is to cut taxes."

There were 11 people in this body—and I am happy to say that I am one, and if saying so is self-serving, so be it—who said you will cause massive deficits by this, so we voted no.

Then they said: "In addition to cutting taxes, we have to double defense spending, we have to spend somewhere between $1.5 and $2 trillion on defense in the same 5-year period." Well, the promised balanced budget did not work out as promised, of course, as most thoughtful people said it would not.

So, in 1984, when the deficits had literally exploded, people were saying: "What are we going to do about the deficits? We were told that a vibrant economy would solve the problem. We would grow our way out of it."

These are not things I am making up. Everybody in this body knows those are the precise promises and statements that were made: "We will grow our way out of it."

Then, when we obviously failed, with the hottest economy we had had since World War II, in 1984, and the deficits continued to grow, we were told that deficits really do not matter.

I must say that the conventional wisdom, that the bigger the deficit, the higher the interest rate, has been proved false; and the reason is that our friends from abroad have been helping to finance this deficit to the tune of about $100 billion a year.

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However, the thing that is really alarming is that in 1984 and 1985, when we had these staggering growth rates in the economy, we were still having to write $200 billion worth of hot checks a year. Talk about Keynesian, if that does not stand poor Lord Maynard Keynes on his head, nothing does.

I am a great proponent of keeping church and State separate, and I am certainly reluctant to give a biblical sermonette here, but the Greeks believed that whatever bad happened to them was because of some sin their father or grandfather had committed. The great god of all, Zeus, was very unforgiving if he was ever crossed, so the Greeks believed.

The early Hebrews believed the same thing. If anything bad happened to you, it was because of the sins of your father and your grandfather. You all know that old story about visiting the sins of the father on the sons and the grandsons.

It was only after Ezekiel was taken captive in 587 B.C. that he told the Jews who had been taken into captivity in Babylonia, "Don't worry about it; this is not true. God does not judge the children by the sins of their fathers."

That was the good news. The bad news is, "We are doing it to ourselves."

If I were to ask everybody in this Chamber what is the most precious thing in your life that you would readily die for, you would say your children. You give them every kind of education, the best education you can.

Putting my children through college was very expensive. Their mother and I did everything in the world to accommodate them. We tried to shelter them from every adversity, every unpleasantness. Do you know what we are doing now? We are depriving ourselves of things now, to try to build a modest estate, so that they can inherit, so that we can continue to protect them after we are dead and gone.

You tell me what sense it makes for us to give them that wonderful education and wonderful opportunity, try to anticipate every wish and meet it before they can ask for it, and then sacrifice to build an estate to leave them after we have gone, when we are setting up an absolute apocalypse for their future, right here in Washington, DC, with these enormous deficits. It is a strange contradiction and paradox, is it not?

Senator HOLLINGS voted against the 1981 tax cuts, too. He stood on the floor of the Senate with me and predicted these huge deficits.

So, in 1983, when the budget deficits began to explode, Senator HOLLINGS, a very knowledgeable Member of this body on budgets, came up with a plan that I thought was pretty Draconian but would work—an across-the-board spending freeze—and we offered it to the Senate, and we got 18 votes. It would have balanced the budget in 4 years, with a lot less trauma than Gramm-Rudman.

Do you know why we did not get any more than 18 votes? Because we postponed income tax indexing. We took away a little of the investment tax credit; we put in a minimum corporate tax. Everyone screamed and ran out the door and said no, that we are trying to raise taxes.

Now, the hottest game in town is a minimum corporate tax, slow down ACRS—all the rest. Get at these 50 big corporations of the Fortune 500 who are paying no taxes and are getting big refunds.

We came back again in 1984 and got 38 votes. The reason we did not get more is the President had all his people on the floor of the Senate working to make sure that that particular proposal to balance the budget did not pass.

In 1985, early this year, we came back with the same proposal, slightly modified, and we got 35 votes.

Now, Mr. President, we find ourselves in the unhappy position of dealing with the No. 1 problem of this country, the staggering problems of deficits, in a very undesirable way.

The Senator from New Hampshire [Mr. RUDMAN] said it well the other day. It is a bad idea whose time has come. If I were going to assume that Congress was going to take a dive and agree with whatever the President submitted to us next February 5, I would not vote for this. It would be a terrible idea, if you assume that you are abandoning all of your responsibility to the President.

I have listened to a lot of the speeches on the floor today. All of them have lamented the deficits. All of them have talked about how they ensure the absolute economic collapse of the country if they are not dealt with soon.

But I do not believe this body is going to vote to freeze COLA's on civil service retirees and military retirees and give everyone else their COLA. I do not believe that is going to happen. Politically that is not acceptable to a majority of the people in this body.

Incidentally, when I see the story where the House Ways and Means Committee slips a little thing in the tax reform bill that says from now on all civil service and military retirees will pay taxes on their pension the day they retire, not at the full rate, at some smaller rate, and then in parenthesis "except Members of Congress," how can you expect the people of this country not to be cynical about the way their business is being conducted here when you have a little-bitty provision in a 1,350-page bill that says "except Members of Congress."

I assume the committee thought no one would catch it, but someone did catch it. Now they cannot h
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and all across the country. I daresay if you take a poll of them 80 percent will tell you that you are going to have to have both taxes and cuts in spending if you are really serious about the deficits.

I heard one Senator a while ago talk about the trade deficit and he tied the trade deficit to the deficits, and that is a legitimate tie-in. But you cannot just sit around wringing your hands and saying "ain't it awful," when you know that the value of the dollar abroad is directly tied to the deficits, and yet vote against doing anything about the deficits.

The bottom line, Mr. President, is that there is no painless way. There was a certain politician in Arkansas, and the writers always said he would straddle any fence he could not burrow under. You cannot straddle the fence any longer and you cannot burrow under it any longer.

The Hollings proposals of 1983, 1984, and 1985 that many of us cosponsored, spoke for, and fought for, a lot of people thought that was a painless way. It would not have been painless either, but it would have been fair, and it would have been better than this one. The budget would be balanced next year.

There is no painless way to deal with this problem. So while everyone laments the deficits, some of us that voted to keep them from happening in the first place and some of us have tried other ways to deal with them unsuccessfully. So what we have on the table is what we call Gramm-Rudman-Hollings, a bad idea whose time has come.

We have a chance to vote for something, and the alternative is to vote for nothing but instead continue the self-flagellation and chest-beating. This bill, when it passes, and it is going to pass, is going to create one budget crisis after another, but I promise you none of those crises will be nearly as big as the crisis we are going to face if we do nothing.

So, Mr. President, with considerable trepidation and reservation, but with hope, I intend to vote for this.

The other morning I saw Frank Church's son on the "Today show". He is a minister and he has written a book about his father, former colleague of most of us, the distinguished Senator who is already in the record books, Frank Church. And the interviewer said, "How would you describe your father's life if you could sum it up in one sentence?" He said, "My father always voted his hopes and not his fears."

That is a good admonition for all of us.

So today, I am voting for the Gramm-Rudman-Hollings proposal. I am going to vote my hopes and not my fears and pray that my hopes are justified.

Mr. President, I yield the floor.

Mr. KERRY. Mr. President, I would like to first raise a qustion or two, if I could, with respect to an issue that has concerned me throughout our deliberations regarding the Gramm-Rudman-Hollings bill. As the distinguished chairman of the Finance Committee, the manager, knows, I raised an issue early this year when we first began the budget process about the question of tax compliance, the fairness of our current process of collections.

I would like to just take a moment to describe what I brought before us as an issue, because I think it is important. I want it as a groundwork with respect to where we are going from here.

The IRS currently tells us that there is a gap in their collections now of $106 billion; that tax forms put in front of them show less income to the Government than they ought to in the sum of $106 billion.

This year, the National Governors Association passed a unanimous resolution urging Congress to take action to closing that gap. Based on experience from a number of States including my own home State of Massachusetts, they told us that we could collect somewhere in the vicinity of $20 billion in 1 year. That would be a substantial addition to the revenues of the Federal Treasury.

Now, what is disturbing about the current IRS enforcement efforts is that the IRS itself this year requested additional personnel. They cannot do the job they have been asked to do and therefore they requested a personnel increase to approximately the number of 95,000 people. Estimates are that those 95,000 people would raise about $38 billion.

OMB cut them back. And, for a savings of $300 million, OMB was willing to show a reduction in revenues of $2.4 billion to the Federal Government, at a time when those revenues are desperately needed to reduce the deficit. So, a savings of $300 million in this years budget will be a loss to the Treasury of $2.4 billion.

Over the last 10 years, the number of tax returns the IRS must process has gone up some 17 percent, but the assets of the IRS have only gone up some 2 percent. The result, Mr. President is that individual audits are down 26 percent and corporate audits are down 46 percent.

Americans are not unaware of this problem. Ten years ago, in America, 84 percent of Americans voluntarily paid their taxes—84 percent. The IRS will tell you—this is not my figure, it is not a Democratic figure or a Republican figure. In the last 10 years, voluntary compliance has gone down to about 81.6 percent, and for each loss of a percentage point of compliance we have lost $5 billion in revenue.

Now, why is that important in the context of Gramm-Rudman? Well, all of us know that over the past weeks we have been voting here to cut appropriations: FAA money, Coast Guard's money, education money, even to cut money across the board. And we are presented with a series of choices about areas in which we unwillingly have to cut money from programs that help people. The distinguished Senator from Arkansas just referred to a number of such programs. Yet we are cutting them at the same time that we know there is revenue out there which not only could we be collecting but we should be collecting.

Daniel Yankelovich did a poll for the IRS to give them a sense of what the attitudes of Americans are about tax collection. He found, Mr. President, that a majority of our citizens believe that a majority of our citizens are cheating on their taxes. And, as more and more people begin to believe that citizens are cheating on their taxes, they begin to cheat on their own taxes because they think it is the way to do it. They think it is permissible and they think they can get away with it. And, in fact, Mr. President, the truth is, because we are getting so lenient about compliance, they can get away with it. One out of 43,000 people who evade their taxes, against whom there are complaints, are brought into criminal action.

So, Mr. President, I put onto the Gramm-Rudman bill an amendment, which was passed here in the Senate, that called for a joint study by the Treasury, OMB, and CBO. It required that they report back to us next January to make certain, as regarding potential revenues from strict tax compliance. We have to make some hard choices and we need to know how much additional revenue tax compliance would yield. That would enable us to make those difficult choices in a wholly different light.

Unfortunately, that particular requirement for a tax compliance study is not in the legislation, as it has come out of conference.

Mr. President, this is not suggested without some kind of background of accomplishment. Some 14 States, some 14 Governors, have already implemented similar efforts to recapture revenue that they know is there to be captured.

In my home State of Massachusetts, I am proud to say that we instituted this at a time when we faced a budget crisis, a $500 million deficit. And, because nobody wanted to raise taxes, people sat around and said, "How are we going to make up the difference and collect this money?" And the way it was collected was by creating new efforts in enforcement, computerizing, increasing the audits, putting additional people into our collection depart-

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ment, streamlining, having a series of measures taken that would collect that revenue. And, in fact, we did, to the tune of an additional 4.5 percent revenue. I do not have to tell any Member of this institution what 4.5 percent of revenue would do in terms of the Federal deficit and the problem that we now face.

So, when the chairman of the Finance Committee returns to the floor, I would like to ask him specifically what steps he thinks we could take with respect to this measure and how it is that we could complete it.

While I am waiting for him to return, let me comment briefly, if I may, on this bill itself. Earlier, I heard my colleague from Illinois [Senator SIMON] talk about why he, as somebody who considered himself a progressive Democrat, was voting for it.

Mr. President, I share many of the feelings of the Senator from Illinois and many of the feelings of the Senator from Arkansas.

I have listened carefully to Senators that I respect greatly on my side of the aisle who oppose this bill. This Senator would certainly like to make it clear, on behalf of those Senators like the Senator from Michigan and others, that I understand their opposition is not a reluctance to do something about the deficit; that most of those who oppose this bill do not oppose it because they do not want to do something about the deficit, but because they have worries or concerns of another nature.

But, Mr. President, I disagree with those who oppose this bill, claiming it is an enormous transfer of power from Congress. The bottom line is that, in this legislation, it is we, the Congress, who are deciding what we will cut and how much we will cut. If, and only if, we fail to meet the deficit reduction set out in this bill, the Executive will administer sequestration, also established in this legislation. We are not transferring funding authority or discretion to the President.

Over the past 5 years this institution has tried to reduce the deficit and failed. The urgency of the deficit demands that we break with business as usual and turn to an alternative that will give us the structure to do what we have not been able to do.

I have watched carefully what has happened to the budget in the last 5 years. President Reagan's program and priorities have doubled our Nation's debt to $2 trillion. Tax reductions, soaring military spending and severe reductions in domestic programs are the Reagan legacy.

Programs I care about, programs important to Massachusetts such as education, child nutrition, head start, food stamps, transportation, UDAG's, CSBG, and revenue sharing are reduced annually. Those cuts have been matched over the last 5 years by parallel increases in military spending. It is clear what would happen if we did nothing. We'd come back next year and there would be the same deficit. The same arguments would be made, and we would go on with the same process of repetition, and we would wind up then exactly where we are today.

This is not the ideal way to legislate. But, today's deficit demands extraordinary action. The President, the Congress, share in an inability and an unwillingness to deal with that deficit. That is what has brought us here today.

I think we have to make a threshold decision which a great majority of the Senate has obviously made. The deficit is a real problem. The deficit threatens our ability to compete abroad; the deficit threatens us in the long term by mortgaging the futures of our children; the deficit creates problems in the valuation of our currency and undermines our ability to trade. We have one obligation; that is, to resolve to do something about that deficit.

This bill is the only thing Congress has been able to agree upon to help us make the set of difficult spending choices next year.

I keep hearing some of the detractors say you are not going to make any choices next year. The fact is, starting in February when the President puts in front of us his set of choices and states his agenda for this country, we will engage in a zero sum budget process that for better or worse will require us to have an accountability on each program that comes before us in the Senate.

If you want star wars, you are going to have to show how you are going to pay for it, and you are going to have to show what program you are willing to cut for it. There will be enough votes between now and the election next year for people across this country to know what each individual Senator's agenda is, what the President's agenda is, and what the differences between us are.

While I think this is not perfect, while I wish we were able to legislate in a different way, I do not think that this bill somehow precludes us from making the hard choices that we were sent here to make: I think in the final analysis this bill presents us with an opportunity to do that.

Finally, I say, Mr. President, I keep hearing people say we are transferring this enormous power of the President. The fact is, Mr. President, he can veto anything we present him today. If we do not have the votes to override that veto today, we are in no different position that we will be under Gramm-Rudman.

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have not done for the last
that we will indeed hav
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will do it for us—not som
President had decided, nor
we have decided. I think th
portant distinction in this p

Mr. President, I would
time to ask the chairman
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which I know he shares
which we have discussed,
the Treasury Department
that I understand they c
this point in time, if he wo
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that report as chairman
nance Committee so that
have the information in
next year as we made thes
choices.

Mr. PACKWOOD. I wou
to request it. Would the S
good as to give me a draft
like it, and I may ask the
mittee on Taxation in
Treasury. They may no
same answer.

Mr. KERRY. I absolutel
tainly appreciate the wi
the Senator do that. I und
Chair shares with me my
this is an important area
tential for revenue.

Mr. PACKWOOD. As
fact, we have reconciliat
new agents. That raises
around $2 billion over th
assume there is an end to
cannot have a $115 billi
raise $200 billion nor a $12
and raise $200 billion and
the deficit in that fashion
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about people saying wha
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are not paying.

Mr. KERRY. That is e
Mr. President, I would
chairman that as he know
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enforcing tells us that t
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I am sure that if we find that out, if we undertake those steps, whatever happens under Gramm-Rudman that process will be greatly facilitated by virtue of the additional revenue.

I thank you very much, Mr. President, I yield the floor.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I voted for the so-called Gramm-Rudman-Hollings amendment in the Senate and I will vote for the compromise deficit reduction legislation in the conference report.

The huge deficits in this country have produced sustained high real interest rates and contributed to our deteriorating trade and competitive position in the world. America's defense depends first and foremost on a strong economy, and we simply cannot build a strong defense on our current eroding economic foundation.

This legislation represents a real and serious effort by the Congress to get serious about reducing the deficit.

In the last 5 years, the President has not exercised responsible fiscal leadership.

Congress has not exercised its responsibility in filling the vacuum in responsible fiscal leadership.

Under this legislation, the President and Congress can no longer sidestep the responsibilities of leadership. This legislation will force Congress and the President to make the painful choice between:

First, large cuts in domestic spending far beyond what President Reagan or Congress have been willing to support;

Second, deep and harmful cuts in defense spending; or

Third, tax increases.

Those are going to be the choices.

Mr. President, I strongly endorse and support the goal of this legislation to produce mandatory, phased reductions in deficits over the next 5 years—hopefully if everything goes right. That is a very big "if"—culminating in a balanced Federal budget by fiscal year 1991.

But I do not think we ought to kid ourselves. This legislation is not a panacea, and the automatic sequester process is not a substitute for responsive leadership. There are still some very serious shortcomings with this legislation.

In spite of the fact that I will vote for it, I think everyone should recognize those shortcomings.

For one thing, this conference agreement exempts large areas of Federal spending from reductions under the automatic spending reduction procedures. Social Security and eight other programs are totally exempt from any reductions under the sequester process. Four other programs have specific limits on the amount they can be reduced under the sequester process.

I oppose exempting any spending programs from the automatic spending reduction process. Since this measure was first introduced in the Senate, the exemptions have grown in number. We cannot hope to achieve meaningful deficit reduction unless all areas of spending are on the table, and if we are going to avoid the sequestering we are going to have to deal with all spending categories.

In my opinion we are going to have to deal with revenue. When certain areas are exempted, the burden of the cuts is shifted disproportionately to other areas, such as nondefense programs which are not entitlements, or to defense.

Second, Mr. President, the conference agreement continues to favor spending cuts over revenue increases as a way to reduce the deficit. The emergency spending reduction procedures only cut spending—they do not increase revenues. Just as we should not rule out large areas of Government spending for reductions, we cannot rule out revenue increases if we are really serious about deficit reduction. I trust we will not rule those out next year.

Third, this deficit reduction legislation focuses only on near-term deficit reduction measures and ignores longer term, fundamental changes in Federal spending that need to be addressed as part of our deficit reduction efforts. For example, this legislation does not include a mechanism to force Congress and the President to review the relatively uncontrollable entitlement programs. The automatic spending reduction mechanism allows the President to reduce or eliminate cost-of-living increases in entitlement programs, but it does nothing to force Congress to review the basis for the underlying entitlement.

I also believe it is a mistake to submit to sequestering some types of cost-of-living increases, for example cost-of-living adjustments for military and civil service retirees, while sheltering from the sequester process other cost-of-living increases, such as Social Security COLA's.

Finally, Mr. President, the enforcement mechanism in the legislation—the automatic spending reduction procedure—is a train wreck waiting to happen. We may have postponed the train wreck until next October by setting a limit on the amount to be sequestered next March for fiscal year 1986. But beginning with fiscal year 1987, unless the President and Congress have met the deficit reduction goal in an affirmative manner avoiding the sequester, this enforcement mechanism will very likely force the President and the Congress to choose between:

First, immediate spending reductions that would harm our national security and damage domestic programs; and

Second, changing or repealing the legislative requirement to make these cuts.

This means that the Gramm-Rudman-Hollings legislation fits the description that Senator Howard Baker once used to characterize President Reagan's fiscal plan: it is a riverboat gamble and we should all recognize it.

Finally, Mr. President, I am hopeful that this legislation will ultimately force Congress to put together a responsible deficit reduction plan. The President's public comments on this legislation indicate that he continues to oppose any tax increase and to support a 3-percent increase in defense spending. I have to admire President Reagan's tenacity but not his arithmetic. Congress could very well face a situation next January in which the President sends up a budget proposal with drastic cuts in domestic spending far beyond what the Congress will ever support, real increases in defense spending, and no tax increase—just as he has for the past 2 years. Like its two predecessors, this budget will be dead on arrival. It will then be up to Congress to make the tough decisions to produce a realistic budget that reduces the deficit and avoids the impending train wreck of the automatic sequester process.

I have been particularly concerned about the impact of this legislation on national defense programs. Defense cannot be exempt from any deficit reduction measures but we have to remember that the defense budget is one area of the Federal budget where it is very difficult and disruptive to get near-term outlay reductions.

Let me state parenthetically that I will not support the proposal of the Senator from Alabama, although I understand his intentions and I think he is very sincere and dedicated in pursuing those intentions. If we are really serious about deficit reductions, we simply cannot exempt large spending categories like defense, just as we should not have exempted those portions already exempted.

The Gramm-Hollings-Rudman provision is a very, very onerous way and a damaging way to deal with defense spending.

Enactment of this legislation virtually guarantees a $5 to $6 billion cut in Defense outlays which translates into a $15 to $18 billion cut in budget authority for the Department of Defense this fiscal year, not next year. This fiscal year has already started.

If we assume that the conference agreement on the continuing resolution for fiscal year 1986 splits the difference on defense spending between the House and Senate figures, setting

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budget authority at approximately $297 billion. Defense budget authority for fiscal year 1986 could be held at approximately $280 billion after the sequester takes place. This would be $13 billion below the fiscal year 1985 level of $293 billion, and would represent negative growth in national defense budget authority of 7 to 9 percent in fiscal year 1986.

I do not know whether or not the President recognizes this. According to press reports, he has talked about maintaining the commitment that Congress made to the President on defense spending. Well, Mr. President, I have news for the White House. That commitment is already going by the board. It is my understanding that everyone has been frank with the President in telling him that commitment is no longer valid if he signs Gramm-Hollings-Rudman. If he signs this legislation he himself will be implicitly endorsing a change in the underlying commitment.

I do not know whether my colleagues realize the impact, but the way I evaluate these figures, in fiscal year 1986, when it all plays out in February or March, we are going to have a 7- to 9-percent reduction in real defense budget authority in fiscal year 1986.

Mr. President, we will be half way through the fiscal year when these cuts have to be made. Compared to the President's original budget submission for fiscal year 1986, including the cuts we have already made, defense will be cut $35 to $40 billion this year. Cuts of this magnitude cannot occur without hurting our national defenses. There will be some harm. The President maintains that he will ask for a 3-percent real growth in fiscal year 1987 as agreed to in the fiscal year 1986 budget resolution.

Again, I admire the President's tenacity, but I question his arithmetic.

After the sequester process for fiscal year 1986 is completed, it is entirely possible that a 3-percent real growth in defense budget authority for fiscal year 1987 could be at roughly the fiscal year 1985 level of $293 billion because of the reductions in fiscal year 1986.

In other words, 3-percent growth has to be calculated from some base level of spending and the base that has been used in the past to compute real growth is the base of the previous year's final budget authority for defense as represented by appropriations. The sequestering process this year will likely result in a budget authority base of $280 billion. If the President submits a 3-percent growth from that base next year, then he will still be below the fiscal year 1985 level because of the very serious reduction in the base this year.

However, if the President insists on submitting a budget request at the level assumed in this year's budget resolution, he would have to request $322 billion in fiscal year 1987. Compared to the base level of $280 billion, this would be portrayed, based on the final sequestered number for 1986, as an 11-percent increase in real terms.

Can we imagine next year the President coming over with a budget where every other category is going to be very seriously cut and asking for what will be portrayed, and I emphasize those words because in numbers it would not be accurate, as an 11-percent real increase in defense? I can see the headlines now, and I can hear the outcry in the country.

I hope that the President of the United States would begin to look at these numbers and would take these numbers seriously. I know he is committed to national security. But so far, their computations indicate that the White House itself has not done its homework in this area. Alternatively, the public statements being made are simply out of touch with reality.

And this is not going to be a 1-year deviation. Despite the President's claims that he intends to maintain a 3-percent real growth increase in defense spending, Defense will shoulder 50 percent of any sequester cuts, and I am concerned that Defense will be forced to bear a large part of the spending cuts in coming years to get down to the deficit reduction glide path established by this legislation. This unfortunate prospect is almost inevitale as long as we exclude large areas of spending and taxes from solutions to the deficit problem.

In the final analysis, President Reagan ran on three major goals: A buildup in defense; a reduction in taxes; and a balanced budget. In his first 5 years, he has largely ignored the third goal—the balanced budget. This Gramm-Rudman-Hollings legislation will require that the President remember this last goal by sacrificing goal No. 1 or goal No. 2.

This legislation will intensify some of the current distortions within our Defense program. Currently, DOD starts more programs than it can afford to buy efficiently. Yet because the sequester process prohibits program terminations, any sequester will result in slowdowns and stretchouts to existing programs and increase the inherent efficiency in Defense procurement programs. The compromise permits some programs to be cut up to twice the percentage of others. This invites disproportionate stretchouts in efficient programs when dollar levels are greater in order to protect a larger number of smaller, less efficient programs. DOD should be permitted to terminate marginal programs and to maximize efficient production lines.

The Defense Department must realize that we will face a new world when this legislation becomes the law of the
land. Hard choices are a criti
sity. Defense officials must
lessly realistic when they pr
fiscal year 1987 Defense
insure that we don't perpe
worsen the persistent proble
duction inefficiency in the
Department.

The challenge we all fa
coming years is to find wa
crease our defense output
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which this legislation force
It is essential that DOD d
job of setting budget prior
they have to date.

I will vote for this. I do so
reluctance, however. Unless
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the White House, which t
not apparent, we are not go
the kind of budget next yea
White House that would i
are really going to comply
legislation without having
crash.

Earlier I heard the Senato
kansas say today he is voting
rather than his fears. I thi
presses well my views. W
hope that all of us will wor
to avoid what could be a ve
ing situation in terms of nat
rity. I am sure others will
opinion on this matter. I wo
agree with them because w
to have to have across-the-
fice if we are going to avoi
wreck which we are now se
this legislation.

Mr. WEICKER addressed

The PRESIDING OFFI
Senator from Connecticut.

Mr. WEICKER. Mr. Pres
far as Gramm-Rudman is co
is prestidigitation, not legis
am a Senator and not a
intend to vote against it.

The real pitfall can best
fied by the following examp

Social Security is one of
cally protected programs
what we are doing for the
of the elderly of this Nati
cause of Gramm-Rudman a
tection of Social Security
other safety net progra
assure my colleagues that
of this Nation are in fact
placed in great jeopardy so
well-being is concerned.

Why? Because when it c
health of our elderly, tha
the provinces of the Nat
tutes of Health. I dare say
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cal issue. At the present pa
cal science, I would expect
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roughly 75 in this Nation,
jump to 85 by the year 201

with it all sorts of ailments and diseases unheard of today. How many of my colleagues know, for example, that out of 127 medical schools in this country, only two have departments of geriatric medicine? Two.

The point I am trying to make here, Mr. President, is that with an instrument such as Gramm-Rudman, which is a political instrument, the real concerns and the solution to those concerns is not only in the politically protected programs, but also in the unheralded ones. It requires some understanding to realize the impact on these programs, but what we have instead is some slick advertising. They are the ones that are going to get cut—and cut badly—under Gramm-Rudman.

They will get cut badly because of the exceptions already made by Congress and by the procedure itself. So, if there are those of the elderly who feel comforted by the fact that their Social Security is protected, I can assure them that their health and their future are not and they will not be, either.

I have cited just one small program in one area of this Government's responsibility. The same can apply to the retarded, to the disabled, to those who suffer from cancer, from heart disease, from Alzheimer's, from diabetes, and so on down the list. And it applies to those who are economically disadvantaged, as well.

We are not talking about welfare now; we are talking about opportunity in terms of economics and in terms of a full life. There is going to be a price to be paid and unfortunately, it will not be paid by the politicians who are going to campaign throughout the United States in the year 1986, saying, "I voted for Gramm-Rudman, I am for a balanced budget." The price will be paid by the weakest most delicate elements of our society, indeed by the Nation as a whole.

There are no terms or cliches or slogans that can make real to the American people the impact of Gramm-Rudman on the elderly. But its effects will be real enough. And these matters are going to become more so as politics takes precedence over priorities. I hope that the bill is defeated and that we get to the real business of taking care of people and exercising fiscal responsibility.

Mr. DODD. Mr. President, let me briefly state it is purely coincidental that I happen to be rising to address this matter following my friend and colleague from Connecticut. Too often, we use those words, "friend and colleague" as a sort of Pavlovian gesture before we make statements, but I mean those words, "friend and colleague," as sincerely as I know how to express them. It is that unique circumstance as well that we find ourselves in because, on most occasions in my 5 years here, we have joined forces on issues. But today, we find ourselves in a different position where we are opposing each other on this conference report, the Gramm-Rudman conference report.

The irony is not just that we will be voting differently and come from the same State. The irony is that we are taking the positions we are taking for basically the same reasons. It is my deep concern over what has happened to many important Government initiatives over the last 5 years that has caused me to become a cosponsor early on of this Gramm-Rudman proposal. I have spent the last 5 years as a Member of this body trying to reduce the level of cuts. God forbid anyone should actually suggest a new authorization, a new idea, adding some funds to a program because of the rising cost of living to meet the demands and needs of people who depend upon the Government—be it the elderly or housing, education, health care—a long list of Government initiatives that have enjoyed bipartisan support for many decades in this country. My concern is that if we do not come to terms with the present deficit problem we face, the problem that my good friend and colleague from Connecticut has just spoken of will not disappear; it will become worse.

Not only will the National Institutes of Health and other such worthy recipients of Government assistance continue to feel the blade of the budget knife, but in the coming years, if we fail—as we have—to come to terms with the budget deficit problem, the blade on that knife will grow sharper and the cuts will run deeper, to such a point over the next 4 or 5 years that I think we shall find, should we not adopt this position, that many of these worthy efforts will exist in name only.

So, Mr. President, for that reason, I have been willing and have decided to join as a cosponsor of this proposition. It would be absolutely ridiculous for any of us to suggest to each other or to our constituents that they will not be touched, that this proposition will not fall on them. It will even if we do not reach the point where the automatic provisions of Gramm-Rudman go into effect.

Every single one of our States will feel this. Almost every single constituency group will feel this.

The question for this Member of the Senate was not whether or not this would have a negative impact on our constituencies over the next 4 or 5 years but whether or not we could possibly work our way out of this situation over the next 4 or 5 years and avoid the impact that would be far more profound, far more significant, far more deleterious to our States and our constituencies should we fail to act.

I have heard many Members today suggest that this idea is one that we should not be supporting because of its restrictive nature, that it is a testimony to our failure to come to terms with this problem through normal procedures. I agree with all of that.

I also agree that we are going to have to make some tough decisions. The easiest vote we will cast is the vote this afternoon in support of this proposition. Then the real work will begin in the coming months as we have to implement and vote to see to it that we meet the targets identified in this piece of legislation.

So, Mr. President, while all of us have reservations and concerns about what has occurred here, I believe that for the very reasons I have tried briefly to express this afternoon Gramm-Rudman will do more if it works to assist this country in the long term to make it possible for Government to once again become an active participant in improving the quality of life for many people. If we live with the status quo, the agenda of those of us who believe that Government does play an important role in the lives of people in this country I think will be felt for decades to come, not years to come.

For those reasons, Mr. President, I urge the support of this conference report. I yield the floor.

Mr. CRANSTON. Mr. President, I will vote against the resolution to increase the debt limit because it carries a proposal to reduce our horrendous deficits by unthinking, unnecessary, unwarranted and perhaps unconstitutional means.

I am convinced that Congress can act reasonably and sensibly to reduce the deficit and balance the budget, and I will continue to work diligently toward that end. I want to avoid the irrational cuts which Gramm-Rudman would automatically trigger if Congress fails to reach the deficit reduction targets.

Gramm-Rudman gives a single person—the President—too much power to decide how much the Nation should spend and for what purposes.

I oppose giving this President—or any President—that much power.

The separation of powers between the Congress, the executive, and the judicial is the most important constitutional guarantee of our liberties—along with the Bill of Rights. I do not intend to contribute to the loss of power by Congress while I serve in this institution, nor will I contribute to the creation of an all-powerful Presidency.

I yield the floor, Mr. President.

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

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The bill clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, while we are waiting for other speakers to come to the floor, I have a few comments to make.

I want to address the point of the forecasts of doom being made by all the opponents of this measure. The truth of the matter is that we have a trillion-dollar budget, and all that is asked by the Gramm-Rudman-Hollings legislation is that we cut back on the deficit by some $36 billion a year for the next few years.

If anyone thinks that is impossible, they should go to the Congressional Budget Office and realize that we will have increased revenues of some $75 billion a year for the next 4 to 5 years. So, in one aspect, we are asking that 50 percent of that be allocated to reducing the deficit.

Another way of looking at it, is that if the Congress had adopted the budget freeze which I have proposed for 4 years—1982, 1983, 1984, and 1985—including if we froze tax expenditures, we would also easily pick up $30 billion. If we froze spending we would pick up another $30 billion.

So, what Gramm-Rudman-Hollings does is not require the impossible or mandate cuts or ruin defense or destroy the safety net of social programs. It just says, in a neutral sense, we are not increasing or decreasing taxes, we are not increasing or decreasing spending, but we are going to have truth in budgeting.

The lack of truth in budgeting is why we have gotten by with the charade of what a magnificent job we have done each year on the budget, how we have cut the budget and brought the deficit down—only to learn later that on average, the deficit has increased about $20 billion each year. I'm glad I never supported any of those budget resolutions.

So it is that we all have been given a dollar's worth of government for 75 cents, and we need the attention now of the media to keep our feet to the fire.

It is an awfully complex mechanism, the Federal budget process. But we have guidelines and procedures, and within those, hopefully the average journalist can easily determine that by a certain date, a certain report will come, and by a certain date a committee of Congress is going to act, and by a certain date the Congress will have to act.

Under our proposal, by the end of the fiscal year, we will have to put in place a deficit reduction budget, with the priorities selected by the Congress, have three readings in the House, three in the Senate, knowing that the appropriations bills and other legislative initiatives established by the budget resolution must be passed in accordance with the provisions of the resolution or a sequestering of funds will occur in order to reach the deficit goal for the year in question.

Of course, we hope that the press will look at this not as a fraud or as a gimmick or as a sham or as whatever else it has been called. It is complex because the Federal budget itself is complex.

It has been done with genuine intent, and there is no question that it withstood the wrath of those who would not agree with its objectives.

As I stated earlier today, we have had the best of minds working on this. They have studied it and improved it each step of the way. There is no doubt that we will find in experience during 1986, once it is adopted this evening, that we will be improving it even further.

I hope, as men of goodwill and truth, we will be able to say that the charade is over, that we are going to have truth in budgeting. We have forced a discipline, and let us adhere to that discipline on both sides, in both parties, not only in the Capitol, but also with the President and Congress working together to try to bring down the interest rates and get the growth in the economy that this administration has yearned for from the beginning of its term.

We are in dangerous waters. There is no question that the market reaction we have been seeing has been coming about because Wall Street has been talking to Senator DOMENICI and Senator PACKWOOD. The financial minds have been in Washington, carefully studying this procedure, and they have seen the momentum behind it. They are anticipating that, once and for all, we are doing something real and constructive and interest rates will be coming down.

I attribute the brilliant work of Senator PACKWOOD and Senator DOMENICI to giving realism to a good idea that we had 3 months ago in this long and tortured document. It is detailed, and it is very difficult to follow, but let us not continue with the onslaught of fanciful articles.

I do not have the articles with me, but the Washington Post had an article that it is unconstitutional. Another article said that defense is going to be devastated.

In another article, they changed the name around for the purpose of gimmickry editorially, that Rudman-Gramm is sham and fraud and a trick. That is not a very intelligent contribution to the fiscal dilemma we have found ourselves in over the past several years.

On the constitutionality of it and the delegation of powers, let me say, in
the first instance, having e
the power at State level, no
wants it. I have never seen
go back to the legislature a
legislature cut a certain
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cut. The media names the
Governor. That Governor,
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It is not one of those co
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President that he would ye
cannot eliminate a pro
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other. It is a 50-50 split b
fense and social programs.

I think that the conferees
a masterful job in keepin
the confines of impartiality
reallocation of the powers
on the contrary, a minister
behalf of the President.

With respect to defense t
in a similar fashion to do
grams, let me tell you what
if I were the Secretary of
would take every one of th
ized bureaucracies in the
as the DLA, DCAA, OS
others and make big res
staff. They have increase
sands and thousands of
When the Reagan adm
came in we cut our senator
percent. But over in the P
have added about 120,000
ployees.

Mr. President, if they ap
or me Secretary of Defense
10 minutes the first thing
is to fire half of that top h
in order to get a grasp an
the situation and move
meaningful administration
reaucracy. It is bigger tha
tary can possibly handle.
documented and will durin
priate defense debate hav
paper that will reach from
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of the Senate Chamber
the different organizatio
sonnel that stymie effect
ment in DOD.

It is just outrageous an
outrageous aspect is the
fense personnel. There ar
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are going to have to get
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is not going to happen. T
going to volunteer.

So in the next 5 years w
edging up on the real pers
of our Department of Def

As we edge up toward that, we should reinstitute the Selective Service System and have a universal call for duty without all the gimmickry and exemptions that we had during the war in Vietnam.

We should be moving in that direction. We should be cutting out the top-heavy civilian crowd. And finally, we should look at the numbers of generals and admirals in service. We have more generals now with the 2 million-man troop force in comparison to when we had 12 million under arms in World War II. There are many, many economies that can be instituted in the Department of Defense.

So we are going to take care of the personnel. We are not going to disrupt important contracts. We are not going to vitiate or void the obligation of a contract. And defense can keep on putting out these particular signals that we have devastated defense. We are just going to bring accountability to the Department of Defense.

I am glad at this point to yield to the distinguished chairman.

Mr. PACKWOOD. Mr. President, it is my intention in a moment to move to table the amendment of the Senator from Alabama to recommit, and I am waiting just a moment for him to come from the Cloakroom. I told him I would not make the motion until he was here.

I announce to those who are listening I do not know who is left who wants to speak. There are two or three names of Senators who indicated they wanted to speak. They have not spoken yet.

After the motion to table the motion to recommit, and I expect the motion to table will pass by a substantial margin, it will be my intention to move to final passage unless there are other speakers who very much want to speak.

For the moment, I am going to suggest the absence of a quorum and then move to table very soon thereafter the motion to recommit.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. Mr. President, I have been listening with keen interest to the versions of the basic bill before us by several of my colleagues, and I was somewhat encouraged at times by some of the comments that I heard. I anticipated that after the considerable recitations by several of my colleagues for reasons to oppose Gramm-Rudman that they had changed their mind but in the end I found that with hesitation they were supporting it.

There are no surprises in the speech that I am about to deliver. I am against Gramm-Rudman. I have been against it from the beginning and I remain opposed. So there will be no surprises. While I hope, like the rest, I think we have to have some reality along with hope.

Mr. President, the record of this Senator is clear as a determined fighter for fiscal sanity and against mushrooming deficits. Nothwithstanding that, I cannot, in good conscience, buy a "pig in a poke."

This is the day of "The Great Escape." The headlines tomorrow will likely lead Americans to falsely believe a historic action, a happening, has magically taken place in Washington. Not 1 in 10 Americans now understand that this Gramm-Rudman fiasco is a carefully and clandestinely designed cover for busting through the $2 trillion debt ceiling limit. Mind you, Mr. President, that since 1981 this Nation has plunged into the depths of never-before-imagined deficit spending. We have doubled our national debt in 4 years. This administration, widely and falsely perceived as fiscally conservative, has created more debt than all the previous administrations combined.

When President Reagan assumed office with an explicit promise to balance the budget by 1984, every man, women, and child in the United States owed as their per capita share of the then just under $1 trillion amassed debt, $5,000. Today, that figure has doubled to $10,000 each with the $2 trillion debt. Mr. President, my six grandchildren, plus two more on the way, object. They simply cannot afford it.

We have been sold a bill of goods with the so-called laughable curve, sometimes known as the laffer curve, and growing our way out of the deficit. We now recognize it as nonsense. We languish in the incredible belief that those who got us into this mess have the knowledge to get us out. "The day of the great escape" is here and it is December 11, 1985. They have concocted an escape from the political penalty of their actions by cleverly concealing their vote to bust through the historic $2 trillion debt ceiling by covering their tracks with an unworkable concoction known as Gramm-Rudman. This purports to balance the budget in the future in what I view as an unworkable straightjacket.

Mr. President, this is another December and it may be another day in infamy. The first was by a foreign power. This December we are doing it to ourselves. This is a day in infamy when the Senate, the supposedly most deliberative body in the world, is about ready to shoot itself not in the foot, but in the head.

No one can say this is not a hastily designed piece of legislation devoid of customary committee consideration, hearings, and approval. The only record established is that we have a problem in not having enough votes to pass President Reagan's request for a further increase in the debt ceiling to over $2 trillion. This concoction is a political way out of a political problem and as such is so suspect on its face as to not deserve consideration. Possible constitutional questions are brushed aside.

In another sense, Mr. President, this is "The Day of the Condor" in the Senate. This measure will surely set loose the vultures to plunder the basic readiness of our national security structure, while simultaneously launching the most expensive national defense system in history, the multibillion dollar SDI Program, on top of firm promises to not interrupt other multibillion dollar additions to other complicated and expensive defense initiatives, we can be assured the vultures will prey on readiness. They always have and they always will.

Since over half the budget, to satisfy basic constituencies, has essentially been expempted from meaningful cuts to reach the "pot of gold at the end of the 1991 rainbow," other programs, including agriculture which is now in a desperate economic straightjacket, will have to be devastated. This mentions only one domestic program, and as we all know, there are many others.

What do we do? We act responsibly by defeating Gramm-Rudman on this day of days in the U.S. Senate. We return to our senses, pass a temporary debt extension, and return this ill-conceived legislation to a responsible committee for major overhaul, if not total rebuilding.

Mr. President, my grandchildren and I are concerned and want considered action, but not destruction. I will vote no and encourage my colleagues to do likewise and not get caught up in this pretext for progress on the deficit. Mr. President, I urge thought and not thoughtlessness. Let us not sell America short for the expediency of covering up the vote on the $2 trillion debt ceiling increase. It will all come out sometime, although it is the best current kept secret in Washington and in the land.

(Mr. GARN assumed the chair.)

Mr. STEVENS. Mr. President, I have been involved in the conference committee on the continuing resolution and I have missed some of the explanation here. But I have come to the floor as chairman of the Defense Subcommittee to ask a couple of questions and I hope that I can get some answers. I am concerned that the new version of the Gramm-Rudman-Hollings proposal now removes any incentive during the appropriations process for reductions that can be achieved in

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either defense or nondefense expenditures.

By that I mean, let us just assume that we had a $300 billion defense authorization and that, by virtue of our committee hearings, we could develop proposals to reduce that by at least 10 percent and we did reduce it 10 percent. We came in $30 billion below the budget.

As I understand this bill before us, even though we did that, when the deficit goal was computed and this triggered, there would be half of the remaining deficit assessed to the defense area. Let us assume that that would be a $40 billion total amount. We would take $20 billion of that in addition to the 30 we had already taken.

Under those assumptions, if we had not taken the $30 billion reduction that was legitimately discovered in the course of the hearings and came in at the budget level of $300 billion, and there was a $75 billion deficit, we would take half if it. So, instead of taking a $50 billion reduction in defense, we would get a $37½ billion defense if we sat on our hands all year and did nothing.

Now the same thing works in nondefense. This is not a defense versus nondefense issue. The question is, where is the incentive in the Gramm-Rudman proposal now to bring about legitimate reductions in the budget, wherever we locate those reductions, prior to the Gramm-Rudman trigger? We get no credit whatsoever at the time that later reductions are made.

Other portions of the budget could well be over the amount of the budget, at least they could be at the budget level. Those that have done their work and dug in and held hearings day in and day out and made reductions are going to face the same result. As a matter of fact, it is a worse result than if we had just gone through and rubber stamped the authorization proposal, fully funded it, and brought it to Congress and had it approved.

Now, I ask my good friends who are backing this version now, why is there not some incentive for reduction below the budget ceiling in the normal course of events here preserved as far as this proposal? It was in the original proposal and it is not there now.

I understand the Senator is saying this was not there. The original proposal I saw was that the reduction came from the budget level and if there was a $30 billion reduction that had to be made, it would be across the board. Then we started exempting some of them and now we have islands of immunity, 50 percent on defense, 50 percent nondefense. But no consideration whatsoever to the reductions that were made in the bill.

Mr. PACKWOOD. Mr. President, the Senator from Alaska has put his finger on a genuine problem. The Senator was wrong about it being in the original bill. We tried to figure out a way. At one time, we did consider a process by which the sequester would be against those programs that exceeded the budget level of the congressional budget, but it would not operate against those that were below it. And defense was below it and it would not have operated against it. We tried and we tried and we tried, to Senator DOMENICI's credit, Senator GRAMM's, and everyone else's, to come up with a process whereby you could give credit for reconciliation or credit for savings or credit for staying within the budget. We could not draft it. We gave up on trying it for 1986 because we are so far into this year that, whatever we do this year, the process is going to be an aberration.

All we can say is everyone is in the same boat together.

And the Senator correctly expressed the attitude and others will express the attitude, everyone who loves the Medicaid Program and loves every other program, of why should we go through a normal budget process and cut, why should we go through a reconciliation process and cut, because if we do, all we are going to get is get cut further because we did our duty, and those who do not do it will not get cut as much. That is a problem to which I do not have an answer, except we are all in the same boat together.

Here is what I imagine may happen: When the President brings his budget to us for 1987, he is going to have in the budget a 3-percent-above-the-rate-of-inflation increase, a 3-percent real increase, 6 percent or 7 percent, depending on the rate of inflation. He will not have a tax increase and he will meet the $144 billion budget totals. He will do it by suggesting the termination of 30 to 50 domestic programs, at an average cost of about $1 billion apiece; some of them more, some of them less. And whether it is 30 or whether it is 50 will depend upon how much he has to cut to reach the $144 billion total. That is the budget that will come to us.

We will go through January, February, and March and there will not be any action in Congress. We will not have passed any authorization; certainly, no appropriations by March or April, including the military appropriations.

At some stage, the President is going to begin to worry about the levels of defense, as will many of us in this body, and at some other stage some people are going to begin to worry about whether their favorite domestic programs might be sequestered. There is going to be some furious bargaining and negotiating between the President and the House and the Senate, Republicans and Democrats, liberals and conservatives, which I believe will bring out the best, not the worst, in us, because we are all going to
having to reach that $144
whether it is by cutting
grams, defense, raising ta
ever.

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will work? No. If worse co
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will not appropriate.

Mr. DOMENICI. Will
yield? May I make a fur
tion?

Mr. STEVENS. I would
my points and leave. I ha
to the conference in 15 m

It seems to me the in
the Senator from Orego
will listen to my frien
have given up on finding
the real basic problem
what is the incentive,
budget in the first insta
have that incentive, we

to the Gramm-Rudman trigger. I always thought we would work out something that would give us that incentive.

Mr. DOMENICI. We have.

Mr. STEVENS. I remain to be convinced that we have it.

I think we can develop it, and if the Senator is convinced that the Senate is behind him, he can still do that. I do not see any reason for the assumption that many people have that this automatically is going to lead to a tax increase. There are some things we can do that will substantially reduce defense costs if the country had the will to do them.

The Senator from Mississippi I see is here. If we could change our whole defense policy to rely more on the Guard and Reserve, and demand our commitments to NATO with the Guard and Reserve and not by permanent personnel, we could have a substantial reduction in costs of the NATO commitment. If we did that, we would effect substantial savings in the budget.

But, again, all I say is, if we effected those substantial savings, we would still take the further reduction that would affect our readiness because the other portions of the budget had not done the same thing. They will not have reduced the budget. Then we come back in here, and we have 30 days after that trigger takes place in the years after 1986, as I understand it, for Congress to adjust those figures; Congress to do something different than what is spelled out in this sequestration order.

All that means to me is 30 days in which the defense budget will be reduced further. That is where the answer has been ever since we started the budget process that the reductions have primarily come in defense, and they are coming in defense again this year. We are looking right now at a bill that is going to be probably in the vicinity of minus 3 to 4 percent real growth. That is even before this trigger hits us.

Will the Senator from New Mexico tell me how much can I tell the conference will be the automatic reduction cost by Gramm-Rudman in terms of the Defense bill when it comes into effect in February?

Mr. DOMENICI. The Senator can tell them that the maximum will be $5 billion.

Mr. STEVENS. I heard it was $5.5 billion.

Mr. DOMENICI. $5 to $5.5 billion, depending upon the amount of savings from the retirement cost-of-living adjustments.

Let me say to my friend, actions that came after the budget resolution have caused defense to get cut. I hope the Senator understands that is not because of the budget resolution, but rather because the appropriations in the other body have moved money from military to domestic programs, and spent it there.

But, second, the Senator suggests there is no incentive. He pointed out that if Defense programs are cut during the normal budget process and non-Defense programs are not, this bill will require further cuts and Defense will be bit twice. That may happen in fiscal 1986 because we are starting this process in midyear. But next year, when we have this process in place from the start, no one is going to cut their program unless we have a budget—a budget that is binding—that meets the deficit goal of $144 billion.

That is going to be arrived at, as the distinguished chairman of the Finance Committee just said, by a lot of hard negotiating. And no one is going to cut Defense by $30 billion or any other amount unless we have a game plan that will assure the entire budget is carried out.

What is going to happen is we are going to have a binding budget resolution for the first time with all of the parts binding. That budget resolution will probably say that Defense gets cut, but it will also likely say that a whole bunch of non-Defense programs get cut. If those in charge of one program see that the required cuts in other programs are not coming through, they are going to do just what the chairman of the Finance Committee said: They are going to do nothing. They are going to let sequestration occur.

Mr. STEVENS. I am going to vote to recommit. The Senator from New Mexico just answered my question. That is what I was afraid would happen. People will sit around and do nothing.

I do not know why we cannot develop the mechanism for the reduction in the normal process.

Mr. DOMENICI. The Senator did not let me finish my point. I said, and I would like him to listen to this, if we do not have a realistic and enforceable game plan to reach the goal, there is no incentive to get the job done. But the fact that otherwise there is going to be this huge sequestering had better be an incentive to get the job done. If that is not an incentive, what is an incentive?

If Congress and the President do not come up with a game plan, everyone's favored program is going to get clobbered. Defense is going to get its share of the cuts in an arbitrary manner if we do not come up with a game plan. Tell us how there can be more incentive for the President and these two Houses of Congress.

Few will be inclined to sit around for 8 months once we know the deficit will be no greater than $144 billion and let programs be cut arbitrarily.

I submit this bill provides the greatest incentive we have ever had—not perfect, but an awful lot better than anything we have done before.

Mr. DENTON. Mr. President, will the Senator from Alaska permit me to ask the Senator from New Mexico a question on this subject?

Mr. STEVENS. I yield to the Senator.

Mr. DENTON. I ask the Senator from New Mexico, who I know has labored for so long and come out with what he thinks is the best he could come out with, if he would realize that my motion to recommit need not waste an hour in conference. Even if the Senator knows he cannot get that, it would represent a show to the world that the Senate of the United States is interested in trying to permit the President of the United States to at least express his opinion regarding that which should not be sequestered if sequestering caused harm to the national security. It might even be accepted by the House, since the vote by both Houses would only have to be a majority to overrule that prerogative of the President.

Mr. DOMENICI. I understand that, Mr. President. I talked with the Senator at length. Clearly, I support that. Frankly, I believe national defense is just as likely or more likely to get maximum funding under Gramm-Rudman than it is today.

Mr. DENTON. This takes belief out of it, though, my colleague, because it at least gives the President that small prerogative which we have otherwise pretty much taken away from him almost entirely.

Mr. DOMENICI. I believe we take away the chance of getting what we want—a balanced budget trend line and a mix of policies that will get this country to the right place—if we do what the Senator suggested.

Mr. STEVENS. Mr. President, one final question to my good friend. That is this: In the years that we have been involved in the budget process, we have appropriated less than the budget resolution for defense. We have never appropriated that level.

Mr. DOMENICI. One year we did, 1981.

Mr. STEVENS. That was because of the change of administration and change of levels. But in the years since then we have appropriated less than the budget resolution. In terms of this trigger and the way it is applied now, if that continuum goes out into the future in 1987, 1988, does not mean that defense takes a redundant cut if the others come in at the budget level?

Mr. DOMENICI. I would think not.

Mr. STEVENS. By definition we are in the position where if we do not have the concept of meeting this goal that is created by Gramm-Rudman, there is going to be a second hit, is there not?

Mr. DOMENICI. Everybody in Government, except the excluded pro-

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grams, will be hit the second time if we do not meet the targets. That can happen in two ways, either not getting the job done or being untruthful or exaggerative in our economic estimates. If we miss the targets, everybody will be hit again.

If we are truthful in it and careful with regard to the fiscal year 1987 budget, you are still going to be OK. There is a $10 billion buffer in each year, instead of a $144 billion maximum deficit it becomes $144 billion plus $10 billion. If you come under that $154 billion maximum deficit target, nobody gets hit. But if nobody does their job, almost everyone's favorite program will get hit again.

Frankly, I cannot see any other way to do it. We tried in the past and failed. It is impossible to do it any other way.

Mr. STEVENS. There must be some way to give credit to those people who do their job. I come back to my original proposition. If we come in below the budget we still get penalized if the figures changed; whereas those people who come in above do not get penalized for being above and do not even get forced down to the budget level, as I understand it. Am I correct?

Mr. DOMENICI. No, they will be forced down now. None of those traditional laggards can now exceed the budget. As each one comes to the floor, the bill must either be on target or below it. If it is at or below the target, it is in order. Everyone will know that the next bill will have to fit or it will have to be cut. So you have a great deal more protection.

Mr. PACKWOOD. Mr. President, I move to lay on the table the motion of the Senator from Alabama to recommit and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Oregon. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. EAST], Senator from Arizona [Mr. GOLDWATER], Senator from Pennsylvania [Mr. HEINZ], and the Senator from Nevada [Mr. LAXALT] are necessarily absent.

I further announce that if present and voting, the Senator from Pennsylvania [Mr. HEINZ] would vote "yea."

Mr. CRANSTON. I announce that the Senator from Delaware [Mr. BIDEN] and the Senator from Mississippi [Mr. STENNIS] are necessarily absent.

I also announce that the Senator from Florida [Mr. Chiles] is absent because of illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 76, nays 17, as follows:

[Rollcall Vote No. 370 Leg.]

YEAS—76

Abdnor
Andrews
Armstrong
Baucus
Bentsen
Bingaman
Boren
Boschwitz
Bradley
Bumpers
Burdick
Chafee
Cochran
Cohen
Cranston
D'Amato
Danforth
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Eagleton
Evans
Ford
Gore
Gorton
Gramm
Grassley
Harkin
Hart
Hatch
Hatfield
Hawkins
Hollings
Inouye
Johnston
Kassebaum
Kasten
Kennedy
Kerry
Leahy
Levin
Long
Lugar
Mathias
Matsunaga
Mattingly
McConnell
Melcher
Metzenbaum
Mitchell
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Riegle
Rockefeller
Roth
Rudman
Sarbanes
Sasser
Simon
Simpson
Specter
Stafford
Trible
Warner
Weicker
Wilson
Zorinsky

NAYS—17

Byrd
Denton
Exon
Garn
Glenn
Hecht
Heflin
Helms
Humphrey
Lautenberg
McClure
Moynihan
Quayle
Stevens
Symms
Thurmond
Wallop

NOT VOTING—7

Biden
Chiles
East
Goldwater
Heinz
Laxalt
Stennis

So the motion to lay on the table the motion to recommit with instructions was agreed to.

Mr. CHAFEE. Mr. President, I intend to support the bipartisan compromise version of the Gramm-Rudman-Hollings amendment. Regretfully, it appears that through its passage is the only way we can begin to resolve the most pressing domestic problem our Nation faces today—our massive budget deficit.

The deficit—still hovering at about $200 billion—has occupied more of the Senate's attention than any other issue this year, and well it should. Large deficits threaten our economic recovery. They make it difficult for manufacturers to compete in world markets. They hinder industrial expansion. And, most importantly, they mean fewer jobs for American workers.

If we can set the deficits on a downward path, every American stands to gain. This requires resolve on the part of both Congress and the President to make the spending reductions necessary to cut the deficits. It also requires a willingness to set priorities—to determine which Federal programs merit continued support, and which programs we can no longer afford.

At this we have failed. After nearly a year of continuous debate, there is little indication that we are serious enough about the deficits to make
choices. Everyone agree
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for deficit reduction over
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board sequestering proce
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Health would be protected
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Many of these are prog
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of spending cuts during
budget process. However,
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the Gramm-Rudman-Holl
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that education, environm
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and child health could be
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est share of reductions.

In order to avoid the
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programs, it is my hope
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the Gramm-Rudman-Ho
will never be triggered.
work diligently, as I did
assure that worthwhile p
not sacrificed merely beca
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hard choices.

One of these choices m
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new taxes. But it will be
for us to exclude new re
discussion. Such alternati
mum corporate tax or a

tax preferences would not only produce revenue to help cut the deficit, but would help to assure that the burden of deficit reduction is spread more evenly.

The Gramm-Rudman-Hollings plan is far from ideal. But the deficit crisis is an extraordinary situation, with deeply troubling consequences for our economy. It requires an extraordinary solution. This amendment—although far from perfect—offers us a solution, and I believe it would be irresponsible for us to ignore it today.

It has been said that the Gramm-Rudman-Hollings plan means the end of the congressional budget process as we know it. This is a process which, though not perfect, does enable Congress to assign budgetary priorities and, through reconciliation, achieve responsible savings in Federal programs. It is my hope that the passage of the Gramm-Rudman-Hollings amendment will instead strengthen the existing process, resulting in greater willingness to bring Federal spending under control with the tools we already possess.

The Gramm-Rudman-Hollings plan thus poses to us an enormous challenge: to pass a budget which imposes the burden of deficit reduction as fairly and swiftly as possible. It is also an opportunity—to bring down the deficits and to assure that prosperous times will continue. This remains an opportunity we cannot afford to lose.

Mr. LEAHY. Mr. President, to preserve our indepedence, Thomas Jefferson wrote, we must not let our rulers load us with perpetual debt. We must make our election between economy and liberty.

Today, Mr. President, we choose the freedom to govern ourselves and not be controlled by our own indebtedness. More importantly, by passing the Gramm-Rudman-Hollings balanced budget plan today, we leave our children a future in which they may set their own priorities and choose their own direction, unbridled by the legacy of deficit spending which has transpired in these last 5 years.

Mr. President, I applaud the efforts of the House and Senate negotiators who worked tirelessly to make the final version of the Gramm-Rudman-Hollings deficit plan fair and responsible. They have fashioned a plan that retires the national deficit in 1991, while also protecting those programs which help the most needy—the programs that help make our society compassionate and civilized. And, for the first time in 5 years, the Gramm-Rudman-Hollings plan acknowledges that we cannot balance the budget without making economies in defense spending.

Specifically, the final version of the Gramm-Rudman-Hollings balanced budget legislation, the product of bipartisan cooperation, would require the President to submit a budget to Congress each year which reduces the deficit by $36 billion. In 1991, the President must submit a balanced budget. Congress must also pass a budget, reducing the deficit and then retiring it in this manner. Very significantly, this measure forces the President to specify how he would balance the budget and legally requires Congress to make its own tough decisions.

If Congress fails to reduce the deficit by $36 billion, the President may carry out across-the-board spending cuts as directed by Congress. He may not pick and choose which programs to cut, but must follow a formula established under Gramm-Rudman-Hollings.

Half of the cuts would come from defense spending, the other half from most domestic programs. Eight programs for the most needy and Social Security would be exempt from cuts. This is in keeping with our obligations as a caring society. In addition, cuts in Medicare, veterans' health care, and three other health care programs would be limited to 2 percent.

It is important to note, however, that the President should never have to order a spending cut, if Congress meets the deficit limits established under Gramm-Rudman-Hollings.

A provision has also been included which allows Congress to waive the spending limits in the event of a serious recession or war. This measure of flexibility is vital to maintaining the vigor of our economy and the strength of our defenses.

The Gramm-Rudman-Hollings balanced budget plan takes effect this year. The tough decisions will not be put off. Under the new law, the President must submit a plan to reduce the deficit for this year, by an additional $12 billion. Congress must enact a plan of its own to achieve these savings by March 1, 1986, or else automatic spending cuts would be ordered by the President. The same rules would apply to those spending cuts: half from defense, half from domestic programs, except Social Security and poverty programs.

Gramm-Rudman-Hollings sets Government on the course toward fiscal responsibility. But, above all it promises an American future full of growth and opportunity and compassion for every member of society.

Today, we spend 14 percent of the annual budget making payments on the national debt, more than twice what we devote to educating the next generation, creating jobs, stimulating investment and scientific research, and providing services and economic opportunity to the disadvantaged.

If society is judged by how it treats its most vulnerable and needy citizens, what kind of society would we be if we locked ourselves and children into a cycle of debt, in which we would not have the resources to help poor Americans?

How civilized—how advanced—would we be if we could not afford to pay for the research that cures disease, for the research that turns arid plains into prosperous farm land?

How fair would we be, if all consumed by paying off the debt, we could not afford to provide needy children with school lunches that give them the energy to learn and compete and grow?

How strong would we be, if we could no longer afford as a nation to stimulate the risk taking that drives small business, and creates jobs and independence for those without them.

Finally, Mr. President, how free would we be if we could not choose to do any of these things, because we waste more and more money on interest payments? We may disagree, as Democrats and Republicans, as advocates of one program or another, as representatives of disparate States, on how to spend our limited tax dollars.

But, on one issue we are united. We should be free to choose how we spend our money, and be free to choose a direction for our Government. That choice should be guided only by democratic debate and decisionmaking and not by the artificial constraints of a Federal budget largely devoted to paying the penalty of past mismanagement and the failure to make tough choices.

Despite what some have said, Congress has begun making the tough choices. And there is no question that the choices ahead will be difficult. Some significant sacrifices will have to be made—sacrifices in virtually every program and endeavor of Government, including those which I support.

But, we have acted today and will make the tough choices in the next few years so that in the future the choice will again be which direction to take, which national energy to pursue, and not what to sacrifice, what to cancel, or what to cut.

Mr. RUDMAN. Mr. President, in reviewing the joint explanatory statement of the conference committee, I noticed that the following paragraph regarding section 274 was omitted:

> The purpose of subsection (e) of section 274 is to protect the public's critical interest in reducing the federal budget deficit by ensuring that funds sequestered pursuant to an order under section 252 of this title are not obligated or expended before legal action challenging such sequestration is finally disposed of. The conferees find that the interest of the public at large is much more compelling than the interest of a particular claimant in attaining slightly more rapid access to the funds at issue, which would normally represent only a small percentage of the total available funds. Were funds to be obligated or expended prior to final disposition of a legal action and the sequestration upheld, it would, both as a legal

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and practical matter, normally be impossible for such funds to be recovered.

Is it not correct that this paragraph had been agreed to by the conference committee and that its omission was accidental?

Mr. DOMENICI. The Senator from New Hampshire is correct. The explanatory statement of the conference committee should be read as if that paragraph were in it.

Mr. HATFIELD. Mr. President, today Congress will vote to adopt the conference report on Gramm-Rudman and with that vote will embark on the most dangerous departure from proper lawmaking I have witnessed in my 19 years in the Senate. With the laudable goal of achieving a balanced budget, Gramm-Rudman gives away fundamental congressional power the consequences of which will serve to undermine the legislative process of this great Nation.

Rather than spend time deciding which Senator or staff member should receive credit for assisting in formulating this legislative Pandora's box and then issuing press releases describing how each helped cut the deficit, I urge my colleagues to seriously consider what is lost by the implementation of this amendment.

Perhaps one of the most cogent articles I have read on the costs of enacting this legislation is David Broder's piece entitled "The Rudman-Gramm Balanced-Budget Sham" found in today's Washington Post. Rather than reiterating the points that are so aptly discussed by Mr. Broder, I simply urge my colleagues to read the article.

Mr. President, the time for directing blame for our deficit crisis has long passed. We delude ourselves if we actually believe that our budget deficit problem is the result of anything other than the basic failure of this body, and of the House, to make the hard choices inherent in formulating a budget. We were elected to act as lawmakers and policymakers, not spectators. Yet charades such as Gramm-Rudman make us that, and no more. I am concerned not only about the potential consequences of this amendment, but also about how enthusiastically my colleagues have embraced the results.

Part and parcel of exercising our congressional responsibilities is the need to give each program due consideration when setting fiscal priorities. At a minimum, Gramm-Rudman abdicates this responsibility. We violate the public trust when we deliberately fail to exercise the thoughtful analysis required of us when considering quick fix legislation such as this.

Mr. DOMENICI. Mr. President, before we complete action on the Gramm-Rudman-Hollings measure, which has occupied the Congress for much of the past 3 months, I would like to thank the many staff members who have worked to make this agreement possible.

Many staff have spent days and nights at their offices, especially in the past 2 weeks. Some have not been home at all for days at a time, and some have been home for only 2 or 3 hours a day. For several staff members, 20-hour days have become routine. As Majority Whip FOLEY said yesterday at the conclusion of this conference, the staff work was truly heroic.

I would like to thank by name everyone who helped, but I know that I would overlook many. However, let me start with a special tribute to Richard Lauderbaugh of the Senate's Legislative Counsel's Office, who drafted and redrafted the many versions of this bill. He and those in the Counsel's Office who worked with him were a critical part of getting the work we needed done. In addition, I want to thank Larry Filson of the House Legislative Counsel's Office; Mr. Filson, too, was invaluable in this process, especially in the hectic days of compromise and quick drafting.

The majority and minority staffs of the Senate Finance Committee, under the leadership of staff director Bill Diefenderfer and minority staff director Mike Stern, played key roles; and, the staff of the Senate Governmental Affairs Committee, especially Ms. Margaret Hostetler, worked willingly and well to help us.

The staffs of Senators GRAMM, RUDMAN, HOLLINGS, and the Senate Parliamentarian Bob Dove and his office contributed to this product and the minority staff of the Senate Budget Committee, headed by Minority Staff Director Richard Brandon, played an important role.

On the House side, I must thank the staff of the House Ways and Means Committee, especially Wendell Primus, and House Appropriations Committee staffer, Del Davis, both of whom worked extraordinary hours, under extreme pressure, and always with good grace and great effectiveness. The House Budget Committee staff Chief Counsel Pat Quealy contributed greatly to this product, as did the personal staffs of the majority whip, Representative FOLEY, and of the Representatives GEPHARDT, ASPIN, and PANETTA. In addition, other staff members from the House Budget Committee helped generously.

I save the most heartfelt of thanks to the majority staff of the Senate Budget Committee, headed by Staff Director Steve Bell. Mr. Bell was along with Sid Brown of the Senate Budget Committee staff, at the core of the entire staff process. Along with Mr. Bell and Mr. Primus, Mr. Brown and Mr. Davis bore the brunt of and directed and reviewed almost every aspect of the staff work. Senate Budget Committee Counsel Ms. Nell Payne was also involved throughout the process

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role. I believe the entire
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Budget Committee majo
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difficult legislation.

Mr. LEVIN. This legisl
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you concur in that view?

Mr. PACKWOOD. Ye
in that view.

Mr. KENNEDY. Mr.
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Mr. DOMENICI. Mr.
me take a minute to
with regard to sequestr
ing defense contracts.

As you know, this bi
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required savings for a
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quester order by propos
or terminate existing
tracts. Under the terms
sequester order require
President may send a
Congress and the Gene
Office proposing savings

defense contract by modifying or terminating the contract. He must provide details on his proposal, and the savings claimed must be net of any additional costs incurred in that year as a result of the modification or termination. If the General Accounting Office certifies that the proposed savings are indeed achievable, the President may take them into account in his final sequester order regarding defense programs.

I understand there may be some concern that the President could propose a modification of a contract in such a way that he could claim outlay savings through stretchout or similar means without the necessity to cancel any obligational authority available under the contract. I want to make it very clear that the conferees intend that each dollar of outlay savings proposed by the President in such an instance be matched by cancellation of at least a dollar of obligational authority. This will help us to achieve real savings rather than simply a delay in the date outlays will occur.

If a proposed contract modification would achieve outlay savings, for example, by delaying production or stretching out delivery schedules without deobligating and canceling funds, the General Accounting Office should not certify that the proposed savings are valid. It is clear from section 251(d)(3)(E) of this bill that funds must be deobligated and canceled in order for savings from contract modifications and terminations to be credited toward sequestration.

Mr. ROCKEFELLER. Mr. President, I am pleased that the House and Senate conferees were able to reach agreement on this most important legislation. This has been a difficult and divisive debate, as the Congress wrestled with the broad ramifications of the deficit reduction course outlined by Gramm-Rudman for both the state of our economy and our national priorities. I think this process has resulted in some notable improvements in the legislation, and the final version provides significantly clearer direction from the Congress as to how any automatic cuts in spending required to meet the annual deficit targets are to be applied.

I support this approach of requiring a specific sequence of deficit reductions over a 5-year period—backed by automatic spending cuts if needed—because I consider existing budget procedures unequal to the task. The deficit levels projected for the rest of the decade pose a fundamental threat to our country's economic vitality. The high interest rates and severely overvalued dollar—which have cost America jobs in a wide range of industries—are the legacy of an unbalanced set of economic policies that we simply have to correct. We can't afford to let this situation continue; we can't go on devoting an everincreasing share of our national wealth to paying interest on the national debt. Interest costs have risen from $52 billion to $130 billion during the last 5 years, and will grow to $230 billion by 1990 if the series of deficits stretching before us is not changed. In the absence of procedures which force such action, I feel the chances of doing more than chipping away at the deficit are slim.

We in the Congress have a tough job ahead of us to make this process work. We have a statutory obligation to meet the deficit targets, but we still have choices over how the deficit reductions are accomplished. We will still be debating the merits of particular programs, and we still have the responsibility of shaping fiscal policy in a manner consistent with our priorities. I do not view the Gramm-Rudman legislation as any kind of endorsement of the Reagan administration's agenda, and I will continue to fight the President's efforts to slash away at education, training, child nutrition, research and development, transportation, and other programs that are critical to our future growth and economic well-being. In heightening the urgency of deficit reduction, this legislation also promises to sharpen the debate over priorities in years to come.

Mr. President, we cannot continue to allow the deficit problem to cloud our future. It is up to our national Government to ensure the stability of our economy, and pursue fiscal and monetary policies conducive to growth. I support this legislation in the hope that it reinforces this commitment: That real progress toward deficit reduction will help to bring the days of sky-high interest rates, distorted exchange rates, and intolerable levels of unemployment to an end. Deficit reduction will require swallowing some bitter medicine. But far from symbolizing austerity, deficit reduction should be seen as the difficult means to a brighter future—and to a positive outlook for industry and employment in this country.

Mr. MITCHELL. Mr. President, when the Gramm-Rudman-Hollings amendment was first proposed in early October, I voted against it because I objected to the summary procedures under which it was brought up and because I believed it contained very serious flaws that would prevent its fair and consistent application.

I was not then, and am not now, opposed to the basic rationale for the legislation, which is to force the necessary deficit reduction decisions that have so far not been made. Accordingly, when the Gramm-Rudman-Hollings amendment was first offered, I voted for an alternative offered by Senator CHILES that incorporated the automatic reduction mechanism and provided for more equitable deficit reductions over a shorter period of years.

At the time, I raised three specific objections to the substance of the Gramm-Rudman-Hollings amendment. First, I disagreed with the uneven cuts it would have imposed. Some programs would have suffered deep cuts; others would hardly be cut. This is because the automatic reductions were based on budget authority figures. The automatic spending reductions required would have had no relationship to program costs or policy priorities.

Second, I objected to the program exemptions in the original amendment which would have spared as much as two-thirds of the Federal budget from the automatic spending reductions. No policy rationales were offered for such exclusions and, in fact, the authors of the amendment were not even aware that all farm programs and 40 percent of the defense budget were spared from the automatic reductions.

Finally, I was opposed to the effective date of the original amendment that would have permitted the deficit to actually grow in this fiscal year. This was the major weakness of the amendment. It would have made a bad situation worse, not better.

Over the past 2 months, the original legislation has undergone major revisions. All three of my original objections have been addressed.

In each case the legislation has been changed in a way that satisfies my objection. The congressional process has been permitted to work and the members of the conference committee have been able to give this far-reaching measure the kind of attention it requires. Although the basic thrust of the proposal—to require automatic spending reductions if Congress does not meet certain deficit targets—has been preserved, the specific elements have been rewritten to greatly improve the proposal.

I am pleased that the Senate conferees have agreed to the House position that the deficit must be addressed beginning in this fiscal year rather than being put off until after the next election. In my opinion this was an essential change that gives this proposal credence as a serious effort to deal with our deficit problems. I am also pleased that defense spending will contribute its appropriate share to the deficit reduction effort under the sequester order. In addition, I strongly support the conferees decision to provide an interim period, but with a specific terminal date, in which Congress can consider alternative deficit reduction legislation.

Based upon these changes to the original proposal, I will vote for the conference report because, as I have said many times, I believe continuing large budget deficits to be the most serious domestic problem confronting

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in annual Federal budget deficits have produced a fiscal crisis in this Nation that poses a serious threat to our future economic health. My fear is that whatever action we take to control the deficit will have been too late; the doubling of the national debt over the last 5 years to $2 trillion has already created fundamental economic instabilities that may result in a lower standard of living for future generations.

My hope is that the automatic spending reductions that would be imposed under this legislation never go into effect. This bill will serve the Nation best if it forces the President and the Congress to make the difficult decisions to reduce the budget deficit by a sufficient amount to meet the mandated targets in the legislation. And if those targets are not met, then Congress should exercise its responsibilities to enact legislation to reduce the deficit further without the automatic reductions taking effect.

Mr. President, the fiscal policies of the last few years simply can no longer be tolerated. This is extraordinary legislation. But this Nation is confronted today with an unprecedented fiscal crisis that requires an extraordinary response. However, no one should believe that this legislation is a substitute for the leadership needed to make the hard decisions to reduce the budget deficit in a manner which is fair, reasonable, and prudent.

Mr. LAUTENBERG. Mr. President, I will vote against the conference report on House Joint Resolution 372, embodying a revised version of the Gramm-Rudman-Hollings amendment that the Senate approved in October and again in November. I opposed the amendment then, and I must oppose the amendment now.

I support the goal of significantly reducing our budget deficits. We should act now to reduce deficit spending. I oppose the conference report because the plan it includes would seriously undermine the balance of power between the Congress and the Presidency. I oppose the conference report because instead of setting budget priorities, it would avoid them. Instead of ensuring continued economic growth, it could, by forcing cuts even during an economic slowdown, increase the chances of economic contraction and recession.

Mr. President, the outline of the proposal is basically unchanged from the previous version. Budget deficit targets are adopted, leading to a balanced budget by fiscal year 1991. If budget and spending measures are not enacted into law that would meet those targets, given a $10 billion margin of error except in fiscal year 1986, and fiscal year 1991, then across-the-board cuts in Government spending would be imposed. The cuts would

fense.

The major change is that programs critical to the poor would be exempt from across-the-board cuts. These include supplemental security income, Medicaid, aid to families with dependent children, feeding program for women, infants and children, food stamps, child nutrition, veterans' compensation and pensions. Certain health programs, including Medicare and veterans health care, would be subject to no more than 2-percent annual cuts.

These changes are welcome. And they are intended to make the plan acceptable. But, for me, they are not enough.

What is wrong with this scheme?

The pending amendment would upset the constitutional balance of power between the Congress and the Presidency. The amendment sets deficit targets, and we need targets. That is what the budget process is all about. But, under the pending amendment, Congress could pass a budget, it could pass appropriations bills, and a reconciliation bill that achieved the target. Yet, the President could use his veto power and reject those congressional efforts, forcing a shortfall in deficit reduction, and triggering blind, across-the-board cuts in Government programs.

I am not willing to hand a trump card to a President who has sent the Congress budget after budget that would have hurt my State. I am not willing to invite mindless budget cuts—in environmental protection, education, or health care—instead of taking responsible steps to reduce the deficit.

That is another major flaw in the plan. Instead of forcing the Congress and the President to set priorities and to make decisions, it would allow the Government to avoid them. The amendment sets few priorities. If deficits exceed the targets, and automatic cuts must come, they will come indiscriminately. Cancer research would be cut as deeply as limousines for bureaucrats. Spending for environmental protection would be cut, while no effort would be made to reduce tax credits or to require corporations or individuals to pay at least a minimum fair tax.

The plan would cut not just the fat, but the muscle from Government. We'd cut the FAA, while planes fall out of the sky. We'd cut the Coast Guard, while drugs flood our cities. We'd cut the FBI, law enforcement, environmental protection—basic functions to protect the health and safety.

We would cut the national defense, across the board. Now, Mr. President, I have, on occasion, argued against some of the Reagan administration's defense proposals. I have opposed some strategic weapons proposals, the shortchanging of conventional readiness, and wasteful mismanagement of our

discipline that I have sought and t
many of my colleagues have soug
Instead, it would have us cut readir
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ened.

Inaction on the budget deficit is
acceptable. But, so is blind action.
are here to guide budget policy. No
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The plan sets the controls fo
years, and then walks away from
economy. That is another major p
lem. It takes too little account of
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their impact on our ability to red
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revenues.

The plan assumes steady econo
growth for 5 years. I hope it happ
But, if history is any guide, it will
At some point, the economy will
down. When that happens, deep
in spending or increases in rever
could turn a slowdown into a situa
much worse.

The amendment sets targets with
regard to the state of the economy
does provide for an expedited pro
for taking up a joint resolution
revise the targets, if we are in re
sion or recession is predicted. Bu
depends on enacting a law to save
selves from driving a failing econ
into a deeper recession. Moreover,
amendment's definition of recessio
too narrow. We should not appro
plan that threatens to dig a de
hole for an economy in trouble, b
on the promise that there may
rope with which to pull ourselves

So, we are left with a proposal th
simply cannot support. We nee
slow the growth in our mounting
We need to reduce annual budget
cits. We need to do it now.
Gramm-Rudman is not the answer

The challenge for us in Washin
is to build into the national age
and national policy, the incentives
investment, for innovation, and
economic growth.

We have to put our fiscal hous
order. We have to get control of
budget deficit. It inflates the dolla
is driving the price of exports up,
the price of imports down.

We ran a $212 billion deficit
year. The Nation's debt is pushin
trillion. It has doubled in just 4 y
To finance it, the Government is
rowing abroad—so much so tha
have become a net debtor nati
owing more to others than the
us—linking our economy to the v
of foreign capital markets.

The borrowing has hiked up
dollar—American industry is l
markets abroad, markets that wi
tougher and tougher to regain.

deficits over 3 years. I think we could have done better, and I voted for an alternative that would have cut the deficit more, but do it without cutting programs that we in New Jersey need, programs in environmental protection, education, and transportation.

We face a problem that demands tough decisions, and new ideas. Along with Senator PAT MOYNIHAN of New York, I pushed a plan to sell off a piece of the Government's loan assets. The Federal Government has $260 billion in receivables. Receivables from students, farmers, airplane manufacturers. Under Federal lending programs, people and companies borrowed low interest money, and now owe $260 billion to the Federal Government.

Those receivables don't appear on the Federal balance sheet the way they would appear on that of a business. But, they are receivables that a company in trouble would convert to cash. And this country is in trouble. So, we proposed a pilot program of selling off $10 billion a year. And, I am pleased that, Congress gave initial OK to the idea if only on a smaller scale.

But that is just one step. We need to find new approaches. We need to make tough choices. We need to cut Government where we can and we need to start paying for the services we need. And, we cannot lose sight of why we are doing it. Because that makes a difference in where we cut. We are cutting to restore the climate for economic growth. We are cutting to build for the future.

Now, Mr. President, perhaps the American people are skeptical. Maybe they do not think we can make the tough choices. I do not blame them. Neither the President, nor the Congress has done a credible job over the past 5 years to make a dent in the deficit. The people are frustrated. I am frustrated too.

We have to stop passing the buck. We have to start making some courageous decisions. We have a critical mission: to get our fiscal house in order. But Gramm-Rudman sets the wheel at automatic pilot, and then bails out. Gramm-Rudman presses the eject button. While Congress reaches for this political parachute, hoping to float safely to earth, our Nation's budget policy is on its own, and I fear, is headed toward a crash landing.

Mr. DECONCINI. Mr. President, I rise in opposition to the conference report on the Debt Ceiling, House Joint Resolution 372. This agreement is two-pronged. It raises the debt ceiling beyond the $2 trillion mark, and includes the so-called Gramm-Rudman-Hollings deficit reduction plan.

Mr. President, this Senator has always been in the forefront of the

stitutional amendment to require a balanced budget, Senate Joint Resolution 13. As a member of the Judiciary Subcommittee on the Constitution, which has jurisdiction over that legislation, I have worked tirelessly to get that legislation enacted. The Judiciary Committee was successful in having that legislation favorably reported on October 23. Unfortunately, the Senate leadership has chosen not to schedule that bill for floor consideration prior to the adjournment of the first session of the 99th Congress. This is the legislation Congress should be considering in an effort to get our fiscal house in order. It contains no gimmicks. It simply requires that Congress spend no more than it takes in.

During my Senate career, this body has been asked to raise the debt ceiling 17 times. I have opposed each and every attempt to do so; and I do not intend to blemish my record on this issue by voting to support raising the debt ceiling above the $2 trillion mark.

How can the American public, which has to make weekly decisions on how much they can spend on groceries or how much they can put into savings for a college education for their children relate to this figure? Let me try to graphically illustrate what $2 trillion means:

Two trillion dollars is a stack of $1,000 bills 134 miles high.

Two trillion dollars in $200 bills would loop around the Earth over 77 times.

Two trillion dollars in $1 bills would stretch from the Earth to the Sun and back again—186 million miles.

Two trillion dollars if paid off at the rate of $1,900 a minute, $2.74 million a day, would continue to burden future generations for more than 2,000 years.

Two trillion dollars is $7,599 for every man, woman, and child in this country. When Ronald Reagan took office, it was $4,346 for every person in the country.

And how much is it costing the American public to service this $2 trillion debt? In fiscal year 1986, it will cost $137 billion—one-seventh of the entire national budget. Let me attempt to put that figure into perspective.

That $137 billion is more than the entire Federal budget in 1966; $137 billion is $260,000 a minute; $137 billion is $375 million a day; $137 billion is $2.6 billion a week; $137 billion is $1,500 per household; and 38 cents of every tax dollar from individuals goes to debt service.

Mr. President, while I hate to point the finger of blame at any one administration, it is important to set the record straight. President Reagan, in embracing the theory of supply side economics, told the American public that by reducing taxes, we would grow

matter is that supply side economics has not worked. Simple logic should have led us to the conclusion that massive tax cuts coupled with enormous increases in the Defense budget could not result in deficit reduction.

The final accounting is clear. Since President Reagan took office, the national debt has increased by more than $1 trillion. To put that in perspective, it is crucial to note that the total increases in the national debt prior to the Reagan administration totaled $985 billion. In other words, it has taken this President less than 5 years to accumulate a debt that is greater than the accumulated debt of all the other administrations in our Nation's history combined. And today we are being asked to pay the bill for the debt which has doubled in the last 5 years. Regardless of how we arrived at the current deficit situation, I share my colleagues' concerns that it must be addressed and it must be addressed quickly.

In September, Senators GRAMM, RUDMAN, and HOLLINGS came up with a unique plan to get a handle on our deficit problem. The Senate voted to pass that measure on two occasions, and I supported it both times. On each occasion, I expressed great reservations about the new and unprecedented authority Congress gave to the President to sequester funds by Executive order if Congress, through the regular budget process failed to meet rigid deficit reduction targets specified in the bill.

This, in my view, is an abdication of the constitutional power of the purse from Congress to the President. In addition to the question of the constitutionality of this abdication of congressional responsibility, I find it troubling that Congress is, in essence, admitting that it cannot or will not make the difficult decisions to put our fiscal house in order. I am still uncomfortable with the fact that this legislation gives the President the authority to do Congress' job as envisioned in the Constitution.

I have even graver reservations about the Gramm-Rudman-Hollings compromise that is before us today. Rather than being more simple, it is more complex. Rather than being more equitable, it is less. For instance, in the current bill the COLA adjustment that our Federal and military retirees were anticipating on January 1 will be delayed until at least March, and will probably be eliminated altogether in order to meet the $11.7 billion deficit reduction target mandated in this bill. This delay in COLA adjustments is being implemented prior to a sequester order and will come as a complete surprise to affected retirees. Is this the type of Christmas gift we

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want to send to our military and Federal retirees, most of whom are living on fixed limited incomes?

Another disturbing provision in the pending bill is that the conferees have granted to the President some flexibility on where to make the required defense cuts. No such flexibility is granted for domestic spending programs. They will be subject to across-the-board reductions. Additionally, the final product exempts some domestic programs from sequester, caps the amount of cuts in others, health programs, and requires across-the-board cuts for all remaining Federal domestic spending programs.

By exempting some programs, and treating others in a different manner, we have considerably shrunk the sequester pot forcing nonexempted programs to take an even larger cut. Programs that are crucial to the economic vitality of Arizona would be seriously impaired. If, under sequester, domestic spending has to be reduced by 5 percent, funding for the CAP would be cut by more than $8 billion in fiscal year 1986. This could result in the Tucson Aqueduct being significantly delayed or perhaps, not being built at all. A 5-percent cut in the Defense budget could result in one or more of our Arizona military bases being scaled back. Not only would base reductions seriously impair our defense posture, it would have a significant negative effect on the Arizona economy. A similar reduction in education programs would have a serious impact on our schools and universities. For example, in the fiscal year 1986 appropriations bill, 16 of the 21 major education programs are at or below fiscal year 1985 levels, including seven programs targeted to the poorest student—Pell grants and chapter I. By supporting additional deep cuts in these programs to finance the deficit, we will be mortgaging our children's future.

As noted earlier, certain health programs will be subject to across-the-board reductions, others will be limited to a 1-percent reduction in fiscal year 1986 and a 2-percent cut in each fiscal year thereafter. The health programs that are capped include: Medicare, veterans, community, migrant and Indian health care. Even a 2-percent reduction in those programs has serious ramifications. Let me just illustrate that problem in the veterans health care area. A 2-percent reduction would result in a reduction of approximately $180 million.

That means the VA would have to reduce health care personnel by 44,000. It would mean that they would have to reduce inpatient visits by 111,000. For our local VA hospitals a 2-percent reductions, based on fiscal year 1985 funding levels, would translate into approximately a $1.3-reduction for Phoenix, $1.1 million for Tucson, and $400,000 for Prescott. If a sequester order is invoked each year Gramm/Rudman/Hollings is in effect, it would almost certainly result in the closing of 1 or our 3 Arizona veterans medical centers. Indian health care services are vital to the health and well-being of Arizona's native Americans. A 2-percent cut in Indian health care funds under Gramm/Rudman/Hollings would result in a $4-million cut for Arizona.

Mr. President, I support the changes in the congressional budget process incorporated in Gramm-Rudman-Hollings. I support the budget timetable and the rigid restraints placed on reporting and disposing of spending and tax legislation included in the bill. And I support the maximum budget targets contained in the plan. But I have become convinced that the bill is seriously flawed. Gramm-Rudman-Hollings was crafted in a hasty manner. It was never subjected to the normal congressional hearing process, nor was it reported from the various congressional committees having jurisdiction over it. It is an untested concept. No one knows with certitude how it will work. What we do know is that under the bill Congress abdicates its constitutional powers of the purse to the President.

Mr. President, the Budget and Impoundment Control Act of 1974 was born over 10 years ago to essentially attack two significant problems in the Federal budget process: First, the growing budget deficit and how to better control the budget process; and second, the need to rein in a President who was impounding Federal funds left and right. The act was crafted in such a way as to impose a new discipline on the Congress of the United States so that it could carry out its constitutional responsibilities to set spending priorities; keep spending down; look at the whole economic picture, including revenues, expenditures, and economic projections; and restructure the budget process so that the executive branch and the Congress could better do their respective jobs of handling the Government's business. It was designed to force the Congress to bring order to the budget process—not give the President of the United States more authority to do the Congress' job, as envisioned in the Constitution. There is no question that elements of the budget process have failed and need to be corrected. However, the sequester authority granted to the President in the Gramm/Rudman/Hollings plan must surely have both the Founding Fathers of our Constitution and the late, great Senator from North Carolina and author of the Budget Act, Senator Sam Ervin, rolling over in their graves. We are now voting to give this President, who has given a whole new meaning to the term "debtor nation,"
the type of authority we withd
from the President in 1974.

Why should Congress embark o
dangerous and, perhaps unconst
tional course? Congress already
the ability to make the cuts necess
to achieve the deficit reduction tar
in Gramm/Rudman/Hollings. Wha
lacks is the will to make the diffi
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ahead if Congress accepts its respo
bility to put the Nation on a g
path toward a balanced budget.
Congress must engage in the ba
We were elected to set national sp
ing priorities, not to abdicate those
sponsibilities. We were not electe
give the President the power to m
across-the-board spending cuts
cause we lack the guts to make the
termination on which programs m
continued Federal support and th
which can be eliminated or reduce
we are unable or unwilling to do
job we were elected to do, then our
spective constituents should vote t
place us. By supporting Gran
Rudman/Hollings, we are admit
defeat. We are saying we cannot
our jobs. I am not yet prepared t
that. I am, however, prepared to m
the difficult choices that are neces
to cure the deficit disease.

In summary, Mr. President, I am
posing House Joint Resolution 372
two reasons. First, I have never
ported an increase in the debt cei
since being elected to the Senat
1976 and I do not intend to do
today. Second, I believe that the
ference agreement on Gran
Rudman/Hollings, which are inco
rated in this measure is an untried,
necessary, and potentially dange
way for Congress to meet its ob
tion to live within its fiscal means.

I am convinced that Congress
and must resolve the budgetary c
lenges that face the Nation to
Across-the-board spending cuts m
be a responsible way to meet
challenge if everyone must carry
equal burden. I remain convinced
the most sensible budgetary me
nism to achieve a balanced budge
the adoption of a constituti
amendment mandating it. If the g
gets rough under Gramm/Rudm
Hollings, Congress can revise it. V
adoption of a constitutional am
ment, Congress would be locked
curbing its spending appetite, and
ancing its budget.

Mr. KASTEN. Mr. President, I
delighted to be voting here today f
final compromise version of
Gramm-Rudman-Hollings Balan
Budget and Emergency Deficit C
trol Act of 1985. I am pleased that
conferees have settled their di
ences, and devised a bipartisan m
ure that will force Congress to pu
fiscal house in order.

As an original cosponsor of this legislation, I strongly support this approach to fiscal discipline. The large deficits facing the American people need to be reduced. Over the last few years, Congress has worked to get control over them, but to no avail. Clearly, we need dramatic measures to deal with these deficits. Gramm-Rudman-Hollings is just such a measure.

A vote for this measure is a vote for an end to deficit spending. This measure will set annual ceilings for deficits that lead to a balance in 1991. By putting a limit on the total dollars that can be spent, Congress will be forced to make the tough choices. The big spenders in Congress will have to decide which spending programs have top priority and which we just cannot afford. It is not different from the decision process each American family goes through. We each have to make ends meet based on our wages and salaries. Congress does not. In fact, Congress has been on a spending spree for years, and wildly writing checks to cover it. This legislation puts a stop to that by ripping up the blank checks.

Mr. President, I think that there are two great myths about this legislation. The first is that this amendment will wreak serious havoc and ruin our Nation's defenses. Nonsense. All Gramm-Rudman-Hollings does is provide a process to get us out of the mess we are in today. Congress will have the opportunity—and responsibility—to set spending priorities and provide a fair budget that meets the deficit target. The round of across-the-board cuts (sequestering) that concerns so many people would only take effect if Congress failed to do its job.

If this final round of sequestering does occur, many essential social safety net programs, such as Social Security, Medicaid, AFDC, child nutrition, food stamps, and veterans' compensation are exempt. And half of these final cuts will come from defense and half from nondefense programs. I think this is a fair solution.

The second myth is that this legislation will give the President more power. This is not true. The President and Congress should be partners in controlling Federal spending. The sequester order that the President is required to send to Congress is automatic, and gives the President very little authority. The President has no authority to choose which category of programs—either defense or nondefense—are cut. He does have a limited authority to allocate some of the cuts within the defense programs. However, this only takes effect if Congress has failed to reduce the deficit. It also gives Congress the right to disapprove the sequester order. Essentially, it retains veto authority for Congress.

But I also believe that there is far too much emphasis on the final across-the-board cuts. What Gramm-Rudman-Hollings really means is that Congress will no longer be able to hide behind ballooning deficits—and debt. This measure comes before us as part of a bill to increase the public debt limit to more than $2 trillion. Our children, grandchildren, and great-grandchildren are not going to enjoy the standard of living we have experienced unless we put a halt on excessive spending. At the rate Congress has been going, we are going to see a $2 trillion-plus annual deficit in the year 2000. And a national debt of $13 trillion. Interest on that debt alone would be about $1.5 trillion. We cannot let this happen.

Mr. President, we are talking about trillions, not billions, of dollars here. Have you ever thought about what 1 trillion is? If I began to count 1001, 1002,1003, it would take me 317 centuries, or 31,700 years, before I would get to 1 trillion. And without Gramm-Rudman-Hollings, this is probably what total spending will be next year.

There is no question that the large deficits we are facing today require significant action by Congress. We can only get deficits under control by addressing the spending that causes them, and by allowing economic growth to narrow the gap between revenues and outlays.

We all know that tax increases won't balance the budget. In the past, we have increased taxes as part of the deficit reduction effort, and it has not worked. In fact, we have seen that they only fuel more spending. We have high deficits because Congress spends too much. We don't have high deficits because the American people are undertaxed. In 1948, the middle-income American family earned $3,187 and paid $9 of Federal income taxes. Today, that middle-income family earns $24,100—but they also pay $2,217 in taxes. Income has increased 7½ times since 1948 while taxes have increased 246 times. Or, in other words, the median-income family's taxes have increased 32 times faster than their income.

This legislation before us today will set us on the right path by getting at the source of the problem—Government spending. There are no built-in biases for or against tax increases in Gramm-Rudman-Hollings. And, in fact, the emphasis on spending restraint in this plan means that chances are better for reducing the deficit through spending cuts, rather than tax increases.

Mr. President, the Gramm-Rudman-Hollings legislation is a positive step toward serious deficit reduction. It is a collective bipartisan effort that mandates a balanced budget in the year 1991. This amendment calls for real reductions in spending, and demonstrates that Congress is serious about reducing deficits. I am proud to be a cosponsor of this amendment, and I urge my colleagues to lend it their support as well.

Mr. PELL. Mr. President, the huge Federal budget deficits that have developed during the past 5 years constitute a serious threat to the economic well-being of our Nation and of every American. The Congress can and should take strong, prompt, and effective action to bring these deficits under control.

Although I am strongly committed to reducing the budget deficits, I cannot support the Gramm-Rudman deficit-reduction plan and am voting against it.

The Gramm-Rudman proposal, although its objective is commendable, is quite simply bad government. We in the Congress have the constitutional responsibility to determine our national priorities, and our national economic and fiscal policies. The Gramm-Rudman proposal would be an abdication of this congressional responsibility. For the thoughtful and reasoned judgment of the peoples' elected representatives, the Gramm-Rudman plan would substitute a complex formula of automatic budget cuts, triggered by uncertain economic predictions made by nonelected government officials.

Supporters of the Gramm-Rudman proposal contend that the threat of these automatic, unthinking budget cuts will force the Congress to reduce the deficits by other means. That contention is sadly mistaken. Instead of driving the Congress to effective action, I believe the automatic budget-cutting mechanism will prove to be a crutch for Members of Congress unwilling to make the difficult decisions required to restore fiscal responsibility to our Nation.

The Gramm-Rudman proposal fails to confront the basic cause of the explosion of our Federal budget deficits in the past 5 years. The cause of those budget deficits is the mistaken and failed economic policy of the administration. The administration, backed by the Presidential veto power, has dogmatically insisted on ever-increasing defense spending combined with very large tax cuts. The failed theory is that rapid economic growth would eliminate the budget deficit. That has not happened, despite very significant spending cuts in nearly all nondefense programs.

By its insistence on increasing defense spending and its absolute opposition to increases in revenue, the administration has left too little room for the Congress to deal effectively with the budget deficit.

What is needed is a change in White House economic and fiscal policies. Supporters of Gramm-Rudman contend that this measure will force the White House to reconsider its position on defense spending and on revenue

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increases. I do not think that will happen. Indeed the President, even while endorsing the Gramm-Rudman proposal, has reiterated his determination to continue increases in defense spending, and to oppose any increase in revenues.

It is clear that next January, the President will submit a budget to the Congress that will again call for increased defense spending, and will call for draconian cuts of $50 to $60 billion in essential Government programs, ranging from health and education to our Coast Guard, and weather services.

And when automatic budget cuts are ordered by the President next February and again in October, I doubt that the American people will be comforted by the explanation that reductions in health research, student assistance, pollution control, clean air and clean water are being made automatically, by formula, and without thought.

It is vitally important that these huge budget deficits be eliminated. It is equally important that the deficits be eliminated in the right way—by thoughtful, deliberate action of the Congress with effective Presidential leadership. Gramm-Rudman is just the wrong way to achieve the right end.

For all of these reasons I oppose the Gramm-Rudman proposal.

Mrs. HAWKINS. Mr. President, I will vote against the Gramm-Rudman bill because of a major change made by the conferees to implement the bill in fiscal year 1986—which began 3 months ago. This action forces the automatic sequestering program to kick-in immediately. This amounts to an across-the-board cut, which I have never favored. Rather, I have always supported Congress' right to prioritize our spending decisions. To choose between programs for our children and a water project that is nothing more than a pork barrel project—to choose between programs for education and a $400 hammer. I want the opportunity to make those choices.

Were Gramm-Rudman to take effect in fiscal year 1987, or fiscal year 1988 as the Senate originally passed, Congress would have had two opportunities during the budget process to establish a budget that will reach the deficit goals. And I believe that with the threat of the sequestering program pending, Congress will finally find the will and discipline to make tough budget decisions. They will because they know that if they do not, the decision will be made for them, but without their priorities.

I want to state for the record that I support efforts to balance the Federal budget. Clearly it is out of control, and the Gramm-Rudman bill, as originally passed by the Senate, provided a framework for cutting the budget. It left to future determinations the specific cuts that would be made. However, the bill before us tonight does not provide that opportunity for this year. It will require automatic cuts from programs that I might not choose to cut. Therefore, I am forced to vote against this bill because of the changes made in the conference.

Mr. DURENBERGER. Mr. President, I have already spoken on the subject of the Gramm-Rudman-Hollings budget proposal on two occasions on this floor. As we prepare to send the conference version to the President's desk, this is a moment of excitement in some quarters and fear in others. Probably each of my colleagues shares a measure of those two emotions. Today we are taking an historic step and perhaps an historic gamble.

This is probably our last, best hope for getting control over the massive budget deficits which hang over our Republic, spawning hardships and future insecurity of momentous proportions. If it doesn't work, I doubt that we have any political capital left to put against systematic approaches to this crisis. The reality is that this is a do or die proposition, Mr. President.

As much as our lives as legislators will be affected by the passage of this proposal and as much as it will effect our constituents over the next 5 years, the Americans for whom this day is most important are those who will inherit the United States of America at the start of the 21st century. Our action will determine the kind of America they will live in. In a sense, Mr. President, we resemble the ancient nation of Israel making up its mind to get out of Egypt. Collectively as Members of this Government, we are beset by a deficit which threatens to enslave us and future generations of Americans with a massive debt. In recognition of that fact, we have made our decision, House, Senate, and White House, that the status quo is unacceptable and that we need to move out. The political seas have parted, somewhat miraculously I would say, and it is time to march.

We share a hope of a promised land of sorts: a balanced budget, lower interest rates, and a solid foundation for our economy. But first we must cross the hostile wilderness which lies before us. We are embarking on a course of great political risk and controversy. We will have to deal with a lot of golden calves and other perils along the way: tax loopholes; defense spending; other domestic spending; and entitlement programs. That will be a severe test of our skill, foresight, and courage.

We choose today, Mr. President, between staying where we are, and suffering the certain consequences of economic stagnation and dislocation, or forging ahead, knowing the risks, toward a better future for ourselves and particularly for our children. I lieve our history as a people clearly rects us to seek, and act to create, th better future.

Mr. HATCH. Mr. President, t Gramm-Rudman proposal as modif by the House-Senate conferees a now before this body, is a commen ble attempt to reduce deficit spend and balance the budget within a p scribed number of years. In fact, t gradual reduction of the deficit achieve a balanced budget was a p posal which I made as an amendme to the fiscal year 1984 resolution the budget. My distinguished c league and now prime sponsor of t amendment, Senator GRAMM, was th a Member of the House and a stro ally in our efforts in 1983. Whil have some reservations about spec language of Gramm-Rudman mo fied, overall it is a good piece of le lation. As a cosponsor of this legi tion, I urge my colleagues to capital on this opportunity to achieve shared goal by all Members of C gress: deficit reduction.

This proposal makes an excell companion piece for the balan budget/tax limitation amendment the Constitution. The Gram Rudman proposal would require a cipline in the Congress, a discipl which will eventually be required o permanent basis by the balan budget amendment. Gramm-Rudn is an emergency measure, but in v of the $200 billion deficits which c tinue despite economic recovery, i an emergency measure which sho be looked at seriously by ev Member of the Senate.

Legislation to achieve a balan budget in the near future is a ne sary effort to reestablish the co dence of the American people in ability of the Congress to control it in a fiscal sense. For too many ye now, the congressional answer to d cit problems has been an increase taxes. As we can see, that appro has not worked. In fact, it had b popular for several years to blame 1981 across-the-board tax reducti for our deficit problem. One way lay this falsehood to rest is to look Federal revenues and spending a percentage of national income. Co paring these figures as percentage national income measures th against a relatively stable backgrou and also illustrates the increas burden of Federal financing. In 1 revenues were 23.8 percent; but in 1 they were still at 24.3 percent. In c trast, in 1973, Federal spend amounted to 24.3 percent of natio income; but in 1985 it surged to 3 percent, a 6-point increase. E taking into account the busi cycle's effect on national income, point is clear: unchecked Fede spending, not lack of revenue, is to blame for our deficits.

The past record of tax increases leaves us with no faith in that route as a solution to our problem of continuing deficits. Some of the greatest spending increases in the history of the United States took place in the late 1970's when tax revenues were climbing rapidly. Another case in point has been the addition of new tax increases since the across-the-board reduction in 1981. Since 1981, we have added the Tax Equity and Fiscal Responsibility Act [TEFRA], the gasoline tax increase, the 1983 Social Security Amendment, and the 1984 deficit reduction taxes. Added together with inflation-induced tax increases and tax increases required by the 1977 Social Security Amendments, we have eliminated the 1981 tax cuts over the period of 1981-88. It is my hope the Gramm-Rudman proposal will not result in one more tax increase as a means of tackling the deficit problem.

It is my hope that the Gramm-Rudman mechanism is instead a vehicle for controlling spending. While the Gramm-Rudman proposal imposes some reductions in Federal spending, the eight programs exempted from sequestering have an aggregate spending level of more than $70 billion annually. In other words, programs which contribute to $200 billion deficits remain uncontrollable expenditures. Defense spending on the other hand, will suffer a cut of approximately $6 billion in fiscal year 1986, reducing outlays below last year's appropriation level of $275.4 billion. A reduction which will dampen our efforts to increase the spending level for defense programs which were financially neglected during the 1970's. I register my concern that the growth in spending of several domestic programs will be spared any across-the-board reduction at the expense of defense programs which ensure our Nation's security. It does not seem equitable to discriminate against some programs and not others. Nevertheless, I am pleased that some flexibility was given to the President in distributing the share of cuts among defense programs, but the flexibility is limited to fiscal year 1986 only. Such flexibility should be extended through fiscal year 1991.

Mr. President, I reiterate my support for the principles behind the Gramm-Rudman proposal and hope that all my colleagues see the wisdom of its enactment.

Mr. WILSON. Mr. President, I was asked this afternoon by a reporter if Gramm-Rudman-Hollings is not a straitjacket. If it is, Mr. President, it is a straitjacket required to restrain a madman from doing irreparable harm to America. Congress is the madman. We have engaged in the madness of unrestrained spending. The cost of our decades-long rampage is the undermining of our economic security. Our collective incapacity—our inability to achieve consensus on priorities—has finally required that we fill the void by inserting a mechanical process of spending restraint in place of the judgment we were elected to exercise. Gramm-Rudman-Hollings is just about our last chance.

It is not perfect.

It is essential.

It is not a panacea but a survival.

It is vital to regain some part of Congress' lost credibility in the minds of those upon whose confidence our economic security depends—not just the sophisticated financial managers of Wall Street, but the shopkeepers and the small businesses of Main Street. The best small business program, the best farm program, surely the best export program that the Federal Government could hope to offer, would be to offer low-interest rates and the realistic hope of economic growth and job creation.

Conversely, the most pernicious act of Congress possible would be the continued act of omission that allows ballooning deficits and a ballooning national debt that has already mortgaged the future of our children. Those deficits and that monstrous debt they have built are an anchor on our economy. Were their cancerous growth to continue unaddressed by Congress, America would be threatened with imminent and deep recession.

This landmark change in our budgetary procedure does not exempt Congress from the responsibility to exercise careful judgment in spending the taxpayers' money. But if Congress continues to fail to act responsibly to protect the taxpayer, Gramm-Rudman-Hollings will provide the needed safeguard.

For those of us who are specially concerned with the adequacy of our national security, a special responsibility is created by this measure. We must be vigilant to assure that we do, in fact, maintain military strength required to keep peace.

I repeat, Mr. President, this is not a panacea. It is survival. A concern for national security dictates that finally we act to assure the security of America's economy. And finally, Mr. President, we appear ready to act—to release our economy from its straitjacket, and not just survive but prosper.

Mr. DOLE. Mr. President, after many weeks of diligent and persistent effort, our very able conferees on the Gramm-Rudman-Hollings deficit control measure and the debt limit have reached agreement with their House counterparts. At the outset, I want to congratulate BOB PACKWOOD, the chairman of the conference, and PETE DOMENICI, who brought the very considerable resources of his Budget Committee to bear on the knotty issues the conferees faced.

Mr. President, I know that not every Member will be happy with the conference agreement on Gramm-Rudman-Hollings. In fact, some who voted for it originally in the Senate may feel differently this time around. But that result was virtually inevitable, when you consider that the Senate was breaking new ground with this initiative—and that we were obliged to deal with House Members who had some very different ideas about how to structure a deficit-limitation measure.

NATURE OF COMPROMISE

As my colleagues know, the Senate undertook this effort because there was an overwhelming consensus in this body that the deficit issue had not been adequately addressed, and would not be adequately addressed without some major changes in the way we do budget business. Our distinguished colleagues, PHIL GRAMM, WARREN RUDMAN, and FRITZ HOLLINGS, gave us the opportunity to move with their innovative proposal to trigger automatic spending cuts in order to meet fixed deficit targets.

With the President's strong support, we moved that proposal through the Senate. But we found, to no one's great surprise, that the House had different ideas. In particular, some very influential Members of the House feared the prospect of giving Ronald Reagan too much authority to cut spending. They wanted to take more programs out of the automatic spending cut process—they wanted to make sure defense took a fair share, or more than a fair share, in the view of some of us, of cuts—they wanted to limit the role of OMB in measuring our success in meeting deficit targets, and so on.

Mr. President, compromise means give and take. There has been plenty of that in the course of this conference, and that is why some Members will not be pleased. Some will say we have exempted too many programs—or that a 50-50 split is too hard on defense—or that the President needs more discretion in making the defense cuts, beyond what we provide for 1986.

KEEP OUR EYE ON THE GOAL

Let me assure my fellow Members that I share those reservations. I have never viewed this proposal as a panacea for balancing the budget, and we will have to see how it works. But I have no hesitation whatever about voting on the conference agreement. I will do so because we clearly need every additional discipline we can muster to control spending and reduce the deficit. This proposal gives us some of that discipline, while leaving the Congress fully in charge of its own budget decisions.

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Mr. President, as Chairman Packwood has stated so well, the key to this proposal is what we in Congress do over the next year, before automatic cuts under the Gramm-Rudman-Hollings mechanism would take effect. The fairly stringent cuts that would occur under the Presidential sequester are not inevitable. Our responsibility now is to meet the deficit goals—which in my view are achievable—by adopting and fully implementing responsible budgets in each of the next 3 fiscal years. For those Members who fear domestic spending would be hit too hard—for those who fear a tax increase—for those who want to preserve the defense buildup—work with us to pass a sound deficit-reducing budget. There is not doubt in my mind that we can meet our deficit target without a tax increase. We have the power to avoid any of those extremes, and to strike a proper balance in cutting spending.

PUT TO THE TEST

Mr. President, this striking new approach to our budget process will put us—and President Reagan—to the test on the issue of budget deficits.

Both on Capitol Hill and in the White House, we have to recognize the time for tough decisions is here—now. Spending must be attacked on the broadest possible front. Just because programs are exempt from the Gramm-Rudman sequester process does not mean they are forever insulated from the budget review. We can pass the test if we have the will to work together, and if we take the deficit limits contained in this legislation seriously: Something that we absolutely must do to meet the letter of the law.

We can, of course, change the law in the future: whether expressly, or by implication. And that is one of the great drawbacks of limiting ourselves to statutory reforms for dealing with the deficit. We need constitutional reform as well, and I am committed to seeing that we get that essential, overriding discipline that only the Constitution of the United States can provide.

Above all, though, the new discipline provided by Gramm-Rudman-Hollings makes it clear that the problem of deficits and excessive spending will remain at the top of the domestic policy agenda for the foreseeable future. That in itself is a vindication of our efforts throughout 1985 to get the deficit down and get the economy on a stable growth path. We can now rightly say that we have made progress—and we have started on a path that will restore fiscal policy to a sound posture. That is what the world is waiting for: If we have the courage to follow on the path set by this legislation, our economic prospects look very good indeed.

Mr. PACKWOOD. Mr. President, may I say, we have a list of possible speakers. I think everyone who wanted to speak but one or two have spoken, and I do not know if those one or two want to. If not, we are prepared to move final passage.

Mr. BYRD. Mr. President, I am going to make a little speech. It will not take much of the Senate's time. I will try not to impose on the Senate.

Mr. HATFIELD. Mr. President, may we have order.

The PRESIDING OFFICER (Mr. Wilson). The Senator will suspend.

May we have order. The Democratic leader is entitled to be heard.

The Senator from West Virginia.

Mr. BYRD. Mr. President, I do not desire to impose on the Senate, but I will be speaking for 15 or 20 minutes.

It is often said that we human beings possess 20-20 hindsight. I believe that we will shortly witness an event that will set the stage in the months ahead for many Senators to affirm that saying.

The conference report on the debt limit, which includes the Gramm-Rudman amendment, will shortly pass in the Senate, go to the President's desk for his endorsement, and that he will probably sign it into law soon.

I said at the White House on yesterday as I said to Secretary Weinberger some several weeks ago, that the President of the United States and the administration had embraced this cup of poison. It reminded me a little of Haman in the Book of Esther. Haman, as Senators will recall, built a scaffold on which he intended that Mordecai would die. Well, who ended up at the end of that rope? Not Mordecai, but Haman. He had built the scaffold on which he himself would be, in the final outcome, hanged. And as I said, the President of the United States has embraced this and in the final analysis he will find that it does not do what it purports to do and he will be the one who will be hanged. By that, I meant he was in for a big surprise insofar as national defense funding is concerned.

I am not sure he even believes it yet. But I said yesterday, and I had said it before at the White House, that the President was going to be in for a big surprise. If he thinks for a minute that this will not impinge on the defense budget, then it might be a rather shocking surprise to him later.

Despite the considerable momentum with which this new budget process is moving through the legislative process, it contains flaws. I believe that the Congress and the President will rue the day this legislation was enacted into law.

I oppose this conference report. I have not taken any dilatory steps. I could have objected to the suspension of the reading of the report. Those of us who are opposed to this conference report could have done a number of

things, but I think in this instance
die is cast, the Rubicon has
crossed, and I do not think the
any way back. I respectfully re
mend that my colleagues serio
consider its implications before ca
their vote. I do not question the p
otism of any Members who sup
this measure. I simply say that th
a matter that each Senator ha
decide for himself and work withi
limitation of his own conscien
would accord every other Senator
right, and I question nobody's pat
ism, sincerity, or good intentions.

There is no doubt that reducing
record budget deficits this admini
tion has created with its own tax
spending policies is among our
urgent domestic priorities. Sen
will recall in 1981, when the Pres
of the United States appeared on
vision and had some charts to w
he pointed during his remarks, he
that the national debt of this cou
if represented by $1,000 bills sta
one on the other, would rea
height of 67 miles. I think that f
was later corrected to 63 miles.

Well, the country's deficit was
under a trillion dollars at that
That was the amount of national
which the country had accumu
during all of the years from 17
the end of fiscal year 1981, w
came on September 30, 1981. The
suing years, however, have seen
national debt doubled. It was al
$1 trillion when this administr
took control, and now it is going
a little over $2 trillion early in
coming year. So it has doubled w
the space of 5 years what it took,
lieve, 39 administrations and 191
to accumulate.

There has not been much said
this astronomical figure at this
on this measure. Gramm-Rudma
taken center stage, and there ha
been much said about this doubli
the national debt just in 5 years.

Mr. President, last year, the adm
tration added $211.9 billion in re
to the national ledger, the third r
deficit in 4 years.

When we talk about a $2 tr
debt, that probably does not
very much to those of us who
had much in our own bank acc
throughout our lives. But a $2 tr
national debt is $2,000 for
minute since Jesus Christ was bor

These deficits cannot continue
out long-term and severe dama
the American economy, to indust
jobs, to international trade, and t
standard of living. That is why
fered a proposal this last spring,
the budget resolution was befor
Senate, that would have achie
balanced budget within the n
years.

I voted for the big tax cut in 19

I said then that this country could not suffer a cut in revenues to the tune of $749 billion over a 5-year period and $1.5 trillion for national defense over about the same period, 5 years. Anyhow, I said we cannot do both things and still balance the budget.

I urged the President and I urged Congress not to put a third year tax cut on top of other layers of deficits, but instead, to wait until the third year, to see what the economy was doing and whether or not we were on declining budget deficit track before letting that third year of tax cuts go into place. But it fell upon deaf ears, and that is where we are now.

I have the greatest respect for Mr. GRAMM and Mr. RUDMAN. They are very skillful, dedicated, intelligent, effective Senators. They believe in what they are doing just as much as I believe in what I am doing. I have always said that I recognize the fact that I can be wrong, and I have been wrong in many instances.

I voted for that tax cut, as I have said, in 1981.

I did not think it was the wise thing to do, but I said that my people wanted me to vote for it. That was the hue and cry in those days: "Give the President a chance." So I gave the President a chance. I voted for the tax cut, and I have regretted it many times since. It was not fair, to begin with. It favored the rich and hurt the poor and the middle class as well.

However, the budget amendment that I offered earlier this year would have achieved the goal of balancing the budget. It would have promoted economic growth, and it would have encouraged investment in the Nation's future, and it would have protected vital national security interests.

It would also have required profitable corporations, some of which are not paying any Federal income taxes—and indeed, in some cases that not only have not paid Federal income taxes but, instead, have been given tax rebates—to pay a Federal minimum tax, so that all Americans then would contribute to the effort to balance the budget.

I believe that that amendment represented the most prudent way to reach a balanced budget for a Nation with wide-ranging domestic and international responsibilities.

Unfortunately, the conference report that is now before the Senate, while seeking a necessary end, has the potential for doing serious damage to the Nation and even its allies. This process could put a fiscal straitjacket on the Government, preventing it from responding adequately to changing economic circumstances—such as a recession. It could damage the national security, I think, by preventing the needed strengthening of our American military services. In effect, this legislation creates an automatic process for determining the appropriate levels of spending for programs, regardless of the needs that the Nation may face.

The Founding Fathers never envisioned a Government bound by a formula, and yet that is exactly what this conference report would impose on the country.

Mr. President, this process represents the most significant abdication of the responsibility of Congress to determine the fiscal priorities of the Nation that I have seen in my 33 years on Capitol Hill. My constituents elected me to represent their interests and the national interests, using whatever good judgment I could bring to bear on matters on which we have to vote, and not using some automatic formula.

The deficit reduction process contained in the conference report makes a fundamental and unwise grant of new constitutional authority which we cannot do—and I will be eager to see what the courts will say about this at some point—making a fundamental and unwise grant of new authority to the executive branch, potentially allowing numerous political appointees and bureaucrats to decide whether automatic spending cuts would go into effect and the amount of those cuts. I do not use the word "bureaucrat" to disparage Federal workers, but only to say that they are not elected by the people.

So I believe, Mr. President, that unless appropriations acts and reports spell out every single program, project, or activity, the sequestration process will easily enable these officials to exercise great discretion in program funding.

One of the most serious flaws in this process is its potential for undermining and short-changing the security of our Nation. With the exception of some limited, and possibly insufficient, flexibility granted to the Defense Department for this year only, once a sequestration order is issued, the budget cuts would fall uniformly across all defense programs, irrespective of the threats our Nation may face and the relative benefits of various defense programs in confronting those threats.

I believe that one of the reasons that the recent Geneva summit was successful—I say it was successful—how do you account for that? I told the President I thought it was successful because he did not give away anything. He did not go there and sign an agreement for the mere sake of having an agreement, a piece of paper to be waved before the television cameras. He did not give away anything. That was in itself an accomplishment. He did not choose for political reasons to come back with a piece of paper so he could claim: "I have an agreement with Mr. Gorbachev. We agreed."

He did not give way to that urge. That gave me some encouragement. I would like as much as anyone to have seen a meaningful, effective, verifiable arms control agreement that would guarantee that the parties would comply in every respect. But as we all saw there was no such agreement to be had. Perhaps there may yet be one in the years ahead and I hope there will be. But I believe that one of the reasons the recent Geneva summit was successful is that this Nation has a strong military, and the Soviets know it.

We are all against waste in the Pentagon. The Pentagon has hurt itself in the eyes of the people. It has helped to bring about an erosion of support—not support for national defense, true national defense, national security, but for Pentagon funds. People are tired of hearing all of these horror stories about how money goes down a rat hole at the Pentagon for $44 light bulbs, and all that.

In any event, if the Soviets know that this country has a strong military, they also know that American technology is something that they envy and they very well were concerned that the United States just might make this thing work—might make SDI a reality, make it work.

I am not competent to say that SDI will work or it will not work, but I have enough confidence in American technology to believe that there is a chance that it might work.

I do not want the Soviets to get ahead of us. They have been doing the testing and all that for a long time, and I would imagine that they just do not want to see the Americans get there first.

In any event, if programs vital to our national security interests start to fall victim to automatic budget cuts, how long will we retain that kind of an advantage?

It is conceivable that the budget cuts that will become effective on March 1 of next year could result in a total level of budget authority for national defense programs less than last year's level. From press reports it is clear that Secretary Weinberger agrees with this assessment and made his concerns known to President Reagan.

I have long been a supporter of a strong military and, as I have alluded, the budget I offered in the spring would have provided for 1 percent real growth rather than zero, 1 percent real growth in defense budget this year, a level higher than the zero real growth that was contained in the Republican budget and that was adopted by the Senate.

But if the Gramm-Rudman process now requires a cut below the fiscal year 1985 level, it could damage a number of programs critical to maintaining our edge over the Soviets, and

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I think it will be the wrong signal to send them as our President prepares to host General Secretary Gorbachev in this country next year.

Furthermore, the conference report provides an automatic waiver of the Gramm-Rudman requirements only during a declared war. Yet, our most recent military experiences, from Korea and Vietnam, to Lebanon and Grenada, have taken place without such a declaration. It is possible that the procedures herein could require a reduction in defense funding at the very time when our troops are deployed in hostile situations which are not declared wars.

We have not fought in any declared wars in the last 40 years, but we have fought in some wars that were very expensive in National Treasury and in national blood.

I believe strongly that we must support our fighting men and women wherever they may be engaged in defending our Nation's interests. Any process that could prevent that, as this one could, I think is, in my judgment, fatally flawed.

This conference report also places much of the burden for deficit reduction on those who have already borne the brunt of deficit reduction for the past 5 years. Spending for entitlement programs is projected to decline as a percentage of GNP and spending for domestic discretionary programs as a percentage of GNP is substantially lower than now it was in 1980 and is projected to go even lower.

While the Gramm-Rudman process would represent "double jeopardy" for many programs, it lets some escape the pain of deficit reduction entirely. Profitable corporations, some of which now pay no Federal income tax or have in some years not paid any Federal income tax, would not be required, I do not believe, under this legislation to share in the same sacrifices to reduce the deficit that would be required of many others. This is inherently unfair—to require the disabled coal miner to forgo an inflation adjustment in his benefits while permitting some profitable corporations to continue to milk the Tax Code without paying their fair share—in fact to decrease the amounts they pay in taxes in some instances.

The Gramm-Rudman process allows Congress to shirk its responsibilities to appropriate sufficient money from the Treasury for the operation of Government. It transfers considerable power to the President and to unelected political appointees and bureaucrats, as I have said, the power that rightfully belongs to the people's elected representatives in Congress. It could seriously disrupt. I know it is said by some, well, Congress won't make the tough decisions. Well, Congress I am sure would do so but the President made a campaign promise that he would not increase taxes and he would not cut defense, and so Congress is left without the kind of leadership right up front that it needs, leadership which only the President of the United States can give. If he would lead, I am sure Congress would follow.

I have urged the President to lead in the tough deficit-cutting decisions.

This package could seriously disrupt activites to provide a strong, secure national defense and possibly impair our ability to come to the aid of our fighting men and women or to defend our vital interests and it locks in a course of action for the next 5 years without giving the President or Congress the necessary flexibility to respond to changes in the economy and domestic and international events.

This measure is an unwise approach, I think, to the business of the Government that our constituents sent us here to do.

I have often wondered in the past 2 months how Thomas Jefferson or James Madison would have reacted to this proposal. I believe they would have rejected the basic concept on its face. They foresaw a country governed by human judgment, not one that is subjected to the straitjacket of automatic formulas and computer printouts.

Mr. President, I cannot support this procedure. It flies against much of what I believe Government can be and should be. I urge my colleagues to consider the implications of this legislation, because I believe history will show that those who opposed it accurately foresaw the disarray and the damage that would be done by this process.

Mr. President, I thank the Senators for listening. I yield the floor.

Mr. PACKWOOD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the conference report. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MATHIAS. Mr. President, on this vote I have a pair with the distinguished Senator from Pennsylvania [Mr. HEINZ]. If he were present and voting, he would vote "aye." If I v at liberty to vote, I would vote "

Therefore, I withhold my vote.

Mr. INOUYE. Mr. President, on vote I have a pair with the dis guished Senator from Florida CHILES]. If he were present voting, he would vote "aye." If I v at liberty to vote, I would vote "na withhold my vote.

Mr. SIMPSON. I announce that Senator from North Carolina EAST], the Senator from Arizona GOLDWATER], the Senator from P sylvania [Mr. HEINZ], and the Sen from Nevada [Mr. LAXALT] are ne sarily absent.

Mr. CRANSTON. I announce the Senator from Delaware BIDEN] is necessarily absent.

I also announce that the Sen from Florida [Mr. CHILES] is ab because of illness.

The PRESIDING OFFICER. there any other Senators in the Ch ber who desire to vote?

The result was announced—yea nays 31, as follows:

[Rollcall Vote No. 371 Leg.]

YEAS—61

Abdnor
Armstrong
Baucus
Bentsen
Boren
Boschwitz
Bumpers
Chafee
Cochran
Cohen
D'Amato
Danforth
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Ford
Garn
Gore
Gorton
Gramm
Grassley
Hatch
Hecht
Heflin
Helms
Hollings
Humphrey
Kasten
Kennedy
Kerry
Leahy
Levin
Long
Lugar
Mattingly
McClure
McConnell
Mitchell
Murkowski
Nickles
Nunn
Packwood
Proxmire
Quayle
Rockefelle
Rudman
Sasser
Simon
Simpson
Specter
Stennis
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Wilson

NAYS—31

Andrews
Bingaman
Bradley
Burdick
Byrd
Cranston
DeConcini
Denton
Eagleton
Exon
Glenn
Harkin
Hart
Hatfield
Hawkins
Johnston
Kassebaum
Lautenberg
Matsunaga
Melcher
Metzenbaum
Moynihan
Pell
Pressler
Pryor
Riegle
Roth
Sarbanes
Stafford
Weicker
Zorinsky

PRESENT AND GIVING A LIVE PAI PREVIOUSLY RECORDED—2

Mathias, against
Inouye, against

NOT VOTING—6

Biden
Chiles
East
Goldwater
Heinz
Laxalt

So the conference report was a to.

Mr. DOLE. Mr. President, I mo reconsider the vote by which the ference report was agreed to.

Mr. PACKWOOD. Mr. Preside move to lay that motion on the

The motion to lay on the tabl agreed to.

Mr. PACKWOOD. Mr. President, I want to say just one word about one Member who has not been mentioned very much today. That is Senator Long, of Louisiana.

On the second day the big conference met, he took me aside and predicted how this was going to come out, 2½ months ago. I am not sure we could have gotten to where we got in any shorter period of time. But he was very, very accurate in his description.

He told me what we needed to do to get there and I am personally appreciative of the aid that he gave me and the help.

Mr. DOLE. Mr. President, let me thank the managers and obviously everyone involved in this, particularly Senators Gramm, Rudman, and Hollings, the pioneers. We have made history of some kind. We will see how it works next year.

Let me indicate to anybody who may say this has not been considered, it was considered on October 3, 4——

The PRESIDING OFFICER. The Chair has received indications from Senators that they cannot hear because of the competition with conversations. Senators will please move those conversations to the cloakroom.

The majority leader.

Mr. DOLE. Mr. President, I would only indicate that we considerd this bill on October 3, 4, 5, 6, 8, 9, and 10; November 1, 4, 5 and 6, and December 11, 12 days of consideration for a total of 70 hours and 30 minutes. We had 28 rollcall votes. We had 39 amendments. Eighteen amendments were agreed to. Four amendments were rejected. Eleven were tabled. Six were not acted upon and I suppose a couple they lost.

In any event, there has been a lot of consideration given to this measure. Maybe we will discover it was not adequate. Maybe we will discover it was more than adequate.

I want to thank my colleagues on both sides for their patience and their interest in this legislation. I particularly thank the distinguished chairman of the Finance Committee, Senator Packwood, and, as he indicated, Senator Long, Senator Domenici, and Senator Chiles, while he was able to be here, and Senator Johnston in his absence. I also express my appreciation to all the other conferees who spent untold hours on this very important legislation. It also continues a glimmer of hope that we might be able to finish our work by the weekend.

Mr. BYRD. Mr. President, will the distinguished majority leader yield?

Mr. DOLE. I yield.

Mr. BYRD. Mr. President, I wish to associate myself with the remarks of the distinguished majority leader with respect to the work that has been done by the many Senators he named on both sides of the aisle. I particularly congratulate Mr. Gramm, Mr. Rudman, and Mr. Hollings. I think what they did demonstrates a great amount of skill and ingenuity.

I think we should salute them for that. Who knows? Even though I voted against the measure and spoke against it, we never know. I hope it will turn out to be right thing. So I congratulate them. I think they demonstrated the kind of initiative and proficiency in dealing with the budget, a very complicated matter. I can only admire them for it.

Mr. DECONCINI. Will the minority leader yield to me?

Mr. BYRD. I yield the floor.

The PRESIDING OFFICER. (Mr. Trible). The Senator from Arizona is recognized.

Mr. DECONCINI. Mr. President, I wish to add my accolades and compliments to the primary movers of this legislation and to join Senator Byrd in his remarks and to be associated with them.

Mr. LONG. Mr. President, I congratulate the chairman of the conferees, the Senator from Oregon [Mr. Packwood], for the magnificent job he did in managing this conference between the two Houses. It was my impression in the beginning that he had an insurmountable task in front of him, to try to bring these two very large contentious groups together, representing such diversity in both Houses, and to get them to sign one conference report. It took many days, it took an enormous amount of hard work, and it took a good deal of judgment and consideration of others to bring that about. But in due course and after accommodating a great number of Members on both sides, Mr. Packwood did that.

In doing so, it is my judgment that he rendered a great service to this country. The way in which he performed in managing such a very large conference is a good omen for this country, because he will undoubtedly have such responsibilities in the future. I congratulate him and extend my gratitude as one member of the conference for the magnificent job he did.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

KENTUCKY WELCOMES TOYOTA PLANT

Mr. FORD. Mr. President, I was pleased today to be in Kentucky for the formal announcement by Toyota Motor Corp. of its plans to build an $800 million assembly plant there.

Kentuckians are proud to welcome Toyota to its chosen site in Scott County. The coming plant is a shot in the arm to the economy of our entire State. Not only will it create jobs, it will generate new State tax revenues which can be used to benefit Kentuckians. For example, much of the money could be directed to improvements in our educational system.

The actual plant will manufacture about 200,000 compact cars a year, beginning in mid-1988. It is expected to eventually employ about 3,000 workers. State officials estimate that each hundred of those in-plant jobs will create 64 other new jobs in businesses to serve Toyota employees. That would mean nearly 2,000 new jobs outside the plant.

Gov. Martha Layne Collins and her cabinet members deserve much praise and thanks for wooing this plant. Competition among several States was fierce, but her persistence in visiting Japan and making Kentucky's case met with success. I understand that when Toyota has a question, the Governor's office gave them a prompt and complete answer.

The plant's location, on a 16,000-acre tract near Georgetown, in central Kentucky, is especially promising for surrounding counties with high unemployment. Scott County itself has a relatively low unemployment rate. It was only 4.2 percent in 1984. However, nearby counties have not been faring so well. Among them Menifee which had a 20.8-percent rate, and Robertson with 18.9 percent unemployment.

Our Interstate System makes traveling convenient so that workers may choose to travel as far as 100 miles to a job in or near the new plant. Therefore, counties with high unemployment may see somewhat of a turnaround in coming years.

A major benefit of the plant for the Nation will be the new $23 million robotics center at the University of Kentucky. Toyota already uses robotics at its Toyota City plant in Japan, and in its joint venture with General Motors in California. This University of Kentucky center, requested by Toyota, will focus engineering efforts on further innovations in the field. Engineers there will work to advance robotics development, both for auto assembly and for other uses. This worthwhile investment is a first step toward putting our State and Nation at the forefront of innovations in high technology, where the jobs of tomorrow will be found.

I believe Toyota is to be commended for recognizing the potential for commercial development in the United States. Cars manufactured in its Kentucky plant will be sold abroad as well as in the United States. The investment Toyota is making is enormous and it shows a commitment to a long-term business relationship, as well as to stimulating engineering innovations.

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I am proud to welcome Toyota to my State, and I look forward to a relationship that is good for the entire Nation.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GARN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

HOUSE CONCURRENT RESOLUTION 246: CORRECTION IN ENROLLMENT OF HOUSE JOINT RESOLUTION 372

Mr. GARN. Mr. President, I ask unanimous consent that the Senate turn to consideration of House Concurrent Resolution 246 to correct a technical error in the conference report to accompany the debt limit.

The PRESIDING OFFICER. Is there objection? Without objection, the clerk will state the resolution by title.

The assistant legislative clerk read as follows:

A House concurrent resolution (H. Con. Res. 246) correcting the enrollment of House Joint Resolution 372.

There being no objection, the concurrent resolution was considered and agreed to.

Mr. GARN. I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE CALENDAR

Mr. GARN. Mr. President, I inquire of the minority leader if he is in a position to pass any of the following calendar items: Calendar No. 444, H.R. 664; Calendar No. 445, H.R. 729; Calendar No. 453, H.R. 1890; and Calendar No. 457, H.R. 3085.

Mr. BYRD. Mr. President, those measures are cleared on this side of the aisle. The distinguished acting majority leader may proceed to do them en bloc if he wishes.

Mr. GARN. I thank the distinguished minority leader.

PAYMENT OF INTEREST ON UNITED STATES INVESTMENT IN THE PANAMA CANAL

The bill (H.R. 664) to amend the Panama Canal Act of 1979 with respect to the payment of interest on the investment of the United States, was considered, ordered to a third reading, read the third time, and passed.

Mr. GARN. I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PANAMA CANAL AMENDMENTS ACT

The bill (H.R. 729) to amend the Panama Canal Act of 1979 in order that claims for vessels damaged outside the locks may be resolved in the same manner as those vessels damaged inside the locks, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

Mr. GARN. I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EQUITABLE WAIVER IN THE COMPROMISE AND COLLECTION OF FEDERAL CLAIMS

The Senate proceeded to consider the bill (H.R. 1890) to provide for an equitable waiver in the compromise and collection of Federal claims, which had been reported from the Committee on the Judiciary, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italic.)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CIVIL SERVICE EMPLOYEES.

(a) CLAIMS FOR OVERPAYMENT OF PAY AND ALLOWANCES.—Section 5584 of title 5, United States Code, is amended—

[(1) in the section catchline by striking out "other than" and inserting in lieu thereof "including";]

(1) in the section heading by striking out "other than" through the end of such heading and inserting in lieu thereof "and of travel, transportation and relocation expenses and allowances".

(2) in subsection (a) by striking out "A claim" and all that follows through "July 1, 1960," and inserting in lieu thereof "A claim of the United States against a person arising out of an erroneous payment of pay or allowances made on or after July 1, 1960, or arising out of an erroneous payment of [travel and transportation expenses or allowances or relocation expenses] *travel, transportation or relocation expenses and allowances* made on or after [January 1, 1985,";] *the date of enactment of this section;* and

(3) in subsection (b)—

(A) in paragraph (3) by striking out "or" after the semicolon;

(B) in paragraph (4) by striking out the period at the end and inserting in lieu thereof "; or"; and

(C) by adding at the end the following:

"(5) in the case of a claim involving an erroneous payment of [travel and transportation expenses or allowances or relocation expenses] *travel, transportation or reloca* *expenses and allowances*, if application waiver is received in his office after the piration of 3 years immediately follov the date on which the erroneous payn was discovered.".

(b) CLERICAL AMENDMENT.—The item r ing to section 5584 in the table of cont of chapter 55 of title 5, United States C is amended by striking out "other th [and inserting in lieu thereof "includin *through the end of such item and inser in lieu thereof "and for travel, transpo tion and relocation expenses and al ances".*

SEC. 2. MEMBERS OF THE UNIFORMED SERVIC

(a) CLAIMS FOR OVERPAYMENT OF PAY ALLOWANCE.—Section 2774 of title 10, Ur States Code, is amended—

(1) in the section catchline by striking "other than" and inserting in lieu the ["including;"] *"and"*,

(2) in subsection (a) by striking out claim" and all that follows through "C ber 2, 1972," and inserting in lieu thereo claim of the United States against a pe arising out of an erroneous payment of pay or allowances made before, on, or October 2, 1972, or arising out of an err ous payment of travel and transportatio lowances made on or after [Januar 1985,";] *the date of enactment of this tion"*, and

(3) in subsection (b)(2) by striking out pay or allowances, other than travel transportation allowances,".

(b) CLERICAL AMENDMENT.—The item r ing to section 2774 in the table of cont of chapter 165 of title 10, United St Code, is amended by striking out "o than" and inserting in lieu thereof ["in ing";] *"and"*.

SEC. 3. MEMBERS OF THE NATIONAL GUARD.

(a) CLAIMS FOR OVERPAYMENT OF PAY ALLOWANCES.—Section 716 of title 32, Ur States Code, is amended—

(1) in the section catchline by striking "other than" and inserting in lieu the ["including";] *"and"*;

(2) in subsection (a) by striking ou claim" and all that follows through "C ber 2, 1972," and inserting in lieu therec claim of the United States against a pe arising out of an erroneous payment of pay or allowances made before, on, or October 2, 1972, or arising out of an err ous payment of travel and transportatio lowances made on or after [Januar 1985,";] the date of enactment of this tion", and

(3) in subsection (b)(2) by striking ou pay or allowances. other than travel transportation allowances,".

(b) CLERICAL AMENDMENT.—The item r ing to section 716 in the table of conten chapter 7 of title 32, United States Co amended by striking out "other than" inserting in lieu thereof ["includir *"and"*.

The amendments were agreed to.

The bill was ordered to be engro for a third reading, read the t time, and passed.

Mr. GARN. I move to reconsider vote by which the bill was passed.

Mr. BYRD. I move to lay motion on the table.

The motion to lay on the table agreed to.

TITLE TO CERTAIN LANDS ALONG THE CALIFORNIA-NEVADA BOUNDARY

The bill (H.R. 3085) to clear title to certain lands along the California-Nevada boundary, was considered, ordered to a third reading, read the third time, and passed.

Mr. GARN. I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FEDERAL EMPLOYEES BENEFITS IMPROVEMENT ACT OF 1985

Mr. GARN. Mr. President, I ask unanimous consent the Senate turn to the consideration of Calendar No. 452, H.R. 3384, dealing with the refunds from the employees health benefit fund.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3384) to amend title 5, United States Code, to expand the class of individuals eligible for refunds or other returns of contributions from contingency reserves in the Employees Health Benefits Fund; to make miscellaneous amendments related to the Civil Service Retirement System and the Federal Employees Health Benefits Program; and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Governmental Affairs, with an amendment to strike out all after the enacting clause, and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Employees Benefits Improvement Act of 1985".

TITLE I—FEDERAL EMPLOYEE HEALTH BENEFITS

SEC. 101. AUTHORITY TO PAY CERTAIN HEALTH CARE PROFESSIONALS.

(a) NURSES AND NURSE-MIDWIVES.—(1)(A) Section 8902(k) of title 5, United States Code, is amended by striking out "or optometrist" each place it appears and inserting in lieu thereof ", optometrist, nurse, or certified nurse-midwife".

(B) Section 8901 of such title is amended—

(i) by striking out "and" at the end of paragraph (9),

(ii) by striking out the period at the end of paragraph (10) and inserting in lieu thereof "; and", and

(iii) by adding at the end thereof the following new paragraph:

"(11) 'certified nurse-midwife' has the same meaning given to such term in section 1905(m) of the Social Security Act.".

(b) CLINICAL SOCIAL WORKERS.—Section 8902(k) of title 5, United States Code, is further amended—

(A) by striking out "(k)" and inserting in lieu thereof "(k)(1)";

(B) by striking out the last sentence; and

(C) by inserting at the end thereof the following:

"(2)(A) When a contract under this chapter requires payment or reimbursement for services which may be performed by a qualified clinical social worker, an employee, annuitant, family member, or former spouse covered by the contract shall be entitled under the contract to have payment or reimbursement made to him or on his behalf for the services performed. As a condition for the payment or reimbursement, the contract—

"(i) may require that the services be performed pursuant to a referral by a psychiatrist; but

"(ii) may not require that the services be performed under the supervision of a psychiatrist or other health practitioner.

"(B) For the purpose of this paragraph, 'qualified clinical social worker' means an individual—

"(i) who is licensed or certified as a clinical social worker by the State in which such individual practices; or

"(ii) who, if such State does not provide for the licensing or certification of clinical social workers—

"(I) is certified by a national professional organization offering certification of clinical social workers; or

"(II) meets equivalent requirements (as prescribed by the Office).

"(3) The provisions of this subsection shall not apply to group practice prepayment plans.".

(c) EFFECTIVE DATES.—The amendments made by subsections (a) and (b) shall be effective with respect to contracts entered into or renewed for calendar years beginning after December 31, 1986.

SEC. 102. ELIMINATION OF REQUIREMENT OF THREE MEDICAL SPECIALTIES FOR GROUP-PRACTICE PREPAYMENT PLANS.

The second sentence of section 8903(4)(A) of title 5, United States Code, is amended to read as follows: "The group shall include at least 3 physicians who receive all or a substantial part of their professional income from the prepaid funds and who represent 1 or more medical specialties appropriate and necessary for the population proposed to be served by the plan.".

SEC. 103. AUTHORITY TO WAIVE CERTAIN ELIGIBILITY REQUIREMENTS.

Section 8905(b) of title 5, United States Code, is amended by adding at the end thereof the following new sentence: "The Office may, in its sole discretion, waive the requirements of this subsection in the case of an individual who fails to satisfy such requirements if the Office determines that, due to exceptional circumstances, it would be against equity and good conscience not to allow such individual to be enrolled as an annuitant in a health benefits plan under this subchapter.".

SEC. 104. ANNUAL OPEN SEASON.

(a) IN GENERAL.—Section 8905(f) of title 5, United States Code, is amended to read as follows:

"(f)(1) Under regulations prescribed by the Office, the Office shall, before the start of any contract term in which—

"(A) an adjustment is made in any of the rates charged or benefits provided under a health benefits plan described by section 8903 or 8903a of this title,

"(B) a newly approved health benefits plan is offered, or

"(C) an existing plan is terminated,

provide a period of not less than 3 weeks during which any employee, annuitant, or former spouse enrolled in a health benefits plan described by such section shall be permitted to transfer that individual's enrollment to another such plan or to cancel such enrollment.

"(2) In addition to any opportunity afforded under paragraph (1) of this subsection, an employee, annuitant, or former spouse enrolled in a health benefits plan under this chapter shall be permitted to transfer that individual's enrollment to another such plan, or to cancel such enrollment, at such other times and subject to such conditions as the Office may prescribe in regulations.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective with respect to contracts entered into or renewed for calendar years beginning after December 31, 1986.

SEC. 105. AUTHORITY TO REFUND CERTAIN CONTRIBUTIONS TO ENROLLEES.

The last sentence of section 8909(b) of title 5, United States Code, is amended by striking out "employees" and inserting in lieu thereof "enrollees".

SEC. 106. HEALTH SERVICES FOR MEDICALLY UNDERSERVED POPULATIONS.

(a) IN GENERAL.—(1) Section 3 of the Act entitled "An Act to amend chapter 89 of title 5, United States Code, to establish uniformity in Federal employee health benefits and coverage by preempting certain State or local laws which are inconsistent with such contracts, and for other purposes", approved September 17, 1978 (Public Law 95-368; 92 Stat. 606; 5 U.S.C. 8902 note), is amended by striking out "; except that such provisions shall not apply to services provided after December 31, 1984".

(2) Section 5(b) of the Act entitled "An Act to amend the provisions of chapters 83 and 89 of title 5, United States Code, which relate to survivor benefits for certain dependent children, and for other purposes", approved January 2, 1980 (Public Law 96-179; 93 Stat. 1300; 5 U.S.C 8902 note), is amended by striking out "and before January 1, 1985,".

(3) Section 8902(m)(2)(A) of title 5, United States Code, is amended by adding at the end thereof the following: "This paragraph shall apply with respect to a qualified clinical social worker covered by subsection (k)(2) of this section without regard to whether such contract contains the requirement authorized by clause (i) of the second sentence of subparagraph (A) of such subsection (k)(2).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect with respect to services provided after December 31, 1984.

SEC. 107. MENTAL HEALTH, ALCOHOLISM, AND DRUG ADDICTION BENEFITS.

(a) FINDINGS.—The Congress finds that—

(1) the treatment of mental illness, alcoholism, and drug addiction are basic health care services which are needed by approximately 40,000,000 Americans each year;

(2) treatment of mental illness, alcoholism, and drug addiction is increasingly successful;

(3) timely and appropriate treatment of mental illness, alcoholism, and drug addiction is cost effective in terms of restored productivity, reduced utilization of other health services, and reduced social dependence; and

(4) mental illness is a problem of grave concern to the people of the United States and is widely but unnecessarily feared and misunderstood.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress—

(1) that participants in the Federal employees health benefits program should receive adequate benefits coverage for treat-

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ment of mental illness, alcoholism, and drug addiction; and

(2) that the Office of Personnel Management should encourage participating health benefits plans to provide adequate benefits relating to treatment of mental illness, alcoholism, and drug addiction (including benefits relating to coverage for inpatient and outpatient treatment and catastrophic protection benefits).

SEC. 108. STUDY OF THE ADEQUACY OF HEALTH BENEFITS PROGRAM INFORMATION.

(a) In General.—Not later than March 1, 1986, the Office of Personnel Management shall (1) study the adequacy of any sources or methods currently provided under chapter 89 of title 5, United States Code, to assist individuals in making informed decisions concerning the choice of a health benefits plan under such chapter and the use of benefits available under any such plan, and (2) submit to the Committee on Post Office and Civil Service of the House of Representatives and the Committee on Governmental Affairs of the Senate a report on the findings and determinations of the Office resulting from such study.

(b) Report Requirements.—The report required by subsection (a) shall include—

(1) an assessment of the adequacy of the sources and methods referred to in such subsection in advising individuals with respect to the coordination of benefits under chapter 89 of title 5, United States Code, with benefits available under other health insurance programs established by or under Federal law, including title XVIII of the Social Security Act; and

(2) the administrative actions and any recommendations for legislation which the Office considers necessary in order to improve the effectiveness of any such source or method.

SEC. 109. DEMONSTRATION PROJECT.

(a) Definitions.—For the purposes of this section—

(1) "health protection" means activities to minimize environmental and other workplace conditions which cause or aggravate stress, illness, disability, or other health impairments, including such activities as—

(A) accommodation of the handicapped;

(B) review of plans for new or altered facilities;

(C) routine inspections, surveys, studies of worksites;

(D) inspections of worksites by a physician or nurse;

(E) evaluation and monitoring of worksite hazards; and

(F) investigations of causes of occupational disease or injury;

(2) "health promotion" means activities to encourage the development of health enhancing habits and practices, including activities encouraging—

(A) cessation of tobacco smoking;

(B) reduction in the misuse of alcohol, drugs, and other chemical substances;

(C) improvements in nutrition;

(D) improvements in physical fitness; and

(E) control of stress;

(3) "disease prevention" means activities to prevent unnecessary illnesses, morbidity, disability, and medical treatment, including—

(A) occupationally related examinations;

(B) general health assessments;

(C) biological monitoring;

(D) immunizations, chemoprophylaxis, fitting respirators and hearing protectors, use of barrier creams, control of high blood pressure, control of sexually transmittable diseases, care to improve pregnancy outcome, control of toxic agents, control or elimination of hazards leading to accidental injuries, control of infectious agents, and other health intervention activities; and

(E) referral to private physicians and dentists; and

(4) "secondary prevention" means—

(A) activities to provide on-the-job emergency health and dental care and assistance, and

(B) rehabilitation or follow-up care after emergency care,

to reduce morbidity, disability, lost production, and medical treatment.".

(b) In General.—The Director of the Office of Personnel Management, in consultation with the Secretary of Health and Human Services, shall establish and carry out at least one demonstration project to determine—

(1) the most effective (including cost-effective) means of—

(A) furnishing health protection, health promotion, disease prevention, and secondary prevention services to Federal Government employees;

(B) encouraging such employees to adopt good health habits;

(C) reducing health risks to such employees, particularly the risks of heart disease, cancer, stroke, diabetes, anxiety, depression, and lifestyle-related accidents;

(D) reducing medical expenses of such employees through health protection, health promotion, disease prevention, and secondary prevention activities;

(E) enhancing employee productivity and reducing health related liability of the Federal Government through a comprehensive occupational health program; and

(F) carrying out a program—

(i) to train employees under the jurisdiction of a Federal Government agency to furnish health protection, health promotion, disease prevention, and secondary prevention services to employees of such agency; and

(ii) to promote interagency agreements under which trained employees of an agency are available to furnish such services to employees of other Federal Government agencies, subject to reimbursement of the costs of the agency in making the trained employees available; and

(2) the cost effectiveness of organizational structures and of social and educational programs which may be useful in achieving the objectives described in clause (1).

(c)(1) Conduct of the Demonstration Project.—The demonstration project described in subsection (b) shall be conducted in cooperation with at least one—

(A) health profession school;

(B) allied health profession or nurse training institution; or

(C) public or private entity which provides health care.

(2)(A) The Director of the Office of Personnel Management, in consultation with the Secretary of Health and Human Services, may enter into contracts with, or make grants to, any school of medicine, school of osteopathy, school of public health, health maintenance organization, or other qualified health care provider for the purpose of carrying out the demonstration project described in subsection (b).

(B) For the purposes of this paragraph, the terms "school of medicine" and "school of osteopathy" have the same meanings as provided for such terms in section 701(4) of the Public Health Service Act (42 U.S.C. 292a(4)).

(d) Report.—Not later than 60 days after the date the demonstration project required
by subsection (b) terminates, the Direct
the Office of Personnel Management, in
sultation with the Secretary of Health
Human Services, shall submit to Congr
report on the project.

(e) Establishment and Termination
quirements.—The demonstration projec
quired by subsection (b) shall be establi
not later than 6 months after the date o
actment of this Act and shall terminat
the date 2 years after such date of e
ment.

TITLE II—CIVIL SERVICE SPOUSE AN
FORMER SPOUSE EQUITY IMPROVEMEN

SEC. 201. REVISION OF THE APPLICATION AND
CIAL ELECTIONS PROVISIONS OF
CIVIL SERVICE RETIREMENT SP
EQUITY ACT OF 1984.

(a) Application.—Section 4(a) of the
Service Retirement Spouse Equity A
1984 (Public Law 98-615; 98 Stat. 320
amended to read as follows:

"(a)(1) Except as provided in paragr
(3), (4), (5), and (6) and subsections (b
(c), the amendments made by section
this Act shall take effect May 7, 1985,
shall apply—

"(A) to any individual who, on or
such date, is married to an employe
Member who, on or after such date, re
dies, or applies for a refund of contribu
under subchapter III of chapter 83 of ti
United States Code, and

"(B) to any individual who, as of
date, is married to a retired employe
Member,

unless (i) such employee or Member
waived, under the first sentence of se
8339(j)(1) of such title (or a similar
provision of law), the right of that ind
ual's spouse to receive a survivor ann
or (ii) in the case of a post-retirement
riage or remarriage, an election has
been made before such date by such em
ee or Member with respect to such ind
ual under the applicable provisions o
tion 8339(j)(1) or 8339(k)(2) of such tit
the case may be (or a similar prior p
sion of law).

"(2) Except as provided in subsectio
the amendments made by section 3 o
Act shall take effect May 7, 1985, and
apply to any individual who, on or
such date, is married to an employee o
nuitant.

"(3) The amendments made by sub
graphs (B)(iii) and (C)(ii) of section 2
this Act (relating to the termination o
vivor benefits for a widow or widowe
remarries before age 55) and the a
ments made by subparagraph (F) of
section 2(4) (relating to the restoration
survivor annuity upon the dissoluti
such a remarriage) shall apply—

"(A) in the case of a remarriage occu
on or after the date of the enactment o
Act; and

"(B) with respect to periods beginni
or after such date.

"(4)(A) Except as provided in sub
graph (B), the amendment made by s
2(3)(A) of this Act (but only to the
that it amends title 5, United States
by adding a new section 8339(j)(5)(C)
the amendment made by section 2(3)
this Act (which relate to the election
survivor annuity for a spouse in the c
a post-retirement marriage or remar
shall apply—

"(i) to an employee or Member who
before, on, or after May 7, 1985; and

"(ii) in the case of a marriage occu
after May 7, 1985.

"(B) The amendments referred to in subparagraph (A) shall not apply in the case of a marriage of an employee or Member retiring before May 7, 1985, if the marriage occurred after May 6, 1985, and before the date of the enactment of the Federal Employees Benefits Improvement Act of 1985.

"(C) Any election by an employee or Member described in subparagraph (B) to provide a survivor annuity for that individual's spouse by a marriage described in such subparagraph shall be effective if made in accordance with the applicable provisions of section 8339(j)(1) or 8339(k)(2) of title 5, United States Code, as the case may be, as in effect on May 6, 1985.

"(5)(A) Paragraphs (2), (3), (4), and (5)(B) of section 8339(j) of title 5, United States Code (as added by section 2(3)(A) of this Act), shall apply to a former spouse of an employee or Member whose marriage to such employee or Member terminated before May 7, 1985, if such employee or Member retires on or after such date.

"(B) An employee or Member who retires on or after May 7, 1985, and before the date of the enactment of the Federal Employees Benefits Improvement Act of 1985, may elect to receive a reduced annuity under section 8339(j)(3) of title 5, United States Code (as amended by section 2(3)(A) of this Act), in order to provide a survivor annuity, under section 8341(h) of such title (as amended by section 2(4)(G) of this Act), for a former spouse referred to in subparagraph (A).

"(C) A survivor annuity shall be paid a former spouse as provided in section 8341(h) of title 5, United States Code (as amended by section 2(4)(G) of this Act), pursuant to an election made in the case of such former spouse under this paragraph.

"(D) The amendments made by paragraphs (6) and (7) of section 2 of this Act shall apply in the case of survivor annuities and elections authorized by this paragraph.

"(6) The amendment made by section 2(4)(A) of this Act (relating to the definition of a widow or widower) and the amendment made by section 2(4)(G) of this Act (but only to the extent that it amends title 5, United States Code, by adding a new section 8341(i)) shall apply with respect to any marriage occurring on or after May 7, 1985.".

(b) ENTITLEMENT OF A FORMER SPOUSE IN CASE OF RETIREMENT OR DEATH OF AN EMPLOYEE OR MEMBER BEFORE THE EFFECTIVE DATE.—Section 4(b) of the Civil Service Retirement Spouse Equity Act of 1984 (Public Law 98-615; 98 Stat. 3205) is amended—

(1) in paragraph (1)—

(A) by striking out "the one hundred and eightieth day after the date of enactment of this Act" in the matter before subparagraph (A) and inserting in lieu thereof "May 7, 1985, or who died after becoming eligible to retire and before such date,";

(B) by striking out "retired" in the matter before clause (i) in subparagraph (B); and

(C) by striking out clause (iii) in subparagraph (B) and by redesignating clauses (iv), (v), and (vi) of such subparagraph as clauses (iii), (iv), and (v), respectively; and

(2) by redesignating paragraph (4) as paragraph (6);

(3) by inserting after paragraph (3) the following new paragraph (4):

"(4)(A) A former spouse of an employee or Member referred to in the matter before subparagraph (A) in paragraph (1) of this section shall be entitled to a survivor annuity under subparagraph (B) of such paragraph if—

"(i) the former spouse satisfies the requirements of clauses (ii) through (v) of such subparagraph (B); and

"(ii) there is no surviving spouse of the employee or Member and no other former spouse of such employee or Member who is entitled to receive a survivor annuity under subchapter III of chapter 83 of title 5, United States Code, based on the service of such employee or Member which is creditable under such subchapter and there is no other person who has been designated to receive a survivor annuity under such subchapter by reason of an insurable interest in such employee or Member.

"(B) For the purposes of this paragraph, the term 'surviving spouse' means a widow or a widower as defined in paragraphs (1) and (2), respectively, of section 8341(a) of title 5, United States Code."; and

(4) in paragraph (6), as redesignated by clause (2) of this subsection—

(A) by striking out "Member," in the matter before subparagraph (A) and inserting in lieu thereof "Member (or of that portion of the annuity which such employee or Member may have designated for this purpose under paragraph (1)(A) of this subsection),"; and

(B) by striking out "section 8341(b)(4)" in the matter following subparagraph (B) and inserting in lieu thereof "section 8341(h)(2)".

(c) ELIGIBILITY OF CERTAIN FORMER SPOUSES TO ENROLL IN A FEDERAL EMPLOYEES HEALTH BENEFITS PLAN.—(1) The first sentence of section 4(f) of the Civil Service Retirement Spouse Equity Act of 1984 is amended to read as follows: "Any individual—

"(1) who is entitled to a survivor annuity under subsection (b) of this section or pursuant to an election authorized by reason of the application of subsection (a)(5) of this section,

"(2) as to whom a court order or decree referred to in section 8345(j) of title 5, United States Code (or similar provision of law under a retirement system for Government employees other than the Civil Service Retirement System) has been issued before May 7, 1985, or

"(3) who is entitled (other than as described in paragraph (2)) to an annuity or any portion of an annuity as a former spouse under a retirement system for Government employees as of May 7, 1985,

shall be considered to have satisfied section 8901(10)(C) of title 5, United States Code, as amended by this Act.".

(2) The second sentence of such section 4(f) is amended—

(A) by inserting ", within 12 months after the date of the enactment of the Federal Employees Benefits Improvement Act of 1985," before "enroll"; and

(B) by inserting before the period at the end the following: "(other than the conditions prescribed in subparagraphs (A) and (B) of paragraph (1) of such section 8905(c))".

(d) ADDITIONAL ELECTION.—(1) Notwithstanding the time limitation prescribed in subparagraph (A) of section 4(b)(1) of the Civil Service Retirement Spouse Equity Act of 1984, an election may be made under such subparagraph before the expiration of the 12-month period beginning on the date on which the regulations under paragraph (3) of this subsection first take effect.

(2) Any retired employee or Member who has made an election under section 4(b)(1)(A) of the Civil Service Retirement Spouse Equity Act of 1984 (as in effect at the time of such election) before the regulations under paragraph (3) of this subsection become effective may modify such election by designating, in writing, that only a portion of such employee or Member's annuity is to be used as the base for the survivor annuity for the former spouse for whom the election was made. A modification under this subparagraph shall be subject to the deadline under paragraph (1) of this subsection.

(3) The Office of Personnel Management shall prescribe regulations to carry out this subsection, including regulations under which an appropriate refund shall be made in the case of a modification under paragraph (2) of this subsection.

SEC. 202. SPECIAL ELECTION FOR SURVIVING SPOUSES OF CERTAIN DECEASED FEDERAL OFFICERS AND EMPLOYEES.

(a) ELECTION.—If an employee or Member died during the period the employee or Member was entitled to make an election under section 4(c) of the Civil Service Retirement Spouse Equity Act of 1984 (Public Law 98-615; 98 Stat. 3206) and the employee or Member did not make such an election, the surviving spouse of such deceased employee or Member may elect in writing, within 1 year after the date of the enactment of the Federal Employees Benefits Improvement Act of 1985—

(1) to receive a survivor annuity under section 8341(b) of title 5, United States Code, and

(2) to make the deposit (or submit to the collection) provided in such section 4(c).

(b) PAYMENT OF SURVIVOR ANNUITY.—A surviving spouse who makes an election authorized by subsection (a) shall be paid a survivor annuity under section 8341(b) of title 5, United States Code, commencing on the first day of the second month which begins after the month in which the surviving spouse makes the election.

(c) NOTICE AND DOCUMENTATION REQUIREMENTS.—The public notice and documentation requirements prescribed in section 4(c) of the Civil Service Retirement Spouse Equity Act of 1984 shall apply to an election under subsection (a).

(d) FUNDING.—The Office of Personnel Management shall take into account the cost of survivor annuities under this section and the deposits made under this section in making the determinations required by section 4(e) of the Civil Service Retirement Spouse Equity Act of 1984 (Public Law 98-615; 98 Stat. 3207).

(e) REGULATIONS.—The Office of Personnel Management may prescribe regulations to carry out this section.

(f) DEFINITIONS.—For the purposes of this section—

(1) the term "employee" has the same meaning as provided in section 8331(1) of title 5, United States Code;

(2) the term "Member" has the same meaning as provided in section 8331(2) of such title;

(3) the term "surviving spouse" means a widow or widower, as defined in paragraphs (1) and (2), respectively, of section 8341(a) of such title.

SEC. 203. CREDIT FOR MILITARY SERVICE.

Section 8332(j)(1) of title 5, United States Code, is amended by striking out "widow" each place it appears and inserting in lieu thereof "spouse, former spouse".

SEC. 204. ANNUITY REDUCTIONS.

(a) IRREVOCABILITY OF A JOINT SPOUSAL WAIVER.—Section 8339(j)(3) of title 5, United States Code, is amended by inserting ", unless all rights to survivor benefits for such former spouse under this subchapter based on marriage to such employee or Member were waived under paragraph (1) of this

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subsection" before the period at the end of the first sentence.

(b) REPLACEMENT OF TERMINATED REDUCTION.—Section 8339(j)(5)(B) of title 5, United States Code, is amended to read as follows:

"(B) Any reduction in an annuity for the purpose of providing a survivor annuity for a former spouse of a retired employee or Member shall be terminated for each full month after the former spouse remarries before reaching age 55 or dies. This reduction shall be replaced by an appropriate reduction or reductions under paragraph (4) of this subsection if the retired employee or Member has (i) another former spouse who is entitled to a survivor annuity under section 8341(h) of this title, (ii) a current spouse to whom the employee or Member was married at the time of retirement and with respect to whom a survivor annuity was not jointly waived under paragraph (1) of this subsection, or (iii) a current spouse whom the employee or Member married after retirement and with respect to whom an election has been made under subparagraph (C) of this paragraph or subsection (k)(2) of this section.".

(c) ELECTIONS RELATING TO A SURVIVOR ANNUITY FOR A PERSON WHO HAS AN INSURABLE INTEREST IN AN ANNUITANT.—(1) Section 8339(j)(5)(C) of title 5, United States Code, is amended by adding at the end thereof the following:

"(v) An election to provide a survivor annuity to a person under this subparagraph—

"(I) shall prospectively void any election made by the employee or Member under subsection (k)(1) of this section with respect to such person; or

"(II) shall, if an election was made by the employee or Member under such subsection (k)(1) with respect to a different person, prospectively void such election if appropriate written application is made by such employee or Member at the time of making the election under this subparagraph.

"(vi) The deposit provisions of clauses (ii) and (iii) of this subparagraph shall not apply if—

"(I) the employee or Member makes an election under this subparagraph after having made an election under subsection (k)(1) of this section; and

"(II) the election under such subsection (k)(1) becomes void under clause (v) of this subparagraph.".

(2) Section 8339(k)(1) of such title is amended by adding at the end thereof the following: "In the case of a married employee or Member, an election under this paragraph on behalf of the spouse may be made only if any right of such spouse to a survivor annuity based on the service of such employee or Member is waived in accordance with subsection (j)(1) of this section.".

(3) Paragraph (2) of section 8339(k) of such title is amended—

(A) by striking out subparagraph (B)(i) and inserting in lieu thereof the following:

"(B)(i) The election and reduction shall take effect on the first day of the first month beginning after the expiration of the 9-month period beginning on the date of marriage. Any such election to provide a survivor annuity for a person—

"(I) shall prospectively void any election made by the employee or Member under paragraph (1) of this subsection with respect to such person; or

"(II) shall, if an election was made by the employee or Member under such paragraph with respect to a different person, prospectively void such election if appropriate written application is made by such employee or Member at the time of making the election under this paragraph.";

(B) by striking out "(other than an employee or Member who made a previous election under paragraph (1) of this subsection)" in subparagraph (B)(ii); and

(C) by adding at the end thereof the following new subparagraph (D):

"(D) Subparagraphs (B)(ii) and (C) of this paragraph shall not apply if—

"(i) the employee or Member makes an election under this paragraph after having made an election under paragraph (1) of this subsection; and

"(ii) the election under such paragraph (1) becomes void under subparagraph (B)(i) of this paragraph.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect May 7, 1985.

SEC. 205. PRORATED COST-OF-LIVING ADJUSTMENTS FOR THE FIRST YEAR.

Section 8340(c)(1) of title 5, United States Code, is amended—

(1) by striking out "or widower" the first time it appears and inserting in lieu thereof ", widower, or former spouse,"; and

(2) by striking out "or widower" the second and third time it appears and inserting in lieu thereof ", widower, former spouse, or insurable interest designee".

SEC. 206. SURVIVOR BENEFITS FOR CHILDREN.

(a) EQUITABLE SURVIVOR ANNUITIES FOR SURVIVING CHILDREN.—Section 8341(e) of title 5, United States Code, is amended—

(1) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively; and

(2) by inserting before paragraph (2), as redesignated by clause (1), the following new paragraph:

"(1) For the purposes of this subsection, 'former spouse' includes a former spouse who was married to an employee or Member for less than 9 months and a former spouse of an employee or Member who completed less than 18 months of service covered by this subchapter.".

(b) INDIVIDUAL DETERMINATION OF SURVIVOR ANNUITY AMOUNT.—Section 8341(e)(2) of title 5, United States Code, as redesignated by subsection (a)(1) of this section, is amended by striking out "each surviving child" both times it appears and inserting in lieu thereof "that surviving child".

SEC. 207. DEFERRED ANNUITIES FOR FORMER SPOUSES OF FORMER MEMBERS OF CONGRESS.

Section 8341(h)(1) of title 5, United States Code, is amended by striking out "or annuitant" and inserting in lieu thereof "annuitant, or former Member who was separated from the service with title to a deferred annuity under section 8338(b) of this title".

SEC. 208. CHANGES IN COURT ORDERS AFTER DEATH.

Section 8341(h)(4)(A) of title 5, United States Code, is amended by inserting "or death" after "retirement".

SEC. 209. EFFECT OF A SEPARATION AGREEMENT ON REFUND OF A LUMP-SUM CREDIT.

Section 8342(j)(1)(B) of title 5, United States Code, is amended to read as follows:

"(B) shall be subject to the terms of a court decree of divorce, annulment, or legal separation or any court order or court approved property settlement agreement incident to such decree if—

"(i) the decree, order, or agreement expressly relates to any portion of the lump-sum credit involved; and

"(ii) payment of the lump-sum credit would extinguish entitlement of the employee's or Member's spouse or former spouse to a survivor annuity under section 8341(h) of
this title or to any portion of an annui
under section 8345(j) of this title.".

TITLE III—MISCELLANEOUS CIVIL SERVIC
AMENDMENTS

SEC. 301. RECEPTION AND REPRESENTATION
PENSES OF THE OFFICE OF PERSO
NEL MANAGEMENT.

Section 1103(a) of title 5, United Sta
Code, is amended—

(1) by striking out "and" after paragra
(7);

(2) by striking out the period after pa
graph (8) and by inserting in lieu thereof
and"; and

(3) by inserting after paragraph (8) the f
lowing:

"(9) incurring official reception and rep
sentation expenses of the Office subject
any limitation prescribed in any law.".

SEC. 302. EXCEPTION TO NOTICE REQUIREME
FOR ROUTINE PAY MATTERS.

Section 1103(b) of title 5, United Sta
Code, is amended by adding at the e
thereof the following new paragraph:

"(4) Paragraphs (1) and (2) of this subs
tion and section 1105 of this title shall
apply to the establishment of any schedu
or rates of basic pay or allowances un
subpart D of part III of this title. The p
ceding sentence does not apply to the est
lishment of the procedures, methodology,
criteria used to establish such schedu
rates, or allowances.".

SEC. 303. PREDEPARTURE ALLOWANCE.

Section 5924(2)(A) of title 5, United Sta
Code, is amended by inserting after "Uni
States" the following: ", its territories
possessions, the Commonwealth of Pue
Rico, or the areas and installations in
Republic of Panama made available to
United States pursuant to the Pana
Canal Treaty of 1977 and related ag
ments".

SEC. 304. DENTAL CARE IN GOVERNMENT MEDI
FACILITIES OVERSEAS.

The second sentence of section 5 of the
of May 10, 1943 (24 U.S.C. 35; 57 Stat. 81
amended to read as follows: "Routine den
care, other than dental prosthesis and or
dontia, may be furnished to such pers
who are outside the naval service under
same conditions as are prescribed in sect
4 of this Act for hospital and dispens
care for such persons.".

The PRESIDING OFFICER.
there be no further amendment to
proposed the question is on agree
to the committee amendment in
nature of a substitute.

The committee amendment
agreed to.

The PRESIDING OFFICER. T
question is on the engrossment of
committee amendment and third re
ing of the bill.

The amendment was ordered to
engrossed, and the bill to be rea
third time.

The bill was read a third time.

The PRESIDING OFFICER. T
bill having been read the third ti
the question is, Shall it pass?

So the bill (H.R. 3384) was passed.

Mr. GARN. Mr. President, I move
reconsider the vote by which the
was passed.

Mr. BYRD. I move to lay th
motion on the table.

The motion to lay on the table was agreed to.

GOODLOE E. BYRON MEMORIAL PEDESTRIAN WALKWAY

Mr. GARN. Mr. President, I ask unanimous consent the Energy Committee be discharged from further consideration of H.R. 3735 and I ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The bill will be stated by title.

The assistant legislative clerk read as follows:

> A bill (H.R. 3735) to designate the pedestrian walkway crossing the Potomac River at Harpers Ferry National Historical Park as the Goodloe E. Byron Memorial Pedestrian Walkway.

The Senate proceeded to consider the bill.

GOODLOE E. BYRON MEMORIAL PEDESTRIAN WALKWAY

Mr. MATHIAS. Mr. President, I rise in support of H.R. 3735, a bill to designate the newly constructed pedestrian walkway crossing the Potomac River at Harpers Ferry National Historic Park as the Goodloe E. Byron Pedestrian Walkway.

Before his death in October 1978, Representative Byron served 8 years in the House of Representatives, representing western Maryland with vigor and enthusiasm. He was an heir to a family tradition of public service to western Maryland. Both his father and mother served as Members of the House of Representatives. Goodloe Byron was succeeded in the House by his wife, BEVERLY BYRON.

While Goodloe and his family thrived on politics, he also was intensely interested in the world of nature. As a boy scout in Williamsport, MD, he became acquainted with the Appalachian Trail and the towpath of the Chesapeake and Ohio Canal. Later in his life he hiked and camped on the trail with his family. Literally the last hour of his life was spent on the towpath. He was an outdoorsman, a naturalist, a great jogger and hiker. And he translated this appreciation for nature into action.

During his tenure in Congress, he concentrated his efforts on preserving a number of vital natural resources important to his district and its surroundings, including the Chesapeake and Ohio National Park, the Appalachian Trail and one of the most historic areas on the Potomac River. The foot bridge connects all these resources. It links Harpers Ferry with the C&O Canal and the Appalachian Trail will be rerouted across it. Its designation in his name, therefore, would be an appropriate commemoration to Representative Byron.

I urge my colleagues to support this legislation.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 3735) was ordered to a third reading, was read the third time, and passed.

Mr. GARN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONVERSION OF TEMPORARY FLEX-TIME AUTHORITY TO PERMANENT AUTHORITY

Mr. GARN. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 227, H.R. 1534, the flexitime bill.

The PRESIDING OFFICER. Is there objection? Without objection it is so ordered.

The bill will be stated by title.

The assistant legislative clerk read as follows:

> A bill (H.R. 1534) to convert the temporary authority to allow Federal employees to work on a flexible or compressed schedule under title 5, United States Code, into permanent authority.

The Senate proceeded to consider the bill.

Mr. STEVENS. Mr. President, I am pleased to support the passage of H.R. 1534—a bill that would permanently reauthorize the Alternative Work Schedules Program in the Federal Government.

The program will expire on December 31, 1985, unless we pass and the President signs this legislation. The termination of this program would have drastic negative effects not only on the affected Federal employees but on the public they serve.

This highly successful program was established in 1978, and was extended in 1982, and on three separate occasions this year. It has allowed agencies to establish and administer flexible and compressed work schedules for Federal employees. Generally, flexible schedules permit employees, within limits, to vary the times they report for and depart from work. Compressed schedules permit employees to work longer than 8 hours per day and thereby complete their biweekly work schedules in less than 10 days. More than 300,000 Federal employees, in nearly every agency, are currently working under alternative work schedules.

The successes of the Federal program and numerous private sector programs are legion. According to the Office of Personnel Management [OPM], the program has proven to be generally successful and to have had positive effects on productivity and service to the public. It has also been beneficial to employees by allowing them more flexibility to meet their personal needs and commitments. For instance, parents may arrange their work hours to meet family and household responsibilities.

In short, this program has provided agencies with the management flexibility to meet employee needs without a loss in productivity and without a diminution in service to the public. We cannot afford to abandon this valuable management tool. I urge adoption of H.R. 1534.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 1534) was ordered to a third reading, was read the third time, and passed.

Mr. GARN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONVEYANCE OF LAND TO BELLVILLE WESLEYAN CHURCH

Mr. GARN. Mr. President, I ask unanimous consent that the Senate turn to the consideration of H.R. 2976 dealing with land conveyance to New York State which was received from the House of Representatives today.

The PRESIDING OFFICER. Is there objection? Without objection, the bill will be considered as read twice and the Senate will proceed to its consideration. The clerk will report.

The assistant legislative clerk read as follows:

> A bill (H.R. 2976) to direct the Secretary of Agriculture to release the condition requiring that a parcel of land conveyed to New York State be used for public purposes and to convey United States mineral interests in the parcel to New York State.

The Senate proceeded to consider the bill.

Mr. MOYNIHAN. Mr. President, I am pleased the Senate is acting so expeditiously on H.R. 2976, a bill introduced by Representative STAN LUNDINE authorizing and directing the Secretary of Agriculture to permit the conveyance of 5.8 acres of land to the Bellville Wesleyan Church in Caneadea, NY.

In the late 1930's, the Federal Government—under authority of the Bankhead-Jones Farm Tenant Act of 1937 (50 Stat. 525)—acquired some 3,600 acres of marginal farm lands in and around Caneadea for rural resettlement. The Federal Government then managed the properties as a land utilization project. In 1961, the De-

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partment of Agriculture conveyed the acreage by quitclaim deed to New York State for $1, on the condition the State use the land for public purposes. If it ceased to do so, ownership would revert to the Federal Government, which also retained mineral interests.

The New York State Department of Environmental Conservation [DEC] has managed the properties as part of the larger Hanging Bog Game Management Area since conveyance 24 years ago. The 5.8-acre parcel in question is adjacent to the Bellville Wesleyan Church. Although managed by DEC as part of the Hanging Bog Game Management Area, a public highway separates and isolates it. Because of its size and location, it is not used in any significant way.

In 1976, the State authorized the conveyance of the 5.8 acres to the church (for fair and equitable consideration) upon release of the U.S.-held reversionary interest contained in the 1961 deed. H.R. 2976 directs the Secretary of Agriculture to release that interest, and it further directs the Secretary of the Interior to convey the mineral interests if the church is willing and able to reimburse the State for them.

The church is willing and able to pay for the land and mineral rights, assessed by a local real estate firm at $300 per acre. The church intends to use a portion of the land for a septic system and another portion for a small parking lot. Most of the land, now overgrown with small brush, would remain unchanged.

Mr. President, adoption of H.R. 2976 is most important to the church, whose congregation was formed nearly 100 years ago, in 1886. I might add that the church serves as an important religious center in this sparsely populated area of southwestern New York. I know of no opposition to the bill, and I am happy to commend it to my colleagues.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading and passage of the bill.

The bill (H.R. 2976) was read the third time and passed.

Mr. GARN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AUTHORIZATION OF TESTIMONY OF SENATOR BOREN

Mr. GARN. Mr. President, I send to the desk a resolution on behalf of Senator Dole and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 269) authorizing testimony of Senator Boren in the case of *Sheryl P. Shreckengost* v. *Caspar Weinberger, et al.*, C.A. No. 85-0638-A.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. DOLE. Mr. President, Senator Boren has received a request that he be deposed by the plaintiff in the case of *Sheryl P. Shreckengost* v. *Caspar Weinberger, et al.*, C.A. No. 85-0638-A, pending in the U.S. District Court for the Eastern District of Virginia.

Senator Boren is not a party to this action. The resolution would authorize him to testify at the deposition except when his attendance at the Senate is necessary for the performance of his legislative duties.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 269) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

Whereas, in the case of *Sheryl P. Shreckengost* v. *Caspar Weinberger, et al.*, C.A. No. 85-0638-A, pending in the United States District Court for the Eastern District of Virginia, the plaintiff has requested a deposition of Senator David L. Boren.

Whereas, by Rule VI of the Standing Rules of the Senate, no Senator shall absent himself from the service of the Senate without leave; Now, therefore, be it

Resolved, That Senator Boren is authorized to testify in the case of *Sheryl P. Shreckengost* v. *Caspar Weinberger, et al.*, C.A. No. 85-0638-A, except when his attendance at the Senate is necessary for the performance of his legislative duties.

Mr. GARN. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TESTIMONY OF SENATE FINANCIAL CLERK IN CIVIL ACTION

Mr. GARN. Mr. President, I send to the desk a resolution on behalf of Senator Dole and Senator Byrd, and I ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 270) to authorize the testimony and production of documents by the Senate Financial Clerk.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senat
proceeded to consider the resolution.

Mr. DOLE. Mr. President, this pa
Friday, our Financial Clerk, Stu Ba
derson, received a subpoena obtaine
by counsel for the plaintiff in the ca
of Wilbur G. DePerini against Pa
Terrence O'Grady to testify ar
produce pay records at a civil trial
D.C. Superior Court on Thursday
this week.

Mr. DePerini, a former second assis
ant superintendent in our Press Ga
lery, is suing a third party to recov
projected losses he will have suffere
because of a lower annuity resulti
from his premature, disability reti
ment following injuries sustained in
automobile accident. Mr. Balderso
appearance has been requested for t
purpose of verifying the plaintif
earnings at the time he left the Sena
and estimating what DePerini mig
have been making with cost of livi
increases had he worked another
years to age 60.

This resolution would authorize M
Balderson to so testify before t
court as one who has firsthand inf
mation concerning Senate employ
salaries and submits such data to t
Office of Personnel Management
annuity calculations. He would thus
appearing only in his capacity as pa
master of the Senate and not as
expert witness or authority on actu
retirement computations. Mr. Pre
dent, I move adoption of the reso
tion.

The PRESIDING OFFICER. T
question is on agreeing to the reso
tion.

The resolution (S. Res. 270) w
agreed to.

The preamble was agreed to.

The resolution, with its preamb
reads as follows:

Whereas, in the case of *Wilbur G. DeP*
ini v. *Paul Terrence O'Grady*, Civil Act
No. 8420-82, pending in the Superior Co
of the District of Columbia, counsel for
plaintiff has obtained a subpoena for
testimony of and production of docume
by Stuart F. Balderson, Senate Financ
Clerk;

Whereas, by the privileges of the Sen
of the United States and Rule XI of
Standing Rules of the Senate, no evide
under the control or in the possession of
Senate can, by the judicial process, be ta
from such control or possession but by p
mission of the Senate;

Whereas, when it appears that the te
mony of an employee of the Senate conce
ing information acquired in the course
his official duties and that docume
papers and records under the control or
the possession of the Senate are needful
use in any court for the promotion of
tice, the Senate will take such action the
on as will promote the ends of justice c
sistent with the privileges and rights of
Senate: Now, therefore, be it

Resolved, That Stuart F. Balderson is
thorized to testify and produce docume
before the Superior Court of the District
Columbia in the case of *Wilbur G. DePe*

v. *Paul Terrence O'Grady*, except concerning matters which are privileged.

Mr. GARN. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL AGRICULTURE DAY

Mr. GARN. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on Senate Joint Resolution 70.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

> *Resolved*, That the resolution from the Senate (S.J. Res. 70) entitled "Joint resolution to proclaim March 20, 1985, as 'National Agriculture Day' ", do pass with the following amendments:
>
> Page 2, line 3, strike out "1985", and insert: 1986
>
> Amend the title so as to read: "Joint resolution to proclaim March 20, 1986, as 'National Agriculture Day'.".

Mr. GARN. Mr. President, I move that the Senate concur in the House amendments.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXECUTIVE SESSION

Mr. GARN. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the following nominations on the Executive Calendar, Calendar Order No. 575, Warren J. Baker, and Calendar Order No. 576, Jerry Lee Calhoun.

Mr. BYRD. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from West Virginia reserves the right to object.

Mr. BYRD. Mr. President, I remove my reservation.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nominations will be stated.

NATIONAL SCIENCE FOUNDATION

The legislative clerk read the nomination of Warren J. Baker, of California, to be a member of the National Science Board, National Science Foundation.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

FEDERAL LABOR RELATIONS AUTHORITY

The legislative clerk read the nomination of Jerry Lee Calhoun, of Washington, to be a member of the Federal Labor Relations Authority.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. GARN. Mr. President, I move to reconsider the votes by which the nominations were confirmed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GARN. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. GARN. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO HOLD AT THE DESK H.R. 1627

Mr. GARN. Mr. President, I ask unanimous consent that once the Senate receives from the House H.R. 1627, Kentucky wilderness bill, it be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILL AND JOINT RESOLUTION SIGNED

At 11:05 a.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bill and joint resolution.

> H.R. 3003. An act to authorize the Secretary of the Interior to convey certain land located in the State of Maryland to the Maryland National Capitol Park and Planning Commission; and
>
> H.J. Res. 473. Joint resolution waiving the printing on parchment of the enrollment of House Joint Resolution 372.

The enrolled bill and joint resolution were subsequently signed by the President pro tempore [Mr. THURMOND].

At 1:15 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House disagrees to the amendments of the Senate to the joint resolution (H.J. Res. 465) making further continuing appropriations for the fiscal year 1986, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House:

Mr. WHITTEN, Mr. BOLAND, Mr. NATCHER, Mr. SMITH of Iowa, Mr. ADDABBO, Mr. YATES, Mr. OBEY, Mr. ROYBAL, Mr. BEVILL, Mr. CHAPPELL, Mr. LEHMAN of Florida, Mr. DIXON, Mr. FAZIO, Mr. HEFNER, Mr. CONTE, Mr. McDADE, Mr. MYERS of Indiana, Mr. COUGHLIN, Mr. KEMP, Mr. REGULA, Mrs. SMITH of Nebraska, and Mr. SKEEN, for consideration of all provisions.

Mr. TRAXLER, Mr. McHUGH, Mr. AKAKA, Mr. WATKINS, Mr. DURBIN, and Mr. ROGERS, solely for consideration of Senate amendments numbered 1 and 19 through 23, and modifications thereof committed to conference.

Mr. MURTHA, Mr. DICKS, Mr. WILSON, Mr. AuCOIN, Mr. YOUNG of Florida, Mr. MILLER of Ohio, and Mr. LVINGSTON, solely for consideration of Senate amendments numbered 4, 5, and 33 through 48, and modifications thereof committed to conference.

Mr. MURTHA, Mr. DICKS, Mr. AuCOIN, and Mr. LOEFFLER, solely for consideration of Senate amendments numbered 7, 60 through 65, and 67 through 100, and modifications thereof committed to conference.

Mr. SABO, Mr. GRAY of Pennsylvania, Mr. CARR, Mr. DURBIN, Mr. MRAZEK, Mr. PURSELL, and Mr. WOLF, solely for consideration of Senate amendments numbered 8, 118, 119, 120, 121, and 122, and modifications thereof committed to conference.

Mr. McHUGH, Mr. WILSON, Mr. GRAY of Pennsylvania, Mr. MRAZEK, Mr. EDWARDS of Oklahoma, Mr. LEWIS of California, and Mr. PORTER, solely for consideration of Senate amendments numbered 14, 52, 53, 54, 55, and 56, and modifications thereof committed to conference.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 850. An act to modify the boundary of the Humboldt National Forest in the State of Nevada, and for other purposes;

H.R. 1538. An act to amend title 38, United States Code, to provide a 3.4-percent increase in the rates of compensation and of dependency and indemnity compensation [DIC] paid by the Veterans' Administration;

H.R. 1627. An act to designate certain national forest system lands in the State of Kentucky for inclusion in the National Wilderness Preservation System, to release other forest lands for multiple use management, and for other purposes;

H.R. 2483. An act authorizing the Secretary of the Interior to preserve the ecology of the Nassau River Valley marshlands in the State of Florida, to enhance the protection and interpretation of important historic and prehistoric sites in the vicinity of the Nassau, St. Marys and St. Johns River Valleys, FL, and for other purposes;

H.R. 2854. An act to amend title 39, United States Code, to extend to certain officers and employees of the Postal Service the same procedural and appeal rights with respect to certain adverse personnel actions as are afforded to Federal employees under title 5, United States Code;

H.R. 2935. An act to promote the consumption of fish and fish products in the United States through the establishment of seafood marketing councils, and for other purposes;

H.R. 3004. An act to amend section 3006A of title 18, United States Code, to improve the delivery of legal services in the criminal justice system to those persons financially unable to obtain adequate representation, and for other purposes;

H.R. 3550. An act to amend the provisions of title 18 and 28 of the United States Code commonly called the "enabling Acts" to make modifications in the system for the promulgation of certain rules for certain Federal judicial proceedings, and for other purposes; and

H.R. 3773. An act to amend the Stevenson-Wydler Technology Innovation Act of 1980 to promote technology transfer by authorizing Government-operated laboratories to enter into cooperative research agreements and by establishing a Federal Laboratory Consortium for Technology Transfer within the National Science Foundation, and for other purposes.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 246. A concurrent resolution correcting the enrollment of House Joint Resolution 372.

ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

S. 1116. An act to amend the act of October 15, 1982, entitled "An act to designate the Mary McLeod Bethune Council House in Washington, District of Columbia, as a national historic site, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore [Mr. THURMOND].

At 4:48 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following joint resolution, without amendment:

S.J. Res. 238. Joint resolution relating to the approval and implementation of the proposed agreement for nuclear cooperation between the United States and the People's Republic of China.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 947) to amend the Foreign Assistance act of 1961 with respect to the activities of the Overseas Private Investment Corporation.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1083. An act to amend the Low-Level Radioactive Waste Policy Act to improve procedures for the implementation of compacts providing for the establishment and operation of regional disposal facilities for low-level radioactive waste, and for other purposes; and

H.R. 3878. An act to grant the consent of the Congress to certain interstate compact on low-level radioactive waste.

ENROLLED BILL AND JOINT RESOLUTION SIGNED

At 7:55 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bill and joint resolution:

H.R. 2965. An act making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1986, and for other purposes; and

S.J. Res. 238. Joint resolution relating to the approval and implementation of the proposed agreement for nuclear cooperation between the United States and the People's Republic of China.

The enrolled bill and joint resolution were subsequently signed by the President pro tempore [Mr. THURMOND].

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 850. An act to modify the boundary of the Humboldt National Forest in the State of Nevada, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 2483. An act authorizing the Secretary of the Interior to preserve the ecology of the Nassau River Valley marshlands in the State of Florida, to enhance the protection and interpretation of important historic and prehistoric sites in the vicinity of the Nassau, St. Marys and St. Johns River Valleys, FL, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 2854. An act to amend title 39, United States Code, to extend to certain officers and employees of the Postal Service the same procedural and appeal rights with respect to certain adverse personnel actions as are afforded to Federal employees under title 5, United States Code; to the Committee on Governmental Affairs.

H.R. 2935. An act to promote the consumption of fish and fish products in the United States through the establishment of seafood marketing councils, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 3004. An act to amend section 3006A of title 18, United States Code, to improve the delivery of legal services in the criminal justice system to those persons financially unable to obtain adequate representation, and for other purposes; to the Committee on the Judiciary.

H.R. 3550. An act to amend the provisions of title 18 and 28 of the United States Code commonly called the "enabling Acts" to make modifications in the system for the promulgation of certain rules for certain Federal judicial proceedings, and for other purposes; to the Committee on the Judiciary.

H.R. 3773. An act to amend the Stevenson-Wydler Technology Innovation Act of 1980 to promote technology transfer by authorizing Government-operated laboratories to enter into cooperative research agreements and by establishing a Federal Laboratory Consotium for Technology Transfer within the National Science Foundation, and for other purposes; to the Committee on Commerce, Science, and Transportation.

MEASURES PLACED ON THE CALENDAR

The following bills were read the first and second times by unanimous consent, and placed on the calendar:

H.R. 1083. An act to amend the Low-Level Radioactive Waste Policy Act to improve procedures for the implementation of compacts providing for the establishment and operation of regional disposal facilities for low-level radioactive waste, and for other purposes;

H.R. 1538. An act to amend title 38, United States Code, to provide a 3.4 percent increase in the rates of compensation and of dependency and indemnity compensation [DIC] paid by the Veterans' Administration;

H.R. 3878. An act to grant the consent of the Congress to certain interstate compacts on low-level radioactive waste.

MEASURES HELD AT THE DESK

The following bill was held at the desk by unanimous consent pending further disposition:

H.R. 1627. An act to designate certain national forest system lands in the State of Kentucky for inclusion in the National Wilderness Preservation System, to release other forest lands for multiple use management, and for other purposes;

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, December 11, 1985, she had presented to the President of the United States the following enrolled bill:

S. 1116. An act to amend that act of October 15, 1982, entitled "An act to designate the Mary McLeod Bethune Council House in Washington, District of Columbia, as a national historic site, and for other purposes."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STAFFORD, from the Committee on Environment and Public Works, without amendment:

S. 653. A bill to name the Federal Building located at 1200 Pennsylvania Avenue, NW. Washington, DC, as the "Ariel Rios Memorial Federal Building" (Rept. No. 99-214).

S. 978. A bill to designate the building known as the Federal Building in Salt Lake City, Utah, as the "Wallace F. Bennett Federal Building" (Rept. No. 99-215).

S. 1896. A bill to designate the General Services Administration building known as the "U.S. Appraiser's Stores Building" in Boston, Massachusetts as the "Captain John Foster Williams Coast Guard Building" (Rept. No. 99-216).

By Mr. MATHIAS, from the Committee on Rules and Administration, without amendment:

S.J. Res. 214. A joint resolution to provide for the reappointment of Carlisle H. Humelsine as a citizen regent of the Board of Regents of the Smithsonian Institution (Rept. No. 99-217).

S.J. Res. 215. A joint resolution to provide for the reappointment of William G. Bowen as a citizen regent of the Board of Regents of the Smithsonian Institution (Rept. No. 99-218).

By Mr. ROTH, from the Committee on Governmental Affairs, with amendments:

H.R. 3718. A bill to waive the period of Congressional review for certain District of Columbia acts authorizing the issuance of revenue bonds.

By Mr. DOMENICI, from the Committee on the Budget, without amendment:

S. Res. 268. A waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1915.

By Mr. SIMPSON, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

S. 1578. A bill to amend the Low-Level Radioactive Waste Policy Act to improve procedures for the implementation of compacts providing for the establishment and operation of regional disposal facilities for low-level radioactive waste, and for other purposes.

By Mr. LUGAR, from the Committee on Foreign Relations, with an amendment and with a preamble:

S.J. Res. 240. A joint resolution opposing the Soviet Union's invasion and 6-year occupation of Afghanistan against the national will of the Afghan people.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PACKWOOD, from the Committee on Finance:

Anne E. Brunsdale, of the District of Columbia, to be a Member of the U.S. International Trade Commission for the term expiring June 16, 1993;

Paul Freedenberg, of Maryland, to be an Assistant Secretary of Commerce;

Francis Anthony Keating, II, of Oklahoma, to be Assistant Secretary of the Treasury;

Otis R. Bowen, of Indiana, to be Secretary of Health and Human Services.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. McCLURE, from the Committee on Energy and Natural Resources:

Ralph W. Tarr, of Virginia, to be Solicitor of the Department of the Interior;

J. Steven Griles, of Virginia, to be an Assistant Secretary of the Interior;

John C. Layton, of Virginia, to be Inspector General of the Department of Energy;

David M. L. Lindahl, of Virginia, to be Director of the Office of Alcohol Fuels.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constitued committee of the Senate.)

Mr. HATCH, from the Committee on Labor and Human Resources:

Ford Barney Ford, of Virginia, to be a member of the Federal Mine Safety and Health Review Commission for a term of 6 years expiring August 30, 1990;

Walter C. Wallace, of New York, to be a member of the National Mediation Board for the term expiring July 1, 1987;

Helen M. Witt, of Pennsylvania, to be a member of the National Mediation Board for the term expiring July 1, 1988;

Charles L. Woods, of California, to be a member of the National Mediation Board for the remainder of the term expiring July 1, 1986;

Wendell L. Willkie II, of the District of Columbia, to be General Counsel, Department of Education;

Bruce M. Carnes, of Virginia, to be Deputy Under Secretary for Planning, Budget, and Evaluation.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. LUGAR, from the Committee on Foreign Relations:

John Edwin Upston, of Virginia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Rwanda;

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: John E. Upston.

Post: Ambassador to Rwanda.

Contributions, amount, date, and donee:

1. Self: John E. Upston, $25 annual sustaining membership in Republican National Committee.
2. Spouse: None.
3. Children and spouses names: None.
4. Parents names: None.
5. Grandparents names: None.
6. Brothers and spouses names: None.
7. Sisters and spouses names: None.

Rockwell Anthony Schnabel, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Finland:

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Rockwell Anthony Schnabel.

Post: Ambassador to Finland.

Contributions, amount, date, and donee:

1. Self: (see attached sheet).
2. Spouse: (see attached sheet).
3. Children and spouses names: (see attached sheet).
4. Parents names: Hans Schnabel, none; Wilhelmina Schnabel, none.
5. Grandparents names: Mr. and Mrs. J. Schnabel, deceased; Mr. and Mrs. H. van Baer, deceased.
6. Brothers and spouses names: Mr. and Mrs. Bert Schnabel; none, Mr. and Mrs. Hank Schnabel, none.
7. Sisters and spouses names: Mr. and Mrs. Edward Daniels, none.

1. Rockwell A. Schnable—$500, May 27, 1981, Goldwater For Senate; $1,000, November 16, 1981, Drier For Congress; $5,000, May 19, 1982, Mike Curb Committee (State of Calif.); $10,000, June 17, 1982, California Republican Party; $1,000, June 14, 1982, Pete McClosky For Senate; $1,000, July 9, 1982, Democratic National Committee; $500, July 13, 1982, People For John Hines; $500, July 26, 1982, Pete Wilson For Senate; $1,000, November 1, 1982, Committee For Assemblyman Goggin (State of Calif.); $1,000, April 13, 1983, California Republican Party; $1,000, June 27, 1983, California Republican Party; $1,000, June 27, 1983, California Republican Party; $500, July 8, 1983, Campaign For California; $1,000, August 10, 1984, Californians For Senator Pete Wilson (Primary Election); $1,000, August 10, 1984, Californians For Senator Pete Wilson (General Election); $5,000, October 17, 1984, Victory 1984; $2,000, October 19, 1984, Victory 1984; $1,000, January 14, 1985, Republicans Abroad; $1,000, April 19, 1985, Art Laffer for U.S. Senate, Exploratory Committee.

2. Marna B. Schnabel—$15, January 7, 1981, Malibu Township Council; $16, January 31, 1981, California Republican Party; $500, July 24, 1981, Orange County Executive Comm. PAC; $30, July 27, 1981, National Federation of Republican Women; $10, August 31, 1981, Bel Air Republican Women's Fed.; $10, November 7, 1981, Republican TrunkLine; $10, November 7, 1981, Bel Air Republican Women's Fed.; $100, May 13, 1982, Jerry Shaw For Congress; $10, May 27, 1982, Bel Air Republican Women's Fed.; $50, July 5, 1982, National Republican Women's Fed.; $500, September 1, 1982, Bill Honig (State of Calif.); $10,000, September 28, 1982, Bill Honig Campaign for State Superintendent of Schools (State of Calif.); $1,400, September 30, 1982, Carol Hallett 1982 (State of California); $100, October 10, 1982, Bill Hawkins For Assembly; $500, October 14, 1982, Congress For Christensen; $16, January 14, 1983, California Republican Party; $20, November 21, 1983, League of Women Voters Educ. Fund; $16, February 27, 1984, California Republican Party; $13.50, April 15, 1984, Malibu Republican Club; $100, May 15, 1984, Committee to Re-Elect Supervisor Dana (City); $100, May 15, 1984, Committee to Elect David Shell (City); $10, September 20, 1984, Bel Air Republican Women; $1,000, August 10, 1984, Californians For Senator Pete Wilson (Primary Election); $1,000, August 10, 1984, Californians For Senator Pete Wilson (General

Election); $13.50, January 1985, Malibu Republican Club; $1,000, January 1985, Armor For Board of Education (City); $16, February 1985, California Republican Party; $10, January 1985, Bel Air Republican Women's Feder.; $10, January 1985, Republican TrunkLine; $1,000, March 1985, Lisa Specht For City Attorney (City); $1,000, April 19, 1985, Art Laffer For U.S. Senate, Exploratory Committee.

3. Children: Mary Darrin Schnabel, $1,000, April 9, 1985, Californians For Senator Pete Wilson; $1,000, April 19, 1985, Art Laffer For U.S. Senate, Exploratory Committee; Christy Ann Schnabel, $1,000, April 9, 1985, Californians For Senator Pete Wilson; $1,000, April 19, 1985, Art Laffer For U.S. Senate, Exploratory Committee; Everton Anthony Schnabel, $1,000, April 9, 1985, Californians For Senator Pete Wilson; $1,000, April 19, 1985, Art Laffer For U.S. Senate, Exploratory Committee.

Note: City refers to Los Angeles.

Margaret M. O'Shaughnessy Heckler, of Massachusetts, to be Ambassador Extraordinary and Plenipotentiary of the United States to Ireland:

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Margaret M. Heckler.

Post: Ambassador to Republic of Ireland.

Contributions, amount, date, and donee:

1. Self, $25, Massachusetts Republican Party 1985 membership dues.

2. Spouse divorced, John M. Heckler.

3. Children and spouses names: John Heckler, Jr., Alison Heckler and Belinda Heckler, no contributions.

4. Parents names: John O'Shaughnessy and Bridget McKeown O'Shaughnessy, deceased.

5. Grandparents names: deceased.

6. Brothers and spouses names: no brothers.

7. Sisters and spouses names: no sisters.

Fred L. Hartley, of California, for the rank of Ambassador during the tenure of his service as Commissioner General of the U.S. Exhibition for the International Exposition, Vancouver, British Columbia, Canada, 1986:

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Fred L. Hartley, Commissioner General of the U.S. Exhibition at the Post International Exposition on Transportation and Communication.

Contributions, amount, date, and donee:

1. Self: (see list attached).

2. Spouse divorced, Margaret A. Hartley, none.

3. Children and spouses names: Fred L. Hartley, Jr. (unmarried); none—Margaret A. Gruen (Husband, Dan), none.

4. Parents names: Deceased.

5. Granparents names: Deceased.

6. Brothers and spouses names: Harry M. Hartley (wife, Betty, deceased); Resident & Citizen of Canada, none.

7. Sisters and spouses names: Edna M. Baldry, (husband, Douglas) Resident & Citizen of Canada, none.

ATTACHMENT—POLITICAL CONTRIBUTIONS FORM

$5,000, July 10, 1985, Union Oil Political Awareness Fund; $100, February 13, 1985, Republican National Committee; $5,000, August 2, 1984, Union Oil Political Awareness Fund; $100, January 11, 1984, Republican National Committee; $100, July 5, 1984, Business Industry Political Action Committee; $5,000, July 5, 1983, Union Oil Political Awareness Fund; $100, April 28, 1983, Republican National Committee; $100, December 22, 1982, Republican National Committee; $120, June 1, 1982, Republican Presidential Task Force; $5,000, April 26, 1982, Union Oil Polticial Awareness Fund; $5,000, December 29, 1981, Union Oil Political Awareness Fund; and $100, June 4, 1981, Republican National Committee.

Michael H. Mobbs, of the District of Columbia, to be an Assistant Director of the U.S. Arms Control and Disarmament Agency; and

Charles Edward Horner, of the District of Columbia, to be an Associate Director of the U.S. Information Agency.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. LUGAR. Mr. President, also for the Committee on Foreign Relations, I report favorably two lists in the Foreign Service which appeared in their entirety in the CONGRESSIONAL RECORD of November 4, 1985, and ask, to save the expense of reprinting them on the Executive Calendar, that they lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

By Mr. LUGAR, from the Committee on Foreign Relations:

Treaty Doc. 99-6. International Telecommunication Convention, with annexes, and a Final Protocol to the Convention signed on behalf of the United States at Nairobi on November 6, 1982 (Exec. Rept. No. 99-4).

Ex. Q and Treaty Doc. 98-12. Income Tax Convention and Protocol With the Kingdom of Denmark (Exec. Rept. No. 99-5).

Treaty Doc. 98-25. Income Tax Convention (and Protocol) With The Government of Italy (Exec. Rept. No. 99-6).

Treaty Doc. 98-30. Income Tax Agreement (and Protocol) With the Government of the People's Republic of China (Exec. Rept. No. 99-7).

Treaty Doc. 98-32. Income Tax Convention With the Government of Cyprus (Exec. Rept. No. 98-8).

Treaty Doc. 99-3. Income Tax Convention With the Government of Barbados (Exec. Rept. No. 99-9).

Mr. GARN, from the Committee on Banking, Housing, and Urban Affairs:

Alexander Hansen Good, of the District of Columbia, to be Director General of the United States and Foreign Commercial Services;

Edward H. Fleischman, of New Jersey, to be a member of the Securities and Exchange Commission for the remainder of the term expiring June 5, 1987;

Fred E. Hummel, of California, to be a member of the Board of Directors of the National Institute of Building Sciences for a term expiring September 7, 1986.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. D'AMATO:

S. 1922. A bill to amend the Truth in Lending Act to impose a ceiling on credit card interest rates; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. THURMOND (for himself, Mr. Grassley and Mr. Harkin):

S. 1923. A bill to provide for additional bankruptcy judges; to the Committee on the Judiciary.

By Mr. DODD (for himself, Mr. Simon, Mr. Pell, and Mr. Kennedy):

S. 1924. A bill to amend the Higher Education Act of 1965 to authorize a national higher education and economic development program; to the Committee on Labor and Human Resources.

By Mr. DODD (for himself, Mr. Pell, Mr. Kennedy, and Mr. Simon):

S. 1925. A bill to strengthen the community service-learning program benefiting low-income individuals and families so as to benefit both community service and the students; to the Committee on Labor and Human Resources.

By Mr. DODD (for himself, Mr. Simon, Mr. Pell, and Mr. Kennedy):

S. 1926. A bill to reauthorize international education programs, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. DeCONCINI (for himself, Mr. Pell, Mr. Abdnor, and Mr. Dole):

S.J. Res. 244. A bill to designate October 8, 1986, as "National Fire Fighters Day"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. GARN (for Mr. Dole (for himself and Mr. Byrd)):

S. Res. 269. A resolution authorizing testimony of Senator Boren in the case of Sheryl P. Shreckengost v. Caspar Weinberger, et al., C.A. No. 85-0638-A; considered and agreed to.

By Mr. GARN (for Mr. Dole (for himself and Mr. Byrd)):

S. Res. 270. A resolution authorizing testimony and production of documents by the Senate Financial Clerk; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. D'AMATO:

S. 1922. A bill to amend the Truth in Lending Act to impose a ceiling on credit card interest rates; to the Committee on Banking, Housing, and Urban Affairs.

CREDIT CARDHOLDER PROTECTION ACT

● Mr. D'AMATO. Mr. President, I rise today to introduce legislation designed to limit the amount of interest credit card companies can charge on an outstanding balance. I believe the time has come for the consumer to be treated fairly. For far too long now, many issuers of credit cards have taken advantage of cardholders.

American consumers are becoming more and more dependent on credit cards as a source of currency when they purchase goods. As Christmas approaches, these consumers are expected to charge at least $15 billion of their purchases on their credit cards: that is at least 60 percent of all holiday purchases which are expected to total close to $25 billion.

Lenders are taking advantage of consumer dependence on credit cards. The average interest rate charged on credit card purchases is currently 19.2 percent, with some companies charging as high as 21.6 percent, even though banks now lend much of their money at a mere 9.5 percent. I am hard-pressed to believed that the average credit card issuer requires a 9.7-percent margin over the prime rate to cover the risk and costs involved in issuing a credit card.

Since 1980, while the average interest rate charged on credit card balances has grown from 17.6 percent to 18.6 percent, the prime rate has dropped from 20.5 percent to 9.5 percent, the discount rate has dropped from 14 percent to 7.5 percent, the T-bill rate has dropped from 14 percent to 7.2 percent, and the average home mortgage interest rate has declined from 14.7 percent to 11.5 percent.

Why is this one rate moving in the opposite direction from the others? Why is the average credit card interest rate the only commonly used interest rate that has failed to respond to improvements in our economy? What is going on here?

What is going on is an inequity—an inequity which must be addressed, and which must be addressed now. Credit card users must not be taken advantage of in this manner any longer.

In response to this inequity, I am proposing the Credit Cardholder Protection Act. This legislation has three major components. First, and most importantly, the bill will place a cap—or ceiling—on the legal interest rate a credit card company can charge.

A Federal ceiling on credit card interest rates would be established at 4 points over the interest rate the Internal Revenue Service charges on late tax payments and pays on tardy refunds. The IRS rate is a compilation of prime interest rates from the previous 6 months and is recomputed every 6 months. The current IRS rate is 11 percent, making the legal cap on credit under this bill 15 percent. This alone would save consumers over $4.7 billion a year. The IRS rate is now scheduled to drop to 10 percent on January 1, 1986, which would lower the credit card interest rate ceiling under this legislation to 14 percent.

The use of the IRS rate has several advantages. This rate already has bank profit built in. Thus, the extra 4 percentage points built into the credit card interest rate cap I am proposing more than adequately will provide for the costs and risks involved in issuing credit cards. The IRS rate is subject to change only once every 6 months. Thus, while the interest rate ceiling will reflect fluctuations in the economy, it will provide consumers with sufficient stability to plan their budgets well in advance.

The second part of my bill requires full disclosure of interest rates and fees by credit card companies. Currently, many credit card applications have little specific information pertaining to the interest rate that will be charged and the annual fees the cardholder will incur upon receiving the card.

Under my bill, all credit card applications will have to state the current interest charges and the annual fees charged for possessing the card. My bill also will require that these rates and fees be reported monthly to the Federal Reserve Board for publication.

Many consumers now are unaware of what they are being charged on their credit cards. Disclosure of this information on the initial credit card application will educate the consumer and, by using the publication which will be made available by the Federal Reserve Board, consumers will have the ability to shop for the best credit card for their own individual needs.

Finally, my bill would require the Consumer Advisory Council at Federal Reserve to send to the Congress yearly a report analyzing the credit card industry. The report should analyze issues specifically concerning the credit card industry; in particular, the impact the new interest rate cap will have on consumers and on credit card companies.

I believe my bill is an effective solution to the problem of excessive charges by credit card issuers. It takes quick action—it does not wait for a study to initiate the action. The interest rate cap is based on a nationwide compilation of the prime rate and fluctuates only once every 6 months, rather than monthly, providing for a stable, understandable rate which reflects variations in the economy. And my bill will best inform the public as they shop for the best credit card for their needs.

There is no question that banks have a vested interest in credit card legislation—this interest is profit. Many banks now engage in a conspiracy of silence to conceal the fact that they are reaping huge profits by charging excessively high interest rates on credit card accounts, thereby taking advantage of an uninformed public.

While there has been little change in the costs and risks involved in issuing credit cards in the past few years, the economy has improved. Interest rates have dropped and use of credit cards has increased, but the interest rate charged on credit cards has gone up. There is an injustice occurring when these companies refuse to recognize fluctuations in the economy.

Mr. President, in closing, I would like to reemphasize this Senator's intention to address this injustice swiftly and equitably. I urge my colleagues to accept my proposal, and I ask unanimous consent that my legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1922

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Credit Cardholder Protection Act".

SEC. 2. Section 107 of the Truth in Lending Act (15 U.S.C. 1606) is amended by adding at the end thereof the following:

"(f) The annual percentage rate applicable to an extension of credit obtained by use of a credit card may not exceed by more than 4 percentage points the rate established under section 6621 of the Internal Revenue Code of 1954, as determined by the Board.".

SEC. 3. Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended by adding at the end thereof the following:

"(c) A card issuer shall clearly and conspicuously disclose on initial applications for a credit card—

"(1) the annual percentage rate applicable to extensions of credit by means of that credit card or the means for determining that rate; and

"(2) any annual or other fee imposed for the issuance or use of that credit card.

Each card issuer shall report monthly to the Board for publication the average annual percentage rate and the amount of any annual or other fee applicable during the preceding month to its credit card accounts.".

SEC. 4. Section 703(b) of the Equal Credit Opportunity Act (12 U.S.C. 1691b (b)) is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end thereof the following:

"(2) The Council shall transmit annually to the Congress a report that describes and analyzes the costs and risks involved in issuing credit cards, the percentage of credit card customers that have their cards revoked for non-payment or delinquent payments, revenues derived from interest rates charged by credit card issuers, revenues derived from annual fees and application fees, and the impact that the provisions of section 107(f) of this Act will have on consumers and card issuers."●

By Mr. THURMOND (for himself, Mr. GRASSLEY, and Mr. HARKIN):

S. 1923. A bill to provide for additional bankruptcy judges; to the Committee on the Judiciary.

ADDITIONAL BANKRUPTCY JUDGES

Mr. THURMOND. Mr. President, the legislation I am introducing today will authorize 48 new bankruptcy positions. This measure is the recommendation of the Judicial Conference of the United States, based on its biennial comprehensive survey on the conditions of business in the Courts of the United States.

During the last few years, bankruptcy filings have increased dramatically throughout the United States. Nationally, there were 364,536 petitions filed under the 1978 Bankruptcy Code during the year that ended June 30, 1985. That represents an average caseload of nearly 1,600 petitions for each of the sitting bankruptcy judges. An average of 92 of these cases were under chapter 11. The recommendation of the conference would raise the total number of bankruptcy judgeships to 280 and reduce the average caseload to approximately 1,300 petitions per judgeship. National average caseloads cannot reflect the very heavy burdens now being experienced in a number of judicial districts which are particularly impacted by bankruptcy filings. Many districts have been overwhelmed by the sheer volume of bankruptcy cases that must be processed. A few examples will illustrate this point. In the district of northern Iowa, 2,333 bankruptcy cases were filed in the year ending June 30, 1985; of these, 277 were under chapter 11. In Los Angeles, in the same time period, an average of 2,819 cases were filed per bankruptcy judge; of these an average of 159 cases were under chapter 11. Finally, in Houston, an average of 2,297 cases were filed per bankruptcy judge; of these an average of 295 cases were under chapter 11. There has been no corresponding increase in the creation of bankruptcy judges. The Bankruptcy Amendments and Federal Judgeship Act, which passed in the last Congress, did not provide for an increase in the number of bankruptcy judges. It did, however, provide a change in the way bankruptcy judgeships would be authorized. Previously, the Judicial Conference had regularly authorized bankruptcy judgeships, subject only to program oversight and the appropriations process by Congress. Now, Congress must authorize any additional bankruptcy positions.

Mr. President, these positions are desperately needed. The process to fill them needs to begin immediately. I urge my colleagues to support this measure.

By Mr. DECONCINI (for himself, Mr. PELL, Mr. ABDNOR, and Mr. DOLE):

S.J. Res. 244. Join resolution to designate October 8, 1986, as "National Fire Fighters Day"; to the Committee on the Judiciary.

NATIONAL FIRE FIGHTERS DAY

Mr. DECONCINI. Mr. President, today I am introducing legislation which will honor the fire fighters of our Nation. Every year hundreds of lives and valuable property are threatened by fire. The brave men and women who devote their professional careers or contribute their time on a voluntary basis to protecting communities from the devastating damages of these fires merit recognition for the outstanding job they do.

Over 2 million career and volunteer fire fighters in this country frequently place themselves at tremendous personal risk when they respond to calls. Many have lost their lives or suffered injuries in the line of duty. Heroic acts by fire protection personnel have saved countless lives and deserve national recognition. The dedication of these outstanding men and women assure communities of fire protection services day and night. Their commitment to doing the best job possible is reflected in the decreases in fire-related deaths, injuries and property lost over the past decade.

I urge my colleagues to join me in expressing gratitude for the sacrifices made by the valiant fire fighters of our Nation by supporting my proposed legislation. This measure will designate October 8, 1986 as "National Fire Fighters Day." This day falls on the week of the annual National Fire Prevention Week. Let us give the fire fighters the recognition they deserve.

I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 244

Whereas there are over two million professional and volunteer fire fighters in the United States;

Whereas fire fighters responded to over two million and three hundred thousand fires and over eight million and seven hundred thousand non-fire emergencies in 1984;

Whereas fire fighters have given their lives and risked injury to preserve the lives of others and protect property throughout the Nation;

Whereas the contributions and sacrifices of such valiant fire fighters often go unreported and are inadequately recognized by the public; and

Whereas the work of fire fighters deserves the attention and gratitude of all Americans: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 8, 1986, is designated as "National Fire Fighters Day" and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

ADDITIONAL COSPONSORS

S. 412

At the request of Mr. GOLDWATER, the name of the Senator from Nevada [Mr. HECHT] was added as a cosponsor of S. 412, a bill to clarify the circumstances under which territorial provisions in licenses to distribute and sell trademarked malt beverage products are lawful under the antitrust laws.

S. 489

At the request of Mr. SASSER, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 489, a bill to amend chapter 171 of title 28, United States Code, to allow members of the Armed Forces to sue the United States for damages for certain injuries caused by improper medical care provided during peacetime.

S. 524

At the request of Mr. ARMSTRONG, the names of the Senator from New Mexico [Mr. BINGAMAN] and the Senator from Vermont [Mr. STAFFORD] were added as cosponsors of S. 524, a bill to recognize the organization known as the Retired Enlisted Association, Inc.

S. 1223

At the request of Mr. ARMSTRONG, the names of the Senator from Alaska [Mr. STEVENS] and the Senator from Illinois [Mr. DIXON] were added as cosponsors of S. 1223, a bill to authorize the erection of a memorial on Federal land in the District of Columbia or its environs to honor members of the Armed Forces of the United States who served in the Korean war.

S. 1437

At the request of Mr. THURMOND, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of S. 1437, a bill to amend the Controlled Substances Act to create new penalties for the manufacturing with intent to distribute, the possession with intent to distribute, or the distribution of "designer drugs," and for other purposes.

S. 1456

At the request of Mr. LAUTENBERG, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 1456, a bill to recognize the Army and Navy Union of the United States of America.

S. 1475

At the request of Mr. COHEN, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 1475, a bill for the relief of Hamilton Jordan of Lawrenceville, GA.

S. 1562

At the request of Mr. GRASSLEY, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 1562, a bill to amend the False Claims Act, and title 18 of the United

States Code, regarding penalties for false claims, and for other purposes.

S. 1569

At the request of Mr. BINGAMAN, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 1569, a bill to amend title XVIII of the Public Health Service Act to encourage health promotion and disease prevention through the implementation of a coordinated national nutrition monitoring system.

S. 1780

At the request of Mr. HATCH, the name of the Senator from North Carolina [Mr. EAST] was added as a cosponsor of S. 1780, a bill to provide for the disposition of unclaimed property in the custody of the United States.

S. 1806

At the request of Mr. BOREN, the name of the Senator from West Virginia [Mr. BYRD] was added as a cosponsor of S. 1806, a bill to amend the Federal Election Campaign Act of 1971 to change certain contribution limits for congressional elections and to amend the Communications Act of 1934 regarding the broadcasting of certain material regarding candidates for Federal elective office, and for other purposes.

S. 1889

At the request of Mr. DENTON, the names of the Senator from Virginia [Mr. TRIBLE], the Senator from Idaho [Mr. MCCLURE], and the Senator from Indiana [Mr. QUAYLE] were added as cosponsors of S. 1889, a bill to amend title 11 of the United States Code, relating to bankruptcy, to prevent discharge of administratively ordered support obligations.

S. 1909

At the request of Mr. MITCHELL, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 1909, a bill to require the Secretary of the Treasury to notify Congress with respect to actions taken relating to investment of the assets of the Social Security Trust Funds.

S. 1917

At the request of Mr. BRADLEY, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 1917, a bill to amend the Foreign Assistance Act of 1961 to provide assistance to promote immunization and oral rehydration, and for other purposes.

SENATE JOINT RESOLUTION 188

At the request of Mrs. KASSEBAUM, the names of the Senator from Nebraska [Mr. EXON], the Senator from Virginia [Mr. TRIBLE], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from South Dakota [Mr. PRESSLER], and the Senator from Michigan [Mr. RIEGLE] were added as cosponsors of Senate Joint Resolution 188, a joint resolution to designate July 6, 1986, as "National Air Traffic Control Day."

SENATE JOINT RESOLUTION 198

At the request of Mr. MATHIAS, the name of the Senator from New Hampshire [Mr. RUDMAN] was added as a cosponsor of Senate Joint Resolution 198, a joint resolution to designate the year of 1986 as the "Sesquicentennial Year of the National Library of Medicine."

SENATE CONCURRENT RESOLUTION 39

At the request of Mr. DODD, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of Senate Concurrent Resolution 39, a concurrent resolution expressing the support of the Congress for Costa Rica's neutrality and urging the President to support such neutrality.

SENATE CONCURRENT RESOLUTION 51

At the request of Mr. DIXON, the name of the Senator from Connecticut [Mr. WEICKER] was added as a cosponsor of Senate Concurrent Resolution 51, a concurrent resolution to congratulate the Society of Real Estate Appraisers on the 50th anniversary of its founding.

SENATE RESOLUTION 267

At the request of Mr. HUMPHREY, the names of the Senator from Connecticut [Mr. DODD], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Wisconsin [Mr. KASTEN], and the Senator from Indiana [Mr. QUAYLE] were added as cosponsors of Senate Resolution 267, a resolution establishing a special panel on asylum.

SENATE RESOLUTION 269—AUTHORIZING TESTIMONY OF SENATOR BOREN

Mr. GARN (for Mr. DOLE, for himself and Mr. BYRD) submitted the following resolution; which was considered and agreed to:

S. Res. 269

Whereas, in the case of *Sheryl P. Schreckengost* v. *Caspar Weinberger, et al.*, C.A. No. 85-0638-A, pending in the United States District Court for the Eastern District of Virginia, the plaintiff has requested a deposition of Senator David L. Boren.

Whereas, by Rule VI of the Standing Rules of the Senate, no Senator shall absent himself from the service of the Senate without leave: Now, therefore, be it

Resolved, That Senator Boren is authorized to testify in the case of *Sheryl P. Schreckengost* v. *Caspar Weinberger, et al.*, C.A. No. 85-0638-A, except when his attendance at the Senate is necessary for the performance of his legislative duties.

SENATE RESOLUTION 270—AUTHORIZING TESTIMONY AND PRODUCTION OF DOCUMENTS BY THE SENATE FINANCIAL CLERK

Mr. GARN (for Mr. DOLE, for himself and Mr. BYRD) submitted the following resolution; which was considered and agreed to:

S. Res. 270

Whereas, in the case of *Wilbur G. DePerini* v. *Paul Terrence O'Grady*, Civil Action No. 8420-82, pending in the Superior Court of the District of Columbia, counsel for the plaintiff has obtained a subpoena for the testimony of and production of documents by Stuart F. Balderson, Senate Financial Clerk;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that the testimony of an employee of the Senate concerning information acquired in the course of his official duties and that documents, papers and records under the control or in the possession of the Senate are needful for use in any court for the promotion of justice, the Senate will take such action thereon as will promote the ends of justice consistent with the privileges and rights of the Senate; Now, therefore, be it

Resolved, That Stuart F. Balderson is authorized to testify and produce documents before the Superior Court of the District of Columbia in the case of *Wilbur G. DePerini* v. *Paul Terrence O'Grady*, except concerning matters which are privileged.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on Wednesday, December 11, 1985, in order to hold oversight hearings on the Acid Rain Precipitation Program.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, December 11, 1985, to conduct a business meeting to consider the following items:

The nomination of Margaret M. O'Shaughnessy Heckler, of New York, to be United States Ambassador to Ireland;

Charles Edward Horner, of the District of Columbia, to be an Associate Director of the United States Information Agency, vice Charles E. Courtney;

Rockwell Anthony Schnabel, of California, to be Ambassador to the Republic of Finland;

John Edwin Upston, of Virginia, to be Ambassador to the Republic of Rwanda;

Michael H. Mobbs, of the District of Columbia, to be an Assistant Director for the Strategic Programs of the United States Arms Control and Disarmament Agency, vice Henry F. Cooper, Jr., resigning;

Fred L. Hartley, of California, for the rank of Ambassador during the tenure of his service as Commissioner General of the United States Exhibition for the International Exposition, Vancouver, British Columbia, Canada, 1986;

Two Foreign Service Officer Promotion Lists; China Tax Treaty, Treaty Doc. 98-30; Ratification of the International Telecommunications Convention (Nairobi, 1982); a resolution on American policy toward Liberia; a resolution concerning Ireland and the United Kingdom; expedited procedures for arms sales, S-1831.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

COMMITTTEE ON LABOR AND HUMAN RESOURCES

Mr. **PACKWOOD**. Mr. President, I ask unanimous consent that the Committe on Labor and Human Resources be authorized to meet during the session of the Senate on Wednesday, December 11, 1985, in order to conduct a business meeting on pending business for the committee and to consider the nomination of Dr. Otis Bowen as Secretary of the U.S. Department of Health and Human Resources.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. **PACKWOOD**. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, December 11, 1985 in closed session to receive a briefing on intelligence matters.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

PRUDENT FOREST MANAGEMENT PRACTICES

● Mr. **SASSER**. Mr. President, yesterday I brought to the Senate's attention my concerns for prudent forest management practices. The Forest Service is putting the final touches on over 100 forest plans nationwide. Before these plans go into effect, I believe that every effort should be made to ensure that our forest lands are protected to the fullest extent.

Mr. President, the public has expressed a great deal of interest in the Forest Service planning process in our national forests. The Knoxville-News Sentinel, the Kingsport-Times News, the Atlanta Constitution, and the New York Times have all run articles on the forest management controversy. Mr. President, I ask that copies of articles from these newspapers appear in the RECORD.

[From the Knoxville-News Sentinel, Aug. 11, 1985]

THE POLITICS OF TIMBER

CLEAR-CUTTING ON HALF OF CHEROKEE FOREST PROPOSED

("If there is any duty which more than another we owe to our children and our children's children, it is to save the forests of this country, for they constitute the first and most important element in the conservation of natural resources of the country."—Theodore Roosevelt)

(By Timothy Elledge)

The next sound you hear coming from the Cherokee National Forest could be the drone of giant bulldozers and the whine of chainsaws whipped up for a frenzy of taxpayer-subsidized clear-cutting.

It will be the sound of a hey-day of logging unlike anything in the woodland since the booming cut-'em-down-quick years that followed World War II.

The U.S. Forest Service, which charges loggers only 22 cents for every $1 the government spends to produce the wood, wants to triple the Cherokee's timber harvest—from 41 million board feet a year to 130 million.

That increase is expected to boost taxpayer losses on logging in the forest from the current $1.8 million a year to as much as $3 million.

The woodland they will be cutting down—623,000 acres of forest along the Tennessee-North Carolina border—is home to a greater variety of animals and plants than any place in North America except the Smoky Mountain National Park. Its wilderness areas are the last sanctuary for many creatures driven from the rest of the East by too many people.

Yet the federal agency's plan would allow logging on nearly 80 percent of the Cherokee and clearcutting on half of it.

It would double the forest's 1,500 miles of logging roads, a project that would rip huge swamps through delicate wildlife habitat and crisscross much of the remaining wilderness with a blight of highways.

And it would also permit clearcutting on all of the Cherokee's 150,000 acres of hardwood cove forests, a type of woodland that is unique to the Southern Appalachian Highlands because of its unusually rich variety of trees, flowers, ferns, shrubs and [illegible].

Information about the huge losses and stepped-up cutting was obtained by The Knoxville News-Sentinel from Forest Service documents, congressional records, environmental groups and government investigators.

The buildup comes despite a Forest Service study which concluded that it makes more economic sense to leave wilderness land alone than to develop it for timber production.

"Wilderness management has an extremely high benefit/cost ratio when compared with full resource development," the study concluded.

Taxpayers during the past six years have shelled out nearly $11 million to pay for below-cost sales in the Cherokee. The subsidization has been even more expensive at neighboring forests in North Carolina, Georgia, Kentucky and Virginia.

Yet future losses are expected to be still higher because increased harvesting goals will force loggers into more rugged terrain where trees are less valuable and costs are higher.

The ambitious plan, which would be used to manage the Cherokee for the next 50 years, is also expected to damage watersheds, which provide drinking water for Knoxville, the Tri-Cities and other Tennessee communities.

Forest Service officials concede the speed-up will dump twice as much silt, mud and debris into streams, but they say it should have no effect on city water supplies. They are not as certain about the effect on fish, promising only to monitor streams to ensure they're not permanently damaged.

The Forest Service plan was prepared to comply with a 1976 order from Congress, which was unhappy with the Forest Service's emphasis on timber production at the expense of wildlife, watersheds and wilderness recreation.

"The days have ended when the forest may be viewed only as trees and the trees viewed only as timber," said the late Sen. Hubert H. Humphrey, principal sponsor of the national Forest Management Act of 1976.

That act, which ordered the 50-year plans for all national forests, was supposed to top the wholesale mowing down of the people's trees.

It prohibited logging on land where soil, water or fish habitat would be ruined. And it attempted to slow the Forest Service's conversion of ancient hardwood forests into pine plantations operated for the benefit of the logging industry.

Congress pointedly told the agency that logging on fragile land was not worth the environmental and economic costs, and ordered officials to leave them alone.

But Sen. Jim Sasser, whose staff analyzed plans for the Cherokee, said they are directly contrary to most of those requirements.

Opening 80 percent of the forest to logging is "madness," he said, and the agency's habitual raids on the treasury should be stopped.

In a letter to Cherokee Forest Supervisor Donald Rollens, Sasser said the plan "threatens the very future of the Cherokee" and "would have an irreversible impact on the biological diversity.

"Clear-cutting almost half of this forest," he said, "would threaten the survival of native trout, black bear and a variety of creatures whose future depends on preservation of the few remaining acres they can live on."

Sasser suggested that Rollens start over with a new plan because the proposal, "especially in light of the very low benefit/cost ratio of past timber production," would not only be foolish, it would also "permanently and irreparably alter the face of the Cherokee."

The Southeast isn't the only region losing money on timber sales. Nationally, the government lost $2.1 billion during the past decade, according to investigators for the Congressional Research Service.

In Alaska, they discovered that the Forest Service has been getting 2 cents back for every dollar it invested in timber production.

Agency officials don't dispute the losses, but they argue they're under no congressional mandate to earn a profit, that their purpose is to "manage the forests for multiple use and sustained yield."

Environmental groups say that's usually meant getting as much timber out of the forest as possible without upsetting too many people.

"This time they've gone too far," said Bob Smythe of the Sierra Club's North Carolina chapter. "We don't even have to make an environmental argument against this plan because the economic argument is so strong.

"If we're in the middle of such a huge budget deficit, should the Forest Service be permitted to triple production on something that is guaranteed to lose money?"

Some rangers in the Cherokee agree. They say excessive logging on national forests puts taxpayers in competition with private foresters who can't get a good price for their timber when the government sells its at a loss.

The rangers hesitate to complain publicly because the harvesting goals were ordered by regional and national agency officials. But privately they say the goals will require logging in areas that have poor timber and on such steep slopes that erosion will devastate streams.

"What it means is that taxpayers will not only be subsidizing the logging companies," one forester said, "they'll also be paying for tearing up animal habitat, fisheries and places that ought to be left wild."

"If a foreign country began selling wood at these prices, we'd be screaming for tariffs," Smythe said.

Randal O'Toole, an Oregon economist who analyzes timber production for private foresters, said after studying the Cherokee's logging plan that past financial losses will seem small compared to what's going to happen in the future.

As the more valuable timber in easily accessible places dwindles, he said, the government's cost of getting loggers into difficult-to-reach areas will get higher while revenues plummet.

Roadbuilding alone, he said, costs $300 to $500 an acre. But most of the trees are worth only about $300 an acre. The timber in cove forests, he said, is worth only about $64 an acre. A few isolated stands of white pine are the only possible exception, but those are rare in the Cherokee.

Some Forest Service officials argue that not all the cost of doubling its network of roads should be added into the cost of producing timber because the roads serve other purposes.

But most foresters say that's a smokescreen. Ron Burch, a Forest Service official in the Cherokee who helped put together the 50-year plan, said those other uses are secondary, that "(99.5 percent of the roads are for logging."

Even if the cost of roads were deducted from the government's cost of producing timber, taxpayers would still lose 59 cents for every dollar invested, according to a General Accounting Office investigation.

Forestry officials also sometimes claim it is necessary to clearcut areas of poor quality wood so more profitable timber can be grown for later harvesting, which they say would produce a profit.

But the GAO investigators examined that claim in a study of more than 3,400 timber sales and concluded the argument was "not valid." They said the second growth would lose as much if not more money than the first.

To begin offsetting some of its losses on logging, the Forest Service has cut its budget in other areas.

The threatened species program, for example, was cut by two-thirds. Spending for soil and water conservation is down 22 percent, fish and wildlife habitat down 11 percent, recreation down 40 percent. Wilderness management, hiking trails and the research program have also been cut, along with studies on acid rain, fisheries, and insect and disease control.

At the same time, the timber budget is up 13 percent, roads up 16 percent and minerals up 57 percent.

When environmental groups got wind of the planned mass harvesting of the forest, they howled in protest, then put together teams of foresters, economists, biologists and lawyers to analyze the recommendations.

"What we found," said the Wilderness Society's Ron Tipton, "was that the entire plan is driven by unrealistic timber goals—by an overriding concern for high timber yield which has for 40 years been the basis for promotions in the Forest Service.

"The people in the Forest Service are very professional and they do a lot of work in the public interest, but we think they have taken a fundamentally wrong direction in these plans.

"We could make a strong economic and environmental argument for stopping all logging on these national lands, but we're not. We're only asking that they not cut any more than they've been cutting for the past several years."

There are indications the complaints are forcing the Forest Service to modify its plans.

The House of Representatives, for example, recently cut $50 million from the agency's $191 million 1986 road-building budget.

And Cherokee Forest Service official Burch said, "We've been paying attention to what they've been saying and there might be some modifications."

[From the Kingsport Times-News, Sept. 28, 1985]

FOREST SERVICE PLAN FOR CHEROKEE LACKING

The National Forest Service says environmental concerns have altered its draft plan for the Cherokee National Forest to allow for maximizing "the net forest value while intensively managing the forest for non-commodity resources . . ."

Apparently that means the Cherokee will be afforded a higher level of environmental protection than was indicated in the initial 50-year management plan. But is it enough?

The Forest Service now proposes to double, rather than triple timber harvest projections in the Cherokee over the 50-year period and says that harvests over the next 10 years will remain at current levels.

But what about the next 40 years?

The Forest Service says the 50-year plan isn't really a 50-year plan because it will be updated in 1995. But meanwhile, general land allocations and planning necessary for road construction—based on a doubling of the timber harvest—will be implemented.

The Forest Service says it also plans to cut back on logging road construction but still anticipates 900 miles of new logging roads. Environmentalists question whether that's the absolute minimum necessary.

And rather than targeting 80 percent of the land as suitable for harvest, the Forest Service now proposes 60 percent. But that leaves only 22,000 acres of roadless lands for wilderness protection. State conservation groups have supported establishing about 54,000 acres of new wilderness in the Cherokee.

Simply put, the final plan does not go far enough in protecting the forest.

It's bad enough the Reagan administration appears committed to divesting the United States of its natural resources. What's worse is those resources are being sold at bargain-basement prices, often at a loss to the U.S. Treasury.

Example: In 1982 the administration put out for bid leases to mine coal on public lands at a time when the market was so depressed, the taxpayers took a $100 million loss.

Example: The government estimates it lost as much as $7 billion in the 1983-84 ocean-bottom lease program because the administration unloaded those resources on an uninterested market.

Example: A study prepared by the Wilderness Society estimates that losses from sale of undervalued timber during the last decade have cost the taxpayers $2.1 billion.

The Cherokee National Forest currently receives only about 22 cents for each dollar of timber sales expenditures. The final management plan would result in excessive timber cutting with too little emphasis on resource protection and recreation—and continue to cost the taxpayers money.

What's needed is a federal timber program that is not a money-loser and at the same time more, not less protection, for national forests and the wildlife they support.

We believe the Forest Service can do better in the case of the Cherokee.

[From the Knoxville News-Sentinel, Sept. 10, 1985]

U.S. FOREST SERVICE ABANDONS PLAN TO TRIPLE CHEROKEE LOGGING VOLUME

(By Tim Elledge)

A plan to triple the volume of logging in the Cherokee National Forest has been abandoned by the U.S. Forest Service, and the service is preparing a new proposal to try to satisfy objections raised by conservation groups.

But spokesmen for several conservation groups say the changes will allow twice as much timber cutting as occurs now.

"While this is a significant change from the agency's original position, it still means the forest is being managed primarily for timber production rather than for recreation and wildlife," said Ron Tipton of the Wilderness Society.

"They're selling 41 million board feet a year now. Tripling that—opening 80 percent of the forest for cutting—was clearly and obviously out of line. But doubling it is still too much."

Forest supervisor Don Rollens said the change means less timber will be cut during the next decade than the current management plan called for,

Projected cutting over the next 50 years, however, indicates the logging volume will double and cutting will be allowed on 60 percent of the forest, down from 80 percent in the first plan.

A final version of the Cherokee proposal will not be completed until January. But Rollens said he expects it to "place additional emphasis on wildlife, recreation and wilderness" compared with the original plan.

The revisions, he said, are "based on comments received from the public."

An examination of the original plan revealed that the federal agency lost millions of dollars during the past several years by selling timber from the Cherokee Forest at prices that were far less than the cost of producing the wood.

For every $1 the agency spent on timber production and harvesting, it recovered about 22 cents, a practice that drew criticism from Tennessee's U.S. Senators, Jim Sasser and Albert Gore, Jr.

The reduced harvesting plan means fewer logging roads will be built, more land will be

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ting will be necessary.

Will Skelton, a Knoxville attorney who heads the Cherokee National Forest Wilderness Coalition, said the cutback is "much, much better" and probably is as much a concession conservation groups can hope to get.

Tipton said he believed the first plan reflected goals set by Reagan administration officials, not foresters working in the field.

"Even so, what's happened here is they started out with a bad plan headed totally in the wrong direction. Now they're back to something a little less onerous, but it still goes in the wrong direction."

Rollens said more than 40 percent of the Cherokee's cove hardwood forests will be declared unsuitable for logging under the revised plan.

[From the Atlanta Constitution, Nov. 24, 1985]

Proposals for Future of National Forests Challenge

(By Tom Ebien)

Knoxville, Tenn.—Like a rumpled green blanket, the Blue Ridge and Great Smoky Mountains roll down from Virginia through Tennessee and North Carolina before disappearing in the North Georgia piedmont.

Within these hills and valleys are the 518,000-acre Great Smoky Mountains National Park and six national forests totaling 3.2 million acres—the largest concentration of public land east of the Mississippi River.

Between the 1890s and the 1930s, when the land was in private hands, men with big saws built railroads into the mountains, hauled away the best trees and left behind a mess. Between 1911 and the 1940s, the U.S. Forest Service purchased vast tracts of the hardwood forests and nursed them back to health.

Now comes the next step.

Under orders from Congress, the Forest Service has been working since 1976 to draw up long-term plans for how America's 155 national forests will be managed. That controversial process is now coming to a head in the Southern Appalachian Highlands as foresters, environmentalists and sportsmen engage in a battle to decide the forests' future.

Plans for three of the six forests have been tried and approved within the past three months. The other three plans are due out early next year. Although the plans outline objectives for the next 50 years, Forest Service officials emphasize that they will be re-evaluated every 10 to 15 years.

Most controversial is the Forest Service's plan to increase timber cutting and log-haul road building in the six forests—the Chattahoochee in Georgia, the Cherokee in Tennessee, the Pisgah and Nantahala in North Carolina, the Jefferson in Virginia and a small part of the Sumter in South Carolina.

Forest Service officials say the cutting levels they propose represent good forest management. Because the forests were so heavily and selectively logged early in the century, today's stand grew up from the "rejects." As the forest grows older, more timber cutting is needed, officials say.

"There seems to be the misconception out there that the current (timber) harvest on the Southern Appalachians is all the land can handle," says Bruce Jewell, spokesman for the Forest Service's regional office in Atlanta. "It's an extremely conservative program, but it's constantly being misrepresented as a high-volume timber operation.

viewed as that.

Ron Tipton, the Wilderness Society's regional director in Atlanta, says it makes sense for the Forest Service to lease much of the pine forests—such as the 109,263-acre Oconee National Forest southeast of Atlanta—for logging.

"But that doesn't hold true with the Southern Appalachian forests," Tipton says. "The best use for these forests is recreation and wildlife. We believe the Highlands area is so important to the country for uses other than timber."

National forests in the Southern Appalachians supply only about 3 percent of the region's commercial timber, and the market already is flooded. But environmentalists cite a growing public demand for wilderness recreation.

Currently, 5.5 percent of the six forests (195,347 acres) is protected as wilderness. The Wilderness Society wants to add 233,744 acres, which would still leave the forests only 13 percent wilderness.

The Forest Service argues that timber cutting benefits wildlife by providing forest openings and fresh growth. Biologists agree that is true for some species, such as deer. But other animals do better when the forest is left wild, they say. Black bears, for example, need old trees for dens and vast tracts of roadless hardwood forests in which to feed.

Ironically, one of the best arguments against more logging is economic.

Nationally, one-third of the national forests' timber harvest is sold for less than the cost of cutting it. Environmentalists say that adds up to a $200 million annual subsidy for the timber industry. This is especially true in the Southern Appalachians, where sales recover only a fraction of their cost.

The Forest Service admits logging here losses money. But officials say it is necessary to keep the forests healthy and fulfill Congress' mandate of "multiple use" forest management. The popularity of wilderness recreation "doesn't let us off the hook on timber responsibilities," Jewell says.

Critics claim the forest plans don't allow for enough older hardwood trees, and call for too many hardwoods to be replaced by pines. Forest Service officials say that isn't so.

Also, there is controversy about clear-cutting, the most common method of logging. In clear-cutting, all trees are cut from scattered plots of up to 40 acres each. In this region, most clear-cuts average 25 acres.

Forest Service spokesmen say clear-cutting is easier to manage, more cost-efficient and uses less land than many selective-cutting methods. It provides the forest openings and "edge" needed by deer, wild turkey and other animals. And because it isn't a drawn-out process, logging roads can be quickly closed and seeded, limiting wildlife disturbance. When properly managed, clear-cutting balances forest land into a mosaic of trees grouped by age.

But critics say clear-cutting wastes wood, increases erosion and sends more silt into fragile streams. Also, it is ugly, and that is especially important in areas where the economy depends on tourism.

"Forest Service people perceive their role as primarily foresters, rather than ecologists, and foresters are trained to maximize timber output," says Tipton of the Wilderness Society.

According to Wilderness Society calculations, the cost of managing timber sales nationally takes up 40 percent of the Forest

congressional appropriations for nation
forests go for building roads. About 95 pe
cent of those roads are laid for timber hau
ing and only 31 percent are maintained f
passenger car use. Meanwhile, funding f
forest recreation and wilderness manag
ment has been sharply up since 1980.

"Our plan is to try over the next decade
change the way the Forest Service do
business," Tipton says. "And the Southe
Appalachian Highlands is one of the plac
we're going to try to do that."

Environmentalist trace the accent emph
sis on timber products to one man. John
Crowell, who from 1981 until last Novemb
was the assistant secretary of agriculture
charge of the Forest Service.

Before joining the Reagan administratio
Cromwell was general counsel for Louisian
Pacific Corp., the leading buyer of nation
forest timber. Environmentalists say
views fit in with the administration's phil
ophy of increasing commercial developme
of public lands.

But in devising forest management pla
that idea has collided with another admin
tration philosophy—eliminating subsidies
agriculture industries.

"The Forest Service was directed by t
administration to do more intensive e
nomic analysis on these forests than e
before, and the result doesn't say cut m
timber," says Bob Smythe, a forest ecolog
who from 1974 to 1981 was senior st
member for natural resources on the Pre
dent's Council for Environmental Quali
"We think we've got them by their o
data."

In developing its management plans, t
Forest Service first released draft propos
and sought comment. A lot of comment w
received, and in most cases it led to subst
tial changes in the "final" plans, which
still subject to negotiation.

The plans are approved by John Alco
the Forest Service's regional forester in
lanta. After appeals are settled within
agency, any remaining disputes will to
federal court.

Here, forest by forest, is where the proc
starts.

CHEROKEE FOREST

The Southeast's most controversial p
involves the 632,565-acre Cherokee Natio
Forest, which runs the length of the east
border of Tennessee on either side of
Great Smoky Mountains National Park.

The Forest Service's draft for the Che
kee released in January 1984, outraged en
ronmentalists. "It was a disaster—a
blueprint for clear cutting and not a
else," says Tipton of the Wilderness Socie

The final plan due out in January,
have "significant" changes, says For
Service spokeswoman Wilma Marine.

The draft called for timber cutting
more than triple over 50 years. Under t
revised plan, logging would continue at
current 40 million board feet per year
the next 10 years. Within the next 40 yea
it could double, Ms. Marine says.

Other changes from the draft include
ducing the amount of the forest availa
for logging from 70 percent to about 60 p
cent, and increasing the amount of new
derness areas from 22,214 acres to alm
35,000 acres. The forest already has 33,
acres of designated wilderness. Environm
talists say another 100,000 acres is suita
for wilderness, and at least 42,715 ac
should be so designated.

years, only about 750 more miles would be built. And the final plan will set aside more land for special uses, such as black bear habitat and "back country" recreation, Ms. Marine says.

The Wilderness Society has studied this forest plan more than any other in the Southeast. That is partly because the Cherokee ranks 19th among the 155 national forests in popularity for camping, hiking, hunting and fishing. The forest has an unusually diverse array of plants and wildlife. And the nine Tennessee River tributaries within the forest's boundaries provide some of the best whitewater rafting in the South, as well as several municipal water supplies and 346 miles of trout habitat.

Tipton doubts the Wilderness Society will be able to fully negotiate its differences with the Forest Service here. An appeal is almost certain, he says, and it could end up in court as a test case for the region. "This in many ways is going to be the most important plan in the region," Tipton says. "We can't sue them every place, but we may sue them some place—and it may be here."

PISGAH-NANTAHALA FORESTS

Public outcry also has forced the Forest Service to revise its plans for the jointly managed Pisgah and Nantahala forests, which total 1,008,000 acres in western North Carolina.

The November 1984 draft called for a 50-year plan to increase logging by 39 percent, to 116 million board feet per year, and increase roadbuilding by 17 percent. The draft also would have opened 250,000 acres for possible oil and gas leasing. There are presently no oil or gas wells in the forests.

Bob Cunningham, the Forest Service planner for the Pisgah-Nantahala, says the plan will leave logging at roughly its current level for the next 15 years and add fewer roads. Details have yet to be worked out. But he says the changes will be so major that another draft may be released for public comment before the "final" plan is issued.

CHATTAHOOCHEE FOREST

Five appeals have been filed to the plan issued Sept. 25 for the 749,444-acre Chattahoochee National Forest in North Georgia. The Chattahoochee is managed jointly with the Oconee, where environmentalists have few concerns.

Over 50 years, the plan would more than double timber cutting to 205 million board feet per year, with two-thirds of that cut from the Chattahoochee. There would be less clear-cutting than there is now, and only half as much as proposed in the draft plan. But the amount of land considered suitable for cutting would be increased by 65,740 acres, making 80 percent of the forest available for logging.

The Chattahoochee now has 46,261 acres of designated wilderness. Under the plan, 39,439 more acres would become wilderness. Another 25,334 acres would be designated for "back country" recreation and managed similar to wilderness. Also, cutting would be banned on 5,251 acres around the Appalachian Trail.

The plan reduces roadbuilding from the current 33 miles of new road per year to 20 miles per year. And 75 percent of new roads would be dirt instead of gravel or pavement, so they could be seeded when logging crews were finished.

"We've made concessions on the amount of clear-cutting, road construction, and "But the environmentalists probably want us to go further."

Off-road vehicles are now allowed in most parts of the Chattahoochee unless signs are posted banning them. But under the plan, vehicles would be banned from areas unless signs were posted permitting them.

Three of the five appeals are from individuals, one is from off-road vehicle enthusiasts and one is from a coalition of environmental groups.

Bob Kerr, executive director of the Georgia Conservancy, says the appeal was filed because environmental groups wanted more time to study the plan. Kerr says the Forest Service's cutting quotas appear to be arbitrary, and policies on herbicides seem vague.

Environmental groups have until Dec. 27 to review the plan before they begin negotiations with the Forest Service.

JEFFERSON FOREST

The Forest Service issued a plan Oct. 16 for the Jefferson National Forest, which covers 700,000 acres in southwest Virginia and a few acres in southeastern Kentucky.

Under the plan, timber cutting should be slightly reduced during the next 20 years, to about 33 million board feet per year, and then gradually increased by 40 percent over the following 30 years. About 49 percent of the forest would be open for logging—64,000 acres less than at present.

The plan calls for less clear-cutting, and clear-cut plots would be much smaller. About 990 miles of new roads would be built, less than half what was called for in the draft.

SUMTER FOREST

In an unusual more, a state agency has appealed the plan issued Aug. 2 for the Sumter National Forest in northwestern South Carolina.

But environmental groups are putting little emphasis on the Sumter plan because only one of the 359,412-acre forest's three sections—the 78,220-acre Andrew Pickens District is a mountainous, hardwood forest.

The plan boosts current timber-cutting levels by 16 percent over the next 10 years and 108 percent over the next 50 years.

The plan adds 1,969 acres of wilderness and 9,396 acres of "special" areas "to protect unusual scenic, biological or recreational values."

[From the New York Times, Nov. 23, 1985]

U.S. Timber Sale Plan Is Provoking Opposition

(By William E. Schmidt)

Franklin, N.C.—Above the narrow roads that wind through the Nantahala National Forest here, the areas totally cleared of trees stand out distinctly, bald patches of up to 40 acres hewn out of the densely wooded mountainsides.

"They used to put them way up in the hills, where you couldn't seen them," said Walton R. Smith, a retired Forest Service official who lives on a wooded hillside north of here. "Now they want to cut a tract right above my house. I'm not against tree harvesting, but I think the agency is on a wrong track these days."

Emotions have run high in the rural mountains of western North Carolina, where opponents forced the United States Forest Service to withdraw a long-range plan that recommended increased logging and clear-cutting, rather than selectively harvesting individual trees, in the Nanta-

DEBATE OVER FOREST PLANS

The controversy here underscores a much broader debate taking place all across the country. The Forest Service is wrestling with loggers, conservationists and a wide variety of public interest groups, from hunters to hikers, over the formulation of the first long-range, comprehensive plans for managing the nation's 191 million acres of national forest preserves.

The plans were mandated by Congress as part of the Forest Management Act of 1976, which was intended, in part, to guarantee greater public participation in forest planning.

So far, of the 123 plans the agency is eventually to produce, 78 have been made public, in draft or final form. According to those new plans, the Forest Service says the agency will offer for sale over the next decade only 8 percent more timber than it would have under existing plans.

But critics argue that even those proposed 10-year timber levels exceed current allowable sales by 15 to 40 percent. More important, they argue, each of the Forest Service plans includes long-range projections for timber harvest that describe allowable timber sales by the year 2030 that would be two to three times above what they are at present.

'NUMBER ONE LAND USE ISSUE'

That kind of increase horrifies environmentalists, who say the current debate will shape the way the Government manages the nation's forest resources over the next 50 years.

"This is the No. 1 public land use issue in the nation right now," said Peter M. Emerson, an official of the Wildeness Society, an environmental group. He argues that the strategy embodied in the plans favors timber production and road building, which will damage other management goals, including recreation, wildlife habitat, wilderness preservation and watershed protection.

To press the point, the society has set up a team of lawyers and resource specialists to analyze the forest plans and has mounted an aggressive lobbying campaign.

In recent months, to help quell the controversy, the Forest Service has said that some of its own documents were misleading when they referred to 50-year forest plans. "We never intended to set specific 50-year targets," said Gary E. Cargill, the agency's chief associate deputy forester. "It's impossible to project timber markets and yields over a 50 year period."

So far, critics of the agency have threatened suits and have filed 62 requests that the agency review plans for logging and roadbuilding in 17 national forests, from Alaska to northern Georgia.

"There has been nothing like this before in the history of resource management," Mr. Cargill said in an interview. "We deliberately sought a vast public input, and we are listening to what the people say. In some of the draft plans, we have made substantial adjustments."

PHILOSOPHICAL DIFFERENCES

In some ways, the current debate underscores basic philosophical differences between the professionals who run the Forest Service, many of whom view timber production as the essential activity of the agency, and environmental activists, like those in the Wilderness Society, who say the preser-

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vation and enjoyment of nature are more important than commercial enterprise.

But environmental groups have also argued that Forest Service policies are not only bad for the environment but also economically disastrous. They have asserted that the agency loses money on its timber sales because the cost of new logging roads and other expenses exceeds receipts. A study by the Wilderness Society estimated the Forest Service lost $2.1 billion on its timber program over the last 10 years.

In 1984, the General Accounting Office analyzed 3,244 timber sales in four Western regions in 1982. It found that in 42 percent of them costs exceeded revenue by a total of $92 million.

DISPUTES OVER EARNINGS

Although the Forest Service concedes that a poor timber market caused it to lose money in a third of its timber sales last year, it says it makes money on timber sales over all.

From 1978 until 1983, the agency said, it sold $8.4 billion worth of timber, but the costs of its timber sale program were only $2.9 billion.

The sharply differing contentions about the economics of the timber program have caught the attention of Congress, where a House subcommittee recently demanded that the agency come up with a better accounting system.

Meanwhile, the House of Representatives voted this year to trim $30 million from the agency's road-building budget, a key ingredient of the timber program. The Forest Service administers 340,000 miles of roads in the national forests, a system that is more than six times as large as the Interstate highway network.

The national forests produce about 18 percent of the nation's annual timber harvest. The rest comes from commercial forest preserves.

Here in western North Carolina, the sharpest criticism has revolved around the question of clear-cutting, which remains a visceral issue in a part of the country where private timber companies, in the early part of the century, laid waste to large tracts of virgin timberland.

The Forest Service argues that controlled clear-cutting, limited to widely scattered tracts of no more than 40 acres in size, improves timber stands. In some places, the agency has clearcut hardwood forests to replace them with stands of white pine, which has a higher commercial value.

But local residents favor selective harvesting of individual trees. The Western North Carolina Alliance, a citizens group, has demanded a moratorium on further clear-cutting in the national forests here and has delayed a pending timber sale by asking that the Forest Service reconsider it. They are particularly concerned about erosion and other problems that could accompany clear cutting on steep slopes.

Opposition here is broadly based. Not only have hunters opposed the clear-cutting, but so have real estate developers, who are riding a boom in resort and vacation home development on nearby private lands and fear the logging will scar mountain scenery.

"The people of western North Carolina have issued a mandate," said David Liden, who helped organize the citizen's group here. "They don't want their scenery and wildlife habitats ruined by turning the public's forests into a tree farm."

[From the Atlanta Constitution, Nov. 1985]

Forest Service Timber Plans Put National Forests at Risk

(By Ronald J. Tipton and Charles W. McGrady)

The Southern Appalachian Highlands comprise one of the most heavily visited recreation areas in the country. Stretching from Georgia into Virginia, this unique area is increasingly vital to the region's quality of life and to its economy.

But the U.S. Forest Service has proposed that we take a chainsaw to this superb resource. The Forest Service in the Department of Agriculture is the caretaker of the six national forests that, together with Great Smoky Mountains National Park, make up the nearly four million acres of federal lands that are most critical to the Southern Appalachians.

If the Forest Service's plans are not fundamentally changed, those six forests, including the Chattahoochee in north Georgia, will lost much of their recreation value.

The bad news has come in the form of draft 50-year plans for each of those national forests. Collectively, these plans call for more than doubling the annual timeber harvest, from 286 to 652 million board feet.

To provide access to loggers, the Forest Service is proposing nearly 12,000 miles of new forest road be added to an existing network of 6,991 miles.

It makes no sense at all.

The most obvious assets we receive from these lands are first-rate recreation opportunities. The clear, cool mountain streams provide critical habitat for trout and hundreds of other species of fish. Dozens of free-flowing streams draw canoeists and whitewater rafters from hundreds of miles away. Hunters flock to these forests for whitetail deer, black bear, wild turkey and other game. More than 500 miles of the fabled Appalachian Trail traverse the Highlands, as do 3,600 miles of other trails.

Because of such assets, the number of wilderness recreation visits to the six national forests in the Southern Appalachians has increased by 25 percent a year since 1979. The Forest Service concedes that this trend is likely to continue, especially in light of the Southeast's rapid population increase. Yet the agency has proposed to log and build roads into some of the best potential wilderness areas in the region.

In north Georgia alone there are more than 100,000 acres of spectacular national forest lands that fully qualify for wilderness status.

But these forests provide us with much more than recreation and the economic stimulus produced by forest visitors. For example, the industrial and municipal water supplies for Johnson City, Erwin, and Elizabethton, Tenn., depend directly on water that flows out of the Cherokee National Forest. The Atlanta metropolitan area relies on the Chattahoochee River, which flows out of the Chattahoochee National Forest, for much of its water.

In addition, these national forests help preserve biologic diversity. The Southern Appalachians currently feature a tremendous diversity of wildlife, including at least 400 vertebrate species and an extraordinary variety of fish. The Cherokee alone provides habitat for 135 species of fish—the most of any of the country's 151 national forests.

This is important. Quite apart from the right of all species to survive and our enjoyment of this abundant resource heritage, there are benefits that man derives from this rich gene pool. This pool serves as a superior laboratory for scientists and as source for pharmaceuticals, more than percent of which are made from natur substances.

People who never set foot in the Souther Appalachians have a very real interest the continued health of these forests.

There will be one other big loser if th Forest Service is permitted to increase tir bering: the U.S. taxpayer. In 1982, for exar ple, the Jefferson National Forest's timb program returned only 8 cents on eve dollar spent by the Forest Service.

In fact, every one of the six national fo ests in the Southern Appalachian Highlan lost money that year. Boosting the timb cut will only increase these losses because the expense of building roads into previou ly untapped areas, which tend to be mo remote and feature steeper terrain.

Would that hurt the Southeast's vibra timber industry? Hardly. The national fo ests in this region account for only a f percent of the harvest in each of the stat where they are located.

The Chattahoochee National Forest, f example, represents only 3.2 percent of t total commerical forest land in Georg Timber companies realize that the region productive private forestlands are more su able places to cut trees.

We believe it is not too late to prevent th environemntal and economic folly. T Forest Service is now reviewing the publi comments before finalizing the draft plar And the public has made it clear to t Forest Service that it vehemently objects the proposed timber goals and roadbuildi

The Pisgah/Nantahala (North Carolin draft plan alone drew more than 3,500 in vidual comments—almost all negative. T Chattahoochee plan attracted more th 2,000 letters, the vast majority of whi criticized the Forest Service's proposed rection.

In September the Service is expected release the final version of the Chattaho chee plan. That document will provide clear sense of how willing the Forest Serv is to reorder its priorities in the southe Appalachian Highlands. The Chattaho chee plan, if revised to gain broad pub support, can be a model for the rest of t Southern Appalachian 50-year plans.

For the sake of the millions of America who live near or visit the Southern App lachians, and for the sake of the people this country in the year 2030, we hope t Forest Service will correct its course.●

DRUG ABUSE AND DRUG-RELATED CRIME

● Mr. BUMPERS. Mr. President, I a pleased to join several of my disti guished colleagues in cosponsoring 15, the State and Local Narcotics Co trol Assistance Act of 1985, introduc by Senator Moynihan, and S. 18 the Student Chemical Substan Abuse Prevention Act of 1985, intr duced by Senator DeConcini.

These bills are designed to provi States and local entities sorely need financial support in the fight agair drug abuse and drug-related crime. licit narcotics are victimizing our ch dren and drug use is prevalent in eve social and economic level. Marijua use increased 5 percent in 1983, herc use 4 percent, and cocaine use, t most popular of the three, increased by 12 percent nationwide. The 1983 high school survey prepared by the National Institute on Drug Abuse underscores the seriousness and scope of the problem. It revealed that 87 percent of students used alcohol, 42 percent used marijuana, 25 percent used stimulants, and 11 percent used cocaine.

A recent study of Arkansas high school students revealed a definite connection between drug and alcohol use and high school dropouts and dismissals. The study showed that dropouts and dismissed students used drugs and alcohol at least twice a month in the following percentages: 60 percent used alcohol, 52 percent used marijuana, 19 percent used stimulants, and 6 percent used cocaine. The study also revealed that over 65 percent of the sample group who had tried marijuana or amphetamines first used the drug sometime between the ages of 14 and 16.

The connection between drug use and criminal activity is not a casual one. In Arkansas, total arrests for the sale or manufacture of narcotics increased 23 percent from 1984 to 1985. Total arrests for possession of narcotics increased by 19 percent over the same period.

These statistics are very disnheartening and cannot be overlooked. The very lives of our children are at stake. I believe S. 15 and S. 1820 are a step in the right direction.

S. 15 would authorize the Secretary of Health and Human Services to make grants to States for developing more effective drug prevention, treatment, and rehabilitation programs. Each State receiving a grant would designate a single State agency to administer the grant and distribute the moneys to appropriate State and local entities. Twenty percent of the funds will be made to private, nonprofit entities. The Secretary is authorized to spend up to $1 million of the $125 million annual appropriation for public service announcements to educate the public concerning the dangers of illicit drug abuse.

The bill would also authorize the Attorney General to make grants to States to assist State and local governments to increase their drug enforcement activities. The State would be required to establish a statewide strategy for providing additional personnel, equipment, and facilities for more widespread apprehension, prosecution, adjudication and detention of persons accused of violating State narcotics laws. This program would also receive a $125 million annual appropriation in 1986, and such annual sums as necessary through 1990.

S. 1820 would provide funding for a 3-year demonstration project to State educational agencies for the purpose of developing and expanding drug abuse prevention programs by the local school districts in public elementary and secondary schools. The goal of the bill is to integrate into the public schools ongoing drug and alcohol abuse prevention education programs which emphasize the destructive effects of these substances on our minds and bodies. Students would interact with parents, teachers, health care professionals, local law enforcement officials, and civic leaders, all of whom would participate in the programs. The purpose is to concentrate the prevention effort in the schools, where our children most often learn about and have access to drugs and alcohol.

The bill authorizes $5 million to be appropriated in each of the fiscal years 1977-79 for drug prevention assistance grants to State educational agencies. I think this is an uncomplicated and inexpensive way to provide our schools and our children with much needed assistance. This legislation is long overdue.

I hope these bills will support a more comprehensive response to the growing drug abuse problem. I have no illusions about the chances of new programs being authorized in these days of huge deficits, but I still wanted to express my concern and add my name to these efforts. I commend the Senator from New York and the Senator from Arizona for offering these proposals.●

HIGHWAY 71 AND THE DEATH OF EDDIE BELLIS

● Mr. **BUMPERS**. Mr. President, early this year I introduced S. 384, a bill to authorize a demonstration project on U.S. Highway 71 between Alma, AR, and Bella Vista, AR, to improve this heavily traveled and dangerous road. I have spoken to my colleagues on several occasions about the critical need for this important work, and that need is becoming more crucial every day. The death rate from automobile accidents is five times higher than the average for the rest of the State. So I intend to raise this issue at every opportunity. But I am greatly saddened by the reason I feel compelled to bring this to the attention of my colleagues again today.

Another tragic accident has occurred on Highway 71. That treacherous stretch of highway has now claimed the life of Eddie Bellis, who at the age of 71 had been a resident of the Mount Gayler area in northwest Arkansas since 1931. Eddie and the young truck driver who also lost his life in this terrible accident when his truck went out of control were the most recent in a long history of similar tragedies. However, there is a particularly sad irony surrounding Eddie's death.

Eddie Bellis moved into the Boston Mountains with his family when he was 17 years old. Even at that young age, he loved the Mount Gayler area and worked hard for improvements to benefit the other citizens who had settled into this mountain community. He was an early force behind the original construction of Highway 71, and was on hand on July 4, 1931, when the first 18-foot concrete slab was put into place. Since then he has continually sought improvement in the route. His family has operated stores and restaurants on Mount Gayler since 1931, and not only did Eddie take part in that work, but in 1952 organized and acted as chief of the area's first rural fire department, the Boston Mountain Rural Fire Association. He gave his all to volunteer fire and rescue operations, and probably has witnessed first hand more tragedies along Highway 71 than any other person.

For a number of years Eddie has actively fought for improvements in this route, and was a real leader in citizen organization and participation in this effort. Very recently, he presented eloquent testimony at a public hearing on the serious need for Highway 71 improvements. Now, at a time when it appears likely that some progress might be made, when the public sentiment is strong and when the State of Arkansas has recognized the need for this work and committed its own funds, Eddie's life has tragically and ironically ended due to the extremely hazardous conditions he spent his life trying to remedy for the benefit of all who traveled in this part of our State. I want to offer my most heartfelt condolences to his wife, Sue.

Mr. President, I believe that for Eddie's sake, for his family's sake, and for the sake of all who have suffered similar losses because of this very dangerous highway, every effort must be made to see these critical improvements become a reality. My bill, S. 384, will make limited funds available, along with other equally limited State and Federal funds, so that the State of Arkansas will be able to build a safer, improved road. I cannot state strongly enough how important this is to everyone who travels through the Ozark region, and I will vigorously pursue the passage of my bill at every opportunity.●

MOTOR CARRIER SAFETY

● Mr. **PACKWOOD**. Mr. President, motor carrier safety is a serious problem in this country. The Federal Government, many States—including my home State of Oregon, the motor carrier industry, and the industry's employees, are seeking ways to address this problem effectively. There have been many positive developments in this area, but it is important for the

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Federal Government to take further action to improve motor carrier safety.

I am pleased to be a cosponsor of the motor carrier safety legislation which my colleague Senator DANFORTH introduced on December 5 (S. 1903 and S. 1904). This legislation will lead to vital motor carrier safety improvements by ensuring that motor carrier equipment and the drivers operating that equipment meet meaningful Federal safety standards.

Mr. President, I ask that a recent editorial from the Joplin Globe concerning this legislation, as well as Senator DANFORTH's commitment to improving motor carrier safety, be printed in the RECORD.

The editorial follows:

SAFER TRUCKS

Just how tough should be state and federal safety standards for truck drivers and those 80,000-pound rigs that daily carry much of the nation's interstate commerce?

Considerably tougher than they are now, according to Sen. John Danforth, R-Mo.

Few things are more discomforting to a motorist than to look in the rearview mirror and see bearing down on his car one of the big trucks trying to pick up speed to pull the next hill.

Most truck drivers fortunately are not only competent in handling their monstrous rigs, but also exercise considerable care.

Nonetheless, big trucks can be a deadly weapon unleashed on the roads if they are not kept in top mechanical condition or if the ability of their drivers are impaired, even only slightly, by alcohol, drugs or fatigue.

Every year 4,900 traffic fatalities are recorded in accidents involving trucks. Some of these tragedies might have been prevented by better state inspection programs, stiffer licensing controls on operators of the rigs and improved maintenance of the vehicles.

Consider Danforth's damning indictment: "It is common for over-the-road drivers to secure operators licenses where they are not required to pass a driving test in a heavy truck or where other standards are lax. Likewise, drivers often carry multiple licenses in order to spread points for violations over different driving records. It is notoriously simple for drivers who lose a license to 'state hop' to a new license."

To permit such sleight-of-hand with licenses is to invite trouble. Drivers with questionable safety records are permitted to remain behind the steering wheels of their vehicles and on the highways when they otherwise might have been sidelined.

One potential solution that the Missouri senator is considering is creating a national licensing for interstate truck and bus drivers in order to make them more accountable for safety infractions. Another idea that he is kicking around is offering federal incentives to states that emphasize random roadside checks of trucks.

"An 80,000-pound truck with bad brakes poses a clear and present danger to the driving public," Danforth said. "A fatigued, impaired or irresponsible driver should know that inspectors are looking for him and will pull his license instantly."

If Danforth follows through, his legislation would seem to do much to improve the chances that the next big rig you see won't have serious mechanical problems or won't have at the wheel a driver too tired to think clearly.●

SOMEBODY'S GRANDMA IS STARVING

● Mr. RIEGLE. Mr. President, as the farm bill is being discussed in conference, I would like to call attention to an article in the Detroit Free Press which addresses a provision of the bill. The provision, under the Commodity Supplemental Food Program, would extend three pilot projects in Detroit, New Orleans, and Des Moines serving low-income elderly recipients through 1989. In addition, any unused Commodity Supplemental Food Program funds could be used to serve low-income elderly persons in existing projects or to fund new CSFP projects.

The elderly feeding pilot project was established by Congress in 1981 at three Commodity Supplemental Food Program sites to test distribution of commodity food supplements as a cost-effective way to relieve chronic undernutrition among the elderly poor. In Detroit, Focus: Hope named the project Food for Seniors. Since 1981, Food for Seniors has proven a major success in delivering nutrition to the elderly. Currently, 7,000 seniors in Detroit and suburban communities receive a monthly supplement of commodity foods. An additional 14,000 seniors have been placed on a waiting list, as documented by the Detroit Free Press with an example of a 101-year-old woman who had been waiting for more than a year to receive commodity foods. This story is truly tragic. The farm bill is an important first step in preventing the occurrence of such tragedies by providng programs like Food for Seniors with more flexibility and the ability to feed more hungry elderly.

I ask that this article entitled "Somebody's Grandma is Starving" from the Detroit Fee Press, October 20, 1985, be printed in the RECORD to demonstrate to my colleagues the growing need for food assistance programs to feed our ever-increasing aging population.

The article follows:

SOMEBODY'S GRANDMA IS STARVING

MINUTES COUNT IN WAIT FOR FREE FOOD

(By Jane Daugherty)

For more than a year, 101-year-old Cora Henderson waited with 14,000 other poor elderly people to receive Food for Seniors, a pilot program to combat hunger with commodity foods.

On Thursday, Michael Connor, 16, a volunteer at Focus:HOPE, which runs the food program in Detroit, called her E. Grand Blvd. home to update the seven-inch-thick computerized waiting list for the program.

"I sure could use that food right now," she said softly. "How long do you think I'm going to be around to be on your waiting list?"

Mrs. Henderson, who was one of more than a dozen seniors 100 or older on the waiting list, got an immediate delivery of U.S. Department of Agriculture-purchased rice and beans, canned meats, fruit and vegetables. The thousands of others must continue to wait because federal legislation limits the Detroit area program to 7,500 elderly people.

Connor, a senior at University of Detroit High School who delivers Food for Seniors one morning a week with classmate John Gallant, already was shaken by an earlier call to the home of Charlie Gaston, 100. "One of his relatives said he got sick and died a month ago," Connor said. "We better get some food to this lady."

Said Eleanor Josaitis, Focus:HOPE associate director: "We're putting her on regular deliveries right away. The problem in the Detroit area is deciding which elderly people are the most needy. Obviously, Mrs. Henderson needed food, and she didn't need to be on waiting list. . . ."

Focus:HOPE officials estimate that more than 100,000 elderly residents of Wayne, Oakland and Macomb counties suffer from malnutrition because they are too poor or too frail to get help.

"We'd like to deliver food to all of them," Josaitis said. "But the government won't come up with the 15 percent distribution cost for our trucks and warehousing."

Federal regulations for distribution of Department of Agriculture commodity foods originally were designed to serve only poor infants, pre-school children and their mothers. Those rules exclude most low-income elderly except for those covered by the limited pilot programs in Detroit, New Orleans and Des Moines, Iowa.

Food programs under the Older Americans Act were supposed to take care of the elderly. But the demand for meals served to seniors at centers and for Meals on Wheels for the home-bound vastly exceeds the number of meals that are financed, and federal budget cutting efforts leave little hope that the programs will be expanded.

Because funding covered only 7,500 low-income elderly in Detroit's commodity Food for Seniors program, Henderson was put on the waiting list. Yet when Focus:HOPE volunteers arrived Thursday to enroll her in the program, she smiled as she pulled back the lace curtains on the door of the two-story brick house she retired to in 1968. Mrs. Henderson had worked more than 65 years as a cook and housekeeper in Washington DC., then Long Island.

Like thousands of other older Americans, her lifetime of hard work at low-paying jobs left her with little more than her home and minimal Social Security Checks.

When she unbolted the door to her sagging porch for Connor, she was too weak to turn the balky doorknob. Using her aluminum walker, it took her five minutes to navigate the 50 feet to the easier-to-open back door.

Bread, eggs, ice water, raw chicken livers and an unopened bottle of orange juice were the only foods in the big, old house. Connor put the commodities food package on the kitchen table and was ushered into the once-grand dining room by Mrs. Henderson, now a 100-pound wisp of a woman.

Five or six years ago, she weighed 180 pounds as numerous pictures attest, but the years and rising food prices have taken their toll.

"I don't cook so much any more," she told her Focus:HOPE visitors. "I used to be famous for my cakes and fried chicken.

Now she gets by on a Social Security check of $333 a month, especially difficult in winter when heating bills soar.

"I ain't worth a dime," she laughed when asked about her health. But a recent doctor's checkup showed her to be in remarkably good health, with arthritis her only major ailment, she said.

"I just worked too hard, worn out. I saved my money, bought this house, but then people came in and robbed me—several times," Mrs. Henderson said.

Born in 1884 on a farm near Whitmore, S.C., she outlived her two children and the husband who abandoned them long ago.

"I feel pretty good. You know, I never expected to live this long. Who does?" she said. "I can't do nothing, can't go up the stairs anymore, but I get by.

"I enjoy living. I do. And I love baseball—outside of church, that's my favorite. I love them Tigers. You know they won the pennant last year. This year, they were out."

Mrs. Henderson used to get food stamps "but they cut 'em off. Don't ask me why."

Like many other elderly Social Security recipients, her $10-a-month food stamp allotment was eliminated when she got a cost-of-living increase in her Social Security check.

"I eat when I can get it. I still have my appetite," she said.

Neighbors keep an eye out for her and sometimes bring in food, as does a grandson-in-law.

She thanked the students for their visit and especially for the emergency delivery of the monthly food allotment that would cost $50 in a grocery store. The U.S. Department of Agriculture buys it for $25 and, in the three demonstration programs around the country, pays 15 percent of the cost of the food to local organizations to deliver it to the most needy elderly people.

In the tri-county area, 4,044 elderly people receive home-delivered Meals on Wheels through the Areawide Agencies on Aging, Detroit's Meals at Home program and the Senior Alliance.

"It's a drop in the bucket," said Kathleen Kirschenheiter, associate director of the aging agency that covers Oakland and Macomb counties. "Meals on Wheels are so expensive, so we have very narrow eligibility requirements. It used to be that all you had to do was call up and say, 'Mrs. So-and-So is 92, and she's not getting enough to eat,' and we'd sign her up. We just can't meet that need anymore."

At Detroit's Areawide Agency on Aging, nutrition specialist Corlis Brown-Lloyd said more than 1,000 people are on the waiting list for Meals on Wheels. "The waiting list is so long that hospitals aren't even referring patients being released anymore, and that's a shame," she said.

"But frail people who get on Meals on Wheels almost never leave the program. They need them to survive. Usually our only openings are when people die or go to a nursing home."

The Rev. William Cunningham, Focus:HOPE executive director, winced at the news that a 101-year-old woman had to wait more than a year to get Food for Seniors. "Are we turning into a damn bureaucracy, too?" he asked Josaitis. He was told that when Mrs. Henderson was put on the waiting list there were other elderly people in more dire circumstances.

"I just can't accept that in a country with warehouses brimming with surplus food that will rot," he said. "We'd rather keep it stored so it doesn't have to be counted as part of the deficit rather than give it to starving kids and old ladies."

After a four-year battle over expansion of commodities programs, the U.S. House of Representatives this month passed a farm bill with a provision that would expand those food programs around the country to include some low-income elderly. The Senate farm bill also includes a Food for Seniors measure, but the House and Senate versions differ in financing formulas. The proposals are to go to conference committee at the end of the month. Josaitis said supporters are "quite confident" that the elderly poor will become eligible for commodity foods nationwide.

Many of the seniors on the Focus:HOPE waiting list are retirees and Social Security recipients who find it difficult to stretch their pensions and benefits far enough to cover medical expenses and other essential needs.

There's James X., a 64-year-old with various medical problems, a partially paralyzed wife and too much pride to allow his name to be published in a story saying he doesn't have enough food to eat.

As a 20-year-old private first class in World War II, he toted an M1 rifle to battle on the Marshall Islands and in the Philippines. He came home to Garden City and a succession of manufacturing jobs at Kaiser-Frazer, Hydramatic and the Ford standard-transmission and radiator plant, where he got laid off before he was vested in a pension.

"My last job was at the Kansas City Steak House out at Fourteen Mile running the dishwasing machine," he said, blue eyes blinking double time to maintain his composure. "It was all I could find.

"I'm not angry, I just don't think anyone in this country should go hungry, that's all. I know we're sending food over to Africa—what's that country? Ethiopia—to save those people from starving, but they should worry about people who are starving over here, too."

His Focus:HOPE records indicate that James and his wife had run out of food when they were signed up for Food for Seniors. He limps badly from a year-old ulcer in his foot and has not been able to pay the $3 Medicaid copayment to replace the 40-year-old U.S. Army-issued dentures that fell to the floor and broke months ago.

His total income is $339 a month from Social Security and $47 in food stamps. The rent on this grime-streaked city apartment is $150 a month. The gas bill triples in winter to $90 a month for minimal heat. Electricity costs another $30, and the phone bill adds another cost.

"I didn't think anything about my retirement—not one minute," he said. "I didn't really expect to have a hard time when I was old. I guess I thought maybe my ship would come in, but I think it got sunk about halfway there."

That is how things turned out for thousands of retirees who worked all their lives but didn't manage to save much and wound up ineligible for anything but minimal Social Security.

"I never expected to be paying $124 a month for medicine just to stay alive," said Mary Theriott, 63, who lives just off the Wayne State University campus.

On the coffee table, seven prescription bottles tell the story of where much of her Social Security and $6.70 a month from Supplemental Security Income wind up. Medicare and Medicaid cover only part of the cost of her medications, leaving her with the choice of paying the rest or doing without.

She suffers from heart disease, high blood pressure, stomach ulcers, kidney problems and is awaiting results of a biopsy.

"I'm thankful for this food," she said. "I have to buy medicine first, then whatever is left I can go to the store with."

Wayne County nutritionist Steve Gold said such food vs. medicine dilemmas are common among the elderly. "There's a lot of malnutrition among the elderly that may not be very obvious. People who are overweight, you know, may well be malnourished. You can be calorically overnourished, yet have an iron deficient diet that leads to anemia, for instance."

Gold said Focus:HOPE's estimate that as many as 100,000 elderly in the tri-county area are malnourished "does not sound excessive."

"Hunger and malnutrition are not reportable statistics," he said. "We don't count them well. We count them when they die or have certain diseases. . . . It's a vicious cycle. Certainly elderly people who are malnourished are paying a medical price. They are more vulnerable to catastrophic illnesses and infections."

As John Gallant, 17, sees it when he delivers food boxes each week to isolated older people: "I'm sure they are somebody's grandma. They seem so lonely. At one house, the gas stove was heating the entire house. You can tell some of them are literally hungry. We should be doing more."●

TUITION ASSISTANCE PROGRAMS FOR ARMED SERVICES PERSONNEL

● Mr. PELL. Mr. President, I would like the RECORD to reflect my concern about the administration of tuition assistance programs currently available for personnel of the armed services, and specifically about discriminatory practices within the Department of Defense concerning eligibility of certain institutions to provide such educational services.

The Navy allows personnel to utilize tuition assistance at any educational institution accredited by a body recognized by the Department of Education and the Council on Post Secondary Accreditation [COPA]. The Army, Air Force, and Marine Corps have adopted more restrictive policies, however, which have the effect of prohibiting some fully accredited institutions from participating.

One such institution, located in my own State, is Johnson and Wales College, a degree-granting business college chartered by the State of Rhode Island and accredited by the Association of Independent Colleges and Schools.

The report of the House Appropriations Committee [Rept. 99-332] which accompanies H.R. 3629, the Department of Defense appropriation bill for 1986, deals with this matter very clearly on page 65. It states:

> The Department of Defense is directed to provide guidance to all Services to implement a uniform policy to allow students under the tuition assistance program to have a full choice of all educational institutions accredited by a body recognized by the Department of Education and the COPA.

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However, there was no comparable statement in the report of the Senate committee on the bill.

The question which now arises is whether the statement in the House committee report will prevail as a policy guideline to the administrators of the program in the absence of any expression of a position in the Senate report. I understand that my distinguished colleague Senator CHAFEE has received some assurances in this regard which should be placed on the record to assure that this matter will not be lost from sight in the broad context of the continuing resolution.

Mr. CHAFEE. The Senator is correct and I join him in expressing concern about the lack of uniformity in eligibility standards which apply to educational institutions providing services under the Department of Defense tuition assistance program. There should be a single, common policy for all branches of the military, and the report of the House committee provides a very clear directive to that end, as my colleague suggests.

I am very happy to reply that the House policy directive does and will prevail in these circumstances. I have been assured by the Senate Appropriations Subcommittee that it does not take issue with the House report on this matter and that the Senate committee's silence on the matter does not indicate a contrary view. Moreover, I have been given every reason to hope that the conference report on the continuing resolution will include a specific affirmation of the House language. But I agree with my colleague that we should take this additional opportunity to record our concern and our understanding of the remedy.●

TOYOTA MOTOR CORP., SCOTT COUNTY, KY

● Mr. McCONNELL. Mr. President, today in Lexington, KY, I had the privilege of joining Governor Collins, Senator FORD, Congressman HOPKINS, Judge-Executive Sutton and the citizens of the Commonwealth in welcoming the announcement of the construction of a $800 million Toyota Motor Corp. assembly plant in Scott County, KY.

In the State of Kentucky, Toyota will find a work force committed to the highest standards of excellence. They will find a community committed to maintaining a full and rich quality of life. And they will find State, local, and Federal officials committed to becoming "working partners."

Toyota Motor Corp. will also find something else—something that after visiting Japan earlier this year I found was as important to the Japanese as it is to us—a sense of loyalty.

Mr. President, I ask that an article appearing in today's Lexington Herald-Leader appear below.

The article follows:

TOYODA FAMILY CARVED VAST AUTOMOBILE EMPIRE

(By Andy Mead)

First, the names:

The Japanese executives in Lexington today to announce that an automobile assembly plant will be built in Scott County are Shoichiro Toyoda and his cousin, Eiji Toyoda.

The company they head is the Toyota Motor Corp., the world's third-largest automaker.

Notice the different spelling?

A good deal of superstition went into the decision to change one letter in the family name for the company's name.

The superstition was described by Seisi Kato, a former company executive, in his book My Years With Toyota.

"Risaburo Toyoda, the first president of Toyota Motor Co., preferred 'Toyota' for the company's name because it took eight brush strokes to write in Japanese, while 'Toyoda' took 10," Kato wrote. "The Japanese character for eight (hachi) suggested further growth, Risaburo said, while 10 offered no such space for growth."

The name has served the company well. In its nearly 50 years of existence, Toyota has become Japan's largest company, and the Corolla is that country's most popular car.

Toyota also has captured 8.1 percent of the worldwide auto market. Only General Motors, with 19.3 percent, and Ford, with 12.3 percent, are larger.

The rising sun never sets on Toyota's far-flung factories. Besides 10 factories in Japan, the company has 29 plants in 20 other countries. There are factories in such places as New Zealand, South Africa, Indonesia, India, Brazil and Portugal. Toyota has dealers in 140 countries.

The company's "Global 10" plan is aimed at getting 10 percent of the world market, although there are reports that the goal has been increased to 12 percent.

Parts of the plan to obtain that goal are the plant to be built in Scott County and another planned for Canada.

The Scott County plant is scheduled to produce 200,000 cars a year after opening in late 1988 or early 1989; the Canadian plant will produce 50,000 cars.

In addition, a joint venture with GM in California already produces 200,000 Chevrolet Novas a year, and next year will begin producing Toyotas at a rate of 50,000 a year.

These factories are expected to cement decade," U.S. Wendell Ford, D-Ky., said yesterday that it represented "a stamp of approval on the governor's ability not only to run state government but to push it into a new era as it relates to job opportunities."

"Not only does this give us a breakthrough with one of the (industrial) plums of this decade, but it will also attract others," Ford said. "Toyota made a very thorough, detailed survey of opportunities throughout the country and selected Kentucky. . . . It will cause other people to look and say, 'If it's good for them, it's good for us.'"

In fact, Toyota's selection of a Georgetown site—to be announced at 11 a.m. at the Hyatt Regency Hotel—may bring far more manufacturers and related jobs to Kentucky than originally thought.

State Commerce Secretary Carroll Knicely said last night that an influx of foreign investment "could double or triple" the number of jobs available at the Toyota plant itself. Earlier reports indicated that the Toyota plant would employ up to 2,000 workers, but state officials have in the last day or so used the figures 2,000 to 3,000 in describing the plant.

Knicely said that Tokai Bank in Japan had indicated that 100 Japanese companies were interested in following the new Toyota plant to the United States. Toyota is Japan's largest company.

Charles Haywood, a professor of finance at the University of Kentucky, said: "It would be hard to overstate the impact of this on employment in Central Kentucky. It is a major event, no question about it."

Haywood said that the plant could create jobs not only in Toyota operations but also in local service industries; auto-related and supply companies; and businesses not related to the autos at all, such as the finance and insurance industries.

He described the last category as "firms that would say, 'If it's attractive enough for Toyota, let's take a look at it ourselves.'"

Collins' office on Monday night began distributing yellow and black "Kentucky . . . Oh, what a feeling!" buttons. "Oh, what a feeling!" is a Toyota advertising slogan.

Collins was lauded at a Lexington luncheon yesterday honoring state Energy Secretary George Evans as Coal Age magazine's Man of the Year.

"This governor has single-handely pulled off one of the greatest economic development feats in America," Evans said. "Toyota will mean better things not only for Central Kentucky but for the whole commonwealth."

He added that the Toyota site selection "is Japanese," she said. "They go hand in hand. That's what I've been saying all along."

Collins said that she had been working on Toyota recruitment since March.

Knicely said that Collins had named an executive team on Nov. 6 to coordinate the state's efforts to recruit Toyota, a move the state had not made when trying to lure General Motors' $3.5 billion Saturn project.

GM eventually decided to locate the Saturn project in Spring Hill, Tenn., near Nashville. Collins had indicated on Monday that Kentucky finished second in that site race.

The executive team consists of the governor, who heads the group; Hayes; Knicely; Finance Secretary Gordon Duke; acting Transportation Secretary C. Leslie Dawson; Human Resources Secretary Al Austin; Natural Resources Secretary Charlotte Baldwin; and Ted Sauer, the executive director of the Commerce Cabinet office of international marketing.

Knicely said that another major difference was the involvmeent of the private-sector Kentucky Economic Development Corp., which put up $100,000 for land options. He said that the state had learned in July that Toyota was seriously looking at the United States for a site for its new plant, but he added that Kentucky officials were not actually aware that Georgetown was on the short list of contenders until three or four weeks ago.

Among other Toyota-related developments and reactions yesterday:

Bill Osos, regional director for the United Auto Workers union in Indianpolis, said there were no negotiations being conducted between Toyota and the UAW about representation of workers at the Scott County plant.

However, he added, "We would be expecting it to be a union work force and represented by the UAW."

Osos said that the UAW contract at the joint Toyota-GM venture in Califorina had helped relations between Toyota and the UAW.

John Booher, a Georgetown banker and president of the Georgetown/Scott County Chamber of Commerce, said that the plant Toyota's already strong presence in this country. After a shaky start when the first Toyotas were imported into the United States in 1957, the company's sales steadily increased to the point that it sold 822,000 cars and trucks in the United States last year, more than any other foreign automaker.

The reason Toyotas sell well in the United States is that the company makes good cars. Toyotas have consistently been ranked high by Consumer Reports, and the company's new MR2 model received Motor Trend magazine's 1985 Import Car of the Year award.

The prosperity of the company itself is due in large part to a conservative financial management style, sharp marketing skills and constant search for technical innovations.

"Autonomation" is the term coined by the Japanese to describe the method for controlling quality and eliminating defects, thus increasing profits.

Some of the company's personal practices, such as "quality circles" that involve employees in problem-solving, are now being widely copied by U.S. companies.

The company encourages suggestions from employees. More than 13 million suggestions have been submitted since the program began in 1951. Last year alone, there were 2.4 million suggestions for improving the company, 96 percent of which were implemented.

Toyota takes a paternalistic attitude toward its workers in Japan, offering low-cost loans for home purchases and providing social clubs and sports activities at each of the Japanese factories.

The company has had low points. Kato, the former company executive, wrote that the first prototype Toyota, produced in 1935, left a lot to be desired.

"The sound that engine made when we first stepped on the accelerator was like the first cry of a newborn baby: Japan's infant auto industry was alive," he wrote.

World War II was a major setback for the company. Most production stopped during the war, although trucks were supplied to the military.

On Aug. 14, 1945, the last day of the war in Japan, B-29 bombers knocked out half the company's operations. And because Toyota had participated in the war effort, it was prevented from operating for several years after Japan surrendered.

Although Toyota is a publicly held company, the Toyodas are still very much in control. Shoichiro Toyoda is the company president. His father, Kiirchiro Toyoda, founded the company. Shoichiro's grandfather, Sakichi Toyoda, was a famous Japanese inventor who started a textile company that began the family empire.

Most of the company's growth has come under Eiji Toyoda, the chairman of the board, who is now in the process of turning the reins over to his cousin, Shoichiro Toyoda.

TOYOTA AT A GLANCE

The company was founded in 1937 by Kiirchiro Toyoda, whose father, Sakichi Toyoda, was a famous Japanese inventor who started a textile company that began the family empire.

The company now is headed by Kiichiro's son, Shoichiro Toyoda, the president, and by Shoichiro's cousin, Eiji Toyoda, the chairman of the board.

The company's headquarters and most of its Japanese plants are in Toyota City, near the seaport of Nagoya, which is near the same latitude as Atlanta.

The first Toyotas were imported into the United States in 1957 and were poorly received. Last year, the company sold 822,000 cars and trucks in this country.

Toyota is Japan's largest company—it has nearly 30 percent of the Japanese vehicle market, and the Corolla is Japan's favorite model. The company has 8.1 percent of worldwide vehicle sales.●

ORDERS FOR THURSDAY

RECESS UNTIL 9 A.M.

Mr. GARN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 a.m. on Thursday, December 12, 1985.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. GARN. Mr. President, I further ask unanimous consent that following recognition of the two leaders under the standing order, there be a period for the transaction of routine morning business not to extend beyond 9:30 a.m., with Senators permitted to speak therein for not more than 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. GARN. Mr. President, following morning business, it will be the intention of the majority leader to turn to any of the following items:

OPIC conference report, S. 947;

S. 1396, White Earth Indian bill, under a 4-hour time agreement;

S. 1915, the counterterrorism bill, hopefully under a time agreement;

Possible trade legislation;

Any conference reports available that accompany the so-called must items; and

Any other Legislative or Executive Calendar items that can be cleared for action.

And the majority leader advises that votes can be expected throughout the day on Thursday.

Does the minority leader have any closing statements he wishes to make?

Mr. BYRD. Mr. President, I thank the distinguished acting majority leader for his courtesy. I have nothing to recommend on this side.

RECESS UNTIL TOMORROW AT 9 A.M.

Mr. GARN. Mr. President, I move that the Senate stand in recess until tomorrow at 9 a.m.

The motion was agreed to, and at 8:17 p.m., the Senate recessed until Thursday, December 12, 1985, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate December 11, 1985:

FEDERAL RESERVE SYSTEM

Wayne D. Angell, of Kansas, to be a member of the Board of Governors of the Federal Reserve System for the unexpired term of 14 years from February 1, 1980, vice Lyle Elden Gramley, resigned.

Manuel H. Johnson, of Virginia, to be a member of the Board of Governors of the Federal Reserve System for a term of 14 years from February 1, 1986, vice J. Charles Partee, term expiring.

IN THE NAVY

The following-named lieutenant of the line of the Navy for promotion to the permanent grade of lieutenant commander, pursuant to title 10, United States Code, section 628, subject to qualifications therefore as provided by law:

Donald F. Schorr II

IN THE NAVY

The following-named Naval Reserve Officers to be appointed permanent lieutenant in the Medical Corps of the U.S. Navy, pursuant to title 10, United States Code, section 531:

Briana M. Albert
Timothy F. Archés
John M. Avallone
Bruce C. Baker
Adam M. Barron
Frederick V. Bauer
David C. Brandon
Barton A. Branscum
David S. Brantley
Charles M. Collins
Raymond B. Demoville
Mark C. Drew
Kathleen M. Dully
Ann P. Fallon
Neil F. Gibbs
Bruce L. Gillingham
Thomas W. Grossman, Jr.
Mark W. Handy
Brian L. Johnson
Daniel W. Karrakla
Walter M. Kidwell
Wayne A. Kruithoff
Carla A. Lamers
Terry Lee
Steven V. Lewinski
Peter E. Linz
Laverne R. Lowell
Robert D. Lynch
Stephen D. Mattson
Daniel M. Merrill
David B. Morgan
Peggy M. Morrill
Neal A. Naito
Olaf B. Nordling
Elizabeth R. Ober
Donald E. O'Malley
Anthony S. Panettiere, Jr.
Fred G. Panico
Jeffrey W. Paulson
Nancy F. Petit
Jonathan J. Ply
Paul A. Pudimat
Robert T. Sargent, Jr.
Patrick L. Simming
Joseph K. Statkus
John K. Watson
Mary E. Watson
Eric J. Zintz

CONFIRMATIONS

Executive nominations confirmed by the Senate December 11, 1985:

NATIONAL SCIENCE FOUNDATION

Warren J. Baker, of California, to be a member of the National Science Board, National Science Foundation, for a term expiring May 10, 1988.

FEDERAL LABOR RELATIONS AUTHORITY

Jerry Lee Calhoun, of Washington, to be a member of the Federal Labor Relations Au-

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thority for the remainder of the term expiring July 29, 1987.

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and tes before any duly constituted committe the Senate.

HOUSE OF REPRESENTATIVES—*Wednesday, December 11, 1985*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Finally, brethren, whatever is true, whatever is honorable, whatever is just, whatever is pure, whatever is lovely, whatever is gracious, if there is any excellence, if there is anything worthy of praise, think about these things.—Philippians 4:8, 9.

Grant us, O gracious God, to allow Your good spirit so to touch our lives that our thoughts will be filled with the bounty of Your love and our actions will express justice and mercy. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. PARRIS. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. PARRIS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 271, nays 125, answered "present" 3, not voting 35, as follows:

[Roll No. 448]

YEAS—271

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Aspin
Atkins
AuCoin
Barnard
Barnes
Bateman
Bates
Bedell
Bennett
Berman
Bevill
Biaggi
Boggs
Boland
Boner (TN)
Bonior (MI)
Bonker
Borski
Bosco
Boucher
Boxer
Breaux
Broomfield
Brown (CA)
Brown (CO)
Broyhill
Bruce
Bryant
Burton (CA)
Bustamante
Byron
Campbell
Carper
Carr
Chapman
Chappell
Clinger
Coats
Coelho
Coleman (TX)
Collins
Combest
Conyers
Cooper
Coyne
Crockett
Daniel
Darden
Daschle
de la Garza
Dellums
Derrick
Dicks
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dowdy
Downey
Duncan
Dwyer
Dyson
Early
Eckart (OH)
Eckert (NY)
Edgar
Edwards (CA)
English
Erdreich
Evans (IL)
Fascell
Fazio
Feighan
Fish
Flippo
Florio
Foglietta
Foley
Fowler
Frank
Franklin
Frenzel
Fuqua
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Gradison
Gray (IL)
Gray (PA)
Green
Guarini
Hall (OH)
Hamilton
Hammerschmidt
Hartnett
Hatcher
Hayes
Hefner
Heftel
Hertel
Hillis
Holt
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jeffords
Jenkins
Johnson
Jones (NC)
Jones (OK)
Jones (TN)
Kanjorski
Kaptur
Kastenmeier
Kemp
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lantos
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lipinski
Long
Lowry (WA)
Lujan
Luken
Lundine
MacKay
Manton
Markey
Martin (NY)
Martinez
Matsui
Mazzoli
McCloskey
McCollum
McCurdy
McDade
McEwen
McHugh
McMillan
Mica
Miller (CA)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moore
Morrison (CT)
Mrazek
Murphy
Murtha
Myers
Natcher
Neal
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Owens
Panetta
Pease
Perkins
Petri
Pickle
Porter
Pursell
Rahall
Ray
Regula
Reid
Richardson
Rinaldo
Ritter
Robinson
Rodino
Rose
Rostenkowski
Rowland (CT)
Rowland (GA)
Roybal
Rudd
Russo
Sabo
Savage
Schaefer
Scheuer
Schneider
Schulze
Schumer
Sharp
Shelby
Shumway
Sisisky
Skelton
Slattery
Smith (IA)
Smith (NE)
Snyder
Solarz
Spratt
St Germain
Staggers
Stallings
Stark
Stokes
Stratton
Studds
Sweeney
Swift
Synar
Tallon
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Udall
Valentine
Vento
Visclosky
Volkmer
Watkins
Waxman
Weaver
Weiss
Wheat
Whitehurst
Whitley
Whitten
Williams
Wirth
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (MO)

NAYS—125

Armey
Badham
Bartlett
Barton
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boulter
Burton (IN)
Callahan
Carney
Chandler
Cheney
Clay
Cobey
Coble
Coleman (MO)
Conte
Coughlin
Courter
Craig
Crane
Dannemeyer
Daub
Davis
DeLay
DeWine
Dreier
Durbin
Edwards (OK)
Emerson
Evans (IA)
Fawell
Fiedler
Fields
Gallo
Gekas
Gingrich
Goodling
Gregg
Grotberg
Gunderson
Hall, Ralph
Hansen
Henry
Hiler
Hunter
Hyde
Ireland
Jacobs
Kasich
Kindness
Kolbe
Kramer
Lagomarsino
Latta
Leach (IA)
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lloyd
Lott
Lungren
Mack
Madigan
Marlenee
Martin (IL)
McCain
McCandless
McGrath
McKernan
Meyers
Michel
Miller (OH)
Mitchell
Monson
Moorhead
Morrison (WA)
Oxley
Packard
Parris
Pashayan
Penny
Quillen
Ridge
Roberts
Roemer
Roth
Roukema
Saxton
Schroeder
Schuette
Sensenbrenner
Shaw
Shuster
Sikorski
Siljander
Skeen
Slaughter
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Stangeland
Stenholm
Strang
Stump
Sundquist
Swindall
Tauke
Tauzin
Taylor
Thomas (CA)
Vander Jagt
Vucanovich
Walker
Whittaker
Wolf
Young (AK)
Young (FL)

ANSWERED "PRESENT"—3

Dymally
Hawkins
Mikulski

NOT VOTING—35

Addabbo
Beilenson
Brooks
Chappie
Dickinson
Dingell
Dornan (CA)
Ford (MI)
Ford (TN)
Frost
Hendon
Hopkins
Leland
Loeffler
Lowery (CA)
Mavroules
McKinney
Nelson
Nichols
O'Brien
Ortiz
Pepper
Price
Rangel
Roe
Rogers
Seiberling
Smith (FL)
Smith (NJ)
Traxler
Walgren
Weber
Wilson
Wise
Zschau

Mr. CONTE changed his vote from "yea" to "nay."

So the Journal was approved.

The result of the vote was announced as above recorded.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a joint resolution of the House of the following title:

H.J. Res. 473. Joint resolution waiving the printing on parchment of the enrollment of House Joint Resolution 372.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a joint resolution of the House of the following title:

H.J. Res. 465. Joint resolution making further continuing appropriations for the fiscal year 1986, and for other purposes.

The message also announced that the Senate insists upon its amendments to the joint resolution (H.J. Res. 465), "Joint resolution making

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Boldface type indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

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further continuing appropriations for the fiscal year 1986, and for other purposes," requests a conference with the House of Representatives on the disagreeing votes of the two Houses thereon, and appoints Mr. HATFIELD, Mr. STEVENS, Mr. WEICKER, Mr. MCCLURE, Mr. LAXALT, Mr. GARN, Mr. COCHRAN, Mr. ANDREWS, Mr. ABDNOR, Mr. KASTEN, Mr. D'AMATO, Mr. MATTINGLY, Mr. RUDMAN, Mr. SPECTER, Mr. DOMENICI, Mr. STENNIS, Mr. BYRD, Mr. PROXMIRE, Mr. INOUYE, Mr. HOLLINGS, Mr. CHILES, Mr. JOHNSTON, Mr. BURDICK, Mr. LEAHY, Mr. SASSER, Mr. DECONCINI, Mr. BUMPERS, Mr. LAUTENBERG, and Mr. HARKIN to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a joint resolution of the following title, in which the concurrence of the House is requested:

S.J. Res. 243. Joint resolution urging the Nobel Prize Committee to rescind its award to Dr. Chazov.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair advises Members we will not take 1-minute speeches at this time. We may be able to break in during the course of the day.

APPOINTMENT OF CONFEREES ON HOUSE JOINT RESOLUTION 465, FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 1986

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the joint resolution (H.J. Res. 465), making further continuing appropriations for the fiscal year 1966, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi? The Chair hears none, and appoints the following conferees:

For the entire resolution and Senate amendments: Messrs. WHITTEN, BOLAND, NATCHER, SMITH of Iowa, ADDABBO, YATES, OBEY, ROYBAL, BEVILL, CHAPPELL, LEHMAN of California, DIXON, FAZIO, HEFNER, CONTE, MCDADE, MYERS of Indiana, COUGHLIN, KEMP, REGULA, Mrs. SMITH of Nebraska, and Mr. SKEEN.

As additional conferees:

Solely for consideration of Senate amendments numbered 1, and 19 through 23, and modifications committed to conference: Messrs. TRAXLER, MCHUGH, AKAKA, WATKINS, DURBIN, and ROGERS.

Solely for consideration of Senate amendments numbered 4, 5, and 33 through 48, and modifications committed to conference: Messrs. MURTHA, DICKS, WILSON, AUCOIN, YOUNG of Florida, MILLER of Ohio, and LIVINGSTON.

Solely for consideration of Senate amendments numbered 7, 60 through 65, and 67 through 100, and modifications committed to conference: Messrs. MURTHA, DICKS, AUCOIN, and LOEFFLER.

Solely for consideration of Senate amendments numbered 8, 118, 119, 120, 121, and 122, and modifications committed to conference: Messrs. SABO, GRAY of Pennsylvania, CARR, DURBIN, MRAZEK, PURSELL, and WOLF.

Solely for consideration of Senate amendments numbered 14, 52, 53, 54, 55, and 56, and modifications committed to conference: Messrs. MCHUGH, WILSON, GRAY of Pennsylvania, MRAZEK, EDWARDS of Oklahoma, LEWIS of California, and PORTER.

□ 1025

PERMISSION TO HAVE UNTIL ANY TIME BEFORE MIDNIGHT TOMORROW TO FILE CONFERENCE REPORT ON HOUSE JOINT RESOLUTION 465, FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 1986

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight, or any time before midnight tomorrow, to file a conference report on the joint resolution (H.J. Res. 465) making further continuing appropriations for the fiscal year 1986, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

TABLING OF H.R. 2817 SUPERFUND AMENDMENTS OF 1985

The SPEAKER. Without objection, the bill H.R. 2817, is laid upon the table.

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 3838, TAX REFORM ACT OF 1985

Mr. BONIOR of Michigan. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 336 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 336

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3838) to reform the Internal Revenue laws of the United States, and the first reading
of the bill shall be dispensed with. All po
of order against the bill and against its
sideration are hereby waived. After ger
debate, which shall be confined to the
and shall continue not to exceed t
hours, to be equally divided and contr
by the chairman and ranking mino
member of the Committee on Ways
Means, the bill shall be considered as ha
been read for amendment under the
minute rule. The following amendmen
the bill shall be considered to have
adopted in the House and in the Comm
of the Whole: On page 840, strike out
23 and all that follows through line 1
page 841, and insert: "(2) REPEAL OF SPE
RULE FOR EMPLOYEES' ANNUITIES.—
amendments made by paragraph (1) of
section (c) shall apply where the ann
starting date is after July 1, 1986." No o
amendment to the bill shall be in orde
the House or in the Committee of
Whole except the following amendme
which shall not be subject to amendm
except as specified, or to a demand for
vision of the question in the House or in
Committee of the Whole, which shal
considered as having been read, and w
shall be in order any rule of the Hous
the contrary notwithstanding: (1)
amendment printed in the Congressis
Record of December 10, 1985, by, and i
fered by, Representative Udall of Arizon
his designee, and said amendment sha
debatable for not to exceed 20 minute
be equally divided and controlled by
proponent of the amendment and a Mer
opposed thereto; (2) the amendment pri
in the Congressional Record of Decer
10, 1985, by, and if offered by, Represe
tive McHugh of New York or his desig
and said amendment shall be debatabl
not to exceed twenty minutes, to be equ
divided and controlled by the proponen
the amendment and a Member opp
thereto; and (3) the amendment in
nature of a substitute printed in
Congessional Record of December 6,
by, and if offered by, Represent
Duncan of Tennessee or his designe
modified by the following amendn
strike out paragraph (2) of subse
1121(c) and insert: "(2) REPEAL OF SP
RULES FOR EMPLOYMENT ANNUITIES.—
amendment made by subsection (a)
apply where the annuity starting da
after December 31, 1986." It shall b
order for the proponent of said amend
in the nature of a substitute, any rule o
House to the contrary notwithstandin
offer the amendment designated in sect
of this resolution to said substitute,
amendment shall not be subject
demand for a division of the question
debate on the substitute and on said an
ment shall continue not to exceed
hours, to be equally divided and contr
by the proponent of the amendment
Member opposed thereto. It shall also
order to consider amendments to the
recommended by the Committee on
and Means, which shall not be subje
amendment. At the conclusion of the
sideration of the bill for amendments
Committee shall rise and report the b
the House with such amendments as
have been adopted, and the previous
tion shall be considered as ordered o
bill and amendments thereto to final
sage without intervening motion excep
motion to recommit.

SEC. 2. Amendment to the amend
designated numbered (3): In the tab
contents—

(1) strike out "1-year" in the item relating to section 601 and insert in lieu thereof "2-year",

(2) strike out "2-year" in the item relating to subtitle I of title XI and insert in lieu thereof "3-year", and

(3) strike out "2-year" in the item relating to section 1181 and insert in lieu thereof "3-year".

In section 1 of the Internal Revenue Code of 1985 (as amended by section 101 of the bill)—

(1) strike out the rate schedule set forth in subsection (a) and insert in lieu thereof the following:

"If taxable income is:	The tax is:
Not over $22,500	15% of the taxable income.
Over $22,500 but not over $57,000.	$3,375, plus 25% of the excess over $22,500.
Over $57,000 but not over $100,000.	$12,000, plus 35% of the excess over $57,000.
Over $100,000	$27,050, plus 37% (35% in the case of taxable years beginning after December 31, 1990) of the excess over $100,000.", and

(2) strike out the rate schedule set forth in subsection (d) and insert in lieu thereof the following:

"If taxable income is:	The tax is:
Not over $11,250	15% of the taxable income.
Over $11,250 but not over $28,500.	$1,687.50, plus 25% of the excess over $11,250.
Over $28,500 but not over $50,000.	$6,000, plus 35% of the excess over $28,500.
Over $50,000	$13,525, plus 37% (35% in the case of taxable years beginning after December 31, 1990) of the excess over $50,000."

Strike out subsections (a) and (b) of section 111 of the bill and insert in lieu thereof the following:

"(a) INCREASE IN AMOUNT OF CREDIT.—Subsection (a) of section 32 (relating to earned income credit) is amended by striking out '11 percent' and inserting in lieu thereof '14 percent', and by striking out '$5,000' and inserting in lieu thereof '$7,143'.

"(b) INCREASE IN INCOME LEVEL AT WHICH PHASE-OUT BEGINS.—Subsection (b) of section 32 is amended to read as follows:

" '(b) LIMITATION.—The credit allowable to any taxpayer under subsection (a) for any taxable year shall be reduced by 12.5 percent of so much of the adjusted gross income (or, if greater, the earned income of the taxpayer for the taxable year) as exceeds $8,000.' ".

Amend subparagraph (A) of section 168(g)(4) of the Internal Revenue Code of 1985 (as amended by section 201 of the bill) to read as follows:

"(A) TAXABLE YEARS BEGINNING BEFORE 1987.—No inflation adjustment shall be allowed under this subsection for any taxable year beginning in a calendar year before 1987.".

Strike out "1-YEAR" in the heading of section 601 of the bill and insert in lieu thereof "2-YEAR".

In the heading of subtitle I of title XII of the bill, strike out "2-YEAR" and insert in lieu thereof "3-YEAR".

In the heading of section 1181 of the bill, strike out "2-YEAR" and insert in lieu thereof "3-YEAR".

□ 1030

The SPEAKER. The gentleman from Michigan [Mr. BONIOR] is recognized for 1 hour.

Mr. BONIOR of Michigan. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 336 is a modified closed rule providing for the consideration of H.R. 3838. The Tax Reform Act of 1985.

The rule waives all points of order against consideration of the bill and against the bill itself.

The rule provides for 3 hours of general debate to be equally divided and controlled between the chairman of the Ways and Means Committee and the ranking minority Member.

After general debate, the bill shall be considered as having been read for amendment under the 5-minute rule.

The rule provides that an amendment to the bill will be considered to have been adopted in the House and in the Committee of the Whole. This amendment deletes provisions of the bill which would exempt Members of Congress and their staffs from tax liabilities on civil service retirement system annuities. The modification would provide that the distributions of pension benefits paid to Members and their staffs shall be subject to the same tax treatment as the distributions of other retired public employees.

This is a modified closed rule which provides that only the following amendments may be offered in the House or in the Committee of the Whole.

First, an amendment printed in the CONGRESSIONAL RECORD of December 10 to be offered by Representative UDALL. This amendment will be debatable for 20 minutes.

Second, the rule makes in order an amendment printed in the CONGRESSIONAL RECORD of December 10, 1985, to be offered by Representative MCHUGH. This amendment shall also be debatable for not more than 20 minutes.

Third, the rule makes in order the amendment in the nature of a substitute printed in the CONGRESSIONAL RECORD of December 6, 1985, to be offered by Representative DUNCAN. This amendment is modified by an amendment that deletes provisions of the substitute which would exempt Members of Congress and their staffs from tax liabilities on civil service retirement system annuities. This modification is similar to the modification made to the text of the bill and simply provides that Members of Congress and their staff be subject to the same tax treatment on their retirement pay as is applied to all other retired public employees.

The rule also provides that Representative DUNCAN may offer the technical amendment printed in section 2 of the rule, to his substitute. This technical amendment is not subject to a demand for a division of the question.

Debate on the substitute and on the technical amendment to it shall not exceed 2 hours, to be equally divided and controlled by the proponent of the substitute and a Member opposed thereto.

The rule waives all points of order against these amendments.

Finally, the rule provides that it shall be in order to consider amendments to the bill recommended by the Committee on Ways and Means. These committee amendments are not subject to amendment. In addition, the rule provides for one motion to recommit.

Mr. Speaker, consistent with the bipartisan commitment—on the part of both the President and the leadership of this House—to move forward on tax reform, this is a modified closed rule, which makes in order a very limited number of amendments. At the same time, it is a fair rule. It offers the opportunity to debate the major policy alternative to the Ways and Means Committee bill. By making in order a substitute to be offered by the minority and by granting 2 full hours of debate on this substitute, Members of this body are offered a clear choice on tax reform.

I would like to commend the distinguished chairman of the Ways and Means Committee, Mr. ROSTENKOWSKI, for his determined efforts on behalf of this legislation. When too many people doubted that meaningful tax reform could emerge, he proved once again that politics truly is the art of the possible.

The legislation we have before us is, I believe, a historic document. It is the most far-reaching revision of the Tax Code in our lifetime. It is equal in importance to any piece of economic legislation we have enacted in the past decade.

Just over a decade ago, the American people listed the Federal income tax as the most fair of all taxes. Today, the Federal income tax is perceived to be the least fair tax.

There is ample reason for the frustration of the American people over taxes. Over the years, the growth of tax expenditures, or loopholes as they are more commonly known, has eaten away the tax base of this country.

In 1950, corporations paid nearly 40 percent of the total income tax collected. Today, under current law, corporations pay less than 16 percent of the total.

As corporations and wealthy individuals have been able to escape tax liability, the burden has shifted to

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those who are least able to pay—the middle-class and working poor of this Nation.

The tax reform package presented by the Ways and Means Committee will reverse this devastating trend. It will provide genuine tax relief to America's middle class.

Half of the benefits of this legislation will go to families with incomes between $20,000 and $75,000 a year.

For those making between $20,000 and $50,000 a year, this will mean an 8- to 10-percent decrease in taxes.

Six million of the Nation's poor and working poor will be helped through increases in the personal exemption and standard deduction.

The bill maintains deductions which benefit the middle class such as those on home mortgages, for State and local taxes, and the exemption for fringe benefits.

It protects the ma and pa proprietor with provisions designed to stimulate small business.

Mr. Speaker, in the past few months, I have heard Members of this body say the American people have lost interest; that they are not hearing from their constituents on tax reform.

Yet, if this reform package fails, we will hear from the American people loud and clear. And they will want to know why their elected Representatives did not vote for a minimum tax that ensures that no corporation or wealthy individual can escape their fair share of taxes.

They will want to know why we did not vote to provide tax relief for middle-income Americans.

And they will want to know why we did not vote to support the bipartisan effort, led by the President himself, to move forward with tax reform.

Mr. Speaker, if we let this historic opportunity pass us by, the American people will not forget, nor will they be silent, but who knows how long it will be before we have another chance to restore public trust in our tax system.

I urge adoption of this rule and support for the Ways and Means tax bill.

☐ 1040

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the rule has been ably explained. I do not ask for the defeat of the rule, I am supporting the rule. But I certainly am not satisfied with the rule for a number of reasons.

The tax bill this rule makes in order will inflict double taxation on 19 million Americans. The amendment I tried to make in order in the Rules Committee would strike from the bills a provision that repeals the 3-year basis recovery rule on employee-contributed annuities. Under current law, if an individual's first 3 years of annuity payments equal or exceeds the individual's own contributions paid in, all annuity distributions are treated as a return of employee contributions, which they are, and are not taxed.

The tax bills, both the Ways and Means and Congressman Duncan's, repeal this law. This means that 19 million Americans who have pension plans to which they contribute will be taxed twice. First, when they make their contributions from their own wages, and second, when they begin to receive annuity benefits. This is outrageous and it is wrong. Yesterday, at the Rules Committee, a bipartisan group of Members came before us to ask that an amendment be made in order to protect these 19 million Americans from this very unfair double taxation provision. My effort to make this amendment in order was turned down by the Rules Committee.

At the same time that the Rules Committee turned down the Wolf amendment, they did make in order an amendment providing an individual tax credit of $100 for campaign contributions to House and Senate candidates. That is right; listen. The Rules Committee turned down 19 million Americans but wants to give a tax break to people who contribute to congressional campaigns. You have to wonder what is going on here under the banner of tax reform.

I would not expect any campaign contributions from these 19 million taxpayers who are going to have their pension taxed. Mr. Speaker, there were a number of worthwhile amendments rejected by the Rules Committee which should have been made in order. Frankly, I think some of them, such as the Wolf amendment, would have helped to create an atmosphere helpful to passage of the tax bill. Nevertheless, they were all turned down by the Rules Committee, and this is the rule we are stuck with.

We have before us today the committee tax bill and the major substitute bill to be offered by my good friend, the gentleman from Tennessee, Mr. Duncan.

Of the two, I think the Duncan bill is clearly a superior product and is more accurately described as tax reform than is the committee bill. Comparative analysis of the two bills show that the Duncan bill treats low- and middle-income taxpayers far more fairly than the committee bill.

The Duncan bill provides lower taxable incomes and larger itemized deductions for those with less than $75,000 of income. The committee bill is more generous with those above $75,000. The difference between the two bills will be detailed during the debate, but I would like to point out just a few of the negative aspects of the committee bill now.

My main concern with the committee bill is that it will depress the economy because of the effective dates as early as September of this year. The changes made with regard to tax-
exempt bonds, for example, are ef
tive as of January 1, 1986. It is
likely that any tax bill can be sig
into law before next summer. Beca
of these effective dates, however, I
afraid the economy is going to h
south, and we could succeed in e
neering a recession between now
then.

The effective date absolutely
cludes any planning for the fut
and we had the experience on the
Ways and Means bill when it affec
bonds. You do not run this risk w
the Duncan bill. There is a long lis
other advantages to the Duncan
The Duncan approach is more fa
able to families because of its tr
ment of itemized deductions and
cause of the $2,000 spouse IRA.

The Duncan bill provides indivic
tax rate reductions effective Janu
1, 1986, rather than much later ur
the committee bill. The Duncan
proach provides much more inv
ment incentive to the business com
nity while the committee bill el
nates many of the capital forma
incentives enacted by the 1981 tax

☐ 1050

The Speaker, I could go on anc
and list the advantages of the Dur
bill, but that will be amply discu
when the measure is debated on
floor.

Members will recall when the
ess of writing a tax reform bill b
that simplicity was one of the m
goals. The idea was to make our
laws less complicated and more e
understood by the taxpayers.
committee bill is 1,379 pages lon
boost to the professional tax prepa
and the tax lawyers, but hardly sir
fication.

Mr. Speaker, I urge the adoptio
the rule and the support of
Duncan bill when it is debated on
floor.

Mr. Speaker, I yield such time a
may require to the gentleman
Ohio [Mr. Latta].

Mr. LATTA. Mr. Speaker, I hav
my hand 1,379 pages of tax simpli
tion, and I would wager that not
Member of the House has read
from cover to cover, including
bers of the Ways and Means Com
tee which reported the document.

I want to point out one chang
this bill which has come to my a
tion affecting 19 million Amer
which is grossly unfair to senior
zens. As I pointed out in the
Committee on yesterday, the c
man of the Rules Committee, the
tleman from Florida, the Hono
Claude Pepper, has become the c
pion of the senior citizens across
country, and he should be on
floor speaking out against a prov
in this bill which adversely affec
million senior Americans.

What am I talking about? I am talking about people who have paid taxes—let me stress that—paid taxes on money they have put in an annuity fund, whether it is private or public, for their retirement. Under existing law they are not taxed a second time on that money when they start to draw it out on retirement. They are taxed after they have drawn all that money out of their particular retirement funds.

Fair enough? It has been fair for years.

What is going to happen if this document and a new provision becomes law without change? They are not only going to pay tax on the money when they put it in, they are going to pay tax on it when they take it out, and that is double taxation.

Who are we talking about in particular? We are talking about the teachers across this country, we are talking about the policemen, we are talking about the firemen, we are talking about State and local employees, we are talking about Federal employees, we are talking about postal workers. Nineteen million Americans would be affected adversely by this new provision.

I think it is time for the Congress of the United States to ask why. Is there any fairness or equity involved? I have not heard anybody say there is any fairness or equity involved in this provision. The only thing I have heard is that they needed some extra revenue.

What did they leave out? Well, first of all, the President of the United States in his proposal said we can gain $30 billion by removing the deductions for State and local taxes. The Ways and Means Committee said, "Oh, no, we can't do that. We've heard from the Governor here, we've heard from the Governor there, we've heard from this city mayor and that city mayor; we can't do that."

So down the chute goes $30 billion a year.

Then we have heard all about these fringe benefits which for years have gone untaxed. As I pointed out before the Rules Committee on yesterday, we can have two families side by side on the same street having identical incomes, having identical bills for hospitalization insurance, life insurance, you name it, and one family will be taxed on the cost of those benefits and the other family will be untaxed. Is that fair? That is not fair at all.

Did the Ways and Means Committee do anything about it? They did absolutely nothing. So more billions went down the chute.

So they said, "What we ought to do is we go out there and get the teachers—the teachers, these policemen, these firemen, these people who are now extremely busy in our post offices." Yes, and those people in private retirement groups who have deposited money for their retirement believing that their Government would not change the rules in the middle of the game, and when they got to senior status and wanted to retire, they would be not taxed a second time on that same money.

I say to you that this previous question should be voted down. I do not know whether the motion is going to be made or not, but on yesterday we had five witneses from the House before the Rules Committee saying we ought to vote down the previous question to permit an amendment to strike this inequity from the bill. Let me say I would support that amendment if it is offered. If there is a glaring inequity or unfairness in this bill, this is it.

They are saying around this Chamber now, "Well, wait, we'll take care of that in the other body." Well, I have heard that too many times before, and they have not taken care of it in the other body on a good many occasions. It ought to be taken care of in the House. This is where the new provision originated.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. DEWINE].

Mr. DEWINE. Mr. Speaker, I thank the gentleman very much.

Mr. Speaker, those of us who represent Federal employees or those of us who represent teachers or firemen or any of the people who make this country run should vote to defeat this rule and allow us to go back to the Rules Committee and get a rule which allows us to delete this very onerous and unfair provision.

Not only does it affect Federal employees, it affects anyone—and the estimate is that there are 2 million to 4 million of these people in the private sector—anyone who pays into their own retirement system. Both Republicans and Democrats have agreed that this bill should not raise taxes. Yet this very provision raises taxes for 19 million Americans, make no mistake about it. Unless we defeat the rule, we are going to be raising taxes for 19 million Americans, and that is unfair.

So, Mr. Speaker, I would urge my colleagues, those who do represent teachers, fireman, Federal employees, policeman and all Americans who contribute to their pension plans who are scattered throughout this country to consider that this is a vote that will significantly affect their constituents. And the vote these constituents are going to be looking at is the vote on the rule. A vote to defeat the rule is going to be a vote for fairness, it is going to be a vote for equity, and is going to allow us to go back and get this rule rewritten so we will have an opportunity to delete this provision that really and truly will mean a tax increase for 19 million Americans.

Mr. BONIOR of Michigan. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, I want to make it perfectly clear that this is not double taxation, that this is not a tax increase for 19 million Americans, and anyone who says so has not read the bill and does not understand the proposal.

Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. MATSUI].

□ 1100

Mr. MATSUI. Mr. Speaker, I thank the gentleman from Michigan for yielding me this time.

Mr. Speaker, first of all, let me try to clarify a few things. There has been some discussion about senior citizens not getting a fair shake out of this bill. I will first say that AARP is supporting this bill. AFSCME, the Federal Employees and State Government Employees Union, is supporting this legislation. Almost every major senior citizen group in this country is supporting this particular bill.

The gentleman from Michigan is absolutely correct. A fair and detailed examination of this provision will show that this is not under any circumstances double taxation. What this is is an issue of timing of when taxation in fact occurs. But it is not double taxation.

Let me make one other statement, too. There has been some talk about raising taxes and how these people are going to have a tax increase.

In order to understand this bill, you have to look at the bill in the aggregate. We have raised the standard deduction significantly under current law. We have also provided for those who do not itemize their deductions a $2,000 personal exemption, double of what they receive today.

I can venture to say that most senior citizens who are Federal employees will probably not pay any taxes under our legislation, whereas today they will pay taxes.

So if you defeat this rule and you send it back to the Rules Committee, we are going to have some tremendous problems, because this is a composite package and you will not see a tax cut for those people who are making $15,000 and $20,000 and $22,000 a year, who are in fact retired Federal employees. They are going to get a tax cut out of this legislation, so let us not be fooled. This is only one provision in a bill that gives middle-class Americans a $140 billion tax cut.

Mr. HOYER. Mr. Speaker, will the gentleman yield?

Mr. MATSUI. I am happy to yield.

Mr. HOYER. First of all, I want to say that my friend, the gentleman from California [Mr. MATSUI] has been and continues to be a very strong supporter of public employees, State, county, and municipal, and I ask these questions in that context.

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The gentleman is correct and I thank him for his observations as to what this bill does; but it has singled out 20 million Americans, approximately, for a different treatment than they are now receiving on their annuities; is that correct?

Mr. MATSUI. There is no question we are changing the way that their annuity benefits will be taxed. It is a question of timing of the taxation under this provision.

Mr. HOYER. So that it is fair to say that those 20 million people will get in effect at least as they retire less tax benefits than the other 80 million taxpaying Americans.

Mr. MATSUI. What happens is that the amount of benefits they receive under this provision will be included in their taxable income, but if you deduct the personal exemption and also the standard deduction, which has to be subtracted from the net income, they may not have to pay any taxes at all. This goes into the stream of income.

Mr. HOYER. The estimate on Federal employees is $8,500 more over the 3 years in taxation; but irrespective of that, would it also be fair to say that the groups that the gentleman mentioned that are supporting the bill also very strongly support the Hoyer-Wolf amendment that was offered in the Rules Committee?

Mr. MATSUI. The gentleman may or may not be correct. That I do not know.

Mr. QUILLEN. Mr. Speaker, I yield 4 minutes to the gentleman from Mississippi [Mr. LOTT].

Mr. LOTT. Mr. Speaker, I really appreciate this time being yielded to me by the distinguished gentleman from Tennessee.

As the Republican whip, I am almost tempted here today to take a little whip check just to see what the real feeling is here in the House. I will not ask you to raise your hands, but let us just think about it for a minute.

How many of you really believe that the other body is going to improve this bill when it gets over there? One "aye."

How many of you in your secret heart of hearts wish that this issue would just go away because it has been so distorted? I get some hands being raised, Mr. Speaker. The truth comes out. I have a feeling the spirit is moving.

We have an opportunity, Mr. Speaker, to defeat this rule, to kill this snake before it gets out of the hole, because the procedure is not fair and right and the bill is not what it should be. Let us put it under now and see if we can do better another day.

Now, what have we done in this rule? The Rules Committee did the best it could. It is tough, you know. We have limited the time to 5 hours. I mean, after all, do we need more than 5 hours to talk about this 1,373-page bill? Let us not go overboard. Three hours ought to be enough on the Rostenkowski bill.

I mean, do we really want to read it? How many times do we have to get burned around here? This is the sixth tax bill we have had in 6 years. Think about that.

Do any of you remember the automobile logging requirement that we did not know about? Oh, what did we do on that one? We headed for the woods. We said, "Look, we didn't know that was in the tax bill. Let's change it."

Do any of you remember the little tax feature on interest and dividends? How quick did we capitulate on that one?

How many automobile logging features, that type of thing, are we going to find in this bill?

My colleagues, please do not read this bill. You will find all kinds of things that will shock you. You will find all kinds of little goodies in here for specific Members, but you may not have gotten yours taken care of.

But it does not cost too much; $2 billion or $3 billion is about all those features will cost.

To make matters worse, the Rules Committee made in order a couple amendments that zoomed in off the wall from somewhere: The Udall amendment having to do with territorial possessions. I am still not real sure what it does, even though I asked some questions about it.

Then we have got the McHugh amendment. That was really good. Where did that come from? Out of the caucus at the last minute. We are going to give campaign contributions from individuals in our States a $100 credit. Yet we turn right around and refuse to make in order an amendment to even be considered, suggested by the gentleman from Virginia [Mr. WOLF], that we have a vote on whether we should have a new tax, not a reform, a new tax on Federal, State, and local employees' pensions when they retire, taxed on the first dollar. But no, we were not going to make that one in order. It is a typical distorted rule to make a couple unbelievable amendments in order, and yet we refuse to make other amendments in order.

The gentleman from New York [Mr. KEMP] has been one of the foremost advocates of tax reform. Did we make in order the Kemp-Kasten substitute even to be considered? No, we did not do that.

Did we make in order an amendment by the gentleman from Georgia [Mr. GINGRICH] to amend the Rostenkowski bill to make this thing apply in January of 1987 to remove some of the uncertainty?

Does it not worry you what the uncertainty is going to do next year to business and industrial developm and expansion, not knowing whet we are going to have a tax reform or who it will hit? These things h got to worry you. This rule is a dist ed rule.

Now, on the bill itself, it is a growth. We were told yesterday by expert economist who happens work for the President that in long run it might be good, but in next 2 or 3 years it would proba slow down economic growth and r unemployment.

I am worried about the long h but I tell you, I am worried about year. I think it does slow down cap formation.

Then we talk about cutting indi ual rates.

Mr. Speaker, defeat this rule and us start over again. This is a bad and a bad rule.

Mr. Speaker, I think the most chari thing we could do for the cause of gen tax deform today is to defeat this rule put this tax reform bill to rest once an all. I have great respect for the chair and members of the Ways and Means mittee. I know they labored long and and tried their best to produce a good But this not only fails the test of being tax reform, it's antigrowth to boot could well throw our economy into sion.

Mr. Speaker, anyone who thinks thi is tax simplification just hasn't look the 1,300-page bill or the 1,000-page r let alone tried to lift it. If this is tax si fication, I'd hate to see what the comm considers complicated.

Once again we are being asked a 11th hour of a session to embrace blind faith a massive piece of legisl that few if any Members will have had to read and digest.

Mr. Speaker, H.R. 3838 is antigrowt cause it reverses the capital formatio centives we enacted in 1981. It's antif because it penalizes families which it to the tune of $500 per family member denies spousal IRA's. And this is no and equitable as one would expect a ine tax reform to be. One reason th called tax simplification is so thick i it is chock full of special exception transition rules that carve out little g for various Members and their dis One witness before the Rules Com said he counted 48 of these in one s and 24 in another. They're hard to fi cause they don't mention by name company or community is being ben by a provision. The New York Times November 27 story, identified ma these goodies and the reasons for the quote from that story:

> **Their purpose was to reward legis who had backed the chairman in the mittee or to gain the support of influ lawmakers whose help he will need to antee adoption of the measure * * * House floor.**

Mr. Speaker, I don't want to get into the specific projects that are benefited by this bill. I'm not sure I know them all, and I wouldn't want to slight anyone. Needless to say, this bill has more stocking-stuffers for Christmas than the Rockettes at Radio City Music Hall. Keep in mind, these aren't revenue neutral or revenue gaining provisions; these are revenue losers and hardly in keeping with the tax reform ideal of a level playing field. I just want to caution my colleagues that your rush to judgment today on this bill could result in a judgment against you tomorrow when someone begins to read this bill.

Someone did blow the whistle early on one provision in this bill which was mysteriously slipped in to benefit Members of Congress and their staff with regard to the tax treatment of their pensions. That embarrassment is being automatically extricated with the vote on this rule. But I suspect that's only the tip of the "ice-creamberg."

Mr. Speaker, while this rule does eliminate that one special goodie for Members, it turns around and gives them another, compliments of the Democratic caucus. This rule makes in order an amendment to permit 100 percent tax credits on campaign contributions of up to $100 to Members of Congress. Again, this is hardly a revenue neutral amendment; it's at least a $300 million revenue loser over 5 years.

And yet, ironically, while Members were doling out goodies to themselves and their districts, they were slighting some 19 million public service employees who will be forced by this bill to pay taxes on their pensions during the first couple of years of retirement that were previously tax free because they were drawing on their own retirement contributions. The Rules Committee denied the request of a large, bipartisan group of House Members to permit them to offer an amendment to strike that provision.

Mr. Speaker, let me conclude by saying this isn't tax reform, fairness, and simplification; it's tax deform, unfairness, and complexity. Moreover, this isn't progrowth; it's antigrowth. I would strongly urge my colleagues to kill this snake in its hole by defeating this rule. Don't fall for the siren song of those who urge you to keep the process alive on grounds that when this snake slithers over to the other body, someone is going to kiss it and turn it into a handsome prince. If you believe that, then you're about to suffer a compound, fractured fairy tale. Vote down this rule.

Mr. BONIOR of Michigan. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. McHUGH].

Mr. McHUGH. Mr. Speaker, first of all, I thank my friend, the gentleman from Michigan, for yielding this time.

I rise in support of the rule and take this time to explain an amendment which the rules makes in order, an amendment which I will offer on behalf of myself and the gentleman from Iowa [Mr. TAUKE].

This is a bipartisan initiative and I hope the Members of the House consider this amendment very carefully. It would provide a 100-percent tax credit for any contribution up to $100 per year to a congressional candidate. It is limited to contributions from residents of a candidate's home State. It is available to taxpayers whether they file the long form or the short form and it would be effective in 1987.

Why is this amendment being offered at this time? It is being offered because we know that the influence of Political Action Committees in the financing of political campaigns is growing. At the same time, we also know that the influence and participation of the small contributor in the financing of political campaigns is diminishing relative to PAC's. This is not a static situation. The trend lines are getting worse. The influence of PAC's in political campaigns is getting greater. The participation of small contributors is getting less.

So we are offering a modest, but very important proposal, which will give a meaningful incentive to candidates for congressional office in the House or the Senate to go out and get more participation from small contributors.

We do not place any limitations on PAC's. This does not provide any limitations on spending, although personally I would not be opposed to that.

This is a modest, narrow incentive, through the tax law for the participation of small contributors. We think it is very, very important.

We are all political professionals. We all know that how campaigns are financed has a lot to do with who has political influence in our Government. It has a lot to do with the perception on the part of the people as to who has political influence, and it has a lot to do with the confidence people have in our Government.

This is a bipartisan initiative. It is something which is simple, but very important, and I urge the Members on both sides of the aisle to support the McHugh-Tauke amendment when it is offered later today.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. McHUGH. I am happy to yield.

Mr. WALKER. Mr. Speaker, can the gentleman tell me the cost of that amendment?

Mr. McHUGH. The estimate of cost over the next 5 years is a total of between $300 and $500 million, depending on how much this credit is actually used during that period. It becomes effective in 1987. That is the estimate range that we have.

Mr. WALKER. It is $300 to $500 million, and of course we have additional revenues that we are raising to maintain the revenue neutrality that was in the committee bill?

Mr. McHUGH. No; but I would point out to the gentleman that we now have in the law 50 percent tax credits for a whole series of contribution categories which cost considerably more than this one would cost.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia [Mr. WOLF].

Mr. WOLF. Mr. Speaker, I would urge my colleagues here on the floor and these back in their offices to vote against this rule, and why? It is not fair. It is unfair.

There are teachers who do not know that this bill hurts them. There are policemen who do not know that this bill hurts them. There are many other Federal, State, and local employees today around this country who do not know that this bill hurts them. This bill hurts 19 million people.

We have urged people to put their financial house in order, telling them that the first year that they retire their annuity would not be taxed, as explained in the fact sheet I am including with these remarks.

I have a Treasury Department official document, a section of which I also include here, urging savings bonds to be bought, saying you could cash them in the year of your annuity.

The people in America do not know what is in the bill. It is unfair. Give us a rule. Give us an opportunity to vote on this one issue.

It is double taxation, you can argue, and I agree with the gentleman, if you look at it from a decency sense.

The people of this body, this Congress, deserve an opportunity to vote on this amendment. I ask you, please, vote down the rule so we have an opportunity to offer this amendment, which does the honorable and decent thing, to allow people who have contributed to their retirement to collect their annuities as in current law.

Mr. JENKINS. Mr. Speaker, will the gentleman yield?

Mr. WOLF. I yield to the gentleman from Georgia.

Mr. JENKINS. Mr. Speaker, I thank the gentleman for yielding.

I understand the gentleman's concern, but does the gentleman know that the Republican substitute provides the very identical language as does the Democrat's?

Mr. WOLF. That is why we want to defeat the rule so that we can amend both. Two wrongs do not make a right. They are wrong and you are wrong. We want to correct them both. Let us call for the amendment so that we can correct them both.

Mr. JENKINS. Mr. Speaker, will the gentleman yield further?

Mr. WOLF. I yield.

Mr. JENKINS. I was just curious as to why at this late date that a change was not made in the Republican substitute so that we would not have this fight.

Mr. WOLF. If the gentleman read his mail, I sent a letter to the gentle-

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man and to the Ways and Means Committee on this issue a month ago. The gentleman knew about this. It was in there.

Quite frankly, it was done in a very backhanded way.

Mr. Speaker, I urge defeat of this rule.

Mr. BONIOR of Michigan. Mr. Speaker, before I yield to my colleague, the gentleman from Michigan [Mr. FORD], let me point out to my colleagues, as the gentleman from California [Mr. MATSUI] pointed out, that the Federal retirees in this country support this bill. Virtually every retiree organization, the AFT—the American Federation of Teachers—support this bill, and I believe the National Education Association supports this bill.

There is support for this bill and to suggest on this floor that we are engaging in double taxation is wrong. It is not understanding the proposal that the Ways and Means Committee put forth or the Republican substitute has put forth.

Mr. Speaker, I yield 3 minutes to the gentleman from Michigan [Mr. FORD] to engage in a colloquy with the chairman of the Ways and Means Committee.

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Mr. FORD of Michigan. Mr. Speaker, I thank the gentleman for yielding this time. I take this time to engage in a colloquy with the chairman of the committee.

Mr. Chairman, realizing that our concern about this particular provision affecting public employees more than others only because there are more public employees who contribute to their pension than there are in the private sector, but nevertheless, it applies to private-sector employees as well, has come rather late in your process, I wonder what you can offer us by way of a solution to the problem we now face?

Mr. ROSTENKOWSKI. Mr. Speaker, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from Illinois.

Mr. ROSTENKOWSKI. Mr. Speaker, my colleague has pointed out that it does come late in the process. We are unaware of just how this was going to affect public employees.

I do not know that the Ways and Means Committee bill, and I should imagine nor the substitute that is going to be offered, wants to hurt public employees per se. The bill is going to proceed through the House of Representatives and into the other body. I hope in the early part of next year, I could assign a subcommittee to take testimony to find out just what the adverse effect of this provision is.

We all have to understand that we are trying to remain revenue-neutral here, and the provision, as I read it, is in the area of around $8 billion.

If the Committee and Ways and Means in its deliberations can recognize the hurt and find $8 billion, I think that the committee would try to improve that. Provisions in this area were agreed to in a bipartisan effort when we were working as a bipartisan group, so it is nobody's particular fault.

I would like very much to assure the gentleman that the committee, when it reestablishes in January of next year, will put this on its agenda as the first call. I do not know what the gentleman across the aisle would suggest should they want to revisit this provision. But their President has suggested that the bill be maintained revenue-neutral, and that is exactly what I think is our problem.

But to injure a public employee, I do not think that is the intention of either the minority or the majority.

Mr. FORD of Michigan. As the provision is now written, it becomes effective on July 1, 1986.

Mr. ROSTENKOWSKI. That is correct.

Mr. FORD of Michigan. And if the gentleman holds his hearings and discovers as a result of those hearings that the problem is as severe as many Members here feel it could be, it is the gentleman's view that we would have an opportunity through your committee at this time to take some action, either by new legislation or in the conference with the other body to correct the problem?

Mr. ROSTENKOWSKI. I should hope so, and I am sure that if the hearings concluded that there was injury, I am sure that the other body would recognize that, probably put it in their bill, and we could work it out in conference.

Mr. FORD of Michigan. I thank the gentleman.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia [Mr. PARRIS].

Mr. PARRIS. Mr. Speaker, this is just not a Washington, DC, problem, this is just not a Federal employee problem, although Federal employees are the most heavily impacted.

In a survey this morning in the FAA Air Traffic Control Center in Indianapolis, it was determined that 60 percent of the air traffic controllers in that center are now eligible to retire. If you knew, gentleman, that your retirement benefits were going to have a significant decrease after taxes and you were eligible to retire now, would you not do so? I submit to you you would, and that is exactly what is going to happen in the Indianapolis Air Traffic Safety Control Center if we adopt this rule.

In addition, 50 percent of the members of the senior executive service in the Federal Government are now eligible to retire. This Congress has the
sponsibility, among other things,
administering the Federal Gove
ment. It is our obligation to oper
the Government's business.

If you were administering any ot
business and you had one-half of y
top and middle level managers,
you took an action that is ensu
that they at least seriously thou
about retirement in the next
months, what would that do to y
efficiency? The same thing
happen to the delivery of governm
tal services in this Nation.

The Ways and Means Committ
and I respect them all, could not h
thought about the impact of w
they are doing to the efficiency of
Federal Government. The commit
in my opinion, has made a terrible
sonnel management decision.

I have the highest regard for
gentleman from Chicago [Mr. ROS
KOWSKI], the chairman of the com
tee, and what does he say? He i
cates that they understand we hav
serious problem here and we are go
to have the subcommittee take te
mony concerning the problem ma
sometime next year.

If we have a problem and we do,
do we not authorize an amendm
that will fix it? Why do we not d
right now, consistent with the resp
sibilities of this Congress in the
interest of the Federal employees
this Nation?

I submit, ladies and gentlem
public-sector employees, policem
firemen, schoolteachers, Federal
ployees, you can go right down
list, do not have preferential tr
ment. As a matter of fact, an infe
position on pension benefits,
have no KEOGH, they have no 40
pension plans, they have nothin
protect them in their retirement p
and programs, except this Congr
Let's do the right thing and de
this rule.

Mr. BONIOR of Michigan.
Speaker, I yield 3 minutes to the
tleman from Arkansas [Mr. Ro
SON].

Mr. ROBINSON. Mr. Speaker, I
in opposition to the rule today for
eral reasons. First and foremost,
ought not to be here today dea
with the revenue side of the prob
equation when we are facing a
billion deficit and a $2.1 trillion
It just does not make sense tha
would put the cart before the h
and deal with the revenue side of
equation before we deal with
spending cut side; that is, Gra
Rudman.

We should have learned from
1981 Gramm/Latta tax cut. I wa
the tax cut. It was a good tax cut.
we did not cut spending at that
Moreover, over the past 4 or 5 wee
have had to literally push my

through the crowd in the Longworth Building to get to my office because the lobbyists over the past 4 or 5 weeks have been amending this bill in committee. I respect the chairman of the Ways and Means Committee; I respect all of my colleagues on that committee, and I respect a few of the lobbyists, but none of those people vote for me. I represent over 500,000 constituents in the Second District of Arkansas, Little Rock, AR, and they want some things changed in this bill. They want the ITC put back in; they want changes made in accelerated depreciation; they do not want a $175 per capita cap on tax-exempt bonds. It is going to kill economic development in my State, and the list goes on and on. I agree with many of the variables brought up here today.

The truth of the matter is the Rules Committee and the Ways and Means Committee are trying to ram this down our throat because it is politically expedient for them to do so.

I say, let us defeat the rule. You are not given the major tax cut, lowering of the rates until July 1 of next year. Let us defeat this rule. Let us come back after the Christmas holidays, and put together a good tax bill once we have dealt with the spending side and the spending cut part of the equation.

I yield back the balance of my time.

Mr. QUILLEN. Mr. Speaker, I yield 5 minutes to the gentleman from New York [Mr. KEMP].

Mr. TAYLOR. Mr. Speaker, will the gentleman yield?

Mr. KEMP. I yield to the gentleman from Missouri.

Mr. TAYLOR. Mr. Speaker, this rule should be defeated outright.

Under the guise of moving the process of tax reform forward, this rule prevents the House from making a decision on the issue of double taxation of pensions of millions of public employees.

Under the sham title of tax reform, the bill made in order under this tightly written rule will mean an unwarranted and unjustified tax increase for millions of low- and moderate-income senior citizens.

Mr. Speaker, the various spokesmen for the President are absolutely wrong when they indicate to the American public that defeat of this rule will end the long journey toward tax reform, hardly before it begins.

Defeat of this rule will not stop the process, it will not kill the process, it might not even delay the process for very long. It will merely slow down the process long enough for the rest of us to examine in detail what is in this bill.

Mr. Speaker, the Committee on Rules spent all day yesterday and half of last night in creating this rule, but we failed in what I think was our major challenge: That of presenting to the members a rule that is fair, and presenting to the Members a rule that permits votes on necessary amendments.

Two years ago last month, this House faced a similar situation. We faced it with courage, and we defeated a rule on that major tax bill because the Members demanded a separate vote on a single provision relating to the industrial development bonds.

When the House voted against that rule, 204 to 214, we heard the same voices say that was end of the bill, H.R. 4170. We heard the same voices say that was the end of the process, that we would never again have the magic opportunity to make a down payment on the deficit.

Mr. Speaker, we all know what finally happened. The Rules Committee reported out a second version of the rule in early 1984, and the bill later passed. The process didn't stop in its tracks, it was merely sidetracked for a short time.

Mr. Speaker, the amendment sought by a bipartisan group of our colleagues—including the two gentlemen from Virginia [Mr. WOLF and Mr. PARRIS]—should at the very least be considered by the House.

They did not seek a guarantee of a victory, only a chance to make their arguments. They deserve that chance.

Both versions of the tax bill impose an immediate tax on public employee pensions—pensions for which the employee's contributions have already been taxed once—whether they are our Federal civil service employees or whether they are the school teachers, policemen, firemen, and county employees in our States.

I cannot believe, in fact I refuse to believe, that those who support the concept of tax reform—those who want to make tax reform this Nation's No. 1 economic priority—also want to be party to such an unfair and unconscionable tax policy.

Mr. Speaker, I certainly will not be a party to this outrage, no matter how much I want to vote for true tax reform.

Defeat of this rule will not fail to advance the bill, it will not mean that we maintain the status quo. Defeat of this rule will mean only one thing—we want the Members of the House to have a chance to vote on tax reform without this shocking provision of double taxation on those who can least afford it.

Mr. Speaker, the drafters of this bill—this so-called tax reform—are today claiming that there is an aroma of victory in the air for their provisions. They are correct. There is an aroma in the air, all right. The aroma can best be described as one that stinks.

Mr. KEMP. Mr. Speaker, let me say to my colleagues that I rise in favor of tax reform. I stand second to none on behalf of true tax reform—tax reform which is aimed at promoting economic growth and capital formation, aimed at restoring some of the profamily benefits that have been very much lacking in past tax reform efforts, in trying to bring about fairness and simplicity and a less-complicated Tax Code for the American people. But unfortunately, this is not it.

The Ways and Means Committee bill is 1,379 pages of complication, obfuscation, and tax increases. It takes out incentives for growth and leaves in loopholes that create tax shelters. My colleagues, make no mistake about it, this rule does not allow the American people to have a vote on true tax reform. This rule denies the American people tax reform that would significantly bring down the tax rates, broaden the tax base, encourage economic growth, create more jobs through the entrepreneurial free enterprise system, and restore to every family in America the justice that it deserves by having at least a $2,000 exemption for each and every dependent.

Yesterday before the Rules Committee I argued in favor of a rule that would allow a true tax reform along those lines. Many of us support a reduction of rates to a true flat tax, modified, of course, to help the working poor by exempting the first 25 percent of their wages up to about $40,000, while leaving in the incentives for economic growth and jobs and investment and capital formation, while taking out some of the excesses that are in the Tax Code that keep those who are not paying taxes from paying taxes.

Unfortunately, that type of a rule was not offered. We are denied the opportunity to have true tax reform, and I would ask my colleagues, if you care about tax reform, vote down the rule. It will not kill the reform movement in America. Tax reform is too powerful an idea. Victor Hugo said, an idea whose time has come is greater than the tread of mighty armies. There is a powerful army of men and women out there, people on both sides of the aisle who want to bring about true, bipartisan tax reform.

I wrote my "Dear Rosty" letter when the President asked me to, and I am proud of it. But unfortunately, now we find the chairman's bill raises taxes in 1986. The tax reform that you are being asked to vote on today will raise taxes in 1986. It takes out deductions on January 1, but does not lower the tax rates until July 1.

This bill is explicitly a tax increase on the American people and the American economy in 1986, when there are 7½ million Americans unemployed, when the economy is too fragile to suffer that type of a tax increase.

We should be talking about restoring incentives for economic growth. What is the source of new jobs, what is the source of capital formation, what is the source of all of the productive capacity of the American economy if it is not to have the incentives in our Tax Code to encourage men and women to come off the sidelines and to invest, to save, to work, to be productive and, of course, to take economic risks?

Incidentally, under the Reagan tax reform, a family did not reach the top 35 percent bracket, the bracket re-

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served for the well-to-do, until they earned $70,000 of taxable income. Under the committee bill, they reach that same bracket at $30,000 for a single worker, and at $43,000 for a family.

Clearly, lowering the top rates is a step in the right direction. But the thresholds or the levels at which you reach the tax rates have been lowered to a point where it has been estimated that 51 percent of all single taxpayers and 38 percent of American families will either pay the same or a higher tax rate under the Rostenkowski bill.

What a mistake. How can we tell the American people there is going to be a tax cut or tax rate reduction for the individual taxpayers and working men and women of America, and then put this burden on them? On behalf of the family, it seems to me axiomatic that we ought to give everybody, itemizers, and nonitemizers, a $2,000 exemption. But under the Ways and Means bill, if you itemize your taxes for, say, a deduction of mortgage interest, or charitable contributions, or State and local taxes, a family of four loses one full $2,000 exemption. With one hand, they give, and with the other hand, they take away. That is not fair.

Mr. COATS. Mr. Speaker, will the gentleman yield?

Mr. KEMP. I am glad to yield to my colleague from Indiana who has been such a leader in this effort.

Mr. COATS. I thank the gentleman for yielding. As the House sponsor of the Tax Fairness for Family Act to give that $2,000 exemption for every family member, and I know the gentleman is not only a sponsor of that, but that it is the cornerstone of the Kemp-Kasten tax plan. 71 Democrats and Republicans have cosponsored my bill, but the $500 exemption reduction in the Ways and Means Committee bill devastates the family, not because they are rich, but simply because they have children.

I regret the Kemp-Kasten tax bill has been denied debate under this rule and I urge a no vote on the rule.

Mr. BONIOR of Michigan. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. Fazio].

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Mr. FAZIO. I appreciate the gentleman yielding me this time. I must speak out of great frustration at this point.

Mr. Speaker, I joined with my friends from Virginia, and my good friend from Maryland [Mr. Hoyer] going to the Committee on Rules yesterday to try to enlighten them as to a very fundamental issue that was impacting Federal workers, and importantly, many State and local employees across the country.

That issue has become the focus of our debate here today. What has not been pointed out is the very fact that we are in this pickle; that we are once again frustrating the legitimate concerns of these people as they face retirement because of an administration recommendation. The reports known as Treasury 1 and Treasury 2 which were promoted by then Treasury Secretary Regan, by Secretary Baker, and by President Reagan, put us where we are at this moment.

Those proposals that attempted to reach this revenue in the pockets of some 20 million workers, public and private, and blithely rearrange it in this revenue-neutral bill, which in some ways is like rearranging the deck chairs in the *Titanic*, those reports which would tax the annuity portion of the employees' retirement make us face the dilemma that we confront right now. It is not a partisan issue that we struggle with. For example, I know it was an honest mistake on the part of the gentleman from Illinois [Mr. Michel] when he implied over the weekend that the Republicans had not taken the step to exempt Members. In fact, we had, both parties, made that mistake.

Let us face it—both parties have taken the same approach on this matter, in response to Treasury 1 and 2; there has been no glory that we could spread upon the record here. This is something that we are all, I think, required to face regardless of party.

We are going to have to make up our mind on the rule with that in mind.

Mr. QUILLEN. Mr. Speaker, I yield 1 minute to the gentleman from Washington [Mr. Miller].

Mr. MILLER of Washington. Mr. Speaker, this rule should be defeated. It is not fair. It allows a vote on a huge tax shuffle, but it does not allow a vote on the tax alternative with the broadest support in this Chamber and among the American public.

I am talking about a simple, effective minimum tax. In my district, when tax reform comes up, people don't want a 1,379-page bill with more special deals. That is not what they want. What they want is to stop the practice of large corporations or wealthy individuals not paying any tax. That's all.

We should vote to close that loophole and use the revenue to reduce the deficit or raise the personal exemption. Simple; clear; fair. This rule does not allow such a vote. The rule should be defeated.

Mr. SILJANDER. Will the gentleman yield?

Mr. MILLER of Washington. I yield to the gentleman.

Mr. SILJANDER. I thank the gentleman for yielding.

One million taxpayers have sent letters to Washington, asking for fairness and simplicity. This rule does not allow that. We must vote down this
rule and allow those 1 million lette
writers to be heard.

Mr. BONIOR of Michigan. To
spond, Mr. Speaker, I yield myse
such time as may consume.

This rule provides that we make
order the Committee on Ways a
Means' bill, the Republican substitu
both of which have—I believe the
publican substitute has this—a corp
rate minimum tax. So let us not
fooled on that.

If you vote against the proposal
final passage, you will be voti
against a corporate minimum tax
everybody who is not paying taxes
this country.

The SPEAKER pro tempore. T
Chair will advise Members that t
gentleman from Tennessee [Mr. Qu
len] has 1 minute remaining and t
gentleman from Michigan [
Bonior] has 8 minutes remaining.

Mr. BONIOR of Michigan.
Speaker, I yield 1 minute to the g
tleman from Ohio [Mr. Traficant].

Mr. TRAFICANT. Mr. Speaker,
think we are going again and shotg
ing an important measure through
the last minute without giving eve
body a say. I do not believe in the r
being closed as it is and I oppose
rule, and I am very disappointed w
an area that has lost jobs as mine h
that we throw out investment
credit, even though I had an ame
ment that would limit it to Ameri
made with 85 percent domestic c
tent.

In addition, we have yet to ins
within the foreign-based comp
income level a manufacturing sect
and America has lost over 2 mill
manufacturing jobs, and every ma
facturing job I have and other M
bers have is in jeopardy.

Yet since 1954 we have yet to upd
this code and make it practical
America and America's needs.
give one opportunity. That is for
capital flow of America to go overs
and open up more plants and let th
continue to circumvent the tax law
the country.

I cannot understand it, and I
this as a Democrat. I am very ups
oppose the rule. The reform bil
better than what we have, but it c
be a whole lot better if we did
shotgun it through at the last min

I am hoping the leaders of
House recognize that, and hope
there will be a decision in that reg

Mr. BONIOR of Michigan.
Speaker, I yield 4 minutes to the
tleman from Maryland [Mr. Hoyer

Mr. HOYER. Mr. Speaker, I th
the gentleman for yielding. I w
like to talk about four elements of
bill.

First of all, I agree with the ge
man from Illinois [Mr. Rostenk
ski] and I agree with Mr. Rea
This bill moves the process forwa

like that aspect of the bill. I think this bill is in fact better than the system that we have now.

I would like to be able to support this bill, but it, as I am going to point out to you, and as historically we have done from both sides of the aisle, undermines public employees. It was not necessary to do this. We should have backed off. We should have allowed the Wolf-Hoyer amendment to this bill.

We did not do so on the cross of revenue neutrality. Let me discuss for a moment, if I can, revenue neutrality. The committee staff says this costs $7.5 billion. It does, in the short term. This is an accounting plus only for the Federal Government.

That $7.5 billion will be lost in the years to come after the 5-year short-term gain. So if we are talking about $200 billion deficits as far as the eye can see, they will not be resolved by this $7.5 billion, because we are going to give it back down the road.

So I suggest to the membership that if we had adopted this amendment it in fact was long-term revenue neutral. The substance of this bill is good. We are not talking, ladies and gentlemen, just about Federal employees—they are easy to kick around, and they have been kicked around in 1981, 1982, 1983, 1984, 1985 and now very, very, very badly in 1986. Gramm-Rudman is just a moment away. That delays the COLA for Federal retirees until March; and then what is going to happen in March with Gramm-Rudman in effect? It is going to take the COLA away not just for 1986, but for 1987 and 1988 and 1989; you will never meet the gap.

That is what we are upset about. Not this bill, which is a good bill, which moves tax reform forward. Why gratuitously do we have to undermine public employees—19 million of them—a policeman in San Francisco, a fireman in Chicago, a nurse in Cambridge—why do we have to do this? Unnecessarily.

I would ask us to reconsider, Mr. Chairman, Mr. Speaker, Mr. Leaders of this House, let us go back to the Committee on Rules; let us have this amendment which is long-term revenue neutral, and in any event, as I have been told repeatedly over the last 48 hours, "it can be worked out in the Senate."

I suggest to you if it can be worked out in the Senate, the revenue neutrality status of this billl can also be worked out in the Senate.

Mr DICKS. Will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Speaker, I want to commend the gentleman for an outstanding speech. He has made this case very effectively. There is no one in this House who has done more to protect the rights of public employees and Federal employees and Federal retirees than the Congressman from Maryland, and I want him to know that I strongly support and agree with the substance of his statement here today.

Mr. PARRIS. Will the gentleman yield?

Mr. HOYER. I yield to the gentleman.

Mr. PARRIS. I would like to add my comments to those of the gentleman from Washington in regard to the gentleman from Maryland's comments regarding this bill.

My question to the gentleman very simply is: Will you in fact vote against the rule and entreat your colleagues to do likewise?

Mr. HOYER. You are about to see—very soon.

I am on the horns of a dilemma. I am on the horns of a dilemma because I believe this bill does, as my friend from California says, do good things. It was however, unnecessary to do to public employees what the committee has done.

Mr. QUILLEN. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. ZSCHAU].

Mr. ZSCHAU. Mr. Speaker, I rise in strong opposition to this rule. I hope that the rule will be defeated today and that this tax reform legislation will not be considered by the House until early next year.

The Ways and Means Committee has considered tax reform for more than 6 months, but the rest of the House is being asked to understand and evaluate the 1,300-page bill in just a few days. That isn't fair, and it's not responsible. Members need more time to review and analyze the bill's many complex provisions.

Tax reform legislation has important consequences for our economy and our ability to compete in international markets. Members of Congress should be given adequate time to give the committee's bill the consideration it deserves before voting. I doubt if there are more than a handful of Members who feel they understand sufficiently the bill's provisions at this time.

In addition to reviewing the committee's proposal and its impact on the economy, additional time would allow for the formulation of an alternative tax reform package aimed specifically at improving U.S. competitiveness in international markets and economic growth. This is especially important since so many Members have expressed concern about the bill's impact on jobs and exports.

By delaying consideration, we can support the President's objective of keeping the tax reform process going while giving Members the time they deserve to review the committee's proposals and other options.

Mr. Speaker, today a bipartisan group of 27 Members have sent the following letter urging that consideration of tax reform take place early next year rather than this week:

CONGRESS OF THE UNITED STATES,
Washington, DC, December 11, 1985.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker of the House, U.S. House of Representatives, Washington DC.

DEAR MR. SPEAKER: The painstaking efforts that have been made by our colleagues on the Ways and Means Committee to draft comprehensive tax reform legislation are commendable. We have been impressed by the committee's leadership on this issue, particularly in light of the tremendous difficulty in forging a consensus among myriad competing interest.

The committee has sought to achieve greater fairness and simplicity, and these are laudable objectives that we support. However, we are convinced that at this critical time, when American workers and industries are facing fierce international competition, the primary objective of tax reform should be economic growth that improves U.S. industrial competitiveness. In order to achieve that objective, a new tax code should be constructed in a way that improves U.S. productivity and fosters entrepreneurship, capital formation, and the modernization of America's basic manufacturing industries. In the long run, increasing competitveness is the only way we can reduce our enormous trade deficit and achieve the economic growth needed to help reduce the federal budget deficit too.

Tax policy has an enormous impact on the ability of American workers and American industries in the international marketplace. Other countries with whom we compete have recognized that fact. Accordingly, we believe that tax policy may be the most powerful trade policy instrument available today.

Because of the importance of tax reform legislation on jobs, exports, and economc growth, we strongly believe that Members should be given adequate time to review the committee's bill and consider the views of their constitutents and economic experts across the country. In particular, some economists have suggested that provisions in the committee's bill would be detrimental to economic growth and competitiveness. We believe these claims need to be carefully examined. Also, since this legislation represents the most comprehensive tax reform bill in more than a generation, it is critical that Members have the time to understand its provisions and weigh all of the "pros" and "cons" before voting. Therefore, we respectfully request that this legislation not be considered on the House Floor until the second session of the 99th Congress.

Sincerely,

Charles W. Stenholm, Dan Daniel, Buddy Roemer, Jerry Lewis, Rod Chandler, Olympia J. Snowe, Bob Smith (Oregon), Jim Kolbe, Thomas F. Hartnett, John R. McKernan, John G. Rowland, Michael G. Oxley, Robert E. Badham, Helen Bentley, Ed Zschau, Duncan Hunter, Sherwood L. Boehlert, Connie Mack, Arlan Stangeland, Bill Schuette, Hank Brown, Thomas N. Kindness, Bob Livingston, Dan Burton, William W. Cobey, Barbara F. Vucanovich, F. James Sensenbrenner.

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Mr. QUILLEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Speaker, I rise in strong opposition to the rule and to the bill. The rule itself is keeping alive a flawed process. It is time to go back and start over again.

Mr. Speaker, I rise today to strongly oppose the rule for consideration of the Ways and Means Committee tax reform bill. We find ourselves rushing headlong in a deliberate effort to subvert the legislative process. We all realize the intricacy of the negotiations leading up to committee adoption of this bill. Such is the nature of the legislative beast. Nevertheless, we do not spend a majority of our time considering legislation that is as far-reaching in its overall effect as the current effort at tax reform and simplification. I would have preferred a more rational approach which reviewed each tax change on its merits and for that reason I will have great difficulty supporting any version of comprehensive tax reform now pending before this body.

Excited footsoldiers are roving the House floor assuring wavering Members that we should pass the bill and attempt to see needed changes made when it receives consideration in the Senate. That isn't why I came to this body and I won't be a party to such a move that only serves to enhance the Senate's reputation as the truly deliberative House of Congress, but my opposition to the rule also has a substantive basis.

I understand that the Rules Committee decided to disallow an attempt to amend this legislation so that Federal retirees could continue to receive tax-free retirement annuities for up to 3 years. At the same time, the Rules Committee saw fit to allow consideration of an amendment to assure that a $100-tax credit on congressional campaign contributions would be retained. This action bespeaks a sense of priorities that under the kindest of interpretations is obviously self-serving. Where it ultimately ranks in terms of this body's ability to show compassion for working people and retirees is for more rational minds to judge. I can't support such a twisted expression of priorities. I urge my colleagues to avoid a beggar-thy-neighbor philosophy that simply passes an imperfect measure on to the Senate.

☐ 1140

Mr. BONIOR of Michigan. Mr. Speaker, I yield 1 minute to the gentleman from Georgia [Mr. JENKINS].

Mr. JENKINS. My colleagues, I know that there is a great deal of controversy not only about the rule but about the bill. Let me simply say that if we had an open rule we could never get a bill. This rule provides that the Republican side, and rightly so, shall have a right to draft any bill that they want to cover their concerns. That substitute will be offered.

If they want to correct any of the inequities that they perceive, they can place it in the bill, and I would assume they have. The facts are that the provision that is in great controversy now is the same in both bills. We have taken the President's order to come up with a tax reform bill. We recognize that it would not be easy, and I am sure that he did also. We have worked for several months in attempting to come up with a reasonable bill. Now I hear everyone talking now we need amendments for ITC, we need amendments for bonds, for Federal employees, for all of these things. Let me simply say and at the same time you are for reducing the rates.

Where do you think the money comes from? You have to make a decision. Do you want to take 16,000 people, and that is what it is on the average, in every single Member's congressional district making below $15,000 a year off of the tax rolls, or don't you? Do you want to give the individual a tax break, or do you want to maintain the present code?

That is the decision.

I urge support of the bill.

Mr. BONIOR of Michigan. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. RANGEL].

Mr. RANGEL. Mr. Speaker, I think this is one historic opportunity that we have to revise and reform a tax system that all of us know has a lot of inequities in it. When you are dealing with so many different sections that affect so many millions of people, certainly we have to be sensitive and understanding that we have to take a look at the entire package to determine whether on this occasion when are restricted to asking us to vote for a rule, a resolution to bring this matter before the House to work its will on this tax bill. I do not think, because of the concerns, and the serious concerns, that people have over some parts of this bill that we should deny this House the opportunity to vote for a rule that brings the reform bill in front of this House so that we can discuss each and every issue that is there and to see how we can go into conference and make a good bill better.

I think we should go back home and be able to say, without having to explain that we did not deny the House of Representatives an opportunity to support the President and to bring tax reform before this body.

Mr. GREEN. Mr. Speaker, I rise today, Mr. Speaker, in opposition to the rule providing for limited debate on the Tax Reform Act of 1985, the tax reform bill approved by the House Committee on Ways and Means (H.R. 3838). The rule does not allow the House to discuss and vote on any meaningful alternatives to the Rostenkowski bill, except for the substitute proposed by the Republican leadership—a substitute which has for many of us as many problems as the Democratic bill. Most important, the Committee on Rules decided not to allow the House to discuss a simple alternative to the Rostenkowski bill—a very stringent minimum tax for individuals and
corporations which would ensure that e
eryone who makes some type of incor
would pay taxes and which would he
remove from the income tax rolls tho
below the poverty line, while leaving t
rest of the Internal Revenue Code inta
Two colleagues and I presented this pr
posal to the Rules Committee on behalf
the 92 Group, a group of moderate Repub
can House Members. At least two other w
nesses testified before the committee
support of minimum tax alternatives, sho
ing that the concept has wide support a
is worthy of consideration by the f
House.

The fact of the matter is that the two s
called tax reform packages before you u
necessarily wreak economic havoc in t
name of tax reform and constitute the a
tithesis of simplification. The number
brackets really has nothing to do with si
plification. Assuming that one does n
have a truly flat tax, it is just as easy
work from one tax table as another. In a
dition, any legislation which has spec
provisions for the grandchildren of a vi
ner in California and for the mortua
business in the South—to name but a f
of the many new special interest provisio
this bill would add to the code—obviou
is in no way nearer to simplicity and m
definitely is further away from fairness.

With regard to positive economic refor
the Ways and Means bill is economica
dubious at best. A few months ago, I ask
the Congressional Research Service
detail the rates of personal savings a
business investment during the current e
nomic expansion. It is evident that not
of the objectives of the 1981 Economic
covery Tax Act have been met. A ma
goal of ERTA was to promote individu
savings and investment, but the decline
the individual savings rate since 1981 is e
dence that consumers have not saved a
invested their funds in order to fina
economic expansion. On the other ha
business investment has been very stro
in fact, from 1981–85, real business inv
ment has grown at an annual rate of
percent, substantially above the 3.6 perc
growth rate of the 1947–80 period. The
fore, while ERTA spurred business
invest in its future, individuals saved l
money. Given that experience, it see
foolish to finance more personal tax cut
the expense of what worked in 1981 a
has continued to spur our current econ
ic recovery—business investment inc
tives.

Yet, that is what both the Ways
Means bill and the Republican alterna
propose to do, the former to the tune
$138 billion. This is not to say that part
the Ways and Means tax bill are not m
attractive than the current Tax Code. H
ever, there are too many things wrong w
the Ways and Means bill to justify vot
for it simply to pass it along to the Sen
as the President has requested. For ex
ple, the bill does not allow a spouse wo
ing in the home to have set up an indi
ual retirement account. The bill seve
cuts back on the amount of money an i

vidual can set aside for company-sponsored retirement plans. The legislation also repeals the two-earner deduction which is so important to the working couples in America who are penalized because both spouses either want to hold full-time jobs or need to work to provide for their family. The Republican alternative is more palatable with regard to the basic economics of the issue than the Ways and Means bill, but it is repugnant to me and to many of my colleagues because it permits only 70 percent deductibility of State and local tax payments. Overall, the major economic upheavals that the passage of either of these two bill would bring could only be counterproductive at this uncertain economic time.

Mr. Speaker, it is obvious from talking with my constituents and from reading most national surveys that the type of tax reform that most people want is one which ensure that every individual above the poverty line who makes money and every business which makes money pays taxes. We do not need a new Tax Code such as that envisioned by the Ways and Means Committee. Instead, this goal can be achieved without massive disruptions to the economy as in the Ways and Means bill, and to a lesser extent the Republican Ways and Means alternative. It can be achieved without the massive disruptions to our Federal system implicit in the 30 percent disallowance of State and local tax deductions in the latter bill. The substitute which I supported in my testimony yesterday before the Rules Committee would accomplish this goal. I favor using the revenue gained by the enactment of the strong alternative minimum tax provisions in the Ways and Means bill to achieve the great feature of the President's legislation about which we all agree—helping those below the poverty line get off the tax roles. The issue of fairness should be addressed by ensuring that everyone above the poverty line who earns income pays taxes, and that those below the poverty line should not. The substitute I supported did just that, and I would respectfully suggest that a majority of my colleagues would agree with this approach. Unfortunately, the Rules Committee has not made that amendment in order.

In summary, our amendment would satisfy the major goal that the President and Chairman ROSTENKOWSKI outlined. It would make the tax system more fair by providing a stronger alternative minimum tax which would ensure that everyone above the poverty line who makes money pays taxes. It does so without the massive disruptions to our economy and our Federal system caused by the other two bills. Because our amendment met these goals in an equitable and nondisruptive manner, I believe that our amendment in the form of a substitute should have been debated on the House floor, Mr. Speaker, and for the reasons stated before I cannot support the Rostenkowski bill, the alternative proposed by the Republican leadership, or the proposed rule.

Mrs. HOLT. Mr. Speaker, the national debate about tax reform has been continuing for many months, and everybody agrees on goals such as simplicity and fairness.

What the House Ways and Means Committee has produced is a bill that is certainly not simple, and we could debate forever about whether it is fair. That determination depends upon who wins and who loses.

Frankly, the fairness issue will not be very important to a worker who will lose his job or the young person who will not be able to find a job because of this legislation.

My concern is the economic consequences of the legislation, and I have concluded that it will retard capital formation and investment, restrict economic growth, and cause higher unemployment.

If we repeal the investment tax credit, stretch out depreciation schedules, and increase capital gains taxes, the results are higher costs of capital and less investment.

The goal of our economic policy should be strong economic growth and increasing employment opportunities for the American people, but this legislation runs contrary to that objective.

I am sure we have all examined the economic projections flowing from diverse interests who support the bill or oppose it, and we all know that economic forecasts are prone to some degree of error.

But there is no doubt that this legislation hammers capital-intensive manufacturing industries with major tax increases. There is no doubt that their capital investment will be retarded. There is no doubt their ability to compete in international markets will be impaired.

To all Members of the House who have expressed alarm at the problems afflicting American manufacturing industries, I say vote against this legislation.

There are some excellent provisions of this bill. Tax relief for the working poor is desperately needed. Many small businesses would obtain some tax relief. Lower personal tax rates are nice.

And every letter I receive on the subject reflects whether the writer and/or his interest group is a gainer or loser under the proposed legislation.

I have tried to take a broad view, looking at the potential macroeconomic consequences for our economy. I believe those consequences would be very bad.

The owner of a small business phoned my office to say his national association urged him to call in support of the bill. His organization was pleased with the provisions affecting small business, but I asked him whether he believed small business would prosper in a deteriorating economy with rising unemployment.

That is what worries me. I cannot vote for tax legislation that holds serious risk for the future health of our economy.

It is said that the movement for tax reform will die if we fail to move this bill to the Senate. Well, it is better to have no tax legislation than to have a new law that inflicts serious harm on the economy and increases unemployment.

Mr. FORD of Michigan. Mr. Speaker, as I pointed out in my colloquy with Chairman ROSTENKOWSKI, I find one part of this legislation especially oppressive, unfair, and unreasonable. This is the portion of the bill that would change the way public employees pay tax on their contributions to pension funds. It is, in my judgment, a tax on money that already has been taxed. What could be more unfair?

I am not sure that either the Ways and Means Committee or the Members of this body understand the full impact of repealing what is known as the 3-year basis recovery rule for qualified pension plans requiring employee contributions.

There is no question in my mind that this is the same as double taxation. If we can do this, what would prevent us from passing legislation taxing funds withdrawn from passbook savings at the corner bank? This is exactly the same thing. The money that these employees have put in a retirment plan already has been taxed.

This is an outrageous raid on pensions. And, quite candidly, it came dangerously close to forcing me to vote against the whole package.

I know that a lot of my colleagues, including those on Ways and Means, think this affects only Federal employees. Well, they are sadly mistaken.

In addition to the 2.8 million Federal employees and postal workers, this bill will deal a devastating blow to almost 12 million State and local employees across the country.

A 1978 report by the Committee on Education and Labor shows that 85 percent of employees covered by State and local pension plans are required to make contributions—all the way up to 9 percent.

So we are not simply talking about the Federal workers who get kicked around every time we have to find savings in the Federal budget. We are talking about teachers, nurses, firemen, policemen, and even dog catchers from Tallahassee to Coos Bay, OR.

And we are not talking about pennies.

A single retiree age 60 in Ohio's public employee retirement system will have to pay $1,300 more in taxes during the first 2 years of retirement.

The impact will vary depending on age at retirement, marital status and level of contributions. It is clear, however, that these people will be penalized.

We are talking about public employees in States like Ohio, Massachusetts, Texas, and California where they do not pay Social Security but are required to contribute to pension plans just like Federal workers.

Not only is this portion of the bill unfair, but it is going to drive a large number of Federal, State, or local employees into retirement. Between now and next July we can expect a sudden and large exodus of trained Federal workers we can ill afford to lose—in jobs from the Border Patrol to key people in the Space Program.

It simply will be impossible for these public employees to make rational retire-

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ment plans. And this is just another case of trying to balance the budget on the backs of hapless Federal workers. I can only speculate that the same holds true for millions of State and local employees. And I think the chickens are going to come home to roost when deputy sheriffs and schoolteachers all across this land wake up and discover that Congress has tampered with their pension rights.

They will be outraged. And I certainly won't blame them.

I want the record to show that I wrote the Committee on Ways and Means a month ago and urged them not to include this because it was so patently unfair.

When that failed I went to the Rules Committee in an unsuccessful attempt to get an amendment to have it knocked out on the floor.

And I want to say here and now that I intend—just like the President—to do whatever I can to improve this bill in the Senate so it is not so onerous when it comes to public employees. I will do whatever I can to have this oppressive section killed in the Senate.

Mr. BIAGGI. Mr. Speaker, I rise to express my views on the pending rule. I am a firm supporter of the tax bill but regret that the rule did not make in order my amendment printed in the CONGRESSIONAL RECORD of December 6 to establish a 6-month national tax amnesty program.

I regret that the rule does not afford the House an opportunity to vote on a proposal which would raise at least $12 to $15 billion in new revenues without raising 1 cent of taxes. It would be a painless way to make this bill revenue positive and have these revenues be applied to our record Federal deficit. We would be doing this simply by providing a one time incentive for people who have failed to pay or have underpaid their Federal taxes to come forth and pay. In exchange, they would be forgiven of all criminal and civil penalties and one-half the interest penalty.

For a more complete explanation of my proposal, I wish to insert the full text of the testimony I delivered before the House Rules Committee. Before I do Mr. Chairman, let me observe that I too have serious problems with one provision in H.R. 3838 which would impose a double tax on public employees by taxing them for the amount of their pension which exceeds their contribution. This is supposed to produce $8 billion in revenues and will help to keep the overall bill revenue neutral. May I suggest that this provision be dropped, may I suggest it be done by defeating the previous question and allowing the provision to be deleted. And, may I propose that if our goal is to keep the bill revenue neutral, let us substitute my tax amnesty proposal which could more than raise the revenue this proposal would with a great deal less pain to some 19 million people.

The text of the testimony follows:

HOUSE RULES COMMITTEE TESTIMONY ON H.R. 3838

I deeply appreciate the opportunity to appear before the Rules Committee on behalf of an amendment I wish to offer to title XIII of H.R. 3838, the Tax Reform Act of 1985.

My amendment has three main provisions:

(1) It would establish a six-month national tax amnesty program. Under the plan, individuals would be provided immunity from all criminal and civil penalties, as well as 50 percent of interest penalties, in exchange for a full repayment of all unpaid taxes and the remaining interest penalty.

(2) It would authorize the hiring of an additional 3,000 Internal Revenue Service enforcement and audit personnel.

(3) It would increase by 50 percent all tax-related civil and criminal penalties, including monetary and jail sentences, for those who fail to take advantage of the amnesty and for any future tax evaders.

My reasons for advocating national tax amnesty are straightforward and, I hope, compelling. The Treasury Department now estimates that the "tax gap"—the amount they are owed in taxes as compared to what they will actually receive—will reach $90 billion by the end of this year. The IRS estimates that almost one out of every five U.S. taxpayers cheat. Other estimates go as high as 25 percent. We have seen the tax gap leap from $28.8 billion in 1973 to almost $90 billion this year. In 1981, when the tax gap was $81.5 billion, $75.3 billion of that amount was individual taxes.

My tax amnesty proposal would cover all tax years through 1983 still eligible for colection activities by the IRS, which normally goes back seven years, although there is no statute of limitations on non-payment or evasion of taxes.

The key element of this amendment is its revenue collection potential. The distinguished Senator from Illinois, Mr. DIXON, who first authored a tax amnesty proposal in January, estimates the Government would collect between $12 and $15 billion in revenue with a tax amnesty. Common Cause magazine pointed to surveys which indicate the amount would be closer to $17 billion. Significantly, this would be new revenues the Government might not otherwise receive absent an amnesty program of this kind. In addition, the amendment creates several sources of significant future revenues. For example, those persons who enroll in the Tax Amnesty Program and pay up their back taxes become permanent taxpayers of the future.

I offer this amendment replete with the knowledge that tax amnesty has enjoyed great success at the State level. According to figures prepared for me by the Library of Congress, in April of 1985, a total of 12 States had tax amnesty programs which raised some $345 million. These States are Alabama, Arizona, California, Idaho, Illinois, Kansas, Massachusetts, Minnesota, Missouri, North Dakota, Oklahoma, and Texas. My home State of New York just completed the first month of its new three-month amnesty program and they have already collected $20 million on their way to reaching a goal of $75 million.

Let me stress my amnesty plan would only apply to legal source income. All taxpayers would be eligible for the amnesty with the following limited exceptions: (1) those involved with the IRS in adminstrative or judicial proceedings before the amnesty period begins; (2) those under criminal investigation where the IRS has referred the matter to the Justice Department before the amnesty period begins; and (3) those who make false or fraudulent representations in seeking to take advantage of the amnesty.

My amendment clearly embodies t
"carrot and stick" approach to improv
taxpayer compliance. The amnesty is t
carrot: but the stick is just as importa
The hiring of 3,000 additional IRS age
can produce billions of dollars of new re
nues from those who have failed to pay. I
estimated that the IRS only spends 48 ce
for every $100 it collects. Another estim
points to the average IRS agent collect
almost 13 times what his or her salary co
the Government.

The stick also takes the form of a ma
increase in the penalties for non-com
ance. Under my amendment, not only
the chances of tax cheats being cau
greatly increased, so too is the amount th
will have to fork out when they are caug

Mr. Chairman, if our goal is tax refo
what greater reform could we advance th
to have tax cheaters pay up? That is
sole goal of my amendment. It is a pres
and future reform. It belongs as part of t
bill and; unlike the balance of the bill, i
clearly revenue positive and painles
taking nothing from law-abiding taxpay
or vital Federal programs. It is almost
possible to see how the Treasury could
anything but make money from this ame
ment. I urge that it be allowed to be m
in order under the rule for this landm
legislation. I feel it complements a bill I
fully prepared to support.

Mr. Chairman, I am joined today in t
request for a tax amnesty amendment
seven of our colleagues: Mr. Dornan, M
Collins, Mr. Crockett, Mrs. Bentley,
Towns, Ms. Kaptur, and Mr. Morrison
Connecticut.

Mr. BONIOR of Michigan. M
Speaker, I yield myself the remain
time.

The SPEAKER pro tempore. T
gentleman from Michigan [
BONIOR] is recognized for 1 minute.

Mr. BONIOR of Michigan. M
Speaker, this is not a perfect bill.
tax bill could ever address the c
cerns of every interest, every region
this diverse Nation of ours. No refo
effort will ever, in one gesture, w
away decades of abuse that have b
built up. Yet this bill that we will
discussing today is nonetheless,
think, a bold stroke against the fun
mental inequities of our tax system
reverses the trend that has allow
corporations and wealthy individu
to shift an ever increasing percent
of the tax burden to hard work
Americans that we represent. It p
vides genuine tax relief to the mic
class, and it provides us with an opp
tunity to renew the faith of the Am
ican people in the responsiveness
our Government.

Mr. Speaker, it is a bipartisan ef
spearheaded by the President and
leadership. It came out of the Comm
tee on Ways and Means in a biparti
fashion. It was reported from
Rules Committee on a 10 to 3 vote
is a fair rule giving you a choice
tween the Republican and the W
and Means Committee bills.

I urge Members of this body to v
for this rule and for the bill.

Mr. QUILLEN. Mr. Speaker, I y
back the balance of my time.

The SPEAKER pro tempore. The gentleman yields back 30 seconds.

Mr. BONIOR of Michigan. Mr. Speaker, I yield back the balance of my time.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. BONIOR of Michigan. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 202, nays 223, answered "present" 1, not voting 8, as follows:

[Roll No. 449]

YEAS—202

Ackerman
Addabbo
Akaka
Alexander
Anderson
Annunzio
Anthony
Aspin
Atkins
Barnard
Bates
Bedell
Berman
Bevill
Biaggi
Boggs
Boland
Boner (TN)
Bonior (MI)
Bonker
Borski
Bosco
Boucher
Boxer
Brown (CA)
Bruce
Burton (CA)
Bustamante
Carper
Chappell
Coelho
Coleman (TX)
Collins
Cooper
Coyne
Crockett
Daniel
Daub
de la Garza
Derrick
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Duncan
Durbin
Dwyer
Dymally
Early
Edgar
Edwards (CA)
Erdreich
Evans (IL)
Fascell
Feighan
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Fuqua
Garcia
Gejdenson
Gephardt
Gibbons
Glickman
Gonzalez
Gordon
Gradison
Gray (IL)
Gray (PA)
Guarini
Hall (OH)
Hall, Ralph
Hansen
Hatcher
Hayes
Hefner
Heftel
Hertel
Howard
Jenkins
Johnson
Jones (NC)
Jones (TN)
Kanjorski
Kastenmeier
Kennelly
Kleczka
Kolter
Kostmayer
LaFalce
Lagomarsino
Lantos
Leach (IA)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lipinski
Lloyd
Luken
Lundine
MacKay
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McGrath
McHugh
Meyers
Mica
Miller (CA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Morrison (CT)
Mrazek
Murtha
Natcher
Neal
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens
Panetta
Pease
Penny
Pepper
Perkins
Petri
Pickle
Quillen
Rahall
Rangel
Reid
Richardson
Rodino
Rose
Rostenkowski
Rowland (GA)
Roybal
Russo
Sabo
Scheuer
Schumer
Seiberling
Sharp
Sikorski
Sisisky
Slattery
Smith (FL)
Smith (IA)
Snyder
Solarz
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stratton
Studds
Swift
Synar
Thomas (GA)
Torres
Torricelli
Towns
Traxler
Udall
Vento
Visclosky
Volkmer
Walgren
Waxman
Weaver
Weiss
Wheat
Whitley
Whitten
Williams
Wirth
Wise
Wolpe
Wright
Wylie
Yates
Yatron

NAYS—223

Andrews
Applegate
Archer
Armey
AuCoin
Badham
Barnes
Bartlett
Barton
Bateman
Bennett
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boulter
Breaux
Broomfield
Brown (CO)
Broyhill
Bryant
Burton (IN)
Byron
Callahan
Campbell
Carney
Carr
Chandler
Chapman
Cheney
Clay
Clinger
Coats
Cobey
Coble
Coleman (MO)
Combest
Conte
Conyers
Coughlin
Courter
Craig
Crane
Dannemeyer
Darden
Daschle
Davis
DeLay
Dellums
DeWine
Dickinson
Dicks
DioGuardi
Dornan (CA)
Dowdy
Dreier
Dyson
Eckart (OH)
Eckert (NY)
Edwards (OK)
Emerson
English
Evans (IA)
Fawell
Fazio
Fiedler
Fields
Fish
Fowler
Franklin
Frenzel
Gallo
Gaydos
Gekas
Gilman
Gingrich
Goodling
Green
Gregg
Grotberg
Gunderson
Hamilton
Hammerschmidt
Hartnett
Hawkins
Hendon
Henry
Hiler
Hillis
Holt
Horton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jones (OK)
Kaptur
Kasich
Kemp
Kildee
Kindness
Kolbe
Kramer
Latta
Leath (TX)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Loeffler
Long
Lott
Lowery (CA)
Lowry (WA)
Lujan
Lungren
Mack
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCain
McCandless
McCollum
McCurdy
McDade
McEwen
McKernan
McMillan
Michel
Mikulski
Miller (OH)
Miller (WA)
Mitchell
Molinari
Monson
Moore
Moorhead
Morrison (WA)
Murphy
Myers
Nielson
O'Brien
Oxley
Packard
Parris
Pashayan
Porter
Pursell
Ray
Regula
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roe
Roemer
Roth
Roukema
Rowland (CT)
Rudd
Savage
Saxton
Schaefer
Schneider
Schroeder
Schuette
Schulze
Sensenbrenner
Shaw
Shelby
Shumway
Shuster
Siljander
Skeen
Skelton
Slaughter
Smith (NE)
Smith (NJ)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Stenholm
Stokes
Strang
Stump
Sundquist
Sweeney
Swindall
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Traficant
Valentine
Vander Jagt
Vucanovich
Walker
Watkins
Weber
Whitehurst
Whittaker
Wilson
Wolf
Wortley
Wyden
Young (AK)
Young (FL)
Young (MO)
Zschau

ANSWERED "PRESENT"—1

Frost

NOT VOTING—8

Beilenson
Brooks
Chappie
Hopkins
McKinney
Nelson
Price
Rogers

□ 1155

Mr. BENNETT, Ms. KAPTUR, Mr. SAVAGE, and Mr. HERTEL of Michigan changed their votes from "yea" to "nay."

Messrs. DYMALLY, VOLKMER, and HERTEL of Michigan changed their votes from "nay" to "yea."

So the resolution was not agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. RALPH M. HALL. Mr. Speaker, on the vote that was just taken on the rule for H.R. 3838, the RECORD indicates that I voted "yes" for the rule. Having worked all week against the rule, obviously I intended to vote "no" and I wish to have the RECORD indicate at the end of the vote that my vote was "no" on the rule for H.R. 3838.

DIRECTING THE CLERK TO MAKE CORRECTION IN ENROLLMENT OF HOUSE JOINT RESOLUTION 372, PUBLIC DEBT LIMIT INCREASE

Mr. FOLEY. Mr. Speaker, I send to the desk a concurrent resolution (H. Con. Res. 246) correcting the enrollment of House Joint Resolution 372, and ask unanimous consent for its immediate consideration.

The Clerk read the title of the concurrent resolution.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 246

Resolved by the House of Representatives (the Senate concurring), That in the enrollment of the joint resolution (H.J. Res. 372) the Clerk of the House shall make the following correction: in title II, strike out "subsection (a)" in subsection 302(f) as proposed to be inserted into the Congressional Budget Act of 1974, and insert: "subsection (b)".

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, we have asked for this time so that we might inquire of the distinguished majority leader the program for the balance of the day and, hopefully, maybe for the balance of the week.

It is my understanding we are going to take up Gramm-Rudman.

Incidentally, would the distinguished whip correct me if I am in error. That unanimous consent request that we just agreed to had to do with the enrollment procedure of an expected vote on the measure, and that unanimous-consent request.

□ 1210

Mr. FOLEY. If the gentleman will yield, the purpose of the unanimous-consent request we just undertook was to correct a textual error in the conference report which was purely technical, substituting a letter "b" for a letter "a" in a certain paragraph to comport with the understanding on both sides of the text of the conference report. It has nothing to do with the submission of the proposal tonight to the President. It is merely a technical, textual error correction authorizing the enrolling clerk to make that correction before the conference report is sent forward.

Mr. MICHEL. I thank the gentleman. I am reminded of his previous unanimous-consent request made yesterday that took care of that problem.

I am happy to yield to the distinguished majority leader who can enlighten us on the program for the balance of the day and hopefully, the balance of the week.

Mr. WRIGHT. I thank the gentleman for yielding to me.

Mr. Speaker, of course, one of the most important and, indeed, indispensable parts of our program for the balance of the week is the debt limit extension, including the so-called Gramm-Rudman language. We await the Senate's action. The Senate must act first and is now considering the bill, I believe. Once the conference report has passed the Senate, we will take it up

At this time, we will take up Senate Joint Resolution 238, approving the Nuclear Cooperation Agreement between the United States and the People's Republic of China, with 3 hours of debate in the House. Now, that may be interrupted at such time as the leadership might determine, mutually, that it is desirable and timely to take up the conference report.

We then would entertain the rule of the uniform regional poll closing legislation, H.R. 3525, and would follow that, time permitting, with House Joint Resolution 192, the National Day of Remembrance of Man's Inhumanity to Man, which would come under an open rule with 1 hour of general debate.

The other important legislation that must come before us is the continuing appropriation for 1986. We expect, probably, to get that tomorrow. If we are to adjourn this weekend, we must pass the continuing appropriation and see it signed into law, and we must pass the debt limit increase and see it signed into law.

Other legislation that we might undertake to consider, and hope to do so, includes the conference report on H.R. 3128, Deficit Reduction Amendments of 1985, and the conference report on 1985. That is the farm bill.

Mr. MICHEL. The gentleman mentioned a farm bill, and I understand that is now in conference. I would ask the gentleman if there is any projection or thoughts on resolving that question? I would surely think we would not want to adjourn this Congress until we have that measure resolved.

Mr. WRIGHT. I join the gentleman in that earnest hope and expectation.

Mr. MICHEL. I thank the gentleman for his response. I have no further questions, Mr. Speaker.

APPROVAL OF NUCLEAR COOPERATION AGREEMENT BETWEEN THE UNITED STATES AND THE PEOPLE'S REPUBLIC OF CHINA

Mrs. BURTON of California. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 333 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 333

Resolved, That upon the adoption of this resolution it shall be in order to consider the joint resolution (S.J. Res. 238) relating to the approval and implementation of the proposed agreement for nuclear cooperation between the United States and the People's Republic of China, in the House, debate on the joint resolution shall continue not to exceed three hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs, and the previous question shall be considered as ordered on the joint resolution to final passage without intervening motion except one motion to recommit.

The SPEAKER. The gentlewoman from California [Mrs. BURTON] is recognized for 1 hour.

Mrs. BURTON of California. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Missouri [Mr. TAYLOR], for purposes of debate only, pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 333 provides for the consideration of Senate Joint Resolution 238, relating to the approval and implementation of the proposed agreement for nuclear cooperation between the United States and the People's Republic of China in the House. This rule provides for 3 hours of debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs. Under the rules of the House, the joint resolution is not amendable unless the chairman of the committee yields for that purpose. The rule also provides for one motion to recommit.

Senate Joint Resolution 238 would approve the nuclear cooperation agreement with the People's Republic of China and prohibit the licensing of

ditions are met. These conditions relate to certification by the President that China has complied with the terms of this agreement and include submission of a report by the President on the nonproliferation policies and practices of China. After Presidential certification, a waiting period of 30 "continuous session" days would be required before issuance of export licenses or approval of reprocessing. Timely consideration of Senate Joint Resolution 238 is necessitated by congressional review procedures enacted earlier this Congress. Unless this joint resolution is approved by the House, the nuclear cooperation agreement will take effect automatically.

Mr. FASCELL and Mr. BROOMFIELD of the Committee on Foreign Affairs both concur on this rule. Because the other body passed Senate Joint Resolution 238 on November 21, favorable House action will clear the joint resolution for the President.

I urge my colleagues to approve this rule so we can quickly proceed to debate and action on Senate Joint Resolution 238.

□ 1220

Mr. TAYLOR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 333 is an early Christmas present to the members of the Committee on Foreign Affairs from the members of the Committee on Rules. The rule allows for 3 hours of general debate on Senate Joint Resolution 238, which is the congressional approval of the agreement submitted by the administration setting the terms and conditions for the sale of nuclear power supplies to the People's Republic of China.

As approved by the other body and reported by the Foreign Affairs Committee, the approval mechanism demands more information from China about her intentions. The resolution also requires from the President a certification process that asks for the Chinese to say that they are not aiding nuclear programs in other countries.

Mr. Speaker, the rule further provides for consideration of the Senate joint resolution in the House, meaning that this is a closed rule. After 3 hours of general debate, I do not see what possible harm there could be for a few amendments, but the rule does not allow them.

Mr. Speaker, I normally would oppose such a rule, especially if we are going to have so much conversation about the issue. During our hearings in the Committee on Rules someone suggested that this large amount of talking could better be handled under a special order.

Mr. Speaker, in the interests of preserving just a small amount of time I going to oppose the rule.

Mr. DICKINSON. Mr. Speaker, will the gentleman yield?

Mr. TAYLOR. I yield to the gentleman from Alabama.

Mr. DICKINSON. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, I was just wondering, I was interested in your explanation of what has gone on in the Rules Committee, but I wonder if you could tell us what the rationale was for a closed rule on this bill. You give it 3 hours, but it is a closed rule, so it cannot be amended. I understand it on tax bills, but I cannot understand it on this bill. Was there a reason or a rationale offered?

Mr. TAYLOR. Mr. Speaker, quite frankly there was no particular reason given, I would say to the gentleman from Alabama. The Foreign Affairs Committee asked for a closed rule and did not want amendments to be offered but did ask for a very generous amount of time to discuss the matter, saying it could better be handled by extended discussion than by amendments being ordered.

Mr. BONKER. Mr. Speaker, will the gentleman yield?

Mr. TAYLOR. I yield to the gentleman from Washington.

Mr. BONKER. Mr. Speaker, the Committee on Foreign Affairs requested a closed rule for the purpose of expediting action on a resolution that is pursuant to a time limit for House consideration. The resolution of approval is now actually beyond the 90 days that is required by the amendment to the Export Administration Act, which amends the Atomic Energy Act to allow Congress the opportunity to review the agreement and then to proceed with a resolution of approval or resolution of disapproval. It is supposed to be a simple resolution.

However, the Senate Foreign Relations Committee did prescribe some conditions in their resolution of approval. What we are taking up today is the Senate resolution of approval with those conditions. If the House were to entertain amendments and actually amend the pending resolution, there would be very little time for Congress to proceed through its normal procedures of a conference report and the filing of that report and the 3-day waiting period for us to take up final action. I think there is a consensus on both sides that we should expedite consideration of this resolution so we can send it down to the White House and complete action on the bilateral agreement.

Mr. DICKINSON. Mr. Speaker, will the gentleman yield?

Mr. TAYLOR. I am happy to yield to the gentleman from Alabama.

Mr. DICKINSON. Mr. Speaker, if I might just follow up on that, the gen-

amendments that were offered by the Senate, and he is willing to accept them as far as the House Foreign Affairs Committee is concerned?

Mrs. BURTON of California. Mr. Speaker, we are now engaging in debate. This will come up later, during the 3 hours.

Mr. DICKINSON. Mr. Speaker, the gentleman from Missouri [Mr. TAYLOR] has the time, and he has yielded to me to ask a question, and if the gentlewoman does not mind, I will ask it now.

Mr. BONKER. Mr. Speaker, if the gentleman would yield, we are actually taking up the Senate resolution (S.J. Res. 238) and we are going to act on the resolution of approval plus the conditions that they placed in that resolution, so it is totally compatible with the Senate action.

Mr. DICKINSON. Mr. Speaker, I thank the gentleman.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. TAYLOR. I am happy to yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I would just like to respond to some of the comments that have been made here.

When we talk about the Congress not having time to act if this bill were amended, I do not want to criticize some of my colleagues here, but they know that we should have had time. There were those of us in this Chamber who wanted a resolution of disapproval brought before this House because this is a disastrous resolution for America and it should not be passed on this floor here today. As a matter of fact, the resolution itself was snuck through the Senate without anyone hardly knowing anything about it, and to the point that even Senator JOHN GLENN had to offer an amendment to the continuing resolution which in effect would gut this disastrous resolution. There are those of us who want to offer that Senator JOHN GLENN amendment to this resolution, and we are prevented from doing it.

I think this rule ought to be defeated today. I intend to call for a vote on it.

I would like to call to the attention of the Members the fact that there is plenty of opposition to this on the other side of the aisle, and there will be, I am sure, as soon as the gentleman from Massachusetts [Mr. MARKEY] is allowed to get here, so we cannot sneak this through. He will lead the debate on this issue on that side of the aisle.

Mr. BONKER. Mr. Speaker, will the gentleman yield?

Mr. TALYOR. I am glad to yield to the gentleman from Washington.

Mr. BONKER. Mr. Speaker, I do not really believe that this resolution has been the subject of any surreptitious

sional review is very explicit, as the gentleman knows, as a conferee on the Export Administration Act, and the committee took up this measure with full deliberation and we are bringing it to the floor.

We did not have to do that, incidentally. The procedure calls for 45 days for the committee to take up this matter, and it does not even require full House consideration. But the chairman of the full committee, the gentleman from Florida, Mr. DANTE FASCELL, in response to a request from the gentleman from Michigan [Mr. WOLPE] and others, has brought this measure to come to the floor. So I would have to take exception to what the gentleman said about surreptitious activity, either by the full committee or by the Rules Committee, in taking up the measure this afternoon.

Mr. SOLOMON. Mr. Speaker, if the gentleman will yield further, I was not being critical of the gentleman who is managing the bill. I was being critical of the way it was handled in the Republican Senate, by my party, and I resent it. At least we did it fairly in this House except the way it was brought up on the floor just now, which was a little surreptitious.

Mr. ROTH. Mr. Speaker, will the gentleman yield?

Mr. TAYLOR. I yield to the gentleman from Wisconsin.

Mr. ROTH. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I would ask the gentleman from New York to allow us to debate this matter. I would ask him to allow us to accept the rule and give us a chance to debate this resolution on its merits. After all, the President has just taken a beating a few minutes ago, and I am sure the gentleman does not want to give him another one.

Mr. SOLOMON. Mr. Speaker, if the gentleman will yield further, I am sure that the gentleman from Wisconsin knows that there is no stronger supporter of the President of the United States in this Chamber and in this Congress than I am, and I will put my voting record up against anybody's. As a matter of fact, the President told me that himself.

But let me tell the gentleman this: If this were going to be a fair debate under an open rule, I would agree with him, but it is not an open rule; it is absolutely closed. It is disgraceful that anything that affects the future of this country to this extent should come on the floor of this House under a closed rule like this.

Mr. TAYLOR. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

□ 1230

Mrs. BURTON of California. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan [Mr. WOLPE].

Mr. WOLPE. Mr. Speaker, I thank the gentlewoman for yielding me this time. I do not intend to use the full 5 minutes.

My point of view with respect to the China-America agreement is the same really as that which was just expressed by the gentleman from New York [Mr. SOLOMON].

I think the agreement is a terribly flawed agreement; nonetheless, I would argue that it is certainly in the interest of those of us who are critics of that agreement to support this rule in order to try to undo some of the damage that was done by the negotiation of this flawed agreement.

The reason that we required a closed rule in this instance is that the only means of attaching the conditions that are contained within this bill and any hopes of gaining final passage of that legislation was to keep the language identical to that which emerged from the other body. That is because the other body has absolutely no incentive whatsoever to go to conference on this legislation.

So the failure to pass this legislation could well mean the agreement that has been signed between China and the United States will go into effect without any conditionality whatsoever.

Those of us who are critical of the agreement need to understand very clearly that failure to pass this bill will put us in a worse position.

Possibly, we will have one other opportunity to impact on this issue. We do have another bite at this sample apple in the form of the continuing resolution because, as was noted earlier, Senator GLENN has in fact attached stronger qualifying language to the continuing resolution. I myself intend to support that. In fact, the gentleman from Ohio [Mr. FEIGHAN] and I are in the process right now of circulating a letter to the conferees that will be negotiating the continuing resolution urging support for the Glenn amendment; but if that effort fails, the only way we have of attaching some conditionality to the United States-China agreement is the bill that is before this body. If we were to have a different kind of rule, we would have no guarantee of any kind of conditionality emerging from this institution.

So I hope the rule will be supported and I say so coming from the same perspective on the substance of the agreement as that which has been expressed by my distinguished colleague, the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. WOLPE. I am pleased to yield to my distinguished colleague.

Mr. SOLOMON. Mr. Speaker, I have great respect for the gentleman, but let me just point out that we just took some decisive action on this floor not more than 15 minutes ago when we defeated a rule on the tax bill. We could defeat this rule the same way. At least it would be brought back under an open rule. We would have our day in court and we would be able to send a message.

The gentleman knows that if people of his persuasion and people of my persuasion are opposed to this agreement, that means the vast majority of this House is opposed to this agreement and we never should be approving it on this floor. We have been gagged and the gentleman knows it. When I say we, I mean the gentleman and I.

Mr. WOLPE. Mr. Speaker, if I may reclaim my time, I think it is perfectly conceivable that we could in fact attach stronger language to this bill under an open rule that the gentleman and I would like to see attached.

The point I am making, however, is that there is no way we can ensure that that additional language would ever be conferenced with the other body; so what we end up with in that circumstance is the China-America agreement going into effect with no conditionality whatsoever.

It is because of that procedural situation that I think the best bet available to us from a tactical perspective is acceptance of the rule as it has been crafted.

Mrs. BURTON of California. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. GONZALEZ].

Mr. GONZALEZ. Mr. Speaker, I thank my very distinguished and beautiful colleague.

I rise for the purpose of asking a question, because I think I need some edification on the definition of what it is we are doing legislatively.

What the Senate has done has been to approve a Presidential agreement. Is it in the status of a treaty? Did the President refer the agreement as a treaty to be approved by the Senate, by the advice and consent of the Senate, and therefore this particular legislation is in the guise of implementation of a treaty agreement, or is the agreement an executive agreement that did not require Senate treaty status?

Mr. BONKER. Mr. Speaker, if the gentleman will yield, the document that the resolution addresses is not a treaty. It is a bilateral agreement between the United States and the People's Republic of China.

Mr. GONZALEZ. But what I am saying is that this was an agreement the executive branch entered into, the President. Did he consider that an executive agreement as such would not require referral to the Senate as a treaty?

Mr. BONKER. The subject before us is an agreement that has been negotiated, but the Atomic Energy Act which, amended by the Export Administration Act, provides for explicit procedures for the Congress to act on a joint resolution of approval or disapproval.

Mr. GONZALEZ. So technically this is an amendment to the Atomic Energy Act?

Mr. BONKER. No. This is a resolution of approval that is subject to the Atomic Energy Act, as amended, and which would provide for congressional review.

Mr. GONZALEZ. Mr. Speaker, I thank the gentleman very much and I thank the gentlewoman for yielding.

Mrs. BURTON of California. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SOLOMON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 252, nays 158, not voting 24, as follows:

[Roll No. 450]

YEAS—252

Ackerman
Addabbo
Akaka
Alexander
Anderson
Andrews
Annunzio
Atkins
AuCoin
Bateman
Bates
Bedell
Beilenson
Bennett
Berman
Bevill
Biaggi
Boggs
Boland
Boner (TN)
Bonior (MI)
Bonker
Borski
[illegible]
Boucher
Breaux
Broomfield
Brown (CA)
Bruce
Bryant
Burton (CA)
Bustamante
Byron
Carper
Carr
Chandler
Chapman
Chappell
Clay
Clinger
Coleman (TX)
Collins
Conte
Conyers
Cooper
Coyne
Crockett
Daniel
Darden
Daschle
Davis
de la Garza
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dowdy
Downey
Durbin
Dwyer
Early
Eckart (OH)
Edgar
Edwards (CA)
Erdreich
Evans (IL)
Fascell
Fazio
Feighan
Fish
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Fowler
Frank
Franklin
Frenzel
Fuqua
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gray (IL)
Gray (PA)
Green
Grotberg
Hall (OH)
Hamilton
Hatcher
Hawkins
Hayes
Hefner
Heftel
Henry
Hertel
Holt
Horton
Howard
Hoyer
Huckaby
Ireland
Johnson
Jones (NC)
Jones (TN)
Kanjorski
Kaptur
Kastenmeier
Kennelly
Kildee
Kindness
Kleczka
Kolter

LaFalce
Lantos
Latta
Leach (IA)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lipinski
Long
Lott
Lowry (WA)
Luken
Lundine
MacKay
Manton
Martin (IL)
Martinez
Matsui
McCloskey
McCurdy
McDade
McHugh
McMillan
Mica
Michel
Mikulski
Miller (OH)
Mineta
Mitchell
Moakley
Mollohan
Montgomery
Moody
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Natcher
Neal
Nichols

Nowak
O'Brien
Oakar
Oberstar
Obey
Olin
Ortiz
Owens
Pashayan
Pease
Penny
Pepper
Perkins
Petri
Pickle
Pursell
Quillen
Rahall
Rangel
Regula
Reid
Richardson
Ritter
Rodino
Roe
Roemer
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Russo
Sabo
Savage
Scheuer
Schneider
Schulze
Schumer
Seiberling
Sharp
Shelby
Sikorski
Skelton

Slattery
Smith (FL)
Smith (IA)
Snyder
Solarz
St Germain
Staggers
Stallings
Stokes
Stratton
Studds
Swift
Synar
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Volkmer
Walgren
Waxman
Weaver
Weiss
Wheat
Whitley
Whitten
Wilson
Wise
Wolpe
Wright
Wyden
Wylie
Yates
Yatron
Young (MO)
Zschau

NAYS—158

Applegate
Archer
Armey
Aspin
Badham
Barnes
Bartlett
Barton
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boulter
Boxer
Brown (CO)
Broyhill
Burton (IN)
Callahan
Campbell
Carney
Cheney
Coats
Cobey
Coble
Coleman (MO)
Combest
Coughlin
Courter
Craig
Crane
Dannemeyer
Daub
DeLay
DeWine
Dickinson
DioGuardi
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Dymally
Dyson
Eckert (NY)
Edwards (OK)
Emerson
English
Evans (IA)
Fawell

Fiedler
Fields
Gallo
Glickman
Gonzalez
Goodling
Gradison
Gregg
Gunderson
Hall, Ralph
Hammerschmidt
Hansen
Hartnett
Hendon
Hiler
Hillis
Hubbard
Hunter
Hutto
Hyde
Jacobs
Jeffords
Jenkins
Jones (OK)
Kasich
Kemp
Kolbe
Kramer
Lagomarsino
Leath (TX)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lloyd
Loeffler
Lowery (CA)
Lujan
Lungren
Mack
Markey
Marlenee
Martin (NY)
Mazzoli
McCain
McCandless
McCollum
McEwen

McGrath
McKernan
Meyers
Miller (CA)
Miller (WA)
Molinari
Monson
Moore
Moorhead
Nielson
Oxley
Packard
Panetta
Parris
Porter
Ray
Ridge
Rinaldo
Roberts
Robinson
Rudd
Saxton
Schaefer
Schroeder
Schuette
Sensenbrenner
Shaw
Shumway
Shuster
Siljander
Sisisky
Skeen
Slaughter
Smith (NE)
Smith (NJ)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Stangeland
Stenholm
Strang
Stump
Sundquist

Sweeney
Swindall
Tallon
Tauke
Vander Jagt

Vucanovich
Walker
Watkins
Whitehurst
Whittaker

Wirth
Wortley
Young (AK)
Young (FL)

NOT VOTING—24

Anthony
Barnard
Brooks
Chappie
Coelho
Frost
Gingrich
Gordon

Guarini
Hopkins
Hughes
Kostmayer
Madigan
Mavroules
McKinney
Nelson

Price
Rogers
Roybal
Spratt
Stark
Weber
Williams
Wolf

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Mr. MILLER of California, Mr. WIRTH, Mrs. BOXER, and Mr. APPLEGATE changed their votes from "yea" to "nay."

Mr. ROWLAND of Connecticut changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. BONKER. Mr. Speaker, pursuant to the provisions of House Resolution 333, I call up the Senate joint resolution (S.J. Res. 238) relating to the approval and implementation of the proposed agreement for nuclear cooperation between the United States and the People's Republic of China, and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The text of the Senate joint resolution is as follows:

S.J. Res. 238

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a)(1) the Congress does favor the Agreement for Cooperation Between the Government of the United States of America and the Government of the People's Republic of China Concerning Peaceful Uses of Nuclear Energy, done on July 23, 1985 (hereafter in this joint resolution referred to as the "Agreement").

(2) Notwithstanding section 123 of the Atomic Energy Act of 1954, the Agreement becomes effective in accordance with the provisions of this joint resolution and other applicable provisions of law.

(b) Notwithstanding any other provision of law or any international agreement, no license may be issued for export to the People's Republic of China of any nuclear material, facilities, or components subject to the Agreement, and no approval for the transfer or retransfer to the People's Republic of China of any nuclear material, facilities, or components subject to the Agreement shall be given—

(1) until the expiration of a period of thirty days of continuous session of Congress after the President has certified to the Congress that—

(A) the reciprocal arrangements made pursuant to Article 8 of the Agreement have been designed to be effective in ensuring that any nuclear material, facilities, or components provided under the Agreement shall be utilized solely for intended peaceful purposes as set forth in the Agreement;

(B) the Government of the People's Republic of China has provided additional information concerning its nuclear nonproliferation policies and that, based on this and all other information available to the United States Government, the People's Republic of China is not in violation of paragraph (2) of section 129 of the Atomic Energy Act of 1954; and

(C) the obligation to consider favorably a request to carry out activities described in Article 5(2) of the Agreement shall not prejudice the decision of the United States to approve or disapprove such a request; and

(2) until the President has submitted to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report detailing the history and current developments in the nonproliferation policies and practices of the People's Republic of China.

The report described in paragraph (2) shall be submitted in unclassified form with a classified addendum.

(c) Each proposed export pursuant to the Agreement shall be subject to United States laws and regulations in effect at the time of each such export.

(d) Nothing in the Agreement or this joint resolution may be construed as providing a precedent or other basis for the negotiations or renegotiation of any other agreement for nuclear cooperation.

(e) For purposes of subsection (b)—

(1) the continuity of a session of Congress is broken only by adjournment of the Congress sine die at the end of a Congress; and

(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the period indicated.

The SPEAKER pro tempore (Mr. Bryant). Under the rule, the gentleman from Washington [Mr. Bonker] will be recognized for 1 hour and 30 minutes and the gentleman from Michigan [Mr. Broomfield] will be recognized for 1 hour and 30 minutes.

The Chair recognizes the gentleman from Washington [Mr. Bonker].

Mr. BONKER. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. Fascell], the distinguished chairman of the Committee on Foreign Affairs.

Mr. FASCELL. Mr. Speaker, I thank the gentleman from Washington for yielding at this time. Let me say I rise in strong support of this legislation.

As we bring this important resolution to the floor of the House, I want at the outset to express my thanks and commendation to the members of the Foreign Affairs Committee and others who have worked so diligently on this resolution. This measure is a bipartisan effort on a very important foreign policy matter with respect to the nuclear cooperation agreement between the United States and the People's Republic of China. We have striven very hard in the Foreign Affairs Committee to forge consistently bipartisan legislation. This resolution is a prime example of the success of those efforts.

Now it also happens that the opposition is also bipartisan. But let me just say that no subject matter has had more attention than this subject in

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our committee. The gentleman from Washington [Mr. BONKER] and his Subcommittee on Economic Policy and Trade and the gentleman from New York [Mr. SOLARZ] and his Subcommittee on Asian and Pacific Affairs both devoted extensive time on hearings, briefings, and negotiations in order to reach a broad consensus on this resolution. I also want to commend the gentleman from Michigan [Mr. WOLPE] who was opposed to the agreement itself but who was willing to work to help craft this legislation.

Mr. FUQUA. Mr. Speaker, will the gentleman yield?

Mr. FASCELL. I am delighted to yield to the gentleman from Florida.

Mr. FUQUA. I appreciate the gentleman yielding and want to commend the gentleman and his Committee on Foreign Affairs for the excellent job that they have done in bringing this legislation to the floor. As the Committee on Science and Technology has a peripheral interest in this legislation, we think the committee has done a very responsible job and I support the legislation that has evolved from that process and commend the committee for the very fine job that they have done and urge the adoption of the resolution.

□ 1300

Mr. FASCELL. I thank the chairman for his statement and his support.

I was about to say, Mr. Speaker, that we are aware of the issues, of course, and the concerns that many Members on both sides of the aisle have with respect to this agreement.

I want to assure my colleagues first of all that very careful scrutiny was given to every issue by the members of the Committee on Foreign Affairs. This is as true with those who have reservations toward the agreement and those who have expressed outright opposition to the agreement.

Mr. Speaker, this agreement was reached under the provisions of existing law. Under that law the agreement goes into effect after the specified period of time unless the Congress takes action to disapprove it. The longer the committee studied the agreement, the more we found that there were not enough votes to disapprove the agreement despite the opposition raised by some members of the committee. Consequently, a consensus was reached which was overwhelmingly approved. But because of the concerns which were expressed, the committee, again in a bipartisan effort working with the administration, came up with a compromise containing some conditions which are contained in this resolution. The conditions set forth in the resolution can be met without renegotiation of the treaty with the People's Republic of China.

I think anybody can understand that any further conditions which required renegotiation probably would terminate the agreement, and therefore we felt that, having assured ourselves by very careful scrutiny of not only the instrument itself but all of the collateral issues and the security and safeguards issues, we could safely proceed with this resolution which approves the agreement but lays down unilateral interpretations and conditions on our own Government to address the concerns of the opponents to the agreement.

All I can say is that this is a major step forward, and the administration supports the legislation. Given the concerns that were expressed and with the knowledge that there is no way you can stop the agreement from entering into effect unless we pass legislation disapproving it, this resolution provides something for everybody. It allows the agreement to go forward but not unconditionally. Furthermore, opponents will still have the opportunity to kill it through appropriate legislation if they want to.

If a legislative effort to kill the nuclear agreement between the United States and the People's Republic of China is made and should fail, the legislation now being considered is the only vehicle available to place some conditions on the agreement.

Therefore, it seems to me that even if you are an opponent of the agreement you would in common sense vote for this resolution because at least it lays down congressional guidelines on our own administration about how the interpretation and the implementation of the agreement should be carried out, having in mind the very security concerns and safeguard concerns that people who are opposed to the agreement have in mind as well as those who simply had some reservations on it.

So I would urge all my colleagues, considering that, if we do not pass this legislation, we have no conditions on the agreement; it would simply go into effect.

It seems to me this is one resolution that both proponents and opponents can responsibly vote for, and I thank the gentleman from Washington for yielding to me and doing all of the work, giving the leadership that he has given on this very important issue.

I conclude by saying that we did not have to come to the floor with this bill at all, but because of the concerns expressed by those who have reservations and those who are opposed to the bill, we agreed to bring the bill to the floor so that on this important matter there would be sufficient time for debate.

Our committee has acted in a bipartisan way to support the proponents, has acted in a bipartisan and responsible way to give the opposition an opportunity to be heard, and to give the American people an opportunity to view a very important debate on a major foreign policy issue.

Mr. Speaker, the provisions of the resolution will be explained by the able gentleman from Washington and New York, Mr. BONKER and Mr. SOLARZ, so I will not take any more of the committee's time.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to associate myself with the remarks made by the chairman of our committee, my friend from Florida, the distinguished gentleman Mr. FASCELL.

I would also like to pay my compliments to DON BONKER, the chairman of the Subcommittee on International Economic Policy and Trade, as well as the gentleman from Wisconsin, TOBY ROTH, the ranking Republican, who really were responsible for working this legislation out and bringing it to the floor today.

Mr. Speaker, the joint resolution before us today approves the agreement for nuclear cooperation between the United States and the People's Republic of China. This resolution, which was passed by the Senate, is identical to one reported by the House Foreign Affairs Committee. It is a realistic compromise and a bipartisan approach to resolving this complex nuclear issue. The concerns of the House Foreign Affairs Commitee are also addressed in the resolution. It is a workable solution and it deserves our support.

Legitimate questions were raised regarding this proposed nuclear agreement. Among them were concerns about safeguards against the misuse of United States nuclear exports to China and the absence of a Chinese nonproliferation policy. Equally serious were questions about the production of weapons-usable material using United States exported nuclear materials.

The compromise resolution is basically a sound approach. It answers the concerns expressed by many. The resolution requires that the President certify that the verification arrangements with the Chinese will be effective in ensuring peaceful uses. It also requires that China provide additional information to assure that the Chinese do not violate United States nonproliferation laws. Finally, it restates a U.S. interpretation of consent rights and applicability of future U.S. export laws.

I remind my colleagues that the United States-China agreement can now be implemented, although the United States and China Governments have not yet brought the agreement into force. The resolution we have before us will become U.S. law and will thus be effective. The administration has advised me that it will take the steps necessary to bring the agreement into force before the end of the year.

In this connection, I have today received the following letter from the State Department:

U.S. DEPARTMENT OF STATE,
Washington, DC, December 10, 1985.

Hon. WILLIAM S. BROOMFIELD,
House of Representatives, Washington, DC.

DEAR BILL: I am writing to express the great importance which the Administration attaches to the passage, without any amendments, of S.J. Res. 238 approving the U.S.-China Agreement on the Peaceful Uses of Nuclear Energy. The Administration is strongly opposed to any amendment to this resolution or any other legislation which would have the effect of requiring a renegotiation of the U.S.-China Agreement since such a requirement would have the practical effect of killing this agreement. In particular, we believe that the amendment to the Continuing Resolution which was passed by the Senate on Monday, December 9th, would undermine the agreement, would do serious damage to U.S.-China relations, and would set back all the progress we have made with the Chinese in the non-proliferation area.

The amendment would preclude the use of funds for licensing or approvals for exports under the U.S.-China Agreement for cooperation, unless arrangements between the United States and China had the same features as IAEA safeguards. Neither U.S. law nor the Non-Proliferation Treaty contemplates such safeguards for U.S. nuclear exports to a nuclear-weapon state and the agreement was concluded on that basis. The U.S.-China agreement, however, does provide for arrangements designed to ensure that supply is used for peaceful purposes. It provides for visits to facilities we supply and exchanges of information on national accounting and control systems.

Furthermore, on November 21, the Senate passed S.J. Res. 238 which is now before the House. On the specific subject of verification, S.J. Res. 238 does require a Presidential certification that arrangements negotiated with the Chinese are designed to be effective in ensuring that U.S. nuclear exports are used solely for their intended peaceful purposes. This serves the same purpose as the Glenn Amendment without killing the agreement. These provisions are acceptable to the Administration. We would ask the House to act expeditiously on S.J. Res. 238; we would plan to bring the agreement into force after it becomes law.

Sincerely,

MICHAEL H. ARMACOST,
Acting Secretary.

This joint resolution addresses the concerns which all of us have raised. It is a workable, bipartisan compromise which protects U.S. nonproliferation interests and national security interests. This resolution merits our support and our vote.

☐ 1310

Mr. BONKER. Mr. Speaker, I yield myself such time as I many consume.

Mr. Speaker, I wish to begin by commending the ranking member of the full committee, Mr. BROOMFIELD, and Mr. ROTH of the subcommittee, for their cooperative efforts to bring this resolution to the floor.

I also want to pay tribute to the gentleman from New York, the chairman of the Subcommittee on Asian and Pacific Affairs, for his exceptional leadership. He will, of course, address many of the pertinent issues later in the debate.

This question of whether our Nation should engage in peaceful nuclear cooperation and commerce with the People's Republic of China is an extremely sensitive and complex matter.

The House Foreign Affairs Committee has devoted a substantial amount of time to reviewing all aspects of this agreement. Our committee followed the negotiations very closely over the course of the last 4 years. We have held extensive hearings as well as closed intelligence briefings. The resolution before us today, which we developed in close consultation with our colleagues on the Senate side is the product of these serious and comprehensive deliberations. It represents a bipartisan effort to assure that any cooperation in the nuclear field that takes place with China is fully consistent with our Nation's nonproliferation laws.

Under the recently amended Atomic Energy Act, a proposed agreement for peaceful nuclear cooperation must lie before the Congress for 90 days of continuous session. If the President has waived any of the nonproliferation criteria, then the Congress must approve the agreement by joint resolution before it may take effect. And, of course, that is the procedure that is before us at this time.

If there is no waiver, the agreement comes into force at the end of the 90 days unless the Congress disapproves it by joint resolution. So we have had a 30-day period of what is called prior consultation as the executive branch is negotiating the agreement. The standing committees have 45 days in which to review and consider and adopt a resolution of appoval or disapproval. Then we have an additional 15 days for the House to take action.

As the chairman of the full committee has already stated, this was a voluntary procedure, if you will, to allow the proponents and opponents to address the issue on the House floor.

The agreement with China falls into the latter category, and took effect on Monday, December 9. Why, then, do we need to act on a resolution approving the agreement? Because the agreement is merely a framework for cooperation and creates no obligations whatsoever for the United States to export any items or fuel to China.

The resolution addresses the heart of the concerns raised by many of our colleagues:

First, it requires that certain conditions be met before any export license applications may be approved; and

Second, the resolution also helps ensure that both nations understand clearly some of the artfully, but rather unorthodox, wording of certain key provisions in the agreement.

The resolution prohibits any exports until 30 days of continuous session after the Congress has reviewed a Presidential certification that is required in the resolution before us. That certification involves:

First, adequate safeguards are in place to ensure that any exports are utilized solely for peaceful purposes;

Second, China has provided additional information indicating it has not assisted other nations to develop or acquire nuclear explosive devices; and

Third, the text relating to prior U.S. consent over reprocessing and enrichment shall not prejudice our decision to approve or disapprove requests for such activities.

Let me remind my colleagues that the original agreement between the People's Republic of China and the United States was, as I mentioned, artfully drafted. The conditions that are placed in this resolution help to clarify and firm up U.S. nonproliferation laws.

In addition, the resolution clarifies two other very important points. First, each export shall be subject to U.S. laws and regulations in effect at the time of each such export. Second, this agreement and resolution should in no way be considered as precedent-setting for the negotiation or renegotiation of any future nuclear cooperation agreements.

Even in the absence of these additional requirements, the agreement meets all the requirements of the U.S. law. Our nonproliferation statutes do not necessarily require the application of International Atomic Energy Agency [IAEA], safeguards to our exports to weapons states. Moreover, even if all United States-origin facilities in the People's Republic of China were fully safeguarded, China would still have the capacity to build nuclear weapons and ship sensitive nuclear technology to other nations if it so chooses.

In other words, this agreement would more or less require China, before it exports any United States-origin technology or material, to subscribe to our nonproliferation standards.

The provisions of the agreement dealing with United States prior consent rights over reprocessing and enrichment of the shipment clearly do not allow the Chinese to undertake such activities unless the United States agrees. Certainly it would have been preferable if our negotiators had been able to secure the standard prior-consent clause; however, the text achieves the same purpose.

In any case, we firm it up in the resolution that is before the body.

Finally, our negotiators have on numerous occasions clearly explained to the Chinese that our law requires all cooperation in this area to cease if the Chinese materially assist, induce, or encourage any nonweapons state to develop nuclear explosives or if they materially violate the agreement. By entering into this bilateral agreement, China has shifted from being part of the proliferation problem to become part of the nonproliferation solution.

This agreement is but one in a series of steps China has taken over the last several years toward becoming a member of the international nonproliferation regime.

Now that they have adopted a policy favoring nonproliferation, the People's Republic of China would suffer politically throughout the world were it to act—or be perceived to have acted—in ways contrary to that policy. The Chinese must recognize that their image in the community of nations would be seriously jeopardized were they to revert to their former policy in this field.

Mr. Speaker, a number of allegations have been made about China's nuclear policy about the export of sensitive nuclear material or equipment to nonweapons states that may be in the process of developing explosive devices. The charges involve the countries of Pakistan, India, South Africa, Brazil, Argentina, Iran. There have been many charges made about China's former policy, much of which must be acknowledged. However, as a result of China becoming a member of the IAEA and thus a voluntarily subscribing to international safeguards, they have adopted a new policy and one that is more to our liking. In all the intelligence briefings we have received, we have seen no evidence whatsoever that China, since it has made this commitment, has violated the spirit or the letter of international safeguard. So I think that whatever judgment we make on the resolution and thus the bilateral agreement, that we do so not on the basis of China's previous policy, under a different regime, but make that judgment solely on China's current statements, its policies, and its adoption of international safeguards.

Mr. Speaker, after having carefully reviewed all of the available materials and evidence, it is my firm conclusion that the proposed agreement for peaceful nuclear cooperation with China is in our national interest, and I strongly urge my colleagues to vote in favor of Senate Joint Resolution 238.

Mr. ROTH. Mr. Speaker, I yield myself such time as I may consume.

First, I would like to associate myself with the remarks that have been made here, especially those of the chairman of our Committee on Foreign Affairs and our ranking member, Mr. Broomfield. I think they have been excellent.

I also want to commend the gentleman from Washington [Mr. Bonker] for his leadership in this legislation as well as other legislation which has come before our subcommittee.

This is the first time that a nuclear cooperation agreement is being considered by the House under the new procedures required under the Export Administration Act. Implementing an appropriate congressional review procedure for nuclear cooperation agreements is a matter of great interest, I think, to all of us.

Senator Proxmire's amendment to the Export Administration Act constructed a review procedure that we have followed in the consideration of the agreement that we are debating on the floor today.

In my judgment, all aspects of the agreement have been carefully considered by the committee and in consultation with the administration and other witnesses. So we are not, rushing into this.

I would like to speak in favor of the President's request to the Congress to approve the proposed United States-China nuclear agreement. In my judgment, this agreement reflects a desire of both the United States and China to establish a framework for peaceful nuclear cooperation.

This agreement is significant for a number of reasons. It is the first nuclear cooperation agreement that the United States has undertaken with another nuclear weapons state. It is also the first nuclear cooperation agreement that the United States has undertaken with a Communist country. Therefore, it is particularly important for the Congress to examine carefully all of the ramifications of this agreement, because we are breaking new ground. In my judgment, the U.S. foreign policy, U.S. nuclear nonproliferation policy, and U.S. trade prospects are all enhanced by this agreement. And these are reasons for an affirmative vote on this particular resolution.

This administration has made it clear that China is a key element in our foreign policy objectives in East Asia and with the Soviet Union. China's role is crucial to preserving peace in Korea and in checking Vietnamese expansionism in Southeast Asia. China helps to limit Soviet options in Europe, the Middle East, and Asia by tying down some 500,000 Soviet troops along the Sino-Soviet border.

The United States-China nuclear agreement will also further United States interests concerning nuclear nonproliferation. The safeguards applied to nuclear exports from the United States are more strict than those that would be applied by other countries, for example, such as France or the United Kingdom. During the period of protracted negotiations on this agreement, Premier Zhao has made several important statements publicly and privately that make clear that China will not contribute to nuclear proliferation.

China has also recently announced that it will require International Atomic Energy Agency safeguards to its nuclear power programs and other related subjects.

Now I think there are some reasons that one can give for this agreement, and there are some real reasons.

I think the real reasons are these: If we do not sell this technology to the Chinese, they are going to buy it from the French or the Germans or the British or some other country.

□ 1325

And then we lose all of our leverage. At least this way we have some leverage over the nuclear products that the Chinese have and over their nuclear technology.

Also, we in our country have the opportunity to gain some $6 to $7 billion in trade through this agreement. We are already suffering a projected $150 billion trade deficit this year, which means we are losing about 4 million jobs in our country. Whenever we Americans can enhance our exports we should consider that course of action. In this case such action would be appropriate.

We all know, as was pointed out by the chairman of our subcommittee, that on December 9 this agreement went into effect. At least with this resolution we have some parameters, some guidelines, within which the President must operate.

For these and other reasons I think it is very important for us to cast an affirmative vote on this resolution.

Mr. BONKER. Mr. Speaker, I yield 11 minutes to the gentleman from Michigan [Mr. Wolpe].

Mr. WOLPE. Mr. Speaker, I first want to pay tribute to the chairman and the ranking minority member of the full committee, the gentleman from Florida [Mr. Fascell] and the gentleman from Michigan [Mr. Broomfield], and the chairman and the ranking minority member of the subcommittee, the gentleman from Washington [Mr. Bonker] and the gentleman from Wisconsin [Mr. Roth], for bringing this legislation to the floor. I think it is a very important initiative, and I commend them for their assistance.

I want to take a moment, at the outset of my remarks, to lay out some of my general concerns with our Nation's nonproliferation policies, concerns that have been sharply heightened by this Agreement for Nuclear Cooperation with China and by the debate that has surrounded this agreement. My most serious concern goes far beyond the specifics of the agreement with China and the ambiguities that clearly exist in terms of the exact nature of the nonproliferation policies that China plans to pursue.

My broader concern is the fact that we have allowed shortrun economic and political considerations to regularly take precedence in our country's decisionmaking over the longer run threat posed by nuclear proliferation and the risk of nuclear terrorism.

In fact, in the administration's decisionmaking on this question, as on other recent decisions affecting transfers of nuclear technology or materials, the concerns raised by the Department of Defense and the Nuclear Regulatory Commission seem to have been deliberately overlooked or downplayed. In my view, this is a prescription for ultimate disaster.

I do not believe that we can afford to continue to underestimate or ignore the very real risks posed by the growing availability of nuclear materials and technology. The horrifying increase in incidents of internatiional terrorism must be considered in examining these risks. I am very troubled that we are not now taking the necessary steps to prevent terrorist groups from "going nuclear." I know that some people would still like to believe that this is a farfetched possibility. All I can say is that the facts, in my judgment, tell a much more frightening story.

Our committee has heard expert witnesses testify that from information obtainable through public literature, at least 12 to 20 nations have the capability today to produce nuclear weapons. Only two conditions would have to be met: First, a political decision that such weapons should be made and, second, access to the roughly 20 pounds of plutonium or highly enriched uranium necessary to produce a nuclear explosive.

Against this backdrop, it is ironic that the way we safeguard the transportation and storage of our gold is much more thorough than our arrangements for plutonium, yet the latter is both more valuable and obviously far more dangerous.

Surely the incident in Malta, the hijacking of the *Achille Lauro* and the TWA hijacking last spring can leave little doubt that terrorist fanatics today clearly possess sufficient ruthlessness and cunning to carry out an act of nuclear terrorism.

So what of this agreement with China? Many of us feel that this pact is terribly flawed, ambiguous, and falls far short of what should be required in any agreement for peaceful nuclear trade. However, because so many House and Senate conferees on the reauthorization of the Export Administration Act were unwilling to press for a more significant congressional role in reviewing agreements of this sort, we are in a procedural box where either we adopt the resolution before us today providing for some modest improvements in the agreement or the agreement will take effect without any alterations or clarifications. We cannot let this happen. The resolution before us does not go as far as many of us thought was necessary, but it is all we have.

We all can hope that the amendment attached by the gentleman from Ohio in the Senate, Mr. **Glenn**, to the continuing resolution will prevail, because that is stronger language, but if that amendment in the continuing resolution does not see its way through to enactment, we would be left, if this legislation were to fail, with an agreement with no conditionality whatsoever. Clearly, that does not well serve American national interests.

The flaw in this agreement that I find most troubling is the conspicuous absence of specific safeguard arrangements to ensure the peaceful use of all nuclear equipment, materials, or technology exported pursuant to this agreement. This will mark the first time in 20 years since international safeguards went into effect that the United States has signed an agreement that does not contain safeguards. Moreover, China has negotiated agreements with both Brazil and Japan since initialing the agreements with us and both of these pacts in fact contain provisions for safeguards on all nuclear exports.

Senate Joint Resolution 238 seeks to address this flaw in the agreement with the United States, at least in part, by clearly stating that no exports will be sent to the People's Republic of China until the President has certified to Congress that reciprocal arrangements for the verification of peaceful uses have been designed effectively to ensure that all exports provided under the agreement will be used strictly for peaceful purposes.

In this connection, I would like to quote a statement made by Zhou Ping, head of the Chinese delegation to the recent General Conference of the International Atomic Energy Agency. He said:

> In line with China's peaceful nuclear policy, we have conducted serious studies on safeguards over civilian nuclear facilities. Now we wish to state here that the Chinese Government has decided to voluntarily offer to place some of its civilian nuclear installations under IAEA's safeguards at an appropriate time and will have consultations with the Agency on this matter.

In view of this voluntary offer by the Chinese Government and of a similar undertaking already implemented by the U.S. Government with the IAEA, one can hope that the reciprocal arrangements negotiated to ensure the peaceful use of all exported items will be no less stringent than those applied on civilian nuclear facilities in the United States. Such safeguards are at least equivalent to the materials accounting and inspection standards normally applied by the IAEA in accordance with its document CNFCIRC-66-Rev. 2, entitled, "The Agency's Safeguard System (1965, as provisionally extended in 1966 and 1968)."

The second problem area in the Agreement concerns the unbiased exercise of U.S. prior consent rights over any enrichment, reprocessing, or alteration in form or content of materials transferred pursuant to the agreement or material used in or produced through the use of any material or facility transferred pursuant to the agreement.

Section 123 of the Atomic Energy Act requires a U.S. right of prior approval in all agreements for nuclear cooperation. Yet the agreement with China contains some very ambiguous language that seems to raise questions about the unbiased ability of the United States to in fact exercise this right. Senate Joint Resolution 238 seeks to clarify the requirements of American law in this regard by stating that nothing in this agreement should be understood to prejudice the decision of the United States toward favoring requests for reprocessing, enrichment, or other alterations.

The third flaw in the agreement with China is that it does not contain clear language concerning China's nonproliferation policies. All other nuclear weapons states have made public, concrete statements regarding their nonproliferation intentions. For example, the United States, the U.S.S.R., and Great Britain are all signatories to the nonproliferation treaty and are all parties to the London Suppliers Guidelines. These affiliations provide a public and detailed statement of the nonproliferation policies these countries intend to pursue. France has signed on to the London Suppliers Guidelines and has publicly promised to behave as if it were a signator to the NPT.

China, however, has publicly and repeatedly denounced the nonproliferation treaty and has refused to officially endorse the classified summary of discussions prepared by our Ambassador, Richard Kennedy, which is the only assurance in the Agreement as to China's proliferation intentions. The State Department has pointed to a few public statements made by Chinese officials that seem to indicate a more responsible attitude toward nonproliferation.

I, too, welcome these statements, but if they truly reflect a reversal in the Chinese position on nuclear proliferation, then I would hope that this could be reflected in a joint statement of understanding to this effect attached to the Agreement, in place of the unilateral declaration that we now have.

The resolution before us seeks to address this problem by requiring the People's Republic of China to provide additional information concerning its nonproliferation policies and by requiring a report from the State Department detailing the history and current developments in Chinese nonproliferation policies and practices. I do not think that this is sufficient, as it remains a unilateral assertion of the United States as to Chinese intentions and certainly does not provide an effective assurance of People's Republic of China concurrence with our interpretations, but it is certainly better than the agreement without modification.

Two final points about this agreement should be stressed. The first is that absolutely nothing in this agreement should be construed as precedence for the negotiation for any future agreements for nuclear cooperation. Second, it should be understood by both parties to the agreement that all proposed exports pursuant to this agreement will be required to satisfy whatever laws and regulations are in effect at the time regarding licensing or other procedures for export approval. Both of these expectations are clearly articulated in the language of Senate Joint Resolution 238.

Let me say, in conclusion, that the timing for action on this agreement is particularly inauspicious, given the recent espionage charges brought against an American citizen on allegations of spying for the Government of the People's Republic of China. Does it not seem a bit incongruous that only week after the disclosure of what has been described as one of the worst assaults on American national security, we award the Chinese by allowing this flawed agreement to take effect? However, it appears that the administration is willing to let this happen, so the best that Congress can do at this point is to act quickly to pass Senate Joint Resolution 238 and keep a watchful eye on all transactions and developments pursuant to this agreement.

I urge support for Senate Joint Resolution 238.

Mr. ROTH. Mr. Speaker, I yield 7 minutes to the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. I thank the gentleman for being so generous.

Mr. Speaker, let me just say, at the outset, that the gentleman from Florida [Mr. FASCELL], the gentleman from Washington [Mr. BONKER], the gentleman from Michigan [Mr. BROOMFIELD], and the gentleman from Wisconsin [Mr. ROTH] are great Americans, and certainly any differences we have is simply a difference of opinion on the way we would deal with this issue. I think that the statement of the gentleman from Michigan [Mr. WOLPE] just prior to mine certainly sets that out, where we both are saying almost the identical things, as will, I understand, the gentleman from Massachusetts [Mr. MARKEY], and others from that side of the aisle.

But let me just say, Mr. Speaker, for many of the Members who are as old as I or older, back during the Second World War, before television, there were billboards out there, and one of those billboards talked about Ivory Soap. It said Ivory Soap is $99\frac{44}{100}$-percent pure. Mr. Speaker, President Reagan is $99\frac{44}{100}$-percent right all the time. He is wrong this time, and that is why I stand up here opposing this legislation.

There was also another billboard out there, Mr. Speaker, which the gentleman from New York [Mr. STRATTON] and others remember, and that billboard said, very simply, because they did not manufacture cars during the war, commercial cars, "There is a Ford in your future." Well, Mr. Speaker, I am going to tell the Members that if they approve this legislation and this agreement, they might just have a Nicaraguan nuclear missile in their future.

I have an article here in front of me. This article says—it was dated 2 days ago—"Peking. China and Nicaragua announced Saturday the establishment of diplomatic relations, with Peking vowing to support Managua's 'just struggle * * *'."

Mr. Speaker, just wait and see what happens.

Now, let me just respond to what the gentleman from Washington [Mr. BONKER] said a few minutes ago. He made a statement that the law and the spirit of the law have not been broken by Communist China since this agreement was signed.

Well, let me just read a couple statements here. In January 1984, the United States signed a nonnuclear high-technology export agreement with the People's Republic of China. And what has been China's track record since that time?

Now, just listen to this: 1 month after that agreement was put in place, five people here in the United States, five Americans, were arraigned in Federal Court in Newark, NJ, on charges of trying to smuggle 1 billion dollars worth of missile guidance and radar-jamming equipment to China. China was in collusion with them.

Now, 3 months after the agreement was signed last year, a 17-count indictment was handed down in Los Angeles against persons who were charged with illegally smuggling hardware for use in China's nuclear weapons testing program. Only last month a CIA employee, with access to extremely sensitive national security information, was charged with spying for Communist China. Evidently he has been spying for them for more than 40 years, not just since this agreement was signed back in January 1984.

Mr. Speaker, having said all that, let me just say at the outset that if this proposed nuclear cooperation agreement between the United States and the People's Republic of China is to be approved, I am glad that the resolution of approval does contain the additional language approved by the Foreign Affairs Committee, and I give great credit to the gentleman from Washington [Mr. BONKER] and the gentleman from Wisconsin [Mr. ROTH] for that.

□ 1340

This language, which is already approved by the other body, does represent something of an improvement in the wording of that agreement. It improves the agreement, but in my view, it does not make the agreement any more acceptable, and we should kill this resolution today.

So my vote in opposition to the resolution of approval is to be understood as an expression of my strong opposition to the agreement itself, and that is what we all should be voting on here today. My opposition to the United States-People's Republic of China Nuclear Cooperation Agreement is based on two factors, and I am deeply concerned about the precedent that this agreement is setting, and I am also convinced that the agreement itself is inherently flawed, which I will point out to you in a minute.

First, let us look at the precedent this agreement establishes, which Mr. WOLPE has talked about in the past. For the first time in history, our Government, the United States, proposes entering into a trade relationship involving nuclear cooperation with a totalitarian country. Moreover, as every Member of this House knows, the People's Republic of China has never ratified the Nuclear Non-Proliferation Treaty, and what a dangerous mixture this is. A totalitarian regime that refuses to ratify that agreement.

The natural result of such a policy was described in an editorial in the November 25 edition of the New Republic. You people from that side of the aisle who read that publication quite often, Mr. SOLARZ sitting over there, in which China was described as "the most egregious proliferator in the history of the Atomic Age." That was the New Republic saying that, gentleman.

The editorial went on to note that not only has the People's Republic of China refused to ratify the Non-Proliferation Treaty, but that "Until just last year, China's official pronouncements actually declared that nuclear proliferation was a worthwhile enterprise serving to erode United States-Soviet nuclear hegemony." Such is the country we should be doing business with.

Mr. Speaker, the supporters of this agreement are asking us to believe that this leopard can change its spots. Frankly, I do not find that argument to be convincing, nor am I persuaded that the days of rapid and erratic policy shifts in the People's Republic of China have ended. I do not think they have ended. Unlike a democratic government, the People's Republic of China is not bound to the mitigating influences of public opinion as you are and I am in this country and institutional continuity. A policy that is espoused today can very easily be discarded tomorrow, and I can assure you it is going to be; it is just a question of time.

It should come as no surprise then, in dealing with such a country, that unspecified consultations and a classified summary of discussion should form the basis of this agreement. Consultation, and that leads me to my second objection to the agreement, and this is one you all should listen very carefully to because it really affects this legislation.

By substituting consultations for guarantees, and relying on verbal understandings instead of written safeguards, this agreement is an open-ended formula for disaster, and I think Mr. Wolpe knows that. That is what he was talking about on the floor earlier.

The SPEAKER pro tempore. The time of the gentleman from New York [Mr. Solomon] has expired.

Mr. ROTH. Mr. Speaker, I yield 3 additional minutes to the gentleman.

Mr. SOLOMON. I thank the gentleman.

Mr. Speaker, I am tempted to say that I disagree with the substance of the agreement, but that would assume that this agreement has substantive content, which it does not. The fact that article 8, the only section of the agreement dealing with verification is entitled "Consultations" should tell us all something. Just what the nature of these consultations should consist of is revealed in article 5 which deals with the singlemost controversial issue under this agreement. Listen: "The retransfer, the storage, the reprocessing, the enrichment, or the altercation of nuclear material supplied under this agreement to the Chinese." It is all right here, and just listen to this. The operative language in title V reads: "In the event that a party would like at some future time to undertake such activities," in other words, to enrich, "the parties will promptly hold consultations and agree on a mutually acceptable arrangement. The parties undertake the obligation to consider such activities favorably." The word "favorably" is right here. Let me repeat that. "The parties undertake the obligation to consider such activities favorably." Why that was put in this agreement was at the insistence of the Chinese.

An administration witness who was defending this language at a hearing that I attended before the Foreign Affairs Committee reached new heights in semantic mysticism when he asserted that the word "favorably" actually means "promptly."

Now, frankly, I find the testimony of the Nuclear Regulatory Commission much more realistic. Listen to what they had to say. The NRC told the Foreign Affairs Committee that the addition of the word "favorably" to the agreement "appears to change the nature of the consent rights procedure by weighting a reprocessing or enrichment decision toward approval." In other words, we are already saying we are going to approve it. Let them enrich it; let them sell it to Iran; let them give it to Nicaragua. Is that what you want?

The NRC went on to say that "The Commission would have preferred that the agreement contain a clear statement of U.S. consent rights for the subsequent reprocessing or enrichment on U.S.-supplied nuclear fuel or fuel used in U.S-supplied reactors."

Gentleman, I could go on and on, but needless to say, the NRC testimony concerning this agreement was quite a bit short of enthusiastic. Indeed, the Commission cited serious concerns about future misunderstandings stemming from the ambiguous form of so-called assurances from the People's Republic of China as well as a possible reduction in the rights of Congress to enact and implement future legislation pertaining to nuclear cooperation between the United States and China.

So, in conclusion, let me just repeat: This agreement sets a dangerous precedent and is inherently flawed. I have yet to hear anyone defend it on the grounds that it is a well-written document. Nobody on that side of the aisle; nobody on this side of the aisle.

The SPEAKER pro tempore. The time of the gentleman from New York [Mr. Solomon] has again expired.

Mr. ROTH. Mr. Speaker, I yield an additional 1½ minutes to the gentleman.

Mr. SOLOMON. I thank the gentleman.

Mr. Speaker, let me just say this. I pose again the question: Can the leopard really change its spots?

Turning now to what many of us would have liked to offer as an amendment, and had there been an open rule, I would like to mention the amendment that has been added by the other body to the continuing resolution on appropriations. That amendment states: "The transfer of any nuclear equipment, any materials or any technology to China under the terms of this agreement must be accompanied by a Presidential certification to Congress that such an export is for peaceful purposes only, and that the terms of the sale conform to the standards established by the International Atomic Energy Agency." What little more could we ask, and we were prevented from offering this on this rule.

Mr. Speaker, this resolution before us should be defeated so that all of us can work our will including those Members on that side of the aisle. We should never let a matter like this ever come before this House under a gag, closed rule.

Mr. BONKER. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. Solarz].

Mr. SOLARZ. I thank the gentleman for yielding to me.

Mr. Speaker, I want to say at the very outset that I think the gentleman's efforts on behalf of this resolution have revealed a remarkable talent for legislative skill and craftsmanship.

The gentleman from Washington has devoted an inordinate amount of time to the consideration of this agreement and the formulation of the resolution now before us which would constitute an expression of approval for the agreement on the part of the full House. I think he has acted in a way which is consistent with the highest standards of public service in the Congress of the United States.

I want to pay a special tribute to him for his efforts in that regard. I also want to say that I think that Members on both sides of the aisle, on both sides of this issue, including the gentleman from Wisconsin [Mr. Roth] my very good friend from New York [Mr. Solomon] my colleague from Michigan [Mr. Wolpe] from Ohio [Mr. Feighan]; some of whom have different points of view on this issue than I do, all deserve credit for the amount of time and effort they have put into the mastery of what is a very complex isssue, which clearly does have important implications for the United States.

☐ 1350

I believe that the United States-People's Republic of China Agreement on Nuclear Cooperation is not a perfect agreement. Let that be stipulated at the outset. Perhaps if the gentleman from Ohio or the gentleman from New York [Mr. Solomon] or the gentleman from Michigan [Mr. Wolpe] were to have been responsible for negotiating this agreement with the People's Republic of China, it would have been a better agreement. With their talents for persuasion, I would not have been surprised if they could have brought back an agreement more compatible with all the concerns that were expressed here today.

But what we have before us is not a hypothetical agreement which might have been negotiated by a more skillful representative. What we have before us is an agreement that has already been negotiated and with respect to which we have to say yes or we have to say no or with respect to which we have to impose some conditions, and I believe that when we look at the agreement before us, we have to say that it is on balance a good agreement which clearly advances the interests of the United States. I would submit that whatever the shortcomings in the agreement, the resolution of approval, together with the conditions contained in that resolution, is clearly in the interests of the United States.

Leave aside, if you will, the implications of rejecting this agreement for our diplomatic relations with a country that has one-quarter of the population of the entire world and whose good will is a potentially important geopolitical asset of the United States. Leave aside, if you will, the implications of rejecting this agreement which could generate up to $8 billion in the sale of nuclear technology to the People's Republic of China for the balance-of-trade deficit at a time when we have a balance-of-trade deficit in the vicinity of $150 billion. Leave aside, if you will, the implications of rejecting this agreement for the employment situation in our country when we still have in the vicinity of 7 million unemployed men and women in America. Look at this agreement and look at this resolution purely in terms of its implications for our interests in preventing the spread and proliferation of nuclear weapons to other countries around the world.

Mr. BURTON of Indiana. Mr. Speaker, will the gentleman yield?

Mr. SOLARZ. I will be happy to yield to my friend at the conclusion of my remarks, if that is all right with him and if he can forbear with me for that brief period of time.

Looked at purely in terms of its implications for our nonproliferation interests, I would submit that this agreement still clearly advances those interests. I say that for a number of reasons: First, because it is important to recognize that this is an agreement with a nuclear weapons state. It is not an agreement with a country which does not already possess nuclear weapons. That means that even without this agreement, the People's Republic of China already has the capacity, if it so chooses, to provide other countries with the materials and with the technology which are needed in order to produce nuclear weapons.

China is already capable of producing plutonium. China is already capable of producing enriched uranium. And even if we were to reject this agreement, at any time in the future that China wants to, if it should decide to do so, it could provide that plutonium, it could provide that enriched uranium, and it could provide the necessary technology which would enable other countries to obtain nuclear weapons.

There is literally nothing that we would be providing the People's Republic of China pursuant to this nuclear agreement which would enable them to provide other countries with nuclear weapons which they do not already have. Indeed we have been advised that subsequent to the approval of this agreement, if China changed its policy and decided it wanted to help another country obtain nuclear weapons, it would be much more efficient and much more economical for them to do so by providing that country or those countries with materials generated by their own indigenous facilities rather than materials generated by the nuclear facilities that we would be providing them pursuant to this agreement.

As a consequence, and in an absolutely worst-case scenario, if this agreement goes forward and China subsequently decides to help other countries obtain nuclear weapons, we need not be concerned that anything we will have given them pursuant to the agreement will have made it easier for them to do so. Nevertheless the Senator from Ohio, Mr. GLENN, has offered an amendment which was adopted by the other body to the continuing resolution which would insist that before this agreement can go forward the People's Republic of China accept IAEA safeguards on all its nuclear facilities or on the nuclear facilities we would provide them with, or some substantial equivalent.

Now, all things being equal, I think it would be desirable if they accepted IAEA safeguards. But the fact of the matter is, if we insist on it, it would probably require the renegotiation of the agreement. In any case, the President has indicated he would veto this resolution, and we do not have the votes to override a veto, so it would ultimately be to no avail.

I would submit that while IAEA safeguards are clearly desirable for nonnuclear weapons states, they are hardly necessary with respect to nuclear agreements with nuclear-weapons-producing states. Insisting on IAEA safeguards on nuclear facilities we provide nonnuclear weapons states is like insisting on building a barrier around a chicken coop in order to protect the chickens on the inside from the depradations of a fox on the outside. It makes perfectly good sense. But insisting on LAEA safeguards on American nuclear facilities in a nuclear weapons country is a little bit like insisting on building a barrier to a chicken coop after the fox has already eaten all the chickens on the inside. In other words, it is no longer necessary.

If this agreement would not in any way, shape, manner, or form make it easier for China to help other countries obtain nuclear weapons, I submit that it would constrain the People's Republic of China from helping other countries obtain nuclear weapons. This agreement would clearly constrain the People's Republic of China from providing assistance to other countries in obtaining nuclear weapons because American law and this resolution make it unmistakably clear that any subsequent effort on the part of the People's Republic of China to help any other country obtain nuclear weapons would result in the immediate cessation of any American nuclear material, technology, or supplies to them. In other words, it would render the agreement inoperative, and to the extent that China would clearly like the continuing benefits of this agreement, the implementation of the agreement would build in some additional powerful incentives for the People's Republic of China to refrain from helping any other country obtain nuclear weapons, because if they were to do so, they would immediately lose the benefits of this agreement.

We have heard over the course of this debate, and in the last several weeks from several of the most distinguished Members of both the House and the other body allegations concerning the extent to which the People's Republic of China may have engaged in helping so-called nuclear outlaw nations obtain nuclear equipment and technologies which could have facilitated the efforts of those countries to acquire nuclear weapons. If these allegations were true and if they remain true, they would certainly constitute a persuasive argument against the implementation of this agreement. In order to find out more about those allegations, our committee held a very high-level, top secret executive session briefings with representatives of the intelligence community, and we went over every one of the allegations with them, and the responses we got were that either the allegations were flatly untrue or the allegations, while true, could be understood in a much more benign context and did not have the implications which the critics suggested they had or, to the extent that they were true, they were no longer true.

Mr. BURTON of Indiana. Mr. Speaker, will the gentleman yield?

Mr. SOLARZ. I will yield in a minute.

□ 1400

As we heard from the intelligence community——

Mr. BURTON of Indiana. Mr. Speaker, if the gentleman will yield, that is a very important point.

Mr. SOLARZ. I will be happy to yield as soon as I complete my remarks, which will be very soon.

What we heard from the intelligence community was that, quite to the contrary, whatever China may have been doing in the past, within the last year or so they have adopted policies with respect to nuclear nonproliferation which are entirely consistent with our own.

They have, No. 1, joined the International Atomic Energy Association.

They have, No. 2, insisted on IAEA safeguards on all of their own nuclear exports to other countries. Indeed, they refused to go ahead with one request for a nuclear export to another nation when they were unable to satisfy themselves that IAEA safeguards would be put on that export.

Finally, they have indicated that they would be willing to accept IAEA safeguards on some of their own domestic nuclear facilities.

So I would submit that the People's Republic of China has been acting in ways over the course of the last year which are entirely compatible with our concerns.

Last, let me just review very briefly the parliamentary situation that confronts us. In the absence of the adoption of this resolution, the nuclear agreement will go forward. We are not in a position to prevent the implementation of this agreement even if we do not like it. All we can do by adopting this resolution is to impose a number of additional protections against the possibility of proliferation which have already been described at some length by the gentleman from Washington, the gentleman from Michigan, and by other of our colleagues during the course of this debate.

So I would submit that even if one of balance believes it is not in our interest to proceed with the agreement, it is still better to vote for this resolution because at least that way we will have some additional protections that we otherwise would not have; whereas if this resolution is rejected, the nuclear agreement with China will go forward anyway, but without some of the certification requirements that are contained in it.

In any case, when you cut through all the technicalities, when you go through all the pros and cons, one fundamental truth remains. China is a nuclear weapons state. We are not providing them pursuant to this agreement with any materials or technologies that they do not already have. We are not, therefore, giving them a capacity to help other countries obtain nuclear weapons which they do not have already, yet by going ahead with this agreement we are building in powerful incentives for the People's Republic of China, if it wants to get the benefit of the agreement, to refrain from helping other countries obtain nuclear weapons, because if they do so they will lose forthwith their opportunity to benefit from this agreement.

Mr. ROTH. Mr. Speaker, I yield 9 minutes to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman for yielding.

The gentleman from New York indicated that this was going to help with jobs here in the United States. In the short run, those who are involved in the nuclear industry, might create some jobs, but anybody who goes to any K-Mart knows that the textile industry in China has been unloading millions and probably billions of dollars of goods in this country and those goods are being purchased by Americans who are providing jobs for those people in Communist China who are working for slave labor wages.

The reason the Chinese Communists want this nuclear energy technology is because they want to upgrade their industrial base and they want to be able to export more textiles and more products to the United States and the rest of the free world to get our money. So in the long run, I would say outside the 4- or 5-year term, it is going to be costing American jobs by signing this agreement, and the gentleman from New York in my view knows that full well.

Now, the bottom line of this issue is can you trust the Chinese Communists? I think you can trust them to be Communists, but can you trust their word?

Now, in the other body the chairman of the Agriculture Committee made this speech:

> I happen to be chairman of the Senate Committee on Agriculture, and in that capacity I have gained a personal awareness of the manner in which the major United States agreement with Red China—the 1981-84 bilateral long-term grain agreement—has been implemented to date. Not only did Red China fail to fulfill its purchase obligations under the LTA before it expired in December 1984, but it has made no effort to fulfill these obligations since.
>
> Under the terms of this agreement, Red China was to have purchased from 6 to 8 million metric tons of wheat and corn each year of the term of the agreement. Red China did not and has not fulfilled its end of the agreement even though it has bought wheat and corn from France and Argentina. The shortfall in the last 2 years of the agreement was 4.2 million tons.

This has hurt American farmers. The Chinese Communists violated their word.

In 1979, when we severed relations with the Republic of China on Taiwan and recognized Red China, the Red Chinese said that they would agree to a peaceful reunification of the mainland with Taiwan, a peaceful reunification.

I want to read to you what was said by the leader of the Communist Party in Peking just recently. Here is what he said:

> Everyone knows we do not yet have the military power to attack Taiwan. This temporary period may last four, five, seven or eight years. We must wait until our economy is in the right track—
>
> By then if most Taiwan people wish to return to the mother country and only a few say no, we will have to use some force on that.

They are planning to violate the agreement they made with us in 1979 to not go to war with Taiwan, to reunite Taiwan with the so-called mother country. They are going to violate that treaty as soon as they get the military and economic power to do so and they anticipate doing that within the next decade. And we are going to help to do that with this agreement.

Can you trust them to keep their word? There are two examples where you cannot trust them. Now, the gentleman from New York indicated, they are changing, they are changing. We can trust them. They are not going to do what they did in the past. He said that in the past 2 years they have not done anything that would lead us to believe they are going to expand the sale of nuclear technology to other countries.

On October 23, the French news agency reported the following:

> On October 23, the French news agency Agence France Presse carried a report by its correspondent in Peking. The report details negotiations between Khomeini's regime and the Red Chinese for the sale of Chinese-produced surface to surface missiles based on the Soviet SCUD-1A and SCUD-1B to Iran. It describes negotiations in June and July of this year—

Not 2 years ago, but this year—

> in Peking and notes the discussion of the missile sale issue by Rafsanjani during his July visit to Red China. The report was carried by the Federal Broadcast Information Service in its Daily Summary for October 23.

Those weapons can be nuclear tipped. Red China has sold Iran over $1 billion in military equipment in the past 2 years and they are still dealing with them. Now they are negotiating for these SCUD missiles which can be nuclear tipped.

The material that we are going to sell to China can be reprocessed and used for nuclear weapons and we are going to allow them to do that, knowing full well that they are going to deal and have been dealing with Iran. You know that Iran would have no compunction whatsoever about launching a nuclear missile at the United States or any free world country if they thought it served their purpose. That is another reason I think that we need the strategic defense initiative, because not only do we have to worry about the Soviet Union, we have to worry about people like Khomeini, and in Libya Mu'ammar Qadhafi, Red China in all probability is going to be selling nuclear technology to these people.

As a matter of fact, they have recently been dealing with Pakistan. They have supplied Pakistan with military equipment that has nuclear significance and Pakistan has close ties with Libya; so there is no question in my mind that in the not too distant future if we proceed with this agreement and agreements like this that many of the people who are enemies of the free world, terrorist states, will have nuclear technology and be able to launch some kind of an attack, however small, against free world countries. This possibility must be kept to an absolute minimum.

Finally, Nicaragua. What about Nicaragua? We all know that the United States is supporting the freedom fighters down there and supporting the free states in Central America. We do not want communism to expand and we know that Daniel Ortega, Umberto Ortega and Tomas Borge and others down there have said that they are going to export revolution throughout Central America and ultimately into Mexico.

China on December 5 signed an agreement with Nicaragua and here is what transpired. I will read you the report:

> Nicaraguan Foreign Minister Miguel d'Escoto said his country severed diplomatic ties with the Nationalist Chinese government on Taiwan on Dec. 5, the day his delegation arrived in Peking.
>
> He said his group is holding talks with Chinese officials on possible assistance from China including spare parts, medicine and food.
>
> D'Escoto was asked if China might provide military aid to help the Sandinistas battle U.S.-backed rebels and he replied, "We haven't even begun to think about it."
>
> But he said Nicaragua would welcome weapons from any source.

Intelligence reports indicate that the Chinese have agreed to provide Iran with nuclear technology, once the agreement with the United States is signed. Ostensibly, Iran wants only to complete its nuclear powerplants, but this material could be used for nuclear weapons. You can go on and on and on.

I think in summary, Mr. Speaker, the bottom line is if we are going to export nuclear technology, then we should export technology to those countries who will sign in blood the nuclear nonproliferation treaty saying that they will not sell nuclear technology to other countries in the Third World who might involve themselves in a nuclear conflict. If the Chinese Communists will not sign an agreement like that then neither should we. This agreement is very vague as far as the constraints that are put on the Chinese, it does not bind them in my view to really anything. It just sells them technology and they can use it as they see fit. In my view, it is a mistake for the United States to do that. I think it endangers not only the security of the United States, but the entire free world and the proliferation of nuclear technology is going to mushroom if this agreement is finalized.

Mr. BONKER. Mr. Speaker, I yield 7 minutes to the gentleman from New York [Mr. STRATTON], a member of the Committee on Armed Services.

Mr. STRATTON. Mr. Speaker, I support this resolution for somewhat more modest and parochial reasons than have been previously discussed either by my neighbor and colleague, the gentleman from New York [Mr. SOLOMON] and the gentleman from Indiana [Mr. BURTON].

In my State of New York it was expected in the early 1950's that there would be a great demand for nuclear-generated electricity. Unfortunately, this did not develop, for a number of reasons, including the events at Three Mile Island and other events. This gap in expected nuclear-generated electricity hit very hard in my own congressional district in Schenectady and in the adjoining district on the part of the gentleman from New York [Mr. SOLOMON]. In that area is located the world's largest turbine generator building, operated by the General Electric Co. As a result, the people who were to be employed in this vast facility and were employed earlier in the 1950's dropped from a high of 27,000 people coming from all over upstate New York, to less than 17,000, creating devastating unemployment.

This agreement with the Chinese Government which the nuclear industry eagerly sought by the industry which develops the most environmentally satisfactory and cost-efficient method of producing electricity for modern industrial purposes; namely, by nuclear means. General Electric is a leader in this industry and has been counting on this agreement to supply the opportunity to recoup the losses they have suffered at the hands of those who have maligned the nuclear energy industry.

□ 1415

So here is a real opportunity for American industry, and in restoring jobs in this important industry. We ought to get underway at the earliest possible moment with this agreement because it will change the economic picture in our New York area and in other areas as well.

I would also remind my colleagues that this opportunity for the American nuclear energy industry was one of the goals of the late Senator Scoop Jackson that he was promoting in his several trips to China. Senator Jackson was a strong supporter of defense, a strong opponent of the Soviet Union, and a very strong supporter of nuclear energy. Unfortunately his career came to an untimely end following his return 2 years ago after another trip to China.

After all, the one nation that ought to be the most afraid of all of these alleged problems stemming from the development of nuclear-generated electricity, Japan, the only country that was ever hit with an atomic weapon, is producing over 30 percent of her electricity by nuclear energy. If nuclear energy is all right for Japan, and is all right for France; if nuclear energy, as Admiral Rickover has been able to demonstrate in the United States Navy over a period of 25 years without a single accident or the loss of a single life is all right, it certainly will be good for the people of China, and some day will be recognized to be good for the people of the United States.

As the gentleman from Wisconsin [Mr. ROTH], pointed out, it is extremely important for us to move ahead these days in ways that will assist our ailing industry, particularly the American nuclear energy industry and the people who had expected jobs in it and who have lost their jobs as the result of these ill-informed unjustified attacks on nuclear energy.

So let us cast our vote today for America's economic viability, and let us also make a major dent in our trade deficit. Surely we cannot ignore that opportunity at a time when we are supposedly anxious to reduce our trade deficit, an opportunity that is immediately at hand?

I support the adoption of the resolution.

Mr. ROTH. Mr. Speaker, I yield 7 minutes to my good friend, the gentleman from Wisconsin [Mr. PETRI].

Mr. PETRI. Mr. Speaker, we are asked today to approve a nuclear cooperation agreement signed last summer with the People's Republic of China. It is an important agreement—the first signed with a nuclear weapons state since the Nuclear Non-Proliferation Act of 1978 and the first such agreement ever signed with a Communist country.

Earlier this year, Congress passed and the President signed into law new procedures for the congressional review of nuclear cooperation agreements. The China agreement is the first to be considered under these new procedures and is likely to be one of the most important of the decade. I commend the leadership of the House for bringing it to the floor.

The agreement with China resulted from 4 years of talks. There were good reasons for the length and difficulty of these negotiations. For almost two decades, China ignored international norms and standards for preventing the spread of nuclear weapons. It refused to sign the Nuclear Non-Proliferation Treaty, which contains an obligation not to help other countries obtain nuclear weapons.

In their public statements, Chinese leaders actually promoted the proliferation of nuclear weapons as a way to diminish the power of the superpowers.

In its nuclear exports, China applied no safeguards or controls to prevent the possible weapons use of these exports. Some of this unsafeguarded nuclear trade has been with countries believed to be on the threshold of developing nuclear weapons, including Argentina, Pakistan, and South Africa. There have been unconfirmed reports that China may even have provided Pakistan with nuclear weapons design information.

There have been certain positive developments over the last 2 years in China's policy on nonproliferation. China joined the International Atomic Energy Agency last year and now sits on the Board of Governors. It now has a policy of applying IAEA safeguards in its nuclear exports to nonnuclear weapons states. It also recently announced that it would be placing some of its civilian nuclear plants under IAEA safeguards.

During hearings on the China agreement, we have been told that the Chinese are now fully aware of the importance of their nonproliferation policies and practices in our future relations. While the agreement contains no explicit statement of China's commitment to nonproliferation, the administration claims these assurances may be found in a State Department memorandum accompanying the agreement. The administration fully supports the agreement and claims it will further advance our nonproliferation objectives.

Mr. Speaker, I believe nuclear cooperation with China can be a vehicle for further improvements in its nonproliferation policies.

In the words of one administration witness, it may ensure that "they are part of the nonproliferation solution rather than part of the problem." This is essentially the position taken by the Foreign Affairs Committee in reporting out Senate Joint Resolution 238.

At the same time, however, the committee has rightly attached certain key conditions to the approval resolution, which must be met before any exports take place. These conditions include:

First, that the President further report to Congress on the history of and current developments in China's nonproliferation policies and practices;

Second, that the President certify China has provided additional information on its nonproliferation policies, and that, based on this and all other available information, China has not engaged in proliferation-related activities at any time since the passage of the Nuclear Non-Proliferation Act of 1978;

Third, that the President certify the safeguards called for in the agreement have been effectively designed to prevent the diversion of nuclear materials or technology to weapons use; and

Fourth, that the President certify the amendment's language about an obligation to consider reprocessing activities favorably does not prejudice future U.S. decisions to approve or disapprove a reprocessing request.

Senate Joint Resolution 238 further clears up an important ambiguity in the agreement by reaffirming that nuclear exports under it shall be subject to U.S. laws and regulations in effect at the time of export.

Based on China's past record on proliferation matters, I believe the committee's actions in setting these conditions are the minimum necessary for approving the agreement, but that the agreement itself is an improvement over the situation existing prior to its signing.

Mr. BONKER. Mr. Speaker, I yield 16 minutes to the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Speaker, esteemed colleagues, this resolution of approval for the nuclear cooperation agreement with China puts supporters of a strong nonproliferation policy between a rock and a hard place.

On the one hand, the precise terms of the agreement are manifestly inadequate.

The agreement does not meet the minimum statutory criteria for nuclear cooperation agreements as set forth in the Atomic Energy Act.

Moreover, in light of China's apparent secret assistance to Pakistan's nuclear weapons program, China's eligibility for nuclear cooperation under section 129 of the act is highly questionable.

On the other hand, there is the hard fact that under existing review procedures for this kind of agreement, it went into effect yesterday at midnight.

So, even if we were to vote down this resolution of approval today, the agreement would remain in effect. As a result I must reluctantly concede that the modest certification procedures contained in the approval resolution are better than nothing.

Mr. Speaker, esteemed colleagues, the most troubling aspect of this approval resolution is that it does not define what is meant by so-called effective safeguards, thereby perpetuating one of the major deficiencies of the underlying agreement.

The problem here is that the State Department has already testified that it regards the agreement's provisions as adequate to verify peaceful uses, but the agreement merely contains the pledge that: "the parties will use diplomatic channels to establish mutually acceptable arrangements for exchanges of information and visits * * *."

Mr. Speaker, distinguished colleagues, exchanges of information and visits are not safeguards, and a promise to talk in diplomatic channels is not a guaranty of anything.

The State Department does not expect these discussions to result in Chinese acceptance of standard international safeguards on United States equipment.

This means that when our negotiators return from Beiging with an understanding on verification arrangements that does not contain standard international safeguards—and yet the President certifies in accordance with this resolution that these arrangements are nonetheless effective for verifying peaceful uses—we will have sent a message to the entire world that the safeguards system of the IAEA is stronger than it needs to be.

If we do not demand standard international safeguards of the Chinese, we are sending a message to India, Israel, South Africa, Pakistan, and all the other threshold nuclear states that all you have to do is declare yourselves nuclear weapons states, and we will be pleased to send you nuclear materials, equipment, and technology without safeguards.

To exempt the People's Republic of China—with its deplorable nonproliferation record—from safeguards on the peaceful uses of our nuclear equipment, stands the logic of the global nonproliferation regime on its head.

To say that China is more deserving of nuclear trade than, say, Pakistan, simply because it is an overt weapons state, is simply to create a climate where other countries will perceive it to be in their interest to obtain nuclear weapons if they want advanced American technology.

Guarantees of peaceful use are not—as some distinguished Members of this body seem to believe—an eventual benefit to be purchased with nuclear trade, but an essential prior condition for it.

I would implore the leadership of this House to do everything in its power to support, during conference on the continuing resolution with the Senate, the Glenn amendment making licensing of nuclear exports to China under this agreement contingent on the application of standard international safeguards.

Now I would like to address some of the larger issues raised by this resolution.

The fact that the Committee on Foreign Affairs is presenting what is essentially a fait d'accompli on this issue after the statutory deadline for action has expired; and that the Senate passed this resolution by voice vote without debate, indicates to me that the Congress is not giving the nuclear proliferation issue the serious attention it deserves.

A relaxed congressional attitude might be justified if the executive branch had demonstrated a record of vigilance in this area comparable, for example, to the vigilance it has shown in keeping Apple PC's out of the Soviet Union.

But such is clearly not the case. Time and again this administration has opted for short-term geopolitical and diplomatic advantage rather than defending this Nation's long-term interest in an effective global nonproliferation regime.

This sloppy and ambiguous agreement for nuclear cooperation with China is symptomatic of an overall approach to the problem of international security and proliferation which is fraught with contradictions.

A phenomenal amount of hypocrisy is involved here.

Consider that tiny bankrupt Nicaragua, with no nuclear capabilities and no military capacity which could damage the United States, is thought to require elaborate onsite inspection measures as a condition of any Contadora peace settlement.

Then consider that huge Communist China—an even more secretive society with even less respect for human rights, and possessing a nuclear arsenal which could obliterate our Nation—is afforded nuclear cooperation without granting any guarantees for onsite inspection.

Moreover, while Members of this body fret over charges that Nicaragua is providing rebels in El Salvador with machineguns and grenades, China has been helping Pakistan's Muslim fundamentalist dictator, General Zia, acquire nuclear weapons.

Worse still, the United States Government has supplied Pakistan high performance F-16 aircraft, which can be used to deliver nuclear weapons.

And it has fostered complacency over General Zia's nuclear ambitions by repeatedly waiving certification requirements which mandate a cutoff of military assistance in the event Pakistan is persisting in its attempts to acquire sensitive nuclear technology.

A Pakistani businessman who was caught smuggling a shipment of 50 krytrons—a key component for triggering nuclear explosions—was not charged with Atomic Energy Act violations, but instead was indicted on a lesser charge, slapped on the wrist, and deported to Pakistan after serving only a few months in jail.

In connection with this agreement, the administration has told us that China's assistance to Pakistan's unsafeguarded enrichment program has ended and will not be renewed.

We have also been assured that China's reckless policy of earning hard currency through unsafeguarded, brokered sales of heavy water and low-enriched uranium has been discontinued.

The new look in Chinese nuclear policy is set forth in a secret memorandum by Ambassador Richard T. Kennedy which purports to establish that China's new nonproliferation policy is now consistent with our own.

While there has been considerable movement in Chinese attitudes toward proliferation, one should also look at the flip side of the coin—and ask whether under the present administration, our nonproliferation policy is becoming more and more like the Chinese approach.

What is this memorandum of assurances? The Chinese did not write it. The Chinese did not sign it. The Chinese did not formally agree to it.

Among the diplomatic set, this kind of memorandum is officially known as a nonpaper. The Chinese reply, such as it may have been, is called, appropriately, a nonanswer.

While the Chinese maintained until the mid-1970's that nuclear weapons proliferation was desirable to "break the superpower monopoly," the new Chinese view of proliferation appears to be that the same objective can be accomplished by encouraging the capacity to produce nuclear explosive materials—plutonium and highly enriched uranium.

Despite the State Department's assurances, the Chinese continue to attack congressional efforts of the last decade to restrict the export of sensitive nuclear equipment as representing a kind of nuclear colonialism.

Chinese Ambassador Jiadong Quian remarked in Geneva last June, for example, that "owing to the increasingly severe restrictions imposed by the main suppliers under the pretext of preventing proliferation, international cooperation for peaceful uses of nuclear energy has been much hindered."

This is a very different view from that underlying the Nuclear Non-Proliferation Act of 1978, by which this body sought to establish tough nonproliferation standards for nuclear cooperation.

Speaking to the Brazilian press in July of this year, the vice-chairman of the Chinese People's Political Consultative Conference supported the position that the countries of the Third World should develop nuclear energy technology "if they feel the need to have it for peaceful purposes."

He said this would be a way of "breaking the monopoly of the two superpowers: The Soviet Union and the United States."

According to the CIA's translation of the Brazilian press account, this official justified China's first atomic explosion "along that line of thinking, namely, as a way of breaking the nuclear monopoly."

Clearly, then, the Chinese regard trade in sensitive technology for manufacturing nuclear explosive materials—which is all that this Congress has sought to restrict—as a legitimate aspect of the peaceful use of nuclear energy.

Back in Geneva, Ambassador Jiadong Quian also stated that "until recently, some circles—that's us—"have always been thinking in terms of technological restrictions, denials, or even sanctions against states with potential nuclear capabilities. Such ideas are now sharply on the decline," he said.

Well, you know, judging by what some in this administration are doing, the Chinese Ambassador may be right.

In fact, the new Chinese view of proliferation is not all that different from the view voiced on occasion by Ambassador Kennedy, their opposite number in the negotiations.

What we have here is not Chinese conversion but United States-Chinese convergence.

In an earlier incarnation, Ambassador Kennedy was an avidly pro-nuclear member of the Nuclear Regulatory Commission who became widely known in the 1970's for his profligate travels abroad spreading the gospel of nuclear power.

In March 1982, for example, Ambassador Kennedy told the atomic industrial forum that "nuclear common sense" consists of "avoiding premature commitment to reprocessing or breeder activity in countries with less sophisticated nuclear programs."

He said this meant that the United States would not "encourage advanced fuel cycle activities before they are warranted as a coherent part of an advanced nuclear program."

But in almost the same breath, he also said, "we cannot and will not dictate the nuclear energy programs of other countries."

Coming from an administration that is more than willing to employ violence in an attempt to dictate the very nature of foreign governments, this professed belief in the right to nuclear self-determination rings a little hollow.

Ambassador Kennedy's evasive rhetoric disguises a rather obvious set of questions:

Who decides which nations have a so-called advanced nulcear program ready for plutonium use and autonomous enrichment capabilities?

On what grounds will these decisions be made?

If the U.S. Government declines to establish, by both law and example, clear objective technical criteria for determining those nuclear activities which, because of their nuclear explosive potential, are unwarranted;

And if, as is now the case, the U.S. Government simultaneously facilitates plutonium use in certain responsible countries with advanced nuclear programs;

On what credible moral and political basis can Pakistan, South Africa, India, Argentina, Brazil, and other nuclear threshold states be restrained from the manufacture of nuclear explosive materials?

This administration's flirtation with plutonium could become an uncontrollable global infatuation, leading to a nightmare world of nuclear terrorism and unrestrained proliferation.

The relevant committees of Congress need to consider—with far more care than they have demonstrated to date—the long-term security implications of nuclear trade arrangements which leave countries with the option of obtaining or providing sensitive enrichment and reprocessing technology.

The U.S. Government should be seeking to maximize—not reduce—its leverage over such decisions, through clear, unambiguous nuclear cooperation agreements.

And this Government should be actively promoting—for those nations still bent on pursuing the nuclear energy path—safer alternative fuel cycle concepts which do not afford direct access to nuclear explosive materials.

This Nation should not be supporting, as we are now, hazardous and uneconomic schemes for recycling plutonium in commercial power reactors.

Large scale commercial circulation of plutonium cannot be adequately monitored to detect diversions, or protected against seizure by terrorists.

With its flabby safeguards and reprocessing guarantees, and its tacit tolerance of China's contempt for efforts to restrict trade in sensitive nuclear technology, the nuclear cooperation agreement with China represents a weakening of United States resolve to restrict the proliferation of nuclear explosive materials in the world.

I only hope that, acting in the spirit of bipartisan cooperation which has always informed this body's nonproliferation efforts, we can regain this lost ground before it's too late.

Many Members of Congress may sympathize with the Chinese view that the nuclear superpowers have done far too little to fulfill their disarmament obligations under article VI of the NPT. I myself happen to hold this view.

Chinese officials argue that this failure arises from a fundamental imbalance in the treaty's binding obligations:

Nonweapon states are required to forswear nuclear weapons;

Nuclear-weapon states are only required to negotiate about them.

However, I do not believe that the way to rectify this imbalance is to loosen controls on dangerous nuclear technologies.

When confronted with the fundamental inequity, moral blindness, and political paralysis of the superpower arms race, we must not allow righteous Chinese or Indian indignation—which many people share—to paralyze our response to the imminent threat of nuclear terrorism and regional nuclear wars.

Fifteen years from now, when the crazed militants of the 21st century plant a nuclear bomb under the World Trade Center and then begin to work their will, the future victims of nuclear terrorism won't care, or even remember, what faction we supported in Afghanistan, or the number of reactors we sold in China.

No, they'll just look back at us and wonder in God's name why we didn't do more to stem the spread of nuclear weapons while we still had the time.

Mr. Speaker, esteemed colleagues, the sad fact is that we are simply running out of time to cope with this threat.

If the world's nuclear nonproliferation regime is to be preserved and strengthened, we must restore this Nation to a position of vigorous leadership on nonproliferation issues. The recent period of benign neglect must be brought to an end.

☐ 1440

The SPEAKER pro tempore. The Chair wishes to advise the parties that the gentleman from Washington [Mr. BONKER] has 25 minutes remaining, and the gentleman from Wisconsin [Mr. ROTH] has 54 minutes remaining.

Mr. ROTH. Mr. Speaker, I yield 4½ minutes to the gentlewoman from Illinois [Mrs. MARTIN].

Mrs. MARTIN of Illinois. Mr. Speaker, in this final press of events, it is difficult for many Members to give the time that is necessary to view and to make the decision on this very delicate matter. There are those who have argued persuasively that to go along with this resolution would promote danger to the United States. But after looking at the evidence, however, I have concluded that we should approve Senate Joint Resolution 238 which does support the agreement and sets forth certain reasonable conditions concerning the issuance of export licenses.

Mr. Speaker, I think this agreement is important in several respects. First, it is another step forward in our evolving political relationship with China. There are over a billion people in China and they are going to be an important force in the world. I think it is a good idea that we have a positive relationship with this large and important Asian power. I think it is also important that we have a positive relationship because China is an adversary of the Soviet Union. I think the world is a safer place because of our evolving relations with China. Second, the agreement offers substantial commercial opportunities. Obviously we should not enter into such an agreement solely for that purpose but if our other concerns can be met we certainly should not pass up these commercial possibilities. Finally, I am for this agreement because it is in our national security interest—in our nonproliferation interest.

I think it is very important that we have a constructive relationship with the Chinese on the nonproliferation issue. We have long since concluded that it is in our interest that the number of nations possessing nuclear weapons not grow. Prior to our discussions with the Chinese about their access to United States nuclear technology for peaceful purposes they did not share these views. I understand that they had gone on public record as being in favor of proliferation. I also know that they would export nuclear materials to other countries in a very careless fashion. And, we are all acquainted with the numerous stories concerning their relationship to the Pakistani nuclear weapons program.

I support this agreement because it has changed that Chinese attitude. The Chinese now say that they will not help any country acquire nuclear weapons. Whatever they were doing in this regard in the past there is now no evidence to contradict this statement. I think that is a very positive development. Furthermore, in their exports to nonnuclear weapons states they now require the application of IAEA safeguards. I think that is a very positive development. They have joined the IAEA. This is a positive development. And they have said that they are willing to discuss with the IAEA the application of safeguards to some of their facilities in China. This, too, is a positive development.

Mr. BONKER. Mr. Speaker, I yield 8 minutes to the gentleman from Ohio [Mr. FEIGHAN] who is a member of the Committee on Foreign Affairs and a member of the subcommittee of jurisdiction.

Mr. FEIGHAN. Mr. Speaker, I would first like to commend the efforts of our committee chairman, Mr. FASCELL, in bringing this resolution successfully to the floor, and for his leadership in the committee on this very important issue. I would also like to thank my colleagues Mr. SOLARZ, Mr. ROTH, and Mr. BONKER for their significant contributions in forging this resolution. Last, I think my friend and colleague from Michigan, Mr. WOLPE, deserves special recognition for his continued vigilance on the issue of nuclear nonproliferation, and for his thoughtful and sensible efforts to improve the nuclear cooperation agreement with China.

I regret that the hectic legislative calendar prevented consideration of this resolution earlier in the month. As many of you know, under existing law governing such agreements, our

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cially ended on Monday of this week. However, that restriction exists only for a resolution of disapproval. The resolution before us approves the agreement for cooperation, and places some restrictions on the granting of export licenses under the provisions of the agreement. Passage of this conditional approval is not subject to the limitations of the congressional review period. I hope this clears up some of the confusion surrounding the timing of this vote.

Mr. Speaker, I support passage of this resolution because I believe some steps must be taken to clarify the seriously ambiguous language of the agreement for cooperation. But even with the conditions in this resolution, we are left with a terribly flawed document which gives absolutely no indication of China's intentions toward the peaceful uses of our technology, nor of their commitment to nuclear nonproliferation.

Several weeks ago, I introduced a bill in cooperation with Senator JOHN GLENN, which I believe would have dramatically improved the agreement by establishing mutual understandings with the People's Republic of China on the issues of safeguards, reprocessing of fuel and nonproliferation. Proponents of the United States-China agreement contend that requiring specific assurances from the People's Republic of China on these issues would sabotage an important economic agreement. I would argue that if the People's Republic of China is so troublingly sensitive about putting their assurances in writing, perhaps we should not have signed this agreement in the first place.

When the Congress adopted the Nuclear Nonproliferation Act in 1978, we took a dramatic step toward furthering our commitment to arms control by ensuring that the United States would never willingly contribute to the proliferation of nuclear weapons. The NNPA established minimum guidelines for future agreements on the transfer of nuclear technology to other countries, including stringent assurances on such issues as safeguards for the peaceful use of traded technology, and our right to control the reprocessing or enrichment of fuel—processes directly tied to weapons development.

Surely we can all agree, as we did with the NNPA, that the world is safer and more stable with nuclear weapons in as few hands as possible. We can also agree that as world conflicts grow more complicated by violent, radical factions, and terrorism becomes a more sophisticated form of warfare, the need to protect nuclear weapons technology becomes increasingly profound. The possibility, even the probability of nuclear terrorism must not be ignored: Nuclear weaponry in the threat to peace much more substantial than an additional ICBM in a superpower arsenal.

So it is with tremendous concern that I read of reports which suggest that China, whose record on proliferation until very recently has been totally at odds with our own, may still be cooperating with the Governments of Pakistan and Iran in developing those countries' weapons capability.

It is true that China is already a weapons state. If the People's Republic of China wants to share that technology, they need not get the means from us. But it is equally true that our technology is the most advanced in the world, and our commitment is to prevent the proliferation of that technology. That must go beyond ensuring that we do not hand secrets over to nonweapon states. It means that we will neither aid, nor contribute to the proliferation of nuclear weapons, including adding to the technological knowledge of nations that violate that policy. It is my conviction that the nuclear cooperation agreement with China does not meet that commitment.

When we have it within our power to fashion language that will uphold our commitment to nonproliferation without jeopardizing a strengthening relationship with another nation, we have an obligation to do so. When negotiating the agreement for cooperation with the People's Republic of China, we capitulated on crucial points of safety and policy. The ambiguity of the final product, as a result, falls far short of meeting the intent of the law stated in the Nonproliferation Act.

The NNPA assumed that the United States would never enter into a nuclear agreement with another country without stringent safeguards. In fact, every other agreement of this kind that the United States has signed includes specific safeguards. The United States/China agreement has none, instead relying on further diplomatic discussions to work out mutually acceptable arrangements for information and visits. The NNPA guarantees prior consent rights to the United States on the reprocessing, enrichment, or alteration of nuclear materials. This agreement gives away that right by requiring the United States to consider such activities favorably. Finally, the NNPA requires that the United States not sell nuclear materials to any state found to be sharing nuclear technology, unsafeguarded, with nonweapon states. This agreement requires no formal commitment from the People's Republic of China on that score, relying primarily on a White House afterdinner toast of Premier Zhoa Ziyang that the People's Republic of China "does not engage in nuclear proliferation ourselves, nor do

ar weapons.

The control of nuclear weap
should not hinge on the clinking
glasses. The resolution before us ta
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consent on reprocessing without pr
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the applicability of United Sta
export laws to licenses reques
under this agreement.

Without such clarifications, I bel
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better to have a clear, mutual un
standing; this agreement remains
to different interpretation by the
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strengthen our resolve and un
standing at the outset will greatly
prove our position should differe
arise. That is what this resolution
do, and I urge my colleagues to
port its passage.

Mr. WOLPE. Mr. Speaker, will
gentleman yield to me?

Mr. FEIGHAN. I yield to the ge
man from Michigan.

Mr. WOLPE. I thank the gentle
for yielding.

Mr. Speaker, I rise really simpl
commend the gentleman on what
lieve to be an excellent statement
analysis of both the background
the reasons we are considering the
islation now before this body. I
want to pay tribute to the gentle
from Ohio for the leadership he
provided within the Committee
Foreign Affairs because it was his
islation that really sparked the de
and provided the initiative that le
this now dealing with the issue on
House floor. So I thank the gentle
for all of his efforts on this absolu
critical question.

Mr. FEIGHAN. I appreciate t
comments and as well thank the
tleman from Michigan who has
tributed several years to the very
sible and thoughtful involvemen
this issue.

Mr. Speaker, I yield back the
ance of my time.

Mr. ROTH. Mr. Speaker, I yi
minutes to my good friend the ge
man from California [Mr. LAGO
SINO].

Mr. LAGOMARSINO. Mr. Spe
I rise in support of Senate Joint
lution 238, approving the U
States-People's Republic of China
clear Cooperation Agreement. As
eral of my colleagues have al

supports nuclear nonproliferation.

The House Foreign Affairs Committee, on which I serve, as well as the Senate Foreign Relations Committee, have worked tirelessly to formulate this compromise language. Let's be clear about this, Senate Joint Resolution 238 goes a long way toward alleviating the concerns of those of us who felt that the wording of the agreement could have been better. By disapproving the resolution before us today, we would allow the agreement in its original form to take effect. The carefully worded language contained in the bill is far better than no restrictions at all. All of us should be able to agree with that, I believe.

Mr. Speaker, it also must be pointed out that, China could well proliferate if it so desired. This agreement specifically conditions United States involvement in the Chinese nuclear energy program on their nonproliferation record. Such involvement is a good idea, in my view. China is a nuclear weapons state. It could indeed, if it so desired, actually transfer nuclear weapons themselves.

In addition, the agreement merely insures that American firms have the opportunity to compete for the Chinese nuclear energy market. Why should we intentionally prevent United States companies from competing, thereby eliminating not only the business, but, more importantly any positive United States influence over Chinese proliferation policies.

In sum, Mr. Speaker, I urge my colleagues to support the compromise language before us today. It is certainly a step in the right direction.

☐ 1455

Mr. BONKER. Mr. Speaker, I yield 11 minutes to the gentleman from New York [Mr. McHugh].

Mr. McHUGH. Mr. Speaker, we have before us today a 30-year agreement for nuclear cooperation with the People's Republic of China. It is a significant agreement, controversial in many respects, but on balance deserving of our support. On behalf of the arms control and foreign policy caucus, which urged floor debate on this agreement because of its important implications for U.S. nuclear nonproliferation policy, I want to thank the House leadership as well as the distinguished chairman and ranking member of the Foreign Affairs Committee for bringing it to the floor. This agreement represents a major foreign policy decision with political and economic ramifications extending well into the next century.

Mr. Speaker, in recent years, the issue of nonproliferation has slipped from public and congressional attention. Our primary focus has understandably been on controlling the su-

agreement between President Reagan and Mr. Gorbachev in Geneva to accelerate negotiations on reducing our nuclear arsenals. At the same time, however, I believe that the potential spread of nuclear weapons throughout the world poses an equal if not greater danger to our national security and to international peace.

Earlier this year we commemorated the 40th anniversary of the first test, and subsequent use of a nuclear weapon. While primitive by today's standards, the bombs which fell on Hiroshima and Nagasaki killed over 100,000 people. The awesome power of these weapons has convinced us that they must never be used again.

Our Government's efforts to prevent the proliferation of nuclear weapons began almost immediately after the war. In 1946, Congress passed the Atomic Energy Act prohibiting the export of almost all nuclear equipment and technology. At the same time, U.S. leaders advocated international control over nuclear energy to be followed by the elimination of our own nuclear arsenal. This initiative failed and by 1949 the arms race had begun with the first Soviet test of a nuclear device. The United Kingdom joined the nuclear club 3 years later.

Not long thereafter, President Eisenhower proposed, in his atoms-for-peace address, to assist other nations in peaceful uses of nuclear energy under international inspection. Congress rewrote the Atomic Energy Act in 1954 to allow nuclear exports through cooperative agreements like the one before us today.

The International Atomic Energy Agency [IAEA] was established in 1957 with active U.S. participation and support. Yet the nuclear club continued to expand—France in 1960 and China in 1964—reviving concern about the spread of nuclear weapons. This concern is and has been shared by the Soviet Union which has generally played a constructive role in nonproliferation efforts. One major, concrete result of the multilateral efforts to prevent the future spread of nuclear weapons was the Nuclear Non-Proliferation Treaty, or NPT, which took effect in 1970. The NPT commits member states without nuclear weapons not to acquire them and those with nuclear weapons not to help others acquire them.

The NPT has been aptly described as the keystone of the nuclear nonproliferation regime. In several respects, it has been one of the most successful arms control agreements of our time. Over two-thirds of the world's nations are party to it. Since it became effective, no new nation has declared its membership in the nuclear club. Fifteen years of IAEA inspections have detected no evidence of nuclear mate-

shaken by India's 1974 test of a nuclear device, Congress established strict new conditions on nuclear exports and cooperation in the Nuclear Non-Proliferation Act of 1978.

The weakness of the nonproliferation regime established by the NPT is that it does not go far enough. Six weeks ago, members of the arms control and foreign policy caucus heard the distinguished Director General of the IAEA, Dr. Hans Blix, explain some of the limitations of IAEA safeguards and the excessive expectations that have at times been generated by the work of the Agency. He and other experts in the nuclear field have voiced concern, for example, about growing stockpiles of weapons-usable plutonium around the world.

It is also significant, Mr. Speaker, that the NPT is not universally supported. A number of states believed to be on the threshold of acquiring nuclear weapons are not parties, including Argentina, Brazil, India, Israel, Pakistan, and South Africa. Moreover, while three of the five nuclear weapons states have signed the NPT, two have not. France has not signed but said that it would act as though it had. The other member of the nuclear club that has not signed the NPT is the People's Republic of China.

The nuclear cooperation agreement before us is the culmination of over 4 years of talks with that Chinese Government. While recognizing China's special status as a nuclear weapons state, we must also recognize China's poor record on nuclear nonproliferation. Until recently, Chinese leaders went so far as to advocate the proliferation of nuclear weapons as a way of breaking the superpowers' monopoly over them. Admittedly, many of these positions were taken during the upheaval of the cultural revolution and even then China's actions were more restrained than its words. Nevertheless, there are persistent reports from multiple sources that China has in the past carried on unsafeguarded nuclear trade with threshold nuclear weapons states that have been the target of United States nonproliferation efforts: Argentina, India, Pakistan, and South Africa.

We are now told by the administration that China's nonproliferation policy has evolved to a more constructive position. We have heard Chinese Premier Zhao's 1984 statement, repeated with some regularity, that China does not "engage in nuclear proliferation ourselves, nor do we help other countries to develop nuclear weapons." Yet the agreement before us fails to include any explicit, written assurances of China's commitment to nonproliferation. The Chinese reportedly refused to allow such language

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into the agreement. We are told by the administration that some of these assurances may be found in a secret State Department document entitled "United States Summary of Discussions." Yet this summary of discussions is a United States record, which the Chinese did not help write and did not sign.

Mr. Speaker, as much as I am concerned about the nonproliferation issue, I nevertheless believe that our relations with a nation as important as China should not rest on any single issue. There are other political, strategic, and economic considerations to weigh as well. Our Nation has a long-term interest in strengthening its ties with China. The administration argues that this agreement is likely to have a significant, positive effect on United States-Chinese relations across the board. It maintains, for example, that China's market offers real opportunities for United States industry. This is certainly relevant to our interests. At the same time, however, we should not sacrifice our nonproleferation goals while pursuing other legitimate objectives.

There are some encouraging developments in China's nonproliferation stance over the past 2 years. China joined the IAEA and has announced that it will apply IAEA safeguards to its nuclear exports to nonweapon states. In addition, China recently announced that it would be placing some of its civilian nuclear plants under IAEA safeguards. Yet, despite this progress, China remains weak on nonproliferation when compared to other nuclear suppliers.

If China were a signatory of the NPT, I believe that fewer concerns would have been raised about this nuclear cooperation agreement. Short of signing the NPT, the Chinese Government could have issued a clear and unambiguous public statement of its nonproliferation policy. Unfortunately, the Chinese Government has done neither of these things and, as a consequence, the agreement has been the source of some controversy both within Congress and without. For this reason, the authorizing committees of both Houses have found it necessary to report out resolutions of approval which attach conditions to this agreement of cooperation.

I believe the conditions attached by the authorizing committees are the minimum necessary to make the agreement acceptable. I and several other Members would have preferred to see stronger language. As a practical matter, however, we do not now have that option, and, on balance, I think the agreement should be approved.

One of the most significant conditions incorporated by the committees in this joint resolution is one which precludes any transfer of nuclear materials until the President has submitted to the appropriate officers of the House and Senate a report "detailing the history and current developments in the nonproliferation policies and practices of the People's Republic of China."

Mr. Speaker, I wish to engage in a colloquy at this time with the manager of the resolution, the distinguished chairman of the International Trade Subcommittee [Mr. Bonker], regarding the Presidential report required by subsection (b)(2) of the joint resolution.

Mr. Speaker, is it the committee's intention that this report be both specific and comprehensive in reviewing China's nonproliferation policies and practices?

Mr. BONKER. The gentleman is correct. The resolution does provide for a report under section (b)(2) that requires detailed information on the history and current developments in the PRC's nonproliferation policies and practices.

Mr. McHUGH. For instance, China has allegedly carried on nuclear trade with certain threshold nuclear weapons states that have not signed the Treaty on the Non-Proliferation of Nuclear Weapons [NPT], including Argentina, India, Pakistan, and South Africa.

Mr. Speaker, is it the committee's intention that the President's report address in specific terms Chinese proliferation-related activities with these and other states that have not signed the NPT?

Mr. BONKER. The gentleman is correct.

Mr. McHUGH. Is it also correct that the report must cover Chinese proliferation-related activities with those states that have signed the NPT, but that are thought to be interested in acquiring nuclear weapons, such as Iran, Iraq, and Libya?

Mr. BONKER. The gentleman is correct.

Mr. McHUGH. Mr. Speaker, is it also correct that the committee intends that this Presidential report be both comprehensive and substantive, that is, that it set forth a thorough review of Chinese policies and practices, rather than a summary, and, further, that it include an evaluation of those policies and practices in addition to describing them.

Mr. BONKER. It is the committee's intention that the executive branch will provide both the Senate Foreign Relations Committee and the House Foreign Affairs Committee a detailed report on China's nuclear proliferation policies.

Mr. BURTON of Indiana. Mr. Speaker, will the gentleman yield on that point?

Mr. McHUGH. I will yield briefly to the gentleman.

Mr. BURTON of Indiana. The q
tion I would like to address to
chairman, if the gentleman does
mind, is: Does the language in the
spell out that the Chinese cannot
this technology to other Third W
countries? Does it spell it out spe
cally?

Mr. BONKER. The resolution is
several pages, and it is available
the gentleman to read. It does pro
for a certification process on cer
conditions that must be met be
the President will issue an expor
cense.

Further, it provides for a report
must be submitted to the Congress
tailing its history and current pol
with respect to its intentions.

Mr. McHUGH. Mr. Speaker, I w
to thank the distinguished chair
of the subcommittee for clarif
these points.

I earnestly hope that the Ho
debate and vote on the pending co
tional resolution of approval will
strong messages both to the adm
tration and to the Chinese Gov
ment. The first message is that a
jority in Congress continues to
port strengthened ties with the
ple's Republic of China. Second, th
is deep concern among Member
Congress about several of the ag
ment's specific provisions and a
China's nonproliferation policies
general. Third, there is a sense of
gress that nuclear cooperation
China will lead to further impr
ments in its nonproliferation poli
Fourth, there is an expectation
this and succeeding administrat
will closely monitor China's nonpr
eration practices in the future.
fifth, a majority of both Cham
expect this and succeeding admini
tions to take an active role in brin
China more firmly into the nonpr
eration regime.

This is the basis upon which I
many other Members of the House
voting in favor of the nuclear coop
tion agreement with China. We
intend to follow closely the mann
which the administration meets
various certification and reportin
quirements established by the c
tional resolution of approval. Th
you.

Mr. ROTH. Mr. Speaker, I yie
minutes to the gentlewoman
Tennessee [Mrs. Lloyd].

Mrs. LLOYD. Mr. Speaker, I ris
speak today in support of this re
tion. I am sorry that the rule dic
allow for a meaningful dialog on
amendments that were attached t
continuing resolution and w
impact this resolution.

I have been a strong support
our Nation's nuclear nonprolifera
objectives. At the same time, how
I have great concern about the
mendous amount of nuclear ex

business that we have lost over the years due to the uncertain nonproliferation policies of the previous administration. I would like to see the United States regain some amount of this nuclear export business and to once again become a credible supplier while achieving meaningful nonproliferation goals.

The agreement with the People's Republic of China, which was signed this past summer, opens the door a little wider to international trade and cooperation; and the provisions of this resolution provide a meaningful means of monitoring these activities to assure that our nuclear exports are used for peaceful purposes only.

Senate Joint Resolution 238 requires the President to certify to Congress that adequate safeguards are in place before export licenses can be issued, and it also requires a 30-day waiting period before any license can be issued or before a request for reprocessing can be approved. I believe that these two requirements strengthen the provisions of the original agreement while permitting our two nations to pursue peaceful nuclear cooperation in a good-faith manner.

Now, I recognize the concerns, Mr. Speaker, that exist among some of my colleagues regarding the possible link between export of nuclear technology and the potential for proliferation of nuclear weapons. It is a valid concern and one that should not be ignored. However, I have great confidence in the ability of the President, the Departments of Energy and State, and others, to adequately review export applications for nuclear technology shipments or transfer to China in the context of that country's nonproliferation policies and practices, particularly its recent assurances that it will not assist nonnuclear weapons states to develop nuclear arms and has terminated aid to Pakistan.

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Mr. Speaker, historical record indicates that no nation has yet developed nuclear weapons from materials diverted from a civilian nuclear powerplant. In addition, for each of the five nuclear weapons states (which, of course, includes China), the explosion of their first nuclear weapon preceded the operation of their first prototype commercial powerplant.

I believe that if this Nation is to maintain a major leadership role in the nuclear proliferation arena, we must adopt a genuinely selective approach which distinguishes real proliferation risks. Constructive bilateral cooperation, not technology denial, should be the main thrust of our nonproliferation policy. I believe that the agreement with China, as enhanced by the conditions in this resolution, provides just such a selective approach. I, also, believe that increasing our activities as a nuclear supplier will lead to increasing opportunities for the United States to once again influence policies within the international community on nonproliferation matters.

Mr. BONKER. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. Torres].

Mr. TORRES. I thank the gentleman for yielding me this time.

Mr. Speaker, I would first like to thank the distinguished chairman of the Subcommittee on International Economic Policy and Trade [Mr. Bonker] for allowing me a few minutes to address the critical issues of nuclear nonproliferation and national security. I want to add my voice to those of my colleagues who remain troubled by the impending approval of the proposed Agreement for Nuclear Cooperation with China.

Mr. Speaker, the concern over this issue transcends the confines of the U.S. Congress. It reaches deep into the American public. When I send out newsletters to my constituents, the issue on which I receive the most responses is Social Security. The issue on which I receive the second most mail is the issue which we are debating today, the selling of nuclear technology to China. This issue really touches a nerve with my constituents. They overwhelmingly do not want Congress to approve this agreement.

The House, in deferring consideration of international treaties of this nature to the other body first, has perhaps lost our chance to attach more stringent conditions. The conditions which the other body has added to the agreement are an improvement over the original. China must provide additional information on its policies for avoiding the spread of nuclear weapons. Sufficient safeguards are required to ensure that the nuclear materials are used only for peaceful purposes.

However, if I had my way, I would have placed even more restrictions on this agreement. In the absence of a measure that contains stronger safeguards, it is better that the compromise resolution be approved, even with its shortcomings, than for the original agreement, totally void of conditions, to be implemented. That is what will happen if we fail to approve this resolution.

Under these circumstances, I will be supporting the resolution before us. I am counting on receiving from the Chinese the necessary assurances that this agreement represents a peaceful accord.

Mr. BONKER. Mr. Speaker, I yield 2 minutes to the gentleman from Washington [Mr. Swift].

Mr. SWIFT. I thank the gentleman for yielding me this time.

Mr. Speaker, I want to commend the gentleman from Washington on the tremendous leadership he has given on a wide variety of trade issues, and particularly on the ratification of this measure.

A rejection of this at the present time by the United States would seem to me to be interpreted by the Chinese as an affront at a time in which they are trying very hard to join the responsible nations of the world in dealing with nuclear power.

It seems to me that it is exactly the wrong kind of an approach; that in fact nurturing the actions that they have already taken to join the nations that are approaching responsibly the use of nuclear power is a better policy for the United States. China, for example, has joined the International Atomic Energy Agency, which was established to regulate and monitor nuclear energy among nations.

Mr. Speaker, I rise in support of the resolution to approve the Agreement for Nuclear Energy Cooperation between the United States and the People's Republic of China. The agreement represents an important step in normalizing our relationship with China and will allow United States firms to compete with nuclear suppliers from several other nations for sales in China.

As chairman of the Special Trade Subcommittee of the Energy and Commerce Committee, I have presided over two hearings that examined in detail the factors related to proposed nuclear energy cooperation with China. In addition, the Office of Technology Assessment and the Law Library of Congress prepared reports for the subcommittee analyzing the potential risks and benefits of such cooperation.

These hearings and reports produced a general consensus on several issues.

First, China has had nuclear technology since 1964. With the emergence of Deng Xiaoping and his ambitious plans to bring China into the modern world, the Chinese have been committed to development of civilian nuclear energy to help meet chronic energy shortages.

China's factories operate well below capacity largely because of energy constraints. China needs about 20 percent more power than it has now, and recent gains from conservation will not continue to support the planned economic growth rates. China has a great need for increased energy output in urban coastal areas, while China's great energy resources are largely located far inland. The geographic remoteness of hydropower projects and inefficient and inadequate road and rail transport systems for fossil fuels, make alternative energy sources like nuclear energy vital in meeting China's energy needs.

Second, in the past several years, China also has committed to—and

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taken important steps to implement—a strong nonproliferation policy.

China has joined the International Atomic Energy Agency [IAEA], which was established to regulate and monitor nuclear energy commerce among nations. As a reflection of its role and responsibilities for nonproliferation, China also sits on the Agency's Board of Governors. China has agreed to apply IAEA safeguards on its nuclear exports to nonnuclear weapons states. Recently, China has also agreed in principle to allow IAEA inspections on selected Chinese facilities, just as the United States allows such inspections.

The Chinese Government's formal policy of nonproliferation was submitted to the National People's Congress earlier this year and was ratified by an overwhelming vote. Thus, China's policy in this area is no longer a simple verbal pledge, but has become part of Chinese national law.

Finally, the subcommittee hearings and reports made perfectly clear that, regardless of whether United States cooperation is permitted, China will still obtain the most advanced technologies from other supplier nations.

France, West Germany, Japan, Great Britain, Italy, and Brazil are all ready to sell nuclear energy technology to China under bilateral agreements. The Chinese have been talking for several years with the French as the supplier for their first project, which would provide some power for Hong Kong under the terms of a joint venture agreement. Although the French, with British participation, will likely win this first contract, United States firms could still compete for an additional eight reactors currently planned.

The U.S. industry estimates that one reactor sale will provide $1 billion in revenue and 5,000 U.S. jobs in 35 States over 5 or 6 years. If United States firms are not allowed to work directly with the Chinese, they will turn to their foreign subsidiaries to supply China's needs.

The opportunities for access to the Chinese market—and the resulting opportunity to influence Chinese nuclear policy—may only be available for the next several years. Industry witnesses told the subcommittee that existing Chinese mastery of the full cycle could be combined with acquired skills in reactor manufacturing and operation to produce a self-sufficient industry in 15 years. Without United States participation in a developing Chinese nuclear power industry, we will be far less able to influence future policies and practices relating to nonproliferation.

The benefits for the United States in agreeing to nuclear energy cooperation with China are numerous: expanded trade opportunities, improved United States-China relations, and opportunities to influence China's nuclear policies and to encourage observance of the international nonproliferation regime. Cooperation will also allow for increased availability of energy for China's growing domestic needs.

The resolution before us clarifies and improves the nonproliferation responsibilities required by the Agreement. I applaud the leadership of the Foreign Affairs Committee for firmly addressing these issues. I urge my colleagues to vote in favor of the resolution so that cooperation may begin and the resulting benefits for the United States and China can be realized.

To reject this proposal at this time is to simply fly in the face of the recent history that demonstrates very clearly that this Nation, which already has nuclear power in a weapons form, for a nation that is trying very hard to develop its ability and demonstrates its willingness to follow the procedures that the other nuclear nations in the world are following.

It is for that reason primarily, and because I also believe that this treaty has been worked out with considerable care and in its present form is totally acceptable. I would strongly urge all of my collegues to vote for and support this legislation.

Mr. ROTH. Mr. Speaker, I yield myself such time as I may consume. Mr. Speaker, I have no further requests for time on this side. I merely wish to say that we can and do appreciate the arguments of those who have expressed misgivings about this resolution. This resolution, like any other piece of legislation we consider here in the House, involves many value judgments. I think that on balance this is a very good resolution. It is good for our government and good for our country.

We should also underscore that we must be always vigilant and exercise continuous oversight in this particular area. Nuclear technology can be a boon or a real monster for our world and our children and their future. Eternal vigilance is not a cliche in this matter; it is of the highest priority. I have confidence in this House. For that reason, I am very much in favor of this particular resolution.

I have confidence that this House will continuously exercise the appropriate oversight. If the other Members have confidence in this body and in this House, then I think that they will all vote in the affirmative on this resolution.

Mr. BONKER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as we wind down debate on this resolution, I would like to remind my colleagues of several key points that have been made throughout the debate.

No. 1, a vote on this resolution has no effect on the agreement going into force. True, it is a resolution of approval, but it also imposes firm con
tions before a single export license
be issued. I think when you consi
the adequate safeguards and prior c
sent rights that are inherent in
conditions of the resolution, it will
tually strengthen the agreement.

No. 2, the agreement meets all
U.S. statutory requirements on n
proliferation, and this has been
firmed by the Nuclear Regulat
Commission.

No. 3, the United States reserves
right to terminate all nuclear coope
tion with the PRC if that country
lates the terms of the agreement.

No. 4, the agreement commits
People's Republic of China to peac
use of nuclear energy and it advar
our nonproliferation goals. So w
there are obvious differences t
have been expressed here this af
noon over the agreement, and th
are even legitimate questions ab
China's past policies and perhaps s
of its current motives, I believe t
the resolution before us is a posi
that we can all support because
being implemented it will have
effect of enhancing our nonprolif
tion goals.

I urge all our colleagues to sup
the resolution. Mr. Speaker, I y
back the remainder of my time.

Mr. WEISS. Mr. Speaker, it is the du
this Nation and other nuclear wea
states to prevent the spread of nu
weapons. If we do not, we speed the
when a nuclear device will once agai
used for a hostile purpose. The more n
ar triggers exists, the more likely it is
someone will pull one.

It is for this reason that we passed
Nuclear Non-Proliferation Act of
[NNPA]. This act, which amended
Atomic Energy Act, contains a serie
specific criteria which must be met b
we transfer nuclear technology and ma
als to other nations. It was painstak
developed to prevent nuclear weapons
spreading to less responsible nation
falling into the hands of terrorists.

But in the case of the pending agree
for nuclear cooperation with China,
apparent that important provisions o
NNPA have not been upheld.

The NNPA requires a guarantee
safeguards will be maintained for all n
ar materials and equipment exported
the proposed United States-China a
ment speaks only of "exchanges of i
mation" and "visits," not of any sp
safeguards.

The NNPA also requires that U.S
plied nuclear material not be reproc
or enriched without our prior consent
the proposed agreement speaks of no
but future consultations between ou
tions on this subject, with an obligati
consider such activities favorably.

Moreover, specific assurance on nu
nonproliferation are conspicuously a
from the proposed agreement.

These omissions should never have been allowed in any agreement for nuclear cooperation. But they are even more frightening when one considers that the potential customer for our nuclear goods, the People's Republic of China, has one of the world's worst records in the area of proliferation.

Until recently, the Chinese openly advocated the proliferation of nuclear weapons. They also refused to join the Intetnational Atomic Energy Agency [IAEA] or comply with its safeguards.

Many claim that the Chinese posture has significantly improved in the last few years. The People's Republic of China has now joined the IAEA and agreed to apply safeguards to certain of their nuclear exports. And they have given private and public assurance to the Reagan administration that they no longer support the proliferation of nuclear weapons.

However, these actions—while positive—are not enough. The Chinese still refuse to sign the Non-Proliferation Treaty, and they have refused to offer any written assurances of their commitment to nonproliferation. In fact, the inconsistent statements of top Chinese officials have created significant uncertainty as to what their official policy really is. Most distrubing of all are the continued reports that the Chinese have shared nuclear technology with such nations as Brazil, Argentina, Pakistan, South Africa, and Iran.

In this time of heightened nuclear risk and widespread terrorist activities, a toast at a White House dinner cannot substitute for a written treaty obligation. The ambiguities and omissions in the United States-China nuclear cooperation agreement will not only likely lead to minsunderstandings with the Chinese, but they may undermine the entire nuclear nonproliferation regime that has been painstakingly developed by this Congress in recent years. If we do not hold the People's Republic of China—with its poor record on proliferation—to the highest standards, it will be much more difficult to hold other nations to compliance with these standards.

The foreign relations panels in both bodies have seen fit to attach a series of conditions to the resolution approving the United States-China nuclear pact, rather than allowing it to proceed without question. While I share the views of many other members of the Foreign Affairs Committee that the proposed conditions are not sufficient and that much stronger language would have been preferable in the body of the pact itself, I believe it is highly important that this Congress act in some way to express concern about the inadequacies of the proposed agreement.

The identical resolutions approved by the foreign relations panels would approve the nuclear cooperation agreement, but they would prohibit the licensing of any nuclear exports to China until four basic conditions are met.

First, the President is required to report to the Congress on the history and current status of China's nonproliferation policy. Second, the President must certify that China has provided additional information on its nonproliferation policies and that China has not engaged in proliferation-related activities since passage of the Nuclear Non-Proliferation Act in 1978. Third, the President must certify that the safeguards called for in the agreement have been effectively designed to prevent the diversion of nuclear materials or technology to the development of nuclear weapons. And finally, the President must certify that the agreement's language that suggests an obligation on the part of the United States to favorably consider reprocessing requests will not prejudice our decisions on these matters.

Further, the resolution reaffirms that nuclear materials and technology exported under the agreement will be subject to all U.S. laws and regulations in effect at the time of export. And it states that the China agreement should not be regarded as a precedent in the negotiation or renegotiation of any other nuclear cooperation agreement.

The certifications required by the pending resolution amount to unilateral actions on the part of the United States. They in no way bind the People's Republic of China to the same interpretations of the nuclear cooperation agreement. And for this reason, they fall far short of what would be required to make this agreement fully acceptable.

However, the allotted period for congressional review and action on this agreement has come to a close. The other body has acted to attach the aforementioned conditions to the agreement. Though many of us prefer that much more stringent conditions—such as the language drafted by Representatives FEIGHAN and WOLPE—be adopted, we have no assurance that the other body will meet us in conference on this matter. At this time, the House can only choose one of two paths: Unconditioned approval of the nuclear pact as is, or approval of the current resolution containing some conditions and clarifications of the agreement.

I believe that the latter course, though it does very little to rectify the serious inadequacies of the United States-China pact, is the more prudent course. Congress would be seriously remiss if it allowed this agreement to go forward without any conditions on its provisions. And the conditions contained in the current resolution, while they are not as comprehensive as they should have been, are better than nothing. The House should approve the resolution.

Mr. UDALL. Mr. Speaker, I rise in support of Senate Joint Resolution 238, but with great concern about allowing the United States-China nuclear agreement to be implemented without significant clarifications.

Specifically, I believe that in both tone and substance the proposed agreement does not adequately safeguard against nuclear proliferation. Recent agreements with Sweden, Finland, and Norway contained statements of commitment to nonproliferation, but the preamble to this proposed agreement speaks only of "the desire to establish cooperation."

I am especially concerned about compliance with the nonproliferation provisions of the Atomic Energy Act of 1954, as amended by the Nuclear Non-Proliferation Act of 1978. Section 123(a)(1) of the Atomic Energy Act, as amended, requires that safeguards be maintained for all exported nuclear materials and equipment, but the proposed agreement states that safeguards against weapons use are not required, since both parties are nuclear weapons states.

Section 123(a)(7) of the Atomic Energy Act also calls for a guarantee that no nuclear material transferred to another country will be reprocessed without prior approval. But article 5 of the proposed agreement with China does nothing to secure such a guarantee. Section 5(2), in fact, implies prior consent by obligating the United States to consider such activities favorably and to carry out reprocessing consultations without delay or undue interference.

The proposed agreement also lacks the safeguard provisions described in the assessment conducted by the Arms Control and Disarmament Agency. The Agency said the agreement would establish the right for the United States to visit sites covered by the agreement, but no such right is spelled out in article 8. And while the ACDA assessment anticipates frequent consultations, the proposed agreement contains no such guarantees.

This resolution has been improved by the adoption of the amendments of the other body. That language requires the President to certify that the unspecified reciprocal safeguards envisioned in article 8 are actually in place before any materials or equipment are actually transferred. Such transfers will also not take place until the President has submitted to both Houses of Congress a report detailing the nonproliferation policies and practices of the People's Republic of China. Even with these additional provisions, the required certifications are still nothing more than unilateral assertions by the United States.

These clarifications are important, but the proposed agreement still leaves serious questions about safeguards and about China's nonproliferation policies. I support the resolution that is before us today, but I hope that Congress will continue to monitor the China nuclear agreement, especially those provisions which are vague and ambiguous.

I think it is important to expand trade and commerce with the People's Republic of China. But such trade must not come at the expense of our nonproliferation policy.

Mr. OBERSTAR. Mr. Speaker, when Richard Nixon opened the rusty door blocking United States-China diplomatic relations, I sighed a hesitant breath of relief because although we were significantly more secure in the knowledge of a major new ally, the fact remained that the Chinese Government adheres to a totally different political philosophy than the United States.

I have been encouraged by the cultural and technological exchanges made between the two nations over the past decade. The

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Chinese possess an appreciation and love of beauty that is to be commended. With each new exchange we understand our friends a little better. But like any courtship, only time will tell if China is trustworthy enough to merit possession of our secrets.

Mr. Speaker, I was stunned to learn that President Reagan negotiated an agreement for nuclear cooperation during his visit to China last April. What is even more shocking are the terms of that agreement, which raised more questions than answers.

The President has, in effect, given a glass slipper to the stepsister who claimed ownership.

Under the provisions of this agreement, China will be required to follow extremely minimal terms of adherence. The two nations will engage in nuclear cooperation, primarily through the export of United States technology to China.

In exchange, China has pledged to use this technology for previously agreed upon purposes, including a pledge not to apply the information to military advancement, and not to transfer this technology to other nations without United States consent.

And China has no one to account to but themselves. China is not in agreement with the Nonproliferation Treaty, and has yet to exercise the voluntary guidelines adhered to by nuclear nations that impose some common conditions.

Past history indicates that China has exchanged nuclear technology with Pakistan and possibly Argentina and South Africa.

Mr. Speaker, no one would welcome the sale of information to China more than I, if the agreement was without suspicion. The implications for United States-China nuclear market are astonishing. Some estimate that China may construct $20 billion in nuclear powerplants. Future contracts for technical assistance, replacement parts and fabricated fuel are incalculable. But nuclear technology cannot be measured in dollars and sense.

China's unwillingness to adhere to an international standard as important as the Nonproliferation Treaty makes me skeptical about the righteousness of such a major exchange. Nuclear technology cannot be shared and then taken away if its possessor is deemed undesirable.

Before we commit what may be a tragic mistake, we must demand answers from China of some very pertinent and applicable questions.

Mr. APPLEGATE. Mr. Speaker, I rise in opposition to this resolution. Mr. Speaker, I feel that we must proceed carefully on the agreement that the White House has made with China. I would like to appeal to the sense of the House that even this resolution does not go far enough in providing the essential safeguards to prevent the proliferation of nuclear weaponry.

First of all, there are no enforcement provisions in this resolution, nothing that will assure the American people and all free people throughout the world that the spread of nuclear weaponry can be checked. There are no guarantees in the President's agreement and nothing can convince me that the Chinese Government can be trusted in this important matter.

I have expressed my concerns over this agreement to the President and I want to convey to my colleagues the concerns that I have as we debate this resolution. There is absolutely no need for the House to follow the other body in rushing through this legislation.

Mr. NEAL. Mr. Speaker, I rise to express my reluctant support of this resolution. I remain opposed to the administration's ill-considered nuclear sale agreement with the People's Republic of China. I will vote for this resolution only because it would place at least some restraints on the administration's ability to carry out the agreement. Under the resolution, the administration is required to furnish Congress with more evidence that China will not violate United States nuclear nonproliferation law. This may not be very reassuring, but failure to pass this resolution would concede the administration greater discretion in allowing the sale of nuclear materials and technology.

Mr. Speaker, Chairman FASCELL and others involved in developing this resolution should be commended for their efforts to improve the administration's nuclear sale agreement with Communist China. I would have preferred, however, that Members been given the opportunity to vote down the agreement, instead of being presented with a resolution of conditional approval. In my view, the agreement with China does not comply with the spirit of United States nuclear nonproliferation law. China is not a signatory of the International Treaty of Nonproliferation of nuclear weapons, and in the past has scorned efforts to contain the spread of nuclear weapons.

It is astonishing, Mr. Speaker, that despite the President's past criticisms of the Communist Chinese and in view of warnings from our intelligence community that China has provided nuclear assistance to Iran and Pakistan, the administration would accept only verbal assurances from Chinese officials that United States provided materials and technology would not be transferred to third parties. Moreover, while the administration correctly demands that future agreements with the Soviet Union be verifiable, this agreement contains no such language. Why do we seem to have two very different standards for judging the actions and commitments of these two Communist dictatorships?

This leads to another important question that begs answering, Mr. Speaker. Why is the administration following such a cavalier policy toward Communist China? The State Department looks the other way when China violates international norms of behavior by advocating development of nuclear capabilities by Third World countries. There is scant criticism of violations of basic human rights, such as when China imprisons priests and lay people for religious beliefs and activities. And the administration threatens veto of legislation designed to fight unfair trade practices by China against our textile industry.

Certainly, the Chinese Government un Deng Shao Ping has been more mode in its domestic and foreign policies t was China under Mao. But China is n constitutional democracy, ruled by The current leadership could be gone morrow and a more radical Maoist reg could gain control. In my view, we sh use greater discretion in dealing with a government.

This agreement in its present form mistake, Mr. Speaker. I am opposed and I am afraid this resolution is i equate. However, since it is the only a native to the administrations ill-advised proach and an improvement over it, I support it.

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The SPEAKER pro tempore. time has expired.

Pursuant to the provisions of Ho Resolution 333, the previous ques is ordered.

The question is on the third rea of the Senate joint resolution.

The Senate joint resolution was dered to be read a third time, and read the third time.

The SPEAKER pro tempore. question is on the passage of Senate joint resolution.

MOTION TO RECOMMIT OFFERED BY MR. BU OF INDIANA

Mr. BURTON of Indiana. Speaker, I offer a motion to recom

The SPEAKER pro tempore. Is gentleman opposed to the Senate resolution?

Mr. BURTON of Indiana. I am, Speaker.

The SPEAKER pro tempore. Clerk will report the motion to re mit.

The Clerk read as follows:

> Mr. Burton of Indiana moves to reco the Senate joint resolution (S.J. Res. 2 the Committee on Foreign Affairs.

The SPEAKER pro tempore. W out objection, the previous questi ordered on the motion to recommi

There was no objection.

The SPEAKER pro tempore. question is on the motion to recon

The motion to recommit was re ed.

The SPEAKER pro tempore. question is on the passage of Senate joint resolution.

The question was taken; and Speaker pro tempore announced the ayes appeared to have it.

Mr. BURTON of Indiana. Speaker, I object to the vote or ground that a quorum is not pr and make the point of order th quorum is not present.

The SPEAKER pro tempore. dently a quorum is not present.

The Sergeant at Arms will n absent Members.

The vote was taken by elect device, and there were—yeas 307, 112, answered "present" 1, not voting 14, as follows:

[Roll No. 451]

YEAS—307

Ackerman
Addabbo
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Archer
Aspin
Atkins
AuCoin
Badham
Barnard
Barton
Bateman
Bates
Bedell
Beilenson
Bereuter
Berman
Bevill
Biaggi
Bliley
Boehlert
Boggs
Boland
Bonior (MI)
Bonker
Borski
Boucher
Breaux
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Burton (CA)
Bustamante
Byron
Carney
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clay
Clinger
Coelho
Coleman (MO)
Coleman (TX)
Collins
Conte
Conyers
Cooper
Coughlin
Coyne
Crockett
Dannemeyer
Darden
Daschle
Daub
de la Garza
Dellums
Derrick
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dowdy
Downey
Duncan
Durbin
Dwyer
Dymally
Early
Eckart (OH)
Edgar
Edwards (CA)
Edwards (OK)
Erdreich
Evans (IA)
Evans (IL)
Fascell
Fawell
Fazio
Feighan
Fiedler
Fields
Fish
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Fowler
Frank
Franklin
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gordon
Gradison
Gray (IL)
Gray (PA)
Green
Grotberg
Guarini
Gunderson
Hall (OH)
Hamilton
Hammerschmidt
Hatcher
Hawkins
Hayes
Heftel
Henry
Hertel
Hiler
Hillis
Holt
Hopkins
Horton
Howard
Hoyer
Huckaby
Hughes
Ireland
Johnson
Jones (NC)
Jones (TN)
Kanjorski
Kaptur
Kastenmeier
Kennelly
Kildee
Kindness
Kleczka
Kolbe
Kolter
Kostmayer
LaFalce
Lagomarsino
Lantos
Leach (IA)
Lehman (CA)
Leland
Lent
Levin (MI)
Lightfoot
Livingston
Lloyd
Long
Lowry (WA)
Lundine
Lungren
MacKay
Madigan
Manton
Markey
Martin (IL)
Martinez
Matsui
Mavroules
Mazzoli
McCain
McCandless
McCollum
McCurdy
McDade
McGrath
McHugh
McKernan
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mitchell
Moakley
Molinari
Mollohan
Montgomery
Moody
Moore
Morrison (CT)
Mrazek
Murphy
Murtha
Myers
Natcher
Neal
Nielson
Nowak
O'Brien
Oakar
Oberstar
Obey
Olin
Ortiz
Oxley
Parris
Pease
Penny
Pepper
Perkins
Petri
Pickle
Pursell
Quillen
Rangel
Ray
Regula
Reid
Richardson
Ridge
Ritter
Roberts
Rodino
Roe
Roemer
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Rudd
Russo
Sabo
Savage
Saxton
Scheuer
Schneider
Schulze
Schumer
Seiberling
Sharp
Shaw
Shelby
Sikorski
Sisisky
Slattery
Smith (FL)
Smith (IA)
Smith (NE)
Snowe
Solarz
Spratt
St Germain
Stallings
Stark
Stokes
Stratton
Studds
Stump
Swift
Synar
Tallon
Tauke
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traxler
Udall
Vander Jagt
Vento
Visclosky
Volkmer
Walgren
Waxman
Weaver
Weiss
Wheat
Whitehurst
Whitley
Whittaker
Whitten
Wilson
Wirth
Wise
Wolf
Wolpe
Wright
Wyden
Wylie
Yatron
Young (AK)
Young (FL)
Young (MO)
Zschau

NAYS—112

Applegate
Armey
Barnes
Bartlett
Bennett
Bentley
Boner (TN)
Bosco
Boulter
Boxer
Broyhill
Burton (IN)
Callahan
Campbell
Coats
Cobey
Coble
Combest
Courter
Craig
Crane
Daniel
DeLay
DeWine
Dorgan (ND)
Dornan (CA)
Dreier
Dyson
Eckert (NY)
Emerson
English
Gallo
Gejdenson
Gonzalez
Goodling
Gregg
Hall, Ralph
Hansen
Hartnett
Hefner
Hendon
Hubbard
Hunter
Hutto
Hyde
Jacobs
Jenkins
Jones (OK)
Kasich
Kramer
Latta
Leath (TX)
Levine (CA)
Lewis (CA)
Lipinski
Loeffler
Lott
Lowery (CA)
Lujan
Luken
Mack
Marlenee
Martin (NY)
McCloskey
McEwen
McMillan
Meyers
Mikulski
Monson
Moorhead
Nichols
Packard
Panetta
Pashayan
Rahall
Rinaldo
Robinson
Schaefer
Schroeder
Schuette
Sensenbrenner
Shumway
Shuster
Siljander
Skeen
Skelton
Slaughter
Smith (NJ)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snyder
Solomon
Spence
Staggers
Stangeland
Stenholm
Strang
Sundquist
Sweeney
Swindall
Tauzin
Taylor
Traficant
Valentine
Vucanovich
Walker
Watkins
Weber
Williams
Wortley
Yates

ANSWERED "PRESENT"—1

Porter

NOT VOTING—14

Bilirakis
Brooks
Chappie
Davis
Gekas
Jeffords
Kemp
Lehman (FL)
Lewis (FL)
McKinney
Morrison (WA)
Nelson
Owens
Price

☐ 1530

Messrs. LEATH of Texas, STENHOLM, GEJDENSON, ENGLISH, SKELTON, KASICH, LATTA, PACKARD, PANETTA, EMERSON, and HEFNER changed their votes from "yea" to "nay."

So the Senate joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

House Joint Resolution 404 was laid on the table.

GENERAL LEAVE

Mr. BONKER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate joint resolution just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

PERSONAL EXPLANATION

Mr. GEKAS. Mr. Speaker, on final passage of Senate Joint Resolution 238, I was not able to vote because I was at the White House in a meeting with the President of the United States. Had I been present at this particular juncture, I would have voted "aye."

PERSONAL EXPLANATION

Mr. LEWIS of Florida. Mr. Speaker, on rollcall No. 451, passage of the nuclear treaty with the People's Republic of China, I was unable to return from the White House, where I was attending a meeting with the President, in time to vote on Senate Joint Resolution 238. Had I been present I would have voted "aye."

PERSONAL EXPLANATION

Mr. MORRISON of Washington. Mr. Speaker, I was absent during the vote on Senate Joint Resolution 238, the approval of nuclear cooperation between the United States and the People's Republic of China, attending a little conference with the President in the White House. Had I been present, I would have voted "yes."

CONFERENCE REPORT ON S. 947, OVERSEAS PRIVATE INVESTMENT CORPORATION AMENDMENTS ACT OF 1985

Mr. BONKER. Mr. Speaker, I ask unanimous consent for the immediate consideration of the conference report on the Senate bill (S. 947) to amend the Foreign Assistance Act of 1961 with respect to the activities of the Overseas Private Investment Corporation.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. BONKER. Mr. Speaker, I ask unanimous consent that the statement be read in lieu of the report.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of December 10, 1985, at page H11671.)

Mr. BONKER (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement of the managers be dispensed with.

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The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

The SPEAKER pro tempore. The gentleman from Washington [Mr. Bonker] will be recognized for 30 minutes and the gentleman from Wisconsin [Mr. Roth] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Washington [Mr. Bonker].

Mr. BONKER. Mr. Speaker, I will not consume the time allotted and simply will explain the conference report.

Mr. Speaker, OPIC is the Overseas Private Investment Corporation and the conference report before us extends the authorization of OPIC for 3 years, through September 31, 1988.

For the first time, OPIC will carry no authorization of appropriation. Since 1984, the program has been self-sustaining. It has paid off all previous congressional funding and it is now operating very much in the black.

Mr. Speaker, in the course of our work on reauthorizing OPIC this year, the committee saw fit to add some new requirements that would enhance guidelines pertaining to the environment and natural resources standards for OPIC projects. This is in response to the so-called Bhopal tragedy in India last year.

□ 1545

We have also attempted to permit OPIC to operate only in countries which are taking steps to adopt and implement laws to extend internationally recognized workers' rights.

The legislation also authorizes a new form of OPIC insurance to cover new projects against losses due to business interruptions.

The bill creates a pilot program of facultative reinsurance to encourage greater availability of political risk insurance. It also requires OPIC to publish its policy guidelines. In the past, OPIC merely issued regulations which were not available to the public or to prospective OPIC applicants.

The new legislation also requires a GAO report on the impact of employment in the United States of OPIC activities.

Mr. Speaker, in testimony before the committee, we learned about broad concerns over overseas investments, and there was a considerable doubt that OPIC policies might be promoting the export of American businesses through the foreign investment of many companies in this country that might bring about job displacement here in America. Given that concern, the committee saw fit to require a GAO report on the impact of employment in the United States of OPIC activities.

We also mandate that OPIC include in each annual report projections of the U.S. employment effects of those projects initiated in the preceding fiscal year, and require a one-time study of actual U.S. employment impacts of all active OPIC-supported projects.

These new conditions were placed into the reauthorization bill and approved by the other body and worked out in conference.

Given the fact that I think we have strengthened the OPIC program, that there are no authorizations of appropriations involved in extending OPIC, I urge my colleagues to adopt the conference report.

Mr. ROTH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to associate myself with the remarks of the gentleman from Washington [Mr. Bonker] in support of the conference report on the reauthorization of the Overseas Private Investment Corporation—commonly known as OPIC. This U.S. agency provides political risk insurance for U.S. corporations operating in developing countries. In the course of our hearings on OPIC, we found that OPIC's operations under this administration have been exemplary. OPIC's President, Craig Nalen, returned to the U.S. Treasury all funds initially used to capitalize the organization; 1984 marked the strongest fiscal performance in OPIC's history with a net income of $97.2 million. Let me emphasize: OPIC is totally self-sustaining receiving no congressional appropriations.

OPIC's primary mandate since its creation is "to mobilize and facilitate the participation of U.S. private capital and skills in the economic and social development of less developed friendly countries and areas, thereby complementing the development assistance objectives of the United States."

Foreign direct investment is an attractive alternative to diminishing concessional assistance and additional commercial bank lending. Furthermore, our economy benefits from the American exports that flow from such foreign investment. Thus, OPIC is an important program to help offset our trade deficit.

Projects assisted by OPIC over the past 4 years has resulted in over $9 billion in U.S. exports to developing countries. This accounts for 109,000 man-years of U.S. employment.

The conference report before the House reauthorizes the Overseas Private Investment Corporation for 3 more years.

I urge my colleagues to support our conference report today.

Mr. LAGOMARSINO. Mr. Speaker, will the gentleman yield?

Mr. ROTH. I am happy to yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Speaker, I want to commend the gentleman
from Washington, Chairman Bonk
and the ranking Republican memb
the gentleman from Wisconsin, M
Roth, for putting this bill togeth
and bringing this conference report
us.

Mr. Speaker, I also want to co
gratulate and commend the preside
of OPIC, Craig Nalen. I think he h
done one terrific job over the last 3
4 years.

I approach this legislation on t
basis of the theory that if it ai
broke, don't fix it, because I thi
OPIC has been doing a very good j
not only for our economy, but in t
developing economies of Third Wo
nations, and so this conference rep
represents that policy. We are n
really changing anything basically.
are making a few refinements and
think they will help the performan
of OPIC and they will not hinder it.

OPIC is not only self-sufficient,
my colleague from Wisconsin, M
Roth, just pointed out, but it has
tually paid back the funding that w
originally given to it by Congress
start it up.

So I urge my colleagues to supp
this conference report and to vote
it.

Mr. MICA. Mr. Speaker, will t
gentleman yield?

Mr. ROTH. I am happy to yield
the gentleman from Florida.

Mr. MICA. Mr. Speaker, I would j
like to add my name to the list
those supporting this legislation,
also specifically single out the di
tor, Mr. Nalen, for the excellent job
has done. I think the responsibi
and the leadership he has shown
this position has really been reflec
in the work of the agency, and
work they have done. I just wanted
be on record as supporting OPIC
the fine job that they have done, an
commend Mr. Nalen.

I thank the gentleman for yieldin

Mr. BONKER. Mr. Speaker, will
gentleman yield?

Mr. ROTH. I am happy to yield
the gentleman from Washington.

Mr. BONKER. Mr. Speaker, I wo
like to echo the comments of the g
tleman from Florida [Mr. Mica].
Nalen has performed exception
well as president of OPIC.

In the past, this legislation has b
fairly controversial on the Ho
floor. This time, I think it was fre
controversy because of the widespr
support that exists in the Congress
the job that OPIC is doing under
leadership. So I think much of
credit is due to Mr. Nalen.

Mr. ROTH. I thank the chairma
our subcommittee for his contribu
as well as the gentleman from Cali
nia [Mr. Lagomarsino] and the gen
man from Florida [Mr. Mica] for t
contributions. And Mr. Speake
want to thank the entire House

their undivided attention to this very important piece of legislation.

Mr. Speaker, I yield back the balance of my time.

Mr. BONKER. Mr. Speaker, I have no further requests for time, and I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BONKER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 3525, UNIFORM REGIONAL POLL CLOSING

Mr. HALL of Ohio. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 329 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 329

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3525) to amend title 3, United States Code, to establish uniform regional poll closing times in the continental United States for Presidential general elections, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on House Administration, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on House Administration now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, each section shall be considered as having been read, and all points of order against said substitute for failure to comply with the provisions of clause 7 of rule XVI are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. SMITH of Florida). The gentleman from Ohio [Mr. HALL] is recognized for 1 hour.

Mr. HALL of Ohio. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. QUILLEN] for purposes of debate only, pending which I yield myself such time as I may consume.

Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 329 and ask for its immediate consideration.

Mr. Speaker, House Resolution 329 is an open rule providing for the consideration of H.R. 3525, a bill to provide for uniform regional poll closings.

The rule provides for 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on House Administration.

The rule further makes in order the House Administration Committee's amendment in the nature of a substitute now printed in the bill as original text for the purpose of amendment. The substitute shall be considered by sections, with each section considered as read.

It should be noted that the rule waives clause 7 of rule XVI against the substitute. This is the rule prohibiting nongermane amendments. The waiver is necessary because the substitute includes a provision which amends the Uniform Time Act, which is not germane to the rest of the substitute which amends title III of the United States Code.

Although amendments to the Uniform Time Act fall under the jurisdiction of the Committee on Energy and Commerce, the chairman of that committee did not request sequential referral of the bill as reported by the Committee on House Administration in order to allow the House to move forward with the legislation. I am not aware of any objection to the granting of this waiver.

Finally, Mr. Speaker, the rule provides one motion to recommit with or without instructions.

Mr. Speaker, the purpose of H.R. 3525, as amended, is to establish a time at which all polls in the continental United States will close simultaneously on the day of the Presidential general election. It will first take effect in the Presidential general election year of 1988.

Under the legislation, polls in eastern, central and mountain time will close at 9 p.m. eastern standard time. Further, daylight saving time will be extended for a maximum of 2 weeks for the four and one-half States in the Pacific time zone, which means that they will be on daylight saving time on election day while everyone else is on standard time. In addition, polls in Pacific time will close at 7 p.m. Pacific daylight time, which is the same as 9 p.m. eastern standard time. In this fashion, uniformity will be achieved.

These changes, coupled with restraint on the part of television networks in the use of exit polls to make election projections, will help to end the problem of having the outcome of a Presidential election announced before people in all parts of the country have had an opportunity to vote.

Mr. Speaker, I am not aware of any opposition to this open rule, and I urge my colleagues to adopt it.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, I think this is a very important measure and I support the rule.

Why is it important? Because there is a difference of time between the east coast and the west coast, and when the media plays up the closing of the polls on the east coast, the polls are wide open on the west coast and some people believe that it affects the outcome of the election there in the closing hours that people have an opportunity to vote.

I remember one time when I had a race in my district and I got a call about the absentee ballots. I called the TV station and gave them the results. Of course, it was very favorable to me. A proponent of my opponent called me and said:

> Now, listen, if that is going to change the outcome of the election, you are in trouble because you are not supposed to do that.

Although that is a minor incident, if the media carries the results of elections on the east coast, naturally some assume that it would affect it on the west coast.

☐ 1600

This evens it out; it is a fair measure; I urge the adoption of the rule and I would like to advise that I have one request for time.

Mr. HALL of Ohio. Mr. Speaker, I yield 6 minutes to the sponsor of the bill who will be following this in the next few days, the gentleman from Washington [Mr. SWIFT].

Mr. SWIFT. Mr. Speaker, I thank the gentleman for yielding.

In 1980, the networks told us that Ronald Reagan was elected President at about 5:30 Pacific standard time. The polls were going to be closed at 8 o'clock at that time. There was an enormous and overwhelming public reaction and anger to that.

Most of us on the west coast assumed it was just a west coast problem, and then we began to find the practice was creeping into other parts of the country.

To truncate the history of this, let me just point out that the Democratic Presidential primary election in New York during the last cycle was called by the networks at 6 p.m. eastern standard time with the New York polls scheduled to close at 9.

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The TV Guide did a series of two articles on this problem, and at the end of it, they suggested that people who were concerned about it write to our subcommittee. We received an overwhelming number of letters, and they came from all but three States. Forty-seven States in this country demonstrated considerable concern about this problem.

The problem is this: Not only may this well affect the outcome of some elections, but is also is a situation in which people who are told how the election is going to end before they vote feel disenfranchised. It is partly an emotional reaction.

There have been those who said, well, people who are that silly, people who are so foolish to think their vote does not count when the election projection is made are so silly we should pay no attention to them.

I would point out that as seasoned an observer and reporter as a major network anchorman, went on the air in 1980 and said: "Once the projection had been made, the Democrats on the west coast might as well stay home." He was back on the air within about 10 seconds to say "No, no, I didn't mean that at all."

It is a rather natural kind of reaction for people to make, and citizens all over this country feel strongly that they are disenfranchised.

The problem is that technology has permitted the networks, through the device of exit polls, to gather information that permits them with incredible accuracy to project an election; it permits them to do it even before they have done it in practice.

We had a number of rather acrimonious and emotional hearings in which we tried to get the networks to see the error of their ways, and they basically would not. What they kept saying is, "You solve the problem by adopting a uniform poll closing measure."

The gentleman from California [Mr. THOMAS] and I finally sat down with them this last January and we said "Look, this is going to be a very protracted and difficult kind of guerrilla warfare we are going to have to enter here unless you guys can indicate to us in a very credible fashion that if we adopt uniform poll closing, you won't short-circuit that with the exit polls," and the networks changed their policies.

To this degree: The agreement that we have, in writing, from the networks is that they will not use information derived from exit polls to project, characterize, hint at, suspicion about, or in any other way hint or suggest the outcome of the election until the polls are closed in a given State.

That still leaves us with part of a problem; that means when the polls start to close, the networks will project in those States.

To make this come full circle so that we solve the problem, we can now adopt a uniform poll closing time, all the polls closing at the same time; and we have completed the circle and resolved this problem.

There were many, many suggestions for how to do this made to the subcommittee, and we held very extensive hearings. What we tried to do in those hearings was to establish the parameters in which we would reasonably have to make a solution.

Those parameters were these: It should apply to the Presidential general election only. The legislation would apply to no other election. It deals with a closing time only; it does not tell States when they have to open their polls or give any other indications.

The solution we propose will require no State to do anything that some States do not do now. The longest any polls will have to be open is not longer than some States are already open; the closing times and so forth—in other words, we ask no one here to do anything that in fact is not consistent with current practice by some States. It will require some States to make changes, but it will not require double-shifting because there are States that are open as long as this would require in any State, and so forth.

Essentially what it says is we will close the polls at 9 p.m. eastern standard time. In four and a half States on the west coast, we will extend daylight saving time from the time that it will end in the rest of the country for 2 weeks maximum. That permits us to close on the west coast at 7 p.m. Pacific daylight time.

The continental 48 States will close at the same time. Alaska and Hawaii, that simply could not fit within those parameters, have indicated that they would opt for being left out of the proposal, and in this fashion we solve a problem which has plagued this country particularly in the last 8 years, and which as technology in actual reporting of election results improves, will become a national problem regardless of what the media does.

Mr. QUILLEN. Mr. Speaker, I yield 7 minutes to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, the authors of this bill, the primary author, the gentleman from Washington [Mr. SWIFT] and his cosponsor, the distinguished gentleman from California [Mr. THOMAS] are giving us a bill which they say will stop a problem which is one that probably is nonexistent.

The two gentlemen and others have been concerned by the fact that since ex-President Carter conceded early in 1980 that voters may have decided that their vote was not worthwhile, and may have gotten out of line or not gone to the polls at all.

There is only one study that has ar
showing that this in fact was the cas
that was a University of Michiga
study, and that survey has been prett
well demolished by other social scie
tists who have declared it unworthy.

The fact is that complaints abou
people staying away from the polls b
cause of announcements in other are
are almost wholly anecdotal, and the
reflect our own prejudices or our ow
experiences.

To cure this problem, the two ge
tlemen who are sponsoring this b
have presented us a solution whic
will cause uniform poll closing. No
listen to the solution, it is terribly i
teresting:

They are going to keep polls open
the eastern time zone until 9 o'cloc
In the central time zone, it will be
o'clock local time; in the mounta
time zone it will be 7 o'clock loc
time, and on the Pacific coast, th
will have an extra week of daylig
saving time and close the polls at
o'clock.

This will occur every 4 years, on
for general elections in which we ele
a President.

Now what that does for eastern tin
zone States other than say New Yo
or Massachusetts, which keep the
polls open until 9 anyway, means th
they will have to hire new people
pay the present people more money
stay longer; it means that the tabula
ed results will be available later
local people, particularly in pap
ballot precincts where the ballo
must be counted by hand; it mea
that in the western time zone peop
will have 1 hour less to vote unless t
States decide to open earlier in t
morning, in which case people pro
ably will not want to vote that early.

Worse, it means in the Pacific tin
zone that the whole transportation
the area and of the Nation will
loused up because the transportati
companies will be forced to arran
specific schedules which may n
mesh with their other transportati
schedules for the 1 extra hour of da
light saving time.

☐ 1610

The airline travel agents have wr
ten to me and indicated that this pos
an enormous and complicated proble
which they do not see can be solv
very readily. The same, of course,
plies to rail transportation and a
kind of communication from one e
of the country to the other. The g
tuitous extra week of daylight savi
time is an outstanding part of the
lution, but it seems to do more ha
than good. Now the only two Sta
that are actually very far away fr
the east coast are Hawaii and Alas
and those the two gentlemen ha
thoughtfully exempted. They m
have thought it does not make any

ference if people stay away from the polls in Hawaii and Alaska. But if it is good for Hawaii and Alaska, I wonder why we do not exempt the rest of the country as well.

The real problem is one of States, prerogatives. The Federal Government can do what the gentleman proposed to do: it should not do so unless it can make a compelling showing that we will solve some great national problem. There is no compelling showing, there is no research showing, there is no detailed showing that there is a problem. Twenty-one secretaries of state have written to me expressing their disapproval of any uniform closing bill. They cite the extra cost of training new people which may not be obtainable, they cite the extra time to count ballots. In the case of Indiana, it is of interest, and we have already abused Indiana once in this House this year; they have a 6 a.m. to 6 p.m. system. They will be obliged to extend that system considerably by 3 hours in one part of the State and by 2 in the other.

They will have to put extra people on, or they will have to have their people operate differently. In some of their precincts they will not be able to count those ballots until well into the early hours of the next day. What we have here is an attempt to tinker with the social experiences of the States. What we have here is an attempt at social tinkering, to no good purpose, in my judgment. The States know perfectly well what is best for them.

When the little town in New Hampshire wants to vote all of its people at midnight on election day and announce its result at 12:30, that ought to be its own business. I think that is a good thing in American life, and I do not think that prejudices our election system or keeps people from voting.

But a uniform election system raises the cost of elections, may give people on the West coast reduced time to vote and certainly will be a source of consternation to the States and to election officials.

I do not oppose the rule. I intend to vote for it. I hope the bill is rejected out of hand.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

Has there been any kind of a study as to how many less people may vote as a result of having less time to vote on the west coast? In Pennsylvania we have an old saying: "Double the score after 4." You literally double the vote after 4 o'clock, between 4 and 8. It seems to me if you knock an hour off that you are probably going to have a fairly large number of voters that will have trouble voting. Does the gentleman have any studies?

Mr. FRENZEL. All of the studies that I have seem to indicate that one of the heaviest hours of voting is between 7 and 8 p.m., but it depends on local customs. I think each State would be different. My belief is that the States ought to be able to structure their hours to the needs of their own local people, and I think they have understood that, and that is my intention. I do not know how many, and I do not think they know how many, if any, did not vote because of the early announcement.

Mr. WALKER. I thank the gentleman.

Mr. HALL of Ohio. Mr. Speaker, I yield 4 minutes to the gentleman from Oregon [Mr. WYDEN].

Mr. WYDEN. I thank the gentleman for yielding.

Mr. Speaker, I rise today in support of the rule for H.R. 3525, legislation to establish uniform poll closing times in the continental United States for Presidential elections.

First, I want to commend Mr. SWIFT for his hard work. He and Mr. THOMAS have crossed the country—from New York to Alaska—sampling opinion and listening to the thoughts of local elections officials, television network executives, and citizens who will be affected by this legislation. They have worked long and hard on this matter.

What they found out is what I have suspected for a long time: Americans want a uniform poll closing hour because the networks early projection practice gives the perception that the vote of those who vote late in the day counts less than those who vote earlier.

Back in 1980, voters in the Pacific time zone were unnecessarily discouraged from going to the voting booth because the Presidential race was called by the networks—and the candidates themselves—by 5 p.m. Pacific time. Polling places in Oregon remained open for 3 more hours but word had gone out that the election was already decided.

In 1984, I promoted a voluntary approach by asking Presidential candidates Walter Mondale and Ronald Reagan to not claim victory or concede defeat publicly before 11 p.m. eastern standard time. Therefore, all voters would have the opportunity to cast their ballots for President before the candidates claimed to have won or lost.

Walter Mondale and President Reagan agreed to my suggestion and stuck by their promises, but as in 1980, westerners learned the results of the 1984 election before it was really over. This voluntary approach did not work.

The high-technology wizardry of computers used by the television networks had improved to such a degree that is was possible to project the probable outcome of an election before all the votes were in. At 6:02 p.m. eastern time, CBS characterized the result of the election based on their exit polling data. All three television networks—ABC, CBS, and NBC—declared President Reagan's victory between 8 and 8:30 p.m., eastern time.

This was the earliest call in history.

It then became clear to me and to many other citizens: the use of exit polling data was beginning to chip away at the integrity of the electoral process. I became convinced that a national poll closing time was needed to ensure that each person's vote—the coin of democracy—would continue to count.

The number of people who were affected can be debated. Some surveys say 2 percent, others, 4 percent. But, the point is that some people have been influenced and have chosen not to vote because their perception was that it was pointless.

That is why in February 1985, I introduced legislation to establish a 15-hour voting day for Presidential elections. This bill was cosponsored by 90 of my colleagues. Under my legislation, from Portland, ME, to Portland, OR, voting booths would open and close at the same moment and no one would know the outcome of the election until every citizen had the opportunity to vote.

Extensive and productive hearings were held by the subcommittee, and the television networks agreed to not project or characterize the results of an election until the polls closed. Therefore, the final step is the passage of fair and workable poll-closing legislation.

In late October, after the Swift-Thomas bill was passed out of committee, I held a forum on this subject in Portland OR. Secretary of State Barbara Roberts, county elections officials, and citizens told me it was essential that Congress take this necessary step to establish a nationwide poll closing hour and that they supported Mr. SWIFT's bill.

One point that has been made that baffles me is the argument by the airline industry that this bill is detrimental to their welfare. At the spur of the moment, the airlines are able to offer amazing discounts and additional flights options. If they can do this, why can't they plan to adjust their flight schedules for only 1 week, every 4 years, for the good of all citizens and the voting process?

I have been assured by Mr. Swift that after the first Presidential election in which this nationwide closing time is used, an extensive review of its impact will be conducted. This must be assessed so that the original goal—the creation of a fair and workable plan—is what our citizens get.

Mr. Speaker, I yield back the balance of my time.

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Mr. QUILLEN. Mr. Speaker, I yield 7 minutes to the gentleman from California [Mr. Thomas].

Mr. THOMAS of California. I thank the gentleman for yielding.

Mr. Speaker, we would not be here today if this were 1860 and the election that year for President were delivered by the pony express. We also would not be here if it were 1948 and Truman could hold up a newspaper which says "Dewey Was Elected."

We are here not because a President went on national television and went belly up in 1980. We are here because technological changes have enabled networks to make projections or, if you will, characterize who is going to win an election with an amazing degree of accuracy, because if they were not accurate we would not be here. And they can do it earlier and earlier in the day. We happen to be here now when it affects principally the Western United States. But give those folks enough time, and in one or two Presidential elections it will be affecting the central time zone, and if we have no agreement and we have no structure in place, it is going to be possible within a much shorter time than you think that by noon, eastern standard time, they will tell you in New York who has won. If the data is amenable to that kind of analysis, and we have seen in the last election it is frighteningly amenable to that kind of analysis. Now what we have here is an attack on the proposal that we have presented here. What we have presented to you is the most minimal way in which we can achieve, I think, a very desirable result. We had hearings in New York, we had hearings in California, we had hearings in the Midwest, and one of the reasons we did not have hearings in Alaska and Hawaii is because the Hawaiians, if they are accustomed to getting up by 3 a.m. to watch the Rose Parade or their Monday night football starts at 4 in the afternoon, said, "Don't bother. To try to work us into the system so distorts everyone else. Don't work us in. We are with you, not that we want to hang on to our timeframe. We are with you, but don't distort. You have a big enough problem as it is in the continental United States. Don't exacerbate it by trying to include us." Now let us take a look at what we had as options. We could go to Sunday voting, it was suggested. We could have 24-hour voting. But most of these suggestions simply did not strike at the heart of the matter, and that was some of us are a little sensitive to the first amendment in terms of freedom of speech and the press, and that we could not get those folks who transmit the information to voluntarily sit on it.

We did get, after much discussion, a commitment which I think is very significant and is probably best exemplified in a letter from one of the networks, which happens to be NBC, which said:

> If polls in all 50 States closed simultaneously, then NBC News would effectively and realistically be able to hold all the information we gather from our Election Day polling until after the elction is over across the Nation.

If that is a desirable result, then what options do we have? We went out again and began listening to the folks across the Nation, not just those people who came in with anecdotes about how "someone in front of me in the line walked away when they heard the results." We talked to the election officials who are going to have to administer whatever it was we came up with. For example, in New York, the people in Florida who now close at 7 o'clock said: "We are with you." They said: "Work out a timeframe, but please don't make it too late. We can live with a later hour, but don't make it too late." We were in Los Angeles, and the secretary of state of California said: "We can live with an earlier time. It is now 8, we can live with 7. But please don't make it too earlier," or the arguments of the gentleman from Minnesota purported to make about folks who do not vote or vote late in the day may begin to come true. But we have analyses of votes in Los Angeles County which show no significant vote between 7 and 8. We are forgetting that there are continuing changes in the system. Abesentee voting is increasing. Folks are beginning to modify their voting behavior. What we did was sit down and try to put together all of the options we have available to us, and we felt that the one that least disrupted the system, the one that cost the least amount of money, the one that was most compatible with the desires of the election officials to work with us in solving what we saw as a common problem and not exacerbating overly their job was the one that you have before us. It may appear to be initially a kind of inelegant way to bend the time. But, after all, time is a concept which you can deal with as you please.

What we have in this proposal which the rule allows anyone to attempt to amend, which we feel is appropriate given the significance of the change, is an offering which, for a very brief moment once every 4 years, allows the 2 coasts to be 2 hours apart rather than 3 hours. It minimizes the lateness on the east coast and minimizes the shortness of the day on the west coast. It is a solution which I think meets our needs. It is timely because we can then anticipate over the next 4-year period any adjustments that may or may not be necessary. But the thing to remember is that this is probably the least intrusive approach anyone could have taken. And of course you can criticize this approach, but let me tell you, I would be down in
the well with you criticizing a numb
of approaches that have been offe
in good faith by Members of t
House of legislation and by others
front of us in hearings across
country.

□ 1625

What you have here, if you wan
solution to networks telling you w
won before you voted, what you h
here is the least intrusive solution,
I believe it is a good one.

Mr. LUKEN. Mr. Speaker, will
gentleman yield?

Mr. THOMAS of California. I yi
to the gentleman from Ohio.

Mr. LUKEN. I believe the gentlem
said that one of the networks wr
and said that the network would
able to conform or to withhold
election results polling. Does the g
tleman construe that as an agreem
by the networks to do something if
legislation is passed?

Mr. THOMAS of California. I
very firmly that in the number
meetings we had, generated by the
ters that were exchanged, for the 1
Presidential election, in any State,
formation that they have gathe
from their polling techniques prior
the polls closing, the networks have
ready agreed not to release any of
information characterizing who
have won in any State. They h
done their job. They are going to h
the information until the polls
closed in a State. Our job, if we w
uniform poll closing, is to have all
States close at the same time.

Mr. LUKEN. Is the gentleman
cerned about the networks, a n
agency, agreeing to program cont
to withholding anything, agreeing
withholding news or information
it has? Does that concern the gen
man, under the first amendment?

Mr. THOMAS of California. It se
to me that they have the right to
termine editorial content, and the
cision is theirs. If that is the decis
they wish to make, I am pleased
it, but it is theirs to make. That
the point we tried to get across
them, that until they could recon
that problem in their own minds,
could not fundamentally address
problem. They were able to recon
it in their own minds, that is why
are in front of you today. It was t
decision to make, not ours. They m
it.

Mr. HALL. Mr. Speaker, I yie
minutes to the gentleman from
[Mr. Luken].

Mr. LUKEN. Mr. Speaker, I w
join in congratulating the gentle
from Washington and the gentle
from California in their efforts in
matter. Their efforts have been
and they have been very effective,
it is a vexing problem. But I su
that the solution is not totally evi

the solution to a problem which revolves around the voters in California and on the West Coast being denied their right of free choice in voting by cutting back for an hour on those same voters. There is something oxymoronic about this. This is cutting back on the time of voting on the west coast. I think that creates a problem.

Despite how well-intentioned this legislation is, it does require in areas like mine, in Indiana, in Ohio—and, incidentally, in response to the gentleman from California, who referred to the satisfaction of various election officials, the Secretary of the State of Ohio is conducting quite a campaign. He is very exercised about it. The newspapers in Ohio are very exercised about it. This will mean extending the time 1½ hours. In my district that means that the election results which now come rather slowly, about 1 a.m., will come about 3 or 4 a.m. It means doubling perhaps the number of poll workers. And where do you get that expertise? Where do you get the expertise? These are folks who work once or twice a year, and they cannot be replaced. We are going to have to double them. That is the reason the Secretary of State is concerned about it. And where are we going to get the million dollars or so to employ these people?

I submit that this is the result of some thinking which is well-intentioned, but it results in engineering of a situation where we are telling the voters what they should do and what they should think.

With reference to the agreement by the networks, I do not know whether the networks have really agreed to what they have agreed, but any agreement as to content has to be rather illusive. It would have to be illusive. The language that the gentleman read did not constitute an agreement, and I hope it does not, because that would have a chilling effect that none of us wants to participate in. None of us wants to enter into an agreement that tells a news agency what they are going to say or what they are not going to say. He referred to the technological changes. The technological changes could happen tomorrow. This would make the so-called agreement completely null and void.

I think we have some real problems with this legislation and, therefore, although I will support the rule since it is an open rule, I would be very concerned about the legislation, and I am taking the floor today so that the Members will think about this and perhaps investigate it so that when it comes up for debate and consideration next year we will have had a chance to think about it.

Mr. SWIFT. Mr. Speaker, will the gentleman yield?

Mr. LUKEN. I yield to the gentleman from Washington.

Mr. SWIFT. First of all, just to clarify the record, the gentleman quoted back one phrase out of a letter from NBC. I think that it would set the gentleman's mind at more rest to say, "* * * our commitment (is) that we shall not use exit poll data we gather 'to suggest the probable winner in any State under the polls in that State are closed.' " That is unequivocal.

Mr. LUKEN. For what period of time? Is this for 1 year?

Mr. SWIFT. No.

Mr. LUKEN. For 1988?

Mr. SWIFT. That is NBC policy. And in hearings, under rather repeated and redundant questioning, it is corporate policy.

Mr. LUKEN. Forever, extending into the indefinite future?

Mr. SWIFT. The gentleman knows that you cannot do anything forever. The gentleman also knows, because he serves on the committe that deals with it, the networks have a number of other fish to fry before this body, and it is not a commitment they are likely to break.

Mr. LUKEN. If I could reclaim my time for a moment, the gentleman is suggesting a chiling effect in suggesting that the inquirers are going to be influenced by the power of this body in their program content.

Mr. SWIFT. No. That is not what the gentleman is suggesting at all.

Mr. LUKEN. That sounds like a very chilling effect.

Mr. SWIFT. If the gentleman will yield, I would also like to answer another question that the gentleman asked, and that is, "Is this some kind of intrusion and trying to control the news media?"

I would point out we are not talking here about news, we are talking here about guesses, extraordinarily educated, very accurate guesses, not reporting what has happened, but projecting what will happen.

And one of the reasons we were able to get the agreements of the networks is that they knew perfectly well in their own network news departments there was a vicious argument as to whether or not the practice that they were using was even appropriate journalism. All in the world that they have said is, "We will wait until the event has occurred, and then we will report it."

Mr. LUKEN. Reclaiming my time, if the network uses its own polls, its own surveys, that is news that the network is making, but as I interpret that agreement, if it is worth anything, the network is also agreeing to refrain from using any other polls that anybody else makes which would have a newsworthy effect. It is program content, as the gentleman knows. I am not suggesting that it is totally invalid, that it is totally unconstitutional. But I suggest that it is something that we should approach in a very wary fashion and that the whole idea of an agreement to withhold publishing anything is something that goes against the grain of the first amendment.

Mr. SWIFT. I would ask that the gentleman yield one last time.

Mr. LUKEN. I yield to the gentleman.

Mr. SWIFT. If the gentleman will read the bill, he will find that there is nothing whatever in that bill that in any way directs the networks to do anything. There simply is not a first amendment question.

Mr. LUKEN. Is the gentleman suggesting that all that has been said on this floor should be disregarded? We are not reading the bill; we are looking at the legislative history that has been stated on this floor.

Mr. QUILLEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. QUILLEN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 409, nays 17, not voting 8, as follows:

[Roll No. 452]

YEAS—409

Ackerman
Addabbo
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Badham
Barnes
Bartlett
Barton
Bateman
Bates
Bedell
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Biaggi
Bilirakis
Bliley
Boehlert
Boggs
Boland
Boner (TN)
Bonior (MI)
Bonker
Borski
[redacted]
Boucher
Boulter
Boxer
Breaux
Broomfield
Brown (CA)
Brown (CO)
Broyhill
Bruce
Bryant
Burton (CA)
Burton (IN)
Bustamante
Byron
Callahan
Campbell
Carney
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clay
Clinger
Coats
Cobey
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Craig
Crockett
Daniel
Dannemeyer
Darden
Daschle
Daub
Davis
de la Garza
DeLay
Dellums
Derrick
DeWine
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Duncan
Durbin

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UMI

Dwyer
Dymally
Dyson
Early
Eckart (OH)
Eckert (NY)
Edgar
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Evans (IA)
Evans (IL)
Fascell
Fawell
Fazio
Feighan
Fiedler
Fields
Fish
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Fowler
Frank
Franklin
Frenzel
Frost
Fuqua
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Gray (IL)
Gray (PA)
Green
Guarini
Gunderson
Hall (OH)
Hamilton
Hatcher
Hawkins
Hayes
Hefner
Heftel
Hendon
Henry
Hertel
Hiler
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Ireland
Jacobs
Jeffords
Jenkins
Johnson
Jones (NC)
Jones (OK)
Jones (TN)
Kanjorski
Kaptur
Kasich
Kastenmeier
Kemp
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
Kramer
LaFalce
Lagomarsino
Lantos

Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Loeffler
Long
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
Lungren
Mack
MacKay
Madigan
Manton
Markey
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCain
McCandless
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McKernan
McMillan
Meyers
Mica
Michel
Mikulski
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mitchell
Moakley
Molinari
Mollohan
Monson
Montgomery
Moody
Moore
Moorhead
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Natcher
Neal
Nichols
Nielson
Nowak
O'Brien
Oakar
Oberstar
Obey
Olin
Ortiz
Owens
Oxley
Packard
Panetta
Parris
Pease
Penny
Pepper
Perkins
Petri
Pickle
Porter
Pursell
Quillen
Rahall
Rangel

Ray
Regula
Reid
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Roemer
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Rudd
Russo
Sabo
Savage
Saxton
Scheuer
Schneider
Schuette
Schulze
Schumer
Seiberling
Sensenbrenner
Sharp
Shaw
Shelby
Shumway
Shuster
Sikorski
Siljander
Sisisky
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Snyder
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Strang
Stratton
Studds
Stump
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weaver

Weiss
Wheat
Whitehurst
Whitley
Whittaker
Whitten
Wilson

Wirth
Wise
Wolf
Wolpe
Wortley
Wright
Wyden

Wylie
Yates
Yatron
Young (AK)
Young (FL)
Young (MO)
Zschau

NAYS—17

Barnard
Dickinson
Gregg
Grotberg
Hall, Ralph
Hammerschmidt

Hansen
Hartnett
Hyde
Kindness
Marlenee
Pashayan

Schaefer
Schroeder
Smith, Denny (OR)
Taylor
Weber

NOT VOTING—8

Brooks
Chappie
Crane

Hillis
McKinney
Nelson

Price
Williams

□ 1650

Messrs. LELAND, LOWERY of Califonria, and RAHALL changed their votes from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CORRECTION AND REENROLLMENT OF H.R. 3003, AUTHORIZING SECRETARY OF THE INTERIOR TO CONVEY CERTAIN LAND IN MARYLAND TO MARYLAND NATIONAL PARK AND PLANNING COMMISSION

Mr. VENTO. Mr. Speaker, I send to the desk a concurrent resolution (H. Con. Res. 247) requesting the President to return the enrolled bill (H.R. 3003) relating to the conveyance of certain land located in the State of Maryland to the Maryland National Capital Park and Planning Commission and providing for its reenrollment with technical corrections, and ask unanimous consent for its immediate consideration.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. (Mr. SMITH of Florida). The Clerk will report the concurrent resolution.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 247

Resolved by the House of Representatives (the Senate concurring), That the President of the United States is requested to return to the House of Representatives the enrolled bill (H.R. 3003) relating to the conveyance of certain land located in the State of Maryland to the Maryland National Capital Park and Planning Commission. The Clerk of the House is authorized to receive such bill if it is returned when the House is not in session. Upon the return of such bill, the action of the Speaker of the House of Representatives and the Acting President pro tempore of the Senate in signing it shall be deemed rescinded and the Clerk of the House shall reenroll the bill with the following corrections:

In subsection (a)(1) of the first section of the engrossed bill, after "authorized" insert "and directed".

In subsection (b)(1) of the first section of the engrossed bill, immediately before the
words "property contingent upon each
the following" strike out the word "p
posed" and insert in lieu thereof the wo
"adjacent real".

In subsection (b)(3)(B) of the first sect
of the engrossed bill, after "upon appro
of" strike out "a" and insert "any".

Mr. VENTO (during the readin
Mr. Speaker, I ask unanimous cons
that the concurrent resolution be c
sidered as read and printed in
RECORD.

The SPEAKER pro tempore.
there objection to the request of
gentleman from Minnesota?

There was no objection.

The SPEAKER pro tempore.
there objection to the initial requ
fo the gentleman from Minnesota?

Mr. LAGOMARSINO. Mr. Speak
reserving the right to object, I sh
not object, but I make the reservat
so I can ask the gentleman to expl
what is proposed.

Mr. VENTO. Mr. Speaker, will
gentleman yield?

Mr. LAGOMARSINO. I yield to
gentleman from Minnesota.

Mr. VENTO. Mr. Speaker, this m
ure deals with an inadvertent erro
the printing of the measure, H
3003, as it came back to the Ho
from the other body. Although i
important to make these correctio
it makes no change in the act
which the House took last week
this measure.

Mr. LAGOMARSINO. Mr. Spea
further reserving the right to obje
in other words, it merely correct
mistake that was made.

Mr. VENTO. The gentleman is
rect.

Mr. LAGOMARSINO. Mr. Spea
I withdraw my reservation of ob
tion, and I wish to state my sup
for the concurrent resolution.

The SPEAKER pro tempore.
there objection to the initial req
of the gentleman from Minnesota?

The was no objection.

The concurrent resolution
agreed to.

A motion to reconsider was laid
the table.

PERSONAL EXPLANATION

Mr. McCLOSKEY. Mr. Speake
ask unanimous consent that a
which is recorded by me as "aye
rollcall 450, the Nuclear Coopera
Agreement with China, be change
a "no." I did vote "no" on the
chine.

The SPEAKER pro tempore
gentleman cannot change his
The gentleman's statement may b
tered into the record for the pur
of clarifying the vote which was ca

APPROVING THE "COMPACT OF FREE ASSOCIATION"

Mrs. BURTON of California. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 338 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 338

Resolved, That upon the adoption of this resolution it shall be in order, any rule of the House to the contrary notwithstanding, to consider a motion in the House, if offered by Representative Udall of Arizona or his designee, to take from the Speaker's table the joint resolution (H.J. Res. 187) to approve the "Compact of Free Association", and for other purposes, with the Senate amendments thereto, to concur in the Senate amendment to the preamble, and to concur in the Senate amendment to the text with an amendment in the nature of a substitute printed in the Congressional Record of December 10, 1985, the Senate amendments and the House amendment shall be considered as having been read, debate on the motion shall continue not to exceed one hour, to be equally divided and controlled by the proponent of the motion and the ranking minority member of the Committee on Interior and Insular Affairs, and the previous question shall be considered as ordered on the motion to final adoption without intervening motion.

□ 1700

The SPEAKER pro tempore. The gentlewoman from California [Mrs. Burton] is recognized for 1 hour.

Mrs. BURTON of California. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Mississippi [Mr. Lott], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 338 would provide for the consideration of a motion, to be offered by Representative Udall of Arizona or his designee, to take from the Speaker's table House Joint Resolution 187, the Compact of Free Association, together with the Senate amendments thereto and amend the Senate version of the resolution with a substitute printed in the Congressional record of December 10, 1985. One hour of debate is provided.

This legislation was passed by the House on July 25, 1985, and was subsequently amended and passed by the Senate on November 14. The House substitute represents a compromise, with the concurrence of both Houses and the administration. In fact, the administration has urged prompt consideration of House Joint Resolution 187 with the House amendment.

The House substitute amendment would address various provisions where agreement has been reached among the parties immediately involved on this question. There are two basic clarifications provided by the substitute: One relating to a reduction in compensation for investment incentive losses and the other regarding Federal implementation of the compact.

The compact grants these trust territories powers of independence, continued but decreasing guaranteed financial assistance, and economic development incentives. It also provides a nuclear claims settlement agreement, secures military base rights, preserves U.S. strategic interests, and denies other nations strategic access to these areas. This is the first step in a number of steps before the termination of the trusteeship and the establishment of the Compact of Free Association. The compact must also be reviewed by the President and the United Nations so our action here today is very important to our island friends.

Mr. Speaker, this legislation is the product of a long, hard-fought challenge. My husband Phillip, made a significant contribution to this effort and was followed in this endeavor by a most able champion of the territories: Chairman John Seiberling. I am pleased that a compromise has been reached and I urge my colleagues to support this rule.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think the gentlewoman from California has done an excellent job of describing what the resolution does.

Mr. Speaker, House Resolution 338 makes it in order in the House to consider a motion to amend the Senate amendment to House Joint Resolution 187 with the text of a substitute printed in yesterday's Congressional Record. My colleagues will recall that back on July 25, we passed House Joint Resolution 187 which approves the Compact of Free Association between the United States and the Government of the Federated States of Micronesia and the Republic of the Marshall Islands. On November 14, the other body passed our resolution as amended by voice vote. The purpose of this rule is quite simply to provide a new substitute that is agreeable to the various committees of jurisdiction and the administration. I therefore urge the adoption of this rule.

Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. Lagomarsino].

Mr. LAGOMARSINO. Mr. Speaker, I rise in support of this rule.

The Compact of Free Association is a historic document which provides for a new political relationship for the governments of the United States' Trust Territory of the Pacific Islands. This has not been an easy process. The nearly 15 years of negotiation can attest to that. We need the rule to complete the process.

The compact required many entities and individuals to compromise many times. No one government, committee, or individual has dominated the process. Given the process of dealing with the executive and legislative branches of Micronesia and the United States, this compact is most likely the best possible product.

I have had many concerns with various provisions of the compact. I have been pleased with the many improvements that have been made to the compact, as it has moved through Congress. I commend my colleagues and staff who labored through subcommittee and full committee markups, to improve the provisions of the compact.

The Senate and the House further refined the compact to produce the document that is before us today.

I urge the Members of this body to allow this Congress to finish the work that began 15 years ago. We have worked out with the Senate the provisions of our amendments which is a complete substitute for the compact.

I am pleased to report to this body that the administration supports the provisions of the compact as amended. We have had the input and involvement of many departments of the administration, including the Department of State, Defense, Treasury, Interior and Energy.

In view of the broad spectrum of support which this compact enjoys, I again urge Members of this body to join with me in voting for the rule.

Mrs. BURTON of California. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Ohio [Mr. Seiberling].

Mr. SEIBERLING. Mr. Speaker, the rule to accompany House Joint Resolution 187 before the House today would provide for the consideration of a compromise resolution to approve the Compact of Free Association with the Federated States of Micronesia and the Marshall Islands. The amendment the rule would allow to be offered is an amendment in the nature of a substitute to the text of House Joint Resolution 187 as amended by the Senate.

This compromise resolution represents the closest the many Members involved were able to obtain on a consensus between many parties interested in this legislation. Since efforts to determine the future political status of the Trust Territory of the Pacific Islands began in 1969, a consensus represents compromise between quite a number of different perspectives.

Efforts to resolve differences have taken much of this year. Included have been the Committees on Foreign Affairs, Ways and Means, Merchant Marine and Fisheries, Judiciary, Armed Services, as well as Interior and Insular Affairs which has always had jurisdiction over matters regarding the trust territory.

We have also negotiated this compromise with the Departments of State, Interior, Treasury and other members of the administration's Interagency Group on Micronesia, the Offices of Management and Budget and Micronesian Status Negotiations, Micronesians leaders, the Senate Energy and Natural Resources and Finance Committees have also been included in the efforts to try to resolve this issue.

The bill represents hundreds of hours of work on the part of everyone involved. It represents significant compromise from the bill which passed the House in July. Most of these compromises were reflected in House Joint Resolution 392 which I introduced in September after substantial consultations.

In addition to approving the Compact of Free Association for the Federated States of Micronesia and the Republic of the Marshall Islands, the resolution would indicate the Congress intention to approve a Compact of Free Association between the United States and Palau on the same terms as this resolution would apply to the Federated States of Micronesia and the Marshall Islands.

This does not mean that there would not be specific qualifications on the approval of a Palau compact specific to those islands. There probably will be such qualifications on aspects that are unique to Palau. We expect that the final shape of a Palau document will be brought before the House sometime next year.

This bill will provide assistance to the Federated States of Micronesia and the Republic of the Marshall Islands for a period of 15 years. It will set the stage for the termination of the strategic trusteeship agreement with the United Nations through which the United States has had jurisdiction over these areas of the Pacific for over 40 years. These island entities will become sovereign states associated with the United States of America.

The key U.S. strategic interests at issue are our right to deny access to other nations in this entire region and important base rights, particularly through a lease at the Kwajalein missile range.

There is also the matter of meeting our obligations under the trusteeship agreement. We committed to develop these islands socially, economically, and politically. This resolution would do that.

In sum, we believe that we have brought to the House a well-balanced bill which will be fair to the Micronesians and fair to the people of the United States. That is the intent of our amendments to the joint resolution embodied in the substitute.

I recommend to my colleagues that the rule to permit consideration of an amendment to House Joint Resolution 187 be adopted.

Mrs. BURTON of California. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. SEIBERLING. Mr. Speaker, pursuant to House Resolution 338, I move to take from the speaker's table the joint resolution (H.J. Res. 187) with the Senate amendments thereto, concur in the Senate amendment to the preamble, and concur in the Senate amendment to the text with an amendment printed in the CONGRESSIONAL RECORD of December 10, 1985.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Pursuant to House Resolution 338, the Senate amendments and the House amendment to the Senate amendment are considered as having been read.

The text of the Senate amendments is as follows:

Strike out all after the resolving clause and insert:

TITLE I—COMPACT OF FREE ASSOCIATION WITH THE FEDERATED STATES OF MICRONESIA AND THE MARSHALL ISLANDS

SECTION 1. The Compact of Free Association, the text of which follows, is hereby approved and the President is authorized to agree to an effective date for and thereafter to implement the Compact of Free Association, subject to the provisions of section 4, having taken into account any procedures with respect to the United Nations for termination of the Trusteeship Agreement:

COMPACT OF FREE ASSOCIATION

PREAMBLE

THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENTS OF THE MARSHALL ISLANDS AND THE FEDERATED STATES OF MICRONESIA

Affirming that their Governments and their relationships as Governments are founded upon respect for human rights and fundamental freedoms for all, and that the peoples of the Trust Territory of the Pacific Islands have the right to enjoy self-government; and

Affirming the common interests of the United States of America and the peoples of the Trust Territory of the Pacific Islands in creating close and mutually beneficial relationships through two free and voluntary associations of their respective Governments; and

Affirming the interest of the Government of the United States in promoting the economic advancement and self-sufficiency of the peoples of the Trust Territory of the Pacific Islands; and

Recognizing that their previous relationship has been based upon the International Trusteeship System of the United Nations Charter, and in particular Article 76 of the Charter; and that pursuant to Article 76 of the Charter, the peoples of the Trust Territory have progressively developed their institutions of self-government, and that in the exercise of their sovereign right to self-determination they have, through their freely-expressed wishes, adopted Constitutions appropriate to their particular circumstances; and

Recognizing their common desire to terminate the Trusteeship and establish two new government-to-government relationships each of which is in accordance with a new political status based on the freely-expressed wishes of peoples of the Trust Territory of the Pacific Islands and appropriate to their particular circumstances; and

Recognizing that the peoples of the Trust Territory of the Pacific Islands have and retain their sovereignty and their sovereign right to self-determination and the inherent right to adopt and amend their own Constitutions and forms of government and that the approval of the entry of their respective Governments into this Compact of Free Association by the peoples of the Trust Territory of the Pacific Islands constitutes an exercise of their sovereign right to self-determination;

Now, Therefore, Agree to enter into relationships of free association which provide a full measure of self-government for the peoples of the Marshall Islands and the Federated States of Micronesia; and

Further Agree that the relationships of free association derive from and are as set forth in this Compact; and that, during such relationships of free association, the respective rights and responsibilities of the Government of the United States and the Governments of the freely associated states of the Marshall Islands and the Federated States of Micronesia in regard to these relationships of free association derive from and are as set forth in this Compact.

TITLE ONE

GOVERNMENTAL RELATIONS

Article I

Self-Government

Section 111

The peoples of the Marshall Islands and the Federated States of Micronesia, acting through the Governments established under their respective Constitutions, are self-governing.

Article II

Foreign Affairs

Section 121

(a) The Governments of the Marshall Islands and the Federated States of Micronesia have the capacity to conduct foreign affairs and shall do so in their own name and right, except as otherwise provided in this Compact.

(b) The foreign affairs capacity of the Governments of the Marshall Islands and the Federated States of Micronesia includes:

(1) the conduct of foreign affairs relating to law of the sea and marine resources matters, including the harvesting, conservation, exploration or exploitation of living and non-living resources from the sea, seabed or subsoil to the full extent recognized under international law;

(2) the conduct of their commercial, diplomatic, consular, economic, trade, banking, postal, civil aviation, communications, and cultural relations, including negotiations for the receipt of developmental loans and grants and the conclusion of arrangements with other governments and international and intergovernmental organizations, including any matters specially benefiting their individual citizens.

(c) The Government of the United States recognizes that the Governments of the Marshall Islands and the Federated States of Micronesia have the capacity to enter into, in their own name and right, treaties and other international agreements with governments

and regional and international organizations.

(d) In the conduct of their foreign affairs, the Governments of the Marshall Islands and the Federated States of Micronesia confirm that they shall act in accordance with principles of international law and shall settle their international disputes by peaceful means.

Section 122

The Government of the United States shall support applications by the Governments of the Marshall Islands and the Federated States of Micronesia for membership or other participation in regional or international organizations as may be mutually agreed. The Government of the United States agrees to accept for training and instruction at the Foreign Service Institute, established under 22 U.S.C. 4021, citizens of the Marshall Islands and the Federated States of Micronesia. The qualifications of candidates for such training and instruction and all other terms and conditions of participation by citizens of the Marshall Islands and the Federated States of Micronesia in Foreign Service Institute programs shall be as mutually agreed between the Government of the United States and the Governments of the Marshall Islands and the Federated States of Micronesia.

Section 123

(a) In recognition of the authority and responsibility of the Government of the United States under Title Three, the Governments of the Marshall Islands and the Federated States of Micronesia shall consult, in the conduct of their foreign affairs, with the Government of the United States.

(b) In recognition of the respective foreign affairs capacities of the Governments of the Marshall Islands and the Federated States of Micronesia, the Government of the United States, in the conduct of its foreign affairs, shall consult with the Government of the Marshall Islands or the Federated States of Micronesia on matters which the Government of the United States regards as relating to or affecting any such Government.

Section 124

The Government of the United States may assist or act on behalf of the Government of the Marshall Islands or the Federated States of Micronesia in the area of foreign affairs as may be requested and mutually agreed from time to time. The Government of the United States shall not be responsible to third parties for the actions of the Government of the Marshall Islands or the Federated States of Micronesia undertaken with the assistance or through the agency of the Government of the United States pursuant to this Section unless expressly agreed.

Section 125

The Government of the United States shall not be responsible for nor obligated by any actions taken by the Government of the Marshall Islands or the Federated States of Micronesia in the area of foreign affairs, except as may from time to time be expressly agreed.

Section 126

At the request of the Government of the Marshall Islands or the Federated States of Micronesia and subject to the consent of the receiving state, the Government of the United States shall extend consular assistance on the same basis as for citizens of the United States to citizens of the Marshall Islands and the Federated States of Micronesia for travel outside the Marshall Islands and the Federated States of Micronesia, the United States and its territories and possessions.

Section 127

Except as otherwise provided in this Compact or its related agreements, all obligations, responsibilities, rights and benefits of the Government of the United States as Administering Authority which have resulted from the application pursuant to the Trusteeship Agreement of any treaty or other international agreement to the Trust Territory of the Pacific Islands on the day preceding the effective date of this Compact are no longer assumed and enjoyed by the Government of the United States.

Article III

Communications

Section 131

(a) The Governments of the Marshall Islands and the Federated States of Micronesia have full authority and responsibility to regulate their respective domestic and foreign communications, and the Government of the United States shall provide communications assistance in accordance with the terms of a separate agreement which shall come into effect simultaneously with this Compact, and such agreement shall remain in effect until such time as any election is made pursuant to Section 131(b) and which shall provide for the following:

(1) the Government of the United States remains the sole administration entitled to make notification to the International Frequency Registration Board of the International Telecommunications Union of frequency assignments to radio communications stations respectively in the Marshall Islands and the Federated States of Micronesia; and to submit to the International Frequency Registration Board seasonal schedules for the broadcasting stations respectively in the Marshall Islands and the Federated States of Micronesia in the bands allocated exclusively to the broadcasting service between 5,950 and 26,100 kHz and in any other additional frequency bands that may be allocated to use by high frequency broadcasting stations; and

(2) the United States Federal Communications Commission has jurisdiction, pursuant to the Communications Act of 1934, 47 U.S.C. 151 et seq., and the Communications Satellite Act of 1962, 47 U.S.C. 721 et seq., over all domestic and foreign communications services furnished by means of satellite earth terminal stations where such stations are owned or operated by United States common carriers and are located in the Marshall Islands or the Federated States of Micronesia.

(b) The Government of the Marshall Islands or the Federated States of Micronesia may elect at any time to undertake the functions enumerated in Section 131(a) and previously performed by the Government of the United States. Upon such election, the Government of the United States shall so notify the International Frequency Registration Board and shall take such other actions as may be necessary to transfer to the electing Government the notification authority referred to in Section 131(a) and all rights deriving from the previous exercise of any such notification authority by the Government of the United States.

Section 132

The Governments of the Marshall Islands and the Federated States of Micronesia shall permit the Government of the United States to operate telecommunications services in the Marshall Islands and the Federated States of Micronesia to the extent necessary to fulfill the obligations of the Government of the United States under this Compact in accordance with the terms of separate agreements which shall come into effect simultaneously with this Compact.

Article IV

Immigration

Section 141

(a) Any person in the following categories may enter into, lawfully engage in occupations, and establish residence as a nonimmigrant in the United States and its territories and possessions without regard to paragraphs (14), (20), and (26) of section 212(a) of the Immigration and Nationality Act, 8 U.S.C. 1182(a) (14), (20), and (26):

(1) a person who, on the day preceding the effective date of this Compact, is a citizen of the Trust Territory of the Pacific Islands, as defined in Title 53 of the Trust Territory Code in force on Janaury 1, 1979, and has become a citizen of the Marshall Islands or the Federated States of Micronesia.

(2) a person who acquires the citizenship of the Marshall Islands or the Federated States of Micronesia at birth, on or after the effective date of the respective Constitution;

(3) a naturalized citizen of the Marshall Islands or the Federated States of Micronesia who has been an actual resident there for not less than five years after attaining such naturalization and who holds a certificate of actual residence; or

(4) a person entitled to citizenship in the Marshall Islands by lineal descent whose name is included in a list to be furnished by the Government of the Marshall Islands to the United States Immigration and Naturalization Service and any descendants of such persons, provided that such person holds a certificate of lineal descent issued by the Government of the Marshall Islands.

Such persons shall be considered to have the permission of the Attorney General of the United States to accept employment in the United States.

(b) The right of such persons to establish habitual residence in a territory or possession of the United States may, however, be subjected to non-discriminatory limitations provided for:

(1) in statutes or regulations of the United States; or

(2) in those statutes or regulations of the territory or possession concerned which are authorized by the laws of the United States.

(c) Section 141(a) does not confer on a citizen of the Marshall Islands or the Federated States of Micronesia the right to establish the residence necessary for naturalization under the Immigration and Nationality Act, or to petition for benefits for alien relatives under that Act. Section 141(a), however, shall not prevent a citizen of the Marshall Islands or the Federated States of Micronesia from otherwise acquiring such rights or lawful permanent resident alien status in the United States.

Section 142

(a) Any citizen or national of the United States may enter into, lawfully engage in occupations, and reside in the Marshall Islands or the Federated States of Micronesia, subject to the rights of those Governments to deny entry to or deport any such citizen or national as an undesirable alien. A citizen or national of the United States may establish habitual residence or domicile in the Marshall Islands or the Federated States of Micronesia only in accordance with the laws of the jurisdiction in which habitual residence or domicile is sought.

(b) With respect to the subject matter of this Section, the Government of the Marshall Islands or the Federated States of Micronesia shall accord to citizens and nation-

als of the United States treatment no less favorable than that accorded to citizens of other countries; any denial of entry to or deportation of a citizen or national of the United States as an undesirable alien must be pursuant to reasonable statutory grounds.

Section 143

(a) The privileges set forth in Sections 141 and 142 shall not apply to any person who takes an affirmative step to preserve or acquire a citizenship or nationality other than that of the Marshall Islands, the Federated States of Micronesia or the United States.

(b) Every person having the privileges set forth in Sections 141 and 142 who possesses a citizenship or nationality other than that of the Marshall Islands, the Federated States of Micronesia or the United States ceases to have these privileges two years after the effective date of this Compact, or within six months after becoming 21 years of age, whichever comes later, unless such person executes an oath of renunciation of that other citizenship or nationality.

Section 144

(a) A citizen or national of the United States who, after notification to the Government of the United States of an intention to employ such person by the Government of the Marshall Islands or the Federated States of Micronesia, commences employment with such Government shall not be deprived of his United States nationality pursuant to Section 349(a)(2) and (a)(4) of the Immigration and Nationality Act, 8 U.S.C. 1481 (a)(2) and (a)(4).

(b) Upon such notification by the Government of the Marshall Islands or the Federated States of Micronesia, the Government of the United States may consult with or provide information to the notifying Government concerning the prospective employee, subject to the provisions of the Privacy Act, 5 U.S.C. 552a.

(c) The requirement of prior notification shall not apply to those citizens or nationals of the United States who are employed by the Government of the Marshall Islands or the Federated States of Micronesia on the effective date of this Compact with respect to the positions held by them at that time.

Article V

Representation

Section 151

The Government of the United States and the Government of the Marshall Islands or the Federated States of Micronesia may establish and maintain representative offices in the capital of the other for the purpose of maintaining close and regular consultations on matters arising in the course of the relationship of free association and conducting other government business. The Governments may establish and maintain additional offices on terms and in locations as may be mutually agreed.

Section 152

(a) The premises of such representative offices, and their archives wherever located, shall be inviolable. The property and assets of such representative offices shall be immune from search, requisition, attachment and any form of seizure unless such immunity is expressly waived. Official communications in transit shall be inviolable and accorded the freedom and protections accorded by recognized principles of international law to official communications of a diplomatic mission.

(b) persons designated by the sending Government may serve in the capacity of its resident representatives with the consent of the receiving Government. Such designated persons shall be immune from civil and criminal process relating to words spoken or written and all acts performed by them in their official capacity and falling within their functions as such representatives, except insofar as such immunity may be expressly waived by the sending Government. While serving in a resident representative capacity, such designated persons shall not be liable to arrest or detention pending trial, except in the case of a grave crime and pursuant to a decision by a competent judicial authority, and such persons shall enjoy immunity from seizure of personal property, immigration restrictions, and laws relating to alien registration, fingerprinting, and the registration of foreign agents.

(c) The sending Governments and their respective assets, income and other property shall be exempt from all direct taxes, except those direct taxes representing payment for specific goods and services, and shall be exempt from all customs duties and restrictions on the import or export of articles required for the official functions and personal use of their representatives and representative offices.

(d) Persons designated by the sending Government to serve in the capacity of its resident representatives shall enjoy the same taxation exemptions as are set forth in Article 34 of the Vienna Convention on Diplomatic Relations.

(e) The privileges, exemptions and immunities accorded under this Section are not for the personal benefit of the individuals concerned but are to safeguard the independent exercise of their official functions. Without prejudice to those privileges, exemptions and immunities, it is the duty of all such persons to respect the laws and regulations of the Government to which they are assigned.

Section 153

(a) Any citizen or national of the United States who, after consultation between the designating Government and the Government of the United States, is designated by the Government of the Marshall Islands or the Federated States of Micronesia as its agent, shall enjoy exemption from the requirements of the laws of the United States relating to the registration of foreign agents. The Government of the United States shall promptly comply with a request for consultation made by the prospective designating Government. During the course of the consultation, the Government of the United States may, in its discretion, and subject to the provisions of the Privacy Act, 5 U.S.C. 552a, transmit such information concerning the prospective designee as may be available to it to the prospective designating Government.

(b) Any citizen or national of the United States may be employed by the Government of the Marshall Islands or the Federated States of Micronesia to represent to foreign governments, officers or agents thereof the positions of the Government of the Marshall Islands or the Federated States of Micronesia, without regard to the provisions of 18 U.S.C. 953.

Article VI

Environmental Protection

Section 161

The Governments of the United States, the Marshall Islands and the Federated States of Micronesia declare that it is their policy to promote efforts to prevent or eliminate damage to the environment and biosphere and to enrich understanding of the natural resources of the Marshall Islands and the Federated States of Micronesia. In order to carry out this policy, the Government of the United States and the Governments of the Marshall Islands and the Federated States of Micronesia agree to the following mutual and reciprocal undertakings.

(a) The Government of the United States:

(1) shall continue to apply the environmental controls in effect on the day preceding the effective date of this Compact to those of its continuing activities subject to Section 161(a)(2), unless and until those controls are modified under Sections 161(a)(3) and 161(a)(4);

(2) shall apply the National Environmental Policy Act of 1969, 83 Stat. 852, 42 U.S.C. 4321 et seq., to its activities under the Compact and its related agreements as if the Marshall Islands and the Federated States of Micronesia were the United States;

(3) shall comply also, in the conduct of any activ- ity requiring the preparation of an Environmental Impact Statement under Section 161(a)(2), with standards substantively similar to those required by the following laws of the United States, taking into account the particular environments of the Marshall Islands and the Federated States of Micronesia: the Endangered Species Act of 1973, 87 Stat. 884, 16 U.S.C. 1531 et seq.; the Clean Air Act, 77 Stat. 392, 42 U.S.C. Supp. 7401 et seq.; the Clean Water Act (Federal Water Pollution Control Act), 86 Stat. 896, 33 U.S.C. 1251 et seq.; the Ocean Dumping Act (Title I of the Marine Protection, Research and Sanctuaries Act of 1972), 86 Stat. 1053, 33 U.S.C. 1411 et seq.; the Toxic Substances Control Act, 90 Stat. 2003, 15 U.S.C. 2601 et seq.; the Resources Conservation and Recovery Act of 1976, 90 Stat. 2796, 42 U.S.C. 6901 et seq.; and such other environmental protection laws of the United States as may be mutually agreed from time to time with the Government of the Marshall Islands or the Federated States of Micronesia; and

(4) shall develop, prior to conducting any activity requiring the preparation of an Environmental Impact Statement under Section 161(a)(2), appropriate mechanisms, including regulations or other judicially reviewable standards and procedures, to regulate its activities governed by Section 161(a)(3) in the Marshall Islands and the Federated States of Micronesia in a manner appropriate to the special governmental relationship set forth in this Compact. The agencies of the Government of the United States designated by law to administer the laws set forth in Section 161(a)(3) shall participate as appropriate in the development of any regulation, standard or procedure under this Section, and the Government of the United States shall provide the affected Government of the Marshall Islands or the Federated States of Micronesia with the opportunity to comment during such development.

(b) The Governments of the Marshall Islands and the Federated States of Micronesia shall develop standards and procedures to protect their environments. As a reciprocal obligation to the undertakings of the Government of the United States under this Article, the Governments of the Marshall Islands and the Federated States of Micronesia, taking into account their particular environments, shall develop standards for environmental protection substantively similar to those required of the Government of the United States by Section 161(a)(3) prior to their conducting activities in the Marshall Islands and the Federated States of Micronesia, respectively, substantively equivalent to activities conducted there by the

Government of the United States and, as a further reciprocal obligation, shall enforce those standards.

(c) Section 161(a), including any standard or procedure applicable thereunder, and Section 161(b) may be modified or superseded in whole or in part by agreement of the Government of the United States and the Government of the Marshall Islands or the Federated States of Micronesia.

(d) In the event that an Environmental Impact Statement is no longer required under the laws of the United States for major federal actions significantly affecting the quality of the human environment, the regulatory regime established under Sections 161(a)(3) and 161(a)(4) shall continue to apply to such activities of the Government of the United States until amended by mutual agreement.

(e) The President of the United States may exempt any of the activities of the Government of the United States under this Compact and its related agreements from any environmental standard or procedure which may be applicable under Sections 161(a)(3) and 161(a)(4) if the President determines it to be in the paramount interest of the Government of the United States to do so, consistent with Title Three of this Compact and the obligations of the Government of the United States under international law. Prior to any decision pursuant to this subsection, the views of the affected Government of the Marshall Islands or the Federated States of Micronesia shall be sought and considered to the extent practicable. If the President grants such an exemption, to the extent practicable, a report with his reasons for granting such exemption shall be given promptly to the affected Government.

(f) The laws of the United States referred to in Section 161(a)(3) shall apply to the activities of the Government of the United States under this Compact and its related agreements only to the extent provided for in this Section.

Section 162

The Government of the Marshall Islands or the Federated States of Micronesia may bring an action for judicial review of any administrative agency action or any activity of the Government of the United States pursuant to Sections 161(a), 161(d) or 161(e) or for enforcement of the obligations of the Government of the United States arising thereunder. The United States District Court for the District of Hawaii and the United States District Court for the District of Columbia shall have jurisdiction over such action or activity, and over actions brought under Section 172(b) which relate to the activities of the Government of the United States and its officers and employees, governed by Section 161, provided that:

(a) Such actions may only be civil actions for any appropriate civil relief other than punitive damages against the Government of the United States or, where required by law, its officers in their official capacity; no criminal actions may arise under this Section;

(b) Actions brought pursuant to this Section may be initiated only by the Government concerned;

(c) Administrative agency actions arising under Section 161 shall be reviewed pursuant to the standard of judicial review set forth in 5 U.S.C. 706;

(d) The District Court shall have jurisdiction to issue all necessary processes, and the Government of the United States agrees to submit itself to the jurisdiction of the court; decisions of the District Court shall be reviewable in the United States Court of Appeals for the Ninth Circuit or the United States Court of Appeals for the District of Columbia, respectively, or in the United States Supreme Court as provided by the laws of the United States;

(e) The judicial remedy provided for in this Section shall be the exclusive remedy for the judicial review or enforcement of the obligations of the Government of the United States under this Article and actions brought under Section 172(b) which relate to the activities of the Government of the United States and its officers and employees governed by Section 161; and

(f) In actions pursuant to this Section, the Governments of the Marshall Islands and the Federated States of Micronesia shall be treated as if they were United States citizens.

Section 163

(a) For the purpose of gathering data necessary to study the environmental effects of activities of the Government of the United States subject to the requirements of this Article, the Governments of the Marshall Islands and the Federated States of Micronesia shall be granted access to facilities operated by the Government of the United States in the Marshall Islands and the Federated States of Micronesia, to the extent necessary for this purpose, except to the extent such access would unreasonably interfere with the exercise of the authority and responsibility of the Government of the United States under Title Three.

(b) The Government of the United States, in turn, shall be granted access to the Marshall Islands or the Federated States of Micronesia for the purpose of gathering data necessary to discharge its obligations under this Article, except to the extent such access would unreasonably interfere with the exercise of the authority and responsibility of the Government of the Marshall Islands or the Federated States of Micronesia under Title One, and to the extent necessary for this purpose shall be granted access to documents and other information to the same extent similar access is provided those Governments under the Freedom of Information Act, 5 U.S.C. 552.

(c) The Governments of the Marshall Islands and the Federated States of Micronesia shall not impede efforts by the Government of the United States to comply with applicable standards and procedures.

Article VII

General Legal Provisions

Section 171

Except as provided in this Compact or its related agreements, the application of the laws of the United States to the Trust Territory of the Pacific Islands by virtue of the Trusteeship Agreement ceases with respect to the Marshall Islands and the Federated States of Micronesia as of the effective date of this Compact.

Section 172

(a) Every citizen of the Marshall Islands or the Federated States of Micronesia who is not a resident of the United States shall enjoy the rights and remedies under the laws of the United States enjoyed by any non-resident alien.

(b) The Governments of the Marshall Islands and the Federated States of Micronesia and every citizen of the Marshall Islands or the Federated States of Micronesia shall be considered a "person" within the meaning of the Freedom of Information Act, 5 U.S.C. 552, and of the judicial review provisions of the Administrative Procedure Act, 5 U.S.C. 701-706, except that only the Government of the Marshall Islands or the Federated States of Micronesia may seek judicial review under the Administrative Procedure Act or judicial enforcement under the Freedom of Information Act when such judicial review or enforcement relates to the activities of the Government of the United States governed by Sections 161 and 162.

Section 173

The Governments of the United States, the Marshall Islands and the Federated States of Micronesia agree to adopt and enforce such measures, consistent with this Compact and its related agreements, as may be necessary to protect the personnel, property, installations, services, programs and official archives and documents maintained by the Government of the United States in the Marshall Islands and the Federated States of Micronesia pursuant to this Compact and its related agreements and by those Governments in the United States pursuant to this Compact and its related agreements.

Section 174

Except as otherwise provided in this Compact and its related agreements:

(a) The Governments of the Marshall Islands and the Federated States of Micronesia shall be immune from the jurisdiction of the courts of the United States, and the Government of the United States shall be immune from the jurisdiction of the courts of the Marshall Islands and the Federated States of Micronesia.

(b) The Government of the United States accepts responsibility for and shall pay:

(1) any unpaid money judgment rendered by the High Court of the Trust Territory of the Pacific Islands against the Government of the Trust Territory of the Pacific Islands or the Government of the United States with regard to any cause of action arising as a result of acts or omissions of the Government of the Trust Territory of the Pacific Islands or the Government of the United States prior to the effective date of this Compact;

(2) any claim settled by the claimant and the Government of the Trust Territory of the Pacific Islands but not paid as of the effective date of this Compact; and

(3) settlement of any administrative claim or of any action before a court of the Trust Territory of the Pacific Islands, pending as of the effective date of this Compact, against the Government of the Trust Territory of the Pacific Islands or the Government of the United States, arising as a result of acts or omissions of the Government of the Trust Territory of the Pacific Islands or the Government of the United States.

(c) Any claim not referred to in Section 174(b) and arising from an act or omission of the Government of the Trust Territory of the Pacific Islands or the Government of the United States prior to the effective date of this Compact shall be adjudicated in the same manner as a claim adjudicated according to Section 174(d). In any claim against the Government of the Trust Territory of the Pacific Islands, the Government of the United States shall stand in the place of the Government of the Trust Territory of the Pacific Islands. A judgment on any claim referred to in Section 174(b) or this subsection, not otherwise satisfied by the Government of the United States, may be presented for certification to the United States Court of Appeals for the Federal Circuit, or its successor court, which shall have jurisdiction therefor, notwithstanding the provisions of 28 U.S.C. 1502, and which court's decisions shall be reviewable as provided by the laws of the United States. The

United States Court of Appeals for the Federal Circuit shall certify such judgment, and order payment thereof, unless it finds, after a hearing, that such judgment is manifestly erroneous as to law or fact, or manifestly excessive. In either of such cases the United States Court of Appeals for the Federal Circuit shall have jurisdiction to modify such judgment.

(d) The Governments of the Marshall Islands and the Federated States of Micronesia shall not be immune from the jurisdiction of the courts of the United States, and the Government of the United States shall not be immune from the jurisdiction of the courts of the Marshall Islands and the Federated States of Micronesia in any case in which the action is based on a commercial activity of the defendant Government where the action is brought, or in a case in which damages are sought for personal injury or death or damage to or loss of property occurring where the action is brought.

Section 175

A separate agreement, which shall come into effect simultaneously with this Compact, shall be concluded between the Government of the United States and the Governments of the Marshall Islands and the Federated States of Micronesia regarding mutual assistance and cooperation in law enforcement matters including the pursuit, capture, imprisonment and extradition of fugitives from justice and the transfer of prisoners. The separate agreement shall have the force of law. In the United States, the laws of the United States governing international extradition, including 18 U.S.C. 3184, 3186 and 3188-3195, shall be applicable to the extradition of fugitives under the separate agreement, and the laws of the United States governing the transfer of prisoners, including 18 U.S.C. 4100-4115, shall be applicable to the transfer of prisoners under the separate agreement.

Section 176

The Governments of the Marshall Islands and the Federated States of Micronesia confirm that final judgments in civil cases rendered by any court of the Trust Territory of the Pacific Islands shall continue in full force and effect, subject to the constitutional power of the courts of the Marshall Islands and the Federated States of Micronesia to grant relief from judgments in appropriate cases.

Section 177

(a) The Government of the United States accepts the responsibility for compensation owing to citizens of the Marshall Islands, or the Federated States of Micronesia (or Palau) for loss or damage to property and person of the citizens of the Marshall Islands, or the Federated States of Micronesia or resulting from the nuclear testing program which the Government of the United States conducted in the Northern Marshall Islands between June 30, 1946, and August 18, 1958.

(b) The Government of the United States and the Government of the Marshall Islands shall set forth in a separate agreement provisions for the just and adequate settlement of all such claims which have arisen in regard to the Marshall Islands and its citizens and which have not as yet been compensated or which in the future may arise, for the continued administration by the Government of the United States of direct radiation related medical surveillance and treatment programs and radiological monitoring activities and for such additional programs and activities as may be mutually agreed, and for the assumption by the Government of the Marshall Islands of responsibility for enforcement of limitations on the utilization of affected areas developed in cooperation with the Government of the United States and for the assistance by the Government of the United States in the exercise of such responsibility as may be mutually agreed. This separate agreement shall come into effect simultaneously with this Compact and shall remain in effect in accordance with its own terms.

(c) The Government of the United States shall provide to the Government of the Marshall Islands, on a grant basis, the amount of $150 million to be paid and distributed in accordance with the separate agreement referred to in this Section, and shall provide the services and programs set forth in this separate agreement, the language of which is incorporated into this Compact.

Section 178

(a) The federal agencies of the Government of the United States which provide the services and related programs in the Marshall Islands or the Federated States of Micronesia pursuant to Articles II and III of Title Two are authorized to settle and pay tort claims arising in the Marshall Islands or the Federated States of Micronesia from the activities of such agencies or from the acts or omissions of the employees of such agencies. Except as provided in Section 178(b), the provisions of 28 U.S.C. 2672 and 31 U.S.C. 1304 shall apply exclusively to such administrative settlements and payments.

(b) Claims under Section 178(a) which cannot be settled under Section 178(a) shall be disposed of exclusively in accordance with Article II of Title Four. Arbitration awards rendered pursuant to this subsection shall be paid out of funds under 31 U.S.C. 1304.

(c) The Government of the United States and the Government of the Marshall Islands or the Federated States of Micronesia shall, in the separate agreements referred to in Section 232, provide for:

(1) the administrative settlement of claims referred to in Section 178(a), including designation of local agents in the Marshall Islands and each State of the Federated States of Micronesia; such agents to be empowered to accept, investigate and settle such claims, in a timely manner, as provided in such separate agreements; and

(2) arbitration, referred to in Section 178(b), in a timely manner, at a site convenient to the claimant, in the event a claim is not otherwise settled pursuant to Section 178(a).

(d) The provisions of Section 174(d) shall not apply to claims covered by this Section.

TITLE TWO

ECONOMIC RELATIONS

Article I

Grant Assistance

Section 211

(a) In order to assist the Governments of the Marshall Islands and the Federated States of Micronesia in their efforts to advance the economic self-sufficiency of their peoples and in recognition of the special relationship that exists between them and the United States, the Government of the United States shall provide on a grant basis the following amounts:

(1) to the Government of the Marshall Islands, $26.1 million annually for five years commencing on the effective date of this Compact, $22.1 million annually for five years commencing on the fifth anniversary of the effective date of this Compact, and $19.1 million annually for five years commencing on the tenth anniversary of this Compact. Over this fifteen-year period, the Government of the Marshall Islands shall dedicate an average of no less than 40 percent of these amounts to the capital account subject to provision for revision of this percentage incorporated into the plan referred to in Section 211(b).

(2) to the Government of the Federated States of Micronesia, $60 million annually for five years commencing on the effective date of this Compact, $51 million annually for five years commencing on the fifth anniversary of the effective date of this Compact, and $40 million annually for five years commencing on the tenth anniversary of the effective date of this Compact. Over this fifteen-year period, the Government of the Federated States of Micronesia shall dedicate an average of no less than 40 percent of these amounts annually to the capital account subject to provision for revision of this percentage incorporated into the plan referred to in Section 211(b). To take into account the special nature of the assistance, to be provided under this paragraph and Sections 212(b), 213(c), 214(c), 215(a)(3), 215(b)(3), 216(a), 216(b), 221(a), and 221(b), the division of these amounts among the national and state governments of the Federated States of Micronesia shall be certified to the Government of the United States by the Government of the Federated States of Micronesia.

(b) The annual expenditure of the grant amounts specified for the capital account in Section 211(a) by the Governments of the Marshall Islands and the Federated States of Micronesia shall be in accordance with official overall economic development plans provided by those Governments and concurred in by the Government of the United States prior to the effective date of this Compact. These plans may be amended from time to time by the Government of the Marshall Islands or the Federated States of Micronesia.

(c) The Government of the United States and the Governments of the Marshall Islands and the Federated States of Micronesia recognize that the achievement of th goals of the plans referred to in Sectio 211(b) depends upon the availability of adequate internal revenue as well as economi assistance from sources outside of the Marshall Islands and the Federated States of Micronesia, including the Government of th United States, and may, in addition, be affected by the impact of exceptional economically adverse circumstances. Each of th Governments of the Marshall Islands an the Federated States of Micronesia shal therefore report annually to the President o the United States and to the Congress of th United States on the implementation of th plans and on their use of the funds specifie in this Article. These reports shall outlin the achievements of the plans to date an the need, if any, for an additional authorization and appropriation of economic assistance for that year to account for any exceptional, economically adverse circumstances. It is understood that the Government of the United States cannot be committed by this Section to seek or support suc additional economic assistance.

Section 212

In recognition of the special developmen needs of the Federated States of Micronesi the Government of the United States sha provide to the Government of the Federate States of Micronesia $1 million annually fo fourteen years commencing on the first ar niversary of the effective date of this Compact. This amount may be used by the Government of the Federated States of Micronesia to defray current account expenditures attendant to the operation of the United States military Civic Action Teams made available in accordance with the separate agreement referred to in Section 227.

Section 213

(a) The Government of the United States shall provide on a grant basis $1.9 million annually to the Government of the Marshall Islands in conjunction with Section 321(a). The Government of the Marshall Islands, in its use of such funds, shall take into account the impact of the activities of the Government of the United States in the Kwajalein Atoll area of the Marshall Islands.

(b) The Government of the United States shall provide on a grant basis to the Government of the Federated States of Micronesia the sum of $160,000 in conjunction with Section 321(a). This sum shall be made available concurrently with the grant assistance provided pursuant to this Article during the first year after the effective date of this Compact. The Government of the Federated States of Micronesia, in its use of such funds, shall take into account the impact of the activities of the Government of the United States in Yap State, Federated States of Micronesia.

Section 214

As a contribution to efforts aimed at achieving increased self-sufficiency in energy production, the Government of the United States shall provide on a current account grant basis for fourteen years commencing on the first anniversary of the effective date of this Compact the following amounts:

(a) To the Government of the Marshall Islands, $2 million annually; and

(b) To the Government of the Federated States of Micronesia, $3 million annually.

Section 215

(a) As a contribution to the current account operations and maintenance of communications systems, the Government of the United States shall provide on a grant basis for fifteen years commencing on the effective date of this Compact the following amounts:

(1) to the Government of the Marshall Islands, $300,000 annually; and

(2) to the Government of the Federated States of Micronesia, $600,000 annually.

(b) For the purpose of acquiring such communications hardware as may be located within the Marshall Islands and the Federated States of Micronesia or for such other current or capital account activity as may be selected, the Government of the United States shall provide, concurrently with the grant assistance provided pursuant to this Article during the first year after the effective date of this Compact, the sum of $9 million to be allocated as follows:

(1) to the Government of the Marshall Islands, $3 million; and

(2) to the Government of the Federated States of Micronesia, $6 million.

Section 216

(a) The Government of the United States shall provide on a current account basis an annual grant of $5.369 million for fifteen years commencing on the effective date of this Compact for the purposes set forth below:

(1) $890,000 annually for the surveillance and enforcement by the Governments of the Marshall Islands and the Federated States of Micronesia of their respective maritime zones;

(2) $1.791 million annually for health and medical programs, including referrals to hospital and treatment centers; and

(3) $2.687 million annually for a scholarship fund or funds to support the post-secondary education of citizens of the Marshall Islands and the Federated States of Micronesia attending United States accredited, post-secondary institutions in the United States, its territories and possessions, the Marshall Islands or the Federated States of Micronesia. The curricula criteria for the award of scholarships shall be designed to advance the purposes of the plans referred to in Section 211(b).

(b) The Government of the United States shall provide the sum of $1.333 million as a contribution to the commencement of activities pursuant to Section 216(a)(1).

(c) The annual grants referred to in Section 216(a) and the sum referred to in Section 216(b) shall be made available by the Government of the United States promptly after it receives instruction for their distribution agreed upon by the Governments of the Marshall Islands and the Federated States of Micronesia.

Section 217

Except as otherwise provided, the amounts stated in Sections 211, 212, 214, 215 and 231 shall be adjusted for each Fiscal Year by the percent which equals two-thirds of the percentage change in the United States Gross National Product Implicit Price Deflator, or seven percent, whichever is less in any one year, using the beginning of Fiscal Year 1981 as the base.

Section 218

If in any year the funds made available by the Government of the United States for that year pursuant to this Article or Section 231 are not completely obligated by the recipient Government, the unobligated balances shall remain available in addition to the funds to be provided in subsequent years.

Section 219

All funds previously appropriated to the Trust Territory of the Pacific Islands which are unobligated by the Government of the Trust Territory of the Pacific Islands as of the effective date of this Compact shall accrue to the Governments of the Marshall Islands and the Federated States of Micronesia for the purposes for which such funds were originally appropriated as determined by the Government of the United States.

Article II

Program Assistance

Section 221

(a) The Government of the United States shall make available to the Marshall Islands and the Federated States of Micronesia, in accordance with and to the extent provided in the separate agreements referred to in section 232, without compensation and at the levels equivalent to those available to the Trust Territory of the Pacific Islands during the year prior to the effective date of this Compact, the services and related programs:

(1) of the United States Weather Service;

(2) of the United States Federal Emergency Management Agency;

(3) provided pursuant to the Postal Reorganization Act, 39 U.S.C. 101 et seq.;

(4) of the United States Federal Aviation Administration; and

(5) of the United States Civil Aeronautics Board or its successor agencies which has the authority to implement the provisions of paragraph 5 of Article IX of such separate agreements, the language of which is incorporated into this Compact.

(b) The Government of the United States, recognizing the special needs of the Marshall Islands and the Federated States of Micronesia particularly in the fields of education and health care, shall make available, as provided by the laws of the United States, the annual amount of $10 million which shall be allocated in accordance with the provisions of the separate agreement referred to in Section 232.

(c) The Government of the United States shall make available to the Marshall Islands and the Federated States of Micronesia such alternate energy development projects, studies and conservation measures as are applicable to the Trust Territory of the Pacific Islands on the day preceding the effective date of this Compact, for the purposes and duration provided in the laws of the United States.

(d) The Government of the United States shall have and exercise such authority as is necessary for the purposes of this Article and as is set forth in the separate agreements referred to in Section 232, which shall also set forth the extent to which services and programs shall be provided to the Marshall Islands and the Federated States of Micronesia.

Section 222

The Government of the United States and the Government of the Marshall Islands or the Federated States of Micronesia shall consult regularly or upon request regarding:

(a) The economic development of the Marshall Islands or the Federated States of Micronesia; or

(b) The services and programs referred to in this Article. These services and programs shall continue to be provided by the Government of the United States unless their modification is provided by mutual agreement or their termination in whole or in part is requested by any recipient Government.

Section 223

The citizens of the Marshall Islands and the Federated States of Micronesia who are receiving post-secondary educational assistance from the Government of the United States on the day preceding the effective date of this Compact shall continue to be eligible, if otherwise qualified, to receive such assistance to complete their academic programs for a maximum of four years after the effective date of this Compact.

Section 224

The Government of the United States and the Government of the Marshall Islands or the Federated States of Micronesia may agree from time to time to the extension of additional United States grant assistance, services and programs as provided by the Laws of the United States, to the Marshall Islands or the Federated States of Micronesia, respectively.

Section 225

The Governments of the Marshall Islands and the Federated States of Micronesia shall make available to the Government of the United States at no cost such land as may be necessary for the operations of the services and programs provided pursuant to this Article, and such facilities as are provided by the Government of the Marshall Islands or the Federated States of Micronesia at no cost to the Government of the United States as of the effective date of this Compact or as may be mutually agreed thereafter.

Section 226

The Governments of the Marshall Islands and the Federated States of Micronesia may request, from time to time, technical assistance from the federal agencies and institutions of the Government of the United

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States, which are authorized to grant such technical assistance in accordance with its laws and which shall grant such technical assistance in a manner which gives priority consideration to the Marshall Islands and the Federated States of Micronesia over other recipients not a part of the United States, its territories or possessions. The Government of the United States shall coordinate the provision of such technical assistance in consultation with the respective recipient Government.

Section 227

In recognition of the special development needs of the Federated States of Micronesia, the Government of the United States shall make available United States military Civic Action Teams for use in the Federated States of Micronesia under terms and conditions specified in a separate agreement which shall come into effect simultaneously with this Compact.

Article III

Administrative Provisions

Section 231

Upon the thirteenth anniversary of the effective date of this Compact, the Government of the United States and the Governments of the Marshall Islands and the Federated States of Micronesia shall commence negotiations regarding those provisions of this Compact which expire on the fifteenth anniversary of its effective date. If these negotiations are not concluded by the fifteenth anniversary of the effective date of this Compact, the period of negotiations shall extend for not more than two additional years, during which time the provisions of this Compact including Title Three shall remain in full force and effect. During this additional period of negotiations, the Government of the United States shall continue its assistance to the Governments with which it is negotiating pursuant to this Section at a level which is the average of the annual amounts granted pursuant to Sections 211, 212, 213, 214, 215 and 216 during the first fifteen years of this Compact. The average annual amount paid pursuant to Sections 211, 212, 214 and 215 shall be adjusted pursuant to Section 217.

Section 232

The specific nature, extent and contractual arrangements of the services and programs provided for in Section 221 as well as the legal status of agencies of the Government of the United States, their civilian employees and contractors, and the dependents of such personnel while present in the Marshall Islands or the Federated States of Micronesia, and other arrangements in connection with a service or program furnished by the Government of the United States, are set forth in separate agreements which shall come into effect simultaneously with this Compact.

Section 233

The Government of the United States, in consultation with the Governments of the Marshall Islands and the Federated States of Micronesia, shall determine and implement procedures for the periodic audit of all grants and other assistance made under Article I of this Title and of all funds expended for the services and programs provided under Article II of this Title. Such audits shall be conducted on an annual basis during the first five years following the effective date of this Compact and shall be at no cost to the Government of the Marshall Islands or the Federated States of Micronesia.

Section 234

Title to the property of the Government of the United States situated in the Trust Territory of the Pacific Islands or acquired for or used by the Government of the Trust Territory of the Pacific Islands on or before the day preceding the effective date of this Compact shall, without reimbursement or transfer of funds, vest in the Government of the Marshall Islands and the Federated States of Micronesia as set forth in a separate agreement which shall come into effect simultaneously with this Compact. The provisions of this Section shall not apply to the property of the Government of the United States for which the Government of the United States determines a continuing requirement.

Section 235

(a) Funds held in trust by the High Commissioner of the Trust Territory of the Pacific Islands, in his official capacity, as of the effective date of this Compact shall remain available as trust funds to their designated beneficiaries. The Government of the United States, in consultation with the Government of the Marshall Islands or the Federated States of Micronesia, shall appoint a new trustee who shall exercise the functions formerly exercised by the High Commissioner of the Trust Territory of the Pacific Islands.

(b) To provide for the continuity of administration, and to assure the Governments of the Marshall Islands and the Federated States of Micronesia that the purposes of the laws of the United States are carried out and that the funds of any other trust fund in which the High Commissioner of the Trust Territory of the Pacific Islands has authority of a statutory or customary nature shall remain available as trust funds to their designated beneficiaries, the Government of the United States agrees to assume the authority formerly vested in the High Commissioner of the Trust Territory of the Pacific Islands.

Section 236

Except as otherwise provided, approval of this Compact by the Government of the United States shall constitute a pledge of the full faith and credit of the United States for the full payment of the sums and amounts specified in Articles I and III of this Title. The obligation of the United States under Articles I and III of this Title shall be enforceable in the United States Claims Court, or its successor court, which shall have jurisdiction in cases arising under this Section, notwithstanding the provisions of 28 U.S.C. 1502, and which court's decisions shall be reviewable as provided by the laws of the United States.

Article IV

Trade

Section 241

The Marshall Islands and the Federated States of Micronesia are not included in the customs territory of the United States.

Section 242

For the purpose of assessing duties on their products imported into the customs territory of the United States, the Marshall Islands and the Federated States of Micronesia shall be treated as if they were insular possessions of the United States within the meaning of General Headnote 3(a) of the Tariff Schedules of the United States. The exceptions, valuation procedures and all other provisions of General Headnote 3(a) shall apply to any product deriving from the Marshall Islands or the Federated States of Micronesia.

Section 243

All products of the Marshall Islands or the Federated States of Micronesia imported into the customs territory of the United States which are not accorded the treatme set forth in Section 242 and all products the United States imported into the Ma shall Islands or the Federated States of M cronesia shall receive treatment no less f vorable than that accorded like products any foreign country with respect to custon duties or charges of a similar nature ar with respect to laws and regulations rela ing to importation, exportation, ,taxatio sale, distribution, storage or use.

Article V

Finance and Taxation

Section 251

The currency of the United States is the o ficial circulating legal tender of the Ma shall Islands and the Federated States of M cronesia. Should the Government of t Marshall Islands or the Federated States Micronesia act to institute another curre cy, the terms of an appropriate curren transitional period shall be as agreed wi the Government of the United States.

Section 252

The Government of the Marshall Islan or the Federated States of Micronesia ma with respect to United States persons, t income derived from sources within its spective jurisdiction, property situat therein, including transfers of such proper by gift or at death, and products consum therein, in such manner as such Gover ment deems appropriate. The determinati of the source of any income, or the situs any property, shall for purposes of this Co pact be made according to the United Sta Internal Revenue Code.

Section 253

A citizen of the Marshall Islands or t Federated States of Micronesia, domicil therein, shall be exempt from:

(a) Income taxes imposed by the Gove ment of the United States upon fixed or terminable annual income; and

(b) Estate, gift, and generation-skippi transfer taxes imposed by the Governme of the United States.

Section 254

(a) In determining any income tax i posed by the Government of the Marshall lands or the Federated States of Micrones those Governments shall have authority impose tax upon income derived by a r dent of the Marshall Islands or the Feder ed States of Micronesia from sources wi out the Marshall Islands and the Federa States of Micronesia, in the same man and to the same extent as those Gove ments impose tax upon income derived fr within their respective jurisdictions. If Government of the Marshall Islands or Federated States of Micronesia exerc such authority as provided in this subs tion, any individual resident of the Marsh Islands or the Federated States of Micro sia who is subject to tax by the Governm of the United States on income which is taxed by the Government of the Marshall lands or the Federated States of Microne shall be relieved of liability to the Gove ment of the United States for the tax wh but for this subsection, would otherwise imposed by the Government of the Un States on such income. For purposes of Section, the term "resident of the Mars Islands or the Federated States of Micro sia" shall be deemed to include any per who was physically present in the Mars Islands or the Federated States of Micro sia for a period of 183 or more days du any taxable year; provided, that as betw the Government of the Marshall Islands the Federated States of Micronesia, the

thority to tax an individual resident of the Marshall Islands or the Federated States of Micronesia in respect of income from sources without the Marshall Islands and the Federated States of Micronesia as provided in this subsection may be exercised only by the Government in whose jurisdiction such individual was physically present for the greatest number of days during the taxable year.

(b) If the Government of the Marshall Islands or the Federated States of Micronesia subjects income to taxation substantially similar to that imposed by the Trust Territory Code in effect on January 1, 1980, such Government shall be deemed to have exercised the authority described in Section 254(a).

Section 255

Where not otherwise manifestly inconsistent with the intent of this Compact, provisions in the United States Internal Revenue Code that are applicable to possessions of the United States as of January 1, 1980 shall be treated as applying to the Marshall Islands and the Federated States of Micronesia. If such provisions of the Internal Revenue Code are amended, modified or repealed after that date, such provisions shall continue in effect as to the Marshall Islands and the Federated States of Micronesia for a period of two years during which time the Government of the United States and the Governments of the Marshall Islands and the Federated States of Micronesia shall negotiate an agreement which shall provide benefits substantially equivalent to those which obtained under such provisions.

TITLE THREE

SECURITY AND DEFENSE RELATIONS

Article I

Authority and Responsibility

Section 311

(a) The Government of the United States has full authority and responsibility for security and defense matters in or relating to the Marshall Islands and the Federated States of Micronesia.

(b) This authority and responsibility includes:

(1) the obligation to defend the Marshall Islands and the Federated States of Micronesia and their peoples from attack or threats thereof as the United States and its citizens are defended;

(2) the option to foreclose access to or use of the Marshall Islands and the Federated States of Micronesia by military personnel or for the military purposes of any third country; and

(3) the option to establish and use military areas and facilities in the Marshall Islands and the Federated States of Micronesia, subject to the terms of the separate agreements referred to in Sections 321 and 323.

(c) The Government of the United States confirms that it shall act in accordance with the principles of international law and the Charter of the United Nations in the exercise of this authority and responsibility.

Section 312

Subject to the terms of any agreements negotiated in accordance with Sections 321 and 323, the Government of the United States may conduct within the lands, waters and airspace of the Marshall Islands and the Federated States of Micronesia the activities and operations necessary for the exercise of its authority and responsibility under this Title.

Section 313

(a) The Governments of the Marshall Islands and the Federated States of Micronesia shall refrain from actions which the Government of the United States determines, after appropriate consultation with those Governments, to be incompatible with its authority and responsibility for security and defense matters in or relating to the Marshall Islands and the Federated States of Micronesia.

(b) The consultations referred to in this Section shall be conducted expeditiously at senior levels of the Governments concerned, and the subsequent determination by the Government of the United States referred to in this Section shall be made only at senior interagency levels of the Government of the United States.

(c) The Government of the Marshall Islands or the Federated States of Micronesia shall be afforded, on an expeditious basis, an opportunity to raise its concerns with the United States Secretary of State personally and the United States Secretary of Defense personally regarding any determination made in accordance with this Section.

Section 314

(a) Unless otherwise agreed, the Government of the United States shall not, in the Marshall Islands or the Federated States of Micronesia:

(1) test by detonation or dispose of any nuclear weapon, nor test, dispose of, or discharge any toxic chemical or biological weapon; or

(2) test, dispose of, or discharge any other radioactive, toxic chemical or biological materials in an amount or manner which would be hazardous to public health or safety.

(b) Unless otherwise agreed, other than for transit or over flight purposes or during time of a national emergency declared by the President of the United States, a state of war declared by the Congress of the United States or as necessary to defend against an actual or impending armed attack on the United States, the Marshall Islands or the Federated States of Micronesia, the Government of the United States shall not store in the Marshall Islands or the Federated States of Micronesia any toxic chemical weapon, nor any radioactive materials nor any toxic chemical materials intended for weapons use.

(c) Radioactive, toxic chemical, or biological materials not intended for weapons use shall not be affected by Section 314(b).

(d) No material or substance referred to in this Section shall be stored in the Marshall Islands or the Federated States of Micronesia except in an amount and manner which would not be hazardous to public health or safety. In determining what shall be an amount or manner which would be hazardous to public health or safety under this Section, the Government of the United States shall comply with any applicable mutual agreement, international guidelines accepted by the Government of the United States, and the laws of the United States and their implementing regulations.

(e) Any exercise of the exemption authority set forth in Section 161(e) shall have no effect on the obligations of the Government of the United States under this Section or on the application of this subsection.

(f) The provisions of this Section shall apply in the areas in which the Government of the Marshall Islands or the Federated States of Micronesia exercises jurisdiction over the living resources of the seabed, subsoil or water column adjacent to its coasts.

Section 315

The Government of the United States may invite members of the armed forces of other countries to use military areas and facilities in the Marshall Islands or the Federated States of Micronesia, in conjunction with and under the control of United States Armed Forces. Use by units of the armed forces of other countries of such military areas and facilities, other than for transit and overflight purposes, shall be subject to consultation with and, in the case of major units, approval by the Government of the Marshall Islands or the Federated States of Micronesia.

Section 316

The authority and responsibility of the Government of the United States under this Title may not be transferred or otherwise assigned.

Article II

Defense Facilities and Operating Rights

Section 321

(a) Specific arrangements for the establishment and use by the Government of the United States of military areas and facilities in the Marshall Islands or the Federated States of Micronesia are set forth in separate agreements which shall come into effect simultaneously with this Compact.

(b) If, in the exercise of its authority and responsibility under this Title, the Government of the United States requires the use of areas within the Marshall Islands or the Federated States of Micronesia in addition to those for which specific arrangements are concluded pursuant to Section 321(a), it may request the Government concerned to satisfy those requirements through leases or other arrangements. The Government of the Marshall Islands or the Federated States of Micronesia shall sympathetically consider any such request and shall establish suitable procedures to discuss it with and provide a prompt response to the Government of the United States.

(c) The Government of the United States recognizes and respects the scarcity and special importance of land in the Marshall Islands and the Federated States of Micronesia. In making any requests pursuant to Section 321(b), the Government of the United States shall follow the policy of requesting the minimum area necessary to accomplish the required security and defense purpose, of requesting only the minimum interest in real property necessary to support such purpose, and of requesting first to satisfy its requirement through public real property, where available, rather than through private real property.

Section 322

The Government of the United States shall provide and maintain fixed and floating aids to navigation in the Marshall Islands and the Federated States of Micronesia at least to the extent necessary for the exercise of its authority and responsibility under this Title.

Section 323

The military operating rights of the Government of the United States and the legal status and contractual arrangements of the United States Armed Forces, their members, and associated civilians, while present in the Marshall Islands or the Federated States of Micronesia, are set forth in separate agreements which shall come into effect simultaneously with this Compact.

Article III

Defense Treaties and International Security Agreements

Section 331

Subject to the terms of this Compact and its related agreements, the Government of

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the United States, exclusively, shall assume and enjoy, as to the Marshall Islands and the Federated States of Micronesia, all obligations, responsibilities, rights and benefits of:

(a) Any defense treaty or other international security agreement applied by the Government of the United States as Administering Authority of the Trust Territory of the Pacific Islands as of the day preceding the effective date of this Compact; and

(b) Any defense treaty or other international security agreement to which the Government of the United States is or may become a party which it determines to be applicable in the Marshall Islands and the Federated States of Micronesia. Such a determination by the Government of the United States shall be preceded by appropriate consultation with the Government of the Marshall Islands or the Federated States of Micronesia.

Article IV

Service in Armed Forces of the United States

Section 341

Any person entitled to the privileges set forth in Section 141 shall be eligible to volunteer for service in the Armed Forces of the United States, but shall not be subject to involuntary induction into military service of the United States so long as such person does not establish habitual residence in the United States, its territories or possessions.

Section 342

The Government of the United States shall have enrolled, at any one time, at least two qualified students, one each from the Marshall Islands and the Federated States of Micronesia, as may be nominated by their respective Governments, in each of:

(a) The United States Coast Guard Academy pursuant to 14 U.S.C. 195; and

(b) The United States Merchant Marine Academy pursuant to 46 U.S.C. 1295b(b)(6), provided that the provisions of 46 U.S.C. 1295b(b)(6)(C) shall not apply to the enrollment of students pursuant to Section 342(b) of this Compact.

Article V

General Provisions

Section 351

(a) The Government of the United States and the Government of the Marshall Islands or the Federated States of Micronesia shall establish two Joint Committees empowered to consider disputes under the implementation of this Title and its related agreements.

(b) The membership of each Joint Committee shall comprise selected senior officials of each of the two participating Governments. The senior United States military commander in the Pacific area shall be the senior United States member of each Joint Committee. For the meetings of each Joint Committee, each of the two participating Governments may designate additional or alternate representatives as appropriate for the subject matter under consideration.

(c) Unless otherwise mutually agreed, each Joint Committee shall meet semi-annually at a time and place to be designated, after appropriate consultation, by the Government of the United States. A Joint Committee also shall meet promptly upon request of either of its members. Upon notification by the Government of the United States, the Joint Committees so notified shall meet promptly in a combined session to consider matters within the jurisdiction of more than one Joint Committee. Each Joint Committee shall follow such procedures, including the establishment of functional subcommittees, as the members may from time to time agree.

(d) Unresolved issues in each Joint Committee shall be referred to the Governments concerned for resolution, and the Government of the Marshall Islands or the Federated States of Micronesia shall be afforded, on an expeditious basis, an opportunity to raise its concerns with the United States Secretary of Defense personally regarding any unresolved issue which threatens its continued association with the Government of the United States.

Section 352

In the exercise of its authority and responsibility under Title Three, the Government of the United States shall accord due respect to the authority and responsibility of the Governments of the Marshall Islands and the Federated States of Micronesia under Titles One, Two and Four and to their responsibility to assure the well-being of their peoples.

Section 353

(a) The Government of the United States shall not include any of the Governments of the Marshall Islands and the Federated States of Micronesia as named parties to a formal declaration of war, without their respective consent.

(b) Absent such consent, this Compact is without prejudice, on the ground of belligerence or the existence of a state of war, to any claims for damages which are advanced by the citizens, nationals or Government of the Marshall Islands or the Federated States of Micronesia, which arise out of armed conflict subsequent to the effective date of this Compact and which are:

(1) petitions to the Government of the United States for redress; or

(2) claims in any manner against the government, citizens, nationals or entities of any third country.

(c) Petitions under Section 353(b)(1) shall be treated as if they were made by citizens of the United States.

Section 354

(a) Notwithstanding any other provision of this Compact, the provisions of this Title are binding from the effective date of this Compact for a period of fifteen years between the Government of the United States and the Governments of the Marshall Islands and the Federated States of Micronesia and thereafter as mutually agreed or in accordance with Section 231, unless earlier terminated by mutual agreement pursuant to Section 441, or amended pursuant to Article III of Title Four.

(b) The Government of the United States recognizes, in view of the special relationship between the Government of the United States and the Governments of the Marshall Islands and the Federated States of Micronesia, and in view of the existence of separate agreements with each of them pursuant to Sections 321 and 323, that, even if this Title should terminate, any attack on the Marshall Islands or the Federated States of Micronesia during the period in which such separate agreements are in effect, would constitute a threat to the peace and security of the entire region and a danger to the United States. In the event of such an attack, the Government of the United States would take action to meet the danger to the United States and to the Marshall Islands and the Federated States of Micronesia in accordance with its constitutional processes.

TITLE FOUR

GENERAL PROVISIONS

Article I

Approval and Effective Date

Section 411

This Compact shall come into effect up
mutual agreement between the Governme
of the United States, acting in fulfillment
its responsibilities as Administering Auth
ity of the Trust Territory of the Pacific
lands, and the Government of the Marsh
Islands or the Federated States of Micro
sia and subsequent to completion of the
lowing:

(a) Approval by the Government of
Marshall Islands or the Federated States
Micronesia in accordance with its consti
tional processes;

(b) Conduct of the plebiscite referred to
Section 412; and

(c) Approval by the Government of
United States in accordance with its con
tutional processes.

Section 412

A plebiscite shall be conducted in each
the Marshall Islands and the Federa
States of Micronesia for the free and vol
tary choice by the peoples of the Trust Te
tory of the Pacific Islands of their future
litical status through informed and de
cratic processes. The Marshall Islands
the Federated States of Micronesia s
each be considered a voting jurisdicti
and the plebiscite shall be conducted un
fair and equitable standards in each vot
jurisdiction. The Administering Authorit
the Trust Territory of the Pacific Isla
after consultation with the Government
the Marshall Islands and the Federa
States of Micronesia, shall fix the date
which the plebiscite shall be called in e
voting jurisdiction. The plebiscite shall
called jointly by the Administering Auth
ity of the Trust Territory of the Pacific
lands and the other Signatory Governm
concerned. The results of the plebiscite
each voting jurisdiction shall be determi
by a majority of the valid ballots cast
that voting jurisdiction.

Article II

Conference and Dispute Resolution

Section 421

The Government of the United States s
confer promptly at the request of the C
ernment of the Marshall Islands or the
erated States of Micronesia and any of th
Governments shall confer promptly at
request of the Government of the Un
States on matters relating to the provisi
of this Compact or of its related agreeme

Section 422

In the event the Government of the Un
States, or the Government of the Mars
Islands or the Federated States of Micr
sia, after conferring pursuant to Sec
421, determines that there is a dispute
gives written notice thereof, the Gov
ments which are parties to the dispute s
make a good faith effort to resolve the
pute among themselves.

Section 423

If a dispute between the Governmen
the United States and the Government o
Marshall Islands or the Federated State
Micronesia cannot be resolved within
days of written notification in the ma
provided in Section 422, either party to
dispute may refer it to arbitration in
cordance with Section 424.

Section 424

Should a dispute be referred to arbitra
as provided for in Section 423, an Arb
tion Board shall be established for the
pose of hearing the dispute and renderi
decision which shall be binding upon
two parties to the dispute unless the
parties mutually agree that the deci

shall be advisory. Arbitration shall occur according to the following terms:

(a) An Arbitration Board shall consist of a Chairman and two other members, each of whom shall be a citizen of a party to the dispute. Each of the two Governments which is a party to the dispute shall appoint one member to the Arbitration Board. If either party to the dispute does not fulfill the appointment requirements of this Section within 30 days of referral of the dispute to arbitration pursuant to Section 423, its member on the Arbitration Board shall be selected from its own standing list by the other party to the dispute. Each Government shall maintain a standing list of 10 candidates. The parties to the dispute shall jointly appoint a Chairman within 15 days after selection of the other members of the Arbitration Board. Failing agreement on a Chairman, the Chairman shall be chosen by lot from the standing lists of the parties to the dispute within 5 days after such failure.

(b) The Arbitration Board shall have jurisdiction to hear and render its final determination on all disputes arising exclusively under Articles I, II, III, IV and V of Title One, Title Two, Title Four and their related agreements.

(c) Each member of the Arbitration Board shall have one vote. Each decision of the Arbitration Board shall be reached by majority vote.

(d) In determining any legal issue, the Arbitration Board may have reference to international law and, in such reference, shall apply as guidelines the provisions set forth in Article 38 of the Statute of the International Court of Justice.

(e) The Arbitration Board shall adopt such rules for its proceedings as it may deem appropriate and necessary, but such rules shall not contravene the provisions of this Compact. Unless the parties provide otherwise by mutual agreement, the Arbitration Board shall endeavor to render its decision within 30 days after the conclusion of arguments. The Arbitration Board shall make findings of fact and conclusions of law and its members may issue dissenting or individual opinions. Except as may be otherwise decided by the Arbitration Board, one-half of all costs of the arbitration shall be borne by the Government of the United States and the remainder shall be borne by the other party to the dispute.

Article III

Amendment

Section 431

The provisions of this Compact may be amended as to the Governments of the Marshall Islands and the Federated States of Micronesia and as to the Government of the United States at any time by mutual agreement.

Section 432

The provisions of this Compact may be amended as to any one of the Governments of the Marshall Islands or the Federated States of Micronesia and as to the Government of the United States at any time by mutual agreement. The effect of any amendment made pursuant to this Section shall be restricted to the relationship between the Governments agreeing to such amendment, but the other Governments signatory to this Compact shall be notified promptly by the Government of the United States of any such amendment.

Article IV

Termination

Section 441

This Compact may be terminated as to any one of the Governments of the Marshall Islands or the Federated States of Micronesia and as to the Government of the United States by mutual agreement and subject to Section 451.

Section 442

This Compact may be terminated by the Government of the United States as to the Government of the Marshall Islands or the Federated States of Micronesia subject to Section 452, such termination to be effective on the date specified in the notice of termination by the Government of the United States but not earlier than six months following delivery of such notice. The time specified in the notice of termination may be extended.

Section 443

This Compact shall be terminated, pursuant to their respective constitutional processes, by the Government of the Marshall Islands or the Federated States of Micronesia subject to Section 453 if the people represented by such Government vote in a plebiscite to terminate. Such Government shall notify the Government of the United States of its intention to call such a plebiscite which shall take place not earlier than three months after delivery of such notice. The plebiscite shall be administered by such Government in accordance with its constitutional and legislative processes, but the Government of the United States may send its own observers and invite observers from a mutually agreed party. If a majority of the valid ballots cast in the plebiscite favors termination, such Government shall, upon certification of the results of the plebiscite, give notice of termination to the Government of the United States, such termination to be effective on the date specified in such notice but not earlier than three months following the date of delivery of such notice. The time specified in the notice of termination may be extended.

Article V

Survivability

Section 451

Should termination occur pursuant to Section 441, economic assistance by the Government of the United States shall continue on mutually agreed terms.

Section 452

(a) Should termination occur pursuant to Section 442, the following provisions of this Compact shall remain in full force and effect until the fifteenth anniversary of the effective date of this Compact between the Government of the United States and the Government of the Marshall Islands or the Federated States of Micronesia and thereafter as mutually agreed:

(1) Article VI and Sections 172, 173, 176 and 177 of Title One;

(2) Article I and Section 233 of Title Two;

(3) Title Three; and

(4) Articles II, III, V and VI of Title Four.

(b) The Government of the United States shall also provide the Government as to which termination occurs pursuant to Section 442 with either the programs or services provided pursuant to Article II of Title Two as the time of termination, or their equivalent, as determined by the Government of the United States. Such assistance shall continue until the fifteenth anniversary of the effective date of this Compact, and thereafter as mutually agreed.

Section 453

(a) Should termination occur pursuant to Section 443, the following provisions of this Compact shall remain in full force and effect until the fifteenth anniversary of the effective date of this Compact between the Government of the United States and the Government of the Marshall Islands or the Federated States of Micronesia and thereafter as mutually agreed:

(1) Article VI and Sections 172, 173, 176 and 177 of Title One;

(2) Title Three; and

(3) Articles II, III, V and VI of Title Four.

(b) Upon receipt of notice of termination pursuant to Section 443, the Government of the United States and the Government so terminating shall promptly consult with regard to their future relationship. These consultations shall determine the level of economic assistance which the Government of the United States shall provide to the Government so terminating for the period ending on the fifteenth anniversary of the effective date of this Compact provided that the annual amounts specified in Sections 211, 212, 214, 215 and 216 shall continue without diminution. Such amounts, with the exception of those specified in Section 216, shall be adjusted according to the formula set forth in Section 217.

Section 454

Notwithstanding any other provision of this Compact:

(a) The Government of the United States reaffirms its continuing interest in promoting the long-term economic advancement and self-sufficiency of the peoples of the Marshall Islands and the Federated States of Micronesia; and

(b) The separate agreements referred to in Article II of the Title Three shall remain in effect in accordance with their terms which shall also determine the duration of Section 213.

Article VI

Definition of Terms

Section 461

For the purpose of this Compact only and without prejudice to the views of the Government of the United States or the Government of the Marshall Islands or the Federated States of Micronesia as to the nature and extent of the jurisdiction under international law of any of them, the following terms shall have the following meanings:

(a) "Trust Territory of the Pacific Islands" means the area established in the Trusteeship Agreement consisting of the administrative districts of Kosrae, Yap, Ponape, the Marshall Islands and Truk as described in Title One, Trust Territory Code, Section 1, in force on January 1, 1979. This term does not include the area of Palau or the Northern Mariana Islands.

(b) "Trusteeship Agreement" means the agreement setting forth the terms of trusteeship for the Trust Territory of the Pacific Islands, approved by the Security Council of the United Nations April 2, 1947, and by the United States July 18, 1947, entered into force July 18, 1947, 61 Stat. 3301, T.I.A.S. 1665, 8 U.N.T.S. 189.

(c) "The Marshall Islands" and "the Federated States of Micronesia" are used in a geographic sense and include the land and water areas to the outer limits of the territorial sea and the air space above such areas as now or hereafter recognized by the Government of the United States.

(d) "Government of the Marshall Islands" means the Government established and organized by the Constitution of the Marshall Islands including all the political subdivisions and entities comprising that Government.

"Government of the Federated States of Micronesia" means the Government established and organized by the Constitution of the Federated States of Micronesia includ-

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ing all the political subdivisions and entities comprising that Government.

(e) The following terms shall be defined consistent with the 1976 Edition of the Radio Regulations of the International Telecommunications Union (ISBN 92-61-0081-5) as follows:

(1) "Radio Communications" means telecommunication by means of radio waves.

(2) "Station" means one or more transmitters or receivers or a combination of transmitters and receivers, including the accessory equipment, necessary at one location for carrying on a radio communication service; each station shall be classified by the service in which it operates permanently or temporarily.

(3) "Broadcasting Service" means a radio communication service in which the transmissions are intended for direct reception by the general public, and which may include sound transmissions, television transmissions or other types of transmissions.

(4) "Broadcasting Station" means a station in the broadcasting service.

(f) "Frequency Assignment" means the same as 'Frequency Assignment' means in the 1976 Edition of the Radio Regulations of the International Telecommunications Union (ISBN 92-61-0081-5).

(g) "Habitual Residence" means a place of general aoode or a principal, actual dwelling place of a continuing or lasting nature; provided, however, that this term shall not apply to the residence of any person who entered the United States for the purpose of full-time studies as long as such person maintains that status, or who has been physically present in the United States, the Marshall Islands, or the Federated States of Micronesia for less than one year, or who is a dependent of a resident representative, as described in Section 152.

(h) For the purposes of Article IV of Title One of this Compact:

(1) "Actual Residence" means physical presence in the Marshall Islands or the Federated States of Micronesia during eighty-five percent of the period of residency required by Section 141(a)(3); and

(2) "Certificate of Actual Residence" means a certificate issued to a naturalized citizen by the Government which has naturalized him stating that the citizen has complied with the actual residence requirement of Section 141(a)(3).

(i) "Military Areas and Facilities" means those areas and facilities in the Marshall Islands or the Federated States of Micronesia reserved or acquired by the Government of the Marshall Islands or the Federated States of Micronesia for use by the Government of the United States, as set forth in the separate agreements referred to in Section 321.

(j) "Capital Account" means, for each year of the Compact, those portions of the total grant assistance provided in Article I of Title Two, adjusted by Section 217, which are to be obligated for:

(1) the construction or major repair of capital infrastructure; or

(2) public and private sector projects identified in the official overall economic development plan.

(k) "Current Account" means, for each year of the Compact, those portions of the total grant assistance provided in Article I of Title Two, adjusted by Section 217, which are to be obligated for recurring operational activities including infrastructure maintenance as identified in the annual budget justifications submitted yearly to the Government of the United States.

(l) "Official Overall Economic Development Plan" means the documented program of annual development which identifies the specific policy and project activities necessary to achieve a specified set of economic goals and objectives during the period of free association, consistent with the economic assistance authority in Title Two. Such a document should include an analysis of population trends, manpower requirements, social needs, gross national product estimates, resource utilization, infrastructure needs and expenditures, and the specific private sector projects required to develop the local economy of the Marshall Islands or the Federated States of Micronesia. Project identification should include initial cost estimates, with project purposes related to specific development goals and objectives.

(m) "Tariff Schedules of the United States" means the Tariff Schedules of the United States as amended from time to time and as promulgated pursuant to United States law and includes the Tariff Schedules of the United States Annotated (TSUSA), as amended.

(n) "Vienna Convention on Diplomatic Relations" means the Vienna Convention on Diplomatic Relations, done April 18, 1961, 23 U.S.T. 3227, T.I.A.S. 7502, 500 U.N.T.S. 95.

Section 462

The Government of the United States and the Government of the Marshall Islands or the Federated States of Micronesia, as appropriate, shall conclude related agreements which shall come into effect and shall survive in accordance with their terms, as follows:

(a) Agreement Regarding the Provision of Telecommunication Services by the Government of the United States to the Marshall Islands and the Federated States of Micronesia Concluded Pursuant to Section 131 of the Compact of Free Association;

(b) Agreement Regarding the Operation of Telecommunication Services of the Government of the United States in the Marshall Islands and the Federated States of Micronesia Concluded Pursuant to Section 132 of the Compact of Free Association;

(c) Agreement on Extradition, Mutual Assistance in Law Enforcement Matters and Penal Sanctions Concluded Pursuant to Section 175 of the Compact of Free Association;

(d) Agreement Between the Government of the United States and the Government of the Marshall Islands for the Implementation of Section 177 of the Compact of Free Association;

(e) Federal Programs and Services Agreement Concluded Pursuant to Article II of Title Two and Section 232 of the Compact of Free Association;

(f) Agreement Concluded Pursuant to Section 234 of the Compact of Free Association;

(g) Agreement Regarding the Military Use and Operating Rights of the Government of the United States in the Marshall Islands Concluded Pursuant to Sections 321 and 323 of the Compact of Free Association;

(h) Agreement Regarding the Military Use and Operating Rights of the Government of the United States in the Federated States of Micronesia Concluded Pursuant to Sections 227, 321 and 323 of the Compact of Free Association;

(i) Status of Forces Agreement Concluded Pursuant to Section 323 of the Compact of Free Association;

(j) Agreement Between the Government of the United States and the Government of the Federated States of Micronesia Regarding Friendship, Cooperation and Mutual Security Concluded Pursuant to Sections 321 and 323 of the Compact of Free Association; and

(k) Agreement Between the Governm
the United States and the Governmen
Marshall Islands Regarding Mutual S
Concluded Pursuant to Sections 321 a
of the Compact of Free Association.

Section 463

(a) Except as set forth in Section
any reference in this Compact to a
sion of the United States Code or th
utes at Large of the United States
tutes the incorporation of the langu
such provision into this Compact, a
provision was in force on January 1,

(b) Any reference in Article VI of Ti
and Sections 131, 174, 175, 178 and 3
provision of the United States Code
Statutes at Large of the United State
the Privacy Act, the Freedom of Infor
Act or the Administrative Procedu
constitutes the incorporation of th
guage of such provision into this C
as such provision is in force on the e
date of this Compact or as it may be
ed thereafter on a non-discriminator
according to the constitutional proc
the United States.

Article VII

Concluding Provisions

Section 471

(a) The Government of the United
and the Governments of the Marsh
lands and the Federated States of M
sia agree that they have full authorit
their respective Constitutions to ent
this Compact and its related agre
and to fulfill all of their respective re
bilities in accordance with the terms
Compact and its related agreemen
Governments pledge that they are
mitted.

(b) Each of the Governments of the
States, the Marshall Islands and the
ed States of Micronesia shall take al
sary steps, of a general or particular
ter, to ensure, not later than the e
date of this Compact, the conformit
laws, regulations and administrativ
dures with the provisions of this Com

(c) Without prejudice to the effects
Compact under international law, th
pact has the force and effect of a
under the laws of the United States.

Section 472

This Compact may be accepted, b
ture or otherwise, by the Governmen
United States, the Government of t
shall Islands, and the Government
Federated States of Micronesia. Ea
ernment accepting this Compact sh
sess an original English language ve

IN WITNESS WHEREOF, the
signed, duly authorized, have sig
Compact of Free Association whi
come into effect in accordance
terms between the Government of the
States and each of the other Gove
signatory to this Compact.

DONE AT HONOLULU, HAWAII, THIS 1ST

OCTOBER, ONE THOUSAND, NINE HUN
EIGHTY-TWO

FOR THE GOVERNMENT
OF
THE UNITED STATES OF AMERICA

AMBASSADOR FRED M. ZEDER, II
PRESIDENT'S PERSONAL REPRESENTATI
FOR MICRONESIAN STATUS NEGOTIATIO

DONE AT HONOLULU, HAWAII, THIS 1ST DAY OF
OCTOBER, ONE THOUSAND, NINE HUNDRED
EIGHTY-TWO
FOR THE GOVERNMENT
OF
THE FEDERATED STATES OF MICRONESIA

HONORABLE ANDON L. AMARAICH
CHAIRMAN, COMMISSION ON FUTURE
POLITICAL STATUS AND TRANSITION

DONE AT MAJURO, MARSHALL ISLANDS, THIS 25TH
DAY
OF JUNE, ONE THOUSAND, NINE HUNDRED,
EIGHTY-THREE
FOR THE GOVERNMENT
OF
THE UNITED STATES OF AMERICA

AMBASSADOR FRED M. ZEDER, II
PRESIDENT'S PERSONAL REPRESENTATIVE
FOR MICRONESIAN STATUS NEGOTIATIONS
DONE AT MAJURO, MARSHALL ISLANDS, THIS 25TH
DAY
OF JUNE, ONE THOUSAND, NINE HUNDRED EIGHTY-
THREE
FOR THE GOVERNMENT
OF
THE MARSHALL ISLANDS
PRESIDENT AMATA KABUA
PRESIDENT OF THE REPUBLIC
OF THE MARSHALL ISLANDS

SEC. 2. (a) With respect to section 321 of the Compact of Free Association and its related agreements, the jurisdictional provisions set forth in subsection (b) of this section shall apply only to the citizens and nationals of the United States and aliens lawfully admitted to the United States for permanent residence who are in the Marshall Islands or the Federated States of Micronesia.

(b)(1) The defense sites of the United States established in the Marshall Islands or the Federated States of Micronesia in accordance with the Compact of Free Association and its related agreements are within the special maritime and territorial jurisdiction of the United States as set forth in section 7, title 18, United States Code.

(2) Any person referred to in subsection (a) of this section who within or upon such defense sites is guilty of any act or omission which, although not made punishable by any enactment of Congress, would be punishable if committed or omitted within the jurisdiction of the State of Hawaii by the laws thereof, in force at the time of such act or omission, shall be guilty of a like offense and subject to a like punishment.

(3) The United States District Court for the District of Hawaii shall have jurisdiction to try all criminal offenses against the United States, including the laws of the State of Hawaii made applicable to the defense sites in the Marshall Islands or the Federated States of Micronesia by virtue of paragraph (2) of this subsection, committed by any person referred to in subsection (a) of this section.

(4) The United States District Court for the District of Hawaii may appoint one or more magistrates for the defense sites in the Marshall Islands. Such Magistrates shall have the power and the status of Magistrates appointed pursuant to chapter 43, title 28, United States Code, provided, however that such Magistrates shall have the power to try persons accused of and sentence persons convicted of petty offenses, as defined in section 1(3), title 18, United States Code, including violations of regulations for the maintenance of peace, order, and health issued by the Commanding Officer on such defense sites, without being subject to the restrictions provided for in section 3401(b), title 18, United States Code.

SEC. 3. Upon the effective date of the Compact of Free Association, the laws of the United States generally applicable to the Trust Territory of the Pacific Islands shall continue to apply to the Republic of Palau and the Republic of Palau shall be eligible for such proportion of Federal assistance as it would otherwise have been eligible to receive under such laws prior to the effective date of the Compact, as provided in appropriation Acts.

SEC. 4. (a) Mutual agreement by the Government of the United States as provided in the Compact which results in amendment, change, or termination of all or any part thereof, shall be effected only by Act of Congress and no unilateral action by the Government of the United States provided for in the Compact, and having such result, may be effected other than by Act of Congress.

(b) The provisions of subsection (a) shall apply to all actions of the Government of the United States under the Compact including, but not limited to, actions taken pursuant to section 431, 432, 441 or 442 and shall also apply to any amendment, change, or termination in the Agreement between the Government of the United States and the Government of the Federated States of Micronesia Regarding Friendship, Cooperation and Mutual Security Concluded Pursuant to Sections 321 and 323 of the Compact of Free Association referred to in section 462(j) of the Compact and the Agreement Between the Government of the United States and the Government of the Marshall Islands Regarding Mutual Security Concluded Pursuant to Sections 321 and 323 of the Compact of Free Association referred to in section 462(k) of the Compact and shall apply to the amendment, change, or termination of any agreement the terms of which are incorporated by reference into the Compact.

(c) The determination by the Government of the United States under section 219 of the Compact shall be as provided in appropriation acts.

SEC. 5. (a) The authorization provided by the Act of June 30, 1954 (68 Stat. 330) shall remain available after the effective date of the Compact with respect to the Federated States of Micronesia and the Republic of the Marshall Islands for the following purposes: (1) prior to October 1, 1986 for any purpose authorized by the Compact and (2) transition, including, but not limited to, completion of projects and fulfillment of commitments or obligations; termination of the Trust Territory Government and the operation of the High Court; health and education as a result of exceptional circumstances; ex gratia contributions to or for the populations of Bikini, Enewetak, Rongelap, and Utrik; and technical assistance and training in financial management, program administration, and maintenance of infrastructure.

(b) Technical assistance may be provided pursuant to section 226 of the Compact by Federal agencies and institutions of the Government of the United States to the extent such assistance may be provided to States, territories, or units of local government, or to the Trust Territory of the Pacific Islands prior to the effective date of the Compact.

(c) In addition to the programs and services set forth in section 221 and pursuant to section 224, the programs and services of the following agencies shall be made available as on the day prior to the effective date of the Compact:

(1) to the Federated States of Micronesia—

(A) Farmers Home Administration: Provided, That, in lieu of continuation of the program, the President may transfer to the Government of the Federated States of Micronesia, without cost, the portfolio of the Farmers Home Loan Administration applicable to the Federated States of Micronesia and provide such technical assistance in management of the portfolio as may be requested;

(B) Legal Services Corporation

(C) Public Health Service

(2) to the Republic of the Marshall Islands—

(A) Legal Services Corporation

(B) Public Health Service

(d) Upon the request of the government of the Federated States of Micronesia or the Republic of the Marshall Islands, pursuant to section 224 of the Compact the President may, by proclamation, continue any Federal program which has been extended to the Trust Territory of the Pacific Islands to such government for a transition period of not to exceed three years from the effective date of the Compact if he determines that such a temporary continuation of the program would assist the requesting government in its transition.

SEC. 6. (a) Appropriations made pursuant to the Compact of Free Association or any other provision of this joint resolution may be made only to the Secretary of the Interior who shall have authority over any program or activity provided to the Federated States of Micronesia or the Republic of the Marshall Islands by the United States pursuant to the Compact of Free Association or pursuant to any other authorization except for the provisions of sections 161(e), 313, and 351 of the Compact of Free Association and the authorization of the President to agree to an effective date contained in section 1 of this joint resolution. The resident representatives of the United States to the Federated States of Micronesia and to the Republic of the Marshall Islands pursuant to Article V of Title I of the Compact of Free Association shall be appointed by the Secretary of the Interior.

(b) All programs and services provided to the Federated States of Micronesia or the Republic of the Marshall Islands by Federal agencies may be provided only after consultation with, approval by, and under the supervision of the Secretary of the Interior, and the head of each Federal agency is directed to cooperate with the Secretary of the Interior and to make such personnel and services available as the Secretary of the Interior may request.

SEC. 7. (a) Sections 242 and 243 of the Compact shall be construed and applied as if they read as follows:

"Section 242

"The President shall proclaim the following tariff treatment for articles imported from the Federated States of Micronesia or the Marshall Islands which shall apply during the period of effectiveness of this title:

"(1) Unless otherwise excluded, articles imported from the Federated States of Micronesia or the Marshall Islands, subject to the limitations imposed under sections 503(b) and 504(c) of title V of the Trade Act of 1974 (19 U.S.C. 2463(b); 2464(c)), shall be exempt from duty.

"(2) The duty-free treatment provided under paragraph (1) shall not apply to—

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"(A) watches, clocks, and timing apparatus provided for in subpart E of part 2 of schedule 7 of the Tariff Schedules of the United States;

"(B) buttons (whether finished or not finished) provided for in item 745.32 of such Schedules;

"(C) textile and apparel articles which are subject to textile agreements; and

"(D) footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel which were not eligible articles for purposes of chapter V of the Trade Act of 1974 (19 U.S.C. 2461, et seq.) on April 1, 1984.

"(3) If the cost or value of materials produced in the customs territory of the United States is included with respect to an eligible article which is a product of the Federated States of Micronesia or the Marshall Islands, an amount not to exceed 15 percent of the appraised value of the article at the time it is entered that is attributable to such United States cost or value may be applied for duty assessment purposes toward determining the percentage referred to in section 503(b)(2) of title V of the Trade Act of 1974.

"Section 243

"Articles imported from the Federated States of Micronesia or the Marshall Islands which are not exempt from duty under paragraphs (1), (2), and (3) of section 242 shall be subject to the rates of duty set forth in column numbered 1 of the Tariff Schedules of the United States and all products of the United States imported into the Federated States of Micronesia or the Marshall Islands shall receive treatment no less favorable than that accorded like products of any foreign country with respect to customs duties or charges of a similar nature and with respect to laws and regulations relating to importation, exportation, taxation, sale, distribution, storage, or use.".

(b)(1) Subsection (a) of section 253 of the Compact shall not apply.

(2) Subsection (b) of section 253 of the Compact shall apply only to individuals who are nonresidents and not citizens of the United States.

(c) The relief from liability referred to in the second sentence of section 254(a) of the Compact means only—

(1) relief in the form of the foreign tax credit (or deduction in lieu thereof) available with respect to the income taxes of a possession of the United States, and

(2) relief in the form of the exclusion under section 911 of the Internal Revenue Code of 1954.

(d) Section 255 of the Compact shall be construed and applied as if it read as follows:

"Section 255

"(a) EXTENSION OF SECTION 936 TO THE MARSHALL ISLANDS AND THE FEDERATED STATES OF MICRONESIA.—For purposes of section 936 of the Internal Revenue Code of 1954, the Marshall Islands and the Federated States of Micronesia shall be treated as if they were possessions of the United States.

"(b) EXCHANGE OF INFORMATION.—Subsection (a) shall not apply to the Marshall Islands and the Federated States of Micronesia (as the case may be) for any period after December 31, 1986, during which there is not in effect between the appropriate government and the United States an exchange of information agreement of the kind described in section 274(h)(6)(C) (other than clause (ii) thereof) of the Internal Revenue Code of 1954.

"(c) PROCEDURE IF SECTION 936 INCENTIVES REDUCED.—If the tax incentives extended to the Marshall Islands and the Federated States of Micronesia under subsection (a) are, at any time during which the Compact is in effect, reduced, the Secretary of the Treasury shall negotiate an agreement with the Marshall Islands and the Federated States of Micronesia under which, when such agreement is approved by law, they will be provided with benefits substantially equivalent to such reduction in benefits. If, within the 1-year period after the date of the enactment of the Act making the reduction in benefits, an agreement negotiated under the preceding sentence is not approved by law, the matter shall be submitted to the Arbitration Board established pursuant to section 424 of the Compact. For purposes of article V of title two of the Compact, the Secretary of the Treasury or his delegate shall be the member of such Board representing the Government of the United States. Any decision of such Board in the matter when approved by law shall be binding on the United States, except that such decision rendered is binding only as to whether the United States has provided the substantially equivalent benefits referred to in this subsection.

"(d) THE MARSHALL ISLANDS AND THE FEDERATED STATES OF MICRONESIA TREATED AS NORTH AMERICAN AREA.—For purposes of section 274(h)(3)(A) of the Internal Revenue Code of 1954, the term 'North American area' shall include the Marshall Islands and the Federated States of Micronesia.".

(e) Nothing in any provision of this joint resolution (other than this section) which is inconsistent with any provision of this section shall have any force or effect.

(f) This section shall apply to income earned, and transactions occurring, after September 30, 1985, in taxable years ending after such date.

(g) The Secretary of the Treasury or his delegate—

(1) shall conduct a study of the effects of the tax provisions of the Compact (as clarified by the foregoing provisions of this section), and

(2) shall report the results of such study before October 1, 1987, to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

SEC. 8. (a) In addition to the programs and services set forth in section 221, of the Compact, and pursuant to Section 224, the programs and services of the following agencies shall be made available to the Federated States of Micronesia and the Republic of the Marshall Islands and, upon approval of a Compact for the Republic of Palau, the Republic of Palau: Federal Deposit Insurance Corporation, Small Business Administration, Economic Development Administration, and the programs and services of the Department of Commerce relating to tourism and marine resource development.

(b) In order to further the close economic commercial relations between the United States and the Freely Associated States, and to encourage the presence of the United States private sector in the Freely Associated States, there are hereby created three Investment Development Loan Funds: one for the Federated States of Micronesia, one for the Republic of the Marshall Islands, and, upon approval of a Compact for the Republic of Palau, one for the Republic of Palau.

For the Federated States of Micronesia, there is hereby authorized to be appropriated $30 million with an additional $15 million authorized to be appropriated after five and ten year intervals, based on a review of
the success of the Fund to be condu
the Secretary of the Interior in consu
with the appropriate officials of the
ed States of Micronesia.

For the Republic of the Marshall
there is hereby authorized to be a
ated $15 million with an addition
million authorized to be appropriat
five and ten year year intervals, bas
review of the success of the funds to
ducted by the Secretary of the Int
consultation with the appropriate
of the Republic of the Marshall Islan

For the Republic of Palau, there i
authorized to be appropriated $15
with an additional $7.5 million au
to be appropriated after five and
intervals, based on a review of the s
the Fund to be conducted by the Sec
the Interior in consultation with th
priate officials of Palau.

To provide policy guidance for th
there is hereby authorized to be esta
Board of Advisors, pursuant to ag
between the United States and the F
States of Micronesia, the Republi
Marshall Islands and the Republic
respectively.

TITLE II—COMPACT OF FRE
ASSOCIATION WITH PALAU

APPROVAL OF THE COMPACT.

SEC. 201. (a)(1) Subject of paragra
this subsection Congress expresses
proval of the Compact of Free As
Between the Government of the
States of America and the Gover
the Republic of Palau, (hereafter in
tion referred to as the "Compact"),
of which is set forth in Section 202.

(2) The Compact shall take eff
upon—

(A) a certification by the Preside
Congress no later than March 31,
the Republic of Palau has appr
Compact in accordance with secti
the Compact and that the Presiden
termined that the United States w
to carry out fully its rights and res
ities under Title III of the Compac
subsidiary agreements thereto; and

(B) enactment by the Congress
resolution approving such certific
providing for implementation of
pact.

(b) Sections 2, 4, 5(a), 5(b), 5(c)(1
7, and 8 of title I of this joint
shall apply to the Compact, except
reference in such sections—

(1) to the Compact shall be trea
ferring to the Compact set forth i
202, and

(2) to the Federated States of M
or the Marshall Islands shall be t
referring to the Republic of Palau.

SEC. 202. The text of the Compac
lows:

COMPACT OF FREE ASSOCIA

PREAMBLE

THE GOVERNMENT OF THE UNITED ST
AMERICA AND THE GOVERNMENT OF

Affirming that their Government
relationship between their Govern
founded upon respect for human
fundamental freedoms for all; and

Affirming the common intere
United States of America and the
Palau in creating close and mutua
cial relationships through a free a
tary association of their Governm

Affirming the interest of the Go
of the United States in promotin

nomic advancement and self-sufficiency of the people of Palau; and

Recognizing that their previous relationship has been based upon the International Trusteeship System of the United Nations Charter; and that pursuant to Article 76 of the Charter, the people of Palau have progressively developed their institutions of self-government, and that in the exercise of their sovereign right to self-determination they have, through their freely-expressed wishes, adopted a Constitution appropriated to their particular circumstances; and

Recognizing that the people of Palau have and retain their sovereignty and their sovereign right to self-determination and the inherent right to adopt and amend their own Constitution and form of government and that the approval of the entry of their Government into this Compact of Free Association by the people of Palau constitutes an exercise of their sovereign right to self-determination:

NOW, THEREFORE, AGREE to enter into a relationship of free association which provides a full measure of self-government for the people of Palau; and

FURTHER AGREE that the relationship of free association derives from and is as set forth in this Compact; and that, during such relationships of free association, the respective rights and responsibilities of the Government of the United States and the Government of the freely associated state of Palau in regard to this relationship of free association derives from and is as set forth in this Compact.

TITLE ONE

GOVERNMENT RELATIONS

Article I

Self-Government

Section 111

The people of Palau, acting through their duly elected government established under their constitution, are self- governing.

Article II

Foreign Affairs

Section 121

The Republic of Palau has the capacity to conduct foreign affairs in its own name and right, except as otherwise provided in this Compact.

Section 122

The Government of the United States shall support application by the Government of Palau for membership or other participation in regional or international organizations as may be mutually agreed. The Government of the United States agrees to accept citizens of Palau for training and instruction at the United States Foreign Service Institute, established under 22 U.S.C. 4021, or similar training under terms and conditions to be mutually agreed.

Section 123

In recognition of the authority and responsibility of the Government of the United States under Title Three, the Government of Palau shall consult with the Government of the United States. The Government of the United States in the conduct of its foreign affairs, shall consult with the Government of Palau on matters which the Government of the United States regards as relating to or affecting the Government of Palau.

Section 124

(a) The Government of Palau has authority to conduct its foreign affairs relating to law of the sea and marine resources matters, including the harvesting, conservation, exploration or exploitation of living and non-living resources from the sea, seabed or subsoil to the full extent recognized under international law.

(b) The Government of Palau has jurisdiction and sovereignty over its territory, including its land and internal waters, territorial seas, the airspace superjacent thereto only to the extent recognized under international law.

Section 125

Except as otherwise provided in this Compact or its related agreements, all obligations, responsibilities, rights and benefits of the Government of the United States as administering authority which have resulted from the application pursuant to the Trusteeship Agreement or any treaty or other international agreement to the Trust Territory of the Pacific Islands on the day preceding the effective date of this Compact are no longer assumed and enjoyed by the Government of the United States.

Section 126

The Government of the United States shall accept responsibility for those actions taken by the Government of Palau in the area of foreign affairs, only as may from time to time be expressly and mutually agreed.

Section 127

The Government of the United States may assist or act on behalf of the Government of Palau in the area of foreign affairs as may be requested and mutually agreed from time to time. The Government of the United States shall not be responsible to third parties for the actions of the Government of Palau undertaken with the assistance or through the agency of the Government of the United States pursuant to this Section unless expressly agreed.

Article III

Communications

Section 131

The Government of Palau has full authority and responsibility to regulate its domestic and foreign communications, and the Government of the United States shall provide communications assistance in accordance with the terms of a separate agreement which shall come into effect simultaneously with this Compact. The United States Federal Communications Commission has jurisdiction, pursuant to the Communications Act of 1934, 47 U.S.C. 151 et seq., and the Communications Satellite Act of 1962, 47 U.S.C. 721 et seq., over all domestic and foreign communications services furnished by means of satellite earth terminal stations where such stations are owned or operated by the United States common carriers and are located in Palau.

Section 132

The Government of Palau shall permit the Government of the United States to operate telecommunications services in Palau to the extent necessary to fulfill the obligations of the Government of the United States under this Compact in accordance with the terms of separate agreements which shall come into effect simultaneously with this Compact.

Article IV

Immigration

Section 141

(a) Any person in the following categories may enter into, lawfully engage in occupations, and establish residence as a nonimmigrant in the United States and its territories and possessions without regard to paragraphs (14), (20), and (26) of section 212(a) of the Immigration and Nationality Act, 8 U.S.C. 1182(a)(14), (20), and (26):

(1) a person who, on the day preceding the effective date of this Compact, is a citizen of the Trust Territory of the Pacific Islands, as defined in Title 53 of the Trust Territory Code in force on January 1, 1979, and has become a citizen of Palau;

(2) a person who acquires the citizenship of Palau, at birth, on or after the effective date of the respective Constitution; or

(3) a naturalized citizen of Palau, who has been an actual resident there for not less than five years after attaining such naturalization and who holds a certificate of actual residence.

Such persons shall be considered to have the permission of the Attorney General of the United States to accept employment in the United States.

(b) The right of such persons to establish a habitual residence in a territory or possession of the United States may, however, be subjected to non-discriminatory limitations provided for:

(1) in statutes or regulations of the United States; or

(2) in those statutes or regulations of the territory or possession concerned which are authorized by the laws of the United States.

(c) Section 141(a) does not confer on a citizen of Palau, the right to establish the residence necessary for naturalization under the Immigration and Nationality Act, or to petition for benefits for alien relatives under that Act. Section 141(a), however, shall not prevent a citizen of Palau, from otherwise acquiring such rights or lawful permanent resident alien status in the United States.

Section 142

(a) Any citizen or national of the United States may enter into, lawfully engage in occupations, and reside in Palau, subject to the right of that Government to deny entry to or deport any such citizen or national as an undesirable alien. A citizen or national of the United States may establish habitual residence or domicile in Palau only in accordance with the laws of Palau.

(b) With respect to the subject matter of this Section, the Government of Palau shall accord to citizens and nationals of the United States treatment no less favorable than that accorded to citizens of other countries; any denial of entry to or deportation of a citizen or national of the United States as an undesirable alien must be pursuant to reasonable statutory grounds.

Section 143

(a) The privileges set forth in Sections 141 and 142 shall not apply to any person who takes an affirmative step to preserve or acquire a citizenship or nationality other than that of Palau.

(b) Every person having the privileges set forth in Sections 141 and 142 who possesses a citizenship or nationality other than that of Palau or the United States ceases to have these privileges two years after the effective date of this Compact, or within six months after becoming 21 years of age, whichever comes later, unless such person executes an oath of renunciation of that other citizenship or nationality.

Section 144

(a) A citizen or national of the United States who, after notification to the Government of the United States of an intention to employ such person by the Government of Palau, commences employment with that Government shall not be deprived of his United States nationality pursuant to section 349(a)(2) and (a)(4) of the Immigration and Nationality Act, 8 U.S.C. 1481(a)(2) and (a)(4).

(b) Upon such notification by the Government of Palau, the Government of the

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United States may consult with or provide information to the notifying Government concerning the prospective employee, subject to the provisions of the Privacy Act, 5 U.S.C. 552a.

(c) The requirement of prior notification shall not apply to those citizens or nationals of the United States who are employed by the Government of Palau on the effective date of this Compact with respect to the positions held by them at that time.

Article V

Representation

Section 151

The Government of the United States and the Government of Palau may establish and maintain representative offices in the capitals of the other.

Section 152

(a) The premises of such representative offices, and their archives wherever located, shall be inviolable. The property and assets of such representative offices shall be immune from search, requisition, attachment and any form of seizure unless such immunity is expressly waived. Official communications in transit shall be inviolable and accorded the freedom and protections accorded by recognized principles of international law to official communications of a diplomatic mission.

(b) Persons designated by the sending Government may serve in the capacity of its resident representatives with the consent of the receiving Government. Such designated persons shall be immune from civil and criminal process relating to words spoken or written and all acts performed by them in their official capacity and falling within their functions as such representatives, except insofar as such immunity may be expressly waived by the sending Government. While serving in a resident representative capacity, such designated persons shall not be liable to arrest or detention pending trial, except in the case of a grave crime and pursuant to a decision by a competent judicial authority, and such persons shall enjoy immunity from seizure of personal property, immigration restrictions, and laws relating to alien registration, fingerprinting, and the registration of foreign agents.

(c) The sending Governments and their respective assets, income and other property shall be exempt from all direct taxes, except those direct taxes representing payment for specific goods and services, and shall be exempt from all customs duties and restrictions on the import or export of articles required for the official functions and personal use of their representatives and representative offices.

(d) Persons designated by the sending Government to serve in the capacity of its resident representatives shall enjoy the same taxation exemptions as are set forth in Article 34 of the Vienna Convention on Diplomatic Relations.

(e) The privileges, exemptions and immunities accorded under this Section are not for the personal benefit of the individuals concerned but are to safeguard the independent exercise of their official functions. Without prejudice to those privileges, exemptions and immunities, it is the duty of all such persons to respect the laws and regulations of the Government to which they are assigned.

Article VI

Environmental Protection

Section 161

The Government of the United States and the Government of Palau declare that it is their policy to promote efforts to prevent or eliminate damage to the environment and biosphere and to enrich understanding of the natural resources of Palau.

Section 162

The Government of the United States and the Government of Palau agree that with respect to the activities of the Government of the United States in Palau, and with respect to substantively equivalent activities of the Government of Palau, each of the Governments shall be bound by such environmental protection standards as may be mutually agreed for the purpose of carrying out the policy set forth in this Compact.

Article VII

General Legal Provisions

Section 171

Except as provided in this Compact or its related agreements, the application of the laws of the United States to the Trust Territory of the Pacific Islands by virtue of the Trusteeship Agreement ceases with respect to Palau as of the effective date of this Compact.

Section 172

(a) Every citizen of Palau who is not a resident of the United States shall enjoy the rights and remedies under the laws of the United States enjoyed by any non-resident alien.

(b) The Government and every citizen of Palau shall be considered a "person" within the meaning of the freedom of Information Act, 5 U.S.C. 552, and of the judicial review provisions of the Administrative Procedure Act, 5 U.S.C. 701-706.

Section 173

The Government of the United States and the Government of Palau, agree to adopt and enforce such measures, consistent with this Compact and its related agreements, as may be necessary to protect the personnel, property, installations, services, programs and official archives and documents maintained by the Government of the United States in Palau pursuant to this Compact and its related agreements and by that Government in the United States pursuant to this Compact and its related agreements.

Section 174

Except as otherwise provided in this Compact and its related agreements:

(a) The Government of Palau shall be immune from the jurisdiction of the courts of the United States, and the Government of the United States shall be immune from the jurisdiction of the courts of Palau.

(b) The Government of the United States accepts responsibility for and shall pay:

(1) any unpaid money judgment rendered by the High Court of the Trust Territory of the Pacific Islands against the Government of the Trust Territory of the Pacific Islands or the Government of the United States with regard to any cause of action arising as a result of acts or omissions of the Government of the Trust Territory of the Pacific Islands or the Government of the United States prior to the effective date of this Compact;

(2) any claim settled by the claimant and the Government of the Trust Territory of the Pacific Islands but not paid as of the effective date of this Compact; and

(3) settlement of any administrative claim or of any action before a court of the Trust Territory of the Pacific Islands, pending as of the effective date of this Compact, against the Government of the Trust Territory of the Pacific Islands or the Government of the United States, arising as a result of acts or omissions of the Government of the Trust
Territory of the Pacific Islands or th
ernment of the United States.

(c) Any claim not referred to in S
174(b) and arising from an act or on
of the Government of the Trust Terri
the Pacific Islands or the Governmen
United States prior to the effective
this Compact shall be adjudicated
same manner as a claim adjudica
cording to Section 174(d). In any
against the Government of the Trus
tory of the Pacific Islands, the Gove
of the United States shall stand in th
of the Government of the Trust Terr
the Pacific Islands. A judgment o
claim referred to in Section 174(b)
subsection, not otherwise satisfied
Government of the United States,
presented for certification to the
States Court of Appeals for the Fede
cuit, or its successor court, which sha
jurisdiction therefor, notwithstandi
provisions of 28 U.S.C. 1502, and
court's decisions shall be reviewable
vided by the laws of the United Stat
United States Court of Appeals for t
eral Circuit shall certify such judgme
order payment thereof, unless it find
a hearing, that such judgment is ma
erroneous as to law or fact, or manife
cessive. In either of such cases the
States Court of Appeals for the Fede
cuit shall have jurisdiction to modi
judgment.

(d) The Government of Palau, shall
immune from the jurisdiction of the
of the United States, and the Govern
the United States shall not be immu
the jurisdiction of the courts of P
any case in which the action is bas
commercial activity of the defenda
ernment where the action is brought,
case in which damages are sought
sonal injury or death or damage to o
property occurring where the ac
brought.

Section 175

A separate agreement, which sha
into effect simultaneously with thi
pact, shall be concluded between the
ment of the United States and the
ment of Palau regarding mutual as
and cooperation in law enforcement
including the pursuit, capture, im
ment and extradition of fugitives f
tice and the transfer of prisoners. T
rate agreement shall have the force
In the United States, the laws of the
States governing international ext
including 18 U.S.C. 3184, 3186 an
3195, shall be applicable to the ext
of fugitives under the separate ag
and the laws of the United States go
the transfer of prisoners, including 1
4100-4115, shall be applicable to the
of prisoners under the separate agre

Section 176

The Government of Palau confi
final judgments in civil cases ren
any court of the Trust Territory of th
ic Islands shall continue in full fo
effect, subject to the constitutional
the courts of Palau to grant relief fr
ments in appropriate cases.

Section 177

(a) Federal agencies of the Gover
the United States which provide
and related programs in Palau are
ized to settle and pay tort claims a
Palau from the activities of such ag
from the acts or omissions of the e
of such agencies. Except as provide
tion 177(b), the provisions of 28 U.S
and 31 U.S.C. 1304 shall apply exclu

such administrative settlements and payments.

(b) Claims under Section 177(a) which cannot be settled under Section 177(a) shall be disposed of exclusively in accordance with Article II of Title Four. Arbitration awards rendered pursuant to this subsection shall be paid out of funds under 31 U.S.C. 1304.

(c) The Government of the United States and the Government of Palau shall provide for:

(1) the administrative settlement of claims referred to in Section 177(a), including designation of local agents in Palau such agents to be empowered to accept, investigate and settle such claims, in a timely manner, as provided in such separate agreements; and

(2) arbitration, referred to in Section 177(b), in a timely manner, at a site convenient to the claimant, in the event a claim is not otherwise settled pursuant to Section 177(a).

(d) The provisions of Section 174(d) shall not apply to claims covered by this Section.

TITLE TWO

ECONOMIC RELATIONS

Article I

Grant Assistance

Section 211

In order to assist the Government of Palau in its efforts to advance the well-being of the people of Palau and in recognition of the special relationship that exists between the United States and Palau, the Government of the United States shall provide to the Government of Palau on a grant basis the following amounts:

(a) $12 million annually for ten years commencing on the effective date of this Compact, and $11 million annually for five years commencing on the tenth anniversary of the effective date of this Compact, for current account operations and maintenance purposes, which amounts include a minimum annual distribution of $5 million from the fund specified in Section 211(f).

(b) $2 million annually for fourteen years commencing on the first anniversary of the effective date of this Compact as a contribution to efforts aimed at achieving increased self-sufficiency in energy production.

(c) $150,000 annually for fifteen years commencing on the effective date of this Compact as a contribution to current account operations and maintenance of communications systems, and the sum of $1.5 million, to be made available concurrently with the grant assistance provided during the first year after the effective date of this Compact, for the purpose of acquiring such communications hardware as may be located within Palau or for such other current or capital account activity as the Government of Palau may select.

(d) $631,000 annually on a current account basis for fifteen years commencing on the effective date of this Compact for the purposes set forth below:

(1) $109,600 annually for the surveillance and enforcement by the Government of Palau of its maritime zone;

(2) $208,600 annually for health and medical programs, including referrals to hospital and treatment centers; and

(3) $312,900 annually for a scholarship fund to support the post-secondary education of citizens of Palau attending United States accredited, post-secondary institutions in Palau, the United States, its territories and possessions, and states in free association with the United States. The curriculum criteria for the award of scholarships shall be designed to advance the purposes of the plan referred to in Section 231.

(e) The sum of $666,800 as a contribution to the commencement of activities pursuant to Section 211(d)(1).

(f) The sum of $60 million on the effective date of this Compact to create a fund to be invested by the Government of Palau in issues of bonds, notes or other redeemable instruments of the Government of the United States or other qualified instruments which may be identified by mutual agreement of the Government of the United States and the Government of Palau. The Government of the United States and the Government of Palau shall set forth in a separate agreement, which shall come into effect simultaneously with this Compact, provisions for the investment and management of the fund so as to allow for an agreed minimum annual distribution from its accrued principal and interest commencing upon the effective date of this Compact for fifty years. The objective of this sum is to produce an average annual distribution of $15 million commencing on the fifteenth anniversary of this Compact for thirty-five years. Any excess or variance from the agreed minimum annual distributions which may be produced from this sum shall accrue to or be absorbed by the Government of Palau and such distributions are not subject to Section 215 and 236.

Section 212

In order to assist the Government of Palau in its efforts to advance the economic development and self-sufficiency of the people of Palau and in recognition of the special relationship that exists between the United States and Palau, the Government of the United States shall provide:

(a) To the people of Palau, a road system on the island of Babelthuap in accordance with mutually agreed specification, the construction of which shall be completed prior to the sixth anniversary of the effective date of this Compact; and

(b) To the Government of Palau, the sum of $36 million, during the first year after the effective date of this Compact, for capital account purposes.

Section 213

The Government of the United States shall provide on a grant basis to the Government of Palau the sum of $5.5 million in conjunction with Article II of Title Three. This sum shall be made available concurrently with the grant assistance provided pursuant to this Article during the first year after the effective date of this Compact. The Government of Palau, in its use of such funds, shall take into account the impact of the activities of the Government of the United States in Palau.

Section 214

All funds previously appropriated to the Trust Territory of the Pacific Islands for the Government of Palau which are unobligated by the Government of the Trust Territory as of the effective date of this Compact shall accrue to the Government of Palau for the purposes for which such funds were originally appropriated as determined by the Government of the United States.

Section 215

Except as otherwise provided, the amounts stated in Sections 211(a), 211(b), 211(c) and 212(b) shall be adjusted for each fiscal year by the percent which equals two-thirds of the percentage change in the United States Gross National Product Implicit Price Deflator, or seven percent, whichever is less in any one year, using the beginning of Fiscal Year 1981 as the base.

Article II

Program Assistance

Section 221

(a) The Government of the United States shall make available to Palau, in accordance with and to the extent provided in the separate agreement referred to in Section 232, without compensation and at the levels equivalent to those available to the Trust Territory of the Pacific Islands during the year prior to the effective date of this Compact, the services and related programs:

(1) of the United States Weather Service;

(2) of the United States Federal Emergency Management Agency;

(3) provided pursuant to the Postal Reorganization Act, 39 U.S.C. 101 et seq.;

(4) of the United States Federal Aviation Administration; and

(5) of the United States Civil Aeronautics Board or its successor agencies which has the authority to implement the provisions of paragraph 5 of Article IX of such separate agreements, the language of which is incorporated into this Compact.

(b) The Government of the United States, recognizing the special needs of Palau particularly in the fields of education and health care, shall make available, as provided by the laws of the United States, the annual amount of $2 million which shall be allocated in accordance with the provisions of the separate agreement referred to in Section 232.

(c) The Government of the United States shall make available to Palau such alternate energy development projects, studies and conservation measures as are applicable to the Trust Territory of the Pacific Islands on the day preceding the effective date of this Compact, for the purposes and duration provided in the laws of the United States.

(d) The Government of the United States shall have and exercise such authority as is necessary for the purposes of this Article and as is set forth in the separate agreements referred to in Section 232, which shall also set forth the extent to which services and programs shall be provided to Palau.

Section 222

The Government of Palau may request, from time to time, technical assistance from the Federal agencies and institutions of the Government of the United States, which are authorized to grant such technical assistance in accordance with its laws and which shall grant such technical assistance in a manner which gives priority consideration to Palau over other recipients not a part of the United States, it territories or possessions and equivalent consideration to Palau with respect to other states in Free Assocation with the United States.

Section 223

The citizens of Palau who are receiving post-secondary education assistance from the Government of the United States on the day preceding the effective date of this Compact shall continue to be eligible, if otherwise qualified, to receive such assistance to complete their academic programs for a maximum of four years after the effective date of this Compact.

Section 224

The Government of the United States and the Government of Palau may agree from time to time to the extension to Palau of additional United States grant assistance and of United States services and programs as provided by the laws of the United States.

Article III

Administrative Provisions

Section 231

(a) The annual expenditure by the Government of Palau of the grant amounts specified in Article I of this Title shall be in accordance with an official national development plan promulgated by the Government of Palau and concurred in by the Government of the United States prior to the effective date of this Compact. This plan may be amended from time to time by the Government of Palau.

(b) The Government of Palau shall report annually to the President of the United States and to the Congress of the United States on the implementation of the plan and the use of the funds specified in Article I of this Title.

Section 232

The specific nature, extent and contractual arrangements of the services and programs provided for in section 221 as well as the legal status of agencies of the Government of the United States, their civilian employees and contractors, and the dependents of such personnel while present in Palau, and other arrangements in connection with a service of program furnished by the Government of the United States, are set forth in separate agreements which shall come into effect simultaneously with this Compact.

Section 233

The Government of the United States, in consultation with the Government of Palau, shall determine and implement procedures for the periodic audit of all grants and other assistance made under this Title. Such audits shall be conducted at no cost to the Government of Palau.

Section 234

Title to the property of the Government of the United States situated in the Trust Territory of the Pacific Islands and in Palau or acquired for or used by the Government of the Trust Territory of the Pacific Islands on or before the day preceding the effective date of this Compact shall, without reimbursement or transfer of funds, vest in the Government of Palau as set forth in a separate agreement which shall come into effect simultaneously with this Compact. The provisions of this Section shall not apply to the property of the Government of the United States for which the Government of the United States determines a continuing requirement.

Section 235

(a) Funds held in trust by the High Commissioner of the Trust Territory of the Pacific Islands, in his official capacity, as of the effective date of this Compact shall remain available as trust funds to their designated beneficiaries. The Government of the United States, in consultation with the Government of Palau, shall appoint a new trustee who shall exercise the functions formerly exercised by the High Commissioner of the Trust Territory of the Pacific Islands.

(b) To provide for the continuity of administration, and to assure the Government of Palau that the purposes of the laws of the United States are carried out and that the funds of any other trust fund in which the High Commissioner of the Trust Territory of the Pacific Islands has authority of a statutory or customary nature shall remain available as trust funds to their designated beneficiaries, the Government of the United States agrees to assume the authority formerly vested in the High Commissioner of the Trust Territory of the Pacific Islands.

Section 236

Except as otherwise provided, approval of this Compact by the Government of the United States shall constitute a pledge of the full faith and credit of the United States for the full payment of the sums and amounts specified in Article I of this Title. The obligation of the Government of the United States under Article I of this Title shall be enforceable in the United States Claims Court, or its successor court, which shall have jurisdiction in cases arising under this Section, notwithstanding the provisions of 28 U.S.C. 1502, and which court's decisions shall be reviewable as provided by the laws of the United States.

Article IV

Trade

Section 241

Palau is not included in the customs territory of the United States.

Section 242

For the purpose of assessing duties on its products imported into the customs territory of the United States, Palau shall be treated as if it were an insular possession of the United States within the meaning of General Headnote 3(a) of the Tariff Schedules of the United States. The exceptions, valuation procedures and all other provisions of General Headnote 3(a) shall apply to any product deriving from Palau.

Section 243

All products of Palau imported into the customs territory of the United States which are not accorded the treatment set forth in Section 242 and all products of the United States imported into Palau shall receive treatment no less favorable than that accorded like products of any foreign country with respect to customs duties or charges of a similar nature and with respect to laws and regulations relating to importation, exportation, taxation, sale, distribution, storage or use.

Article V

Finance and Taxation

Section 251

The currency of the United States is the official circulating legal tender of Palau. Should the Government of Palau act to institute another currency, the terms of an appropriate currency transitional period shall be as agreed with the Government of the United States.

Section 252

The Government of Palau may, with respect to United States persons, tax income derived from sources within its respective jurisdiction, property situated therein, including transfers of such property by gift or at death, and products consumed therein, in such manner as such government deems appropriate. The determination of the source of any income, or the situs of any property, shall for purposes of this Compact, be made according to the United States Internal Revenue Code.

Section 253

A citizen of Palau, domiciled therein, shall be exempt from income taxes imposed by the Government of the United States upon fixed or determinable annual income; and estate, gift, and generation-skipping transfer taxes imposed by the Government of the United States.

Section 254

(a) In determining any income tax imposed by the Government of Palau, the Government of Palau shall have authority to impose tax upon income derived by a resident of Palau from sources without Palau in the same manner and to the same extent as the Government of Palau imposes tax upon income derived from within its jurisdiction. If the Government of Palau exercises such
authority as provided in this subs
any individual resident of Palau who
ject to tax by the Government of the
States on income which is also taxed
Government of Palau shall be relieve
ability to the Government of the
States for the tax which, but for this
tion, would otherwise be imposed
Government of the United States o
income. For purposes of this Sectio
term "Resident of Palau" shall be dee
include any person who was phy
present in Palau for a period of 183 o
days during any taxable year.

(b) If the Government of Palau s
income to taxation substantially sim
that imposed by the Trust Territory C
effect on January 1, 1980, such Gover
shall be deemed to have exercised the
ity described in Section 254(a).

Section 255

Where not otherwise manifestly inc
ent with the intent of this Compact,
sions in the United States Internal R
Code that are applicable to possess
the United States as of January 1
shall be treated as applying to Palau.
provisions of the Internal Revenue C
amended, modified or repealed aft
date, such provisions shall continue i
as to Palau for a period of two years
which time the Government of the
States and the Government of Pala
negotiate an agreement which shall
benefits substantively equivalent t
which obtained under such provision

TITLE THREE

SECURITY AND DEFENSE RELAT

Article I

Authority and Responsibility

Section 311

The territorial jurisdiction of the R
of Palau shall be completely foreclose
military forces and personnel or
military purposes of any nation exc
United States of America, and as p
for in section 312.

Section 312

The Government of the United Sta
full authority and responsibility for
and defense matters in or relating to
Subject to the terms of any agreemen
tiated pursuant to Article II of this T
Government of the United States m
duct within the lands, water and air
Palau the activities and operation
sary for the exercise of its authority
sponsibility under this Title. The
ment of the United States may in
armed forces of other nations to use
areas and facilities in Palau in conj
with and under the control of Unite
Armed Forces.

Section 313

The Government of Palau shall
from actions which the Governmen
United States determines, after cons
with that Government, to be incon
with its authority and responsibilit
curity and defense matters in or rel
Palau.

Article II

Defense Sites and Operating Ri

Section 321

The Government of the United Sta
establish and use defense sites in Pa
may designate for this purpose la
water areas and improvements in
ance with the provisions of a separa
ment which shall come into force
neously with this Compact.

Section 322

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(a) When the Government of the United States desires to establish or use such a defense site specifically identified in the separate agreement referred to in section 321, it shall so inform the Government of Palau which shall make the designated site available to the Government of the United States for the duration and level of use specified.

(b) With respect to any site not specifically identified in the separate agreement referred to in section 321, the Government of the United States shall inform the Government of Palau, which shall make the designated site available to the Government of the United States for the duration and level of use specified, or shall make available one alternative site acceptable to the Government of the United States. If such alternative site is unacceptable to the Government of the United States, the site first designated shall be made available after such determination.

(c) Compensation in full for designation, establishment or use of defense sites is provided in Title Two of this Compact.

Section 323

The military operating rights of the Government of the United States and the legal status and contractual arrangements of the United States Armed Forces, their members, and associated civilians, while present in Palau, are set forth in separate agreements which shall come into effect simultaneously with this Compact.

Article III

Defense Treaties and International Security Agreements

Section 331

Subject to the terms of this Compact and its related agreements, the Government of the United States, exclusively, shall assume and enjoy, as to Palau, all obligations, responsibilities, rights and benefits of:

(a) Any defense treaty or other international security agreement applied by the Government of the United States as administering authority of the Trust Territory of the Pacific Islands as of the day preceding the effective date of this Compact; and

(b) Any defense treaty or other international security agreement to which the Government of the United States is or may become a party which it determines to be applicable in Palau. Such a determination by the Government of the United States shall be preceded by appropriate consultation with the Government of Palau.

Article IV

Service in the Armed Forces of the United States

Section 341

Any citizen of Palau entitled to the privileges of section 141 of this Compact shall be eligible to volunteer for service in the Armed Forces of the United States, but shall not be subject to involuntary induction into military service of the United States so long as such person does not establish habitual residence in the United States, its territories or possessions.

Section 342

The Government of the United States shall have enrolled, at any one time, at least one qualified student from Palau as may be nominated by the Government of Palau, in each of:

(a) The United States Coast Guard Academy pursuant to 14 U.S.C. 195; and

(b) The United States Merchant Marine Academy pursuant to 46 U.S.C. 1295b(b)(6), provided that the provisions of 46 U.S.C. 1295b(b)(6)(C) shall not apply to the enrollment of students pursuant to section 342(b) of this Compact.

Article V

General Provisions

Section 351

(a) The Government of the United States and the Government of Palau shall establish a joint committee to consider disputes which may arise under the implementation of this title and its related agreements.

(b) Any unresolved issue with respect to the implementation of this title and its related agreements shall be referred exclusively to the Government of the United States and the Government of Palau for resolution.

Section 352

In the exercise of its authority and responsibility under this Compact, the Government of the United States shall accord due respect to the authority and responsibility of the Government of Palau under this Compact and to the responsibility of the Government of Palau to assure the well-being of Palau and its people.

TITLE FOUR

GENERAL PROVISIONS

Article I

Approval and Effective Date

Section 411

This Compact shall come into effect upon mutual agreement between the Government of the United States, acting in fulfillment of its responsibilities as Administering Authority of the Trust Territory of the Pacific Islands, and the Government of Palau, subsequent to completion of the following:

(a) Approval by the Government of Palau in accordance with its constitutional processes:

(b) Approval by the People of Palau by not less than a majority of the votes cast in a referendum on the Compact signed on May 23, 1984; and

(c) Approval by the Government of the United States in accordance with its constitutional processes.

Article II

Conference and Dispute Resolution

Section 421

The Government of the United States and the Government of Palau shall confer promptly at the request of the other on matters relating to the provisions of this Compact or of its related agreements.

Section 422

In the event the Government of the United States or the Government of Palau, after conferring pursuant to section 421, determines that there is a dispute and gives written notice thereof, the Governments shall make a good faith effort to resolve the dispute among themselves.

Section 423

If a dispute between the Government of the United States and the Government of Palau cannot be resolved within 90 days of written notification in the manner provided in section 422, either party to the dispute may refer it to arbitration in accordance with section 424.

Section 424

Should a dispute be referred to arbitration as provided for in section 423, an arbitration board shall be established for the purpose of hearing the dispute and rendering a decision which shall be binding upon the two parties to the dispute unless the two parties mutually agree that the decision shall be advisory. Arbitration shall occur according to the following terms:

(a) An arbitration board shall consist of a chairman and two other members, each of whom shall be a citizen of a party to the dispute and each of the two parties to the dispute shall appoint one member to the arbitration board. If either party to the dispute does not fulfill the appointment requirements of this section within 30 days of referral of the dispute to arbitration pursuant to section 423, its member on the arbitration board shall be selected from its own standing list by the other party to the dispute. Each government shall maintain a standing list of 10 candidates. The parties to the dispute shall jointly appoint a chairman within 15 days after selection of the other members of the arbitration board. Failing agreement on a chairman, the chairman shall be chosen by lot from the standing lists of the parties to the dispute within 5 days after such failure.

(b) The arbitration board shall have jurisdiction to hear and render its final determination on all disputes arising exclusively under Articles I, II, III and IV of title one, title two, title four and their related agreements.

(c) Each member of the arbitration board shall have one vote. Each decision of the arbitration board shall be reached by Majority vote.

(d) In determining any legal issue, the arbitration board may have reference to international law and, in such reference, shall apply as guidelines the provisions set forth in Article 38 of the Statute of the International Court of Justice.

(e) The arbitration board shall adopt such rules for its proceedings as it may deem appropriate and necessary, but such rules shall not contravene the provisions of this Compact. Unless the parties provide otherwise by mutual agreement, the arbitration board shall endeavor to render its decision within 30 days after the conclusion of arguments. The arbitration board shall make findings of fact and conclusions of law and its members may issue dissenting or individual opinions. Except as may otherwise be decided by the arbitration board, one-half of all costs of the arbitration shall be borne by the Government of the United States and the remainder shall be borne by the Government of Palau.

Article III

Amendment and Review

Section 431

The provisions of this Compact may be amended at any time by mutual agreement.

Section 432

In agreeing to any amendment to this Compact which constitutes the inclusion of subject matter not addressed in its terms as of the effective date of this Compact, the Government of the United States commits itself to the principle of essential parity, when it deems appropriate, with the terms of the Compact of Free Association with the Marshall Islands or the Federated States of Micronesia.

Section 433

Upon the thirtieth anniversary of the effective date of this Compact, the Government of the United States and the Government of Palau shall formally review the terms of this compact and its separate agreements and shall consider the overall nature and development of their relationship. Any alteration to the terms of this Compact or its separate agreements shall be made by mutual agreement. Absent such mutual agreement, the terms of this Compact and its separate agreements shall remain in force until otherwise amended or terminated pursuant to title four of this Compact.

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Article IV

Termination

Section 441

This Compact may be terminated by mutual agreement and subject to Section 451.

Section 442

This Compact may be terminated by the Government of the United States subject to Section 452, such termination to be effective on the date specified in the notice of termination by the Government of the United States but not earlier than six months following delivery of such notice. The time specified in the notice of termination may be extended.

Section 443

This Compact shall be terminated, pursuant to its constitutional processes, by the Government of Palau subject to Section 452 if the people of Palau vote in a plebiscite to terminate. The Government of Palau shall notify the Government of the United States of its intention to call such a plebiscite which shall take place not earlier than three months after delivery of such notice. The plebiscite shall be administered by such government in accordance with its constitutional and legislative processes, but the Government of the United States may send its own observers and invite observers from a mutually agreed party. If a majority of the valid ballots cast in the plebiscite favors termination, such government shall, upon certification of the results of the plebiscite, give notice of termination to the Government of the United States, such termination to be effective on the date specified in such notice but not earlier than three months following the date of delivery of such notice. The time specified in the notice of termination may be extended.

Article V

Survivability

Section 451

Should termination occur pursuant to Section 441, economic assistance by the Government of the United States shall continue on mutually agreed terms.

Section 452

Should termination occur pursuant to Section 442 or 443, the following provisions of this Compact shall remain in full force and effect until the fiftieth anniversary of the effective date of this Compact and thereafter as mutually agreed:

(a) Article I and Section 233 of Title Two;

(b) Title Three; and

(c) Article II, III, V and VI of Title Four.

Section 453

Notwithstanding any other provision of this Compact:

(a) The provisions of Section 311, even if Title Three should terminate, are binding and shall remain in effect for a period of 50 years and thereafter until terminated or otherwise amended by mutual consent.

(b) The separate agreements referred to in Article II of Title Three shall remain in effect in accordance with their terms.

Article VI

Definition of Terms

Section 461

For the purpose of this Compact the following terms shall have the following meanings:

(a) "Trust Territory of the Pacific Islands" means the area established in the Trusteeship Agreement consisting of the administrative districts of Kosrae, Yap, Palau, Ponape, the Marshall Islands and Truk as described in Title One, Trust Territory Code, Section 1, in force on January 1, 1979. This term does not include the area of the Northern Mariana Islands.

(b) "Trusteeship Agreement" means the agreement setting forth the terms of trusteeship for the Trust Territory of the Pacific Islands, approved by the Security Council of the United Nations April 2, 1947, and by the United States July 18, 1947, entered into force July 18, 1947, 61 Stat. 3301, T.I.A.S. 1665, 8 U.N.T.S. 189.

(c) "Palau" is used in a geographic sense and includes the land and water areas to the outer limits of the territorial sea and the air space above such areas as now or hereafter recognized by the Government of the United States.

(d) "Government of Palau" means the Government established and organized by the Constitution of Palau including all the political subdivisions and entities comprising that Government.

(e) "Habitual Residence" means a place of general abode or a principal, actual dwelling place of a continuing or lasting nature; provided, however, that this term shall not apply to the residence of any person who entered the United States for the purpose of full-time studies as long as such person maintains that status, or who has been physically present in the United States or Palau for less than one year, or who is a dependent of a resident representative, as described in Section 152.

(f) For the purpose of Article IV of Title One of this Compact:

(1) "Actual Residence" means physical presence in Palau during eighty-five percent of the period of residency required by Section 141(a)(3); and

(2) "Certificate of Actual Residence" means a certificate issued to a naturalized citizen by the Government which has naturalized him stating that the citizen has complied with the actual residence requirement of Section 141(a)(3).

(g) "Defense Sites" means those land and water areas and improvements thereon in Palau reserved or acquired by the Government of Palau for use by the Government of the United States, as set forth in the separate agreements referred to in Section 321.

(h) "Capital Account" means, for each year of the Compact, those portions of the total grant assistance provided in Article I of Title Two, which are to be obligated for:

(1) the construction or major repair of capital infrastructure; or

(2) public and private sector projects identified in the official overall economic development plan.

(i) "Current Account" means, for each year of the Compact, those portions of the total grant assistance provided in Article I of Title Two, which are to be obligated for recurring operational activities including infrastructure maintenance as identified in the annual budget justifications submitted yearly to the Government of the United States.

(j) "Official National Development Plan" means the documented program of annual development which identifies the specific policy and project activities necessary to achieve a specified set of economic goals and objectives during the period of free association, consistent with the economic assistance authority in Title Two. Such a document should include an analysis of population trends, manpower requirements, social needs gross national product estimates, resource utilization, infrastructure needs and expenditures, and the specific private sector projects required to develop the local economy of Palau. Project identification
include initial cost estimates, with
purposes related to specific develo
goals and objectives.

(k) "Tariff Schedules of the United S
means the Tariff Schedules of the
States as amended from time to time
promulgated pursuant to United Stat
and includes the Tariff Schedules
United States Annotated (TSUSA
amended.

(l) "Vienna Convention on Diploma
lations" means the Vienna Conventi
Diplomatic Relations, done April 18
23 U.S.T. 3227, T.I.A.S. 7502, 500 U.N.

Section 462

The Government of the United Stat
the Government of Palau shall concl
lated agreements which shall com
effect and shall survive in accordanc
their terms, as follows:

(a) Agreement Regarding the Provi
Telecommunication Services by the C
ment of the United States to Palau Co
ed Pursuant to Section 131 of the Co
of Free Association;

(b) Agreement Regarding the Opera
Telecommunication Services of the C
ment of the United States in Palau Co
ed Pursuant to Section 132 of the Co
of Free Association;

(c) Agreement on Extradition, Mut
sistance in Law Enforcement Matte
Penal Sanctions Concluded Pursuant
tion 175 of the Compact of Free Assoc

(d) Agreement Regarding United
Economic Assistance to the Governm
Palau Concluded Pursuant to Sectio
of the Compact of Free Association;

(e) Agreement Regarding Const
Projects in Palau Concluded Pursu
Section 212(a) of the Compact of Fre
ciation;

(f) Agreement Regarding Federal Pr
and Services, Concluded Pursuant to
II of Title Two and Section 232 of th
pact of Free Association;

(g) Agreement Regarding Property
over, Concluded Pursuant to Section
the Compact of Free Association;

(h) Agreement Regarding the Milit
and Operating Rights of the Govern
the United States in Palau Conclud
suant to Sections 321 and 322 of th
pact of Free Association; and

(i) Status of Forces Agreement Co
Pursuant to Section 323 of the Com
Free Association;

(j) Agreement Regarding the Juris
and Sovereignty of the Republic o
over its Territory and the Living a
living Resources of the Sea.

Article VII

Concluding Provisions

Section 471

(a) The Government of the Unite
and the Government of Palau ag
they have full authority under thei
tive constitutions to enter into th
pact and its related agreements and
all of their respective responsibilitie
cordance with the terms of this C
and its related agreements. The
ments pledge that they are so commi

(b) The Government of the Unite
and the Government of Palau shall
necessary steps, of a general or p
character, to ensure, not later than
tive date of this Compact, the conf
its laws, regulations and admin
procedures with the provisions of th
pact.

(c) Without prejudice to the effects of this Compact under international law, this Compact has the force and effect of a statute under the laws of the United States.

Section 472

This Compact may be accepted, by signature or otherwise, by the Government of the United States and the Government of Palau. Each government shall possess an original English language version.

IN WITNESS THEREOF, the undersigned, duly authorized, have signed this Compact of Free Association which shall come into effect in accordance with its terms between the Government of the United States and the Government of Palau.

DONE AT WASHINGTON, D.C., THIS 23RD DAY OF MAY, ONE THOUSAND, NINE HUNDRED EIGHTY-FOUR

FOR THE GOVERNMENT
OF
THE UNITED STATES OF AMERICA
AMBASSADOR FRED M. ZEDER, II
PRESIDENT'S PERSONAL REPRESENTATIVE
FOR MICRONESIAN STATUS NEGOTATIATIONS

DONE AT WASHINGTON, D.C., THIS 23RD DAY OF MAY, ONE THOUSAND, NINE HUNDRED EIGHTY-FOUR

FOR THE GOVERNMENT
OF
THE REPUBLIC OF PALAU
LAZARUS SALII
AMBASSADOR FOR POLITICAL STATUS AND TRADE NEGOTIATIONS

Strike out the preamble and insert:

Whereas the United States, in accordance with the Trusteeship Agreement, the Charter of the United Nations and the objectives of the international trusteeship system, has promoted the development of the peoples of the Trust Territory toward self-government or independence as appropriate to the particular circumstances of the Trust Territory and its peoples and the freely expressed wishes of the peoples concerned; and

Whereas the United States, in response to the desires of the peoples of the Federated States of Micronesia and the Marshall Islands expressed through their freely-elected representatives and by the official pronouncements and enactments of their lawfully constituted governments, and in consideration of its own obligations under the Trusteeship Agreement to promote self-determination, entered into political status negotiations with representatives of the peoples of the Federated States of Micronesia, and the Marshall Islands; and

Whereas these negotiations resulted in the "Compact of Free Association" which, together with its related agreements, was signed by the United States and by the Federated States of Micronesia and the Republic of the Marshall Islands on October 1, 1982 and June 25, 1983, respectively; and

Whereas the Compact of Free Association was approved by majorities of the peoples of the Federated States of Micronesia and the Marshall Islands in United Nations-observed plebiscites conducted on June 21, 1983 and September 7, 1983, respectively; and

Whereas the Compact of Free Association has been approved by the Governments of the Federated States of Micronesia and the Marshall Islands in accordance with their respective constitutional processes, thus completing fully for the Federated States of Micronesia and the Marshall Islands their domestic approval processes with respect to the Compact as contemplated in Compact Section 411: Now, therefore, be it

The text of the House amendment to the Senate amendment is as follows:

House amendment to Senate amendment: In lieu of the matter proposed to be inserted by the Senate amendment to the test, insert the following:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) Short Title.—This joint resolution, together with the Table of Contents in subsection (b) of this Section, may be cited as the "Compact of Free Association Act of 1985."

(b) Table of contents for this joint resolution is as follows:

TITLE I.—APPROVAL OF COMPACT; INTERPRETATION OF, AND U.S. POLICIES REGARDING, COMPACT; SUPPLEMENTAL PROVISIONS

Sec. 101 Approval of Compact of Free Association
(a) Federated States of Micronesia.
(b) Marshall Islands.
(c) Reference to the Compact.
(d) Amendment, Change, or Termination in the Compact and Certain Agreements.
(e) Subsidiary Agreements Deemed Bilateral.
(f) Effective Date.
Sec. 102 Agreements with Federated States of Micronesia.
(a) Law Enforcement Assistance.
(b) Economic Development Plans Review Process.
(c) Agreement on Audits.
Sec. 103 Agreements With and Other Provisions Related to the Marshall Islands.
(a) Law Enforcement Assistance.
(b) Economic Development Plans Review Process.
(c) Ejit.
(d) Kwajalein Payments.
(e) Section 177 Agreement.
(f) Nuclear Test Effects.
(g) Espousal Provisions.
(h) DOE Radiological Health Care Program; USDA Agricultural and Food Programs.
(i) Rongelap.
(j) Four Atoll Health Care Program.
(k) Enjebi Community Trust Fund.
(l) Bikini Atoll Cleanup.
(m) Agreement on Audits.
Sec. 104. Interpretation of and United States Policy Regarding Compact of Free Association.
(a) Human Rights.
(b) Immigration.
(c) Nonalienation of Lands.
(d) Nuclear Waste Disposal.
(e) Impact of Compact on U.S. Areas.
(f) Fisheries Management.
(g) Foreign Loans.
Sec. 105. Supplemental Provisions.
(a) Domestic Program Requirements.
(b) Relations With the Federated States of Micronesia and the Marshall Islands.
(c) Continuing Trust Territory Authorization.
(d) Medical Referral Debts.
(e) Survivability.
(f) Registration for Agents of Micronesian Governments.
(g) Noncomplaince Sanctions.
(h) Continuing Programs and Laws.
(i) College of Micronesia; Education Programs.
(j) Trust Territory Debts to U.S. Federal Agencies.
(k) Use of DOD Medical Facilities.
(l) Technical Assistance.
(m) Prior Service Benefits Program.
(n) Indefinite Land Use Payments.
(o) Communicable Disease Control Program.
(p) Trust Funds.
(q) Annual Reports on Determinations Under Compact Section 313.
(r) User Fees.
Sec. 106. Construction Contract Assistance.
(a) Assistance to U.S. Firms.
(b) Authorization.
Sec. 107. Limitations.
(a) Prohibition.
(b) Termination.
Sec. 108. Transitional Immigration Rules.
(a) Citizen of Northern Mariana Islands.
(b) Termination.
Sec. 109. Timing.
Sec. 110. Implementation of Audit Agreements.
(a) Transmission of Annual Financial Statement.
(b) Annual Audits By the President.
(c) Authority of GAO.
Sec. 111. Compensatory Adjustments.

TITLE II—COMPACT OF FREE ASSOCIATION

Sec. 201. Compact of Free Association.
Title One. Governmental Relations.
Article I. Self-Government.
Article II. Foreign Affairs.
Article III. Communications.
Article IV. Immigration.
Article V. Representation.
Article VI. Environmental Protection.
Article VII. General Legal Provisions.
Title Two. Economic Relations.
Article I. Grant Assistance.
Article II. Program Assistance.
Article III. Administrative Provisions.
Article IV. Trade.
Article V. Finance and Taxation.
Title Three. Security and Defense Relations.
Article I. Authority and Responsibility.
Article II. Defense Facilities and Operating Rights.
Article III. Defense Treaties and International Security Agreements.
Article IV. Service in Armed Forces of the United States.
Article V. General Provisions.
Title Four. General Provisions.
Article I. Approval and Effective Date.
Article II. Conference and Dispute Resolution.
Article III. Amendment.
Article IV. Termination.
Article V. Survivability.
Article VI. Definition of Terms.
Article VII. Concluding Provisions.
Sec. 202. Jurisdiction.

TITLE III.—PACIFIC POLICY REPORTS

Sec. 301. Findings.
Sec. 302. Reports.
Sec. 303. Conference.
Sec. 304. Administrative Matters.

TITLE IV.—CLARIFICATION OF CERTAIN TRADE AND TAX PROVISIONS OF THE COMPACT.

Sec. 401. Freely Associated States Tariff Treatment.
Sec. 402. Construction of Section 253 of the Compact.
Sec. 403. Construction of Section 254 of the Compact.
Sec. 404. Construction of Section 255 of the Compact.
Sec. 405. The Marshall Islands and the Federated States of Micronesia Treated as North American Area.

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Sec. 406. Effective Date.
Sec. 407. Study of Tax Provisions.
Sec. 408. Coordination With Other Provisions.

TITLE V.—COMPACT OF FREE ASSOCIATION WITH PALAU

Sec. 501. Approval In Principle of the Compact.
Sec. 502. Modifications of the Compact.

TITLE I—APPROVAL OF COMPACT; INTERPRETATION OF, AND U.S. POLICIES REGARDING, COMPACT; SUPPLEMENTAL PROVISIONS

SECTION 101. APPROVAL OF COMPACT OF FREE ASSOCIATION.

(a) FEDERATED STATES OF MICRONESIA.—The Compact of Free Association set forth in title II of this joint resolution between the United States and the Government of the Federated States of Micronesia is hereby approved, and Congress hereby consents to the subsidiary agreements as set forth on pages 115 through 391 of House Document 98-192 of March 30, 1984, as they relate to such Government. Subject to the provisions of this joint resolution, the President is authorized to agree, in accordance with section 411 of the Compact, to an effective date for and thereafter to implement such Compact, having taken into account any procedures with respect to the United Nations for termination of the Trusteeship Agreement.

(b) MARSHALL ISLANDS.—The Compact of Free Association set forth in title II of this joint resolution between the United States and the Government of the Marshall Islands is hereby approved, and Congress hereby consents to the subsidiary agreements as set forth on pages 115 through 391 of House Document 98-192 of March 30, 1984, as they relate to such Government. Subject to the provisions of this joint resolution, the President is authorized to agree, in accordance with section 411 of the Compact, to an effective date for and thereafter to implement such Compact, having taken into account any procedures with respect to the United Nations for termination of the Trusteeship Agreement.

(c) REFERENCE TO THE COMPACT.—Any reference in this joint resolution to "the Compact" shall be treated as a reference to the Compact of Free Association set forth in title II of this joint resolution.

(d) AMENDMENT, CHANGE, OR TERMINATION IN THE COMPACT AND CERTAIN AGREEMENTS.—(1) Mutual agreement by the Government of the United States as provided in the Compact which results in amendment, change, or termination of all or any part thereof shall be effected only by Act of Congress and no unilateral action by the Government of the United States provided for in the Compact, and having such result, may be effected other than by Act of Congress.

(2) The provisions of paragraph (1) shall apply—

(A) to all actions of the Government of the United States under the Compact including, but not limited to, actions taken pursuant to sections 431, 432, 441, or 442;

(B) to any amendment, change, or termination in the Agreement between the Government of the United States and the Government of the Federated States of Micronesia Regarding Friendship, Cooperation and Mutual Security Concluded Pursuant to Sections 321 and 323 of the Compact of Free Association referred to in section 462(j) of the Compact and the Agreement between the Government of the United States and the Government of the Marshall Islands Concerning Mutual Security Concluded Pursuant to Sections 321 and 323 of the Compact of Free Association referred to in section 462(k) of the Compact;

(C) to any amendment, change, or termination of the agreements concluded pursuant to Compact sections 175, 177, and 221(a)(5), the terms of which are incorporated by reference into the Compact; and

(D) to the following subsidiary agreements, or portions thereof:

(i) Article II of the agreement referred to in section 462(a) of the Compact;

(ii) Article II of the agreement referred to in section 462(b) of the Compact;

(iii) Article II and Section 7 of Article XI of the agreement referred to in section 462(e) of the Compact;

(iv) the agreement referred to in section 462(f) of the Compact;

(v) Articles III and IV of the agreement referred to in section 462(g) of the Compact;

(vi) Articles III and IV of the agreement referred to in section 462(h) of the Compact; and

(vii) Articles VI, XV, and XVII of the agreement referred to in section 462(i) of the Compact.

(e) SUBSIDIARY AGREEMENTS DEEMED BILATERAL.—For purposes of implementation of the Compact and this joint resolution, each of the subsidiary agreements referred to in subsections (a) and (b) (whether or not bilateral in form) shall be deemed to be bilateral agreements between the United States and each other party to such subsidiary agreement. The consent or concurrence of any other party shall not be required for the effectiveness of any actions taken by the United States in conjunction with either the Federated States of Micronesia or the Marshall Islands which are intended to affect the implementation, modification, suspension, or termination of any such subsidiary agreement (or any provision thereof) as regards the mutual responsibilities of the United States and the party in conjunction with whom the actions are taken.

(f) EFFECTIVE DATE.—(1) The President shall not agree to an effective date for the Compact, as authorized by this section, until after certifying to Congress that the agreements described in section 102 and section 103 of this title have been concluded.

(2) Any agreement concluded with the Federated States of Micronesia or the Marshall Islands pursuant to sections 102 and 103 of this title and any agreement which would amend, change, or terminate any subsidiary agreement or portion thereof as set forth in paragraph (4) of this subsection shall be submitted to the Congress. No such agreement shall take effect until after the expiration of 30 days after the date such agreement is so submitted (excluding days on which either House of Congress is not in session).

(3) No agreement described in paragraph (2) shall take effect if a joint resolution of disapproval is enacted during the period specified in paragraph (2). For the purpose of expediting the consideration of such a joint resolution, a motion to proceed to the consideration of any such joint resolution after it has been reported by an appropriate committee shall be treated as highly privileged in the House of Representatives. Any such joint resolution shall be considered in the Senate in accordance with the provisions of section 601(b) of Public Law 94-329.

(4) The subsidiary agreements or portions thereof referred to in paragraph (2) are as follows:

(A) Articles III and IV of the agre
referred to in section 462(b) of the Co

(B) Articles III, IV, V, VI, VII, VIII,
and XI (except for Section 7 thereof)
agreement referred to in section 46
the Compact.

(C) Articles IV, V, X, XIV, XV
XVIII of the agreement referred to
tion 462(i) of the Compact.

(D) Articles II, V, VI, VII, and VIII
agreement referred to in section 46
the Compact.

(E) Articles II, V, VI, and VIII
agreement referred to in section 46
the Compact.

(F) The Agreement set forth on pag
through 391 of House Document 98-
March 30, 1984.

(5) No agreement between the
States and the Government of eith
Federated States of Micronesia or th
shall Islands which would amend, c
or terminate any subsidiary agreem
portion thereof, other than those se
in subsection (d) of this section or
graph (4) of this subsection shall take
until the President has transmitte
agreement to the President of the
and the Speaker of the House of Rep
atives together with an explanation
agreement and the reasons therefore.

SEC. 102. AGREEMENTS WITH FEDERATED OF MICRONESIA.

(a) LAW ENFORCEMENT ASSISTANCE.—

(1) AGREEMENT.—The President
United States shall negotiate with th
ernment of the Federated States of
nesia an agreement pursuant to secti
of the Compact which is in addition
Agreement pursuant to such section
October 1, 1982, and transmitted
Congress by the President on Febru
1985. Such additional agreement sha
vide as follows:

(A) MUTUAL ASSISTANCE IN LAW E
MENT.—The law enforcement agencies
United States and the Federated St
Micronesia shall assist one another,
tually agreed, in the prevention and
gation of crimes and the enforcement
laws of the United States and the Fe
States of Micronesia specified in s
graph (C) of this paragraph. The
States and the Federated States of M
sia will authorize mutual assistance
spect to investigations, inquiries, aud
related activities by the law enfor
agencies of both Governments in the
States and the Federated States of M
sia. In conducting activities author
accordance with this section, the
States and the Federated States of M
sia will act in accordance with the c
tion and laws of the jurisdiction in
such activities are conducted.

(B) NARCOTICS AND CONTROL OF ILLE
STANCES.—The United States and the
ated States of Micronesia will take
sonable and necessary steps, as m
agreed based upon consultations in
the Attorney General or other des
official of each Government particip
prevent the use of the lands, waters,
cilities of the United States or the
ed States of Micronesia for the pur
cultivation of, production of, smug
trafficking in, and abuse of any co
substance as defined in section 102(6
United States Controlled Substan
and Schedules I through V of Subch
of the Controlled Substances Act
Federated States of Micronesia, or
distribution of any such substanc

from the Federated States of Micronesia or to or from the United States or any of its territories or commonwealths.

(C) Other criminal laws.—Assistance provided pursuant to this subsection shall also extend to, but not be limited to, prevention and prosecution of violations of the laws of the United States and the laws of the Federated States of Micronesia related to terrorism, espionage, racketeer influenced and corrupt organizations, and financial transactions which advance the interests of any person engaging in unlawful activities, as well as the schedule of offenses set forth in Appendix A of the subsidiary agreement to section 175 of the Compact.

(2) Technical and training assistance.—Pursuant to sections 224 and 226 of the Compact, the United States shall provide non-reimbursable technical and training assistance as appropriate, including training and equipment for postal inspection of illicit drugs and other contraband, to enable the Government of the Federated States of Micronesia to develop and adequately enforce laws of the Federated States of Micronesia and to cooperate with the United States in the enforcement of criminal laws of the United States. Funds appropriated pursuant to section 105(l) of this title may be used to reimburse State or local agencies providing such assistance.

(3) Consultation.—Any official, designated by this joint resolution or by the President to negotiate any agreement under this section, shall consult with affected law enforcement agencies prior to entering into such an agreement on behalf of the United States.

(4) Report.—The President shall report annually to Congress on the implementation of this subsection. Such report shall provide statistical and other information about the incidence of crimes in the Federated States of Micronesia which have an impact upon United States jurisdictions, and propose measures which the United States and the Federated States of Micronesia should take in order better to prevent and prosecute violations of the laws of the United States and the Federated States of Micronesia. The reports required under section 481(e) of the Foreign Assistance Act of 1961 shall include relevant information concerning the Federated States of Micronesia.

(b) Economic Development Plans Review Process.—

(1) Submission.—Notwithstanding section 211(b) of the Compact, the President may agree to an effective date for the Compact pursuant to section 101(a) of this title if the Government of the Federated States of Micronesia agrees to submit economic development plans consistent with section 211(b) of the Compact to the Government of the United States for concurrence at intervals no greater than every 5 years for the duration of the Compact. Any capital construction project and any planned independent purchase of aircraft which is to be financed (directly or indirectly) through the use of funds provided under section 211 of the Compact shall be identified in the economic development plans.

(2) United states government review.—The United States shall not concur in those development plans described in paragraph (1) of this subsection until—

(A) after the President of the United States has conducted a review and reported the findings of the President to the Congress; and

(B) the Congress has had 30 days (excluding days on which both Houses of Congress are not in session) to review the findings of the President.

(3) Report.—The President shall complete the review under paragraph (2) and shall report the findings no later than 60 days after the President's receipt of such plans.

(4) Views and comments.—The report shall include the views of the Secretary of the Interior, the Administrator of the Agency for International Development, and the heads of such other Executive departments as the President may decide to include in the report, as well as any comments which the Federated States of Micronesia may wish to have included.

(c) Agreement on Audits.—In accordance with section 233 of the Compact, the President of the United States, in consultation with the Comptroller General of the United States, shall negotiate with the Government of the Federated States of Micronesia modifications to the "Agreement Concerning Procedures for the Implementation of United States Economic Assistance, Programs and Services Provided in the Compact of Free Association", which shall provide as follows:

(1) General authority of the GAO to audit.—

(A) The Comptroller General of the United States (and his duly authorized representatives) shall have the authority to audit—

(i) all grants, program assistance, and other assistance provided to the Government of the Federated States of Micronesia under Articles I and II of Title Two of the Compact; and

(ii) any other assistance provided by the Government of the United States to the Government of the Federated States of Micronesia.

Such authority shall include authority for the Comptroller General to conduct or cause to be conducted any of the audits provided for in section 233 of the Compact. The authority provided in this paragraph shall continue for at least three years after the last such grant has been made or assistance has been provided.

(B) The Comptroller General (and his duly authorized representatives) shall also have authority to review any audit conducted by or on behalf of the Government of the United States. In this connection, the Comptroller General shall have access to such personnel and to such records, documents, working papers, automated data and files, and other information relevant to such review.

(2) GAO access to records.—

(A) In carrying out paragraph (1), the Comptroller General (and his duly authorized representatives) shall have such access to the personnel and (without cost) to records, documents, working papers, automated data and files, and other information relevant to such audits. The Comptroller General may duplicate any such records, documents, working papers, automated data and files, or other information relevant to such audits.

(B) Such records, documents, working papers, automated data and files, and other information regarding each such grant or other assistance shall be maintained for at least three years after the date such grant or assistance was provided and in a manner that permits such grants, assistance, and payments to be accounted for distinct from any other funds of the Government of the Federated States of Micronesia.

(3) Representative status for GAO representatives.—The Comptroller General and his duly authorized representatives shall be accorded the status set forth in Article V of Title One of the Compact.

(4) Annual financial statements.—As part of the annual report submitted by the Government of the Federated States of Micronesia under section 211 of the Compact, the Government shall include annual financial statements which account for the use of all of the funds provided by the Government of the United States to the Government under the Compact or otherwise. Such financial statements shall be prepared in accordance with generally accepted accounting procedures, except as may otherwise be mutually agreed. Not later than 180 days after the end of the United States fiscal year with respect to which such funds were provided, each such statement shall be submitted to the President for audit and transmission to the Congress.

(5) Definition of audits.—As used in this subsection, the term "audits" includes financial, program, and management audits, including determining—

(A) whether the Government of the Federated States of Micronesia has met the requirements set forth in the Compact, or any related agreement entered into under the Compact, regarding the purposes for which such grants and other assistance are to be used; and

(B) the propriety of the financial transactions of the Government of the Federated States of Micronesia pursuant to such grants or assistance.

(6) Cooperation by federated states of micronesia.—The Government of the Federated States of Micronesia will cooperate fully with the Comptroller General of the United States in the conduct of such audits as the Comptroller General determines necessary to enable the Comptroller General to fully discharge his responsibilities under this joint resolution.

SEC. 103. AGREEMENTS WITH AND OTHER PROVISIONS RELATED TO THE MARSHALL ISLANDS.

(a) Law Enforcement Assistance.—

(1) Agreement.—The President of the United States shall negotiate with the Government of the Marshall Islands an agreement pursuant to section 175 of the Compact which is in addition to the Agreement pursuant to such section dated May 30, 1982, and transmitted to the Congress by the President on February 20, 1985. Such additional agreement shall provide as follows:

(A) Mutual assistance in law enforcement.—The law enforcement agencies of the United States and the Marshall Islands shall assist one another, as mutually agreed, in the prevention and investigation of crimes and the enforcement of the laws of the United States and the Marshall Islands specified in subparagraph (C) of this paragraph. The United States and the Marshall Islands will authorize mutual assistance with respect to investigations, inquiries, audits and related activities by the law enforcement agencies of both Governments in the United States and the Marshall Islands. In conducting activities authorized in accordance with this section, the United States and the Marshall Islands will act in accordance with the constitution and laws of the jurisdiction in which such activities are conducted.

(B) Narcotics and control of illegal substances.—The United States and the Marshall Islands will take all reasonable and necessary steps, as mutually agreed based upon consultations in which the Attorney

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General or other designated official of each Government participates, to prevent the use of the lands, waters, and facilities of the United States or the Marshall Islands for the purposes of cultivation of, production of, smuggling of, trafficking in, and abuse of any controlled substance as defined in section 102(6) of the United States Controlled Substances Act and Schedules I through V of Subchapter II of the Controlled Substances Act of the Marshall Islands, or for the distribution of any such substance to or from the Marshall Islands or to or from the United States or any of its territories or commonwealths.

(C) OTHER CRIMINAL LAWS.—Assistance provided pursuant to this subsection shall also extend to, but not be limited to, prevention and prosecution of violations of the laws of the United States and the laws of the Marshall Islands related to terrorism, espionage, racketeer influenced and corrupt organizations, and financial transactions which advance the interests of any person engaging in unlawful activities, as well as the schedule of offenses set forth in Appendix A of the subsidiary agreement to section 175 of the Compact.

(2) TECHNICAL AND TRAINING ASSISTANCE.—Pursuant to sections 224 and 226 of the Compact, the United States shall provide non-reimbursable technical and training assistance as appropriate, including training and equipment for postal inspection of illicit drugs and other contraband, to enable the Government of the Marshall Islands to develop and adequately enforce laws of the Marshall Islands and to cooperate with the United States in the enforcement of criminal laws of the United States. Funds appropriated pursuant to section 105(l) of this title may be used to reimburse State or local agencies providing such assistance.

(3) CONSULTATION.—Any official, designated by this joint resolution or by the President to negotiate any agreement under this section, shall consult with affected law enforcement agencies prior to entering into such an agreement on behalf of the United States.

(4) REPORT.—The President shall report annually to Congress on the implementation of this subsection. Such report shall provide statistical and other information about the incidence of crimes in the Marshall Islands which have an impact upon United States jurisdictions, and propose measures which the United States and the Marshall Islands should take in order better to prevent and prosecute violations of the laws of the United States and the Marshall Islands. The reports required under section 481(e) of the Foreign Assistance Act of 1961 shall include relevant information concerning the Marshall Islands.

(b) ECONOMIC DEVELOPMENT PLANS REVIEW PROCESS.—

(1) SUBMISSION.—Notwithstanding section 211(b) of the Compact, the President may agree to an effective date for the Compact pursuant to section 101(b) of this title if the Government of the Marshall Islands agrees to submit economic development plans consistent with section 211(b) of the Compact to the Government of the United States for concurrence at intervals no greater than every 5 years for the duration of the Compact. Any capital construction project and any planned independent purchase of aircraft which is to be financed (directly or indirectly) through the use of funds provided under section 211 of the Compact shall be identified in the economic development plans.

(2) UNITED STATES GOVERNMENT REVIEW.—The United States shall not concur in those development plans described in paragraph (1) of this subsection until—

(A) after the President of the United States has conducted a review and reported the findings of the President to the Congress; and

(B) the Congress has had 30 days (excluding days on which both Houses of Congress are not in session) to review the findings of the President.

(3) REPORT.—The President shall complete the review under paragraph (2) and shall report the findings no later than 60 days after the President's receipt of such plans.

(4) VIEWS AND COMMENTS.—The report shall include the views of the Secretary of the Interior, the Administrator of the Agency for International Development, and the heads of such other Executive departments as the President may decide to include in the report, as well as any comments which the Marshall Islands may wish to have included.

(c) EJIT.—(1) The President of the United States shall negotiate with the Government of the Marshall Islands an agreement whereby, without prejudice as to any claims which have been or may be asserted by any party as to rightful title and ownership of any lands on Ejit, the Government of the Marshall Islands shall assure that lands on Ejit used as of January 1, 1985, by the people of Bikini, will continue to be available without charge for their use, until such time as Bikini is restored and inhabitable and the continued use of Ejit is no longer necessary, unless a Marshall Islands court of competent jurisdiction finally determines that there are legal impediments to continued use of Ejit by the people of Bikini.

(2) If the impediments described in paragraph (1) do arise, the United States will cooperate with the Government of the Marshall Islands in assisting any person adversely affected by such judicial determination to remain on Ejit, or in locating suitable and acceptable alternative lands for such person's use.

(3) Paragraph (1) shall not be applied in a manner which would prevent the Government of the Marshall Islands from acting in accordance with its constitutional processes to resolve title and ownership claims with respect to such lands or from taking substitute or additional measures to meet the needs of the people of Bikini with their democratically expressed consent and approval.

(d) KWAJALEIN PAYMENTS.—

(1) STATEMENT OF POLICY.—The Congress of the United States hereby declares that it is the policy of the United States that payment of funds by the Government of the Marshall Islands to the landowners of Kwajalein Atoll in accordance with the land use agreement dated October 19, 1982, and the related allocation agreements, is required in order to ensure that the Government of the United States will be able to fulfill its obligations and responsibilities under Title Three of the Compact and the subsidiary agreements concluded pursuant thereto.

(2) FAILURE TO PAY.—In the event that the Government of the Marshall Islands fails to make payments in accordance with paragraph (1) of this subsection, the Government of the United States shall initiate procedures under Section 313 of the Compact and consult with the Government of the Marshall Islands with respect to the basis for such non-payment of funds. The United States shall expeditiously resolv
matter of any non-payment of funds
scribed in paragraph (1) of this subs
pursuant to Section 313 of the Compa
the authority and responsibility of th
ernment of the United States for se
and defense matters in or relating
Marshall Islands. This paragraph sh
enforced, as may be necessary, in
ance with section 105(g)(2) of this joi
olution.

(3) ASSISTANCE.—The President is
authorized to make loans and grants
Government of the Marshall Islands
sole use of the Kwajalein Atoll De
ment Authority for the benefit of the
alein landowners of amounts sought b
authority for development purposes,
ant to a development plan for Kw
Atoll which such authority has adop
accordance with applicable laws of th
shall Islands. Such loans and grants s
subject to such other terms and con
as the President, in his discretion, m
termine appropriate and necessary.

(e) SECTION 177 AGREEMENT.—(1)
therance of the purposes of Article I
Subsidiary Agreement for Implemen
of Section 177 of the Compact, the pa
of the amount specified therein sh
made by the United States under A
of the Agreement between the Gover
of the United States and the Governm
the Marshall Islands for the Imple
tion of Section 177 of the Compact (
ter in this subsection referred to
"Section 177 Agreement") only aft
Government of the Marshall Islands
tified the President of the United St
to which investment management fi
been selected by such Government t
Fund Manager under Article I of th
tion 177 Agreement.

(2) In the event that the Presiden
mines that an investment manageme
selected by the Government of the M
Islands does not meet the requir
specified in Article I of the Secti
Agreement, the United States shall
the conference and dispute resolution
dures of Article II of Title Four of th
pact. Pending the resolution of such
pute and until a qualified Fund M
has been designated, the Governmen
Marshall Islands shall place the fun
by the United States pursuant to A
of the Section 177 Agreement into a
est-bearing escrow account. Upon
tion of a qualified Fund Manager, a
in the escrow account shall be tra
to the control of such Fund Mana
management pursuant to the Sect
Agreement.

(3) If the Government of the Mars
lands determines that some other
ment firm should act as Fund Man
place of the firm first (or subsequen
lected by such Government, the
ment of the Marshall Islands shall s
the President of the United States,
ing the firm selected by such Gove
to become Fund Manager, and the P
shall proceed to evaluate the qualif
of such identified firm.

(4) At the end of 15 years after th
tive date of the Compact, the fir
acting as Fund Manager shall tra
the Government of the Marshall Isl
to such account as such Governme
so notify the Fund Manager, all re
funds and assets being managed
Fund Manager under the Section 17
ment.

(5) An annual report concerning all actions of the Fund Manager pursuant to the Section 177 Agreement and this joint resolution, including information prepared by the Fund Manager, shall be transmitted by the Government of the Marshall Islands to the Congress. Such report shall include such information (whether received from the Fund Manager or any other source) as relates to the disbursements provided for in Article II of the Section 177 Agreement. Such report shall be made public.

(f) Nuclear Test Effects.—In approving the Compact, the Congress understands and intends that the peoples of Bikini, Enewetak, Rongelap, and Utrik, who were affected by the United States nuclear weapons testing program in the Marshall Islands, will receive the amounts of $75,000,000 (Bikini); $48,750,000 (Enewetak), $37,500,000 (Rongelap); and $22,500,000 (Utrik), respectively, which amounts shall be paid out of proceeds from the fund established under Article I, section 1 of the subsidiary agreement for the implementation of section 177 of the Compact. The amounts specified in this subsection shall be in addition to any amounts which may be awarded to claimants pursuant to Article IV of the subsidiary agreement for the implementation of Section 177 of the Compact.

(g) Espousal Provisions.—(1) It is the intention of the Congress of the United States that the provisions of section 177 of the Compact of Free Association and the Agreement between the Government of the United States and the Government of the Marshall Islands for the Implementation of Section 177 of the Compact (hereafter in this subsection referred to as the "Section 177 Agreement") constitute a full and final settlement of all claims described in Articles X and XI of the Section 177 Agreement, and that any such claims be terminated and barred except insofar as provided for in the Section 177 Agreement.

(2) In furtherance of the intention of Congress as stated in paragraph (1) of this subsection, the Section 177 Agreement is hereby ratified and approved. It is the explicit understanding and intent of Congress that the jurisdictional limitations set forth in Article XII of such Agreement are enacted solely and exclusively to accomplish the objective of Article X of such Agreement and only as a clarification of the effect of Article X, and are not to be construed or implemented separately from Article X.

(h) DOE Radiological Health Care Program; USDA Agricultural and Food Programs.—

(1) Marshall islands program.—Notwithstanding any other provision of law, upon the request of the Government of the Marshall Islands, the President (either through an appropriate department or agency of the United States or by contract with a United States firm) shall continue to provide special medical care and logistical support thereto for the remaining 174 members of the population of Rongelap and Utrik who were exposed to radiation resulting from the 1954 United States thermonuclear "Bravo" test, pursuant to Public Laws 95-134 and 96-205. Such medical care and its accompanying logistical support shall total $22,500,000 over the first 11 years of the Compact.

(2) Agricultural and food programs.—Notwithstanding any other provision of law, upon the request of the Government of the Marshall Islands, for the first five years after the effective date of the Compact, the President (either through an appropriate department or agency of the United States or by contract with a United States firm) shall provide technical and other assistance—

(A) without reimbursement, to continue the planting and agricultural maintenance program on Enewetak;

(B) without reimbursement, to continue the food programs of the Bikini and Enewetak people described in section 1(d) of Article II of the Subsidiary Agreement for the Implementation of Section 177 of the Compact and for continued waterborne transportation of agricultural products to Enewetak including operations and maintenance of the vessel used for such purposes.

(3) Payments.—Payments under this subsection shall be provided to such extent or in such amounts as are necessary for services and other assistance provided pursuant to this subsection. It is the sense of Congress that after the periods of time specified in paragraphs (1) and (2) of this subsection, consideration will be given to such additional funding for these programs as may be necessary.

(i) Rongelap.—(1) Because Rongelap was directly affected by fallout from a 1954 United States thermonuclear test and because the Rongelap people remain unconvinced that it is safe to continue to live on Rongelap Island, it is the intent of Congress to take such steps (if any) as may be necessary to overcome the effects of such fallout on the habitability of Rongelap Island, and to restore Rongelap Island, if necessary, so that it can be safely inhabited. Accordingly, it is the expectation of the Congress that the Government of the Marshall Islands shall use such portion of the funds specified in Article II, section 1(e) of the subsidiary agreement for the implementation of section 177 of the Compact as are necessary for the purpose of contracting with a qualified scientist or group of scientists to review the data collected by the Department of Energy relating to radiation levels and other conditions on Rongelap Island resulting from the thermonuclear test. It is the expectation of the Congress that the Government of the Marshall Islands, after consultation with the people of Rongelap, shall select the party to review such data, and shall contract for such review and for submission of a report to the President of the United States and the Congress as to the results thereof.

(2) The purpose of the review referred to in paragraph (1) of this subsection shall be to establish whether the data cited in support of the conclusions as to the habitability of Rongelap Island, as set forth in the Department of Energy report entitled: "The Meaning of Radiation for Those Atolls in the Northern Part of the Marshall Islands That Were Surveyed in 1978," dated November 1982, are adequate and whether such conclusions are fully supported by the data. If the party reviewing the data concludes that such conclusions as to habitability are fully supported by adequate data, the report to the President of the United States and the Congress shall so state. If the party reviewing the data concludes that the data are inadequate to support such conclusions as to habitability or that such conclusions as to habitability are not fully supported by the data, the Government of the Marshall Islands shall contract with an appropriate scientist or group of scientists to undertake a complete survey of radiation and other effects of the nuclear testing program relating to the habitability of Rongelap Island. Such sums as are necessary for such survey and report concerning the results thereof and as to steps needed to restore the habitability of Rongelap Island are authorized to be made available to the Government of the Marshall Islands.

(3) It is the intent of Congress that such steps (if any) as are necessary to restore the habitability of Rongelap Island and return the Rongelap people to their homeland will be taken by the United States in consultation with the Government of the Marshall Islands and, in accordance with its authority under the Constitution of the Marshall Islands, the Rongelap local government council.

(j) Four Atoll Health Care Program—(1) Services provided by the United States Public Health Service or any other United States agency pursuant to section 1(a) of Article II of the Agreement for the Implementation of Section 177 of the Compact (hereafter in this subsection referred to as the "Section 177 Agreement") shall be only for services to the people of the Atolls of Bikini, Enewetak, Rongelap, and Utrik who were affected by the consequences of the United States nuclear testing program, pursuant to the program described in Public Law 95-134 and Public Law 96-205 and their descendants (and any other persons identified as having been so affected if such identification occurs in the manner described in such public laws). Nothing in this subsection shall be construed as prejudicial to the views or policies of the Government of the Marshall Islands as to the persons affected by the consequences of the United States nuclear testing program.

(2) At the end of the first year after the effective date of the Compact and at the end of each year thereafter, the providing agency or agencies shall return to the Government of the Marshall Islands any unexpended funds to be returned to the Fund Manager (as described in Article I of the Section 177 Agreement) to be covered into the Fund to be available for future use.

(3) The Fund Manager shall retain the funds returned by the Government of the Marshall Islands pursuant to paragraph (2) of this subsection, shall invest and manage such funds, and at the end of 15 years after the effective date of the Compact, shall make from the total amount so retained and the proceeds thereof annual disbursements sufficient to continue to make payments for the provision of health services as specified in paragraph (1) of this subsection to such extent as may be provided in contracts between the Government of the Marshall Islands and appropriate United States providers of such health services.

(k) Enjebi Community Trust Fund.—Notwithstanding any other provision of law, the Secretary of the Treasury shall establish on the books of the Treasury of the United States a fund having the status specified in Article V of the subsidiary agreement for the implementation of Section 177 of the Compact, to be known as the "Enjebi Community Trust Fund" (hereafter in this subsection referred to as the "Fund"), and shall credit to the Fund the amount of $7,500,000. Such amount, which shall be ex gratia, shall be in addition to and not charged against any other funds provided for in the Compact and its subsidiary agreements, this joint resolution, or any other Act. Upon receipt by the President of the United States of the agreement described in this subsection, the Secretary of the Treasury, upon request of the Government of the Marshall Islands, shall transfer the Fund to the Gov-

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ernment of the Marshall Islands, provided that the Government of the Marshall Islands agrees as follows:

(1) Enjebi Trust Agreement.—The Government of the Marshall Islands and the Enewetak Local Government Council, in consultation with the people of Enjebi, shall provide for the creation of the Enjebi Community Trust Fund and the employment of the manager of the Enewetak Fund established pursuant to the Section 177 Agreement as trustee and manager of the Enjebi Community Trust Fund, or, should the manager of the Enewetak Fund not be acceptable to the people of Enjebi, another United States investment manager with substantial experience in the administration of trusts and with funds under management in excess of 250 million dollars.

(2) Monitor conditions.—Upon the request of the Government of the Marshall Islands, the United States shall monitor the radiation and other conditions on Enjebi and within one year of receiving such a request shall report to the Government of the Marshall Islands when the people of Enjebi may resettle Enjebi under circumstances where the radioactive contamination at Enjebi, including contamination derived from consumption of locally grown food products, can be reduced or otherwise controlled to meet whole body Federal radiation protection standards for the general population, including mean annual dose and mean 30-year cumulative dose standards.

(3) Resettlement of Enjebi.—In the event that the United States determines that the people of Enjebi can within 25 years of the date of the enactment of this joint resolution resettle Enjebi under the conditions set forth in paragraph (2) of this subsection, then upon such determination there shall be available to the people of Enjebi from the Fund such amounts as are necessary for the people of Enjebi to do the following, in accordance with a plan developed by the Enewetak Local Government Council and the people of Enjebi, and concurred with by the Government of the Marshall Islands to assure consistency with the government's overall economic development plan:

(A) Establish a community on Enjebi Island for the use of the people of Enjebi.

(B) Replant Enjebi with appropriate food-bearing and other vegetation.

(4) Resettlement of other location.—In the event that the United States determines that within 25 years of the date of the enactment of this joint resolution the people of Enjebi cannot resettle Enjebi without exceeding the radiation standards set forth in paragraph (2) of this subsection, then the fund manager shall be directed by the trust instrument to distribute the Fund to the people of Enjebi for their resettlement at some other location in accordance with a plan, developed by the Enewetak Local Government Council and the people of Enjebi and concurred with by the Government of the Marshall Islands, to assure consistency with the government's overall economic development plan.

(5) Interest from fund.—Prior to and during the distribution of the corpus of the Fund pursuant to paragraphs (3) and (4) of this subsection, the people of Enjebi may, if they so request, receive the interest earned by the Fund on no less frequent a basis than quarterly.

(6) Disclaimer of liability.—Neither under the laws of the Marshall Islands nor under the laws of the United States, shall the Government of the United States be liable for any loss or damage to person or property in respect to the resettlement of Enjebi by the people of Enjebi, pursuant to the provision of this subsection or otherwise.

(l) Bikini Atoll Cleanup.—

(1) Declaration of policy.—The Congress hereby determines and declares that it is the policy of the United States, to be supported by the full faith and credit of the United States, that because the United States, through its nuclear testing and other activities, rendered Bikini Atoll unsafe for habitation by the people of Bikini, the United States will fulfill its responsibility for restoring Bikini Atoll to habitability, as set forth in paragraphs (2) and (3) of this subsection.

(2) Cleanup funds.—There are hereby authorized to be appropriated such sums as are necessary to implement the settlement agreement of March 15, 1985, in The People of Bikini, et al. against United States of America, et al., Civ. No. 84-0425 (D. Ha.).

(3) Conditions of funding.—The funds referred to in paragraph (2) shall be made available pursuant to Article VI, Section 1 of the Compact Section 177 Agreement upon completion of the events set forth in the settlement agreement referred to in paragraph (2) of this subsection.

(m) Agreement on Audits.—In accordance with section 233 of the Compact, the President of the United States, in consultation with the Comptroller General of the United States, shall negotiate with the Government of the Marshall Islands an agreement which shall provide as follows:

(1) General authority of the GAO to audit.—

(A) The Comptroller General of the United States (and his duly authorized representatives) shall have the authority to audit—

(i) all grants, program assistance, and other assistance provided to the Government of the Marshall Islands under Articles I and II of Title Two of the Compact; and

(ii) any other assistance provided by the Government of the United States to the Government of the Marshall Islands.

Such authority shall include authority for the Comptroller General to conduct or cause to be conducted any of the audits provided for in section 233 of the Compact. The authority provided in this paragraph shall continue for at least three years after the last such grant has been made or assistance has been provided.

(B) The Comptroller General (and his duly authorized representatives) shall also have authority to review any audit conducted by or on behalf of the Government of the United States. In this connection, the Comptroller General shall have access to such personnel and to such records, documents, working papers, automated data and files, and other information relevant to such review.

(2) GAO access to records.—

(A) In carrying out paragraph (1), the Comptroller General (and his duly authorized representatives) shall have such access to the personnel and (without cost) to records, documents, working papers, automated data and files, and other information relevant to such audits. The Comptroller General may duplicate any such records, documents, working papers, automated data and files, or other information relevant to such audits.

(B) Such records, documents, working papers, automated data and files, and other information regarding each such grant or other assistance shall be maintained for at
least three years after the date such
or assistance was provided and in a r
that permits such grants, assistanc
payments to be accounted for distinc
any other funds of the Government
Marshall Islands.

(3) Representative status for GAO
sentatives.—The Comptroller Gener
his duly authorized representatives s
accorded the status set forth in Artic
Title One of the Compact.

(4) Annual financial statemen
part of the annual report submitted
Government of the Marshall Islands
section 211 of the Compact, the C
ment shall include annual financia
ments which account for the use o
the funds provided by the Governn
the United States to the Governmen
the Compact or otherwise. Such fi
statements shall be prepared in acco
with generally accepted accounting
dures, except as may otherwise be m
agreed. Not later than 180 days af
end of the United States fiscal year
spect to which such funds were pr
each such statement shall be submi
the President for audit and transmis
the Congress.

(5) Definition of audits.—As used
subsection, the term "audits" inclu
nancial, program, and management
including determining—

(A) whether the Government of th
shall Islands has met the requireme
forth in the Compact, or any relate
ment entered into under the Comp
garding the purposes for which such
and other assistance are to be used; a

(B) the propriety of the financial
tions of the Government of the Mars
lands pursuant to such grants or ass

(6) Cooperation by Marshall Is
The Government of the Marshall
will cooperate fully with the Com
General of the United States in the
of such audits as the Comptroller
determines necessary to enable the
troller General to fully discharge
sponsibilities under this joint resolut

SEC. 104. INTERPRETATION OF AND UNITE
POLICY REGARDING COMP
FREE ASSOCIATION.

(a) Human Rights.—In approvi
Compact, the Congress notes the co
in the Statement of Intent of the R
The Future Political Status Commi
the Congress of Micronesia in Jul
that "our recommendation of a fre
ated state is indissolubly linked to ou
for such a democratic, representati
stitutional government" and notes th
desire and intention are reaffirmed
bodied in the Constitutions of the
ed States of Micronesia and the Mar
lands. The Congress also notes and
cally endorses the preamble to th
pact, which affirms that the govern
the parties to the Compact are
upon respect for human rights and
mental freedoms for all. The Secre
State shall include in the annual rep
the status of internationally rec
human rights in foreign countries
are submitted to the Congress purs
sections 116 and 502B of the Foreig
ance Act of 1961, a full and complet
regarding the status of internationa
ognized human rights in the Fe
States of Micronesia and the Mars
lands.

(b) Immigration.—The rights of
fide naturalized citizen of the Mars
lands or the Federated States of Mi

to enter the United States, to lawfully engage therein in occupations, and to establish residence therein as a non-immigrant, pursuant to the provisions of section 141(a)(3) of the Compact, shall not extend to any such naturalized citizen with respect to whom circumstances associated with the acquisition of the status of a naturalized citizen are such as to allow a reasonable inference, on the part of appropriate officials of the United States and subject to United States procedural requirements, that such naturalized status was acquired primarily in order to obtain such rights.

(c) Nonalienation of Lands.—The Congress endorses and encourages the maintenance of the policies of the Government of the Federated States of Micronesia and the Government of the Marshall Islands to regulate, in accordance with their Constitutions and laws, the alienation of permanent and long-term interests in real property so as to restrict the acquisition of such interests to persons of Federated States of Micronesia citizenship and Marshall Islands citizenship, respectively.

(d) Nuclear Waste Disposal.—In approving the Compact, the Congress understands that the Government of the Federated States of Micronesia and the Government of the Marshall Islands will not permit any other government or any nongovernmental party to conduct, in the Marshall Islands or in the Federated States of Micronesia, any of the activities specified in subsection (a) of section 314 of the Compact.

(e) Impact of Compact on U.S. Areas.—

(1) Statement of congressional intent.—In approving the Compact, it is not the intent of the Congress to cause any adverse consequences for the United States territories and commonwealths or the State of Hawaii.

(2) Annual reports and recommendations.—One year after the date of enactment of this joint resolution and at one year intervals thereafter, the President shall report to the Congress with respect to the impact of the Compact on the United States territories and commonwealths and on the State of Hawaii. Reports submitted pursuant to this paragraph (hereafter in this subsection referred to as "reports") shall identify any adverse consequences resulting from the Compact and shall make recommendations for corrective action to eliminate those consequences. The reports shall pay particular attention to matters relating to trade, taxation, immigration, labor laws, minimum wages, social systems and infrastructure, and environmental regulation. With regard to immigration, the reports shall include statistics concerning the number of persons availing themselves of the rights described in section 141(a) of the Compact during the year covered by each report. With regard to trade, the reports shall include an analysis of the impact on the economy of American Samoa resulting from imports of canned tuna into the United States from the Federated States of Micronesia and the Marshall Islands.

(3) Other views.—In preparing the reports, the President shall request the views of the Government of the State of Hawaii, and the governments of each of the United States territories and commonwealths, the Federated States of Micronesia, the Marshall Islands, and Palau, and shall transmit the full text of any such views to the Congress as part of such reports.

(4) Commitment of congress to redress adverse consequences.—The Congress hereby declares that, if any adverse consequences to United States territories and commonwealths or the State of Hawaii result from implementation of the Compact of Free Association, the Congress will act sympathetically and expeditiously to redress those adverse consequences.

(5) Definition of U.S. territories and commonwealths.—As used in this subsection, the term "United States territories and commonwealths" means the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(6) Impact costs.—There are hereby authorized to be appropriated for fiscal years beginning after September 30, 1985, such sums as may be necessary to cover the costs, if any, incurred by the State of Hawaii, the territories of Guam and American Samoa, and the Commonwealth of the Northern Mariana Islands resulting from any increased demands placed on educational and social services by immigrants from the Marshall Islands and the Federated States of Micronesia, and any other adverse consequences resulting from the compact.

(f) Fisheries Management.—In clarification of Title One, Article II, section 121(b)(1) of the Compact:

(1) Nothing in the Compact or this joint resolution shall be interpreted as recognition by the United States of any claim by the Federated States of Micronesia or by the Marshall Islands to jurisdiction or authority over highly migratory species of fish during the time such species of fish are found outside the territorial sea of the Federated States of Micronesia or the Marshall Islands.

(2) It is the understanding of Congress that none of the monies made available pursuant to the Compact or this joint resolution will be used by either the Federated States of Micronesia or the Marshall Islands for enforcement actions against any vessel of the United States on the basis of fishing by any such vessel for highly migratory species of fish outside the territorial sea of the Federated States of Micronesia or the Marshall Islands, respectively, in the absence of a licensing agreement.

(3) Appropriate United States officials shall apply the policies and provisions of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) and the Fishermen's Protective Act of 1967 (22 U.S.C. 1971 et seq.) with regard to any action taken by the Federated States of Micronesia or the Marshall Islands affecting any vessel of the United States engaged in fishing for highly migratory species of fish in waters outside the territorial seas of the Federated States of Micronesia or the Marshall Islands, respectively. For the purpose of applying the provisions of section 5 of the Fishermen's Protective Act of 1967 (22 U.S.C. 1975), monies made available to either the Federated States of Micronesia or the Marshall Islands pursuant to the provisions of the Compact or this joint resolution shall be treated as "assistance to the government of such country under the Foreign Assistance Act of 1961". For purposes of this Act only, certification by the President in accordance with such section 5 shall be accompanied by a report to Congress on the basis for such certification, and such certification shall have no effect if by law Congress so directs prior to the expiration of 60 days during which Congress is in continuous session following the date of such certification.

(4) For the purpose of paragraphs (1) and (3) of this subsection—

(A) The term "vessel of the United States" has the same meaning as provided in the first section of the Fishermen's Protective Act of 1967 (22 U.S.C. 1971).

(B) The terms "fishing" and "highly migratory species" have the same meanings as provided in paragraphs (10) and (14), respectively, of section 3 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802(10) and (14)).

(5)(A) It is the policy of the United States of America—

(i) to negotiate and conclude with the governments of the Central, Western, and South Pacific Ocean, including the Federated States of Micronesia and the Marshall Islands, a regional licensing agreement setting forth agreed terms of access for United States tuna vessels fishing in the region; and

(ii) that such an agreement should overcome existing jurisdictional differences and provide for a mutually beneficial relationship between the United States and the Pacific Island States that will promote the development of the tuna and other latent fisheries resources of the Central, Western, and South Pacific Ocean and the economic development of the region.

(B) At such time as an agreement referred to in subparagraph (A) is submitted to the Senate for advice and consent to ratification, the Secretary of State, after consultation with the Secretary of Commerce and other interested agencies and concerned governments, shall submit to the Congress a proposed long term regional fisheries development program which may include, but not be limited to—

(i) exploration for, and stock assessment of, tuna and other fish;

(ii) improvement of harvesting techniques;

(iii) gear development;

(iv) biological resource monitoring;

(v) education and training in the field of fisheries; and

(vi) regional and direct bilateral assistance in the field of fisheries.

(g) Foreign Loans.—The Congress hereby reaffirms the United States position that the United States Government is not responsible for foreign loans or debt obtained by the Governments of the Federated States of Micronesia and the Marshall Islands.

SEC. 105. SUPPLEMENTAL PROVISIONS.

(a) Domestic Program Requirements.—Except as may otherwise be provided in this joint resolution, all United States Federal programs and services extended to or operated in the Federated States of Micronesia or the Marshall Islands are and shall remain subject to all applicable criteria, standards, reporting requirements, auditing procedures, and other rules and regulations applicable to such programs when operating in the United States (including its territories and commonwealths).

(b) Relations with the Federated States of Micronesia and the Marshall Islands.—

(1) The United States representatives to the Federated States of Micronesia and the Republic of the Marshall Islands pursuant to Article V of title I of the Compact shall be appointed by the President with the advice and consent of the Senate, and shall be under the supervision of the Secretary of State, who shall have responsibility for government to government relations between the United States and the Government with respect to whom they are appointed, consistent with the authority of the Secretary of the Interior as set forth in this section.

(2) Appropriations made pursuant to the Compact or any other provision of this joint resolution may be made only to the Secretary of the Interior, who shall coordinate and monitor any program or activity provided to the Federated States of Micronesia or the Republic of the Marshall Islands by departments and agencies of the Government of the United States and related economic development planning pursuant to the Compact or pursuant to any other authorization except for the provisions of sections 161(e), 313, and 351 of the Compact and the authorization of the President to agree to an effective date pursuant to this resolution. Funds appropriated to the Secretary of the Interior pursuant to this paragraph shall not be allocated to other departments or agencies.

(3) All programs and services provided to the Federated States of Micronesia and the Republic of the Marshall Islands by Federal agencies may be provided only after consultation with and under the supervision of the Secretary of the Interior, and the head of each Federal agency is directed to cooperate with the Secretary of the Interior and to make such personnel and services available as the Secretary of the Interior may request.

(4) Any United States Government personnel assigned, on a temporary or permanent basis, to either the Federated States of Micronesia or the Marshall Islands shall, during the period of such assignment, be subject to the supervision of the United States representative to that area.

(5) The President is hereby authorized to appoint an Interagency Group on Freely Associated States' Affairs to provide policy guidance to Federal departments and agencies. Such interagency group shall include the Secretary of the Interior and the Secretary of State.

(c) Continuing Trust Territory Authorization.—The authorization provided by the Act of June 30, 1954, as amended (68 Stat. 330) shall remain available after the effective date of the Compact with respect to the Federated States of Micronesia and the Marshall Islands for the following purposes:

(1) Prior to October 1, 1986, for any purpose authorized by the Compact or this joint resolution.

(2) Transition purposes, including but not limited to, completion of projects and fulfillment of commitments or obligations; termination of the Trust Territory Government and termination of the High Court; health and education as a result of exceptional circumstances; ex gratia contributions for the populations of Bikini, Enewetak, Rongelap, and Utrik; and technical assistance and training in financial management, program administration, and maintenance of infrastructure.

(d) Medical Referral Debts.—

(1) Federated states of micronesia.—In addition to the funds provided in Title Two, Article II, section 221(b) of the Compact, following approval of the Compact with respect to the Federated States of Micronesia, the United States shall make available to the Government of the Federated States of Micronesia such sums as may be necessary for the payment of the obligations incurred for the use of medical facilities in the United States, including any territories and commonwealths, by citizens of the Federated States of Micronesia before September 1, 1985.

(2) Marshall islands.—In addition to the funds provided in Title Two, Article II, section 221(b) of the Compact, following approval of the Compact with respect to the Marshall Islands, the United States shall make available to the Government of the Marshall Islands such sums as may be necessary for the payment of the obligations incurred for the use of medical facilities in the United States, its territories and commonwealths by citizens of the Marshall Islands before September 1, 1985.

(3) Use of funds.—In making funds available pursuant to this subsection, the President shall take such actions as he deems necessary to assure that the funds are used only for the payment of the medical expenses described in paragraph (1) or (2) of this subsection, as the case may be.

(4) Authorization of Appropriations.—There are hereby authorized to be appropriated such sums as may be necessary for the purposes of this subsection.

(e) Survivability.—In furtherance of the provisions of Title Four, Article V, sections 452 and 453 of the Compact, any provisions of the Compact which remain effective after the termination of the Compact by the act of any party thereto and which are affected in any manner by provisions of this title shall remain subject to such provisions.

(f) Registration for Agents of Micronesian Governments.—

(1) In general.—Notwithstanding the provisions of Title One, Article V, section 153 of the Compact, after approval of the Compact any citizen of the United States who, without authority of the United States, acts as the agent of the Government of the Marshall Islands or the Federated States of Micronesia with regard to matters specified in the provisions of the Foreign Agents Registration Act of 1938, as amended (22 U.S.C. 611 et seq.) that apply with respect to an agent of a foreign principal shall be subject to the requirements of such Act. Failure to comply with such requirements shall subject such citizen to the same penalties and provisions of law as apply in the case of the failure of such an agent of a foreign principal to comply with such requirements. For purposes of the Foreign Agents Registration Act of 1938, the Federated States of Micronesia and the Marshall Islands shall be considered to be foreign countries.

(2) Exception.—Paragraph (1) of this subsection shall not apply to a citizen of the United States employed by either the Government of the Marshall Islands or the Government of the Federated States of Micronesia with respect to whom the employing Government from time to time certifies to the Government of the United States that such citizen is an employee of the Government of the Marshall Islands or the Government of the Federated States of Micronesia (as the case may be) whose principal duties are other than those matters specified in the Foreign Agents Registration Act of 1938, as amended, that apply with respect to an agent of a foreign principal. The agency or officer of the United States receiving such certifications shall cause them to be filed with the Attorney General, who shall maintain a publicly available list of the persons so certified.

(3) Resident Representative Exemption.—Nothing in this subsection shall be construed as amending Section 152(b) of the Compact.

(g) Noncompliance Sanctions.—

(1) Authority of president.—The President of the United States shall have no authority to suspend or withhold payments or assistance with respect to—

(A) section 177, 213, 216(a)(2), 216(a)(3), 221(b), or 223 of the Compact, or

(B) any agreements made pursuant
such sections of the Compact,

unless such suspension or withholding is
posed as a sanction due to noncomplia
by the Government of the Federated Sta
of Micronesia or the Government of
Marshall Islands (as the case may be) v
the obligations and requirements of s
sections of the Compact or such ag
ments.

(2) Actions incompatible with uni
states authority.—The Congress expre
its understanding that the Government
the Federated States of Micronesia and
Marshall Islands will not act in a manne
compatible with the authority and respo
bility of the United States for security
defense matters in or related to the Fede
ed States of Micronesia or the Marshall
lands pursuant to the Compact, incluc
the agreements referred to in sections 46
and 462(k) thereof. The Congress furt
expresses its intention that any such ac
the part of either such Government wil
viewed by the United States as a mate
breach of the Compact. The Governmen
the United States reserves the right in
event of such a material breach of the C
pact by the Government of the Feder
States of Micronesia or the Governmen
the Marshall Islands to take action, inc
ing (but not limited to) the suspension
whole or in part of the obligations of
Government of the United States to
Government.

(h) Continuing Programs and Laws.—

(1) Federated states of micronesia
marshall islands.—In addition to the
grams and services set forth in section
of the Compact, and pursuant to section
of the Compact, the programs and serv
of the following agencies shall be n
available to the Federated States of M
nesia and to the Marshall Islands:

(A) the Legal Services Corporation;

(B) the Public Health Service ; and

(C) the Farmers Home Administration
the Marshall Islands and each of the
States of the Federated States of Micr
sia: *Provided*, that in lieu of continuatio
the program in the Federated States of
cronesia, the President may agree to tr
fer to the Government of the Feder
States of Micronesia without cost, the
folio of the Farmers Home Loan Adm
tration applicable to the Federated St
of Micronesia and provide such technica
sistance in management of the portfoli
may be requested by the Federated St
of Micronesia).

(2) Palau.—Upon the effective date of
Compact, the laws of the United States
erally applicable to the Trust Territor
the Pacific Islands shall continue to a
to the Republic of Palau and the Rep
of Palau shall be eligible for such pro
tion of Federal assistance as it would o
wise have been eligible to receive u
such laws prior to the effective date of
Compact, as provided in appropriation
or other Acts of Congress.

(3) Section 219 determination.—The
termination by the Government of
United States under section 219 of the
pact shall be as provided in appropria
Acts.

(4) Tort Claims.—(A) Effective on
date of enactment of this joint resolu
any employee of a federal agency of
United States Government who pro
any service or carries out any functio
the Trust Territory of the Pacific Is
pursuant to or in furtherance of appli

law, including this joint resolution, shall be deemed to be an employee of the Trust Territory Government, and the provisions of Title 6 of the Trust Territory Code (including section 251 thereof) shall apply with respect to actions and claims arising from activities of such employee. This subparagraph (A) shall expire with respect to the Federated States of Micronesia, the Marshall Islands, of Palau at such time as the Trusteeship Agreement is terminated with respect to such area or areas, but upon such expiration the provisions of Section 174 of the Compact (including subsections relating to claims and actions before a court of the Trust Territory of the Pacific Islands) shall apply to such employees in such area or areas.

(B) At such time as the Trusteeship Agreement ceases to apply to either the Federated States of Micronesia or the Marshall Islands, the provisions of Section 178 of the Compact regarding settlement and payment of tort claims shall apply to employees of any federal agency of the Government of the United States which provides any service or carries out any other function pursuant to or in furtherance of any provisions of the Compact or this Act, except for provisions of Title Three of the Compact and of the subsidiary agreements related to such Title, in such area to which such Agreement formerly applied. For purposes of this subparagraph (B), persons providing such service or carrying out such function pursuant to a contract with a federal agency shall be deemed to be an employee of the contracting federal agency.

(C) For purposes of the Federal Tort Claims Act (28 U.S.C. 2671 et seq.), persons providing services to the people of the atolls of Bikini, Enewetak, Rongelap and Utrik as described in Public Law 95-134 and Public Law 96-205 pursuant to a contract with a Department or agency of the federal government shall be deemed to be an employee of the contracting Department or agency. This subparagraph (C) shall expire when the Trusteeship Agreement is terminated with respect to the Marshall Islands.

(i) College of Micronesia; Education Programs.—

(1) College of micronesia.—Notwithstanding any other provision of law, all funds which as of the date of the enactment of this joint resolution were appropriated for the use of the College of Micronesia System shall remain available for use by such college until expended. Until otherwise provided by Act of Congress, or until termination of the Compact, such college shall retain its status as a land-grant institution and its eligibility for all benefits and programs available to such land-grant institutions.

(2) Federal education programs.—Pursuant to section 224 of the Compact and upon the request of the affected Government, any Federal program providing financial assistance for education which, as of January 1, 1985, was providing financial assistance for education to the Federated States of Micronesia or the Marshall Islands or to any institution, agency, organization, or permanent resident thereof, including the College of Micronesia System, shall continue to provide such assistance to such institutions, agencies, organizations, and residents as follows:

(A) For the fiscal year in which the Compact becomes effective, not to exceed $13,000,000;

(B) For the fiscal year beginning after the end of the fiscal year in which the Compact becomes effective, not to exceed $8,700,000; and

(C) For the fiscal year immediately following the fiscal year described in subparagraph (B), not to exceed $4,300,000.

(3) Authorization of appropriations.—There are hereby authorized to be appropriated such sums as are necessary for purposes of this subsection.

(j) Trust Territory Debts to U.S. Federal Agencies.—Neither the Government of the Federated States of Micronesia nor the Government of the Marshall Islands shall be required to pay to any department, agency, independent agency, office, or instrumentality of the United States any amounts owed to such department, agency, independent agency, office, or instrumentality by the Government of the Trust Territory of the Pacific Islands as of the effective date of the Compact. There is authorized to be appropriated such sums as may be necessary to carry out the purposes of this subsection.

(k) Use of DOD Medical Facilities.—Following approval of the Compact, the Secretary of Defense shall make available the medical facilities of the Department of Defense for use by citizens of the Federated States of Micronesia and the Marshall Islands who are properly referred to such facilities by government authorities responsible for provision of medical services in the Federated States of Micronesia and the Marshall Islands. The Secretary of Defense is hereby authorized to cooperate with such authorities in order to permit use of such medical facilities for persons properly referred by such authorities. The Secretary of Health and Human Services is hereby authorized and directed to continue to make the services of the National Health Service Corps available to the residents of the Federated States of Micronesia and the Marshall Islands to the same extent and for so long as such services are authorized to be provided to persons residing in any other areas within or outside the United States.

(l) Technical Assistance.—Technical assistance may be provided pursuant to section 226 of the Compact by Federal agencies and institutions of the Government of the United States to the extent such assistance may be provided to States, territories, or units of local government. Such assistance by the Forest Service, the Soil Conservation Service, the Fish and Wildlife Service, the United States Coast Guard, and the Advisory Council on Historic Preservation, the Department of the Interior, and other agencies providing assistance under the National Historic Preservation Act (80 Stat. 915; 16 U.S.C. 470-470t), shall be on a nonreimbursable basis. During the period the Compact is in effect, the grant programs under the National Historic Preservation Act shall continue to apply to the Federated States of Micronesia and the Marshall Islands in the same manner and to the same extent as prior to the approval of the Compact. Funds provided pursuant to sections 102(a), 103(a), 103(c), 103(h), 103(i), 103(j), 103(l), 105(c), 105(i), 105(j), 105(k), 105(l), 105(m), 105(n), and 105(o) of this joint resolution shall be in addition to and not charged against any amounts to be paid to either the Federated States of Micronesia or the Marshall Islands pursuant to the Compact or the subsidiary agreements.

(m) Prior Service Benefits Program.—Notwithstanding any other provision of law, persons who on January 1, 1985, were eligible to receive payment under the Prior Service Benefits Program established within the Social Security System of the Trust Territory of the Pacific Islands because of their services performed for the United States Navy or the Government of the Trust Territory of the Pacific Islands prior to July 1, 1968, shall continue to receive such payments on and after the effective date of the Compact.

(n) Indefinite Land Use Payments.—There are authorized to be appropriated such sums as may be necessary to complete repayment by the United States of any debts owed for the use of various lands in the Federated States of Micronesia and the Marshall Islands prior to January 1, 1985.

(o) Communicable Disease Control Program.—There are authorized to be appropriated for grants to the Government of the Federated States of Micronesia such sums as may be necessary for purposes of establishing or continuing programs for the control and prevention of communicable diseases, including (but not limited to) cholera and Hansen's Disease. The Secretary of the Interior shall assist the Government of the Federated States of Micronesia in designing and implementing such a program.

(p) Trust Funds.—The responsibilities of the United States with regard to implementation of section 235 of the Compact shall be discharged by the Secretary of the Interior, who shall consult with the Government of the Marshall Islands and the designated beneficiaries of the funds held in trust by the High Commissioner of the Trust Territory of the Pacific Islands.

(q) Annual Reports on Determinations Under Compact Section 313.—The President shall report annually to the Congress on determinations made by the United States in the exercise of its authority under section 313 of the Compact. Each such report shall describe the following, on a classified basis if necessary:

(1) The actions that the Government of the Federated States of Micronesia or the Government of the Marshall Islands were required to refrain from pursuant to the determinations of the United States.

(2) The justification for each determination by the United States, and the position of the other Government concerned with respect to such determination.

(3) The effect of the determination on the authority and responsibility of the other government to conduct foreign affairs in accordance with section 121 of the Compact.

(4) Any domestic effect in the Federated States of Micronesia or the Marshall Islands resulting from the determination, including any restriction on the civil and political rights of the citizens thereof.

(r) User Fees.—Any person in the Federated States of Micronesia or the Marshall Islands shall be liable for a user fees, if any, for services provided in the Federated States of Micronesia or the Marshall Islands by the Government of the United States to the same extent as any person in the United States would be liable for fees, if any, for such services in the United States.

SEC. 106. CONSTRUCTION CONTRACT ASSISTANCE.

(a) Assistance to U.S. Firms.—In order to assist the Governments of the Federated States of Micronesia and of the Marshall Islands through private sector firms which may be awarded contracts for construction or major repair of capital infrastructure within the Federated States of Micronesia or the Republic of the Marshall Islands, the President shall consult with the Governments of the Federated States of Micronesia and the Marshall Islands with respect to any such contracts, and the President shall enter into agreements with such firms whereby such firms will, consistent with applicable requirements of such Governments—

(1) to the maximum extent possible, employ citizens of the Federated States of Micronesia and the Marshall Islands;

(2) to the extent that necessary skills are not possessed by citizens of the Federated States of Micronesia and the Marshall Islands, provide on the job training, with particular emphasis on the development of skills relating to operation of machinery and routine and preventative maintenance of machinery and other facilities; and

(3) provide specific training or other assistance in order to enable the Government to engage in long-term maintenance of infrastructure.

Assistance by such firms pursuant to this section may not exceed 20 percent of the amount of the contract and shall be made available only to such firms which meet the definition of United States firm under the nationality rule for suppliers of services of the Agency for International Development (hereafter in this section referred to as "United States firms"). There are authorized to be appropriated such sums as may be necessary for the purposes of this subsection.

(b) **Authorization.**—There are authorized to be appropriated such sums as may be necessary to cover any additional costs incurred by the Government of the Federated States of Micronesia or the Republic of the Marshall Islands if such Governments, pursuant to an agreement entered into with the United States, apply a preference on the award of contracts to United States firms, provided that the amount of such preference does not exceed 10 percent of the amount of the lowest qualified bid from a non-United States firm for such contract.

SEC. 107. LIMITATIONS.

(a) **Prohibition.**—The provisions of Chapter 11 of title 18, United States Code, shall apply in full to any individual who has served as the President's Personal Representative for Micronesian Status Negotiations or who is or was an officer or employee of the Office for Micronesian Status Negotiations or who is or was assigned or detailed to that Office or who served on the Micronesia Interagency Group, except that for the purposes of this section, clauses (i) and (ii) of section 207(b) of such title shall read as follows: "(i) having been so employed, within three years after his employment has ceased, knowingly acts as agent or attorney for, or otherwise represents, any other person (except the United States), in any formal or informal appearance before, or, with the intent to influence, makes any oral or written communication on behalf of any other person (except the United States) to, or (ii) having been so employed and as specified in subsection (d) of this section, within three years after his employment has ceased, knowingly represents or aids, counsels, advises, consults, or assists in representing any other person (except the United States) by personal presence at any formal or informal appearance before—".

(b) **Termination.**—Effective upon the date of the termination of the Trust Territory of the Pacific Islands with respect to Palau, the Office for Micronesian Status Negotiations is abolished and no department, agency, or instrumentality of the United States shall thereafter contribute funds for the support of such Office.

SEC. 108. TRANSITIONAL IMMIGRATION RULES.

(a) **Citizen of Northern Mariana Islands.**—Any person who is a citizen of the Northern Mariana Islands, as that term is defined in section 24(b) of the Act of December 8, 1983 (97 Stat. 1465), is considered a citizen of the United States for purposes of entry into, permanent residence, and employment in the United States and its territories and possessions.

(b) **Termination.**—The provisions of this section shall cease to be effective when section 301 of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union With the United States (Public Law 94-241) becomes effective pursuant to section 1003(c) of the Covenant.

SEC. 109. TIMING.

No payment may be made pursuant to the Compact nor under any provision of this joint resolution prior to October 1, 1985.

SEC. 110. IMPLEMENTATION OF AUDIT AGREEMENTS.

(a) **Transmission of Annual Financial Statement.**—Upon receipt of the annual financial statement described in sections 102(c)(4) and 103(m)(4), the President shall promptly transmit a copy of such statement to the Congress.

(b) **Annual audits by the President.**—(1) The President shall cause an annual audit to be conducted of the annual financial statements described in sections 102(c)(4) and 103(m)(4). Such audit shall be conducted in accordance with the Generally Accepted Government Auditing Standards promulgated by the Comptroller General of the United States. Such audit shall be submitted to the Congress not later than 180 days after the end of the United States fiscal year.

(2) The President shall develop and implement procedures to carry out such audits. Such procedures shall include the matters described in sections 102(c)(2) and 103(m)(2) of this title.

(c) **Authority of GAO.**—The Comptroller General of the United States shall have the authority to conduct the audits referred to in sections 102(c)(1) and 103(m)(1) of this title.

Sec. 111 COMPENSATORY ADJUSTMENTS

(a) **Additional Programs and Services.**—In addition to the programs and services set forth in section 221 of the Compact, and pursuant to Section 224 of the Compact, the services and programs of the following United States agencies shall be made available to the Federated States of Micronesia and the Marshall Islands: the Federal Deposit Insurance Corporation, Small Business Administration, Economic Development Administration, the Rural Electrification Administration, Job Partnership Training Act, Job Corps, and the Programs and services of the Department of Commerce relating to tourism and to marine resource development.

(b) **Investment Development Funds.**—In order to further close economic and commercial relations between the United States and the Federated States of Micronesia and the Marshall Islands, and in order to encourage the presence of the United States private sector in such area, there are hereby created two U.S. Investment Development Funds, to be established and administered by the Federated States of Micronesia and the Marshall Islands respectively in consultation with the U.S. as follows:

(1) For the U.S. Investment Development Fund for the Federated States of Micronesia there is hereby authorized to be appropriated for fiscal 1986, $20 million, back
by the full faith and credit of the Unit
States, of which $12 million shall be ma
available for obligation for the first fu
fiscal year after the effective date of th
Compact, and of which $8 million shall
made available for obligation for the thi
full fiscal year after the effective date
the Compact.

(2) For the U.S. Investment Developme
Fund for the Marshall Islands there
hereby authorized to be appropriated $
million for fiscal 1986, backed by the fu
faith and credit of the United States,
which $6 million for the first full fiscal ye
after the effective date of the Compact, a
of which $4 million shall be made availab
for obligation for the third full fiscal ye
after the effective date of the Compact.

(c) the amounts specified in subsection
of this section shall be in addition to t
sums and amounts specified in Articles
and III of Title Two of the Compact, a
shall be deemed to be included in the su
and amounts referred to in section 236
the Compact.

(c) **Board of Advisors.**—To provide pol
guidance for the Funds established by su
section (b) of this section, the President
hereby authorized to establish a Board
Advisors, pursuant to appropriate agr
ments between the United States and
Federated States of Micronesia and
Marshall Islands.

(d) **Further Amounts.**—The governme
of the Federated States of Micronesia
the Marshall Islands may submit to C
gress reports concerning the overall fin
cial and economic impacts on such areas
sulting from the effect of Title IV of t
joint resolution upon Title Two of the C
pact. There are hereby authorized to be
propriated for fiscal years beginning a
September 30, 1990, such amounts as
be necessary, but not to exceed $40 mill
for the Federated States of Micronesia
$20 million for the Marshall Islands, as
vided in appropriation acts, to further c
pensate the governments of such islands
addition to the compensation provided
subsections (a) and (b) of this section)
adverse impacts, if any, on the finances
economies of such areas resulting from
effect of Title IV of this joint resolut
upon Title Two of the Compact. At the
of the initial fifteen-year term of the C
pact, should any portion of the
amount of funds authorized in this sub
tion not have been appropriated,
amount not yet appropriated may be ap
priated, without regard to divisions betw
amounts authorized in this subsection
the Federated States of Micronesia and
the Marshall Islands, based on either
both such government's showing of such
verse impact, if any, as provided in this
section.

TITLE II—COMPACT OF FREE ASSOCIATION

SEC. 201. COMPACT OF FREE ASSOCIATION.

The Compact of Free Association is as
lows:

COMPACT OF FREE ASSOCIATIO

Preamble

THE GOVERNMENT OF THE UNITED STATES
AMERICA AND THE GOVERNMENTS OF THE
SHALL ISLANDS AND THE FEDERATED STATE
MICRONESIA

Affirming that their Governments
their relationships as Governments
founded upon respect for human rights
fundamental freedoms for all, and that

peoples of the Trust Territory of the Pacific Islands have the right to enjoy self-government; and

Affirming the common interests of the United States of America and the peoples of the Trust Territory of the Pacific Islands in creating close and mutually beneficial relationships through two free and voluntary associations of their respective Governments; and

Affirming the interest of the Government of the United States in promoting the economic advancement and self-sufficiency of the peoples of the Trust Territory of the Pacific Islands; and

Recognizing that their previous relationship has been based upon the International Trusteeship System of the United Nations Charter, and in particular Article 76 of the Charter; and that pursuant to Article 76 of the Charter, the peoples of the Trust Territory have progressively developed their institutions of self-government, and that in the exercise of their sovereign right to self-determination they have, through their freely-expressed wishes, adopted Constitutions appropriate to their particular circumstances; and

Recognizing their common desire to terminate the Trusteeship and establish two new government-to-government relationships each of which is in accordance with a new political status based on the freely-expressed wishes of peoples of the Trust Territory of the Pacific Islands and appropriate to their particular circumstances; and

Recognizing that the peoples of the Trust Territory of the Pacific Islands have and retain their sovereignty and their sovereign right to self-determination and the inherent right to adopt and amend their own Constitutions and forms of government and that the approval of the entry of their respective Governments into this Compact of Free Association by the peoples of the Trust Territory of the Pacific Islands constitutes an exercise of their sovereign right to self-determination;

NOW, THEREFORE, AGREE to enter into relationships of free association which provide a full measure of self-government for the peoples of the Marshall Islands and the Federated States of Micronesia; and

FURTHER AGREE that the relationships of free association derive from and are as set forth in this Compact; and that, during such relationships of free association, the respective rights and responsibilities of the Government of the United States and the Governments of the freely associated states of the Marshall Islands and the Federated States of Micronesia in regard to these relationships of free association derive from and are as set forth in this Compact.

TITLE ONE

GOVERNMENTAL RELATIONS

Article I

Self-Government

Section 111

The peoples of the Marshall Islands and the Federated States of Micronesia, acting through the Governments established under their respective Constitutions, are self-governing.

Article II

Foreign Affairs

Section 121

(a) The Governments of the Marshall Islands and the Federated States of Micronesia have the capacity to conduct foreign affairs and shall do so in their own name and right, except as otherwise provided in this Compact.

(b) The foreign affairs capacity of the Governments of the Marshall Islands and the Federated States of Micronesia includes:

(1) the conduct of foreign affairs relating to law of the sea and marine resources matters, including the harvesting, conservation, exploration or exploitation of living and non-living resources from the sea, seabed or subsoil to the full extent recognized under international law;

(2) the conduct of their commercial, diplomatic, consular, economic, trade, banking, postal, civil aviation, communications, and cultural relations, including negotiations for the receipt of developmental loans and grants and the conclusion of arrangements with other governments and international and intergovernmental organizations, including any matters specially benefiting their individual citizens.

(c) The Government of the United States recognizes that the Governments of the Marshall Islands and the Federated States of Micronesia have the capacity to enter into, in their own name and right, treaties and other international agreements with governments and regional and international organizations.

(d) In the conduct of their foreign affairs, the Governments of the Marshall Islands and the Federated States of Micronesia confirm that they shall act in accordance with principles of international law and shall settle their international disputes by peaceful means.

Section 122

The Government of the United States shall support applications by the Governments of the Marshall Islands and the Federated States of Micronesia for membership or other participation in regional or international organizations as may be mutually agreed. The Government of the United States agrees to accept for training and instruction at the Foreign Service Institute, established under 22 U.S.C. 4021, citizens of the Marshall Islands and the Federated States of Micronesia. The qualifications of candidates for such training and instruction and all other terms and conditions of participation by citizens of the Marshall Islands and the Federated States of Micronesia in Foreign Service Institute programs shall be as mutually agreed between the Government of the United States and the Governments of the Marshall Islands and the Federated States of Micronesia.

Section 123

(a) In recognition of the authority and responsibility of the Government of the United States under Title Three, the Governments of the Marshall Islands and the Federated States of Micronesia shall consult, in the conduct of their foreign affairs, with the Government of the United States.

(b) In recognition of the respective foreign affairs capacities of the Governments of the Marshall Islands and the Federated States of Micronesia, the Government of the United States, in the conduct of its foreign affairs, shall consult with the Government of the Marshall Islands or the Federated States of Micronesia on matters which the Government of the United States regards as relating to or affecting any such Government.

Section 124

The Government of the United States may assist or act on behalf of the Government of the Marshall Islands or the Federated States of Micronesia in the area of foreign affairs as may be requested and mutually agreed from time to time. The Government of the United States shall not be responsible to third parties for the actions of the Government of the Marshall Islands or the Federated States of Micronesia undertaken with the assistance or through the agency of the Government of the United States pursuant to this Section unless expressly agreed.

Section 125

The Government of the United States shall not be responsible for nor obligated by any actions taken by the Government of the Marshall Islands or the Federated States of Micronesia in the area of foreign affairs, except as may from time to time be expressly agreed.

Section 126

At the request of the Government of the Marshall Islands or the Federated States of Micronesia and subject to the consent of the receiving state, the Government of the United States shall extend consular assistance on the same basis as for citizens of the United States to citizens of the Marshall Islands and the Federated States of Micronesia for travel outside the Marshall Islands and the Federated States of Micronesia, the United States and its territories and possessions.

Section 127

Except as otherwise provided in this Compact or its related agreements, all obligations, responsibilities, rights and benefits of the Government of the United States as Administering Authority which have resulted from the application pursuant to the Trusteeship Agreement of any treaty or other international agreement to the Trust Territory of the Pacific Islands on the day preceding the effective date of this Compact are no longer assumed and enjoyed by the Government of the United States.

Article III

Communications

Section 131

(a) The Governments of the Marshall Islands and the Federated States of Micronesia have full authority and responsibility to regulate their respective domestic and foreign communications, and the Government of the United States shall provide communications assistance in accordance with the terms of a separate agreement which shall come into effect simultaneously with this Compact, and such agreement shall remain in effect until such time as any election is made pursuant to Section 131(b) and which shall provide for the following:

(1) the Government of the United States remains the sole administration entitled to make notification to the International Frequency Registration Board of the International Telecommunications Union of frequency assignments to radio communications stations respectively in the Marshall Islands and the Federated States of Micronesia; and to submit to the International Frequency Registration Board seasonal schedules for the broadcasting stations respectively in the Marshall Islands and the Federated States of Micronesia in the bands allocated exclusively to the broadcasting service between 5,950 and 26,100 kHz and in any other additional frequency bands that may be allocated to use by high frequency broadcasting stations; and

(2) the United States Federal Communications Commission has jurisdiction, pursuant to the Communications Act of 1934, 47 U.S.C. 151 *et seq.*, and the Communications Satellite Act of 1962, 47 U.S.C. 721 *et seq.*, over all domestic and foreign communications services furnished by means of satellite earth terminal stations where such sta-

tions are owned or operated by United States common carriers and are located in the Marshall Islands or the Federated States of Micronesia.

(b) The Government of the Marshall Islands or the Federated States of Micronesia may elect at any time to undertake the functions enumerated in Section 131(a) and previously performed by the Government of the United States. Upon such election, the Government of the United States shall so notify the International Frequency Registration Board and shall take such other actions as may be necessary to transfer to the electing Government the notification authority referred to in Section 131(a) and all rights deriving from the previous exercise of any such notification authority by the Government of the United States.

Section 132

The Governments of the Marshall Islands and the Federated States of Micronesia shall permit the Government of the United States to operate telecommunications services in the Marshall Islands and the Federated States of Micronesia to the extent necessary to fulfill the obligations of the Government of the United States under this Compact in accordance with the terms of separate agreements which shall come into effect simultaneously with this Compact.

ARTICLE IV

Immigration

Section 141

(a) Any person in the following categories may enter into, lawfully engage in occupations, and establish residence as a nonimmigrant in the United States and its territories and possessions without regard to paragraphs (14), (20), and (26) of section 212(a) of the Immigration and Nationality Act, 8 U.S.C. 1182(a) (14), (20), and (26):

(1) a person who, on the day preceding the effective date of this Compact, is a citizen of the Trust Territory of the Pacific Islands, as defined in Title 53 of the Trust Territory Code in force on Janaury 1, 1979, and has become a citizen of the Marshall Islands or the Federated States of Micronesia.

(2) a person who acquires the citizenship of the Marshall Islands or the Federated States of Micronesia at birth, on or after the effective date of the respective Constitution;

(3) a naturalized citizen of the Marshall Islands or the Federated States of Micronesia who has been an actual resident there for not less than five years after attaining such naturalization and who holds a certificate of actual residence; or

(4) a person entitled to citizenship in the Marshall Islands by lineal descent whose name is included in a list to be furnished by the Government of the Marshall Islands to the United States Immigration and Naturalization Service and any descendants of such persons, provided that such person holds a certificate of lineal descent issued by the Government of the Marshall Islands.

Such persons shall be considered to have the permission of the Attorney General of the United States to accept employment in the United States.

(b) The right of such persons to establish habitual residence in a territory or possession of the United States may, however, be subjected to nondiscriminatory limitations provided for:

(1) in statutes or regulations of the United States; or

(2) in those statutes or regulations of the territory or possession concerned which are authorized by the laws of the United States.

(c) Section 141(a) does not confer on a citizen of the Marshall Islands or the Federated States of Micronesia the right to establish the residence necessary for naturalization under the Immigration and Nationality Act, or to petition for benefits for alien relatives under that Act. Section 141(a), however, shall not prevent a citizen of the Marshall Islands or the Federated States of Micronesia from otherwise acquiring such rights or lawful permanent resident alien status in the United States.

Section 142

(a) Any citizen or national of the United States may enter into, lawfully engage in occupations, and reside in the Marshall Islands or the Federated States of Micronesia, subject to the rights of those Governments to deny entry to or deport any such citizen or national as an undesirable alien. A citizen or national of the United States may establish habitual residence or domicile in the Marshall Islands or the Federated States of Micronesia only in accordance with the laws of the jurisdiction in which habitual residence or domicile is sought.

(b) With respect to the subject matter of this Section, the Government of the Marshall Islands or the Federated States of Micronesia shall accord to citizens and nationals of the United States treatment no less favorable than that accorded to citizens of other countries; any denial of entry to or deportation of a citizen or national of the United States as an undesirable alien must be pursuant to reasonable statutory grounds.

Section 143

(a) The privileges set forth in Sections 141 and 142 shall not apply to any person who takes an affirmative step to preserve or acquire a citizenship or nationality other than that of the Marshall Islands, the Federated States of Micronesia or the United States.

(b) Every person having the privileges set forth in Sections 141 and 142 who possesses a citizenship or nationality other than that of the Marshall Islands, the Federated States of Micronesia or the United States ceases to have these privileges two years after the effective date of this Compact, or within six months after becoming 21 years of age, whichever comes later, unless such person executes an oath of renunciation of that other citizenship or nationality.

Section 144

(a) A citizen or national of the United States who, after notification to the Government of the United States of an intention to employ such person by the Government of the Marshall Islands or the Federated States of Micronesia, commences employment with such Government shall not be deprived of his United States nationality pursuant to Section 349(a)(2) and (a)(4) of the Immigration and Nationality Act, 8 U.S.C. 1481 (a)(2) and (a)(4).

(b) Upon such notification by the Government of the Marshall Islands or the Federated States of Micronesia, the Government of the United States may consult with or provide information to the notifying Government concerning the prospective employee, subject to the provisions of the Privacy Act, 5 U.S.C. 552a.

(c) The requirement of prior notification shall not apply to those citizens or nationals of the United States who are employed by the Government of the Marshall Islands or the Federated States of Micronesia on the effective date of this Compact with respect to the positions held by them at that time.

Article V

Representation

Section 151

The Government of the United States a
the Government of the Marshall Islands
the Federated States of Micronesia may
tablish and maintain representative offi
in the capital of the other for the purp
of maintaining close and regular consul
tions on matters arising in the course of
relationship of free association and condu
ing other government business. The Gove
ments may establish and maintain additi
al offices on terms and in locations as m
be mutually agreed.

Section 152

(a) The premises of such representat
offices, and their archives wherever locat
shall be inviolable. The property and ass
of such representative offices shall
immune from search, requisition, atta
ment and any form of seizure unless s
immunity is expressly waived. Official c
munications in transit shall be inviola
and accorded the freedom and protecti
accorded by recognized principles of int
national law to official communications
diplomatic mission.

(b) Persons designated by the send
Government may serve in the capacity of
resident representatives with the consen
the receiving Government. Such designa
persons shall be immune from civil
criminal process relating to words spoken
written and all acts performed by them
their official capacity and falling wit
their functions as such representati
except insofar as such immunity may be
pressly waived by the sending Governm
While serving in a resident representa
capacity, such designated persons shall
be liable to arrest or detention pending t
except in the case of a grave crime and
suant to a decision by a competent judi
authority, and such persons shall enjoy
munity from seizure of personal prope
immigration restrictions, and laws rela
to alien registration, fingerprinting, and
registration of foreign agents.

(c) The sending Governments and t
respective assets, income and other prop
shall be exempt from all direct taxes, ex
those direct taxes representing payment
specific goods and services, and shall
exempt from all customs duties and res
tions on the import or export of articles
quired for the official functions and per
al use of their representatives and re
sentative offices.

(d) Persons designated by the sen
Government to serve in the capacity o
resident representatives shall enjoy
same taxation exemptions as are set f
in Article 34 of the Vienna Conventio
Diplomatic Relations.

(e) The privileges, exemptions and im
nities accorded under this Section are
for the personal benefit of the individ
concerned but are to safeguard the
pendent exercise of their official funct
Without prejudice to those privileges,
emptions and immunities, it is the dut
all such persons to respect the laws and
ulations of the Government to which
are assigned.

Section 153

(a) Any citizen or national of the Ur
States who, after consultation between
designating Government and the Gov
ment of the United States, is designate
the Government of the Marshall Island
the Federated States of Micronesia a
agent, shall enjoy exemption from th

quirements of the laws of the United States relating to the registration of foreign agents. The Government of the United States shall promptly comply with a request for consultation made by the prospective designating Government. During the course of the consultation, the Government of the United States may, in its discretion, and subject to the provisions of the Privacy Act, 5 U.S.C. 552a, transmit such information concerning the prospective designee as may be available to it to the prospective designating Government.

(b) Any citizen or national of the United States may be employed by the Government of the Marshall Islands or the Federated States of Micronesia to represent to foreign governments, officers or agents thereof the positions of the Government of the Marshall Islands or the Federated States of Micronesia, without regard to the provisions of 18 U.S.C. 953.

Article VI

Environmental Protection

Section 161

The Governments of the United States, the Marshall Islands and the Federated States of Micronesia declare that it is their policy to promote efforts to prevent or eliminate damage to the environment and biosphere and to enrich understanding of the natural resources of the Marshall Islands and the Federated States of Micronesia. In order to carry out this policy, the Government of the United States and the Governments of the Marshall Islands and the Federated States of Micronesia agree to the following mutual and reciprocal undertakings.

(a) The Government of the United States:

(1) shall continue to apply the environmental controls in effect on the day preceding the effective date of this Compact to those of its continuing activities subject to Section 161(a)(2), unless and until those controls are modified under Sections 161(a)(3) and 161(a)(4);

(2) shall apply the National Environmental Policy Act of 1969, 83 Stat. 852, 42 U.S.C. 4321 *et seq.*, to its activities under the Compact and its related agreements as if the Marshall Islands and the Federated States of Micronesia were the United States;

(3) shall comply also, in the conduct of any activity requiring the preparation of an Environmental Impact Statement under Section 161(a)(2), with standards substantively similar to those required by the following laws of the United States, taking into account the particular environments of the Marshall Islands and the Federated States of Micronesia: the Endangered Species Act of 1973, 87 Stat. 884, 16 U.S.C. 1531 *et seq.*; the Clean Air Act, 77 Stat. 392, 42 U.S.C. Supp. 7401 *et seq.*; the Clean Water Act (Federal Water Pollution Control Act), 86 Stat. 896, 33 U.S.C. 1251 *et seq.*; the Ocean Dumping Act (Title I of the Marine Protection, Research and Sanctuaries Act of 1972), 86 Stat. 1053, 33 U.S.C. 1411 *et seq.*; the Toxic Substances Control Act, 90 Stat. 2003, 15 U.S.C. 2601 *et seq.*; the Resources Conservation and Recovery Act of 1976, 90 Stat. 2796, 42 U.S.C. 6901 *et seq.*; and such other environmental protection laws of the United States as may be mutually agreed from time to time with the Government of the Marshall Islands or the Federated States of Micronesia; and

(4) shall develop, prior to conducting any activity requiring the preparation of an Environmental Impact Statement under Section 161(a)(2), appropriate mechanisms, including regulations or other judicially reviewable standards and procedures, to regulate its activities governed by Section 161(a)(3) in the Marshall Islands and the Federated States of Micronesia in a manner appropriate to the special governmental relationship set forth in this Compact. The agencies of the Government of the United States designated by law to administer the laws set forth in Section 161(a)(3) shall participate as appropriate in the development of any regulation, standard or procedure under this Section, and the Government of the United States shall provide the affected Government of the Marshall Islands or the Federated States of Micronesia with the opportunity to comment during such development.

(b) The Governments of the Marshall Islands and the Federated States of Micronesia shall develop standards and procedures to protect their environments. As a reciprocal obligation to the undertakings of the Government of the United States under this Article, the Governments of the Marshall Islands and the Federated States of Micronesia, taking into account their particular environments, shall develop standards for environmental protection substantively similar to those required of the Government of the United States by Section 161(a)(3) prior to their conducting activities in the Marshall Islands and the Federated States of Micronesia, respectively, substantively equivalent to activities conducted there by the Government of the United States and, as a further reciprocal obligation, shall enforce those standards.

(c) Section 161(a), including any standard or procedure applicable thereunder, and Section 161(b) may be modified or superseded in whole or in part by agreement of the Government of the United States and the Government of the Marshall Islands or the Federated States of Micronesia.

(d) In the event that an Environmental Impact Statement is no longer required under the laws of the United States for major federal actions significantly affecting the quality of the human environment, the regulatory regime established under Sections 161(a)(3) and 161(a)(4) shall continue to apply to such activities of the Government of the United States until amended by mutual agreement.

(e) The President of the United States may exempt any of the activities of the Government of the United States under this Compact and its related agreements from any environmental standard or procedure which may be applicable under Sections 161(a)(3) and 161(a)(4) if the President determines it to be in the paramount interest of the Government of the United States to do so, consistent with Title Three of this Compact and the obligations of the Government of the United States under international law. Prior to any decision pursuant to this subsection, the views of the affected Government of the Marshall Islands or the Federated States of Micronesia shall be sought and considered to the extent practicable. If the President grants such an exemption, to the extent practicable, a report with his reasons for granting such exemption shall be given promptly to the affected Government.

(f) The laws of the United States referred to in Section 161(a)(3) shall apply to the activities of the Government of the United States under this Compact and its related agreements only to the extent provided for in this Section.

Section 162

The Government of the Marshall Islands or the Federated States of Micronesia may bring an action for judicial review of any administrative agency action or any activity of the Government of the United States pursuant to Sections 161(c), 161(d) or 161(e) or for enforcement of the obligations of the Government of the United States arising thereunder. The United States District Court for the District of Hawaii and the United States District Court for the District of Columbia shall have jurisdiction over such action or activity, and over actions brought under Section 172(b) which relate to the activities of the Government of the United States and its officers and employees, governed by Section 161, provided that:

(a) Such actions may only be civil actions for any appropriate civil relief other than punitive damages against the Government of the United States or, where required by law, its officers in their official capacity; no criminal actions may arise under this Section;

(b) Actions brought pursuant to this Section may be initiated only by the Government concerned;

(c) Administrative agency actions arising under Section 161 shall be reviewed pursuant to the standard of judicial review set forth in 5 U.S.C. 706;

(d) The District Court shall have jurisdiction to issue all necessary processes, and the Government of the United States agrees to submit itself to the jurisdiction of the court; decisions of the District Court shall be reviewable in the United States Court of Appeals for the Ninth Circuit or the United States Court of Appeals for the District of Columbia, respectively, or in the United States Supreme Court as provided by the laws of the United States;

(e) The judicial remedy provided for in this Section shall be the exclusive remedy for the judicial review or enforcement of the obligations of the Government of the United States under this Article and actions brought under Section 172(b) which relate to the activities of the Government of the United States and its officers and employees governed by Section 161; and

(f) In actions pursuant to this Section, the Governments of the Marshall Islands and the Federated States of Micronesia shall be treated as if they were United States citizens.

Section 163

(a) For the purpose of gathering data necessary to study the environmental effects of activities of the Government of the United States subject to the requirements of this Article, the Governments of the Marshall Islands and the Federated States of Micronesia shall be granted access to facilities operated by the Government of the United States in the Marshall Islands and the Federated States of Micronesia, to the extent necessary for this purpose, except to the extent such access would unreasonably interfere with the exercise of the authority and responsibility of the Government of the United States under Title Three.

(b) The Government of the United States, in turn, shall be granted access to the Marshall Islands or the Federated States of Micronesia for the purpose of gathering data necessary to discharge its obligations under this Article, except to the extent such access would unreasonably interfere with the exercise of the authority and responsibility of the Government of the Marshall Islands or the Federated States of Micronesia under Title One, and to the extent necessary for this purpose shall be granted access to documents and other information to the same extent similar access is provided those

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Governments under the Freedom of Information Act, 5 U.S.C. 552.

(c) The Governments of the Marshall Islands and the Federated States of Micronesia shall not impede efforts by the Government of the United States to comply with applicable standards and procedures.

Article VII

General Legal Provisions

Section 171

Except as provided in this Compact or its related agreements, the application of the laws of the United States to the Trust Territory of the Pacific Islands by virtue of the Trusteeship Agreement ceases with respect to the Marshall Islands and the Federated States of Micronesia as of the effective date of this Compact.

Section 172

(a) Every citizen of the Marshall Islands or the Federated States of Micronesia who is not a resident of the United States shall enjoy the rights and remedies under the laws of the United States enjoyed by any non-resident alien.

(b) The Governments of the Marshall Islands and the Federated States of Micronesia and every citizen of the Marshall Islands or the Federated States of Micronesia shall be considered a "person" within the meaning of the Freedom of Information Act, 5 U.S.C. 552, and of the judicial review provisions of the Administrative Procedure Act, 5 U.S.C. 701-706, except that only the Government of the Marshall Islands or the Federated States of Micronesia may seek judicial review under the Administrative Procedure Act or judicial enforcement under the Freedom of Information Act when such judicial review or enforcement relates to the activities of the Government of the United States governed by Sections 161 and 162.

Section 173

The Governments of the United States, the Marshall Islands and the Federated States of Micronesia agree to adopt and enforce such measures, consistent with this Compact and its related agreements, as may be necessary to protect the personnel, property, installations, services, programs and official archives and documents maintained by the Government of the United States in the Marshall Islands and the Federated States of Micronesia pursuant to this Compact and its related agreements and by those Governments in the United States pursuant to this Compact and its related agreements.

Section 174

Except as otherwise provided in this Compact and its related agreements:

(a) The Governments of the Marshall Islands and the Federated States of Micronesia shall be immune from the jurisdiction of the courts of the United States, and the Government of the United States shall be immune from the jurisdiction of the courts of the Marshall Islands and the Federated States of Micronesia.

(b) The Government of the United States accepts responsibility for and shall pay:

(1) any unpaid money judgment rendered by the High Court of the Trust Territory of the Pacific Islands against the Government of the Trust Territory of the Pacific Islands or the Government of the United States with regard to any cause of action arising as a result of acts or omissions of the Government of the Trust Territory of the Pacific Islands or the Government of the United States prior to the effective date of this Compact;

(2) any claim settled by the claimant and the Government of the Trust Territory of the Pacific Islands but not paid as of the effective date of this Compact; and

(3) settlement of any administrative claim or of any action before a court of the Trust Territory of the Pacific Islands, pending as of the effective date of this Compact, against the Government of the Trust Territory of the Pacific Islands or the Government of the United States, arising as a result of acts or omissions of the Government of the Trust Territory of the Pacific Islands or the Government of the United States.

(c) Any claim not referred to in Section 174(b) and arising from an act or omission of the Government of the Trust Territory of the Pacific Islands or the Government of the United States prior to the effective date of this Compact shall be adjudicated in the same manner as a claim adjudicated according to Section 174(d). In any claim against the Government of the Trust Territory of the Pacific Islands, the Government of the United States shall stand in the place of the Government of the Trust Territory of the Pacific Islands. A judgment on any claim referred to in Section 174(b) or this subsection, not otherwise satisfied by the Government of the United States, may be presented for certification to the United States Court of Appeals for the Federal Circuit, or its successor court, which shall have jurisdiction therefor, notwithstanding the provisions of 28 U.S.C. 1502, and which court's decisions shall be reviewable as provided by the laws of the United States. The United States Court of Appeals for the Federal Circuit shall certify such judgment, and order payment thereof, unless it finds, after a hearing, that such judgment is manifestly erroneous as to law or fact, or manifestly excessive. In either of such cases the United States Court of Appeals for the Federal Circuit shall have jurisdiction to modify such judgment.

(d) The Governments of the Marshall Islands and the Federated States of Micronesia shall not be immune from the jurisdiction of the courts of the United States, and the Government of the United States shall not be immune from the jurisdiction of the courts of the Marshall Islands and the Federated States of Micronesia in any case in which the action is based on a commercial activity of the defendant Government where the action is brought, or in a case in which damages are sought for personal injury or death or damage to or loss of property occurring where the action is brought.

Section 175

A separate agreement, which shall come into effect simultaneously with this Compact, shall be concluded between the Government of the United States and the Governments of the Marshall Islands and the Federated States of Micronesia regarding mutual assistance and cooperation in law enforcement matters including the pursuit, capture, imprisonment and extradition of fugitives from justice and the transfer of prisoners. The separate agreement shall have the force of law. In the United States, the laws of the United States governing international extradition, including 18 U.S.C. 3184, 3186 and 3188-3195, shall be applicable to the extradition of fugitives under the separate agreement, and the laws of the United States governing the transfer of prisoners, including 18 U.S.C. 4100-4115, shall be applicable to the transfer of prisoners under the separate agreement.

Section 176

The Governments of the Marshall Islands and the Federated States of Micronesia confirm that final judgments in civil cases r
dered by any court of the Trust Territory
the Pacific Islands shall continue in
force and effect, subject to the constituti
al power of the courts of the Marshall
lands and the Federated States of Micro
sia to grant relief from judgments in app
priate cases.

Section 177

(a) The Government of the United Sta
accepts the responsibility for compensat
owing to citizens of the Marshall Islands,
the Federated States of Micronesia
Palau) for loss or damage to property
person of the citizens of the Marshall
lands, or the Federated States of Micro
sia, resulting from the nuclear testing
gram which the Government of the Uni
States conducted in the Northern Marsh
Islands between June 30, 1946, and Aug
18, 1958.

(b) The Government of the United Sta
and the Government of the Marshall
lands shall set forth in a separate ag
ment provisions for the just and adequ
settlement of all such claims which h
arisen in regard to the Marshall Islands
its citizens and which have not as yet b
compensated or which in the future
arise, for the continued administration
the Government of the United States
direct radiation related medical surveilla
and treatment programs and radiolog
monitoring activities and for such additi
programs and activities as may be mutu
agreed, and for the assumption by the
ernment of the Marshall Islands of resp
sibility for enforcement of limitations
the utilization of affected areas develo
in cooperation with the Government of
United States and for the assistance by
Government of the United States in the
ercise of such responsibility as may be
tually agreed. This separate agreement s
come into effect simultaneously with
Compact and shall remain in effect in
cordance with its own terms.

(c) The Government of the United St
shall provide to the Government of
Marshall Islands, on a grant basis,
amcunt of $150 million to be paid and
tributed in accordance with the sepa
agreement referred to in this Section,
shall provide the services and program
forth in this separate agreement, the
guage of which is incorporated into
Compact.

Section 178

(a) The federal agencies of the Gov
ment of the United States which pro
the services and related programs in
Marshall Islands or the Federated Stat
Micronesia pursuant to Articles II and I
Title Two are authorized to settle and
tort claims arising in the Marshall Isl
or the Federated States of Micronesia
the activities of such agencies or from
acts or omissions of the employees of
agencies. Except as provided in Se
178(b), the provisions of 28 U.S.C. 2672
31 U.S.C. 1304 shall apply exclusivel
such administrative settlements and
ments.

(b) Claims under Section 178(a) w
cannot be settled under Section 178(a)
be disposed of exclusively in accord
with Article II of Title Four. Arbitr
awards rendered pursuant to this subse
shall be paid out of funds under 31 U
1304.

(c) The Government of the United S
and the Government of the Marsha
lands or the Federated States of Micro

shall, in the separate agreements referred to in Section 232, provide for:

(1) the administrative settlement of claims referred to in Section 178(a), including designation of local agents in the Marshall Islands and each State of the Federated States of Micronesia; such agents to be empowered to accept, investigate and settle such claims, in a timely manner, as provided in such separate agreements; and

(2) arbitration, referred to in Section 178(b), in a timely manner, at a site convenient to the claimant, in the event a claim is not otherwise settled pursuant to Section 178(a).

(d) The provisions of Section 174(d) shall not apply to claims covered by this Section.

TITLE TWO

ECONOMIC RELATIONS

Article I

Grant Assistance

Section 211

(a) In order to assist the Governments of the Marshall Islands and the Federated States of Micronesia in their efforts to advance the economic self-sufficiency of their peoples and in recognition of the special relationship that exists between them and the United States, the Government of the United States shall provide on a grant basis the following amounts:

(1) to the Government of the Marshall Islands, $26.1 million annually for five years commencing on the effective date of this Compact, $22.1 million annually for five years commencing on the fifth anniversary of the effective date of this Compact, and $19.1 million annually for five years commencing on the tenth anniversary of this Compact. Over this fifteen-year period, the Government of the Marshall Islands shall dedicate an average of no less than 40 percent of these amounts to the capital account subject to provision for revision of this percentage incorporated into the plan referred to in Section 211(b).

(2) to the Government of the Federated States of Micronesia, $60 million annually for five years commencing on the effective date of this Compact, $51 million annually for five years commencing on the fifth anniversary of the effective date of this Compact, and $40 million annually for five years commencing on the tenth anniversary of the effective date of this Compact. Over this fifteen year period, the Government of the Federated States of Micronesia shall dedicate an average of no less than 40 percent of these amounts annually to the capital account subject to provision for revision of this percentage incorporated into the plan referred to in Section 211(b). To take into account the special nature of the assistance, to be provided under this paragraph and Sections 212(b), 213(c), 214(c), 215(a)(3), 215(b)(3), 216(a), 216(b), 221(a), and 221(b), the division of these amounts among the national and state governments of the Federated States of Micronesia shall be certified to the Government of the United States by the Government of the Federated States of Micronesia.

(b) The annual expenditure of the grant amounts specified for the capital account in Section 211(a) by the Governments of the Marshall Islands and the Federated States of Micronesia shall be in accordance with official overall economic development plans provided by those Governments and concurred in by the Government of the United States prior to the effective date of this Compact. These plans may be amended from time to time by the Government of the Marshall Islands or the Federated States of Micronesia.

(c) The Government of the United States and the Governments of the Marshall Islands and the Federated States of Micronesia recognize that the achievement of the goals of the plans referred to in Section 211(b) depends upon the availability of adequate internal revenue as well as economic assistance from sources outside of the Marshall Islands and the Federated States of Micronesia, including the Government of the United States, and may, in addition, be affected by the impact of exceptional economically adverse circumstances. Each of the Governments of the Marshall Islands and the Federated States of Micronesia shall therefore report annually to the President of the United States and to the Congress of the United States on the implementation of the plans and on their use of the funds specified in this Article. These reports shall outline the achievements of the plans to date and the need, if any, for an additional authorization and appropriation of economic assistance for that year to account for any exceptional, economically adverse circumstances. It is understood that the Government of the United States cannot be committed by this Section to seek or support such additional economic assistance.

Section 212

In recognition of the special development needs of the Federated States of Micronesia, the Government of the United States shall provide to the Government of the Federated States of Micronesia $1 million annually for fourteen years commencing on the first anniversary of the effective date of this Compact. This amount may be used by the Government of the Federated States of Micronesia to defray current account expenditures attendant to the operation of the United States military Civic Action Teams made available in accordance with the separate agreement referred to in Section 227.

Section 213

(a) The Government of the United States shall provide on a grant basis $1.9 million annually to the Government of the Marshall Islands in conjunction with Section 321(a). The Government of the Marshall Islands, in its use of such funds, shall take into account the impact of the activities of the Government of the United States in the Kwajalein Atoll area of the Marshall Islands.

(b) The Government of the United States shall provide on a grant basis to the Government of the Federated States of Micronesia the sum of $160,000 in conjunction with Section 321(a). This sum shall be made available concurrently with the grant assistance provided pursuant to this Article during the first year after the effective date of this Compact. The Government of the Federated States of Micronesia, in its use of such funds, shall take into account the impact of the activities of the Government of the United States in Yap State, Federated States of Micronesia.

Section 214

As a contribution to efforts aimed at achieving increased self-sufficiency in energy production, the Government of the United States shall provide on a current account grant basis for fourteen years commencing on the first anniversary of the effective date of this Compact the following amounts:

(a) To the Government of the Marshall Islands, $2 million annually; and

(b) To the Government of the Federated States of Micronesia, $3 million annually.

Section 215

(a) As a contribution to the current account operations and maintenance of communications systems, the Government of the United States shall provide on a grant basis for fifteen years commencing on the effective date of this Compact the following amounts:

(1) to the Government of the Marshall Islands, $300,000 annually; and

(2) to the Government of the Federated States of Micronesia, $600,000 annually.

(b) For the purpose of acquiring such communications hardware as may be located within the Marshall Islands and the Federated States of Micronesia or for such other current or capital account activity as may be selected, the Government of the United States shall provide, concurrently with the grant assistance provided pursuant to this Article during the first year after the effective date of this Compact, the sum of $9 million to be allocated as follows:

(1) to the Government of the Marshall Islands, $3 million; and

(2) to the Government of the Federated States of Micronesia, $6 million.

Section 216

(a) The Government of the United States shall provide on a current account basis an annual grant of $5.369 million for fifteen years commencing on the effective date of this Compact for the purposes set forth below:

(1) $890,000 annually for the surveillance and enforcement by the Governments of the Marshall Islands and the Federated States of Micronesia of their respective maritime zones;

(2) $1.791 million annually for health and medical programs, including referrals to hospital and treatment centers; and

(3) $2.687 million annually for a scholarship fund or funds to support the post-secondary education of citizens of the Marshall Islands and the Federated States of Micronesia attending United States accredited, post-secondary institutions in the United States, its territories and possessions, the Marshall Islands or the Federated States of Micronesia. The curricula criteria for the award of scholarships shall be designed to advance the purposes of the plans referred to in Section 211(b).

(b) The Government of the United States shall provide the sum of $1.333 million as a contribution to the commencement of activities pursuant to Section 216(a)(1).

(c) The annual grants referred to in Section 216(a) and the sum referred to in Section 216(b) shall be made available by the Government of the United States promptly after it receives instruction for their distribution agreed upon by the Governments of the Marshall Islands and the Federated States of Micronesia.

Section 217

Except as otherwise provided, the amounts stated in Sections 211, 212, 214, 215 and 231 shall be adjusted for each Fiscal Year by the percent which equals two-thirds of the percentage change in the United States Gross National Product Implicit Price Deflator, or seven percent, whichever is less in any one year, using the beginning of Fiscal Year 1981 as the base.

Section 218

If in any year the funds made available by the Government of the United States for that year pursuant to this Article or Section 231 are not completely obligated by the recipient Government, the unobligated balances shall remain available in addition to the funds to be provided in subsequent years.

Section 219

All funds previously appropriated to the Trust Territory of the Pacific Islands which are unobligated by the Government of the Trust Territory of the Pacific Islands as of the effective date of this Compact shall accrue to the Governments of the Marshall Islands and the Federated States of Micronesia for the purposes for which such funds were originally appropriated as determined by the Government of the United States.

Article II

Program Assistance

Section 221

(a) The Government of the United States shall make available to the Marshall Islands and the Federated States of Micronesia, in accordance with and to the extent provided in the separate agreements referred to in section 232, without compensation and at the levels equivalent to those available to the Trust Territory of the Pacific Islands during the year prior to the effective date of this Compact, the services and related programs:

(1) of the United States Weather Service;

(2) of the United States Federal Emergency Management Agency;

(3) provided pursuant to the Postal Reorganization Act, 39 U.S.C. 101 *et seq.*;

(4) of the United States Federal Aviation Administration; and

(5) of the United States Civil Aeronautics Board or its successor agencies which has the authority to implement the provisions of paragraph 5 of Article IX of such separate agreements, the language of which is incorporated into this Compact.

(b) The Government of the United States, recognizing the special needs of the Marshall Islands and the Federated States of Micronesia particularly in the fields of education and health care, shall make available, as provided by the laws of the United States, the annual amount of $10 million which shall be allocated in accordance with the provisions of the separate agreement referred to in Section 232.

(c) The Government of the United States shall make available to the Marshall Islands and the Federated States of Micronesia such alternate energy development projects, studies and conservation measures as are applicable to the Trust Territory of the Pacific Islands on the day preceding the effective date of this Compact, for the purposes and duration provided in the laws of the United States.

(d) The Government of the United States shall have and exercise such authority as is necessary for the purposes of this Article and as is set forth in the separate agreements referred to in Section 232, which shall also set forth the extent to which services and programs shall be provided to the Marshall Islands and the Federated States of Micronesia.

Section 222

The Government of the United States and the Government of the Marshall Islands or the Federated States of Micronesia shall consult regularly or upon request regarding:

(a) The economic development of the Marshall Islands or the Federated States of Micronesia; or

(b) The services and programs referred to in this Article. These services and programs shall continue to be provided by the Government of the United States unless their modification is provided by mutual agreement or their termination in whole or in part is requested by any recipient Government.

Section 223

The citizens of the Marshall Islands and the Federated States of Micronesia who are receiving post-secondary educational assistance from the Government of the United States on the day preceding the effective date of this Compact shall continue to be eligible, if otherwise qualified, to receive such assistance to complete their academic programs for a maximum of four years after the effective date of this Compact.

Section 224

The Government of the United States and the Government of the Marshall Islands or the Federated States of Micronesia may agree from time to time to the extension of additional United States grant assistance, services and programs as provided by the Laws of the United States, to the Marshall Islands or the Federated States of Micronesia, respectively.

Section 225

The Governments of the Marshall Islands and the Federated States of Micronesia shall make available to the Government of the United States at no cost such land as may be necessary for the operations of the services and programs provided pursuant to this Article, and such facilities as are provided by the Government of the Marshall Islands or the Federated States of Micronesia at no cost to the Government of the United States as of the effective date of this Compact or as may be mutually agreed thereafter.

Section 226

The Governments of the Marshall Islands and the Federated States of Micronesia may request, from time to time, technical assistance from the federal agencies and institutions of the Government of the United States, which are authorized to grant such technical assistance in accordance with its laws and which shall grant such technical assistance in a manner which gives priority consideration to the Marshall Islands and the Federated States of Micronesia over other recipients not a part of the United States, its territories or possessions. The Government of the United States shall coordinate the provision of such technical assistance in consultation with the respective recipient Government.

Section 227

In recognition of the special development needs of the Federated States of Micronesia, the Government of the United States shall make available United States military Civic Action Teams for use in the Federated States of Micronesia under terms and conditions specified in a separate agreement which shall come into effect simultaneously with this Compact.

Article III

Administrative Provisions

Section 231

Upon the thirteenth anniversary of the effective date of this Compact, the Government of the United States and the Governments of the Marshall Islands and the Federated States of Micronesia shall commence negotiations regarding those provisions of this Compact which expire on the fifteenth anniversary of its effective date. If these negotiations are not concluded by the fifteenth anniversary of the effective date of this Compact, the period of negotiations shall extend for not more than two additional years, during which time the provisions of this Compact including Title Three shall remain in full force and effect. During this additional period of negotiations, the Government of the United States shall co
tinue its assistance to the Governmen
with which it is negotiating pursuant to t
Section at a level which is the average
the annual amounts granted pursuant
Sections 211, 212, 213, 214, 215 and
during the first fifteen years of this Co
pact. The average annual amount paid p
suant to Sections 211, 212, 214 and 215 sh
be adjusted pursuant to Section 217.

Section 232

The specific nature, extent and contr
tual arrangements of the services and p
grams provided for in Section 221 as well
the legal status of agencies of the Gove
ment of the United States, their civilian e
ployees and contractors, and the depende
of such personnel while present in the M
shall Islands or the Federated States of
cronesia, and other arrangements in conn
tion with a service or program furnished
the Government of the United States,
set forth in separate agreements wh
shall come into effect simultaneously w
this Compact.

Section 233

The Government of the United States,
consultation with the Governments of
Marshall Islands and the Federated Sta
of Micronesia, shall determine and imp
ment procedures for the periodic audit of
grants and other assistance made under
ticle I of this Title and of all funds expe
ed for the services and programs provi
under Article II of this Title. Such au
shall be conducted on an annual b
during the first five years following the
fective date of this Compact and shall be
no cost to the Government of the Mars
Islands or the Federated States of Micro
sia.

Section 234

Title to the property of the Governm
of the United States situated in the Tr
Territory of the Pacific Islands or acqui
for or used by the Government of the Tr
Territory of the Pacific Islands on or bef
the day preceding the effective date of
Compact shall, without reimbursement
transfer of funds, vest in the Governmen
the Marshall Islands and the Federa
States of Micronesia as set forth in a se
rate agreement which shall come into ef
simultaneously with this Compact. The
visions of this Section shall not apply to
property of the Government of the Un
States for which the Government of
United States determines a continuing
quirement.

Section 235

(a) Funds held in trust by the High C
missioner of the Trust Territory of the
cific Islands, in his official capacity, a
the effective date of this Compact s
remain available as trust funds to their
ignated beneficiaries. The Government
the United States, in consultation with
Government of the Marshall Islands or
Federated States of Micronesia, shall
point a new trustee who shall exercise
functions formerly exercised by the H
Commissioner of the Trust Territory of
Pacific Islands.

(b) To provide for the continuity of
ministration, and to assure the Gov
ments of the Marshall Islands and the
erated States of Micronesia that the
poses of the laws of the United States
carried out and that the funds of any o
trust fund in which the High Commissi
of the Trust Territory of the Pacific Isl
has authority of a statutory or custom
nature shall remain available as trust f
to their designated beneficiaries, the

ernment of the United States agrees to assume the authority formerly vested in the High Commissioner of the Trust Territory of the Pacific Islands.

Section 236

Except as otherwise provided, approval of this Compact by the Government of the United States shall constitute a pledge of the full faith and credit of the United States for the full payment of the sums and amounts specified in Articles I and III of this Title. The obligation of the United States under Articles I and III of this Title shall be enforceable in the United States Claims Court, or its successor court, which shall have jurisdiction in cases arising under this Section, notwithstanding the provisions of 28 U.S.C. 1502, and which court's decisions shall be reviewable as provided by the laws of the United States.

Article IV

Trade

Section 241

The Marshall Islands and the Federated States of Micronesia are not included in the customs territory of the United States.

Section 242

For the purpose of assessing duties on their products imported into the customs territory of the United States, the Marshall Islands and the Federated States of Micronesia shall be treated as if they were insular possessions of the United States within the meaning of General Headnote 3(a) of the Tariff Schedules of the United States. The exceptions, valuation procedures and all other provisions of General Headnote 3(a) shall apply to any product deriving from the Marshall Islands or the Federated States of Micronesia.

Section 243

All products of the Marshall Islands or the Federated States of Micronesia imported into the customs territory of the United States which are not accorded the treatment set forth in Section 242 and all products of the United States imported into the Marshall Islands or the Federated States of Micronesia shall receive treatment no less favorable than that accorded like products of any foreign country with respect to customs duties or charges of a similar nature and with respect to laws and regulations relating to importation, exportation, taxation, sale, distribution, storage or use.

Article V

Finance and Taxation

Section 251

The currency of the United States is the official circulating legal tender of the Marshall Islands and the Federated States of Micronesia. Should the Government of the Marshall Islands or the Federated States of Micronesia act to institute another currency, the terms of an appropriate currency transitional period shall be as agreed with the Government of the United States.

Section 252

The Government of the Marshall Islands or the Federated States of Micronesia may, with respect to United States persons, tax income derived from sources within its respective jurisdiction, property situated therein, including transfers of such property by gift or at death, and products consumed therein, in such manner as such Government deems appropriate. The determination of the source of any income, or the situs of any property, shall for purposes of this Compact be made according to the United States Internal Revenue Code.

Section 253

A citizen of the Marshall Islands or the Federated States of Micronesia, domiciled therein, shall be exempt from:

(a) Income taxes imposed by the Government of the United States upon fixed or determinable annual income; and

(b) Estate, gift, and generation-skipping transfer taxes imposed by the Government of the United States.

Section 254

(a) In determining any income tax imposed by the Government of the Marshall Islands or the Federated States of Micronesia, those Governments shall have authority to impose tax upon income derived by a resident of the Marshall Islands or the Federated States of Micronesia from sources without the Marshall Islands and the Federated States of Micronesia, in the same manner and to the same extent as those Governments impose tax upon income derived from within their respective jurisdictions. If the Government of the Marshall Islands or the Federated States of Micronesia exercises such authority as provided in this subsection, any individual resident of the Marshall Islands or the Federated States of Micronesia who is subject to tax by the Government of the United States on income which is also taxed by the Government of the Marshall Islands or the Federated States of Micronesia shall be relieved of liability to the Government of the United States for the tax which, but for this subsection, would otherwise be imposed by the Government of the United States on such income. For purposes of this Section, the term "resident of the Marshall Islands or the Federated States of Micronesia" shall be deemed to include any person who was physically present in the Marshall Islands or the Federated States of Micronesia for a period of 183 or more days during any taxable year; provided, that as between the Government of the Marshall Islands and the Federated States of Micronesia, the authority to tax an individual resident of the Marshall Islands or the Federated States of Micronesia in respect of income from sources without the Marshall Islands and the Federated States of Micronesia as provided in this subsection may be exercised only by the Government in whose jurisdiction such individual was physically present for the greatest number of days during the taxable year.

(b) If the Government of the Marshall Islands or the Federated States of Micronesia subjects income to taxation substantially similar to that imposed by the Trust Territory Code in effect on January 1, 1980, such Government shall be deemed to have exercised the authority described in Section 254(a).

Section 255

Where not otherwise manifestly inconsistent with the intent of this Compact, provisions in the United States Internal Revenue Code that are applicable to possessions of the United States as of January 1, 1980 shall be treated as applying to the Marshall Islands and the Federated States of Micronesia. If such provisions of the Internal Revenue Code are amended, modified or repealed after that date, such provisions shall continue in effect as to the Marshall Islands and the Federated States of Micronesia for a period of two years during which time the Government of the United States and the Governments of the Marshall Islands and the Federated States of Micronesia shall negotiate an agreement which shall provide benefits substantially equivalent to those which obtained under such provisions.

TITLE THREE

SECURITY AND DEFENSE RELATIONS

Article I

Authority and Responsibility

Section 311

(a) The Government of the United States has full authority and responsibility for security and defense matters in or relating to the Marshall Islands and the Federated States of Micronesia.

(b) This authority and responsibility includes:

(1) the obligation to defend the Marshall Islands and the Federated States of Micronesia and their peoples from attack or threats thereof as the United States and its citizens are defended;

(2) the option to foreclose access to or use of the Marshall Islands and the Federated States of Micronesia by military personnel or for the military purposes of any third country; and

(3) the option to establish and use military areas and facilities in the Marshall Islands and the Federated States of Micronesia, subject to the terms of the separate agreements referred to in Sections 321 and 323.

(c) The Government of the United States confirms that it shall act in accordance with the principles of international law and the Charter of the United Nations in the exercise of this authority and responsibility.

Section 312

Subject to the terms of any agreements negotiated in accordance with Sections 321 and 323, the Government of the United States may conduct within the lands, waters and airspace of the Marshall Islands and the Federated States of Micronesia the activities and operations necessary for the exercise of its authority and responsibility under this Title.

Section 313

(a) The Governments of the Marshall Islands and the Federated States of Micronesia shall refrain from actions which the Government of the United States determines, after appropriate consultation with those Governments, to be incompatible with its authority and responsibility for security and defense matters in or relating to the Marshall Islands and the Federated States of Micronesia.

(b) The consultations referred to in this Section shall be conducted expeditiously at senior levels of the Governments concerned, and the subsequent determination by the Government of the United States referred to in this Section shall be made only at senior interagency levels of the Government of the United States.

(c) The Government of the Marshall Islands or the Federated States of Micronesia shall be afforded, on an expeditious basis, an opportunity to raise its concerns with the United States Secretary of State personally and the United States Secretary of Defense personally regarding any determination made in accordance with this Section.

Section 314

(a) Unless otherwise agreed, the Government of the United States shall not, in the Marshall Islands or the Federated States of Micronesia:

(1) test by detonation or dispose of any nuclear weapon, nor test, dispose of, or discharge any toxic chemical or biological weapon; or

(2) test, dispose of, or discharge any other radioactive, toxic chemical or biological materials in an amount or manner which would be hazardous to public health or safety.

(b) Unless otherwise agreed, other than for transit or over flight purposes or during time of a national emergency declared by the President of the United States, a state of war declared by the Congress of the United States or as necessary to defend against an actual or impending armed attack on the United States, the Marshall Islands or the Federated States of Micronesia, the Government of the United States shall not store in the Marshall Islands or the Federated States of Micronesia any toxic chemical weapon, nor any radioactive materials nor any toxic chemical materials intended for weapons use.

(c) Radioactive, toxic chemical, or biological materials not intended for weapons use shall not be affected by Section 314(b).

(d) No material or substance referred to in this Section shall be stored in the Marshall Islands or the Federated States of Micronesia except in an amount and manner which would not be hazardous to public health or safety. In determining what shall be an amount or manner which would be hazardous to public health or safety under this Section, the Government of the United States shall comply with any applicable mutual agreement, international guidelines accepted by the Government of the United States, and the laws of the United States and their implementing regulations.

(e) Any exercise of the exemption authority set forth in Section 161(e) shall have no effect on the obligations of the Government of the United States under this Section or on the application of this subsection.

(f) The provisions of this Section shall apply in the areas in which the Government of the Marshall Islands or the Federated States of Micronesia exercises jurisdiction over the living resources of the seabed, subsoil or water column adjacent to its coasts.

Section 315

The Government of the United States may invite members of the armed forces of other countries to use military areas and facilities in the Marshall Islands or the Federated States of Micronesia, in conjunction with and under the control of United States Armed Forces. Use by units of the armed forces of other countries of such military areas and facilities, other than for transit and overflight purposes, shall be subject to consultation with and, in the case of major units, approval by the Government of the Marshall Islands or the Federated States of Micronesia.

Section 316

The authority and responsibility of the Government of the United States under this Title may not be transferred or otherwise assigned.

Article II

Defense Facilities and Operating Rights

Section 321

(a) Specific arrangements for the establishment and use by the Government of the United States of military areas and facilities in the Marshall Islands or the Federated States of Micronesia are set forth in separate agreements which shall come into effect simultaneously with this Compact.

(b) If, in the exercise of its authority and responsibility under this Title, the Government of the United States requires the use of areas within the Marshall Islands or the Federated States of Micronesia in addition to those for which specific arrangements are concluded pursuant to Section 321(a), it may request the Government concerned to satisfy those requirements through leases or other arrangements. The Government of the Marshall Islands or the Federated States of Micronesia shall sympathetically consider any such request and shall establish suitable procedures to discuss it with and provide a prompt response to the Government of the United States.

(c) The Government of the United States recognizes and respects the scarcity and special importance of land in the Marshall Islands and the Federated States of Micronesia. In making any requests pursuant to Section 321(b), the Government of the United States shall follow the policy of requesting the minimum area necessary to accomplish the required security and defense purpose, of requesting only the minimum interest in real property necessary to support such purpose, and of requesting first to satisfy its requirement through public real property, where available, rather than through private real property.

Section 322

The Government of the United States shall provide and maintain fixed and floating aids to navigation in the Marshall Islands and the Federated States of Micronesia at least to the extent necessary for the exercise of its authority and responsibility under this Title.

Section 323

The military operating rights of the Government of the United States and the legal status and contractual arrangements of the United States Armed Forces, their members, and associated civilians, while present in the Marshall Islands or the Federated States of Micronesia, are set forth in separate agreements which shall come into effect simultaneously with this Compact.

Article III

Defense Treaties and International Security Agreements

Section 331

Subject to the terms of this Compact and its related agreements, the Government of the United States, exclusively, shall assume and enjoy, as to the Marshall Islands and the Federated States of Micronesia, all obligations, responsibilities, rights and benefits of:

(a) Any defense treaty or other international security agreement applied by the Government of the United States as Administering Authority of the Trust Territory of the Pacific Islands as of the day preceding the effective date of this Compact; and

(b) Any defense treaty or other international security agreement to which the Government of the United States is or may become a party which it determines to be applicable in the Marshall Islands and the Federated States of Micronesia. Such a determination by the Government of the United States shall be preceded by appropriate consultation with the Government of the Marshall Islands or the Federated States of Micronesia.

Article IV

Service in Armed Forces of the United States

Section 341

Any person entitled to the privileges set forth in Section 141 shall be eligible to volunteer for service in the Armed Forces of the United States, but shall not be subject to involuntary induction into military service of the United States so long as such person does not establish habitual residence in the United States, its territories or possessions.

Section 342

The Government of the United States shall have enrolled, at any one time, at least two qualified students, one each from the
Marshall Islands and the Federated Sta
of Micronesia, as may be nominated by th
respective Governments, in each of:
(a) The United States Coast Guard Aca
my pursuant to 14 U.S.C. 195; and
(b) The United States Merchant Mari
Academy pursuant to 46 U.S.C. 1295b(b)(
provided that the provisions of 46 U.S
1295b(b)(6)(C) shall not apply to the enr
ment of students pursuant to Section 342
of this Compact.

Article V

General Provisions

Section 351

(a) The Government of the United Sta
and the Government of the Marshall
lands or the Federated States of Microne
shall establish two Joint Committees e
powered to consider disputes under the
plementation of this Title and its rela
agreements.

(b) The membership of each Joint Co
mittee shall comprise selected senior o
cials of each of the two participating G
ernments. The senior United States milit
commander in the Pacific area shall be
senior United States member of each Jo
Committee. For the meetings of each Jo
Committee, each of the two participat
Governments may designate additional
alternate representatives as appropriate
the subject matter under consideration.

(c) Unless otherwise mutually agre
each Joint Committee shall meet semi-
nually at a time and place to be designat
after appropriate consultation, by the G
ernment of the United States. A Joint C
mittee also shall meet promptly upon
quest of either of its members. Upon no
cation by the Government of the Un
States, the Joint Committees so noti
shall meet promptly in a combined ses
to consider matters within the jurisdic
of more than one Joint Committee. E
Joint Committee shall follow such pr
dures, including the establishment of f
tional subcommittees, as the members
from time to time agree.

(d) Unresolved issues in each Joint C
mittee shall be referred to the Governm
concerned for resolution, and the Gov
ment of the Marshall Islands or the Fe
ated States of Micronesia shall be affor
on an expeditious basis, an opportunit
raise its concerns with the United St
Secretary of Defense personally regar
any unresolved issue which threatens
continued association with the Governn
of the United States.

Section 352

In the exercise of its authority and
sponsibility under Title Three, the Gov
ment of the United States shall accord
respect to the authority and responsib
of the Governments of the Marshall Isl
and the Federated States of Micron
under Titles One, Two and Four an
their responsibility to assure the well-b
of their peoples.

Section 353

(a) The Government of the United S
shall not include any of the Governmen
the Marshall Islands and the Feder
States of Micronesia as named parties
formal declaration of war, without thei
spective consent.

(b) Absent such consent, this Compa
without prejudice, on the ground of bell
ence or the existence of a state of wa
any claims for damages which are adva
by the citizens, nationals or Governme
the Marshall Islands or the Feder
States of Micronesia, which arise ou

armed conflict subsequent to the effective date of this Compact and which are:

(1) petitions to the Government of the United States for redress; or

(2) claims in any manner against the government, citizens, nationals or entities of any third country.

(c) Petitions under Section 353(b)(1) shall be treated as if they were made by citizens of the United States.

Section 354

(a) Notwithstanding any other provision of this Compact, the provisions of this Title are binding from the effective date of this Compact for a period of fifteen years between the Government of the United States and the Governments of the Marshall Islands and the Federated States of Micronesia and thereafter as mutually agreed or in accordance with Section 231, unless earlier terminated by mutual agreement pursuant to Section 441, or amended pursuant to Article III of Title Four.

(b) The Government of the United States recognizes, in view of the special relationship between the Government of the United States and the Governments of the Marshall Islands and the Federated States of Micronesia, and in view of the existence of separate agreements with each of them pursuant to Sections 321 and 323, that, even if this Title should terminate, any attack on the Marshall Islands or the Federated States of Micronesia during the period in which such separate agreements are in effect, would constitute a threat to the peace and security of the entire region and a danger to the United States. In the event of such an attack, the Government of the United States would take action to meet the danger to the United States and to the Marshall Islands and the Federated States of Micronesia in accordance with its constitutional processes.

TITLE FOUR

GENERAL PROVISIONS

Article I

Approval and Effective Date

Section 411

This Compact shall come into effect upon mutual agreement between the Government of the United States, acting in fulfillment of its responsibilities as Administering Authority of the Trust Territory of the Pacific Islands, and the Government of the Marshall Islands or the Federated States of Micronesia and subsequent to completion of the following:

(a) Approval by the Government of the Marshall Islands or the Federated States of Micronesia in accordance with its constitutional processes;

(b) Conduct of the plebiscite referred to in Section 412; and

(c) Approval by the Government of the United States in accordance with its constitutional processes.

Section 412

A plebiscite shall be conducted in each of the Marshall Islands and the Federated States of Micronesia for the free and voluntary choice by the peoples of the Trust Territory of the Pacific Islands of their future political status through informed and democratic processes. The Marshall Islands and the Federated States of Micronesia shall each be considered a voting jurisdiction, and the plebiscite shall be conducted under fair and equitable standards in each voting jurisdiction. The Administering Authority of the Trust Territory of the Pacific Islands, after consultation with the Governments of the Marshall Islands and the Federated States of Micronesia, shall fix the date on which the plebiscite shall be called in each voting jurisdiction. The plebiscite shall be called jointly by the Administering Authority of the Trust Territory of the Pacific Islands and the other Signatory Government concerned. The results of the plebiscite in each voting jurisdiction shall be determined by a majority of the valid ballots cast in that voting jurisdiction.

Article II

Conference and Dispute Resolution

Section 421

The Government of the United States shall confer promptly at the request of the Government of the Marshall Islands or the Federated States of Micronesia and any of those Governments shall confer promptly at the request of the Government of the United States on matters relating to the provisions of this Compact or of its related agreements.

Section 422

In the event the Government of the United States, or the Government of the Marshall Islands or the Federated States of Micronesia, after conferring pursuant to Section 421, determines that there is a dispute and gives written notice thereof, the Governments which are parties to the dispute shall make a good faith effort to resolve the dispute among themselves.

Section 423

If a dispute between the Government of the United States and the Government of the Marshall Islands or the Federated States of Micronesia cannot be resolved within 90 days of written notification in the manner provided in Section 422, either party to the dispute may refer it to arbitration in accordance with Section 424.

Section 424

Should a dispute be referred to arbitration as provided for in Section 423, an Arbitration Board shall be established for the purpose of hearing the dispute and rendering a decision which shall be binding upon the two parties to the dispute unless the two parties mutually agree that the decision shall be advisory. Arbitration shall occur according to the following terms:

(a) An Arbitration Board shall consist of a Chairman and two other members, each of whom shall be a citizen of a party to the dispute. Each of the two Governments which is a party to the dispute shall appoint one member to the Arbitration Board. If either party to the dispute does not fulfill the appointment requirements of this Section within 30 days of referral of the dispute to arbitration pursuant to Section 423, its member on the Arbitration Board shall be selected from its own standing list by the other party to the dispute. Each Government shall maintain a standing list of 10 candidates. The parties to the dispute shall jointly appoint a Chairman within 15 days after selection of the other members of the Arbitration Board. Failing agreement on a Chairman, the Chairman shall be chosen by lot from the standing lists of the parties to the dispute within 5 days after such failure.

(b) The Arbitration Board shall have jurisdiction to hear and render its final determination on all disputes arising exclusively under Articles I, II, III, IV and V of Title One, Title Two, Title Four and their related agreements.

(c) Each member of the Arbitration Board shall have one vote. Each decision of the Arbitration Board shall be reached by majority vote.

(d) In determining any legal issue, the Arbitration Board may have reference to international law and, in such reference, shall apply as guidelines the provisions set forth in Article 38 of the Statute of the International Court of Justice.

(e) The Arbitration Board shall adopt such rules for its proceedings as it may deem appropriate and necessary, but such rules shall not contravene the provisions of this Compact. Unless the parties provide otherwise by mutual agreement, the Arbitration Board shall endeavor to render its decision within 30 days after the conclusion of arguments. The Arbitration Board shall make findings of fact and conclusions of law and its members may issue dissenting or individual opinions. Except as may be otherwise decided by the Arbitration Board, one-half of all costs of the arbitration shall be borne by the Government of the United States and the remainder shall be borne by the other party to the dispute.

Article III

Amendment

Section 431

The provisions of this Compact may be amended as to the Governments of the Marshall Islands and the Federated States of Micronesia and as to the Government of the United States at any time by mutual agreement.

Section 432

The provisions of this Compact may be amended as to any one of the Governments of the Marshall Islands or the Federated States of Micronesia and as to the Government of the United States at any time by mutual agreement. The effect of any amendment made pursuant to this Section shall be restricted to the relationship between the Governments agreeing to such amendment, but the other Governments signatory to this Compact shall be notified promptly by the Government of the United States of any such amendment.

Article IV

Termination

Section 441

This Compact may be terminated as to any one of the Governments of the Marshall Islands or the Federated States of Micronesia and as to the Government of the United States by mutual agreement and subject to Section 451.

Section 442

This Compact may be terminated by the Government of the United States as to the Government of the Marshall Islands or the Federated States of Micronesia subject to Section 452, such termination to be effective on the date specified in the notice of termination by the Government of the United States but not earlier than six months following delivery of such notice. The time specified in the notice of termination may be extended.

Section 443

This Compact shall be terminated, pursuant to their respective constitutional processes, by the Government of the Marshall Islands or the Federated States of Micronesia subject to Section 453 if the people represented by such Government vote in a plebiscite to terminate. Such Government shall notify the Government of the United States of its intention to call such a plebiscite which shall take place not earlier than three months after delivery of such notice. The plebiscite shall be administered by such Government in accordance with its constitutional and legislative processes, but the Government of the United States may send its own observers and invite observers from a mutually agreed party. If a majority of the valid ballots cast in the plebiscite favors termination, such Government shall, upon certification of the results of the plebiscite, give notice of termination to the Government of the United States, such termination to be effective on the date specified in such notice but not earlier than three months following the date of delivery of such notice. The time specified in the notice of termination may be extended.

Article V

Survivability

Section 451

Should termination occur pursuant to Section 441, economic assistance by the Government of the United States shall continue on mutually agreed terms.

Section 452

(a) Should termination occur pursuant to Section 442, the following provisions of this Compact shall remain in full force and effect until the fifteenth anniversary of the effective date of this Compact between the Government of the United States and the Government of the Marshall Islands or the Federated States of Micronesia and thereafter as mutually agreed:

(1) Article VI and Sections 172, 173, 176 and 177 of Title One;

(2) Article I and Section 233 of Title Two;

(3) Title Three; and

(4) Articles II, III, V and VI of Title Four.

(b) The Government of the United States shall also provide the Government as to which termination occurs pursuant to Section 442 with either the programs or services provided pursuant to Article II of Title Two as the time of termination, or their equivalent, as determined by the Government of the United States. Such assistance shall continue until the fifteenth anniversary of the effective date of this Compact, and thereafter as mutually agreed.

Section 453

(a) Should termination occur pursuant to Section 443, the following provisions of this Compact shall remain in full force and effect until the fifteenth anniversary of the effective date of this Compact between the Government of the United States and the Government of the Marshall Islands or the Federated States of Micronesia and thereafter as mutually agreed:

(1) Article VI and Sections 172, 173, 176 and 177 of Title One;

(2) Title Three; and

(3) Articles II, III, V and VI of Title Four.

(b) Upon receipt of notice of termination pursuant to Section 443, the Government of the United States and the Government so terminating shall promptly consult with regard to their future relationship. These consultations shall determine the level of economic assistance which the Government of the United States shall provide to the Government so terminating for the period ending on the fifteenth anniversary of the effective date of this Compact provided that the annual amounts specified in Sections 211, 212, 214, 215 and 216 shall continue without diminution. Such amounts, with the exception of those specified in Section 216, shall be adjusted according to the formula set forth in Section 217.

Section 454

Notwithstanding any other provision of this Compact:

(a) The Government of the United States reaffirms its continuing interest in promoting the long-term economic advancement and self-sufficiency of the peoples of the Marshall Islands and the Federated States of Micronesia; and

(b) The separate agreements referred to in Article II of the Title Three shall remain in effect in accordance with their terms which shall also determine the duration of Section 213.

Article VI

Definition of Terms

Section 461

For the purpose of this Compact only and without prejudice to the views of the Government of the United States or the Government of the Marshall Islands or the Federated States of Micronesia as to the nature and extent of the jurisdiction under international law of any of them, the following terms shall have the following meanings:

(a) "Trust Territory of the Pacific Islands" means the area established in the Trusteeship Agreement consisting of the administrative districts of Kosrae, Yap, Ponape, the Marshall Islands and Truk as described in Title One, Trust Territory Code, Section 1, in force on January 1, 1979. This term does not include the area of Palau or the Northern Mariana Islands.

(b) "Trusteeship Agreement" means the agreement setting forth the terms of trusteeship for the Trust Territory of the Pacific Islands, approved by the Security Council of the United Nations April 2, 1947, and by the United States July 18, 1947, entered into force July 18, 1947, 61 Stat. 3301, T.I.A.S. 1665, 8 U.N.T.S. 189.

(c) "The Marshall Islands" and "the Federated States of Micronesia" are used in a geographic sense and include the land and water areas to the outer limits of the territorial sea and the air space above such areas as now or hereafter recognized by the Government of the United States.

(d) "Government of the Marshall Islands" means the Government established and organized by the Constitution of the Marshall Islands including all the political subdivisions and entities comprising that Government.

"Government of the Federated States of Micronesia" means the Government established and organized by the Constitution of the Federated States of Micronesia including all the political subdivisions and entities comprising that Government.

(e) The following terms shall be defined consistent with the 1976 Edition of the Radio Regulations of the International Telecommunications Union (ISBN 92-61-0081-5) as follows:

(1) "Radio Communications" means telecommunication by means of radio waves.

(2) "Station" means one or more transmitters or receivers or a combination of transmitters and receivers, including the accessory equipment, necessary at one location for carrying on a radio communication service; each station shall be classified by the service in which it operates permanently or temporarily.

(3) "Broadcasting Service" means a radio communication service in which the transmissions are intended for direct reception by the general public, and which may include sound transmissions, television transmissions or other types of transmissions.

(4) "Broadcasting Station" means a station in the broadcasting service.

(f) "Frequency Assignment" means the same as 'Frequency Assignment' means in the 1976 Edition of the Radio Regulations of the International Telecommunications Union (ISBN 92-61-0081-5).

(g) "Habitual Residence" means a place of general abode or a principal, actual dwelling place of a continuing or lasting nature; provided, however, that this term shall not
apply to the residence of any person wh
entered the United States for the purpo
of full-time studies as long as such pers
maintains that status, or who has be
physically present in the United States, t
Marshall Islands, or the Federated States
Micronesia for less than one year, or who
a dependent of a resident representative,
described in Section 152.

(h) For the purposes of Article IV of Ti
One of this Compact:

(1) "Actual Residence" means physic
presence in the Marshall Islands or the Fe
erated States of Micronesia during eigh
five percent of the period of residency
quired by Section 141(a)(3); and

(2) "Certificate of Actual Residenc
means a certificate issued to a naturaliz
citizen by the Government which has nat
ralized him stating that the citizen has co
plied with the actual residence requireme
of Section 141(a)(3).

(i) "Military Areas and Facilities" mea
those areas and facilities in the Marshall
lands or the Federated States of Microne
reserved or acquired by the Government
the Marshall Islands or the Federat
States of Micronesia for use by the Gover
ment of the United States, as set forth
the separate agreements referred to in S
tion 321.

(j) "Capital Account" means, for ea
year of the Compact, those portions of t
total grant assistance provided in Articl
of Title Two, adjusted by Section 217, whi
are to be obligated for:

(1) the construction or major repair
capital infrastructure; or

(2) public and private sector projects ide
tified in the official overall economic dev
opment plan.

(k) "Current Account" means, for ea
year of the Compact, those portions of
total grant assistance provided in Articl
of Title Two, adjusted by Section 217, wh
are to be obligated for recurring operatio
activities including infrastructure main
nance as identified in the annual budget j
tifications submitted yearly to the Gove
ment of the United States.

(l) "Official Overall Economic Devel
ment Plan" means the documented progr
of annual development which identifies
specific policy and project activities nec
sary to achieve a specified set of econo
goals and objectives during the period
free association, consistent with the e
nomic assistance authority in Title T
Such a document should include an analy
of population trends, manpower requ
ments, social needs, gross national prod
estimates, resource utilization, infrastr
ture needs and expenditures, and the spe
ic private sector projects required to deve
the local economy of the Marshall Isla
or the Federated States of Microne
Project identification should include ini
cost estimates, with project purposes rela
to specific development goals and objecti

(m) "Tariff Schedules of the Uni
States" means the Tariff Schedules of
United States as amended from time to t
and as promulgated pursuant to Uni
States law and includes the Tariff Sch
ules of the United States Annota
(TSUSA), as amended.

(n) "Vienna Convention on Diplom
Relations" means the Vienna Convention
Diplomatic Relations, done April 18, 1
23 U.S.T. 3227, T.I.A.S. 7502, 500 U.N.
95.

Section 462

The Government of the United States
the Government of the Marshall Islands

the Federated States of Micronesia, as appropriate, shall conclude related agreements which shall come into effect and shall survive in accordance with their terms, as follows:

(a) Agreement Regarding the Provision of Telecommunication Services by the Government of the United States to the Marshall Islands and the Federated States of Micronesia Concluded Pursuant to Section 131 of the Compact of Free Association;

(b) Agreement Regarding the Operation of Telecommunication Services of the Government of the United States in the Marshall Islands and the Federated States of Micronesia Concluded Pursuant to Section 132 of the Compact of Free Association;

(c) Agreement on Extradition, Mutual Assistance in Law Enforcement Matters and Penal Sanctions Concluded Pursuant to Section 175 of the Compact of Free Association;

(d) Agreement Between the Government of the United States and the Government of the Marshall Islands for the Implementation of Section 177 of the Compact of Free Association;

(e) Federal Programs and Services Agreement Concluded Pursuant to Article II of Title Two and Section 232 of the Compact of Free Association;

(f) Agreement Concluded Pursuant to Section 234 of the Compact of Free Association;

(g) Agreement Regarding the Military Use and Operating Rights of the Government of the United States in the Marshall Islands Concluded Pursuant to Sections 321 and 323 of the Compact of Free Association;

(h) Agreement Regarding the Military Use and Operating Rights of the Government of the United States in the Federated States of Micronesia Concluded Pursuant to Sections 227, 321 and 323 of the Compact of Free Association;

(i) Status of Forces Agreement Concluded Pursuant to Section 323 of the Compact of Free Association;

(j) Agreement Between the Government of the United States and the Government of the Federated States of Micronesia Regarding Friendship, Cooperation and Mutual Security Concluded Pursuant to Sections 321 and 323 of the Compact of Free Association; and

(k) Agreement Between the Government of the United States and the Government of the Marshall Islands Regarding Mutual Security Concluded Pursuant to Sections 321 and 323 of the Compact of Free Association.

Section 463

(a) Except as set forth in Section 463(b), any reference in this Compact to a provision of the United States Code or the Statutes at Large of the United States constitutes the incorporation of the language of such provision into this Compact, as such provision was in force on January 1, 1980.

(b) Any reference in Article VI of Title One and Sections 131, 174, 175, 178 and 342 to a provision of the United States Code or the Statutes at Large of the United States or to the Privacy Act, the Freedom of Information Act or the Administrative Procedure Act constitutes the incorporation of the language of such provision into this Compact as such provision is in force on the effective date of this Compact or as it may be amended thereafter on a non-discriminatory basis according to the constitutional processes of the United States.

Article VII

Concluding Provisions

Section 471

(a) The Government of the United States and the Governments of the Marshall Islands and the Federated States of Micronesia agree that they have full authority under their respective Constitutions to enter into this Compact and its related agreements and to fulfill all of their respective responsibilities in accordance with the terms of this Compact and its related agreements. The Governments pledge that they are so committed.

(b) Each of the Governments of the United States, the Marshall Islands and the Federated States of Micronesia shall take all necessary steps, of a general or particular character, to ensure, not later than the effective date of this Compact, the conformity of its laws, regulations and administrative procedures with the provisions of this Compact.

(c) Without prejudice to the effects of this Compact under international law, this Compact has the force and effect of a statute under the laws of the United States.

Section 472

This Compact may be accepted, by signature or otherwise, by the Government of the United States, the Government of the Marshall Islands, and the Government of the Federated States of Micronesia. Each Government accepting this Compact shall possess an original English language version.

IN WITNESS WHEREOF, the undersigned, duly authorized, have signed this Compact of Free Association which shall come into effect in accordance with its terms between the Government of the United States and each of the other Governments signatory to this Compact.

DONE AT HONOLULU, HAWAII, THIS 1ST DAY OF

OCTOBER, ONE THOUSAND, NINE HUNDRED
EIGHTY-TWO

FOR THE GOVERNMENT

OF

THE UNITED STATES OF AMERICA

AMBASSADOR FRED M. ZEDER, II
PRESIDENT'S PERSONAL REPRESENTATIVE
FOR MICRONESIAN STATUS NEGOTIATIONS

DONE AT HONOLULU, HAWAII, THIS 1ST DAY OF

OCTOBER, ONE THOUSAND, NINE HUNDRED
EIGHTY-TWO

FOR THE GOVERNMENT

OF

THE FEDERATED STATES OF MICRONESIA

HONORABLE ANDON L. AMARAICH
CHAIRMAN, COMMISSION ON FUTURE
POLITICAL STATUS AND TRANSITION

DONE AT MAJURO, MARSHALL ISLANDS, THIS
25TH DAY

OF JUNE, ONE THOUSAND, NINE HUNDRED,
EIGHTY-THREE

FOR THE GOVERNMENT

OF

THE UNITED STATES OF AMERICA

AMBASSADOR FRED M. ZEDER, II
PRESIDENT'S PERSONAL REPRESENTATIVE
FOR MICRONESIAN STATUS NEGOTIATIONS

DONE AT MAJURO, MARSHALL ISLANDS, THIS
25TH DAY

OF JUNE, ONE THOUSAND, NINE HUNDRED
EIGHTY-THREE

FOR THE GOVERNMENT

OF

THE MARSHALL ISLANDS

PRESIDENT AMATA KABUA
PRESIDENT OF THE REPUBLIC
OF THE MARSHALL ISLANDS

SEC. 202. JURISDICTION.

(a) With respect to section 321 of the Compact of Free Association and its related agreements, the jurisdictional provisions set forth in subsection (b) of this section shall apply only to the citizens and nationals of the United States and aliens lawfully admitted to the United States for permanent residence who are in the Marshall Islands or the Federated States of Micronesia.

(b)(1) The defense sites of the United States established in the Marshall Islands or the Federated States of Micronesia in accordance with the Compact of Free Association and its related agreements are within the special maritime and territorial jurisdiction of the United States as set forth in section 7, title 18, United States Code.

(2) Any person referred to in subsection (a) of this section who within or upon such defense sites is guilty of any act or omission which, although not made punishable by any enactment of Congress, would be punishable if committed or omitted within the jurisdiction of the State of Hawaii by the laws thereof, in force at the time of such act or omission, shall be guilty of a like offense and subject to a like punishment.

(3) The United States District Court for the District of Hawaii shall have jurisdiction to try all criminal offenses against the United States, including the laws of the State of Hawaii made applicable to the defense sites in the Marshall Islands or the Federated States of Micronesia by virtue of paragraph (2) of this subsection, committed by any person referred to in subsection (a) of this section.

(4) The United States District Court for the District of Hawaii may appoint one or more magistrates for the defense sites in the Marshall Islands. Such Magistrates shall have the power and the status of Magistrates appointed pursuant to chapter 43, title 28, United States Code, provided, however that such Magistrates shall have the power to try persons accused of and sentence persons convicted of petty offenses, as defined in section 1(3), title 18, United States Code, including violations of regulations for the maintenance of peace, order, and health issued by the Commanding Officer on such defense sites, without being subject to the restrictions provided for in section 3401(b), title 18, United States Code.

TITLE III—PACIFIC POLICY REPORTS

SEC. 301. FINDINGS.

The Congress finds that—

(1) the United States does not have a clearly defined policy for United States noncontiguous Pacific areas (including the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the State of Hawaii, and the State of Alaska) and for United States-associated noncontiguous Pacific areas (including the Federated States of Micronesia, the Marshall Islands, and Palau);

(2) the Federal Government has often failed to consider the implications for, effects on, and potential of noncontiguous Pacific areas in the formulation and conduct of foreign and domestic policy, to the detriment of both the attainment of the objectives of Federal policy and noncontiguous Pacific areas;

(3) policies and programs designed for the United States as a whole may impose inappropriate standards on noncontiguous Pacific areas because of their unique circumstances and needs; and

(4) the present Federal organizational arrangements for liaison with (and providing

assistance to) the insular areas may not be adequate—

(A) to coordinate the delivery of Federal programs and services to noncontiguous Pacific areas;

(B) to provide a consistent basis for administration of programs;

(C) to adapt policy to the special requirements of each area and modify the application of Federal programs, laws, and regulations accordingly;

(D) to be responsive to the Congress in the discharge of its responsibilities; and

(E) to attain the international obligations of the United States.

SEC. 302. REPORTS.

(a) Submission.—Not later than one year after the date of the enactment of this joint resolution and each five years thereafter, the Secretary of the Interior, in consultation with the Secretary of State, shall submit to the Congress and the President a report on United States noncontiguous Pacific areas policy together with such recommendations as may be necessary to accomplish the objectives of such policy.

(b) Contents.—The reports required in subsection (a) of this section shall set forth clearly defined policies regarding United States, and United States associated, noncontiguous Pacific areas, including—

(1) the role of and impacts on the noncontiguous Pacific areas in the formulation and conduct of foreign policy;

(2) the applicability of standards contained in Federal laws, regulations, and programs to the noncontiguous Pacific areas and any modifications which may be necessary to achieve the intent of such laws, regulations, and programs consistent with the unique character of the noncontiguous Pacific areas;

(3) the effectiveness of the Federal executive organizational arrangements for—

(A) providing liaison between the Federal Government and the governments of the noncontiguous Pacific areas;

(B) coordinating Federal actions in a manner which recognizes the unique circumstances and needs of the noncontiguous Pacific areas; and

(C) achieving the objective of Federal policy and ensuring that the Congress receives the information necessary to discharge its responsibilities; and

(4) actions which may be needed to facilitate the economic and social health and development of the noncontiguous Pacific areas, consistent with their self-determined objectives.

SEC. 303. CONFERENCE.

(a) Meeting.—Prior to submitting the reports required under section 302(b), the Secretary of the Interior, in consultation with the Secretary of State, shall convene a conference to obtain the views of the noncontiguous Pacific areas on the matters required to be addressed in such reports.

(b) Participants.—Representatives of each of the noncontiguous Pacific areas; and the heads of all executive departments and agencies, and other public and private organizations concerned with the noncontiguous Pacific areas as requested by the Secretary of the Interior shall be entitled to be participants in the conference.

(c) Written Comments.—The Secretary of the Interior shall afford participants in the conference an opportunity to submit written comments for inclusion in the reports required under section 302.

SEC. 304. ADMINISTRATIVE MATTERS.

(a) Administrative Support.—The Secretary of the Interior shall provide all necessary administrative support to accomplish the requirements of sections 302 and 303.

(b) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

TITLE IV—CLARIFICATION OF CERTAIN TRADE AND TAX PROVISIONS OF THE COMPACT

SEC. 401. FREELY ASSOCIATED STATES TARIFF TREATMENT.

(a) Section 242.—Section 242 of the Compact shall be construed and applied as if it read as follows:

"Section 242

"The President shall proclaim the following tariff treatment for articles imported from the Federated States of Micronesia or the Marshall Islands which shall apply during the period of effectiveness of this title:

"(1) Unless otherwise excluded, articles imported from the Federated States of Micronesia or the Marshall Islands, subject to the limitations imposed under sections 503(b) and 504(c) of title 5 of the Trade Act of 1974 (19 U.S.C. 2463(b); 2464(c)), shall be exempt from duty.

"(2) Only canned tuna provided for in item 112.30 of the Tariff Schedules of the United States that is imported from the Federated States of Micronesia and the Marshall Islands during any calendar year not to exceed 10 percent of the United States consumption of canned tuna during the immediately preceding calendar year, as reported by the National Marine Fisheries Service, shall be exempt from duty; but the quantity of tuna given duty free treatment under this paragraph for any calendar year shall be counted against the aggregate quantity of canned tuna that is dutiable under rate column numbered 1 of such item 112.30 for that calendar year.

"(3) The duty-free treatment provided under paragraph (1) shall not apply to—

"(A) watches, clocks, and timing apparatus provided for in subpart E of part 2 of schedule 7 of the Tariff Schedules of the United States;

"(B) buttons (whether finished or not finished) provided for in item 745.32 of such Schedules;

"(C) textile and apparel articles which are subject to textile agreements; and

"(D) footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel which were not eligible articles for purposes of chapter V of the Trade Act of 1974 (19 U.S.C. 2461, et seq.) on April 1, 1984.

"(4) If the cost or value of materials produced in the customs territory of the United States is included with respect to an eligible article which is a product of the Federated States of Micronesia or the Marshall Islands, an amount not to exceed 15 percent of the appraised value of the article at the time it is entered that is attributable to such United States cost or value may be applied for duty assessment purposes toward determining the percentage referred to in section 503(b)(2) of title V of the Trade Act of 1974.

(b) Section 243.—Section 243 of the Compact shall be construed and applied as if it read as follows:

"Section 243

"Articles imported from the Federated States of Micronesia or the Marshall Islands which are not exempt from duty under paragraphs (1), (2), (3), and (4) of section 242 shall be subject to the rates of duty set forth in column numbered 1 of the Tariff
Schedules of the United States and all pr
ucts of the United States imported into
Federated States of Micronesia or the M
shall Islands shall receive treatment no
favorable than that accorded like produ
of any foreign country with respect to
toms duties or charges of a similar nat
and with respect to laws and regulations
lating to importation, exportation, taxati
sale, distribution, storage, or use.".

SEC. 402. CONSTRUCTION OF SECTION 253 OF COMPACT.

(a) Subsection (a) of Section 253 of
Compact shall not apply.

(b) Subsection (b) of Section 253 of
Compact shall apply only to individuals
are nonresidents and not citizens of
United States.

SEC. 403. CONSTRUCTION OF SECTION 254 OF COMPACT.

The relief from liability referred to in
second sentence of section 254(a) of
Compact means only—

(1) relief in the form of the foreign
credit (or deduction in lieu thereof) av
able with respect to the income taxes
possession of the United States, and

(2) relief in the form of the exclus
under section 911 of the Internal Reve
Code of 1954.

SEC. 404. CONSTRUCTION OF SECTION 255 OF COMPACT.

Section 255 of the Compact shall be
strued and applied as if it read as follows
"Section 255

"(a) Extension of Section 936 to
Marshall Islands and the Federa
States of Micronesia.—For purposes of
tion 936 of the Internal Revenue Code
1954, the Marshall Islands and the Fede
ed States of Micronesia shall be treated
they were possessions of the United Sta

"(b) Exchange of Information.—Sub
tion (a) shall not apply to the Marshal
lands and the Federated States of Micr
sia (as the case may be) for any period a
December 31, 1986, during which ther
not in effect between the appropriate
ernment and the United States an excha
of information agreement of the kind
scribed in section 274(h)(6)(C) (other t
clause (ii) thereof) of the Internal Reve
Code of 1954.

"(c) Procedure If Section 936 Incent
Reduced.—If the tax incentives extende
the Marshall Islands and the Feder
States of Micronesia under subsection
are, at any time during which the Com
is in effect, reduced the Secretary of
Treasury shall negotiate an agreement
the Marshall Islands and the Feder
States of Micronesia under which, w
such agreement is approved by law,
will be provided with benefits substant
equivalent to such reduction in benefits.
If, within the 1 year period after the da
the enactment of the Act making the re
tion in benefits, an agreement negoti
under the preceding sentence is not
proved by law, the matter shall be sub
ted to the Arbitration Board establi
pursuant to section 424 of the Compact.
purposes of Article V of Title Two of
Compact, the Secretary of the Treasur
his delegate shall be the member of
Board representing the Government o
United States. Any decision of such B
in the matter when approved by law
be binding on the United States, except
such decision rendered is binding only
whether the United States has provide
substantially equivalent benefits referr
in this subsection.".

SEC. 405. THE MARSHALL ISLANDS AND THE FEDERATED STATES OF MICRONESIA TREATED AS NORTH AMERICAN AREA.

For purposes of section 274 (h) (3)(A) of the Internal Revenue Code of 1954, the term "North American Area" shall include the Marshall Islands and the Federated States of Micronesia.

SEC. 406. EFFECTIVE DATE.

This title shall apply to income earned, and transctions occurring, after September 30, 1985, in taxable years ending after such date.

SEC. 407. STUDY OF TAX PROVISIONS

The Secretary of the Treasury or his delegate—

(1) shall conduct a study of the effects of the tax provisions of the Compact (as clarified by the foregoing provisions of this title), and

(2) shall report the results of such study before October 1, 1987, to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

SEC. 408. COORDINATION WITH OTHER PROVISIONS.

Nothing in any provision of this joint resolution (other than this title) which is inconsistent with any provision of this title shall have any force or effect.

TITLE V—COMPACT OF FREE ASSOCIATION WITH PALAU

SEC. 501. APPROVAL IN PRINCIPLE.

(a) Subject to subsection (b) of this section, Congress expresses its approval in principle of the Compact of Free Association Between the Government of the United States of America and the Government of the Republic of Palau, the text of which was printed in the Congressional Record of November 14, 1985 on pages S. 15622 through S. 15628, inclusive, and which is also printed as Committee Print No. 4 of the Committee on Interior and Insular Affairs of the House of Representatives of the 99th Congress.

(b) A Compact with Palau after it is transmitted to Congress by the President shall take effect only upon—

(1) a certification by the President to the Congress no later than March 31, 1986 that the Republic of Palau has approved a Compact in accordance with section 411 of the Compact described in subsection (a) and that the President has determined that the United States will be able to carry out fully its rights and responsibiliities under Title Three of the Compact described in subsection (a) and the subsidiary agreements thereto; and

(2) enactment by the Congress of a joint resolution aproving a Compact and providing for its implementation.

SEC. 502. MODIFICATIONS OF COMPACT.

Title IV and Sections 105(b), 105(c), 105(h)(1), 105(l), and 202 of this joint resolution shall apply to a compact with Palau, except that any reference in such sections to the Compact shall be treated as referring to the Compact described in section 501 of this joint resolution, and any reference in such Title and sections to the Federated States of Micronesia or the Marshall Islands shall be treated as referring to the Republic of Palau. For purposes of applying section 242(2) of the Compact, the annual 10 percent limitation on duty-free imports of canned tuna applies to imports from the Federated States of Micronesia, the Marshall Islands, and the Republic of Palau.

The SPEAKER pro tempore. The gentleman from Ohio [Mr. SEIBERLING] will be recognized for 30 minutes and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Ohio [Mr. SEIBERLING].

Mr. SEIBERLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have before us today an amendment in the nature of a substitute to the Senate version of House Joint Resolution 187, the bill that would establish a new political relationship between the United States and the government of the Federated States of Micronesia [FSM] and the government of the Marshall Islands. These two areas of Micronesia have been part of the Trust Territory of the Pacific Islands, which was set up under an agreement with the United Nations in 1947 and has been administered by the United States to date. I might note that of 11 trusteeships established by the United Nations after World War II, this is the only one still in existence.

With enactment of this legislation, Congress would approve the Compacts of Free Association for the FSM and the Marshalls. This action, provided the Micronesians approve, could bring about the termination of the trusteeship.

Under the Compacts of Free Association, the two affected Micronesian governments would enter into a new relationship with the United States, that is, a relationship of free association whereby they would become self-governing in all matters except for defense.

The House passed the original House Joint Resolution 187 on July 25, 1985, by a vote of 360-12. On November 14, 1985, the Senate passed by voice vote its version of the bill.

What we have before us today is a consensus bill that has been approved by all involved House Members, Senators, and the appropriate administration officials and agencies.

As everyone knows who has followed this process, it has been a very long and sometimes difficult one. The negotiations themselves were begun in 1969, the plebiscites were conducted in 1983, and the Compacts for the Federated States of Micronesia and the Marshall Islands were formally transmitted by the President to the Congress, with a request for action, on March 30, 1984. As I estimated last year, the congressional approval process to date has taken almost two sessions of Congress, a not unreasonable amount of time given the complexity of the documents submitted. The covenant for the Northern Mariana Islands is a very short and simple document compared to the compact and it took 15 months for Congress to complete action on it.

However, I am hopeful that this legislation which we have before us today will clear the Congress before this session ends, thus paving the way for the rest of the steps needed to bring about the end of the trusteeship, including the President's signature, the two governments' final decisions, and finally U.N. approval of the termination of the trusteeship if the Micronesians accept the compacts as they are.

We hope that the Micronesians, both leaders and people, better understand that Congress has an independent role in these matters and does not merely rubber stamp whatever the executive branch negotiates. Because of the complexity of the legislation, because it touched on virtually every conceivable subject, because it carried a substantial price tag in these austere times, it was scrutinized by more than just the usual single committee, and this added to the time required for us to reach this point.

We have tried to produce as fair a package as possible; that required including some compensatory provisions to replace some benefits in the administration's proposal that were diminished or removed. We believe that we have before us today the best bill possible, given the wide range of considerations that have had an impact on the legislation as it made its way through the Congress. The leadership of Chairman UDALL has been indispensable in achieving this result, for which we all must commend him highly. We hope the Micronesians understand that the final results of any congressional examination of a piece of legislation can never be predicted with precision at the outset, given the size of the Congress, the individual interests and constituencies of Representatives and Senators, and whatever national concerns are overriding at any given moment.

When this legislation clears the Congress and is signed into law by the President of the United States, the final decisions will then rest with the Federated States of Micronesia and the Marshall Islands as to whether they can support and approve their respective compacts. In making these decisions, the Micronesians undoubtedly will reflect on the magnitude of both the job just concluded and the challenge ahead of building their nations under the proposed new political relationships with the United States.

Other than to answer questions that may arise, all we can do once the bill is signed into law is await the news of what those momentous decisions are. Our role in the process, at least for now, will have been completed, and the decisions will rest—as they should—with the peoples of the Federated States of Micronesia and the Marshall Islands. I am confident that whatever their decision may be, they

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will retain our good will and sincere concern for their future.

Mr. Speaker, before us today we have a revised version of House Joint Resolution 187, the Compact of Free Association, the document which sets forth a new political relationship between the United States and the Micronesian governments of the Federated States of Micronesia and the Marshall Islands. This bill contains some changes from the version that passed the House on July 25, 1985 and the Senate on November 14, 1985. I would like to address some of these changes at this time and make further comment on various sections of the legislation.

MARSHALL ISLANDS LAND-TITLE QUESTIONS

The House bill directed the President to negotiate an agreement with the Government of the Marshall Islands to assure continued use of lands on Ujelang and Ejit by people formerly resident on Enewetak and Bikini, without prejudice to any claims as to title to the lands involved. At the request of the Enewetak people, all references to Ujelang have been removed from that subsection.

KWAJALEIN PAYMENTS

The Congress has long been deeply concerned about the displaced Kwajalein people living on Ebeye. The United States removed these people from their islands in Kwajalein Atoll in order to use the land for military purposes. In the Compact of Free Association, the United States has provided funds to pay the Kwajalein people for use of their land and to continue to help improve the conditions on Ebeye.

Subsection 103(d) deals with the payments to be made to the landowners of Kwajalein Atoll. The House-passed language has been revised. With this new version, Congress declares that it is United States policy that payment by the Government of the Marshall Islands to the landowners of Kwajalein Atoll, as contemplated by the land use agreement dated October 19, 1982, and the related allocation agreements, is required to ensure that the Government of the United States will be able to fulfill its obligations and responsibilities under title 3 of the compact.

The land use agreement referred to in paragraph 103(d)(1) is the land use agreement between the Kwajalein Atoll Corporation and the Government of the Republic of the Marshall Islands, dated October 19, 1982.—Note: The Marshalls Cabinet ratified this agreement on November 16, 1982. The land use agreement provides that the following compact funds, paid by the United States for use of the land on Kwajalein Atoll for military purposes, shall be paid by the Government of the Marshall Islands to the recipients specified in the land use agreement pursuant to the provisions of such agreement:

Initial 15 years.—During the period of 15 years after the effective date of the compact, annual payments of:

(i) $1,900,000 as specified in section 213(a) of the compact;

(ii) $7,100,000 to be charged against the total amounts to be paid by the United States specified in section 211(a) of the compact; and

(iii) such adjustment for inflation as may be made to the amount specified in clause (ii) of this subparagraph, pursuant to section 217 of the compact.

15 years.—On the date 15 years after the effective date of the compact, the sum of $2,500,000, as provided in the United States-Marshall Islands Military Use and Operating Rights Agreement [MUORA], in consideration of the right of the United States under such agreement to elect whether such agreement is to remain in effect during the period after the date 15 years after the effective date of the compact.

The land use agreement covers not only the initial 15-year term of the compact, but also covers the second 15-year period of the MUORA, in the event that the United States exercises its option to extend the MUORA for a second 15 years.

The related allocation agreements referred to in paragraph 103(d)(1), of which there are two, establish who is the senior interest holder of each land interest in each veto. While there may be a change in who is the senior interest holder by reason of death, in no event shall the related allocation agreements reduce the amount paid to the Kwajalein landowners.

The subsection provides that if the government of the Marshall Islands fails to make the required payments, the United States shall initiate procedures under section 313 of the compact. When the United States thereby determines that the government of the Marshall Islands has materially breached the compact, the United States shall take all steps necessary, including—but not limited to—withholding funds, to ensure that the government of the Marshall Islands makes payments pursuant to this subsection.

The subsection also authorizes the President to make loans and grants to the government of the Marshall Islands only for use by the Kwajalein Atoll Development Authority for the benefit of the Kwajalein landowners. It is implicit in this section that any failure on the part of the government of the Marshall Islands to make prompt request of the President or to make prompt payment of loan funds to the Kwajalein Atoll Development Authority would be of grave concern to the Government of the United States, because such a failure would be contrary to the intent of Congress in including the loan authorization provision in this subsection. Accordingly, the Congress expects that the appropriate U.S. officials would act vigorously to prevent or remedy any such obstacles to smooth implementation of this subsection, as in the case of any failure to make required payments, and thus to fulfill their responsibilities under the law.

SECTION 177 AGREEMENT

Section 103(e)(5) requires an annual report to be transmitted by the Marshalls government to the Congress regarding all actions of the fund manager in connection with the section 177 agreement. It should be noted here that the Congress fully expects such annual report to include the entire fund manager's report, not sim
excerpts from it.

ESPOUSAL

The House bill included language exp
itly providing for tolling of the statute
limitations for the period between the
fective date of the compact and any sub
quent determination by a U.S. court t
the espousal provisions, that is, article X
the section 177 subsidiary agreement
invalid as a matter of international law
for any other reason. The revised vers
omits this, since it is generally agreed t
existing laws and judicial procedu
ensure that tolling of the statute of lim
tions would occur under such circu
stances. The House bill also included l
guage specifying that should article X
the section 177 subsidiary agreement
held invalid, article XII of that agreem
would have no effect; while this langu
has been somewhat revised, the new v
sion is to the same effect. The new l
guage is intended to make it clear t
court-stripping provisions of article XII
the section 177 agreement have no in
pendent force or effect and their sole fu
tion is to implement the provisions of a
cle X. Thus, if article X is valid, espou
stands; and if article X is invalid, cla
covered by the espousal provisions
remain justiciable in U.S. courts, regard
of article XII.

RADIOLOGICAL HEALTH CARE PROGRAM

While the language for this section
mains essentially the same as it was w
it passed the House (except that "in con
tation with" has been changed to r
"upon the request of" the Government
the Marshall Islands), we would just lik
comment on a few minor changes as
as reiterate some important points we m
when the legislation was before the Ho
on July 25.

The requirement that the Secretary
Energy, who has heretofore been respo
ble for the program, shall be the one
continue to provide the special med
care and logistical support for the rema
ing 174 members of the exposed populat
of Rongelap and Utirik has been chang
The President, either through an appro
ate department or agency of the Un
States or by contract with a U.S. firm,
now be responsible for carrying out
mandate. This does not preclude the Pr
dent from choosing the Department
Energy, if that is the President's wish,
certainly that is where the expertise
personnel are located.

However, there has been no change w
soever in the substance of this subsect
which recognizes the continuing respo
bility and obligation of the U.S. Gov
ment to directly fund this special he
care program, as it has done for s
years now, for the first 11 years of
compact. Then, as we said on July 25,
lowing is how the funding will pro
from there:

At the end of the 11 years, funding fo
continuation should come from section
article II, of the subsidiary agreement to
plement compact section 177 unless the

Congress extends the Department of Energy program.

At the end of the 15-year period when section 177 of the compact ends, it is expected that both the four atoll health care program, which provides primary, secondary and tertiary care for the peoples from the four atolls as well as their descendants, and the Department of Energy special medical program for the fallout victims from Rongelap and Utirik will continue to be funded indefinitely from the trust fund being build up by the fund manager. That is why it is important that the money provided under the subsidiary agreement be allowed to remain in the trust fund with the fund manager until such time as the John Short program expires. Congress did not intend to have two programs providing the same services to the same people at the same time, and certainly it would be in the interests of the Marshall Islands to instruct the fund manager to avoid such needless expenditures by delaying disbursements for this purpose until the present contract runs its course.

In other words, we believe the 174 remaining persons who were exposed to radioactivity as a result of the 1954 U.S. thermonuclear test are entitled to special lifetime medical care provided by the United States and we believe the language we have added to the compact will ensure that this U.S. responsibility is met.

AGRICULTURAL AND FOOD PROGRAMS

This subsection commits the U.S. Government to continue to provide for 5 years after the effective date of the compact, without reimbursement, the planting and agricultural maintenance program on Enewetak, the food programs as described for the Bikini and Enewetak people, and the waterborne transportation of agricultural products to Enewetak, including operations and maintenance of the vessel used for such purposes. A change in this hopefully final version gives the President the authority to select the appropriate U.S. department or agency to handle the programs or to contract with a U.S. firm. Before the 5-year period has expired, as we noted at the time of House passage of the compact, it is the intent of the Congress that the U.S. Government reexamine the food situation as regards these programs and determine if they should be continued and if so, for what period of time.

The other change from the July House-passed bill is that like the previous section, the words "in consultation with" have been replaced by "upon the request of" the Government of the Marshall Islands. We include in the CONGRESSIONAL RECORD letters to me, to the Secretary of the Interior and to the Secretary of State that are in effect formal requests from the Marshalls government asking that this agricultural/food planting program as well as the radiological health care program—both in 103(h) of House Joint Resolution 392—both be continued in the Marshall Islands on a nonreimbursable basis once the compact is enacted.

FOUR-ATOLL HEALTH CARE PROGRAM

While there are some very minor changes in the House-passed bill regarding the Four Atoll Health Care Program, the basic thrust of the earlier language remains. This subsection continues to stipulate that the health services provided by the U.S. Public Health Service or any other U.S. agency pursuant to section 1(a) of article II of the agreement for the implementation of section 177 to the compact shall be only for services to the people of the Atolls of Bikini, Enewetak, Rongelap, and Utirik who were affected by the consequences of the United States nuclear testing program . . . and their descendants (and any other persons identified as having been so affected if such identification occurs in the manner described in such public laws.

As we stated on the House floor on July 25, 1985, prior to House passage of House Joint Resolution 187, while the current contract between the Department of the Interior and the firm of John Short & Associates to establish and operate a health care program for the people from these four atolls runs, Congress does not expect the Marshalls government to seek any use of the funds from section 1(a) since that would simply be duplicating what is already provided for under the contract.

In other words, while the contract is in effect between the Interior Department and John Short & Associates it is assumed that the funds available under section 1(a), that is, $2 million annually, will remain in the fund earning interest as spelled out in 103(j)(3). This is critical to the future funding of health care for the people from the four atolls because it is this fund that must provide the money to pay for the Four Atoll Health Care Program not only after the John Short contract expires but after the 15-year period of the compact ends. It is also this fund that must provide the funding for the Radiological Health Care Program after the 11 years provided for in 103(h)(1). Otherwise neither of these two vital health programs can be assured of funding beyond a certain point unless Congress takes some action. Congress has always intended that these programs should continue for as long as they are needed and to this end it intends that these should be funded from the moneys built up over the years in the fund established under section 1(a) of article II of the agreement for the implementation of section 177.

These two health care programs will continue to be of great interest to the appropriate Congressional Committees.

ENJEBI COMMUNITY TRUST FUND

Section 103(k) of the joint resolution provides a trust fund for the resettlement of Enjebi, the island in the northern part of the Enewetak Atoll which was ground zero for many of the nuclear tests conducted by the United States on Enewetak in the 1940's and 1950's. Enjebi, and the nearby islands, are the only part of Enewetak which have not been resettled as part of the cleanup and rehabilitation of the atoll undertaken by the United States in the late 1970's. Enjebi's resettlement is one of the major items of unfinished business on the books of the United States administration of the Marshall Islands affected by the nuclear testing program. Resettlement has been postponed because of concern about radioactive contamination. For that reason both the Carter and Reagan administrations, the committees of Congress that have considered this legislation, and the government of the Marshall Islands have supported the creation of a trust fund, to be funded by the United States, to assure that money to pay for resettlement is available when it is determined that it is safe to resettle Enjebi.

To this end, the House Appropriations Committee included $2.5 million of the $10 million needed for this purpose in the Interior Department appropriation bill for fiscal 1986. The remaining $7.5 million is provided in this section. The expectation of the Congress is that prudent investment of the fund will enable it to keep pace with inflation and provide an adequate fund for the resettlement project at such time as it is deemed to be safe to resettle Enjebi.

Up until now, the United States has dealt directly with the people of Enewetak on matters relating to the resettlement of Enewetak. With the passage of the compact, that relationship must necessarily change. To that end this version recognizes an oversight role for the government of the Marshall Islands in the resettlement.

It is the intent of Congress that the United States is and will remain morally, if not legally, responsible for the cleanup. To that end, it is noted that the Marshall Islands government has assured the Congress that it supports the resettlement project and will take all the steps called for in the resolution to bring it about. Specifically, the Congress has been assured that upon receipt of a request from the Enewetak Local Government Council and the people of Enjebi, the government of the Marshall Island will ask the United States to conduct the radiation monitoring survey called for in subsection 103(k)(2). The government of the Marshall Islands has assured the Congress that it will request the release of the trust funds in accordance with the procedure set forth in subsection 103(k)(2) upon the request of the Enewetak Local Government Council and the people of Enjebi.

With these assurances, we have approved the approach as set forth in this section to the cleanup and rehabilitation of this U.S. nuclear testing site. While we foresee no problems in the implementation of the arrangement, we wish to assure the government of the Marshall Islands, the Enewetak Local Government Council, and the people of Enjebi that the relevant committees of Congress will follow the progress of the resettlement and use their good offices to help resolve any problems that arise in its implementation.

BIKINI ATOLL CLEANUP

This provision is intended to implement with Federal legislation the terms of the settlement agreement of March 13, 1985 in the lawsuit entitled *The People of Bikini, et al.* v. *United States of America, et al.*, Civ. No. 84-0425 (D. Ha.).

As set forth in the settlement agreement in *The People of Bikini* v. *United States*, these funds shall be made available upon completion of the following events:

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First, the submission of a final report to the Congress of the United States by the Bikini Atoll Rehabilitation Committee.

Second, the acceptance by the people of Bikini of the final report and conclusions of the Bikini Atoll Rehabilitation Committee.

Third, the development of a plan by the United States, in consultation with the people of Bikini, for the use of the funds to be provided by the United States for the resettlement of Bikini Atoll by the United States in accordance with article VI of the compact section 177 agreement and approval of the plan by the people of Bikini in the context of their agreement to resettle Bikini Atoll. This plan shall, to the maximum extent relevant and practicable, incorporate material from the final report of the Bikini Atoll Rehabilitation Committee, and the United States shall expeditiously complete the plan following submission of a final report to the Congress of the United States by the Bikini Atoll Rehabilitation Committee.

It is the intention that the Government of the Marshall Islands should play a consultative role in this project, since it has certain authority and responsibility under article VII of the compact section 177 agreement for controlling the utilization of areas in the Marshall Islands affected by the Nuclear Testing Program. This is the same as the authority and responsibility of that Government as recognized elsewhere in the compact and deriving from the constitution of the government of the Marshall Islands.

The Bikini/Kili/Ejit Local Government Council, however, is a duly established local government under article IX of the constitution of the government of the Marshall Islands, and, as such, has authority, under article IX, section 1(2) of the constitution that "extend[s] to the sea and the seabed of the internal waters of (Bikini Atoll) and to the surrounding sea and seabed to a distance of 5 miles from the baseline from which the territorial sea of (Bikini Atoll) is measured."

The settlement agreement terminating the cleanup lawsuit refers to the "rehabilitation and resettlement of Bikini Atoll by the people of Bikini," and provides that the United States shall provide funds "to assist the people of Bikini in their resettlement of Bikini Atoll." These words were chosen deliberately by the Bikini people and the representatives of the U.S. executive branch to underscore the desire of the Bikini people that they be actively involved in the cleanup and rehabilitation of their homeland. The intention is that in order for the cleanup and resettlement of Bikini to be successful, the people of Bikini themselves must play an active and direct role. Bikini is, after all, their homeland, and they should have the ultimate say concerning their resettlement. In keeping with this concept, the understanding is that the funds will be appropriated to the Bikini/Kili/Ejit Local Government Council through a trustee, selected by the council, that meets the requirements of section (a) of the Agreed Minute to the compact section 177 agreement that refers to the people of Bikini, that is, a U.S. investment manager with substantial experience in the administration of trusts and with funds under management in excess of $250 million.

The cleanup and resettlement will be conducted by a project manager—general contractor, selected by the Bikini/Kili/Ejit local government council and subject to the approval of the Department of the Interior. The general contractor will be responsible for the entire program, and will have control over development and execution of the program, which shall be formally agreed to by the Bikini people through the local government council. The contract should be executed in the United States, and be subject to U.S. contract law. The flow of funds to the trustee and the general contractor from the Department of the Interior should be regulated by a contract among these three parties, and the usual auditing and inspection procedures relating to fiduciary responsibility should apply. The DOI-general contractor-trustee contract should explicitly state that the United States shall not be liable as a result of these expenditures.

The Congress believes that an Advisory or Senior Scientific Committee should also be formed to advise the Congress and any Government agency involved on the general contractor's progress in developing and executing plans for protective action and rehabilitation of soil, water, and vegetation. There should be frequent communication of the Advisory Committee with the general contractor and the Bikini people, and an annual, or more frequent, formal review with them. It would seem reasonable that some or all of the membership of the Bikini Atoll Rehabilitation Committee should serve on this Advisory Committee, at least on an interim basis. The Advisory Committee should be prepared to report at least annually to the congressional Appropriations Committees on the progress of the Rehabilitation Program, and to recommend further courses of action it deems necessary to complete this effort successfully.

The general contractor should also send copies of its regular reports to the government of the Marshall Islands, and should consult with that government on the progress of the cleanup and resettlement consistent with its responsibilities under article VII of the compact section 177 agreement.

Although the cleanup and resettlement of Bikini Atoll will not be conducted by the Federal Government, it will be paid for with Federal funds. Thus, although the cleanup and resettlement project will be the responsibility of the general contractor, working with the Bikini people, the development of this plan should be coordinated with the executive branch so that it can, in turn, develop a plan to submit to the Congress for the appropriation of such funds under the third condition of the settlement agreement, which requires the executive branch to "develop * * * a plan * * * for the use of the funds. * * *"

U.S. FUTURE RELATIONS WITH THE FSM AND TH
MARSHALL ISLANDS

Some changes have been made in earl
language that spell out which Departme
of the U.S. Government in future will be
charge of various matters with the Fede
ed States of Micronesia and the Marsh
Islands once the trusteeship is terminat

The President's representatives to
freely associated states will be under
jurisdiction of the Department of St
and responsible for government-to-gove
ment relations, that is, issues involving
international affairs of the FSM and
Marshalls and consular issues involv
citizens of the Micronesian governments
the United States. The new language
flects the fact that once the trustees
agreement is terminated, such Presiden
representatives, as is the case in U.S. d
ings with foreign countries, will head
the teams that go into the Micronesian
tions.

The Department of the Interior would
responsible for all compact and other
nancial assistance provided by the Gov
ment of the United States, as well as
Federal program assistance. Any funds
propriated to the Interior Secretary s
not be allocated to other Departments
agencies. Nothing in this section is inte
ed to restrict the Secretary of Defense f
carrying out the responsibility of the
partment of Defense under the com
legislation.

Finally, the section authorizes the es
lishment of an interagency group on fr
associated states' affairs. While this m
is discretionary authority, there is a m
datory requirement that if the Presi
does establish such a group, it must inc
the Secretaries of State and the Inte
among its membership. This statutory
quirement of course, takes precedence
any existing executive directives insofa
such interagency group would deal
these areas of Micronesia.

DOMESTIC PROGRAM REQUIREMENTS

This provision provides that all U.S.
eral programs and services provided to
Federated States of Micronesia and
Marshall Islands will remain subject to
applicable criteria, standards, reportin
quirements, auditing procedures, and
rules and regulations that are applicab
the United States—including its territ
and commonwealths. For example, a
stated earlier in the House Interior r
on the compact legislation—House R
99-188, part 2, this means that his
preservation programs provided unde
substitute shall continue to be subje
the requirements of sections 106 and 1
the National Historic Preservation
thus all properties of significance in
history, prehistory, archeology, and cu
of the two Micronesian areas will con
to be eligible for inclusion in the Nat
Register of Historic Places, and tha
Advisory Council on Historic Preserv
will promulgate guidelines to assist Fe
agencies in carrying out their prog
and services with sensitivity for the

tional cultures of the Federated States of Micronesia and the Marshall Islands.

CONTINUING PROGRAMS AND LAWS

This subsection provides that the Public Health Service, Legal Services Corporation, and the Farmers Home Administration Programs will continue to be available to the Federated States of Micronesia and the Marshall Islands upon request. The subsection authorizes extension of the Farmers Home Administration Program to the State of Kosrae in the Federated States of Micronesia and program expansion as appropriate. The United States would provide nonreimbursable technical assistance in management of the portfolio.

FEDERAL EDUCATION PROGRAMS

This subsection—105(i)(2)—does not duplicate but is in addition to the Land Grant Program which is specifically authorized under paragraph 105(i)(1) and also in addition to the postsecondary education assistance for current recipients provided for under section 223 of the compact.

TORT CLAIMS PROVISIONS

Included in section 105(h) are some provisions dealing with tort claims which may be asserted in Micronesia both before and after the compact goes into effect:

Language is included to make it clear that the provisions of section 178 of the compact, relating to settlement and payment of tort claims, apply to all nonmilitary Federal employees and contractor personnel who provide services or carry out nondefense functions in the Federated States of Micronesia and the Marshall Islands under the terms of the compact or other relevant provisions of this joint resolution. This part of the language of course cannot take effect until the compact takes effect.

Further, language is included which provides that persons providing services in connection with the Four-Atoll Health Care Program—as described in relevant public laws and section 103(j) of this joint resolution—under contract with a Federal agency shall be considered Federal employees working in the United States for purposes of the Federal Tort Claims Act. The significance of this is that claims against such persons which meet the requirements of that act may be brought against the United States to the same extent as if such contractor personnel were Federal employees working in the United States. This provision terminates when the trusteeship agreement is terminated with respect to the Marshall Islands.

TRUST TERRITORY DEBTS TO U.S. FEDERAL AGENCIES

This subsection provides that the Micronesian governments not be responsible for any of the debts incurred by the government of the Trust Territory of the Pacific Islands. This therefore seems to be the appropriate place for us to comment on some other kinds of debts, that is, debts that have been incurred by Micronesian governments to individuals and firms in the United States.

One such debt owed by the Marshall Islands government to some individuals and companies in Hawaii surfaced at our September 1984 hearing on the compact. Since that time, we have been assured by various officials of the Marshall Islands government that steps are being taken to address this debt.

Another debt, this time a medical debt owed to a Maryland doctor and a Maryland hospital for the care provided a Truk patient in a medical emergency, has been brought to our attention. Despite inquiries from a variety of sources, to our knowledge there has been no response on the part of the Truk government to this outstanding debt. And we further understand that this debt of almost $3,000 may be but a tiny percentage of the overall debt owed by the Truk government to firms and individuals in the United States.

Certainly the Congress does not condone or forgive any outstanding debts that any Micronesian governments may owe in the United States—with the exception of certain medical ones spelled out in the amendments to the compact, and it is fully expected that the Micronesian governments who owe money for goods or services provided them shall use available funds, including compact funds, to pay such debts in a manner and at a speed that will satisfy their creditors.

TECHNICAL ASSISTANCE

This subsection clarifies that under section 226 of the compact, any U.S. Government agency which has statutory authority to provide technical assistance to States, territories or units of local government of the United States or on an international basis, is authorized to provide such technical assistance to the Federated States of Micronesia and the Marshall Islands upon request. Technical assistance is to be provided to these governments on either a reimbursable or nonreimbursable basis, in accordance with the law authorizing technical assistance, except as otherwise specifically provided in the compact, its subsidiary agreements or this joint resolution. In view of the need of these Micronesian governments for a broad range of technical assistance, special consideration should be given to granting technical assistance on a nonreimbursable basis. Grant programs under the National Historic Preservation Act shall be available upon request of the governments of the Federated States of Micronesia and the Marshall Islands. The Coast Guard is authorized to continue providing search and rescue services and assistance in establishing, operating, and maintaining civilian aids to navigation.

MICRONESIAN WAR CLAIMS

The section providing that the remaining $24.1 million owed the Micronesians in war claims has been removed. The other body declined to direct that final payments be made until it had seen evidence that the Japanese Government had indeed provided at least half of the amount owed in grants or goods and services to the Micronesian governments. It was therefore agreed that language directing the Secretary of the Interior to report to the Congress by a date certain on the total amount of assistance provided by the Government of Japan to either the government of the Trust Territory of the Pacific Islands, the Federated States of Micronesia, the Marshalls or Palau on or since the date of enactment of Public Law 95-134 should be enacted in separate legislation. If the total exceeds half of the $24.1 million owed, as is expected, the U.S. Government would then act to see that the Micronesians were compensated in full for all adjudicated claims and final awards made by the Micronesian Claims Commission pursuant to the Micronesian Claims Act of 1971.

PRIOR SERVICE BENEFITS

It is the responsibility of the United States to provide the money, whether it is done on an annual basis or whether a trust fund is established, from which payments can continue to be made to those individuals who are under the Prior Service Benefits Program established within the Social Security system of the Trust Territory of the Pacific Islands because of their services performed for the U.S. Navy or the TTPI government prior to July 1, 1968. The funding of the Prior Service Benefits Program, after the compact goes into effect, continues to be the responsibility of the United States, not the Micronesian governments, and this subsection reflects that ongoing responsibility.

INDEFINITE LAND USE PAYMENTS

Under this subsection, the U.S. Congress can appropriate money to complete repayment by the United States of any debts owed by the United States for the use of various lands in the Federated States of Micronesia and the Marshall Islands prior to January 1, 1985. No debts incurred by any government other than that of the United States are covered by this subsection. The $2 million limitation on the funds has been removed.

COMMUNICABLE DISEASE CONTROL PROGRAM

It is the intent of Congress that the money available under this subsection for establishing or continuing programs to control and prevent communicable diseases in the Federated States of Micronesia is over and above any other health programs or health services provided for in the Compact of Free Association, its subsidiary agreements and under this resolution.

LIMITATIONS

The House language was revised so as to apply the provisions of the Ethics in Government Act to the same specified group of Federal employees for 3—rather than 5—years after they leave Federal service.

COMPENSATION PACKAGE

Because there have been changes in the compact's trade and tax provisions as were negotiated between the U.S. Government and the governments of the Federated States of Micronesia and the Marshall Islands, a so-called compensation package has been added to the legislation. However, some changes have been made from the Senate version because it was not known at the time the Senate acted on the compact what was likely to be the final version of the tax and trade provisions. Since we now have a better idea of what those may be,

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the package has been adjusted to reflect that.

PALAU COMPACT

In the section on the Palau compact, Congress expresses its approval in principle of the Palau compact that was signed on May 23, 1984. However, it is made quite clear in the legislation that a compact with Palau shall only take effect after: first, it has been transmitted to Congress by the President; second, the President has certified to the Congress that Palau has approved a compact in accordance with the process spelled out in section 411 of the compact, and that the President has determined that the United States will be able to carry out fully its rights and responsibilities under title 3, the security and defense relations section of the compact, and the related subsidiary agreements; and third, Congress has enacted a joint resolution approving a Palau compact and providing for its implementation.

It is important to note that the President has not yet transmitted a proposed compact between the United States and Palau for congressional consideration. Until such a transmittal occurs, and until Congress has reviewed and approved—either with or without any changes which Congress may determine necessary in light of circumstances which may prevail at the time of transmittal and consideration—there cannot be final approval of any compact with Palau. If and when such a transmittal occurs, the Congress will, or course, have to examine a proposed compact so transmitted with care and respect, but its approval is not assured until final congressional action is completed.

REPUBLIC OF THE MARSHALL ISLANDS,
Marshall Islands, December 10, 1985.
Hon. JOHN F. SEIBERLING,
Congressman from Ohio, House of Representatives, Washington, DC.

DEAR MR. SEIBERLING: On behalf of President Amata Kabua and the people and the Government of the Marshall Islands, I wish to express to you our deep appreciation for your efforts to secure continuation, upon termination of the Trusteeship Agreement and implementation of the Compact of Free Association, of the DOE radiological health care program for certain people of Rongelap and Utrik and continuation of the USDA agricultural and the food programs for the people of Bikini and Enewetak.

In this connection, I hereby request on behalf of President Amata Kabua and the Government of the Marshall Islands that such programs (as described in Section 103(h) of H.J. Res. 392) be continued upon enactment of H.J. Res. 187, or other legislation, to facilitate termination of the Trusteeship Agreement and implementation of the Compact of Free Association, and pursuant to Section 224 of the Compact and the Federal Programs and Services Agreement (subsidiary to the Compact). I shall send an identical request on this same date to George P. Shultz, Secretary, Department of State, and Donald Hodel, Secretary, Department of the Interior.

Upon termination of the Trusteeship Agreement and implementation of the Compact, any United States assistance provided to the people of the Marshall Islands can only be provided with the approval of, and through, the Government of the Marshall Islands in accordance with our Constitution.

Thank you for your support in this matter.

Sincerely yours,
TOM KIJINER,
Minister of Education.

REPUBLIC OF THE MARSHALL ISLANDS,
Marshall Islands, December 10, 1985.
Hon. GEORGE P. SHULTZ,
Secretary, Department of the State, Washington, DC.

DEAR MR. SECRETARY: On behalf of President Amata Kabua and the Government of the Marshall Islands, I hereby request that, upon enactment of H.J. Res. 187, or other legislation, to facilitate termination of the Trusteeship Agreement and implementation of the Compact of Free Association, the United States Government, on a non-reimbursable basis, continue the DOE radiological health care program for certain people of Rongelap and Utrik and continue the USDA agricultural and the flood programs for the people of Bikini and Enewetak, as described in Section 103(h) of H.J. Res. 392.

I have informed Congressman John F. Seiberling, Chairman of the Public Lands Subcommittee in the House of Representatives, that I am making this request as of this date.

Sincerely yours,
TOM KIJINER,
Minister of Education.

REPUBLIC OF THE MARSHALL ISLANDS,
Marshall Islands, December 10, 1985.
Hon. DONALD HODEL,
Secretary, Department of the Interior, Washington, DC.

DEAR MR. SECRETARY: On behalf of President Amata Kabua and the Government of the Marshall Islands, I hereby request that, upon enactment of H.J. Res. 187, or other legislation, to facilitate termination of the Trusteeship Agreement and implementation of the Compact of Free Association, the United States Government, on a non-reimbursable basis, continue the DOE radiological health care program for certain people of Rongelap and Utrik and continue the USDA agricultural and the food programs for the people of Bikini and Enewetak, as described in Section 103(h) of H.J. Res. 392.

I have informed Congressman John F. Seiberling, Chairman of the Public Lands Subcommittee in the House of Representatives, that I am making this request as of this date.

Sincerely yours,
TOM KIJINER,
Minister of Education.

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Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, on March 30, 1984, President Reagan first submitted a proposed joint resolution approving the compact of free association between the United States and two constitutional governments in the Trust Territory of the Pacific Islands. I am referring, of course, to the federated states of Micronesia and the Republic of the Marshall Islands.

The administraton's proposed compact was resubmitted to this Congress on February 20, 1985. In all, this agreement has been the subject of
hearings conducted by two subcomm
tees and three full committees of t
House. In addition, the Members a
staffs of the House Foreign Affa
Committee and Interior and Insu
Affairs Committee have spent
counted hours working with concern
Senate leaders and their represen
tives to produce a final package th
meets the requirements of this C
gress, and which also enjoys the s
port of the Micronesian Governme
and the administration.

In this process we have enjoyed
high level of bipartisan cooperati
and I would be remiss if I did not t
the time to acknowledge the dedi
tion of Chairman FASCELL, Chairm
UDALL, Mr. SEIBERLING from Ohio,
SOLARZ from New York, Mr. LEACH
Iowa, Mr. YOUNG of Alaska, Mr. B
of Guam as well as several others
connection with our successful effo
to produce legislation approving
compact in a manner consistent w
our national interest. I want to
thank the members of the staff, es
cially my staff consultant, Man
Mansur, who has only been work
on this very complex legislation s
May 20, 1985.

I also want to commend the effo
of Ambassador Zeder Jim Burge
Howard Hill. The explanation for
extraordinary effort is that the c
pact fulfills our solemn national c
mitment under the 1947 trustees
agreement to foster self-governm
for the Peoples of Micronesia.
compact will also ensure that
United States strategic posture in
central and western Pacific will no
eroded regardless of other regional
velopments. In addition to establish
long-term mutual security relat
ships based on congressional requ
ments articulated to the adminis
tion during the negotiations, the c
pact secures long term military ope
ing rights and base rights vital to
national security including the us
Kwajalein missile testing range—a
cility essential to the MX Prog
and the Strategic Defense Initia
Technology Research Program.

Mr. Speaker, it has been over 2 y
since the compact was approved by
People of Micronesia in unobse
plebiscites. The elected leaders
these two constitutional governm
have also approved the agreeme
and in so doing have made the
important political commitment
their lives. They have decided
become long-term partners with
United States in our national def
economic and political program in
Pacific Basin. To ensure that this
mitment on their part will be rew
ed with success, I urge that this
gress complete the United States
proval process for the compact w
out further delay.

Mr. Speaker, I yield such time as he may consume to the gentleman from Iowa [Mr. Leach].

Mr. LEACH of Iowa. Mr. Speaker, I rise in support of the amendment offered by the gentleman from Ohio [Mr. Seiberling] to House Joint Resolution 187.

As noted in the debate during House consideration of House Joint Resolution 187 last July 25, 1985, the Compact of Free Association between the United States and the two entities of the Trust Territory of the Pacific—the Federated States of Micronesia and the Marshall Islands—represents the fulfillment of the obligations of the United States to the residents of the trust territory to grant them the right of self-determination. The compact not only recognizes the new status of these island states but also helps to protect important U.S. national security interests in the Pacific, such as the operation of the Kwajalein missile range in the Marshall Islands.

The amendment before us today—which is a substitute for both the House-passed and Senate-passed versions of this bill—is the product of extensive discussions with the representatives of the freely associated states and the administration as well as Members from both sides of the aisle. The significant diminution by the House and Senate of the tax and trade benefits originally provided for in the compact has required us to come up with an adequate benefit package to offset the losses implicit in those changes in the compact. The compensation package in the bill before us provides for $30 million in full faith and credit funds, the extension of certain development oriented Federal programs such as the programs of the Small Business Administration and Commerce Department programs on tourism and marine resource development, and authorizes some additional assistance in the future if there is a sufficient showing that the changes in the compact have had an adverse impact on the freely associated states.

It is my hope that the investment development funds to be set up under this arrangement will effectively attract investors from the U.S. private sector to initiate some investment in these islands. It is my feeling that the full faith and credit status of the $30 million in funding is essential to guarantee that the freely associated states will receive cash compensation for the loss of tax and trade benefits. The United States ought to be generous in extending the kinds of assistance to the freely associated states which will promote genuine development and economic growth rather than continued dependency.

I am pleased to note that the administration supports the legislation in its current form. The chaos and divisions which have marked the administration's involvement in this complicated and important legislative initiative have at long last been put aside.

To our friends in the freely associated states of the Marshall Islands and the Federated States of Micronesia, congratulations are due. Another major step forward in the eventual termination of the UN trusteeship and the achievement of self-rule has been accomplished. Micronesia and the United States will be partners in a new way upon enactment of this legislation and the implementation of the terms of the compact.

Congress has a responsibility to accord these two freely associated states the courtesy and dignity which are their due and this legislation is designed to achieve this end. We stand ready to be friends and allies with the people of the freely associated states on a new and equal basis, leaving behind the old trustee-ward relationship which predates the exercise in self-determination which has taken place in the FAS.

Finally, Mr. Speaker, I want to commend my colleagues on the committee Mr. Solarz and Mr. Lagomarsino, as well as our colleagues on the House Interior Committee, Mr. Udall and Mr. Seiberling. The legislation before us represents an extraordinary effort to accommodate the concerns not only of the Congress but of the representatives of the FSM and the Marshall Islands, as well as the administration. I urge my colleagues to give this legislation their full support.

Mr. LAGOMARSINO. Mr. Speaker, I yield such time as he might consume to the delegate from Guam [Mr. Blaz].

Mr. BLAZ. Mr. Speaker, I rise in strong support of the document, the Compact of Free Association, and also rise to urge my colleagues to support it. This has been a very enlightening experience for me to have participated, however lightly, in this document because I have seen the performance of the leadership on the majority side, the gentleman from Arizona [Mr. Udall], the gentleman from Ohio [Mr. Seiberling], the gentleman from New York [Mr. Solarz], the gentleman from Florida [Mr. Fascell], and of course the minority side as well in perfecting a document that has such a very important significance to our country.

The whole world is viewing the Pacific as the way for the future for the United States and the world. And as we enter this era which has been described as the century of the Pacific, I think it is important for us to note that we are about to approve a document that would ensure our continued presence in that part of the world.

As a man of the Pacific myself that is going to be affected by this very much, I have been impressed by the amount of work that has been done. I also am impressed by the performance of the individuals involved, and without belaboring the point, I would like to make one last appeal to my colleagues to approve this document.

If I were able to vote, Mr. Speaker, I would vote resoundingly in favor of this document.

Mr. Speaker, we have the power here today to write the final chapter in the history of the only international trusteeship the United States has ever assumed.

Forty years ago our Nation undertook a sacred trust for the war-ravaged people of Micronesia. We pledged to the world to be the guardians of these far-flung Pacific Islands. We vowed to protect, nurture, and guide the Micronesians into the community of nations.

Under our trusteeship, the islands of Micronesia have undergone reconstruction, the lives of the people have been replenished, and their constitutional governments have been established.

After four decades of preparation as wards of the United States, the Micronesians have come of age and are ready and eager to take their rightful place in the community of nations.

The Compact of Free Association before us today is a unique and historic document that establishes the fundamental political relationship between the American people and the Micronesians. It fulfills our Nation's international responsibility and national commitment to prepare Micronesians for self-government. The pact secures and protects our Nation's strategic interests in a vital region of the Pacific Basin.

This document will stand as an American legacy to the Micronesians and the world. We have the opportunity today to participate in a historic event by voting to approve the compact. By doing so, we will demonstrate to the world and to posterity that we have lived up to our obligation and our sacred trust, befitting a nation recognized as the champion of freedom throughout the world.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself a minute before yielding back my time to again commend the gentleman from Guam [Mr. Blaz]. He has been very helpful and very responsible and very positive in his dedication to this process, and he has made a tough job easier than it would have been.

I also want to commend our colleague from Nebraska [Mr. Bereuter], who although not a member of the Interior and Insular Affairs Committee any more, was very interested when he served on that committee, and as a member of the Foreign Affairs Committee has made valuable contributions to this effort.

Mr. Speaker, I yield back the balance of my time.

Mr. SEIBERLING. I yield such time as he may consume to the gentleman from Florida [Mr. Fascell].

Mr. FASCELL. Mr. Speaker, I rise in support of House Joint Resolution

187, as amended, to approve the Compact of Free Association.

I would just take a moment to pay my respects to the leadership in the many committees that had to work so tirelessly and so long on this legislation, the Committee on Ways and Means, the Committee on Merchant Marine and Fisheries, and others, and particularly would like to pay my respects to the gentleman from Ohio [Mr. Seiberling] and the gentleman from Arizona, [Mr. Udall] who have taken the lead on this. And a special note to my colleague from New York [Mr. Solarz] of the Foreign Affairs Committee, and the minority Members who have worked so hard. This has broad bipartisan support and this approval is long overdue and it is needed expeditiously.

I would hope that we would get a strong vote, a unanimous vote in this House for this resolution.

Mr. SEIBERLING. Mr. Speaker, I yield 4 minutes to the gentleman from Illinois [Mr. Rostenkowski] chairman of the Committee on Ways and Means.

Mr. ROSTENKOWSKI. Mr. Speaker, I rise in support of this amendment to the Senate amendment to House Joint Resolution 187.

The Committee on Ways and Means has jurisdiction over tax and trade provisions within House Joint Resolution 187.

In the tax area, the amendment accepts the Senate provision. While both versions of this legislation treat the Freely Associated States as possessions for purposes of the possessions tax credit, the Senate deleted a 1-year delay for any change in the credit. Both Houses provide that the Secretary of the Treasury must negotiate substantially equivalent benefits for the islands if the credit is reduced. Under the Senate amendment, the Treasury Secretary is made a member of the Arbitration Panel which can make a determination of whether the replacement benefits are substantially equivalent to the credit.

In addition, under the Senate amendment the Freely Associated States would be treated as part of the North American area for purposes of the deductibility of business convention expenses.

The Senate also incorporated the proposed Compact of Free Association with Palau within House Joint Resolution 187. The tax benefits promised to Palau would be limited in the same way as those given under the Compact for the Freely Associated States.

The trade provisions in the proposed amendment represent a compromise to balance the economic needs of Micronesia and the Marshall Islands with the interests of our insular possessions. The compromise would grant duty-free treatment to imports from Micronesia and the Marshall Islands during the period of the compact, subject to the same rule-of-origin requirements and limitations on the amount that can enter duty-free as apply presently to their imports under the generalized system of preferences.

Duty-free entry would be accorded only if an article has been substantially transformed locally and contains at least 35 percent local content. U.S. content could be counted toward 15 percent of the 35-percent minimum. These provisions conform to the earlier House-passed version to discourage mere passthrough operations and ensure that duty-free benefits accrue to the Federated States.

The compromise would include the shorter statutory list of exemptions from duty-free treatment in the Senate version. Textiles and apparel, footwear and other leather goods, watches and clocks, and buttons would continue to receive current tariff treatment. These exclusions ensure that import sensitive articles of greatest potential development in Micronesia will not receive duty-free treatment adverse to U.S. industry.

The House-passed bill also exempted canned tuna entirely from duty-free treatment in order to protect this extremely important industry in American Samoa, whereas the Senate bill provided unlimited duty-free entry. Mr. Sunia, the Representative from American Samoa, wrote to me on December 5 that in the spirit of compromise and cooperation he could support an annual duty-free quota of 10 percent of U.S. consumption for imports of water-packed canned tuna under the compact. Consequently, I agreed to this provision as the major change in the trade provisions from the earlier House bill.

Any imports exceeding the duty-free quota would be included in the tariff quota subject to existing rates of duty. Imports of canned tuna from Palau would be included in the same 10-percent duty-free quota level once the compact with Palau goes into effect.

In sum, I believe the tax and trade provisions provide incentives necessary for economic development in Micronesia and the Marshall Islands while protecting U.S. industry, including industry in our insular possessions, from any potential adverse import competition.

Mr. Speaker, the amendment represents a good compromise. I urge Members to support it.

□ 1730

Mr. SEIBERLING. Mr. Speaker, before extending any more time, I would simply like to commend the gentleman from Illinois, as well as the gentleman from Florida and the other committee chairmen and subcommittee chairmen who worked all through this long process, for the tremendous effort they made to reach this compromise and accommodation. I think i
an excellent result.

I personally appreciate it, being
subcommittee chairman who had
initiate the process.

Mr. Speaker, I yield 3 minutes to
delegate from American Samoa [
Sunia].

Mr. SUNIA. I thank the gentlem
for yielding, and I also would like
add my commendation and my app
ciation to the chairman of the Co
mittee on Ways and Means; and to
Committee on the Interior and
gentleman from Ohio [Mr. Seib
ling] for all of the work that has g
into this very important piece of le
lation, and to the gentleman fr
California [Mr. Lagomarsino] and
gentleman from Alaska [Mr. D
Young], and all those on the ot
side who labored long and hard o
this, as well as staff.

No other item has consumed m
time of this gentleman than this p
ticular piece of legislation through
this whole year, and if I may, I wo
like to engage the chairman of
Committee on Ways and Means [
Rostenkowski] in a brief colloquy.

May I ask the chairman whet
this Member is correct in understa
ing that section 401 of this resoluti
which refers to section 242 of the c
pact, allows the duty-free importat
of tuna canned only in water from
islands with which we would associ
through the compact?

Mr. ROSTENKOWSKI. If the g
tleman will yield, the gentleman is
rect. Section 242 of the Compact
Free Association will allow the im
tation into the United States Custo
territory from the Federated State
Micronesia and the Marshall Isla
of water-packed tuna up to 10 perc
of United States consumption. I
112.30 of the Revised Tariff Sch
ules, which section 242 cites, co
only water-packed tuna.

Mr. SUNIA. Would this 10 perc
quota apply to Palau if a compac
approved with those islands as well

Mr. ROSTENKOWSKI. Yes,
firm intention is that the 10-perc
quota would include tuna canned
water from the Republic of Pala
well as the Federated States of Mi
nesia and the Marshall Islands
Compact of Free Association is
mitted and approved for the Repu
of Palau. We do not intend to prop
any additional quota for the duty-
entry of tuna canned in water f
Palau.

Mr. SUNIA. I thank the gentle
for that statement, which clarifies
issue very well, in my estimate, an
nally, Mr. Speaker, I would like to
ognize the assistance and suppor
my fellow delegates from the ter
ries in this particular issue.

Mr. LAGOMARSINO. Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee [Mr. Duncan].

Mr. DUNCAN. Mr. Speaker, I rise in support of the gentleman from Illinois [Mr. Rostenkowski]. Chairman Rostenkowski has accurately described both the tax and trade provisions of the compact as they would exist under the modified Committee on Ways and Means version. I will not describe them again other than to indicate that I believe they represent a fair balance between all the important competing interests which must be taken into consideration in shaping a reasonable package. In particular, it is important that the package not make possible either tax or trade abuses. It is also important that the package preserve the special status afforded in the trade area to the Caribbean Basin which the Congress worked so hard on 2 years ago. The package described by the chairman achieves these goals in a reasonable manner while providing beneficial trade and tax incentives to Micronesia appropriate to the special relationship which the United States has with that area of the world.

Finally, I think the Chairman should be commended for the reasonable compromise developed, particularly in light of the unusual 1-week referral period which was shorter than members of the Committee on Ways and Means would have preferred. I urge the Members to support the version of the compact as developed in the Ways and Means Committee and modified by Chairman Rostenkowski's amendment.

Mr. SEIBERLING. Mr. Speaker, I yield 7 minutes to the gentleman from New York [Mr. Solarz].

Before doing so, however, I would like to again express my appreciation for the tremendous help and initiative he has shown throughout this process; it has been very helpful to me as well as to other Members who were involved.

Mr. SOLARZ. Mr. Speaker, I thank the gentleman very much, both for yielding and for his kind comments.

Mr. Speaker, I want to say to my very good friend from Ohio [Mr. Seiberling] that my esteem for him, which was already very high, has increased exponentially as a result of the opportunity which I have had to work with him on this issue.

This is not a matter for which the gentleman from Ohio has any legitimate hope of claiming political credit back home. I doubt there are too many Micronesians in his district. Perhaps more so than any other Member of the House, he has labored long and hard on this compact, in an effort to protect what he believed to be the important interests of our own country and the very real interests of the people of Micronesia themselves.

I think that this Congress and this country owe the gentleman from Ohio a genuine debt of gratitude for the extraordinary effort he invested in this very important but obscure piece of legislation.

It was not just the gentleman from Ohio, however, who is entitled to some credit here; there are a number of others who work also very hard on it, and I want to briefly mention their names now.

Mr. Leach, the ranking minority member of the Subcommittee on Asian and Pacific Affairs, was extraordinarily helpful. Mr. Dymally, the gentleman from California, played a key role at certain critical moments. Mr. Bereuter, my good friend on the other side of the aisle, was clearly one of the more actively involved Members. Perhaps more than any other Member on that side, the gentleman from California [Mr. Lagomarsino] who was one of the few Members to serve on both Interior and Foreign Affairs, was involved in this process every step of the way. At a number of key moments, his calming influence and sage advice helped us to overcome some of the problems we faced.

My colleague from New York [Mr. Solomon], who went out with me to Micronesia in the spring, also played a very useful and important role. Of course, the very distinguished chairman of the Committee on Interior [Mr. Udall], whom we all love and revere, lent his presence and his influence to this whole process, and played a key role in making it possible for us to bring the compact before the House today.

The gentleman from Alaska [Mr. Young], was assiduous in protecting the interests that he was concerned about, and also played a useful role in helping to shape this document. Finally, I would be remiss if I neglected to mention the chairman of the full Committee on Foreign Affairs [Mr. Fascell], whose wisdom, guidance, and benevolence helped expedite the process.

Let me say, Mr. Speaker, that I strongly support the compact. I think its approval would be very much in the interests of the United States; politically, economically, and strategically.

Politically, by ending the United Nations trusteeship over Micronesia, the compact minimizes criticism of the United States in the United Nations, and gains us support from other nations in the region.

Economically, the compact will actually save us money over its 15 year duration, compared to the continuation of precompact levels of support. In addition, the compact settles all nuclear claims resulting from our nuclear weapons testing program in Micronesia at a cost to the United States of $150 million. Without this settlement, pending claims could have cost the United States as much as $5 billion.

From a strategic perspective, the compact enables us to deny the Soviet Union and other countries in perpetuity access to thousands of miles of vital sea lanes in the Pacific.

In addition, the compact ensures us access for up to 30 years to the Kwajalein Missile Range, which is the most important missile testing facility that the United States has.

In the interests of time, I will limit myself to only one other brief observation. I want to say, because I think it is important to get on the record, that I deeply regret the fact that there were certain provisions in the compact which had been promised to the Micronesians, particularly in the tax and trade area which, during the course of the process of consideration of the compact here in the Congress, were taken away from them.

We have tried to compensate them for the loss of those benefits by putting in a so-called compensation package. I want to emphasize my belief that even with the loss of those benefits, this compact is still very much in their interest as well as in our own interest.

I certainly hope that the Federated States of Micronesia and the Marshall Islands, will approve the compact once we send it to them. They had approved, by overwhelming margins in referenda, the original Compact of Free Association which was negotiated. Because of some of the changes that we have made here, they may have to approve the compact again.

There was one provision in particular that I think it was very unfortunate that we had to drop out. I refer to the provision that would have guaranteed the Micronesians the right to export an unlimited amount of duty-free tuna to the United States.

Tuna is their only major natural resource, and some of the concessions they made to us in the security and political areas were made in the belief that they were getting this concession.

I am deeply concerned that after this compact is approved, as I am sure it will be, and it goes back to the Micronesians, that because of the tax and trade provisions in this compact the Micronesians might decide to reject the compact for emotional or other reasons

□ 1740

I think they will not do that. I am going to strongly urge them not to do it. I think when they look at all of the benefits in this compact for them, including the benefits which we added to the compact that were not originally in it, they will come to the conclusion that, on balance, this compact is still very much in their interest.

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I will urge them to approve the compact. But I do not think we should be under any illusions. There are no guarantees that they will approve it. The document that we will be ratifying today differs in a number of significant respects from the document that was hammered out over the course of 13 years of negotiations. I can only express the hope that what we do today, which I gather will be approved by the other body, meets with the approval of the Micronesians. If it does, we will be in a position to begin our relationship with them on a new basis of sovereignty and dignity. Under free association, The Micronesians will have total autonomy with respect to their internal affairs, and the ability to conduct their foreign policy in consultation with the United States. They will give us the responsibility for their security affairs.

I think this compact is compatible with the dignity and the sovereignty of the peoples of Micronesia. I deeply believe it is in the vital security and political interests of the United States. I urge my colleagues to approve it, and I ask the Micronesians to approve it as well.

Mr. SPEAKER pro tempore. The gentleman from California [Mr. LAGOMARSINO] has yielded back the balance of his time.

Mr. SEIBERLING. Mr. Speaker, I yield myself 2 minutes in order to engage in a colloquy with the gentleman from New York.

As the gentleman from New York knows, there is a provision in the bill before us today regarding the Palau Compact that states that subject to certain specific actions the Congress expresses, in principle, its approval of the Compact of Free Association between the United States and Palau. To date the President has not submitted to the Congress a proposal compact for Palau. Does the gentleman agree that only after such a transmittal occurs and Congress has worked its will on the document can a final congressional decision be made on the compact?

Mr. SOLARZ. Mr. Speaker, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from New York.

Mr. SOLARZ. I thank the gentleman for yielding.

Yes, I do.

Mr. SEIBERLING. Is it the gentleman's understanding that the language regarding the Palau compact protects the rights of Congress to review and make any changes deemed necessary whenever the compact is before the Congress?

Mr. SOLARZ. Yes, that is my understanding. Let me add that the action we are taking today with respect to Palau will hopefully encourage the Palauans to move forward on their end in approving the new agreement that has been hammered out.

Mr. SEIBERLING. I certainly share the feelings of the gentleman in that regard.

Is it fair to say that the Palauans should not look upon this language in House Joint Resolution 187 as in any way implying that, if the President submits the proposed compact to the Congress, it will emerge from the Congress exactly in the form submitted?

Mr. SOLARZ. Yes; by now I am sure everyone realizes that the Congress reserves the right to review the specific provisions of whatever compact is finally submitted. The jurisdiction of all committees and the rights of the Congress itself will be fully protected. All we are doing today is sending a signal to the Palauans that we look favorably on the approval of the compact for them. We hope they will ratify the compact. After they do, we will, hopefully, expeditiously undertake whatever actions that we feel we have to take in order to ratify the compact.

Mr. SEIBERLING. I thank the gentleman very much.

Mr. Speaker, I yield 2 minutes to the gentleman from the Virgin Islands [Mr. DE LUGO]. And before yielding, Mr. Speaker, I want to thank the gentleman and also Mr. SUNIA, and Mr. BLAZ, the Delegates who have worked most closely with us on this, for the tremendous help they have given to us throughout the process.

Mr. DE LUGO I thank the gentleman for yielding.

Mr. Speaker, I rise in support of this compact, and I would like to just take a moment to commend the chairman of the full committee, Mr. UDALL, for his leadership in bringing about this day, and also in particular I want to commend the gentleman from Ohio [Mr. SEIBERLING] who held a year of hearings on this compact. It was his patience and leadership and his fairness, I believe, which have brought us to this successful conclusion.

I also want to commend the gentleman from California [Mr. LAGOMARSINO] who was a constant good friend of the insular areas and was so helpful in every way on this compact. And my good friend from Alaska, Mr. YOUNG, and from Nebraska, Mr. BEREUTER, who is not a member of the Committee on Interior and Insular Affairs but used to be on that committee and is now on the Committee on Foreign Affairs.

Let me also commend the chairman of the Committee on Ways and Means who saw to it that the tax and trade provisions did not adversely impact on the United States insular areas, which is very important to all of us and to our country.

But I must also commend the gent
man from American Samoa for t
outstanding statesmanship that
showed in this matter and his lead
ship in representing the people
American Samoa, particularly th
best interests. I am speaking here
course of the Delegate from Americ
Samoa [Mr. SUNIA].

Mr. SIEBERLING. Mr. Speak
how much time do I have remaining

The SPEAKER pro tempore. T
gentleman from Ohio has 5 minu
remaining.

Mr. SEIBERLING. Mr. Speaker
yield myself 1 minute for the purp
of engaging in a colloquy with
LAGOMARSINO.

First I want to thank the gentlem
and his colleague, Mr. YOUNG, for
great support that they have giv
and the leadership that they ha
shown throughout this process. It
been extremely helpful to me.

Mr. LAGOMARSINO. Mr. Speak
will the gentleman yield?

Mr. SIEBERLING. I would be hap
to yield to the gentleman from C
fornia.

Mr. LAGOMARSINO. I thank
gentleman for yielding.

On behalf of Mr. YOUNG, I wo
like to engage the gentleman fr
Ohio in a colloquy, if I might, and
a question that Mr. YOUNG would
were he here.

A basic principle that we have op
ated under in developing this comp
mise is that we should do nothing t
would harm the economy of our o
Pacific islands. The resolution pas
by the House in July sought to ens
against any adverse impact by not
mitting the Micronesians to imp
canned tuna into our country free
duty as if they were a U.S. territo
That would have permitted them
undercut both United States and
eign producers. Instead, the Micro
sians would have been granted
most favorable tariff treatment gra
ed sovereign states.

Despite this, the compromise
mits the Micronesians to imp
canned tuna duty-free up to 10
cent of the U.S. market, some 80
lion pounds at current consumpti
That is a substantial amount. It co
have a substantial impact on our
mestic producers as well as Pacific
producers.

There is not language included, h
ever, to provide assistance if there
adverse economic impacts on our o
Pacific islands. All the amendm
contains is a report by the Preside
after findings by the Governor of
affected islands, to identify adve
impacts.

This does not provide clear ass
ance that if there are adverse impa
on U.S. communities of the assista
which would be needed. This co
pose a problem, for example,

American Samoa where 50 percent of the jobs are related to the tuna industry.

Is it the intent to assure American Samoa if that territory's economy is adversely impacted the majority of the Interior and Insular Affairs will cooperate with the minority to redress any serious adverse consequences?

Mr. SEIBERLING. It is our intent. We have been concerned about potential impact. We will do whatever is required to correct the problems created. We have crafted this compromise to try to prevent any problems from developing. We do not believe they will, but if they do, we are committed to doing what we can to ensure the health of the Samoan economy, that the health of the Samoan economy is not seriously affected by the trade provisions of the resolution before us today.

Mr. LAGOMARSINO. I thank the gentleman.

Mr. SEIBERLING. Mr. Speaker, I yield the balance of my time to the gentleman from Texas [Mr. BRYANT].

The SPEAKER pro tempore. The gentleman has 2 minutes remaining.

The gentleman from Texas [Mr. BRYANT] is recognized for 2 minutes.

Mr. BRYANT. I thank the gentleman for yielding time in order that I might engage him in a colloquy on section 177 of the compact and the subsidiary agreement, which states that the newly constituted government of Micronesia will espouse the claims currently pending in Federal court against the United States by Marshall Islanders whose land was contaminated by atomic testing. So far the claims total $5 billion. The compact purports to turn all responsiblity for them over to the Government of Micronesia, and provides what is essentially a block grant of $150 million to take care of them.

There are important constitutional questions at stake regarding these claims and their espousal. I inserted a brief by legal scholars at the Congressional Research Service discussing these constitutional questions into the July 25 CONGRESSIONAL RECORD at page 20624.

If the claims of the Marshall Islanders prove meritorious, then the block grant will be totally inadequate to pay them. Micronesia is in no position to cover the shortfall, and the United States is attempting in this agreement to wash its hands of any further responsibility.

I am concerned about the effect of this agreement on the rights of the Marshall Islanders whose property has been contaminated for generations to come. I am concerned that the executive and legislative branches are attempting here to extinguish rights which are constitutional in scope and can be resolved only by the judicial branch. And I am concerned that by approving the compact in this form, we may by our vote somehow invoke the political question doctrine, and cause the reviewing court to defer to the compact rather than resolve the constitutional questions independently.

I believe that is not the intent of the author, and I wish the author would speak to these concerns in this regard.

Mr. SEIBERLING. Mr. Speaker, if the gentleman will yield, the provisions of the compact regarding espousal of the Marshall Islands' claims are subject to judicial review like any act of Congress.

Once we in Congress have acted, the United States and the Marshall Islands will be terminating their U.N. trusteeship relationship and entering into a new relationship of free association. Part of the new relationship will involve foreign policy issues which under the Constitution are within the primary purview of the executive branch, and thus to some extent beyond the detailed scrutiny of the courts. But a legacy of the unique relationship of the United States to the Marshall Islanders under the U.N. trusteeship agreement will be the pending constitutional questions with respect to their rights, questions which cannot be foreclosed from court review.

Our action today in approving the compact should not alter a court's view of whether any question regarding rights of the Marshall Islanders which have already vested is a political question.

Mr. DE LUGO. Mr. Speaker, the Compact of Free Association has been the subject of indepth review, debate, and amendment. I believe the level of consideration given the document is a tribute to this body. In particular, I commend the chairman of the Interior and Insular Affairs Subcommittee on Public Lands, JOHN SEIBERLING, for the leadership and the commitment he has shown during this process. I also commend the chairman of the Interior and Insular Affairs, MO UDALL, and the minority leadership of that committee, specifically the gentleman from Alaska, DON YOUNG, and the gentleman from California, BOB LAGOMARSINO. Their efforts to make this an acceptable and workable agreement have been outstanding.

I particularly wish to commend the distinguished chairman of the Ways and Means Committee for his concern that the tax and trade provisions of the compact should not have a damaging effect on the U.S. Insular areas, and for his insistence that the U.S. insular areas not be placed in any less favorable position than those areas that are not under the American flag.

I also thank and commend the gentleman from Nebraska, Mr. BEREUTER, for his thoughtful analysis, his concerns for the U.S. territories, and his welcomed advice throughout the consideration of this compact.

But especially, Mr. Speaker, I wish to commend the gentleman from American Samoa for his statesmanship on behalf of this Nation and on behalf of the people of American Samoa. As originally submitted to the Congress, the compact would have brought about serious damage to the economy of American Samoa. But through his tireless efforts, he was able to work out an equitable solution that will protect the interests of all concerned. His success in this effort is a credit to his integrity, to the people he represents, and another indication of the respect that he has earned in this Chamber. He well deserves that respect and I laud him for his important work on this compact.

The legislation before you today improves upon the compact as sent to this body by the administration in a number of important ways. The amendments reflect greater sensitivity to actual conditions in the Federated States of Micronesia and the Marshall Islands than did the original document. Significantly, as amended, the compact also balances the country's interest in the economic health of its territories and commonwealths against its interest in the economic health and ultimate self-reliance of what would be the freely associated states. Unfortunately, the 14 years of negotiation on the original document had occurred in a vacuum relative to the impact on the U.S. insular areas. The leadership of the Interior and Insular Affairs Committee understands the delicate balance of economic incentives that exist for the U.S. territories and commonwealths, and the need to modify the compact in order to allow these areas to continue to attract the narrow margin of offshore industry that responds to these incentives was carefully considered.

As the Representative from one of the U.S. insular areas, I sincerely appreciate the efforts of these gentlemen. I also want to commend the Interior Committee staff who worked so long and diligently on this legislation. In particular, on the majority side I commend Jeff Farrow, Pat Krause, Lee McElvain, Stan Sloss, and Roy Jones. On the minority side, I commend Manase Mancur, and especially, even though he is now retired, Tom Dunmire, whose encyclopedic knowledge of the area and his sensitivity to all the issues involved were invaluable, especially during the initial consideration of the legislation.

Mr. SEIBERLING. I thank all who have participated in this debate today.

Mr. Speaker, I ask unanimous consent that the amendment currently pending as printed in the CONGRESSIONAL RECORD (at page H11721) be revised as follows:

1. By placing a period after the words "Federated States of Micronesia" in paragraph (6) of section 104(e) and striking out "and any other adverse consequences resulting from the compact".

2. By striking subparagraph (A) from paragraph (4) of section 105(h) and relettering such paragraphs (B) and (C) according-

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ly, and by adding the words "working in the United States," after "contracting Federal agency" at the end of the first sentence of subparagraph (C) now redesignated as subparagraph (B).

3. By striking the initials "U.S." each time such initials appear in subsection (b) of section 111.

4. By striking the words "in consultation with the U.S. as follows" in subsection (b) of section (1) and inserting in lieu thereof "in consultation with the United States as follows:"

5. By striking the words "no later than March 31, 1986" from paragraph (j) of subsection (b) of section 501.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. Pursuant to the provisions of House Resolution 338, the previous question is considered as ordered on the motion.

The question is on the motion offered by the gentleman from Ohio [Mr. SEIBERLING].

The motion was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN AMENDMENT TO HOUSE JOINT RESOLUTION 187, APPROVING THE "COMPACT OF FREE ASSOCIATION"

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that the Clerk be authorized to make technical, conforming, and grammatical corrections in the text of the amendment, to correct spellings, and to conform the table of contents to the text of the joint resolution (H.J. Res. 187).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

GENERAL LEAVE

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the motion just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

ESTABLISHING A CONGRESSIONAL CHILD CARE CENTER

Ms. OAKAR. Mr. Speaker, I ask unanimous consent that the Committee on House Administration be discharged from further consideration of the resolution (H. Res. 21) establishing a congressional child care center, and ask for its immediate consideration.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. (Mr. COLEMAN of Texas). Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

The Clerk read the resolution, as follows:

H. RES. 21

Resolved, That there is established in the House of Representatives the Congressional Child Care Center (in this resolution referred to as the "Center") to provide child care for children of Members, officers, and employees of the House of Representatives.

SEC. 2. (a) The Center shall be operated by the Committee on House Administration.

(b) The chairman of the Committee on House Administration shall appoint a nonpartisan advisory board to carry out subsections (c) and (d). The advisory board shall be composed of a minimum of eleven members (including a chairman, so designated at the time of appointment) who—

(1) shall be chosen from among Members, parents of children enrolled in the Center, and officers and employees of the House;

(2) shall serve without pay; and

(3) shall serve during the Congress in which they are appointed, except that any member may continue to serve after the expiration of his or her term until a successor is appointed.

(c) The advisory board shall make recommendations to the Committee on House Administration on management and operation of the Center, including curriculum and program of activities; personnel selection and management; fee structure, finance, and budget; admissions policy; nutrition and health; facilities and equipment; and any other matters relating to the Center.

(d) The advisory board shall conduct semiannual reviews of the operations of the Center and shall submit a written report of each such review to the chairman of the Committee on House Administration, who shall make such report available for inspection by the public.

SEC. 3. (a) The expenses of starting the Center shall be paid out of the contingent fund of the House on vouchers authorized and approved by the Committee on House Administration.

(b) Funds authorized by subsection (a) shall be expended pursuant to regulations established by the Committee on House Administration.

(c) All operating expenses of the Center shall be recovered through fees charged for child care provided by the Center.

(d) There is established a revolving fund within the contingent fund of the House for the purposes of operating the Center. Any fees received by the Center in payment for child care shall be transmitted to the Clerk of the House for deposit in such revolving fund and shall be available for disbursement by the Clerk for operating expenses of the Center upon vouchers signed and approved as the Committee on House Administration may prescribe.

SEC. 4. (a) The Committee on House Administration is authorized to acquire, through lease or purchase, such real and personal property as may be necessary for the operation of the Center.

(b) The Architect of the Capitol shall maintain any real property acquired under subsection (a) as part of the House Office Buildings. Upon approval of the Committee on House Administration and the Committee on Appropriations, the Clerk of the House shall transfer from the contingent fund of the House, for credit to the applicable appropriation, such amounts as may be necessary for the Architect to carry
such maintenance.

SEC. 5. As used in this resolution, the te
"Member" means a Representative in, an
Delegate and Resident Commissioner
Congress.

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AMENDMENT IN THE NATURE OF A SUBSTITU
OFFERED BY MS. OAKAR

Ms. OAKAR. Mr. Speaker, I offer
amendment in the nature of a sub
tute.

The Clerk read as follows:

Amendment in the nature of a substit
offered by Ms. OAKAR: Strike out all a
the resolving clause and insert in lieu th
of the following:

That the House Office Building Commiss
may, in accordance with this resolut
assign appropriate space for a child
center (to be known as the "House of Re
sentatives Child Care Center") to furn
preschool, educationally enriching c
care for children of Members, officers,
ployees, and support personnel of the Ho
of Representatives.

SEC. 2. (a) The entity responsible for
Center shall be an independent, nonpr
nongovernmental corporation, incorpor
under the laws of the District of Colun
for the sole purpose of providing child
under this resolution.

(b) Each official document of the corp
tion (including articles of incorporation
by-laws) shall be submitted to the Com
tee on House Administration before spa
made available for use by the Center.
amendment to an official document of
corporation shall be valid with respec
such use unless the amendment is submi
to the Committee.

(c) The articles of incorporation shall
vide for a board of directors, composed
individuals, who shall serve without pay
shall be chosen, without regard to poli
affiliation, from among persons with ex
tise in child care or interest in the Ce
including parents of children enrolled in
Center.

(d) As a condition of continuing us
space for the Center, the corporation
submit to the House a comprehen
monthly report of the operations and fi
cial transactions of the Center. At least
each year, the Comptroller General
audit the operations and financial tra
tions of the corporation and shall subn
report of such audit to the House.
Clerk shall make available to the p
each report under this subsection.

SEC. 3. The corporation shall, in acc
ance with the laws of the District of Co
bia, provide for—

(1) operation of the Center, either dir
by the corporation or by contract with
propriate persons; and

(2) curriculum and program of activ
necessary personnel, fee structure
budget, admission policy, nutrition
health, and facilities and equipment.

SEC. 4. (a) There shall be paid from
contingent fund of the House to the c
ration not more than $100,000 for e
ment and other expenses of starting
Center. At the end of each of the fi
one-year periods beginning 3 years afte
date on which the Center begins operat
the corporation shall pay to the Clerk,
reimbursement to the contingent fun
the House, an amount equal to one-thi
the total amount paid under the first

tence of this subsection or the unreimbursed balance of such total amount, whichever is less.

(b) The income of the corporation from child care fees, private donations, and similar receipts shall be sufficient to make the reimbursements required by subsection (a) and to pay all operating expenses of the Center (including employee pay and benefits, and expenses of sufficient fiduciary, liability and other necessary insurance). The House shall have no responsibility or liability with respect to the operations of the Center.

SEC. 5. As used in this resolution, the term—

(1) "employee of the House" means an employee of the House of Representatives whose pay is disbursed by the Clerk;

(2) "Member" means a Representative in, and a Delegate or Resident Commissioner to, the Congress; and

(3) "support personnel" means employees of a credit union or of the Architect of the Capitol, whose principal duties are to support the functions of the House of Representatives.

Ms. OAKAR (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

The SPEAKER pro tempore. The gentlewoman from Ohio [Ms. OAKAR] is recognized for 1 hour.

Ms. OAKAR. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentlewoman from Nevada [Mrs. VUCANOVICH], and pending that, I yield myself such time as I may consume.

Mr. Speaker, this bill would establish a child care center in the House of Representatives similar to the center that the Senate already has and has had occupied for more than a year.

As you know, Mr. Speaker, we have 11 million children in the country who have not had any guidance or taking-care of or child care assistance and are left alone, and it seems that we also have need for a site. We took a poll and we have over 400 individuals, members of the support staff, employees, Members of Congress, who would like to take advantage of a facility similar to what they have on the Senate side.

In the interest of time, I will not go into all of the details that relate to this issue. Suffice it to say that I think it is very, very important. I am delighted to have had the pleasure of working with my friend, the gentlewoman from Nevada [Mrs. VUCANOVICH], who has given such very fine support on the bill.

I would like to commend the chairman of the full committee, the gentleman from Illinois [Mr. ANNUNZIO], the gentleman from Minnesota [Mr. FRENZEL] and the chairman of our subcommittee, the gentleman from Tennessee [Mr. JONES] for the patience that they showed in ensuring that we will have this center. We think it is very, very important.

Mr. Speaker, on December 5, 1985, the Committee on House Administration ordered reported my resolution, House Resolution 21, which establishes a child care center in the House of Representatives. I want to thank Chairman ANNUNZIO, Congresswoman VUCANOVICH, Congressmen FRENZEL, and JONES, and all their staffs for working with my staff to produce what I believe is a solid, reasonable child care resolution.

As you know, on January 3, I introduced House Resolution 21, a bill which would provide preschool care for the children of Members of Congress, employees, and support staff of the House of Representatives. The original version of House Resolution 21 was based on legislation this committee reviewed during the 96th Congress. It provided that an onsite child care center operate under the auspices of the House Administration Committee, by a Board of Directors. The Board, comprised of parents, child care experts, and interested persons, would determine the actual policy of the center. The original version of House Resolution 21 would have made the child care center an entity of the House of Representatives. Fees paid by parents would have been placed in a revolving fund of the House of Representatives. Employees of the center would have become employees of the House.

Through a hearing conducted by the Subcommittee on Services and a subsequent markup, we learned about the great advantages of providing child care assistance to working parents. We also discussed at length the potential problems of liabilities which could arise given the fact the committee and the House of Representatives ultimately controlled the center. All members of the Subcommittee on Services agreed that prior to bringing the resolution to the full House Administration Committee, steps needed to be taken to address the liability issue.

The amended version of House Resolution 21, which was reported from the committee on December 5, maintains the goal of providing child care assistance to working parents in the House of Representatives. The revised version also eliminates direct control by the Committee on House Administration over the center, thus removing unnecessary liabilities for the Congress. In general, the amendments establish an onsite, independent, nongovernmental, and nonprofit child care center which would provide an educationally enriching preschool program.

Members of Congress, employees, and support staff (including employees of the Clerk and Architect of the Capitol, and the credit union) could take advantage of the facility.

Space for the center would be provided by the House Building Commission. Although the House Building Commission will not designate appropriate space until the resolution is passed by the House, it is estimated that approximately 60 children initially will be able to use the center.

The center would be operated by a nonprofit entity. The entity would be required to file the appropriate papers with the District of Columbia, and be bound by the District's laws governing nonprofit status and a child care center.

The entity would be required to file copies of its incorporation papers and its bylaws regarding the operation of the center with the House Administration Committee. After the Appropriate papers are submitted to the committee, the House Building Commission would authorize space.

The bylaws established by the corporation would include a program of studies for the children, an admission, health, nutrition, and fee policy, a projected budget, and an outline for the formulation of a Board of Directors. The resolution states that the Board must be made up of 9 members comprised of parents, child care experts, and interested persons. The Board members would serve without pay and be chosen without regard to their political affiliation.

In order that the center be able to continue using space authorized by the House, it must submit monthly progress reports to the House. The reports would include information on budgeting and operations. In addition the resolution would authorize the General Accounting Office to conduct an annual audit of the center's operations. Both the monthly reports and the annual reports would be made available to the public.

The Corporate entity would decide whether the daily operations should be done directly of by contract.

In addition to providing the space for the center, the House of Representatives would be responsible for loaning the Corporation no more than $100,000 to pay startup costs. Under the resolution, the $100,000 would come from the House contingent fund, as designated by the House Appropriations Committee. And, as stated earlier, the Corporation would be required to submit an outline of its anticipated expenditures, ensuring that loan would be protected. The resolution also instructs the Corporation to purchase sufficient fiduciary insurance.

The Corporation would be required to pay back, to the contingent fund of the House, all moneys which were used to start the center. The resolution establishes a payback schedule which would begin 3 years after the center beings operating. The Corporation would than have 3 years in which to pay the entire amount back to the House of Representatives.

Fees, donations, and moneys earned from fund raisers would be sufficient to operate the center and cover expenses for all types of insurance.

Finally, the House would not have responsibility or liability with respect to the operations of the center.

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The need for a child care center for House employees is great. In an informal survey I conducted nearly 2 years ago on child care needs, the response was overwhelming, as 400 people favorably supported a House of Representatives Center. The tremendous interest in the House, coupled with the fact that nationwide affordable, quality child care is in high demand, strengthens by commitment to seeing that a House Child Care Center become a reality.

I believe that House Resolution 21 achieves that goal, by allowing a corporate entity to design a program which meets the varied needs of Capital Hill employees.

In closing, I would again like to thank my colleagues for their bipartisan support for this important resolution.

Mr. Speaker, I include in the RECORD at this point the language that would have been included in the committee report:

COMMITTEE REPORT ON H. RES. 21

PURPOSE

H. Res. 21 establishes a child care center, providing preschool, educationally enriching care for the children of Members of Congress, employees, and support staff of the House of Representatives.

COMMITTEE ACTION

H. Res. 21 was introduced on January 3, 1985, by Ms. Oakar, and referred to the Committee on House Administration.

On March 21, 1985, the Subcommittee on Services of the Committee on House Administration conducted a hearing on H. Res. 21. The Subcommittee on Service approved, by voice vote, H. Res. 21 with an amendment offered in the nature of a substitute by Ms. Oakar.

On December 5, 1985, the Committee on House Administration ordered H. Res. 21 favorably with 3 amendments by a voice vote.

SUMMARY

H. Res. 21 (as amended on December 5, 1985) establishes a child care center providing preschool, educationally enriching care for the children of Members of Congress, employees, and support staff of the House of Representatives. The child care center will be located in available and suitable space on property controlled by the House Office Building Commission. The center will be operated, directly or by contract, by a nonprofit entity, independent of the House of Representatives and guided by the laws of incorporation and child care of the District of Columbia.

STATEMENT

Child care: A national issue

Affordable, safe, and educationally enriching child care in the United States cuts across all economic, social, and cultural lines. Given the fact that more mothers are combining work in the paid labor force with child rearing, child care needs become even greater. In the past 15 years, the number of working mothers with children under the age of 6 increased by 20 points, from 32 to 52 percent. U.S. Census Bureau statistics show that nearly 53 percent of all American families have both parents working. Bureau of Labor Statistics data shows that approximately 9 million children, or nearly half of the population in that age group, have mothers who works. In 1984, 4.5 million mothers with children under the age of 3 were returning to work. Even more startling and illustrative of the high demand for child care is the fact that at least 11 million children in our Nation are left alone during the day while their parents are at work.

Traditionally, child care needs have been met by relatives, neighbors, and church groups. Many employers believed that providing child care for its employees was an infringement on family duties, and that parenting was to remain at home.

Yet, with the increasing numbers of working parents, employers have begun to look at ways in which to provide on-site child care for their employees. Since 1982, the number of corporate child care centers have tripled, as nearly 2,000 U.S. companies provide some form of child care assistance. And, while these 2,000 companies represent only a fraction of the 6 million employers in the country, the trend for greater child care assistance is on the rise. Employers have found that by providing child care assistance increases worker morale and productivity, and reduces worker turnover.

The House of Representatives: A microcosm of the U.S. labor force

To a great extent, the House of Representatives exemplifies the U.S. labor force. As many as half of those working for the House of Representatives in Washington are working mothers and fathers. Similarly, the demand for child care exists in the House of Representatives as it does in the private sector.

During the 96th Congress, the Committee on House Administration identified the trend for child care assistance by considering H. Res. 515 (Report 96-868).

Four years later, Ms. Oakar and 80 cosponsors introduced H. Res. 392, which would have established an on-site, self-supporting child care center for the children of Members of Congress, employees, and support staff of the House of Repesentatives. H. Res. 392 was initiated after an informal survey on child care needs of House employees was taken by Ms. Oakar. The Oakar survey confirmed that there is a high demand for child care services close to or at a House Office Building. Of the 400 people who responded to the survey, 98 percent cited irregular work schedules, limited affordable child care, and the desire to spend time during the day with their pre-school aged children as reasons for wanting an on-site center. In additon, those who repsonded to the survey believed that their morale and productivity would increase if their children were being cared for close to work.

Action in the 99th Congress

On January 3, 1985, Ms. Oakar reintroduced her resolution into the 99th Congress. H. Res. 21 would establish an on-site, self-supporting child care center for the children of Members of Congress, employees, and support staff of the House of Representatives. The resolution provided that the center would operate under the auspices of the Committee on House Administration, but be run by a board of directors. The board of directors, chosen by the House Administration Committee, would be composed of parents, child care experts, and interested employees.

The Subcommittee on Services conducted a hearing on H. Res. 21 on March 21, 1985. Witnesses appearing at the March 21 included Senator Dennis DeConcini (D-Arizona); Dr. Nancy Brown, former director of the Senate Child Care Center; Dr. Susan E. Sikorski; Ms. Jeanie Almo, president, Creative Child Care systems; Ms. Miriam Kertzman, corporate director for child care, Stride-Rite Shoes; Mr. and Mrs. George Whithers, Ms. Sherrol Lee Cassidy, and
Anne Radigan, all employees of the Ho
of Representatives. Testimony at the Ma
21 hearing demonstrated the success of
site centers at the U.S. Senate, Departme
of Health and Human Services, Housing
Urban Development, and Labor. In addit
the hearing documented the ways in wh
employer-sponsored child care centers o
ate and the limited number of well su
vised, affordable services available to
ployees of the House of Representatives.

On July 17, 1985, the Subcommittee
Services considered an amendment in
nature of a substitute to H. Res. 21, wh
was offered by Ms. Oakar. The amendm
clarified the process by which appointme
to the board would be made, and speci
the manner in which the start-up
would be allocated by and returned to
House of Representatives.

The Subcommittee on Services appro
the substitute amendment by a voice
and pointed out that before being con
ered by the full Committee on House
ministration, every effort should be mad
limit the Committee's and House of Re
sentative's liabilities in operating a c
care center.

H. Res. 21 as approved by the committee November 21

The Committee's approval of H. Res
on November 21 reflects the genuine de
to assist employees of the House of Re
sentatives in child care. The Committee
proved version of H. Res. 21 also reflects
Committee's intent that the child
center operate independently of the C
mittee and the House of Representatives

As stated in the preamble to the res
tion, the Committee intends the Hous
Representatives child care center to pro
an educationally enriching program for
children of Members of Congress, emp
ees, and support staff of the House of
resentatives. It is the Committee's st
hope that the center will act as a mode
other employers wishing to provide
care assistance at an affordable price,
provide an incentive for others to ini
child care centers.

The Committee recognizes that bec
the center will operate on House of Re
sentatives property, the House coul
liable if the property presented a pro
of injury or security. The corporation,
ever, as the sole operator of the center
bear any liability and will protect the c
and the children in the most reasonable
thorough manner possible.

Under the rules of the House of R
sentatives, the House Office Building
mission has sole authority to assign spa
any House Office Building. The Comm
in recognizing the House Office Bui
Commission's authority, encourages
Commission to assign suitable space
child care center. The Committee notes
space in the House Office Buildings is
ed and in great demand, but believes th
child care center for preschool age chi
should be located on a first floor, with
able space in and out of doors for play.

The term "preschool" as referred to i
resolution means children who have no
entered kindergarten (age 5). The Con
tee does not intend to restrict the pa
eters of the class further, as it realize
great need for infant care among Hous
ployees. The Committee hopes, how
that the corporation, in establishing g
lines for the center, takes into consider
the amount of resources and space

will be furnished by the House of Representatives for the center.

The Committee also does not wish to instruct the corporation responsible for the center on setting priorities for an admission policy, and has defined the class eligible for use of the center to include Members of Congress, employees, and support staff of the House of Representatives, including those employed by the Clerk of the House, the Architect of the Capitol (whose major responsibilities are to serve the House of Representatives, such as the House Police and food service people), and employees of the Wright-Patman Credit Union.

The Committee instructs the center to operate independent of the Committee on House Administration and the House of Representatives by a nonprofit, nonpartisan corporation. The entity must operate under the laws of incorporation of the District of Columbia, and file with the District of Columbia prior to being authorized funding and space. The Committee on House Administration must receive a copy of the articles of incorporation and the bylaws governing the center. The Committee intends that the corporation include a detailed outline of projected expenses.

The House Building Commission will then make a decision granting the corporation space. Any amendments to the corporation's bylaws must also be submitted to the Committee on House Administration.

The Committee intends the corporation to establish a board of directors composed of 9 individuals. The board members will be chosen without regard to political affiliation, from among parents who have or wish to have their children enrolled in the center, child care experts, and interested employees. All board members will serve without pay. The Committee notes that while most centers limit their board members to parents, it believes that outside expertise and interest will add to the balance of the board.

The Committee believes that it is necessary for the center to demonstrate its progress and instructs the corporation to submit monthly reports on the financial status and operations of the center. In addition, the General Accounting Office will be instructed to conduct an annual audit of the center's operations. Both the monthly reports and the annual reports will be submitted to the clerk of the House of Representatives and made public.

The Committee intends the corporation to operate within the child care regulations established by the District of Columbia. The corporation has the option to operate the center directly, that is take responsibility to hire and oversee the personnel, or contract with a vendor for child care services. The corporation must first establish a well defined child care program. The guidelines established by the corporation must include an education program comprised of daily activities, a personnel policy which defines benefits for employees, an admission policy, a fee structure and overall budget, health and nutrition standards, and an outline for equipment and facilities which will be needed to assist the children.

The Committee stresses that the corporation should give equal consideration to all those applying to the center, regardless of the position held by the parent or parents. Given the inevitability of limited space, the Committee encourages the corporation to establish a lottery system and waiting list to accommodate each applicant in a fair manner.

The Committee recognizes that initial funding for the center is critical to its success, and hopes that the funding allotted in the resolution will be sufficent in initiating the service. The Committee intends that no more than $100,000 from the contigent fund of the House be given to the center as a start-up fee. No disbursement shall be made until a specific budgetary plan has been outlined for use of the money, space has been authorized by the House Building Commission, and the funds have been provided in the 1986 Supplemental Appropriations bill. The transfer of the start-up fee to the center will be made in one payment by the House Finance Office. The Committee notes that the lump-sum payment will enable the corporation to deposit the money into an interest-bearing account upon receipt and encourages the corporation to do so.

The Committee also points out that the resolution instructs the corporation to obtain fiduciary insurance, in order to protect the center and the initial loan from the House of Representatives.

The Committee points out that the $100,000 start-up fee from the House contingent fund will be made in the form of a loan to the center. The resolution outlines a plan for repayments, without interest. The center will begin paying the loan back to the House three years after it begins operation. The center will then have three years to complete its payments.

It is the intent of this Committee that the child care center be self-supporting. Fees and donations to the center should be sufficient for operating the center on a daily basis. Operating expenses will include employees' pay and benefits, required and necessary insurance, and food and equipment for the children. The Committee points out that the incorporated status of the center will allow fundraising. The Committee encourages the center to employ innovative ways to raise funds for the operational costs and scholarships if appropriate.

SECTION ANALYSIS

Section 1: The first section of the amendment states that the House Office Building Commission may assign appropriate space for a House of Representatives Child Care Center. The center will provide preschool, educationally enriching care for children of Members of Congress, employees, and support staff of the House of Representatives.

Section 2: The entity responsible for the child care center will be nonprofit corporation, independent of the House of Representatives. It will operate under the District of Columbia's laws of incorporation.

Prior to authorization, the corporation will be required to submit bylaws, articles of incorporation, and any other necessary documentation regarding the operation of a child care center to the Committee on House Administration. Any changes made to the by-laws must be submitted to the Committee on House Administration.

The by-laws must provide for a board of directors composed of 9 individuals. Board members would be selected from among the parents of children wishing to enroll in the center, child care experts, and employees interested in the center. The individuals serving on the board shall be chosen without regard to political affiliation and serve without pay.

The corporation will be required to submit monthly reports to the House of Representatives. The monthly reports must include information on operation and financial transactions of the center. Failure to file monthly reports will result in expulsion from the space provided for by the House of Representatives. In addition to the monthly status reports filed by the corporation, the General Accounting Office is required to conduct annual audits of the center's operations. The General Accounting Office audits will be filed with the House of Representatives. Both the monthly reports and the GAO annual reports will be made available to the public.

Section 3: This section provides that the corporation will decide to operate the child care center directly or by contract. Operation of the center must be in compliance with the laws governing child care centers established by the District of Columbia, and must include guidelines or curriculum, activities, personnel practices, fee structure, budget, admission policy, nutrition, health, facilities, and equipment.

Section 4: The House of Representatives will provide the corporation with no more than $100,000 from the contingent fund of the House. The money, which will be transmitted to the corporation in the form of a loan, will be used to pay start-up costs of the center. The corporation will be required to pay the $100,000 start-up fee back to the House of Representatives over a three year period. The repayments will begin three years after the center begins operation.

Section 4 also stipulates that the income to the corporation be derived from child care fees and donations, both of which will be sufficient to operate the center. Operations of the center shall include sufficient insurance to cover operational liabilities, as well as fiduciary insurance.

The House will have no responsibility or liability with respect to the operation of the center.

Section 5: Terms used in the amendment are defined as follows: "employee of the House" means an employee of the House of Representatives whose pay is disbursed by the Clerk of the House; "Member" means a Representative in, a Delegate, or Resident Commissioner to the Congress; and "support personnel" means employees of a credit union or the Architect of the Capitol, whose principal duties are to support the functions of the House of Representatives.

Ms. OAKAR. Mr. Speaker, I reserve the balance of my time.

Mrs. VUCANOVICH. Mr. Speaker, I yield myself such time as I may consume, and I rise in support of this resolution offered by the gentlewoman from Ohio [Ms. OAKAR].

Mr. Speaker, the House of Representatives needs a child care center for its Members and the employees of the House. Ms. OAKAR and I have worked hard to draft a bill that would be cost effective, and ensure that the House of Representatives would not be libel for any actions made by the child care center and its employees. This resolution makes it possible for a group of interested people to form a nonprofit, nongovernmental corporation independent of the House of Representatives and incorporate under the child care laws of the District of Columbia. The House of Representatives will have no responsibility or liability with respect to the operation of the center.

No funds would be authorized for the child care center until this corporation has presented its bylaws to the

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House Administration Committee and the committee has approved them. This will ensure that the House Administration Committee and the House of Representatives are adequately informed of the operations of this corporation. In addition, the corporation would be required to submit monthly reports to this committee including information on the operation and financial transactions of the center. Failure to submit these monthly reports would result in expulsion from the space provided by the House of Representatives.

I believe this is a good bill which protects the Members of this House and should be passed.

Ms. OAKAR. Mr. Speaker, I yield such time as he may consume to the gentleman from Tennessee [Mr. JONES], the distinguished chairman of our subcommittee, who is a great leader on our committee, and I am delighted to have had the pleasure of working with him on this resolution.

Mr. JONES of Tennessee. I thank the gentlewoman from Ohio for yielding.

Mr. Speaker, I want to take this opportunity to thank the gentlewoman from Ohio [Ms. OAKAR] and the gentlewoman from Nevada [Mrs. VUCANOVICH] for doing a real job in mastering a program that will be helpful to this Congress, that no doubt is a needy program and one that has been needed for a long time.

We had adequate hearings, a markup, and we have been just waiting for this opportunity to present it to the body.

Ms. OAKAR. Mr. Speaker, I yield myself such time as I may consume to thank the members of my staff who have patiently and diligently worked so hard to see this through. They did a great job. I especially want to thank Cathy Straggas, who put in so much extra time on this issue, and certainly Joe and others, as well.

The **SPEAKER** pro tempore. The question is on the amendment in the nature of a substitute offered by the gentlewoman from Ohio [Ms. OAKAR].

The amendment in the nature of a substitute was agreed to.

Ms. OAKAR. Mr. Speaker, I move the previous question on the resolution, as amended.

The previous question was ordered.

The resolution, as amended, was agreed to.

The **SPEAKER** pro tempore. The Clerk will report the amendment to the preamble.

The Clerk read as follows:

On page 1, before line 1, insert the following preamble:

Whereas the House wishes to permit the furnishing of preschool, educationally enriching child care for children of Members, officers, employees, and support personnel of the House of Representatives;

Whereas suitable space may be available for a child care center in rooms under the control of the House Office Building Commission;

Whereas the operation of a child care center can best be carried out by an independent, nonprofit, nongovernmental corporation, incorporated under the laws of the District of Columbia for that purpose; and

Whereas the House intends that the corporation operate the child care center directly or by contract with appropriate persons, as determined by the corporation: Now, therefore, be it

Ms. OAKAR (during the reading). Mr. Speaker, I ask unanimous consent that the amendment to the preamble be considered as read and printed in the RECORD.

The **SPEAKER** pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

The **SPEAKER** pro tempore. The question is on the amendment to the preamble.

The amendment to the preamble was agreed to.

TITLE AMENDMENT OFFERED BY MS. OAKAR

Ms. OAKAR. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Title amendment offered by Ms. OAKAR: Amend the title so as to read: "Resolution authorizing use of space for the House of Representatives Child Care Center."

The title amendment was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Ms. OAKAR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolution just agreed to.

The **SPEAKER** pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

ROBERT N.C. NIX, SR., BUILDING

Mr. YOUNG of Missouri. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation be discharged from further consideration of the bill (H.R. 2903) to designate the Federal Building and U.S. Post Office located in Philadelphia, PA, as the Robert N.C. Nix, Sr., Building, and ask for its immediate consideration.

The Clerk read the title of the bill.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Missouri?

Mr. SHAW. Mr. Speaker, reserving the right to object, I do so for the purpose of giving the gentleman from Missouri [Mr. YOUNG] an opportunity to describe this bill to the House.

Mr. YOUNG of Missouri. Mr. Speaker, H.R. 2903 designates the Federal building and U.S. post office located in Philadelphia, PA, as the Robert N.C. Nix, Sr. Federal Building and U Post Office.

Briefly, Robert N.C. Nix, Sr., elected to the 85th Congress in a s cial election on May 20, 1958. He reelected to the 86th Congress succeeding Congresses until his ret ment on January 3, 1979.

Mr. SHAW. Mr. Speaker, further serving the right to object, I rise support of the bill, H.R. 2903, wh would designate the Federal build in Philadelphia, PA, in honor former House Member, Robert N Nix, Sr.

This bill was unanimously appro by the Committee on Public Wo and Transportation and, if enact would designate the Philadelphia F eral Building as the "Robert N.C. N Sr. Federal Building and U.S. F Office."

Congressman Nix represented Pe sylvania's Second Congressional trict from 1958 to 1979.

He served on the Committee International Relations and was chairman of the Post Office and C Service Committee.

Regrettably, I did not have an portunity to serve with Representat Nix but from conversations with th who did it is evident that he was d cated to the people of his district of the Nation.

He worked tirelessly to improve working conditions for Federal ployees and set the foundation many of the improvements and m ernization of today's Postal Ser which we now see.

Congressman Nix had a dis guished career as an attorney and community leader and he is fully serving of this honor.

I would urge my colleagues to s port the passage of H.R. 2903.

Mr. Speaker, I withdraw my rese tion of objection.

The **SPEAKER** pro tempore. there objection to the request of gentleman from Missouri?

There was no objection.

The Clerk read the bill, as follows

H.R. 2903

Be it enacted by the Senate and Hou Representatives of the United State America in Congress assembled,

SECTION 1. DESIGNATION OF BUILDING.

The Federal Building and United St Post Office located at 9th and Ma Streets in Philadelphia, in the Stat Pennsylvania, hereafter shall be known designated as the "Robert N.C. Nix, Building".

SEC. 2. LEGAL REFERENCES TO BUILDING.

Any reference in any law, regulation, ument, record, map, or other paper of United States to the building referred section 1 hereby is deemed to be a refer to the "Robert N.C. Nix, Sr., Building".

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. YOUNG OF MISSOURI

Mr. YOUNG of Missouri. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. YOUNG of Missouri: Strike out all after the enacting clause and insert:

SECTION 1. DESIGNATION OF BUILDING.

The Federal Building and United States Post Office located at 9th and Market Streets in Philadelphia, in the State of Pennsylvania, shall hereafter be known and designated as the "Robert N.C. Nix, Sr., Federal Building and United States Post Office".

SEC. 2. LEGAL REFERENCES TO BUILDING.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the building referred to in section 1 is deemed to be a reference to the "Robert N.C. Nix, Sr., Federal Building and United States Post Office".

Mr. YOUNG of Missouri (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from Missouri [Mr. YOUNG].

The amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to designate the Federal Building and United States Post Office located in Philadelphia, Pennsylvania, as the 'Robert N.C. Nix, Sr., Federal Building and United States Post Office'."

A motion to reconsider was laid on the table.

WALLACE F. BENNETT FEDERAL BUILDING

Mr. YOUNG of Missouri. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation be discharged from further consideration of the bill (H.R. 2542) designating the building located at 125 South State Street, Salt Lake City, UT, as the "Wallace F. Bennett Federal Building," and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

Mr. SHAW. Mr. Speaker, reserving the right to object, I yield to the gentleman from Missouri [Mr. YOUNG] to explain the bill.

Mr. YOUNG of Missouri. Mr. Speaker, H.R. 2542 would designate the building located at 125 South State Street in Salt Lake City, UT, as the "Wallace F. Bennett Federal Building."

Briefly, Wallace Forster Bennett was first elected to the U.S. Senate in 1959 and was reelected to three following consecutive terms.

Mr. MONSON. Mr. Speaker, will the gentleman yield?

Mr. SHAW. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Utah.

Mr. MONSON. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of the legislation before us. Wallace F. Bennett served the State of Utah and the country in the U.S. Senate for 24 years between 1951 and 1973. He earned the reputation as an excellent legislator of unquestionable moral character. It is my distinct honor to sponsor this bill to name the Federal building in downtown Salt Lake City in tribute to Wallace F. Bennett.

Mr. Bennett served in the Senate as ranking member of both the Finance Committee and the Banking, Housing, and Urban Affairs Committee. In addition to this, he served as secretary of the Senate Republican Conference, vice chairman of the Senate Ethics Committee, and as a member of the Joint Committees on Atomic Energy, Defense Production, and Internal Revenue, and on the Senate Select Committee on Standards and Conduct.

Mr. Bennett was well liked by the people of Utah who elected him to four terms in the Senate. In fact he is the only Utah Senator ever to retire from office voluntarily. His term of service is distinguished by its duration and its quality. It is supremely appropriate that this Federal building be named for Wallace Bennett as it was his work that primarily led to its construction.

Wallace F. Bennett is an outstanding man who has dedicated his life to the service of his State and country and naming this Federal building in his honor is only a small gesture compared to Senator Bennett's great service.

Mr. SHAW. Mr. Speaker, further reserving the right to object, I rise in support of the bill H.R. 2542 which would designate the Federal building in Salt Lake City, Utah, as the "Wallace F. Bennett Federal Building" and would like to associate myself with the remarks of my distinguished chairman.

The Committee on Public Works and Transportation unanimously approved this legislation as a way in which we might pay fitting tribute to a man who served the people of Utah and the Nation, in the U.S. Senate, with distinction and fidelity for more than 24 years.

Senator Bennett's tenure was the second longest in the history of Utah and during that period he earned a reputation as a skilled legislator and distinguished himself as a gentleman of unquestionable moral character.

His life was one of success and achievement, not just as a U.S. Senator, but as an esteemed businessman and author as well.

Bennett served in the Senate from 1951 to 1974. While serving in the Senate, he was the ranking minority member of the Senate Finance Committee, and senior Republican on the Senate Banking, Housing and Urban Affairs Committee.

He served as Secretary of the Senate Republican Conference, vice chairman of the Senate Ethics Committee, and as a member of the Joint Committees on Atomic Energy, Defense Production, and Internal Revenue Taxation. He was also a member of the Senate Select Committee on Standards Conduct.

Mr. Speaker, this bill represents one small way in which we may express our appreciation for the distinguished service of this dedicated public servant, and I urge my colleagues to support the passage of this legislation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The Clerk read the bill, as follows:

H.R. 2542

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the building located at 125 South State Street, Salt Lake City, Utah, shall hereafter be known and designated as the "Wallace F. Bennett Federal Building". Any reference to such building in any law, map, regulation, document, record, or other paper of the United States shall be considered to be a reference to the "Wallace F. Bennett Federal Building".

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

REMOVING CERTAIN RESTRICTIONS ON AVAILABILITY OF OFFICE SPACE FOR FORMER SPEAKERS OF THE HOUSE

Mr. YOUNG of Missouri. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation be discharged from further consideration of the bill (H.R. 2962) to remove certain restrictions on the availability of office space for former Speakers of the House, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

Mr. SHAW. Mr. Speaker, reserving the right to object, I do so for the purpose of giving the gentleman from Missouri [Mr. YOUNG] an opportunity to tell the Members about this bill.

Mr. YOUNG of Missouri. If the gentleman will yield. Mr. Speaker, H.R. 2962 amends the act relating to former Speakers of the House of Representatives by providing that a former Speaker may be provided one office selected by him or her in order to facilitate the administration settlement, and conclusion of matters pertaining to or arising out of his incumbency in office as a Representative in Congress and as Speaker of the House of Representatives. Such office shall be located in the United States and shall be furnished and maintained by the Government in a condition appropriate for his use.

Mr. SHAW. Mr. Speaker, further reserving the right I rise in support of H.R. 2962. Current law permits each former Speaker of the House of Representatives to use, at the expiration of his service in Congress, that Federal office space now available for his use in the district he represents.

That presents a special problem for our current Speaker, the Honorable THOMAS P. O'NEILL, who has announced his intention to retire at the end of the 99th Congress. Because of redistricting over the years, his district office is actually located two blocks outside of his congressional district.

H.R. 2962 will merely remove the current restriction, which has applied only to former Speakers McCormack and Albert, that the Speaker's office must be in his current congressional district and will continue to allow all former Speakers to select an office in order to facilitate the administration and conclusion of matters arising out of their congressional service.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The Clerk read the bill, as follows:

H.R. 2962

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the item relating to the House of Representatives in chapter VIII of the Supplemental Appropriations Act, 1971 (84 Stat. 1989), is amended by inserting ", except that the restriction therein to the congressional district represented by any former Speaker shall not apply" before the period.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. YOUNG OF MISSOURI

Mr. YOUNG of Missouri. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. YOUNG of Missouri.

Strike out all after the enacting clause and insert in lieu thereof the following:

That the first section of House Resolution 1233, Ninety-first Congress, agreed to December 22, 1970 (as enacted into permanent law by chapter VIII of the Supplemental Appropriations Act, 1971 and supplemented by the Act entitled "An Act relating to former Speakers of the House of Representatives" (88 Stat. 1723)) (2 U.S.C. 31b-1(a)), is amended by striking out "the Federal office space" and all that follows through the end of such section and inserting in lieu thereof "One office selected by him in order to facilitate the administration, settlement, and conclusion of matters pertaining to or arising out of his incumbency in office as a Representative in Congress and as Speaker of the House of Representatives. Such office shall be located in the United States and shall be furnished and maintained by the government in a condition appropriate for its use."

Mr. YOUNG of Missouri (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from Missouri [Mr. YOUNG].

The amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AUTHORIZING COLLECTION OF ADDITIONAL CONTRIBUTIONS FOR THE NANCY HANKS CENTER

Mr. YOUNG of Missouri. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation be discharged from further consideration of the bill (H.R. 2391) to authorize the Administrator of General Services to collect additional contributions of money provided to him by private individuals or organizations for the Nancy Hanks Center, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

Mr. SHAW. Mr. Speaker, reserving the right to object, I yield to the gentleman from Missouri [Mr. YOUNG] to explain the contents of the bill.

Mr. YOUNG of Missouri. Mr. Speaker, Public Law 98-1, as amended, designating the "Nancy Hanks Center" in the old post office building on Pennsylvania Avenue in Washington, DC, stipulates that the Administrator of the General Services Administration is authorized to receive contributions from private individuals or organizations for purposes of erecting an appropriate tribute commemorating t
accomplishments of Nancy Han
through February 15, 1985. The pu
pose of H.R. 2391 is to allow the A
ministrator to continue to collect co
tributions through project completio

Mr. SHAW. Mr. Speaker, further
serving the right to object, I rise
support of H.R. 2391, as amende
which would extend the time peri
during which private contributio
may be collected for the Nancy Han
Center located at the Old Post Off
Building here in Washington, DC.

Public Law 98-1, dated February
1983, authorized the Administrator
the General Services Administrati
to receive contributions for the p
pose of erecting an appropriate tribu
commemorating the accomplishmen
of Nancy Hanks.

This law originally gave the Adm
istrator 6 months to receive contrib
tions. This time period was sub
quently extended to February
1981, by Public Law 98-148.

The purpose of H.R. 2391 is
again, extend the time period
which the Administrator may acc
contributions until the project is co
pleted.

As I understand it, Mr. Speaker,
advisory group has accepted the gen
al concept of a memorial marker
the plaza pavement containing app
priate information about Nancy Han
and her accomplishments in the a
and historic preservation.

This legislation merely allows us
collect private contributions for t
memorial and places no additional
nancial obligation on the Federal G
ernment.

I urge my colleagues to support a
pass this bill.

Mr. Speaker, I withdraw my reser
tion of objection.

The SPEAKER pro tempore.
there objection to the request of
gentleman from Missouri?

There was no objection.

The Clerk read the bill, as follows

H.R. 2391

Be it enacted by the Senate and Hous
Representatives of the United States
America in Congress assembled, That
tion 3(b) of Public Law 98-1, as amended
Public Law 98-148, is further amended—

(1) by striking out "two years"; and

(2) inserting in lieu thereof "thro
project completion".

AMENDMENT IN THE NATURE OF A SUBSTITU
OFFERED BY MR. YOUNG OF MISSOURI

Mr. YOUNG of Missouri. Mr. Spe
er, I offer an amendment in
nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substi
offered by Mr. YOUNG of Missouri: Pag
strike out lines 3 through 7 and inser
lieu thereof the following:

That section 3(b) of the Act entitled
Act to designate a 'Nancy Hanks Cen
and the 'Old Post Office Building' in W
ington, District of Columbia, and for o

purposes" (Public Law 98-1), as amended by Public Law 98-148, is amended by striking out "within two years of enactment of this Act" and inserting in lieu thereof "through project completion".

Mr. YOUNG of Missouri (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from Missouri [Mr. YOUNG].

The amendment in the nature of a subtitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

REQUIRING PUBLIC BUILDINGS TO COMPLY WITH CODES AND ZONING LAWS

Mr. YOUNG of Missouri. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation be discharged from further consideration of the bill (H.R. 2403) to require that public buildings constructed or altered under the Public Buildings Act of 1959 comply, to the maximum extent feasible, with nationally recognized model codes and with local zoning laws and certain other laws, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

Mr. SHAW. Mr. Speaker, I reserve the right to object.

Mr. ROBERT F. SMITH. Mr. Speaker, will the gentleman yield?

Mr. SHAW. I yield to the gentleman from Oregon.

Mr. ROBERT F. SMITH. Mr. Speaker, I rise today in support of H.R. 2403. I've joined with Mr. SHAW and Mr. SUNDQUIST of the Public Works and Transportation Committee in introducing the legislation which would clarify the position of the Federal Government in complying with nationally recognized building codes, and other local requirements, such as zoning laws and building permit regulations when constructing or remodeling Federal buildings.

It would also require the Federal Government to submit plans for such projects to local building officials for review, and grant to local officials the opportunity to inspect the building during construction or alteration.

I joined my colleagues in introducing this bill as a result of several situations that arose in my Second Congressional District. I'm told these situations like the ones I'm about to describe are not uncommon and exist throughout the country.

In Sisters, OR, the Forest Service remodeled the local district ranger building and refused to purchase a building permit or to submit site plans. Both actions are required by State and county law.

In Medford, OR, the largest city in my district and where my district office is located three problems have occurred. In the Medford Post Office, a stairwell was built that does not comply with city regulations.

Just weeks ago, the Postal Service ordered a contractor to tear out a loading dock ramp recently built because it did not meet postal service specifications. Had change orders been filed with the city, as required by local law, $25,000, of the taxpayers dollars may have been saved. In fairness to the Postal Service, they agree a mistake was made and the individual responsible was dismissed.

The third problem in Medford involves the Forest Service again. On a remodeling project at the Rouge River National Forest vehicle repair shop, the Forest Service refused to remodel to city code, a firewall which did not meet code. This created a potential safety hazard and the city responded by issuing a "stop order" which was ignored by the contractor.

H.R. 2403 is simply aimed at eliminating the blind arrogance exhibited by Federal officers in their pursuit of Federal independence in Medford, Sisters and in similar situations around the country. This legislation simply states that federally constructed buildings comply with nationally recognized building codes and locally enforced zoning laws to protect a host community's own standards of design, safety and esthetic values.

In conclusion, Mr. Speaker, I ask my colleagues to support this bill. It comes to use from the committee by unanimous vote in the subcommittee as well as the full committee. I would also like to take this opportunity to thank the chairman and ranking member on the committee for their swift action in bringing this bill to the floor.

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Mr. SHAW. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Missouri [Mr. YOUNG].

Mr. YOUNG of Missouri. I thank the gentleman for yielding.

Mr. Speaker, H.R. 2403 requires that public buildings constructed or altered under the Public Buildings Act of 1959, to comply to the maximum extent feasible with nationally recognized model building codes and with local zoning laws.

The bill requires the Administrator of the General Services Administration to consult with the appropriate State or local officials, in which the building is to be constructed or altered, submit the plans in a timely manner to such officials for review, and permit inspection during construction or alteration of the building, as determined necessary by such officials.

Mr. SHAW. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Tennessee [Mr. SUNDQUIST].

Mr. SUNDQUIST. I thank the gentleman for yielding to me.

Mr. Speaker, I rise in support of this legislation. It is my privilege to be a cosponsor with the distinguished gentleman from Florida and the distinguished gentleman from Oregon. I commend this legislation for taking into consideration local communities and local laws. I think that the Public Works Committee made the right decision.

Mr. SHAW. Mr. Speaker, further reserving the right to object, I would like to share with the House for just one moment an experience that I had with regard to working with the GSA when I was mayor of the city of Fort Lauderdale.

During that period of time the Federal Government, the GSA was constructing a Federal courthouse in the city of Fort Lauderdale. We knew at that time that we had no authority to come on the job and review the plans, but we offered as a courtesy to review the plans and give whatever information that we thought might be helpful to the Federal Government, knowing full well that they could go ahead and construct the building the way they wished.

What they did not know is that they were constructing the building over an underground river. Had they come to the building department and we had an opportunity to review the plans, we would have found out that that was going to cause them a problem, and we could have also advised them that in south Florida it is not wise to construct a basement under a Federal building, particularly if it happened to be over an underground river.

Mr. Speaker, I would also like to thank the chairman of the subcommittee for his full cooperation and assistance in moving this bill. I thank the chairman of the full committee also. We worked in a very bipartisan manner to move this bill. It is also a bill that has been endorsed by the administration. GSA has signed off on it, and I would urge its adoption.

Mr. SHAW. Mr. Speaker, all building construction in the United States today, with the exception of most Federal construction, is regulated by codes and standards that are promulgated and enforced by local and State governments. Local build-

ing codes, as a rule, are based on one of the model codes, which have been drafted to meet the building requirements and unique problems of the various geographical areas of the country.

Use of the model code by a State or locality is strictly voluntary. In the Southern States, the predominant building code used is the southern standard building code which was originally issued in 1945. The basic building code, first published in 1950, is the most widely used code in the Northeast and Midwest.

To insure the interests of the community are protected, most localities and States also promulgate and enforce regulations pertaining to zoning, historic preservation, handicap accessibility, building setback laws, and other similar requirements. Private developers are required to comply with these regulations or obtain, where applicable, a variance to these regulations. The Federal Government is not legally required to adhere to these local requirements, but, nonetheless, does so in most instances.

It is the General Service Administration's policy—GSA order PBS P 3420.1(6), dated October 20, 1983—"to follow local codes and zoning ordinances to the fullest extent practical" and "compliance with State, local, and Federal regulations to prevent, control, or abate air and water pollution is mandatory." Local codes which would adversely affect the Government's interest, such as those which restrict competition or limit innovation, are not required to be adhered to by GSA. Buildings leased by GSA "shall adhere to local codes."

The Public Works and Transportation Committee is cognizant of GSA's policy with respect to local codes and building requirements and GSA's efforts to comply with these requirements. The committee is concerned, however, about the number of instances in which these codes are not met and the lack of consultation on the part of GSA with the local officials relative to Federal construction and alteration projects.

The purpose of H.R. 2403 is to require that public buildings constructed or altered under the Public Buildings Act of 1959 comply, to the maximum extent feasible, with nationally recognized model codes and with local zoning laws and other local building requirements. To insure these requirements are met, the bill requires the Administration to consult with local officials to submit construction and alteration plans to them, and to permit these officials access to the building site for the purposes of inspections during construction.

Model building codes constitute private sector standards that the Office of Management and Budget encourages the Federal agencies to use. The Department of Housing and Urban Development relies on State or local codes in its multifamily housing program. These codes must be accepted by HUD as being comparable to one of the nationally recognized model building codes or its equivalent. In areas where the code State or local code is not comparable, the Department requires compliance with one of the nationally recognized model codes.

Model codes are promulgated by a number of private organizations and the codes are geographically orientated. For the purposes of carrying out this bill, the model codes and any related supporting documents to be referenced by the administrator include, but are not limited to, the BOCA basic/national building code—prepared by Building Officials and Code Administrators International, Inc.—the standard building code—Southern Building Code Congress International, Inc.—the uniform building code, the uniform plumbing code and the uniform mechanical code—international conference of building officials—the national electric code—National Fire Protection Association—and the south Florida building code—the latest edition of the code, applicable to the geographic legion in which the construction or alteration project is being undertaken, shall be used by the Administrator.

A Federal building would also be subject to the same local requirements, or community standards as would be a building constructed or altered by a private developer. The intent of this provision is to assure the compliance of the buildings with the substantive community standards without binding the Administrator of the General Services Administration to following the associated prescribed procedural requirements, such as applying for building or related permits.

To assure the involvement of local officials in Federal construction and alteration projects, the bill requires the Administrator to consult with these officials during the planning process for the project as well as during the actual construction period. The plans for the project shall be submitted to the local officials for their review prior to the initiation of work as specified in the plan.

The size and complexity of the construction or alteration project determines the number of plans which must be drafted and their sequence of preparation. In many instances, a complete set of plans for a project may not be finished until the project is well underway. In cases such as this, the Administrator shall submit the plans for each phase of the project as they are completed. The local officials shall have a reasonable period of time to review the plans but this time period shall not exceed 2 months.

The submission and review of plans by the Administrator and the local officials, respectively, requires a good faith effort on the part of both parties. The Administrator should not submit the plans in a manner which would unduly burden the local officials. Similarly, the failure of local officials to review the plans should not act as an impediment to moving forward with the project.

During the period of construction or alteration work, the Administrator shall permit the local officials to inspect the project. Inspections should be in accordance with the usual schedule of inspections applied to non-Federal construction or alteration projects in the community.

Again, the logistics associated with the scheduling of inspections requires the good faith effort of both parties. The administrators should keep the local officials apprised of the project and construction schedule to assure local officials have adequate time to prepare for and undertake the inspections required. Similarly, local officials should not set or require arbitrary inspections which could delay the project.

There is no obligation on the part of the local officials to either review the plans or inspect the project. In the interest of the community and the Federal Government, though, the extent to which the local officials expect to be involved should be clarified prior to the initiation of the project. An expressed lack of interest on the part of the local officials shall not serve to relieve the Administrator of his responsibilities of either submitting plans to or permitting inspections by local officials.

Throughout the planning process and continuing through to the completion of the project local officials may make recommendations to the Administrator concerning measures which should be taken to insure compliance of the project with local building requirements and the model building codes. These recommendations may result from a review of the original proposal regarding where the building is to be located, an analysis of the construction blueprints, as a result of scheduled inspections, or simply based on knowledge of local building conditions, or problems. The administrators shall give due consideration to these recommendation and take remedial action which he feels is appropriate to assure the intent of this legislation is carried out.

While every effort should be made by the Administrator to comply with the model building codes and the local building requirements, it is recognized that in some instance full compliance may not be possible. For instance, requirements which limit competition, restrict innovation, or restrictive requirements enacted by a locality crafted to apply mainly to a Federal project, may prohibit full compliance. Accordingly, the bill retains the sovereignty vested in the Federal Government over lower levels of Government. No action may be brought against the United States and no fine or penalty imposed against the United States for failure to fully comply with the model building codes or local building requirements or failure to implement recommendations made by local communities.

A continual dispute between local officials and the Federal Government regarding Federal construction and alteration projects is whether or not Federal contractors are required to obtain building or similar and related permits for Federal projects. the courts have ruled that Federal contractors are not required to obtain these permits. The intent of this legislation is to affirm that decision and specifys that the Federal Government and contractors employed by the General Services Administration, for construction or alteration

projects, are not liable to pay fees or any amounts assessed by a local community for building or similar and related permits, or for the review of the plans or inspections carried out by the local officials. This provision does not exempt Federal contractors from local requirements relating to occupational or business licenses, health or safety standards which are required of contractors performing similar work in the private sector.

This bill applies to construction and alteration projects which have an aggregate cost in excess of $500,000 and which require the transmittal of prospectuses to the Congress. Projects which the Administrator determines would adversely affect national security, for instance alteration or contruction projects undertaken by the administration at the Pentagon building, or projects which affect the authorities granted in sections 5, 6, and 8 of the Central Intelligence Act of 1949 would not be subject to the requirements of the bill.

Mr. Speaker, at this point I yield to the gentleman from New Jersey [Mr. Howard].

Mr. HOWARD. I thank the gentleman for yielding to me.

Mr. Speaker, I just take this time, as chairman of the full committee, to commend the gentleman from Missouri and the gentleman from Florida for the work that they have done, not only here today, but throughout the year.

Many of these bills come up here from our Public Buildings and Grounds Subcommittee; they are handled expeditiously and many people may think that that is because they were not difficult at all. I would just like to say that an awful lot of time goes into the preparation of these bills, and it is only due to the cooperative and excellent work of these members and the members of that subcommittee that we are able to handle these so expeditiously on the floor.

I did not want this time to go by after the passage of these five pieces of legislation without expressing my gratitude and appreciation to the gentleman from Missouri and the gentleman from Florida and the subcommittee members for all the work that they have done so very, very well during this first session of this Congress.

Mr. SHAW. I thank the gentleman for his kind remarks.

Mr. Speaker, further reserving the right to object, I yield to the gentleman from Illinois [Mr. Gray].

Mr. GRAY of Illinois I thank the gentleman for yielding.

Mr. Speaker, I want to associate myself with the remarks of our very outstanding chairman, Mr. Howard. Having been chairman of this subcommittee myself for many years, I know it is in many cases a thankless job, and I know the gentleman from Missouri has done an outstanding job. I want to commend him publicly and also the gentleman from Florida and Mr. Snyder, the ranking minority member. We have one of the most cooperative, smooth-working committees in the House. I did not want the occasion to go by without publicly commending these gentlemen.

Mr. SHAW. I thank the gentleman for those kind remarks.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The Clerk read the bill, as follows:

H.R. 2403

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Public Buildings Act of 1959 (40 U.S.C. 601 et seq.) is amended by adding at the end thereof the following:

"Sec. 19. (a) Each public building constructed or altered under this Act shall be constructed or altered, to the maximum extent feasible, in compliance with one of the nationally recognized model building codes and with other applicable nationally recognized codes. Such other codes shall include, but not be limited to, electrical codes, fire and life safety codes, and plumbing codes, as determined appropriate by the Administrator. In carrying out this subsection, the Administrator shall use the latest edition of the nationally recognized codes referred to in this subsection.

"(b) Each public building constructed or altered under this Act shall be constructed or altered, to the maximum extent feasible, in compliance with all requirements (other than procedural requirements) of—

"(1) zoning laws, and

"(2) laws relating to landscaping, open space, parking, minimum distance of a building from the property line, maximum height of a building, historic preservation and esthetic qualities of a building, and other similar laws,

of a State or a political subdivision of a State that would apply to such building if it were not a public building.

"(c)(1) For purposes of meeting the requirements of subsection (a) and (b) with respect to a public building, the Administrator shall—

"(A) in preparing plans for such building, consult with appropriate officials of the State or political subdivision, or both, in which the building is to be constructed or altered;

"(B) submit such plans in a timely manner to such officials for review by such officials for a reasonable period to time not exceeding two months; and

"(C) permit inspection by such officials during construction or alteration of the building, as determined necessary by such officials in accordance with the usual schedule of inspections for construction or alteration of buildings in the locality.

"(2) Nothing in this section shall impose an obligation on any State or political subdivision to take any action under paragraph (1).

"(d) Appropriate officials of a State or a political subdivision of a State may make recommendations to the Administrator concerning measures necessary to meet the requirements of subsections (a) and (b). Such officials may also make recommendations to the Administrator concerning measures that should be taken in the construction or alteration of a public building to take into account local conditions. The Administrator shall give due consideration to any such recommendations.

"(e) No action may be brought against the United States and no fine or penalty may be imposed against the United States for failure to meet the requirements of subsection (a) or (b) of this section or for failure to carry out any recommendation under subsection (d).

"(f) The United States shall not be required to pay any amount for any action taken under this section by a State or a political subdivision of a State.

"(g) This section applies to—

"(1) any public building for which a prospectus for construction or alteration is transmitted to Congress under section 7 after the date of enactment of this section, and

"(2) any public building for which planning for a project for construction or alteration not requiring a prospectus under section 7 is begun after the date of enactment of this section.".

(b) Nothing in the amendment made by subsection (a) shall be construed to affect the authorities granted in sections 5, 6, and 8 of the Crentral Intelligence Agency Act of 1949 (50 U.S.C. 403g, and 403j).

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. YOUNG OF MISSOURI

Mr. YOUNG of Missouri. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. Young of Missouri: Strike out all after the enacting clause and insert:

H.R. 2403

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Public Buildings Act of 1959 (40 U.S.C. 601 et seq.) is amended by adding at the end thereof the following:

"Sec. 19. (a) Each public building constructed or altered under this Act shall be constructed or altered, to the maximum extent feasible, in compliance with one of the nationally recognized model building codes and with other applicable nationally recognized codes. Such other codes shall include, but not be limited to, electrical codes, fire and life safety codes, and plumbing codes, as determined appropriate by the Administrator. In carrying out this subsection, the Administrator shall use the latest edition of the nationally recognized codes referred to in this subsection.

"(b) Each public building constructed or altered under this Act shall be constructed or altered, to the maximum extent feasible, in compliance with all requirements (other than procedural requirements) of—

"(1) zoning laws, and

"(2) laws relating to landscaping, open space, parking, minimum distance of a building from the property line, maximum height of a building, historic preservation, and esthetic qualities of a building, and other similar laws of a State or a political subdivision of a State that would apply to such building if it were not a public building.

"(c)(1) For purposes of meeting the requirements of subsections (a) and (b) with respect to a public building, the Administrator shall—

"(A) in preparing plans for such building, consult with appropriate officials of the

State or political subdivision, or both, in which the building is to be constructed or altered:

"(B) submit such plans in a timely manner to such officials for review by such officials for a reasonable period of time not exceeding two months; and

"(C) permit inspection by such officials during construction or alteration of the building, in accordance with the usual schedule of inspections for construction or alteration of buildings in the locality.

"(2) Nothing in this section shall impose an obligation on any State or political subdivision to take any action under paragraph (1).

"(d) Appropriate officials of a State or a political subdivision of a State may make recommendations to the Administrator concerning measures necessary to meet the requirements of subsections (a) and (b). Such officials may also make recommendations to the Administrator concerning measures that should be taken in the construction or alteration of a public building to take into account local conditions. The Administrator shall give due consideration to any such recommendations.

"(e) No action may be brought against the United States and no fine or penalty may be imposed against the United States for failure to meet the requirements of subsection (a) or (b) of this section or failure to carry out any recommendation under subsection (d).

"(f) The United States and its contractors shall not be required to pay any amount for any action taken under this section by a State or a political subdivision of a State.

"(g) this section applies to any public building for which a prospectus for construction or alteration is transmitted to Congress under section 7 after the date of enactment of this section.

"(h) This section shall not apply with respect to any public building if the Administrator determines that the application of this section to such buiding would adversely affect national security. Any determination under this subsection shall not be subject to administrative or judicial review.".

(b) Nothing in the amendment made by subsection (a) shall be construed to affect the authorities granted in sections 5, 6, and 8 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403f, 403g, and 403j).

Mr. YOUNG of Missouri (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from Missouri [Mr. Young].

The amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. YOUNG of Missouri. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bills just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will announce that legislative business will resume later on.

The Chair will recognize Members for any unanimous-consent requests, as well as special orders.

GENERAL LEAVE

Mr. RUDD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Resolution 336, the rule providing for consideration of H.R. 3838, the Tax Reform Act of 1985.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

☐ 1820

HYDROGEN RESEARCH AND DEVELOPMENT ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. Brown] is recognized for 5 minutes.

Mr. BROWN of California. Mr. Speaker, today I am introducing a new bill entitled the Hydrogen Research and Development Act. Hydrogen, one of the most abundant elements found in nature has long been considered a potential energy source as our petroleum and petroleum-based fuels become increasingly scarce and expensive. From a technical as well as a societal perspective, hydrogen presents numerous benefits. The main combustion product is water, rather than the carbon dioxide produced by fossil fuels. Thus, it is environmentally very attractive, It is extremely energy efficient, providing more than double the energy per pound than conventional fuels. When coupled with other renewable energy systems, it can provide a convenient form of storing and delivering energy without major alterations in our current transportation and energy infrastructure. It is safe, being far less volatile than ordinary gasoline.

We currently use hydrogen as a fuel as part of the space shuttle program. In looking to the future, it appears that hydrogen appears more and more attractive as a potential aviation fuel. Hearings held last summer by the Committee on Science and Technology to explore the viability of new hypersonic air/space-craft indicated that liquid hydrogen would emerge as the fuel of choice.

The major problems in using hydrogen appear to be economic, primarily related to production. Electrolysis, the classical means of producing hydrogen directly, is too costly with conventional electrical production. However, new ideas in such areas as biotechnology, photo-chemical generation and coal gasification point to potential technological breakthroughs that may dramatically change the economics of hydrogen production. Strengthened research and development support and improved coordination seem in order. Current Federal hydrogen R&D programs are located principally in the Department of Energy. The Department spent approximately $4.1 million in fiscal year 1985 on programs directly attributed to hydrogen. An additional $19.5 million was spent on related activities, spread over more than half a dozen program areas. However, little overall direction exists either within the Department or with other agencies such as NASA or Defense.

The legislation I am introducing is almost identical to that introduced in September by Senator Matsunaga and Senator Evans. This bill directs that a comprehensive management plan be established for hydrogen research and development to be authorized for a total of $275 million, divided between the Department of Energy and NASA. Of that total, $35 million would be authorized for expenditure in fiscal year 1987. Among other things, the bill provides for establishing advisory panels to advise these two agencies on the conduct of hydrogen R&D, provides for necessary reports to Congress, provides for technology application programs, as well as provides for coordination and consultation with other Federal agencies.

Mr. Speaker, I look forward to reviewing this and related legislation during the remainder of this Congress. I anticipate that legislative hearings will be held by my subcommittee early next year. I invite my colleagues to join me in supporting this important endeavor as we proceed with this legislation.

TRIBUTE TO THE LATE PEGGY GOLDWATER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. Rudd] is recognized for 5 minutes.

GENERAL LEAVE

Mr. RUDD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. RUDD. Mr. Speaker, with deep regret, I must inform my colleagues that Peggy Goldwater, the wife of Senator BARRY GOLDWATER, passed away this morning.

Mrs. Goldwater was admitted to a Phoenix hospital in November with a circulatory ailment. Her leg was recently amputated after two unsuccessful arterial-graft operations to bypass a blood clot in her abdomen—and her condition had worsened since then.

Barry and Peggy Goldwater were a delightful, energetic couple who recently celebrated their golden wedding anniversary together. The Senator's descriptions of their 51 years together are often very emotional and inspirational experiences.

Mr. Speaker, I know that our prayers and best wishes are with the Senator during this trying time. And I hope he finds some comfort in the knowledge that his beautiful wife will be long remembered with loving fondness by her family, friends, and many admirers.

Mr. Speaker, I yield to the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Speaker, I appreciate the gentleman from Arizona yielding.

I, too, join with my colleague in expressing my sorrow and sympathy to the family of Senator GOLDWATER for the loss of Peggy Goldwater.

I remember 25 years ago when I came to Washington as a very young boy as a page in the other body under Senator GOLDWATER's tutelage, that I was greeted so warmly by both Senator GOLDWATER and by Peggy Goldwater. And I know as much as he has become an institution in this country, she, too, became very much an institution to the U.S. Senate. I know that her loss is going to be felt deeply, not only by her family and so many friends who loved and knew her, but by all those who served in that body and in this body who have had the great privilege of knowing Peggy Goldwater.

My deepest sympathies are with the family in this hour of their loss, and I know that many other of my colleagues share that view.

Mr. Speaker, I appreciate my colleague from Arizona taking the time to express his feelings.

Mr. RUDD. Mr. Speaker, I yield to the gentleman from Indiana [Mr. JACOBS].

Mr. JACOBS. Mr. Speaker, I thank the gentleman from Arizona for yielding to me and I commend him for this special order.

Mr. Speaker, I would simply say for the record I am quite confident that every Democratic Member and every Republican Member of the Congress expresses their heartfelt sympathy to Senator GOLDWATER, our former colleague, former Representative Goldwater, at this moment of sorrow for them.

The Goldwater family is an American treasure that proves once again that we are one Nation under God and, as God's children, we love one another and we express our condolences. Senator GOLDWATER's loss, our former colleague, Barry, Jr.'s loss, is a loss for us all.

Mr. RUDD. Mr. Speaker, I yield to the gentleman from Illinois [Mr. O'BRIEN].

Mr. O'BRIEN. Mr. Speaker, I thank the gentleman for yielding.

At a time like this with respect to the Senator and our former colleague, Barry, and the whole family, if there were something we could do, it seems that there is almost nothing when the loss is so overwhelming. But if there was and we could, we would.

An interesting little facet on this situation. Peggy Goldwater and I were cousins. I remember years ago when the Senator was running for President, sitting on the stands in Joliet, IL, with my daughter on the fringe as the Presidental candidate was speaking. After it was over, the flowers that had been given Mrs. Goldwater she went over and handed to my daughter, whom I looked at and saw her throw her fingers into her mouth she was so startled by it. That night at suppertime, I asked her, "Debbie, what did Mrs. Goldwater say to you?

She said, "Daddy, as she handed me the flowers, she said 'Don't bite your nails.' "

There was something kind of earthy about them that was wonderful.

I share the gentleman's view.

Mr. RUDD. Mr. Speaker, I thank the gentleman for his remarks. I yield back the balance of my time.

The SPEAKER pro tempore. The Chair on behalf of the House wishes to thank the gentleman from Arizona [Mr. RUDD] for taking that time.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kentucky [Mr. HOPKINS] is recognized for 5 minutes.

Mr. HOPKINS. Mr. Speaker, on December 11, I was on official business and unavoidably absent until 1:30 p.m. from the House. The press of an announcement in Scott County, KY, by the Toyota Motor Co. to launch an $800 million capital investment—the largest ever by a Japanese auto manufacturer in America—regrettably kept me in the Sixth District of Kentucky during that vote. I, therefore, respectfully ask to be excused for my unavoidable absence.

CONGRESSIONAL CALL TO CONSCIENCE: LET US NOT FORGET THE SOVIET JEWS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas [Mr. GLICKMAN] is recognized for 5 minutes.

Mr. GLICKMAN. Mr. Speaker, I rise today to participate in the Congressional Call to Conscience on Soviet Jewry.

During this holiday season, as we celebrate with family and friends, I would urge my colleagues to pause and remember that many persons are being denied the comforts and freedoms that we so enjoy. In particular, I think of two Soviet refusenik families, Oscar and Shelley Mendeleev and their two sons Gregory and Valery, and Rimma and Evgeny Yakir and their son Alexander.

When Oscar Mendeleev first applied for exit visas for himself and his family in 1973, his request was rejected because of secrets which authorities alleged he had been exposed to in a previous job. He was subsequently fired from his job as an electronics engineer and has been unable to secure anything but part-time and menial jobs since that time. Shelly Mendeleev, a pediatrician, has also been unable to find employment commensurate with her training and abilities.

In their continuous quest for permission to emigrate to Israel, the Mendeleevs face disappointment and harassment. Soviet authorities continue to use the pretext of secrecy for preventing Oscar's emigration, although more than 15 years have passed since he left the alleged "classified" position. Oscar has been threatened with arrest and long-term imprisonment, and has spent 2 weeks in prison for idleness, a situation precipitated by his lack of steady employment.

The Yakirs have also been seeking permission to emigrate to Israel since 1973. Like the Mendeleevs, their initial request was rejected on grounds that Rimma, a computer engineer, had had access to state secrets. Rimma lost her job, eventually finding work as a cleaning woman. Evgeny, a mechanical engineer, was dismissed from his job as well, and since then has worked as a freelance translator and tennis coach.

The Yakir's son Alexander has faced even more serious violations of his human rights. Arrested in June of 1984 on draft evasion charges, he has spent the last year and half in prison. Alexander was charged retroactively for allegedly "failing to report for military service in 1981." Although that year the military authorities tried to prosecute Alexander for evading conscription, the charge was rejected by the prosecutor's office because of insufficient evidence. The KGB waited 3 more years before arresting him. Clearly Alexander's arrest and sentence were the result of the Yakir's repeated petitions for emigration and because they belong to a family whose members were considered dissidents during the late 1930's.

Both of these families have committed no other "crime" than to petition for permis-

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Declaration on Human Rights, continues to reject their petitions and subject them to harrassment and separation from family and friends.

The stories of these two families and many, many other Soviet refuseniks and prisoners of conscience cast a shadow over the lights of this holiday season. Although the recent summit between President Reagan and Soviet leader Gorbachev kindled hopes that there might be changes in the Soviet Union's human rights and emigration policies, the situation for Soviet Jews still remains grim. I call upon the Soviet Union, in accordance with the Helsinki Final Act, to grant the Mendeleevs, the Yakirs and others the right to emigrate. Such action is critical to keeping alive the hopes raised by the Geneva summit for United States-Soviet peace and cooperation.

POST ENDORSES BOUCHER RICO BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas [Mr. Alexander] is recognized for 5 minutes.

Mr. ALEXANDER. Mr. Speaker, I want to bring to my colleagues' attention a recent editorial in the Washington Post endorsing legislation introduced by Congressman Boucher to amend the civil provisions of the Federal Racketeer Influenced and Corrupt Organizations Act [RICO]. This is the latest in a long string of endorsements of this important measure.

According to the Post:

> The current law crowds federal courts with run-of-the-mill commercial disputes and allows citizens . . . to be smeared with the label "racketeer." Congress should end these abuses and clarify its original intention by passing Mr. Boucher's bill.

Mr. Boucher deserves plaudits for crafting a bill that enjoys wide bipartisan support in the House and has been endorsed by a broad coalition of legal, business, and labor organizations ranging from the American Bar Association to the United Auto Workers Union.

As a cosponsor of H.R. 2943, I urge my colleagues to support Mr. Boucher's efforts to stem the rising abuse of the civil provisions of RICO.

The editorial follows:

[From the Washington Post, Dec. 6, 1985]

Who's a Racketeer?

Members of Congregation Beth Yetzhok in New York had a dispute over succession to the leadership of their Hasidic congregation, and one faction sued the other in federal court. In another case a citizen, annoyed about the way Democratic Party funds were distributed in the last election, sued Walter Mondale and the Democratic National Committee using the same federal statute. A woman displeased by her divorce settlement, a writer with a gripe against the American Broadcasting Company and a group of tenants protesting their landlord's utility charges all used the same law to bring a civil suit. What's the common thread? It is, believe it or not, racketeering.

Fifteen years ago, Congress passed the Racketeering Influenced and Corrupt Orga-

lowing persons hurt by organized crime to bring civil suit against the wrongdoers. Plaintiffs could simply allege that they had been harmed by the kind of activity usually associated with organized crime—murder, arson, kidnapping, extortion and various kinds of fraud—and bring their complaints in federal court, instead of over-crowded state courts. In addition, they could win triple damages if their suits were successful.

For about 10 years there was little civil RICO litigation, but since 1981 the number of cases has skyrocketed as all sorts of people began to realize the potential of the statute. The Justice Department estimates that now only about 7 percent of RICO civil suits involve racketeers of any kind. Most defendants are businesses, brokerage houses, bankers, unions and occasional unlikely parties such as those described above. In most cases the "racketeering" alleged is mail fraud ("he sent the contract through the mail"), wire fraud ("she promised me on the phone") or securities fraud ("they sold me an interest in a business deal that didn't work out").

The Supreme Court has ruled that the RICO statute does in fact authorize all these suits, but even the justices expressed skepticism that Congress intended this result. Dozens of organizations as diverse as the American Bar Association and the United Auto Workers have called for amending legislation and the House subcommittee on criminal justice is now considering a bill introduced by Rep. Frederick Boucher (D-Va.). It would allow civil RICO suits only against persons who already have a criminal conviction for a racketeering offense.

The current law crowds federal courts with run-of-the-mill commercial disputes and allow citizens such as the Brooklyn rabbi and the Democratic nominee—not to mention countless honest businesses—to be smeared with the label "racketeer." Congress should end these abuses and clarify its original intention by passing Mr. Boucher's bill.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. Nelson] is recognized for 5 minutes.

Mr. NELSON of Florida. Mr. Speaker, due to official business, I was unable to be present and voting on December 9 and December 10, 1985, for rollcall votes 437 through 441, 443, and 445 through 447. Had I been present, I would have voted "aye" on roll No. 437, House Concurrent Resolution 239, Ireland-United Kingdom Agreement; "aye" on roll No. 438, final passage of H.R. 1083, low-level radio active waste disposal policy; "aye" on roll No. 439, final passage of H.R. 3733, Federal Technology Transfer Act; "aye" on roll No. 440, final passage of H.R. 1538, veterans compensation and health care; "aye" on roll No. 441, motion to approve the Journal; "nay" on roll No. 443, Duncan amendment to H.R. 2817, Comprehensive Environmental Response, Compensation and Liability Act; "aye" on roll No. 445, Frank amendment to H.R. 2817; "aye" on roll No. 446, Edgar amendment to H.R. 2817; and, "aye" on roll No. 447, final passage of H.R. 2817.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. Myers] is recognized for 60 minutes.

Mr. Meyers of Indiana. Mr. Speaker, the institution we call Congress will lose one of its most loyal and principled advocates when Tommy Lee Winebrenner of Wolf Lake, IN, retires at the end of this month.

It is well known that we hoosiers stick together and that you might expect us to say nice things about Tommy on this occasion. But Tommy is one of those extraordinary persons who serves this House with distinction. Whether you are from Alaska or Atlanta, whether you are Republic or Democrat, whether you are liberal or conservative, you know you can depend on Tommy's assistance in making this institution work.

It was Charles Halleck, the revere former Republican leader of the Hous of Representatives, who brough Tommy to the House as a staff membe back in 1955 just after his service with the Marine Corps.

When we talked with Charlie Halleck this afternoon and told him of Tommy's retirement and the special orde honoring him this evening, Charlie' first words were, "Tommy is one of the finest persons I have ever known, an tell him that includes all the President and Members of Congress I worke with in my 34 years in Washington," Charlie went on to ask that we conve his best wishes to Tommy for his lif after Congress, but expressed concer that the real estate business, whic Tommy is entering, may offer too slo a pace for him.

We also heard today from the la leader of Aldersgate United Methodis Church in Alexandria, VA, wher Tommy, his wife, Barbara, and thei two children, Pam and Mark, hav been very active. In fact, Ray Bohnsack reported that Tommy is one o those rare people who sincerely care about others and their needs. Eve with his heavy work load, in his position as minority Doorkeeper, a post h has held for the last 10 years, Tomm still found time to serve in every majo leadership role in his church, a tribut to his dedication to his family an community.

From fellow staff persons, both current and former, who have worke with Tommy over the years, hav come uncommon expressions of respect and love for this person who ha never been too busy to return a call o lend assistance. In an institution tha some times is known for its competitiveness, Tommy earned the vocal accolades of long-time professionals a well as the rookie staffer who neede help in finding the light switch.

about this very special person we honor today. If the critics of Congress would only take the time to study the career and dedication of Tommy Winebrenner, and then realize that Congress is blessed with many fine staff persons who are following Tommy's example, they would be reassured about the future of the "People's House" of Congress.

The friendship that has developed between Tommy and me as we have toiled together will be something I will cherish throughout my life. I could not be more proud of having worked with such a dedicated, committed, and capable American who has served his nation so ably and well in this forum.

I send with Tommy my fondest good wishes for his future success and happiness in the challenges and opportunities that lie ahead.

□ 1830

I yield to my colleague, the gentleman from Arizona [Mr. RUDD].

Mr. RUDD. Mr. Speaker, I thank the gentleman from Indiana for taking this special order and also our colleague, the gentleman from Indiana [Mr. HILLIS] for the same purpose.

Tom Winebrenner is well known to everybody who ever served in this great body. Meditating with him a moment ago, indicating that the calculation of how many thousand Members he might have served here, different Members in the course of his tenure in the House of Representatives, Tom Winebrenner from the moment I arrived here displayed great assistance in everything that I had an interest in that related to the operation of the House of Representatives.

I cannot tell you how grateful I am to the great wisdom that he has displayed time after time, day after day, his diligence in understanding what was happening in the House and his ability to convey all of the nuances of meaning and all of the things that had to do with the legislative effort of this great body. Tom Winebrenner was always in a position to know everything that was going on. That sounds like a big statement, but it is not in my opinion.

I wish to express my deep gratitude to him for all the assistance he has given me and also to the other Members here in the House of Representatives.

I thank the gentleman from Indiana for yielding.

Mr. MYERS of Indiana. Mr. Speaker, I thank the gentleman for those very kind words.

I yield to our very good friend, the gentleman from Indiana [Mr. JACOBS] who served a number of years with Tom.

Mr. JACOBS. Mr. Speaker, I thank the gentleman, my neighbor to the

Mr. MYERS of Indiana. To the south.

Mr. JACOBS. I think the good Lord plans ahead pretty well, Tommy, in these matters. It just happens even as we speak, the Indiana Society is meeting here in the Capitol over in the Ways and Means Committee chamber. I think Tommy Winebrenner could very well be the honoree at this year's meeting here at the Capitol. Lord knows he has earned it.

Tommy is a marine, and any good marine knows that the maxim there is that there is the right way, the wrong way, and the Marine Corps way. If Tommy does things the Marine Corps way, it is the final vindication, it seems to me, that that is the super right way to do things.

There is not a Democratic Member of the House, there is not a Republican Member of the House, who has not benefited from his wisdom. If you wanted to know what the schedule was going to be, you could call your respective party whips or you could call your respective party leaders, or just in case you really wanted to know what was going to happen, you could check with Tom.

I must say to my friends, to my colleagues, and for the record and to the Nation, the part of it that cares to watch, that if Tommy is half as good at appraising and assessing real estate as he is at assessing our chances for recessing in the evening or for the year, I predict he will be a multimillionaire possibly by Easter.

I thank the gentleman for yielding.

Mr. MYERS of Indiana. Well, Mr. Speaker, I thank our colleague for his always very sharp sense of humor. It is a sad day for all of us here, but it is nice to have a smile, too.

I yield to our colleague, the gentleman from Indiana (Mr. COATS).

Mr. COATS. Mr. Speaker, I thank the gentleman for yielding.

I also want to rise in tribute to Tommy Winebrenner for all his years of service in this body. Now, I have only been privileged to serve with him for 5 years. I know other Members have spent a great deal more time with Tom than that, but I think we share something in common and that is our affection and deep appreciation for Tom's work and advice to us and guidance, for all that he has been able to give us.

Tommy was born in Wolf Lake, IN. Not a lot of people have heard of that place, but I sure have. It is part of my district, the northern part.

He came to Washington first as a page for Ross Adair, who was known by many in this Chamber and was a predecessor of mine.

Tommy served as a page and then after graduating from page school moved on to the Republican cloak- He is a 1960 graduate of American University, and a fact that some people do not know, attended 2 years of law school at GW here in Washington.

He and his wife, Barbara, have two children, Pam and Mark.

He has been a very permanent part of this body for some time. When he came to Washington, he brought with him some solid Hoosier values and perhaps the best thing you can say about Tommy Winebrenner is that over the years he has not lost those Hoosier values. He has a tremendous appreciation for how things work and do not work around this body. He is trusted and respected by Members on both sides of the aisle.

Tommy counts among his friends some of the greatest leaders and politicians this institution has ever known and I am privileged to consider myself among his friends, not necessarily one of the greatest leaders and politicians, but at least one of Tommy's friends.

When I first met Tommy, I was especially impressed by his hard work, by his dedication to his job and his commitment, by his integrity and by his very sincere faith, which I am sure has carried him through some very hectic and unsettled times in this House.

Tommy, you will be sorely missed around here. I know each of us wish you all the best in your next career. Thanks for all your great service to each and every one of us.

I thank my colleague, the gentleman from Indiana, for yielding.

Mr. MYERS of Indiana. We thank our colleague for those very fine words.

Now I yield to our friend, the gentleman from Indiana [Mr. HILER], who also had the privilege of serving for several years with Tommy.

Mr. HILER. Mr. Speaker, I thank the gentleman for yielding, and as a fellow Hoosier, while Tommy's family did not come from my district, they do live in Valparaiso, IN, an area not too far away from La Porte, IN, my home.

I first met Tommy shortly before I was sworn in in 1980. Our colleague, DAN QUAYLE, just before he was sworn into the other body, was showing me the ropes around here and wanted to make sure that I met Tommy Winebrenner, because if I ever needed to know anything, Tommy was the person that I was to talk to. I found in the 5 years since that point, Senator QUAYLE's advice to me has never been wrong.

I consider it a great honor and a privilege to have served in this body at a time when Tommy was here. Probably he is back there and I do not know whether he is listening or not, but the thing that I would like for him to hear most from me is that Tommy

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came to this institution in the same year I was born. The remarkable thing is that most of the time when we do these eulogies, it is long after someone has passed away, but Tommy when he told the caucus that he was going to retire, there was great shock because he is so young, so active, so young-looking. The fact that he has been here for 32 years and yet continues to look as good as he does says something about his constitution and about his dedication to this institution.

I know I am going to miss Tommy a great deal in the remainder of my time in Washington, however long that is. I wish him well in his future endeavors and look forward to seeing him in another role over the next several years.

Mr. MYERS of Indiana. Well, I thank the gentleman for those kind words. The gentleman was doing a great job there for a while. He was really making points, betting a thousand, and then he had to start talking about when he was born and when he came to Congress. Tom will not miss the gentleman, I am sure.

Mr. Speaker, I yield to our friend, the gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Speaker, I thank the gentleman for yielding to me.

I asked specifically for the floor at this particular point.

We have heard from many of our fine Members from Indiana who are justifiably proud of their native son. Now, I want to rise as a Member from Fort Lauderdale who is most likely to inherit Tom when he finally retires and moves out of the Washington-Virginia area.

I remember when I first came to Congress, I did not have any legislative experience, so this whole process was a complete mystery to me. I would get lost in the office buildings. I would get lost on the terrible road patterns that Washington has, but the only place that I knew I had a sure road map was here in the House, when Tom does take the new Members under his wing and explain to them the mysteries of the parliamentary process or lack thereof that happens here in the House. He has certainly looked after the interests I think of all the Members.

I think one of the prior speakers on the other side of the aisle made it very clear that if you want some good information, you go to Tom. I know that he is going into real estate. I think he would probably be an excellent odds maker, however.

Last night when all of us were telephoning our wives to let them know what time we were going to finally get out of here to go over to the White House for the President and Mrs. Reagan's party, I asked Tom, "When do you think we will get out of here?"

He said, "It will probably be about 20 after 7."

The last vote was called precisely at 20 after 7.

He has been so accurate in so many ways, he has been able to cut through not only to say what the Speaker says the schedule is going to be, but he can interpret it. He can look at it and say, "Here is what the other side is doing; however, I don't believe this, I don't believe that. There is this or that. There is that event." So if something is going to happen, his accuracy is just absolutely crystal clear.

He certainly has won the admiration of all of the Members of this Congress. I think that is one of the beauties and one of the rarities that we have here in Government, that we do have people guiding us here in high positions, not Members, but in high positions on the staff who guide us in the right direction and keep us straight.

We are certainly going to miss him, but we certainly are happy for him.

I notice tonight, the night that we are paying honor to him in this special order, that we are probably going to keep him around here until after midnight.

So I think one of the great opportunities he is going to have after we adjourn is to become reacquainted with his family. We certainly wish him a long, happy, and most successful second life.

Mr. MYERS of Indiana. Well, we thank our colleague, the gentleman from Florida, for his very fine remarks.

It just occurred to me during those remarks that Tommy does know about the best of anyone here about how long it is going to take, how many votes we are going to have and what is going on.

The other day a number of us were weathered in with fog in Indianapolis and could not get back here for the votes on Monday. We called Tom just about the time the House convened on Monday to say that we are here.

He said, "Yes, I already knew it." He already knew we were stuck in Indianapolis and he knew just how many votes we were going to have that day, even though they had not been called yet.

It occurred to me, a little-known fact, that the Speaker of the House does not have to be a Member of the House. With all that knowledge that Tommy has stored there and his talent, we are going to need a Speaker next year. With the popularity that he has from both sides of the aisle, maybe he would be a good candidate for Speaker. Do you suppose we could recall him back from the real estate business?

Mr. SHAW. Well, if the gentleman will yield, I believe that the gentleman might have a great following on this. I think all of us should get behind a complete new movement of Tommy for Speaker. I think that would be excellent.

Mr. MYERS of Indiana. Mr. Speaker, I apologize to our colleagues. There is a conference going on. As we all know, we want to get out this week. Tommy has said this, that he would like to get out tonight or get out this week.

We did realize that many people wanted to speak on this issue, so the gentleman from Indiana [Mr. HILLIS] and I each took an hour.

So at this time, Mr. Speaker, I am going to yield back my time and the gentleman from Indiana [Mr. HILLIS] can yield to the remaining Members here. I apologize for that, but I must go on to the conference.

I yield back the balance of my time.

□ 1845

TRIBUTE TO TOMMY WINEBRENNER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. HILLIS] is recognized for 60 minutes.

Mr. HILLIS. Mr. Speaker, I, too, am very happy to have the opportunity to be here tonight and pay tribute to my good friend, and a person I admire greatly, Tommy Winebrenner.

Tommy's history has already been given by the speakers that have preceded me, and certainly his background as a page, a telephone clerk has all been brought out.

I happened to think as everyone was talking about his uncanniness of picking votes, and how votes are coming out and the time, maybe he ought to be known here as "Tommy, the Greek." But he has been a tremendous help to all Members of the House.

I notice as somebody comes on the floor, he answers questions and he does not look to see from which party or which side of the aisle they sit, but he always gives his best advice, and I think that is why Democrats are here tonight, and Democrats have gathered with us as well as Republicans to pay tribute to this man, because he is a unique individual and really has played an important role in the history of the House of Representatives for many, many years.

Mrs. HOLT. Mr. Speaker, will the gentleman yield?

Mr. HILLIS. I yield to the gentlewoman from Maryland.

Mrs. HOLT. Mr. Speaker, I thank the gentleman for yielding, and certainly thank him for taking this time.

Mr. Speaker, I want to express my great respect and affection for Tommy Winebrenner, and my deep gratitude for the many years of service that he has rendered to us. His personal warmth and constant attention to the needs and concerns of Members is certainly appreciated by all of us.

Our friend, Tommy, has worked for the House Republican leadership for all of these years, sharing the highs and the lows with several generations of Members. I had occasion to speak with former President Gerald Ford last week, and he commented that Tom was one of the finest persons he had met in his service in the leadership here in the House.

How he put up with us for all of those years, I do not know. But it is certainly a tribute to his patience that he retires with our love and respect, and I hope that Tom and his family have a wonderful time in his new career.

Mr. BURTON of Indiana. Mr. Speaker, will the gentleman yield?

Mr. HILLIS. I yield to my colleague, the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, I will just take a moment. I have known Tommy for just about 3 years now, and he has been one of the finest people that I have known since I came to Congress. He has the patience of Job. When freshman congressmen come in stumbling around trying to find the bathroom, let alone know the rules of this place, Tommy has a great deal of patience, and always has had a kind word for us when we messed up here on the floor.

I know I speak for every Member of the 98th Congress class and every Member of the 99th Congress class when I say a sincere thank you to Tom for his patience and help throughout very trying times.

I am a real estate man myself, and I know Tommy has a great personality and I am sure he is going to do well in that new endeavor he is going to be undertaking. But he is going to be missed by all of us.

Mr. ROBERTS. Mr. Speaker, will the gentleman yield?

Mr. HILLIS. I yield to the gentleman from Kansas.

Mr. ROBERTS. Mr. Speaker, I thank my colleague and friend for yielding, and apologize to my colleagues and Mr. Winebrenner. I have a speech and I am going to read it. It will take about 4 minutes, if you would like to sit down and listen.

Mr. Speaker, it is a personal pleasure to join the many friends of Tommy Winebrenner as we pay tribute to a truly dedicated public servant and a personal friend.

You know, observers and those who chronicle the business of this body call it "the People's House." And, for better or worse that is what we are. I suppose the public image of this House depends upon who is doing the rating—and Lord knows there are a great many critical blackbirds sitting on that rail—and what yardstick they use. Depending upon what you read, hear or watch, this outfit has been described with wonder and awe and saddled with ridicule and blame. I suspect that is the nature of this beast—after all what else would you expect from 435 folks protecting 1 district and representing 434 others? The real wonder is that we get anything done—let alone with purpose, direction or dispatch.

But, conduct the people's business we do whether it is by snail's pace progress or on a greased slide headed in the wrong direction. We do act. And you know why? Because of dedicated people like Tommy Winebrenner.

Tommy, you see, is one of a handful around this "August Hall" who actually knows what is going on and why. Let me underscore an old expression that bears repeating in this case, there are no self made men in public office, it is your friends who make you what you are. In the case of Tommy Winebrenner, he has made all of us look good, individually and as an institution. I might add that has not been an easy chore.

Mr. Speaker, a small sample of his daily work:

"How much longer before a vote, Tommy?";

"Are we under the 5-minute rule?";

"Is this under budget? Is it over last year's level?";

"I know what he said but does the amendment really do that?";

"They defeated my amendment on a voice vote and I wasn't on the floor, what do I do now?";

"Have you seen anyone in the leadership, where is the leadership on this?";

And on and on and on. Now I don't want to tell tales out of school but it could be safely alleged that a great many votes have hinged on Tommy's advise and counsel and as a result Mr. Winebrenner has had a great deal of influence regarding what has happened here in the House of Representatives during the past 30 years. I do not think it is an exageration to say Tommy Winebrenner has had a direct and positive influence on the course of legislation within the Congress of the United States.

This man has been a walking encyclopedia and expert on the schedule of the House, the legislative calendar and process, Jefferson's Manual, Roberts Rules of Order, the politics of the place, the comings and goings—he even knows which skeleton is in what closet can give you advice as to whether it should stay there. Finally, at the end of the day, with good grace, patience and humor, he tells us we can return home to our families.

And that Mr. Speaker, is another true measure of this man. Tommy is a fellow church member and leader, a neighbor, an exemplary father and husband. And, on his time off he even asks for more; he has the reputation of being a most aggressive but fair referee and umpire for his beloved Fort Hunt athletic program.

As a matter of fact, in all of the years I have known him, considering the hundreds, perhaps thousands of times I have asked for his advice and counsel, he has never steered me wrong—except for that one charging call on my son 2 years ago at his basketball game. Hey, one bad call in more than 30 years, that's a record to be envied indeed.

Tommy, from the entire Roberts family, and in behalf of my predecessor and the people of my district, I join your many friends in saying well done, great success in your new endeavor, and God bless.

Mr. CARR. Mr. Speaker, will the gentleman yield?

Mr. HILLIS. I thank the gentleman for his remarks, and I yield to the gentleman from Michigan [Mr. CARR].

Mr. CARR. I thank the gentleman for yielding, and on behalf of the people of my party who I think were not aware that we were going to be wishing Tommy our best wishes, I want to speak for so many of us who have come through that western door, who have been of the other party and who have nonetheless gotten the kind of reliable, steady advice and counsel that previous speakers have mentioned. Tommy really has done it without regard to party. He really serves the entire institution, as he has served the Republican party so well, and I want to extend to him my best wishes in his future endeavors and to say that personally I am going to miss some of the hangar flying we have done together over the last several years.

Good luck, Tommy.

Mr. CLINGER. Mr. Speaker, will the gentleman yield?

Mr. HILLIS. I yield to the gentleman from Pennsylvania.

Mr. CLINGER. Mr. Speaker, when the word got out that Tom was going to retire I know that I and I'm sure all of our colleagues on this side of the aisle were filled with dismay. And I suspect that a lot of our colleagues on the other side were also. Over the years Tommy has been an incredibly reliable and accurate source of information about what is going on in this place, what has gone on and what is likely to go on and when. He brings order out of chaos, sense out of the senseless, meaning out of gobbledygook. To say that we will miss him is woefully inadequate.

I must say that anyone who has been around here for 30 years as Tommy has, has to be either very stupid, very masochistic or very dedicated. And since we all know that he certainly is not stupid, and has shown no penchant for self-flagellation, I conclude it was indeed his dedication that guided him.

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Tom has always been the quiet spot in the middle of the storm—one of the few who kept his head when all about him were losing theirs.

But the reason I really have so much respect and admiration for Tom Winebrenner is that he is a sailor. Those who go down to the sea in ships or even in small boats as Tommy does are a breed apart. They are thoughtful people. I'm sure that Tommy has welcomed his boat as a respite from the babble of this place. Out there all he has to contend with are the wind and the waves and the occasional gulls.

I have learned much from Tommy over my years here about procedure and process. He has helped me in more ways that I can remember.

We will all miss him. I am sure we will muddle through some way but at the moment I'm not sure how.

We wish him well, good luck and God speed.

Mr. HILLIS. I thank the gentleman very much. I was interested to hear his remarks about Tommy being a sailor. I did not know this. Tommy is also a flyer and a pilot, and I have spent time with him in that regard as well.

Mr. COLEMAN of Missouri. Mr. Speaker, will the gentleman yield?

Mr. HILLIS. I yield to the gentleman from Missouri.

Mr. COLEMAN of Missouri. Mr. Speaker, I rise to also wish Tommy the best of luck and success in his new venture.

I think it is interesting as we all have our own personal comments that we are making tonight the fact that they are personal in nature. I do not think that anybody who does not serve in the House knows that there is a lot of fine support behind us, and Tommy Winebrenner represents the best of that.

When there is a point of order that should be raised, or something that we should do procedurally here, and if a Member is not on firm ground, we turn to Tommy and ask him what happens now, and his advice gets us out of trouble that we get ourselves into.

I have seen the objectivity of his information that is requested of him as people come through the doors and ask what the vote is, a little bit of information about it. I have watched and he will give the same response to a Democrat as well as to a Republican, and I think that says a lot because he works for the House of Representatives in the true institutional fashion.

Although privately we might have conversations with him on this side of the aisle, I think that he gives the very finest advice as one asks for that in a moment sometimes, a very brief moment as we come in from our offices and meetings and committee rooms.

I too note that the gentleman from Kansas [Mr. ROBERTS] said about Tommy's involvement with the youth of the Fort Hunt area where I, too, live here in northern Virginia. I know that our conversations through the years may not be as much legislatively oriented as they have been family oriented. I know he has taken an interest in my children and what they are doing in that Fort Hunt Youth Athletic Association as well as what his son has done, and his own involvement as referee and as umpire.

I know that many of us leave this Chamber after we have the business of the day concluded and when the votes are finished and we have other things to do. I would point out that Tommy Winebrenner is one of the few people who has to stay, and I think maybe it is very appropriate that this special order is not coming at the very end of the day, that we would keep him away and keep him here later than necessary.

But I want to rise and also add my best wishes and to wish him well. He is indeed a good friend and one that we will miss very much in this institution and body.

Mr. MOLINARI. Mr. Speaker, will the gentleman yield?

Mr. HILLIS. I yield to the gentleman from New York.

Mr. MOLINARI. Mr. Speaker, I am delighted to join in this tribute to Tom Winebrenner. For those of you who may be watching these proceedings, you should know way back in a corner. Tom is standing, very nervous, and being very embarrassed about all of these nice things we are saying about him.

I did not know that Tom was a marine. I served in the Marine Corps. I know we have had a couple of others that spoke, but I noticed the Members that spoke before suddenly said that he was a sailor, and then the Army gets in and the Air Force.

No way, Tom, you are a marine. You are a marine and you will always be a marine.

My friends, the term professional is sometimes abused and we lose sight of what it really means.

□ 1900

In the case of Tom Winebrenner, I think we all understand the word "Professional" with a capital P. He has been that, in any sense of the word.

I think, however, that we have all talked about Tom the person and how nice he is and how great he has been to all of us, particularly those of us when we were new. The one thing that we should all understand and make sure that the people out there understand, is the contribution that he has made to this great country of ours, serving 30 years. He probably has made a greater contribution than many of us that have spoken here tonight to this country.

The other day, at the Republican
conference, when it was announced
that Tom Winebrenner was leaving
there was spontaneous applause; 175
people stood up, applauding and ap-
plauding and applauding, with a
couple to tears coming down his cheek
and they asked him to get up and
speak. He did not want to speak; he
was embarrassed. That is the kind of
people we have helping us here in this
institution. Nobody will ever serve
finer than Tom Winebrenner.

I salute the gentlemen who brought
the special order so that we could tel
the country out there what you are al
about, Tommy Winebrenner. Good
luck to you and to your family.

Mr. HILLIS. I thank the gentleman
very much and yield to the gentleman
from Wisconsin [Mr. PETRI].

Mr. PETRI. Mr. Speaker, I would
like to thank my colleagues from Indi-
ana, Representatives HILLIS and
MYERS, for scheduling these specia
orders.

Tommy Winebrenner has served the
members of this House and, more im-
portantly, the institution of the House
itself, for over 30 years. I am gratefu
for his advice and patience and for hi
steady good judgment.

His is an outstanding example of th
sort of dedicated service this body re-
ceives from dozens of hard workin
men and women whose combined ef-
forts, together with those of my elect-
ed colleagues, enable the House o
Representatives to function as th
great instrument of democratic self
government that it is.

I wish him well in his new career.

Mr. HILLIS. I appreciate the gentle-
man's statement very much.

I now recognize another gentlema
from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. I thank the gen-
tleman for yielding, to allow me t
share in this opportunity to sa
"thank you" to a very special friend.

Mr. Speaker, the first time I stood i
this well and asked, "What do I say t
get recognized? What do I say to g
unanimous consent? How do I get m
remarks revised and extended?" All
those questions were answered by o
man, Tommy Winebrenner, who ha
done that not only for me some
years ago, but I think for eve
Member of our Republican side, and
would guess many, many Members
this Congress.

When I reflected, throughout th
day, on what I might say to adequat
ly reflect my feelings, I thought of
book; and I am not going to read
book, but there is a book, "The Givi
Tree" by Shel Silverstein, which real
is, in a nice, simple way, the life sto
of Tommy Winebrenner, because
talks about giving everything you ha
as is the story of that book.

I also found some words from "T
Prophet" about giving which

thought were so proper for Tommy. I would like to read those words to you:

> There are those who give little of the much they have—and they give it for recognition their hidden desire makes the gift unwholesome. And there are those who have little and give it all. These are the believers in life and the bounty of life, and their coffer is never empty. There are those who give with joy, and that joy is their reward. And there are those who give with pain, and that pain is their baptism. And there are those who give and know not pain in giving, nor do they seek joy, nor give with mindfulness of virtue; they give as in yonder valley the myrtle breathes its fragrance into space. Through the hands of such as these, God speaks, and from behind their eyes he smiles upon the earth.

I do not think there is any question or any doubt among those of us who have had the privilege to be here and yes, work under Tommy, that it is from behind his eyes that God works and God smiles on our proceedings here in the House of Representatives.

Tommy Winebrenner is not elected; but he without question has served more people than any Member of Congress. He is not a politican, but without question he is more popular than any of us. He is not a Member of Congress, but without question he is clearly a statesman; for Tommy Winebrenner is the man who perhaps more than any other man has made democracy work in the Halls of the U.S. Congress, and in this Chamber for the past 30 years.

So, to a very special person and certainly a very, very dear friend to each and every one of us, Tommy, my sincere personal thanks, God's blessings, and my best wishes as you go forward. We will miss you.

Mr. HILLIS. I thank the gentleman for his words, and I would like to recognize the Congressman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. I thank the gentleman for yielding.

Mr. Speaker, on the first day that I came to Washington, I brought with me 500 well-wishers from my district who were astounded first that I had won a seat in Congress, I believe, and second, wanted to join in the festivities of our first day in Congress.

They were hosted at a local hotel, with a big screen to watch the proceedings of the swearing-in here on the floor of the House. Then to my amazement, because I stuck around here, all of a sudden, after the swearing-in had been completed, some 200 of them had found their way into the balcony.

I grew panicky. Here it was the first day of my career in Congress, and I wanted to say something so that I could show the people back at home my appreciation for their being here; Tom does not even remember this; so I wanted to know how to do it.

I had been in the Pennsylvania Senate for 100 years and in the House of Representatives for another 100, and still did not know what to do in order to get onto the floor of the House. Tommy came down, signed me in for special orders, and I was able to take the floor.

Since that time, after having learned about that, only HENRY GONZALEZ has used that device more than I, thanks, to Tommy Winebrenner, so that I was able to say "thank you" to the folks who came down to join me in the festivities.

This tribute that we are giving to Tommy tonight is also a tribute to Ron Lasch, who has always stood by his side, and who has helped Tom help us, and whom Tom has helped and Ron has helped, and so forth.

What little is known about some other facet of our proceedings here is this: The people in Lancaster County, my neighboring county, do not really know that the great parliamentarian of our time, BOB WALKER, owes everything to Tom Winebrenner, and to Ron Lasch.

I thank the gentleman for yielding me the time. Good luck, Tom.

Mr. HILLIS. I thank the gentleman, and recognize the gentleman from California [Mr. SHUMWAY].

Mr. SHUMWAY. I thank the gentleman for yielding, and I would like to commend the gentlemen for Indiana, both of them, for taking this special order and allowing some of us to express our thoughts about Tommy Winebrenner.

Mr. Speaker, when I was first privileged to become a Member of this body, in January of 1979, I learned very early on that this is a collegial place, and that one's success here depends in large measure on the kind of friendships that he develops among his colleagues; and so I was very pleased to make friends on both sides of the aisle and to preserve those friendships during the years since, but particularly meaningful within that article of friends to me was getting acquainted and understanding the role and the function and the great service rendered by Tommy Winebrenner.

During the years that he has served this body, he has become I guess even more than a friend to me; he has become someone that I rely upon and someone that I admire for all of what he does here and what he does outside of the Chamber that many of us do not even realize.

In fact, when I first saw Tommy in action, thoughts went through my mind of the Greek philosophers, centuries ago, sitting in the hills surrounding Athens with their disciples and their students at their feet, and extolling to them their various philosophies and responding to their questions.

When I see the Members lined up in the aisle, waiting to get to Tommy Winebrenner to ask him when the next vote is going to occur and what the schedule is, what procedure to follow in a given case, it reminds me very much of that particular setting.

Indeed, I think he fulfills that role beautifully. Tommy has come to be recognized as the one who indeed has the last word, and therefore a very useful component of this Chamber to both Democrats and Republicans. In fact, I will have to admit privately that sometimes I have been peeved that Democrats would be monopolizing him, and I was standing there waiting to ask my questions and thought that I should somehow have priority.

During all of that ordeal, though Tommy never appeared to be cross or out of patience; he was willing to recite his message over and over again, to answer every inquiry, and to do so very patiently and very thoroughly.

As I got to know him better, I found that I had much in common with him; his family values, his devotion to his church are things that I very much admire and things that I have learned to respect him for.

Tommy, you will be missed by this Member and by many, many others that I am sure are not even here tonight that would like to join us in our remarks, and let me just say to you that your absence in this Chamber will be like a dinner without salt; we will continue to eat, but I am afraid that food will never taste the same. You will be very much missed.

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Mr. HILLIS. Mr. Speaker, I yield to the gentleman from California [Mr. DREIER].

Mr. DREIER of California. I thank the gentleman for yielding.

Mr. Speaker, I appreciate the gentleman taking out this special order. It seems very appropriate that we are here at a time when Tommy Winebrenner cannot tell us what is going to happen. In fact, nobody knows exactly what is going to happen tonight. It is very difficult. As we said earlier, we are not at the end of the legislative day, but we are at a little hiatus here for this special order. It is difficult to come here without passing accolades to Tommy. His work has been an integral part of the House of Representatives for much longer than most of us have been here. He has probably helped more Members of Congress, as has been said, on both sides of the aisle than he cares to remember. I recently made a telephone call to Tommy from Western Europe, and it was one of those very few times that he was not on hand to take that call. But I was very fortunate to have his lovely wife, Barbara, take the call, and she handled the situation like a "pro," and in fact, there are a number of people who have been talking about

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introducing a resolution to have Barbara, in fact, succeed Tommy in his capacity here on the House floor.

I will definitely miss Tommy. I guess I have been very spoiled by his excellent work. It is not only the efficiency that I will miss, but I will miss the warmth, the personality, and the true friend.

I thank the gentleman for yielding.

Mr. HILLIS. I thank the gentleman for his remarks.

Mr. Speaker, I yield to the gentleman from Minnesota.

Mr. FRENZEL. I thank the gentleman for yielding.

Mr. Speaker, I did not know what was going on when I came in here a few minutes ago, so I had to ask Tommy Winebrenner, like everybody else, what the House was doing at this time of day. It is an unusual sentence to make a man listen to his own eulogy, but Tom will take this in going grace as he takes everything that occurs in his beloved House of Representatives. It is very unusual to have this many speakers interrupt what they are doing in the middle of a very busy day and pay their respects and announce their admiration and affection for a person like Tom Winebrenner. But Tom is one among many. We honor him tonight not only for his own sake but because he represents the many people who serve this House of Representatives, who do it quietly, who are unknown to the UP, NBC, Washington Post, and Wall Street Journal, and yet who have more to do with seeing that the House functions effectively, trying vainly to keep us on an even keel here, than the Members themselves.

Tom, I did not know before tonight that he was a Marine, or I might have thought differently about him. I also found out that he taught people how to make special orders. And that is probably a black mark on his career, too.

But in other respects Tom's work has been exemplary. To me and every Member of this House he has been a firm rock, a person, an object, from which we could taken guidance, from which we could set a true course in whichever direction we wanted to steam.

I cannot think of a person who better represents the many men and women who served this House of Representatives than Tom Winebrenner.

Like everyone else who has spoken here tonight, I am going to miss Tommy, but I respect his judgment in knowing when is the time to move on. He is young enough to enjoy another important career. I wish him and his family great success in that career and tell him again that he will be welcome here whenever he shows his face.

Mr. HILLIS. I yield to my colleague from Michigan.

Mr. DINGELL. I thank my colleague from Indiana for arranging this special order.

Mr. Speaker, I want to join the gentleman from Indiana and my many other colleagues in paying tribute to Tommy Winebrenner.

Tommy is an outstanding public servant, one who has served the institution well, who has made the House of Representatives work, whose advice is sought and is respected by all of the Members.

He has never failed to guide and counsel his friends among the Members in the finest and the best fashion and in accordance with the highest traditions of the House. He is a man who has served here in every capacity, in which he has served, with remarkable distinction. He has the trust and the respect of all who know him.

As his friend, I shall miss him, and I wish him well in his future ventures.

Mr. Speaker, Tommy Winebrenner has been a friend of mine for over 30 years. We share a common bond that goes back to the days when we learned the ropes of this institution together as pages. As I look back over the years, during our tenure as pages and throughout my 30 years as a Member of Congress, I can think of many fond memories relating to Tommy's friendship and the invaluable assistance he has provided to me and to other Members of this body. Tommy never let partisanship stand in the way of our friendship or his willingness to contribute to the welfare and integrity of the House. He is a man who has won the respect and admiration of freshmen and senior Members alike.

Tommy has worked very hard and has accomplished much in gaining his present position as Minority Doorkeeper. I have watched him grow—both professionally and personally. He worked his way through American University and attended law school at the George Washington University Law School. He also served his country as a Reservist in the U.S. Marine Corps for 6 years. He is an asset to his community by contributing time and resources to his church and the community youth. Through his outstanding efforts and deeds, he has become a highly respected member of his community.

Tommy's retirement from this body represents the departure of a man who will be missed by all. We will miss his presence here in the House but the memories of his friendship and good deeds will always remain a part of the House.

Mr. HILLIS. I thank the gentleman for his comments.

Mr. Speaker, I yield to the gentleman from Kentucky [Mr. Mazzoli].

Mr. MAZZOLI. I thank the gentleman for yielding.

Of course in a few months we will be here wishing our friend "Bud" Hillis goodbye and paying tribute, but in the meantime we are here to pay tribute to a man who deserves tribute very much, Tommy Winebrenner.

The two things in this House of Representatives, in this Chamber, that I think are universally saluted. One is competency and knowledge of the process. I think Tommy, you have as much knowledge of the way this body works and its processes as anyone I know of.

Second, the thing we revere in the House and in the Congress is fairness. I think it has been said many times tonight that whoever comes in to speak with you, whoever comes in that door and asks for advice, gets it, regardless of political affiliation, committee assignment, hierarchy in the House.

I just want to thank you very much for being the man that you are.

I am not a marine, I am not a pilot, I do not live in Fort Hunt, but I still admire Tommy Winebrenner, and I will miss him very much.

Mr. HILLIS. I thank the gentleman

I yield to the gentleman from Pennsylvania [Mr. Walker].

Mr. WALKER. I thank the gentleman for yielding, and I thank him for taking this time in the special order.

When it was announced that Tommy Winebrenner was going to be retiring from this body, there was almost universal reaction on both sides of the aisle, people saying, "What are we going to do around here withou Tommy Winebrenner?"

To an outsider, that might be a question of: Why that kind of reaction The answer is because he is relie upon.

I have a reputation of spending good deal of time on the House floor. am a piker compared to Tommy Winebrenner. And there is a big differenc between the two of us on that.

Many around here wish I would fin some other ways to spend my time There is no one on either side of th political aisle that would say tha about Tommy, because he is such valuable part of what goes on. In fact maybe it is somewhat unique that th special order that we are now engage in is coming during a time when w are sitting around waiting for th other body to send legislation ove here. Tommy spent a lot of time o the House floor sitting around waitin on us, sitting around waiting on th other body to send legislation ove That is one of the functions.

I think, in fact, he served us in s many ways that we sometimes do no even know what his job description includes. I know from time to time whe I have had young people come to tow and wanted to have somebody te them what goes on in the House Representatives, I relied upon Tomm Winebrenner as a teacher to talk young people.

It is all of those kinds of thin wrapped into one that means that w all rely upon him enormously and w are going to miss him tremendously.

So the question of what will we do without Tommy Winebrenner, well, we will go on, but it will not be the same. His 30 years in this House have really made a difference.

Mr. HILLIS. I thank the gentleman very much for his remarks.

I yield to the gentleman from New York [Mr. HORTON].

Mr. HORTON. I thank the gentleman from Indiana for yielding to me and for taking out this special order.

Mr. Speaker, I rise to join my colleagues in paying tribute to Tommy Winebrenner and his 30 years of service to the House of Representatives. Over the 23 years I have been privileged to work with Tommy, I have come to depend heavily upon his insight and objectivity. He will be sorely missed by Members on both sides of the aisle.

Tommy came to Washington as a page in the early fifties and graduated from the Page School in 1954. Upon his graduation, he began work as a telephone clerk in the Republican Cloakroom. From this position, and later as assistant manager of the Cloakroom, Tommy developed an expertise in parliamentary procedures and legislative strategy. He has exerted tremendous influence on the floor ever since.

Tommy Winebrenner's success and acclaim are the result of a personal commitment to careful and objective analysis. As a result, his counsel is sought by floor managers of both parties. Many times I have seen Democrats and Republicans alike seeking his advice on issues of substance and procedure. When Tommy departs we will lose a friend and a tremendous resource.

On a more personal note, Tommy and I have developed a close friendship over the years. He has assisted me with legislation and advised me on scheduling. In addition, he has worked closely with my staff—offering them guidance and advice. For his years of friendship and support, my staff and I are grateful.

My wife Nancy joins me in thanking Tommy for his dedication and hard work and wishing him every success in his endeavors after he leaves the House of Representatives.

In closing, I would like to sum up my remarks with a comment which describes my sentiments about Tommy: No one in this institution is indispensable—but some people can never be replaced. Tom Winebrenner is irreplaceable.

Mr. HILLIS. I thank the gentleman for his remarks.

Mr. Speaker, I yield to the gentleman from Florida [Mr. FUQUA].

Mr. FUQUA. I thank my friend from Indiana for taking this time to pay tribute to not only a great servant of the House but also what I consider a very personal friend of mine, Tommy Winebrenner. Tommy has had many great accolades paid here this evening about the wonderful things that he has done over the years, his fairness, his devotion, not only to his family and to his civic responsibilities, school, and church, but my knowledge of Tommy has been right here on the floor of the House of Representatives.

I, like my colleague from Kentucky, am not a pilot of a plane any more, nor am I an ex-marine, and I do not hold those things against him, but Tommy has been one of the most reliable and dedicated people that we have had around here. As some have said, I think a great tribute to his professionalism and dedication to this institution has been the fact that he has had people on both sides of the aisle pay tribute, saying that he has been fair, always been honest, his word was something that you could trust, and it takes a long time to develop that reputation.

Tommy was a person you could always depend on. If he said something, particularly to many, many Members who were asking his advice about a certain particular amendment, or a certain bill that might be pending, or a change of order of business, and so forth, you could depend on him.

So, Tommy, from a very personal standpoint, let me say we are going to miss you, but we wish you well in whatever you do. I know that you will be as successful and also as well thought of as you are by the Members who are privileged to serve in this body.

Mr. HILLIS. I thank the gentleman for his remarks.

I yield to the gentleman from Virginia.

Mr. SLAUGHTER. I thank the gentleman from Indiana for yielding this time. I speak as a new Member of Congress who came here and asked Tommy many questions about the procedure in the House and essentially what was going on in the way of legislative business, what was the sequence of business that we could expect, what to do in this particular case or that particular case to present a particular viewpoint. And in every case Tommy Winebrenner had the answer. His great competence in parliamentary matters, I think, is unrivaled by any person I have seen or known, and I served in the State legislative body as well as serving this year in the Congress.

I know I speak for all the new Members of Congress this year, what a tremendous help he has been on matters of parliamentary procedure.

Beyond that, it is amazing to me that his competence also extends to the substance of the legislation before us.

What an amendment will do, what the bill does, et cetera. His advice, if you ask him, and it is certainly well worth asking, about the merits of legislation, is dependable. He has done all of these things. He knows almost anything that we can ask him relating to our service as Members of Congress. He has been invaluable to me as I know he has been to many Members. In the short time I have been here, I know he will be greatly missed. In addition to that, I have not known a finer gentleman, a person of finer character and great dedication to this country and to this institution than Tommy Winebrenner.

Mr. HILLIS. I thank the gentleman for his comments.

I yield to the gentleman from Virginia [Mr. BATEMAN].

Mr. BATEMAN. I thank the gentleman very much for yielding.

Mr. Speaker and Tommy, I have prepared remarks that I will not give, in fairness to those who still await the opportunity during the continuing special order with the time winding down, to deliver all of them.

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Let me say to you that I am old enough that I am shocked to learn that you have been a servant of the House now for 31 years, and certainly I wish you all of the very best in the new career that you launch.

Much has been said by those who preceded me about the professionalism, the trust, the confidence that we all look to Tommy Winebrenner for, and I do not know of a better way for me to reflect the degree of confidence that I have in Tommy than when I come to the floor and I need to ask about the schedule, the order of business, how it has been changed, what I can expect—it has gotten to the point where my trust in Tommy is so explicit that I can virtually say, "Tommy, what is the answer to the appropriate question that I should be asking?" And I get the information that I need.

He is extraordinarily patient. I do not know how anyone, with their patience being truly as taxed so often and as frequently, who has the same questions put to him time after time by everyone, can handle it with such equanimity, whose judgment is absolutely unimpeachable.

He is a person who inspires the confidence of us all. Not only does he serve us so well as Members here in the House, but he so constantly serves our staffs as they seek to serve us.

I am sensitive to the fact that my staff may perhaps overburden him by duplicating the requests upon him that I then come to the floor and make. I almost have to design protective measures to avoid this.

To Tommy we say: Hail, farewell from the House, but we hope to see you often. May good fortune always attend you. Our good wishes to you

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and to your family in your new endeavors.

Mr. HILLIS. I thank the gentleman for his remarks.

Mr. BOLAND. Mr. Speaker, will the gentleman yield?

Mr. HILLIS. I yield to the gentleman from Massachusetts.

Mr. BOLAND. Mr. Speaker, I want to add my comments to this remarkable tribute to Tommy Winebrenner.

Staffs oftentimes perhaps are the most useful people that one could find in this Chamber, and certainly Tom Winebrenner has been one of the best of those who have served the Members on both sides of this aisle, for he exemplifies the best traits of the staff that works this floor. Through all these years, I most remember his warm greetings on walking into this Chamber. He always knew what was before the House, and he has provided invaluable assistance to all of those who have sought his advice and his counsel.

I offer my own personal congratulations to him and best wishes, and in offering those best wishes, the staff of my committee, the Subcommittee on Appropriations dealing with the Department of Housing and Urban Development and independent offices, wants to express their appreciation to him for the courtesies he has always extended to them.

So, Mr. Speaker, I wish him well in the future in whatever he does, and I wish his family well too.

Mr. HILLIS. I thank the gentleman from Massachusetts for those remarks.

Mr. SILJANDER. Mr. Speaker, will the gentleman yield?

Mr. HILLIS. I yield to the gentleman from Michigan.

Mr. SILJANDER. Mr. Speaker, I appreciate the opportunity to share in this special order.

This place is so full of chaos and confusion and busyness with our lives as Members of Congress that there is no doubt in the world that without Tommy most Members of this body, at least at one time or another, and most of us quite often, on an almost daily basis, would be quite lost without his clear advice, his clear suggestions and also without his friendship.

Tommy is the kind of man who is very professional. It has been said here tonight that he is professional with a capital "P," and that is true. But he is also a human being. He is warm, he has never been one not to giggle at one of our very poorly phrased jokes. He has been a human being who is willing to share his life and listen very compassionately to the lives of those around him, any Members of Congress.

So I just want to stand here in honor of Tommy for his helpful advice and input to me for the last three terms. There is one story I am sure he remembers, but I came here as a bachelor three terms ago, and during one of the tours of the floor, before a session, I brought a young lady up to Tommy and introduced her. Her name was Nancy Claire, from Ludington, MI.

Not too many months later, I said, "Tommy, I am contemplating getting married. What do you think of the girl you met in the Cloakroom? I took her family and some friends around the floor of the House that time."

And that was the greatest advice Tommy ever gave to me. He said, "I think she is a wonderful girl."

I did marry her, 2 years ago yesterday, and, Tommy, if for nothing else, I want to thank you for that wonderful advice.

Mr. HILLIS. I thank the gentleman for his comments.

Mr. LOEFFLER. Mr. Speaker, will the gentleman yield?

Mr. HILLIS. I yield to the gentleman from Texas.

Mr. LOEFFLER. I thank the gentleman for yielding, and I am grateful to him for having this special order. It is with a great deal of respect and admiration that I take part in this special order tonight as we honor and pay tribute to Tommy Winebrenner.

Tommy is a long time friend of mine, and I, along with the other 434 Members of this body, will miss him. Tommy and I have been personal and professional associates now for the past 10 years. My, how time does fly, I must say. And I have come to know Tommy as a gutsy trench fighter, a walking encyclopedia on parliamentary procedures and their pitfalls of the House and of his unerring ability to judge character of people who serve in this greast institution.

You can fool some of the people some of the time, but you cannot fool Tommy. Tommy is one part father confessor, one part coach, one part professor and, yes, one part kicking post from time to time. He is the heart and soul of this great institution and as much a part of it as any of us. All of us and the American people owe a debt of gratitude to individuals like Tommy who devote their lives to public service and the cause of good, responsible Government.

By the way, Tommy, when is the next vote? Can I go back to my office now or do I have to hang around for a few more minutes?

Thank you, Tommy, for everything you have done for us.

Mr. HILLIS. I thank the gentleman for those remarks.

Mr. WOLF. Mr. Speaker, will the gentleman yield?

Mr. HILLIS. I yield to the gentleman from Virginia.

Mr. WOLF. Mr. Speaker, I will be very brief, but I just want to make a couple comments. Tommy Winebrenner is an example of the outstanding staff that we have here on Capitol Hill. Tommy is, quite frankly, among the finest. He is one of the most honest and decent and compassionate and capable individuals that I have ever met, and I think just about everybody, both Republicans and Democrats, liberals and conservatives, would agree with that.

I personally appreciate his help so much. I have a district which is right here. Sometimes I almost feel guilty that I ask Tommy so many times how soon the next vote will be and how many times can I leave the floor or can I stay or what the situation is.

Tommy's leaving Congress will be a great loss for the Congress and for the American people. I hope that when they write the history of the 100th Congress there is at least a paragraph or a chapter or perhaps a whole section about the contributions of Tommy Winebrenner.

Mr. Speaker, I wish Tommy well and I wish his family well.

Mr. HILLIS. I thank the gentleman for his comments.

Mr. O'NEILL. Mr. Speaker, will the gentleman yield?

Mr. HILLIS. I yield to the distinguished Speaker of the House.

Mr. O'NEILL. Mr. Speaker, I was elected to the Congress in 1952, an sworn in January 3, 1953. There was a young page at the time from the State of Indiana who drew raves from the House because of his ability and his talent and the fact that he was young person who immediately grew to love this Congress. For many years worked on the Republican side as an assistant Doorkeeper. I have watched on that side with admiration as I have seen him handle his chores and responsibilities for the leadership of the House. He has gained the admiration and the respect of every Member o this Congress.

Tom is just a beautiful fellow. As he commences his new life, I want to wish him Godspeed and good luck. From al of the Members of the House, ou heartfelt thanks to a loyal employe and a very decent fellow.

Mr. HILLIS. I thank the Speaker fo those comments.

Mr. MICHEL. Mr. Speaker, will th gentleman yield?

Mr. HILLIS. I yield to the gentleman from Illinois.

Mr. MICHEL. I thank the gentleman for taking this special order and thank him for yielding. And may I ad my special thanks and appreciation t the distinguished Speaker of th House for the nice comments he mad relative to a minority employee.

Mr. Speaker, it is a great pleasur for me to join with so many of our co leagues in paying tribute to Tomm Lee Winebrenner. He has served thi institution and our country for man years. His decision to retire took mos of us by surprise and all of us are going to miss him.

Tommy represents a great tradition in this institution. It is a tradition of selfless dedication and of patience, diligence, and patriotism.

We take for granted the work done by so many congressional aides. But we know that without their work, their knowledge, and their commitment to this institution, we would be unable to get important matters done.

Tommy has been part of our family, on this side of the floor, for over 30 years.

He has seen us at our best and at our worst and if we were at our best on many occasions, it was because Members could always get from Tommy a clear understanding of the current status of legislation and of what might be expected.

He needed to know not only the status of legislation, but the personalities of every Member. He had to know not only when votes were expected but when Members might be unable to make votes. In short, he had to know the House inside out—and he did.

Last week the Republican conference passed a resolution honoring Tommy. Let me just read it to you.

The resolution adopted by the conference reads as follows:

RESOLUTION

Whereas, in 1953 the membership of the House Republican Conference constituted the majority party in the House of Representatives during the 83rd Congress; and

Whereas, the House Republicans of the 83rd Congress hired as their employee, a citizen from the state of Indiana, Tommy Lee Winebrenner; and

Whereas, during his more than 32 years of service Tommy Lee Winebrenner has proven his keen knowledge and understanding of the operations of the House of Representatives; and

Whereas, it is with profound regret that the House Republican Conference acknowledges that Tommy Lee Winebrenner has tendered his resignation effective at the end of the 1st Session of this 99th Congress: Now therefore be it

Resolved, That the House Republican Conference does hereby express its utmost gratitude and thanks to Tommy Lee Winebrenner for his faithful service to his party; the House of Representatives; and his country; and be it further

Resolved, That the House Republican Conference wishes Tommy Lee Winebrenner Godspeed and good luck in his new endeavor and that a copy of this resolution shall be printed and presented to him in further appreciation for his long and distinguished service in the House of Representatives.

Mr. KEMP. Mr. Speaker, will the gentleman yield?

Mr. HILLIS. I yield to the gentleman from New York.

Mr. KEMP. I thank my colleague for yielding.

Mr. Speaker, I just wanted to rise, very briefly, and say that our caucus, with total unanimity and affection for Tommy Lee Winebrenner, expressed in the resolution just read, the affection that we have for him, the regard and the best wishes of every Member of the Republican caucus, all of the men and women who think so highly of Tommy and who appreciate his strong service not just to our party but to the House, as our Speaker mentioned, to the House of Representatives, this great institution, and to the American people.

We are very proud of Tommy. We wish him well.

Mr. MICHEL. Mr. Speaker, I might further add that, because of the lateness of this session and the very critical pieces of legislation that we still have pending within these last few days, I know that Tommy would have laid down his resignation maybe today, but we have prevailed upon him to defer that until we finally do get all of these critical pieces of legislation behind us, because we still have to depend upon him so greatly to keep ourselves on the right track.

I thank the gentleman from Indiana [Mr. HILLIS] again for taking the time that we might honor one of the native sons of Indiana.

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Mr. HILLIS. Mr. Speaker, I yield to the gentleman from Virginia [Mr. DANIEL].

Mr. DANIEL. I thank the gentleman for yielding.

Mr. Speaker, as a general rule, Members of this body at some time and for a variety of reasons, must ultimately walk away from the institutions of Capitol Hill.

Today, we are here to recognize and honor an institution which is walking away from us—Tommy Winebrenner.

As best I can figure, you can count on your fingers the Members of Congress who have been here longer than Tommy. As this body has moved from crisis to crisis—sometimes self-induced—you could always count on Tommy Winebrenner being around—available to aid in whatever appropriate way he could.

Despite the bond-weary hours his job has required, Tommy has still found or made the time to be husband and father and participating member of his church and community. I don't know how he has managed it all, and I wish I knew his secret.

But about those hours he has devoted to the work of the House: From before the first bells until after the last, Tommy Winebrenner is available to Members on both sides of the aisle. He has been equally a storehouse of knowledge regarding this body over the past three decades and a source of valuable guidance on contemporary matters.

Although Tommy's departure is a source of regret for all of us, we nevertheless wish him well, and hope that he remembers us with as much regard as we shall him.

Mr. HILLIS. Mr. Speaker, I yield to the gentlewoman from Illinois [Mrs. MARTIN].

Mrs. MARTIN of Illinois. I thank the gentleman for yielding to me.

Mr. Speaker, I rushed over because I thought Tommy had died. This House generally does not say nice things about people until they do, so it is pleasant to see he is still alive.

I think we should look at the good things. First of all, we can all now demand of Tommy a weekly ration of tomatoes in the summer. If pushed, he can provide this for all of us. Second, now that he is going to become excessively wealthy in real estate, he can legally contribute to all of us and swell our campaign coffers.

Third, we can all buy stock in airlines because we will now be making thousands more reservations since without Tom, we will never know when we are leaving this place and we will probably ruin airline scheduling in America.

Before I yield to the Republican whip I would just say that sometimes a woman in Washington is a little bit like "Alice in Wonderland"; one of the nicest things I can think to say about Tommy is that he treats each Member with respect, regardless of party or seniority, color, age, or sex, and it is that respect that he shows us that tonight we try to return to him.

Mr. HILLIS. Mr. Speaker, I yield to the gentleman from Mississippi [Mr. LOTT].

Mr. LOTT. I thank the gentleman for yielding to me.

Mr. Speaker, I know we have got limited time left now, but I too, want to join all of those who are expressing their appreciation here tonight for what Tommy Winebrenner has done for us. As a former staff member myself, and as one who has been around this city now for 17 years, I know how much Tommy has done for us all. When we come in the Chamber, we look for him to talk to and to work with us. He has done an outstanding job for so many years. I just want to say how much I personally appreciate the great job he has done. It has been a major contribution to the quality of work that we have here in the House Chamber.

I want to wish him the very best and great success in his next career.

Mr. HILLIS. Mr. Speaker, I yield to the gentleman from Illinois [Mr. RUSSO].

Mr. RUSSO. I thank the gentleman for yielding.

Mr. Speaker, one of the reasons we can function around here when things become tense, complicated and busy, is that we have people working in the House, on both sides of the aisle, that do their jobs with skill and courtesy.

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Somehow they manage to keep things rolling along regardless of the number of obstacles the Members can come up with.

Tommy Winebrenner is such a gentleman and I'm going to miss him. We're all going to miss him. Considerate, helpful, conscientious, Tommy has always made me feel that, regardless of party affiliation, he is there to help. And the other reason I'm going to miss him is his sense of humor. It's a delight to find someone to help ease any situation with a good laugh and smile.

However, after so many years of service, Tommy deserves some time for himself. Since he first came here back in 1954 as a page, he's been assisting Congressmen—and he's also managed a full family and community life. I join with my colleagues in wishing him all the best, commending him for his years of service and expressing our gratitude for the friendship of an honorable and good man.

Mr. BROOMFIELD. Mr. Speaker, I want to join my colleagues in recognizing Tommy Winebrenner's many years of dedicated service in the House and in extending my sincere best wishes to him on the occasion of his retirement.

Tommy has always been near at hand when essential procedural information was needed in a hurry during proceedings on the floor. I know many of us have benefitted from Tommy's analysis and commonsense advice on legislative issues. We could always rely on him when we needed something done right and in a hurry. But just as importantly, in addition to his nearly legendary reputation for knowing the "in and outs" of operations on the House floor, Tommy is known and respected for his character and honest, friendly approach to his fellow man. His willing helpfulness is just one more manifestation of Tommy's ingrained kindness and generous spirit.

Since Tommy has announced his impending retirement, more information has circulated here about Tommy's commitment and service with the Armed Forces, his church, and with young people in his local community. While I was not previously familiar with all of these aspects of Tommy's life, I am not surprised in the least to hear of these further examples of service to others. His sincere commitment to helping make life a little better and a little happier for others is just the sort of thing we've learned to expect from Tommy.

It has been a pleasure to work with Tommy through the years. His friendship has enriched many of our lives in an intangible but very real way. We will miss him and we wish Tommy all of the best that life can provide in the years ahead.

Mr. STOKES. Mr. Speaker, I would like to thank my distinguished colleagues, the gentlemen from Indiana [Mr. HILLIS and Mr. MYERS], for reserving this special order to salute Mr. Tommy Winebrenner, minority doorkeeper. At the end of this session, Mr. Winebrenner will be retiring. I know that Members on both sides of the aisle will miss him.

For 30 years, Tommy Winebrenner has been employed with the House of Representatives. Even though he spent that time working with the House Republican leadership, I and several other of my Democratic colleagues have had the pleasure of getting to know Tommy.

He was always courteous and eager to be of assistance. I never hesitated to ask Tommy about floor action because I always knew that he would do all that he could to be of help to me. As a result, Tommy has enjoyed the respect and admiration of Members on both sides of the aisle.

Mr. Speaker, Tommy Winebrenner has been a dedicated employee of the Republican leadership. He first came to Washington as a page.

Upon his graduation from Page School, Mr. Winebrenner served as the telephone clerk in the Republican Cloakroom. Tommy went on to hold several other positions with the Republican leadership including assistant manager of the Republican Cloakroom, minority Postmaster and minority Doorkeeper.

He has been an exceptional employee with the Republican leadership. More importantly, Tommy Winebrenner has been a dedicated employee of the House of Representatives. Through the valuable and courteous service he has provided over the years, Tommy Winebrenner has made an indelible mark on the work of the House of Representatives.

It is my pleasure to participate in this salute to my friend, Tommy Winebrenner. I extend my best wishes to him on his retirement.

Mr. RINALDO. Mr. Speaker, I want to join with my colleagues on this side of the aisle to pay tribute to Tommy Winebrenner upon his retirement after 30 years of serving the Republicans in the House of Representatives.

I have served in Congress since January of 1973, and frankly it will be a completely new experience for me—as it will for many of our colleagues—not to have Tommy manning the Cloakroom and serving the minority as he has for the last 30 years. All too often, I think, we tend to forget that much of the work in Congress is facilitated by people like Tommy. He has been a tremendous asset to the minority over the years. He knows how the House of Representatives works, and he himself has contributed to making it work. I can't remember a time since I have arrived that he hasn't been responsive, helpful, and a credit to the professional staff on the Republican side of the aisle.

Mr. Speaker, we will all miss Tommy, and I personally want to extend my best wishes to him as he leaves the House. He will always be remembered and respected for his contributions and dedication to the Congress.

Mr. SCHUETTE. Mr. Speaker, although I have only been a Member of this body for less than one-thirtieth of the time that Tommy Winebrenner has been associated with the House, it hasn't taken me very long to realize what a huge contribution he has made to the House of Representatives and how very much we will miss him when he retires at the end of this year.

I can say in all honesty that my staff and I depend upon Tommy every single day that the House is in session for advice and counsel. We are not alone in relying on him. Yet, despite the demands that his reputation for being well informed make on him, he never fails to greet those who seek his guidance with genuine good cheer and a manner that puts people immediately at ease.

Tommy, I don't know how we are going to get along without you around here, and I know I speak for many, many Members. I am only thankful to have been able to work with you and to have known you as a friend. May you and Barbara enjoy your retirement, knowing that you have served your country as few Americans are privileged to do. We are all profoundly grateful to you.

Mrs. VUCANOVICH. Mr. Speaker, to say the words "Thank You" to Tommy Winebrenner for a job well done in serving the House Republican leadership for more than 30 years just does not do justice to the accomplishments of this fine man.

Tommy has made the commitment no only to do his job well, but also he has invested his friendship and personality into this House of Representatives and shared those qualities with all of us who work here. There have been many times, and am sure that my colleagues will agree, tha through Tommy's efforts many seemingly impossible problems have been overcome It is very reassuring to know that people o this quality and the resources that they possess are here to assist us. Without the contributions of individuals like Tommy Winebrenner there would be that specia "something" missing here on Capitol Hill.

To all his family: his wife Barbara and their two children, who I am sure ar proud of Tommy's service, I would like to reiterate my appreciation for his work.

Tommy Winebrenner's work within thi body will not be forgotten and it is with th deepest respect that I wish him well as hi retirement approaches at the end of th year.

Again, to say "Thank You" falls short fo an investment of over 30 years. Let me sa simply that I am certainly proud to be associated with Tommy Winebrenner and a that he has provided and shared with thi U.S. Congress.

Mr. SNYDER. Mr. Speaker, when w reach the end of this session of the 99t Congress, the House will lose the service of one of its most able and dedicated employees.

Tommy Lee Winebrenner, our fine m nority floor assistant, will retire on January 1, ending 32 years of faithful service t the Republican Party and this great bod

Tommy can claim the fairly rare distinction of being here when the Republicans were the majority party in the House Representatives. This loyal Hoosier wa hired as a page in 1953 by the House Republicans of the 83d Congress.

It was clearly one of the wisest decisions ever made by our party, because through the years, Tommy Winebrenner has demonstrated time and again his expertise and keen insight into the operations of the House. As the ranking minority member on the Public Works and Transportation Committee, I well remember that Tommy was the one person who could accurately predict when our public works bills would get to the floor.

In addition to his assistance to the Members, there have been many times over the years that the staff of the Public Works Committee has called upon Tommy for the benefit of his wisdom and even when he was extremely busy on the floor he took the time to help.

I cannot imagine any Member on the minority side of the aisle who has not benefited at some point from the capable and knowledgeable assistance of Tommy Winebrenner.

In a very real sense, he set the example for all of us to follow in legislative floor procedure.

I will personally miss the expert help he always provided so willingly, and I will miss the association I have enjoyed with Tommy Winebrenner. I know that my colleagues share those sentiments and wish for him, as do I, the very best in the days that lie ahead and in his future endeavors.

Mr. YOUNG of Missouri. Mr. Speaker, I would like to extend my heartfelt thanks to Tommy for all of his many contributions to the U.S. House of Representatives.

I consider Tommy to be one of the finest colleagues I have had the pleasure to work with during my 10 years as a Member of Congress. Tommy's warm friendship, dedication, and hard work will be sorely missed by all of us. In my opinion, he was truly an outstanding public servant.

GENERAL LEAVE

Mr. HILLIS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous material on the subject of my special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

ORDER OF BUSINESS

Mr. WALKER. Mr. Speaker, I ask unanimous consent that I may be able to proceed out of order with my special order previously agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

TRIBUTE TO TOMMY WINEBRENNER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. WALKER] is recognized for 60 minutes.

Mr. WALKER. Mr. Speaker, I take this time in order to continue the special order in tribute to Tommy Winebrenner.

I now yield to the gentleman from Louisiana [Mr. MOORE].

Mr. MOORE. I thank the gentleman for yielding to me.

Tommy, I have been here for 11 years now, and I have seen a number of special orders for Members and past Speakers and all the rest. I do not remember ever seeing this many people from both sides of the aisle as Members of this body speak in tribute to anyone before, and you are not even dead yet.

So Tommy, I want to wish you many years of life and congratulate you. I want to compliment you on the work you have done and simply say that in the 11 years that I have been here there is nobody that I have gone to every single day this House has been in session, at least once per day for advice, other than you. I cannot say that about anybody else. At least once, and probably many more times a day than that have I sought you out for advice every day this House is in session, and I do not think I am unique. I believe almost every Member can say the same thing.

Tommy, you have done an outstanding job in serving the Members of this body. You have done an outstanding job in serving this institution of the House of Representatives. You have done an outstanding job in serving this country. I do not like to think about what it is like to be here in the future with you not here, so I have made the decision that I am not going to be here either. I am going to go to the other body.

Tommy, congratulations, and you have permission to go ashore.

Mr. WALKER. Mr. Speaker, I yield to the gentleman from Pennsylvania [Mr. COUGHLIN].

Mr. COUGHLIN. Mr. Speaker, when I came here some 17 years ago now, the first person that I saw too, as many others have, was Tommy Winebrenner. No one gave better advice and counsel to a very green new Member as he has done with so many Members to this great body. It has been said so many times if you really wanted some information and wanted the best guess in the whole House, the best guesser in the whole House as to when something might happen, it was always go see Tommy Winebrenner because he would have the best guess as to when we would be out; when we would have a vote. If you wanted to go down to the Health Committee and you wanted to know how much time you would have, it was Tommy Winebrenner who could tell you.

He could tell you what was going on in this great institution because he knew this intitution and he loved this institution and he is part of this institution. I think that as with any great body, and this is a great body, it takes people who know it and love it to be able to work with it. To be able to really give it the care and the caring that Tommy Winebrenner has done. We wish him Godspeed.

Mr. WALKER. Mr. Speaker, I yield to the gentleman from Michigan [Mr. HENRY].

Mr. HENRY. I thank the gentleman for yielding to me.

Mr. Speaker, very briefly, I remember as so many others in this body first coming to Capitol Hill as a college student working in a rather lowly staff position. In those days, we did not have C-SPAN; in those days there were no beepers. In those days calls to the Cloakroom to find out what in the world was going on were much more frequent than even now. The name Tommy Winebrenner still stayed in my memory during all my years of absence, so that when I came as a freshman, I was very pleasantly surprised to see that Tommy Winebrenner was still here as our minority Doorkeeper.

☐ 1950

I think Tommy's professional capacities have been adequately praised.

Let me just add one word of appreciation for his personal qualities. Tommy began as a page. I had the distinct honor of being able to sponsor a page this year on the minority side. And even there, Tommy gave to that page every bit of interest, every extra effort that he gives to the most lowly Member here. And just as each of us, regardless of party and regardless of position on the issues, seeks to serve the people who have elected us, so Tommy has sought to serve us and make this body function.

For that I express my deep appreciation and wish him Godspeed.

Mr. WALKER. Mr. Speaker, I thank the gentleman for his comments.

Mr. Speaker, I yield to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Speaker, I thank the gentleman from Pennsylvania for yielding.

Mr. Speaker, I listened to a number of our senior colleagues talk about Tommy Winebrenner and the great balance and capability and vision that he brought to the job.

Let me say as a guy who came in in 1980 with a mandate from Ronald Reagan being really the trademark for that year for 52 Republican freshmen, but with very little knowledge of what happens on the floor of the House of Representatives, but it was Tommy Winebrenner who really acted as a guide and moved myself and 51 other freshmen through a successful legislative year in 1981 and 1982.

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I want to tell you, Tommy, I thank you so much for being there when I would have an amendment. I can remember asking you how to get a vote on an amendment, how to successfully get a vote or do something else, and having you tell me how to do it. And then I would say, "No, even though you told me, Tommy, I want you right here. Come here and stand here physically so that if I make a mistake, you can whisper in my ear, you can tell me, and I can correct it and be successful in whatever I am trying to do."

Without fail, you were there. You were never more than 2 or 3 strides away from that Speaker's rostrum, where whoever is trying to get something done on our side of the aisle, you are available to make amends, to patch over mistakes that we made, and to help us at least be moderately successful in the endeavors that we undertake on the House floor.

So I want to thank you, Tommy, for your loyalty, for your wisdom, for your evenhandedness, and for that good nature that saw us every time we came back from our districts or from our offices or from particularly troubling situations in our political careers. You were always there with a smile and with some good advice on how to weather the next session. We thank you for that and wish you Godspeed.

Mr. WALKER. Mr. Speaker, I thank the gentleman from California.

Mr. Speaker, I yield to the gentleman from Georgia [Mr. GINGRICH].

Mr. GINGRICH. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I just want to say that someone who reads this RECORD in the future or who watches it on video tape may wonder who is this Tommy Winebrenner, and if all these people are talking about him, why do they not routinely see him because he sounds as though he is a very, very important member of this body.

I think that when one realizes the Speaker of the House and the minority leader both came on the floor a little while ago to say that he is a very, very important member, that it will help that future viewer or reader to understand better the House, to recognize that those of us who are elected Members exist in a very complex system, a system of complex procedures, complex rules, where very often you cannot tell exactly what is happening or when the next thing will start happening. And it is precisely people like Tommy who devote literally years of their life, very long days on sessions like this, very long nights, who master the technical proceedings, who watch carefully to see what is really happening, who advise literally 50, 75, 100 Members a day on when the next vote will be, what the right procedure is, where to find what we are looking for in the CONGRESSIONAL RECORD, what part of the bill we are dealing with next.

Tommy Winebrenner has made I think a signal contribution to American history and the history of the House in the 30-some years he has been here. He has served a number of positions. He has the kind of personality, the kind of commitment, the kind of belief in the House as an institution which are vital to floor staff and which lends so much to this institution.

Mr. Speaker, I just want to say that we are going to miss you very, very much, Tommy. We will be a little less informed, a little less pleasant and I think a little less organized when you are gone. You have made a contribution, and I hope that in future years you can look back and realize that these years you spent with us were important, not just to yourself, not just to the Republican Party, but to the very institution of the people's House.

Mr. Speaker, I thank the gentleman for yielding.

Mr. WALKER. Mr. Speaker, I thank the gentleman from Georgia.

Mr. Speaker, I yield to the gentleman from Oregon, [Mr. DENNY SMITH].

Mr. DENNY SMITH. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, Tommy Winebrenner has been a good friend, a good confidant and certainly has shared the knowledge that he has of the House and the House rules with all of us.

Having come here in 1981, like many of the junior colleagues, I came in without the knowledge as to how to operate in this House. He does not get all the blame for the mistakes that I made, but I think that he certainly gets the credit for what we have been able to accomplish procedurally on this floor.

Personally, Tommy being a pilot, he and I have always shared the aviation stories together. Hanger flying is always more fun than some of the things we have to do around here, so I will miss Tommy's hanger flying. Hopefully, he will get back by once and a while so we can do some of that.

I wish you Godspeed, Tommy, and many happy landings.

Mr. WALKER. Mr. Speaker, I thank the gentleman from Oregon.

Mr. Speaker, I yield to the gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I am very happy to yield my place in the special orders tonight so that this tribute could continue uninterrupted, because I have such high regard for the gentleman for whom the special order was called.

This is one of those rare, perhaps the rarest occasion in a 30-year career of one of the unsung heroes of the House of Representatives, the staff, the competent, dedicated, hard-working but unseen people who make this
institution work, without whom we
cannot work so efficiently or effective
ly.

I have a very special feeling because
as a former staff member, Tom and
share a common experience, and
know what it means to come to thi
point in one's career when you realiz
that all your work has truly been ap
preciated. He has put in long, hard
and dedicated hours. He is a student o
this institution and he has given tha
time willingly and with great spiri
and dedication.

In northern Minnesota, people i
the back country know that there i
more wisdom found beside a fishin
hole and more peace and tranquillit
and refreshing of the spirit. Tomm
Winebrenner has enjoyed that wisdo
and that refreshing of the spirit a
Lake Vermillion in northern Minneso
ta, where he has frequented the lak
and knows its nooks and crannies an
has pulled more than a few northern
and walleyes. Mr. Speaker, I wish hi
all continued enjoyment of that peac
and that tranquillity in the love of ou
great northland.

Finally, I remember a few years ag
at a retirement dinner for a friend c
mine in northern Minnesota when a
the speeches had been given, and
was his turn to get up and talk. H
said, "If I had known I was so apprec
ated and loved, I would never hav
been retiring." "In fact," he said, "I'
reconsidering my retirement."

We wish you would reconside
Tommy. We will miss you. We wis
you Godspeed in your future endea
ors.

Mr. WALKER. Mr. Speaker, I a
glad to yield to the gentleman fro
New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I than
the gentleman for yielding.

Mr. Speaker, I am pleased to jo
with our colleagues in expressing o
sense of loss at the impending depa
ture of Tommy Winebrenner.

Although Tommy skillfully guid
our Republican members throu
many parliamentary jungles, it is ob
ous from tonight's remarks that o
colleagues on the other side of t
aisle also came to depend upon his e
pertise and his dedication.

Tommy Winebrenner will long be
membered, not only for the diligen
and skill with which he accomplish
his tasks, but also for his patience a
pleasant personality. There is no o
in this Chamber who isn't proud
call Tommy a friend.

Quite often, staff members who a
new to Washington have inquir
about the best way to learn the co
plexities of Hill procedure. It was wi
confidence that we could direct the
to Tommy. Not only were new staffe
assured of getting accurate inform
tion, but they were assured that

information would be imparted in a pleasant and understanding way.

Thirty years ago, Tommy started as a page but soon became an indispensable part of this institution as our minority floor assistant. I personally have come to depend upon Tommy for his sound advice on the calendar and upon floor procedure.

Tommy, you will be sorely missed by all of us. I am pleased to join all of our colleagues in wishing Tommy Weinbrenner Godspeed, good luck and happiness in all his future endeavors.

□ 2000

Mr. WALKER. Mr. Speaker, I think that the magnitude of the numbers of people out here this evening paying tribute to Tommy Winebrenner says something very eloquent about the service that he has provided to the House over the years.

The gentleman from Minnesota [Mr. OBERSTAR] mentioned a similar background, coming from a staff background. I am the same way. I came from a staff background to the House and learned to know Tommy during the time that I was on the staff. He has indeed been a very loyal member of the House team.

It is a shame as we end this special order, given the nature of this, that I cannot yield to Tommy Winebrenner for a reply. Under the rules of the House that is not possible.

Suffice it to say that he has served honorably and well here for many years. The other members of the staff here I think can also take this as a tribute to the work that they do. We are very grateful for the work that goes on in this body that helps each of us.

Tommy's partner and friend for many years here in the House of Representatives, Ron Lasch, will miss Tommy as much as we will. We are going to rely on people like Ron to continue to give us the kind of advice and counsel that will keep this operation running in the future, but I think it really is a fine tribute to a member of the staff to have so many Members of this body come forward this evening and talk in the terms that they did about Tommy Winebrenner.

Mr. GLICKMAN. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am very glad to yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Speaker, I apologize for being so late, but I am glad to get here even for a few minutes to honor Tommy.

I just recall the number of times that I have come in the back door to my right, knowing that he was the most informative source on telling what was going to happen with respect to the House, doing it in the most friendly and polite manner, knowing that I was not of the same political persuasion as he, but handling his job with a great deal of dignity was something that I have always appreciated.

There is this old expression, we are all Democrats, we are all Republicans, we are all Americans. Well, I feel that as far as I am concerned Tommy is all three of those. Most of all, he is a good American and did an outstanding job here in the House and has treated me and my fellow Democrats very fairly, very well. I wish him luck in his future endeavors.

Mr. WALKER. Mr. Speaker, I thank the gentleman very much.

Mr. Speaker, with that, I yield back the balance of my time.

A HARSH NEW YEAR'S GREETING FOR FARMERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota [Mr. OBERSTAR] is recognized for 30 minutes.

Mr. OBERSTAR. Mr. Speaker, shortly after January 1, 1986, farmers who have borrowed from the Agriculture Department and are $100 or more behind on loan payments will be receiving a letter from the Farmers Home Administration—and it won't be a New Year's greeting.

On the contrary, nearly 40 percent of FmHA borrowers in my State—those whose accounts are $100 or more delinquent—will be receiving FmHA form 1924-25, a copy of which I ask to include in the RECORD, "Notice of Intent To Take Adverse Action." In other words, Secretary Block is preparing to send a foreclosure notice to all farmers $100 behind on payments to the Federal Government. This callous action is the fruit of 5 years of this administration's stewardship of American agriculture, a process whose result is to dispossess the American farmer and to transfer his assets to investment trusts.

Upon receipt of form 1924-25, a farmer has 30 days to contact his county supervisor and request either a deferral of payments, and extension of the loan over a longer period of time, a debt restructuring, or a voluntary liquidation. Failure to contact FmHA within 30 days of receipt of the notice, will result in the adverse action threatened by form 1924-25—being taken.

Fifty percent of FmHA borrower's will be receiving these notices.

One FmHA official in my State referred to the upcoming letters as "merely an attention-getting device." The suspension of adverse actions pending resolution of the issues raised in Coleman versus Block may have required a revamping of loan servicing procedures, but to introduce those new procedures by threatening imminent foreclosure is cruel, callous, and without justification.

Throughout the course of my travels in northeastern Minnesota, I have met numerous officials of the FmHA, who on a daily basis personify the dilemma in agriculture today.

As agents of FmHA, these Federal employees must take adverse action against borrowers in their service areas who through no fault of their own cannot meet loan payment schedules. In carrying out these bleak duties, they earn the animosity of neighbors and community.

These officials are aware that most operators cannot compete at today's prices, and that liquidation of assets may be the best long-term strategy for the individuals they are forced to take action against. Yet they can offer no hope for employment, for retraining services, or for relocation assistance.

While agricultural economics—the fruit of the Reagan farm program—continue to force people off the land, no one—least of all the FmHA professionals—can answer the question, where do our farmers go from here? And to emphasize the depth of the problem, one county supervisor with whom I visited told me that he had only recently learned that his own father, an FmHA borrower in another Minnesota county, will soon be forced off the family's farmstead by adverse action.

I urge farmers in my district to respond promptly to FmHA's greeting card. Their future on the farm may depend on their ability to work out a refinancing plan with FmHA officials.

At the same time, I want my colleagues to be aware of Secretary Block's impending assault on those individuals who traditionally need the Federal Government—the small family farmer. And as we prepare to consider the conference report on the 1985 farm bill, we must realize that the plight of these individuals is in our hands. If we refuse to recognize and respond to the crisis in rural America our farm economy may well be triggered into a long, painful, downward spiral.

[U.S. Department of Agriculture, Farmers Home Administration]

(Date) ———

NOTICE OF INTENT TO TAKE ADVERSE ACTION

Dear:

We regret to inform you that a review of your Farmers Home Administration (FmHA) loan account indicates the need to take adverse action.

We have attempted to work out a satisfactory solution to your credit problems through the various servicing options available, but have not been able to do so. For your information and review, we have included with this material a copy of the FmHA notice entitled "Farmer Program Borrower Servicing Options Including Deferrals and Borrower Responsibilities" (Form FmHA 1924-14).

This "NOTICE OF INTENT TO TAKE ADVERSE ACTION" requires a response from you within 30 days, using the attached form entitled "Borrower Acknowledgement of Notice of Intent to Take Adverse Action"

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(Form FmHA 1924-26). That form offers you the opportunity to request for consideration a number of servicing options. Further details are provided below.

We have conducted a review of your Farmers Home Administration (FmHA) loan accounts and determined the following where checked:

☐ You are presently $——— behind schedule on your FmHA loan installments which is a violation of your note and mortgage and/or security agreement.

☐ You have made unapproved disposition(s) of property that is covered by security instruments which secure your FmHA indebtedness. The property in question is ———.

☐ You have stopped farming or ranching which is a violation of your loan agreements.

☐ You have ———.

If the above listed violation(s) is not corrected by one or more of the actions, described in the attached Form FmHA 1924-26, "Borrower's Acknowledgement of Intent to Take Adverse Action," FmHA intends to accelerate your FmHA debts and foreclose on your real estate and/or chattels. This may include repossessing your chattels or in other ways proceeding against property you own in which FmHA has a security interest or terminating the release of sales proceeds.

You may, with regard to your Operating, Economic Emergency, Emergency, Farm Ownership, Soil and Water, Special Livestock, Economic Opportunity, Rural Housing for farm service buildings, and/or Recreation loan(s), apply for servicing options, including deferrals, that are explained in the enclosed form FmHA 1924-14, "Notice-Farmer Program Borrower Servicing Options Including Deferrals and Borrower Responsibilities." Please read this form carefully.

If you wish to apply for any of the servicing options you must complete Part I of the enclosed Form FmHA 1924-26, "Borrower Acknowledgement of Notice of Intent to Take Adverse Action," sign the form, and return the form to the address listed on the letterhead of this notice within 30 days after you receive this notice. We will then arrange a conference with you to develop financial statements and farm operating plans which FmHA will use to make a determination on your request for servicing options. If you fail to attend this conference without offering a legitimate excuse or if you fail to provide necessary information, your request will be automatically denied and you will not be given an opportunity to appeal any adverse decision.

At the conference you will be given the opportunity to present information you believe will show you are eligible for the servicing option(s) you requested. FmHA will make a decision on your request based on the information submitted by you, the information in your FmHA case file and the plans developed by you and FmHA at the conference. Such a decision will be in writing and, if the decision is adverse, FmHA will explain how to appeal the decision and to have an appeal hearing. Such a hearing will cover both the denial of your request for servicing alternatives and other adverse actions FmHA intends to take against you as indicated above.

If you do wish to request servicing options, you have the opportunity to appeal the adverse action(s) FmHA intends to take. In this case, you should complete only Part II of Form FmHA 1924-26, sign the form and return it to the address shown in the letterhead of this notice within 30 days after you receive this notice. You may appear in person, with or without an attorney or other representative, to present your information. The hearing officer will be an FmHA employee who has not been previously involved in your case. The hearing officer will arrange a mutually convenient time and place for the appeal hearing.

Several methods of curing defaults or liquidating your FmHA loan accounts are available. If you prefer to use one of those methods listed in Part III (Curing Defaults) or Part IV (Liquidation Action) of Form FmHA 1924-26, check the appropriate box, sign the form and return it to the address listed in the letterhead of this notice within 30 days of receipt of this notice.

Please note that Form FmHA 1924-26 must be postmarked within 30 days of the day you received this notice. If you fail to respond to this notice by completing, signing and returning Form FmHA 1924-26 in the prescribed time, FmHA will proceed to take the adverse action(s) against you without further notice and right of administrative appeal by you.

(The following paragraph applies for individual borrowers only.)

The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided that the applicant has the capacity to enter into a binding contract); because all or part of the applicant's income is derived from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The Federal agency that administers compliance with this law is the Federal Trade Commission, Equal Credit Opportunity, Washington, D.C. 20580.

Sincerely,

———,

FmHA County Supervisor.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 246. Concurrent resolution correcting the enrollment of House Joint Resolution 372.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the amendments of the House to the amendments of the Senate numbered 1 and 2 to the joint resolution (H.J. Res. 372) entitled "Joint resolution increasing the statutory limit on the public debt."

CALL OF THE HOUSE

Mr. MURTHA. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 453]

Ackerman
Addabbo
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Badham
Barnard
Barnes
Bartlett
Barton
Bateman
Bates
Bedell
Bennett
Bentley
Bereuter
Berman
Bevill
Biaggi
Bilirakis
Bliley
Boehlert
Boggs
Boland
Boner (TN)
Bonker
Borski
Boucher
Boulter
Boxer
Brown (CA)
Brown (CO)
Broyhill
Bruce
Bryant
Burton (CA)
Burton (IN)
Bustamante
Byron
Callahan
Campbell
Carper
Chandler
Chapman
Chappell
Cheney
Clay
Clinger
Coats
Cobey
Coble
Coelho
Coleman (TX)
Collins
Combest
Conte
Cooper
Coughlin
Coyne
Craig
Crane
Daniel
Darden
Daschle
Daub
Davis
de la Garza
DeLay
Dellums
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Durbin
Dwyer
Dymally
Dyson

Early
Eckart (OH)
Eckert (NY)
Edgar
Edwards (OK)
English
Erdreich
Evans (IL)
Fascell
Fawell
Fazio
Feighan
Fiedler
Fields
Fish
Flippo
Foglietta
Ford (TN)
Fowler
Frank
Franklin
Frenzel
Fuqua
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gradison
Gray (IL)
Green
Gregg
Grotberg
Guarini
Gunderson
Hall (OH)
Hall, Ralph
Hamilton
Hammerschmidt
Hansen
Hartnett
Hawkins
Hayes
Hefner
Heftel
Hendon
Henry
Hertel
Hiler
Hillis
Holt
Hopkins
Horton
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Johnson
Jones (NC)
Jones (TN)
Kanjorski
Kaptur
Kastenmeier
Kemp
Kennelly
Kildee
Kolbe
Kolter
Kostmayer
Kramer
Lagomarsino
Lantos
Latta
Leach (IA)
Leath (TX)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lightfoot

Lipinski
Livingston
Lloyd
Loeffler
Long
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Mack
MacKay
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCain
McCandless
McCloskey
McCurdy
McDade
McEwen
McGrath
McHugh
McKernan
McMillan
Meyers
Michel
Mikulski
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mitchell
Moakley
Molinari
Mollohan
Montgomery
Moody
Moore
Moorhead
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Natcher
Neal
Nielson
Nowak
O'Brien
Oakar
Oberstar
Obey
Olin
Ortiz
Owens
Packard
Panetta
Pease
Penny
Pepper
Perkins
Petri
Pickle
Porter
Pursell
Quillen
Rahall
Rangel
Ray
Reid
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Roemer
Rogers
Rose
Roth
Roukema
Rowland (CT
Rowland (GA

Roybal
Rudd
Russo
Sabo
Savage
Saxton
Schaefer
Schneider
Schuette
Schulze
Schumer
Seiberling
Sensenbrenner
Sharp
Shaw
Shelby
Shumway
Sikorski
Siljander
Sisisky
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Snyder
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stenholm
Stokes
Strang
Stratton
Studds
Stump
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Wheat
Whitehurst
Whitley
Whittaker
Whitten
Williams
Wilson
Wirth
Wise
Wolf
Wolpe
Wright
Wyden
Wylie
Yatron
Young (AK)
Young (FL)
Young (MO)
Zschau

□ 2015

The SPEAKER pro tempore. On this rollcall, 374 Members have recorded their presence by electronic device, a quorum.

Under the rule, further proceedings under the call were dispensed with.

CONFERENCE REPORT ON HOUSE JOINT RESOLUTION 372, PUBLIC DEBT LIMIT INCREASE

Mr. ROSTENKOWSKI. Mr. Speaker, pursuant to the order of the House of Tuesday, December 10, 1985, I call up the conference report on the joint resolution (H.J. Res. 372), increasing the statutory limit on the public debt.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Pursuant to the order of the House of Tuesday, December 10, 1985, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of December 10, 1985, at page 35750.)

The SPEAKER pro tempore. The gentleman from Illinois [Mr. Rostenkowski] will be recognized for 30 minutes and the gentleman from Tennessee [Mr. Duncan] will be recognized for 30 minutes.

PARLIAMENTARY INQUIRIES

Mr. OBEY. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. OBEY. Mr. Speaker, did I hear the Speaker say that the time would be divided between the gentleman from Illinois [Mr. Rostenkowski] and the gentleman from Tennessee [Mr. Duncan]?

The SPEAKER pro tempore. The gentleman heard correctly.

Mr. OBEY. Mr. Speaker, is the gentleman from Tennessee opposed to the legislation?

Mr. DUNCAN. Mr. Speaker, I am not opposed to the legislation.

Mr. OBEY. Mr. Speaker, that being the case, I ask under rule XXVIII, since the rules provide that those in opposition be entitled to 20 minutes, I would ask that I be assigned that 20-minute time block.

□ 2030

The SPEAKER pro tempore. The Chair advises that the gentleman is correct, and the gentleman from Illinois [Mr. Rostenkowski] will be recognized for 20 minutes, the gentleman from Tennessee [Mr. Duncan] will be recognized for 20 minutes, and the gentleman from Wisconsin [Mr. Obey] will be recognized for 20 minutes.

Mr. DUNCAN. I have a parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state his inquiry.

Mr. DUNCAN. Mr. Speaker, did I understand there is to be additional time assigned to those who oppose the conference report? If I understand correctly, we have some people on our side.

The SPEAKER pro tempore. The gentleman from Wisconsin [Mr. Obey] is opposed, and he will control the 20 minutes time.

Mr. DUNCAN. Mr. Speaker, Mr. Crane is also opposed. We would expect equal time, Mr. Speaker. Mr. Crane is on the committee, and he would expect equal time.

The SPEAKER pro tempore. The Chair would advise that the gentleman from Wisconsin is also on the conference committee.

Mr. DUNCAN. No, Mr. Speaker, he is not on the Committee on Ways and Means. Mr. Crane is.

We would expect, and I am for the proposal, and he is in opposition.

The SPEAKER pro tempore. Under the rule, 60 minutes is allotted; 20 minutes to the gentleman from Illinois, 20 minutes to the gentleman from Tennessee [Mr. Duncan], and 20 minutes to one Member opposed, in this case the gentleman from Wisconsin [Mr. Obey].

Mr. CRANE. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. CRANE. Mr. Speaker, I am on the committee; I rose, registered my objection, and I do not know whether that was heard in the din of the crowd here tonight, but I would at least ask the Speaker to permit a division of that time. I am opposed to the bill.

The SPEAKER pro tempore. The Chair will advise that the gentleman from Wisconsin was on his feet and was recognized, in the Chair's discretion and was granted the 20 minutes of the 60.

Mr. DUNCAN. Mr. Speaker, under the rules of the House, I think that the gentleman would be entitled to half of that; otherwise, I think everyone wants to be fair; that I would ask unanimous consent that he be granted that.

The SPEAKER pro tempore. The Chair would advise that the gentleman from Wisconsin [Mr. Obey] can yield whatever time that he may desire.

Mr. DUNCAN. Would Mr. Obey yield half of that to our side?

The SPEAKER pro tempore. The gentleman from Tennessee poses a question to the gentleman from Wisconsin.

The gentleman from Wisconsin has the 20 minutes; the gentleman from Tennessee wishes to know if he would grant half of that to the minority.

Mr. OBEY. Mr. Speaker, I do not think the rule requires that those who are opposed grant the time to the opposition party. I will certainly make certain that people are recognized, but I would appreciate it if they could come to me and let me know that they want to speak.

Mr. DUNCAN. Mr. Speaker, I ask unanimous consent that Mr. Crane have the same amount of time that the majority has and that he may control that time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

Mr. OBEY. I object, Mr. Speaker.

The SPEAKER pro tempore. Objection is heard.

The Chair recognizes the gentleman from Illinois [Mr. Rostenkowski].

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on the conference report currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, over 2 months ago the House found itself up against a wall because of a Senate amendment to the legislation increasing the public debt ceiling. This amendment, the so-called Gramm-Rudman proposal, was supposed to assure a balanced budget by fiscal year 1991 through a process of uniform and automatic spending cuts. In fact, that original proposal would have assured that virtually no cuts would come out of defense, that the balance of power would be dramatically shifted to the executive branch, that any cuts that did occur would come out of domestic programs, and

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that no political pain would be felt until after the 1986 elections.

In the first conference on this legislation, we were able to point out the flaws and contradictions in the legislation. Out of that conference, we came to the floor with our own version of the legislation. The House bill was developed with a number of goals in mind. We wanted to be fair and preserve a safety net for low-income people. We wanted to be honest and have the automatic deficit reduction process begin in this fiscal year. We wanted to assure that the defense budget took its fair share of the cuts, and we wanted to limit Presidential discretion in this process.

This conference report preserves the goals of the House passed bill. The low-income programs that were exempt in the House bill remain exempt with the exception of Indian Health and Community and Migrant Health. These two programs are placed in a special category with Medicare and are subject to only limited cuts. In addition, Medicaid has been added to the exempt list.

The conference agreement assures that the process will begin in this fiscal year. A sequestering order will become effective on March 1, 1986, providing for approximately $11 billion in cuts.

The cuts will be shared equally between defense and nondefense programs. The President is granted very limited flexibility in 1986 in distributing cuts within defense, but this flexibility does not change the 50-percent share that defense must absorb.

In addition to the limited flexibility, the conference agreement allows other special procedures for sequestering defense funds. The President may permanently cancel new budget authority and unobligated balances and he may modify or terminate existing contracts. It is the unequivocal intention of the conferees that, to the extent that contracts are modified or terminated to achieve outlay savings, the ratio of obligated funds canceled to outlay savings achieved must at least 1 to 1. In other words, to achieve $1 in outlay savings from a contract modification, at least $1 of funds previously obligated must be deobligated and canceled.

If a proposed contract modifications would achieve outlay savings, for example, by delaying production or stretching delivery schedules without deobligating and canceling funds, the General Accounting Office should not certify that the proposed contract savings are valid. Merely delaying production often results in overall cost increases during the life of a contract. The goal of this legislation is to eliminate the deficit during the next 6 years. That goal cannot be accomplished if financial games are played to produce paper savings in one year which will result in additional spending in the outyears.

The use of CBO, OMB, and GAO, combined with the detailed direction to the President, makes the President's task ministerial. The bill is tightened to assure that the President adheres strictly to the deficit reduction process we have developed in the legislation.

For many Members, including many of the Members who worked very hard on the conference, no amount of improvement can salvage Gramm-Rudman. I understand that sentiment. I want those Members to know, however, that the product we come to the floor with today is a vast improvement over the original bill. And whether you support the legislation or not, the deficit reduction process this bill triggers is going to be more fair, more honest, and more real because of the work of the House conferees.

At this point in the RECORD I will insert a lengthier explanation of the conference agreement:

BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985

SUMMARY OF CONFERENCE AGREEMENT

An automatic deficit reduction procedure would be established for FY 1986 through FY 1991, when the deficit would reach zero. The deficit targets for each fiscal year would be as follows:

Fiscal year 1986: $171.9 billion.
Fiscal year 1987: $144 billion.
Fiscal year 1988: $108 billion.
Fiscal year 1989: $72 billion.
Fiscal year 1990: $36 billion.
Fiscal year 1991: Zero.

In the event that the deficit is anticipated to exceed the required levels for any fiscal year, the automatic procedure would be used to achieve across the board reductions in the Federal budget.

1. Trigger mechanism

The Office of Management and Budget (OMB) and the Congressional Budget Office (CBO) would submit a report to the General Accounting Office (GAO). This report would estimate the deficit for the fiscal year and the amount by which the deficit exceeds the level specified above. In the event that the automatic deficit reduction procedure (known as sequestration) is required, both the CBO/OMB and GAO reports would identify the specific budget authority and all other factors (COLA amounts, outlay reductions in the case of direct spending programs, direct loan obligations, etc.) to be sequestered.

The CBO/OMB report would contain all of the information needed to prepare the Presidential order and, in essence, would constitute a draft order. GAO would review the report provided by CBO and OMB and, with due regard for these findings, would prepare a report to the President.

If any part of these reporting procedures is declared invalid, fallback procedures, using a temporary joint committee on deficit reduction, would apply.

2. The sequestration amounts and timetable

As noted above, the maximum deficit amount for FY 1986 would be $171.9 billion. In January a "snapshot" would be taken of the FY 1986 deficit amounts by OMB and CBO. New economic forecasts would be used. The amount to be sequestered
1986 would be determined by sub
$171.9 billion from the adjusted
amount and multiplying the result
with the further stipulation that th
mum sequestration would be $20 bi
an annual basis. For this fiscal year
questration would begin on March
maximum sequestration for FY 1986
billion. Therefore, the 7/12 fraction
number of months remaining in fis
1986 divided by 12. In FY 1986 and
sequestration would occur if the de
ceeded the target by any amount.

In FY 1987-90, sequestration wou
only if the deficit exceeded the
amount by at least $10 billion.

The accelerated timetable for fis
1986 would be as follows:

January 10.—The "snapshot" of
cit for fiscal year 1986 is taken.

January 15.—OMB and CBO re
GAO.

January 20.—GAO issues the repo
President, based on the findings of
OMB.

January 21.Congress convenes.—

February 1.—The Presidential
issued based on the GAO report.

February 5.—The President sub
fiscal year 1987 budget.

March 1.—The order takes effect.

Any cost of living allowance (CO
paid after the enactment date of
would be deferred beginning Ja
under this plan. If it is later det
that a sequester order will not tak
the COLA's would be restored retro
January 1.

The timetable for 1987 and beyon
be as follows:

August 15.—The "snapshot" of th
is taken.

August 20.—OMB and CBO report

August 25.—GAO issues the repo
President, based on the findings
and CBO.

September 1.—The Presidential
issued based on the GAO report.

October 1.—The order takes effec

October 5.—OMB and CBO issue
report to reflect final congressional

October 10.—GAO issues a revise
to the President.

October 15.—The final order, base
revised report, is effective.

November 15.—GAO Complianc
issued.

Under this timetable, the month
tember would be set aside for a con
al response to the sequestration ord

3. The Presidential order

The amount to be sequestered is
50 between defense and non-de
achieve the deficit reduction specif
GAO report. The non-defense
would consist of the automatic spe
crease programs, all non-defense
ble expenditures and half of the F
tirement COLA's. The defense
would consist of all of budget fun
and the remaining half of the F
tirement COLA's.

The Presidential order must
adhere to the determinations set
the GAO report and must be
with that report. For discretion
grams, new budget authority wou
duced on a proportional basis to ac
required outlay reductions.

The following would apply to def

For all years, the sequestration
made at the program, project an
(PPA) level. In the President's ini

issued on September 1 (February 1 in the case of FY 1986) budgetary resources (new budget authority plus unobligated balances) and outlays would be reduced at a uniform rate across all PPAs to the extent necessary, given the blended outlay rates for each PPA, to reach the defense outlay target for the year. Actual sequestrations could apply entirely to new BA or entirely to unobligated balances or to a combination of both.

PPA blended outlay rates from new budget authority and unobligated balances would be derived by CBO and OMB from data then available to them as supplemented by additional data from DOD. The conferees recognize that outlay rates for new budget authority or unobligated balances may be unavailable for many programs, projects and activities within Function 050. To the extent necessary to carry out their reporting functions, specified in the bill, the Directors of the Congressional Budget Office and the Office of Management and Budget are expected to develop the necessary data bases to estimate these outlay rates. In any event, the conferees expect the Directors to meet the timetables specified in the bill. Where adequate data are not available the Directors should assume that the outlay rate for the account governs.

In the President's final order becoming effective on October 15 (March 1 in the case of 1986), he could reduce the amount of Budget authority and unobligated balances sequestered in any PPA and the corresponding outlay reduction, to the extent he was able to achieve the same outlay savings by termination or modification of contracts within that PPA. To take credit for this reduction,

(i) The President would have to identify the contracts proposed to be so terminated or modified, together with the claimed outlay savings and reduction in obligated balances, no later than September 5 (January 15 in the case of 1986), and

(ii) The outlay savings, and the sequestration in obligated balances necessary to achieve them, would have to be verified by GAO no later than September 30 (February 15 in the case of 1986). At least one dollar of budget authority must be cancelled for each dollar of outlay savings.

If GAO were unable to verify the savings for any contract, no credit could be taken and the order for FY 86 would be amended to reflect these unrealized savings. The President would also notify CBO, OMB, and the House and Senate Committees on Armed Services and Appropriations of his proposed terminations or modifications.

The following special defense flexibility rules would be established for FY 1986 only:

(1) except as provided in paragraph (2) below, any adjustments can only occur within an account.

(2) The President may exempt all or any part of the military personnel PPAs, (active and reserve personnel) from the uniform sequester percentage. The shortfall in outlay savings resulting from any such exemption would be made up by cuts in Budget Authority and unobligated balances from non-exempt PPAs (both personnel and non-personnel). The President must make his decision on exemption of military personnel accounts on or before January 10.

(3) Any non-personnel PPA may be reduced by an amount up to twice the total percentage sequester from such PPA and, to the extent of any such savings, and PPA in the same account may be increased up to its budget base level.

(4) Items identified as Congressional interest items may not be reduced by an amount larger than the total sequester percentage. Congressional interest items are defined as those PPAs that have been appropriated in the enacted Defense appropriation for FY 1986 at a level that is at least 110 percent of the President's request for that PPA.

(5) No bases may be closed or realigned.

4. Treatment of programs

Interest on the national debt, and the Social Security program would be exempt from sequestration. Two Veterans programs: Veterans Compensation and Veterans Pensions and six low-income programs would also be exempt: Medicaid, AFDC, WIC, SSI, Food Stamps, Child Nutrition.

Special rules would apply for: foster care and adoption assistance, unemployment compensation, child support enforcement, guaranteed student loans, and the Commodity Credit Corporation. A number of technical exemptions are also made.

A special procedure (known as category Ia) would also apply for the following health programs: Medicare, Veterans Health, Indian Health, Community Health and Migrant Health. These programs would be subject to a sequestration cut of 1 percent in FY 1986 and 2 percent in FY 1987 and thereafter. The reduction would be calculated after including any scheduled increases. If no increases are scheduled, there would be a reduction below the current level.

The reductions in the remaining non-defense programs must be sufficient to achieve 50 percent of the total sequestration amount.

5. Congressional response

In the Senate, a procedure would be established to allow the Senate Budget Committee to affirm, in whole or in part, the sequestration order and provide for a congressional response using a reconciliation-type process involving both instructions to committees. The Senate Budget Committee would have the authority to include in a reconciliation bill pursuant to those procedures actual legislative language fulfilling the instruction to a committee which completely fails to comply.

6. Economic conditions

Special procedures would be established to allow the Congress to suspend certain provisions of the Act in the event of a recession. This recession escape clause would be triggered, by a CBO notification to the Congress under either of the following circumstances.

CBO or OMB forecast or estimate that real economic growth will be less than zero in any two consecutive quarters during the six quarter period beginning in the quarter prior to the CBO notice; or

Department of Commerce reports that actual real economic growth for any two consecutive quarters is less than one percent.

If either of these circumstances exist, the Majority Leader of each House would be required to introduce a joint resolution suspending the relevant provisions of the Balanced Budget and Emergency Deficit Control Act of 1985 for the remainder of the fiscal year and for the following fiscal year.

The Act specifies the content of the joint resolution and provides that the resolution be referred to the respective Budget Committees. Within 5 days, the Budget Committees must report the resolution without amendment to the respective Houses or be discharged. The resolution would be considered under expedited procedure in both chambers and would not be subject to amendment.

7. Constitutional issues

Both the House amendment language pertaining to nonseverability and the Senate amendment language pertaining to severability would be deleted.

Expedited judicial review would be provided for Members of Congress seeking anticipatory review of the reporting procedure and the constitutionality of the Act, or questioning Presidential compliance with sequestration procedures. Also, the legislation provides expedited review for Members of Congress and adversely affected citizens challenging the constitutionality of the Act upon the issuance of a sequestration order.

If the President employs a claimed constitutional prerogative not to comply with sequestration procedures, the entire order would be null and void upon a Supreme Court finding that the President's action was valid.

The legislation would also provide for a fallback procedure in the event that any part of the OMB/CBO/GAO reporting procedure is found unconstitutional. Under these circumstances, the OMB/CBO report would be transmitted to a temporary joint committee on deficit reduction, composed of the members of the House and Senate Budget Committees. The joint committee would report a joint resolution which could then trigger sequestration if enacted. Expedited consideration in both Houses would be provided.

8. Budget Act procedures and changes in Rules of the House and Senate

The legislation adopts many of the congressional budget reforms proposed in the 98th Congress by the Task Force on the Budget Process, the Committee on Rules, which is commonly called "the Beilenson Task Force" in reference to its Chairman. Specifically the legislation provides for an accelerated congressional and executive branch timetable, expands the application of the Budget Act to cover credit authority, includes off-budget programs in the congressional and executive budgets, and streamlines the congressional budget process by providing for an annual budget resolution and by removing unnecessary obstacles to the consideration of authorization and appropriation bills.

The proposed congressional budget timetable is as follows:

"On or before"	Action to be completed:
First Monday after January 3[1].	President submits his budget.
February 15	Congressional Budget Office submits report to Budget Committees.
February 25	Committees submit views and estimates to Budget Committees.
April 1	Senate Budget Committee reports concurrent resolution on the budget.
April 15	Congress completes action on concurrent resolution on the budget.
May 15	Annual appropriation bills may be considered in the House.
June 10	House Appropriations Committee reports last annual appropriation bill.
June 15	Congress completes action on reconciliation legislation.

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"On or before"	Action to be completed:
June 30	House completes action on annual appropriation bills.
October 1	Fiscal year begins.

[1] February 5 for fiscal year 1987.

Major changes in the budget process:

A new point of order would apply against a budget resolution, or amendments thereto, in excess of the maximum deficit level. (In the House to waive this point of order against a *conference report* would require 3/5th of members present and voting [1]).

After May 15 appropriation bills may be considered in the House.

The May 15 reporting deadline for authorization bills is eliminated.

Committees would be required to file 302(b) reports.

In the House of Representatives, Section 302(b) allocations of new discretionary budget authority, new entitlement authority or credit authority would be binding and enforced by a new point of order. In the Senate Section 302(b) allocations of budget authority and outlays would be binding and enforced by a new point of order.

A point of order would apply against any provision affecting social security in a reconciliation bill in the House or Senate, and in any bill under the post-sequestration Congressional response.

Mr. Speaker, I would also like to point out that the portion of the statement of managers describing the section 302(f)(1) point of order under the Congressional Budget Act, as amended by this conference report, should reflect the adoption of House Concurrent Resolution 246. The intent of the conferees was to establish a point of order in the House enforcing a committee's section 302(b) allocation of new discretionary budget authority, and new credit authority.

I am going to vote for this conference report but let me explain clearly the reason for that vote. I was a negotiator and I believe we reached a compromise. As a party to that agreement, I will vote yes. However, I will not urge my colleagues to vote for this conference report. It will change completely the incentives within the body for passing legislation. The agreement has many faults. The economic consequences of this agreement are unknown. The implications of this agreement upon defense and nondefense programs are unknown. Techically, the agreement will not work in many respects. This agreement will come back to haunt us. However, if this agreement forces the President to face up to the implications of the deficit, the legislation may have some redeeming value. Finally, Mr. Speaker, it is absolutely essential that this Government meet its financial obligations. We must therefore pass the debt-ceiling extension embodied in this legislation.

Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore. The gentleman from Tennessee [Mr. Duncan] is recognized.

Mr. DUNCAN. Mr. Speaker, I am still a little shocked and surprised that the majority does not believe in fair play, but I yield 3 minutes to the gentleman from Mississippi [Mr. Lott].

Mr. LOTT. I thank the gentleman for yielding.

Mr. Speaker, this has been an interesting conference experience. I wonder how many of our colleagues know, really, what was in the final agreement; but I give credit particularly to the distinguished majority whip, Mr. Foley, for working laboriously with our colleagues in the other body to try to work this issue out.

I am not going to get into the specifics because I am afraid of what we might actually find out about it.

I want to say, though—I am going to vote for it; but I do so with serious reservations about the way the conference was conducted and about what this is going to mean for us next year and the years ahead.

I am particularly disturbed that we wound up, now, in the final analysis, excluding eight, really nine programs from the sequester, nine. Even though earlier we were talking about excluding I guess maybe it got up to 10; there still are 8 that are excluded—plus Social Security—9.

I also am concerned about the flexibility for the Defense Department between accounts, but we know the budget process we have now is not working. We need some way to move toward a balanced budget, some such system.

Ladies and gentlemen, this process is going to hurt, it is going to hurt us all; but I think at this juncture we have no alternative but to vote a reluctant "yes."

Mr. Speaker, I rise in reluctant support of this debt limit/Gramm-Rudman conference report. I am not wildly enthusiastic about this final product. I am not even widely familiar with everything in it. And I say all this as an early supporter of Gramm-Rudman and as a conferee who conscientiously tried to participate in and contribute to this legislation.

But the fact is, Mr. Speaker, this conference report is not the product of the 66-member conference committee; it is not even the product of the smaller, 29-member working group. This is the product of a small handful of House Democrats and Senate Republicans and their staff. They shaped the deals and details behind closed doors and then plopped this 158-page document down in front of the full conference at 5 o'clock yesterday for a vote, without an explanation or even a summary.

Mr. Speaker, I'm not so naive as to think that all of this could have been hammered out in a committee of 66 or even 29 members. We did have smaller, bipartisan and bicameral task forces and working subgroups earlier in this process that made

substantial contributions. Many of
contributions are contained in this
document. But others have been
doned, ignored, or even reversed.
that's the kind of thing that has shak
faith in this process and this product.

Yes, I do not resent that House Re
cans were completely shut out of the
ess in the final weeks. No one wants
treated as a useless appendage, esp
when they think they have a conscie
obligation and a constitutional right
ticipate in the process. But my disap
ment goes beyond the mere fact that
nificant minority of this Congres
slighted. It really goes to the heart o
our system is all about—how it op
and what it produces.

Here we are, talking about the mos
umental, indeed, revolutionary of
process changes in over a decade—h
will order our national priorities a
force fiscal discipline on ourselves
yet, this conference process has treat
like some sacred rite of some secret
that can only be performed in seclus
a few high priests. That's no way
this to the Congress and the country
ensure that this will work as intende

Mr. Speaker, the budget process is
heart of our constitutional responsi
It affects all of us. The budget proc
we adopt today will influence the ec
and touch on the lives of every one
constituents for years to come. F
most part, I think we are moving
right direction with Gramm-Rudma
certainly an imperfect mechanism
better than anything else that has be
posed and it's absolutely necessary
are to begin to address the deficit p
in a serious manner.

What we are saying in this doc
Mr. Speaker, is that Congress had
get its act together and decide fo
how to reach these deficit targets, or
be decided for us by these aut
across-the-board cuts that will hit ev
equally. At least that was the origin
cept. But that concept got twisted al
way with all manner of exemptions,
tions, and special rules that make
questration alternative less onero
horrible to contemplate.

Once this concept got a little bi
nant; once we began to treat the seq
tion alternative like so many other p
decisions; once we exempted certa
grams from sequestration—I fear w
the automatic spending cut approac
thinkable and doable, and we made
much less likely that Congress wou
up to its responsibilities to order p
and make these cuts in a more r
'and reasonable manner. That's the
the ointment; I hope it's not fatal.

Mr. Speaker, I don't want to dwell
procedural aspects of this legislatio
are technical and yet they are impo
am pleased many of the Beilenson
proposals reported by the Rules Co
last year have been incorporated
legislation, including a single,
budget resolution each year, and

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[1] In the Senate all point of order created by this legislation would require an absolute 3/5th vote to waive.

comprehensive and accelerated budget process. But, I am also disappointed that many of the compromises proposed and even agreed to in the two Frost subgroups were abandoned.

We don't hold a committee to its outlay allocation under the Fazio exception; we don't have a special reconciliation process in the House after the President's sequestration order is issued; we don't have a point of order against extraneous add ons in reconciliation bills. In short, there's less discipline here than we should have. But I do think on balance this conference report deserves our support and I urge its adoption.

□ 2040

Mr. OBEY. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, let me be the first to state that I understand the conferees have worked very hard, and I want to take my hat off to them, especially those with whom I agree on this side of the aisle. I think Mr. Foley, Mr. Panetta, Mr. Gephardt, Mr. Leath, Mr. Frost, and a number of others have done the best possible job that could be done under very ludicrous circumstances.

Mr. Speaker, I think the conferees deserve credit for making the Senate bill a little more fair and a little more humane. But I just have to say that I think this proposal fails miserably on economic grounds. I think this proposal condemns us to perpetual slow economic growth, at best, and, worst of all, it promises something once again to the American people that we will wind up not delivering.

Let me illustrate what I mean: This bill says that regardless of how fast the economy is growing, so long as it is growing more than 1 percent a year, we will continue to meet those Gramm-Rudman targets. The fact is that if the economy grows as 1½ percent per year, and that is all, we will have rising unemployment. There is very little doubt about that. Yet Gramm-Rudman tells the American people that even if unemployment is rising we will continue to cut large amounts out of the deficit. You know that simply will not happen because the economy will increase the deficit. To say so is a lie.

What Gramm-Rudman also says is that if we do hit economic growth of less than 1 percent that we will then unplug for that year and for the following year but in the third year we will resume the target, we will resume hitting the targets, and we will not change the target in that third year.

What that means, Mr. Speaker, is that if we have a recession the size that we had in 1981 and 1982, it would require in the third year that we would have to cut $150 billion from the deficit. Now everybody knows again that is not going to happen. We have not been able to cut $50 billion this year. So again the trouble with Gramm-Rudman is that Gramm-Rudman is a lie.

The third problem that you have with this proposal is that I venture to say 90 percent of the Members on the House floor believe that next fall, in September, if we do not reach agreement on the continuing resolution, if we do not reach agreement on appropriations, that somehow some automatic 50-50 sequestration will take place between defense and domestic programs. The trouble is, "That ain't so."

The trouble is that under this proposal you never get to sequestration until you first pass the continuing resolution. That will mean that all of this fancy negotiating that we have done between defense and domestic programs will never come to pass in terms of sequestration.

The entire argument that will occur next year will be on the continuing resolution. It will be massive chaos. We will not know what we are doing, and we will damage the economy in countless ways. If we wanted to have an intelligent approach on economics, we would do what the House bill originally called for. We would cut more now this year when the economy can afford it. We would not be promising the country that we would be cutting $150 billion in the third year after an economic recovery when we all know that that is, in reality, a lie. Gramm-Rudman fails in the fundamental responsibility of this House to tell the public the truth. It once again promises something that we will not deliver. It condemns us to slow growth.

I urge you, vote against it.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 3 minutes to the gentleman from Missouri [Mr. Gephardt].

Mr. GEPHARDT. Mr. Speaker, I was elected to the Congress in 1976. One of the first votes that faced me in January 1977 was to raise the debt ceiling from $580 billion to $600 billion. Tonight we will vote to raise the debt ceiling from $1.8 trillion to $2.1 trillion. The interest cost in the budget this year will be $140 billion; the entire Federal budget in 1969 was $99 billion.

Forty-seven cents of every income tax dollar sent to the U.S. Government today; that is, income tax dollars, goes to pay interest on the back debt.

Government today is borrowing 70 percent of net private savings in the country.

When you vote tonight on Gramm-Rudman, you are voting on whether or not you want that practice, that trend, that set of facts to continue. Is it the best way to take care of the deficit? Absolutely not. Gramm-Rudman is going to tie the Congress in knots. If you do not believe that, read the bill. It could be a disaster.

But the question is not that. The question is not: Is it the best policy? The question is: Can you let this madness go on? My answer is "no."

The President is not leading this country. If he were, we would not have deficits of that magnitude year after year after year. So in frustration the Congress, the Senate, and the House, in a bipartisan manner, tonight is grabbing the reins of leadership and saying: "Enough is enough." We are not going to have a President who says his biases for how we should get rid of the deficit are more important than getting rid of the deficit. And I say to the Members here tonight you may regret that you voted for or against Gramm-Rudman. I do not know how it will come out. But I think tonight is a watershed occasion. It is the Congress asserting leadership. A committee of 535 people, disparate people, with different views and different values saying, "Enough is enough."

We have got to solve the deficit problem. It is a dagger pointed at the heart of the Nation. Gramm-Rudman may be the last best hope of doing something about it.

I am proud of the Congress, I am proud of the House, I am proud of the changes we made in this bill. We made something better that might just be able to save the country.

Mr. DUNCAN. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Illinois [Mrs. Martin].

Mrs. MARTIN of Illinois. Mr. Speaker, I commend the conferees and the leadership of the President of the United States. I rise in support of the bill.

This bill has swept Congress like a brush fire. A brush fire can be fearsome if uncontrolled, but it can also clear the ground for new growth. This brush fire is probably the only way this Congress would have ever considered a measure to balance the Federal budget. I strongly support this measure and thank those who have labored so hard and long to bring this measure through both Houses of Congress.

Mr. Speaker, I have long been an advocate of deficit control. I have cosponsored legislation to balance the budget through an amendment to the Constitution. An amendment is the only way to permanently guarantee that Congress will not spend more than it receives in revenues. That amendment is not before us; I accept what is before as the best solution available.

Make no mistake—this is not a painless measure. It will affect people in my district, and yours, who have long been used to Federal largesse. The overriding principle, however, is that we must, for the good of all people, finally bring our deficit under control.

Let me emphasize to the public that this bill does not mean the President will mandate certain levels of savings. What it does mean is that Congress will have to meet

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certain deficit goals. The same budget process that we currently follow will remain in effect. The Budget Committees in both bodies will formulate a budget to be approved by the respective Houses of Congress. It is only if Congress fails, only then, that the President will submit a sequester order to bring Federal spending within the limits set out by the bill.

Simply put, Mr. Speaker, our deficit crisis has had devastating effects on farmers, on our exporters, on small business, on almost every sector of our economy. If we do not act, if we once again ignore the crisis, the American people will have lost all confidence in us, their Representatives, to act in their best interest.

Mr. DUNCAN. Mr. Speaker, I yield 2 minutes to the gentleman from Wyoming [Mr. CHENEY].

Mr. CHENEY. I thank the gentleman for yielding.

Mr. Speaker, let me begin my remarks by reminding my friend from Missouri, Mr. GEPHARDT, that the conference report that is before us tonight has the support of the President. He has endorsed it. And many of us on this side of the aisle are supporting it because we have been able to work out the concerns that he had with respect to the bill. It is a tough call. It is not easy to decide to support this particular package. I do not like all of the exceptions that were made in it. I would much prefer to have everything in the package. But, most of all, we have to find a way to deal with the deficit problem.

Clearly, current law does not work.

Mr. Speaker, at present when we sit down under existing law and negotiate over the budget, there are five items on the table: Defense, domestic spending, Social Security, taxes, and the deficit. The President always takes defense off the table; congressional Democrats always take domestic spending off the table; everybody takes Social Security off the table and taxes off the table. So the only thing to negotiate over is the deficit.

What Gramm-Rudman does is to change that process. Gramm-Rudman takes the deficit off the table first and says to the Congress and the President that in the future, "When you put a budget together, you have to negotiate on those four other items."

I am proud to rise in support of the package. I think it is basically a plus. I think if you are serious about the deficit this is the most fundamental reform we have seen in 10 years to deal with the deficit.

I strongly urge my colleagues to support ths conference report.

Mr. OBEY. Mr. Speaker, I yield 1 minute to the gentleman from Alabama [Mr. DICKINSON].

Mr. DICKINSON. Mr. Speaker, I guess this is probably one of the toughest votes that I have had in the 20 years I have been in the Congress. Anyone who reviews my voting record would know that I have consistently voted for cuts, against tax increases, and for a strong defense. But I think that the formula—and I am a conferee, one of the conferees that came up with the bill—I think a disproportionate share of the burden falls on defense. Not only does it fall on defense but it falls on readiness, on salaries, on people, on operation, and maintenance.

It is for that reason that I think that the formula is wrong, not the concept. It is for that reason, as ranking member on the Committee on Armed Services, that I feel constrained to vote against it. That and the other reasons which I set forth in my statement will state the reasons why.

First, Gramm-Rudman mandates indiscriminate across the board cuts without regard to priorities. For example, the House passed Defense appropriations bill was $10 billion below the budget resolution ($18 billion below if counted as in the past—excluding transfers from the total) yet reductions under a Gramm-Rudman sequestration would cut about the same as if defense were $10 billion over the budget resolution.

Second, the sequestration that is mandated for 1986 will result in a defense budget that declines in real terms. (Sequestration will result in a reduction of at least $10 billion in budget authority. Assuming the appropriations committees split the difference, this would result in a defense budget of about $287 billion over $5 billion below 1985 and a real decline of at least 5 percent.) This will result not withstanding bipartisan agreement that continued real growth is necessary to provide for an adequate defense.

Third, the formula mandated for the distribution of cuts within the defense budget will fall heavily upon military personnel and O&M (more than 70 percent of the outlay reductions would be in these readiness related portions of the budget) and with the exception of very limited authority for 1986 there would be no discretion allowed to the Department of Defense to make a more sensible distribution of the cuts. This concentration of cuts in the readiness related accounts will undo the gains that have been made in the past 5 years and set the stage for a return to the empty forces of the late 1970's when the Navy tied ships to the pier and the Army was unable to attract and retain qualified personnel.

Fourth, the conference agreement requires that any reductions be made uniformly in each program, project, and activity. This means that each building in the military construction program will be cut by the appropriate percentage rather than by eliminating lower priority programs. DOD would be required to build 98 percent of each of 100 buildings rather than 98
100 buildings. Similarly the
would be required to build son
tion of each ship in the shipb
program.

Fifth, Gramm-Rudman wou
quire a disproportionate reduc
defense under the sequestratio
agreement requires that half of
ductions come from defense,
fense is less than a third of the
budget.

Sixth, the conference agreeme
result in a sequestration for fisc
1986, even though the Congre
not even completed action on m
propriations for the year.

Mr. Speaker, I hate to do it.
to make cuts, but I do not agre
the formula. I think it is a dis
tionate share falling on readin
defense.

Mr. DUNCAN. Mr. Speaker, I
minute to the gentleman from
[Mr. BARTON].

**Mr. BARTON of Texas. Mr. Spea
said earlier I rise today in strong
of the Gramm-Rudman Emergency
Control Act. I believe that this is a
ic piece of legislation which will o
for all restore fiscal responsibility
Nation's budgetary process.**

**This simple yet powerful meas
impose on Congress the disciplin
we have so amply demonstrated w
possess. The act will force Cong
the administration to adhere to rig
ing limits for the next 5 years. By
will have a balanced budget.**

**My major goal as a Member of
has been reduction and eliminatio
budget deficit and passage of a
budget amendment to permanen
Federal spending. I have been disa
by the failure of Congress to seri
dress these issues.**

**Throughout this session of Co
great deal of rhetoric has been exp
the need to reduce the deficit. Unf
ly, many of the same Members wh
eloquent on the subject of deficit
are the first to vote for budget bu
islation. The 1986 budget resolutio
I voted against, was supposedly a
ly crafted, bipartisan effort" aim
ducing spending. It has proven
hollow document. Despite solemn
that this resolution would reduce d
"only" $171.4 billion. It now appe
result of our inability to imple
cuts mandated in the resolution,
deficit will be at least $20 billio
than the resolution number and
again exceed $200 billion.**

**Those who remain unconvinced
legislation before us is essential
look at the parade of unneces
costly bills which we have pas
Congress began consideration of
Rudman. These include: The $1
pork-barrel water resources bill;
billion Treasury Department A
tions Conference Report which w
million over the President's req**

$48.4 million over last years level. This bill was such a budget buster that there was no attempt to override the President's veto; and the HUD Appropriations Conference Report which authorized $57.3 billion on new budget authority. This level was $7.1 billion over the President's request and $1.9 billion over our own House-passed bill.

I voted against all these bills.

Our actions speak louder than our words. It is obvious that Congress is incapable of exercising budgetary restraint. With passage of the Gramm-Rudman bill, I am now hopeful that we can finally begin to solve our serious deficit problem.

Most Members of Congress are not enthused about voting to raise the Federal debt ceiling to over $2 trillion. We all recognize, however, that without this measure the functions of the Government will quickly grind to a halt. Nevertheless, I would not support this measure if it were not for the Gramm-Rudman provisions which will insure that we will not continue to spend ourselves into bankruptcy.

Achieving a balanced budget will have major beneficial effects for the U.S. economy. Many of the problems which we are facing today can be directly attributed to the huge budget deficits we have incurred. Federal deficits have created large demands on our credit markets. These Federal credit demands have caused interest rates to be higher than would have been caused by normal private sector credit needs.

The higher than necessary interest rates have caused our dollar to become overvalued. The overvalued dollar has directly led to the tremendous problems our manufacturing and exporting industries are currently experiencing. Successful implementation of the Gramm-Rudman bill should help solve these problems.

The bottom line to Gramm-Rudman is that it will free up more dollars for private sector investment. This investment will generate new jobs and opportunities for Americans. These jobs and opportunities are the backbone of the American dream, which is built on free men and women making decisions to better themselves and their families.

Gramm-Rudman does not mark the end of the battle against excessive spending. It is rather just the beginning. We need to follow up with a balanced budget amendment to the Constitution. We also need, on a trial basis, to give the President the line-item veto. These actions, coupled with Gramm-Rudman, will enable us to chain the unleashed monster of deficit spending.

I would also like to reiterate my commitment to reducing the budget deficit by lowering spending and not increasing taxes. We are hardly better off if we pay for profligate spending by raising taxes. There is already far too much waste and inefficiency in the Government—we need to cut spending to reduce this waste and to eliminate unnecessary Government programs.

Many within this body seem to forget that it is not Government which creates wealth, it is the private sector. I will work to insure that we reduce the size of the Federal deficit by cutting spending, not raising taxes.

Let me conclude by urging my fellow Members to support this vital legislation. We are at an historic crossroads of opportunity. We must lower the deficit or we will mortgage the future of our children and grandchildren. Passage of this legislation will send a strong signal to the American people and other nations that Congress finally has the willpower to solve the deficit with a comprehensive program.

Mr. OBEY. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Speaker, I would like to take this opportunity to compliment the House leadership for its noble effort to make this legislation less destructive. By insisting that the basic programs for the poor be protected, the leadership has upheld a fundamental principle for the Democratic Party. I thank them for their efforts.

Now, however, I must urge Members to oppose final passage. Although I was a conferee on this legislation, I did not sign the conference report and I will not vote for this bill.

There is only one reason why a proposition so irresponsible has come so far: Because all of us are scared to death of being labelled as having voted against a balanced budget.

All of Gramm-Rudman comes down to this one political fear, the fear of the big lie against us in our next campaign. Majorities of each House are afraid that opponents might use this vote to confuse the issues so badly that we might not be able to explain that the Gramm-Rudman sham is itself unbalanced.

I am sad that the Congress thinks so little of itself. It is our job to look at each Government effort—each tax incentive, each subsidy, each grant—to evaluate its success, and to choose to continue it, revise it, or end it. It's politically painful work, especially in a time of limited public resources, but it should be done.

But rather than facing up to this responsibility, we are today adopting Government by automatic pilot. We are establishing a financial doomsday machine that will make our choices for us and that will be beyond our control.

Neither the President nor the Congress will be able to turn it off. Come depression, epidemic, earthquake, or melt-down, huge chunks of the budget will be indiscriminately chopped off.

And when the budget ax falls and when our constituents come to us and demand that some human values be protected, the answer from the President and the Congress will be, "I'm sorry. I am not responsible. Your misery is caused by a budget process that is beyond our control. It is out of our hands."

This inflexibility to respond to changing circumstances is dangerous and irresponsible. The deficit reduction schedule would force the Federal Government to slash spending during economic decline. To withdraw Federal spending in these conditions will only make matters worse.

In addition, the cuts that would be required would make any recession even more painful in human terms than bankruptcy and unemployment usually do. Although more people will lose health insurance because they lose jobs, less money would be available for child health clinics and public health programs. As the economy turns down, fewer and fewer people could be reached by subsidized housing programs or extended unemployment assistance.

Even if the economy remains stable, this bill would chop through programs, regardless of demonstrated need. While vaccine prices go up, immunization programs will go down. While the AIDS epidemic continues to increase, research funding will decrease. And as the Nation awaits breakthroughs in cancer treatment of preventing of heart disease, funding for biomedical research will be reduced, across the board.

These cuts are especially unfair when compared with the indirect Federal spending of the Tax Code. Here the Gramm-Rudman proposal makes no change.

Special housing for the elderly, the handicapped, and the homeless will be automatically cut next year. Deductions for vacation homes will not. Meal-on-wheels programs will be part of sequestration orders. Deductible for business lunches, dinners, and entertainment will not.

This is a shameful bill. It is unworthy of this House. It is unworthy of the trust that the American people have placed in us. We are betraying this trust by handing our jobs over to bureaucracies, triggers, and automatic decisions.

Ironically for exactly that reason, the Nation may be rescued from this bill when the U.S. Supreme Court holds this proposal next to the Constitution of our land and finds it violative of that document.

We cannot delegate our authority to make laws to CBO or OMB or GAO or even the President. The drafters of the Constitution most fundamentally wanted the voters to have a say in who makes laws and wanted the voters to be able to get to these elected representatives.

Fearing the elections and the big lie, advocates for Gramm-Rudman have handed the government over to agencies that few of us know well and that no constituent can find.

I hope that the courts will quickly move to stop such dodges and bring us

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back to do our work. The court should rule this law unconstitutional on first reading. Meanwhile, of course, this program that is offered in the name of economic stability will reduce the entire budget to total chaos as lawyers debate and judges consider whose budget rules, whose orders bind, and if checks will ever be in the mail.

There are many of my colleagues who are as troubled by this bill as I am, but who believe that it will force the President—once and for all—to resolve those inherent contradictions in his economic policy that have led us to this $2 trillion apocalypse. To many of them Gramm-Rudman is the Ronald Reagan faces reality act of 1986.

It is not.

If anyone thinks the President will be prevented from blaming Congress next year for emasculating military programs, excessive spending, and massive deficits then we have learned nothing since 1981 about how he operates. He will blame us and he will get away with it.

We get nothing real for the election year. With Gramm-Rudman, we can run, but we cannot hide.

Altogether, this legislation is dangerous, unfair, unworkable, and unconstitutional. Under it, the Congress has become hostage. The Gramm-Rudman proposal makes terrorism into law.

We are elected for our strength. We are elected to lead. We are elected to make hard choices. We are elected to take courageous stands.

Instead we are giving up.

I urge my colleagues to decide against this measure. It is a difficult vote today. But if Gramm-Rudman is adopted, the votes over the next 5 years will be more and more difficult. The injury to the legislative process will be long-lasting. The damage to the country will be real.

The conference report should be rejected.

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Mr. DUNCAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Nebraska [Mr. Daub].

Mr. DAUB. Mr. Speaker, I rise in support of the conference report on this measure. I think the legislation is necessary. I also think it is unfortunate that we need this legislation.

This bill sets up procedures that a properly functioning legislation institution should not need. It is a sad reflection on this body that it is unable to establish spending priorities making outlays meet revenues like all American families do every day.

Just last year, a time of phenomenal economic growth and low inflation, not to mention record increases in Federal revenues, Federal spending increased 11 percent.

The proposal we have before us today is a admission of failure. Failure of the congressional budget process. Failure of budget discipline. Failure of the House of Representatives as an institution.

The procedure under Gramm-Rudman is extraordinary. It makes budget cuts mandatory in the event Congress can't meet scheduled budget reductions of about $35 billion a year until 1991. It also exempts a wide range of programs, making the remaining programs subject to cuts larger than they would otherwise had to endure.

I urge the House to adopt this conference report. I also urge the House to reflect for a moment on what the need for this legislation says about the way we have carried out our responsibilities as an institution.

Mr. DUNCAN. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. Latta].

Mr. LATTA. Mr. Speaker, let me say I listened intently to the remarks of the gentleman from California, who was just in the well of the House, and let me say that I agree with what he said, although I disagree with his conclusion. I agree with what he said as to what we are doing to ourselves and the need to do it. The need to do it is a confession on our part that we have not been doing our job. It has not been very long ago, just August, that we labored long and hard to come up with a budget resolution to present to this House, with as many cuts as we could possibly get through. And I can remember very well the chairman of the Budget Committee running back to the respective chairman from our conference asking for further reductions, and he could not get them. But now we come along with this proposal, and we are going to get $11.7 billion more cuts in fiscal year 1986.

I salute that effort, and I shall support it because I wanted them in August and we did not get them. Maybe we are going to get them now. But that is not all. We are going to get a budget for fiscal year 1987, come January, that is going to call for a deficit of $144 billion. Get that: $144 billion. And when the administration sends down its budget request, there are going to be some massive, massive reductions. There are going to be terminations in programs, and we are not going to be able to stand up here and wring our hands and say we cannot do anything about it. Well, we can do something about it, because tonight we are asking and we are going to vote on Gramm-Rudman, it is going to pass, and we are going to say to the President, "If we can't do it, if we can't come down to that $144 billion, we are going to turn it over to you, Mr. President."

So what I am appealing to the House tonight for is to recognize our legislative responsibilities and to make those reductions that were mandated for ourselves under Gramm-Rudman. And
what is going to happen in fisca
1988? Well, we get down to $1
lion, and I salute that effort. W
down to $172 billion in 1989, $
lion in 1990, and down to zero in
I salute those efforts, but cer
my colleagues, let us not turn ov
responsibility to the President to
those reductions when the time
We have go to do it. That is the
that we are here tonight. We ha
been exercising our responsibil
make those reductions.

Mr. ROSTENKOWSKI. Mr.
er, I yield 1 minute to the gent
from Mississippi [Mr. Montgome

Mr. MONTGOMERY. Mr. Sp
I rise in support of this conf
report. The Gramm-Rudma
passed by the Senate several m
ago, was unfair to the veteran
grams, in my opinion. The Hou
rected this situation in our vers
Gramm-Rudman and treated ve
just like you treat all other g
Now, thanks to the House con
especially the gentleman from
Mr. Marvin Leath, the veterans
pensation and pension program
be treated just like Social Secur
cipients. The VA medical care co
trimmed but treated like Me
But I feel that under the conf
report medical care for vetera
still be available and, hopeful
veterans' hospitals will have
closed.

I commend the House confere
standing tall for the veterans.

Mr. OBEY. Mr. Speaker, I
minute to the gentleman from
[Mr. Crane].

Mr. DUNCAN. Mr. Speaker, I
minutes to the gentleman from
[Mr. Crane].

The SPEAKER pro tempore
gentleman from Illinois [Mr. Cr
recognized for 3 minutes.

Mr. CRANE. I thank the gen
for yielding the time to me.

Mr. Speaker, I would like to
just a couple of brief comments
what we have done. Every one o
this body recognizes the irrespo
ity of the Congress of the
States on the spending questio
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This is a plus. But, on the othe
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I think we have, on the basis o
the House has done in conferen
duced a flawed mechanism for
ing that objective.

I listened to my colleague fro
consin, my neighbor just to the
of my border, the distinguished
man of the Armed Services C
tee. I read this commentary
Washington Post. He was add
the problem of defense readin

what Gramm-Rudman, based on just what the Senate had done originally, might do to our defense capabilities. Based upon that alone, I had serious reservations because of the whack on defense, the disproportionate burden on that portion of the budget. While defense is only 27 percent of the budget, it was going to sustain, as our distinguished chairman of the Committee on Armed Services said, potentially a cut to the extent of 60 percent or more.

Now, that was just with debt service removed from consideration and the Social Security Program taken out of the potential for sequestration. Look at what the House has done since that time. One, you cannot have military base closings. Oh, that is a big time no-no, right? You cannot have base closings in anybody's district if you are going to engage in any sequestration with regard to that portion that is involved in protecting the security of this country because of political sensitivities. But virtually everything else has now been taken off of the sequestration table, from guaranteed student loans to food stamps, and we are going to take a 50-percent minimum reduction in the Defense budget, including operations, personnel and maintenance.

In addition to that, there is now a provision that the House has provided that the Congressional Budget office can look into its crystal ball into the next fiscal year and tell us whether there might be a recession; and if they conclude there might be a recession, then there is a convenient trigger mechanism to obviate everything that is in the Gramm-Rudman resolution.

Mr. Speaker, I suggest to the Members that the only indisputably legitimate thing we do in this body is to guarantee the security and the welfare of the country, and under the security and welfare of the country the gentleman's responsibilities on armed services come first and foremost. Everything else is subject to a debate after that. Defense of the country is our one indisputably legitimate function. And when you look at that portion of our entire budget, about 27 percent to 28 percent that is defense, and you are talking about the cut that Gramm-Rudman now, under the House version, is calculated to produce, you are either jeopardizing the security of the country or you are mandating tax increases. And that is the question you have to ask yourselves tonight. If you want to support Gramm-Rudman in this refined, perverted version, that means you either are imperiling the security of the Nation or you are mandating tax increases. I have always opposed deficit spending, as you all know, but Gramm-Rudman, after the perversions of the concept in the House, has been flawed to the point it should be rejected and I urge my colleagues to vote against it.

I will happily yield to the distinguished chairman of the Armed Services Committee.

The SPEAKER pro tempore. The time of the gentleman from Illinois [Mr. Crane] has expired.

Mr. OBEY. Mr. Speaker, I yield 1 minute to the gentleman from Maryland [Mr. Barnes].

Mr. BARNES. Mr. Speaker and my colleagues in the House, I have only got 1 minute. I cannot say it any better than it was said in this morning's newspaper by one of our country's more distinguished columnists, David Broder. He said, and I quote, "The bill before us tonight deliberately invites chaos. It is a fraud and a fright. Any proposal to deal with the deficit crisis that addresses the budget process instead of the immediate and real choices on spending and taxes is," he said, "a fake."

Gramm-Rudman, he said, is a dangerous fake because it invites, indeed requires, irresponsible behavior at every stage by every one of the major players in the legislative and executive branch.

I have only been here 7 years. Many of you have been in the House far longer than I. But in my 7 years in the House I have not seen a piece of legislation as clearly unconstitutional—and I would address you to the letter that has been provided to many of us by the distinguished chairman of the Judiciary Committee—or as clearly fiscally irresponsible as the bill that is before us tonight.

I strongly urge a "no" vote.

Mr. OBEY. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. Downey].

Mr. DOWNEY of New York. Mr. Speaker, I was nervous that our Republican colleagues were not going to support this, but the gentleman from Wyoming [Mr. Cheney] has assured us that the Republicans intend to support it, that the administration is behind it. That means it has at least 15 Republican votes.

This is a bad day for America. It has been a bad day for a President who was not given the opportunity to see his tax reform proposal voted on, it is a bad day for American governance. We have turned our backs on our own institution and we stand here abjectly unable to deal with this problem.

My hat is off to the conferees who have attempted to mold the unacceptable into something acceptable, but there is a Chinese proverb that says you cannot carve rotten wood. We have attempted to carve this rotten wood, and we have left splinters in our fingers and termites on our hands.

□ 2110

Mr. DUNCAN. Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. Mack].

Mr. MACK. I thank the gentleman for yielding to me.

Mr. Speaker, it is interesting as we listen to the debate on both sides of the aisle, from conservative and from liberals alike, and we hear that this proposal is going to force us to raise taxes; it is going to cut defense. Other people see it as a method to protect defense. Others say that we are going to decimate domestic spending programs, and I would say to you that the result of that kind of suggestion is that there probably is something here that is pretty meaningful. It is something that is going to require us to face up to the repsonsibility that we have and that is to finally put the budget of the United States in balance.

Yes, it is going to take us a few years, but I think we are headed in the right direction. What I would like to say is that there was a lot of discussion, a lot of debate, and we came to the conclusion that yes, today we still have the basic elements of what we started out with several months ago. We have a program that requires specific deficit targets for each year. We have a plan that calls for accountability; someone to look at what the Congress does as far as budget resolutions are concerned, and says, yes, those budget resolutions will meet those specific targets or not, they will not meet the targets.

If the indication is that the targets will not be met, then it says that something happens that scares us all to death. That is that a sequester order will have to be signed. Mind you, the President does not have any ability to move away from signing the sequester order; he just signs and he does not have discretion. I think that answers the question about constitutionality.

Some people say that we went too far in coming forward with a compromise. Well, let us put that into perspective. When we started out, we had a request on the other side of programs to be accepted that were two pages, and that was finally brought down to one page, and then to 14 programs, and eventually to 9. Those nine programs totaled up, including Medicare, to approximately $130 or $150 billion. What did we get? We ended up with exemptions totaling about $70 billion, a reduction of about 50 percent.

Now, again, let us put that into perspective. Some say that we gave up too much with the $70 billion. What did we really lose by doing it? We lost the ability to gain $3 billion in spending reductions. How do I arrive at that? The only thing that we could do with the $70 billion was to reduce the

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COLA's. And what did the COLA's amount to on $70 billion of spending? Spending on the CPI; if it was 3 percent, that is $2.1 billion. If it was 4 percent, that is $2.8 billion. So we did not give up a great deal. We ended with a program again that was definite, that has accountability and it has an enforcement mechanism. We have eliminated the question, I think, of the constitutionality.

I would ask my colleagues to support this; it is a meaningful piece of legislation.

Mr. OBEY. Mr. Speaker, I yield 1 minute to the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Speaker, this House is about to make an egregious error which will attack the fundamental strength of representative democracy. You know, the unique brand of representative government as practiced in this Nation is based upon a simple notion. The Members of the Congress, it was said, would be charged with the fundamental task of picking and choosing; of prioritizing. Of wrestling with and ranking the needs of the American people as they brought them before us.

The Founders of this Nation wanted the Members of Congress to make the spending decisions. They did not turn those decisions over to unelected staff at OMB or CBO, and they prohibited the President of the United States from making those decisions.

Tonight, we are about the business, after two centuries, of eroding our own requirement to prioritize as the Founders intended we should do. We are about to turn the picking and choosing over to someone else.

The American people will regret the action that we take here tonight if we pass Gramm-Rudman.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. PANETTA].

Mr. PANETTA. I thank the gentleman for yielding me this time.

Mr. Speaker, no matter how Members decide to vote on this proposal before the House, I think a few things are clear. The first is that it clearly acknowledges our failure to respond to crisis. It is clear, as mentioned here before, that our forefathers intended that the President and the Members of the Congress work together in a free society with a little courage and a little leadership to try to solve the problems that face this country.

That has not happened when it comes to the deficit crisis. We are in a logjam; everybody acknowledges that. Just listen to the speeches you have heard tonight. We know where the answer is to deal with the deficit. We have got to limit defense spending, we have to limit entitlements and we have to raise revenues to pay the bills. Those three have to be put together if you are really serious about dealing with the deficit. But nobody wants to move; nobody wants to move.

What is the alternative that is before us this evening? The alternatives are these: Do we continue the logjam. Do we continue to blame each other? Do we continue to point at each side of the aisle? Do we continue to try to fight these issues without accomplishing anything? That is an alternative. It means a larger deficit.

The other alternative is pass Gramm-Rudman I. That is an alternative. If we defeat this, we will get Gramm-Rudman I, and I think the votes are here to pass that. No exceptions for those programs impacting on the poor. In addition to that, a greater power is given to the President of the United States.

The third alternative is to try to look at the bill that is before the House. It is not perfect, but it clearly moves toward the House position in making the targets real for 1986, in the balance of powers, in fairness, and in constitutionality. It is not perfect.

Make no mistake about it: It will dramatically change the way we do business in the House. But whether it is for better or for worse it is still going to be dependent on us and the President. No bill, this bill or any bill is going to replace the courage and the guts and the leadership it takes to do the right thing. With this bill, we will force that action very early in January and on set dates.

□ 2120

Without this bill we will delay it again and again and again. Regardless of how we vote, this issue will not go away. There is no escape. The question is not whether, it is when we will act. And I think the time is now.

Mr. DUNCAN. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Texas [Mr. BOULTER].

Mr. BOULTER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I listened earlier to the gentleman from Missouri condemn our President for bringing us to this point through the lack of leadership, according to the gentleman from Missouri. I listened to that gentleman congratulate this Congress.

Mr. Speaker, I congratulate the President of the United States for forcing us to this point by refusing to raise the taxes to spend more and more money. I condemn the Members of this body, mostly on the Democrat side of the aisle, for being incorrigible about refusing to cut spending in this Congress.

The gentleman from Montana, Mr. Speaker, bemoans the fact that by passing this bill we are going to abrogate our own responsibility to make choices. Mr. Speaker, we have come to this point in our history because this body has refused to make choices over the last 30 years and has spent money for every spending program that come along, with the possible ex tion of defense.

The only thing I would congratu us for tonight is for saving our c try, saving our economy, and espe ly saving our children from ourse and from our irresponsibility.

I support the Gramm-Rudman cit-reduction plan not because it i end to this crisis, but the beginnin a great national debate to force u make choices.

Mr. OBEY. Mr. Speaker, I yiel seconds to the gentleman from Ma chusetts [Mr. FRANK].

Mr. FRANK. Mr. Speaker, we ou to understand this bill for what it its technical term: It is an "ins of." An "instead of" is something do that looks easy instead of so thing that you should do and do want to do because it is too pai We are going to do this instea really tackling the defense budget the agricultural budget and brin spending under control. We are g to do this instead of putting prior into the budget. We are going t this instead of thinking.

The conferees did a better job th would have thought in trying to prove it, but it is still a substitute political courage, a substitute thought; it is an "instead of."

Mr. OBEY. Mr. Speaker, I yiel seconds to the gentleman from York [Mr. SCHEUER].

Mr. SCHEUER. Mr. Speaker, among us isn't deeply proud to Member of the Congress of the Un States—the greatest of all legisl bodies?

Who among us wouldn't shed h her blood to preserve the democ that was established 200 years ago enshrined the delicate balance tween the three branches of Gov ment?

Yet today, we would consider bl ly turning over to the execu branch powers that men have fo and died for over nearly a thou years since the first group of ba met in confrontation with an abs monarch, King John—a denouer that let to the Magna Carta in 121

In one swift stroke, this amendr would wipe out Congress' ultimat thority to levy taxes and spend nues—authority based on history tradition dating back to the unp dented encounter between the ba and the Crown which produced great document.

Throughout history since that ful encounter 770 years ago, legisl bodies emerged through sweat tears as politically independent tutions that gained and held p over the purse.

As the closest representatives of the people, legislative bodies reflected the spending priorities mandated by the people.

Time after time, monarchs who tried to usurp this legislative prerogative—and the people's grip on the purse—found themselves at best deposed and at worst, executed.

One of the most notable instances was the case of Charles the First, King of Great Britain and Ireland in the 17th century.

Within weeks after Charles assumed the throne in 1625, he got in trouble with Parliament over what else—his desire to gain control over the right to levy customs duties and taxes.

Parliament protested, but Charles ignored the legislators and took over more taxing and spending powers.

He was also an artful pioneer in the field of deficit spending, racking up a royal debt in excess of 1 million pounds during his first 4 years of power.

In the end, Charles paid dearly for the consequences of his folly—he was executed in 1649 at Whitehall Palace as a tyrant, traitor, and public enemy.

Similarly, the reign of King James the Second in late 17th century England was also marked by strife between the monarch and Parliament.

James' attempts to usurp Parliament's powers to tax and spend resulted in the Glorious Revolution—one of the most important events in modern English history.

James lost his throne, but unlike Charles the First, saved his head and escaped to France with his life.

Mr. Speaker, I ask my colleagues to listen closely and ponder carefully the following comments:

> The Legislative Department alone has access to the pockets of the people.
>
> The House of Representatives cannot only refuse, but they alone can propose, the supplies requisite for the support of government.
>
> This power over the purse may, in fact, be regarded as the most complete and effectual weapon with which any constitution can arm the immediate representatives of the people, for obtaining a redress of every grievance, and for carrying into effect every just and salutary measure.

Mr. Speaker, I wish I could claim authorship for those words, but I cannot.

These succinct words which are directly applicable to this amendment were written nearly 200 years ago by James Madison, one of our Nation's most illustrious founding fathers.

Our Founding Fathers agreed with Lord Acton that power corrupts and absolute power corrupts absolutely.

Those great men who framed our Government were familiar with tyranny and abuse of power.

They participated in the Boston Tea Party, and they protested the tobacco tax, the stamp tax, and all the other forms of taxation imposed on the Colonies without any kind of representation.

And when it came time to draft the Constitution, they relied on their past experiences and on history.

They created a government where power was diffused between three coequal branches.

And they specifically gave the power to tax and the power to spend to the Congress.

That precedent has guided us through 99 Congresses for almost 200 years.

In 1921, Congress passed the budget and Accounting Act which established our Government's modern-day budget process.

Despite efforts by so-called reformers to give the President the functions of a prime minister when it came to matters of finance, Congress resisted.

Proposals to take away Congress' power to alter a budget submitted by the Chief Executive, unless Congress could muster a two-thirds majority, where rejected by the Members of this House in 1921.

The parallels between the efforts of the reformers of 1921 and the efforts of those who endorse Gramm-Rudman today are striking.

Both seek to limit Congress' budgetary powers by requiring a two-thirds majority, rather than a simple majority, vote by the people's representatives to alter an Executive budget decision.

Both seek to take away the constitutional prerogatives that have governed our Nation for 200 years.

Congress cannot, should not, and must not surrender its authority in supine acquiescence to the will of the Chief Executive.

More importantly, Congress should not place the ultimate authority for budgetary matters in the hands of unelected bureaucrats at OMB, GAO, and CBO who don't directly represent the will of the people.

In recent testimony before a House subcommittee, CBO Director Rudolf Penner pointed out that Gramm-Rudman would give his agency powers far beyond anything envisioned when the CBO was created.

He also noted that, and I quote, "It is hard to think of other instances where unelected officials have such power to do good or evil."

Mr. Speaker, in all probability this amendment would be struck down by the courts, but one can't be sure and we cannot take the risk.

We should heed the words of U.S. Circuit Court Judge Abe Mikva—a former distinguished colleague of ours—that Members of Congress should make their decisions on constitutional issues on their merits rather than trying to second-guess and predict what the Supreme Court will do.

Former Supreme Court Justice Robert Jackson was more blunt when he spoke on the issue in 1952.

As he put it:

> I have no illusion that any decision by this court can keep power in the hands of Congress if it is not wise and timely in meeting its problems.

Furthermore, Justice Jackson warned:

> The power to legislate for emergencies belongs in the hands of Congress, but only Congress itself can prevent power from slipping through its fingers.

Mr. Speaker, if Congress passes the Gramm-Rudman amendment, we will be letting our quintessentially important power of taxing and spending slip through our fingers.

We will be giving the President powers of a prime minister and diluting our Government's concept of three coequal branches.

And the only ones will have to blame for this unprecedented act of folly will be ourselves.

I urge my colleagues to vote against this amendment so we may preserve the Government and balance envisioned by our Founding Fathers, and enshrined in our hallowed Constitution.

Mr. OBEY. Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. Hyde].

Mr. HYDE. Mr. Speaker, the vice of Gramm-Rudman is it confines to a mindless, unfeeling, unthinking, bloodless formula the judgments—the sensitive, hard judgments—that we were elected to make. When we go to the voters and we say, "Trust us. We'll exercise our judgment based on our conscience and our experience," and then we lateral over to a computer the judgments on defense and on so many important issues, that is cowardice, and I cannot buy it.

The defense budget is not to be compared to public works or highways or aid to education. It is to be measured against our global responsibilities, which change from year to year. I have always been skeptical of 5-year plans since I read about the first one in the twenties in the Soviet Union.

We were hired to defend this country before we do anything else, and to submit this budget to the equivalency of all of the other budgets is stupid, it is dangerous, and I cannot be a part of it, much as I would like to.

Mr. OBEY. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey [Mr. Rodino].

Mr. RODINO. Mr. Speaker, there is an old saying among lawyers that hard cases make bad law. When confronted with extreme circumstances, courts may stretch the law to reach a preferred result. The result for that particular case may be desirable—but the introduction of this new and contorted legal precedent can wreak havoc on the legal system for years to come.

We have before us today a similar—but far more serious situation. We are

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dealing with a crisis. No one doubts the severity of the prolonged and seemingly intractable revenue shortfalls in our budget. The proposal before us today seeks to address that crisis by undertaking radical surgery on the constitutional allocation of the powers to govern.

The power to propose and approve legislation, to authorize expenditures, to appropriate funds, and to raise revenues—each are vested in the Congress under the Constitution. These powers would be substantially limited through a sequestration procedure that gives the President the authority to decide where to spend and where to cut. This transfer of legislative power to the President, however expedient it may seem today, is an extremely dangerous step. I believe it is unconstitutional. Even if it survives judicial review, it will upset the balance of powers among the branches of Government. It would deprive the Congress, the peoples' most directly elected Representatives, of substantial governing authority—establishing a radical precedent that will invite further erosion of Congress' constitutionally delegated powers.

Although many sincere attempts have been made to make this legislation pass constitutional muster, I fear they have not been successful.

This legislation still gives the President the unprecedented power to cancel outlays of authorized and appropriated expenditures, thus permitting the President to undo a law by something less than law.

This legislation still assigns executive functions to the Congressional Budget Office, a legislative branch agency, thus violating the Constitution's careful separation of powers and flying in the face of the Supreme Court's decision in Buckley against Valeo.

And although the conferees have tried to fix this flaw by adding a fallback provision, the new provision itself is troublesome. It would appear that the CBO and OMB would be dictating legislative choices to the Congress.

But my most serious concern regarding constitutionality is directed at the last-minute changes to this legislation giving the President wide latitude over the defense budget. The ink is not even dry on this provision. Few seem to understand exactly how it will work. But I fear that here, more than anywhere, Congress has abdicated its power over appropriations.

I also have concerns about what this legislation will do to important social programs. I applaud my colleagues for resisting efforts to remove the exemption from cuts given to low-income programs, such as Food Stamps, Aid to Families with Dependent Children, and Women and Infant Care. This body also succeeded in softening the blow of further cuts on other critical programs that so many of our citizens depend on—Medicare, unemployment compensation, and child support enforcement, to name a few.

But the unfortunate result is that the remaining nonexempt domestic programs will have to bear an even greater share of the burden. Perhaps in an effort to hide the bad news, little has been said about exactly which programs will take the full hit.

They include core governmental services for which there are no private sector substitutes—such as Federal law enforcement, courts, prisons, and border security;

They include funds for the Nation's infrastructure sorely needed to shore up our deteriorating roads and bridges; and

They include programs for medical research, including critical efforts to find cures for cancer and AIDS.

And they include funds for job programs. It is ironic that we give special status to unemployment compensation but allow programs aimed at curing that problem to be severely cut.

What is the proper solution? The President is the first line of budgetary planning. It is to him we look to submit a budget that brings income and outlays into a reasonably balanced posture. Since the Reagan Presidency, we have seen the Federal deficit increase at least fourfold. The President's refusal to make the hard political choices in his budgetary planning cannot be excused.

I do not mean, however, to absolve the Congress of all responsibility. The failure in Presidential leadership makes it all the more important that the Congress step forward to make the necessary cuts or raise the necessary revenues. This we have so far failed to do. But we must do it—and we must do it now. That is where this body should be focusing its attention, not on radical constitutional surgery that, in itself, does nothing to bring our budget into balance.

Mr. DUNCAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan [Mr. SCHUETTE].

Mr. SCHUETTE. Mr. Speaker, I rise today to express my strong support for the Gramm-Rudman deficit reduction plan. For too long, Congress has not stepped up to the plate and made the tough decisions about Federal deficits and our national debt. What Gramm-Rudman will do is provide Congress the means to exercise legislative responsibility and collective discipline in a debate about our national spending priorities.

I am particularly pleased to support this legislation, because is leaves intact the Social Security and veterans' benefits that the Government has promised our elderly and veterans all of their lives. We cannot and will not balance the budget on the backs of our elderly, our veterans, or our poor.

Mr. Speaker, the beauty of this
that it is simple and straightforwar
strength of this legislation is that it
Congress to fish or cut bait in re
Federal deficits. By setting deficit
that lead to a balanced budget by 199
bill requires that the Congress and t
ministration come up with budget
meet those limits. If the budget def
any given year is $10 billion or
than that required by law, a broad,
the-board and equal distribution of
cuts is applied to Federal spending.

I came to Congress because I am co
ted to reducing Federal spending and
nating Federal deficits. In the shor
that I have been here, I have see
freeze amendments to authorizatio
be forgotten when appropriations co
Federal spending has continued fo
grams that have not been authoriz
years. Appropriations bills are
without any reference to the budget
tion. The reconciliation bill that pas
House this fall actually created new
ing programs instead of providing th
needed to meet the terms of the budg
olution.

With the provisions contained in
Joint Resolution 372, it will no lon
possible for runaway spending to co

Mr. Speaker, back in my home S
Michigan, people are deeply worried
continuing Federal deficits. Farmers
that continuing deficits rob their l
value and their crops of internationa
petitiveness. Small businessmen
about continuing high interest rat
thers and mothers worry about the
of a national debt that may crush
children's opportunities and future.
my vote tonight for Gramm-Rudm
them.

Mr. DUNCAN. Mr. Speaker, I
30 seconds to the gentleman
California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Sp
let me say to my colleagues that
the moment of truth. We ha
been talking and campaigning
deficit reduction. It is said to
No. 1 issue in the country, and
lieve it is. It reminds me very m
how Winston Churchill describe
mocracy." He said that it is
poor system of government com
to everything else.

Mr. Speaker, this is the only
we have that makes any sense.
my colleagues to support it.

Mr. ROSTENKOWSKI. Mr.
er, I yield 4 minutes to the gent
from Washington [Mr. FOLEY].

Mr. FOLEY. Mr. Speaker, alt
I will vote for this bill this eve
want to say, as I have on previo
casions, that I think it would
been preferable for us to have m
financial responsibilities of th
Government by sending the Pre
the straight extension of the de
ing that he and every administ
previous to his has requested. It
have been wiser for us not to

take setting conditions on our meeting our financial responsibility. We have been faced, however, with legislation from the other side and legislation that we passed.

I believe that this is a better version of the bill, flawed as it is perhaps in many ways, than was ever sent to us by the other body or was ever endorsed by the President, who endorsed the first and was also said to have supported the second bill from the Senate.

□ 2130

I think it is also better than the Democratic alternative which we passed. I will not go through all its conditions and circumstances which the members already know, but I do wish to yield to the distinguished gentleman from Wisconsin, the chairman of the Armed Services Committee. Before doing that let me say just one word.

Members and staff on both sides of the aisle in this and the other body have worked extraordinarily hard. While Members should be expected to do that, let me just say a word for the professional staffs of the House of Representatives, Democrat and Republican, committee and individual, and of the other body. I have never in my 22 years of experience seen finer, more dedicated, more effective or more heroic staff work and every Member of this body owes a debt of gratitude to the staff of this House and to the professional staff of the Congress of which I have never been prouder.

Mr. Speaker, I yield to the gentleman from Wisconsin [Mr. ASPIN].

Mr. ASPIN. Mr. Speaker, I thank the gentleman for yielding.

I would like to clear up three items, because I think it is important to make a record here as to what we meant. It is a complicated piece of legislation. There are three things that I think are very important.

One is the outlay rate on unobligated balances. It must be done proportionately. In other words, if the outlay rates for unobligated balances in a particular program were 10 percent, they would have to offer $10 billion of unobligated balances to get a $1 billion outlay worth of credit. Is that the understanding of the gentleman?

Mr. FOLEY. That is my understanding, which is made in the course of legislative history.

Mr. ASPIN. Second, is the issue of defense flexibility outside the military personnel area. The language indicates that this flexibility is heavily fenced. (A) There is no flexibility beyond 1986. (B) In 1986 you can only move money from one program in an account to another in the same account. The Air Force aircraft account is an example. You could move money from the F-15 to the F-16 account, or vice versa, but not from the F-15 to the M-1 tank program. (C) You cannot reduce a program by more than twice the hit it would otherwise take and you cannot increase a program to more than its level going into the sequestration. (D) There would be no base closures. (E) Any program increased above the President's request by more than 10 percent could not be cut by more than the standard hit.

Third, the language in this legislation indicates that reductions will occur at the program, project and activity level. The current practice is to define programs, projects, and activities as they are outlined in the budget justification documents, such as P-1 for procurement programs, R-1 for research, et cetera. For example, this would mean that a program would be defined as the B-1 aircraft, the F-15 or similar level of detail, rather than the Air Force aircraft account. Is that the understanding of the gentleman in the well?

Mr. FOLEY. That is my understanding. The gentleman is correct.

Mr. ASPIN. One final item and that is how we define program, project or activity. I had hoped the gentleman from the Appropriations Committee, the gentleman from Mississippi [Mr. WHITTEN], would be here, but I see the gentleman from Florida [Mr. FUQUA] is here.

It is my understanding that we have worked this out with the Appropriations Committee and in the absence of the chairman, let me state here that the chairman, meaning the chairman of the Appropriations Committee, has agreed that he will consult with the authorizing committees concerning alterations in the accepted practice of defining a program, project, and activity.

I would like the gentleman to yield to the gentleman from Florida.

Mr. FOLEY. Mr. Speaker, I yield to the gentleman from Florida [Mr. FUQUA].

Mr. FUQUA. Mr. Speaker, it is my understanding that the gentleman has discussed this with the chairman of the Appropriations Committee and there will be consultation with the appropriate authorizing committees for program, project and activity definitions.

Mr. ASPIN. I discussed this matter with the chairman. He is involved in the conference on the continuing resolution, but he agrees with the understanding of the gentleman from Florida, as I understand it.

Mr. FOLEY. Mr. Speaker, I yield to the gentleman from Oklahoma [Mr. JONES].

Mr. JONES of Oklahoma. Mr. Speaker, I agree with the gentleman's earlier comments.

Mr. Speaker, I rise in support of the conference report on the so-called Gramm-Rudman balanced budget legislation.

In 1981 I stood here in the well and urged this body to support the Budget Committee's alternative budget proposal. I predicted that the administration's economic policy mix, known as supply-side economics, would not balance the budget by 1983.

I predicted at that time that the supply-side economic proposals would, in fact, result in $200 billion deficits. Regrettably, that prediction has proved accurate, and we face a budget crisis today of unparalleled proportions.

If our alternative budget had succeeded in 1981 we would not face this crisis today. Our books would be in balance, for the simple reason that tax cuts were directly tied to spending cuts.

Instead, untested supply-side theories prevailed, leaving a legacy of $200 billion deficits as far as the eye can see.

The conventional means to maintain a balanced fiscal policy are clearly not even containing the problem. Something stronger, something out of ordinary, is needed.

We need a new mechanism which will force Congress and the President to face the harsh realities of our current economic crisis.

We need a new mechanism which will force the budget issue, and put an honest deficit-reduction package on the table..

If we do not act, if we do not embrace this new mechanism, the next generation will be presented with the tab from a colossal credit card spree.

Their standard of living will be slashed.

Their security—economic and military—will be undermined by the necessity to pay off the debts of this generation.

I was pleased to serve on the conference committee on this measure. The conference took a bill that, as passed by the other body, was terribly flawed, and hammered out the package before us tonight.

There were many improvements on the original Gramm-Rudman proposal.

While the House consistently acted to live up to our commitment to the brave men and women who have laid their lives on the line for our Nation, the other body actually rejected a sorely needed exemption for those veterans whose war wounds have disabled them.

The House conferees would not allow such contempt for the our veterans' sacrifices, and we prevailed. This bill, in stark contrast to the Senate-passed package, specifically exempts veterans' compensation and pensions, while restricting the size of any cuts in health care programs.

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This is only one of the many improvements in the bill. In conference we took a political document which put off cuts until after next year's election, and made it a practical document which starts the urgent work of deficit reduction immediately.

It is too bad that there is not enough political courage in this Nation to cut the deficit without an artificial mechanism like Gramm-Rudman. In the absence of tough decisions, though, this conference agreement should have a positive effect.

I urge my colleagues to support the conference report.

Mr. DUNCAN. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, as we are winding down this debate we have heard a lot of concern over defense. We have heard a lot of criticism of this bill. We have gotten criticism in areas that we did not expect and we have gotten support in areas where we did not expect it.

I think what this House is sort of in the posture of now is the dog that finally caught the car and now you wonder what to do with it.

It is an act of desperation, but now is the time to act even if it is in desperation. We are drowning ourselves in red ink. We are ruining the future of this country. We are robbing the future of our young and we have to do something. The system is not working the way it is.

This is going to impose a discipline on us that we do not like, but I think it is time for us to impose it on ourselves, because if we do not, there will be no future for this country to defend.

The economic system and the prosperity which we have enjoyed will not be around for our children unless we do something, and that is to cut spending.

I urge adoption of the conference report.

Mr. OBEY. Mr. Speaker, I yield 1 minute and 45 seconds to the gentleman from New York [Mr. MCHUGH].

Mr. MCHUGH. Mr. Speaker, if we really want to deal with budget deficits, which do represent a dagger at the heart of this country, the way to do it is to adopt responsible budget resolutions. The President, out of ideological rigidity, has failed to propose responsible budgets. This Congress, out of political timidity, has refused to adopt responsible budgets. And so, as a result of that mutual failure, we now have Gramm-Rudman. If Gramm-Rudman is enacted, one of three things will happen.

The first possibility is that there will be sequestration. The President will follow the intent of the law and programs, domestic and defense, will be cut deeply, causing irreparable damage to this country.

The second possibility is that the President will ignore the intent of this law and seek to exempt defense programs from the cuts. Sequestration will then result in a decimation of domestic programs and a constitutional crisis will ensue, causing irreparable damage to the country.

The third possibility, Mr. Speaker, is that in order to avoid the irreparable damage to the country from possibilities one and two, the President and the Congress will face up to fiscal reality and adopt responsible budgets, which means budgets restraining spending across the board and raising revenue.

We have the power to do that now without pointing the gun of Gramm-Rudman at the head of this country. It is time we did it. This device is unconstitutional, irresponsible, and should be rejected strongly.

Mr. GARCIA. Mr. Speaker, will the gentleman yield?

Mr. MCHUGH. I yield to the gentleman from New York.

Mr. GARCIA. Mr. Speaker, I appreciate the gentleman yielding.

Mr. Speaker, I rise in opposition to this. I proudly wear my button of 176 who voted against the original Gramm-Latta and I am happy to stand today and vote against this second plan.

What we have here is not a deficit reduction proposal, it was more appropriately called the Gramm-Rudman balanced budget sham in the Washington Post. We are not here to balance the budget, we are here to sweep up the debris of this administration's disastrous economic policies.

Where are the reductions going to come from under this proposal—from defense and domestic programs. We all know how the President feels about defense—he has consistently asked for increases in defense spending, and those increases have come at the expense of domestic programs, which have been cut by billions since 1981. This administration, with its history of insisting on defense increases with accompanying domestic decreases will now have us believe that they are willing to go along with the provisions in the bill that require equal reductions in both areas. This bill, unlike the Democratic alternative, does not really take absolute precautions against fixed limits during a recession. It only provides that if there is a recession both Chambers will have automatic votes on joint resolutions to suspend limits. These joint resolutions may be vetoed by the President, and if not overridden, will allow full reductions to take place, regardless of the shape of the economy at the time. If the recession provisions of the present bill are vetoed in a year of small or no economic growth, we will have a cycle of increasing deficts leading to more cuts and eventually—and this we dare only whisper—tax increases. Yes, tax increases—where else will the money come from?

**This legislation allows us to abdica
responsibility for the budget by dele
questionable powers to the Presiden
implementing automatic reduction
turning a semiblind eye to economic
tions. This legislation says to me th
are getting lazy—that we are willing
egate unpleasant tasks to others inst
doing the work necessary, makin
tough choices needed to reduce the
The bill provides for a situation whe
President, tired of having to cut h
program, may claim a constitutional
lege and refuse to make the reductio
quired in defense, by declaring that it
the national security. If the Supreme
upholds his position, then all other c
ready made by the President will be
dated. What happens to the deficit
True, we do not allow a President
one program while refusing to c
other, but we also give any President
by which he can stop the process of
reduction.**

**Voting for this legislation will m
look like good guys, willing to cut th
cit and balance the budget—but I
have been cutting the budget for the
years, that domestic programs hav
cut and cut again since 1981. I belie
balanced budget, and I believe in
defense spending. But I do not bel
ignoring the needs of the people
country—unless we want to be remer
as the Congress that got out wh
going got tough.**

Mr. DUNCAN. Mr. Speaker, I
minute to the gentleman from C
nia [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Sp
we are wrestling with a problen
our Nation created for itself i
when Lyndon Johnson talked
gress into severing the link be
dollar and gold. As a result of th
cision, this Nation has been
menting with a paper dollar f
last 17 years. The cost to all o
that we have an inflation pr
and a lending rate of between 5
percentage points. The meaning
Federal Government is quite cle
stead of paying about $40 bil
year of interest on the nationa
we are paying $142 billion of i
on the national debt.

I am going to reluctantly s
this compromise, because I th
will force some discipline on th
tution, but I hope we will enga
national debate in this country
option of reducing the third
item in the budget, interest on
tional debt, when once again th
ernment can sell its debt for 3 p
instead of 9.

Mr. OBEY. Mr. Speaker, I
minutes to the gentleman from
chusetts [Mr. CONTE].

Mr. DUNCAN. Mr. Speaker,
the gentleman from Massachus
additional 2½ minutes.

The SPEAKER pro tempor
gentleman from Massachuset

CONTE] is recognized for a total of 4½ minutes.

Mr. CONTE. Mr. Speaker, I rise in opposition to the Gramm-Rudman section of this measure. Although I support the debt limitation increase, which is necessary in order to keep the Government in operation, I cannot support the proposed deficit reduction provisions. Even if this scheme is constitutional—an arguable question at best, which will soon be decided by the courts—it is clearly unconscionable.

Mr. Speaker, the present budget process, flawed and full of holes though it is, was created in 1974 in an effort to reclaim Congress' constitutional power over Government spending. The Budget Control and Impoundment Act of 1974 was drafted in response to executive branch impoundments, and was intended to bring the budget under congressional control as the Constitution provided.

The legislation before us would have Congress concede the battle of the budget to the President, and admit that Congress simply lacks the ability—or the will—to control Federal revenues and expenditures on its own.

Instead, that power would be delegated to bean counters—unelected officials of the Office of Management and Budget, Congressional Budget Office, and General Accounting Office—whose conclusions would apparently be implemented by the President with after-the-fact congressional review.

I think that this scheme does a great disservice, both to the Congress and to the American public. The people of this country have elected us to make the hard decisions on Federal policy and spending. I don't know about you, but I'm not ready to surrender my vote to a bureaucrat's red pen.

Mr. Speaker, for a decade now, burdened with the budget process, we have been drifting into budgetary chaos, grid lock, and inaction. We spend months on a budget resolution that is advisory only, pushing appropriations bills into October, November and now December, after the new fiscal year has begun.

We vote on the same issues not once, not twice, but now four and five times, in the budget resolution, in reconciliation, in authorizations, and finally, when we can get around to it, in appropriations.

Gramm-Rudman now adds another layer of procedures onto that anarchy. We will spend next February not looking at the new budget, but reconsidering all the decisions we cannot make this year.

We will spend next September not only trying to make decisions on the budget but also unmaking those decisions. We will not only resolve, reconcile, authorize, and appropriate, we will now reconsider. If 4 or 5 votes on the same issue isn't enough to bring this institution to its knees, we will now vote six times. This isn't only a perversion, it is sado-mass-o-chism.

Mr. Speaker, I have often stood in this well to oppose across-the-board percentage cuts in individual appropriations bills, and the arguments I have used time and time again apply equally to the automatic sequestration in this measure as well. Percentage cuts are patently unfair, and have the effect of penalizing the worthy programs along with the wasteful ones, the beneficial ones along with such boondoggles as synfuels and honey bee bailouts.

And what do we get out of this procedure? We get a guarantee of automatic retrenchment on programs and policies that touch nearly every one of the people of this country, programs that provide opportunity and access, programs for our cities and towns, programs for economic development.

While the conferees are to be commended for protecting Social Security, Medicaid, welfare, and five others from automatic reductions, it means that all other programs will take a double whammy, a double automatic reduction to meet the deficit target.

What about education? This package turns its back on educating our children, on student aid to afford a college education.

What about low-income energy assistance, a program of critical importance for Americans who must try to keep warm through the cold winter on limited means?

The package may provide a floor on Medicare and veterans' health care, but what about maternal and child health? What about biomedical research at NIH? They get hit again with a double whammy. This Gramm-Rudman package takes the safety net and turns it into survival rations.

Who among us would want to see reductions in airline safety and air traffic control services—yet FAA operating expenses would have to be cut under Gramm-Rudman.

Just last week, the House voted on a motion to instruct conferees by a margin of 300 to 6 to support increased funding for Coast Guard operations to help halt the epidemic of drug abuse that threatens our society. Yet Coast Guard operations would be cut under Gramm-Rudman.

On three different occasions, the House this year has voted to reject the administration's proposed termination of Amtrak service in this country. Yet under Gramm-Rudman, cuts deep enough to force Amtrak into bankruptcy might be mandated by CBO and OMB.

I've listed a number of programs of interest to me, but the same could be said of any number of other programs, of interest to other Members, be it programs to increase security in our Embassies overseas, other efforts against terrorism, Voice of America, aid to crucial areas of the world like Israel and Egypt, the Export Import Bank and on and on.

If these programs are worthwhile, and our votes indicate they are, we have to get serious and raise the necessary revenues to support these programs. Otherwise all of these programs will be gone. Yet, with Gramm-Rudman, instead of biting the bullet on revenues, we swallow a poison pill. If not this year then next, and if not next year, then the year after, but Gramm-Rudman puts into place an automatic procedure to wipe these programs out.

In fact not only does this plan completely ignore the most controversial aspect of the deficit issue, but certain Gramm-Rudman cuts will actually increase the deficit by a significant amount. Under a worst case scenario, the Gramm-Rudman cut applied to the Internal Revenue Service budget would cost almost $5 million in revenues. That's $5 billion added to the deficit—$5 billion that will have to be cut from other already weakened progams.

Gramm-Rudman takes the whole deck of cards, our entire Federal budget, tosses them in the air, and lets the cards fall where they may. The bets are down, Mr. Speaker, and my bet is that we're putting our money on a con game that will wreak havoc upon our constitutional Government and our people. I cannot support it.

Mr. Speaker, I'm not prepared to play that kind of game of legislative chicken, and I hope my colleagues will not either.

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The SPEAKER pro tempore. The gentleman from Wisconsin [Mr. OBEY] has 2 minutes and 15 seconds remaining.

Mr. OBEY. Mr. Speaker, I yield 1 minute and 45 seconds to the gentleman from Pennsylvania [Mr. GRAY].

Mr. GRAY of Pennsylvania. Mr. Speaker, the desire to bring fiscal sanity to our country and to begin to bring down the mammoth deficits that we face are goals that almost all of us share. Certainly, I have demonstrated my willingness to cut back on many programs in which I have deep and abiding interests in order to cut back on the mounting deficits. Commend those who worked—it is an improvement over original Gramm-Rudman.

However, I cannot support the conference report on the Gramm-Rudman balanced budget amendment even though others embrace it as a magic wand that will achieve a balanced budget quickly.

Gramm-Rudman encourages Congress to avoid hard decisions, secure in the knowledge that a sequestration of funds is to come that will do it instead.

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In fact, under sequestration, a hostile minority will be encouraged to stall, to disrupt—many of us will realize that we may make out better under sequestration than under a negotiated budget agreement.

That sequestration, then, locks into place today's priorities by hitting all segments of the budget and programs equally, except for the few that have been put off limits. In other words, Congress is abdicating its role in setting budget priorities to respond to our Nation's needs. And this is true in defense and domestic programs.

Its inflexible targets will preclude Congress from intelligent planning as the economy changes. Deficit reduction appropriate to meet the target in April will turn out to be too small, or too large, when updated projections are made in August. No Congress can make fiscal policy under these circumstances.

Finally, in economic policy Gramm-Rudman rolls the clock back to the Great Depression. Not since the 1930's have we deliberately set out to cut spending in the middle of recession. Yet that's what the inflexible deficit targets in this bill will require, unless we turn right around and suspend its provisions. The bill requires that spending be cut least when we need it most, and most when we need it least. Fifty years ago this kind of policy brought us disaster. It need not happen again. This bill is good politics but bad budgeting and bad economic policy.

Mr. DUNCAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. ARMEY].

Mr. ARMEY. Mr. Speaker, I rise in support of this proposal that will define a limit someplace in this process and force us to make decisions.

Mr. DUNCAN. Mr. Speaker, I yield 1 minute to the gentleman from South Carolina [Mr. HARTNETT].

Mr. HARTNETT. Mr. Speaker, if Webster's could define Gramm/Rudman, it would be something like this: an abdication of congressional responsibility, a loophole through which Congressman can slide.

Mr. Speaker, you cannot legislate political courage. If you want to balance the budget, you can cut $200 billion out of defense tonight and you would have a balanced budget. But in the next 5 years, Mr. Speaker, that is what is going to happen as we year after year add to those eight exemptions which we have already made another 28 exemptions, and then nothing is left to cut but defense.

But Mr. Speaker, maybe looking 5 years down the road, we will not need any money for defense because I do not see how any Member of this body or the other body could have asked America's youth to put their lives on the line for America's future when we do not have the intestinal fortitude to put our political lives on the line for America's economic future.

Mr. Speaker, call it what you want to. I call it backsliding into what Webster's would call it, an abdication of congressional responsibility.

Mr. OBEY. Mr. Speaker, I yield such time as he may consume to the gentleman from South Carolina [Mr. TALLON].

Mr. TALLON. Mr. Speaker, at long last we're going to come face to face with this cure all deficit reduction magic called Gramm-Rudman.

This clever legislation promises a simple solution to the agony of cutting the huge Federal deficit: actually we're abdicating our responsibility. The President and Congress are looking for an easy way out and all of us who vote for this placebo will no doubt say "we've done our job."

Baloney—we all know this is a bad idea that represents radical dogma rather than bipartisan discipline.

For anybody that might be persuaded, here are four good reasons to vote against this bill:

One, it is bad policy. No one can know what the economic conditions of our Nation will be in each of the next 6 years. To legislate inflexible limits on Federal spending is obviously dangerous. To decree now that the budget will exactly balance in exactly 6 years is a pretentious joke. It won't.

Two, it is unbalanced. In the likely event that the President and the Congress disagree on how to cut the deficit, the required cuts would be achieved solely by reducing spending. There would be no help from revenues. Tax rates would be immune, and so would deductions, exemptions and all other special tax allowances. Last year, all these cost the Government $100 billion more than national security.

Even the spending cuts are unbalanced. The bill wouldn't touch half of the budget. Social Security is protected; likewise are most of the Pentagon's multiyear contracts. Some programs that aid the poor are exempt, a laudable concern that merely compounds the arbitrariness. All programs subject to automatic cuts would be treated alike. There would be no priorities.

Three, the device is subject to easy White House manipulation. The President could force the automatic cuts by rejecting what Congress approves in the regular process of spending and tax bills. Or the budget offices could trigger the cuts by exaggerating the estimated deficit. Moreover, budget officials would certify which programs are cuttable and which, because of long-term contracts, are not.

Four, it is dubious law. The lawmaking power belongs to Congress, not to the President or to subordinate agencies of either branch. This bill gives the President the power, in effect, to legislate by repealing properly enacted appropriations. It also vests extraordinary authority in the Office of Management and Budget and the Congressional Budget Office, whose forecasts would be used to invoke automatic spending cuts.

No law is printed in indelible ink.
gress passed a law in 1978—even
than Gramm-Rudman—promising
anced budget in 3 years, not 6. Two
later, Congress repealed it. Presto, n
and no balanced budget. So muc
promises.

There are reasons to be sad about
happening now. One is that Congress,
ed to deal with urgent, national pro
has failed to act constructively on th
Another is that this Congress thinks

Mr. OBEY. Mr. Speaker, I yield
time as he may consume to the g
man from New York [Mr. OWENS]

Mr. OWENS. Mr. Speaker, this b
cutting Gramm-Rudman compromis
probably pass the House tonight. Th
sage of the measure represents a hist
monumental disaster. The disaster n
summarized as follows:

First, President Reagan began his
mental mismanagement of the ec
when he increased defense expen
radically while reducing revenues by
tremendous tax cuts to corporation
used the newly gained capital to bu
sell each other while the industrial c
of the Nation was being outstripped
overseas competitors.

Second, President Reagan also m
clear that he wanted to reduce the
the Federal Government in aiding
most in need; in training and emp
the unemployed; in educating all who
benefit from education in order to c
stronger America. In 1981, the Pr
successfully launched his attack
nondefense federally financed pr
with a series of drastic budget cuts.

Third, despite the devastating budg
of domestic programs, a hasty, w
and ill-conceived military buildup cr
deficit larger than the deficits gener
all of the previous American Preside
5 years, President Reagan caused a
the national debt from approximatel
$2 trillion.

Fourth, to reward his mismanage
the economy, the Gramm-Rudman c
mise will now yield to President
even greater powers over the
making process. The President who
ently executed a program of triage
dumps the poor and the politically
less overboard will now be able to c
his agenda with a minimum of inter
from the Congress.

Fifth, the Gramm-Rudman com
now institutionalizes the original sc
wipe out domestic programs which
in 1981. Programs already severely
must now bear the burden of a
which each year for 5 years will
more drastic cuts. Job training pr
community action programs, the
Start Program, aid to public housin
education; all of these worthwhi
grams important to the survival of
will be mangled or completely destr

This is a historic occasion, the
legislative branch joined President
in throwing overboard one-third
people of America. Despite the

stampede to participate in this disaster, Mr. Speaker, I am proud to join those of my colleagues who still harbor some compassion and some vision. I vote no.

Mr. OBEY. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. RANGEL].

Mr. RANGEL. Mr. Speaker, I rise in opposition to the conference report and Gramm-Rudman.

Mr. OBEY. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. LEVINE].

Mr. LEVINE of California. Mr. Speaker, we are here today to consider what has been appropriately called the Rudman-Gramm balanced budget sham. It is a sad day when legislation as fundamentally flawed as this receives serious consideration in this body.

Many of us who feel compelled to oppose this bill, Republican and Democrat alike, care deeply about and work actively to achieve deficit reductions. Since my election to Congress I have worked closely with my colleagues on both sides of the aisle to eliminate wasteful Government spending and reduce the deficit.

I would like to be able to support any deficit-control legislation we might have before us. There is no question that something must be done to reduce the deficit and that neither the Congress nor the President has done its job to achieve that result.

If Gramm-Rudman even remotely resembled a responsible approach to deficit reduction I would support it. Unfortunately, it does not.

Before I detail my disagreements with this legislation, I do want to acknowledge the contributions of the House conferees. They have labored mightily to improve this bill. To a limited degree they succeeded.

I fear, however, that many of the responsible people who have worked so hard to improve this bill have become so immersed in the process that they have lost their perspective on its remaining shortcomings. While it has significantly improved in relative terms, in absolute terms it is unwise, unfair, and contrary to our national interests.

There is not a Member of this body who can say with any certainty where budget cuts required by this bill will come from, or what the magnitude of those cuts will be. At best this bill represents an unprecedented abdication of congressional authority over the budget process. At worst it is a cynical and dangerous game of Russian roulette.

Congress has no more important responsibility than protecting the national security interests of the United States. That is why I am so deeply concerned about the warnings of Secretary of State Shultz and the Joint Chiefs of Staff that Gramm-Rudman will jeopardize our ability to protect our national security.

I am particularly disturbed by the uncertainty which exists about the magnitude and nature of the cuts in the defense budget. I have seen estimates which range from $5.8 to $18 billion in defense cuts. Which estimate is right? I don't know. You don't know. No one knows.

According to today's paper, the Joint Chiefs of Staff told the President last night that if Gramm-Rudman becomes law, the military would be unable to fulfill its commitments. If this is the case, and I have no reason to believe it is not, we are playing a very risky game here.

Our country has important commitments throughout the world. In Europe, Asia, Central and South America, Africa, and the Middle East, we have interests which must be protected. Although there is no way to know with certainty the full impact of Gramm-Rudman, Secretary of State Shultz was so concerned about its impact he reportedly pleaded with the President to oppose this legislation.

Not one comprehensive hearing has been held on the impact of Gramm-Rudman on our national security and foreign policy commitments. Not one. It is a strange process which yields serious consideration of a bill which could wreak such havoc on our national security—without our understanding what the impact will be.

Just as unclear is the impact of Gramm-Rudman on our economy. At a time when many economists are predicting an economic downturn in the next 18 months, Gramm-Rudman could turn a minor recession into a major depression.

If our economy is to continue to grow, we need to improve our Nation's infrastructure, rebuild and modernize our transportation system, provide assistance to American businesses who are locked in an intense struggle with foreign competitors for world markets, create new and innovative job training and retraining programs, and expand and improve educational opportunities in this country. This bill will put an end to these initiatives.

There is one result of Gramm-Rudman which is beyond doubt. It will savage the poor, the elderly, and the disabled people of our society. While I applaud the efforts of the House conferees to protect the interests of the disadvantaged, there cannot be one person in this room who really believes that the first to suffer will be those who already suffer the most. How much more misery will we heap on the disadvantaged members of our society?

At a time when educators are deeply concerned about the quality of education in this country, Gramm-Rudman will result in massive reductions in funding. While other nations are increasing their support for, and improving the quality of the education their children receive, we will do exactly the opposite. As a result, the quality of life in this country will be severely impacted, and our ability to compete in the international marketplace will suffer.

And what about health care? At a time when we are desperately searching for a cure for AIDS, when the infant mortality rate remains scandalously high, when immunization programs are already being cut back, this legislation would significantly limit the Federal Government's ability to act to improve our Nation's health. How many infants will die because of the passage of this bill?

I represent an area in California which is plagued by air and water pollution. There are days when children cannot play outside because the air is so polluted. There are signs on the beaches in my district warning people not to eat the fish they catch, and to refrain from swimming in the ocean because of high levels of toxic wastes which pollute the waters. These beaches have traditionally been the most heavily used recreational beaches in the country. Adoption of this bill will slow down the long overdue process of cleaning up our environment. It will further endanger the health and welfare of my constituents and everyone else who lives in an area suffering from air and water pollution.

David Broder in today's Los Angeles Times has provided us with an exceptionally thoughtful and accurate analysis of the shortcomings of Gramm-Rudman. I commend it to my colleagues and I insert it into the RECORD at this point:

BY ANY NAME, GRAMM-RUDMAN IS A SHAM

(By David S. Broder)

The label on the "Gramm-Rudman deficit-reduction plan" has a nice rhythm and rhyme to it. But a more accurate name for the measure that Congress is likely to embrace this week, as a way of dodging the blame for the runaway deficits, is the "Rudman-Gramm balanced-budget sham."

The rationale for reversing the names of the principal sponsors, Sens. Phil Gramm (R-Tex.) and Warren B. Rudman (R-N.H.), is that Gramm-Rudman is the opposite of what it purports to be.

In the name of predictability, a measured five-year progression toward zero deficits, it deliberately invites chaos. In the name of responsibility, it virtually guarantees that the deficit hot potato will be passed back and forth between President Reagan and Congress even more often than in the past five years.

In the name of fairness, it grants budgetary immunity to politically privileged programs and guarantees that programs whose beneficiaries are weaker will take a disproportionate share of the cuts.

Under the guise of toughness, it maintains the conspiracy of silence about the need for more revenues, and thus invites Reagan to maintain the anti-tax stance that is the principal cause of the deficits. The remarkable thing about Gramm-Rudman is that many of those who are voting for it know that it is a scam. Don't take my word for it. Listen to what Rep. Leon E. Panetta (D-Calif.), one of the conferees who crafted this marvel, told the New York Times: "The theme in what we did was to make this thing so irrational, so ugly that it works as a club."

The "club" is supposed to be the threat of implementing this "ugly . . . irrational" process: Rather than let the severe slashes in unprotected domestic and defense programs required by Gramm-Rudman go into effect next year, the sponsors say, the President and leaders of both parties in Congress will surely sit down and negotiate a more sensible set of budget compromises.

To which, the experience of the past five years screams: Fat chance. For five years Ronald Reagan has dug in to protect his sacred cows (strategic weapons and lower tax rates), and the Democrats have been equally vigilant for theirs (Social Security and Medicare).

Gramm-Rudman does not require either to yield an inch. Instead, it posits that Reagan and the Democrats will join in an assault on other, unprotected, spending. They won't.

What they will do, instead, is try to outfox each other in a game of legislative-executive chicken. That game bears no resemblance to a sensible consideration of the merits of rival budgetary claims. Faced with the mindless Gramm-Rudman mandate to cut unprotected defense and domestic spending 50-50 across the board, Congress will be invited to appropriate even more lavishly than it does now—and Reagan to veto appropriations even more offhandedly.

Out of this mischief and chaos, the most basic policy of the government of the world's most powerful nation is somehow to emerge.

It is a fraud—and a fright. Any proposal to deal with the deficit crisis that addresses the budget process instead of the immediate and real choices on spending and taxes is a fake. Gramm-Rudman is a dangerous fake, because it invites—indeed, requires—irresponsible behavior at every stage by every one of the major players in the legislative and executive branches.

The case against Gramm-Rudman was conclusively made last month by Sen. Charles McC. Mathias Jr. (R-Md.), who is retiring next year and is free of the requirement for political posturing that persuades so many of his colleagues that they'd better vote for this travesty.

As he said, Gramm-Rudman "searches for a way to evade the hard choices that deficit reduction demands. It strives for a way to reach that goal without taking responsibility. It represents budget balancing by anonymous consent."

Mathias said that he shares the doubts raised about the constitutionality of Gramm-Rudman. The new process invests three sets of appointed civil servants—in the Office of Management and Budget, the Congressional Budget Office and the General Accounting Office—with the authority to require one elected official, the President, to impound funds lawfully appropriated by another set of elected officials in Congress. If that is what the Founders intended, it is a puzzle why we even bother with elections.

But beyond that, he said, "the measure before us raises another, equally troubling danger: the danger of abdication of constitutional responsibility. The proposal strives for a system that makes both legislators and the executive impotent spectators of the budget process. But it will fail, and it deserves to fail."

Mathias is right, and when the failure and the fraud of Gramm-Rudman become evident next year, I hope that the voters will deal with those who concocted and supported it.

Why is this legislation expected to pass today? Politics and fear, pure and simple. The majority of the Members of this and the other body are aware of the shortcomings of this bill. Yet, in an effort to sugarcoat a vote to raise the debt ceiling, and limit the political damage which inevitably results from such a vote, Members of this body are willing to enact one of the most dangerous and unfair bills to come before Congress in recent memory.

I urge those of my colleagues who intend to support this legislation to reconsider. This bill is not in the national interest. It is not fair. It will, in my opinion, be seen ultimately as unconscionable.

This bill delegates essential legislative power to the executive, refuses to deal as a legislative body with the hard choices we have been elected to make and, therefore, may very well be unconstitutional. It offers false hope to the American people who should be able to rely on responsible action by their elected officials and not on quick fixes which will not attain the desired result. Neither the Congress nor the President has dealt properly with this massive problem but this approach is at least as irresponsible as any approach we have seen.

Mr. OBEY. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. LAFALCE].

Mr. LAFALCE. Mr. Speaker, for the past several weeks the House conferees have been diligently working to improve the Gramm-Rudman amendment, which mandates a balanced budget by 1991. The Senate version of this bill was so inherently flawed that I doubted whether the House could remedy its many weaknesses. My suspicions were correct. Despite the efforts of the House to make this legislation more palatable, it was and remains an unacceptable approach to balancing the Federal budget.

When Gramm-Rudman first emerged on the scene without so much as a single legislative hearing, I noted that the bill was politically inspired, unfair, unrealistic, a threat to both our domestic and national security, economically irresponsible and probably unconstitutional. The compromise version has not obviated these criticisms. They remain valid and, as such, responsible legislators should reject this ill-advised gimmick.

The fundamental mission of government is to choose among conflicting priorities. Gramm-Rudman abandons this goal by divesting the Congress of all responsibility for making difficult decisions about spending and revenues, prefering to focus on procedures rather than substance. It represents, in the words of Senator CHARLES MATHIAS "budget balancing by anonymous consent." Indeed, Gramm-Rudman renders the budget, authorization, appropriations and reconciliation processes nugatory.

Supporters of Gramm-Rudman argue that it is simply an action-forcing device designed to make Congress confront the hard choices which it has hitherto refused to make. It assumes that if we make the consequences of inaction so repugnant that we will then act, finally. But if we do not, what then? We must live with a measure which even supporters of the compromise term "ugly" and "irrational." I am not willing to take such a risk, not when a responsible way for bringing the Federal budget into balance is available.

In fact, Gramm-Rudman may actually be more conducive to irresponsibility than otherwise. By permitting Congress to escape confronting the hard decisions, the bill virtually promotes irresponsibilty. After all, either the President will veto unacceptable legislation, or the invisible hand of Gramm-Rudman will enforce fiscal restraint, albeit while abdicating political responsibility.

Gramm-Rudman also purports to be equitable. Cuts must come equally from domestic spending and defense. The bill ignores, however, the basic fact that Government spending is not the primary cause of our budget deficits. We would not be in this predicament today had it not been for President Reagan's 1981 tax cut, which gutted the revenue base of the Federal Government. This year the deficit is expected to total approximately $200 billion; the 1981 tax cut is responsible for a loss of approximately $181.2 billion in tax revenue this year. Meaningful deficit reduction cannot ignore the revenue side of the equation. As David Broder has written, "Under the guise of toughness, it maintains the conspiracy of silence about the need for more revenues, and thus invites Reagan to maintain the antitax stance that is the principal cause of the deficits."

Mr. Speaker, we are about to put the Federal Government on automatic pilot for the next 5 years without any clear understanding of the hazards which we may encounter. Moreover, we are doing so in a way that radically transforms the role of Congress and the Executive in possibly an unconstitutional manner. We are, in effect, through this legislation moving toward a parliamentary system of government. Gramm-Rudman also creates the illusion that at the end of all this, we, as a nation, will have something to show for it. Yet, Congress can pretend that Gramm-Rudman does not exist by simply passing a bill which violates the deficit targets. Alternatively, if we encounter slow economic growth during the next 5 years, as is likely, all bets will be off, and the deficit targets will be discarded. Gramm-Rudman cannot succeed.

Mr. Speaker, we should stand and be counted in opposition to this ill-conceived effort. I urge my colleagues to reject the conference report.

Mr. OBEY. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Speaker, I rise in opposition of House Joint Resolution 372.

For the past 2 months conferees to House Joint Resolution 372 have been working intensely to reach agreement on revisions in the budget process that will address our dangerously high deficit. The task has been difficult and the choices less than pleasant. Nevertheless, I want to commend my colleagues who served on the conference committee for their diligence and countless hours of hard work. As a conferee, I witnessed the many meetings attended to try to correct a bad bill. The final product is more fair and humane than the original bill.

However, as we prepare to vote today, I am gravely concerned that we are betraying the Constitution of the United States, and the responsibilities it invests in elected Members of Congress. I believe the Gramm-Rudman proposal is blatantly unconstitutional; if we support this measure, we are

abdicating our duties and giving the President unprecedented, new powers and authorities.

Since taking office in 1981, the President has raised the Pentagon budget by 85 percent while cutting domestic programs 35 percent. This is the context in which we vote for Gramm-Rudman, and commit ourselves to reductions of $11 billion in March 1986, and steeper cuts in future years.

There is no question that the deficit hangs as a sword of Damocles over our entire economy. We must reduce spending, especially wasteful and unnecessary programs in the Pentagon and other areas. We must not, however, turn our backs on the millions of Americans who are dependent on basic governmental programs. Reductions in health and other domestic programs and inflation adjustments will, indeed, save the Government money. It will also, undoubtedly, harm millions of Americans, forcing them to live on the edge of poverty.

Social Security recipients will receive a 3.1-percent cost-of-living increase in their January checks. I think it is admirable that we have exempted Social Security from the sequestration procedure. Social Security is the bedrock of most older Americans' financial security. Our commitment must remain unshakable.

Social Security benefits are to private sector employees, as civil service retirement checks are to Federal retirees. It is fundamentally unfair and inconsistent to deny Federal retirees and survivors their 3.1-percent increase this January. The Federal work force has been singled out year after year for unfair budget cuts, and they should not be placed in further jeopardy in Gramm-Rudman.

Some people may assume that the Federal worker is overpaid and his or her pension is overgenerous, but this assumption is completely wrong. Federal workers are not overpaid. They will not receive a pay increase this year. Federal retirees' and survivors' benefits are comparable to those in the private sector. They depend on their monthly annuity checks to support themselves and their families. They feel the same financial constraints when inflation rises and need the same protections as Social Security recipients.

Estimates show that survivors of Federal retirees receive approximately $6,000 a year in annuity payments. An elimination of a 3.1-percent COLA will mean a permanent loss of $180 for them. Federal retirees, who receive an annuity of approximately $12,000 per year, will realize a permanent loss of $387.

Federal retirees have been planning for their 3.1-percent adjustment for months. Their January checks will be mailed in just 2 weeks, and it is unreasonable to cancel it at this late date.

Federal retirees have served this country proudly. They have provided necessary services in health care, Social Security, defense research, and aeronautic exploration. They have protected our borders and processed our tax returns. They should not be asked to absorb our budget cuts, while other sectors remain untouched.

Mr. Speaker, the Gramm-Rudman budget cutting resolution also would require reductions in Medicare, veterans health programs, community and migrant health programs, and the Indian health service. These Federal health programs could be cut by 1 percent across the board in 1986 and by 2 percent across the board in 1987 and beyond.

Over the last 5 years, individuals who depend on these vital health programs—the elderly, the disabled, veterans, and low-income Americans—have been hurt by significant budget cuts which have raised their out-of-pocket expenses and reduced their health care services. We cannot, in good conscience, require further harmful cuts in Federal health programs to assist those who are most in need and most at risk.

Medicare is a grim example of a vital program that has already been seriously eroded. Between 1981 and 1985, $13 billion was cut from Medicare. As a result of these cuts, senior citizens now spend an additional $3 billion annually in out-of-pocket health care costs. Today, the elderly devote the same portion of income, 15 percent, to health spending that they did before Medicare began.

Millions of seniors already cannot manage with the gaps in Medicare coverage. One-fourth of our seniors today live at or below 125 percent of the poverty level, and so cannot pay for uncovered health services, which are extremely expensive:

Medicare does not cover dental care, yet one-half of seniors have no natural teeth.

Medicare does not cover vision care; yet 20 million senior citizens need glasses.

Medicare does not cover prescriptions; yet the elderly spend $6.4 billion each year for prescription drugs, and many spend more than $100 each week.

Mr. Speaker, given the reductions already imposed on the elderly's health care program and given the gaps in Medicare coverage already facing seniors, we must not vote to allow the additional Gramm-Rudman cuts in Medicare and other Federal health care programs.

In addition, educational programs will be cut dramatically and the future of our youth's access to education is at stake.

We need to reduce the deficit created by this administration's cuts not by abdicating our responsibility. Gramm-Rudman is a sham and unconstitutional. The following letter by the chairman of the Judiciary addresses in detail the constitutional question:

COMMITTEE ON THE JUDICIARY,
Washington, DC, October 16, 1985.

Hon. DAN ROSTENKOWSKI,
U.S. House of Representatives,
Washington, DC.

DEAR DAN: Because of your appointment as a conferee on House Joint Resolution 372, Extension of the Public Debt Limit, I am writing to express my serious concerns regarding the constitutional issues raised by the Gramm-Rudman proposal set forth in this resolution. While only the courts can definitively interpret the Constitution, it is nevertheless our responsibility to examine these issues in considering this proposal.

The Gramm-Rudman proposal requires the President to cut statutory appropriations whenever the Office of Mangement and Budget (OMB) and the Congressional Budget Office (CBO) determine that the deficit in any of the covered years (1986-1991) exceeds the amount authorized by the proposal. The cuts ordered by the President would be made both to increases in automatic expenditures and to controllable expenditures, so that the target deficit figure would be met. The President's order would become effective 30 days after its issuance.

The power delegated to the President under this proposal is a lawmaking power, one that carries with it permanent legal consequences. As the Gramm-Rudman proposal itself states:

"Any automatic spending increases modified or suspended, or any amounts of budget authority, obligation limitation, other budgetary resources, or loan limitations sequestered by an order of the President under this Act are *permanently cancelled, and the legal rights, if any, of persons to receive such automatic spending increases shall be deemed to be extinguished to the extent that the operation of laws providing for such increases are modified or suspended by such an order.*" (Italics added.)

In the definition section of the proposal, the term "sequester" is defined as:

"[T]he *permanent cancellation* of budget authority, obligation limitations, other budgetary resources, or loan limitations, to the extent necessary to reduce each controllable expenditure by a uniform percentage." (Italics added.)

Gramm-Rudman thus leaves no doubt, either in its operative provisions or in its definitions, as to the consequences of the President's actions—the President is required to permanently cancel outlays of authorized and appropriated amounts which were enacted into law in accordance with constitutional procedures. Gramm-Rudman does purport to limit the President's freedom of action in making such cancellations. For example, the President is instructed that his actions may not "have the effect of eliminating any program, project, or activity of the Federal Government." Gramm-Rudman further provides that the President is not given new authority under its terms to: "alter the relative priorities in the Federal Budget that are established by law, and no person who is, or becomes, eligible for benefit under any provision of law shall be denied eligibility by reason of this section."

However, none of these limitations alters the fundamental fact that the proposal confers on the President the power to cancel the amounts of authorized and appropriated funds, thus terminating legal rights established under constitutionally enacted legislation. To a substantial but indeterminate degree, the President and his Office of Management and Budget will be able to exercise interpretative discretion in determining exactly what aspects of programs are to be cut back, and to what degree. These are matters traditionally—and constitutionally—within the Congress' lawmaking power.

The provisions of the Constitution are explicit on the procedures necessary to enact legislation. These procedures require the involvement of both Houses of Congress and the President:

"All legislative Powers herein granted shall be vested in a Congress of the United

States, which shall consist of a Senate and a House of Representatives." Art. I. § 1.

"Every Bill which shall have passed the House of Representatives and the Senate, shall, before it becomes a Law, be presented to the President of the United States; . . ." Art. I, § 7, cl. 2.

"Every Order Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except in a question of Adjournment) shall be presented to the President of the United States; and before the Same shall take Effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a Bill." Art. I, § 7, cl. 3.

Attempts to deviate from this lawmaking process have been unequivocally struck down by the Supreme Court. The most recent example is *I.N.S.* v. *Chadha*, 462 U.S. 919 (1983), where the Supreme Court ruled that "legislative vetoes" are unconstitutional. In *Chadha*, the Court stated that legislation can be enacted only one way—through the steps required by the Constitution: bicameralism (action by both Houses) and presentment to the President (who may sign the proposal or whose refusal to sign may be overridden by Congress).

Thus, in *Chadha*, the Supreme Court ruled that Congress cannot undo a law by anything short of a new law, and that all laws must be adopted through the constitutionally mandated procedures quoted above. The Court stated in the strongest terms that delegations of authority could not be so crafted as to avoid this constitutional procedure, which had been carefully devised to preserve not only the rights of the people but also the separation (and balance of power) among the branches of government.

The Gramm-Rudman proposal seeks to circumvent these constitutional requirements, as did legislative veto, except that Gramm-Rudman attempts to do so by delegating unconstitutional powers to the President, rather than to one or both Houses of Congress. Though its language merely directs the President to issue an "order" requiring a reduction in expenditures—a mandatory duty based on the projected economic conclusions of two bureaucratic agencies—the effect of these so-called orders is to repeal duly enacted statutes. The proposal attempts to authorize the President to undo a law by something less than a law—and is thus unconstitutional.

While under the Constitution Congress *can* delegate the authority to implement laws, it *cannot* delegate the authority to repeal laws. This is precisely what the Gramm-Rudman proposal purports to do.

However, the issue involved here is far more than a technical question of the procedures required by the Constitution, as to some extent was the case with legislative veto. The spending (in this case, "nonspending") authority delegated by the Gramm-Rudman amendment goes to the core of the concept of separation of powers and is one specifically addressed in the Constitution: "The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States; . . ." Constitution of the United States, Art. I, § 8, Clause 1.

"No money shall be drawn from the Treasury, but in consequence of appropriations made by law . . ." Article I, § 9, Clause 7.

The Framers of the Constitution were adamant that spending and taxing be in the hands of the legislative body which would make the decisions and set the priorities.[1]

This explicit assignment to Congress of spending authority was not made lightly. In fact, it reflected the framers' familiarity with the long and bitter battles of the English Parliament to win control over revenues and expenditures. It also reflected the framers' own experience in which spending and taxing decisions had been made for the colonies by the royal governors—the equivalent of the Executive Branch.

Congress can exercise this Constitutional authority, as any other lawmaking authority, only through enacting laws; and the enactment of laws requires bicameral consideration and presentment to the President. Any other method, however "convenient" and "efficient", is not constitutional.

As the Court stated in *Chadha:* "The fact that a given law or procedure is efficient, convenient, and useful in facilitating functions of government, standing along, will not save it if it is contrary to the Constitution. Convenience and efficiency are not the primary objectives—or the hallmarks—of democratic government. . . ." (462 U.S. at 944).

It is no idle concept that only through the power of the purse does Congress have any effective control of the Executive—as has been repeatedly demonstrated through our history, recently in the Nixon impoundment cases, and even more recently as Congress has prohibited or demanded the expenditure of authorized funds for various purposes. This power of the purse was given to Congress both so it could preserve its own prerogatives and so it could limit the otherwise potentially unlimited power of the President. It is troubling that Congress would so casually consider abdicating this power. (CBO's role under the provision does not alter the reality of this transfer of power in any way. In fact, there is the same constitutional defect in assigning lawmaking functions to this legislative branch agency.)

There are numerous policy reasons to question the wisdom of granting so much power to unelected officials at OMB and CBO, who would have a great deal of discretion in deciding whether the provisions of Gramm-Rudman would become effective, an event triggered by their joint budget estimates. Additional power is given to the President and OMB, an agency located within the Executive Office of the President, who would decide what is meant by a "relatively controllable" or an "automatic spending" increase, and thus, how programs are to be cut. However, the most basic reason to oppose the Gramm-Rudman provision in its current form is based solidly in the Constitution and its basic premise of separation of powers.

The Founders of this country intended that the Congress exercise its lawmaking authority to make spending and taxing decisions. The Founders no doubt knew the difficulty and discomfort that these decisions would produce. But these choices are among the most basic to be made by any government. It is for precisely this reason that these decisions were placed squarely in the Congress, which cannot constitutionally refuse to make them, however politically advantageous or expedient it may be to do so.

The Founders of this country intended, and required, that these decisions be made through a politically accountable process—through the enactment of a law under the procedures required by the Constitution.

In 1975, the Supreme Court stated, in *Buckley* v. *Valeo*, 424 U.S. 1, 124:

"[T]he principle of separation of powers was not simply an abstract generalization in the minds of the framers: it was woven into the document they drafted in Philadelphia in the summer of 1787."

Twenty-three years earlier, in 1952, the Supreme Court emphasized the role of the President as the executor of laws, not the maker of laws:

"In the framework of our Constitution, the President's power to see that the laws are faithfully executed refutes the idea that he is to be a lawmaker. The Constitution limits his functions in the lawmaking process to the recommending of laws he thinks wise and the vetoing of laws he thinks bad. And the Consitution is neither silent nor equivocal about who shall make laws which the President is to execute. *Youngstown Sheet and Tube* v. *Sawyer*, 343 U.S. 579, 587-89 (1952)

For many years prior to the Supreme Court decision that the legislative veto procedure was unconstitutional, I had opposed the procedure on the basis that it attempted to short cut the constitutionally mandated requirements for adoption or repeal of a law. I have the same concerns about the Gramm-Rudman approach, though these concerns are greater because Gramm-Rudman strikes at the core power to Congress: the power of the purse.

I urge that we not hide behind this procedural and constitutionally questionable proposal.

Sincerely,

PETER W. RODINO, JR.,
Chairman.

Mr. OBEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin [Mr. MOODY].

Mr. MOODY. Mr. Speaker, I wish to express my opposition to the Gramm-Rudman proposal of automatic, unbalanced spending cuts triggered by highly imperfect predictions of future economic conditions.

Gramm-Rudman is an irresponsible abdication of congressional authority. Our Constitution vests the power to authorize spending, set policy, appropriate funds and raise revenue solely in Congress. This power and responsibility should not be delegated to an automatic formula triggered by unelected technicians. For nearly 200 years, this basic principle has guided Congress and the country.

But Gramm-Rudman would fundamentally change that constitutional obligation. The calculations triggering the mechanistic cuts will come from forecasters and statisticians at the Congressional Budget Office [CBO], the General Accounting Office [GAO] and the Office of Management and Budget [OMB]—all service institutions not envisioned by our Founding Fathers and not representing the sovereignty of the American people.

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[1] In fact, The Constitution explicitly requires that tax bills originate in the House, that body closest to the people. "All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills." Constitution of the United States, Art. I, § 7, Clause 1.

The inflexible budget targets premandated under Gramm-Rudman future years, once triggered, preclude congressional choice and control. It will prevent Congress from adjusting its spending, and therefore philosophical, priorities in light of updated information. It will create, by formula, social and economic policy for out years 1986 through 1991.

How would such an unconstitutional and irrational outcome occur? If the President and Congress fail to meet pre-set deficit limits, automatic spending cuts or sequestration would take place.

Now these automatic cuts would not fall proportionately across the board, because Social Security and certain programs would be exempt, forcing larger cuts on the rest of the budget.

Gramm-Rudman purports to be fair and equitable in the formula cuts of the exposed, non-exempt portions of the budget. Fifty percent of the necessary cuts would come from military spending and 50 percent from the domestic budget. But this is distinctly not equitable. Why? Because, first, the exposed parts of the military budget and the domestic budget are not equal. Second, domestic programs have been cut approximately 30 percent over the past 5 years while military spending has increased 89 percent. These two factors, taken together, practically insure an ever widening discrepancy between domestic and military programs.

The preferential treatment for military spending over education, the environment, law enforcement, urban redevelopment, farm support, transportation and ameliorating poverty will continue. In fact, the preference for military spending will grow more intense under Gramm-Rudman.

Gramm-Rudman is also susceptible to deliberate Presidential manipulation. For example, the President could actually force the Gramm-Rudman process to trigger automatic cuts by simply vetoing regular appropriations and revenue bills sent to him by Congress, thus himself causing the preset deficit targets to be missed. This would give the President de facto power to legislate—another violation of the Constitution. If legislated deficit reductions cut more dollars from military than from domestic programs, for example, the President could veto the legislation and force the 50/50 formula cut embodied in Gramm-Rudman.

The House negotiators fought valiantly for the exemption of certain programs to protect the poorest of the poor and veterans, and I commend their efforts. Medicaid, Aid to Families with Dependent Children [AFDC], the Women, Infants and Children Nutrition Program [WIC], Supplemental Security Income [SSI], food stamps, child nutrition, and veterans' pension and compensation programs, as well as Social Security, are spared from automatic cuts under Gramm-Rudman.

Several other cuts are also softened—again by formula—to create partial exemptions. Cuts are limited to 1 percent for fiscal year 1986 and 2 percent thereafter in veterans' health, community and migrant health, Indian health and Medicare programs. This softening of cuts on health programs is good, but it causes more pressure, and larger cuts on nonexempted programs.

Here are just some of the programs that will not be targeted for draconian cuts under Gramm-Rudman: Low-income Housing and Energy Assistance for the Elderly, Meals on Wheels, Senior Companion and Foster Parent Programs, Student Financial Assistance, Education for the Handicapped, Medical Research Funding, Amtrak, Mass Transit Aid, Law Enforcement, the National Park Service, Toxic Waste Control, and hundreds of other programs which improve the quality of life for millions of Americans.

As an economist, Mr. Speaker, I have one additional very serious reservation about Gramm-Rudman: The likelihood that the formula cuts can actually accentuate the business cycle and worsen recession. The economy must grow at less than 1 percent per year—a very low rate of performance indeed, with rising unemployment almost inevitable—for Gramm-Rudman targets must be suspended. But the same amount of spending must be cut from the budget whether national economic growth is slightly more than 1 percent even as high as 5 or 6 percent.

But growth at these different rates have vastly different implications for the economy and therefore for the size of the deficit itself. The higher the growth rate, the smaller the deficit; the lower the growth rate the lower the deficit. So when the economy is fragile, Gramm-Rudman forces larger cuts than when it is robust. It forces smaller cuts when the economy is strong—just the opposite of what should be done. Gramm-Rudman should, but does not allow us to adjust the size of the cut to economic growth. Unless growth falls very, very low—below 1 percent—we will be locked into five equal deficit reduction steps. This is irrational and very bad management of the macroeconomy.

For the numerous reasons outlined above, I will express my opposition to Gramm-Rudman by adding my name to the suit filed by Representative MICHAEL SYNAR of Oklahoma, challenging the constitutionality of the Gramm-Rudman Act.

Mr. OBEY. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. WEISS].

Mr. WEISS. Mr. Speaker, I rise in opposition to the conference report.

I believe the Gramm-Rudman plan to mandate a balanced budget is one of the most irresponsible measures ever raised in the U.S. Congress. It was passed in the other body without being reviewed by a single committee. It envisions a completely unprecedented transfer of power from the Congress to the President. And it would force massive and devastating cuts in the same human needs programs that have already been targets of such cuts.

Under the revised plan developed by the conferees, neither the President's budget nor the congressional budget resolution would be permitted to contain a deficit that exceeds certain maximum limits: $172 billion in fiscal year 1986; $144 billion in fiscal year 1987; and $36 billion less in each succeeding fiscal year until the budget is balanced. If these limits are exceeded, the President would be required to make proportional reductions in most Federal programs to make up the difference. In either case, the scope and magnitude of the cuts would be enormous, and the result would be a step-by-step dismantling of most progressive achievements of the last 50 years.

Moreover, the tactics used to promote this plan are outrageous and deplorable. The Senate attached the Gramm-Rudman amendment to a measure to raise the debt ceiling above $2 trillion and threatened to let the U.S. Government default if the House didn't pass it. This strategy, which holds the millions of U.S. citizens who rely on Government benefit programs hostage to the Senate's demands, amounts to nothing short of legislative terrorism.

It is true that some changes have been worked out in conference that will moderate the impact of this ill-conceived plan. Importantly, the compromise plan accepts some of the positive changes called for in the House-passed alternative to the Gramm-Rudman plan. I voted for the House plan, not because I in any way endorse the concept of mandated cuts to achieve the illusory goal of a perfectly balanced budget, but because it was apparent that the Senate's much more dangerous plan would pass if an alternative was not offered.

Both the original and revised plans totally exempt Social Security from forced cuts. But as a result of pressure from the House of Representatives, the final plan also spares the following essential low-income programs from mandatory cutbacks: Medicaid, Aid to Families with Dependent Children [AFDC], the Women, Infants and Children Nutrition Program [WIC], Supplemental Security Income [SSI], food stamps, child nutrition, and veterans' compensation. In addition, a series of health programs that would have been subject to massive cuts in the original plan are partially protected, including Medicare, veterans' health, community and migrant health, and Indian health. Spending for these programs could only be cut by 1 percent in 1986 and 2 percent in the following years.

Moreover, the compromise slightly limits the amount of power that is transferred from Congress to the President. The Congressional Budget Office and the administration's Office of Management and Budget would develop budget estimates jointly, with the General Accounting Office acting as an arbiter between the two. Therefore, it will be more difficult for the administration to manipulate its estimates of deficit figures for political reasons. However, the bill continues to limit Congress' power over the purse in a manner that I believe is very likely unconstitutional and demonstrably unwise.

The compromise provides for automatic votes in Congress on a measure suspending the deficit limits and the automatic spending reduction process in the event of a recession. This would help avoid a situation in which the Government is forced to exacerbate an economic downturn by drastically reducing spending during a recession. The agreement also quickens the pace of deficit reductions so that the pain of major budget cuts would not be postponed until after the 1986 elections. Senate Republicans had conveniently crafted their original balanced budget plan so as to avoid the political fallout from drastic budget cuts until after the upcoming elections.

Finally, the conference agreement places a much larger share of the deficit reduction burden on defense programs, where a large part of the responsibility for the current deficit crisis rightfully lies. Under the newly fashioned agreement, total budget cuts would be absorbed equally by defense and nondefense programs.

I applaud the important efforts of those of my colleagues who helped moderate the extreme proposals of the Senate. But the changes they brought about, important as they are, cannot in any way justify the overwhelming harm to the American people that will result even under the revised plan. Therefore, I must cast my vote against this legislation.

The deficit problem is extremely serious. Deficits have grown far larger than at any point in our Nation's history, hovering around the $200 billion level throughout President Reagan's tenure. These astounding deficits have contributed to a doubling of the national debt in the last 5 years. In 1981, the Federal debt stood at $932 billion. This year, we face the necessity of raising the debt ceiling over the $2 trillion level.

A debt of this size poses a major threat to the future of our economy and the ability of the Government to meet the needs of its citizens. In the short run, ballooning deficits will raise interest rates and spark a new recession. In the long run, the economy will be crippled as resources are committed to servicing the debt rather than to production.

Already, 18 percent of Federal income tax revenues are devoted to servicing the national debt, up from only 11 percent in 1981. As this percentage continues to grow, the ability of the Federal Government to fulfill its obligations to the American public will also be threatened. Unless we take substantive action to reduce the deficit, programs that are essential to low- and moderate-income Americans will simply be wiped out.

It is obvious that strong medicine is needed to eliminate the deficit problem. But we cannot tolerate the Gramm-Rudman snake oil that attacks needed domestic programs almost indiscriminately and ignores the illness of our Tax Code, which is riddled with unfair loopholes.

The Gramm-Rudman plan is but a new incarnation of other longstanding proposals, such as the line-item veto and the balanced budget constitutional amendment, that promise to miraculously cure our deficit ills through a change in procedure, rather than a change in policy. By subjecting controllable portions of the budget to across-the-board cuts, it is thought that we will be able to achieve a balanced budget by 1991.

But the fatal flow of Gramm-Rudman and other deficit cure-alls is that they ignore the causes of the deficit crisis. The Gramm-Rudman plan will help focus the pain of deficit reduction on programs and people that are not responsible for the deficit. Not only is this a sure prescription for failure, but it is exceedingly unfair to a broad spectrum of American citizens.

What are the causes of our monstrous deficits? In 1980, candidate Ronald Reagan said, "The American people deserve a president who has the courage to give answers instead of making excuses. They also deserve one who doesn't look for scapegoats." Yet as President, Reagan has done nothing except blame others for the deficit crisis. He blames his predecessors. He blames Congress. He blames the budget process. He blames Democrats.

But there is no one who is more guilty than Ronald Reagan for the crisis in which we find ourselves. One need only refer to figures developed by the nonpartisan Congressional Budget Office to ascertain that the three major components of the current deficit are directly and unequivocably traceable to legislative changes enacted by the Reagan administration.

Between 1982 and 1987, tax and budget changes pushed through by President Reagan will have increased deficits by $557 billion above the levels we would have seen if we had kept 1981 policies intact. The single biggest contributing factor to this rise continues to be the President's tax giveaway to the wealthy and big business, which reduced revenues by $604 billion. A second factor is the continued stockpiling of wasteful and destablizing weaponry promoted by the President, which increased outlays by $175 billion. And the final factor is the increase in interest payments that resulted from the President's misguided policies, which raised outlays by $111 billion.

Even though these changes have been offset by $333 billion in domestic spending cutbacks, we have been left with deficit figures far greater in each recent year than we would have had if Reagan policies had not been enacted. In the most recent fiscal year, the deficit amounted to an astounding $212 billion. And most of that $212 billion deficit can be directly attributed to the tax and budget policies of Ronald Reagan.

Originally, you will recall, the President promised to balance the budget by 1984. Under the scenario put forth by the so-called supply-side economists, tax cuts would produce substantial new investment, leading to increased productivity that would fill the Treasury with new tax revenues. We now know beyond any shadow of a doubt that this plan was a failure. The new investment never occurred. The lost tax revenues were never replaced. And the economy is being driven forward by massive deficit spending, while the bills mount up for our children and their children.

Many felt that it was naive of the President to expect that he would be able to cut taxes, increase defense spending, and balance the budget all at once. But there is substantial and increasing evidence that the huge deficits we now have are not the result of administration bungling. Rather, these deficits have been purposefully inflated in an effort to convince the American public that we can no longer afford programs that serve human needs.

The Gramm-Rudman amendment is consistent with that strategy. While some of the details of the plan, notably its treatment of the defense budget, are not wholly to the President's liking, the overall plan provides a stringent and unavoidable mechanism for the step-by-step dismantling of most of the Federal Government. This is what President Reagan and his extremist allies desire—not only to "get government off our backs," not to "get rid of government."

If enacted, the effects of the Gramm-Rudman plan will swiftly prove devasting. Budget Director James C. Miller III has already stated that cuts in domestic spending of $50 billion will be needed to meet the fiscal year 1987 deficit target of $144 billion. And some estimates indicate that as many as 30 to 50 domestic programs would need to be completely eliminated in order to meet this goal.

While a handful of programs for the poor will be protected under the compromise before us today, many are not. For instance, operating subsidies for low-income housing will be subject to extreme and debilitating cuts. But perhaps the most noticeable and pernicious damage will be inflicted on the Government's key programs that aid average citizens. Support for education, mass transit, health care, pollution control, and law enforcement will all be exposed to a sharpened budget axe.

So long as we continue to target essential domestic programs that serve human needs for deficit reduction, rather than addressing the causes of the deficit crisis, we will merely undercut the value of fairness and increase human misery. The only serious response to the deficit crisis must involve strong efforts to cut unnecessary defense expenditures and to gain additional revenues by closing unfair loopholes in the Tax Code. And this means that the President must cease his obstinate and unthinking opposition to these changes and join in a truly substantive effort to reduce the deficit.

I stand ready to endorse a deficit reduction plan that accomplishes these goals, but I cannot and will not endorse the compromise Gramm-Rudman plan, which throws the burden of deficit reduction on individuals who are not responsible and cripples the ability of the Government to serve its citizens now and in the future.

If we hope to preserve the achievements of the past 50 years and to make new progress in the years to come, we must reject the Gramm-Rudman plan. And we must recommit ourselves to the concept of a government that does more than stockpile weapons of destruction—a government that does its best to meet the needs of all its citizens.

Mr. BOLAND. Mr. Speaker, I rise in opposition to this conference report and in opposition to the philosophy embodied in the Gramm-Rudman proposal.

I want to make it clear that I was a member of both Gramm-Rudman conferences. I have nothing but respect for all of the Members and staff of this body who served on those conferences, and for the herculean effort that they made to inject reason into an inherently unreasonable proposal. I want to particularly commend our chief negotiators, Mr. FOLEY, Mr. GEPHARDT, and Mr. PANETTA who represented the interests of this House with uncommon zeal and extraordinary effectiveness. I signed the conference report because I believed it reflected the best possible resolution of the differences between the House and Senate versions of Gramm-Rudman.

Now it is time to vote on the substance of this matter, however, and in many respects it is an historic time for Congress. If we approve Gramm-Rudman in any of its forms, we assume two things. First, that it is possible in December 1985 to set realistic deficit targets 5 years into the future, and second, that Congress cannot, and in fact should not, exercise any independent judgment on how to meet those targets. I reject both assumptions. If we pass Gramm-Rudman, we put the budget decisions of the Federal Government, which represent the most basic economic policy decisions of our Nation, on automatic pilot. That may please those who do not relish choosing between the various competitors for our budgetary resources, but it strikes me as a curious view of the responsibilities of the holders of public office.

Gramm-Rudman perpetuates the illusion that our budget deficit ills can be completely cured by cutting spending. That is a dangerous notion, and one which has no realistic basis. Congress has cut spending, and more needs to be cut, but I have seen no evidence which leads me to conclude that the kind of massive cuts required by Gramm-Rudman are supported by the American people. If we approve Gramm-Rudman and those cuts are made in the across the board, and therefore illogical method the bill requires, none of us will be able to hide behind a fig leaf which holds that the reductions were automatic and therefore beyond our control.

Congress was created to make decisions, not to devise ways to avoid them. In the budget area, those decisions must involve consideration of spending and of revenues. Perhaps we have consciously avoided some of the hard choices in the past on those matters. Let's not now compound our error by institutionalizing a way to avoid them in the future. Gramm-Rudman represents a collective throwing up of the hands by Congress and the President, an admission that we can't, or won't, do what we know needs to be done to solve our deficit problems. As such, it sends the worst possible message about our willingness to discharge our responsibilities under the Constitution. Let's not send that message. Let's send another message, one of resolve to make the tough choices on spending and on revenues that each one of us knows are inescapable if we are to avoid the economic catastrophe hearlded by our $200 billion budget deficits.

Mr. BEILENSON. Mr. Speaker, adopting the Gramm-Rudman scheme of automatic spending cuts is the wrong way to approach the deficit problem, and it's the wrong way to carry out our responsibilities as elected Members of Congress.

The compromise bill now before us is a considerable improvement over the original Gramm-Rudman amendment, but it's still a bad piece of legislation. I urge my colleagues to oppose this bill so that we can then vote for an unamended extension of the debt limit.

If we pass Gramm-Rudman, we will be admitting that we are not capable of making responsible budgetary decisions. We will be saying that we are not able to eliminate the deficit unless we are threatened with automatic budget cuts not of our own choosing. It's a sad commentary on Congress that we are willing to consider this reckless legislation, which could be devastating to programs we all care about, before we have even tried to develop a plan of spending cuts and tax increases that would balance the budget over 4 or 5 years in a more rational and equitable manner.

Think of how much more productively the last two and a half months would have been spent if Congress had used that time to draft a budget plan—a plan for the actual legislation that would be needed to eliminate the deficit in 4 or 5 years—instead of spending it concocting a scheme to force us to eventually come to terms with the necessary legislation in the future and to severely penalize most Federal programs if we don't. Every one of us knows what needs to be done to reduce the deficit, what is required to solve the problem, and yet here we are, voting not on a plan of actual spending cuts and tax increases, but instead on a promise to address the issue later under a very complicated process that seriously erodes congressional power and that may or may not actually work.

Some proponents of Gramm-Rudman believe that the threat of automatic spending cuts will force Congress to take whatever action is necessary to avoid those cuts. However, we will probably find that interest groups who would be hurt more by actions under our regular budget process than under the automatic cuts will do everything possible to force delay in congressional action. Then, when we become deadlocked in our efforts to reduce the deficit through carefully considered legislation, we will have to accept the automatic cuts that will occur without any control over the extent of the cuts or any understanding of their impact.

In addition, requiring Congress and the President to meet specific annual deficit targets is not the best way to eliminate the deficit. A rational plan to balance the budget in five years would probably call for smaller reductions in the earlier years and larger reductions in the later ones, after changes in programs have been phased in. Under this legislation we won't have the flexibility to adjust the targets in order to cut more in one year and less in another, unless a recession is projected; then, the requirements can be suspended entirely.

This legislation might be a little easier to accept if the automatic cuts fell relatively equitably, but they don't. OASDI, the two Social Security trust funds which now comprise 20 percent of the Federal budget, are exempt. And, all of the automatic cuts will come from the spending side of the ledger, leaving untouched all the spending that occurs through the Tax Code in the form of tax expenditures—spending which is growing at much greater rates each year than direct spending.

Social Security should not be exempt from the automatic cuts that will be required if Congress fails to achieve the maximum deficit level for a given fiscal year. The popularity of this program is an argument for keeping it in—not for taking it out. If Social Security cost-of-living increases were subject to the automatic cuts, Congress would have that much more of an incentive to reduce the deficit below the maximum deficit amount through its regular budget process in order to ensure that automatic cuts would be avoided.

Furthermore, as a matter of fairness, if other pension programs such as civilian and military retirement are subject to automatic cuts, then Social Security should be, too. Social Security is our Nation's most important social program and certainly there are good reasons for not tampering with it through a process as risky as Gramm-Rudman. But the fact that the conference didn't exempt other Federal pension programs on which a smaller number of people depend shows that the Social Security decision was made for political, rather than for humane, reasons.

There are even more compelling reasons for including tax expenditures in the automatic cuts. Spending which is authorized through the Tax Code, rather than through the appropriations process, should not be exempt from automatic reductions just because it is on the revenue side of the ledger. Fairness demands that if we are going to cut across the board, we ought to include in those cuts the Government support that benefits corporations and the well-to-do. And that means reducing the tax breaks which allow individuals and corporations to avoid paying their fair share of taxes. A process that threatens those who benefit from direct Federal spending ought to threaten those who benefit from tax expenditures, too.

Furthermore, because no revenue provisions are included in the automatic cuts, we are increasing the odds that there will be no revenue increases enacted through the regular budget process. If Congress passes a responsible deficit-reduction package that includes revenues, the President can simply veto it, and then, assuming the veto is sustained, the deficit will be reduced solely through the automatic cuts. If revenues were included in the automatic reductions, then the President would be forced to look more kindly upon any tax increase that Congress sent him, knowing that there would be a tax increase of some sort if he refused to sign the bill.

Mr. Speaker, the reason we find ourselves in the position we're in right now, having to vote on a plan as grievously flawed as Gramm-Rudman, is because in recent years we have taken too much of the budget off of the negotiating table. If, in this year's deficit-reduction effort, we had agreed to at least some additional revenues and some type of adjustment in Social Security cost-of-living increases, we would have made far more progress in lowering the deficit than we are going to make this year. And, we probably would have avoided having to act on the dangerous and misguided scheme before us now.

I urge my colleagues to vote no on the pending legislation. Congress ought to put aside the talk and the promises and get to work on a fair and equitable plan of spending cuts and tax increases that will give us a balanced budget in 4 or 5 years. It is our responsibility, as Members of Congress, to use our good judgment to decide how to balance the budget—not have the budget balanced for us in a way that we cannot control.

Mr. GREEN. Mr. Speaker, it is with great reluctance, Mr. Speaker, that I rise today in support of the Gramm-Rudman-Hollings deficit reduction plan, which is attached as an amendment to the legislation allowing the Congress to lift the debt ceiling. It is a sad state of affairs when Members of Congress are forced to resort to automatic budget-cutting procedures instead of making the hard political choices necessary to restoring our fiscal health.

One of my goals since becoming a Member of Congress in 1978 has been to work with my colleagues to pass responsible Federal budgets. This year and last, however, the Congress as a whole shirked its responsibility by approving budgets which increased the defense budget unnecessarily, were fraught with loopholes, and which used fudged economic expectations. Therefore, as a member of the Committee on Appropriations, I have worked to redirect spending on individual appropriations bills away from defense, for example, and in support of responsible funding levels for mass transit, environmental protection, and other worthwhile Federal functions.

All year, I have worked closely with colleagues from both parties, and particularly with a group of moderate Republicans—the 92 Group—in an effort to redirect our budget policy. These choices were difficult, and were preceded by substantial debate, even among the group of us who are relatively like-minded on many policy and budget matters. However, earlier this year, our group presented a very realistic and equitable budget package—which was defeated in the House—and I was very disappointed with the unrealistic final budget package approved by the Congress—which I voted against.

Although I plan to vote for the Gramm-Rudman-Hollings package, which has the approval of both the Democratic and Republican leadership in the House, I want to voice the major objection I have to the plan. The fact of the matter is that the so-called across-the-board cuts envisioned by the Gramm-Rudman-Hollings amendment will not have across-the-board ramifications. I am happy that half of the necessary outlay reductions will be made in defense programs.

In addition, I fully believe that the Congress must ensure that many low-income spending programs such as Aid to Families with Dependent Children, Child Nutrition, Food Stamps, Supplemental Security Income, Veterans' Pensions and Compensation, and the WIC Program—which provides nutritious supplements for women, infants, and children—be funded at adequate levels.

I also recognize that the plan should be sensitive to our senior citizens. However, exempting these low-income plans from the deficit reduction process may very well cause major problems in formulating our future domestic spending levels.

Although fully half the spending cuts must be derived from the defense budget, the exemptions for the programs above tacitly endorse cutting immense amounts of funding for programs which are not exempt, such as student financial aid and compensatory education, housing programs such as subsidized public housing and elderly and handicapped housing, social services block grants, environmental programs, mass transit operating assistance, and drug enforcement.

If I may say so, Mr. Speaker, I believe that the cuts that these programs are going to face in 1986 will be as dramatic as any we have seen since 1981.

However, while I am far from enthusiastic about the Gramm-Rudman-Hollings approach to deficit reduction, and would rather see the Congress perform the necessary budget balancing in a more reasoned way, the fact is that the Congress has steadfastly refused to do so. Under the circumstances, then, I see little choice but to accept the Gramm-Rudman-Hollings approach to reaching the goal of the balanced budget, even though I believe that we do have the ability to make these decisions on annual basis if we seriously intend to do so.

As a member of the Appropriations Committee, which is ultimately responsible for funding discretionary spending programs, I am happy that the conference agreement makes changes in the existing budget process to speed up consideration of budget measures and to improve enforcement mechanisms. This should encourage the completion of congressional action on the budget resolution and all appropriations and reconciliation bills before the automatic spending reduction process is triggered.

It should be noted, however, that each of the appropriations bills passed this year by the House is both under budget and includes less spending than the previous year's bill—including the HUD-independent agencies bill, which originated in the subcommittee on which I am the ranking minority member.

Overall, Mr. Speaker, I have learned during my 8 years in the House that Members of Congress are often faced with some pretty miserable choices. This is one of those times. Although I have consistently fought to decrease wasteful defense spending and agricultural spending, I am not fond of having to vote for a bill which will do that at the expense of worthwhile programs such as environmental protection, housing, education, mass transit, and law enforcement.

The passage of Gramm-Rudman-Hollings will force the Congress to be more creative in its plans to reduce our Nation's Federal budget deficit in an equitable manner, and I look forward to working with my colleagues in this effort.

Mr. HAWKINS. Mr. Speaker, I rise today in strong opposition to the compromise version of Gramm-Rudman. I believe the basic premises of the original measure were flawed, and despite the time, effort and sincerity of the conferees to present us with what they consider to be an improved bill, I do not concur and cannot in good conscience support this legislation.

I feel like a member of the audience in the theater of the absurd. The President and a majority of this Congress have outstripped Broadway and Hollywood in presenting us with the ultimate dramatic tragedy of the season.

While we can argue over whether Gramm-Rudman may or may not be constitutional, or whether it will force Congress to abdicate its rightful role in policymaking and controlling the purse strings of the Federal Government, these issues skirt the real crux of the matter—namely—what will Gramm-Rudman force upon the people of this Nation and what will be the economic fallout of its deceptive, erroneous philosophy?

I am afraid some of my colleagues have gotten so caught up in the rhetoric about the deficit that an atmosphere of hysteria has been created which has so severely limited our policy options, as to practically curtail our ability to govern.

In the words of the Constitution, the Federal Government was formed to "establish Justice, insure domestic Tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity * * *." I ask my colleagues, how in heavens name can we even begin to accomplish those lofty ideals when we sit here today considering a measure which talks not about setting priorities for meeting the needs of the people of this country, but about setting meaningless targets for spending, which are based on pretentious economic assumptions and outright erroneous philosophy.

Let's not beat around the bush.

What separates us from others who support this proposal is that they believe that the deficit is the result of too much Government spending by which they really mean too much spending on domestic, civilian programs they don't like. We, on the other hand, know the deficit is the result of unbalanced economic policies that have tolerated unacceptably high levels of unemployment, intolerably high real interest rates, and a severe mismatch between fiscal and monetary policy.

The primary causes of the $200 billion deficit are the combination of the 1981 Reagan Tax Act, concurrent enormous spending increases in the military budget and increased interest on the national debt.

However, I would be remiss were I not to also point out, that to some extent, part of the problem lies even deeper than the policies of the last 5 years.

Real growth rates have been extremely deficient for at least the last 15 years; only 2.8 percent from 1969–84, and then within that period only 2.1 percent from 1979–84. This has resulted in staggering losses in production, employment, and revenues.

When we have industrial capacity no higher than 80 percent, and over 14 million people unemployed and underemployed in the words of my philosophical "soul-mate" on the other side of the aisle, Mr. KEMP, and I quote:

> There is the cause of your deficit. We are operating at a half a trillion dollars below our capacity, $500 billion below our capacity.

Gramm-Rudman does absolutely nothing to address this problem. Actually, it will only make matters worse, because without any other stimulus other than the deficit itself, reducing it will neither balance the budget or encourage growth.

In addition to lack of adequate economic growth, productivity growth also continues to lag behind the average of previous expansion periods. Since the recession trough, productivity has increased by 2.2 percent compared with the 2.7-percent average in previous recoveries and jobs in manufacturing are only 56 percent of their prerecession levels.

And, let us not forget the enormous impact of monetary policy.

Despite the welcome drop in interest rates recently, both short term and long term interest rates remain higher today than in the 1960's and the 1970's, both in nominal terms and after adjustment for inflation. Interest rates have been too high for too long and they remain too high today.

Deficit reduction has merit and should be attempted in the proper fashion, with due consideration to what our priorities should be. However, deficit reduction should not be an end in itself. Our aim should be to create and foster the conditions necessary for sustained, economic growth with full-employment. Only by this, can we achieve lower deficits and maintain stable prices.

I am afraid under any version of Gramm-Rudman, there will be increased pressure to further cut programs that have already been crippled too much. The Budget Resolution for fiscal year 1986 exempted from further cuts several low-income programs—compensatory education, job training, Head Start, and others—on the bipartisan, bicameral consensus that these programs had already suffered disproportionately from the illogic of deficit-reduction-for-reduction-sake.

Any version of Gramm-Rudman will stifle innovative public policy. We face significant, pressing problems of poverty, illiteracy, and minority youth unemployment, among others. This bill will effectively shut the door on our ability to address these problems unless, and until, we either agree to dismantle our entire health care system, our retirement system, our national defense, or the President acquiesces to a fair and equitable tax adjustment.

We need to have the flexibility to set priorities based on merit and evaluation. Instead, if we adopt this proposal, we have implicitly admitted that the root of the deficit problem is too much spending for such effective programs as education, housing, highways, nutritional programs for babies, civilian research and development, and all those other things that the Government does to contribute to our present and future well-being. I adamantly refuse to accept that view of our duties.

I would rather we make a stand on principle than compromise by passing a bill a little less bad than the original and one that virtually everyone in this body privately admits is fatally flawed. In simply cannot support a process which embodies in it the abdication of our responsibility to do what we think is best for our country.

Mr. GONZALEZ. Mr. Speaker, the so-called Gramm-Rudman amendment makes a fine slogan, but it is irresponsible policy. It represents bad economics, bad political judgment and bad logic. It imposes fresh injustices, locks Congress and the President into a frozen, irreconcilable conflict and destroys the ability of either President or Congress to govern responsibly. It it works as advertised, the Federal Government will be crippled in its ability to respond to any national need, be that defense or provision of minimal shelter for the homeless, be it rescuing the farm economy or providing medical assistance to the destitute. This result would be a shameful abandonment of our country by its own Government. If the amendment does not work as advertised, it merely imposes one more chapter in the long fantasy that began with the first Gramm amendment in 1981, which ushered in the era voodoo economics.

Gramm-Rudman creates a situation in which impossible budget cuts are required, because it does not include in the deficit reduction formula any provision for increasing revenues. Yet no responsible economist believes the budget targets can be met without a revenue increase, and certainly not under the budget priorities of the White House. Under those priorities only about $400 billion in outlays would be subject to cuts. Yet the deficit is at $200 billion. Further, the exemptions provided in Gramm-Rudman—concessions to a sense of decency and common sense—even further narrow the range of programs subject to cuts, which perforce would have to be of a magnitude creating appalling, senseless and absolutely destructive results.

To achieve the outlay reductions called for in this amendment, and still maintain the conflicting priorities between it and the White House, vast reductions in outlays would be required. Many of those outlays are in fact contractual obligations, which still further narrows programs subject to reduction. To reach the deficit reduction goals the President would have to make insane recommendations, such as imposing huge cuts in law enforcement, closing down prisons, cutting out personnel who administer the tax laws, and shutting down essential medical research. He would be building ships but left with no crews to operate them. He would be granting pension increases to veterans, but shutting down the hospitals that care for those same disabled veterans. There is no end to the list of pernicious, illogical, irresponsible and destructive actions that would be required.

Gramm's bullet would hit military and Federal retiree cost of living increases, but exempt such increases provided for veterans and Social Security recipients. This represents a nod toward decency and fairness for some, but not others whose situations are identical. There is no way to justify this, in logic or in equity. It is blatant unfairness, a redoubling of the unfairness carried in the original Gramm budget cuts of 1981.

Gramm's bullet would make it impossible to maintain existing public housing stock in decent order, let alone build new public housing. This would happen in the face of enormous demand for affordable housing for the elderly and disabled, not to mention emergency shelter for the burgeoning population of homeless people. It would absolutely destroy the communiuty development block grant program, one of the few flexible tools that cities can use to address their most urgent needs. It would require the swift abandonment of subsidized housing programs, and lead to the turning out of hundreds of thousands of families who will have no place to go except the streets. It would undermine the operations of the secondary market institutions that are the backbone of the Nation's housing industry.

Gramm's bullet attacks essential operations of the Federal Government. The greatest cost in law enforcement, for example, is personnel. Because personnel costs are immediate outlay costs, they represent an easy way to trim outlays. Personnel will therefore absorb disproportionate cuts. The Internal Revenue Service is already in chaos, but would be subject to still further cuts. The courts are already overburdened, but would be reduced to a shambles. Social Security administration would be cut still more, despite the already clear inability of the agency to made timely and correct decisions on disability cases. The Department of Defense can hardly abandon ships, aircraft and missiles in mid-construction, and therefore would have to impose large reductions in personnel and readiness. Equipment would be idled for lack of maintenance, crews to operate it, or parts to maintain it. Training would languish for lack of parts, fuel and maintenance.

The list of pernicious results of Gramm's newest invention is endless. We already know that to reach its targets, and still maintain the White House budget priorities, cuts would have to be proposed that are unacceptable and even irresponsible. The targets would require the President and Congress to say "no" to actions necessary to maintain a stable economy, such as providing assistance to the crippled farm economy, or to stabilize sectors that are suffering from devasting, even predatory foreign competition. And yet we stand ready to embrace this viper.

Some of my colleagues see this as a way to cut the President's endless military appetite. Those who want to dismantle domestic programs see it as a way to achieve their ends. The determined band of voodoo economists see it as a way to prevent tax increases. Each of these embraces the bill as a way to do in some ideological enemy. Yet it is more likely to make the present impasse deeper and more intractable. The President remains frozen in his ideology, impervious to the clear and overwhelming evidence that it is impossible to achieve the budget goals within his prescribed demands. Congress sees the impossibility of enacting the cuts he and the Gramm bill envision, and so will attack his budget priorities. All will shrink from the one course that appeals to sense, which is to weigh programs and needs, do what is necessary and just, and raise the revenues required to insure fiscal responsibility.

This bill in effect put into law the continuing fiscal dispute between the President and Congress. It allows both to claim victory, but neither to achieve the desired and required objective. It denies the need to make real decisions, when only real decisions will suffice. It denies logic, denies reality, denies even simply justice. It sacrifices the good of all to the blindness and irrationality of a program that either cannot work or can work only through the ruination of responsible and effective Government. It is, in the final analysis, a bill that imposes shame on all of us if it works, and even greater shame if it fails.

We know what happened to the fiscal condition of this Government when Gramm's first invention sailed through in 1981. Yet here we are again, pretending that none of it every happened, pretending that it can all be solved by doubling the dose of irresponsibility and tripling the dose of injustice, and quadrupling the dose of illogic.

Gramm has given everyone a slogan, but he has also administered everyone a poison. It is a mark of the low degree we have reached, that the President thinks he has finally killed the domestic programs he loathes; that some of my colleagues think they have killed the military spending they loathe; and that still others think they have killed the fiscal monster generated by Gramm's first poison pill. And so they swallow, thinking murder, but committing suicide instead.

Mr. WOLPE. Mr. Speaker, I rise in support of the Gramm-Rudman bill, though I do so with resignation—not enthusiasm.

Every criticism of this legislation made by its opponents is valid. It is really an abdication of both congressional and Presidential responsibility for setting national spending priorities. It is, in fact, a meat ax approach to deficit reduction which could ultimately result in considerable damage to programs that I consider very important, such as education, research and development, and environmental protection. And its recession trigger, in my view, is ill-conceived. We could end up with wholly counterproductive deep budget cuts or minimal increases in times of economic stagnation—possibly pushing us into a recession.

But, Mr. Speaker, as incredibly flawed as this new budget procedure is, I simply do not believe we have any viable or credible alternative. The simple fact is that Federal deficits are wildly out of control.

There are those who liken these deficits to a ticking time bomb that will soon explode in economic disaster. But we must understand that these deficits are much more like an insidious poison in our economic system that is already taking its toll.

These deficits are the largest contributors to our widening trade deficit, which is costing millions of American jobs. They are keeping real interest rates unreasonably high, preventing young families from owning their own homes and causing enormous distress to America's family farmers. And just the interest on the national debt will cost the American people $142 billion in 1986. Indeed, the bill we are now considering includes a provision to lift the limit on the public debt past $2 trillion—twice what our debt was just 5 years ago.

And while we moan and groan about the deficit crisis, and give all of our speeches talking about the importance of political will and political courage, the fact is that we have failed to confront the tough decisions—with respect to both spending and revenues—that are required to bring our Federal budget into balance. Somehow a way must be found to get the President to begin to operate within the real world: He must begin to understand that we simply cannot continue to increase Federal spending, cut taxes, and somehow end up with a balanced budget. Somehow we must get the Congress to end its own gamesmanship which time and again sees individual Members parade as fiscal conservatives in their districts, only to vote with impunity for every synfuels-type pork barrel project that comes down the pike. We need, in short, to force greater accountability on the part of both the President and the Congress: All parties must be made to understand the real costs and implications of their pleas for new spending or their opposition to new revenue.

As I stated at the outset, I believe that this is seriously flawed legislation. I have doubts that it will work precisely as its sponsors claim. But it is indifinitely preferable to the alternative, which is muddling through with a total lack of leadership from the President and a lack of consensus and courage in Congress. A continuation of the status quo will only result in a continuing string of $200 billion deficits as far as the eye can see, and ultimate economic disaster.

However imperfect, the legislation before us will require the President to submit a budget next February containing considerable deficit reduction. The President, like many Members of Congress, gives lip service to bringing down the deficit. But in the past 3 years, he has proposed budgets with deficits of $188 billion, $180 billion, and $179.9 billion. Gramm-Rudman will require the President to submit a 1987 budget in February with a deficit not to exceed $144 billion.

It is my hope that the imperfect measure before us will force both the President and the Congress to finally face up to the seriousness of this problem and make the hard choices necessary to put our fiscal house in order once and for all.

Mr. BENNETT. Mr. Speaker, this legislation endangers our country because it arbitrarily cuts defense much deeper than can be permitted in face of the defense obligations of our Government. Moreover, it does this in a way that makes no sense. For instance, the conference agreement requires that any reductions be made uniformly in each program, project, and activity. This means that each building in the military construction program will be cut by the appropriate percentage rather than by eliminating lower priority programs. DOD would be required to build 98 percent of each of 100 buildings rather than 98 out of 100 buildings. Similarly the Navy would be required to build some portion of each ship in the shipbuilding program.

Gramm-Rudman would require a disproportionate reduction in defense under the sequestration. The agreement requires that half of all reductions come from defense, yet defense is less than a third of the entire budget. This is clearly unwise in view of the international situation.

Mr. MARKEY. Mr. Speaker, tonight we are considering a so-called compromise on the two proposals to achieve a balanced Federal budget, the Gramm-Rudman amendment and the Democratic alternative passed by the House of Representatives.

Mr. Speaker, as far as I am concerned the compromise was achieved in crafting a reasonable alternative to the horror that is Gramm-Rudman.

I feel as strongly as anybody in this House that we need to balance the Federal deficit. But this is a task that must be undertaken with the utmost in care.

We must excise excess spending from the Federal budget with a scalpel, not with a meat cleaver. In our efforts, Gramm-Rudman is a meat cleaver, and the Democratic alternative a scalpel.

A vote for Gramm-Rudman will burn into the U.S. Government the policies of President Ronald Reagan. President Reagan has sold Congress down the river for 5 years, and there is no reason to believe that he will not do it again next year. All of the President's top advisers, from Caspar Weinberger to Admiral Poindexter have said that Gramm-Rudman will impose unacceptable cuts in the Defense budget. I remain unconvinced that when push comes to shove next year, the President will not stoke the fire under the Defense budget, and more vital domestic programs will be pillaged and plundered.

I will not at this time consider seriously the dramatic and far-reaching effects that the implementation this legislation will have. The balance of power that the branches of this Government enjoy is fragile at best. This bill may possibly alter that balance far into the future.

The time has come to say enough is enough. We must retake the agenda, and we must do it with authority. The duty of our Government is not only to protect, but to serve. Unfortunately, it is unclear whether the tenant at 1600 Pennsylvania Avenue shares the latter part of that philosophy. I feel very strongly that if we pass this legislation and it is enacted for 6 years, this Government will no longer serve the people of this country, it will only protect them.

There is genuine feeling among many people in this country that special interests are coming close to forcing Members of Congress to vote certain ways. These people feel that no Member of Congress should be forced to vote a certain way at any time. Yet enacting this legislation will do that for years to come.

Voting for Gramm-Rudman will be a mistake. Enacting Gramm-Rudman will be a mistake. And these mistakes will live until the end of this century, and they will certainly haunt each and every person who votes to do so.

The time has come to make hard, hard choices. Let us act with a pride flush with compassion. Let us act with certainty. Vote no on Gramm-Rudman.

Mr. DIXON. Mr. Speaker, today I am voting in opposition to the Deficit Control Act, House Joint Resolution 372. My opposition results from the deficit reduction compromise included in the bill, which unfairly subjects cost-of-living adjustments to civilian and military retirees to cuts that would provide up to half of the funds needed to meet deficit targets, and because it is possible that between 30 to 50 domestic programs would have to be terminated to meet the deficit target for 1987 alone.

The deficit reduction provision House Joint Resolution 372, commonly referred to as Gramm-Rudman, came before the Congress for consideration in a manner very similar to the tax cut/budget reduction legislation of 1981, Gramm-Latta; no Senate hearings were held, no committee consideration was allowed, and Members had to react to the legislation without clear knowledge of what its provisions would actually entail.

It is inconceivable that the Congress would even consider legislation of this magnitude in this manner, given the disastrous effect Gramm-Latta has had on the Federal deficit. Indeed, under this legislation, spending authority is shifted from Congress and the President, as the Constitution intended, to three Federal agencies—the Congressional Budget Office, the Office of Management and Budget, and the General Accounting Office. Although many of the most serious flaws with the original legislation have been resolved in conference, Gramm-Rudman still contains several provisions which preclude my support.

Cuts in fiscal year 1986 are limited to $12 billion, regardless of the amount the deficit exceeds the limit. This means deeper cuts will have to be made in 1987 to make up the difference.

Without a tax increase, for which the legislation makes no provision, 30 to 50 domestic programs would have to be eliminated in order to meet the $144 deficit target for 1987 if the President insists on maintaining a 3-percent growth rate in defense. This situation is totally unacceptable.

Although Medicare cuts are limited to 2 percent annually—1 percent in fiscal year 1986—base payment rates to hospitals, doctors, and other providers of health services could be cut in order to meet this reduction percentage. Under the Democratic alternative, only increases in payment rates would have been subject to reduction or elimination.

Once the automatic spending cuts are triggered, COLA's will be automatically eliminated to fund up to half of the cuts that must be made during any budget year. Civilian and military retirees will be the first group of Americans subject to deficit reduction cuts at a much higher percentage than any other group of citizens.

While I acknowledge a significant need for action to bring a halt to rising Federal deficits, I object to the manner in which Congress has considered the legislation before us. It is precisely this method of operation that resulted in the deficit crisis we now face.

I commend the work of House conferees on the debt ceiling legislation for the job they have done in developing this compromise under less than ideal circumstances, particularly their success in exempting Social Security and eight programs serving low-income Americans and disabled veterans from sequestration.

However, for the reasons indicated, I am unable to support the Gramm-Rudman compromise and hope that a more responsible approach can be developed that seriously address the national deficit crisis.

Mr. KEMP. Mr. Speaker, for the record I reluctantly oppose the Gramm-Rudman-Hollings conference report because it has been turned into a bad economic policy and bad defense policy. Reduction in wasteful Government spending is a high priority, but imposing rigid and disproportionate reductions in our national security budget and centering all economic policy solely on deficit reduction would be a huge mistake and likely lead to unacceptable tax increases in 1986 or 1987.

The Federal deficit merits neither hysteria nor complacency. But this enforced deficit reduction mechanism will in my view undercut our national security, sacrifice progrowth tax and fiscal policies, impose draconian budget cuts in needed defense programs, and add enormous pressure on President Reagan to accept tax increases. In short, this plan threatens the entire Reagan revolution.

I have always believed, along with many others on both sides of the aisle, that noninflationary economic growth that is full employment and price stability is the major goal of economic policy. In this respect, President Reagan's economic policy has performed magnificently, producing 8½ million new jobs since the recovery. Congress must not skuttle this progrowth strategy.

It is true that we face huge deficits. But the deficit is not the real problem, it is the symptom of the problem. Deficits reflect an economy which has not reached its full potential, a jobless rate which is still far above full employment, a manufacturing base which is only at 80 percent of capacity and falling, a poverty level of some 30 million Americans, and Government spending which outpaces even the near record growth in revenues. These are the causes of budget deficits. And we must attack these causes directly and not simply deal with economic symptoms. A good balanced budget plan would limit Government spending, not deficits.

By focusing on symptoms, the conference report plays into the hands of the administration's critics who wish to nullify the origins of President Reagan's successful economic policies—the cuts in tax rates in 1981—not by proposing new taxes, but by coercing Mr. Reagan into doing so. The balanced budget plan, admit some of its supporters, would finally force Reagan to choose between tax increases or huge defense cutbacks. This would be an unwise trade-off because we need both a strong national defense and a strong economy.

President Reagan's pledge not to increase taxes is not the only issue at stake in this issue. The balanced budget plan would especially hurt defense. I originally conditioned my support for Gramm-Rudman on the absolute requirement that our national security requirements not be jeopardized. I said at the time that Gramm-Rudman was first introduced that "Defense spending must be determined by our requirements to meet the threat, not by an artificial budget formula. The modest improvements in the military balance we have set in motion over the past 4 years will be for naught if prudent defense increases are not sustained. Simply said, our national security must be exempt from the automatic sequestering of this bill, as I'm confident it will be."

Unfortunately, in the final version, it wasn't. Under this conference plan, defense would bear 50 percent of the cuts, even though it is only one-third of the budget. And this plan, unlike the original Gramm-Rudman plan gives the President no flexibility to apportion the defense cuts after 1986—all defense programs and activities would be treated equally. Military bands, in other words, would bear the same cut as the strategic defense initiative. This is an enormous and unacceptable flaw that endangers crucial national security initiatives and actually protects waste, fraud, and abuse by denying the President any flexibility in determining budget priorities.

For the fiscal year 1986 budget, the Gramm-Rudman bill would mean even greater cuts in a defense budget already inadequate to meet our long-term defense objectives. At present, the Senate has passed a defense budget which stays even with inflation. The House has frozen defense spending at last year's level, which is a real cut after inflation.

But on top of this already bad situation, the Gramm-Rudman bill would require a $12 billion cut in total spending beginning in March 1986, 50 percent of which is to come from defense and 50 percent from domestic programs. Therefore, we are looking at an additional $6 billion defense outlay cut, which will actually mean at least an $18 billion cut in defense budget authority, using the traditional rule of thumb about the relationship between defense outlays and budget authority.

With this additional cut, the fiscal year 1986 defense budget will likely be 4.3 percent below last year's budget. This means a real 8 percent defense cut when adjusted for inflation. This is just the beginning of a 5-year demobilization program. In fiscal year 1987, defense outlays would have to be cut by an additional $20 to $25 billion, making defense budget authority cuts of $60 to $75 billion. It's no surprise that many Democrats believe this is just the stick necessary to compel President Reagan to raise taxes.

In short, the President may be forced to preside over the largest peacetime defense cutback in history. A 10-percent cut in defense, as even House Armed Services Chairman LES ASPIN admits is likely under this budget, would require almost one-third of those in uniform to be fired. I don't believe that Ronald Reagan was elected to sacrifice our national defense needs to the dictates of a budget formula. And I will continue to work to see that Congress and the administration provide a defense budget based only on the security needs of our country and our allies.

While disastrous to defense, this version of Gramm-Rudman exempts almost two-thirds of the domestic Federal budget—including interest payments—from serious budget reduction. In all, over $413 billion is exempted. Another 13 percent of domestic spending, chiefly Medicare and other health programs, is subject to small cuts because they are protected by special rules. And another 7 percent of domestic spending would have cost-of-living adjustments eliminated. Only 20 percent of domestic spending remains that would be subject to full sequestration.

It's easy to see that the liberals will have little incentive to make reforms or reductions in the domestic budget, since most domestic spending programs are automatically protected under a sequestration order, while defense is fully exposed.

At the same time, since most spending has been exempted, the small remaining parts of the budget—some of which benefit average Americans or funds necessary functions of Government—will bear draconian budget reduction. Some have estimated that the small remaining controllable parts of the budget might have to bear 15- to 20-percent budget reductions, which would be devastating to some important programs. I have never favored this meat-ax approach to the budget.

Moreover, the liberals will have an incentive to increase social spending as rapidly as possible before a sequestration order occurs. The greater the social spending portion of the budget, the less it will be cut under a sequestration order, and the more that the defense budget will have to be cut. These perverse incentives could actually cause greater domestic spending and larger deficits.

I supported the original Gramm-Rudman bill and we owe both authors a great debt of gratitude. I believe that we should pledge ourselves to reach its deficit reduction targets, regardless of the outcome of this bill. Put quite simply, the conference plan has betrayed a simple and good idea. Whereas the original Gramm-Rudman envisioned relatively small across-the-board reductions in virtually every Government program, the conference plan shields almost two-thirds of domestic spending from full sequestering, thereby requiring draconian, and perhaps politically impossible cuts in the remaining parts of the budget.

Whereas the original Gramm-Rudman gave the President flexibility to cut wasteful programs and protect our national security, the conference report requires rigid line item reductions and endangers our national security. Whereas the original Gramm-Rudman protected defense contracts, the conference report would break 95 percent of existing defense contracts, causing costly and inefficient stretch-outs of major defense programs. Whereas the original Gramm-Rudman plan would begin budget cuts in fiscal year 1987, properly reasoning that the 1986 fiscal year had already begun, the conference report would require a $12 billion cut in fiscal year 1986, fully half of which would come off the defense budget.

There are no easy, painless formulas to do our work. Congress needs the courage to make vigorous spending cuts in the domestic budget right through to waste, fraud, and abuse in the defense budget. We must go forth with tax reform to spur economic growth, and monetary reform to lower interest rates—these too are important components of a comprehensive strategy for deficit reduction.

Reducing the deficit is obviously a very important goal, but it cannot be achieved by jeopardizing fundamental national security goals and good economic policy. Congress must set priorities and make the hard choices that are necessary to balance the budget. This will require careful, deliberate action in which all categories of spending receive full scrutiny. But I can not sacrifice our national security and our progrowth economic policy on the altar of a balanced budget through higher taxes.

The truly devastating consequences of the Gramm-Rudman conference bill will be all too evident by September of next year. But I hope we can avoid the mistake today and get down to the important business of reducing excessive Government spending and deficits.

There is after all only one way to balance the budget and that is to bring this economy to full employment of our human and physical resources.

We owe the American people nothing less than prosperity, growth and jobs for all Americans without inflation.

Mr. UDALL. Mr. Speaker, I rise today in opposition to the resolution that is before us. It is not easy to cast a "No" vote on this measure. Everyone recognizes that the deficit is a terrible problem, and no one wants to be seen opposing deficit reduction.

But I cannot, in good conscience, support this measure. I do not opppose deficit reduction. The deficit is a monumental problem. And it will take monumental steps to solve it. But this is the wrong step.

In today's Washington Post, David Broder calls this measure, the "Rudman-Gramm Balanced Budget Sham." And he may be right.

The Gramm-Rudman proposal does not cut one dollar of Federal spending. It does not raise one dollar in new revenue.

What does it do? It sets up an unconstitutional, unworkable and irresponsible procedure for deficit-reduction.

After today, Members can go home and say they voted for a balanced budget. But this proposal does not create a balanced budget. It creates a budgetary monster: An automatic sequestration process that will devour Federal programs without regard for public need or national purpose.

Our only hope is that Congress will tame this monster by acting on its own to balance the budget and meet the deficit reduction targets on its own. But I don't see that happening. I see nothing but budgetary chaos.

This measure sets up a fast track for the consideration of deficit-reduction measures. But fast tracks have a way of breaking down. Congress, for example, is given just 30 days to devise an alternative to any sequestration order and get that alternative signed into law. It won't work.

If we want to get a handle on the deficit, let's start by admitting that the President and Congress made a fundamental mistake when they undertook to cut tax rates by 25 percent and double defense spending in 5 years.

In the 5 years since the passage of the 1981 tax cuts, the national debt has doubled. The annual interest payment on the national debt has soared from $50 billion a year in 1980 to $137 billion this year. The great supply-side experiment was a budgetary bust. The chickens have come home to roost.

We have created a deficit monster. But the way to slay that monster is not be creating another legislative monster. We cannot avoid our constitutional responsibilities. They must be met head on by cutting spending and raising taxes, not by setting up dubious and unconstitutional procedures for deficit reduction.

I urge the defeat of this resolution.

Mr. MINETA. Mr. Speaker, I share with all my colleagues the strong desire for a reasonable and sound fiscal policy for this

Nation. In the last 5 years our annual budget deficits have grown wildly, and the total national debt has doubled.

We must bring sanity and reason to the Federal budget. We cannot allow our children and their children to be saddled with the burden of paying for our inability to bring spending and revenues into balance.

We have before us today a legislative package designed to bring that rationality and order to our system. Under this proposal, our annual budget deficits would be reduced to zero by fiscal 1991. Between now and that point, however, this legislation allows for an additional $531.9 billion to be added to our national debt, an increase to the total national debt of more than 25 percent.

Reluctantly, I cannot support this package. While I am sympathetic to the goals that bring us to this point, I do not believe the legislation before us is a sound or workable document.

However much we want to achieve the goal of a balanced budget, today's package does not accomplish the goals that we seek. A popular goal does not make bad legislation sound or workable, however much we wish to see something labeled "balanced budget" enacted.

I have several very specific problems with the legislation actually before us, beginning with the fact that none of us have the time to read it, let alone consider its profound significance and intricate detail. This document only became available in the last few hours, and I am confident that there are probably fewer than 100 people in the whole Nation who have had a chance to read this proposed legislation and truly evaluate its long term impact.

I have never before seen such a complex and significant bill rushed through the Congress in such a hurry. We will be moving so fast that from here this bill will go straight to the President's desk, without even waiting for the usual formal preparation of a clean copy of our actions, as required by law.

I believe that as representations of our constituents, we who sit in this Chamber should be held accountable for our actions. How do we defend—let alone explain—the most sweeping reform in Federal fiscal policy in the last century when neither we nor our constituents know what it is we are doing?

This is an unworkable proposal. When we face our next recession, we will find ourselves tied in knots and completely unable to respond to that economic emergency. Our constituents will look to us for help and assistance, and all we will be able to say is sorry, the law does not allow us to help.

Furthermore, I believe this bill might actually lead to increased spending in the short term. Knowing that late in the budget cycle all programs will face an across-the-board percentage reduction might well produce reduced spending, but I suspect it will lead to increased spending during the beginning of the budget cycle, as program advocates build in a cushion to absorb the budget balancing sequestrations that we know are to follow.

Another aspect of this bill that may well increase spending is the treatment of Defense programs. One technique that the Defense Department may well use to meet the annual spending targets is to stretch out the procurement of major weapons systems over a longer period of time. This may seem to provide savings, but those annual savings are an illusion. As all of us who have ever purchased a car or a home know, the longer the time you have to pay off your debts, the smaller the annual payment but the larger the ultimate cost.

In fact, I believe that the ability of the Defense Department to shield its programs coupled with the list of spending items exempted from cuts, will force the bulk of the supposedly across-the-board reductions to fall unequally and unfairly on programs such as Federal Aid to Education, toxic waste cleanups under Superfund, and improvements to our increasingly out of date and overburdened transportation system.

Moreover, I do believe this plan is unconstitutional and illegal. What we are being asked to do is to delegate to a group of unelected and unaccountable bureaucrats the right to not only disobey the laws of the land, but indeed to change those laws as they see fit. If the laws we pass are wrong, then we as legislators should be held responsible for having passed those laws, and take upon ourselves the burden of making the necessary corrections. I believe it is neither legal nor wise to avoid our constitutional responsibilities by granting to accountants downtown the right to override the law without the benefit of public review and comment.

Implicit in this bill is the belief that excessive spending is the only cause of our present deficits. This premise is incorrect. According to the President's own budget, the 1981 Tax Act is costing this Government $210.8 billion in lost revenues in 1986, and will cost an additional $250.9 billion in 1987. If we truly want to balance the budget, we must have some provision within the hundreds of pages before us that at least provide the opportunity to raise revenues, which in some instances may provide the only responsible way to meet urgent national and personal security needs.

Mr. Speaker, this bill is a sincere effort to balance the budget. We have before us the product of hundreds of hours of hard work by men and women dedicated to fiscal prudence and sound government. All of us have wished them well in their efforts, but as one of the 18 members of the conference committee on this bill who declined to sign the statement of managers, I know that this bill does not accomplish what it set out to do, and therefore I will vote against passage of this legislation.

Thank you very much.

Mr. BROYHILL. Mr. Speaker, I rise today in support of this legislation. Originally, this was a measure to increase the Federal debt ceiling to more than $2 trillion—a mind boggling amount. It still does that, but it now carries with it a mechanism to reduce the Federal budget deficit. and thus eliminate the need for future increases in the Federal debt ceiling.

I have heard the criticisms of the Gramm-Rudman balanced budget amendment. Some are valid. Across the board cutback orders may not be the most responsible way to make Federal budget policy, but Congress has proven incapable of addressing the budget deficit in a responsible manner.

As Mort Zuckerman, chairman and editor-in-chief of U.S. News & World Report, wrote recently, "the only way to assure coherent progress on the deficit is to make the alternative the legislative equivalent of backing into a buzz saw." I agree. Congress, particularly the Democratic Members of this body, will not move forward in cutting spending unless moving forward is less painful than staying put. The full text of Mr. Zuckerman's editorial follows:

I urge all of my colleagues to vote "aye" on this legislation. Gramm-Rudman is not pretty, but it is perhaps the only ladder we have to climb out of the fiscal rat hole the big spenders have dug for us and our children.

Gramm-Rudman—So Bad It's Good!

(By Mortimer B. Zuckerman)

During the next 10 days, Congress is expected to vote on a bill to redeem partially one of the sorriest, most irresponsible records of fiscal profligacy in the history of the Republic. Prior to that vote, congressional conferees will meet to resolve differences between the Senate and House versions of the bill, known as the Gramm-Rudman bill, that would mandate automatic reductions in the federal deficit. The bill is attached to a Treasury request to raise the national-debt limit above the staggering sum of 2 trillion dollars, a symbolic threshold whose crossing has set off a political battle. The new debt-ceiling request reflects years of failure to bring federal deficits under control. As Senator Bob Packwood put it, "When it comes to voting against our favorite programs, we just can't do it."

The pile-up of debts and deficits is, by common consent, the greatest obstacle to sustainable economic prosperity facing the United States. President Reagan may be remembered by our children more for the increases in their taxes to meet the interest payments on the debts piled up during his Presidency than for anything else. Americans understand that it is morally wrong to be stealing from our children tomorrow to pay for the government excesses of today. As Talleyrand once said of one of Napoleon's deeds, "It is more than a crime. It is a mistake!"

Besides the long-term cost, the deficit is a pocketbook issue today. Government interest payments on the debt have increased by some 77 billion dollars in 1985 over 1980, more than wiping out all the spending cuts in social programs made in 1981.

As a result, over two thirds of the voters think the deficit is a major problem facing the United States. This public pressure has finally forced the lawmakers to devise a creditable program of deficit reduction. The Gramm-Rudman bill is their response.

The bill is an automated deficit-reduction machine that would write into law annual deficit reductions of about 36 billion dollars and mandates the President to make across-the-board spending cuts if the normal congressional budget process fails to meet statutory limits on the federal deficit. A balanced federal budget is mandated in 1991.

Just as with the budget of last summer, the House Democrats are playing partisan politics with the bill by trying to exempt more to their favorite programs from the automatic spending cuts. This violates the basic principle of the legislation that the pain of budget cuts must be shared as broadly as possible. This should be rejected.

Critics say the bill would put Congress into a fiscal straitjacket, reducing necessary responsiveness to a recession; would apply a meat ax to social and military programs; would give too much power to the President; and is crafted to clamp down only after the 1986 elections.

Well, ignore the sophisticates. The whole point of Gramm-Rudman is that it should be so Draconian as to force Congress to deal with the deficit in a rational way. The only way to assure coherent progress on the deficit is to make the alternative the legislative equivalent of backing into a buzz saw. As one congressman put it, "Nobody in his right mind would substitute this budget process for the real one." To paraphrase Churchill's comment on democracy, this deficit policy may be the worst approach, except when compared to anything else.

Congress needs external pressure to create artificially a crisis that would require dealing with the deficit before it overwhelms us. If ever a group needed a gun to the head, it is the Democrats in the House who have been playing politics with the deficit all year. If it takes trial and terror to get anything done on the deficit, we are for it, for the problem requires not economic solutions but political will.

This proposal is the best hope we have to reform an unworkable, costly, and dangerous budget process and to assure that we, as a nation, stop this immoral policy of mortgaging the future of our children.

Mr. BORSKI. Mr. Speaker, I rise in strong opposition to the Gramm-Rudman proposal. Gramm-Rudman purports to be a cure-all for the budget deficit. In reality, it will disrupt vital government services and cause severe hardship for middle-income Americans.

First, let's take a look at why we are facing these massive deficits. Let's take a look at the economic policies of Ronald Reagan. Under 5 years of President Reagan's leadership, we have seen military spending increase by 89 percent, domestic spending slashed by 34 percent, and the national debt doubled to a record-high of $2 trillion.

The Gramm-Rudman proposal gives President Reagan the perfect vehicle to achieve his ultimate goal: A total dismantling of the non-defense programs of the Federal Government. We know what the President wants to do—eliminate the programs most Americans believe are essential—mass transportation, medical research, student loans, Amtrak, Medicare, environmental protection, and law enforcement.

Gramm-Rudman's effect will be felt almost immediately. Cost-of living-adjustments [COLA's] for military, civilian, and railroad retirees due in January will be suspended, despite the fact that both the House and Senate voted last May to preserve the COLA's of Federal retirees. Gramm-Rudman reneges on that pledge.

This plan would also have a devastating effect on cities. My hometown of Philadelphia already faces the loss of $46 billion in annual revenue sharing funds. Now, Gramm-Rudman will open the way for President Reagan to seek additional cuts. Further cuts this year will mean reduced fire and police protection and road maintenance services. Philadelphians, already burdened by high local taxes, will be asked to shoulder unacceptable tax increases to pay for essential services.

Gramm-Rudman would necessitate severe cuts in programs vital to many Americans, but it would not require equal sacrifices from everyone. Amtrak and highway funding; education and student aid; unemployment compensation and job retraining; Medicare and health and safety in the workplace and other mainstream services that Americans depend on are the targets of Gramm-Rudman.

Government agencies would be forced to make massive reductions in personnel costs through layoffs, short workweeks or pay cuts. The courts, air traffic control, management of public lands, processing of Social Security and other benefits checks and the operation of the Veterans' Administration would be seriously disrupted.

Phase I of voodoo economics, implemented by the Reagan administration in 1981, got us into this fiscal mess. Phase II, under the guise of Gramm-Rudman, will not get us out. By adopting this simplistic scheme, we are abdicating our constitutional responsibility to formulate budget policy and substituting in its place mindless, across-the-board spending cuts.

The economy is staggering under the weight of red ink and we all recognize the urgency of controlling runaway deficits. However, that important goal cannot be accomplished without addressing the basic causes: massive increases in military spending, the skyrocketing cost of tax loopholes, and an unconscionable reduction in taxes paid by wealthy individuals and corporations. Deficits must be reduced through fair and adequate taxation and balanced spending policies that meet the basic needs and priorities of the American people.

The SPEAKER pro tempore. The time of the gentleman from Wisconsin [Mr. Obey] has expired.

The gentleman from Illinois [Mr. Rostenkowski] has 4 minutes remaining.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield those 4 minutes to the gentleman from Texas [Mr. Wright], the majority leader.

Mr. Speaker, I am asking the members of the Ways and Means Committee to please not leave the Chamber.

Mr. WRIGHT. Mr. Speaker, this bill is in a real sense an act of legislative desperation. The conferees on both sides who have struggled so valiantly deserve our commendation because they have done a very creditable job on an extremely difficult instrument.

This bill is drastic, it is painful. Let us know exactly what it does.

It seeks to place a political straitjacket on both the executive and the legislative branches of Government and force both branches to face unpleasant facts. To the degree that that may be necessary, it is the inevitable result of our fiscal excesses, particularly those of the last 5 years which have doubled the national debt.

In 1981, we deliberately chose to follow the siren call for tax cuts which reduced the Government's revenues by $135 billion a year.

No person, no family, no business, no country can indefinitely pursue a course of deliberately raising only $19 every time it spends $25, and yet that has been our course in the last 5 years. And it is not altogether the fault of an overspending Congress.

Yesterday at the White House, I heard the chairman of the Senate Appropriations Committee, Senator Mark Hatfield, tell the President of the United States that every year for the last 5 years Congress has spent quite considerably less than the President himself has asked us to spend in aggregate. Senator Hatfield explained that in those 5 years, we have cut discretionary domestic expenditures by 34 percent, and we have raised military spending by 89 percent.

Very soon we are going to have to renew the crumbling infrastructure of the country, roads and bridges, and water and sewer lines on which the Nation depends, and that will cost us some money. We face a real crisis in the rural economy of the United States. To correct that will cost money.

More Americans today live in poverty than did 5 years ago, and to attend to their needs will cost money. The average young American between the ages of 25 and 40 lives less well than his counterpart did 10 years ago.

What this says is that President Reagan is going to have to face one very hard fact, and face it clearly. If he insists on ever-increasing levels of military expenditures to finance an escalating arms race, he is going to have to come forward with the sources of revenue to pay for them on a pay-as-we-go basis. It is just that simple. We are not going to put it on the cuff any longer, and that is what this amounts to.

Hard choices will have to be made. No longer can we place on our children and our grandchildren the responsibility to pay for things that we will have used up and worn out before they reach tax-paying age.

So that is the choice, what Harry Truman faced in the Korean war when he did not add to the national debt, what Lyndon Johnson faced during the years of Vietnam when he conducted that painful struggle and did not add appreciably to the national debt.

Here is what we say: To the extent that we need additional military spending, then it is going to have to be done on a pay-as-we-go basis. That is the choice, Mr. President, and that is the message of this vote tonight.

Mr. KOSTMAYER. Mr. Speaker, I rise today in support of the conference agreement on the Gramm-Rudman-Hollings amendment to the Debt Limit Act. Under the amendment, mandatory and declining targets are set for each of the next 5 years, ending with a balanced budget in fiscal year 1991. It establishes a process that would make automatic spending cuts if the deficit targets are not otherwise met.

I am supporting this amendment because a new budgetary process is needed to handle the phenomenal growth of Federal deficits since 1981. These massive deficits are inhibiting our country's ability to productively invest in the future, consuming two-thirds of the Nation's total net savings. Moreover, Ronald Reagan's successors will find it increasingly difficult to meet genuine national needs because of the huge interest obligations incurred during the past 5 years.

While I am supporting this amendment, I have serious reservations about it. My strongest reservation is the measure's treatment of the cost-of-living-adjustments [COLA's] for Federal retirees. COLA's for Federal civilian and military pensions and railroad retirement, tier II, benefits may be automatically reduced or eliminated if Congress exceeds the deficit targets in any year. Indeed, the conference agreements calls for the COLA's in these retirement programs due in Janaury to be suspended, pending resolution of the fiscal year 1986 budget target. I believe this is unfair of Federal retirees. It also undermines the primary objective of Federal pension plans which is to attract and retain qualified personnel while providing for the humane treatment of Federal employees who have completed their careers.

However, Federal retiree COLA's need not be eliminated under the Gramm-Rudman-Hollings budgetary process if the President and the Congress act responsibly. The automatic spending cuts, including the possible reduction of Federal retirement COLA's, are to be imposed to reach the deficit targets only if Congress fails to enact sufficient deficit reduction legislation. I hope that we in Congress will make the difficult decisions necessary to reduce the deficit so that the automatic elimination of Federal retiree COLA's can be avoided. I will be working toward this goal.

I realize my vote for the Gramm-Rudman-Hollings amendment will not be popular with many Federal retirees. However, after careful thought, I believe the new deficit control process offers the only real hope of Congress gaining control of the ballooning deficit, which is estimated at about $200 billion for the current fiscal year. I remain a strong supporter of Federal retirees and I will continue working for their interests in the upcoming battles under the new deficit control process.

Mr. PORTER. Mr. Speaker, this is a horrible bill. It may be unconstitutional, and I have a problem with that, but expedited appeal will let us know quickly. It is a Draconian admission of our inability to control expenditures, but we cannot doubt the truth of that admission. It will hurt many of the programs that are most effective, but for that very reason it will force us to decide what truly are our priorities and to tax, not borrow, for what we spend. It leaves us open to further charges that we pass tough rules only to ignore them, but perhaps it sets standards that we ultimately—this time—cannot ignore.

The principle, almost fatal, flaw of this legislation, however, is that it makes two classes of Americans—the "exempt" and the "at risk." I believe every American, when asked to respond to this fiscal rule, is willing to give something to bring about its resolution.

Under a static model of the budget $500 billion or so is "exempt" and $500 billion or so is "at risk." But from this $500 billion "at risk" must come $36 billion a year for 5 years or $180 billion in deficit reduction. Half of this $180 billion must come from the $300 billion of defense and half from the $200 billion of nonexempt, nondefense spending. So, statistically, one $90 billion of cuts will reduce defense by 30 percent and an additional $90 billion of cuts will reduce nonexempt, nondefense by 45 percent. Economic growth should of course, ameliorate this greatly. And the pressures from the prospect of such large cuts will undoubtedly force freezes or even cuts in the "exempt" spending categories.

But clearly the pressures will be enormous to raise $1 in revenues for every $1 we spend. The flaw is that all spending categories—with the exception, of course, of interest on the debt and cuts in Social Security—were not made "at risk." If they were, and the burdens fully and equitably shared, then the cuts would not be nearly so large in any area and the pressures on Congress to act responsibly would come from all quarters.

But what is our alternative to this difficult course? Clearly only more of the same—the same phony budget resolutions, the same "you get yours and I get mine" sellout of our children, the same huge deficits that every year cost each of them $10,000 in extra taxes, the same undeserved inheritance of red ink and reduced economic opportunity.

Yes, Mr. Speaker, this is horrible legislation, but the alternative is even more horrible.

Mr. DURBIN. Mr. Speaker, I rise today in support of the Gramm-Rudman Deficit Control Act with some misgivings.

I fully support the goal of the Gramm-Rudman proposal—to reduce our uncontrolled budget deficits to zero by 1991. In 1981, when President Reagan took office, the Federal deficit was an astounding $60 billion. That figure pales in comparison to the fiscal year 1985 deficit figure of $211 billion.

The costs of these monumental deficits are very evident in today's economy. The aritificially high interest rates they create have contributed significantly to our trade problems by favoring imports of foreign goods over exports of our own goods. In my own area of central and western Illinois, my constituents and I have seen firsthand the consequences of high deficits. A Fiat-Allis plant, bowing to foreign competition, closed its doors in Decatur in September of this year and cost 800 people jobs. The Caterpillar plant located in Springfield announced in October that it was forced to lay off an additional 900 workers because of difficulties in exporting its goods abroad.

There is something very disturbing about economic policies that permit a government to spend over $200 billion more than it yields in revenues. No one is sure of the long-range effects of deficits of this magnitude because this economy has never experienced them before. One thing is clear, however. In the absence of leadership from the administration to control the deficit, radical action was needed on the part of Congress to bring deficits back under control.

Any effort to bring the deficit under control requires that some unpleasant choices be made. The Gramm-Rudman proposal is no different. It requires that Congress and the President come up with a budget plan in each of the next 5 years that meets an annual deficit reduction target of $36 billion. At present, it is estimated that a $36 billion reduction in the deficit must be made in each year to reduce the deficit to zero by 1991.

The deficit reduction plan may be made up of spending cuts or tax increases or a combinaiton of both. If no budget agreement is reached between Congress and the President, then an across-the-board cut will automatically go into effect to achieve the deficit reduction target. Both the Office of Management and Budget and the Congressional Budget Office will estimate the size of the Federal deficit in each of the 5 years; the difference between that figure and the preestablished deficit target figure is the amount of savings that must be achieved.

The Gramm-Rudman plan will require that difficult choices be made because people do not wish to see their taxes raised or programs that benefit them cut back. While the plan does exempt certain low income programs and Social Security from the automatic cuts, it mandates reductions in many popular and beneficial programs.

My reason for supporting the Gramm-Rudman deficit reduction plan requiring these painful policy choice is to put us on a track to control the Federal deficit. I am not convinced that this is the best way to reduce the deficit, but the choice was between Gramm-Rudman and no deficit reduction plan at all. I believe the House made several improvements over the original plan passed by the Senate, including exempting low income programs and requiring that defense programs absorb their fair share of the spending reductions. I give this measure my reluctant support because of the importance of taking timely action to reduce the deficit.

Mr. DARDEN. Mr. Speaker, this is an historic week for the U.S. House of Representatives. We finally are coming to grips with more than two decades of Federal deficit spending and setting a new fiscal course on which the Government will have to live within its means.

It will not be easy to live within the Gramm-Rudman provisions. But it can be done and must be done. We cannot continue to mortgage our children's futures by allowing this Government to answer every call for spending increases without regard for our ability to collect revenues through the tax system.

Although it is firm and direct in its prescription for cutting and eventually eliminating deficits, the revised Gramm-Rudman amendment is not without compassion. It safeguards from prospective across-the-board cuts the Federal programs which help our most needy citizens get the food and medical care they must have to survive.

This legislation also gives our Department of Defense discretion to adjust the fiscal 1986 budget in a way which causes the least disruption to our military readiness. For the future, it gives the Department of Defense and other agencies ample warning that the Federal budget will be increasingly tight, and that they will have to determine their priorities accordingly.

The passage of Gramm-Rudman will mean that Federal agencies—and this Congress—will have many tough financial decisions ahead. But the benefits of this legislation—including less upward pressure on interest rates—are many. Whatever sacrifices and hard decisions have to be made, they will be well worth the benefits we receive.

I am proud to cast my vote for the Gramm-Rudman amendment. I urge my colleagues on both sides of the aisle to join me in restoring fiscal responsibility to the Federal Government.

Mr. FOGLIETTA. Mr. Speaker, Gramm-Rudman is bad legislation and I am going to vote against it.

No one in this Chamber disagrees with the need to put the Federal Government on a sound fiscal footing, the Federal Government ought to be moving toward a balanced budget.

Gramm-Rudman, however, is not the way.

The fundamental problem with Gramm-Rudman, or with any formula for automatic spending cuts, is procedure dictates substance; sound judgment and common sense are abandoned.

Reports last week indicated the Pentagon, under Gramm-Rudman, may be able to afford only 108 rather than 130 military historians. Does anyone here really equate the luxury of scores of Pentagon historians with giving disadvantaged children a chance in life through Head Start?

I think not. Yet, the formula for automatic spending cuts proffered by Gramm-Rudman may allow the Pentagon to keep its historians while Head Start, a plus for so many children, is eliminated.

Proponents of Gramm-Rudman will say the version before us today is much improved. Social Security still would be exempt from its automatic cuts, and some very important social programs like the Women, Infant, Children Program and aid to families with dependent children also would be protected.

Questions of fairness remain, however. Federal pension programs for the most part would not be subject to automatic cuts. Federal employee pensions, though, for whatever reason, could be cut automatically.

Medicaid also would not be subject to automatic cuts, and properly so. But, other health programs, including Medicare and veterans' health programs, could be partially cut.

Mr. Speaker, in the 2 months since Gramm-Rudman was approved by the other body, we've "busted" open the Social Security trust funds, brought those who receive and depend on Government checks, whether they be individuals or businesses, to the brink of financial chaos, threatened our military readiness accounts, including the pay of our men and women in uniform, and put in jeopardy the programs which assist those most disadvantaged and in need in our society.

Let's now return to our rational and deliberative process. Let's make the tough decisions to put the Federal Government on the road to a balanced budget, but let's not abandon sound judgment and solid common sense to an unreasoning and unyielding formula.

I urge a "no" vote on Gramm-Rudman.

Mr. GAYDOS. Mr. Speaker, we have before us the compromise deficit reduction package that has been worked out by House and Senate conferees and, whether we call it Gramm-Rudman-Hollings or by some other name, it is still a bad piece of legislation.

This final compromise, which calls for annual reductions in the Federal deficit until we reach a balanced budget, proposes that savings equal to the reduction come from domestic and defense programs, with 50 percent from each.

In addition, the package exempts several domestic programs from any cuts—Social Security benefits, Medicaid, food stamps, and others for the poor and veterans—and sets limits on the amounts to be cut from other programs—Medicare and other health care programs for veterans, communities, migrants, and Indians.

While I have no quarrel with exempting or limiting cuts on those programs, it does mean that other domestic programs will be trimmed even more.

Just recently at the National League of Cities annual meeting in Seattle, mayors of big, small, and medium-sized cities rose to describe their problems as a result of the failure of the Federal Government to hold to its commitments.

Proposals before the Congress would end general revenue sharing next year—a loss of $4.6 billion that have helped American cities, towns, boroughs, and counties stay afloat and would make substantial cuts in other community service programs for urban development, mass transit, and others.

How did we get here? It's really quite simple. In 1981, after much cajoling by this administration, many of us supported a program of tax cuts with assurances that those cuts would stimulate the ecomony and result in sufficient growth to meet our national priorities and needs without creating a budget deficit.

As we have seen, in the few short years since we agreed to that tax cut program, this Nation's budget has increased to staggering proportions, bringing with it high interest rates and having a tragic impact on our national ability to compete abroad.

At the same time, we have not seen the broad, across-the-board economic growth those tax cuts were to stimulate and we have seen an administration close its eyes to the needs of those people who are least able to help themselves and to those industries that have formed the backbone of the American economy, and to our cities and towns.

In order to combat the increasingly huge deficit over the past few years, the Congress has made great efforts to reduce Federal spending, often cutting sizable holes in the safety net we created to help the poor, the ill, the elderly, and the unemployed.

Now we are being told that in order to control this still rampaging deficit, we must adopt a plan that would set limits on the annual budget deficit until such time as we achieve a balanced budget. And, again, the burden of meeting those goals will fall on those least likely to argue their case in these hallowed halls.

If we look closely at the compromise package, whether we call it Gramm-Rudman-Hollings or something else, we see that we must continue to enlarge some of the holes in the Federal safety net.

So, even as we say we want to help disadvantaged children and youth get the education they need to become productive citizens, we are preparing to chop more than a million dollars from Head Start and other public school compensatory education programs, slice more millions from already underfunded higher education student aid programs, and trim dollars from programs aimed at helping certain institutions of higher education, such as community colleges, provide student services.

At the same time we recognize that many of our unemployed are in that position because of the overwhelming flow of foreign goods into this country that have forced businesses to close their doors or relocate off shore, we can contemplate cuts of at least $217 million in the Joint Training Partnership Act, trade adjustment assistance, and vocational education—all aimed at training unemployed for new jobs.

It is my guess that those who propose and support these cuts, like the present administration, believe that State and local governments will be able to pick up the slack and fill in the gaps created.

Well, that may happen in some areas, but it won't happen in my district and, judging from the comments in Seattle at the National League of Cities meeting, it won't be happening in a lot of cities. It's not that those governments don't care, it's just that they don't have the resources.

The Federal Government is the primary taxing authority in the country. It gets its share of the available tax dollars first and then States and local governments get theirs. And, even though the Federal Government is cutting back on services, it isn't going to cut its share of taxes. Accepting that, where will our cities get the resources? Certainly raising State and local taxes is not the most feasible alternative.

As it is, too many cities, boroughs, and towns in my district already have problems trying to provide the most basic of services, such as policy and fire protection. There is no way they will be able to develop new sources of revenue to meet any new demands.

The deficit reduction proposals we have before us may lead us to a balanced budget eventually, but only at the expense of many already feeling the pain of budget cuts and program reductions.

In all honesty, Mr. Speaker, I cannot support any of the budget deficit proposals before the House unless and until we are prepared to ask others to make some sacrifices, too.

Mr. BORSKI. Mr. Speaker, I rise in strong opposition to the Gramm-Rudman proposal. Gramm-Rudman purports to be a cure-all for the budget deficit. In reality, it will mandate massive cuts in many essential programs, disrupt vital Government services, and inflict severe hardship on middle-income Americans.

First, let's take a look at why we are facing these massive deficits. Let's take a look at the economic policies of Ronald Reagan. Under 5 years of President Reagan's leadership, we have seen military spending increase by 85 percent, domestic spending slashed by 35 percent, and the national debt doubled to a record high of $2 trillion.

The Gramm-Rudman proposal gives President Reagan the perfect vehicle to achieve his ultimate goal: a total dismantling of the nondefense programs of the Federal Government. We know what the President wants to do—eliminate the programs most Americans believe are essential—mass transportation, medical research, student loans, Amtrak, Medicare, environmental protection, and law enforcement.

Gramm-Rudman's effects will be felt almost immediately. Cost-of-living adjustments [COLA's] for military, railroad, and civil service retirees due in January will be suspended, despite the fact that both the House and Senate voted last May to preserve these COLA's. Gramm-Rudman reneges on that pledge. It also threatens the paychecks and job security of current Federal workers.

As the son of a letter carrier, I am particularly aware of what this means. I know how important Federal workers are to the whole range of Government services, and how important their retirement benefits are to them. It is unconscionable to treat Federal retirement pensions like a political football to be tossed aside at will. As Government employees, these people made significant contributions to their country, but now Gramm-Rudman breaks the commitment which their Government, their employer, made to them.

Current Federal workers receive the same callous treatment. After having been promised pay increases in 1987 and 1988, they now find their pay, and even their jobs, on the cutting block. These people have had to fight to maintain their standard of living every year President Reagan has been in office. Instead of recognizing their valuable contribution to effective government, we are now subjecting them to more uncertainty, and to the likelihood of pay cuts and layoffs.

Our economy is staggering under the weight of red ink and we all recognize the urgency of controlling runaway deficits. However, that important goal cannot be accomplished without addressing the basic causes: massive increases in military spending, the skyrocketing cost of tax loopholes, and an unconscionable reduction on the taxes paid by wealthy individuals and corporations. Deficits must be reduced through fair and adequate taxation and balanced spending policies, not on the backs of Federal workers and retirees.

Mr. HUGHES. Mr. Speaker, this is a week in which the House of Representatives has been confronted with several major, far reaching and highly complex measures affecting Federal budget and tax matters.

One is a tax bill numbering some 1,379 pages.

The other is the Gramm-Rudman-Hollings deficit reduction package that will trigger cuts across a broad range of Federal programs amounting to $36 billion per year.

The one feature each of these bills has in common is that there is probably no one Member of this body who is thoroughly familiar with the intricate details of both measures. Certainly, with these bills being available to the Members for just a matter of hours, there are very few who can reasonably be expected to be knowledgeable about the contents of both.

At this point, with the holidays comning and many Members anxious to deal with a growing backlog of work and appointments in their districts, I am wondering if we are really able to carry out our duties in a responsible fashion by cramming final action on both tax reform and deficit reduction into the same week. Frankly, such haste only invites serious errors and omissions, and makes possible the adoption of provisions that may come back and haunt us.

I have just learned, for example, that the tax bill includes a provision that adversely affects the tax treatment of Federal pensions—except for Members of Congress and their staffs.

No Member has to serve here very long before he or she realizes that such a provision is going to bring on an avalanche of criticism, and it will be richly deserved, because we have no business carving out special treatment for ourselves or our staffs vis-a-vis other Federal employees.

Are there other such provisions in the tax bill? I don't know, and I really have no way of knowing. There is an old saying that sunlight is the best antiseptic, but this bill has not yet seen enough daylight, in my judgment. I cannot help but think that the integrity of the entire process will be improved if this bill is put off until the next session.

I did vote to defeat the rule under which the tax bill was to be considered. We were promised by the leadership, over and over again, that we would have an opportunity to consider an amendment that would earmark for deficit reduction any new revenues that were brought in from those profitable corporations or wealthy individuals which are currently paying no taxes.

I do not share the belief that tax reform must be absolutely revenue neutral. I, for one, believe that with Gramm-Rudman in effect, we will need the option of rebuilding the revenue base as the only alternative to potentially disastrous cuts in spending, including spending for national defense.

I think that the concerns expressed by other Members, about the rule's preclusion of deficit reduction and other amendments, are valid.

On balance, the tax bill is probably a very good bill. It was a difficult job for the members of the Ways and Means Committee to hammer out the necessary compromises, and I don't envy their task. By the same token, it is entirely possible that a more open floor procedure could improve the final product.

At the same time, I do not believe that the tax package or the economic health of the Nation will suffer much if we put off this measure for another month when we can consider it in a more orderly and informed fashion.

The Gramm-Rudman-Hollings deficit reduction package is a different story. For many, including myself, increasing the national debt to over $2 trillion has great importance to those of us who have been greatly concerned by uncontrolled Federal borrowing. It symbolizes our inability to come to grips with deficit reduction.

Unfortunately, there is no greater indication of our failure to deal with the deficit on the merits than Gramm-Rudman-Hollings. This measure seems to say that the process is to blame when, in fact, both the administration and the Congress have seen this day coming for many years. We have had numerous opportunities to make the hard choices, but have not done so.

I don't blame many Members for becoming frustrated, and turning to Gramm-Rudman as a way out of our dilemma. But just because Gramm-Rudman may be a way out, it doesn't mean it's the right way out.

In reality, Gramm-Rudman, as crafted, is just one more exercise in ducking our responsibility. It grants to unelected Federal employees the responsibility for making

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cuts, within certain guidelines, in the event that Congress fails to do so.

Frankly, it's a little bit like programming a robot to perform a tonsillectomy. We better pray that the patient lies down on the bed facing the right direction.

What would happen to defense under Gramm-Rudman? The package mandates that one-half of deficit reducing budget cuts come from defense. If that approach is allowed to run its course, we might very well find ourselves with a national defense that is substantially weaker than before we started our military buildup some 6 years ago.

It certainly would decimate programs, such as law enforcement, where budget cuts can be absorbed only through manpower reductions. Look, for example, at the budget of the Bureau of Prisons. Of a total budget of $606 million for fiscal 1986, $546 million—or over 90 percent—is for salaries. The balance is for basic operation and maintenance of prisons—food, clothing, utilities and repairs—where there really is very little slack to be taken up.

I ask my colleagues, how do we deal with budget cutbacks in this one area—which I have selected only for purposes of illustration—except by firing guards and putting prisoners back out on the street? What is the alternative? Is this wisest place to effect a savings?

At the same time, I don't think we would notice a major change in the quality of life here in America if we had a few less space shuttles. But that certainly would not be true of less dollars for cancer research. Yet those two programs are on a par under Gramm-Rudman.

Spending for the National Endowment for Democracy—a questionable waste of taxpayer money—would be exposed to the same jeopardy as spending for drug enforcement or the FBI.

Gramm-Rudman would not distinguish in any way between cuts in aid for U.S. disaster victims and aid to Bolivia.

Export-Import Bank loans, which principally benefit the Boeing Corp., would be placed on the same footing loans to students who might not have any other way to get to college.

These are choices that require great thought and reflection, not to mention good old-fashioned compromise. This is what we were elected to do. By adopting Gramm-Rudman, we are basically stating that we are not up to the task we were elected for.

We ought to, instead, be adopting an amendment to the Rules of the House of Representatives that would mandate balanced budgets. It would be self-enforcing because any one Member could object to the consideration of a budget in which spending exceeded revenues by more than a specified amount.

But most importantly, it would keep responsibility for budgeting here in the Congress, where it belongs, and force the Members to collectively face up to the hard choices, to determine the priorities and identify the programs that can be deferred, and to consider the adequacy of revenue base—and then be accountable to the voters for those choices based upon a yea or nay recorded vote.

There are very few goals more important to the economic health of the Nation than bringing an end to Federal deficit spending, but Gramm-Rudman-Hollings is not the right way to do it.

Mrs. HOLT. Mr. Speaker, I suppose I am swimming against the tide when I vote against this legislation designed to force a balanced Federal budget in 5 years.

It may be the most irresponsible piece of legislation I have seen in 13 years on Capitol Hill; I know that a majority of Members are very fearful of its consequences, and I know that they have political fears about voting against anything that promises to balance the budget.

The bill would establish a specific deficit ceiling for each year. If Congress fails to achieve the target with spending cuts and/or tax increases, mandatory spending cuts are imposed over a range of programs. The cuts are automatic.

Nobody knows the amount of spending cuts or tax increases that would be required in any year to achieve the target deficit, because the size of the deficit is affected by economic conditions, by the amount of revenues generated by the economy.

With a strong economy, the deficit targets could probably be achieved without much pain. With a weak economy, the cuts and/or tax increases required could be huge.

It is my guess that this legislation would force tax increases at some stage, and they would probably be imposed at a time when the result would be causing additional damage to a weak economy.

I see this legislation forcing budget gridlock between the President and Congress with no escape from the fiscal straitjacket mandated by Gramm-Rudman.

I am often called a conservative, and I can tell you that my conservative instincts impel me to vote against this radical document. I think it is an unworkable device to balance the budget, and its consequences are unforeseeable.

In this morning's Washington Post, the respected columnist David Broder described the bill as "a fraud—and a fright. Any proposal to deal with the deficit crisis that addresses the budget process instead of the immediate and real choices on spending and taxes is a fake."

This legislation substitutes a rigid formula for careful and prudent decisions on the merits of individual Government programs. It is an abdication of Congress' responsibility for fiscal policy. I predict that the consequences will be so dreadful at some stage that Congress will need to suspend the implementation of the legislation.

The Gramm-Rudman approach is a formula for fiscal chaos, and I will not be a party to it.

The SPEAKER pro tempore. All time has expired.

Mr. ROSTENKOWSKI. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. OBEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device and there were—yeas 271, nays 154, not voting 9, as follows:

[Roll No. 454]

YEAS—271

Akaka
Andrews
Anthony
Applegate
Archer
Armey
Atkins
AuCoin
Badham
Barnard
Bartlett
Barton
Bateman
Bates
Bedell
Bereuter
Bevill
Bliley
Boehlert
Boner (TN)
Bosco
Boucher
Boulter
Breaux
Broomfield
Brown (CO)
Broyhill
Bruce
Bryant
Burton (IN)
Byron
Callahan
Campbell
Carney
Carper
Chandler
Chapman
Cheney
Clinger
Coats
Cobey
Coble
Coleman (MO)
Coleman (TX)
Combest
Cooper
Coughlin
Courter
Craig
Daniel
Dannemeyer
Darden
Daschle
Daub
Davis
DeLay
DioGuardi
Dreier
Duncan
Durbin
Dyson
Eckart (OH)
Edwards (OK)
Emerson
English
Erdreich
Fascell
Fawell
Feighan
Fiedler
Fields
Fish
Flippo
Foley
Fowler
Franklin
Frenzel
Frost
Fuqua
Gallo
Gejdenson
Gekas
Gephardt
Gibbons
Gingrich
Glickman
Goodling
Gordon
Gradison
Gray (IL)
Green
Gregg
Grotberg
Gunderson
Hall (OH)
Hall, Ralph
Hamilton
Hammerschmidt
Hansen
Hatcher
Hefner
Heftel
Hendon
Henry
Hertel
Hiler
Hillis
Hopkins
Horton
Huckaby
Hutto
Ireland
Jacobs
Jeffords
Jenkins
Johnson
Jones (OK)
Jones (TN)
Kaptur
Kasich
Kindness
Kleczka
Kolbe
Kostmayer
Kramer
Lagomarsino
Lantos
Latta
Leach (IA)
Leath (TX)
Lent
Levin (MI)
Lewis (FL)
Lightfoot
Livingston
Lloyd
Loeffler
Lott
Lowery (CA)
Lujan
Luken
Lundine
Lungren
Mack
MacKay
Madigan
Manton
Martin (IL)
Mavroules
Mazzoli
McCain
McCandless
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McKernan
McMillan
Meyers
Mica
Michel
Miller (OH)
Miller (WA)
Molinari
Monson
Montgomery
Moore
Moorhead
Morrison (WA)
Mrazek
Murphy
Natcher
Neal
Nichols
Nielson
O'Brien
Olin
Oxley
Packard
Panetta
Pease
Penny
Petri
Pickle
Porter
Pursell
Quillen
Ray
Regula
Reid
Richardson
Ridge
Rinaldo
Ritter
Robinson
Roemer
Rogers
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Rudd
Russo
Saxton
Schaefer
Schuette
Schulze
Sensenbrenner
Sharp
Shaw
Shelby
Shuster
Sikorski
Siljander
Sisisky
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (NE)
Smith (NJ)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)

Snowe
Snyder
Solomon
Spence
Spratt
Staggers
Stallings
Stangeland
Stenholm
Strang
Stump
Sundquist
Sweeney
Swift
Swindall
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Valentine
Volkmer
Vucanovich
Walgren
Walker
Watkins
Weber
Whitehurst
Whitley
Whittaker
Wilson
Wirth
Wise
Wolpe
Wortley
Wright
Wyden
Wylie
Yatron
Young (AK)
Young (MO)
Zschau

NAYS—154

Ackerman
Addabbo
Alexander
Anderson
Annunzio
Aspin
Barnes
Beilenson
Bennett
Bentley
Berman
Biaggi
Bilirakis
Boggs
Boland
Bonior (MI)
Bonker
Borski
Boxer
Brown (CA)
Burton (CA)
Bustamante
Carr
Chappell
Clay
Coelho
Collins
Conte
Conyers
Coyne
Crane
de la Garza
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dwyer
Dymally
Early
Eckert (NY)
Edgar
Edwards (CA)
Evans (IA)
Evans (IL)
Fazio
Florio
Foglietta
Ford (MI)
Ford (TN)
Frank
Garcia
Gaydos
Gilman
Gonzalez
Gray (PA)
Guarini
Hartnett
Hawkins
Hayes
Holt
Howard
Hoyer
Hubbard
Hughes
Hunter
Hyde
Jones (NC)
Kanjorski
Kastenmeier
Kemp
Kennelly
Kildee
Kolter
LaFalce
Lehman (CA)
Lehman (FL)
Leland
Levine (CA)
Lewis (CA)
Lipinski
Long
Lowry (WA)
Markey
Marlenee
Martin (NY)
Martinez
Matsui
McHugh
Mikulski
Miller (CA)
Mineta
Mitchell
Moakley
Mollohan
Moody
Morrison (CT)
Murtha
Myers
Nowak
Oakar
Oberstar
Obey
Ortiz
Owens
Parris
Pepper
Perkins
Rahall
Rangel
Roberts
Rodino
Roe
Rose
Roybal
Sabo
Savage
Scheuer
Schroeder
Schumer
Seiberling
Shumway
Smith (IA)
Solarz
St Germain
Stark
Stokes
Stratton
Studds
Synar
Tallon
Torricelli
Towns
Traficant
Traxler
Udall
Vento
Visclosky
Waxman
Weaver
Weiss
Wheat
Whitten
Williams
Wolf
Yates
Young (FL)

NOT VOTING—9

Brooks
Chappie
Crockett
McKinney
Nelson
Pashayan
Price
Schneider
Vander Jagt

☐ 2210

The Clerk announced the following pairs:

On this vote:

Mr. Nelson of Florida for, with Mr. Brooks against.

Mrs. Schneider for, with Mr. Crockett against.

Mr. FORD of Tennessee and Mr. MARTIN of New York changed their votes from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mrs. SCHNEIDER. Mr. Speaker, on rollcall 454 I was unavoidably detained and arrived on the House floor shortly after the announcement of the vote. Had I been able to cast my vote. I would have voted "yea."

THE AGRICULTURAL PATENT REFORM ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia [Mr. BOUCHER] is recognized for 10 minutes.

Mr. BOUCHER. Mr. Speaker, today I am introducing, along with our colleagues Mr. DEWINE, Mr. FOLEY, Mr. ALEXANDER, Mr. FISH, Mr. HUGHES, Mr. MOOREHEAD, Mr. GLICKMAN, Mr. COLEMAN of Missouri, Mr. MAZZOLI, Mr. MORRISON of Washington, and Mr. KINDNESS, the Agricultural Patent Reform Act, legislation to restore to manufacturers of pesticides, animal drugs, veterinary biologics, and industrial chemicals up to 5 years of patent life which they may lose as a result of federally mandated health and safety testing and certification procedures.

The primary goal of our bill is equity. An inventor of an agricultural product should be given the same treatment as the inventor of any other product under Federal patent law. However, as a result of federally mandated health and safety testing and certification procedures, many inventors of pesticides, animal drugs, veterinary biologics, and industrial chemicals receive only a fraction of the 17-year patent life for their product.

We do not question the need for a federally mandated review and approval process for products, which may affect the health and safety of workers and consumers and environmental quality. However, we believe that the process should not serve as a disincentive to the development of new, innovative products as it does today. Restoring a part of the patent life lost as a result of the federally mandated review and approval process will serve to enhance the quality of new products.

Recent agrichemical discoveries have resulted in dramatic savings for the farmer and the consumer, and significant environmental benefits. Synthetic pyrethroids, for example, a newly developed family of quick-knock-down, short-residue insecticides used to protect vegetables, grains, fruits, and other products, can increase average crop yields by as much as 35 percent. Equally important, these insecticides are cost-competitive replacements for older chemicals such as DDT, aldrin, and other persistent chlorinated hydrocarbons which pose a risk to the environment.

Left uncorrected, patent term loss will continue to serve as a disincentive to the development of environmentally benign products. Patent term restoration will help usher in the next generation of economically and environmentally attractive agrichemicals.

Our bill is identical to S. 1093, introduced by Senator MATHIAS earlier this year, which is supported by the American Farm Bureau Federation, the National Farm Organization, the National Farmers Union, and other farm organizations.

The Agriculture Patent Reform Act restores up to 5 years of patent life that the following products may lose as a result of federally mandated health and safety testing—pesticides, animal drugs, veterinary biologics, or industrial chemicals.

The amount of time restored to a patent for a given product is the sum of the time spent on long-term health and safety testing, plus the time spent by the appropriate regulatory review agency in reviewing the application for commercial marketing of the product, with a maximum of 5 years.

There are several limitations:

A 3-year cap is placed on restoration for products undergoing regulatory review at the time of enactment.

No restoration is provided for products already on the market.

No restoration is provided for products whose patents have already expired.

Product sponsor must act with due diligence in pursuing commercial marketing. Time lost as a result of failure to act with due diligence is not subject to restoration.

Restoration will not be provided for the time a product sponsor spends completing a commercial marketing application which was not supported by sufficient data.

Restoration is provided only for time spent doing long-term—greater than 6 months—health and safety studies. No restoration is provided for short-time health and safety tests or for economic or marketing analyses.

No restoration will be granted to more than one patent per product.

No restoration will be granted for products which have already been commercially marketed, even if they have a new patent and undergo a new regulatory review. The only exception is for a product which is based on recombitant DNA technology.

Only one-half restoration is provided for products whose commercial marketing application is filed more than 10 years after the patent application is filed.

Mr. Speaker, I urge our colleagues to join in this effort to restore the patent life of pesticides, animal drugs, veterinary biologics, and industrial chemicals, enhance agricultural production and protect human health and the environment.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. HOPKINS (at the request of Mr. MICHEL), for today until 1:30 p.m., on account of official district business.

Mr. MCKINNEY (at the request of Mr. MICHEL), for today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Rudd) to revise and extend their remarks and include extraneous material:)

Mr. Swindall, for 60 minutes, today.

Mr. Coughlin, for 5 minutes, today.

Mr. Rudd, for 5 minutes, today.

Mr. Hopkins, for 5 minutes, today.

(The following Members (at the request of Mr. Young of Missouri) to revise and extend their remarks and include extraneous material:)

Mr. Brown of California, for 5 minutes, today.

Mr. LaFalce, for 5 minutes, today.

Mr. Glickman, for 5 minutes, today.

Mr. Alexander, for 5 minutes, today.

Mr. Nelson of Florida, for 5 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Boucher, for 10 minutes, today.

Mr. Lipinski, for 15 minutes, on December 12.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Weiss, prior to the vote on Senate Joint Resolution 238, in the House, today.

Mr. Gekas, following passage of Senate Joint Resolution 238, in the House, today.

Mr. Lewis of Florida, following passage of Senate Joint Resolution 238, in the House, today.

Mr. Morrison of Washington, following the vote on Senate Joint Resolution 238, in the House today.

(The following Members (at the request of Mr. Rudd) and to include extraneous matter:)

Mr. Archer.

Mr. Broomfield in two instances.

Mr. Bliley.

Mr. Gilman in three instances.

Mr. Dannemeyer.

Mr. Siljander in two instances.

Mr. Sensenbrenner.

Mr. Goodling in two instances.

Mr. Zschau.

Mr. Green.

Mr. Lewis of Florida.

Mr. Dornan of California.

Mr. DeLay.

Mr. Michel in two instances.

Mr. Henry.

(The following Members (at the request of Mr. Young of Missouri) and to include extraneous matter:)

Mr. Fascell.

Mr. Darden.

Mr. Chapman.

Mr. Shelby.

Mr. Garcia in five instances.

Mr. Edwards of California.

Mr. Stokes in two instances.

Mr. Lantos in two instances.

Mr. Guarini.

Mr. Smith of Florida in five instances.

Mr. Mica.

Mr. Daschle in five instances.

Ms. Mikulski.

Mr. Hubbard in two instances.

Mr. Skelton.

Mr. Nowak.

Mr. Fauntroy.

Mr. Rangel.

Mrs. Burton of California.

Mr. Mazzoli.

Mr. AuCoin.

Mr. Waxman.

Mr. Lehman of California.

Mr. Berman.

SENATE JOINT RESOLUTION

A joint resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S.J. Res. 243. Joint resolution urging the Nobel Prize Committee to rescind its award to Dr. Chazov; to the Committee on Foreign Affairs.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2965. An act making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1986, and for other purposes;

H.R. 3003. An act to authorize the Secretary of the Interior to convey certain land located in the State of Maryland to the Maryland National Capital Park and Planning Commission;

H.J. Res. 372. Joint resolution increasing the statutory limit on the public debt; and

H.J. Res. 473. Joint resolution waiving the printing on parchment of the enrollment of H.J. Res. 372.

SENATE ENROLLED BILL AND JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to an enrolled bill and joint resolution of the Senate of the following titles:

S. 1116. An act to amend the act of October 15, 1982, entitled "An Act to designate the Mary McLeod Bethune Council House in Washington, District of Columbia, as a national historic site, and for other purposes"; and

S.J. Res. 238. Joint resolution relating to the approval and implementation of the proposed agreement for nuclear cooperation between the United States and the People's Republic of China.

BILLS AND JOINT RESOLUTIONS PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, bills and joint resolutions of the House of the following title:

H.J. Res. 473. Joint resolution waiving the printing on parchment of the enrollment of H.J. Res. 372;

H.J. Res. 424. Joint resolution to designate the year of 1986 as the "Year of the Flag";

H.R. 1789. An act relating to the authorization of appropriations for certain components of the National Wildlife Refuge System; and

H.R. 3003. To authorize the Secretary of the Interior to convey certain land located in the State of Maryland to the Maryland National Capital Park and Planning Commission.

ADJOURNMENT

Mr. HOYER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 17 minutes p.m.), the House adjourned until tomorrow, Thursday, December 12, 1985, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2379. A letter from the Deputy Under Secretary of Health and Human Services for Intergovernmental Affairs, and, the Director, Federal Interagency Task Force on the Homeless, transmitting a report on the activities and accomplishments of the Federal Interagency Task Force on the Homeless; to the Committee on Banking, Finance and Urban Affairs.

2380. A letter from the Secretary of Labor, transmitting the annual report on the enforcement activities under the Fair Labor Standards Act for the period of October 1, 1984 through September 30, 1984, pursuant to 29 U.S.C. 204(d)(1); to the Committee on Education and Labor.

2381. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting notice of a proposed manufacturing license agreement with Japan for significant combat equipment, pursuant to 22 U.S.C. 2776(d); to the Committee on Foreign Affairs.

2382. A letter from the Director, Defense Security Assistance Agency, transmitting notice of intent to offer to sell certain defense articles and services to Egypt in the amount of $68 million, pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

2383. A letter from the Director, Defense Security Assistance Agency, transmitting notice of intent to offer to sell certain defense articles and services to Saudi Arabia in the amount of $500 million, pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

2384. A letter from the Chairman, U.S. Advisory Commission on Public Diplomacy, transmitting a review of activities of the United States Information Agency, pursuant to Reorganization Plan No. 2 of 1977, section 8(b); to the Committee on Foreign Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HAWKINS: Committee on Education and Labor. Report pursuant to section 302(b) of the Congressional Budget Act of 1974 (Rept. 99-434). Referred to the Committee of the Whole House on the State of the Union.

Mr. RODINO: Committee on the Judiciary. Report on investigation of the role of the Department of Justice in the withholding of Environmental Protection Agency documents from Congress in 1982-83 (Rept. 99-435). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BOUCHER (for himself, Mr. DeWine, Mr. Foley, Mr. Alexander, Mr. Fish, Mr. Hughes, Mr. Moorhead, Mr. Glickman, Mr. Coleman of Missouri, Mr. Mazzoli, Mr. Morrison of Washington, and Mr. Kindness):

H.R. 3897. A bill to amend the patent law to restore the term of the patent grant in the case of certain products for the time of the regulatory review period preventing the marketing of the product claimed in a patent; to the Committee on the Judiciary.

By Mrs. BOXER (for herself, Mr. Bryant, Mr. Miller of California, Mr. Sikorski, Mr. Fazio, Mrs. Schroeder, Mr. Bosco, Mr. Coelho, Mr. Levine of California, and Mr. Bates):

H.R. 3898. A bill entitled the "Military Whistleblowers Protection Act"; to the Committee on Armed Services.

By Mr. BROWN of California (for himself, Mr. Roe, Mr. Akaka, and Mr. Robinson):

H.R. 3899. A bill to establish a hydrogen research and development program; to the Committee on Science and Technology.

By Mr. DORNAN of California:

H.R. 3900. A bill directing the President to take certain actions with respect to any country which engages in certain hostile actions against property of the United States or U.S. officers or employees assigned to duty abroad; to the Committee on Foreign Affairs.

H.R. 3901. A bill authorizing continuing appropriations for the Lithuania legation; to the Committee on Foreign Affairs.

H.R. 3902. A bill to provide for the reimbursement of State and local governments for providing certain protection with respect to certain foreign diplomatic missions located in the United States and with respect to certain foreign officials; to the Committee on Foreign Affairs.

H.R. 3903. A bill to provide for the exclusion from the United States of aliens affiliated with terrorist organizations, to require investigations of registered agents of such organizations, and for other purposes; to the Committee on the Judiciary.

H.R. 3904. A bill to amend section 602 of the Federal Aviation Act of 1958 to prohibit any Federal officer or employee from imposing certain age restrictions on individuals seeking to serve as pilots of aircraft, and for other purposes; to the Committee on Public Works and Transportation.

H.R. 3905. A bill to amend section 312(c) of the Federal Aviation Act of 1958, relating to research and development, to require the Secretary of Transportation to assure the development of a collision avoidance system for use on all civil and military aircraft of the United States in the interest of air safety; jointly, to the Committee on Public Works and Transportation, and Science and Technology.

By Mr. GEJDENSON (for himself, Mr. Markey, Mr. Matsui, Mr. Moakley, Mrs. Kennelly, Mr. Hertel of Michigan, Ms. Kaptur, Mr. Weaver, Mr. Lundine, Mr. Heftel of Hawaii, Mr. Moody, Mr. Roe, Mr. Torres, Mr. McKinney, Mr. St Germain, Mr. Spratt, Mr. Seiberling, Mr. Strang, Mr. de Lugo, Mr. Morrison of Connecticut, Ms. Snowe, Mr. McKernan, and Mr. Studds):

H.R. 3906. A bill to provide for the assessment by the U.S. Geological Survey of the quality of the Nation's ground water and surface water resources; to the Committee on Interior and Insular Affairs.

By Mr. GIBBONS:

H.R. 3907. A bill to provide for the appointment of two additional bankruptcy judges for the middle district of Florida; to the Committee on the Judiciary.

By Mr. MAZZOLI:

H.R. 3908. A bill to establish the Social Security Administration as an independent agency, which shall be headed by a Social Security Board, and which shall be responsible for the administration of the old-age, survivors, and disability insurance program under title II of the Social Security Act and the supplemental security income program under title XVI of such Act, and to provide for off-budget treatment of the old-age, survivors, and disability insurance program beginning with fiscal year 1987; to the Committee on Ways and Means.

By Mr. WAXMAN:

H.R. 3909. A bill to amend the Federal Food, Drug, and Cosmetic Act to require the appointment of the Commissioner of Food and Drugs to be subject to Senate confirmation; to the Committee on Energy and Commerce.

By Mr. ZSCHAU:

H.R. 3910. A bill to amend title II of the State Department Basic Authorities Act of 1956 to impose the same restrictions and conditions on foreign missions of Soviet Bloc countries as are imposed on the foreign mission of the Soviet Union; to the Committee on Foreign Affairs.

By Mr. GILMAN:

H.R. 3911. A bill to amend sections 3307(d) and 8335(b) of title 5, United States Code, with respect to the age limits for appointment and mandatory retirement of law enforcement officers engaged in detention activities; to the Committee on Post Office and Civil Service.

H.R. 3912. A bill to amend the Internal Revenue Code of 1954 to eliminate the age requirement for eligibility for the one-time exclusion of gain from the sale of a principal residence; to the Committee on Ways and Means.

H.R. 3913. A bill to regulate commerce and to prohibit unfair or deceptive acts or practices in commerce, and for other purposes; jointly, to the Committees on Energy and Commerce, and the Judiciary.

By Mr. GLICKMAN:

H.R. 3914. A bill to preserve the authority of the Supreme Court Police to provide protective services for Justices and Court personnel; to the Committee on the Judiciary.

By Mr. KASICH:

H.R. 3915. A bill to regulate travel in the United States of citizens from the Soviet Union and eastern bloc countries; to the Committee on Foreign Affairs.

By Mr. YOUNG of Florida (for himself and Mr. Darden):

H.R. 3916. A bill to set minimum standards for the administration of polygraph examinations, to encourage the States and local governments to establish programs regulating the administration of polygraph examinations in accordance with such standards, and for other purposes; to the Committee on Education and Labor.

By Mr. DORNAN of California:

H.J. Res. 474. Joint resolution expressing the determination of the United States with respect to claims by United States nationals for property seized by the Cuban Government; to the Committee on Foreign Affairs.

By Mr. GUARINI (for himself and Mr. Bonior of Michigan):

H.J. Res. 475. Joint resolution designating the month of May 1986 as "Better Hearing and Speech Month;" to the Committee on Post Office and Civil Service.

By Mr. FOLEY:

H. Con. Res. 246. Concurrent resolution correcting the enrollment of House Joint Resolution 372; considered and agreed to.

By Mr. VENTO:

H. Con. Res. 247. Concurrent resolution requesting the President to return the enrolled bill (H.R. 3003) relating to the conveyance of certain land located in the State of Maryland to the Maryland National Capital Park and Planning Commission and providing for its reenrollment with technical corrections; considered and agreed to.

By Mr. DORNAN of California:

H. Con. Res. 248. Concurrent resolution expressing the sense of the Congress with respect to Americans who are missing in action in Southeast Asia; to the Committee on Foreign Affairs.

H. Con. Res. 249. Concurrent resolution expressing the sense of the Congress with respect to the strategic importance of Israel to the United States; to the Committee on Foreign Affairs.

H. Con. Res. 250. Concurrent resolution expressing the sense of the Congress with respect to the Baltic States and with respect to Soviet claims of citizenship over certain United States citizens; to the Committee on Foreign Affairs.

H. Con. Res. 251. Concurrent resolution expressing the sense of the Congress with respect to the Baltic States and with respect to Soviet claims of citizenship over certain United States citizens; to the Committee on Foreign Affairs.

H. Con. Res. 252. Concurrent resolution expressing the sense of the Congress with respect to the Baltic States; to the Committee on Foreign Affairs.

H. Con. Res. 253. Concurrent resolution expressing the sense of the Congress that the International Olympic Committee should allow Taiwan to participate in the 1988 winter Olympic games under its own name, flag, and national anthem; to the Committee on Foreign Affairs.

H. Con. Res. 254. Concurrent resolution to seek the resurrection of churches and religious freedom in the Ukraine; to the Committee on Foreign Affairs.

H. Con. Res. 255. Concurrent resolution relative to rights of Ukrainian citizens; to the Committee on Foreign Affairs.

H. Con. Res. 256. Concurrent resolution expressing the sense of the Congress that the United States, Mexico, and Canada should establish a common economic bond of energy cooperation; to the Committee on Foreign Affairs.

H. Con. Res. 257. Concurrent resolution expressing the sense of Congress that the President should communicate immediately to the Government of the Soviet Union that the United States insists that the Soviet Union remove its military combat troops from Cuba, with all deliberate speed; to the Committee on Foreign Affairs.

H. Con. Res. 258. Concurrent resolution urging a moratorium on the commercial killing of whales; to the Committee on Foreign Affairs.

H. Res. 339. Resolution to express the sense of the House of Representatives that the leaders of the Soviet Union should permit the emigration of Jews and other individuals wishing to emigrate from the Soviet Union, should remove restrictions in the Soviet Union on the practice of religion and the observation of cultural traditions, should remove restrictions surrounding individuals who undertake scientific and intellectual endeavors, and should stop the official harassment of individuals who wish to emigrate, practice their religion, or observe their cultural traditions; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII,

286. The SPEAKER presented a memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to the summit with the U.S.S.R.; which was referred to the Committee on Foreign Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1089: Mr. Dyson, Mr. de Lugo, Mr. Matsui, and Mr. Towns.

H.R. 1294: Mr. Boucher and Mr. Tallon.

H.R. 1840: Mr. Hamilton and Mr. Chapman.

H.R. 2295: Mr. Torricelli.

H.R. 2440: Mr. Duncan.

H.R. 2535: Mr. McKernan, Mr. Wise, Mr. Florio, and Mr. Kemp.

H.R. 2591: Mr. Parris.

H.R. 2697: Mr. Loeffler.

H.R. 2795: Mr. Sweeney.

H.R. 2809: Ms. Mikulski, Mr. Nowak, Mr. Price, and Mr. Volkmer.

H.R. 2810: Mrs. Boxer.

H.R. 2957: Mr. Scheuer.

H.R. 2958: Mr. Scheuer.

H.R. 3099: Mrs. Collins, Mr. Weaver, and Ms. Oakar.

H.R. 3136: Mr. Heftel of Hawaii.

H.R. 3232: Mr. Duncan.

H.R. 3252: Mr. Morrison of Washington, Mr. Lightfoot, Mr. Kindness, Mr. Kolbe, Mr. Porter, Mr. Dreier of California, Mr. Rudd, Mr. Barton of Texas, Mr. Badham, and Mr. Lewis of Florida.

H.R. 3305: Mr. Owens, Mr. Crockett, Mr. Fuqua, and Mr. Fazio.

H.R. 3349: Mr. Pursell, Mr. Courter, Mr. Gallo, Mr. Campbell, and Mr. Mrazek.

H.R. 3439: Mr. Bereuter, Mr. Hughes, Mrs. Collins, Mr. Zschau, and Mr. Morrison of Connecticut.

H.R. 3473: Mr. Ray, Mr. Whittaker, Mr. Gray of Illinois, Mr. Jenkins, Mr. Darden, Mr. Hayes, Mr. Fowler, Mr. Evans of Illinois, Mr. Thomas of Georgia, Mr. Barnard, Mr. Tallon, and Mr. Hatcher.

H.R. 3512: Mr. Luken.

H.R. 3643: Mr. Daschle and Mr. Eckart of Ohio.

H.R. 3690: Mr. Savage, Mr. Edwards of California, Mr. Evans of Illinois, Mr. Levine of California, Mr. Mrazek, Mr. Weaver, Mr. Ackerman, Ms. Kaptur, Mr. Wilson, Mr. Bedell, Mr. Torricelli, Mr. Moody, Mr. Bustamante, Mr. de Lugo, Mr. Downey of New York, and Mr. Morrison of Connecticut.

H.R. 3777: Mr. Jones of North Carolina.

H.J. Res. 226: Mr. Denny Smith.

H.J. Res. 376: Mr. Olin.

H.J. Res. 379: Mr. Young of Florida, Mr. Fazio, Mr. Feighan, Mr. Brooks, Mr. Volkmer, Ms. Snowe, Mr. Vento, Mr. Fuqua, Mr. Levine of California, Mrs. Boxer, Mr. Biaggi, Mr. Sunia, Mr. Lantos, Mr. Leach of Iowa, Mr. Lehman of Florida, Mr. Lewis of California, Mr. Nielson of Utah, Mr. McEwen, Mr. Borski, Mr. AuCoin, Mr. Matsui, Ms. Kaptur, Mr. Brown of California, Mr. Fish, Mr. Moorhead, Mr. Hyde, Mr. Lungren, Mr. McCollum, Mr. DeWine, and Mr. Brown of Colorado.

H.J. Res. 429: Mr. O'Brien, Mr. Kostmayer, Mr. Torricelli, Mr. Cooper, Mr. Foglietta, Mr. Hayes, Mr. Dwyer of New Jersey, Mr. Jacobs, Mr. LaFalce, Mr. Fazio, Mr. Matsui, Mr. Weiss, Mr. Staggers, Mr. Rahall, Mr. Wortley, Mr. Scheuer, Mr. Daub, Mr. McKernan, Mr. Bryant, Mr. de la Garza, Mr. Derrick, Mr. Lantos, Mr. Murphy, Mr. Owens, Mr. Dymally, Mrs. Bentley, Mr. Gunderson, Mr. Howard, Mrs. Boxer, and Mr. Gingrich.

H.J. Res. 439: Mr. Stokes, Mr. Wyden, Mr. DeLay, Mr. Darden, Mr. Leland, Mr. Schuette, Mr. Cobey, and Mr. Fowler.

H.J. Res. 462: Mr. Kolter, Mr. Dorgan of North Dakota, Mr. Carper, Mr. Visclosky, Mr. Walgren, and Mr. Russo.

H. Con. Res. 15: Mr. Gray of Illinois.

H. Con. Res. 129: Mr. Armey, Mr. Campbell, Mr. Coats, Mr. Lewis of California, Mr. McCandless, Mr. Molinari, Mr. Pashayan, Mr. Skeen, Mrs. Vucanovich, and Mr. Stangeland.

H. Con. Res. 202: Mr. Martinez, and Mr. Fazio.

H. Con. Res. 211: Mr. Gingrich, Mr. Matsui, Mr. Russo, Mr. Fazio, Ms. Mikulski, and Mr. Fowler.

H. Con. Res. 221: Mr. Shaw, Mr. Biaggi, Mr. Tauke, Mr. Solomon, Mr. Chapman, Mr. Savage, Mr. Clinger, Mr. Dwyer of New Jersey, Mr. Wirth, Mr. AuCoin, Mr. Glickman, Mr. Tallon, and Mr. Pursell.

H. Con. Res. 241: Mr. Swift.

H. Con. Res. 243: Mr. Leland, Mr. Levine of California, Mr. Smith of Florida, Mr. Udall, Mr. Hayes, Mr. Berman, Mr. Scheuer, Mr. Kostmayer, Mr. Dellums, Mr. Gray of Pennsylvania, and Mr. Schumer.

H. Res. 268: Mr. Pursell.

H. Res. 323: Mr. Bryant.

PETITIONS, ETC.

Under clause 1 of rule XXII,

261. The SPEAKER presented a petition of the city council of New Orleans, LA, relative to the Summit with the U.S.S.R.; which was referred to the Committee on Foreign Affairs.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1524

By Mr. YOUNG of Florida:

—(1) Section 1: On page 2, lines 4 and 5, strike out "Employee Polygraph Protection Act" and insert in lieu thereof "Polygraph Reform Act".

—(2) Section 2: On page 2, line 6, renumber "Sec. 2" as "Sec. 3", add the following new section, and renumber all other sections accordingly:

SEC. 2. PURPOSE.

(a) The Congress finds that:

(1) the improper use of polygraph examinations in work situations in industries engaged in interstate commerce or in the production of goods for interstate commerce imposes a substantial burden on interstate commerce in terms of loss of employment and employment opportunities, and

(2) the free flow of goods and services in interstate commerce is burdened by theft, dishonesty and breaches of trust by dishonest employees and by crimes and unsafe acts committed against employees, customers and the public.

(b) It is hereby declared to be the purpose of this Act to establish minimum federal standards for the use of polygraphs in employment, to provide relief for the improper use of polygraphs and to provide for federal oversight of the administration of such standards.

—(3) Section 2: On page 2, line 6, renumber "Sec. 2" as "Sec. 3", add the following new section and renumber all other sections accordingly:

SEC. 2. FINDINGS.

(a) The Congress finds that:

(1) the improper use of polygraph examinations in work situations in industries engaged in interstate commerce or in the production of goods for interstate commerce imposes a substantial burden on interstate commerce in terms of loss of employment and employment opportunities, and

(2) the free flow of goods and services in interstate commerce is burdened by theft, dishonesty and breaches of trust by dishonest employees and by crimes and unsafe acts committed against employees, customers and the public.

—(4) Section 2: Beginning on page 2, line 6, through page 4, line 4, strike out the words "lie detector" wherever they appear and insert in lieu thereof the word "polygraph".

—(5) Section 3: Beginning on page 4, line 4, through line 11 on page 4, strike out the words "lie detector" wherever they appear and insert in lieu thereof the word "polygraph".

—(6) Strike out the words "lie detector" wherever they appear in the bill and insert in lieu thereof the word "polygraph".

—(7) Section 2 is amended by striking out all beginning on page 2, line 6, through page 4, line 3, and inserting in lieu thereof the following new sections:

SEC. 4. PROHIBITION OF POLYGRAPH TESTING EXCEPT IN ACCORDANCE WITH THE STANDARDS OF THIS ACT.

No employer shall take any action affecting the employment status of an employee or prospective employee of the employer if such action is based on the results of a polygraph examination of such employee or prospective employee that has not been administered in accordance with section 5 of this Act.

SEC. 5. POLYGRAPH EXAMINEES' BILL OF RIGHTS.

(a) Each prospective examinee shall be required to sign a notification prior to the beginning of each polygraph examination which contains the following information:

(1) That he or she is consenting voluntarily to take the examination;

(2) That the polygraph examiner shall not inquire into any of the following areas during preemployment or periodic examinations:

(i) Religious beliefs or affiliations;

(ii) Beliefs or opinions regarding racial matters;

(iii) Political beliefs or affiliations;

(iv) Sexual preferences or activities, unless necessary to determine the employee's or prospective employee's qualifications to be employed by a nursing home, rest home, sanitarium, hospital, day nursery or similar child care facility or such other institution or service in which the well-being of children, the aged, handicapped or infirm are entrusted to the care of such employees of such institutions or services; or

(v) Beliefs, affiliations, or opinions regarding unions or labor organizations.

(3) That he or she may terminate the examination at any time;

(4) That, upon written request, he or she shall, for a reasonable fee, be provided with a written copy of any opinions or conclusions rendered as a result of the examination;

(5) That the polygraph examiner is prohibited from asking the examinee any question during the examination that is not in writing and has not been reviewed with the examinee prior to the examination;

(6) That he or she has specific legal rights and remedies if the polygraph examination has not been conducted in accordance with the provisions of this Act; and,

(7) That, upon written request, he or she may receive a copy of the notification.

(b) A polygraph examiner shall, upon written request from the examinee, provide the examinee with a copy of all opinions or conclusions rendered in accordance with section 6 of this Act and signed by the polygraph examiner with respect to the examinee's polygraph examination.

(c) No action may be taken by an employer regarding the employment status of an employee or an applicant for employment that is based solely on opinions or conclusions of a polygraph examiner reached by analysis of a polygraph chart produced during the examination of the employee or applicant for employment.

—(8) Section 2 is amended by striking out all beginning on page 2, line 6, through page 4, line 3, and inserting in lieu thereof the following new sections:

SEC. 4. PROHIBITION OF POLYGRAPH TESTING EXCEPT IN ACCORDANCE WITH THE STANDARDS OF THIS ACT.

No employer shall take any action affecting the employment status of an employee or prospective employee of the employer if such action is based on the results of a polygraph examination of such employee or prospective employee that has not been administered in accordance with sections 5 and 6 of this Act.

SEC. 5. POLYGRAPH EXAMINEES' BILL OF RIGHTS.

(a) Each prospective examinee shall be required to sign a notification prior to the beginning of each polygraph examination which contains the following information:

(1) That he or she is consenting voluntarily to take the examination;

(2) That the polygraph examiner shall not inquire into any of the following areas during preemployment or periodic examinations:

(i) Religious beliefs or affiliations;

(ii) Beliefs or opinions regarding racial matters;

(iii) Political beliefs or affiliations;

(iv) Sexual preferences or activities, unless necessary to determine the employee's or prospective employee's qualifications to be employed by a nursing home, rest home, sanitarium, hospital, day nursery or similar child care facility or such other institution or service in which the well-being of children, the aged, handicapped or infirm are entrusted to the care of such employees of such institutions or services; or

(v) Beliefs, affiliations, or opinions regarding unions or labor organizations.

(3) That he or she may terminate the examination at any time;

(4) That, upon written request, he or she shall, for a reasonable fee, be provided with a written copy of any opinions or conclusions rendered as a result of the examination;

(5) That the polygraph examiner is prohibited from asking the examinee any question during the examination that is not in writing and has not been reviewed with the examinee prior to the examination;

(6) that he or she has specific legal rights and remedies if the polygraph examination has not been conducted in accordance with the provisions of this Act; and

(7) that, upon written request, he or she may receive a copy of the notification.

(b) A polygraph examiner shall, upon written request from the examinee, provide the examinee with a copy of all opinions or conclusions rendered in accordance with section 6 of this Act and signed by the polygraph examiner with respect to the examinee's polygraph examination.

(c) No action may be taken by an employer regarding the employment status of an employee or an applicant for employment that is based soley on opinions or conclusions of a polygraph examiner reached by analysis of a polygraph chart produced during the examination of the employee or applicant for employment.

SEC. 6. MINIMUM STANDARDS FOR POLYGRAPH EXAMINATIONS.

(a) No polygraph examination shall be conducted by a person other than one who—

(1) is at least 21 years of age;

(2) is a citizen of the United States;

(3) is a person of good moral character; and,

(4) has complied with all required laws, rules and regulations enacted by the appropriate state and other polygraph licensing and regulatory authorities in the state in which the examination is to be conducted; and

(5)(A) has successfully completed a formal training course regarding the use of polygraphs that has been approved by the Secretary of Labor; and,

(B) has completed a polygraph examiner internship of at least six months in duration under the direct supervision of a polygraph examiner who has met the requirements of this section.

Notwithstanding the provisions of paragraph (5) of this section, a person shall be permitted to conduct a polygraph examination in accordance with the provisions of this Act if such person has met the requirements of subsections (1-4) of this section and—

(i) on the date of enactment of this Act such person holds a valid polygraph examiner's license issued by a State licensing authority, or

(ii) within a period of five years immediately preceding the date of enactment of this Act has conducted not less than 200 polygraph examinations, and, within one year of the date of enactment of this Act, has satisfactorily completed a formal training course in the administration of polygraph examinations approved by the Secretary of Labor.

(b) All examiners meeting the requirements of subsection (a) of this section shall be required every 24 months to complete not less than 24 hours of continuing education approved by the Secretary of Labor regarding the use of polygraphs.

(c) A polygraph examiner shall not ask a question during a polygraph examination unless such question is in writing and has been reviewed with the examinee prior to such examination.

(d) A polygraph examiner shall not inquire into any of the following areas during preemployment or periodic employment examinations—

(1) Religious beliefs or affiliations;

(2) Beliefs or opinions regarding racial matters;

(3) Political beliefs or affiliations;

(4) Sexual preferences or activities, unless necessary to determine the employee's or prospective employee's qualifications to be employed by a nursing home, rest home, sanitarium, hospital, day nursery or similar child care facility, or such other institution or service in which the well-being of children, the aged, handicapped or infirm are entrusted to the care of such employees of such institutions or services; or

(5) Beliefs, affiliations, or opinions regarding unions or labor organizations.

(e) A polygraph examiner shall not perform more than 12 polygraph examinations in any one 24 hour period.

(f) A polygraph examiner shall use an instrument which records continuously, visually, permanently, and simultaneously indications of any changes in such individual's cardiovascular, respiratory, and galvanic skin response patterns as minimum instrumentation standards, and bases his or her evaluation or opinion of such individual's trustfulness or untruthfulness at least upon changes in the individual's physiological activity or reactivity in the cardiovascular, respiratory and galvanic skin response patterns of such individual. Such person may use an instrument which, in addition, also records other physiological patterns and may consider the additional physiological patterns in making his or her evaluation and rendering his or her opinion.

(g) All conclusions or opinions of the polygraph examiner arising from the polygraph examination shall:

(1) be in writing and shall be based solely on polygraph chart analysis;

(2) contain no information other than admissions and information relevant to the purpose and stated objectives of the examination, and to relevant issues and interpretation of the chart data; and,

(3) contain no recommendation regarding the prospective or continued employment of an examinee.

(h) A polygraph examiner shall preserve and keep on file for a minimum of two years after administering a polygraph examination all opinions, reports, charts, questions lists, and all other records relating to the polygraph examination.

—(9) Section 2 is amended by striking out all beginning on page 2, line 6, through page

4, line 3, and inserting in lieu thereof the following new sections:

SEC. 4. PROHIBITION OF POLYGRAPH TESTING EXCEPT IN ACCORDANCE WITH THE STANDARDS OF THIS ACT.

No employer shall take any action affecting the employment status of an employee or prospective employee of the employer if such action is based on the results of a polygraph examination of such employee or prospective employee that has not been administered in accordance with section 5 of this Act.

SEC. 5. POLYGRAPH EXAMINEES' BILL OF RIGHTS.

(a) Each prospective examinee shall be required to sign a notification prior to the beginning of each polygraph examination which contains the following information:

(1) That he or she is consenting voluntarily to take the examination:

(2) That the polygraph examiner shall not inquire into any of the following areas during preemployment of periodic examinations:

(i) Religious beliefs or affiliations;

(ii) Beliefs or opinions regarding racial matters;

(iii) Political beliefs or affiliations;

(iv) Sexual preferences or activities, unless necessary to determine the employee's or prospective employee's qualifications to be employed by a nursing home, rest home, sanitarium, hospital, day nursery or similar child care facility or such other institution or service in which the well-being of children, the aged, handicapped or infirm are entrusted to the care of such employees of such institutions or services; or

(v) Beliefs, affiliations, or opinions regarding unions or labor organizations.

(3) That he or she may terminate the examination at any time;

(4) That, upon written request, he or she shall, for a reasonable fee, be provided with a written copy of any opinions or conclusions rendered as a result of the examination;

(5) That the polygraph examiner is prohibited from asking the examinee any question during the examination that is not in writing and has not been reviewed with the examinee prior to the examination;

(6) That he or she has specific legal rights and remedies if the polygraph examination has not been conducted in accordance with the provisions of this Act; and,

(7) That, upon written request, he or she may receive a copy of the notification.

(b) A polygraph examiner shall, upon written request from the examinee, provide the examinee with a copy of all opinions or conclusions rendered in accordance with section 6 of this Act and signed by the polygraph examiner with respect to the examinee's polygraph examination.

—(10) Beginning on page 2, line 6, through page 4, line 3, strike out the words "prospective employee" wherever they appear and insert in lieu thereof "applicant for employment".

—(11) On page 5, lines 1 and 2, strike out "sections 9 and 10 of the Federal Trade Commission Act (15 U.S.C. 49, 50)" and insert in lieu thereof "section 11 of the Fair Labor Standards Act (29 U.S.C. 211)".

—(12) On page 4, lines 7 and 8, strike out "prospective employee" and insert in lieu thereof "applicant for employment".

—(13) On page 4, line 4, renumber "SEC. 3" as "SEC. 4", insert the following new section 3, and renumber all other sections accordingly:

SEC. 3. NO WAIVER OF RIGHTS.

The rights and procedures provided for under this Act shall not be abrogated by any contract or waiver and a polygraph examiner shall be prohibited from requesting that an examinee execute any such contract or waiver.

—(14) On page 4, line 23, add the following after the word "Act" and before the period at the end of the sentence: "in accordance with section 11 of the Fair Labor Standards Act (29 U.S.C. 211)".

Beginning on page 4, line 24, strike out all through page 5, line 2.

—(15) On page 4, line 23, add the following after the word "Act" and before the period at the end of the sentence: "in accordance with section 11 of the Fair Labor Standards Act (29 U.S.C. 211)".

On page 5, lines 1 and 2, strike out "sections 9 and 10 of the Federal Trade Commission Act (15 U.S.C. 49, 50)" and insert in lieu thereof "section 11 of the Fair Labor Standards Act (29 U.S.C. 211)".

—(16) Beginning on page 5, line 12, strike out all after the words "required by" through line 16 and insert in lieu thereof the following: "section 16 of the Fair Labor Standards Act (29 U.S.C. 216) with respect to civil penalties assessed under subsection (a) of this section."

—(17) On page 4, line 4, renumber "SEC. 3" as "SEC. 4", add the following new section, and renumber all other sections accordingly:

Notwithstanding any other provision of law, the prohibitions of section 2 of this Act shall not apply to any State or political subdivision thereof, which enacts comprehensive standards regulating the use of polygraphs and provides for the enforcement of those standards.

—(18) On page 4, line 4, renumber "SEC. 3" as "SEC. 4", add the following new section, and renumber all other sections of the bill accordingly:

Notwithstanding any other provision of law, the prohibitions of section 2 of this Act shall not apply to any State, or political subdivision thereof, which enacts comprehensive standards regulating the use of polygraphs which are at least as effective as the standards contained in sections 3 and 4 of this Act, and provides for the enforcement of those standards.

On page 4, line 4, renumber "SEC. 3" as "SEC. 5", add the following new sections and renumber all other sections of the bill accordingly:

SEC. 3. POLYGRAPH EXAMINEES' BILL OF RIGHTS.

(a) Each prospective examinee shall be required to sign a notification prior to the beginning of each polygraph examination which contains the following information:

(1) That he or she is consenting voluntarily to take the examination;

(2) That the polygraphs examiner shall not inquire into any of the following areas during preemployment or periodic examinations:

(i) Religious beliefs or affiliations:

(ii) Beliefs or opinions regarding racial matters;

(iii) Political beliefs or affiliations;

(iv) Sexual preferences or activities, unless necessary to determine the employee's or prospective employee's qualifications to be employed by a nursing home, rest home, sanitarium, hosptial, day nursery or similar child care facility or such other institution or service in which the well-being of children, the aged, handicapped or infirm are entrusted to the care of such employees of such institutions or services; or

(v) Beliefs, affiliations, or opinions regarding unions or labor organizations.

(3) That he or she may terminate the examination at any time;

(4) That, upon written request, he or she, shall, for a reasonable fee, be provided with a written copy of any opinions or conclusions rendered as a result of the examination;

(5) That the polygraph examiner is prohibited from asking the examinee any question during the examination that is not in writing and has not been reviewed with the examinee prior to the examination.

(6) That he or she has specific legal rights and remedies if the polygraph examination has not been conducted in accordance with the provisions of this Act; and,

(7) That, upon written request, he or she may receive a copy of the notification.

(b) A polygraph examiner shall, upon written request from the examinee, provide the examinee with a copy of all opinions or conclusions rendered in accordance with section 6 of this Act, and signed by the polygraph examiner with respect to the examinee's polygraph examination.

(c) No action may be taken by an employer regarding the employment status of an employee or an applicant for employment that is based solely on opinions or conclusions of a polygraph examiner reached by analysis of a polygraph chart produced during the examination of the employee or applicant for employment.

SEC. 4. MINIMUM STANDARDS FOR POLYGRAPH EXAMINATIONS.

(a) No polygraph examination shall be conducted by a person other than one who—

(1) Is at least 21 years of age;

(2) Is a citizen of the United States;

(3) Is a person of good moral character; and,

(4) has complied with all required laws, rules and regulations enacted by the appropriate state and other polygraph licensing and regulatory authorities in the state in which the examination is to be conducted; and

(5)(A) has successfully completed a formal training course regarding the use of polygraphs that has been approved by the Secretary of Labor; and,

(B) has completed a polygraph examiner internship of at least six months in duration under the direct supervision of a polygraph examiner who has met the requirements of this section.

Notwithstanding the provisions of paragraph (5) of this section, a person shall be permitted to conduct a polygraph examination in accordance with the provisions of this Act if such person has met the requirements of subsections (1-4) of this section and—

(i) on the date of enactment of this Act such person holds a valid polygraph examiner's license issued by a State licensing authority, or

(ii) within a period of five years immediately preceding the date of enactment of this Act has conducted not less than 200 polygraph examinations, and, within one year of the date of enactment of this Act, has satisfactorily completed a formal training course in the administration of polygraph examinations approved by the Secretary of Labor.

(b) All examiners meeting the requirements of subsection (a) of this section shall be required every 24 months to complete not less than 24 hours of continuing education approved by the Secretary of Labor regarding the use of polygraphs.

(c) A polygraph examiner shall not ask a question during a polygraph examination unless such question is in writing and has been reviewed with the examinee prior to such examination.

(d) A polygraph examiner shall not inquire into any of the following areas during preemployment or periodic employment examinations—

(1) Religious beliefs or affiliations;

(2) Beliefs or opinions regarding racial matters;

(3) Politics beliefs or affiliations;

(4) Sexual preferences or activities, unless necessary to determine the emloyee's or prospective employee's qualifications to be employed by a nursing home, rest home, sanitarium, hospital, day nursery or similar child care facility, or such other institution or service in which the well-being of children, the aged, handicapped or infirm are entrusted to the care of such employees of such institutions or services; or

(5) Beliefs, affiliations, or opinions regarding unions or labor organizations.

(e) A polygraph examiner shall not perform more than 12 polygraph examinations in any one 24 hour period.

(f) A polygraph examiner shall use an instrument which records continuously, visually, permanently, and simultaneously indications of and changes in such individual's cardiovascular, respiratory, and galvanic skin response patterns as minimum instrumentation standards, and bases his or her evaluation or opinion of such individual's truthfulness or untruthfulness at least upon changes in the individual's physiological activity or reactivity in the cardiovascular, respiratory and galvanic skin response patterns of such individual. Such person may use an instrument which, in addition, also records other physiological patterns and may consider the additional physiological patterns in making his or her evaluation and rendering his or her opinion.

(g) All conclusions or opinions of the polygraph examiner arising from the polygraph examination shall:

(1) be in writing and shall be based solely on polygraph chart analysis;

(2) contain no information other than admissions and information relevant to the purpose and stated objectives of the examination, and to relevant issues and interpretation of the chart data; and,

(3) contain no recommendation regarding the prospective or continued employment of an examinee.

(h) A polygraph examiner shall preserve and keep on file for a minimum of two years after administering a polygraph examination all opinions, reports, charts, questions, lists, and all other records relating to the polygraph examination.

—(19) On page 4, line 4, renumber "SEC. 3" as "SEC. 4", add the following new section, and renumber all other sections of the bill accordingly:

Notwithstanding any other provision of law, the prohibition of section 2 of this Act shall not apply to any State, or political subdivision thereof, which enacts comprehensive standards regulating the use of polygraphs which are at least as effective as the standards contained in sections 3 and 4 of this Act, and provides for the enforcement of those standards.

On page 4, line 4, renumber "SEC. 3" as "SEC. 5", add the following new sections, and renumber all other sections of the bill accordingly:

SEC. 3. POLYGRAPH EXAMINEES' BILL OF RIGHTS.

(a) Each prospective examinee shall be required to sign a notification prior to the beginning of each polygraph examination which contains the following information:

(1) That he or she is consenting voluntarily to take the examination;

(2) That the polygraph examiner shall not inquire into any of the following areas during preemployment or periodic examinations:

(i) Religious beliefs or affiliations;

(ii) Beliefs or opinions regarding racial matters;

(iii) Political beliefs or affiliations;

(iv) Sexual preferences or activities, unless necessary to determine the employee's or prospective employee's qualifications to be employed by a nursing home, rest home, sanitarium, hospital, day nursery or similar child care facility or such other institution or service in which the well-being of children, the aged, handicapped or infirm are entrusted to the care of such employees of such institutions or services; or

(v) Beliefs, affiliations, or opinions regarding unions or labor organizations.

(3) That he or she may terminate the examination at any time;

(4) That, upon written request, he or she shall, for a reasonable fee, be provided with a written copy of any opinions or conclusions rendered as a result of the examination;

(5) That the polygraph examiner is prohibited from asking the examinee any question during the examination that is not in writing and has not been reviewed with the examinee prior to the examination;

(6) That he or she has specific legal rights and remedies if the polygraph examination has not been conducted in accordance with the provisions of this Act; and,

(7) That, upon written request, he or she may receive a copy of the notification.

(b) A polygraph examiner shall, upon written request from the examinee, provide the examine with a copy of all opinions or conclusions rendered in accordance with section 6 of this Act and signed by the polygraph examiner with respect to the examinee's polygraph examination.

SEC. 4. MINIMUM STANDARD FOR POLYGRAPH EXAMINATIONS.

(A) No polygraph examination shall be conducted by a person other than one who—

(1) Is at least 21 years of age;

(2) Is a citizen of the United States;

(3) Is a person of good moral character; and,

(4) has complied with all required laws, rules and regulations enacted by the appropriate state and other polygraph licensing and regulatory authorities in the state in which the examination is to be conducted; and

(5)(A) has successfully completed a formal training course regarding the use of polygraphs that has been approved by the Secretary of Labor; and,

(B) has completed a polygraph examiner internship of at least six months in duration under the direct supervision of a polygraph examiner who has met the requirements of this section.

Notwithstanding the provisions of paragraph (5) of this section, a person shall be permitted to conduct a polygraph examination in accordance with the provisions of this Act if such person has met the requirements of subsections (1-4) of this section and—

(i) on the date of enactment of this Act such person holds a valid polygraph examiner's license issued by a State licensing authority, or

(ii) within a period of five years immediately preceding the date of enactment of this Act has conducted not less than 200 polygraph examinations, and, within one year of the date of enactment of this Act, has satisfactorily completed a formal training course in the administration of polygraph examinations approved by the Secretary of Labor.

(b) All examiners meeting the requirements of subsection (a) of this section shall be required every 24 months to complete not less than 24 hours of continuing education approved by the Secretary of Labor regarding the use of polygraphs.

(c) A polygraph examiner shall not ask a question during a polygraph examination unless such question is in writing and has been reviewed with the examinee prior to such examination.

(d) A polygraph examiner shall not inquire into any of the following areas during preemployment or periodic employment examinations—

(1) Religious beliefs or affiliations;

(2) Beliefs or opinions regarding racial matters;

(3) Political beliefs or affiliations;

(4) Sexual preferences or activities; unless necessary to determine the employee's or prospective employee's qualifications to be employed by a nursing home, rest home, sanitarium, hospital, day nursery or similar child care facility, or such other institution or service in which the well-being of children, the aged, handicapped or infirm are entrusted to the care of such employees of such institutions or services; or

(5) Beliefs, affiliations, or opinions regarding unions or labor organizations.

(e) A polygraph examiner shall not perform more than 12 polygraph examinations in any one 24 hour period.

(f) A polygraph examiner shall use an instrument which records continuously, visually, permanently, and simultaneously indications of and changes in such individual's cardiovascular, respiratory, and galvanic skin response patterns as minimum instrumentation standards, and bases his or her evaluation or opinion of such individual's truthfulness or untruthfulness at least upon changes in the individual's physiological activity or reactivity in the cardiovascular, respiratory and galvanic skin response patterns of such individual. Such person may use an instrument which, in addition, also records other physiological patterns and may consider the additional physiological patterns in making his or her evaluation and rendering his or her opinion.

(g) All conclusions or opinions of the polygraph examiner arising from the polygraph examination shall:

(1) be in writing and shall be based solely on polygraph chart analysis;

(2) contain no information other than admissions and information relevant to the purpose and stated objectives of the examination, and to relevant issues and interpretation of the chart data; and,

(3) contain no recommendation regarding the prospective or continued employment of an examinee.

(h) A polygraph examiner shall preserve and keep on file for a minimum of two years after administering a polygraph examination all opinions, reports, charts, questions lists, and all other records relating to the polygraph examination.

—(20) On page 8, line 16, add the following new subsection:

(e) No polygraph examination shall be performed pursuant to this section and no adminsitrative action shall be taken with respect to individual who is exempted from the prohibitions of section 2 of this Act by this section unless such examination is performed pursuant to sections 7 and 8 of this Act and the examiner has met the requirements of section 8 of this Act.

On page 8, renumber "SEC. 7" as "SEC. 9"; on page 9, renumber "SEC. 8" as "SEC. 10", and add the following new sections:

SEC. 7. POLYGRAPH EXAMINEES' BILL OF RIGHTS.

(a) Each prospective examinee shall be required to sign a notification prior to the beginning of each polygraph examination which contains the following information:

(1) That he or she is consenting voluntarily to take the examination;

(2) That the polygraph examiner shall not inquire into any of the following areas during preemployment or periodic examinations:

(i) Religious beliefs or affiliations;

(ii) Beliefs or opinions regarding racial matters;

(iii) Political beliefs or affiliations;

(iv) Sexual preferences or activities, unless necessary to determine the employee's or prospective employee's qualifications to be employed by a nursing home, rest home, sanitarium, hospital, day nursery or similar child care facility or such other institution or service in which the well-being of children, the aged, handicapped or infirm are entrusted to the care of such employees of such institutions or services; or

(v) Beliefs, affiliations, or opinions regarding unions or labor organizations.

(3) That he or she may terminate the examination at any time;

(4) That, upon written request, he or she shall, for a reasonable fee, be provided with a written copy of any opinions or conclusions rendered as a result of the examination;

(5) That the polygraph examiner is prohibited from asking the examinee any question during the examination that is not in writing and has not been reviewed with the examinee prior to the examination;

(6) That he or she has specific legal rights and remedies if the polygraph examination has not been conducted in accordance with the provisions of this Act; and,

(7) That, upon written request, he or she may receive a copy of the notification.

(b) A polygraph examiner shall, upon written request from the examinee, provide the examinee with a copy of all opinions or conclusions rendered in accordance with section 6 of this Act and signed by the polygraph examiner with respect to the examinee's polygraph examination.

(c) No action may be taken by an employer regarding the employment status of an employee or an applicant for employment that is based solely on opinions or conclusions of a polygraph examiner reached by analysis of a polygraph chart produced during the examination of the employee or applicant for employment.

SEC. 8. MINIMUM STANDARDS FOR POLYGRAPH EXAMINATIONS.

(a) No polygraph examination shall be conducted by a person other than one who—

(1) Is at least 21 years of age;

(2) Is a citizen of the United States;

(3) Is a person of good moral character; and,

(4) Has complied with all required laws, rules and regulations enacted by the appropriate state and other polygraph licensing and regulatory authorities in the state in which the examination is to be conducted; and

(5)(A) has successfully completed a formal training course regarding the use of polygraphs that has been approved by the Secretary of Labor; and,

(B) has completed a polygraph examiner internship of at least six months in duration under the direct supervision of a polygraph examiner who has met the requirements of this section.

Notwithstanding the provisions of paragraph (5) of this section; a person shall be permitted to conduct a polygraph examination in accordance with the provisions of this Act if such person has met the requirements of subsections (1-4) of this section and—

(i) on the date of enactment of this Act such person holds a valid polygraph examiner's license issued by a State licensing authority, or

(ii) within a period of five years immediately preceding the date of enactment of this Act has conducted not less than 200 polygraph examinations, and, within one year of the date of enactment of this Act, has satisfactorily completed a formal training course in the administration of polygraph examinations approved by the Secretary of Labor.

(b) All examiners meeting the requirements of subsection (a) of this section shall be required every 24 months to complete not less than 24 hours of continuing education approved by the Secretary of Labor regarding the use of polygraphs.

(c) A polygraph examiner shall not ask a question during a polygraph examination unless such question is in writing and has been reviewed with the examinee prior to such examination.

(d) A polygraph examiner shall not inquire into any of the following areas during preemployment or periodic employment examinations—

(1) Religious beliefs or affiliations;

(2) Beliefs or opinions regarding racial matters;

(3) Political beliefs or affiliations;

(4) Sexual preferences or activities, unless necessary to determine the employee's or prospective employee's qualifications to be employed by a nursing home, rest home, sanitarium, hospital, day nursery or similar child care facility, or such other institution or service in which the well-being of children, the aged, handicapped or infirm are entrusted to the care of such employees of such institutions or services; or

(b) Beliefs, affiliations, or opinions regarding unions or labor organizations.

(e) A polygraph examiner shall not perform more than 12 polygraph examinations in any one 24 hour period.

(f) A polygraph examiner shall use an instrument which records continuously, visually, permanently, and simultaneously indications of and changes in such individual's cardiovascular, respiratory, and galvanic skin response patterns as minimum instrumentation standards, and bases his or her evaluation or opinion of such individual's truthfulness or untruthfulness at least upon changes in the individual's physiological activity or reactivity in the cardiovascular, respiratory and galvanic skin response patterns of such individual. Such person may use an instrument which, in addition, also records other physiological patterns and may consider the additional physiological patterns in making his or her evaluation and rendering his or her opinion.

(g) All conclusions or opinions of the polygraph examiner arising from the polygraph examination shall:

(1) be in writing and shall be based solely on polygraph chart analysis;

(2) contain no information other than admissions and information relevant to the purpose and stated objectives of the examination, and to relevant issues and interpretation of the chart data; and,

(3) contain no recommendation regarding the prospective or continued employment of an examinee.

(h) A polygraph examiner shall preserve and keep on file for a minumum of two years after administering a polygraph examination all opinions, reports, charts, questions lists, and all other records relating to the polygraph examination.

On page 8, line 16, add the following new subsection:

(e) No polygraph examination shall be performed pursuant to this section and no administrative action shall be taken with respect to individual who is exempted from the prohibitions of section 2 of this Act by this section unless such examination is performed pursuant to sections 7 and 8 of this Act and the examiner has met the requirements of section 8 of this Act.

On page 8, renumber "SEC. 7" as "SEC. 9"; on page 9, renumber "SEC. 8" as "SEC. 10", and add the following new sections:

SEC. 7. POLYGRAPH EXAMINEES' BILL OF RIGHTS.

(a) Each prospective examinee shall be required to sign a notification prior to the beginning of each polygraph examination which contains the following information:

(1) That he or she is consenting voluntarily to take the examination;

(2) That the polygraph examiner shall not inquire into any of the following areas during preemployment or periodic examinations:

(i) Religious beliefs or affiliations;

(ii) Beliefs or opinions regarding racial matters;

(iii) Political beliefs or affiliations;

(iv) Sexual preferences or activities, unless necessary to determine the employee's or prospective employee's qualifications to be employed by a nursing home, rest home, sanitarium, hospital, day nursery or similar child care facility or such other institution or service in which the well-being of children, the aged, handicapped or infirm are entrusted to the care of such employees of such institutions or services; or

(v) Beliefs, affiliations, or opinions regarding unions or labor organizations

(3) That he or she may terminate the examination at any time;

(4) That, upon written request, he or she shall, for a reasonable fee, be provided with a written copy of any opinions ro conclusions rendered as a result of the examination;

(5) That the polygraph examiner is prohibited from asking the examinee any question during the examination that is not in writing and has not been reviewed with the examinee prior to the examination;

(6) That he or she has specific legal rights and remedies if the polygraph examination has not been conducted in accordance with the provisions of this Act; and,

(7) That, upon written request, he or she may receive a copy of the notification.

(b) A polygraph examiner shall, upon written request from the examinee, provide the examinee with a copy of all opinions or conclusions rendered in accordance with section 6 of this Act and signed by the poly-

graph examiner with respect to the examinee's polygraph examination.

SEC. 8. MINIMUM STANDARDS FOR POLYGRAPH EXAMINATIONS.

(a) No polygraph examination shall be conducted by a person other than one who—

(1) Is at least 21 years of age;

(2) Is a citizen of the United States;

(3) Is a person of good moral character; and,

(4) has complied with all required laws, rules and regulations enacted by the appropriate state and other polygraph licensing and regulatory authorities in the state in which the examination is to be conducted; and

(5)(A) has successfully completed a formal training course regarding the use of polygraphs that has been approved by the Secretary of Labor; and,

(B) has completed a polygraph examiner internship of at least six months in duration under the direct supervision of a polygraph examiner who has met the requirements of this section.

Notwithstanding the provisions of paragraph (5) of this section, a person shall be permitted to conduct a polygraph examination in accordance with the provisions of this Act if such person has met the requirements of subsections (1-4) of this section and—

(i) on the date of enactment of this Act such person holds a valid polygraph examiner's license issued by a State licensing authority, or

(ii) within a period of five years immediately preceding the date of enactment of this Act has conducted not less than 200 polygraph examinations, and, within one year of the date of enactment of this Act, has satisfactorily completed a formal training course in the administration of polygraph examinations approved by the Secretary of Labor.

(b) All examiners meeting the requirements of subsection (a) of this section shall be required every 24 months to complete not less than 24 hours of continuing education approved by the Secretary of Labor regarding the use of polygraphs.

(c) A polygraph examiner shall not ask a question during a polygraph examination unless such question is in writing and has been reviewed with the examinee prior to such examination.

(d) A polygraph examiner shall not inquire into any of the following areas during the preemployment of periodic employment examinations—

(1) Religous beliefs or affiliations;

(2) Beliefs or opinions regarding racial matters;

(3) Political beliefs or affiliations;

(4) Sexual preferences or activities, unless necessary to determine the employee's or prospective employee's qualifications to be employed by a nursing home, rest home, sanitarium, hospital, day nursery or similar child care facility, or such other institution or service in which the well-being of children, the aged, handicapped or infirm are entrusted to the care of such employees of such institutions or services; or

(5) Beliefs, affiliations, or opinions regarding unions or labor organizations.

(e) A polygraph examiner shall not perform more than 12 polygraph examinations in any one 24 hour period.

(f) A polygraph examiner shall use an instrument which records continuously, visually, permanently, and simultaneously indications of and changes in such individual's cardiovascular, respiratory, and galvanic skin response patterns as minimum instrumentation standards, and bases his or her evaluation or opinion of such individual's truthfulness or untruthfulness at least upon changes in the individual's physiological activity or reactivity in the cardiovascular, respiratory and galvanic skin response patterns of such individual. Such person may use an instrument which, in addition, also records other physiological patterns and may consider the additional physiological patterns in making his or her evaluation and rendering his or her opinion.

(g) All conclusions or opinions of the polygraph examiner arising from the polygraph examination shall:

(1) be in writing and shall be based solely on polygraph chart analysis;

(2) contain no information other than admissions and information relevant to the purpose and stated objectives of the examination, and to relevant issues and interpretation of the chart data; and,

(3) contain no recommendation regarding the prospective or continued employment of an examinee.

(h) A polygraph examiner shall preserve and keep on file for a minimum of two years after administering a polygraph examination all opinions, reports, charts, questions lists, and all other records relating to the polygraph examination.

—(22) Beginning on page 8, line 18, strike all through line 24 and insert in lieu thereof the following new subsection:

(1) The term "polygraph examination" includes—

(a) any examination involving the use of any polygraph, deceptograph, voice stress analyzer, psychological stress evaluator, or any other similar device (whether mechanical, electrical, or chemical) which is used, or the results of which are used, for the purpose of detecting deception or verifying the truth of statements; and,

(b) any interview or examination of any employee or prospective employee that uses or is conducted with the intention of using any instrumentation defined in this Act, regardless of nomenclature or terms used in reporting to an employer the findings, opinions or statements made in or results of such interview or examination.

—(23) On page 8, line 18, strike all through line 24 of that page, insert in lieu thereof the following new subsections, and renumber the remaining subsections accordingly:

(1) The term "polygraph examination" includes—

(a) any examination involving the use of any polygraph, deceptograph, voice stress analyzer, psychological stress evaluator, or any other similar device (whether mechanical, electrical, or chemical) which is used, or the results of which are used, for the purpose of detecting deception or verifying the truth of statements; and,

(b) any interview or examination of any employee or prospective employee that uses or is conducted with the intention of using any instrumentation defined in this Act, regardless of nomenclature or terms used in reporting to an employer the findings, opinions or statements made in or results of such interview or examination.

(2) The term "polygraph examiner" includes any person who conducts a polygraph examination as defined in subsection (1) of this section.

—(24) Beginning page 8, line 16, add the following new subsection:

(e) Disclosure of Information.—A person shall not disclose information obtained during a polygraph examination except as provided in this subsection.

(1) A polygraph examiner, polygraph trainee or employee of a polygraph examiner may disclose information acquired from a polygraph examination to:

(A) The examinee or any other person specifically designated in writing by the examinee; and

(B) The person, firm, corporation, partnership, business entity, or governmental agency that requested the examination.

(2) A person or an employee of the person for whom a polygraph examination is conducted may disclose information from the examination to a person described in subsection (1) of this section.

—(25) Beginning page 5, line 17, strike all through page 6, line 13 and insert in lieu thereof the following:

(b) Remedial Actions.—An employee or applicant for employment seeking remedial relief from a violation of this Act shall be provided such relief in accordance with the power, remedies and procedures provided in sections 11(b), 16 and 17 of the Fair Labor Standards Act of 1938 (29 U.S.C. 211(b), 216 and 217). Amounts owing to a person as a result of a violation of this Act shall be deemed to be unpaid minimum wages or unpaid overtime compensation for purposes of sections 16 and 17 of the Fair Labor Standards Act of 1938 (29 U.S.C. 216, 217). The remedies provided by this Act shall be exclusive and shall not be construed to permit a cause of action against any other party.

—(26) Beginning on page 5, line 17, strike all through page 6, line 13 and insert in lieu thereof the following:

(b) Remedial Actions.—An employee or applicant for employment seeking remedial relief from a violation of this Act shall be provided such relief in accordance with the powers, remedies and procedures provided in sections 11(b), 16 and 17 of the Fair Labor Standards Act of 1938 (29 U.S.C. 211(b), 216 adn 217). Amounts owing to a person as a result of a violation of this Act shall be deemed to be unpaid minimum wages or unpaid overtime compensation for purposes of sections 16 and 17 of the Fair Labor Standards Act of 1938 (29 U.S.C. 216, 217).

—(27) On page 8, line 16, add the following new subsection:

(e) Exemption for Child Care Facilities.—This Act shall not prohibit the use of a polygraph test on an employee or a prospective employee of a child care facility or such other institution of service in which the well-being of children is entrusted to the care of such employees of such institutions of service.

—(28) On page 8, line 16, add the following subsection:

(e) Exemption for Hospital Facilities.—This Act shall not prohibit the use of a polygraph test on an employee or prospective employee of a hospital, sanitarium or such other institution of service in which the well-being of the infirm is entrusted to the care of such employees of such institutions of service.

—(29) On page 8, line 16, add the following new subsection:

(e) Exemption for Nursing Home Facilities.—This Act shall not prohibit the use of a polygraph test on an employee or prospective employee of a nursing home, rest home, or such other institution of service in which the well-being of the aged or handicapped are entrusted to the care of such employees of such institutions of service.

—(30) On page 8, line 16, add the following new subsection:

(e) Exemption for Hospice Facilities.—This Act shall not prohibit the use of a polygraph test on an employee or prospective employee of a hospice or such other institution of service in which the care of the terminally ill is entrusted to the care of employees of private nursing services.

—(31) On page 8, line 16, add the following new subsection:

(e) Exemption for Private Nursing Services.—This Act shall not prohibit the use of a polygraph test on an employee or prospective employee of a private nursing service in which the well-being of the infirm or aged is entrusted to the care of such employees of such institutions of service.

—(32) On page 8, line 16, add the following new subsection:

(e) Exemption for Psychiatric Facilities.—This Act shall not prohibit the use of a polygraph test on prospective or current employees of psychiatric facilities or such other institutions of service in which the well-being of the mentally infirm is entrusted to the care of such employees of such institutions of service.

—(33) On page 8, line 16, add the following new subsection:

(e) Exemption for Drug Treatment Centers.—This Act shall not prohibit the use of a polygraph test on an employee or prospective employee of a drug treatment center or such other institution of service in which the well-being of individuals addicted to alcohol and/or controlled substances is entrusted to the care of such employees of such institutions of service.

—(34) On page 8, line 16, add the following new subsection:

(e) Exemption for Outpatient Clinics.—This Act shall not prohibit the use of a polygraph test on an employee or a prospective employee of an out-patient clinic in which the well-being of the injured and/or infirm is entrusted to the care of such employees.

—(35) On page 8, line 16, add the following new subsection:

(e) Exemption for Private Nursery School Facilities.—This Act shall not prohibit the use of a polygraph test on an employee or prospective employee of a private nursery school facility or such other institution of service in which the well-being and teaching of children is entrusted to the care of such employees of such institutions of service.

—(36) On page 8, line 16, add the following new subsection:

(e) Exemption for Private Elementary Schools.—This Act shall not prohibit the use of a polygraph test on an employee or prospective employee of a private elementary school or such other private institution of learning in which the teaching and care of young children is entrusted to employees of such institutions of learning.

—(37) On page 8, line 16, add the following new subsection:

(e) Exemption for Private Secondary Schools.—This Act shall not prohibit the use of a polygraph test on employee or prospective employee of a private secondary school or such other private institution of learning in which the teaching and care of minors is entrusted to employees of such institutions of learning.

—(38) On page 8, line 16, add the following new subsection:

(e) Exemption for Preemployment Screening by Jewelers.—This Act shall not prohibit the use of a polygraph examination for purposes of pre-employment screening of prospective employees of establishments engaged in the wholesale or retail trade of jewelry.

—(39) On page 8, line 16, add the following new subsection:

(e) Exemption for Preemployment Screening by Retail Drug Stores.—This Act shall not prohibit the use of a polygraph examination for purposes of pre-employment screening of prospective employees of establishments engaged in the sale or handling of controlled substances listed in Schedule I, II, III, or IV pursaunt to Section 202 of the Controlled Substances Act (21 U.S.C. 812).

—(40) Section 7. Definitions: Page 9, beginning on line 2, strike out all that follows through line 4 and insert in lieu thereof "or entity that employs 500 or more full-time employees."

—(41) On page 8, line 16, add the following new subsection:

(e) Exemption for Child Care Facilities.—This Act shall not prohibit the use of a polygraph test on a prospective employee of a child care facility or such other institution of service in which the well-being of children in entrusted to the care of such employees of such institutions of service.

—(42) On page 8, line 16, add the following subsection:

(e) Exemption for Hospital Facilities.—This Act shall not prohibit the use of a polygraph test on a prospective employee of a hospital, sanitarium or such other institution of service in which the well-being of the infirm is entrusted to the care of such employees of such institutions of service.

—(43) On page 8, line 16, add the following new subsection:

(e) Exemption for Nursing Home Facilities.—This Act shall not prohibit the use of a polygraph test on a prospective employee of a nursing home, rest home, or such other institution of service in which the well-being of the aged or handicapped are entrusted to the care of such employees of such institutions of service.

—(44) On page 8, line 16, add the following new subsection:

(e) Exemption for Hospice Facilities.—This Act shall not prohibit the use of a polygraph test on a prospective employee of a hospice or such other institution of service in which the care of the terminally ill is entrusted to the care of such employees of such institutions of service.

—(45) On page 8, line 16, add the following new subsection:

(e) Exemption for Private Nursing Services.—This Act shall not prohibit the use of a polygraph test on a prospective employee of a private nursing service in which the well-being of the infirm or aged is entrusted to the care of such employees of such institutions of services.

—(46) On page 8, line 16, add the following new subsection:

(e) Exemption for Psychiatric Facilities.—This Act shall not prohibit the use of a polygraph test on a prospective employee of psychiatric facility or such other institution of service in which the well-being of the mentally infirm is entrusted to the care of such employees of such institutions of service.

—(47) On page 8, line 16, add the following new subsection:

(e) Exemption for Drug Treatment Centers.—This Act shall not prohibit the use of a polygraph test on a prospective employee of a drug treatment center or such other institution of service in which the well-being of individuals addicted to alcohol and/or controlled substances is entrusted to the care of such employees of such institutions of service.

—(48) On page 8, line 16, add the following new subsection:

(e) Exemption for Out-Patient Clinics.—This Act shall not prohibit the use of a polygraph test on a prospective employee of an out-patient clinic in which the well-being of the injured and/or infirm is entrusted to the care of such employees.

—(49) On page 8, line 16, add the following new subsection:

(e) Exemption for Private Nursery School Facilities.—This Act shall not prohibit the use of a polygraph test on a prospective employee of a private nursery school facility or such other institution of service in which the well-being and teaching of children is entrusted to the care of such employees of such institutions of service.

—(50) Section 5. Enforcement Provisions: Page 5, line 6, strike out "$10,000" and insert in lieu thereof "$100".

—(51) Section 5. Enforcement Provisions: Page 5, beginning on line 3, strike out section 5 and all that follows through line 13 on page 6, and redesignate the succeeding sections (and references thereto) accordingly.

—(52) Section 5. Enforcement Provisions: Page 5, beginning on line 17, strike out all that follows through line 22.

—(53) Section 5. Enforcement Provisions: Page 5, beginning on line 23, strike out all that follows through line 13 on page 6.

—(54) Section 5. Enforcement Provisions: Page 5, beginning on line 17, strike out all that follows through line 13 on page 6, and insert in lieu thereof the following:

(b) Exclusive Remedy.—The remedies provided by this Act shall be exclusive and shall not be construed to permit a cause of action against any other party.

—(55) Section 5. Enforcement Provisions: Page 5, line 6, strike out "$10,000" and insert in lieu thereof "1,000".

Page 5, beginning on line 17, strike out all that follows through line 13 on page 6, and insert in lieu thereof the following:

(b) Exclusive Remedy.—The remedies provided by this Act shall be exclusive and shall not be construed to permit a cause of action against any other party.

—(56) Section 5. Enforcement Provisions: Page 5, beginning on line 4, strike out all through line 17, and redesignate the subsequent subsections (and any references thereto) accordingly.

—(57) Section 5. Enforcement Provisions: Page 5, beginning on line 4, strike out all through line 22, and redesignate the subsequent subsection (and any references thereto) accordingly.

—(58) Section 5. Enforcement Provisions: Page 5, line 5, strike out "whoever violates" and insert in lieu thereof "a person who has not previously been determined to have violated".

—(59) Section 5. Enforcement Provisions: Page 5, line 5, strike out "whoever violates" and insert in lieu thereof "a person who has not previously been determined to have violated".

Page 5, beginning on line 17, strike out all that follows through line 13 on page 6.

—(60) Section 5. Enforcement Provisions: Page 5, line 5, strike out "whoever violates" and insert in lieu thereof "a person who has not previously been determined to have violated".

Page 5, beginning on line 17, strike out all that follows through line 13 on page 6, and insert in lieu thereof the following:

(b) **Exclusive Remedy**.—The remedies provided by this Act shall be exclusive and shall not be construed to permit a cause of action against any other party.

—(61) Section 5. Enforcement Provisions: Page 6, line 4, after "lost" strike out all through line 5 and insert in lieu thereof a period.

—(62) Section 5. Enforcement Provisions: Page 6, line 11, strike out "shall" and insert in lieu thereof "may".

—(63) Section 5. Enforcement Provisions: Page 6, beginning on line 8, after the word "jurisdiction" strike out all that follows through line 10 and insert in lieu thereof a period.

—(64) Section 6. Exemptions: Page 6, beginning on line 15, strike out all that follows through line 19, and redesignate each subsequent subsection (and any references thereto) accordingly.

—(65) Section 6. Exemptions: Page 6, line 17, strike out "the United States government,"

—(66) Section 6. Exemptions: Page 6, line 15, strike out "No".

Page 6, line 16, strike out "not".

—(67) Section 8. Effective Date: Page 9, line 10, strike out "six" and insert in lieu thereof "twelve".

—(68) Section 8. Effective Date: Page 9, line 10, strike out "six" and insert in lieu thereof "eighteen".

—(69) Section 8. Effective Date: Page 9, line 10, strike out "six" and insert in lieu thereof "twenty-four".

—(70) Section 8. Effective Date: Page 9, line 10, strike out "six" and insert in lieu thereof "thirty-six".

—(71) Section 8. Effective Date: Page 9, line 9, strike out "on" and insert in lieu thereof "six months after" and strike out all that follows after the word "enactment" and insert in lieu thereof a period.

—(72) Section 8. Effective Date: Page 9, line 9, strike out "on" and insert in lieu thereof "twenty-four months after".

Page 9, line 10, strike out "six" and insert in lieu thereof "thirty".

—(73) Section 8. Effective Date: Page 9, line 9, strike out "on" and insert in lieu thereof "twelve months after".

Page 9, line 10, strike out "six" and insert in lieu thereof "eighteen".

—(74) Section 8. Effective Date: Page 9, line 9, strike out "on" and insert in lieu thereof "thirty-six months after".

Page 9, line 10, strike out "six" and insert in lieu thereof "forty-two".

—(75) Section 7. Definitions: Page 8, line 18, insert the following new definition and redesignates the subsequent definitions accordingly:

(1) The term "employee" means a person that is employed by an employer in full-time employment for not less than 2000 hours during the course of a calendar year.

—(76) Section 7. Definitions: Page 8, line 18, insert the following new definition and redesignates the subsequent definitions accordingly:

(1) The term "prospective employee" means a person who is being considered for a position by an employer which will involve not less than 2,000 hours full-time employment during the course of a calendar year.

—(77) Section 7. Definitions: Page 9, beginning on line 2, strike out all that follows through line 4 and insert in lieu thereof, "or entity that employs 100 or more full-time employees."

—(78) Section 9. Separability of Provisions: Page 9, beginning on line 12 insert the following new section:

SEC. 9. SEPARABILITY OF PROVISIONS.

If any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of this Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

—(79) Section 5. Enforcement Provisions: Page 6, line 11, after "shall" insert the word "not."

—(80) Section 5. Enforcement Provisions: Page 6, line 13, strike out ", including attorneys' fees" and insert in lieu thereof a period.

—(81) Section 7. Definitions: Page 8, line 18, insert the following new definition and redesignate the subsequent definitions accordingly:

(1) The term "employee" means a person that is employed by an employer in full-time employment for not less than 2,000 hours during the course of a calendar year, not including overtime.

—(82) Section 7. Definitions: Page 8, line 18, insert the following new definition and redesignate the subsequent definitions accordingly:

(1) The term "prospective employee" means a person who is being considered for a position by an employer which will involve not less than 2,000 hours full-time employment during the course of a calendar year, not including overtime.

—(83) Section 7. Definitions: Page 8, line 18, insert the following new definition and redesignate the subsequent definitions accordingly:

(1) The term "employee" means a person that is employed by an employer in full-time employment for not less than 2,250 hours during the course of a calendar year.

—(84) Section 7. Definitions: Page 8, line 18, insert the following new definition and redesignate the subsequent definitions accordingly:

(1) The term "prospective employee" means a person who is being considered for a position by an employer which will involve not less than 2,250 hours full-time employment during the course of a calendar year.

(85) Section 4. Authority of the Secretary of Labor: Page 4, line 14, after "(1)" insert the following: "in accordance with chapter 5 of Title 5 of the United States Code,".

(86) Section 4. Authority of the Secretary of Labor: Page 4, lines 3 and 4, strike out "and require the keeping of records necessary or".

—(87) Section 4. Authority of the Secretary of Labor: Page 4, beginning on line 24, strike out all that follows through line 2 on page 5.

—(88) Section 3. Notice of Protection: Page 4, line 11, insert after the period the following new sentence: "Failure by an employer to post or otherwise display such notice in accordance with this Section shall be considered to be a de minimis violation and shall not be subject to the enforcement provisions of Section 5 of this Act."

—(89) Section 5. Enforcement Provisions: Page 5, line 17, insert the following new subsection and designate each subsequent subsection (and any references thereto) accordingly:

(b) **De Minimis Violations**.—Failure to comply with the provisions of Section 3 of this Act shall be considered to be a de minimis violation and shall not be subject to the provisions of this Section.

—(90) Section 2. Prohibitions on Lie Detector Use: Page 2, line 8, after the word "commerce" insert the following: ", if done with the specific intent to deprive a person of his or her fair opportunity to employment".

—(91) Section 2. Prohibitions on Lie Detector Use: Page 3, line 3, strike out "or indirectly,".

—(92) Section 2. Prohibitions on Lie Detector Use: Page 4, line 1, strike out ", on".

Page 4, line 2, strike out "behalf of himself or others,".

—(93) On page 6, line 19, strike the period at the end of the sentence and insert in lieu thereof a semicolon, and add the following proviso: "*Provided*, That a polygraph examiner shall, upon written request from the examinee, provide the examinee with a copy of all opinions or conclusions rendered as a result of any polygraph examination conducted under this subsection; and provided further that no action may be taken by an employer regarding the employment status of an employee or an applicant for employment that is based solely on opinions or conclusions of a polygraph examiner reached by analysis of a polygraph chart produced during the examination of the employee or applicant for employment."

—(94) On page 6, line 19, strike the period at the end of the sentence and insert in lieu thereof a semicolon, and add the following proviso: "*Provided*, That a polygraph examiner shall, upon written request from the examinee, provide the examinee with a copy of all opinions or conclusions rendered as a result of any polygraph examination conducted under this subsection."

—(95) On page 6, line 19, strike the period at the end of the sentence and insert in lieu thereof a semicolon, and add the following proviso: "*Provided*, That no action may be taken by an employer regarding the employment status of an employee or an applicant for employment that is based solely on opinions or conclusions of a polygraph examiner reached by analysis of a polygraph chart produced during the examination of the employee or applicant for employment."

—(96) On page 6, line 19, strike the period at the end of the sentence and insert in lieu thereof a semicolon, and add the following proviso:

Provided, That in conducting a polygraph examination under this subsection, a polygraph examiner shall not inquire into any of the following areas—

(1) Religious beliefs or affiliations;

(2) Beliefs or opinions regarding racial matters;

(3) Political beliefs or affiliations;

(4) Sexual preferences or activities, unless necessary to determine the employee's or prospective employee's qualifications to be employed by a nursing home, rest home, sanitarium, hospital, day nursery or similar child care facility, or such other institution or service in which the well-being of children, the aged, handicapped or infirm are entrusted to the care of such employees of such institutions or services; or

(5) Beliefs, affiliations, or opinions regarding unions or labor organizations.

—(97) On page 6, line 19, strike the period at the end of the sentence and insert in lieu thereof a semicolon, and add the following proviso:

Provided, That a polygraph examiner shall, upon written request from the examinee, provide the examinee with a copy of all opinions or conclusions rendered as a result of any polygraph examination conducted under this subsection; and provided further that no action may be taken by an employer regarding the employment status of an employee or an applicant for employment that is based solely an opinions or conclusions of a polygraph examiner reached by analysis of a polygraph chart produced during the examination of the employee or applicant for employment; and provided further that in conducting a polygraph examination under this subsection, a polygraph examiner shall not inquire into any of the following areas—

(1) Religious beliefs or affiliations;

(2) Beliefs or opinions regarding racial matters;

(3) Political beliefs or affiliations;

(4) Sexual preferences or activities, unless necessary to determine the employee's or prospective employee's qualifications to be employed by a nursing home, rest home, sanitarium, hospital, day nursery or similar child care facility, or such other institution or service in which the well-being of children, the aged, handicapped or infirm are entrusted to the care of such employees of such institutions or services; or

(5) Beliefs, affiliations, or opinions regarding unions or labor organizations.

—(98) On page 6, line 19, strike the period at the end of the sentence and insert in lieu thereof a semicolon, and add the following proviso:

Provided, That no action may be taken by an employer regarding the employment status of an employee or an applicant for employment that is based solely on opinions or conclusions of a polygraph examiner reached by analysis of a polygraph chart produced during the examination of the employee or applicant for employment; and provided further that in conducting a polygraph examination under this subsection, a polygraph examiner shall not inquire into any of the following areas—

(1) Religious beliefs or affiliations;

(2) Beliefs or opinions regarding racial matters;

(3) Political beliefs or affiliations;

(4) Sexual preferences or activities, unless necessary to determine the employee's or prospective employee's qualifications to be employed by a nursing home, rest home, sanitarium, hospital, day nursery or similar child care facility, or such other institution or service in which the well-being of children, the aged, handicapped or infirm are entrusted to the care of such employees of such institutions or services; or

(5) Beliefs, affiliations, or opinions regarding unions or labor organizations.

—(99) On page 6, line 19, strike the period at the end of the sentence and insert in lieu thereof a semicolon, and add the following proviso:

Provided, That, a polygraph examiner shall, upon written request from the examinee, provide the examinee with a copy of all opinions or conclusions rendered as a result of any polygraph examination conducted under this subsection; and provided further that in conducting a polygraph examination under this subsection, a polygraph examiner shall not inquire into any of the following areas—

(1) Religious beliefs or affiliations;

(2) Beliefs or opinions regarding racial matters;

(3) Political beliefs or affiliations;

(4) Sexual preferences or activities, unless necessary to determine the employee's or prospective employee's qualifications to be employed by a nursing home, rest home, sanitarium, hospital, day nursery or similar child care facility, or such other institution or service in which the well-being of children, the aged, handicapped or infirm are entrusted to the care of such employees of such institutions or services; or

(5) Beliefs, affiliations, or opinions regarding unions or labor organizations.

—(100) On page 6, line 19, strike the period at the end of the sentence and insert in lieu thereof a semicolon, and add the following proviso:

Provided, That all conclusions or opinions of the polygraph examiner arising from a polygraph examination conducted under this section shall:

(1) be in writing and shall be based solely on polygraph chart analysis;

(2) contain no information other than admissions and information relevant to the purpose and stated objectives of the examination, and to relevant issues and interpretation of the chart data; and,

(3) contain no recommendation regarding the prospective or continued employment of an examine.

EXTENSIONS OF REMARKS

AS FARMS GROW FEW, TOWNS GO TO SEED

HON. THOMAS A. DASCHLE

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. DASCHLE. Mr. Speaker, there are many who might believe that the financial crisis facing the agricultural economy effects only farmers and ranchers. As we are realizing throughout South Dakota and the Midwest, that is not the case. The economic fabric of entire communities is reeling from the blows of the agriculture crisis.

A recent Chicago Tribune article written by Christopher Drew documented the disastrous effects of the agricultural crisis on one small South Dakota community, Gregory, SD. Stores are boarding up their windows, the school system has lost both students and teachers, and city sales tax collections have dropped by 15 percent in the first 6 months of this year.

Many of my colleagues have joined me in urging a new course for our agricultural policy. In doing so we have not only stated the case of the family farmer, but also highlighted the effect of his demise on rural States throughout the Midwest. There are literally thousands of Gregorys throughout the Midwest, all of whom are looking to this Congress and the administration for the solution to the agriculture crisis. The time for providing that solution is long overdue.

I insert the Chicago Tribune article in the RECORD.

[From the Chicago Tribune, Oct. 20, 1985]

AS FARMS GROW FEW, TOWNS GO TO SEED

(By Christopher Drew)

GREGORY, SD.—Back in the 1960s, this little farm town had three car dealers, four farm equipment stores and so many shoppers that it invited people to park in a line down the center of Main Street.

Even so, "if you came looking for a space at 10 o'clock on a Saturday morning, you were out of luck," recalled Ronald Sievers, the owner of Skip's Clothing, a men's shop.

Youngsters among Gregory's 1,500 residents might find that hard to believe.

The equipment dealers and the center-line parking strip disappeared in the 1970s, along with Main Street's traffic light, as a long-term consolidation in agriculture began to sap the town's vitality. Since then, the worst slump in the farm economy since the 1930s has accelerated the losses.

And with no end to the crisis in sight, people here and in many other Midwestern towns are preparing for a desperate struggle to keep their communities from withering away.

Gregory's three-block main shopping district already has taken on a drab, dog-eared look. Six storefronts are vacant, and Skip's hit by a sharp decline in sales and high debt from an expansion a few years ago, is about to become an unlucky No. 7.

The town's last auto dealership, Tilton Ford, may close if the wife of its recently deceased owner can't find a buyer. A Cheverolet showroom with dwindling sales shut its doors in similar circumstances last year, shortly after Jelinek Chrysler decided to quite selling new cars and focus only on repairs.

Local government also is starting to feel the crunch.

The merchants' problems translated into a 15 percent drop in city sales-tax collections in the first half of 1985. Falling property values and a growing exodus of townspeople and area farmers seem certain to cut into county tax revenues and force renewed cutbacks in schools and community services, a dismal process that already has started in a number of smaller Midwestern towns.

"I hate to be a pessimist," said Ken Dooley, who manages Gregory's farm-supply cooperative, "but I'm afraid this town is going downhill pretty fast."

Mike Schwinler, who is trying to decide whether to rebuild his five-and-dime store that burned on Main Street in June, added: "My heart tells me to reopen, but my pocketbook is telling me it's not so sure."

Schwinler's concerns go straight to the heart of what is causing so much despair in rural communities these days as the economic crisis adds fuel to a decades-old trend toward fewer and larger farms.

"The history on my store was very good," he said, with sales bolstered by the hundreds of midsize grain and livestock farmers in this picturesque area near the Missouri River, which divides the state's southeastern grasslands from the Black Hills to the west.

And as far as a place to live, he declared, the small-town atmosphere, with its emphasis on traditional virtues, "is paradise to me."

But, Schwinler said, "I'm afraid, the way things are going, that in 10 years we might have just 25 farmers farming all of Gregory County, and I might be left with just 25 customers."

Many economists and rural sociologists say that's not as much of an exaggeration as it sounds.

Kenneth Stone, as economist at Iowa State University, has found that Iowa's 830 towns and fewer than 2,500 people suffered heavy losses of retail sales over the last 15 years. The worst declines, up to 14 percent in the smallest locales, occurred last year.

Stone blamed much of the dropoff on the shrinking population in rural trade areas, due largely to the mechanization of farming, and on the growth of shopping malls in nearby cities. Noting that Main Street remains the hub of activity in most small towns, he said the sales slide has had a "very debilitating" effect on life in the communities.

In a much broader study of changes in 27 rural Nebraska counties since World War II, economic consultant Larry Swanson also found a direct link between a steady decline in the number of farmers and a loss of vibrancy in nearby towns.

Looking ahead to 1990, Swanson projected that a loss of one-third of the remaining farms—which many economists say is possible—would result in an additional 25 percent decline in the counties' total population, a 39 percent drop in school enrollment and the failure of one out of three retail stores.

Swanson, who grew up in a small Nebraska town, also said that the recent slide in the farm economy, characterized by falling commodity prices and massive farmer debt loads, has upset "a delicate transition process" among generations of farmers and rural shopkeepers.

This process began in the mid-1970's, as the generation that got its start after World War II neared retirement, he said. At the time, a surge in farm exports helped draw some of these people's children and grandchildren home, and this contributed to a small but widely noted resurgence in populatin in Midwest."

People 65 and older now make up 30 to 40 percent of most towns' populations. Consequently, he said, "There is just not the same feeling when you go into those communities. There is not the same level of activity."

To reverse such damaging trends, Swanson and a number of other experts are calling for a major shift away from farm and many farm towns.

But younger generations started to leave again after exports collapsed in the early 1980s. One dismaying result, according to Swanson, has been "the growth of the retirement-village phenomenon in the tax policies that encourage farm consolidation and what he calls the "depopulation" of rural America.

But that seems unlikely. Other economists and Reagan administration officials argue just as earnestly that letting more farmers fail would help solve chronic overproduction problems and free more resources for use in stronger parts of the economy.

Not long ago, most of the largely conservative populace in towns like Gregory would have tended to agree with the need for such strict adherence to free-market philosophy.

But that view is starting to sound hollow to many here, as civic boosters grapple with the vexing problem of how to replenish the town's aging leadership ranks.

Mayor Bob Slade lamented that deaths and retirements were the "common denominator" behind most of the farm-equipment and auto dealership closings. A family hardware store closed on Main Street after the founder's grandson, Gregg Drees, decided he could "probably make better money" managing a chain-owned grocery on the edge of town.

Part of the problem is a tradition of fierce retail competition dating almost to Gregory's founding near the turn of the century on land released from a Sioux Indian reservation.

Having multiple outlets for most types of goods was a powerful drawing card that enabled the town to keep growing as the country's population sank in the 1950s and 1960s.

But some believe that the profit-sapping rivalry among drugstores, restaurants and

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member of the Senate on the floor.
Boldface type indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

numerous hardware outlets probably helped isolate Gregory from the "rural renaissance" of the 1970s and contributed to a slide in its population to 1,500 from 1,750 during the decade.

Now, the competition is forcing most businesses to hold frequent promotions, ranging from an anniversary sale at Partner's Clothing and Dry Goods to Mexican nights at Olson's Bar. And the economic stress is starting to take its toll on townspeople as well as farmers.

"As the tensions have mounted on people, alcohol abuse, child abuse, those kind of things, have increased," said Steven Ziebarth, pastor of the United Methodist Church.

Still, nobody expects the town to dry up completely, and a strong current of community spirit remains evident in the large crowds that turn out for high school sports and band events and in a recent commitment by business leaders to try to diversify the economy.

But Gregory's remote location makes its chances for attracting industry bleak. And some fear that a 1986 reassessment of declining local property values, coupled with a likely increase in tax-payment delinquencies by troubled farmers, could bring on a new era of cutbacks in schools and community services.

Declining enrollments led to consolidation of many rural schools and public-works cutbacks in the 1950s and 1960s. But after a number of less tumultuous years, schools recently closed in some smaller towns in Kansas, and one town in Missouri even had to close its jail.

So far, however, Gregory has gotten by with relatively minor cuts, such as letting 3 of the school system's 43 teachers go. But, said School Supt. David Gellerman, "If they were to come out and reassess the land at lower levels, that would really hurt us."

CAUTIOUS OPTIMISM FOR GUATEMALA

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. GARCIA. **Mr. Speaker, this past Sunday, Guatemala held a runoff election between its two Presidential candidates. I want to congratulate the winner, Mr. Marco Vincio Cerezo Arévalo on his hard fought victory. I wish him well.**

I am submitting for the RECORD two excellent articles on Mr. Cerezo and the election process from yesterday's New York Times, so that my colleagues may become better acquainted with the new Guatemalan President and his nation.

[From the New York Times, Dec. 10, 1985]

HE'S POISON TO GENERALS—MARCO VINICIO CEREZO

GUATEMALA, Dec. 9.—Marco Vinicio Cerezo Arévalo, who emerged today as the overwhelming civilian winner of Guatemala's presidential election, carries the hopes of his countrymen as no leader has in more than three decades.

Mr. Cerezo is an independent-minded liberal in a country long dominated by rightist military officers. In an environment of ruthless terror, he has not only survived, but has built the most effective nationwide political organization the country has seen in years.

At least three attempts have been made to kill Mr. Cerezo, all during the Government of Gen. Fernando Romeo Lucas Garcia under whose rule death squads claimed thousands of lives.

In one attack, in January 1980, Mr. Cerezo—the name is pronounced seh-RAY-soh—and his bodyguards fought a 10-minute gun battle with snipers who opened fire as he stepped from his party office. Two people were killed, one of them a luckless pedestrian, and Mr. Cerezo later counted 37 bullet holes in the armored jeep behind which he took cover.

ENEMIES STORM HOTEL

Another assassination attempt came when a large squad of uniformed policemen stormed a hotel where Mr. Cerezo was staying in downtown Guatemala City. The third was a bazooka assault against his father's home, where he was temporarily living. Mr. Cerezo estimates he has lived in 25 different houses in the last five years.

After the first attempt on his life, Mr. Cerezo sent his wife and four children out of the country. They have lived on the outskirts of Washington since 1980.

Political terror during the Lucas Government took the lives of the country's two leading civilian politicians, former Foreign Minister Alberto Fuentes Mohr and Manuel Colom Argueta, a former Mayor of the capital, and many Guatemalans believe that if either had lived Mr. Cerezo might not have reached the presidency.

"That is partly true, since those men were older and more widely known that I was," Mr. Cerezo said recently. "But bear in mind that if Guatemala was a normal country, both of them would have been elected and would have served out their terms by now, and I would probably be running this year in any case."

Although he has been a leading activist in the Christian Democratic Party since his student days, Mr. Cerezo acknowledges that he is not bound by party orthodoxy. Diplomats and others here place him in the party's left wing, and he says he was attracted to the Christian Democrats "in part because they don't have a rigid political doctrine."

As a former secretary of organization for the Christian Democrats, Mr. Cerezo has traveled widely in every region of Guatemala. Although five years ago he was barely known to the public, today he is the key figure in what will inevitably be a slow and torturous trek toward democracy.

Mr. Cerezo was born in the capital on Dec. 26, 1942. His father, Marco Vinicio Cerezo Sierra, was a lawyer who went on to become a member of the Guatemalan Supreme Court. An uncle, Celso Cerezo, was the youngest member of Guatemala's first freely elected Congress in the 1940's, winning election at the age of 21. A grandfather was a political activist who was poisoned at the age of 36, apparently for opposing the dictator Jorge Ubico, and a great-grandfather was wounded while fighting to overthrow an earlier dictator, Manuel Estrada Cabrera, in 1921.

Guatemala lived through 10 years of democracy between 1944 and 1954, until a coup planned by American officials re-established military rule. At the time, the United States feared the leftward drift of the elected Guatemalan Government.

COUP "A CRUCIAL MOMENT"

Mr. Cerezo said in an interview that the coup, which took place when he was not yet 12 years old, was "a crucial moment in my life."

"I remember sitting in a tree watching the rebel planes fly over," he said. "I thought to myself that this was going to mean very bad times for our family and for Guatemala. That was when I decided it was the right thing to dedicate myself to the cause of democracy."

After the coup, Mr. Cerezo's father was dismissed from his post on the Supreme Court and spent several months in jail.

Mr. Cerezo began his rise to prominence while he was in law school at the University of San Carlos here. At one protest demonstration he attended, a female law student, Raquel Blandon, burned a copy of a controversial electoral law in front of the National Palace. As police moved in, Mr. Cerezo helped rescue her. They became friends and were married in 1965.

According to Mr. Cerezo's associates, his wife is a brilliant thinkers, eclipsing Mr. Cerezo himself. Enemies say she is a leftist who strongly influences her husband.

When one of Mr. Cerezo's friends asked him recently what he would do on his first day in office, he replied with a broad smile, "Celebrate!" But he remains acutely aware of the dangers he faces as a civilian trying to alter the course of his country's history while archconservative businessmen, large landowners and military officers strive to maintain the status quo. He has carried a pistol for years, and says he will wear it throughout his presidency.

"The only way they are going to get me out of the palace is to carry me out dead," he said.

CENTRIST WINS BIG IN GUATEMALA VOTE

GUATEMALA, Dec. 9.—The Christian Democratic leader, Marco Vinicio Cerezo Arevalo, swept to election today as Guatemala's first civilian president in 15 years.

Final results announced by the Supreme Electoral Tribunal gave Mr. Cerezo 68 percent of the valid votes to 32 percent for his opponent, Jorge Carpio Nicolle of the National Union of the Center.

Mr. Cerezo was officially reported to have polled 1,133,517 votes, more than any other candidate in Guatemalan history. An estimated 73 percent of eligible voters went to the polls.

In an extraordinary scene, Mr. Carpio congratulated Mr. Cerezo and offered to work with him "for the good of Guatemala."

Guatemala's last three presidential elections have been won by military officers amid rancor and charges of electoral fraud. But today, Mr. Carpio asserted, "Guatemala has found its way."

AN END TO THE PAST

"What is important is that we have put an end to a past we could no longer continue," Mr. Carpio said. "We have to end violence in Guatemala."

Alfonso Cabrera Hidalgo, a close associate of Mr. Cerezo's who is Secretary General of the Christian Democrats, appeared on national television as the results became clear to appeal to Guatemalans to "give us a hand" in the coming months. He said the country has suffered "a deterioration of our moral values" in past years.

Unemployment and poverty are widespread, wealth is highly concentrated, and tens of thousands of families have been affected by political violence that has continued for more than 30 years.

Opposition leaders have been the most publicized victims of political terror in Guatemala, but they are hardly the most numerous. Thousands were trade union activists, liberal businessmen and students and faculty from the University of San Carlos.

In the countryside, Government troops are engaged in a counterinsurgency campaign that has taken many thousands of lives since it began a quarter of a century ago. Human rights groups have alleged that the army has been responsible for massacres in many Indian villages, and since military rule began in 1954, Guatemala has been portrayed in some quarters as one of the Western world's worst human rights violators.

A FREE ELECTION

The departing military Government, however, favored no candidate in Sunday's election and allowed a free hand to the Supreme Electoral Tribunal, which was selected by a committee of Bar Association leaders and law school deans. The chief of state, Gen. Oscar Mejía Victores, has pledged to support the transition to civilian rule.

"We must congratulate General Victores for keeping his word and respecting the will of the people," Mr. Cerezo said.

European and American election observers also praised the fairness of the election and predicted that foreign aid for Guatemala would increase after Mr. Cerezo takes office next month.

A leading Christian Democratic spokesman, Luis Martínez Montt, said today that the new Government's task would be "to reconstruct what others have destroyed."

RIVALS STAND TOGETHER

Mr. Carpio, the new opposition leader, said his party would maintain "a constructive, vigorous and critical opposition" to the new Christian Democratic Government.

"We will applaud when you are right and criticize when you make mistakes," he said. "God save Guatemala, and may Guatemala be beginning a period of a series of democratic regimes."

Mr. Cerezo, standing at his side, beamed and nodded his head while listening to his rival's statements.

"At this moment, I am extremely proud of the democratic leaders of Guatemala," Mr. Cerezo told the emotional crowd at the headquarters of the Supreme Electoral Tribunal. "We are forgetting the competition and beginning to work for the good of Guatemala."

THE 94TH TACTICAL AIRLIFT WING

HON. GEORGE (BUDDY) DARDEN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. DARDEN. Mr. Speaker, I would like to bring to the attention of my colleagues the achievements of the outstanding flying team of the 94th Tactical Airlift Wing, U.S. Air Force Reserve, at Dobbins Air Force Base, GA.

This reserve wing won overall team honors in the super bowl of international military airlift—the 1985 Volant Rodeo competition at Pope Air Force Base, NC. The event featured 33 airlift teams, including U.S. Air Force units from all over the world, U.S. Air Force Reserve and Air National Guard units, and teams from several other nations, including West Germany, Italy, Canada, Australia, Portugal, and Brazil. These units were selected to take part in Volant Rodeo competition after demonstrating their outstanding abilities at local competitions.

Brig. Gen. William W. Basnett, commander of the 94th Tactical Airlift Wing, informs me that this is the first time a Reserve unit has won the Volant Rodeo in its 7-year history.

The 94th Tactical Airlift Wing scored 6,229 of a possible 7,040 points. The team was consistent in placing in the top positions of each category and won the overall competition by 1.5 points.

Aircrews were tested on three low-level routes, precise time-over-target, air drops of personnel, heavy equipment and container delivery system. Maintenance was evaluated three times each day on aircraft preflight and aircraft refueling techniques.

The strength of the maintenance program was a major contributor to the unit's success in the Volant Rodeo, as it contributed 1,693 of the 1,700 points available.

Additional contest evaluations included short-field landings, engine running on and off-load joint airdrop inspection, and security police action.

The 94th Tactical Airlift Wing's winning team included Lt. Col. Edwin B. Jelks III, team chief; Maj. Tom R. Brown, aircraft commander; Maj. Chuck M. Burch, pilot; Capt. Norman S. Bell, Jr., navigator; M. Sgt. Raymond J. Parsons, flight engineer; T. Sgt. Perry A. Deaton and S. Sgt. Blaine L. Bermel, loadmasters.

Sr. M. Sgt. Edward J. Hamrich and T. Sgt. Thomas M. Lynch served as the joint airdrop inspection team, while the engine running on/off load crew was comprised of T. Sgt. Robert L. Cone, T. Sgt. Joe L. Albertson, T. Sgt. David W. Freeman and M. Sgt. Walter Langford.

Maintenance squadron personnel included Maj. Clair D. Repple, team chief; M. Sgt. James E. McMichen, organizational maintenance; M. Sgt. Jimmie Stanton, crew chief of aircraft No. 630; M. Sgt. Willis F. Micheal, organizational maintenance; M. Sgt. Homer R. Baird, environmental shop; T. Sgt. Wendell W. Womack, hydraulic shop; T. Sgt. Michael C. Thomas, electric shop; T. Sgt. James P. Bailey, propeller shop; T. Sgt. John W. Dorton, jet engine shop; and T. Sgt. Lawrence D. Rhadans, navigator/doppler systems.

The 94th Tactical Airlift Wing, by the way, is one of the largest wings in the Air Force Reserve, with about 4,000 reservists assigned to its units in Georgia, Alabama, Florida, and Ohio. The 94th is the first Reserve unit to receive new C-130H aircraft direct from the factory. In its 36-year history, the 94th has flown a variety of aircraft, including the B-26, C-119, C-124 and C-7.

Our Nation's ability to react swiftly and decisively in an emergency depends on the readiness of units such as the 94th Tactical Airlift Wing and on the skills demonstrated by that unit in the Volant Rodeo. I am sure my colleagues join me in congratulating General Basnett and the other outstanding men and women of this unit on their superior contribution to our military readiness.

THE U.S. CONSTITUTION WAS NEVER COLORBLIND

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. EDWARDS of California. Mr. Speaker, in its continuing efforts to dismantle our Nation's cherished civil rights laws and reverse the progress we have made over the past 20 years, the Reagan administration argues that our Constitution was intended to be strictly colorblind. To consider race when fashioning remedies for historic discrimination perverts this principle, Attorney General Edwin Meese III and Assistant Attorney General Wm. Bradford Reynolds claim.

Recently, Benjamin L. Hooks, executive director of the NAACP, forcefully rebutted this misguided interpretation of the Constitution. Our Constitution has never been strictly colorblind, Hooks said, and to claim so ignores the history of our Nation. The administration's argument for colorblindness serves to conceal its true intent, to turn the civil rights clock back 20 years, to a time when racial discrimination was an accepted part of our society. Mr. Speaker, Mr. Hooks' letter provides valuable insight for all our colleagues, and I am pleased to share it here today.

[From the New York Times, Nov. 27, 1985]

To the Editor: A crisis of historic proportions confronts the civil rights movement at this very moment. President Reagan has before him a proposal to negate one of the most important civil rights measures enacted since the Emancipation Proclamation.

I refer to the executive order signed by President Lyndon Johnson in 1965 which mandated that Federal contractors promote the hiring and advancement of blacks, Hispanics and women in reasonable proportion to their numbers in each local labor market. For 20 years, each Administration, under Presidents Nixon, Ford and Carter, has carried out that policy with significant results—results that have enabled hundreds of thousands of minorities and women to enter the labor market and move up the ladder.

Now the right-wing Neanderthals led by Attorney General Meese and his cohort, Brad Reynolds, and buttressed by such arch-conservatives as Pat Buchanan and Clarence Pendleton, are pressing the President to sign a new order which would reverse those two decades of progress in the workplace. Standing against these latter-day Bilbos and Eastlands are numbers of decent Republicans, including Senate majority leader Robert Dole, Labor Secretary Bill Brock and House Republican leader Robert Michel, as well as many other leaders and Congressmen from both parties. Many national business associations, including the National Association of Manufacturers, are also opposed to this retrogressive proposal which seeks to wipe out affirmative action "once and for all times."

The two premises of the Meese-Reynolds-Pendleton axis are that racial and sexual discrimination no longer exist in America and that the intent of the Founding Fathers was that the Constitution be colorblind. In respect to the latter, the "superpatriots" appear to be totally ignorant of our own history.

The Constitution was never color-blind: indeed, it legitimized slavery in half the nation and counted each black slave as only three-fifths of a human being for census purposes. Many of the framers of the Constitution were themselves slaveholders. It was not until 1870, with the ratification of the 13th, 14th and 15th Amendments, that the historic oppression and injustice of slavery was reserved in principle by the Constitution.

The 14th Amendment, rather than ignoring race, set out to rectify the wrongs of the past in order to benefit black Americans. Except for the brief period of Reconstruction, all informed Americans know that blacks suffered for the next hundred years as second-class citizens, deprived of most rights and subject to lynchings, beatings and constant fear. We all know too that real change began to take effect only 20 years ago—too short a time period to undo three centuries of slavery and segregation.

This brings us to the other "big lie" being foisted upon us by the right-wing clique pressing the President to sign the new order: that America is "now free from racial discrimination." One need only look around to perceive the total absurdity of this premise. More than half of black Americans endure lives of desperation and deprivation. Doors only recently opened are being slammed shut by these newly empowered bigots who desire to "return to the good old days" when society was run totally by and for white males at the expense of everyone else.

The President postponed this crucial policy decision until after the summit meeting with the Soviet leaders. We have a short time to marshal the forces of decency and fairness in America to persuade the President that he should not—indeed, must not—agree to this proposed new policy which would turn the clock back and cause grave suffering for millions of Americans already handicapped by so many decades of bigotry and injustice.

It is our fervent hope that Americans who still believe in the goals of integration and equal opportunity will make known to the White House their opposition to the proposed changes. We hope also that leaders in New York City—including those in public life, religion, trade unions, business and the professions—will convey their opposition to the President.

Too many decent Americans of every race and gender have fought and sacrificed too much to permit such a shameful retreat. The struggle before us is, quite literally, for America's soul.—Benjamin L. Hooks.

NATIONAL GROUND WATER CONTAMINATION RESEARCH ACT

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. GEJDENSON. Mr. Speaker, I am very proud to be introducing today, along with 22 other Members of Congress, the National Ground Water Contamination Research Act. This is landmark legislation that will help give us the answers we need to solve the problem of toxic contamination of ground water. This bill will expand the U.S. Geological Survey's [USGS] research effort to determine how much ground water is contaminated in the United States, and how that contamination occurs.

Toxic contamination of ground water is one of the most serious and complicated environmental problems facing the Nation. Ground water contamination has been detected in every State. In my home State of Connecticut, over 1,000 water wells have been closed because of contamination. Approximately one-half of the people in the United States depend on ground water for their drinking water supply. We must act swiftly before even more contamination of ground water occurs.

Despite the seriousness of the ground water contamination problem only minimal resources are currently being devoted to ground water research. Fundamental questions about ground water remain unanswered. No one knows how much ground water is contaminated. How toxic substances move through ground water is also still largely a mystery. We must have answers to these and other questions before we are able to solve the ground water contamination problem.

The National Ground Water Contamination Research Act directs USGS to expand its Toxic Substances Hydrology Program. A major goal of this program is to increase understanding of the movement of toxic substances through ground water. The bill also requires USGS to determine how much ground water is contaminated in the United States. In addition, the bill provides matching Federal funds to the States, and State water resources institutes to conduct their own ground water research and monitoring.

Industry, environmentalists, agricultural organizations, the States, and local governments all agree that an expansion of ground water research is needed now. The National Ground Water Contamination Research Act will provide us with the information we need to begin to solve the problem of ground water contamination.

JEFFREY JONES AND DIAMOND WIN NATIONAL HONOR

HON. RICHARD C. SHELBY

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. SHELBY. Mr. Speaker, I would like to pay tribute to Jeffrey Jones and his dog, Diamond of Selma, AL, who recently won Purina Dog Chow's "Search for the Great American Dog Contest."

Following is an article written by Alvin Benn of the Advertiser that I would like to share with my colleagues in the House of Representatives:

Selma's Jeffery Jones and his dog, Diamond, took the $25,000 top prize Tuesday when they were selected winners of Purina Dog Chow's "Search for the Great American Dog Contest."

"He's the best American dog in the world," the 7-year-old boy said after the announcement was made at a New York City hotel.

Jeffery and Diamond, a 4-year-old Corgi, were picked from five finalists and became the second consecutive Alabama team to win the national honor.

Anne Zachry of Lanett and her dog, Buddy, won in 1984.

In addition to the $25,000 top prize, Jeffery and Diamond will appear on eight million bags of Purina Dog Chow in 1986 and receive a year's supply of the product.

They also will be seen Thursday on national television during the annual Macy's Thanksgiving Day Parade in New York City.

Jeffery and Diamond will be accompanied by "Hill Street Blues" co-star Betty Thomas on the Purina float.

"We were just thrilled to death when they announced our names," the boy's mother, Cherry Jones, said during a telephone interview. "We were hoping to win, but had no idea it would be us."

About 30,000 voters throughout the country cast ballots for their favorites by calling specified telephone numbers.

Purina spokeswoman Katy Bollard said Jeffery and Diamond received about 7,000 in a close contest. She would not release the totals received by other teams.

Mrs. Jones said some of the $25,000 will be used to buy gifts for Jeffery, but most of it will be invested to pay for his college education.

Jeffery said he has a few things in mind. "I want a four-wheeler, toys and a pool table," he said.

Mrs. Jones said they plan to buy a bone for Diamond, "who let out a couple of barks when it was announced they had won."

The Jones family has been on a three-week whirlwind campaign throughout Alabama to raise telephone votes.

Mrs. Jones has taken her son for interviews on television and radio stations in Montgomery and Birmingham, and several newspaper articles have been written about them.

Gov. George C. Wallace added his support this past Friday when he said he would vote for the pair and encouraged other Alabamians to do the same.

Selma Mayor Joe Smitherman, who welcome Jeffery and Diamond to a City Council meeting two weeks ago, saluted the two Tuesday after learning of their victory.

"It's one of the greatest things to happen to Selma lately," he said. "It's getting us national publicity and Jeffery is very deserving."

I am proud to share this story with my colleagues. Purina has selected an outstanding duo for this honor. I certainly wish Jeffery and Diamond all the best in their future endeavors.

HUMAN RIGHTS DAY

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. FASCELL. Mr. Speaker, yesterday marked the 37th anniversary of the adoption by the U.N. General Assembly of the Universal Declaration of Human Rights. This historical document established standards by which civilized nations agreed to

treat their citizenry. The universal declaration is an international bill of rights for all mankind. In the long struggle to promote respect for human rights and fundamental freedoms, the Universal Declaration of Human Rights stands out as a splendid pioneering effort whose importance is reaffirmed annually. In recognition of the significance of this agreement, December 10 is commemorated around the world as "Human Rights Day."

It is therefore particularly fitting, Mr. Speaker, that the good news about events in Argentina, a country that has suffered more than its share of human rights abuses, reached us yesterday. On December 9, a civilian court in Buenos Aires convicted and sentenced an ex-President, army Gen. Jorge Videla, and junta member Adm. Emilio Massera to life imprisonment for their role in the so-called secret war of the 1970's and early 1980's on left-wing guerrillas in which at least 9,000 Argentines disappeard. Three other ex-junta members were also convicted and received jail terms ranging from 4½ to 17 years.

This judgment marks the first time in recent history that Latin American military rulers have been held accountable and sentenced by a civilian court for serious crimes. It also marks the end of a tragic chapter in Argentine history. The Congress should be most heartened to see the civilian government of President Raul Alfonsin bringing to justice the perpetrators of such heinous human rights abuses against the Argentine people. And it is gratifying that such action occurred on the eve of Human Rights Day. Let us hope that this welcome development is the start of a trend toward respect for human rights that will spread throughout Latin America.

DEMOCRACY WORKS IN ARGENTINA

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. GARCIA. Mr. Speaker, both the Washington Post and the New York Times ran editorials today on the trials of former military leaders in Argentina. As the Times editorial states, this marks the "return of justice and self-respect to Argentina." The Post echoes this sentiment by saying that, "Argentina's democracy is providing a memorable demonstration of moral courage and strength."

I have little to add to those accolades except that I totally agree with them. President Alfonsin and the people of Argentina deserve our praise and support.

I am submitting the editorials for my colleague's perusal.

[From the New York Times, Dec. 11, 1985]

JUSTICE REBORN IN ARGENTINA

Formal justice played little role in Jorge Videla's dictatorship in Argentina. Those who offended his regime were abducted, tortured or murdered. In the new Argentina of President Raúl Alfonsin, justice is back. After a fair trial, Mr. Videla, along with Adm. Emilio Massera, was sentenced to spend the rest of his life in prison. Three other military collaborators drew lesser sentences.

During a seven-year dictatorship, General Videla and his military accomplices demoralized and bankrupted Argentina. Then, the army that had fought a dirty war against its own population launched a foolish war against Britain that ended in humiliating defeat. Mr. Alfonsin, the elected civilian successor to three military juntas, boldly ordered those junta leaders to trial for sowing "terror, pain and death throughout Argentine society."

That was a remarkably brave step. Even in retreat, the military apparatus of conspiracy and repression frightened the country. Of all the elected Presidents since World War II, the army had permitted only the ex-soldier Juan Perón to complete a full term. And he too was overthrown before completing his second mandate. When Mr. Alfonsin assumed office two years ago this week, the structures of military power were intact. In similar situations, other democrats have equated survival with deference to the generals.

Mr. Alfonsin understood that democracy would have to be audacious to survive. When military courts stalled the junta trials, they were transferred to civilian jurisdiction. He moved boldly on other fronts as well, challenging the unelected and antidemocratic labor bosses of the Peronist opposition and applying successful shock treatment to an economy previously thought incurable.

There have been some wobbles, too, including a 45-day state of siege that ended this week. And more tests lie ahead in the four remaining years of Mr. Alfonsin's term: further trials and appeals and a second-stage economic strategy among them. Still, those practical challenges seem more manageable because of what underlies the sentencing of Mr. Videla and four of his military collaborators: the return of justice and self-respect to Argentina.

[From the Washington Post, Dec. 11, 1985]

VERDICT ON THE JUNTA

The Argentine court's verdict is a ringing assertion of the rule of law and the standards of public morality. It found five defendants guilty of crimes committed when they were running the country and sentenced two of them, including a former president of the country, to life imprisonment. The acquittal of four other defendants is generating further controversy in Argentina; in seven years, from 1976 to 1983, some 9,000 people disappeared, most of them murdered in military prisons. But the court showed discrimination in assessing the evidence against each of these men as individuals, and the salutary influence of this example of justice will reach far beyond Argentina.

The generals and admirals claimed, by way of defending themselves, that they were saving the country from communism and from revolution at the hands of urban guerrillas and subversives. The urban guerrillas and subversives were not a figment of the generals' imagination. They killed dozens of people in the early and middle 1970s. And they succeeded in bringing revolution of a sort to Argentina—one that carried to power their enemies in the military, who embarked on a hysterical and vengeful campaign against not only radical gunmen but, as time passed, against almost anyone who held any opinion that the generals and admirals took to be unorthodox. To defend even the most rudimentary concept of civil rights brought a person into dire jeopardy. The junta thought of all opposition as communism, and to stamp it out they engaged in endless brutality, torture and murder. Among the great achievements of this long trial is a full and accurate public record of all that happened.

One of the enduring inanities of politics is the assertion that, whatever its defects in principle, authoritarian government is at least strong and efficient. Is it? In Argentina, over seven years, the junta mindlessly ran down a national economy that is potentially one of the world's richest. It rolled up the gigantic foreign debts with which the country is now struggling. It spent lavishly on its own armed forces and started a war in the Falklands in which it was rapidly defeated.

In heartening contrast, there is the current democratic government under President Alfonsin. It has led the country into a series of necessary but drastic economic reforms of a sort that the junta always dodged on grounds that they would be unpopular. The current government has now given its predecessors a fair trial with scrupulous regard to its own high standards of justice; under the junta's standards, all of these men would have been shot in a barracks basement without so much as a magistrate's hearing. Argentina's democracy is providing a memorable demonstration of moral courage and strength.

HUMAN RIGHTS DENIED FAMILY

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. ARCHER. Mr. Speaker, Remos Aizenshtein and his family applied for visas in the summer of 1979. They became refuseniks several months later. Highly trained, Remos graduated from the Kharkov Polytechnical Institute as a turbine engineer. He used his skills on the job until 1968 when he switched to another automated field. From 1974 until 1979, he had a good position in the Institute of Automatic Control Systems for the gas industry. However, this ended shortly after he requested permission to emigrate. Remos lost his job and subsequently could only find employment as a lathe operator, then construction worker, and currently as an elevator technician.

His wife, Nina, also worked as a mechanical engineer in the chemical industry. She lost her position on applying as well, but she has not been able to find employment since.

Their son, Alexander, studied mathematics but became a musician. He now leads a vocal ensemble. His wife, Galia, is a construction engineer.

Their daughter, Irina, also studied music. After applying for visas, she had to leave the Ural Conservatory of Music where she was enrolled in the school for graduate studies. At the present time, she works as a music teacher in a nursery school.

This is a highly respectable close-knit family who feel they have already made substantial contributions to Soviet society in the form of devotion and conscientiousness in their various jobs. Moreover, both Remos' father and Nina's father died in the service of their country in World War II. Friends and family feel the Aizenshteins have earned their freedom and the right to emigrate. We must remember this family and the many more that are denied their human rights.

RESIDENTIAL MORTGAGE BONDS

HON. THOMAS J. BLILEY, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. BLILEY. Mr. Speaker, I rise today to comment upon certain provisions of the Ways and Means Committee's tax bill that would have a highly negative impact on the young families and low-income residents as well as on the economic activity of the Commonwealth of Virginia.

Specifically, I am quite concerned with the extremely complicated provisions dealing with residential and multifamily mortgage bonds which would cause great harm to the tens of thousands of low and moderate-income Virginians who rely on the privately provided proceeds of these bonds for homeownership opportunities or for safe, sanitary, and decent rental housing. Also, I am convinced that the important amount of jobs, tax revenues, and economic activity generated by these bonds would be greatly diminished by this portion of the committee's proposal.

These housing bonds provide financing for about half of all houses purchased by young Virginians and for most moderate and lower priced apartments in Virginia. According to conservative estimates, the volume cap proposed by the Ways and Means Committee could cut in half the production of this low and moderate housing in the very first year. A realistic cap for housing—and one that is separate from industrial development bonds—is essential if Virginia is to continue to raise the private funds needed to produce this housing.

Further, I feel that this vital and well monitored and controlled private-public housing partnership should be subject to the same sunset provisions that the Committee seeks to extend to activities supported by bonds issued by other Government instrumentalities. Why must we be forced to revisit this issue every few years?

Last, any legislation, and especially any as important as this, should have an effective date that coincides with its enactment date. The December 31, 1985, effective date that Ways and Means recommends for its housing proposal would, in my opinion, effectively stop the sale of all housing bonds as of January 1, 1986.

As these mortgage bonds already have served well over 75,000 families and generated over $3 billion in taxable economic activity in Virginia, I strongly urge that consideration be given to altering the Ways and Means Committee's plan so as to increase the fairness of its proposals affecting lower and moderate income homebuyers and apartment renters.

NATIONAL STEEL IMPORT STABILIZATION PROGRAM

HON. JIM CHAPMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. CHAPMAN. Mr. Speaker, 1 year ago when the President put in place a National Steel Import Stabilization Program, he did so because foreign steel producers had captured more than 26 percent of our total domestic steel market—and a great deal of that steel had been subsidized and dumped on our shores by our foreign trading partners.

The negative effects of this unfairly traded steel have impacted our country. In the past decade, shipments by domestic steel producers have dramatically declined, operating capacity at mills has been drastically cut and hundreds of thousands of jobs have been lost or relocated off our shores.

Clearly we had a great need for the President's Steel Program. It was a program aimed at limiting the amount of steel imported into the United States for 5 years, in order to give our domestic steel industry the breathing space it needed to get its steelmaking house in order. But as much as I supported this program, I cannot now sit back and pretend it is doing the job. It is not.

In October 1985, 1 year after the program began, figures published by the U.S. Trade Representatives showed that the foreign steel import penetration rate reached a record level of 30 percent—4 percent more than the import penetration rate when the National Steel Program went into effect, and 11.5 percent more than the program's target.

Clearly, this program as implemented has not controlled the surge in steel imports which we experienced in 1984.

Mr. Speaker, in October, I introduced a bill, H.R. 3459, that follows in the President's footsteps of restraining steel imports in order to give our domestic steel industry the chance to get back on its feet. Notice I said restrain, not eliminate. My bill will not stop a fair trading country from exporting steel into the United States. It will instead, establish a policy whereby each nation that is not now covered by a voluntary restraint agreement will be subject to a mandatory restraint based on 70 percent of the amount of steel it exported into the United States during the period from October 1983 to October 1984.

What my bill will do is slow the crippling rate of subsidized steel coming into America, and allow our domestic industry a chance to compete on a level playing field.

Our national security, the steel industry, and millions of Americans deserve no less than swift, effective action on the part of the President and the Congress.

THE U.N. FINALLY SPEAKS OUT AGAINST TERRORISM: A HOPEFUL SIGN

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. BROOMFIELD. Mr. Speaker, rarely do I have the opportunity to praise the United Nations for a particular action. I want to commend that body, however, for its recent antiterrorist resolution. This is an encouraging first step in the international fight against mindless terrorism.

Yesterday, the United Nations General Assembly approved by consensus a resolution that condemned terrorist acts as criminal. For the first time, that international body has taken a firm stand against terrorism.

Over the years, little progress has been made at the U.N. on the subject of terrorism. There was unending debate over the definition of terrorism and the feasibility of taking international action against that international problem. Many nations represented at the U.N. have in the past tried to justify terrorism by saying that it was an expression of frustration on the part of those who struggled for self-determination.

Recent terrorist events have changed the thinking of many. With the rapid spread and the increasingly violent nature of terrorism, over 70 nations have been directly affected. Thousands have been killed or wounded. All nations now realize how vulnerable they are to the marauding terrorist bands who often take the lives of the innocent with glee.

No nation is now exempt from the increasingly professional and suicidal operations of state-sponsored international terrorists.

The bloody terrorist incidents of recent months have shown the world that there is no possible justification for taking the lives of innocent human beings. The people of the world now realize that terrorists are international criminals, not heroes engaged in a romantic struggle. They are international brigands who should be prosecuted to the maximum extent of the law. No country should grant them sanctuary.

The nations of the world now realize that international cooperation is imperative in order to stop the increasing violence of terrorism. In the recent Foreign Assistance authorization bill, Congress called for more international cooperation in the battle against terrorism. The legislation calls upon the administration to establish an International Coordinating Committee on Terrorism. The group would be a permanent forum for promoting international cooperation in this important international effort. Given the changing attitudes at the U.N. and around the world toward the terrorism question, I strongly encourage the administration to move ahead and establish this badly needed International Coordinating Committee.

With these concerns in mind, I commend the following Washington Times article on the U.N. resolution condemning terrorism to my colleagues in the Congress.

[From the Washington Times, Dec. 10, 1985]

U.N. OK's ANTITERROR RESOLUTION—ITS FIRST

(By Narayan Keshavan)

NEW YORK.—The U.N. General Assembly yesterday approved by consensus a resolution that condemned terrorist acts as "criminal"—the first time the world body has unequivocally passed such a resolution condemning terrorism.

The resolution was hailed by U.S. Ambassador to the United Nations Vernon A. Walters, who said it was "a symbol of new times."

"Every country has felt this in its flesh," Gen. Walters said.

The U.N. text loosely defined terrorism as "acts . . . in all its forms which endanger or take innocent lives, jeopardize fundamental freedoms and seriously impair the dignity of human beings."

Yesterday's vote in the General Assembly came after the assembly's legal committee on Friday overwhelmingly approved it by a vote of 118 to 1, with Cuba voting against it.

A Western diplomat, speaking privately after yesterday's vote, said he understood other members of the 101-member Non-Aligned Movement had been furious with Cuba, which apparently found its isolation in committees "not so splendid."

After the assembly adopted the anti-terrorism resolution yesterday, there was a sharp exchange of words between the Israeli delegate and other Middle Eastern representatives.

Israeli Ambassador Benjamin Netanyahu charged that terrorists have continued to murder people "because for years they have gotten away with murder."

"Some of the states that voted for the resolution are the worst offenders," Mr. Netanyahu said. "They don't prosecute terrorist, they defend them. They don't prevent hijackings, they encourage them. They don't extradite terrorists, they give them villas and cash bonuses."

Mr. Netanyahu deplored the attempt to legitimize terrorism by linking it to "a struggle for self-determination."

Israel had abstained on the voting in the committee because the resolution referred to self-determination. However, Israel yesterday joined other member nations in unanimously approving the resolution.

The resolution's preamble reaffirms the "inalienable right to self-determination and independence of all peoples under colonial and racist regimes and other forms of alien domination" and upholds "the legitimacy of their struggle, in particular the struggle of national liberation movements."

However, the paragraph says the struggle must be "in accordance with the purposes and principles of the [U.N.] Charter."

Zehdi Labib Terzi, the observer from the Palestine Liberation Organization, praised the resolution and claimed that his organization was against terrorism. He then urged the international community to force Israel to halt "its terrorist activity against the people in the occupied territories."

It was "ironic," as one Western diplomat put it, to hear Iran, Syria, Libya, the PLO and Iraq—all at one time or another suspected of backing terrorism—speak out against acts of terror.

Israel's Mr. Netanyahu stated that he could not but chuckle when hearing statements from delegates of those nations who are "pioneers of terrorism."

INTRODUCTION OF A BILL TO REQUIRE SENATE CONFIRMATION OF THE COMMISSIONER OF THE FOOD AND DRUG ADMINISTRATION

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. WAXMAN. Mr. Speaker, I am today introducing a bill, H.R. 3909, that would require Senate confirmation of the Commissioner of the Food and Drug Administration. This is a long overdue measure that I hope my colleagues will be quick to support.

The head of every major Federal health and safety agency is currently subject to Presidential appointment and Senate confirmation with one and only one exception: FDA. This includes the heads of the Federal Aviation Administration [FAA], the Environmental Protection Agency [EPA], the Occupational Health and Safety Administration [OSHA], the National Highway Traffic Safety Administration [NHTSA], the Consumer Product Safety Commission [CPSC], and the Nuclear Regulatory Commission [NRC].

Senate confirmation is required at these agencies whether they are independent or within larger executive departments. In fact, at the independent agencies, confirmation is required of all commissioners, not just the chairman.

Nor is Senate confirmation a function of size or authority. The FDA is larger both in budget and staff than agencies like the CPSC and the NRC and its premarket approval authority renders it far more powerful than agencies like NHTSA or OSHA.

Moreover, other Government bodies involved in health usually are staffed by appointees who must undergo Senate confirmation. For example, both the Surgeon General and the Director of the National Institutes of Health require such confirmation.

In short, there is no good reason to exempt the FDA Commissioner from accountability to the Congress. I urge my colleagues to support this bill.

PERSONAL EXPLANATION

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. DANNEMEYER. Mr. Speaker, due to a longstanding commitment in California, I was not available for the session on Monday, December 9, 1985, and subsequently missed four noncontroversial votes. Had I been present for that session I would have voted "aye" on the following four bills:

House Concurrent Resolution 239, to commend the Governments of Ireland and United Kingdom for reaching an agreement on a peaceful solution for Northern Ireland;

H.R. 3773, the Stevenson-Wydler Act amendments relating to the transfer of technology;

H.R. 1083, the low-level radioactive waste amendments to ensure a certain amount of disposal capacity for radioactive waste generators and to clarify Federal and State responsibilities for this waste management; and

H.R. 1538, the amendments to veterans health care to authorize a 3.4-percent cost-of-living adjustment in disability and indemnity compensation retroactive to December 1, 1985.

MIGUEL PULIDO AND FAMILY

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. DORNAN of California. Mr. Speaker, Miguel Pulido came to the United States from his native country of Mexico in 1960. He came seeking a better life. In the following year, 1961, he brought his wife Maria Soledad, and his children, Miguel Jr., Jose, Luis, and his sole daughter Marisol, to join him in his adopted country. His wife passed away in 1975.

Miguel Pulido began his employment in the United States as a farm worker. He then progressed to the position of a journeyman mechanic. As an employee of the Ace Muffler Shop in the city of Santa Ana, CA, he impressed his employer so much that he offered to sell him the business. After purchasing the business and the property, he developed a highly successful business with the unity and hard work of all his family. During this period all his children managed to receive a college education.

Miguel Pulido and his family are prime examples of outstanding citizens. They have accomplished this through their religious faith and their involvement in all phases of their community.

This prime example of American success and the free enterprise system culminated Thursday morning, November 21, 1985, at the Los Angeles Convention Center, when Miguel Pulido and his family were sworn in as new American citizens. Another American dream has come true.

DEAN BUTTERFIELD

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. GOODLING. Mr. Speaker, often the accomplishments of certain behind-the-

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scenes, hard-working individuals are overlooked in this large Nation of ours. It happens in business, in society in general, and of course it also happens in Government.

In this one instance, however, I would like to make sure the hard work, dedication, and perserverance of a single Government employee is not overlooked. This one man, Mr. Dean Butterfield, will retire effective December 15, after 30 years of Government service, most recently as coproduction Director at the Army Material Command at Rock Island, IL.

One company in my district summarized Mr. Butterfield's work:

> He was the key to every action not just the big ones; not just the small ones; his cooperation was worthy of emulation. Where our interest diverged, he pursued the Government's interest with dedication and tenacity. The conflicting interests were most always adjusted without combat.

I would hope his is a model that every Government employee will emulate. I thank him for his effort and hard work and I wish him a healthy and relaxing retirement.

KINGDOM OF MOROCCO OVERCOMING ECONOMIC DIFFICULTIES

HON. MARK D. SILJANDER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. SILJANDER. Mr. Speaker, the Government of the Kingdom of Morocco is currently engaged in a difficult struggle, the outcome of which could determine the stability and prosperity of that country, indeed the entire North African region, for years to come.

I am not referring to military conflict, but rather to Morocco's courageous effort to pull itself out from under the tremendous debt burden which it is currently carrying.

In light of the human tragedies which exist everywhere in the Third World today, where many governments cannot even feed their people, much less provide an adequate economic structure in which they can prosper, it is heartening to watch Morocco's progress as it struggles to implement the painful economic reform measures necessary to put its economy back on track.

Morocco began its reform program over 2 years ago, before the United States had really focused on the problems of debt and declining economic growth in the Third World. It is slowly overcoming the serious difficulties that slowed its economy during the early 1980's, and now prospects for its future look increasingly bright.

The reform package instituted by His Majesty, King Hassan's government, has gradually moved the country away from a protectionist orientation to a relatively open market economy. Measures such as tighter controls on domestic spending, a more flexible exchange rate and deregulation of the financial sector have all contributed to bringing the economy under control. The Moroccan Government has also enthusiastically supported greater private sector participation in the economy and has begun steps to dismantle the burdensome public sector. The United States Commerce Department states that if these steps are continued and combined with progress on debt arrears to its international lenders, Morocco will have set in place the foundation for healthy and sustained economic growth.

Mr. Speaker, this would be a tremendous achievement on the part of Morocco, and one which I believe deserves the fullest support and encouragement of the United States. Both the Congress and the administration have been pushing structural economic reform as an answer to the economic ills of the Third World, particularly in Africa, where natural disaster and misdirected government policies have had such horrendous results. Morocco is following our advice and making progress in achieving economic recovery; moreover, it is setting an important example for other developing countries to follow.

We are all aware of the longstanding ties between this country and the Kingdom of Morocco. Not only is it one of our oldest friends—in fact, the first to recognize (de facto) the new United States of America—it also continues to provide the United States with valuable support and cooperation internationally.

The military cooperation and base access agreements which we have with Morocco are important to the defense of NATO as well as contingency planning for Africa and the Middle East. Not only military, but diplomatic, cooperation with Morroco has continued throughout the years, despite occasional differences on how to handle certain problems, such as Colonel Qadhafi.

Mr. Speaker, I wish to congratulate the Kingdom of Morroco and the government of His Majesty King Hassan II for their courage in confronting the difficult problems of economic reform, and to thank them for their long record of friendship and service to the people of the United States. We do not, perhaps, acknowledge as often as we should the contribution made to United States national security by such old and longstanding friends as Morocco, but the fact is that the people of the United States do appreciate that contribution greatly. We thank the Government and people of Morroco, and for my part, I would encourage the United States Government to consider carefully if it is doing all it can to help Morroco in its efforts to achieve economic recovery and prosperity for its people.

LANE EVANS: VVA LEGISLATOR OF THE YEAR

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. BONIOR of Michigan. Mr. Speaker, it is my honor to congratulate Congressman LANE EVANS on being named "National Legislator of the Year" by the Vietnam Veterans of America.

Since coming to Congress in 1982, LANE EVANS has been an instrumental figure in Vietnam veteran legislation. During his first term in Congress, LANE EVANS authorized legislation to extend the highly successful Vet Center storefront counseling program, which the Reagan administration had targeted for elimination. LANE's distinguished efforts resulted in a 4-year extension of the program, and the opening of 52 new centers nationwide.

As chairman of the Vietnam Veterans in Congress, LANE has made judicial review of VA decisions a top priority. LANE is also leading efforts to resolve the high unemployment levels among Vietnam veterans and strongly supported the successful extension of the Emergency Veterans Job Training Program.

I am glad to see that LANE EVANS has been recognized for his outstanding leadership and dedication by the Vietnam Veterans of America.

HONDURAN ELECTIONS SHOW VALUE OF DEMOCRACY

HON. MICHAEL A. ANDREWS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. ANDREWS. Mr. Speaker, 3 weeks ago, my distinguished colleague from Connecticut, NANCY JOHNSON, and I led a Presidentially appointed delegation of official observers to Honduras, where we viewed the second democratic election in that country's recent history. Although Honduras was ruled by a military government from 1972 to 1981, our experiences among the citizens of Honduras showed us the enduring nature of democracy.

As my colleagues know, Honduras is one of the poorest nations in Central America. With a population of about 4.3 million people, it is approximately the size of Ohio in geographical area. Bordering both Nicaragua and El Salvador, Honduras is important strategically to the United States. It is the seventh largest recipient of United States foreign aid, and ranks second, behind only India, in the number of Peace Corps volunteers working within it.

Because the November 24 election marked the first time one civilian government would turn over power to another since the military takeover, many delegations from across the globe joined our group in observing the election. In addition to myself and Representative JOHNSON, our delegation included Representative LOUIS (WOODY) JENKINS of Louisiana, chairman of Friends of the Americas: Hon. Richard T. McCormack, U.S. Permanent Representative to the Organization of American States; Hon. Raymond F. Burghardt, Special Assistant to the President and Senior Director for Latin American Affairs, National Security Council; Dr. Susan Kaufman Purcell, director of the Latin American Program, Council on Foreign Relations; Diego R. Suarez, president, Inter-American Transport Equipment Co. (Vanguard); William C. Doherty, Jr., executive director, American Institute for Free Labor Development; Lynn Bouchey, president, Council for Inter-American Security; Dr. Georges Fauriol, senior fellow and director, Latin American Programs, Center for Strategic and International Studies; Diana D. Denman, vice chairman, Republican Party of Texas; and Jasper Hawkins, Hawkins & Linsey Architects. This bipartisan group of Americans deserves special commendation for their public service.

Throughout the day of the voting, our group worked in small teams to observe the balloting at dozens of locations. Although the electoral system is confusing by our standards, the people of Honduras were obviously very committed to the democratic process. Over 80 percent of the population turned out to vote, a phenomenal turnout compared to that in most American elections. Many peasants and farm workers walked several miles across dusty roads to the polling places, then stood in line for 2 or 3 hours to cast their ballots.

What our delegation observed in Honduras is an extremely promising sign of progress for democracy in our hemisphere. While it was not particularly issue-oriented, the election was highly competitive and marked by great enthusiasm and commitment. Like its neighbors El Salvador and Guatemala, the fragile democracy of Honduras is prospering, and it is the people's determination that is encouraging its growth.

There is still much to be done in Central America. The future policies of Honduras, as well as that nation's internal politics, will affect the United States for years to come. As we in Congress consider the needs of this important region, we must bear in mind two important questions. Is it important that democracy flourish in a small, undeveloped nation like Honduras? Is their stability really important to the security of the United States? I believe that the answer to both of these questions is a strong and unequivocal yes.

WAYS AND MEANS TAX BILL DOES NOT CONTAIN COMPROMISE ON DEDUCTIBILITY OF STATE AND LOCAL TAXES

HON. F. JAMES SENSENBRENNER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. SENSENBRENNER. Mr. Speaker, I'm glad to see that my colleagues agree with me that the Ways and Means tax package, H.R. 3838, needs further review, as evidenced by the rule vote today. What has been heralded as the "saved" deductibility of State and local taxes is not what it seems. I want to underscore that H.R. 3838 does contain a compromise on the deductibility of State and local taxes.

This bill gives everyone a $2,000 personal exemption, while at the same time it requires all itemizers to reduce their deductions by $500 for each personal exemption. In other words, those who itemize State and local taxes as part of their deductions, must give back $500 of their deduction for each family member. For example, a family of four would have to give back $2,000 of personal exemptions.

In essence, this is the same as allowing only a partial deduction for State and local taxes. In fact, the National Association on State Budget Officers estimates that "we may lose as many as 40 percent of those who itemize. There will be a much smaller number of people itemizing and benefiting by deductions." The end result is a shift of the tax burden from those taxpayers who take a standard deduction to those who itemize. For example, in my home State of Wisconsin, a working couple with two dependents earning $30,000 per year and itemizing, would experience a tax increase of 2.6 percent. On the other hand, a similar nonitemizing couple would experience a windfall decrease in their tax liability of 22.8 percent. (See attached chart 1.)

Of course these figures vary with the State and various income brackets. In addition, this plan could encourage flight to the Sun Belt States. For example, a two-wage earner couple in Milwaukee, WI, earning $100,000 per year would pay $1,162 more under the Ways and Means plan. While the same couple living in Memphis, TN, would pay only $395 more per year. (See attached chart 2.)

In conclusion, I urge my colleagues to further examine what impact any new tax plan would have on the deductibility of State and local taxes, as well as how it would affect their constituents who itemize.

CHART I.—WISCONSIN RESIDENTS—ANNUAL INCOME OF $30,000

	Current	Ways and Means
Single-no dependents, itemizers	$3,937	$3,981 (+1.1 percent), paying $44 more in taxes
Single-no dependents, standard deduction.	5,467	$5,119 (−8.5 percent), paying $468 less in taxes
2 earner/no dependents, 65 percent/35 percent income split itemizers	2,796	$2,895 (+3.5 percent), paying $99 more in taxes
2 earner/no dependents, 65 percent/35 percent split standard deduction	3,782	$3,199 (−15.4 percent), paying $583 less in taxes.
2 earner/2 dependents, itemizers	2,173	$2,229 (+2.6 percent), paying $56 more in taxes
2 earner/2 dependents, standard deduction	3,081	$2,379 (−22.8 percent), paying $702 less in taxes.

Source Wisconsin Department of Revenue.

CHART II.—HOW A 2-EARNER COUPLE, EARNING $100,000 A YEAR, WOULD FARE UNDER THE WAYS AND MEANS TAX PLAN

	Current law (49 percent bracket)	Ways and Means (38 percent bracket)
Milwaukee, WI (population 621,000)	$5,388	$6,550—tax increase of $1,162.
New York (population 7,860,000)	6,211	$7,549—tax increase of $1,338
Newark, NJ (population 646,000)	3,208	$3,899—tax increase of $691
Charlotte, NC (population 632,000)	3,008	$4,264—tax increase of $1,256
Atlanta, GA (population 428,000)	3,344	$4,065—tax increase of $721.
Memphis, TN (population 324,000).	1,830	$2,225—tax increase of $395.

TIME FOR DEMOCRACY IN PANAMA

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. FASCELL. Mr. Speaker, despite continuing conflicts in the region, the past 2 years have been an exciting and promising time for democracy in Central America. Elections have been held, new governments have been installed, and democratic institutions—however fragile—have begun to function. Until recently, Nicaragua was the only exception to this generally encouraging pattern. Unfortunately, another country has not taken a step back from democracy: Panama.

On September 27, the President of Panama, Nicolas Ardito Barletta, was forced out of office by the Panamanian military. This "coup" followed the assassination of Dr. Hugo Spadafora, a well-known Panamanian in whose death the military was alleged to be implicated, and which President Barletta had pleged to investigate. Panama is now being governed by its fifth President in 3 years, the previous Presidents having also been forced out by the military under various guises, such as "diplomatic illness."

This repeated interference by the military in the political development of Panama is extremely troubling. As President Barletta notes, "national stability based only on a strong military influential or determinant in Government affairs is no stability." I believe it is time for the military to return to their constitutional role, and to let the Panamanian people determine their country's future through the democratic process.

The United States has substantial security interests in Panama. However, we also have a strong interest in the development of democratic institutions in that country, and in efforts to safeguard human rights. We have tried to support the restoration of democracy through a variety of means, including an assistance program which grew fivefold between fiscal year 1983 and fiscal year 1985. However, I believe that the recent events in Panama are a cause for reflection on the nature of United States policy toward that country, and on the need to search for new ways to encourage effective democracy and respect for human rights in Panama.

THE ENDURING FRIENDSHIP BETWEEN ISRAEL AND THE UNITED STATES

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. GARCIA. Mr. Speaker, the Pollard spy case has cast a shadow over United States-Israeli relations, but as Kenneth Bialkin states today in his article in the New York Times, it is by no means cause for alarm.

While leaders on both sides of the alliance are concerned about Mr. Pollard's activities, I remain convinced that our Nations' friendship will weather the storm. Mr. Bialkin clearly and accurately describes the situation. I am submitting his essay for the RECORD and ask that my colleagues take a moment to read his thoughtful assessment of the situation.

[From the New York Times, Dec. 11, 1985]

AFTER THE ISRAELI SPY CASE

(By Kenneth J. Bialkin)

The arrest of Jonathan Jay Pollard, an American Government employee charged with selling unauthorized information to Israel, was a sobering and unpleasant event. Israel's American friends are sorry and even angry about what happened. Our support for Israel and its people will not change. Our belief in Israel's essential mission and our pride in its achievements are not diminished, but Israel must not test that support by actions that may harm the United States.

Israel has apologized to the United States and has said that it is a violation of Israel's policy to engage in espionage in the United States. Jerusalem has stated its intention to investigate the breach of its policies, punish those who engaged in unauthorized conduct, terminate the unit involved in the activity and provide assistance to American investigators. The United States has accepted this apology and indicated that the friendship and mutual cooperation of the two allies will continue.

This is just as it should be. The two countries' fundamental relationships must remain intact. Their national and geopolitical objectives have not changed. Now, as before there is no reason for conflict. Our common commitment to freedom and democratic values as well as our common resistance to terrorism, fundamentalist authoritarianism and the spread of Soviet hegemony provide a solid basis for the true friendship and moral support that each extends to the other. Israel can expect its extensive economic and military aid from the United States to continue, and the United States will continue to benefit from Israel's sharing of military and scientific intelligence.

Nevertheless, Israel's many American friends remain confused and shaken by recent events. They wonder why Israel would risk harming its relationships in the United States and are hopeful that Israel's leaders fully appreciate the importance of not permitting this kind of activity to be repeated.

Every nation has legitimate needs for intelligence—as much as it can get—and Israel has particularly pressing needs because it is a small nation surrounded by peoples who wish it harm. But even such need does not justify resorting to illegal and illegitimate conduct against a main friend. Actions that compromise United States security are simply not acceptable.

Unfortunately, there will be those who will use this episode for their own purposes—to undermine support for Israel and challenge American Jews. But the good sense of the American people must not be diverted by such efforts.

American Jews do not believe that their support for Israel and Zionism is in any way inconsistent with their commitment to America—and it is not.

Jews are second to none in their commitment to American society. After centuries of persecution in Europe and elsewhere, here in America they participate in the democratic process on an equal basis and enjoy a freedom and prosperity that was denied to them in many other lands. They have fought and died in all our wars. Thousands of Jews serve in the United States Government, including in the most trusted and sensitive services. Only the mischievous or the anti-Semitic would doubt that the loyalty and dedication of American Jews match that of other Americans.

What can be done to preserve good feeling between the two countries? The bruise will heal, but slowly and not without setbacks. The criminal-justice process remains to be served, and it may in itself produce strains involving the rights of defendants, prospective defendants and witnesses. Israel's willingness to permit American law enforcement personnel to meet with its intelligence operatives to determine the nature and extent of their activities in this case is without precedent and is a further effort to make amends.

Both Israel and the United States are trying to handle the case with mutual good will and patience. The leaders on both sides have so far shown admirable restraint and understanding, and they must continue to do so. Only that way can they hope to protect both their national interests and the traditional friendship of their countries.

SOUTH AFRICA

HON. MARK D. SILJANDER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. SILJANDER. Mr. Speaker, although events in South Africa have moved off the front pages of our newspapers, what is going on there remains of extreme importance to the people of the United States. We should never forget that this country has important strategic interests in southern Africa. Beyond that, there are questions of the human rights of all residents of the region, and how those rights are best to be protected.

It seems uncontestable to me, Mr. Speaker, that substantial progress is being made in South Africa. However much we may dislike the institution of apartheid, and however disagreeable may be the tone of voice of official South African spokesmen, it is really irrefutable that enormous changes are taking place in that troubled land. The question is, How best can this progress of change be encouraged and nourished?

My own view is that encouragement is the proper course, rather than threats. I am pleased to call your attention today to similar sentiments expressed by a member of the British Parliament, the Honorable Julian Amery. In discussing the improvements in South Africa, Mr. Amery concludes that the United States policy of constructive engagement "* * * has greatly encouraged President Botha's internal reforms and rolled back Soviet influence in Mozambique and Angola."

I agree with Mr. Amery's analysis, and insert his entire essay, from the London Daily Telegraph of November 7, at this point in the RECORD.

[From the Daily Telegraph, Nov. 7, 1985]

HOW THE CITY COULD SOLVE SOUTH AFRICA'S PROBLEMS

(By Julian Amery)

South Africa looks to be a major political issue in the new session of Parliament. Strong emotions and British interests are involved. Where does the Government's duty lie?

It has a clear responsibility towards British investors in South Africa, British traders with South Africa, British manufacturers dependent on South African raw materials, and towards the wider British public which benefits from the taxes paid by them.

It has a responsibility to keep the Cape route open and to see that Soviet penetration into southern Africa is contained and, if possible, rolled back.

Beyond that it has a special responsibility to the two million English-speaking South Africans. At least a million of them have the right of abode in Britain.

Hitherto, the South African régime has discharged these responsibilities for us. It has provided stability, a private enterprise economy and a pro-Western external policy. Can it continue to do so?

In recent years, deep changes have been taking place in South Africa which could threaten that régime's existence.

Economic expansion has led to the steady rise in material and cultural standards of the blacks. There has grown up an élite of doctors, dentists, teachers, clergymen, skilled workers, managers and businessmen. Increased opportunities have bred increased expectations and this has led to a demand for political rights. Some have achieved these as ministers or officials in the autonomous or independent "homelands" or as councillors in local government. But there are still no political rights at national level.

Meanwhile, all South Africa's neighbours have become independent black-ruled states: Mozambique, Angola, Zimbabwe, the three former British Protectorates, and the four independent "homelands". These together are major trading partners for the republic. A good relationship with them could offer great opportunities. Nevertheless, Soviet penetration of Angola and Mozambique and of the African National Congress and South West Africa Peoples Organisation movements also present a serious political threat.

President Botha, when Minister of Defence, was for 12 years responsible for external and internal security. The job taught him the urgent need to defuse the growing pressures at home and abroad and to prevent them combining against the white régime. The need to do business with neighbouring black leaders led him to scrap much of the "petty apartheid". To retain it would have been as offensive to his black visitors as to the rising South African black élite.

More serious reforms followed. Black and multi-racial trade unions were legalised. The Immorality Act was repealed. Africans were enabled to buy long leases of their urban homes. Job reservation was virtually abolished. Blacks could open business premises in white areas. Black municipal authorities were set up in the black townships. All this is a far cry from Dr. Verwoed's vision.

But Botha's decisive reform was to bring the coloured and Asian communities—some four million—into the political process and to appoint their representatives to the Cabinet. This abandoned the principal of white supremacy. It also split the Nationalist party and won substantial English-speaking support for the Government.

The exclusion of the blacks from this reform naturally fuelled their resentment. But what put a match to the fire were indications that the President was exploring with moderate black leaders, ways of bringing the blacks into the political process through some federal or confederal system—which would end white domination but perpetuate white leadership. This, the radical black and coloured leaders were determined to resist at all cost. The economic recession and heavy unemployment enabled them to launch a campaign of violence in the townships. Thanks to communist organising techniques and the encouragement given by anti-apartheid movements, especially in the United States, this still continues. Although ostensibly an anti-apartheid campaign it is, in practise, as much a social as a racial confrontation. Black and coloured revolutionaries are fighting black and coloured moderates. Black and Asian property are their main targets.

As Chief Buthelezi has explained none of this amounts to a revolution. The current agitation will be repressed but the question remains: is it possible to devise a stable South African society, pro-Western and based on free enterprise, but which would give the blacks a genuine share in the political process on terms acceptable to the other communities?

Only the South Africans themselves can realize this ideal but the British stake in South Africa is so great that we have a right to try and help them find it.

The South African business community, closely linked to London, has traditionally held "progressive" views and maintained contact with non-white leaders of all kinds, moderate and extreme. But it has kept and been kept out of political power. Has the time come when it should seek to participate more actively in government? This could be uncomfortable. It is easier to talk "progress" from the boardroom than to sit round the Cabinet table and decide what to do next week.

And if it did come forward, would President Botha and the Afrikaaner Nationalist caucus accept it as a full partner? There are good reasons why they should. Greater business participation would give renewed confidence to the City and to Wall Street and so strengthen the rand. It might help promote a constructive dialogue with moderate black leaders. Not least it could rally English-speaking support for the Government in the constituencies.

British business could help in the process. Could the British Government?

Mrs. Thatcher has, rightly, set her face against economic sanctions. They could only encourage the hardliners, black and white. But in the interests of European and Commonwealth solidarity she has agreed, reluctantly, to what she herself has called "tiny, very tiny" gestures of disapproval.

Is it not time now to turn over the page and drop the stick in favour of the carrot?

Instead of discussing punitive measures, should we not explore with the South African leaders what further reforms they could risk which would justify us in lifting existing sanctions? The Gleneagles agreement on sport? The ineffective oil embargo? Eventually even the arms embargo?

Above all, should we not join more openly with the United States administration in the policy of "constructive engagement." Far from failing, that policy has greatly encouraged President Botha's internal reforms and rolled back Soviet influence in Mozambique and Angola. President Reagan was right to remind Congress that "the Soviets are waiting in the wings." It would be a tragedy if we allowed our increasingly irrelevant differences with South Africa to divert our attention and energies from the central issue in the world.

NATIONAL FALLEN FIREFIGHTERS MEMORIAL

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. GOODLING. Mr. Speaker, my colleagues and their constituents should take note of a memorial only 2 hours from Washington which celebrates the brave men and women who are often unknown and unsung heros to everyone small town and big city in our Nation: our local firefighters. On October 14, 1981, the people of the United States dedicated a monument at the National Emergency Training Center in Emmitsburg, MD, known as the National Fallen Firefighters Memorial.

This monument pays tribute to America's firefighters, who have been the bulwark of the Nation's civil defense effort since the founding days of our country. Throughout our history, patriotic Americans have risked their lives to defend their communities against fire and disasters. Therefore, it is only fitting to remember those who have given their lives unselfishly in service to their fellow man.

Annually, tribute is paid to those fighters who have fallen in the past year. Most recently, on October 13, 1985, over 500 individuals gathered with 30 families of the deceased present at this special occasion. In all, 117 new names were added to the list of those who have been commemorated at the memorial.

The National Fallen Firefighters Memorial is an established tribute to those who have served their fellow citizens well. These men and women have given their lives so that others may live. This testimonial to their dedication should be a common visiting stop for us all.

BERTHA GILKEY: ADVOCATE FOR PUBLIC HOUSING RESIDENTS

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. STOKES. Mr. Speaker, I would like to take this opportunity to share with my colleagues some information about Ms. Bertha Gilkey and the leadership and motivation she has provided for thousands of public housing residents. Ms. Gilkey is often called the "angel of public housing" because of her expertise at helping public housing tenants manage their property. She is an advocate for tenant rights and an inspiration to many public housing tenants.

For several years, Ms. Gilkey has worked with public housing tenant groups across the Nation. Her primary objective has been to help these resident groups secure contracts from city and county agencies to manage their own properties. Her philosophy is that tenant groups are better suited than city and county bureaucracies to identify and satisfy the needs of public housing residents.

Recently, Ms. Gilkey came to Cleveland and worked with the tenants of the Lakeview Terrace Estates to achieve this goal. As a result of her inspiration and assistance, the tenants of this public housing development just signed a contract to manage their own property and to establish innovative programs which will meet their needs.

Cleveland is one of several cities in which Ms. Gilkey has worked with tenant groups to ensure a better living environment. Because of her, the tenants of the Lakeview Terrace Estates in Cleveland are enthusiastic about the future for their public housing development.

Mr. Speaker, at this time, I would like to insert in the RECORD an article which appeared in the Cleveland Plain Dealer on Ms. Bertha Gilkey.

[From the Cleveland Plain Dealer, Nov. 11, 1985]

TENANTS' PATRON LED BATTLE

PUBLIC HOUSING FOR AND BY PEOPLE BEGINS IN CLEVELAND

(By Maxine L. Lynch)

Bertha Gilkey is a human spark plug.

Gilkey, 36, called "the angel of public housing" and "the mother of tenant management" by public-housing residents, has almost single-handedly ignited many thousands of America's 4,000,000 public-housing tenants into freeing themselves from what some view as bureacratic slavery: the inability of public-housing tenants to control their living conditions.

The broad-shouldered, 5-foot-6, 129-pound woman has walked commandingly into federal housing agencies in Cleveland; New York; Chicago; Jersey City, N.J.; Louisville, Ky.; and St. Louis to fight for tenant rights.

Her message is that public-housing residents, with the proper training and resources, can care for themselves better than bureaucracies.

Her personality—a combination of a fiery temper, enthusiasm, persistence, will power, guts and shrewdness—has helped her conquer housing agencies' resistance to tenant management, and to instill a sense of dignity and pride in tenants.

Without Gilkey, Ohio's first tenant-management contract, signed last week by the Cuyahoga Metropolitan Housing Authority and tenants at CMHA's Lakeview Terrace Estates, would not exist, said Lena Jackson, president of the Lakeview Terrace Resident Management Firm.

CMHA was approached by Lakeview residents about the possibility of tenant management almost two years ago, not long after Lakeview residents heard Gilkey tell them tenant management could help remove some of the moral and physical indignities public-housing tenants suffer daily.

Through tenant management, residents can rid their estates of drug pushers, vandals and thieves, she said.

"Public-housing tenants can take control of their lives. That means by management and by getting involved in each and every program that . . . provides services for them," Gilkey said.

Gilkey's firm, Urban Women Inc., will comanage the estate with the Lakeview residents.

The plans Gilkey has for making Lakeview an exemplary development run by tenants reflect her zeal for initiating new ideas and enterprises.

"We just don't want folks to think we are going to collect rent and evict people," Gilkey said. "Our goal is to combine good management with social programs to make our community a whole community and to provide a better quality of life for residents at Lakeview."

The first task Gilkey and the seven-member tenant-management board at Lakeview face is security. In addition to having a paid security staff, they will train tenants as monitors to watch the lobby of each building at all times. They are to take a 120-hour peace officer training course at Case Western Reserve University.

Gilkey wants to set up a child-care center. "We have a lot of young mothers who want to go back to school, or work, but they don't have day care," Gilkey said. She said she planned to set up a day-care center for children 6 weeks to 6 years old.

She said she was working to get a curriculum established at Cuyahoga Community College so members of Lakeview's management firm can obtain two-year degrees in property management.

"We will also be looking at ways to encourage residents to set up their own business," she said.

Gilkey's success as a public-housing consultant is due partly to her being a second-generation public-housing tenant.

She is the second of 15 children. Her mother grew up in Cochran Gardens, a St. Louis public-housing estate, where Gilkey helped in the formation of one of the first tenant-management firms in the country.

"I don't look at public housing as a temporary place (for poor people) to live," she said. "It has become our home, our neighborhood, and that is why I do what I do. My mother grew up in Cochran. I grew up in Cochran, and my children have grown up in Cochran."

She has two children, Yvette, 18, and Antione, 17.

Gilkey got involved in fighting for better services for public-housing tenants by volunteering as a building captain at her estate.

By the time she was 18, she had participated in a rent strike. At 27, Gilkey has become president of the Cochran resident council and had won the fight to wrest the 797-unit housing complex from the St. Louis public-housing agency.

During the mid-70s, when the U.S. Department of Housing and Urban Development became committed to the concept of tenant management, they looked at Gilkey's tenant-management firm as the model for at least a half-dozen such firms that received $14 million in HUD funds.

Gilkey learned to be tough.

While negotiating the contract with CMHA, she could be blunt; her remarks would often be cutting and cold.

"We have a lot of people receiving huge salaries who are not producing or delivering any service for the residents in public housing," she once told residents at Lakeview. "That is what I call poverty pimps.

"We've got to get the poverty pimps out of public housing."

Gilkey has developed a worldwide reputation as an expert in tenant management. She has conducted tenant-training workshops in England and Israel and is about to go to Sweden and Holland to conduct similar workshops. She recently returned from a trip to Budapest.

Last summer, she went to Nairobi, Kenya, where she conducted as workshop on tenant management from the perspective of a feminist who has grown up in public housing. The audience was made up of 2,100 women from all over the world, who were attending the United Nation's Womens Conference.

Gilkey said she earns about $6,000 a year, after expenses, from her consulting. "I will never be a rich consultant," she said.

Gilkey has won many honors, but she said her greatest reward has been her work.

"It is my goal to educate and train tenants all over the country and all over the world to take control of their own destiny and their own lives," Gilkey said.

A SALUTE TO THE MOTHER'S BAND AND SHOW

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. FAUNTROY. Mr. Speaker, I want to bring to the attention of my colleagues, the Mother's Band and Show, a musical family who has touched the lives of many people here in the Washington metropolitan area.

A firm believer that the family that plays together stays together, Mrs. Betty Green is the organizer, leader, and bass player for the band. Three of her children are in the band, two daughters Robin and Vonnye, and her son Spencer. The remaining band members are well-known musicians: Greg Boyer on trumpet, Ed Anderson on drums, Rich Williams on guitar, Horace Brock on keyboards, Lloyd Pinchback on saxophone, and vocalists Tye Campbell and Willie Jolley.

Founded in May 1977, the Mother's Band and Show has played over 300 benefit shows including performances for the District of Columbia Police Department, the Lorton Reformatory, Boys Village, Old Soldiers Home, Job Corps, the Edgemead Correction Center for Boys, and the Youth World Community.

The gift of music which this family willingly gives to senior citizens, the sick and shut-in, and those incarcerated is not without sacrifice. Mrs. Green and her husband have remained committed to keeping their family together and spreading the message of love through song.

The Mother's Band and Show is a family affair and audiences of all ages are inspired by their music. I extend to each member of the band my sincere best wishes for continued success.

ESPIONAGE PREVENTION ACT OF 1985

HON. ED ZSCHAU

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. ZSCHAU. Mr. Speaker, this year, 1985, has been the year of the spy. In the past few months we have had an unprecedented number of arrests for espionage. While we can take some comfort in the fact that so many spies are being caught, there is much more we must do to protect our Nation's secrets.

For this reason, I am introducing today H.R. 3910 that would make it more difficult for Soviet bloc intelligence agents to gain access to American secrets. This legislation would do so in two ways.

First, it would place the same travel restrictions on the diplomats of Soviet satellite countries in the United States as currently apply to diplomats from the Soviet Union. Diplomats of the Soviet Union are prevented from traveling more than 25 miles from their mission without permission of the State Department. Further, they are prohibited from entering certain areas that are critical to national security such as Silicon Valley in my congressional district. This bill would place these travel restrictions on diplomatic personnel and their families from East Germany, Bulgaria, Poland, Hungary, Romania, Czechoslovakia, Mongolia, Cuba, and Vietnam.

Restricting the travel of Soviet bloc diplomats in the United States is necessary because so many Soviet bloc intelligence agents operate in this country under diplomatic cover. Moreover, as FBI Director William Webster recently testified in the other body, there is full cooperation between the Soviet intelligence services and the intelligence services of its satellite countries.

An example of this complicity is the case of James Harper, Jr., who is now serving a life sentence for illegally collecting secrets from Silicon Valley defense firms and passing them to Polish spies. The secrets he sold were passed directly to the Soviet KGB. In fact, Yuriy Andropov, who was director of the KGB at the time, gave commendations to the Polish intelligence officers who got the information. This case clearly demonstrates that it is necessary to restrict the activity of diplomat-spies from Soviet satellite countries as well as their Soviet spymasters.

Ladislav Bittman, who defected from the Czechoslovakian intelligence service in 1968, testified before the Senate Permanent Subcommitte on Investigations that—

> The satellite services . . . are mainly directed and exploited by the KGB. Soviet intelligence is informed of every major aspect of their activities; the Russian advisors (called liaison officers), influence the planning of major operations and assess the results. No important decision is made without them.

This bill, in addition, would authorize the Secretary of State to apply travel restrictions to members of trade delegations visiting the United States. Many of these trade delegations from Soviet bloc countries include spies that are sent to collect information on American technology. Although all of this information cannot be protected, we should at least have some way of limiting access by restricting the travel of these delegations.

This legislation is similar to the bipartisan bill that was recently introduced by Senators ROTH and NUNN. I urge my colleagues to join with me in supporting this important measure. The text of the bill follows:

H.R. 3910

A bill to amend title II of the State Department Basic Authorities Act of 1956 to impose the same restrictions and conditions on foreign missions of Soviet Bloc countries as are imposed on the foreign mission of the Soviet Union

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TRAVEL RESTRICTIONS ON THE MEMBERS OF FOREIGN MISSIONS OF SOVIET BLOC COUNTRIES.

Title II of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4301 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 215. TRAVEL RESTRICTIONS ON THE MEMBERS OF FOREIGN MISSIONS OF SOVIET BLOC COUNTRIES.

"(a) IMPOSITION.—The Secretary of State shall impose on the members (and the family of such members) of the foreign mission of a Soviet Bloc country the terms, limitations, restrictions, and conditions which are essentially equivalent to those imposed pursuant to this title on the members (and the family of such members) of the foreign mission of the Soviet Union.

"(b) WAIVER.—The Secretary may waive subsection (a) in specific cirumstances if the Secretary determines that to do so is in the national interests of the United States. The Secretary shall report each waiver of subsection (a) to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate not later than 10 days after such waiver is granted.

"(c) REPORTS.—(1) Not later than 30 days after the date of the enactment of this section, the Secretary shall submit a report on the plans of the Secretary for implementing this section, and not later than six months after the date of the enactment of this section, the Secretary shall submit a report on the actions taken to implement such plans.

"(2) The reports referred to in paragraph (1) shall be submitted to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

"(d) DEFINITIONS.—For the purposes of this section—

"(1) the term 'family' means the members of the family of a member of a foreign mission described in paragraph (3) who form part of the household of that member if they are not nationals or permanent resident aliens of the United States;

"(2) the term 'members of the foreign mission' means—

"(A) the head of a foreign mission and the members of the diplomatic staff of a foreign mission,

"(B) members of the administrative and technical staff of a foreign mission, and

"(C) members of the service staff of a foreign mission,

as such terms are defined in Article 1 of the Vienna Convention on Diplomatic Relations (23 UST 3227); and

"(3) the term 'Soviet Bloc country' means Bulgaria, Cuba, Czechoslovakia, the German Democratic Republic, Hungary, Mongolia, Poland, Romania, and Vietnam.".

SEC. 2. GOVERNMENT-DIRECTED TRADE ACTIVITIES INCLUDED IN THE DEFINITION OF FOREIGN MISSION.

(a) AMENDMENT OF DEFINITION.—Section 202(a)(4) of Title II of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4302(a)(4)) is amended by inserting "(including government-directed activities involving international trade)" after "governmental activities".

(b) REPORT.—Not later than six months after the date of the enactment of this Act, the Secretary of State shall submit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate a report describing in detail the restrictions which apply to the foreign missions of government-directed activities involving international trade as a result of the amendment made by subsection (a).

IN THE NAME OF JUSTICE

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. GARCIA. Mr. Speaker, I am inserting in the RECORD a memorandum from the Lawyer's Committee for Civil Rights Under Law on the military occupation of Baragwanath Hospital in Soweto, South Africa. This situation was first brought to my attention by the New York State Nurses Association.

The problem with all such tragedies is that there is precious little that we can do to help these people other than expressing our outrage. What we can do, and what I hope this body will do, is to pass even stronger sanctions that will force the South African Government to pay attention to our concerns with apartheid or to suffer the consequences.

As South African writer Nadine Gordimer has said, "sanctions, against all historical evidence, do seem to work in the case of South Africa." For the moment sanctions are our best bet. It is our only leverage.

What we must not do is shrink away from our responsibility to the people of South Africa. We must not hide behind the mantle of plodding, unproductive negotiations. In the case of South Africa, this technique has not worked. Again, to quote Ms. Gordimer:

> If you are in search of clarity within yourself as well as in others * * *, where better to test yourself and them than in the thickest murk (of South Africa)?

A new sanctions bill would clarify where we are in that "thickest murk."

I want to thank the New York State Nurse's Association for bringing this matter to my attention.

The memorandum follows:

LAWYERS' COMMITTEE FOR CIVIL RIGHTS UNDER LAW—MEMORANDUM

Re The Military Occupation of Baragwanath Hospital, Soweto, South Africa.

From: The Southern Africa Project of the Lawyers' Committee For Civil Rights Under Law.

Date: November 20, 1985.

The Southern Africa Project has received very disturbing information concerning the situation at Baragwanath Hospital in Soweto, near Johannesburg. The hospital has been occupied by members of the South African Defense Force (SADF) and the South African Police (SAP). With a 3,000 bed capacity, Baragwanath is the largest hospital in Sub-Saharan Africa, and serves a black population of nearly two million in the Johannesburg area. The following information came to the Southern Africa Project by telephone from the World Council of Churches in Geneva, Switzerland. The Council had been contacted on Monday, November 18, by members of the medical staff at Baragwanath Hospital and were told that:

On Monday, November 18, 942 nurses and over 1,000 non-classified [service] workers were dismissed;

Prior to their dismissal, both groups had attempted to negotiate with the Superintendant of that hospital concerning their grievances. These included the complaint by the non-classified workers that they had not had a pay raise since 1973 (many of them had worked for the hospital for 15 years at $150 a month);

When both the nurses and service workers tried to organize meetings, the meetings were banned by the South African Police under the State of Emergency regulations;

People at the meetings were beaten up by the police and army, some of them badly;

The army and the police are creating chaos in the hospital by running around fully armed; they were ordering workers at gun-point to resign and patients at gunpoint to vacate their beds;

Nurses and patients have been beaten up by the police and the army;

The nurses are seeking a court interdiction to overturn the dismissals. Attorney Ismail Ayob is acting on their behalf and the application is to be heard in the Supreme Court (Witwatersrand Local Division) in Johannesburg; and

Complete press censorship has been imposed, with the declaration of Baragwanath Hospital as an "operational area". In violating this censorship order, the staff members who contacted the Council in Geneva were placing themselves at considerable personal risk. They nonetheless urged the Council to widely publicize the situation.

In addition to the above information from the World Council of Churches, the Southern Africa Project has been informed by the legal representatives of the dismissed nurses that their application will be heard in the Johannesburg court tomorrow afternoon (November 21). The applicants are arguing that the authorities were not in compliance with the Nursing Act in summarily dismissing them. They are seeking to be reinstated by court order. The dismissed nurses constitute the entire trainee nursing staff of Baragwanath hospital. We are further informed that the hospital functions have been cut back to emergency cases only. Baragwanath is the only hospital serving the needs of Johannesburg's black population.

HONORING HELEN SMADES

HON. RICHARD H. LEHMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. LEHMAN of California. Mr. Speaker, I rise today to pay tribute to a long and dear friend, Helen Smades, who will soon complete her tenure as president of the Fresno County and City Chamber of Commerce. Helen leaves behind her a strong and viable Chamber of Commerce for the Fresno area, one that has made great strides toward promoting both economic and cultural growth in the San Joaquin Valley.

Never one to rest, Helen used her presidency of the chamber to improve and enhance the quality of life in Fresno and the surrounding area. During her tenure she was instrumental in the establishment of the Fresno Visitor's Bureau to encourage tourism in the area. Helen used her organizational skills and business acumen to develop and implement a small business hotline, designed to encourage businesses and business people to look to the Fresno area as a potential site for expansion or creation of new opportunities. She worked hard to broaden the chamber's base through active recruitment of minority business participation and through better outreach to the business community at large. In addition, she strived to make the community more aware of the chamber of commerce itself, and worked to see the chamber become more active in community and regional affairs.

When Helen turns the presidency of the Fresno County and City Chamber of Commerce over to new leaders in January, she will have left for them a more vibrant, active, and aware chamber than that which she inherited. I am proud of the accomplishments my friend Helen Smades has made during her tenure, and look forward to her continued active participation in the growth of the Fresno area for many years to come.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, December 12, 1985, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

DECEMBER 13

11:00 a.m.
Judiciary
Immigration and Refugee Policy Subcommittee
Business meeting, to consider pending private immigration relief bills.
SD-226

DECEMBER 17

9:00 a.m.
Judiciary
To hold oversight hearings on the creation of new bankruptcy judgeships.
SD-226

10:00 a.m.
Labor and Human Resources
To hold hearings on the nominations of Wendell L. Willkie II, of the District of Columbia, to be General Counsel, and Bruce M. Carnes, of Virginia, to be Deputy Under Secretary for Planning, Budget and Evaluation, both of the Department of Education.
SD-430

DECEMBER 18

10:00 a.m.
Foreign Relations
To hold hearings on issues relating to the preparation for the February 1986 Philippine Presidential election.
SD-419

DECEMBER 19

9:30 a.m.
Labor and Human Resources
Aging Subcommittee
To hold hearings to examine the participation of older workers in the Job Training Partnership Act (Public Law 97-300).
SD-628

10:00 a.m.
Labor and Human Resources
Education, Arts, and Humanities Subcommittee
Business meeting, to resume markup of proposed legislation authorizing funds for programs of the Higher Education Act.
SD-430

JANUARY 28

9:30 a.m.
Governmental Affairs
Intergovernmental Relations Subcommittee
To hold oversight hearings on regulatory activities of the Office of Management and Budget.
SD-342

CANCELLATIONS

DECEMBER 12

4:00 p.m.
Select on Intelligence
Closed briefing on intelligence matters.
SH-219

HOUSE OF REPRESENTATIVES—*Thursday, December 12, 1985*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

You have commanded, O God, that if we profess to love You we should love our neighbors as well. Help us to appreciate the height and depth of Your creation, the wonders and variety of Your good Earth. Since all life has been given by Your hand, may we see in other people the mark of Your spirit and together form that bond of understanding that better reflects Your purpose in us. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. CHANDLER. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. CHANDLER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 274, nays 111, answered "present" 3, not voting 46, as follows:

[Roll No. 455]

YEAS—274

Ackerman
Addabbo
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
AuCoin
Barnard
Barnes
Bateman
Bates
Beilenson
Bennett
Berman
Bevill
Biaggi
Bliley
Boland
Boner (TN)
Bonior (MI)
Bonker
Borski
Bosco
Boucher
Boulter
Boxer
Breaux
Broomfield
Brown (CA)
Bruce
Bryant
Burton (CA)
Bustamante
Byron
Callahan
Carper
Carr
Chapman
Chappell
Coats
Coelho
Coleman (TX)
Collins
Combest
Conyers
Cooper
Coyne
Craig
Crockett
Daniel
Darden
Daschle
Dellums
Derrick
Dicks
Dingell
DioGuardi
Donnelly
Dorgan (ND)
Dowdy
Downey
Dreier
Duncan
Dwyer
Early
Edwards (CA)
Emerson
English
Erdreich
Evans (IL)
Fascell
Fazio
Feighan
Fish
Flippo
Florio
Foglietta
Ford (MI)
Ford (TN)
Fowler
Frank
Franklin
Frenzel
Fuqua
Garcia
Gaydos
Gejdenson
Gephardt
Gilman
Glickman
Gonzalez
Gordon
Gradison
Gray (PA)
Green
Guarini
Hall, Ralph
Hamilton
Hammerschmidt
Hansen
Hatcher
Hayes
Hefner
Hertel
Hillis
Horton
Howard
Hoyer
Hubbard
Hughes
Hutto
Jeffords
Jenkins
Johnson
Jones (OK)
Jones (TN)
Kanjorski
Kaptur
Kastenmeier
Kemp
Kennelly
Kildee
Kindness
Kleczka
Kolter
Kostmayer
LaFalce
Lantos
Leath (TX)
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lipinski
Lloyd
Long
Lott
Lowry (WA)
Lujan
Luken
Lundine
MacKay
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCain
McCloskey
McCollum
McCurdy
McDade
McEwen
McMillan
Meyers
Mica
Mikulski
Miller (CA)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moore
Morrison (CT)
Mrazek
Murphy
Murtha
Myers
Natcher
Neal
Nichols
Nielson
Nowak
O'Brien
Oakar
Oberstar
Ortiz
Owens
Packard
Pease
Pepper
Perkins
Petri
Pickle
Pursell
Quillen
Rangel
Ray
Regula
Reid
Richardson
Rinaldo
Ritter
Robinson
Roe
Rostenkowski
Rowland (GA)
Roybal
Rudd
Russo
Sabo
Savage
Schaefer
Scheuer
Schneider
Schulze
Schumer
Sensenbrenner
Sharp
Shelby
Shumway
Sisisky
Skelton
Slattery
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Denny (OR)
Smith, Robert (OR)
Snyder
Solarz
Spratt
St Germain
Staggers
Stallings
Stenholm
Stokes
Strang
Stratton
Studds
Stump
Swift
Tallon
Tauzin
Taylor
Thomas (GA)
Torres
Torricelli
Traficant
Udall
Valentine
Vento
Visclosky
Volkmer
Walgren
Watkins
Weaver
Weiss
Wheat
Whitehurst
Whitley
Whitten
Wilson
Wirth
Wise
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (MO)
Hartnett
Hendon
Henry
Hiler
Holt
Hopkins
Hyde
Ireland
Jacobs
Kasich
Kolbe
Kramer
Lagomarsino
Latta
Leach (IA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Loeffler
Mack
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McGrath
McKernan
Michel
Miller (OH)
Mitchell
Monson
Moorhead
Morrison (WA)
Oxley
Parris
Pashayan
Penny
Ridge
Roberts
Roemer
Rogers
Roth
Roukema
Rowland (CT)
Saxton
Schroeder
Shaw
Shuster
Sikorski
Siljander
Skeen
Slaughter
Smith, Robert (NH)
Snowe
Solomon
Spence
Stangeland
Sundquist
Swindall
Tauke
Thomas (CA)
Towns
Vander Jagt
Vucanovich
Walker
Weber
Whittaker
Wolf
Young (FL)
Zschau

NAYS—111

Badham
Bartlett
Barton
Bentley
Bereuter
Bilirakis
Boehlert
Brown (CO)
Burton (IN)
Campbell
Carney
Chandler
Cheney
Clay
Clinger
Cobey
Coble
Coleman (MO)
Conte
Coughlin
Courter
Crane
Dannemeyer
Daub
Davis
DeWine
Dickinson
Dornan (CA)
Durbin
Evans (IA)
Fawell
Fiedler
Fields
Gallo
Gekas
Gingrich
Gregg
Grotberg
Gunderson

ANSWERED "PRESENT"—3

Dymally
Hawkins
Obey

NOT VOTING—46

Atkins
Bedell
Boggs
Brooks
Broyhill
Chappie
de la Garza
DeLay
Dixon
Dyson
Eckart (OH)
Eckert (NY)
Edgar
Edwards (OK)
Foley
Frost
Gibbons
Goodling
Gray (IL)
Hall (OH)
Heftel
Huckaby
Hunter
Jones (NC)
Leland
Lowery (CA)
Lungren
McHugh
McKinney
Nelson
Olin
Panetta
Porter
Price
Rahall
Rodino
Rose
Schuette
Seiberling
Stark
Sweeney
Synar
Traxler
Waxman
Williams
Young (AK)

Mr. SMITH of Florida changed his vote from "present" to "yea."

So the Journal was approved.

The result of the vote was announced as above recorded.

□ 1025

PRESERVING AUTHORITY OF SUPREME COURT POLICE TO PROVIDE PROTECTIVE SERVICES FOR JUSTICES AND COURT PERSONNEL

Mr. GLICKMAN. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the bill (H.R. 3914) to preserve the authority of the Supreme Court Police to provide protective services for Justices and Court personnel, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. LEHMAN of California). Is there objection to the request of the gentleman from Kansas?

Mr. KINDNESS. Mr. Speaker, reserving the right to object, and I shall

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□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Boldface type indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

not object, I do so in order to yield to the gentleman from Kansas [Mr. GLICKMAN] so that he may explain the nature of the bill, H.R. 3914.

Mr. GLICKMAN. I thank the gentleman for yielding.

Mr. Speaker, in 1982, the Committee on the Judiciary reported a bill granting the Supreme Court Police authority to provide protective services to the Chief Justice, the Associate Justices, official guests of the Supreme Court and officers and employees of the Court. That bill was enacted as Public Law 97-390. The protective authority provided for in that law will expire on December 29, 1985, and this bill will authorize the Supreme Court to exercise these functions for an additional 3 years. The bill also provides for the continuance of the present statutory requirement that the Court will annually report to the Congress the amount of costs incurred by the Marshal of the Court in carrying out these functions.

The Chief Justice, the Honorable Warren E. Burger, requested the continuation of this authority in a communication dated November 25, 1985. In his letter, the Chief Justice stated that the continuance of this authority is necessitated by the increased need for off-premises protection of Justices and Court employees. At our hearings in 1982 it was pointed out that protection was needed for employees traveling to the Court's parking lot in the evening hours. In our report in 1982, the committee noted that in the previous year an employee was murdered and another robbed within walking distance of the Court grounds in the previous year.

I urge the favorable consideration of the bill.

Mr. KINDNESS. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. I thank the gentleman for yielding.

Mr. Speaker, I would like to just ask, are the Justices of the Supreme Court afforded personal protection, or is this protection that only applies to them during their working hours at the Supreme Court?

Mr. KINDNESS. If I might respond to the gentleman, the reports rendered by the Marshal of the Court, Mr. Alfred Wong, during the period that this protective service has been available show that in total, for 1983, 1984, and 1985, the miles used for trips involving this protective service amounted to only 2,725 miles, 2,690 miles in 1984 and 1985, none in 1983. So this is really just the localized protection, to and from the airport, and that localized area.

Mr. CONYERS. I thank the gentleman.

If the gentleman will yield further, I am not concerned about the costs of this. I think protecting our Supreme Court members is a rather reasonable function of the Federal Government, but does this apply to them off duty and in their homes? Do they have any protection?

Mr. KINDNESS. I yield to the gentleman from Kansas [Mr. GLICKMAN] to respond to the gentleman's question.

Mr. GLICKMAN. In answer to the gentleman's question, it has not been used that way in the past. It could be used that way on a need basis, if they felt their security were jeopardized.

Mr. CONYERS. I thank the gentleman.

It the gentleman will yield further, the reason I raised this is that the Members may all remember that the Chief Justice of the Supreme Court, when newspapermen visited him at his home one night, had to answer with a revolver, going to the door. That was a little bit unseemly, and I do not like to think of my Chief Justice having to be barricaded in his home on Capitol Hill. If he needs protection or feels the need for protection, which apparently he did, it should be provided by this service, not by his having to carry a revolver, which he may or may not be appropriately licensed for, or anything else. And that is why I raised the question. I hope the gentleman will respond.

Mr. KINDNESS. The gentleman makes a very good point. There may be, from time to time, the perception of the need for this service beyond the Supreme Court Building premises and trips to and from the airport or other means of transportation. However, I think the Supreme Court and the Chief Justice are sensitive to the possibility of severe public criticism if they had protective service beyond that which appears to be reasonably necessary. I think there is a balance in the use of this service that is appropriate, from what I can tell. I would not disagree with the gentleman from Michigan at all, however, about the apparent perception of need for protection at the home premises of the Justices.

Mr. GLICKMAN. If the gentleman will yield further, I would just make one point. I agree with the gentleman. It is clear to me that this bill does provide on a needs basis that kind of personal protection if requested by members of the Court.

Mr. CONYERS. I thank the gentleman from Kansas.

Mr. KINDNESS. Mr. Speaker, I urge the agreement to the unanimous-consent request, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kansas?

There was no objection.

The Clerk read the bill, as follows:

H.R. 3914

Be it enacted by the Senate and House of Representatives of the United States in Congress assembled, That the Act entitled "An Act relating to the policing of the building and grounds of the Supreme Court of the United States", as approved August 18, 1949 (40 U.S.C. § 13f), and as amended, is further amended by amending section 9(c) of such Act to read as follows:

"(c) The Marshal of the Supreme Court shall report annually to the Congress on March 1 regarding the administrative cost of carrying out his duties under subsection (a)(2). Duties under subsection (a)(2)(A) of this section with respect to an official guest of the Supreme Court in any part of the United States (other than the District of Columbia, Maryland, and Virginia) shall be authorized in writing by the Chief Justice of the United States or an Associate Justice of the Supreme Court, if such duties require the carrying of firearms under subsection (a)(5) of this section. The authority provided under subsection (a)(2) shall expire on December 29, 1988.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

TAX REFORM

(Mr. SCHUMER asked and was given permission to address the House for 1 minute.)

Mr. SCHUMER. Mr. President, yesterday the House defeated the rule on the tax reform bill with 14 votes from the other side.

Mr. President, today is our last chance for tax reform. If we do not get reform today, we will not have it next month, next year or within the foreseeable future.

Mr. President, today is our last chance to take 20 million poor people off the tax rolls.

Mr. President, today is our last chance to reduce tax rates on the middle class and restore progressivity to our tax system.

And, Mr. President, today is our last chance to make those wealthy individuals and corporations which paid no tax in the past pay their fair share of taxes in the future.

Mr. President, we in this Chamber have marveled at your ability to pull 50 votes out of thin air for measures far less worthy than this one. You can surely do it now, if you want tax reform.

Mr. President, today is our last chance, and if you want tax reform, you must act now.

OVERESTIMATES IN DEPARTMENT OF DEFENSE

Mr. MONSON. Mr. Speaker, earlier this year, I was shocked to learn that the Secretary of Defense, Caspar Weinberger, had squirreled away $4 billion in the Department of Defense, saving it perhaps for a rainy day. I was even more shocked when a GAO audit reported that that figure was not $4 billion but it was $41 billion, some of which has now been reprogrammed, but there still remains somewhere in between $13 billion and $23 billion that can be used in offsetting our deficit.

Earlier this week, I introduced legislation that will require all agencies to report the effects of inflation on their budgets. That is what caused the overestimates in the Department of Defense. This will be done on an annual basis and will give us the chance to make the decisions that we need to make concerning our budget so that we can avoid these problems from reoccurring in the future.

I also joined with my fellow CPA and colleague from New York, Congressman DioGuardi, to sponsor a bill that will eliminate the ability of the Defense Department to inflate their budget by overestimating the cost of inflation in the future through cost plus inflation budget estimates.

I urge my colleagues to join me in sponsoring this legislation so that we can eliminate these abuses from the budgeting process.

FINANCIAL DISCLOSURE

(Mr. ST GERMAIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ST GERMAIN. Mr. Speaker, the question of appropriate public disclosure for purposes of determining conflict of interest for Members of Congress has been addressed by the Congress. Leaders of one of our national political parties, however, apparently believe that the existing financial disclosure procedure is insufficient. Through an expensive media campaign, the Republican Party is saying that it prefers an alternative disclosure mechanism.

In a bipartisan spirit of cooperation and accommodation, I today have introduced legislation to require all candidates for congressional office to submit for publication in the Congressional Record a copy of their most recent Federal income tax form.

I invite all Republican leaders and Members who endorse the teachings of the national Republican Campaign Committee to cosponsor this legislation. Rhode Island voters will be watching and kept informed of their decisions.

Let me further state that my Federal tax returns have been accurately prepared by my accountant. These returns are not being audited or questioned, except for certain deductions related to limited partnership investments made years ago.

Like every other Member of Congress, I have made the appropriate financial desclosure statements required by the House of Representatives. These statements are on file for public inspection in the Rhode Island Secretary of State's office.

If, in the wisdom of the Congress, the American public is not being well served by the present system of disclosure, the legislation I am introducing today provides us with an opportunity for change. Upon its enactment, I shall naturally comply.

PERMISSION FOR COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS TO SIT TODAY DURING 5-MINUTE RULE

Mr. ST GERMAIN. Mr. Speaker, I ask unanimous consent that the Committee on Banking, Finance and Urban Affairs be allowed to sit today under the 5-minute rule during proceedings of the House, to mark up H.R. 3667, the Competitive Tied Fund Act, and H.R. 3498, the Competitive Exchange Rate Act of 1985.

The gentleman from Ohio, the Honorable Chalmers P. Wylie, the ranking minority member on the Committee on Banking, Finance and Urban Affairs, concurs with this request.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

THE TAX BILL

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, we in this House are elected by the people to render an independent judgment on proposed laws. After 3 months of public and private warnings to the executive branch, we exercised our judgment yesterday and rejected the Ways and Means tax bill. This House found that 1,379-page bill too complex, too confused, too special-interest laden, and too likely to cause a recession in 1986.

The White House Press Office has been suggesting that the President is angry at House Republicans for rejecting this 1,379-page collection of tax changes.

Let me suggest three principles:

First, the House, which has recently suffered through the mistake on taxing interest on savings, the mistake on computing interest on real estate sales, the mistake on contemporaneous travel expense recordkeeping, has learned from these three mistakes to be very cautious about a 1,379-page tax bill.

Second, the House Republicans have been, are and will remain the strongest supporters of President Reagan's values and beliefs. It is our independent judgment that the Ways and Means tax bill fails to meet the President's values and goals.

Third, when the President's strongest allies vote nearly 12 to 1 against a bill being proposed, it would be far wiser to ask how his staff failed to hear our discontent with a bad tax bill. It is the administration's staff, not the House Republican leadership, which has failed to help the President on this occasion.

MILITARY PROCUREMENT REFORM

(Mr. LEVINE of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVINE of California. Mr. Speaker, this year the Congress for the first time enacted some clear legislation in the area of military procurement reform.

One of the provisions of law enacted without dissent by this body was a requirement that the Pentagon provide to the Congress by December 1, 1985, test results on the Bradley infantry fighting vehicle. Those test results were not provided to the Congress on time, but the Pentagon assured us that we would have the information as soon as it was available, that it needed more information, and further assured my staff that Congress would get the information when it was available and that the Pentagon would not go public or to the press until Congress first had the results.

Yet this morning, Mr. Speaker, some of those results were on television, although Congress has still not seen the results that the law requires that the Pentagon provide. This raises serious questions, Mr. Speaker, about the attitude of the Pentagon with regard to procurement reform, the accountability of the Pentagon to Congress, even after meaningful significant procurement reform legislation has been enacted.

□ 1040

LET US NOT RESORT TO THE BLACK MAGIC OF TAX INCREASES

(Mr. GROTBERG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GROTBERG. Mr. Speaker, I would like to congratulate my distinguished colleagues for their vote on the Gramm-Rudman-Hollings deficit reduction amendment to the debt ceiling bill. Often lost in the shuffle of the debate on the deficit reduction plan was the main purpose of the bill—to raise the debt ceiling above $2 trillion. That is an intolerable, inconceivably high number. It is all too easy to become blinded by the parade of

Zeroes that we so easily discuss while debating the finances of this Nation. We can no longer afford to be so flippant with our spending, and while the effect of the Gramm-Rudman-Hollings plan is leading us down an uncertain and untested road, it was a necessity born of this country's inability to restrain its lust for lavish spending. We have forcibly restrained ourselves for the time being. I hope and pray that when the time comes to meet the targets we have set, we will have the courage to make tough decisions rather than bail ourselves out through the black magic of tax increases.

TOO GOOD AND TOO IMPORTANT TO BE LEFT BEHIND

(Mr. PEASE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEASE. Mr. Speaker, I rise to express my grave disappointment that we were unable yesterday to adopt the rule on the tax reform bill, and that only 14 Members from the other side of the aisle were willing to support their President's No. 1 legislative objective and give the House a chance to consider even their alternative tax bill.

The tax reform bill reported out by the Ways and Means Committee is a good bill. It is genuine tax reform; it does close loopholes used by the wealthy and by corporations to avoid their fair share of taxes; it does make the Tax Code more fair; it will reduce taxes for most Americans.

Mr. Speaker, this bill is too good and too important to be left behind as we rush out of town.

RELIGIOUS LIBERTY

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, at this festive Christmas season, we sometimes forget that this Nation is truly blessed in the freedom we enjoy to express our religious convictions. There are nations, some but a few hundred miles from our southern borders where such freedom is no longer allowed.

Only a few weeks ago, the Catholic primate of Nicaragua, Cardinal Obando, had his new publication, Iglesias, seized by the Communist rulers of his nation. The cardinal had been an arch foe of General Somoza, for his repression of the people.

But the new rulers of Nicaragua follow the party line. Religion, all religion, is dangerous to the Leninist state. They can allow nothing to remind men that they have a value beyond their value to the state.

The blessings of our freedom demand that we go the extra mile and help others achieve the liberty to express their religious convictions without state interference. Christmas is a blessing and a challenge. May we all enjoy the blessing and meet the challenge.

TAX REFORM IS AN IMPORTANT, SUBSTANTIAL IMPROVEMENT

(Mr. FOWLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOWLER. Mr. Speaker, the tax bill reported by the Ways and Means Committee yesterday and endorsed by the President of the United States is a substantial improvement over current law and ought to be welcomed by hard-working Americans across this land.

Passage of it is terribly important; it will not be the end of tax reform. It will not even be the beginning of the end but hopefully, it will be the end of the beginning of a process that began in 1981 where we borrowed to give tax breaks to all Americans, and have seen the deficits grow as a result of it.

Our Nation's fiscal policy demands a comprehensive solution. This bill preserves the progressivity of tax rates; it lowers rates, and it strengthens a minimum tax to ensure that all Americans pay their fair share in our Nation's Tax Code.

I urge the adoption of the bill. It is an important, substantial improvement toward the reform process for all Americans.

PARADOXICAL DAYS

(Mr. SHAW asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHAW. Mr. Speaker, yesterday will go down as one of the most paradoxical days perhaps in the history of this House. According to the scoreboard, the Democrat rule that was crafted for the passage of the Democrat tax bill went down, and it went down with great support from both parties. Later in the day, a Republican initiative the Gramm-Rudman bill, passed this House, and it did so with Democrats and Republicans joining hands and voting together.

We woke up this morning to find that the scoreboard perhaps was not correct, and I think that the media was very quick to pounce on the fact that the Democrat tax bill that was supported by a Republican President was indeed a defeat for the Republican Party.

I think if you look at the truth, the American people are the ones that lost on the tax bill yesterday and they lost because they would have lost whether the rule passed or did not pass. The American people want a bipartisan tax bill. They do not want a Republican tax bill, and they do not want a Democrat tax bill.

I would call on members of the Ways and Means Committee not to have caucuses in the Democrat Party and the Republican Party to separately draw bills but to get together and make some of the hard decisions and draw a new bill that brings to this House real reform and simplicity. That is what the President wants; that is what the American people want. Let us do it in the House and not in the other body.

WE CAN GET BACK ON THE TRACK AND DO TAX REFORM

(Mrs. KENNELLY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. KENNELLY. Mr. Speaker, yesterday we saw 164 Republicans vote against tax reform. We saw only 14 Republicans able to bring themselves to vote for tax reform. Today, we are told that they wanted to get the attention of the President. Well, let me tell you, they got his attention.

We are told they are furious at Mr. Baker. We understand that; sometimes we get furious with our leadership. I can even understand that Republicans do not want to deal with tax reform; it is complicated. Also, it is not a perfect bill; no bill this big is perfect. But, Mr. Speaker, I can tell you one thing: This bill is better than present law. This bill is going to take 6 million people off the rolls. Working people. This bill is going to reduce the rates for all Americans. This bill, most importantly, is fairer because those that are not paying are going to pay.

Mr. Speaker, the Republicans have now vented their frustrations. Mr. Speaker, the Republicans had a very successful cabal, but now we can get back on the track and do tax reform.

GOD WILLING, WE WILL GET THEM HOME

(Mr. O'BRIEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. O'BRIEN. Mr. Speaker, the other night I was sitting in our apartment in our den, feeling sorry for myself. It was the night of the ball; my wife was home caring for a sick daughter and grandson. I was just listening to the stereo. Along came the old tune, "I'll Be Home for Christmas," I became somewhat embarrassed thinking about our hostages, far away from home.

Let me suggest this: I think we have to add a new consideration. You cannot trade a criminal for a hostage.

A hostage is innocent. A criminal who killed 6 people, injured 85, damaged property, stole an aircraft, he is not on a comparable plane with an innocent hostage. You cannot evenly trade one for the other. So we need something new; we need a fresh factor in the equation.

I continue to believe, as I did as a child, that more things are wrought between Heaven and Earth than we conceive of. So I am suggesting that all of our temples and the churches put their prayers on the line. I do not expect any charismatic miracle envisioning the heavenly chariot thundering across the skies with Michael the Archangel reaching down and plucking the hostages out of their cage, but I do think that it is possible that one of us in this Chamber would get divine inspiration of an idea that might work, that might provide an alternate consideration for their release.

So let us storm the Gates of Heaven; let us disturb the stars with our prayers. God willing, we just might get them home.

□ 1050

THE TAX BILL, A TRULY BIPARTISAN EFFORT

(Mr. MATSUI asked and was given permission to address the House for 1 minute.)

Mr. MATSUI. Mr. Speaker, I rise to correct the Record on a story that was heard here yesterday on the floor as we discussed the tax bill. Some speakers gave the impression that the bill we were discussing was written under cover of darkness by a group of Democrats controlled by a despotic chairman. If that were true, we would be confronting today a very different bill than the one we have before us.

In fact, the bill was the end of a long bipartisan process that began within the Committee on Ways and Means more than 12 months ago. It included two intensive tax retreats where Members consulted with academic experts, public hearings where nearly 500 witnesses testified, and a lengthy markup process that tried the patience and stamina of every member of this committee.

The markups were preceded by a dozen task forces where specific issues were discussed and hammered out. The Republicans on the committee were invited to attend and participate in each and every one of these events, and they attended and participated with a great deal of vigor. They did not win all their points in the task forces and in the meetings, but they did not lose every time either. The mere fact that 80 percent of the Republican alternative is identical to the committee plan proves that point.

Mr. Speaker, the problem now is not the process, as the Republicans stated yesterday; it has now become politics, and I think we should have this bill on the floor for a vote.

LEGISLATION TO SUSPEND MFN STATUS FOR ROMANIA FOR 6 MONTHS

(Mr. SMITH of New Jersey asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of New Jersey. Mr. Speaker, on Sunday Secretary of State George Shultz and Counselor Ed Derwinski will be in Bucharest to advise the Romanian authorities that MFN [most favored nation] renewal next year may be in jeopardy unless Romania improves its observance of fundamental human rights.

The President's semiannual report to the Commission on Security and Cooperation in Europe, on which I serve as a commissioner, makes it clear that Romania's human rights record continues to be poor.

There is a growing sensitivity on the part of many Members of Congress and the American people that religious repression and violation of human rights have not improved in Romania. If the conference of MFN is to be meaningful from a human rights perspective, only performance serves as a genuine barometer. Paper guarantees, personal assurances, and public pronouncements by Romanian officials are indeed useful, but the record must correspond with the rhetoric. If that is not the case, I would suggest we are only kidding ourselves and doing a grave injustice to those Romanians who suffer beatings, imprisonment, interrogation, job loss, and other forms of harassment.

Mr. Speaker, H.R. 3599 introduced by Mr. Hall of Ohio, Mr. Wolf, and I would suspend MFN for 6 months, and represents a modest, interim approach, and my fondest hope is that this measure and companion legislation in the Senate, S. 1817, will send a clear, nonambiguous signal to the Romanian authorities. We ask that the authorities respect the dignity and conscience of the people. We ask that the Romanian Government be the defender of human rights. We ask only that their actions match their words.

I believe that H.R. 3599 represents a constructive approach, and, I assure you, one to which Mr. Hall of Ohio and Mr. Wolf and I are deeply committed. I hope my colleagues will join the more than 60 Members who have cosponsored this legislation.

MEMBERS SHOULD HAVE THE COURAGE TO DEBATE TAX BILL

(Mr. JENKINS asked and was given permission to address the House for 1 minute.)

Mr. JENKINS. Mr. Speaker, I am saddened, but it is not because we differ on a tax bill. There are differences about a tax bill that we can reasonably have from both sides of the aisle. What I am saddened about is the fact that we do not have the courage to even debate a tax bill. I think we ought to have the courage to at least debate a tax bill at the time we have the responsibility of voting for or against one.

We can easily talk about tax reform when we do not have to vote. It is like balancing the budget. We can make wonderful speeches about balancing the budget as long as we are not called upon to vote on the issue. We can make great speeches on leveling out the tax burden as long as we do not have to vote on it.

That is what we did yesterday. The rule gave the Republicans the opportunity to put in any substitute they wanted before this body and debate it, and maybe we would support it. But the American people lost yesterday. They lost something more than a tax bill. They lost something that is a part of the very fiber of this Nation, and that is that in this people's House we ought to be free to debate serious issues, and yesterday that was cut off.

I tell all my colleagues that if we resurrect this bill, it will certainly take more from the other side than the baker's dozen plus one that we received yesterday. We will need some bipartisan help, and if you want to offer your substitute—and I may support it—at least give me the opportunity to debate it. If you want a flat tax, put that in your substitute and let us debate it. If you want something else, if you want to protect some industry, I may very well agree with you. Put it in your tax bill. Let us listen, and we may agree with you, but do not cut us off and say to the American people that tax reform is not worthy of debate.

Mr. Speaker, we should not be told that tax reform is not even important enough to discuss it.

THE FIRST STEP TOWARD FISCAL RESPONSIBILITY

(Mr. ARMEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ARMEY. Mr. Speaker, last night this body finally responded to the American people who have been telling us for too long that we have conducted the fiscal affairs of this country with a seemingly unlimited penchant for taxing, spending, and borrowing, and the people have asked for a limit. They have asked us to make hard choices, and last night, when we passed the Gramm-Rudman legislation, we defined a limit on one of the three legs of the triad of fiscal irresponsibility, a limit on borrowing. That limit will force us either to make hard choices or to face the sequestrae that so many people were so concerned about in last night's debate.

The alternative now, Mr. Speaker, is for us to get organized, to get disciplined, and to form the plan, set the priorities, define spending cuts and put America's fiscal house in order. For that task we will need a force of commitment. I intend, Mr. Speaker, to do my part and I hope the rest of the Members will join me in that effort.

TAX REFORM SUSPENDED, DEFENSE CONTRACTORS AGAIN OFF THE HOOK

(Mrs. BOXER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BOXER. Mr. Speaker, it is a really sad day for the American people because there may be no tax reform this year. And let me tell you the sadness of that.

While American families continue to pay and pay and pay, the biggest defense contractors will continue to pay nothing while profits soar. This is due to the "completed-contracting" loophole which the Rostenkowski tax reform bill would have closed.

General Electric, the sixth-largest defense contractor, today announces a $6 billion merger with RCA. That is $6 billion for a merger. And how much did they pay in taxes in the years from 1981 to 1983? Zero. Less than zero—a minus 4.3-percent effective tax rate.

And how about General Dynamics, the company that makes headlines for cheating and lying on its billings? General Dynamics makes 90 percent of its profits from the taxpayers. And what did they pay in taxes from 1981 to 1983? Nothing. Less than nothing—a minus 7.6-percent effective tax rate.

Mr. Speaker, we could have changed all that, but we could not even debate the tax bill, and the defense welfare queens are once again off the hook.

THE WASHINGTON POST ERRS, MADE A "BEAUT"

(Mrs. ROUKEMA asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. ROUKEMA. Mr. Speaker, it is really unfortunate when the press makes an error, and I regret to have to stand up here today and inform my colleagues that the Washington Post, although they are usually completely accurate, has made a "beaut" today and I want to bring it to the attention of this House.

The Washington Post quotes me as depicting a meeting in the Oval Office yesterday with the President being "perplexed and confused" on the tax issue and the vote on the rule.

This is simply not the case. It was not the situation, I did not say it, and I know my colleagues can all appreciate my feelings for all of us have been misquoted by the press.

I called the Washington Post today and asked them for an apology for the President. The President was direct and to the point in the meeting yesterday. He wanted to know how his Republicans could desert him on an issue as important as this was to him. I told the President I agreed with him.

I commend the President for his leadership on tax reform, and I am glad to see that he is continuing his efforts today.

But, Mr. Speaker, articles like this totally confuse the issue. They give out erroneous information. The Washington Post clearly owes the President of the United States an apology and me a retraction.

PLANE EXPLODES AT GANDER, NEWFOUNDLAND, 250 AMERICAN SERVICEMEN LOST

(Mr. HUBBARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUBBARD. Mr. Speaker, my friend Congressman DON SUNDQUIST of Tennessee and I represent Fort Campbell. Congressman SUNDQUIST will follow me in speaking today.

As the Congressman from Fort Campbell, KY, I'm shocked and deeply saddened to learn early this morning that more than 250 Fort Campbell soldiers who were en route home for the Christmas holidays were killed today in a 6:18 a.m. plane explosion at Gander, Newfoundland.

A DC-8 U.S. military charter carrying more than 250 Fort Campbell soldiers exploded this morning after takeoff from Gander International Airport.

All aboard were killed.

The American soldiers were members of the 3d Battalion, 502d Infantry, 101st Air Assault (Airmobile) Division and had been on duty in the Sinai Peninsula for 5 months as part of a peacekeeping force.

The plane originated in the Middle East.

News accounts this morning quote witnesses as saying the plane exploded, lighting up the sky.

Mr. Speaker, my colleagues, was this another act of terrorism caused by the PLO or the PLF? We don't know yet.

I know I speak for all 435 Members of the House of Representatives in expressing our sympathy to the families of these more than 250 American soldiers whose lives were tragically ended this morning.

□ 1100

TRAGIC LOSS OF 250 AMERICAN SOLDIERS IN NEWFOUNDLAND

(Mr. SUNDQUIST asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SUNDQUIST. Mr. Speaker, I join with my distinguished colleague, the gentleman from Kentucky, in commenting on the tragic loss of American soldiers in Newfoundland.

At a time when most of us are thinking of the holiday spirit and all the exciting things that are going on in December, we were saddened to hear the report of the plane crash. We are reminded again of those who pay the price for the freedom we enjoy in this country; so our hearts are heavy and we are shocked and we are saddened as we learned of the crash that caused the deaths of over 250 American troops who were returning to Fort Campbell, KY. These soldiers, part of the 502d Infantry Division of the 101st Airborne Division, were returning home to their families for the holiday season after completion of their 6-month tour of duty as part of a peacekeeping force in the Sinai Desert.

Many of these brave soldiers lived in my district and none of us can begin to comprehend the magnitude and the shock and the grief that has encompassed the community of Fort Campbell.

This peacekeeping force is the most significant component of the 101st Airborne Division's activities worldwide. All of us who represent that area have been extremely proud of their accomplishments.

Mr. Speaker, keeping the peace in the world is among the most noble duties of our Armed Forces. These soldiers have performed that duty magnificently in the Sinai. I am sure the membership of this body will join my distinguished colleague and me in prayers for the families and friends of these 250 peacekeepers.

TOUGHER DRUNK DRIVING LAWS

(Mr. OBEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OBEY. Mr. Speaker, it is outrageous that last night the Senate conferees on the transportation portion of the continuing resolution won their argument to make permanent a provision which was sneaked into the law last year which reduces highway aids to States that do not have drinking ages of 21. We had no vote on that issue before it became law last year and apparently we will once again have no vote on that issue this year.

It is ironic for States like mine that have tougher laws on drunk driving than some States with 21 drinking ages. Studies in fact show that what makes highways safe is not what the age for drinking is, but how tough your drunk driving laws are.

It is simply wrong for the Federal Government to dictate highway transportation policy to States without the facts to prove what they are asserting and without a vote.

I wonder, for instance, whether those who so zealously insist on raising the drinking age to 21 would also vote to forbid the enforcement of draft registration requirements to persons who are under the age of 21.

THE 1985 CONGRESSIONAL CALL TO CONSCIENCE VIGIL

(Mr. COUGHLIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COUGHLIN. Mr. Speaker, I rise today to speak out once again on behalf of Jews in the Soviet Union as part of the 1985 Congressional Call to Conscience Vigil. As chairman of the 1984 vigil, I know both the immense value of this effort and the amount of work involved, and I would like to thank and congratulate this year's chairman, SANDER LEVIN, for the job he has done.

Mr. Speaker, the figures on Soviet Jewish emigration for the year 1985 continue to tell a tragic tale. Compared to a high of 51,320 Jews allowed to leave the U.S.S.R. in 1979, the 1985 figures through the end of November total only 1,047. Meanwhile, an intensive campaign to destroy Jewish culture—even more despicable and far-reaching than previous efforts—has landed seven Jewish activists and Hebrew teachers in Soviet jails and labor camps since September 1984. These "Prisoners of Conscience," who have joined many other Soviet Jews in the gulag, have first been victimized by a hostile and cruel state administration and an utterly warped judicial system, and then by a barbaric penal system. In one case, that of Hebrew teacher Yosef Berenshtein, inmates incarcerated with him recently beat and virtually blinded him, while his guards did nothing.

For those Jews who seek to leave the U.S.S.R., the Soviets have deliberately made every step in the emigration process extremely difficult. Instant dismissal from work and loss of other privileges is common. Nevertheless, some 350,000 Jews are estimated to have begun the emigration process. Of that number, more than 15,000 have had their requests denied by Soviet authorities. About 1,000 of these "refuseniks" have been waiting more than 5 years to leave.

Now the statistics I have referred to are gravely disconcerting. The incident I have described, but one example of Soviet maltreatment, is harrowing. Imagine if you can the impact such circumstances have on the over 2 million Jews who live in the Soviet Union today.

Just this past October, I traveled to the U.S.S.R. as part of a House delegation on space cooperation. We toured some of the Soviet's most advanced laboratories and space facilities, and met with senior officials there to explore the possibility of another joint United States-Soviet space mission—a followup to the 1975 Apollo-Soyuz mission.

But while there, I also took the opportunity to arrange secret meetings with Soviet Jews. Calling from phone booths in subway stations, I made arrangements to meet with some of the many long-term refuseniks, individuals who in some cases have been waiting over 10 years to leave. Among those I visited were Vladimir and Maria Slepak, Vladimir Prestin, Elena Dubienskaya, Arkady Mai, Helen Seidel, Ludmila Volvovsky, Aleksandr Lerner, Victor Brailovsky, and many others.

While no two told the same story, each recounted a tragic and frightening series of events. Vladimir Slepak spoke in somber yet high tones of his exile to Siberia—"near the place where was born Ghenghis Khan," as he put it—for unfurling a banner from the balcony of his apartment demanding freedom. Arkady Mai and Helen Seidel spoke of the frequent visits and threats by KGB agents, who harassed the seminars on Judaica that they ran. Ludmila Volvovsky, her voice cracking as she spoke, told one of the most touching and tragic stories I have heard, about her husband Leonid who, as we talked, was awaiting trial on charges of "anti-Soviet agitation and propaganda." The true reason for his persecution, she explained, was that he taught Hebrew in the city of Gorky. She had traveled hundreds of miles from Gorky, in fact, to inform me of his situation and give me a letter about him to deliver to President Reagan, which I did on my return. When the meeting ended after 11 p.m. that night, she wrapped herself warmly for the night-long train ride back to Gorky. Not long after my departure from Moscow, Leonid Volvovsky was found guilty and sentenced to 3 years in prison.

Contrasting starkly with the discussions I had with Soviet Jews were those I participated in with Soviet officials as part of our delegation's activities. Our talks included a nearly 3-hour session with Andrei Gromyko. These conversations, held in the unbelievable gilded opulence of the Kremlin palace, demonstrated quite clearly how the "classless society" is truly governed. As might be supposed, the Soviets' responses to our points on the gamut of human rights issues in the U.S.S.R. during these meetings was characterized by the same kind of duplicity and cynicism that we saw in their government-to-people relations.

Mr. Speaker, among the items that went with me on my trip was a videotape camera. With it, I recorded many of my conversations with Jews in the Soviet Union. Fortunately, these tapes were extricated from the U.S.S.R. safely. They are important for a number of reasons. First, they add faced to the names—warmth, tragedy, and bitterness to the stories. Second, they serve to document the severity of the persecution that these fine people have experienced. Finally, and most importantly, they reinforce the hope of those in the U.S.S.R. who seek to leave, by helping to ensure that their plight is not forgotten.

We must continue to keep the cause of Soviet Jewry before us in the days ahead, through such measures as the congressional call, through our diplomatic exchanges with Soviet officials, and through support for community involvement. The Soviets must know that we will never let them sweep this issue under the carpet. And that we will do our part to maintain the sense of hope that I found in all of the refuseniks with whom I met. With the possibility of improved United States-Soviet relations looming before us in the wake of the recent summit, we must take advantage of every opportunity to improve the situation of Soviet Jewry in the days ahead.

SUBSTITUTE FOR EMPLOYEE POLYGRAPH PROTECTION ACT OF 1985 WILL BE OFFERED

(Mr. DARDEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DARDEN. Mr. Speaker, the polygraph—commonly known as the lie detector—can be a valuable tool for businesses in the hiring of personnel for positions of trust. Unfortunately, its potential can be abused to the detriment of an individual's right to privacy.

Today, I will be offering a substitute to H.R. 1524, the Employee Polygraph Protection Act of 1985, to help our States protect the rights of the person taking the polygraph examination while also assuring businesses the right to use the polygraph in a constructive way. This substitute would set minimum standards for polygraph testing and encourage the States to establish their own polygraph oversight programs.

Unfortunately, abuses of the polygraph have taken place. But, unlike other legislation which has been offered, this substitute would not permit those abuses to become the rationale for a veritable ban on polygraph use in the private sector.

I urge my colleagues to consider the many benefits of polygraph examinations to the business community and to vote for this substitute.

PRESIDENT REAGAN HAS BECOME ONE OF LONELIEST MEN IN WASHINGTON

(Mr. RUSSO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RUSSO. Mr. Speaker, yesterday, President Reagan became one of the loneliest men in Washington.

In 1981, when the President supported a tax bill that bestowed lavish benefits on wealthy individuals in this country and the most profitable corporations in this country, every Republican wanted to be his friend. They wanted his picture in their newsletters and they wanted Air Force One on their runways; but yesterday when the President threw his weight behind the cause of tax reform that would have provided middle-income and working people with real tax reductions, a chance to help small business, while taking 6 million of the poor off the Federal income tax rolls, and a chance to approve a strong minimum tax that would ensure that every individual and every corporation in this country pay their fair share of taxes, he became a solitary warrior leading a thinning army.

Only 14—only 14 of 182 Republicans were even willing to debate these issues on the floor of the House.

So, Mr. Speaker, I take this opportunity to urge my Republican colleagues to reconsider yesterday's vote. Tax reform is too important an issue to be left buried in the pages of the CONGRESSIONAL RECORD. It needs and deserves everyone's support.

A MORE FAIR COMMITTEE REPRESENTATION

(Mr. LUNGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUNGREN. Mr. Speaker, despite the eloquent pleas of my friends on the Democratic side of the aisle who suddenly have seen the righteousness of President Reagan's election and reelection, there are some facts that should be brought to bear on this discussion.

One of the major reasons those of us who oppose, and oppose vigorously, the will that was brought forward by the Ways and Means Committee goes back to the institutional problems of this House. The Ways the Means Committee does not represent, percentagewise, this House of Representatives. The representation there, almost 2 to 1 Democrat to Republican, does not represent the percentages in this House.

I suppose we are to think that those who granted us this wonderful representation will at the time that we go to conference make sure that Republicans are properly represented so that we can make those changes in the bill which we have been told by Democrats that they recognize the President wants.

Well, Mr. Speaker, I recall last year working for a month on the immigration bill to try to work out the differences, and I can tell you that the representation from the House was not reflective of the attitudes of the House of Representatives.

There are some institutional problems here that have come back late this year to cause us problems with tax reform that many of us have been committed to for a long period of time.

So let us not stand up here self-righteously and say, "Republicans, trust us. We have done good for you in the past. All you have to do is wait until we get into conference and we will assure that your voices will be heard."

We have heard that song before, Mr. Speaker. We, unfortunately, do not wish to dance to it again.

HIDING BEHIND THE RULE ON TAX REFORM

(Mr. RANGEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RANGEL. I thank the Speaker for this opportunity, especially to direct myself to the problems that we have with this institution. If there is a problem, it is that it allows Members to seek comfort behind the rule, a procedural rule, when they seek not to deal with a piece of legislation substantively.

How dare anyone refer to the composition of a committee and indicate that they never had an opportunity to participate, when we have a record in the Ways and Means room to show that every substantial task force not only had Republicans on it, but had Republicans participating.

I am not saying that the leader of the Republican Party and the President of the United States should be able to pick up the phone and promise a Member of Congress some goody back home to get his vote. You have been elected here to do what you think is in the best interests of your constituents and the people of the United States. But how dare people go to the press and complain that they did not like the rule? The rule is merely a procedure to give the Members of the House of Representatives an opportunity to vote yes or to vote no. If you do not like what the gentleman from Illinois [Mr. ROSTENKOWSKI] and the Republicans and the Democrats and the Ways and Means Committee have done, do not vote for it.

But why, for God's sake, will you turn your backs on the Republican alternative? Is not the gentleman from Tennessee [Mr. DUNCAN], the ranking member, someone that is in communication with your party? Do you have to go to the Hill for direction as to what you want to do in tax reform?

What you have done is not killed the Democratic bill, but you have killed the opportunity for Members of the House of Representatives to vote up or down, Democrat or Republican, but most importantly, to vote for the right thing and that is equity and fairness in our tax system.

DRINKING AGE IS A PREROGATIVE OF THE STATES

(Mr. PETRI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PETRI. Mr. Speaker, shortly we will have to pass a continuing resolution to keep the Government running, but I want to put on record my objection to the inclusion of language mandating a nationwide 21-year-old drinking age.

Determining appropriate ages for drinking is traditionally a prerogative of each of the 50 States.

Let us give this issue the full consideration it deserves in the appropriate authorizing committee and in the full House of Representatives. Let us give this issue the consideration it really deserves. That is the least we can do before violating a traditional right of each of our 50 States.

RECONSIDER VOTE ON TAX REFORM

(Mr. WOLPE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLPE. Mr. Speaker, I hope that those of our colleagues who yesterday voted to block even the consideration of tax reform will reconsider that action. No one ever said that tax reform would be an easy subject to address in this institution for many of us. There are none of us who are immune from enormous special interest pressure. There are none of us who view the vote on tax reform as an easy vote.

But likewise, I do not think there is anyone in this body who will pretend that the present tax system is fair, that it is enhancing the confidence of the American people in our political system.

It is also abundantly clear that the Ways and Means Committee bill, whatever its imperfections, represents a vast improvement over the present system. It does, in fact, provide significant tax reductions for middle-income Americans. It provides tax relief for those corporations in America that pay enormously high effective tax rates. It removes from the tax rolls 6 million of our poorest working Americans. And it provides a tough minimum tax on corporations and wealthy individuals, so that all Americans will for the first time begin to pay their fair share of the tax load.

Please, let us understand the urgency of this question for America. What is at stake here is not only the tax system, it is indeed the credibility and institutional effectiveness of this body. I urge my colleagues to permit the debate on tax reform to go forward.

□ 1115

TAX REFORM

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, I think it is interesting to hear tax reform referred to as being better than the present system and we ought to allow the process to go forward.

The bill we are being asked to consider on the floor gives benefits to 300 millionaires, including the Gallo wine family to the tune of $80 million.

The bill we are being asked to consider on the floor that helps working Americans makes unemployment compensation fully taxable. What does that say to the people out there who are suffering the pains of unemployment in this country?

The bill that we are asked to consider on the floor has all kinds of special interest garbage in it, provisions that were put in simply to get people to vote for this particular bill. That is the only way they could sell it on the House floor.

This is not a bill that is reform, this is a bill that is deform. To bring this bill to this House and ask it to be considered, I think, is an act of injustice to millions of Americans who are going to pay higher taxes. As a result of the provisions in this bill, in 1986, most Americans will pay higher taxes because they do not put in the tax rate changes until July, but we end the deductions as of January.

So higher taxes, taxation of unemployment benefits, payoffs to millionaires, that is what is really in the tax bill. It ought not be considered here.

TAX REFORM

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, when most people talk about taxes, they agree on three things:

First, that the present tax system is a disgrace;

Second, that the middle class pays most of the Nation's bills; and

Third, that the rich and the major corporations do not pay their fair share of taxes.

The Ways and Means tax reform bill corrects many of these inequities. It is not perfect, but it is critically needed. It gives many of us a lot of pain; whether it is oil and gas, or timber, or coal, or steel, or Federal employees, the list goes on—that causes pain. But we owe it to the country to let this process continue.

The tax reform bill is supported by the President of the United States, by most House Democrats, by hundreds of small- and medium-size businesses, and most importantly, by the average guy on the street.

Yet only less than 7 percent of House Republicans supported this bill.

Let us send a message in a bipartisan ways to those beltway lobbyists and big businesses that Congress is for tax reform. Let us not allow tax reform to die.

Mr. President, the ball is in your court.

TAX REFORM

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, and the lobbying teams for the White House that occasionally sit in the gallery and listen to what we have to say here, if this rule is brought back again, with all of the switching that is going on, back and forth, from one side to the other, and loses again, which is very possible, then the President has really been misserved.

I think that the two most important things we come to in this, the world's greatest deliberative body, to do is to defend our country from foes and to set taxes and appropriate money in order to do those things for our fellow citizens that cannot be done by the States.

How we form our Tax Codes, how fair it is, how simple it is and how it stimulates growth in this country which creates jobs that middle-class American dream is the most important things we have to do here.

I ask you, Mr. Speaker, why rush through a process now when we all want to turn to the most important thing in our lives, our families at Christmas time, with a horribly flawed piece of work, as hard as everybody worked on it. It is so wrong, and those of us that not only like the President personally, as you do, Mr. Speaker, but also like his politics and campaigned in 16 States, as I did, to bring him to a position of leadership, we are asking for a breather here, not to push a process that in the end may make the President look bad for supporting the type of reform that he was not for. This is not the President's tax reform. It is not even close and quite frankly doesn't deserve further consideration by the House.

TRADE REFORM

(Ms. KAPTUR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. KAPTUR. Mr. Speaker, far be it for me to distract the House from its current pursuits. We have been preoccupied these last several weeks with balancing the budget and reforming taxes to sustain our economic recovery. Both are necessary.

To improve productivity and competitiveness on the economic front, however, there is one more essential piece of the puzzle: trade legislation. That should be first up on this floor after the new year.

The U.S. trade deficit with Japan hit a monthly high of $4 billion last month, November, this despite the drop in the value of the dollar. The main reason for the worsening situation was a 45-percent surge in automobile shipments following the restrictions on imported cars to the United States earlier this year.

The U.S. trade deficit with Japan has grown to record levels of over $35 billion already this year. Imported autos now account for over one-third of all automobiles sold in the U.S. market. We are losing 25,000 jobs a month in manufacturing America. Our trade deficit continues to spiral.

We need strong trade legislation and we need it now.

TAX REFORM

(Mr. WEBER asked and was given permission to address the House for 1 minute.)

Mr. WEBER. Mr. Speaker, in the course of this entire tax reform issue, the vote that was more generally bipartisan than any other, despite what has been publicized, was yesterdays' vote against the rule to bring up the tax reform bill. Granted, the overwhelming majority of Republicans voted to kill that rule, but also 59 Democrats voted to kill that rule.

There are serious substantive reasons why many of us do not think that we should bring up that tax reform bill at this point. It is a 1,379-page document that most Members of Congress have not had the chance to analyze.

In addition to that, there are several economic analysts, including some in the administration, who have used the word "recession" to tell us of their fears of the impact of this bill.

Yesterday's vote by many of us was a vote saying to the President, saying to our leadership in the Congress we are fearful that the unintended impact of this bill may be detrimental to our country, detrimental to our districts. Do not bring it up again now. Let us study this thing now and think about it again next year.

TAX REFORM

(Mr. GARCIA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GARCIA. Mr. President, on December 8, 1941, in this well, the President of the United States spoke to Congress and called the bombing of Pearl Harbor a day that will live in infamy. I believe December 11, 1985, is also a day of infamy.

Yesterday, we turned back the clock. Eight million Americans were going to get off the tax rolls. This includes some 6 million Americans with incomes between $10,000 and $15,000 a year, who would finally get tax relief.

Big business told us, "Don't let those people have tax breaks, give the breaks to us." And as if the failure of the tax bill was not bad enough, yesterday, we passed Gramm-Rudman, which is in reality Gramm-Latta II. The difference is Gramm got married to somebody else.

Wait until you get back home, and the senior citizens in your district, and all of the people who are dependent on Government programs, ask you why you voted for Gramm-Rudman. You will have a tough time explaining it.

Let the chips fall where they may. I am proud of my vote. I voted against the original Gramm-Latta. I voted against Gramm-Rudman yesterday, and I am certain that the people will be with those of us who did.

TAX REFORM

(Ms. FIEDLER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. FIEDLER. Mr. Speaker, yesterday going through some of the analysis that has been done on the tax bill, I came across a provision that I think will be of interest to various Members of the House of Representatives, particularly those Members that were deeply concerned about retaining the State tax deductability.

I think it is very important for the Members to understand that if their constituents itemize their tax bill, and if they take the State tax deduction, that they will lose the $2,000 personal deduction. Did you know that? Were you aware of the fact that in order to retain the State tax deductability for States like California, New York, and Wisconsin, and some of the others where it is extremely important because they are high-tax States, that the minute that they itemize that State tax obligation that they will automatically lose their $2,000 deduction?

Before I inquired of the Ways and Means staff, I was not fully aware of that, but I thought you ought to know about it.

TAX REFORM

(Mr. MOODY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOODY. Mr. Speaker, I do not agree very often with the policies of Ronald Reagan, but when he is right, he is right.

The President of the United States asked this body to consider comprehensive tax reform. The package produced by the Ways and Means Committee is somewhat different than the President's, but it does embody the same philosophy of closing abuses and loopholes, broadening the base and drastically reducing rates. It brings relief to the middle class, it closes defense contractor abuses.

Typically, this truly historic opportunity for tax reform was ambushed yesterday on the way to the floor; 164 out of 178 Republicans voted against even considering or debating the bill, despite the rule permitting a Republican substitute, any substitute they wished.

It is now or perhaps never for tax reform. Like all great improvements in public policy, bipartisan support will be necessary.

I urge my Republican colleagues to join us in the effort to at least debate and consider tax reform and move the process forward.

HOUSE JOINT RESOLUTION 192, MAN'S INHUMANITY TO MAN IS ILL-ADVISED LEGISLATION

(Mr. DICKINSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DICKINSON. Mr. Speaker, it is my understanding that the next item on the agenda will be House Joint Resolution 192, the National Day of Man's Inhumanity to Man, so-called. But let me say that this sounds good, but it has to do with an act that happened in Turkey over 70 years ago.

Now, Turkey is a friend of the United States. They are important to us strategically. They are a member of NATO. We have bases there and we have other installations there.

This is a gratuitous insult to the people of Turkey over something, an incident that this present administration for the last several years has had nothing to do with. For us to do this at the present time is definitely, very definitely against the interests of the United States.

I do not know who we are trying to placate here, and I am not impuning anyone's motives in offering the resolution. But I am saying it is against the interests of the United States for us to bring up and pass this resolution.

It is no pluses, it is all minuses, and I would hope when it comes up that this House, as we did on the Suspension Calendar, would overwhelmingly defeat it.

UNAUTHORIZED DEFENSE APPROPRIATIONS

(Mr. BUSTAMANTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BUSTAMANTE. Mr. Speaker, later on today, we will be considering the continuing resolution which will keep our Government running for the rest of this fiscal year. At this time, I want to share a concern with you for another ill-begotten bill from the other body. The same body that brought you the Gramm-Rudman balanced budget proposal which will make serious cuts to our defense, is bringing you a defense appropriations bill with $7.2 billion in unauthorized add-ons.

What do these cuts mean? They mean that our defense programs will be subject to deficit reduction cuts. We will have to cut, in addition, authorized defense programs which this body voted for, to accommodate the unauthorized $7.2 billion add-on.

Mr. Speaker, this body cannot allow the other body to make short shrift of the deliberative authorization process which sets the priorities for the needs of our national defense again. I urge this body to oppose the other body's efforts to undermine the vitality of the authorization process, and our priorities for the needs of our national defense.

TAX REFORM

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute.)

Mr. BURTON of Indiana. Mr. Speaker, when I came to the Congress 3 years ago, one of the things promised was that I was going to work for tax equity and tax simplification.

Our opposition on the other side of the aisle has been beating up on us all morning because we voted against the Rostenkowski tax bill yesterday. This is 1,379 pages of new tax law, definitely not simplification and definitely not equity. I could not in good conscience vote for this.

In addition to that, the U.S. Chamber of Commerce and other econometric studies point out that it will put us into a recession. In 1986, according to these studies, the real gross national product will go down by one-tenth of 1 percent; in 1987, two-tenths of 1 percent; in 1988, eight-tenths; in 1989, 1.4 percent; in 1990 and 1991, 2.7 percent.

□ 1130

Equipment investment will go down from one-half percent to 9.7 percent over the next 5 years. The Federal budget deficit will go up 7.6 percent the first year and an average of 6 percent a year for each of the next 6 years if this becomes law.

Unemployment, which is already at 7 percent, would go up over the next 6 years by 1½ to 2 percent. This is recessionary. That is why I voted against it. I am for tax simplification and tax equity, but this does not give it to us.

GRAMM-RUDMAN'S PROMISES: LOUD NOISE AND HOT AIR

(Mr. WEISS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEISS. Mr. Speaker, today a new era dawns. The Gramm-Rudman bill was passed by Congress last night; Mr. Reagan signs it into law today, and all the Nation's fiscal problems and those of Congress will miraculously disappear.

I have a strong feeling that there might be a rude awakening for a lot of Members who bought all that hocus-pocus. Like the magic of the "Wizard of Oz," it will soon become clear that the promises of Gramm-Rudman were nothing more than loud noise and a lot of hot air.

Unfortunately, before that unmasking occurs a lot of Americans are likely to be hurt by the destruction of health, education, and other vital Federal programs.

Gramm-Rudman plays havoc with the Constitution of the United States and endangers the economic future of the country, and all of this simply to avoid the budget decisionmaking responsibility which every Member sought in running for Congress.

Those Members who voted to shuck that responsibility and transfer it to a faceless bureaucracy and to the President of the United States obviously believe that the American people will be fooled into thinking that they actually did something real about the deficit.

Mr. Speaker, we will soon see who the real fools are.

MORE TIME IS NEEDED TO PROPERLY CONSIDER TAX REFORM

(Mr. MACK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MACK. Mr. Speaker, yesterday we spent a portion of the day discussing the Gramm-Rudman proposal, and some of us are going to walk arm-in-arm to bring about reduction in Federal spending; and there is an opportunity, I think, to walk arm-in-arm once again, with tax reform.

I think we have to stop for a moment: This document here is the document that was debated by the Congress for 2½ months, about how to establish some method of reducing the deficit. This document right here, 1,379 pages, we are being asked to vote on maybe today, maybe tomorrow. Most of the Members of the Congress have not the slightest idea what is in this.

It seems to me, as the gentleman from Indiana indicated, that there are many people who are concerned that this will drive us into an inflationary period. It would be a good opportunity for the Congress to stop and debate and discuss these 1,379 pages and try to find out what is in the document. Several hours of debate is not going to accomplish that. That is why we defeated the rule; that is why we want to have an opportunity for input into the design of tax simplification and tax reform.

THE PEOPLE SPOKE IN REJECTING THE RULE ON TAX REFORM LEGISLATION

Mr. WOLF. Mr. Speaker, I was in my office and listening to many of the speeches, and I just want to comment. There is a passage in Proverbs 16:18 which say, "Pride goes before destruction and a haughty spirit before a fall."

I did not come over here to blame anybody; I think both sides have their reasons for voting the way they want to vote, but I think the truth of the matter is many of us who voted the way that we did yesterday did it because the Committee on Ways and Means has an amendment in there which would unfairly tax teachers and policemen and firemen and Federal employees.

This was not a vote against tax reform; quite frankly what this was, this was an element of pride that got involved with the leadership on the Committee on Ways and Means whereby they refused to bend.

This body worked its will yesterday to say, "Take that bill back and amend it and give us an open rule whereby the people can speak." The people spoke on that vote, and I say it was an element of pride whereby they refused to give.

Quite frankly, we are all for tax reform. Let us bring it back, but let us give the people who have opposing views an opportunity to work their will.

GRAMM-RUDMAN WILL FORCE CONGRESS AND THE PRESIDENT TO PAY THE BILLS

(Mr. SLATTERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SLATTERY. Mr. Speaker, the revised version of the Gramm-Rudman budget plan that was approved yesterday will tie liberals, conservatives, Democrats, Republicans, the President, and Congress to the stake, and when the President signs the plan, the fuse will be lit.

This is certainly not the ideal way to run our Government, but the fact is voodoo economics did not produce a balanced budget, and the President and Congress have demonstrated their unwillingness to make the tough choices necessary to balance the budget.

I believe this legislation will at long last force the President and Congress to pay the bills, and to stop this immoral, economically stupid policy of mortgaging the future of our country to pay for current consumption.

There is only one thing worse than tax and spend, and that is the spend and borrow policies that we have seen during the last few years. Maybe this proposal will at long last require the Congress to start the process of reconciling the political promises of the sixties and seventies with the economic and demographic realities of the eighties and nineties, and if that is the case, all Americans will be the winner.

SPECIAL INTEREST PROVISIONS IN GRAMM-RUDMAN

(Mr. DioGUARDI asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. DioGUARDI. Mr. Speaker, I yield to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. I thank the gentleman for yielding.

Mr. Speaker, we heard a couple of minutes ago someone referring to the questions that had been raised by the minority side as being claptrap and nonsense. I wonder whether the enthusiasm for the bill has something to do with the fact that down here buried in the bill is a convention center for Miami, is a stadium for Miami—are special interest provisions aimed at particular constituencies.

It seems to me that that is one reason why you can get awfully enthusiastic about this bill, but that does not mean the American people should be enthusiastic about it; they are going to have to pay for all those special interest provisions.

LOSS OF MAJOR DEFENSE CONTRACTS TO FOREIGN FIRMS

(Mr. DURBIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DURBIN. Mr. Speaker, I will be meeting today with representatives of the Department of Defense and spokesmen for Can Am Industries from my home district in Quincy, IL, to discuss the issue of our loss of major defense contracts to foreign firms.

As more foreign firms take contracts away from American producers like Can Am and Quincy, two concerns emerge.

First, the future of our defense mobilization base. We have to question the wisdom of U.S. reliance on foreign producers for critical military equipment.

Recently, I joined my colleague, Mr. Myers of Indiana, in sponsoring an amendment to the appropriations bill to require the Department of Defense to report on the future of our mobilization base as we become more dependent on foreign manufacturers.

Second and closer to home is the loss of American jobs. There is little or no savings in awarding a low-bid contract overseas, when in the process we destroy the American employment base. Jobs are needed in Quincy, IL and across this country to stimulate our economy. This is a problem that will continue to plague us until some action is taken by the Department of Defense to protect our mobilization base and to protect American jobs.

TAX REFORM MEASURE IS OVERLY COMPLEX

(Mr. DREIER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER of California. Mr. Speaker, it seems to me that when you look back at what we fought so hard for in 1981, that great Economic Recovery Tax Act, which has given us the strongest recovery in our three decades, it is absolutely ridiculous for us to bring before the House of Representatives this, so-called, tax reform measure. It is going to impose a 1,379-page tax burden on the American people.

□ 1140

Simplification, yes, we are all for it. But this kind of overly complex measure is ludicrous. It is a horrible burden on the American people, and I believe we should do everything we possibly can at this last hour to defeat it.

COMMEMORATING ARMENIAN GENOCIDE

(Mr. LEHMAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEHMAN of California. Mr. Speaker, very soon the House will begin debating the resolution commemorating the Armenian genocide. Many baseless and untrue assertions are being circulated to derail this legislation. Let us not ridicule our own integrity by accepting the notion that one genocide ought to be forgotten simply because the present government of the nation which perpetrated it is currently our friend. Let us not do harm to the victims and their families by creating the impression we are willing to acknowledge genocide when it is perpetrated against Jews but not against Armenians. Finally, we should all understand that the mere acknowledgement of a historical fact can do no harm to anyone, not even the guilty, for they are all dead, too.

EXPRESSING SORROW AT REPORTS OF LOSS OF LIVES IN MILITARY AIR CRASH

(Mr. BONER of Tennessee asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BONER of Tennessee. Mr. Speaker, I join with Mr. Sundquist and other members of the Tennessee and Kentucky delegations in expressing our deep sorrow over the reports of the air crash of a military flight with members of the 101st Airborne Division based at Fort Campbell, KY. Initial reports indicate that there are no survivors of this tragic crash.

Mr. Speaker, many members of this division at Fort Campbell resided in middle Tennessee. When the names of those killed are finally released, I do not doubt that some will have resided in my congressional district. These men and women, and their families, are important and vital members of our Nation's defense force. They are also valued members of the Fort Campbell and middle Tennessee community.

To their families and friends, we extend our heartfelt grief at their deaths. We join all Tennesseans and Kentuckians in extending our assistance to these families as they rebuild their lives.

RESEARCHERS FIND AIDS VIRUS IN CENTRAL NERVOUS SYSTEM

(Mr. ROWLAND of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROWLAND of Georgia. Mr. Speaker, this week's New England Journal of Medicine raises new concern about the AIDS virus and the potential harm it may cause to the central nervous system. Researchers at Harvard and the National Cancer Institute have detected the virus in cerebrospinal fluid and brain tissue. These findings raise the specter of permanent neurological deficits with resultant mental and physical sequalae for those victims who do not succumb to immunological damage.

Although these findings create new difficulties for researchers seeking a cure for AIDS, I am confident that with our medical research capabilities in the private and public sectors we can continue their efforts and eventually they will succeed. We must be prepared, however, to devote the time and money to this effort that it will require.

Mr. Speaker, years ago we had another sexually transmitted disease that also caused major disability and death in our society. Syphilis, which also affected the central nervous system, was a scourge of mankind for hundreds of years. The discovery of penicillin less than a half century ago gave us a cure and freedom from the ravages of that dread disease. With the continued support of our research efforts, I feel that we will also achieve victory in the battle against AIDS.

THE TAX BILL IS NEITHER FAIR NOR DOES IT PROMOTE GROWTH

(Mr. ROEMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROEMER. Mr. Speaker, I listened this morning to a number of my colleagues who, with some sincerity, bemoan the fact that we were not able to move forward on the tax bill yesterday. They made two points I would like to rebut. No. 1, they protested the fact that we were not allowed to debate the tax bill itself by defeating the rule. I point out that all the rule allows is debate. There was no chance to modify in any meaningful way a flawed bill. The bill is the problem, but the rule compounded the felony.

Second point, they bemoan the fact that we could not pass the bill and thereby achieve tax reform. The bill is not about tax reform, the bill is about tax politics. The bill is 1,379 pages long. It adds complexity to the tax code. It is neither fair nor does it promote growth. The bill asks workers in

America to achieve slightly lower marginal rates and lose their jobs. That is the ultimate bad bill. Antigrowth, antijobs, $175 billion additional in taxes on capital; it was a bad rule and a bad bill.

Now the House can move forward on tax reform. All it has to do is pass a minimum tax on the wealthy and the corporations and apply that revenue to lowering the deficit, lower interest rates, lower the overvalued dollar, and put America to work again.

Yesterday was not tax reform, it was tax politics.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 664. An act to amend the Panama Canal Act of 1979 with respect to the payment of interest on the investment of the United States;

H.R. 729. An act to amend the Panama Canal Act of 1979 in order that claims for vessels damaged outside-the-locks may be resolved in the same manner as those vessels damaged inside the locks, and for other purposes;

H.R. 1534. An act to convert the temporary authority to allow Federal employees to work on a flexible or compressed schedule under title 5, United States Code, into permanent authority;

H.R. 2976. An act to direct the Secretary of Agriculture to release the condition requiring that a parcel of land conveyed to New York State be used for public purposes and to convey United States mineral interests in the parcel to New York State;

H.R. 3085. An act to clear title to certain lands along the California-Nevada boundary; and

H.R. 3735. An act to designate the pedestrian walkway crossing the Potomac River at Harpers Ferry National Historical Park as the "Goodloe E. Byron Memorial Pedestrian Walkway."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 947), an act to amend the Foreign Assistance Act of 1961 with respect to the activities of the Overseas Private Investment Corporation.

The message also announced that the Senate agrees to the amendments of the House to the joint resolution (S.J. Res. 70), joint resolution to proclaim March 20, 1985, as National Agriculture Day.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 1890. An act to provide for an equitable waiver in the compromise and collection of Federal claims; and

H.R. 3384. An act to amend title 5, United States Code, to expand the class of individuals eligible for refunds or other returns of contributions from contingency reserves in the Employees Health Benefit Fund; to make miscellaneous amendments relating to the Civil Service Retirement System and the Federal Employees Health Benefits Program; and for other purposes.

LITHUANIAN INDEPENDENCE DAY

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 409) to direct the President to issue a proclamation designating February 16, 1986, as "Lithuanian Independence Day," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore (Mr. LEHMAN of California). Is there objection to the request of the gentleman from New York?

Mr. HANSEN. Mr. Speaker, reserving the right to object, I do not object but simply would like to inform the House that the minority has no objection to the legislation now being considered.

Mr. Speaker, further reserving the right to object, under my reservation I yield to the gentleman from Illinois [Mr. RUSSO], the chief sponsor of House Joint Resolution 409.

Mr. RUSSO. I thank the gentleman for yielding.

Mr. Speaker, on February 16, 1918, the people of Lithuania, after centuries of foreign domination, joined together and declared themselves to be a free and independent nation. This assertion of self-determination by the people of Lithuania stirred the hearts of many Americans then, and has not been forgotten by Americans today, 68 years later. A similar bold, proud, and courageous declaration heralded the beginning of our own Nation over 200 years ago.

In the years that followed, the Lithuanian people worked hard and with a sure hand to advance Lithuanian society in many areas of endeavor. Only 5 years after independence, Lithuania had raised its standard of living above the pre-1914 level without any assistance from foreign countries. A permanent constitution was adopted on August 22, 1922, which provided for an 8-hour work day, land reform, and various public works projects which, among other achievements, saw the number of secondary schools increase at a dramatic rate. The rebirth of an independent Lithuanian state launched a cultural renaissance which resulted in great accomplishments in music and literature. Lithuanian writers were inspired to pen many works rich in national folklore and history.

Unfortunately, this golden age of independence and progress lasted only 22 short years. In 1940, a Soviet-staged election led, despite international condemnation, to the annexation of Lithuania by the Soviet Union. The U.S. Government has never recognized this intolerable act, and the Soviet Union's complete disregard for Lithuanian national sovereignty and self-determination. To this day we maintain diplomatic relations with the exiled representatives of the former independent government.

Under the current Soviet puppet government, the people of Lithuania have suffered many hardships. The Soviets employed mass deportations in an attempt to break their national resolve. Civil and human liberties have been denied and Lithuanian literature has been suppressed in an effort to destroy their sense of national identity. The Lithuanians' only solace in the face of these indignities and injustices is the support of all free nations for their continuing determination to be free.

I feel honored to have the opportunity to speak on the Lithuanian people's behalf in recognition of their courage and resolve. They are a source of inspiration, and a reminder of the indomitability of the human spirit which struggles for liberty and justice even under the oppressive yoke of an unyielding totalitarian authority. I hope that you will join me today in voting for House Joint Resolution 409, and that on February 16, 1986, the 68th anniversary of the Declaration of Lithuanian Freedom, we will join together in assuring the brave people of Lithuania that they are not forgotten, and that all America shares their cherished hope of an independent Lithuania.

Mr. HANSEN. Mr. Speaker, further reserving the right to object, I yield to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. I thank the gentleman for yielding.

Mr. Speaker, I rise in strong support of the resolution (H.J. Res. 409) offered by our colleague, the gentleman from Illinois [Mr. RUSSO]. At a time, when United States-Soviet relations continue to be in the forefront of our thoughts and activities, let us remember the courageous struggle of the Lithuanian people. House Joint Resolution 409, which calls upon the President to proclaim February 16, 1986, as "Lithuanian Independence Day," is a befitting reminder of our duty to the fundamental ideal of freedom.

The small state of Lithuania continues to sag under the weight of Soviet oppression. Attempts at self-expression, through the unique Lithuanian culture, are cruelly stifled, and all religious expression is tightly controlled. Yet, Lithuania's citizens continue to persevere in their struggle to regain their nation. February 16, 1918, is for them the most important event in

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their lives—it marks their freedom as a people until the Soviet takeover in 1940. Thus, it is important that this commemoration of the Lithuanian National Day is marked by us as well, so that the flame of freedom will continue to burn brightly.

Mr. Speaker, I urge our colleagues to support this measure, and to join all freedom loving Lithuanians in their celebration of this momentous date.

Mr. HANSEN. Mr. Speaker, I withdraw my reservation of objection.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. Res. 409

Whereas February 16, 1986, marks the 68th anniversary of the declaration of independence of Lithuania;

Whereas on February 16, 1918, the Council of Lithuania, the sole representative of the Lithuanian people, in conformity with the recognized right to national self-determination, proclaimed the restitution of the independent and democratic state of Lithuania and declared rupture of all ties which formally subordinated Lithuania to other nations;

Whereas a free Lithuania existed until the Soviet takeover in 1940;

Whereas the United States opposes tyranny and injustice in all forms and supports the cause of a free Lithuania;

Whereas the oppressed people currently living in Lithuania should keep the flame of freedom forever burning in their hearts: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President shall issue a proclamation designating February 16, 1986, as "Lithuanian Independence Day" and calling on the people of the United States to celebrate such day with appropriate ceremonies and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CELEBRATING 75TH ANNIVERSARY OF NATIONAL CAMP FIRE ORGANIZATION

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate concurrent resolution (S. Con. Res. 69) to recognize the National Camp Fire Organization for 75 years of service, and ask for its immediate consideration.

The Clerk read the title of the Senate concurrent resolution.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from New York?

Mr. HANSEN. Reserving the right to object, Mr. Speaker, I do not object but would like to inform the House that the minority has no objection to the legislation now being considered.

Under my reservation, I yield to the gentleman from Missouri [Mr. WHEAT] chief sponsor of House Joint Resolution 298, to recognize the National Camp Fire Organization for its 75 years of service.

☐ 1155

(Mr. WHEAT asked and was given permission to revise and extend his remarks.)

Mr. WHEAT. Mr. Speaker, the members of Camp Fire, Inc., have asked me to express their appreciation for your interest in their work and support of their efforts throughout our Nation.

I also want to thank my colleagues who joined in honoring Camp Fire, Inc., by cosponsoring House Joint Resolution 298. Camp Fire, founded in 1910, has offered boys and girls an opportunity to learn the social and self-reliance skills necessary for them to realize their best potential.

In the more than 300 local councils, Camp Fire provides a wide range of opportunities. In its 75 years, the organization has grown from a girls social club to an organization that allows all children, of any race, ethnic origin, religion, creed or gender an opportunity to realize their full potential, to function as caring individuals and to strive for the best society possible.

Camp Fire has taken its role in the community seriously. It offers a variety of programs ranging from a traditional club setting with a small group meeting weekly in a member's home under the supervision of an adult leader, to specialized programs designed to meet emerging community needs.

Camp Fire local councils have taken an active role in seeking improvement of societal conditions affecting youth through its advocacy in areas including day-care, youth employment, nutrition, juvenile justice, and sexual abuse of children. It has also developed special programs for exceptional children, migrant children, and the economically disadvantaged.

In my district, for instance, Camp Fire has worked with the Kansas City schools, other community organizations and parents to establish an afterschool program at a number of schools in the region for interested children.

Thank you for joining me in celebrating the first 75 years of Camp Fire as we look forward to Camp Fire's next 75 years of service to the future generations of young people.

Mr. HANSEN. Mr. Speaker, I withdraw my reservation of objection.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. Con. Res. 69

Whereas the National Camp Fire Organization is celebrating its seventy-fifth anniversary during 1985;

Whereas Camp Fire has chosen to commemorate this significant anniversary in a national celebration of friendship;

Whereas Camp Fire councils offer young people opportunities to develop important friendships through informal educational programs for youth through the age of twenty-one;

Whereas in Camp Fire, recognition of accomplishments is combined with encouragement to use developing skills in service to others in the community; and

Whereas Camp Fire is to be commended for the opportunities for friendship the program offers young people throughout the Nation, and for the many services young people perform for the community as Camp Fire members: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress hereby recognizes the seventy-five years of service given by Camp Fire to the Nation.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

ETHNIC AMERICAN DAY

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 32) to authorize and request the President to designate September 21, 1986, as "Ethnic American Day," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from New York?

Mr. HANSEN. Mr. Speaker, reserving the right to object, I do not object. I would simply like to inform the House that the minority has no objection to the legislation now being considered.

Mr. Speaker, under my reservation of objection, I yield to the gentleman from Florida [Mr. FASCELL], who is the chief sponsor of House Joint Resolution 331, to designate September 21, 1986, as Ethnic American Day.

Mr. FASCELL. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of Senate Joint Resolution 32 which is identical to House Joint Resolution 331, which I introduced on June 27 and which has 144 cosponsors in the House. Senate Joint Resolution 32, which passed the Senate unanimously on May 16, designates September 21, 1986, as "Ethnic American Day."

By enacting this resolution, we as representatives of this great Nation of immigrants will convey to the world our pride in the vibrant cultural heritage that ethnic Americans have given to the United States. The passage of this resolution will convey to all the pride we take in our cultural diversity, and it will show how highly we value the contributions of Americans of various ethnic backgrounds to our democratic society.

There probably isn't a country in the world today which hasn't contributed at least one citizen to the United States. Our citizens come from the four corners of the Earth. Since the early 19th century, more than 50 million immigrants have found their way to America. Many left their homelands for another chance at life—a life free from spiritual or material deprivation. However downtrodden, they shared one dream: achieving a better life in America.

Ethnic Americans have enhanced the values of a society devoted to freedom and cultural pluralism. They have been full and active participants in the life of this country, not only in time of peace but also in time of war. They have not, however, forgotten their roots. In America, millions of immigrants and their descendants are given the opportunity to perpetuate their diverse and distinct cultures and heritages. Many speak their native language and retain close ties with their old culture. Such cultural diversity is important in the development and enrichment of American society. It is in our interest to have an understanding of the depth and breadth of these contributions. A day in recognition of the contribution of the over 100 ethnic groups in the United States can only help to expand our awareness of each other—and to encourage us to look into and appreciate our own ethnic heritage or heritages. In looking toward the future, it is essential that we understand and appreciate our past. Daniel Webster once said that, "There is a moral and philosophical respect for our ancestors which elevates the character and improves the heart." One might say that understanding the cultures of our forefathers helps us view reality for a multidimensional perspective. Of course, measuring the contribution of ethnic Americans is like measuring flour to bread—it is, indeed, difficult to separate out. It is the thread from which the American cloth is woven.

Not only are ethnic Americans free to foster their respective traditions, they are free to manifest concern about conditions in their countries of origin, particularly those in which repressive regimes stifle the human rights of their former countrymen. In demonstrating this concern, they make an especially valuable contribution in that they remind all of us that we must never take for granted the principles of liberty and justice upon which our Nation was founded.

I, like many of you here, am a descendent of immigrants who came to this country seeking freedom and opportunity and a better life for themselves and their children. And like you, I am proud of the sacrifices they made and the enduring contributions they made to this great society.

The list is legion: Medicine, science, the arts, philosophy, education, politics, government—there is not a human activity which has not benefited from the contributions of immigrants and their succeeding generations. Perhaps their greatest contribution has been the appreciation for this Nation and its institutions which they have instilled in their children. And, as this is passed on to our children, in a sense their sacrifices and contributions are never ending. Their legacy will carry on from one generation to another.

Mr. HANSEN. I appreciate the remarks of the gentleman.

Mr. Speaker, under my reservation of objection, I yield to the gentleman from New York [Mr. Garcia], the distinguished chairman of the subcommittee.

Mr. GARCIA. I thank the gentleman for yielding.

Mr. Speaker, I am pleased that we are bringing this resolution to the floor today. We are a nation of immigrants. America is made up of a variety of ethnic groups. I am proud of my heritage, as I'm sure, all of my colleagues are proud of theirs.

Yet, this resolution does not simply choose to honor ethnic Americans. It also reminds us that the United States has long been a haven for victims of "religious and political persecution."

As chairman of the North Atlantic Assembly's [NAA] Civilian Affairs Committee, I have become more aware of the many millions of people in Eastern bloc nations who do not have the opporunity to worship or express themselves as they please. One of the committee's subcommittees monitors the Helsinki accords, so we are constantly made aware of the struggle of eastern Europeans.

Of course, eastern Europeans are not alone in their suffering. Latin America, Asia, and Africa all have victims of human rights abuses. Throughout my travels as a member of the House Foreign Affairs Committee, I have come to appreciate, even more, the haven that the United States has offered for millions of people for the last 200 years.

I want to thank my colleague from Florida, Dante Fascell, for introducing this resolution. As chairman of the House Foreign Affairs Committee, as the former Chairman of the Helsinki Commission, and as an ethnic American, he too has a heightened sense of what this Nation represents.

Mr. HOYER. Mr. Speaker, today I rise to join my respected colleague from the State of Florida, the chairman of the Foreign Affairs Committee and a leader in the Congress on the issue of human rights, in support of Senate Joint Resolution 32 designating September 21, 1986, as "Ethic American Day." The purpose of "Ethnic American Day" is to recognize and honor the contributions made by all ethnic Americans to our Nation and to recognize the uniqueness of our Republic—a Republic in which national unity is enhanced by ethnic and cultural diversity.

The accomplishments of ethnic Americans have been readily apparent in all aspects of life in our country since its founding days. The district heritages and cultures which make up our history have been and still are vital in the development of American society. Indeed, without them, America's richness, in terns of its technology, economy, political structure and spiritual strength, would not exist.

As cochairman of the Commission on Security and Cooperation in Europe, I am constantly reminded of the fact that the millions of immigrants who come to our shores and make a new life for themselves do so out of the desire for freedom and opportunity—desires which are stifled in a number of countries. Here their cultural heritage can flourish. The 1980 census identified the foreign ancestry of more than 188 million Americans. This is approximately 83 percent of our population. Indeed, the United States is a nation of immigrants. In my home State of Maryland more than 2 million citizens claim the heritage of a single ethnic group, and yet, equal to a pride in their heritage is their love for America.

A day set aside in recognition and appreciation of this great body of people—people who to a large degree make up the very essence of this country—would display to all at home and abroad a pride in our many heritages, a passion for the freedom upon which our Government rests, and an awareness that the strength of our national unity lies at least in part on our cultural heritage and diversity. Let us now join together in establishing September 21, 1986, as "Ethnic American Day".

Mr. HANSEN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. Res. 32

Whereas the United State of America is a haven for victims of religious and political persecution and for those who seek freedom and opportunity;

Whereas the United State of America has welcomed oppressed and deprived persons and granted them refuge and citizenship;

Whereas enthnic Americans love the United States of America and have shed their blood in defense of America and its freedoms;

Whereas enthnic Americans have made outstanding contributions in the fileds of agriculture, labor, arts, science, medicine, business, and government, and to the quality of life in these United States; and

Whereas designation of an "Ethnic American Day" would contribute to a greater appreciation of the rich ethnic heritage of this

Nation and to the unity of all its people: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to designate September 21, 1986, as "Ethnic American Day" and to call upon the people of the United States to acknowledge and advance mutual understanding and friendship among all Americans regardless of their ethnicity.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

SAVE FOR THE U.S.A. YEAR

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 436) to designate 1986 as "Save for the U.S.A. Year," and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from New York?

Mr. HANSEN. Mr. Speaker, reserving the right to object, I do not object, but I simply would like to inform the House that the minority has no objection to the legislation now being considered.

Mr. Speaker, I withdraw my reservation of objection.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. Res. 436

Whereas $200,000,000,000 of the United States Federal deficit is owed to foreign interests;

Whereas in 1985 the debt owed to foreign interests has caused the United States to become a net debtor nation for the first time since World War I;

Whereas the debt owed to foreign interests will reach $1,000,000,000,000 by 1990, with accompanying annual interest payments to foreign creditors of $100,000,000,000;

Whereas the people of the United States are not saving enough to meet the investment needs of the United States, including the financing of the Federal deficit;

Whereas the United States is becoming increasingly dependent on foreign capital;

Whereas the sale of savings bonds issued by the United States in 1985 will result in savings of $2,000,000,000 to the taxpayers of the United States as a result of lower interest costs to the Federal Government;

Whereas an increase in savings by the people of the United States will help reduce the Federal deficit and alleviate the substantial dependence by the United States on foreign capital: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) 1986 is designated as "Save for the U.S.A. Year";

(2) the President, when next addressing the Congress on the State of the Union, is requested to initiate a nationwide campaign, to be known as the "Buy Back America" campaign, for the purpose of encouraging the people of the United States to buy savings bonds and savings certificates of the United States in order to reduce borrowings from foreign sources; and

(3) the Secretary of the Treasury is requested to issue, under section 3105 of title 31, United States Code, savings bonds and savings certificates with such maturity dates, discount rates, and interest rates as will enhance the marketability of such bonds and certificates.

AMENDMENT OFFERED BY MR. GARCIA

Mr. GARCIA. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GARCIA: Page 2, line 12, strike out "and".

Page 3, line 3, strike out the period and insert in lieu thereof "; and".

Page 3, after line 3, insert the following new paragraph:

(4) the Congress should actively support all United States savings bond programs by—

(A) endorsing such programs and conducting a thorough campaign among congressional staff and other employees of the House of Representatives to inform such staff and employees of the benefits of such programs; and

(B) informing all constituents of the benefits of such programs and urging all constituents to support such programs through the regular purchasing of United States savings bonds.

The **SPEAKER** pro tempore. The question is on the amendment offered by the gentleman from New York [Mr. GARCIA].

The amendment was agreed to.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL JAYCEE WEEK

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate Joint Resolution (S.J. Res. 213) to designate January 19 through January 25, 1986, "National Jaycee Week," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from New York?

Mr. HANSEN. Mr. Speaker, reserving the right to object, I do not object, I would simply like to inform the House that the minority has no objection to the legislation now being considered.

Mr. Speaker, under my reservation, I yield to the gentleman from Missouri [Mr. YOUNG], who is the chief sponsor of House Joint Resolution 447, to designate the week of January 19 to 25, 1986, as "National Jaycees Week."

Mr. YOUNG of Missouri. I thank the gentleman for yielding.

Mr. Speaker, today we are considering House Joint Resolution 447, legislation to designate the week of January 19, 1986, as "National Jaycees Week."

I would like to commend Chairman GARCIA and Mr. HANSEN, the ranking member of the Subcommittee on Census and Population, for recognizing the urgency of this resolution and bring it to the floor.

Due to the fact that this commemorative week would begin on January 19, 1986, and the House will not begin the 2d session of the 99th Congress until January 21, the House is under pressure to approve this resolution by the end of the year. The Senate version of "National Jaycees Week" was passed on November 4, 1985.

Founded in 1920 in St. Louis, MO, The U.S. Jaycees (or the Junior Chamber of Commerce, as it was known then) have a long history of community involvement. Currently, there are more than 268,000 Jaycees in 6,500 chapters throughout all 50 States and the territories.

The Jaycees welcome young men and women between the ages of 18 and 36 as members. These young people are involved in education, assisting the elderly, fundraising for the handicapped and disease research, in addition to other programs and projects that address community needs and problems. Many of the Jaycees programs provide help and assistance that might not otherwise be possible.

Congratulations to the Jaycees on 65 years of community service, and I know that we are all looking forward to another 65 years of success!

Mr. HANSEN. Mr. Speaker, I withdraw my reservation of objection.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. Res. 213

Whereas the United States Jaycees and its affiliated State and local organizations, have set aside the week of January 19 through January 25, 1986, to observe the founding of the Jaycees sixty-six years ago; and

Whereas the civic bodies and service organizations of our community and the departments of government recognize the contributions to the United States by the Jaycees; and

Whereas this organization of young people has contributed materially to the betterment of the United States through such programs as Individual Development and Community Service for the past year; and

Whereas more than two hundred and sixty-eight thousand Jaycees in six thousand five hundred and fifty chapters in our fifty States serve this time honored ideal in a modern setting, dedicating their free time to faith, brotherhood, and freedom, and the service of their fellow citizens: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of January 19 through January 25, 1986, is designated as "National Jaycee Week". The President is requested to issue a proclamation calling upon the people of the United States for the observance of this week with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolutions just considered and adopted.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 192, NATIONAL DAY OF REMEMBRANCE OF MAN'S INHUMANITY TO MAN

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 328 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 328

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 192) to designate April 24, 1985, as "National Day of Remembrance of Man's Inhumanity to Man" and the first reading of the resolution shall be dispensed with. After general debate, which shall be confined to the resolution and which shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Post Office and Civil Service, the resolution shall be considered for amendment under the five-minute rule. At the conclusion of the consideration of the resolution for amendment, the Committee shall rise and report the resolution to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the resolution and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

CALL OF THE HOUSE

Mr. MOAKLEY. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 456]

Ackerman
Addabbo
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Armey
Aspin
AuCoin
Badham
Barnard
Barnes
Bartlett
Barton
Bateman
Bates
Bedell
Beilenson
Bennett
Bentley
Bereuter
Bevill
Biaggi
Bilirakis
Bliley
Boehlert
Boggs
Boland
Boner (TN)
Bonior (MI)
Borski
Bosco
Boucher
Boulter
Boxer
Breaux
Broomfield
Brown (CA)
Brown (CO)
Broyhill
Bruce
Bryant
Burton (CA)
Burton (IN)
Bustamante
Byron
Callahan
Campbell
Carney
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clay
Clinger
Coats
Cobey
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Craig
Crane
Daniel
Dannemeyer
Darden
Daschle
Daub
Davis
de la Garza
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart (OH)
Eckert (NY)
Edgar
Edwards (CA)
Emerson
English
Erdreich
Evans (IA)
Evans (IL)
Fawell
Feighan
Fiedler
Fields
Fish
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Franklin
Frenzel
Frost
Fuqua
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Gray (IL)
Gray (PA)
Green
Gregg
Grotberg
Guarini
Gunderson
Hall (OH)
Hall, Ralph
Hamilton
Hammerschmidt
Hansen
Hartnett
Hawkins
Hayes
Hefner
Heftel
Hendon
Henry
Hertel
Hiler
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Johnson
Jones (NC)
Jones (OK)
Jones (TN)
Kanjorski
Kaptur
Kasich
Kastenmeier
Kemp
Kennelly
Kildee
Kindness
Kleczka
Kolbe
Kolter
Kostmayer
Kramer
LaFalce
Lagomarsino
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Loeffler
Long
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
Lungren
Mack
MacKay
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCain
McCandless
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McKernan
McMillan
Meyers
Mica
Michel
Mikulski
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mitchell
Moakley
Molinari
Mollohan
Monson
Montgomery
Moody
Moore
Moorhead
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Natcher
Neal
Nichols
Nielson
Nowak
O'Brien
Oakar
Oberstar
Obey
Olin
Ortiz
Owens
Oxley
Packard
Panetta
Parris
Pashayan
Pease
Penny
Pepper
Perkins
Petri
Pickle
Porter
Pursell
Quillen
Rahall
Rangel
Ray
Regula
Reid
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Roemer
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Rudd
Russo
Sabo
Savage
Saxton
Schaefer
Schneider
Schroeder
Schuette
Schulze
Seiberling
Sensenbrenner
Sharp
Shaw
Shelby
Shumway
Sikorski
Siljander
Sisisky
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Snyder
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Strang
Stratton
Studds
Stump
Sundquist
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Weaver
Weber
Weiss
Wheat
Whitehurst
Whitley
Whittaker
Whitten
Williams
Wilson
Wirth
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Young (MO)
Zschau

□ 1220

The SPEAKER pro tempore (Mr. GRAY of Illinois). On this rollcall, 408 Members have recorded their presence by electronic device, a quorum.

Pursuant to the rule, further proceedings under the call were dispensed with.

NATIONAL DAY OF REMEMBRANCE OF MAN'S INHUMANITY TO MAN

The SPEAKER pro tempore. The Chair recognizes the gentleman from Massachusetts [Mr. MOAKLEY].

Mr. MOAKLEY. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Missouri [Mr. TAYLOR], for the purposes of debate only, and pending that I yield myself such time as I may use.

Mr. Speaker, House Resolution 328 is the rule providing for the consideration of House Joint Resolution 192, which would designate April 24, 1986, as a National Day of Remembrance of Man's Inhumanity to Man.

Mr. Speaker, House Resolution 328 is an open rule that provides for 1 hour of general debate, equally divided between the chairman and ranking minority member of the Committee on Post Office and Civil Service. The rule also makes in order one motion to recommit.

Mr. Speaker, House Joint Resolution 192 as amended, designates April 24, 1986, as a national day of remembrance of man's inhumanity to man, in memory of all victims of genocide, especially the 1.5 million in Armenian ancestry who were victims of the genocide perpetrated by the Governments of the Ottoman Turkish Empire between 1915 and 1923.

Mr. Speaker, House Joint Resolution 192 was previously considered under suspension of the rules on June 4, 1985, when the House voted 233 to 180 in favor of House Joint Resolution 192. Because the resolution did not receive the required two-thirds vote for passage, a request was made from the Committee on Post and Civil Service to grant a rule for the consideration of the House Joint Resolution 192. Since that time, Mr. Speaker, an amendment was adopted which clarifies the historical record and removes any suggestion that the modern Turkey Government was involved in the tragic events of 1915 through 1923.

Mr. Speaker, the murder of 1.5 million Armenians was the first genocide of the 20th century. Many of the survivors are still alive. Because their trauma has been largely forgotten, other peoples throughout the century have had to suffer through further genocides. Not too many years after the Armenian genocide, Adolph Hitler decided he could get away with the extermination of 6 million Jews because as he put it, "who still talks nowadays about the extermination of the Armenians?"

Mr. Speaker, by setting aside this day, we will acknowledge the pain and suffering of the men, women, and children who died for no other reason than the fact they were Armenians. We owe it to Armenian survivors as well as to the memory of those who were killed to remember this tragedy and to learn from it.

I urge my colleagues to vote for House Resolution 328 and to support the passage of House Joint Resolution 192.

☐ 1230

Mr. TAYLOR. Mr. Speaker, I yield myself such time as I may require.

Mr. Speaker, House Resolution 328 should be defeated.

This rule brings to the floor of the House a commemorative resolution that will mean nothing but trouble for U.S. interests in a very strategic corner of the world.

On the basis of its substance, House Joint Resolution 192 should not be brought to the floor. That is why this rule should be defeated, and that is why I will attempt to do so.

The commemorative resolution made in order by this rule is guaranteed to strain our bilateral and treaty relationships between the Republic of Turkey and its passage might well lead to an outright rupture of diplomatic ties.

As one who is concerned about our future security interests and our association with Turkey, I can see no good reason for us to even debate House Joint Resolution 192.

Mr. Speaker, Turkey is one of our most valuable allies in the cause of peace and freedom and is one of the most important members of the North Atlantic Treaty Organization.

The resolution made in order by this rule is offensive to the Government of Turkey, it is offensive to the people of Turkey, and it is not a constructive way for the Congress to honor the ancestors of American Armenians.

We have only a few days' worth of floor time available before the recess, and the fact is this resolution will require several hours of debate under the 5-minute rule. The best thing to do is to defeat this rule.

Mr. Speaker, if this rule is not defeated, I fully expect that the normal legislative process will require several hours. This measure was defeated last year on the floor of the House in May, and it has not gotten any better.

Mr. Speaker, House Joint Resolution 192 designates April 26 as a day of remembrance of man's inhumanity to man, and in doing so it gives recognition to events that occurred nearly 70 years ago in Asia Minor.

Mr. Speaker, there are implications in the way these events are described in the resolution. The subtle wording of the resolution is written in such a way as to cast aspersions upon our faithful ally, the Republic of Turkey.

Most importantly, the view expressed does nothing to heal the differences that have grown over the years between people of Armenian ancestry and people of Turkish ancestry.

House Journal Resolution 192 places this House in the position of ratifying some historical facts in such a way as to favor one point of view over the other, and I do not think we should do that.

It is senseless for the Congress to commemorate something when the words themselves are enough to give cause to mindless terrorism against a nation's citizens and diplomats.

It may be difficult for most Americans to grasp the depth of feeling that has been generated over this resolution. I know it has been difficult for most Members. I do want to take one moment to express a historic parallel that would be appropriate.

Our own Nation was nearly torn asunder 120 years ago as the Civil War drew to a close. General Grant's Union Army had besieged General Lee's troops at Petersburg, VA, and General Sherman's men left a wide swath of bloody destruction as they marched through Georgia and the Carolinas.

I am sure that we could resurrect that event and have a very heated debate on this floor today, but it would not help unite our great Nation now, in the times in which we live, would continue the strain that led to a war for freedom that has bound this great Nation together as the hope of freedom throughout the world.

President Lincoln, perhaps one of our country's greatest Presidents, found a way to reunify our Nation. The President never spoke words more truly characteristic, nor beautiful, than in his second inaugural address.

Mr. Speaker, President Lincoln faced the challenge of rebuilding and preserving the Union on that occasion. Instead of demanding vengeance on the South, he asked for "malice toward none" and "charity for all."

President Lincoln implored our people "to do the right as God gives us the light to see the right." He asked our ancestors "to bind up the nation's wounds." He asked the northern citizens to be merciful, "to do all which may achieve and cherish a just and lasting peace" among ourselves and with all nations.

Mr. Speaker, that is the challenge we have today. Let us bind up our wounds. Let us look to the future, not to the past.

Mr. Speaker, defeat of this rule will not interfere in any way with the right of American Armenians to celebrate whatever day they want. There is a great community of loyal and dedicated Americans of Armenian ancestry in this Nation. We are proud of them. We are proud of the contribution that they have made and will continue to make in building a great America. We do not want to do anything to degrade them. I do not think they want us to do anything that would weaken our resolve as a nation or damage our participation in the North Atlantic Treaty Organization of which Turkey is an integral part.

We do not need the wording of this resolution. It does not treat the people it mentions in an evenhanded and equal way. We do not need the wording of this resolution. It is based on a desire to seek vengeance.

Mr. Speaker, we do not need the wording of this resolution. It does not seek to bind up the wounds of nearly 70 years ago. The Congress of the United States should look to the future, not to the past. This resolution does not do that.

Mr. Speaker, I urge defeat of this resolution.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from New

Mexico [Mr. RICHARDSON], for the purpose of debate only.

Mr. RICHARDSON. Mr. Speaker, first, I would like to say that my ignorance on this issue is massive. Second, I wonder if we are doing the right thing in discussing this sensitive, emotional issue in this manner.

In the past, I have supported the Armenian position. I have many Armenian friends who are very emotional about this issue, and rightly so. There was a massive genocide and Armenians rightfully deserve an expression of outrage and justice.

On the other hand, Turkey claims that passage of this legislation will sincerely harm United States-Turkey bilateral relations and cause potential anti-Armenian terrorist activity. The most distinguished Ambassador Elekday of Turkey personally visited me, and explained his grave concern. Turkey is a valued and staunch United States ally.

So this bill poses a dilemna, and in the end, I will vote with my Armenian friends, but wondering if this is the best vehicle to achieve this objective of expressing outrage at their genocide. Like any politician, I want to do the right thing but maybe it isn't possible.

Mr. TAYLOR. Mr. Speaker, I yield 3 minutes to the gentleman from Alabama [Mr. DICKINSON].

Mr. DICKNSON. Mr. Speaker, the Armed Services Committee of the House had the opportunity to visit Turkey earlier this year. While we were there, we were impressed very much by the concern of the Turkish Government and the people with whom we spoke over this proposed resolution.

You know, I am from the South. My grandfather himself was wounded in the Civil War, the war of northern aggression, as we call it.

So I ask the question, why do we need to go back 70 years and rehash this? What good does it do? Why is it so important to the Turkish people that this resolution not be passed by the House of Representantives?

I was very impressed with the urgency of their cause and their answer. You see, within the past 10 years, there have been approximately 50 Turkish diplomats and other officials assassinated by Armenian terrorists.

There was a long piece on either "60 Minutes" or "20/20," I have forgotten which, just within the past few months on this, documenting these things that I am saying.

They are convinced, and there is a telegram that has been sent to the members of the committee.

Now, this was pointing out that if we do this, what we do is encourage the extension of the terrorism. So the point is, what good does it do? Turkey is an important NATO ally. They have a 400-mile common border with the Soviets. If you count the Black Sea, it is a 1,200-mile common border. We have bases there. They are friends of ours, and to gratuitously insult them and cause a strain in our relations at the present time is ludicrous. What good does it do?

Let us put our interests first for a change. If you want to talk about man's inhumanity to man, let us not aim it at any one thing. Let us talk about 6 million Jews, Gypsies, and others killed in Germany. Let us talk about the decimation of the Indian population in this country by us. Let us talk about 2 million Cambodians killed by their own people.

You could go on down the list if you want to talk about man's inhumanity to man and have a great deal more numbers of people killed.

What we are doing here today is counterproductive. It adds nothing. I do not impugn the motives of anybody that is sponsoring this resolution, but I am saying it is not in our best interests. It is not either strategically, militarily, or any other way. If you made it broad enough to say that we are against all man's inhumanity to man, great; but to single out one segment of NATO, going back to an incident that occurred 70 years ago, what good does it do?

So if it would do some good, if it would be helpful to us, if it would strengthen our NATO alliances, fine, let us do it. If it is counterproductive, let us forget it and go on to something else.

I really think we ought to defeat the rule and go on about some serious business.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Speaker, I listened very carefully to my distinguished friend, the gentleman from Alabama. There is no excuse for frustration turning into terrorism, but I have a different viewpoint, that it is just this very fact that the youth of Armenia in each generation as their grandparents tell them of the historical facts of this century's first massive genocide, this frustration, this hurt of the world not acknowledging this in a formal sense, this is what leads some young people to take these horrible, illegal, drastic and murderous moves.

□ 1245

I have never discussed this with the first Armenian to ever hold the Governor's seat in the highest State in the land. I have never discussed it with our Governor's wife, Gloria. I have never discussed it with most of my Armenian friends. It is just a given that in this century, the bloodiest century ever, we cannot forget Cambodia, or the Ukrainian slaughter of six times the magnitude of the Armenian holocaust of the kulak farmers. We can certainly never forget the Holocaust of European Jewry, and as a matter of fact, I went to the dedication of a great and beautiful building that will be a memorial to those that we must never forget that were killed by a Nazi power that we shed our blood to overthrow on the other side of the world.

Why did this Congress strike a gold medal to Elie Wiesel, a philospher that has survived the extermination camps of Nazi Germany? Because of one thought Elie Wiesel always put forward: We cannot forget.

If I thought that memorializing and recognizing the Armenian holocaust in the early part of this bloody century was going to hurt NATO, I would seriously consider not bringing it up, because of the living, because of the people that are here today that must be defended from the Soviet threat. But I have talked to distinguished diplomats from our great ally in Turkey, and they say, like so much in foreign policy, one thing publicly and another thing privately. And the diplomats have conceded to me privately that the shame is on the Ottoman Empire that existed precisely 400 years to the day that the hero of modern Turkey, who pulled their country centuries forward into the 20th century, the hero of it took on the name Ataturk, father of the Turks, grandfather of the Turks, and in American newspaper interviews admitted that the decadent Ottomans had performed this horrible genocide, the first in history that passed the horrible figure of a million.

I think that our relationship with Turkey is too strong to let the recognition of a historical fact, as I will always do on the Cambodians that suffered, over 2 million, maybe 3 million, the Jews that suffered, over 6 million Jews of Europe, and the Ukrainians that suffered, maybe over 7 million under the killer Josef Stalin. I think we must fairly recognize for our American Armenians and Armenians everywhere that a great country once existed that has been chopped into pieces, and that it involved a genocide by design of over a million people, a million and a half.

Mr. TAYLOR. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. SILJANDER].

Mr. SILJANDER. Mr. Speaker, 70 years ago, there was a genocide, Armenians were killed, Turks were killed. It was a bloody period in history.

Some say that we should acknowledge this, we should not be bashful that this happened. The House did in 1973 and passed and enacted a resolution dealing with Armenian genocide. This House, without the Senate concurring, did in 1984. So it is not as though it has gone unnoticed by this Congress.

Many things have changed, however, since the House and the Senate in 1973 and 1984 passed these resolutions. Turkey has become a democracy, an incredibly progressive democracy. They have become our most strategic, strongest ally in NATO. They border Iran, Iraq, Syria, Bulgaria, and the Soviet Union. They have open-armed asked us to come in with key strategic surveillance stations in Turkey, NATO headquarters, United States military base.

Do not take it for granted. In 1974, with the arms embargo, Turkey nearly closed and kicked the Americans out. So it is not as though they are reliable, predictable. They are our ally, but it is not as though that no matter what we do, they will stand by our side.

We have to realize this is an insult to the present Turkish Government for a sin committed 70 years ago by the Ottoman Empire.

They are an ally. We do not want to provoke, encourage in any way the Armenian terrorists who have already perpetrated 50 murders of Turkish diplomats.

This, my colleagues, is a mistake. This is the wrong time to engage in a very blatant, obvious, directed attack on the present Government of Turkey.

They claim they will not take it that way. It is not an attack on this present government, but the reality is the feelings are in Turkey, where it counts, that it is. Perception is all in politics, and this is being taken and perceived, and said time and time again by the Ambassador to Turkey that this will hurt American relations with our key ally, and I urge a "no" vote.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from California [Mr. LEHMAN].

Mr. LEHMAN of California. Mr. Speaker, I believe we have a resolution before us that is obviously of great importance to many people who are in this room, and to many Americans around the country. I support this resolution, primarily because I personally have heard the stories by the survivors of the Armenian genocide and know what passage of this resolution means to them.

What passage of this resolution means is simply that all of the victims of genocide will be recognized, and specifically that the victims of the Armenian genocide will not be forgotten.

Passage will also confirm the historical accounts of this massacre which, if you recall from special orders given many times on this floor, have been amply described. The events which took place in the Ottoman Empire by Ottoman Turks have been chronicled in historical archives in our country and in others around the world.

Thus, the only purpose of this resolution is to ensure that the genocide of 1.5 million Armenians is recognized and recorded, nothing else.

Does anyone in this Chamber honestly believe that hundreds of thousands of Armenians just got up and left the land they lived in for 2,500 years because they read about America in a travel magazine? Of course they did not. They were murdered, and they were driven from their land, and no competent historian will refute this.

Our Ambassador at the time in Turkey, Henry Morgenthau, wrote a book about it. Winston Churchill chronicled it, and just as the gentleman from California [Mr. DORNAN] just said, Ataturk, the founder of the great modern Turkish Nation, acknowledged that the genocide occurred and said it ought to be acknowledged by other Turks.

Mr. Speaker, today we have some Members in this House who tell us that passage of this resolution does more than resolve a question of historical fact. We have heard that passage will harm the current-day relations that this country has with the current government of Turkey. Some would even have us recognize genocide based on the length of a country's border with the Soviet Union.

As the supporters of this resolution and I have stated numerous times, passage of this resolution is an attempt to let the Americans of Armenian descent see that the period in time when their relatives were driven from their homes and murdered is honored and recognized.

I stand here today to see that this resolution passes, not to incriminate anyone in the present Government of Turkey. The present-day Turkish Government has no more responsibility for the actions of its predecessors than does the present-day Government of West Germany for the action of the Third Reich. But West Germany does not protest that recognizing the Holocaust offends them and will harm their relations with the United States.

I suggest that the Government of Turkey should show the same kind of courage and quit hiding behind the skirts of their friendship with us on this issue. The Turkish Nation today is our ally and our friend and we are glad of that. When the genocide took place, they were our foe, allied with imperial Germany in the First World War. I know we do not deny that a war took place today because the Turkish Government might not like to admit the side that they were on, and we should not deny that the genocide took place either. We should not rewrite history every time it suits our fancy because we have some temporary foreign policy objective that will be served and work to our benefit by doing so.

To defeat the rule and not allow us to debate this resolution on the floor today is, in my opinion, a cowardly act and not worthy of this great body. I hope Members of this House will consider the strong statements in support of this resolution and give us a rule and debate the issue.

Mr. TAYLOR. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. ECKERT].

Mr. ECKERT of New York. Mr. Speaker, I rise in strong opposition to the rule and the resolution.

Mr. Speaker, Congress often passes commemorative resolutions as a gesture to this or that group because the cost is low and the benefits of public recognition for a deserving cause are high. In the case of the Armenian genocide resolution, however, there is no real benefit and there is a real cost.

It may seem that this legislation merely acknowledges the suffering of the Amenian people during the events of 1915 and thereafter. But it goes well beyond mourning Armenian losses during a very complex and confused time; it makes a direct accusation of genocide against the Ottoman Turkish Empire. There is historical evidence of Ottoman atrocities against the Armenian people, just as there is ample evidence of atrocities on the part of many groups in the region, including Armenian terrorists. But it is not at all clear that the events warrant an accusation of genocide. In a region where the confusion and anarchy of warring factions and ethnic conflict led to a situation that can be compared to Lebanon's, such a direct moral statement may not be appropriate. Deciding who was to blame for what during this period is a task more for historians than for Members of Congress.

The resolution goes well beyond making a questionable historical statement; it has ramifications that are of direct relevance to our relations within NATO today. In the 11 years since the Armenian terrorist campaign against Turkey began, more than 50 Turkish citizens, including many Turkish diplomats, have been murdered. Passage of this resolution would encourage Armenian terrorism; after each murder, the terrorists have claimed the alleged genocide as their justification. Turkey's Ambassador to the United States, Sukru Elekdag, has already received death threats in connection with his efforts to make the case against this resolution.

The President strongly opposes this resolution. In stating the administration's case against it, Secretary of State George Shultz noted that "[Armenian] terrorists have harassed and bombed Americans who disputed the genocide charge and lent support to fellow terrorists attacking and kidnaping our personnel in Lebanon. Adoption of House Joint Resolution 192 would inevitably be seen by these and other terrorists as a vindication and reward for their vicious campaign."

Turkish citizens are upset and worried about the implications of this bill, and justifiably so. As a former U.S. diplomat, I

know that passage of this resolution would be regarded as a decided foreign policy statement by this body, not merely as a commemoration of a historical tragedy. The Turkish people must regard it in that way; they will be the victims of the increase in terrorist activity sure to result from this bill.

The U.S. Ambassador to Turkey, Ambassador Robert Strausz-Hupe, also expressed this point of view in a recent cable in which he wrote that "the passage of this resolution will be regarded by all Turks, whether members of the Government or the opposition * * * as a gratuitous insult to a country and people that regard themselves, with much justification, as loyal allies and steadfast friends of the United States."

Secretary Shultz has said that the—

> Terrorist campaign has transformed the genocide issue into a nationalistic, emotional matter for all Turks. Passage would generate an immediate reaction against the United States in Turkey. Turkey is a staunch NATO ally which fought with us in Korea, fields NATO's second largest army, guards the straits separating Soviet Black Sea bases from the Mediterranean, and provides military and other facilities vital to our security. It does not serve our national interest to harm this important relationship, particularly when we are consulting with Ankara on the future of our bases in Turkey.

Mr. Speaker, passage of this resolution may lead to many unnecessary deaths. It would damage our relations with a trusted ally in a turbulent part of the world. It should be defeated.

Mr. TAYLOR. Mr. Speaker, I yield 3 minutes and 30 seconds to the gentleman from from Kentucky [Mr. HUBBARD].

Mr. HUBBARD. Mr. Speaker, I rise in strong opposition to House Joint Resolution 192.

I ask my colleagues why, yes, why this resolution must be considered twice during 1985 by the U.S. House of Representatives? Just this past June 4, the House failed to suspend the rules and pass the same resolution.

We are here today, December 12, less than 2 weeks from Christmas with a Saturday session this week a probability because of the crowded end-of-session calendar, and we are taking up this House Joint Resolution 192 in an effort by some Members of the House to embarrass an important ally: Turkey.

There is no doubt in my mind that the tragic genocide of 1.5 million Armenians between 1915 and 1923 was indeed a horrible, terrible happening. But Members of Congress, could we remember that this is 1985? Turkey is an important NATO ally. Turkey borders the Soviet Union for nearly 400 land miles.

Turkish Prime Minister Turgut Ozal and Ambassador Sukru Elekdag, the members of the Turkish General Assembly, millions of people in Turkey today and thousands of Turkish Americans had nothing to do with what happened between 1915 and 1923.

The State Department strongly opposes this resolution. The Defense Department remembers that Turkey fought with us during the Vietnam war.

What would Americans in your hometown and mine think if we read every year that the Turkish General Assembly passes a resolution intending to embarrass the United States because of our treatment of Indians centuries ago, or because, regrettably, there was a time in American history when blacks in my hometown and in too many areas of the United States were slaves?

During my 11 years in Congress, I have traveled abroad very little. I was in Turkey this past August for 3 days. Dozens of Turkish leaders, including Turkish Prime Minister Turgut Ozal, expressed to me, as they have other Members of Congress, their very keen and bitter disappointment that the U.S. House of Representatives would continue to consider this resolution year after year to embarrass Turkey.

Does it not make sense that Members of the U.S. Congress should be trying to be friendly to Americans of both Armenian and Turkish descent?

Mr. Speaker, just today, right now, questions are mounting fast regarding how a DC-8 military charter plane exploded enroute from the Middle East to the United States carrying 258 soldiers from my district, Fort Campbell, KY. Another act of terrorism? Remember, this plane exploded, some say, before it took off in Newfoundland. Another act of terrorism by the PLO or the PLF?

Today, what a cruel irony of timing for us to be considering this particular resolution about man's inhumanity to man on the day that 258 American soldiers have been killed, perhaps by an act of terrorism, and we would ignore those specialists of terrorism in the Middle East with the PLO and the PLF, and today we would pass a resolution condemning Turkey for something that happened back in 1915 to 1923.

Members of Congress, it is ludicrous for us to pass this rule and this resolution. Please, vote no on the rule and let us get on to some other legislative business.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the distinguished gentleman from New York [Mr. BIAGGI].

Mr. BIAGGI. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I think it is important first to make it perfectly clear that this resolution is not intended to embarrass anyone, most of all the Turkish Government, and the resolution deals not specifically and not exclusively with the Ottoman Empire genocide of the Armenians, but deals with all genocide. It is a resolution dealing with man's inhumanity to man, whether it be Cambodia, whether it be the Holocaust in Germany, whether it be the Ukraine, or whether it be the Armenians in Armenia by the Ottoman Empire.

□ 1300

I think that is a straw man. Why the Government of Turkey is exercised about it, puzzles me, because we do have an excellent relationship as a Nation with the Turkish Government, and I am sure it will endure this resolution.

The fact of the matter is, we have enduring relationships with many countries, and on occasion they fear we may embarrass them, but if the relationship is one of substance, it will survive a resolution of this kind.

The fact of the matter is, we have made several attempts to classify and to designate the murder of 1½ million Armenians, 1916 to 1923, and we have not been successful. That is why we bring this resolution up again.

It is inconsistent with our national policy. We have addressed the Holocaust, we have addressed the Cambodian situation, we have addressed many. We have spoken about the denial and the enslavement of blacks in our own country time and time again, and continue to make reference to it as a point of reference so we can embark on more improved situations.

There is no question in my mind that the resolution should be passed. As it is, to once and for all classify that period of terrorism, of horror; give it its proper characterization. Clearly, it was genocide. Any other characterization would be inaccurate.

We are not alone in this. President Carter in 1978 said:

> In the years preceding 1916, there was a concerted effort made to eliminate all the Armenian people, probably one of the greatest tragedies that ever befell any group.

In 1981, President Reagan said:

> Like the genocide of the Armenians before it, and the genocide of the Cambodians which followed it—and like too many other such persecutions of too many other people—the lessons of the Holocaust must never be forgotten.

It is simple. Why Members argue that this would embarass the Turkish Government—we are talking about two different entities; we are talking about the Ottoman Empire, we are not talking about the Turkish Government.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from New York [Mr. GREEN].

Mr. GREEN. Mr. Speaker, I rise in support of the rule and the bill, and I rise particularly to address the question: Why today should we be considering this bill?

I think that there is a real reason that is embodied in the old statement, that those who do not learn from history are doomed to repeat it.

As President Reagan said in his Presidential Proclamation 4838 on April 22, 1981:

> Like the genocide of the Armenians before it, and the genocide of the Cambodians which followed it—and like too many other such persecutions of too many other people—the lessons of the Holocaust must never be forgotten.

We seek to memorialize the Armenian genocide in an effort to sensitize ourselves and the rest of the world so that those kinds of events do not happen again. I think that that purpose is in the long run more important than any self-inflicted embarrassment that the present Turkish Government may feel about this resolution, because it is not addressed to the Republic of Turkey at all; it is addressed to events that occurred under the Ottoman Empire, and were openly acknowledged by the first government of the Republic of Turkey as one of the reasons that they had overthrown that decadent empire.

The lessons of those events are important. It is important to keep them on people's consciousness. It has been said that Hitler, when someone suggested to him that world public opinion would be hostile if he proceeded with his so-called "final solution of the Jewish problem," commented, "Who remembers the Armenians?"

I think it is important to say that we remember the Armenians, and I think it is important that the whole world remember the Armenians as it remembers the Holocaust.

We have reached a point where the last survivors are now very elderly, and the direct witnesses to those terrible events will soon no longer be with us. So I think it is doubly important that at this time we recognize that event, because that is the only way we have any chance of preventing other terrible events like that in the future.

Mr. TAYLOR. Mr. Speaker, I yield 3 minutes to the gentleman from Utah [Mr. HANSEN].

Mr. HANSEN. Mr. Speaker, a lot of people have been coming up and talking on the floor, saying this is not going to hurt anything, it is not intended to hurt anybody, we are really not out to get anybody here, we love everybody at the time of Christmas; there is peace on Earth, good will toward men.

What happens is that I do not think that we are capable or have the ability or have the intelligence to superimpose our legislative thinking to determine what really happened a few years back, and when they say it is not intended to do this, Mr. Speaker, it should not hurt anybody. Let us see what the Turks have to say about that. These are the people we are talking about. We are not talking about Members of the U.S. Congress, and here happens to be a telegram from a man who ought to know; he happens to be our Ambassador over there; he is the extension of the arm of the administration; he is the man that gets the feeling for this, let us see what he has to say:

The American Ambassador says:

> I can assure you that the passage of that resolution will be regarded by all Turks, whether members of the government or of the opposition, and whether prominent personages or simple peasants and townspeople, as a gratuitous insult to * * * the people of this country.

Mr. Speaker, what we have to do today is just simply say, "What do we gain from this?" The answer is, nothing. What do we lose? It has been articulated very well; we lose a good NATO ally, we lose our friends. Secretary Shultz says we should not do this, the administration says we should not do this.

We have, and Members should all read it, from the Turkish Grand National Assembly, the statement:

> The adoption of such a resolution will constitute a heavy blow and harm irreparably the friendly relations between our two countries.

Now, what will we gain from this thing? This is a commemorative. What are commemoratives for? Pete Rose, Boy Scouts, things we have handled today; and now we are saying, "But we are going to insult one of our best allies over this."

Again, what do we gain? We gain absolutely nothing. In the 11th hour of this session, I cannot understand why we are talking about this.

Mr. MOAKLEY. Mr. Speaker, may I inquire how much time I have remaining?

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. MOAKLEY] has 14 minutes remaining.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia [Mr. GINGRICH] for purposes of debate only.

Mr. GINGRICH. Mr. Speaker, I am a very strong supporter of aid to Turkey, and I voted for it consistently; I intend to be a supporter of aid to Turkey in the future.

I originally opposed this proposal, but it is my understanding, and I would like to engage in a brief colloquy with the gentleman from California that this proposal will in fact be amended specifically to point out that we are referring to genocide which occurred in the Ottoman Empire, that it is not a commentary in any way on the current Government of Turkey, but that it is an accurate fact, that it is a real problem, that it is something worthy of our remembering.

I yield to the gentleman from California.

Mr. PASHAYAN. I thank the gentleman for yielding and I thank the gentleman for the position he has taken on this resolution as it would be amended by the committee chairman, the gentleman from Michigan [Mr. FORD].

The amendment will delete the word "in Turkey" and it will say that the genocide was perpetrated by the governments of the Ottoman Empire prior to the establishment of the Ottoman Empire between 1915 and 1923, prior to the establishment of the Republic of Turkey.

Now, I appreciate the gentleman from Georgia's understanding of this, that this is obviously strictly a historical reference, and it precludes in so many words the present Government of Turkey.

Mr. GINGRICH. Let me say exclusively that I can appreciate the sensitivities of all people; and candidly, there are things in American history that undoubtedly are worthy of similar kinds of reference; but it does seem to me that when you have a situation like this, that for us to be overly sensitive to the current Government could apply, for example, to West Germany, where we frequently apply resolutions, could apply in a number of cases.

This is the case where people do have a legitimate grievance, it is a historic event, we are not in any sense discussing the current regime in Turkey or the current Government of Turkey; and as I said earlier, I am a supporter of aid to Turkey and will continue to vote for that aid.

Mr. TAYLOR. Mr. Speaker, I yield 3 minutes to the gentlewoman from Maryland [Mrs. HOLT], a member of the Committee on Armed Services.

Mrs. HOLT. Mr. Speaker, we should defeat this rule. The last two speakers pointed out the fact that there will be an amendment offered. That presumes the adoption of the Ford amendment, which would preclude the adoption of the Murtha amendment, which would remove all indication of any ethnic reference from the legislation. I think that tells us something about what is being done here today.

□ 1310

We should defeat this miserable resolution because it is a document of ethnic bias that should have no place on the agenda of this House. Let us bury it. I say let us get rid of it. We demean ourselves in this time of good will by even considering this resolution which causes great offense to our important and courageous ally, the Republic of Turkey. We have heard speaker after speaker indicate that this really is something that is very, very important to the Government of Turkey and to the people of Turkey. I was there at the same time that the gentleman from Alabama was there.

Everybody was talking about it, the people in the street, taxidrivers, everybody. They do not want their ally, the United States of America, slapping them in the face about this particular issue. I think we should honor that. It does no good for our great Armenian-Americans. It recalls a terrible tragedy that occurred 70-odd years ago during that violent, horrible collapse of the Ottoman Empire. The modern Republic of Turkey bears no responsibility for the alleged massacres of Armenians, but it is perceived as aimed at them. This whole resolution is designed to fan the fires of ethnic hatred that have burned for centuries. We should be speaking of healing ancient enmities instead of reviving them. Let the historians debate these things. It is reckless and irresponsible for us to be considering a resolution which provides aid and comfort to Armenian terrorist organizations who have murdered 50 Turkish diplomats and other citizens in various parts of the world in the past 11 years.

I would remind our great Americans of Armenian descent that Armenia is a land under Soviet domination, and the people of Armenia are denied the birthright of liberty which we cherish. That should be our concern.

One of the major Armenian terrorist organizations has the avowed purpose of breaking off a part of Turkey to join it to Soviet Armenia. We should be supporting our ally Turkey instead of dealing with this ugly resolution.

Turkey is not the enemy of the free world. Turkey is a defender of the free world, the southern anchor of the NATO alliance and a country that is very important to our own interests and security.

The Republic of Turkey in recent times has enjoyed a remarkable economic revival because of free-market policies. She has become a stable and strong country in a region of the world notable for political chaos.

It is shameful to be dredging up bitter memories of long ago in a resolution designed to hurt and embarrass our ally, the Republic of Turkey. I urge the House to defeat this resolution.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Michigan [Mr. Ford].

Mr. FORD of Michigan. I thank the gentleman for yielding.

Mr. Speaker, as has been discussed here today, I wanted to alert the House that I have now finished an amendment that I will offer at the very beginning of the amending process which strikes all of lines 6 through 9 of the resolution and inserts in lieu thereof the following:

> For the 1½ million people of Armenian ancestry who were victims of the genocide perpetrated by the Government of the Ottoman Empire between 1915 and 1923 prior to the establishment of the Republic of Turkey.

In doing that, I go further than the amendment originally intended. It originally read: "Ottoman Turkish Empire." The legislative history of this process will now show that we have deliberately removed from the original resolution all references directly or indirectly to Turkey, and then spell out as an additional assurance to the concerns raised by the State Department, that we are talking about events that occurred prior to the establishment of the Republic of Turkey. We are not talking about the current Government of Turkey, which is our ally; we are talking about the time prior not only to the current Government but prior to the establishment of the country.

I do not know how we would be able to make it more clear that there is nothing in this resolution, as there has been nothing in the other resolutions, offensive to our ally.

I would caution people about this: This is the first commemorative resolution that anyone can remember having gone through the rules process. Our committee reports out an average of five to six commemorative resolutions per week. This is the first one, going way back beyond my chairmanship; nobody on the Rules Committee could ever remember considering a rule for one of these. We take them to the floor most of the time, when we have 218 signatures on suspension. They rarely engender this kind of debate.

Mr. TAYLOR. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. Courter].

Mr. COURTER. Mr. Speaker, I think it is a rather ironic affair that the proponents of this amendment admit the fact that it is flawed, and they are saying it is going to be perfected later on during the amending process. It seems to me that if this resolution is a good one, if it deserves to be voted in favor of, it should be brought here in that condition. It should be considered without the proponents of the resolution saying that it is not perfect and needs to be significantly changed during the amending process. That is not the main reason, however, why I oppose the resolution. I oppose the resolution chiefly because it singles out the case of the Armenians in a resolution which begins by referring to all victims of genocide. The bill draws attention to one case, very frankly, at the expense of the others. If it is a resolution with regard to all genocide, it should be generic and should refer to all cases of genocide. If it is a resolution with respect to a particular country in a particular part of the world, so be it. It seems to me it denigrates, it demeans, and makes less significant other terrible acts of genocide that have taken place during the modern history of the world.

It ignores and does not mention what happened in Cambodia shortly after 1975, what happened in Mao's China, what is happening in Afghanistan today, what happened in Hitler's Germany. The resolution is simply wrong in its singularity. It talks about all genocide but then mentions the fact that only one is significant enough to be talked about in this resolution. I think that is an imperfection, and therefore I am going to vote against the resolution.

Also, whether we like it or not, the Turkish Government is looking at this resolution as something that is bad and will create bad blood between our two countries. Turkey, as has been pointed out by the gentleman from Alabama [Mr. Dickinson] is a crucial NATO ally. Thirty-seven percent of the frontier of the Warsaw Pact is in Turkey. The United States has irreplaceable facilities in Turkey along with electronic intelligence gathering devices.

Mr. Speaker, I urge a "no" vote on this rule.

Mr. MOAKLEY. Mr. Speaker, for the purpose of debate only, I yield 2 minutes to the gentleman from Michigan [Mr. Levin].

Mr. LEVIN of Michigan. Let me read from a State Department bulletin of 1982, if I might: "On April 17 and 24, 1909, over 30,000 Armenians were massacred in Adana and other villages along the Cilician Plains in order to suppress the national ambitions of the Armenian people." Why not recognize that? Here is what we hear today: "Turkey is our ally." So is West Germany. "Because it was a different country." The resolution, especially as amended, acknowledges that. "Because it took place 70 years ago." That has been mentioned several times.

Is there a statute of limitations on memory? This resolution is not anti anything but mass murder. There are few, precious few, issues that should not be compromised; that should not be questions of military bases or of constituencies. Such is an issue as the mass slaughter of a people, Members of the House, of any people.

I urge the passage of this rule and then the resolution.

Mr. TAYLOR. Mr. Speaker, how much time do I have remaining?

The SPEAKER pro tempore. The gentleman from Missouri [Mr. Taylor] has 7 minutes remaining.

Mr. TAYLOR. Mr. Speaker, I yield such time as he may consume to the gentleman from Nebraska [Mr. Bereuter].

Mr. BEREUTER. Mr. Speaker, I rise in opposition to the resolution, and, therefore, to the rule.

Mr. Speaker, emotions run higher—far higher than this issue actually deserves. On

the face of it, a resolution to designate a day of remembrance of man's inhumanity to man should not be a controversial issue. Yet this one has become so. It singles out one ethnic group to remember and to grieve for, and one nation to accuse. When many great Americans are of the former group and the latter is an allied friend of our Nation, the result is, unfortunately, explosive.

The slaughter in Armenia, in which over 1 million people died, occurred at a moment of great historical turmoil. Yes, the forces responsible for most of the deaths consisted of soldiers of the Ottoman Empire. But my colleagues, present day Turkish realities have as little to do with the Ottoman Empire as present day Austria represents a mirror of the Hapsburg Monarchy.

This Member has respectfully suggested to our Turkish friends not to read more into this resolution than actually exists. However, given the level of emotions there is little doubt that, no matter how well intentioned, this bill will not change the past; rather it will create unnecessary difficulties in the future.

The resolution's sponsors will tell the House that references to Turkey will be removed from the resolution and that this change should satisfy opponents. The improvement of the bill is appreciated, but my strong opposition to House Joint Resolution 192 arises not from the language but the bill's unintended message. This Member knows full well that it is not the intent of the resolution's designers to alienate and rebuke the moderate democratic Government now in power in Turkey. Further, it is surely is not the intent of the sponsors to offer any encouragement to a small group of Armenians which espouse terrorism and violence.

But actions such as passage of this bill can and certainly will be misunderstood or misconstrued. That is the key point we must consider in the House today: What are the unintended acts and messages which could be stimulated by passage of this flawed resolution?

I urge my colleagues to vote for a substitute that may be offered by the gentleman from Pennsylvania. It is a sensible alternative to language which is detrimental. Indeed it accomplishes the title's intention: To proclaim a day of remembrance for all victims of brutal injustice, genocide, and inhumanity.

Mr. TAYLOR. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. Lagomarsino].

Mr. LAGOMARSINO. Mr. Speaker, I rise in opposition to the rule, although I do so with mixed emotions, coming from a family of immigrants myself. I understand the high feelings on the other side of this issue.

Mr. HANSEN of Utah asks the real pertinent question: "What is there to gain from doing this?" That is as weighed against what there is to lose. And I think there is a lot to lose.

One can argue that the reaction of the Turkish Government and the Turkish people to this resolution is not rational, that they are reading into it things that are not there. But the fact is, as has already been pointed out, that the perception is, and the perception remains, that this resolution indeed, even as it is proposed to be amended, does insult our ally, the Turkish Government, and the Turkish people.

Contrary to what Mr. Dornan, my colleague from California said, I have never heard a Turkish diplomat privately say that he has no trouble with this resolution. In fact, I believe that they fear for their very lives should this resolution pass.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from California [Mr. Lungren].

Mr. LUNGREN. Mr. Speaker, as a cosponsor of House Joint Resolution 192, I rise in support of the resolution and in support of this rule. My hometown is Long Beach. I believe Long Beach, CA now is the second largest community that has Cambodians living in it anywhere in the world.

Virtually everyone who is from Cambodia living in my area has lost a close family relative. Yet the story of that particular genocide was kept off the front pages, even kept off the back pages. We did not "know" anything about it until it was over, and then we said "How did we ever miss it? Is it not a terrible tragedy? It ought not to happen again."

I think one of the reasons we missed it is because of a lack of sensitivity to the fact that this can happen, this has happened, and, yes, it probably will happen in the future.

We have to be very vigilant about that. We cannot and should not allow history to be rewritten. We should acknowledge what has occurred in history so that we do not repeat its many mistakes. In my home area of Long Beach in California, we have many Armenians as well. I do not think I have ever met a person of Armenian ancestry who has not had a grandfather, a mother, an uncle, an aunt, a relative, or someone close to that family who was lost in the genocide covered by this resolution.

The problem we have is that there has been an attempt to rewrite history over the last number of years. Some think that our relations with Turkey are so sensitive we cannot even admit what occurred during the Ottoman Empire, what happened prior to the establishment of the Turkish Empire, and that somehow if we do that we will be less in the eyes of the world and less in the eyes of the people of Turkey.

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And that is why this is so specific. This says that if the President comes forward with a proclamation, that proclamation, in addition to talking about the other instances of genocide, shall mention this one. And those who are against us say, "Well, that is what is wrong with the resolution, it is only specific to this instance."

That is because we want this instance mentioned in the category of all of them when the proclamation is brought forward. In a sense, we are forced to this position because of what has occurred in the past few years, of an attempt to rewrite history. We are trying to make sure that history is not rewritten, only that it is acknowledged.

Mr. TAYLOR. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. Zschau].

Mr. ZSCHAU. Mr. Speaker, I rise today in support of this rule and House Joint Resolution 192.

Earlier this year when this measure was before the House, I voted against it, primarily because I felt that it implied that the current Government in Turkey and the Turkish people were guilty of genocide. Since June, however, this bill has been amended to make it explicit that we are not charging the current Government in Turkey or the Turkish people of genocide. Rather, this bill explicitly refers to the crimes of the despotic government of the Ottoman Empire, which was itself overthrown by the people of Turkey. Today the successors to these liberal reformers govern a country that has become an integral member of Western Europe and the NATO alliance. No one should regard this measure as an indictment of that Government.

It is proper to commemorate the suffering of the people of Armenian ancestry. By remembering the atrocities of the past we can help prevent such crimes in the future. No one can deny the historical record of human suffering that occurred in Anatolia as the old Ottoman Empire collapsed and the region became a battlefield of the First World War. In approving this measure today, let us resolve to learn from the past and heal old wounds.

Mr. TAYLOR. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. Badham].

Mr. BADHAM. Mr. Speaker, we have been discussing here who wins and who loses by the adoption of this rule and the resolution.

Let me say who does not win. The American people do not win. Americans of Armenian descent do not win. Americans of Turkish descent do not win. Who wins? I will tell you who wins: Armenian terrorist organizations who want to Sovietize a hunk of the territory of the Republic of Turkey, a democratic nation and a member of NATO.

Let me quote the Armenian Soviet Socialist Republic foreign minister, who said recently that the Turkish Ambassador in Washington, DC, Sukru Elekdag, is guilty of trying to oppose the recognition of the Armenian genocide and, therefore, he and his associates are "double offenders" and "deserve the same fate," death by terrorist assassination, "as their predecessors."

That, Mr. Speaker and Members, is what we are talking about. Who wins? Not freedom, not survivors, not Turkish-Americans, not Armenian-Americans, not the Republic of Turkey, but Armenian terrorist groups who want to lop off a hunk of the territory of a very valiant, stable, and dependable democratic ally.

Now, this resolution, on the surface, may seem a harmless acknowledgement of the suffering by the Armenian community of the Ottoman Empire during the First World War. However, House Joint Resolution 192 is far from harmless; indeed, it is an insidious resolution which attacks the integrity of the people and Government of modern Turkey.

House Joint Resolution 192 accuses Turkey of carrying out a systematic genocide of the Armenian people. Such an accusation must be rejected. There is no evidence to suggest that an organized campaign to eradicate the Armenians was carried out. In point of fact, the Ottoman, Russian, and British military campaigns in the eastern Ottoman Empire caused a tremendous uprooting of the populace. The Armenian revolt and establishment of the short-lived Armenian Republic led to civil war. In addition, the Turkish and Russian revolutions took their toll. Indeed, conventional and guerrilla war, famine, disease, and the collapse of Ottoman authority led to the deaths of 3 to 4 million Ottoman civilians including Turks, Armenians, Kurds, and Arabs alike.

It is wrong to attempt to attach the blame for the terrible events of 1915 to 1923 to the Turkish people and to government which at the time did not even exist. The Turkish Republic which arose from the ashes of the Ottoman Empire has little in common with it. Mustapha Kemal Ataturk led Turkey into the Western community of democratic nations, of which Turkey is now an integral part and key member. Turkish soldiers fought and died beside our own in the defense of freedom in Korea. And, Turkey was one of the few nations to give sanctuary to Jewish refugees of the Nazi Holocaust.

Because of Turkey's close association with the United States, many parties seek to undermine the Turkish Government. Armenian terrorists would be encouraged by the passage of this resolution as it would indicate a weakening of American resolve in maintaining our commitment of friendship and alliance with the Republic of Turkey. These terrorists have perpetrated their acts of violence throughout the Western world, including the United States. More than 50 Turks have been murdered, mostly diplomats who sought to maintain Turkey's links to the West. Americans also have been targeted and killed. We must not in any way concede legitimacy to the extremist positions and criminal activities of the Armenian terrorists.

It would be the height of immorality for us to allow this resolution to be used to condemn our loyal ally Turkey, whose sons have died beside our own, and serve the interests of terrorists who have murdered the citizens of both Turkey and the United States. I believe that it is vital that the U.S. commitments to its friends and allies remain strong. Thus, measures such as House Joint Resolution 192 which would weaken our vital alliances must be opposed.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from California [Mr. MOORHEAD].

Mr. MOORHEAD. Mr. Speaker, I rise in support of the rule and of House Joint Resolution 192, National Day of Remembrance of Man's Inhumanity to Man.

I believe, as a matter of conscience, there is a responsibility for us in this day and age to learn from the mistakes that have been made in the past. Genocide and cruelty of one nationality toward another are things that have taken place many times in history. There is no question but what the Ottoman Empire in the latter part of the 19th century began a policy of persecution against its Armenian population. This pattern of persecution brought about the deaths of Armenians in 1894 through 1896, in 1909, and culminated in the great massacre of 1915 through 1923 in which an additional 1.5 million Armenians died. Many who survived were exiled from their homeland.

This fact of history has been documented in official U.S. Government papers since 1915. Despite this and eyewitness accounts, including those by Henry A. Morgenthau, U.S. Ambassador at the time, and U.S. media coverage, we are engaged in a debate over whether or not these events of history should be recognized and remembered. Those of us who seek to recognize April 24 as the National Day of Remembrance of Man's Inhumanity to Man do so in order to pause and reflect upon the Armenian experience. We are asked to commemorate this day so that it serves as a warning signal against other similar atrocities. No act of human destruction of such great magnitude can be prevented if we permit it to be forgotten. That is why to say "What's done is done" is terribly wrong.

There is no attempt by this resolution to hold the Turkish people or the present Turkish Government responsible for acts committed by the Ottoman Empire. No statement assigning responsibility to this genocide can distract or add to the nature of the horrible events themselves, but to diminish or distort these events in any way is not only a great injustice in itself, but a great disservice to the memories of those who died and to their survivors and descendants. As we deplore the events of the late 19th century and early 20th century in this persecution, we also deplore all acts of terrorism of every kind and description today. International terrorism is a war against all civilized society and terrorist acts deserve the full penalty of the law. The world can only deplore the insane acts of a few extremists.

We are very proud of the Armenian population in the United States who constitute a family oriented, hardworking, productive, and law-abiding community. Never should the acts of a few be attributed to the many. As we remember the Armenian holocaust, let us commit ourselves to a course that would prohibit this type of thinking taking place ever again anywhere in the world.

Mr. TAYLOR. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New York [Mr. RANGEL], the chairman of the Select Committee on Narcotics.

Mr. RANGEL. Mr. Speaker, I rise in opposition to the rule.

I had supported this concept in the past, not because I fully understood the issue of the problems that the Armenians had with the Turkish people, since I did not have any Armenians in my district, nor did I have any people of Turkish extraction; but I had felt that if there were Members of Congress who had problems that I would yield to the interests of my colleagues and support things that they thought would be in the best interest of their constituents.

Since that time, however, I have been dealing rather closely with the Government of Turkey in my capacity as chairman of the Select Committee on Narcotics. As most of the Members are aware, there was a time less than 15 years ago that the Turkish Government was responsible for approximately 80 percent of the illicit opium that had been grown throughout the world, and it now has reduced itself to growing absolutely none.

In working with the Government of Turkey and in working with the State Department, it has been brought to my attention that this resolution has caused a lot of concern to Turkish-Americans as well as Turkish people generally, and it has caused a lot of embarrassment to the people who represent the Government of Turkey here in the United States.

It seemed to me, after weighing the issue as to whether I would just do it for a colleague or whether I should be concerned as to the people who would be hurt by such a resolution, I think that the working relationship that this Government has with the Government of Turkey, especially as relates to narcotics, which brings me a little closer to the issue, that I would rather not be offensive but to see what I could do to bring about a better relationship between the Armenian people and the Turkish people.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Speaker, as we consider the measure before us, House Joint Resolution 192, I think it is important to make clear what a vote in support of this resolution means—and what it does not mean.

I supported this designation of a National Day of Remembrance of Man's Inhumanity to Man when the House considered it in June and I am supporting it again today. I support it because it will serve to remind us of the tragic and senseless deaths of all victims of genocide, in particular, those hundreds of thousands of Armenians who lost their lives under the Ottoman Empire during the years 1915 to 1923. It is an important, humanitarian resolution.

Support for this resolution, however, should not be interpreted as an act of judgment against the present Turkish Government or the Turkish people. It should not be interpreted as a vote in support of Armenian terrorism. Finally, it should not be viewed as a weakening of our ties to and cooperation with modern Turkey, one of our important NATO allies and a partner in the war on drugs.

I ask my colleagues to keep these distinctions in mind.

Mr. MOAKLEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. FEIGHAN].

Mr. FEIGHAN. Mr. Speaker, nothing so clearly threatens our future than the refusal to recognize the mistakes of the past. When those mistakes take the form of unspeakable atrocities—the bloody rule of Pol Pot in Cambodia, the massacres of Maoist China, the Holocaust in World War II—forgetting is a tragedy, but denial is a crime.

Seventy years ago, more than 1 million Armenians were taken from their homes by their Ottoman rulers and murdered. This incredible and brutal purge attempted to wipe out a vital, creative race—and it very nearly succeeded.

The few survivors and their descendents have been struggling with this memory for too long. The world has refused to recognize the Ottoman action as genocide. Turkey has orchestrated a vocal, bitter campaign to deny these million and a half murders, and has gone to great lengths to muzzle any recognition or criticism of the Armenian genocide in this country.

Frankly, Mr. Speaker, I find this appalling. But I am more concerned at this Congress' reluctance to take positive action on the resolution recognizing the events of April 1915.

Last year, a resolution creating a day of remembrance for the Armenian genocide passed the House, but was not addressed in the other body. This year, in a dramatic move, a United Nations panel cited the Armenian massacre as an act of genocide, greatly encouraging the hopes of all Armenians that just recognition might finally have arrived.

This body today has an obligation not to let the pendulum swing back again. House Joint Resolution 192 calls for Americans to take heed of the Armenian genocide, and to recognize for 1 day a year the horror that can be wrought by man against man.

This is not a resolution condemning anything or anyone except unwarranted brutality and prejudice. Surely that is something this country has come to stand for. Surely as the standard bearer of freedom and human dignity we have an obligation to lead the call for a long overdue recognition of the Armenian genocide.

Let us not let this opportunity go by again. It is my sincerest hope that passage of this resolution by the full Congress may send a strong signal to Turkey that our friendship is not served by their continued intransigence on this issue.

I would hope that our friendship might be used positively to urge them finally to recognize the Armenian genocide and condemn it as the atrocity it was.

But American recognition and tribute for such a just and compelling cause must not hinge on Turkey's attitude. This is not a Turkish resolution, this is an American day of remembrance, and as such deserves our most enthusiastic support.

I urge my colleagues to vote for this resolution.

Mr. TAYLOR. Mr. Speaker, I yield 1 minute to the gentleman from Virginia [Mr. BATEMEN].

Mr. BATEMAN. I thank the gentleman for yielding.

Mr. Speaker, if this body were governed by Roberts Rules of Order, a motion against the adoption of this rule to this resolution would lie on the basis of a motion to object to the consideration of the matter. Under Roberts Rules, such a motion lies in order to enable an assembly to avoid altogether any question which it may deem irrelevant, unprofitable or contentious.

I wish I had the time to state the case and to summarize that which you have already heard as to why this House, even dealing with this resolution, is unprofitable in the interest of the time of this body, it is unprofitable in the best interest of the national security of the United States, vis-a-vis any staunch, steadfast ally, the Republic of Turkey, and certainly there is no question that it is contentious.

I would remind the House that more than 60 historians have advised this House that there are indeed very difficult and unresolved questions in determining the responsibility underlying the tragedies which occurred in Asia Minor during the period in question. We cannot judge that in the course of 30 minutes of debate on either side of that proposition.

Mr. TAYLOR. Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I have no further requests for time.

Mr. TAYLOR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, there are amendments we have heard about and if they are adopted, they will preclude this House from considering the Murtha substitute.

These last minute attempts are another reason to defeat this rule.

If the rule is not defeated, the key vote in the committee will not come on the Murtha substitute, or even on the substitute that I have proposed.

The key vote, or votes, would come on any amendment that attempts to rewrite the resolution and narrow its scope.

If this rule is not defeated, we must oppose such amendments.

Narrowing the focus of the bill, at this late hour, must be seen for what it really is, an attempt to bring the bill closer to the original language.

If amendments are adopted that return the bill to its original form, we'll probably never see the substitutes as they are currently written.

Mr. Speaker, as we close debate on this resolution, I think we all recognize that the reported language of this resolution will lead us into a briar patch of emotional outrage from those who are offended by the words in this bill.

It will do great damage, in my judgment, to the cause of unity and strength upon which the free world depends and upon which our hopes for peace on Earth rest at this particular season of the year.

Mr. Speaker, this is a bad bill. I think it should be put aside by defeating its consideration under this rule. We should dedicate ourselves toward an era of understanding between the people who are affected on both sides by this legislation and to do our best to bind up the wounds and to establish a just and a lasting peace in this Nation and among all nations.

I urge the defeat of this rule.

Mr. MOAKLEY. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. TAYLOR. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 263, nays 156, answered "present" 1, not voting 14, as follows:

[Roll No. 457]

YEAS—263

Ackerman
Akaka
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Barnes
Bates
Bedell
Beilenson
Berman
Biaggi
Bilirakis
Bliley
Boehlert
Boggs
Boland
Boner (TN)
Bonior (MI)
Bonker
Borski
Bosco
Boucher
Boxer
Broomfield
Brown (CA)
Bruce
Bryant
Burton (CA)
Byron
Carper
Carr
Clay
Coats
Coelho
Coleman (TX)
Collins
Conte
Cooper
Coughlin
Coyne
Crane
Crockett
Darden
Daschle
Davis
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Durbin
Dwyer
Dymally
Dyson
Early
Eckart (OH)
Edgar
Edwards (CA)
English
Evans (IL)
Fascell
Fawell
Fazio
Feighan
Fiedler
Fish
Florio
Foley
Ford (MI)
Ford (TN)
Fowler
Frank
Frost
Fuqua
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Gordon
Gray (IL)
Green
Guarini
Hall (OH)
Hall, Ralph
Hamilton
Hatcher
Hawkins
Hayes
Heftel
Henry
Hertel
Howard
Hoyer
Hughes
Hunter
Jacobs
Jeffords
Jenkins
Johnson
Jones (NC)
Jones (OK)
Jones (TN)
Kanjorski
Kaptur
Kastenmeier
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Leach (IA)
Lehman (CA)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lipinski
Loeffler
Long
Lowery (CA)
Lowry (WA)
Luken
Lundine
Lungren
MacKay
Manton
Markey
Martin (NY)
Martinez
Matsui
Mavroules
McCloskey
McCurdy
McDade
McGrath
McHugh
McKernan
Meyers
Mica
Miller (CA)
Miller (WA)
Mineta
Mitchell
Moakley
Mollohan
Moody
Moorhead
Morrison (CT)
Mrazek
Neal
Nowak
Oakar
Oberstar
Obey
Olin
Owens
Packard
Panetta
Parris
Pashayan
Pease
Penny
Pepper
Perkins
Petri
Porter
Pursell
Ray
Regula
Reid
Richardson
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Roemer
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Savage
Scheuer
Schneider
Schuette
Seiberling
Shelby
Sikorski
Sisisky
Skeen
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith, Robert (NH)
Snowe
Spratt
St Germain
Staggers
Stallings
Stark
Stokes
Stratton
Studds
Swift
Swindall
Synar
Tallon
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Udall
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Watkins
Waxman
Weaver
Weber
Weiss
Wheat
Whittaker
Williams
Wirth
Wolf
Wolpe
Wortley
Wright
Wyden
Yates
Yatron
Young (AK)
Zschau

NAYS—156

Alexander
Archer
Armey
Badham
Barnard
Bartlett
Barton
Bateman
Bennett
Bentley
Bereuter
Bevill
Boulter
Breaux
Brown (CO)
Broyhill
Burton (IN)
Bustamante
Callahan
Campbell
Carney
Chandler
Chapman
Chappell
Cheney
Clinger
Cobey
Coble
Coleman (MO)
Combest
Conyers
Courter
Craig
Daniel
Dannemeyer
Daub
de la Garza
DeLay
DeWine
Dickinson
DioGuardi
Duncan
Eckert (NY)
Edwards (OK)
Emerson
Erdreich
Evans (IA)
Fields
Flippo
Foglietta
Franklin
Frenzel
Goodling
Gradison
Gray (PA)
Gregg
Grotberg
Gunderson
Hammerschmidt
Hansen
Hartnett
Hefner
Hendon
Hiler
Hillis
Holt
Hopkins
Horton
Hubbard
Huckaby
Hutto
Hyde
Ireland
Kasich
Kemp
Kindness
Kolbe
Kramer
Lagomarsino
Lantos
Latta
Leath (TX)
Lewis (FL)
Lightfoot
Livingston
Lott
Lujan
Mack
Madigan
Marlenee
Martin (IL)
Mazzoli
McCain
McCandless
McCollum
McEwen
McMillan
Michel
Mikulski
Miller (OH)
Molinari
Monson
Montgomery
Moore
Morrison (WA)
Murphy
Murtha
Myers
Natcher
Nichols
Nielson
O'Brien
Ortiz
Oxley
Pickle
Quillen
Rahall
Rangel
Ridge
Rogers
Rose
Roth
Rudd
Saxton
Schaefer
Schroeder
Schulze
Sensenbrenner
Shaw
Shumway
Shuster
Siljander
Skelton
Smith (NE)
Smith, Denny (OR)
Smith, Robert (OR)
Snyder
Solarz
Solomon
Spence
Stangeland
Stenholm
Strang
Stump
Sundquist
Tauke
Tauzin
Taylor
Valentine
Walker
Whitehurst
Whitley
Whitten
Wilson
Young (FL)
Young (MO)

ANSWERED "PRESENT"—1

Traxler

NOT VOTING—14

Addabbo
Brooks
Chappie
Lehman (FL)
Lloyd
McKinney
Nelson
Price
Rostenkowski
Schumer
Sharp
Sweeney
Wise
Wylie

☐ 1350

Mr. McCAIN changed his vote from "yea" to "nay."

Mr. DORGAN of North Dakota changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to House Resolution 328 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the joint resolution, House Joint Resolution 192.

☐ 1357

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 192) to designate April 24, 1985, as "National Day of Remembrance of Man's Inhumanity to Man," with Mr. Bonior of Michigan in the chair.

The CHAIRMAN. Pursuant to the rule, the first reading of the joint resolution is dispensed with.

Under the rule, the gentleman from Michigan [Mr. Ford] will be recognized for 30 minutes and the gentleman from Utah [Mr. Hansen] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Michigan [Mr. Ford].

Mr. FORD of Michigan. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. Torres].

☐ 1400

Mr. TORRES. Mr. Chairman, I want to thank the distinguished chairman of the committee for allowing me to say a few words in support of this resolution.

It is unfortunate that we have to have legislation like House Joint Resolution 192 in Congress. I am saddened that man has been so cruel, so often, that we must memorialize these events. Genocide will not end with this resolution, but perhaps it will cause us to reflect on man's cruelty. Perhaps it will help us pledge to do better in the future. If House Joint Resolution 192 can achieve this simple goal, it is worth our support.

April 24, 1985, was the date chosen to memorialize these tragedies. This date marks the 70th anniversary of the near elimination of the Armenian people.

Seventy years ago, from 1915-23, 1½ million Armenian men, women, and children were murdered by agents of the Turkish Ottoman Empire. These years should not be forgotten. If we do forget, we insult the memory of all those who died.

We have chosen to memorialize April 24, but other dates in history could have been selected.

The calendar is filled with days marking the mass murders of innocent people. People who were murdered simply because of their race, religion or creed. Stalin tried to destroy the Kulaks because they interfered with his political goals. Hitler chose the Jews to blame for the world's problems. Pol Pot chose his own people—the Cambodians—to destroy because they stood in his way.

This resolution condemns the ignorance, hate, and prejudice that gave rise to the all too frequent tragedies of man's inhumanity to man. I regret we need this resolution, but I fear that to forget the genocide of Armenians and other groups would be a mistake.

During the approaching holiday season we will recall our wish for peace on Earth and good will toward man. House Joint Resolution 192 reflects our commitment toward fulfilling this wish.

I urge your support of this significant resolution.

Mr. HANSEN. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Virginia [Mr. WHITEHURST].

Mr. WHITEHURST. Mr. Chairman, I want to repeat what I said earlier. This is the most mischief-making piece of legislation in my 17 years in this body. The potential for harm from it is incalculable, from jeopardizing our base rights to poisoning relations for years to come. No good will will come from it, be assured of that. A foundation of hostility and mistrust will be its legacy.

This is a most troublesome aspect, but it is not the only one that I wish to address this afternoon.

You have heard that over 50 Turkish diplomats have been murdered in recent years by Armenian terrorists. The proponents of this legislation say that they oppose the acts of these groups. I say to you that in no way mitigates the effect of the resolution as far as these organizations are concerned. In their eyes, this resolution legitimizes their action.

And who are they, who are these terrorists?

Hagop Hagopian, founder of ASALA, the principal Armenian terrorist organization. And do you know where he began his infamous career? As a member of the group who murdered the Israeli athletes in Munich back in 1972, he will applaud the passage of this resolution.

Carlos, the deadly international assassin, who has said publicly that his organization has entered into a working relationship with the Armenian terrorist groups.

And you heard the citation earlier of John Kirakosyan of the Armenian Soviet Socialist Republic, who has called for the death of the distinguished Turkish Ambassador to the United States, Sukru Elekdag.

All of us are concerned about genocide or acts of inhumanity, but this resolution as it is drawn will ill serve that worthy end if it insults or offends one of America's most faithful allies.

I urge defeat of this resolution.

Mr. FORD of Michigan. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. DYMALLY].

Mr. DYMALLY. Mr. Chairman, today we are considering House Joint Resolution 192, which declares April 24, 1986, as a "National Day of Remembrance of Man's Inhumanity to Man," authorizing the President to issue a proclamation calling on all Americans to observe that date for the remembrance of all victims of genocide. The 1½ million Armenian men, women, and children, are but one group whose genocide has not yet been fully recognized by the United States or admitted by the Turkish Government. Fear of antagonizing Turkey may prohibit some from voting favorably; however, this is unreasonable, because admitting the occurrence of this genocide which was perpetrated by the Ottoman Empire does not in any way incriminate the Government of Turkey. On the contrary, admitting, rather than denying, this genocide will be a positive step in United States-Turkish relations.

Mr. Chairman, reference was made to terrorists in the Armenian community. That reference is not relevant. It seems to me, to make reference to something that is happening today and compare it with an act that took place many, many years ago is totally inappropriate.

What we are saying in effect is that we deplore this terrorism, but we want to recognize the inhumanity of man to man in the resolution.

I ask for an "aye" vote.

Mr. HANSEN. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Chairman, I support House Joint Resolution 192 which would designate April 24, 1986, as "National Day of Remembrance of Man's Inhumanity to Man" marking the 70th anniversary of the Armenian genocide which began in 1915. I believe this tragedy should be remembered not just by Armenians but by all Americans each year.

The Armenian genocide took place from 1915 to 1923 by the Ottoman Turkish governments before the establishment of the Turkish Republic. Therefore, I do not believe this legislation is an attack on the current Turkish Government. The current Turkish Government refuses to acknowledge that this genocide took place. However, it should be noted that House Joint Resolution 192 says nothing about the conduct or the policies of the Turkish Republic.

This House passes commemorative legislation daily from National Adoption Week to Andrei Sakarov Day. House Joint Resolution 192 is another piece of legislation designed to commemorate a particular event that took place in history which deserves to be remembered. In fact, the U.S. Holocaust Memorial Council intends to include the Armenian genocide in its museum and educational programs. To memorialize the genocide of Armenians is no more anti-Turk than memorializing the victims of the Holocaust is anti-German or recognizing Andrei Sakorov would somehow deteriorate our relations with the Soviet Union.

The genocide of the Armenian people by the Ottoman Turks must be remembered and it is my hope that my colleagues will pass this vital legislation.

Mr. HANSEN. Mr. Chairman, I yield 2 minutes to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Chairman, I thank the gentleman for yielding. I think we ought to ask ourselves a couple question. Turkey is an ally of ours. What will be the perception of America by the Turkish people if we pass this resolution? Will that endanger our relationship with Turkey, an ally that is vital to the security of the free world in general and the United States of America in particular?

They have about 400 miles of border with the Soviet Union and they provide a valuable service to all of us by allowing our air bases to be domiciled in their country.

Will this endanger that relationship and is it necessary?

Now, there is a lot of conjecture on both sides about whether or not all these allegations really took place. There is no question a lot of people died during this period, but a lot of people died in a lot of other wars as well. A lot of other atrocities have taken place throughout history.

Under Pol Pot, 2 million people were killed in Cambodia, and yet we do not have a resolution to deal with that. Fifteen to thirty million people were killed in Communist China during the Cultural Revolution. We are not talking about that in this resolution. Forty to sixty million people were killed in the Soviet Union since the Bolshevik Revolution in 1917, but that is not in here. Six million people were killed in the Jewish Holocaust in Germany. That is not in here. Over 1 million people have been killed in Afghanistan since the Soviets have occupied that country. That is not in here, and neither are a myriad of other countries who perpetrated these types of atrocities upon humanity.

In my view, we should condemn all acts of genocide, not just point our finger at one person or one country and in particular a very vital ally of the United States of America.

I urge defeat of this legislation.

Mr. FORD of Michigan. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. LEHMAN].

Mr. LEHMAN of California. Mr. Chairman, I yield to the gentleman from New Jersey [Mr. TORRICELLI].

Mr. TORRICELLI. Mr. Chairman, I rise in strong support of the resolution.

I rise in support of House Joint Resolution 192, to designate April 24, 1986, as "National Day of Remembrance of Man's Inhumanity to Man."

The murder of 1.5 million Armenians was the first genocide of the 20th century. Many of the survivors are still alive. Because their trauma has been largely forgotten, other peoples throughout this century have had to suffer through further incidents of genocide. Hitler was emboldened by the world's failure to condemn and remember the Armenian genocide perpetrated in the last years of the Ottoman Empire. We must never repeat the mistake of silence.

I believe it necessary that we, in the United States—because of our concern for human rights in general and our recognition of the wrongs done to the Aremenians in particular—commemorate the anniversary of the Armenian genocide.

This is not a mere intellectual or historical exercise. Neither the victims of genocide nor the conscience of our Nation can rest until the record is set straight.

I reject the argument that this resolution inappropriately singles out Armenians, since other peoples have suffered from genocidal practices. A resolution embodying mention of all cases of genocide would be vague to the point of insignificance. It would be an insult to Americans of Armenian descent, and indeed all Armenians throughout the world, to ignore their particular tragedy.

I urge that all my colleagues support this important resolution. Let us express our hope that this century, which began with massacres of Armenians and continued with the most widespread killings mankind has ever known, not end with continued bloodshed. By commemorating this anniversary, we can help ensure that genocide will never again be ignored.

Hitler once said that no one remembers the Armenians. Perhaps he thought no one would remember his crimes. Let us show that we do remember, for ignorance of history is an invitation to repeat it.

Mr. LEHMAN of California. Mr. Chairman, I would like to very briefly look at some of the arguments that have been proffered here on the floor in opposition to this resolution thus far.

What about the issue of terrorism that has been brought up by a couple people speaking on the other side? One spokesman I believe painted all Armenians and their cause with the broad brush of some disgusting comment made by a Soviet Armenian official.

I would like to remind the people opposed to the resolution that the reason we have a Soviet Armenia is because of the genocide. That is the foreign policy issue here. The Armenians were massacred. They did not have the strength to have a country, and the Turkish people at that time and the Russians came in and took the land that was Armenia. It was the genocide that has given us Soviet Armenia and it is the Armenian Americans who would like to regain that territory from the Soviet Union and are among the strongest anti-Communists we have in this country.

We are all opposed to terrorism. Armenian Americans are just as opposed to terrorism as anyone else and are ready to stand up and condemn terrorism and have done so in their churches, in their political groups and in their social clubs. To condemn American people of Armenian descent for a few outrageous terrorists is a real affront and one that I resent. I do not think it is worthy of this great body.

Others tell us that this resolution is offensive to the Turkish Government and will harm our relationship with them. Well, give me a break. Is our relationship with the great Turkish nation, our ally, contingent upon our closing our eyes to a genocide which neither anyone currently living in Turkey or anyone currently in the Turkish Government had anything to do with? Is our bond with Turkey so weak that this is going to be an affront of great magnitude to them? No. I think Turkey is a better friend than that.

I think suggesting that something like this would harm relationships with the Turks is an affront to the Turkish people as well.

What about American foreign policy? I am really dismayed at the attitude so many people have put forward here that our recognition of a genocide should be conditioned upon our relationship with the current Government representing the area where the genocide occurred? Should there be any other criteria for recognizing genocide than the fact that the genocide itself occurred? If so, what should they be?

Should Turkey, our friend and ally, tell us what genocides we should recognize and what ones we should turn our backs to?

What about offending the Turkish Government and the Turkish people? Well, I am sorry, but if we do not pass this resolution, we will be offending American citizens, and thousands of them, by not recognizing the murder of their ancestors that took place at the beginning of this century.

□ 1415

Mr. HANSEN. Mr. Chairman, I yield 9¼ minutes to the gentleman from New York [Mr. SOLARZ].

Mr. SOLARZ. Mr. Chairman, I thank the gentleman for yielding me this time.

There are few issues which have come before this Congress which have given me more difficulty than this one. I have spent an inordinate amount of time trying to come to grips with the profoundly significant moral and political issues raised by this resolution. I have talked to dozens of people in an effort to determine what really happened in the eastern parts of the Ottoman Empire in the second decade of this century, and I have listened very carefully to the debate on this resolution, both today and when it was brought up before the House a few months ago.

There are, indeed, some very signficant arguments which have been advanced against this resolution. We have been told by many of our colleagues that Turkey is a valued and valuable ally of the United States. We have been reminded that Turkey is in many respects the key to the southern flank of NATO. Through its control of the Bosporus and the Dardanelles, it gives us the capacity to protect the 6th Fleet, which in turn gives us the ability to maintain naval supremacy in the eastern Mediterranean.

With the second largest army in the alliance, Turkey makes a very signficant contribution to the maintenance of a conventional balance of power in Europe.

The adoption of this resolution, we have been told by many of our colleagues, could potentially jeopardize our relationship with Turkey and some of our most vital security interests in the eastern Mediterranean.

These are powerful arguments, and yet if these were the only arguments raised in opposition to the resolution, I would not find them persuasive.

I say that because there are similar arguments that might be advanced against a resolution which one day could come before this House memorializing the victims of Hitler's genocide against the Jews in which the argument might be made that this would disturb the sensitivities of another critically important NATO ally, the Federal Republic of Germany, and that the adoption of such a resolution would jeopardize potentially critical American security interests as well.

I want to be very honest with all of you. In my judgment, the memory of the 6 million victims of Hitler's genocide and our respect for the deaths which they suffered would lead to the conclusion that we would have no alternative but to accept such a resolution if it came before us. If that is indeed the case, what then distinguishes the resolution before us today which memorializes the victims of what has been characterized as the Armenian genocide from another resolution which might memorialize the victims of Hitler's genocide against the Jews?

The difference, I would submit, is the difference between a universally accepted historical reality and a hotly disputed view of events.

Some time ago, every Member of this House received a telegram concerning this resolution which was signed by a majority of the leading academic specialists on Turkey, the Ottoman Empire, and the Middle East in our country. The signatories include such prestigious academics as Bernard Lewis, perhaps the preeminent specialist in the entire country on these questions at Princeton University, and Dr. J.C. Hurewitz at Columbia. I want to read to my colleagues two paragraphs of that telegram which bear precisely on the point I am trying to develop right now.

They wrote:

> As for the charge of "genocide": No signatory of this statement wishes to minimize the scope of Armenian suffering. We are likewise cognizant that it cannot be viewed as separate from the suffering experienced by the Muslim inhabitants of that region. The weight of evidence so far uncovered points in the direction of serious intercommunal warfare (perpetrated by Muslim and Christian irregular forces), complicated by disease, famine, suffering and massacres in Anatolia and adjoining areas during the First World War. Indeed, throughout the years in question, the region was the scene of more or less continuous warfare, not unlike the tragedy which has gone on in Lebanon for the past decade. The resulting death toll among both Muslim and Christian communities of the region was immense, but much more remains to be discovered before historians will be able to sort out precisely responsibility between warring and innocent, and to identify the causes for the events which resulted in the death or removal of large numbers of the eastern Anatolian population, Christian and Muslim alike.

They go on to say:

> As the above comments illustrate, the history of the Ottoman Armenians is much debated among scholars, many of whom do not agree with the historical assumptions embodied in the wording of House Joint Resolution 192. By passing the resolution, Congress will be attempting to determine by legislation which side of a historical question is correct. Such a resolution, based on historically questionable assumptions, can only damage the cause of honest historical inquiry, and damage the credibility of the American legislative process.

Mr. Chairman, I share the anguish of the Armenian people. Countless numbers of them were clearly killed in a cruel and barbarous fashion during the period of time covered by this resolution. But there were also countless numbers of Turks and Muslims who were killed in a cruel and barbarous fashion as well.

One of the problems with this resolution is that it asserts what happened to the Armenians was a genocide when the fact that it was a genocide is itself in dispute. There is, after all, a distinction between mass killings, which have gone on since the beginning of time, and genocide itself, which consists of a systematic effort to exterminate an entire race of people. This is not to suggest that mass killings are any less objectionable than genocide. Murder, after all, is murder. But there is a significant difference between the two and there is no evidence that I am aware of which demonstrates that the Ottomans were trying to exterminate all Armenians.

Furthermore, in view of the fact that the resolution does not refer to the fact that many Turks and Muslims were also killed during this period of time, I think it would be very difficult to justify the adoption of this resolution.

But when you add to those historical ambiguities and complexities the fact that the adoption of this resolution would severely strain our ties with a valued and valuable member of the alliance, and that it could potentially jeopardize vital American strategic interests in the eastern Mediterranean, it seems to me that it is very difficult indeed to justify the adoption of this resolution which characterizes the admitted and terrible sufferings of the Armenian people in the second decade of the 20th century as a genocide, when whatever happened to the Armenians, and it was terrible, and I join my colleagues in condemning those events, was clearly not a case of genocide as described in this resolution.

Mr. HILLIS. Mr. Chairman, will the gentleman yield?

Mr. SOLARZ. I yield to the gentleman from Indiana.

Mr. HILLIS. I thank the gentleman for yielding, and I certainly commend him on his statement and would like to associate myself with his remarks. I think the gentleman has given us the clearest picture of the background and the situation that existed in Turkey at the time of the First World War as I have heard given on the floor on this issue yet.

I might say this to the gentleman, too, in my reading of this issue, at the conclusion of that war, Ataturk came in, and in a battle of his forces and those of the Ottoman Empire, he prevailed and was the father of modern Turkey. And it is my understanding further that there are Armenians living in Turkey today, and with the passage of this resolution which many of the citizens of the United States of Armenian ancestry are pushing for today, they would be worsening the conditions of their relatives, their brothers in Turkey who live there now. Would the gentleman see it that way?

Mr. SOLARZ. Mr. Chairman, I want to make it clear that I respect the right of the authors of this resolution and its sponsors to bring it before the House. I think it reflects the genuine anguish which they feel, and which the Armenian community and all Americans of good will feel.

But my reservations have to do with the linguistic accuracy of the resolution, and the extent to which it flatly asserts facts to be the case which are themselves hotly disputed, and with respect to which the leading scholars of the Ottoman Empire in our country, such as Bernard Lewis and J.C. Hurewitz have told us there is no historic or academic consensus.

Mr. HILLIS. I salute the gentleman on his statement.

Mr. FORD of Michigan. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. ANNUNZIO].

Mr. ANNUNZIO. Mr. Chairman, since my election to the Congress of the United States in 1964, I have each year without fail for 21 years taken the floor of the House of Representatives to mark the anniversary of the Turkish massacre of the Armenian people which took place 70 years ago.

I have said it before, and I shall say it again. History cannot be denied. It is public knowledge that our own State Department has irrefutable evidence in its own files of the Armenian genocide, along with Ambassador Henry Morgenthau's eyewitness reports which were cabled to our State Department at the time of the genocide. Yet, the current Turkish Government refuses to acknowledge the documented historical facts of the Armenian genocide.

The case for passage of the resolution before us today, House Joint Resolution 192, was stated most eloquently in an editorial in the Chicago Tribune on April 27, 1985. I call the attention of my colleagues to the views presented in this editorial, which follows, and I urge that they join me in voting for passage of House Joint Resolution 192.

Now It Is 70 Years

Anniversaries of Turkey's massacre of its Armenian citizens—which began in April of 1915—have changed their character. By now the observance is not so much a mourning for the dead, or the hideous manner in which most of them died. That was 70 years ago, and enough horrors have happened since to blur the memory.

Only one thing keeps this wound fresh among all the wounds the world has suffered. It is the stubborn refusal of Turkey's government and people to acknowledge that the massacre ever happened.

The time for mourning the dead may have passed. What is still to be mourned is the strange, perverse ability of human beings to deny reality and to keep denying it, apparently forever.

The Turks do not want to remember the systematic killing of more than a million men, women and children. No nation could. But there is a right way and a wrong way to get rid of an evil memory: to cleanse it, or to repress it. For 70 years Turkey has clung to the wrong way. It has tried to erase a historical fact from everyone's memory, to convince the world that such things are too dreadful to happen and therefore did not happen.

That is the purpose of observing this anniversary: to make clear that the self-deception has not yet succeeded. And if it has not worked for Turkey in 70 years, it may not be worth trying any longer, for the Turks or anyone else.

Mr. FORD of Michigan. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. HERTEL].

Mr. HERTEL of Michigan. Mr. Chairman, it would be impossible for me to state how much I disagree with the last speaker from New York in such a short time.

Why are we here considering this resolution today? Ask Armenian Americans, ask Armenians around the world about the terrible genocide that occurred.

And what is genocide? The ruthless, frenzied roundup and forced rapes and brutal raids, killings, coerced religious conversion, and family massacres of 1.5 million innocent Armenian people.

Ask the people who had relatives that were killed in that genocide if there was a genocide that occurred. Ask the people that lost entire families in that genocide, and ask if it met the definition of genocide.

It has been stated before that the first time the word genocide was used in the English language was after this atrocity occurred.

What is worse than trying to eliminate a people? What is more heinous, what is more evil?

It would be terrible for this House and tragic not to recognize what did occur, because by doing so, we are declaring that we would condemn it in the past, condemn it today, and we will condemn it in the future as we should as human beings.

The Detroit News, a newspaper in Michigan, wrote an editorial on April 24 where they said:

> Memory is the key. Survivors of the massacre are growing old now and there will be no witnesses. Before they are gone, it is essential to tell the story far and wide as it has not been told before to ensure that the world does not forget. After all, it was not just a piece of Armenian history. What happened in 1915 was the first awful display of international passivity and acquiescence in the face of organized human slaughter. Armenians, like Cambodians and Jews of this century, have a moral responsibility to bear witness and stand guard at the gates of our collective conscience, and ensure that they never forget.

This we do by passing this resolution.

I submit the editorial in its entirety for the RECORD:

[From the Detroit News, Apr. 24, 1985]

REMEMBERING THE ARMENIAN GENOCIDE

The Armenian genocide—an event that occurred 70 years ago and is being commemorated officially today—remains a double tragedy. The events themselves—the ruthless, frenzied roundup; forced marches; brutal rapes; kidnapings; coerced religious conversions to Islam; and finally the massacres of 1.5 million innocent Armenians—certainly were atrocities of the first magnitude, and their effect has only been compounded by 70 years of official silence.

In the years after the 1915 massacre the government of the United States offered safe harbor to the Armenian survivors. That act has been more than richly repaid by the contributions Armenian-Americans have made to their communities—Detroit preeminent among them—and to their nation.

Yet for reasons that seem neither clear nor sensible, the American government has never seen fit to acknowledge formally that Turks committed deliberate acts of genocide against the Armenians in 1915. Several presidents, including Jimmy Carter and Ronald Reagan, have made grieved references to the genocide. But for fear of offending our ally, Turkey, the State Department still refers to the occurrence as an "alleged genocide," despite the unchallenged witness provided by many credible observers, including our ambassador to Turkey at the time. A small group of Armenian terrorists have given some people an excuse for ignoring the simple truth Armenians rightly want the world to acknowledge: that a grotesque massacre claimed more than a million innocent lives. But those acts are not indicative of the Armenian community and should not prevent Mr. Reagan and the State Department from acknowledging the truth.

The Turkish government has carried the conspiracy of silence to an extraordinary length by refusing to concede that the event took place. It has not apologized, accepted moral responsibility, or admitted shame. Although this might be understandable in Turkish governments of past generations, it is not now. Neither the current government nor people of Turkey committed the crimes. They have nothing to lose, and much moral stature to gain, by reversing field on this issue of large symbolic significance.

The Turks and the State Department should know that free people do not and cannot fear ugly truths about their history. By keeping painful memories alive and unflinchingly facing hideous truths, people can ensure that mistakes of the past will not be repeated.

The Armenian genocide is particularly illustrative of this. In 1915, with half of the Armenian nation wiped out, Lord James Bryce told Britain's Parliament that, "there is no case in history, certainly not since the time of Tamerlane, in which any crime so hideous and upon so large a scale has been recorded."

Seventy years later in a century that has seen more bloodshed, brutality, and ruthless, organzed destruction of human life than any one before, we have learned the cost of ignoring or forgetting basest human actions. Had more attention been paid to the century's first genocide, perhaps later ones would have been averted. It is said that, when Hitler began to slaughter the Jews, he was warned that the world would not tolerate such atrocity. To which he replied, correctly, "Who today remembers the Armenians?"

Memory is the key. Survivors of the massacres are growing old now; soon there will be no witnesses. Before they are gone it is essential to tell the story far and wide, as it has not been told before, to ensure that the world does not forget. After all, it is not just a piece of Armenian history. What happened in 1915 ws the first awful display of international passivity and acquiescence in the face of organized human slaughter. And Armenians, like Cambodians and Jews of this century, have a moral responsibility to bear witness, stand guard at the gates of our collective conscience, and ensure that we never forget.

Mr. HANSEN. Mr. Chairman, I yield 2 minutes to the gentleman from Arizona [Mr. MCCAIN].

Mr. McCAIN. Mr. Chairman, there is going to be an amendment proposed which will basically close the rule, a narrowing amendment, and I urge my colleagues to reject that amendment when it comes up.

I think it is important for us to recognize the title of this resolution. It designates April 24, 1985, as "National Day of Remembrance of Man's Inhumanity to Man." There is no mention about Armenia in the title.

It is only later on in this resolution that we get to the subject of Armenia and the tragic events that took place in that country, which we all lament.

Before we narrow a day of man's inhumanity to man down to a simple tragedy that took place against the Armenian people, it maybe would be best to recollect some other incidents that have taken place, including the history of this country. Ask the Choctaw, in Maryland, the Cherokees in the Carolinas, the Sioux in the Dakotas, the Delawares in New Jersey, the Apaches in Arizona and New Mexico, and the Chippewas in Michigan, the Cheyenne of Colorado.

□ 1430

They have also been victims of genocidal acts, and possibly they should be made part of this resolution as well. What about our native Hawaiians? Millions of native Hawaiians resided in those islands when the white man came, bringing syphilis, typhus, measles, and other diseases, and wiped them out in a genocidal fashion as surely as putting a gun to their heads.

I urge my colleagues to consider amendments that may follow, if we are concerned about the issue of man's inhumanity to man, I believe such is what has been done to our native Americans; by the Spaniards to the Mayan and Aztec nations in South America; and others that have taken place across the history of this world.

Why do we focus on simply one terrible tragic incident in history? Finally, I would like to mention, indeed, we must be sensitive to our relations with our allies; we are sensitive to relations with all of our allies, and I think it is important for us to take into consideration their feelings as well, although that might not be the prime reason for rejecting this ill-advised bill.

Mr. FORD of Michigan. Mr. Chairman, I yield 2 minutes to the gentlewoman from California [Mrs. BOXER].

Mrs. BOXER. Mr. Chairman, genocide is genocide. Inhumanity is inhumanity; and the realities of genocide do not disappear in one generation; nor in two, nor in three, nor in four, nor in five. Just ask anybody who has lost relatives in a genocide.

If the effects of that genocide do not disappear the people who are lost are lost forever.

It is not the business of this body to rewrite history. We in this body must remember history in order to learn from it.

A genocide is a genocide. Calling what happened to Armenians a so-called genocide is rewriting history. The Armenian genocide took place. Period. And Armenian-Americans should know that this Congress understands that.

Should other resolutions be brought forward, condemning human rights in any place in the world, I will be right there; bring them forward but don't stop this resolution.

As the leader of the free world, who stands firm for human rights, let this Congress not shrink from this resolution. Let us stand tall and vote for it.

Mr. HANSEN. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. RITTER].

Mr. RITTER. Mr. Chairman, I share some of your consternation about which way to go on this particular resolution, and some of the questions that I have had answered listening to the debate.

The problem, as I see it, is not that the Holocaust against the Jews or the Ukrainians or the Afghanis are not mentioned in the resolution; the question is that there is no historical disagreement with the events surrounding the genocide against the Jews. There is no historical disagreement with the cordoning off of the Ukraine and the resultant starvation of 7 million people during the Stalin era. There is no disagreement among respected historians about what is happening in Afghanistan today; but there is, as the gentleman from New York [Mr. SOLARZ] so ably pointed out, significant scholarly disagreement over the history of that period, 1915-23.

Another point which I feel is important is that on the one hand we condemn the Turkish historical honor for events occurring some 60 to 70 years ago and at the same time, the enslaver of the Armenian people today, the Soviet Union, gets off scot-free.

Now, there has been systematic decimation of the intelligencia, of the commercial, of the cultural elements, of any Armenians who would speak out against Soviet rule, but we have never, and we do not in this resolution, condemn the present-day oppressors of the Armenian people.

So its seems that there is some discrimination here and in fact, the Soviets can use this resolution against the Turkish Government—in a way that could be quite debilitating to our strategic relationship in that area.

Mr. FORD of Michigan. Mr. Chairman, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON. Mr. Chairman, is the Armenian genocide a fact? Look in our own archives. Read the resolutions that the Congress passed starting in 1896. Look at the statements of American Presidents. Ask the people in the Gallery, ask the people in the churches that I represent, what they saw, what they experienced, what is seared in their memories and their hearts.

Does that reflect on contemporary Turkey? Not at all. Does that justify terrorism against Turkish diplomats? Not at all.

What is wrong about what we are doing on the floor of the House now and in recent years is that we are pitting two legitimate but distinct concerns against each other. We are pitting our friendship and respect for Turkey, a strong, vital democracy and an important ally of this Nation, and their legitimate concern for the vulnerability of their people to organize terrorists, against the legitimate concern of American Armenians, for the honesty and integrity of the historic record which our Government has helped establish in past decades and which our Government altered in recent years by substituting wordings so that genocide became "so-called genocide".

It is needless to pit legitimate interests against one another. We are paralyzing ourselves and worse, we are creating tensions and eroding important relationships within our country and between nations.

So let us act. Let us do what is necessary, obvious, and right. Let us recognize that genocide has occurred by passing this resolution. Let us recognize the facts of history and then let us join together to renew our efforts against terrorism, particularly as it focuses on Turkish citizens, and for our greater friendship between two great nations, Turkey and the United States.

Mr. HANSEN. Mr. Chairman, I yield 2½ minutes to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Chairman, again, we debate the merits of House Joint Resolution 192. Supporters of this resolution claim that House Joint Resolution 192 is a simple and straightforward attempt to correct what they see as a gross injustice. Unfortunately, the resolution, if passed, might well be used by terrorists as justification for their actions against innocent civilians and diplomats, including American citizens.

Mr. Chairman, is more to be gained by passing this resolution than would be lost by not doing so? I don't think so. There are very real and tangible examples of Armenian terrorist activities against innocent civilians and Turkish diplomats. I will not recount the many bloody examples that exist. Suffice it to say that passage of this resolution, at this time, and after this body has disapproved an identical resolution in the past, would send entirely the wrong signal to these terrorists at a time when terrorism is on the rise and the civilized nations of the world are struggling to cope with the growing terrorist threat.

Mr. Speaker, this resolution is vigorously opposed by the Turkish Government, one of America's most solid allies and partners in opposing Soviet aggression. Turkey has long been a close friend of the United States, and acts as the guarantor of peace and security on NATO's southern flank. We all should support the many fine contributions which the Turkish Government and the Turkish Armed Forces have made to the security of the free world. As, I said in the debate on the rule, Turkey's view of this resolution could be criticized, but it is the perception—and we all know perception is reality.

I am afraid that the resolution before us today could serve to undermine America's common efforts with the Turkish Government to bring an end to international terrorism. I need not remind my colleagues that Secretary of State George Shultz has stated his concern that "passage of the resolution would undermine our efforts to combat terrorism and greatly harm United States-Turkish relations." Certainly, the supporters of this resolution do not wish to see United States-Turkish relations unduly harmed, nor do they seek to hinder our joint efforts for combating the plague of international terrorism. Yet, this is precisely what might happen if the resolution before us today is passed.

Mr. Chairman, Secretary of State Shultz summed up the case against House Joint Resolution 192 best, when he stated, "adoption of House Joint Resolution 192 would invitably be seen by these and other terrorists as a vindication and reward for their vicious campaign against Turkish diplomats and American citizens."

I strongly urge my colleagues to oppose this measure. No matter how well-intentioned it might be, the "powerful reasons," using Secretary Shultz' term, to oppose House Joint Resolution 192 should outweigh any possible reasons for supporting it. Again, I urge a "no" vote on House Joint Resolution 192.

THE SECRETARY OF STATE,
Washington, November 25, 1985.

Hon. ROBERT H. MICHEL,
House of Representatives.

DEAR MR. MICHEL: Following my letter to you of March 5, 1985, on this subject, I wish to reiterate the Administration's strong opposition to House Joint Resolution 192. A copy of this controversial resolution, which fell short of passage under a motion to suspend and pass June 4, is enclosed. In our view, passage would undermine our efforts to combat terrorism and greatly harm United States-Turkish relations.

Over 50 Turkish diplomats and American citizens have been killed by terrorists seeking to gain acceptance of the charge that the Turkish nation is guilty of a genocide. These terrorists have harassed and bombed Americans who disputed the genocide charge and lent support to fellow terrorists attacking and kidnapping our personnel in Lebanon. Adoption of House Joint Resolution 192 would inevitably be seen by these and other terrorists as a vindication and reward for their vicious campaign.

This terrorists campaign has transformed the genocide issue into nationalistic, emotional matter for all Turks. Passage would generate an immediate public reaction against the United States in Turkey. Turkey is a staunch NATO ally which fought with us in Korea, fields NATO's second largest army, guards the straits separating Soviet Black Sea bases from the Mediterranean, and provides military and other facilities vital to our security. It does not serve our national interest to harm this important relationship, particularly when we are consulting with Ankara on the future of our bases in Turkey.

Over 60 of our most distinguished scholars of Turkish and Middle East studies have questioned the historical assumptions of House Joint Resolution 192. While we do not dismiss the historic tragedy that occured in eastern Antolia 70 years ago, there remain powerful reasons for opposing the resolution. I ask your help is securing its defeat.

Sincerely yours,

George P. Shultz.

Washington, DC,
December 2, 1985.

Hon. Robert J. Lagomarsino,
House Office Building, Washington, DC.

On previous occasions, I conveyed to you the strongly negative feelings of the Turkish people regarding H.J. Res. 192.

There is no doubt in my mind that as an individual and as a Member of Congress you deplore terrorist savagery and violence, but I am indeed dismayed that many Members of Congress are not aware of the implication of the adoption of H.J. Res. 192, innocently entitled "National Day of Man's Inhumanity to Man," which wrongly endorses a charge that Armenians were victims of genocide in 1915.

Armenian terrorists in the past eleven years have murdered over 50 Turkish citizens. The assassins struck at targets which were most vulnerable and defenseless. Their victims have been diplomats—people trained to promote international tolerance and understanding. In the past eleven years, I have had to pay homage to 30 of my personal friends—colleagues, their spouses and children who were victims of the wanton terrorist savagery. After each murder, the terrorists have proclaimed as their pretext "vengeance" based on historical distortion, the same as that incorporated in H.J. Res. 192.

We must not lose sight of the fact that the founder of the Armenian terrorist organization Asala, Hagop Hagopian, began his notorious career as a member of the terrorist group which perpetrated the massacre of the Israeli athletes at the Munich Olympics in 1972. Moreover, we should not forget that Carlos, the deadliest of all international assassins, recently proclaimed on Spanish television that his organization has entered into a working relationship with Armenian terrorist groups, are collaborating with the same middle Eastern terrorist organizations responsible for the bombing of the United States Embassy and the Marine barracks in Beirut. These reports are well known by competent U.S. authorities, and indicate that the scourge of Armenian terrorism is also directed against the United States.

The victim toll among the overseas representatives of Turkey and the United States have been higher than any other countries. It is indeed strange at a time when the United States Government is actively striving to put an end to international terrorism that its Congress is even considering the passage of a resolution which at the very least lends moral support to one of the deadliest forms of international terrorism.

The Turkish people look to the Government of the United States, and especially its Congress, as upholders of justice and truth. Consequently, there is no way in which Turkish political leaders can justify to their voters an action of the United States Congress which so clearly condemns the Turkish people unjustly and endorses a falsehood as truth.

In the interest of both our countries and of truth, I urge you to vote against this resolution.

His Excellency
Dr. Sukru Elekdag,
Ambassador,
Embassy of the Republic of Turkey.

☐ 1440

Mr. FORD of Michigan. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. Pashayan].

Mr. PASHAYAN. Mr. Chairman, on the subject of terrorism, let me simply say that for one-half century after the events that this resolution speaks to, there was no terrorism, for 50 years. Why, after that length of time, did the terrorism start? Mr. Chairman, the answer to that question is very simple: Because in this matter justice has still been denied. Why has it been denied? It has been denied principally because this Republic of Turkey, which, when it was constituted in 1922 and 1923, after the period of time the resolution speaks to, and which, when it was constituted, inherited not only the assets but the liabilities of the Ottoman Empire, because this Government has refused to acknowledge what a predecessor government did under a separate constitution, in the same way that West Germany has acknowledged what its predecessor government did under the Nazi regime.

Mr. Chairman, the unfortunate fact of human nature is that when a cause crying out for justice is left denied by the only people in the world who have the legal authority to stand up and acknowledge what happened, not by themselves but by their predecessors, unfortunately the passions of people sometimes take command and they do the most horrible kind of acts. And I stand here today, and I condemn any and all terrorism, and especially Armenian terrorism.

But at the same time I have to say that as long as this cause remains unjustly denied, the KGB and the Communist Party, who are obviously perpetrating this terrorism, are going to have fuel for their fire.

Mr. HANSEN. Mr. Chairman, how much time remains on this side?

The CHAIRMAN pro tempore (Mr. Carr). The gentleman from Utah has 9¼ minutes remaining, and the gentleman from Michigan has 15 minutes remaining.

Mr. HANSEN. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia [Mr. Bateman].

Mr. BATEMAN. I thank the gentleman for yielding.

Mr. Chairman, if the issue before us today were purely that of condemning mans inhumanity to man, we have lost any opportunity to make this resolution speak to that generic proposition which would find no opposition from anyone. That is not what this resolution did when it was offered for the first time in its original draft, it is not what it does as it comes to the floor today. It will not be just that, no matter what amendment is offered to it today. It could not be more apparent that rather than a general condemnation of man's inhumanity to man there is an effort here very subtly, without even judgment on the merits, to condemn certain acts of barbarism, of cruelty against a particular people in a particular place at a particular time, to fix a responsibility, as it were. This is the very thing that the gentleman from New York [Mr. Solarz] has warned us about, because there is difference among the most respected historians as to how and where to fix that blame. We do not speak in debate on this issue today in a vacuum. We have to focus on this issue if we are to resolve it on its merits in the contexts of the Crimean War, in the context of World War I and the struggle between the Germans as war was waged in Russia with the Ottoman Empire as its ally.

We would have to do it in the context of the Bolshevik Revolution and in the context of the war between the White Russians and the Red Russians. We cannot in this House make those kinds of judgments without the embarrassment of making them poorly and without the embarrassment to the very legislative process itself, which is what the eminent historians have warned us against.

Please do not, for no significant, meaningful, or useful purpose, pass this resolution and damage our alliance with our friends, the Turks. It is unprecedented in my experience in this Congress, and I dare say all the Members' experience, that so much concern be communicated from the highest levels of a friendly government to everyone who is a Member of this House, the concern with which that Government, our staunchest ally, feels with respect to this resolution.

For us to have been urged by our Secretary of State, by one of the most respected ambassadors in the chanceries of the world, our Ambassador to Turkey, who has warned us: Why do we do such a useless, unproductive thing?

Mr. FORD of Michigan. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. Martinez].

BEST COPY AVAILABLE

Mr. MARTINEZ. Mr. Chairman, I really am surprised and a little bit ashamed that certain Members of Congress that feel that our relationship with Turkey is so weak that a single declaration of man's inhumanity to man would all of a sudden destroy that relationship. I do not think we are trying to place blame on the present Government of Turkey. We are asking that the present Government of Turkey recognize what the Ottoman Empire did, and that is well documented.

I laughed when one of my colleagues said that the historical academia has not come to a consensus. There are many issues that they do not come to a consensus on, and I doubt there are very few that they do. That is not at issue here. When Tel Et Bey, who was then the minister of war of the Ottoman Empire at that time, stated that emphatically they would eliminate the Armenian people off the face of the Earth and any association with Armenia, and when we look today, there is no Armenia, two-thirds of it is in Turkey and one-third in Russia; we know that they did, in effect, accomplish what they set out to do.

Further, when the infamous Hitler said to his cohorts in crime that he would start a process to eliminate the Jews and his cohorts said to him, "What would the world sentiment and opinion be of that?" he referred to what the Turks did to the Armenians and said, "The world took no notice of that, and world won't take any notice of this." And that is pretty much the truth. One of my colleagues said that while it was different, we recognize what happened to the Jews as if it were only the Jews that were persecuted by Hitler, but it was not. Hitler murdered Jews, he murdered Polish people. He murdered all those people under the name of nazism. There is no difference here. There is no difference at all. I think we have to recognize that. This resolution, really, if it refers to one particular genocide, and maybe it does not include all the rest, I do not think that is any reason for us to stand here and say because it does not include the rest we should not recognize the one and we should not stress the importance of recognizing man's inhumanity to man.

I think if we want to be against something we can be against it and we can come up with all kinds of reasons to be against it. Really, if your conscience justifies you being against something, if it is so emphatic of our beliefs, if we have a concern about what happens to people, and if we do not stand up and state that, then it will occur again and again. This is something we really have to be concerned with, because someone mentioned there are atrocities going on now. I think this resolution symbolizes our sentiment against all of those atrocities.

We should stand up now and be counted and vote for this resolution.

Mr. HANSEN. Mr. Chairman, I yield 2 minutes and 10 seconds to the gentleman from Guam [Mr. Blaz].

Mr. BLAZ. Mr. Chairman, let me thank the gentleman for yielding. Ordinarily, while I find some of the bills that pass this House vague in some areas as to their purpose, I must admit that the purpose of the bill that is being considered now escapes me completely. Are we so devoid of our own misgivings in our country, are we so unmindful of history, that we can now sit here and sit in judgment of friends for what we perceive they have done? I have known in my own time and have witnesssed in my own time inhumanities. I have witnessed in my own time suffering and death. The history of my own people in my colony, which was almost decimated. Also, I have fought in three wars.

But I made up my mind 5 years ago to trade my sword for a legislative pen so that I may devote the rest of my life to preventing incidents of the past as are being described here rather than recalling them now on some of these shaky grounds that have been brought out by the proponents.

I am going to repeat something I said yesterday. As a Member of this body from the territories, while I enjoy all of the privileges, or most of them, of a Member, I do not have the privilege to vote here on the floor. I must now ask you to vote for me. I must ask you to defeat this resolution. I must remind you that after World War II we devised a plan to save Turkey. I have walked on the battlefield with them, and they now are pulling their share of defending the free world. Let us not slap the face of a proven ally of long standing.

Mr. FORD of Michigan. Mr. Chairman, I yield 6 minutes to the gentleman from Michigan [Mr. Levin].

□ 1455

Mr. LEVIN of Michigan. Mr. Chairman, I have listened intently to this debate, and it seems to me that there is really only one basic issue, and that is what happened. If there were organized mass murders in those days, it should be so called; and to do otherwise, no reason, no excuse is good enough.

So I want to talk a bit about history, because I have read this document that has been referred to, this statement from historians. So I went through the literature, as much as I could find, and I do not understand their statements because there are records within our own Government that say the contrary. The record is essentially clear.

I referred during the discussion on the rule to the Department of State bulletin of August, 1982, and let me read further from it. It discusses an order of the Minister of the Interior in those days, in the Ottoman Empire, and it refers to his order. Now I quote it. His order, not of the modern Turkish Government; that Government is not in question here. It is an order of the Ottoman Empire. And I quote this. There is an order for "the elimination of the Armenian element, which had been trying for centuries to undermine the foundation of the state."

That is a State Department quotation.

It is also interesting, a second point, to look at what the Turkish Government did after the end of the Ottoman Empire. And what did it do? It brought to trial people who were allegedly guilty of this heinous crime, and they were found guilty. They were found guilty.

And it is said here today, "Well, it is 70 years." And I say: So what?

And it is said that, "Turkey is our ally."

It seems to me that our creed is clear. When it comes to basic human rights, and that includes the right of a people to live, we do sit in judgment. We sit in judgment of our enemies, we sit in judgment of our allies, and I hope we sit in judgment of ourselves.

This resolution refers to history, it refers to a tragic set of incidents in history where hundreds of thousands lost their lives.

And, Members of this Congress, I do not think we want to quarrel how many hundreds of thousands died, whether it was 600,000 or 700,000 or 1½ million.

I remember when I was a student reading a book about the Soviet Union by an apologist of what happened in the 1930's in the Soviet Union, and I remember—I can almost quote it word for word because I have never forgotten the statement—he said that allegations that 10 million kulaks were killed in the 1930's, those allegations are wrong, there is only evidence that 6 million were killed by the Soviet authorities.

We are here to speak our conscience and not to obscure the record. This is not something personal, believe me, this is nothing personal as to the Turkish Government. Everybody here likes our close relationships with them. What is being said here is for us to acknowledge history. Some historians may find history obscure in this case, but it leaps up from the books. Hundreds of thousands of people lost their lives. There was a policy of a government to slaughter them. We should stand up and we should be counted.

The CHAIRMAN. The gentleman from Michigan [Mr. Levin] yields back 1 minute.

Mr. HANSEN. Mr. Chairman, I yield 2 minutes to the gentleman from Kentucky [Mr. HUBBARD].

Mr. HUBBARD. Mr. Chairman, I would like to ask the gentleman from Michigan if he would yield me the 1 minute that the gentleman just yielded back so I could have 1 minute from the Democrat side in opposition.

Mr. FORD of Michigan. I am sorry, I do not have the time at this point; but later, if the gentleman wants the time and if I do not have a request for it, I will give it to the gentleman.

Mr. HUBBARD. Mr. Chairman, I want to thank the Republican side for giving the Democrats who are opposed to this measure a chance to speak in opposition to it.

Mr. Chairman, it is now 3 p.m. on December 12, and we in the 99th Congress are not discussing the farm bill or the continuing resolution or tax reform or spending cuts or even what happened today to the 258 American soldiers from Fort Campbell, KY, which is in my district, who lost their lives in a tragic airplane blowup in Newfoundland. What are we doing today? Facing a possible Saturday session because of the crowded schedule, we are now into about the third hour of debate regarding House Joint Resolution 192. Is this the first time this year this has been brought up? No, it is the second time this has been brought up. This past June 4 the House failed to suspend the rules and pass the same resolution.

There is no doubt in my mind that the tragic genocide of 1.5 million Armenians between 1915 and 1923 was a horrible, terrible happening. But this is 1985. Turkey is an important NATO ally. Turkey borders the Soviet Union for 400 land miles. Having visited Turkey this past August for 3 days, I can assure my colleagues that the leaders of Turkey are very much disappointed in the Congress of the United States that this Chamber twice a year would try to embarrass Turkey and its leaders over something that happened back in 1915 to 1923.

I would ask my colleagues again, as I did earlier today, what would the American people say if every year the Turkish General Assembly passed a resolution, House Joint Resolution 192 they could call it, intending to embarrass the United States because of our treatment of the Indians years ago or having blacks as slaves?

The CHAIRMAN. The time of the gentleman from Kentucky [Mr. HUBBARD] has expired.

Mr. FORD of Michigan. Mr. Chairman, I yield 1 minute to the gentleman from Kentucky [Mr. HUBBARD].

Mr. HUBBARD. I thank the gentleman for agreeing to give one minute of time to those of us in opposition.

Mr. FORD of Michigan. I will give the gentleman additional time. I have to point out to the gentleman that I had to yield to Members of the other party who were not permitted to speak and, unfortunately, the principal author of the bill got the gentleman's time. Because he happened to be a Republican, he could not get time over there.

Mr. HUBBARD. I thank the chairman.

Mr. Chairman, this past August, visiting in the beautiful Turkish capital in Ankara, several members of the General Assembly again expressed their total shock at why the United States House of Representatives year after year wants to come forward and embarrass Turkey.

The State Department vigorously opposes this resolution, the Defense Department realizes that Turkey is an important ally who helped us in the Vietnam war and who would help us again. We have strategic points, sensitive points, inside Turkey, very close to the Soviet Union.

Again I say I hope the Members will join in opposition to this resolution and, hopefully, we would all agree that this atrocity between 1915 and 1923 is shameful but that we can look to some of the tragedies that are happening nowadays, including the possible terrorism that killed 285 American soliders today.

Mr. HANSEN. Mr. Chairman, I yield such time as he may consume to the gentleman from Indiana [Mr. HILLIS].

Mr. HILLIS. Mr. Chairman, I rise in strong opposition to the resolution now pending before the body.

Mr. HANSEN. Mr. Chairman, just let me make a point that no one on our side in opposition has asked. Maybe the gentlewoman from Nevada did when we gave her her request.

Mr. BIAGGI. Mr. Chairman, I rise to renew my support of House Joint Resolution 192 to designate April 24, 1986, as a "National Day of Remembrance of Man's Inhumanity to Man." This resolution which I am proud to cosponsor and voted for when it came before the House in June is an important resolution because it places the Congress in the position of visibly condemning those nations who have or continue to practice genocide.

The resolution has generated a great deal of controversy because of its legitimate quest to especially recognize a group of some 1.5 million victims of genocide. I refer to the Armenian victims of genocide perpetrated by the Ottoman Turkish Empire over an 8-year period beginning in 1915.

I strongly resent the outrageous effort being undertaken on the part of opponents of this resolution to dispute the historical accuracy of the Armenian genocide. I find it especially disturbing that the current Turkish Government is leading the effort aimed at either watering down or defeating this resolution entirely. What is especially difficult for me to accept is the position being advanced by our own Ambassador to Turkey Robert Strausz Hope. He contends that the Turkish Government will view passage of the resolution as a "distortion of history" and he adds "the Turkish Government does not accept the fact that there was a deliberate policy of genocide under the Ottomans against Armenians."

The fact that this genocide did occur is not challengable. The question of the intent of the perpetrators—or how closely the existing Turkish Government should feel responsibility about the actions of an earlier government to me are superfluous issues. The central issue is—does the Congress of the United States want to take a strong stand against genocide or doesn't it. Passage of House Joint Resolution 192 represents an affirmative answer.

This action we are asked to take today in recognizing the Armenian genocide is not without precedent. In both 1975 and again in 1984, and in both cases with my strong support, the House did pass resolutions very similar to this one. In both instances, the other body failed to act. The U.S. Holocaust Memorial Council intends to include the Armenian genocide in its museum and educational programs. President Carter on May 16, 1978, remarked at the White House "in the years preceeding 1916, there was a concerted effort made to eliminate all the Armenian people, probably one of the greatest tragedies that ever befell any group." Finally as the committee report notes, President Reagan on April 22, 1981, did make reference to the Armenian genocide when he said "Like the genocide of the Armenians before it, and the genocide of the Cambodians which followed it, and like too many other such persecutions of too many other people, the lessons of the Holocaust must never be forgotten."

What is not in issue is that the Ottoman Turkish Empire did commit one of the first and worst acts of genocide against the Armenian people in 1915. What is not in issue is the fact that the United States should condemn past acts of genocide and work for the elimination of future acts of genocide. Therefore, why is House Joint Resolution 192 so in issue. It is the right response on the part of the Congress to the horrible events of earlier this century. I urge its passage as reported by the committee.

Victims of genocide do exist in this world. We deplore those who perpetrated these acts. It is our responsibility not to allow the manipulation of history especially on a matter of this gravity.

The Armenian-American community is highly regarded and respected. They have made an enormously important contribution to our society in so many different ways. They have and continue to earn an honored and influential place in the American society of today. The events against an earlier generation of Armenians is something which remains so much a part of their history. The many responsible leaders in the Armenian-American community join in condemning recent acts of violence and terrorism directed at Turkish diplomatic personnel. The importance of House Joint Resolution 192 to the Armenian-American community should not be understated. It should be recognized and then passed by the House today.

Mr. BOLAND. Mr. Chairman, I strongly support House Joint Resolution 192, which would establish April 24, 1986, as a "National Day of Remembrance of Man's Inhumanity to Man."

This day is intended as a day of commemoration for all victims of genocide. But as the resolution notes, it particularly recognizes the 1.5 million people of Armenian ancestry who were victims of the genocide perpetrated in the Ottoman Empire between 1915 and 1923. By setting aside this day, we will acknowledge the pain and suffering of the men, women, and children who died for no other reason than the fact that they were Armenians. In remembering those who perished in the Armenian genocide, we can reaffirm our dedication to the principles of personal and religious freedom, and our commitment to promoting peace and liberty throughout the world.

The Armenian genocide is a historical fact and to deny that fact is to deny the enormous amount of evidence supporting it. Today, some 70 years after the fact, the Turkish Government refuses to even acknowledge the events which took place under its predecessor government. We owe it to every victim of genocide to remember the horrible events of the past, to better understand and appreciate the magnitude of suffering involved, and to educate our children so that these terrible acts will not be repeated.

I urge my colleagues to support this resolution, which will help keep alive the memory of all victims of genocide. In passing this measure we can acknowledge the fact that there are instances in history when man's worst instincts prevail over his best. As unpleasant as that fact may be, seeking to ignore it or deny its existence poses a far greater threat to the world's future than any effort to recognize it. Only in acknowledging the past can we learn from it. House Joint Resolution 192 can make an important contribution toward that end and it deserves the support of the House.

Mr. ASPIN. Mr. Chairman, I rise in support of House Joint Resolution 192 to memorialize the anniversary of the start of the genocide of Armenians as a "National Day of Remembrance of Man's Inhumanity to Man."

A number of assertions have been made by opponents in the course of the debate. These assertions require a response.

First, to memorialize the genocide of Armenians is no more anti-Turk than to memorialize the victims of the holocaust is anti-German. Are the many events last spring marking the liberation of the concentration camps a gratuitous insult to one of our most needed and trusted allies?

Second, this is not an attack on the current Turkish Government. The genocide was committed from 1915 to 1923 by Ottoman Turkish Governments prior to the establishment of the current Turkish Republic. There is a problem because the current Turkish Government—unlike the current German Government—declines to acknowledge the historical facts of its predecessor's conduct. But the resolution before us says absolutely nothing about the conduct or policies of the Turkish Republic.

Third, the suggestion that the Armenian genocide may never have occurred flies square in the face of all the evidence. The American ambassador to the Ottoman Empire reported extensively for years on the continuing massacres and his efforts to bring them to an end. Most significantly, Kemal Ataturk, the founder of the Turkish Republic, himself denounced the massacre of "millions" of Armenians. In a 1926 article, he wrote of those Turkish rulers "who should have been made to account for the lives of millions of our Christian subjects who were ruthlessly driven en masse from their homes and massacred."

If the founder of the Turkish Republic can denounce the massacre of Armenians, why can't the United States Congress memorialize this face of history?

Last August, a U.N. human rights panel in Geneva specifically cited the genocide of Armenians. The Turkish Government objected to the reference too, and sought to have it expunged. It was not. We would look a little strange if—after all the criticisms I have heard in this body about the weak-kneed United Nations—we were to kill this resolution because of alleged offense only a dozen weeks after the U.N. panel has acted.

Finally, this resolution most certainly does not advocate or support terrorist organizations. There isn't a word in there in support of terrorism. Quite the contrary, the resolution condemns blatant murder.

House Joint Resolution 192 is very simple. It says nothing—good or bad—about the Turkish Republic or the Turkish people. It simply memorializes the genocide of Armenians—something Congress has done several times over the years. To suddenly refuse to do so this year—the 70th anniversary of the genocide—would be a major shift and a slap at all Armenian-Americans.

Mr. FAUNTROY. Mr. Chairman, as a cosponsor of House Joint Resolution 192, I am pleased to have the opportunity to urge support of this legislation which would designate April 24, 1986, as "National Day of Remembrance of Man's Inhumanity to Man."

This resolution is before us for the purpose of providing yet another needed reminder of the murderous capability of mankind as expressed in the crime of genocide and of the need to maintain vigilance against all variations of this offense against the human species.

The date House Joint Resolution 192 designates as the day for us to especially focus on humankind's capacity for genocide is April 24, the date on which people of Armenian ancestry commemorate the loss of some 1.5 million victims of genocide perpetrated by the governments of the Ottoman Turkish Empire during the years 1915–23.

This commemoration would be universal in application. The African victims of the slave trade in the Americas, the native American victims of, "manifest destiny" and the conquistadors, the Cambodians, the Jewish and other victims of the Nazi Holocaust, the brutalized of South Africa, and other victims of attempts to destroy racial, religious, or social collectivities would also be remembered.

Mr. Chairman, in this world which has seen so much racial, religious, and ethnic hatred and in which modern technology offers increased capability for genocide it is appropriate that we designate 1 day to remember man's inhumanity to man and all the victims of genocide. I urge my colleagues to approve House Joint Resolution 192.

Mrs. BURTON of California. Mr. Chairman the slaughter of 1,500,000 Armenians between 1915 and 1918 is a historically verifiable fact based upon a chilling weight of evidence.

This ethnic extermination was an act of genocide against a minority Christian population and a precursor to an act of genocide against 10 million people during World War II.

"Who still talks nowadays of the extermination of the Armenians?" was the question Hitler raised when the effect of public opinion was posed.

Our action in passing this resolution will, in some small fashion, demonstrate that the House of Representatives can express a sense of moral revulsion toward a blot on world history and, in stark rebuttal to Adolph Hitler, show that public opinion does care about the Armenian genocide and the need to call attention to acts of inhumanity against mankind.

Mr. MATSUI. Mr. Chairman, I rise today in support of House Joint Resolution 192 which would designate April 24, 1986 as "National Day of Remembrance of Man's Inhumanity to Man." April 24 is the anniversary of the brutal massacre by the Ottoman Empire Turks of its Armenian population. The systematic persecution of 1.5 million innocent Armenians was the first incidence of genocide in the 20th century.

I wholeheartedly support this proposal to designate this day as a National Day of Remembrance to honor all genocide victims. It is important for those of us who cherish freedom and who abhor the crime that was committed, to stand together in tribute and recognition of the men, women, and children whose lives were lost.

The administration has used faulty logic in its argument opposing a National Day of Remembrance. Secretary of State George Shultz, in a letter sent to Members of Congress, said that support of this resolution might encourage terrorist attacks. Since when do we allow terrorists to hold hostage our Nation's window on history? By refusing to acknowledge the brutal acts of history, we provide lasting refuge for modern practitioners of genocide and terrorism.

In plotting the second genocide of the 20th century, Hitler asked rhetorically, "who remembers the extermination of the

Armenians?" It is up to us, the free people of the world, to remember and to remind others.

Mr. FLORIO. Mr. Chairman, I rise in support of House Joint Resolution 192, to designate a National Day of Remembrance to commemorate and call attention to the Armenian genocide of 1915. As a cosponsor of this resolution, I would like to express my pleasure that this resolution has been again brought before us and that we will have the opportunity to recognize a tragedy that spanned a number of years and decimated the Armenian population in the Ottoman Empire while leaving innumerable scars on the survivors of this tragedy.

Last June, we observed the 70th anniversary of the beginning of the tragic genocide that lasted until 1923 and caused the deaths of 1.5 million Armenians and the exile of 500,000. The Armenian people were not only deported and robbed of their lands and possessions but they were also subjected to coldblooded massacres and atrocities and brutal extermination. Countless survivors witnessed the atrocities perpetrated upon their families, relatives, and friends; the survivors still carry with them the memory and the scars of this tragedy. Many of these survivors later emigrated to our country where they have demonstrated a determination to contribute to our society to the fullest extent possible.

The most glaring aspect of this entire tragedy is the fact that the Turkish Government still continues to deny that this genocide ever occurred and explains the deaths of 1.5 million Armenians as having resulted from years of civil strife in the region. This denial of history which has been documented by survivors, eyewitnesses, correspondents, U.S. Presidents and even past Congresses, underscores the need for approving House Joint Resolution 192 and paying tribute to the memory of those who died while ensuring that future governments will not be able to deny these atrocities. House Joint Resolution 192 designates a day of remembrance for the victims of the genocide but its intent has been misconstrued and its effects have been cast in the light of present-day relations between the United States and Turkey.

I would like to reiterate for my colleagues that this legislation addresses the concern that acknowledging formally this tragedy would endanger our relations with Turkey. The language of the resolution specifies that we are addressing events that occurred under the Ottoman Empire rule.

Despite the historic amnesia of the Turkish Government, it is our responsibility to preserve the memory of this tragedy. It is only with the constant reminder of tragedies such as the Armenian genocide that future tragedies can be prevented. House Joint Resolution 192 has become for many Americans a symbol of resolve of the Congress to remember the past and ensure that such tragedies never again happen. We owe it to future generations to continue our vigilance and ensure that this tragic chapter of the history of mankind is never again ignored, forgotten or doubted. I urge passage of this commendable resolution.

Mr. HANSEN. Mr. Chairman, I yield the balance of our time to the gentleman from California [Mr. BADHAM].

The CHAIRMAN. The gentleman from California [Mr. BADHAM] is recognized for 3 minutes.

Mr. BADHAM. Mr. Chairman, we are about to wrap up the debate on this resolution that we have. As has been said, we have had it before us a few times this year.

I never heard of Armenia until I came to this body, I guess. I heard about Armenians first when I was a child growing up in the depression and heard about starving Armenians. I imagine everybody my age or a little bit older or some younger have heard that expression, which relates to the tragic events of World War I. I never met a Turk until I was a Navy officer in the Korean war, and we had units of the Turkish Navy operating side by side on the land and at sea with our Navy and with our Armed Forces.

I grew up with Armenians in my hometown who were community leaders, fine respected people.

It is unfortunate that this resolution is before us today, because it is not going to help anybody, it is not going to help Americans of Armenian descent, it is not going to help Americans of Turkish descent. Indeed every time these kinds of resolutions come up there is another terrorist attack against Turkish diplomats, wherever they might be in the world, from radical Armenian terrorist organizations who have as their goal the lopping off a hunk of Turkey and having that become part of the Soviet Union. Is that really what we want?

My first visit to Turkey was in 1977, right during the height of the arms embargo, and our airplane that said, "United States of America" proudly along the sides of it landed at a Turkish Air Force Base outside of Izmir, and we looked at the results of a NATO ally's air force, sitting around with flat tires, and airplanes with no engines. 1977, mind you. F-86's. Come on, America. Does it really pay to be a friend of America? If you are a friend of America and an ally, you can stand by long enough and somebody will have a resolution condemning you.

Yes, this does condemn Turkey and it condemns Turks. My good friend and colleague from California, MARTY MARTINEZ, referred to the damage as having been done by not the Ottoman, not the government of the Ottoman Empire, but by the Turks.

Ladies and gentlemen of the Congress of the United States, have the spirit of this time of year to look at this for what it does and reject it. Have the spirit that we like to have at this time of year to say that maybe we ought to be getting people together rather than tearing them asunder and pitting Americans of various ancestry against Americans of other ancestry, which gives rise to the terrorism that we will claim to condemn.

Think about it.

Mr. FORD of Michigan. Mr. Chairman, I yield myself such time as I may consume.

Mr. FORD of Michigan. Mr. Chairman, House Joint Resolution 192 will designate April 24, 1986, as a day to remember man's inhumanity to man and all victims of genocide. It is on this date that the people of Armenian ancestry commemorate the death of some 1.5 million victims of genocide at the hands of the government of the Ottoman Empire.

At the outset, I want to stress that this resolution in no way criticizes the Government of the Republic of Turkey, with whom we enjoy an excellent relationship, and I have been somewhat taken aback by some of the assertions made during the debate.

It is my intention, as soon as we begin the amendment process, to offer an amendment that gives all of the Members of this House an opportunity to do what they have been saying they want to do. The adoption of my amendment will strike the reference to "Turkish" and "Turkey" and leave the only reference to the Ottoman Empire between 1915 and 1923, prior to the establishment of the Republic of Turkey. I will give this House an opportunity to have legislative history created that will show that this House took deliberate actions to determine that the events occurred before the creation of the Republic of Turkey and that the present Republic of Turkey is in no way referred to. If this amendment fails, it leaves a rather interesting—and I was fascinated to hear people over there suggest they were going to vote against the amendment because I constructed this amendment in response to what I thought the concerns of the State Department were. At least they are the ones communicated to me in writing.

Now, if you want to vote against this, does that mean that you do not agree with me that the present Turkish Republic was not responsible? Or does it mean that you take the other side of it?

☐ 1510

The clear way to have this Congress go on record saying that we want it abundantly clear who we are talking about and that we are not indicting our allies in the Republic of Turkey, is to vote for my amendment when I offer it during the amendment process.

Mr. PASHAYAN. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman.

Mr. PASHAYAN. I thank the gentleman.

I want to thank the chairman because I think he is exactly right in the effect of what his amendment achieves. That is the precise purpose of it. There is some ambiguity in the present language. I am the first to acknowledge that. I have said to this body, I have said to my colleagues and I think that there are some people who are observing this proceeding who fall into neither of those two, who understand when I say that I have said to them, and they know who they are, they are representatives of the government we are talking about, that it is not the purpose to indict or to suggest or in any way to impugn this Government of Turkey. The whole reference is to an historical event, the actions of a government that is now defunct, the Ottoman Empire, the Ottoman-Turkish Empire.

The amendment of the chairman of the committee perfects the present language. It is a perfecting amendment, and it makes it abundantly clear, unambiguously clear, that the resolution itself refers to an historical event of actions taken by the Ottoman-Turkish Empire or the Ottoman Empire prior to the day this Turkish Government was even conceived, prior to the day when this Government's constitution was written and when it was in operation. I do not think it is possible to make it more clear to anybody who wants to read simple English simply and clearly.

Mr. FORD of Michigan. I thank the gentleman for his comments and for his forbearance. I know the strong feelings he has had on this from the beginning; he is a valued member of the committee. There was some misunderstanding today as a matter of fact about why I could not get the amendment to the other side as fast as they would like it.

I went further than the amendment that was drafted this morning and took out additional language after conferring with the gentleman and the principal sponsor of the legislation in getting their agreement to it. I want to assure everybody that every step we have taken, if you look at the legislative history, has been to accommodate every concern that has been expressed to us. The gentleman has shown remarkable forbearance in cooperating in this effort.

The CHAIRMAN. Under the rule, all time has expired.

The Clerk read the joint resolution, as follows:

H.J. RES. 192

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 24, 1985, is hereby designated as "National Day of Remembrance of Man's Inhumanity to Man", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day as a day of remembrance for all victims of genocide, especially the one and one-half million people of Armenian ancestry who were victims of the genocide perpetrated in Turkey between 1915 and 1923, and in whose memory this date is commemorated by all Armenians and their friends throughout the world.

Mr. FORD of Michigan (during the reading). Mr. Chairman, I ask unanimous consent that the joint resolution be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

Mr. McCAIN. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk will continue to read.

The Clerk concluded the reading of the joint resolution.

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the first committee amendment.

The Clerk read as follows

Committee amendment: Page 3, line 1 strike out "1985," and insert in lieu thereof "1986,".

The committee amendment was agreed to.

PARLIAMENTARY INQUIRY

Mr. HANSEN. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. HANSEN. Mr. Chairman, does this amendment preclude the substitute amendment of the gentleman from Pennsylvania [Mr. MURTHA] from being introduced?

The CHAIRMAN. We have disposed of the first committee amendment changing the date. This does not preclude other amendments from being offered at a later time.

The CHAIRMAN. The Clerk will report the remaining committee amendment.

The Clerk read as follows:

Committee amendment: Page 3, line 8, strike out "in Turkey" and insert in lieu thereof "by the governments of the Ottoman Turkish Empire".

The CHAIRMAN. Does any Member wish to speak on the committee amendment?

Mr. LUKEN. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I want to rise in favor of this resolution to honor those Americans of Armenian descent and their relatives who were the victims of the genocide perpetrated on them early in this century. But more importantly, I support this resolution because it would recognize man's inhumanity to man, and the consequences of that inhumanity in the past to future generations. As Americans, we pride ourselves as champions of freedom and human rights, and in that spirit, we ought to approve this resolution today.

Unfortunately, Members of this House are getting bogged down in the controversies of this issue, including some assertions about what this resolution would and would not do, if enacted.

The first of these, is whether such a resolution would in some way legitimize the criminal acts of Armenian terrorists. Let me say that as a Member who deplores the savage acts of international terrorists, and has spent a great deal of effort in probing the kind of media coverage afforded to such people, I would be opposed to any measure that could be construed to encourage those who kill and maim innocent people in the name of political causes. However, I fail to see or understand how this resolution would have that effect. In fact, I submit that the nature of this resolution deplores impersonal and savage acts perpetrated throughout the world in the name of a government or a political cause.

Second, there are those who argue that this resolution is an insult and an affront to the Turkish Government and the Turkish people, longtime allies of the United States and to NATO. I again would not want to lend credence to any measure which would disparage our valuable allies. Again, I fail to see how this resolution, particularly if the language is changed to more accurately reflect the historical designation of the Ottoman Empire, and not the current-day Republic of Turkey, in the resolution, this charge becomes even more moot.

In conclusion, I hope that Members will see through the fog which hangs around this issue, as they have on so many other issues, and recognize this measure.

The CHAIRMAN. The question is on the committee amendment.

The committee amendment was agreed to.

AMENDMENT OFFERED BY MR. FORD OF MICHIGAN

Mr. FORD of Michigan. Mr. Chairman, I offer an amendment.

The clerk read as follows:

Amendment offered by Mr. FORD of Michigan: Page 3, strike lines 6 through 9 and insert in lieu thereof the following: "for the one and one-half million people of Armenian ancestry who were victims of the genocide perpetrated by the governments of the Ottoman Empire between 1915 and 1923 prior to the establishment of the Republic of Turkey, and in".

Mr. FORD of Michigan. Mr. Chairman, I have outlined this before. I am certainly hoping that this amendment will be adopted because I have heard nothing but a constant strain of concern at all stages that we make it clear that we are not talking about the Republic of Turkey and we are not in any way attempting to condemn the Republic of Turkey.

Indeed, we do not try to assign responsibility in this kind of a resolution; this is a commemorative resolution. As I indicated, we report about five or six of these through the House per week. This is the first one that has generated this kind of inordinate concern. But in any event, the concern has been expressed to me by the State Department in communication and by Members who have spoken here today as well as in the committee. I have crafted this amendment in a way that removes even the watered-down language that was in the second committee amendment referring to the Governments of the Ottoman-Turkish Empire, and I changed that to the "Ottoman Empire." I am not trying to rewrite history and say that the Ottoman Empire was someplace else—in fact, a good deal of it was in what is now Russia—so I do not know whether it is really fair to call it the Ottoman-Turkish Empire or not. From what I have heard of the interpretations of history today, it would not be at all surprising to me if somebody quarreled with the accuracy of that.

Mr. PASHAYAN. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman.

Mr. PASHAYAN. I thank the gentleman for yielding.

I wish to thank the chairman for his very skillful crafting of this language because it does remove ambiguity. I should like to ask the chairman: Is it the intention of the chairman, by this amendment, to create a legislative history that clearly exempts the Republic of Turkey from the ambit of this resolution? Is that the intent of the chairman?

Mr. FORD of Michigan. That is exactly my intent.

Mr. PASHAYAN. If the gentleman will yield further, is it the opinion and the judgment of the chairman that without this amendment it is quite likely, there is at least an ambiguity, although that is not the intention, that there is some ambiguity in the language leaving that same question open?

Mr. FORD of Michigan. I would make it even clearer than that. If you think that Turkey should be held responsible, you should vote "no" on the amendment.

Mr. PASHAYAN. I think the chairman is right.

Mr. BURTON of Indiana. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman.

Mr. BURTON of Indiana. I thank the gentleman.

Mr. Chairman, I think many of us have a problem. First of all, the gentleman indicated that five or six of these go through here a week; I do not recall anything like this having gone through here.

Mr. FORD of Michigan. We just passed five before this one came up today. Five resolutions of this kind just before this one came up.

Mr. BURTON of Indiana. That dealt with this subject matter?

□ 1520

Mr. FORD of Michigan. No, commemorative resolutions.

Mr. BURTON of Indiana. Well, this does not fall into the category of what I call truly commemorative. You are getting into an entirely different area.

Anyhow, my question is, why is this being limited to just this one area or this one period of genocide in one area of the world?

There are all kinds of acts of genocide that have taken place in our lifetime. There is one in Afghanistan right now that is going on, there was one in Cambodia or Kampuchea under Pol Pot, and there was the Cultural Revolution in the 1950's when the Chinese killed 15 million to 30 million people. These were huge acts of genocide. I do not understand why the gentleman is limiting it to this one area where a very valuable ally of the United States is involved.

Mr. FORD of Michigan. I can answer the gentleman, if he gives me time. Let me just say to the gentleman that the reason that this deals alone with this one act is that April 24 is the date that has been celebrated in Armenian Christian churches as of this year for over 70 years. I think it would be rather presumptuous of us to assign that date to someone else.

If the gentleman wants a resolution on any of the subjects which he has talked about, commemorating anybody's murder of anyone in the countries that he has mentioned—and I have told him this in the committee—he should introduce it, and I hereby commit myself to cosponsor it and help him get it passed.

Mr. PASHAYAN. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from California.

Mr. PASHAYAN. Mr. Chairman, my colleague may add my name to his list; any genocide he wishes to commemorate, any bill that he wishes to introduce commemorating as a historical fact a genocide done, he may feel free to add my name to the list.

Mr. BURTON of Indiana. Mr. Chairman, if the gentleman will yield one more time, I think that is a very kind gesture, but there have been so many acts of genocide perpetrated upon humanity throughout history, if we started getting into every act of genocide from Attila the Hun, Genghis Khan, on down to recent times—and you are going back 50 years with this one—we would spend all of our time passing resolutions of this type.

PARLIAMENTARY INQUIRY

Mr. HANSEN. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. HANSEN. Mr. Chairman, if I may state this one again, does this particular amendment put in by the gentleman from Michigan [Mr. FORD] preclude the gentleman from Pennsylvania [Mr. MURTHA] offering a substitute amendment?

The CHAIRMAN. Any germane substitute for the bill would be in order to be debated and to be voted upon.

Mr. PASHAYAN. Mr. Chairman, will the gentleman yield?

Mr. HANSEN. I yield to the gentleman from California.

Mr. PASHAYAN. I do not know if the gentleman's intention here is to engage this body in a long and technical debate for the purpose of trying to wile away the time until the gentleman might feel that some of us are even getting tired of this. The gentleman has read the language, and there is nothing here about——

The CHAIRMAN. The Chair has recognized the gentleman from Utah [Mr. HANSEN], and does the gentleman wish to continue his parliamentary inquiry?

Mr. HANSEN. Mr. Chairman, I guess until that would be offered the Chair would have no way of determining whether it would be germane; is that correct?

The CHAIRMAN. The gentleman is correct.

Mr. HANSEN. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Utah [Mr. HANSEN] is recognized for 5 minutes.

Mr. HANSEN. Mr. Chairman, I personally feel that those who have looked at this—and many of us have for many months here—realize that the gentleman from Pennsylvania [Mr. MURTHA] has the type of an amendment that is an amendment in the nature of a substitute that possibly answers half of the questions, if not all of the questions, that have been brought up today.

Most of the speakers who have been on their feet have talked about all the genocides that have been practiced, and they go back and recount them through history. We do not have to go through that again. We talked about what we gain and what we lose. We talked about those who oppose this in the administration, our Ambassador, and other people such as those. But in effect—and I know the Chair has not ruled yet, and I respect and appreciate that—we had, as I recall, as we walked in, an open rule. If we accept this premise, we have all of a sudden changed the rules that the Rules Committee gave us to a closed rule, and we now find ourselves in a situation where possibly this is a laudatory or admirable type of amendment.

I personally feel that it is only a half step. Having read the other amendment, which very possibly we will never get the opportunity to hear, we have now taken one minute step into this when we could have the whole thing, and I am very concerned about that, Mr. Chairman.

Therefore, I urge this body to reject this amendment so that something better can come along. I honestly feel that if the Members of this House had the opportunity to see something better—and I am sure most of them who are going to stand up now and speak have—they could see that this would cover all the problems we have and not just this select prosecution we are now looking at.

In this particular instance this still puts us in the position of zeroing in on one particular area, one group of people, and not taking them all. Those who have stood up, say maybe five of all the speakers, have talked again and again of all the types of genocide and problems that have occurred in America. Now the gentleman from Pennsylvania crafts a very fine amendment which we may not possibly have the opportunity to hear, and I would hope that the Members of the House would say, "Let's get a chance to look at something else." So if we want to vote against genocide and hit Cambodia and Hitler and maybe Sherman's march to the sea and what the Missourians did to the Mormons in 1883 and what we did to the American Indian, and on down the line, we now have that opportunity.

Why do we not put this all in one big thing and defeat this particular amendment offered by the committee chairman? Then we can get to the point of an amendment that we can all feel good about, and we can walk away in the Christmas spirit feeling that we have done something that is right and not hurt one of our most cherished allies, the Republic of Turkey.

So, Mr. Chairman, I urge strongly that we defeat this amendment so that we do have an opportunity to get to something that is much better.

AMENDMENT OFFERED BY MR. MC CAIN AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. FORD OF MICHIGAN

Mr. McCAIN. Mr Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. McCain as a substitute for the amendment offered by Mr. Ford of Michigan: Page 3, strike lines 6 through 9 and insert in lieu thereof the following: "for the one and one-half million people of Armenian ancestry who were victims of genocide between 1915 and 1923 prior to the establishment of the Republic of Turkey, and in".

Mr. FORD of Michigan. Mr. Chairman, I reserve a point of order against the amendment. I have not seen the amendment, and I would ask the gentleman if we may have a copy of it.

The CHAIRMAN. The gentleman from Michigan [Mr. Ford] reserves a point of order on the amendment.

The gentleman from Arizona [Mr. McCain] is recognized for 5 minutes in support of his amendment.

Mr. McCAIN. Mr. Chairman, having observed this debate now for some time, it appears as if there is a great difference of opinion as to the perpetrators of the genocide which we are in agreement took place tragically, the genocide that was inflicted upon the Armenian people. The question that arises, of course, is who perpetrated these crimes, and who is responsible?

I believe the purpose of the bill of the gentleman from Michigan [Mr. Ford] is to express the sorrow and grief of the American people and others throughout the world for those injuries that were perpetrated upon the Armenian people. My substitute simply removes the words, "perpetrated in Turkey by the governments of the Ottoman Empire," just those words. It would now read "* * * remembrance for * * * the 1½ million people of Armenian ancestry who were victims of the genocide between 1915 and 1923 prior to the establishment of the Republic of Turkey * * *" The rest of it is left unchanged.

I hope that the gentleman from Michigan would recognize that by removing the word, "Turkey," from this resolution we would be achieving his goal, which is to express sympathy for the people of Armenia and for what they have suffered. At the same time we can remove any doubts as to who is responsible, since that seems to be so eloquently described by my colleague, the gentleman from New York [Mr. Solarz], as to who were the perpetrators of these crimes and who indeed was responsible. The crime remains, the victims remain, the tragedy remains, and we want to commemorate that tragedy and, by doing so, ensure that it never happens again.

Mr. Chairman, I hope that my colleague, the gentleman from Michigan, would accept this amendment.

The CHAIRMAN. Does the gentleman from Michigan [Mr. Ford] insist upon his point of order.

Mr. FORD of Michigan. Mr. Chairman, I withdraw my point of order.

The CHAIRMAN. Does the gentleman wish to speak on the substitute?

Mr. FORD of Michigan. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to address questions to the author of the amendment.

As I look at it, all the gentleman does is repeat the language of my amendment, except to strike the reference to the "Ottoman Empire"?

Mr. McCAIN. That is correct.

Mr. FORD of Michigan. But then you leave in the language, "between 1915 and 1923 prior to the establishment of the Republic of Turkey"?

Mr. McCAIN. Indeed that is correct.

Mr. FORD of Michigan. Now, the interesting juxtaposition of my amendment without yours is that it makes a distinction between the Ottoman Empire and the Republic of Turkey. Your amendment leaves nothing to distinguish the Republic of Turkey from anything. If your objective is to make it clear we are talking about somebody else and not our allies in NATO, I suggest the gentleman's amendment robs the amendment of that clarity because it removes one side of the comparative juxtaposition.

□ 1530

Mr. McCAIN. Well, if the gentleman will yield, it is my understanding from the debate and my understanding from the study of history that there is a great deal of debate as to whether—and the subject of debate here was whether this genocide was indeed perpetrated by the Ottoman Empire or by Turkey or who it was that perpetrated this act of genocide, which we all accept took place.

By removing "Ottoman Empire" from this then, I think we remove the discussion and the debate which has taken place as to who perpetrated this crime, while still recognizing that it existed and took place.

Mr. Chairman, if the gentleman from Michigan objects, I will withdraw the amendment.

The CHAIRMAN. Does the gentleman from Arizona ask unanimous consent to withdraw the amendment?

Mr. McCAIN. Mr. Chairman, the gentleman from Michigan, I believe, has the time and if the gentleman would yield, I would tell the gentleman that if he wishes the amendment to be withdrawn, I will withdraw the amendment.

Mr. FORD of Michigan. Mr. Chairman, I have no objection to withdrawing the amendment.

Mr. McCAIN. Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona to withdraw his amendment?

There was no objection.

Mr. BADHAM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, let me try to give a description of where it is that we find ourselves now in this thicket.

We have a resolution before us and an amendment to that resolution also before us. The title is, of course, to designate April 24, 1986, which will be 1986, as a "National Day of Remembrance of Man's Inhumanity to Man."

The extremely cleverly drafted amendment proposed by the gentleman from Michigan, who takes modestly and sufficient amount of credit for the clever drafting of this amendment, because man's inhumanity to man, if the Ford amendment is adopted by the Members of this House, gives a very strong unequivocal position that when man was inhumane to man, it occurred in the Ottoman Empire between 1915 and 1923 and it only included Armenia.

If this resolution is adopted with this title, it is so narrowed that man's inhumanity to man as interpreted by the U.S. House of Representatives includes Turkish man's inhumane treatment of Armenian man between the years 1915 and 1923. Is that what we want? I do not think that is really what we want, because men were certainly inhumane to man nationally in the Ukraine, to the Jews, in Afghanistan, to the Bahai's in Iran, in Kampuchea, formerly Cambodia.

Mr. PASHAYAN. Mr. Chairman, will the gentleman yield?

Mr. BADHAM. I am delighted to yield to my friend, the gentleman from California.

Mr. PASHAYAN. Does the gentleman wish to change the name of the resolution by changing the words——

Mr. BADHAM. I think if the perpetrators of this resolution were to be fully forthright, the title should be amended to call it what it is. Call it a resolution of commemoration and condemnation of the Government of Turkey for man's inhumanity to Armenian man between the years 1915 and 1923.

Mr. PASHAYAN. And women and children?

Mr. BADHAM. Well, I do not refer to presiding officers as chair. So when it says man's inhumanity to man, that is fine.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield to me?

Mr. BADHAM. I would be delighted to yield to the gentleman.

Mr. FORD of Michigan. Mr. Chairman, I know the gentleman intends this in a spirit of levity, but to refer——

Mr. BADHAM. No, I do not.

Mr. FORD of Michigan. Well, to refer to the 239 cosponsors of this resolution as perpetrators of the resolution I think reflects no credit to the gentleman or to his party.

Mr. BADHAM. I beg the gentleman's pardon.

Mr. FORD of Michigan. They are our colleagues.

Mr. BADHAM. Certainly.

Reclaiming my time, if we are really going to be serious about this, we ought to call it a resolution on Armenian genocide, or we ought to at least leave it open so that language might be put in there that refers to genocide, not just Armenian genocide. I think that is an important point and I think it should be considered, because the amendment is designed specifically, aptly and cleverly, to focus this on one particular genocide, at the sacrifice of all those other people who have suffered genocide.

Mr. PASHAYAN. Mr. Chairman, will the gentleman yield?

Mr. BADHAM. I am happy to yield to the gentleman.

Mr. PASHAYAN. Mr. Chairman, is the gentleman going to submit an amendment that would change it, let us say, to commemorate the genocide by the Ottoman Empire against the Armenian people between 1915 and 1923?

Mr. BADHAM. Well, one cannot amend the title of a resolution until the resolution is either adopted or rejected.

Mr. PASHAYAN. Will the gentleman do that?

Mr. BADHAM. I might consider that.

Mr. PASHAYAN. Well, the gentleman has my support.

Mr. BATEMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to try to make a point here that I think needs to be made and that we are in significant risk of overlooking as we focus just upon whether or not the harm this resolution can do will be remedied just by an artful slight change in terminology as to whether it is Ottoman-Turkish Empire or just Ottoman Empire. I do not think that cures the mischief that will be done, though I appreciate very much the spirit in which the author of the amendment is attempting to do so.

The words remain in the resolution. We are singling out one incident of man's inhumanity to man that we described as the Armenian genocide.

I have not gone to the dictionary in recent hours to look up the word genocide, but the thrust of that which makes an atrocity, genocide, is that it is focused upon some group generally on ethnic or religious grounds.

That which our Turkish friends are very sensitive about in addition to the fear that this will give aid and comfort to Armenian terrorists in today's world is the reference to this as being—and those tragic events—as being acts of genocide. That is the bare historical issue which 60-some historians, tell us the judgment is history is still out on that and we should not legislate a historical judgment on it.

I have devised language, which quite frankly if this resolution is to pass, I think will legitimately desensitize the issue and would do so in a manner which should accommodate the very legitimate concerns of our Armenian people.

My suggestion would be that at line 7 of the resolution as it comes to the floor, we strike after the word "ancestry," the remainder of that line, the succeeding eighth and ninth lines, and insert in it the language, "both Christian and Muslim who were victims of atrocities perpetrated in the Ottoman Empire between 1915 and 1923," and then resuming with the text.

What this in effect would do would be to express the sense of this Congress and to commemorate through an act of Congress the tragedy that did occur in that part of Asia Minor between 1915 and 1923, a point that no person, no historian disputes. There is no dispute that there were atrocities and they happened there. It is indisputable that there were hundreds of thousand, if not a million and a half, Armenians, who were Muslims who were killed and uprooted from their homes in the course of the turmoil that took place there.

Why not as an act of man's inhumanity to man, if that is what we are to commemorate, why not make reference to the fact that there were atrocities inflicted upon Armenians, not necessarily in genocidal conduct of a government against a particular group of Armenians because of their religious faith?

I would suggest that there is more than enough fault for the millions of people who were wiped out in that part of the world during this 1915 to 1923 period. Why do we not if our real purpose is to commemorate the tragedy of that time that shall apply equally upon everyone who lived or occupied that part of the world, why do we not straighten out this language so it does that, rather than be doing something that in the context of this resolution, its legislative history, will inevitably come through as a judgment by us that X committed genocide against Y, when that is the very judgment that historically none of us are in a position to make?

Mr. SILJANDER. Mr. Chairman, will the gentleman yield?

Mr. BATEMAN. I am happy to yield.

Mr. SILJANDER. Mr. Chairman, I really think the Members should understand what is happening. I appreciate the gentleman in his attempt to clarify the issue.

We were told that this would be an open rule, that those of us who want to condemn genocide of all people could stand on this floor and do so. Now we have the tactic of the gentleman from Michigan introducing an amendment that would preclude us from condemning genocide of all people.

This is clearly, as it turned out to be, not an open rule at all, but rather a closed rule to preclude the Members of this body to condemn genocide among all people, not just focusing on one historical point that some historians say did or did not happen, and if it did happen, we are not sure who perpetrated it and who died on which side or the other.

This is a deception and I hope the Members see this.

PARLIAMENTARY INQUIRIES

Mr. PASHAYAN. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. PASHAYAN. Mr. Chairman, a point of clarification: The amendment of the chairman does not preclude any other amendment being introduced, does it?

The CHAIRMAN. The gentleman will restate his parliamentary inquiry.

Mr. PASHAYAN. Mr. Chairman, does the amendment now pending before the body preclude—does the adoption of the amendment now pending before the body preclude any other amendment?

The CHAIRMAN. The Chair would have to examine any subsequent amendment to determine the answer to that question.

Mr. PASHAYAN. I thank the Chair.

Mr. FORD of Michigan. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. FORD of Michigan. Mr. Chairman, in light of the rather startling interpretation of the rules that I have just heard from the other gentleman from Michigan, I do not understand that the adoption of this amendment closes the rule in any way at all. I believe that the rules with respect to the propriety of an amendment have to be determined as the amendment is crafted.

We can be here debating amendments until time runs out. There is nothing in my amendment—I would like to ask the Chair, is there anything in the amendment that prevents further amendments to the bill?

The CHAIRMAN. In answer to the inquiry by the gentleman from California, the Chair did not state that the offering of additional amendments would be precluded by the adoption of the amendment that is pending by the gentleman from Michigan.

The Chair stated that he would examine each and every amendment that was presented to the desk to determine if it could be offered.

Mr. MURTHA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I had intended to offer an amendment, and I will offer an amendment, but before the Ford amendment is agreed to, I would like to state the problem that I have.

In talking to the parliamentary experts and our Secretary of State, the gentleman from New York [Mr. Solarz], who is such an expert at this type of legislative endeavor, I find that if the Ford amendment is accepted by the body, it would prohibit me the opportunity, or at least that is our speculation, I have it on good word, it prevents me from offering an amendment that I have crafted in order to expand this situation. Let me read the substitute that I would like to offer.

I would rise in opposition to the Ford amendment, which would give me an opportunity to offer my substitute. Here is what my substitute would say:

Substitute Amendment for House Joint Resolution 192

Joint resolution to proclaim December 10, 1986, as the date on which the universal declaration on human rights was adopted by the United Nations as "A Day for the Remembrance for all Victims of Man's Inhumanity to Man Throughout the World"

Whereas, throughout history and in this century, untold millions of men, women and children have died or endured unspeakable suffering and cruelty as a result of the inhumane acts inflicted upon fellow members of the human race through genocide.

Whereas, as men and women everywhere strive to overcome the tragedies of the past and present and to uplift human dignity and the human spirit, it is appropriate to remember and honor all victims of genocide, and to console the families and descendants of victims, and to seek peace and reconciliation among all mankind: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That December 10, 1986, be proclaimed as "A Day of Remembrance" to urge all Americans to take time to reflect on the sufferings or victims of man's inhumanity to man, throughout time and in this century, by remembering those who suffered tragedies in which masses of people died or suffered grievous harm as a result of genocide.

The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such days as a time of remembrance.

□ 1545

This is acceptable, I think, to most Members of the House. If we had this opportunity, I think we would have widespread support for this type of a substitute where we would broaden the issue. Instead of narrowing it to one very tragic incident, we would broaden it to include all of the other incidents that have been talked about earlier today.

So I would urge that the Members of the House reject the Ford amendment and that we have an opportunity to consider a much broader substitute where the House speaks on the issue in a much broader context rather than single out an ally who has been so helpful to the United States and is so important to the security of the United States.

So I would urge the defeat of the Ford amendment and I urge an opportunity, then, to offer this substitute which would broaden the entire issue.

PARLIAMENTARY INQUIRY

Mr. BURTON of Indiana. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. BURTON of Indiana. Mr. Chairman, if the gentleman from Michigan [Mr. Ford] so chose, could he temporarily withdraw his amendment, and I know he is a man of fairness, so that we could consider Representative Murtha's amendment?

The CHAIRMAN. By unanimous consent, the gentleman could ask that the amendment be withdrawn.

Mr. BURTON of Indiana. But the amendment could be temporarily withdrawn or withheld so another amendment could precede it?

The CHAIRMAN. That is possible by unanimous consent.

Mr. BURTON of Indiana. Mr. Chairman, I move to strike the requisite number of words, and I would like to engage my colleague from Michigan [Mr. Ford] in a colloquy.

My honorable colleague, chairman of our committee, I know in the spirit of friendship and cooperation at this very auspicious time of the year that you would like to do everything possible to bring us all together. And since there is a big division on this issue, would the gentleman consider withdrawing his amendment temporarily so that we can get a vote on the amendment by the gentleman from Pennsylvania [Mr. Murtha]?

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman, it would be futile because I hear objections already.

Mr. BURTON of Indiana. It would be futile why?

Mr. FORD of Michigan. I have a chorus of objections over here.

Mr. BURTON of Indiana. Would the gentleman mind trying it?

Mr. FORD of Michigan. Yes; I would mind trying it.

Mr. BURTON of Indiana. I guess the spirit of this holiday season is not yet upon us.

Mr. FORD of Michigan. I appreciate that the holiday spirit has reached the gentleman. I wish that he would have had it a little earlier in the committee and it would have made things easier.

Mr. BURTON of Indiana. I guess I will just make this brief remark, and that is that I think that the gentleman from New York [Mr. Solarz], with whom I agree very infrequently, and the gentleman from Pennsylvania [Mr. Murtha] have crafted an amendment that is workable and would be agreeable to almost everybody in this body and would solve the problem.

I find it very unfortunate that my colleague——

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. BURTON of Indiana. I will be happy to yield to my colleague.

Mr. FORD of Michigan. This is not my first time on the floor with a piece of legislation, and I did not really handle this legislation until it reached this stage. But I have never seen the Murtha amendment. The gentleman from Pennsylvania [Mr. MURTHA], until today, did not incidate to me he had an amendment. I was told that there was a Murtha amendment, but I was told by people on your side of the aisle about the Murtha amendment.

Then I asked, in conjunction with the gentleman from California, if he could get a copy of the Murtha amendment so that we could look at it. I yet personally, because I have been on five conferences at the same time, have not physically seen the Murtha amendment.

My amendment does not have anything to do with the Murtha amendment. His amendment, if it is worthy, will stand or fall on its own merit.

Mr. BURTON of Indiana. If I may reclaim my time, the honorable gentleman from Pennsylvania [Mr. MURTHA] just read the amendment into the RECORD, and he sits a mere 6 feet from the gentleman. I would think the gentleman could reach across the aisle and very quickly read his amendment. I would urge the gentleman to do so. If he chose to do that, he might find that it is an intelligent alternative to yours, and give us the chance to have a vote on it.

All we want, I say to the gentleman from Michigan, the honorable chairman, is to have the opportunity to vote on this alternative.

Mr. FORD of Michigan. If the gentleman will yield, he tells me he does not have a copy now. If the gentleman offers such an amendment, and we consider the amendment, I certainly will read it. But the amendment before us now is my amendment.

Mr. BURTON of Indiana. The gentleman knows full well if his amendment is voted upon and passed, it precludes any possibility of the gentleman from Pennsylvania [Mr. MURTHA] offering his amendment and gaining a vote.

Mr. FORD of Michigan. I have no way to judge that until I see what he offers.

Mr. BURTON of Indiana. We have just had a meeting with the Parliamentarian and it is my opinion, after listening to the conversation up there, that the Murtha amendment——

Mr. FORD of Michigan. I prefer to get my parliamentary rulings on the floor, in front of the body.

Mr. PASHAYAN. Mr. Chairman, will the gentleman yield?

Mr. BURTON of Indiana. I am happy to yield to the gentleman from California.

Mr. PASHAYAN. Mr. Chairman, I hope the gentleman is not engaging in a tactic here that will prolong this proceeding longer than it has already been going.

Mr. BURTON of Indiana. No.

Mr. PASHAYAN. Speaking of the spirit of the season, Members want to get on with this and come to a vote and get the thing over with.

Mr. BURTON of Indiana. I understand that.

If I may reclaim my time, the gentleman from Pennsylvania [Mr. MURTHA] is not going to get a vote on his amendment if the amendment offered by the gentleman from Michigan [Mr. FORD] is brought to the floor and voted upon and passed.

The CHAIRMAN. The time of the gentleman from Indiana [Mr. BURTON] has expired.

The question is on the amendment offered by the gentleman from Michigan [Mr. FORD].

The question was taken; and on a division (demanded by Mr. HANSEN), there were—ayes 7, noes 18.

Mr. FORD of Michigan. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count for a quorum.

Mr. FORD of Michigan. Mr. Chairman, I withdraw my point of no quorum.

The CHAIRMAN. The gentleman withdraws his point of order of no quorum.

All in favor of taking this vote by recorded vote will stand and remain standing.

Mr. FORD of Michigan. Mr. Chairman, just a minute. I withdrew my point of order because I assumed there were enough standing.

The CHAIRMAN. Does the gentleman renew his point or order?

Mr. FORD of Michigan. Yes; I do, Mr. Chairman.

The CHAIRMAN. The Chair will count for a quorum again.

A quorum is not present. Pursuant to the provisions of clause 2 of rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 458]

Ackerman
Addabbo
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Badham
Barnes
Bartlett
Barton
Bateman
Bates
Bedell
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Biaggi
Bilirakis
Bliley
Boehlert
Boggs
Boland
Boner (TN)
Bonior (MI)
Bonker
Borski
Bosco
Boucher
Boulter
Boxer
Breaux
Broomfield
Brown (CA)
Brown (CO)
Broyhill
Bruce
Bryant
Burton (CA)
Burton (IN)
Bustamante
Byron
Callahan
Campbell
Carney
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clay
Clinger
Coats
Cobey
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Cooper
Coughlin
Courter
Coyne
Craig
Crane
Crockett
Daniel
Dannemeyer
Darden
Daschle
Daub
Davis
de la Garza
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart (OH)
Eckert (NY)
Edgar
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Evans (IA)
Evans (IL)
Fascell
Fawell
Fazio
Feighan
Fiedler
Fields
Fish
Flippo
Florio
Foley
Ford (MI)
Ford (TN)
Fowler
Franklin
Frenzel
Fuqua
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Gray (IL)
Gray (PA)
Green
Gregg
Grotberg
Guarini
Gunderson
Hall (OH)
Hall, Ralph
Hamilton
Hammerschmidt
Hansen
Hartnett
Hatcher
Hawkins
Hayes
Hefner
Heftel
Hendon
Henry
Hertel
Hiler
Hillis
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Johnson
Jones (NC)
Jones (OK)
Jones (TN)
Kanjorski
Kaptur
Kasich
Kastenmeier
Kemp
Kennelly
Kildee
Kindness
Kleczka
Kolbe
Kolter
Kostmayer
Kramer
LaFalce
Lagomarsino
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Loeffler
Long
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
Lungren
Mack
MacKay
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCain
McCandless
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McKernan
McMillan
Meyers
Mica
Michel
Mikulski
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mitchell
Moakley
Molinari
Mollohan
Monson
Montgomery
Moody
Moore
Moorhead
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Natcher
Neal
Nichols
Nielson
Nowak
O'Brien
Oakar
Oberstar
Obey
Olin
Ortiz
Owens
Oxley
Packard
Panetta
Parris
Pashayan
Pease
Penny
Perkins
Petri
Pickle
Porter
Pursell
Quillen
Rahall
Rangel
Ray
Regula
Reid
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Roemer
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Rudd
Russo
Sabo
Savage
Saxton
Schaefer
Scheuer
Schroeder
Schuette
Schulze
Seiberling
Sensenbrenner

Sharp
Shaw
Shelby
Shumway
Shuster
Sikorski
Siljander
Sisisky
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Snyder
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stenholm
Stokes
Strang
Stratton
Studds
Stump
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weaver
Weber
Weiss
Wheat
Whitehurst
Whitley
Whittaker
Whitten
Williams
Wilson
Wirth
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Young (MO)
Zschau

☐ 1610

The CHAIRMAN. Four hundred eighteen Members have answered to their names, a quorum is present, and the Committee will resume its business.

PARLIAMENTARY INQUIRIES

Mr. BURTON of Indiana. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. BURTON of Indiana. Mr. Chairman, if the amendment that is now pending before us is agreed to would that preclude a vote on the Murtha amendment?

The CHAIRMAN. The Chair will have to determine that if the amendment is adopted and the Murtha amendment is then offered.

Mr. BURTON of Indiana. Mr. Chairman, I have a further parliamentary inquiry.

The CHAIRMAN. The gentleman will state his further parliamentary inquiry.

Mr. BURTON of Indiana. I think many of us need to know that; otherwise, it will have a direct impact on the vote.

The CHAIRMAN. The Chair has just stated his position on that; he cannot make an anticipatory decision on that.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Michigan [Mr. FORD] for a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. Five minutes will be allowed for this vote.

The vote was taken by electronic device, and there were—ayes 206, noes 213, answered "present" 2, not voting 13, as follows:

[Roll No. 459]

AYES—206

Ackerman
Akaka
Anderson
Andrews
Annunzio
Aspin
Atkins
Barnes
Bates
Beilenson
Berman
Bevill
Biaggi
Bliley
Boehlert
Boland
Boner (TN)
Bonior (MI)
Bonker
Borski
Bosco
Boucher
Boxer
Broomfield
Brown (CA)
Bruce
Bryant
Burton (CA)
Campbell
Carper
Carr
Clay
Clinger
Coats
Coelho
Coleman (TX)
Collins
Cooper
Crockett
Darden
Daschle
Dellums
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Durbin
Dymally
Dyson
Early
Eckart (OH)
Edgar
Edwards (CA)
Erdreich
Evans (IA)
Evans (IL)
Fazio
Feighan
Fiedler
Florio
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Gallo
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gordon
Gray (IL)
Green
Gregg
Guarini
Hall (OH)
Hall, Ralph
Hamilton
Hawkins
Hayes
Heftel
Henry
Hertel
Horton
Howard
Hoyer
Hunter
Jacobs
Jeffords
Johnson
Kaptur
Kemp
Kennelly
Kildee
Kleczka
Kostmayer
LaFalce
Leach (IA)
Lehman (CA)
Leland
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lipinski
Long
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
Lungren
MacKay
Manton
Markey
Martin (NY)
Martinez
Matsui
Mavroules
McCloskey
McDade
McGrath
McHugh
Mikulski
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Moody
Moorhead
Morrison (CT)
Mrazek
Nowak
Oakar
Oberstar
Obey
Olin
Owens
Panetta
Pashayan
Pepper
Perkins
Pursell
Regula
Reid
Richardson
Ritter
Robinson
Rodino
Roe
Rostenkowski
Roukema
Rowland (CT)
Roybal
Russo
Sabo
Savage
Saxton
Scheuer
Schneider
Schumer
Sharp
Shelby
Sikorski
Sisisky
Slattery
Smith (FL)
Smith (IA)
Smith (NJ)
Smith, Robert (NH)
St Germain
Stallings
Stark
Stokes
Studds
Sweeney
Thomas (CA)
Torres
Torricelli
Towns
Traficant
Vento
Visclosky
Volkmer
Waxman
Weaver
Weiss
Wheat
Williams
Wirth
Wolf
Wolpe
Wright
Wyden
Yates
Young (AK)
Young (MO)
Zschau

NOES—213

Addabbo
Alexander
Anthony
Applegate
Archer
Armey
AuCoin
Badham
Barnard
Bartlett
Barton
Bateman
Bedell
Bennett
Bentley
Bereuter
Bilirakis
Boggs
Boulter
Breaux
Brown (CO)
Broyhill
Burton (IN)
Bustamante
Byron
Callahan
Carney
Chandler
Chapman
Chappell
Cheney
Cobey
Coble
Coleman (MO)
Combest
Coughlin
Courter
Coyne
Craig
Crane
Daniel
Dannemeyer
Daub
Davis
de la Garza
DeLay
Derrick
DeWine
Dickinson
DioGuardi
Dowdy
Duncan
Dwyer
Edwards (OK)
Emerson
English
Fascell
Fawell
Fields
Fish
Flippo
Fowler
Franklin
Frenzel
Fuqua
Garcia
Gaydos
Goodling
Gradison
Gray (PA)
Grotberg
Gunderson
Hammerschmidt
Hansen
Hartnett
Hefner
Hendon
Hiler
Hillis
Holt
Hopkins
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ireland
Jenkins
Jones (NC)
Jones (OK)
Jones (TN)
Kanjorski
Kasich
Kastenmeier
Kindness
Kolbe
Kolter
Kramer
Lagomarsino
Lantos
Latta
Leath (TX)
Lent
Lightfoot
Livingston
Lloyd
Loeffler
Lott
Mack
Madigan
Marlenee
Martin (IL)
Mazzoli
McCain
McCandless
McCollum
McCurdy
McEwen
McKernan
McMillan
Meyers
Mica
Michel
Molinari
Mollohan
Monson
Montgomery
Moore
Morrison (WA)
Murphy
Murtha
Myers
Natcher
Neal
Nichols
Nielson
O'Brien
Ortiz
Oxley
Packard
Parris
Pease
Penny
Petri
Pickle
Porter
Quillen
Rahall
Rangel
Ray
Ridge
Rinaldo
Roberts
Roemer
Rogers
Rose
Roth
Rowland (GA)
Rudd
Schaefer
Schroeder
Schuette
Schulze
Seiberling
Sensenbrenner
Shaw
Shumway
Shuster
Siljander
Skeen
Skelton
Slaughter
Smith (NE)
Smith, Denny (OR)
Smith, Robert (OR)
Snowe
Snyder
Solarz
Solomon
Spence
Spratt
Staggers
Stangeland
Stenholm
Strang
Stratton
Stump
Sundquist
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (GA)
Udall
Valentine
Vander Jagt
Vucanovich
Walgren
Walker
Watkins
Weber
Whitehurst
Whitley
Whittaker
Whitten
Wilson
Wortley
Wylie
Yatron
Young (FL)

ANSWERED "PRESENT"—2

Gonzalez
Traxler

NOT VOTING—13

Brooks
Chappie
Conte
Conyers
Eckert (NY)
Foglietta
Hatcher
Lehman (FL)
McKinney
Mitchell
Nelson
Price
Wise

The Clerk announced the following pair:

On this vote:

Mr. MITCHELL for, with Mr. NELSON of Florida against.

Messrs. COLEMAN of Missouri, GRAY of Pennsylvania, COUGHLIN, ROEMER, WALGREN, and RANGEL changed their votes from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. FORD of Michigan. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

☐ 1625

Accordingly the Committee rose; and the Speaker pro tempore [Mr. GRAY of Pennsylvania] having assumed the chair, Mr. BONIOR of Michigan, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the joint resolution (H.J. Res. 192) to designate April 24, 1985, as "National Day of Remembrance of Man's Inhumanity to Man," had come to no resolution thereon.

LEGISLATIVE SCHEDULE

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent to proceed for 1 minute for the purpose of discussing the schedule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. FRENZEL. Mr. Speaker, reserving the right to object, when the motion was made for the Committee to rise, there were at least six Members on their feet requesting a vote. Those Members were not recognized. The Chairman left the podium and brought the gavel to the current Acting Speaker. In my judgment, that is an unfair way to run the House. I would like the Speaker to explain the procedure.

The SPEAKER pro tempore. This occupant of the chair was not in the chair at that time. The Speaker or Speaker pro tempore cannot comment on proceedings in the Committee of the Whole.

Mr. FRENZEL Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Without objection, the gentleman from Texas [Mr. WRIGHT] is recognized for 1 minute.

There was no objection.

Mr. WRIGHT. Mr. Speaker, I would like to discuss the business for the remainder of the day and the remainder of this session.

Mr. Speaker, it will be the intention of the leadership to call up the rule on H.R. 1524, the Polygraph Protection Act of 1985. If we adopt the rule, that would be all we would intend to do today. There is no business, apparently, available for tomorrow. Three conferences on important matters are in progress. Having asked diligently and sought hopefully for some sign of probable conference report on which the House could vote on either the continuing appropriation, the reconciliation bill or the Food Security Act tomorrow, the leadership has concluded that it is impossible to have any realistic expectation that we would have a vote available to us tomorrow on any one of the three.

Therefore, rather than inconvenience all of the membership by requiring us to be in session tomorrow and/or Saturday and/or Sunday, we would expect to call up a resolution extending the continuing appropriation now in existence at the present level until 6 p.m., or thereabouts, on Monday next, and would ask conferees on these three bills, the continuing appropriations, the Food Security Act, the farm bill and the deficit reduction amendments, the reconciliation bill, to continue and pursue diligently and continuously, to the extent of their abilities, the goal of bringing to the House conference reports on Monday on those three bills.

Now, the House cannot adjourn, the Congress cannot adjourn, for the year until we have a continuing appropriations bill.

We would need to extend certain things in the reconciliation bill if we did not have that legislation itself because certain items therein expire, absent a continuance, so we surely would expect to have those two, and it is surely desirable, if possible at all, to have a conference report on the farm bill.

We would like to see those three things concluded on Monday. They cannot be concluded even on Monday unless conferees on all three bills are willing to stay and work through the weekend, and that is what we on this side would like to ask them to do, and I would earnestly hope and trust that we would be joined in that plea by the leadership on the Republican side, so that the membership at large might not be inconvenienced by staying around from day to day to day, with daily extensions of the continuing resolution.

Mr. MICHEL. Mr. Speaker, will the gentleman yield?

Mr. WRIGHT. I am happy to yield to my friend, the minority leader.

Mr. MICHEL. Having talked earlier with the ranking minority member on our Appropriations Committee, the gentleman from Massachusetts [Mr. CONTE], I was given to understand maybe it would be only a 1-day extension, and I must confess that I thought that was rather impractical because I know that we do want to have a farm bill, as the gentleman suggests. In the other body I do not think that a continuing resolution would be finally approved, frankly, until agreement is reached on the farm bill. I am also advised, in talking to the gentleman from Illinois [Mr. MADIGAN]—I have not talked to the gentleman from Texas [Mr. DE LA GARZA]—that progress was definitely being made toward some kind of resolving of that.

So having then seen that you want to go until Monday night for the continuing resolution would certainly be acceptable to this gentleman, for the moment. I know that those of us who have been around for so long feel that it would be great if we could conclude for sure by Saturday or Sunday, but I think it is rather impractical, and then when we begin another week, there is always that temptation—and I know that pressure upon the Speaker and all the rest—"ring me in, before the end of the session, bring this up, bring that up," and then it dwaddles on to Tuesday, Wednesday, Thursday, Friday. We do not want to see that happen. So if we can have that kind of target for Monday night, hopefully it could be reached. I think that would accommodate most Members. I am certainly willing to go along with that if that is the intention of the majority.

Mr. WRIGHT. I thank the gentleman.

Mr. BURTON of Indiana. Mr. Speaker, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. We were just discussing the last bill on the agenda today, National Day of Remembrance of Man's Inhumanity to Man. Is there any possibility or should we expect to see that again before we adjourn?

Mr. WRIGHT. I do not think we ought to expect to try to do that. We are dealing now with emergencies, things that have to be done for the good of the Nation and the economy of the Nation and extending laws that otherwise would expire.

However important our expression may be on the subject of man's inhumanity to man, it is not necessary that we complete it this year.

Mr. BURTON of Indiana. I thank the gentleman.

Mr. LOTT. Mr. Speaker, will the gentleman yield?

Mr. WRIGHT. I yield to the assistant minority leader.

Mr. LOTT. It is not clear to me whether or not the intent is to have votes on tomorrow, Friday.

Mr. WRIGHT. We would not have a session tomorrow.

Mr. LOTT. Or Saturday.

Mr. WRIGHT. Or Saturday.

Mr. LOTT. Or Sunday.

Mr. WRIGHT. Or Sunday, if the other body will continue to our continuance of the present level of appropriations.

Mr. LOTT. Until midnight Monday; is that correct?

Mr. WRIGHT. Until 6 p.m. Monday, or thereabouts.

Mr. LOTT. Do we know when we would know that?

Mr. WRIGHT. I think within a very few minutes. I see the chairman of the Appropriations Committee standing here, apparently ready to legislate.

Mr. LOTT. Is it anticipated that we would have votes or we would be in session on Monday?

Mr. WRIGHT. It is anticipated we would be in session on Monday.

Now, I would advise Members not to go home nor leave the city this afternoon until first we discover whether this proposal is agreeable in the other body, and if we have an agreement that the continuing resolution on appropriations is extended until midnight Monday or 6 p.m. Monday, then Members may be reasonably certain that we will have votes Monday, and we would ask them to be prepared to be here Monday morning and to finish the session Monday. In that event, assuming the other body acts favorably upon a resolution that we would adopt, there would be no session tomorrow, no session Saturday, no session Sunday.

Mr. LOTT. If the gentleman will yield, does the gentleman anticipate coming in at the usual hour on Monday, at 12 o'clock, or would there be an earlier starting time?

Mr. WRIGHT. There are a number of bills on suspension Monday. I do not know any reason why 12 o'clock noon should not be an adequate hour.

Ms. FIEDLER. Mr. Speaker, will the gentleman further yield on that point?

Mr. WRIGHT. I yield to the gentlewoman from California.

Ms. FIEDLER. I would just like to make one brief point, if I may, as you decide what time we should come back on Monday.

Sunday is the last day of a holiday for the Jewish people. It is Hanukkah. And if it is required that we be here before 10 o'clock, 9 o'clock, or even 12 o'clock, it would be necessary for those of us who are on the west coast to travel the entire evening, and I would hope that the gentleman might consider postponing any votes until maybe 5:30 or 6 o'clock that afternoon, even though debate might take place earlier, to give us a chance to at least complete that evening.

Mr. WRIGHT. Well, let me respond, if I may, to the gentlewoman. I think all Members of the House should try to accommodate all other Members with respect to religious holidays when we can. Today is a part of Hanukkah, I am advised, and, of course, Members are having to travel today if they are away from their homes. I should think that noon Monday is probably a reasonable time so as to permit Members to be in their homes tonight and in their homes all day and through the evening Saturday and through Sunday. If we were to go beyond noon Monday, we probably could not finish Monday.

Ms. FIEDLER. I thank the gentleman.

FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1986

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations be discharged from further consideration of the joint resolution (H.J. Res. 476) making further continuing appropriations for fiscal year 1986, and ask for its immediate consideration in the House, any rule of the House to the contrary notwithstanding, and that debate be limited to 1 hour, the time to be equally divided between myself and the gentleman from Massachusetts [Mr. CONTE], and that the previous question shall be considered as ordered on the resolution to final passage without intervening motion.

The Clerk read the title of the joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 476

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the joint resolution of November 14, 1985 (Public Law 99-154) is hereby amended by striking out "December 12, 1985" and inserting in lieu thereof "**six o'clock post meridian, eastern standard time, December 16, 1985**".

The SPEAKER. The Chair recognizes the gentleman from Mississippi [Mr. WHITTEN].

□ 1640

Mr. WHITTEN. Mr. Speaker, I yield myself such time as I may require.

Mr. Speaker, may I say that this resolution is necessary. All of us are anxious to get away from here and to conclude this year's work. Earlier, I considered introducing a resolution to extend the continuing resolution by only 1 day. Further consideration, however, showed a danger that we would not be able to complete the conference within that time. Although we have made good progress in the conference, there are two subgroups which still have much work to do. After all items have been resolved by the conferees, it will require 10 to 12 hours for the staff to prepare the paperwork before the conference report may be brought to the House.

So after reconsidering the matter, the House leadership felt the only way to be safe was to extend the time until Monday because it looks like it would take that much time to conclude. This does not prevent us from concluding earlier if it were possible. It merely extends the date until 6 p.m. Monday, December 16, so the Congress will not be responsible for any delay or any interruption of the Federal Government.

May I say further that I conferred with Mr. CONTE as soon as I knew the change in plans, and he and I have agreed about the resolution that we are considering.

May I say again that all this resolution does is continue the present rate of operations for agencies still covered by the existing resolution until Monday afternoon at 6 o'clock. In the meantime, we have to conclude two subconferences that we have. One is on Interior and another on Defense, which I am sure all of the Members want us to conclude and which we must conclude. This should allow ample time. I have asked the chairmen of the two subcommittees involved to speed up their subconferences as much as they can and get through as quickly as possible.

So if it is possible to get through earlier, I would say so. But it looks like it is not. We are doing as much as we can. May I say again what the majority leader said and that is that this, of course, has to be concurred in by the body on the other side tonight or else the authority to finance many agencies of Government will lapse.

So I urge the Members' support of this legislation.

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support the extension. We are making fairly good progress in the conference on the continuing resolution, but there is no way in the world that we can finish that conference today. As you know, the continuing resolution expires tonight.

The Defense Subcommittee and the Interior Subcommittee are still meeting, and they still have a great deal of work. There is no reason why we should let the continuing resolution expire and create difficulties for the executive branch and see Federal employees being furloughed tomorrow.

I hope we can act quickly and that the Senate will do likewise so we can get back to work on the conference on the continuing resolution.

Mr. WHITTEN. Mr. Speaker, I would like to ask all the Members of the conference from the Appropriations Committee be available over the weekend to meet in conference. The conference is currently scheduled to reconvene at 7 o'clock tonight. With Interior and Defense particularly we are counting on staying here and concluding their work.

We hope the Members of the conference will stay available in case we have further meetings. I do not think there is any way for us to speed up what we planned, but in case we do, we will need the Members available to proceed with our business.

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman.

Mr. CONTE. I would inquire of the gentleman, is the session with the full conference on the Senate side still scheduled for 7 o'clock tonight?

Mr. WHITTEN. The first business of the conference will be to agree with what we have done here. We meet again at 7 o'clock tonight to deal with what has happened, and several of the reports of the subconferences have not been approved by the full conference.

So it will pay for us to continue to be available over the weekend, if possible, so that we may conclude the conference.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PERMISSION TO FILE CONFERENCE REPORT ON THE BILL, H.R. 3037, AGRICULTURE, RURAL DEVELOPMENT AND RELATED AGENCIES APPROPRIATIONS, 1986

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that the managers on the part of the House may have until midnight tonight to file a conference report on the bill (H.R. 3037) making appropriations for Agriculture, Rural Development and Related Agencies for fiscal year ending September 30, 1986, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I take this time for the purpose of inquiring of the majority leader, it is my understanding the majority leader was prepared to make several unanimous-consent requests relative to the bringing up of conference reports on Monday and waiving points of order.

On the continuing resolution, I would rather delay giving unanimous consent to waiving points of order on the continuing resolution until the gentleman from Massachusetts and the gentleman from Mississippi have an opportunity to discuss an item that we did last year in this same kind of process. If there is that general accord and agreement, we can agree to that unanimous-consent request.

AUTHORIZING THE SPEAKER TO DECLARE RECESSES AT ANY TIME ON MONDAY NEXT

Mr. WRIGHT. If the gentleman will yield, Mr. Speaker, I ask unanimous consent that it may be in order for the Speaker to declare recesses at any time on the legislative day Monday, December 16, 1985, subject to the call of the Chair.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. WRIGHT. May I inquire of the gentleman further, with respect to other unanimous-consent requests that may be useful, would the gentleman have an objection to a unanimous-consent request waiving points of order with specific reference to the Deficit Reduction Amendments of 1985 or the Food Security Act of 1985?

Mr. MICHEL. I would inquire of the gentleman, is that reconciliation?

Mr. WRIGHT. The reconciliation bill or the farm bill.

Mr. MICHEL. I cannot give the gentleman unanimous-consent request on reconciliation at this time. I was hoping that Mr. MADIGAN would be available to make sure that we could be all right on waiving points of order on the farm bill.

REQUEST FOR CONSIDERATION OF SUNDRY RULES ON MONDAY NEXT

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that rules reported by the Rules Committee, if necessary, regarding the continuing resolution appropriations and the Food Security Act of 1985 and the Deficit Reduction Amendments of 1985 may be considered on the same day if reported by the Rules Committee on Monday next.

□ 1650

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. MICHEL. Mr. Speaker, reserving the right to object, particularly on reconciliation, I have got to see that reconciliation act before agreeing to that unanimous-consent request.

Mr. WRIGHT. May I ask unanimous consent, then, Mr. Speaker, that any rules reported by the Rules Committee with respect to the Continuing Appropriations Act of 1986 or the Food Security Act of 1985, the so-called farm bill, if reported on Monday next, December 16, may be considered by the House on the same day? I am asking that the rule may be considered by the House.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. CONTE. Reserving the right to object, Mr. Speaker, the thing I am concerned about on the appropriation bill is that you can go to the bill and make certain amendments in order that would not be germane and we would not have an opportunity to raise an objection. I would like to have a little more time to talk with my committee chairman about where we are going to go and reach some kind of an agreement with him.

Mr. WHITTEN. Mr. Speaker, if the gentleman will yield, the gentleman and I have reached agreement in the past. I would be glad to discuss with him the situation on this. I would like to have a little more time, too, to just see what it means.

Mr. CONTE. All right. Then I object, Mr. Speaker.

The SPEAKER. The gentleman objects?

Mr. CONTE. At this time, yes, Mr. Speaker.

The SPEAKER. Objection is heard.

REQUEST TO WAIVE 3-DAY RULE FOR CONSIDERATION OF CONFERENCE REPORT ON THE FOOD SECURITY ACT OF 1985 ON MONDAY NEXT

Mr. WRIGHT. Mr. Speaker, would the gentleman consider this unanimous-consent request: Mr. Speaker, I ask unanimous consent to waive the 3-day rule on the Food Security Act of 1985 with respect to the conference report or any rule that may be reported with respect to that bill on Monday next.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. MICHEL. Mr. Speaker, reserving the right to object, I would hope that the majority leader would withhold that until I get hold of my ranking minority member to make sure that everything is on the square.

Mr. WRIGHT. Mr. Speaker, I withdraw the unanimous-consent request at this time.

The SPEAKER. The gentleman withdraws his request.

PROVIDING FOR CONSIDERATION OF H.R. 1524, POLYGRAPH PROTECTION ACT OF 1985

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 337 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 337

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1524) to prevent the denial of employment opportunities by prohibiting the use of lie detectors by employers involved in or affecting interstate commerce, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the bill as an original bill for the purpose of amendment under the five-minute rule and each section shall be considered as having been read. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments there to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. QUILLEN] for the purpose of debate only, and pending that I yield myself such time as I may use.

Mr. MOAKLEY. Mr. Speaker, House Resolution 337 is an open rule that provides for the consideration of the bill H.R. 1524, the Polygraph Protection Act of 1985.

Mr. Speaker, the rule provides 1 hour of general debate, to be equally divided between the chairman and ranking minority member of the Committee on Education and Labor.

House Resolution 337 also makes in order an Education and Labor Committee amendment in the nature of a substitute now printed in the bill as original text for the purpose of amendment. The substitute is to be considered by section, with each section to be considered as read. In addition, Mr. Speaker, the rule provides for one motion to recommit with or without instructions.

H.R. 1524, the Employee Polygraph Protection Act of 1985, is a bill that would prohibit private employers involved in interstate commerce from requiring their employees, or their prospective employees from submitting to polygraph tests. This legislation is intended to protect workers who are wrongfully denied employment and whose careers are devastated because of lie detector test inaccuracies and employer abuses. The bill provides that employers who violate its provisions may be assessed a civil penalty of up to $10,000.

Mr. Speaker, the bill does make exceptions for Federal and State government employees. It also exempts drug company employees who have direct access to controlled substances in connection with an official theft investigation. The bill provides an additional exception for employees related to CIA, FBI, and the National Security Agency. Because of the recent spy scandals, the Government is considering a requirement that all Government employees and contractors who have or want to obtain a high-level security clearance take a polygraph test.

Mr. Speaker, H.R. 1524 is an attempt to answer the complaint that lie detector tests are inaccurate in the hiring of workers, and would require employers to use more reliable ways to verify personnel information.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, the rule has been ably explained. It is an open rule, but the bill is controversial. I received a number of wires and communications today in opposition to the measure.

Mr. Speaker, I oppose the measure on final passage, but I do not oppose the rule. I urge the adoption of the rule.

Mr. Speaker, I yield 5 minutes to the gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Speaker, I thank the gentleman for yielding me this time.

It is not my intention to take the full 5 minutes that was so generously offered, but I do rise to express my concerns over the Employee Polygraph Protection Act of 1985, which are both procedural and substantive.

On the procedural side, H.R. 1524 was reported out of the Education and Labor Committee only last week, on December 5, 1985. It received a rule late Tuesday night, and, until a couple of hours ago, was to be considered by the full House of Representatives.

H.R. 1524 was clearly drafted to ensure that the House Judiciary Committee would not review any of its provisions. The Judiciary Committee, over the years, has held many hearings that attest to the accuracy and benefits of the use of the polygraph. However, the Judiciary Committee was short-circuited, and did not have any opportunity to improve the bill.

My substantive concerns are several in nature:

First, H.R. 1524 is drafted under the assumption that polygraphs are not a useful method to screen individuals for employment purposes or to help in the investigation of theft losses or breaches of security. Employers who rely on polygraphs as a screening tool are convinced of the validity of this device.

In fact, the Office of Technology Assessment found "meaningful scientific evidence of polygraph validity." H.R. 1524 is an emotional, rather than an objective, response to ensuring that polygraphs are used in a way that is reasonable and not violative of civil rights and privacy concerns.

Second, H.R. 1524 is poorly drafted and could unintentionally thwart our efforts to combat terrorism and espionage.

I base this on the fact that the exemption language in section 6 is not broad enough. For example, while it appears on its face that DOD contractors are exempt, it is unclear whether personnel involved at securities research laboratories could be screened by a polygraph to ensure their reliability.

One of the most serious defects in H.R. 1524 is the failure of section 6 to provide for an exemption for employees of commercial aviation and employees who have access to secure areas of airports. Airlines are responsible for the safety of passengers, cargo, and aircraft.

Mr. Speaker, recent international and domestic incidents demonstrate the unique danger to air travel of terrorist and hijack attempts against commercial aviation. Just last July, Congress, in reaction to a lack of security at airports outside the United States, passed legislation specifically dealing with terrorism.

If offered, I will strongly support amendments that would permit the use of polygraphs to screen employees of commercial aviation and secure areas of airports if the duties of these individuals involve access to aircraft, either directly or indirectly through food services, maintenance, or baggage handling. I would also support any broadening of section 6 to include private security personnel.

Finally, I have serious concerns about the lack of a provision that would exempt Government contractors who are subject to the provisions of the Privacy Act. For example, there are a number of Government contractors who have access to highly sensitive information such as tax records, loan applications, and other credit information. These contractors routinely use polygraphs, in addition to other standard employee evaluation tools, to ensure that their employees do not use such information in a fraudulent manner.

In conclusion, while there is considerable merit to H.R. 1524, it needs serious improvement. Hopefully, in the ensuing weeks and months, a reasonable compromise can be worked out to insure that polygraphs will be used professionally and accurately while not jeopardizing legitimate uses of this device, especially in the area of combatting terrorism and espionage.

□ 1700

Mr. QUILLEN. Mr. Speaker, I have no further requests for time.

I urge adoption of the open rule, and I yield back the balance of my time.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Georgia [Mr. DARDEN].

Mr. DARDEN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, as a former district attorney, I am opposed to this bill in its present form; however, I want to commend the gentleman from Montana [Mr. WILLIAMS] for bringing the issue before this House which needs some serious debate and consideration.

I think it is very evident, Mr. Speaker, that polygraphs have been abused in many instances. I believe that polygraphs should be regulated and that minimum standards should be imposed.

Accordingly, Mr. Speaker, on this day the gentleman from Florida [Mr. YOUNG] and I have introduced H.R. 3916 which will be offered when this matter comes to the floor, in the nature of a substitute.

Let me say that the bill in its present form, Mr. Speaker, to which I am adamantly opposed, would effectively do away with the use of all polygraphs as far as private industry is concerned.

Let me emphasize, there have been abuses in the past, Mr. Speaker, but I believe that an orderly regulation of this industry should be imposed and that is what my substitute, which this rule allows, will do.

Let me say in conclusion, Mr. Speaker, that while I disagree with the original bill, I heartily support this open rule and urge its passage by the House.

Mr. MOAKLEY. Mr. Speaker, I yield 3 minutes to the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Speaker, I thank the gentleman.

As the people on both sides of this issue fully recognize now, this is a good rule. It is an open rule. It is the best that either side could hope for and it is not contentious.

Likewise, the bill has had a significant amount of support. It has gathered about 170 cosponsors on both sides of the aisle, because people believe that the growing number of polygraphs in the private sector needs to be stemmed. Both sides understand there are abuses. With this legislation we are simply trying to stem those abuses.

There are 2 million polygraph lie detector examinations a year given now in the United States and 98 percent of those are given by private business, far outstripping the amount given by government and criminal pursuits combined.

The number of tests given in this country has tripled in just the past 10 years. We are simply trying to stem the tide and bring some prudent reason to this.

By the way, 31 States and the District of Columbia have passed legislation affecting regulating the use of lie detectors; however, we found that this problem really needs some national attention and probably a Federal solution, because we find that the polyglot of regulations throughout the States is simply not adequate; so when this Congress returns after the first of the year, we will consider the Polygraph Protection Act, if this rule passes, as we expect it will, and at that time we will see if we cannot get both sides together to do what both sides agree needs to be done. We need to stem the increasing tide of the number of lie detector tests being given to private citizens in this country. We need to stem the abuses and I am convinced that this Congress is committed to do so.

I am including for the RECORD copies of letters concerning a critical section of this bill. The letters are from the Central Intelligence Agency, the Under Secretary of Defense and the chairman of the House Committee on Armed Services.

COMMITTEE ON ARMED SERVICES,
December 12, 1985.

Hon. PAT WILLIAMS,
U.S. House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR PAT: I understand that H.R. 1524, the Employee Polygraph Protection Act of 1985, will soon be considered by the House.

This is to advise you that the Committee on Armed Services is supportive of the amendment you propose to offer to section 6(b) of this bill. That amendment would exempt consultants or employees of contractors of the Department of Defense from the provisions of the bill. We believe it is necessary that the bill provide a specific exemption for employees of contractors of the Department of Defense and for consultants of the department.

Sincerely,

LES ASPIN,
Chairman.

CENTRAL INTELLIGENCE AGENCY,
December 11, 1985.

Hon. AUGUSTUS F. HAWKINS,
Chairman, Committee on Education and Labor, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I am pleased to respond on behalf of the Central Intelligence Agency to your letter of December 4, 1985 concerning H.R. 1524.

The Agency's concern with this legislation has been the sufficiency of the exemption for employees of Agency contractors. We have reviewed the "Amendment in the Nature of a Substitute to Section 6(b) in H.R. 1524" which was enclosed with your letter. Assuming that this amendment were to be adopted, the Agency's concern would be alleviated and the Agency would have no objection to this legislation. Other agencies, however, may seek amendments to the exemption provisions to insure that polygraph examinations are not precluded for contractors and consultants employed by the Federal Government and having access to classified information.

Thank you for the opportunity to comment on this legislation.

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

CHARLES A. BRIGGS,
Director, Office of Legislative Liaison.

THE UNDER SECRETARY OF DEFENSE,
December 11, 1985.

Hon. AUGUSTUS F. HAWKINS,
Chairman, Committee on Education and Labor, Washington, DC.

DEAR MR. CHAIRMAN: Reference is made to your letter of December 4, 1985 in which you offer amendment language to House Resolution 1524.

We do indeed support the language of the amendment and interpose no objection to the Bill so long as agencies of the Federal government and persons contracting with the government are exempt from its provisions.

Sincerely,

FRED C. IKLE.

Mr. MOAKLEY. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. JONES of Oklahoma. Mr. Speaker, I was unavoidably absent Monday, December 9, 1985, and missed recorded votes on the following four suspensions: House Concurrent Resolution 239, Ireland-United Kingdom Agreement; H.R. 1083, low-level radioactive waste disposal policy; H.R. 3773, Federal Technology Transfer Act; and H.R. 1538, veterans compensation and health care.

Had I been present, I would have voted "aye" on all four measures, and I am pleased to note that they all passed by overwhelming margins.

ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT AMENDMENTS IN SECTION 901

Mr. UDALL. Mr. Speaker, I ask unanimous consent for the immediate consideration in the House of the bill (H.R. 3851) to amend section 901 of the Alaska National Interest Lands Conservation Act.

The Clerk read the title of the bill.

The **SPEAKER** pro tempore (Mr. GRAY of Illinois). Is there objection to the request of the gentleman from Arizona?

Mr. SEIBERLING. Mr. Speaker, reserving the right to object, I would like to ask the distinguished chairman of the Committee on Interior and Insular Affairs if he would just briefly tell us what the bill does.

I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Speaker, H.R. 3851 is a bill introduced by our colleague, the gentleman from Alaska, [Mr. YOUNG] which would amend section 901(a) of the Alaska Lands Act.

Section 901(a) of the act establishes statutes of limitations applicable to judicial proceedings contesting certain determinations by the Department of the Interior that parcels of submerged lands in Alaska within areas being conveyed to Native corporations and groups under the Alaska Native Claims Settlement Act are beneath nonnavigable waters.

As the law stands now, if the land in question was conveyed to the Native corporation or group after the enactment of the Alaska Lands Act—that is, after December 2, 1980—a court action challenging a BLM determination of nonnavigability must be brought within 5 years after the conveyance. This bill before us would change that to 6 years: in other words, it would be a 1-year extension of the deadline.

At this point, a very brief review of some relevant history may provide some perspective.

This question of treatment of submerged lands in Alaska has been a very vexatious one ever since the enactment of the Native Claims Settlement Act. The problem arises from the interaction of the Settlement Act with the Alaska Statehood Act.

The gist of the problem is that under settled law, Alaska since its admission to the Union has been the owner of the lands under navigable waters in the State, with certain exceptions. However, the question of what waters are navigable is a legal one that only a court can answer for certain. Thus, as the Department of the Interior has proceeded with the transfers of land to Native corporations and groups under the Settlement Act, it has had to make decisions as to how to treat submerged lands, knowing that it stands open to being second guessed by a court.

In other words, BLM has had to decide whether to charge submerged lands inside Native selection areas against the Natives' entitlements, knowing that a court might later decide that those same lands had not been in Federal ownership since 1959, and thus that the Natives did not receive good title from the United States.

For the Natives, the unpleasant choice has been between accepting the BLM's decision, at risk of losing the submerged lands to the State, or contesting the BLM's decisions, with the consequent loss of time and money.

When we were debating the Alaska Lands Act here in the House, we attempted to resolve this by including in the House-passed Udall-Anderson bill a section which established a system similar to the procedures of the BLM Manual of Survey used in other States. Under the Udall-Anderson approach, BLM would have not charged against Native entitlements any submerged lands transferred to the Natives which were beneath lakes or streams above a certain size.

Unfortunately, the Senate did not accept this approach. Instead the Senate included in its version of the Alaska Lands Act—the version which the House ultimately had no choice but to reluctantly accept—what is now in section 901 of the act.

After enactment of the act, and even though the State had agreed to section 901, the State went into court and challenged the constitutional validity of the statutes of limitations in that section. That suit is still pending.

Next, then-Secretary Watt announced that he was going to take administrative action to address the submerged lands situation by promulgating new regulations to govern BLM's procedures for conveying lands under the Settlement Act. These regulations have been issued, but are also the subject of a pending legal challenge.

That is how we find ourselves where we are today, with the section 901 deadline for initial suits by the State to challenge submerged lands conveyances rapidly approaching.

In the Interior Committee, we have been discussing this matter for several years with the gentleman from Alaska, and it has been explored thoroughly at oversight hearings in 1982 and again in 1984. It has been and remains my strong belief that if Congress is to address this bill at all, it should do so directly and should resolve it on the merits. I think that would be better than to prolong it by measures such as extensions of the deadline.

I am reluctantly supportive of a short extension of the section 901 deadline to the extent that such an extension will afford us time to try to complete a resolution based on the merits and on mutual accommodations. I remain perfectly ready to work with the gentleman from Alaska and other interested parties to resolve this on the merits, on that basis. But this matter has dragged on far too long as it is, and if it proves impossible for us to expeditiously arrive at a legislative solution that can be generally accepted, then I would favor letting the courts resolve it however they may do so.

Mr. Speaker, I do urge enactment of this bill without any amendments. I attach a report from the Congressional Budget Office received too late to be included in our committee's report.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, December 12, 1985.

Hon. MORRIS K. UDALL,
Chairman, Committee on Interior and Insular Affairs, U.S. House of Representatives, Longworth House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 3851, a bill to amend section 901 of the Alaska National Interest Lands Conservation Act, as ordered reported by the House Committee on Interior and Insular Affairs, December 11, 1985.

H.R. 3851 would extend for one year the statute of limitations for judicial challenges to certain non-navigability determinations made by the Bureau of Land Management in connection with the conveyance of lands in Alaska pursuant to the Alaska Native Claims Settlement Act or the Alaska Lands Act. Any potential budget impact would depend on the substance and outcome of litigation that might be brought against the Department of the Interior during the extension period. CBO has no basis for predicting the extent or consequences of such litigation, and therefore cannot estimate the effect of this bill on the federal budget. However, it appears unlikely that there would be significant additional costs.

Enactment of this bill would not affect the budgets of state or local governments.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,
Sincerely,
RUDOLPH G. PENNER.

Mr. SEIBERLING. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona [Mr. UDALL]?

There was no objection.

The Clerk read the bill, as follows:

H.R. 3851

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (a) of section 901 of the Alaska National Interest Lands Conservation Act (Public Law 96-487) is hereby amended by striking the words "five years after the date of execution" each time such words occur in such subsection, and by inserting in lieu thereof in each instance the words "six years after the date of execution".

Mr. YOUNG of Alaska. Mr. Speaker, this legislation is necessary to extend a statute of limitations in the Alaska Lands Act. Unless the statute of limitations is extended, we face the filing of many lawsuits in the State of Alaska solely to preserve rights which would be barred by the 5-year deadline.

I believe there is no compelling interest in having litigation filed to meet an arbitrary deadline. I hope we will be able to settle the acreage issues next year. In the meantime, the extension in this legislation is a positive step forward. For these reasons I urge my colleagues to support this legislation.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT AMENDMENTS IN SECTION 504

Mr. UDALL. Mr. Speaker, I ask unanimous consent for the immediate consideration in the House of the bill (H.R. 2651) to amend section 504 of the Alaska National Interest Lands Conservation Act to promote the development of mineral wealth in Alaska.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

Mr. SEIBERLING. Mr. Speaker, reserving the right to object, I will be happy to give a brief summary of the bill, unless the distinguished chairman would like to do so.

Mr. UDALL. Mr. Speaker, the gentleman is better informed than the chairman and I would ask the gentleman under his reservation to give us a brief statement.

Mr. SEIBERLING. Mr. Speaker, I thank the gentleman.

Mr. Speaker, H.R. 2651, sponsored by the gentleman from Alaska, deals with Admiralty Island, AK. In particular, it addresses the provisions of section 504 of the Alaska Lands Act as those provisions apply to the Greens Creek area on the island, within the Admiralty Island National Monument but outside the portion of the monument which has been designated as wilderness.

In 1980 enactment of the Alaska Lands Act actually facilitated mineral exploration and development in that area, because it allowed the holders of certain unperfected claims to continue to explore on those claims and to attempt to perfect them. These rights were granted by the act, and would not have existed without the act because the area had been withdrawn from mineral entry by President Carter's proclamation of December 1, 1978, which established the monument. Under section 504 of the act, these rights to explore and perfect claims end next month—on December 2, the fifth anniversary of the enactment of the Alaska Lands Act.

Mr. Speaker, on Christmas Eve of last year the Acting Secretary of Agriculture sent Chairman UDALL a letter which announced that the administration intended to change the ground rules by "adjusting" the boundary of the monument so as to exclude the Greens Creek area. The effect of that, of course, would have been to overturn by administrative action the carefully crafted congressional compromise for the Greens Creek area. In Chairman UDALL's letter of January 29 of this year to the Secretaries of Agriculture and Interior, it was pointed out that this would be a clear abuse of the boundary-adjustment provisions of the act and would be directly contrary to congressional intent.

Since then, the administration has not pursued its boundary adjustment proposal. Instead, they have left the issue to the Congress, where it should have been all along, and where it could have been addressed without the delays that resulted from the administrative actions.

Mr. YOUNG's bill as introduced addressed the desire of Noranda and the other participants in the Greens Creek Joint Venture to continue to explore and perfect their Greens Creek claims. Because decisions about Admiralty Island were at the very heart of the debates on the Alaska Lands Act, it has been obvious that no far-reaching measures involving Admiralty Island can be passed if they are opposed by the various parties and groups with an interest in this subject. H.R. 2651 as introduced did not have such support and does not have it now.

However, I do believe that there is a strong possibility that a compromise can be developed which would have the support of all concerned parties and groups. Toward the goal of developing such a compromise, I have worked with the gentleman from Alaska and many others, and I believe that much progress has been achieved.

Unfortunately, we have not yet been able to forge an acceptable comprehensive settlement for the Admiralty Island issues. That does remain our goal, however, and I intend to continue to work closely with all concerned to try to achieve that goal. So far as a comprehensive bill is concerned, it remains my view that no such bill can be brought before our committee or to the floor unless it has the concurrence of all parties to our ongoing discussions.

Meanwhile, I believe that we can make a contribution to the momentum toward success by taking an interim step; namely for the House to pass Mr. YOUNG's bill with the amendment in the nature of a substitute adopted by the Interior Committee.

Mr. Speaker, this substitute has been worked out in cooperation with the gentleman from Alaska, and has his support. It does two things, and two things only:

First, it says that the Greens Creek Joint Venture can continue to hold and explore its unperfected claims in the Greens Creek area for 1 year, but without the right to perfect those claims. The effect of this is to maintain the status quo of December 1, 1985, so far as the Joint Venture is concerned, without affording them the ability to gain final ownership of any minerals in claims which they did not have perfected by December 2 of this year. The representatives of the Greens Creek Joint Venture have agreed to this arrangement, and, in fact, have requested us to adopt such a provision pending further attempts to produce a comprehensive package which might afford them the additional provisions they are seeking.

Second, the amendment would authorize and direct the Secretary of Agriculture to begin negotiations with Shee Atika, Inc., aimed at securing Shee Atika's agreement that for a period of time the Shee Atika lands on Admiralty Island would not be logged or otherwise rendered unsuitable for possible preservation as wilderness. This section would authorize the appropriation of funds necessary for the Secretary to seek and secure such an agreement. Obviously, nothing in the amendment would be binding on Shee Atika—but we would require the Secretary to at least discuss with Shee Atika an agreement aimed at maintaining the onground status quo; again, this is aimed at aiding continuing efforts to arrive at a comprehensive resolution of the Admiralty Island issues through an entirely voluntary exchange by Shee Atika of its Admiralty Island lands for other property. We have been very careful to do everything possible to structure this substitute so that it would be without prejudice to any party in any litigation, and it definitely is not intended to take any position with regard to any issue in any litigation; to read it or cite it otherwise would be erroneous and with foundation.

I attach a report from the Congressional Budget Office, received too late to be included in our committee report on this bill:

CONGRESSIONAL BUDGET OFFICE,
Washington, DC., December 12, 1985.

Hon. MORRIS K. UDALL,
Chairman, Committee on Interior and Insular Affairs, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 2651, a bill to amend section 504 of the Alaska National Interest Lands Conservation Act to promote the development of mineral wealth in Alaska, as ordered reported by the House Committee on Interior and Insular Affairs, November 20, 1985.

This bill would allow a one-year extension of certain mineral exploration permits in the Greens Creek watershed on Admiralty Island, Alaska. Based on information from the Department of Agriculture, CBO estimates that such an extension would result in no significant cost to the federal government.

In addition, the bill would instruct the Secretary of Agriculture to negotiate with Shee Atika, Inc., an Alaska native corporation with land holdings in the Admiralty Island National Monument, to reach an agreement under which Shee Atika, Inc. would preserve the wilderness character of its land. H.R. 2651 authorizes appropriation of such sums as may be necessary for this purpose.

CBO cannot precisely estimate the cost to the federal government of resource protection agreements under H.R. 2651 because the potential costs would depend on the outcome of negotiations, and the duration of such agreements is uncertain. Based on information from Shee Atika, Inc., it appears that in order to delay or halt its planned timber harvests, the corporation might require up to approximately $8 million annually in compensation for lost timber revenues and for certain costs that would be incurred if the timber were not harvested. This assumes that in the absence of any protection agreements, Shee Atika would proceed with its timber harvest beginning in the spring of 1986, as planned by the corporation. If litigation should again stall harvest plans, or if the federal government and Shee Atika should reach an agreement under which Shee Atika exchanges its Admiralty Island lands for other federal lands, federal payments to Shee Atika, Inc. for protection agreements could be significantly less. On the other hand, a land exchange might require additional federal outlays—though this bill does not authorize such an exchange.

Enactment of this bill would not affect the budgets of state or local governments.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,
Sincerely,
RUDOLPH G. PENNER,
Director.

Mr. YOUNG of Alaska. Mr. Speaker, will the gentleman yield?

Mr. SEIBERLING. I am happy to yield to the gentleman from Alaska for any additional comments he may have.

Mr. YOUNG of Alaska. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, this legislation, as the gentleman from Ohio has mentioned and the gentleman from Arizona, will extend the deadline of the Alaska Lands Act which limits development of the Greens Creek Mine project in Alaska.

It also authorizes the Secretary of Agriculture to engage in negotiations with the Alaska Native Corporation for the exchange of land held by the corporation within the national monument.

Both of these actions will help to provide an opportunity for better management of Admiralty Island.

Also, it is my hope that progress on further legislation on Admiralty Island can be made next year.

I want to compliment the gentleman from Ohio. We have communicated with the other body. We believe we are on the right track and we are very close to a final solution of this problem.

In the meantime, it is our intent that this legislation should have no effect on assisting legislation on the use of Admiralty Island.

Again, I urge rapid passage of this legislation and compliment the gentleman.

Mr. VENTO. Mr. Speaker, will the gentleman yield under this reservation?

Mr. SEIBERLING. I am happy to yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Speaker, I rise to thank my chairman, and particularly my subcommittee chairman, Mr. SEIBERLING, for their efforts on this bill and on all of the issues leading to a comprehensive resolution of complex resource management problems on Admiralty Island. I support those efforts and intend today to support the passage of this bill, even though it falls far short of the overall objective we intend to ultimately achieve.

I believe it is critical that the House understand the precise nature of this legislation and what it does, and does not do to meet the overall objectives for Admiralty Island which I and many others in the House of Representatives remain committed to resolve. Principal among those objectives, from my perspective, is for Congress to provide definitively for the rational management of the important and diverse resources of the island.

In light of the statements of Mr. SEIBERLING, and the language of the committee report, there is little reason for me to further detail the significance of Admiralty Island. Suffice it to say that even on national and international scales, Admiralty Island is unique. It represents an unparalleled opportunity for sensible protection and management of natural, scenic, scientific, fish and wildlife, wilderness, cultural, traditional subsistence and other values. There is no other place like it; Congress has recognized this fact and has already gone a long way toward the objective of protecting and enhancing these values.

But much remains to be done. In spite of past Federal enactments, as well as extensive settlement efforts, Admiralty Island remains today a legal and economic battleground which must be stilled if we provide for the long-term future of the resources and people of the island.

Beyond the principal objective of providing for the preservation and rational management of the island's resources, the specific problem is to deal with the substantial inholdings within the Admiralty Island National Monument. Beyond this concern lie numerous specific issues which relate to the owners of each major inholding on the island, the national interest inherent in protecting and expanding the monument, and the interests of the only permanent settlement on the island, the Native village of Angoon.

The development of inholdings within the Admiralty Island National Monument threatens the monument, the wilderness, and the traditional subsistence culture of the village of Angoon, and the final stronghold of the Tlingit culture. The inholdings include Noranda's mine within the Greens Creek drainage, Shee Atika, Inc.'s 23,000-acre timber holding within three separate drainages, Sealaska's corresponding subsurface inholding, and Kootznoowoo's subsurface inholding near Angoon.

After nearly 5 years of controversy, litigation, and settlement efforts, the opportunity to eliminate or consolidate these holdings and protect the monument from the adverse effects of development is at hand. The relevant parties have been negotiating the details of an exchange/consolidation proposal for nearly a year, but this long overdue resolution unfortunately could not be brought to a conclusion this year. So, instead of a comprehensive solution to all of the inholding problems, the committee has reported a separate bill that maintains the interest of two parties involved in the negotiation process, the Noranda Mining Co. and Shee Atika Inc.

Several points should be made about the decision to proceed now on an abbreviated and piecemeal approach rather than waiting for the comprehensive resolution which is so critical. First, the benefits being conferred on Noranda and Shee Atika Inc. in H.R. 2651 are real and substantial. Noranda, a Canadian mining company which is developing a potentially significant mine on Admiralty Island under the terms established in the Alaska National Interest Lands Conservation Act, is given protection in H.R. 2651 against the presumptive abandonment of unperfected mining claims within a portion of the area potentially to be mined, rather than losing those claims under existing provisions of law. In addition, they are given additional time to apply for new exploration permits in the same area. While this bill does provide that claims under either provision may not be perfected, and that the Government retails full ownership rights, these provisions nonetheless yield to Noranda the important opportunity, beyond existing provisions of law, to continue to explore and make critical resource development decisions on claims in this area.

Shee Atika Inc., the village corporation representing the Natives of Sitka, Alaska, is given the opportunity to reach an accord with the Federal Government, through the Department of Agriculture, in which Federal compensation would be provided in exchange for an agreement not to develop Shee Atika's inholding within the Admiralty Island Monument during a period in which the comprehensive settlement of inholdings on the island might be resolved. Although this agreement is subject to appropriations, it is nonetheless an important opportunity for the Shee Atika Corp. to be compensated during the negotiations for a comprehensive settlement. Such development would be, to say the least, economically and legally problematical due both to the condition of the timber market and the litigation and judicial decisions which are well described in the committee report.

As a result, these benefits to two parties in interest on Admiralty Island are not insubstantial. Nor are they given to either party, at least from my perspective, without substantial expectation by Congress that meaningful good faith negotiations will continue and reach a fair conclusion.

These expectations, in summary, are that both parties, will return to the negotiating table ready to work with all parties involved to frame a comprehensive settlement which Congress can consider early in 1986. The stakes on Admiralty Island are too high, and the opportunity for a comprehensive settlement too close, to be jeopardized by these short-term measures unless adequate assurance and commitment remain in place from all parties to a comprehensive resolution. I do not want Noranda to wait until its 1-year extension has run its course before it returns to the negotiating table. Nor do I want Shee Atika to wait until any agreement it reaches runs out.

I proceed on the assumption that all parties to the negotiations thus far have given such assurance that they will continue negotiating in the Senate under the same principles that have been followed in the House. And I am further assured that Alaska's Senators, in conversations with the chairman, have also joined in this assurance. It is, to be certain, the fundamental reason for my support of H.R. 2651 at this time. If this opportunity to achieve a comprehensive settlement is to be realized, much remains to be done, and quickly.

I am troubled the negotiation process for a comprehensive settlement did not begin much earlier. The need for a comprehensive solution has been known to all parties and to the Senate for nearly a year. There have been signals that no comprehensive solution can be achieved unless the Alaska timber industry is given additional protection, even though numerous proposed solutions have been demonstrated to have no effect on that industry.

It appears that the Alaska timber industry, although not an essential party to this issue is nonetheless attempting to block the comprehensive settlement. Until this problem is resolved, promises of future negotiations do not appear any different from the negotiations of the past year. I believe the comprehensive solution should first be fashioned by the parties. Then, if there is any real effect on the timber industry, the problem should be addressed at that time.

The committee has been told by the timber industry, that it seeks first, a $10 million "administrative fee" for allowing the Federal Government to convey cutover lands on Kuiu Island to Shee Atika, Inc. The industry also has sought changes in the Tongass timber fund, which is $40 million annually, or whatever is necessary to maintain the industry at a 4.5 billion boardfeet harvest per decade. They have requested that approximately $20 million annually be spent on preroading roadless areas in the Tongass. These proposals are of significant concern because they would adversely affect remaining areas that may some day be added as wilderness. As important, it is my understanding that the roads simply are not necessary. The Forest Service even now is not able to sell all the timber it is offering from the Tongass Forest.

These demands and other actions have shadowed and unnecessarily burdened the negotiations toward a comprehensive settlement of Admiralty Island problems. Resolution of the problem exclusive of the timber industry is possible. However, if effects on the timber industry are conclusively demonstrated, then they can be addressed at that point.

Beyond this, I reiterate my thanks to my chairmen for their continued attention to this problem, and indicate my strong encouragement to the many parties involved to initiate negotiations early in the new year, and to bring us a comprehensive settlement at an early date.

Mr. YOUNG of Alaska. Mr. Speaker, this legislation will extend a deadline in the Alaska Lands Act which limits development of the Greens Creek Mine project in Alaska. It also authorizes the Secretary of Agriculture to engage in negotiation with an Alaska Native corporation for the exchange of lands held by the corporation within a national monument.

Both of these actions will help to provide an opportunity for better management of Admiralty Island. Also, it is my hope that progress on further legislation on Admiralty Island can be made next year.

In the meantime, it is our intent that this legislation should have no effect on existing litigation over the use of Admiralty.

Mr. SEIBERLING. Mr. Speaker, I just would like to add that we are proceeding with this bill today because also we have received assurances from the other members of the Alaska delegation in the other body, as well as from the chairman of the applicable subcommittee, the gentleman from Wyoming, Senator WALLOP, that if we do act today on this short form bill that they will not object to taking it up in the other body. Otherwise, there would not have been any point in doing it at this time.

Mr. Speaker, with those comments, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The Clerk will read the bill, as follows:

H.R. 2651

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 504 of the Alaska National Interest Lands Conservation Act (94 Stat. 2403) is amended by adding a new subsection (k) at the end thereof:

"(k)(1) As provided in this subsection, the Secretary of Agriculture shall issue the holder of any property located, recorded and maintained unperfected claim within the approximately nine thousand eight hundred and ninety acre area of the Admiralty Island National Monument, as generally depicted on a map of the area dated May 15, 1985, at the holder's request, an exploration permit subject to all the conditions of this section except subsections (c)(1), (c)(2), and (d)(3). Such permit shall be for the term of five years, with renewal periods of five years to be granted so long as the applicant submits any plan for exploration required by the Secretary. Such permit shall in all cases terminate no later than midnight, December 31, 2020.

"(2) Before the Secretary issues any permit for a period terminating after December 2, 1985, the holder of a claim or claims shall relinquish to the United States all rights to receive a patent to the fee title in any land upon which a claim or claims are located within the Monument, and evidence of such relinquishment shall be provided to the Secretary.

"(3) For any claims for which patent rights to fee title are relinquished under subsection (2) or for which valid discovery has been made or is made within the meaning of the mining laws of the United States during the term of any exploration permit, the holder of such claims shall be entitled to a patent to the minerals within such claims.".

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. UDALL

Mr. UDALL. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk, read as follows:

Amendment in the nature of a substitute offered by Mr. UDALL: Strike all after the enacting clause and insert:

SECTION 1. As used in this Act, the term "the Act" means the Alaska National Interest Lands Conservation Act (Public Law 96-487).

SEC. 2. (a) Section 504 of the Act is hereby amended as follows:

(1) by adding the following after the words "two-hundred-seventy days after the date of the enactment of this Act" in subparagraph (A) of paragraph (1) of subsection (c): "(or, with respect to an unperfected claim within the Greens Creek watershed portion of the Admiralty Island National Monument, within five years and three months after the date of the enactment of this Act)".

(2) by striking the period at the end of subparagraph (A) of paragraph (2) of subsection (c) and by inserting in lieu thereof the following: "or subparagraph (c)(2)(C)".

(3) by adding a new subparagraph (C) after subparagraph (B) of paragraph (2) of subsection (c) as follows:

"(C) Any permit to explore an unperfected mining claim within the Admiralty Island National Monument during the period beginning on the date five years and one day after the date of enactment of this Act shall terminate on the date six years after the date of enactment of this Act."

(4) by striking the words "before the expiration of such permit" from paragraph (1) of subsection (e) and by inserting in lieu thereof the words "on or before the date five years after the date of enactment of this Act".

(5) by striking the words "upon the expiration of such permit" from paragraph (2) of subsection (e) and by inserting in lieu thereof the words "at midnight, December 2, 1986."

(6) by adding the following new paragraph (3) at the end of subsection (e):

"(3) No patent of any type shall be issued under this subsection with respect to any unperfected mining claim with regard to which the holder thereof has not notified the Secretary pursuant to paragraph (1) of this subsection on or before the date five years after the date of enactment of this Act."

(b) Section 504 of the Act is hereby amended by adding at the end thereof a new subsection (k) as follows:

"(k) PROTECTION AGREEMENTS—(1) Subject to the availability of necessary appropriations, the Secretary shall undertake to ne-

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gotiate an agreement acceptable to and binding on Shee Atika, Inc., its successors and assigns, whereby it is agreed that during the term of such agreement there shall occur on lands within the boundary of the Admiralty Island National Monument which as of October 1, 1985, were owned by Shee Atika, Inc., no harvesting of timber, construction of roads, or any other activities which would impair the suitability of such lands for preservation as wilderness.

(2) During the period an agreement as described in paragraph (1) is in effect the requirements of Corps of Engineers permit No. 071-OYD-2-810133, Chatham Strait 92 shall be suspended so far as such requirements are applicable to lands subject to such an agreement.

(3) After the execution of the agreement described in paragraph (1) of this subsection, and subject to the availability of necessary appropriations, the Secretary shall undertake to execute similar agreements acceptable to and binding on Shee Atika, Inc., its successors and assigns, for periods after the expiration of the agreement described in paragraph (1). The provisions of paragraph (2) shall apply during the period any agreements executed pursuant to this paragraph are in effect.

(3) The Secretary is authorized to execute agreements similar to the agreement described in paragraph (1) with regard to any lands within the boundaries of the Admiralty Island National Monument which are owned by an entity other than the United States.

Mr. UDALL (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The **SPEAKER** pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from Arizona [Mr. UDALL].

The amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

AUTHORIZING PRINTING OF BICENTENNIAL EDITION OF BIOGRAPHICAL DIRECTORY OF THE U.S. CONGRESS

Mr. FOLEY. Mr. Speaker, by direction of the Committee on House Administration, I call up Senate Concurrent Resolution 85 and ask for its immediate consideration.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 85

Resolved by the Senate (the House of Representatives concurring), That (a) the Joint Committee on Printing shall compile and print as a Senate document, with illustrations, and in such style and form as may be directed by the Joint Committee on Printing, a revised edition of the Biographical Directory of the American Congress up to and including the One Hundredth Congress (1774-1989).

(b) With respect to the compilation of the directory authorized by subsection (a)—

(1) the Historian of the Senate shall be responsible for providing to the Joint Committee on Printing the biographical data for Members of the Senate and for individuals who have served in both the House of Representatives and the Senate; and

(2) the Historian of the House of Representatives shall be responsible for providing to the Joint Committee on Printing the biographical data for Members of the House of Representatives and Delegates.

(c) The Joint Committee on Printing shall print seven thousand nine hundred and eighty-five copies of the directory, of which—

(1) two thousand and forty-five copies shall be for the use of the Senate;

(2) five thousand three hundred and ninety copies for the use of the House of Representatives; and

(3) five hundred and fifty copies for the use of the Joint Committee on Printing.

(d) The edition of the Biographical Directory of the Congress prepared pursuant to this resolution is prepared in celebration of the Bicentennial of the United States Congress and shall be known as the "Bicentennial Edition of the Directory of the United States Congress".

SEC. 2. There is authorized to be appropriated to the Joint Committee on Printing such sums as may be necessary for the employment of personnel and the payment of expenses to carry out the provisions of this resolution.

COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

The **SPEAKER** pro tempore. The Clerk will report the committee amendment in the nature of a substitute.

The Clerk read as follows:

Committee amendment in the nature of a substitute:

Strike out all after the resolving clause and insert:

That (a) the Joint Committee on Printing shall publish and there shall be printed as a Senate document (with such illustrations and in such style and form as may be directed by the Joint Committee on Printing) a revised edition of the Biographical Directory of the American Congress for the period ending with the One Hundredth Congress (1774-1989). In celebration of the Bicentennial of the United States Congress, the revised edition shall be known as the "Biographical Directory of the United States Congress, 1774-1989: Bicentennial Edition".

(b) The Historian of the Senate and the Historian of the House of Representatives shall provide appropriate biographical data and other material for the revised edition, including data for—

(1) Senators and individuals who have served in both the Senate and the House of Representatives, to be provided by the Historian of the Senate; and

(2) Members of the House of Representatives (including Delegates and Resident Commissioners), to be provided by the Historian of the House of Representatives.

(c) In addition to the usual number, there shall be printed 7,985 copies of the revised edition, of which 2,045 copies shall be for the use of the Senate, 5,390 copies shall be for the use of the House of Representatives, and 550 copies shall be for the use of the Joint Committee on Printing.

Mr. FRENZEL (during the reading). Mr. Speaker, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read and printed in the RECORD.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The **SPEAKER** pro tempore. The question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

Mr. FOLEY. Mr. Speaker, this concurrent resolution, sponsored by the Honorable CHARLES MCC. MATHIAS, JR., authorizes the publication and printing of a new edition of the Biographical Directory of the United States Congress, entitled the "Biographical Directory of the United States Congress, 1774-1989: Bicentennial Edition." This directory not only marks the first time that professional historians have reviewed, complied, edited, and proofed the biographical data for Senators and Representatives, but it further serves to commemorate the approaching bicentennial of the U.S. Congress, to be celebrated in 1989. The most recent of the previous editions was published in 1971, and has proven invaluable to Members of Congress, students, writers, and the academic community generally, as well as the press.

The Government Printing Office estimates that the cost of this publication will be approximately $299,581.93 for the 7,985 extra copies which are authorized to be printed under this concurrent resolution.

Senate Concurrent Resolution 85 represents a collective effort on the part of the Committee on House Administration, the Senate Committee on Rules and Administration, the Joint Committee on Printing, the Historian of the House of Representatives and the Historian of the Senate, and is a valuable historical document of which the Congress can be proud.

The Senate concurrent resolution was concurred in.

The title was amended so as to read: "Concurrent resolution authorizing printing of the Biographical Directory of the United States Congress, 1774-1989: Bicentennial Edition.".

A motion to reconsider was laid on the table.

AUTHORIZING PRINTING OF PROCEEDINGS OF PORTRAIT UNVEILING CEREMONY OF HON. JAMIE L. WHITTEN

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the Committee on House Administration be discharged from further consideration of the resolution (H. Res. 308), authorizing printing of the proceedings of the portrait unveiling ceremony of the Honorable Jamie L. Whitten, and ask for its immediate consideration.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

The Clerk read the resolution, as follows:

H. Res. 308

Resolved, That the proceedings of the portrait unveiling ceremony of the Honorable Jamie L. Whitten, chairman, Committee on Appropriations, which occurred on September 20, 1984, be printed as a House document, with illustrations and suitable binding.

Sec. 2. In addition to the usual number, there shall be printed, for the use of the Committee on Appropriations, six hundred and fifty copies of such document, of which one hundred and fifty copies shall be casebound.

Mr. FOLEY. Mr. Speaker, this resolution authorizes the printing, as a House document, of the transcript of proceedings of the Committee on Appropriations of September 20, 1984, incident to the presentation of the portrait of the Honorable JAMIE L. WHITTEN. In addition to the statutory usual number, there shall be printed, for the use of the Committee on Appropriations, 650 copies of this document, of which 150 shall be casebound.

The Government Printing Office estimates that the cost of this printing will be $2,329, including both the statutory amount and the amount allotted to the Committee on Appropriations.

This resolution represents a customary request that such proceedings be appropriately memorialized.

The resolution was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING PRINTING OF TRANSCRIPT OF PROCEEDINGS OF COMMITTEE ON RULES INCIDENT TO PRESENTATION OF PORTRAIT OF HON. CLAUDE DENSON PEPPER

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the Committee on House Administration be discharged from further consideration of the resolution (H. Res. 321), authorizing printing of the transcript of proceedings of the Committee on Rules incident to presentation of a portrait of the Honorable Claude Denson Pepper, and ask for its immediate consideration.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

The Clerk read the resolution, as follows:

H. Res. 321

Resolved, That the transcript of proceedings of the Committee on Rules on November 14, 1985, incident to presentation of a portrait of the Honorable Claude Denson Pepper to the Committee on Rules, shall be printed as a House document with illustrations and suitable binding.

Sec. 2. In addition to the usual number, there shall be printed, for the use of the Committee on Rules, 390 copies of such document, of which 90 copies shall be casebound.

Mr. FOLEY. Mr. Speaker, this resolution authorizes the printing, as a House document, of the transcript of proceedings of the Committee on Rules of November 14, 1985, incident to the presentation of a portrait of the Honorable CLAUDE PEPPER to that committee. In addition to the statutory usual number, there shall be printed, for the use of the Committee on Rules, 390 copies of the document, of which 90 copies shall be casebound.

The Government Printing Office estimates that the cost of this printing will be $3,203.72, including both the statutory number and the number allotted to the Committee on Rules.

This resolution represents a customary request that such proceedings be appropriately memorialized.

The resolution was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING PRINTING OF ADDITIONAL COPIES OF "DEFENSE ORGANIZATION: THE NEED FOR CHANGE"

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the Committee on House Administration be discharged from further consideration of the Senate concurrent resolution (S. Con. Res. 80), to authorize the printing of 2,000 additional copies of the Committee Print of the Committee on Armed Services (99th Congress, 1st Session) entitled "Defense Organization: The Need for Change," and ask for its immediate consideration.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. Con. Res. 80

Resolved by the Senate (the House of Representatives concurring), That there shall be printed 2,000 additional copies of the Committee Print of the Committee on Armed Services (99th Congress, 1st Session) entitled "Defense Organization: The Need for Change", to be furnished to the Committee on Armed services.

Mr. FOLEY. Mr. Speaker, This Senate concurrent resolution authorizes the printing of 2,000 additional copies of the committee print of the Senate Committee on Armed Services entitled "Defense Organization: The Need for Change," (99th Congress, first session).

The Government Printing Office estimates that the cost of this printing will be $11,694, for the 2,000 copies.

The Senate Committee on Armed Services has requested this printing due to their allocation being exhausted and a continuing demand for the publication.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

AUTHORIZING PRINTING OF ADDITIONAL COPIES OF "1984: CIVIL LIBERTIES AND THE NATIONAL SECURITY STATE"

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the Committee on House Administration be discharged from further consideration of the concurrent resolution (H. Con. Res. 230), authorizing printing of additional copies of the transcript of hearings entitled "1984: Civil Liberties and the National Security State," and ask for its immediate consideration in the House.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. Con. Res. 230

Resolved by the House of Representatives (the Senate concurring), That there shall be printed, for the use of the Committee on the Judiciary of the House of Representatives, 500 additional copies of the transcript of hearings before the Subcommittee on Courts, Civil Liberties, and the Administration of Justice, entitled "1984: Civil Liberties and the National Security State".

Mr. FOLEY. Mr. Speaker, this concurrent resolution authorizes the printing of 500 additional copies of the transcript of hearings before the Subcommittee on courts, Civil Liberties, and the Administraton of Justice, entitled "1984: Civil Liberties and the National Security State," for the use of the Committee on the Judiciary.

The Government Printing Office estimates that the cost of this printing will be $17,717, for the 500 copies.

This additional printing has been requested by the Honorable Peter W. Rodino, Jr., in order to meet the demand they have for this document. Not only has this publication been helpful to Members of Congress, congressional staff, and executive branch personnel, but it also provides a reference work useful to students, academi-

cians, libraries, the judiciary, and other interested parties.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

ACCURACY IN HOUSE PROCEEDINGS RESOLUTION

(Mr. FOLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOLEY. Mr. Speaker, I wish to focus the attention of the Members, briefly, on House Resolution 230, previously agreed to by the House, providing that, for the remainder of the first session of the 99th Congress, there should be a substantially verbatim account of House proceedings in the CONGRESSIONAL RECORD which should be clearly distinguishable by a different typeface from remarks not spoken, but inserted under leave to extend.

Mr. Speaker, it is most important to note that House Resolution 230 provided for this change only for the remainder of the first session of the 99th Congress.

Since the beginning of September 1985, the CONGRESSIONAL RECORD has reflected the change authorized by House Resolution 230; an alternate typeface replacing the "bullet" symbol. Pursuant to the provisions of the resolution, the Joint Committee on Printing [JCP] has been monitoring the change, and gathering comments, both positive and negative, which have been forthcoming.

In addition, the Joint Committee on Printing was requested to report its findings to the Committee on House Administration, no later than December 31, 1985, with the House Administration Committee being charged with the duty to report, as soon as practicable after receipt of the JCP report, the committee's findings and recommendations as to whether the rule, as revised, should be continued.

Due to time constraints at this point in the session, and because the Joint Committee on Printing has not yet completed their collection of findings on this matter, it is the intent of Mr. LOTT and myself, cosponsors of this resolution, to request of the JCP an extension of the new rule, promulgated pursuant to House Resolution 230. Pending a report by the JCP, it would be imprudent to return to the "bullet" symbol, for a brief time, if there even is the possibility that the House Administration Committee should decide to request a permanent change in the rule.

This extension is requested until such time as the JCP may report to the Committee on House Administration and until time as House Administration has the opportunity to fully study and report its well-considered findings, as required by House Resolution 230.

In this regard, Mr. LOTT and I intend to submit a letter to Chairman ANNUNZIO, of the Committee on House Administration, requesting his approval of such an extension; with an ensuing letter from the Committee on House Administration to Senator MATHIAS, the chairman of the Joint Committee on Printing, for the approval of the Joint Committee on Printing.

It is extremely important that a sufficient amount of time be allowed for the parties in interest to fully study the effects of this change in the CONGRESSIONAL RECORD or the entire effort will have been in vain. The CONGRESSIONAL RECORD is a valued tool of the Congress, and every effort should be extended to ensure the best possible publication.

Mr. LOTT. Mr. Speaker, I am joining with the distinguished majority whip [Mr. FOLEY] in asking the chairman of the House Administration Committee to request a temporary extension in the second session of our new CONGRESSIONAL RECORD rule.

As my colleagues may recall, earlier this year I offered a privileged resolution in the House calling for an investigation of some inaccuracies in the CONGRESSIONAL RECORD relating to the so-called "bulleting" procedure. Under that procedure, remarks that were only inserted were set off by bullets or dots to distinguish them from remarks that were at least partially delivered.

The House Administration Committee investigated my complaint and reported a resolution I had recommended that now requires any remarks not actually delivered to be in a different typeface.

The House adopted that new rule, House Resolution 230, just prior to the August recess and the experiment has been running in the House since September. Under the terms of the resolution, the rule will sunset at the end of this session unless specifically renewed following an evaluation by the Joint Committee on Printing and recommendation by the House Administration Committee.

Mr. Speaker, our distinguished majority whip, who is also chairman of the Subcommittee on Printing of the House Administration Committee and prime sponsor of the new rule, is asking that the rule be temporarily extended into the second session pending the final report from the joint committee and recommendation of House Administration. I concur in that request in order to ensure no lapse in the rule and urge any colleagues who do have comments on the new rule to forward them to the Joint Committee on Printing as soon as possible.

Mr. FRENZEL. Mr. Speaker, will the distinguished majority whip yield?

Mr. FOLEY. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Speaker, the minority members of the House Administration Committee want to salute the good work of both distinguished whips and to congratulate them for their cooperation and to say that in general we support their request and the statement which the gentleman from Washington [Mr. FOLEY] has just made.

GENERAL LEAVE

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of this 1-minute speech.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

THE TACTICS OF GRAMM-RUDMAN

(Mr. SMITH of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Florida. Mr. Speaker, I came here this morning to give a 1-minute speech on a bill that I was going to drop in the hopper today, called the Drug Enforcement Amendments Act of 1986, which takes three provisions, and makes the law a little tougher on designer drugs, on people who use minors to distribute drugs, and on the chemicals that are used to process coca paste into cocaine. My colleagues, I hope will read the bill and join me.

I am going to deviate from my previously planned speech on this bill because some of the outrageous comments I have heard from the other side today need to be responded to.

The gentlewomen from California talks to those people who, if they itemize, will lose their $2,000 standard deduction. What claptrap. What it is, is that if you itemize, you get a $1,500 exemption, which is $300 higher than the law allows now. Misinformation on which maybe they base their decision and which they should review.

The gentleman from Florida, my good friend Mr. MACK, talks about the small document, Gramm-Rudman, which we debated for 2½ months and the large document, tax reform, which we did not debate at all. Quite honestly, that is such claptrap it is pathetic.

The Gramm-Rudman document was never debated before the Senate voted on it; no Senator had an opportunity whatsoever except Mr. GRAMM and Mr. RUDMAN and Mr. HOLLINGS to even look at it; and this body has never had it debated, because it was shoved down our throats by the other body, tied to the deficit increase for the debt ceiling extension.

Those are the kinds of tactics which are being used. I think we ought to look at the tax reform bill; everybody knows that's in it; and we ought to do the right thing and get tax reform, and stop listening to the nonsense of the other side.

DRUG ENFORCEMENT AMENDMENTS ACT OF 1986

Mr. Speaker, in 1984 Congress provided to law enforcement officers new weapons in the war on illegal drugs. I strongly supported this effort.

As Chairman of the International Narcotics Task Force and a member of two other committees that deal with the drug problem, I continually learn that additional antidrug laws still are needed.

Today, I am introducing a three-part bill that I call the Drug Enforcement Amendment Act of 1986. This proposal is not a cure all, but it will close up a few more loopholes through which the pushers have been wiggling.

Section 2 of the bill would impose stiffer sentences on individuals who use minors to distribute controlled substances. Specifically, it impose a penalty of up to twice the regular fine or prison sentence on any adult who commands, induces, or procures a minor knowingly to distribute drugs. For a second such offense, the penalty would be between 5 years and life and at least three times any special parole term. The sentence shall not be suspended and probation cannot be granted.

This section supplements a provision that Congress approved in 1985. Section 502 of the Comprehensive Crime Control Act of 1984 (P.L. 98–473) created a new penalty for the distribution of drugs within 1,000 feet of a school. This is good as far as it goes.

But, pushers also can be found in parks and playgrounds, and they may set up shop in developments that house families. In either of these instances, the pusher may lure—for money or drugs, or out of fear—minors to deliver their drugs and collect the money. After all, children are less conspicuious than adults in most areas.

My provision parallels for the most part the language that Congress approved in 1984 and would eliminate and unfortunate loophole.

Section 3 gives our law enforcement officers power to control so-called designer drugs. Designer drugs are analogs of perfectly legal compounds, but they often are more harmful than heroin or other illicit drugs. Virtually anybody with a modest knowledge of chemistry and a few common chemicals can alter slightly the molecular structure of a controlled substance, thereby creating what now is a legal drug.

In brief, this section makes it illegal to manufacture or distribute designer drugs for human consumption. The term "designer drug" is defined carefully. Violation of this law could lead to a punishment of up to 15 years and/or a $250,000 fine.

Section 4 deals with a continuing problem in the drug trade—control over the chemicals used to create or process illegal drugs. Generally, these chemicals have legitimate commercial uses, but they easily can be diverted to illicit uses. For example, ethyl ether and acetone are used to process cocaine. As more and more cocaine laboratories are being found in this country, we must develop some controls to limit to the maximum extent practicable the diversion of legal chemicals.

This section directs the Attorney General to study the need for methods to control such diversion and to report his findings to Congress. The Drug Enforcement Administration knows which chemicals need to be controlled, and I expect the Attorney General to include within this study all chemicals that now are diverted. I also hope that his report would include recommendations for procedures to deal promptly with any chemicals that may in the future be diverted to illicit uses.

As the war against drugs continues, the weapons of the drug traffickers change almost daily. The weapons that law enforcement officers use to protect us also should change to meet the continuing threat to our society.

CONGRESSMAN PEPPER REMAINS OPPOSED TO GRAMM-RUDMAN

(Mr. PEPPER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, on October 16, as a member of the conference between the House and the Senate on House Joint Resolution 372, known as the Gramm-Rudman resolution, I stated my opposition to that resolution. I concluded my remarks by saying, "We will long regret it if we allow this process to go to its ultimate termination as contemplated in this resolution." I added, "and I regret to see this scar upon the escutcheon of our legislative integrity." That is the way I felt on the opening day of the conference; that is the way I felt last night when I voted against this resolution. That is the way I feel today.

Mr. Speaker, the remarks to which I have referred to follow:

It is an honor to be a member of this distinguished conference. But I believe the approach that is made by this resolution is unfair to the House of Representatives and violates the due process of democracy in America.

The Constitution says that all legislative power shall be vested in a Congress which shall consist of a Senate and a House of Representatives. Now we are in a conference—a conference on what? A conference is generally described as a procedure by which differences between the House and Senate are reconciled by members representing the respective bodies.

But here we had to go to conference on the Senate amendment or appear before the public as not being interested in reducing the deficits, not appreciating its significance to America at the present time; so we had to bow down and put the ring in our nose and come trooping in to keep from being branded as not interested in reducing the national deficit.

Well, we are not the only ones that are responsible for that deficit. The administration, I don't know how many hundreds of billions of dollars it has reduced the Federal revenue since it has been in power. It created a deficit of $180 billion in 1981, by increasing expenditures for the defense of $90 billion and reduction of Federal revenue by $90 billion. The President has told us we can't even pass a minimum tax which will require corporations making $2 or $3 billion a year from defense work to pay a minimum tax because the President says he doesn't want that, it would make him a liar.

He said there weren't going to be any new revenues. It is one thing for the President to reserve his political integrity as he says it, it is another thing to deny the Congress the right to provide for America, which he has denied us the right to do. If the President will give us reasonable freedom of action to include at least a minimum tax, if not some additional revenue, then this group gathered here this afternoon, can balance the budget within a much shorter period of time than six years. We can do it within 30 days. I would hope that rather than at a time when democracy in the world in on trial, the Congress of the U.S., which we look to with pride, as the citadel of democracy, is having to admit that it has failed in its exercise of its Constitutional power; and we have to have the President come and rescue us to make us do what we should have done but won't do.

I am not willing to make that admission on the incapacity of the Congress of the U.S. to do its duty, and what I would like to see, Mr. Chairman, is this: this is the best leadership we will ever get together from the two Houses. Instead of spending all of our time with the resolution that is before us, this amendment that has been pushed upon us, let this group consider this as a time of conference in order to adopt a reasonable proper program for reducing the deficit, including passing legislation requiring the payment of a minimum tax for everybody to get necessary additional revenue, and if the President wishes to veto that, the American people would see who it is that is preventing the improvement of the situation of the deficit.

We will long regret it if we allow this process to go to its ultimate termination as contemplated in this resolution and I regret to see this scar upon the escutcheon of our legislative integrity.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair announces that we will be proceeding to special orders with the understanding that, without prejudice, we may return to the regular legislative schedule if need be.

INTRODUCTION OF AEROSPACEPLANE RESOLUTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas [Mr. GLICKMAN] is recognized for 5 minutes.

Mr. GLICKMAN. Mr. Speaker, today I am introducing a resolution in support of expedited development of a technology which I feel will revolutionize our concepts of aviation and space. With the recent advances in materials, propulsion and systems integration technologies, we are now on the verge of bridging the gap between aviation and space through the development of the first aerospaceplane, an aircraft capable of taking off from any standard runway, such as at Dulles Airport, and flying directly into space. A slightly different version, designed for air transport, would be capable of flying 300 to 500 passengers from the United States to China in 2 hours. Imagine what this new "Orient Express" could do to open up trade with the Pacific Rim nations and the rest of the world. Our concepts of time and distance would be forever changed, just as it was as we moved from horses to the automobile, or from trains to airplanes.

Mr. Speaker, NASA and the Defense Department have indicated that a prototype of this new generation of "aerospaceplane" could be flying by the early 1990's. With this effort, the United States would leap over the current generation of supersonic transports and literally launch American aviation into space. Perhaps the most important result will be assuring U.S. leadership in aerospace technology for years to come. Let the rest of the world work on building a miniature version of the shuttle while we go directly for the next generation of aerospace vehicles.

Mr. Speaker, the resolution I am introducing today expresses the support of the House of Representatives for a national program of hypersonic aircraft research and technology development, and calls for NASA, in consultation with other Government agencies, to submit their plan for such a program to the appropriate committees of Congress. With the support of Congress, the expertise of NASA and the Defense Department, and the energy of the U.S. aerospace industry, we will be able to move the world into the 21st century. I urge my colleagues to join us in this effort.

PERSONAL EXPLANATION

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. PEPPER] is recognized for 5 minutes.

Mr. PEPPER. Mr. Speaker, I was unavoidably absent on Wednesday morning, December 11, 1985, for rollcall No. 448. At the time of the rollcall approving the Journal of December 10, 1985, I was conducting a hearing on doctors' fraudulent credentials. Had I been present, I would have voted "aye."

TORTURE IN IRAN

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from California [Mr. DYMALLY] is recognized for 5 minutes.

Mr. DYMALLY. Mr. Speaker, some months ago I urged my colleagues to sign a letter in support of the resistance movement in Iran. Almost immediately after that letter was circulated, the State Department issued a brief identifying the resistance as anti-American, terroristic, and Marxist. I regret that the State Department brief intimidated me, and I stopped giving vocal support to the resistance.

Last night I had cause to reconsider. I was visited by three of the Ayatollah Khomini's torture victims. Two of the three are young women. By some miracle, they escaped Iran. But their bodies and their minds will never be free of the damage inflicted by the Ayatollah's agents. We hear so little of Iran here these days. I suspect we want not to hear of Iran, remembering our humiliation there. But I want to tell my colleagues what I saw last night because our looking the other way has allowed unspeakable atrocities to go on unchecked. If we have any compassion for our fellow human beings, we cannot continue to sooth ourselves by averting our gaze.

The two women had been school teachers in Iran. One of the women, on first glance, seemed not to have been hurt physically by the torture. But first appearances are deceiving. She said that her lip had been torn loose in the process of the torture. Only then did I see that her lower lip was held in place by scar tissue. I was sitting at an angle from her. When she turned her face to me and said her nose had been broken twice, I saw from the front that her nose was twisted in an S shape.

But those afflictions were minor compared to what followed. She undid the top button of her blouse to reveal large, red, round scars covering her chest. For 5 hours, she had been burnt with cigarettes. Every time she lost consciousness, she was revived so that she would experience the pain of each new burn. She described a game her persecutors called soccer wherein she was the ball. When the game was concluded, the players shoved her face into broken glass. To guard her face, she raised her arms which were severly cut and now bear long, sharp scars.

But the physical pain she endured may well not compare to the mental pain they inflicted on her. I still shudder to think of this. They brought her students to her one by one and executed them as she watched.

The other teacher is confined to a wheelchair. I wondered to myself whether surgery or therapy might enable her to walk someday. It soon became obvious that no therapy was going to help this woman. You see, she had no leg. What I thought was her leg was a prosthesis covered with a stocking and a shoe. Her leg had been hacked off with a machete. She told me she watched the Ayatollah's agents playing with her severed leg as though it were a football. Last night I saw terrorism in the flesh.

The man was quiet and spoke only at the end. He took a black and white family photograph from a small, red folder and handed me the picture saying in a low, choked voice that the photo was of his wife and 2-year-old child. He explained that his wife had recently been executed. And his child, his 2-year-old child, is at this moment imprisoned in Iran. Gentlemen and gentlewomen, this is terrorism. The three people I talked to are the lucky ones. They escaped. Since 1981, 50,000 others have not been so fortunate. They have been executed; 140,000 political prisoners are now held and tortured in Khomeini's prisons. What will be their final fate?

These acts I have described are anti-American in a fundamental sense: They are the antithesis of the principle of freedom that is the bedrock of our Nation. But more than being anti-American, these atrocities are crimes against humanity.

I call on the State Department to reexamine its position toward the resistance movement in Iran. Perhaps in this reexamination the officials of the State Department will find that the label of "terrorist" might better be applied to the Government of Iran rather than to the resistance. Perhaps in this reexamination the State Department will discover a group of true freedom fighters.

□ 1730

AMERICAN INTERESTS ARE BEING THREATENED BY COMMUNISTS IN THE PHILIPPINES

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. LIPINSKI] is recognized for 5 minutes.

Mr. LIPINSKI. Mr. Speaker, I rise tonight to bring to the attention of my colleagues a speech which I gave before a group of political science graduates in my district concerning United States-Philippine relations. In wake of the fact that the Republic of the Philippines will be holding its first Presidential election in over 15 years, I believe it is appropriate to examine the principles which are key to American interests in Asia.

The United States has both major political and strategic interests at stake in the Philippines. As a former colonial power, the United States has probably closer ties with the Philippines than with any other Asian country. Most importantly, the United States maintains major air and naval facilities at Clark Field and Subic Bay. The post-1975 Soviet military presence in Vietnam has given these two bases added significance for balancing the military power in Asia.

Currently American interests are being threatened by a rapidly growing Communist insurgency that threatens the 20-year rule of Ferdinand Marcos and aims to install a Marxist, anti-United States regime. United States concern is shared by Manila's Southeast Asian neighbors, who see Philippine stability and the United States bases as crucial to the overall security of the region.

The Communist-led Now People's Army [NPA] has grown from a minor presence in the 1970's to a number now estimated at over 30,000 armed guerrillas. The NPA, in conjunction with the Communist Party of the Philippines [CPP], controls or is contesting control of settlements inhabited by at least 10 million people. The recent and rapid growth of these Communist groups can be directly attributed to their skillful exploitation of a growing number of popular grievances against the Marcos regime.

Political and economic power are monopolized at the top by a few elite individuals while at the bottom the mass of Filipinos live in virtual poverty without real input into the political process. A few favored administrators in the Marcos regime have been given control of large agricultural and industrial monopolies that dominate the economy. Political corruption and human rights abuses have fueled popular resentment. However, the most significant event during these turbulent times was the 1983 assassination of President Marcos' strongest political opponent, Benigno Aquino. Implications of military involvement in the Aquino murder have greatly hastened the decline in popular support for the regime while stimulating recruitment for Communist insurgents.

The Philippines is the only non-Communist country in Asia with a negative growth rate. The gross national product fell 4 to 5 percent during 1984 and 1985. Unemployment is reaching epidemic levels, exacerbated by a population growth far higher than in neighboring countries. The Philippines has the most serious external debt problem of any Asian country, aggravated by the large-scale flight of capital as wealthy residents move their assets to safer banking establishments abroad. Even under the most optimistic projections, the Philippines economy will only regain by 1990 levels achieved in 1980.

In this generally bleak picture, we must remind ourselves that the United States stake in the future of the Philippines is direct and substantial. The relationship between the two countries is unique if only because the Philippines was America's only true colony. Having occupied and subdued the Philippines afer the Spanish-American War, the United States laid the groundwork for political and economic independence. By World War II, a sufficient bond had been established between the two countries, so much so that Filipinos often fought alongside our American soldiers. After the war, the United States kept its prewar timetable and granted independence to the Philippines in return for economic privileges and the right to maintain military bases in the islands, notably at Clark Field and at Subic Bay, the largest American air and naval facilities outside the United States.

No location offers the same strategic or regional advantage as Clark and Subic Bay. Located about 800 miles southeast of a major Soviet facility at Cam Ranh Bay, Vietnam, and less than 10 hours by plane from the major oil fields of the Persian Gulf, the Philippine bases provide an ideal hub for accessibility through two crucial regions: east from the Persian Gulf across India to Southeast Asia, and south from the Soviet Union's Kamchatka Peninsula through Japan to northern Australia.

Given the strategic situation as it is developing in Asia, specifically the growing Soviet alliance with North Korea, the active measures by the Soviets over the past 15 years in Australia and New Zealand, and the current Soviet efforts to build an active force in the South Pacific, the United States can not afford to pull out of the Philippines.

The Republic of the Philippines has also adopted a political system patterned after our own and has maintained very close political, economic, cultural and military ties with us. Within Asia, the Philippines are viewed as a country so closely bound to the United States by ties of interest and sentiment as to give it a kind of dual indentity—half Asian and half American.

Clearly the recent deterioration in government authority and emergence of a powerful Communist insurgency in the Philippines threatens very important United States national interests. In an attempt to avoid irreversible damage and a chaotic political vacuum in the Asian region, the Marcos regime must initiate major reforms including: a crackdown on military abuses; a legitimate investigation into the Aquino assassination; more serious prosecution of the counter insurgency efforts against the Communist guerrillas; the limitation of Marcos' autocratic powers of legislation and detention; the assurance of honest local and Presidential elections; an attack on Government corruption; and finally, production of an economic recovery program built on the destruction of so-called crony monopolies that have crippled the Philippine economy through Marcos' tenure in office.

Perhaps our strongest basis for a non-Communist future is the continued widespread devotion in the Philippines to democratic norms and processes—particularly elections. Democracy has deeper roots in the Philippines than in most developing countries. Despite the inhospitable conditions in recent years, these roots are still alive.

The Philippines is a country long accustomed to molding its identity in the image of the United States and it is based upon this reservoir of affection and renewed commitment to democratic ideals that may represent our greatest hope for avoiding an Iranian fiasco in this strategically critical land.

☐ 1740

THE COMPETITIVE AMERICA TRADE REFORM ACT OF 1985

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. PANETTA] is recognized for 5 minutes.

Mr. PANETTA. Mr. Speaker, it is a pleasure to join my distinguished colleagues, Representatives FAZIO, AUCOIN, RICHARDSON, PENNY, and LAFALCE in introducing the Competitive America Trade Reform Act of 1985. This legislation was introduced in the other body on October 31 by Senator HART, whose leadership and foresight has been instrumental in the development of the proposal. The version we presented on November 21 is still in draft form. We offer it as a basis for discussion and welcome the input of our colleagues as we fine tune the package.

The future of America's economic well-being is seriously threatened. We can no longer rely on the luxury of unimpeded economic predominance. The world is shrinking as technological and economic distances between nations are bridged. This new interdependence is both enriching and challenging. If we are willing to commit ourselves to fundamental reforms which recognize evolving global trends, we will be in a position to reap enormous benefits for ourselves and our neighbors. Yet we cannot hide our heads in the sand, dreaming of days gone by. We must prepare to compete in a new global marketplace, drastically different from the one we have dominated over the past 40 years.

The challenges posed by the new economic realities will require a coordinated, comprehensive response. The first hurdle has been surpassed: America has belatedly recognized her declining competitiveness. In the last 3 months we have seen a rapid evolution of a concensus on the need for constructive action. The debate on the particulars of that action, however, is still wide open. Some would advocate a "painkiller" approach that would make us feel better today but do nothing to guarantee a long-term recovery. Others would place the entire blame for our economic woes on our trading partners and apply punitive measures that invite retaliation.

I believe that we must formulate a comprehensive trade policy which would take into consideration the new economic environment in which we are operating. I am not alone in this conclusion. Americans are increasingly recognizing that the trade problem will not be solved by painless, quick fix measures. Furthermore, any intelligent policy must begin with a realistic assessment of the causes of our declining competitiveness.

Our bill is based on just such an assessment. The first and foremost cause of the trade deficit comes as no surprise to anyone. The dollar is overvalued. It has

been estimated that the dollar is inflated by at least 40 percent. The causes for this overvaluation are many, but the direct relationship between the massive Federal deficit and the rise in the dollar cannot be overemphasized. We are spending way beyond our means, and must finance the shortfall with borrowed moneys. Since domestic savings are not sufficient to cover the gap, we have relied on foreign investment. The resulting capital inflows have driven up the price of the dollar and placed it on an upward spiral that cannot be easily contained. Serious deficit reduction must be a national priority.

The consequences of a strong dollar have been felt by every American. Although some have enjoyed new travel opportunities and increased foreign purchasing power, others have found themselves devastated—jobless, unskilled, and unprepared for the future. For the first time in over 70 years America has found herself in the unenviable positon of net indebtedness. Our debt is likely to surpass those of even the largest Latin American borrowers if the trend is not abated quickly. Our industries will never be able to compete in a global market in which our products are greeted with what amounts to an automatic 40-percent surcharge because of the exchange rate. No amount of protection can overcome that decidedly unfair barrier to trade.

Therefore, a comprehensive trade policy should be based on measures to ease the dollar down to a more realistic level.

The second underlying cause of our trade deficit is the declining demand in the Third World for American goods. Most of America's outrage about the trade issue has focused on Japan and its relatively closed market. However, it is instructive to note that while trade with Japan dropped $18 billion between 1980 and 1984, trade with Latin America declined by a full $23 billion over that same period. The lesser developed and newly industrialized countries traditionally have absorbed 40 percent of our products. Today, their ability to purchase any items from abroad is severely limited due to their debt crises. Virtually all foreign currency must go toward this repayment. Furthermore, the austerity programs imposed upon them have necessitated drastic reductions in consumption. We must take precautions to ensure that our actions do not exacerbate this problem nor add to the instability of fragile new political structures in those countries. Renewed growth in the developing world will benefit all nations.

Third, a number of countries pursue policies that unfairly impede the flow of free trade, and we cannot stand by helplessly as they claim more and more of our market share. The message must go out to our trading partners that America means business, and if the business is free and fair we are more than willing to participate. But we simply will not tolerate actions that handicap us from the outset.

Our trade laws need to be reformed, and we need to rely on them. Laws already on the books are collecting dust due to lack of use. When we take a stand through the enactment of legislative remedies and procedures we must be prepared to enforce them.

In reforming these laws, we should clearly define specific actions we deem to be unfair—in as much detail as is feasible—clarify the procedures by which we will investigate and take action against allegedly unfair practices, and encourage the eventual dismantlement of those practices through negotiation.

Fourth, a comprehensive trade policy should address internal factors affecting the declining competitiveness of American industry. Why is our manufacturing sector becoming outdated? Why are foreign products claiming an increasing share of the domestic market? What structural factors in our educational system leave us unprepared to deal in a global marketplace? Why are we unable to produce as efficiently as some of our competitors? These are just some of the questions which need to be explored and answered on an ongoing basis. We must also reach a consensus on an appropriate corrective plan, both on a national basis, and industry by industry. We must work cooperatively to restore America's competitive edge.

Finally, although the structure of our industrial base is evolving, we cannot leave affected workers and industries out in the cold. We must offer compassionate assistance, but assistance which recognizes that the realities of our economy are changing. Workers who have lost their jobs because of increased competition from abroad and with no hope for future employment in a related field, must be retrained. The burden for this readjustment process must be borne by the Nation as a whole, since no individual can be held responsible for global economic changes beyond his or her control. However, such readjustment assistance must be accompanied by a firm commitment and dedication on the part of the worker. Likewise, an affected industry must be assisted, but must also pledge to help itself. Plant closings and unemployment in any one sector affect each and every American. We must lend a hand to those left with the short end of the stick, not only out of human compassion but also because a revitalized American economy is in the best interest of us all.

Our bill addresses all five of these needs with concrete reform proposals. We believe that this kind of broad based approach is the most sane and effective tactic to take. Some Members may disagree with certain elements of the bill, or may have suggestions for additions and improvements. We welcome such comments, and hope to work together with bipartisan cooperation to develop sound policy. I urge my colleagues to review this legislation carefully, and lend your support to our efforts.

Economics is not a zero-sum game. Our gain is not our neighbor's loss, nor vice versa. If we are willing to act constructively to breathe new life into our economic system, a prosperous future is on the horizon. We need only reach out and claim it.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida, [Mr. NELSON] is recognized for 5 minutes.

Mr. NELSON of Florida. Mr. Speaker, due to official business, I was unable to be present and voting numbers 448 through 452. Had I been present, I would have voted "aye" on roll No. 448, motion to approve the Journal; "aye" on roll No. 449, adoption of House Resolution 336, providing for the consideration of H.R. 3838, tax reform; "aye" on roll No. 450, adoption of House Resolution 333, providing for the consideration of Senate Joint Resolution 238, United States-China Nuclear Cooperation Agreement; "aye" on roll No. 451, final passage of Senate Joint Resolution 238; and, "aye" on roll No. 452, House Resolution 329, providing for the consideration of H.R. 3525, Uniform regional poll closings.

SHOULD THE UNITED STATES RENDER AID TO JONAS SAVIMBI IN ANGOLA?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. SILJANDER] is recognized for 60 minutes.

Mr. SILJANDER. Mr. Speaker, tonight I am taking out a special order dealing with an issue that many Americans may not be fully aware of. It is something new in the foreign policy arena, and it deals with the conflict in the Government of Angola in the Southern Hemisphere of the African Continent.

There have been incredible controversies internally within the State Department in terms of the policy toward Angola, that is, our policy toward Angola, and also within the Congress of the United States. There has been reasonable unanimity, I feel, amonG the Republican side, and some on the Democratic side have agreed with some of the policies that I am about to expose as well.

So I want to make very clear this is a bipartisan point of view reflected in a bill that I have introduced dealing with Angola. I will get to that in just a moment. There are 108 cosponsors including many, many Democrats.

The major cosponsor is Congressman SAM STRATTON of New York. It is entitled "The Siljander-Stratton Bill, Aid to Jonas Savimbi of UNITA for Fighting for Freedom in Angola."

I think it might hold some merit to outline briefly the history of the conflict and where we are today.

Angola has been a country that has been at war with itself since the early 1960's. The war has been a conflict between a group called the MPLA and the colonial Angolan Government supported by the Portuguese Government.

The MPLA was the first of the liberation movements in Angola. But even from the beginning the MPLA was not backed fully by the people of Angola. Not because they backed the Portuguese but, rather, because it had Soviet ties and Marxist-Leninist leanings in terms of ideology.

Soon after the beginning of the war with the MPLA and the Portuguese, the MPLA was forced to become an exile organization operating out of the Congo. From the Congo the MPLA saw a very limited success against the Portuguese-controlled government. But in 1957 the MPLA founded another group called the FNLA, or the National Front for Liberation in Angola. Its original name was the UPNA and from the beginning was based in Zaire, and it drew support primarily from the Bakongo people in the northern part of the country. Similar to the MPLA—all these acronyms, I know, are confusing—but this other group, the FNLA, did not have much success against the Portuguese Government.

So one of its members named Jonas Savimbi, who was becoming a more and more recognized name here in the United States, decided to form his own group. He said the FNLA was far too liberal and impotent against the Portuguese Government and the MPLA was also impotent and far too leftwing. So he decided to form a totally new organization called UNITA.

UNITA was a group that has been striving for peace ever since. This time, however, they had far more success against the Portuguese Government. But in the 1970's the Portuguese found a coup in their country; a far different government took over the country of Portugal, and Portugal decided and made an announcement in July of 1974 that it would be willing to colonize Angola and work with all three of these liberation movements for democratization of the country. All three of these movements, and I will repeat, the MPLA, the FNLA, Jonas Savimbi's UNITA, all signed the Alvor agreements. These agreements were signed in 1975. They said they wanted free elections in the country and established an interim coalition until they could arrive at a complete democratization of the government.

However, the MPLA and the FNLA began fighting and bickering in terms of who would actually share the power. In the meantime, Jonas Savimbi and his UNITA organization decided to lay down their arms. They had confidence in the Alvor agreement which all sides had, and, in the meantime, the other two groups, suspicious of each other, did not put down their arms. They fought against each other, and eventually the MPLA rose to the top, and the two literally took over the country, and since then there have never been free and open elections as promised and signed in the Alvor agreements.

Today Jonas Savimbi is still fighting a war. But incredibly enough, this war is no longer against the Portuguese nor is it even against the MPLA particularly. This war is against Cuba, this war is against the Soviet Union, this war is against expansionism of the Soviets and East bloc countries in Africa. There are 35,000 to 45,000 Cuban troops, without any dispute of the numbers, a minimum of 35,000 and a maximum of 45,000, now in Angola. The human rights record of Angola is despicable. They voted in the United Nations General Assembly 4.9 percent of the time with the United States of America. In fact, their voting record is worse than Vietnam's.

Their voting record is worse than Libya's. Mu'ammar Qadhafi's Libya votes more with us than does Angola. Syria, Laos, even Afghanistan, vote more with the United States than does the country of Angola. They were cited as the five most anti-American nations in the world. The State Department, while we have our disagreements here and there, has been clear about the human rights record in Angola. The human rights record includes executing of prisoners, widespread disappearances of political prisoners, persistent allegations of torture, mistreatment in the prisons, arbitrary arrests, trial without due process, no freedom of religion. The MPLA propagates, of course, atheism/communism; there are restrictions on freedom of travel, denial of freedoms of assembly, there are no free labor unions, no right for a citizen to change the vote of the Government to a vote for their representatives or even to express a dissenting opinion. Indeed, I think it is more than abundantly clear that Angola is a country that is in conflict with the provisions of morality, of human decency, of treating a fellow human being in a rational, reasonable way, in deep conflict with those values that we in America hold so dear.

And, lastly, I would like to indulge in a colloquy for just a moment with my good friend from California, Congressman DORNAN. There are about nine major arguments I would like to engage my colleague from California, arguments against assisting the freedom fighters. This is how I would like to frame our discussion: The issue comes down to, after hearing the case, the history of Angola, after understanding there is a Marxist-Leninist government in power, a puppet government supported by Cubans, Soviets, Bulgarians, and North Koreans, the issue is simply this: Should we assist Jonas Savimbi of UNITA who is fighting for his life, for his country, and for his freedom? Should we assist him with military and humanitarian assistance, or should we not?

There are about nine arguments why we should not. Those are the arguments I would like to discuss with my colleague from California, Congressman BOB DORNAN.

Welcome, and I appreciate your participation in this special order. I yield to the gentleman.

Mr. DORNAN of California. I thank my colleague for yielding.

Any of our fellow American citizens following your special order tonight should know by way of credentialing that I serve on the Subcommittee on Africa of the Committee on Foreign Affairs of this great body, and the gentleman from Michigan [Mr. SILJANDER] is the senior ranking member on that committee. There are only four of us. The House looks to us on our side of the aisle to do the research and the homework and to bring some light to the issues involving all of this, the largest continent on the planet Earth. Then they take the lead from us in our party. I just want to commend the gentleman for the fact that he has gone beyond what the average Member of this Chamber or the other body does in pursuing an issue. The gentleman has carefully, without taking any time away from servicing his district, gone to some of these areas of the world over there, which involves fast schedules, hard work. The gentleman has seen for himself. He has been to Mozambique, to other African countries in the area. He has carefully explained on this floor that there are probably only 2 countries in all of Africa, and that is 51 nations if you take into account all the island nations, in the high 40's if you deal with just those in the land mass, and if you take south of the sub-Sahara you are still dealing with 40 nations; only two, Botswana and possibly Ghana, where there is any type of representative government at all with an opposition party. As flawed as the Government of South Africa is, with its policy of racism, institutionalized in what they and we call apartheid, keeping the races apart, which certainly offends God, if not all civilized sensibilities; there is more freedom in that country, even the oppressed blacks who do not have the opportunity to vote, there is more opportunity to sound off, to speak up, even before reaching the point of arrest or any rough handling on the Government's part than any other of the black governments except for the two aforementioned ones.

So I would like the gentleman to go down the nine points, but I prologue that by saying that I had an opportunity to see on that fourth network, "Cable Network News," it likes to refer to itself as the most important network in the world, and when something is breaking fast, any hour of the day, 24 hours a day, they certainly do become No. 1, well, they did a better investigative piece on film on Jonas Savimbi, filmed at his headquarters in Jamba, in the southeastern corner of that large country of Angola. They did a better in-depth analysis of what is happening there and what type of a leader this man is than all the other television networks put together. He speaks fluent English, he is charismatic, he is powerful looking, he is just the kind of a figure that Africans seeking freedom are looking for in a leader.

In Vietnam there was an ultimate tragedy in the end that there was a figure, although a killer, with a world-known name, Ho Chi Minh, was on the side of the forces of fighting for multi-pluralistic government freedoms, there was no identifiable figure around which to rally. After Batista, who fled Cuba, who was there on the side of the freedom fighters to match the charismatic Che Guevara, otherwise known as Lynch. Bobby Lynch, his brother, Ernie Lynch, otherwise known as Che Guevara, the Argentine. We had only a Cubamata to rally around. That is why Castro arrested his best lieutenant and put him in jail for 20 years. In every area around the world we have no name around which we can rally in Afghanistan; in Nicaragua we had one, Eden Pastora, and he and his troops are being allowed to be starved right out of the conflict. But in this area of Africa, Angola, we have the name. There is not a Member of this Chamber on either side of the aisle who can name someone in the Angolan Government who is actually a leader participating in the fighting. But this name, Jonas Savimbi, is known all across this massive continent of Africa. This time we have the charisma, we have the leader. He rides at the front of his troops. He has a command of the issues, and now we have to, as you have taken the lead and implore this man to leave his fighting men in the field while—what is the figure that you taught me? Nine Soviet generals.

Mr. SILJANDER. Approximately 12 Soviet generals now in Afghanistan planning a new offensive which they have not gotten into.

□ 1755

Mr. DORNAN of California. I will close on that, then. While this man is facing 12 Soviet generals and sundry colonels, majors, captains and Soviet guidance in the Cuban units, right down to the company level, he has to be pulled away from his men to come to this Hill and lobby narrow-minded liberals, certainly narrow-minded on this issue, as Jose Duarte had to do, to turn the tide in this House on El Salvador. By the way, there is another example where we had the person with the name value, and the other side deals with nameless Communist guerreros up in the hills of El Salvador. blowing up everything they can get their hands on.

So he will come here in January, thanks to people like you, and he will be as effective as President Jose Duarte. He will turn around, I believe, the key number of votes so that he can go back—and pardon the poetic sentence, but I believe it—put his life again on the altar of freedom, and then it is up to God as to whether he dies at the front of his troops or not, just as we do not know the outcome historically of what will happen to a courageous Notre Dame graduate named Jose Napoleon Duarte.

So I thank you for the lead you have taken, and I look forward to hearing these nine points. I have not had the advantage, because we have not sat together on the African Subcommittee this week, to hear what you have worked out as a plan for the survival of freedom and a template, an example, for all of Africa, on how to do it, and how you can turn around the confused leader of the free world, confused because of this Congress, the United States of America.

Mr. SILJANDER. I want to thank the gentleman from California. He has been an invaluable asset in the subcommittee, and I appreciate his input and his help, especially in the public forum of bringing this name Jonas Savimbi to the minds of millions of Americans whose hearts are going out to those who are fighting the same cherished, beloved freedoms that we enjoy here.

And the nine points, I hope in the hour we will have an opportunity to identify these nine myths, as they can be termed, as well, but before we hit the nine points I would like to yield to both the gentleman from California and the gentleman from Indiana [Mr. BURTON], another member of the Subcommittee on Africa, whose outstanding leadership I appreciate. He is always promoting me to move forward, as the ranking Republican, and I appreciate his efforts and his vibrant interest on this issue. Let us face it, how many Americans, really, have ever heard before the last months of Jonas Savimbi or Angola?

In fact, Members on the floor of the House, when I asked several of them to cosign my aid bill, said, "Who is she?" They said, "Who is she?" But things are changing. They know who he is. He is a freedom fighter. He is an articulate man of his word and deed. I would like to try to have the input of both the gentleman from California and the gentleman from Indiana on each of these nine points. I will mention what they are. I will throw maybe one point out, and I would like to hear ideas, but in the meantime I would like to yield to the gentleman from Indiana, [Mr. BURTON], for any comments he would like to make.

Mr. BURTON of Indiana. I appreciate the gentleman from Michigan taking this special order.

One of the things I think is so important is that the people in this body as well as the people across this country know what is going on in various parts of the world, in particular in Central America and in southern Africa, so that they will be aware of what the consequences are if the Soviets are successful, or their surrogates, and they take over various parts of the world.

The other night we had a debate on this floor, in which I had a very small part. Mr. SOLARZ of New York, Mr. WOLPE of Michigan, along with Mr. HYDE of Illinois and Mr. GINGRICH of Georgia, had a pretty spirited debate on this issue.

I had a problem with that because a lot of the issues which are so important were not really brought to light. There was a lot of rhetoric. I think Mr. GINGRICH and Mr. HYDE made some valid arguments. But, unfortunately, a lot of the things that we discussed in the African Subcommittee were not brought to light. But I would like to just touch on a few issues that I think are very important, and then I would like to be involved in a colloquy with the gentleman from Indiana and the gentleman from California.

First of all, what is at stake in southern Africa? If Angola should fall totally to the Communists, if the Soviets have their way, and Mozambique stays in the Communist column and the Renamo forces over there are unsuccessful, there will be a crescent formed across the southern tip of Africa, and the only country left that will not be Communist, the only real country that is viable, will be South Africa.

Now, we have real problems, all of us, with the racial policies of that government. Nevertheless, we do not want that country to go Communist because things that are vital to the security of the United States of America emanate from that part of the world. But we have a vital stake in what goes on in southern Africa.

If Angola goes Communist, if the UNITA freedom fighters who are fighting so valiantly for their freedom and for their country's future security, if they are unsuccessful, then in my opinion it is just a matter of time until the Communist forces are able to launch an all-out offensive on South Africa and put that country in the Communist column.

Now, what does that mean to the free world? Five minerals that are absolutely vital to the security of the free world come out of the southern part of Africa. The only other place most of these minerals are able to be obtained is from the Soviet Union. So if South Africa goes Communist, minerals that are vital to the military security of this country and to the economic health of this country will only be able to be obtained through the Soviet Union or the Soviet Union's surrogates.

Mr. SILJANDER. If I could reclaim my time for a moment, that is a very important point. In Michigan and Indiana, which the gentleman represents, and in California, the auto industry is a very important and vital industry. Now, many UAW autoworkers would ask, "Well, what does Angola have to do with my paycheck?"

Mr. BURTON of Indiana. That is right.

Mr. SILJANDER. "Why should we be sending any money to Jonas Savimbi in Angola?"

Well, part of those five ores that the gentleman is referring to which are located either in South Africa, all of them, or in the U.S.S.R., many of them are crucial to the production of automobiles. So while Africa is a long way away from the United States and the concerns of farmers and autoworkers and small business people and housewives, it is very important to the economy, at least where I come from, with two General Motors plants located in or nearby my home town.

Mr. DORNAN of California. It goes without saying that automobiles also mean M-1 Abrams tanks. And you cannot put a jet aircraft in the air, commercial or military, without using the same critical minerals that come from this area of the world or the Soviet Union.

Mr. BURTON of Indiana. If the gentleman will yield further, I am glad the gentleman mentioned specifically the auto industry. I have two General Motors auto plants in my district and a Chrysler and a Ford right on the periphery of my district, and they make M-1 tank transmissions, so I am interested in all of the things that you gentlemen have alluded to.

But in additon to these vital minerals, also 40 percent of the free world's oil supplies come around the southern tip of Africa, and you can bet if the Soviets or her surrogates take control of South Africa, they are going to have their ships in those harbors within just a matter of a few days, and that means that they will have control over those sealanes, and the oil supplies that are so vital to the entire free world will be in jeopardy. In time of economic or military crisis, we will have their hands, the Soviets' hands, around our throat.

Now, what are the Soviets doing in Angola right now? There are 12 Soviet generals who are over there helping direct the offenses that have been taking place by the Angolan Communist forces. Just recently—and I think the gentleman may have alluded to this earlier—the Communist forces in Angola, the Cubans, the Angolan troops, led by the Soviet generals, launched a major offensive against the UNITA forces. And the UNITA forces held their own, but they did lose some vital areas. Now, the Soviet Union has been bringing in 15 planeloads per day of new military equipment to reinforce that position, and they brought in 1,500 Cuban troops and I think 6,000 MPLA troops, Angolan troops, into that area, so they will be able to launch a major offensive during the rainy season or just after the rainy season ends.

That is very significant. They are building up for a major offensive. They are flying about 10 sorties a day into the UNITA force areas, where they control them, to feel out how strong the UNITA forces are, so that they will know where to hit and how hard to hit in order to defeat them.

So the United States of America, which we have just pointed out has a vital interest in what goes on in southern Africa, really needs to pay attention and give support to Savimbi and the freedom fighters, because not only is Savimbi and the freedom forces' security at stake, but the security of the entire free world is at stake as well. And that includes the United States of America.

I know the gentleman who is the ranking Republican member of the South African Subcommittee is well aware of this. I am anxious to hear the nine points that he talked about a few moments ago and to engage with him in a colloquy to discuss this.

Mr. SILJANDER. Once again I would like to thank the gentleman from Indiana, Congressman BURTON, for his astute observations, especially as to what is happening presently in Angola.

I would like to throw them out one at a time rather than going through all nine. If we do not finish tonight, I will make a request of the gentleman that he and I can get together and finish the nine points. I think it is important, for the RECORD and for the American people, that they understand that these nine arguments are purely unequivocal myths of why we should not help Jonas Savimbi.

The first one is: Aid to UNITA will strengthen the Angolan Government's reliance on the Cubans and Soviets.

What they are saying is that if we help finance the freedom fighters, somehow that will encourage more support of the Cubans and the Soviets.

Well, first, they are totally dependent on the Cuban and Soviets now. Ten years ago, Senator Clark passed the so-called Clark amendment. This Clark amendment stated that the U.S. Government, overtly or covertly, secretly or on the table, could not aid Jonas Savimbi or any freedom fighters in Angola. It passed.

Mr. DORNAN of California. Senator Clark lost his seat 2 years later.

Mr. SILJANDER. Senator Clark lost his seat 2 years later, thank goodness.

Mr. DORNAN of California. As did his fellow Senator from Iowa who supported him in this Clark amendment, Senator Culver, who lost his 2 years after that.

Mr. SILJANDER. But the Clark amendment, even though both of these major Senators lost, for 10 years was in effect law, prohibiting the U.S. Government assisting in any way.

Now, here is an interesting statistic: In 1975, the argument was, "Let's negotiate our way out of this, not contribute toward an escalation." At that time, in 1975, the Congress bought the argument there were 12,000 troops in Angola, 12,000, a significant number. Their argument was, "If we do not pass the Clark amendment, there will be more troops." Well, we did. Ten years, no way. The result today, there are now 35,000 to 45,000 Cuban troops, that is a minimum of three times more; so the point is, the negotiations have not worked over 10 years, and banning any aid has not worked, and what it has done is, it has encouraged more troop occupation of Cuba and the Soviet Union rather than less.

Mr. BURTON of Indiana. If the gentleman will yield, I think he makes a very valid point. In addition to the tremendous buildup in Cuban troops and having Soviet manpower in there as well—not in the same degree that we have Cuban troops—the Soviets have poured in $2 billion in military assistance in just the last year.

Mr. SILJANDER. How much?

Mr. BURTON of Indiana. $2 billion.

Mr. SILJANDER. The gentleman means "b" for billion?

Mr. BURTON of Indiana. Not million, $2 billion in military assistance in just the last year. So our staying out because of the Clark amendment has not deterred the Soviet Union or her surrogates in any way.

I think this is something that we should think about as far as Nicaragua is concerned or Angola or anyplace where the Communists are making an offensive against freedom forces. The only thing they understand is strength. As long as the free world continues to back up and say, "Hey, all we should do is negotiate," we can only do one thing, and that is to lose. I think that lesson should have been learned very, very well when we were in Vietnam. Fighting a defensive war, always trying to negotiate, backing up, never taking the battle to the enemy, never giving freedom fighters the ability to win, can only lead to one thing, and that is ultimately defeat. And when that happens, the Soviet and the Soviet sphere of influence spreads. If we do not watch what we are doing, they are very likely to checkmate the entire free world at some point in the future. So we must be strong.

Mr. SILJANDER. That is an excellent point.

To summarize, the reason why this is a myth, that if we contribute to the aid of freedom fighters there will be more aid to the Communist government by Cuba, the fact is in the 10 years we were banned from doing it the troop size of the Cubans tripled. In the last 18 months there has been $2 billion, as the gentleman from Indiana outlined—"b" for billion dollars—of military hardware poured into Angola to the Marxist puppet government.

Myth No. 2: Aid to UNITA undermines negotiations over the independence of Namibia.

Namibia is a country just south of Angola, occupied by the South Africans at this point in time.

Now, that is the argument that is put forth. It is pretty obvious that the MPLA victory in Angola will mean either a Communist Namibia or a Namibia that will remain under the South African control. So to allow a crush or defeat of UNITA, Jonas Savimbi, will allow total domination by the Communists in Angola, which will only further spread communism, as you outline, this layer of communism over South Africa, and put more conflicts, more deaths, more civil war in Namibia rather than less.

So I see this as ludicrous.

□ 1810

Mr. DORNAN of California. Let me speak to that point. Not everyone following this special order may know that some of us get unwanted breaks in service here due to losing elections. Others of us are taken out of office with a pencil, as happened to me in a back room in San Francisco, even through I am from southern California, I lost my seat in the gerrymandering process.

During my 2 years out, 1983, and 1984, I had the chance to go and spend over a week in Namibia with my wife, traveling from one end of that country to the other, analyzing the atomic energy production at Rossing, one of the most sophisticated plants in the world. Looking at the diamond mines, even the diamonds that are taken from the surf along the oceanfront down near the South African border, and meeting with black representatives of different, various parties. A unity party of blacks and whites, and analyzing the situation in another large country of Africa, but this time with a very thin, sparse population of less than 1.5 million people.

This country Namibia, although for years it was known as South West Africa, and was a German colony taken away from Germany after World War I. The Germans did not do, fortunately for the country much colonizing, and when they left, you would hardly know they had ever been there.

It then became a protectorate of South Africa, because South Africa was not determined to be the pariah state by the rest of the world that it is today. Historical events overtook the perception of how civilized South Africa was. They were good enough to shed their blood in World War I and World War II, and also in Korea with us, even supplying fighter pilots that flew our supplied P-51 Mustangs.

But during that South African rule, South Africa never imposed the same harsh rule of apartheid on this small, 1½ million, thinly spread out population of Namibia. The city of Windhoek is clean, it is beautiful, and the government that can evolve there in a free, multiparty-type state I am convinced will be an example, not just an example, a shining example, to all of Africa, how whites and blacks can and must live together, and how people can learn not how to win elections, which everybody knows how to do in Africa or Asia or anywhere else if there is only one party running; they have those phony elections in the Soviet Union all the time. That is why I am amazed that Castro has never tried to pull off a one-party election like Danny Ortega. He is so egotistical he does not want any election; he is just emperor for life.

But in this country, now a protectorate of South Africa, Namibia, if it is allowed to move into an electoral process without the interference of SWAPO, which has a seat at the United Nations and uses the ultimate policy of Communist people in an election, that is, if you do not like what is going on you blow up the country, and if you lose an election, you slit everybody's throat who beat you and declare a new election.

If SWAPO, which is a Communist front group supported by the Soviet Union and the Cubans, if they are allowed as the United Nations is pushing to do, to destroy Namibia's chance at freedom and alternately our governments, depending on who is in the White House but with a sort of consistent policy of the State Department, has all but embraced this concept, that SWAPO should be handed an election in Namibia.

Yes, there are South African troops along the border of Angola and the northern border of Namibia, seeing that their self interests, not having Namibia turn into a Communist state, bringing a border that much closer to the South African border, and, as a matter of fact, scarfing up this atomic energy production plant, a huge area, modernized facilities, landmover vehicles as big as this entire area of the well and the Speaker's tripartite desk arrangement, and not to mention the diamond mines and other critical mineral facilities, this country must be allowed to move toward democracy without the heavy-handed approach of this Communist front group, SWAPO.

Now, yes, the South Africans have used this area as a staging area to cross the Ilongo River and move into military operations in Angola. But Namibia is not going to have its fate determined about how we approach the Communist forces in Luanda, hundreds of miles to the north. Namibia is a country that we can have a separate foreign policy approach to, moving it toward this mixed white and black, multiparty system, bring it into freedom, be an example to all of Africa, while we still support Jonas Savimbi and bring freedom to Africa.

Let me anticipate some people sitting out there following this special order saying, "How can Savimbi, if he is a legitimate black leader and freedom fighter, deal with South Africa and accept aid from them?" That is like asking Winston Churchill why he dealt with a killer named Joe Stalin. Churchill's answer was, "To keep democracy safe and win freedom, I will make a deal temporarily with the Devil himself."

Jonas Savimbi, a free leader, in Angola, guarantees Namibia becomes a free state in Africa with a multiparty system and a duly elected government and those two countries become examples for South Africa to share the vote with all of its citizens.

Mr. SILJANDER. I thank the gentleman. We are getting into our third point. To finish the second myth that undermines negotiations in Namibia, it is interesting that over 10 years of having no military aid whatsoever, in other words, no pressure on the MPLA, the Communist group in Angola, to negotiate Cuban troop withdrawals for the independence of Namibia which South Africa is willing to do and our State Department is attempting to negotiate, for 10 years they have collapsed.

So, somehow, now that the Clark amendment is repealed, and the Congress is moving very rapidly toward covert aid toward the freedom fighters in Angola, somehow they argue, do not do it; it will undermine negotiations. We tried no financing of the freedom fighters; we had no success whatsoever. Not even limited; zero success. So we hope this added pressure will bring about negotiations, will bring about Cuban troop withdrawal in Angola and bring about a fair democratization and independence of Namibia.

I yield to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. I appreciate that, and along with the point the gentleman from Michigan and the gentleman from California just made, Mr. Savimbi, who has very little choice in where to turn for assistance so that he can fight his war for freedom there against the Communist forces, has another stumbling block put before him by our State Department.

Our State Department has never declared Angola to be a Communist country. They received $2 billion in military assistance over the last year to 18 months. There are 35,000 to 45,000 Cuban troops there. The leaders are avowed Marxists.

Mr. SILJANDER. Just a moment. Do you mean to tell me that the State Department of the United States of America has not declared that country, under the conditions you have just articulated, has declared a Communist nation?

Mr. BURTON of Indiana. No, they have not. And because our State Department has not declared Angola a known Communist country, to be a Communist country, the Export-Import Bank of the United States of America can loan money to the Communist government in Angola. Just recently, the Export-Import Bank of America loaned $129 million to the Communist government of Angola who were fighting the freedom fighters led by Mr. Savimbi.

Mr. SILJANDER. So what the gentleman is saying is that our State Department, refusing to recognize the puppet government being held in place by Cubans and Soviets and Bulgarians and Koreans——

Mr. DORNAN of California. And East Germans.

Mr. SILJANDER. And East Germans and other Soviet bloc nations are in fact being financed, at least financed through taxpayers' guaranteed loans to businesses in Angola such as Chevron-Gulf, who financed 90 percent of all the revenues of the Government of Angola, and paid Castro for his mercenaries, to quote Congressman Bob Dornan in a "60 Minutes" interview, that are murdering black men, women, and children.

This is an incredible scenario.

□ 1820

Mr. BURTON of Indiana. It certainly is, and I think that the gentleman from Michigan and I and the gentleman from California [Mr. Dornan] all feel that the State Department should be taken to task for not admitting that Angola is a Communist government. Once that admission is made, it will be illegal for us to loan any money through Eximbank to that Communist totalitarian government.

Mr. DORNAN of California. One of the ironies here—and I apologize to the gentleman for trying to get so much information out on each point, because the clock is going to chase us, and maybe the gentleman better go down through several of the points and we will pick the ones that we feel we can contribute toward—standing on the second tier level, the President of the United States, looking as though he had not been in the air for hours and hours coming home from Geneva, told us in the State of the Union Address November 21 that he made it very clear to the leader of the Communist world, Mikhail Gorbachev, that we were interested in freedom fighter movements around the world. And he selected five: of course, Nicaragua; of course, Afghanistan; Cambodia must have surprised Mr. Gorbachev a bit. He mentioned the word Angola. I do not want to torture the odds, what was the fifth one? He mentioned Afghanistan, Nicaragua—Ethiopia. He mentioned Angola as a country worthy of our help and that if he cannot negotiate with the leader of the Soviet Union to stop their expansionism in this country, that we were going to start to help those who were on our side of the fence in this killing conflict.

And while he is telling us that, the State Department people, who have the control for our policy in Africa, are watching him on television, saying what to themselves:

> Whoops, there goes the leader off with the policy that he was elected by 49 of our 50 States to pursue, but this is not the policy we have decided is best for the United States, the free world, or those people in the bush in Africa who are dying for freedom,

which is not divisible in this world any more than the Communists think their cause of world dominion is divisible.

Mr. BURTON of Indiana. One brief followup, if I may, and that is that the State Department and others in our Government that feels like Mr. Savimbi is deserving of convert aid, although I am not sure any of us getting there as yet, but when we, the gentleman in the well, and the gentleman from California and I, along with the gentleman from New York [Mr. Kemp] and the gentleman from Florida [Mr. Pepper], talked about getting $27 million in humanitarian aid to the freedom fighters, there was opposition from leaders in the State Department. None of us can understand that.

Humanitarian aid is the same thing that we are giving to the freedom fighters in Nicaragua, and yet $27 million is the same amount we are giving to the freedom fighters in Nicaragua. It was requested for the freedom fighters in Angola and no response, no positive response, all negative.

Mr. SILJANDER. It seems remarkable we are willing to spend $100 billion, and we should, for our defense of NATO allies, but we are unwilling to spend $27 million to protect a key oil and mineral region in the world.

Let me get on to myth No. 3, which I think is probably the most paramount argument used by the other side.

Aid to UNITA they say is a myth. We allied the United States to South Africa and undermined respectability in Africa.

Let me just say two quick things: That is one of the most ridiculous arguments of them all, but most, as I said, often used. Just because South Africa is brought up in a knee-jerk way, a knee-jerk fashion, it is automatically assumed it must be wrong.

We abhor apartheid. We have opposed it. I have made endless speeches on this floor opposing apartheid.

That does not mean, as the gentleman from Florida [Mr. Pepper] once said, that everything South Africa does is absolutely wrong.

And is it not a little bit foolish to assume that a black freedom fighter who has been fighting white Portuguese long before the South Africans even entered the scene in Angola would somehow, after he takes over, welcome the South Africans and establish an apartheid government in his nation.

Mr. DORNAN of California. Of which he would be on the wrong side.

Mr. SILJANDER. Of which he would be on the wrong side because he is black. I mean, it is the most absurd argument that this black freedom fighter fighting against colonialism for 25 years, a quarter of a century, would somehow welcome an apartheid white racist regime. It is mindboggling that they would be so foolish to even bring the argument up.

Mr. DORNAN of California. We are not even going to comment on No. 3. It is self-evident.

No. 4.

Mr. SILJANDER. No. 4, aid to UNITA will widen the Angolan civil war is myth No. 4.

It is not a civil war anymore. It is not anymore civil war than Afghanistan is a civil war. UNITA is fighting an invasion, and invasion by Cubans. If that Government were to offer free and open elections tomorrow, the MPLA would be out, and UNITA would certainly easily take precedence.

Mr. BURTON of Indiana. If I might follow up on the gentleman's point, there are 35,000 to 45,000 Cuban troops there propping up that Government, and if they were to leave and go home, as they should, to the island of Cuba, that Government would fall in a very, very short period of time. I do not think anybody disputes that.

But in order to make sure no matter what happens the Cubans will stay behind, the Government of Angola recently passed a law—if you want to call it passing a law, I think it was an edict by the totalitarian leaders over there—that anybody who has done anything in the cause of the Communist movement in Angola, no matter wherever they came from, they can become a citizen immediately of Angola. They can have dual citizenship.

So how do you tell if the Cubans left if he is a member of the Cuban Army?

I mean he can say, "I am now a member of the Angolan family. I am a citizen here." And we would not be able to keep track of him if we did reach an agreement to send them home.

Mr. DORNAN of California. Exactly.

Mr. SILJANDER. Myth No. 5, Jonas Savimbi is a Maoist.

Is it not rather interesting the same people who are thrilled to send military and nonfood economic aid to the Communist named Machel in Mozambique somehow try to twist the argument around and suggest, "Oh, he's a Maoist, therefore we shouldn't send any aid to Jonas Savimbi."

Let me respond to that. That is just ignorance of history. Jonas Savimbi in the seventies seeking out training for low intensity guerrilla warfare could not find any place in the Western free world for training. The only place in the world one could train for this type of warfare was in China. Indeed, he spent 10 years there. Indeed some of his literature in the seventies did have this Maoist overtones. Why? Because China was supporting him with help, both logistically, militarily, and tactically. And that was the pragmatic thing to do, just as he is asking a white racist government for assistance of South Africa. He is practical. He will get it anyplace he can obtain it, so far not willing by law to do so.

So suggesting Jonas Savimbi somehow is a Marxist is ridiculous.

Then they say, "Well, he is at least a Socialist." Well, should we break ties with Mr. Mitterrand of France because he claims to be and is a Socialist?

The second point. Let us assume that they are right and he is a hardline Marxist-Leninist or, as they suggest, a Maoist, and Jonas Savimbi is successful in toppling the Communist government. Who will Jonas Savimbi invite in? The Cubans? The Soviets? The Bulgarians?

Jonas Savimbi has painted himself in a pretty clear pro-Western corner. Who else is he going to invite in to support his government from an obvious inevitable insurgency by the left?

So to suggest that Jonas Savimbi is a Marxist is totally ridiculous.

Mr. DORNAN of California. Well, they play to, of course, this side of the House where there are more conservatives. They do the same thing with Eden Pastora, claiming he is a Marxist and lying, and offering his life again in the field against the Sandinistas who he says are not Sandinistas. They betrayed him, that he is loyal to Sandino. Call him a Marxist.

On their side of the aisle they probably tell of us that he is a Fascist.

And the same thing with Savimbi. He is a Fascist on one side of the aisle. He is said to be a Marxist on the other. Anything to destroy the credibility of somebody who is willing to fight for his freedom, and he is asking us for help.

Mr. BURTON of Indiana. If I might just follow up.

Mr. SILJANDER. I yield to the gentleman.

Mr. BURTON of Indiana. If Savimbi were a Communist, why would the Soviet Union have 35,000 to 45,000 Cubans there fighting him? Why would they send $2 billion worth of military aid in there? Why would they be sending 15 planeloads, transport planeloads of new military supplies in there every day to defeat him?

They are afraid of him because they know he is the one person and his army is the one army that could defeat the Communists over there and reverse the Brezhnev doctrine: once we get a country, we never give it back.

Mr. DORNAN of California. One thought on that.

Let us say for the sake of argument that he was an independent-minded Marxist or Communist. I got off an airplane once at the airport at Zagreb, Yugoslavia, and what do I see up on a concrete stanchion but a U.S. F-86-D jet aircraft. I was stunned. I said, "What, did they shoot this down and put it on a platform?" Then I remembered that under President Eisenhower, following behind me through pilot training were Yugoslav pilots from a Communist country. And that was a Republican President.

□ 1830

What did we debate here the other day with a great mix, you had to have a scorecard to tell who was on what side, giving nuclear energy, skills, and technology, to a Communist country. Now, I happened to vote against it, but there were a lot of people all over that issue.

We are going to come up with a resolution again to give it to the Rosenbergs.

It is incredible, but when it suits somebody around here they decide that we should not deal with a Socialist, and the fact is that Jonas Savimbi is coming our way and if he studied in China in his youth, but now wants to be a friend of the United States, well, is that any different than all this shuffling around to shake the hand of Anwar Sadat when he kicked the Russians out of Egypt because they would not even allow them on bases on his soil and decided that he would throw in his fate again with the free world and the United States?

Mr. SILJANDER. I think both the gentleman made excellent points.

Mr. BURTON of Indiana. There is one more point I would like to make, if I may.

Mr. SILJANDER. I am happy to yield to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. I am sorry to interrupt, but you know we cannot make the whole world over in our image, and we are going to have to deal in some parts of the world with people who do not believe exactly as we do and exactly in our form of Government, but they may have the same enemies. They may have as one of their enemies the Soviet Union or the Cubans. And because of the mutual security of their country and our country, of their position and our position, we may have to work together even though we do not agree philosophically on exactly the form of government that they should have.

I think it is very important if the Free World is to survive and if we are to defeat communism, which is moving in every part of the world at the same time, it seems like anymore, we have to work with those people.

Mr. DORNAN of California. We broke bread here recently with members of the loyal opposition of our mother country, which has the mother of parliaments, in London. These are the members of the Labor Party. Their platform has completely embraced now most of socialism and unilateral disarmament and pulling out of NATO. They have just made Margaret Thatcher's work that much easier for us, the polarization is so incredible there.

Do we look at these people somehow or other as pariahs, these Members of Parliament of the Labor Party? They are so far to the left of Jonas Savimbi, can you imagine Savimbi coming to power and then suggesting unilateral disarmament for his new free nation of Angola on the continent of Africa? It is absurd that we cannot deal with him.

Mr. SILJANDER. Just to close this fifth myth about Jonas Savimbi being a Maoist or Marxist-Leninist, I have heard Socialist, Maoist, Communist, I have heard every conceivable title attached to him. Many of these quotes used by the chairman of the subcommittee, the gentleman from Michigan [Mr. WOLPE] are quotes from the sixties. They are quotes from the seventies.

I do have, to clarify any misunderstanding, a letter from UNITA, from Mr. Chitunda, who is the Foreign Minister or their foreign relations expert. I have a letter called, "What UNITA Believes." So if you are interested in wanting to know what they believe in terms of their economy, in terms of their philosophy, it is listed very carefully and very specifically.

Now, I could close with another letter from UNITA which says:

> During the Portuguese colonial era the movement's literature was full of revolutionary Marxist rhetoric—

Which it was, this is the rhetoric being quoted by the left—

> but this was more with a view to cultivating material assistance from Red China than as a sincere reflection of UNITA's ideological beliefs.

Myth No. 6—we have about 7 minutes to go. "UNITA cannot win." So why support Jonas Savimbi if he does not have a chance to win?

That is not also supported by any fact. It is definitely clearly a myth.

Mr. DORNAN of California. Mr. Speaker, if the gentleman will yield further, isolationists in this country said, "Winston Churchill cannot win." Therefore, make sure he does not win, and shut down the arsenal of democracy. Do not help him.

Mr. SILJANDER. Excellent point.

Jonas Savimbi can win, and he proved it last July. Thousands of Cubans, thousands of Angolan troops, with tanks, Mig's, infantry, all types of hard infantry vehicles, challenging Jonas Savimbi in a major offensive, the ground forces of the MPLA were terribly bloodied. They were driven back and they were miserably defeated by what they called a man in the bush who had no chance of winning. He won. He held his own. He has proven himself. He lost hundreds of men as well, but the point is, Jonas Savimbi is still alive. Her is still well and UNITA is flourishing.

I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. I have strong suspicions that members of our own State Department believe that Mr. Savimbi and the UNITA forces cannot win, and that really concerns me.

You know, Jeane Kirkpatrick, when she was our representative to the United Nations, made a very impassioned speech at one time, and in her speech she said, "Those people who do not believe that guerrillas who are fighting for freedom can win are wrong."

As a matter of fact, guerrillas do win all the time. The problem is they are Communist guerrillas. She quoted T.E. Lawrence's statements that he made when they were fighting over in the Middle East about how guerrillas and a small force can beat a larger force if they are well organized and use guerrilla tactics.

The UNITA forces can win if they have the wherewithal to do it. That is where the United States and the free world comes in. We need to give them the military equipment that is necessary and they will get the job done.

Mr. SILJANDER. Is it not interesting, even without any help for 10 years from the United States, that they still control 90 percent of the territory and even in the capital city of Luanda they still have significant support, Jonas Savimbi does, in the major capital city?

Mr. DORNAN of California. Hit those last two points, the clock is chasing us.

Mr. SILJANDER. Yes; the clock is chasing us.

Myth No. 7—"The Cubans are in Angola to protect it from South Africa." That is nonsense, but it is said often.

Mr. DORNAN of California. I know it.

Mr. SILJANDER. It is said often both in subcommittee and full committee and on the floor. In fact, the Cubans are not anywhere near the South Africans. The South Africans are in the southern part. The Cubans are thousands of miles away protecting U.S. oil fields, Gulf Oil and Chevron, to keep financing their positions. They are also in the field fighting Jonas Savimbi. There has not been one encounter, not one, with the Cubans attacking the South Africans. It is a misnomer. It is a misunderstanding.

Mr. DORNAN of California. The mayor of Atlanta when he was our Ambassador at the United Nations said the Cuban mercenaries were a stabilizing force—the way the Gulag concentration camps in the Soviet Union stablilized political dissent.

Mr. SILJANDER. Myth No. 8. "The war in Angola is a tribal war." That is a myth. It is not a tribal war. Savimbi is an Ovimbundu. He has also support from other tribes, the Chokwe, Luena, Cabinda, Bakongo, Kimbundu, and other tribes that are involved with Jonas Savimbi. It is a falsehood.

The time is going, so I will run through these quickly.

The last myth, Myth No. 9. "The MPLA is willing to negotiate." They have never negotiated. They expanded the Cubans from 12,000 to 40,000. They put in $2 billion in Soviet hardware in the last 18 months. They have never been willing to negotiate. The Cubans and the Soviets do not want to negotiate a settlement. Otherwise, why would they be there?

I yield to the gentleman from North Carolina [Mr. COBEY] who has been waiting patiently.

Mr. COBEY. I just wanted to say that I wanted to commend the gentleman from Michigan [Mr. SILJANDER] and the gentleman from Indiana [Mr. BURTON] and the gentleman from California [Mr. DORNAN] for taking this time out and standing up for this cause.

The gentleman is not alone. There are many of us here in the House of Representatives who support the gentleman's position and we appreciate the leadership the gentleman has taken on this important and vital concern of our Nation.

Mr. DORNAN of California. We always need to hear from someone from the 13 Original Colonies where our freedom was born.

Let me close my part of the remarks by again repeating the stirring words of the great 17th century English poet. It becomes a cliche to us. If we do not use it, we become cynical, but when it is fresh to young ears, and there will be some young people listening tonight who will hear it for the first time, and I paraphrase a little bit of it: "No man is an island unto himself, but rather a part of the whole and when a clog washes away from the peninsula, Europe is the less for it."

In his world, he meant John Donne, freedom everywhere, "and when that bell tolls," he said, "do not ask for whom it tolls. It tolls for thee."

The bell of freedom is ringing in Angola right now and Jonas Savimbi is ringing it. I hope he rings it as loud as he can when he comes here in January. If we do not respond, we turn our backs again on people who are part of this peninsula of this whole, and when they die in our name, if we do not help them, it is another disgrace for the United States.

Mr. SILJANDER. Mr. Speaker, I thank the gentleman from California.

I yield to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, I want to thank my colleague, the gentleman from California, and the gentleman from Michigan. They have been very eloquent and I am sure we appreciate their position.

I would just like to say to my colleagues and to the people of this country that the security of southern Africa, all the countries of southern Africa, has a direct bearing upon our freedom and we must not turn our backs on those who are fighting for that freedom in that part of the world.

Mr. SILJANDER. I want to thank all three gentlemen for the contribution and for their leadership in this cause.

I want to apologize to the membership and those listening that we had to breeze through rather quickly on the last several points, but this will not be the end of the debate on Angola. This is really, frankly, just the beginning.

America must decide whether or not we as the bastion of democracy, the leader of the free world, whether we are willing to support those with a common vision, that vision of democracy, freedom of expression, of religion, of faith and hope and dreams and ambition. The people of Africa, and specifically Angola, have the same heartthrobs, the same hopes, the same dreams as you and I do. Do you not think it is worth a very minor part of our expense to make sure that those fighting for freedom against Soviet global adventurism and expansionism can win a victory? Let us win one for the Gipper.

Mr. Speaker, I yield back the balance of my time.

EXTENDING APPLICATION OF CERTAIN TAXES, TRADE ASSISTANCE, REIMBURSEMENT PROVISIONS, AND BORROWING AUTHORITY

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that the Committee on Ways and Means be discharged from further consideration of the bill (H.R. 3918) to extend until December 18, 1985, the application of certain tobacco excise taxes, trade adjustment assistance, certain medicare reimbursement provisions, and borrowing authority under the railroad unemployment insurance program, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Illinois?

Mr. BLILEY. Reserving the right to object, Mr. Speaker, I do so not to object, but to ask the chairman, is this the extension of the tobacco tax until Monday under the continuing resolution?

Mr. ROSTENKOWSKI. Mr. Speaker, will the gentleman yield?

Mr. BLILEY. I am happy to yield to the gentleman.

Mr. ROSTENKOWSKI. Mr. Speaker, the unanimous-consent request is to extend for 4 days until Wednesday, December 18, the four provisions that will expire this Saturday. The provisions involved include the current law reimbursement rates and procedures for medicare payments to physicians and hospitals, the authority for the railroad unemployment fund to borrow if necessary from the railroad pension fund system, the Trade Adjustment Assistance Program, and to what the gentleman has referred, the current 16 cents per pack tax on cigarettes.

Mr. Speaker, if the gentleman will yield further, these four provisions are extended in some modified form in our reconciliation legislation which is currently in conference. The bill before us today simply extends the current law for 4 days. This will give us time to reach agreement on these issues in the reconciliation conference, without creating disruption in the Medicare and other programs affected by these provisions.

Mr. BLILEY. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Illinois [Mr. ROSTENKOWSKI]?

There was no objection.

The Clerk read the bill, as follows:

H.R. 3918

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF INCREASE IN TAX ON CIGARETTES.

Subsection (c) of section 283 of the Tax Equity and Fiscal Responsibility Act of 1982 (relating to increase in tax on cigarettes) is amended by striking out "December 15, 1985" and inserting in lieu thereof "December 19, 1985".

SEC. 2. EXTENSION OF TRADE ADJUSTMENT ASSISTANCE PROGRAM.

Section 285 of the Trade Act of 1974 (19 U.S.C. note preceding section 2271) is amended by striking out "December 14, 1985" and inserting in lieu thereof "December 18, 1985".

SEC. 3. EXTENSION OF BORROWING AUTHORITY UNDER THE RAILROAD UNEMPLOYMENT INSURANCE ACT.

Section 10(d) of the Railroad Unemployment Insurance Act is amended by striking out "December 14, 1985" each place it appears and inserting in lieu thereof "December 18, 1985".

SEC. 4. EXTENSION OF MEDICARE HOSPITAL AND PHYSICIAN PAYMENT PROVISIONS.

Section 5(c) of the Emergency Extension Act of 1985 (Public Law 99-107) is amended by striking out "December 14, 1985" and inserting in lieu thereof "December 18, 1985".

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

EXTENDING DAIRY PRICE SUPPORT PROGRAM AND CERTAIN FOOD STAMP PROGRAM PROVISIONS

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture be discharged from further consideration of the bill (H.R. 3919) to extend temporarily the Dairy Price Support Program and certain Food Stamp Program provisions, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. WALKER. Reserving the right to object, Mr. Speaker, I do so to allow the gentleman from Texas to explain, as was mentioned in the title, it does temporarily extend the Dairy Price Support Program, Food Stamp Program, and I understand there are a couple other programs that are in the bill, is that correct?

I yield to the gentleman from Texas.

Mr. DE LA GARZA. That is correct. The pilot Food Stamp Program for Puerto Rico and the announcement for marketing quota for flue cured tobacco.

Mr. WALKER. These are extensions precisely similar to those previously granted for these programs, is that correct?

Mr. DE LA GARZA. That is correct.

Mr. WALKER. This extends it until the end of December?

Mr. DE LA GARZA. The gentleman is correct.

Mr. WALKER. Are these programs that will be included in the full continuing resolution that will pick up from that point on?

Mr. DE LA GARZA. Either in the continuing resolution or in the farm bill.

Mr. WALKER. Or in the farm bill, which we expect to have on the floor before we adjourn?

Mr. DE LA GARZA. The gentleman is correct.

Mr. WALKER. Mr. Speaker, I thank the gentleman and withdraw my reservation of objection.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Texas [Mr. DE LA GARZA]?

There was no objection.

The Clerk read the bill, as follows:

H.R. 3919

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 201(d)(1)(B) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)(1)(B)) is amended by striking out "December 13, 1985" and inserting in lieu thereof "December 31, 1985".

SEC. 2. The last sentence of section 17(b)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2026(b)(1)) is amended by striking out "December 13, 1985" and inserting in lieu thereof "December 31, 1985".

SEC. 3. Effective for the period beginning December 14, 1985, and ending December 31, 1985, section 19(a)(1)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2028(a)(1)(A)) is amended by striking out "noncash".

SEC. 4. Section 317(d) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314c(d)) is amended by inserting after the first sentence the following new sentence:

"Notwithstanding the foregoing sentence, the proclamation of the national marketing quota for the 1986 crop of Flue-cured tobacco may be made not later than December 31, 1985.".

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

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TRIBUTE TO GILBERT GUDE

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. CLINGER] is recognized for 60 minutes.

Mr. CLINGER. Mr. Speaker, I am proud to rise today and say a few words on behalf of our good friend—the retiring Director of the Congressional Research Service—Gilbert Gude.

Gil Gude, one of our colleagues who ably served in this body from 1967-76, has led a remarkable public career. His service in the Maryland House of Delegates, the Maryland Senate, the U.S. House, and finally as the Director of CRS, has made Gil one of the most respected men in Washington and in his home State of Maryland.

What makes Gil truly remarkable, is that he not only performs his duties admirably, he takes part in life with a certain passion. Perhaps his deep respect of our environment has been the hallmark of Gil's fine career. Beginning with his founding of the Energy and Environmental Study Conference to his authorship of a book about his beloved Potomac, Gil Gude has shown a pronounced and heartfelt appreciation of America's treasures.

Although Gil left the House in 1976, he had intended to go home and devote his energies toward books dealing with the Potomac. Yet when he was tapped to head the Congressional Research Service, he responded favorably and has done a superior job in his 8 years of service.

As you know Mr. Speaker, CRS has come to play an integral role in helping Members of Congress and their staff perform the important tasks with great dispatch and accuracy. Whenever we need to know answers to questions ranging from the start of the Pelopennesian wars for our constituents, or the latest figures on economic growth, we turn to CRS and ask for the answer—and we want it yesterday. While Gil Gude has been at the helm, he has presided over an 800-person research staff and kept us all happy with superb service.

During his tenure at CRS, Gil's avocation has been the study of the Potomac River and the surrounding coal fields, mountians, and forests. His book—"Where the Potomac Begins: A History of the North Branch Valley"—is an affectionate account of the people and places which make up part of Americana; a book which would have made Norman Rockwell smile. In this book he sketches "Main Street America" in a loving collection of stories and photographs which make up a vanishing portrait of our wonderful country.

In a review in the Washington Post, the reviewer remarked how in 1975, Gil devoted a congressional recess to hiking the 400 miles of the Potomac River in an unsuccessful effort to have it designated a national river.

> What he found at the river's headwaters was a world shaped by the economics of coal and the vagaries of mining disasters, "a piece of Appalachia . . . markedly different from the foothills and coastal plains of the East."

Surely Gil Gude has became our Ansel Adams. He is a gentleman truly devoted to the discovery and celebration of one of America's pearls—the Potomac and its surrounding regions.

I suppose Gil's philosophy can be best summed up in something he said a couple years ago:

> Beyond the question of economics—employment and efficient utilization of existent structures in the community—and the concern to protect and preserve our architectural heritage, there is good evidence, in my opinion, that historic preservation is but one aspect of the much greater environmental movement.
>
> The environmental hysteria of the late sixity's and early seventy's is mostly gone, but in its place is a feeling held by large numbers of American people that one of the basic goals for government and the private sector is a healthy, and wholesome environment—and within all of our communities preservation of our historic heritage is most appropriately a part of that environment.

I know we will all miss having Gil here with us on Capitol Hill. As chairman of the House Wednesday Group, I have had the unique opportunity in having known Gil when he was a member of the Wednesday Group. As a friend and colleague, I wish him and his lovely wife Jane well in their future endeavors and thank him for his years of excellent service.

Mr. FRENZEL. Mr. Speaker, will the gentleman yield?

Mr. CLINGER. I am happy to yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Speaker, I am proud to join the distinguished gentleman from Pennsylvania [Mr. CLINGER] in paying tribute to the extraordinary service of our former colleague, Gilbert Gude, as head of the Legislative Research Service of the Library of Congress.

Gil served in this body for 10 years. Three of his terms overlapped with my early years in the Congress.

Since that time, he has been serving in the Library of Congress, working with his former colleagues in providing what has come to be regarded as first-class service to the Congress, its committees, our chairmen, and all of our Members.

Gil has previously been given a goodbye. We have eulogized him here when he left the Congress.

I think it is important to note, however, the extra measure of service which he gave when he probably would have been happier doing what he now intends to do; that is, writing and studying in the area particularly concerned with the beautiful Potomac River.

Gilbert, we regret you are going, but we know that you know when the time has come. It was the same as when you were in the House. Only you knew when it was time for you to move to other activities.

I personally wish Jane and Gil a great happiness, good health, and great success as they move into a yet perhaps fourth career or perhaps more, which I know is going to be successful.

I thank the gentleman for yielding.

Mr. CLINGER. I thank the gentleman very much for those very excellent remarks. I think you have stressed an aspect that needs to be reemphasized, and that is the high degree of professionalism which Gil Gude brought to the Congressional Research Service during his tenure there.

It is an outstanding research arm of the Congress. I think that no Member has been in any way turned away from their doors, and in almost every case, their requests for information, for data, for research have been answered with great expedition. I think a great deal of the credit for the professionalism that is provided by that very vital part of the service necessary for Congress is the result of Gil Gude's work.

Mr. Speaker, I know that many other Members, were it not for the lateness of the hour and the lateness of the session, would have been here to participate in this special order. That is why I have asked that we be given 5 additional days to revise and extend our remarks.

Mr. CONTE. Mr. Speaker, one of the real pleasures of serving in this great institution is to be able to pay tribute to honorable and distinguished public servants. I would like to take this opportunity to do just that for Gil Gude, a former Member of the House of Representatives from Maryland's Eighth Congressional District and the Director of the Congressional Research Service at the Library of Congress.

I was sorry to learn this week, that Gil planned to retire his post at CRS at the end of the month. He has served this legislative body nobly as a Member, from 1967 to 1976, and as Director of the CRS since. I know my office is not the only one that has relied countless times on Gil's amazing wealth of knowledge and the valuable advice of his 850-member staff.

It was always encouraging to know that literally any answer known to man was at the fingertips of a true and respected friend.

High on Gil's own list of priorities was the Potomac River. During his years in Congress and at the Library of Congress, he demonstrated great concern and curiosity for the river and set about learning its secrets. So strong was his interest, in fact, he walked the 400-mile length of it and searched to find its elusive source. The story turned into a book called "Where the Potomac Begins," and a wealth of information about one of the Nation's best known but least understood bodies of water.

We in Congress will miss Gil's help and the enthusiasm he always demonstrated in his years of service to this Nation. I'm certain the good people of Maryland are proud of the contribution he made to this country. I know I am proud of the contribution he made to Congress and I know my colleagues share that feeling.

I wish Gil the best of everything in his pursuits and hope he'll get a little more time, now, to search for answers to his own questions for a change.

Mr. McDADE. Mr. Speaker, I am pleased to rise with my colleagues to honor one of our former colleagues, Gilbert Gude, who recently announced that he will retire from his position as Director of the Congressional Research Service.

It was my good fortune to serve with Gil during his years here in the House from 1967 through 1976. Gil made his mark on many pieces of legislation, but is especially known for his sponsorship of the legislation creating the C&O National Historic Park. The history of the canal is very near and dear to his heart. His love of history provided the impetus for the long struggle to get this legislation through the Congress. At the time he was in Congress, a number of historic sites had already been lost through development. He was determined not to let this happen to the C&O Canal. As a result of his efforts, the canal will be preserved so future generations can actually see the canal and not have to try to visualize the structure in their mind's eye.

This love of the canal and the Potomac River led to his writing a book about the area entitled: "Where the Potomac Begins." Reading this book tells you a lot about the author. First, you are impressed with the research that he put into the effort. Second, you learn about the history of the area through anecdotes involving real people. Gil writes about them as if they were next door neighbors or personal acquaintances. Only a person who is genuinely interested in and concerned about people could write in such a fashion.

His concern about people made him a great Congressman. Whenever there was an issue affecting the welfare of people, particularly senior citizens, you could count on Gil taking an active role. His concern for people and their environment led him to cofound the Environmental Study Conference.

After leaving Congress, he was appointed Director of the Congressional Research Service in the Library of Congress. What an excellent choice. Having served in the Congress, he knew precisely what the CRS should provide to Members so that they could perform their duties more effectively. His attention to detail and interest in research made him an especially appropriate person to head up the CRS. He has served the Congress well in making the CRS responsive to congressional needs.

Now, in taking leave from this position, I wish him well. I know that we can look forward to still many more accomplishments as he pursues his interests in history and the people who made and are making history.

Mr. COUGHLIN. Mr. Speaker, I find it most fitting that Congress has taken a special order in honor of our former colleague and Director of the Congressional Research Service, Gilbert Gude, who has announced his retirement effective December 31.

Gil and I began our tenure in the House around the same time and were faced with the many troubling issues of the seventies. Even then, Gil's love of the environment was well known. A key sponsor of bills creating the C&O Canal National Historic Park and protecting America's wild horses, his contributions to the preservation of our Nation's national resources will be long remembered.

Gil brought a unique perspective to the Congressional Research Service. Having availed himself of this service while a Member, he approached this position knowing the problems as well as the successes of the organization. The legacy he is leaving at CRS will benefit future Members for years to come. His eight years as Director came during a time when data was expanding exponentially and the need for managing this information was critical. The Congressional Research Service has done an unparalleled job and provided the Congress with the tools for making many major decisions.

Although Gil Gude is retiring, he will long be remembered not only by those of us on the Hill but by the many students of nature who will read his book, "Where the Potomac Begins: A History of the North Branch Valley." There are few men, indeed, who have carved such an enduring niche in so many disciplines.

Our very best wishes go to Gil and his lovely wife Jane.

Mr. FISH. Mr. Speaker, I am very happy for this opportunity to recognize the lifetime of achievement of our friend and former colleague, Gilbert Gude. His professional life has been spent in public service, in the Maryland State Legislature, in Congress, and as Director of the Congressional Research Service.

While serving in Congress, he was the key sponsor of environmental bills that are major contributions to public policy. He was cofounder and cochairman of the Environmental Study Conference, a nonpartisan research group that has been of great help to members by providing them with indepth, timely information on environmental and energy issues.

His tenure as Director of the Congressional Research Service is a further example of his belief in the necessity for accurate nonpartisan information that can be used by the Members of Congress to make informed policy decisions. His years in Congress well qualified him for that task and he proved his abilities on a daily basis. Members of Congress and their staffs will always be indebted to him for his leadership and his professionalism.

Gilbert Gude understands responsibility. He wasn't just a spectator, but took the responsibility to get things done, making the Congressional Research Service an invaluable resource.

Gilbert Gude and his contributions will be greatly missed by those who know him, work with him, and depend on his extensive abilities.

Mr. CLINGER. I yield back the balance of my time.

GENERAL LEAVE

Mr. CLINGER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order this evening.

The SPEAKER pro tempore (Mr. VISCLOSKY). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

ADJOURNMENT TO MONDAY, DECEMBER 16, 1985

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

STAR WARS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. SEIBERLING] is recognized for 15 minutes.

Mr. SEIBERLING. Mr. Speaker, on Monday at page 11480 of the CONGRESSIONAL RECORD, I inserted three articles about the manner in which the President made the decision to go ahead with the SDI or the so-called Star Wars weapons program. That is an incredible story, and I will not try to repeat it here, except to call Members' attention to it in Monday's RECORD.

The gist of it is that the President made this decision without consulting the Defense Department, the Secretary of State, his principal scientific adviser, or trying to get any sense of the impact on our foreign policy, on our defense strategy, on our allies, et cetera. I suggest that Members may find it worth taking a look at.

Today I received in the mail a copy of an article printed in the Cleveland Plain Dealer of December 7 by Flora Lewis, the foreign correspondent for the New York Times. The headline is "Incredible Is the Right Word."

The article starts out this way:

> The hyper-selling of Star Wars has gone far beyond the childish crayola spot aimed at the general public on TV, beyond the vague claim made to businessmen and allies by the program director, Lt. Gen. James A. Abrahamson, of the progress at an "incredible pace." It has gone to the point of covering up scientific failure in a way that endangers the honesty of research.

It goes on to say "Ray Kidder, a physicist at Livermore, was quoted in the Los Angeles Times as saying:

> The public is getting swindled by one side that has access to classified information and can say whatever it wants and not go to jail, whereas we (the skeptics) can't say whatever we want. We would go to jail, that is the difference.

Why would they go to jail? Because the scientists who are working on this, who see that these tests are not doing all of the great things that the administration is trying to claim for them, cannot cite chapter and verse, cannot give the details because the details are classified military information. So that gives a completely free rein to the administration to make whatever claims they want as to the alleged success of these tests.

Yet, many of the scientists who know the facts are saying that the administration claims are not so.

The article goes on to say:

> The next test, scheduled in Nevada this month and named "Goldstone" was going "full speed ahead" despite clear evidence that it cannot be properly measured with existing instruments. The x-ray laser, pet project of the physicist Edward Teller and the centerpiece on which he sold Star Wars to President Reagan, is the current focus of many of the scientists' distress.

Nevertheless, Mr. Teller went to President Reagan, according to this article, and wrangled another $100 million for the project, including this months' test which will probably cost $30 million.

Now yesterday we passed the modified version of Gramm/Rudman budget and deficit resolution. We are going to be haggling over every little program, every little expenditure for nonmilitary programs, and yet without batting an eyelash, based on what Mr. Teller told the President, why, he gets another $100 million, including $30 million for a test that the scientists say cannot possibly do the job because of various technical problems which I do not need to go into.

Furthermore the article says, although the administration keeps saying its antimissile program is nonnuclear, the x-ray laser relies on a nuclear explosion for its energy.

Insistence on continuing these tests is a major reason Washington won't even listen to the Soviet proposal for a comprehensive test ban.

☐ 1900

Now, a comprehensive test ban would do several things for arms control and for getting the nuclear arms race under control. The Soviets, of course, have made a unilateral, temporary test ban. Whether they will continue it unilaterally is doubtful; but if we could have a comprehensive ban on the testing of nuclear weapons, that would in itself gradually cause the nuclear arsenals of both the Soviet Union and the United States to deteriorate because apparently it is necessary to make periodic testing of all the different types of weapons to make sure that the radioactive elements are still going to work. They decay over a period of time, so they get less and less reliable.

That in itself would make for less likelihood that either side would use their nuclear weapons, if we had a nuclear test ban, because they are not alble to know whether they are going to work, whether they are reliable.

Nevertheless, we are not engaging in that simply because to do so would mean that these tests for the so-called x-ray laser for the SDI Program could not be carried out; but they could not be carried out by the other side, either.

The complete article follows:

INCREDIBLE IS THE RIGHT WORD

(By Flora Lewis)

PARIS—THE HYPER-SELLING OF STAR WARS HAS GONE FAR BEYOND THE CHILDISH GRAYOLA SPOT AIMED AT THE GENERAL PUBLIC ON TV, BEYOND THE VAGUE CLAIM MADE TO BUSINESSMEN AND ALLIES BY THE PROGRAM DIRECTOR, LT. GEN. JAMES A. ABRAHAMSON, OF PROGRESS AT AN "INCREDIBLE PACE." IT HAS GONE TO THE POINT OF COVERING UP SCIENTIFIC FAILURE IN A WAY THAT ENDANGERS THE HONESTY OF RESEARCH.

Some of the scientists involved are bursting with frustration. They don't know how to cope with this government disinformation compaign. A top official at Livermore and another at Los Alamos, the two national labs where the key research takes place, have resigned, though they are too discreet to explain their decisions.

Ray Kidder, a physicist at Livermore, was quoted in the Los Angeles Times as saying: "The public is getting swindled by one side that has access to classified information and can say whatever it wants and not go to jail, whereas we (the skeptics) can't say whatever we want. We would go to jail, that's the difference."

Energy Secretary John S. Herrington, however, has both denounced the doubters for hurting the national interest in speaking up and called it just a "little squabble" among scientists.

Herrington said that the next test, scheduled in Nevada this month and named "Goldstone," was going "full speed ahead" despite clear evidence that it cannot be properly measured with existing instruments. The X-ray laser, pet project of the physicist Edward Teller and the centerpiece on which he sold Star Wars to President Reagan, is the current focus of many of the scientists' distress.

It was Teller himself who leaked last April that a test took place March 23, and his cronies put out word that it was highly successful. It wasn't. It turned out that the monitoring instruments themselves were excited by the X-rays to emit light. Therefore the brightness they measured was much greater than what the device actually produced and the result was completely unreliable.

Undaunted, Teller went to Reagan and wangled another $100 million for the project, including this month's test, which will probably cost $30 million. Participants urged a delay until the measuring problem could be solved, which would take six months to a year. That was rejected on the grounds that loss of momentum would be politically unfavorable, even though the test is almost sure to be futile in the circumstances.

Furthermore, although the administration keeps saying its anti-missile program is non-nuclear, the X-ray laser relies on a nuclear explosion for its energy. Insistence on continuing these tests is a major reason Washington won't even listen to the Soviet proposal for a comprehensive test ban.

There are other well-grounded scientific doubts about the X-ray laser. The assumption that it can kill Soviet missiles while they are being boosted rests on their current technology; they take three to five minutes to burn out and carry warheads some 200 miles above the earth. But American experts know that it wouldn't be hard, or inordinately expensive, for the Russians to accelerate burning time, bringing it down to some 50 seconds and completing the boost at 50 or 60 miles high.

X-rays can't penetrate the atmosphere, and at that altitude they wouldn't get through even if the loss of shoot time could be overcome. But nothing else has been developed as far, so X-ray lasers remain the chief hope for boost-phase missile defense.

The willful distortion of research is a scandal, reminiscent of Stalin's support for Trofim Lysenko's phony theories of genetics because they were politically pleasing. The result set Soviet biology back a generation.

American physicists working on the Strategic Defense Initiative aren't threatened with the gulag, but they are being put in a demeaning position that undermines their integrity. It isn't a violation of their high security clearance to say that but it could be if they gave out details to support their stand.

They have been arguing inside the program for some time, to no avail. Apparently they haven't been able to get through to Reagan to let him know what is happening. That is why their concerns are seeping into public print, despite the gag rule.

Apart from the other arguments for and against Star Wars, if it isn't based on good science it can never by anything more than what Reagan calls it, his "dream." But it could be a devastating nightmare, sapping the authenticity of American science.

RESTORING TAX-EXEMPT TRAVEL PASSES TO PARENTS OF AIRLINE EMPLOYEES

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Oklahoma [Mr. JONES] is recognized for 60 minutes.

Mr. JONES of Oklahoma. Mr. Speaker, today I am introducing legislation to restore tax-exempt travel passes to the parents of airline employees.

As you know, for years air travel passes have been provided to airline employees and their immediate family as a fringe benefit not subject to taxation. This travel is on a standby basis, available only if a seat is vacant.

Last year, the Tax Reform Act of 1984 essentially codified the exclusion from tax. However, among the many provisions of the act was one that eliminated the long tradition of considering parents to be within the immediate family of an airline employee. Thus, under present law, an air travel pass provided to a parent of an employee is taxable income.

As a result of this provision, the Internal Revenue Service established regulations setting the tax for parents' airline passes at 50 percent of the highest coach fare. After 40 years of tax free travel, parents are suddenly being charged an amount which frequently is higher than most of the available discount fares. Moreover, even though this charge is being imposed, their flying privileges remain on a standby basis.

Many of the parents are elderly individuals on fixed incomes. These individuals were previously able to travel only because of the tax exempt status of airlines passes. Today, they are faced with purchasing a pass at one-half of the highest coach fare and possibly being denied boarding at a connecting point that can involve a cost of hotel and meals while awaiting the next available flight. In several instances, this travel is further limited by the fact that parents can no longer obtain passes on an airline other than the one directly employing their child. A large portion of the industry has discontinued parents passes for other airlines due to the volume of paperwork required by the Internal Revenue Service.

The result of this legislation has been to reduce parents pass ridership on at least one major airline by approximately 75 percent. At the same time, the employee of a clothing or applinance store can still purchase clothes or a dishwasher for their parents on a tax-free basis and give it to the parent.

The intent of implementing the tax was to generate additional revenue for the Federal Government. Yet, little, if any moneys are being raised as parents choose not to travel. Thus far, the tax has only achieved to penalize these individuals by taking away the benefits of free air transportation.

My bill would again place parents in the same category as the spouse or dependents of an airline employee when air travel privileges are provided as a fringe benefit. As with the employee, the benefit must be a "no additional cost service." That is, the parent may use the pass only if space on the flight were otherwise going to remain used.

The airline industry is experiencing a period of change and reorganization. Air travel privileges for employees, their families and parents are important job incentives. The modification enacted in 1984 is unnecessary. There is little, if any, economic justification and absolutely no social purpose in continuing this tax. I invite my colleagues' support in correcting this situation.

IMPROPER POLITICAL SOLICITATIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi [Mr. LOTT] is recognized for 30 minutes.

Mr. LOTT. Mr. Speaker, today I am introducing a new House rule to prohibit the solicitation of campaign contributions in the House of Representatives.

Under my proposed rule, no Member, officer or employee of the House could solicit a Federal campaign contribution from any Federal employee, and no person could solicit such contributions in House office buildings or the House portion of the Capitol.

Ironically, Mr. Speaker, this language is nearly identical to the current statutory prohibitions found at 18 U.S.C. 602 and 607. However, the Justice Department uses a "coercion" standard as a threshold for prosecution, and our own House Committee on Standards of Official Conduct recently became "married" to that standard.

I say "recently" since the House ethics manual published by the Standards Committee just last year indicated that any solicitation by House Members and staff of Federal employees was illegal, and I quote: "Members of Congress, candidates for Congress, and Federal employees are now specifically prohibited by provisions of Federal criminal statute from soliciting political contributions from Federal governmental employees, including employees of the House of Representatives."

The manual does go on to indicate that, "The intent of the prohibition on solicitations . . . was to prevent Federal employees from being subject to any form of political assessment," and "protecting employees who, because of their employment and position may be subject to coercion." (Ethics Manual, 98th Congress, 2d Session, pp. 123–24.) In other words, while the object of the statute was to prevent coercive solicitations, the means chosen to achieve that end was to prohibit all solicitations.

And yet, Mr. Speaker, just 1 year after the ethics committee published that manual, it reversed itself in its report of September 19, 1985, entitled, "Investigation of Alleged Improper Political Solicitation" (H. Rept. 99–277). The report, filed in response to a complaint which Congressman MCCANDLESS and I had filed about a solicitation received in a House office, concluded that, solicitations "are statutorily suspect only if they are to be read as seeking coerced political contributions from Federal employees, i.e., congressional staff." (p. 13)

Under the committee's new coercion standard, for a solicitation to be considered "coercive" it must have the characteristic of a "shakedown," and involve "intimidation." Moreover, there must be the "intent or perception to coerce Federal employees (congressional staff) into making political contributions," that is, evidence of "victimization." (Report, pp. 15 and 23.)

Mr. Speaker, because I feared that this new interpretation would open the door to so-called "voluntary" solicitations of contributions from House and other Federal employees by Members and candidates, I appealed to the Standards Committee, on September 27, to reconsider its findings that only "coercive" solicitations are prohibited by Federal law. In its response of October 21, the committee responded that it is "married to the judicial and executive interpretations of the law which require coercion as an essential element of improper political solicitations."

I consequently wrote to the committee on October 29 and asked whether its interpretation would now permit Members of Congress to solicit House staff for campaign contributions, provided the solicitation was couched in purely voluntary, noncoercive terms. I framed my question in the form of a request for an advisory opinion on proposed conduct pursuant to House Rule X, clause 4(e)(1)(D). The committee responded on November 21 that, "absent a specific, factual recitation of the circumstances and language attending such a solicitation," my request was not in proper form and therefore could not be answered with an advisory opinion.

However, the committee was kind enough, on that same date, November 21, to issue an advisory letter to all House Members to provide "guidance concerning political activities which may be undertaken by Members, officers, and employees of the House of Representatives." The letter goes on to indicate that it was occasioned by the issuance of its recent report on improper political solicitations, and formal and informal requests by Members as to what activities are and are not permitted.

The letter reiterates the committee's coercion standard as follows:

> In sum, it is illegal to coercively solicit a political contribution from such an individual. Both case law and the Department of Justice take the approach that, under 18 U.S.C. 602, an individual is subject to prosecution where it is shown that a Federal employee was pressured to make a political contribution to a Federal election, such as one involving the election of a Member to Congress. The Committee adopts this analysis of the statute.

The letter goes on to acknowledge that some have urged that coercion not be considered an element of the offense, but rejects this on the basis of the contrary analyses of the Justice Department and courts:

> While it may well be that coercion should not be considered an element of the crime, this is a matter which should be specifically addressed in legislation. Until such time, the Committee will treat as improper, subject to investigation, and, as appropriate, sanction, any indication that an individual subject to this Committee's jurisdiction has applied coercion to a Federal employee for the purpose of extracting a political contribution.

Mr. Speaker, because the Ethics Committee is not retreating on its coercion standard, I agree with it that this is a matter which now "should be specifically addressed in legislation." The purpose of the new House rule I am introducing today is to once again bar the House door to political solicitors. Such activity has no business in this House or in any other Federal office building, whether it be considered coercive or voluntary. If history is any guide, we should realize that by opening that door even a crack, we open this House to all manner of possible problems, pressures, abuses, and accusations. That's what led to the enactment of the Civil Service Act in 1883 and why Congress so firmly put its food down and issued a flat ban on political solicitations rather than attempting to define and enforce a more nebulous standard.

On December 4, 1882, President Chester A. Arthur called on Congress to enact a civil service reform bill which included a flat ban on political solicitations of Federal employees. The President observed that "such contributions have at times been obtained from persons whose only motive for giving has been the fear of what might befall them if they refused." And he went on: "It goes without saying that such contributions are not voluntary, and in my judgment their collection should be prohibited by law."

During the ensuing congressional debates which led to the enactment of the Pendleton Act and its provisions barring political solicitations, speaker after speaker made the same point that the line between what is voluntary and involuntary is blurred at best, and that the mere use of position in making the solicitation could be perceived as an exaction.

Mr. Speaker, clauses 1 and 2 of the House rule which I am proposing is nearly a verbatim restatement of sections 602 and 607 of title 18 of the United States Code, insofar as they apply to the House. But I want to make clear here and now that I intend for the "plain meaning rule" of statutory construction to apply to this rule, that is, it means what it says. And what it says is that no Member or employee of the House may solicit campaign contributions from other Federal employees—including other House staffers—and no person may solicit such contributions in House offices, buildings, or the House portion of the Capitol.

Clause 3 of the proposed rule codifies the longstanding interpretation that these prohibitions on solicitation do not apply to Member-to-Member requests for campaign contributions. But the clause goes on to qualify this exception by prohibiting such protected solicitation from directly or indirectly soliciting a Member's staff as well.

Mr. Speaker, I regret that it is even necessary to introduce this resolution, but unfortunately it is given the recent turn of events. The sooner we close this door that has been opened, the better off the House as an institution will be. I hope the Rules Committee will move forward expeditiously on this proposal before we regret it. I urge any colleagues who are interested to join us in cosponsoring this important rule. At this point in the Record, Mr. Speaker, I include a copy of the proposed rule, and a letter from Common Cause endorsing the proposal. The resolution and letter follow:

H. Res. 341

Resolved, That the Rules of the House of Representatives are amended by adding at the end thereof the following new rule:

"RULE LI."

"Prohibition of Political Solicitations."

"1. A Member, officer, or employee of the House of Representatives shall not knowingly solicit any contribution within the meaning of section 301(8) of the Federal Election Campaign Act of 1971 from any officer or employee of the United States or any department or agency thereof.

"2. No person shall solicit any contribution within the meaning of section 301(8) of the Federal Election Campaign Act of 1971 in any office or building of the House of Representatives or in that part of the Capitol assigned to the use of the House.

"3. The prohibitions contained in this rule shall not apply to the solicitation of any contribution within the meaning of section 301(8) of the Federal Election Campaign Act of 1971 by a Member of Congress of another Member of Congress, provided that any such solicitation does not directly or indirectly solicit such contributions from the employees of the Member being solicited as well.".

Common Cause,
Washington, DC, December 11, 1985.

Hon. Trent Lott,
2400 Rayburn House Office Building
Washington, DC.

Dear Representative Lott: We are writing to express our strong support for your proposal to amend the House Rules to prohibit the solicitation of political campaign contributions by House members from federal employees.

The need for such a prohibition is clear. Congressional employees and other federal workers are placed in an untenable position if Members of Congress are free to solicit campaign contributions from them. The need for this to be a flat prohibition against knowing solicitation is also clear. There is no other way to draw a line between "voluntary contributions" and "coerced contributions" and no other way to prevent the kind of implicit coercion that is bound to occur if such solicitations are allowed.

As you know, under an existing federal statute, Members of Congress are already barred from soliciting federal employees for campaign contributions. The Justice Department has said it will not proceed with a criminal prosecution under this statute, however, unless coercion can be established in the case.

The fact that Justice has established a coercion standard for bringing a criminal prosecution, however, does not vitiate the fact that a flat prohibition on such solicitations exists in the federal statute and also has been incorporated into the House ethics manual. As the ethics manual notes in explaining the application of the provision to the House, its purpose is "to prevent federal employees from being subject to any form of political assessment," and to protect "employees who because of their employment and positions may be subject to coercion."

We are aware that the House Committee on Standards of Official Conduct has said it, in effect, is "married" to the Justice Department's position that actual coercion is a necessary element of the solicitation prohibition. We believe that the Committee's interpretation is wrong and has created a serious problem.

House standards must include clear rules to prevent congressional employees and federal workers from being pressured into making campaign contributions to Members of Congress. In adopting the Justice Department's "coercion" standard for criminal prosecution of such solicitations, the Ethics Committee has, in effect, left the House without any effective prohibition in this area.

It is the responsibility of a legislative body to establish standards of conduct for its Members and employees. Such standards must be defined in terms of what is proper conduct for a public official, not in terms of what constitutes a criminal action. The House has traditionally required that its Members live up to higher standards than that of avoiding criminal conduct.

We believe it is essential for the House to move quickly to remedy this situation. Your proposal would clearly establish that Members cannot knowingly solicit any campaign contribution from a federal employee. This standard is necessary if federal employees are to be protected against undue pressure from Members in the solicitation of campaign funds. While the Ethics Committee has said it does not believe such a flat prohibition presently exists, the Committee should have no problem with the notion that such a ban should exist to protect federal employees and the integrity of the House.

We strongly support your amendment and urge the House to act on it quickly.

Sincerely,

Fred Wertheimer,
President.

H.R. 3917—EXTENSION OF THE PERIOD ALLOWED FOR COMPLIANCE WITH CERTAIN FINANCIAL RESPONSIBILITY REQUIREMENTS APPLICABLE TO LAND DISPOSAL FACILITIES UNDER THE SOLID WASTE DISPOSAL ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina [Mr. Broyhill] is recognized for 15 minutes.

Mr. BROYHILL. Mr. Speaker, today I am pleased to introduce, along with Mrs. Johnson, Mr. Gingrich, Mr. Thomas of Georgia, Mrs. Smith of Nebraska, and Mr. Tauzin, legislation that will correct an inequitable and unintended result of the Solid Waste Disposal Act Amendments of 1984. If this legislation is not enacted, many businesses will be forced to shut down, despite their good faith efforts to demonstrate financial responsibility for liability claims, and despite their compliance with the groundwater monitoring requirements of the Solid Waste Disposal Act. Let me explain.

On November 8, 1984, the President signed into law the Hazardous Waste Control and Enforcement Act. One of the provisions of that law required all hazardous waste land disposal facilities to certify by November 8, 1985, that they were in compliance with both the ground water monitoring regulations as well as the financial responsibility requirements promulgated under the Solid Waste Disposal Act. Failure to so certify would result in the closure of the land disposal facility.

I am advised by the EPA that since the time this legislation was enacted into law—1 year ago—insurance has become unavailable for pollution risks. It is, therefore, impossible for many land disposal facilities to obtain the insurance they need to comply with the financial responsibility requirements. If they cannot comply with the financial responsibility requirements, these facilities will have to close.

Mr. Speaker, it is clear that there is a great inequity here. Through no fault of their own, these facilities will have to close even though the only reason they cannot comply with the law is due to problems in the insurance industry over which they have no control. They will have to close even though they have worked hard to comply with the important groundwater monitoring regulations. If we allow this to happen, we will be penalizing those very businesses that have devoted time and money to comply with the groundwater regulations. Furthermore, by forcing these businesses to close, we will destroy their financial ability to properly manage the haz-

BEST COPY AVAILABLE

ardous wastes remaining in their land disposal facilities. We cannot allow this to happen.

EPA has recently advised me that there is no way to avoid the unintended impact of the current law other than by Congressional action.

Mr. Speaker, the legislation I am introducing today is a revised version of H.R. 3692 which I, together with several of my colleagues, introduced on November 6, 1985. This new legislation contains additional safeguards that will assure that those facilities that avail themselves of this extension are in compliance with the requirements of the Solid Waste Disposal Act. These facilities must certify that they are in compliance with not only the groundwater monitoring requirements of the Solid Waste Disposal Act but also that their facility is not contaminating groundwater or that there is a compliance monitoring or corrective action program in place.

Mr. Speaker, this short extension is only a means to an end. It simply affords Congress the time needed to understand, and hopefully resolve, the underlying problem—the unavailability of liability insurance. I would note for the benefit of my colleagues that this insurance problem affects more than these particular businesses, and I hope that the Congress will soon focus its attention on the broader insurance problem facing this Nation.

This legislation is particularly time sensitive. Without this legislation, many businesses that are acting in an environmentally responsible manner will be forced to cease operation because they cannot use their land disposal facilities. This will have an adverse impact on not only those individuals who count on these businesses for jobs but also the surrounding community that looks to these businesses to continue the proper management of their existing land disposal facilities. I urge my colleagues to move this legislation expeditiously through the House and to call upon the other body to take it up without delay following action by the House.

COMMUNICATION FROM THE CHAIRMAN OF THE COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

The **SPEAKER** pro tempore laid before the House the following communication from the chairman of the Committee on Public Works and Transportation, which was referred to the Committee on Appropriations:

COMMITTEE ON PUBLIC WORKS
AND TRANSPORTATION,
Washington, DC, December 12, 1985.

Hon. THOMAS P. O'NEILL,
The Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: Pursuant to the provisions of the Public Buildings Act of 1959, as amended, the House Committee on Public Works and Transportation approved the construction of a 789,245 gross square foot United States Federal Building and Courthouse in Chicago, IL at a total estimated cost of $209,034,000; the construction of an estimated 313,600 gross square foot public building in Wilkes-Barre, PA, at a cost of $20,672,000; and three 11(b) Resolutions (Tacoma, WA; Gloucester, MA; and Reading, PA).

The original and one copy of the authorizing resolution are enclosed.

Every best wish.

Sincerely,

JAMES J. HOWARD,
Chairman.

PARLIAMENTARY INQUIRY

Mr. **WALKER**. Mr. Speaker, I have a parliamentary inquiry.

The **SPEAKER** pro tempore. The gentleman will state it.

Mr. **WALKER**. Could the Chair inform us what we are waiting for?

The **SPEAKER** pro tempore. A message from the Senate.

Mr. **WALKER**. A message from the Senate; and is the message on the way?

The **SPEAKER** pro tempore. Yes, it is.

Mr. **WALKER**. I thank the Chair.

The **SPEAKER** pro tempore. The Chair thanks the getleman from Pennsylvania.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a joint resolution of the House of the following title:

H.J. Res. 476. Joint resolution making further continuing appropriations for fiscal year 1986.

CONFERENCE REPORT ON H.R. 3037

Mr. **WHITTEN** submitted the following conference report and statement on the bill (H.R. 3037) making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1986, and for other purposes:

CONFERENCE REPORT (H. REPT. 99-439)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3037) making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1986, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 1, 2, 3, 5, 9, 10, 12, 21, 22, 23, 29, 33, 35, 38, 47, 53, 55, 64, 65, 68, 69, 70, 73, 76, 84, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, and 100.

That the House recede from its disagreement to the amendments of the Senate numbered 6, 7, 8, 11, 16, 17, 18, 26, 34, 42, 50, 71, 72, 74, 77, and 86, and agree to the same.

Amendment numbered 4:

That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$53,454,000*; and the Senate agree to the same.

Amendment numbered 15:

That the House recede from its disagreement to the amendment of the Senate numbered 15, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$44,500,000*; and the Senate agree to the same.

Amendment numbered 19:

That the House recede from its disagreement to the amendment of the Senate numbered 19, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$100,000*; and the Senate agree to the same.

Amendment numbered 24:

That the House recede from its disagreement to the amendment of the Senate numbered 24, and agree to the same with an amendment, as follows:

In lieu of the sum named in said amendment insert *$725,000*; and the Senate agree to the same.

Amendment numbered 25:

That the House recede from its disagreement to the amendment of the Senate numbered 25, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$1,500,000*; and the Senate agree to the same.

Amendment numbered 27:

That the House recede from its disagreement to the amendment of the Senate numbered 27, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$300,477,000*; and the Senate agree to the same.

Amendment numbered 28:

That the House recede from its disagreement to the amendment of the Senate numbered 28, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$5,479,000*; and the Senate agree to the same.

Amendment numbered 36:

That the House recede from its disagreement to the amendment of the Senate numbered 36, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$400,821,000*; and the Senate agree to the same.

Amendment numbered 39:

That the House recede from its disagreement to the amendment of the Senate numbered 39, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$220,348,000*; and the Senate agree to the same.

Amendment numbered 43:

That the House recede from its disagreement to the amendment of the Senate numbered 43, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$15,000,000*; and the Senate agree to the same.

Amendment numbered 44:

That the House recede from its disagreement to the amendment of the Senate numbered 44, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$2,112,600,000*; and the Senate agree to the same.

Amendment numbered 45:

That the House recede from its disagreement to the amendment of the Senate numbered 45, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$2,112,000,000*; and the Senate agree to the same.

Amendment numbered 48:

That the House recede from its disagreement to the amendment of the Senate numbered 48, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$682,000,000*; and the Senate agree to the same.

Amendment numbered 49:

That the House recede from its disagreement to the amendment of the Senate numbered 49, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$650,00,000*; and the Senate agree to the same.

Amendment numbered 51:

That the House recede from its disagreement to the amendment of the Senate numbered 51, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$4,400,000,000*; and the Senate agree to the same.

Amendment numbered 52:

That the House recede from its disagreement to the amendment of the Senate numbered 52, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$1,700,000,000*; and the Senate agree to the same.

Amendment numbered 54:

That the House recede from its disagreement to the amendment of the Senate numbered 54, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$100,000,000*; and the Senate agree to the same.

Amendment numbered 57:

That the House recede from its disagreement to the amendment of the Senate numbered 57, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$750,000*; and the Senate agree to the same.

Amendment numbered 58:

That the House recede from its disagreement to the amendment of the Senate numbered 58, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$375,297,000*; and the Senate agree to the same.

Amendment numbered 59:

That the House recede from its disagreement to the amendment of the Senate numbered 59, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$1,950,000*; and the Senate agree to the same.

Amendment numbered 60:

That the House recede from its disagreement to the amendment of the Senate numbered 60, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$975,000,000*; and the Senate agree to the same.

Amendment numbered 61:

That the House recede from its disagreement to the amendment of the Senate numbered 61, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$2,195,000,000*; and the Senate agree to the same.

Amendment numbered 63:

That the House recede from its disagreement to the amendment of the Senate numbered 63, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended as follows:

In lieu of the sum named, insert *$100,000,000*; and the Senate agree to the same.

Amendment numbered 66:

That the House recede from its disagreement to the amendment of the Senate numbered 66, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$365,460,000*; and the Senate agree to the same.

Amendment numbered 80:

That the House recede from its disagreement to the amendment of the Senate numbered 80, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended to read as follows: *: Provided, That none of these funds shall be used to develop, establish, or operate any program of user fees authorized by 31 U.S.C. 9701*; and the Senate agree to the same.

Amendment numbered 82:

That the House recede from its disagreement to the amendment of the Senate numbered 82, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$29,416,000*; and the Senate agree to the same.

Amendment numbered 87:

That the House recede from its disagreement to the amendment of the Senate numbered 87, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended to change "75" to "65"; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 13, 14, 20, 30, 31, 32, 37, 40, 41, 46, 56, 62, 67, 75, 78, 79, 81, 83, 85, 101, and 102.

JAMIE L. WHITTEN,
BOB TRAXLER,
MATTHEW F. MCHUGH,
WILLIAM H. NATCHER,
DANIEL K. AKAKA,
WES WATKINS,
RICHARD J. DURBIN,
NEAL SMITH,
VIRGINIA SMITH,
JOHN T. MYERS,
HAROLD ROGERS,
JOE SKEEN,
SILVIO O. CONTE,
Managers on the Part of the House.

THAD COCHRAN,
JAMES A. MCCLURE,
MARK ANDREWS,
JAMES ABDNOR,
BOB KASTEN,
MACK MATTINGLY,
ARLEN SPECTER,
MARK O. HATFIELD,
QUENTIN N. BURDICK,
JOHN C. STENNIS,
JIM SASSER,
DALE BUMPERS,
TOM HARKIN,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3037) making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1986, and for other purposes, submit the following joint statement to the House and Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

Report language included by the House which is not changed by the report of the Senate, and Senate report language which is not changed by the conference are approved by the committee of conference. The statement of the managers, while repeating some report language for emphasis, does not intend to negate the language referred to above unless expressly provided herein.

TITLE I—AGRICULTURAL PROGRAMS

PRODUCTION, PROCESSING AND MARKETING

OFFICE OF THE SECRETARY

Amendment No. 1: Appropriates $1,750,000 for the Office of the Secretary as proposed by the House instead of $5,360,000 as proposed by the Senate. The House amount included funds only for the immediate Office of the Secretary and Deputy Secretary, whereas the Senate proposed to fund the Secretary, Deputy Secretary, and all of the Assistant and Under Secretaries and supporting staffs in a single account.

Amendment No. 2: Provides $8,000 for official reception and representation expenses for the Office of the Secretary as proposed by the House instead of $15,000 as proposed by the Senate. The conferees agree that reception and representation expenses for the Department will be reviewed during the hearings on the fiscal year 1987 budget request.

OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION

Amendment No. 3: Restores House language establishing a separate account for the Office of the Assistant Secretary for Administration and appropriates $484,000 for that Office. The Senate proposed to fund this account under the Office of the Secretary.

STANDARD LEVEL USER CHARGES (USDA)

Amendment No. 4: Appropriates $53,454,000 for Standard Level User Charges (USDA) instead of $49,454,000 as proposed by the House and $57,100,000 as proposed by the Senate. The conference agreement maintains this account at the 1985 appropriation level, and includes a general provision stating that none of the funds in this Act shall be available to reimburse the General Services Administration for payment of Standard Level User Charges in excess of the amounts specified in this Act.

OFFICE OF THE ASSISTANT SECRETARY FOR GOVERNMENTAL AND PUBLIC AFFAIRS

Amendment No. 5: Restores House language establishing a separate account for the Office of the Assistant Secretary for Governmental and Public Affairs and appropriates $337,000 for that Office. The Senate proposed to fund this account under the Office of the Secretary.

Public Affairs

Amendment No. 6: Deletes House language and inserts Senate language providing a center heading.

Legislative Liaison

Amendment No. 7: Deletes House language providing a center heading.

Intergovernmental Affairs

Amendment No. 8: Deletes House language providing a center heading.

Office of the Assistant Secretary for Economics

Amendment No. 9: Restores House language establishing a separate account for the Office of the Assistant Secretary for Economics and appropriates $418,000 for that Office. The Senate proposed to fund this account under the Office of the Secretary.

Office of the Assistant Secretary for Science and Education

Amendment No. 10: Restores House language establishing a separate account for the Office of the Assistant Secretary for Science and Education and appropriates $371,000 for that Office. The Senate proposed to fund this account under the Office of the Secretary.

Agricultural Research Service

Amendment No. 11: Appropriates $501,043,000 for the Agricultural Research Service as proposed by the Senate instead of $492,806,000 as proposed by the House. The conference agreement includes the following increases above the budget request for human nutrition research programs:

Tufts University	$1,000,000
Children's Nutrition Research Center	1,000,000
North Dakota Center	400,000
Beltsville Center	200,000

For integrated production research in Oklahoma, the conference agreement includes $500,000 as proposed by the House instead of $300,000 as proposed by the Senate.

For water conservation research at Texas Tech University the conference agreement includes an increase of $250,000 above the budget request as proposed by the House.

For tri-fly research at the University of Hawaii the conference agreement includes an increase of $340,000 above the budget request as proposed by the Senate. The House bill had earmarked $340,000 within existing funds.

The conference agreement includes the following increases above the budget request for research as proposed by the Senate:

Dairy forage research at Madison, Wisconsin	$200,000
Peach research at the Appalachian Fruit Laboratory	200,000
Sunflower research at North Dakota State University	100,000

For pay annualization the conference agreement includes an increase of $6,597,000 above the House amount instead of $9,647,000 as proposed by the Senate. The House bill had proposed a reduction of $8,397,000 in the estimates for pay annualization. Within the funds for pay annualization, the Department should use $200,000 for the transfer to the Office of the Assistant Secretary for Science and Education for scientific review and use $150,000 for potato varietal development work in the Pacific Northwest. In addition, out of these funds the conferees will also expect the Department to give increased attention to potato research at Orono, Maine.

Amendment No. 12: Restores House language providing for the transfer of funds for scientific review from the Agricultural Research Service to the Office of the Assistant Secretary for Science and Education. The Senate proposed transfer of these funds to the Secretary of Agriculture.

BUILDINGS AND FACILITIES

Amendment No. 13: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which appropriates $6,350,000 for buildings and facilities instead of $3,600,000 as proposed by the House and $3,350,000 as proposed by the Senate.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides for the following facilities:

	House	[illegible]	[illegible] ence
Planning for School of Veterinary Medicine at Tuskegee Institute	$600,000	$600,000	$600,000
Construction of Germplasm Collection Facility, Aberdeen, Idaho		2,700,000	2,700,000
Feasibility Study for Agricultural Science and Industry Facility, Pennsylvania State University		50,000	50,000
Planning for Research Facility, University of Illinois	3,000,000		3,000,000
Total	3,600,000	3,350,000	6,350,000

The conferees agree that the germplasm facility to be constructed at Aberdeen, Idaho, shall not duplicate the facility currently at Beltsville, Maryland, and shall work in cooperation with the Beltsville germplasm facility. Furthermore, the conferees agree that no personnel, equipment, or other resources shall be transferred from Beltsville to Aberdeen to staff or equip this facility.

The conferees request a report not later than February 1, 1986, on the use of the funds appropriated in fiscal year 1984 for a regional veterinary school in Nebraska. The regional approach having failed, it is proposed that the funds be used for a clinical facility for training veterinary students from Nebraska and Kansas and for research in the areas of food processing, transportation and marketing systems.

Cooperative State Research Service

Amendment No. 14: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which earmarks $28,805,000 for special research grants instead of $27,310,000 as proposed by the House and $26,718,000 as proposed by the Senate.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The following table reflects the conference agreement for special research grants:

[In thousands of dollars]

	[illegible]	[illegible]	[illegible] ence
Special Research Grants (P.L. 89–106)	(27,310)	(26,718)	(28,805)
STEEP-Soil Erosion in N.W.	622	622	622
Food Systems Research Group (Wisconsin)	156		[illegible]
Pest Management	3,091	3,091	3,091
Rural Development Centers	311	450	381
Soybean Cyst Nematode (Missouri)	300	300	[illegible]

[In thousands of dollars]

	[illegible]	[illegible]	Confer- [illegible]
Bean and Beet (Michigan)	97		97
Animal Health	[illegible]	[illegible]	[illegible]
Aquaculture (Stoneville)	420	420	420
Dairy and Beef Photoperiod (Michigan)	35	35	35
Pesticide Clearance	1,440	1,440	1,440
Minor use animal drugs (IR–4)	[illegible]	240	240
Pesticide Impact Assessment	2,069	[illegible]	2,069
Dairy goat research (Texas)	100		[illegible]
Aquaculture (general)		518	[illegible]
Milk consumption (Pa.)		300	300
International livestock program (Ks.)		100	100
Stored grain insects (Ks.)		300	300
Germplasm resources	1,000	1,000	[illegible]
Blueberry shoestring virus (Michigan)	96		[illegible]
Peach tree short life (S. Carolina)	192	192	192
TCK Smut (wheat)	361	[illegible]	[illegible]
Sugarland use research (Hawaii)	150	150	[illegible]
Mosquito research	480	[illegible]	[illegible]
Int's. Prod Systems (Oklahoma)	[illegible]		250
Preservation and processing research (Okla.)	150		150
Dried Bean (North Dakota)	50	50	50
Sunflower insects (North Dakota)	[illegible]	[illegible]	[illegible]
Tropical and subtropical	3,250	3,250	3,250
[illegible]	[illegible]	[illegible]	[illegible]
Asparagus yield decline (Michigan)	[illegible]		100
Bio-control of grasshoppers	50	[illegible]	[illegible]
Wool research (Texas)		150	[illegible]
Ag Policy Institute (Iowa and Mo.)	450		375
Biomass from dairy processing waste (Missouri)	[illegible]	300	300
Stone fruit decline (Michigan)	[illegible]		[illegible]
EDB replacement (Hawaii)	[illegible]	300	[illegible]
Wood utilization research	[illegible]	3,000	3,000
Integrated reproduction management (NEB)	100		100
Cranberry/Blueberry disease and breeding (N.J.)	100		100
Alternative cropping systems (Southeast)	300	300	300
Maple research (Vermont)		[illegible]	100
Apple quality research (Michigan)	100		100
Aquaculture planning grant (Hawaii)	150	150	150
Fruit and vegetable production and marketing (Ky.)	150		150
Plant stress (N. Mexico, Calif. and Texas)	300		300

Amendment No. 15: Earmarks $44,500,000 for competitive research grants instead of $34,000,000 as proposed by the House and $46,500,000 as proposed by the Senate. The following table reflects the conference agreement for competitive research grants:

[In thousands of dollars]

	[illegible]	Senate	Confer- [illegible]
Competitive research grants			
[illegible]	4,500	16,500	14,500
Soybean research	(518)	(518)	(518)
Acid precipitation	(695)	(695)	(695)
Alcohol fuels	(540)	(540)	(540)
Animal Science	[illegible]	4,500	4,500
Brucellosis	(500)	(500)	(500)
Reproductive efficiency	(2,500)	(2,500)	(2,500)
Pest Science	3,000	[illegible]	3,000
Gyspy moths	(1,000)	(1,000)	(1,000)
Boll weevil/Boll worm	(1,000)	(1,000)	(1,000)
Pine bark beetle	(1,000)	(1,000)	(1,000)
Human Nutrition	[illegible]	2,500	2,500
Biotechnology	[illegible]	[illegible]	[illegible]
Total, Competitive research grants	[illegible]	[illegible]	44,500

Amendment No. 16: Earmarks $5,000,000 for higher education strengthening grants as proposed by the Senate instead of $3,000,000 as proposed by the House.

Amendments No. 17 and 18: Make technical corrections to legal citations as proposed by the Senate.

Amendment No. 19: Limits the amount of funds that can be used for employment of consultants to $100,000 instead of $50,000 as proposed by the House and $150,000 as proposed by the Senate.

Amendment No. 20: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which appropriates a total of $290,423,000 for the Cooperative State Research Service instead of $276,428,000 as proposed by the House and $290,336,000 as proposed by the Senate.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Extension Service

Amendment No. 21: Restores House language transferring $38,627,000 from the food stamp program to the expanded food and nutrition education program. The Senate proposed to delete the transfer from the food stamp program. The conference agreement provides for a total of $60,354,000 for the expanded food and nutrition education program (EFNEP).

Amendment No. 22: Earmarks $3,500,000 for the urban gardening program as proposed by the House instead of $1,750,000 as proposed by the Senate.

Amendment No. 23: Restores House language earmarking $1,020,000 for the farm safety program and $50,000 for the integrated reproductive management program. The Senate proposed to delete funding for both of these programs.

Amendment No. 24: Earmarks $725,000 for payments for work at the rural development centers instead of $1,000,000 as proposed by the Senate. The House bill included $500,000 for work at the rural development centers under the Federal administration appropriation.

Amendment No. 25: Earmarks $1,500,000 for financial management assistance instead of $1,000,000 as proposed by the House and $2,000,000 as proposed by the Senate.

Amendment No. 26: Earmarks $2,500,000 for renewable resources extension as proposed by the Senate. The House bill contained no provision for this program.

Amendment No. 27: Provides a total of $300,477,000 for the Extension Service instead of $296,752,000 as proposed by the House and $337,059,000 as proposed by the Senate.

Amendment No. 28: Appropriates $5,479,000 for Federal administration of the Extension Service instead of $5,979,000 as proposed by the House and $5,279,000 as proposed by the Senate.

The conference agreement deletes funding for the rural development centers as proposed by the Senate since they are funded separately in Amendment No. 24. The conference agreement includes $200,000 for a comprehensive farm and ranch management program as proposed by the House.

Office of the Assistant Secretary for Marketing and Inspection Services

Amendment No. 29: Restores House language establishing a separate account for the Office of the Assistant Secretary for Marketing and Inspection Services and appropriates $347,000 for that Office. The Senate proposed to fund this account under the Office of the Secretary.

Animal and Plant Health Inspection Service

SALARIES AND EXPENSES

Amendment No. 30: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which appropriates $316,286,000 for salaries and expenses of the Animal and Plant Health Inspection Service instead of $281,165,000 as proposed by the House and $309,502,000 as proposed by the Senate.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The following table reflects the conference agreement:

Golden nematode	$1,007,000
Grasshopper and Mormon cricket	18,000,000
Import-export inspection	8,533,000
International programs	2,036,000
Agriculture quarantine inspection	54,926,000
Brucellosis eradication	70,200,000
Animal damage control	20,000,000

In connection with Amendment No. 85, the conference agreement provides that $16,173,000 shall remain available until expended for the grasshopper and Mormon cricket control program.

Amendment No. 31: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which added language to transfer the animal damage control program from the U.S. Fish and Wildlife Service to the U.S. Department of Agriculture. The conference agreement includes $45,000 for the guarding dog program.

Food Safety and Inspection Service

Amendment No. 32: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: *$370,000,000, of which $5,735,000 shall be available only to the extent an official budget request is transmitted to the Congress*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides a total of $370,000,000 as proposed by the Senate instead of $358,494,000 as proposed by the House. The conference agreement also provides full-year funding, subject to the submission of an official budget request.

Federal Grain Inspection Service

SALARIES AND EXPENSES

Amendment No. 33: Restores House language rather than making a technical change as proposed by the Senate.

Agricultural Marketing Service

MARKETING SERVICES

Amendment No. 34: Appropriates $32,208,000 for the Agricultural Marketing Service, marketing services as proposed by the Senate instead of $31,455,000 as proposed by the House.

Farm Income Stabilization

Office of the Under Secretary for International Affairs and Commodity Programs

Amendment No. 35: Restores House language establishing a separate account for the Office of the Under Secretary for International Affairs and Commodity Programs and appropriates $502,000 for that Office. The Senate proposed to fund this account under the Office of the Secretary.

Agricultural Stabilization and Conservation Service

SALARIES AND EXPENSES

Amendment No. 36: Provides $400,821,000 for salaries and expenses of the Agricultural Stabilization and Conservation Service instead of $395,119,000 as proposed by the House and $406,524,000 as proposed by the Senate.

Amendment No. 37: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: *$400,821,000 of the above amount*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement limits the transfer from the Commodity Credit Corporation to the Agricultural Stabilization and Conservation Service to $400,821,000 instead of $395,119,000 as proposed by the House and $406,524,000 as proposed by the Senate.

Dairy Indemnity Program

Amendment No. 38: Deletes Senate language providing that funds for the dairy indemnity program shall remain available until expended. The conferees agree to include this provision under section 608 of the General Provisions.

Corporations

Federal Crop Insurance Corporation

ADMINISTRATIVE AND OPERATING EXPENSES

Amendment No. 39: Appropriates $220,348,000 for administrative and operating expenses of the Federal Crop Insurance Corporation instead of $200,502,000 as proposed by the House and $240,194,000 as proposed by the Senate.

Commodity Credit Corporation

REIMBURSEMENT FOR NET REALIZED LOSSES

Amendment No. 40: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

To reimburse the Commodity Credit Corporation for net realized losses sustained, but not previously reimbursed, pursuant to the Act of August 17, 1961 (15 U.S.C. 713a-11, 713a-12), $9,195,240,000, and in addition $4,000,000,000 which shall be available only to the extent an official budget request is transmitted to the Congress.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides a total of $9,195,240,000 as proposed by the House instead of a current indefinite appropriation of "such sums as necessary" as provided by the Senate. The conference agreement also provides an additional $4,000,000,000 to be available subject to the submission of an official budget request.

TITLE II—RURAL DEVELOPMENT PROGRAMS

Rural Development Assistance

Office of the Under Secretary for Small Community and Rural Development

Amendment No. 41: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows:

Office of the Under Secretary for Small Community and Rural Development

For necessary salaries and expenses for the Office of the Under Secretary for Small Community and Rural Development to administer programs under the laws enacted by the Congress for the Farmers Home Administration, Rural Electrification Administration, Federal Crop Insurance Corporation, and rural development activities of the Department of Agriculture, including $375,000 for grants pursuant to the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1926(a)(11) and 7 U.S.C. 1932(c)), $790,000.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes $350,000 for the contract program established two years ago in Oklahoma, and $25,000 for the nonprofit Hilltown Community Development Corporation to conduct a rural product development and marketing assistance project to promote business and community development in rural areas.

Office of Rural Development Policy

Amendment No. 42: Deletes funding for the Office of Rural Development Policy as proposed by the Senate. The House bill proposed $2,037,000 for this Office.

The conferees are aware that the Office of Rural Development Policy has been a resource in support of rural health issues, such as advocacy and monitoring of health, transportation, education and aging.

The conferees expect these functions in rural health to be continued by the Secretary not only in the field of advocacy, but in maintaining statistical information on a variety of areas which can be the source of facts for needed action in the area of rural health.

Farmers Home Administration

RURAL HOUSING INSURANCE FUND

Amendment No. 43: Provides $15,000,000 for very low-increase housing repair loans instead of $17,000,000 as proposed by the House and $10,200,000 as proposed by the Senate.

Amendment No. 44: Provides $2,112,600,000 for rural housing loans instead of $3,221,000,000 as proposed by the House and $1,932,600,000 as proposed by the Senate. The conference agreement includes the following loan levels:

Low-income housing loans (sec. 502)	$1,400,000,000
Rural housing site development (sec. 524)	500,000
Rural rental housing (sec. 515)	700,000,000
Domestic farm labor (sec. 514)	12,000,000
Total	$2,112,600,000

Amendment No. 45: Provides that not less than $2,112,000,000 shall be available for subsidized interest loans to low-income borrowers instead of $3,220,000,000 as proposed by the House and $1,932,000,000 as proposed by the Senate.

Amendment No. 46: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

For rental assistance agreements entered into or renewed pursuant to the authority under section 521(a)(2) of the Housing Act of 1949, as amended, total new obligations shall not exceed $167,513,000 to be added to and merged with authority provided for this purpose in prior fiscal years: Provided, That not to exceed $35,000,000 is available for newly constructed units financed by section 515 of the Housing Act of 1949, as amended, including not less than $5,000,000 for newly constructed units financed under sections 514 and 516 of the Housing Act of 1949: Provided further, That agreements entered into or renewed during fiscal year 1986 shall be funded for a five-year period, although the life of any such agreement may be extended to fully utilize amounts obligated: Provided further, That agreements entered into or renewed during fiscal years 1983, 1984, and 1985, may also be extended beyond five years to fully utilize amounts obligated.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement earmarks $5,000,000 for farm labor housing.

Amendment No. 47: Appropriates $1,843,927,000 for restoration of interest subsidies and losses of the Rural Housing Insurance Fund as proposed by the House instead of $2,136,784,000 as proposed by the Senate.

Agricultural Credit Insurance Fund

Amendment No. 48: Provides a total of $682,000,000 for real estate loans instead of $732,000,000 as proposed by the House and $532,000,000 as proposed by the Senate. The conference agreement includes the following loan levels:

Farm ownership loans	$650,000,000
Insured	(400,000,000)
Guaranteed	(250,000,000)
Soil and water loans	28,000,000
Insured	(22,000,000)
Guaranteed	(6,000,000)
Indian land acquisition loans	4,000,000
	$682,000,000

Amendment No. 49: Provides not less than $650,000,000 for farm ownership loans instead of $700,000,000 as proposed by the House and $500,000 as proposed by the Senate.

Amendment No. 50: Provides that of the total available for farm ownership loans, $250,000,000 shall be guaranteed loans as proposed by the Senate instead of $200,000,000 as proposed by the House.

Amendment No. 51: Provides a total of $4,400,000 for operating loans instead of $3,400,000,000 as proposed by the House and $4,772,000,000 as proposed by the Senate.

Amendment No. 52: Provides that the total available for operating loans, $1,700,000,000 shall be guaranteed loans instead of $1,480,000,000 as proposed by the House and $1,772,000,000 as proposed by the Senate.

Amendment No. 53: Appropriates $1,089,943,000 for restoration of interest subsidies and losses of the Agricultural Credit Insurance Fund as proposed by the House instead of $1,477,565,000 as proposed by the Senate.

Rural Development Insurance Fund

Amendment No. 54: Provides $100,000,000 for insured community facility loans instead of $115,000,000 as proposed by the House and $75,000,000 as proposed by the Senate.

Amendment No. 55: Appropriates $560,005,000 for restoration of interest subsidies and losses for the Rural Development Insurance Fund as proposed by the House instead of $612,098,000 as proposed by the Senate.

Rural Housing for Domestic Farm Labor

Amendment No. 56: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $10,000,000 for rural housing for domestic farm labor. The House bill contained no provision for this program.

Compensation for Construction Defects

Amendment No. 57: Appropriates $750,000 for compensation for construction defects instead of $1,000,000 as proposed by the House and $500,000 as proposed by the Senate.

Salaries and Expenses

Amendment No. 58: Appropriates $375,297,000 for salaries and expenses of the Farmers Home Administration instead of $356,297,000 as proposed by the House and $394,197,000 as proposed by the Senate. The conferees agree that the Department should continue paying the balance of FmHA staff out of the revolving fund and should submit detailed estimates of current services as part of the fiscal year 1987 budget.

Amendment No. 59: Earmarks $1,950,000 for the circuit rider program instead of $1,600,000 as proposed by the House and $2,100,000 as proposed by the Senate. The conference agreement is based upon the fact that part of the year has passed and the Senate increase can be reduced.

Rural Electrification Administration

RURAL ELECTRIFICATION AND TELEPHONE REVOLVING FUND LOAN AUTHORIZATIONS

Amendment No. 60: Places a ceiling on rural electrification loans of $975,000,000 instead of $1,100,000,000 as proposed by the House and $850,000,000 as proposed by the Senate.

Amendment No. 61: Places a ceiling on total commitments to guarantee loans of $2,195,000,000 instead of $2,345,000,000 as proposed by the House and $2,045,000,000 as proposed by the Senate.

Amendment No. 62: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that no funds appropriated in this Act may be used to deny or reduce loans or loan advances based upon a borrower's level of general funds.

REIMBURSEMENT TO THE RURAL ELECTRIFICATION AND TELEPHONE REVOLVING FUND

Amendment No. 63: Appropriates $100,000,000 for restoration of interest subsidies and losses for the Rural Electrification and Telephone Revolving Fund instead of $225,395,000 as proposed by the House. The Senate amendment deleted funding for interest subsidies and losses.

RURAL TELEPHONE BANK

Amendment No. 64: Deletes Senate language regarding a borrower's level of general funds since the limitation agreed to in Amendment No. 62 applies to both the rural electrification and the telephone programs.

CONSERVATION

OFFICE OF THE ASSISTANT SECRETARY FOR NATURAL RESOURCES AND ENVIRONMENT

Amendment No. 65: Restores House language establishing a separate account for the Office of the Assistant Secretary for Natural Resources and Environment and appropriates $386,000 for that Office. The Senate proposed to fund this account under the Office of the Secretary.

SOIL CONSERVATION SERVICE

CONSERVATION OPERATIONS

Amendment No. 66: Appropriates $365,460,000 for Soil Conservation Service, conservation operations instead of $365,629,000 as proposed by the House and $365,400,000 as proposed by the Senate. The conference agreement includes $60,000 for the backwater irrigation study as proposed by the House.

Amendment No. 67: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows: *That of the foregoing amounts not less than $290,035,000 is for personnel compensation and benefits: Provided further, That in addition to the above amounts, $8,000,000 is hereby appropriated to be transferred to and merged with the watershed and flood prevention operations appropriation for use in carrying out activities authorized under the Public Law 534 program: Provided further,*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement restores and amends the House language providing no less than $290,035,000 for personnel compensation and benefits. The conference agreement also provides an additional $8,000,000 to be used in carrying out the P.L. 534 program.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

AGRICULTURAL CONSERVATION PROGRAM

Amendment No. 68: Appropriates $190,000,000 for the agricultural conservation program as proposed by the House instead of $165,000,000 as proposed by the Senate. The conferees are aware that some funds were carried over from fiscal year 1985. However, the conferees feel that these carryover funds result from cost-share rates that have been set at too high a level in certain parts of the country.

Amendments No. 69 and 70: Delete Senate language regarding long-term agreements.

WATER BANK PROGRAM

Amendment No. 71: Appropriates $8,800,000 for the water bank program as proposed by the Senate. The House bill contained no provision for this program.

EMERGENCY CONSERVATION PROGRAM

Amendment No. 72: Deletes House language appropriating $5,000,000 for the emergency conservation program as proposed by the Senate. The conferees have been advised that sufficient carryover funds are available for this program.

TITLE III—DOMESTIC FOOD PROGRAMS

OFFICE OF THE ASSISTANT SECRETARY FOR FOOD AND CONSUMER SERVICES

Amendment No. 73: Restores House language establishing a separate account for the Office of the Assistant Secretary for Food and Consumer Services and appropriates $350,000 for that Office. The Senate proposed to fund this account under the Office of the Secretary.

COMMODITY SUPPLEMENTAL FOOD PROGRAM

The conferees agree that remaining fiscal year 1985 appropriations should be used for administrative expenses associated with the handling of cheese and bonus commodities by CSF program operators. Therefore, the Department is directed to report its action in this matter to the House and Senate Appropriations Committees prior to the fiscal year 1987 hearings.

FOOD STAMP PRINTING

The conferees ageee that none of the funds in the Act are appropriated for printing food stamp coupons outside the United States.

FOOD DONATIONS PROGRAMS

Amendment No. 74: Appropriates $194,573,000 for the food donations progams as proposed by the Senate instead of $187,622,000 as proposed by the House.

Amendment No. 75: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that up to $7,000,000 of the amount appropriated for food donations programs may be used to pay outstanding claims for meals served in fiscal year 1985.

TITLE IV—INTERNATIONAL PROGRAMS

PUBLIC LAW 480

Amendment No. 76: Provides that up to 10 percent of the funds made available for the Public Law 480 program may be transferred between titles as proposed by the House instead of 15 percent as proposed by the Senate.

OFFICE OF INTERNATIONAL COOPERATION AND DEVELOPMENT

Amendment No. 77: Appropriates $5,417,000 for the Office of International Cooperation and Development as proposed by the Senate instead of $3,917,000 as proposed by the House. The conference agreement includes $1,500,000 for agricultural scholarships for foreign students as proposed by the Senate.

The conferees ageee that the Office of International Cooperation and Development shall be maintained as an independent office.

SCIENTIFIC ACTIVITIES OVERSEAS

(FOREIGN CURRENCY PROGRAM)

Amendment No. 78: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the first sum named in said amendment, insert: *$3,000,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates $3,000,000 for the scientific activities overseas program instead of $5,000,000 as proposed by the Senate. The House bill contained no similar provision for this program.

TITLE V—RELATED AGENCIES

FOOD AND DRUG ADMINISTRATION

SALARIES AND EXPENSES

Amendment No. 79: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: *$396,955,000, and in addition $6,674,000 shall be available only to the extent an official budget request is transmitted to the Congress*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates $396,955,000 for salaries and expenses of the Food and Drug Administration instead of $392,370,000 as proposed by the House and $399,629,000 as proposed by the Senate. The conference agreement also deletes language proposed by the Senate earmarking funds for orphan product grants and contracts, and provides an additional $6,674,000 which shall be available only to the extent an official budget request is transmitted to Congress.

The conference agreement includes an appropriation of $10,015,000 and 70 full-time equivalents for work on Acquired Immune Deficiency Syndrome. The conference agreement also includes an appropriation of $4,700,000 for orphan product work, of which not less than $3,000,000 shall be available only for orphan product grants and contracts, to provide for orderly growth in this program.

The $6,674,000 which the conference agreement provides, subject to a budget request, represents $2,965,000 for increased operating costs and $3,709,000 for increased personnel costs.

Amendment No. 80: Restores and amends House language to provide that none of the funds available to the Food and Drug Administration for salaries and expenses shall be used to develop, establish, or operate any program of user fees authorized by 31 U.S.C. 9701. The House provided this limitation on funds "in this Act" and the Senate deleted the House provision. The conference agreement includes $5,000,000 to continue the processing of new drug applications with appropriated funds.

Amendment No. 81: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following: *: Provided further, That a portion of the funds appropriated under this heading shall be used to complete, by June 1, 1986, the safety evaluation of sulfiting agents*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement concurs with the Senate amendment which provides that funds available to the Food and Drug Administration shall be used to complete, by June 1, 1986, the safety evaluation of sulfiting agents, and makes a technical change to add the word "further".

COMMODITY FUTURES TRADING COMMISSION

Amendment No. 82: Appropriates $29,416,000 for the Commodity Futures Trading Commission instead of $28,416,000 as proposed by the House and $30,307,000 as proposed by the Senate.

TITLE VI—GENERAL PROVISIONS

Amendment No. 83: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: *person, persons or corporation upon a final finding by a court of competent jurisdiction that such party is guilty of growing, cultivating, harvesting, processing or storing marijuana, or other*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement makes a technical modification of the language which has been in the Act for a number of years regarding the making of production or other payments to persons who produce prohibited drug-producing plants.

Amendment No. 84: Restores House language providing that not to exceed $40,001,000 shall be charged against the Working Capital Fund for personnel compensation and benefits.

Amendment No. 85: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following: *Rural Housing for Domestic Farm Labor; Agricultural Research Service, Buildings and Facilities; Scientific Activities Overseas (Foreign Currency Program); Dairy Indemnity Program; and $16,173,000 for the grasshopper and Mormon cricket control program, Animal and Plant Health Inspection Service;*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 86: Makes a technical correction as proposed by the Senate.

Amendment No. 87: Restores and amends House language requiring the Department to sell certificates of beneficial ownership equal to not less than 75 percent of the value of loans closed during the year. The Senate deleted the House language, and the conference agreement retains the House language but lowers the sales requirement to 65 percent.

Amendments No. 88 through 100: Restore House section numbers.

Amendment No. 101: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that the authority of the Commodity Credit Corporation to lease space for its own use or to lease space on behalf of other agencies of the Department of Agriculture shall not be restricted, with an amendment which changes the section number to Sec. 629.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 102: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

SEC. 630. Section 221 of the Biomass Energy and Alcohol Fuels Act of 1980 (Public Law 96-294; 42 U.S.C. 8821) is amended by—

(1) Striking out "September 30, 1984" and inserting in lieu thereof "June 30, 1986"; and

(2) adding at the end thereof the following: "The Secretary of Energy may modify the terms and conditions of any conditional commitment for a loan guarantee under this subtitle made before October 1, 1984, including the amount of the loan guarantee. Enactment of this section shall not be interpreted as indicating Congressional approval with respect to any pending conditional commitments under this Act.".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

FISCAL YEAR 1986 SEQUESTRATION PROCEDURES

Should a sequestration be required during fiscal year 1986, for the purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (P.L. 99-177), the following information provides the definition of the term "program, project, and activity" for appropriations for Agriculture, Rural Development, and Related Agencies programs. The term "program, project, and activity" shall include the most specific level of budget activities detailed in the Agriculture, Rural Development, and Related Agencies Appropriation Act for Fiscal Year 1986 (H.R. 3037), the House and Senate Committee reports on the bill (H. Rept. 99-211 and S. Rept. 99-137), as well as the conference report and the accompanying joint explanatory statement of the managers of the committee of conference.

In carrying out the Presidential Order, agencies shall apply this definition to all items specified in the explanatory notes as changed by congressional action, and in addition:

For the Agricultural Research Service the definition shall include specific research locations as identified in the explanatory notes and lines of research specifically identified in the reports of the House and Senate Appropriations Committees.

For the Soil Conservation Service the definition shall include individual flood prevention projects as identified in the explanatory notes and individual operational watershed projects as summarized in the notes.

For the Farmers Home Administration the definition shall include individual State, district and county offices.

For the Agricultural Stabilization and Conservation Service the definition shall include individual State and county offices.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1986 recommended by the Committee of Conference, with comparisons to the fiscal year 1985 amount, the 1986 budget estimates, and the House and Senate bills for 1986 follow:

New budget (obligational) authority, fiscal year 1985	$38,261,575,000
Budget estimates of new (obligational) authority, fiscal year 1986	33,233,217,000
House bill, fiscal year 1986	33,120,901,000
Senate bill, fiscal year 1986	34,250,444,000
Conference agreement, fiscal year 1986	33,262,354,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1985	−4,999,221,000
Budget estimates of new (obligational) authority, fiscal year 1986	+29,137,000
House bill, fiscal year 1986	+141,453,000
Senate bill, fiscal year 1986	−988,090,000

JAMIE L. WHITTEN,
BOB TRAXLER,
MATTHEW F. MCHUGH,
WILLIAM H. NATCHER,
DANIEL K. AKAKA,
WES WATKINS,
RICHARD J. DURBIN,
NEAL SMITH,
VIRGINIA SMITH,
JOHN T. MYERS,
HAROLD ROGERS,
JOE SKEEN,
SILVIO O. CONTE,
Managers on the Part of the House.

THAD COCHRAN,
JAMES A. MCCLURE,
MARK ANDREWS,
JAMES ABDNOR,
BOB KASTEN,
MACK MATTINGLY,
ARLEN SPECTER,
MARK O. HATFIELD,
QUENTIN N. BURDICK,
JOHN C. STENNIS,
JIM SASSER,
DALE BUMPERS,
TOM HARKIN,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. MCKINNEY (at the request of Mr. MICHEL), for today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. CHANDLER) to revise and extend their remarks and include extraneous material:)

Mr. CLINGER, for 60 minutes, today.

Mr. SWINDALL, for 60 minutes, today.

Mr. LOTT, for 30 minutes, today.

Mr. BROYHILL, for 15 minutes, today.

(The following Members (at the request of Mr. VENTO) to revise and extend their remarks and include extraneous material:)

Mr. GLICKMAN, for 5 minutes, today.

Mr. PEPPER, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. Dymally, for 5 minutes, today.

Mr. Lipinski, for 5 minutes, today.

Mr. Panetta, for 5 minutes, today.

Mr. Nelson of Florida, for 5 minutes, today.

Mr. Rangel, for 60 minutes, today.

Mr. Seiberling, for 15 minutes, today.

Mr. Jones of Oklahoma for 60 minutes, today.

(The following Members (at the request of Mr. Seiberling) to revise and extend their remarks and include extraneous material:)

Mr. Rangel, for 60 minutes, on December 16.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. YOUNG of Alaska, prior to the passage of H.R. 2651, in the House, today.

(The following Members (at the request of Mr. Chandler) and to include extraneous matter:)

Mr. Rogers.
Mr. Walker.
Mr. Henry.
Mr. Courter.
Mr. Conte.
Mr. Mack.
Mr. Lott in two instances.
Mr. Gilman in five instances
Mr. Green in three instances.
Mr. McEwen.
Mr. Gallo.
Mr. Dornan of California.
Mrs. Holt.
Mr. Dannemeyer.
Mr. Zschau.
Mr. Gekas.
Mr. Emerson in five instances.
Mr. McCain.

(The following Members (at the request of Mr. Vento) and to include extraneous matter:)

Mr. Roe.
Mr. AuCoin in two instances.
Mr. Florio in five instances.
Mr. Waxman.
Mr. Edwards of California.
Ms. Kaptur in two instances.
Mr. Young of Missouri.
Mr. Gejdenson.
Mr. Boland.
Mr. Gaydos.
Mrs. Burton of California.
Mr. Sikorski.
Mr. Clay in two instances.
Mr. St Germain.
Mr. Fascell.
Mr. Panetta.
Mr. Rangel.
Mr. Oberstar.
Mr. McHugh, in two instances.
Mr. Bosco.
Mr. Levine of California.
Mr. Kostmayer.
Mr. Smith of Florida.
Mr. Ortiz.
Mr. Rahall.
Mr. Ackerman.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 947. An act to amend the Foreign Assistance Act of 1961 with respect to the activities of the Overseas Private Investment Corporation.

BILL AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on the following days present to the President, for his approval, a bill and joint resolution of the House of the following titles:

On December 11, 1985:

H.J. Res. 372. Joint resolution increasing the statutory limit on the public debt.

On December 12, 1985:

H.R. 2965. A bill making appropriations for the Departments of Commerce, Justice and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1986, and for other purposes.

ADJOURNMENT

Mr. SEIBERLING. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 7 minutes, p.m.) under its previous order, the House adjourned until Monday, December 16, 1985, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2385. A letter from the Assistant Administrator for Pesticides and Toxic Substances, Environmental Protection Agency, transmitting final rules under the Federal Insecticide, Fungicide, and Rodenticide Act [FIFRA], pursuant to the act of June 25, 1947, chapter 125, section 25(a)(4) (94 Stat. 3195); to the Committee on Agriculture.

2386. A letter from the Director, Office of Management and Budget, transmitting a cumulative report on rescissions and deferrals of budget authority, pursuant to 2 U.S.C. 685(e) (H. Doc. No. 99-136); to the Committee on Appropriations and ordered to be printed.

2387. A letter from the Secretaries of Agriculture and Energy, transmitting a report on the status of Federal programs relating to the barter or exchange of commodities owned by the Commodity Credit Corporation for materials and products produced in foreign countries, pursuant to 15 U.S.C. 4053; to the Committee on Foreign Affairs.

2388. A letter from the Secretary of Energy, transmitting a letter of support for the United States-China Agreement on the Peaceful Uses of Nuclear Energy; to the Committee on Foreign Affairs.

2389. A letter from the Director of the Selective Service, transmitting a report of the Selective Service's internal accounting and administrative control system, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2390. A letter from the Administrator, Panama Canal Commission, transmitting a claim for $404,366.82 from Norwegian American Cruises for damages incurred in the Panama Canal, pursuant to Public Law 96-70, section 1415(b); to the Committee on Merchant Marine and Fisheries.

2391. A letter from the Secretary of Transportation, transmitting a request for improvements to the Mike Monroney Aeronautical Center; to the Committee on Public Works and Transportation.

2392. A letter from the Secretary of Health and Human Services, transmitting a draft of proposed legislation to provide for voluntary private alternative coverage for Medicare beneficiaries, and for other purposes; jointly, to the Committees on Ways and Means and Energy and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 2651. A bill to amend section 504 of the Alaska National Interest Lands Conservation Act to promote the development of mineral wealth in Alaska; with an amendment (Rept. 99-436). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 3851. A bill to amend section 901 of the Alaska National Interest Lands Conservation Act (Rept. 99-437). Referred to the Committee of the Whole House on the State of the Union.

Mr. MITCHELL: Committee on Small Business. H.R. 2787. A bill to extend through fiscal year 1988 SBA pilot programs under section 8 of the Small Business Act (Rept. 99-438). Referred to the Committee of the Whole House on the State of the Union.

Mr. WHITTEN: Committee of conference. Conference report on H.R. 3037 (Rept. 99-439). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BROYHILL (for himself, Mrs. Johnson, Mr. Gingrich, Mr. Thomas of Georgia, Mrs. Smith of Nebraska, and Mr. Tauzin).

H.R. 3917. A bill to extend the period allowed for compliance with certain financial responsibility requirements applicable to land disposal facilities under the Solid Waste Disposal Act; to the Committee on Energy and Commerce.

By Mr. ROSTENKOWSKI:

H.R. 3918. A bill to extend until December 18, 1985, the application of certain tobacco excise taxes, trade adjustment assistance, certain Medicare reimbursement provisions, and borrowing authority under the Railroad Unemployment Insurance Programs; to the Committee on Ways and Means.

By Mr. de la GARZA:

H.R. 3919. A bill to extend temporarily the Dairy Price Support Program and certain Food Stamp Program provisions, and for other purposes; to the Committee on Agriculture.

By Mr. BROWN of Colorado:

H.R. 3920. A bill to authorize and direct the Secretary of the Interior to amend the contract between the United States and the Purgatoire River Conservancy District (contract number 7-07-w0095); to the Committee on Interior and Insular Affairs.

By Mr. DANNEMEYER (for himself, Mr. Anderson, Mr. Badham, Mr. Beilenson, Mr. Bosco, Mr. Brown of California, Mr. Coelho, Mr. Dixon, Mr. Dornan of California, Mr. Dreier of California, Mr. Dymally, Mr. Edwards of California, Mr. Fazio, Mr. Hawkins, Mr. Hunter, Mr. Lagomarsino, Mr. Lantos, Mr. Lehman of California, Mr. Lewis of California, Mr. Lowery of California, Mr. Lungren, Mr. Matsui, Mr. McCandless, Mr. Mineta, Mr. Moorhead, Mr. Packard, Mr. Shumway, Mr. Roybal, Mr. Thomas of California, and Mr. Zschau):

H.R. 3921. A bill to establish the Richard M. Nixon National Historic Site in the State of California, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. de la GARZA:

H.R. 3922. A bill to authorize additional bankruptcy judgeships for the southern district of Texas; to the Committee on the Judiciary.

H.R. 3923. A bill to amend section 10530 of title 49, United States Code, to make the registration requirements of that section inapplicable to foreign carriers domiciled in Mexico; to the Committee on Public Works and Transportation.

By Mr. FASCELL:

H.R. 3924. A bill to authorize and direct the Foreign Claims Settlement Commission of the United States to determine inheritance claims of United States nationals against Romania; to the Committee on Foreign Affairs.

By Mr. GEJDENSON:

H.R. 3925. A bill to lower for a 3-year period the rate of duty on glass inners designed for vacuum flasks; the Committee on Ways and Means.

By Mr. GILMAN:

H.R. 3926. A bill to amend title 38, United States Code, to extend eligibility for burial allowance to certain additional veterans and to increase the burial plot allowance for veterans from $150 to $250, to the Committee on Veterans' Affairs.

H.R. 3927. A bill to amend the Internal Revenue Code of 1954 to allow a credit against tax for expenses incurred in the care of elderly veterans, to the Committee on Ways and Means.

H.R. 3928. A bill to amend the Internal Revenue Code of 1954 to make the credit for dependent care services necessary for gainful employment a refundable credit and to allow an additional investment tax credit for dependent care center property; to the Committee on Ways and Means.

By Mr. HOWARD (for himself, and Mr. Snyder) (by request):

H.R. 3929. A bill to amend subtitle IV of title 49, United States Code, to reduce regulation of motor carriers of property, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. JONES of Oklahoma:

H.R. 3930. A bill to amend the Internal Revenue Code of 1954 with respect to treatment of fringe benefits provided to the parents of employees; to the Committee on Ways and Means.

By Mr. MOAKLEY:

H.R. 3931. A bill to designate the General Services Administration building known as the "United States Appraiser's Stores Building" in Boston, MA, as the "Captain John Foster Williams Coast Guard Building;" to the Committee on Public Works and Transportation.

By Mr. MOODY (for himself, and Mr. Obey):

H.R. 3932. A bill to provide for State regulation of the transportation of high level radioactive waste; jointly, to the Committee on Interior and Insular Affairs, Energy and Commerce, and Public Works and Transportation.

By Mr. ORTIZ:

H.R. 3933. A bill to amend title 28 of the United States Code to authorize the appointment of additional bankruptcy judges for the southern district of Texas; to the Committee on the Judiciary.

By Mr. PASHAYAN (for himself, and Mr. Thomas of California):

H.R. 3934. A bill to amend the Wild and Scenic Rivers Act and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. ST GERMAIN

H.R. 3935. A bill to require candidates for the office of Representative or Senator to provide copies of their State and Federal income tax returns for publication in the Congressional Record; to the Committee on House Administration.

By Mr. SMITH of Florida (for himself, Mr. Fascell, and Mr. Hyde):

H.R. 3936. A bill to amend the Controlled Substances Act to create new penalties for the use of children in the distribution of controlled substances and for the manufacturing with intent to distribute, the possession with intent to distribute, or the distribution of designer drugs, and for other purposes; jointly, to the Committees on Energy and Commerce and the Judiciary.

By Mr. WHEAT:

H.R. 3937. A bill to amend title 5, United States Code, with respect to withholding certain city or county taxes from the pay of Federal employees; to the Committee on Post Office and Civil Service.

By Mr. WHITTEN:

H.J. Res. 476. Joint resolution making further continuing appropriations for fiscal year 1986; to the Committee on Appropriations.

By Mr. NEAL:

H.J. Res. 477. Joint resolution proposing an amendment to the Constitution of the U.S. providing that, except in cases of national emergency, expenditures of the U.S. Government in any fiscal year shall not exceed its revenues for that fiscal year; to the Committee on the Judiciary.

H.J. Res. 478. Joint resolution proposing an amendment to the Constitution of the United States providing that, except in cases of national emergency, expenditures of the U.S. Government in any fiscal year shall not exceed its revenues for that fiscal year and shall not exceed 20 per centum of the gross national product of the preceding calendar year; to the Committee on the Judiciary.

By Mr. ASPIN (for himself, Mr. Evans of Illinois, Mr. Fuster, Mr. Boland, Mr. Emerson, Mr. Moakley, Mr. Bennett, Mr. Mrazek, Mrs. Bentley, Mr. O'Brien, Mr. Stenholm, Mrs. Holt, Mr. Heftel of Hawaii, Mr. Kolter, Mr. Stokes, Mr. Lantos, Mr. Hayes, Mr. Hendon, Mr. Dornan of California, Mr. Savage, Mr. Mineta, Mr. Fazio, Mrs. Boxer, Mr. Hughes, Mr. Matsui, Mr. Young of Florida, Mr. Dwyer of New Jersey, Mr. Hartnett, Mr. Nichols, Mr. Rahall, Mr. Quillen, Mr. Volkmer, Mr. Schumer, Mr. Solomon, Mr. LaFalce, Mr. Rudd, Mr. Young of Alaska, Mr. Levin of Michigan, Mr. Crockett, Mr. Bustamante, Mr. Shumway, Mr. Gingrich, Mr. Lundine, Mr. McGrath, Mrs. Meyers of Kansas, Mr. Horton, Mr. Bryant, Mr. Daub, Mr. Yatron, Mr. Schuette, Ms. Mikulski, Mr. Martinez, Mr. Moody, Mr. Borski, and Mr. Boucher):

H.J. Res. 479. Joint resolution to designate October 8, 1986, as "National Fire Fighters Day"; to the Committee on Post Office and Civil Service.

By Mr. BOEHLERT:

H.J. Res. 480. Joint resolution designating the week beginning April 13, 1986, as "National Medical Laboratory Week"; to the Committee on Post Office and Civil Service.

By Mr. PEPPER:

H.J. Res. 481. Joint resolution to designate the week of February 9, 1986 through February 15, 1986 as "National Burn Awareness Week"; to the Committee on Post Office and Civil Service.

By Mr. ST GERMAIN:

H.J. Res. 482. Joint resolution to provide for the temporary extension of certain programs relating to housing and community development, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. SHAW (for himself, Mr. Chappell, Mr. Livingston, Mr. Roth, Mr. Jeffords, Mr. Lungren, Mr. Wise, Mr. Ridge, Mr. Edwards of Oklahoma, Mr. Wolpe, Mr. Bevill, Mr. Flippo, Mr. Michel, Mr. Lott, Mr. Kemp, Mr. Wright, Mr. Foley, Mr. Gephardt, and Mr. Howard):

H.J. Res. 483. Joint resolution to designate the first Friday of May each year as "National Teacher Appreciation Day", to the Committee on Post Office and Civil Service.

By Mr. DORNAN of California:

H. Con. Res. 259. Concurrent resolution expressing the sense of Congress that the President should express to the Government of the Soviet Union the disapproval of the American people concerning that Government's systematic nondelivery of international mail addressed to certain persons residing within the Soviet Union, that the Department of State should pursue this matter at the diplomatic level with the Soviet Union and other countries, and that the United States delegation to the next Congress of the Universal Postal Union seek the compliance of the Government of the Soviet Union with the acts of the Universal Postal Union; jointly, to the Committee on Foreign Affairs and Post Office and Civil Service.

By Mr. GLICKMAN (for himself, Mr. Lujan, Mr. Brown of California, Mr. Lewis of Florida, Mr. Mineta, Mr. Walker, Mr. Roe, Mr. Boehlert, Mr. Nelson of Florida, Mr. Packard, Mr. Andrews, Mr. Gordon, Mr. Dornan of California, Mr. Price, Mr. Bryant, Ms. Oakar, Mr. Whitehurst, Mr. Wortley, Mrs. Bentley, Mr. Porter, Mr. Carr, and Mr. Wilson):

H. Res. 340. Resolution expressing the sense of the House of Representatives that a national program of hypersonic aircraft research and technology development leading to a proof-of-concept flight demonstration should be pursued vigorously by the National Aeronautics and Space Administraton; to the Committee on Science and Technology.

By Mr. LOTT (for himself, Mr. Frenzel, Mr. Vander Jagt, Mr. Pursell, and Mr. McCandless):

H. Res. 341. Resolution to amend the rules of the House to prohibit the solicitation of political campaign contributions by Members, officers or employees of the House or employees of the U.S. Government, and to prohibit such solicitations by any person in any House office, building, or portion of the Capitol; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. BLILEY introduced a bill (H.R. 3938) to provide for a 10-year extension of patent numbered 3,435,845; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 471: Mr. Whitehurst, Mr. Daub, Mrs. Bentley, Mr. Wilson, and Mr. Hyde.

H.R. 864: Mr. Skelton and Mr. Barnes.

H.R. 870: Mr. Bonior of Michigan, Mr. Gingrich, and Mr. Shelby.

H.R. 979: Mr. Daniel and Mr. Barnard.

H.R. 1139: Mr. Applegate.

H.R. 1356: Mr. Bustamante, Mr. Leath of Texas, and Mrs. Vucanovich.

H.R. 1875: Mr. Roberts, Mr. Vander Jagt, Mr. Gray of Illinois, Mr. Pursell, Mr. Downey of New York, and Mr. Volkmer.

H.R. 2010: Mr. Pursell.

H.R. 2093: Mr. Schumer and Mr. Bedell.

H.R. 2206: Mr. Scheuer.

H.R. 2387: Mr. Moakley.

H.R. 2504: Mr. Durbin and Mr. Pursell.

H.R. 2684: Mr. Bustamante, Mr. Chapman, Mr. Whitehurst, Mr. Strang, Mr. Barnes, Mr. Luken, and Mr. English.

H.R. 2721: Mr. Ackerman.

H.R. 2873: Mr. Hillis.

H.R. 3220: Mr. Frank, Mr. Weaver, Mr. Gejdenson, Mr. Edwards of California, Mr. Fazio, Mr. Bedell, Mr. Savage, Mrs. Boxer, Mr. Martinez, Mr. Crockett, Ms. Mikulski, Mr. Lundine, Mr. Rangel, and Mr. Staggers.

H.R. 3259: Mr. Monson.

H.R. 3260: Mr. Kolter, Ms. Snowe, Mr. Traxler, and Mr. Owens.

H.R. 3426: Mr. Bateman, Mr. Bereuter, Mr. Biaggi, Mr. Coats, Mr. Cobey, Mr. Craig, Mr. Dannemeyer, Mr. DeWine, Mr. Dornan of California, Mr. Edwards of Oklahoma, Mr. Gingrich, Mr. Hyde, Ms. Kaptur, Mr. Kolbe, Mr. Kolter, Mr. Lagomarsino, Mr. Leach of Iowa, Mr. Lightfoot, Mr. Lipinski, Mrs. Lloyd, Mr. Martinez, Mr. McEwen, Mr. Mitchell, Mr. Mollohan, Mr. Murphy, Mr. Rangel, Mr. Ritter, Mr. Siljander, Mr. Sunia, and Mr. Wolf.

H.R. 3465: Mr. Edgar, Mr. Boucher, Mr. Oxley, Mr. Donnelly, Mrs. Schneider, Mr. Wolpe, and Mr. Nowak.

H.R. 3626: Mr. Fields and Mr. Saxton.

H.R. 3627: Mr. Bateman, Mr. Fascell, Mr. Ralph M. Hall, Mr. Huckaby, Mr. Lehman of Florida, Mr. Livingston, Mr. Lott, Mr. MacKay, Mr. Nichols, Mr. Pepper, Mr. Volkmer, and Mr. Wilson.

H.R. 3654: Mr. Clinger.

H.R. 3688: Mr. Stenholm, Mr. Fields, Mr. Edwards of Oklahoma, Mr. Brown of Colorado, and Mr. Tauke.

H.R. 3704: Mr. Lipinski, Mr. Rudd, Mr. Bilirakis, Mr. Gingrich, Mr. Roe, Mr. Shaw, and Mr. Lagomarsino.

H.R. 3769: Mr. Lipinski and Mr. Mitchell.

H.R. 3801: Mr. de Lugo.

H.R. 3803: Mr. Bustamante, and Mr. Rahall.

H.J. Res. 234: Mr. Burton of Indiana.

H.J. Res. 254: Mr. Clay, Mr. Saxton, and Mr. Matsui.

H.J. Res. 297: Mr. McKernan, Mr. Moody, Mr. Bonior of Michigan, Mr. Weiss, Mr. Shelby, Mr. Udall, Mr. Pursell, Mr. Green, Mr. Hamilton, Ms. Mikulski, Mr. Brown of California, Mr. Stokes, Mr. McKinney, Mr. Rowland of Georgia, Mrs. Burton of California, Mr. Lantos, Mr. Waxman, Mr. Tauke, Mr. Gejdenson, Mr. Addabbo, Mr. Shaw, Mr. Dornan of California, Mr. Neal, Mr. Kolter, and Mr. Bryant.

H.J. Res. 375: Mr. McGrath, Mr. Lent, Mr. Ritter, Mr. Fields, Mr. Mazzoli, Mr. Watkins, Mr. Whittaker, Mr. Sundquist, Mr. Smith of New Jersey, Mr. Slaughter, Mr. Oxley, Mr. Parris, Mr. Boulter, Mr. Cobey, Ms. Fiedler, Mr. Broyhill, Mr. Walker, Mr. Clinger, Mr. Cheney, Mr. Strang, and Mr. Clay.

H.J. Res. 421: Mr. Henry, Mr. Coleman of Texas, and Mr. Heftel of Hawaii.

H.J. Res. 439: Mr. Boland, Mr. Denny Smith, Mr. Dwyer of New Jersey, Mr. Dowdy of Mississippi, Mr. Bedell, Mr. Gunderson, Mr. Fuster, Mr. Hansen, Mr. Walgren, Mr. Tallon, Mr. Hatcher, Mr. Rowland of Georgia, Mr. Whitley, Mr. Hunter, Mr. Hillis, Mr. Archer, Mr. Rinaldo, Mr. Kostmayer, Mr. Latta, Mr. Lent, Mr. Fields, and Mr. Kasich.

H.J. Res. 447: Mrs. Bentley, Mr. Coats, Mr. Snyder, Mr. Moody, and Mr. Natcher.

H.J. Res. 458: Mr. Gibbons, Mr. Frenzel, Mr. Green, Mr. Lagomarsino, Mr. Siljander, Mr. Smith of Florida, Mr. Wortley, Mr. Jeffords, and Mr. Barnard.

H. Con. Res. 36: Mr. Morrison of Connecticut and Mr. Garcia.

H. Con. Res. 57: Mr. Solomon and Mr. Hyde.

H. Con. Res. 167: Mr. AuCoin, Mr. Barnes, Mr. Bateman, Mr. Bates, Mr. Beilenson, Mrs. Bentley, Mr. Bevill, Mr. Biaggi, Mrs. Boggs, Mr. Borski, Mrs. Boxer, Mr. Bustamante, Mr. Chapman, Mr. Clinger, Mr. Coleman of Texas, Mrs. Collins, Mr. Conyers, Mr. Daschle, Mr. Darden, Mr. Dyson, Mr. de Lugo, Mr. Eckart of Ohio, Mr. Edwards of California, Mr. Fascell, Mr. Fauntroy, Mr. Fazio, Mr. Fish, Mr. Florio, Mr. Frost, Mr. Gallo, Mr. Gejdenson, Mr. Gonzalez, Mr. Gray of Illinois, Mr. Gray of Pennsylvania, Mr. Gregg, Mr. Guarini, Mr. Ralph M. Hall, Mr. Hammerschmidt, Mr. Heftel of Hawaii, Mr. Hendon, Mr. Henry, Mrs. Holt, Mr. Hoyer, Mr. Hughes, Mrs. Kennelly, Mr. Leath of Texas, Mr. Leland, Mr. Lipinski, Mrs. Lloyd, Mr. Lundine, Mr. McCloskey, Mr. McKinney, Mr. Madigan, Mr. Markey, Mr. Martinez, Mr. Matsui, Ms. Mikulski, Mr. Mitchell, Mr. Mrazek, Mr. Murphy, Mr. Neal, Mr. Nelson of Florida, Mr. Oberstar, Mr. Ortiz, Mr. Owens, Mr. Packard, Mr. Pashayan, Mr. Pepper, Mr. Pickle, Mr. Porter, Mr. Richardson, Mr. Rodino, Mr. Roe, Mr. Rose, Mr. Sabo, Mr. Skelton, Mr. Slattery, Mr. Smith of Florida, Mr. Spence, Mr. Stenholm, Mr. Sunia, Mr. Tallon, Mr. Towns, Mr. Traficant, Mr. Vento, Mr. Walgren, Mr. Weaver, Mr. Weiss, Mr. Williams, Mr. Wilson, Mr. Wright, Mr. Yatron, Mr. Young of Missouri, Mr. Bryant, and Mrs. Burton of California.

H. Con. Res. 219: Mr. Solomon.

H. Con. Res. 237: Mr. Daschle, Mr. Kostmayer, Mr. Mitchell, Mr. Fuster, Mr. Leland, Mr. Rahall, Mr. Dymally, Mr. Boucher, Mr. LaFalce, Mr. Hughes, Mr. Hoyer, Mr. Mrazek, Mr. Howard, Mr. Lehman of Florida, Mr. Conyers, Mr. Wilson, Mr. Weiss, Mrs. Burton of California, Mr. Smith of Florida, Mr. Lantos, Mrs. Boxer, Mr. Fauntroy, Mr. Coelho, Mr. Savage, Mr. Wolpe, Mr. Fazio, Mr. Weaver, Mr. Robinson, Mr. Monson, Mr. Dorgan of North Dakota, and Mr. Penny.

H. Con. Res. 243: Mr. Jacobs, Mr. Fauntroy, Mr. Bustamante, Mr. Lehman of Florida, Mr. Frank, Mr. Crockett, Mr. Ackerman, Mr. Matsui, Mr. Bedell, Mr. Florio, Mr. Barnes, Mr. Weiss, Mr. Towns, and Mr. Savage.

H. Res. 183: Mr. Foglietta.

H. Res. 219: Mr. Gilman.

SENATE—*Thursday, December 12, 1985*

(*Legislative day of Monday, December 9, 1985*)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

God of all comfort, be with Senator GOLDWATER, his two sons and two daughters, in the loss of his beloved wife Peggy.

This morning we feel the pain of the families of the 250 soldiers and the 8 crewmembers killed in the airplane crash at Gander Airport in Newfoundland, and we pray for them.

Father in Heaven, we beseech you for Your continued guidance—Your enablement—as the Senate works its way through controversial issues and clashing wills in a tough agenda. This room is occupied by 100 of the most powerful people in the Nation—for that matter, the world. Each is one, among many in his State, chosen and entrusted with the delicate, difficult stewardship of the democratic process. It is awesome to contemplate the immense potential when their power is united. It is tragic to observe the impotence when their powers collide and neutralize the power of each so that the whole is less than the sum of its parts.

You know the Senators, Lord, their motivation, purpose, sincerity, commitment. Protect them from the contradiction of national leaders victimized by their own power, position, prestige, and self-image. Protect their families from being victims. Renew the Senators in their dedication to the mandate which brought them to this Chamber and the will to be faithful to those who believed them and sent them here. Gracious God, transfigure these closing days of this session into a shining hour for the U.S. Senate. In His name Who was the Servant of all. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The distinguished majority leader is recognized.

SCHEDULE

Mr. DOLE. Mr. President, under the standing order, the leaders have 10 minutes each, and then routine morning business not to extend beyond the hour of 9:30, followed by, I guess, the OPIC conference report, S. 947, then the White Earth Indian Reservation bill under a 4-hour time agreement. Hopefully, today we can do the counterterrorism bill under a time agreement, possible trade legislation, if there can be a time agreement, and any conference reports that accompany the so-called must items. I think the only one that could possibly come before us today would be the continuing resolution.

We still, before we complete action this year, must come to grips with the farm bill. That means passing it. Hopefully, we could break the logjam on that in the conference this morning. Second, the farm credit legislation. There are a couple of ways we can approach that and dispose of that before we leave. And then reconciliation.

It would seem to me we would be walking away from all the work that many committees and many Members were engaged in throughout the year if we failed to pass a conference report on reconciliation. It involves a total of $85 billion in spending reductions over the next 3 years. I hope we will not say, "Well, that is something we can delay until next year."

There is little hope that we will adjourn this week. So it is now my hope that we may adjourn by midweek of next week. It seems to me that that would be the earliest time.

I will try to advise Members about this evening. I doubt that we will have a late evening, unless we are waiting on a conference report.

Also, because so many of our colleagues are involved in conferences, we would like to stack the votes, if there are any votes requested this morning, until about 1 o'clock and any other votes, maybe, until about 4 or 5 o'clock this afternoon to avoid Members' breaking up their conferences, coming back to the floor, and wasting a lot of their very valuable time in the last few days of the session.

Mr. President, I reserve the remainder of my time.

RECOGNITION OF THE ACTING MINORITY LEADER

The PRESIDING OFFICER (Mr. McCONNELL). The acting Democratic leader is recognized.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that 2 minutes of the Democratic leader's time be reserved for his use at any time today.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE NUCLEAR THREAT TO THE PACIFIC

Mr. PROXMIRE. Mr. President, the Prime Minister of New Zealand has said that he objects to the use of New Zealand ports by American ships carrying nuclear weapons. New Zealand may ban such American ships in the future. Our State Department has told New Zealand that if they prevent American ships from using New Zealand ports, we will regard this as a violation of our mutual defense agreements with New Zealand. The effect of that could exclude New Zealand from the protection of American naval and other military forces in the event of a Pacific war. Australia has announced that she would provide what military protection she could to New Zealand even if New Zealand is deprived of American protection. Australia has also indicated that, at least for the present, she will not ban American ships carrying nuclear weapons from her ports.

The New Zealand embargo of American ships carrying nuclear weapons could spread throughout the world. We Americans have very different views than New Zealand's Prime Minister. And why not? Here we are a super nuclear power. We are the nation that first developed nuclear weapons. We are the only nation that has ever exploded nuclear weapons as an act of war. We are a nation that now includes some 25,000 nuclear weapons in our arsenal. We see the Pacific Ocean as our ocean, an American ocean. We have far and away the most powerful Navy in the world. Our Navy bestrides and dominates the Pacific. No other nation, certainly not the Soviet Union, can even dream of challenging our naval power. Naturally, we want to keep it that way. As we see it, this total naval domination of the Pacific by the United States serves the interest of New Zealand. We are friendly. We have no designs on New Zealand. We constitute an important market for New Zealand goods. So why should New Zealand worry if, from time to time, we find it convenient for our ships carrying a nuclear payload to dock in New Zealand? What is the problem?

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Mr. President, the problem is a real and legitimate problem. It is shared by the overwhelming majority of nations throughout the world. This vast majority of the world's nations have no nuclear weapons. They have no desire ever to acquire nuclear weapons. But they see the two superpowers rushing ahead pell mell in a nuclear power buildup which they are now told by the most eminent scientists in the world could bring to all the people in the world a nuclear war which would constitute the most devastating environmental disaster in 65 million years: A nulcear winter. The people of New Zealand would be victims just as surely as the people of America and Russia. The people of New Zealand mind their own business. They work hard. They treasure their freedom and their nation's sovereignty. They feel that that freedom and sovereignty entitles them to keep nuclear weapons out of their ports.

And there is another more immediate nuclear weapons concern that those who dwell in Pacific lands share. The nuclear policies of the United States have endangered them for years. In a recent article in the New York Times, Jonathan Weisgall, who is writing a book on U.S. nuclear testing in the Pacific, reports that:

> The United States conducted 66 nuclear tests in the Marshall Islands, and France continues testing at Mururos Atoll, Japan has proposed dumping nuclear wastes off the Northern Marianas. In response to these developments, the 13 members of the South Pacific Forum, including Australia and New Zealand, last summer ratified a treaty banning the manufacture, testing or stationing of nuclear arms in almost all the South Pacific. This wide antinuclear sentiment is summed up in a poster that says, "If it's so safe, store it in Washington, dump it in Tokyo and test it in Paris."

That is an interesting statement.

Mr. President, I challenge any Senator to put herself or himself in the position of a New Zealander or a resident of the Marshall Islands or the Marianas, and I ask you, would you not share that same resentment against both superpowers for this senseless nuclear arms race, for the failure to end nuclear weapons testing totally and forthwith, and for their arrogant disdain for effective arms control?

The Prime Minister of New Zealand probably will not get much sympathy in this body. Most Senators will share the sentiment of the administration that sees this country as the great protector of the freedom of the democracies in the Pacific and throughout the world. Most Senators feel the price of that freedom to the Pacific nations must be to tolerate the nuclear weapons policies of this colossus of the Pacific. No question about it—the United States does, indeed, provide the people of the Pacific a protection against Soviet communism. We can do a great deal better, however, in providing protection against the consequences of the unrestrained nuclear arms race and the prospects of nuclear war.

MYTH OF THE DAY: PHONE RATES UP SINCE BREAKUP

Mr. PROXMIRE. Mr. President, the myth of the day is that the breakup of the American Telephone & Telegraph System has lowered telephone rates.

You might remember back in January 1984, the Bell System was broken into eight giant pieces: Seven regional companies handling local phone service and AT&T responsible for long distance. The primary rationale was to create a competitive long distance telephone system and thereby reduce phone bills.

Well, this is one of those good news, bad news stories. The good news is we still have the finest telephone system in the world. Since the breakup, businesses have benefited from new technologies and high-speed data processing services. And there has been that expected drop in long distance telephone rates as rivals of AT&T set up their own long distance services. Consumers now can buy their own phones and choose from an amazing variety of designer phones, ones with speed dialing or memory calling.

Has this helped business and consumers? It certainly has. Business communication is more efficient and consumers now have a greater choice of phones and service.

But there is a down side, a bad side to the good.

A recent study concluded that all too often consumers are paying more for telephone service with no real improvement in service. What does that mean? It means that while long distance rates have gone down, rates for basic local phone service have risen. Those are the rates you and I pay for our home phone service. According to this study—by the Consumer Federation of America—the nationwide average for basic, unlimited flat-rate phone service increased by 35 percent over the last 2 years. Looking ahead, some warn costs to consumers could double or triple by the end of the decade.

For poor and elderly Americans, those rising rates may come down to something very basic: The difference between having or not having a phone.

Think about that for a moment: Not being able to afford a telephone. That is not a very happy prospect, especially if you are old or poor.

So while our phone system remains unparalleled, there are warning signs we should heed.

Rising rates could mean the end of virtually universal phone service. Although long distance phone rates are lower for all of us because of the breakup of AT&T, for some Americans the cost of local telephone service threatens to become too great a burden.

"SHOAH" A HEBREW WORD FOR CATACLYSM

Mr. PROXMIRE. Mr. President, "Shoah" is a Hebrew word for cataclysm. It is also the title of a 9-hour documentary dramatizing the Holocaust.

The film documents chilling interviews with the survivors of Nazi death camps and records the emotional reports of those assisting in the mass exterminations. French director Claude Lanzmann relentlessly taps the memories of a survivor of a Polish death camp. He secretly films a former SS officer's account of squeamish details of murder. Mr. Lanzmann unmercifully takes the dramatic testimony of a Jewish barber once in charge of cutting the hair of those about to enter the gas chamber.

His acute attention to detail stirs a painful recollection of the Holocaust. Shoah will do much to publicize the atrociousness of genocide. So will the Genocide Convention.

But the Genocide Convention will make further assurances that there will be no more Shoahs. The convention undertakes to prevent and to punish acts of genocide. As an international law, it will strengthen the worldwide dedication to prevent another Holocaust.

The United States can greatly contribute to this purpose by adding its name to the list of 96 nations already having ratified the treaty. Now is an invaluable opportunity to condemn and curtail continuing acts of genocide—in Afghanistan, in Iran, in East Timor, and elsewhere. We are urged by President Reagan and our colleagues in this body, at this very moment, to seize this initiative and ratify the Genocide Convention.

Let us not ignore the encouragement from our leadership. They plead with us to recognize the convention's ability to combat genocide and uphold the dignity of human rights. I ask the Senate to turn to the Genocide Convention quickly and vote for its immediate ratification.

WISCONSIN ELECTRIC CO. AND THE FIGHT AGAINST ACID RAIN

Mr. PROXMIRE. Mr. President, Wisconsin Electric Power Co. recently announced a terrific 6-year, $600 million program to clean up its sulfur dioxide emissions and install innovative new technology in two plants.

Not only does the company's plan result in cleaner air but it provides almost 900 new construction jobs and establishes the company as a national leader in its industry.

The company will convert four units at the Oak Creek Powerplant to atmospheric fluidized bed combustion, the largest such installation in the world. Four other units at Oak Creek and four at the company's Port Washington plant will also be renovated, extending their useful lives and reducing their emissions.

In addition, the company will burn lower sulfur coal at all its major plants and is applying for funds under the Clean Coal Program to install a demonstration of the even newer pressurized fluidized bed technology at the Port Washington plant.

According to the company, these actions, in combination, will reduce emissions by 42 percent over 1980 levels and 50 percent over 1970 levels, despite a 64-percent increase in electricity generation during the same period. The atmospheric fluidized bed units alone will result in a 90-percent reduction in emissions for the boilers in which they are installed.

Yet, in spite of all these reductions, Wisconsin Electric's customers will not suffer. Instead, they will benefit from these cost-effective strategies which extend the lives of existing boilers instead of building costly new plants.

Mr. President, these actions by Wisconsin Electric provide a model for the rest of the utility industry of ways to produce clean air as well as electricity. The achievements of this firm should be repeated nationwide and saluted by environmentalists everywhere.

Mr. President, I yield the remainder of my time—and I know we are about to go into morning business, so there will be 5 minutes there in addition—to my good friend from Oklahoma.

I yield the floor.

ROUTINE MORNING BUSINESS

The **PRESIDING OFFICER**. Under the previous order there will now be a period for the transaction of routine morning business for not to extend beyond the hour of 9:30 a.m., with statements therein limited to 5 minutes each.

Mr. **PROXMIRE**. Mr. President, I yield the remaining time of the leader also to the Senator from Oklahoma.

The **PRESIDING OFFICER**. The Senator from Oklahoma is recognized.

Mr. **BOREN**. Mr. President, I thank my distinguished colleague for yielding to me.

OIL IMPORT FEE

Mr. **BOREN**. Mr. President, over the past few weeks, we have been putting the finishing touches on the work of this session. The bills now winding down to a final vote are important bills, Mr. President. The legislation now traveling through final processes of the various joint conferences will immediately and dramatically affect our Nation and each individual American.

But Mr. President, I would hope that in our zeal as Senators to address these issues, we would not ignore our role as guardians of the future. We must try to look ahead and not wait to deal with potential problems until they reach crisis proportions.

Because we face so many immediate problems, we have the bad habit of putting off those that seem less immediately pressing. We put them aside, planing to return to them at a more convenient time. Often, however, these problems do not wait for us, and before we have had a chance to act, they become far more dangerous and demand far more difficult solutions.

Several weeks ago I suggested to my colleagues just such a specter. This specter is still with us, just beyond the spotlight, and I do not want to let this session end without once again sounding a warning to my colleagues.

We have all taken some pleasure, Mr. President, from the loosening of the OPEC strangle hold on our economy and the resulting drop in the price of oil. Our Nation is to be congratulated for its conservation efforts to reduce dependence on imported oil and for its thrust in domestic oil exploration and production.

This progress is threatened by potential sudden drops and instability in oil prices.

Oil imports by Western nations in 1984 were actually less than imports before the oil crisis in the early 1970's. But since 1981, the price of oil has been falling and imports into the United States have risen. If prices continue to fall, the Department of Energy predicts, America's oil imports will double by 1995.

The hard lessons of conservation taught by high oil prices may be forgotten by a nation awash in cheap gas, and we may find ourselves profligate users of precious energy, surrendering once again to the cartel of the Mideast producers.

But, Mr. President, even before that happens, the fall in the price of oil could cause severe difficulty in our domestic economy without the help of OPEC.

Since the weakening of OPEC, analysts have predicted that there could be sudden sharp drops in the price of oil. Only yesterday, the New York Times in an editorial repeated the possibility that oil will fall $10 per barrel, to $18 per barrel or below. Mr. President, let me say that if the price of oil were to fall to $18 per barrel or lower, the domestic oil industry in this country would be devastated, and domestic production would be severely curtailed. We as a nation could no longer be proud that we have reduced our dependence on foreign oil and increased our reliance on domestic production, Mr. President, because the foundation of our domestic producers will have been shaken from beneath them.

The value of oil reserves in the ground is used as security for billions of dollars in loans held by American banks. If the value of these reserves were to drop so drastically, not only would the domestic industry suffer, but the effect of this deflation of assets would have a domino effect on the financial system, sending major shock waves even through the big money centers such as New York and Chicago.

Mr. President, I suggest that we can avoid that event. I suggest that we can put in place an oil import fee that will allow us to preempt the negative effects of a dramatic fall in the price of oil and still enjoy the benefits such a drop could bring our economy.

My legislation proposing such a fee was introduced in August. My plan includes a variable cost per barrel on imported foreign crude and imported refined products. It would be regionally fair and would preserve competitiveness in sensitive areas of trade.

Mr. President, an oil import fee such as the one I am suggesting, which would not raise oil prices from current levels, would generate as much as $15 billion per year for the U.S. Treasury.

The $15 billion per year is a matter of some consequence in these days of intolerable budget deficits, Mr. President. It is becoming clear that early next year we will face dramatic cuts in social and defense spending under the provisions of the Gramm-Rudman deficit reduction mechanism. The revenue from an oil import fee would sharply reduce the amount of these automatic cuts and would reduce the need for tax increases on average Americans while protecting the stability of our economy and financial system at the same time.

Mr. President, the specter is still well in the shadows. There is today no cause for panic in the domestic energy industry nor in our Nation's huge financial markets. It is possible, in fact, that prices will not fall as dramatically as some have predicted, and that the tiers of an oil import fee would never begin to phase in. But Mr. President, it is a role of this body—the U.S. Senate—to foresee potential dangers and to put in place a safety net for the goals we have achieved in energy conservation, for America's domestic energy industry, and the country's financial system which funds that industry.

Now is the time for an oil import fee. It is simply too good an idea to discard. Mr. President, I have today written the chairman of the Finance Committee, Senator Robert Packwood, requesting hearings as early as possible in January on my bill. There are other proposals for such a fee. There are undoubtedly possibilities to modify and perfect my proposal, but it is vital that we push ahead with hearings on the entire subject.

We must not delay. We must not wait until a potential problem now just over the horizon becomes a full-blown crisis.

Mr. President, I ask unanimous consent that there be printed in the Record at this point the letter which I wrote to Chairman Packwood requesting hearings on the subject of an oil import fee; also, an article from the Washington Post of December 12 which recounts the dramatic fall in the futures market for oil prices described by one petroleum futures analyst, as "It's just an unmitigated catastrophe. This is the oil market's 1929."

Mr. President, I also ask unanimous consent that the letter which I wrote to the budget conferees in July be printed in the Record. The conferees, I might say, under the leadership of the Senate, took this same proposal to the White House this summer. I ask that it appear at this point in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

U.S. Senate,
Washington, DC, December 11, 1985.

Hon. Bob Packwood,
U.S. Senate,
Washington, DC.

Dear Bob: I am writing to ask your assistance in scheduling hearings before the Finance Committee at the earliest possible time on the issue of oil import fees in general and S. 1507, the Energy Independence Act, in particular.

Enclosed is a copy of the letter I sent to the Budget conferees last July, in which I warned of the devastating impact of a sudden drop in the price of crude oil. While of course we still hope that this will not occur, OPEC's recent decision to maintain market share in the face of falling prices, increases the possibility for damaging instability of oil prices.

Now is the time for us to act. We must not allow this opportunity to prevent severe damage to the domestic energy industry and the resulting ripple effect through our entire economy to pass us by. I am not alone in my interest in this matter, several of our colleagues have expressed an interest in this legislation. There are also other proposals which have been made for an oil import fee. It is time we grant this issue the forum it requires.

I appreciate your consideration of this matter, and hope that we can have hearings on this matter early in the new year and explore my proposal and others for the establishment of an import fee.

Sincerely,

David L. Boren,
U.S. Senator.

[From the Washington Post, Dec. 12, 1985]

PETROLEUM FUTURES CONTINUE TO FALL

Petroleum futures continued to collapse yesterday on the New York Mercantile Exchange. The selloff was triggered by the weekend meeting of the Organization of Petroleum Exporting Countries and its decision to maintain market share even if prices fall, said Peter Beutel, a petroleum analyst in New York with Rudolf Wolff Futures. "It's just an unmitigated catastrophe. This is the oil market's 1929," he said.

Prices fell by the daily limits yesterday even though they had been increased from the normal $1 a barrel for crude oil and 2 cents a gallon for distillates and gasoline. Because prices fell by the limits again yesterday, the limits will be expanded once again today, said Mary Ann Matloch, a spokeswoman for the exchange.

Crude oil settled $1.50 to $2.28 lower, with the contract for delivery in January at $25.23 a barrel; heating oil settled 3 cents to 4.49 cents lower, with January at 75.11 cents a gallon.

U.S. Senate,
Washington, DC, July 17, 1985,

Senator Pete Domenici,
U.S. Senate,
Washington, DC

Dear Pete: As you struggle with the urgent need to develop a plan to reduce the budget deficits I would suggest that there has never been a better time to consider an import fee on foreign crude oil and refined products.

First, it could provide an important source of revenue to help us balance the budget. A fee of $5 per barrel on imported crude and $10 per barrel on refined products would produce a total of $18.59 billion in revenues for the federal government.

Second, it is only fair that foreign producers bear a part of the burden. Domestic producers already pay income taxes, in addition to the windfall profits tax and severance taxes which foreign producers do not have to pay. Current refining capacity has fallen to only 14 million barrels per day. Studies reveal that U.S. refining capacity is at or below the level required to meet our basic security requirements. This fee would stem the flow of domestic refinery closings.

Third, the import fee could be designed to prevent any unfair regional impact by rebating fees paid on home heating oil, through block grants to heavily impacted regions, and by exempting oil and feedstocks used inherently in the manufacturing process.

Fourth, the fee would enhance energy conservation. If oil prices drop as much as has been projected, wasteful use of energy will again be encouraged. The fee could be designed to begin phasing down when oil prices exceeded $30 per barrel and completely phased out at $35 per barrel to make sure that undue burdens are not placed on consumers.

Fifth, the fee would place a safety net to protect the national economy and financial system against the threat of a ripple effect if the price of oil dropped suddenly to the $20 level or below, as some analysts predicted in the media over the weekend. A sudden sharp drop in oil prices could so devastate the domestic industry and banking institutions which finance that industry, that it could pose a threat to the entire economy. It makes sense to put a safety net under the domestic industry which at the same time would promote tax fairness, help balance the budget and encourage sound energy conservation.

I urge the budget conferees to seriously consider this proposal.

Sincerely,

David L. Boren,
U.S. Senate.

Mr. BOREN. Mr. President, in view of recent events, it is my intent to also contact the Secretary of the Treasury and the Chief of Staff at the White House, as I did last summer, to urge them to reconsider the proposal which they temporarily set aside this past summer.

THE PENDING FARM BILL

Mr. BOREN. Mr. President, on another subject, last night, I made brief remarks on the floor and inserted into the Record additional comments about the pending farm bill which is now in the agricultural conference between the House and the Senate.

I want to repeat what I said last night.

There are those who say we must have a farm bill before this session is finished. I have seen that mentality take over this body in the past, the idea that for some reason we must have a bill. It does not matter what bill, it does not matter the contents of the bill, we simply must have a bill.

That line of argument, Mr. President, is ludicrous. I want to repeat what I said last night. Yes, the farmers of the country would like to have a good farm bill. They would like to have a good farm bill reported immediately, so there might be some hope for their survival. But they do not want a bad farm bill. They do not want a farm bill that will leave them without hope.

It would be far better to write a good farm bill in January and February of next year than to rush a bad farm bill through to passage now. I hope that every Member of the Senate and every Member of the House of Representatives read in the papers yesterday all across this country the front page story of the tragedy which occurred in a rural community in Iowa. I hope they read about a 63-year-old man, a pillar of the community, a man who contributed so much to his own community, a good neighbor, who, because of the financial pressures he was facing, became so distraught and mentally deranged that he killed his beloved wife of 40 years, then he turned the gun on one of his neighbors with whom he had had a good relationship, that ended up by taking the life of the community's banker who tried to carry him through his difficult financial times, and then turned the gun on himself and tragically took his own life.

I wish I could say, Mr. President, that those actions taking place in that community just a few hours ago in the Midwestern part of this country were atypical.

Mr. President, as I go around my own State and in the agricultural communities in my State, I have never witnessed such massive emotional depression on the part of a group of people since I have been in public office.

As I was riding back on the subway car last night, back over to my office after making those comments on the floor, I ran into two or three other people who were saying they had read the article. As one of them said, "What a tragedy."

These were not people who refused to work. These are hard-working people who work on farms from sunup to sundown. Yet they are having problems over which they have no control and they are desperate.

Mr. President, when you are 63 years old and farming is all you have ever known, there is no way to make a fresh start. It is pretty late in the day to learn a new skill and move your family to some other part of the country, uprooting yourself from the farm where your family has lived for several generations.

Mr. President, the farm bill now in conference, and the proposals that were made which were pending last night, would, instead of offering hope, reduce farm incomes between 6 percent and 11 percent next year.

Mr. President, I cannot in conscience be a part of that. I will not go back to the farming communities where I have been and tell them that I assisted in any way in the passage of a bill to reduce farm incomes between 6 and 11 percent a year.

I will not go back to those in their sixties who live on the farms and whose families have lived there for two or three generations and who are about to lose their farms and tell them that all we can do is offer a bill that is going to mandate no hope but utter hopelessness for them. I will not do that.

I hope, Mr. President, that the conferees will hear the message that is coming across the country and at the very bare minimum will produce a farm bill that will enable us to have hope of some modest improvement in farm incomes. If we are just to continue the status quo it will provide no hope for those who are so desperate in the Farm Belt of this country, those in an area of the country where we are about to see one of the largest social upheavals in modern times if we do not take action.

Mr. President, I will just say again, and I hope the conferees hear it, this Senator in conscience cannot be a part of getting a bad farm bill rushed into law before we leave for the Christmas recess. This Senator hopes to have the opportunity to help enact a good farm bill. This Senator will do what he can to make sure that we do not rush a bad bill into law, one that will take away hope in the agricultural community simply under the banner that we must have a bill. We must have a good farm bill, Mr. President; we must not have a bad farm bill that will cut farm incomes from the current levels.

THE GENOCIDE TREATY

Mr. METZENBAUM. Mr. President, the other day on the floor of the Senate an effort was made by the majority leader to get a unanimous-consent request having to do with the subject of bringing up the Genocide Treaty.

At that time, an objection was registered, as he had a right to do, by the senior Senator from North Carolina.

At that point, the senior Senator from North Carolina indicated that part of his opposition to bringing up the Genocide Treaty at that point, or at any point for that matter, related to his concern for the State of Israel and reflected views of many of the leaders in the American Jewish community.

The Senator from Ohio then took the floor in order to challenge that position. I said that I felt I was far more able to speak to the position of the American Jewish community than was my distinguished colleague from North Carolina. After I concluded my remarks, the Senator from Nevada [Mr. Hecht] arose to say that he had been speaking with some lawyers who had indicated their concerns and pretty much joined in the position of the Senator from North Carolina.

Since that point, Mr. President, I have had an opportunity to discuss this subject with a number of leaders of the American Jewish community. One of them has been particularly active and involved in this entire issue over a period for many years. He is Mr. Hyman Bookbinder, the Washington Representative for the American Jewish Committee. I take this means of reading into the Record the letter that he addressed to me in connection with this matter. It is dated December 10, 1985.

Senator Howard Metzenbaum,
140 Russell Office Bldg., Washington, DC.

Dear Senator: I have just read the colloquy on the Senate floor on December 5 regarding the unanimous consent request to consider the Genocide Treaty. I write to express my profound appreciation to you for making it clear that the Jewish Community actively supports Senate ratification of the treaty, as it has for over 30 years now. It is simply mind-boggling to have it suggested by the Senator from North Carolina and the Senator from Nevada that there is Jewish opposition as such to ratification.

Whatever some individuals might have indicated to these Senators, I can assert with authority that every recognized national Jewish organization is and has been enthusiastically supportive of ratification. I know whereof I speak. As Chairman of the group of Washington Representatives of all national Jewish agencies, I know first-hand how supportive the entire Jewish community has been, and remains.

There have always been some individuals and groups that have imagined all kinds of horror stories about the possible abuse of the treaty. A number of understandings and reservations have been developed which surely should satisfy even the most skeptical opponents that their fears are unwarranted. At what I hope is the last moment before this much-to-long-delayed action by the Senate, it is now suggested that Israel, and presumably the Jewish people, would be hurt by Senate ratification. This is among the more ludicrous arguments that have been raised. Israel itself was among the first ratifiers of the treaty, and many Israeli leaders over the years have urged American ratification. Moreover, the treaty has existed for over 30 years. Why would American ratification now make it a threat to Israel?

Again, Senator, thank you for setting the record straight.

Sincerely,

Hyman Bookbinder,
Washington Representative.

Mr. President, I rise because I am concerned that ratification of the Genocide Treaty is long, long overdue. As a matter of fact, at the conclusion of the session last year, we made in this body a firm commitment, a specific direction to the leadership of the Senate to bring it up in early 1985. That has not been done.

We owe it to ourselves. We were the ones who instructed ourselves to bring it up. We owe it to ourselves to meet our own commitment. But far more important than what we owe to ourselves is the fact that we owe it to those who lost their lives and gave their lives in the Holocaust—11 million of them, 6 million of them Jews—and so many others who have been victims of genocide over the years. We owe it to the memory of each and every one of them to move with dispatch and quit befuddling the issue.

The Genocide Treaty should be ratified. It can be ratified. The votes are here to do it.

Bring that issue to the floor. Let those who want to fight for the reservations do so. Let us have an up-or-down vote on the reservations but let us also have an up-or-down vote with respect to ratification of the Genocide Treaty.

One man in the U.S. Senate has addressed this issue specifically over many, many years. We all doff our hats to Senator Proxmire, who is that individual. Let us join his leadership and bring this matter to the floor at the earliest possible date. Let us not befuddle the issue any further.

LET'S PASS THE FARM BILL

Mr. PRYOR. Mr. President, I want to take a couple of minutes today to express my desire and hope that we complete action on the 1985 farm bill before we adjourn for the year. This bill simply has to be considered "must" legislation. We've already disposed of the extension of the public debt limit, and we're going to pass the stop-gap funding measure, the continuing resolution. But, the farm bill should be on the list of "must" items.

I've heard rumors that the leadership in the House of Representatives intends to adjourn tomorrow night, Friday, regardless of whether or not the conference report on the farm bill is passed. This bill is so important to our Nation's agricultural producers, Mr. President, that we simply must not adjourn until we complete action on it. If the Speaker of the House, Mr. O'Neill, wants to leave this weekend, I'll pay his airfare back to Washington next week if he'll just keep the House in session long enough to consider the conference report on the farm bill.

Mr. President, our farmers have to know what the next farm program will be. The only way this can be done is for the Congress to complete action on the bill this year. I'm willing to stay here as long as it takes to do this, and I hope the leadership of both the House and the Senate will keep us in session until this piece of "must" legislation is completed.

EFFECT OF GRAMM-RUDMAN ON BASE CLOSURES

Mr. MOYNIHAN. Mr. President, I rise to express regret to the Senate that in the heat of yesterday's debate on the Gramm-Rudman legislation, I may have exaggerated what I regard as the devastating impact the bill will have on the American defense program.

In the cool light of day, I have reexamined the measure and report with relief that section 252(a)(2)(C)(ii) states:

> No order issued by the President . . . for fiscal year 1986 may result in a base closure.

CHIEF JUSTICE WARREN E. BURGER AND THE BICENTENNIAL OF THE CONSTITUTION

Mr. THURMOND. Mr. President, on September 17, 1987, our Nation will celebrate the bicentennial of its great Constitution. In 1983, Congress expressed its belief in the importance of this event by authorizing the establishment of the Commission on the Bicentennial of the U.S. Constitution.

Approximately 5 months ago, the Bicentennial Commission began its efforts to promote and coordinate activities to commemorate the bicentennial.

As one who is privileged to be a member of the Commission, I am pleased to report that the Commission is off to an excellent start. I believe that most of the credit for the Commission's fine beginning must go to its distinguished chairman, Chief Justice Warren E. Burger.

The importance of the Chief Justice to the Commission and the evidence of his leadership in coordinating an appropriate and meaningful bicentennial of the Constitution was clearly displayed in an article printed yesterday in the New York Times. I ask unanimous consent that the article, "The Chief Justice Is Calling," written by Mr. James Reston, be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the New York Times, Dec. 11, 1985]

The Chief Justice Is Calling

(By James Reston)

Washington.—It's not often that the Chief Justice of the United States emerges from the silent portals of the Supreme Court to call on the American people for help, but Warren E. Burger is calling on us now.

As chairman of the Bicentennial of the United States Constitution, he is asking us not to forget our present conflicts but to remember the 200th anniversary of the signing of the Constitution on Sept 17, 1987, and to use these coming two years to educate ourselves and our children about its meaning.

The Chief Justice has no illusion that his speeches, remarkably good as they are, or that the work of his little commemorative committee will arrest the attention of the American people.

He is appealing for help from the media, the schools, the colleges and all other organizations, religious or secular, to give this commemoration of the Constitution the attention it deserves, and so far isn't getting.

How did it come about, Chief Justice Burger asked recently, that 55 men in a country of barely three million produced in Philadelphia almost 200 years ago a Constitution to govern themselves that still serves a nation of 250 million, and remains one of the mysteries and triumphs of the poltical world?

It's a good question, and there are some examples in American history about how it might be answered. On the American frontier, it was the women—always the women—who organized the book clubs and the discussion groups to puzzle out their problems.

Even in the desperate days of the Civil War, Mr. Lincoln signed the Morrill Acts for the creation of the land grant colleges in the belief that the education of the poor would promote the general welfare.

Chief Justice Burger learned all about this in his native Minnesota, and knows the potential power of these American institutions.

Now, in every state, city, town and village, we have parent-teacher associations, service organizations, labor and business institutions, country newspapers, suburban papers, radio and television stations galore—the most spectacular communications network in the history of the world—most of them concentrating on the narrow conflicts of the day's latest disaster.

Chief Justice Burger is not saying that we should evade these unavoidable conflicts—that's what the Supreme Court does every day—but that in the confusion, we should take time out on the 200th anniversary of the Constitution to reflect on where we've been and where we're going.

This would require more than speeches from the Chief Justice. A few fundamental documents could guide the nation's discussion in the next two years.

For example, nearing the end of World War II, and fearing that the United States might reject the organization of the United Nations, as it abandoned the League of Nations after World War I, a very few people in the Roosevelt and later in the Truman Administration put together a clear and simple explanation of the problem and circulated it all over the country for discussion in everything from university classrooms to church basements and Rotary meetings.

This involvement of the people had a critical and maybe even a decisive effect on this nation's foreign policy when at the end of World War II, the New World was summoned to the defense of the old Western civilization.

"One of the unique features of our Constitution," Chief Justice Burger said the other day, "is that it was not a grant of power from government to the people, but a grant of power by the people to the government, which they—the people—had created."

But what I think the Chief Justice is saying is that the people have forgotten to remember, that they are so battered by bad news every day that they have forgotten the foundation of the Constitution.

He knows very well that in the summer of 1987 the Constitution will be big news, when everybody is off on vacation. But that's not his point.

He wants these next two years to be used for the education of our children on what the endurance of the Constitution for 200 years means. He is appealing to the newspapers, to the people who produce documentaries on radio and television, to the school principals and administrators of colleges and universities.

"Please," he's saying, "pay attention to the good news of our history at a time and on an occasion when they might listen. You owe it to your children, who will have to carry the Constitution into the next century."

PRAYER PETITION ON BEHALF OF THE FARMERS OF OUR LAND

Mr. GRASSLEY. Mr. President, earlier this week, the heartland of America was rocked with the tragic news of a triple murder/suicide carried out by a farmer who had lost all hope.

Dale Burr, a farmer from Lone Tree, IA, shot and killed his wife, Emily; his banker, John Hughes; and his neighbor, Richard Goody. He then turned his gun on himself and committed suicide.

The Cedar Rapids Gazette reported that "Burr, according to Johnson County Courthouse documents and other sources, owed more than $600,000, a debt accumulated in recent years. He hadn't purchased any land since 1970, although his son John, acquired 80 acres in 1982."

The fact that he had not tried to buy up every piece of land that he could get his hands on is very important, and I hope my colleagues take special note of that so that they know farmers are in trouble even though they have not bought a lot of land.

The point is thousands of farmers are in financial troubles not because they were greedy, but because they were hit with one calamity after another.

We in Congress have to answer this question: Who should pay for the damage created by our own Government's actions or inactions? Who should pay for the Soviet grain embargo? The runaway inflation that drives up the costs of farming? Who should pay for our weak trade policy that lets the treasuries of our foreign competitors walk all over our farmers? Who should pay for the damage created by high interest rates resulting from our fiscal and monetary policy?

Many people believe that the answer is to phase out price supports. This is the only safety net farmers have against the abuses of our Government. We cannot take that safety net away until we are willing to promise our farmers never to let the Government or other governments unfairly disrupt our farm economy.

In short, we must promise to truly get Government out of agriculture. But let's take first things first.

Unfortunately, it appears that many have decided that the farmer should pay for the abuses of Government.

Mr. John Hughes, the banker who was killed, was buried yesterday. At the request of his family, Rev. Henry Greiner of St. Mary's Church in Iowa City delivered a prayer.

It is entitled "A Prayer Petition on Behalf of the Farmers of Our Land."

I would like to share this moving prayer with my colleagues in hopes that they can catch a glimpse of the suffering and desperation that permeates the farm country of much of the Midwest.

I particularly hope that our colleagues from the House and Senate who are working in conference on our farm legislation take note of this prayer. As we move toward Christmas, my prayer is that the conferees can shape a farm bill that offers real hope for our Nation's farmers.

I will read the prayer.

PRAYER PETITION ON BEHALF OF THE FARMERS OF OUR LAND

(By Rev. Henry Greiner, St. Mary's Church, Iowa City, at the request of the Family of John Hughes)

Oh God our Father, our hearts are troubled and saddened by the events of these past few days. We, who live in the heartland of this country, cry out to You in this hour of agony, and we fervently pray that You will hear our cry.

First of all, we ask that You send the gift of Your healing Spirit on those who are the innocent victims of this tragedy. Lord, we plead that such a force of violence may never be unleashed on families, neighborhoods and communities again.

Secondly, Lord, we hold out to You the present crisis that hovers over those whose existence depends on tilling, planting and harvesting of the land. We, who live in rural America are in trouble, Lord—not because we have been lazy or irresponsible, or because we have not worked long and hard. As a matter of fact, Lord, the harder we work, the more desperate the situation becomes.

Lord, all we ask is that our President and elected officials will not be deaf to the cry of those who till the soil and feed the nation. All we ask is that our fellow citizens across this land will not trample on the hands that feed them.

Lord, we ask that the sound of these shots—so desparate and so insane—will arouse the conscience of this nation so that we might realize there is more lasting peace and security in a basket of bread than there is a whole bunker of bullets.

But, Lord, our ultimate security rests on You.

Oh, Lord, rescue us from the dangers that threaten to destroy our little towns and a way of life so deeply rooted in the founding strengths of this country—our family farms—bring healing to the hearts and homes of this land where today there may be frustration and loneliness and desperation. Once again, Lord, bring a sense of self-worth and dignity to the oldest and noblest profession in the world, and give us a renewed sense of faith and trust in You.

Finally, Lord, bring Your peace to all who are gathered here.

We ask this in Jesus' name. Amen.

Mr. DURENBERGER. Mr. President, I rise just briefly to compliment my colleague from Iowa for that statement, and to commiserate with him because he shares with the people about whom he spoke one very important common element; that is, before he is a Senator, an important politician in this country, a candidate for election, and everything else, something else. He is a farmer also.

I am sure CHUCK GRASSLEY could hear those shots in that small town more clearly than most other people on the floor of the Senate. I think CHUCK probably better than any of the rest of us understands that no farm bill is going to solve all by itself the problems facing those people.

No magic vote here on the floor of the Senate or waving of the pen by the President of the United States is going to bring those people back to life nor sustain the lives that are gradually being sapped from millions of Americans, particularly in the Midwest.

I know the Senator in the chair, I know my colleague from Iowa, and others on this floor have been to the small towns in America in the last 2 years. They have been to the hospitals. They have been to the food shelters. They have been to the mental health centers. They have talked with the pastors. They talked to the priests. And they have talked to people of rural America who cannot understand—not why we have not passed a farm bill—why, why, oh why the President and elected officials are deaf to the cry of those who till the soil and feed the Nation.

In this prayer, Pastor Greiner says:

> Oh, Lord, rescue us from the dangers that threaten to destroy our little towns and a way of life so deeply rooted in the founding strengths of this country—our family farms.

Mr. President, let me say the greatest danger of all is not the economy, it is not the farm bill, but it is the deafness of the elected leadership of this country right here in Washington to the realities of what has happened to the little towns and the little people of this country.

So I express my gratitude on behalf of the many troubled Minnesotans, my gratitude to the Senator from Iowa for reminding us of the tragedy that is being visited on so many of our constituents by our deafness to their concerns.

Mr. GRASSLEY. I thank my colleague from Minnesota for his kind remarks, his support of the farmers, his working with us, and of course, his understanding of these problems.

Thank you very much.

TRIBUTE TO MRS. BARRY GOLDWATER

Mr. THURMOND. Mr. President, it was with great sadness that I learned of the passing yesterday of Margaret Johnson Goldwater, the beloved wife of our friend and colleague, BARRY GOLDWATER. Peggy reigned serenely over her fun-loving family, providing a wonderful haven for her ever popular husband.

She was a person of many talents. She studied painting in New York for 3 years, worked as a fashion designer and founded Planned Parenthood of Central and Northern Arizona.

Always a good sport, Peggy joined her family on deep-sea fishing trips, camping in the wilderness, and even shot the rapids of the Colorado River in a rubber raft. Upon her husband's election to the Senate in 1952, she packed up her brood and moved to Washington, remaining here until her failing health required a warmer climate.

BARRY and the children always came first to Peggy and she once commented that living with BARRY GOLDWATER was the most exciting thing that had ever happened to her. Theirs was one of the happiest and most successful marriages I have ever known.

As a couple BARRY and Peggy were inseparable, sharing life at its fullest. Throughout BARRY's career, she was a source of unflagging support and I grieve for my friend's great loss.

My wife, Nancy, loved and admired Peggy very much and joins me in extending our deepest sympathies to BARRY and their children.

FAREWELL TO CURTIS RAY SKIPPER

Mr. DENTON. Mr. President, I would like to call the attention of the Senate to the change of command that will take place on 15 December, 1985 at the 375th Transportation Group [MT] in Mobile, Alabama.

At that time, the Group's commander, Colonel Curtis Ray "Skip" Skipper, Transportation Corps, U.S. Army Reserve, will be passing the flag.

With over 30 years of service to his country, Colonel Skipper is ending his long and distinguished career with the U.S. Army. Colonel Skipper has been in a unique position with the 375th

Transportation Group because he wore two hats: He was both the military commander of the Group and its senior civilian technician.

The 375th is comprised of nine units, ranging from a transportation terminal headquarters, to an operating transportation battalion, to a maintenance battalion, to military police, engineer, medical, and AG units.

During his short command tenure, "Skip" has certainly raised the profile of his units. His units have participated in no less than 14 exercises. Most of the exercises involved coordinating his units with active duty Army commands as well as heightening the skill levels of the command staff.

The most recent exercises in which the 375th participated were Rapid Strike III, Operation Chevron II, and Bright Star-85. The first of these exercises emphasized basic small unit and individual defense/survival training and evaluation. All of the "Tools of the Trade" were used during the preparation and execution of the exercise.

The second exercise, Operation Chevron II, involved weapons qualification and common task training and testing. Bright Star-85 was the most recent exercise, and it was unique because the headquarters deployed overseas to the austere environment of North Africa.

Mr. President, in each case the 375th performed at a level of expertise and effectiveness of its best active duty counterparts.

The fact that the 375th Transportation Group was involved in these exercises proves not only the value of the Group to the Army Reserve, but indeed to the entire wartime readiness of our Armed Forces.

Colonel Skipper's distinguished military career has spanned over three decades and is a shining example to which others should aspire. Skip has worked his way up through the ranks to the point where he has now held the highest rank in the Army Reserve in all of south Alabama.

I wish Colonel Curtis Ray Skipper—my good friend "Skip"—Godspeed in all of his future endeavors.

Mr. President, we should all be proud that we have people like "Skip" serving this country.

INDUSTRIAL AMERICA IN DISTRESS

Mr. BYRD. Mr. President, there has been a great deal written and spoken about the distress in which industrial America finds itself as we face the 21st century from fewer than 15 years away. Our basic industry has been buffetted by a myriad of forces—many fully beyond its control. As a result, we are witnessing what has been called the great shaking out as some industries manage to prosper, others manage only to survive, and distressingly many go belly-up—the victims of effects they could not overcome or withstand.

One of these factors has been identified—correctly, I believe—as that of foreign competition, often from industries that rely on far lower-priced labor than our culture and national conscience ever would condone here; often from industries that enjoy large subsidies from their governments. We in the Senate have debated various solutions to such problems on several occasions this year.

All of us who serve in the Senate are fortunate to have constituents or other trusted friends who, looking from a bit greater distance at the problems we confront at close range, offer suggestions to us that are well worth our consideration.

Today, I would like to commend a friend of mine—Mr. Courtney Burton, Jr., who is chairman of the board of the Oglebay Norton Co., A Cleveland-based shipping and mining company deeply involved in the steel industry. Mr. Burton resides part time in Wheeling, WV, and I have come to know and respect him over the years.

Mr. Burton has witnessed first-hand the deterioration of the steel and related industries that once were the backbone of the Midwestern heartland and the core of our Nation's economic strength. From his personal experience—which stretches back to the 1940's, when he was principal owner of the Ferro Machine & Foundry Co., and beyond—he has analyzed the current predicament in which our basic industries now are situated, and he has made some observations and suggestions that I wish to commend to the attention of my colleagues in this body.

After commenting on the deindustrialization of America, and some of the causes he has identified, Mr. Burton proceeds to suggest that America cannot sustain the standard of living we have known in the past, much less enhance our growth and opportunity, if we rely only on information and service industries and allow basic heavy industry to atrophy. It is his belief that we need to take dramatic action now to save and rebuild our industrial infrastructure.

Correctly noting that possible solutions to this predicament must not add to the pressure on the Federal deficit or precipitate a protectionist reaction among our international trading partners; that it must be perceived as being fair and nonpartisan; and that it also must be sufficient to the task at hand, Mr. Burton suggests we look to an updated version of a device employed with great success during the 1940's—to what he describes as "a reprise of the Reconstruction Finance Corporation" which he calls an "industrial reinvestment corporation." As he envisions it, it would be a self-funding mechanism, financed through an import tax, that would supply badly needed capital in the face of the virtual evaporation of conventional financing.

I do not intend to imply that Mr. Burton's observations and suggestions are at the stage of being fully developed policy pronouncements. Indeed, Mr. Burton, in a pamphlet he has issued containing his observations and recommendations, titled "Industry and Independence * * * or Liquidation and Dependence," remarks that "there are many more details that need to be worked out." Nonetheless, his observations may prove helpful to all of us who are struggling with the devastation we see in our industrial heartland and trying to find workable solutions. Surely his description of the problems he and other industrialists now face—and have faced over the course of the past 40-plus years—can serve as helpful reference points as we try to find politically and substantively feasible solutions.

I hope that the ideas, which he commendably has taken the time and energy to place on paper and share with those of similar interests and concerns, will contribute to finding one or more means of improving the current circumstances of our basic industries. I hope thousands of others of the men and women who have built this Nation and forged it into what it is today will harness their experience, their talent, their intellect, and their spirit, and bring their ideas to us. Because it is out of such a reservoir that we will find the answers that ultimately will allow us to leave the dark days of the recent industrial downturn behind us.

Mr. President, I commend Mr. Burton's writing to those who share the concerns I have described.

Mr. President, I ask unanimous consent that Mr. Burton's monograph titled "Industry and Independence * * * or Liquidation and Dependence," be printed in full in the Record.

There being no objection, the monograph was ordered to be printed in the Record, as follows:

Industry and Independence * * * or Liquidation and Dependence?

(By Courtney Burton, Jr.)

Perhaps there is nothing new under the sun.

Back in the 1940's, when I was principal owner of The Ferro Machine & Foundry Co., an employer of 3500 and supplier of gray iron castings to automotive industry, we needed to construct a castings facility nearer the assembly plants. But to do that, sizable long-range funding was needed.

The automotive industry then, as now, was cyclical. Though we were, possibly, the nation's largest foundry of its kind, the inherent instability of our marketplace rendered normal long-range financing difficult for us to obtain. In many ways, our situation then was little different from the problem America's basic industries are facing today—a pressing need for capital funding in the face of a virtual evaporation of conventional financing.

But there is one major difference between the 1940's and now. Back then, we had a source of alternative financing. Through the Federal Reserve Bank in Cleveland, Ferro's capital needs were filled with a guarantee from the Reconstruction Finance Corporation, a program created during the Depression to help rebuild America's industrial infrastructure. A line of credit was established, new facilities were added, and working capital was assured. It proved to be a success story, and the capital loan was repaid by Ferro in full.

Today there is no such program available to our basic manufacturing industries. Instead, our resources and our wealth are being used either to speculate in the financial markets or to export our industrial capability to competitor nations around the world.

If we were running Ferro Machine & Foundry Co. in today's America, we would be forced by circumstances to find ways to move our new gray iron casting facility overseas.

We are dismantling our industrial capability and constructing in its place a "supermarket" for imports. America, once the world's greatest supplier, is becoming a distributor for an expanding Third World.

I look back to the time when I was State Defense Director in Ohio, and remember blacking out all the steel mills in the Ohio Valley. Our lack of support to that basic industry today has brought on a devastation that is 10 times worse than what could have happened if the Axis powers would have been successful.

This is the sad reality we face. I believe the future of our economy and, indeed, the future of our independence and way of life depend on our ability to reverse the decline we have allowed to occur.

THE DE-INDUSTRIALIZATION OF AMERICA

The decimation that the industrial heart of this country has suffered in recent years is as serious as any I've seen in the more than seven decades of my life. I've been deeply involved in venture financing of our heavy industries for 55 years, 27 of them in the boardrooms of major banking institutions, and it is my conviction that the basic industries making up the economic backbone of the states between the Appalachians and the Sierras are in a race for survival.

Worse, at the very time our industry needs an infusion of revitalizing capital, Americans have grown hesitant to invest. Our heavy deficit picture and the threatening economic future have cast a heavy pall over long-range confidence, a confidence that is absolutely essential for anyone to invest precious capital to revitalize the basic industry that made this country what it is.

This country is facing threats, both internal and external, as serious as any it has ever faced. Just at a time when political and economic pressure on our national strength are increasing worldwide, the industrial base of that strength—our productive capacity—is withering under the combined pressures of subsidized imports, low wage rates in developing countries, and obsolete, deteriorating physical plants at home.

To meet these threats, many of our businesses have been forced to invest in manufacturing facilities abroad. And, with understandable caution, these businesses are tying up what capital remains in relatively unproductive, but safely liquid, short-term cash investment vehicles.

In short, we are experiencing an emigration of industrial capacity and capital from our shores, with a resulting decline in long-term economic vitality.

INFORMATION AND SERVICE CANNOT BUILD A NATION

While many pundits and experts may prefer to rationalize this weakening of our basic industries as a natural result of "new wave" economics, and America's inevitable evolution into an "information economy," these theories remain rationalizations only, ignoring the basic realities of economic life. There are even some who cheer the disappearance of our smokestack industries, reading "smokestack" to mean they are, by nature, poisonous and unsightly blights on the nation.

These attitudes are as mistaken as they are dangerous to our future. In the words of Lee A Iacocca, Chairman of Chrysler Corp., "We cannot afford to become a nation of video arcades, drive-in banks and McDonald's hamburger stands." And yet, this is what is happening. The recent economic "recovery" was paced by the service industries—retail sales were up 10.5% with almost no increase in our manufacturing output.

As the Chicago Tribune recently coined the issue:

"A recovery cannot be sustained by services alone. Services need something to service; if the economy is a train, industry is the locomotive."

Our basic manufacturing industries, in short, are essential components of our economic health. They are the engines of the ship of state.

We must ask, and ask again, two critical questions of our "service economy" proponents:

(1) Where is our assurance that loss of our capacity to produce basic commodities like steel, copper and textiles is healthy and beneficial,

We do, after all, inhabit a world that has already sent us reeling under restriction of the petroleum we could no longer supply internally. What is there to keep the same thing from happening with other commodities?

(2) What proof do we have that an economy based primarily on service and information has the robustness and flexibility needed to weather the major changes of the next 20 years?

This nation, indeed, every nation, builds and operates on a physical infrastructure. Computer software, for example, has yet to provide its own wire and steel, housing and power, or even hardware. Infrastructure depreciates. Physical plant needs evolve and grow. Where is the proof we will have the flexibility to meet those needs if we must depend entirely on the productivity and creativity of other nations?

We have no such assurance. There is no such proof. And until there is, it seems clear to me that our economic health—if not our survival—will continue to depend on maintaining a healthy, growing, broadly based industrial potential.

REBUILDING AMERICA HAS BEEN DELAYED TOO LONG

We need to take dramatic, positive action now to save and rebuild our industrial infrastructure. We need more than six cuts alone. We need a well-defined, stable, long-range capital investment program to revitalize America's basic industries.

We have already waited too long. My adopted state of West Virginia has been forced to labor under a billion-dollar deficit caused, in great measure, by a failure to invest in and develop cost-effective coal desulphurization processes. The steel and heavy metal industries are facing tremendous competition from government-subsidized plants abroad, without the venture capital to improve their own capacity. Other examples can be found in almost every basic industry.

POLITICAL REALTIES MUST BE FACED

It seems clear that a coordinated program is required, but we must be realistic. In order to be both economically effective and politically feasible, an undertaking of this magnitude and importance must meet certain essential criteria:

It must not add to the pressure on the national treasury nor increase the deficit.

It must be funded in a manner politically acceptable at home.

It must not precipitate a protectionist reaction among our international trading partners.

Its mandate must be long-term, bi-partisan, and independent of politics or pressures from special interest groups.

It must be administered in such a manner that there will be no doubt its fairness or equitability.

It must have a mechanism that will assure available funds are applied judiciously, and in proportion to need.

ONE POSSIBLE ANSWER: A REPRISE OF THE RECONSTRUCTION FINANCE CORPORATION

All of these criteria could be met by the creation of a funding vehicle, which I will call an *Industrial Reinvestment Corporation*. This IRC could be designed around the successful experience with the Reconstruction Finance Corporation, a vehicle conceived by President Herbert Hoover, implemented in the New Deal legislation of President Roosevelt. The RFC functioned from the Depression into the 50's and proved to be a successful reconstruction program for industry and the country.

Following the RFC model, the *Industrial Reinvestment Corporation* could be organized under the Federal Reserve System on national and district levels, administering investment of a revolving fund financed through an import tax.

This tax, which could be gradually introduced over a period of years to reach a level of 5% to 10%, would be applied on the retail level to products manufactured beyond our shores. With wise and careful design, the IRC could fulfill all of these criteria:

(1) No Deficit Increase—It would not add to the deficit because it would be self-funding through the import tax.

(2) Political Acceptability—The tax rate proposed is a relative minor one. Because alternative, non-taxed domestic products will usually be available—with the tax applied, at a competitive price—the tax is neither mandatory nor regressive.

(3) Non-Protectionist—This tax is not a tariff, has no effect on international balance of payments, nor is it large enough to have a significant impact on sales of imported products. This tax is not intended to penalize our trading allies, but to increase the productivity and welfare of the American people so that, in the end, they can become more rather than less involved in free trade with other countries. As this country produces, and as this country becomes self-sufficient economically, so does the rest of the world.

Foreign governments will, of course, feel this retail tax in their own economies and may be tempted to retaliate with comparable taxes or import tariffs. Despite the massive generosity of the American people over the years since World War I, our trading allies are likely to remember only their immediate interest. Thus, on a practical level, we should consider adjusting our ongoing subsidies, grant and loans to lessen the impact of this tax on other economies.

(4) Stable and Non-Partisan—The IRC could be administered by a national board appointed by the President, approved by the Senate, and placed within the Federal Reserve System to assure independence from partisan politics and the inevitable pressure from business, consumer groups, labor, and abroad. This board would receive recommendations from Regional Boards created in the various Federal Reserve Districts, whose sole function would be to *recommend* action to the National Board, which, alone, would be responsible for all decisions.

Stability could be assured by chartering the IRC for a 20 to 25 year period, and instituting staggered director terms, four to six years in duration.

(5) Fair and Equitable—*The national and regional boards could be composed equally of members of the Federal Reserve System, the banking industry, industrialists, labor leaders, and government-appointed consumer representatives, assuring adequate representation by all major economic sectors in our society.*

Penalties for attempting to bring undue influence on the board should be written into the creating legislation to underline the national commitment to keep the IRC independent impartial, and equitable.

(6) Judicious Application—Funds collected by the tax would be earmarked according to industrial classification, to be dedicated to investment in the industries effected. Taxes collected on steel imports, for example, would generate capital investment funds for the steel industry. Clearly, the greater the intensity of foreign competition, the larger the resulting fund, assuring application in proportion to need.

Fairness could further be guaranteed by a monitoring body, consisting perhaps of appointees from the three branches of government. To minimize the possibility of outside pressure, the National Board would make its deliberations in closed sessions which are observed by this monitoring body.

(Education: A certain small percentage of the overall fund could also be set aside for the purpose of encouraging and supporting technical education in basic industry. At the same time that we are promoting the long-range viability of our industrial infrastructure, we should be encouraging the development of one of its major assets—the young men and women who will make them work. The benefit of funding education through the IRC is its essential independence from political pressure and changes of administration. This educational funding, perhaps provided on a matching basis by industry could be used both to support educational programs and as scholarships for the students. We should also take a lesson from our friends the Japanese and support the travel of our future industrial leaders through nations possessing the technological leadership we wish to regain.)

PROBLEMS THAT NEED ADDRESSING

Obviously there are many more details that need to be worked out. There, are, for example, domestic companies that have been forced to send manufacturing facilities overseas by the very problem the IRC is attempting to alleviate. These companies would have to be equitably and fairly treated.

Also, ways would have to be found to make the IRC as productive as possible during the initial period while the fund is being built. Government seed money, on a loan basis, might be required. I have mentioned a 5% to 10% tax level, but these are suggestions only. The actual rates—and any "production repatriation" tax incentives—are, of course, best determined by tax experts close to the Administration and Congress.

These issues are sensitive, and the alternatives are myriad. But complexity is no justification for inaction. The richness of options provides us with an unmatched opportunity which will not last forever. We must begin thinking about how to reverse America's industrial decline—and then we must act.

The Industrial Reinvestment Corporation is merely one man's suggestion for solving one of the most serious problems America has ever faced. During years of heavy involvement with political, government, and eleemosynary activities throughout the 50 states—as well as the four years I was responsible, directly and indirectly, for the financing of the Republican Party—I learned that this country has the creativity it needs to solve problems in many acceptable ways.

Senator Robert Byrd, for example, has introduced legislation to create a National investment Corp., which would make capital investments in basic heavy industries. I am making this recommendation as another alternative only. His approach could be equally viable.

A REDIRECTION OF THE SHIP OF STATE

The ship of state of ours is powered by mighty and powerful engines—our heavy industry, coupled with our natural resources—but those engines have been neglected and forgotten.

Today, the economic seas are treacherous and uncertain, and those who sail upon them are vulnerable and open to attack. There is no time to ignore the powerful heart of our nation.

Herbert Hoover and Franklin D. Roosevelt had the foresight and understanding to propel a recovery of our iron and steel industries through the Reconstruction Finance Corporation. They created a program *(key features of the Act are included here for information)* for coordinating the banks and all Federal Reserve Districts to rehabilitate heavy industry, iron and steel, mining, and all vital industries. The RFC proved effective and self-supporting—one of the few, if not the only, government program in history to pay for itself.

Where are such leaders today? With the exception of a few special plants and several financing institutions, our government has failed to provide a plan or structure to support heavy industry. In fact, the tax plan introduced in 1985 was almost punitive in its attitude toward basic industry. The plan as presented would remove important depreciation provisions that have been vital to the growth of our capital facilities.

Our industry is strained and weakened. Our managers are becoming demoralized by overwhelming problems and the seeming unconcern on the part of their government leaders.

But I believe our citizens and our business leaders are ready to roll up their sleeves and revitalize this economy if our political leaders take command of this ship of state, refit it for the mission ahead, and set a certain course.

It can be done. It must be done.
The time to act is now.

CONCLUSION OF MORNING BUSINESS

The **PRESIDING OFFICER.** Morning business is closed.

OVERSEAS PRIVATE INVESTMENT CORPORATION AMENDMENTS ACT OF 1985—CONFERENCE REPORT

Mr. **MURKOWSKI.** Mr. President, I submit a report of the committee of conference on S. 947 and ask for its immediate consideration.

The **PRESIDING OFFICER.** The report will be stated.

The legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 947) to amend the Foreign Assistance Act of 1961 with respect to the activities of the Overseas Private Investment Corporation, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The **PRESIDING OFFICER.** Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the House proceedings of the RECORD.)

Mr. **METZENBAUM.** Mr. President, is the OPIC conference report up at this moment?

The **PRESIDING OFFICER.** The Senator is correct.

Mr. **METZENBAUM.** Mr. President, I was awaiting my time to speak because I assumed the manager of the conference report would be saying something. If not, I am prepared to address myself to the issue.

Mr. **MURKOWSKI.** Mr. President, I move its adoption.

I defer to the Senator from Ohio.

Mr. **METZENBAUM.** Mr. President, I rise in strong opposition to the conference report to extend the authorization for the Overseas Private Investment Corporation through 1988.

The Senate had adopted my amendment to curtail the OPIC reauthorization to 18 months and to require GAO, in the meantime, to report to Congress on the impact of OPIC's activities on domestic jobs within 1 year.

I understand the requirement for the GAO report is still in the conference report, but the conferees saw fit to extend the life of OPIC for 3 years, instead of 18 months as contained in the Senate-passed version.

Mr. President, I can understand some things around here, but I do not understand that. I do not understand why our conferees capitulated on this issue and brought back to us an extension for 3 years, when we had agreed

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that it would be a year and a half. There is no logical reason for it. Not too long ago, the Senate voted to help American textile workers by limiting foreign imports. The House did the same thing, presumably to save American jobs. What OPIC does is help export American jobs overseas. This Senator believes it is time for us to give this entire issue a reevaluation.

This is absurd, Mr. President. Either we believe in protecting jobs of Americans or we do not. Yet here we are today, adopting a conference report which goes in exactly the opposite direction.

What is the use of coming out here and having this big hullabaloo that we had for a number of weeks about protecting American jobs? The distinguished Senators from South Carolina led that effort and tried to attach their amendment to a number of issues. Nor did the Senate indicate its concern for protecting American jobs. Then we roll over and go to sleep. We fall dead.

It is the same way we deal with Gramm-Rudman around here. We make all these big speeches about balancing the budget and what we are going to do and Gramm-Rudman is going to save the Nation. Then we come out here on the floor and in our committees and pass bill after bill giving away millions and billions of dollars of taxpayers' money. We just do not have the courage to stand up when some of the pressure lobbyists show up around the floor of the U.S. Senate.

That is exactly what is involved in this issue, Mr. President.

The Overseas Private Investment Corporation insures U.S. multinational companies and banks on their investments against the risks of war, expropriation, currency inconvertibility, and civil strife. By doing so, however, OPIC encourages the export of U.S. jobs, technology, and capital overseas.

According to AFL-CIO estimates, OPIC-supported business ventures over the past 4 years have resulted in a loss of more than 500,000 American jobs.

I do not believe it is wrong for the United States to promote economic and social development in less developed countries. That is human policy.

But I do object to a policy which cares not one IOTA about the true needs of foreign nations but merely paves the way for some U.S. companies to set up production overseas so that these companies can turn around and compete with those U.S. firms who have stayed put and continue their operations in this country.

In a November 5 report issued by the House Government Operations Committee, the authors state that OPIC "has not effectively implemented statutory mandates that requires it to emphasize investments in the poorest LDC's [less developed countries]."

In 1984, slightly more than 6 percent of OPIC's total projects were located in Africa. However, approximately 80 percent of the projects for this same year were located in Latin America, East Asia, or Europe; 24 percent of these projects were undertaken in 6 countries: Taiwan, Korea, Turkey, Portugal, Brazil, and Saudi Arabia.

Saudi Arabia? Taiwan? Korea? Who is kidding whom? Are these poor less-developed countries or, in the case of the latter two, are these two countries that are day-by-day, hour-by-hour, week-by-week, month-by-month, taking jobs of American workers?

Not only is OPIC promoting projects and investments in some of the wealthier countries, it is also aiding the very same countries which provide us with our stiffest trade competition.

It is an absurd policy on the part of our Government.

Last year, the United States had a trade deficit of more than $5.5 billion with Brazil. OPIC projects in that country, however, amounted to $439 million. Last year we had a $4 billion deficit with Korea—OPIC projects in that country amounted to $309 million. Last year, we had an $11 billion deficit with Taiwan—yet OPIC insured $346 million worth of projects.

What kind of logic is this? What kind of thinking is this? Where does the Senate come off agreeing to this kind of thing? I did not propose that we terminate OPIC immediately. I did propose that we have an evaluation and that we make another determination as to whether we should continue the authorizing of OPIC for a period of 18 months. So, instead, our conferees extended that to 3 years. It was a wrong decision, a very, very wrong decision.

Consider the impact OPIC-supported projects have on specific domestic industries.

In manufactured goods, the United States has gone from a surplus of some $5 billion in 1981 to a deficit of $89 billion last year.

During this period exports fell 7 percent while imports of manufactured goods shot up an incredible 55 percent.

Today there are almost 1 million fewer jobs in manufacturing than there were 4 years ago.

Yet, unbelievably, 40 percent of OPIC's projects involved investment in overseas manufacturers industries.

In fiscal year 1984, OPIC insured a company in Korea which manufacturers magnetic recording heads. OPIC also helped a company in Korea expand its semiconductor business. Can you believe it? Can you believe that we would be insuring a company in Korea to take jobs in the semiconductor business which, without any question, takes jobs away from Americans and hurts our own semiconductor business? Magnetic recording heads in Korea. That kind of competition drives our businesses into bankruptcy.

In Brazil, OPIC backed a company which manufacturers electrical conductors.

The point is clear, at a time when domestic investment was desperately needed, OPIC helped facilitate $13.1 billion of U.S. investment overseas.

We talk about imports killing American jobs and then turn around land vote to continue for another 3 years a program which exports more American jobs overseas.

This is dead wrong.

This conference report should be rejected.

Mr. President, I believe that I shall at an appropriate time ask for a rollcall vote on this conference report. I will not do so at this moment.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I had indicated just a moment ago that I might ask for a rollcall vote. I think that would be somewhat inappropriate at this hour, without having given adequate notice. I am also a realist enough to know that I would definitely not prevail. Under the circumstances, I will not demand a rollcall and have no objection to the Senate proceeding in connection with the conference report.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HECHT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HECHT. Mr. President, a few moments ago, in my office, I heard the distinguished Senator from Ohio mention my name and the name of Senator Jesse Helms. On December 5, 1985, I spoke in this hallowed Chamber, and I should like to reiterate what I said on that day. It is a short statement, and I wish to read it:

> In reply to the distinguished Senator from Ohio, in this past week many top Jewish attorneys, international attorneys, met on my behalf. I asked them to analyze the Genocide Treaty. It was their unanimous opinion, for which I will have proper documentation, and not being an attorney, I will not speak on the merits of what they have come forth with, to date. However, it is their opinion that the Genocide Treaty would not be in

the best interest of the State of Israel or the United States of America.

Mr. President, we are in the closing days of the 1985 session. If the Genocide Treaty is taken up in 1986, I will be fully prepared to debate the treaty.

I suggest the absence of a quorum.

The **PRESIDING OFFICER**. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. **DOLE**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. **DOLE**. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. **METZENBAUM**. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RECESS UNTIL 11:15 A.M.

Mr. **DOLE**. Mr. President, I ask unanimous consent that the Senate stand in recess until 11:15 a.m. today.

There being no objection, the Senate recessed at 9:53 a.m. until 11:15 a.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. GORTON).

The **PRESIDING OFFICER**. The Presiding Officer as Senator from the State of Washington suggests the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

(During the quorum call Mr. ROTH and Mr. WALLOP occupied the chair.)

Mr. **BOSCHWITZ**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER** (Mr. QUAYLE). Without objection, it is so ordered.

WHITE EARTH RESERVATION LAND SETTLEMENT ACT OF 1985

Mr. **BOSCHWITZ**. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of Calendar Order No. 422, S. 1396, the White Earth Indian Reservation bill.

The **PRESIDING OFFICER**. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1396) to settle unresolved claims relating to certain allotted Indian lands on the White Earth Reservation, to remove clouds from the titles to certain lands, and for other purposes.

The **PRESIDING OFFICER**. Is there objection to the request of the Senator from Minnesota?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Indian Affairs, with an amendment to strike out all after the enacting clause and insert the following:

That this Act may be cited as the "White Earth Reservation Land Settlement Act of 1985".

SEC. 2. The Congress finds that—

(1) claims on behalf of Indian allottees or heirs and the White Earth Band involving substantial amounts of land within the White Earth Indian Reservation in Minnesota are the subject of existing and potential lawsuits involving many and diverse interests in Minnesota, and are creating great hardship and uncertainty for government, Indian communities, and non-Indian communities;

(2) the lawsuits and uncertainty will result in great expense and expenditure of time, and could have a profound negative impact on the social and well-being of everyone on the reservation;

(3) the White Earth Band of Chippewa Indians, State of Minnesota, along with its political subdivisions, and other interested parties have made diligent efforts to fashion a settlement to these claims, and the Federal Government, by providing the assistance specified in this Act, will make possible the implementation of a permanent settlement with regard to these claims;

(4) past United States laws and policies have contributed to the uncertainty surrounding the claims;

(5) it is in the long-term interest of the United States, State of Minnesota, White Earth Band, Indians, and non-Indians for the United States to assist in the implementation of a fair and equitable settlement of these claims; and

(6) this Act will settle unresolved legal uncertainties relating to these claims.

SEC. 3. For purposes of this Act:

(a) "Allotment" shall mean an allocation of land on the White Earth Reservation, Minnesota, granted, pursuant to the Act of January 14, 1889 (25 Stat. 642), and the Act of February 8, 1887 (24 Stat. 388), to a Chippewa Indian.

(b) "Allottee" shall mean the recipient of an allotment.

(c) "Full blood" shall mean a Chippewa Indian of the White Earth Reservation, Minnesota, who was designated as a full blood Indian on the roll approved by the United States District Court for the District of Minnesota on October 1, 1920, or who was so designated by a decree of a Federal court of competent jurisdiction; it shall also refer to an individual who is not designated on said roll but who is the biological child of two full blood parents so designated on the roll or of one full blood parent so designated on the roll and one parent who was an Indian enrolled in any other federally recognized Indian tribe, band, or community.

(d) "Inherited" shall mean received as a result of testate or intestate succession or any combination of testate or intestate succession, which succession shall be determined by the Secretary of the Interior or his authorized representative.

(e) "Mixed blood" shall mean a Chippewa Indian of the White Earth Reservation, Minnesota, who was designated as a mixed blood Indian on the roll approved by the United States District Court of Minnesota on October 1, 1920, unless designated a full blood by decree of a Federal court of competent jurisdiction; it shall also refer to any descendants of an individual who was listed on said roll providing the descendant was not a full blood under the definition in subsection (c) of this section. The term "mixed blood" shall not include an Indian enrolled in any federally recognized Indian tribe, band, or community other than the White Earth Band.

(f) "Tax forfeited" shall mean an allotment which, pursuant to State law, was declared forfeited for nonpayment of real property taxes and purportedly transferred directly to the State of Minnesota or to private parties or governmental entities.

(g) "Majority" shall mean the age of twenty-one years or older.

(h) "Secretary" shall mean the Secretary of the Interior or his/or her authorized representative.

(i) "Trust period" shall mean the period during which the United States held an allotment in trust for the allottee or the allottee's heirs. For the purpose of this Act, the Executive Order Numbered 4642 of May 5, 1927, Executive Order Numbered 5768 of December 10, 1931, and Executive Order Numbered 5953 of November 23, 1932, shall be deemed to have extended trust periods on all allotments or interests therein the trust periods for which would otherwise have expired in 1927, 1932, or 1933, notwithstanding the issuance of any fee patents for which there were no applications, and if such allotments were not specifically exempted from the Executive orders; and the Indian Reorganization Act of June 18, 1934, shall be deemed to have extended indefinitely trust periods on all allotments or interests therein the trust periods for which would otherwise have expired on June 18, 1934, or at any time thereafter. Said Executive orders and Act shall be deemed not to have extended the trust period for allotments or interests which were sold or mortgaged by adult mixed bloods, by non-Indians, or with the approval of the Secretary, or for allotments or interests which were sold or mortgaged by anyone where such sale or mortgage was the subject of litigation in Federal court which proceeded to a judgment on the merits and where the outcome of such litigation did not vacate or void said sale or mortgage.

(j) "Interest", except where such item is used in conjunction with "compound", shall mean a fractional holding, less than the whole, held in an allotment.

(k) "Adult" shall mean having attained the age of majority.

(l) "Heir" shall mean one who received or was entitled to receive an allotment or interest as a result of testate or intestate succession under applicable Federal or Minnesota law.

(m) "Transfer" includes but is not limited to any voluntary or involuntary sale, mortgage, tax forfeiture or conveyance pursuant to State law; any transaction the purpose of which was to effect a sale, mortgage, tax forfeiture or conveyance pursuant to State law; any Act, event, or circumstance that resulted in a change of title to, possession of, dominion over, or control of an allotment or interest therein.

SEC. 4. (a) The provisions of this Act shall apply to the following allotments:

(1) allotments which were never sold or mortgaged by the allottees or by their heirs and which were tax forfeited during the trust period;

(2) allotments which were sold or mortgaged during the trust period, without the approval of the Secretary, by the allottees prior to having attained majority, and were never again sold or mortgaged either by the allottees upon their having attained majority or by heirs of the allottees;

(3) allotments which were sold or mortgaged during the trust period by full blood allottees without the approval of the Secretary, and were never again the subject of a sale or mortgage by heirs of the allottees; and

(4) allotments which were never sold or mortgaged by the allottees, but which subsequent to the deaths of the allottees, purportedly were sold or mortgaged, during the trust period, by administrators, executors, or representatives, operating under authority from State courts, and were never again the subject of a sale or mortgage by heirs of the allottees.

(b) The provisions of this Act shall also apply to the following allotments or interests in allotments:

(1) allotments or interests which were inherited by full or mixed bloods who never sold or mortgaged their allotments or interests or by Indians enrolled in other federally recognized Indian tribes, bands, or communities who never sold or mortgaged their allotments or interests, where the allotments or interests were tax forfeited during the trust period;

(2) allotments or interests which were inherited by mixed bloods under the age of majority and which were sold or mortgaged during the trust period without the approval of the Secretary prior to such mixed bloods having attained majority, but which were never again sold or mortgaged by them upon having attained majority or by their heirs;

(3) allotments or interests which were inherited by full bloods or by Indians enrolled in other federally recognized Indian tribes, bands, or communities, who sold or mortgaged such allotments or interests during the trust period without the approval of the Secretary;

(4) allotments or interests which were inherited by full or mixed bloods who never sold or mortgaged their allotments or interests, but which, subsequent to the deaths of such heirs, were sold or mortgaged during the trust period by administrators, operating under authority from State courts;

(5) allotments or interests which were owned by allottees or which were inherited by full or mixed bloods for whom guardians were appointed by State courts, which guardians sold or mortgaged the allotments or interests during the trust period without the approval of the Secretary;

(6) interests which were inherited by full or mixed bloods who never sold or mortgaged their interests during the trust period, even though other interests in the same allotment were sold by other heirs where the land comprising the allotment has been claimed in full by other parties adversely to the full or mixed bloods who never sold or mortgaged their interests; and

(7) allotments or interests which were inherited by full or mixed bloods or by Indians enrolled in other federally recognized Indian tribes, bands, or communities which were never sold or mortgaged during the trust period but which were purportedly distributed by State court probate proceedings to other individuals.

(c) This Act shall not apply to—

(1) any allotment or interest the sale or mortgage of which was the subject of litigation which proceeded to a judgment on the merits in Federal courts and where the outcome of such litigation was other than vacating and voiding such sale or mortgage;

(2) any allotment or interest which was tax forfeited subsequent to the date on which the tax exemption was declared by a Federal court to have expired;

(3) any allotment or interest which was sold, mortgaged, or tax forfeited after the expiration of the trust period; or

(4) any allotment or interest which was sold or mortgaged at any time by an adult mixed blood Indian.

Nothing in this Act is intended to question the validity of the transactions relating to allotments or interests as described in section 4(c), and such allotments and interests are declared to be outside the scope of this Act.

SEC. 5. (a) Any determination of the heirs of any person holding an allotment or interest, made by the courts of the State of Minnesota, which is filed with the proper county recording officer prior to May 9, 1979, shall be deemed to have effectively transferred the title of the decedent in the allotment or interest to the heirs so determined unless a separate determination of heirs has been made by the Secretary before the effective date of this Act and such determination has been filed with the proper county recording officer within six months after the effective date of this Act. Nothing in this subsection shall be construed to remove any allotment described in section 4 from the compensation provided for in the Act.

(b) The proper county recording officer is the county recorder of the county in which the allotment or interest is located if the title has not been registered pursuant to Minnesota law. If the title has been so registered, the proper county recording officer shall be the Registrar of Titles in the county in which the allotment or interest is located.

(c) As to any allotment which was granted to an allottee who had died prior to the selection date of the allotment, the granting of such allotment is hereby ratified and confirmed, and shall be of the same effect as if the allotment had been selected by the allottee before the allottee's death: Provided, That the White Earth Band of Chippewa Indians shall be compensated for such allotments in the manner provided in sections 6, 7, and 8.

(d) As to any allotment that was made under the provisions of the Treaty of March 19, 1867 (16 Stat. 719), and which was reallotted under the provisions of the Act of January 14, 1889 (25 Stat. 642), such reallotment is hereby ratified and confirmed.

SEC. 6. (a) As soon as the conditions set forth in section 10 of this Act have been met, the Secretary shall publish a certification in the Federal Register that such conditions have been met. After such publication, any allotment or interest which the Secretary, in accordance with this Act, determines falls within the provisions of sections 4(a), 4(b), or 5(c), the tax forfeiture, sale, mortgage, or other transfer, as described therein, shall be deemed to have been made in accordance with the Constitution and all laws of the United States specifically applicable to transfers of allotments or interests held by the United States in trust for Indians, and Congress hereby does approve and ratify any such transfer effective as of the date of said transfer, subject to the provisions of section 6(c). Compensation for loss of allotments or interests resulting from this approval and ratification shall be determined and processed according to the provisions of section 8.

(b) By virtue of the approval and ratification of transfers of allotments or interests therein effected by this section, all claims against the United States, the State of Minnesota or any subdivisions thereof, or any other person or entity, by the White Earth Band, its members, or by any other Indian tribe or Indian, or any successors in interest thereof, arising out of, and at the time of or subsequent to, the transfers described in sections 4(a), 4(b), or 5(c) and based on any interest in or nontreaty rights involving such allotments or interests therein, shall be deemed never to have existed as of the date of the transfer, subject to the provisions of this Act.

(c) Notwithstanding any provision of law other than the provisions of this section, any action in any court to recover title or damages relating to transactions described in sections 4(a), 4(b), 5(a) or 5(c), shall be forever barred unless the complaint is filed not later than one-hundred and eighty days following enactment of this Act, or prior to the publication required by section 6(a) whichever occurs later in time: Provided, That immediately upon the date of enactment of this Act any such action on behalf of the White Earth Band of Chippewa Indians shall be forever barred, unless the publication required by section 6(a) does not take place within two years of the date of enactment of this Act in which case the bar of any such action on behalf of the White Earth Band of Chippewa Indians shall be deemed lifted and nullified: Provided further, That the Secretary shall not issue to the White Earth Band any report rejecting litigation nor submit to Congress any legislation report pursuant to section 2415 of title 28, United States Code, relating to transactions described in sections 4(a), 4(b), 5(a) or 5(c) of this Act, until and unless the bar against actions on behalf of the White Earth Band is lifted and nullified. Any such action filed within the time period allowed by this subsection shall not be barred; however, the filing of any such action by an allottee, heir, or others entitled to compensation under this Act shall bar such allottee, heir, or others from receiving compensation pursuant to the provisions of section 8. The United States District Court for the District of Minnesota shall have exclusive jurisdiction over any such action otherwise properly filed within the time allowed by this subsection.

(d) This section shall not bar an heir, allottee, or any other person entitled to compensation under this Act from maintaining an action, based on the transactions described in sections 4(a), 4(b), 5(a), or 5(c), against the United States in the Claims Court pursuant to the Tucker Act, section 1491 of title 28, United States Code, challenging the constitutional adequacy of the compensation provisions of section 8(a) as they apply to a particular allotment or interest: Provided, That such action shall be filed with the Claims Court not later than one hundred and eighty days after the issuance of the notice of the Secretary's compensation determination as provided in section 8(c). If such an action is not filed within the one-hundred-and-eighty-day period, it shall be forever barred. The United States hereby waives any sovereign immunity defense it may have to such an action but does not waive any other defenses it may have to such action. The filing of an action by any heir, allottee, or any other person under the provisions of this section shall bar such person forever from receiving compensation pursuant to the provisions of section 8.

SEC. 7. (a) The Secretary is hereby authorized to and shall diligently investigate to the maximum extent practicable all White Earth allotments and shall determine which allotments or interest fall within any of the provisions of sections 4(a), 4(b), or 5(c). As to all such allotments or interests deter-

mined to be within the provisions of sections 4(a), 4(b), or 5(c), the Secretary shall prepare lists of such allotments or interests, which shall include allotment number, land description, and allottee's name, in English and Ojibway where available. A first list shall be published within one hundred and eighty days after the date of enactment of this Act in the Federal Register; in a newspaper of general circulation in Mahnomen County, Minnesota; in a newspaper of general circulation in Becker County, Minnesota; in a newspaper of general circulation in Clearwater County, Minnesota; in one newspaper of general circulation in metropolitan Minneapolis-Saint Paul; and, in the Secretary's discretion, in any appropriate band or tribal newspaper. Publication in the required newspapers shall take place no later than thirty days after publication in the Federal Register.

(b) Any tribe, band, or group of Indians, or any individual shall have one year after the date of publication in the Federal Register to submit to the Secretary any additional allotments or interests which the tribe, band, group, or individual believes should fall within any of the provisions of section 4(a), 4(b), or 5(c). The Secretary, without such submissions, may also independently determine that additional allotments or interests fall within such provisions. Any additional allotments or interests submitted to the Secretary shall be accompanied by a statement identifying the allotment or interest and its land description and summarizing the reasons why it should be added to the list required by this section.

(c) The Secretary shall determine which additional allotments or interests fall within the provisions of the sections 4(a), 4(b), or 5(c), and not later than five hundred and forty days of the date of publication of the Secretary's first list in the Federal Register, the Secretary shall publish a second list in the Federal Register and previously required newspapers of the allotments or interests the Secretary has determined should be added to the first published list.

(d) Any determination made by the Secretary under this section to include an allotment or interest on the first list required by the section to be published in the Federal Register may be judicially reviewed pursuant to the Administrative Procedure Act not later than ninety days of the publication date of the first list of the Federal Register. Any such action not filed within such ninety-day period shall be forever barred. Any determination made by the Secretary to include an allotment or interest on the second list required by this section to be published in the Federal Register, or any determination made by the Secretary not to include an allotment or interest on such list, may be judicially reviewed pursuant to the Administrative Procedure Act within ninety days of the publication date of the second list in the Federal Register. Any such action not filed within such ninety-day period shall be forever barred. Exclusive jurisdiction over actions under this subdivision is hereby rested in the United States District Court for the District of Minnesota.

SEC. 8. (a) Compensation for a loss of an allotment or interest shall be the fair market value of the land interest therein as of the date of tax forfeiture, sale, allotment, mortgage, or other transfer described in sections 4(a), 4(b), or 5(c), less any compensation actually received, plus interest compounded annually at 5 per centum from the date of said loss of an allotment or interest until the date of enactment of this Act, and at the general rate of interest earned by United States Department of the Interior funds thereafter. A determination of compensation actually received shall be supported by federal, state, or local public documents filed contemporaneously with the transaction or by clear and convincing evidence. Compensation actually received shall not be subtracted from the fair market value in any instance where an allotment or interest was sold or mortgaged by a full or mixed blood, under the age of eighteen years, or in any instance where there is prima facie evidence that fraud occurred in a sale or mortgage. No compensation for loss of an allotment or interest relating to transfers described in section 4(b) shall be granted to any person or the heirs of such person where such allotment or interest was received pursuant to State court probate proceedings and where also it has been or is determined by the Secretary that such person or heirs were not entitled to inherit the allotment or interest.

(b) For the purpose of this section, the date of transfer applicable to interests described in section 4(b)(6) shall be the last date on which any interest in the subject allotment was transferred by document of record by any other heir of the allottee; and the date of transfer applicable to allotments described in section 5(c) shall be the selection date. For purposes of this section, the Secretary shall establish the fair market value of various types of land for various years, which shall govern the compensation payable under this section unless a claimant demonstrates that a particular allotment or interest had a value materially different from the value established by the Secretary.

(c) The Secretary shall provide written notice of the Secretary's compensation determination to the allottees or heirs entitled thereto. Such notice shall describe the basis for the Secretary's determination, the applicable time limits for judicial review of the determination, and the process whereby such compensation will be distributed. The Secretary shall proceed to make such heirship determinations as may be necessary to provide the notice required by this section: Provided, That the Secretary shall accept as conclusive evidence of heirship any determination of the courts of the State of Minnesota as provided in section 5(a) of this Act: Provided further, That the Secretary shall give written notice only to those allottees or heirs whose addresses can be ascertained by reasonable and diligent efforts; otherwise such notice shall be given by publication in the Federal Register.

(d) The Secretary's administrative determination of the appropriate amount of compensation computed pursuant to the provisions of this Act may be judicially reviewed pursuant to the Administrative Procedure Act not later one hundred and eighty days after the issuance of notice as aforesaid; after such time the Secretary's determination shall be conclusive and all judicial review shall be barred. Exclusive jurisdiction over any such action is hereby vested in the United States District Court for the District of Minnesota.

(e) Once a compensation determination has become conclusive according to the provisions of subsection (d), the Secretary shall certify such determination to the Secretary of the Treasury and such conclusive determination shall be treated as a final judgment, award or, compromise settlement under the provisions of title 31, United States Code, section 1304. The Secretary of the Treasury is authorized and directed to pay out of the funds in the Treasury into a separate interest bearing White Earth Settlement Fund account the amount certified by the Secretary of the Interior in each case. The Secretary of the Interior shall then make a diligent effort to locate each allottee or heir; however, if, after two years from the date on which a determination becomes conclusive an allottee or heir cannot be located, the Secretary of the Interior shall declare the amount owing to such allottee or heir forfeited.

(f) Any and all amounts forfeited pursuant to subsection (e) together with the interest accumulated thereon, pursuant to section 8 shall be transferred annually to the fund established under section 12 for the White Earth Band.

SEC. 9. The Secretary shall determine the heirs, if heretofore undetermined, or modify the inventory of an existing heirship determination of any full or mixed blood or Indian enrolled in any other federally recognized Indian tribe, band, or community, where appropriate for the purposes of this Act: Provided, That the Secretary shall accept any determination of heirship by the courts of the State of Minnesota as provided in section 5(a) of this Act.

SEC. 10. (a) The provisions of section 6 of this Act shall take effect upon the publication in the Federal Register by the Secretary of certification that the following conditions have been satisfied:

(1) The State of Minnesota, in accordance with Laws of Minnesota 1984, chapter 539, has entered into an agreement with the Secretary providing for the transfer of ten thousand acres of land within the exterior boundaries of the White Earth Reservation to the United States to hold in trust for the White Earth Band of Chippewa Indians as the State's contribution to the settlement provided for by this Act. The Secretary shall not enter into such an agreement until the Secretary determines, or the authorized governing body of the band certifies to the Secretary in writing, that the agreement will result in the transfer of ten thousand acres which possess reasonable value for the White Earth Band, including but not limited to value for agricultural, recreational, forestry, commercial, residential, industrial, or general land consolidation purposes. The land transferred pursuant to this subsection shall be accepted by the United States subject to all existing accesses, roads, easements, rights of way, or similar uses unless the Governor and Attorney General of the State of Minnesota certify in writing to the Secretary the State's intent to abandon such uses on a particular parcel.

(2) The State, in accordance with the Laws of Minnesota 1984, chapter 539, has appropriated $500,000 for the purpose of providing the United States with technical and computer assistance for implementing the settlement provided for in this Act.

(3) The United States has appropriated $6,600,000 for economic development for the benefit of the White Earth Band of Chippewa Indians.

(b) Upon final acceptance by the Secretary, the land referred to in subsection (a)(1) shall be deemed to have been reserved as of the date of the establishment of the White Earth Reservation and to be part of the trust land of the White Earth Reservation for all purposes.

SEC. 11. Nothing in this Act is intended to alter the jurisdiction currently possessed by the White Earth Band of Chippewa Indians, the State of Minnesota, or the United States over Indians or non-Indians within the exte-

rior boundaries of the White Earth Reservation.

Sec. 12. (a) There is established in the Treasury of the United States a fund to be known as the White Earth Economic Development and Tribal Government Fund. Money in this Fund shall be held in trust by the United States for the White Earth Band of Chippewa Indians, and shall be invested and managed by the Secretary in the same manner as tribal trust funds pursuant to the Act of June 24, 1938 (25 U.S.C. 162a).

(b) The White Earth Economic Development and Tribal Government Fund shall consist of—

(1) money received by the White Earth Band as compensation pursuant to section 8; and

(2) money received by the White Earth Band as a result of amounts forfeited pursuant to section 8(f); and

(3) money received as an appropriation pursuant to section 15; and

(4) income accruing on such sums.

Income accruing to the White Earth Economic Development and Tribal Government Fund shall, without further appropriation, be available for expenditure as provided in subsection (c).

(c) Income from the fund may be used by the authorized governing body of the band for band administration. Principal and income may be used by the authorized governing body of the band for economic development, land acquisition, and investments: Provided, however, That under no circumstances shall any portion of the moneys described in subsection (b) be used for per capita payments to any members of the band: Provided further, That none of the funds described in subsection (b) shall be expended by the governing body of the band until—

(1) such body has adopted a band financial ordinance and investment plan for the use of such funds; and

(2) such body has submitted to the Secretary a waiver of liability on the part of the United States for any loss resulting from the use of such funds; and

(3) the Secretary has approved the band financial ordinance and investment plan. The Secretary shall approve or reject in writing such ordinance and plan within sixty days of the date it is mailed or otherwise submitted to him: Provided, That such ordinance and plan shall be deemed approved if, sixty days after submission, the Secretary has not so approved or rejected it. The Secretary shall approve the ordinance and plan if it adequately contains the element specified in section 12(d).

Sec. 13. Notwithstanding any other law to the contrary, the United States grants its permission to the State of Minnesota to transfer land to the White Earth Band as described in section 10(a)(1) which prior to the date of enactment of this Act may have been obtained by the State pursuant to other Federal law or with Federal assistance. Any restrictions or conditions imposed by any other Federal law or regulation on the transfer of such land are hereby waived and removed.

Sec. 14. Not later than five years, or as soon as possible, after the date of enactment of this Act, the Secretary shall make all determinations, provide all notices, and complete the administrative work necessary to accomplish the objectives of this Act. The Secretary shall give priority in making compensation determinations and payments under this Act to original allottees and elderly heirs. The Secretary shall submit a report by January 1 of each year to the chairman of the House of Representatives Committee on Interior and Insular Affairs and the chairman of the Senate Committee on Indian Affairs, which report shall summarize the administrative progress to date and shall estimate the amount and nature of work left to be done.

Sec. 15. (a) There are hereby authorized to be appropriated to the White Earth Band $6,600,000 as a grant to be expended as provided in section 12.

Sec. 16. None of the moneys which are distributed under this Act shall be subject to Federal or State income taxes or be considered as income or resources in determining eligibility for or the amount of assistance under the Social Security Act or any other federally assisted program.

Sec. 17. The Secretary is authorized, if so requested by the authorized governing body of the White Earth Band, to exchange any of the land which is transferred to the United States as described in section 10(a)(1) for any other land within the exterior boundaries of the White Earth Reservation which is owned by the United States, the State of Minnesota, or any of the State's political subdivisions. Nothing in this section shall be deemed to require an exchange not agreed to by all parties to the exchange.

Sec. 18. Any lands acquired by the White Earth Band within the exterior boundaries of the White Earth Reservation with funds referred to in section 12, or by the Secretary pursuant to section 17, shall be held in trust by the United States. Such lands shall be deemed to have been reserved from the date of the establishment of said reservation and to be part of the trust land of the White Earth Band for all purposes.

Mr. BOSCHWITZ. Mr. President, I rise in support of this bill. It is a bill that Senator DURENBERGER and I offered in June 1985, and that we have offered in earlier sessions of Congress, as well.

It deals with a very difficult and complex land claim problem that exists on the White Earth Reservation in Minnesota. Over 100,000 acres of land on the reservation are subject to claims. Our bill would provide compensation to the Indian allottees or their heirs while, at the same time, removing the clouds from the titles of the affected lands.

The bill has a long history, Mr. President. I have spoken on it before. The history of the activities that give rise to the bill go back into the last century.

This is a bill that is supported not only by senator DURENBERGER and myself, but it is supported by the Governor of Minnesota, by the attorney general, and by the majority leader of the senate in Minnesota, all Democrats.

This has very wide bipartisan support. It is supported, indeed, by the chairman of the White Earth Band of Chippewa Indians and really by all State and Federal elected officials.

It has been negotiated and renegotiated and fine-tuned over a period of years. It would end some very vexatious title problems. It would make substantial funds available to economic development of the reservation. It would give the allotees an opportunity to collect.

It will provide clearance for very broad searches that we conducted at the cost of millions of dollars with findings for allottees—and we advised them of their rights. It would indeed give those allottees something they otherwise would undoubtedly not receive because they would have to work their way arduously through the courts. It would be a long and difficult process.

We seek to make that process more equitable, fairer, and more expeditious because so often the delays that are associated with legal proceedings really remove some of the justice that is sought.

I know my friend from Montana who has shown extraordinary interest in this bill will speak on it, and is of a different mind. I respect this position.

I yield the floor and reserve the balance of my time.

The PRESIDING OFFICER. Who yields time?

Mr. MELCHER addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. MELCHER. I yield myself such time as I may use.

Mr. President, the basic issue here is whether or not the bill, S. 1396, will resolve the problems that have been briefly described by my friend from Minnesota.

The issue simply put is if the problems are going to be solved on who owns the land, is it going to be done in a manner that is just, correct, and fair?

We have a situation where there is an 854,000-acre reservation located in Minnesota for the Chippewa band called the White Earth Reservation. Of that 854,000 acres, 92,000 was determined to be the school land that was owned by the State for the schools. That left 762,000 acres of land on the White Earth Indian Reservation that was available for allotment.

The present status of that 762,000-acre reservation is this: about 56,000 acres are owned by the tribe, and a very few number of allotees, but the total Indian ownership out of the original 762,000 acres is 6 percent of what it started out to be.

It is strange that the State of Minnesota, besides the school land, now owns some 165,000 acres out of those 762,000 acres. The balance of it is considered to be privately owned.

So the real question before the Senate right now—if we are going to resolve what happened between that point when there were 762,000 acres of Indian reservation available for allotments to members of the Chippewas living at White Earth, and now has dwindled down to 56,000 acres left in Indian ownership—is all that preceded in between correct and lawful? The injustices that started to occur, where the land was going out of Indian ownership, seemed to begin in 1906. But let me give you some of the historical background of this.

By a treaty proclaimed in 1865 the United States set aside certain land described in the treaty for the use of the Minnesota Chippewas. In 1867 that land was found not to be suitable for agriculture, and therefore the Chippewas ceded it back to the United States in exchange for several promises.

They ceded to the United States a much greater amount than 762,000 acres. But these were the promises of that particular treaty: That the White Earth Reservation area be set aside for the Chippewas in order to provide a suitable farming region for said band.

The President issued an executive order in 1870 to fulfill the treaties of 1865 and 1867. The question came up on whether or not after a survey of the reservation, what uses they were going to make of the land. Was the land going to be cultivated? The Government thought it ought to be cultivated. So they said any male or female Chippewa shall have 10 acres of land under cultivation. When that happens such Indians shall be entitled to receive a certificate showing him or her to be entitled to 40 acres of land.

This went through a process, and eventually it reached a point where a full 160 acres might be certified to any one Indian. Allotments of various size portions of the reservations were made to the individual Indians in accordance with the treaties. However, they were made according to the terms of the Nelson Act in 1889, that provided for allotments to individual Indians according to the terms of another act of Congress of 1887. That was the General Allotment Act. By 1887, much of the land set aside for Indian reservations had begun to attract the attention of white settlers who sought to acquire the land for themselves.

Congress then passed the previous act that I mentioned, the General Allotment Act, which authorized the division of reservation land among individual Indians. This provided for even more allotments so they could get an additional 80 acres of agricultural land up to 160 acres.

What the law called for then—this is perhaps the beginning of the crucial points—was that the Secretary of the Interior had to issue patents. The patents were in trust. What do I mean by that? I mean what the law provided was that the allotted land was designated. The Indian could occupy it. But the Indian was not allowed to sell the land, and the land was not allowed to be taxed. It was exempt from taxation.

The question of what the restrictions were on selling the land was part of what is termed a trust responsibility of the U.S. Government. So the document that was given to the Indian for the allotment was not a deed as we know it. In other words, it was not a fee patent. It was a trust patent. That is a term that the Government used all through this whole process of issuing allotments to Indians.

The trust patent contained the two major points I mentioned—that is, it could not be sold unless the Indian went through a procedure getting permission to sell because it was held in trust for the Indian.

Second, the trust patent protected the Indian from any taxes being imposed by any level of government, whether county, State, or Federal.

The purpose of doing that was to assure that the Indian allottees somehow, having been granted by the United States the opportunity to own and develop land, would not fall through the cracks. In other words, there was great concern that somehow if the Indian owned the land outright, if there was not any trust status, that he or she would be duped and would soon lose the land. There were plenty of examples to demonstrate that that was the case.

So we have a legal technicality. The land was allotted to them. They could not sell it without coming out from underneath the trust status. That issue has provided most of the questions of whether land transactions were properly handled on White Earth.

But the second point must not be forgotten. The second point is that the Indian land would not be subject to county or State taxes. Immediately that raises the issue if the State of Minnesota now owns some 165,000 acres of what used to be Indian allotment land, how have they happened to acquire any of that land through tax forfeiture.

It would be illegal if the lands did not come out from under the Trust Act patent.

The records of the Department of the Interior are to the effect that these allotments were issued under a document that is called a trust patent.

The face of the trust patent is sort of boilerplate language that the land will be held in trust and will not be sold as long as it is held in trust by the U.S. Government. The question of whether or not States or counties can tax Indian land has been subject to many court cases and in all instances, so far as I have been able to determine, the courts have found that while the land is held in trust status it will not be subject to State or county taxes, unless the Indian would expressly agree to it.

I will be offering some amendments to this bill. One of them deals with the question of whether or not the State of Minnesota has acquired through tax forfeiture Indian land that was illegally or unlawfully acquired through that process.

The complicating factor that involved this problem in a considerable amount of controversy both in and out of court was an amendment back in 1906 and again renewed in 1907, which is known as the Clapp amendment. It has not been found to be very clear and courts cannot determine that it removed the trust status of the land. Therefore, for many Indians who had not applied to have their land removed from trust status and a fee patent issued, the effect of the amendment is that after it was passed most of the Indian allotment land was recorded in the three counties under the ownership of non-Indians.

Reviewing the history on this, after the first Clapp amendment of 1906 and the second one of 1907, the pressure had built for access to the Indian lands and particularly for the timber that was on those Indian lands. During the first 3 weeks the Clapp amendment was in effect, Becker County, one of the three counties located within the White Earth Indian Reservation, alone recorded over 250 mortgages of Indian land. Three timber companies particularly were noted for their activity on the reservation. I do not know whether it is necessary to name them or put that into the RECORD. The prices paid for the timber were below those established for comparative sales within the adjoining area.

Obviously, this land had not reached much agricultural development by 1906 or 1907 or 1908, but the timber was considered valuable and the timber companies in the area were anxious to gain the land simply for the value of the timber.

It became a scandal. The White Earth Reservation did have valuable timber. Each member of an Indian family was an eligible allottee. Allotments were given to all of the Indians that applied, as should be done under the treaty. The question then came up, because of the Clapp amendment, which referred to the capability of mixed blood—that is not full blood but mixed blood Chippewas—whether they were the ones who were supposed to get the land taken out of trust and, therefore, be capable of legally selling the land to a non-Indian.

As a result of this sort of stampede to gather up all the Indians possible and secure their land and get a title recorded in the county courthouse, there was an investigation by President Theodore Roosevelt. Warren C. Moorhead was selected to be appointed to the Board of Indian Commissioners. He was selected by President Theodore Roosevelt to try to determine whether or not what they were hearing about what was going on at

White Earth was scandalous and unfair to the Indians.

Mr. Moorhead went to the White Earth. He collected 117 affidavits representing over 1 million dollars' worth of property that had passed from Indian hands. He felt compelled to get out of the White Earth area by that time since there were some perceived threats against his physical well-being. So he secured an armed escort and got out of there.

When he presented his evidence in Washington to the Board of Indian Commissioners, they then directed a further investigation in 1909.

Moorhead returned in 1909 accompanied by a person named Edward Linnen, who was a regular experienced Indian Office Inspector. They later submitted their report where they found that over 90 percent of the lands allotted to the full-blood Chippewa Indians on White Earth had either been sold or mortgaged.

Fully 80 percent of the land on the reservation had passed into private ownership.

The effect of the Clapp amendment was to say, well, it is all right for mixed-blood Chippewas to sell their land, but full bloods could not. That is what Clapp intended, presumably, in his amendment.

That required a great deal of pondering by the Department of the Interior and Congress itself. Over a period of 10 years, they set about to determine how many of these Indian people were of mixed blood and how many of them were of full blood, in order to carry out what is known as the Clapp amendment, which would allow, purportedly, the sale of land by those Indians who were of mixed blood.

I have to make a point, Mr. President, and I think it is a point that cannot be ignored. All of the documents of the Department of the Interior failed to show where any great amount of Indian allottee land ever passed out of trust status.

In order for it to pass out of trust status, it was determined both under the Clapp Act and other acts of Congress that there had to be a mechanism where the Indian asked the Department of the Interior to remove the trust status. All the documents I have been able to review clearly show that the document that was awarded to the Indians for the allotment was simply a trust patent. I stress "trust." On its face, it said that the land described would be held in trust by the United States, meaning that it could not be sold by the Indian as long as it was in that trust status, nor could it be taxed. So the two key relevant points are there: Was the action taken by the U.S. Government following the Clapp amendment and other acts of Congress lawful in terms of alienating the ownership of the land from the Indians? Was it brought out from under trust? I can find no indication of very many instances where that was the case.

Looking at all of the available material, looking back on the title of the land through the courthouses and trying to get an assessment of all the transactions that transpired, you get back to the key point, did it come out of trust? The answer seems to be that relatively very few allotments ever came out of trust status and therefore, under the law, could not be lawfully passed to another individual except by inheritance.

The proper procedure to apply to have the trust status removed was not followed and the legal point remains: Was there or was there not the capability of the Indians to sell their land and therefore ownership pass on to another individual? That has created a great amount of concern among those who now believe that they do own the land because they have a deed recorded in the courthouse of whatever county they live in and hope it is a good deed.

The other point about how does the State ever acquire this land seems to indicate that the State acquired the land unlawfully. If an Indian allottee does not give his or her consent to pay taxes, it is clearly unlawful for the State to acquire the land through the tax forfeiture mechanism. Therefore, the State has not lawfully extinguished the title of the original Indian allottees or their heirs.

There is a second point that does not involve as much land but that is clearly unlawful, too. That is, that an Indian minor could not dispose of his land. Also, trust lands acquired through probate of some kind under State auspices was not legal either. As long as it is under trust status, the probate status of an Indian's allottee land must be under the supervision of the Federal Government because that is part of the trust responsibility.

Mr. President, before I go any further on this, I think I have raised enough questions in anybody's mind as to what is the solution of all this. Let me point out that there are a number of reasons why this bill is really not the proper vehicle to solve the problems.

The testimony before the Indian Affairs Committee on November 17, 1983, by the office of the attorney general of the State of Minnesota, submitted data regarding these claims by Indian heirs or Indian allottees. There are very few of the original allottees still alive, but their original heirs can make some claim to the land they feel was unlawfully taken from them. The attorney general of Minnesota told us that there were 948 land files which the Bureau of Indian Affairs considered active—that was in 1983—and that these claims affected a total of 100,000 acres in the 3 counties. The breakdown of claim categories provided by the State differs in descriptive terms from that used by the Department of the Interior's field solicitor, but I am going to recite here those figures that were provided by the State of Minnesota.

In category A, unapproved trust land sales—that is, the number filed—are 526. That is, they are claims.

The second category B, improperly tax forfeited land files, again the number of claims is 222.

On improper probates, there are 107 files or claims.

On forced fee patents, there are 88 files or claims. That, with three minor categories, each numbering 2, 2, and 1, adds up to 948 and the total acreage adds up to slightly over 100,000 acres.

The Justice Department has said it will not initiate clouded title litigation on all of these files but the Federal Government still considers all 948 files to involve serious legal problems which cloud the current land titles.

The general ownership breakdown of the 100,000-plus acres at risk is approximately as follows: Privately, there are 65,900 acres; the State or counties account for 28,800 acres, and the United States has 5,000 of those acres. The county breakdown of the 100,000 acres at risk is approximately as follows: Mahnomen has 46,000 acres, Becker has 39,000 acres, and Clearwater has 14,000 acres.

The Department of the Interior has formally requested the U.S. Justice Department to sue the State and counties in order to get back the titles to approximately 7,000 acres of land.

All of this land—and that is 7,000 acres—involves alleged improper tax forfeiture.

Also in the same category of alleged improper tax forfeiture is approximately 12,500 acres of land held by private citizens. The total amount of land within the original 35-township White Earth Reservation, as I earlier stated, is 854,000 acres. I earlier identified that some 90,000 acres was set aside for school purposes by the State, but I think the more important part is how much is still retained by the State—well over 200,000 acres—which would, of course, include the 90,000 acres that is held for school land. The 90,000 acres held for school land has not ever been subject to any question at all by anybody, and so we can leave that aside. It is the other 100,000 acres that has been acquired by the State. There is a considerable question as to how the State could have ever acquired that amount of land on a lawful basis.

The bill before us says that the State will give 10,000 acres back to the tribe. On what basis they decided it would be 10,000 acres, I am not sure. But it seems rather self-serving for the State of Minnesota to say, "Well, we will give back 10,000 acres of the 100,000 acres that is at risk" when it is questionable as to whether they acquired any of it lawfully.

As I have earlier stated, I shall offer an amendment to have that considered separately, how the State acquired it. If they had not acquired it lawfully, it seems to me that the proper situation would be for the State to return it to the tribe.

There are a number of people who oppose this bill in the State of Minnesota. No. 1, the Indians oppose the bill, the ones who are involved, the White Earth Indians. Their tribal council speaking for them opposes the bill. They oppose the bill because they think it is an unfair settlement.

There are a number of other groups that oppose it, and while I am not familiar with these groups, I will list them and describe what I know about them.

The United Townships Association sent this letter as of November 21:

Dear Senator: The United Townships Association is comprised of the thirty-two townships within the boundaries of the White Earth Reservation thru joint powers agreements. We are the voice responsible only to the residents both Indian and non-Indian of White Earth. S-1396 was introduced without the input necessary by the people who live with the repurcussions of any legislation passed pertaining to this reservation.

We feel that S-1396 with its amendments, is unconstitutional, a political mockery, using legislation to pay off tribal government with no legitimate claim, while failing to adequately investigate or compensate the original property owners or their heirs. It also fails to protect the current landowners, who are innocent third parties, caught between shifting Federal Indian Policy.

If all the politics were thrown out of this mess and an honest effort made to settle land claims that would clear titles the U.T.A. would support and endorse it.

Please vote against S-1396.

Respectfully,

Robert J. Bruns,
U.T.A. Chairman.

We have a very recent telegram from the tribal council expressing again their reluctance to have this bill become law. It is dated the 9th of this month.

The group called The People's Land, a group from White Earth, MN, sent us a letter detailing in length their opposition to the bill.

We have been contacted by a group known as Anishinabe Akeeng of White Earth opposing enactment of the bill. This is a group that represents the heirs of the Indian allottees.

The group called Minnesota Public Interest Research located in Minneapolis sent us this letter dated December 9 of this year:

Minnesota Public Interest
Research Group,
Minneapolis, MN, December 9, 1985.

Dear Elected Official: The Minnesota Public Interest Research Group (MPIRG) is extremely concerned that proposed legislation affecting the White Earth Chippewa Reservation in our state may pass the Senate and move to the House this week.

MPIRG, respresenting 50,000 members in the state, strongly opposes Senate Bill 1396 and House Resolution 2678 on grounds that the proposed legislation is unfair and may be unconstitutional.

The bill has no official Indian backing. The White Earth Tribal Council and the Minnesota Chippewa Tribal Executive Committee both passed unanimous resolutions in opposition. Two groups representing Indian heirs and claimants to apparently illegally taken land have testified and demonstrated against the bill, and even the Minneapolis Area Office of the Bureau of Indian Affairs registered its opposition. The Minnesota League of Women Voters similarly is on record against the bill.

MPIRG urges a vote against S. 1396 and H.R. 2678 so that a more satisfactory resolution of the White Earth claims dispute can be worked out.

We have enclosed our own coverage of this important, timely and precedent-setting issue.

Thank you,

Kristan Blake,
Executive Director.
John H. Rykhus, Jr.,
Chair, MPIRG Board of Directors.

The Minnesota Public Interest Research Group mentioned the League of Women Voters of Minnesota, and we were contacted yesterday by them to alert us to the fact that:

The League of Women Voters for Minnesota asks Governor Perpich, Senators Boschwitz and Durenberger, and Attorney General Humphrey to stop and listen. We ask these public officials to halt actions to pass S. 1396, and to meet with and listen to the White Earth Indian people. It is most important to all in Minnesota that agreement be reached with and not for, Indian people. Quick, unilateral decisions have hurt all citizens of Minnesota in the past. Please take this opportunity to work out a fair and reasonable solution concerning the White Earth Indian Reservation.

Mr. President, I ask unanimous consent that these communications be printed in the Record.

There being no objection, the communications were ordered to be printed in the Record, as follows:

[Telegram]

White Earth, MN,
December 9, 1985.

Senator John Melcher,
Senate Select Committee on Indian Affairs,
Capitol One, DC.

Contrary to what your office might have heard from the White Earth Reservation Tribal Council, that they now support S. 1396 by a special tribal council meeting is not true.

The White Earth Reservation Tribal Council still confirms total opposition to Senate bill 1396 and, hopefully, your office will support us in our strong opposition to this bill.

Sincerely,

Jerry Rawley,
Secretary-Treasurer, White Earth Reservation Tribal Council.

White Earth Anishinabe Nation,
White Earth, MN.

Dear Friends: S. 1396 is on its way out of the Senate Select Committee on Indian Affairs after a close 5-4 vote. We are asking that you oppose this bill, and the companion legislation HR 2673. These bills are proposed by Senators Boschwitz and Durenberger and Representative Arlan Stangeland—all of Minnesota. And these bills are opposed by the White Earth Tribal Council, the Minnesota Chippewa Tribe, Anishinabe Akeeng (the Coalition of Heirs and Allottees to White Earth lands), and the Area Director of the Minnesota Agency-Bureau of Indian Affairs.

This legislation is known as the White Earth Reservation Land Settlement Act of 1985 and will terminate Indian title to allotted lands within our reservation. The White Earth Indian reservation is the site of the largest internal reservation land claim in the United States. This condition comes from a series of illegal transactions which resulted in the transfer of our allotted lands to non-Indian interests. Particularly, these lands have been transferred through illegal tax forfeitures, minor sales, full-blood sales, and a great number of unconscionable contracts. Under the federal USC 25 Section 2415 investigation, many of these claims were documented, however, the investigation was cut short before it could be completed, and the full scale of the problem identified.

This bill "approves and ratifies" the transfer of these allotments to non-Indian interests, and ". . . By virtue of the approval and ratification of transfers . . . all claims against the United States, the State of Minnesota or . . . any person or entity by the White Earth Band, its members . . . is lifted and nullified . . ." White Earth Indian heirs who have been identified as legal heirs to these allotments in question would receive "compensation", and the White Earth band would also receive monetary settlements. However, any legal claims not settled within 180 days from the enactment of this bill would be terminated and barred. The anticipated price tag for this "settlement" is $11.4 million for heirs, $6.6 million for the White Earth band, and necessary monies for the Bureau of Indian Affairs to complete these activities.

There are a number of significant problems with this bill, and reasons why the White Earth people oppose it so strongly. To point them out to you, let me summarize the significant conflicts in this bill.

1. There are very serious constitutional infringements in this bill. First of all, the lands in question are individual Indian allotments which have transferred lands to non-Indian landholders who now have "clouded title". To "remove the cloud from these titles" by terminating Indian title to these lands is to terminate private property rights for a private interest. This is not a valid public purpose for a Fifth Amendment taking. This is, indeed, a dangerous notion. Second—there is a question of due process and due compensation. In Section 8 subsection (e) of the bill, ". . . The Secretary of Interior shall then make a diligent effort to locate each allottee or heir; however, if after two years from the date on which a determination becomes conclusive an allottee or heir cannot be located, the Secretary of the Interior shall declare the amount owing to such allottee or heir forfeited . . ." This is a very important point for several reasons. First of all, the Bureau of Indian Affairs has, for all practical purposes not probated the estates of the majority of White Earth people for 40-60 years. For instance, an 85 year old heir recently received notification of an interest in lands of his grand-

mother, on which the last transaction was in 1922. In other words, for over 60 years, he has not been notified of his interest in this land. Basically, how can heirs have a due process if the majority of the heirs have not been notified of any interests and claims in their allotments for 60 years? We do not believe that the majority of interests in these cases will be protected, or afforded any just process whatsoever.

2. Since the 2415 investigation was not completed, the full scale of the illegal activities has not been outlined, yet the bill purports to terminate all these claims without an informed basis for settlement. As a simple example, the Bills—H.R. 2678 and S. 1396 define a "Full Blood" (in Section 3(c)) as those so designated on the 1920 Blood Roll. It is well documented that this 1920 Blood Roll has major discrepancies and was basically a tool in which many "full bloods" were designated "mixed bloods", in order to facilitate sale of their allotments. The 1920 Blood Roll is inaccurate, and basing an Act of Congress on this misleading and, indeed, illegal list, is a disservice to all Americans.

3. The long term economic effect of this legislation will be disastrous for the White Earth people, and in the long term not solve the economic problems of non-Indian landholders on the reservation. We have documented that over the years, economic dependency has increased for the White Earth people, and indeed, with a huge refugee population of 21,000 (out of 24,000 enrolled members), we are refugees without a land base in our own land. While Americans debate the fate of "Boat People", and refugees from the Eastern block, Central America, and elsewhere, we do not see it as a positive step to further alienate the first Americans from our own lands. To further destroy our land base is to further the destruction of our people—and this is economically disastrous for not only Indian people, but the non-Indian community as well. Second, there is over $9 million worth of advertised property for sale on the reservation. We do not see that "clearing clouds to titles" makes this property marketable, or that there will be an instant real estate boom on the reservation. Non-Indians looking to buy property are not likely to purchase on the reservation, if property is available elsewhere for the same price. We must look to a more long term solution to help these non-Indian people sell their property—and at the same time work with the White Earth people to consolidate our land base.

These are just three of the many concerns we would like to point out to you. We would like to have you join us in opposing these dangerous legislative proposals, and work for a more just future on White Earth, and the many other reservations facing the same kind of problems.

We have an alternative proposal we would like to offer in the next session of Congress. We believe that this proposal is more just, and will answer the long term needs of the non-Indian and Indian alike. We also know that this proposal will have the consent of the Indian people—a necessary component of an Indian settlement.

Our legislative proposal has several components. The first component involves those lands held by the state, county and federal governments on the reservation. We believe that these lands could be returned to the White Earth band to be held in Band trust for our future generations. This amounts to almost 200,000 acres of land, and we believe that our people are capable of, as we have for thousands of years, taking care of our lands. A second component would be to the benefit of the non-Indian landholder on the reservation, who is pushing to get "clear title", in order to sell their lands to someone else. We propose something similar to the Boundary Waters Canoe Area project, in that a fund would be established to purchase these lands from the non-Indian, and return them to Band Trust for our future generations. Other pieces of our proposal include to complete the investigation, so that all our people may know the truth about our history, and from there make a clear path for the future.

S. 1396 is dangerously close to moving to the Senate Floor, and HR 2678 will follow. This is not an issue of the "Democrats or the Republicans," this is an issue of taking private property rights for an invalid purpose, and for literally forcing a settlement without the consent of the Indian people. We beg you to join us, and help us save our reservation. It is all we have left. Stop S. 1396 and HR 2678.

Megwetch,

Winona LaDuke,
(For Anishinabe Akeeng).

White Earth Reservation Tribal Council: Resolution No. 001-85-018

Whereas, the White Earth Reservation Tribal Council is the duly elected governing body of the White Earth Indian Reservation; and

Whereas, the White Earth Reservation Tribal Council has determined that its mission is to promote the general well-being and protection of the rights of the constituents; and

Whereas, H.R. 2678 was introduced in the United States House of Representatives on June 5th, 1985, by Mr. Stangeland and was referred to the Committee on Interior and Insular Affairs; and

Whereas, the bill is proposed to be cited as the "White Earth Reservation Land Settlement Act of 1985" and purports to settle claims relating to certain allotted Indian lands on the White Earth Reservation and to remove clouds from titles to certain lands, in contravention to the interests of Indian heirs and members of the White Earth Band; and

Whereas, sections 3(a), 3(b) and 4(c) relate to invalid tax forfeitures and other illegal sales, mortgages, and transfers of allotments and Section 5(a)(1) attempts, in return for a "compensation determination" to deem said transfers to have been made in accordance with the Constitution and laws of the United States applicable to the transfer of allotments and to ratify said transfers as of the date of transfer, when in fact said transfers were in contravention of the Constitution and laws of the United States applicable to the transfer of allotments; and

Whereas, the bill also proposes that any action attacking title to land based on the lack of an heirship determination by the Secretary of the Interior with regard to any allotment or interest that may appear on the "Federal Register list" under section 6 of the bill would be forever barred unless the complaint were filed prior to enactment of the act, and bars an action under the Tucker Act, 1346(a)(2) and 1491 of title 28, United States Code unless a person entitled to compensation under the Act files the complaint within one hundred and eighty days of the issuance of the notice of the Secretary's compensation determination, and bars actions pursuant to the Tucker Act section 1491, title 28, United States Code, to the Claims Court unless filed in the Claims Court within one hundred and eighty days of the final judgment of a court of competent jurisdiction; and

Whereas, the bill proposes that any tribe, band, or group of Indians or any individual shall have only one year after the "Federal Register list" that would be published under the bill, to submit to the Secretary any additional allotments or interests which should fall within the provisions of section 3(a), 3(b), 4(b), or 4(c), and the bill lists other limitations and time periods, despite the fact that the United States Department of the Interior has responsibility to probate the estates of many allottees whose estates were invalidly probated in State courts, and the United States could not conceivably carry out this responsibility within the time periods contained in the bill, which would foreclose the claims of rightful heirs that could be determined; and

Whereas, Section 7(a) of the proposed bill provides that compensation for loss of an allotment or interest shall be the fair market value of the land or interest therein as of the date of tax forfeiture, sale, allotment, mortgage, or other transfer or other transfer described in the bill, plus interest at 5 per centum, and under Section 7(b) of the bill the date of transfer applicable to interests described in section 3(b)(6) is proposed to be the last date on which any interest in the subject allotment was transferred by document of record by any other heir of the allottee; and

Whereas, the bill constitutes an attempt at a current taking by statute of the beneficial interests of the Indian heirs, without just compensation and without a valid public purpose, and fails to protect and preserve the beneficial interests of the heirs that are entitled to the lands that should be in trust, and along with the time limits and other provisions of the bill denies the heirs due process of law and equal protection of law and equal protection of law under the United States Constitution, and violates numerous federal laws relating to the allotment of Indian lands, when as a matter of law the United States should be vigilant to the enforcement of statutes designed for the protection of Indian lands; and

Whereas, in the Zay Zah case the Minnesota Supreme Court held that trust patents issued for White Earth Allotments created vested rights which Congress could not abrogate without consent, and that the Department of the Interior, not the State courts, had jurisdiction and responsibility to determine the heirs of deceased White Earth Chippewas and to distribute their trust estates; and

Whereas, H.R. 2678 seeks to ratify and confirm unconstitutional and unlawful sales and transfers of allotments on the White Earth Reservation and in effect attempts to overrule the Zay Zah case and attempts to further implement and ratify the wrongful uses and perpetrations under the Clapp Amendment of 1906, in violation of law and federal policy and the Indian Reorganization Act of 1934 which was dedicated federal law for the permanent protection of trust properties; and

Whereas, at a meeting with the heirs and members of the White Earth Band on May 13, 1985, the Tribal Council voted to rescind any prior support for the proposed bill and to oppose the bill: Now, therefore, be it

Resolved, That the White Earth Tribal Council opposes H.R. 2678, and the companion bill by Mr. Boschwitz, and rescinds any prior support for the proposal or bill.

PRESS RELEASE

On November 7, the Senate Select Committee on Indian Affairs sent out of committee S. 1396, or "The White Earth Land Claims Settlement Act of 1985". After a close vote of 5-4, and over strong constitutional questions raised by Senators John Melcher (MT), and Quentin Burdick (ND), Senator Mark Andrews (ND) pushed for the bill to be passed out of committee. Minutes after the approval of the bill, some 28 persons were arrested at Senator Rudy Boschwitz's St. Paul office for obstructing access to the office. These people, the majority Native people from White Earth and Minneapolis, opposed the legislation. S. 1396 has been proposed by Senator Rudy Boschwitz and Dave Durenberger from Minnesota.

Although the bill passed out of the Committee, there is still strong opposition to the legislation, and Anishinabe Akeeng, the coalition of heirs and allottees to White Earth lands, plans on waging a strong battle to stop what Akeeng members call "the railroad of the bill". Anishinabe Akeeng has actively opposed the legislation, and successfully for the past three years averted the passage of the bill. Unfortunately Arlan Stangeland, Rudy Boschwitz and Dave Durenberger have "utilized a number of dishonourable tactics", as observers have noted, in attempting to push the legislation through. In the last session of Congress, for instance, the two bills were placed as riders on continuing appropriations bills, just in the last minutes of the session. Fortunately, John Melcher and Sidney Yates removed the bills from the later passed appropriations bills. Anishinabe Akeeng members are concerned that this type of action is not used in the upcoming weeks in Congress.

At the Tribal level, White Earth Tribal Council representatives, on a number of occasions considered accepting the "settlement" proposal, since federal and state officials told the tribe this was "the best possible offer". Anishinabe Akeeng member Marvin Manypenny noted that "they always tell us this is the 'best possible offer', and every year they 'up the offer'." They said (federal and state officials) this was the best and only offer when the "settlement" was for $5 million. And they keep saying this is the best possible offer when they want to return 10,000 acres of land, and around $20 million. The truth is that they are getting away with the bank. Even this $17 million is pretty cheap for 200,000 acres of land, not to mention the hardships, death, suffering, timber, and everything else they have taken from us. We say White Earth is Not for Sale".

Each time the Tribal Council has considered the proposal, and tentatively accepted any proposal, Anishinabe Akeeng and community members have forced a change in the Council's position. In May of 1985, the Council once again passed a resolution opposing the legislation totally. However, the Tribal Chairman, Chip Wadena, acted unilaterally and convened negotiations in Washington October 30 of this year. As a result of his "negotiations", amendments were placed on the Boschwitz bill, and constituted the basis on which the bill was passed out of committee in the "mark up" session. On November 7, Wadena was confronted by members of the Minnesota Chippewa Tribe Tribal Executive Committee and Anishinabe Akeeng at the Intertribal Meeting at Grand Portage reservation. These people pointed out that these activities were illegal and violated both the constitution of the White Earth Tribal Council and the Minnesota Chippewa Tribe. One Tribal Chairman noted that "he could never go against a Council resolution, even if he disagreed with it." Other members simply pointed to the fact that these activities were illegal under tribal law. "We intend to continue our work in the protection of civil and tribal rights in our community," said Dale Hanks, one of the Anishinabe Akeeng members at the meeting. "We will continue to confront the Chairman particularly as the abuse of power by the Chairman endangers our national land base."

In addition, 28 persons were arrested on the Skyway at Senator Rudy Boschwitz's office in St. Paul, one hour after the bill had passed from committee. Convening with a pipe ceremony and prayer song at 9:00, approximately 125 persons from White Earth, farm groups, and the peace and justice communities congregated at the Senator's office. At 11:00, 28 people were arrested as they protested the forwarding of repressive legislation on White Earth.

Anishinabe Akeeng members are working to block the bill in the Senate. "We urge people to support Senator Melcher in putting a hold on the bill in the Senate, and we are asking that people aid us in opposing HR 2678 (the companion bill) in the House Interior and Insular Affairs Committee." Dale Hanks notes. Morris Udall (AZ) chairs that Committee. Akeeng hopes to stop the bill prior to this session of Congress, in which case state enabling legislation would expire, and Akeeng members hope that "more just" negotiators would take place. "Simply put," Marvin Manypenny states, "White Earth is Not for Sale, and we consider these bills a railroading of repressive legislation."

Mr. MELCHER. Mr. President, I wish to take a few more minutes to dwell on two points. It has been the policy of Congress, the policy of the Department of Interior, and the policy of the Department of Justice for some 50 to 80 years that in settling Indian land problems a consensus is reached before recommended bills are passed by Congress. That consensus has not been reached in this instance. I realize all of the stress that is upon my friends, Senator BOSCHWITZ and Senator DURENBERGER. I have sympathy for the people on White Earth, whether they are Indian or non-Indian, who desire a clear definition of whose land is whose. But this bill, if it becomes law, places in jeopardy that longstanding principle of reaching a consensus.

The Senate Indian Affairs Committee handles many bills of this nature, and the practice has always been to reach that consensus where you get this tribe, the Justice Department, the Department of Interior, the non-Indians, and the State involved to agree that it is a good settlement. In this instance, we have the State of Minnesota, for its own reasons, being satisfied with this type of solution.

I think any Governor would be hard pressed if it ended up with 100,000 acres of Indian land coming into the ownership of the State, probably unlawfully. A Governor of a State would be hard pressed to say, "Let's give it back." So the Governor of Minnesota and the State legislature say, "Let's give back 10,000 acres. Let's give back at least one-tenth of what we have."

That is sort of a tithing in reverse. The tithing is not satisfactory to a lot of people, including the people in Minnesota about whom I just talked and whose statements I have just asked to have printed in the RECORD, and it certainly is not satisfactory to the Indian claimants.

Mr. President, I think that lack of consensus is a point that should automatically determine that this bill should not pass. That has not happened. By a vote of 5 to 4 in the Indian Affairs Committee, this bill was reported as it is.

We have asked the Justice Department to advise us on the propriety of this bill. They deferred to Interior, and Interior, I suppose out of exasperation, just said, "Well, if Congress passes the bill, we will try to fulfill the requirements of this bill," which hardly addresses the basic points.

However, if the bill is going to pass, I believe it is essential to offer some amendments, and I hope they will be accepted, at least to improve the bill. I will offer the first one.

AMENDMENT NO. 1414

(Purpose: To extend the time for White Earth heirs and allottees to file claims)

Mr. MELCHER. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Montana [Mr. MELCHER] proposes an amendment numbered 1414:

On page 36, line 16, delete the words "one-hundred and eighty days" and insert in lieu thereof the following: "eighteen months".

Mr. MELCHER. Mr. President, the amendment simply provides this: The bill permits 6 months for the allottees and their heirs to file claims. Section 6 of the bill is an attempt to settle the claims by litigation. In other words, if this bill is going to be constitutional, it has to have section 6. In the bill, they want to allow just 6 months for allottees or their heirs to file claims.

Many of the potential claimants, whether they are heirs or allottees, have yet to be identified. Therefore, that 6-month opportunity to file claims is pretty unrealistic. In order to file the claim, they will have to be aware that they can. Second, they will probably want to discuss this with legal counsel, to see what the procedure is.

I offer this amendment in order to make this bill a little more workable. It is a very simple amendment, easily understood, and I hope it can be accepted. It is simply changing 6 months to 18 months, which I believe is a more realistic timeframe for making a determination on the merits of these claims of any of the allottees or their heirs to see whether they have some justifiable reason to enter their claims.

Mr. President, I reserve the remainder of my time.

Mr. BOSCHWITZ. Mr. President, the so-called "statute of limitation" period in the bill has been the subject of extensive negotiation and debate for several years. The 6-month-minimum period in the current bill is a compromise that accommodates various concerns. It should not be extended.

The dual purpose of this settlement bill is to clear legal uncertainties from current land titles and to provide compensation and other benefits to Indians as atonement for the policies that caused the land uncertainties. One purpose should not be accomplished without the other. Land titles should not be cleared without compensation being assured. Likewise, compensation should not be given if titles are not appropriately cleared.

The 6-month limitation for the initiation of land title lawsuits is designed to ensure that both purposes of the bill are accomplished at about the same time. It also is added protection against constitutional attacks on the bill.

There is a strong argument that land titles be cleared immediately upon passage of the bill. That is the way S. 1396 originally was drafted. A compromise period that was worked out between the State, the counties, and the White Earth Tribal Council contained a 3-month minimum statute of limitations period. The Senate committee extended that to 6 months.

I did not support the increase to 6 months and will not support the bill if it is greater than 6 months.

The title problems should not be extended indefinitely—that is what we are trying to correct—or else the reason for the legislation disappears. The White Earth Band as well as individual allottees and heirs are getting substantial benefits out of this bill—probably greater than they would receive from the courts. The flip side of that coin is that current landholders get benefits in a reasonable timeframe as well.

Allottees and heirs have already had 5 or more years to file title actions since the current land disputes have become public. A 6-month-limitation period will not adversely affect the rights of any Indian who wants to litigate for title.

The Senate Select Committee made a recommendation of a 6-month period. I am not at all pleased about that, but understand compromises must be made. I urge my colleagues to oppose any extension.

Mr. MELCHER. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

The yeas and nays were not ordered.

Mr. MELCHER. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BOSCHWITZ. Mr. President, I move to table the amendment of the Senator from Montana.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment.

Mr. MELCHER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MELCHER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MELCHER. Mr. President, I ask for the yeas and nays on this motion.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Minnesota to lay on the table the amendment of the Senator from Montana.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. EAST], the Senator from Arizona [Mr. GOLDWATER] and the Senator from Utah [Mr. HATCH] are necessarily absent.

I further announced that, if present and voting, the Senator from Utah [Mr. HATCH] would vote "yea."

Mr. CRANSTON. I announce that the Senator from Mississippi [Mr. STENNIS] is necessarily absent.

I also announce that the Senator from Florida [Mr. CHILES] is absent because of illiness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 58, nays 37, as follows:

[Rollcall Vote No. 372 Leg.]

YEAS—58

Abdnor
Andrews
Armstrong
Bentsen
Biden
Boschwitz
Bumpers
Chafee
Cochran
Cohen
D'Amato
Danforth
Denton
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Garn
Gorton
Gramm
Grassley
Hatfield
Hawkins
Hecht
Heinz
Helms
Hollings
Humphrey
Kassebaum
Kasten
Laxalt
Long
Lugar
Mathias
Mattingly
McClure
McConnell
Murkowski
Packwood
Pressler
Quayle
Riegle
Roth
Rudman
Simpson
Specter
Stafford
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Zorinsky

NAYS—37

Baucus
Bingaman
Boren
Bradley
Burdick
Byrd
Cranston
DeConcini
Eagleton
Exon
Ford
Glenn
Gore
Harkin
Hart
Heflin
Inouye
Johnston
Kennedy
Kerry
Lautenberg
Leahy
Levin
Matsunaga
Melcher
Metzenbaum
Mitchell
Moynihan
Nickles
Nunn
Pell
Proxmire
Pryor
Rockefeller
Sarbanes
Sasser
Simon

NOT VOTING—5

Chiles
East
Goldwater
Hatch
Stennis

So the motion to lay on the table was agreed to.

Mr. BOSCHWITZ. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. DURENBERGER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ANDREWS. Mr. President, S. 1396 was introduced by Senator BOSCHWITZ and Senator DURENBERGER on June 27, 1985. The purpose of the bill is to settle unresolved claims relating to certain allotted Indian lands on the White Earth Indian Reservation and to remove clouds from the titles to approximately 110,000 acres of land situated within the reservation. The Select Committee on Indian Affairs held hearings on this bill on September 11, 1985. On November 7, 1985, the committee, by a divided vote, ordered the bill reported with a recommendation for its enactment with an amendment in the nature of a substitute.

The bill would retroactively ratify land transactions by which individual Indian allottees became divested of ownership of their trust allotment. This ratification would become effective only after first, the State of Minnesota has entered into an agreement with the Secretary of the Interior providing for transfer of 10,000 acres of land from the State to the Secretary for the benefit of White Earth Band of Chippewa Indians; second, the State appropriates $500,000 for the purpose of assisting in the implementation of this act; and, third, the Congress has appropriated $6.6 million for an economic development fund for the band. The bill provides for compensation of allottees or their heirs to be provided in accordance with a legislative formula, and such claim will be treated as a final judgment, award, or compromise settlement against the United States under the provisions of section 1304 of title 31, United States Code. Compensation for loss of an allotment or interest shall be the fair market value of the land as of the date the land passed out of Indian ownership, less any compensation actually received, plus interest compounded annually at 5 per centum from the date of loss.

The proposed ratification would not effect any action in any court—State of Federal—to recover title or damages relating to land transactions proposed to be ratified if a complaint for such title and damages is filed in court within 180 days from the date of enactment of this act or before Congress appropriates the funds authorized in this legislation and the other conditions spelled out above have been met, whichever is later in time. In addition, if an heir, allottee, or any other person entitled to compensaton under this legislation elects, he or she may bring an action in the U.S. Claims Court to challenge the constitutional adequacy of the compensation determination of the Secretary as it relates to any particular claim. In either case, if the claimant files for title in a court of law or if the claimant elects to sue the United States in the claims court, such claimant will be barred from receiving compensation from the settlement fund established by this bill.

Mr. President, this is a troublesome piece of legislation. On the one hand, we are extinguishing identified or potential claims of individual Indians to titles to lands within the White Earth Reservation without the consent of the individual Indian claimant and without the expressed consent or concurrence of the Council of the White Earth Band of Chippewa Indians. On the other hand, the claims that are being estinguished are exactly that—claims—not proven entitlements. In fact, as one examines the claims and the legal theories upon which they rest, it appears that many of these claims rest on questionable legal grounds and could well be lost if prosecuted to their final conclusion in the courts.

It is because of the questionable nature of these claims that I believe this legislation is in the best interests of the individual members of the White Earth Band of Chippewas and in the best interests of the Band itself. I believe also that this legislation is in the best interests of the United States itself for a number of reasons: First, I believe it does justice to the individual Indian claimants by providing a process for compensation for losses without requiring final adjudication of the claims; second, it establishes an economic development fund of $6.6 million for the White Earth Band which can be used, among other things, for rebuilding the land base within the reservation; and, third from the standpoint of the United States it eliminates the need for protracted litigation of a vast number of claims which would place a heavy financial burden on the department of the Interior, the Department of Justice and on the courts.

And, Mr. President, it does justice to the non-Indian owners of property on the White Earth Indian Reservation by removing clouds on titles to lands which in many cases have been held by the families for many years, thus allowing these persons to sell or mortgage their property, obtain loans for agricultural purposes, and avoid protracted litigation at their own personal expense.

Mr. President, I would like to say what this legislation does not do. Contrary to concerns expressed by some of the opponents to this legislation, this is not termination legislation. The return of 10,000 acres of land to tribal ownership and the provision of a $6.6 million economic development fund for the White Earth Band is a strong reaffirmation of support for tribal government. Nothing in the bill will effect any reduction or diminishment of the reservation boundaries, and nothing in the bill will affect in any way the jurisdiction of the White Earth Band of Chippewa of the jurisdiction of the State, the counties or the municipalities within the boundaries of the reservation.

Finally, Mr. President, I would like to point out that this legislation will have limited precedential value. The vast majority of the claims at White Earth arise because of a Federal statute that is applicable only to this one reservation. I refer to the Clapp Act of 1906 in which Congress attempted to remove all restrictions from the trust properties of any Indian person having the slightest degree of non-Indian ancestry. It is the effects of this act that lead to the great bulk of the claims addressed in this legislation.

Mr. President, because of these facts, I have concluded that this legislation is in the best interest of all concerned and I support the enactment of this bill.

Mr. DURENBERGER. Mr. President, today I rise in support of S. 1396, the White Earth Reservation Land Settlement Act of 1985. This legislation, introduced by my distinguished colleague from Minnesota [Mr. BOSCHWITZ] and me, is the product of many years of discussion, and will resolve once and for all the complex legal questions surrounding land ownership on the White Earth Reservation in my home State of Minnesota.

Several different types of disputes involving over 100,000 acres of land have resulted from conflicting congressional and Executive actions beginning nearly 100 years ago.

In 1902, White Earth Reservation land was allotted to tribe members pursuant to the Nelson Act of 1889, with the parcels held in trust by the United States for the individual allottees. In 1906, Congress passed the Burke Act which conferred outright ownership to the Indians, removed all restrictions to sale of the land, and made the property nontaxable. That same year, however, Congress adopted the Clapp amendment, removing taxation restrictions from land held by mixed bloods. As a result, counties began to assess taxes on mixed blood property, and forced those who failed to pay taxes to forfeit their land. Now, 75 years later, the courts have held that all of these congressional actions abrogated the Indians' rights without compensation. So the forfeited land, much of which is currently held by private citizens, is now subject to claim.

Another type of claim has resulted from inconsistent rulings from the Interior Department solicitors. In 1915, the solicitors ruled that the Federal Government was not responsible for determining the heirs of deceased White Earth Indians and distributing the deceased's trust estates, so the State and counties took responsibility for probating. In 1979, however, the solicitor reversed the earlier ruling, stating that these probates were, in fact, the responsibility of the Federal Government. Any land sold by heirs that was determined by the State and county probates, therefore, is now subject to claim.

The last type of claim is a result of conflicting Federal and State interpretation of the age of majority for females. When land transactions took place, the Minnesota age of majority was—and still is—18. The Federal age of majority, however, was 21. According to Federal law, land sales by minors needs the approval of the Secretary of the Interior, but many sales by female Indians between the ages of 18 and 21 were made without the Secretary's approval. Titles to land sold by these 18- to 21-year-old women are now clouded.

The counties in Minnesota and the State are not to blame for existing land disputes. They were simply adhering to the law as it was written. In this case, the blame falls on the Federal Government, so the Federal Government has a duty to help resolve those disputes and to bear most of the settlement costs. By passing S. 1396, we put forth an equitable solution and accept our financial responsibility to the heirs.

As amended by the Senate Select Committee on Indian Affairs, the White Earth Reservation Land Settlement Act will remove the clouds from the titles of land held by private citizens, thereby allowing current landowners to do with their property as they wish. It will provide Indian heirs an estimated $10.4 million in compensation for land, with an additional $6.6

million going to the White Earth Band for economic development. Finally, it will affirm legislation passed by the State of Minnesota providing 10,000 acres of State and county land to the White Earth Band.

I believe this settlement is the fairest, most desirable way to resolve the White Earth dispute, because litigation—the only other alternative—is too costly both socially and financially. Litigation would cause scars within Minnesota that would take years to heal. But more importantly, there is a strong possibility that the heirs could walk out of court with no compensation whatsoever. Attorneys familiar with the matter say that it is questionable whether a court would honor claims resulting from State and county probates or minor sales.

The legislation before us resulted from debates that were sparked by my bill in the 98th Congress, S. 885. My legislation was intended to be a focal point for discussion on how to best resolve the White Earth problem, and was successful in that respect. Over the past 2 years, myself, Senator Boschwitz, Congressman Stangeland, the Indian Affairs Committees of both bodies, the Department of the Interior, the Office of Management and Budget, representatives of the White Earth Band, and the attorney general of Minnesota have all been working together to design this solution. Through all of our struggles, I was reminded of a very important lesson I learned when practicing law in Minnesota: A good compromise will leave both sides equally unhappy.

My distinguished colleague from Montana Senator Melcher, remains dissatisfied with S. 1396, so has introduced several amendments to the bill. He truly believes his amendments will improve the settlement. I do not agree. They will only delay the clearing of clouded land titles and the distribution of compensation to heirs, and will encourage the costly litigation this bill is intended to avoid. If this body agrees to any of Senator Melcher's amendments, our years of effort designing such a delicate compromise will be wasted. This is the last opportunity we have to resolve the White Earth land disputes. Therefore, I urge my colleagues to oppose any amendments to this measure.

Other colleagues of mine have expressed concern over the constitutionality of the bill. But after carefully reviewing S. 1396, the Justice Department and the American Law Division of the Congressional Research Service have determined that it is constitutionally sound. I am satisfied with their conclusion.

S. 1396 is needed and needed now. At the close of 1985, the land set-aside by the Minnesota Legislature will revert back to the State and this settlement will dissolve. It may not be a perfect solution, but I believe it is the most reasonable solution available. I strongly urge my colleagues to support this measure.

ORDER OF PROCEDURE

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER (Mr. Pressler). The majority leader is recognized.

Mr. DOLE. Mr. President, it is my understanding that there may be a possibility of bringing up the nomination of Otis R. Bowen to be Secretary of HHS.

I know a number of my colleagues are particularly interested, and of course Dr. Bowen is quite interested. We are in the process now of visiting with the distinguished minority leader about this.

If my colleagues will wait for just a moment or two, we can advise them on that nomination. There will be a vote on the nomination.

I hope to make an announcement no later than 3 p.m. as to whether there will be any more votes after that vote today. We are currently waiting for conference reports.

We have the White Earth Indian Reservation which may be taken up later today. If that is the only vote, we can delay that until tomorrow.

So I hope to make an announcement by 3:30, or no later than 4 o'clock so you may make plans for the evening. That is part of our new quality-of-life approach. [Laughter.]

Mr. NICKLES. Will the majority leader yield?

Mr. DOLE. I am happy to yield.

Mr. NICKLES. Mr. President, is it the intention of the majority leader, hope or desire, that we will be able to finish the reconciliation package?

Mr. DOLE. Yes.

Mr. MELCHER. Mr. President, will the majority leader yield?

Mr. DOLE. Yes.

Mr. MELCHER. Are we going to be on the Executive Calendar?

Mr. DOLE. Hopefully, sometime today. Does the Senator mean other than Dr. Bowen's nomination? Excuse me. Yes.

Mr. MELCHER. Then I would appreciate it if the majority leader would set it aside in such a way that we do not automatically go back on it when we get through, because I think I will be over there in the farm bill conference.

Mr. BOSCHWITZ. Mr. President, will the majority leader yield?

Mr. DOLE. Yes.

Mr. BOSCHWITZ. I hope that the bill which we just considered will not require any more yeas and nays. This vote seems to indicate where the vote will be. However, this bill has been passed and sent to the House. If the Senator from Montana will agree that no further yeas and nays are necessary, I certainly will be happy to agree to that.

Mr. MELCHER. Mr. President, will the majority leader yield?

I can understand the desire of my friend from Minnesota. But I think it is too early to make that sort of judgment as to final doomsday sort of judgment.

Mr. BOSCHWITZ. I will say to the majority leader that we are very desirous of passing this bill today. I will not ask for any rollcall votes. Hopefully none will occur.

Mr. DOLE. Mr. President, I know both Senators are concerned. It is a difficult judgment because they are both conferees on the House-Senate conference on the farm bill.

I hope that after we get through the next section, which is cotton and rice, and then sugar and peanuts, that there may be other areas where those two Senators do not have a direct interest. Maybe we can come back and finish this bill this afternoon.

EXECUTIVE SESSION

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate go into executive session in order to consider the nomination of Otis R. Bowen to be Secretary of Health and Human Services.

There being no objection, the Senate proceeded to the consideration of executive business.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

NOMINATION OF OTIS R. BOWEN TO BE SECRETARY OF HEALTH AND HUMAN SERVICES

The PRESIDING OFFICER. The nomination will be stated.

The legislative clerk read the nomination of Otis R. Bowen of Indiana, to be Secretary of Health and Human Services.

Mr. DOLE. Mr. President, it is not uncommon for nominees to be well suited for the positions they will ultimately hold. But rarely is there a person so eminently qualified as Otis Bowen is to be Secretary of the Department of Health and Human Services.

Because HHS is one of the largest Federal departments, and has the biggest budget, the person who heads the Department must be an exceptional manager. I can think of no better preparation for running HHS than being the chief executive of a large and diverse State. And as Governor of Indiana, a job he held for 8 years, Otis Bowen proved himself time and again a competent and effective administrator.

Otis Bowen has continued his public service, serving as Chairman of the 1982 Advisory Council on Social Security and a member of the President's

Advisory Committee on Federalism. He now serves on Senator LUGAR's Federal Judiciary Appointments Commission.

Enhancing his expertise in running a large and complex bureaucracy, is Dr. Bowen's experience as both a practitioner and a teacher of family medicine. The Department of Health and Human Services sets Federal Government policy on all matters concerning health care. It is one of the chief missions of the Department, one of greatest concern to all Americans. And to have someone at the helm of the Department, who has had personal experience as a physician and a professor of medicine will provide the administration with critical knowledge in developing health policy and increase the American public's faith in the administration's health agenda.

I know that all of the Members of the Senate Finance Committee were impressed and reassured after Dr. Bowen's appearance before the panel. And I fully concur with Chairman PACKWOOD's assessment that "this man does not have a blemish."

Mr. President, I wish that all nominees who came before the Senate could present the kind of credentials Dr. Bowen will bring to this job.

As we all know, HHS will be facing real challenges in the months ahead as the Department confronts severe budget constraints. So it is very important that we confirm Dr. Bowen now, so he can be in place at HHS as the new year cycle begins.

Mr. QUAYLE. Mr. President, it is with a great deal of personal pleasure and pride that I rise today in support of the nomination of former Indiana Governor, Otis R. "Doc" Bowen, M.D., to become the Secretary of the U.S. Department of Health and Human Services.

When the White House announced his nomination, Doc Bowen was described as a "triple crown" nominee. I could not agree more. Governor Bowen is uniquely qualified for this demanding post by virtue of his political experience, his demonstrated administrative competence and his expertise as a physician.

I am confident that Doc Bowen will be able to meet successfully the rigorous challenges presented by this position. The administrative problems and politically sensitive issues that the Secretary of Health and Human Services must face on a daily basis are awesome, and I am convinced that Governor Bowen is one of the very few individuals capable of taking on a task of such magnitude.

Doc Bowen has shown great skill as both a political leader and administrator throughout his career, which has included 14 years in the Indiana General Assembly, where he was Speaker of the House for 6 years, and two distinguished terms as Governor of Indiana. By virtue of his record as chief executive of the Hoosier State over an 8-year period, Governor Bowen remains today one of the most popular public servants in the history of Indiana.

Doc Bowen has been a practicing physician for 44 years, including 26 years as a family doctor in his home town of Bremen. He has regularly contributed articles to medical journals, and most recently he has been Lester D. Bibler Professor of Family Medicine and Director of Family Practice Education at the Indiana University School of Medicine in Indianapolis. As chairman of President Reagan's Advisory Council on Social Security, he demonstrated his knowledge of the problems confronting the Federal Medicare and Medicaid Programs, which he will be charged with administering as Secretary of Health and Human Services. In addition, Governor Bowen showed his ability to devise innovative and successful solutions to the problem of escalating health-care costs when he worked with the Indiana General Assembly in 1975 to enact a law to curb medical malpractice costs that has been used as a model by a number of States.

When confirmed, Doc Bowen will become the first physician to head the Federal agency that has such enormous influence over health policy in this country. I believe that his medical background and his reputation in the medical community make him ideally suited to lead the Department of Health and Human Services during a time that is one of the most turbulent the health-care industry has ever known in our country.

I believe President Reagan chose Doc Bowen because he is the best person for the job. It's that simple. There is no doubt in my mind that time will prove that the President was right. I urge my colleagues to support the President's nominee.

Mr. SIMPSON. Mr. President, I wish to express my strong support for the nomination of Dr. Otis Bowen to the position of Secretary of the Department of Health and Human Services.

"Doc" Bowen brings to this post an impressive background of government service and an equally important and impressive medical career.

His experience as a State legislator and two-term Govenror of Indiana prepare him well for the massive bureaucracy over which he will preside at the Department of Health and Human Services. The Department is one of the largest components of the Federal Government—with jurisdiction over the massive Federal health insurance programs, Medicare and Medicaid, Social Security, public assistance, and a whole host of social programs. In addition to consuming a major portion of the entitlement and discretionary funds of the U.S. Treasury, the Department of Health and Human Services is often the site of thoughtful and impassioned debate on some of the most controversial social issues facing this Nation.

The challenges inherent in this Cabinet post are difficult ones and I am confident that Dr. Bowen will meet them well.

In addition, he clearly will bring to these often difficult and controversial decisions a strong dedication to and sensitivity for his fellow human beings—as he has so ably demonstrated through the practice of family medicine.

I have enjoyed meeting him. He brings warmth and good humor to the task. I wish him well.

I am pleased that the Senate Labor and Human Resources Committee moved swiftly to consider this fine nomination and that I can join today in voting in favor of Dr. Bowen's confirmation.

Mr. DURENBERGER. Mr. President, I rise today in support of this nomination. I am fortunate to have known the nominee for Health and Human Services [HHS] Secretary for over 15 years. I have worked with him both when he was Governor of Indiana and the chairman of a major HHS Study Group on Medicare. Otis Bowen is highly qualified and will make an exemplary Secretary.

Doc Bowen understands and is committed to health systems reform. Unlike any other area of major Federal Government expenditure, the health-care system is in the process of "cleaning its house" and putting it in proper order.

The economic incentives under cost-based reimbursement for Medicare fueled a medical establishment where "more is always considered better." Well, Medicare discovered that isn't always the case, and health-care reform is based on changing that long held notion. It will be good to have an old family practitioner in the driver's seat at HHS who understands the conservative practice of medicine.

I would also point out that reform can lead to cost savings but it does not come for free. With Gramm-Rudman it is going to be difficult to keep up the momentum for reform as we cut back and freeze. I am not confident that we can prevent budget policy from derailing health care reform. At least now in Doc Bowen we have a person who understands health care and can represent the reformist argument.

Doc Bowen is a particularly good choice because of his experience in running a State government. He knows federalism and brings to the job commonsense experience in the State role. He has been in the trenches. He will not lose sight of the National Government's responsibility to subsidize the Nation's human services needs. He will not fall prey to the temptation to say human problems are someone else's responsibility.

I look forward to the next 3 years because Otis Bowen will be at the Humphrey Building. When Dick Schweiker and Margaret Heckler stood watch over at HHS, change in Federal policy toward Medicare and other health programs were set in motion and have led to real reforms in this Nation's health care system. The progress of the past will be matched and improved on under the leadership of Doc Bowen.

I wish him luck and promise him my full support in his new job.

Mr. BYRD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Otis R. Bowen, of Indiana, to be Secretary of Health and Human Services? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. East], the Senator from Arizona [Mr. Goldwater], the Senator from Utah [Mr. Hatch] are necessarily absent.

I further announce that, if present and voting, the Senator from Utah [Mr. Hatch] would vote "yea."

Mr. CRANSTON. I announce that the Senator from Mississippi [Mr. Stennis] is necessarily absent.

I also announce that the Senator from Florida [Mr. Chiles] is absent because of illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 93, nays 2, as follows:

[Rollcall Vote No. 373 Ex.]

YEAS—93

Abdnor
Andrews
Armstrong
Baucus
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd
Chafee
Cochran
Cohen
Cranston
D'Amato
Danforth
DeConcini
Denton
Dixon
Dodd
Dole
Domenici
Durenberger
Eagleton
Evans
Exon
Ford
Garn
Glenn
Gore
Gorton
Gramm
Grassley
Harkin
Hart
Hatfield
Hawkins
Hecht
Heflin
Heinz
Hollings
Humphrey
Inouye
Johnston
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Laxalt
Leahy
Levin
Long
Lugar
Mathias
Matsunaga
Mattingly
McClure
McConnell
Melcher
Metzenbaum
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Riegle
Rockefeller
Roth
Rudman
Sarbanes
Sasser
Simon
Simpson
Specter
Stafford
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Zorinsky

NAYS—2

Bingaman
Helms

NOT VOTING—5

Chiles
East
Goldwater
Hatch
Stennis

So the nomination was confirmed.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I ask that the President be immediately notified of the confirmation of this nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. SIMON. Mr. President, will the majority leader yield?

Mr. DOLE. I will be happy to yield.

Mr. SIMON. Does the majority leader have any feel for what might be the schedule? Can we plan on being away from here Saturday and Sunday? Is there any hope of concluding tomorrow night or where do we stand?

Mr. DOLE. Mr. President, if the Senator will yield, let me take it a day at a time. Today is Thursday. We hope to be able to announce by 4 o'clock whether there will be any more votes today. We are waiting on conference reports with the exception of the White Earth Indian Reservation bill, which could require one additional vote before 4:30 today. I do not anticipate any business after that today. So I think Senators can plan on this evening being vote free.

Again, there are a lot of ongoing conferences. Members really need that time uninterrupted, if possible, to work on the conferences.

Tomorrow we have a possibility in the morning of taking up the House-passed farm credit bill with an amendment, not a conference report. But we are now in the process of clearing all Senators on each side who had amendments on the Senate-passed farm credit bill. So we hope to do that tomorrow.

There are a number of other items we can consider by unanimous consent tomorrow—maybe the nuclear waste compact and a number of nominations on the Executive Calendar. Then we will be waiting for the farm bill conference report, the continuing resolution conference report, and the reconciliation conference report. There will be three conference reports, and I do not know precisely when they will be completed. We hope to finish the farm bill conference tonight. We are advised by staff it will take tomorrow, Saturday, and Sunday just to draft the conference report. So I cannot be more specific. But I guess, unless something unexpected happens, there would not be any votes on Saturday, but there could be votes on Monday, and possibly Tuesday.

Mr. SIMON. I thank the majority leader.

Mr. BYRD. Mr. President, may I ask the distinguished majority leader a follow-on question. If there are, indeed, no rollcall votes after 4 o'clock today and with the deadline being midnight tonight, with the result if no continuing resolution is enacted and signed by the President, no conference by tomorrow morning, I take it the Federal workers would be asked to stay home or go home. Does the distinguished majority leader contemplate final action on the continuing resolution before 4 o'clock today or does he contemplate instead a short-term continuing resolution which would carry us over and, if so, to when?

Mr. DOLE. Mr. President, let me first say, as I understand it, there is no chance that we can do the long-term continuing resolution by this evening. I have just been in consultation with the distinguished chairman of the Appropriations Committee, and he was talking about a very short continuing resolution extension. My hope is it would not go beyond Monday at midnight. I do not know whether the distinguished minority leader shares that view. But if it goes to Wednesday, we probably will be around on Wednesday. But if it goes to Monday, we will complete our work on Monday.

Mr. BYRD. Mr. President, I thank the distinguished majority leader.

ROUTINE MORNING BUSINESS

Mr. DOLE. Mr. President, as in legislative session, I ask unanimous consent that there now be a period for the transaction of routine morning business, not to extend beyond 3:15 p.m., with statements therein limited to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROPOSED OBJECTION TO MEASURES RELATED TO LOW-LEVEL RADIOACTIVE WASTE

Mr. BOREN. Mr. President, it was mentioned a while ago that there might be an attempt to bring up the low-level radioactive waste compacts or legislation dealing with that subject. I serve notice that there would be an objection lodged by me if that were done.

As Senators will recall, that was the vehicle on which we attached the amendment dealing with political action committees. The measure is still pending on the calendar. There are related measures to it.

This Senator would object to the movement of any of those vehicles dealing with low-level radioactive waste until such time as the political action committee amendment comes back before the Senate.

So I just want to put my colleagues on notice that an objection will be lodged to any unanimous-consent attempt to move to either of the particular pieces of legislation, any related proposals, that would enable a conference committee to act on that subject matter, without our revisiting the political action committee amendment.

I think that has been mentioned by the majority leader as a possible item for discussion before we go out. I am talking about the low-level nuclear radioactive waste subject matter. I just wanted to inform my colleagues that if there were an attempt to move to that subject matter, whatever the bill number, an objection would be lodged by this Senator to doing that.

Mr. SIMPSON. Mr. President, as often occurs in this arena, I wish to inquire: I ask the Senator from Oklahoma whether he is commenting that if the low-level waste compact issue were to come before the Senate, he would object to its being handled until we have dealt with the PAC issue on that measure. Is that what he is saying?

Mr. BOREN. That is correct.

When we were given that as the vehicle on which to attach the amendment, the reason we selected that vehicle was that we were told it would be a vehicle on which there would be the necessity of taking some action. Our amendment was not tabled. Our amendment is pending on that particular piece of legislation.

There is a whole bundle of compacts and resolutions, as I understand it. There is more than one piece of legislation that would have to be married, ultimately, to take action on that matter.

All this Senator was saying is that this is a subject on which this Senator would lodge an objection. I would not want the Senate to be able to go around us on that matter by acting on another bill number or another resolution number or on some legislation that came from the House on that subject matter, since that is the subject on which we attached the political action committee amendment.

So there would be objection lodged here. I am not saying forever. I am just saying that it would be between now and the Christmas recess, because I was told at the time we voted on the campaign reform issue on the floor that we would be revisiting that issue within a reasonable timeframe early next year. Of course, we would wait to see what progress is made on that subject at that time.

I am simply making that statement as it applies to now and the Christmas recess. It is not a statement that holds for all time but simply between now and then.

Mr. SIMPSON. Mr. President, I share with my colleague from Oklahoma that there are many of us working very diligently on the low-level waste compact issue. It is a very serious issue.

There are six Members of our body, of various political faiths, who represent three States which are the repositories of low-level, and often high-level, nuclear waste—the Senators from Washington, South Carolina, and Nevada.

I can only tell the Senator this, so that we all hear it, so that it is clearly said: The Governors of those three States, two of whom are of the political faith of the Senator from Oklahoma and one of mine, have indicated to us that on January 1 they will shut down the shop, and the generators can go wherever they wish to go with their waste capacity.

I do not want anyone to miss what is out there. I just want my good colleague from Oklahoma, who is a very thoughtful person, to know that, if we are going to deal with the political action committee issue on a low-level waste measure—and I want everyone to know what the results of that will be in the United States of America. Legislators will meet in January in those three States, and they may not even wait for that. The three Governors will shut down their facilities, and that will be all. That is the prospect. I want the Senator from Oklahoma to be aware of that. Thirty-seven States are deeply affected here.

Mr. BOREN. I thank the Senator for his comments. I do understand those facts fully. That is the reason why this Senator and others chose that particular vehicle on which we agreed to attach and consider the amendment, as opposed to the Compact of Free Association, which we were told had to be passed that particular day. We were dealing with the possibility of attaching it to that particular vehicle.

We were then offered this other vehicle, and we were told it was on the "must" list of legislation. That is why we did select it. We understood that there was a necessity to deal with that matter in a timely fashion, and that is the reason why we did accept that vehicle.

It is very possible that if we were offered another vehicle, or if we were to be given a time agreement as to when the matter that failed to be tabled on the Senate floor were to be brought up again, other negotiations could be reached. But at least until we are assured of a time certain in which that matter would return to the Senate floor under a time agreement, on an appropriate vehicle, this Senator would be constrained to object.

I am sure that comes as no surprise. This has been communicated ever since we had that particular matter pending. We had been notified by the Cloakroom that it had been mentioned three or four times, and since we have continually made known that there would be objection, I wanted to say it on the floor. That was our understanding from the time we agreed in the first time agreement. We agreed that we would not put the PAC amendment on the Compact of Free Association vehicle. We agreed to put it on the low-level radioactive waste legislation. That was the understanding from the beginning.

We had no understanding as to whether or not that bill would be pulled down prior to the Christmas recess or whether we would proceed. The decision obviously was made, once that amendment was not tabled, that that piece of legislation would be pulled down.

All those who worked with me on the amendment and who cosponsored the amendment had the clear understanding that we were attaching it not to a dead horse but to one that needed to move at some point in time, and that is the reason why we accepted that vehicle.

So, of course, I would be constrained to object to it moving on some other vehicle.

You see, there are a series of other related measures to it, and if we were to take care of all of the problems in all of the States and allow them to be taken care of by separate pieces of legislation, we would then have no leverage to assure that the body returned to that amendment short of a time agreement certain which, certainly, if the leadership desired to explore that with me, not at this time—I did not really rise to get into this discussion at this time—but just to raise a warning flag so it would not catch anyone by surprise if on Monday or tomorrow there was an attempt made to move to it. I did want it to be known and on behalf of all the cosponsors of the amendment that I would be constrained to object.

Our leadership has been aware of that for many days, and I think that has been communicated, but I just wanted to do so in fairness, and perhaps there is some other way of dealing with it, but we could not afford to allow either that piece of legislation—of course, if we return to that particular item, the PAC amendment would be the pending order of business as it was not tabled, but if we turned to some of the other items which also deal with separate elements and perhaps separate States in terms of compacts on this subject or the House legislation on this subject, we would potentially give away our oportunity to be sure that we returned to this subject matter.

Mr. SIMPSON. Mr. President, I would be interested I think at this time on a couple of things just for clarity. I try to find that occasionally in this remarkable arena that we slog along in here in a sea of verbosity. Am I missing something? I wonder how many of the cosponsors of the PAC amendment, and there are many on both sides of the aisle, would wish to block the compact that 37 States of the Union have already approved, when they know that the repositories in 3 States after the first of the year—whether we are here or not are very clearly saying to us with some feeling that they are going to reject all low-level waste from the United States of America coming into their three repositories.

There is a House-passed bill that has compacts in it. There is the low-level waste issue which Senator JOHNSTON, Senator McCLURE, Senator STAFFORD, Senator THURMOND, and Senator EVANS are working on, on both sides of the aisle, and I must say that I am a bit puzzled—I am not here and will not be in a position of negotiating for the majority leader with the Senator from Oklahoma. The leader can do that magnificently, but I am very puzzled when I look at the CONGRESSIONAL RECORD of December 3, when the Senator from Oklahoma clearly said and asked the question of the majority leader wondering whether there was an "assurance that early next year, say by the first of March or sometimes along those lines, we would have an opportunity to bring either the pending matter, which will remain on the calendar, or the recommendation of the committee, whatever they come out with on the campaign reform, one or the other back to the full Senate for our consideration?"

The majority leader at that time said that he would do that. He could not make a firm commitment, but he said that hearings would be held and we would be back on this issue with some vehicle. And the Senator from Oklahoma appreciated those remarks, indicated his strong expression that the Senate was going to endeavor to act on this in due course next year and that this vote would give us the impetus to do that.

I would hope that would be where the Senator from Oklahoma might still be.

Mr. BOREN. Mr. President, I appreciate the comments of my colleague from Wyoming, and I hope I have been clear and not roundabout in what I have said, because it was the intention of the Senator to be absolutely clear and straightforward with candor. That is the only reason I rose on the floor rather than just have a private communication. In private communications I have given for days now that there would be objection lodged on this side of the aisle. It is now made on the floor. I made it straightforward, candid, and public in this matter, and that is the reason the Senator rose to explain.

The Senator from Wyoming is certainly right in expressing his quotation from me expressing appreciation of the majority leader for those assurances. I do feel that appreciation. I am glad he is going to endeavor to have us come back to that issue.

But what the Senator from Wyoming has said in public is exactly what was said to us in the cloakroom the time we negotiated the time agreement on the PAC amendment. This is a very necessary piece of legislation. They will not give you a piece of your legislation on which to attach his amendment. That was not necessary. There is going to be action on that in timely fashion or these States will have difficulty or could refuse to continue to accept these kinds of materials. That was exactly what was said to us and that is exactly the reason we chose this vehicle and it is also exactly the reason this Senator would be constrained to allow that horse to leave the barn, so to speak, without the PAC amendment attached on it riding it on to the President's desk.

So that is exactly the case. The Senator from Oklahoma understands it. The Senator from Oklahoma will not presume to speak on the question of raising objection for anyone else but himself. The Senator from Oklahoma simply says that he will object as one Senator, that the leadership on this side has been informed of this objection, that there will not be unanimous consent possible on any of the vehicles either the House bill or any related subject matters, until either the PAC amendment has been disposed of or until as we fully understood at the time we agreed to this vehicle or unless there is some other substitute time agreement entered into.

The Senator says this not to be argumentative. I appreciate the position of the Senator from Wyoming for whom I have the greatest of respect, and that is the reason the Senator from Oklahoma is being absolutely candid so there can be no misunderstanding of my position.

I do understand all of the elements involved. I do understand the States involved. And that was made clear to us at the time we negotiated the time agreement.

So, I am aware of all the facts that the Senator from Wyoming has just recited on the floor, and knowing all of those facts, knowing that we do have an amendment attached to a vehicle that makes it meaningful, that is the reason that the Senator would feel constrained to let that vehicle leave the station without us on board.

Mr. SIMPSON. Mr. President, that is a thorough and appreciated review by my friend from Oklahoma, who came here to this Chamber when I did in 1978.

I would just suggest to him that if we do resolve this, and I think we are very close to presenting the low-level nuclear waste compacts to the body—that if the Senator from Oklahoma wishes to persist in objections to the low-level waste transitional legislation—then in accordance with the spirit of this season of the year and the remembrance of Charles Dickens and the Christmas Carol, I hunch that he will be visited by three spirits, and the first will be the Governor of his State, the second will be representatives of the Governors of the entire United States, and the third will embody the Senators from the three States that take these repository leftovers, and they will be telling us that on January 1 they are out of business, and I will leave that to the Senator from Oklahoma as to how he wishes to handle that in context with the political action committees of the world.

I yield the floor.

Mr. BOREN. Mr. President, I thank my colleague from Wyoming and I can only say that I hope the spirit of Christmas Future is farsighted enough for us to realize the importance of dealing with the subject of campaign reform and that this Senator is certainly open to any proposals that the leadership on the other side might wish to make that might enable us to resolve the matter and move forward.

He does not have a closed mind on that subject, and I am sure the distinguished majority leader whip will convey that to the majority leader. It is very possible some arrangement can be made. That is the reason that this Senator wanted to raise the red flag that there is a problem now, not wait until the last minutes when there is no opportunity to discuss trying to find some way to do this but to let it be known now that there is a problem, make sure it is known and known publicly as well as privately so that we might work in a constructive fashion on it, and I am perfectly open to that.

I thank the Chair, and I suggest the absence of a quorum.

Mr. THURMOND. Mr. President, will the distinguished Senator yield?

Mr. BOREN. I am happy to yield. I have yielded the floor.

Mr. THURMOND. Mr. President, I have had the highest respect for the able and distinguished Senator from Oklahoma ever since he has been here, and I implore him now not to upset the arrangements that have been worked out here or about to be worked out to handle this serious and sensitive situation.

Three States in the Nation now have been taking all the low-level nuclear waste. Washington State, Nevada, and my State of South Carolina. The Governors of these States, because of the demand of the peoples of these States, are going to close these three sites January 1. And where is the low-level nulcear waste going, where is it going from Oklahoma, where is it going from Kansas, where is it going from any other State in the Nation? Those are the only three States that we have to take it.

And there has been a long and difficult task to work this out. We have been working for the last 2 years trying to get this matter settled and finally we are on the eve of the settlement of it here and if the Senator from Oklahoma insists on offering an amendment here, it could upset the entire matter that has been worked on here for several years.

Mr. President, I do hope that the distinguished Senator will reconsider this matter. I was under the impression that arrangements had been made that he would offer this next spring and it would be considered then. But to attach it now to one of these compacts could cause tremendous confusion. It could cause this entire arrangement to go down the drain and all the States of the Nation would suffer.

I say all the States, because only three take this low-level nuclear waste and every State is affected by this. You have generating waste from utilities, hospital waste, you have waste from so many sources that has to go somewhere.

Where is it going? It is now going to three States. We are sick and tired of taking all the waste in the whole United States in these three States. We worked out an arrangement, finally, after long arrangements, with much work and talent going into it, and much consideration having been given to it. And now to have this upset here at the last moment will certainly create a situation in this country that could be detrimental to all the people of this Nation.

I hope that the distinguished Senator from Oklahoma will not press this matter, because it is a situation that could cause a catastrophe and it should be avoided.

Mr. BOREN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ARMSTRONG). Without objection, it is so ordered.

IRS COLLECTION DEFICIENCIES

Mr. SPECTER. Mr. President, as we approach January 1986, when Federal income tax filings will begin for calendar year 1985, I consider it important to call to the attention of my colleagues in the Congress, and the public generally—through the CONGRESSIONAL RECORD—the serious existing deficiencies in the Internal Revenue Service's collection system which threaten the future of voluntary tax compliance. Hearings in Pennsylvania and Washington, DC, plus an incisive General Accounting Office report, show massive deficiencies in the Internal Revenue Service's Regional Office in Philadelphia and elsewhere around the Nation.

The facts show:

First, IRS has no adequate record system to authenticate the filing of returns, requests for refunds or other documents delivered to IRS;

Second, IRS lacks the capacity and perhaps even the interest to respond to taxpayers' inquiries on outstanding problems;

Third, IRS's top management has failed to respond to warnings of these serious problems; and

Fourth, there is reason to doubt that top IRS officials have formulated a plan to correct 1985's errors in order to solve the problems in handling the 1986 returns.

If U.S. taxpayers are to have confidence in and a willingness to comply with our tax laws, such deficiencies must be promptly corrected. Billions of dollars of revenue are at stake. The results of hearings and the GAO report demonstrate that Congress must be vigilant in its oversight function of the Internal Revenue Service if such problems are to be corrected.

My own concern on this subject arose in January 1985 when I wrote to Commissioner Egger regarding the computer breakdown at the Philadelphia Center in the fall of 1984. This unprecedented breakdown resulted in thousands of threatening letters erroneously being generated to area businesses which had, in fact, obeyed the law and did not deserve such warnings of imminent property and bank account seizure.

Unfortunately, following this unhappy event, circumstances went from bad to worse at the Philadelphia IRS Service Center, and apparently, at centers throughout the country. My office was deluged by telephone calls and letters from Pennsylvanians who were awaiting refunds, and who were unable even to establish contact with the service center due to inadequate phone lines to service these rightfully irate taxpayers.

In April, I visited the Philadelphia Center in an effort to understand the ongoing problems experienced by the IRS in processing the unacceptable backup of returns. Not satisfied with the information learned from this visit, nor by Commissioner Egger's repeated and unfulfilled promises that all timely filed returns would promptly be processed with expected refunds, Senator HEINZ and I conducted a series of hearings/taxpayer forums throughout Pennsylvania. These events, through the summer and fall months—Philadelphia in June, Pittsburgh in July, and Scranton and Harrisburg in October—produced concerned taxpayers experiencing great financial stress as a result of long awaited refund checks earmarked for specific purposes—for honeymoons, children's camps, home mortgage payments, and home renovation.

Commissioner Egger had an opportunity to respond to these problems at a hearing before the Judiciary Subcommittee on Administrative Practice and Procedure in Washington, DC, on November 19. The Commissioner stated that new management policies were being introduced at the IRS which will stress the quality of taxpayer service given by employees over the production quotas achieved by those same employees. Although some encouragement may be taken from such plans to introduce "sensitivity training," Commissioner Egger's initiatives must be more detailed, concrete and far reaching.

This reluctance on the part of Commissioner Egger and the IRS to face squarely the issues and problems raised during the past year is deeply disturbing. A totally candid confrontation is necessary in order to organize future operations and to arrange for contingency plans. This type of candid awareness is now absent in the IRS. Commissioner Egger's responses to questions posed at the November 19, 1985 Washington hearing further indicate that such an awareness has long been absent from collective IRS thinking.

One example of this is shown by the Commissioner's repeated unwillingness to acknowledge the severe plight of the computer operation in all 10 service centers for the 1985 season, despite the fact that testimony shows notification by his staff, almost 1 full year in advance, that "massive backlogs" could result. Yet even during the midst of this crisis, Commissioner Egger reassured the House Ways and Means Committee on March 11, 1985, that these were "transitional problems," a "shakedown period" of "working out the bugs in the equipment." A definite change of approach and attitude by the IRS is needed if such problems are to be avoided in the future.

Last spring the Philadelphia IRS Center was burdened by up to 50,000 telephone calls per day. At that time, this inundation of an office system with only 53 telephone lines threatened the city of Philadelphia with severe cutbacks and possibly complete stoppage of telephone service. Yet Commissioner Egger's testimony shows that, although similar problems may occur once again next season, the present plans to improve telephone service do not create an ability to handle even a significant portion of such telephone calls. Clearly a better contingency plan must be derived to prevent a recurrence of last year's telephone disaster. The very least courtesy to which a taxpayer is entitled is an answer to a telephone call, and hopefully, a person on the other end who has the capability to respond to and solve the problem raised.

The Commissioner has belatedly decided to rescind the IRS policy of emphasizing large refunds first in order to cut down on interest payments. Clearly this policy did not achieve its purpose. A recent GAO report on the Philadelphia Center, released by Senator Heinz and myself on November 26, shows that this emphasis reduced productivity at the Philadelphia Center by as much as 50 percent in some processing categories. Further, since late refunds and interest thereon reached all time highs last year—46.9 percent more refunds paid to date, and 48.5 percent more interest paid on refunds with a 56.4-percent higher amount—no reduction in refund payments was achieved.

The GAO report pointed out other glaring difficulties. Checks totaling hundreds of thousands of dollars were discovered in trash barrels as the result of only 2 days of reports and investigations. Workers wearied by 80-hour workweeks, and weeks of work without breaks, were found discarding returns and/or failing to ensure that all contents were removed from envelopes. The taxpayers who testified before us about the inability of the IRS to trace their original return—and sometimes their second or third filed duplicate return—can hardly be comforted by such reports, despite the obvious exhaustion of the employees. These taxpayers were also suffering from exhaustion, and from frustration and righteous anger over the loss of their documents and the failure of the tax system this year.

The GAO findings consistently indicate that the Philadelphia Center was this year's "IRS neglected step-child." Although this Center received only 8 percent of returns filed nationwide, it received over 50 percent of the duplicate returns filed this year. The Philadelphia Center also represented over 25 percent of those returns with interest on refunds, and over 33 percent of the total interest paid nationally. Of returns requiring adjustment or error corrections, the Philadelphia Center represented 20 percent of the national total, and over 25 percent of the national total of documents remaining in the inventory files.

These statistics indicate gross mismanagement, callous indifference to the rights of taxpayers and a total wasteland in the Philadelphia Internal Revenue Service office. Commissioner Egger must do more than promise "quality over quantity" in order to rectify this madness. Careful analysis must be performed and detailed programs for immediate improvement must be instituted. No such program has yet been revealed, or even intimated.

The 1986 tax filing season is only 4 short weeks away. The Congress must maintain vigilant watch on the IRS's progress with needed reforms. The campaign for improvement must begin right now—the mishaps and woes of the 1985 season must never be repeated.

Mr. President, in a series of articles written by Mr. Arthur Howe, the Philadelphia Inquirer has performed an important public service in exposing and reporting on the deficiencies of the Internal Revenue Service.

These articles appear in the Inquirer on the following dates:

1. November 27, 1985—"IRS reforms demanded by Heinz and Specter;"
2. November 26, 1985—"Three federal probes outline breakdown at the IRS;"
3. November 20, 1985—"IRS to alter employee-reward system;"
4. November 19, 1985—"IRS plans major reforms of troubled collection system;"
5. November 18, 1985—"IRS knew processing crunch loomed, report says;"
6. November 18, 1985—"IRS to scrap its ailing, $103 million computer system;"
7. November 4, 1985—"Memos detail mishandling of IRS forms;"
8. August 7, 1985—"IRS to help collect bad student loans;"
9. August 5, 1985—"How the IRS acquired its troubled computers;"
10. August 4, 1985—"Why the besieged IRS may not recover for years;"
11. July 12, 1985—"IRS worker indicted in file-dumping;"
12. June 29, 1985—"Heinz proposes IRS time limit;"
13. June 28, 1985—"Senators will hold a hearing today on problems at IRS Service Center;"
14. June 27, 1985—"IRS cutting down interest on overdue refund checks;"
15. June 23, 1985—"IRS giveth as well as taketh away;"
16. June 18, 1985—"3 lawmakers demand quick action by IRS;"
17. June 16, 1985—"The IRS is muscling those who have spoken out on it;"
18. June 11, 1985—"The wait for refunds continues;"
19. April 16, 1985—"IRS union says problems will delay many refunds;"
20. April 11, 1985—"IRS chief says most refunds will arrive on time;"
21. March 31, 1985—"Why tax files get forgotten at Phila. center;"
22. March 27, 1985—"Tax-return backlog grown in wake of computer woes;"
23. March 12, 1985—"Hearing told of IRS ills."

In order that a fuller statement of these important problems may be presented to my colleagues in the Senate, I ask unanimous consent that the following selected articles be included in the Congressional Record:

1. November 26, 1985—"Three federal probes outline breakdown at the IRS;"
2. November 18, 1985—"IRS knew processing crunch loomed, report says;"
3. August 5, 1985—"How the IRS acquired its troubled computers;"
4. August 4, 1985—"Why the besieged IRS may not recover for years."

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Philadelphia Inquirer, Nov. 26, 1985]

Three Federal Probes Outline Breakdown at the IRS

(By Arthur Howe)

The Internal Revenue Service suffered a near-collapse of morale, motivation and management control over much of its vast workload this year, three recently completed federal investigations conclude.

Reports on the investigations are being distributed to key congressional leaders this week.

The investigations—two by the General Accounting Office (GAO) and one from an IRS internal unit—were ordered in the spring after a series of articles in The Inquirer disclosed bureaucratic disarray and destruction of tax documents in IRS offices in Philadelphia.

The three resulting reports confirm that the breadth and depth of the agency's tax-processing breakdown this year reached almost immeasurable proportions.

Inventory chaos inside tax centers caused hundreds of thousands of unread tax returns to be sent inadvertently into long-term storage, while a similar number of other tax returns were lost because inexperienced workers failed to type identifying numbers into the computer tracking system.

Hundreds of millions of dollars in individual and business tax payments made last year were still not credited to accounts as of April—while the IRS computer system disgorged hundreds of thousands of erroneous delinquency and penalty notices to more than 500,000 taxpayers nationwide. Another $2.7 billion in tax payments from 687,000 taxpayers was not credited to the government's tax accounts for at least three weeks last spring.

And while IRS senior officials were vehemently denying reports that frustrated employees were deliberately destroying tax documents, on April 26 investigators in the Philadelphia service center found dozens of unprocessed tax returns and tax payments totaling hundreds of thousands of dollars in a trash barrel outside the service center in Northeast Philadelphia.

Days earlier, a mailroom clerk in the same center was discovered "continually disposing taxpayer forms and checks in the wastepaper basket."

The two GAO probes focused on IRS tax-processing centers in Philadelphia, Austin, Texas, and Fresno, Calif. The IRS's internal affairs probe dealt with the agency's 10 tax-processing centers around the nation.

It concluded that critical management controls in tax-processing centers broke down, causing mass confusion with so many unprocessed tax documents clogging hallways and aisles that a fire marshal was called into one West Coast service center.

The number of erroneous notices sent to taxpayers grew so alarmingly that IRS officials at one point in early spring gave up sending out a million notices because they feared most were incorrect.

COMPUTER PROBLEMS

Moreover, the IRS's own investigation concluded that the agency's installation of its new computer system was so ill-managed and incomplete that at the beginning of the year, the tax collection agency "was unable to correctly process the simplest of tax returns."

But a balky computer system was not principally to blame for this year's chaos, the three reports say. Rather, the problems were the result of human failure.

Thousands of IRS workers—many of them inexperienced, ill-trained and physically exhausted from working overtime for weeks on end with no time off—were unable to correctly enter tax data into the computer system for as many as 28 percent of the tax returns they processed.

The agency's senior managers, based in Washington, away from the chaos in the regional tax-processing centers, were unable to detect the volume of erroneous notices sent to the public or the crisis in morale among the workers.

Nor were they able to respond to the growing crisis until it was too late.

COMPLIANCE AFFECTED

"The service's overall compliance program has been adversely affected," warned the IRS internal affairs group.

Prompted by senior congressional leaders, the IRS has begun implementing plans to change a wide array of its management practices and operating procedures, from installing a new system for controlling its inventory of magnetic computer tapes to revising a flawed tax payment booklet used by businesses.

The agency has also begun revising is employee-compensation system to reward workers who commit few errors and has removed tax-processing procedures that were perceived as inequitable by taxpayers and legislators.

But IRS investigators concluded, "there are still many areas that require additional corrective action," among them implementing a system to provide management with better information to evaluate service-center activity. The IRS says it is trying to devise such a system.

As much as anything, the IRS was plagued by sloppy workmanship this year.

In the Philadelphia service center on Roosevelt Boulevard not even the new computer was hooked up correctly. GAO investigators found that because power lines to some computers were crossed with other electric lines leading to motors inside the computer, IRS workers had to wait as long as 15 minutes for the computer to respond to instructions, the GAO found.

79 PERCENT OF ERRORS

One sample of returns delayed in the IRS processing pipeline found that 79 percent of the discrepanices between taxpayer calculations and IRS computers were caused by IRS typists.

The high rate of typing errors at the Philadelphia service center delayed for months processing on some 159,433 tax returns, investigators said. At one point last spring so many returns backed up in the service center awaiting error resolution that the center ran out of metal carts and had to use canvas mail hampers to hold the documents.

IRS carelessness with bank deposits caused unknown numbers of taxpayers across the country to receive erroneous delinquency and penalty notices. In two unidentified service centers, IRS investigators counted 923 instances between January and March where Treasury deposit bank records did not balance with IRS records of the amount deposited.

The discrepancies involved millions of taxpayer dollars.

"For example, we identified seven deposits prepared between April 21 and May 15, 1985, that contained composite bank discrepancies totaling $1,081,293," the IRS investigators wrote.

Another analysis of 19 other bank discrepancies in May found that IRS accountants feel little compulsion to resolve these errors. All the discrepancies had been awaiting resolution for periods ranging from 20 months to 2¼ years.

MANY DELAYS

The processing of individual tax returns this year was fraught with months-long delays, employee confusion and equipment breakdowns.

Problems began during the first week in January when the computer was unusable for days on end and undertrained employees struggled to understand new, untested computer programs, investigators found.

Result: Through the first eight months of the year, IRS internal auditors determined that processing on 10 percent of tax returns was delayed for six months, and 33 percent waited three months.

On average, the agency's new computer system was unusable 26 percent of the time through the first 10 months of this year, investigators found. In January it was unusable 52 percent of the time, and in February it couldn't be used 29 percent of the time. In July and August, reliability improved to 88 percent and 89 percent of working days, investigators said.

Because of persistent glitches in computer programs, data from blocks of 100 or less returns would frequently get "hung," in the tax-processing pipeline, meaning that data from the returns could not be recorded by the computer system. Although IRS supervisors were aware of the problems, they often failed to resolve them, investigators from the GAO found.

"As a result, such blocks of returns were passed to files as though they cleared the computer system"—when, in fact, the information from the returns had disappeared. As a result, the returns were lost in the service center's massive inventory of documents.

PROBLEMS COMPOUNDED

Moreover, the service centers' so-called "document locator" system often failed this year because of a large number of errors made by typists entering the identifying numbers of documents into the computer system, investigators said. Problems were compounded because magnetic tapes containing tax data twice were sometimes processed twice.

IRS investigators quoted one unnamed supervisor in an error resolution department as saying that confusion over the whereabouts of tax documents was so extensive that before June only half of the returns needing correction could be found.

Confusion during the tax-processing season also extended into personnel departments of the IRS. In the Fresno service center, IRS managers lost track of the number of hours employees had worked this year. In June, two computer reports offered two different numbers—with the discrepancy totaling 46,000 hours. In the Austin service center, managers failed to issue paychecks to employees on time on a number of occasions.

Another factor contributing to breakdowns this year was insufficient training of employees and a lack of experienced workers.

For example, of 193 Philadelphia tax examiners trying to resolve errors that prevented returns from being posted to the computer system, 170 were newly hired or detailed from other departments, investigators said. Moreover, most of the workers were trained to handle only two types of unpostable conditions, they said.

HIGH ATTRITION

In both Austin and Fresno, the attrition rate of temporary employees reached 80 percent. In late January, those centers had not yet received employee-training material, such as handbooks and training manuals. Supervisors in the data entry branches were unable to answer certain questions from workers because they did not receive training material on the new computer system until March 18—three months into the processing year.

After it arrived at service centers, the training material in some cases contributed to the agency's troubles. Some sample problems contained incorrect solutions, leading employees to commit similar errors on taxpayer documents.

In Austin, a practice computer tape did not work, so trainees could only listen to instructions in classrooms and never practice on a computer system, GAO investigators found.

Another handbook instructing workers how to resolve errors on tax returns that do not post to the agency's computer system was delayed for months. Reason: The IRS's Washington office did not decide until March who was responsible for writing this document, IRS internal investigators found.

In August 1984, the IRS began a program to identify and give priority to processing tax returns that required large refunds, The Inquirer disclosed last spring. The program was an attempt to reduce anticipated interest expense, but the job of identifying those returns requiring large refunds consumed an inordinate amount of computer time and depressed overall productivity by 50 percent in regional error-resolution offices, according to the GAO.

In early June, IRS officials in Philadelphia established a special office to expedite the processing of tax returns that had already been delayed for months. Initially, 33 people were assigned to the task. By mid-July, an additional 19 examiners from the Philadelphia district office as well as everyone from the adjustments branch at the service center were thrown into the effort. By mid-September, persistent processing delays required that 72 more people to be assigned to process the 35,959 original refund-due returns still in the Philadelphia service center at that time.

As of Aug. 9, 225,459 individuals had been forced to file duplicate returns. But more than half this number—120,997—were filed at the Philadelphia service center by taxpayers in Pennsylvania, Delaware, Maryland and Washington.

By Oct. 5, the number of duplicate returns processed in the Philadelphia IRS service center had grown to 160,909.

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DUPLICATES LOST

Government investigator confirmed that the IRS even managed to lose duplicate returns. As of Sept. 20, IRS could not find 2,592 of the 93,924 duplicate returns whose status had been researched.

Interest payment for late refunds was higher in Philadelphia than any other service center in the nation, the investigation found. As of Aug. 31, the center had paid some $14 million in interest, compared with $3 million at the same time last year. Nationally, as of Nov. 1, the IRS has paid $46.1 million in interest to 2.1 million taxpayers, compared with $27.1 million to 1.5 million tapayers last year, the IRS said.

The GAO investigators uncovered several instances of mishandling of documents in the Philadelphia service center.

CHECKS IN TRASH

On April 26, a janitor spotted unprocessed tax returns with checks in trash headed for the Philadelphia incinerator. A weekend search found 36 individual tax returns, and 24 estimated tax forms, 94 taxpayer checks totaling $333,440 and 47 other documents as well. One of the checks was for $68,000 investigators said.

Several days later, on April 30, an IRS internal affairs investigator selected three brown envelopes from a trash barrel in the service center's mail room. One envelope contained a check for $2,500. The IRS internal investigators found that employees and managers in the mail room carelessly failed to open many documents or follow IRS quality procedures on the control of paperwork.

The workers appeared exhausted, investigators said. In fact, three of 19 employees opening mail had worked for 19, 17 and 14 consecutive days respectively, and their supervisors had each worked 80-hour weeks previously.

One of the mailroom clerks was caught "continually disposing of taxpayers forms and checks in the wastepaper basket." After being first "counseled by her supervisor" she was fired in June when it was determined that her performance on the job was "not satisfactory."

GAO investigators also confirmed that in July 1984, 35 Form 1040 tax returns were found in a trask can in the women's restroom. Five days later, 57 tax returns were found by a custodian in another restroom trash can.

Other instances of document mishandling at the Philadelphia service center in earlier years included instances of tax returns intentionally misfiled, employees destroying hundreds of taxpayer letters and transcripts without reading them, employees intentionally throwing taxpayers returns, W-2 forms, and taxpayer correspondence in waste baskets, and employees being ordered by their supervisor to destroy photocopies of income tax returns to boost individual performance records.

RECORD INVENTORIES

Inventories of unprocessed documents grew to record levels in most service centers this year, investigators found.

One IRS internal analysis of documents in the nation's tax-processing centers found 500,000 documents from 1984 and earlier still awaiting attention in April. These documents included more than $347 million in business tax payments and $230 million in individual payments—a total of $577 million that had not been credited to individual accounts while hundreds of thousands of erroneous delinquency notices on these same accounts were issued.

In Philadelphia, the number of returns in "block out of balance" (BOOB) status, under which tax-return information in the computer system did not balance because of transcription errors by IRS employees, became 34 times as high as last year. This delayed hundreds of thousands of returns in the processing pipeline, the IRS said.

As of Sept. 11, 17,718 timely filed returns were marooned in BOOB status, GAO investigators said. Processing of an additional 18,241 returns was suspended because they were awaiting resolution of various other errors.

Record numbers of individual and business tax returns also failed to clear processing because of IRS typing or coding errors or taxpayer errors in recording Social Security numbers.

The Philadelphia service center had insufficient number of tape drives to resolve such unpostable problems and backups created weeks-long delays in pulling documents from files. The backlog of unpostable tax filings numbered 340,044 on Nov. 2.

The Philadelphia service center also is still having trouble reading a flood of mail from taxpayers who were reaching to IRS mistakes earlier this year. While the center is processing about 40,000 taxpayer inquiries each week, new inquiries are arriving at a similar rate. As of Nov. 2, there were 189,841 taxpayer letters awaiting IRS attention.

[From the Philadelphia Inquirer, Nov. 18, 1985]

IRS Knew Processing Crunch Loomed, Report Says

(By Arthur Howe)

Senior officials of the Internal Revenue Service saw this year's tax processing disaster coming years ago but failed to take effective action to avert computer breakdowns that disrupted the lives of millions of taxpayers.

That is the conclusion of a still-secret investigative report highly critical of the IRS produced by staff investigators for the House Appropriations Committee at the end of last month.

The IRS recently won significant budget increases from the Appropriations Committee to pay for increased manpower and new computer equipment to overcome massive computer and operational problems. Those problems significantly delayed the processing of millions of tax returns and crippled other IRS tax-collection and recordkeeping operations this year.

Among the conclusions of the committee investigators:

The new $103 million Sperry Univac computer system suffered massive breakdowns this year, in part because IRS officials tried to program it to perform many extra jobs in direct violation of an earlier congressional order that the new system only replace existing hardware and perform no new tasks.

Senior IRS officials should have canceled a contract to buy the computer system from Sperry Corp. after it repeatedly failed prepurchase tests.

Despite numerous internal recommendations to the contrary, the IRS shut down its computer systems development office in late 1982—a critical point for the design and development of the new system. The shutdown deprived the agency of an important source of technical support for the massive project.

Senior IRS officials ignored accumulating evidence that the new system would not be ready to handle this year's tax returns. Elements of the new computer system were not delivered to IRS regional processing centers until weeks before the crush of 1984 tax returns in January. Some critical software used to process tax returns failed to arrive at some regional centers until after tax returns had begun arriving in late January.

Despite repeated, clear warnings from IRS technical experts, including the assistant IRS commissioner in charge of computer operations, that the new system would be incapable of handling the expected volume of tax returns, no provision was made for backup systems or staffing.

Senior IRS officials confirmed in interviews last week that the IRS foresaw this year's tax-processing disaster at least eight months before the system was installed in October 1984.

"March or April of 1984 was when we pretty much had confirmation that what occurred in October was going to happen," said Assistant Commissioner Thomas Laycock, who heads computer operations.

In March 1984, Laycock issued a memorandum to the Treasury Department saying that the IRS had so grossly overestimated the tax-processing speed of its new system that massive backlogs would result and would "seriously limit the IRS's ability to accomplish its mission. This situation will rapidly deteriorate further unless appropriate remedial action is taken immediately."

Other government computer officials cautioned that the new system would take as much as 12 to 15 times longer than planned to process the agency's huge workload.

Two days after the computer began operation, between Oct. 1 and Oct. 3, 1984, computer malfunctions and employee neglect at the Philadelphia service center caused the loss of records reporting the payment of almost $300 million in taxes, resulting in erroneous dunning notices and threats of seizure being sent to more than 26,000 businesses in the mid-Atlantic area.

Then, during the next 12 months, the errant system operating with inefficient programs and insufficient testing, delayed refunds for millions of taxpayers and caused the loss of thousands of tax returns in service centers. At least 15,000 taxpayers are still awaiting refunds from the Philadelphia service center—seven months after the April 15 filing deadline.

The computer problems also caused hundreds of thousands of other taxpayers to receive erroneous refunds and delinquency notices, as well as resulting in unjustified threats and unwarranted liens against property.

Additionally, massive backlogs of unanswered inquires and uncorrected errors bottlenecked in service centers nationwide because the computer system was often useless. The volume of uncompleted work is still near record highs, the IRS says.

Laycock and other IRS officials insist that they were forced to install the new Sperry system before the 1985 tax processing season because the aging Honeywell and Control Data equipment in service centers was no longer serviceable. So outdated was this equipment that computer room employees had to jerry-rig replacement parts from local Radio Shack computer hardware, they say.

But the Appropriations Committee report challenges the need for installing the equipment at that time by quoting service center directors as urging that the installation be delayed.

"This repudiation applied to service centers ranging in size from Cincinnati to Fresno, from the smallest to the largest, and suggests the havoc wreaked upon the service centers, many of whose officials had advocated delay, need not have occurred," the report said.

The installation was not only premature, but it capped a four-year series of IRS computer management bungles, costly oversights and deluded expectations, the investigators concluded.

"From its inception, the effort had been replete with serious problems, including a system software controversy, the vendor's [Sperry] failure to deliver a communications processor early in the contract, several internal recommendations to declare the vendor in default, a 1982 stop-delivery order, three post-award benchmarks [performance tests] and both hardware and software performance problems. [The new system] stumbled from one difficulty to another, warnings about capacity abounded, optimistic projections remained unmet, and its costs were escalating."

Sperry has declined to comment about the situation with the IRS.

Until recently, IRS Commissioner Roscoe L. Egger Jr. has described the agency's computer problems as routine, working out unavoidable "bugs" in the Sperry system and the agency's new software programs.

"There is simply no way to avoid a shakedown period for working out the bugs in the equipment, the software and the procedures for operation of any new system," Egger said in testimony before the House Ways and Means subcommittee on oversight on March 11.

But by early 1984, sufficient evidence existed within the IRS to warrant killing the entire project, the Appropriations Committee concluded.

"By April 1984, items of evidence had surfaced within IRS which, individually and cumulatively, should have been sufficient to alert a receptive and informed management that [the new system] was a ship headed for shoals," wrote the investigators.

COMMITMENT

The huge system was installed in October 1984, largely because senior IRS officials in Washington had committed themselves to the project and did not want to develop a contingency course of action, the investigators said.

IRS senior managers "would neither be deterred from that goal nor brook any serious objection to it," the report said. Mention of any possible alternative action was "an untouchable subject" that no one dared to bring up, the report added.

"A top level IRS executive commented that his job was to support the organization, not to question the administration," the report said.

In the four years before installation, IRS officials added 17 major data-processing functions to the computer system, significantly altering its configuration and processing capabilities. The system was revised to include programs to store tax records that were once on microfilm and to allow auditors to place information directly into the system. The new system can cross-check information from various tax returns and allow IRS workers to correct errors on computer screens or retrieve other data that was once stored on paper.

In 1978, Congress approved only a 50 percent increase in computer power for the IRS to replace existing equipment, fearing that the agency might become Big Brother intruding on privacy with a massive store of information about taxpayers. The agency was not allowed to "enhance" or use its computers in radically different ways.

The Appropriations report concludes that not only did the IRS substantially enhance its computer system, it never fully informed Congress of the complex changes, the investigators say.

The new applications drained the capacity of the ordered Sperry equipment so much that at the beginning of this year, the agency's data-processing requirement had already exceeded its projected capacity for 1988.

DIFFICULT TO PLAN

"The original equipment would probably have done the job it was supposed to do. But the size of the job changed before the equipment was ever installed," Laycock said. He added that it was difficult to plan for sufficient computer capacity because the requirements kept increasing each year.

"We were trying to hit a moving target that is growing," he said.

One contributing factor to the IRS disarray this year was that in December 1982, the IRS abolished its Systems Development Office, which was its basic management tool for planning and coordinating the conversion, the Appropriations Committee found.

"IRS abolished the Systems Development Office and failed to replace it with any similar function or designate anyone as program manager by title or function," the investigators said.

One result: The equipment was installed without sufficient testing, without working software programs and without a backup system or contingency plan in case of failure, the Appropriations investigators found. In the Philadelphia service center, for instance, the computer system began operating before being intergrated, tested or introduced to employees in training classes, they said.

"The program was allowed to continue . . . as though success was a distinct responsibility. In January 1985, the reality could no longer be minimized. IRS was not fully prepared to begin the 1985 processing year nor able to correctly process the simplest of tax returns," the investigators said.

Along with installing the computer system, IRS programmers had the gargantuan task of rewriting 1.5 million lines of computer programming in a new computer language—Common Business Oriented Language, or COBAL. Assigned to the job were 300 newly hired, inexperienced programmers, IRS officials have said.

IRS was warned in 1981 by its own special computer task force that such a huge conversion to the new language system was "highly likely to delay and complicate this conversion."

In fact, the rewriting of the computer software programs continued through much of this year while poorly written programs caused massive slowdowns and unknown numbers of tax processing errors.

For instance, at the Fresno, Calif., tax processing center and other IRS installations, critical tax processing software programs needed to process taxes did not arrive until Jan. 21, the investors said. Those programs that did arrive were "very poor quality"—so bad, in fact, that it took the IRS three months to rewrite them sufficiently to match the speed of the previous computer system.

A "DISASTER"

And a computerized software program to audit tax returns, called Audit Information Management System (AIMS), was described in limited tests as replete with errors, a "disaster" that caused some taxpayer data to disappear, the report said.

"The AIMS executive control language was only about 75 percent correct, and the program is still experiencing problems in 1985 which, in some cases, are difficult to even identify," the report said.

The IRS' Laycock said the agency has solved many of its software glitches, and has increased the speed for updating taxpayer information, a task normally done on weekends to allow employees time to process incoming tax documents during the week. Through much of this year, updating took two to three days longer in many service centers, thereby causing huge bottlenecks of work—exactly the scenerio envisioned by Laycock in his March 1984 memorandum to the Treasury Department.

In 1982, and IRS internal study faulted the agency for having no comprehensive data-processing plan, and no mechanism for overseeing its implementation, evaluation or updating, the investigators said. Moreover, the agency still does not have a comprehensive plan, they contend.

"Nor does it have an organization in place with an approved charter and fixed responsibility to develop such a plan," the Appropriations investigators said. The investigators quoted unnamed IRS officials as describing the agency's existing data processing plans as "rudimentary at best."

IRS officials in Washington, however, have already begun planning for a comprehensive new computer system that will be implemented in the 1990s. Moreover, the agency has already met with members of Congress to inform them of the agency's plan.

In a report compiled in July, the investigators questioned why the IRS chose the Sperry system over a competing Hitachi system, especially because the Sperry computers failed or did poorly on several IRS tests. The company also used an unorthodox computer code called Fieldata to help its machines pass a 1981 operation test and then changed the code's structure, making the computers less efficient, the investigators found.

"AURA OF SECRECY"

Sperry surrounded its testing with "an aura of secrecy, and created a feeling of unease" in the IRS computer evaluation team, the investigators said.

On July 30, 1981, a memorandum recommending that the IRS declare the Sperry contract in default was sent to Egger. The reason given was a projection that an additional $54 million worth of equipment was needed to make the Sperry equipment as efficient as it appeared in early tests, the investigators said.

In June 1982, Sperry's equipment failed another test using a more common language code, the investigators said. On July 1, the Sperry contract was canceled because of noncompliance and use of "non-standard" software, according to the investigators.

Then on August 11, 1982, Egger and the president of Sperry met in Washington with other IRS officials present. Later that month, a second post-award test of the equipment was held in the IRS's Memphis service center.

The Sperry equipment passed this test—"by the skin of its teeth," the investigators said, quoting IRS officials.

[From the Philadelphia Inquirer, Aug. 5, 1985]

HOW THE IRS ACQUIRED ITS TROUBLED COMPUTERS

(By Arthur Howe)

Two groups of federal investigators are reviewing the purchase by the Internal Revenue Service of its new $103 million computer network—described by some government officials as "colossal computerized disaster."

Since last fall, the General Accounting Office (GAO), the investigative arm of Congress, and a team of investigators from the House Appropriations Committee have been examining events that led to the IRS's decision in June 1981 to buy computer systems for the 10 regional tax processing centers from Sperry Corp.

Based on IRS documents and interviews with agency employees, the investigators have aready learned that:

To speed the processing of data to pass an operating test in early 1981, Sperry technicians used an unconventional cumputer operating code that has not been used by the computers in actual operations at the IRS regional service centers.

In an important performance test conducted after the contract was awarded to Sperry, the company's computers failed to meet IRS technical performance requirements.

IRS officials on July 1, 1982, threatened to block installation of the Sperry systems because they feared that the company's computers did not have sufficent capacity or information processing speed to sort and examine 100 million tax forms.

A year before the Sperry Univac computers were installed in the regional processing centers in October 1984, IRS officials correctly predicted that the new system would probably cause breakdowns and backlogs because it did not possess sufficient capacity.

"It was those early phases that led us to the conclusion" that assumptions about the computers capacity were not correct, said Thomas J. Laycock, the IRS's assistant commissioner of computer services, during an interview last week.

A spokesman for Sperry said in a prepared statement issued last week in response to inquiries that "any allegations of improprieties in the purchase of the Sperry computer system by the IRS would prove to be unsupportable."

Sperry, which has its headquarters in New York, is the world's fourth-largest manufacturer of computers, through its Univac division based in Blue Bell, Montgomery County.

John F. Horton, vice president and general manager of Sperry Federal Systems in MacLean, Va., the Sperry operation responsible for marketing the company's computer systems to the federal government, said Sperry had observed all the correct procurement procedures in obtaining the IRS contract.

He characterized the bidding process as "free and open competition" and said the company won the contract" after passing all requirements of the subject request for proposal. Furthermore, the disappointed competition filed no protest over the Sperry award."

According to IRS officials, the Sperry machines failed an important processing test that was conducted in the IRS's Memphis service center in June 1982.

Two months later, "they barely passed" another bench mark test of operating capacity, Laycock said. But the performance was sufficient to convince IRS officials to purchase the Sperry system, after Sperry agreed to supply $10 million worth of additional free equipment to enhance the machine's capacity, he said.

"When they passed in August of 1982, that satisfied us that with additional equipment the Sperry was adequate to do the job as originally bench marked," Laycock said.

Sperry won the contract to supply the IRS computers despite the fact that a competing computer from Hitachi Ltd. was "technically far superior," according to GAO investigators.

The investigators said the IRS's decision was based largely on the price difference—$103 million for the Sperry systems compared with $160 million for the Hitachi.

Hitachi marketing representatives have declined to comment publicly on the IRS's contract award to Sperry.

The IRS computer system, called SCRS for Service Center Replacement System, is intended to analyze electronic tax data, separate mathematically correct returns from those that contain errors and compile a data bank of all present and prior tax transactions.

Each regional computer system records data on computer tapes and sends the data to the IRS's National Computer Center in Martinsburg, W.Va., for further analysis. Each regional computer system has eight million characters of memory and can perform up to eight million operations a second.

Since January, however, IRS officials have blamed the computer for processing delays that resulted in an estimated $8 billion in refunds being withheld from millions of taxpayers for periods ranging from several days to seven months.

As of July 16, an estimated 6.3 million returns remained to be processed, and by the end of July, about 116,000 taxpayers in the mid-Atlantic region were still awaiting refunds on tax returns filed as early as January.

The cumulative economic effect of these delays was to depress personal spending—as well as economic growth measured by the gross National Product—during the first quarter of this year.

IRS computer glitches have also resulted in the misplacement of hundreds of thousands of tax returns in service centers and the disgorging of unknown millions of erroneous notices and threats of property seizure to individual and business taxpayers. Thousands of other taxpayers have received excessive or erroneous refunds from the government as a result of computer problems.

In one instance in October, the IRS computer in the Philadelphia service center failed to record $300 million in withholding tax payments made to the IRS by more then 26,000 businesses. The businesses subsequently received erroneous notices of tax delinquency from the IRS.

Additionally, the insuficent capacity of the new computer systems has saddled the IRS service centers with a massive backlog of unprocessed work—from unresolved tax returns errors to uncollected taxes—that threatens to undermine the stability of the tax collection system.

Publicly, IRS Commissioner Roscoe L. Egger Jr. has declared that none of the problems with the Sperry system or its software could be foreseen.

"Despite careful planning and scale model testing, you cannot know how a high-volume date processing system will work until you actually place the high volume on the system," he said in testimony before the House Ways and Means subcommittee on oversight in May.

But Laycock and other IRS officials recently conceded in interviews that tests conducted in the IRS's Memphis service center in the fall of 1983 indicated that the machines were prone to breakdowns and future capacity problems.

"We were concerned that as growth occurred that we might have to bring in more equipment," Laycock said.

Additionally, an IRS "management summary" on the new computer system stated that IRS officials knew in January 1984—10 months before installation—that the Sperry computers would create severe capacity problem, beginning in October, in each of the agency's 10 service centers.

The major problem was that the computer was unable to complete its undate of the data base of taxpayer information during weekends. As a result, the update had to continue during the week, making the computer unavailable for other task processing task.

The IRS memo said additional pressure would be placed on the computer systems next year, when an additional seven million tax returns are expected to be filed, and in 1987, when 13 million more than the current level are expected.

The document said that because the present system was not efficient enough to handle the mammoth tax processing load, an additional computer system needed to be acquired and installed at an IRS test site by this August.

A House Appropriations subcommittee has voted to provide $50 million for additional IRS computer capacity, but no purchase decision has been made to date.

The first hint that the Sperry systems would not be able to handle the IRS's massive tax processing workload came during initial tests conducted at Sperry's Minnesota laboratories in March 1981 when several attempts were required before the system was able to pass a simulated IRS tax processing test, GAO investigators say.

IRS officials and investigators say that Sperry, in order to make the system operate more efficiently in the tests, used an unorthodox "field data" information-processing code that allowed the computer to perform certain information-processing tasks three times faster than it could using a more standard code, IRS officials and investigators say.

It later became clear to the IRS that the systems would be set up to use only a more conventional information processing code called ASCII, for American Standard Code for Information Interchange.

In June 1982 the IRS ordered Sperry to run another data processing test on its computer using ASCII code. The computer failed the test, investigators and IRS officials say.

On July 1, 1982, a contract administration officer of the IRS, Frederick Martin, wrote a letter to Sperry saying that all work on the contract was to be discontinued because IRS officials feared the system did not have sufficient processing capacity. Laycock said in a recent interview that the IRS considered canceling the contract altogether.

"There was some consideration of what we would do if Sperry was not responsive," Laycock said.

A week after Martin's letter, Sperry wrote back, promising that the IRS could solve any potential capacity problems with its new computer by using $10 million worth of disk drives and additional Central Processing Units (CPUs) to process information. Sperry said that it would allow the IRS to use the units free of charge.

The IRS, under pressure to install a computer system to replace its aging Honeywell and Control Data machines, accepted the offer. The single biggest motivating reason, say investigators, was that the $103 million system was $57 million cheaper than a rival Hitachi system.

"The Hitachi system did every everything perfectly, but the IRS based 8 percent of its contact decision on price," a GAO official said.

The massive computer breakdowns and slowdowns during this year's tax processing is projected to cost the IRS at least $200 million—and possibly as much as $400 million—for interest on late refunds, overtime pay for employees and other costs related to the hectic tax season, congressional aides say.

A tragic comedy of errors accompanied the installation and early efforts to operate the Sperry system.

Sperry was late with deliveries of some of its equipment, according to the IRS and GAO investigators. Mainframe computers in Memphis and Atlanta had to be sent back to Sperry because IRS technicians could not start them.

A number of the computers' tape drives, manufactured by the now-bankrupt Storage Technology Corp., made constant errors recording tax data and broke down, IRS officials and GAO investigators say. Such errors caused the loss in October of the $300 million in business tax payments.

One computer program that enabled crashed computers to resume operations failed mysteriously—stranding workers for days without a computer system.

An alarming discovery occurred in April 1984, after a team of 300 IRS programmers rewrote the ageny's entire tax processing software into a computer language called COBOL. Altogether, 1,500 software programs containing 3.5 million lines of code were written.

IRS officials subsequently learned that the Sperry computer would only run half as fast as needed when operated with the new COBOL programs written by its employees.

"The IRS did not realistically calulate the effect of converting to COBOL. They were way too optimistic. They thought COBOL would reduce the amount of computer resources that they would use, but it's had the opposite effect," said one GAO computer specialist.

The IRS undertook a crash program early last year to rewrite again the 1,500 computer programs in hopes of making them more efficient in manipulating data. But this left little time for testing the software.

"The emphasis was on completing the software in time for the taxprocessing season rather than testing it," a government investigator said.

The untested program produced an unknown number of errors in processing tax information this year. Many programming errors took weeks, even months, to locate, IRS officials concede.

Government investigators attribute the IRS's myriad computer problems to the inexperience of its managers in selecting and operating a vast computer system. "Many of these guys have very little technical background," one GAO investigator said.

Despite indications that the computer was likely to encounter problems, IRS failed to operate its old Honeywell and Data General system as a backup in case of an emergency. Commissioner Egger has said there were insufficient funds to operate the backup system.

[From the Philadelphia Inquirer, Aug. 4, 1985]

WHY THE BESIEGED IRS MAY NOT RECOVER FOR YEARS

(By Arthur Howe)

The Internal Revenue Service is facing massive computer and management problems that are threatening the stability of the nation's tax collection system.

The crisis first became visible earlier this year when an extraordinary backlog of unprocessed 1984 tax returns began piling up. It has since spread to virtually every aspect of the agency's operations.

As IRS workers have diverted their attention to the mountain of unprocessed returns, the agency has performed fewer and fewer tax audits while the numbers of tax delinquents and the amounts they owe the U.S. Government have soared.

Meanwhile, backlogs of unanswered inquiries from taxpayers and uncorrected tax-record errors have grown dramatically.

The volume of uncompleted work is expected to remain at record levels in coming months as more and more tax cases with computer and other errors emerge from this year's hectic tax-processing season.

As a result, the IRS could be overwhelmed by next year's flood of tax returns before it is able to resolve this year's problems, government investigators and congressional staff members fear.

"We're doing everything we can to prevent that from happening," said Thomas J. Laycock, assistant commissioner for computer services. "We piled up backlogs quickly as a result of processing many more returns later than expected. There is much effort going on now to try and figure out ways for that not to happen."

But government investigators and some congressional observers say it will be difficult for the agency to overcome its operating and management problems. As they see it, the agency is caught in a vicious cycle.

Even if the IRS is able to catch up with this year's work, it will likely be swamped again next year because its new $103 million network of computer systems is incapable of efficiently handling the agency's steadily mounting workload of increasingly complex tax filings. The IRS must process seven million more tax returns next year than the 96 million tax returns filed this year and 13 million more than this year in 1987.

"There is no assurance that the inventory backlogs will be reduced soon or that the computer system will be able to efficiently handle the service center's workload during the 1986 processing year," said a confidential General Accounting Office report, completed in June.

IRS Commissioner Roscoe L. Egger, Jr. concedes that there are management problems within the agency. He has ordered a senior IRS task force to study "every facet of the 1985 filing season, identifying every possible problem they can find and recommending ways to solve them."

Sen. John Heinz (R., Pa.), among others, believes the IRS will never be able to solve its management problems. "I don't think they have the management to do the job," he said.

The statistical evidence from the IRS of its massive operational difficulties is overwhelming:

As of July 16, the IRS had failed to complete processing of an estimated 6.3 million individual 1984 tax returns—many of them filed with the agency as early as January. In the agency's Philadelphia regional service center alone, the processing of 845,000 tax returns had not been completed by the end of July—with about 116,000 of this number still due refunds despite previous assurances by Egger that all refunds would be mailed by Aug. 1.

Of the returns that have not been completed processed, 4.9 million individual and business tax filings—roughly three times the number last year—are stuck in the IRS's processing pipeline because of errors by IRS workers in transcribing tax data, glitches on the computers and lost tax documents. By far, the single largest backlog of these error-plagued tax filings—952,726—are in the Philadelphia service center.

As of June 30, the agency's revenue officers were trying to collect $7.4 billion from one million delinquent taxpayers, a 19 percent jump in the number of delinquent taxpayers from the same date last year. The agency's backlog of incomplete investigations of delinquent taxpayers totaled 862,041 as of the same date, involving an estimated $4.3 billion in uncollected taxes—or almost triple the 324,000 pending investigations at the end of March.

Across the country, a record 1.6 million business and individual taxpayers—a threefold increase since April 1—were waiting on July 5 for the IRS to read letters from them regarding erroneous notices, lost tax payments and disagreements on tax bills. The current backlog of unanswered correspondence is twice the size of last summer's backlog. In the Philadelphia service center, 208,927 letters await opening—the most of any of the other 10 regional service centers.

And at a time when voluntary tax compliance is eroding severely, the agency is conducting far fewer audits—about 12 returns per 1,000, compared with 14 returns per 1,000 last year and 20 per 1,000 in 1980.

The IRS's current management dilemma was spawned in a sprawling nationwide bureaucracy coordinated in Washington by agency officials who have rarely visited—except on occasional tours—any of the agency's 10 regional service centers where work on many millions of tax filings is done each year.

The management flaws were exacerbated by the problem-plagued computer systems installed last fall in 10 regional IRS service centers.

The agency's difficulties with the computer systems have been immense. Last spring, for instance, the massive task of converting the computers' 1,500 programs—a volume of computer code larger than the one used by NASA to control the space shuttle—went to hundreds of newly hired workers with little or no experience in programming.

Result: What was intended to be the most sophisticated system ever produced for electronically processing taxes has been error prone, continually breaking down, and operating at half the speed of the agency's prior system.

"What you get when you take good experienced programmers and what you get when you hire people off the street are two different things," Laycock said.

As the IRS has struggled to solve its computer problems, morale at the regional service centers has plummeted. Turnover is so high that workers in some service centers are offered $100 for each new employee they recruit.

Meanwhile, IRS managers in Washington and in regional offices around the country have been handicapped in their struggle to understand and deal with the agency's massive operational problems because they have not been able to get timely and accurate measurements of the problems, including the volume of errors, numbers of lost tax returns or even the size of the backlog of unfinished work.

Operational difficulties with the IRS's Sperry Univac 1100/84 computer systems have abounded.

Conversion to the new system was delayed for a month last September because the 3.5 million lines of newly written programs were discovered to be replete with errors and inefficiencies.

During this conversion period, little work could be done on the backlog of tax cases awaiting collection, examination or error correction. The disruption also means that service center workers had less time to acquaint themselves with the new system before the processing of 1984 tax returns began.

CAPACITY PROBLEMS

Once operating, the computers did not possess the capacity to handle the centers' vast workload, service center workers discovered.

The systems' rewritten software was still cumbersome, erratic and error prone. Programs that failed to capture information during the processing of tax returns had to be run over and over, which prevented other computer programs from running on schedule, IRS officials say.

Moreover, the new computer systems required more magnetic tapes to run than had been anticipated—so many, in fact, that several regional services centers were on the verge of running out of tapes in the middle of the tax processing season, say investigators and workers. The use of more tapes slowed down the schedule of work on the computers and created information storage and retrieval backups, workers say.

By far, the largest problem occurred in the part of the system that consolidates, analyzes and updates data on the computers' "master file." Because these functions require so much of the computers' capacity to manipulate data, the IRS performs these functions on weekends to avoid disrupting work during the week.

ACCESS PROBLEMS

Since last fall, however, it has taken the new computers an average of twice as long as scheduled to perform the weekend data update; occasionally, it has taken an entire week, according to government investigators and IRS executives. Result: IRS workers cannot use the system for auditing, pursuing delinquent taxes, resolving errors and other tasks associated with sorting and examining millions of tax reports.

For instance, at the IRS regional processing center in Fresno, Calif., workers in the correspondence and tax adjustments division, where taxpayers' problems are solved, could only use the computer for an average of six hours per week this spring, compared with 26 hours per week last year, General Accounting Office investigators found in a study of problems at that center.

In the Philadelphia service center, repeated and lengthy shutdowns of the computer caused hundreds of thousands of business and individual returns to back up in various departments this spring and frustrated unknown numbers of taxpayers who were unable to get information about their tax returns from the computer system.

Because the IRS's computers are often unavailable, the service centers have been unable to process three-fourths of all tax information sent to them over the first six months of this year on magnetic tapes by banks, large corporations, government agencies and payroll firms, according to IRS sources.

Result: The IRS has since early April used a compatible Univac system in Harrisburg owned by the Pennsylvania Department of Welfare to process enormous volumes of tax information from regional centers across the nation.

The most visible aspect of the agency's computer problems has been the lengthy delays in processing millions of 1984 individual tax returns.

Almost four months after the tax filing deadline, the IRS says it still cannot say with any precision how many 1984 returns have yet to be successfully processed. It also does not know how many individuals are still awaiting refunds, or how much interest it must pay on the late refunds.

The agency's estimate that it still has not processed 6.3 million of the 97.7 million individual returns filed this year is based on statistical inference.

In the Philadephia service center, 1.46 million tax returns remained to be processed as of July 12, the IRS estimates. Of that number, an estimated 116,000 taxpayers from throughout the mid-Atlantic region were still awaiting refunds, according to regional spokesman Dan Sekiecki.

IRS Commissioner Egger admits he is troubled by the lack of precise information concerning the numbers of unprocessed tax returns and individuals awaiting refunds. In testimony June 22 before the House subcommittee on oversight, he said he could not explain how an estimated number of 1.1 million then-unprocessed returns of taxpayers due refunds corresponded to other IRS inventory data.

Rep. J.J. Pickle (D, Texas), chairman of the House subcommittee, labeled Egger's statistical estimates "double talk."

BREAKDOWNS

The lack of information concerning the unprocessed tax returns is attributable in part to breakdowns in the agency's computerized inventory-tracking system. In some service centers, this led to hundreds of thousands of tax returns being sent inadvertently to warehouses this spring without being processed, according to government investigators and IRS sources.

For example, exactly one month before the April 15 filing deadline, workers in the Fresno, Calif., service center were searching for 115,508 individual income tax returns believed stored in the center's warehouse without being processed.

The IRS recently ordered each of the service centers to complete an inventory of its warehouses and storage areas to determine how many unprocessed returns may be languishing there.

Millions of other tax returns are mired in the agency's tax-processing system because of computer or human error in handing.

Across the country, an estimated 4,906,370 individual and business tax filings nationwide are in either "unpostable" or "error resolution" status—meaning that they will remain suspended for weeks, even months, in the service center until IRS workers can examine each case to determine why tax information could not be entered into the computer system.

Of the 3,770,000 returns in unpostable status, 1,852,992 were filed by individuals, a 90 percent increase over a year before. The remaining 1,650,218 returns were filed by businesses, a threefold increase over last year.

Many of these returns are in "BOOB" status, an IRS acronym for "block out of balance." These are large groups of tax returns that fail to balance against other computer data because the arithmetic is incorrect, or because the number used to locate a document is incorrect or nonexistent. During the tax season, in fact, the IRS made no provision to verify that document location numbers were transcribed into the computer correctly-thereby adding to the problem, according to IRS sources.

INABILITY TO CHECK

The expanding backlogs of BOOB returns meant that normal accounting checks could not be performed for days.

As a result, locating the actual returns to check for errors was often impossible. In centers such as Philadelphia and Fresno, this resulted in carts of returns spread haphazardly throughout the center.

"Carts with returns were scattered all over the [Fresno] center," said one government investigator, in a confidential report. "Because the unit was not able to find a large number of documents, it had to periodically check the warehouse to determine if the returns had been sent there by mistake.

Additionally, hundreds of thousands of business returns entered unpostable status because the IRS did not provide businesses with the proper preprinted Federal Tax Deposit coupon booklet. The coupons are read by electronic scanners. IRS spokesmen said that an independent printer hired to produce the coupons has been consistently backlogged since early last year.

A memo from IRS headquarters in late March said: "Reorder requests have far exceeded our original estimates . . . This has caused inventories to exceed the contractor's capacity."

Resolving unpostable business or individual tax cases on the new computer systems can be an exhausting process. Many are sent to the IRS's error-resolution department, where IRS workers must often correspond with the taxpayer to check a Social Security number or confirm a payment.

The sluggishness of the new computers makes this process very slow: Now, only 34 erroneous cases can be researched by an IRS worker in an hour, compared with 87 cases per hour with the IRS's previous computer system, according to a General Accounting Office internal report.

At the Philadelphia service center, the volume of erroneous tax cases awaiting resolution dwarfs that of any other service center: 430,086 cases, many filed by small businesses. The second largest in inventory of erroneous cases—120,385—is in the Atlanta service center.

IRS officials will not explain publicly why such a large volume of erroneous tax cases exists in the Philadelphia service center. Privately, however, IRS officials attribute the problem to "sloppy workmanship" at the center on Roosevelt Boulevard.

"What we are talking about here is a very large number of errors being created—just sloppy workmanship," said one IRS worker, who asked to not be identified.

While the volume of tax cases in unpostable or error-resolution status builds, hundreds of thousands of erroneous IRS delinquency and penalty notices have been disgorged by the agency's computer systems. Reason: The IRS has no method of verifying that delinquency and penalty notices are actually valid. Nor does the agency measure the numbers or types of delinquency notices it mails.

IRS spokemen publicly say that the agency is not aware of any systemic problem creating erroneous notices.

But government investigators found that in some service centers, workers in the IRS collections department did not receive computer tapes needed to research and halt potentially erroneous refunds to taxpayers until March.

ERRONEOUS REFUNDS

And because the computer could not identify the location of other returns at service centers, the agency issued unknown millions of dollars in erroneous refunds to individuals, General Accounting Office investigators found.

Across the nation, businesses and tax practitioners have reported in recent months that a steady flow of erroneous notices has been issued by the IRS to taxpayers for much of the last six months.

Examples abound: In May, the IRS tried to erroneously seize the assets of the Bank of Alex Brown in central California—despite six letters attempting to resolve the matter.

"Let your imagination wander and think of any conceivable [return] posting error, and it has happened many times," said Jim Smith, president of The Payroll People, a Fresno, Calif., company that handles employee payrolls for banks and their clients. He said that 31 percent of his clients were in some type of IRS penalty status.

A Philadelphia lawyer, Pamela P. Cohen, frustrated over the IRS's loss of her payments and failure to read correspondence, wrote the agency recently: "The performance of your agency goes beyond mere incompetence. I have spent an enormous amount of time in the last two and one half years attempting to rectify your errors. I have now reached a breaking point."

The steady stream of erroneous notices and other mistakes in the tax-processing system have boomeranged on the IRS regional service centers in recent months, swelling inventories of cases needing individual IRS adjustments.

The backlog of adjustments cases on July 5 in service centers nationwide was an estimated 1,578,833 tax cases—a volume that is nearly twice the level of a year ago. Most of these cases result when taxpayers write the IRS to protest a bill, or lost payment, or failure by the IRS to process a return.

In the mid-Atlantic region, the backlog of tax cases awaiting adjustments at the Philadelphia regional center is an estimated 208,927, the highest in the nation and 2½ times the same figure last year.

Roughly 35 percent to 50 percent of these cases have been awaiting IRS resolution for more than a month, according to General Accounting Office investigators. But many cases in error resolution can take years to resolve.

In the Philadelphia service center, "disastrous" delays were created this year in trying to adjust cases because mail from businesses and individuals was sent to examiners in unsorted batches, according to the GAO investigators. The problem: "The person trained to deal with individuals' correspondence did not know the specifics for business," a GAO investigator found.

One nagging problem. The IRS's computer data bases are only available to adjustment workers for a handful of hours through much of the tax-processing season, making it difficult to retrieve information or adjust cases to resolve problems.

"The amount of time the [computer] system has been up and available has been cut in half since the introduction of the new computer system," reported to GAO.

IRS's biggest current worry is that it will have to adjust a very large number of tax returns in coming months because of errors created during the hectic tax-processing season.

"It could be a ticking time bomb" said one IRS official in Philadelphia. GAO investigators found that IRS supervisors had no idea how many errors were being created in the processing of tax returns during the tax filing season because no "quality assurance" reports were issued.

Moreover, the backlog of cases awaiting processing is so large now that IRS workers have no way of identifying systemic problems until they work through their inventory.

COLLECTION PROBLEMS

More financially significant is the limited amount of computer time and insufficent number of computer terminals in the IRS's delinquent-tax collection division, where billions of dollars in back taxes are collected each year.

At the end of June, revenue officers nationwide had collected $300 million less than last year, or a decline of about 12 percent. IRS officials concede that a persistent problem is that revenue officers can-not get access to computers to get tax information on delinquents.

In some service centers, such as Fresno, the collection of delinquent taxes is backlogged severely.

The Fresno computer's data based was only available one full, 12-hour day during the five-month period from January to May, according to the GAO. On other days that it was available, it could only be used a few hours at a time. Result: Inventories of uncollected delinquent tax accounts there have increased to an estimated 154,000 acounts in April from 60,000 in June 1984, thereby depriving the government of an estimated $470 million.

Moreover, during the January to May period, the IRS's computerized tax-collection system was not available for weeks. "During this time, about 40 to 45 collections staff were essentially unproductive in processing case closures, and were instead used to perform routine filing and other clerical functions," the GAO reports.

In addition to generating hundreds of thousands of erroneous delinquency notices, the computer snafus this year have delayed issuance of unknown numbers of valid delinquency notices.

At least 114,700 delinquency notices were scheduled to be sent to West Coast taxpayers in January, but they were delayed so they could be researched for errors. In mid-May they were delayed a second time. Before they can be sent they must be reprocessed to check against money received since January, investigators say.

The IRS's computer woes are compounded by a growing workload, a shrinking number of workers and high turnover in all the regional service centers and district offices.

Over the last decade, the IRS's workload has increased by 46 percent to 179 million tax filings. At the same time, the IRS staff has grown from 84,300 to 86,500—less than 3 percent growth.

In some instances, the shortage of workers has contributed directly to lost tax revenue.

In the backlogged Fresno, Calif., service center, a staff of 375 examiners is responsible for a job that the IRS considers should be handled by 502 workers. Result: An estimated $18.8 million could not be collected this year from 60,000 delinquent taxpayers identified in an audit program with the state of California, according to a confidential GAO report. The revenues will be lost forever because a six-year statute of limitations has expired.

In another Fresno program, a reduction of staff has resulted in the delayed assessments of an estimated $145 million in taxes plus interest and penalties from about 29,000 nonfilers, according to the GAO investigators.

Nationwide, the IRS's audit program also has been backlogged by computer problems in the service centers and an insufficient number of examiners and service center employees. The examination staff has grown by only 4.8 percent in the last decade despite growing complexity of tax filings and a 46 percent increase in the number of tax returns.

One problem: Auditors say they must routinely delay scheduled audits because they cannot obtain copies of tax returns from the overworked service center staff. The backlog also expanded during the first half of the year, because examiners in the service centers were reassigned to other tax-processing duties to get refunds processed in time.

Result: Halfway through the year, the IRS has only completed 871,000 audits of business and individual tax returns, according to figures released by the agency. This compares with 1,135,533 completed as of Sept. 30, 1984, the IRS reported.

The IRS says it currently intends to audit only 1.2 percent of all returns this year, compared with 2.6 percent in 1976. Commissioner Egger recently said that auditing returns "is no longer a first priority" of the agency.

From now on, Egger said, the agency will stress "quality" workmanship in processing taxes.

This will be a challenge: While the number of workers at the IRS shrinks in face of budget cuts, the level of skill among tax processers is also failing, according to GAO investigations. The IRS has severe problems training and keeping qualified employees, especially computer programmers and operators.

"They can't keep them. As fast as they get them trained in computer programming or operations, they go off to the private sector where they can get more money," said one congressional investigator.

Throughout the agency, turnover is high and morale is low—in part because of a grinding work schedule and huge backlogs of work. In Philadelphia tax-adjustment divisions, for instance, there were 60 vacancies in April out of a staff of 245 full-and part-time workers, according to the GAO.

The low morale and volume of work contributed to employees in the service centers in Andover, Mass., Austin, Texas, and Fresno destroying taxpayers documents this year to meet IRS's production quotas, according to officials of the Treasury Employees Union, a labor group that represents the 92,000 IRS workers nationwide.

In the Fresno center, 60,000 taxpayer documents were destroyed early this year before taxpayers could be notified that their returns had been processed, the IRS says. Workers say they were ordered to destroy the documents—"D-code" them, in IRS parlance—because the computers were unavailable to finish the work.

In Andover an IRS employee was indicted recently for taking home 500 corporate tax

> returns and an unkown number of other documents and destroying them to meet production goals.
>
> Work within the Philadelphia service center is especially stressful. Many of the 2,500 employees there are still working 10-to 13-hour days six and seven days a week, still trying to process 1984 tax returns, according to the employees' union.
>
> "It's still a zoo here. People are working from 7 in the morning until 10 o'clock at night and the work is still pilling up," one union official said.

Mr. SPECTER. I thank the Chair.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ANDREWS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ANDREWS. Mr. President, I ask unanimous consent that we leave morning business and return to the Legislative Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

WHITE EARTH RESERVATION LAND SETTLEMENT ACT OF 1985

The Senate continued consideration of the bill (S. 1396).

Mr. ANDREWS. Mr. President, I understand the legislative business is S. 1396?

The PRESIDING OFFICER. The Senator is correct.

Mr. ANDREWS. Mr. President, I suggest the absence of a quorum and I ask unanimous consent that the time involved in the quorum be charged equally to both sides.

The PRESIDING OFFICER. Is there objection to the request of the Senator that the time be charged equally? The Chair hears none, and it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MELCHER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MELCHER. Mr. President, we just previously rejected an amendment to extend the time for filing a claim for title and damages by any of the Indian allottees and their heirs at White Earth. I think the amendment should have been accepted. I think the fact that it was rejected is damaging to the bill.

The point is that every individual Indian or non-Indian, every citizen of the United States, of course has the opportunity to go to court if they want to challenge the question of whether or not some piece of land is not theirs. Obviously, that is a common practice.

But the question is, Is this a common procedure or is this a series of events that are reflected in the necessity for this bill as proposed by the proponents of the bill?

It is a very uncommon situation. We have 800-and-some-thousand acres of Indian reservation that has shrunk to 56,000 acres in less than 100 years, all in this century, I might point out, during the last 80 years.

So the situation is questionable whether or not the title from the Indian allottees was transferred lawfully. The scandals that have occurred and caused several investigations by the Government starting with President Theodore Roosevelt speaks to that point. It not only was unusual, but it was considered to have been highly damaging to the interests of the Indians involved.

In the bill, in order to overcome an obstacle of constitutionality of the act itself, there is a provision that allottees or their heirs can bring suits in court only within 6 months after passage of the act.

The amendment I offered was to make it somewhat reasonable by making the timeframe 18 months. That was not acceptable, and that has been rejected by the Senate.

The burden that that places on the bill has to do with the question of constitutionality of the act itself. Congress has the plenary power to set by statute conditions of allotments and the procedure by which allotments can be moved from the trust status. That is so patents in fee, or clear title, can be issued to the allottees.

That, in my judgment, was not done properly under the Clapp amendment which has led to a series of lawsuits since that time involving the proper ownership of the Indian allotted lands.

But on the question of constitutionality, the Justice Department has responded to the effect that the constitutional question can be resolved as long as there is an opportunity for the allottees to go to court, and through their claims and actions, have the court to determine that the land is still theirs because their title to the land was not extinguished.

But what the bill has done is to make such a narrow opportunity to do that that I question whether it was good judgment on the part of the proponents of the bill to recommend rejection of the amendment, because I think then they raise the question of whether or not a fair and practical opportunity will be available for the allottees or their heirs to seek redress in court.

Let me point out to you the Justice Department reasoning on this point.

In the report on another bill, S. 885, which is an earlier version of S. 1396, we noted that S. 885 would present constitutional difficulties if it was interpreted to legislate a taking without providing for just compensation or due process for some claims by Indian allottees to land associated with the White Earth Reservation. However, we noted that this difficulty did not necessarily render the bill unconstitutional because of the existence of the Tucker Act, which provides a general right to recover just compensation for the taking of property. The Tucker Act remedy likely existed for any taking caused by S. 885. So even though the bill presented no fatal constitutional infirmity, it was recommended that an explicit reference to the Tucker Act be made in the proposed statute to remove any risk that a court might hold it unconstitutional.

S. 1396 has addressed the taking issue by explicitly providing in subsections 6(d) and 6(e) a Tucker Act remedy to any person entitled to just compensation for the loss of his property.

Now, it is to that point that the amendment was addressed. This bill, S. 1396, the successor to S. 885, does provide that opportunity for the Indian allottees or their heirs to make claims in court and to attempt to either get the property back or get just compensation for the use of their property and damages.

The amendment that I offered would have provided a reasonable period of time for that to occur. I think 6 months is unreasonable. Eighteen months, true, is an arbitrary figure but it would appear to me to be more reasonable and, therefore, to satisfy the question that is raised by the Tucker Act much more adequately than the bill does.

However, I only make this point now to say that I believe a further remedy should be made available in the bill to make sure that Indian allottees or their heirs do have this opportunity. That goes to the point of whether or not there is some legal assistance provided to the Indian allottees or their heirs.

I believe now, if we are going to have that window of opportunity available for only 6 months, that this amendment which I was prepared to offer, even if the 18-month window of opportunity had been accepted, but, having rejected the 18-month window of opportunity, I think it is even more essential now that this amendment be accepted. The amendment will provide that, on the application of any allottee or heir seeking to file claim under the provisions in the bill, which is in subsection (c), the United States shall provide legal advice and assistance regarding the merits of the claim. Then if the United States determines the claim has legal merit, and if the allottee or heir elects to proceed with the filing of a legal claim for title or damages under subsection (c) of the bill, the United States shall, on request, act as attorney for the claimant.

Mr. President, I point out to the Senate that we are getting into territory where if you do things wrong you have not done anything. The trust responsibility of the United States for Indian lands is something that has been clearly established by law and has also been established by numerous court cases. There are a number of claims reviewed by the Department of the Interior in the Solicitor's Office that have been found to have merit.

Now, there is a serious possibility that the land that has ended up in State control on the basis of tax forfeitures is clearly an unlawful taking. The proponents of the bill state that they would like to have the bill passed so it can clear up this mess.

Well, I offer this amendment to assist them to help clear up the mess. All of those claims that are being reviewed by the Department of the Interior and found to have merit are not claims that can be shuffled off to the side and forgotten.

Mr. ANDREWS. Mr. President, will my colleague yield?

Mr. MELCHER. Yes, I yield.

Mr. ANDREWS. Mr. President, I would like to announce, at the request of the majority leader, that there will be no further rollcall votes today—75 Senators are in conferences at this moment—that is, there will be no further rollcall votes today if my unanimous-consent request, which I am about to make, will be granted.

That unanimous-consent request is that any votes ordered on this legislation be held over until 12 noon tomorrow.

Mr. DURENBERGER. Reserving the right to object.

Mr. MELCHER. Reserving the right to object. I believe we better check on our side.

The PRESIDING OFFICER. The Senator from Minnesota reserves the right to object.

Mr. DURENBERGER. Mr. President, reserving the right to object. When we were on the floor—I address this issue to the manager of the bill—on Thursday last week, we were talked out of considering the bill at that time. We have been back here on various occasions and each time there seems to be a conference getting in the way of consideration of this bill.

Having been frustrated 2 years running at the end of the session from the consideration of this bill, I think it is inappropriate, either on the side of the majority or on the side of the offerer of the amendments to this bill, on which we have worked out a 4-hour time agreement, to suggest that the bill be delayed for another 24-hour period of time. Our concern, obviously, is that if we wait to have any votes on this bill until the time suggested by the manager of the bill under the unanimous-consent proposal that we have a vote, there will not be time to consider the bill, pass it in the House, go to conference on any points of disagreement, and to pass a bill.

THE PRESIDING OFFICER. Is there objection to the request of the Senator from North Dakota?

Mr. MELCHER. Mr. President, reserving the right to object. We are attempting to check on this side with the Democratic leader.

Mr. ANDREWS. Mr. President, let me then, on behalf of the majority leader, make the statement that there will be no further rollcall votes today, period.

The PRESIDING OFFICER. Does the Senator withdraw his unanimous-consent request?

Mr. ANDREWS. Under the circumstances, I believe it is the appropriate thing to do. I withdraw the unanimous-consent request.

Mr. President, I had hoped, by making the unanimous-consent request, we could allow the debate on this bill to continue to final passage so that we did not have that many hours to chew up tomorrow. I believe most people feel that that would make sense.

But, because of the unique combination of the various conferences going on and the need for Senators to be elsewhere, if there is objection to that unanimous-consent request, quite obviously, when we get to a point of a vote, if a vote is ordered, we will withhold.

Mr. DURENBERGER. Will the manager of the bill, standing in for the majority leader of the Senate, yield to me for a question?

Mr. ANDREWS. I yield.

Mr. DURENBERGER. The manager of this bill, and the majority leader's stand-in in the proposition that there will be no votes today, is an expert on matters such as the one we are considering. He has had years of experience in passage of legislation such as that before us. It is through his good graces and that of his colleagues on the committee that this bill is before us now. So I hesitate to propound a question that would be critical of the chairman's judgment in this regard.

However, the concerns of the two Senators from Minnesota, besides the fact that they happen to be in the same majority in this body as the majority leader, that they happen to be involved in the same conference committees that are referred to by the stand-in for the majority leader, our deepest concern is for the people of our State, whose interests are represented in this bill and whose interests have been contested by the Senator from Montana for the last 2 years, in each case at the end of the session.

Can the chairman of the committee guarantee to both of the Senators from Minnesota that the legislation, if debated under the time agreement, voted upon under the time agreement, and if the votes were to come sometime on Friday, could the chairman of the committee guarantee passage of this bill prior to the recess of the Senate and the House and in such form as it could be signed by the President?

Mr. ANDREWS. Mr. President, that is a very fair question. Let me state unequivocally that I was speaking for the majority leader when I made the statement that there would be no further rollcall votes today. Only the majority leader can make that statement, as the Senator knows so well.

I was speaking as chairman of the committee handling the bill under consideration, because I knew of the interest of the Senator from Minnesota in the bill and also the request of the Senator from Montana that it be debated during the daylight hours. The debate is going on.

I understand the need for expeditious action, so I added, on my own, the unanimous-consent request which I felt would be the best way of facilitating its final passage, with those votes to occur between 12 noon and 1 tomorrow. Before I made that unanimous-consent request, I contacted, of course, the ranking Democratic member of this committee, the Senator from Montana. I did not, of course, clear it on both sides of the aisle. Obviously, I did not clear it with the Senator from Minnesota.

I thought I was expediting things and that if we could get that unanimous-consent request approved, we would have a vote certain tomorrow between 12 and 1 on any amendment and final passage of this bill if they were ordered. That would, I believe, meet the needs of the Senate and meet the needs of the State of Minnesota and others that we come to a final resolution.

Mr. DURENBERGER. With all due respect to my colleague, I still did not hear an answer to my question. I understand there can be a resolution of whatever problem it is that faces the majority leader in his desire not to hold any more votes, even though it is only 9 minutes after 4 in the afternoon; I can understand the response as being an accommodation of some kind to some interests, which is, as far as I can tell, as yet unstated by the representative of the majority leader.

However, it is not responsive to the question which I have propounded to the chairman of the committee, and that is whether of not, by delaying the vote on final passage until at the latest 1 p.m. on Friday, December 13, a day on which it is possible we will recess, whether or not it is possible that we will have lost the opportunity to pass this legislation.

Mr. ANDREWS. Mr. President, let me point out to my good friend from Minnesota that a delay from this afternoon to tomorrow is not as desirable, from the standpoint of getting this legislation passed through the House, as passing it today. Passing it today is not nearly as desirable as having it passed a week ago.

All I was trying to do was make sure it did not proceed beyond tomorrow noon. And, given the request of the majority leader that there will be no further rollcall votes today, I thought the best way of expediting the final disposition of this legislation would be to ask that unanimous-consent request.

But it is not imperative that we have that unanimous consent, and I think it propitious that I withdraw the unanimous-consent request at the present time having made the announcement on behalf of the majority leader that there will be no further rollcall votes. We will meet that problem when we come to it.

I think it probably makes a great deal of sense, Mr. President, to let the debate proceed.

Mr. BOSCHWITZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. BOSCHWITZ. I understand the situation as it exists here on the floor. So there is yet another possible appeal on this matter. And that is our friend from Montana and we had one vote on this. I think it was quite decisive in its outcome.

Mr. MELCHER. Mr. President, might I inquire how I lost the floor?

Mr. BOSCHWITZ. So I ask our friend——

Mr. MELCHER. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. On consultation with those following the proceedings, the Chair recalls that the Senator did not lose his right to the floor because he did not have the floor. The Senator from North Dakota was recognized to propound a unanimous-consent agreement. He yielded the floor. The Chair recognized the Senator from Minnesota.

Mr. MELCHER. Mr. President, I must point out that I indeed had the floor. I was speaking on the amendment that I am about to propose. I yielded to my friend from North Dakota to propound a unanimous-consent request. I did not know that I was losing my right to the floor. I ask unanimous consent to retain it. But I think, Mr. President, that is not the proper way to go when we yield for a unanimous-consent request so it can be propounded on behalf of the majority leader. We should not lose our right to the floor.

Mr. BOSCHWITZ. I yield the floor in the event the Senator from Montana wishes the floor. I was going to suggest to the Senator from Montana the fact that rollcall votes are put off until tomorrow—if I may have the attention of the Senator from Montana. We can still achieve the end that he wished, and that we wished, of expediting this legislation. He wanted to see to it that we debate in the daylight hours on this bill. Perhaps the Senator from Montana would be agreeable not to require further rollcall votes inasmuch as we already had one, and inasmuch as I think it was quite decisive.

I know it is not the Senator's fault. He is living up to the agreement to be sure. It is being thoroughly examined in the daylight hours as requested. If he will accommodate the two Senators from Minnesota and not require further rollcall votes, we perhaps could proceed along a little quicker.

I appeal to my friend from Montana.

Mr. MELCHER addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. MELCHER. Mr. Preident, I have noted around here that every time you start a unanimous-consent request, it takes more time to find out nothing is going to happen on the unanimous consent than it does to proceed with trying to get up an amendment, and finding out whether we can resolve the problems in the bill.

I will proceed again with the amendment that I was about to propose.

The amendment simply seeks to establish that when the allottee or heir seeks to file a claim under subsection (c) of this bill, the United States shall provide legal service and assistance regarding the merits of the claim and if the United States determines the claim has legal merit, and it the allottee or heir elects to proceed with the filing of legal claim for title or damage under subsection (c) of this bill, then the United States shall, on request, act as attorney for the plaintiff.

This is a very usual procedure, and a matter of trust responsibility.

Mr. BOSCHWITZ. Will the Senator yield?

Mr. MELCHER. I will be glad to yield, without losing my right to the floor, to my friend from Minnesota.

Mr. BOSCHWITZ. I know the Senator was busy, was talking to the Parliamentarian, and otherwise occupied when I asked the question. The Senator was anxious to make his case in daylight hours. We certainly have accommodated the Senator, and he has the right to ask for those things. He has the right, indeed, to ask for rollcall votes.

I just asked a moment ago, since the senior Senator from Minnesota and myself are anxious to move this along so as not to lose the opportunity of having House consideration before this portion of the 99th Congress expires. I wonder if he would be agreeable not to require any further rollcall votes until the amendments are on final passage? We have had one rollcall vote. I think it was quite decisive.

Mr. MELCHER. Mr. President, obviously, if I might respond to my friend from Minnesota, this is a reasonable amendment as I have asserted. If the Senators, as proponents of the legislation, accept the amendment, I do not want a rollcall vote. I hope the Senators are looking at the amendment and will let me know one way or the other.

But I have outlined the question of constitutionality as it is seen by the Justice Department because this amendment and the one preceding it speak to that point. The Justice Department thinks the question of constitutionality can be satisfied as long as those claimants—in this case, Indian allottees and their heirs—can seek remedy in court. If that is taken care of through a Tucker Act remedy—what the Justice Department refers to—the act is constitutional.

There is a question of limiting the time for utilization of that constitutional privilege. I believe that would be a fifth amendment question on whether it is a due process or unlawful taking, and, therefore, did not meet due process. That cannot be extinguished.

So by setting a 6-month window of opportunity to file such a claim, the bill itself may have created a constitutional problem. I sought to at least alleviate a part of that by making the window of opportunity 18 months. That amendment was rejected.

I hope this amendment will not be rejected because this one goes directly to the point of whether or not legal assistance will be provided on claims to those land titles that were lost to the Indian allottees because of a tax foreclosure by the State. Many are now being reviewed by the Department of Interior's Solicitor's Office and have been determined to have legal merit. This is an attempt, a very honest attempt, to help the bill because there is a trust responsibility. You cannot ignore it. And the United States has to exercise it.

If the claimants do have some claims which have been found to have legal merit by the United States, this amendment will indeed help to carry out that trust responsibility.

If it is the intention of the Senator from Minnesota to make sure that something happens that is good and ends litigation after this bill is enacted, this amendment would be a wise one to accept.

AMENDMENT NO. 1415

Mr. MELCHER. Mr. President, I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Montana [Mr. MELCHER] proposes an amendment numbered 1415.

On page 38, after line 10, insert the following new subsection:

"(e) On application of any allottee or heir seeking to file a claim under subsection (c) of this section, the United States shall provide legal advice and assistance regarding the merits of the claim if—

(1) the United States determines the claim has legal merit, and

(2) the allottee or heir elects to proceed with filing a legal claim for title or damages under subsection (c) of this section,

the United States shall, on request, act as attorney for the claimant."

Mr. MELCHER. Mr. President, I know the Senators have been examining the amendment. There is no question but that the United States is ready, willing, and able to provide this type of assistance. The Department of Justice has been involved in the White Earth situation for nearly 70 years. After the Clapp amendment they actually established a local office in Minnesota to handle Indian suits in equity to recover lost lands. The primary agency that carries out the trust responsibility is the Department of the Interior, but the legal arm of the trust is the U.S. Department of Justice. Between these two agencies there is plenty of expertise on hand to proceed with these claims.

I certainly urge adoption of my amendment.

Mr. President, I must remind my good friends from Minnesota that in order to untangle what they are attempting to untangle in this legislation, this is a rather key amendment because the question of trust responsibility, which admittedly in all of the records and all of the court cases that have been involved before, has been clearly demonstrated to have been lacking. To reject this amendment would be tantamount to setting not only a precedent against the trust responsibility, but it would be questioned in court and would serve as a basis for questioning the entire scope of the bill and the entire effect of the bill itself.

I urge my friends from Minnesota not to reject the amendment.

Mr. DURENBERGER. Mr. President, as I indicated in my opening statement and as my colleague indicated in his arguments earlier on this bill, the matters raised by our colleague from Montana have been raised before by a variety of people in a variety of ways. The bill has been well thought out and the issue of litigation has certainly been considered.

We have the opinion of all the various groups I referred to in my opening statement who have been trying to come to a conclusion with regard to this bill, that the proposal embodied in the amendment by the Senator from Montana would defeat the entire purpose of the settlement and should be rejected.

The main reason the amendment should not be part of the bill is that it is entirely contrary to the goal of ending the title controversy to the land which is involved here once and for all.

The purpose of the bill that we are considering, S. 1396, is very simply to prevent litigation. This amendment provokes litigation.

The purpose of S. 1396 is to save the Indians, the Indians' heirs, the tribal council, private citizens, the United States, the State of Minnesota, and the counties involved—everyone—social, economic, and financial costs of expensive and in these kinds of cases explosive litigation.

The amendment by the Senator from Montana assures that such costs will be incurred because if by law we must start to encourage and assure land litigation we might as well stop all kinds of settlement talk. That is the purpose of the Senator's amendment, to kill a settlement which discourages lawsuits.

Mr. President, this bill is being considered under a time agreement which requires that amendments be germane and relevant. I make the point of order that the pending amendment by the Senator from Montana is not germane.

The PRESIDING OFFICER. The Chair will rule the point of order is well taken. The amendment falls.

Mr. MELCHER. Mr. President, I appeal the ruling of the Chair.

Mr. DURENBERGER. Mr. President, I move to table the appeal.

Mr. MELCHER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. MELCHER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRASSLEY). Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. DURENBERGER. Mr. President, I ask unanimous consent that we set aside the amendment and the motions pursuant to that amendment by the Senator from Montana [Mr. MELCHER] until a time tomorrow which is agreeable between myself and the Senator from Montana which we might propose for a vote on the tabling amendment, on which we would agree at some later time today or tomorrow; and that at the time that we come back to this matter, there be 10 minutes for the proponents of the motion to table and 10 minutes for the opponents of the motion to table before any vote on the motion to table.

Mr. MELCHER. Reserving the right to object, Mr. President, and I shall not object, I just want to clarify something. Is the unanimous-consent request to vote on tabling the amendment or tabling the appeal from the ruling of the Chair?

Mr. DURENBERGER. Mr. President, it is on the latter.

The PRESIDING OFFICER. The pending motion is on the question of appealing the ruling of the Chair and the motion to table that appeal.

Mr. DURENBERGER. And the unanimous-consent request I have proposed?

The PRESIDING OFFICER. Without objection from the Senator from Montana, it is so ordered.

Mr. MELCHER. Mr. President, I mentioned several times that the State of Minnesota is holding land—I guess the proper term is acquired—has acquired land which was formerly Indian allotment land on the White Earth Indian Reservation.

In my State, we have quite a few Indian reservations, but I am not aware of any instance where the State of Montana acquired land on any reservation of any consequence at all. I earlier stated that when the boundaries of the White Earth Reservation were drawn, it was 854,000 acres. That was in an Executive order of President Hayes. Immediately, 92,000 acres of that was identified within the exterior boundaries of that reservation as State land. I assume that that was school land. The ordinary procedure in States like Minnesota and my own State is that two sections in every township are reserved by the State for the purpose of public school education.

So taking that 92,000 acres off, the land was somewhere in the neighborhood of 760,000 acres. That has dwindled down to 56,000 acres still under Indian ownership. But the most peculiar part about all this mess is that the state of Minnesota has 165,000 acres that was never part of anybody else's land except the Indians. One hundred thousand acres of that is at risk.

Now, that is what has been identified by the Solicitor General's Office of the Department of the Interior. What they mean by that is simply that the title belonging to the State is at risk because it was Indian allotment land. There is question about whether the title of the Indian allottee was ever extinguished. The bill does state that the State of Minnesota will return 10,000 acres to the tribe. The legislature of the State of Minnesota has said the State will return 10,000 acres to the tribe if there is a White Earth settlement bill, such as the one we are working on today, passed this year.

Now, there has been a statement made that Governor Perpich would like to see this cleared up, he is very much for the bill; that the attorney general, Skip Humphrey, the son of our dear, beloved colleague Hubert Humphrey, would like to see this cleared up, and well they might. But on what terms? Have Congress legislate that everything is hunky-dory for the State of Minnesota to have that land and give one-tenth of it back—title in reverse of some type? That is strange to me. So I would like to correct that.

During the past 6 years, the Department of the Interior has been very diligently trying to identify that part of the land which was stripped from Indian allottees by tax forfeiture procedures to see whether those Indian allottees and their heirs have a valid claim. They have identified 100,000 acres which they say is at risk. I suggest in this amendment—and I will send it to the desk in a moment, Mr. Presideht—that the State of Minnesota shall enter into an agreement with the Secretary providing for the transfer of that amount of land within the boundary of the reservation which is determined by the U.S. Department of Justice to have been acquired by the State of Minnesota through tax forfeiture by any of transactions described in the bill in sections 4(a) and 4(b).

We assume that a sizable portion of that 100,000 acres is in this category, not just 10,000. The Solicitor General's Office through their field staff has advised us that in their best estimate it is between 60,000 and 75,000 acres.

Now, if we are going to quiet title action to extinguish any valid claim of any of the Indian allottees and their heirs by passing this bill, surely the least we can do is make sure, through the efforts of the Department of the Interior, that we are not denying to Indian allottees land that is justly theirs and for which title could never have been extinguished through tax forfeiture.

Earlier in the day I mentioned that there is not any question about land that is held in trust for Indians not being subject to State or local taxes. That has been resolved in so many court cases it would be almost dilatory for me to recite that long list. That has been clearly established.

An attempt to work with the State of Minnesota, probably spending more time and many more dollars than the State has ever spent, the U.S. Government through the Department of the Interior's Solicitor's Office, has had a battery of people working to find out which claims have merit on this very point, tax forfeiture. I suggest that there is no way of denying justice on that. This bill will not deny justice on that.

I offer this amendment as a clarifying amendment to make sure that in passing the bill we are not insulting our own integrity, or insulting justice, by causing a new round of injustice to occur. I hope the amendment could be accepted and I entrust to the good judgment of the proponents of the bill that they will review the amendment carefully to see whether or not it is wise to accept it.

AMENDMENT NO. 1416

(Purpose: To provide for the transfer of certain lands to the White Earth Reservation from the State of Minnesota in settlement of certain claims)

Mr. MELCHER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Montana [Mr. MELCHER] proposes an amendment numbered 1416.

Mr. MELCHER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 44, delete lines 13 through 25 and insert in lieu thereof the following:
>
> "(1) The State of Minnesota shall enter into an agreement with the Secretary providing for the transfer of that amount of land which is determined by the United States Department of Justice to have been acquired by the State of Minnesota within the current exterior boundaries of the White Earth Reservation of Chippewa Indians through tax forfeiture of any lands which fall within any of the transactions described in Sec. 4(a) and (b) as the State's contribution to the settlement provided for by this Act. The Secretary shall not enter into such an agreement until the Secretary determines, or the authorized governing body of the band certifies to the Secretary in writing, that the agreement will result in the transfer of such amount of land which possess reasonable value for the"

Mr. MELCHER. Mr. President, I think I have adequately described the amendment. If my friend from Minnesota has any questions on it, I would be delighted to answer them.

My amendment requires that the amount of land transferred by the State will correspond to the total amount of land acquired by the State through tax forfeiture.

There are many cases that support the vested property right of an allottee from tax exemption including:

> *Glacier County* v. *United States*, 99 F. 2d 733, 734, (9th Cir. 1938); *United States* v. *Nez Perce County*, 95 F. 2d 232, 234-35 (9th Cir. 1938); *Board of Commissioners of Caddo County* v. *United States*, 87 F. 2d 55, 56 (10th Cir. 1936); *United States* v. *Benewah County*, 290 F. 2d 628, 631 (9th Cir. 1923); *Morrow* v. *United States*, 243 F. 2d 854, 855-56 (8th Cir. 1917); *United States* v. *Ferry County*, 39 F. Supp. 1008, 1012 (E.D. Wash. 1941); *United States* v. *Board of Commissioners of Pawnee County*, 13 F. Supp. 641, 642 (N.D.Okla. 1936); *United States* v. *Board of Commissioners of Comanche County*, 6 F. Supp. 401, 402, 403 (W.D.Okla. 1934); See also *Mahnomen County* v. *United States*, 319 U.S. 474, 476-77, 63 S.Ct. 1254, 87 L.Ed. 1527 (1943); *Kirkwood* v. *Arenas*, 243 F. 2d 863, 869 (9th Cir. 1957); *State* v. *Zay Zah*, 259 N.W. 2d 580, 584-85 (Minn 1977).

In the Zay Zah case, decided by the Minnesota Supreme Court, the court reasoned that since the land in question retained its immunity from taxation, despite the Clapp amendment, it also retained all of the aspects that go with the trust status of land, including the Indian's right not to have it made alienable without his consent. The court reasoned:

> The vested right to be free from State taxation must derive from somewhere, and its only possible source was the trust patent itself. After all, it is the land which is exempt from property tax, not the individual who happens to own or possess the land at any given time. . . . If the Clapp amendment was ineffective to destroy the tax exemption during this period, it must also have been ineffective to destroy the legal source of that exemption, namely, the trusteeship established by the patent.

Thus, since the trust relationship remained intact, then any restrictions on alienation still stood. If it is unconstitutional to tax trust land without just compensation under the fifth amendment, then it is clearly unconstitutional to remove that land from trust without due process; that is, application by and consent of the Indian allottee. Thus, all of the land was restricted from alienation during the trust period and, if we are going to settle the claims in question, then the State of Minnesota should be required, at a minimum, to return an amount of lands that is equal to the amount acquired in violation of law.

Mr. President, I suspect I should add, to emphasize what I previously said, that the designated period of trust of allotments on the White Earth Reservation never expired because a succession of Executive orders and statutes extended trust periods on these allotted lands indeffinitely. Congress showed through the allotments—and it has been reaffirmed in numerous court cases—that these allotments were tax free until a fee patent was issued. And that simply did not occur. Fee patents were not issued. While the trust continues, an individual Indian's property interest in an allotment acquired by virtue of the Federal Government's declaration of trust includes the tax-exempt feature.

Mr. DURENBERGER. Mr. President, I rise in opposition to the amendment. My recollection of all the events leading up to the formulation of the original bill that I introduced, S. 885, which I have already referred to, in the previous Congress, and the successor bill, 1396 in this Congress, may fail me a little, but it is my distinct recollection that the figure 10,000, 10,000 acres to be provided to the tribe by the State of Minnesota, was a figure that was arrived by negotiation with the White Earth Band prior to the introduction of any legislation.

I indicated in my earlier statement that I did not intend my first bill to in effect memorialize an agreement among the parties but merely to stimulate the parties to arrive at a decision with which all could live. But it is my recollection that when we got to S. 1396, we in effect were in a position whereby then we were memoralizing, if that is the right word, an agreement, a compromise, as I indicated earlier, that had been worked out among all the parties involved. The agreement that the State of Minnesota would seek authorization from its legislature to convey title to 10,000 acres of land to the White Earth Band was part of that agreement, and the White Earth Band was part of that agreement as well.

So I find it a little difficult to even consider that it would be a compromise to add another 9,000 acres to an agreement which was entered into on behalf of the State of Minnesota by representatives of that State, other than myself, that had been pressed for by the Governor of the State; by the attorney general of the State, the chief law enforcement officer of the State; and agreed to by the Senate and the House of Representatives, the legislative body of that State.

The rationale of the amendment, even though I have listened carefully to the arguments of the Senator from Montana, still escapes me. I hate to characterize it as an effort to punish Minnesota for following the clear working of an act of Congress, but the effect of the amendment, if it were agreed to, would only be to upset a very delicate balance that this bill represents, and possibly kill the bill in its entirety.

Let me make a couple of things clear in this regard.

Local governments in Minnesota did not start taxing allotted land on their own or because of a State law. Land was taxed because the U.S. Congress said it was subject to taxation. The U.S. Congress, in the act of March 1, 1907 (34 Statutes, page 1034) stated with undeniable clarity:

> That all restrictions as to . . . taxation for allotments within the White Earth Reservation in the State of Minnesota, heretofore or hereafter held by adult mixed-blood Indians, *are hereby removed* * * *.

So the taxation of allotted land was undertaken pursuant to congressional authority.

My colleague from Montana implies that the State of Minnesota was wrong for taxing land, but I think he is wrong. The Senator from Montana is wrong in another respect. He likes to assume that if the category of tax-forfeited claims, which is about one-fifth of the total land in dispute, went to court, the Indian allottees or their heirs would surely win the land back. That, too, is not necessarily true.

Although the Department of the Interior now questions the validity of tax forfeitures resulting from that 1907 U.S. law which I just cited, the courts have not yet issued any final judgments on the legal theories involved. I am told that there are good arguments that many of the tax forfeitures may have been completely valid and constitutional.

I do not think that the attempt of the Senator from Montana to double the cost of settlement to the State of Minnesota is justified, either historically or legally, with regard to these kinds of disputes.

Mr. President, there is an even more important reason for rejecting this last-minute effort to grossly alter the terms of this legislation. S. 1396 is the product of more than 2 years of negotiation and compromise. A whole host of legal and practical factors have been delicately balanced in the bill as it now appears. Minnesota's contribution to this settlement has been debated, has been agreed upon, has been redebated, and has been passed, as I indicated earlier—by an act of the legislature—and has been termed fair, proper, and acceptable by representatives of the U.S. Department of the Interior, the Office of Management and Budget, the Senate Select Committee on Indian Affairs, and the House Interior Committee.

So the State of Minnesota already—on its own—has exhibited its good faith and passed legislation authorizing the transfer of 10,000 acres to the White Earth Band and the provision of $500,000 of technical assistance to the Department of the Interior as part of a settlement package. That State bill was passed more than 1½ years ago—and not without opposition as being too much; and the only opposition to it, I guess, was that it was too much, in light of the legalities of the claims, in light of the fact that the Federal Government's role was primary in the events which led to the land disputes.

Mr. President, this is a serious amendment. It is a crippling amendment, because the State legislation authorizing participation in the settlement expires on December 31 of this year. Because his amendment so drastically alters the compromise reached on the bill, it would kill it.

For that reason, on behalf of my colleague, the principal author of this bill, and myself, I must oppose the amendment of the distinguished Senator from Montana.

Mr. MELCHER. Mr. President, I am not going to prolong the debate on this much longer, because this is a very clear, easily understood amendment. It is subject to whatever the will of the Senate is, and that will determine the outcome of the amendment.

However, I must say this to my good friend from Minnesota: There is no compromise on this. There was no compromise worked out. Ten thousand acres was suggested to the tribe: "We are the State of Minnesota. We will give you 10,000 acres back." They said, "No."

It was not hard to think that would be much of a compromise. They never agreed to it. They rejected it outright.

The amendment seeks only to return that land that is found to have been acquired by the State of Minnesota unlawfully. The citizens of no State, in my judgment, want to create a situation to retain land once they have been advised that they have unlawfully denied somebody the right to their land. I do not think there is any such State out of the 50. I do not think Minnesota is that way, either.

It is for that reason that I suspect that the several public service groups in the State of Minnesota have recommended that the bill be defeated and that there be some way of negotiating a settlement that is not shameful.

This settlement does not extinguish the true, legitimate rights of some of the Indians and their heirs.

I think that was the intent of the League of Women Voters of Minnesota, when they passed their resolution in November and so advised us—I believe it was only yesterday or the day before. I was surprised that my friend from Minnesota did not seem to be aware of that resolution. I think that was the purpose of the Minnesota League of Women Voters in saying that the bill should not be passed, that it should be worked out, and that there should be some more just, proper way of handling this mess on White Earth and correcting it.

So in that vein I have offered this amendment regarding the State land because, of all the land that has shown up in someone else's ownership that had been Indian allottee land, that land which the State acquired by tax forfeiture clearly sticks out like a sore thumb. That should not have happened.

Congress has never stated in the Clapp amendment or any other act of Congress that you can take the Indian land and immediately start taxing. Apparently that was done. But, in order to do that, the trust responsibility would have to be extinguished. There is no indication on most of the land, now controlled by the State—I hesitate to say owned by the State, because I question how much of it is properly owned by the State—that titles simply were extinguished because the trust responsibility was not extinguished and the Indians did not have fee patent. Therefore, the land could not be taxed unless the Indian voluntarily asked to be taxed, and there is no evidence of that either.

So until land is removed from trust and there is a fee patent issued, no tax liability can occur without the Indian expressly volunteering to pay State or local taxes.

On that basis, I offer this amendment to clarify and straighten out one of the serious flaws in the bill. I hope it can be accepted.

I suggest that we are probably not going to vote on this tonight. I am sure we are not going to vote on it tonight. I suggest to my two friends from Minnesota that they review this carefully.

What the State legislature said in providing 10,000 acres to be returned to the Indian allottees is not really the question. The question is how much of it should be returned to the Indian allottees and what should be the just compensation involved.

This would help the bill if it were adopted. Clearly, the State of Minnesota does not want to own land if it holds it unlawfully. The question of whether or not there are meritorious claims will not be resolved by anything in the bill. By adopting this amendment, you can push to conclusion those investigations and those determinations that are now taking place by the Interior Department solicitors on whether or not Indian claims are valid on the basis that the land was taken from them by tax forfeitures.

Madam President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER (Mrs. KASSEBAUM). Is there a sufficient second? There is not a sufficient second.

Mr. MELCHER. Madam President, I make a parliamentary inquiry. If we are through debating the bill up to this point is there a question of going into morning business until we can complete action on this bill later tomorrow?

The PRESIDING OFFICER. Is the Senator making that unanimous-consent request?

Mr. MELCHER. That should be my friend from Minnesota making that kind of request.

Perhaps I could clarify it with my friend from Minnesota. I have no desire to attempt to utilize all 4 hours that has been allotted for this bill. I am certainly not suggesting that we sit around here trying to use that up.

If the Senator is concerned about that, I think we can reach a very prompt agreement on when we can. We have already one vote ordered, I believe. Am I correct, Madam President? Have we one vote ordered for tomorrow by unanimous consent?

The PRESIDING OFFICER. No. The yeas and nays have not been ordered, I say to the Senator from Montana.

Mr. MELCHER. Madam President, I am inquiring if we have not by unanimous consent already agreed to a vote to occur sometime tomorrow.

The PRESIDING OFFICER. Yes, the Senator is correct.

Mr. MELCHER. In light of that, if my friend from Minnesota is concerned about just sitting here to use up time and has no urge on his own behalf to debate further or has no request for others coming to the floor to debate, I suggest that we yield back almost all of our time and let the vote on this occur tomorrow along with the other vote and get done with it.

Mr. DURENBERGER. Madam President, my colleague from Montana has certainly a good sense for my body language. Even though I cannot observe the outdoors, someone made the observation that we are no longer on daylight time.

Mr. MELCHER. That is right. It is too late to be.

Mr. DURENBERGER. If I understand my colleague from Montana correctly, we have already agreed that there would be a vote on tomorrow at a time yet to be agreed upon because of some problems involving at least the majority side on a motion that I made. And the Senator from Montana is now proposing that vote be followed in a unanimous-consent request by a vote on his amendment which I may well move to table, and so it was with the possible consent of the Senator from Montana that it might be a vote on my motion to table his amendment, and let me inquire of the Senator from Montana. Is it his thought then that with the exception of the 10 minutes reserved on each side for the vote on my original motion, he would be prepared to yield back all time on the bill, S. 1396, if we yield back all time on our side, and to go to final passage on that bill as a third element of the unanimous-consent request?

Mr. MELCHER. Madam President, will the Senator yield?

Mr. DURENBERGER. I will yield for the purpose of the Senator responding.

Mr. MELCHER. I respond to my friend from Minnesota. I think the concern he is expressing is if we are going to yield back time on the 4 hours that was allotted for this bill. My answer to that is yes. I have no desire to state more than I have already stated on this amendment, and I have no further amendments, I might say to my friend from Minnesota. This is all the amendments I expect to offer.

So I am prepared to yield back all but a very minimal amount of time just so we can have time to clearly state what the pending amendment is about prior to the vote and another short wrapup of the entire bill just prior to its passage.

I would suggest to my friend, if all of this works out that we are going to do this tomorrow, then perhaps I would like to renew my request to my two friends from Minnesota to be careful they review both amendments. They might find there is more merit than they so far have allowed in their remarks and might have some different ideas about the merits of the amendment tomorrow.

But, nevertheless, I very much want to make it clear that I have no desire to just have us sitting here this evening just to use up that time. I think we are in a position where the majority leader does not want any more votes to occur tonight, for reasons that are probably meritorious. I do not know what the reasons are, but if it were not for that, I would be ready for all the pending votes and final passage.

I only suggest that we yield back the time so that that still is not hanging out there, which seems to be of a concern to my friend from Minnesota.

Mr. DURENBERGER. Madam President, I would then suggest to my colleague—and I see the minority leader is also on the floor and we can draw on his expertise as well—that we might consider entering into a unanimous-consent agreement that we would turn to the consideration of this bill at 10:30 a.m. tomorrow; that there be 20 minutes equally divided on the motion to table the appeal of the decision of the Chair, which is the tabling motion I referred to earlier; that there be 10 minutes equally divided on what I believe is amendment numbered 1416, the amendment last submitted by the Senator from Montana; that there then be 20 minutes equally divided on final passage; and that the votes, if they are to occur, on the motion to table, on the disposition of amendment No. 1416, and on final passage, occur back to back. I suggest that as a possible unanimous-consent agreement.

The PRESIDING OFFICER. Is there any objection?

Mr. BYRD. Madam President, reserving the right to object, I would like to see this request in writing.

Mr. MELCHER. Madam President, also reserving the right to object, I only want to mention the farm bill conference is meeting. I would want to be able to be there at any crucial time. I do not know about 10:30. I would attempt to ascertain when that would permit me to be there. But I think the time suggested by my friend is probably a pretty good time. He might want to make it a little bit earlier, at 10 o'clock; I am not sure.

Mr. DURENBERGER. I would say to my colleague, I am informed by the representatives of the majority leader that were he here he would indicate that it is not possible for the Senate to vote on tomorrow prior to 11:30, so that it would be his advice to us, in propounding this unanimous-consent agreement, that we consider the first of our votes under the agreement not occur prior to 11:30.

Mr. MELCHER. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COHEN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE GLENN AMENDMENT ON NUCLEAR TECHNOLOGY CERTIFICATION

Mr. COHEN. Madam President, I take the floor this evening to alert my colleagues about what is going on with respect to the appropriations conference right now. Several days ago, Senator GLENN offered an amendment to the continuing resolution that would do something that is very modest. It would require the President of the United States, with respect to the agreement for nuclear cooperation he had negotiated with the People's Republic of China, to certify to the Congress that IAEA standards or their equivalent would be met. That is something quite modest; it does not impose a serious burden upon the Chinese or upon the United States. Apparently, that reflected the sentiment of Members of this body; by a vote, as I recall, of some 59 to 28, an attempt to table Senator GLENN's amendment was defeated.

So, by a 2-to-1 margin, the Members of this body went on record in favor of the proposal of the Senator from Ohio.

Since that time, Mr. President, the phone lines have virtually been burning up in this town. The White House has been on the phone calling Members of the Senate and the House. Calls have been coming from Ambassador Kennedy from someplace across the globe. There is a full-court press underway right now to lobby the members of the Appropriations subconference and full conference with such intimidations as: "If the Glenn amendment is retained, that will spell the defeat and the doom of the nuclear pact that was negotiated"; or, "If the Glenn amendment stays on the continuing resolution, the President will veto the entire bill as a result of its inclusion"; or that "This will set relations with the Chinese back years"; that "The French will get the contracts." We now have a number of nuclear industrial contractors calling my office, and I assume Senator GLENN's office, at this time.

So the full-court press is on to try to persuade the members of the Appropriatons Committee to reject the vote that was taken so overwhelmingly in this body. They point to the fact that the House has no similar provision. Interesting. An interesting procedure occurred in the House of Representatives. They brought the Senate version to the House floor on a closed rule so no amendments were possible and now cite the fact that the House did not support the Glenn amendment. Of course; they were never allowed to consider it. So they have used every single device available to them to try to defeat a measure which, as I indicated at the beginning, is quite modest—not only quite modest, but quite important to the future of nuclear nonproliferation efforts throughout the world.

As I said the other day, I found it ironic, to say the least, that the same administration which went so public in condemning the policy of the People's Republic of China for dealing with their population explosion did not really concern itself too much with what that condemnation was going to do in terms of United States-China relations. They did not hesitate to condemn the Chinese publicly about their birth control proposals or programs. To me, that certainly was far more provocative and inflammatory than the amendment of the Senator from Ohio. And yet they have negotiated an agreement which is about as vague as anything that I have seen. I was concerned about this, as was Senator GLENN, during the course of a hearing before the Senate Governmental Affairs Committee's Subcommittee on Nuclear Proliferation I asked the Arms Control and Disarmament Agency exactly what sort of protections do we have. I will read the questions that I posed to Mr. Lewis Dunn, ACDA Assistant Director for Nuclear and Weapons Control:

> Q. S.J. Res. 238, approving the U.S.-PRC Nuclear Cooperation Agreement, bars the licensing of any export to the PRC under the Agreement until the President certifies to the Congress that the reciprocal monitoring arrangements "have been designed to be effective in ensuring that (exports) shall be used solely for intended peaceful purposes."
>
> What monitoring arrangements does ACDA consider to be required to "be effective in ensuring" that exports are used solely for their stated end use?
>
> Do the Department of Defense and the various members of the intelligence community agree?
>
> A. Article 8 of the Agreement for Cooperation with the People's Republic of China provides that the parties will establish bilateral mutually-acceptable arrangements for exchanges of information and visits to material, facilities, and components. At such time as the Agreement enters into force, the Executive Branch will begin the process of consulting with China on this matter. It is, therefore, premature to be specific about the details of these arrangements.

Madam President, it is premature to be specific about the details of these arrangements? What arrangements? All we have agreed to do is to talk about it sometime in the future. As Senator GLENN pointed out so clearly just the other day, the People's Republic of China did not hesitate to negotiate a bilateral agreement with Japan or Argentina and Brazil in which it accepts IAEA safeguards. It has agreed to the acceptable standards with those three countries. Somehow it has objected to meeting those standards with the United States. Our response has been, "Well, they are a nuclear power; therefore, we don't have to negotiate, we are not required to negotiate such safeguards. We do not have to do that because they are a nuclear power."

Well, there are degrees, I assume, of nuclear power. I suppose if someone constructs a nuclear bomb from their chemistry kit and literature they read, that makes them a nuclear power.

What we want to know is what in fact are the Chinese people going to be doing with the technology we are transferring, and are there sufficient safeguards that will preclude, or at least help prevent any transfer of that technology to other countries.

Now, up until very recently, P.R.C. was quite clear in terms of their policies. They were in favor of nuclear proliferation, particularly to Third World countries, absolutely in favor of it. I recognize that many of these comments came during the great Cultural Revolution and during the reign of Chairman Mao. But following Mao there still were policies and statements, up until almost a year ago, which indicated they still favored a policy of proliferation and did not want to see the nuclear club limited and made to exclusive. Since that time, they have moderated that position somewhat.

But I would suggest that members of the Appropriations Committee take a very careful look at some of the information that has been furnished to the Foreign Relations Committee, and hopefully to the House as well, regarding what the actual policies and programs have been of the P.R.C. It may be that they have in fact changed their way of thinking; that they intend to restrict the flow of this technology to other countries. If this international group has any meaning whatsoever and is dedicated to the nonproliferation of weapons, then it seems to me we are undercutting that agency by operating on a bilateral basis and agreeing with a power such as the Chinese that we can have something which is to be effective but apparently will be less effective than the IAEA standards.

That in turn raises another question. If, in fact, you can have something which is effective, but that does not measure up to the IAEA standards, then what we are saying is the IAEA standards are too high, that we do not need that level of protection. Therefore, those countries who have agreed to abide by that may come back and try to renegotiate.

I assume that South Africa and other countries might come in and say, "We don't need to meet those standards. You, yourself, have just entered into an agreement with the Chinese saying you have something that's effective, yet does not measure up to the IAEA standards."

I think we are setting a very dangerous precedent. It is an unnecessary one. We are going to negotiate sometime in the future—after this agreement becomes effective. All Senator GLENN is asking for is, as you negotiate what the standards are going to be, simply certify to us that either the Chinese have measured up to the IAEA standards or their equivalent. But do not come back with an agreement on monitoring arrangements that is something less than IAEA and say it is effective, because what you will have done is undermine the entire International Atomic Energy Agency and, I think, done a great discredit to our attempts to curb this threat of nuclear proliferation.

Madam President, I wanted our colleagues to be aware of what is happening. The halls are packed. The phone lines are jammed. Everybody is trying to persuade members of the Appropriations Committee that doom is going to follow if the Glenn amendment passes. It does very little, I might say, in terms of its total impact. It is fairly modest. It is not as stringent as the other three requirements that he would have insisted upon had the measure passed the Foreign Relations Committee as he had drafted it or had we had an opportunity to debate it on the floor of the Senate. So he has imposed very little burden upon the President of the United States, very little burden upon the Chinese people. But, rather than having something that is vague and ambiguous to be negotiated later, all we are looking for is a very simple statement and one that I think we have a moral obligation to insist upon.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. DURENBERGER). The Senator from Ohio is recognized.

Mr. GLENN. Mr. President, I followed the remarks of the distinguished Senator from Maine very carefully. He is right on target. I do not have the longest tenure in the Senate of the United States, but I have been here 11 years and only rarely in those 11 years have I seen what I term a real full court press on lobbying from the administration. Last night that included Ambassador Kennedy making calls from Brazil, included newspaper reports this morning of cables from our Ambassador in Beijing quoting the Chinese that if this amendment stayed in it was going to shoot this agreement down. It included meetings with an Assistant Secretary of State all over Capitol Hill today. And late this afternoon we were threatened directly with a White House veto of the continuing resolution if it includes this amendment with regard to China.

Mr. President, I can only conclude that there must be something secret they have agreed to which we do not know about yet. This is a very simple, straightforward amendment that strengthens what was passed in the Senate Foreign Relations Committee, strengthens what was passed in the House of Representatives. It is so simple and straightforward and right. It is what we have agreed to ourselves and what other nations that we do nuclear business with have also agreed to. It is what we agreed to with the Canadians a short time ago when they wanted to sell some nuclear equipment in this country. We agreed to IAEA safeguards. In the language of the amendment we ask for IAEA safeguards or their essential equivalent.

I can only conclude that there must be something secret that was negotiated out there that we are not aware of, because this amendment is so simple and straightforward. It does not require negotiations that are not already provided for in the agreement.

In my 11 years here, I have never seen so much nonsense and gobbledygook and misrepresentation about very small, straightforward, strengthening language for an agreement that has been negotiated.

When the agreement was sent up here, I thought there were four areas that needed strengthening. One dealt with verification of peaceful uses. That is the one we are dealing with now. The others were U.S. consent rights—in other words third party transfers, and so on—another was a statement of Chinese nonproliferation policies, which the distinguished Senator from Maine already mentioned and which I will refer to again in a few minutes. Also, they would agree that future U.S. export laws would apply.

I wanted to strengthen those four areas. I submitted a bill to that effect. The Senate Foreign Relations Committee took it, watered it down, redid it. I thought they made it much weaker.

But, in fashioning this amendment, I dropped three of those four areas and just concentrated on the one I thought had the greatest worldwide importance, because the world has become accustomed to IAEA safeguards as the norm for nuclear monitoring, so that material and equipment is not misused.

I submitted this to the Foreign Relations Committee, and they passed their resolution and it came to the floor. That is where we took on this process of adding to it in order to strengthen it a little so that we do not undercut the other 130 nations that have agreed to IAEA safeguards and use them.

Even the People's Republic of China has signed agreements with Argentina, Brazil, and Japan on which full IAEA safeguards are in place now. They agreed to it. It is nothing new.

The Japanese negotiated it, the Brazilians negotiated it, and the Argentines negotiated it, and our people say the Chinese were "adamant". Isn't that terrible?

Here is the language they came back with as to how they are going to deal with verification of peaceful uses:

> The parties will use diplomatic channels to establish mutually acceptable arrangements for exchanges of information and visits subject to this agreeemnt.

That very clearly states that the agreement requires that there be further negotiations. That is not finalized. We have not agreed that it is finalized. It says right there that we will have other arrangements for exchanges of information and visits.

What did we provide in our amendment? We provided one thing: We say that when those negotiations take place, all we ask is that the verfication norm we use for every other country in the world—which we have used with our close neighbor and good ally and friend, Canada—that IAEA safeguards or their equivalent be put in, instead of the language that was used in the Foreign Relations Committee, which simply says that we will make arrangements that will be "effective."

That is the word that is used. What is "effective?" "Effective" to the rest of the world means IAEA safeguards or their equivalency, and that is exactly what we have asked for. To do anything less than that means that we are treating China, which has been volatile in their foreign policy, which has had two changes in government and direction over the last 15 years, better than any of our closest allies.

Let me tell you about their nonproliferation policy, going clear back to 1963. This was Chinese policy as reported in the Peking Review, an official statement:

> Whether or not nuclear weapons help peace depends on who possesses them. It is detrimental to peace if they are in the hands of imperalist countries; it helps peace if they are in the hands of socialist countries. It must not be said indiscriminately that the danger of nuclear war increases along with the increase in nuclear powers. . . . Nuclear weapons in the possession of a socialist country are always a means of defense against nuclear blackmail

> and nuclear war. So long as the imperialists refuse to ban nuclear weapons, the greater the number of socialist countries possessing them, the better the guarantee of world peace.

In other words, their policy was that they wanted to spread nuclear weapons to more countries as long as they were Communist nations, the socialist nations of the world. Then, in 1966, Zhou En Lai stated that the draft Nuclear Nonproliferation Treaty [NPT] was "a great conspiracy against all peace-loving countries and people."

In 1981, a Chinese delegate declared to the U.N. Commission on Disarmament that a comprehensive test ban "Can only tie the hands of those countries with weaker defense capabilities. . . ."

So that they have had a pro-proliferation stance. They wanted to spread nuclear weapons.

It was not until January of 1984 that they finally came out with this statement, made by Premier Zhad Ziyang:

> . . . We by no means favor nuclear proliferation, nor do we engage in such proliferation by helping other countries to develop nuclear weapons.

That was the first time in Chinese history that they came out against the proliferation of nuclear weapons. But their behavior since then has raised some questions, and that is one of the motivations for our amendment.

This is so simple that I cannot understand the pressure being put on the conference committee.

I cannot figure out exactly why this has become such an important matter to the administration, when it is such a simple thing we are asking for: just that we put the same kinds of monitoring capability on the equipment or technology we will send that are used in all other nations with IAEA inspections and materials accounting practices. Nothing more than that whatsoever.

The distinguished Senator from Maine, who has worked with me long and hard on this, brought up several other matters.

Let me ask this question:

Why should we demand safeguards of the Chinese when they are already a weapon state and do not need our technology to make weapons?

The answer is that it is not true that our equipment and technology would not be useful in the Chinese weapons program. We will be sending electronic equipment and computer codes that will be useful to the People's Republic of China in modernizing their production reactors for making plutonium and for improving their nuclear sub reactors.

In addition, anyone who has followed developments in the international nonproliferation regime over the past decade knows how sensitive the question of discrimination between weapon states and nonweapon states over safeguards has become.

If we do not demand safeguards of the Chinese, then we are saying to India, Israel, South Africa, and others, "All you have to do is declare yourself a nuclear weapons state and we will be glad to send you nuclear equipment and technology without safeguards." We are saying to the other 130 nations: "Don't worry about it. We didn't mean we're going to be tough about this or we're going to provide leadership."

What we are saying is that when the going gets tough, we will give in. We will not even have the same safeguards Brazil and Argentina obtained from China, even though our technology is far beyond theirs.

We went through a difficult period with India a few years ago, and our relationship is still suffering, because of the misunderstandings about our nuclear agreement that occurred there.

Another question might be this: What if the People's Republic of China will not accept safeguards? Will we not be better off having influence over the Chinese nuclear program by trading with them if the agreement goes down the tubes?

That is the old, traditional argument, Mr. President. I think it has no validity.

The logical conclusion of this argument is that we should have no requirements for nuclear trade at all so we can just put this equipment, this technology out all over the world and influence everyone's policy by nuclear trade.

We did have a much looser policy on nuclear trade until the mid-1970's, and there was so much concern about this that we passed the Nuclear Non-Proliferation Act of 1978. That was basically my legislation.

We decided then while we were trying to scale down our nuclear weapons stockpiles with the Soviet Union it made common sense to try to prevent the spread of nuclear weapons to more countries around the world while we were trying to get contol of this problem that is already too big. So we took the lead in saying no, we will not just try and proliferate this technology and equipment around the world. What we will try to do is use government-to-government leadership. We will provide that kind of leadership and say to the rest of the world this is so important, it is more important than business as usual.

We have the lobbyists out all over Capitol Hill tonight for the nuclear industry. I can guarantee you that. They have been ringing my phone off the hook and the phones of dozens of other Senators that I talked to and Senator COHEN referred to that.

Mr. COHEN. The lights are out in my office.

Mr. GLENN. The lights are on, I can guarantee you, for the dollars.

Let me say this. I am not against this agreement. I favor trade with China. I favor nuclear trade with China. I said that right from the start.

I have been a friend of China all these years. I worked on our China relationship the entire time I was on the Foreign Relations Committee. I lived in China for 6 months at the end of World War II.

I give in to no one on my interest in China, and I want to see this agreement go through. But I want to see it go on the right basis.

I do not want to see our standards watered down in order to send nuclear equipment to China, that has had a history, rumors at least, of helping other countries to make nuclear weapons, and those statements have been made in this Chamber by some Senators here. I will not repeat those statements. The information I have on that was classified. I do not plan to either substantiate or deny what has been said before. But the rumors are out there. We know that they are more than rumors I'll go that far at least.

When other nations can negotiate with them and get safeguards in their agreement, and we come back and say we cannot, and put on a full court press, I am puzzled. I do not know whether this has gotten to be a matter of macho, perhaps because I brought it up, perhaps because Senator COHEN brought it up, because we made an issue out of this. We believe we are doing something important for the future security of the United States. But all at once they have gotten their heels dug in over there and they are opposing this for reasons which make no sense.

All it does is strengthen what passed the Senate of the United States in committee and on the floor and has now passed the House of Representatives.

All we say is that where they say "effective," we define effectiveness to be what the world says effectiveness is in this monitoring area, and that is basically the IAEA standards and procedures.

Yet the White House says that we are going to tear this thing apart, that that may result in a veto of the continuing resolution, that it is going to wreck our relationship with China.

I repeat, there must be something here that we are not being told, if it is going to wreck it, because the agreement already provides for talks to discuss what verification will be.

We are not asking that that be changed. We are just saying when the get to having the talks that they are going to have that the standard for effectiveness be what the rest of the world accepts.

Mr. COHEN. Mr. President, will the Senator yield?

Mr. GLENN. I yield.

Mr. COHEN. I wonder if the Senator has had a chance to see the item in today's Washington Post where it has a quote from the Foreign Ministry of China that says the modification by Senator GLENN raises unreasonable demands of the United States side to unilaterally change some substantial provisions of the pact and any unilateral-imposed additional provisions beyond the agreement are completely unacceptable.

We have to question; first, whether or not it raised unreasonable demands by the United States. According to the U.S. administration, they have not reached that position yet. They have not reached that point in time, because there have been no negotiations that we are aware of as to exactly what standards are going to be imposed. So for the Chinese Foreign Ministry to complain how we unilaterally have raised unreasonable demands really is a false issue because no demands have been made because they have not taken up negotiations yet.

Mr. GLENN. I do not know what the Chinese are being told, does the Senator?

Mr. COHEN. I do not know if they are being told what is in the Glenn amendment.

Mr. GLENN. I do not think they are, either.

Mr. COHEN. Mr. President, if I could just go further. The Senator touched upon the issue of misunderstandings with India and what that has done. I would simply point out that the Senator from Ohio and I worked on the matter with India as well. I think we were equally unsuccessful in what we were trying to do at that time and this led to misunderstanding.

I raised this issue with Mr. Adelman sometime ago when he came before our subcommittee and asked him what his experience was when there has been disagreement between two major countries over the interpretation of a treaty provision, or in this case, an agreement. Mr. Adelman, who certainly has had some experience with ACDA said: "My experience has been that they just talk about it forever until the accusing party decides to forget it. It has not been a happy experience."

And that is precisely the point. It has not been a happy experience when you have agreements that are left ambiguous, where each side might be free to interpret it according to its own wishes, and it results ultimately in a misunderstanding and the breach of the agreement. When it comes later it causes a much deeper anxiety and regret.

So I would say if there is going to be any misunderstanding, better to have it now, better to have the misunderstanding right now and to clarify it, rather than run the risk of undertaking this agreement. If, in fact, they are successful in shearing away the Glenn amendment from the continuing resolution, if they intimidate the conferees with these threats of veto or charges that it is going to jeopardize our entire relationship with China, that will not be the end of this matter. That will not be a silver bullet in the heart of the Glenn amendment, because it is going to come back. The Glenn amendment will come back in January. It will be introduced as separate and free standing legislation. It will be attached to any and every vehicle we can conceive of in order to finally define what sort of standards are going to be agreed to, because we do not want any misunderstandings. We do not want any misunderstandings a year from now or 2 years from now when the issue finally crystalizes and they say, "We are sorry; we have a different interpretation."

So I want to put everyone on notice that I am hoping that the conferees will not cave in to the White House and to the outside pressure. But if they do, this is not the end of the matter. It will be back in January, February, March, and April, and on into next year and the year thereafter.

Mr. GLENN. I can only say amen to what the distinguished Senator from Maine just said because this is not something that is going to go away. It is not that we dislike the Chinese. We want to work with them. We want to do it on the basis of solid trust. We want to do it on the basis of being able to verify what use is being made of American-supplied technology and equipment.

Mr. President, this is not something new for the State Department or for our Government. Back in 1982 a report by Bernard Gwertzman of the New York Times reported in an article on the front page. I read in part.

> State Department officials said that discussions on a possible agreement had been held privately with Chinese officials and have up to now been hampered by China's refusal to sign the treaty banning the proliferation of nuclear weapons or to join the International Atomic Energy Agency and abide by its safeguards. China already has nuclear weapons, but the Administration . . .

Listen to this—

> is insisting that China allow inspection to demonstrate that any help from the United States be used strictly for nuclear power.

That shows our State Department's own concern back there. They wanted safeguards then.

What happened? Who caved in? Who gave up on these demands? Japan, Brazil, and Argentina get full IAEA safeguards and we cannot even get the equivalency written into the bill from the Congress of the United States.

The administration is claiming all sorts of things about how this is going to dump arrangements, wreck nuclear cooperation with the People's Republic of China.

Mr. President, the Washington Post this morning had an editorial that discussed this issue. It is an editorial, and I will not read it all.

I ask unanimous consent that it be printed in the RECORD immediately following our remarks and our comments here by the distinguished Senator from Maine and myself because I think it puts it right on the head.

The PRESIDING OFFICER. Without objection it is so ordered.

(See Exhibit 1.)

Mr. GLENN. Mr. President, it says that we are committed to making sure that our technology and equipment does not get misused, and that is all that we have brought up on this.

The editorial also urges in the last paragraph to do exactly what the Senator from Maine has said.

I will quote it:

> It's a reasonable and conventional requirement. If it's not enacted with the continuing resolution, the Senate will need to return to it next year.

And I could not agree more.

I hope that our conferees are going to hang tough on this, are going to insist on this. We had a 59-to-28 vote here in the Senate of the United States on this matter. The Senate expressed its will on that and I do not think there is any doubt that it is in the best interest of our country. In fact, I think it is in the best interest of China, because it means that, once we have this in place, there can be no misunderstanding. We can go ahead knowing the Chinese are going to be cooperative with us in making certain our material or our technology or our equipment is not misused.

We are much more likely to cooperate on a free and open basis with China if we have that kind of a standard from which to start. We know that kind of effectiveness is guaranteed. And we are much more likely to expand this nuclear relationship to the greater benefit of China than we ever would if we do not have such an agreement.

So let me just recap again. This amendment should be adopted because it insures there will be adequate verification of peaceful uses for U.S. nuclear exports to China. We are using standards and methods recognized by more than 130 nations, both weapons states and nonweapons states. We do it with Canada. They asked for IAEA safeguards when we trade with Canada. We do the same thing with them and also Australia.

It does not require any new discussions with the Chinese. That is one of the canards that has been bandied about today, that this requires us to open up the whole negotiating process again. Nothing could be further from the truth. The negotiating process is already provided for. All we are trying to do is set a standard when they get to those negotiations. And it is not an unacceptable standard. It is one that 130 other nations of this world accept.

Mr. COHEN. If the Senator will yield, what happens to the existing standards? If we come up with a different standards for China, what happens to the IAEA standard at that point?

Mr. GLENN. To answer the distinguished Senator's question, and it is a very good question, I think we will be sending a message to the entire world that the IAEA system is tougher than it needs to be. This is a step backward in United States support for the nonproliferation regime, and will be greeted with pleasure by counties like Libya, Iraq, South Africa, and Pakistan.

It means, that if countries really want to get nuclear cooperation from us, the best things they can do is make nuclear weapons and then we will give them more technology with even less safeguards than we have with them right now.

So opposition to the amendment does not make any sense at all. It undercuts what we have tried to do for the last 10 years or more under IAEA and under the nonfproliferation treaty. There is no reason for it, because all we are saying is, in this negotiation that the State Department has to go through anyway by their on agreement, we are just providing a standard for them. We think it strengthens the international nonproliferation regime and it asks nothing of the Chinese we are not already doing ourselves.

Senate Joint Resolution. 238 only requires that the arrangement be "effective," but it provides no definition of "effective," no standard of effectiveness. This amendment provides the standard. It is both reasonable and universally recognized. It is the worldwide standard.

Mr. COHEN. Mr. President, if I could interrupt the Senator. What, in the Senator's judgment, would happen if, after the negotiations were completed and the administration came back and said that this is the standard we have agreed will provide for the effective oversight and we, as members of Foreign Relations, Armed Services, Intelligence, or whatever committees, or the full body itself, say, "We don't think they measure up?" What do we do at that point, when we have the complete agreement and everybody is ready to go and it comes back to the Senate and we say, "We disagree with you. We don't think these are as effective as they are required to be and, therefore, we reject them"? What happens then?

Mr. GLENN. Mr. President, I say to my colleague, at that point we really would have a diplomatic crisis, because then we made an agreement, they had the facilities probably going into place at that time, and we are saying, "No, you just stop whatever it is you already started."

We are at the stage right now where we are setting those rules for the future. It is where we went wrong with India years ago. Let us not make that same mistake twice.

Will there be an adverse effect on United States-China relations? I do not think there will, because this agreement provides for additional negotiations on verification arrangements. All we do is say that IAEA safeguards, or their equivalent, must be made the mode of verification. China is a member of IAEA now. It does not mean their facilities are under safeguard. They have not yet declared which facilities will be under safeguards once they designate it. But they are members of IAEA. They are familiar with it.

If they want our technology, I think they have to agree to safeguards. Every other weapons state—the United States, United Kingdom, France, Union of Soviet Socialist Republics—has some of their peaceful nuclear facilities under safeguards. None of it is burdensome. We do it in our country. We have some of our facilities under IAEA safeguards. The least we can do is have them do the same thing.

Mr. COHEN. If the Senator will yield, I would just like to remind our colleagues that the Senate passed the Glenn amendment by a margin of 2 to 1; 2 to 1 in favor of this very modest provision. The House of Representatives did not have that opportunity to even consider either the Glenn amendment or a variation of the Glenn amendment. So they have no record of being either for or against this. But the Senate is on record 2 to 1 in favor. The House has not been given the opportunity to consider such an amendment.

I hope that our conferees will take that into account, that the House in no way expressed a dissent or disagreement with the Glenn amendment, but, rather, were precluded by their own rules and procedures from ever considering it.

So we have one House very strongly in favor and the other House not having considered it. I think it would be a great travesty if our conferees simply would cave in to the pressure being generated by the White House at this time.

Mr. GLENN. I could not agree with my colleagues more. He has had a long record of distinguished work in this area of nonproliferation, one of which the people of Maine should be proud of, and I know they are. We have worked together on a lot of these things. On this one, it seems so clear to me, unless there is something secret that none of us have been told here, unless there is something causing this full court press that we are not aware of, then it just is common sense that we put this minimal restriction on.

So I do not want to carry on at any more length tonight, except to ask the conferees, who are meeting this evening as we speak or will meet shortly, to ask them to consider the editorial that was in the Washington Post today.

I say to them, as my distinguished colleague from Maine has said already, that this is not an issue that is going to go away. If this is not put on now, I can assure you it is going to be on some legislation after the first of the year and may be repeated. It is going to be less advantageous as time goes by, because, as time goes by, it would probably be more disruptive than if it was passed now. It is time to require this minimum level of verification, through IAEA safeguards.

I repeat, once again, just to wrap up, this does not require new negotiations with the Chinese. I do not care what the State Department says; I do not care if Ambassador Kennedy calls back from Brazil warning people that to open this whole thing up again would be disastrous. It does not require new negotiations not already programmed. The agreement they signed provides for that.

It says, and I will quote it once more:

> The parties will use diplomatic channels to establish mutually acceptable arrangements for exchanges of information and visits subject to this agreement.

It is all prospective. That arrangement has to be made. All we are saying with this is:

> Please, when you negotiate, Mr. President, negotiate something that is at least equivalent to IAEA safeguards.

It is not going to wreck Chinese relations. All it does is say we are going to treat China the way every other nation of this world is treated in nuclear trade. We do not see why they should be made an exception when their track record is not that good in proliferation of nuclear weapons.

So, Mr. President, unless my distinguished colleague has more to say on this, I think we have pretty well laid out what the situation is. I hope the conferees from the House will not just stay locked in on this. I hope they would recede to the Senate position on this, because, to me, it just makes so much sense that we put the Chinese in the same position we do our other nuclear trading partners.

And that guarantees a very solid Chinese-American relationship for the future, and that is exactly what I want to see. I want this to go through but on the proper basis.

EXHIBIT 1

WHETHER TO TRUST CHINA

In the Senate, uneasiness seems to be increasing over the nuclear agreement with China. The agreement is now in effect, and under it American manufacturers will be able to sell power reactors and related technology to the Chinese. In return the Chinese have pledged not to divert it to military uses or help any other country—Pakistan, for example—to build nuclear weapons. But the United States will have no reliable way of knowing how faithfully the Chinese abide by their commitment.

Sen. John Glenn of Ohio has brought up this uncomfortable reality several times recently, and each time a few more senators have joined him. This week they were a majority. On Monday he succeeded in attaching a brief and useful paragraph on this subject to Congress' end-of-session continuing resolution on federal spending. The Senate leadership tried to set the Glenn amendment aside but, when it came to the roll call, they lost by 28 votes to 59. The amendment probably won't survive in the final legislation, because the conference is going to try to throw out everything not strictly related to spending. But those 58 senators voting with Mr. Glenn represented a remarkably wide range of both parties from right to left, and they are right.

When the United States sells nuclear reactors to other countries, it insists on safeguards—the system of international inspections and materials accounting that is administered by the International Atomic Energy Agency. In the Chinese agreement, there is no reference to safeguards. The United States has settled there for substantially less rigorous assurances.

The administration argues that it considers the Chinese commitments to be dependable, and that they will tie China securely into the worldwide effort to prevent further proliferation of nuclear weapons. The Glenn amendment, according to the administration, would force renegotiation of the whole agreement and broadly damage relations with China. That is not a trivial case. China has often behaved badly in the past in regard to spreading nuclear technology around, and even its relatively loose promises to the United States representing important progress in arms control.

But, Sen. Glenn asks, does it make any sense to sell nuclear technology to China under less demanding rules than, say, to Japan? Why trust China more than our allies? He argues that this agreement will become a precedent for a general relaxation of the world's nuclear control standards, and he's right. The Glenn amendment would simply apply safeguards to any nuclear technology that the United States sends China. It's a reasonable and conventional requirement. If it's not enacted with the continuing resolution, the Senate will need to return to it next year.

Mr. GLENN. I yield the floor.

FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 1986

Mr. HATFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the continuing resolution.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.J. Res. 476) making further continuing appropriations for fiscal year 1986.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. HATFIELD. Mr. President, we have reached a point in funding activities where we have to take additional action other than the continuing resolution which we are now currently operating under that expires at midnight tonight. I would like to make a brief report as to precisely where we are in the current continuing resolution that has been in conference since yesterday afternoon.

We have made excellent progress. We have tentatively approved 10 of the 13 appropriation bills. We have finished the work on foreign operations which will then be taken up at our next meeting, and we expect to complete the work on the military of the defense appropriations bill—by the way, this is the bill, the appropriation bill that we are in conference on wrapped into the continuing resolution. We expect to finish that tomorrow about this time.

We will also complete the Interior appropriation bill. Again, we are negotiating with the House the bill as reported by the Senate, and as reported and passed by the House.

I want to also report that we have been working with the White House representatives on each of these appropriation chapters in the continuing resolution beginning with agriculture, State-Justice-Commerce, foreign operations, transportation, Treasury-Post Office, HUD, energy-water, and we have in each case that we have approved reached the benchmark target figure that was in a document sent to the committee by the Director of OMB representing the President of the United States as to the figure that would be acceptable, and therefore would be signed into law.

In addition to the figures represented by these benchmarks, we had a so-called hit list of a number of language provisions in the continuing resolution, and project provisions which the White House indicated would be subject to further consideration before they would sign the continuing resolution. And as a consequence, we have been working along that parallel track between these matters of language and, as well, dollar benchmarks.

I am satisfied that we have progressed to the point where I feel very certain that we can complete the continuing resolution by Monday. As I say, the Defense Subcommittee expects to complete its work by tomorrow night—Friday night. The Interior expects to complete its work by later this evening. That would mean that the full committee would reconvene to consider the reports of these subcommittees as well as some continuing resolution issues which are over and above the committee bills that have been negotiated.

I assume that meeting will occur on Monday, hopefully early, but maybe not until early afternoon. I do not anticipate that it would take the full committee more than 2 to 3 hours at the most to resolve those issues, and then put the bill to conference perhaps later that night, or later that afternoon, and complete the continuing resolution and have assurance that the President will sign it once the committee reports are adopted by both the House and the Senate.

The House of Representatives now has sent to us, therefore, a shorttime extension to Monday at 6 p.m. The incentive, of course, and the prod, the leverage, whatever you want to call it, is there to complete therefore everything by 6 o'clock on Monday night. We may run over an hour or two, or we may do it even before 6 o'clock. But at least we now have before us an opportunity to bridge this gap that will start at midnight tonight. And I do not think any of us want to get into that situation of furloughing employees, or whatever. That is a potential if we do not take action on this short-term extension of the continuing resolution.

Mr. President, that is the report to the body from the appropriations conference on the continuing resolution, and as well which I have checked this matter with Senator STENNIS, the ranking member of the committee. Senator STENNIS has approved the extension incorporated in this resolution representing the minority of the committee, or the Democratic side of the committee. And I am therefore calling it up at this time for action by this body.

Mr. President, there have been some inquiries concerning the expiration of a number of taxes that concern Members of this body, a retirement tax, a tax relating to retirement, a tobacco tax, and one other that I cannot think of at the moment that people have inquired as to whether or not we should amend this by putting them on this bill. I communicated with the House leadership on this matter, and the House leadership has now drafted a resolution that is being discussed on the floor at this very moment incorporating those three taxes in a separate standing extension resolution.

So that for those who have made inquiry about whether we should try to amend this short-term resolution, the House has now taken the action on a parallel track. That will be over to us within one-half hour for us to act upon. Therefore, it will not be necessary to amend the continuing resolution.

I am told the chairman of the House Ways and Means Committee, Mr. DAN ROSTENKOWSKI, had been asked concerning this question when the short-term continuing resolution was discussed over with the Democratic leadership in the House. He indicated it was his preference to handle this in a separate standing vehicle, and therefore, that matter will be taken care of in that way so we do not have to concern ourselves with amending the resolution before us.

I have informed the chairman of the Finance Committee of the Senate about this development, and I informed those parties who have inquired of me about whether they should seek to place an amendment on this resolution. So that they are aware this other vehicle is in process coming to us to handle those concerns.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Oregon.

Mr. HATFIELD. Mr. President, I move the adoption of the continuing resolution.

The PRESIDING OFFICER. Are there further amendments? If not, the question is on the third reading of the continuing resolution.

The joint resolution (H.J. Res. 476) was ordered to a third reading, was read the third time, and passed.

Mr. HATFIELD. I move to reconsider the vote by which the resolution was agreed to.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

STATUS REPORT ON RECONCILIATION

Mr. DOMENICI. Mr. President, I want to give a sort of status report about the reconciliation subconferences. I understand that this morning, there appeared to be a rejuvenation of the spirit with reference to reconciliation and that this even got a little more concerted and maybe a little stronger by noon today. I was wondering, myself, why. We have tried on our side to tell the chairmen of these various subcommittees that it is very important that we get the reconciliation bill passed. Now it appears that there is a growing understanding of the significance of reconciliation, with the increase in economic prosperity, the upturn in the major economic indicators that started about 4 or 5 weeks ago. I understand that it is logical for many of the chairmen and ranking members who have received information on the economics to assume if the reconciliation bill is passed and signed by the President such that it causes savings consistent with those required in the budget resolution, it would indeed have a significant impact on whether or not we have to sequester $20 billion annualized come January 15.

Many of us thought the reconciliation bill would have no impact on that, that that was a sort of given. It turns out now that the economic indicators are good enough that the deficit might be reduced substantially and if we reduce it yet further with the reconciliation bill, we might not have to sequester the entire amount mandated by Gramm-Rudman and that, therefore, the social programs—programs on the nondefense side—would get hit less in that first sequester in January and defense would get hit less. If that occurs, it seems that almost everybody in Congress would think that is something we should try to accomplish.

Mr. President, I am merely reporting that I do not have exact numbers but for those who are questioning whether or not we should do reconciliation, there is a practical reason to do it. It seems now both the House and the Senate have said we will try to do it. I understand the House is going to stay in next week hoping we will finish on reconciliation. I am informed that it could indeed reduce the amount of sequestration on nondefense and defense programs required in January and February under the automatic provisions of Gramm-Rudman. I think that makes our efforts extremely worthwhile and I hope we will complete it.

I hope the staff and those who are concerned about reconciliation will inquire and that the chairmen and ranking members of these various subconferences, if they have questions, will confer and talk to us and others because I think it would have a significant impact on what happens to programs by way of automatic cuts in January if we can complete the reconciliation before we go out.

Mr. President, I yield the floor.

WHITE EARTH RESERVATION LAND SETTLEMENT ACT OF 1985

UNANIMOUS CONSENT AGREEMENT

Mr. BOSCHWITZ. Mr. President, I ask unanimous consent that following morning business tomorrow and not before 11:15 a.m., the Senate resume the consideration of S. 1396, the White Earth Indian bill, and that there be 20 minutes of debate on amendment No. 1415, to be equally divided between the Senator from Montana [Mr. MELCHER] and myself or our designees to permit debate on the Durenberger motion to table the Melcher motion to appeal the ruling of the Chair that the Melcher amendment No. 1415 was not germane.

I further ask unanimous consent that following the debate in relation to amendment No. 1415, there be 10 minutes of debate to be equally divided in the same fashion as described above on amendment 1416 and that at the conclusion or yielding back of time, the Senate proceed to a vote in relation to the Melcher amendment No. 1416 without any intervening action.

I also ask unanimous consent that there be 10 minutes of debate on the bill to be equally divided in the same fashion as described above, and that there be no other amendments in order with the exception of the abovementioned amendments and the committee-reported substitute.

I further ask unanimous consent that there be 10 minutes of debate on any debatable motions, appeals, or points of order if such be submitted to the Senate, and that no motion to recommit be in order and the agreement be in the usual form.

Mr. BYRD. Mr. President, reserving the right to object.

Mr. BOSCHWITZ. Mr. President, I wish to amend the unanimous-consent request slightly where it stated, "I further ask unanimous consent that following the debate in relation to amendment No. 1415." At that point, I add the following three words, "and its disposition."

Mr. BYRD. Mr. President, I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF TOBACCO EXCISE TAX AND CERTAIN OTHER TAXES

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of H.R. 3918, the tobacco excise tax.

The PRESIDING OFFICER. Is there objection? Without objection, the clerk will state the bill by title.

The assistant legislative clerk read as follows:

> A bill (H.R. 3918) to extend until December 18, 1985, the application of certain tobacco excise taxes, trade adjustment assistance, certain medicare reimbursement provi-

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sions, and borrowing authority under the railroad unemployment insurance program.

Mr. PACKWOOD. I ask unanimous consent that the bill be considered to have been read the first and second times and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

Are there amendments? If there be no amendments to be proposed, the question is on the third reading of the bill.

The bill (H.R. 3918) was read the third time and passed.

Mr. PACKWOOD. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE CALENDAR

Mr. PACKWOOD. Mr. President, I inquire of the minority leader if he is in a position to pass the following calendar items: Calendar No. 446, (H.R. 784); Calendar No. 470 (S.J. Res. 214); and Calendar No. 471 (S.J. Res. 215).

Mr. BYRD. Mr. President, I am pleased to inform the distinguished acting majority leader that all of the items are cleared on this side of the aisle for immediate consideration.

PANAMA CANAL COMMISSION AUTHORIZATION ACT, FISCAL YEAR 1986

The Senate proceeded to consider the bill (H.R. 1784) to authorize appropriations for fiscal year 1986 for the operation and maintenance of the Panama Canal, and for other purposes, which had been reported from the Committee on Armed Services, with an amendment:

On page 6, strike line 24, through and including line 4 on page 7, and insert the following:

Section 5 and Section 6 of the Act shall be effective as of October 1, 1985.

So as to make the bill read:

H.R. 1784

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Panama Canal Commission Authorization Act, Fiscal Year 1986".

SEC. 2. OPERATING EXPENSES.

There is authorized to be appropriated from the Panama Canal Commission Fund to the Panama Canal Commission (hereafter in this Act referred to as the "Commission") for the fiscal year beginning October 1, 1985, not more than $436,784,000, for necessary expenses of the Commission incurred under the Panama Canal Act of 1979 (Public Law 96-70; 22 U.S.C. 3601 et seq.), including expenses for—

(1) the hire of passanger motor vehicles and aircraft;

(2) the purchase of passenger motor vehicles as may be necessary for fiscal year 1986, the number and price of which may not exceed the amount provided in appropriation Acts; except that large heavy duty passenger sedans used to transport employees of the Commission across the Isthmus of Panama may be purchased for the fiscal year 1986 without regard to price limitations set forth in applicable regulations of any department or agency of the United States;

(3) official receptions and representation expenses, except that not more than $33,000 may be made available for such expenses, of which (A) not more than $8,000 may be made available for such expenses of the Supervisory Board of the Commission, and (B) not more than $25,000 may be made available for such expenses of the Administrator of the Commission;

(4) the procurement of expert and consultant services as provided in section 3109 of title 5, United States Code;

(5) a residence for the Administrator of the Commission;

(6) uniforms, or allowances therefore, as authorized by sections 5901 and 5902 of title 5, United States Code;

(7) disbursements by the Administrator of the Commission for employee recreation and community projects; and

(8) the operations of guide services.

SEC 3. CAPITAL OUTLAY.

Of any funds appropriated pursuant to section 2 of this Act, not more than $26,500,000 (which is authorized to remain available until expended) may be made available for the acquisition, construction, replacement, and improvement of facilities, structures, and equipment required by the Commission.

SEC. 4. AUTHORIZATION OF ADDITIONAL APPROPRIATIONS.

In addition to the amount authorized to be appropriated by section 2 of this Act, there are authorized to be appropriated to the Commission for the fiscal year 1986 such amounts as may be necessary for—

(1) increases in salary, pay, retirement, and other employee benefits provided by law;

(2) covering payments to Panama under paragraph 4(a) of article XIII of the Panama Canal Treaty of 1977, as provided by section 1341(a) of the Panama Canal Act of 1979 (22 U.S.C. 3751(a)); and

(3) increased costs for fuel.

SEC. 5. BENEFITS FOR CERTAIN EMPLOYEES.

(a) Educational Travel Benefits.—Section 1207(b)(2) of the Panama Canal Act of 1979 (22 U.S.C. 3647(b)(2)) is amended by striking out "one round trip" and inserting in lieu thereof "two round trips".

(b) Travel and Transportation Expenses.—

(1) Expenses allowable.—Subchapter I of chapter 2 of title I of the Panama Canal Act of 1979 (22 U.S.C. 3641 et seq.) is amended by adding at the end thereof the following:

"TRAVEL AND TRANSPORTATION EXPENSES

"Sec. 1210. The Commission may pay the expenses of vacation leave travel for an employee of the Commission to whom section 1206 of this Act applies and for transportation of employee's family from the employee's post of duty in Panama to the place of the employee's actual residence at the time of appointment to the post of duty. The authorization of expenses under this section shall be in accordance with subchapter II of chapter 57 of title 5, United States Code, and the regulations issued under that subchapter, except that the Commission may prescribe required periods of service notwithstanding section 5722 of title 5, United States Code, and the regulations issued under subchapter II of chapter 57 of such title.".

(2) Clerical amendment.—The table of contents of the Panama Canal Act of 1979 is amended by inserting after the item relating to section 1209 the following:

"1210. Travel and transportation expenses.".

(c) Use of Appropriations for Health Care and Educational Services.—Section 1321(e) of the Panama Canal Act of 1979 (22 U.S.C. 3731(e)) is amended to read as follows:

"(e) The appropriations or funds of the Commission, or of any other department or agency of the United States conducting operations in the Republic of Panama, shall be available to defray the cost of—

"(1) health care services to elderly or disabled persons who were eligible to receive such services before the effective date of this Act, less amounts payable by such persons, and

(2) educational services provided by schools in the Republic of Panama, which are not operated by the United States, to employees of the Commission who are citizens of the United States and persons who were receiving such services at the expense of the Canal Zone Government before the effective date of this Act.".

SEC. 6. COMPENSATION FOR NON-GOVERNMENT BOARD MEMBERS.

Section 1102(b) of the Panama Canal Act of 1979 (22 U.S.C. 3612(b)) is amended in the last sentence by inserting immediately before the period at the end thereof the following: ", except that, in addition to such travel or transportation expenses, members of the Board who hold no other office with either the Government of the United States or the Republic of Panama for which they receive pay are authorized to be compensated at the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day during which they are traveling to or from or attending meetings of the Board as provided in subsection (c) of this section".

SEC. 7. NOTIFICATION OF TRANSFER OF PROPERTY.

Section 1504(b) of the Panama Canal Act of 1979 (22 U.S.C. 3784(b)) is amended in the second sentence by striking out "At least 180 days before" and inserting in lieu thereof "Before".

SEC. 8. EFFECTIVE DATE.

Section 5 and Section 6 of the Act shall be effective as of October 1, 1985.

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time. The bill was read the third time, and passed.

Mr. PACKWOOD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

REAPPOINTMENT OF CARLISLE H. HUMELSINE TO THE BOARD OF REGENTS OF THE SMITHSONIAN INSTITUTION

The joint resolution (S.J. Res. 214) to provide for the reappointment of Carlisle H. Humelsine as a citizen regent of the Board of Regents of the Smithsonian Institution, was considered, ordered to be engrossed for a third reading, read the third time and passed as follows:

S. J. Res. 214

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the vacancy in the Board of Regents of the Smithsonian Institution, of the class other than Members of Congress, which will occur by the expiration of the term of Carlisle H. Humelsine of Virginia on March 13, 1986, be filled by the reappointment of the present incumbent. The appointment is for a term of six years and shall take effect on the day after the current term expires.

Mr. PACKWOOD. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

REAPPOINTMENT OF WILLIAM G. BOWEN TO THE BOARD OF REGENTS OF THE SMITHSONIAN INSTITUTION

The joint resolution (S.J. Res. 215) to provide for the reappointment of William G. Bowen as a citizen regent of the Board of Regents of the Smithsonian Institution, was considered, ordered to be engrossed for a third reading, read the third time and passed; as follows:

S.J. Res. 215

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the vacancy in the Board of Regents of the Smithsonian Institution, of the class other than Members of Congress, which will occur by the expiration of the term of William G. Bowen of New Jersey on March 13, 1986, be filled by the reappointment of the present incumbent. The appointment is for a term of six years and shall take effect on the day after the current term expires.

Mr. PACKWOOD. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

KENTUCKY WILDERNESS ACT

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of H.R. 1627, the Kentucky wilderness bill, which was received from the House today.

The PRESIDING OFFICER. Without objection, it is so ordered. The bill will be considered as having been read the first and second times. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 1627) to designate certain national forest system lands in the State of Kentucky for inclusion into the National Wilderness Preservation System, to release other forest lands for multiple use management, and for other purposes.

The Senate proceeded to consider the bill.

Mr. McCONNELL Mr. President, I am pleased to join my distinguished colleague from Kentucky, Senator Ford, as an original cosponsor of S. 703, "The Kentucky Wilderness Act of 1985," which is being debated here on the floor today. The response this proposal has evoked within the Kentucky environmental community shows me that it is universally supported and environmentally sound and deserves favorable consideration by the Senate. I thank the distinguished majority and minority leaders for permitting such prompt action on this important legislation.

The so-called Clifty Wilderness bill would designate a 12,000-acre tract of the Daniel Boone National Forest as a wilderness area, which would ensure that this area would be preserved in its pristine state for generations to come. This bill also would bar future exploration for oil and gas, which makes considerable sense to me since a Bureau of Mines study has concluded that the Clifty area has practically no value whatsoever for mineral purposes. Conservation of our natural resources must be of the highest priority and legal constraints must be enacted which prevent abuse and misuse of wilderness resources.

This particular legislation accomplishes a number of worthy objectives. For example, protection of wildlife and the natural watershed of the area will be maintained through a comprehensive long-term plan. Even more significant, tourists will be able to enjoy this Kentucky treasure free from the distraction of road construction, logging, and oil and gas exploration. The Clifty Wilderness bill also provides an important glimpse of Kentucky's natural heritage before man's intervention.

This bill is supported by a number of groups, including the Kentucky Wilderness Society, the Sierra Club, Audubon Society, the Kentucky Conservation Committee, Elkhorn Paddlers, Appalachia-Science in the Public Interest and the Tennessee Citizens for Wilderness Planning. Many of these groups testified in support of this measure in a Senate Agriculture Committee hearing that I chaired on November 13 of this year. Environmental advocates have sought wilderness designation for the Clifty area for years and I am delighted that we are close to enacting this landmark legislation for Kentucky's natural resources.

I urge my colleagues to support this very important measure.

Mr. FORD. Mr. President, H.R. 1627 which cleared the House of Representatives on December 9 is consistent with the language of S. 703, a bill I introduced on March 20 of this year.

The Kentucky Wilderness Act, which the bill is called, will extend wilderness protection to some 13,300 acres in the Clifty Creek Area of Kentucky's Red River Gorge. The Red River Gorge Area is cherished by nature lovers in Kentucky and throughout the region. The Red River Gorge Area has become an extremely popular area, if not overly popular. The Clifty Creek Area is the only major section of the area which remains in its natural state. Passage of this act will add an additional component to the Red River Gorge and will increase its value as a scientific, cultural, recreational, and economic resource for the area.

I know of no serious, or organized opposition to this bill. It is gratifying to be able to speak in support of legislation which enjoys such broad support.

The USDA supports enactment of this legislation, as does the Governor of Kentucky, Martha Layne Collins. H.R. 1627 was supported by Congressmen Chris Perkins, Romano Mazzoli, Larry Hopkins, William Natcher, and Carroll Hubbard.

The Cumberland Chapter of the Sierra Club supports this measure, as does the Kentucky Wilderness Coalition, the Wilderness Society, the Kentucky Conservation Council, the Kentucky Audubon Council, and the Kentucky Forest Industries Association.

All too often, we in Congress are caught up on an atmosphere that seems as if we are perpetually putting out fires, turning from one crisis to another. It is unfortunate that the nature of our business runs to that extreme.

Passage of the Clifty Wilderness bill happens to be one of those provisions that is all too often overlooked because of the nature of our business. I think that it is important that we take the time to reflect on the long-term significance of what this bill will do.

From the very beginning of this Nation, wilderness has always been a part of the American culture and heritage. Wilderness has deep symbolic and spiritual value; a place where people can go, a place one can go to relive the past, or escape temporarily from the hustle and bustle of every day life or simply to enjoy the abundance of nature.

Passage of S. 703, the Clifty Wilderness bill will ensure that approximately 12,000 acres of the 673,000-acre Daniel Boone National Forest is set aside, in its natural state. The area will be protected and preserved by law. The important point here is that while the area today is protected and, in fact, enjoyed by large groups of visitors, this bill will guarantee that it remain in its natural state for generations to come.

The Clifty area contains a high concentration of prehistoric sites which offer a unique opportunity for the study of the prehistoric cultures of the Eastern United States. The rock shelters of the area have been used by humans for protection from the elements for thousands of years. These rock shelters provide a dry, protected climate which has preserved many normally perishable artifacts such as seeds, nuts, textiles and leather tools. Such conditions are found in few other locations in the East. Archaeologists have documented evidence of prehistoric occupation of the gorge dating back to approximately 8000 B.C. This timespan covers three of the four traditons that make up the usual chronology for North American Prehistory, the Archaic, Woodland, and Fort Ancient cultures.

The unique vegatative community in Clifty also provides opoprtunity to study rare examples of the old growth mixed with forestrail plant life that escaped the ravages of the early timber industry. The orientation of the land forms as well as the protected microenvironments found in the Northern valleys of Clifty have allowed the establishment and protection of some species normally associated with the extreme Southern region of the country. The successive advances and retreats of the continental glaciers caused northern species to "Migrate" into the area, and today some remain in selected sites. As many as 550 different plant species representing 100 families and 304 generations, including several rate species have been identified in the Clifty area. More recently, indications are that the floral community may include up to 750 species of flowering plants, along with 170 mosses, about 70 varieties of watermosses and 2,000 to 3,000 fungi.

When Lyndon Johnson signed the Wilderness Act on September 3, 1964, the United States became the first Nation ever to set up a system for the recognition and preservation of its scenic natural resources. I am proud of the uniqueness of the wilderness preservation systen in this Nation.

The U.S. Department of Agriculture has recommended, after its second extensive Roadless Area Review and Evaluation, known as RARE II, that this area be designated as wilderness. The roadless area studies under RARE I and RARE II represent a complete and thorough analysis of the need for this wilderness designation. However, the Clifty area is currently in a state of limbo, with its future undecided. The local residents and the communities affected deserve to have this issue resolved.

The favorable consideration by the Senate on the Clifty Wilderness bill will finalize an important piece of legislation which should have been passed long ago.

Mr. HELMS. Mr. President, I will not object to the passage of the Kentucky wilderness bill. However, I do want to clarify one point in the bill.

There are two references in the bill to the exemption from release language, of an area left in further planning. I have been told by the Senators from Kentucky that it is not their intention to create a new management category of further planning, but to simply allow the management of this area to continue in their present state, until the Forest Service has had an opportunity to finalize and implement their recommendations for this area under the land management plan.

My point is, that the approval of this measure does not constitute a precedent for the establishment of further planning areas as a new category of land management practice in the National Forest System.

Mr. FORD. Mr. President, the Senator from North Carolina is correct. There is one area that remained in further planning at the conclusion of the RARE II study. That area is named "Troublesome." The plan is for this area to be transferred to the Corps of Engineers, and then to the Park Service. We were concerned that a congressional recommendation to release this tract for multiple use management might jeopardize the future consideration of this area for wilderness by the Park Service.

Mr. HELMS. Mr. President, I want to thank the distinguished Senators from Kentucky for their understanding in this matter. It was my intention to have the Committee on Agriculture, Nutrition, and Forestry consider the Kentucky wilderness bill this year, however, the committee has been spending all of its time on the farm bill.

Senator McCONNELL, who is a member of the Committee on Agriculture, Nutrition, and Forestry, did conduct hearings on the bill, and there appear to be no substantive problems with the bill, other than the further planning matter that we have discussed.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 1627) was ordered to a third reading, was read the third time, and passed.

Mr. PACKWOOD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AUTHORITY OF THE SUPREME COURT POLICE

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the Senate turn to H.R. 3914 dealing with the Supreme Court police, which was received from the House today.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The bill will be considered as having been read the first and second times, and the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3914) to preserve the authority of the Supreme Court police to provide protective services for Justices and Court personnel.

The Senate proceeded to consider the bill.

AMENDMENT NO. 1417

Mr. PACKWOOD. Mr. President, I send to the desk an amendment in the nature of a substitute on behalf of Senator THURMOND.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oregon [Mr. PACKWOOD], for Mr. THURMOND, proposes an amendment numbered 1417.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

That the Act entitled "An Act relating to the policing of the building and grounds of the Supreme Court of the United States", as approved August 18, 1949 (40 U.S.C. § 13f), section 9(c) of such Act as added by the Act of December 29, 1982 (Public Law 97-390; 96 Stat. 1958), is amended to read as follows:

"(c) The authority created under subsection (a)(2) shall expire one year after the date of enactment of this subsection.

"The Marshal of the Supreme Court shall report annually to the Congress on March 1 regarding the administrative cost of carrying out his duties under such subsection. Duties under subsection (a)(2)(A) of this section with respect to an official guest of the Supreme Court in any part of the United States (other than the District of Columbia, Maryland, and Virginia) shall be authorized in writing by the Chief Justice of the United States or an Associate Justice of the Supreme Court, if such duties require the carrying of firearms under subsection (a)(5) of this section."

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on agreeing to the amendment in the nature of a substitute.

The amendment (No. 1417) was agreed to.

The **PRESIDING OFFICER.** The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The **PRESIDING OFFICER.** The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 3914, as amended) was passed.

Mr. **PACKWOOD.** Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. **BYRD.** I move to lay that motion on the table.

The motion to lay on the table was agreed to.

REENROLLMENT OF H.R 3003

Mr. **PACKWOOD.** Mr. President, I ask unanimous consent that the Senate turn to House Concurrent Resolution 247 regarding the enrollment of H.R. 3003.

The **PRESIDING OFFICER.** Without objection, it is so ordered. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (H. Con. Res. 247) requesting the President to return the enrolled bill (H.R. 3003) relating to the conveyance of certain land located in the State of Maryland to the Maryland National Capital Park and Planning Commission, and providing for its reenrollment with technical corrections.

The **PRESIDING OFFICER.** The question is on agreeing to the resolution.

The resolution (H. Con. Res. 247) was agreed to.

The **PRESIDING OFFICER.** Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. **BYRD.** Mr. President, I move to lay the motion to reconsider on the table.

The motion to lay on the table was agreed to.

COMMENDING THE GOVERNMENT OF IRELAND AND THE GOVERNMENT OF THE UNITED KINGDOM

Mr. **PACKWOOD.** Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 477, Senate Concurrent Resolution 93.

The **PRESIDING OFFICER.** The concurrent resolution will be stated by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 93) commending the Government of Ireland and the Government of the United Kingdom for reaching agreement on measures which will lay the foundation for a just, durable, and peaceful solution to the problems of Northern Ireland.

The text of the concurrent resolution is as follows:

S. Con. Res. 93

Whereas all peace-loving people desire a just and lasting solution to the problems of Northern Ireland;

Whereas violence and terrorism in Northern Ireland and all those who support it should be strongly condemned, and the effort to achieve peace and reconciliation through political means should be supported;

Whereas the report of the New Ireland Forum of May 2, 1984, which condemned violence and those who support it, made an important contribution to the Anglo-Irish negotiations over the past year;

Whereas the Prime Ministers of Ireland and the United Kingdom signed an agreement in Hillsborough, Northern Ireland, on November 15, 1985, which provides a basis for progress towards peace, stability, and an end to violence in Northern Ireland;

Whereas this agreement provides for an unprecedented role for the Government of Ireland in relation to Northern Ireland;

Whereas this agreement affirms that any change in the status of Northern Ireland would only come about with the consent of the majority of the people of Northern Ireland;

Whereas this agreement declares that, if in the future a majority of the people of Northern Ireland clearly wish for and formally consent to the establishment of a united Ireland, the Governments of Ireland and the United Kingdom will introduce and support in the respective Parliaments legislation to give effect to that wish;

Whereas the agreement envisages the possibility of securing international support to promote the economic and social development of those areas of both parts of Ireland which have suffered most severely from the consequences of violence of recent years;

Whereas the Parliaments of Ireland and the United Kingdom have given their solemn and respectful approval to this historic agreement;

Whereas on August 30, 1977, President Carter stated that in the event of a peaceful settlement in Northern Ireland, "the U.S. Government would be prepared to join with others to see how additional job-creating investment could be encouraged to the benefit of all the people in Northern Ireland";

Whereas on November 15, 1985, President Reagan stated that "I will be working closely with the Congress in a bipartisan effort to find tangible ways for the United States to lend practical support to this important agreement"; and

Whereas this agreement should be supported by all those who seek peace, stability, and an end to violence in Northern Ireland and the reconciliation of the two major traditions in Ireland: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That (a) the Congress commends the Government of Ireland and the Government of the United Kingdom for their achievement in reaching an agreement which charts a way towards peace, stability, and an end to violence in Northern Ireland.

(b) The Congress declares its willingness to work with the President in supporting the Anglo-Irish agreement through appropriate United States assistance, including economic and financial support, to promote the economic and social development of those areas of both parts of Ireland which have suffered most severely from the consequences of the violence of recent years.

Sec. 2. The Secretary of the Senate shall transmit a copy of this concurrent resolution to the President.

Mr. **LUGAR.** Mr. President, I wish to express my support for House Concurrent Resolution 239 commending the Government of Ireland and the Government of the United Kingdom for their achievement in reaching an agreement on measures which we hope will lay the foundation for a just, durable, and peaceful solution to the problems in Northern Ireland. The Committee on Foreign Relations of the Senate reported out a similar resolution on December 10, 1985, which I introduced on behalf of myself and Senators Dole, Pell, Kennedy, Moynihan, Kerry, and Biden.

The Prime Minister of Ireland and the Prime Minister of the United Kingdom signed an agreement on November 15, 1985, which provides the basis for progress toward peace, stability, and an end to violence in Northern Ireland. The Parliaments of Ireland and the United Kingdom have subsequently given their approval to this historic agreement. The United States has consistently condemned all forms of violence and terrorism in Northern Ireland. At the same time, successive Presidents have pledged American support for efforts to bring about a just and lasting solution to the problems afflicting Northern Ireland. In response to the conclusion of the Anglo-Irish Agreement of November 15, 1985, President Reagan stated that "I will be working closely with the Congress in a bipartisan effort to find tangible ways for the United States to lend practical support to this important agreement."

Mr. President, this resolution expresses congressional support for the Anglo-Irish Agreement of November 15, 1985, which charts a way toward peace and stability, and an end to violence in Northern Ireland, and declares the willingness of the Congress to work with the President in supporting this agreement through appropriate forms of assistance in order to promote the economic and social development of those areas of Ireland which have suffered most severely from the consequences of the violence in recent years.

Mr. President, it is my hope that Members of the Senate will join in this expression of support for the Anglo-Irish Agreement and in a commitment to make a positive contribution toward the implementation of this historic accord.

This expression of congressional willingness to be supportive of the peace effort in Northern Ireland should not be construed as a formal commitment to authorize specific forms or amounts of assistance. Such decisions regarding assistance may be taken next year on the merits of any request presented by the administration. At a time of congressional action on the Gramm-Rudman-Hollings amendment as well as continuing efforts to reduce the deficit, our contribution to the reconstruction of Northern Ireland may be seen by some as symbolic and certainly cannot substitute for the efforts of the governments and peoples of the Republic of Ireland and the United Kingdom.

Mr. PELL. Mr. President, on November 15 the Governments of Ireland and the United Kingdom, culminating months of Anglo-Irish negotiations, entered into an agreement of potentially historic consequence concerning the future of Northern Ireland. Signed at Hillsborough in Northern Ireland, the agreement represents an enlightened statesmanship on the part of both London and Belfast.

Perhaps the most significant provision was Prime Minister Thatcher's agreement to allow the Government of Ireland a formal consultative role on questions pertaining to the peace and future of Northern Ireland. But Prime Minister Fitzgerald also contributed profoundly, by acceding to the principle that any change in the status of Northern Ireland shall come about only with the consent of the majority of its people.

The purpose of the resolution before us, which has already passed the House, is to commend the two governments for their achievement and to express the disposition of Congress to work with the President in supporting the new Anglo-Irish agreement through appropriate United States assistance to promote economic and social development in those areas of Northern Ireland and the Republic of Ireland which have suffered most severely from the violence of recent years. Such an American posture was expressed by President Carter in 1977 and again by President Reagan last month.

Our action today will demonstrate that Congress stands squarely behind a policy of promoting a brighter future for Northern Ireland through the peaceful means of economic progress and a reliance on democratic institutions.

At the same time, I fully concur with the sentiments expressed by the chairman of the Committee on Foreign Relations with regard to the role of the Congress in supporting the peace effort in Northern Ireland.

Mr. KENNEDY. Mr. President, I support the resolution before us commending the historic agreement signed by the Prime Ministers of Ireland and Great Britain on November 15, 1985. The House voted last Monday by an overwhelming margin of 380 to 1 to approve an identical resolution and it is my hope that the Senate will act promptly to pass this important measure by an equally overwhelming endorsement.

All of us hope that this agreement will come to represent a turning of the tide in Northern Ireland—a turning away from violence and terrorism and toward a peaceful and permanent settlement of the tragic conflict that has wracked the province for so long. The new agreement is faithful to the far-reaching principles set forth in the report of the "New Ireland Forum" in 1984; it lays the foundation for reconciliation not only between the nationalist and unionist traditions in Northern Ireland, but among all the peoples of Ireland. I am particularly encouraged by the British Government's acceptance of an unprecedented official role for the Irish Government in the day-to-day affairs of Northern Ireland.

The resolution before us commends these much needed and long overdue steps toward ending the crisis in Northern Ireland. It reaffirms our unequivocal condemnation of violence, and of all those who support it, as a means of achieving political goals.

The resolution also affirms, in one of its most important provisions, the willingness of Congress to support the Anglo-Irish agreement through appropriate assistance—economic and financial. Americans of every religious and political persuasion have expressed their concern over the continued bloodshed in Northern Ireland. We have repeatedly condemned all those—in our own country and in other lands—who provide support by word or deed to those engaged in violence. Now at last, our country has a positive and constructive role to play in aiding those on all sides who seek peace and reconciliation among all the peoples of Ireland.

As long ago as 1977, President Carter stated that the United States stands ready to encourage investment in Northern Ireland once a settlement is achieved. And last month, on the day the new agreement was signed, President Reagan expressed his willingness to cooperate with Congress in a bipartisan effort to provide support.

It is my hope that Congress and the administration will work closely and quickly with the Irish and British Governments to provide substantial assistance to facilitate the cause of peace and economic recovery in both parts of Ireland scarred by the tragic violence of the past two decades.

I urge support for this resolution now, as a vote of confidence in this historic Anglo-Irish Agreement; and I look forward to working with my colleagues to fashion a constructive aid package early in the next session of the Congress, in order that we may do our best in the United States to maximize the possibilities for the success of this new beginning.

COMMENDING THE GOVERNMENT OF IRELAND AND THE GOVERNMENT OF THE UNITED KINGDOM

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 478, House Concurrent Resolution 239, the House companion bill reported by the Foreign Relations Committee today.

The **PRESIDING OFFICER.** The concurrent resolution will be read by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 239) commending the Government of Ireland and the Government of the United Kingdom for reaching agreement on measures which will lay the foundation for a just durable, and peaceful solution to the problems of Northern Ireland.

The **PRESIDING OFFICER.** The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 239) was agreed to.

The preamble was agreed to.

Mr. PACKWOOD. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that Senate Concurrent Resolution 93, a resolution commending the Governments of Ireland and the United Kindom, be indefinitely postponed.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

CONDOLENCES TO THE GOLDWATER FAMILY

Mr. PACKWOOD. Mr. President, I send to the desk a resolution with reference to the extension of condolences to the Goldwater family and ask for its immediate consideration.

The **PRESIDING OFFICER.** The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 273) expressing condolences to the Goldwater Family.

Whereas, Peggy Goldwater was the much loved and trusted partner of Barry Goldwater for 51 years; and

Whereas, as a leading light in the Republican party, the support and encouragement of her husband was essential to the pursuit of his public career; and

Whereas, she made significant public service contributions of her own, through volunteer work; and

Whereas, as a devoted wife, mother and grandmother she personified the very best in American life; and

Whereas, the legacy she left not only her family, but the nation will endure for years to come;

Be it resolved, that the Senate expresses its most sincere condolences to Barry Goldwater and the entire Goldwater family.

The **PRESIDING OFFICER.** Is there objection to the present consideration of the resolution?

There being no objection, the resolution was considered and agreed to.

The preamble was agreed to.

Mr. **PACKWOOD.** Mr. President, I ask unanimous consent that the names of all Senators be added as cosponsors of the resolution.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. **PACKWOOD.** Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. **BYRD.** I move to lay the motion on the table.

The motion to lay on the table was agreed to.

DAIRY PRICE SUPPORT EXTENSION

Mr. **PACKWOOD.** Mr. President, I ask unanimous consent that the Senate turn to the consideration of H.R. 3919, dairy price supports.

The **PRESIDING OFFICER.** The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3919) to extend temporarily the dairy price support program and certain food stamp program provisions, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

The **PRESIDING OFFICER.** The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 3919) was ordered to a third reading, was read the third time, and passed.

Mr. **PACKWOOD.** Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. **BYRD.** Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE PLIGHT OF SOVIET JEWS

Mr. **PELL.** Mr. President, on Friday, December 13, the Rhode Island Women's Plea for Soviet Jewry will dedicate its Shabbat to recognizing the plight of Soviet Jews. Faced at every turn by discrimination and the denial of basic freedoms, Soviet Jews have been openly cheated of the human rights recognized under international law and granted them by the Soviet Union's status as a signatory of the Helsinki Final Act and a party to the United Nations Charter. I join the Women's Plea for Soviet Jewry in protesting this denial of human rights and the Soviet Union's blatant disregard of its commitments in the human rights area. In my view, there can be no better time to voice this protest than this week of Chanukah, the Jewish festival of freedom.

Evidence in recent years has pointed to an increase in the amount of discrimination experienced by Soviet Jews, especially in the areas of education and employment. Since 1980, the Soviet Government has stepped up its campaign against Jews who exercise their right of religious worship and who participate in Jewish self-study groups. Jews who have attempted to organize unofficial Jewish religious study groups have been subjected to threats of arrests, harassment, house searches, surveillance, and other forms of intimidation. This treatment is akin to that received by Jewish activists in the dissident, human rights and emigration movements—men and women such as Anatoly Shcharansky, Iosif Begun, and Ida Nudel, to name only a few, who have endured unjust and inhumane treatment to secure human rights for themselves and their fellow citizens. In an effort to escape the anti-Semitic policies and practices of the Soviet Government, many Soviet Jews have turned to emigration as a means of self-preservation. But emigration is no longer a solution. In fact, Soviet Jewish emigration is in a steadily worsening state of crisis.

In 1979, a record 51,320 Jews were allowed to leave the Soviet Union. Since that time, however, the annual rate of Jewish emigration has fallen by staggering amounts: 21,471 in 1980; 9,447 in 1981; 2,688 in 1982; 1,314 in 1983; and finally a paltry 896 in 1984. In fact, the total number of Jews permitted to leave in the 6 years since 1979, 36,920, falls almost 15,000 short of the 1979 level alone. Based on the average monthly figure for the first 11 months, this year's total will be 1,104. This is certainly a far cry from the 50,000-plus of 6 years ago, especially in light of the 3 million Jews who remain in the Soviet Union, their lots in life declining in marked congruence with their emigration levels.

The frustration and despair of not being able to obtain an exit permit are compounded by the treatment which Soviet Jews receive after applying to emigrate. Many are removed from their jobs, evicted from their apartments, and subjected to constant harassment by the authorities.

Soviet Jews are crying out for our help. In the past, we have seen that the Soviet Union does respond to pressure of public opinion from the West. Once again, we must bring that pressure to bear on behalf of Soviet Jews and others who are denied basic rights and freedoms.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which was referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE RECEIVED DURING THE RECESS

Under the authority of the order of the Senate of January 3, 1985, the Secretary of the Senate, on December 11, 1985, during the recess of the Senate, received a message from the House of Representatives announcing that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the amendments of the House to the amendments of the Senate to the joint resolution (H.J. Res. 372) increasing the statutory limit on the public debt.

ENROLLED JOINT RESOLUTION SIGNED

The message also announced that the Speaker had signed the following enrolled joint resolution.

H.J. Res. 372. Joint resolution increasing the statutory limit on the public debt.

Under the authority of the order of the Senate of January 3, 1985, the enrolled joint resolution was signed on December 11, 1985, during the recess of the Senate, by the President pro tempore (Mr. THURMOND).

MESSAGES FROM THE HOUSE

At 9:05 a.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2391. An act to authorize the Administrator of General Services to collect additional contributions of money provided to him by private individuals or organizations for the Nancy Hanks Center;

H.R. 2403. An act to require that public buildings constructed or altered under the Public Buildings Act of 1959 comply, to the maximum extent feasible, with nationally recognized model codes and with local zoning laws and certain other laws;

H.R. 2542. An act designating the building located at 125 South State Street, Salt Lake City, UT, as the "Wallace F. Bennett Federal Building";

H.R. 2903. An act to designate the Federal Building and U.S. Post Office located in Philadelphia, PA, as the "Robert N.C. Nix, Sr., Federal Building and United States Post Office"; and

H.R. 2962. An act to remove certain restrictions on the availability of office space for former Speakers of the House.

The message also announced that the House agrees to the amendment of the Senate to the preamble of the joint resolution (H.J. Res. 187) to approve the "Compact of Free Association," and for other purposes, and that the House agrees to the amendment of the Senate to the text of the joint resolution, with an amendment, in which it requests the concurrence of the Senate.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 247. Concurrent resolution requesting the President to return the enrolled bill (H.R. 3003) relating to the conveyance of certain land located in the State of Maryland to the Maryland National Capital Park and Planning Commission and providing for its reenrollment with technical corrections.

At 2:29 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following joint resolutions, without amendment:

S.J. Res. 32. Joint resolution to authorize and request the President to designate September 21, 1986, as "Ethnic American Day"; and

S.J. Res. 213. Joint resolution to designate January 19 through January 25, 1986, "National Jaycee Week."

The message also announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 69. Concurrent resolution to recognize the National Camp Fire Organization for 75 years of service.

The message further announced that the House has passed the following bill and joint resolutions, in which it requests the concurrence of the Senate:

H.R. 3914. An act to preserve the authority of the Supreme Court Police to provide protective services for Justices and Court personnel;

H.J. Res. 409. Joint resolution to direct the President to issue a proclamation designating February 16, 1986, as "Lithuanian Independence Day"; and

H.J. Res. 436. Joint resolution to designate 1986 as "Save for the U.S.A. Year," and for other purposes.

At 5:25 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 476. Joint resolution making further continuing appropriations for fiscal year 1986.

ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

S. 947. An act to amend the Foreign Assistance Act of 1961 with respect to the activities of the Overseas Private Investment Corporation.

The enrolled bill was subsequently signed by the President pro tempore (Mr. THURMOND).

At 7:02 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 80. Concurrent resolution to authorize the printing of 2,000 additional copies of the committee print of the Committee on Armed Services (99th Congress, 1st Session) entitled "Defense Organization: The Need for Change."

The message also announced that the House has agreed to the following concurrent resolution, with amendments, in which it requests the concurrence of the Senate:

S. Con. Res. 85. Concurrent resolution to authorize the compilation and printing of the Bicentennial Edition of the Biographical Directory of the U.S. Congress.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2651. An act to amend section 504 of the Alaska National Interest Lands Conservation Act to promote the development of mineral wealth in Alaska;

H.R. 3851. An act to amend section 901 of the Alaska National Interest Lands Conservation Act;

H.R. 3918. An act to extend until December 18, 1985, the application of certain tobacco excise taxes, trade adjustment assistance, certain Medicare reimbursement provisions, and borrowing authority under the Railroad Unemployment Insurance Program; and

H.R. 3919. An act to extend temporarily the dairy price support program and certain food stamp program provisions, and for other purposes.

The message also announced that the House has agreed to the following concurent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 230. Concurrent resolution authorizing printing of additional copies of the transcript of hearings entitled "1984: Civil Liberties and the National Security State."

MEASURES REFERRED

The following bills and joint resolutions were read the first and second times by unanimous consent, and referred as indicated:

H.R. 2391. An act to authorize the Administrator of General Services to collect additional contributions of money provided to him by private individuals or organizations for the Nancy Hanks Center; to the Committee on Environment and Public Works.

H.R. 2403. An act to require that public buildings constructed or altered under the Public Buildings Act of 1959 comply, to the maximum extent feasible, with nationally recognized model codes and with local zoning laws and certain other laws; to the Committee on Environment and Public Works.

H.R. 2651. An act to amend section 504 of the Alaska National Interest Lands Conservation Act to promote the development of mineral wealth in Alaska; to the Committee on Energy and Natural Resources.

H.R. 2903. An act to designate the Federal Building and U.S. Post Office located in Philadelphia, PA, as the "Robert N.C. Nix, Sr., Federal Building and U.S. Post Office;" to the Committee on Environment and Public Works.

H.R. 2962. An act to remove certain restrictions on the availability of office space for former Speakers of the House; to the Committee on Environment and Public Works.

H.R. 3851. An act to amend section 901 of the Alaska National Interest Lands Conservation Act; to the Committee on Energy and Natural Resources.

H.J. Res. 409. Joint resolution to direct the President to issue a proclamation designating February 16, 1986, as "Lithuanian Independence Day"; to the Committee on the Judiciary.

H.J. Res. 436. Joint resolution to designate 1986 as "Save for the U.S.A. Year," and for other purposes; to the Committee on the Judiciary.

The following concurrent resolution was read and referred as indicated:

H. Con. Res. 230. A concurrent resolution authorizing the printing of additional copies of the transcript of hearings entitled 1984: Civil Liberties and the National Security State"; to the Committee on Rules and Administration.

MEASURES PLACED ON THE CALENDAR

The following bills were read the first and second times by unanimous consent, and placed on the calendar:

H.R. 2542. An act designating the building located at 125 South State Street, Salt Lake City, as the "Wallace F. Bennett Federal Building";

H.R. 3914. An act to preserve the authority of the Supreme Court Police to provide protective services for Justices and Court personnel.

The following concurrent resolution was read, and placed on the calendar:

H. Con. Res. 239. Concurrent resolution commending the Government of Ireland and the Government of the United Kingdom for reaching agreement on measures which will lay the foundation for a just, durable, and peaceful solution to the problems of Northern Ireland.

ENROLLED JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, December 12, 1985, she had presented to the President of the United States the following enrolled joint resolution:

S.J. Res. 238. Joint resolution relating to the approval and implementation of the proposed agreement for nuclear cooperation between the United States and the People's Republic of China.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated.

EC-2113. A Communication from the Deputy Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report of the Department of the Army's proposed letter of offer to Korea for defense articles estimated to cost in excess of $50 million; to the Committee on Armed Services.

EC-2114. A Communication from the Administrator of the Panama Canal Commission, transmitting, pursuant to law, a report and recommendation with respect to a claim for damages to a ship in the Panama Canal; to the Committee on Armed Services.

EC-2115. A Communication from the Secretary of Transportation, transmitting, pursuant to law, a request for approval of a project document allowing improvements to the Mike Monroney Aeronautical Center; to the Committee on Commerce, Science, and Transportation.

EC-2116. A Communication from the Chairman of the Nuclear Regulatory Commission, transmitting, pursuant to law, a report on abnormal occurences at licensed nuclear facilities for the second calendar quarter of 1985; to the Committee on Environment and Public Works.

EC-2117. A Communication from the Chairman of the Prospective Payment Assessment Commission, transmitting, pursuant to law, a report on the adjustments made by the Secretary of Health and Human Services for the fiscal year 1986 Medicare prospective payment system; to the Committee on Finance.

EC-2118. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, Environmental Protection Agency for the period April 1 to September 30, 1985; to the Committee on Governmental Affairs.

EC-2119. A communication from the Deputy of the Central Intelligence Agency (Administration), transmitting, pursuant to law, notice of a deletion of the CIA records system "Library Open Literature Ready Reference File"; to the Committee on Governmental Affairs.

EC-2120. A communication from the Secretary of Education, transmitting, pursuant to law, notice that he and the Secretary of Labor have approved the plan for greater coordination between vocational education programs and apprenticeship training program; to the Committee on Labor and Human Resources.

EC-2121. A communication from the Secretary of Labor, transmitting pursuant to law, a report on the Department of Labor's enforcement activities under the Fair Labor Standards Act for the period October 1, 1983 through September 30, 1984, and other activities during calendar year 1984; to the Committee on Labor and Human Resources.

EC-2122. A communication from the Secretary of Agriculture and the Secretary of Energy, transmitting jointly, pursuant to law, a report on the Agricultural Barter Program; to the Committee on Agriculture Nutrition, and Forestry.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-541. A resolution adopted by the House of Representatives of the Commonwealth of Massachusetts; to the Committee on Environment and Public Works.

"Resolutions Memorializing the Congress of the United States Concerning Lead Poisoning

"Whereas, the city of Boston, Department of Health and Hospitals has identified 28 discrete areas within the city of Boston, each averaging 2 to 3 city blocks in size, where 4.4 percent of the city's children at risk (ages 9 months to 6 years) reside, and there occurs nearly 30 percent of Boston's lead poisoning; and

"Whereas, in each of these discrete areas, an average of 33 children were found to have been lead poisoned over the last five years (approximately one out of four children at risk); and

"Whereas, the great majority—well over 90 percent—of lead poisoned children do not eat paint chips, but have very high levels of exposure to lead contaminated dust, soil, and paint in and around their homes; and

"Whereas, in these discrete areas, tested by the Environmental Protection Agency (EPA) and the Suffolk County Extension Services, soil samples average 2000 parts per million lead—three times the city average of 600-700 parts per million; and

"Whereas the most severe effects of lead poisoning are: acute encephalopathy, seizures, coma, and death; and

"Whereas, moderately elevated blood lead levels are correlated with less obvious effects on central nervous system functions, such as intelligence, behavior control, fine motor coordination, neurological dysfunction, and motor impairment; therefore be it

"*Resolved*, That the Massachusetts House of Representatives hereby urges the Congress of the United States to exercise its best offices to prevent language in section 118.A.1. of H.R. 2817 (EPA Superfund bill) from becoming an obstacle to lead cleanups in residential areas in the city of Boston; ensure that the pilot program of lead-contaminated soil removal is incorporated into the Superfund Act by Senator Kennedy's amendment; and ensure that the EPA undertake immediate action to reduce this particularly dangerous environmental hazard to Boston area children; and be it futher

"*Resolved*, That a copy of these resolutions be forwarded by the Clerk of the House of Representatives to the Presiding Officer of each branch of the Congress and the Members thereof from the Commonwealth."

POM-542. A resolution adopted by the Greater Cleveland Chapter of the American Society for Training and Development favoring passage of H.R. 1356 and S. 558 by the Congress thereby continuing support for Employee Education Assistance; to the Committee on Finance.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PACKWOOD, from the Committee on Finance, with an amendment in the nature of a substitute and an amendment to the title:

S. 1912: A bill to provide for a 6-month extension of certain temporary provisions relating to the Internal Revenue Code of 1954 (Rept. No. 99-219).

By Mr. ROTH, from the Committee on Governmental Affairs, without amendment.

S. 1937: An original bill to restrict smoking to designated areas in all U.S. Government buildings (Rept. No. 99-220).

By Mr. ROTH, from the Committee on Governmental Affairs, without amendment.

H.R. 2694: A bill designating the U.S. Post Office Building located at 300 Packerland Drive, Green Bay, WI, as the "John W. Byrnes Post Office and Federal Building".

By Mr. THURMOND, from the Committee on the Judiciary, without amendment:

H.J. Res. 450: Joint resolution to authorize and request the President to issue a proclamation designating April 20 through 26, 1986, as "National Organ and Tissue Donor Awareness Week".

By Mrs. KASSEBAUM, from the Committee on Foreign Relations, without amendment and with a preamble:

S. Res. 271: An original resolution expressing the sense of the Senate regarding the furnishing of assistance for the Republic of Liberia, and for other purposes.

By Mr. LUGAR, from the Committee on Foreign Relations, without amendment:

S. 1831: A bill to amend the Arms Export Control Act to require that congressional vetoes of certain arms export proposals be enacted into law.

By Mr. THURMOND, from the Committee on the Judiciary, with an amendment:

S. 1916: A bill to preserve the authority of the Supreme Court Police to provide protective services for Justices and Court personnel.

By Mr. THURMOND, from the Committee on the Judiciary, without amendment and with a preamble:

S.J. Res. 235: Joint resolution to designate the we of January 26, 1986, to February 1, 1986, as "Truck and Bus Safety Week."

By Mr. LUGAR, from the Committee on Foreign Relations, without amendment and with a preamble:

S. Con. Res. 93: An original concurrent resolution commending the Government of Ireland and the Government of the United Kingdom for reaching agreement on measures which will lay the foundation for a just, durable, and peaceful solution to the problems of Northern Ireland.

Mrs. KASSEBAUM. Mr. President, I am reporting Senate Resolution 271, expressing the sense of the Senate regarding assistance to the Republic of Liberia.

This is an original resolution which I am reporting from the Committee on Foreign Relations. It was cosponsored by Senators Dodd, Kerry, Lugar, Pell, and Evans, and approved unanimously by the committee.

Liberia recently had a national election in which serious questions were raised about the official result. Following an attempted coup, the Government of Liberia has also arrested prominent members of the political opposition.

American assistance to Liberia has totaled some $375 million since 1981, which is the higest per capital level of assistance in sub-Saharan Africa. This high level of aid was justified on the grounds that it was necessary to encourage Head of State Doe to allow free and fair elections and return Liberia to civilian rule.

Now that serious doubts have been raised about Mr. Doe's commitment to these objectives, I believe that the United States should reassess its assistance programs in Liberia. We should do this because the rationale for our aid program has been called into question, because of the tight fiscal situation we are facing generally, and because we need to send a clear signal to Mr. Doe that we are dissatisfied with his actions. We cannot credibly press for democratic freedoms in countries such as South Africa and the Philippines if we don't do so in Liberia, with which we have long had a special relationship.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. THURMOND, from the Committee on the Judiciary:

Duross Fitzpatrick, of Georgia, to be United States District Judge for the Middle District of Georgia;

Alan B. Johnson, of Wyoming, to be United States District Judge for the District fo Wyoming;

Harry D. Leineweber, of Illinois, to be United States District Judge for the Northern District of Illinois;

J. Spencer Letts, of California, to be United States District Judge for the Central District of California;

George H. Revercomb, of Virginia, to be United States District Judge for the District of Columbia;

Stanley Sporkin, of Maryland, to be United States District Judge for the District of Columbia;

Dickran M. Tevrizian, of California, to be United States District Judge for the Central District of California;

Arnold I. Burns, of New York, to be Associate Attorney General.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. DANFORTH, from the Committee on Commerce, Science, and Transportation:

Robert Elsner, of Alaska, to be a Member of the Marine Mammal Commission for the term expiring May 13, 1987;

Terrence M. Scanlon, of the District of Columbia, to be Chairman of the Consumer Product Safety Commission;

Alexander Hanson Good, of the District of Columbia, to be Director General of the United States and Foreign Commercial Services;

James J. Carey, of Illinois, to be a Federal Maritime Commissioner for the term expiring June 30, 1990.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. DANFORTH. Mr. President, also for the Committee on Commerce, Science, and Transportation, I report favorably two nomination lists in the Coast Guard which appeared in their entirety in the Congressional Records of December 6 and 9, 1985, and, to save the expense of reprinting them on the Executive Calendar, ask that they lie at the Secretary's desk for the information of Senators.

By Mr. ROTH, from the Committee on Governmental Affairs:

Harold L. Cushenberry, Jr., of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for a term of fifteen years.

Michael L. Rankin, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for a term of fifteen years.

By Mr. MATHIAS, from the Committee on Rules and Administration:

Ralph E. Kennickell, Jr., of Virginia, to be Public Printer (Exec. Rept. No. 99-10).

By Mr. THURMOND, from the Committee on Armed Services:

Sylvester R. Foley, Jr., of Florida, to be an Assistant Secretary of Energy (Defense Programs);

Chapman B. Cox, of Virginia, to be an Assistant Secretary of Defense.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee on the Senate.)

Mr. THURMOND. Mr. President, from the Committee on Armed Services, I report favorably the attached listing of nominations.

Those identified with a single asterisk (*) are to be placed on the Executive Calendar. Those identified with a double asterisk (**) are to lie on the Secretary's desk for the information of any Senator since these names have already appeared in the Congressional Record and to save the expense of printing again.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the Record of November 22, November 26, December 3, December 6, December 9, and December 11, 1985 at the end of the Senate proceedings.)

* In the Air Force Reserve there are 15 appointments to the grade of major general and below (list begins with William G. Work). (Ref. #764).

* Lieutenant General Robert L. Bergquist, U.S. Army, to be placed on the retired list. (Ref. #765).

* Vice Admiral William P. Lawrence, U.S. Navy, to be placed on the retired list. (Ref. #766).

* In the Navy there are 31 promotions to the permanent grade of rear admiral (lower half) (list begins with Phillip Don Smith). (Ref. #767).

* In the Navy there are 11 promotions to the permanent grade of rear admiral (lower half) (list begins with Russell Larry Marior). (Ref. #768).

* Major General Richard A. Burpee, U.S. Air Force, to be lieutenant general. (Ref. #778).

* Vice Admiral Huntington Hardisty, U.S. Navy, to be reassigned. (Ref. #779).

* Rear Admiral James H. Webber, U.S. Navy, to be vice admiral. (Ref. #780).

** In the Air Force Reserve there are 2 appointments to the grade of lieutenant colonel (list begins with Donald R. Klein). (Ref. #781).

** In the Army there are 414 appointments to the grade of colonel and below (list begins with Mani Bala). (Ref. #782).

** In the Navy there are 747 promotions to the permanent grade of commander (list begins with Victor H. Ackley). (Ref. #783).

** In the Army Reserve there are 23 appointments to the grade of colonel and below (list begins with Benny L. Bachulis). (Ref. #792).

** In the Navy there is one promotion to the permanent grade of lieutenant commander (Donald F. Schoor II). (Ref. #800).

** In the Naval Reserve there are 48 appointments to the grade of permanent lieutenant (list begins with Briana M. Albert). (Ref. #801).

Total 1,297.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. PROXMIRE:

S. 1927. A bill to provide for State regulation of the transportation of high level radioactive waste; to the Committee on Environment and Public Works.

By Mr. CRANSTON:

S. 1928. A bill to require the President to direct the Secretary of Defense, the Secretary of Health and Human Services, and the Administrator of Veterans' Affairs to submit to the appropriate Committees of the Congress a joint report addressing the question of the United States Government responsibility for providing benefits and services to individuals who served with certain voluntary organizations in support of the Armed Forces of the United States stationed in the Republic of Vietnam during the Vietnem era; to the Committee on Governmental Affairs.

By Mr. MATHIAS:

S. 1929. A bill entitled the "Passenger Ship Authorization Act"; to the Committee on Commerce, Science, and Transportation.

By Mr. SIMON:

S. 1930. A bill to amend title II of the Social Security Act to prohibit the payment of benefits thereunder to individuals who have been deported or ordered from the United States on account of certain activities conducted under the direction of or in association with the Nazi government of Germany during World War II; to the Committee on Finance.

By Mr. D'AMATO (for himself, Mr. Gramm, Mr. Dodd and Mr. Heinz):

S. 1931. A bill to amend the Urban Mass Transportation Act of 1964 to require construction management oversight on major capital projects; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BAUCUS:

S. 1932. A bill to amend the Internal Revenue Code of 1954 to impose an excise tax on television sets, the revenue from which to be deposited in the National Competitiveness Education Trust Fund for mathematics and science teachers scholarships and summer fellowships, and for other purposes; to the Committee on Finance.

By Mr. LEVIN:

S. 1933. A bill for the relief of James T. Walter; to the Committee on the Judiciary.

By Mr. HEINZ:

S. 1934. A bill to amend the Bank Export Services Act; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. STEVENS (for himself, Mr. Goldwater, Mr. Pressler, Mr. Murkowski, and Mr. Chiles):

S. 1935. A bill to direct the Secretary of the department in which the Coast Guard is operating to cause certain vessels to be documented as vessels of the United States so as to be entitled to engage in the domestic coastwise trade, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. KERRY (for himself, Mr. Dodd, Mr. Kennedy, Mr. Pell, and Mr. Simon):

S. 1936. A bill to amend title 23, United States Code, to provide for a uniform system for handicapped parking; to the Committee on Environment and Public Works.

By Mr. ROTH, from the Committee on Governmental Affairs:

S. 1937. An original bill to restrict smoking to designated areas in all United States Government buildings; placed on the calendar.

By Mr. HATFIELD (for himself, Mr. Zorinsky, Mr. Byrd, Mr. Nunn, Mr. Inouye, Mr. Durenberger, Mr. Rockefeller, Mr. Andrews, Mr. Kerry, Mrs. Hawkins, Mr. Stennis, Mr. Dole, Mr. Hollings, Mr. Mathias, Mr. Weicker, Mr. Proxmire, Mr. Thurmond, Mr. Cochran, and Mr. Stafford):

S.J. Res. 245. Joint resolution designating "National Epidermolysis Bullosa Awareness Week"; to the Committee on the Judiciary.

By Mr. DIXON (for himself, Mr. Heinz, Mr. Cranston, Mr. Riegle, Mr. Chiles, Mr. Nunn, Mr. Pryor, Mr. Mattingly, Mr. Simon, Mr. Matsunaga, Mr. Bumpers, Mr. Stafford, Mr. Moynihan, Mr. Hollings, Mr. Rockefeller, Mr. Eagleton, Mr. Glenn, Mr. Weicker, Mr. Kennedy, Mr. Specter, Mr. Harkin, and Mrs. Hawkins):

S.J. Res. 246. A joint resolution to designate May 25, 1986 as "Hands Across America Day", for the purpose of helping people to help themselves, and commending United Support of Artists for Africa and all participants for their efforts toward combating domestic hunger with a 4,000 mile human chain from coast to coast; to the Committee on the Judiciary.

By Mr. McCLURE (for himself, Mr. Moynihan, Mr. Lugar, Mr. Burdick, Mr. Simon, Mr. Bradley, Mr. Rockefeller, Mr. Matsunaga, Mr. Dixon, Mr. Cochran, Mr. Zorinsky, Mr. Kerry, Mr. Nunn, Mr. Thurmond, Mr. Metzenbaum, Mr. Hatfield, Mr. Pell, Mr. D'Amato, Mr. Symms, Mr. Garn, Mr. Durenberger, Mr. Warner, Mr. Wilson, Mr. East, Mr. Stennis, and Mr. Denton):

S.J. Res. 247. A joint resolution to designate the week of June 1 through June 7, 1986 as "National Theatre Week"; to the Committee on the Judiciary.

By Mr. WARNER:

S.J. Res. 248. A joint resolution to designate the week of March 2, 1986 through March 8, 1986 as "National Young Writers' Week"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mrs. KASSEBAUM, from the Committee on Foreign Relations:

S. Res. 271. An original resolution expressing the sense of the Senate regarding the furnishing of assistance for the Republic of Liberia, and for other purposes; placed on the calendar.

By Mr. COHEN (for himself and Mr. Trible):

S. Res. 272. A resolution relating to the potential consequences that the use of paint containing the chemical compound tributyltin may have on the marine environment; to the Committee on Environment and Public Works.

By Mr. PACKWOOD (for Mr. Dole (for himself, Mr. Abdnor, Mr. Andrews, Mr. Armstrong, Mr. Baucus, Mr. Bentsen, Mr. Biden, Mr. Bingaman, Mr. Boren, Mr. Boschwitz, Mr. Bradley, Mr. Bumpers, Mr. Burdick, Mr. Byrd, Mr. Chafee, Mr. Chiles, Mr. Cochran, Mr. Cohen, Mr. Cranston, Mr. D'Amato, Mr. Danforth, Mr. DeConcini, Mr. Denton, Mr. Dixon, Mr. Dodd, Mr. Domenici, Mr. Durenberger, Mr. Eagleton, Mr. East, Mr. Evans, Mr. Exon, Mr. Ford, Mr. Garn, Mr. Glenn, Mr. Gore, Mr. Gorton, Mr. Gramm, Mr. Grassley, Mr. Harkin, Mr. Hart, Mr. Hatch, Mr. Hatfield, Mrs. Hawkins, Mr. Hecht, Mr. Heflin, Mr. Heinz, Mr. Helms, Mr. Hollings, Mr. Humphrey, Mr. Inouye, Mr. Johnston, Mrs. Kassebaum, Mr. Kasten, Mr. Kennedy, Mr. Kerry, Mr. Lautenberg, Mr. Laxalt, Mr. Leahy, Mr. Levin, Mr. Long, Mr. Lugar, Mr. Mathias, Mr. Matsunaga, Mr. Mattingly, Mr. McClure, Mr. McConnell, Mr. Melcher, Mr. Metzenbaum, Mr. Mitchell, Mr. Moynihan, Mr. Murkowski, Mr. Nickles, Mr. Nunn, Mr. Packwood, Mr. Pell, Mr. Pressler, Mr. Proxmire, Mr. Pryor, Mr. Quayle, Mr. Riegle, Mr. Rockefeller, Mr. Roth, Mr. Rudman, Mr. Sarbanes, Mr. Sasser, Mr. Simon, Mr. Simpson, Mr. Specter, Mr. Stafford, Mr. Stennis, Mr. Stevens, Mr. Symms, Mr. Thurmond, Mr. Trible, Mr. Wallop, Mr. Warner, Mr. Weicker, Mr. Wilson, and Mr. Zorinsky)):

S. Res. 273. A resolution expressing condolences to the Goldwater Family: considered and agreed to.

By Mr. LUGAR, from the Committee on Foreign Relations:

S. Con. Res. 93. An original concurrent resolution commending the Government of Ireland and the Government of the United Kingdom for reaching agreement on measures which will lay the foundation for a just, durable, and peaceful solution to the problems of Northern Ireland; placed on the calendar.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PROXMIRE:

S. 1927. A bill to provide for State regulation of the transportation of high level radioactive waste; to the Committee on Environment and Public Works.

TRANSPORTATION OF HIGH LEVEL RADIOACTIVE WASTE

Mr. PROXMIRE. Mr. President, today I am introducing legislation which establishes a new licensing program within the Nuclear Regulatory Commission for transportation of high-level nuclear waste and spent fuel. The bill also sets out the permissible role for States with regard to nuclear transportation regulation. An identical bill will be introduced in the other body by Representatives Moody and Obey.

This bill will not impede interstate shipments of nuclear wastes whether to permanent or interim storage facilities. Neither will it set up a burdensome process which should add greatly to the cost of the nuclear fuel cycle. Instead, it is a modest first step toward providing the public with the safety assurances necessary for confidence in any nuclear waste transportation program.

With passage of the Nuclear Waste Policy Act in 1982, Congress provided for a new program of waste disposal which would eventually result in significant new movements of high-level waste and spent fuel.

But even without this new legislation, large amounts of spent fuel already move by truck and train.

For example, multiple shipments of spent fuel currently travel through Wisconsin on the way from Minneapolis to interim storage in Illinois. Despite the desire of the State of Wisconsin to impose reasonable safety requirements on these shipments, a Federal court recently held that the State was preempted from such regulation by provisions of the Atomic Energy Act. According to the court, even in the absense of Federal rail safety regulations for nuclear waste, there was no permissible role for State regulation under the existing statute.

This restriction makes no sense. That's why I change it in my bill. After all, States, not the Federal Government, bear the responsibility for cleanup once accidents occur. Additionally States have traditionally been responsible for local health and safety regulation under their police powers.

Mr. President, my bill requires any person, company or governmental body shipping high-level waste or spent fuel to get a license from the Nuclear Regulatory Commission.

The license application must include information on emergency response and mitigation; hazard/risk assessment; environmental impact; alternative routes; notice to affected States; need for shipments, and; proof of financial responsibility in event of an accident.

Before the Nuclear Regulatory Commission can issue a license it must prepare an environmental assessment containing a comparison of the relative hazards and risks of alternative routes and transportation modes; evaluation of emergency preparedness; environmental features of the route; physical features of the route affecting site cleanup, and; potential health and safety affects.

The bill has one other important provision: It sets out the rights of States regarding nuclear waste transportation. Under its provisions, States and Indian tribes can implement requirements for: accident reporting; inspection; advance notice; user fees; cleanup procedures, and; other regulations which insure local health, safety, and environmental protection.

Mr. President, this legislation should be an essential part of any nuclear waste disposal program and I urge my colleagues on the Environment and Energy Committees to consider it as part of their current debates on nuclear insurance.

Mr. President, I ask unanimous consent that the text of this legislation be placed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1927

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Atomic Energy Act of 1954 is amended by inserting at the end thereof the following:

"CHAPTER 21. NUCLEAR WASTE TRANSFORMATION

"SEC. 311. DEFINITIONS.—For purposes of this chapter—

"(1) The terms 'high level radioactive waste', 'Indian tribe', 'State', 'repository', 'spent nuclear fuel', and 'test and evaluation facility', have the same meaning given such terms in section 2 of the Nuclear Wast Policy Act of 1982 (42 U.S.C. 10101);

"(2) the term 'corridor' means the area or route traversed by a particular mode of transportation; and

"(3) the term 'person' includes a government entity.

"SEC. 312. RESTRICTIONS ON TRANSPORTATION OF NUCLEAR WASTE.—

"a. No person may transport or be authorized by any Federal agency to transport any high level radioactive waste or spent nuclear fuel—

"(1) from the site at which such waste or fuel is located on the date of enactment of this chapter; or

"(2) from the site at which it is generated after such date,

to any facility site, repository, away from the reactor storage site, interim storage facility, monitored retrievable storage facility, or test and evaluation facility without receiving a license to transport such waste from the Commission as provided in this chapter.

"b. A license to transport waste or fuel required by subsection a. may be granted by the Commission upon application in accordance with this section. Each application shall include—

"(1) an emergency response and mitagation plan as provided in subsection c.;

"(2) a hazard/risk assessment of the corridor assessing the physical impacts that affect the risk of transporting in that corridor;

"(3) an environmental impact report, if required by the Commission;

"(4) an analysis of alternate routes, including a comparison of risks and hazards;

"(5) evidence that a notice of application has been sent to corridor States and affected Indian tribes, and that such States and Indian tribes have been consulted on route selection;

"(6) sufficient information to determine the need for the shipment of the waste or fuel; and

"(7) proof of financial responsibility.

"c. Each application for a license to transport high level radioactive waste or spent nuclear fuel shall include an emergency response and mitigation plan outlining procedures to be taken in the event of a release or potential release of radioactive waste. Such procedures shall include—

"(1) emergency tactics for investigation and monitoring;

"(2) emergency medical and hospital procedures;

"(3) containment and decontamination procedures for an accidental release of radioactive waste to the environment;

"(4) decontamination procedures for public and emergency response personnel;

"(5) cleanup procedures;

"(6) coordinated response procedures with affected States, tribal, and local entities; and

"(7) resource identification and accessibility.

"d. (1) Prior to issuing a license to transport high level radioactive waste or spent nuclear fuel, the Commission shall prepare an environmental assessment which shall include a detailed statement of the basis for the Commission's decision and the probable impacts. Such an environmental assessment shall include, at a minimum—

"(A) a comparison of the relative hazards and risks of alternative routes and modes;

"(B) an evaluation of the emergnecy preparedness of States, local communities, and affected Indian tribes along the selected route;

"(C) a description of the environmental features both human and natural, along with the selected route;

"(D) a description of the condition of the physical features along the route which might hinder recovery, containment and clean up of an accident involved in the transprotation of waste; and

"(E) an evaluation of the environmental and human health effects of a release of high level radioactive waste during transport.

"(2) To the extent necessary to protect public health and safety and the environment, the Commission shall impose reasonable and prudent restrictions on the shipper which will as a result of the environmental assessment, either minimize the risk of an incident or enhance the potential for containment and clean up of an incident.

"e. (1) The Commission may issue a license in conformance with this section, if it determines that the shipment or series of shipments meet all applicable Federal and State requirements.

"(2) The Commission may issue a license for a single shipment or for a series of shipments if—

"(A) all shipments in the series contain the same type of waste;

"(B) all shipments in the series use the same shipping containers, transportation vehicles and route; and

"(C) all shipments in the series occur within two years after issuance of the license.

"SEC. 313. EMERGENCY RESPONSE CAPABILITIES.—

"The Department of Energy, the Commission, the Department of Transportation, and the Federal Emergency Management Agency shall, in consultation with the States and affected Indian tribes, determine the emergency response capabilities of corridor States and affected Indian tribes with respect to the implementation of an emergency response and implementation plan prepared pursuant to section 312c. These Federal agencies, States, Indian tribes, and affected communities shall develop and exercise the emergency response and mitigation plan within twelve months of the date a license is granted pursuant to this chapter. No shipments may be made unless such plans are developed and periodically exercised.

"SEC. 314. AFFECT OF CHAPTER ON INDIAN TRIBES.—

"No Federal regulation shall preempt States and Indian tribes from imposing regulations for—

"(1) implementation of inspection, surveillance, and enforcement permits;

"(2) establishing fees designed to pay the cost of the State nuclear safety transportation programs;

"(3) accident and incident reporting;

"(4) advance notification of shipments;

"(5) designation of alternate routes;

"(6) identification of safe havens;

"(7) driver certification requirements; and

"(8) monitoring, containment, cleanup, and decontamination procedures.

"SEC. 315. EXEMPTION FROM TRANSPORTATION RESTRICTIONS.—

"The restrictions established in section 312 shall not apply to high level radioactive waste or spent nuclear fuel that is to be transported if the Commission certifies that there are compelling reasons of public health and safety or national security which necessitate the immediate transportation of the waste to another site or facility.".

By Mr. CRANSTON:

S. 1928. A bill to require the President to direct the Secretary of Defense, the Secretary of Health and Human Services, and the Administrator of Veterans' Affairs to submit to the appropriate Committees of the Congress a joint report addressing the question of United States Government responsibility for providing benefits and services to individuals who served with certain voluntary organizations in support of the Armed Forces of the United States stationed in the Republic of Vietnam during the Vietnam era; to the Committee on Governmental Affairs.

BENEFITS AND SERVICES TO CERTAIN INDIVIDUALS

Mr. CRANSTON. Mr. President, I am today introducing, for appropriate referral, S. 1928, legislation which is designed to address the concerns of non-Federal civilians who served in Vietnam with voluntary organizations, such as the Red Cross and the USO, in support of U.S. military forces.

This legislation would require the Secretary of Defense, the Secretary of Health and Human Services, and the Administrator of Veterans' Affairs to submit to the Congress, not later than 180 days after the date of enactment, a joint report evaluating the question of U.S. Government responsibility, and alternative approaches, for providing Federal and other benefits, services, and assistance relating to disabilities that possibly result from the service of these civilians in Vietnam.

I first became aware of the concerns on non-Federal civilians who served in Vietnam in connection with my work on the Veterans' Affairs Committee regarding Vietnam veterans, particularly with reference to the veterans' concerns about exposure to agent orange. Several former workers with voluntary organizations have contacted me and others in the Congress and the executive branch to make the point that they were potentially exposed to many of the same environmental situations and shared many of the experiences of the members of the Armed Forces. These individuals have noted that, because so much of the Federal Government's efforts to respond to concerns regarding the possible long-term health effects of serving in Vietnam have involved an agency uniquely devoted to veterans—that is, the VA—they have been excluded from this process and from any access to health care or compensation that it might yield.

In view of the contributions that these individuals made to their country and of their concerns about the possible long-term health effects of their service in Vietnam that may be related to actions of the Federal Government, I believe that the Federal Government has a responsibility to evaluate the question of Federal responsibility and possible appropriate alternatives—Federal and non-Federal—for addressing these concerns. This is what the legislation I am introducing today would require.

Legislation very similar to this has twice been passed by the Senate in measures relating to veterans' benefits and services. The first such provision was in S. 2514 as reported by the Veterans' Affairs Committee in the last Congress and as passed by the Senate as part of H.R. 5618. The second time was earlier this year when such a provision was included in S. 876 as reported by the Veterans' Affairs Committee on July 8 and passed by the Senate in H.R. 505 on July 30.

Unfortunately, on both occasions, our colleagues in the House were unwilling to accept this provision, apparently because of a concern that its passage might somehow reflect a judgment regarding the military or nonmilitary status of groups of civilians who served in Vietnam and because they did not want the VA to take the lead on exploring this issue.

It has never been my intent to make any judgment relating to veteran status for these individuals; rather, I view the question of the extent to which the Federal Government may be responsible to these individuals and the need for an evaluation of alternatives for providing an avenue of redress for them, if necessary, as entirely separate from the issue of veteran status.

Indeed, on the question of veteran status for individuals who served during periods of war with nonmilitary organizations, I was a principal author of a provision in Public Law 95-202 pursuant to which the Department of Defense has established a Civilian Military Review Board—the entity which is responsible for weighing evidence and passing judgment as to whether a particular group's service to the country during a period of war was such that it should be considered military service for the purpose of receiving military benefits. Nothing in this legislation is designed to circumvent or influence that separate avenue of redress.

Mr. President, I believe strongly that the individuals who went to Vietnam with voluntary organizations in order to provide service and support to our Armed Forces deserve answers to the questions and concerns about the possible effects of that service. For too long, these individuals have been passed from one agency to another, one entity to another, always being told to look elsewhere for their answers. It is time the Federal Government, as a collective entity, sat down and tried to address these concerns. I solicit my colleagues cosponsorship of this measure, and I look forward to seeing it move forward on a timely basis.

Mr. President, I ask unanimous consent that the text of this measure be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1928

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the purpose of this Act is to provide a basis for the executive branch and the Congress to evaluate the question of United States Government responsibility, and alternative approaches, for providing overseas volunteer support personnel (not part of the Armed Forces) with Federal and other benefits and services (including, but not limited to, health care and monetary compensation) in connection with disabilities which may be related to their experiences during their service in the Republic of Vietnam in support of the activities of the Armed Forces of the United States during the Vietnam era.

(b) In order to carry out such purpose, the President shall direct the Secretary of Defense, the Secretary of Health and Human Services, and the Administrator of Veterans' Affairs, to submit to the appropriate committees of the Congress, not later than 180 days after the date of the enactment of this Act, a joint report on such question and shall include in such report various such alternative approaches (together with comments on the appropriateness and the advantages and disadvantages of each) and any recommendations by such officials for legislative and administrative action with respect thereto, for establishing a program for providing such benefits and services to such individuals.

(c) For the purpose of this section—

(1) the terms "Armed Forces" and "Vietnam era" have the meaning given such terms in section 101(10) and (29), respectively, of title 38, United States Code; and

(2) the term "overseas volunteer support personnel" means individuals who, for a period of at least thirty days during the Vietnam era, served in the Republic of Vietnam as employees of or volunteer workers with voluntary organizations determined by the Secretary of Defense to be organizations which provided significant assistance to the United States Armed Forces in the Republic of Vietnam during the Vietnam era.

By Mr. MATHIAS:

S. 1929. A bill entitled the "Passenger Ship Authorizaton Act"; to the Committee on Commerce, Science, and Transportation.

PASSENGER SHIP AUTHORIZATION ACT

● **Mr. MATHIAS.** Mr. President, today I am introducing the Passenger Ship Authorization Act that will allow the documentation of certain vessels as passenger vessels of the United States so that they can conduct coastwise trade. This bill is identical to H.R. 3262 introduced in the other body by my colleague in the Maryland delegation, Representative HELEN DELICH BENTLEY.

The legislation calls for the construction of the marine portions of new passenger ships in U.S. yards while the "hotel" portions of the vessels would be built overseas. Under present law, a ship constructed in this manner would not be able to trade between U.S. ports.

I would prefer that the entire job were to be done in Baltimore, but it is ancient wisdom that "half a loaf is better than none". On that principle I support the proposal embodied in this bill which will generate hundreds of jobs.

This bill is an attempt to address a major problem facing many domestic shipyards—the lack of commercial shipbuilding work. Yards now must rely on Government work to remain viable and that work is too scarce. An example is the shipbuilding industry in Maryland. Passage of the Passenger Ship Authorization Act would allow several hundred jobs to be created and help maintain our Nation's shipbuilding capacity.

Mr. President. I ask unanimous consent that the text of the bill appear in the Record at this point.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1929

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) notwithstanding any other provision of law, the Secretary of the department in which the Coast Guard is operating shall cause any passenger vessel, as defined in section 613(a) of the Merchant Marine Act, 1963 (46 U.S.C. 1183(a)), with respect to which (i) all major structural components of its hull and superstructure are fabricated and assembled in the United States, and (ii) its propulsion and auxiliary machinery systems are installed and tested in the United States, to be documented as a vessel of the United States entitled to engage in the coastwise trade, so long as—

(1) such vessel is in compliance with all other requirements for vessels engaging in the coastwise trade;

(2) such vessel is owned by a citizen of the United States as defined in the applicable laws prescribing the qualifications for vessels to engage in the coastwise trade;

(3) for hire carriage in such trade is limited to passengers, and their accompanying baggage, personal property and motor vehicles; and

(4) the owner of such vessel is agreeable to contracting with the United States for inclusion of enhanced military features.

(b) The provisions of this section shall apply to any passenger vessel for which a building contract has been executed within two years after the date of enactment of this Act.●

By Mr. D'AMATO (for himself Mr. Gramm, Mr. Dodd, and Mr. Heinz):

S. 1931. A bill to amend the Urban Mass Transportation Act of 1964 to require construction management oversight on major capital projects; to the Committee on Banking, Housing, and Urban Affairs.

MANAGEMENT OVERSIGHT ON MAJOR TRANSIT PROJECTS

● Mr. D'AMATO. Mr. President, I rise today to introduce a bill to correct serious gaps in Federal law regarding construction management oversight on major transit construction projects throughout the Nation.

This legislation is necessary in order to avoid wasting hard-earned taxpayer's dollars on projects that lack well-planned quality control and quality assurance procedures. Currently, no Federal requirements exist to mandate that prudent procedures be in place prior to the allocation of huge amounts of Federal moneys for major transit capital projects.

The 63d Street subway tunnel—the infamous Tunnel to Nowhere—now runs 3 miles straight into a dead end in Queens. It is more than 7 years behind schedule and has incurred cost overruns in excess of $653 million. Over the last 16 years, Federal funds have contributed more than 70 percent of the $807 million poured into this still incomplete project. In fact, the cost of operating and maintaining the 63rd Street tunnel would be so staggering that it may never be opened.

Despite initial ridership projections of 36,500 riders per day, current estimates for the tunnel are now only 2,800 daily riders with a mere 220 rush-hour riders. For the same money we could have given every potential rider an apartment in Manhattan costing $288,000 and eliminated their need to commute. The projected $123 per person daily cost of a rush-hour trip on the tunnel could provide a chauffeur driven limousine and door-to-door service for each of these favored few.

How was this allowed to happen?

The story is one of mismanagement and incompetence. The 63rd Street tunnel is a classic example of how not to spend Federal dollars. It started in 1968 as a proposed $154 million tunnel, to be opened by 1978, which would link up with a new Queens bypass project and enable subway riders to transfer from other commuter lines and zip easily and conveniently into the heart of Manhattan. The Queens bypass project has been shelved due to its billion-dollar price tag, and the nearly completed tunnel simply ends in Queens without any link to existing transit service.

All we have for our money is a hole in the ground that is unlikely ever to be put into service.

On April 21, 1985, I toured the tunnel and saw cracks, water leaks, corroded and worthless equipment, and a general state of disrepair. At my insistence, the Federal Government then stopped payment on all remaining funds for the tunnel and required an independent review of its condition. The outside firm is still studying the problem.

New York is not alone. Because there are no adequate Federal safeguards in place, other cities have produced their own white elephants. The Miami metrorail system has been built at a cost of $1 billion, $800 million of it Federal money. After monstrous costs overruns and design and quality control problems, it now serves a mere 20,000 people a day. It would have been cheaper to buy every rider his or her own limousine. In Detroit, a people mover is being built at a cost of $210 million. The project, plagued by design defects and cost overruns, now needs another $53 million in Federal funds.

We deserve a much better use of our tax dollars than boondoggle construction projects. We need a guarantee that we will do better in the future.

That is why I am introducing this legislation to require the Federal Government to exercise better control over these projects to stop them from getting out of hand. My bill requires local officials planning major construction projects to provide detailed management plans as a precondition for Federal funding. These plans will have to specify how quality control and quality assurance will be guaranteed and will have to demonstrate that the people managing the project are qualified to do so.

My bill also requires that plans include, at a minimum, the following items:

Well-planned budgets; comprehensive construction schedules; qualifications, responsibilities, and reporting relationships of construction management personnel; documented, systematic procedures for handling potentially costly construction change orders; materials testing policies and procedures; and criteria and procedures for systems operations testing.

My bill authorizes the Transportation Department to contract directly for the performance of construction management oversight. The Federal share of such contracts will be 100 percent. Federal oversight is necessary in order to review the sufficiency of construction management plans and to monitor transit authorities' adherence to these plans.

A November 2 Transportation Appropriations Subcommittee hearing I chaired revealed an immediate need to beef-up Federal oversight of multimillion-dollar projects around the Nation and to require detailed construction management plans. Boondoggle projects will continue to be built unless we act now to put reasonable standards in place.

Wasteful transit construction projects jeopardize the continuation of the Federal commitment to funding for public transit. Those who depend on public transportation—especially, the poor, the handicapped, and the elderly—must not be left without the means to get to work, to school, and to carry on their daily lives. Transit systems across the Nation rely upon Federal aid to construct major capital projects. The vast majority of these projects are worthwhile and provide transit riders with new, efficient, accessible, and affordable public transit services and local communities with economic revitalization and growth.

This prudent legislation will safeguard the continued Federal commitment to mass transit by ensuring that Federal funds are spent only on those projects for which satisfactory construction management plans exist. This requirement should have been in place years ago. Taxpayers deserve to receive a dollar's worth of value for every dollar's worth of work on our mass transportation systems.

We can, and we must, do better. I urge my colleagues to join me in putting some safeguards in place so that such massive and expensive boondoggies never happen again. My bill is a first step, an important first step, toward insuring that no more Federal transit aid is poured into useless holes in the ground.

Mr. President, I ask unanimous consent that this legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1931

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new section:

"CONSTRUCTION MANAGEMENT

"SEC. 23. (a)(1) The Secretary is authorized to use Federal funds available under this Act, section 103(e)(4) of title 23, United States Code, and section 14(b) of the National Capital Transportation Act of 1969, in an amount determined by the Secretary, to contract directly for the performance of construction management oversight. The Federal share of any such contract shall be 100 per centum.

"(2) Each recipient of assistance under this Act, section 103(e)(4) of title 23, United States Code, or section 14(b) of the National Capital Transportation Act of 1969 shall provide a contractor chosen by the Secretary in accordance with paragraph (1) such access to its construction sites and records as may be reasonably be required.

"(b) As a condition of Federal financial assistance for a major capital project under this Act, section 103(e)(4) of title 23, United States Code, or section 14(b) of the National Capital Transportation Act of 1969, the Secretary shall require the recipient to prepare and, after approval by the Secretary, implement a construction management plan which meets the requirements of subsection (c).

"(c) At a minimum, a construction management plan shall provide for—

"(1) adequate recipient staff organization complete with well-defined reporting relationships, statements of functional responsibilities, job descriptions, and job qualifications;

"(2) a duly adopted budget covering the construction management organization, appropriate consultants, property acquisition, utility relocation, systems demonstration staff, audits, and such miscellaneous payments as the recipient may be prepared to justify;

"(3) a comprehensive construction schedule approved by both the recipient and the prime contractor on the project;

"(4) a document control procedure and recordkeeping system;

"(5) a change order procedure which includes a documented, systematic approach to the handling of construction change orders;

"(6) organizational structures, management skills, and staffing levels required throughout the construction phase;

"(7) quality control and quality assurance functions, procedures, and responsibilities for construction and for system installation and integration of system components;

"(8) materials testing policies and procedures;

"(9) internal plan implementation and reporting requirements; and

"(10) criteria and procedures to be used for testing the operational system or its major components.

"(d) Not later than 120 days after the date of enactment of this section, the Secretary shall issue guidelines or regulations to implement this section. Such guidelines or regulations shall define the term 'major capital project' for the purpose of subsection (b).".●

By Mr. BAUCUS:

S. 1932. A bill to amend the Internal Revenue Code of 1954 to impose an excise tax on television sets, the revenue from which to be deposited in the national competitiveness education trust fund for mathematics and science teachers scholarships and summer fellowships, and for other purposes; to the Committee on Finance.

NATIONAL COMPETITIVENESS EDUCATION ACT

Mr. BAUCUS. Mr. President, today I am introducing a trade bill. But it doesn't have anything to do with tariffs, quotas, or trade laws.

It has to do with education.

The bill would create two Federal teacher scholarship programs to improve math and science education in the United States.

Let me explain why this bill is so important to the future of U.S. trade.

THE TRADE CRISIS

Mr. President, America faces a trade crisis. We all know the statistics. Our international competitors are beating the daylights out of us. As a result, our trade deficit is getting larger each month.

Two important causes of our declining competitiveness are the high value of the dollar and unfair foreign trade practices. Both of these problems have received a lot of attention in this Chamber, as they should.

COMPETITIVENESS

But there's a third problem that has not received enough attention: America's declining productivity. In the end, we will need to produce our way out of the trade deficit. Unfortunately, our competitors are increasing their productivity faster than we are: Germany twice as fast; France five times as fast; and Japan six times as fast.

To reverse this trend and restore America's competitiveness, we must improve the quality of our labor force.

THE IMPORTANCE OF EDUCATION

In 1983, the National Commission on Excellence in Education released a report called "A Nation at Risk." The report said that our school system is being "eroded by a rising tide of mediocrity that threatens our very future as a nation."

Since then, there have been 180 different studies on the condition of education in our country. These studies all show that our declining academic performance is taking a toll on our Nation's labor force. Employers say that high school graduates just aren't prepared for the job market.

Mr. President, our children are the labor force of the next century.

If we give our children the best education and training, we will have the best, most productive labor force in the world. American industries will have the highly skilled employees they need to be competitive.

If we do not strengthen our educational system, the quality of our labor force will continue to decline and American industries will fall further behind their foreign competitors.

THE ANSWER IS TEACHERS

Many solutions have been offered as ways to improve our educational system. Some have recommended new programs for administrators, new programs for improving textbooks, and new programs for encouraging students to go to private school instead of public school.

But I think we all know one critical answer to the problem: Teachers.

Teachers are the key to the success or failure of America's educational system. There's nothing profound about that. It's obvious. Each of us can remember a teacher who made the difference.

In this respect, we can learn an important lesson from the Japanese. They have one of the best-trained work forces in the world. Japan's educational system is the single most important factor in that country's economic success. Japan puts its teachers on a pedestal. They are highly paid and highly respected.

America, in contrast, treats its teachers like second-class citizens, with low salaries and low prestige.

THE TEACHER SHORTAGE

As a result, we face a teacher shortage. Statistics show that we will need over a million new teachers by 1990.

The shortage is especially serious in the areas of math and science. The United States is competing in a world economy that demands more and more knowledge in areas of high technology. To meet this competition, America needs a labor force that has strong math and science skills.

But there aren't enough competent teachers to teach those skills. In the last 10 years, the number of people studying to be math teachers fell 79 percent. Those studying to be science teachers fell 64 percent. And only half of those students actually became teachers.

It's no mystery why this shortage has occurred. College graduates trained in math and science are being lured to high-paying jobs in industry. As a result, some of the people filling teaching positions don't have a strong enough math and science background. Our schools respond by teaching less math and science. That is not the answer. That just makes the problem worse.

To solve this problem, we need broad incentives to draw outstanding students into teaching positions. And we need to increase teachers' salaries to keep good teachers in the schools.

THE NATIONAL COMPETITIVENESS EDUCATION ACT

My bill addresses both of these needs.

First, it sets up a Federal scholarship program for top high school and college students who study math or science. In exchange for the scholarships, students would take teaching jobs for between 2 and 6 years after graduation, depending on the amount of scholarship the students received.

Second, the bill creates a fellowship program for math and science teachers, so that during summer vacation they can take additional courses to improve their skills and not have to worry about getting another job.

Together, these two programs would cost about $100 million a year.

To pay for them, the bill imposes a 2-percent excise tax on the manufacture of television sets. The tax would provide about $100 million a year for the two programs.

TV HINDERS EDUCATION

Mr. President, TV is part of the problem. During their first 16 years, American children watch almost 15,000 hours of TV—more time than they spend on anything else, except sleeping. Teachers are competing with "He-Man," "The A-Team," and "Monday Night Football" for their students' time. No wonder homework doesn't get done and students learn less.

Recent studies confirm what we've suspected all along—that there is a connection between the amount of time children spend watching TV and how well they do in school.

A 1977 report by the College Entrance Examination Board found that television viewing has been a cause of the decline in SAT scores in recent years. A 1980 research project by the California school system showed that students who watch a lot of TV score lower on achievement tests than students who watch little or no TV. Another study in 1982 that students who watch more than 10 hours of TV per week have worse grades than those who watch less than 10 hours.

The small excise tax in my bill would help offset this damage by allowing television importers and manufacturers to devote part of their profit to improving the U.S. educational system.

CONCLUSION

Mr. President, the world economy is at a turning point.

Twenty years ago, the United States had a huge edge in the world market. We are now losing that edge as other countries are becoming more and more competitive in the high-tech industries.

Without a well educated labor force, the United States will be unable to compete in the world economy in the years to come.

Mr. President, Benjamin Disraeli once said that "The youth of our Nation are the trustees of prosperity."

It's true. The most important investment this country can make is in its children.

Education is a big part of that investment. In fact, it's an obligation that we as a nation cannot afford to ignore.

Mr. President, I ask unanimous consent that the text of the bill and a summary of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL COMPETITIVENESS EDUCATION ACT

SUMMARY

This bill provides for the levy of a tax on all TV sets sold in the United States, the revenues from which would go into a trust fund to be used for the improvement of math and science education. Two primary factors support this proposal:

(1) There is a relationship between the amount of time kids spend watching TV and their academic achievement (suggested, for example, by a 1977 College Entrance Examination Board study); and

(2) We need better math/science education in order to be competitive with other nations, like Japan, Germany, and France, that have better math/science education.

OUTLINE OF BILL

The National Competitiveness Education Act will have two parts:

(1) National Math-Science Teachers Scholarships, which will consist of scholarships to outstanding students who agree to teach math or science when they graduate from college; and

(2) National Math-Science Teachers Summer Fellowships, to consist of summer fellowships worth $5,000 for top math/science teachers to update and improve their teaching skills.

PART I: TEACHERS SCHOLARSHIPS

This part would provide approximately 15,000 scholarships each year of up to $5,000 per year. Funding for the scholarships is allocated from the trust fund to the states in the form of grants. Winners of the scholarships would be chosen from among students who apply and who are in the top 10% of their current class. Winners would be chosen by a governor-appointed panel in each state. Upon college graduation, the "scholars" would pay back the scholarship by teaching math or science in public schools for at least two years.

REASONS FOR PART I

1. To encourage bright students into teaching
2. To give students who want to teach the financial opportunity to do so
3. To provide schools with access to a greater pool of talented applicants for math/science teaching positions.

PART II: TEACHERS SUMMER FELLOWSHIPS

This part would provide approximately 5000 selected teachers $5,000 to be used during the summer to improve their math/science teaching skills. Teachers would compete for the fellowships, and would be chosen at the state level by a governor-appointed panel. The fellowship guidelines are fairly loose: they could be used for going back to school, carrying out research projects (if the projects are directly related to improving math/science teaching), developing new math/science programs, or doing internships in business to learn applications of math/science skills.

REASONS FOR PART II

1. To recognize outstanding math/science teachers
2. To give teachers incentives to stay in teaching
3. To give teachers an opportunity to improve their teaching skills.

S. 1932

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Competitiveness Education Act".

TITLE I—EXCISE TAX ON TELEVISION SETS

SEC. 101. EXCISE TAX IMPOSED ON TELEVISION SETS.

(a) IN GENERAL.—Chapter 32 of the Internal Revenue Code of 1954 (relating to manufacturers excise taxes) is amended by inserting after subchapter B the following new subchapter:

"Subchapter C—Television Sets

"Sec. 4141. Imposition of tax.

"SEC. 4141. IMPOSITION OF TAX.

"There is hereby imposed upon the sales of any television set by the manufacturer, producer, or importer a tax equal to 2 percent of the price for which so sold.".

(b) CLERICAL AMENDMENT.—The table of subchapters of chapter 32 of the Internal Revenue Code of 1954 is amended by inserting after the item relating to subchapter B the following new item:

"Subchapter C. Television Sets.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer after December 31, 1986.

SEC. 102. TRANSFER OF TELEVISION SET EXCISE TAX REVENUES TO NATIONAL COMPETITIVENESS EDUCATION TRUST FUND.

(a) IN GENERAL.—Subchapter A of chapter 98 of the the Internal Revenue Code of 1954 (relating to Trust Fund Code) is amended by adding at the end thereof the following new section:

"SEC. 9505. NATIONAL COMPETITIVENESS EDUCATION TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'National Competitiveness Education Trust Fund', consisting of such amounts as may be appropriated, credited, or transferred to the National Competitiveness Education Trust Fund as provided in this section and section 9602(b) (relating to crediting of interest, etc.).

"(b) TRANSFERS TO NATIONAL COMPETITIVENESS EDUCATION TRUST FUND.—There are hereby appropriated to the National Competitiveness Education Trust Fund amounts equivalent to the taxes received in the Treasury after December 31, 1985, under section 4141.

"(c) EXPENDITURES FROM TRUST FUND.—Amounts in the National Competitiveness Education Trust Fund shall be available as provided by appropriation Acts, for payment to the Secretary of Education to provide funds for title II of the National Competitiveness Education Act.".

(b) Clerical Amendment.—The table of sections for subchapter A of chapter 98 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new item:

"Sec. 9505. National Competitiveness Education Trust Fund.".

(c) Effective Date.—The amendments made by this section shall take effect on January 1, 1987.

TITLE II—PROGRAMS FUNDED BY NATIONAL COMPETITIVENESS EDUCATION TRUST FUND

Part A—National Mathematics and Science Teachers Scholarships

SEC. 201. STATEMENT OF PURPOSE.

The purpose of this part is to make available, through grants to the States, scholarships to individuals each year who are outstanding secondary and postsecondary students and who demonstrate an interest in a teaching career in the fields of mathematics or science at the elementary school or secondary school level.

SEC. 202. ALLOTMENT OF FUNDS.

(a) General Allotment.—From the sums available pursuant to section 221(b) to carry out this part in any fiscal year, the Secretary shall allot to each State an amount which bears the same ratio to such sums as the population of the State bears to the population of all States, except that no State shall receive less than one-half of 1 per centum of such sums.

(b) Most Recent Data.—For the purpose of this section, the population of a State and of all States shall be determined by the most recently available data from the United States Census Bureau.

(c) Reallotment.—If any State elects not to receive its allotment under this part, the Secretary shall reallot, among the remaining States, amounts from such State in accordance with subsection (a) of this section.

SEC. 203. GRANT APPLICATIONS.

(a) In General.—The Secretary is authorized to make grants to States in accordance with the provisions of this part. In order to receive a grant under this part, a State shall submit an application at such time or times, in such manner, and containing such information as the Secretary may prescribe by regulation. Such application shall set forth a program of activities for carrying out the purposes set forth in section 201 in such detail as will enable the Secretary to determine the degree to which such program will accomplish such purposes.

(b) Terms of Applications.—The Secretary shall approve an application only if the application—

(1) describes the selection criteria and procedures to be used by the State in the selection of scholarships under this part which satisfy the provisions of this part;

(2) designates the State agency to administer the program;

(3) describes the outreach effort the State agency intends to use to publicize the availability of the National Mathematics and Science Teachers Scholarships to secondary and postsecondary students in the State;

(4) provides assurances that each recipient eligible under section 205(c) who receives a mathematics or science, or both, scholarship shall enter into an agreement with the State agency under which the recipient shall—

(A) within the 10-year period after completing the postsecondary education for which the scholarship was awarded, teach mathematics or science, or both, for a period of not less than 2 years for each of the first 2 years for which assistance was received and 1 year for each additional year for which assistance was received in an elementary or secondary school of a local educational agency of such State, a public elementary or secondary school of such State, or a public educational program in such State, any of which may be selected by such State, but in no event shall any recipient be required to teach for less than 2 years or more than 6 years;

(B) provide the State agency evidence of compliance with section 206 as required by such agency; and

(C) repay all or part of a scholarship received under section 204 plus interest and, if applicable, reasonable collection fees, in compliance with regulations issued by the Secretary under section 207, in the event that the conditions of clause (A) are not complied with, except as provided for in section 208;

(5) provides that the agreement entered into with recipients shall fully disclose the terms and conditions under which assistance under this part is provided and under which payment may be required;

(6) provides assurances that the State agency will make particular efforts to attract students who express a willingness or desire to teach in schools having less than average academic results or serving large numbers of economically disadvantaged students; and

(7) provides assurances that National Mathematics and Science Teachers Scholarships will be awarded without regard to sex, race, handicapping condition, creed, or economic background.

(c) Projected Teacher Needs.—The selection criteria and procedures to be used by the State shall reflect the present and projected teacher needs of the State, including the demand for and supply of elementary and secondary teachers with training in the fields of mathematics and science.

(d) Consultation.—In developing the selection criteria and procedures to be used by the State, the State shall solicit the views of State and local educational agencies and other interested parties. Such views—

(1) shall be solicited by means of—

(A) written comments; and

(B) publication of proposed selection criteria and procedures in final form for implementation; and

(2) may be solicited by means of—

(A) public hearings on the teaching needs of elementary and secondary schools in the State (including the number of new teachers needed, the expected supply of new teachers, and the shortages in the State of teachers with training in the fields of mathematics and science; or

(B) such other methods as the State may determine to be appropriate to gather information on such needs.

SEC. 204. AMOUNT AND DURATION OF AND RELATION TO OTHER ASSISTANCE.

(a) In General.—Subject to subsection (b)(2), each recipient shall receive a scholarship not to exceed $5,000 for each academic year of postsecondary education for study in preparation to become an elementary or secondary mathematics or science teacher. No individual shall receive scholarship assistance for more than 4 years of postsecondary education, as determined by the State agency.

(b) Limitations on Scholarships.—(1) Notwithstanding the provisions of title IV of the Higher Education Act of 1965, scholarship funds awarded pursuant to this part shall be considered in determining eligibility for student assistance under title IV of such Act.

(2) Scholarship assistance awarded by the statewide review panel established pursuant to section 205 to any individual in any given year, when added to assistance received under title IV of the Higher Education Act of 1965, shall not exceed the cost of attendance, as defined under section 482(d) of such Act, at the institution the individual is attending. If the amount of the scholarship assistance and assistance received under title IV of such Act, exceeds the cost of attendance, the scholarship shall be reduced by an amount equal to the amount by which the combined awards exceed the cost of attendance.

(3) No individual shall receive an award under this part, in any academic year, which shall exceed the cost of attendance, as defined under section 482(d) of the Higher Education Act of 1965, at the institution the individual is attending.

SEC. 205. SELECTION OF RECIPIENTS.

(a) Statewide Review Panel.—Recipients of scholarships under this part shall be selected by a 7-member statewide review panel appointed by the Governor, acting in consultation with the State agency. The statewide review panel shall be respresentative of school administrators, teachers, and parents in the State.

(b) Students Selected.—(1) Selections of scholarship recipients shall be made—

(A) 25 per centum from among individuals entering the first year of any accredited mathematics or science teaching program in an institution of higher education;

(B) 25 per centum from among individuals entering the second year of such a program;

(C) 25 per centum from among individuals entering the third year of such a program; and

(D) 25 per centum from among individuals entering the fourth year of such a program;

(2) Each recipient selected under paragraph (1) shall rank in the top 10 per centum of such recipient's secondary or postsecondary class at the time of the selection.

(3) The statewide review panel shall develop additional criteria and procedures for the selection of recipients. Such criteria and procedures may include—

(A) secondary and postsecondary education grade point average;

(B) involvement in extracurricular activities;

(C) financial need;

(D) expression of interest in teaching as expressed in a written essay by the applicant; and

(E) letters of recommendation from teachers and others.

SEC. 206. SCHOLARSHIP CONDITIONS.

Recipients of scholarship assistance under this part shall continue to receive such scholarship payments only during such periods that the State agency finds that the recipient is—

(1) enrolled as a full-time student in an institution of higher education;

(2) pursuing a course of study leading to teacher certification in the fields of mathematics or science, or both; and

(3) maintaining satisfactory progress as determined by such institution of higher education.

SEC. 207. SCHOLARSHIP REPAYMENT PROVISIONS.

Recipients found by the State agency to be in noncompliance with the agreement entered into under section 203(b)(4) shall be required to repay a pro rata amount of the scholarship awards received, plus interest and, where applicable, reasonable collection fees, on a schedule and at a rate of interest to be prescribed by the Secretary by regulations issued pursuant to this part.

SEC. 208. EXCEPTIONS TO REPAYMENT PROVISIONS.

(a) In General.—A recipient shall not be considered in violation of the agreement entered into pursuant to section 203(b)(4)(C) if the recipient—

(1) returns to a full-time course of study related to the field of mathematics or science teaching at an eligible institution of higher education;

(2) is serving, not in excess of 3 years, as a member of the armed services of the United States;

(3) is temporarily totally disabled for a period of time not to exceed 3 years as established by sworn affidavit of a qualified physician;

(4) is unable to secure employment for a period not to exceed 12 months by reason of the care required by a spouse who is disabled;

(5) is seeking and unable to find full-time employment for a single period not to exceed 12 months;

(6) is seeking and unable to find full-time employment as a mathematics or science teacher in a public elementary or secondary school; or

(7) satisfies the provisions of additional repayment exceptions that may be prescribed by the Secretary in regulations issues pursuant to this part.

(b) Total Disability.—A recipient shall be excused from repayment of any scholarship assistance received under this part if the recipient becomes permanently and totally disabled as established by sworn affidavit of a qualified physician.

Part B—Mathematics and Science Teachers Summer Fellowships

SEC. 211. STATEMENT OF PURPOSE.

The purpose of this part is to provide financial assistance to States to enable the Governor to award, on a competitive basis, to elementary and secondary school teachers of mathematics or science fellowships for summer study so that the elementary and secondary school teachers may improve their teaching skills in the field of mathematics or science.

SEC. 212. ALLOTMENT OF FUNDS.

(a) General Allotment.—From the sums available pursuant to section 221(b) to carry out this part in any fiscal year, the Secretary shall allot to each State an amount which bears the same ratio to such sums as the population of the State bears to the population of all States, except that no State shall receive less than one-half of 1 per centum of such sums.

(b) Most Recent Data.—For the purpose of this section, the population of a State and of all States shall be determined by the most recently available data from the United States Census Bureau.

(c) Reallotment.—If any State elects not to receive its allotment under this part, the Secretary shall reallot, among the remaining States, amounts from such State in accordance with subsection (a) of this section.

SEC. 213. SELECTION OF RECIPIENTS.

(a) Review Panel.—The Governor of each State shall appoint a 7-member selection review panel for the purpose of selecting elementary school teachers, secondary school teachers of mathematics, and secondary school teachers of science in the State who are interested in improving their teaching skills in the field of mathematics or science by taking courses of study during the summer.

(b) Selection Procedure.—(1) The Governor shall establish selection procedures to be applied by the review panel appointed pursuant to subsection (a), together with such application procedures as may be necessary.

(2) The application procedures established under paragraph (1) shall include provisions designed to assure that each applicant describe the fellowship proposal for which the applicant is applying under this part.

SEC. 214. STIPENDS.

(a) General Rule.—Each State shall pay to individuals awarded summer fellowships under this part such stipends (including such allowances for subsistence and other expenses for such individuals and their dependents) as the Secretary may determine to be consistent with prevailing practices under comparable federally supported programs.

(b) Maximum Stipend.—No stipend may be paid to a single recipient for any single summer institute in excess of $5,000.

SEC. 215. FELLOWSHIP CONDITIONS.

(a) General Requirements.—An individual awarded a summer fellowship under the provisions of this part shall—

(1) use the award for improving the teaching ability of the individual in the field of mathematics or science in the elementary and secondary schools of the local educational agencies of the State or of the public elementary and secondary schools of the State; and

(2)(A) enter into an agreement with the State under which the individual will for a period of not less than 2 years following the award of the summer fellowship under this part teach in an elementary or secondary school of a local educational agency of such State, a public elementary or secondary school of such State or a public educational program in such State; or

(B) repay all of the stipend awarded to the recipient in the event that the conditions of clause (A) are not complied with, except when such conditions are not complied with for reasons beyond a recipient's control.

(b) Limitation on Time of Fellowship.—No elementary or secondary school teacher may receive a summer fellowship under this part in 2 consecutive years.

(c) Prohibition.—No grant under this part may be used for the purchase of materials or equipment, including textbooks, for use by any elementary or secondary school.

SEC. 216. APPLICATIONS.

Each State desiring to receive a grant under this part shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

Part C—General Provisions

SEC. 221. AUTHORIZATION AND ALLOCATION OF FUNDS.

(a) Authorization.—From the amounts available in each fiscal year in the National Competitiveness Education Trust Fund under section 9505 of the Internal Revenue Code of 1954, there are authorized to be appropriated such sums as may be necessary in each such fiscal year, but not in excess of the amounts available under such section, to carry out parts A and B of this title.

(b) Allocation of Funds.—Of the amounts available pursuant to subsection (a) of this section—

(1) 75 percent in each fiscal year of the amounts in each such year shall be available to carry out part A; and

(2) 25 percent in each fiscal year of the amounts in each such year shall be available to carry out part B.

SEC. 222. DEFINITIONS.

For the purpose of this title—

(1) the term "elementary school" has the same meaning given that term under section 198(a)(7) of the Elementary and Secondary Education Act of 1965;

(2) the term "institution of higher education" has same meaning given that term under section 1201(a) of the Higher Education Act of 1965;

(3) the term "local educational agency" has the same meaning given that term under section 198(a)(10) of the Elementary and Secondary Education Act of 1965;

(4) the term "Governor" means the Chief Executive of a State;

(5) the term "secondary school" has the same meaning given that term under section 198(a)(7) of the Elementary and Secondary Education Act of 1965;

(6) the term "Secretary " means the Secretary of Education;

(7) the term "State " means the several States, and the District of Columbia; and

(8) the term "State agency" means the State agency which administers the program under subpart 3 of part A of title IV of the Higher Education Act of 1965, relating to State student incentive grant, or the State agency with which the Secretary has an agreement under section 428(b) of such Act.

By Mr. HEINZ:

S. 1934. A bill to amend the Bank Export Services Act; to the Committee on Banking, Housing, and Urban Affairs.

EXPORT TRADING COMPANY AMENDMENTS ACT

● Mr. HEINZ. Mr. President, I am today introducing legislation to update and reform the Export Trading Company Act of 1982. Senators, I am sure, will remember that act as one of the major pieces of export promotion legislation the Congress passed during the early years of the Reagan administration. It was also a priority of the Carter administration, and when the bill finally passed it was with overwhelming support from both sides of the aisle. That passage did not, however, come without considerable debate, even haggling, over details. It is a number of those details that the bill I am introducing today addresses.

My reference to details does not imply that either the original bill or today's action is insignificant. In fact, the Export Trading Company Act represented a major step in the evolution of our antitrust and bank regulation laws. With respect to the latter, the act clearly delineated circumstances under which banks could engage in nonbanking businesses, activities which had previously been off limits to banks under the Glass-Steagall Act.

This step opened up an entire sector of international, trade-related activities to banks without prejudicing the safety and soundness concerns that have characterized our bank regulatory policies for the past 50 years.

With respect to antitrust, the act clarified existing antitrust laws and enforcement policies by drawing a clear line, in the form of a certificate, between what export activities were permitted by the law and what were not. This approach provides clear guidance to exporters in a way not previously available in any useful way.

Despite these landmark changes, the act has not turned out to be as big a success as some in the administration had predicted at the time. There are a number of reasons for that, Mr. President, only some of which are dealt with in this legislation. The biggest obstacle to ETC development has been the appreciation of the dollar and the consequent ballooning of our trade deficit, now anticipated to reach $150 billion in 1985. This appreciation occurred at precisely the time the Export Trading Company Act was coming into effect and unquestionably affected ETC development by making it difficult to export under any circumstances. Healthy, growing ETCs no doubt could have survived that kind of challenge, but banks and others new to the exporting business faced with such sharply adverse international economic conditions have been deterred from going into the business or have been unable to grow to the extent necessary.

This is not to say that the number of ETC's created or the number of antitrust review certificates granted has been disappointing. In fact, there are presently 38 approved ETC's, with 59 certificates of review granted and 7 pending. In terms of numbers this is not a particularly disappointing result only 3 years after enactment of the legislation. What has been more disappointing is the limited growth and success these entities have had. Most of them continue to be small, and many have had to limit their initial ambitious plans. I plan shortly to schedule oversight hearings on the act as well as on my new legislation that will go into these problems in greater detail.

Beyond the question of the dollar and the generally difficult climate for exporting over the past 3 years, there are some other problems inherent in the provisions of the act that have retarded ETC development and the issuance of antitrust review certificates. Some of them are unintended results of the original legislation; others were predicted by some of us at the time but were accepted anyway as the price of compromise and obtaining the bill's enactment. Three years of experience have given us a better understanding of exports and exporters, a more realistic view of what ETC's are able to accomplish, and how best to design legislation to enhance those possibilities.

The bill I am introducing today, the Export Trading Company Amendments Act of 1985, makes five changes in current law, all with respect to the banking provisions of the ETC Act. This, of course, is not to imply no changes are needed in the antitrust portion of the law—I am simply not prepared to indicate those changes at this time.

DEFINITION OF EXPORT TRADING COMPANY

When the initial ETC Act was signed into law it required that ETC's approved under it be "organized and operated principally for purposes of exporting goods or services produced in the United States * * *" "Principally" was construed in legislative history and subsequently in regulation to mean that more than 50 percent of the ETC's income must come from exports. This has proved to be a significant constraint on ETC activity because of their need to engage in importing and their desire to enter into third country transactions which involved neither exports nor imports from the United States. It is obvious that no company can engage only in one-way transactions and expect to function successfully over the long term. The very concept of trade implies goods and services flowing in two directions. Thus, some degree of importing activity is inevitable in any successful ETC. At the same time, however, many companies have found that there are opportunities throughout the world for an ETC to facilitate trade between two or more countries outside the United States. For example, the sale of rice from Indonesia to Algeria would be an example of third country trade that does not impact on the U.S. trade balance but provides profit opportunities for American ETC's.

Under the current definition of "principally," however, such transactions effectively count as imports in the Federal Reserve Board's periodic calculation of whether an ETC is meeting this test, since income from exports is effectively measured against—and must exceed—income from all other sources. While I understand that it is our policy—and I believe it should be our policy—that the incentives we provide for ETC's should be for the larger purpose of facilitating exports, it is equally clear that third country transactions have no adverse effect on our trade balance, and we should not effectively constrain ETC's from entering into them.

Accordingly this bill amends the act to provide that "principally" means an excess of export-related income over import-related income, thereby excluding third country transaction income from the test entirely. This will make it easier for ETC's to continue to meet the definition of export trading company, and it will encourage them to enter into these kinds of transactions, which will provide both present income as well as future business opportunities which might well include direct exports from the United States.

Another problem with the definition of export trading company lies in an erroneous interpretation of the 1982 legislation by the Federal Reserve Board relating to the export of services. The Board interpreted the legislation to preclude counting the export of services produced by the ETC itself or an affiliate as export-related income for purposes of the definition. Effectively this prevents an ETC from setting up a division abroad that provides services. This interpretation of the definition of ETC is contrary to our intent when we wrote the law and an unwarranted and unnecessary constraint on ETC activity. The new definition in the bill I am introducing today will correct this problem.

ETC RELATIONS WITH AFFILIATES

Along with limits on bank lending to affiliates, section 23A of the Federal Reserve Act defines collateral requirements that must be met when institutions like ETC's borrow from affiliated banks. These limits vary depending on the type of collateral used, but the nature of ETC's is such that in most cases collateral would consist at least in part of accounts receivable; in which case the requirement is 120 percent of the loan or extension of credit. This has proved to be an unnecessarily onerous requirement, particularly for ETC's in their start-up phase, which at the present time is practcally all of them. With few accounts receivable, at least in the beginning, little financing capital of their own, and limited access to commercial paper, the collateral requirement puts ETC's as a significant disadvantage.

The simplest solution, which is contained in this bill, is to exempt ETC's from the requirements of section 23A. This change would not affect bank safety and soundness, since the quantitative limits on bank extensions of credit to ETC's would remain as in present law.

LEVERAGE AND INVENTORY

The remaining two sections of the bill concern two issues raised in the Federal Reserve Board's regulations, although they are not touched upon directly in the statute as it presently reads. In essence, the Board has rendered an excessively conservative interpretation of the law which is unjustified by any threats to bank safety that ETC's pose, but which has been a significant disincentive to ETC formation over the past 3 years.

The first provision relates to the Board's requirement that ETC's proposing an assets to equity ratio of more than 10 to 1 must have their application considered in Washington rather than approved at the regional Federal Reserve Bank. This regulation has had the effect of telling prospective ETC's that a proposed ratio of greater than 10 to 1 will encounter considerably more bureaucratic difficulty, delay, and probably, expense.

While I do not oppose the establishment of a desirable ratio as a guideline to be considered in reviewing ETC applications, I believe that 10 to 1 is unrealistic. A more appropriate level, in view of what is common practice in other countries, would be 25 to 1. That is what this bill proposes in the form of a general specification that the Board may not disapprove an application solely on the basis of a proposed assets to equity ratio, unless that ratio is greater than 25 to 1. This approach would not preclude the proposed ratio from being a factor in the Board's consideration of an application, but it would make clear that an effective limit of 10 to 1 is too low and not sufficient grounds for denying an application.

The second regulatory issue concerns the Board's requirement that proposals that an ETC be permitted to hold inventory in excess of $2 million also be referred to Washington. That requirement, by promising bureaucratic difficulties, sends the same negative signal as the regulation on leverage ratios. It is also particularly burdensome since $2 million is an extraordinarily low amount, particularly as ETC's begin to expand. A better approach, in my judgment, is to move away from this kind of arbitrary standard, at least as it is applied across-the-board to all ETC's. In some cases $2 million may be an appropriate limit to adequately protect bank safety; in other cases it may not. The best approach would be to tie such a limit, if it is to be imposed at all, to the circumstances of a particular case, and to the extent that it would effect safety and soundness of the affiliated bank. Therefore, the provision in this bill would prohibit the Board from imposing by regulation a dollar limit on inventories except on a case-by-case basis as just described.

Mr. President, these are not all of the problems with current law that need to be addressed, but they are the ones that have become the most obvious in the 3 years since enactment of the legislation. I would not pretend to suggest that these changes by themselves will lead to the creation of thousands of new ETC's. As I indicated at the beginning of my statement, the biggest disincentive to ETC formation has been the overvalued dollar and the general difficult situation for American exports over the past 3 years. These changes will not correct those problems, which we address in other legislation—notably S. 1860, the Trade Enhancement Act, introduced by 34 Senators on November 20. The changes I am proposing today, however, will remove some built-in disincentives to ETC formation, will clarify current law, and in the process will send a clear signal to the Federal Reserve Board that Congress intends an interpretation of this law that will encourage, rather than discourage ETC formation. Mr. President, I ask that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1934

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Export Trading Company Amendments Act of 1985".

DEFINITION OF EXPORT TRADING COMPANY

SEC. 2. Section 14(c)(14)(F)(i) of the Bank Holding Company Act of 1956 is amended to read as follows:

"(i) the term 'export trading company' means a company which does business under the laws of the United States or any State, which is exclusively engaged in activities related to international trade, and which is organized and operated principally for purposes of exporting goods or services produced in the United States by the company, its affiliates, or unaffiliated persons, or for purposes of providing one or more export trade services to facilitate the exportation of goods or services produced in the United States by unaffiliated persons. A company shall be deemed to be organized and operated principally for such purposes if its revenues from exporting goods or services produced in the United States or from providing export trade services, as defined in clause (ii), exceed its revenues from importing into the United States goods or services produced outside the United States.".

RELATIONS WITH AFFILIATES

SEC. 3. Section 23A(d) of the Federal Reserve Act (12 U.S.C. 371c(d)) is amended—

(1) by striking out "and" at the end of paragraph (6);

(2) by striking out the period at the end of paragraph (7) and inserting in lieu thereof " ; and"; and

(3) by adding at the end thereof the following:

"(8) transactions with an affiliate which is an export trading company as defined in section 4(c)(14)(F)(i) of the Bank Holding Company Act of 1956.".

[illegible]

SEC. 4. Section 4(c)(14)(A)(iv) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)(14)(A)(iv)) is amended by adding at the end thereof the following: "The Board may not disapprove a proposed investment solely on the basis of the proposed assets to equity ratio of an export trading company unless the proposed annual average ratio is greater than twenty-five to one.".

INVENTORY

SEC. 5. (a) Section 4(c)(14)(A) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)(14)(A)) is amended—

(1) by redesignating subparagraphs (v) and (vi) as subparagraphs (vi) and (vii), respectively; and

(2) by inserting after subparagraph (iv) the following:

"(v) The Board may not impose, by regulation, a dollar limit on the amount of goods which export trading companies may maintain in inventory. However, the Board may impose, by order, a dollar limit on the amount of goods which a particular export trading company may maintain in inventory if, under the particular facts and circumstances, it finds that such limit is necessary to prevent risks that would affect the financial or managerial resources of an investor bank holding company to an extent which is likely to have a materially adverse effect on the safety and soundness of any subsidiary bank of such bank holding company.".●

By Mr. STEVENS:

S. 1935. A bill to direct the Secretary of the department in which the Coast Guard is operating to cause certain vessels to be documented as vessels of the United States so as to be entitled to engage in the domestic coastwise trade, and for other purposes; to the Committee on Commerce, Science, and Transportation.

REVITALIZING THE DOMESTIC CRUISE SHIP INDUSTRY

● Mr. STEVENS. Mr. President, today I am introducing legislation which will permit five foreign-built passenger ships to be documented under the laws of the United States. The purpose of this bill is to promote the development of a domestic cruise ship industry. Our domestic industry is nonexistent, and will remain so without the utilization of foreign-built vessels.

The bill will sustain jobs for Americans in industries which are struggling for survival. American seamen will man these vessels, and all repairs and modifications to meet Coast Guard inspection requirements will be done in U.S. shipyards. The development of a domestic industry will benefit many U.S. ports which might not be included in the routes traveled by foreign cruiseships. My State is a prime example of the impact a cruise industry can have on ports. Foreign cruises make periodic stops in various towns in southeast Alaska. The tourism generated through these cruises is rapidly becoming the mainstay of much of southeast Alaska's economy.

The legislation has been structured in a manner that will allow any U.S. citizen to file an application for documentation. It specifies three criteria designed to bring modern and militarily useful vessels into the trade. The first criterion requires that each vessel have a minimum of 400 passenger cabins with modern facilities. This condition will ensure that any vessel brought into the domestic trade is large enough to make a sound contribution to the Navy's ability to move people or act as a hospital ship during times of emergency.

The second criterion requires that each vessel be capable of being converted into a troop ship.

The last criterion imposes an age limitation on each vessel to ensure modernity, and prohibits potential applicants from contracting for the construction of new passenger vessels in foreign shipyards. The purpose behind the bill is to revitalize a U.S. industry, not encourage the growth of foreign industries.

The criteria are based on the assumption that at least 10 ships can be purchased on the world market by U.S. citizens who wish to engage in the domestic trade, and there is a strong possibility that many more ships will qualify once further data has been collected. If this assumption is proven to be incorrect, I will modify the criteria in a manner which provides U.S. citizens with an equal opportunity to seek out vessels to be reflagged for the domestic trade.●

By Mr. KERRY (for himself, Mr. DODD, Mr. KENNEDY, Mr. PELL, and Mr. SIMON):

S. 1936. A bill to amend title 23, United States Code, to provide for a uniform system for handicapped parking; to the Committee on Environment and Public Works.

HANDICAPPED PARKING ACT

● Mr. KERRY. Mr. President, I rise today to introduce legislation that is long overdue. Across America millions of citizens suffer from physical disabilities which limit their mobility. To assist the more than 6 million individuals who require special parking privileges in order to travel, many States have allocated parking spaces for these citizens and have made available special license plates to identify cars able to access these parking spaces.

Millions of Americans use automobiles every day to conduct their daily lives, but for disabled Americans this is not always an easy task, and in certain States it can, in fact, prove overwhelmingly difficult. The situation dealing with parking for the handicapped is particularly lamentable. At least 25 States in the country lack reciprocity agreements regarding handicapped parking licenses plates. In effect, when a disabled individual travels from one State to another where differing handicapped parking laws exist, and reciprocity does not, then that individual's disability is no longer recognized.

Fortunately, efforts have been made to alleviate some of the problems associated with parking for the handicapped. Tough penalties are issued when nonauthorized vehicles park in special zones; an increasing number of State legislatures are passing uniform policies; and public awareness to recognize and honor the international symbol of access is quickly growing. But these efforts have just begun to address the problem.

A further point to be made, is that transportation is an essential element to achieving one's basic daily human needs. And while I applaud the U.S. Congress for developing and implementing a variety of progressive laws designed to enhance training and the employment of disabled Americans, I regrettably note that the public transportation systems needed to bring these citizens to their jobs has lagged far behind. Consequently, disabled persons must rely on the automobile for transportation or otherwise be forced to forgo employment.

I cannot stress the fact enough that being able to access one's job, one's doctor, or to visit one's family in a neighboring State is not a privilege, Mr. President, but quite frankly it is a necessity; moreover, it is a necessity that most of us take for granted. It is for this purpose that I am introducing today the Handicapped Parking Act of 1985. This act will do several things to alleviate some of the transportation-related burdens placed on our disabled citizens. The act makes the international symbol of access universal and requires that this symbol be put on all handicapped license plates and placards. This will work to ensure that all law enforcement officials are able to recognize handicapped plates regardless of the State in which they are issued. The legislation also mandates reciprocity directing all States to honor handicapped license plates from other States. The Handicapped Parking Act of 1985 will require the Secretary of Transportation to conduct a study 18 months after the bill is enacted to determine the extent of compliance regarding reciprocity by the States. If the Secretary finds overwhelming noncompliance, then the Secretary is mandated to withhold 1 percent of a State's transportation funds.

I urge my colleagues to join with me today in cosponsoring this essential act which will uphold the basic rights of transportation for individuals with disabilities by implementing a national uniform system designed to preserve disabled citizen's rights to personal mobility.

I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1936

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Handicapped Parking Act of 1985".

SEC. 2. HANDICAPPED PARKING.

(a) ESTABLISHMENT OF UNIFORM SYSTEM FOR HANDICAPPED PARKING.—Chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following new section:

"§ 159. Handicapped parking

"(a) The Secretary shall reduce a State's apportionment of Federal-aid highway funds under each of the sections 104(b)(1), 104(b)(2), and 104(b)(6) of this title in an aggregate amount of up to 1 percent of the amount to be apportioned in any fiscal year for any such State which does not have in effect a uniform system for handicapped parking approved by the Secretary.

"(b)(1) For purposes of this section, a uniform system for handicapped parking is a system which—

"(A) adopts the International Symbol of Access (as adopted by Rehabilitation International in 1969 at its 11th World Congress on Rehabilitation of the Disabled) as the only recognized symbol for the identification of vehicles used for transporting individuals with handicaps which limit or impair the ability to walk;

"(B) provides for the issuance of license plates displaying the International Symbol of Access for vehicles which will be used to transport individuals with handicaps which limit or impair the ability to walk, under criteria determined by the State;

"(C) provides for the issuance of removable windshield placards (displaying the International Symbol of Access) to individuals with handicaps which limit or impair the ability to walk, under criteria determined by the State;

"(D) provides for the same schedule of fees for the licensing or registration of a vehicle used to transport such individuals with handicaps as for other vehicles operated in the State; and

"(E) for purposes of easy access parking, recognizes licenses and placards displaying the International Symbol of Access which have been issued by other States and countries.

"(2) The uniform system for handicapped parking described in paragraph (1) shall be submitted by a State to the Secretary and shall be accompanied by such information as the Secretary considers necessary.".

(b) CONFORMING AMENDMENT.—The analysis of such chapter is amended by adding at the end thereof the following item:

"159. Handicapped parking.".

SEC. 3. STUDY CONCERNING STATE COMPLIANCE.

Beginning not later than 18 months after the effective date of the Act, the Secretary of Transportation shall annually evaluate compliance by the States with the amendments made by this Act. The Secretary shall submit to Congress an annual report on such evaluation on compliance by the States.

SEC. 4. EFFECTIVE DATE.

The provisions of this Act shall take effect October 1, 1988.●

By Mr. HATFIELD (for himself, Mr. ZORINSKY, Mr. BYRD, Mr. NUNN, Mr. INOUYE, Mr. DURENBERGER, Mr. ROCKEFELLER, Mr. ANDREWS, Mr. KERRY, Mrs. HAWKINS, Mr. STENNIS, Mr. DOLE, Mr. HOLLINGS, Mr. MATHIAS, Mr. WEICKER, Mr. PROXMIRE, Mr. THURMOND, Mr. COCHRAN, and Mr. STAFFORD):

S.J. Res. 245. Joint resolution designating "National Epidermolysis Bullosa Awareness Week"; to the Committee on the Judiciary.

BEST COPY AVAILABLE

NATIONAL EPIDERMOLYSIS BULLOSA AWARENESS WEEK

● Mr. HATFIELD. Mr. President, for the majority of Americans, every morning involves a series of routine tasks in preparation for a new day. This morning I showered, dressed, ate breakfast, and walked to the office. For most of us these tasks are effortless. But for a victim or epidermolysis bullosa [E.B.], accomplishing these tasks is a result of extreme effort and generally requires assistance. Those who suffer from E.B. experience pain from just a touch or an accidental nudge. This pain prevents them from carrying out many of the ordinary tasks which most of us take for granted.

E.B. is a term applied to a group of inherited disorders whose primary feature is the formation of severe skin and tissue blisters. The effects of E.B. on the human body are devastating. It blisters the skin and ruptures old wounds, which create weeping sores that rarely heal. As a result of these wounds anemia, malnutrition, and infection occur. The dystrophic form of E.B. afflicts victims with additional trauma: intestinal erosion, severe pain, scarring, deformities, corneal erosions, and carcinoma.

The exact number of individuals suffering from E.B. in the United States is undetermined. For decades medical practitioners have dealt with E.B. as though it were a skin disorder, and frequent misdiagnoses have made it impossible to get a precise number of E.B. victims in the United States. In my home State several victims of E.B. have sought medical attention. But when I inquired among members of the medical community as to how many people have E.B. in Oregon, I was told that an accurate appraisal would be difficult to gage. There is no reliable statistical information available because E.B. victims remain hidden in the shadows of life and emerge only when their pain becomes too severe to tolerate or when their vital signs diminish to life threatening levels. It is estimated that as many as 15,000 to 20,000 Americans suffer from E.B., and another 25,000 to 30,000 persons in this country may be carriers. Presently, 1 out of every 50,000 infants born in the United States, is born with E.B. The disease is a serious, and presently incurable, defect that casts the lives of thousands of children, adults, and their families into a condition of physical, financial, and emotional torment.

Many of you may remember Cal Larson. Cal is a young man I came to know 3 years ago while he and his parents were traveling from office to office on the Hill. They sought to personally communicate to the Members of Congress the great need for support in identifying victims of E.B. and fighting its tragic symptoms.

It seemed all the more significant that sufferers of E.B. were leading their own crusade. Theirs was, and is, a crusade for increased public awareness, research, and ultimately a cure for those who suffer from E.B.

Six years ago a group of concerned citizens formed "D.E.B.R.A.," the Dystrophic Epidermolysis Bullosa Association of America. Under the energetic leadership of Arlene Pessar, D.E.B.R.A. has labored to increase the public's awareness of E.B. It was 4 years after this organization was founded when Cal brought E.B. to my attention. In the months that followed, I became increasingly aware of the importance of finding a cure and improving the methods of care and treatment for Cal and the many others who are suffering from the devastating effects of this disease.

In the 98th Congress, 27 of my colleagues and I initiated legislation establishing a National Epidermolysis Bullosa Awareness Week. History has indicated that increased public awareness of a rare disease translates into increased research activities to find a cure for that disease. As a result of the passage of last year's E.B. resolution, the level of awareness and concern in the public and in the medical profession has greatly increased.

The Labor-H.H.S. appropriations bill for fiscal year 1985 contained language urging the National Institute of Arthritis, Diabetes, Digestive and Kidney Disease [NIADDK] to increase grants for research dealing with dermal-epidermal interactions, the formation and destruction of collagen, and the mechanisms of blistering skin. In previous years no grants has been issued for research in E.B. In October of this year I received a letter from D.E.B.R.A. informing me that NIADDK has issued nine research grants totaling $750,000 for specific research in E.B. for fiscal year 1985. Already, the progress of this research is impressive. I am hopeful that we will be able to continue, and perhaps increase the amount of research devoted to E.B. for fiscal year 1986.

On behalf of the people who suffer from this debilitating disorder, I ask my colleagues to once again join me in cosponsoring this joint resolution. With continuing interest in this body, the medical community, and the public, I am hopeful that we may soon cross out another name on the list of incurable diseases and leave E.B. to the medical history books. Your cosponsorship is but one small step toward this goal.

Mr. President, I ask that the following article on E.B., be reprinted in the RECORD, and that the text of the joint resolution be reprinted immediately before the article.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S.J. RES. 245

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

Whereas the incidence and prevalence of epidermolysis bullosa presents a significant health problem in the United States;

Whereas epidermolysis bullosa is an inherited disorder showing widespread blistering and skin erosions which result in pain, scarring, deformity, contractures, malnutrition, anemia, gastro-intestinal problems, dental problems and carcinoma;

Wheres an estimated ten to fifteen thousand Americans of both sexes are afflicted with the disease, and another twenty to thirty thousand Americans may be carriers of this disease;

Whereas the nation faces a continuing need to support innovative research into the causes, treatment, and cure of epidermolysis bullosa;

Whereas it is appropriate to focus the nation's attention upon the plight of epidermolysis bullosa sufferers and upon continuing peril epidermolysis bullosa poses to humanity:

Now, be it resolved by the Senate and the House of Representatives of the United States of America in congress assembled, that the week of December 1st through December 7th, 1986, is designated "National Epidermolysis Bullosa Awareness Week", and the President of the United States is authorized and requested to issue a proclamation calling upon the citizens of the United States to observe the week with appropriate programs, ceremonies and activities.

RESEARCHERS SEEK CAUSES OF ENIGMATIC BLISTERING DISORDERS

(By Mark Bello)

For children born with a rare and incurable skin disease, a loving hug, an accidental nudge, or just eating can cause excruciating pain. Slight friction causes their fragile skin and mucous membranes to blister, subjecting them to frequent scarring and the almost constant threat of secondary infection. Repeated injury may fuse their fingers or toes, and because protein is lost through open sores and scarring constricts the esophagus, most suffer from chronic malnutrition.

These children, many of whom will die before age 30, suffer from recessive dystrophic epidermolysis bullosa, "a disease that is as devastating as any known to man," according to Dr. Jo-David Fine, director of dermatologic research at the University of Alabama in Birmingham. Beyond the suffering of its victims, the disorder imposes severe burdens on victims families, creating emotional and financial tensions, adds Arlene Pessar, executive director of the Dystrophic Epidermolysis Bullosa Research Association of America (DEBRA). According to Ms. Pessar, whose 14-year-old son is afflicted with the disorder, families of severely affected individuals may spend $10,000 a year just for protective dressings, antibiotics, and high-protein foods. Some families may travel throughout the world searching for a cure, she says, while others, frustrated by the lack of effective treatment, may place their youngsters in institutions.

The disfiguring disease is the most severe form of about 20 skin disorders collectively referred to as epidermolysis bullosa (EB). DEBRA estimates that between 25,000 and 50,000 Americans have one of the forms of EB, all of which are characterized by the fragile, blister-prone skin of victims. All but one of the incurable, lifelong disorders are hereditary, and even the mildest and most common form—a nonscarring disease called localized EB simplex—can transform walking, typing, and other routine activities into painful ordeals.

The enigmatic disorders have yielded little to scientific investigation. Researchers have yet to identify the fundamental biochemical defects responsible for any one form of EB. Treatment is limited to alleviating patients' symptoms and avoiding the many complications associated with the disorders. But growing interest in the complex biology of human skin and new laboratory techniques have improved the prospects for obtaining critical knowledge.

"We are getting close to the core of the disease," Dr. Lowell A Goldsmith, chief of dermatology at the University of Rochester Medical Center in Rochester, New York, says of research on recessive dystrophic EB, the most intensively studied of the disorders. In separate projects, Dr. Goldsmith's team and scientists at the National Cancer Institute (NCI) have determined that certain yet-to-be characterized components of the dermis, the skin's lower layer, are lacking in patients with the disease. This work also led to the development of monoclonal antibodies for diagnosing the different forms of EB and for conducting basic research. These new probes also promise to be sensitive indicators of how patients respond to experimental treatments.

Applying the findings of earlier studies, scientists at General Clinical Research Centers (GCRC's) and elsewhere are conducting clinical trials of the drug phenytoin (Dilantin), which inhibits production or release of an enzyme known to be abnormally abundant in victims of recessive dystrophic EB. And scientists at the Washington University GCRC in St. Louis, Missouri, are evaluating vitamin A derivatives, which reduce production of the suspect enzyme, as potential treatments.

In patients with recessive dystrophic EB, as well as those with the dominantly inherited and less severe form of dystrophic EB, blistering occurs within the dermis, below the critically important region known as the basement membrane zone. The basement membrane is a thin tissue layer that binds the dermis and the upper skin layer, or epidermis.

On the basis of work that began during the 1960's, scientists have developed two not necessarily exclusive theories to account for the faulty adhesion of the dermis in patients with recessive dystrophic EB. One theory stems partly from work done at the University of North Carolina, Chapel Hill. Scientists found abnormally low numbers of anchoring fibrils in samples of both blistered and healthy-appearing skin of patients with recessive dystrophic EB. These fibrils bind the dermis to the basement membrane in a manner likened to the stitching that holds the leather cover of a baseball to the core. The finding seems to account for the frailty of the patient's skin, but scientists have yet to identify the biochemical cause of the defect in the fibrils.

The other theory is based on studies done by Drs. Arthur Z. Eisen and Eugene A. Bauer of the Washington University Medical School in St. Louis. These researchers discovered that patients with the recessive dystrophic disorder produce abnormally high levels of an altered form of collagenase, accelerating the breakdown of collagen, the protein that is the major constituent of skin and other connective tissue. In the patients studied by Drs. Eisen and Bauer, levels of the enzyme in patients' skin were more than four times higher than the levels in samples taken from healthy control subjects. Collagenase levels in patients with other forms of EB, including dominant dystrophic EB, were comparable to those of the control subjects.

This discovery provides a biochemical explanation for blistering in disease victims, although some researchers suspect that a more fundamental disease mechanism remains to be uncovered. But according to Dr. Bauer, the enzyme abnormality may account for the defect in anchoring fibrils. Researchers still must determine the biochemical composition of the fibrils, but if they are comprised of collagen or if they attach to type I or type III collagen in the dermis, the fibrils may prove to be the targets of excess collagenase. Dr. Bauer says.

Despite these unknowns, the scientists' discovery has spawned efforts to develop the first treatment aimed at a suspected cause of EB. In clinical trials now under way at 20 medical research centers, including several GCRC's scientists are evaluating phenytoin—an anticonvulsant drug that somehow inhibits the activity of collagenase—for its effectiveness in reducing blistering in patients with recessive dystrophic EB.

The trials, which are being sponsored by the Orphan Drug Office of the Food and Drug Administration, evolved from preliminary studies performed by Dr. Bauer and his associates at the Washington University GCRC. In 14 of 22 recessive dystrophic EB patients treated with phenytoin, the number of blisters and skin erosions decreased by an average of 46 percent, and when drug therapy was discontinued, blistering returned to pretreatment levels. The number of blisters decreased by less than 40 percent in eight patients, who were classified as unresponsive to phenytoin therapy.

The results of in vitro studies of fibroblasts, the skin-cell precursors that produce collagenase, were the same as those uncovered during preliminary clinical tests. Dr. Bauer and Dr. Thomas W. Cooper found that collagenase expression was suppressed when the fibroblasts of clinically responsive patients were incubated with phenytoin. In fibroblasts of patients who were unresponsive to therapy, enzyme expression was not inhibited. Based on evidence gathered in the clinical and in vitro studies, Dr. Bauer suggests that differences in responsiveness to phenytoin therapy may have a genetic origin and that responsive and unresponsive patients represent two biologically distinct groups.

Scientists are investigating this possibility in the ongoing multicenter study in which the patients' responses to phenytoin will be compared with their responses to a placebo. Besides monitoring the total number of blisters on a patient's body, the researchers also are measuring the surface areas of blisters and skin erosions, and they are evaluating the treatment's effect on three chronically reinjured areas. In addition, investigators paticipating in the 3-year study will monitor the patients' psychological well-being while undergoing treatment, seeking to establish whether the therapy translates into improvements in the quality of the subjects' lives.

Concurrent with their participation in the phenytoin trials, Dr. Bauer and his colleagues also are evaluating the therapeutic value of vitamin A derivatives, or retinoids. In contrast to phenytoin, whose ability to suppress collagenase needs further delineation, the retinoids have been shown to inhibit collagenase production and to induce the fibroblasts to make an agent that suppresses the enzyme's activity. Also, these compounds inhibit expression of gelatinase, another enzyme involved in collagen degradation. In their evaluation of three retinoids, the Washington University researchers found that 13-cisretinoic acid, at dosages of 0.4 milligrams per kilogram of body weight, significantly reduced the number of blisters in the three patients studied. At dosages exceeding 1 milligram, however, the patients' lesions increased. The researchers also discovered that the compound caused drying of the skin, headaches, and other serious side effects, even at low dosages. According to the researchers, the findings suggest that the retinoids are promising therapeutic agents but that additional study is needed, particularly to establish dosage levels that minimize the potential for side effects.

Though they hold promise for only one form of EB, the drug evaluations are milestones in the fight against a group of disorders that until recently attracted the interest of only a handful of scientists. But even though EB research has intensified during the past few years, scientists concede that their efforts up to this point constitute only the beginning. They also note that progress against other forms of EB is far behind the gains made against the recessive dystrophic disorder. Thus far, scientists have succeeded in characterizing the physical features of the disorders. This knowledge greatly improved diagnosis and refined disease classification, although the symptoms of some EB patients defy diagnostic categories. And during the past decade scientists have begun to fill in the biochemical details, a necessary prelude to the ultimate basic-research goal of identifying the gene defects that cause the various forms of EB.

The key to success in this second phase of research is locating sufficient numbers of patients with the disorders. At a recent conference held in Washington, D.C., Dr. Roger Pearson, a dermatologist at Rush-Presbyterian-St. Luke's Medical Center in Chicago, complained that "there are so many categories of EB, but so few individuals to work with." Dr. Pearson, whose electron microscope studies during the 1960's greatly enhanced understanding of EB, added that the disorders must be classified into even more distinctive categories so that researchers can focus their search for the underlying biochemical defects.

According to Dr. D. Martin Carter, director of the Laboratory for investigative Dermatology at Rockefeller University Hospital, the low incidence of some forms of EB accounts for part of the difficulty in locating patients. But a more serious obstacle, Dr. Carter says, is that many patients are "hidden" from researchers because they do not seek medical attention for their incurable affliction.

Researchers participating in the phenytoin study hope to correct this problem by creating a registry of EB patients and by setting up a network for exchanging information, tissue samples, and other resources among researchers. Dr. Carter, director of the multicenter drug trials, explains. "If we can identify uniform populations of patients in terms of mode of inheritance and clinical and pathologic presentation, our chances for identifying the responsible genes will improve," he says. "This will benefit basic-research efforts, and ultimately the answer to disorders like EB will come from basic research."

As scientists take aim at the biochemical abnormalities that weaken the integrity of the basement membrane zone, the more complex the situation seems.

For example, researchers once believed there was only one type of collagen, but 11 forms of the connective tissue protein have now been identified, including three forms that were discovered within the past several months, according to Dr. Jouni Uitto, director of dermatology research at the Harbor-UCLA Medical Center in Torrance, California. Moreover, Dr. Uitto notes that each type of collagen is acted upon by a separate form of collagenase.

Another example of the perplexing nature of EB research is the growing number of abnormalities associated with recessive dystrophic EB. While striving to find a link between the deficiency of anchoring fibrils and the excess of collagenase in patients with the disorder, scientists have uncovered other abnormalities. At the Washington conference, Dr. Mark Eisenberg, a research fellow at the University of South Wales in Australia, reported that his in vitro studies indicate that another enzyme abnormality may be present in patients with the recessive dystrophic disorder, as well as those with junctional EB, in which blistering splits the top layer of the basement membrane. Dr. Eisenberg noted that skin fibroblasts manufacture collagenase in a form that must be activated by the enzyme chymase. According to the Australian scientist's studies, the collagenase precursor is activated much more rapidly in the skin samples taken from patients with recessive dystrophic EB than it is in the samples obtained from healthy control subjects. The finding, he said, suggests that chymase plays a role in the disease. Another possibility is that the collagenase is abnormal.

Further study of the enzyme's role may lead researchers to abnormalities in the mast cells, the dermal cells that manufacture chymase and many other physiologically active compounds. Dr. Eisenberg noted that scientists at the University of Pennsylvania have reported finding higher-than-normal numbers of mast cells in the dermis of patients with the recessive and junctional forms of EB. Besides chymase, other compounds produced by these poorly understood cells may be involved in both disorders, he speculated.

To help them sort through the complexities of EB, scientists have utilized a diagnostic technique called immunofluorescence mapping. Without using an electron microscope, which is not available at many hospitals, dermatologists can now establish the distribution of various basement membrane components and thereby determine whether blistering occurs above, within, or below the membrane. The method, which uses fluorescently stained antibodies to specific basement membrane components, yields accurate diagnoses and is more rapid than the use of an electron microscope for diagnostic studies.

Clues that may lead scientists to the fundamental biochemical cause of recessive dystrophic EB have emerged from work done with monoclonal antibodies. With these highly specific probes, researchers have identified several components of the basement membrane, a region of the skin that had been inaccessible with other scientific methods. Besides enhancing knowledge of skin biology, the probes also may refine classification of the recessive dystrophic disorder, which takes several forms.

Using monoclonal antibodies researchers have zeroed in on some still uncharacterized components of the basement membrane that are affected in recessive dystrophic EB. Two of these components may allow researchers to determine whether there is a direct link between excess collagenase and anchoring-fibril deficiencies in patients with the disorder. Working with Dr. Robert A. Briggaman, a professor of dermatology at the University of North Carolina, Dr. Lowell Goldsmith of the University of Rochester produced two new monoclonal antibodies that bind to one or more portions of the anchoring fibrils. The researchers discovered, however, that neither antibody reacts in samples of blistered and healthy-appearing skin obtained from 11 patients with recessive dystrophic EB. In contrast, the antibodies do react in samples taken from patients with other forms of EB, including a dominant dystrophic disorder associated with diminished numbers of anchoring fibrils.

In ongoing research, Dr. Goldsmith is using the two antibodies, which are called AF-1 and AF-2, to isolate and then characterize the anchoring fibrils. The Rochester researcher says some evidence suggests that the fan-shaped structures are composed of a type of collagen, but the fibrils do not react with antibodies to any of the well characterized types of collagen.

"In recessive dystrophic EB," Dr. Goldsmith explains, "anchoring fibrils are deficient or missing. Is this because the fibrils are susceptible to excess collagenase or are there other explanations? We still face detailed biological questions, but our antibodies may give us the means of answering them."

Some of the answers may come from an experiment in which Dr. Goldsmith and his associates are using AF-1 and AF-2 to monitor the development of anchoring fibrils in epidermal, cells grown in culture. According to Dr. Goldsmith, the fibrils are believed to be made in the epidermis and then transported to the dermis. But many important details of the process, including how the dermis is attached to the fibrils, are unknown. By understanding how anchoring fibrils develop in normal skin, the researchers may be able to determine what goes awry in the skin of patients with recessive dystrophic EB.

If the Rochester scientists learn that the fibril components defined by the antibodies play pivotal roles in skin adhesion, EB researchers would have a very sensitive way of quantitating responses to experimental therapies, Dr. Goldsmith says. "And if you can quantitate, you can also start to screen potential therapeutic agents much more rapidly."

At NCI's Dermatology Branch, Dr. Stephen I. Katz and his colleagues, who are credited with identifying or characterizing several basement membrance components, have created a different monoclonal antibody that identifies another previously uncharacterized component of the basement membrance zone. This antibody, called KF-1, binds to a noncollagenous component of the lamina densa, the bottom layer of the basement membrane. Immunofluorescence maping of samples of unblistered skin from six patients with the recessive disorder failed to detect the uncharacterized component in five subjects and barely detected it in the remaining patient. And KF-1 reacted much more weakly with samples from seven patients affected by dominant dystrophic EB than with samples obtained from healthy subjects and from patients with the epidermal or junctinal forms of EB.

"It appears that the component defined by the antibody may play a role in the adhesion of the dermis to the epidermis," says Dr Fine, who was a member of the NCI team before assuming his current position at the University of Alabama in Birmingham, where he also is chief of the dermatology service at the Veterans' Administration Medical Center. "Therefore, the relative diminution or absence of KF-1 antigen in dystrophic EB skin may, at least in part, explain the finding of marked skin fragility in both forms of the disease."

In his current position, Dr. Fine has expanded the scope of his studies to search for biochemical abnormalities in the skin of patients with the simplex form of EB. This disorder, the most common form of EB, is associated with skin fragility and blister formation within the epidermis. In preliminary work he has identified an apparent membrane defect in the epidermal cells of patients with EB simplex, although the clinical significance of this finding remains to be determined. Dr. Fine suggests that these preliminary findings in normal-appearing EB simplex skin indicate that the epidermis is inherently biochemically abnormal, rather than defective secondary to other processes, including enzyme abnormalities. He says considerable work must be done to confirm this hypothesis.

Scientists believe that when the basic biochemical mechanisms of EB are known, recombinant DNA methods will lead them to the genetic errors, which are the ultimate causes of the disorders. And as researchers improve understanding of the many forms of EB, their findings are likely to benefit other areas of dermatologic research, since many other skin disorders are centered in the basement membrane zone. Dr. Kaltz of NCI notes, for example, that this narrow tissue layer "is thought to be very important in skin cancer, because when tumors invade, they have only one place to enter and that's through the basement membrane."

Rockefeller University's Dr. Carter adds, "Because of frequent skin trauma, some EB patients develop skin cancer. By studying these patients, we may be able to indentify the factors related to trauma that influence the transformation to a cancerous state and tumor generation."●

By Mr. DIXON (for himself, Mr. Heinz, Mr. Cranston, Mr. Riegle, Mr. Chiles, Mr. Nunn, Mr. Pryor, Mr. Mattingly, Mr. Simon, Mr. Matsunaga, Mr. Bumpers, Mr. Stafford, Mr. Moynihan, Mr. Hollings, Mr. Rockefeller, Mr. Eagleton, Mr. Glenn, Mr. Weicker, Mr. Kennedy, Mr. Specter, Mr. Harkin, and Mrs. Hawkins):

S.J. Res. 246. Joint resolution to designate May 25, 1986 as "Hands Across America Day" for the purpose of helping people to help themselves, and commending United States Support of Artists for Africa and all participants for their efforts toward combating domestic hunger with a 4,000-mile human chain from coast to coast; to the Committee on the Judiciary.

HANDS ACROSS AMERICA DAY

Mr. DIXON. Mr. President, today we are intorducing a resolution to designate May 25, 1986 as "Hands Across America Day."

This extremely ambitious effort next May, is designed to focus the attention of America on hunger and homelessness in this country. The project is being coordinated by USA for Africa, the group which accomplished the virtually impossible task of raising $33 million for famine relief in Africa.

At 3 o'clock on May 25, over 3 million people across the country, from coast to coast, will join hands, after having contributed between $10 and $35 each, to combat hunger and homelessness in America. The ceremony will include the singing of "America the Beautiful" and "We Are the World," which will be broadcast on radio stations across the country. It is hoped that as much as $100 million will be raised. Ten percent of the funds raised will be used for emergency needs, 50 percent of the funds will be used to support existing programs which feed and house people who are needy, and 40 percent will be used to develop new programs.

There are several corporate sponsors of this project. The Coca-Cola Corp. is underwriting the basic costs. Offices will be set up across the country to organize the human chain, which will begin at the Statue of Liberty and end in Los Angeles. Cochairmen of the project are Bill Cosby, Kenny Rogers, Pete Rose, and Lily Tomlin. Many other entertainers have also signed up to help in the effort.

I hope to be in line in Chicago on May 25 to demonstrate my support for this effort. I commend the organizers for their efforts in involving such a large segment of our population in addressing hunger and homelessness in America.

As we adjourn for the holidays, we cannot help but think of those among us who are less fortunate, and will not have the luxury of a warm place to sleep, or a meal to eat, while we are celebrating with our families and friends. In the richest country in the world, this unfortunate circumstance is a continuing disgrace.

Many of my colleagues may not be aware of how our Government first became involved in nutrition programs. It happened during World War II when thousands of recruits were rejected for the armed services because of physical and mental problems associated with malnutrition. Our Government established the eradication of malnutrition in America as a priority. We developed programs to eliminate this problem and became the best-fed, healthiest people in the world.

Recently, however, a physicians task force on hunger, which I have discussed on several occasions, estimated that at least 20 million American citizens now suffer from hunger, and that hunger is increasing rather than declining. Diseases are being reported by doctors across the country which are usually limited to Third World countries.

Illnesses such as toxemia and material anemia in expectant mothers have been reported. Doctors are seeing more and more infants suffering from low birth weight, the eighth leading cause of death in the United States. Wasting, stunting, marasmas and prosteo-chloasma in infants and children have also been documented. Compared to other industrialized nations, the United States ranks 17th, behind most of Western Europe, Japan, Australia, Singapore, and Hong Kong in its infant mortality rate. Our black infant mortality rate is 19.6 per thousand—comparable to Cuba and Costa Rica.

During a field hearing I held in Chicago last March, Dr. Quentin Young was a witness. Dr. Young is a professor at the University of Illinois Medical School, and president of the Health and Medicine Policy Research Group in Chicago. He made a statement which I will always remember. Thirty-three percent of the children under the age of 2 who are treated at Cook County Hospital are malnourished! One-third of these children are not only hungry, they will have health problems for the rest of their lives because of the epidemic spreading throughout our country.

These facts shock us, because they describe something none of us want to believe is possible in this country. Yet, the situation exists, it is getting worse, and we need to stop it quickly, as we did during World War II.

Homelessness is likewise a tragic problem which is not subsiding. It has been estimated that as many as 3 million people are homeless in the United States of America. There is emergency shelter available for approximately 110,000. The people affected are men, women, and children, who have no address, no shelter, and who often sleep on the streets, under viaducts, on heat grates, and in abandoned buildings. The causes for their plight are as numerous as they are. Many are educated, unemployed, battered or abused by their families. Some are former patients of mental institutions, who have been discharged into communities where essential services are not available. All of them are abandoned, invisible people whom we see but try to ignore. We cannot remain oblivious to their existence. We must try to help them help themselves.

"Hands Across America" is an attempt to bring national attention to the neediest among us. The funds raised will augment the limited efforts which have been made by the Federal, State, and local governments and private organizations. It will be a day of unity and renewed commitment to give everyone in this country the right to be all they can be. This day will not eliminate the problem, but it will provide another important link in the partnership which must exist if we are to eradicate this national disgrace. When even one child goes hungry or one person freezes to death, it is a tragedy. When it occurs in this land of compassion and abundance, we must rededicate ourselves to seeing that it does not happen again.

I thank my colleagues, Senators Heinz, Cranston, Riegle, Chiles, Nunn, Pryor, Mattingly, Simon, Matsunaga, Bumpers, Stafford, Moynihan, Hollings, Rockefeller, Eagleton, Glenn, Weicker, and Kennedy for joining me in introducing this resolution. I urge all of my colleagues to join us in this effort to commend those who are involved in this historic effort. A similar resolution was introduced by a bipartisan group in the House, led by Congressman Mickey Leland of Texas. I am hopeful that both Houses will act on this measure as soon as possible.

Mr. President, I ask unanimous consent that the joint resolution be printed in the Record.

There being no objection, the joint resolution was ordered to be printed in the Record, as follows:

S.J. Res. 246

Whereas thousands of recruits were rejected during World War II because of physical and mental problems associated with malnutrition;

Whereas our government committed itself to ending this national problem by successfully devising programs to eliminate malnutrition in America;

Whereas our people became the best-fed, healthiest people in the world;

Whereas a Physicians Task Force on Hunger recently estimated that at least 20 million American citizens now suffer from hunger, and that hunger is increasing rather than declining;

Whereas physicians around the Nation are reporting an increase in nutrition-related health problems among the elderly and children, including diseases which are usually limited to third world countries;

Whereas homelessness is an ever-increasing national problem and more than half the homeless population in the United States is comprised of children and women;

Whereas it has been estimated that there are only enough shelters to house 111,000 men, women and children on a given night, and there are as many as 3,000,000 people in need of shelter;

Whereas the General Accounting Office reports that the principal causes of homelessness in America are: unemployment, a lack of resources for deinstitutionalized mental patients, increases in personal crises, cuts in public assistance programs, reduced availability of low-income housing, and alcohol and drug abuse;

Whereas domestic hunger and homelessness have resulted in part from cutbacks in nutrition, housing, health and social programs;

Whereas participation by all citizens who are interested in helping to address this enormous problem should be encouraged;

Whereas a private fund-raising effort by United Support of Artists for Africa entitled "Hands Across America" is planned for May 25, 1986;

Whereas millions of participants in this effort who will join hands across this country on that day should be commended for asking all Americans to rededicate themselves to fulfilling the most basic needs of our people in this land of compassion and abundance, by expending every effort to eradicate hunger and homelessness in our Nation: Now, therefore be it,

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That May 25, 1986, is designated as "Hands Across America Day," and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

● Mr. HEINZ. Mr. President, I am pleased to join with Senator Dixon today as an original cosponsor of a resolution designating May 25, 1986 as "Hands Across America Day"—an occasion on which thousands of Americans will stand up together and join hands across the Nation to fight hunger and homelessness in this country.

Mr. President, we are a nation of wealth, and yet there are many among us who go to sleep at night hungry and homeless and without hope. This week, as many as 3 million Americans would give as their address an abandoned car, a heating grate, or a street corner. America's homeless include welfare mothers and children evicted from tenements; unemployed workers who drift from town to town in search of jobs; and the mentally disabled, turned out on the streets when State institutions were closed. America's homeless are also elderly couples who are no longer able to scratch out a meager living on a fixed income and are forced to abandon their home when the taxes and the cost of living exceed their means. Whatever their personal histories, America's homeless face the same brutal, isolated world.

While no one knows precisely how many Americans are going hungry or are malnourished, institutions involved in providing emergency food assistance have seen dramatic increases in the numbers of people seeking food assistance during the past few years. We do know that chronic malnutrition is a significant public health problem in low-income preschool children, leading to retarded growth, impaired learning ability and increased health problems. Health professionals are becoming increasingly aware that the elderly comprise a group nutritionally at risk and that serious disorders and disease can result from malnutrition.

Over the past few years, the plight of the Nation's homeless and hungry has attracted a great deal of concern and publicity. Private and public resources have been mobilized to attempt to meet the immediate needs for food and shelter. In addition to its other antipoverty programs, for example, the Federal Government provided $110 million nationwide in 1984 for a special emergency program operated through the Federal Emergency Management Agency. Hundreds of citizens have also voluntarily donated time and money to help feed the hungry and house the homeless. But even with these efforts, optimistic statistics show that only one in three homeless individuals will have a bed and a bowl of soup in a public or private shelter this winter. Other figures suggest that only a shocking 1 out of every 20 will be so lucky. Both figures illustrate how much is yet to be done. We must galvanize American citizens, business, and charitable groups to the cause and tap the vast resources of this great Nation to begin to solve this enormous problem.

We are a nation of compassionate people. From this country's beginning, our people have reached out and said give us your tired, your hungry, your poor. When we saw the children of Africa dying in multitudes from hunger and malnutrition, the American people were deeply moved and joined to assist in worldwide efforts to alleviate their plight. We should do no less for our own hungry and helpless.

The Hands Across America event will take place on Sunday, May 25, 1986. An expected, 10 million Americans will contribute between $10 and $35 to participate and join hands in a line stretching 4,000 miles from New York to Los Angeles. Many celebrities, companies, clubs, and churches will take part. Proceeds from Hands Across America will go toward the relief of hunger and homelessness in America. I urge my colleagues to support this resolution to bring national recognition to an effort that will go far in helping to reduce the misery of our less fortunate citizens and to tell them they have not been forgotten.●

● Mr. RIEGLE. Mr. President, I am pleased to join as an original cosponsor of this resolution. "Hands Across America Day" is an event designed to heighten public awareness and raise money for the hungry and the homeless through the joining of hands by volunteers across the country.

As we enter into the winter season, we are reminded of the plight of the homeless and the hungry. The homeless population has been estimated to be as large as 3 million, and continues to increase. The characterization of this population is shifting from the traditional stereotype of the single, middle-aged, white alcoholic male to a much more heterogenous group, including women, families, blacks, Hispanics, and the newly unemployed.

Two major factors that are thought to have contributed to the rise of homelessness are the deinstitutionalization of the Nation's mentally ill and a decline in federally assisted low-income housing programs. With the passage of the 1963 Community Mental Health Centers Act, hundreds of thousands of mental patients were released into communities over the next 20 years. Unfortunately, States and localities lacked the funds to provide shelters, or a plan on how to deal with them. In addition, Federal funds for low-income housing have declined from $30 billion in fiscal 1981 to $10 billion in fiscal 1985.

According to a recent "Hunger Watch U.S.A." survey conducted by Bread for the World, the number of hungry people continues to grow, and is expected to increase further over the next year. Federal food programs have been severely restricted due to funding cuts enacted in 1981. In order to respond adequately to the continuing hunger problem in the United States, these programs must be expanded and improved.

A step in this direction is a bill, S. 739, introduced by Senator Dixon, which I cosponsored, to establish a national endowment for the homeless. S. 739 would authorize up to $160 million a year for the endowment to provide grants to food and shelter organizations which serve the homeless. The endowment would also act as a clearinghouse for gathering and disseminating information about the homeless.

Clearly, designation of the day of May 25 as "Hands Across America Day" will provide an increased awareness of the problem of hunger and the homeless, and will call attention to initiatives such as S. 739 which attempt to provide a permanent national response to this problem. I urge my colleagues to join me in supporting this resolution.●

By Mr. McCLURE (for himself, Mr. Moynihan, Mr. Lugar, Mr. Burdick, Mr. Simon, Mr. Bradley, Mr. Rockefeller, Mr. Matsunaga, Mr. Dixon, Mr. Cochran, Mr. Zorinsky, Mr. Kerry, Mr. Nunn, Mr. Thurmond, Mr. Metzenbaum, Mr. Hatfield, Mr. Pell, Mr. D'Amato, Mr. Symms, Mr. Garn, Mr. Durenberger, Mr. Warner, Mr. Wilson, Mr. East, Mr. Stennis, and Mr. Denton):

S.J. Res. 247. Joint resolution to designate the week of June 1 through June 7, 1986 as "National Theater Week"; to the Committee on the Judiciary.

NATIONAL THEATER WEEK

● Mr. McCLURE. Mr. President, today I have the honor of introducing, along with 25 of my colleagues, a joint resolution designating the week of

June 1 through June 7, 1986 as "National Theater Week."

This country has a rich cultural and artistic heritage. The theater has played an important role in the development of our identity as a people, blending our diverse backgrounds into the international language of the theater. Some people tend to think that the theater only exists along our coasts but that isn't true. Early pioneers brought their love of theater with them and the opening of the railroads brought a steady steam of performers. They may not have had fancy stage productions, but the performing arts have a strong foothold in all parts of the country.

This country is blessed by many professional theater groups performing in large cities. No one who has seen a major theatrical production can doubt that American theater is the best in the world. But, Mr. President, I believe it's important to remember all of the smaller organizations across the country that are bringing the joys of the performing arts to all Americans. I am particularly pleased to be the sponsor of this joint resolution because I wish to make the point that theater is very much alive and well in small town high schools, in community colleges, in universities and in smaller theater companies across the country.

My colleagues might be surprised to learn just how much theater we have in a rural State like Idaho. In Boise, we have the Idaho Shakespeare Festival, the Boise Little Theater, the Stagecoach Theater, New West Productions, and the Idaho Theater for Youth. In Coeur d'Alene, we have the Coeur d'Alene Summer Theater and the Coeur d'Alene Community Theater. The small town of Sandpoint boosts the Unicorn Theater. In Twin Falls, the Dillettantes perform, while the On the Road Theater Co. works out of Pocatello. Laughing Stock theater group serves the Ketchum/Sun Valley area and the Idaho Repertory Theater is in Moscow.

I think that's quite an impressive list.

In addition, all of Idaho's colleges and universities have outstanding theater groups. In 1984 and 1985, the University of Idaho won the regional competition for the prestigious Irene Ryan Acting Award, which is part of the American College Theater Festival held at the Kennedy Center.

Mr. President, theater is not just being performed in great halls with chandeliers. Idaho is not alone in our efforts to bring performances to Americans who will never visit Broadway.

Declaring a week in honor of the theater salutes the tremendously vibrant professional groups we have in major metropolitan areas. It salutes small organizations in small communities. It salutes the dedication of actors and actresses who strive for perfection no matter where the stage is. It salutes those of us in the audience who enjoy this national artistic treasure.

Mr. President, I ask unanimous consent that the text of my joint resolution be printed in the Record.

There being no objection, the joint resolution was ordered to be printed in the Record, as follows:

S.J. Res. 247

Whereas many Americans have devoted much time and energy in advancing the cause of theater;

Whereas the theaters of America have pioneered the way for many performers and have given them their start in vaudeville and stage;

Whereas theater is brought to Americans through high schools, colleges, and community theater groups as well as through professional acting companies;

Whereas the citizens of America have been called upon to support the theater arts in the Nation's interest; and

Whereas many individuals and organizations are hailing the strength and vitality of the theaters of America: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of June 1 through June 7, 1986, shall be proclaimed as "National Theater Week" throughout the country and that the President of the United States is authorized to issue a proclamation calling upon the citizens to support this effort with assistance to theaters throughout the country.●

By Mr. WARNER:

S.J. Res. 248. Joint resolution to designate the week of March 2, 1986 through March 8, 1986 as "National Young Writers' Week"; to the Committee on the Judiciary.

NATIONAL YOUNG WRITERS' WEEK

● Mr. WARNER. Mr. President, it is my privilege today to introduce a joint resolution calling for the establishment of "National Young Writers' Week."

The week of March 2 through March 8, 1986 has been selected to coincide with a number of observances taking place within the educational community.

Illiteracy is a critical problem in our country.

At least 20 percent of the adult population is without full literacy skills.

A National Young Writers' Week will focus attention on this problem and provide strong incentives for learning development and creative writing.

In this effort, I am pleased to have the support of the National Education Association, the American Federation of Teachers, the National Committee of Teachers of English, and the National Association of School Principals.

I am hopeful that these groups and others will be working together to encourage wide participation.

Ideally, every classroom in America could in some way contribute.

Congressman Matthew Martinez, representing the 30th Congressional District of California, has introduced a companion resolution in the House, and I am pleased to report that he already has 51 cosponsors.

I now urge the Senate to join in this effort and welcome the support of my colleagues.●

ADDITIONAL COSPONSORS

S. 376

At the request of Mr. Chafee, the name of the Senator from Mississippi [Mr. Cochran] was added as a cosponsor of S. 376, a bill to amend the Internal Revenue Code of 1954 to deny an employer a deduction for group health plan expenses unless such plan includes coverage for pediatric preventive health care.

S. 1156

At the request of Mr. Denton, the name of the Senator from Pennsylvania [Mr. Specter] was added as a cosponsor of S. 1156, a bill to amend chapter XIV of the Comprehensive Crime Control Act of 1984, relating to victims of crime, to provide funds to encourage States to implement protective reforms regarding the investigation and adjudication of child abuse cases which minimize the additional trauma to the child victim and improve the chances of successful criminal prosecution or legal action.

S. 1209

At the request of Mr. Bumpers, his name was added as a cosponsor of S. 1209, a bill to establish the National Commission To Prevent Infant Mortality.

At the request of Mr. Biden, his name was added as a cosponsor of S. 1209, supra.

S. 1273

At the request of Mr. McClure, the name of the Senator from Idaho [Mr. Symms] was added as a cosponsor of S. 1273, a bill to authorize the Secretary of the Interior to construct, operate, and maintain the Minidoka powerplant rehabilitation and enlargement, Minidoka project, Idaho-Wyoming.

S. 1526

At the request of Mr. Mathias, the name of the Senator from Nevada [Mr. Laxalt] was added as a cosponsor of S. 1526, a bill to amend title 17, United States Code, to clarify the definition of the local service area of a primary transmitter in the case of a low power television station.

S. 1543

At the request of Mr. Mathias, the name of the Senator from Vermont [Mr. Stafford] was added as a cosponsor of S. 1543, a bill to protect patent owners from importation into the United States of goods made overseas by use of a U.S. patented process.

S. 1574

At the request of Mr. Lugar, the names of the Senator from Hawaii

[Mr. MATSUNAGA] and the Senator from Maine [Mr. COHEN] were added as cosponsors of S. 1574, a bill to provide for public education concerning the health consequences of using smokeless tobacco products.

S. 1756

At the request of Mr. SIMON, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 1756, a bill to authorize the President to present to Sargent Shriver, on behalf of the Congress, a specially struck medal.

S. 1822

At the request of Mr. THURMOND, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 1822, a bill to amend the Copyright Act in section 601 of title 17, United States Code, to provide for the manufacturing and public distribution of certain copyrighted material.

S. 1874

At the request of Mr. WEICKER, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 1874, a bill to authorize quality educational programs for deaf individuals, to foster improved educational programs for deaf individuals throughout the United States, to reenact and codify certain provisions of law relating to the education of the deaf, and for other purposes.

S. 1889

At the request of Mr. DENTON, the names of the Senator from Arizona [Mr. DECONCINI], the Senator from Pennsylvania [Mr. SPECTER], and the Senator from South Dakota [Mr. ABDNOR] were added as cosponsors of S. 1889, a bill to amend title 11 of the United States Code, relating to bankruptcy, to prevent discharge of administratively ordered support obligations.

At the request of Mr. DENTON, the name of the Senator from Indiana [Mr. QUAYLE] was withdrawn as a cosponsor of S. 1889, supra.

SENATE JOINT RESOLUTION 170

At the request of Mr. SIMON, the names of the Senator from Michigan [Mr. LEVIN], the Senator from South Dakota [Mr. ABDNOR], the Senator from Maine [Mr. MITCHELL], and the Senator from South Dakota [Mr. PRESSLER] were added as cosponsors of Senate Joint Resolution 170, a joint resolution to designate the month of March 1986 as "Music In Our Schools Month."

SENATE JOINT RESOLUTION 205

At the request of Mr. MCCLURE, the name of the Senator from Connecticut [Mr. WEICKER] was added as a cosponsor of Senate Joint Resolution 205, a joint resolution to designate March 21, 1986, as "National Energy Education Day."

SENATE JOINT RESOLUTION 231

At the request of Mr. RIEGLE, the names of the Senator from Utah [Mr. GARN], the Senator from Pennsylvania [Mr. SPECTER], the Senator from North Carolina [Mr. HELMS], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Nevada [Mr. HECHT], the Senator from Maryland [Mr. SARBANES], the Senator from Alaska [Mr. MURKOWSKI], and the Senator from Oklahoma [Mr. BOREN] were added as cosponsors of Senate Joint Resolution 231, a joint resolution to designate the period commencing January 1, 1986, and ending December 31, 1986, as the "Centennial Year of the Gasoline Powered Automobile."

SENATE JOINT RESOLUTION 236

At the request of Mr. GORTON, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of Senate Joint Resolution 236, a joint resolution to authorize and request the President to issue a proclamation designating April 20 through 26, 1986, as "National Organ and Tissue Donor Awareness Week."

SENATE JOINT RESOLUTION 237

At the request of Mr. GRAMM, the names of the Senator from South Dakota [Mr. ABDNOR], the Senator from Mississippi [Mr. COCHRAN], the Senator from Kansas [Mr. DOLE], the Senator from Utah [Mr. HATCH], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Indiana [Mr. LUGAR], the Senator from Hawaii [Mr. MATSUNAGA], and the Senator from Georgia [Mr. NUNN] were added as cosponsors of Senate Joint Resolution 237, a joint resolution to designate the month of January 1986 as "United States Savings Bonds Month."

SENATE JOINT RESOLUTION 239

At the request of Mr. DURENBERGER, the names of the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Nebraska [Mr. ZORINSKY], the Senator from California [Mr. WILSON], the Senator from Indiana [Mr. LUGAR], and the Senator from South Carolina [Mr. HOLLINGS] were added as cosponsors of Senate Joint Resolution 239, a joint resolution designating the week beginning on June 1, 1986, as "National Maternal and Child Health Week."

SENATE CONCURRENT RESOLUTION 81

At the request of Mr. SIMON, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of Senate Concurrent Resolution 81, a concurrent resolution requesting the President to begin talks with the Government of the Soviet Union to establish a United States-Soviet Union student exchange for peace program.

SENATE CONCURRENT RESOLUTION 93—ORIGINAL CONCURRENT RESOLUTION REPORTED COMMENDING THE GOVERNMENT OF IRELAND AND THE GOVERNMENT OF THE UNITED KINGDOM

Mr. LUGAR, from the Committee on Foreign Relations, reported the following original concurrent resolution; which was placed on the calendar:

S. CON RES. 93

Whereas all peace-loving people desire a just and lasting solution to the problems of Northern Ireland;

Whereas violence and terrorism in Northern Ireland and all those who support it should be strongly condemned, and the effort to achieve peace and reconciliation through political means should be supported;

Whereas the report of the New Ireland Forum of May 2, 1984, which condemned violence and those who support it, made an important contribution to the Anglo-Irish negotiations over the past year;

Whereas the Prime Ministers of Ireland and the United Kingdom signed an agreement in Hillsborough, Northern Ireland, on November 15, 1985, which provides a basis for progress towards peace, stability, and an end to violence in Northern Ireland;

Whereas this agreement provides for an unprecedented role for the Government of Ireland in relation to Northern Ireland;

Whereas this agreement affirms that any change in the status of Northern Ireland would only come about with the consent of the majority of the people of Northern Ireland;

Whereas this agreement declares that, if in the future a majority of the people of Northern Ireland clearly wish for and formally consent to the establishment of a united Ireland, the Governments of Ireland and the United Kingdom will introduce and support in the respective Parliaments legislation to give effect to that wish;

Whereas the agreement envisages the possibility of securing international support to promote the economic and social development of those areas of both parts of Ireland which have suffered most severely from the consequences of violence of recent years;

Whereas the Parliaments of Ireland and the United Kingdom have given their solemn and respectful approval to this historic agreement;

Whereas on August 30, 1977, President Carter stated that in the event of a peaceful settlement in Northern Ireland, "the U.S. Government would be prepared to join with others to see how additional job-creating investment could be encouraged to the benefit of all the people in Northern Ireland";

Whereas on November 15, President Reagan stated that "I will be working closely with the Congress in a bipartisan effort to find tangible ways for the United States to lend practical support to this important agreement"; and

Whereas this agreement should be supported by all those who seek peace, stability, and an end to violence in Northern Ireland and the reconciliation of the two major traditions in Ireland: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That (a) the Congress commends the Government of Ireland and the Government of the United Kingdom for their achievement in reaching an agreement which charts a way towards peace, stability, and an end to violence in Northern Ireland.

(b) The Congress declares its willingness to work with the President in supporting the Anglo-Irish agreement through appropriate United States assistance, including economic and financial support, to promote the economic and social development of those areas of both parts of Ireland which have suffered most severely from the consequences of the violence of recent years.

Sec. 2. The Secretary of the Senate shall transmit a copy of this concurrent resolution to the President.

SENATE RESOLUTION 271—ORIGINAL RESOLUTION REPORTED REGARDING ASSISTANCE FOR LIBERIA

Mrs. **KASSEBAUM**, from the Committee on Foreign Relations, reported the following original resolution; which was placed on the calendar:

S. Res. 271

Whereas the Republic of Liberia and the United States are bound by ties of mutual respect and friendship;

Whereas the Government of Liberia has undertaken since 1981 to restore civilian rule and establish a genuinely democratic government which will provide all citizens with an equal voice in the governance of their country;

Whereas the Government of Liberia made a public commitment to hold a free and fair election in 1985 and to install a civilian government based on the results of that election by 1986;

Whereas the United States has provided the Republic of Liberia with $375,000,000 in economic and military assistance since 1981 on the basis of the Government of Liberia's commitment to hold free and fair elections;

Whereas the election that took place in the Republic of Liberia on October 15, 1985, has been characterized by improperties, including the denial of the right to participate by significant opposition parties and candidates and restrictions of the freedom to campaign;

Whereas the results of the election, as announced on October 29, 1985, giving 50.9 percent of the vote to General Doe, were tallied in secret by an ad hoc committee appointed by the military government after an earlier tabulation in the presence of opposition party representatives gave the election to another candidate;

Whereas several opposition political leaders have been arrested and held in detention without charge, allegedly on the grounds that they participated in the attempted coup d'etat of November 14, 1985;

Whereas the Congress, in the International Security and Development Cooperation Act of 1985, expressed the need for free and fair elections in the Republic of Liberia; and

Whereas it is the desire of the Congress that the people of Liberia enjoy the full fruits of democracy as well as the respect of the international community: Now, therefore, be it

Resolved, That (a) it is the sense of the Senate that—

(1) the October 15, 1985, election and vote tally in the Republic of Liberia do not meet the requirements of section 807 of the International Security and Development Cooperation Act of 1985;

(2) the President should channel, to the maximum extent possible, future economic assistance to the Republic of Liberia through nongovernmental organizations; and

(3) the President should suspend military assistance to the Republic of Liberia until the Government of Liberia has released all political prisoners, provided for free and fair elections, and established a civilian government chosen through such election.

(b) The Senate hereby expresses to the people of Liberia the friendship of the people of the United States and the earnest desire of the people of the United States for the establishment of a genuine democracy in Liberia.

Sec. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.

SENATE RESOLUTION 272—RELATING TO THE USE OF PAINT CONTAINING TRIBUTYLTIN

Mr. **COHEN** (for himself and Mr. Trible) submitted the following resolution; which was referred to the Committee on Environment and Public Works:

S. Res. 272

Whereas the American people derive incalculable benefit from our Nation's marine resources;

Whereas there is growing public concern regarding the impact that the use of marine paints containing tributyltin has on the Nation's aquatic assets;

Whereas it is essential to obtain more data regarding the potential consequences to the environment of using tributyltin paints;

Whereas the Senate has agreed to prohibit the use of tributyltin paint by the Navy until such time as the Environmental Protection Agency determines that such paint does not pose an unacceptable risk to the environment;

Whereas the majority of the Nation's commercial vessels and pleasure craft are painted with paint containing tributyltin;

Whereas the Environmental Protection Agency has initiated a special review to determine the environmental consequences of using paints containing tributyltin; and

Whereas it is essential that Congress, Federal agencies, the States, and the American people fully understand the environmental consequences that may result from the continued use of marine paint containing tributyltin: Now, therefore, be it

Resolved, That it is the sense of the Senate—

(1) that the Senate Committee on Environment and Public Works should, at the earliest practicable date, commence public hearings on the environmental and health effects of organotin-bearing paints to determine whether further legislative action is warranted with respect to the future use of such compound; and

(2) that the Environmental Protection Agency should, and is hereby urged, to accelerate its investigation into the environmental and health effects of organotin-bearing paints and report its findings to the Congress at the earliest practicable date.

Mr. **COHEN**. Mr. President, last Monday, the Senate adopted an amendment to the continuing resolution offered by Senators Heinz, Mathias, Sarbanes, Trible, Warner, and myself that would prohibit the use of fiscal year 1986 moneys to carry out any painting project by the Navy using paint known by the trade name of Organotin (tin-based) or with any other paint containing the chemical compound tributyltin.

Organotin is an effective, tin-based antifouling compound used in paint. Tributyltin [TBT] is the active ingredient in organotin-bearing paints. It is used to keep ship hulls free from barnacles, seaweed, and other organisms which can damage or increase friction on the hull and slow a ship's progress. The increased friction requires more power and hence more fuel to maintain ship speed. It is superior to copper-based paints that were used in the past because it has a lower leaching rate which extends the duration of the antifouling action and is far more toxic to marine life than copper-based paints. A majority of the worldwide commercial shipping fleets and an equal proportion of pleasure craft are painted with organotin-bearing paints.

As I stated during the floor debate on December 9, our amendment was not specifically aimed at the Navy. We were not accusing the Navy of any wrongdoing. On the contrary, the Navy has met all Environmental Protection Agency [EPA] regulations. Its paint specifications are far more stringent in terms of toxicity and release rates than any used in the recreational and commercial industry. The Navy has been in the forefront of ongoing efforts to reduce the toxic content of organotin-bearing antifouling paints, and it has researched this matter far more extensively than any other segment of the maritime industry.

Our concerns, instead Mr. President, must, of necessity, be focused on the potentially harmful effects the highly toxic pesticides of the organotin family of compounds may have on marine life and public health. While organotin-bearing paints are registered with the EPA as pesticide antifouling compounds, many of these compounds were registered for use over 25 years ago. Recent studies raise new and very serious questions about the accurate and chronic toxicity of these compounds at extremely low concentrations and their potential transmission into the food chain.

The EPA, the Navy, the Virginia Institute of Marine Science, the States of Maine, Maryland, Virginia, and North Carolina, several environmental groups, and the House Appropriations Committee have voiced such concerns. Others are joining the debate daily. The principal concern is not whether organotin-bearing paints kill the organisms that foul a ship's hull, but rather whether the organotins leach out of the paints into the adjacent waters at rates and toxicity levels that contaminate or kill nontarget aquatic organisms such as clams, shrimp, oysters, crabs, lobsters, and fish.

The EPA's Office of Pesticide Programs has recently taken the initial steps to conduct a special review to reexamine the risks and benefits of organotin antifoulants.

The State of North Carolina recently developed water quality standards for organotin at 2 parts per trillion in salt water and 8 parts per trillion in fresh water; levels that I understand very few labs in the country can accurately monitor.

A recently completed study at the University of Maryland found that 15 parts per trillion was toxic to clam larvae.

Biological damage by organotin leaching from boat bottoms has been noted in other countries. In 1982, France banned the use of TBT on boats under 25 meters—80 feet—in length. French scientists noted that oysters in and around boat moorings and marinas were found to have abnormal shell growth, reduced reproduction rates, and mutations in oyster larvae. Instances of these abnormalities ended following the prohibition. England is in the process of implementing a similar ban.

Mr. President, a large part of my strong concern about the dangers involved in this compound relate to Maine, a State with a long coastwise, thousands of boats, and tens of thousands of individuals and families whose livelihood depends on a clean and productive marine environment. Few States would be as affected by any unhealthy side effects of this organotin-bearing paint as Maine, and the interests of my State and all coastal States are clearly at stake here.

Mr. President, we know that marine paints containing tributyltin are highly toxic to man and to our Nation's aquatic life. However, the degree and extent of this toxicity is not fully known. We do not know what level of TBT concentration is dangerous to our Nation's marine resources and public health. We do not know what levels pose an acceptable risk to our environment. We do not know the hazards of human consumption of shellfish contaminated by organotin. We do not know how much TBT is present in our oceans, bays, rivers, and marinas. Scientists at the Virginia Institute of Marine Science have begun to study the environmental effects of organotin-bearing paints. While insufficient data is available to justify a scientific judgment concerning organotin's effects, preliminary findings seem to confirm the suspicion that marinas and shipyards may already have reached contamination levels that are adverse to our marine resources. Any coastal area with recreational, commercial, or naval activities has the potential for being so affected.

William Waldegrave, England's junior environment minister, stated earlier this year that he had "seldom been faced with clearer scientific evidence of the need for environmental action—and fast; that the apparent tendency of organotin-bearing paints to stunt the growth of Britain's Pacific oyster is just the visible top of a potentially massive environmental iceberg."

Mr. President, very serious questions have been raised about the potential risks and effects of organotin-bearing paints on the marine environment and human health. At this time, all we have is uncertainty. While there may be substantial benefits derived from the use of these paints, there are substantial environmental and human risks that must be addressed. We must, without delay, undertake a comprehensive, nationwide inquiry into the effects of these marine paints containing tributyltin. I urge my colleagues to joint Senator Trible and me in supporting a sense of the Senate resolution that calls for such an investigation.

Mr. TRIBLE. Mr. President, along with my colleague from Maine, Senator Cohen, I am introducing legislation calling for a national investigation into the use of marine paints containing tributyltin pending an EPA assessment of the environmental risk.

I hope this legislation will be the start of an intensive discussion of the desirability of continuing the use of TBT-based paints on American commercial and pleasure craft.

Because of its potential hazard to the environment, I offered an amendment to the continuing resolution that bans the Navy from using organotin paint until the Environmental Protection Agency certifies that the Navy's program poses no risk to marine or estuarine life. Despite this action, the potential threat to the environment remains. The vast majority of the Nation's commercial and pleasure vessels is painted with TBT-based paints. Some of these formulations have released rates of tin far in excess of the Navy's formulation.

The reason for our concern is the toxicity of tin; TBT compounds kill barnacles, sea grasses and other marine life. It may well be equally lethal for other species. When tin from aquatic paints is released into the water it degrades very slowly. It remains toxic for extended periods and invades plant and animal tissue. In great enough concentrations it can affect the reproduction and development of oysters and clams.

This concern regarding the effects of TBT has led governments to act. France, for instance, has banned the use of TBT on boats less than 25 meters long. The State of North Carolina has effectively banned organotin use.

There is much more we need to know. We need to ascertain systematically existing levels of tributyltins in the water, what concentrations adversely affect what species, whether TBT's accumulate on the bottom, and we need data on the flow of contaminated water from shipyards.

I believe that Congress should have the benefit of a thorough and systematic discussion of the environmental impact of tributyltin marine paints and it is to that end that I introduce this legislation.

SENATE RESOLUTION 273—EXPRESSING CONDOLENCES TO THE GOLDWATER FAMILY

Mr. PACKWOOD (for Mr. Dole, for himself, Mr. Abdnor, Mr. Andrews, Mr. Armstrong, Mr. Baucus, Mr. Bentsen, Mr. Biden, Mr. Bingaman, Mr. Boren, Mr. Boschwitz, Mr. Bradley, Mr. Bumpers, Mr. Burdick, Mr. Byrd, Mr. Chafee, Mr. Chiles, Mr. Cochran, Mr. Cohen, Mr. Cranston, Mr. D'Amato, Mr. Danforth, Mr. DeConcini, Mr. Denton, Mr. Dixon, Mr. Dodd, Mr. Domenici, Mr. Durenberger, Mr. Eagleton, Mr. East, Mr. Evans, Mr. Exon, Mr. Ford, Mr. Garn, Mr. Glenn, Mr. Gore, Mr. Gorton, Mr. Gramm, Mr. Grassley, Mr. Harkin, Mr. Hart, Mr. Hatch, Mr. Hatfield, Mrs. Hawkins, Mr. Hecht, Mr. Heflin, Mr. Heinz, Mr. Helms, Mr. Hollings, Mr. Humphrey, Mr. Inouye, Mr. Johnston, Mrs. Kassebaum, Mr. Kasten, Mr. Kennedy, Mr. Kerry, Mr. Lautenberg, Mr. Laxalt, Mr. Leahy, Mr. Levin, Mr. Long, Mr. Lugar, Mr. Mathias, Mr. Matsunaga, Mr. Mattingly, Mr. McClure, Mr. McConnell, Mr. Melcher, Mr. Metzenbaum, Mr. Mitchell, Mr. Moynihan, Mr. Murkowski, Mr. Nickles, Mr. Nunn, Mr. Pell, Mr. Pressler, Mr. Proxmire, Mr. Pryor, Mr. Quayle, Mr. Riegle, Mr. Rockefeller, Mr. Roth, Mr. Rudman, Mr. Sarbanes, Mr. Sasser, Mr. Simon, Mr. Simpson, Mr. Specter, Mr. Stafford, Mr. Stennis, Mr. Stevens, Mr. Symms, Mr. Thurmond, Mr. Trible, Mr. Wallop, Mr. Warner, Mr. Weicker, Mr. Wilson, and Mr. Zorinsky) submitted the following resolution; which was considered and agreed to:

S. Res. 273

Whereas, Peggy Goldwater was the much loved and trusted partner of Barry Goldwater for 51 years; and

Whereas, as a leading light in the Republican Party, the support and encouragement of her husband was essential to the pursuit of his public career; and

Whereas, she made significant public service contributions of her own, through volunteer work; and

Whereas, as a devoted wife, mother and grandmother she personified the very best in American life; and

Whereas, the legacy she left not only her family, but the Nation will endure for years to come;

Be it resolved, that the Senate expresses its most sincere condolences to Barry Goldwater and the entire Goldwater family.

AMENDMENTS SUBMITTED

WHITE EARTH INDIAN LEGISLATION

MELCHER AMENDMENT NOS. 1414 THROUGH 1416

Mr. MELCHER proposed three amendments to the bill (S. 1396) to settle unresolved claims relating to certain allotted Indian lands on the White Earth Indian Reservation, to remove clouds from the titles to certain lands, and for other purposes; as follows:

AMENDMENT No. 1414

On page 36, line 16, delete the words "one-hundred and eighty days" and insert in lieu thereof the following: "eighteen months".

AMENDMENT No. 1415

On page 38, after line 10, insert the following new subsection:

"(e) On application of any allottee or heir seeking to file a claim under subsection (c) of this section, the United States shall provide legal advice and assistance regarding the merits of the claim if—

(1) the United States determines the claim has legal merit, and

(2) if the allottee or heir elects to proceed with filing a legal claim for title or damages under subsection (c) of this section,

the United States shall, on request, act as attorney for the claimant."

AMEMDMENT No. 1416

On page 44, delete lines 13 through 25 and insert in lieu thereof the following:

"(1) The State of Minnesota shall enter into an agreement with the Secretary providing for the transfer of that amount of land which is determined by the United States Department of Justice to have been acquired by the State of Minnesota within the current exterior boundaries of the White Earth Reservation of Chippewa Indians through tax forfeiture of any lands which fall within any of the transactions described in Sec. 4(a) and (b) as the State's contribution to the settlement provided for by this Act. The Secretary shall not enter into such an agreement until the Secretary determines, or the authorized governing body of the band certifies to the Secretary in writing, that the agreement will result in the transfer of such amount of land which possess reasonable value for the".

AUTHORITY OF SUPREME COURT POLICE

THURMOND AMENDMENT NO. 1417

Mr. PACKWOOD (for Mr. THURMOND) proposed an amendment to the bill (H.R. 3914) to preserve the authority of the Supreme Court Police to provide protective services for Justices and Court personnel; as follows:

Strike all after the enacting clause and insert the following:

That the Act entitled "An Act relating to the policing of the building and grounds of the Supreme Court of the United States", as approved August 18, 1949 (40 U.S.C. § 13f), section 9(c) of such Act as added by the Act of December 29, 1982 (Public Law 97-390; 96 Stat. 1958), is amended to read as follows:

"(c) The authority created under subsection (a)(2) shall expire one year after the date of enactment of this subsection.

The Marshal of the Supreme Court shall report annually to the Congress on March 1 regarding the administrative cost of carrying out his duties under such subsection. Duties under subsection (a)(2)(A) of this section with respect to an official guest of the Supreme Court in any part of the United States (other than the District of Columbia, Maryland, and Virginia) shall be authorized in writing by the Chief Justice of the United States or an Associate Justice of the Supreme Court, if such duties require the carrying of firearms under subsection (a)(5) of this section."

NOTICES OF HEARINGS

COMMITTEE ON SMALL BUSINESS

Mr. WEICKER. Mr. President, I would like to announce that the Senate Small Business Committee will be holding two field hearings in South Dakota on the cost and availability of liability insurance for small business. The first hearing will take place on December 23, 1985 at 10 a.m. at the Holiday Inn in Sioux Falls. The second hearing will be on December 30, 1985 at the Hotel Alex Johnson in Rapid City. It will commence at 10 a.m. For further informaton, please call Bob Wilson of the committee staff at 224-5175, or Kevin Schieffer of Senator LARRY PRESSLER's staff at 224-5842.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, December 12, to hold a closed hearing on financial matters relating to Chapman Cox.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, December 12, to hold a hearing on the nomination of Sylvester R. Foley, to be Assistant Secretary of Energy—Defense Programs.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, December 12, 1985, in order to conduct a hearing on the nomination of Chapman B. Cox, to be Assistant Secretary of Defense for Force Management and Personnel and various routine military nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, December 12, to conduct a hearing, to consider the nominations of Donna R. Fitzpatrick to be an Assistant Secretary of Energy—Conservation and Renewable Energy; Mary L. Walker, to be an Assistant Secretary of Energy—Environment, Safety, and Health; James R. Richards to be inspector general, Department of the Interior; Gerald Ralph Riso, to be an Assistant Secretary of the Interior—Policy, Budget, and Administration; and C. Dale Duvall, to be Commissioner of Reclamation.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TOXIC SUBSTANCES AND ENVIRONMENTAL OVERSIGHT

Mr. DOLE. Mr. President, I ask unanimous consent that the Subcommittee on Toxic Substances and Environmental Oversight, of the Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Thursday, December 12, 1985, in order to conduct an oversight hearing on the problem of ground water pollution caused by nutrient applications.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

UNITED STATES/CANADA TRADE RELATIONS

● Mr. SIMON. Mr. President, recently, I was invited to speak to the Canadian Club in Toronto and planned to do so, and then an important vote was scheduled in the Senate for that day and I had to cancel the speech at the last minute.

Our relations with Canada are extremely important to both of our countries. And we all know that those relations are basically good. But we have to improve them.

I ask to insert into the RECORD my planned statement to the Canadian Club on United States/Canada trade relations.

The statement follows.

UNITED STATES/CANADIAN TRADE RELATIONS

(By Senator Paul Simon)

I am honored to be invited to participate in this United States-Canadian Exchange Lecture Series. I regret that the important vote calling for an extension of the U.S. debt limit prevents my being there personally with you.

I have been to Toronto on at least two occasions through the years and in Canada many times, from Nova Scotia to a family trip up the Alaska Highway in the Yukon Territory when it was still 1,200 miles of gravel road.

It is not only the unparallelled peaceful border between our two countries that tells of the good relations between our two countries. In yesterday's New York Times, columnist James Reston described Canadians as "our best and closest friends." I know of no one in a leadership position in the United States who has any differing view. Recently, I was at a meeting where foreign students were asked to identify themselves. When among them were two from Canada, the Moderator said, "Not Canadian students. Just foreign students." There is a two-edged message there. It is important that we maintain close ties so that we do not view each other as foreign. But it is also important that we not take each other for granted. Where problems arise, let us work together for their solution.

Sometimes foolish things impair our good relationship, like our denying entrance into the United States of Farley Mowat, the author of "Never Cry Wolf," because some years ago he objected to B-52's flying over his timbered land. Free countries like the United States and Canada not only can tolerate diversity of viewpoints, we thrive on them. We only embarrass ourselves when we imitate those who attempt to suppress opposing or differing viewpoints. One of the ways each of us can enrich the other is through exchanges of ideas, in the arts, and in so many other ways that enrich the culture in both our countries.

In many fields—education and defense are good examples—there is a strong, effective, mutually-enriching relationship between our two countries. Over the years, our two countries have shared a host of experiences. Canada plays a vital role in reinforcing NATO's northern flank. On the North American continent, Canada's participation in the North American Aerospace Defense Command and the installation of the new North Warning System which replaces the old DEW line is crucial. The 39 stations in Alaska and Canada, with costs shared by each nation, will set up a string of advanced phased-array radar units for tracking incoming bombers and cruise missiles.

But there remain problems on which both of our nations must work. Let me briefly discuss two—both of which have a significant impact on my home State of Illinois.

Acid rain is a source of trouble but probably not major controversy in Canada. In the United States, it is also a source of trouble, and in my coal-producing State, a matter of controversy.

While I favor additional research, the call for research should not be a substitute for action. The reality is that the high smokestacks we have built protect the immediate environment but endanger the more distant environment. We have to face our problems, and do it in a way that safeguards the coal industry of the Midwest at the same time it protects our air and our lakes more effectively. It can be done, but it will not be accomplished by pretending a problem does not exist.

There is an analogy in trade, also important to my State and Nation. We should not pretend that problems do not exist; they do. And the sooner we face them in a realistic way, both Canada and the United States will benefit.

By political philosophy, I am a free trader, but you should be aware that protectionist sentiment is rising in the United States, particularly in areas of high unemployment like Illinois. During the month of August, I conducted 57 town meetings in my State at which citizens could ask questions about anything. Without exception, there were questions or demands that we do something about the loss of jobs due to imports. The questions and demands were often simplistic, but there is no question about the sentiment. Protectionist sentiment is so thick you can cut it. There is some danger that if we do not find sensible answers, action will be taken that will do harm to the United States and to Canada as well as to other nations.

That is why I welcome the House of Commons statement of Prime Minister Brian Mulroney. He calls for negotiations on this complex issue, an issue that U.S. administrations historically have viewed as a matter of secondary importance. Your Prime Minister said, "Today more than ever, our prosperity and that of our partners depend on an expanding world trade and a growing world economy." That realistic assessment I hope will cause much close scrutiny to the trade issue by the United States.

Our trade deficit in 1984 was $123 billion and will be close to $150 billion in 1985. Our trade deficit with Canada was close to $20 billion last year. A major part of the U.S. problem is self-inflicted, by our failure to come to grips with our budget deficit, causing an overvalued dollar, which in turn causes excesive imports and a reduction in exports.

But let me be candid. Getting our fiscal house in order will help, but the United States is going to have to become a tougher negotiator. After the President announced that the United States would not ask for a quota on Japanese cars, becoming the only major automobile market in the world without a quota on Japanese cars, I called a friend in the White House and asked what we got in return. He replied, "Good will."

I like good will, but increasingly automobile workers and business leaders and farmers are finding that answer unsatisfactory. Their bankers do not credit their accounts with good will. It does not feed a family or pay for college tuition or fuel a car. And ultimately that kind of good will does not secure firm friendships.

Eighty percent of Canada's exports to the United States come to us duty-free, while only 65 percent of our sales enter your country with that status. Nails are made in Peoria, Sterling, and Rock Falls in my State, and enter Canada with a 50 cents per hundredweight tariff. Nails from Canada come to us at 5 cents per hundredweight. Steel tubing comes into your country with a tariff 22 times higher than the charge we make. R.R. Donnelly in my State prints catalogs. Catalogs shipped into Canada have a heavy duty. But a U.S. firm can contract with a Canadian firm for catalogs and other printing and bring them into the United States without a duty being imposed. Advertising and printing face not only tariff barriers, but postal and income tax barriers. Pharmaceutical firms in my State complain of unfair barriers.

There are too many other examples. The unemployed in my State, the businesses that are failing or struggling for survival in an increasing crescendo are asking those of us in Congress to do something.

And do something we will.

But whether it will be responsible, sensible action is less certain. The United States and Canada are each other's major trading partner. It is important to both nations that we act to encourage trade, not discourage it, but the days of generous unilateral concessions by the United States are coming to an end.

One-fifth of the U.S. exports go to Canada; three-fourths of your exports come to the United States. That trade is important to both of us.

Let us accept the suggestion of Prime Minister Mulroney that we create a new era of improved trade by tackling the complex issues, eliminating the minor irritants, and candidly confronting the major problems so that both countries can experience growth. It can be done and should be done. President John F. Kennedy spoke of our special relationship:

"Geography has made us neighbors. History has made us friends. Economics has made us partners. And necessity has made us allies. Those whom nature hath so joined together, let no man put asunder. What unites us is far greater that what divides us."

And let me add a special invitation. St. Louis borders Illinois and in that area of my State we have strong St. Louis Cardinal fans. If, in the next few days, Toronto and St. Louis prevail in the baseball playoffs—and simple justice requires that they do—then I invite you to St. Louis to the first genuine World Series in baseball history. I hope to see you there, and in your fine city of Toronto on another occasion.●

AMERICA'S TRADE POLICY

● Mr. ROTH. Mr. President, I submit for the Record a copy of the speech I gave yesterday at the U.S. Chamber of Commerce International Forum, on America's trade policy.

Speech by William V. Roth, Jr., U.S. Chamber of Commerce, International Forum

It is certainly a pleasure to be with you this morning to discuss what has to be one of the most timely and volatile issues of today—America's trade policy.

I know I am not giving away any national secrets when I tell you that the Congress is caught up in a frenzy about what our approach to trade should be. Hundreds of issue-specific trade bills have been introduced in both Houses and, in the past month, there has been a proliferation of omnibus trade proposals by Democrats, by Republicans and even, in the Senate, by a bipartisan group of Members.

The mood in the Congress has changed fast. Until recently there existed a broad-based bipartisan feeling that liberal trade policies were in the best interests of this country, and that once we began moving down the protectionist path for any one industry, it would be difficult to turn back.

Now this broad-based bipartisanship is tearing at the seams.

Despite the economic recovery since 1982, protectionism in the 99th Congress has taken on a new strength.

Before this protectionist movement gets way out of hand, we need to figure out how to right our tremendous trade imbalance while—at the same time—keeping America strong and competitive.

The answer lies not in short-term fixes, but rather in a long-term remedy.

In my judgment, from the Government's standpoint three key elements must be a part of the long-term cure:

(1) A major reduction in the growth of Federal spending;

(2) The enactment of major tax reforms; and

(3) The establishment of a trade policy and organization which complements rather than counteracts American strength.

We need to seriously reduce the growth of our Federal spending.

Regardless of the components, the key necessity is to reach a consensus on the need to cut spending drastically, and move toward a balanced budget. By doing so, we will help solve our current problems with the dollar, and not burden future generations with a level of debt that will sap any chance of prosperity from our economy.

And we need major tax reform. The Nation is now familiar with the details of both the President's tax reform package and the proposal being considered by the House. At this point in time, there are serious political and economic deficiencies with both proposals. Neither enjoys broad support from the middle class or the business community. Neither provides an environment for long-term economic growth which is essential to enhance our competitive condition. As presently constituted, neither plan would be beneficial to the country.

The President's plan could, however, be modified to be a pro-growth proposal that would enjoy broad middle class and business support.

Let me describe now—in broad outline—how the President's plan could be perfected.

First of all, to get a major tax package enacted you are going to have to have broad support from America's middle class. But, the middle class today does not see themselves as benefiting from the President's proposal. As a matter of fact, Treasury admits that one out of three middle Americans faces a tax increase.

What I am proposing instead (S. 411) is to reduce the marginal rates so that not a single American—or maybe a few who have some tax shelters—would end up paying higher taxes.

A second change I would make with respect to individuals would be to promote savings.

Now, as you're probably well aware, the Japanese save between 20 to 24 percent of their earnings. And it is those earnings that are used by the Japanese to buy the best technology in the world—many times, American technology—and incorporate it in their plants.

Of course, a lot of people say, "Well, that's Japanese culture." That not true! Their savings developed following World War II. It's a new practice for them to put so much money aside. So it's not a matter of culture. As a matter of fact, they have built incentives into their tax picture that promotes savings.

Now as you well know, it is just the opposite in this country. What we have then is a disincentive against saving. And we've got to change that.

So what I'm proposing is the establishment of super savings accounts. SUSA's would function much like IRA's except that the saving could be used for any purpose. Current contributions to SUSA's would be tax deductible and savings would be taxed only when withdrawn. There would be no additional tax penalty for early withdrawal.

This proposal is not only good for the family and the individual. It's also good for the country because this would bring a constant new infusion of capital for the private sector, and I think that's critically important.

On the corporate side, I would make two changes, among others.

First of all, I would lower even further the corporate rate of taxation from 33 percent as proposed by the President to 30 percent. That would, of course, work very much in the interest of those companies with effective high interest rates of taxation.

But I'm also very much concerned about our basic industries. I don't happen to believe that this Nation can permit its basic industries to deteriorate and fade away.

So here I want to make some very significant changes in the area of depreciation.

I would adopt expensing for 50 percent of the cost. The other 50 percent I would depreciate as is proposed in the President's package. This gives basic industries, capital-intensive industries, a much deserved break.

Now, obviously, the modifications I have made in the President's plan will have to be financed. Here I have introduced the business transfer tax [BTT] (S. 1102).

Now what is the business transfer tax? Well, it's a net receipts tax on all domestic business. A business would add up all its revenues and then substract all its costs, except for dividends, interest and salaries. The tax would be imposed on the difference. And we're now talking about a tax range of roughly seven to 10 percent.

That will bring a tremendous amount of new revenue into the Federal coffers, possibly over $100 billion.

Now it is most important to note that, from the standpoint of trade, this proposal is valid under the GATT.

We would let business deduct the BTT from their income taxes and these taxes would be imposed on imports, exactly the same as many European countries and Japan are doing today.

One of the most important features of the BTT is that it evens the playing field between American manufacturers and importers as far as the American market is concerned.

But it works the other way as well. And this is critically important. What we want to learn to do is to sell abroad, to compete in foreign markets.

Now under the BTT when our American-made products or agriculture leaves this country the BTT tax will be rebated. In a sense, then, we're meeting our competition. We're giving our business people the same kind of break that our foreign competitors enjoy.

There are enormous benefits to the BTT. It will bring in tremendous new revenues. It will help us with trade. It will enable us to do some things for business so that they can better become competitive. In short, the BTT can fuel growth in our economy.

Turning to the third prong of my long-term remedy to our trade imbalance, we need to put together a trade policy and organization which complements rather than counteracts America's economic strength.

I believe that we must establish a Department of Trade for the United States. It is very difficult for this country to compete with nations like Japan and their M.I.T.I. when our own trade apparatus is disjointed, archaic, and confusing—even to the people who are in it.

The management flaws of our current trade structure are mind-boggling.

Someone told me of one such example just the other day. At USTR there is one staffer to handle trade relations with a major country. He has piles of congressional and other mail to answer, data to collect, policy positions to develop. At commerce, meanwhile, there are about six people assigned to the same country literally looking for work. But turf considerations preclude sharing many of the tasks. Meanwhile the USTR staffer is sent off for 2 weeks management training, the work piles up, and the question remains: training to manage whom?

My office hears a steady stream of these kinds of tales.

For more than 10 years now, I've been pushing for the establishment of a Department of Trade. I was encouraged that recently the President's Commission on Industrial Competitiveness (chaired by John Young, C.E.O. of Hewlett-Packard) called for the establishment of such a cabinet-level department.

In June I reintroduced this Trade Department bill (S. 1365) with the full support of Senator Eagleton, the ranking minority member of the Governmental Affairs Committee.

But organizational change is not enough, we must—once and for all—fashion a constructive and comprehensive trade policy.

To that end, last January, I introduced—along with Senators Chafee and Symms—"the Trade Expansion Act of 1985" (S. 234).

This act presents a positive trade agenda for action by the 99th Congress. It is based on the view that the United States has a stake in both equitable and expanding trade. These are the twin standards against which all trade policy proposals should be measured.

I believe that our preoccupation with the "free and fair" theme has rightly raised the red flag on the fairness or equity issue, but it unfortunately has also tended to camouflage the link between our future national prosperity, and growing trade.

If we must enunciate our complex trade objectives in a short phase, I suggest we substitute "equitable and expanding" trade for "free and fair" trade. Under this new banner, we can start off on the right foot as we explore the multitude of trade policy proposals.

Let me briefly describe now the four major proposals to promote equitable and expanding trade in this legislation.

MULTILATERAL TRADE NEGOTIATIONS

To begin with, this bill was the first in the Congress to endorse a new round of multilateral trade negotiations.

Recently support for a new trade round has been growing on Capitol Hill, and now we have international agreement to begin the preparatory process.

This is good because effective multilateral trade rules are the most efficient means of promoting equitable and expanding trade. Other possibilities—bilateral, plurilateral or unilateral approaches—are clearly second-best.

But, while I have been leading the effort to get new multilateral negotiations underway, I must add some words of caution.

As far as I am concerned, these negotiations represent the last chance for the GATT. Other countries should be on notice that proponents of the multilateral approach like myself are not pressing this view as a simple means of sidetracking protectionism. Our goal instead is to transform the GATT into a credible facilitator of trade among nations.

What does this mean? Two things.

First, that unlike previous rounds of multilateral trade negotiations, this one should not be about lowering tariffs, but rather about increasing fairness. It is the fairness issue, after all, which is tearing the trading system apart.

Second, it will not be enough to concentrate on adding new trade areas like services, intellectual property rights of trade-related investment problems to the basic agreement. Nor will it be sufficient to tighten up the array of non-tariff barrier codes negotiated in the Tokyo round. These efforts will, of course, be important. But, it is also time to go back to the core provisions of the GATT and bring the whole system and the institutional mechanisms that have developed to implement it up-to-date. You cannot keep building new structures on top of an increasingly shaky foundation.

It is time to open our minds to a fresh examination of the basic principles of the GATT. For instance, does non-discrimination make sense in today's world? Non-discrimination means that if we lower a barrier with one country, we must provide the same treatment to imports from every other country, whether the other country has provided us reciprocal concessions or not. In the past these other countries—the so-called free riders—were not a serious problem. The free riders were not key traders of the product under consideration, nor would they ever be. Today, however, production can move swiftly around the globe. Non-discrimination may no longer be an acceptable guiding principle for an effective and fair international trading system.

Closely linked to this issue, is another basic principle of the GATT which merits review—the principle of reciprocity. Perhaps it is time to consider new ways to measure reciprocity in trade negotiations. Today and in the future, the product mix of our exports is changing more rapidly than in the past. But when we conclude trade negotiations we accept a list of reductions of foreign trade barriers on specific U.S. exports that we discern to be of importance to us at the time. With production patterns changing more rapidly than in the past, we could easily trade off American concessions for foreign concessions which turn out to be of limited value to us. We need a way to rebalance trade concessions over time.

A more obvious problem with the core of GATT is the tax provision I discussed earlier.

The GATT will continue to flounder so long as it does not support American trade interests. This may sound exceedingly chauvinistic or exceedingly harsh, but the simple fact is that unless we have an international trade agreement that strongly supports American trade interests, the whole world will be losers. Without an international framework for trade that is credible in American eyes, this country will turn increasingly toward protectionism, retaliation and recrimination. This is the path we are already on today.

It is clear that multilateral negotiations of this importance and complexity will take time. So what do we do in the meanwhile. That is what the other major provisions of my proposal for a comprehensive trade policy deal with.

TRADE ADJUSTMENT ASSISTANCE

The second provision calls for the reform of the trade adjustment assistance program, the program established in 1962 to help workers who lose their jobs due to imports. We cannot hope to define a responsible trade policy for the 80's and 90's if we do not provide meaningful help to those hurt by trade.

Support for trade adjustment assistance has been floundering. Why? Because of the costs and because the current program does not have a good record in promoting adjustment.

The issues of money and adjustment are the focus of the reforms of this provision. Adjustment would be encouraged because participation in retraining would be a requirement for receipt of additional unemployment compensation. Also, workers would receive a new benefit, a $4,000 voucher to be used to finance this retraining.

Funding would be handled through a small fee on imports. This fee would be a small price for those who benefit from trade to pay to help those hurt by trade.

Very broad support has emerged from all quarters in the Senate for this approach. So, in July I introduced it as a separate bill, cosponsored by 11 members of the Finance Committee and last month it passed the Senate as a part of the budget reconciliation bill (S. 1730).

UNFAIR TRADE

Third, my legislation provides for vigorous enforcement of U.S. trade laws against unfair trade. We cannot let our attention to unfair trade slip during a new trade round. Particularly where we can do so without breaking our existing international obligations, the Congress should strengthen U.S. enforcement efforts.

One area that I believe falls clearly into this category is better enforcement against imports which infringe U.S. intellectual property rights. This is a growing problem for U.S. industry and one which puts our greatest comparative advantage—our inventiveness—at risk. I have introduced separate legislation (S. 1869) that would greatly strengthen the ability of U.S. owners of intellectual property to protect their rights.

FAIR TRADE

The last area addressed in my proposal is our fair trade laws.

I would change existing law only to assure that when we give temporary import protection to an industry under our fair trade laws, the industry and the workers provide a "quid pro quo"—in other words that they use the period of protection to take actions that will make them competitive when the protection ends.

Beyond this quid pro issue, I do not believe the time is right for more extensive changes to our laws on fairly traded imports. In today's charged trade environment, we are likely to do more damage than good.

Already there is a dangerous tendency on Capitol Hill to blur the distinction between fair and unfair trade. This translates not only into a tough and aggressive posture by the Congress on unfair trade, but also into an increasing tendency toward toughness and aggressiveness on fair trade as well.

Make no mistake, I have no quarrel with a tough stand on unfair trade, but as far as I am concerned, toughness on fair trade is synonymous with protectionism.

Some in the Congress, however, are pushing the fair trade debate this year. They contend that we must rewrite our fair trade statute—section 201—because the President's decision not to provide import protection to the footwear industry proves that this statute is obsolete, that no industry can use the established administrative process to get temporary protection from imports.

It amazes me that such a view could be offered given this administration's record in section 201 decisions. Of 11 section 201 cases brought since 1980, in five instances the International Trade Commission recommended that the President provide temporary protection. In three of these five cases, the majority, the President has provided significant import protection following a 201 investigation. (Motorcyles, specialty steel and carbon steel)

How would the detractors of section 201 rewrite the law? It's simple—they would tie the President's hands. When he receives an affirmative recommendation for relief from the ITC, he would be required to put it or something substantially equivalent to it in place. This would be the basic procedure—and only if the Congress passes a bill that allows the President to take a different action would the national interest come into play.

What does this mean—that the national interest would be the exception, the special interest the rule.

I believe that the national interest must not be relegated to a backseat where fair trade is concerned.

In sum, we will do better to concentrate our efforts in trade policy on worker adjustment, new trade negotiations and enforcement against unfair trade than to change our basic policies on fair trade.

Today, I have suggested a long-term remedy for our severe trade imbalance. The three-pronged program that I have outlined—reducing the growth in Federal spending, enacting major tax reforms and creating a constructive trade policy and organization—will, in my judgment, keep America strong and competitive.

The hour of decision is here. We are at a crossroads in world trade and in our relationships with our trading partners.

One path leads to mutual recriminations, trade wars and a lowering of all our standards of living. The other path leads to true dialogue, a new fairness in trade, and an expansion in global prosperity.

I firmly believe that the difficulties of the present can become the springboard to the future. I hope that each of you will do your part to insure that it is the latter path that we follow.

Thank you.●

VOCATIONAL REHABILITATION

● Mr. SIMON. Mr. President, as a former chairman of the House Subcommittee on Select Education, I was pleased to read a speech that the current chairman, PAT WILLIAMS of Montana, recently gave to the members of the National Rehabilitation Association.

Vocational rehabilitation for persons with disabilities represents one of the oldest and most successful of State/Federal partnerships. I share Chairman WILLIAMS' enthusiasm and hopes for the Rehabilitation Act and what it represents for the future of handicapped individuals. His remarks deserve our attention, and I ask that they be printed in the RECORD.

SPEECH OF CONGRESSMAN PAT WILLIAMS

Vocational Rehabilitation is the cornerstone of our efforts for those Americans with disabilities. Its cost effectiveness and contribution to the overall strength of our economy has it a strong and successful program. For every dollar spent on vocational rehabilitation $10.80 is returned to the Treasury in taxes.

However, despite its successes and its strengths the effort is not sufficiently broad. Last year the state grant program served 936,000 handicapped individuals. 226,000 persons completed services and were rehabilitated in 1984. Estimates are that only 1 in 20 people who need services can be reached by the program. Furthermore the RSA annual report in 1983 showed a significant increase in the number of persons applying for and becoming clients of state vocational rehabilitation agencies and an increase in the proportion of severely disabled persons among the total case load. After substantial declines in the percentage of successful rehabilitations in the program, in part due to changes in the targeted population but also in part due to real budget reductions, this year we saw the first increase (4.4%) in the number of rehabilitations. Workrelated disabilities affect a sizable portion of our adult population and is a significant contributor to poverty.

One major issue the federal government faces is how to prioritize limited federal dollars. As a member of the Budget Committee, I worked to ensure that there is allowance for increased funding for the rehabilitation programs in the Budget and there is. However, realistically, the federal financial contribution to rehabilitation is unlikely to grow substantially in the next few years. As you know, the current match for the state programs is 80% federal dollars to 20% state dollars. By the way, fortyfive of the fiftyeight states or territories in the rehabilitation system do overmatch. Certainly, as the demand for expanded services increases, one thing we must consider is which jurisdictions can best pay for those services.

As Chairman of the Subcommittee charged with reauthorizing the Act, I have been holding a series of hearings to examine the performance and future directions of the rehabilitation program. Issues that have surfaced and which are of particular concern to address in the reauthorization are: technology and rehabilitation; leadership, direction, assistance at the federal level for the state efforts; and unmet needs in transition and postemployment services.

Technology has tremendous potential to increase the employment opportunities and the independence of disabled people, including improving communication, mobility, and control of one's environment. Technology can provide important job opportunities for physically disabled persons through adaptation of work sites. As we approach the twenty-first century further advances in micro-computers, electronics, and materials development can only further expand the frontiers of what we even consider possible today.

However, it is clear that many disabled people lack access to the existing technology which could dramatically increase their well-being and productivity. This problem was addressed by the 1982 study of the Office of Technology Assessment, the 1977 White House Conference on the Handicapped, studies by the Urban Institute, and two conferences on the technological needs of the rural handicapped.

Today, we spend $66 million on research for the disabled. Research for other health care is $7.1 billion. Perhaps more important, spending on transfer payments for the disabled is $35.6 billion. Thus, research and development for technology which would ultimately produce revenue in taxes from employed, disabled persons and a reduction in the need for transfer payments represents only two hundredths of a percent of the budget for transfer payments. We must reconsider policies that appear to be shortsighted and not meeting the needs of people to be independent and productive.

For the last couple of years, Congress has been interested in the question of how rehabilitation programs directly or indirectly develop technologies and support their use and dissemination. Four major categories of problems have been identified: problems in targeting, developing, and actually manufacturing technological aids; problems related to the use and modification of existing technology; problems resulting from the lack of knowledge and training about existing resources; and lack of access to affordable technology including matching rehabilitation clients with the most appropriate technology.

NIHR and NASA have already made important strides in addressing the issues of technology development and transfer. NIHR and HHS have addressed the needs of access to technology through database development. My Subcommittee will be exploring the financing of technological transfer in both the public and private sector and better ways of providing technical assistance to rehabilitation personnel about new technology. We will be looking at solutions that include broad-based participation of the medical, manufacturing, communication, government, and rehabilitation sectors.

During the hearings we have heard about the problems of rehabilitation leadership at the federal level. In the past 48 months 35 percent of the staff have been cut. There have been dramatic reductions in travel funds and technical assistance which have made it very difficult—some have told me—impossible to access the expertise which still exists at the regional and national level. The federal government must act as a catalyst and give strong, knowledgeable, and consistent direction to this important national effort. And a major way to accomplish those goals is through meaningful technical assistance.

Ironically, that assistance has decreased as we have required the system to serve the more severely disabled. The technical assistance which has been provided has been inconsistent in focus and delivery. New technology, the need for transition between school and work, and the recognition of the need to serve new and more complex groups of disabled persons such as those with cystic fibrosis and the head injured point us to the need for more not less technical assistance to be provided in a variety of formats. We need to have more interaction between the states and the regional offices, as well as inservice and short course training.

Finally, we are increasingly aware that while the goal of rehabilitation is to provide services for work placement when possible, we must continually work toward a sophisticated and realistic approach. For instance, increasingly, rehabilitation clients may need to come back into the system for job advancement and follow-up services. Estimates are that more than half of our current work force will need retraining to keep pace with our changing economy. Certainly, rehabilitation clients will require no less.

We are poised at a critical threshold in determining federal policy in this matter of a pulsating economy. Our society is in the midst of a series of changes to which the rehabilitation system must respond. The technological resolution has the potential to significantly redefine what is possible in rehabilitation. Technology and improvements in health care are also changing the characteristics of the population of persons with disabilities in ways which provide new challenges for rehabilitation services. The technological demands in jobs are increasing for all workers, which provides new opportunities as well as challenges for the disabled worker. Rehabilitation is embedded in a general workforce whose contours are dramatically shifting with the increase of women in the workforce, the aging of the workforce, and the shift to information and technological sector jobs.

We have already recognized in previous amendments to the Rehabilitation Act, the need to provide more comprehensive services and the need to serve the more severely disabled. Those changes required some reshaping of the rehabilitation system.

We are not passing out of the first generation of students who have benefitted from the full Education for the Handicapped Act. However, while we provide individualized, comprehensive services for children—we must come to full terms with what will be needed after high school for further education and job training. As we design such services, we must also consider what is best provided by the unique focus of rehabilitation services, what is better provided by other programs, how services should be coordinated.

You all face tremendous challenges in your positions within the rehabilitation system. In the Congress we face equal legislation challenges, particularly in this era of great need and limited will. Members of your association have already been tremendously helpful in identifying the challenges that face the rehabilitation system and its current successes and problems. I appreciate your good counsel and I look forward to working closely with you throughout the reauthorization process.

Finally, let me close with this thought—this question: What is it about America, the Americans, that allows us—or perhaps encourages us to share our freedom the way we do? What is it about our system that creates such neighborliness in our citizens? How is it that we have been able to merge the glitter of our wealth with the spendors of our ideals? Whatever it is, it involves the secret of America's success.

Perhaps the answer was in the message of a movie that many of you may have seen. It was named "The Defiant Ones" and starred Sidney Poitier and Tony Curtis. It was the story of two men, one black, one white, prisoners. Despising one another they were none the less partners for they were chained together, each to the other's ankle.

They escaped and were running across the fields when dusk came and in their headlong effort to be away from their confinement they fell into a deep pit. In their struggle to get out they quickly discovered that to reach the top of the pit one must stand on the other's shoulders. Pulling himself over the edge he must pull his despised partner out if either was to be free.

Perhaps that is it. America's secret: none of us can be free until each of us is free. We are bound inexorably together. The genius and the slow, the swift and the hesitant, rich to poor, black to white. None of us to reach the full promise of America until all of us reach it together.

It is important work that you are about at this convention here in Iowa. I am pleased to be part of it with you.●

ANTISMOKING CAMPAIGN

(By request of Mr. Dole, the following statement was ordered to be printed in the Record:)

● Mr. EAST. Mr. President, in recent years, the Great American Smokeout has been staged every November 21. I have always wondered who the people are that orchestrate the Great American Smokeout and now, according to an Associated Press dispatch, a public opinion poll provides the answer.

A great deal of information is contained in a survey that recently compared the attitudes of antismokers and members of the general public. I ask to have this enlightening poll printed in the Record so that all Members of Congress may know where the antitobacco agitation is coming from.

The material follows:

Fingerhut/Granados
Opinion Research Co.,
Washington, DC, November 14, 1985.

Re: Comparison of attitudes and general characteristics of general public and anti-smoking activists.
To: Tobacco Institute.
From: Vic Fingerhut.

SAMPLE SELECTION

The sample was drawn from 400 persons randomly selected from among those who responded to a widely publicized appeal from the CAB for public comment on its proposal to prohibit smoking on most commercial flights, and who encouraged such restrictions. (The CAB decided last year against the proposal.)

The other 400 were adults selected randomly from the general population.

The interviews were conducted between November 6, 1985 and November 9, 1985.

SUMMARY OF FINDINGS

The just-completed surveys of the *general public* and of *anti-smoking activists* reveal *strong differences* of opinion between them, and show remarkable *dissimilarities* in demographic composition.

The people who wrote to the CAB (whom we call "anti-smoking activists") to demand more strict government regulation of smoking tend to be people who *differ strongly* with the general public's beliefs, and think that:

1. *people lack consideration* for others, and, therefore, the government should regulate their personal behavior;
2. the government should pass laws to regulate the *private, personal behavior* of the public, and of their *co-workers*, both in public places and in private establishments;
3. *tax laws* should be used to *force other people to change* their private behavior;
4. the government's *scarce human and tax resources*, even if needed to fight more serious crimes, should be spent on enforcing smoking regulations of *private businesses*.

Just as striking as the differences in beliefs, which set the "anti-smoking activists" apart from the general public, are the demographic characteristics which further differentiate them from the "average" citizen.

The "anti-smoking activists" are, as a group, *older*, concentrated in *managerial* and *professional* occupations, earning an *upper income*, with over two-thirds considering themselves to be *"upper class"*, or "upper middle class", and virtually all of them have gone to college (64 percent either have a college degree, or have done graduate work).

MAJOR FINDINGS

Perhaps the *most surprising* finding from the "anti-smoking activists" survey is the response to a question probing beliefs about the role of government regulations in general, *not* tied specifically to controlling smoking.

Seventy-six percent of these "activists" do *not* believe *"most people"* are considerate of others in public situations, and believe in the need for *"government regulations to keep them from bothering others."* This represents a *75-point* "spread" swing from how the general public responds to the same question:

"Most people in places like restaurants and airplanes are usually considerate and don't need government regulations to keep them from bothering others."

SUMMARY OF FINDINGS

[[redacted] percent]

	Agree a lot	Agree a little	Disagree [redacted]	[redacted] a lot	[redacted] know
Activists	9	13	19	57	2
General public	32	27	20	18	3

[In percent]

Total who—	Antismoking activists	[redacted]
Agree	22	59
Disagree	76	[redacted]
Difference, agree/disagree [1]	−54	+21

[1] 75 point spread

Significantly, this difference of viewpoint on the propriety of *governmental intervention in personal behavior* between "anti-smoking activists" and the general public *widens* when the question specifically includes smoking.

When asked to "agree or disagree' with the statement that the "government should *not* be in the business of regulating *private, personal behavior*, such as smoking", *67 percent of the general public agrees* with the statement, while *68 percent* of the *"activists" disagree.*

That amounts to a "swing" in attitudes between the general public and the "anti-smoking activists" of *78 points.*

"Government should not be in the business of regulating private, personal behavior, such as smoking."

[In percent]

	Agree a lot	Agree a little	Disagree a little	Disagree a lot	[redacted]
Activists	15	11	21	47	6
General public	46	21	13	[redacted]	3

[In percent]

Total who—	Antismoking activists	General [redacted]
Agree	26	67
Disagree	68	31
Difference, agree/disagree [1]	−42	+36

[1] 78 point spread

The opinions of those "anti-smoking activists" surveyed also differ *drastically* from those of the general public when it comes to their views of the role local government should play in regulating personal behavior.

Unlike their neighbors, "activists" want their local governments to pass a law "restricting or prohibiting smoking in *all local businesses*," and by a margin of *nearly five to one* over the general public.

Clearly, the "activists" want the government to push *their* viewpoint, over that of the average citizen, in *private* as well as public places:

"Which of the following statements comes closest to your opinion about restricting smoking where people work?"

[In percent]

Statement	Attitude of the—	
	Activists	General public
Local government should		
Pass law restricting/prohibiting smoking in [redacted]	[redacted]	11
Rely on all local businesses to establish smoking sections based on employers'/employees needs	28	37
Should not pass law on this subject because employers/employees should determine company's internal policies, not the government	17	50

While the *general public favors self-determination* in private affairs, the *"activists" want the government to intervene*, and by a wide margin.

When respondents were asked about problems related to smoking at work, again, there were *significant differences* between the "anti-smoking activists" and the general public.

Sixty-nine percent of the *general public* agreed that, "where I work, there's not much of a problem with smokers bothering non-smokers." Having the government, they felt, regulating smoking "is just unnecessary." However, *66 percent* of the *"anti-smoking activists" disagreed*, and want the government to "enforce detailed, new rules on smoking" where they work.

"Where I work, there's not much of a problem with smokers bothering non-smokers. Having the government try to enforce detailed, new rules on smoking, is just unnecessary. Do you agree a lot, a little, disagree a little or disagree a lot with this statement?"

[In percent]

	Agree a [redacted]	Agree a little	Disagree a little	Disagree a lot
Activists	26	8	25	41
General public	49	20	16	14

[In percent]

Total who—	Antismoking activists	General public
Agree	34	69
Disagree	66	30
[redacted], agree/disagree [1]	−32	+39

[1] 71 point spread

Indeed, 56 percent of the general public agree that, "with all the problems of crime and law enforcement, *wasting* money and scarce resources" on "enforcing smoking regulations in *private* businesses is very foolish."

However, *77 percent* of the "anti-smoking activists" *disagree*, apparently thinking government taxes and personnel should be used to regulate smoking in *private* places.

"With all the problems of crime and law enforcement in America, wasting money and scarce resources on adopting and enforcing smoking regulations in private businesses is very foolish."

[In percent]

Total who—	Antismoking activists	General public
Agree	22	[illegible]
Disagree	77	41
Difference, agree/disagree[1]	−55	+15

[1] 70 point spread

In fact, the "anti-smoking activists," unlike the general public, think that tax policy (50 percent agree), should be used to "stamp out" smoking, *not* just raise revenues (37 percent agree).

Again, the general public sees it the other way around: taxes should be imposed to raise revenue for the government (46 percent), and not be levied just to alter the personal habits of ordinary people (34 percent).

"There is disagreement over what the purpose of taxes on cigaretts should be. Do you think taxes should be set to raise revenues for local, state, and federal governments, or set at a level so high that it will help stamp out smoking."

[In percent]

Total who say—	Activists	General public
Raise government revenues	37	46
Help stamp out smoking	[illegible]	34
[illegible] sure	13	20

Interestingly, not only are there drastic differences in the attitudes and opinions of all segments of both groups, there are also significant variances between the "former smokers" and "non-smokers" who are "anti-smoking activists," and the same two subgroups of the general public.

As can be expected, "former smokers" and "non-smokers" comprise some *93 percent* of the "anti-smoking activists" respondents. In the survey of the general public, *71 percent* were "former smokers" or "non-smokers."

One could anticipate that these subgroups of both samples would respond with similar frequencies to a question about how often they have asked other people *not* to smoke.

In point of fact, they don't. "Former smokers" and "non-smokers" among the "anti-smoking activists" are far more likely to raise the issue than are the same subgroups among the general public.

"During the past three months, how often have you asked someone not to smoke? (asked of former smokers or non-smokers only)

[In percent]

Total who say—	Activists	General [illegible]
Frequently	17	15
Occasionally	25	16
Rarely	23	17
Never	33	52
Not sure	2	[illegible]

Probably the major reason for the differences in attitudes between the "anti-smoking activists" and the general public rests with *whom* these "activists" are.

As previously mentioned, the demographic characteristics of the "anti-smoking activists" are such that, as a group, they cannot be considered as representative of the great preponderance of U.S. society.

The following categories demonstrate just how different the "activists" are:

[In percent]

	Activists	[illegible] public
Occupation		
Professional/white collar managerial	48	20
White collar clerical/service/government/blue collar	12	29
Housewife	11	11
Retired	20	23
Student	2	5
Self-employed	4	5
Unemployed	1	5
[illegible]		
Less than $20,000	12	36
$20,000 to $29,999	13	18
$30,000 to $39 999	15	12
$40,000 or more	37	16
Education		
Less than high school graduate	2	16
High school graduate	11	36
Some college	20	21
College graduate	30	17
Post graduate work	34	8
Other/won't say	4	2
Class (self-identified)		
Upper class	7	[illegible]
Upper middle class	61	36
Lower middle class	12	27
Working class	[illegible]	23
Other/not sure/won't say	12	11
Age		
18 to 30	12	28
31 to 45	27	25
46 to 60	28	20
Over 60	31	27●

THE ARKANSAS WRITING PROJECT

● Mr. **BUMPERS**. Mr. President, I am pleased to have the opportunity to bring to the attention of my colleagues an outstanding educational program, the Arkansas writing project. This project, an affiliate of the national writing project, was initiated in the summer of 1985 on the campus of Westark Community College in Fort Smith, AR.

The goal of the national writing project is to improve student writing by improving the teaching of writing. The project has already provided training to 300,000 teachers nationwide. Twenty-three Arkansas classroom teachers participated in a 5-week seminar at Westark last summer.

During the 5-week session, which is only the first phase of the program, the teachers submerged themselves in writing exercises. During the school year they will have the opportunity to continue to learn through teacher demonstrations, shared personal writing, and participation in ongoing professional support groups. They will focus on objectives such as keeping ideas fresh and will become teacher/consultants, working with colleagues in their own districts. Not only does the project improve teachers' writing skills, but also their skills in teaching students to write.

The enthusiasm and positive evaluations by the participants are the best testament to the effectiveness of the program. The Arkansas writing project would be worthwhile if it benefited only the 23 teachers who are lucky enough to participate. However, the benefits are enjoyed and shared for months and years to come because teachers return to their classrooms with a new enthusiasm and a commitment to work with other teachers to improve the teaching of writing.

In recent years we have sounded alarms about the decline of American public education. Keeping good teachers in our schools and recruiting quality candidates are two means of upgrading the quality of our schools. Teachers as well as students need positive reinforcement, and the Arkansas writing project told 23 teachers that their work, skill, and dedication do not go unnoticed. High quality inservice training provides teachers an incentive to stay in the classroom.

I would especially like to acknowledge the hard work and dedication of Meta Potts, who served as instructor and project director for the summer program.●

ADDRESS OF THE RT. REV. ARTHUR E. WALMSLEY

● Mr. **WEICKER**. Mr. President, the great issues of the U.S. Congress, as with many of the great issues of society, are often portrayed to the Nation and the world in terms of extremes. We seem determined more often than not to confer legitimacy only to those matters where polarization of ideas has already been achieved.

The task we face, the job of political leadership, is to modify extremes; to produce results where others produce only rhetoric.

In that task, we have come to respect the value of spiritual counsel from many of the Nation's religious leaders, even as we abhor tests that seek to measure political success by religious sufficiency.

Included in that valued counsel is a recent address by the Rt. Rev. Arthur E. Walmsley, bishiop of Connecticut, to a recent diocesan convention in Chicago. It is a model of spiritual understanding and secular insight, and I commend it to my colleagues.

I ask to have printed in the RECORD the address of Reverend Walmsley.

The address follows:

THE WAY OF THE CROSS AT THE END OF THE 20TH CENTURY

(The Rt. Rev. Arthur E. Walmsley, bishop of Connecticut)

Elie Wiesel came to Connecticut last June to receive an honorary degree from the University of Hartford. He spoke at a special convocation which coincided with the opening of an exhibit at the Atheneum, our art museum. The exhibit at the museum was titled "The Precious Legacy", and was a record of the religious and home life of the Jews of Czechoslovakia.

During World War II, some 75,000 men, women, and children were removed from their homes, sent to a camp at Terezin. Later, the majority of them would go on to other places with more familiar names, Buchenwald and Auschwitz. With incredible perversity, the Nazis had the Jews take with them their most precious belongings: vessels for the Seder, prayer shawls, family portraits, Torah scrolls from synagogues. Altogether more than 140,000 artifacts were assembled and stored in warehouses in the lovely medieval city of Prague. The Nazis intended, after they had won the war, to establish a museum dedicated to an extinct people.

Elie Wiesel is one of the survivors. Himself an eastern European, he is one of those few who passed through the dealth camps and lived to tell the tale. He has been telling it ever since in a series of novels, in the recovery and relating of Hasidic and other stories of Jewish folk and religious history. He writes with eloquence and passion. You will recognize him as the chairman of the National Holocaust Commission who confronted President Reagan in the White House during the tense debate over the latter's decision to visit a German military cemetery at Bitburg. In receiving his doctorate from the University of Hartford, Wiesel once again challenged us to look at the moral dilemma posed for the world by the holocaust, an assault on a people:

"Forty years after the event I confess to you that I still don't know why it happened nor do I know how it happened. I still do not understand how it was possible—from the viewpoint of God, from the viewpoint of human beings, society, history, civilization.

"All the questions that I had then are still open today. Not one has been solved and yet God knows I tried to write—a few books (not too many) and to teach (not enough). I tried to tell the tale. For years and years and years I have been trying to do that and yet I am no closer to truth, whatever truth may be, than I was in 1944 and 1945.

"What was it? What was it in human nature that overnight turned a people—a people of culture, a people of the arts, a people of music, a people of philosophy—into worshipers of brutality, worshipers of dictatorship, worshipers of death? What was it that turned the "outsiders," so many of them good people—liberals, friends of the human race—into spectators?

"(Only) one attitude is possible. One response is valid. I have not found any theological answer to the event. Nor have I found any artistic answer. There is only one answer that is valid, and that is the ethical answer."

Wiesel speaks to this moral dilemma with eloquence because he is a survivor who has been plunged by his own experience into the pain of the question. He is right that the answer has to be sought at the level of ethics. The trouble, as Alasdair MacIntyre has written—and he is the most widely read moral philosopher of our time—is that the debate on all of the great ethical questions is interminable. Not just in the sense that the debate itself seems to be endless, but because the various positions on the great question proceed from what appear to be mutually exclusive starting points.

I want later in these remarks to consider two issues: abortion and South Africa. On the first, abortion, this society is deeply divided. Unless I miss my guess we have not begun to see the degree to which that division has the potential to shatter the social fabric of many communities. One of our cities, Bristol, is the first in the nation to have the matter placed on a local referendum. The potential for mischief in that is enormous. In South Africa, where apartheid stands as the insidious descendant of Nazi illusions of aryan superiority, civilized people—Wiesel's phrase is "friends of the human race"—once again confront the dilemma of how and when and where to intervene. I do so with no illusion that we will go out of this banquet armed with solutions to vexing moral issues which anguish and divide people of good will. Rather that we see in them a dimension of the calling of Christians to walk the way of the Cross in the only arena in which it can be lived, amid the issues of a society locked in an embrace with the forces of death.

I find myself, when I go to Washington, DC., gravitating to the Vietnam War Memorial. That solemn location is no monument to Rambo nationalism, but an American Wailing Wall. There is invariably a hush as people look for names, caressing the black marble. It is a parable in stone of the agony of a generation in which those who fought have lived as pariahs in the nation which sent them, and those who resisted military service are at best ambiguous heroes.

Elie Wiesel is right. This generation cannot escape the issues of theodicy: in a world created by God, how can the righteous seeker after God escape the issue of evil? The Christian response is to add one more death to all the others, and to discover in the way of the Cross a means, a process, a way of life for moving through and living with and addressing with power the pain of the world, our own, or that which is writ large in the issue of violence. I remind you of a simple statistic offered by the Center for Defense Information, an organization which monitors the level of human carnage being waged in regional wars, revolutions, and a procession of terrorist events of all sorts. On this evening, over 4 million people are presently engaged in 42 different wars, rebellions, and civil uprisings.

What the Church has to offer the world is a way of life—I think it is the only way of life—capable of facing that kind of world. Let me offer you, to begin with, a parable of what I mean. Desmond Tutu was the banquet speaker at our Diocesan Convention a year ago. Ten days before the event, he was named Nobel Prize laureate. There followed the endless procession of media events, a hurried weekend trip to Johannesburg, on the day of the address a meeting at the United Nations. Two members of our staff were dispatched to the General Seminary to pick him up.

Would he like to sit in the front seat?

"No thank you. I'm afraid I'm going to be inhospitable and sleep in the back." The party moved off through rainy streets and lower Manhattan traffic.

"Are you comfortable?" "Yes," he replied, half sitting, half lying in the back seat. Only one thing he would like. "May we please stop somewhere along the highway to say Evening Prayer?"

"Later, perhaps, once we're out of the traffic." The driver and his companion gave attention to a Friday afternoon traffic jam. Two hours later, as the car approached an exit on the Merritt Parkway, the driver said to his companion: "Wake Bishop Tutu now, and ask if he'd like to stop." "Oh no," the bishop said, quickly rousing. And, holding up well-thumbed books, "I said the Office long ago, while you were driving out of the city."

The mission of the Church in this as in every century is to prepare martyrs, witnesses to the significance of the Lord's death and resurrection. In a paper written to provide a rationale by which names of notable Christians might be placed on the calendar of lesser feasts and fasts, Thomas Talley of General Seminary reminds us, "The paschal mystery in which Christ the Lord passes through death upon the Cross and the Sabbath of burial to rise in glory and ascend in triumph to the Father constitutes the central idea, what Victor Turner calls the 'root metaphor' of Christianity."

That is the place at which Christians join the issue raised by Elie Wiesel. The Cross is a kind of breaking point in history. It is in the sense that by his complete self-offering, Jesus stretches human consciousness—his own human consciousness—to the very limits. There is no greater sense of abandonment than when perfect love has made itself completely vulnerable as in the Garden and on the day of the crucifixion. Those odd little groups of people who responded to the message of the Cross in the first century of our era did so with a courage and a sense of transformation that enabled them to withstand the most powerful state the world had ever known and transform it. And it remains so.

In a conference last January on seminary education, that little vignette about Desmond Tutu spoke volumes about the process of Christian formation. I used it to illustrate a set of expectations which our diocese has about the formation of people for priestly ministry. We are in a bleak period of human history. Like the people of Israel, we are on a journey into the wilderness and a wilderness people needs a discipline for the journey. We are when we talk about preparing people for ministry—whether as lay people whose lives are lived primarily in the world, or ordained persons who are called to serve and equip that ministry—we are talking about the formation of people who can (1) give a reasonably clear articulation of the faith within themselves, (2) have recognizable and reasonable understandings of their own gifts and ways in which they can be appropriated by the Church, (3) have learned by doing disciplines for expressing their faith—and its shadow of doubt—in prayer, the reflective reading of Scripture, and through making use of mentors and communities of support; all this in light of and informed by the heritage of the Church and expressed through varied cultural and personal backgrounds.

It is just that quality of discipleship which saints and martyrs illustrate. God knows that in the accelerating violence of the late twentieth century, we have had more than our share of those whose witness has been with their lives. Some, Dietrich Bonhoffer, Martin Luther King, Janani Luoum, Oscar Romero, the four Roman Catholic women missionaries in El Salvador, have a place in the annals of human history. Others more anonymous make up a vast company of clergy and people who have paid with their lives for faith in remote hamlets and barrios, in concentration camps and prisons. Still others—Tutu, Lech Walesa, Dorothy Day, John XXIII—are hailed in the midst of life for their compassion, their humanity, their vision of the human community. Surrounding them is the daily life and witness of men and women who in a variety of ways have said no to the prevailing culture out of faith in Christ. And it is my sense that those who are most orthodox, most steeped in the tradition of prayer and Scripture study, corporate worship and the struggle in community to discern God's will are best prepared to influence the Church in its corporate witness against the forces of death in the contemporary world.

To be a Christian is to walk in the way of the Cross, and the way of the Cross leads through the pain of the world to victory. The poet Mark Van Doren, one of Thomas Merton's mentors during the latter's years at Columbia University, visited Merton after he had entered Gethsemani:

He, once, my merry friend
Came to the stone door,
And the only difference in the smiling was,
 it sorrowed more,
No change in him, except
His merriment was graver,
As if it knew now where it started from;
And what was the flavor.

Those words were written shortly after Merton became a Cistercian Monk. I suspect that the fascination with this extraordinary man is that while his outward vocation led him to seek withdrawal from a potentially brilliant career in literature to the remoteness of a monastery and toward the end to the hermitage. And yet the further he withdrew into the life of prayer and an encounter with his own spiritual hunger, the more drawn he was to the universal issues and the more accessible he became to people not only in the West, but in the great religions of the Orient. In a paper given in Bangkok just before his death in 1968, he rephrased once and for all for me the question posed by Elie Wiesel.

"Are monks and hippies and poets relevant? No, we are deliberately irrelevant. We live with an ingrained irrelevance which is proper to every human being. The marginal man accepts the basic irrelevance of the human condition, and irrelevance which is manifested above all by the fact of death. The marginal person, the monk, the displaced person, the prisoner, all these people live in the presence of death, which calls into question the meaning of life. He struggles with the fact of death in himself, trying to seek something deeper than death; because there is something deeper than death, and the office of the monk or the marginal person, the meditative person or the poet is to go beyond death even in this life, to go beyond the dichotomy of life and death and to be, therefore, a witness to life.

This requires, of course, faith, but as soon as you say faith in terms of this . . . marginal existence you run into another problem. Faith means doubt. Faith is not the suppression of doubt. It is the overcoming of doubt, and you overcome doubt by going through it. The man of faith who has never experienced doubt is not a man of faith.

Consequently, the monk is one who has to struggle in the depths of his being with the presence of doubt, and to go through what some religious call the Great Doubt, to break through beyond doubt into a servitude which is very, very deep because it is not his own personal servitude, it is the servitude of God Himself, in us. The only ultimate reality is God. God lives and dwells in us. We are not justified by any action of our own, but we are called by the voice of God, by the voice of that ultimate being, to pierce through the irrelevance of our life, while accepting and admitting that our life is totally irrelevant, in order to find relevance in Him. And this relevance in Him is not something we can grasp or possess. It is something that can only be received as a gift. Consequently, the kind of life that I represent is a life that is openness to gift; gift from God and gift from others.

Lest that seem like pious abstraction, I ask you to plunge into the issue of abortion. We are confronted with a situation in which absolutist voices on both sides have staked out lofty moral ground for their positions. On the basis of a kind of natural law ethic about the nature of fetal life, pro-life forces declare that abortion is murder. Pro-choice forces argue that family and societal considerations, the moral weight of individuals making responsible decisions in the loneliness of their own existence take precedence over potential human life. I submit that most choices by human beings confronting the possibility of an abortion are not made on such lofty heights, but in the valley of confusion in the face of what sensitive people realize are competing ethical and moral values. The action of the General Convention in Anaheim, California not to tinker with the Episcopal Church's position on these matters, which is rooted in a pastoral concern for that dilemma instead asked us to bring it out into the open by urging at every level of church life further study in which persons holding with conviction and passion the polarities on this vexing subject engage each other. Many of us who have tried to do so find ourselves savaged by those who disagree as if we were moral lepers. Last October I had the temerity to make a public comment in response to remarks made by various of the Roman Catholic hierarchy which suggested that no "logical or theological" position could be taken on this matter which disagreed with the magisterium of the Roman Church. The burden of what I said is that some Christians, equally serious in their moral sensibilities and concern for human life disagree with that position. In some quarters, my statement was hailed as a corrective in the debate. In others, it was attacked as one critic put it, as not in keeping with the "positive ecumenical spirit." I doubt whether our posturing on these issues in public is particularly edifying to people; I'm very clear that it is not helpful to those who are living out the anguish of making choices or to those in public life whose responsibility is to produce the social concensus on which life in an ordered society depends.

Finally there is the issue of South Africa. One reads the daily reports from South Africa with the sense that the clock there is fast approaching midnight. The Rev. Leon Sullivan, hailed as the architect of the so-called Sullivan Principles by which American firms investing in South Africa have sought to exercise social responsibility in the personnel and other practices, has now himself called for disinvestment by American corporations by 1987 if significant change has not happened. You are familiar with the fact that the General Convention and an increasing number of Church-related institutions in the Episcopal Church and in other communions have voted for divestiture of stocks in companies doing business in South Africa.

My reason tells me that it may be possible to make one last effort to bolster those economic forces, American and South African, which today are pressing for dismantling of the policy of apartheid. I mean the sort of effort represented in the advertisement in the October 18th New York Times in which companies in the United States support the public action for political change of their South African counterparts. But my heart tells me that any action we take is symbolic. Decisions by relatively conservative bodies such as Episcopal dioceses to proceed with the orderly divestiture of all holdings in companies doing business in South Africa and Namibia would signal to the world around us—and to American corporations, some of which are headquarted in Connecticut—the extent to which religious and moral condemnation of apartheid now compels us. We are not condemning the efforts companies are making to accomplish change, or impuning the moral seriousness of anyone who has not yet reached this position. We have no illusion that this symbolic action by itself will bring change. But we are incarnational Christians who believe that God acts in history, and that as God's people we must act within the limited choices open to us.

That brings me full circle to the issues raised by Elie Wiesel. The situation in South Africa confronts the world with a moment of truth, what the New Testament would call kairos, a time of testing. Not since Nazi Germany has there been an ideology which has attempted to justify on religious and philosophical grounds the denial of a whole people solely on the basis of race. For Christians in the world, the death and resurrection of Jesus once for all declares the inauguration of the kingdom of God. Our action here in some small measure is a way to proclaim the sign of the kingdom in the face of the denial of human community. It is a way to signal human solidarity with brothers and sisters who are in the midst of persecution that they are we and we are bound together in a movement over which none of the forces of death can prevail.●

SPORTS FRANCHISE LEGISLATION

● Mr. EVANS. Mr. President, pending on the Senate Calendar is legislation to clarify the antitrust laws as they regard professional sports. I speak of S. 259, the Danforth-Eagleton bill, which was reported by the Commerce Committee in the spring, and later was reviewed by the Judiciary Committee. I understand agreement was reached recently among the concerned parties which will be reflected in a consensus amendment to be offered to S. 259. I support this effort and commend consideration of the legislation to the Senate for action early next year.

This remedial measure is rooted in the problem of sports franchise instability. Recent court decisions raise serious questions about the capacity of sports leagues to promote such stability—either by checking unreasonable franchise moves or providing the economic wherewithal to relieve economic pressures in smaller markets.

Sports leagues are a unique form of joint venture. Not only do its members not compete against each other economically, they do not exist outside the framework of their joint enterprise. For example, the Seattle Seahawks have no predatory economic interests against the San Francisco 49ers, or any other professional football team. Every club's goal is not only furthering their own financial health, but enhancing the fiscal well-being of the entire enterprise.

As Judge Bork has written:

> The members of a league cannot compete in the way that members of other industries can. It is neither in the interests of the members of the league nor of the public generally that the more efficient teams should drive out the less efficient. If one team goes out of business, all are endangered.

To foster overall financial strength, sports leagues commonly engage in some form of revenue sharing. Teams in larger and more lucrative cities share in certain revenues with teams in smaller markets.

Superficially, this appears unfair to teams which play in large cities. If league revenues were divided according to the relative size of media markets, such teams would receive more money than they do from an even split. But to what end? Under such an arrangement, a league would be dominated by a handful of "have" teams. Grave economic pressures would arise for the "have nots." The overall quality of league play would deteriorate. Fan interest would diminish. The economic gains of a few clubs would be true Pyrrhic victories as the enterprise, as a whole, suffered. Pressures for franchise relocation or even consolidation would occur in response.

Revenue sharing is an enlightened policy which protects the league overall by avoiding these pitfalls. It promotes highly competitive teams in a wide range of markets. It fosters broad geographic distribution of the league's product.

In no league is revenue sharing more fully utilized than in the National Football League. As each team equally coproduces NFL football, so does each team derive equitable benefits from their participation in the league broadcast package. Through revenue sharing the league is able to maintain teams in cities such as Seattle, Green Bay, Buffalo, and St. Louis—and make them competitive with teams from New York, Chicago, and Los Angeles.

Particularly in football, revenue sharing is an essential part of sound economic planning. Due to the paucity of home playing dates, teams in smaller markets could never generate sufficient gate receipts to compensate for low broadcast revenues. Without revenue sharing in football, teams in large cities would move into a position of natural economic dominance and the competitive balance of the league would suffer markedly.

Mr. President, sports franchise stability is a matter of substantial concern to many American communities. For several years, Congress has struggled to arrive at a formula which addresses these concerns without getting Government excessively involved in the business of sports. The Danforth-Eagleton bill, and the consensus amendment which will be offered, refines a number of legislative overtures into a product which is comprehensive without overreaching.

This legislation promotes legal and economic stability in professional sports. I hope the Senate will act upon it in short order upon our return in January.●

COST-OF-LIVING ALLOWANCES FOR FEDERAL ANNUITANTS

● Mr. **SARBANES**. Mr. President, yesterday the Senate passed the so-called balanced budget—Gramm-Rudman—bill, which would eliminate cost-of-living allowances [COLA] for Federal annuitants, and I want to indicate my strong opposition to these provisions.

As one who regards public service as an honorable profession, I have personally seen time and again the dedicated service and high quality of performance of our public employees on whom we depend to keep our Government operating. I feel the current and future Federal annuitants have been the sacrificial lambs too often over the last several years for the purpose of reducing the Federal deficit. It is increasingly difficult to attract and to keep qualified, talented, and experienced individuals in private service if we are constantly restructuring and threatening the future benefits of civil servants.

The provision of Gramm-Rudman denying the COLA to Federal retirees is more of the same—an attack on those now working in Federal service and those who have retired. It is unwarranted. I oppose Gramm-Rudman because its concept is basically flawed. It, too, is also anti-Government in its approach. The Federal retiree provisions of this bill are simply unacceptable, and I strongly oppose them.●

MARSHALL ISLANDS

● Mr. **SIMON**. Mr. President, I do not claim to be an expert on the problems of the Marshall Islands. I have some small insights, and I have an appreciation for what they have gone through.

We recently passed legislation that deals with the problems of the Marshall Islands, the Compact of Free Association.

But I have seen the statement by Senator Jeton Anjain of the Rongelap Atoll of the Marshall Islands. It is a moving statement of one person's view.

Since we are all involved in this, I thought it worth entering into the RECORD.

During the debate on the issue of the compact, Senator METZENBAUM and I registered our objections that the Espousal clause is an unfair position for the United States to take, and is probably unconstitutional. I also expressed my concern for those afflicted by health problems as a result of exposure to nuclear radiation.

I urge my colleagues to read Senator Anjain's statement, which I submit for the RECORD.

The statement follows:

STATEMENT OF SENATOR JETON ANJAIN, RONGELAP ATOLL, REPUBLIC OF THE MARSHALL ISLANDS, TRUST TERRITORY OF THE PACIFIC ISLANDS

Mr. Chairman and distinguished delegates, I greatly appreciate this opportunity to address the Fourth Committee of the United Nations, and I wish to congratulate the new chairman on his recent election.

My name is Jeton Anjain and I am the Senator from Rongelap Atoll in the Marshall Islands in Micronesia. Having been trained as a dentist, I practiced dentistry for twenty-five years in the Marshall Islands, and in 1982 I was appointed as the Minister of Health for the Marshall Islands. I now serve as senator for my people on Rongelap and devote all of my time and energy to that task.

At the end of World War II, the United States took control of the more than 2,000 islands that make up the island group called Micronesia in the Central Pacific Ocean. In 1947, Micronesia became a territory of the United States under the United Nations trusteeship system, and of the eleven trust territories created after the Second World War, it was the only one designated as a "strategic trust."

Under article VI of the trusteeship agreement, the United States made a promise to the international community that it would "protect the inhabitants against the loss of their lands and resources," and that it would "protect the health of the inhabitants" of the trust territory.

In July of 1946, the United States selected Bikini Atoll as the site to explode two atomic bombs in an experiment known as "operation crossroads." It should be pointed out that the "Able" and "Baker" atomic bombs of "Operation Crossroads" were detonated the year before the signing of the 1947 trust agreement, and we now view that fact of history as evidence of how the United States would administer its "Trust" in the Pacific. Under a United Nations trust agreement, the United States exploded 66 atomic and hydrogen bombs in our islands, and even as I speak to you today, my people are continuing to suffer from the radioactive legacy of these barbaric nuclear weapons tests. In my traditional language there is no word for "Enemy," but yet, we now consider it an act of war that the United States came to our islands for only one purpose: To explode nuclear weapons in the name of United States national security.

In the early hours of a still day on March 1, 1954, a bright flash of light steaked across the morning sky. Several of my people on Rongelap were confused, as they thought they saw the light coming from the West instead of a normal sunrise in the East. Minutes later, several loud sounds, like claps of thunder, pierced the morning air. A little while later, the bright morning sky turned grey, and a gritty ash fell out of the sky and covered our island. Little did we know then that our lives would be forever changed by that gritty ash that fell out of the sky 31 years ago. And little did my people know that we were the world's first victims of radioactive fallout from a hydrogen bomb.

After several days, my people—and the people of Utirik several hundred miles away—were evacuated to Kwajalein Atoll to the south of Rongelap. The people began to feel very sick and weak, and many began to have burns on their bodies. Hair began falling out of their heads, and the United States doctors told us that their blood counts went down 50 percent the normal level. Many people thought that they were going to die from this new sickness, and in fact, we have been slowly dying ever since that tragic day in 1954. Mysteriously, most of the pregnant women at the time either had miscarriages, or else gave birth to creatures that did not resemble human beings. After 31 years, the women of Rongelap continued to have these problems with reproduction, and we believe that lingering radiation is the cause of this.

Because our home Islands were so contaminated, we were forced to abandon our home of Rongelap. For three years we became refugees, and lived on Ejit Island in Majuro Atoll. Then, in 1957, the Atomic Energy Commission told us that we could return home. Packing up our belongings, we made the happy journey back to our ancestral home of Rongelap.

After several years back home on Rongelap, we thought that things were slowly getting better, and that perhaps our lives would return to a normal state. How wrong we were.

In 1963, the United States doctors discovered a thyroid tumor in the neck of a Rongelap woman. The next year a few more thyroid tumors were discovered. We began to see that with every passing year, more and more of our people were being stricken with thyroid disease, and one by one my people were taken to the United States where major surgery was performed to remove their thyroid glands. Beginning in 1969, the people of Utirik—who were 300 miles downwind of the hydrogen bomb at Bikini—began to experience the same problem with thyroid tumors. The thyroid disease among my people has reached epidemic levels, and several children suffered from stunted growth because of their injured thyroid glands.

In 1972, a nephew of mine named Lekoj Anjain died of leukemia when he was 19 years old: Lekoj was one-year old during the "Bravo" hydrogen bomb test of 1954 when he played in the snow-like fallout on the ground. Not long afterwards, my brother John—the father of Lekoj—and his wife Mijjua both developed thyroid tumors. And I have had a cancerous tumor removed from my body. The radiation from the 1954 "Bravo" fallout has not only killed and maimed the people of my island, but it has taken a personal toll on the lives of my family members. Mr. Chairman and distinguished delegates, I do not think this radioactive legacy is what the international community had in mind when it turned our islands over to the United States under a sacred trust agreement in 1947!

As health problems continued to proliferate many years after our original exposure to high-level radioactive fallout, we found it odd when the United States doctors and scientists kept telling us that things were getting better, and that the radiation in our islands was going away. We also began to wonder who was realy benefitting from the annual medical surveys conducted by the United States Government. It is funny that although many U.S. agencies have come out to our islands with supposedly the "best" doctors in the world, we still have never been taught even the most basic facts about our unique exposure to radioactive fallout. First the Atomic Energy Commission came to our islands, then came the Energy Research and Development Administration, and now we have the Department of Energy. They keep changing the names of these agencies, but they never change the people in the agencies.

In 1978, the Department of Energy conducted a radiological survey of the Northern Marshall Islands. At the conclusion of their survey, it was revealed that in addition to Rongelap and Utirik, 12 other Atolls and islands were contaminated with dangerous levels of fallout from the hydrogen bomb test program. In other words, our worst fears were realized when the U.S. Government admitted for the first time in 1978 that literally thousands more Marshallese had been exposed to fallout and were continuing to live in a radioactive environment. Yet, despite this very important admission, only Rongelap and Utirik are receiving U.S. medical surveys. This fact makes a simple mockery of article VI of the trust agreement whereby the United States pledged to "protect the health of the inhabitants."

Following the 1978 DOE survey, the people of Rongelap were told to abandon the northern half of their atoll because of dangerous radiation levels. You can imagine the great fears and anxieties this caused my people when they realized that since their return after "Bravo" in 1957 that they had been eating foods and living on islands in an area now under quarantine! And it is likewise easy to imagine why my people began accusing the United States Government of using them as "Guinea pigs" in an ongoing human experiment to study the long-term effects of how radiation enters the human foodchain. I have often thought that those Americans who allowed my people to be exposed to radioactive fallout, and subsequently used as human Guinea pigs, should face a Nuremburg-like tribunal for the callous disregard for human life.

Following the 1978 Department of Energy survey, the DOE produced a bilingual booklet about radiation in the Northern Marshall Islands. When we compared the radiation levels of Bikini—where 23 atomic and hydrogen bomb tests occurred—and Rongelap, we found very little difference. And yet, as this committee knows, Bikini is off-limits for at least the next 100 years while the people of Rongelap have been allowed to remain in a very dangerous situation since our return in 1957 after the fallout came to our islands.

It was after we were told that one-half of our Atoll was under quarantine, and after we saw in the Department of Energy's own words that many islands on Rongelap were as contaminated as islands at Bikini, that we decided to take some action. In 1983, President Amata Kabua and I introduced a resolution into our Parliament calling for the evacuation of the Rongelap people. That resolution passed unanimously.

In May of this year, the people of Rongelap finally decided to take appropriate action. With the help of the Environmental group Greenpeace, the people of Rongelap took the drastic step of moving away from the dangerous situation on Rongelap. With th kind assistance of Greenpeace's flagship, the Rainbow Warrior—which the French saw fit to blow up in Auckland Harbor—we moved our entire community to Mejato Island at Kwajalein Atoll. I am currently helping to organize an international independent radiological and health survey of Rongelap in the next year so that we may—at long last—make an intelligent and informed decision about whether to return to Rongelap, or whether to abandon our home islands.

At present, the United States Congress is about to terminate the strategic trust agreement with the United Nations. Under a questionable legal document known as the Compact of Free Associations, we will enter into an ambiguous relationship with the United States that is neither independence nor complete annexation. However, the one certain fact under the compact is that the United States will maintain a military grip on Kwajalein for at least the next 30 years.

Perhaps the most troubling part of the compact concerns the radiation victims in the Marshall Islands. At the moment, more than four thousand Marshallese have filed lawsuits in United States Courts for radiation-induced damages to property and health. Under the so-called "Espousal" clause of section 177 of the compact, all of these lawsuits will become null and void, and all future lawsuits for latent radiation disease will be cancelled. Because we have never had the benefit of a truly independent and non-governmental health study of our contaminated islands, we still do not know just how extensive the radiation damage really is. Furthermore, we have no idea about the future outlook for our unborn generations who will be exposed to radioactivity on many islands in the Marshalls.

Therefore, we find it rather peculiar that the United States is so eager to prevent us from all judicial proceedings stemming from the nuclear tests, and we honestly fear that the United States may know something about our future health that they do not want us to know about. Certainly, this violates both the letter and the spirit of the 1947 trust agreement.

Recently a research arm of the U.S. Congress known as the Congressional Research Service did an analysis of the Espousal clause in the compact. According to this analysis by CRS, it has been determined that espousal is unconstitutional and violates U.S. law. The reason given by CRS is that because the Government of the Marshall Islands does not have sufficient sovereignty either under the trust agreement or under the compact, that it could not legally enact the espousal provision of the compact. I have attached a copy of this 5-page CRS analysis to my statement.

In conclusion, I must confess my deep-felt disappointment with the nearly forty year history of United States Administration of our once-peaceful and unpolluted islands. My people continue to ask me why the United Nations has never really helped us. In fact, under the watchful eyes of the Trusteeship Council, the United States exploded nuclear bombs in our islands, caused irreversible destruction to our health and environment, and has tampered with our culture in a way that has divided us into opposing camps. In the aftermath of U.S. administration, suicide—unknown among the Micronesian people before the period of

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American rule—has one of the highest rates in the world in our once-peaceful land.

In closing, I formally request that the decolonization committee send a special visiting mission to our islands to see firsthand what 40 years of U.S. rule has done to my people and to our islands. Surely, on this 40th anniversary of the United Nations, it would seem most appropriate for the de-colonization committee to directly observe the last remaining trust territory before the termination of the trust agreement.

Last August, the members of the South Pacific Forum signed a treaty calling on the French Government to stop its nuclear testing in the Pacific. The reason the forum nations are demanding an end to nuclear testing in their backyard is that they fear the possible adverse health effects associated with exposure to radiation. When you think about it, these nations are trying to prevent what has already happened to my people. If nothing else, my people serve as a warning to all of humanity about what nuclear weapons do to human beings. Please, for the sake of our children and our children's children, let us heed the warning by replacing an unchecked nuclear arms race with international cooperation and a sane world order.

Thank you.

COMMEMORATING THE NEW PITTSBURGH COURIER ON ITS 75TH ANNIVERSARY

● Mr. HEINZ. Mr. President, I would like to call the Senate's attention to a significant milestone in American journalistic history. This week the New Pittsburgh Courier celebrates its 75th anniversary. The Courier has served as a newspaper of record and a voice for progress in Pittsburgh's black community since 1910.

The Courier enjoys the distinction of being the only newspaper in the city published under the same banner for so many years. In a time when established, local newspapers are gradually losing readership to national publications, it is gratifying to see the continued success of one of Pittsburgh's historic news leaders.

The paper's longevity is clearly due to the detailed, accurate and reliable local coverage that thousands of Pittsburghers have come to depend upon. The Courier's steady growth is a result of the management and staff's commitment to the community and serves as a testament to the service it provides to readers and the vital resource it has been for the entire community.

On behalf of my fellow Pittsburghers, I commend the Courier for three-quarters of a century as one of the focal points for dissemination of news and exchange of opinions. We all look forward to many more years of excellent news coverage and stimulating editorials.●

STAR WARS—STRATEGY FOR WINNING A NUCLEAR WAR?

● Mr. KERRY. Mr. President, I wish to call the attention of this body to an article which appeared in today's Boston Globe, headlined "Official Says Missile-Defense Plan Would Tilt Nuclear Balance to United States."

In that article, Globe reporter Fred Kaplan quotes a senior official in the Pentagon's Strategic Defense Initiative Office as saying that the Star Wars Program would enable the United States to have an advantage over the Soviet Union in a nuclear war.

According to the article, John L. Gardner, Assistant Director for Systems in the SDI Office, said that one consequence of the United States deploying star wars systems would be a tilt in the nuclear balance "fairly sharply in favor of the United States."

As Mr. Kaplan observes, "this observation contradicts public statements made by President Reagan and other administration officials, who insist that SDI is a purely defensive system and that it would wind down the arms race and reduce the chances of war."

Rather, according to Mr. Gardner, if there were a nuclear war and both sides had star wars defenses, "the net result of this exchange is fairly sharply in favor of the United States," because the United States has more bombers and cruise missiles than the Soviet Union.

Mr. President, these kind of statements, coming from those who have direct responsibility for developing the SDI Program, are extremely disturbing, to say the least. Mr. Gardner appears to believe that is is possible for the United States to fight a nuclear war and win it—a proposition directly opposed to the oft repeated statement by President Reagan that "a nuclear war can never be won and must never be fought."

It is one more example of the many differences between what President Reagan says about the SDI Program and what other officials in the Reagan administration say about it.

For example, President Reagan has said on 17 different occasions that the SDI Program is nonnuclear. Yet the SDI Program contains funding for the development and testing of the x-ray laser, which is a new kind of nuclear device which relies on a nuclear explosion for its power.

President Reagan has said that the SDI Program's goal is to make nuclear weapons impotent and obsolete, enabling our population to survive a nuclear attack. Yet the head of the SDI Program, Lt. Gen. James A. Abrahamson, admits that a perfect astrodome defense is not a realistic thing, and Under Secretary of Defense Fred Ikle says that the initial capability of SDI will be used not to replace nuclear weapons, but to defend them.

President Reagan says the SDI Program is a research program only, to enable a future President to decide whether to deploy star wars defenses. But his Secretary of Defense, Caspar Weinberger, has said he favors deployment, and General Abrahamson has said it is not a matter of if, but when.

A few weeks ago, I asked Under Secretary of Defense, Richard Perle, who is responsible for arms control in the Reagan administration what the phrase "mutually assured survival" meant. He said the word was "just a slogan"—it didn't mean that if we built star wars that our people would survive a nuclear war. He admitted that even with star wars in place, we would still have to rely on our nuclear weapons to prevent a war. He agreed that star wars would not make nuclear weapons impotent and obsolete.

Yet, the President and Secretary Weinberger continue to sell the SDI Program to the American people as if the program will allow the United States to save lives, rather than avenge them. President Ford's Secretary of Defense, James Schlesinger, has said that it is reckless to pretend that star wars can end our need to deter war with offensive nuclear weapons, when we know that just isn't true.

The fact is, while this administration talks glibly about mutually assured survival, if we put star wars into place, no one knows how many millions would die in a nuclear attack. We never will know, because among other things we could never test the system under realistic wartime conditions ahead of time. It would all be one roll of the dice. Maybe the defenses would work—maybe they would not, and millions of us would die.

The reality is that with or without star wars, we cannot protect ourselves and our children from nuclear weapons except by ending the nuclear arms race. You can not do that by building more weapons, even ones sold as a defensive shield.

Our children's future is too important for us to play games with the fantasy of a peace shield that will neither provide a shield from nuclear weapons nor bring peace. You can only end the arms race with arms control.

If both sides put up star wars systems, each will have an incentive in a time of crisis to strike the other side first. This is because in theory the attacker could shoot down the other side's defenses and attack its offensive nuclear missiles, and then survive the retaliation by the few weapons that survived.

That is an incredibly dangerous situation, which is why we signed the ABM Treaty in the first place, so that both sides would continue to have the ability to deter one another from ever even thinking about winning a nuclear war with a first strike.

Former President Nixon and Soviet dissident nuclear physicist Andrei Sakharov are among the many people who have recognized that star wars could increase the risk of a nuclear war by providing a partial shield so that you could use the sword of offensive nuclear weapons. As Dr. Sakharov has said, "a 'shield' could create the illusion of invulnerability. For the 'hawks' and the 'madmen,' a shield would increase the lure of nuclear backmail. It would strengthen their attraction to the idea of a preventive thermonuclear strike."

Star wars might give both sides the illusion of invulnerability—an illusion that could make people think that it is possible for us to fight a nuclear war and win.

The nuclear age is dangerous enough without anyone talking about winning a nuclear war—yet that is exactly what Mr. Gardner and the SDI Office are now talking about.

We have a choice—we can either build star wars or have arms control, not both.

Even the Reagan administration admits that it cannot put star wars into place without violating the ABM Treaty or withdrawing from it. For 13 years, the ABM Treaty has stopped both sides from star wars-type defenses into place. If we decide to go ahead with star wars, that treaty no longer exists.

Every Secretary of Defense from President Kennedy's administration up through and including the Secretaries of Defense in the Johnson, Nixon, Ford, and Carter administrations, has said that the ABM Treaty should be protected and preserved, because it is in the interests of U.S. national security.

The ABM Treaty prevents either the United States or the Soviet Union from testing or developing or deploying star wars systems. It does not stop either side from deploying limited ABM systems around their nation's capital or one missile site. While the Soviet Union has built one ABM system as permitted by the treaty, the treaty continues to prevent it from putting star wars systems up in space.

If we go ahead with star wars and kill the ABM Treaty, arms control is dead. That is because the Soviets inevitably will respond in three ways. First, they will put their own star wars systems up in space. Second, they will develop countermeasures to make our star wars systems not work. Third, they will build as many nuclear weapons as it will take to punch a hole through any defense we build. And we will do exactly the same thing—build star wars, develop countermeasures, and build hundreds of more nuclear weapons.

After all that, nuclear escalation we will be right back where we started—with both sides still threatening each other, only with thousands of additional offensive and defensive weapons on both sides.

We will have built star wars and changed nothing except to waste a lot money that could have been spent on educating our children and cleaning up our environment and building our economy. If anything, we will have only made the world more dangerous by putting up so many more weapons on both sides.

It is natural for Americans to want a defense against nuclear weapons. But as Albert Einstein said after the bomb destroyed Hiroshima, "the nuclear age has changed everything, except our ways of thinking." As the head of the Star Wars Program says, we are not talking about an astrodome over the United States. A leakproof shield is not a realistic thing.

This has been true throughout human history. The Great Wall of China is still standing, but it didn't keep the hordes of Mongol barbarians from invading the ancient civilization of China. The Maginot line built against the Germans after World War I did not keep them out of France in World War II. Even the Miami Dolphins during the greatest season in NFL history had points scored against them.

If we build a trillion dollar defense against Soviet ICBM's and it is 99-percent effective, 100 nuclear weapons will still strike our soil and no one can say who of us would survive. Even if we assume what those in charge of Star Wars say is impossible, a defense that is 100-percent effective against ICBM's, the Soviets will still figure out a way to maintain their ability to retaliate. Our military already has told us how they would do this—with low-flying cruise missiles launched from submarines off our shores, with other air-breathing systems, or by building miniature nuclear bombs and putting them in terrorist suitcases.

If we build a Great Wall of China or Maginot Line in space, the Soviets will go around it, just as aggressive nations have always gone around defenses. Rather than star wars, we need arms-control agreements that will provide us with the security that no one can win a nuclear war. Because if no one can win a nuclear war, no one will ever start one.

Our Government got us into Vietnam before there was public debate about whether or not it was a mistake. As someone who fought and was wounded in that war, I learned firsthand the consequences of that mistake.

The Vietnam war cost thousands of lives. Star wars puts millions of lives at risk, by giving people the illusion that we could survive a nuclear war. No one can win a nuclear war. Star wars does nothing to change that.

The Vietnam war led to enormous inflation and nearly bankrupted this country. Star wars will be far more expensive, without protecting millions from dying in a nuclear attack.

It is an illusion to believe, as Mr. Gardner appears to believe, that star wars can enable us to win a nuclear war.

Star wars, rather than making nuclear weapons impotent and obsolete, is merely the latest form of the nuclear escalation that has made our world so dangerous, and so fragile.

I ask that the article in the Boston Globe by Fred Kaplan be printed in the RECORD.

The article follows:

[From the Boston Globe, Dec. 12, 1985]

OFFICIAL SAY MISSILE-DEFENSE PLAN WOULD TILT NUCLEAR BALANCE TO UNITED STATES

(By Fred Kaplan)

WASHINGTON.—A senior official in the Pentagon's Strategic Defense Initiative Office told a conference of engineers Tuesday that one consequence of having a missile-defense system would be a tilt in the nuclear balance "fairly sharply in favor of the U.S."

The official further said this would be the result even if the United States and the Soviet Union were each to deploy such a system.

This observation contradicts public statements made by President Reagan and other administration officials, who insist that SDI is a purely defensive system and that it would wind down the arms race and reduce the chances of war. Reagan has also said he would offer to give or sell SDI technology to the Soviets after it has been perfected, so both sides could settle down to a world in which nuclear weapons were "impotent and obsolete."

"FIRST-STRIKE" STRATEGY

Reagan most recently emphasized these points in Geneva to the Soviet leader, Mikhail S. Gorbachev, in reply to charges that SDI was a plot for gaining US strategic superiority and creating a "first-strike" strategy.

The official who stated Tuesday that SDI would create a US advantage was John L. Gardner, assistant director for systems in the SDI office. In that position, Gardner is responsible for designing the overall structure of an SDI system, for issuing technical requirements of the various parts of the system, and for evaluating the system's strategic utility.

Before the SDI office was created in 1983, Gardner was the chief Pentagon civilian in charge of all US strategic defense research.

Critics of SDI have argued that a hidden motive behind the program may be to give the United States a new edge in the arms race. Gardner's speech was a rare instance in which a high-ranking official has lent credence to the claims.

He made his comments in a speech before the 2d Annual SDI Conference of the American Society of Mechanical Engineers, held in a hotel near the Pentagon Tuesday.

Cassette tapes of the speech were placed on sale shortly afterward. The Globe obtained a copy purchased by someone who attended the conference.

In the speech, Gardner explained the logic of his conclusion as follows. Suppose both superpowers had a ballistic-missile-defense system such as that envisioned in the SDI program. Suppose there is a nuclear war—or, as Gardner put it in defense parlance, a "two-sided nuclear exchange." Each side's SDI system would shoot down most of the other side's ballistic missiles. However, most bombers and cruise missiles would make it to their targets. Since the United States has many more bombers and cruise missiles than the Soviet Union. Gardner concluded, "the net result of this exchange is fairly sharply in favor of the US."

ELECTRONIC SPOOFING DEVICES

Gardner said one "intriguing" aspect of this analysis is the need to keep improving the ability of bombers and cruise missiles to evade Soviet antiaircraft weapons. The US military has already moved in this direction, with electronic spoofing devices for the B-52 and B-1 bombers and, more recently, the development of the Stealth bomber—which incorporates special materials and aerodynamic shapes to make an airplane less visible to radar—and cruise missiles utilizing Stealth technology.

Gardner said most US bombers and cruise missiles today could reach their targets untouched, despite the Soviet Union's massive investment in antiaircraft defenses—either because the Soviet air defenses are ineffective or because the improvements in US bombers have been very effective.

In outlining his hypothetical "nuclear exchange," Gardner assumed that only 10 percent of ballistic missiles could make it through an SDI defense but that 90 percent of bombers and cruise missiles could make it throught an antiaircraft defense.●

UNIVERSITY OF UTAH HAS LOWEST DEFAULT RATE ON STUDENT LOANS

● Mr. HATCH. Mr. President, in the coming weeks the Congress will be considering legislation to reauthorize the Higher Education Act of 1980. Paramount in those considerations will be new safeguards to protect the Government from loss from students who default on loans made to them, and particularly the National Direct Student Loan [NSDL] Program administered by eligible institutions.

I have just reviewed the report of the Secretary of Education on these campus based loans and was appalled to find the default rate as high as 80 percent in some schools with a projected recovery rate no better.

Mr. President, I am proud of the track record on loan administration by the institutions in my great State of Utah. Although all of our public institutions have done a commendable job of administering the NDSL Program, the University of Utah in Salt Lake City has the enviable distinction of being not only the lowest in the State, but one of the lowest of the low in the country with a default rate of only 2.19 percent on a loan volume of almost $23 million, and 248 borrowers.

As a matter of fact, Mr. President, of the colleges and universities with 200 or more students taking advantage of the NDSL, the University of Utah has the lowest default rate of any eligible institution in the Nation.

This is further evidence to me that the closer we can get the administration of federally funded programs to the State and local institutions benefiting from them, the better the administration will be.●

SOVIETS ADVANCE CUBANS ON AFRICAN CHESSBOARD

● Mr. WALLOP. Mr. President, I ask to have printed in the RECORD an article from Insight Magazine of the Washington Times entitled "Soviets Advance Cubans on African Chessboard" regarding the current crisis in Africa and the importance the Soviets attach to the advancement of their global power there by any and all means at their disposal, including the deployment of Soviet national assets. I urge my Senate colleagues and the U.S. foreign and national security policy establishment to take immediate steps to protect U.S. interests in the African crisis described therein. The critical need and urgency for U.S. action in Angola at this juncture cannot be overstated. Words are no substitute for real action in the face of the Angola emergency and the whole East-West power crisis in Africa.

The article follows:

SOVIETS ADVANCE CUBANS ON AFRICAN CHESSBOARD

(By John Rees and Yossef Bodansky)

(Summary: While the West pays Africa little attention, the Soviets put it at the top of their agenda. Their short-term goal is the destabilization and acquisition of South Africa and its military bases. Their long-term goal is a clean sweep of the West's southern flank on that side of the Atlantic Ocean. Numerous southern African rulers have been meeting with Soviet and Cuban leaders lately, and the continued deployment of Cuban troops in Africa suggests Soviet-allied forces may soon be capable of controlling the continent.)

The Soviet Union now considers Africa, with its strategic location and vast mineral resources, to be a main theater in which it will actively confront Western interests during the next decade.

New Soviet political initiatives launched this autumn toward Angola, Zimbabwe, Mozambique and other souther African states received little attention in the West. Diverted by summitry and preoccupied with South Africa's apartheid-created internal problems, the West ranks sub-Sharan African affairs low in foreign policy priorities.

Western intelligence sources say that central to General Secretary Mikhail Gorbachev's Africa initiative, with Cuba playing the key supporting role, is a diplomatic effort now under way to strengthen links of Africa's so-called "frontline" states with the Soviet Union against South Africa. The effort is laying the groundwork for large Soviet military aid packages which entail the presence of Soviet bloc and Cuban military technicians and advisers.

The short-term target is South Africa. The military aid packages which are being planned with Zimbabwe and the other frontline states include heavy air defense systems, including sophisticated radars. These would be useful in the near future against South African air strikes on bases in those countries made available to the terrorits forces of the Marxist-led African National Congress (ANC) and South West Africa People's Organization (SWAPO).

Longer-term, the intelligence sources say, the air defense systems fit the Kremlin's strategy for protecting Soviet installations in Africa positioned against the South Atlantic and Indian Ocean. At the same time, there has been an enormous qualitative increase in the arms and training being given the military forces of Cuba and Angola. These are of a type that indicate that the Soviet leaders are in the preliminary stages of orchestrating an armed invasion of South Africa that would be preceded by long-range air-strikes from Angola and spearheaded on the ground by Cuban troops, led by Soviet commanders and supported by Warsaw Pact technicians.

One scenario that military leaders in the West are evaluating might be played out very soon. This would involve a new offensive by a strong combined force of units of the Soviet-backed Angolan government forces and Cubans to eradicate Jonas Savimbi's South African-backed UNITA guerrillas.

With heavy air support, the Angolan-Cuban force would engage in hot pursuit of Savimbi's retreating guerrillas into northern Namibia. This would be the signal for the Soviet-backed SWAPO guerrillas based in southwestern Angola to attack Nambibia's northernmost province, Ovamboland, where most of SWAPO's supporters are located. The Angolan-Cuban force would engage the South African and Namibian forces and "liberate" Ovamboland for SWAPO.

Should the South African forces crumble, or there be no effective counterthrust, and if the Western powers, particularly the United States, hesitated or indicated they would take a hands-off policy, the Soviets would send the invaders on to attack Windhoek and the South African naval base at Walvis Bay.

The "People's Republic of Namibia" would then be consolidated as a base for an eventual final offensive against South Africa.

The Soviets produced a number of reports and studies on conditions in sub-Saharan Africa outlining their interests and hinting at intentions before the initiative was launched this fall. One of the most significant of these recent studied available to Western intelligence sources was produced in Moscow at the KGB-affiliated African Institute by Soviet Nikolai Kosukhin, a senior African specialist.

Kosukhin wrote that "today, the main problems of the global struggle against imperialism . . . are centered in Africa." And he concluded that "national and social liberation" in Africa is "uneven but inevitable."

Zimbabwean Prime Minister Robert Mugabe's December visit to Moscow was the latest in an intense drive undertaken by Moscow and Havana since October to expand their political and military involvement in the southern African states.

Soviet and Cuban leaders have met with the heads of State, senior government or ruling party officials and military commander of Zambia, Angola, Mozambique and Zimbabwe—the so-called frontline states—in addition to holding talks with Madagascar, Ethopia and the guerrilla client groups, ANC and SWAPO. The result appears to be Soviet success in reasserting their influence in African affairs and in laying the groundwork for a major escalation in their military involvements.

The Soviet Union's growing interest in southern Africa ws demonstrated early this autumn when Moscow's chief regional clients—Angola, Mozambique and Zimbabwe—combined to battle the pro-Western guerrilla fighters operating on their soil—UNITA in southeastern Angola and the Mozambique National Resistance (RENAMO) on Mozambique's border with Zimbabwe.

The Angolan offensive was preceded by a concentrated effort by Soviet and Cuban military advisers to train and drill government forces in tactics and in the use of recently supplied Soviet-made weapons.

In the largest of these offensives, Soviet and Cuban senior commanders actually directed combat operations in the field by Angolan government troops and armor. Technicians and mechanics drawn from the Warsaw Pac forces fulfilled essential support missions. And as local intelligence sources reported, Cuban military units and Portuguese mercenaries contributed the military decisive "quality edge" component to the communist-backed forces.

In Mozambique, Zimbabwean troops trained by North Korea spearheaded the drive against RENAMO.

Because of the Kremlin's growing interest in Africa, the Soviet and the Cuban military have become directly involved in the region. As affective as their interference has been so far, military and political indicators suggest there will be even greater Communist involvement in the future.

The Soviets consider the military aspect to be the decisive factor in the realization and success of their drive for supremacy in Africa.

Despite Cuba's role as a Soviet surrogate and the magnitude and diversity of its existing military commitments in Angola, Ethiopa and elsewhere in Africa, it is still perceived by the majority of African states as a "non-aligned" leader. Thus Fidel Castro's Cuba has been promoted by the Soviets as the most effective source of what they term "fraternal military aid."

Cuba's role, wrote Kosukhin, would be "provision . . . of assistance in the strengthening of [the frontline states'] defensive capabilities; the building of their armed forces, the dispatch of military-internationalist advisers, sending of weapons, military equipment, and the provision of other assistance for the objective of protecting the national interests of African states which are under armed invasion by forces of imperialism."

In other words, the Cubans would be asked to prevent South African strikes against terrorist camps or invasions forces and their supply dumps in Angola, Zimbabwe, Mozambique and other countries.

South Africa is likely to continue its sporadic preemptive and retalatory raids against ANC and SWAPO bases into Angola, Mozambique, Zimbabwe and Tanznia.

Several days before Mugabe went to Moscow, South African Defense Minister Magnus Malan charged that an ANC unit that had planted land mines near the border with Zimbabwe was based in that country, and said that members of the Zimbabwean government were seeking a confrontation with South Africa "to force South Africa to retaliate."

However, the South African army is a ground army with limited mobility. South Africa's small navy would be no match for a Soviet blockade. Likewise, South Africa's air defense is nearly nonexistent, and its short-range, small and obsolecent air force is very vulnerable.

The stage for the Soviet Africa initiative was set with the October visit to Moscow of Didier Ratsiraka, president of Madagascar. Soviet President Andrei Gromyko used the occasion to explain the significance of Madagascar and all of southern Africa to the Kremlin.

Gromyko was lavish with his flattery of "the anti-imperialist policy of the Democratic Republic of Madagascar and its active, consistent struggle to strengthen African unity, peace and the security in Africa and throughout the world" and said he was confident that Madagascar would "make a tangible contribution to the common struggle of the peoples."

Madagascar's president then went to North Korea, which has a significant military presence in his country and which trained Mugabe's notoriously brutal brigade used to decimate supporters of the Zimbabwean leader's political rival, Joshua Nkomo. Ratsiraka reported back to Moscow on the results of his North Korean meetings before returning home.

The roster of subsequent African and Cuban military visits to Moscow includes the following:

A Tanzanian delegation of military commissars was familiarized with Soviet indoctrination methods and visited political-military schools in the Leningrad military district in October.

Military commissars of Cuba's Revolutionary Armed Forces (FAR) under the command of Col. Gustavo Milian Rivero visited Moscow in October for "a thorough exchange of experience" on indoctrination methods. More significant was their visit to the Transcaucasian military district, which is oriented toward power-projection toward the Middle East and southwestern Asia.

The Soviets later acknowledged that a "Soviet-Cuban combat collaboration" took place that served as "a vivid demonstration of the unity and cohesion of the servicemen of the fraternal armies." In other words, the Cuban officers, trained to be integrated as components of the Soviet forces, practiced commanding Soviet forces.

Foreign Minister Joaquim Chissano of Mozambique, accompanied by Deputy Defense Minister A. Panguene, who is the chief political commissar of the Mozambican armed forces, met with Gorbachev and Soviet Foreign Minister Eduard Shevardnadze. The topic was "further development" based on the friendship and cooperation treaty between Moscow and Maputo, and an agreement that "tension in that region is continuing to intensify as a result of the aggressive policy of Pretoria, which is encouraged by imperialist circles in the West."

The official communiqué had all the usual diplomatic code words indicating that Mozambique regarded the Nkomati accord with South Africa as an arrangement to buy time—time in which South Africa would agree to withdraw its support from RENAMO.

Mozambique and the Soviet Union said they placed "special importance" on unity and cohesion, support for ANC and SWAPO and the "need to deliver a decisive rebuff against all attempts to introduce dissent in the general anti-imperialist and antiracist front." Within a few weeks, a Mozambican military delegation was on its way to Moscow.

An ANC delegation headed by Tabo Mbeki also went to Moscow, where they met with the Soviet Committee for Solidarity with Asian and African Countries, a covert conduit for Soviet arms and equipment to Third World insurgents. The Soviets "stressed total support" for ANC and placed their full political support behind it as "a decisive factor" in any political settlement in southern Africa, according to Soviet commentary.

A Botswana delegation of trade unionists in November was greated with Soviet pledges of "unwavering solidarity with the courageous struggle waged by the democratic public and patriots in the south of Africa and by the frontline states for eradicating the disgraceful apartheid system and colonial oppression in Africa."

The visit of Ethiopia's Lt. Col. Mengistu Haile Mariam and a large delegation of senior Ethiopian officials to Moscow in November may have been the most important one dealing with a military buildup. Although the visit was announced as concerning economic assistance, Soviet Defense Minister Marshal Sergei Sokolov participated in the discussions.

After his meetings with the Soviets, Mengistu indicated Ethiopia's virtual commitment to the destruction of South Africa. Mengistu then went on to North Korea, as had Madagascar's leader. But he left behind in Moscow a major portion of his delegation for additional talks on defense and foreign affairs.

Intelligence sources say it is not coincidental that in November, in the middle of this flood of African delegations in Moscow, Shevardnadze went to Havana for meetings with Castro, after which a joint communiqué said the two sides expressed mutual satisfaction" with the "dynamic development of many-sided fraternal Soviet-Cuban relations and the shared determination . . . to continue steadily deepening and extending cooperation between the Soviet Union and the Republic of Cuba in all fields on the basis of the principles of Marxism-Leninism and socialist internationalism."

"Socialist internationalism" is what brought 40,000 Cuban soldiers to Angola and Ethiopia and another 6,000 to "fraternal" Nicaragua, where they are flying combat missions against the democratic resistance guerrillas and also perform many critical services for the Sandinista army.

Military observers take as a direct threat the communique's statement that "it was resolutely stressed by the two sides that the criminal acts of aggression by South Africa against the People's Republic of Angola must be ended without delay" and that the "system of apartheid should be eliminated completely."

The Moscow meetings were preceded by Cuban visits. During this short period, Cuba played host to the leaders of four African states, India and Sri Lanka. Soviet political analyst Yevgeny Bay outlined the official Soviet analysis of these visits in the Nov. 21 issue of the Soviet government papr Izvestia where he wrote: "The bilateral talks reaffirmed the firm bonds of solidarity linking the Caribbean island with African states which are constant targets of aggression actions by the racist regime of South Africa and by imperialist mercenaries. The leaders of Tanzania, Zambia, Zimbabwe, and Angola assessed highly Cuba's international support for and solidarity with people on the African continent."

The growing significance of Cuba and southern Africa to the Soviet Union has to be considerd in the context of Soviet global strategy, Western military sources say. Soviet military strategists believe that in order to secure the occupation of Europe in a nonnuclear initial period of war, they must be able to conduct strategic military operations throughout the entire depth of the enemy rear on a global scale. The Soviets regard such operations as essential to prevent the West from effectively reacting to the main Soviet advance via available forces and weapons or by mobilizing its rear.

Thus, their objective is to render the Western powers militarily ineffective through a combination of deep strikes and the effective isolation of the main theater from reinforcements and long-range fire strikes.

Consequently, Soviet ability to conduct strategic military operations in the southern Atlantic Ocean and the western Indian Ocean at the onset of hostilities is growing more critical because it would facilitate the isolation of Europe and the surrounding regions from American reinforcements and supplies. In addition, these areas could serve as launching spots for the active containment of pro-West activities in their rearguard areas.

Soviet strategists have been emphasizing two overriding trends of increasing importance in contemporary warfare: First, that the spatial scope of a theater in which a war or a major confrontation is waged will grow very rapidly as a direct outcome of increased maneuverability, range and speed of key weapons systems; and second, that the time frame in which any war or major confrontation would be decided is decreasing rapidly because the enhanced destructiveness and accuracy of the major weapons systems—conventional as well as nuclear—are rapidly reducing the military effectiveness of beligerents before they can mobilze and replenish their losses.

In other words, the attrition rate at the onset of conflict is so severe that there is no time to bring up reinforcements. The side with the greater readiness wins. Obviously, this situation favors the aggressor in a first-strike situation.

Soviet military strategists also are emphasizing the crucial role in conflicts of land-based airpower and naval task forces. The Soviets are actively seeking access to air and naval bases in the vicinity of the expected theaters of military operations.

The Soviet base at Da Nang in Vietnam would be greatly enhanced if Moscow had Walvis Bay on the southern Atlantic, and particularly South Africa's Simonstown naval base on the Cape of Good Hope.

There are significant, ominous lessons to be learned from the Soviet Union's efforts preparatory to launching the Angolan forces, steeled by a major Cuban presence, against Savimbi's UNITA guerrillas, according to western military and intelligence officials. Moscow increased the supply of improved weapons and quality training, established new airfields and resupply depots and authorized the direct involvement of Soviet commanders and Cuban crews in combat fighting.

Similarly, the quality of the training and support provided to ANC and SWAPO also has increased considerably. Moscow and Havana have intensified the flow of military supplies, improved the training of troops and increased their direct involvement in combat operations against the guerrillas operating in Nicaragua.

Nonetheless, the quantitative and qualitative size of the Soviet-Cuban buildup, especially in Angola, clearly reflects that southern Africa is their field of primary focus, not Central America. This is particularly visible in the buildup in Angola of air defense weapon systems and related C3I [Command, Control, Communication and Intelligence] assets.

The Soviets always pay special attention to the establishment of a balanced and saturated air defense deployment capable of engaging aerial forces far larger and more sophisticated than the immediate threats facing the regional countries.

This deployment is especially clear in the case of Angola, where the Soviet radars and SAMs far outnumber anything the South African air force can master. Yet the Soviets are not satisfied. In the past seven weeks, they have further increased their provision of air defense assets to Angola with both MiG-21 and MiG-23 fighters. Larger numbers of Cuban and Soviet experts, including pilots, have been sent there, and they are taking part in routine combat operations.

Military observers conclude that Moscow's goal in undertaking this buildup of highly sophisticated air defense and fighter aircraft in Angola, as well as Cuba and Nicaragua, is the protection of Soviet strategic air and naval bases.

The growing significance of southern Africa to the Soviet-Cuban global strategy is reflected in the Soviet Union's willingness to get directly involved in the fighting in Angola, including the commitment of assets to local combat operations. Since early October, the Soviets have been running a massive airlift in support of the Angolan government forces. Several II-76 transports were deployed to Angola to conduct the airlift.

By mid-November, the Soviets further escalated the sortie and tonnage rates of the airlift, deploying a few An-22 transports to Angola. The An-22s belong to the centralized assets of the Soviet Union at the national level. The commitment and risking of a substantial component of the An-22 fleet to airlift operations in Angola clearly reflects the high-level significance these operations have to Gorbachev and his colleagues.

In total, the Soviets and their allies flew more than 500 sorties in October and nearly 100 in early November from Luanda and Lobango for the support and buildup of Angolan and Cuban forces in the far south in the area around the towns of Menongue and Cuito Cuanavale.

The increased strategic significance of Ethiopia's role in the Soviet buildup in southern Africa rests in its geographical position, which makes Addis Ababa a key stopover point for Soviet transports. Moreover, the Soviets and the Cubans have stocks of weapons and equipment prepositioned there. Ethiopia and South Yemen together can be used for the rapid reinforcement of Soviet, Cuban and allied forces in central and southern Africa.

Moscow and Havana seem determined to "stabilize" the situation on the extreme fringes of their new strategic axis to their liking, so that they can establish credible capabilities from these installations to launch strategic military operations in the Western Hemisphere.

The Nov. 8 issue of the Soviet military publication Krasnya Zvezda indicated the significance of Angola to the Soviet defense establishment. It said, "The Soviet Union, Cuba, and other socialist countries, loyal to their international duty, are rendering Angola assistance in strengthening its national army and defending the sovereignty and territorial integrity of the country."

In the pursuit of their global strategy interests, the Soviets and the Cubans have not only generated the illusion of "selfness commitment" to the "freedom and national liberation" of southern Africa, but are also maneuvering the frontline states into creating a coordination mechanism whose actual goal is to further Soviet-Cuban regional interests at a great cost to those states themselves.●

DR. JOSEPH COHEN AND CARE OF THE HOMELESS

● Mr. DURENBERGER. Mr. President, the plight of the homeless is a concern throughout this country. You can pick up a newspaper and read a story about a man or woman who walks the streets during the day, sleeps on heating grates at night, and rummages through garbage cans to find something to eat. Or you can turn on the TV and watch Lucille Ball playing a bag lady in New York City. Or you can just take a stroll down the nearest street and see for yourself.

It is estimated that there are as many as 3 million homeless people in the United States, yet there are shelters for only about 10,000 of them—10,000 spaces for the fortunate few so they do not have to sleep on heating grates on freezing nights.

When I was in Boston recently, I read a story in the Boston Globe about a physician, Dr. Joseph Cohen, who has done extraordinary work to ease the plight of the homeless. The article which follows my statement describes Dr. Cohen's work and the shelter he opened in Boston which offers meals, a bed, counseling, and, thanks to his personal efforts, medical attention to 100 homeless individuals.

I believe Dr. Cohen's tireless efforts deserve recognition by this body, not only because he is a true public servant to the homeless in Boston, but also because he represents countless other physicians who are also concerned about the indigent and uninsured and work hard to meet the health care needs of this vulnerable population.

Dr. Cohen and similar physicians practice good preventive medicine when they care for the needs of these less fortunate Americans. Improving their health and well-being enhances the health and well-being of the rest of our society and we are all the better for it.

Mr. President I ask that the text of the article describing the work of Dr. Cohen be printed in the RECORD.

The article follows:

[From the Boston Globe, Dec. 9, 1985]

WHEN HOMELESS NEED A FRIEND, THE DOCTOR IS ALWAYS IN

(By Marvin Pane)

Dr. Joseph Cohen, chief of medicine at the Lemuel Shattuck Hospital, was listening to his car radio nearly three years ago when Gov. Dukakis delivered his inauguration speech.

"When the governor said that the homeless would be a priority of his administration, a light went on in my head. I felt that the Shattuck, being a state-funded hospital, would be the ideal place for a homeless shelter," Cohen recalled last week. The shelter opened a few weeks later, after Cohen helped mobilize efforts to gain the governor's backing.

The Shattuck Shelter has since moved from an open auditorium to a refurbished facility where some 100 homeless individuals receive a bed, a meal, counseling and, thanks to the efforts of Cohen, the medical attention that many needed but sometimes never received.

Tomorrow night at the Park Plaza, Cohen will receive the Manuel Carballo Award for excellence in public service. On Jan. 12, he is scheduled to be presented a community service award from the Massachusetts Coalition for the Homeless at the Parker House.

Chairman of the Governance Board of the Boston Health Care for the Homeless Project—a four-year, $1.4 million program funded by the Robert Wood Johnson Foundation—Cohen is described by close associates as the leading advocate for the homeless in the Department of Public Health. They say he is an innovator who works within the system but doesn't let bureaucracy stand in his way, and a man who effects change with little antagonism, fanfare or self-promotion.

Two years ago, when he wasn't satisfied with the department's budget request, Cohen went to the Legislature to plead—and win—his case for an additional $1 million for new equipment: he also won the increased funding for the Shattuck Shelter 18 months ago when he started a letter-writing campaign.

"He's a tenacious guy, but in a quiet way," said Robert Richards, the shelter's director. "One shouldn't mistake his even temperament for passivity. He sets goals and, while it may take him some time to work out the details, he usually reaches them."

BREAKING DOWN BARRIERS

Cohen, a young-looking 52, is credited with helping to abate fear and mistrust between health care providers and Boston's estimated 6,000 to 10,000 homeless.

"When we started working on the Johnson Grant proposal in early 1984, Joe was instrumental in holding the coalition of health-care providers and homeless advocates together," recalled Randy Bailey, assistant director at Boston's Pine Street Inn and board member of the project.

"We from the shelter world were generally paranoid about the medical community because of a feeling of resistance on the part of hospitals in terms of access," Bailey said. "Joe has really helped break down those barriers."

Cohen, who sometimes jogs the 8 miles from his Beacon Street home to the hospital in Jamaica Plain, was born in Worcester but grew up in Marlbourough. He and his father, a Benny Goodman fan, both played clarinet in a local band at political rallies.

"We did it from the back of a truck," he laughingly recalled. Today, Cohen rallies political support in other ways.

According to Public Health Commissioner Bailus Walker, Cohen is "a strong advocate that government has a responsibility to help those who can't help themselves, and he's able to articulate that feeling." Walker recalled that at a public health forum recently, "Joe made one of the most moving presentations I've even heard on the problems of the homeless."

The Johnson Grant proposal, which was prepared on the medical end by Cohen and Dr. George (Sandy) Lamb of Boston City Hospital, went into effect in July and includes two medical teams out of BCH and the Shattuck, with a third team headed by a nurse practitioner.

The first team provides care at Boston City Hospital, Long Island Shelter and the Pine Street Inn. The second team works at the Shattuck, Parker Street Shelter and the St. Francis House. The third team works with homeless families at several small shelters in the Boston area.

BEYOND THE GRANT

But Cohen has gone beyond the mandate of the grant by giving Shattuck clients access to the hospital's dental clinic and podiatrist as well as easing referrals to specialists.

In addition, Cohen introduced the concept of respite care, with 20 beds at the Shattuck for those who cannot leave the shelter because of illness.

The pilot program began two weeks ago and, although some public health officials privately worry that it may become a "dumping ground" for homeless patients from other hospitals, Cohen said the concept makes sense and will be brought along slowly.

"The best time to rehabilitate is when somebody is flat on their back and introspective," he said, glancing at a 25-year-old alcoholic man who had been in respite care for nearly two weeks.

Dr. Naomi Bock, who heads the medical team that visits the Shattuck Shelter, said that Cohen—who admittedly could earn at least double his salary as an oncologist in the private sector—is "inspiring." He didn't disappear into the research community and he's stayed in the public health field during an era when people aren't entering it.

Cohen, the son of a haberdasher who worked in his late father's store in Marlborough, graduated at the top of his high school class but said he "never wanted to be a doctor anyplace but in a public health setting." He is married and has four grown children.

He is quick to point out the contributions of others, rather than his own. Said Barbara Blakeney, nursing coordinator for adult services at Boston City Hospital and also a Governance Board member, "I found out about his upcoming awards through Randy Bailey. But that's Joe. He's quietly effective and likes to work behind the scenes."

COLORADO UPLIFT

● Mr. ARMSTRONG. Mr. President, private sector initiatives to assist society's disadvantaged are becoming more and more successful in stark contrast to the massive Federal programs of the past. One particular success story, Colorado Uplift, dramatizes this progress.

Colorado Uplift was started in 1982 by a group of Denver businessmen seeking to reduce unemployment of disadvantaged youth in the inner city by providing opportunities to these young men and women. These businessmen recognized the void created by years of unsuccessful Government welfare programs.

Helping kids to help themselves, Colorado Uplift seeks to develop a sense of self-worth and positive values in culturally and economically disadvantaged youth.

I bring Colorado Uplift to the attention of my colleagues because the private sector has been able to do with dimes and nickels what it takes billions for the Federal Government do to—and most of the time to do very poorly.

Few Government programs have been able to break the cycle of poverty. In fact, the poverty industry of huge Government programs serves its own continued existence and self-interest through the continued existence of the disadvantaged. Private sector initiatives such as Colorado Uplift seek to move people into the economic mainstream and off the sandbanks of despair and hopelessness.

It is literally a choice between programs that encourage joblessness and a welfare state on the one hand, versus a prosperous, positive private sector effort that works on the other.

Private sector programs such as Colorado Uplift have a genuine human concern unmotivated by self-financial gain. You cannot be paid to love your neighbor, such concern must come truly from the heart. Colorado Uplift calls upon the resources and enthusiasm of hundreds of volunteers rather than attempting to build a bloated bureaucracy.

Programs such as the Interfaith Task Force, Alcoholics Anonymous, and the Salvation Army, have long distinguished records of successfully breaking the welfare cycle.

The president of Colorado Uplift, J. Kent Hutcheson, and his colleagues, have enlisted the support of hundreds of Coloradans and business firms to write this latest success story in private initiatives. Their story serves as an inspiration in the fight to help America's disadvantaged and unemployed. Colorado Uplift should also serve as a lesson for those of us who serve in Government.●

TRIBUTE TO DR. CHARLES BRADFORD

● Mr. ABDNOR. Mr. President, it is with extreme regret that I inform the U.S. Congress of the departure of a most valued economic resource. Dr. Charles Bradford, assistant director of the Joint Economic Committee, will be leaving the committee in January to assume his new position as chief economist for the National Credit Union Administration.

During his 10 years with the committee, Dr. Bradford has provided personal economic counsel to literally hundreds of Members of Congress. During the last 10 years there has not been a Member of Congress who has not directly or indirectly benefited from Dr. Bradford's professionalism and his commitment to accurate, objective, and timely economic analysis.

I am sure my colleagues join me in wishing Dr. Charles Bradford the best in his new position. He has served the Congress and his country with distinction.●

NOMINATION OF FRANCIS A. KEATING, ASSISTANT SECRETARY OF THE TREASURY FOR ENFORCEMENT AND OPERATIONS

● **Mr. ARMSTRONG.** Mr. President, it is my great pleasure to support the nomination of Frank Keating as Assistant Secretary of the Treasury for Enforcement and Operations.

As many of my colleagues know, I have long been interested in the issue of prohibiting the importation of products made by forced labor. Therefore, I am particularly interested in who will serve as the Assistant Secretary for Enforcement since that individual will have a significant role in enforcing the ban against forced labor-made products.

Mr. President, section 307 of the 1930 Smoot-Hawley Tariff Act contained a provision which states that all goods mined, produced, or manufactured in any country in whole or in part by forced labor shall not be allowed entry into the United States. Regulations enforcing this law state that if the Commissioner of Customs finds at any time that information available to him reasonably but not conclusively indicates that goods being imported are made with forced labor, he will advise his personnel to hold the goods until an investigation is completed.

In 1983, the State Department issued a report stating forced labor is used "to produce large amounts of primary and manufactured goods for both domestic and Western export markets." It further documented the fact that the U.S.S.R. operates the largest forced labor system in the world, comprising some 1,100 forced labor camps and 4 million prisoners, and that this system "gravely infringes internationally recognized fundamental human rights."

Also in 1983, the Central Intelligence Agency released a report indentifying some 36 products in which forced labor "is used extensively." Accordingly, the Commissioner of Customs issued a finding with respect to the 36 products, but that is where enforcement stopped.

Since that time, numerous attempts have been made by Congress to have the law enforced including an unopposed Senate resolution, a House resolution which passed on a vote of 402 to 0, a petition by 85 Members of Congress, a lawsuit filed by more than 3 dozen Congressmen and 2 Senators and repeated congressional hearings.

Yet to date, enforcement has stalled out somewhere between the Customs Service and the Department of the Treasury.

Should Mr. Keating be confirmed as I believe he will, his duties will place him squarely between Customs activities and Treasury policies. Therefore, his views on enforcement, and his interest in the issue of forced labor specifically, is of utmost importance to me and many of my colleagues in the Congress.

During his recent nomination hearings, Mr. Keating graciously answered detailed questions over a period of 3 hours regarding law enforcement, the various legal aspects of current forced labor law and regulation, and his expected role in carrying out the provisions.

I was very impressed with Mr. Keating's candor, sense of integrity, and responsiveness to my questions. He could have been evasive. Instead, he studied an issue that was clearly new to him and gave his best opinion on how he believed the law should be enforced. Throughout his testimony, Mr. Keating proved to be thoughtful and sincerely interested in my concerns about the issue.

Mr. Keating also informed me he had spoken with Secretary Baker about enforcing the forced labor statute, stating "he (Baker) indicated to me that he shared your view and my view, and was examining the evidence to date, requesting and reexamining evidence which had not been thoroughly examined or examined at all."

I am greatly encouraged by Mr. Keating's testimony and by the Secretary's message through Mr. Keating of a commitment to review the evidence. My colleagues in the Congress and many others who have a deep interest in barring the entry of forced labor-made goods have no question that the evidence exists and that it is abundant. Therefore, administration interest is very encouraging at this time.

Mr. President, I am very pleased to lend my support to the confirmation of Frank Keating as Assistant Secretary of the Treasury for Enforcement and Operations. Certainly, he will face many challenges in his new role, but I believe he will serve with honor and integrity.●

ORDERS FOR FRIDAY

RECESS UNTIL 10:30 A.M.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that once the Senate completes its business today, it stand in recess until the hour of 10:30 a.m., on Friday, December 13, 1985.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. PACKWOOD. Mr. President, I further ask unanimous consent that following the recognition of the two leaders under the Standing Order, there be a period for the transaction of routine morning business not to extend beyond 11:15 a.m., with Senators permitted to speak therein for not more than 5 minutes each.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

PROGRAM

Mr. PACKWOOD. Mr. President, following routine morning business it will be the intention of the majority leader to resume consideration of the White Earth Indian bill, under a time agreement; 3 votes can be expected in relation to that bill.

Also, the Senate can be asked to turn to:

S. 1915, the counter terrorism bill, hopefully under a time agreement;

S. 104, armor piercing bullets;

Any conference reports available that accompany the so-called "must items";

And other Legislative or Executive Calendar items that can be cleared.

Rollcall votes can be expected during the day on Friday.

RECESS UNTIL TOMORROW AT 10:30 A.M.

Mr. PACKWOOD. Mr. President, I move that the Senate stand in recess in accordance with the previous order.

The motion was agreed to, and at 8:15 p.m., the Senate recessed until Friday, December 13, 1985, at 10:30 a.m.

NOMINATIONS

Executive nominations received by the Senate December 12, 1985:

DEPARTMENT OF STATE

Morton I. Abramowitz, of Massachusetts, a career member of the senior Foreign Service, class of career Minister, to be an Assistant Secretary of State, new position.

H. Allen Holmes, of the District of Columbia, a career member of the senior Foreign Service, class of career Minister, to be an Assistant Secretary of State, new position.;

Larry K. Mellinger, of California, to be U.S. Alternate Executive Director of the Inter-American Development Bank, vice Hugh W. Foster.

IN THE AIR FORCE

The following officers for appointment in the U.S. Air Force to the grade of brigadier general under the provisions of section 625, title 10 of the United States Code:

Col. Robert M. Alexander, 418-48-3868FR, Regular Air Force.

Col. James S. Allen, 016-30-3225FR, Regular Air Force.

Col. John R. Allen, Jr., 247-52-3450FR, Regular Air Force.

Col. Edgar R. Anderson, Jr., 433-60-4339FR, Regular Air Force.

Col. James G. Andrus, 529-48-2009FR, Regular Air Force.

Col. Malcolm B. Armstrong, 438-60-7184FR, Regular Air Force.

Col. Lester P. Brown, Jr., 227-48-7400FR, Regular Air Force.

Col. Robert A. Buethe, Jr., 321-32-7571FR, Regular Air Force.

Col. Gerald A. Daniels, 436-58-5221FR, Regular Air Force.

Col. Thomas E. Eggers, 333-34-7982FR, Regular Air Force.

Col. James W. Evatt, 448-38-7167FR, Regular Air Force.

Col. Frederick A. Fiedler, 524-42-8785FR, Regular Air Force.

Col. Paul D. Gleason, 014-26-1352FR, Regular Air Force.

Col. Joel T. Hall, 442-34-9937FR, Regular Air Force.

Col. William P. Hallin, 046-32-0572FR, Regular Air Force.

Col. Floyd E. Hargrove, 453-50-8373FR, Regular Air Force.

Col. George B. Harrison, 251-60-5770FR, Regular Air Force.

Col. John R. Harty, 501-34-3453FR, Regular Air Force.

Col. Richard E. Hawley, 069-34-7170FR, Regular Air Force.

Col. Harald G. Hermes, 154-28-4701FR, Regular Air Force.

Col. Thomas W. Honeywill, 299-30-1055FR, Regular Air Force.

Col. John R. Hullender, 260-56-6601FR, Regular Air Force.

Col. Grover E. Jackson, 416-50-3954FR, Regular Air Force.

Col. John E. Jackson, Jr., 234-62-8810FR, Regular Air Force.

Col. Arlen D. Jameson, 538-36-5959FR, Regular Air Force.

Col. Jeffery D. Kahla, 534-36-0824FR, Regular Air Force.

Col. Donald L. Kaufman, 461-56-8494FR, Regular Air Force.

Col. Vernon J. Kondra, 532-34-3136FR, Regular Air Force.

Col. Paul E. Landers, Jr., 525-84-8724FR, Regular Air Force.

Col. James J. LeCleir, 389-38-5475FR, Regular Air Force.

Col. Orthus K. Lewis, Jr., 430-60-5191FR, Regular Air Force.

Col. Nathan J. Lindsay, 387-34-3109FR, Regular Air Force.

Col. John D. Logeman, Jr., 397-34-5697FR, Regular Air Force.

Col. Charles F. Luigs, 404-50-5689FR, Regular Air Force.

Col. Billy G. McCoy, 462-64-1237FR, Regular Air Force.

Col. Michael P. McRaney, 425-80-0798FR, Regular Air Force.

Col. Philip L. Metzler, Jr., 524-44-8266FR, Regular Air Force.

Col. Kenneth V. Meyer, 471-44-5038FR, Regular Air Force.

Col. John M. Nowak, 374-42-6339FR, Regular Air Force.

Col. Carl G. O'Berry, 363-34-3273FR, Regular Air Force.

Col. Richard J. O'Lear, 567-52-4439FR, Regular Air Force.

Col. David C. Reed, 555-48-9953FR, Regular Air Force.

Col. Jon A. Reynolds, 194-30-7566FR, Regular Air Force.

Col. Paul L. Roberson, 566-56-4803FR, Regular Air Force.

Col. Alan V. Rogers, 411-62-9465FR, Regular Air Force.

Col. Richard M. Scofield, 026-28-8454FR, Regular Air Force.

Col. John F. Sievertson, 234-50-6314FR, Regular Air Force.

Col. Victor S. Stachelczyk, 041-30-6463FR, Regular Air Force.

Col. Kenneth E. Staten, 521-52-2702FR, Regular Air Force.

Col. Robert F. Swarts, 448-36-1484FR, Regular Air Force.

Col. Dale W. Thompson, Jr., 441-36-6881FR, Regular Air Force.

Col. Denis L. Walsh, 499-36-6931FR, Regular Air Force.

Col. Sam W. Westbrook III, 492-44-3573FR, Regular Air Force.

Col. Robert V. Woods, 509-40-1816FR, Regular Air Force.

CONFIRMATION

Executive nomination confirmed by the Senate December 12, 1985:

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Otis R. Bowen, of Indiana, to be Secretary of Health and Human Services.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

EXTENSIONS OF REMARKS

TRIBUTE TO BOONE MAJORS

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. HUBBARD. Mr. Speaker, today I would like to pay tribute to Boone Majors, a longtime friend of mine who died on October 14, 1985, at the age of 89 years.

Oliver Boone Majors, Sr., was a lifelong resident of Wingo, KY, a small rural community in Graves County and the extreme southwestern corner of Kentucky. The son of Will and Nora Majors of Wingo, he was born on September 16, 1896. Like his father, Boone farmed until the mid 1930's. However, he took time out to serve his country in the U.S. Army, a veteran of World War I.

From 1937 to 1960, he owned and operated the Boone Majors General Store in Wingo. In 1960, Boone, in partnership with his son James, formed Majors Insurance Agency in Wingo. Boone was an active partner in that business until the early 1970's, at which time he retired and began devoting his time to oversight of his farming interests.

Throughout his 89 years in Wingo, KY, Boone Majors was always very successful in all that he chose to do. In addition to his farming and business endeavors, he was also a man of civic duty and achievement. He served as president of the Wingo Lions Club in 1947–48 and was the club's secretary for many years following. He was also active in the local political process, and, for example, was always anxious to help out in the precinct polling place during elections.

Boone Majors was a religious man and a longtime active member of the Wingo Church of Christ. He is survived by two sons, James Majors of Wingo, KY, and Oliver Boone Majors, Jr., of Wytheville, VA, and a sister, Ruth Goodgion of Pryorsburg, KY. His late wife Bessie predeceased him in 1968.

Boone Majors was a great asset to Wingo, Graves County, and western Kentucky, and I have always considered it an honor to call him my friend.

I join with the many friends of this outstanding Kentuckian in extending my sympathy to the family of Boone Majors.

ANNUAL SUMMIT MEETINGS BETWEEN THE UNITED STATES PRESIDENT AND THE LEADER OF THE SOVIET UNION

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. LANTOS. Mr. Speaker, we in the Congress followed with great interest the recent Geneva summit between President Ronald Reagan and Soviet Leader Mikhail Gorbachev. Although there is hope that the summit will set the stage for future concrete progress in the relations between our two countries, it is clear that little was accomplished in either arms control or human rights—the two most critical issues that divide us.

Mr. Speaker, the one solid accomplishment of the Geneva summit was the agreement of the two leaders to meet again in 1986 and 1987. I welcome this decision to hold annual summit meetings between the leaders of our two countries.

Annual meetings make all of us breathe a little bit easier. Such meetings by themselves will not, of course, guarantee progress in the vital area of arms control or on any of the other issues that divide us. But the ability of our two countries to destroy each other many times over makes it mandatory that we pursue all avenues that might reduce tensions between the Soviet Union and the United States.

Recently I introduced House Concurrent Resolution 242 expressing the sense of the Congress that the President should exert every effort to schedule annual summit meetings between the President of the United States and the leader of the Soviet Union. The resolution commends the President for the agreement of the two world leaders to meet again in 1986 and 1987 and urges them to institutionalize the practice of annual summits.

Last year, I introduced legislation urging the President to arrange a summit meeting with his Soviet counterpart. At that time the President was reluctant to make any commitment to hold such a meeting. In the spirit of bipartisanship in foreign policy I joined the Republican leader of the Senate, Senator Howard Baker and the Republican Chairman of the Senate Foreign Relations Committee, Senator Charles Percy, in calling upon the President to hold a summit meeting with the leader of the Soviet Union.

My legislation in the last Congress—which is very similar to House Concurrent Resolution 242 this year—was linked to the 40th anniversary of the convergence of American and Soviet troops on the Elbe River in Germany—an unforgettable moment of victory over the bloody tryanny of Hitler and his Nazi regime. The Elbe Resolution, which I introduced, called upon the President to initiate a serious, well-prepared summit on the 40th anniversary of the Elbe River linkup and to inaugurate annual summit meetings with the leaders of the Soviet Union.

Mr. Speaker, annual summits are surely no panacea, but they are a prudent first step toward a more sane and less dangerous world in this nuclear age. The lack of significant progress at the recent Geneva summit is a reminder both of the deep-seated differences between the Soviets and ourselves and of the need to increase our resolve to assure regular, on-going, high-level contacts. I invite my colleagues in the Congress to join me in cosponsoring this legislation urging our President to meet annually with the leader of the Soviet Union.

HOW INTERNATIONAL HUMAN RIGHTS DAY IS COMMEMORATED IN THE SOVIET UNION

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. GILMAN. Mr. Speaker, yesterday was the 37th anniversary of the signing of the Universal Declaration on Human Rights and many commemoration activities took place across the globe. Celebrated as "International Human Rights Day," many of our colleagues participated in a special order on the House floor on Monday. On Tuesday, President Reagan spoke before a large group commemorating this important event, and by so doing maintained the prominence of fundamental human freedoms as a major feature of our foreign policy.

Attempts to celebrate International Human Rights Day in the Soviet Union, however, were received in an entirely different manner by Soviet officials. Quiet activities were repelled, and a number of participants arrested.

Celestine Bohlen, of the Washington Post foreign service reported the details most clearly, a narration which I believe will be of great assistance to our colleagues in gauging Soviet human rights policy during this post-summit period. I therefore request that the Post article be reprinted in full at this point in the CONGRESSIONAL RECORD for review and consideration by my colleagues.

[From the Washington Post, Dec. 11, 1985]

A GATHERING AT PUSHKIN'S STATUE—PROTESTERS, POLICE PLAY OUT SILENT RITUAL ON HUMAN RIGHTS DAY

(By Celestine Bohlen)

Moscow, Dec. 10.—A light snow was drifting across Pushkin Square early this evening when a curious crowd gathered at the foot of a statue to Russia's beloved poet to watch a demonstration.

The demonstration, however, did not take place.

In the space of an hour, a gang of burly men, operating under the eyes of uniformed police, had whisked away, one after another, at least eight Soviet citizens, kicked a lens off a CBS television camera, pounced on a cluster of leaflets dropped in the snow and thrown the weight of a human wall against anyone who tried to get close enough to watch.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member of the Senate on the floor.

Boldface type indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

All the while, about a hundred people stood around the base of the statue, watching passively, their faces showing neither approval nor disgust. Even the man who appeared to act as coordinator of the police action asked an onlooker at one point: "What are you watching? This isn't a film."

The demonstrators were at the Pushkin monument to protest human rights violations in their country.

The occasion was U.N. Human Rights Day, which a group of Soviet dissidents first chose to mark five years ago by simply standing by the Moscow landmark and silently taking off their hats.

It was a token gesture, publicly inoffensive, but one that hinted at the determination of those who want to speak out somehow against the policies of the Soviet government.

As soon as the tradition started, the police, in and out of uniform, moved in to stop it.

By 6 p.m. this evening, the small park around the Pushkin statue in the heart of Moscow—and a traditional meeting place—had all the signs of a stakeout. Militiamen, or Soviet police, stood in groups of threes. A sense of expectancy was almost palpable.

On Gorki Street, in front of the statue and near the subway stop, groups of men and women lingered, chatting, smoking, looking very much like other people standing around waiting to meet friends, but with one difference: no one came to meet these people, and so over time the snow gradually piled up on their hats and shoulders, setting them apart.

In another corner of the park, a group of western reporters, mostly European and American, huddled together also waiting, shifting from foot to foot to battle the cold.

The first scuffle came shortly before 7 p.m. Someone had scattered what appeared to be handwritten pages at the foot of the statue. In seconds, the burly men dove to the ground, snatching up the pieces of paper and demanding that others hand over their copies.

One man found half of a ripped page on the ground; another leapt to grab him when the two recognized each other and laughed. They apparently were there on the same mission.

Outnumbered on all sides, by the press and the police, the people who apparently came to protest drifted into the crowd singly, talking to no one. As one couple was nabbed and walked off, a young woman said firmly, but quietly: "There—that's human rights." Then she was led off.

After hanging around the edges of the crowd for half an hour, another man walked up the steps of the statue, took off his hat and said he wanted to recite poetry. He also was grabbed and escorted away.

The people were driven off in cars and buses. According to those picked up in previous years, they are taken to local police stations and questioned for three hours before being let go.

Back at the statue, the ritualistic game of cat and mouse played itself out, and the crowd began to drift away. The uniformed police moved in, establishing order, urging onlookers to back away from the monument steps.

"Please step back," said one officer to an old lady, who had come early and stayed in the cold to watch. "This is our monument and we should respect it."

GRIDIRON VICTORY TO DAYTON HIGH SCHOOL

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. AUCOIN. Mr. Speaker, as the late football coach Vince Lombardi would say, "Winning isn't the most important thing, it's the only thing."

Coach Lombardi was a little tough. But a group of high school footballers in my Oregon district are probably thinking the same thing right now.

Dayton High School has captured the Oregon State class A high school football championship. The last time the Pirates took home the State champ cup was 21 seasons ago.

I recently met several of these rising football stars. And I believe they represent a new breed of high school athlete. Their performance on the gridiron and in the classroom is proof that athletics and academics really do mix.

Last week, Dayton played its best in what could only be described as an Oregon "ice bowl." Neither snow, subfreezing temperatures, nor the rock-hard, frozen turf prevented the Pirates from sliding to victory. Vince Lombardi would have been proud.

Neah-Kah-Nie High School put up a valiant fight—but Dayton persevered, and rolled, 38–20, to victory. Lead by Butch Jumalson and the best offensive line in Oregon class A ball—Dayton chalked up a win that will be remembered in Yamill County, and around the State, for years to come.

I grew up in a small town, and attended a small town high school. I know how hard it is to make the grade in statewide competition, let alone come out on top. And I know how important this victory is to the coaching staff, the parents, and especially the Dayton students who worked so hard to achieve their goal.

Coach Dewey Sullivan and his team went 13–0 this season—that's an envious record, whether you live in Dayton, OR, or Washington, DC. Those of us who spend a lot of time in the Nation's Capital can only wish the Redskins could post such outstanding statistics.

NEW YORK TIMES SUPPORTS SEAT BELTS ON SCHOOL BUSES

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. SMITH of Florida. Mr. Speaker, as a sponsor of H.R. 3305, the National Schoolbus Safety Act of 1985, that provides mandatory seat belts on all new school buses, I would like to bring the following December 11, 1985, New York Times editorial to the attention of my colleagues.

WHY NO BELTS ON SCHOOL BUSES?

Seat belts have been standard equipment in automobiles for so long that most children can't remember when cars came without them. Not so with school buses, in which many children spend more travel time than in the family car. The inconsistency demands correction.

Neither state nor Federal regulations require seat belts in school buses. The rare locality that requires them can thank an independent school board.

School buses already offer the safest surface travel, owing to special traffic regulations and to the Federal design standards to which they have been built since 1977. Of the 21 million children who ride school buses every day nationwide, fewer than a dozen died in crashes last year. The average number killed between 1981 and 1983 was 11. Mile for mile, only scheduled airlines are comparably safe.

Even so, there are unnecessary bus deaths, like that of Paul Goodrow, an 11-year-old from Mahopac, N.Y., last month. He was tossed into the air when his school bus went out of control and hit a boulder, and fatally injured when he landed on his abdomen on the seat back of the row ahead. A seat belt probably would have saved his life.

The current argument against school bus seat belts relies on a recent Canadian Government crash test study that showed belted passengers suffering more severe head injuries than unbelted passenger. But the study dealt only with head-on collisions and also showed belted passengers suffering less-severe chest injuries. The U.S. National Highway Traffic Safety Administration recently reported that half of all school bus fatalities occur in rollover accidents and 15 percent in side-impact accidents. It said safety belts "might be most likely to provide additional safety" in such accidents.

But what happens, opponents ask, if a group of belted kindergarten pupils had to flee a burning bus? The record suggests that fire is not a leading danger. Besides, learning how to unbuckle a seat belt and evacuate a bus ought to be as routine as a fire drill in school.

The main argument concerns cost—$2,000 more for a new bus with belts. Federal officials appear set against requiring them because they lack clear proof that safety would be enhanced. But it is hard to maintain that safety would be reduced. State legislators could serve both safety and education for adult driving by ordering school districts to insist on seat belts in all new school buses.

SERVICE STATION OPERATORS BURDENED BY SALE OF ARCO

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. FLORIO. Mr. Speaker, I wanted to underscore for my colleagues the ramifications of the sale of ARCO's east coast operation to Shell Oil Co., earlier this summer and the effects that this sale has subsequently had on the individual service station operator. The following article appeared in the November 17 issue of the Philadelphia Inquirer highlighting the dif-

ficulties one ARCO service station operator has had throughout this process and stressing that this situation is representative of a number of other dealers in similar circumstances.

Walter Emond had been leasing Walt's ARCO in Pitman, NJ, for the past 20 years when, this summer, he learned, through a customer, that ARCO had sold their east coast operation and that Shell would be the new owner of his station. In September, he was dismayed to learn that one of the stipulations made by Shell in agreeing to a new 3-year lease with Emond would be that he remain open on a 24-hour basis. Despite the fact that there would be little demand for services between the hours of midnight and 7 a.m. and Mr. Emond would spend $1,500 a week just to keep open during those hours, and despite the increased threat of crime, Shell seemed to have given Walter Emond and other service station dealers very little choice in the matter.

As a sponsor of legislation, H.R. 3338, to amend the Petroleum Marketing Practices Act and improve the position service station operators or franchisees have in such situations, I am concerned about the undue burden placed on Walter Emond and others like him all in the name of higher profits for the parent company. I commend this article to my colleagues' attention:

NEW SHELL 24-HOUR LEASES DISMAY EX-ARCO DEALERS

(By Virginia M. Resnik)

Walter Emond first learned that the Shell Oil Co. had bought all of the ARCO gas stations on the East Coast when a customer stopped into his Pitman station this summer and asked him if he would be going out of business now that his station was sold.

"I said, "What are you talking about?" Emond recalled last week. "My customer said, 'Didn't you know you were sold? ARCO sold its whole East Coast operation.' "

For Emond, who had leased Walt's ARCO on Woodbury-Glassboro Road in Pitman for 20 years, a bigger shock came in September when he went to a hotel in Cherry Hill to sign his new three-year lease with Shell.

"When I went to the meeting to sign the lease, they told me I had to be open 24 hours," Emond said. "I almost fell off the chair."

Emond, who did not have an attorney with him, said he had no choice. "It was either sign the lease or go out of business in December." He had previously set his own daily hours.

Last week Emond stood by his pumps and watched the huge ARCO sign come down and a red Shell sign go up in its place on the corner of his station.

ARCO gas station operators up and down the East Coast who lease their stations have faced the same decision in the last few months. Locally, service station tenants in Woodbury, Voorhees, Pitman, Somerdale, Stratford and Mullica Hill are in the same situation.

In Voorhees, the township committee unanimously passed an ordinance Tuesday that prohibits gas stations from being open between midnight and 6 a.m. No one spoke during the public hearing on the ordinance.

In Pitman, the borough council heard Emond's concerns about the 24-hour mandate and took no action. Emond said representatives of a 7-Eleven store in Pitman opposed limitations on business hours, and the borough council agreed with them.

Pitman Mayor Michael Hannum said that while he "sympathized" with Emond's situation, the borough council was advised by its solicitor "that it would be discriminatory to pick out only gas stations" and pass a law limiting their hours.

Hannum pointed out that Pitman has the 7-Eleven and two laundromats open around the clock.

"Southland [the parent company of 7-Eleven] expressed concern that their stores might be restricted. They argued very convincingly that they perform a service to the community by being open between midnight and 7 a.m.," Hannum said. He said Southland's representatives told the council that 7-Elevens do 20 percent of their business during those hours.

One operator, who asked not to be identified, said he refused to sign the 24-hour lease and told Shell officials that his station is in a residential area and that they would have to seek a zoning variance to operate after midnight. He said the lease was then changed.

Several service station operators covered under the open-all-night edict expressed concern for the safety of their employees because the stations would be more likely targets for robbers.

"Am I going to have to worry about coming in here one morning and finding the night man in a puddle of blood?" Emond asked. His station has been robbed twice in 20 years.

Ron Seig, the operator of a Shell station on North Broad Street in Woodbury, said he told his employees "just give them the money and don't argue. They [employees] don't carry much money anyway."

Seig finds humor in the 24-hour plan, which was supposed to take effect as soon as station operators signed new leases. "If you know Woodbury, you know that after 11 you could play tennis in the middle of Broad Street on most nights and not get hit by a car."

Emond said, "They roll up the sidewalks around here at 9 o'clock. This is going to cost me money. I have to pay two men, plus the insurance and electric. I'm not going to make it [at night] on the gas, so I'll end up working three hours [repairing cars] in the morning to catch up on what it costs me to be open at night."

Two station owners estimated it would cost them about $1,500 a week to remain open from midnight to 7 a.m.

One Camden County Shell operator, who said he didn't want to be identified because he feared retaliation from Shell officials, said he knew of several Shell stations that had not begun to operate 24 hours, even though their leases required them to do so.

"You can't make money in those hours [midnight to 7 a.m.]," he said. "I talk to truck drivers coming from North Jersey and New York. They say Shell stations up there aren't open, either, and they have the same leases. If it's enforced many places, [Shell stations] will go under."

John Macguire, the Shell Oil Co. territory manager in Wilmington, Del., who handles the South Jersey area, declined to discuss the issue.

Norman Altstedter, a Shell spokesman in New York, denied that any operators were forced to sign the contracts stipulating stations remain open 24 hours. "Certainly our contracts are negotiable," he said. "The reason we try to have stations stay open for 24 hours is it's good for business for the dealer and for us.

"We have the most extensive [24-hour] program among the oil companies. We certainly encourage dealers to remain open 24 hours. We're doing it all over the country," Alstedter said.

He also said Shell has a security and safety program that includes sales for service stations, rewards for information that leads to arrests and bullet-proof booths for attendants at some stations.

Altstedter said he did not know why dealers are claiming they had no choice but to sign the leases or go out of business.

"Our experience has shown that a dealer [open 24 hours] makes more money over a period of time if they stick with it. It does work out," he said.

FATHER HORACE B. McKENNA, S.J., PRIEST OF THE POOR

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. MAZZOLI. Mr. Speaker, the Society of Jesus is world renowned for its rich tradition of theological and academic scholarship and of teaching excellence in the classroom.

Less renowned but just as rich is the Jesuit tradition of service to the least among us.

One of the priests who most, in his life, reflected the highest Jesuit tradition of service to the needy and the unfortunate was Father Horace B. McKenna, S.J.

While Father McKenna died 3 years ago, his memory still surrounds and infuses St. Aloysius Parish, the site of his mission to Washington's street people, and Gonzaga College High School which is located on the same grounds. Father Horace's spirit of caring concern has inspired a generation of Gonzaga students to live out their school's motto and to become: Men for Others.

One of the keepers of Father Horace McKenna's special flame—and fame—is our former colleague, John S. Monagan, who served his congressional district, Connecticut and the Nation with distinction during his seven terms here in this House.

John has written a book about Father McKenna called—simply and appropriately enough—"Horace, Priest of the Poor." John's book is published by the Georgetown University Press.

Mr. Speaker, I ask permission to place in the RECORD, at this point, an article by Congressman Monagan entitled "Saint Horace," which appeared in the fall 1985 issue of the Georgetown magazine describing an uncommonly virtuous, sometimes cantankerous, but always loving and holy man, Father Horace B. McKenna, S.J.

SAINT HORACE

(By John S. Monagan)

When Father Horace B. McKenna, S.J., died three years ago at the age of 83, the highest officials of church and state joined spontaneously in praising his life-long efforts on behalf of the destitute and the oppressed. A New Yorker by birth, he had chosen to work with the rural poor and had spent over two decades in a black parish in

Southern Maryland. When this assignment was completed, he passed the remainder of his life in the inner city providing material and spiritual aid to people at the bottom of the social ladder. It was then that many from the Hilltop came to know and love him.

Throughout his career, Horace, as he was affectionately known, cherished his close links with Georgetown. In his wide-ranging social activities, he regarded the University as a reservoir of service and her undergraduates and alumni responded generously to his calls for help. Members of the faculty frequently visited his church, St. Peter Claver, at St. Inigoes in southern Maryland, to preach or perform other priestly functions. With the help of Eugene L. Stewart (C'48, L'51) and the support of the University, he created "Sursum Corda," Washington's inner-city housing project. He pressed Washington restaurateur Richard J. McCooey (C'52) into service to create SOME (So Others Might Eat), the highly successful cafeteria for the needy, where scores of socially-minded undergraduates have made their way to perform voluntary services and be educated in the needs of the disadvantaged.

It was at the recommendation of the Rev. Richard McSorley, S.J., that sociology professor Veronica Maz first brought some of her students to Horace's St. Vincent De Paul Society facility on Eye Street to learn the facts of life in the central city. She was so impressed with Horace's dedication that she lent her considerable powers to galvanize his projects, in particular one known as Martha's Table (named by Horace), dedicated to assisting the hungry of Washington, and in sponsoring McKenna's Wagon, a mobile dispenser of soup and sandwiches to the poor.

At least in part due to Horace's urging, the Georgetown Dental School now provides regular, free dental services to the clients of SOME.

Some think Horace McKenna canonizable. Georgetown has recently paid him honor in two particulars. A McKenna section has been established in the Special Collections Division of the Lauinger Library, where all of his papers have been deposited. In complements, the Georgetown University Press has published a McKenna biography, Horace—Priest of the Poor (written by the author of this piece).

Although he loved the literary classics and constantly read the Scriptures in Greek and Latin, Horace was not an academic. His mission was that of a parish priest living in close contact with his parishioners and serving their needs. In particular, it was to the indigent and the blacks that he directed his interest, raising his performance to a unique level with his remarkable persistence and humor.

He dedicated himself to this service at a time when his religious brethren spurned this area of work. He battled to improve the lot of his charges in the worst days of the Depression by obtaining federal, state, archdiocesan, and private aid and, when his efforts to bring equality of opportunity to blacks aroused the violent opposition of reactionary whites and caused him to be removed from the rural scene, he took up the cause of the urban underprivileged. As he said, he became an "alley-whacker" instead of a "bushwhacker" and began his life-long patrol of the downtown streets. Here he created a ministry of his own. "The work is the same—chasing sheep," he said, "—but the ground is harder."

At 19 Eye Street, his daily "line" provided emergency relief for crowds of petitioners, and from this vantage point he sparked a variety of programs calculated to give assistance to the homeless, the incompetents, and the luckless. It is a tribute to his foresight that several of these programs continue with conspicuous success today.

Although he operated in the midst of squalor, poverty, and human depravity that would have floored a weaker man, Horace was blessed with a marvelous sense of humor that helped to lighten his burden and also gave color to his preaching and his conversation. He could reduce complicated concepts to a vivid phrase. Explaining priestly vows, he once said that dedication to chastity meant "you could take a lady to lunch, but not to dinner."

Animating every activity was a devoutness that caused Horace to begin each new undertaking with a prayer, and a sanctity that impelled him to cling to essentials and to eschew the creature comforts sought by his less motivated contemporaries.

Horace was an independent thinker. To the very end of his life, his mind was a penetrating, searching machine. He submitted governmental policies and those of the Church to unrelenting examination. It was this devotion to the dictates of conscience that brought him difficult days in 1968 when he differed publicly with Cardinal O'Boyle on the morality of the encyclical "Humanae Vitae." When he joined forty other priests in opposition to the cardinal's position against birth control, he was disciplined by being deprived of his faculty to hear confession for a period of two-and-a-half years. The issue became a *cause célèbre* when nineteen of the priests, known as the "Washington Nineteen," succeeded in establishing a precedent for processing an appeal in such cases. The result was the creation of a papal commission which produced a formula for agreement by the contending parties.

With this agreement, Horace ended his period of penalty. With a wryness that belied the anuguish he had suffered and the soul-searching he had gone through, he observed, "That's what you get for arguing sex with an Irishman."

The final judgment of the Church, through its prelates and most prominent institutions, was to bestow upon Horace its accolade for his heroic life and his works of mercy. His great contribution was to be a precursor, a stimulator, and an example. He was ahead of his time in favoring greater attention to the poor when his projects were considered "off-beat" and the interest of the average person was directed into other channels. "The poor are all about us," he said. "We will see them if we only look." If there is a greater concern for the destitute today and a greater willingness to help them, much of the reason for this shift in public attitude can be ascribed to the teaching and example of Horace, who is buried in the cemetery below the Ryan Adminstration Building.

When as an infant he was brought to the parish church to be baptized and the officiating priest asked what his name was to be, Dr. Charles Mckenna, his father, said "Horace." The priest demurred. "There is no Saint Horace," he said. "He'll be the first," replied Dr. McKenna.

BANNING THE MEDIA IN SOUTH AFRICA

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. RANGEL. Mr. Speaker, I rise today to comment upon the apparent ignorance of the South African Government about what the root cause is of the continuing unrest in that country.

Pretoria's rulers seem to believe that outside forces are behind the continuing violence. They blame Communists, neighboring countries, and the international antiapartheid movement for inciting discord. Most recently, Pretoria made the astounding claim that the media is to blame for encouraging militant nonwhites to flout authority.

No one in the white hierarchy has considered the possibility that apartheid is to blame. The media has had very little to to with the alienation of an entire generation among blacks. Nor has the media been the catalyst behind the rise of prominent leaders such as Steven Biko, Nelson Mandela, Desmond Tutu, or Allen Boesak. Blaming the media for the prerevolutionary situation in South Africa is at best a dangerous mistake. More likely, it is a calculated attempt to legitimize further repression by the Government.

I would urge my colleagues to protest this latest escalation in the war against freedom in southern Africa. In this vein, I submit the following articles for inclusion in the CONGRESSIONAL RECORD.

[From the New York Daily News, Nov. 20, 1985]

IN SOUTH AFRICA, THE PRESS IS LOOKING THE WRONG WAY

(By Earl Caldwell)

The newspapers have gone back to reporting pieces of the story, a bit here and a bit there. On television there is almost nothing.

In South Africa, they're calling the news media's bluff. Reporters always, say: You get the story, you get it by any means necessary, you do what you have to do. South Africa is saying: Not here, not any more.

Yesterday, in one of the pieces to come back from South Africa, the report was that over the weekend at least 13 more people were killed. The report was that the police, armed with shotguns opened fire on crowds of blacks. The explanation was that some in the crowd had thrown stones and gasoline bombs. This, we're told, happened near East London in a place called Queenstown. There were no other details. The bits and pieces are all we get.

Just a few weeks ago, the story from South Africa was one of the biggest in the world. It was hard to pick up a newspaper or magazines that didn't have a report. And on television, night after night, there was film that told the story in a compelling way.

Then the government in South Africa called the media's bluff. The government told reporters to get the information they needed from the police. They told television to keep its cameras out of Soweto, where 2 million blacks live altogether. And they told them not to take their cameras to any of the other places where the story they were after was developing.

Nobody tells reporters what to do. Nobody tells television that it can't cover a story it really wants to cover. But the South Africans did. They told the media all that—and then threatened fines (up to $8,000) and prison sentences (up to 10 years) for the ones that didn't obey. So in the papers now, there are only snatches of the story. And on television, almost nothing.

The South Africans are gambling. There is no way in the world they can fill their jails with reporters and photographers and camera crews from around the world. They can't do it; it's as simple as that. But the gamble they're taking is that can call the media's bluff. They believe they can threaten reporters and that just doing it will scare them off. The South Africans don't believe the media is ready to go all out to cover the story.

The tradition of reporters doing what has to be done to get the story goes back a long way. Some news people have been jailed, and others have lost their lives. But the tradition says, You report the story.

The South African government can throw every foreign journalist out of the country. That's easy to do. But the South Africans cannot imprison the media of the world. They know that, and they are not even prepared to try to lock up journalists in a wholesale way.

But they are, as the saying goes, selling wolf tickets. They're playing poker. And while they may not be getting over, they are getting by. For now, that counts. It counts big.

Reporters are not free to report. They are not even free to move about and observe, to just see what is going on. So no matter what happens in South Africa, there is just one version of the story, and that's the one police tell.

Recently, the chiefs of various foreign news bureaus in South Africa were asked how they intended to respond to the restrictions imposed by the government. Most said they would obey the law. But most also said that if something really big were to happen, they would cover the story no matter what.

It was another piece of the evidence that the media has accepted the bluff. Something big is already going down in South Africa. In less than a year, close to 1,000 lives have been lost, and the killing is on the rise. Just the past weekend, another 13 died.

But still, in the newspapers there are only bits and pieces of the story, and on television, almost nothing. For now, the South Africans are calling the news media's bluff.

[From the Washington Post, Thursday, Dec. 5, 1985]

South Africa Tries To Keep It Hidden—But the Brutality, Not the Reporting of It, Is the Threat

(By William Raspberry)

Johannesburg.—It's easy to get so caught up in the unexpected fights, the political turmoil, the sense that change is finally about to come to this troubled land, that you sometimes need to be reminded of what the turmoil is all about.

My reminder came the other night at the Market Theater, where I saw a portrayal of the (Steve) Biko Inquest.

The makeup of the audience was one of the surprises that one so quickly comes to take for granted; mixed couples and racially integrated parties of theatergoers sipping pre-theater cocktails and exchanging pleasantries in this land of apartheid, without obvious self-consciousness.

But then begins the performance: a powerful, condensed, reputedly quite accurate portrayal of the inquest into Biko's death after 26 days in incommunicado detention. You hear no word from Biko himself—the play is set after his death. What you get, while listening to the official explanations and buck passing, is a reminder of the corruption and the physical and mental brutality required to maintain this awful system.

You know it already, of course. You know it from visits to Soweto, where a significant portion of the huge population lives in utter squalor, where children now on strike from school wander aimlessly about, where the armored personnel carriers called Casspirs are a common, thoroughly detested part of the landscape.

You know it from hearing, at a recent press conference, eyewitnesses to police violence that left 13 people, mostly elderly women, dead after a protest march in the Pretoria township of Mamelodi.

But this knowledge fades surprisingly fast when you return to the somewhat unreal would of the cities, and you begin to understand why the authorities have put such heavy restrictions on journalist forays into the townships. A few print reporters manage to get around the restrictions, but no one takes any outlandish chances for fear of having his newspaper shut down. More telling by far, though, is the absence of television pictures. (Reporters, photographers and TV camermen, when they are lucky enough to obtain permits to enter the townships, are understanding orders to put their notepads and cameras aside when an emergency situation—meaning anything worth recording—arises.)

As in America, there is the sense here that it didn't happen if it's not on television. Even when you know it happened, because you read about it, the absence of pictures keeps it from registering as deeply as it otherwise might. People outside the townships—which is to say white people—got precious little on their state-run TV channels of what was happening in the townships even before the recent press restrictions. Now they get virtually nothing except "talking heads" reports. The violence that they don't see doesn't become a part of their dinner table or cocktail time conversation. It doesn't intrude unbidden into their thoughts. It doesn't quite exist.

In short, from the viewpoint of the authorities, the press restrictions are working. Not perfectly, but well enough for now. They sometimes pay a price when, as in the Mamelodi slaughter, the reporters (and by extension, their audience) are forced to choose between the statements of self-proclaimed eyewitnesses with an interest in making things sound as gruesome as possible and the statements of the authorities, which regularly turn out to have understated the facts by a wide margin. Professional reporters, had they been allowed at the scene, might have provided a fairly realistic picture of what took place.

But even as it works, the government's keep-it-hidden policy contains the seeds of disaster. By masking both the level of official violence and the growing resistance to it, the government may be misleading the ruling white minority into a false sense that there is still plenty of time to work things out.

For if the police and military violence—indeed the violence of apartheid itself—isn't quite real for whites, who don't see it on television, it is terribly real for its victims, who increasingly are demanding relief on pain of rendering the country a bloody and ungovernable mess.

The disparities a visitor sees as he moves about the cities look not much more appalling than ordinary class differences.

And then the Biko play restores context. The deaths in detention neither began nor ended with Biko. The most recent (only a fool would say the last) was recorded in 1985.

Nor have the detentions, more often than not without charges being brought, abated. The 290 detentions of last week brought to more than 6,200 the number of people detained since the emergency regulations went into effect on July 21. The authorities—perhaps again to keep whites from understanding the seriousness of the situation—don't even bother anymore to release the names of the detainees, though it is believed that 1,200 are still being held.

Maybe one day the government will learn that it is not the press reporting of facts but the awful facts themselves that constitute the threat to peace in South Africa.

The program notes include a 1971 Biko speech that ends with this passage: "The tripartite system of fear—that of whites fearing the blacks, blacks fearing whites, and the government fearing blacks and wishing to allay the fear among whites—makes it difficult to establish rapport between the two segments of the community. The fact of living apart adds a different dimension and perhaps a more serious one: it makes the aspirations of the two groups diametrically opposed.

"The white strategy so far has been to systematically break down the resistance of blacks to the point where the latter would accept crumbs from the white table. This we have shown we reject unequivocally. And now the stage is therefore set for a very interesting turn of events."

AN AMERICAN SUCCESS STORY

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. GARCIA. Mr. Speaker, the New York Times recently ran an article on a friend of mine, a municipal bond officer with Goldman, Sachs & Co., Mr. Robert N. Downey.

The article discusses Bob's contributions to his firm and how his hard work turned the firm's fortunes around. I must admit, however, that I'm not at all surprised. Bob Downey is a remarkably hard working and creative individual. He deserves the praise that the Time article affords him. Bob Downey is a credit not only to his firm but to New York City as well. I commend the article to my colleague's attention.

Municipal Bond Officer Leads Goldman to Top

When Robert N. Downey came to Goldman, Sachs & Company in 1969, the firm was not much of a force in the municipal bond business.

"When I came here there were a dozen people in the municipal bond department," Mr. Downey said in a recent interview.

"The first year I was here we did two little issues for colleges and ranked 50th among municipal bond underwriters. We didn't do much business that year, but we generated a lot of ideas."

Times have changed, and those ideas have borne fruit.

This week Mr. Downey's department, which now consists of 132 professionals, acted as lead manager on $1.6 billon worth of municipal bond issues.

The weekly total, a record for any firm on Wall Street, swelled the volume of financings in which Goldman, Sachs has acted as lead manager so far this year to more than $12.8 billion. This week's deals helped to widen the firm's lead over Merrill Lynch as the nation's leading underwriter of municipal bonds.

Mr. Downey, 49, was named a partner at Goldman, Sachs in 1977 and took over management of the municipal bond department three years later.

When he talks about the department's success, the subject he dwells on most are its people.

"That's the No. 1 thing," he said. "We certainly have the people with the brains and the motivation to do deals."

The introduction of new financing twists like growth and income securities has helped attract clients to Goldman, Sachs. But the firm's surge this year has also occurred during a period when the entire municipal bond market is booming.

Issuers, wary of tax legislation being debated in Congress and attracted by a steady decline in interest rates this year, have floated a record $107 billion worth of debt so far in 1985. For all of last year, $101 billion worth of new municipal debt issues went to market.

Some observers predict that an additional $50 billion to $58 billion worth of public debt may be offered in the last two months of the year.

"I don't see that much more coming, but the market is certainly absorbing all that is being issued," Mr. Downey said.

Along with other participants, Mr. Downey seems convinced that the pace of activity will not spill into 1986.

"There will be a big fall off after the first of the year," he said, "if only when it is compared to the last few months of 1985."

Mr. Downey, a graduate of Dartmouth College, began his career in municipal finance with R. W. Pressprich & Company in 1962.

A TRIBUTE TO DR. HAROLD L. SHIRE OF LOS ANGELES

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. WAXMAN. Mr. Speaker, I would like to ask you and our distinguished colleagues to join me in saluting a remarkable man and an outstanding Los Angeles leader, Dr. Harold L. Shire.

On Friday, November 29, on the occasion of his 75th birthday, Dr. Shire was honored by his family and many friends at the Congregation Shaarei Tefila in Los Angeles. Dr. Shire is prominent as a lawyer, industrialist, educator, and philanthropist. As an attorney, he has held positions as assistant U.S. attorney and assistant district attorney in Los Angeles County, as well as practicing privately in Los Angeles and Beverly Hills.

But Dr. Shires' talents and achievements go way beyond the law. He holds degrees of MLA, MBA, and Ph.D. as well as his J.D. His invention of flexible connectors on jet aircraft made a historic contribution to aviation. He founded the General Connectors Corp., and served as president and chairman of the board of that company. He has been a professor and assistant vice president at Pepperdine University in southern California, and has taught at the United States International University in San Diego.

Dr. Shire has also been a tireless and enormously resourceful benefactor of the Los Angeles Jewish community. This commitment extends beyond the Jewish community of today to that of decades from now, as he has devoted himself to such projects as the Yeshiva University of Los Angeles, which will enrich the community long into the future.

Mr. Speaker, I believe this extraordinary American richly deserves the recognition given to him on November 29. I ask that the leadership and the Members of the House of Representatives join me in wishing Dr. Shire, his wife Cecilia Shire, and all of his family good health and many more years of continued contribution to our community and to our Nation.

CARGO PREFERENCE COMPROMISE

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Ms. MIKULSKI. Mr. Speaker, one of the most significant issues currently being debated in the House-Senate conference on the farm bill is cargo preference.

As my colleagues know, cargo preference is an essential element in maintaining our U.S. merchant fleet. Since 1981, we have lost over 18,000 seafaring jobs, a decline of nearly 40 percent in that industry. We have seen a sharp drop in orders of private ship construction, resulting in fewer jobs for cities like Baltimore, MD, and Boston, MA.

Mr. Speaker, earlier this year, representatives from all sectors of the U.S. maritime industry came together with groups from the agricultural community to work toward a compromise on cargo preference. Those of us who support a strong merchant marine would have preferred no compromise on cargo preference.

But after much thought and consideration, we have recognized that the substantial benefits of export promotion programs were being withheld from American farmers because of USDA's shutdown of the Blended Credit Program. They bargained in good faith, despite the fact that the Federal courts had reaffirmed their original position on cargo preference. They recognized, as I do, that two suffering industries like agriculture and the merchant marine should be working together to strengthen, and not weaken, their respective interests.

Last week, the House Merchant Marine Subcommittee, on which I serve, held an oversight hearing on the "Cargo preference compromise." The maritime coalition supporting the compromise appeared before the subcommittee, indicating why they believe the solution they have proposed, and which is before the House-Senate conference, is a good idea for those who serve in the merchant marine and for farmers.

Mr. Speaker, I commend the coalition's statement to my colleagues, and urge them to indicate their support for this compromise to the House Members of the conference committee.

STATEMENT OF THE MARITIME COALITION ON "THE CARGO PREFERENCE COMPROMISE" BEFORE THE HOUSE MERCHANT MARINE SUBCOMMITTEE DECEMBER 5, 1985

Mr. Chairman and members of the subcommittee, we welcome the opportunity to present our views on the cargo preference compromise between the maritime and agriculture industries. The panel appearing this morning was selected to represent the broad spectrum of the American maritime industry which worked to craft the compromise. All of the organizations in our coalition are listed on the covering page of the written statement. Our panel consists of: Bruce J. Carlton, Deputy Executive Director of the Joint Maritime Congress; C. James Patti, President of the Maritime Institute for Research and Industrial Development; Frank Pecquex, Legislative Director of the Seafarers International Union and Maritime Trades Department, AFL-CIO; Albert E. May, Executive Vice President of the Council of American-Flag Ship Operators; and Emanuel Rouvelas of Preston, Thorgrimson, Ellis and Holman, appearing on behalf of the Transportation Institute. Before discussing the cargo preference controversy and eventual compromise, the coalition would like to express its deepest appreciation for the leadership, thoughtfulness and strong support demonstrated by the members and staff of the subcommittee and the full Merchant Marine and Fisheries Committee during the debate and vote on cargo preference provisions in the House farm bill. Indeed, without your leadership and the wide margin of support you developed on this matter, we undoubtedly would not be here today to discuss a compromise.

The compromise on cargo preference drafted by the maritime and agriculture industries was the culmination of a long chain of events associated with the so-called "Blended Credit" controversy. We do not need to describe in detail all of its components but nevertheless, it is useful to recall two key aspects of that episode which in large part helped established the foundation upon which this compromise was built.

In her decision in *Transportation Institute* v. *Dole*, U.S. District Court Judge June Green found unequivocally that the Cargo Preference Act of 1954 applied to the Blended Credit program administered by the U.S. Department of Agriculture. Judge Green further observed that although the court had not been asked to rule on cargo preference applicability in the GSM-102 (loan guarantee) program, she would have concluded that cargo preference applied in that case too. Immediately after her decision, USDA suspended the Blended Credit program to avoid complying with Judge Green's order, thereby abandoning more than one-half billion dollars in export sales of agricultural commodities.

Thus, despite the fact that the federal court had reaffirmed the position of the maritime industry on cargo preference—and originally that of DOT—the substantial benefits of export promotion programs were being withheld from American farmers by USDA's shutdown of the Blended Credit program.

The maritime community was galvanized by these events and joined ranks to defend the principle of cargo preference and to ensure its equitable and judicious application. Representatives of every affected segment of the industry met together for the first time on March 13 of this year to discuss what was then viewed to be a total impasse on the Blended Credit controversy. It was also perceived that a broad and deep attack on the principle of cargo preference was brewing, and that all cargo preference programs might be jeopardized. That meeting formed the basis of what would become today's unique coalition of labor, management, ship operators, shipbuilders and related groups. I would add at this point that our differences on other important maritime issues are well known and understood by members of this subcommittee. This is not the case with cargo preference. Without reservation, we are bound and determined to see that cargo preference is carried out to the full letter of the law.

Between March 13 and June 4, the maritime cargo preference coalition met frequently to devise and refine a strategy to overcome the obstacles we faced. Our initial efforts were directed to restoring the Blended Credit program and defeating legislation designed to reverse Judge Green's decision. Our attempts began with letters to USDA from the House and Senate—in large measure from this subcommittee—urging Secretary Block to reconsider the decision to terminate the program. We also focused on S. 721, a bill which went far beyond a mere reversal of the District Court decision in that it would have vested total discretionary authority in USDA to determine when cargo preference was to be applied. Our industry quickly determined that enactment of S. 721, or the several similar bills introduced in the House, could foreshadow the total demise of cargo preference, and with it the destruction of our industry.

We were heartened by the strong show of support from members in both houses. Nevertheless, there was no movement to renew the Blended Credit program, thereby shutting off cargoes for the merchant marine and penalizing the farm community. Likewise, anti-cargo preference/anti-maritime language was incorporated into the early drafts of both the Senate and House bills authorizing the farm programs undertaken by USDA. Simultaneously, the government appealed the Blended Credit decision, and we were forced to continue our legal battles. But there was an unexpected benefit arising from the struggle. The hard work of the coalition on cargo preference cemented the maritime industry to a degree which surprised even our most vocal critics.

We should stress, however, that the goals of the coalition at this point did not include a compromise with any other group or industry. Our work was aimed solely at the preservation of the very existence of the U.S.-flag fleet. On June 4, representatives of the maritime coalition met for the first time with those of the agriculture industry to discuss our differences on cargo preference. In our view, this meeting was just another step in the process of preserving cargo preference. Over the course of nearly two months, these same representatives continued to meet in intense, straightforward and vigorous negotiations. We quickly found some common ground: both industries were in deep economic trouble; both were victims of longterm worldwide recession; both suffered precisely the same consequences of an over-valued dollar; both faced stiff foreign competition, which was often heavily subsidized by foreign governments; and both needed immediate relief if their continuing economic difficulties were to be reversed.

Maritime and agriculture recognized that some degree of "give-and-take" would have to take place. Since there was no controversy whatsoever on cargo preference as it applied to the P.L. 480 Food for Peace program, that matter was not examined. Rather, we focused on those various government-assisted export promotion programs that had separated our two industries for many years, culminating in the Blended Credit controversy.

At the outset, both sides laid down guiding principles which were seen as forming the basis of any agreement which we might be able to devise. The maritime industry articulated two such principles: one, we needed additional cargoes on U.S.-flag vessels to promote our economic well-being; and two, the principle of cargo preference was non-negotiable. The representatives from agriculture explained their basic requirements just as succinctly: one, they needed flexibility in designing export promotion programs in order to increase sales abroad and stem the tide of declining exports; and two, they needed to know precisely when cargo preferences was to be applied to government funded programs.

The stage was thus set for the difficult process of negotiation, accommodation, and cooperation. We began with several proposals and counter-proposals from both sides of the table, each structured around our respective interpretations of the other side's "guiding" or "baseline" positions. But in spite of two weeks of serious and good faith efforts, we still were unable to conclude a workable mechanism.

At that point, maritime offered the outline of a proposal which went directly to each side's essential demands and provided the framework of the compromise before you today. Cargo preference would not apply to the commercial-type export programs of the USDA or CCC, such as Blended Credit and Export PIK. Cargo preference requirements on concessional-type programs, such as P.L. 480, administered by USDA, CCC and AID would increase by 25 percentage points, phased-in over 3 years. The principle of cargo preference would be preserved, and agriculture would know precisely when it was to be applied. A further consideration, that cargo preference be administered by DoT in a flexible and efficient manner led to the proposal that a broadly representative national commission be created to examine ways in which the current practices could be improved upon. A key element in the national commission was the direct participation of the Congress, including the Merchant Marine & Fisheries Committee.

The two sides were able to reach an agreement based on this core concept, primarily because there was a recognition that each side's basic demands were preserved, and that such a solution, if enacted into law, could be administered with relative ease when compared with other proposals we had explored.

Before we conclude our statement this morning, we would like to stress again that the entire maritime industry stands united behind this compromise, and we are joined as well by a broad-based coalition of agriculture interests.

This subcommittee and its parent committee took the lead in in fending off the most concerted attack on cargo preference and the U.S.-flag fleet to come before the House of Representatives in many years. The maritime industry is grateful for your solid defense. We would ask this subcommittee to lead the way again in supporting this compromise when the issue is raised during the conference with the Senate on the 1985 farm bill.

This concludes our remarks. We would be pleased to answer your questions.

A SALUTE TO THOMAS B. SHROPSHIRE

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. STOKES. Mr. Speaker, thank you for providing me with this opportunity to salute my good friend, Mr. Thomas B. Shropshire. Recently, Mr. Shropshire retired after 33 years of distinguished service with the Philip Morris Corp. and the Miller Brewing Co. With his retirement, Philip Morris and Miller Brewing have lost an exceptional corporate executive.

Mr. Speaker, Thomas B. Shropshire has been a trailblazer. He was one of the first black Americans to become an officer with a major corporation. He, in turn, has helped other black Americans get started in the corporate sector. For these individuals, Thomas B. Shropshire has been a mentor, motivator and confidant.

Thomas Shropshire began his association with Philip Morris in 1952 as a sales representative. He progressed through the ranks as the export representative to the international division of the Philip Morris Corp. By the mid-1960s, he had held a number of positions with Philip Morris in Africa.

His achievements in Africa were so impressive that in 1972, Thomas Shropshire was appointed by Philip Morris executives to the new management team for the Miller Brewing Co. Largely because of his work and expertise, today, the Miller Brewing Co. has been elevated from the number seven slot to the number two brewer in terms of sales in the United States.

In 1978, Tom was elected vice president of Philip Morris, Inc. and senior vice president of the Miller Brewing Co. He also is a member of the board of the Miller Foundation and the Seven-Up Co.

In addition to his achievements within the corporate sector, Thomas Shropshire has been active with numerous civic, community and charitable organizations. Because of his efforts, the Miller Brewing Co. and Philip Morris have expanded its corporate contributions to include such organizations as the National Urban League, the United Negro College Fund and the Congressional Black Caucus Foundation.

As a result of his tireless efforts with these and other organizations, Thomas Shropshire is the recipient of numerous

awards and honors. He is revered by individuals from all walks of life.

Mr. Speaker, the thing that stands out most in my mind about Thomas Shropshire is that he is an exceptional human being. He has dedicated his life to not only succeeding in the corporate sector, but also helping others to succeed. He is an unselfish individual who has used all of the resources at his disposal to help others.

Although he is retiring from his position with Philip Morris and the Miller Brewing Co. I know that we will continue to hear about his work with various civic organizations. At this time, I ask my colleagues to join with me in saluting Thomas B. Shropshire on his retirement.

Mr. Speaker, I would like to insert in the RECORD an article which appeared in the Cleveland Call and Post on my good friend, Thomas B. Shropshire.

[From the Call and Post, Nov. 7, 1985]

Miller Executive Thomas Shropshire Chooses Early Retirement

Milwaukee—Thomas B. Shropshire has elected to take early retirement after 33-years with Philip Morris and the Miller Brewing Company. His retirement became effective November 1.

However, the 60-year-old senior vice president and treasurer will continue his association with the firms by serving as a consultant to the Philip Morris companies.

When he's not consulting, Shropshire will pursue his favorite hobby, golf, "stay involved with my photography and spend a lot more time with my son and daughter." He and his family now live in Mission Viejo, Calif.

Shropshire, whose career spans four decades, is one of a small cadre of Black men and women who helped open the doors for other Blacks by venturing into the corporate world at a time when few companies hired Black professionals. He is also one of very few Blacks who reached the upper echelons of that world.

The foundation for Shropshire's success was laid in Little Rock, Ark., where his widowed mother, a school teacher, worked hard to instill in her three sons the importance of education, a commitment to excellence, full use of their God-given talents and a commitment to helping others. Her efforts were successful. In addition to her son Tom, Mrs. Shropshire's son William (called Bruce by his family) is an oral surgeon in Atlanta, and her son Jackie is a lawyer in Gary, Ind.

After completing his education in Little Rock, Tom Shropshire enrolled in Lincoln University in Jefferson City, Mo., where he majored in business administration. He then attended the graduate school of business at New York University, and served in the U.S. Navy.

With the help of the New York Urban League, Shropshire obtained a job with Philip Morris Incorporated in 1952 as a sales representative in Brooklyn, N.Y. The following year he was named college supervisor, a position he held for seven years.

Shropshire's effectiveness on the domestic front lead to his appointment in 1961 as export representative to Philip Morris' international division. He spent the next decade of his life working in Africa. As export representative, Shropshire was responsible for organizing and supervising distribution and sales of Philip Morris products in 20 different countries.

From 1963-1966, Shropshire served as sales manager for tropical Africa; and, in 1967, he was appointed coordinator for Africa.

His rise up the corporate ladder continued in 1968 when he was named chairman and managing director of Philip Morris Nigeria—responsible for not only marketing, but manufacturing operations as well.

While much of his time in Africa was spent handling company business and advancing his career, Shropshire did not forget an all important tenet of his mother's teaching—a commitment to helping others.

Shropshire served on the Court of Governors of the University of Lagos Medical School, the Nigerian-American Chamber of Commerce, and the Nigerian National Swimming Association. In addition, he served on the All-African Games Committee.

Shropshire's management of Philip Morris operations during his tenure in Africa helped the company's Marlboro brand become the number one selling tobacco product worldwide; and helped firmly establish the viability of product segmentation in the consumer marketplace.

In recognition of his contributions to the company, Philip Morris chose, in 1972, to make Shropshire a member of the new management team sent to Milwaukee to turn the Miller Brewing company into a top beer industry contender.

Shropshire, who was elected to the board of directors of the company, initially served as vice president of market planning for Miller. His leadership helped guide Miller from a modest seventh position in the industry to the number two brewer in the United States.

In 1978, Shropshire was elected a vice president of Philip Morris Incorporated, and senior vice president and treasurer of Miller. He also serves on the board of the Miller Foundation, the Seven-Up Company, Key Banks Incorporation, Athletes for Youth and the Milwaukee Bucks Professional Basketball team.

As he did in Africa, Shropshire has given his time to organizations that benefit others. He formerly served on the advisory council of the W. Paul Stillman School of Business at Seton Hall University in South Orange, N.J., the Business Advisory Council of Milwaukee's Cardinal Stritch College, and as a trustee of Talladega College in Talladega, Ala.

He has been active in the Milwaukee Urban League, the Wisconsin Advisory Committee of the U.S. Commission on Civil Rights, and the National Industrial Advisory Council of Opportunities Industrialization Centers of America (OIC).

He is currently a member of the board of trustees of the National Urban League and Howard University.

Shropshire said he "will probably get involved with community activities in California."

In addition to his person participation in civic, educational and community activities, Shropshire was instrumental in getting Miller involved in fund-rising efforts for such organizations as the United Negro College Fund and the National Urban League.

He has encouraged hiring and promotion of Blacks within the company. One of the most satisfying aspects of his career has been "seeing so many Blacks come into all facets of the corporate world," he said.

He has also encouraged development of programs at Miller that support Black economic development of activities that benefit local Black communities and organizations.

In addition, he has encouraged Miller sponsorship through banking relationships and direct purchases from Black businesses.

Over the years, Shropshire has been a much sought after speaker who carried his no-nonsense message about the need for Black economic development and self-determination to college students and other Black audiences around the country.

His efforts and achievements in the business, education and civic arenas have not gone un-noticed. In 1974, Lincoln University gave him its Distinguished Alumni Award, and in 1980, he was awarded an honorary doctorate of laws degree by his alma mater.

Huston-Tillotson College in Austin, Texas conferred an honorary doctorate of humane letters on Shropshire in 1982, and Miles College in Birmingham, Ala. conferred the same degree on him in 1984.

In 1985, Philander Smith College also conferred an honorary doctorate of humane letters on Shropshire.

The Chicago Conference of Brotherhood named Shropshire Man of the Year in 1975, and he received the same award from Hucksters International in 1976. The following year, Shropshire received the Philadelphia Tribune Charities Humanitarian award.

The string of honors continued in 1979, when Shropshire received the B'rith Human Rights Award, and the Omega Psi Phi Community Award. The same year, Shropshire was given Ebony magazine's American Black Achievement Award in business. The award recipients were selected by men and women on Ebony's 10 most influential Black Americans list. Another honor, the Roberto Clemente Award, was presented to Shropshire in 1981 by the National Association for Puerto Rican Civil Rights.

The Miller distributors in Arkansas established a graduate business scholarship in his name in 1982: and NUABA, an organization of Black beverage retailers he help form, established the Thomas B. Shropshire Business Person's Achievement Award that same year to honor those who demonstrate "the desire and the ability to lead in the world of business."

In recognition of his support of their organization, the Wisconsin Chapter of the United Negro College Fund (UNCF) established the Thomas B. Shropshire Scholarship Fund in 1985. Scholarships will be awarded to Wisconsin students attending UNCF schools.

Miller is an operating company of Philip Morris Incorporated, the wholly owned subsidiary of Philip Morris Companies Inc. Principal beer brands include Miller High Life, Lite, Lowenbrau, Magnum, Meister Brau and Milwaukee's Best.

THE CULTURE AND ANIMALS FOUNDATION

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. LANTOS. Mr. Speaker, at a time when the Congress is beseiged with lobbyists pursuing their own self-serving legislative agendas, it is refreshing and reassuring to find another kind of organization that is pursuing noble and idealistic goals.

I would like to call the attention of my colleagues to the Culture and Animals Foundation [CAF]. This group is a non-

profit, cultural organization committed to fostering the growth of intellectual and artistic endeavors in those individuals who are united by their positive concern for animals.

Unlike so many other animal groups, this organization is not a political or activist group; it employs no lobbyists and has no political agenda. Its purpose is to promote, through education, an understanding and appreciating of our kinship with animals.

The CAF fosters three related programs to foster these goals. First, through its research program, CAF funds scholarly research into the lives and works of intellectuals and artists who have expressed a positive concern for animals.

Second, through its creativity program, the CAF funds original work of artistic, scholars, and creative thinkers who express their concern for animals in an original manner.

Third, through its performance program, CAF funds the performance and presentation of intellectual and artistic work that furthers the aims of the organizations, including the products of its research and creativity programs.

The scope of CAF's three programs is as diverse as artistic and intellectual endeavor will allow. Work ranging from history, legal theory, philosophy, and poetry, to dance, painting, sculpture and music is supported. Grant recipients are chosen by a selection committee comprised of experts appointed by CAF's board of directors. The number and amount of the grants is determined by the availability of supporting funds.

Mr. Speaker, I warmly applaud the aims of the Culture and Animals Foundation to increase our awareness of the delightful animals that share our planet. I urge my colleagues to encourage and support this distinguished group.

BETTER HEARING AND SPEECH MONTH

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. GUARINI. Mr. Speaker, today, I am introducing legislation which will promote public awareness of the millions of Americans who are communicatively handicapped. My colleague, Mr. BONIOR of Michigan, is joining me in this effort. With the support of our colleagues in the Senate and the House, we were able to pass a resolution like this one last year. By designating the month of May 1986 as "Better Hearing and Speech Month," we can encourage further attention to the needs of almost 10 percent of our population who fall into this largest of all categories of disability.

Across our Nation, there are approximately 15 million Americans who suffer some form of hearing impairment, ranging from mild hearing loss to profound deafness. More than a quarter of the senior citizen over 65 experience some degree of hearing loss.

Over 10 million people experience speech or language impairments stemming from neuromotor diseases, congenital malformations, orthodontic conditions, vocal cord cancer, strokes and language-based learning disabilities. Every year over 84,000 people lose their ability to grasp word meanings and communicate through verbal speech as a result of strokes or head injuries.

Despite their handicap, people with communication disorders have made significant contributions in virtually every occupational category and profession. Thomas Edison, Beethoven, and Samual Morse overcame their hearing impairments to do work that benefits us still today. President Reagan, Florence Henderson, Nanette Fabray, Patricia Neal, and Lou Ferrigno—the Incredible Hulk—are only a few of the prominent personalities whose professional achievements have continued in spite of hearing or speech difficulties. Nevertheless, many people with communication disorders continue to encounter obstacles which inhibit them from achieving their full potential.

Communicatively impaired citizens face special difficulties in achieving educational parity with their nonimpaired classmates. Young children with hearing imperfections and communication difficulties are often unable to develop language fluency with the ease of others their age. While the academic lag may be small during the primary grades, it often has a cumulative impact.

Unequal opportunity in one area frequently results in a denial of options in other areas. For the vast majority of handicapped Americans, a deficient education severely restricts their employment opportunities. As a result, people with hearing and speech impairments are often undereducated, and later underemployed. While attitudes and laws have changed over the years to provide more job opportunities, this group of disabled Americans still has less access to job advancement than the population as a whole.

Over the past two decades, Congress has passed legislation in response to historic patterns of discrimination against the handicapped. Paralleling these legislative advancements have been technological developments which have augmented the limited abilities of many speech and hearing impaired people. Recent develoments such as closed captioned television, telecommunication devices for the deaf [TDD] and speech synthesizers help to eliminate barriers which prevent those with hearing, speech, or language difficulties from fulfilling their potential. An example of this advanced technology is in use in Congress' TDD phone lines, which allow communicatively impaired citizens to voice their concerns to their elected officials.

Among the most dramatic breakthroughs in modern science is the creation of the cochlear implant. Through the surgical implantation of a minute device, people who are profoundly deaf are now able to hear sounds of varying length and intensity. Further developments may make it possible for the pitch and frequency of sounds to be distinguished also. With such refinements, the cochlear implant promises to provide thousands of previously deal people with the ability to hear human speech for the first time in their lives.

Looking back, we can say that American researchers, scientists and inventors have opened many doors for the communicatively impaired, facilitating their entry into the mainstream of American life. Yet the technological advances I mentioned can be fully utilized only in a society which enforces the basic equal opportunity laws and civil rights protections every citizen deserves.

Across the country, plans are underway to promote awareness of the needs of the communicatively handicapped and to acknowledge their many achievements during Better Hearing and Speech Month. The effort is actively supported by 21 national organizations: A.G. Bell Association for the Deaf, American Academy of Otolaryngology-Head and Neck Surgery, American Hearing Research Foundation, American Speech-Language-Hearing Association, Better Hearing Institute, Boys Town Institute for Communication Disorders in Children, Delta Zeta Sorority and Foundation, Disabled American Veterans, Gallaudet College, Hearing Industries Association, House Ear Institute, National Captioning Institute, National Hearing Aid Society, National Hearing Association, National Technical Institute for the Deaf at Rochester Institute of Technology, New York League for the Hard of Hearing, Psi Iota Xi Sorority, Quota International, Sertoma Foundation, Speech Foundation of America, and the Voice Foundation.

I urge my colleagues to join me in this important and humanitarian endeavor. Together we can diminish the barriers facing these Americans and enhance their opportunities for a brighter and more fulfilling future.

SUPERFUND

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. GOODLING. Mr. Speaker, I would like to commend my colleagues in the House for supporting and passing the amendment offered on the floor by Congressman DOWNEY during consideration of Superfund reauthorization. We had to work hard to eliminate from the committee bill, the provision which would have imposed a broad-based, value added (sales) tax on manufacturers who contribute little, if any, to the waste problem we face. Federal environmental law is grounded on the premise that those responsible for pollution pay for its cleanup. A defeat for this amendment would have violated this premise. I believe we can now move forward in cleaning up these hazardous sites on a timely basis without further unnecessary delays.

RAYMOND F. THOMPSON—A LIFETIME OF SERVICE AND ACCOMPLISHMENT

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. DELLUMS. Mr. Speaker, I wish to call your attention to one of the more outstanding members of my constituency. Mr. Raymond F. Thompson, who has distinguished himself and other members of the Eighth Congressional District of California by a lifetime of service and accomplishment, in pursuit of social justice and fair and equitable treatment for people of all races.

Although a native son of San Francisco, Mr. Thompson has been a long-term resident of Berkeley. He was one of the first black men to work in the San Francisco shipyards and he was a powerful leader in the early endeavors to bring about racial equality in the trade unions. He integrated the Boilermaker's Union working on ships in the San Francisco Bay yards. He was a major organizer of the 1934 general strike that established power for organized labor in the San Francisco Bay Area.

His history in Berkeley is equally active and effective; he worked diligently to bring about equitable treatment for ethnic minorities in exercising their rights to fair housing and rights to vote. He was an early leader in racially integrating Berkeley neighborhoods with a long history of segregationist practices.

He has provided leadership to people of all colors by years of service on the board of directors of the Consumers Cooperative of Berkeley which operates supermarkets, and provides goods and services to its over 130,000 member-families. The Berkeley Cooperative has extensive collaborative activities with the national and international cooperative movement, therefore, Mr. Thompson, who served three terms as a member of the Co-op board and two terms as vice president of the Co-op, was responsible for developing and strengthening the overall cooperative spirit of that time.

Mr. Thompson has been a working man all of his life; he had spent his labor in bettering the lot of all the people in the Eighth Congressional District. As befits a Berkeley resident, he has an extraordinary capacity to quote Shakespeare extensively. Now that he has passed his 80th year of life, I feel that his accomplishments should be noted and honored. Thank you for joining me in this commemoration to a useful and wonderful person.

DON'T JEOPARDIZE IRA AND OTHER RETIREMENT ACCOUNTS

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. HUBBARD. Mr. Speaker, I urge my colleagues to read the following letter I received from my constituent, James W. Marvin, Jr., of my hometown of Mayfield, KY.

Indeed, Mr. Marvin's excellent comments to me about his opposition to changing the tax rules for individual retirement accounts (IRA's) and other employer-sponsored retirement programs are timely, especially in light of the fact that the U.S. House of Representatives is today considering and debating tax reform legislation.

I urge my colleagues to read the following letter from James W. Marvin, Jr.:

MAYFIELD, KY, *October 14, 1985.*

Mr. CARROLL HUBBARD,
House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR MR. HUBBARD: Three years ago, with the passage of the Economic Recovery Tax Act, Congress gave the American worker effective ways to take charge of his or her financial destiny by using individual retirement accounts. The beauty of an IRA is, and has always been, its simplicity. However, there now appears to be a cloud of redtape hovering over the IRA Program.

I am writing to ask that you please not impose contribution restrictions on IRA's by linking them to other types of retirement plans. Please allow those covered by employer-sponsored plans to continue to have a choice in how they invest for their future financial security.

I believe most American workers would agree that IRA's are among the most universally beneficial programs to come out of the Legislature in years. Congress has a major success to its credit. Please do not put it in jeopardy.

Thank you for your consideration.

Respectfully,

JAMES W. MARVIN, JR.

COMMENCEMENT ADDRESS

HON. HAROLD E. FORD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. FORD of Tennessee. Mr. Speaker, on December 10 I was privileged to deliver the commencement address before the students and faculty of the University of Tennessee graduating class of 1985.

I am pleased to insert my remarks in the CONGRESSIONAL RECORD, for the benefit of my fellow colleagues.

The remarks are as follows:

UNIVERSITY OF TENNESSEE COMMENCEMENT ADDRESS

Chancellor Reese, deans and administrators, faculty, members of today's graduating class, and your families:

I appreciate the opportunity and the great honor to participate in your commencement exercises.

I was here at the University of Tennessee and in Athens, Tennessee on last September 24 with President Reagan and Congressman John Duncan for this area.

At that time, we were stumping hard for the President's tax proposals and tax reform generally. Recently, the Ways and Means Committee, on which both Mr. Duncan and I serve as senior members, reported a bill from our committee.

The President, who has been the prime mover of tax reform in the country, is still the key factor in whether any tax reform takes place. I believe we will pass a bill for the House, but the President must get behind any bill if it is to pass in the Senate.

It was no accident that the President came to Knoxville. He probably knew that you would beat Vanderbilt and win the Southeast Conference. The President merely wanted to insure his ticket to the Sugar Bowl.

There are several groups of you represented here today to whom I hope to impart a message before I complete my remarks.

First, to you the graduates, particularly the undergraduate class of 1985.

For many of you, one of the most challenging and rewarding experiences of your life is finished.

You have earned good grades and awards, and the life ahead of you holds new opportunities at which you will assuredly excel.

For you, either graduate school or the job market is awaiting your enthusiasm, effort, and energy.

You have accomplished a significant milestone in your lives and you should applaud yourselves.

To the graduate students who have earned masters or doctoral degrees in any range of subjects, the worlds of research and education need your advanced training, new ideas and discipline.

This most challenging world in which we live is revitalized every time one of you steps forward, untainted by the cold realities of life, fresh from the intellectual challenges of the classroom.

Hold on to your ideals. Be bold, and don't be afraid to challenge.

You are the dreamers, the lone voice in the crowded room who dares to ask why. We are all here today to say to you "a job well done."

There is another group among you who didn't challenge your minds and who were satisfied with barely passing grades and few expectations—those of you who were simply along for the ride.

To you I have one simple message: welcome to the real world.

If you are wondering whether I am referring to you, here is a simple test in order to determine to whom I am referring:

Has anyone ever said to you, you are not working up to your potential, or this work is mediocre at best, or if you put as much time into your work as you put into your social life.

If the answer is yes, then I've got news for you—your days of week-night parties, last minute cramming for major projects, and asking for extensions are over or will be short lived. The real world won't wait for you.

Make a commitment to yourself today. Commit that your next effort, be it a job or graduate school, will be your best effort.

"Today is the first day of the rest of your life." This statement has never been more true for anyone as it is for you today.

No one can fault you if you try and don't succeed. But if you barely succeed, with little or no effort, then you have wasted a blessing, a God given opportunity, that in future years, you may realize was not your right to waste.

As chairman of the Subcommittee on Public Assistance and Unemployment Compensation, I see many people who weren't blessed with your opportunities.

They will never have the chance to attend a university like Tennessee.

With the cutbacks in educational programs over the last few years such as financial aid, student loans, and research grants to colleges and universities, it is my fear that those who have not been able to take advantage of a quality higher education to date, may never have the opportunity to participate in future commencement ceremonies at great institutions such as UT.

Legislators, like myself, recognize these facts and are fighting daily to preserve and expand our educational system.

Currently before us in the Congress is a proposal commonly called Gramm-Rudman. The Gramm-Rudman amendment is an attempt to balance the Federal budget by 1991 and to overcome one of the major problems facing our economy today, the Federal deficit.

Gramm-Rudman would force the President and the Congress to work together to identify more than 50 billion dollars in additional cuts for the coming fiscal year.

If Congress and the President cannot agree as to where the cuts should come, then the President would make the cuts.

You should note that this procedure is radically different from the constitutional authority granted the Congress for authority over the budget of the Federal Government.

As a supporter of a balanced budget, I am pleased that the leadership and the conferees have agreed to exempt programs designed to combat poverty.

I am equally pleased that the Pentagon will be forced to tighten its reins on defense contractors who abuse their relationships with the Federal Government.

I am concerned, however, that given the Federal Government's recent policies and trends toward education the very structural foundation of our educational system is being attacked.

Educational programs have been cut from 10.8 billion dollars in 1981 to 7.9 billion dollars in 1984, a decline in current dollars of more than 25 percent.

Many programs directed at student financial aid such as guaranteed student loans, college work study, and Pell grants upon which many of you relied in order to go to college have already been some of the hardest hit in the last four years.

Education is not one of the protected areas under Gramm-Rudman and will probably be cut again.

If you couple these cuts with the rising costs of private education, the role of State colleges and universities will increase in drastic proportions.

Given the harsh realities of budget cuts and high costs, we cannot allow our public universities to be perceived as a school of last resort for students who cannot afford to attend private schools.

Public universities must be on the cutting edge of research and innovative teaching techniques in order to attract the very best faculty and student body.

The University of Tennessee is making great strides in educational excellence.

I was proud to read that Professor Bill Bass of your anthropology and forensic science department was named "Professor of the Year" by the Council for the Advancement and support of Education.

We need more professors like Dr. Bass, individuals who are committed to their work, and dedicated to the inspiration of their fellow man.

We commend and appreciate you, for we know that your commitment is a result of love and hard work.

But Dr. Bass' commitment must be present not only at this level of education, but at the elementary and secondary school levels as well.

The future educators out there among you, must do more to improve our educational system.

You must help to restore a vigorous curriculum in our secondary schools with an emphasis on English, math and science.

If Tennessee is to compete, you the educators at this level, must provide the leadership and guidance to our lower level schools.

My friends, the State of Tennessee is about to become the beneficiary of the largest single, private capital investment in the history of the industrial world.

I am, of course, referring to General Motors' Saturn Plant.

The benefits, as a result of this plant to the State of Tennessee are tremendous.

However, GM is demanding that the schools and universities in this area provide them with qualified individuals—people who can think logically, intellectually, and analytically.

These abilities can only occur if fundamental skills in English, math, and science are emphasized.

A battle for the future is constantly being waged in the classrooms of the world.

There is an old saying which goes as follows: "If you want one year's prosperity, grow grain. If you want ten year's prosperity, grow men and women."

Our country has succeeded over the years because we have recognized throughout our history the importance of learning. . . .the dignity of hard work, the need to take the initiative, and the good that comes from helping others.

Our country has placed a high value on education and to allow the erosion of our educational system by indiscriminate Federal cutbacks would undermine the tremendous progress we have fought so long to achieve.

Only through quality education can we fortify our national resolve, renew the confidence in our national purpose, and enrich the spirit of our times.

In closing, let me leave you with this simple yet most powerful message that I discovered in a past edition of the Wall Street Journal.

The text reads: "The greatest waste of our natural resources is the number of people who never achieve their potential. Get out of that slow lane. Shift into that fast lane. If you think you can't, you won't. If you think you can, there's a good chance you will. Even making the effort will make you feel like a new person. Reputations are made by searching for things that can't be done and doing them. Aim low: Boring. Aim high: Soaring."

OFFSHORE OIL NEGOTIATIONS BETWEEN MEMBERS OF CONGRESS AND INTERIOR SECRETARY HODEL

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. PACKARD. Mr. Speaker, I rise to address my colleagues about the provision that sets out negotiation guidelines for Interior Secretary Hodel which we have included in the continuing resolution. The negotiations in which we expect to engage Mr. Hodel pertain to the matter of drilling for oil reserves off the California coast. Two very different opinions have evolved on this matter, and our negotiating agenda must be to see if we can bring the two sides close enough together that a sensible plan can be drafted.

Congress originally authorized the Secretary of the Interior in the mid-1950's to lease Outer Continental Shelf [OCS] tracts to oil companies. Three-mile square sites were auctioned off up through the 1960's, as the oil interests sought to develop domestic commercial resources. But these activities took place in the placid days before Americans had heard of Arab oil cartels or OPEC embargoes. Oil was cheap, and no economic incentive existed to prompt mass development of OCS lands.

State waters, within 3 miles of the coast, were part of a different historical process. Certain stretches of the coastline were dotted with scores of offshore rigs where oil was near the ocean floor surface in shallow waters. Sites off of Santa Barbara, Santa Monica and Long Beach emerged as major oil-producing fields in State waters. Until 1969, no significant accidents occurred to raise concerns about the environmental effects of offshore oil drilling.

The massive spill from a rig off of Santa Barbara in the summer of 1969 signalled the end of the oil companies' financial honeymoon. Fifteen thousand square miles of ocean surface were polluted. The cleanup effort consumed $100 million. Californians inland and on the coast wanted more than just verbal assurances that drilling would be done with environmental and aesthetic protection in mind. State and Federal legislators were called upon to enact protective legislation that shielded sensitive marine habitats from potentially damaging development.

Marine sanctuary protection now prevents drilling along major stretches of the coast. While existing wells continue to produce marketable oil, no new wells have been drilled since former secretary James Watt announced that oil companies could bid for any tract they wanted. The California congressional delegation had been successful in imposing moratoria on drilling since 1980. Our success ran out this fall.

Secretary Hodel, who is charged with presiding over our Nation's resources, disagrees with the blanket moratorium strategy we have used. He believes Californians are only one group affected by the development of OCS oil resources. Other Americans who rely on domestic oil, he said, must be consulted before a final agreement is made.

The Secretary could not accept the terms of the preliminary agreement announced last July, and no subsequent talks have taken place.

We in Congress still wish to negotiate. I believe there are areas off the coast that can be developed where commercially valuable oil exists without endangering either water or air quality, without having a negative effect on marine life and without affecting the world-famous California coastal tourist attractions. This is a very sensitive matter, though, and progress cannot occur without the participation of Californians who will feel the consequences whether or not drilling takes place.

I sought a position on the negotiating team that was authorized in the continuing resolution. Due to the limited number of positions on the team, I was not chosen. This technically will not prevent me from working with my colleagues who share my concern for our beautiful coastline.

My hope for the discussions that will follow enactment of the continuing resolution are many. First, these talks should lead to a concrete settlement to which both sides will agree. Some communities, like Eureka, look forward to the business new oil will bring to them. Others, Oceanside, Carlsbad, San Clemente, and those where tourism is a primary industry, have clearly stated their preferences against OCS drilling. Meeting the differing needs of the various cities and towns along the coast must also occur in talks with the Secretary. The oil companies must identify their best guesses as to where the most recoverable oil is. Environmentalists will have to locate the areas most sensitive to development as well as those parts of the coastline where marine life and water conditions will tolerate exploration.

Only when individuals and groups with opposing views meet can progress be made. The lack of motion in these talks is frustrating. When the moratorium expires tomorrow, the ban on future lease sales will be lifted. I will work with my colleagues who sit on the panel that meets with Mr. Hodel and seek continued protection for the entire coast until an agreement is signed by the participants.

HUMAN RIGHTS VIOLATIONS IN AFGHANISTAN: THE U.N. CALLS SPADE A SPADE FOR A CHANGE

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. BROOMFIELD. Mr. Speaker, I am encouraged by the frankness of a recent U.N. report concerning widespread human rights violations in Afghanistan. The U.N. is now willing to speak the truth about the terrible Soviet atrocities being directed against the Afghani people. This new U.N. frankness in dealing with the Soviets is encouraging. I hope it continues.

The United Nations Commission on Human Rights recently reported that Soviet activities in Afghanistan included mass bombings, killings of civilians, mutilations, routine torture, the forced evacuation of rural areas, the imprisonment without trial of tens of thousands of political prisoners, and religious intolerance.

While the Afghani Government refused to allow the author of the report to enter Afghanistan, he was able to interview Afghani refugees who had fled to Pakistan. Soviet brutality is so extensive in Afghanistan that over 3 million people have escaped to Pakistan. Earlier this year, the U.N. Commission on Human Rights in Geneva voted to urge a halt to the massive human rights abuses in Afghanistan by over 120,000 Soviet soldiers who have occupied that once peaceful country since 1979.

The great irony of this continuing Soviet occupation and brutalization of the poor people of that country is that the Soviets claim that they were invited into Afghanistan to protect that country and its people.

I commend the U.N.'s Human Rights Commission in Geneva for calling the attention of that international body to the ongoing shame of the Soviet occupation of Afghanistan.

I strongly recommend the following New York Times article on human rights violations in Afghanistan to my colleagues in the Congress.

[From the New York Times, Dec. 3, 1985]

REPORT FOR THE U.N. DENOUNCES AFGHANS ON RIGHTS

(By Elaine Sciolino)

UNITED NATIONS, N.Y., Dec. 2—Violations of human rights have become widespread in Afghanistan since Soviet forces joined the fighting there nearly six years ago, according to a report presented today to the United Nations.

The report, prepared for the United Nations Commission on Human Rights, says that violations include indiscriminate mass bombings and killings of civilians; mutilations and routine torture; the forced evacution of rural areas; the imprisonment without trial of tens of thousands of political prisoners, and religious intolerance.

The report says the actions appear intended not only to destroy opposition to the Afghan Government, but to break the spirit of an independent people and destroy the traditional family and tribal structures.

"Every hour lost is detrimental to the population and to the human rights situation in the country," wrote Felix Ermacora, an Austrian law professor who prepared the report.

WAR CALLED 'INCREASINGLY CRUEL'

It says that the Soviet-backed Afghan Government, "with heavy support from foreign troops, acts with great severity against opponents or suspected opponents of the regime without any respect for human rights violations." It says that the increasingly cruel nature of the war has been endangering entire peoples and tribes.

Mr. Ermacora, who was not allowed by the Afghan Government to visit the Government side in the war, based his report largely on evidence collected from two visits to Pakistan, where he interviewed Afghan refugees and visited hospitals.

The Afghan delegate, Mohammed Farid Zarif, condemned the commission's investigation today as interference in Afghanistan's internal affairs. He called the report a "wild and worthless piece of trash" and labeled its charges "shallow and superfluous hallucinations."

Mr. Zarif accused Professor Ermacora of pro-Nazi activities and tendencies.

The United Nations committee currently debating Mr. Ermacora's report is expected to vote later this week on a resolution introduced by a number of Western countries commending him for his report and expressing "great concern" for the violations of rights in Afghanistan.

COMMISSION APPROVED REPORT

Last February, when Mr. Ermacora presented an earlier version, the United Nations Commission on Human Rights in Geneva voted 26 to 8 to urge a halt to "grave and massive human rights abuses."

Citing Afghan witnesses, the report lists purported abuses committed against civilians since the Soviet intervention, including hostage-taking, the rape of women, the plundering of houses, the wholesale destruction of crops and forced conscription of children.

"Mosques have been desecrated, religious books destroyed and in some cases even used as toilet paper, while members of the Islamic faith have been obliged to eat pork and to drink alcohol," Mr. Ermacora wrote. He added that rural populations suffered from starvation and disease because the Government withholds food and medicine."

The report says that toy bombs shaped like pens, birds, harmonicas, radios or matchboxes were being dropped from helicopters to maim children. Mr. Ermacora calls these actions "totally out of proportion to any military requirement."

Although the report does not specifically mention the estimated 115,000 Soviet troops stationed in Afghanistan, Western diplomats consider it the first major instance in which the United Nations has documented human rights violations committed by the Soviet Union.

The report concludes that international organizations have "an urgent responsibility to find ways and means to insure respect and guarantees of human rights" in Afghanistan, including the right of four million refugees to return home.

CITY OF LOS ANGELES ADOPTS RESOLUTION REGARDING SALVADORANS

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. BERMAN. Mr. Speaker, 170 Members of this body are cosponsors of H.R. 822, a bill which would temporarily suspend the detention and deportation of Salvadorans now in the United States.

Americans in communities throughout the United States have expressed concern about the safety and well-being of Salvadorans who have fled their war-torn homeland. Many Americans have extended a helping hand to Salvadorans in this country, undertaking at great personal risk to offer sanctuary to the Salvadorans when in fact it is our Government that should offer the refugees a haven by granting them extended voluntary departure.

I would like to share with my colleagues the resolution recently adopted by the council of the city of Los Angeles, declaring that Los Angeles is a sanctuary city. I particularly call to the attention of my colleagues the provision reaffirming the support of the city of Los Angeles for H.R. 822/S. 377, the legislation introduced by Representative MOAKLEY and Senator DECONCINI to temporarily suspend detention and deportation of Salvadorans in the United States. I urge prompt action by this

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Congress to adopt this urgently needed legislation.

The text of the resolution follows:

Resolution

Whereas, the United States of America has provided an enduring symbol of freedom for generations of people from other countries who fear persecution in their native land on this basis of their political belief; and,

Whereas, the United States Congress reaffirmed this tradition in the provision of the Refugee Act of 1980 which recognized the right to asylum of the refugee, defined as "any person who is unable or unwilling to return to his/her country because of persecution on account of race, religion, nationality, or membership in a particular social group or political opinion"; and,

Whereas, in the definition of refugee employed by the Federal Refugee Act of 1980, Congress specifically intended to include political refugees and exclude economic refugees with respect to the issue of asylum; and,

Whereas, refugee policy is primarily a responsibility of the Federal Government, but local communities ano local governments sustain the fiscal and social impact of large numbers of immigrants seeking asylum from persecution, and

Whereas, the climate of fear prevalent among Central American refugees presently living in Los Angeles may potentially impair the efficiency of City government agencies, disturb the efforts of law enforcement agencies to resolve pending cases, and generally contradict the ideals of diversity and tolerance to which the City of Los Angeles subscribes;

Now therefore be it resolved, that the City of Los Angeles reaffirms the traditional American ideal of providing refuge here in the United States for people from other countries who fear persecution in their native land on the basis of their political beliefs; and be it further

Resolved, that the City of Los Angeles, without endorsing any of the contending forces in any country, goes on record in opposition to the deportation of known law-abiding Central American refugees who have fled their homelands for fear of losing their lives; and be it further

Resolved, that the City of Los Angeles reaffirms its support of H.R. 822 (Moakley) and S. 377 (DeConcini), which would establish as official policy the suspension of deportation of certain Salvadoran nationals, provided such is consistent with the Refugee Act of 1980; a position consistent with a previously approved City Council action including such in the City of Los Angeles' 1984-85 Federal Legislative Program; and be it further

Resolved, that the City of Los Angeles appreciates the humanitarian work of private social service and religious institutions such as United University Church, First Unitarian Church of Los Angeles, Sepulveda Unitarian Church, Emerson Unitarian Church, Temple Shir Shalom, and Shir Chadash New Reform Congregation, which have provided assistance to Central American refugees in the Los Angeles area; and be it further

Resolved, that the City Council finds that immigration and refugee policy is a matter of Federal jurisdiction; that Federal employees, not City employees, should be considered responsible for implementation of immigration and refuge policy; and further that the City Council directs City employees to exclude refugee status as a consideration in their daily activities and routine dealings with the public, with the proviso that this directive should not be construed as sanctioning the violation of any law or encouraging interference in law enforcement efforts; and be it further

Resolved, that the City Council commends the Chief of Police and the Los Angeles Police Department for adopting a policy of excluding consideration of the refugee status of crime victims and witnesses who are law-abiding from the Department's routine law enforcement activities; that the City Council urges wider public dissemination of this policy, in English and Spanish; and that the City Council further reaffirms the Department's policy of detaining and arresting suspected criminals, regardless of their citizenship status, and reporting to the U.S. Immigration and Naturalization Service, only those undocumented aliens booked for multiple misdemeanor offenses, high grade misdemeanors, or felony offenses; and be it further

Resolved, that the City of Los Angeles supports, in concept, legislation which would clarify the responsibility of the U.S. Immigration and Naturalization Service to approve asylum for applicants on the basis of the definition of "refugee" in the Refugee Act of 1980 relating to a legitimate fear of persecution in his or her native country, without regard to the political direction of the current government in his or her native country, and without consideration of the relationship between the current Administration in this country and the current government in the refugee's country of origin; and furthermore that this concept be included in next year's Federal Legislative Program; and be it further

Resolved, that the City Council recognizes the many demands placed upon the City's limited fiscal resources by current citizens residing in Los Angeles, and therefore urges the President and Congress to give greater consideration in their deliberations to the fiscal needs of large urban areas such as Los Angeles which have borne a disproportionate share of the cost burden resulting from Federal refugee policies; and be it further

Resolved, that the City Council directs the Human Relations Commission to submit an annual report, commencing in November 1986, on the status and unmet needs of immigrants and refugees residing in the City of Los Angeles; and be it further

Resolved, that the City Council in adopting the policies in this resolution, calls upon the people of the City of Los Angeles to reaffirm the American tradition of providing refuge to law-abiding persons who have fled their native country for fear of persecution on the basis of their political beliefs, and hereby declares that Los Angeles, as part of a national policy of providing refuge to persons seeking asylum from political and not economic persecution, is a City of Sanctuary for such persons.

THE HISTORY OF THE FIRST PRESBYTERIAN CHURCH OF HANOVER, NEW JERSEY

HON. DEAN A. GALLO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. GALLO. Mr. Speaker, I rise today to bring to the attention of my fellow Members, the history of the First Presbyterian Church of Hanover, NJ. This congregation, which is located in my district, was founded some 277 years ago.

In the ensuing years, this church witnessed the birth of our Nation, its development, and its evolvement into the world's greatest democracy.

Like the history of so many other longstanding institutions, the history of the First Presbyterian Church of Hanover is one that we can all learn from.

For this reason, I would like to ask that the history of the church as presented to me by Pastor Fred Depenbrock be included in today's RECORD.

The history follows:

A Brief History of the First Presbyterian Church of Hanover

About the year 1710, several families from Newark and Elizabeth, N.J. and some from East Hampton, L.I. settled at Whippany. This entire region was then a wilderness, but these settlers knew of the abundance of iron ore available and doubtless settled there for the purpose of manufacture.

These early settlers were not mere reckless adventurers, but were persons of substantial character, intelligent, industrious and some of them pious. For the first few years after their settlement, there is no account of religious services among them, but in the year 1718, a building for divine worship was erected on the present site of the cemetery in Whippany. This plot of 3½ acres was given for the purpose of erecting a house of worship by a schoolmaster, John Richards.

The first pastor, Rev. Nathaniel Hubbel, was a Yale graduate and served the church in Westfield as well as Whippany. He lived at first in Whippany, but moved to Westfield when his house in Whippany burned down. He continued to serve the church in Whippany until about 1730. It was during his pastorate that the village of Whippany received the name of Hanover.

Following Rev. Hubbel's ministry, the Rev. John Nutman was ordained pastor of the church at Hanover. He also was a Yale graduate and was a fine scholar. His congregation extended over a wide range of country, embracing the territory now covered by Hanover, Whippany, Chatham, Madison, Parsippany, Morristown, and even beyond these areas. Not long after Rev. Nutman settled in the area, because the meetinghouse was small and dilapidated, the feeling arose among the congregation that a new meetinghouse should be erected, but where it would be built was a matter of grave contention. The people from the Madison area were desirous of having it located nearer them, while those from Morristown were determined that, if the site were changed, it should be in their favor. Strange as it may seem, it was at length determined to decide the matter by "casting a lot"—all parties agreeing to abide by such a decision. When the lot was taken it was in favor of continuing on the old site. However, notwithstanding their previous agreement to stand by the decision, the people from the Morristown area withdrew and formed the First Presbyterian Church of Morristown, at that time known as West Hanover. This separation left the congregation in Whippany with not enough people to be able to pay the pastor's salary. An attempt was made to get the Morristown church and the Whippany church reunited, but it never succeeded. Mr.

Nutman served the church until 1745 having been its minister about fifteen years.

The following year, in 1746 Mr. Jacob Green was installed as pastor. Early in Mr. Green's ministry the question was again agitated whether or not a new meetinghouse should be built. The cite proposed for the new building was where our present church now is located. The South Hanover (or Madison) people left the congregation and in 1747 erected a new meetinghouse in Madison.

No action was taken however on relocating the church building until 1755 when it was at last decided that the old church building should be abandoned. At that time two houses of worship were erected; one of these at Hanover Neck, now part of East Hanover (the building was situated a little east of the present building), and the other was built at Parsippany. Mr. Green preached at both places until 1760 when the Parsippany congregation obtained a minister of its own. Mr. Green continued as pastor at the new meetinghouse in Hanover Neck. Only a small part of the congregation that assembled in the church at Whippany went to Parsippany. All the elders and deacons at that time lived within the boundary of Hanover, and so attended the new building in Hanover Neck.

In 1757 a new parsonage was built which is still standing today, across the street from the present parsonage on Hanover Road.

Completion of the new church building was slow, and as late as 1770 the galleries (or balconies, as we know them) still had no floors. In that year a determined effort was made to raise funds to complete the building.

Between the years 1774 and 1777, there were no parish meetings due to the Revolutionary War. During that period the church building was used as a hospital by the Continental Army!

In 1779 an application was made to the State of New Jersey for a charter to incorporate the First Presbyterian Congregation in Hanover. The following year, before entering upon their office, the trustees were qualified by oath, a practice that is still followed to this day.

Mr. Green died on July 4, 1790, having been pastor of the church for 44 years.

After Mr. Green's passing the church was served by four different pastors until 1834 when Rev. Mandeville was installed as pastor. The important event of Mr. Mandeville's ministry was the erection of the present church edifice. On February 12, 1835, it was decided to tear down the old meetinghouse and build a new one. On the 14th of April that same year, the carpenters began to dismantle the old building that had served for eighty years; and during that period, eight hundred and eighty persons had professed Christ within its walls and one hundred and twenty had been received by letter. Within it some of the most impressive scenes had been witnessed. Wayward members had often stood up with tears of penitence to confess their sins in public and to re-dedicate themselves to God. At one time, nearly an entire aisle was filled with converts, who came to profess faith in Christ.

Some of the timbers of the old building were used in the new one (Mr. Stoll, the Sexton, could show you some of the timbers in the basement).

The first celebration of the Lord's Supper in the new church took place December 13, 1835, which was the first Sabbath the congregation assembled in this building. Mr. Mandeville continued to serve the church until 1838 when he preached his farewell sermon and moved from Hanover to Freedom Plains in New York State.

The church continued through a long period of active evangelism, serving God and the people through the leadership of some very able and devout ministers for the next 74 years.

In January of 1912, the congregation authorized approval of plans to change the lighting in the church from kerosene to electricity, remodeling the front end of the church building so that the choir and organ could be placed behind an enlarged and more attractive pulpit. It also authorized the procurement of a new electrically motivated Moellor organ. Prior to this the choir and a handpumped organ had occupied the gallery over the rear of the church. By the 1st of June the building and organ were ready for service.

Today we should be proud to be worshipping in a congregation that has been in existence for more than two-hundred and sixty years. The church building has been declared a National Historical Site and is entered in the records of the National Historical Society in Washington, DC.

The First Presbyterian Church of Hanover is among the oldest religious organizations of the State, as the village of Hanover is perhaps the oldest inland settlement of the State. Hanover Church is the mother of all the Presbyterian churches in Morris County, including the large congregations of Morristown and Madison.

(This "Brief History" has been condensed from "A History of the First Presbyterian Church of Hanover, 1718-1968," compiled by the Reverend Oliver W. Chapin for the church's 250th anniversary.)

A SALUTE TO ANDREW STOFAN

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. STOKES. Mr. Speaker, on Thursday, President Reagan will present the coveted Presidential Rank Award to several senior executive service employees. I am pleased to announce to my colleagues that Andrew Stofan, Director of the NASA Lewis Research Center in Cleveland, will be one of the recipients of the Distinguished Presidential Rank Award. On behalf of the residents of the 21st Congressional District of Ohio, I salute Director Stofan on this achievement.

The principal criteria for the award is exemplary service with the Federal Government. Mr. Speaker, Andrew Stofan has a 27-year record of service with NASA. Because of his dedication and skills, Mr. Stofan has progressed through the ranks of this Federal agency. In 1958, he began his service with NASA at the Lewis Research Center in Cleveland as a research engineer. Currently, he serves as the Director of the Lewis Research Center.

In fact Mr. Speaker, with the exception of a 4-year stint with NASA here in Washington, Andrew Stofan has been employed at the Lewis Research Center during his entire career with NASA.

During that time, he has been at the forefront of the expansion and development of this NASA facility. Today, I and many Clevelanders point to the Lewis Research Center with pride. Andrew Stofan has been instrumental in making the Lewis Research Center a highly respected and noted scientific facility.

I have had the pleasure of working with Andrew Stofan through the years. I have found him to be particularly helpful to me as a member of the House HUD-Independent Appropriations Subcommittee. Because of this association, I have visited the facility on numerous occasions and have been impressed with the kind and quality of research underway at the Lewis Research Center.

In addition to his demanding schedule with NASA, Director Stofan is an active member of numerous civic and community organizations in the Cleveland metropolitan area. He is a member of the Greater Cleveland Growth Association and serves as a board member of several other groups.

A native of the Cleveland area, Andrew Stofan received degrees from both Hiram College in Ohio and Carnegie Mellon in Pittsburgh.

At this time, Mr. Speaker, I ask my colleagues to join me in congratulating Andrew Stofan, Director of the NASA Lewis Research Center, on his selection for the Distinguished Presidential Rank Award.

THE UKRAINIAN FAMINE

HON. DAN MICA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. MICA. Mr. Speaker, as chairman of the newly-created Congressional Commission on the Great Ukrainian Famine, I have been eager to receive any information or comments which might be of benefit to our Commission.

Recently, our fellow Commission member, the distinguished colleague from New York [Mr. GILMAN] participated in a forum on this topic in Chicago, IL.

I have found our colleague's remarks to be so appropriate and relevant to the purposes of our Commission that I would now like to share these remarks by inserting them into the CONGRESSIONAL RECORD at this point:

REMARKS BY REPRESENTATIVE BENJAMIN A. GILMAN

Thank you for affording me this opportunity to participate in this luncheon forum with this distinguished panel—James Mace of Harvard University, and Mayorn Kuropas, former Special Assistant for Ethnic Affairs at the White House, to discuss the great Ukrainian famine, and more specifically, the relationship of that crime against humanity to today's world, and what significant contributions can the newly created U.S. Commission on the Ukrainian famine produce.

A distinguished authority on Ukrainian culture, Robert Conquest, the curator of the

Russian and East European collection at the Hoover Institution, soon after the shooting down of Korean Air Line Flight 007, noted that in order to match the numbers slaughtered in the Ukrainian Famine of 1933, the Soviets would have to shoot down a Flight 007 every day for seventy-five years.

The Ukrainian Famine of 1932-33 is one of the great tragedies of history, and until recently, little systematic research had been done on this genocide. It is estimated that some seven million people died during the Soviet-instigated famine of the 1930's. And yet, as Dana Dalrymple, a U.S.D.A. International Agricultural Research Specialist stated:

"The famine was virtually unknown at the time despite the vast mortality and despite the fact that a number of accounts were published. Curiously, general histories of the Soviet Union still make little mention of the famine. In retrospect, the famine certainly represents one of the most efficiently managed news stories in history. It is incredible that Stalin could have pulled off such a feat."

Why, we are often asked, is it so important to focus our attention on a famine over a half a century old? Why, some ask, are we dredging up ancient history? What is to be gained by rehashing an event even now fading in the collective memory of mankind?

The Wall Street Journal answered that question for us in an article published on July 7, 1983, by Adrian Karatnycky, a research director of the A. Philip Randolph Institute. In that article, Mr. Karatnycky wrote:

"There is, of course, our moral obligation to honor the memory of the nameless victims by depicting the truth. Moreover, it is important to understand the forced famine as a pivotal event in Soviet history, whose consequences remain to this day. For the famine created a disastrous situation in Soviet agriculture from which the U.S.S.R. still has not fully recovered. Today—at a time when some would recast Soviet communism in a friendlier mold, the better to negotiate arms reductions with—may once again be an inopportune time to bring up the terrible loss of life and the painful trauma of the brutally scarred Ukrainian nation. Yet 50 years seems too long to remain silent about one of the greatest crimes in mankind's history."

In addition to the reasons cited in that article, the Wall Street Journal printed an editorial several months later, paralelling the events in the Ukraine in the 1930's with the ongoing tragedy in Afghanistan today:

"The Soviet invaders (of Afghanistan) are working hard to centralize the food distribution system and they are now trying to destroy crops they can't buy up. Afghans report Russian bombing of the irrigation system in the rich Shomali plain and napalming of storage bins to destroy the wheat harvest.

The parallel often cited is Stalin's man-made famine in the Ukraine in 1932-33, when communist confiscation of the harvest caused at least five million to seven million deaths and wiped out the entire nationalist strata of that society."

The Wall Street Journal editorial closed with the challenge:

"Will the west sit this one out too?"

The premise of this editorial underscored the adage: "History is destined to repeat itself."

To this adage, I believe, we can add the codicil: "Only if mankind ignores the lessons history has taught us."

This is an appropriate time to bring the Ukrainian famine back into focus. Just a few days ago, President Reagan returned from the first summit meeting with the Soviets in six years. Although we all applaud the necessity of the American and Soviet leaders meeting face to face to seek solutions to the problems facing today's world, such a meeting would indeed be fruitless if the questions of human rights was not addressed.

And, we can not begin to understand the Soviet attitude to human rights if we do not familiarize ourselves with the saga of the Ukrainian famine.

The Ukrainian famine stands out as a watershed event in the history of human rights because of the magnitude of the travesty. An event such as the shooting down of K.A.L. Flight 007 is easy to grasp, because the number of 269 dead is a number we can all comprehend. But the over 7 million who died in the famine is of such magnitude that most of us have difficulty grasping it.

The deliberate attempt to wipe out the identity and the culture of an entire independently minded people is an event which we must understand if our quest for peace in today's world is to have a prayer of success.

That is where the responsibility of our public officials and of our educators becomes clear.

If we allow the Ukrainian famine to be forgotten, to be swept under the rug, it will be repeated . . . in Afghanistan, and in a hundred other places. History has taught us the sad lesson . . . that a crime committed against one people is a crime committed against all. If the world is allowed to forget the Ukrainian famine, then inevitably there will be future atrocities committed against other peoples—and our Ukrainian martyrs will have died in vain.

I was pleased to have co-sponsored and supported the legislation creating a Congressional Commission to investigate the famine in the Ukraine. I believe that such a Ukrainian Famine Commission would go a long way towards focusing the attention of the free world on the human misery that took place over fifty years ago in the Ukraine. I was particularly pleased about my appointment by Speaker O'Neill as a Congressional Member of the Commission.

The Ukrainian Famine Commission is now awaiting an appropriation so that we can commence our work. Once Congress approves our appropriation—which I am assured will take place prior to our adjournment at the end of the year—we will be able to begin our two-year mission to fully investigate and publicize the causes and the effects of this, one of the greatest man-made tragic disasters in history.

Speaker O'Neill appointed, as our Chairman, Congressman Dan Mica of Florida—a concerned and dedicated legislator who I am certain will serve as an outstanding Chairman. The other House Members appointed are: Congressman Dennis Hertel of Michigan and Congressman William Broomfield of Michigan, the Ranking Minority Member of our House Foreign Affairs Committee.

Members of the U.S. Senate appointed to the Commission are: Senators Dennis DeConcini of Arizona and Bob Kasten of Wisconsin.

The President has also appointed Howard E. Douglas, Ambassador-at-Large at the State Department; Gary Dauer, the Undersecretary of Education; and C. Everett Koop, the Surgeon General of the U.S. Public Health Service.

Once our appropriation is approved by Congress, the Urainian community will be recommending six public service commissioners. A full-time staff director will also be named, thus rounding out the full complement of commission members.

I can assure you that we intend to be a hard-working, dedicated group.

It is certainly appropriate that the President has named the Undersecretary of Education as a Member of the Commission, for it is extremely important that our educational community be made fully aware of the magnitude of this historical event, and that our young people be made aware of the extensiveness of this disaster, and are taught that such violations of the basic rights of humans are violations of all our human rights.

Finally, at long last, a literature is arising regarding this tragic episode which for too long was "swept under the rug."

Earlier this year, a book was published by a Ukrainian famine survivor, Miron Dolot. Entitled "Execution by Hunger: The Hidden Holocaust," this fascinating book is one of several major treatments in English, by an eyewitness of the Ukrainian famine.

The author, Miron Dolot, is to be commended for his courage in documenting the horrors of his childhood in the Ukraine, for one of the major hurdles that our commission will have to overcome—quite apart from the fact that survivors are harder and harder to find as the years go by—is that many survivors fear reprisals against family members who are still behind the iron curtain.

Another educational tool, which along with my Congressional colleagues, I am looking forward to seeing is the film, "Harvest of Despair," produced by the Ukrainian famine research committee with assistance from the National Film Board of Canada. This film has received rave reviews through Canada.

The Ukrainian people are admired by free men and women everywhere for their perseverance and their courage in the face of outrages of a shocking nature, just as other ethnic groups behind the iron curtain are courageously fighting for freedom and justice. Just in the past few weeks, I have had the extreme pleasure of welcoming to freedom Dr. Mark Nashpitz, a Soviet prisoner of conscience, and Lydia Staskovitch and her family, a Pentacostal leader. Mark had waited 15 years for his exit visa and Lydia more than 10 years. In speaking with them recently, they both stressed the importance of our speaking out in a decisive, forceful manner, and how important it is to put a human face on our trade negotiations. They also stated that we must never lose sight of the ideals of liberty and justice upon which our country was founded.

The plight of the Ukrainians has to a good measure not captured the attention of very many well meaning people for a variety of reasons. Because those periods of independence of the Ukrainian people has been so brief, many westerners do not think of the Ukrainians as a viable nation, like Poland or Russia, and that has aided the enemies of the Ukrainians who for years have tried to suppress the language, culture, and independent spirit of the Ukrainians.

The obvious intent of the Ukrainian famine was to suppress and break the spirit of Ukrainian independence. Although we are all horrified at the thought of seven million brought to their death, we are even more stricken by the knowledge that the famine was accompanied by an extensive purge in the cities of the Ukrainian cultural and political elite—the potential leaders of Ukrainian nationalism. The Ukrainian famine was not just a general attack on a people—it was part of a concerted attack on the cultural and spirital leaders of a nation.

The spirit of Ukrainian nationalism has, however, persevered. Because that spirit of hope remains alive, we can still look forward to the day when Ukrainian culture and independence shall triumph.

Let us all hope with confidence that our House Famine Commission and its activities will contribute towards bringing about the long-awaited day.

In closing, permit me to reflect a moment on the Geneva Summit meetings which have now come and gone.

The Congress and our Nation welcomed back our President and our Secretary of State with a strong outpouring of elation and pride . . . proud that our chief executive has re-opened a line of communication with our principal antagonist.

While it is essential that we fully explore and seek to build on this new opportunity to talk with each other, we must not be lulled into any sense of complacency by the euphoria emanating from all the handshaking and all the good humor and toasting at Geneva.

As we explore a new relationship with the Soviets we must remind ourselves of the character of the policy makers with whom we are communicating—a nation that:

Is involved in regional conflicts throughout the world—in Africa, in Afghanistan, and in Central America;

A nation that has invaded and is conducting a brutal war in its neighboring country, Afghanistan;

A nation that ordered its air force to shoot down an unprotected civilian passenger plane—K.A.L. Flight 007—killing all 269 civilians on board;

A nation that has such a low regard for human rights that it persecutes all those who have the courage to speak up for living up to the Helsinski accords—i.e., Nobel Peace Prize recipient Andrei Sakharov; the Anatoly Shcharanskys; the Orlovs; the Josef Beguns, and all of the other political and ethnic prisoners.

Any accomplishments of this Geneva summit will only be able to be duly assessed in the years to come—and only if it truly contributed to peace, to justice, and to freedom.

And, if Georgi Arbotov is any indicator of any Soviet policy change—then I must be cynical—having heard him respond just hours after the summit meeting when in response to our inquiry concerning any change in the Soviet's human rights policy, he replied in the usual stereotyped, hard-nosed manner . . . that the Soviet's definition of human rights differs from our perception of human rights and that the Soviets are not in violation of any human rights.

Let us hope and pray that Mr. Arbotov's response does not portray the end result of our summit efforts.

Thank you and God bless.

HAL CHRISTENSEN

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. MICHEL. Mr. Speaker, one of the really nice people I have come to know in this business of politics is Hal M. Christensen. Hal has represented the American Dental Association in Washington for 28 years and has directed the office since 1963.

Before I was elected leader and was serving on the Appropriations Committee, I forged a very cordial relationship with Hal because of the community of interests of our work since I was serving on the old Labor, Health, Education and Welfare Subcommittee.

Hal is going to be retiring at the end of this year and I certainly did not want the occasion to slip by without saluting him for first being such a fine representative of his profession and also serving so creditably as a Washington rep for the ADA.

He is an attorney and directed the profession's legislative efforts in the Nation's Capital during the unprecedented expansion of Government health care programs in the 1960's and 1970's, and will continue as a consultant to the association during 1986.

As director of the Washington office and assistant executive director for legislative affairs, he has been responsible for maintaining liaison with the U.S. Congress and executive agencies of the Federal Government.

Under his direction, the ADA's Washington office was expanded from a 1 person operation to a staff of nearly 20 persons. He had a lead role in the association's acquisition last year of the new 12-story downtown office building in which the Washington staff and several related dental organizations are housed.

He was instrumental in the establishment and development of the American Dental Political Action Committee, which has affiliates in all States.

He joined the association in 1957 as assistant secretary of the council on legislation, was appointed secretary to the council in 1960, and in 1961 was named Washington counsel of the ADA.

Thomas J. Ginley, executive director of the 140,000-member association has this to say about Hal: "No professional association has any individual who has so long and successfully represented its members in Washington as has Hal Christensen.

"Hal's efforts are associated with development of the National Institute of Dental Research, Medicaid coverage of dental care for needy children and Medicare reimbursement for covered services provided by dentists, self-employed pension plans, opposition to taxes on health benefits, and so many other pieces of legislation important to the profession and the oral health of Americans which are too numerous to list. In short, he has been dentistry in Washington and this profession is the better for it."

Hal received an honorary Doctor of Science degree in 1983 from Georgetown University where he gave the commencement address to graduates of the dental school. During his tenure, he has spoken at meetings of almost every State dental association.

He is a fellow, American College of Dentists; honorary fellow, International College of Dentists; honorary member, American Association of Oral and Maxillofacial Surgeons, and an honorary member of several State and affiliated dental organizations.

Before joining the association, Mr. Christensen was associate counsel to a subcommittee of the U.S. House of Representatives and was engaged in the private practice of law. A native of Utah, he completed undergraduate training at the University of Utah and received his law degree from the Washington College of Law, American University in Washington, DC. He has been admitted to practice before the U.S. Supreme Court and the courts of Illinois, Utah, and the District of Columbia.

FARM CREDIT SYSTEM ISSUE

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. OXLEY. Mr. Speaker, this week we voted on strengthening the authorities and responsibilities of the Farm Credit System. Their immediate problems need to be addressed if the nearly 1 million borrowers of the system are to be able to continue farming in 1986. I am greatly concerned, however, regarding the ability of local stockholder-borrowers to control their own associations. Association leaders in my district want to retain local control. They know best if farmers in their association will be able to repay the loans they make.

In this regard, Mr. Speaker, I call my colleagues' attention to an excellent discussion on the credit issue and expression of concern by the successful directors of the Production Credit Association of Northern Ohio for continued local control.

FEDERAL LAND BANK ASSOCIATIONS,
PRODUCTION CREDIT ASSOCIATIONS,
Fostoria, OH.

PRODUCTION CREDIT ASSOCIATION OF NORTHERN OHIO

DEAR SIR: We are the directors of Production Credit Association of Northern Ohio, which was chartered by the Governor of the Farm Credit Administration on March 19, 1934. Our headquarters is in Fostoria, Ohio, but our lending business is conducted in Hancock, Wood, Lucas, Ottawa, Sandusky, and Seneca counties, Ohio. We have approximately 2,500 farmers in these counties who own stock in the PCA and are borrowers from it.

The counties in which PCA of Northern Ohio operates are among the state's most productive in a number of different commodities. For example, Wood county ranks first in wheat production, second in soybean production and third in corn production in Ohio. Hancock county is first in soybean and second in wheat production. Sandusky county is first in cucumbers, processing tomatos, and sugar beets. Our lending territory also includes fruit, vegetables, and greenhouse operations as well as beef, dairy cattle, hogs, sheep and poultry.

In the thirty-five year period from 1950 to June 30, 1985, PCA of Northern Ohio loaned more than $1,000,000,000. It has had less than $1,000,000 in cumulative loan losses from the date it was chartered in 1934 until June 30, 1985. The association has been and continues to be profitable despite what many regard as the most adverse agricultural conditions in fifty years. It has been and is the largest agricultural lender within the six county area. We attribute this to several factors. First, the farmers with which we do business have had a great deal of confidence in the strength of the PCA. When they borrow money they are required to invest an amount equal to eight percent (8%) of the loan and to maintain their investment at that ratio during the life of the loan. They have always been confident that this eight percent (8%) investment can and will be returned to them as the loan is paid. Second, the PCA has historically loaned money at very favorable rates, typically as low as any production credit association in the Fourth Farm Credit District, comprising Ohio, Indiana, Kentucky and Tennessee.

These two factors, confidence and low interest rates, have combined to give the association a very significant market advantage over competing lenders. As a result, the association has been able to attract the best of the agricultural credit risks and to enable these farmers to reduce their interest expenses, which results in a lower overall operating cost, further enhancing the ability of these farmers to operate successfully in a period of difficult economic times. In turn, this has enabled us to operate with minimal credit losses, which, of course, lowers our operating costs.

Each of the factors discussed above is essential in our efforts to provide funds to our farmer-borrowers at the lowest possible costs. Without confidence that they could receive their investment in PCA stock upon payment of their loans, our farmers would borrow elsewhere. Unless our interest rates are competitive, it makes no sense for a farmer to do business with our association. Unless we can continue to operate the association in accordance with our existing credit standards, we cannot maintain a successful loan loss experience.

As a result of fifty years of prudent and successful management, our association has a net worth of an excess of $10,000,000. Computed in the way commercial banks calculate capital for purposes of complying with the banking agencies' six percent (6%) minimums, PCA of Northern Ohio has a capital/asset ratio exceeding fifteen percent (15%), more than two and one-half times that it would be required to maintain if it were a commercial bank. Even if our investment in the stock of the Federal Intermediate Credit Bank of Louisville were to become totally worthless, our resulting capital/asset ratio would be only slightly less than that required of a commercial bank.

THE FARM CREDIT CRISIS AND THE POOLING OF CAPITAL REGULATION

Recently, as agricultural conditions in the United States deteriorated, the quality of agricultural debt began to be called into question. Approximately fifty commercial banks with significant amounts of agricultural loans in their portfolios have now been closed. Also, the Farm Credit Administration revealed similar problems in agricultural debt held by Farm Credit System lenders. As a result, negative accounts in the news media began to include mention of Farm Credit System securities. The yield differential between U.S. Treasury securities and those of the Farm Credit System, which had been almost insignificant, rose to approximately one-fifth of a percentage point.

A Farm Credit Administration regulation (12 C.F.R. §611.1145) that was designed to calm the credit markets, has had an opposite effect. The regulation purports to give the Farm Credit Administration the authority to transfer assets and equities among Farm Credit System lenders. Immediately after it was adopted the interest rates on Farm Credit System securities increased from approximately one-fifth of a percentage point over the yield on comparable U.S. Treasury securities to approximately nine-tenths of a percentage point over Treasuries. According to accounts in the press, the market fears that the regulation will drive the better credit risks out of the Farm Credit System. Some provisions of H.R. 3792 pose the same threat to the ability of Production Credit Association of Northern Ohio to continue to operate.

H.R. 3792 AND THE FARM CREDIT SYSTEM CAPITAL CORPORATION

Section 4.28L of the Farm Credit Act: As added by section 103 of the bill, this section would grant the Farm Credit Administration unlimited authority to require Farm Credit System institutions such as ours to contribute capital to the Farm Credit System Capital Corporation. This poses a direct and immediate threat to the farmers who have invested in our association. A crisis in confidence could trigger abandonment of our PCA (and other System institutions) by the most creditworthy borrowers. More importantly, even if the initial capitalization of the Capital Corporation does not result in the diversion of capital from our association, another provision in the bill will likely have the same result.

Section 4.28H of the Farm Credit Act of 1971: As added by section 103 of the bill, this section would authorize the Capital Corporation to require System institutions to make funds available to the Capital Corporation. Our PCA, which is certainly the most solvent of any in the Fourth Farm Credit District, has already invested $8,131,000 in the Federal Intermediate Credit Bank of Louisville, including $609,000 invested in the first eight months of this year. Stock in PCA of Northern Ohio held by our borrowers amounted to $6,146,000 as of August 31, 1985. In other words, Production Credit Association has already invested in the FICB more than the amount invested in the PCA by its farmers-borrowers. Our investment in FICB stock has increased from $6,643,000 at year end 1983 to $8,131,000 at the end of August. At the rate we are going, all of our net worth will be tied up in FICB stock by the end of 1986. As a result, it seems probable that the Capital Corporation would very quickly begin to take the stock held by our borrowers. Before that happens we would expect the borrowers to go elsewhere for their credit needs, the most creditworthy going first. Our PCA will then rapidly be left with no customer base. Those farmers who stay with us will find their net worths decreasing as the value of their investment in the PCA declines.

Even if the Capital Corporation were to be financed with debt instruments issued to PCAs rather than with stock, unless PCAs receive a market rate of return, the transfer of funds to the Capital Corporation would quickly bankrupt the association. Our association does not have access to interest free money, nor does it maintain idle balances. For every dollar diverted to the Capital Corporation, our PCA will pay interest. The association already pays approximately $350,000 per year under a loss sharing agreement, in addition to interest on its note to the FICB. Any additional expense not offset by revenue will severely reduce our profitability, requiring that interest rates be increased above those of competing lenders, driving away our better credit risks.

We believe that the Farm Credit System as a whole cannot long survive by bleeding healthy PCAs in an attempt to save those already beyond salvation. The recent action of the Farm Credit Administration in administratively authorizing pooling of capital did not calm the fears of the credit market, but seemed instead to aggravate those fears. We believe that there can be no confidence in Farm Credit System Securities unless the credit markets can be sure that the Farm Credit System retains the confidence of the farmers. Because sections 4.28H and 4.28L would place the farmers' investment in PCA stock at risk, it will not solve the crisis of confidence.

Sincerely,

CARL H. BENSCH,
Chairman of the Board.
DEAN BIERY,
KENNETH HOOT,
RAY MURRAY,
ROBERT BOROUGH,
Directors of Production Credit Association of Northern Ohio.

VOTE AGAINST SENATE JOINT RESOLUTION 238

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. OWENS. Mr. Speaker, I regret that I was not present for the vote on Senate Joint Resolution 238 approving the Nuclear Cooperation Agreement between the United States and the People's Republic of China. Had I been able to, I would have voted against the resolution.

I am deeply concerned about nuclear proliferation. As nuclear technology becomes available to more and more nations, the possibility of nuclear materials, and the know-how to make weapons, falling into the hands of those who might use them and set off a nuclear war increases. The possibilities in highly volatile parts of the world such as the Middle East, are enough to give one pause.

At the time that the nuclear agreement was negotiated with China, the Chinese refused to add the written condition that they would not contribute to the spread of nuclear weapons. A verbal pledge on this key issue was accepted by the administration. Now, the Congress seeks to cure this defect by requiring that the same administration see to it that sufficient safeguards are in place to ensure that nuclear materials, facilities or components are used solely for peaceful purposes. If the original agreement was so important that the lack of safeguards could be accepted, how can one accept that they will now be rigorously enforced? Furthermore, how can we expect that the Chinese Government will be sensitive to a congressional resolution when they have the agreement that they sought without agreeing in writing to the safeguards?

Today, we have been asked to take a leap of faith which can land the whole world in the abyss of a nuclear winter. I cannot, in good conscience, take that leap of faith and I join with my colleagues who refused to risk the security of our Nation and the continued existence of this world which we must all share.

WILLIAMS HELPS NEW JERSEY CITIZENS

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. FLORIO. Mr. Speaker, on September 6, 1985, it was my pleasure to pay tribute to my special assistant, Jack Williams, for 10 years of voluntary service in my Stratford district office.

Before entering the Air Force in May 1942, Mr. Williams apprenticed with Dunlap Printing Company in Philadelphia. During World War II he served in the China-Burma-India theater as a photolithographer with the 20th Bomber Command.

Upon receiving an honorable discharge in December 1945, he returned to Dunlap Printing to resume his apprenticeship. In May 1948 he received his diploma in advertising from the Charles Morris Price School of Advertising and Journalism. From 1950 to 1956 he worked as a compositor at the Government Printing Office in Washington, DC, and subsequently accepted a position as Printing Publication Assistant with the Navy Department.

In 1961 he was transferred to the U.S. Naval Base in Philadelphia working as a printing publication specialist for 6 years at which time he was promoted to the position of Director of the Printing Procurement Department of the Navy Publication Printing Service at the Navy Supply Depot. Mr. Williams held the post until his retirement in July 1974. Recognized for his outstanding administrative capability, Mr. Williams received a recommendation by bodies representing 63 major printing companies for the position of Public Printer of the Government Printing Office in 1970.

Mr. Williams is a life member of the Veterans of Foreign Wars Post 2218 and the Disabled American Veterans (Tampa, Florida). He is a former member of the Washington, DC, Club of Lithographers, the Philadelphia Club of Printing House Craftsmen, and Toastmasters International.

In 1975, Mr. Williams volunteered his services in my Camden County district office specializing in casework related to military matters.

My constituents have recognized the calibre of professional assistance which Mr. Williams provides and have readily expressed their thanks. The following are examples of their appreciation:

"You have cause to be proud of Jack Williams of your staff. He was quick in inquiring about my case and helpful in every way."

"I was very impressed with the service I received from your assistant, Jack Williams. I appreciated his sensitivity to my Veterans' Administration problem."

Without question, Mr. Williams is an outstanding member of that group of retired citizens who continue to unselfishly serve their community and the Nation.

I thank Mr. Williams for his generous contribution of time and expertise. On behalf of my constituency I extend deep appreciation to Mr. Williams for a decade of distinguished service. It is indeed an honor to have Mr. Williams as a volunteer staff member.

FEDERAL REGULATION OF DIRECT INVESTMENTS BY SAVINGS AND LOAN ASSOCIATIONS

HON. TOM DeLAY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. DELAY. Mr. Speaker, let me preface my comments by complimenting the members of the Government Operations Committee on the fine job they have done in preparing a report on direct investments by the savings and loan industry. The committee has made a commendable attempt to bring forth both sense and perspective to areas of regulation where even the experts disagree. Aside from the minor suggestions that I am about to make, I believe that this report presents a succinct and cogent summary of the field and makes several sensible proposals for future regulatory action.

A significant portion of the report consists of critiques of the various studies that have been conducted into benefits of direct investments by savings and loan associations. In general, I agree with the committee's assessment of these studies; however, I also believe that the committee has been overly critical of an empirical analysis of direct investments made by Prof. George Benston of the University of Rochester. Since completing the study discussed, Professor Benston has updated his analysis, and his revised study addresses several of the concerns raised by the committee.

I have obtained a copy of Professor Benston's updated study, and suggest that committee members review these materials to see if amendments to the report are in order. In short, the revised study takes into account many of the committee's concerns, and still concludes that direct investments are not a significant cause of savings and loan insolvencies. Second, while I agree with the analysis of the direct investment problem, I cannot wholeheartedly endorse all the conclusions drawn from the analysis. Specifically, the report points out that a general limitation of all the Bank Board staff papers is that they did not examine how direct investments would impact the risk of insolvency, which is the element of risk that is most relevant from a regulatory point of view. Likewise, in examining individual case studies, the report gives detailed explanations of why it is impossible to claim that direct investments caused the collapse of a few troubled thrifts. Yet, despite the fact that the report demonstrates that there is no evidence to justify the Bank Board's interim regulation of direct investments, the report's conclusion does not emphatically state that the rule should be allowed to expire.

While the report intimates that the regulation should be allowed to expire if the FSLIC system is totally revamped, I would prefer that the report explicitly state that the regulation would expire on January 1, 1987, unless the Board can prove that direct investments are harmful to the industry. It is unacceptable for the expiration of this rule to be tied to the recapitalization of the FSLIC insurance fund, which may take many years to complete and is beyond the control of individual institutions.

Furthermore, if, as the report suggests, the largest problem facing the saving and loan industry is lack of recapitalization, it seems absurd to prohibit the industry from using one of the most valuable tools at its disposal, direct investments, to achieve this goal. Recapitalization must come from a combination of retained profits and new investments from outside investors, both of which can be achieved by the use of direct investment.

Third, the report pays lip service to the fact that there is a substantial States' rights issue involved here. While the ultimate insurer of deposits is the FSLIC, we are talking about savings and loan institutions which are chartered and regulated by the various States. I have yet to see a case where regulation can be better achieved by Washington bureaucrats than by local officials who are more aware of the problems faced by their own institutions. When a Federal agency comes out with one rule to apply to 50 States, they run the very real risk of throwing out the baby with the bath water.

Finally, I cannot accept the report's unalloyed enthusiasm for the regulatory structure erected by the Federal Home Loan Bank Board for direct investment. The Bank Board now limits direct investments by requiring associations to obtain approval from the Federal Government before investing more than 10 percent of their assets in direct investments. From reading the final pages of the report, one would think that the Federal bureaucracy should solve all of its problems by inserting Government approval procedures between private enterprise and all controversial business decisions.

I, for one am not so enthusiastic about giving the Federal Government veto power over every important decision made by this country's businessmen and women. I, therefore, disagree with the report's endorsement of the prior approval procedures built into the direct investment regulation.

Similarly, I cannot support a report which commends a regulatory scheme that proposes changing after 2 years the rules that govern the way an institution does business and suggests that this should be a model for other Federal agencies facing rapid change in the industries they regulate. While flexibility is indeed a commendable goal, regulations which are constantly changing create a great degree of uncertainty in the market place and make it extremely difficult for thrifts to conduct business in an orderly fashion.

In conclusion, I again commend the committee on their work and thorough presentation of a very serious and complex problem. Thank you, Mr. Speaker, for allowing me the opportunity to express my views on this subject.

MEMORIAL TRIBUTE TO LINDA M. BILLINGS

HON. SALA BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mrs. BURTON of California. Mr. Speaker, by now, many of you have heard of the tragic slaying of Ms. Linda M. Billings who was an employee of the Environmental Protection Agency. She was brutally attacked and killed by a young man in a robbery attempt as she worked late in her office on the day after Thanksgiving.

It was typical of Linda's dedication to public service that she was in her office at this time. Her memory, for me, will be one of energy, intelligence and compassion—attributes she shared wherever she went.

My strongest memories of Linda are from the period when she worked with the Sierra Club, as one of their staff members, in the 1970's. For many years, Linda worked in the Washington office of the Sierra Club, serving part of that time as their chief lobbyist on efforts to expand Redwood National Park in northern California. She spent many hours on this project with my husband, Phillip, who was then chairman of the Subcommittee on National Parks.

Redwood National Park was eventually protected by an expansion of 58,000 acres and this accomplishment was due, in no small measure, to the efforts of Linda and of others who wanted to preserve these ancient giants for future generations to enjoy.

Following her Sierra Club tenure, Linda joined the Environmental Protection Agency in 1978 in the office of Pesticide Programs. She was selected to be the first Farm Safety Coordinator in 1980, where she was responsible for coordinating all EPA activities to protect farmworkers from pesticide hazards.

At the time of her death, she was preparing a revision of the EPA's Farm/Farmworker Protection Regulations, this was a major rulemaking effort to upgrade current EPA standards to protect farmworkers.

Linda's commitment to the present, her concern for the future and her care for others are what made her special. Her determination and ability to get things done make her loss especially hard for all of us.

One of her colleagues at the EPA said this about her, "She was compassionate, yet tough and aggressive when working to protect farmworkers. Her energy, knowledge and commitment will be sorely missed at the EPA." Indeed, even though Linda's life was short, she left a marvelous legacy for us all in the way she lived.

GOUVERNEUR HOSPITAL, A CENTURY OF CARING: 1885-1985

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. GREEN. Mr. Speaker, Gouverneur Hospital, located in the Lower East Side of Manhattan, celebrated its 100th anniversary on October 10, 1985.

The hospital opened in 1885, when Grover Cleveland was serving his first term as President, David B. Hall was Governor of New York, and William R. Grace was serving his second term as mayor of New York City. Named after one of the streets that it was first built on, Gouverneur Slip, the hospital has grown from a 50-bed unit to its current 196-bed facility, exclusively for geriatric care.

Gouverneur is also known as the "Hospital of Firsts." Emily Barringer, a physician at Gouverneur, was the first woman to ride on an ambulance while serving the Bowery. Gouverneur was the first municipal hospital to open a TB clinic. Charles W. Stokes, Gouverneur's first house surgeon, later became the first Surgeon General of the U.S. Navy. The hospital established the first day camp on a ferry, the Westfield, for undernourished adults and children. Gouverneur Hospital is also first in the minds and hearts of people in the community.

Mr. Speaker, I ask that my colleagues join me in commending Gouverneur Hospital for 100 years of dedicated, community service.

CONGRESSIONAL SALUTE TO THE HONORABLE STATE SENATOR JOSEPH HIRKALA OF NEW JERSEY, ESTEEMED CITY CLERK, COMMUNITY LEADER AND GREAT AMERICAN

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. ROE. Mr. Speaker, on Friday, January 17, 1986, the residents of the city of Passaic, my congressional district, and State of New Jersey will join together in testimony to a distinguished State senator, outstanding community leader, and good friend, the Honorable Joseph Hirkala of Passaic, NJ, who has announced his retirement from his high office of public trust with the city of Passaic where he has served the citizens of Passaic since 1948 as assistant tax assessor, registrar of vital statistics, supervisor of local public records, and assistant city clerk prior to his appointment as city clerk on January 1, 1977.

Mr. Speaker, we applaud Senator Hirkala's standards of excellence throughout his lifetime and over these past three decades plus 7 years in outstanding public service to the people of the city of Passaic. I know that you and our colleagues here in the Congress will want to join with me in deep appreciation of all of his good works and share great pride in the success of his achievements with his good wife Josephine, son Robert, and daughter Karen as they celebrate this milestone of achievement in their family endeavors.

Mr. Speaker, there is much that can be said of Senator Hirkala and his lifetime of accomplishments in service to people. We are proud to boast that he was born and raised in the city of Passaic, NJ. He attended Passaic High School and Drake Business School. At the young age of 17 he enlisted in the U.S. Navy and served with distinction until his honorable discharge on December 1, 1945. He finished first in his class and was designated as "honor man" in signalman school. He saw duty on the gunboat *Action*, the destroyer *Dortch* and the cruiser *Philadelphia*. Our Nation's military service awards of merit that he received included: Good Conduct, American Defense, Asiatic-Pacific Theatre Campaign, European-African-Middle Eastern Theatre Campaign, Philippine Liberation Medal from the Philippine Government and the World War II Victory Medal.

Mr. Speaker, the quality of leadership and sincerity of purpose that Joe Hirkala has imparted to our people are mirrored in his many accomplishments and the warmth of his friendship that have won him the confidence and strong support of all of us who have the good fortune to know him. He has been a member of our New Jersey State Legislature for over 16 years. After serving in the general assembly from 1968 to 1972, Mr. Hirkala took his seat in the senate in 1972. The term to which he was sworn January 10, 1984, is his fifth. He was assistant minority leader in the 1972-73 session, and majority whip in 1975. He served as assistant majority leader from 1976 to 1982, when he became majority leader. For the 201st legislature, sitting in 1984 and 1985, his colleagues elected him president pro tempore.

Mr. Speaker, Joe Hirkala had made an outstanding contribution in promoting and encouraging community improvement and has actively participated in many charitable and civic endeavors to help improve the social, cultural, and educational endeavors of our community, State and Nation. He is a member of the Disabled American Veterans, Veterans of Foreign Wars, American Legion, Elks, and Loyal Order of Moose; and is a director of the March of Dimes and the Passaic County Mental Health Association. He is a communicant of St. Joseph's R.C. Church of Passaic.

Mr. Speaker, yes, our community, State, and Nation has indeed been enriched by the quality of Joe Hirkala's leadership and the wealth of his wisdom and caring as the city clerk of the city of Passaic of our great sovereign State of New Jersey. He has truly inspired and enriched the lives of many of our people in his lifetime endeavors. I am pleased to join with the people of the city of Passaic in this tribute to their esteemed city clerk and seek this national recognition of his contribution to the American way of life and the American dream through his compassion and benevolence for his fellow man and an exemplary record of good works in public service on their behalf.

We do indeed salute an esteemed city clerk and great American—Hon. Joseph Hirkala of Passaic, NJ.

LET'S ENCOURAGE OUR TOURISM RELATED BUSINESSES TO ADVERTISE IN CANADA

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. SKELTON. Mr. Speaker, at recent tourism hearings my Small Business Subcommittee on Exports has held, small business owners in the tourism related industry have expressed concern regarding the 10 percent excise tax the Canadian Government has levied on U.S. travel literature. The tax which has been in effect since 1983 is levied on travel literature that is distributed free of charge in Canada. One witness testified that brochures he took to the Toronto Ski Show cost him over $500 in duties yet the brochures cost less than that to print. Mr. Speaker this tax is impeding our small business owners' ability to advertise in Canada.

Last March, during the summit meeting between President Reagan and Canadian Prime Minister Brian Mulroney an agreement regarding this excise tax was reached. Prime Minister Mulroney gave his word that he would take steps to exempt travel literature that is government-sponsored or printed by chamber of commerce, automobile associations, and "similar organizations" from the 10-percent tax. However, 2 months after the summit the Canadians amended their law to exempt government sponsored literature only. And this repeal is still pending parliamentary action. And, that the second stage of implementation, which will repeal the tax on nongovernment entities may go into effect in a year or so.

Mr. Speaker when our businessmen are willing to take the initiative and advertise without government financial support they shouldn't have the doors slammed in their face. Not only does the Canadian Government financially support their businesses in the tourism industry, we have an open door policy for those businesses to advertise here.

Mr. Speaker, I believe we must continue to encourage our businesses to take such initiatives as to advertise in other countries. At this time, I am not in favor of retaliatory actions however, I am cosponsoring House Concurrent Resolution 241 which expresses the sense of this body that the Canadian Government should discontinue its federal excise tax on tourism literature imported from the United States. I believe this is important to our business owners in the tourism related industry and to our balance of trade.

CONGRATULATIONS TO JOHN S. STAUM ON HIS ELECTION AS COMMANDER IN CHIEF OF THE VETERANS OF FOREIGN WARS OF THE UNITED STATES

HON. BILL SCHUETTE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. SCHUETTE. Mr. Speaker, it is my distinct privilege to congratulate John S. Staum on his election to the position of commander in chief of the Veterans of Foreign Wars of the United States during the 86th annual convention in Dallas, TX.

Staum, a veteran of the Korean war, has served the VFW for over 25 years. He has held many important elected positions within the VFW, including the position of chairman of the VFW National Convention Corp.

Our Nation owes a tremendous debt to our veterans. We must never forget the men and women to whom we owe our very existence as a free people. This veteran has served our country, not only in war, but also in peace. He has provided able leadership for his fellow veterans all over this Nation, and now he will assume the highest rank in the VFW organization, commander in chief.

Thank you, Commander Staum, for reminding us what leadership is all about. Each position you have held in the VFW organization has been an elected one. You have proven yourself to be a strong leader, and we in Congress wish you well in your new position.

REGARDING THE BUDGET ACT PROCEDURES INCLUDED IN THE CONFERENCE REPORT ON HOUSE JOINT RESOLUTION 372

HON. ANTHONY C. BEILENSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. BEILENSON. Mr. Speaker, I would like to take this opportunity to describe the provisions in the Gramm-Rudman conference report (S.J. Res. 372) which govern the congressional budget process prior to the beginning of the sequestration process, since these amendments to the Congressional Budget Act of 1974 may not be as familiar to Members as some of the other features of the conference report.

Most of the revised budget procedures included in the conference report originated in the House Rules Committee in the 98th Congress. They were the product of the Committee's Task Force on the Budget Process, a panel of 24 House Members from various committees which spent 2 years, 1982–84, reviewing the Budget Act. The resulting legislation developed by the task force, H.R. 5247, was reported by the Rules Committee last year (House Report No. 98–1152).

The conference committee on House Joint Resolution 372 agreed to substitute most of our Rules Committee bill for the comparable provisions in Gramm-Rudman as originally passed by the Senate. The conference report includes a few provisions which were not in the Rules bill; and, it treats some procedures differently in the House than in the Senate.

While I have serious misgivings about the Gramm-Rudman process as a whole, most of the Budget Act revisions included in the conference report are an improvement over current law. However, there is one change, apparently adopted at the last moment, that I strongly oppose: budget control at the subcommittee level. Up until today, it was understood that the House would apply budget controls at the section 302(a), or full committee, level—as the Rules Committee bill provided—while the Senate would apply controls at the section 302(b), or subcommittee level. The section 302(b) point of order, in my opinion, is unnecessarily stringent; it does not give committees the flexibility that they need to make tradeoffs among programs; and it diffuses responsibility for staying within budgetary limits. Who is to blame if the section 302(b) amount is exceeded: the subcommittee or the full committee? The Rules Committee considered section 302(b) controls and rejected them for the reasons just mentioned.

In brief, the general intent of the Budget Act revisions included in the conference report is to strengthen and streamline the budget process. These new requirements do so by: Accelerating the budget timetable, to make it easier for Congress to get its budget work completed by the start of the fiscal year; strengthening controls, mainly by enforcing the budget resolution at the subcommittee or programmatic level; and expanding the scope of the process to ensure that all forms of Federal financial activity—credit programs and off-budget activities in particular—are included in budgetary review. The conference report includes a number of requirements to ensure that budget-related information is provided to Members on a timely basis and to facilitate the operation of the Budget Act in the House of Representatives.

Unlike the rest of Gramm-Rudman, which expires in 1991, these Budget Act changes will remain in law unless they are revised.

The following explanation covers House rather than Senate procedures, some of which are different, and includes all but the most minor additions to or changes in current requirements of the Congressional Budget Act of 1974.

ONE ANNUAL CONCURRENT BUDGET RESOLUTION

Congress will be required to adopt only one budget resolution each year, as has become current practice. However, the budget will be binding immediately upon its adoption rather than on October 1. The budget resolution will be substantially the same as under current practice; its required content has been updated to include credit levels and 2 planning years.

Congress may adopt a subsequent budget resolution any time after adoption of the first if it so desires, but it is no longer required.

It will not be in order to consider a budget resolution if the resolution exceeds the maximum deficit amount for the coming fiscal year. The same prohibition applies to amendments to the budget resolution and to the conference report on the resolution. This is a new point of order which originated with the Senate as a way of enforcing the maximum deficit amount early in the process.

In the House, the point of order on a conference report exceeding the maximum deficit amount can only be waived by three-fifths of the Members voting. However, all other points of order either already existing in the Budget Act or created by this Act, may be waived by majority vote.

ACCELERATED TIMETABLE

The schedule for adoption of the budget resolution and passage of budget legislation will be accelerated and compressed in order to allow Congress to finish work on the budget earlier in the year than it does at present. Accelerating the timetable is desirable under any circumstances, but it is particularly important under the new deficit-reduction budget process because CBO will be looking at the budget legislation Congress has actually passed as of August 15 when it issues its August 20 report on the projected deficit level for the coming fiscal year. If Congress has not passed the necessary budget legislation by that date, we probably won't have a chance of avoiding the sequestration process.

After 1986, the new deadline for submission of the President's budget will be the first Monday after January 3. Beginning in 1986, Congress will adopt a budget resolution by April 15. Dates for submission of CBO's report and committees' views and estimates are moved ahead to February 15 and 25, respectively, to conform to the new budget resolution deadline. The House Budget Committee's reporting deadline is repealed; the Budget Committee is expected to report its budget resolution early enough to allow Congress to complete action on it by April 15.

To help the House get an early start on its budget work, the conference report requires House elections of committees to be held within a week after Congress convenes.

The May 15 deadline for reporting authorizations is repealed. If authorizing committees want their bills considered before Congress acts on appropriation bills, then they will have to report them early enough in the year to ensure that there is adequate time to consider them prior to June. The conference committee agreed with the House Rules Committee that the current authorization deadline has been counterproductive since authorization committees tend to bunch the reporting of their bill around May 15. If committees report earlier in the year, the House and Senate will be better able to assure floor consideration of those bills prior to consideration of the relevant appropriation bills.

In the House, the Appropriations Committee must report the last of its 13 regular appropriation bills by June 10. It is anticipated that Appropriations will begin reporting its bills as soon a possible after adoption of the budget resolution. If Congress has not adopted a budget resolution by May 15, appropriation bills will not be subject to the section 303(a) prohibition against consideration of budget legislation prior to adoption of a budget resolution. House passage of those bills is required by June 30. Congress must pass reconciliation legislation by June 15.

Deadlines for appropriations and reconciliation are enforced in the House by providing that it will not be in order to adjourn for more than 3 days in July unless the House has passed its 13 appropriation bills and reconciliation legislation. Thus the House will be prohibited from adjourning for the traditional Independence Day district work period unless its budget work is done.

STRENGTHENED CONTROLS

There are several new provisions to ensure that Congress' actions on budget legislation conform to its budget resolution.

After adoption of the budget resolution, each House committee with jurisdiction over a portion of the budget will receive a section 302(a) allocation for budget outlays, budget authority, entitlement authority, and credit authority; those allocations will be divided into mandatory and discretionary amounts, as in current practice.

Each committee that receives a section 302(a) allocation will be required to subdivide that allocation by program or subcommittee—the section 302(b) level. Committees will be prohibited by a point of order from having a reported bill considered on the floor until they file their 302(b) reports.

Any bill which exceeds its section 302(b) level of discretionary budget authority will be subject to a point of order against its consideration. This is a far more stringent control on budget legislation than anything that exists under current law.

The conference report maintains the section 311 point of order against legislation which exceeds totals of new budget authority or new entitlement authority, or reduces total revenues but, as in current practice, measures reported by a committee that would not cause the committee's own allocation of discretionary budget authority to be breached will not be subject to a point of order. An exemption to the section 311 point of order, often referred to as the Fazio exemption, will allow a bill which exceeds budget totals to be considered if the bill is within a committee's 302(a) allocation. With this exemption, committees will be held responsible for what they can control—keeping budget legislation within their allocated level—but not for what they cannot control—for example, changes in the economy which cause changes in budget totals, or action by other committees which exceed their allocations.

Reconciliation will be strengthened in two ways: One, in the House, if a committee fails to report reconciliation legislation as directed, the Rules Committee may make in order amendments fulfilling those directives. Committees given a directive to change both spending and revenues may substitute up to 20 percent of one for the other at their discretion.

Two, a point of order will lie against any amendment to a reconciliation bill if it would add to the deficit; that is, any amendment that would reduce revenues would have to reduce the equivalent amount of spending; any amendment that would increase spending would have to be offset by an equivalent increase in revenues. This is a requirement which originated in the Senate bill.

As in current practice, reconciliation directives may cover 1, 2, or 3 years. A new requirement was added in conference to exclude Social Security [OASDI] from the reconciliation process.

EXPANDED SCOPE OF THE BUDGET PROCESS

The conference report expands the scope of the budget process in two ways: by bringing off-budget items on budget, and by subjecting credit programs to nearly the same controls as direct spending.

All Government entities which are currently off-budget will be placed on budget. Social Security [OASDI] is taken off budget, but included in budget totals for purposes of determining the deficit amount. For purposes of the President's budget and the congressional budget process, Federal Financing Bank receipts and disbursements will be attributable to the agency for which those transactions were made.

The House of Government Operations Committee will have jurisdiction over any legislation proposing to take an agency off budget.

Direct loan obligations and primary loan guarantees will be included in the budget resolution, allocated to committees, subdivided within committees, may be included in reconciliation directives, and will be subject to the section 302(b) point of order ensuring that Congress does not consider legislation that would cause the relevant subcommittee amount to be exceeded.

Furthermore, measures providing new credit authority shall be subject to a point of order unless the credit authority is limited to amounts provided in appropriations acts.

FACILITATION OF THE BUDGET PROCESS

Also included in the conference report are a number of provisions which will help facilitate the budget process either by providing opportunities for review of budget procedures or by requiring certain budget information at critical points in the process.

To ensure that any new procedural provisions included in a budget resolution receive adequate review, a House Budget Committee-reported budget resolution which changes House procedures will be referred to the House Rules Committee for 5 days—concurrent with a shortened 5-day layover period.

The Speaker, in consultation with the minority leader, may appoint a Member User Group to review budget scorekeeping rules and practices of the House and report to the Speaker from time to time on their effect and impact. This group is intended to promote support for and compliance with the often complicated scorekeeping rules, and to advise the Speaker on the need for necessary changes. This provision is not intended to interfere with the authority of the Chair to rule on points of order or with the responsibility of thie Parliamentarian to advise the chair on such rulings.

The conference report does not include the Rules Committee's provision requiring the Budget Committees' reports to display, for each function, the amount of Federal financial commitment in spending, credit activity, and tax expenditures. This provision was intended to facilitate the evaluation of the mix of different forms of financing used to achieve similar objectives. However, the joint statement of the managers strongly urges the Budget Committees to include this information in their reports.

Along the same line, the conference report requires CBO to conduct continuing studies to enhance comparisons of budget outlays, credit, and expenditures. As with the budget report provision, the intent is to provide Congress with a better understanding of the full Federal financial commitment in each programmatic area and to aid consideration of whether certain activities might be more appropriate financed in a different way.

The joint explanatory statement accompanying a conference report on a budget resolution will be required to include a statement of the common economic assumptions on which it is based. This provision is intended to encourage the Senate and House to work out any differences over economic assumptions before the conference stage.

The Budget Committees will be required to consult with other standing committees during the preparation, consideration, and implementation of the budget resolution.

The requirements for budget information from CBO are increased in several areas so that Members will have better and more timely information about the costs of legislation being considered and about that legislation's relationship to the overall budget.

Section 308(a) reports, prepared by CBO, will be required not only for legislation providing budget authority and tax expenditures, but also for legislation providing new spending authority, new credit activity, or changes in levels of revenue. This information will also be required for committee amendments, and it will be required to be made available to Members prior to a vote on a conference report. Furthermore, for the first time, it will be required that these reports include information about outlays as well as budget authority and comparisons with budget levels provided in the previous years. These new requirements are intended to ensure that Congress is fully aware of the budgetary implications of its actions.

CBO will be required to issue scorekeeping reports to committees at least once a month, rather than just periodically. In the House, the Budget Committee summary scorekeeping reports will be submitted to the Speaker.

Several new definitions are added to the Budget Act: Entitlement authority is defined, credit authority is defined, and the definition of budget authority is expanded to include the collection of offsetting receipts. The definition of spending authority will be expanded to include two new items: monetary credits—the authority to forgo collection by the United States of proprietary and offsetting receipts not provided for in advance by appropriation acts—and residual spending authority—all forms of spending authority for the U.S. Government to make payments other than those already described by the act not provided for in advance by appropriation acts.

CBO will be required to include in its cost estimates a description of each method for establishing a Federal financial commitment contained in a bill or resolution. This provision is intended to help identify the way a legislative proposal would result in a Federal outlay or a loss of revenue and to help ensure that Member are aware of any backdoor financing mechanisms contained in a proposal under consideration.

In order to help Congress identify spending which is part of existing law and which escapes annual review, GAO will be required to catalog all of the provisions in existing law which provide permanent appropriations and to report, within 18 months, its recommendations for the appropriate form of financing for such programs or activities. That report is to be revised from time to time.

In order to help the leadership and committees of Congress identify what authorizations need to be renewed prior to the start of the fiscal year, CBO will issue a report on January 15 of each year list listing all expiring authorizations, as well as programs which have been funded but not authorized.

Finally, House rules will be amended to permit consideration of rescissions of appropriations and transfers of unexpended balances within the department or agency for which they were originally appropriated if those provisions are included in a general appropriation bill. The conference committee agreed with the Rules Committee that is appropriate to allow such rescissions and transfers to be included in an appropriation bill.

Mr. Speaker, I appreciate the opportunity to describe these new Budget Act provisions, and I hope that this explanation is of assistance to my colleagues.

EDWARD M. O'CONNOR

HON. HENRY J. NOWAK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. NOWAK. Mr. Speaker, Edward M. O'Connor, a distinguished citizen of my hometown of Buffalo, NY, who had a lengthy and varied career in Federal service, died recently at the age of 77.

The scope of Mr. O'Connor's career of public service was detailed in the following obituary which appeared in the Buffalo News on November 26, 1985.

EDWARD M. O'CONNOR DIES; DIRECTED REFUGEE AGENCY

A Requiem Mass will be offered Wednesday for Edward M. O'Connor, the country's first and only commissioner of displaced persons and the man who brought nearly a half-million World War II refugees to the United States. O'Connor died Sunday (Nov. 24, 1985) in his Buffalo home. He was 77.

For almost 20 years, O'Connor, a Buffalo native, sat in the inner councils of government, helping to shape postwar foreign policy. His rise to influence began after graduating from St. Joseph's Collegiate Institute, receiving two degrees from the University of Notre Dame—where he played halfback on Knute Rockne's last "Fighting Irish" football team—and serving in several probation and parole jobs throughout New York State.

"I'm an ordinary man," O'Connor said in a 1978 interview as he reflected on his success. "I was well prepared for life, but I had some unusual opportunities."

And some unusual luck. On July 28, 1945, because of a spirited discussion he was having on the subway with a New York Times correspondent, he was a few minutes late arriving at his New York City office with the National Catholic Welfare Conference. Being late saved his life.

A B-25 bomber lost in the fog had crashed into the 79th floor of the Empire State Building moments before his arrival, killing 12 members on his War Relief Services staff. His own desk was burned, except for a picture of his wife and children.

"What a sad, sad thing that was," O'Connor recalled many years later. "Members of my staff killed, all my records gone."

A few months earlier, O'Connor had gone behind German lines, with a pass from Gen. Dwight D. Eisenhower, to assess the emergency relief needs of Western Europe. Eventually he served on the board of or as an adivser to American Relief to France, Italy, the Netherlands, Belgium, Luxembourg, the Philippines and China.

O'Connor subsequently persuaded Presidents Harry Truman to take interest in the estimated 6.5 million persons facing forced deportation to Russia and other Eastern bloc nations after the war. The president named him commissioner of displaced persons, and O'Connor shepherded 430,000 refugees here, with another 1.4 million going to Allied countries. He served on the National Security Council under Presidents Harry Truman and Eisenhower, directed a select congressional committee investigating postwar communist advances, was a senior consultant to the U.S. Information Agency from 1955 to 1958 and, as staff director for the Joint Committee on Immigration and Nationality Policy from 1962 to 1966, drafted immigration laws in effect through the 1970s.

He also served as director of Special Projects at Canisius College from 1958 to 1962. O'Connor retired from federal service in 1966, explaining later, "I was sick of government. I was becoming a career man."

He returned to Buffalo and helped direct the Community Welfare Council here. O'Connor also served as a consultant to some African nations, advising them on the exchange of American know-how for natural resources.

In 1950, O'Connor received an honorary doctor of law in political science degree from the University of Munich. Among the decorations from European governments are Officer, Order of Orange Nassau, the Netherlands; Officer, Order of Oak Leaf Crown, Belgium; Medal of Gratitude, France; Medal of the Blessed Hand of St. Stephen, conferred by the imprisoned Hungarian Cardinal Josef Mindszenty; Knight of St. Agatha, Republic of San Marino, and Knight, Order of Merit, Republic of Italy.

A founder of the National Captive Nations Committee, chartered by Congress in 1959, he was still on the national board and chairman of the Western New York chapter at the time of his death.

He is survived by his wife, Geraldine; a daughter, Maureen Bailey of Silver Spring, Md.; a son, Mark J.; eight grandchildren, and three great grandchildren.

The Mass will be offered at 11 a.m. Wednesday in St. Mark's Catholic Church, with burial in Mount Calvary Cemetery.

Mr. O'Connor's contributions to the Government during and after World War II included service as the Nation's first and only Commissioner of Displaced Persons and other executive and legislative branch assignments. Mr. Speaker, I bring Mr. O'Connor's career to my colleagues' attention as a well-deserved tribute to this gentleman, whose accomplishments I hope will serve as a standard of excellence and inspiration to those engaged in government service or contemplating such a career. In offering sincere condolences to his family, I also trust they will find consolation in the high regard Mr. O'Connor was held in our community in Buffalo and also in the Nation.

SIGGI B. WILZIG TO BE HONORED BY HOFSTRA UNIVERSITY SCHOOL OF LAW

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. GUARINI. Mr. Speaker, I am not a religious historian. Nor am I a spiritual leader or preacher. But the story, the "true" story you are about to hear is nothing less than a modern-day miracle.

The "miracle" revolves around Siggi B. Wilzig, chairman and president of the Trust Co. of New Jersey and former chairman and president of Wilshire Oil Co. of Texas. He is the "only" Nazi concentration camp survivor "in the world" to have headed both a major New Jersey Bank and a New York Stock Exchange listed oil company at the same time. Mr. Wilzig is a firm believer that this could only have happened in America.

To even begin to appreciate the magnitude of this man and his accomplishments, one has to first look at his tragic past. For it is surely this "tragic" past that inspired Siggi B. Wilzig to reach the highest heights in both the business world and the more noble world of charitable endeavors. Yesterday he was—"a victim of history." Today he is—"a creator of history."

In fact, on this very day the Siggi B. Wilzig Center for Banking Law is being established within the Hofstra University School of Law and a professorship is being named in his honor in perpetuity. It is the only center of its kind in the country.

Siggi B. Wilzig was born in Germany in 1926. By the age of 14, his formal education had ended; a year later he was doing forced labor in Nazi Germany.

He was shipped to Auschwitz at the age of 16. In May 1945, Wilzig was liberated from Mauthausen, coming to the United States 2 years later. Those sparkling "teen" years Americans take so for granted were a nightmare for Siggi Wilzig.

The son of a middle class textile dealer whose family had lived centuries in Germany, his family moved to Berlin in 1936, hoping that conditions would be more tolerable there than in the small town of his birth, Krojanke, West Prussia, which had a thriving Orthodox Jewish community.

But Berlin turned out to be a deathtrap for its Jews; and in 1942, at the age of 16, Siggi Wilzig was taken to Auschwitz. He told his captors he was 18, only to discover later that all those under 18 and over 45 were killed immediately—thus he passed the first of nearly 20 "life or death" selections.

His mother arrived in Auschwitz 2 days later and was immediately sent to the gas chambers. His father died in Wilzig's presence after being beaten by the Gestapo. In all, 59 relatives were killed, including three brothers, a sister, a 2-year-old niece, and a 7-year-old nephew.

In the camp, Wilzig was younger than most. He kept alone, away from the calamity criers. His intellect argued that he couldn't survive, but his heart and faith in God overpowered the thought of doom.

His "quick, fox-like mind" was his main asset in his struggle to survive, "knowing when to volunteer, and when not to—when one meant life and the other death." His parents and other members of his family were not so fortunate.

Wilzig, who still carries a tattoo number on his arm, was one of a group of prisoners and guards who, in January 1945, was forced to leave the Auschwitz death camp before the Russians liberated the camp—going on a 3-week "death march" and open "cattle car" train ordeal and being forced to march through Czechoslovakia at below-zero temperatures into Austria. Finally, he was rescued by the American Army in Mauthausen, Austria, on May 7, 1945—ironically, the last day of the war. At his liberation, Wilzig weighed 88 pounds.

After recovering in an American Army hospital, Wilzig went to work for the Americans, serving the Army Counter-Intelligence Corps in Austria and Bavaria without compensation, as his thanks to his liberators. Among the most prominent of the Nazis apprehended by Wilzig during this period was the brother of the notorious propaganda minister, Dr. Joseph Goebbels.

Wilzig entered the United States in 1947, and became a citizen 5 years later. His arrival in America coincided with the famous blizzard of December 1947. Wilzig's first job in America was shoveling snow in the Bronx, NY.

Once the snow melted, he was off to other things, such as becoming an assembly worker for the manufacturer of leather briefcases. He earned $28.50 a week at that job, and worked as a janitor 1 night a week for an extra $1.50 to bring his salary up to a total of $30!

But other horizons beckoned, and Wilzig next became a bow tie presser at a "real Brooklyn sweatshop—27 people in a small store." Next came an even briefer career as a necktie salesman.

Wilzig's major entry into the business world came with Nieswand & Son, a Hillside and Newark manufacturer of fine furniture. It was also Wilzig's entry into New Jersey; and he's been there ever since.

At Nieswand, be became sales and general manager after 1 year, tripling the business in 2 years. Then he went to work for a monument company, which went from a one-man operation to the largest firm of its type in New Jersey in just 3 years. Wilzig ultimately became executive vice president of the company in 1960.

While all this was happening, Wilzig started to study and successfully invest in Canadian oil and gas stocks. He saw Canada was the most important source of future energy for North America, equally as important as Texas and Louisiana.

Because Canada is located at America's doorstep, he envisioned that country serving as a backup for supplying energy and minerals to Americans in the future. His success at that time attracted some important people in New Jersey, New York, and Pennsylvania, and about 20 families, including Wilzig, formed a combine to invest in Wilshire Oil Co. of Texas.

In 1965, the president of the company died and Wilzig was elected chairman and president. At that time Wilshire Oil had sales of less than $1 million. At this time, after expanding its domestic oil and gas exploration program, Wilshire now has interests in over 1,400 wells in North America.

Wilshire subsequently acquired The Trust Co. of New Jersey, whose assets have grown under Wilzig's direction from $180 million to over $1 billion. It is now one of the largest banks in New Jersey with 25 branches. The Trust Co. of New Jersey is known as the Bank With Heart and it has certainly lived up to this reputation by being a community-minded bank, by supporting both the black and Hispanic communities and by making substantial funds available to the car and housing industries when they fell on bad times. It is the only bank in the history of New Jersey to reach

$1 billion in assets without mergers or acquisitions. Wilzig didn't buy deposits, he earned them.

His lectures on "The State of the Economy" and "The Holocaust" are given without honorarium before large civic, religious, and school audiences. Wilzig is dedicated to informing Americans that this type of horror is not to be forgotten, since it may then be repeated.

He was the first Holocaust survivor to appear before an audience of 500 cadets and officers at the U.S. Military Academy at West Point, speaking on the Holocaust. He has also lectured on the Holocaust at Brown University, The University of Pennsylvania and Boston University. He was invited to address a joint session of the New Jersey Legislature and he was appointed by President Carter and confirmed by the Congress to the U.S. Holocaust Memorial Council.

Despite his hectic business schedule, Wilzig finds time for philanthropic and community activities. Currently listed in "Who's Who in America," he is a member of the National Israel Bond Cabinet of the United States and has been the recipient of the Prime Minister's Medal of the State of Israel for aiding in that Nation's economic development. He is also chairman of banks and financial institutions, Israel Bonds for the States of New Jersey, Delaware, and eastern Pennsylvania.

He also serves on the boards of Congregation Adas Israel in Passaic, the Hillel Academy, the Daughters of Miriam Center for the Aged in Clifton, the Jewish Hospital and Rehabilitation Center of New Jersey, and the Fiscal Advisory Board of Jersey City.

Wilzig was appointed by Governor Brendan Byrne to the New Jersey State Banking Advisory Board, and is a director and fellow at the Benjamin N. Cardozo Law School of Yeshiva University. In addition, Wilzig recently received an honorary doctorate of law at Hofstra University.

Forty years ago, Siggi B. Wilzig was liberated from the Nazi death camps in Europe. Millions of his people had been murdered—including those most dear to him—his immediate family, relatives, and friends. At the age of 16, the living hell of Auschwitz had stripped him of everything a normal human being needs to live—food, clothing, love, and respect. After this kind of torture, one would expect a man to emerge as a lost soul. The deep and ugly wounds the Nazis inflicted upon his heart and mind should have become permanent scars of hatred. Yet this was not the case.

Siggi B. Wilzig possesses the rare combination of a compassionate heart and a brilliant mind, which has enabled him to find meaning of life, and has made the United States most proud to have him as a citizen. His contributions to the State of Israel reflect his desire for world peace, whereas his generous gifts to the sick and poor reflect his infinite love for all mankind. Humanity needs men like Siggi B. Wilzig in order to stay human.

Wilzig lives in Clifton, N.J. with is wife, Naomi, and their three children, Ivan, Sherry, and Alan, whose teen years, thanks to the United States, have not been, and will never be, anything like their father's.

I know that all my colleagues here in the House of Representatives will want to join me today in a salute to this outstanding man. Throughout his life he has demonstrated a unique capacity to build success from adversity. His accomplishments are an example to us, and his many contributions have enriched us all.

HELSINKI: TEN YEARS LATER

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 1985

Mr. GARCIA. Mr. Speaker, my friend and colleague on the North Atlantic Assembly's Civilian Affairs Committee, Mr. Frans Vangronsveld, recently retired from public life. Before retiring, he submitted a report on the Helsinki accords as the rapporteur of the Committee's Subcommittee on the Free Flow of Information and People.

I am inserting in the RECORD excerpts from his excellent report so that my colleagues can take a look at his evaluation of the accords, and so they can also have a better idea of the excellent work done by the Civilian Affairs Committee and the Assembly. In addition, I can make available a copy of the complete report for anyone who is interested.

One more word about Mr. Vangronsveld. As a member of the Belgian Senate and the North Atlantic Assembly, he served his country well. It is also important to note that he was a hero of the resistance during the Second World War. We who have come to know him through the Assembly will miss him.

NORTH ATLANTIC ASSEMBLY SUBCOMMITTEE ON THE FREE FLOW OF INFORMATION AND PEOPLE, INTERIM REPORT—HELSINKI: TEN YEARS ON

(Mr. Frans Vangronsveld (Belgium) Rapporteur)

SUMMARY

The report aims to take stock of the situation with regard to certain aspects to implementation of the Helsinki Final Act, on the occasion of its tenth anniversary.

Chapter I—Poland: Five years after Gdansk—looks at the conflict-ridden relationship between the Polish state and the civilian community, giving examples of a trend towards totalitarianism, after the assassination of Father Popieluszko and the trial of his murderers. The community rejects its leaders and the leaders cannot change the community. The current situation is fragile, with the leaders alternating between hard-line methods and more sophisticated means to break down the resistance of the community.

Chapter II—The Trials in Yugoslavia—describes the trials of the six Yugoslav intellectuals accused of "counter-revolutionary" activity and wonders how they should be interpreted, since the sentences handed down were too moderate to intimidate intellectuals as a whole, while this seems to represent the sole aim of the proceedings. The public protests at the Writers' Conference were also noteworthy.

Chapter III—The Persecution of the Turkish Minority in Bulgaria—surveys what is known about this massive infringement of the rights of a minority, and the attempts to rob this minority of their very names. The Rapporteur calls for a wider publicity for these outrages. There have been numerous murders, and a public and diplomatic campaign is the only way pressure can be brought on the Bulgarian government and party.

Chapter IV—The Violations of Human Rights in the Soviet Union—denounces the anti-semitic campaigns, the considerable decline in Jewish and German emigration, and ponders the prospects opened up by the change of leadership. The fact that the retention of power by the ruling class, the Nomenklatura, depends on the advantages enjoyed by this class vis-à-vis the general public, leaves the Rapporteur less than optimistic.

Chapter V—Towards Democracy: The Case of Turkey—takes note of the progress made in Turkey over the last year: a reduction in the period of provisional detention, the possibility of partial amnesty, the law on "repentance", wider freedom of the press. It welcomes the role of the Turkish parliament and hopes that it will hasten developments. It voices certain reservations about recent presidential statements, on the new law relating to the police and on the regulations governing the universities.

Chapter VI—A Plea for the Helsinki Process—sets outs the reason why it has been positive, within its own limits: the Final Act did not impose the status quo of boundaries, and the Principles and Basket dealing with human rights encouraged a differentiation between the communist countries, which is encouraging. The right to raise human rights questions—a right not constantly being exploited by the West, is a beneficial consequence of Helsinki, and provides the Western countries with a valuable diplomatic weapon. The Rapporteur considers that the Final Act, by encouraging public participation in international relations, has become a key element in Western diplomacy in Europe.

INTRODUCTION

1. The year 1985 marks both the fortieth anniversary of the Yalta Agreements and the tenth anniversary of the Helsinki Final Act. There is a common misapprehension regarding Yalta that needs clearing up. The two great Western powers never subscribed to any "share-out of Europe". On the contrary the Big Three defined their respective zones of liberation of the countries occupied by Nazi Germany and undertook free elections in these countries as soon as the war was over. Germany's fate was in turn defined under the same conditions in Potsdam some months later. Thus, there was never any Yalta "share-out", but rather, the repudiation of a promise by Stalin. The Western powers are in no way responsible for the postwar fate of the countries occupied by the Soviet Union in contravention of the Yalta commitments, except inasmuch as they trusted Stalin to keep his word. Whatever the responsibilities, however, the fact remains that the geographical division of Europe in 1985 is very much what it was in 1945. The last 40 years have failed to lift the Iron Curtain.

2. A modest attempt to restore European communication was made at the end of the period of détente with the creation of the

CSCE process, whose tenth anniversary is celebrated this year. The 1975 gamble was based on the idea that an agreement covering strategic, economic, human rights and cultural questions, between almost all the European countries and the North American countries which kept troops in Europe would to some extent make it possible to limit the differences between the two political systems dividing Europe, by encouraging the "Socialist" countries to evolve towards a greater pluralism. Our Sub-Committee's 1984 Report showed that this gamble did in fact bring about a greater differentiation between the countries of the Eastern bloc.

* * * * *

VI. A PLEA FOR THE HELSINKI PROCESS

43. Human rights are no more respected by the Soviet Union in 1985 than they were in 1975. Does this mean that the Helsinki process should be dropped, as some argue? The Rapporteur would reply with a categorical "no". In his opinion the balance of Helsinki is anything but negative. It only becomes so when compared with the now recognized unrealistic nature of the expectations that the signing of the Final Act raised in many people of all natios.

44. As regards the recognition of the territorial status quo in Europe, far too much has been made of the implications of the Final Act, which only forbids the modification of frontiers by "threat or use of force". The text of the Act is clear: "They (the States Party) consider that their frontiers may be amended". Thus, the myth that by signing the Final Act the Western states accepted the inviolability of post-war frontiers is an invention of Soviet propaganda. In banning their amendment by force, the Western States merely remained consistent with their purely defensive doctrine, adopted as from the end of the war. "The inviolability of frontiers" is no more than the consequence of this choice, which was quite natural for the democracies.

45. On the other hand, by forcing through the adoption of Principle VII on respect for human rights and fundamental freedoms, of Principle VIII on the equal rights of peoples and the right of peoples to self-determination, and of the Third Basket on co-operation in human rights and other fields, and by ensuring a follow-up to the conference, thus bringing into being a process, the Western states saw to it that human rights questions became a legitimate object of discussion in relations between signatory states. These states can no longer invoke the argument of non intervention in connection with the human rights undertakings listed in the Final Act. Each state therefore no longer has legitimate competence in these fields.

46. The Ottawa Expert Meeting on Human Rights, despite its failure to adopt a concluding document, had the positive aspect that the Soviet Union never invoked the argument of non intervention in its internal affairs at the meeting. The right to raise these questions was thereby strengthened. It also should be acknowledged that the failure to adopt a concluding document resulted from the unwillingness of signatories meaningless document as favoured by the Eastern bloc. The excessive reactions against the Helsinki process itself that have appeared recently in both spoken and written form, particularly in the United States, are a further consequence of that. The Ford Administration had to insist that all European states signed the Final Act. Now it is the European states, who set out with fewer illusions, who see the benefits of the process more clearly than their American partner. If Ottawa sounded the death-kneil of illusion regarding the CSCE process, this setback has a positive aspect.

47. The most important conclusion to be drawn from this setback, however, is that the greater the publicity given to the CSCE follow-up meetings in the press and the media, the greater their chance of success, since such publicity puts the Warsaw Pact states "in the hot seat". The Soviets' ability to resist Western and neutral pressure was considerably strengthened by the fact that the press and the media gave very little coverage to the Ottawa meeting, possibly because of its technical nature and because they were not permitted to cover the meeting. The lesson to be learned from this for the future is that the participants should preferably be senior government officials and parliamentarians, as this would focus attention on the meeting. The free movement of information, so necessary from West to East, is no less so from East to West: public pressure constitutes a diplomatic instrument of prime importance in the field of human rights.

48. This is in fact one more reason to welcome the existence of the CSCE process. Without it, the now constant reference to human rights questions, affecting both individual cases and collective persecution, at meetings between political and administrative officials of West and East would not be possible. As it is, at all levels, from ordinary foreign secretary to heads of state, Westerners are now exploiting their contacts with the East to raise these problems tirelessly. The mention of Professor Sakharov's name by President Mitterrand at an official dinner at the Kremlin is echoed by the pilgrimage made by Sir Geoffrey Howe, Foreign Secretary, to the grave of Father Jerzy Popieluszko, on the occasion of Sir Geoffrey's official visit to Poland. Moreover, these startling initiatives represent only the tip of the iceberg. The Ottawa Human Rights Experts Meeting should be assessed in historical perspective. The cause of human rights as an expression of freedom and democracy and a concern of international diplomacy is a relatively new phenomenon which emerged after the defeat of Nazi Germany at the establishment of the United Nations Organization on the basis of the United Nations Declaration of Human Rights, followed by UN covenants. The Helsinki Final Act, whose tenth anniversary is celebrated this year, is the latest international declaration of human rights. As a signatory of the Helsinki Accords, the Soviet Union is not yet prepared to recognize human rights as a legitimate concern of international diplomacy but has not repudiated the matter completely. The CSCE process is gradually becoming institutionalized internationally. It will take time and a continuing struggle to realize the full implementation of the Helsinki commitments. For the sake of peace in the world, we must continue to be optimistic.

49. The attitude of the Alliance countries on these questions echoes concerns shared by all and has thus led to the creation of a consultative process within the NATO framework which, while leaving each state free to make its own decisions, has ensured co-operation and follow-up in these fields, as was in fact demonstrated at Ottawa, and also in the United Nations.

50. Helsinki, within its own limitations, thus plays a positive part in the implementation of a model for international relations that reconciles realism with the moral strictness invoked by the democracies. The differentiation between the internal systems of the Communist countries is also a sign of this. Is there really any likemindedness between Hungary and the Soviet Union?

51. In this connection, we can only reaffirm the unwavering position of our Sub-Committee and the North Atlantic Assembly: anything that promotes fluidity through publicity favours the amelioration of human rights, which itself helps to humanize régimes and hence international relations. This is why the Western radios broadcasting to Eastern Europe and the USSR, the press releases on human rights, the transmission of Western press to the East and its readership there, the activities of non-governmental organizations, the scholarships given to students to analyze these questions and the participation of the elected delegates of the population in follow-up conferences form, with the Act itself and its follow-up, a single whole. It is by reinforcing the role of the public in this new type of diplomacy, which concerns men just as much as states, that results can be obtained. The men and women who represent the electorate owe it to themselves to play a leading role in this process.

STANDARDS FOR ASBESTOS REMOVAL INDUSTRY MUST BE PROMULGATED

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 1985

Mr. FLORIO. Mr. Speaker, school districts around the country are currently spending millions of dollars on contractors to abate hazardous asbestos in school buildings. Unfortunately, this money is often spent on incompetent abatement work. Environmental Protection Agency [EPA] surveys show that perhaps as much as 75 percent of all local asbestos abatement work has been done improperly. The result of this shoddy work is that almost 1,200 additional schoolchildren will contract cancer, according to EPA estimates.

One reason for the improper abatement work is that EPA has never established a model contractor certification plan. Without contractor certification, reputable asbestos abatement firms are having difficulty competing in the marketplace.

According to one such contractor, C.B. Miller of the Petrin Corp., located in Baton Rouge, LA:

> The only problem we have with competing against asbestos abatement contractors who perform shoddy work is that we are usually not as competitive on our pricing as they are because of our philosophy on doing the work the right way. Subsequently, they are awarded the work for the low price on the majority of federal, state and local projects.

Mr. Miller describes an alarming situation. Government projects are being awarded to contractors that Mr. Miller terms "pirates—here today and gone tomorrow." The reputable firms are unable to compete with these so-called pirates because proper asbestos abatement is an expensive proce-

dure. As a result, we are left with shoddy work that could be causing 1,200 additional schoolchildren to contact cancer because of their exposure to deadly friable asbestos.

To make matters worse, internal EPA audits prepared by the Agency's inspector general revealed that EPA has improperly implemented its asbestos-in-schools program. A recent article by Associated Press reporter David Goeller details EPA's inability to protect our Nation's children from the hazards of asbestos in the schools they attend.

The audits contain a devastating indictment of EPA's asbestos program by documenting a pattern of lax inspection and enforcement procedures and failures to distribute EPA guidance material, the only information the Federal Government currently uses to assist schools in dealing with the asbestos hazard.

Standards defining just what an asbestos hazard is as well as the establishment of a model contractor certification program and regulations prescribing recommended abatement procedures are urgently needed. The asbestos problem is not going away by itself. In fact, the longer we wait, the worse it gets.

Mr. Miller and the AP article both provide important information about the disaster that is EPA's asbestos program. I commend to my colleagues Mr. Miller's insightful letter and Mr. Goeller's excellent article.

PETRIN CORP.,
Baton Rouge, LA, November 22, 1985.

Re Improper Asbestos Removal From Schools By David Goeller, A.P.

U.S. Representative JAMES J. FLORIO,
Rayburn House Office Building, Washington, DC.

DEAR REPRESENTATIVE FLORIO: I read with interest the above referenced article (see copy enclosed) on "shoddy abatement work" in the asbestos removal industry. I hope you will take the time to let me introduce you to our company and to read my following comments:

The Petrin Corporation is an industrial insulation and asbestos removal contractor, incorporated in the State of Louisiana and performing work throughout the continental United States. Petrin employs 200-plus American Citizens on an annual basis and we are very proud, not only of our reputation in the industry, but also of our excellent "safety record" as our insurance modification factor of .72 is 28% better than the average for companies of our size.

The newspaper article touched on "shoddy abatement work" and in Louisiana we call contractors who perform this type of work *pirates*—here today and gone tomorrow. We, at Petrin, feel that there is only one way to remove asbestos—"The Right Way". The right way costs money not only in equipment but also in *education*. How many asbestos abatement contractors around the country have sent their first and second line supervisory personnel to the Asbestos Abatement Seminars in Dallas, Texas, the University of Kansas Abatement Workshop for supervisors, and The Georgia Institute of Technology Asbestos Abatement Workshop? We have, and, even though it is very expensive, we feel that it is worth every penny if one plans on performing the work the right way.

The only problem we have with competing against asbestos abatement contractors who perform "shoddy work" is that we are usually not as *competitive* on our pricing as they are because of our philosophy on doing the work "The Right Way". Subsequently, they are awarded the work for the "Low Price" on the majority of the Federal, State and local projects.

For this reason, I applaud you and your efforts in seeing that Asbestos Abatement work is executed properly and hope that you can appreciate the fact that reputable Asbestos Abatement contractors are as concerned as you are.

Thank you for your efforts in this regard and I only wish more elected officials were as concerned as you are for the American people.

Sincerely yours,

C.B. MILLER,
Vice President.

ASBESTOS REMOVAL FROM SCHOOLS CARRIED OUT IMPROPERLY, EPA REPORTS SAY

(By David Goeller)

WASHINGTON.—The federal program to remove cancer-causing asbestos from schools has been carried out improperly in three of the most populous areas of the nation, according to Environmental Protection Agency documents released Saturday.

The reports, prepared by EPA inspectors general for the New England, mid-Atlantic and Midwest regions, said the agency had failed to give local school officials technical information needed to comply with its asbestos-removal rule.

The reports also said the EPA was not adequately conducting follow-up inspections at schools to ensure that local officials were finding asbestos and removing it safely.

The documents were released by a frequent critic of the EPA's asbestos removal program, Rep. James Florio, D-N.J., chairman of the Energy and Commerce subcommittee on commerce and transportation.

"These audits contain a devastating indictment of EPA's asbestos program by documenting a pattern of lax inspection and enforcement procedures and failures to distribute EPA guidance materials, the only information the federal government currently uses to assist schools in dealing with the asbestos hazard," Florio said in a letter to EPA Administrator Lee Thomas.

One audit report said that as of last month, the six-year-old program had not been fully implemented in EPA Region III, consisting of Delaware, Maryland, Pennylvania, Virginia, West Virginia and the District of Columbia.

The auditors said that local school officials responsible for asbestos removal "did not implement a proper asbestos program because the agency did not distribute a key 1980 guidance document."

A similar complaint about distribution of the so-called "Black Book" was made by inspectors general in Region I, New England, and Region V, Illinois, Michigan, Indiana, Ohio, Minnesota and Wisconsin.

Among other things, the document tells local officials how to properly sample their schools to find asbestos and how to remove it without endangering schoolchildren or removal workers.

Jack Moore, head of the program at EPA, said the "Black Book" had received only limited distribution because it was too technical and complex to be of much practical use to local school officials.

He said that draft copies of a more readable version were mailed last month to 45,000 school districts.

Moore said that "we probably should have been more aggressive in getting technical information out. . . . As you get into tens of thousands of schools, you're going to find something that isn't correct. Nobody is infallible. No program is perfect."

The audits questioned not only the adequacy of asbestos inspections by school districts but also the use of random follow-up inspections by EPA personnel. Two of the reports said EPA should target districts with known problems.

The Region III report said EPA inspectors found violations of the removal rule in only seven of 85 districts checked. The inspector general said a survey of 50 districts found 13 that "were not aware of the requirements of the rule or . . . did not maintain required records."

"Based on past performance, it will take the (EPA) inspectors approximately 36 years to inspect the remaining" districts in the region, according to the report, which said that EPA took as long as 226 days to notify districts of rule violations.

"These delays mean that districts in violation of the inspection rule are not notified in a timely manner, thus delaying corrective actions," Florio said.

The Region I report cites a failure of local inspectors to follow inspection procedures recommended by EPA, resulting "in students and employees becoming exposed to asbestos hazards or (schools) spending thousands of dollars removing material that may not contain asbestos."

In Region V, the inspector said that EPA inspectors checked 2,674 private schools in Illinois, Wisconsin and Minnesota in 1982-83. "We found that Region V's inspections . . . were not properly performed."

Dave Ryan, an EPA spokesman, said that "many of the substantive issues in the reports have been addressed in large measure already." He said that charges such as Florio's "tend to divert attention from the real progress made" in getting asbestos out of schools.

Florio said the three reports "do not even begin to address the serious problems caused by shoddy abatement work. . . . A recent EPA survey of its own regional officials indicated that as many as 75 percent of the abatement actions conducted to date may have been performed in an inadequate and hazardous manner."

BLUE RIDGE PARKWAY MARKS 50TH ANNIVERSARY

HON. STEPHEN L. NEAL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 1985

Mr. NEAL. Mr. Speaker, this year marks the 50th anniversary of the Blue Ridge Parkway, that beautiful ribbon of highway that courses down the crest of the Blue Ridge Mountains from northern Virginia to Cherokee in western North Carolina.

It is a most appropriate time, I think, to reflect on the history of the parkway and those visionary Members of Congress who forged the legislation that made it possible. All this is contained in an excellent paper by Philip A. Grant, Jr., associate professor

of history at Pace University in New York State.

The Blue Ridge Parkway was spawned during the depths of the Great Depression as part of President Franklin D. Roosevelt's New Deal Program to combat unemployment and improve highway transportation. Construction of the parkway meant employment and income for many embattled residents in the mountains of North Carolina and Virginia. It also opened up an almost unimaginably beautiful vista of some 400 miles, which has been enjoyed by tens of millions in the succeeding 50 years.

I am pleased that the entire North Carolina congressional delegation of that day was at the forefront in pushing this and other similar legislation through the Congress. None played a more important role than North Carolina's Representative Robert L. (Muley Bob) Doughton, longtime chairman of the Ways and Means Committee, who was author of the bill which authorized the parkway and other similar projects. Congressman Doughton, a favorite son of the area I am now honored to represent, a true servant of all the people, and a great inspiration to me, served in this body for 42 years. His record and reputation have been matched by very few who have been privileged to serve here.

At this time, Mr. Speaker, I would like to insert into the RECORD the paper by Professor Grant:

STATEMENT OF PROF. PHILIP A. GRANT, JR.

On March 4, 1933 Franklin D. Roosevelt was sworn in as the Thirty-Second President of the United States. Five days later the newly inaugurated Chief Executive summoned the Seventy-Third Congress into emergency session. Between the opening ceremonies on March 9, 1933 and the formal adjournment of the Seventy-Fourth Congress on June 20, 1936 the House of Representatives and United States Senate were to enact a substantial number and wide variety of significant laws. Many of these measures were designed to alleviate the acute sufferings caused by the Great Depression.

The foremost priorities of the First Roosevelt Administration included combatting unemployment and improving highway transportation. Congress eagerly cooperated with the President in these areas and approved an impressive array of landmark bills to effect relief and recovery. One of the most noteworthy developments of the years between 1933 and 1936 was the establishment of the Blue Ridge Parkway.

Among the individuals vested with the responsibility of approving or rejecting Roosevelt's historic initiatives were the two United States Senators and eleven members of the House of Representatives from North Carolina. These gentlemen, like their colleagues from other parts of the nation, would cast votes on an exceptionally large number of bills and resolutions. Five of these congressional measures involved the Blue Ridge Parkway.

The origins of the Blue Ridge Parkway could be traced to the National Industrial Recovery Act. Signed into law by President Roosevelt at the White House on June 16, 1936, the National Industrial Recovery Act provided for a $3,300,000,000 federal public works program. One of the key provisions of the statute was Section 205(a), the text of which read as follows:

"Not less than $50,000,000 of the amount made available by this act shall be allotted for (a) national forest highways, (b) national forest roads, trails, bridges, and related projects, (c) national park roads and trails in national parks approved or authorized."

The author of the National Industrial Recovery Act was Democratic Representative Robert L. Doughton of Laurel Springs, North Carolina. Doughton in March 1933 was beginning his twelfth of twenty-one terms on Capitol Hill and his first of eighteen years as Chairman of the prestigious Committee on Ways and Means. Doughton not only served as floor manager of the National Industrial Recovery Bill in the House chamber, but also as a leader of the conference committee reconciling the differences between the House and Senate versions of the bill. The North Carolina congressional delegation supported the bill by a 10–0 majority.

On December 5, 1933 the Public Works Administration (PWA), which had been established under the National Industrial Recovery Act, decided that $4,000,000 would be set aside for the construction of a scenic highway between the Shenandoah and Great Smoky Mountains National Parks. Two weeks later the decision of the Public Works Administration was transmitted to the Director of the National Park Service, thereby according official sanction to the planning of the future Blue Ridge Parkway.

One of the principal questions to be resolved was whether North Carolina or Tennessee would be the location of the southern portion of the Blue Ridge Parkway. On February 6, 1934 a delegation of distinguished North Carolinians testified before a federal hearing, presided over by representatives of the Public Works Administration, the National Park Service, and the Bureau of Public Roads. Strongly urging the North Carolina route for the parkway were United States Senators Josiah W. Bailey of Raleigh and Robert R. Reynolds of Asheville and Representatives Doughton, Zebulon Weaver of Asheville, Albert L. Bulwinkle of Gastonia, Franklin W. Hancock, Jr. of Oxford, and William B. Umstead of Durham.

On September 17, 1934 a second hearing was conducted in an auditorium of the Department of the Interior Building in Washington. Directing this hearing, at which spokesmen from North Carolina and Tennessee advanced their respective arguments on the route of the Blue Ridge Parkway, was Secretary of the Interior Harold Ickes. The North Carolina contingent at this hearing included Senators Bailey and Reynolds and Representative Doughton.

Ickes finalized his decision on the Blue Ridge Parkway on November 10, 1934. Dispatching identical letters to the Governors of North Carolina and Tennessee, the Secretary concluded that the "decided weight of evidence is in favor of the so-called North Carolina route." The members of the North Carolina congressional delegation were obviously pleased with Ickes' decision.

The second piece of legislation affecting the destiny of the Blue Ridge Parkway was the Federal Highway Act of 1934. This law went into operation on June 18, 1934, immediately after the President affixed his signature. Section 2 of the act was worded:

"To further increase employment by providing for emergency construction of public highways and other related projects, there is hereby also authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $24,000,000 . . . to be expended for the survey, construction, reconstruction, and maintenance of highways, roads, trails, bridges, and related projects in national parks and monuments, national forests. . . ."

A highly respected North Carolina congressman who was conspicuously involved in the deliberations over the Federal Highway Act of 1934 was Representative Lindsay C. Warren of Washington. Warren, a future Comptroller General of the United States, in 1934 was completing his fifth of eight terms in Congress. In his capacity as the ranking Democratic member of the House Committee on Roads, he helped produce the committee report advocating passage of the bill. Thereafter Warren would be appointed to the House-Senate conference committee having the task of refining the contents of the bill.

Although a few Republicans voiced objections to certain features of the Highway Bill, it was virtually certain that the measure would pass the heavily Democratic House. A Republican motion to recommit the bill was rejected on a 257–85 roll call and minutes later the bill was approved 255–26. Consistent with their stand on the National Industrial Recovery Bill of the previous year, North Carolinians in the House were aligned 6–0 against recommittal and 5–0 in favor of passage.

When the Seventy-Fourth Congress assembled in January 1935, there was a consensus within the ranks of House and Senate leaders that additional funds were desperately needed to mitigate the excesses of the Depression. The most important law approved by Congress during the ensuing months was the Emergency Relief Appropriation Act of April 9, 1935. Especially relevant to the Blue Ridge Parkway was Section 12 of the act. It provided:

"The Federal Emergency Administration in Public Works established under . . . the National Industrial Recovery Act is hereby continued until June 30, 1937, and is authorized to perform each of its functions under said Act and such functions under this joint resolution as may be authorized by the President. All sums appropriated to carry out the purposes of said Act shall be available until June 30, 1937. . . ."

Serving on the Committee on Appropriations in 1935 was Representative Umstead. Umstead, later to be Governor and United States Senator from North Carolina, was one of the committee members endorsing the report on the Emergency Relief Appropriation Bill. Because of the extraordinary severity of the lingering economic crisis, few observers were surprised when the bill passed the House and Senate by the overwhelming majorities of 317–70 and 66–13 respectively. North Carolinians on Capitol Hill voted 12–0 in favor of the bill's enactment.

Augmenting the National Industrial Recovery Act, the Federal Highway Act of 1934, and the Emergency Relief Appropriation Act of 1935, the Federal Highway Act of 1936 authorized additional money for the Blue Ridge Parkway. Section 5 of the act stipulated:

"For the construction and maintenance of parkways, to give access to national parks and national monuments, or to become connecting sections of a national parkway plan, over lands to which title has been transferred to the United States by the States or by private individuals, there is hereby authorized to be appropriated the sum of $10,000,000 for the fiscal year ending June 30, 1938, and $10,000,000 for the fiscal year ending June 30, 1939: *Provided:* That the location of such parkways upon public lands, national forests, or other federal reservations shall be determined by agreement between the department having jurisdiction over such lands and the National Park Service."

As in 1934, Representative Warren was prominent among the congressmen who shaped both the committee report and the conference report on the Federal Highway Bill. The bill itself was not subjected to a serious challenge until the conference report was submitted to the entire House. Notwithstanding the criticisms levelled by several Republicans, the conference report was adopted on a 238-87 tabulation. Six North Carolinians cast affirmative votes, while not a single congressman from the Tarheel State was recorded in the negative.

On April 24, 1936 Congressman Doughton introduced a bill providing for the administration and maintenance of the Blue Ridge Parkway by the Secretary of the Interior. On the following day the Doughton Bill was favorably reported by the Committee on Public Lands. Only one paragraph in length, the Doughton Bill proposed that ". . . all lands and easements conveyed or to be conveyed to the United States by the States of Virginia and North Carolina for the right-of-way for the projected parkway between the Shenandoah and Great Smoky Mountain National Parks, together with sites acquired or to be acquired for recreation areas in connection therewith, and a right-of-way of said parkway of a width sufficient to include the highway and all bridges, ditches, cuts, and falls appurtenant thereto, but not exceeding a maximum of two hundred feet through Government-owned lands and designated on, maps, heretofore or hereafter approved by the Secretary of the Interior, shall be known as the Blue Ridge Parkway and shall be administered and maintained by the Secretary of the Interior through the National Park Service. . . ."

Securing recognition in the House chamber on June 20, 1936, Doughton offered a motion to suspend the rules and pass his bill to place the Blue Ridge Parkway under the jurisdiction of the Department of the Interior. Because of firm opposition both from Republicans and many Democrats from the populous states of the industrial Northeast, it seemed doubtful whether the Doughton Bill could attract the support of the two-thirds majority required by the House rules, After the prescribed forty minutes of general debate, the House voted 175-125 to suspend the rules. Unfortunately, this majority was twenty-five votes short of the necessary two-thirds ratio of the three hundred House members recorded in the tally.

After experiencing the frustration of having his bill rejected, Doughton succeeded in persuading the Committee on Rules to recommend that his measure be approved by the House. According to House procedures, a resolution emanating from the Rules Committee needed only a simple majority for acceptance. The Rules Committee recommendation was adopted on a 146-139 tabulation, and minutes later the House passed the Doughton Bill by a margin of 145-131. The Senate thereupon approved the bill by voice vote, subsequent to which it was signed by the President.

During the Second Administration of Franklin D. Roosevelt the progress of the Blue Ridge Parkway was expedited by the annual bills funding the multitude of operations of the Department of the Interior. Indeed the "National Park Service" sections of the Department of the Interior Appropriation Acts of 1937, 1938, 1939, and 1940 provided for an aggregate figure of $17,500,000, reserved exclusively for the Blue Ridge and Natchez Trace Parkways.

Determining appropriations for the Blue Ridge Parkway provoked controversy only in 1937. Congressman Doughton, convinced that additional federal money was needed for the parkway, on May 19, 1937 offered an amendment to the Department of the Interior Appropriation Bill. The Doughton Amendment proposed an increase from $3,000,000 to $5,000,000 for the 1937 appropriation for the Blue Ridge and Natchez Trace Parkways. Strongly supported by Representative Bulwinkle and Weaver, the Doughton Amendment was adopted on a 221-160 roll call. The North Carolina House delegation, which has been consistently sympathetic to the Blue Ridge Parkway, favored Doughton Amendment 11-0.

Throughout the New Deal era all thirteen North Carolina congressmen were Democrats. Only New York, Pennsylvania, California, Illinois, Ohio, Missouri, and Texas elected more Democrats to the House and Senate. New York, Pennsylvania, California, Illinois, and Ohio were, of course substantially more populous than North Carolina and each of these states also elected a high proportion of Republicans to represent them on Capitol Hill. The sustained presence of thirteen North Carolina Democrats in the halls of Congress at least partially explained why the Blue Ridge Parkway was a key project in a Democratic Administration.

At the beginning of the New Deal North Carolinians had an aggregate total of one hundred and twelve years of longevity in Congress. Four of these gentlemen, Senator Bailey and Representatives Doughton, Warren, and Edward W. Pou of Smithfield chaired major standing committees between 1933 and 1940. North Carolina not only benefited from the solidly partisan composition of its delegation, but also from the exceptional seniority accumulated by several of its congressmen.

Three North Carolina congressmen, Doughton, Bulwinkle, and Weaver, were the spokesmen for districts whose territory included the Blue Ridge Parkway, while Senator Reynolds was a resident of Asheville near the Parkway's eventual southern terminus. Two others, Representatives Umstead and Hancock, were to seek election to statewide office and obviously wished to appeal to voters in the Blue Ridge Parkway counties and the nearby areas of western North Carolina.

Although the Blue Ridge Parkway was admittedly only one of many historic New Deal projects, it was destined to have a noteworthy impact on the future history of North Carolina. By their diligent efforts the North Carolina congressional representatives helped transform the Blue Ridge Parkway from a dream of a comparatively few number of individuals to a permanent reality for millions of Americans.

HYPOTHERMIA—IT CAN BE PREVENTED

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 1985

Mr. BIAGGI. Mr. Speaker, as chairman of the House Select Committee on Aging's Subcommittee on Human Services, I am pleased to once again place into the CONGRESSIONAL RECORD, a special publication developed by the Subcommittee on Health and Long Term Care entitled "Hypothermia—a Preventable Tragedy—a Cold Weather Guide for the Elderly."

The start of winter is less than 2 weeks away. For many in our Nation especially in the upper Midwest and Northwest, winter's grip has already taken a full hold. Consider that just yesterday Phoenix, AZ, had its first measureable snow in a quarter century.

Winter and its cold and snow has an especially strong impact on the health and well-being of our Nation's elderly population. The incidences of hypothermia increases dramatically in the winter months. Today more than 2.5 million older Americans suffer from hypothermia which means a low body temperature, typically 95° F or under.

This publication is designed to try and give our senior citizens helpful tips to avert hypothermia. They are simple and practical steps which can be incorporated into the daily lives of our seniors with little difficulty.

At this point in the RECORD, and on behalf of the senior citizens of my 19th Congressional District, including a special group from the Co-op City community whom I will be meeting with on Monday, December 16, I now wish to insert this publication.

WHAT IS HYPOTHERMIA?

Hypothermia means low body temperature, typically 95° Fahrenheit (35° Centigrade) or under. When body heat is lost to a cool or cold environment faster than it is replaced, body temperature falls and hypothermia results. A simple drop in skin temperature is not hypothermia. While hypothermia can sometimes develop slowly, it usually occurs fairly quickly, over a period of a few days.

Hypothermia may be brought on deliberately when used as a therapeutic measure. For example, in some types of surgery, the patient is purposely chilled to slow breathing, heartbeat, and other body processes. Accidental hypothermia may occur in anyone who is exposed to severe cold without adequate protection, and some older persons can develop accidental hypothermia after exposure to relatively mild temperatures. In this document, reference to hypothermia should be understood to mean accidental hypothermia.

Body temperature normally is maintained through a number of special mechanisms set in motion when signals from the spinal cord and skin are transmitted to the brain. A small area deep in the brain acts as the body's thermostat while another part of the brain regulates the adjustments necessary to maintain a given temperature.

WHO IS AT RISK?

An estimated 2.5 million older Americans are especially vulnerable to hypothermia and a significant number become victims after exposure to relatively mild cold. Based on recent research, one of the leading experts in the country has conservatively estimated that 25,000 older adults die from hypothermia each year in the United States. This estimate ranks hypothermia as the sixth leading cause of death among older adults in the United States.

Among the elderly, those most likely to develop hypothermia are the chronically ill, the frail, the very old, the poor who are unable to afford enough heat, and those medically vulnerable individuals who do not know how to keep warm when exposed to low indoor temperatures. It is also important to recognize that many prescription drugs commonly taken by older adults make them much more vulnerable to the threat of hypothermia.

For millions of older Americans, economic hardship has necessitated difficult choices between expenditures for food, transportation, clothing, home heating, and medicine. For thousands, it is not just a question of heat or eat. The real dilemma of hypothermia is heat or die.

Although the condition almost always occurs in a cold environment, temperatures do not have to be below freezing for death to result. It is now well established that lower room temperatures are potentially lethal to millions of vulnerable older Americans who are now being forced to reduce indoor temperatures out of economic necessity. Most hypothermia victims succumb in temperatures between 30° and 50° F and typically suffer a progressive physical and mental deterioration, which, if uncorrected, results in death.

What factors increase the risk?

Older adults often develop low body temperature because they have difficulty conserving body heat. Many things can interfere with their ability to produce body heat or cause an increase in the loss of heat from an older person's body.

Drugs

It has long been known that many drugs affect thermoregulation and that they can precipitate both hypothermia and hyperthermia, or abnormally high temperature. Drugs which disrupt or impair the ability to regulate temperature will effect an increase or decrease in normal body temperature, dependent on external temperatures. The normal physiological mechanisms that compensate for variations in temperature in our environment are generally less efficient in the elderly. For these susceptible individuals, the combined effects of cold weather and drugs can rapidly induce hypothermia, often with devastating results.

The systems by which the body conserves heat and increase body heat production are important to consider when prescribing drugs for elderly persons, especially during the cold winter months. Drugs which interfere with the body's natural temperature-regulating processes can be a precipitation factor in bringing on hypothermia.

Some common drugs often prescribed for the elderly which can seriously impair the body's ability to adjust are: barbiturates, sedatives, tranquilizers, antihypertensives, vasodilators, and antidepressants.

Illness

Certain diseases or disorders can markedly increase the body's vulnerability to temperature change.

Stroke and Nervous System Disorders. Persons with strokes or nervous system disorders have a reduced temperature sense as well as a decreased ability to respond with shivering and other heat conservation measures.

Skin Diseases and Circulation. Problems with skin blood flow can compromise temperature control because the body's first line of defense against a cold environment is the skin. To conserve body heat in a cold environment, blood vessels in the skin need to be able to constrict and reduce the flow of warm blood near the surface.

Mental Illness. Persons suffering from mental illness may not be as aware of environmental changes or risks and they frequently are receiving therapies which utilize drugs whose characteristics impair thermal regulation.

Immobilizing Diseases. A lack of activity accompanying immobilizing diseases such as arthritis and Parkinson's can result in reduced heat production.

Hypothyroidism. Reduced thyroid function lowers metabolic rate and consequently brings about a decrease in body heat production.

Alcohol

In the United States hypothermia frequently occurs in the alcoholic population. Alcohol predisposes a person to develop hypothermia by dilating blood vessels, depressing the nervous system, decreasing blood sugar, decreasing sensation, and increasing the risk of injury and exposure to cold environment.

Nutrition

Good nutrition is very important in maintaining a normal body temperature. Food provides the energy that the body needs to produce heat. Deficiencies in diet may increase the likelihood of developing hypothermia. An inadequate nutritional balance can lead to a decrease in heat production.

Sensitivity to a Cold Environment

It has been reported that some older persons may be less aware of a cold environment and thus less able to adjust adequately.

Previous History of Hypothermia

Persons who have experienced hypothermia often are unable to maintain a normal temperature if they are later subjected to even mildly cold temperatures.

WHAT ARE THE SIGNS?

It is not easy to recognize that an older adult has hypothermia or low body temperature. Most older adults develop hypothermia over a period of three days to one week. Family members often report that the only "unusual" thing they noticed was a growing confusion.

These signs do not necessarily mean that a person is suffering from hypothermia, but they are warning signals which should be heeded, especially in cool or cold environments.

Common signs and symptoms

Confusion and reduced alertness.

Trembling on one side of the body or in one arm or leg.

Shivering, in the early stages.

Absence of shivering, as condition worsens.

Cold and stiff muscles.

Cold abdomen and back.

Difficulty in speaking.

Slow breathing.

Bloated face, pale and waxy skin.

Forgetfulness.

Drowsiness.

Unconsciousness.

Low body temperature.

NOTE: The only sure way to determine hypothermia exists is to take a rectal temperature with a special low-reading thermometer.

HOW CAN HYPOTHERMIA BE TREATED?

The hypothermia victim must be rewarmed, preferably by a physican who is familiar with hypothermia. A hospital or clinic setting is desirable.

A person suspected of having hypothermia should have his or her rectal temperature taken with a special thermometer, if possible. If the person's temperature is below 95° F (35° C) a doctor or ambulance should be summoned or the victim taken directly to a hospital. If emergency medical help is slow to arrive, further heat loss can be prevented by wrapping the victim in a warm blanket. Food and drink can pose dangers for a hypothermic person and should be avoided.

If blankets are not available the body heat of another person lying close to the victim will aid in rewarming. Care should be taken in handling a victim of hypothermia. Rubbing of limbs can worsen the condition and cause injury. Sudden movement or rough handling can easily cause a fatal heart attack (ventricular fibrillation).

It is best that the victim not try to walk or move around because he or she might fall and suffer further injury. Care should be taken in moving and handling the victim since the heart muscle is very weak when the body is cold. The victim should not be placed in a hot bath or shower because it could cause fatal rewarming shock or afterdrop in body temperature.

WHAT ARE THE CHANCES OF RECOVERY?

Mortality from accidental hypothermia is very high in elderly victims, and recent studies have shown a mortality range between 30% and 75%. In other words, roughly ⅓–¾ of the elderly victims of accidental hypothermia fail to recover. Chances for recovery depend upon a number of factors, and early detection is of particular importance. The victim's age and general health, the degree of internal chilling, the duration of hypothermia, and the method of treatment have all been cited as having a possible bearing upon the victim's ability to survive.

The degree of internal chilling appears to be of greater significance than the relative age of the elderly victims. A number of studies have shown that the lower body temperatures dramatically decrease survival chances. For example, one study showed a 75% mortality for elderly victims admitted to the hospital with temperatures below 86° F as compared with 39% whose temperatures were between 86° F and 95° F. Early detection greatly improves the chances for eventual recovery.

Both body temperature and age appear to be less significant in determining recovery than the presence of an underlying disease. In those cases where hospital admission takes place, the most important condition for survival appears to be the general health of the victim. Consequently the frail, the debilitated, and the sick are at far greater risk.

It is, however, particularly important to remember that many otherwise healthy elderly victims die in their own homes without ever reaching the hospital. Hypothermia dulls the mental faculties to such a degree that the victim is never aware of the condition and is entirely dependent upon the awareness, knowledge and action of others. Unfortunately, accidental hypothermia is often overlooked and dismissed as simple disorientation, lack of coordination or confusion. Without recognition, the elderly victims lack even a chance of recovery, and death is inevitable.

Complications

Accidental hypothermia can worsen preexisting conditions such as heart disease and diabetes. Fall of the body's temperature below 90° F (32.2° C) is dangerous because cold slows the normal body processes and important body functions are often disrupted. Complications increase as the temperature falls to lower levels, and heart, blood, liver, kidney, pancreas and gastric problems may develop.

Many of these problems automatically resolve themselves during proper hospital rewarming, but some require special attention, especially in older adults with pre-existing conditions.

Hypothermia has been reported to cause permanent damage in some individuals, but further research is needed to determine the risk of permanent damage in otherwise healthy older adults. The most serious complication of a low body temperature is a vulnerable heart. Cold slows and weakens the heart, and it is very important that the victim be handled gently.

HOW CAN HYPOTHERMIA BE PREVENTED?

When it is cold, the body loses heat in many ways. Older persons need to take certain precautions to conserve body heat.

HEAT CONSERVATION CHECKLIST

Food

Have you eaten enough food today? Your body needs fuel to run efficiently, and only food will do the job.

Alcohol

Have you been drinking? Alcohol speeds up body heat loss and makes it very hard to keep warm.

Exhaustion

Have you been working too hard and not getting enough rest? Your body needs energy to fight the cold. Rest is important.

Water

Have you been drinking enough liquids? This is very important for energy and adequate blood volume for circulation.

Insulation

Are you using your clothes in a good layer system to trap air around your body? Are you wearing a hat and scarf? Are your clothes too tight? Are you wearing wool or synthetics, rather than cotton?

Wetness

Is your hair damp or wet? How about your clothes? Change into something dry and stay warm.

Exercise

Exercise produces more body heat, and you will be warmer if you are more active during the day. You need more insulation if you are just sitting still.

High risk persons

Have you had hypothermia before? Do you have a chronic physical condition, such as diabetes, circulatory problems, nervous system disorders, etc? You should take special precaution to stay warm and avoid exposure to cold.

COMMON COLD WEATHER MYTHS

Myth: Alcohol helps to keep you warm in cold weather.

Fact: Alcohol greatly increases body heat loss by relaxing skin blood vessels and allowing a greater supply of warm blood to flow near the cold surface. You feel warmer, but cool faster. Hypothermia is far more likely to develop during periods of cold exposure if you have been drinking.

Myth: The best solution for cold hands is thicker gloves.

Fact: Gloves are important, but cold hands usually result from excess body heat loss from the head, neck and chest. If you are wasting heat, the body will try to conserve heat on its own by reducing the flow of warm blood to the skin, hands and feet.

Myth: The air temperature has to be below freezing in order for you to "freeze to death".

Fact: No one freezes to death. Very few people can survive if their deep body termperature falls below 75° F. These people die of hypothermia or complications brought on by this condition. Most deaths occur in air temperatures well above freezing.

Myth: Snow at 15° F air temperature is more dangerous than rain at 40° F.

Fact: Staying dry is the big secret to keeping warm in cold outdoor situations. Snow at 15° F is dry and easy to work in if you are properly dressed. Rain at 40° F is very, very cold. Unless your rain gear is good, you run the risk of becoming soaked and developing hypothermia.

Remember: Most people develop hypothermia in air temperatures between 30° and 50° F. Almost all of these people have allowed themselves to get wet.

Myth: Muscular individuals are hot as affected by the cold and can "tough it out" in freezing weather or a short term survival situation.

Fact: Muscular strength is no defense against cold stress or hypothermia. In fact, fat, "out-of-shape" people may do better under cold stress because the fat acts as insulation. Of course, it is best to be in good physical condition and properly dressed.

Myth: After a few weeks of cold weather the body gets used to the cold or acclimatizes, and less clothing is needed.

Fact: Acclimatization does take place in hot weather within about four to seven days, but the body does not really acclimatize to cold weather. Some changes do take place but we still need the artificial insulation of clothing to survive.

Myth: Rubbing snow on a frostbitten area helps to rewarm it by improving the circulation.

Fact: Frostbite is a localized injury caused by extreme cold, and rubbing it with snow makes about as much sense as applying heat to a burn. Snow will simply cause greater damage to the tissue.

Myth: Three pairs of socks are better than two because the thickness will help to insulate your feet. Even if you have a bit of trouble putting on your shoes it's definitely worth the extra effort.

Fact: Tight shoes cut down the warm blood supply to the feet and are therefore a major cause of frostbite. It would be much better to have the shoes a little loose. Loosen your laces a little bit if the weather is really cold, and do not wear too many socks.

THANK YOU, OFFICERS BONAVENTURA AND CIFFO

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 1985

Mr. GREEN. Mr. Speaker, on December 19, 1985 the 19th Precinct Community Council will be honoring its two community affairs officers, Officers Bonaventura and Ciffo.

The Community Council would like both officers to know how much they appreciate the good work that both of them perform every day in dealing with various problems that arise in the community.

As an elected official from the precinct's congressional district, I would like to take this time to offer my thanks to both Officers Bonaventura and Ciffo in working with my district office on various problems that have arisen throughout the year. Their help has allowed my staff and me to be more responsive to the needs of New York's 15th Congressional District, and I know that any Member of Congress would be happy to have either Officer Bonaventura or Officer Ciffo performing such work in his or her district.

A LOOK INSIDE THE CENTRALLY PLANNED, OVER-REGULATED DEFENSE PROCUREMENT ESTABLISHMENT

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 1985

Mr. COURTER. Mr. Speaker, I want to commend to my colleagues the following article by Tim Carrington of the Wall Street Journal, because it should be an eye opener to those who like nothing better than to add on another regulation or order up another report from the Pentagon. As the article points out the Pentagon is the last true bastion of pure bureaucracy in Ronald Reagan's Washington, but there is still surprisingly little sentiment in the Congress or elsewhere for reforming this enitity in a meaningful way. Only those who consider regulation a true art form could sit down and, with a straight face, write out 15 pages of specifications for sugar cookies or 19 pages of directions for a police whistle. If we are ever to produce large numbers of state-of-the-art weapons in an efficient manner, we simply must start deregulating and dismantling the defense bureaucracy so it can operate in conjunction with an innovative, free-enterprise defense industry.

[From the Wall Street Journal, Nov. 27, 1985]

ALTERNATIVE TO AN ARMS UTILITY

(By Tim Carrington)

Ronald Reagan came to Washington five years ago to wage war on the local bureaucracy, but the campaign is only now reaching government's most formidable labyrinth, the Pentagon.

A decade of deregulation in various sectors of the U.S. economy has barely touched the defense establishment, which is still chugging away like some regulated public utility. Indeed, to some, the Pentagon has less in common with America's free-enterprise economy than with the lumbering bureaucratic state it is in place to deter. "This building has a socialist culture," Navy Secretary John Lehman recently complained.

That Ronald Reagan should preside over such an organization finally became too incongruous for the White House to abide, and last August—over the objections of Defense Secretary Caspar Weinberger—the president established a commission on defense management. Hewlett-Packard Co. Chairman David Packard, who heads the commission, promises that "we're not going to do a whitewash job for anybody," despite Mr. Weinberger's concern that the study may provide new fodder for his critics. Mr. Packard says that "things are a lot worse than they were 15 years ago when I was there" as deputy secretary.

The much-encrusted procurement machinery threatens to do more than embarrass the Pentagon or waste more money. The more isolated and arcane the defense industry becomes, relative to the rest of U.S. commerce, the more difficult it would be for the Defense Department to involve the broader economy during a war.

BIZARRE SPHERE OF DAR AND FAR

The vast expenditures of time and money on routine, peacetime acquisitions don't translate well into any reliable wartime surge capacity for U.S. industry. Nor should the U.S. assume that enterprises currently operating outside the Pentagon's contracting milieu could quickly adjust to the increasingly bizarre sphere of the FAR and the DAR (acronyms familiar to contractors, standing for Federal Acquisition Regulations and Defense Acquisition Regulations).

William Perry, a commission member and the managing partner of H&Q Technology Partners, notes with horror that there are 44,000 military specifications, a large number of which are applied to even the simplest procurements. For example, the Army has 15 pages of detailed specifications governing the sugar cookies it purchases for soldiers' desserts. A whistle for the military police was bought only after 19 pages of specifications and description were issued. Without this guidance, an Army official explains to an incredulous questioner, the contractors might err.

Mr. Perry, who directed the Pentagon's weapons research and development programs during the Carter administration, says that an examination of production lines devoted to military and commercial manufacturing reveal a wide difference between defense industry and the rest of U.S. manufacturing. Similar products, such as semiconductors, are made under radically different processes, depending on whether they're going to be sold to the Defense Department or to, say, General Motors Corp. Often, the DoD version costs many times more than the commercial version, Mr. Perry says.

It seems doubtful that mild medicine will cure the red-tape disease choking the Pentagon. "The defense procurement system that we have today really suffers from a hardening of the arteries," says Mr. Perry. "With such a sick patient, there are really two choices: You can try to improve the health of the arteries, or you might prescribe a coronary bypass." The latter, he adds, seems preferable.

Dedicated public servants inside the Pentagon currently labor against daunting odds. Army Undersecretary James Ambrose recently ordered subordinates to cut in half a 10-inch tome of specifications proposed for a new helicopter engine. A week later, the bureaucrats returned with a sheaf of paper half as thick as the first. However, Secretary Ambrose says he discovered that this was accomplished by using two sides of the pages rather than one. "Good try," he told them.

Mr. Ambrose likens fighting the proliferation of military specifications to ridding a garden of Johnson grass, a common weed: Every fragment left in the soil takes root and springs up anew. Behind it all is the bureaucrat's distrust of private initiative—the belief, in Mr. Ambrose's words, that "Mother knows best." The Army recently broke out of the usual mold when it acquired existing radio-communications technology for the Army's Mobile Subscriber Equipment communications system for the battlefield. By forgoing the usual research-and-development work on not-yet-invented technologies, the Army saved a half-billion dollars.

Applying that approach to other systems probably will entail purchasing more equipment already deployed by foreign countries. The Army currently is considering foreign guns and missiles to fulfill the mission previously envisioned for the hapless Divad air-defense gun, which the Pentagon killed after $1.8 billion had been spent inventing it. Rather than writing pages of specification, Army officials are reviewing the performances of gun and missile systems built by the French, British, West German and Swedish armies.

The mother-knows-best syndrome, and its umbilical cord of redtape, won't be helped by new layers of requirements drafted on Capitol Hill. Congressional reforms often add requirements to those already in place. For instance, a new procurement law seeks to impose competition on all major weapons programs by requiring program managers to file reports to Congress explaining what steps they took or didn't take to encourage competition. Meanwhile, many of the regulations drawn up to apply to monopolistic procurement remain in place.

New procurement approaches should be substituted for old, not added. Where it would produce savings, competition should replace regulation, not be added on through a quota system or a blanket requirement. In other places, performance standards should replace rigid engineering specification. Different solutions will lend themselves to different parts of the immense defense program.

"It's a strange amalgam, the defense business," says R. James Woolsey, a commission member."There are parts of it that can be subjected to competition, but there are parts of it that should be tightly regulated." Competition isn't always possible. The Navy is trying to stimulate it in the construction of the hugely complex and expensive Trident submarine, which is currently made only by the General Dynamics Corp., but critics contend that establishing a second source's production line would cost hundreds of millions of dollars, outweighing any savings that might result from the competition.

SOME SPECIFICATIONS ARE SILLY

Military items not only carry dozens of specifications that don't apply elsewhere, but undergo testing procedures that differ from those exercised in nonmilitary commerce. Some of this is necessary—a semiconductor used in a combat vehicle would have to withstand higher temperatures than semiconductors for a home computer. But some specifications are silly. The $7,000 aircraft coffee brewer order up by the Air Force was made to survive conditions that would have killed the crew.

There's reason to think that military and nonmilitary standards will come to resemble one another more. Auto makers are requiring that electronic circuitry be made to survive the heat and grime beneath the hood of a car. This creates the prospect that some commercially suitable circuits might also fulfull military uses.

The Pentagon's aversion to equipment not invented in its own corridors is clear in the nomenclature it uses in the procurement process. Thousands of characteristics specified in purchases are called "requirement," implying that it's impossible to dispense with them. Mr. Perry says a huge obstacle to simplifying the procurement process is the "unwillingness to compromise" on the myriad stipulations.

At root, the Packard commission needs to decide whether the defense industry indeed should be nationalized into a vast public utility, minutely regulated from Washington, or whether it will someday more closely resemble other sectors of American commerce and industry. Since the current White House professes a staunch belief in businesslike practices, it should cast a skeptical glance toward the Pentagon.

THE LATE ROY WILKINS

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 1985

Mr. CLAY. Mr. Speaker, I wish to enter into the CONGRESSIONAL RECORD the remarks of Mr. Roger Wilkins, nephew of the late Roy Wilkins, who was the long-time executive director of the NAACP. Mr. Roger Wilkins' remarks are addressed to the Assistant Attorney General for Civil Rights, Mr. William Bradford Reynolds. As Roger Wilkins points out, the Attorney General's comments on the late Roy Wilkins are not consistent with our memories of the life and works of Roy Wilkins.

INSTITUTE FOR POLICY STUDIES,
November 8, 1985.

Hon. WILLIAM BRADFORD REYNOLDS,
Assistant Attorney General for Civil Rights,
Department of Justice, Washington, DC.

DEAR MR. REYNOLDS: The report in the Washington Post on Tuesday, November 5, of your interview with Howard Kurtz was astonishing. Subtracting the years of my early childhood, I knew my uncle, Roy Wilkins, very well for forty-five years before his death four years ago.

For you to raise the implication that your conduct of your office over the last four and a half years conforms in any way with his work and thought is indecent. My uncle was a fair, honorable and idealistic man who fought for a large and decent vision of America. Your attempt to link your tawdry, mean-spirited and fundamentally racist policies to his memory is dishonest in general and obscene and insulting to those of us who loved him.

Yours truly,

ROGER WILKINS.

LEADERSHIP AT LEBANON VALLEY COLLEGE

HON. ROBERT S. WALKER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 1985

Mr. WALKER. Mr. Speaker, for obvious reasons, all of us have a constant, vigilant interest in the state of education in our country. Each of us is aware of the many reports issued over the last few years decrying the quality of education provided to our Nation's students. There are many bright spots, however. We should use the success stories as models for suggestions, recommendations and new ideas for improving our system of education. In that context, I recommend to my colleagues this report on the educational system and accomplishments at Lebanon Valley College, which is located in my congressional district, and commend the officials at the college for preparing this statement on the leadership they are providing in this vital area.

LEADERSHIP AT LEBANON VALLEY COLLEGE

We at Lebanon Valley College feel that out of all the studies of elementary, secondary and higher education that have been produced recently by public and private commissions and committees, one truth has emerged. Our nation's educational institutions are simply not producing the number or the quality of leaders this nation requires in the challenging decades ahead.

One hundred and eighteen years ago, in the aftermath of the Civil War, citizens of Annville, Pennsylvania, purchased a small academy in their city and presented the academy properties to the founders of a new educational institution, Lebanon Valley College.

The founders of the College accepted the gift, and entered into a covenant to "produce and maintain a high grade college forever." That covenant has been kept through all generations.

Were they to return today, the founding fathers would find pleasure in continued serenity and wholesomeness of the site they chose so well. And, returning 19th century founders would be pleased with the quality of their beloved school.

Lebanon Valley College has indeed earned a national reputation of being a private school distinguished by quality. It is highly accredited; its affairs marked by financial stability; its faculty of impeccable scholarly attainment; and its roll call of distinguished alumni is a star-studded roster of those who have earned prestigious national and international fellowships and scholarships, and those who command leadership roles in the arts, business and professions.

To keep its commitment to "maintain forever" an institution of highest quality, Lebanon Valley College has, while preserving the best of its tradition as a sanctuary for student growth and intellectual inquiry, kept pace with the revolutionary times. Its facilities are modern, and academic programs combine the best of the traditionally sound with the boldly innovative. Its science center is state-of-the-art; its music center has been called the 'finest in the East.'

As a mark of growth, Lebanon Valley College this year is offering new programs in psychobiology, computer information systems, and a series of associate degrees in the rapidly growing hospitality industry of travel and hotel administration and food service. The programs are rich and diverse, suiting the needs of students and changing the world of work.

Lebanon Valley College is very proud to have avoided the pitfall of ever becoming a college which is little more than a "shopping center for degrees." A student of Lebanon Valley College is treated as a whole person. His or her college years are viewed as a time of building foundations, a lasting value systems, and of opening the mind to a lifetime of learning and intellectual inquiry.

Lebanon Valley College attracts and maintains a culturally diverse student body and faculty and welcomes students from all religious faiths and racial and ethnic backgrounds.

LVC AND LEADERSHIP

It is in this setting that students of all ages are introduced to the new central thrust of leadership development.

The days are gone when a leader could depend solely on personal charisma or one inspiring speech for effectiveness. Today's leaders need to combine skills, reinforcing allure with action, reasoning with resolution. Charisma is not enough; in a complex society, a leader must have substantial training in models of management and be totally aware of his own strengths and weaknesses as well as his work colleagues.

Lebanon Valley College has met the challenge of providing leadership training for all segments of a community through it four-tiered leadership development program; an ongoing program for selected high school students; a college-level program consisting of seminars, courses and internships; five-day and three-day development seminars for middle management executives; and a quarterly program for top executives.

Each of these four programs focuses on helping future and current leaders increase their creativity and productivity through self knowledge, sensitivity and management skills.

The program for high school students, developed in cooperation with secondary school teachers and administrators, prepares students for the leadership challenges ahead of them. It is actually a year-long program integrated with their schoolwork which introduces them to leadership principles, skills an behavior. Lebanon Valley College provides materials, speakers, and a site for in-depth seminar sessions.

The introduction to the college-level program consists of seven weekly sessions held at the beginning of each student's college career, followed by several other leadership studies and leadership learning opportunities throughout their four years at the college. Responding to community needs and involvement in extracurricular opportunities, academic course work, and additional lectures and workshops are all components of program being constantly reviewed and reshaped by the dedicated faculty and staff. In addition, members of the Lebanon Valley College faculty, aware of the importance of a new leadership imperative, have incorporated leadership development materials in a large number of already existing courses.

Leadership development seminars for middle mangers at Lebanon Valley College are currently being offered on a monthly basis and have been enthusiastically endorsed by a number of businesses, corporations and non-profit organizations in South Central Pennsylvania. A group of high-level executives have formed an advisory committee to help assure that the intensive three-day and five-day workshops cover the topics appropriate for contemprary leaders. These topics include decision making, situational leadership, innovative problem-solving ethics, creative feedback and goal setting.

Lebanon Valley College's top executive leadership program involves a limited number of chief executive officers who are interested in sharing their knowledge and wisdom on a number of critical problems. The program consists of quarterly meetings which include a presentation by a current authority on leadership or management and a carefully moderate reaction session.

The four-tiered leadership program at Lebanon Valley College is under the overall suspervision of the school's president, Dr. Arthur Peterson. Peterson and his staff are continuously refining the new leadership program to ensure that it will meet the needs of all segments of the community. Lebanon Valley College is the only college in the nation offering this total community approach to leadership development and it is an approach that bodes well for the future for not only the college itself, but the community it serves as well.

We at Lebanon Valley College feel confident that the covenant passed to us by the founding fathers—to produce and maintain a high grade college forever—is being carried on in the tradition and style in which it was intended. A sense of history combined with a sense of community provides a much needed backdrop to our everyday activities at the college. We value our heritage and are proud to be able to be forebears to that responsibility.

HAUNTED BY YALTA

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 1985

Mr. GARCIA. Mr. Speaker, the December 23 edition of the New Republic contained an article on Poland by Tamar Jacoby. I am submitting it for the RECORD.

As chairman of the North Atlantic Assembly's [NAA] Civilian Affairs Committee, I have a special interest in human rights in Eastern Europe. One of the committee's subcommittees, the Subcommittee on the Free Flow of Information and People, monitors the Helsinki accords. The subcommittee, whose members visited Washington and New York last week, met with a number of individuals and organizations concerned about Eastern bloc violations of the accords. Poland is near the top of that list.

What is poignant about Ms. Jacoby's article is her description not of Polish malaise, but of hope—the hope that moved Lech Walesa to fight so tenaciously, the hope of a nation of dissidents.

Ms. Jacoby describes the human side of this struggle. That, after all, is what is important. The people of Poland dare to dream; perhaps they will succeed in making Poland more livable.

I urge my colleagues to read Ms. Jacoby's essay.

BEST COPY AVAILABLE

[From the New Republic, Dec. 23, 1985]

Haunted by Yalta

(By Tamar Jacoby)

I'd been warned in advance to leave any "subversive" literature behind, and to encode the names and addresses of any dissident contacts. I hadn't done either but the Polish customs officer on the overnight train from Berlin to Warsaw couldn't have been less interested. He didn't even pause over the sheaves of papers clearly visible in my shoulder bag. All he wanted to see was my foreign currency, which he counted to the dollar.

During the week I spent in Warsaw, there was no official surveillance. I traveled about the city as I pleased, visiting well-known Solidarity leaders and other activists. I did try to avoid using the telephone, and several people thanked me for it, but apart from that I acted virtually as I would in a Western country. I'd been warned that people might hesitate to talk openly, and others would suggest that we talk outside. Nothing of the sort happened.

It is common enough in the Eastern bloc to hear people talking about bits of news they had picked up on Radio Free Europe. But in Poland, things don't stop there. At lunch one day at the American Embassy coffee shop, I met a group of foreign reporters who had just come from the weekly press comference held by government spokesman Jerzy Urban. They'd been questioning Urban about Poland's increasingly serous pollution problem. None seemed to find it extraordinary that a Communist government spokesman holds weekly news conferences to reply to the Western press.

Poles also seem to take the underground press for granted. Like Solidarity's broadcasts from clandestine radio transmitters, the opposition media is now less a form of defiance than a way of life. Underground activities say there are hundreds of underground publications in circulation and new ones spring up regularly. One of the few times I felt that either Polish or foreign journalists shared my exhilaration was the day that Solidarity managed to intercept the nightly TV news, running a line of print calling for an election boycott right over the talking head of the official newscaster.

Every conservation I had eventually turned to the subject of what Poles still call "the Yalta system"—to the possibility of revising the assumptions that have underpinned the division of Europe for the past 40 years. How do Poles manage to maintain such extravagant hopes? Bronislaw Geremek, a medieval historian and former Solidarity adviser, explained: "You have to forget your European Cartesian way of thinking when you think about Poland. Everything that seems impossible in another country, we have to try it." For five years, they have been trying against all odds.

Within the last year, the authorities have gotten significantly tougher, amending the penal code to make "social parasitism" a crime. The harsh sentences given this summer to Adam Michnik and two other Solidarity leaders for advocating a 15-minute work stoppage have apparently been followed by a wave of arrests of lesser-known activists. Time is also working against the opposition and its efforts to maintain morale in the long stalemated conflict. Even the most optimistic activists have moments of discouragement. Jacek Kuron, an intense and tireless man who still puts his freedom on the line every day by speaking to journalists and signing protest letters, says bitterly that "nothing has changed" since the declaration of martial law on December 13, 1981. One woman described a recent evening with other former Solidarity people. "Four years ago there would have been lots of discussion. Some people would have been very hopeful, others would have disagreed with them. Today there's nothing to say."

In these circumstances, merely maintaining the status quo is a victory of a kind, and people derive a tremendous sense of accomplishment from the simple fact that Solidarity is still alive. "In the Solidarity period, we said that black is black—and we weren't afraid to say it," another activist explained. "And even now, no matter what the government says, the people still know it. We still have that feeling that we are a free people."

Kuron says that the underground is now, of necessity, "future oriented—educating youth, shaping national cultural, consciousness-raising." Another tactic talks about small, independent groups "collecting information and books and distributing them, setting up cooperatives and local committees to take care of shops and child care and kindergartens." The Cartesian Western visitor can't help wondering why the opposition bothers. As Kuron says about other kinds of similar tactics, "We all know that the only benefit of a strike is a simple declaration of our presence." In today's Poland, even that is a great deal.

Kuron insists that what he wants is "not revising but renewing Yalta"—reviving at least some of the demands that the West put to Moscow in 1945. He admits that it might not be possible today to insist on free elections in Poland. But he believes that other demands, for economic reform and genuinely free trade unions, could not be made to stick because "there are political forces here within the country now that can fight for these conditions and defend them." What he envions is nothing short of democratization, induced by the West, in the heart of Eastern Europe—and he apparently doesn't see much contradition in either this or the original Yalta formulation, calling for free elections within the Soviet sphere of influence.

No one is waiting for active American intervention, and no one expects the formal dismantling of the Soviet system in Europe. Incredibly, it doesn't seem to occur to Solidarity members that the essence of the Soviet system might be precisely its seamless and intractable resistance to the kind of political changes they want. There really is something dreamlike about Poland. These indignant Eastern Europeans still seem to feel that they are entitled to rule of law, to human rights and national sovereignty and a representative government that would respond to "peaceful pressure upon it." Madness? Courage? The Polish national character? Why try to put a label on it? They see, as even I did in my short visit, that Poland is different—and they ask themselves simply: Why not more different? An extravagant question certainly, and probably a dangerous one, but today, five years after the Gdansk agreements, four years after material law, it is what makes life in Poland livable.

A "STAR WARS" COVER UP

HON. LANE EVANS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 1985

Mr. EVANS of Illinois. Mr. Speaker, last night this House voted to pass Gramm-Rudman, a measure endorsed by President Reagan who also stated his intention to fight for his military buildup. With cuts coming now from overall defense expenditures, the President's defense spokesman stated that the President would give priority to strategic modernization, readiness, personnel, and naval shipbuilding. Cited to be especially shielded from the impact of Gramm-Rudman is the strategic defense initiative.

With this in mind, I recommend to my colleagues the following article by Flora Lewis which appeared in the December 3 edition of the New York Times. We've already started down the wrong path with bad policy. This article shows that SDI is not only bad policy, it is also bad science.

[From the New York Times, Dec. 3, 1985]

A "Star Wars" Cover-Up

(By Flora Lewis)

Paris.—The hyper-selling of "Star Wars" has gone far beyond the childish crayola spot aimed at the general public on TV, beyond the vague claim made to businessmen and allies by the program director, Lieut. Gen. James A. Abrahamson, of progress at an "incredible pace." It has gone to the point of covering up scientific failure in a way that endangers the honesty of research.

Some of the scientists involved are bursting with frustration. They don't know how to cope with this government disinformation campaign. A top official at Livermore and another at Los Alamos, the two national labs where the key research takes place, have resigned, though they are too discreet to explain their decisions.

Ray Kidder, a physicist at Livermore, was quoted in The Los Angeles Times as saying: "The public is getting swindled by one side that has access to classified information and can say whatever it wants and not go to jail, whereas we [the skeptics] can't say whatever we want. We would go to jail, that's the difference."

Energy Secretary John S. Herrington, however, has both denounced the doubters for hurting the national interest in speaking up and called it just a "little squabble" among scientists.

Mr. Herrington said that the next test, scheduled in Nevada this month and named "Goldstone," was going "full speed ahead" despite clear evidence that it cannot be properly measured with existing instruments. The X-ray laser, pet project of the physicist Edward Teller and the centerpiece on which he sold Star Wars to President Reagan, is the current focus of many of the scientists' distress.

It was Mr. Teller, himself, who leaked last April that a test took place on March 23, and his cronies put out word that it was highly successful, it wasn't. It turned out that the monitoring instruments themselves were excited by the X-rays to emit light. Therefore the brightness they measured was much greater than what the device actually produced and the result was completely unreliable. One scientist in the program concluded that "instead of a weapon we

Undaunted, Mr. Teller went to Mr. Reagan and wangled another $100 million for the project, including this month's test, which will probably cost *30 million. Participants urged a delay until the measuring problem could be solved, which would take six months to a year. That was rejected on the grounds that loss of momentum would be politically unfavorable, even though the test is almost sure to be futile in the circumstances.

Furthermore, although the administration keeps saying its antimissile program is nonnuclear, the X-ray laser relies on a nuclear explosion for its energy. Insistence on continuing these tests is a major reason Washington won't even listen to the Soviet proposal for a comprehensive test ban.

There are other well-grounded scientific doubts about the X-ray laser. The assumption that it can kill Soviet missiles while they are being boosted rests on their current technology; they take three to five minutes to burn out and carry warheads some 200 miles above the earth. But American experts know that it wouldn't be hard, nor inordinately expensive, for the Russians to accelerate burning time, bringing it down to some 50 seconds and completing the boost at 50 or 60 miles high.

X-rays can't penetrate the atmosphere, and at that altitude they wouldn't get through even if the loss of shoot time could be overcome. But nothing else has been developed as far, so X-ray lasers remain the chief hope for boost-phase missile defense.

The willfull distortion of research is a scandal, reminiscent of Stalin's support of Trofim Lysenko's phony theories of genetics because they were politically pleasing. The result set Soviet biology back a generation.

The American physicists working on the Strategic Defense Initiative aren't threatened with the gulag, but they are being put in a demeaning position that undermines their integrity. It isn't a violation of their high security clearance to say that, but it could be if they gave out details to support their stand.

They have been arguing inside the program for some time, to no avail. Apparently they haven't been able to get through to President Reagan to let him know what is happening. That is why their concerns are seeping into public print, despite the gag rule.

Apart from the other arguments for and against Star Wars, if it isn't based on good science it can never be anything more than what President Reagan calls it, his "dream." But it could be a devastating nightmare, sapping the authenticity of American science.

THE ITALIAN-AMERICAN BAR ASSOCIATION

HON. SALA BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 1985

Mrs. BURTON of California. Mr. Speaker, tomorrow, in San Francisco, a distinguished organization will honor an equally distinguished group of jurists known for their incomparable contributions to the law and public service.

The Italian-American Bar Association of Northern California has provided vibrant and effective leadership in the legal community. It is a sign of their commitment to performance and quality in both the bench and bar that they have chosen to honor a group of distinguished judges at a luncheon in which these jurists will receive tribute from their peers in the legal profession.

As a member of the legislative branch of government dealing with wide panoply of issues that affect the daily life of every American, I can readily appreciate the interplay between the legislative and judicial branches of government. The activity of enacting laws and their subsequent interpretation demands the highest standards of performance and commitment to public services.

The following judges honored by the Italian-American Bar Association of Northern California meet these high standards:

Gordon Baranco, Alameda County Superior Court.

Walter P. Capaccioli, San Mateo Superior Court.

Alfred Chiantelli, S.F. Municipal Court.

Alfred A. Delucchi, Alameda County Superior Court.

William F. Ferroggiaro, Jr., Humboldt Superior Court.

Joanne C. Parrilli, Alameda County Municipal Court.

Richard Bartalini, Alameda County Superior Court.

Ina Levin Gycmant, S.F. Municipal Court.

Claude Perasso, S.F. Superior Court.

Philip Moscone, S.F. Municipal Court.

John Ertola, S.F. Superior Court.

Raymond Arata, S.F. Superior Court.

Richard Figone, S.F. Superior Court.

Victor M. Campilongo, S.F. Superior Court.

Frank Piombo, San Mateo Superior Court.

Joseph Desmond, S.F. Municipal Court.

Robert G. McGrath, Contra Costa Superior Court.

Wayne A. Westover, Contra Costa Superior Court.

Coleman Fannin, Contra Costa Superior Court.

Joseph A. Matera, State of California.

Timothy A. Reardon, S.F. Superior Court.

I congratulate the Italian-American Bar Association of northern California for honoring these distinguished Californians.

FEDERAL ASBESTOS STANDARDS ARE URGENTLY NEEDED

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 1985

Mr. FLORIO. Mr. Speaker, the public health threat posed by asbestos in our school buildings is a problem that calls for prompt Federal action. The Environmental Protection Agency [EPA] has a limited Asbestos-in-Schools Program which simply requires school districts to inspect for asbestos and then post the findings. EPA has essentially left to the States the responsibility for setting inspection, abatement, and contractor standards.

New Jersey is one of the few States that has an Asbestos Program in place. Heralded a year ago as the strictest program in the Nation, the program is now in disarray. In a highly critical self-appraisal, the New Jersey Department of Health admitted that the State's Asbestos Program failed in its central purpose of assuring the health and safety of schoolchildren, according to a recent article in the Record of Bergen County. This excellent article details the painful failures of the State's Asbestos Program.

If New Jersey, which has the most stringent standard in the Nation, failed to protect schoolchildren and school employees, where does that leave asbestos abatement programs in the other 49 States? I fear for the health and safety of our Nation's most important resource—our children.

Clearly, the New Jersey situation is another example of why Federal asbestos standards are urgently needed to protect our Nation's schoolchildren and school employees from potentially deadly exposure to friable asbestos.

I commend to my colleagues this most informative article as well as an editorial that followed from the Record regarding New Jersey's failed Asbestos-in-Schools Program.

[From the Record (Bergen County, NJ), Nov. 26, 1985]

ASBESTOS CLEANUPS FAIL

(By Rod Leith)

New Jersey's asbestos program failed in its central purpose to assure the health and safety of schoolchildren, hundreds of whom returned to classrooms this fall before the state had written confirmation that the schools were safe, state officials have acknowledged.

In a highly critical self-appraisal, the New Jersey Dapartment of Health this month acknowledged that the state's asbestos rules need strengthening in several key areas, particularly in regulation of the private firms hired by school districts to monitor asbestos removal and test buildings for safe reoccupation.

The appraisal, dated Nov. 6, says rules are needed to police asbestos-consulting firms, or air-monitoring companies, and their laboratories, echoing recommendations made a year ago by aides to the New Jersey Asbestos Policy Committee, chaired by Dr. J. Richard Goldstein, the state health commissioner.

Along with the appraisal, a panel of state officials reporting to Governor Kean is studying proposals to shift much of the state's asbestos enforcement to county and municipal health agencies, says a separate report obtained by The Record. If the plans are accepted, the state could ask county health departments next year to take over inspection of daycare centers, schools, and municpal buildings.

Administration of last summer's school asbestos program, the internal Health Department report states, broke down on the crucial monitoring function.

The centerpiece of the state's program is a $600,000 electron microscope that was to be used, among other things, to check on the laboratory work of the private monitors. However, the device was useless when it was needed last summer while asbestos was being removed from 40 public schools. When it was used, it malfunctioned.

"Two problems with the electron microscope only served to complicate and confuse the cleanup process at the very time the schools were opening for the year," the internal report states. Not only did the microscope malfunction, but "the Health Department has yet to receive one major component it ordered for asbestos testing," states the report, authored by Assistant Health Commissioner Peter D. Stratton.

A year ago, Goldstein and Kean jointly announced that New Jersey would enforce the nation's strictest standard for asbestos in the air. In March, Goldstein said the electron microscope would be installed by the summer to be used for research and double-checking private firms. Goldstein and Stratton were unavailable for comment yesterday.

"This is an effort to tear the whole program apart and have a good, rigorous view of it," Kenneth D. Merin, Kean's policy and planning director, said yesterday of the appraisal. "There were clear problems, but it was better than the summer before."

Without the tools and stiff rules to regulate the private monitors, the state relied on industry self-policing. Two federally sponsored programs meant to check the competence of private firms are voluntary. The same deficiency was cited by the state public advocate in a scathing 1984 indictment of the state Health Department's asbestos-enforcement activities.

One finding of the Health Department report disclosed that as many as 28 school buildings were reopened with only oral assurances from the private monitoring firms that the work was performed correctly. The private firms' laboratories are not inspected or required to meet any state certification for quality or competence.

Some of the 28 include schools in Englewood, Glen Rock, and Wallington in Bergen County; Clifton and West Milford in Passaic County; Kinnelon, Rockaway, and Boonton in Morris County, and West Caldwell and West Orange in Essex County, Health Department records show.

The tardy monitoring firms were identified by the Health Department as Ace Associates of Hainesport, Environmental Monitoring and Consulting Associates of Somerville, Princeton Testing Laboratories of Princeton, Testwell-Craig Testing Laboratory of Mays Landing, and Alternative Ways Inc. of Haddon Heights.

"As last summer's experience showed, regardless of qualifications, all too frequently the monitors failed to perform their jobs adequately," states the internal report. Although these private monitors are required to oversee removal work at all stages of the project, the report acknowledged the state's regulations lack the teeth to penalize firms if they fail to perform these functions.

The Health Department report also suggests that some private firms may not have performed properly because of potential conflicts.

"Although the monitors are supposed to be independent of the contractors they are monitoring," the internal report states, "in actuality many of the monitoring firms hired by the school districts last summer frequently work with the same contractors they monitor for the school districts in other, unrelated jobs."

State officials are reviewing written test results submitted this month by four private monitors, responsible for assuring the safety of 25 classroom buildings. The state has yet to receive written reports from the Ace Associates on the safety of three school buildings in the Camden school district, a Health Department spokeswoman said yesterday.

The 28 school buildings have not been declared unsafe, but state health authorities cannot state with certainty that the work of both the removal contractors and the independent air monitors was performed correctly in each school.

"By and large, the removal went pretty well," Merin said. "Even in those schools, like Paterson's, that had to be shut down, exposure was relatively limited." Two schools in Paterson had delayed openings this year because of asbestos-related problems.

THE ASBESTOS FIASCO

Health Commissioner J. Richard Goldstein says that New Jersey has "the toughest asbestos-abatement program in the nation." Maybe it does, but its record in carrying out that program doesn't inspire much confidence.

Two summers ago the state set out to remove every trace of airborne asbestos—a substance that can cause cancer and other serious respiratory problems—from its public schools. What ensued was a fiasco: Dozens of schools couldn't open on time because private asbestos removal contractors had either botched the job or simply not finished.

Last summer private contractors were assigned to clear the asbestos out of 40 schools. Things went a good deal better than the summer before—but, it turns out, not well enough. Four schools—three in Paterson, one in Newark—were opened in September after being certified as safe by private consultants. Subsequent monitoring found low levels of asbestos in each. As many as 28 other schools—including three in Bergen County, two in Passaic, and three in Morris—were reopened with no more than oral assurance from private consultants that they were safe.

As the experience in Paterson and Newark makes clear, the assurance of some of these consultants is suspect at best. The state Health Department should have verified their findings independently. But the department lacked the proper equipment.

The Health Department has acknowledged these failings. In a self-critical report, disclosed on Nov. 26 by the Record's Rod Leith, it calls for tighter regulation not only of asbestos-removal contractors but of the firms that are supposed to monitor their work. The following day, Commissioner Goldstein gave a curious press conference in which he appeared to disavow some of the findings of the report. Happily, however, he didn't back off from its sensible recommendations.

Meanwhile, a cabinet level task force assembled by Governor Kean is unwisely recommending that much of the state's asbestos enforcement duties be shifted to county or local health agencies. Perhaps this should be done at some later time; local inspection and enforcement have their merits. But first the Health Department must be prepared to make sure that the local agencies are doing their job. Its performance over the past two summers leaves too many doubts on that score. Let the Health Department get its own house in order, then consider devolving its responsibilities to the towns and counties. When it comes to the health of children, even one loophole is too many.

EQUAL ACCESS IN SCHOOLS

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 1985

Mr. EDWARDS of California. Mr. Speaker, the following is a challenging editorial from the December 9 Christian Science Monitor describing the equal access law and how it conflicts with the Constitution's requirement that government and religion remain separate.

[From the Christian Science Monitor, Dec. 9, 1985]

ON EQUAL ACCESS IN SCHOOLS

At first glance it would seem a matter of fairness: If any single group is permitted to hold meetings in a school's facilities, every other responsible group should be allowed to—whether cheerleaders, French club, or student religious organization. The concept is central to the Equal Access Act that Congress passed slightly more than a year ago.

Yet when the orientation of a club is religious, other important issues intrude. This term the United States Supreme Court is expected to decide the case of a religious student group that wanted to meet in the Williamsport, Pa., high school before the start of the school day. The out-come of the case, on which the court heard legal arguments last month, may well decide the future of the Equal Access Act.

The fundamental question is whether meetings of religious groups would breach the essential constitution separation of church and state. Such meetings could put school officials in a position they should not have to occupy: deciding the boundary between a mere meeting, and religious proselytizing. To determine exactly what was occurring, school officials would have to monitor the group and its meetings. It is difficult enough for the Supreme Court to determine whether religious activities are permissible on public property, let alone shifting the burden to individual school districts.

The monitoring and the potential for having to decide about proselytizing appear to entangle state officials, in this case school employees, in religious issues, thus eroding church-state separation.

Any actual proselytizing, of course, would be a totally impermissible breach of that wall of separation.

When Congress passed the Equal Access Act last year, some opponents warned it could lead to less access, not more. In several school districts this has begun to happen. School officials have resolved the potential problem of watch-dogging meetings of religious student groups by canceling all extracurricular activities: For students in these schools, "equal access" has become "no access."

No federal law stops students from privately praying, in school or elsewhere. But the state should mandate neither a specific place for religious meetings nor a time for praying: Private, individual prayer is always appropriate.

THE SUMMIT: A FAILURE ON SOVIET JEWRY

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 1985

Mr. WOLPE. Mr. Speaker, President Reagan has been an eloquent spokesman on behalf of Soviet Jewry. He has promised that, in every discussion with the Soviets, on every level, we would bring to the table our concerns, as a Nation, for the right of Soviet Jews to enjoy the guarantees of the Helsinki accords, including freedom of emigration and their right to practice their religion without intimidation or coercion by the state.

Although the President's intentions are laudable and his words noble, his record leaves so very much to be desired. The sad fact remains, after 5 years of administration efforts, fewer Jews are leaving the Soviet Union today than at any time in recent memory. Less than 900 are expected to emigrate this year, a sad trickle compared to the torrent of 50,000 permitted to leave in 1979, during the Carter administration. The recent Soviet gesture on behalf of Yelena Bonner must not obscure the fact that hundreds of thousands of Soviet Jews are languishing under the yoke of repression, fear, and terror. The continuing brutal imprisonment of Anatoly Shcharansky, Ida Nudel, and countless others in the Soviet gulag is a shameful indictment of Soviet policy that compels our attention and ceaseless efforts.

President Reagan pledged that he would forcefully raise the issue of Soviet Jewry with General Secretary Gorbachev at the Geneva summit. Perhaps he did, in his 5 hours of fireside conversations with the Soviet leader. But it remains that only cursory attention to freedom for Soviet Jewry was given in the final joint communique. The Soviet propagandists in Geneva took every opportunity to shamelessly distort the grim facts of life that afflict Soviet Jews. The President apparently came away emptyhanded from Geneva, dashing the hopes and prayers of so many. With such pitifully meager results, the summit must be judged a failure on this critical issue.

This week, Commerce Secretary Baldrige led a delegation of corporate leaders to Moscow to discuss the prospects for improved trade relations. The potential for easing trade barriers between our countries presents the opportunity to assess progress on an easing of the Soviets' repressive internal policies. It is in our benefit—and theirs—to increase our exports to the Soviet Union. But we must not pursue commercial ambition without regard to this most fundamental issue of the continuing plight of Soviet Jewry. We must seek meaningful progress in both areas.

Particularly in these days of the Festival of Lights, Hanukkah, when the candles of menorahs throughout the world symbolize the victory of freedom over tyranny, and illuminate our fondest aspirations, we must rededicate ourselves to freedom for Soviet Jewry.

EDUCATIONAL ACHIEVEMENT OF ASIAN-AMERICANS

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 1985

Mr. DORNAN of California. Mr. Speaker, our Secretary of Education, William J. Bennett, is to be greatly admired for his courageous and principled work on behalf of President Reagan and quality education in this country. Specifically, I applaud his efforts to make good on another of President Reagan's campaign pledges—education vouchers to benefit disadvantaged students.

Secretary Bennett has traveled across the country to speak to groups about education in America. He recently addressed the Vietnamese League of Orange County, CA, and acknowledged the impressive educational achievements of Asian-American immigrants to the United States.

The Secretary couldn't have been more right when he said,

> What I believe the success of Asian-Americans demonstrates is the importance of values—values which people carry with them in their heads and in their hearts, values which remain with them when their possessions are gone, and their homeland just a memory. One such value of particular significance in educational performance, is the existence of close ties between parents and children, and the willingness of parents to sacrifice for the sake of their childrens' education.

I commend Secretary Bennett's remarks to my colleagues' attention. I insert them here as they were included in the December 1985 issue of Catholicism in Crisis.

[From Catholicism in Crisis, December 1985]

REPAYING A DEBT: THE EDUCATIONAL ACHIEVEMENT OF ASIAN-AMERICANS

(By William J. Bennett)

EDITOR'S NOTE: The address which follows was given by Secretary of Education William J. Bennett on October 22 to the Vietnamese League of Orange County, California. Acknowledging the impressive educational acheivements of a new generation of Asian-American immigrants to the United States—and in particular the refugees from Vietnam—Dr. Bennett emphasized the crucial importance of the family in academic performance. The address is published here with the kind permission of Secretary Bennett.

Tonight, in this brief talk, I want to focus on the educational achievements of Asian-Americans; I wish to discuss some of the lessons which their achievements can teach the rest of us, and to talk a little about some of the obstacles which still stand in their way. Last but not least, I hope that you and I can get to know each other a little better this evening, and begin what I hope will become an ongoing conversation about the future of American education.

Let me start with a personal recollection: Shortly after becoming Secretary of Education, I participated in a White House ceremony honoring the 1985 National Teacher of the Year, a thirty-two year old high school history teacher named Therese Knecht Dozier. The National Teacher of the Year awards program is the most prestigious of its kind in the United States, and Mrs. Dozier, who had been chosen from among the nation's more than two and one-half million elementary and secondary school classroom teachers, was obviously a very remarkable young woman. Not the least remarkable thing about Mrs. Dozier is her background: Born in Saigon of a Vietnamese mother and German father, and orphaned as an infant, she had been sent to a French orphanage, and was eventually adopted by a U.S. Army officer. In fact, Mrs. Dozier and her brother are believed to be the first Vietnamese children adopted by Americans and brought to this country.

Upon receiving her Teacher of the Year Award, Mrs. Dozier explained that her Vietnamese background had a lot to do with her choice of a career in teaching. "I have always been very conscious of having been given a chance to make something of myself," she said. "I want to give that chance to others and to share the excitement of learning that I have always felt. Teaching is my way of repaying a debt."

Now, I know that it is very dangerous to generalize about any cultural group. And in the case of "Asian-Americans"—an umbrella term which actually covers over twenty nationalities, and countless ethnic identities, each with its own language and culture—generalizations are particularly hazardous. Nevertheless, it seems to me that Mrs. Dozier's remarks touched on a number of themes that reverberate throughout the Asian-American community: a love of learning, a love of the United States, a feeling of genuine gratitude for the freedom and opportunities that this country offers, and above all, a deep determination "to make something out of oneself."

And, indeed, Asian-Americans have made something of themselves. According to the 1980 census. Asians have the highest median family income of any group in the country: $23,600, compared to $20,800 for other American families. This in turn reflects the educational achievement of Asian-Americans: three quarters of Asian-Americans are high school graduates, and fully 35 percent of the Asian-Americans age 25 and older have graduated from college—more than twice the proportion of other Americans.

Indeed, it is in the area of education that Asian-Americans have made their most spectacular gains and have taught us the most profound lessons. At selective universities, for example, the proportion of Asian-Americans is extraordinarily high. Asian-Americans comprise 8 percent of the student body at Harvard, and 10 percent of its freshman, class, up from 3 percent a decade ago. Here in California, Asian-Americans constitute 22 percent of all students at Berkeley, and 21 percent at UCLA.

Equally telling are the results of a three year study of some 1,400 Indochinese households conducted for the U.S. Office of Refuge Resettlement. Now this study, directed by Professor Nathan Caplan of the University of Michigan, concentrated on the most recent Indochinese refugees who risked their lives to escape the persecutions afflicting their homelands. Collectively, these refugees are often referred to in the press as the "Boat People." Their escape—as I need hardly emphasize to members of this audience—was a truly fearsome and heroic ordeal. Literally adrift at sea, exposed to brutal pirate attacks and other cruel hardships, tens and perhaps hundreds of thouands of "Boat People" never made it to safety and today lie beneath the South China Sea—the victims of Communist oppression and tyranny. Still, more than 730,000 Indochinese refugees made it to this nation. The United States was proud to welcome them. The United States is proud to have them, as our newest immigrants—our newest citizens.

Unlike the more educated Vietnamese refugees who came to the United States in the immediate aftermath of Saigon's fall, the Boat People who arrived in this country had been farmers, fishermen, craftsmen, laborers and students in Southeast Asia. Arriving with little or no knowledge of English, with no savings or other resources, and with few marketable skills, the obstacles seemed insurmountable. "And yet," says Professor Caplan, "considering their hardships and all the odds against them, this group of immigrants has in fact demonstrated remarkable progress."

Nowhere has this progress been more remarkable than in the area of education. On national standardized tests of academic achievement, 27 percent of the refugee children scored in the 90th percentile on math achievement—almost three times better than the national average. And although they scored somewhat lower than the national average in English language proficiency, they outperformed their school-aged peers on general grade-point average, with 27 percent—more than a quarter—earning A or A-minus. Overall, their scholastic average was 3.05 on a 4.0 scale, or slightly above a B. As Professor Caplan observed, this is a truly remarkable achievement by any group—let alone by a group facing all the odds against them that this group faced.

How can the success of these immigrants, and of Asian-Americans in general, be explained? Clearly, many fashionable theories about educational and social achievement, theories which emphasize the deterministic role of class, of the environment, of material factors, of "society"—do not apply here. On the contrary, what I believe the success of Asian-Americans deomonstrates is the importance of values—values which people carry with them in their heads and in their hearts, values which remain with them when their possessions are gone, and their homeland just a memory.

One such value, of particular significance in educational performance, is the existence of close ties between parents and children, and the willingness of parents to sacrifice for the sake of their children's education. At the Department of Education, we have been saying for some time now that in education, the parent is the child's most important teacher, even the indispensable teacher. There is by now a good deal of evidence, both statistical and anecdotal, which emphasizes the concern of Asian-American parents for their children's schooling. For example, a teacher at the Bronx High School of Science, a very selective school with a large proportion of Asian-American students told of a conversation she once had with an Asian-American parent: "He said that when he was younger, he couldn't decide whether he should work in a restaurant or in laundry. He decided that when you work in a restaurant, you're away too many hours. 'If I work in a laundry,' he said, 'I can see my children and ask them: What did you learn in school today? Show me what you learned today.' He told me he'd gone to work in a laundry, and he said: 'I got a doctor, I got a lawyer.' " No one can be more deserving of tribute—of honor—than parents like this one.

Another story which makes much the same point concerns an Asian-American community residing in Riverdale, New York. School teachers and principles in Riverdale were surprised to discover that each Asian-American family was buying two sets of textbooks. After doing a little investigating, they found that one set was for the child and the second set was for the mother, who could better coach her child if she worked during the day to keep up with his lessons. These teachers said that children entering school in the fall with no English ability finished in the spring at the top of their classes in every subject.

Asian-American parents do not make these sacrifices simply so their children will do well materially. They do so out of a deep respect for learning. I am told that in Vietnam—when Vietnam was a free nation—it was the case that teachers were revered by both parents and children. They rank, I believe, just below kings, and above fathers, in the Confucian ethical system. When Vietnamese are asked to describe their culture, "love of learning" is a characteristic frequently mentioned.

For most Vietnamese, this emphasis on learning has been maintained in the United States. A 1983 study by the Centern for Applied Linguistics in Washington, D.C., noted that:

"The Vietnamese students' respect for teachers is a very noticeable characteristic in a typical American school, as it promotes behavior which is in contrast to that of some American students. The Vietnamese students, in general, are well-behaved, quiet and polite in the classroom, and some of our interviewees reported being horrified at some of the behaviors of their fellow classmates, such as talking back to teachers, telling a teacher to "shut up," talking in class, and putting their feet on a desk."

Yet another Asian-American value which has a great deal to do with educational success is self-discipline, a willingness to do things the hard way, if that's what's required. A recent study prepared by Dr. Samuel Peng, of the Department of Education, demonstrated that Asian American high school students spent considerably more time on homework than any other students. Dr. Peng's study also demonstrated that Asian-American students were less likely than other students to be absent from school and had higher educational aspirations than other students.

Of course, the virtues which characterize the Asian-American community, and account for its success—hard work, self-discipline, perseverance, industry, respect for family, for learning and for country—are not confined to Asian-Americans alone. They are in fact traditional American virtues. These are values familiar to readers of Benjamin Franklin's Autobiography, or to generations of American school children who learned from McGuffey's Reader. They are the virtues preached down through the ages by the greatest Americans. Listen to the distinguished black American, Frederick Douglass, one hundred and thirty years ago: "What we want is character. . . . It is a thing we must get for ourselves. We must labor for it. It is gained by toil—hard toil. . . . It is attainable; but we must attain it, and attain it each for himself. I cannot for you, and you cannot for me." Today, Asian-Americans are reminding all of us of these fundamental truths.

So far, I have focused on the strengths of the Asian American community. They are considerable, and remarkable. Let me now turn to some of the obstacles facing Asian-Americans in their attempt to succeed in American society.

Many of the problems Asian-Americans—and especially Southeast Asian refugees—face in the country have to do with the strain of social and psychological adjustment to a foreign culture, a foreign language and a foreign way of life. According to a 1980 study, for example, even after 5 years, 81 percent of Southeast Asian refugees still had serious concerns about being separated from missing family members; 67 percent had painful memories of the war and their departure from home; 59 percent were homesick; and 58 percent were worried about difficulties in communicating with those in the home country. That such concerns for loved ones left behind can affect a child's school performance is obvious. Thus, a teacher recently recounted a conversation she had with a Vietnamese girl in the third grade. The teacher wanted the girl to look at her while speaking, so she gently touched the girl's chin and raised her face. At that point, the child suddenly burst into tears. When the teacher asked the girl what she had done wrong, the child responded, "Nothing, your hand just felt like my mother's hand used to feel, and she's still in Vietnam:"

There is little the government—or anyone—can do to relieve this sort of anguish. We can express our deepest sympathy, and our faith in the strong character of our newest immigrants. We recognize this loss, this pain. We grieve with their suffering. But there is another obstacle facing Asian-Americans, and other Americans too, that we can do something about. That is the need to attain English language skills.

We believe that the proposals recently advanced by this Administration to reform bilingual education will help in this regard. Under the current system, local school districts in dealing with the federal government often have little flexibility in responding to the particular needs of students whose home language is not English. If local school districts want to receive Federal assistance, they are virtually compelled to follow a particular method of instruction. The reforms which we are currently exploring with Congress will allow local school districts to choose the sort of program, or to design the combination of programs, best suited to the task of teaching their non-English speaking children English. For school districts serving recent Asian immigrants who speak a wide variety of languages, giving local school districts greater flexibililty in designing their programs should enable Asian-American students to get more and better English language instruction. We are not retreating in our commitment to non-English speaking students. Rather we are acting to fulfill that commitment by giving local school authorities and parents the opportunity to do what works best for their children.

A final educational issue of concern to Asian-Americans is the issue of discrimination. For several years now, Asian student associations at Ivy League universities have cited admissions figures showing that a smaller percentage of Asian-American students than other applicants are being accepted. These figures might indicate that unofficial quotas are in effect in some universities limiting the number of Asian-American students. But the evidence is less than conclusive, and it is possible that factors other than anti-Asian discrimination are at work here. If, however, concrete evidence of quotas and anti-Asian discrimination does come to light, we will take the appropriate action to remedy the situation. Discrimination against Asian-Americans is as unacceptable as all other forms of racial or religious discrimination.

Let me conclude by referring once again to the Caplan study on the scholastic achievement of Southeast Asian refugee children. "The main reason for the success of these children," Professor Caplan writes, "appears to be due to the compatibility of what they bring with them—traditional cultural values, cohesive family structure, achievement orientation . . .—with the requirements for success in the United States. This may account for the rather rapid achievement of economic self-sufficiency by the parents, as well as the scholastic success of their children." These qualities—traditional values, strong families, an orientation toward achievement—are by no means exclusively Southeast Asian. They are in fact traditional American qualities. More important, they are universal qualities—universal prerequisites to the success of individuals and the well-being of a free society.

Our newest immigrants remind us of one additional point, as well the tremendous burst of creative energy that is released when former victims of tyranny and oppression are presented with the very special opportunity which American society offers. For our free country offers the opportunity, as Lincoln put it, of "an open field and a fair chance" for every American's "industry, enterprise and intelligence." Our country promises that we "may all have equal privileges in the race of life, with all its desirable human aspirations." Many Americans take this promise for granted. But perhaps because so many Asian-Americans have personal experience of the massive apparatus of repression, they may have a greater appreciation of the gift of freedom. And perhaps because of what they endured to become citizens of this nation, they bring with them a determination to make the best use of the opportunities America offers. Thus they struggle and sacrifice and work hard in order, as Mrs. Dozier put it, "to make something of themselves" and "repay a debt."

In doing this, Asian-Americans in fact put the rest of us in their debt. For they remind us of both the opportunities and the responsibilities of American citizenship. And they remind us—as Lincoln said—that a nation like ours "is worth fighting for, to secure such an inestimable jewel."

A TRIBUTE TO EVANGELINE GOULETAS-CAREY

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 1985

Mr. RANGEL. Mr. Speaker, I rise to pay tribute to Evangeline Gouletas-Carey, a truly giving and compassionate woman.

Mrs. Gouletas-Carey, a former first lady of the State of New York, has devoted her life to community improvement and philanthropic generosity. Her causes have included school lunch programs, elderly meal programs, nutrition education, and the effects of inadequate nutrition on children and pregnant women. She has been a successful businesswoman, a teacher, a lecturer, and a supporter of cultural and religious organizations.

Mr. Speaker, I would like to submit the following speech made by Mrs. Gouletas-Carey when she was presented the Eleanor Roosevelt Humanitarian Award of the Year by the Career and Professional Women's Division of the State of Israel Bonds.

ACCEPTANCE SPEECH BY EVANGELINE GOULETAS-CAREY OF THE ELEANOR ROOSEVELT HUMANITARIAN AWARD OF THE YEAR PRESENTED BY THE CAREER & PROFESSIONAL WOMEN'S DIVISION OF THE STATE OF ISRAEL BONDS—FEBRUARY 6, 1983

Thank you, Ms. Winikow, district chairwomen, committee members, guests and friends. I am very honored by your presence here this morning and to have been asked to join you.

The high award given to me on this occasion symbolizes service to a cause which awakens the memory of our national development. In Israel's progress we see mirrored our own. In Israel's struggle to make her land productive, to defend the freedoms of her people, and to lead toward frontiers of knowledge, we identify our pioneer hardships, the judicious safeguards in our constitutions, and our sojourns to the forefront of science and technology. We can appreciate this in an age where but one in five human beings lives in freedom, and 45% of the world's population lives under tyranny.

I have always been particularly impressed with the intensity and dedication of the Israeli people— their determination to make their country a success. This is one reason my brother Nick and I have endowed a park near Nazareth that will be open to all people, regardless of their ethnic origin, to be known as the Evangeline Gouletas-Carey and Nicholas S. Gouletas Recreational Park.

Evidence of the technological achievements and their practical application in business and industry is everywhere apparent in Israel, and this includes the latest achievement—a miracle in itself—the mediterranean—to—dead sea—canal. This blend of resolve and pragmatism has overcome countless obstacles. Thus, for example, agricultural production has risen more than 15 fold, lifting the country which faced severe austerity in its early statehood to a nation now producing more than four-fifths of its own food requirements.

To make the desert bloom, more than 800 square miles were brought under irrigation. Record milk production has been achieved through the scientific feeding of livestock, and the application of science to farm output has made Israel's orchards among the most productive on Earth. Overall agricultural yields continue to increase at least 5% per year.

Israel bonds have helped finance every key aspect of this economic development. Bonds have enabled large-scale expansion of the country's communication and transportation networks. Bonds have financed ambitious projects to augment the production of phosphates, copper and oil, as well as to create and expand seaports and other facilities. Since Israel imports goods and services worth $2 billion from the United States—more than it imports from any other country, many of these bond dollars return to the United States.

It is significant that, even under adversity, Israel had found unswerving financial support through Israel bonds. But, just as with the economic development in the United States, financial support did not come without effort. We also recall that we, as a new nation, had our indispensable friends (the dutch and the french) who helped our cause, and enabled us to become a strong and mature nation, to stand as a world symbol of democrary with the vast human potential such freedom unshackles. Now, this effort on behalf of another free nation is our continual commitment.

We know that staunch faith and optimism that have characterized our common histories have often made possible that which was considered impossible. Indeed, sholom Aleichem, who was the source and inspiration for the musical, "fiddler on the Roof", captured this philosophy of greatness when he wrote, "the word possible has the following comparative forms: possible, more possible, and 'what do you mean, impossible?"

And so, it is with this profound respect for the courage and conviction of a people in its steadfast struggle to maintain freedom that I am honored this morning to accept the Eleanor Roosevelt Humanitarian Award.

Thank you—and shalom.

MONSIGNOR BYRNE MARKS 40TH ANNIVERSARY

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 1985

Mr. GREEN. Mr. Speaker, I rise to pay tribute to Msgr. Harry J. Byrne, a loyal friend and constituent of mine, who marked the 40th anniversary of his priestly ordination on Sunday, December 1. The ceremony was held at Epiphany Church, located at 22d Street and Second Avenue, of which he is the pastor.

Formerly chancellor of the New York Archdiocese, he served as pastor for 12 years at St. Joseph's Church of Yorkville on the Upper East Side. His many community positions include that of vice president of the Ronald McDonald House, a hostel for children cancer patients and their parents, and board memberships for Doctor's Hospital, the Asphalt Green, and the Burden Center for the Aging. By appointment of Mayor Koch he served from 1978–81 on the New York Rent Guideline Board. Presently he is chairman of the Interfaith Community Religious Leaders organization for East Midtown Manhattan.

Mr. Speaker, I ask that my colleagues join me in congratulating Monsignor Byrne of the 40th anniversary of his priestly ordination and in thanking him for his many years of dedicated and unselfish service to his community.

MOTE MARINE LABORATORY CELEBRATES 30 YEARS OF SERVICE

HON. CONNIE MACK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 1985

Mr. MACK. Mr. Speaker, this past week the Mote Marine Laboratory of Sarasota, FL, in my congressional district, celebrated its 30th anniversary. From its founding as the Cape Haze Marine Laboratory in 1955, this independent, not-for-profit facility has grown to become the preeminent marine science laboratory in Florida and a respected world leader in the fascinating field of marine science. The goals of Mote Marine Laboratory are centered on providing opportunities for basic research, environmental assessment services, and public education.

Its research projects span a wide range of scientific endeavor—from traditional studies in marine biology to technologically complex studies contributing to the development of understanding in fields such as neurobiology and biomedical and behavioral studies. Mote scientists are investigating questions that have direct human implications, such as why sharks resist cancer, and how toxic substances affect marine environments.

The laboratory's work in environmental assessment has contributed to man's understanding of our natural environment and our ability to live in concert with it. Studies in coastal and estuarian ecology, water quality, and fishery management provide vital information for decisionmakers on the local, State, National, and international levels. The work of Mote Marine is dedicated to the preservation, conservation, and enhancement of our natural resources.

Hand in hand with research and assessment work is Mote Marine's commitment to education. The marine science center is the centerpiece of this public education effort, with its living and artifact exhibits, and lecture series. The laboratory supports the educational efforts of students at all levels with programs that include collegiate internships, high school learning camps, and liaison with the public grade schools.

All of this is made possible through the efforts of many distinguished scientists that have worked with Mote Marine through the years. One of the most notable is Dr. Eugenie Clark, under whose direction the lab was established in 1955. Dr. Perry Gilbert became director in 1967, the same year in which the institution was renamed in honor of its principal benefactors, William R. Mote and his sister, Elizabeth Mote Rose.

Mr. Mote continues a high level of day-to-day involvement as chairman of the board of the Mote Marine Foundation, which oversees fund raising activity and operation of the lab.

Mote Marine Laboratory, under the current direction of Dr. Robert F. Dunn, with the assistance of Dr. Richard H. Pierce, director of the marine sciences division, and Dr. Kumar Mahadevan, director of the environmental assessment division, is poised to enter its next 30-year phase with a continuing commitment to scientific excellence and integrity, an enthusiasm for contributing to the body of knowledge, and the hope of enhancing the quality of life for ourselves and future generations. Mr. Speaker, I take this opportunity to commend Mote Marine Laboratory for its contributions of the past and to extend my best wishes for the future.

POLITICAL SOLICITATION BAN

HON. TRENT LOTT

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 1985

Mr. LOTT. Mr. Speaker, today, I am introducing a new House rule to prohibit the solicitation of campaign contributions in the House of Representatives.

Ninety-three years ago President Chester A. Arthur called on Congress to outlaw the solicitation of Federal workers by Members of Congress and other Federal officials. In his message of December 4, 1882, the President wrote:

> It goes without saying that such contributions are not voluntary, and in my judgment they should be prohibited by law.

The following year, Congress responded with the Pendleton Act which barred such solicitations of Federal employees and in Federal buildings.

Mr. Speaker, that Federal ban is still in the law today. However, our Ethics Committee recently ruled that it only applies to "coercive" solicitations—a standard used by the Justice Department as a threshold for prosecution.

Mr. Speaker, I think this House should have a higher standard of conduct and a lower threshold of tolerance for such activities between Members and employees. If we don't bar the House door now to political solicitors, we'll soon find ourselves back in that murky era of a century past when one man's voluntary solicitation was another man's political shakedown. Congress was the ultimate loser then and could be again unless we adopt the rule I am proposing. I urge my colleagues on both sides of the aisle to support this worthwhile endeavor.

TRIBUTE TO TOM WINEBRENNER

HON. JAMES H. (JIMMY) QUILLEN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. QUILLEN. Mr. Speaker, my friend Tom Winebrenner is leaving his position on the House Republican floor staff for a new career. I want to wish Tom great success in his new endeavors, but I did not want his leaving us here to occur without saying a few words about this fine man who has done such an outstanding job for all of us over so many years of dedicated service.

Tom Winebrenner was here serving on the floor staff before I was sworn in as a freshman Member of Congress in 1963. From the beginning and over all the years since I first came to know Tom he has always and without exception proved himself my friend and an excellent staff assistant.

I don't know how he managed it over the years, but Tom was always there with accurate answers to difficult questions regarding the ebb and flow of legislative activity on the House floor. Somehow, he always seemed to know what was going on, what was coming next, and its content. So I just want to say, Tom, that our loss is your new employer's gain, because your new firm has got itself a first-class employee and fine fellow in the bargain.

JAPANESE-AMERICANS INTERNED DURING WORLD WAR II

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 1985

Mr. PANETTA. Mr. Speaker, I am pleased to rise today to bring to the attention of this distinguished body a report prepared by the Redress Committee of the Salinas Valley Chapter of the Japanese-American Citizens League. This report provides justification for providing financial redress to those Americans of Japanese descent who were interned during World War II.

My colleagues know that this is a controversial issue that has sought solution for over 40 years. Although all Americans of Japanese ancestry on the west coast were interned during World War II, fully 75 percent of these internees were American-born. They were held in violation of seven articles of the U.S. Constitution without charge, trial, or evidence of disloyalty or espionage. Some were held until October 1946. Not only were the internees subject to emotional trauma, they suffered enormous financial and material damages, as well as the disruption of many years of professional and educational experience. It has been estimated by the Congressional Commission on Wartime Relocation and Internment of Civilians [CWRIC] that these financial losses would be the equivalent of as much as $2 billion in 1983 dollars.

Mr. Speaker, Congress is presently considering H.R. 442, the Civil Rights Act of 1985, which would formally accept the findings of the CWRIC and recognize that a grave injustice was done to both citizens and resident aliens of Japanese ancestry by the evacuation, relocation, and internment of civilians during World War II. This legislation would involve legal pardons and financial restitution to those who suffered during the intern period.

Recently, I was contacted by the Redress Committee of the Salinas Valley Chapter of the Japanese American Citizens League.

The group had prepared an information sheet analyzing this issue and I would like to take this opportunity to summarize this report for the CONGRESSIONAL RECORD.

On February 10, 1942, 10 weeks after America's entrance in the war, President Franklin D. Roosvelt signed Executive Order 9066 giving the Secretary of War and regional military commanders the power to exclude any and all persons from designated areas for security reasons. In the end, more than 120,000 persons of Japanese ancestry—two-thirds of whom were American citizens—were uprooted from along the coasts of California, Oregon, and Washington and interned in remote relocation centers.

The internment violated seven articles of the U.S. Constitution including article I which guarantees freedom of assembly, article IV which guarantees freedom from unreasonable search and seizure, and article VI which provides for the right to a speedy, public trial.

Families that are interned could take only what they could carry. Internees were housed in tar-paper barracks, with one family or more per barrack. Privacy was practically impossible and doctors were in short supply. Schools were conducted with inadequate facilites and with books only when they were available.

Those who experienced the camps carried the stigma with them as a result of the defamation of character, emotional and pschyological trauma, and loss of livelihood and income. The Japanese America internees suffered enormous damages and losses, both material and intangible. To the diastrous loss of farms, businesses and homes, must surely be added the disruption of many years of career and professional lives, as well as long-term loss of income, earnings and opportunty, and their lifetime savings and assets.

An analysis by the Congressional Commission on Wartime Relocation and Internment of Civilians [CWRIC] of the economic losses suffered as a consequence of the exclusion and detention estimated that in 1945 dollars, the internees lost between $106 and $164 million in income and between $41 and $208 million in property for which no compensation was made after the war. After adjusting for inflation, these figures amount to up to $2 billion.

In 1981, the CWRIC called 750 witnesses to appear before hearings on this issue. As a result of these hearings, the CWRIC recommended that Congress pass a joint resolution recognizing the injustices done to internees and offering a formal apology. In addition, the Commission recommended that financial redress be provided to internees or the survivors and that a fund be established for educational and humanitarian purposes.

The Redress Committee of the Salinas Valley Chapter of the Japanese American Citizens League supports H.R. 442, which would adopt the recommendations of the CWRIC. The redress committee believes that it is important for the United States to recognize that an injustice was done and provide compensation for this injustice so that a similar policy will never again be allowed. When the rights of the few are in jeopardy, after all, the rights of the many are also in danger.

DISTRESSED COMMUNITIES WILL NEED HELP

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 1985

Mr. GAYDOS. Mr. Speaker, I represent an area of western Pennsylvania once known as part of the "Steel Center" of the United States.

Today, it is part of what now is known as the "Rust Bowl" of America.

There are 72 communities in the 20th Congressional District and a number of them face, or will face, municipal bankruptcy. The serious erosion of general tax revenue, brought about by the economic recession and worsened by the decline of the region's steelmaking facilties, has reached the point where communities can no longer meet ordinary operating expenses.

In communities such as Clairton, McKeesport, Duquesne, Braddock, Homestead, West Homestead, and others, the recession is not only alive and well, it is prospering.

Unemployment, true unemployment, is running two and three times above the national norm in these areas. Thousands of people have no jobs, no prospect of finding one, and no income. They long since have given up the niceties of life for the necessities of living.

Their despair spreads like cancer. When unemployed steelworkers quit buying, it isn't long before local merchants feel the pinch. Auto dealers, shoe stores, barbers, tavern owners, and so forth, start seeing their own incomes shrink. They begin cutting expenses, including laying off extra personnel.

That's the way it is in areas bypassed by the economic recovery. And now, the cancer has reached the vitals of the community itself. The closing of mills, followed by the closing of shops, has sustained a high rate of unemployment. In turn, that has eroded local tax revenues, leaving municipal officials with two alternatives: Raise taxes, a futile gesture in stricken municipalities, or cut public services.

They were literally forced to take the latter option. Municipal employees, including police and firemen, have been laid off because the community ran out of money. They could not pay salaries. In many instances, employees work voluntarily, performing their jobs until the Treasury is replenished by whatever tax funds can be collected.

Officials find their priorities have changed. No longer do they strive to improve their community. Today, they strive merely to survive as a community.

It is tragically ironic then, that at the very time when such communities need help, it is being denied them by the Federal Government because it, too, is being forced to put its own financial house in order.

Because of the country's soaring national deficit, marching orders have gone out to cut Federal spending. Virtually every agency, every program, every project has been given the word. Among the programs slated for deep cuts and even elimination are some that have provided direct assistance to distressed communities—general revenue sharing [GRS], community development block grants [CDBG's] and urban development action grants [UDAG's].

Last month, Mr. Speaker, I wrote the Office of Management and Budget, requesting information on any current or future plans that address this problem of municipal bankruptcy. I asked OMB if there were any existing contingency or discretionary funds that could be used to assist financially drained communities. The response was disappointing to me and, I fear, disastrous for many cities and towns across the country.

I am inserting my letter to OMB and its reponse into the RECORD for the attention of my colleagues. I urge them to consider the situation for I believe they will be hearing more about it. What is happening in western Pennsylvania today could occur elsewhere tomorrow.

The letters follow:

HOUSE OF REPRESENTATIVES,
Washington, DC, October 28, 1985.

Hon. JAMES C. MILLER III,
Executive Office of the President, Office of Management and Budget, Washington, DC.

DEAR MR. MILLER: A situation has developed in Western Pennsylvania whereby several communities stand on the verge of municipal bankruptcy because of the severe decline of the steel industry in their area.

Huge losses of local tax revenue have pushed these municipalities to the point where they are unable to meet general operating expenses, despite deep retrenchment in local expenditures and services.

A case in point is the City of Clairton. Once a thriving community of 25,000, its population has shrunk to 12,000 and its tax base has shriveled as a result of the curtailment of steel production there.

Unable to pay its bills from general revenue, the City of Clairton has taken drastic measures. Its 14-member police force and 10-member fire department have been laid off. Police protection now is furnished by the Pennsylvania State Police; fire protection is being handled by city firemen on a voluntary basis while counting on assistance from neighboring communities in the event of an emergency. Other city employees also are working voluntarily while their next paycheck remains in limbo.

The city is unable to secure loans from private sources and its legal taxing powers are at the maximum. Were it in a position to raise taxes, the only source would be property owners and such a step would create a tidal wave of personal bankruptcies in view of the continued rate of high unemployment in Clairton.

Inquiries for emergency aid to alleviate Clairton's immediate fiscal needs have been made to the federal Department of Housing and Urban Development, as well as the Economic Development Administration. The likelihood of such assistance, however, appears bleak at best under current regulations.

A similar situation exists in the Borough of Braddock, Pennsylvania, where officials have been unable to pay most of the community's bills since July and where 66 employees face payless paydays for the rest of this year.

Comparable problems are encountered by the City of McKeesport and the Boroughs of West Homestead and Homestead.

The dilemma confronting these municipalities assumes a "Catch 22" appearance when it is realized that existing programs which might have helped them stay afloat—Revenue Sharing, Community Development Block Grants, Urban Development Action Grants, etc.—have been severely curtailed with deeper cuts contemplated in the future.

In view of this worsening financial crisis, I ask your assistance in informing me of any other current or future plans for addressing this problem and whether there is any latitude which might be granted in the use of existing contingency or discretionary funds.

Sincerely yours,

JOSEPH M. GAYDOS,
Member of Congress.

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, November 19, 1985.

Hon. JOSEPH M. GAYDOS,
U.S. House of Representatives,
Washington, DC.

DEAR CONGRESSMAN GAYDOS: Thank you for your letter describing the fiscal condition of Clairton and other communities in western Pennsylvania.

I share your concern for communities that are suffering from the negative effects of economic change. In part, areas such as western Pennsylvania suffer from America's current trade imbalance. Recent administration actions taken in coordination with our trading partners are designed to ease that imbalance.

The administration believes that the best way to assist communities is to ensure continued economic growth nationwide. One of the keys to continued growth is bringing down the overly large Federal deficit. To do this, we must curtail Government expenditures, including spending on programs to which you referred in your letter—General Revenue Sharing, Community Development Block Grants and Urban Development Action Grants—programs which simply shift resources from one set of taxpayers to another set of taxpayers.

Despite these deficits, our country is enjoying a robust expansion. It is unfortunate that the present recovery has not significantly improved the condition of some of the communities in your district. While it might be desirable for the Federal Government to assist troubled communities during difficult periods, the current budget deficit is so large that it simply precludes any additional Federal Government activity.

Although the Federal Government cannot pursue more programs than it is now undertaking, current programs are providing significant assistance. In 1985, the Community Development Block Grants (CDBG) program allocated almost $45 million to Pennsylvania to distribute to small cities and rural areas such as the ones you describe. HUD also allocated about $1.5 million of CDBG funds to McKeesport to support community development activities. Furthermore, since 1982, the Urban Development Action Grants program has accepted more than 100 applications for funding for projects throughout Pennsylvania, including a project in McKeesport and many in and around Pittsburgh. The CDBG and UDAG programs, of course, are only two Federal programs among many that provide funds which might be used to ameliorate the current situation.

Additionally, the Commonwealth of Pennsylvania may be able to supply some State funds to your area. In general, States are now more fiscally sound than the Federal Government. Since Pennsylvania has run a general fund budget surplus in fiscal years 1984 and 1985, it may be able to assist troubled areas in the Commonwealth. This approach has the advantage of retaining State responsibility and control, which is consistent with the Federalism principles that President Reagan strongly supports.

Thank you again for bringing your concerns to my attention. I hope this response is helpful.

Sincerely yours,

JAMES C. MILLER III,
Director.

DUMPED PENSIONS SPUR CRISIS

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 1985

Ms. KAPTUR. Mr. Speaker, I would like to bring to the attention of my colleagues an article that appeared in the New York Times last month. It provides a very clear and disturbing picture of the deficit facing the Pension Benefit Guaranty Corporation. The PBGC was established in 1974 to protect pensions of retirees whose former employers are experiencing financial difficulties. Unfortunately, over 1,000 companies with underfunded pension plans have "dumped" their liabilities on the PBGC creating the potential for bankruptcy of the Corporation. Although a provision to increase employer premiums paid to the PBGC was included in the House Budget Reconciliation Act, it is unclear if a conference agreement can be reached. I recommend this article to my colleagues.

The article follows:

[From the New York Times, Nov. 8, 1985]

DUMPED PENSIONS SPUR CRISIS

(By Steven Greenhouse)

WASHINGTON.—When Congress set up the Pension Benefit Guaranty Corporation in 1974, the aim was to protect the retirement income of workers at companies in trouble. But recently, after the Wheeling-Pittsburgh Steel Corporation terminated its pension plan, it seemed to some people that it was the companies that are being protected.

"The Pension Benefit Guaranty Corporation is now being prostituted to help companies avoid going out of business," said William H. Knoell, chief executive officer of the Cyclops Corporation, a Pittsburgh-based steelmaker.

He believes that the agency was "put together to be a provider of last resort to pensioners whose companies have gone out of business." And he complained that "in the particular case of our competitors at Wheeling-Pitt, it will give them a competitive advantage."

Mr. Knoell is one of the most outspoken corporate officials calling on Congress to make it harder for companies to dump their underfunded pension plans on the Pension Benefit Guaranty Corporation. And legislators are finally responding to such appeals to toughen up the law.

More than 1,000 companies have dumped their unfunded pension liabilities on the agency since it was founded. Pension agency officials worry that the assumption of all these obligations could cause the agency, within the next few years, to run out of money to pay for all the pensions.

DEFICIT CRISIS

Wheeling-Pittsburgh's move, in particular, has greatly heightened the pension agency's deficit crisis. The troubled steelmaker's pension plan was underfunded by $475 million. (Such underfunding occurs when the contributions that a company has made into a plan are insufficient to cover the pension obligations made to the plan's participants.)

Speaking about Wheeling-Pittsburgh's plan termination, Kathleen P. Utgoff, the pension corporation's executive director since July, said, "It's enormous; it nearly doubled our deficit." Her agency insures the pensions of 38 million Americans, and in the past has stepped in to protect workers at Braniff, Rath Packing, Allis-Chalmers and White Motor.

The agency's deficit now stands at an estimated $1.2 billion for single-employer pension plans. Agency officials say that the deficit means that investment income and insurance premiums paid by employers will not be enough in coming years to pay the agency's steadily growing obligations. A single-employer plan is one where a company sets up a plan for its own workers only, unlike a multi-employer plan, where serveral companies make contributions into a joint plan.

To help end the agency's deficit crisis, committees in the House and Senate have passed bills that would more than triple the annual pension insurance premium that companies in single-employer pension plans must pay per worker. These premiums, which help finance the pension agency, would jump to $8 or more per worker, from the current level of $2.60. In addition, the bills would, as Mr. Knoell wishes, make it harder for companies to unload their pension plans upon the agency.

ALMOST ANY REASON

Under current law, companies can terminate pension plans for almost any reason, and the Pension Benefit Corporation is required to assume responsibility for them. But under the House Labor Committee bill, for instance, a company could unload its pension plan on the agency only if the company were in financial distress, such as bankruptcy.

According to Mrs. Utgoff, the agency has handled more than 50,000 terminations, most of which were adequately funded, or even overfunded. The agency does not serve as trustee of these plans, but instead distributes the assets of these plans by providing annuities to the plan participants. If a terminated plan is overfunded—that is, if the plan's coffers have more than is needed to pay the pension obligations—the excess goes back to the company.

For the 1,000 underfunded plans that were terminated, which cover 150,000 workers the agency has become trustee. When an underfunded plan is turned over to the agency, it uses its trust fund, plus the premiums it receives, to pay out the pension obligations that it has assumed.

I.R.S. WAIVERS

Nowadays, troubled companies often fail to fully fund their pension plans. Such companies sometimes ask the Internal Revenue Service for a waiver that frees them from the obligation of making their annual minimum contributions to their pension plans. Seeking to help these troubled companies, the I.R.S. often grants the waiver requests. In the past, pension agency officials have criticized the I.R.S. for being too willing to grant such waivers.

Wheeling-Pittsburgh received such a waiver, and that was one of the reasons that its plan was so underfunded. Pension agency officials hope that the new legislation allows the agency to become a secured creditor to companies that receive waivers, to insure that they ultimately pay any contributions that are waived.

Mrs. Utgoff, a 37-year-old former economist with the Council of Economic Advisers, said many companies terminate their plans after underfunding soars. The reason is that the Employee Retirement Income Security Act of 1974, which set up the agency, allows it to claim 30 percent of the net worth of the terminating company. But for troubled companies, that 30 percent often represents far less money than the amount of the underfunding. Besides, the company often does not have the money to pay the agency 30 percent of its net worth.

"A TREMENDOUS LOOPHOLE"

"It wasn't clear," Mrs. Utgoff said, "that Congress recognized what a tremendous loophole this would be."

Under bills passed by committees in the House and Senate, the pension agency would gain the right to take 10 percent of the terminating company's pretax profits for up to 10 years, should the company survive. This would help repay the agency for the underfunding it has to cover and, at the same time, would make companies more reluctant to dump their pension plans on the agency.

The House Labor Committee's bill also aims to stop strong companies from transferring underfunded pension liabilities to weak companies that fail, thus forcing the agency to cover the underfunding. Agency officials say this was what happened when the International Harvester Company sold its Wisconsin Steel subsidiary to a small company with meager capitalization, a company that subsequently failed. The result was that the Pension Benefit Guaranty Corporation absorbed $63.3 million in liabilities in 1980 from Wisconsin Steel's underfunded plan.

Many corporate officials support the idea of increasing premiums that businesses with single-employer plans would have to pay to the Pension Benefit Guaranty Corporation.

"We don't take issue with the need for a premium increase," said Stuart J. Brahs, executive director of the Association of Private Pension and Welfare Plans, a Washington-based group that represents plan sponsors and providers. "We're just not convinced that the dollar figure arrived at by the P.B.G.C. or by the Congressional committees is appropriate."

The House Education and Labor Committee has voted for an increase to $8.50 per worker, and the Senate Labor Committee has approved an increase to $8.10. In addition, the House Ways and Means Committee has voted an increase to $8, with the rise ending after three years.

Phyllis Borzi, a pension counsel for the House Labor Committee, said, "An $8 premium, with a three-year sunset provision is clearly inadequate to deal with the financial difficulties of the P.B.G.C."

RECONCILIATION BILLS

The different bills are part of budget reconciliation bills in the House and Senate. When the conference committee arrives at a compromise bill, pension experts say, it will likely keep provisions that raise premiums and make it harder to unload underfunded pension plans.

Pension agency officials say that if premiums are increased to $8.50, the agency will be able to eliminate its deficit within 30 to 40 years, so long as there are not many more extraordinarily large underfunded terminations such as Wheeling-Pittsburgh's.

Victoria Caldeira, associate director of employee benefits for the National Association of Manufacturers, said her association supports a temporary increase, but wants it linked to a study of a risk-related premium.

PRIME MINISTER GANDHI'S PLANS FOR INDIA

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 1985

Mr. McEWEN. Mr. Speaker, recently the publisher of the Cleveland Plain Dealer, Thomas Vail, had the opportunity to meet with Prime Minister Rajiv Gandhi of India and discuss with him at length the future of the "world's largest democracy."

I found the interview insightful and revealing. Mr. Vail paints a portrait of our friend that few Americans have had the chance to see. Mr. Vail's personal remarks regarding the Indian Prime Minister are honest. He says, "The prime minister * * * is straightforward, candid, practical, and nonideological—neither liberal nor conservative—with no apparent hidden agenda nor any hangups about colonialism. He seems neither an intellectual nor a philosopher. I liked Rajiv Gandhi. When you stop to think of it, so do most of the people who have met him."

The interview not only speaks well of Rajiv Gandhi, but also of Thomas Vail. Mr. Vail has distinguished himself as a successful publisher, as well as a concerned and active citizen. This is a noble feat in the fast-paced, competitive, and sometimes merciless world of the media. America needs more citizens like Thomas Vail.

I commend the interview and Mr. Vail's accompanying remarks to the attention of my colleagues in the House.

[From the Plain Dealer, Nov. 10, 1985]

RAJIV GANDHI TELLS PD'S VAIL OF PLANS FOR INDIA

(Thomas Vail, publisher and editor of The Plain Dealer, interviewed Prime Minister Rajiv Gandhi of India last Tuesday in Delhi. The interview took place almost one year to the day after Gandhi became prime minister, succeeding his mother, Indira Gandhi, who was assassinated by Sikh extremists.

(Since taking office as leader of the world's largest democracy, the 41-year-old Gandhi has met with many world leaders, including President Reagan and Mikhail S. Gorbachev, the Soviet leader. He represents a new era of youthful leadership for India, and is emerging as one of the most important figures in the Third World.

(Vail asked the prime minister about his plans for India, his observations about other world figures and many other issues. Among the significant points: Gandhi, from his talks with Reagan and Gorbachev, feels they can come together on some important agreements. Gandhi also lists his domestic priorities as electric power generation, transportation and communications. This is an edited transcript of the Vail-Gandhi interview.)

VAIL: Prime Minister, when your time as leader is over, what would you like to have accomplished for your country?

GANDHI: Well, I would like to feel I have alleviated the frictions in the country, that perhaps most of all I would like to bring human development or spiritual development on par with technological development. I find the gap between the two is increasing very rapidly. Perhaps the educational system, perhaps the technology itself is holding people, sucking them into this direction. But I feel that this difference between the development of the human being as a human being and the development of technology as a sort of hard product—the gap is becoming too much.

VAIL: You have mentioned in almost all your speeches as problems to solve: poverty, population, industrial development and . . .

GANDHI: Education.

VAIL: Yes. So I take it you expect to achieve the aim of human development and unity through education.

GANDHI: With more than—yes—through education but in a wider perspective, not just school and college. That is why we have made a new Ministry in Human Resources Development, which for the first time puts a lot of things together with education, not under education. We have not put them under education, but we have put them with education under one head.

VAIL: Very good. Now, you have carved out a unique place for yourself in your nonalignment. You are not with one side or the other. You have had unique access to all sides. Do you find as you go around—take Russia and the United States as an example—as you seem to be trusted by both sides, does it seem to you that Russia and the United States are going to come together in some way, to make an accommodation of sorts?

GANDHI: In Geneva?

VAIL: All right, in Geneva. That's a good start.

GANDHI: Well, in Geneva it could only be a start. I hope that there will be a start. I did get the feeling in the U.S. and in Moscow that both countries do want peace.

VAIL: That's very significant.

GANDHI: But both have got their own, what should I say, from our point of view perhaps "hang-ups" would be the best word. But I don't think either of them has a different ultimate end. I am not talking of the competition between the two different societies, which will be there. I am talking on the disarmament and the nuclear weapon angle.

VAIL: Did you find President Reagan easy to deal with? How did he strike you as a person?

GANDHI: I found President Reagan easy to talk with. Straightforward, and I like to talk straight also.

Vail: I was saying to somebody earlier that having talked to you earlier and read what you have said, that you and President Reagan are similar, that you are both candid and that there is nothing else to it. You mean what you say. Is that right?

Gandhi: Yes. I try not to hide what I mean.

Vail: What about Mr. Gorbachev?

Gandhi: I find him very similar.

Vail: So you have a rapport among these personalities. When you deal with the poverty of India, which you mentioned in many of your speeches, how do you expect to approach that? That is a big question, and you mentioned population growth, which is about 2% annually. You don't feel these are insurmountable problems?

Gandhi: It's a tough situation. It's not insurmountable. We've already done a lot about it. If you look at India 40 years ago and you look at India today, there's a tremendous difference. Some people believe that the rich have gotten richer and the poor have gotten poorer. I don't think so. A handful of people have gotten very rich. But what we have developed is a very large number of people who are not very rich, middle class or upper middle class. It's all brand new after independence. As an indicator of their economic power and strength we loosened up on certain rules and regulations on certain taxes, and certain incentives in holding private investment in shares, specific industries, and we have had a tremendous response. By reducing our taxes, we have collected on average 22% more.

Vail: You sound like President Reagan.

Gandhi: Well it works, it works. And the share market, I forget the exact number. I think we have collected something about $5 billion. But we have not collected, we have pulled it out of what we call the second economy, or the black economy, into the main economy. So this is the sort of money which is floating around, and 40 years ago it was in the hands of maybe half a dozen families. It is in the hands of hundreds of million of people today.

Vail. In regard to foreign investment—some people feel that India has been up to now a difficult place for foreign investment. Do you plan some liberalization or change in foreign investment?

Gandhi: Well, we've done something. Now here we look at things in two or three boxes. One is what we really need and cannot get ourselves, develop ourselves. Certain technologies—when I talk of high technology, I don't necessarily mean sophisticated computers or space technology or electronics necessarily. We are also talking about biogenetics, agriculture seeds, and on a more mundane level the best technology for any particular task. It might be in just producing a screw or a nut and bolt in a factory. It is not necessary that you have to have a super computer. Shop floor ethos, or work ethos, which we have not been able to develop, that also I would have to categorize as a type of technology.

Vail: Like Japan?

Gandhi: Like Japan. Like some of the southeast Asian countries. That type of thing. That's what is missing. In areas where we feel that we cannot achieve this, we allow foreign investment.

Vail: So Japan and the United States would be your main sources?

Gandhi: Well, they would, yes. Some West European countries. Then there's another area where have made it absolutely open, and that is our free trade zones, where you can do what you like, 100% investment, we don't want to know what you are doing as long as it goes out. Even there, we have loosened up certain rules because earlier we would not allow—people in India were not allowed to import from a free trade zone. It was ridiculous. What was in fact happening—a particular case in point—we had a U.S. company which had a branch in one of the trade zones manufacturing a product. Our rules said that they (Indians) cannot buy from a factory on Indian soil (in the zone) so they bought from the same company but from the factory in the U.S. So that modification we have done so we can buy as an import from our own free trade zones.

Vail: Are you going to get the government out of any special industry in the near future?

Gandhi: Well, we have got them out to a very large extent from communications.

Vail: The communications system of India, the transportation system, these things that are part of the commerce of the nation, I know you have in high priority. Do you feel that you can come on with a major communications program, not just in the media, but the telephone system? Is there any way to get a good one going?

Gandhi: We are. We are trying to do that.

Now, before I get to communications I would just like to put the priorities in line on the plan. The seventh plan which we have just produced.

The first priority we have given is to power generation. Almost all our factories are running at about 40%. Agriculture is not running properly because we have not been able to give power. So the first thing is going to be to get 100% output, or whatever is the best they can do, from the investment that's already been made in factories, in agriculture and other areas.

Vail: And that would be nuclear and hydro?

Gandhi: There's very little nuclear. It's mostly thermal and hydro. Some gas and none of the new is oil, but some of the older generation is oil. Next is going to be transport because we are already in a crunch. And the minute all these factories and agriculture start functioning at double efficiency we'll have to carry double the amount of goods, so that's the next . . .

Vail: The road system?

Gandhi: The road, the rail, air much less. Railways are our primary hauling system, more than the roads. We are also looking at roads and we doing an experiment on a motorway where we are trying to get somebody from the private sector to make it and charge a toll on it, and watch to see how it works. If it works well then we can adopt it in other areas.

Vail: So those would be your top priorities at the moment?

Gandhi: Yes, Well, communications of course. What we are doing for communications immediately is to offload the data communications which is going through telephones. We hope in the next few months to be in a position to start offloading certainly the heaviest circuits. All business communications could go through data links, telexes, computer to computer, like that. So that would offload the telephones and hopefully the telephones would then in those areas be available to be used as telephones instead of transmitting really what should go over a data link. We have also discovered that we've got very good switching technology which we have developed for our defense forces and it's been in use for the defense forces, which is as good as anything you've got and we are going to put that into the civilian field as well.

Vail: One thing I keep hearing is that we in the media are overestimating differences between India and Pakistan, and we keep hearing from sophisticated people here that your differences with Pakistan are not that great. We keep hearing that America is giving big hardware to Pakistan and that makes you mad. Is it true that we are overestimating this and that things can be worked out?

Gandhi: Well, things not only can be worked, they must be worked out. We are very clear about that. We want true friendship with Pakistan. And it's not just because they are a neighbor. Yes, they are a neighbor and we want friendship with all our neighbors. Pakistan is not a geographical division, it's not a division on any ethnic or any other line, it's just a line that the British drew like that. In fact, I believe at one particular point, I believe there was an argument, and they said, well, all right, we will just change it like that, so you know, it just fell there. So you know, this division is not a division of differences between the people. When we meet Pakistanis and I am sure when Pakistanis meet Indians, there is no difference. We are absolutely on the same wavelength. I have just been back to my old school on Sunday, and we have a large contingent from Pakistan, old boys with their families. There's no difference between us.

Vail: The fact that Americans are supplying a lot of things to Pakistan, that's something you think you can work around in some way.

Gandhi: Well, it worries us. It worries us because we have had three wars with Pakistan. It's a fact of history and we cannot avoid that. They attacked us on each occasion. What worries us is not the arms per se, because you know whether they have less or more, we will have the same. We have to equate them. If we go shooting ahead, they will have to equate with us. What bothers us is that we have to spend that much more money. We would have preferred, both of us, to stay at a very low level and we were both very happy. They had Mirage Threes and this Chinese jet, and we had MIG 21s. MIG 21s, as you know, are Korean war vintage, that's when they came out, and we were both very happy. Then, what made us unhappy, was the last injection of arms, when lot of sophisticated weapons came in and we immediately had to go to new aircraft, and new everything. It stimulates a race. We don't want that.

Vail: You want to use your resources for internal development?

Gandhi: Absolutely.

Vail: Tell me, what do you find most satisfying about this job of yours that you didn't expect?

Gandhi: Satisfying, when you actually manage to get things done, especially things that people felt were not easy to do. It does give you tremendous satisfaction.

Vail: Like the Sikh problem in Punjab.

Gandhi: Yes. Well, it's not worked out yet. But we have made a start, yes.

Vail: Are there any particular people around the world that you have met that you particularly take to? Do these leaders impress you that you meet?

Gandhi: A lot, yes. I have met quite a lot. As a group, I would say what really impressed me was the attitude of the younger generation of leadership, and the—I won't say common view because in the group there are people with very Western ideas, there are people with very left ideas, there are people with nonaligned ideas. Almost every single one of them has an open mind and is willing to talk and to discuss and you know, debate points, which I have found the older are less open to do.

Vail: They're the generation that wants to talk a new language about getting together?

Gandhi: That's right. They don't have the barriers that maybe the fifties or late forties build. I am not just talking of, you know, the more advanced countries or the backward. I am talking of the little island countries and the big massive countries. It's across the board. It's the age which is doing it.

Vail: Have you ever thought of going over to see Deng Xiaoping of China?

Gandhi: I've got to go to China, yet. I've got an invitation. I met the Prime Minister Zhao Ziyang, we spent an hour together in New York, and we had a very good talk. We've got a group from China in India now talking about the border issues.

Vail: Have you got a specific date to meet Deng Xiaoping?

Gandhi: No, we haven't. What we decided on is that a proper base must be made so that something conclusive comes out of the visit. Otherwise there would be tremendous disappointment in both countries.

Vail: Tell me, what do you do for relaxation? What do you do for fun?

Gandhi: I like music. So little time to listen to good music. Photography. I am a radio amateur, but again no time.

Vail: No more flying?

Gandhi: No more flying, but I am going to renew my license one of these days.

Vail: Do you have any great disappointments in your experience after a year?

Gandhi: No great disappointment, no. Nothing that is really upset me or worried me, you know, of something not going right. That feeling hasn't come.

Vail: Nothing that seems impossible, that can't be worked out?

Gandhi: I am a great believer in talking, sitting across the table and talking things out. I find, even if you are not going to remove all the problems, you can increase an understanding of each other's situations.

Vail: Person-to-person arrangements to reduce barriers wherever they are.

Gandhi: Yes, yes.

Vail: Are there any particular historical characters you admire?

Gandhi: I don't think I do.

Vail: But growing up there were no particular people in the past?

Gandhi: No, I thought you meant the past. In the present of course, we look at our own leadership, at Gandhi, my own grandfather (Nehru).

Vail: Certainly. It's clan and a tradition.

Vail: Do you have any particular message for the people of the United States that I could transmit?

Gandhi: Well, it's peace and friendship for both our countries. Really striving for very similar goals. And using not very different methods.

Vail: On education, which comes through in your thinking so much, do you have a specific program that you have in place or plan to put in place to change or reform the education system in India?

Gandhi: Yes. What we have done is, we have produced what we call a working paper, which is not fully satisfactory, not good enough. I think maybe we did not give ourselves enough time. But, on the other hand, we don't know whether we will be given enough time. So we set ourselves about six months to produce a paper, but it's a beginning. It's a paper that we want debated in the country. And it has provoked debate. We've got a lot of input. Somewhere around the end of the year we are going to start putting our heads together on the input that's come in. We did not want to do such a major change unilaterally by the government. We wanted the whole country involved in that.

Vail: Do you feel that the lack of a very good opposition is in the end going to be a difficulty for you? You've got this massive mandate. I get the impression that the opposition in India is weak and is not well led to put it mildly.

Gandhi: I won't comment on that (laughter).

On the other question, yes, I think it can be a problem, although it looks very cushy, the fact is that the real opposition in India ever since independence has not come from any other party, it has always come from the Congress (Gandhi's own political party).

Vail: That's interesting.

Gandhi: When the Congress is in power, the biggest opposition is from the Congress, and the one time the Congress was out of power, the only time there was an opposition to the government it was also the Congress.

Vail: Then, of course, your mother found out that the hero today can be the opposite tomorrow. It can swing that much?

Gandhi: Yes, and that really shows the strength of our democracy. It shows that the people know what they want and they know they can achieve what they want.

Vail: Do you feel that you have made great progress on the corruption issue in India?

Gandhi: That's very difficult, because there's corruption at various levels, various types. We have made headway at the top end, and we are being very tough across the line. No compromise no matter what connections there are, how high up he or she is. The real problem which is going to be much harder to face is the type of corruption which takes place at the lower levels, where it is difficult for government to get down and check each case. That's why what we've done is tackle corruption and the black money economy together, because without the black money there would be no corruption. That is the corruption part of it. It comes from that. If we can pull the money out of the black into the white, it will reduce the money available for corruption. If we reduce the rules, regulations, controls, again it will reduce the corruption.

Vail: Crime and drugs, which America is wrestling with, are they big problems in India?

Gandhi: No, not like it is in America.

Vail: Organized crime?

Gandhi: Yes, there is organized crime, very definitely, but we are not in the same league.

Drugs are not a problem yet, but it is beginning to be a problem. Certain routes got closed off some years ago, and they have just started transporting it through India. We want to put a stop to it immediately.

Vail: One final question. I take it that you feel there is a new era beginning for India, that it's going to be a whole new world for India, more united. A feeling that the violent history of India is a thing of the past, that education, lessening of controls, whatever, is going to bring a new era for India. Is that your feeling?

Gandhi: Much of it is going to be by development of the human being and by economic uplift. Because many of these tensions which become communal or racist are really driven from an economic starting point.

Vail: I like your point about human development. You don't feel that religion—India is a deeply religious place—that religion is not a detriment to India.

Gandhi: No. It has to be one of the pillars. That is what will strengthen the person, the individual.

Vail: Well sir, you have carved out for yourself a unique place, and I take it nonalignment will be the policy of India for some time to come. Is that right?

Gandhi: Very much so, yes.

Vail: You are at ease with the media, I must say.

Gandhi: I talk openly to the media.

Vail: You tell the truth. That's the most disarming thing.

Gandhi: Thank you very much. It's been a pleasure meeting you again.

GANDHI: CANDID, PRACTICAL AND STRAIGHTFORWARD

(By Thomas Vail)

Rajiv Gandhi met me for our interview in his offices in the main government buildings in Delhi, which were erected by the British during the imperial period. His office is quite simple, with a few knicknacks, nor any major art works.

The prime minister is 6-foot-2, slim and good looking, with a friendly manner and a good sense of humor. He is straightforward, candid, practical and non-ideological—neither liberal nor conservative—with no apparent hidden agenda nor any hangups about colonialism. He seems neither an intellectual nor a philosopher.

I asked him in our interview published here about people he admired, either historical characters or current leaders. He said he has not modeled himself on any historical character. On current world leaders—and he has met a lot of them—he said he mainly impressed by the younger ones in their 30s and 40s because of their willingness to talk, to reach new accommodations to create a new world.

Although he now has little time for pleasures, he still enjoys driving his own cars (fast), photography, music and ham radio, and he intends to renew his pilot's license.

Gandhi, in surprising ways, is similar to President Reagan; what you see is what you get. There are no subtleties, or deep intellectual or philosophical broodings, no trickery. He believes he can deal with and be friendly with anyone: the Americans, the Russians or whomever.

He believes both the Americans and Russians would like to reach an accommodation, but are prevented from doing so because of their hangups. But he believes these are not insurmountable.

Gandhi has a practical personality. Whatever differences he may have with other nations—whether the United States and the Soviet Union or his country's historic enemy, Pakistan—he wants to attempt to solve the differences on a person-to-person basis. He believes in personal politics and personal diplomacy.

He faces monumental problems in India, a country with virtually no infrastructure, bad roads, terrible communications, grinding poverty, terrible air and water pollution, and 60% to 70% illiteracy. If you can name a problem, India, probably has it.

But Gandhi is young enough and new enough in his job to think that something can always be done. He is formulating plans to get started on these problems and he has priorities.

The most interesting thing is that he thinks more about humanity and people than about technology. He didn't say it quite this way, but I got the impression that he believes science and technology have sometimes moved ahead and left the development of human beings behind.

So Gandhi wants to advance his country socially as well as technologically. He realizes that many of the deep divisions in India have stemmed from differences in the economic well-being of the people. The young prime minister is trying to foster a strong middle class, to eliminate the extremes of wealth and poverty that have marked India's past.

Gandhi is part of a new wave of young leaders all over the world. He represents a new generation and a new era for his country. The final measure of this 41-year-old new star of the Third World will be how much of his program to modernize his very backward country can be put into effect.

I liked Rajiv Gandhi. When you stop to think of it, so do most of the people who have met him.

H.R. 3773

HON. PAUL B. HENRY

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 1985

Mr. HENRY. Mr. Speaker, it is with great pleasure that I rise to support H.R. 3773, the Federal Science and Technology Transfer Act of 1985. This legislation seeks to build upon the foundation of the 1980 Stevenson-Wydler Act to encourage closer public/private cooperation in industrially related technological research and development. As an original cosponsor of this legislation and member of the subcommittee which held hearings on and reported the final bill, I strongly endorse its provisions.

Federal Government laboratories with their scientific and engineering expertise, their technology base, and their facilities and equipment are valuable national resources. But these resources need to be more readily shared with businesses wishing to develop new products, with universities wanting to enhance research efforts, and with local governments in need of technical solutions to their problems. This legislation goes a long way toward meeting those needs.

H.R. 3773 has three major provisions. It authorizes Government-operated laboratories to enter into cooperative research agreements with other levels of Government, nonprofit institutions, and the private sector. It provides incentives for these laboratories to pursue projects with economic potential. And it establishes by statutory law the Federal Laboratory Consortium for Technology Transfer within the National Science Foundation. These provisions are geared toward encouraging economically productive research and development projects to enable industry to take advantage of the latest scientific developments in their fields, and thereby increase productivity, employment, and international competitiveness.

Currently, there is a wide variability in how Government laboratories relate their research and development work with other parties. Some agencies, such as NASA, have a long history of supporting cooperative research because such authority is clearly spelled out in statutory law. Other agencies, such as USDA, as yet have not realized their full potential because of limited statutory authority or cumbersome procedures to obtain approvals for joint projects. H.R. 3773 must become law before agencies like USDA can go forward with joint efforts.

Agencies and their laboratory systems are provided with new, strong, and flexible incentives to enter into cooperative research and development agreements. Currently, Federal agencies have statutory authority tp pay cash incentive awards up to $25,000 to their employees for meritorious work. NASA, from provisions in the Space Act, has additional authority to provide awards up to $100,000. But, by and large, these reward systems are unused, and especially in the Research and Development area.

Although various proposals have been made to mandate specific new incentive programs, what is helpful to one agency may be harmful to another. Therefore, the legislation encourages and directs agency heads to use their current authority to develop and implement a strong awards program specifically for their scientific, engineering, and technical personnel. Agencies are also permitted to retain revenues from royalties for limited and appropriate purposes, including rewarding specific researchers and updating research equipment.

The Federal Laboratory Consortium for Technology Transfer (FLC) is also upgraded. Currently a voluntary organization, it is composed of nearly 300 Federal laboratories from 11 agencies. Its goal is to improve the transfer of Federal Government technological discoveries into other sectors, particularly the private sector. So far, it has shown promise, but its success has been uneven. H.R. 3773 establishes the FLC in law and allows it to use the administrative services of the National Science Foundation to help achieve its goal. To aid the consortium further in identifying appropriate arrangements and projects, the legislation establishes advisory committees in each Federal laboratory consortium region to be composed of representatives from other levels of government, private enterprise, universities, industrial development organizations, and other appropriate persons.

Passage of this legislation will require no increase in Federal outlays. Initial funding of the FLC is through a very small setaside totaling less than $1 million per year from the budgets of agencies with Government-owned laboratories. Voluntary contributions will provide full funding after 1991. The private sector will contribute greatly to specific R&D projects. Federal revenues are also expected to be generated from royalties on new inventions.

H.R. 3773 is an important legislative initiative. It addresses a critical economic need in a fiscally responsible manner. I am pleased that this body has recognized the importance of this need, and command my colleagues for adopting this legislation.

INSURANCE CRISIS THREATENS COLLEGES

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 1985

Mr. FLORIO. Mr. Speaker, as my subcommittee pursues its long-range inquiry into the crisis in the availability of insurance, I wish to bring to the attention of the House the far-reaching consequences of the crisis. The Associated Press article I am inserting here in the RECORD from the Burlington County Times describes the serious disruption of our institutions of higher education created by the insurance crisis. This graphically illustrates an important point about insurance coverage: it is often a public necessity, not a discretionary service that one can forgo until another day. Accordingly, public officials do not have the luxury of ignoring the liability crisis in the hope that it will go away.

[From the Burlington County Times]

COLLEGES GET EXPENSIVE INSURANCE, OR NONE AT ALL

BOSTON.—Faced with a surge in lawsuits, American colleges and universities are finding they must pay up to 10 times more than last year for liability insurance—if they can get it at all.

The University of Southern California, 30 miles from the San Andreas fault, cannot afford earthquake coverage. In January, the premium more than tripled to $400,000.

"We're rolling the dice," said Alex Ratka, director of risk management and insurance for USC.

At Southeastern Massachusetts University, students are hoisting double dips instead of beers. In March, the school converted the campus pub into an ice cream parlor after an insurer refused to renew liquor liability coverage.

"There are just horror stories all over the place," said William Jacka, president of Moulton, Allen and Williams Corp. insurance brokerage in Birmingham, Ala. "Most underwriters are just scared of colleges and universities because they don't understand the risk."

Michigan State University, which now has general liability insurance to cover claims of up to $50 million, wil be lucky to get a limit a fifth that high next year, said Jerre Ward, risk manager for the 44,000-student school.

"When companies are renewing, they are doing three things: reducing the coverage, reducing the limits and raising the price," she said.

The crisis comes a year after the insurance industry lost $3.8 billion. Barry Walker, associate vice president of the Chicago-based Alliance of American Insurers, said insurers were trying to recoup by shying away from areas where their risk is most speculative.

The problem is not limited to institutions of higher learning, but huge insurance bills are particularly chilling to college administrators trying to keep spiraling tuition costs under control.

"Premiums have gone up anywhere from four to 10 times," said Jacka. "The other side of this coin is that these costs are going to have to be passed on to the student body."

Insurers blame the higher premiums in part on an explosion in lawsuits against colleges and universities in the last few years and on the unpredictability of court awards.

Suits alleging sex and race discrimination in hiring and tenure decisions are among the fastest-growing areas of litigation, administrators say.

Since 1980, the number of claims filed against the University of Alabama at Birmingham has risen 1,200 percent, said John Walker, director of risk management and insurance. A large proportion of the claims allege medical malpractice at the university's teaching hospital, he said.

Because damages a jury can award are not limited, claims can vary from nothing to millions of dollars.

"There's no consistency. You can't say with certainty when you write a policy that this is what you're going to have to pay out," said Barry Walker of the insurers' alliance.

Since last year, some types of liability insurance have become almost impossible to find at any price, administrators said.

Directors' and officers' insurance, which protects school employees named individually in damage cases, has all but dried up. Universities report they can no longer get coverage against chemical spills or other pollution accidents. Some schools say newer policies won't pay for injuries to students involved in intercollegiate athletics.

"New general liability policies now exclude the very things we buy them for," said the University of Alabama's Walker. "The industry, I would think, should be in the business of visualizing our risk and then writing policies to cover it."

EUROPE AND STAR WARS

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 1985

Mr. GARCIA. Mr. Speaker, the implications of star wars spreads far beyond our immediate concerns in the United States. It also has profound implications for our European allies.

The New York Times ran an excellent editorial on precisely that subject in today's edition. I submit it to the RECORD for my colleagues' perusal.

SPREADING STARDUST IN EUROPE

For Americans, the Strategic Defense Initiative sprang unannounced from their President's head. For Europeans, this concept of building some kind of an electronic shield against Soviet missiles poses excruciating choices. After months of argument, Britain has agreed to participate in the research, and other European countries will probably do so shortly.

Like most Americans, Europeans believe that no perfect missile defense is technically feasible, while a leaky one would be a dubious bargain. It would be an even worse one for them, because even a leaky Soviet shield could rob the French and British nuclear deterrents of credibility.

So the allies, having met one test of loyalty by accepting American cruise and Pershing missiles on their soil, resented a recent letter from Caspar Weinberger in which the Secretary of Defense invited them to sign up for "Star Wars" research—and to reply within 60 days.

Still, even if the Europeans are not sold on Star Wars as a weapon, they find it compelling as a technological venture. They fear being condemned to a technological backwater if they opt out of Star Wars research and the expected technical spinoffs it may bring. Yet even this fear contains a painful paradox. The European allies also fear that participating in the project may stimulate a new brain drain to the United States.

Britain has responded to these complexities by demanding a $1.5 billion share of the projected $26 billion research budget for Star Wars, along with guarantees that it may use its scientists' inventions in commercial projects. Mr. Weinberger signed a secret accord in London last week that apparently meets British concerns without giving any specific guarantees.

European help with Star Wars is likely to be useful, though not essential, and will add to the risk that pieces of the technology may leak to the Soviet Union. The need for Europe's participation is political more than technical. For America to build itself an astrodome shield in which Europe had no involvement would sorely strain the Atlantic alliance.

The United States wants Europeans to share in Star Wars for political reasons, and Europe wants to share for commercial reasons. Marriages have had worse foundations.

ON THE RETIREMENT OF HAL M. CHRISTENSEN

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 1985

Mr. WAXMAN. Mr. Speaker, I would like to take this opportunity to note with congratulations and regret the upcoming retirement of a private-sector employee who has dedicated much of his life to work on the public's behalf. At the end of this year, Hal M. Christensen will retire from the American Dental Association, for whom he has directed legislative work for 22 years. While he has built the Washington office of the ADA into a sizable group of professionals, he will be missed.

During Hal Christensen's tenure the ADA has been instrumental in a number of areas of public health and health policy. The Medicaid Program has been expanded to include dental care for poor children. The Medicare Program provides oral surgical services for elderly and disabled beneficiaries. And the National Institute of Dental Research has become a vital part of improving the Nation's health and raising its hope and expectations for even greater improvements. A lawyer by training, he has done remarkable work to make improved dental services widely available.

During these upcoming years of budget danger for many of these health programs, we will be in our greatest need of his skills. Fortunately, he will remain as a consultant to the ADA throughout next year and will, I'm sure, continue as one of the professionals who might help steer the legislative process back to the needs of the public.

For now, however, I do not mean to draft him back into duty before he has managed to retire. Today I would like to thank him for the service he has performed and to congratulate him on a successful career.

TRIBUTE TO GILBERT GUDE

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 1985

Mr. GREEN. Mr. Speaker, I rise to pay tribute to the Honorable Gil Gude, who recently announced his retirement as Director of the Congressional Research Service.

Gil served as a U.S. Representative from the 8th District of Maryland from 1967–76. While serving in the House, Gil worked hard on legislation associated with open space and parks, metro rapid transit system funding, and environment and metropolitan issues. He was cofounder and cochairman of the Environmental and Energy Study Conference.

Since 1977, Mr. Gude has been Director of the Congressional Research Service, whose staff of 850 represents the largest legislative body research organization in the world. We Members and our staffs are greatly indebted to Gil for his excellent work at CRS.

Mr. Speaker, I ask that my colleagues join me in thanking Gil Gude for his many years of dedicated public service and wishing him the best in all his future endeavors. He will be missed!

A TRIBUTE TO JENNIFER DENISE WATERS

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 1985

Mr. CLAY. Mr. Speaker, I am happy to take this opportunity to congratulate an outstanding member of the St. Louis community, Ms. Jennifer Denise Waters. Ms. Waters is a resident of Missouri's First Congressional District and a recipient of the 1985 Congressional Award Gold Medal for Community Service.

Ms. Waters is a coleader of St. Louis Girl Scout Troop 32467. She is recognized and commended for contributing more than 900 hours of voluntary public service during the past 3 years.

I am pleased to share with my colleagues the following article from the October 3, 1985, St. Louis Post-Dispatch, "North Side Woman Receives Congressional Medal for Community Service."

NORTH SIDE WOMAN RECEIVES CONGRESSIONAL MEDAL FOR COMMUNITY SERVICE

(By Gloria Ross)

"Individual Americans are responsible for the future of America." These are the words and philosophy of Congressional Award gold medal recipient Jennifer Denise Waters.

The 21-year-old Waters was among eight Missourians—including six St. Louis area residents—to receive the Congressional Award during a ceremony in Washington, D.C. on September 26.

The award has been given annually since 1979 to young people between the ages of 20 and 23 in recognition of more than 800 hours of voluntary community service and personal achievement. This was Missouri's first year of participation in the six-year-old Congressional Awards program.

Waters lives in the First Congressional District represented in the Congress by William L. Clay. She was honored for her 988 hours of voluntary public service and personal development during the past three years.

Speaking with a quiet confidence and maturity that belies her 21 years, Waters said of her activities, "I think you gain a lot from volunteer work. You gain experience as well as skills, you gain knowledge about other people's personalities."

"Doing volunteer work gave me an opportunity to work with young people and to give to others, especially teens and children," Waters said. "The help, love and concern that people gave me throughout my life led me to want to give of my time to others."

Waters began as a Girl Scout volunteer because she saw something she didn't like. "When I see something I don't like, I want to change it," Waters said.

Waters was a Girl Scout until about age 11. She left Scouting after reaching the Cadette level because she felt her Scouting experience lacked substance.

She has picked up where she left off. Waters is now trying to provide Cadette Senior Girl Scout Troop No. 32467 in north St. Louis with some of the substance she felt was lacking in her own Scout experience.

As co-leader of Troop No. 32467, along with her sister Maureen Young, 33, she is sharing her love of the performing arts. Waters and Young both enjoy, dancing and their troop specializes in dance.

"Maureen's style is more modern dance, while mine is jazz/ballet." Waters notes. The Troop will benefit from both styles.

"This year they're going to not only go to cultural events, but will perform," she said. The Troop is planning a Christmas production.

But Waters says she's teaching more than an appreciation of the performing arts, she's also trying to teach practical skills and responsibility.

Toward that end, Troop members are active in their own administration. "They need to learn how to keep accounts," Waters said.

Jennifer Waters lives with her mother, Romelda Waters, a registered nurse, at 3947 Palm. Romelda Waters says she's "very proud" of her daughter's award. She expressed some surprise, but wholeheartedly agreed that her daughter deserved the award, noting, "Jennifer has always been the kind of child who's willing to do something for others."

Romelda Waters' influence on her daughter is quickly evident. Waters quotes her mother frequently. She says her mother advised her to, "Go to sleep on it," or "learn something from each experience," when Waters became discouraged by a project which later became instrumental in her receipt of the Congressional Award.

The award-winning project was the Sumner High School Hall of Fame Awards. Waters established the Awards while serving as president of the Sumner Honor Society.

The Awards pay tribute to famous Sumner graduates as a means of presenting positive role models to current students.

Waters says her mother's encouragement helped her maintain the drive needed to complete the Awards project. Romelda Waters admits telling her daughter, "If you start it, you have to finish it."

The Hall of Fame was established and, thus far, honorees have included such notables as tennis star Arthur Ashe, comedian-activist Dick Gregory and KMOX-TV anchor Julius Hunter.

Waters counts among her personal achievements a degree in civil engineering, which she received from the University of Kansas at Lawrence last may.

Waters says she chose civil engineering because, "I wanted to use the skills I already had: my knowledge of math and science." She is now employed as a traffic engineer with the St. Louis Street Department, where her long-range plans include work in traffic analysis.

Waters says she plans to continue her civic activities. When she is congratulated on her Congressional Award, she offers a modest, "Thank You," and quickly steers the conversation to work to be done, to her plans for her Troop.

Waters and other area Congressional Award recipients will be honored again in a local ceremony at the Marriott Pavilion Hotel on October 7.

HIGHER EDUCATION REAUTHORIZATION

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 1985

Mr. AuCOIN. Mr. Speaker, earlier this year, the administration asked Congress to slash Federal student aid. Today, by approving H.R. 3700, the Higher Education Amendments, we're saying "no."

We're saying no because the administration proposals would have cut college assistance so deeply that 800,000 students across this country would not have been able to complete their education. If the House of Representatives had agreed to these changes, we would have robbed this Nation of a new generation of highly educated individuals ready to lead our corporations, our universities, our Government.

The effects would have been especially severe in my State of Oregon. Despite efforts at cost containment, college tuition in Oregon has increased by more than 200 percent over the last 10 years. During that time, the Federal Government has helped more than half the full-time public college and university students in Oregon finance their education. For private schools, the numbers are evern higher. Eighty percent of students attending private schools in Oregon wouldn't be there without Federal loans or grants.

H.R. 3700 insures that Guaranteed Student Loans, Pell Grants, College Work Study, and other programs will be available to those who need them. At the same time, the bill reduces spending for higher education programs by $1.3 billion from last year's level. How have we reconciled these seemingly incompatible goals? By tightening eligibility standards, distributing loan payments in increments instead of one lump sum, instituting a tougher system for collecting delinquent loans.

The bill also takes into account a dramatic change taking place at colleges and universities across the United States. Nontraditional students such as displaced homemakers, part-time and returning students already account for most of the enrollment at some schools and are quickly becoming the majority on all college campuses. H.R. 3700, recognizing the different needs of these students, allows students to receive loans even if they attend school less than half the time, and authorizes payment for important services such as day care.

The bill also provides new programs for teacher training and recruitment, strengthens foreign language, library, and other institutional aid programs.

The improvements contained in H.R. 3700 go hand in hand with improvements that have already been made in Oregon. We've adopted tighter standards for Oregon graduates, instituted economic development programs that pool the resources of Government and higher education, and established new programs to train workers for our expanding electronics industry and retrain those who have been displaced due to the economic downturn of the past several years. Oregon has also instituted tight collection procedures for delinquent loans, giving us a 98-percent repayment rate—one of the highest in the country.

What's the payoff of these investments? Access to quality education institutions for students. A better chance for Oregon and the United States to compete in the international marketplace. And increased tax revenues because of the higher paying jobs college-educated individuals qualify for.

Mr. Speaker, I strongly support this legislation. Cutting the Federal budget by forcing students out of college is a "cost-savings" this Nation cannot afford.

CONFERENCE REPORT ON HOUSE JOINT RESOLUTION 372, PUBLIC DEBT LIMIT INCREASE

HON. DEAN A. GALLO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 1985

Mr. GALLO. Mr. Speaker, passage of the Gramm-Rudman Balanced Budget and Emergency Deficit Control Act is a historic event in our Nation.

Passage of Gramm-Rudman is the most important action to be taken by Congress in many years. We have created a program to deal with the most important issue in the Nation—the need to require accountability in Federal spending to bring down the disastrous Federal deficit.

This legislation mandates deficit targets of $144 billion in fiscal year 1987; $108 billion in fiscal year 1988; $72 billion in fiscal

year 1989; $36 billion in fiscal year 1990; and, by fiscal year 1991 the budget must be balanced.

Congress may reach these deficit targets by enacting its own program of budget cuts, tax increases or a combination of both. Only if the Congress fails to adopt its own budget within the deficit targets would the President administer an across-the-board reduction in Federal spending. This sequester reduces discretionary accounts by an equal percentage with 50 percent of any automatic cuts coming from domestic spending and 50 percent from defense spending. While the President is responsible for exercising this sequester, he is compelled to maintain congressionally established spending priorities.

Because this budget balancing mechanism only goes into motion if Congress fails to act in a timely way to bring down the deficit, it provides a strong incentive to meet our commitments to end deficit spending by 1991.

Programs protected from automatic cuts include Social Security, Medicaid, aid to families with dependent children, nutrition programs, supplemental security income, food stamps, veterans' compensation and pensions. Other programs that are provided special protection include Medicare and veterans' health-care programs.

Many people have called upon me to reduce this deficit, and I have responded by cosponsoring legislation to require a balanced budget through a constitutional amendment and by cosponsoring and voting in favor of Gramm-Rudman. Although I would have preferred passage of the balanced budget amendment, I am satisfied that the Congress has finally acted to relieve this country of this $200 billion Federal deficit.

Indeed, we should follow this vote with an approval of a constitutional amendment to ensure that efforts to balance the Federal budget will be continued as Federal law and policy.

REAUTHORIZATION OF THE SUPERFUND PROGRAM

HON. TIM VALENTINE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 1985

Mr. VALENTINE. Mr. Speaker, I am pleased that the House of Representatives had approved a 5-year renewal of the Superfund Toxic Waste Cleanup Program. The proper and safe disposal of toxic wastes must be among our highest priorities, and I applaud the efforts of my House colleagues in passing this vital legislation.

We must ensure that our legacy to future generations includes an environment that has not been permanently despoiled by toxic waste dumping. This reauthorization of Superfund is a large step toward that goal.

Although I recognize the need for this legislation and the costs involved in regaining lands and waters which have become unfit for human habitation and consumption, I am concerned about the authorization level for this program. The $10 billion authorized by our bill is $2.5 billion more than the amount in the Senate version and almost twice the amount requested by the administration.

During this period of record budget deficits which have put intense pressure on every Federal spending program, we must be sure that every tax dollar expended is truly needed. I am concerned that $10 billion is more than the Environmental Protection Agency can spend effectively. I am hopeful that when the House and Senate conferees meet to iron out the differences in the two bills, adjustments will be made in the final authorization level for the Superfund Program.

It is essential that we authorize what is needed, but it is equally essential that we not authorize more than we can use effectively.

THE NATIONAL MULTIPLE SCLEROSIS SOCIETY

HON. GERRY SIKORSKI

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 1985

Mr. SIKORSKI. Mr. Speaker, the National Multiple Sclerosis Society, which today is one of the largest nonprofit health agencies in the United States, originated nearly 40 years ago with an idea—and a small three-line classified advertisement that appeared in the May 1, 1945 edition of the New York Times. The printed appeal for help was placed by Sylvia Lawry, our founder, whose late brother suffered from multiple sclerosis. In her ad, Miss Lawry asked anyone who might know of a cure for MS to contact her.

Thus was born the organization which today serves a membership of 400,000 through 113 chapters and branches. It is the only organization supporting both national and international research into the cause and cure of multiple sclerosis.

The Nation is very proud of the work of the National Multiple Sclerosis Society and the contribution it has made to biomedical research. Since its founding, the society has invested more than $80 million in scientific grants.

As a result, we are much closer today than ever before to understanding what causes multiple sclerosis and how to treat it. Someday soon we may possibly learn to prevent and cure it. Enormous strides have been taking place in the neurosciences recently, giving rise to a real hope that this may happen soon.

Sylvia Lawry is still very much active in the affairs of both the national and international multiple sclerosis societies. She is a tremendously energetic, dedicated woman whose strong will and perseverance are literally a worldwide legend and an inspiration.

PERSONAL EXPLANATION

HON. HAROLD ROGERS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 1985

Mr. ROGERS. Mr. Speaker, on December 11 I was unable to be present for rollcall No. 449, the rule providing for consideration of H.R. 3838, and rollcall No. 550, the rule providing for consideration of Senate Joint Resolution 238. Had I been present, I would have, in both instances, voted "no."

THE 25TH ANNIVERSARY OF THE DALTON LIONS CLUB

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 1985

Mr. CONTE. Mr. Speaker, it is my pleasure to announce the 25th anniversary of one of the chapters of Lions International, the Dalton Lions Club, of Dalton, MA. They have been one of the chapters of this fine organization which has contributed most of its time, resources and money to helping those people who need basic health care for hearing and eye problems.

The Dalton Lions Club was chartered in 1961, sponsored by its parent chapter, the Cheshire Lions Club. Since this chapter was established, it has been the parent of two other clubs, sponsoring the establishment of both the Cummington and Windsor chapters. Its greatest satisfactions have been in being the top club in the district for the past 4 years, reaching its 25th year since being chartered and knowing that many have benefited from their generosity.

The Lions International, established in Chicago in 1917 by Melvin Jones, was challenged by a famous American, Helen Keller, to help the deaf and the blind. Since then, Lions clubs have been disposed to helping those with hearing and sight problems. The Dalton Lions Club is a long-standing and outstanding example of the power and generosity for which these clubs are best known.

Of the funds which the club raises, there are four areas where the funds are contributed. The club gives out scholarships, helps pay for its locals to have hearing aids and eyeglasses, and it contributes to a local and State organization for the interest of hearing and sight problems. The scholarships provided are for senior high school students who are in need. A few scholarships of this sort are given out each year with all the remaining funds which the club raises.

The primary concern of the club is to its local population, protecting children and the aged who are least able to pay for services they may need. Sixty percent of the club's budget is paid out for such necessities as hearing aids and eyeglasses; this also includes funding to needy families for operations which they could not otherwise afford. It is those who are most in need who get the greatest consideration and assistance, as it should be.

Other funds go to the emergency sight and hearing fund, a local fund, and a large State organization, Massachusetts Eye Research. The emergency fund is local to western Massachusetts, and assists those who are unable to pay for operations and aids which they may need. This is important there are no other programs for these people to help them receive the aid which is required. The State organization is a major research center which has researched the "fake eye" and has done extensive research on eye problems.

On January 18, 1986 they will be celebrating their 25th anniversary. They have shared camaraderie in the club which has kept it together for these many years, and they have worked together to benefit their community and expansive research. The research of human health care problems is something which I have ardently advocated throughout my many years in the U.S. House of Representatives. It is highly admirable work, helping those people in need, and it is the genuine interest which is shown through this longstanding club which is an inspiration and a challenge to other groups to do their part for human services.

TARIFF REDUCTION FOR GLASS LINERS

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 1985

Mr. GEJDENSON. Mr. Speaker, today I am introducing legislation that will restore some necessary tariff equity to a company in my district that is making a serious effort to continue manufacturing at least some of its product in the United States.

The Thermos Co., of Norwich, CT, manufacturers the vacuum bottles for its well-known product in the United States, and imports its glass liners from Great Britain. Other distributors of similar products import the entire product.

Until the late 1950's, both vacuum bottles and liners were grouped under one duty classification, but thereafter, separate classifications were established, apparently for statistical purposes. The rates of duty for the two items, however, remained identical.

In the mid-1960's, however, the rate of duty for vacuum bottles began to decline, while the rate of duty for glass liners remained the same. The complete product, when imported, was taxed at the rate for a vacuum bottle. Today, the rate of duty for glass liners is considerably higher than that for identically designed, and totally foreign produced, complete products.

The bill I am introducing today would reduce the tariff rates for glass liners to bring them into parity with the rates for completed products. This legislation will enable the Thermos Co. to save approximately $200,000 annually, and will provide tariff equity to a company that has made a concerted effort to keep some of its operation in the United States. I urge my colleagues to support this important bill.

TRIBUTE TO ROMAN L. MIELCAREK

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 1985

Ms. KAPTUR. Mr. Speaker, last week my district lost one of its most respected leaders. Roman L. Mielcarek, 81, of Elm Street, Toledo, was a civic, political, business educational, and spiritual pillar of our community. He left lasting impact on every organization in which he participated.

Roman Mielcarek was a lifelong resident of Toledo. He and his wife Jeane founded and published the Shoppers Herald, a community weekly for 50 years. Mr. Mielcarek served as a deputy clerk for 40 years at the Lucas County Board of Elections. He held a host of other city, county, and State positions and did so with great enthusiasm, dignity, and integrity.

Active in every aspect of community life, Roman Mielcarek was a member of the board of directors of the International Institute of Greater Toledo, Inc. [NIFTI], and the Toledo fire commissioner's board. He led important efforts to improve community life such as the razing of the abandoned Parkland School at Lagrange and Central and turning the site into the Lagrange-Central Senior Citizens Center.

Mr. Mielcarek was president of the Central Committee of Associated Societies of north Toledo and held membership in the Old Newsboys Goodfellow Association, Jewish Community Center of Toledo, Fourth Ward Democratic Club, Msgr. O'Connell Council, and the Knights of Columbus. He also served as president and founder of the former Lagrange Commerce Club and trustee of the Lagrange Business and Professional Men's Association.

Roman Mielcarek was a special man. He shaped the life of a great ethnic community and his beloved city of Toledo. I know my colleagues in the House of Representatives join me in offering our deepest condolences to the family and friends of Roman Mielcarek. It is our hope that the fond and living memories will carry you through these difficult times.

CHILD CARE INSURANCE CRISIS REQUIRES ACTION

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 1985

Mr. FLORIO. Mr. Speaker, the unavailability and unaffordability of liability insurance is affecting child care centers across the country. I have commenced a series of hearings to examine the insurance crisis.

I am inserting in the RECORD a letter to the commissioner of insurance in my own State. The letter describes very troubling developments regarding the insurance situation for child care centers and calls for corrective regulatory action. We in Congress must monitor this situation closely to determine whether the States have the ability to deal with this very serious problem.

The letter follows:

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE, SUBCOMMITTEE ON COMMERCE, TRANSPORTATION, AND TOURISM,
Washington, DC, December 9, 1985.

Hon. HAZEL FRANK GLUCK,
Commissioner of Insurance, New Jersey Insurance Department, Trenton, NJ.

DEAR COMMISSIONER GLUCK: I am writing to express my support for action to address the insurance crisis and its impact on child care centers. This situation is discussed in the enclosed letter from Daisy Ward-Roman, Vice President of All My Children. Child care facilities are of crucial importance to our communities in New Jersey and must receive protection from arbitrary action which could efectively cripple child care services throughout our State.

As you know, the current crisis in the unavailability and unaffordability of liability insurance extends to many lines of insurance coverage. In my capacity as Chairman of the House Subcommittee with jurisdiction over insurance, I have commenced a series of hearings to examine this problem. Historically, however, it is the States that have had responsibility for the regulation of insurance. It may be that support will develop in Congress to change this, at least in some respects. Until and unless there is such change, however, we must rely on State insurance departments as the first line of defense for the public.

Please advise me of the steps you are taking to address the problems described by Ms. Ward-Roman. I very much appreciate your cooperation.

Sincerely,
JAMES J. FLORIO,
Chairman,
Commerce, Transportation and Touirism.

ALL MY CHILDREN INC.,
Atco, NJ, November 16, 1985.

Re: Child care liability insurance situation.
Commissioner HAZEL GLUCK,
Department of Insurance,
Trenton, NJ.

DEAR COMMISSIONER GLUCK: We, the voting, tax paying, small business women and families of New Jersey need your HELP in dealing with the UNJUST liability insurance problem affecting child care centers throughout New Jersey; thus affecting many New Jersey families.

Itemized below is a recap of events to date:

1. In August of 1984 I signed with the Continental Insurance Company (through Gallagher Associates) for a three year policy (inclusive to August 1987).
2. For the first year August 1984 through August 1985 there were no problems.
3. On August 26, 1985 I received an insurance premium finance agreement stating I would pay $396.00 down and finance the remainder over the next five months at 22% interest. As this was acceptable I wrote a check for the $396.00 down payment and signed and returned both the check and the agreement on August 26, 1985.

After the policy was already in force, on September 13 I received a telephone call from Gallagher Associates that our insurance premiums had been raised $473.00. In comparison to other child care centers who have had their premiums increased by thousands of dollars I am told $473.00 is not so bad. In reality $473.00 to a small privately owned child care center does make a difference!

I understand that on September 17th Governor Kean approved an emergency regulation prohibiting insurance companies from imposing premium increases during the term the policy is in effect. However because I was notified on September 13th, I am not receiving any relief under this emergency regulation. It is appalling to realize that there were no provisions in our old insurance laws to prevent this type of occurrence.

I have personally corresponded and spoken with both Assistant Insurance Commissioner Joseph Kenney and Mr. Dick Crane of the Division of Youth and Family Services and been told by both of these gentlemen to pay the increase! Their solution is completely unacceptable!

We are providing an absolutely essential service to the community. If child care centers are not protected from these outrageous premium increases, many will have no choice but to raise their prices or close their doors. Either solution will cause economic disruption in many families throughout the state.

In retrospect, there must be some control over the insurance companies to prevent them from doing as they wish. We must demand fixed rates on a permanent basis. We need security which will prevent this sort of atrocity from occurring again.

If we allow insurance companies to raise their rates: After quoting a "firm" price; after accepting a down payment; after signing a finance agreement; after accepting monthly premiums; and then impose nonretroactive emergency regulations—aren't we really locking the chicken coop after the fox finished dinner? Shouldn't there be a reversionary clause to help both the child care centers and the families they serve from sure economic disruption?

Cordially,

Daisy Ward-Roman,
Vice President.

GRAMM-RUDMAN

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 1985

Mr. AuCOIN. Mr. Speaker, today we approved a balance-the-budget plan called Gramm-Rudman. The measure forces Congress—by law—to cut the dangerous federal spending deficit by 20 percent for five years to balance the budget by 1991.

The bill gives the President the power to make across-the-board cuts if Congress fails to reach the 20 percent goal each year. It also represents the best hope I see for action by the President and Congress to avert a new recession by promoting growth.

Mr. Speaker, I support this legislation. In cards and letters, in phone calls, and at meetings, my Oregon constituents have told me to make deep deficit cuts—now. As we all know, what Washington has tried so far has been either too little or too weak to make a difference.

The Gramm-Rudman plan is not perfect. It doesn't do anything Congress and the President can't do right now. The trouble is, Mr. Speaker, that they can't agree. Emergency measures are needed for an emergency situation.

At least this plan has teeth. It provides a binding system, in law, to stop the budget from spinning out of control.

Mr. Speaker, this is the third deficit-reduction plan we've voted on in 5 years that is disciplined enough to work.

The first was the "Pay-As-You-Go Budget" of 1982. I supported it, but it didn't pass. Too many people back then thought the deficit didn't really matter.

The second was the "Across-the-Board Freeze." I supported it, too, but it didn't pass. Too many Congressmen in both parties wanted to protect their sacred cows.

The plan we approved today starts cutting the deficit immediately. That's important. We can't continue to allow jobs—in Oregon and across the Nation—to be sacrificed to finance a $200 billion a year Federal deficit.

Some people I admire don't like this plan. They say it's too rigid, and may give too much power to the President. They don't like the idea of setting mandatory targets.

But, Mr. Speaker, as I see it, time has run out. These high deficits are inflicting tremendous harm on our economy. And economic recovery just won't happen unless the deficit is slashed. In Oregon, we're still trying to recover 40,000 jobs lost during the last recession.

Passage of this bill is the best economic news for Oregon in years. We can't focus on rebuilding our economy with a Federal deficit that continues to spin out of control.

THE CARDEROCK SPRINGS ELEMENTARY SCHOOL CHORUS BRINGS JOY TO THE U.S. CAPITOL TREE LIGHTING CEREMONY 1985

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 1985

Mr. OBERSTAR. Mr. Speaker, yesterday evening, some of the Members of this House paused from consideration of the weighty issues of tax legislation, the budget deficit, the farm bill, and similar matters to join in a truly delightful event which, each year, brightens our spirits and brings joy to our lives: the annual U.S. Capitol Christmas tree lighting ceremony.

The magnificent 55-foot white spruce was provided by the State of Michigan and the U.S. Forest Service; the music was offered by the U.S. Coast Guard Band and the Carderock Springs Elementary School Chorus; and the lighting of the tree was performed by the Speaker of the House, the Honorable Thomas P. O'Neill, Jr., who, in a gracious gesture so typical of the Speaker's personal warmth and love of people, invited his grandchildren, my daughter Monica, and Congressman Lantos' granddaughter to join him in pressing the button which illuminated the 4,000 lights on that magnificent tree—the people's tree.

It was my great privilege to introduce the chorus yesterday evening, and I include my remarks at this point in the Record:

U.S. Capitol Tree Lighting Ceremony 1985

The U.S. Capitol Christmas tree lighting ceremony is always a special event. This year we enjoy an added touch of holiday spirit with a unique musical flair provided by the Carderock Springs Elementary School Chorus. The Chorus includes some one hundred students of the fourth, fifth and sixth grades from the Carderock Springs Elementary School in Bethesda, Maryland. The Chorus has perfomed at: the National Cathedral, the Hebrew Home of Greater Washington, and the Pageant of Peace on the Elipse south of the White House. Several of the Chorus members attended the Boys Choir Festival in Saltillo, Mexico, in 1984. This year the Chorus will also perform at: the National Shrine of the Immaculate Conception, the Hebrew Home of Greater Washington, the Pageant of peace, and, on December 21, at the Kennedy Center for the Performing Arts.

All of the children in the Carderock Springs Chorus are special people. They have worked very hard with a great of enthusiasm, dedication, and intensity in preparing for their Christmas season performances.

I am sure they and you in the audience won't mind if I single out just one special performer: our daughter, Monica Oberstar, who each day brings home with her the joy, the wonder, the excitement of music and has infused our family with the enthusiasm of the entire Carderock Springs Chorus.

A musical group is probably only as good as its director. This group is superb and so it their Director, Mrs. Nancy Nuttle. As you will see, Mrs. Nuttle puts her entire being into each practice, as well as every performance. She is an inspirational and dedicated leader whose own example draws the very best out of her performers. She has opened their minds and their hearts to the joy of music and now she and they will enrich our appreciation of the holiday season with a truly enjoyable and memorable performance.

It is a great personal honor to present to you the Carderock Springs Elementary School Chorus.

PERSONAL EXPLANATION

HON. CHARLES PASHAYAN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 1985

Mr. PASHAYAN. Mr. Speaker, owing to not being well, I was not able to vote on Gramm-Rudman.

Had I been present, I would have voted for the bill.

PRESIDENT REAGAN'S REMARKS ON INTERNATIONAL HUMAN RIGHTS DAY

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 1985

Mr. GILMAN. Mr. Speaker, each day this week I have been proud to contribute some remarks in commemoration of the 37th anniversary of the signing of the Universal Declaration of Human Rights. On Monday, our cochairmen of the Human Rights Caucus, Congressman LANTOS of California, and Congressman PORTER of Illinois, led a special order in preparation for Tuesday's commemorative events. On the anniversary itself, I felt it proper to share with my colleagues a recent Wall Street Journal article submitted by Avital Shcharansky. And yesterday, I inserted into the CONGRESSIONAL RECORD a Washington Post summary of how International Human Rights Day was celebrated in the Soviet Union. Though a small group of individuals met at Pushkin's statue to pay their respects, several were arrested by the KGB. Unfortunately, this is standard operating procedure in the Soviet Union.

It was, however, refreshing to hear President Reagan's remarks upon his commemoration of International Human Rights Day. His words reiterate what many of us feel, and I would like to take this opportunity to share his remarks with my colleagues. Mr. Speaker, I ask that the President's speech be printed in full at this point in the CONGRESSIONAL RECORD, so that his strong commentary will be duly noted by us all.

REMARKS OF THE PRESIDENT AT SIGNING CEREMONY FOR INTERNATIONAL HUMAN RIGHTS DAY

The PRESIDENT. Thank you very much. [Applause.] Thank you. Please, sit down. And I wish I knew where the light on this thing turned on. I can't find it, so I'll do it in the dark. [Laughter.] Well, good afternoon and welcome to the White House.

Today we mark the 37th anniversary of the signing of the Universal Declaration of Human Rights, a document to which virtually every nation on Earth subscribes. It's a day for us to take stock, to survey the globe with an eye not so much in—to words, as to actual deeds; to measure the world against the noble assertions of the Universal Declaration and to reaffirm our commitment to the cause of human dignity.

America has, since its founding, been a refuge for those suffering under the yoke of oppression. A belief in the dignity of man and government by the consent of the people lies at the heart of our national character and the soul of our foreign policy. I had the pleasure of explaining that to a gentleman in Geneva not too long ago. [Laughter.] But, here, the difference is our documents, such as the Constitution, say we, the people, will allow government to do the following things.

Today more than ever we're proud to be champions of freedom and human rights the world over. So in observing Human Rights Day, we celebrate our commitment to the beliefs and moral teachings on which our own nation is founded; a belief in liberty, in the dignity of man, and in the inalienable rights of free men and women to choose their destinies. We have not hesitated when these rights and freedoms have been threatened.

Last month on Veterans Day, I visited the graves of our soldiers who gave their lives so that the rest of us might know the blessings of peace and freedom. Our sons, brothers, and fathers also lie in cemeteries and fields from Flanders to Manila under undying testimony to our determination that these rights shall not perish.

We've learned from history that the cause of peace and human freedom is indivisible. Respect for human rights is essential to true peace on Earth. Governments that must answer to their peoples do not launch wars of aggression. That's why the American people cannot close their eyes to abuses of human rights and injustice, whether they occur among friend or adversary or even on our own shores. And we must be particularly appalled that, on the threshold of the 21st Century, when man has made gigantic strides in opening the universe of space and finding cures for dread diseases, millions of our fellow men still suffer the grossest abuses. There are regimes, some friendly, some adversarial, that engage in frequent violations of human rights. There are other regimes which by their very nature are built upon the denial of human rights and the subordination of the individual to the state.

In Afghanistan and Cambodia, for example, alien dictatorships with the support of foreign occupation troops, subject their peoples to unceasing warfare. Today, six years after the Soviet invasion of Afghanistan, up to 120,000 Soviet troops remain. They have slaughtered innocent women and children. They have employed poison gas. And they have loaded toys with small explosives, an attempt to demoralize the people by crippling Afghan children. Some 3.5 million Afghans, fully one-fourth of the pre-war population, have been forced to flee to Pakistan and Iran.

The communist rulers of Vietnam have launched vicious attacks upon Cambodian refugees, refugees who were fleeing a communist regime in Cambodia itself, which led to the deaths of up to one-quarter of the entire Cambodian population.

In Ethiopia, a Marxist government has used famine to punish large segments of its own population. Vice President Bush visited a camp for Ethiopian refugees in the Sudan last March. Men and women of all ages were dying. But the Vice President told me, there's something unbearably painful about seeing the eyes of the children, the huge, sad eyes of starving children. And the peoples and governments of the democracies have responded generously to those pleas with tangible evidence of our concern.

In the Western Hemisphere, where so much progress toward democracy has been made, Cuba stands out as the country where institutionalized totalitarianism has consistently violated the rights of the citizens.

Unfortunately the Sandinista regime in Nicaragua seems determined to embark on the same course.

On three continents we see brave men and women risking their lives in anti-communist battles for freedom. We cannot and will not turn our backs on them. This year the House of Representatives has heeded their call and voted aid to the freedom fighters in Cambodia, Afghanistan, and Nicaragua, and repealed a ban on aid to freedom fighters in Angola.

Elsewhere we have seen considerable progress toward observance of human rights. In El Salvador, Grenada and Honduras freely selected—or elected governments, I should say—represent the best hope of their peoples for the future.

And just over the last weekend, a new civilian president was elected in Guatemala—that's the first time in 15 years. We laud those achievements. But our concern remains for those who are still captive and oppressed. This is where our voices just speak for justice, for the force of world opinion can and does make a differnce.

One of the more tragic cases today is that of the Baha'i, whose leaders are with us today. The government of Iran is engaged in rampant religious persecution, especially against the Baha'is. Since 1979, 198 Baha'is have been put to death, 767 are imprisoned, some 10,000 made homeless, and over 25,000 forced to flee their country. Only the continued world outcry can help bring an end to their suffering.

In South Africa the inhuman policy of apartheid continues. The declaration of a state of emergency has given the police in that country essentially unlimited powers to silence critics of the government. Thousands of South African citizens have been detained without cause—or charge, I should say, and denied even elementary judicial protection. I have said that apartheid is abhorrent, it's time that the government of South Africa took steps to end it, and to reach for compromise and reconciliation to end the turmoil in that strife-torn land.

In Chile and the Philippines too, we've shown our strong concern when our friends deviate from established democratic traditions. In Eastern Europe, the hopes and aspirations of millions of people for religious freedoms, civic rights, remain alive despite years of repression. The Solidarity Labor Union is still outlawed in Poland and the Polish regime has once again moved to restrict the few freedoms that its people still enjoy. In Romania, religious persecution includes the destruction of Bibles, while in Bulgaria, the repression of the Turkish minority and the Islamic faith are witness to the unyielding denial of the basic freedom of speech, assembly, religion in this region.

I addressed human rights in my meeting with General Secretary Gorbachev, and I made it very clear to him that human rights are an abiding concern of the American people. We had a long and confidential discussion and at the conclusion of our meetings, we declared in a joint statement that humanitarian issues would be resolved in a humanitarian spirit. Americans will be watching hopefully to see whether that pledge is observed.

Make no mistake about it, human rights will continue to have a profound effect on the United States-Soviet relationship as a whole, because they are fundamental to our vision of an enduring peace. President Lincoln once called America the last, best hope of man on earth. Mr. Lincoln's remark has special poignancy today when American determination and strength are central to the peace and freedom of the entire democratic world. It is therefore incumbent upon us to work for the expansion of freedom throughout the world.

In this great effort, my friends, I deeply believe we have a good cause for hope. Evidence of the triumph of the ideal of freedom and respect for human rights can be seen in every corner of the globe, and this is because freedom is not only morally right, but practical and beneficial.

Indeed, governments that rest upon the consent of the governed and the rule of law are more successful in fulfilling their people's aspirations for a better life.

Democratic government and economic freedom have turned a number of small nations into economic giants. It even appears to have roused a giant nation from its economic slumber.

Permit me in closing to return to Mr. Lincoln:

"What defined America, what gave our nation its purpose and mission," he once said, "was something in that Declaration of Independence giving liberty not alone to the people of this country, but hope to the world. It was that which gave promise that in due time, the weights should be lifted from the shoulders of all men."

Well, let us always be true to that distinctly American cause. Let us never cease to work and pray that the weights should be lifted from the shoulders of all men.

Thank you and God bless you, and I will now sign the proclamation designating December 10th as Human Rights Day and December 15th, 1985 as Bill of Rights Day, and the week beginning today is now recognized officially as Human Rights Week. [Applause.]

[The bill is signed.]

Judge Nelson. Mr. President, you have mentioned in your remarks the relentless persecution of the Baha'is in Iran, and though the Mullahs of that country may choose to perpetuate these atrocities, they must know that because of you and the voices that you will encourage to speak out against it, these cannot now be perpetrated, except in the full light of public opinion. For this, we are deeply and eternally grateful.

We are aware also, Mr. President, that this is not a one-dimensional commitment; that in addition, you are normally and spiritually committed to the establishment of the peace we all want among the nations of the world—peace, the most pressing of all issues facing humanity today and for which the Baha'is ardently pray and that this country will help lead the world out of its current predicament.

Therefore, Mr. President, in recognition of your devotion to human rights, the National Spiritual Assembly presents to you on behalf of the 100,000 American Baha'is, a commemorative plate, and in recognition of your continuous commitment to world peace, we have the honor, Mr. President, to transmit to you from the Universal House of Justice, the international governing body of the Baha'is of the world, a statement on world peace.

Thank you, Mr. President. [Applause.]

The President. Thank you very much. Well, thank you very much and thank all of you for what you're doing in this.

I had the pleasure of quoting a statement of Thomas Jefferson to my colleague there in Geneva and he called it after he had heard it, "Very profound," when Thomas Jefferson said, "If the people know all the facts, the people will never make a mistake." So you, the people, and all of us together I think can continue to be a tide that will prove irresistible. Thank you all very much. [Applause.]

ARGUMENT FOR THE WAYS AND MEANS TAX REFORM BILL

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 1985

Mr. LaFalce. Mr. Speaker, I call to the attention of my colleagues an editorial which appeared in the New York Times on December 12 which I believe gives perhaps the most compelling argument for the Ways and Means tax reform bill—the relief from poverty for millions of Americans. The article gets to the heart of the key issue in this debate, that is the fairness question. Few would agree that it is fair to impose Federal income tax on millions of citizens whose incomes fall below the poverty line. The Rostenkowski bill eliminates this perversity and does even more. It focuses on the needs of the middle and low income taxpayers in this country and creates an equitable tax system that we could all be proud of. I urge my colleagues to closely consider the points made in this illuminating editorial. If you care about fairness, if you care about the well-being of millions of individuals living in poverty, and if you care about the average taxpayer in your district, you will come to the same conclusion as have I: the Ways and Means tax bill deserves the support of Congress.

The article follows:

A STUNNING WIN, OR LOSS, FOR THE POOR

Silently, while hundreds of lobbyists have clamored for this loophole or that special interest, an immense victory for millions of poor people has been germinating in the House Ways and Means Committee. Any minute now—assuming the President corrals enough Republican votes to undo yesterday's parliamentary setback—the House will vote on the committee's tax bill. While there are many reasons to vote yes, here is the best one:

This bill would do more to relieve poverty than any social welfare measure in 15 years.

Repubicans should favor it. Not only does their President want it; the bill squares with their approach to social welfare. Democrats—especially those who represent impacted urban districts—should favor it because in the next five years it would funnel $30 billion in tax relief to American families who earn less, many much less, than $20,000.

Instead of continuing to tax people into poverty, this bill would, shrewdly, untax poor people out of it.

When Lyndon Johnson declared war on poverty in 1965, and when Richard Nixon declared war on hunger in 1969, both pursued a strategy of providing services to meet needs. Then the Nixon Administration, with Daniel Patrick Moynihan teaching it that what poor people lack most is money, pressed instead for an income strategy, some form of guaranteed annual income.

But the proposed Family Assistance Plan failed, and, looking back, that was probably a good thing because America found it easy to let financial assistance to the poor be vastly eroded by the soaring inflation of the Ford and Carter years.

The Reagan Administration brought more woe. It purposely slashed social programs. Every bit as bad, it passively accepted the inflation erosion, which has especially hurt people who earn only poverty wages in full-time jobs. Instead of a services strategy or an income strategy, the Government has gradually twisted into a perverse position. Instead of shifting tax dollars to the poor, it has been taking more tax dollars from the poor.

Consider these findings, from the Center on Budget and Policy Priorities, a private research group in Washington:

Between 1979 and 1983, the number of households below the official poverty line (now about $11,000) who had to pay Federal tax tripled.

The taxes of middle- and upper-income Americans have declined since 1981. Meanwhile, however, poor people's taxes as a percentage of income have increased fivefold.

Under current law, a single parent with three children who earns the poverty-level wage must pay $1,424 in Federal taxes. A couple with two children must pay Federal tax even though their income only brings them to a level 20 percent below the poverty line.

Hard as it may be for middle-class citizens to believe, America is now taxing people into poverty, by the millions.

All the recent tax reform proposals would address this perversity. But by far the best remedy is offered by the bill that Representative Dan Rostenkowski of Illinois has coasted through the House Ways and Means Committee. In a stroke it would regain all the ground lost to inflation in recent years. The bill would eliminate Federal taxes for 6.5 million poor households and reduce taxes for millions more, including the blue-collar working poor.

No magic is required to accomplish this miracle; only a sense of fairness. The Rostenkowski bill would restore what inflation has stolen away from three ribs of the tax structure.

One, carefully focused on working poor families with children, is the Earned Income Tax Credit, which has hardly been adjusted for the cost of living since it was instituted in 1975.

The second is the standard deduction, taken by people who don't itemize—which is to say, virtually all low-income Americans. The Rostenkowski bill would increase it by about $1,000 (to $3,840 for a married couple filing jointly) to compensate for past inflation, and would index it to protect against future inflation.

Third, the personal exemption would be increased from $1,130 to $2,000 (but only $1,500 for people who itemize deductions, to avoid a costly windfall for the affluent).

Taken together, these changes would dramatically reduce the tax burden on people struggling to survive: poor, working poor and near-poor. That is, people like that hypothetical woman who is trying to raise three kids by herself on wages that just meet the official poverty level.

Recall that, under current law, she'd owe Federal taxes of $1,424 in 1987. Under the Rostenkowski bill, she'd have to pay only $399. That's family assistance for a working mother, in the form of a tax reduction worth $1,025.

All by itself, such a prospect makes the Rostenkowski bill worth embracing. Any member who claims to represent or care about poverty in America and votes against this tax bill will have a lot of explaining to do to millions like that woman. Her tax saving would be about $85 a month. To her, and her children, that's a fortune.

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MIDEAST: HOT AND COLD

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 1985

Mr. RAHALL. Mr. Speaker, I would like to bring the attention of my colleagues a column which appeared in the Wednesday, December 11, 1985, edition of The Washington Post. I feel that it merits the scrutiny of every Member of this body as well as anyone who desires peace in the Middle East. Philip Geyelin very accurately sums up the role the United States could play in the peace process—if we desired.

I urge all of my colleagues to support a U.S. role in the peacemaking efforts in the Middle East. A stable, secure Middle East is to the advantage of all of us, and it is a peace which can be achieved through cooperation and support of all concerned parties.

Mideast: Hot and Cold

King Hussein's once brightening hopes for movement in the Arab-Israeli "peace process" are collapsing almost as fast as they were building up, with active U.S. encouragement.

As recently as October, the king was at the White House and Ronald Reagan was praising him for "moving steadily and courageously forward" in search of ways to get the Arab negotiations under way. Even congressional skeptics were modestly upbeat about the king's performance on Capitol Hill. Israeli Prime Minister Shimon Peres was publicly praising Hussein for the "vision" he showed in his United Nations speech.

There was a widespread belief that the prickly issues of international "cover" and appropriate Palestinian representation could be worked out in time for Israeli and some joint Jordanian-Palestinian negotiating team to get to the bargaining table by year's end. Now the year is up and it is nearly impossible to find a valid reason why the outlook is so bleak.

The king has not abandoned his efforts, and Jordanian officials are remarkably generous in the credit they give Peres for his good faith. Not so with the United States; the king is putting it about that the Americans have lost interest—for reasons he cannot fathom.

That's the nub of it: there is no rational or respectable explanation for a diminished U.S. interest. The spoiler in the "peace process" now appears to be nothing more than the vagaries of Ronald Reagan's attention span.

It's true some significant events have occurred since the king's October visit. Even as he was making his case to members of Congress, the Israelis launched an air attack on PLO headquarters in Tunis. But the immediate fear that this would torpedo the "peace process" proved unfounded. Then came the hijacking of the Achille Lauro, with all the diplomated uproar that followed.

There were also the heavy demands of the Geneva summit. Finally, there was a direct U.S.-Jordanian issue involving congressional efforts to shut of U.S. arms sales to King Hussein—a tug of war that was resolved by putting the question off until March.

But the "peace process" appeared to be weathering all these storms and distractions. According to reliable reports, at the end of October Reagan telephoned Hussein and got the impression that the King was prepared to "swallow" the delay in the arms deal. For his part, Hussein thought he had a commitment from Reagan to take up with Mikhail Gorbachev the question of some sort of international "cover" for Israeli-Jordanian negotiations. Hussein thought he had an agreement, as well, that the Reagan administration would be ready after the summit to give the whole Mideast peace effort a strong nudge forward.

According to some accounts, Richard Murphy, assistant secretary of state for the region, drew up a post-summit plan of action for Secretary of State Shultz. The President was to consider it over his Thanksgiving retreat to the California ranch. But somewhere in the bureaucratic machinery the plan got chewed up.

In any case, Murphy's recent call on the King as something of a bust—as the Jordanians see it. Murphy arrived more or less empty-handed. He could report nothing much from the summit because, as it turned out, the Mideast "peace process" was scarcely mentioned.

You could argue there were more than enough hard cases to discuss at Geneva. Besides, Shultz's enthusiasm for bringing the Soviets into the Middle East act is said to be minimal. If that's the case, somebody at least ought to tell Hussein roughly where the "peace process" resides on the administration's list of priorities. You can make a case (a bad one, in my view) for a low priority. Or you can make the right case for a consistent follow-through on one of the few foreign policy issues that bear the stamp of a distinctive Reagan initiative.

But there is no case for blowing hot and cold for no good reason—other than the administration's inability to establish an agenda of serious concerns and to hold to it under the pressure of the inevitable distractions. That is a certain invitation for Hussein to give up on what is, for him, at best a chancy "peace process." It is an incentive as well for him to tend to his kingdom's shaky security by looking for a more dependable source of arms and other support.

RESTRICTIONS ON BELL OPERATING COMPANIES

HON. ED ZSCHAU

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 1985

Mr. ZSCHAU. Mr. Speaker, I would like to bring to the attention of my colleagues the broad bipartisan concern which has been expressed recently regarding the provision of telecommunications services in this country. That concern involves the effects on the Bell Operating Companies [BOC's], their customers, and the Nation, which many believe are being caused by the restrictions contained in the Modified Final Judgment [MFJ] which divested the BOC's from American Telephone and Telegraph Company. Of particular concern have been the restrictions which prevent BOC's from providing information services and from manufacturing telecommunications equipment.

These concerns have been surfacing for some time, but they coalesced upon the release, in July of this year, of the National Telecommunications and Information Administration's [NTIA's] report, "Issues in Domestic Telecommunications: Directions for National Policy". Regarding information services, NTIA said:

> . . . prompt attention to eliminating the prohibition on "information services" is required. The clearest effect of this prohibition, in too many instances, is to deny the public choices which otherwise would be available. The prohibition is also unfair since it places the Bell Operating Companies at a distinct disadvantage in relationship to AT&T, IBM and its planned affiliate, MCI, and other companies that are increasingly entering the local exchange services market on a selective basis. If AT&T and others are to be allowed to offer customers the convenience of "one-stop shopping" for a diversity of services—and we strongly believe that should be permitted—to unfairly hinder the local telephone company in offering similar service clusters will cause marketplace distortions. Success in the marketplace will be dictated not by superior efficiency, diligence, and foresight, but rather by the happenstance of judicial regulations.

Since NTIA's statement, a series of bipartisan letters and speeches regarding this matter have come to my attention, and I would like to quote from a few of them.

On September 25, 1985, Senator PAUL LAXALT said in a letter to Attorney General Edwin Meese:

> I am writing to express my concern about the effects of the restrictions contained in the AT&T consent decree on local service in rural areas of states such as Nevada. I fear that unless some of these restrictions are modified, local rates will continue to rise and universal service will be threatened.

In particular he said:

> Nevada Bell could generate additional revenues with which to offset this [lost] subsidy [from long distance service] and to retard the necessary increases in local rates if it were not impeded by federal restrictions on intraLATA information services. In addition, this freedom would help provide multiple service choices for all residential and business customers, particularly smaller and rural ones, which other providers may not find attractive to serve. On the other hand, if Nevada Bell continues to be unable to provide intraLATA services that other companies can provide, it will lose large customers to those other providers. Not only will this prevent customers from receiving the benefits of true competition in those services, but it will result in stranded investment and higher local telephone rates for all subscribers.

The next day, September 26, 1985, my colleague JOHN D. DINGELL in a speech before the Consumer Federation of America lamented the way in which the Justice Department continues "to tie up half the telecommunications resources of this country". Referring to the FCC's Computer Inquiry III Proceeding, he asked:

> What good does it do for the FCC to authorize the Bell companies to provide new advanced communications services inside the public networks if the Justice Department insists on prohibiting them from providing these services at all?

Finally, with regard to this Nation's trade deficit he stated:

> In effect, the current policy of encouraging companies and customers to place technological enhancements outside the local public network has provided an unnecessary market advantage to foreign suppliers.
>
> Correcting the balance by allowing the Bell companies more freedom to upgrade their networks would help to reduce this advantage.

A few days later, on October 1, 1985, William P. Clark sent a letter to Attorney General Meese saying that:

> The restrictions prevent the BOCs from offering new services that more fully utilize their equipment and business expertise to provide an expanded array of services to consumers. Moreover, as pointed out by NTIA, the restrictions unfairly limit the ability of the BOC's to compete with AT&T, IBM/MCI and GTE at a time when the customer base which must support local service is being eroded by those competitors.

On October 29, 1985, my colleague Senator DONALD RIEGLE, Jr. said in a letter to Secretary Baldridge that ". . . since information services in many instances are closely related to local exchange service, relaxation of this restriction should be carefully considered." He explained his concern by stating:

> In an era of rapid technological innovation as well as worldwide competition throughout all sectors of the telecommunications industry I think every effort should be made by this Administration to take steps to best serve the needs and demands of the consumer, maintain United States technological superiority, and preserve competition in the telecommunications sector.
>
> I believe that these various goals can best be achieved by allowing our operating telephone companies to enter into businesses that are either closely or functionally related to their basic local telephone business on a timely basis so long as adequate safeguards against anticompetitive practices are provided.

In addition to these letters and speeches, bipartisan legislative activity has begun. On October 8, 1985, House Republican leader, ROBERT MICHEL, introduced H.R. 3522, the "Trade Partnership Act of 1985", which would establish a decisionmaking process involving the FCC and Commerce Department in order to determine whether to allow the BOCs to manufacture telecommunications equipment in the United States. On November 5, 1985, my colleague RON WYDEN introduced a bill, H.R. 3627, which would give State utility commissions the authority to allow BOC's to provide information services and to manufacture telecommunications equipment, so long as revenues from regulated services were prevented from supporting the costs of these new services. And on November 20, 1985, my colleague THOMAS TAUKE introduced a bill, H.R. 3800, which would permit the BOC's to provide information services and to manufacture telecommunications equipment, subject to regulation by the Federal Communications Commission.

Mr. Speaker and fellow members. I believe that the broad bipartisan support for removal of these restrictions, the importance of the issues involved, and the speed with which they are moving forward suggests that each of us should become better educated on these issues.

ROBERT J. BRAUN ON COMPETITION AND EDUCATION VOUCHERS

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 1985

Mr. COURTER. Mr. Speaker, in "Special Interests Use Fear To Fight Voucher Plan", Newark Star-Ledger, December 6, 1985, Robert J. Braun focuses on the most important element missing in all Federal programs aimed at improving education opportunities for disadvantaged children: the ability to choose.

The way education is structured in this country it is really only the affluent family who can select a public school through choice of neighborhood or a private school. Under the legislation introduced by Congressman PATRICK SWINDALL, low-income families who qualify for chapter I assistance would be provided with a degree of choice in the form of education vouchers worth the amount of chapter I money they now receive. These vouchers would be put toward the cost of tuition at any education institution they might select, whether it be the current school, a public school in another district or a private school. What is important here is that these families would be given the opportunity to choose the institution which best serves the needs of their children.

As Mr. Braun points out, beyond the benefits to disadvantaged children, this proposal promises to benefit all public and private schools, and the students they educate, by forcing public schools to compete with alternatives. Competition frightens these schools which are fat and happy under the monopoly system currently in place. So, it is up to Congress to force public education into self-improvement by supporting this important program.

SPECIAL INTERESTS USE FEAR TO FIGHT VOUCHER PLAN

The U.S. Department of Education has announced its intention to introduce a voucher bill sometime soon and already the screams of outrage can be heard in the land. All the large educational lobbies have issued press releases denouncing the idea. There's certainly more to come.

Under a voucher plan, parents are subsidized so they can choose schools for their children. The way things are in this country now only the rich are really free to choose, opting either for expensive private schools or expensive homes in communities that lavish resources on their public schools. The poor get to choose what they've always been allowed to choose, the public schools.

The idea of vouchers comes up, cicada-like, every few years. It provokes a lot of noise and then disappears for awhile. Since the taxpayer-fed weight of the entire public school establishment is against vouchers, the idea is never likely to get very far.

A few years ago, Assemblyman Michael Adubato (D-Essex) introduced a voucher bill in the Legislature. It seemed like such a good idea that the bill quickly gained more than enough co-sponsors for passage. In a matter of weeks, however, after all the various educational groups in the state reminded the lawmakers what they were supposed to believe about such matters, the cosponsors gradually removed their names from the bill. Adubato found himself alone with his good idea and gave up the fight.

Why do public school educators oppose vouchers? The question has a one-word answer and the word is competition. If parents could choose where to send their children to school, then all schools would actually have to work to be attractive to parents. The public schools would have to compete with private alternatives.

The chances are pretty good that the public schools would win such competition, but they are too nervous even to try. The people in the schools know that with the existence of viable alternatives open to everyone, and not just the wealthy, the schools would have to continue to work to be successful with kids, pleasant to parents, safe, orderly and so on.

Imagine the parents in Newark and other large cities endowed with the freedom to choose the schools they want their kids to attend. Would the school board in the state's largest city so easily spend hundreds of thousands of dollars on contract buyouts then? Of course not. The board might even be tempted to pay attention to what's going on in the schools for fear parents would vote with their feet.

From time to time, the public school ideologues cite various polls in support of their contention that parents are just overjoyed with the public schools. This is proof, it's said, that the schools are really doing such a bang-up job that criticisms are unwarranted inventions of contentious minds. What these statements overlook is that parents really don't have very much with which to compare. Would the polls look the same if there were viable alternatives to the virtual public school monopoly?

In higher education, colleges and universities are in a state of constant self-review as they compete for a dwindling number of students. Functionaries are reminded to exercise politeness with inquiring students. Weak areas are overhauled or eliminated in order to strengthen the most promising offerings. Competition has brought renewal and thoughtfulness about questions of purpose. It's a matter of survival for higher education which has been operating on a de facto voucher system for years through state and federal grant and loan programs. Vouchers work in higher education and there's little reason to believe they would not work for elementary and secondary schools.

Parents and children would be the big winners under a voucher plan, but they would not, by far, be the only winners. Good, ambitious, achieving educators would be provided with the opportunity to establish and operate their own schools. In limited voucher experiments in California, the biggest supporters were classroom teachers who were finally given the resources and autonomy professionals need to flourish.

Educational lobby groups, however, not only tell legislators what to believe, they also tell their members. Although vouchers could revolutionize the teaching profession, the teacher unions won't tolerate them, so they create all manner of nonsensical fears in the minds of their members. But it wouldn't be the teachers hurt by vouchers, it would be their unions.

The same is true of other groups, those representing school boards and administrators, for example. The best private schools in New Jersey and the nation have very few administrators, unlike the almost incredibly overadministered public schools. If, under a voucher plan, all schools became quasi-private (or quasi-public), then all those deputy assistant associate superintendents for curriculum facilitation and others of their ilk would have to find something else to do. Like teach, if they remember how.

By the time the self-serving fear mongers are through with the idea, only the most thoughtful and independent members of Congress, or those already planning to retire, will vote for the plan.

It matters little whether the idea might actually improve education. Improving education too often ranks second behind protecting the status quo among those with the power in school politics.

VOYAGER AT URANUS: JANUARY 1986

HON. WYCHE FOWLER, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 1985

Mr. FOWLER. Mr. Speaker, in a little more than 1 month, the world will once again look to the U.S. space program for mankind's first close-up glimpse of another world. At 10 a.m. Pacific standard time on January 24 America's Voyager 2 spacecraft will pass within 66,000 miles of the planet Uranus.

The Voyager mission to the seventh planet from the Sun, its rings, and its moons will produce a quantum leap in our knowledge of the Uranus system. It is but another example of the many benefits our space science program has provided us in terms of scientific knowledge, spinoff applications, and national prestige. And we have received these rewards at relatively little cost to the taxpayer: We now expend less than one-fifth of 1 percent of our gross national product for all civilian space activities.

In October I introduced three resolutions aimed at insuring the same kind of strong and affordable space science program as is represented by the Voyager mission. House Concurrent Resolution 204 is concerned with solar and space physics, House Concurrent Resolution 205 covers solar system exploration programs—like Voyager—and House Concurrent Resolution 206 addresses astronomy and astrophysics. The texts of these three proposals appear starting on page 26126 of the October 3 CONGRESSIONAL RECORD. I would welcome additional cosponsorships.

At this time, I would like to submit for the record excerpts from the fine publication, Voyager at Uranus: 1986, prepared by NASA's Jet Propulsion Laboratory.

VOYAGER AT URANUS: 1986

Uranus, the seventh planet from the Sun, is so far from Earth, at a distance of nearly two billion miles, that its discovery in 1781 doubled the size of the known solar system.

The third largest of the planets, Uranus is circled by at least nine charcoal-black rings. Unlike any of the other planets except Pluto, Uranus lies on its side. It may have been at an early stage of formation when it was tipped off its original axis in a violent collision with another body.

As Uranus travels the solar system in this unusual position, one pole remains in sunlight for 42 years while the other is dark. Then, for the next 42 years, the situation is reversed. Currently, its sunlit southern pole is framed at the center of the nine rings, like a giant bull's-eye.

The Voyager 2 spacecraft is now headed toward that distant target, after having completed highly successful investigations of Jupiter in 1979 and Saturn in 1981. Voyager will fly past Uranus at 10 a.m. (PST) on January 24, 1986, passing within 107,000 kilometers (64,500 miles) of the planet's cloudtops. The spacecraft trajectory, which will eventually take it out of the solar system, offers the only opportunity in the foreseeable future to conduct closeup studies of Uranus, and later, Neptune.

Thus, Uranus will be the third planet encountered by the spacecraft in the first nine years of its three-billion-mile path looping through and then out of the solar system.

Because of its remoteness, Uranus is difficult to study, but a surprising amount has been learned through painstaking studies from observatories on Earth. Even so, information about the planet is sparse when compared to what is known of planets nearer to Earth.

The Voyager encounter will be the most intensive study of Uranus ever undertaken, with intitial observations beginning November 4, 1985. The spacecraft's last look at the planet will occur on February 25, 1986. Many of the highest-priority measurements will be obtained on January 24, 1986, during the six hours it takes Voyager to sweep through the Uranian system. In half a day, scientists will gain more knowledge of the planet and its moons, strange ring system, and unique magnetic field than has been learned about Uranus in more than 200 years of astronomical study.

At Uranus, Voyager 2 will:

Determine the rotation rate of the planet.

Profile the structure (pressure and temperature) of the atmosphere and determine the atmospheric composition at depth.

Measure how much sunlight is absorbed by the atmosphere, and how much energy, if any, is emitted from the deep interior.

Map the location of clouds and hazes.

Measure wind speeds at various latitudes in the sunlit, southern hemisphere.

Search for and map auroral activity at both poles.

Listen for planetary radio emissions.

Determine the size, composition and distribution, and reflective properties of ring particles.

Profile the location and eccentricities of the rings.

Search for new rings.

Look for shepherd satellites.

Measure the masses of some or all of the moons.

Obtain the sizes, surface features, and densities of the moons.

Identify geologic processes that have altered the surfaces of the moons and map surface features.

Measure the strength, orientation, and rate of rotation of the magnetic field.

Determine the charged-particle population trapped in the magnetic field.

Locate the position and character of the bowshock—the environment where the solar wind meets the planet's magnetic field.

Determine the structure of the magnetotail.

PRIORITY OBSERVATIONS DURING VOYAGER'S CLOSEST APPROACH

Instrument abbreviations:

IRIS—Infrared Interferometer Spectrometer

PPS—Photopolarimeter

PWS—Plasma Wave

UVS—Ultraviolet Spectrometer

PLS—Plasma Detector

All times are Pacific Standard Time.

Jan. 15 (minus 9 days from closest approach)

Observation: Uranus

Instrument: IRIS

Objective: Measure thermal energy emitted by planet from illuminated hemisphere.

Jan. 23 (approximately −1 day)

Observation: Magnetopause and bowshock crossing

Instrument: Fields and particles instruments

Objective: Search for and characterize edge of magnetic field.

2 p.m. (−20 hours)

Observation: Rings

Instrument: Cameras

Objective: Series of photos for mosaicking.

4 p.m. (−18 hours)

Observation: Umbriel

Instrument: Cameras

Objective: Color photography.

9 p.m. (−13 hours)

Observation: Rings

Instrument: PPS

Objective: Four-hour study of ring characteristics while occulting star (Nunki Sigma Sagittarii).

Jan. 24 12:48 a.m. (−9.2 hours)

Observation: Oberon

Instrument: Cameras

Objective: Highest resolution photos.

1:08 a.m. (−8.9 hours)

Observation: Titania

Instrument: Cameras

Objective: Color photos.

1:40 a.m. (−8.3 hours)

Observation: Sunlit auroral zone

Instrument: UVS

Objective: Highest resolution mosaic of sunside auroral zone.

3:04 a.m. (−6.9 hours)

Observation: Uranus

Instrument: PPS

Objective: Measure solar energy absorbed by Uranus.

3:45 a.m. (−6.3 hours)

Observation: Umbriel

Instrument: Cameras

Objective: Photos at closest approach—365,000 kilometers (226,000 miles).

4:26 a.m. (−5.6 hours)

Observation: Uranus

Instrument: IRIS

Objective: Atmospheric chemical composition at location of radio science occultation point of Earth.

6:16 a.m. (−3.7 hours)

Observation: Titania

Instrument: Cameras

Objective: Highest resolution images.

6:36 a.m. (−3.4 hours)

Observation: Ariel

Instrument: Cameras

Objective: Color photos.

7:01 a.m. (−3 hours)

Observation: Miranda

Instrument: Cameras

Objective: Color photos.

7:14 a.m. (−2.8 hours)

Observation: Uranus

Instrument: PPS

Objective: Measure solar energy absorbed by Uranus.

8:09 a.m. (−1.9 hours)

Observation: Ariel

Instrument: Cameras

Objective: Highest resolution photos.

8:37 a.m. (−1.4 hours)

Observation: Miranda

Instrument: Cameras

Objective: Highest resolution photos.

8:54 a.m. (−1.1 hours)

Observation: Miranda

Instrument: Radio

Objective: Determine Miranda's mass.

9:08 a.m. (−0.9 hours)

Observation: Rings

Instrument: Cameras

Objective: Search for moons embedded in rings at ring-plane crossing.9

9:15 a.m. (−0.7 hours)

Observations: Rings

Instrument: PWS

Objective: Ring crossing: search for ring particles near Miranda's orbit.

also:

Observation: Magnetic equatorial plane crossing

Instrument: Fields and particles instruments

Objective: Observe expected maximum in magnetic field, plasma torus, and trapped radiation.

9:18 a.m. (−0.7 hours)

Observation: Uranus

Instrument: UVS

Objective: Study composition of sunlit polar atomsphere while focusing on star Algenib (Gamma Pegasi).

9:38 a.m. (−0.4 hours)

Observation: Uranus

Instrument: PPS

Objective: Measure solar energy absorbed by Uranus.

10 a.m. pst, January 24, 1986: Uranus Closest Approach—107,000 kilometers (66,000 miles)

10:14 a.m. (+0.2 hours after closed approach)

Observation: Uranus

Instrument: UVS

Objective: study composition of dark polar atmosphere while occulting star Algenib (Gamma Pegasi).

10:26 a.m. (+0.4 hours)

Observation: Rings

Instrument: PPS

Objective: Study of ring characteristics while occulting Algol (Beta Persel).

11:22 a.m. (+1.4 hours)

Observation: Rings

Instrument: PPS

Objective: Ring occultation of Beta Persei.

11:44 a.m. (+1.7 hours)

Observation: Rings

Instrument: Radio

Objective: Occultation of radio signal by rings

12:06 p.m. (+2.1 hours)

Observation: Uranus

Instrument: UVS

Objective: Atmospheric studies while occulting Sun.

12:36 p.m. (+2.6 hours)

Observation: Uranus

Instrument: Radio

Objective: Atmospheric studies; occultation of radio signal by planet.

2:35 p.m. (+4.6 hours)

Observation: Rings

Instrument: Radio

Objective: Occultation of radio signal by rings.

7:42 p.m. (+9.7 hours)

Observation: Auroal zone on dark side of planet.

Instrument: UVS

Objective: Highest resolution mosaic of darkside auroral zone.

9:27 p.m. (+11.5 hours)

Observation: Uranus

Instrument: PPS

Objective: Measure solar energy absorbed by Uranus.

Jan. 25 3:55 a.m. (+17.9 hours)

Observation: Uranus

Instrument: PPS

Objective: Measure solar energy absorbed by Uranus.

6:00 a.m. (+20 hours)

Observation: Rings

Instrument: Cameras

Objective: Series of photos for mosaicking.

Jan. 28 (approximately +4 days)

Observation: Magnetopause

Instrument: fields and particles experiments

Objective: Measure environment as spacecraft leaves magnetoltail.

Feb. 2 (+9 days)

Observation: Uranus

Instrument: IRIS

Objective: Measure thermal energy emitted by planet from dark hemisphere.

RURAL CHARM BLOWN AWAY BY FARM CRISIS

HON. GERRY SIKORSKI

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 1985

Mr. SIKORSKI. Mr. Speaker, this moving story by John Camp, which recently appeared in the St. Paul Pioneer Press-Dispatch, eloquently illustrates the tragic consequences of the crisis in rural America. Farmers, who have a long and proud history of self-sufficiency and independence, are particularly vulnerable to the stress that comes from being helpless. They are working harder than they've ever worked, and still having to give up farms that have been in their families for generations. When this happens, they don't just lost their job—they lose their way of life and their sense of self-worth.

Farmers have had to deal with natural disasters all their lives. They have handled floods, tornadoes, droughts, and fires. What they can't handle—shouldn't have to handle—is Government policy that prevents them from getting the prices they deserve for their crops. They are a hard-working people, the backbone of this great Nation, and they feel like they're failing. Most of them haven't yet realized the truth—that their Government has failed them.

RURAL CHARM BLOWN AWAY BY FARM CRISIS

The things I remember about Hills, Iowa, are the apple trees, the grapes and the wine, the pigs, the city dump and a snowfall so light and beautiful that my wife and I put a snowsuit on our year-old son, and we all went out and watched the flakes come down through the street lights.

We lived in a little white clapboard house, rented with money from the GI Bill while I finished a master's degree at the University of Iowa. The university was nine miles away down a tar road that ran over an iron bridge out the backside of town past the city dump where country boys hunted rats with 22s—and into Iowa City.

The Hills house came with a garden plot, two or three apple trees and a grape arbor. Susan put up apple sauce and made pies and planted a big garden in the spring. During the year, some pigs escaped from a nearby farm and ran through our yard, producing the kind of scene not encountered in your everyday suburb.

The farmer who owned the house had said we could have half the grapes from the arbor, he'd use his half to make wine. That sounded fine to me. I got a friend with a pickup truck, drove down to the Amana Colonies and bought an oak barrel (used only once, to make Jim Beam bourbon), and ran up 55 gallons of wine.

My friend and I were a little naive about winemaking. We actually took more care than most amateurs do. He and his girlfriend, and Susan and I picked boxes full of grapes and carefully crushed and strained them before we poured the juice in the barrel. Most farmers, we found, simply squashed the grapes and threw the whole carcass into the barrel.

What they got was a strong but rough red wine. What we got was a smooth, somewhat nutty white wine. The farmer couldn't believe it—it may have been the only thing a college kid ever did that impressed him. I was more than happy to unload a few gallons on the farmer, and he was more than happy to get it; he was more than happy to come back for more, actually.

The school year itself was tumultuous. With an uncommon piece of luck, I thought, I'd gotten an appointment as a full-time adviser and employee of the student newspaper. Shortly after my appointment, the paper went through the annual year-end change of staff.

The new staff was made up of political radicals and radical feminists (not necessarily the same thing.) I got along fine with the staff and even received a thorough and continuing grounding in feminist theory, free of charge.

While I was getting along fine, the paper's relationship with outsiders was not so good. It was, in fact, one long war. It got so hot that television stations would come to our board of directors meetings and film the fireworks.

With the war in Iowa City, Hills was a good place to hide out. It was quiet. Peaceful. Bucolic. Fireflies and apple trees.

On Monday last, a Hills farmer shot and killed his wife, drove into Hills and shot the bank president to death, then went to a neighbor's farm, where he killed a neighbor with whom he'd had a disagreement over land rentals.

Perhaps you'd have had to live in Hills to understand exactly how outrageous these murders are. You would have expected the pyramids to fall down before this could happen. There was simply no violence in that countryside—everything was too contained. The psychological and social fabric was so dense with family, friends, and neighbors with shared schools and political groups, that pathological impulses simply did not occur.

Or if they did—and I suppose they do everywhere—they were somehow controlled, or channeled. It's hard to explain, exactly, but there was no safer place in the world than Hills, Iowa. It was the eye of the universe.

But things have changed, haven't they?

And not just in Hills, Iowa. Minnesota bankers have been murdered. Minnesota farmers commit suicide. Minnesota farm kids confront problems they can't deal with. The stress out in the countryside is enormous and growing.

The nation has the resources to deal with the problem, but, frankly, the national leadership doesn't seem interested. The Reagan administration and the old line Senate conservatives take care of their farm friends—millions for tobacco, but foot-dragging on farm credit—and let the small guys go.

I'm not optimistic. Given the characteristic insensitivity of the administration, I think we'll see more Hills. The countryside will get bloodier long before things get better.

APPRECIATION OF MS. PATRICIA A. CARRAGHER

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 1985

Mr. DYMALLY. Mr. Speaker, for the past 4 months my staff and I have had the priviledge of working with Ms. Patricia A. Carragher during her internship. I wish to take this opportunity to express our appreciation of her contributions to my office and constituents of the 31st Congressional District of California.

Ms. Carragher is a third-year student at American University, Washington, DC. She was selected as one of six honored students from that institution to participate in the American University-Leeds University Congressional/Parliamentary Program. This special year-long program involves six American students and six British students from Leeds University. They are required to serve internships during the fall semester with Members of the United States Congress, and spring semester with Members of the British Parliament. Ms. Carragher selected my office for the first half of her program, and I am very proud to have provided her this opportunity.

In her internship, Ms. Carragher covered my membership on the House Foreign Affairs Subcommittee on Western Hemisphere Affairs. Her interest in this region and understanding of our foreign policy in those countries contributed significantly to meeting my responsibilities on that subcommittee. In addition, Ms. Carragher assisted me and my staff greatly in responding to my constituents' questions and problems. She answered questions about both domestic and international matters. She displayed competence and ability, both essential qualities of a good leader.

Mr. Speaker, from September to December, I have witnessed the work of a product of our educational system, and am pleased the British will have a chance to appreciate her. I say this with a satisfied smile, a smile of vindication for education was the sole reason for my leaving Trinidad—a former British colony—and migrating to the United States. The British system failed me in its college entrance examination. I came to the United States so I could continue my education. Well, here I am in Congress and here goes Ms. Carragher to the Parliament. As they say on the streets of Compton, "Take That."

Mr. Speaker, I invite my colleagues to join me and my staff in thanking Ms. Carragher for her service in Congress, and wishing her the best in London. Thank you Patricia and best wishes.

EAGLE AWARD TO CHRISTOPHER AND KURT EVANS

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 1985

Mr. GEKAS. Mr. Speaker, I would like to take this time to express my congratulations to two young men from Lewisburg, PA, who will receive the Boy Scout Eagle Award this Sunday in Winfield, PA. This event is always a special time for the family and friends of a man who receives such an award because it is a recognition of his dedication to his community and country. This presentation ceremony on December 15 will have an added significance because it is being awarded to twin brothers, Christopher Joseph and Kurt Joseph Evans.

Both of these men have been involved in the Scouting Program since 1976 when they joined the Bobcat Cub Scout Pack 3509 in Lewisburg. Since their start in Cub Scouts and through Webelos and Boy Scouts they have participated in hiking and camping expeditions including the 1977 National Scout Jamboree at Moraine State Park and the 1981 National Scout Jamboree at Camp A.P. Hill. In 1984 they were part of the Susquehanna Council contingent to the Boy Scouts of America High Adventure Sea Base in the Florida Keys.

Christopher and Kurt are both active members of Explorer Post 2583, specializing in archery and have competed and have won awards in archery. Kurt is currently president of the Explorer Post while his brother Christopher is second vice president.

In working toward their Eagle Scout Award both worked on wilderness trails. Kurt rebuilt the "Old Boundary Trail" in the Raymond Winter State Park including the clearance of the trail from Coppermill Road to Bake Oven Trail, a distance of three-quarters of a mile, and building two foot bridges and a corduroy road. Christopher blazed a 2-mile trail from Old Shingle Road north over the north branch of Buffalo Creek and Panther Run in Bald Eagle Forest and Hook Natural Area. This also included building two foot bridges as well as erosion control and blazing the trail.

These two men have shown excellent service and leadership capabilities in their work with the Scouts and should be congratulated for earning this very distinguished achievement. I wish them good luck and great success in the future.

A TRIBUTE TO BELLE MORRISON ON HER 100TH BIRTHDAY

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 1985

Mr. LEVINE of California. Mr. Speaker, it is my pleasure to rise today in honor of Belle Morrison, a constitutent of mine who will celebrate the joyous occasion of her 100th birthday on December 24, 1985.

Belle was born in Russia and lived there for 5 years before her family immigrated to the United States. Her family originally settled in Philadelphia, but she lived most of her life in Chicago where she was quite active in community affairs. Belle and her late husband, William, were blessed with three children, four grandchildren, and eight great-grandchildren.

Belle has lived in California for more than 35 years and currently resides in Santa Monica. One of her grandchildren said that one of her secrets to long life has been her favorite motto: "Please don't ask me not to worry, because you know the things I worry about never come true." Whatever Belle's secret is she's obviously doing something right. Belle still enjoys good health and will soon join her family in celebrating this wonderful milestone at a big party planned in her honor.

Mr. Speaker, I ask the my colleagues in the House of Representatives join me in sending birthday greetings to this extraordinary American and that they wish her many more years of continued health and happiness.

FLAWED VERSION OF TAX REFORM

HON. THOMAS F. HARTNETT

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 1985

Mr. HARTNETT. Mr. Speaker, approximately 1 year ago, President Reagan suggested that Congress reform the Federal Tax Code in the name of simplicity, fairness, and economic growth. Our current Tax Code is so immense and complicated that the only people who fully approve of it are tax consultants. Therefore, from the very beginning, I have been a strong advocate of achieving the President's tax reform goals. The House Committee on Ways and Means has produced a bill that in the opinion of a majority of the members of that committee fulfills these goals. It does not.

The Ways and Means proposal is 1,379 pages of legalese aimed at explaining the 1,602 separate sections of the bill. That is not simplification. The next goal that the authors of this bill claim to have satisfied is fairness. Of course, fairness is a very subjective term; but, it seems most inappropriate for legislation which imposes double taxation on the pensions of 19 million Americans, makes unemployment compensation fully taxable, and discourages business modernization. In fact, legislation that impairs the ability of corporate America to modernize will force companies to lay off employees in an effort to keep prices down and remain competitive. As such, this bill certainly fails to generate economic growth. I find it hard to believe that the taxpayers of this country will care if their marginal tax rates have been lowered slightly once they have lost their jobs.

Obviously, Congress has failed to develop a Tax Code that achieves the goals of simplicity, fairness, and economic growth. However, some people have suggested that Members of the House should vote for this flawed version of tax reform and rely on the Senate to correct the existing inequities. Contrary to the logic of those advocating this political philosophy, I have always followed the thinking of a wise man who said, "When you first see a rattlesnake, kill it."

DISTINGUISHED PUBLIC SERVANT: SYLVESTER L. ACKLEY

HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 1985

Mrs. HOLT. Mr. Speaker, one of the Department of the Air Force's most distinguished officials plans to retire on December 31, 1985. Sylvester L. Ackley, a Government employee for over 38 years, leaves the Office of the Secretary of the Air Force, Legislative Liaison, as the Deputy Chief of Air Operations.

"Ack" Ackley joined the Army Air Corps in 1943 as a B-24 radio operator and gunner. Serving on 28 combat missions over southern Germany, Czechoslovakia, Hungary, Romania, and Italy, he was shot down and crash landed twice without injury. Reentering the newly formed Air Force in 1950, he continued as a radio operator and then as an air operations supervisor serving in several locations including West Germany as an inspector general team member. The Air Force assigned "Ack" to the Secretary of the Air Force, Legislative Liaison, as an air operations superintendent in 1959. After serving in that position for 10 years, he retired from active duty as a chief master sergeant. The Air Force, recognizing the truly outstanding contributions of Chief Ackley, hired him as a civilian employee to continue to manage the operations office.

During these past 16 years as the Deputy Chief of Air Operations, "Ack" has set standards that, I believe, will never be surpassed. The true dedication to "doing it right," the absolute insistence on honesty and integrity, and the patience under extreme daily pressure are the standards that Mr. Ackley leaves for all those who follow.

I join with many of my colleagues who have benefited from the direct professional support of Mr. Ackley and wish him and his wife, Marilyn, the very best in their retirement.

Mr. Speaker, I rise today to pay tribute to Mr. Ackley for his unselfish dedication to duty and his outstanding performance as a Government employee.

He is truly a great American.

BUDGET CROSSROADS: IT'S TIME FOR ACTION

HON. BERKLEY BEDELL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 1985

Mr. BEDELL. Mr. Speaker, yesterday, I joined a bipartisan majority in the House and Senate in voting for the compromise version of House Joint Resolution 372, legislation to reform the budget process and force hard decisions aimed at balancing the budget by 1991. The President has signed this historic legislation into law. This was one of the most difficult votes I have cast since coming to Congress, and I would like to explain why I support this law.

We have come to a crossroads on the Federal budget. Yesterday, we had two choices—to continue under the old budget process, or to adopt this reform law. I do not like this law, but I am frustrated in the extreme with the failures of the old process.

We must act decisively to force a change, if Congress is to make good to the American people on our promise to bring Federal spending back under control. I believe that the bipartisan compromise we enacted yesterday is the best alternative to current law that is likely to win agreement from a majority in Congress. By no means will this law end our budget crisis. My hope is that it will begin a national debate, and force a resolution of our deficit problem. For this reason, I supported its enactment, and will do my best to see that its promise is realized.

The old road is familiar and leads only to dangerously higher deficits and frustrating political deadlock between Congress and the President. We have continued on it this long only because the House of Representatives, the Senate and the President have not been able to agree on an alternative. Meanwhile, in the last 15 years, the national debt has doubled. About 15 percent of our budget—$142 billion this year—now goes just to pay interest on the national debt, and continued deficits will mean ever-spiraling interest costs. By continuing to borrow, we make ourselves poorer today and we leave an economic time bomb for our children.

The farm economy has been devastated by two consequences of the budget deficit: high interest rates and the overvalued dollar. The former has added heavily to the cost of credit and debt; the latter has made our grain uncompetitive in world markets. The repercussions have been felt by everyone in my district. Farmers are forced to leave their land, workers are losing their jobs as factories slow down their operations and rural communities are suffering as businesses close and people move out.

This law will help us put our fiscal affairs back in order. It will put new teeth in the budget process. It will force action where none has been forthcoming because Congress and the President have been locked in disagreement. Essentially, the law says that, if Congress and the President do not enact through the normal process a responsible budget, spending is automatically cut according to a predetermined formula. The hope is that the mere threat of the automatic cuts will be so terrible that Congress and the President will instead agree through the normal process on a responsible budget. The law's real teeth are its mandatory deficit ceilings, which begin at $172 billion this year and decline by about $30 billion each year to zero in 1991. If total spending proposed in the budget for any year exceeds the ceiling, spending will be automatically cut enough to bring it under the ceiling. Generally, an equal percentage must be cut from each program, project or activity.

If it sounds simple, it is not. Rather, it is one of the most sweeping and complicated pieces of legislation Congress has produced since I came here 11 years ago. Because it changes how—or if—the Government spends the taxpayer's money, this bill will affect every Government program, from our national defense to our children's education.

The original version of this bill that was proposed and passed in the Senate was the worst kind of legislative rush job. As the majority leader of the Senate said in pushing for a quick vote, "The longer something sits around here, the staler it gets. People start reading it." Many Senators voted on the bill without reading or understanding the bill's fine print, so the bill was deeply flawed and unfair. First, it would have delayed significant deficit reductions until after the next election. Second, it would have devastated many domestic programs, but left much of the military untouched. Finally, it would have given the President too much discretion over cuts that are supposed to be equal and automatic.

The House then passed an alternative version that was better but still contained many problems. For the last month, negotiators for the House and Senate have worked very hard to resolve these problems and differences and to agree on a responsible and fair alternative to current law. While still not perfect, the compromise version is a vast improvement over the original proposal, and the best alternative to current law that could win broad support.

First, the compromise version begins serious deficit reduction this year, before the next election. The original Senate version would have allowed a $193 billion deficit this year, but the compromise would begin spending cuts if the deficit exceeds $171 billion. The House version would have set the ceiling even lower, at $161 billion.

Second, the compromise version ensures that defense spending will bear 50 percent of any automatic budget cuts while domestic spending bears the other half. Each type of spending will then take a share of the cuts equal to its share of total spending. Within the defense spending category, the compromise applies a formula that will cut each part of the defense budget equally. The Defense Department does not like this compromise, which must mean that this law is tough stuff. The original Senate version would have preserved defense's "sacred cow" status by making half the cuts in Government programs with COLA's and half the cuts in all other spending—including defense.

Finally, the compromise version greatly reduces the opportunity for political manipulation of the automatic cut process, and ensures that such cuts would be fairly made. Under the law, the U.S. General Accounting Office has final authority to estimate the deficit, calculate the necessary cuts under the formulas, and list the specific cuts to be made in each program. The General Accounting Office is a nonpartisan office whose director is appointed for a 15-year term, and is responsible to both the President and Congress.

The compromise exempts interest on the national debt, Social Security, railroad retirement, veterans' pensions and compensation, State-funded unemployment compensation, civilian and military pay rates, and six other low-income programs from the automatic cuts. Retirement and disability programs with COLA's could not be cut by more than the amount of the COLA, and cuts in veterans' health care and Medicare are limited to 2 percent. Medicare cuts would be made only in payments to health care providers.

I am pleased that, under the compromise, automatic cuts in agricultural price support payments could only be made in contracts entered into after the cuts are effective, and uniform reductions would have to be made in all payments for a particular crop—even if this means delaying the cuts until the next crop year.

Working within the current budget system, I have supported several deficit reduction initiatives. I have supported an across-the-board budget freeze with no increases for inflation. I have voted for cuts in many programs I believe in to bring their spending down to a freeze level. Earlier this year, I voted against the final House-Senate compromise budget resolution for this year because it allowed a $10 billion increase for defense and did not reduce deficits enough. When the House considered this year's military spending bill, I voted twice this year against increasing military spending when other programs were being frozen or cut. I am a cosponsor of stiff minimum tax legislation that would ensure that every individual and corporation pays a fair share of taxes.

I have stood up against waste and abuse. Last year, I took on the Defense Department and defense contractors over the $435 hammer, and succeeded in passing two important laws that could save $8 billion in military spare parts costs. Since coming to Congress 11 years ago, I have bucked congressional traditions and successfully fought to stop wasteful water project boondoggles like the $1.6 billion Garrison diversion in Nebraska, and the $200 million Oahe project in South Dakota. Three years ago, I took on some big oil companies and succeeded in closing two of their tax loopholes worth hundreds of millions of dollars. But more must be done, and I believe this law deserves a try.

I have concerns about how the law's automatic cuts might affect agriculture, education, local government programs and many other very important programs that I have fought hard for in the past. Unfortunately, these worthy programs have been losers under the old system. They have already taken more than their share of budget cuts in the last few years, while defense contractors win huge increases for wasteful contracts, and sometimes for weapons that do not work or make us safer. This law may bring some fairness to the budget process, because defense and nondefense programs would each be asked to take half of any automatic cuts.

In every one of the two dozen open door meetings I have held in Iowa this year, my people have told me that they are willing to accept an across-the-board freeze, and even take their fair share of cuts, if everyone else will too. Now a bipartisan majority in Congress has agreed on this law and committed itself to achieving a balanced budget in a strict but fair manner.

We need President Reagan's help, but his real intentions are still not clear. Even after he had endorsed this legislation, the President publicly said that Defense spending will continue to grow by 3 percent more than inflation in the next few years. If this law is taken at all seriously, then that level of increases for Defense is a fantasy. It is essential to accept that we will have only a limited number of bucks, and concentrate on getting more bang for our buck. There are still enormous amounts of money in the Defense that could be saved by increasing competition in military purchasing and canceling weapons that we do not need.

By signing the bill, President Reagan has signed an agreement to abide by this law and work with us toward the goal of a balanced budget. I look forward to working with him.

TO INCREASE BANKRUPTCY JUDGES IN SOUTH TEXAS

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 1985

Mr. ORTIZ. Mr. Speaker, I rise today in support of legislation to increase the number of bankruptcy judges in the Southern Judicial District of Texas from three to six. This legislation is needed to rectify the serious shortage of bankruptcy judges in south Texas, and thus ease the burden on the economically distressed.

South Texas is being decimated by a wave of bankruptcies which has not been seen since the Great Depression half a century ago. Business bankruptcies in this judicial district are up 41.8 percent over the already high levels of a year ago. The total number of bankruptcies in the district are up 15.8 percent over 1984. Worst of all, the pace of bankruptcies is on the increase.

Mr. Speaker, the epidemic of bankruptcies currently overwhelming the south Texas region has many causes: The depressed energy industry, a crisis on farms, job losses, flat real estate sales and slow development of land and housing. Bankruptcy courts are backlogged as 3 Federal judges, out of 232 nationally, try to address the needs of one of the more economically struggling areas of the country. Currently there is just one bankruptcy judge for every 6,000 cases to be heard.

Furthermore, the Administrative Office of the U.S. Courts has studied the situation and recommended that the south Texas Judicial District receive three additional bankruptcy judges. I have been in close contact with Federal judges and State officials in the area who understand the situation and support this remedy to a serious situation.

INTERNATIONAL HUMAN RIGHTS WEEK

HON. DOUGLAS H. BOSCO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 1985

Mr. BOSCO. Mr. Speaker, the week beginning December 10 is traditionally recognized by many United Nations countries as International Human Rights Week. This week has been set aside to observe the unanimous adoption of the Universal Declaration of Human Rights by the U.N. General Assembly on December 10, 1948. The document guarantees to all people fundamental human rights, including the right to the freedoms of religious expression, conscience, and emigration. Mr. Speaker, as we commemorate the 37th anniversary of this landmark agreement and recommit ourselves to the principle of human rights, we must not forget the victims of human rights abuses around the world. Rather, we must intensify our efforts to ensure that all people are accorded these basic human rights.

Of particular concern to me is the plight of Soviet Jews whose mistreatment and persecution by Soviet authorities has been well documented. In the U.S.S.R., Jews are denied the right to worship free from the threat of reprisal. Yet, at the same time they are denied the right to emigrate to Israel or other countries where they might live a full Jewish life. In the Soviet Union, Jews that have applied for exit visas but have been turned down are referred to as refusniks. As a participant in the Congressional Call to Conscience, I am proud to have adopted two brave young refusniks, Pavel Astrakhan and Alexander Kushnir. I recently received a brief update on Alexander Kushnir which I would like to share with my colleagues.

Since 1976, Alexander, a leading activist in the Jewish refusnik community of Odessa, has been trying to emigrate to Israel to join his family. He has been turned down for an exit visa six times. By profession, Kushnir is a construction engineer but since his first application he has been unable to find work in his field. According to this latest report, Alexander has been working as a night watchman and is plagued by severe back problems. In addition, this report indicates that Alexander is under constant surveillance and has been told by Soviet authorities to stop giving out information and meeting with tourists. Moreover, the KGB is pressuring him to denounce Israel on Soviet TV and radio.

Unfortunately, Alexander Kushnir's predicament is not uncommon in the Soviet Union. Thousands of Jewish men and women there struggle against religious repression while awaiting permission to leave. As we observe International Human Rights Week, it is important that we remember individuals around the world like Alexander Kushnir who are not granted such liberties, and we must continue to push for actions to alleviate human rights abuses.

BALANCING THE BUDGET—THE HARD CHOICES ARE YET TO COME

HON. JIM ROSS LIGHTFOOT

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 1985

Mr. LIGHTFOOT. Mr. Speaker, this week Congress took an historic leap when it passed the conference report to House Joint Resolution 372, otherwise known as the Gramm-Rudman-Hollings Emergency Deficit Reduction Act. It is serious medicine for a serious disease. Although I do not take this action lightly, I am proud, nonetheless, to have played a part in restoring fiscal sanity to our country.

Why is it an emergency bill? With interest compounding on our $2 trillion public debt, and with annual deficits of nearly $200 billion, this country cannot survive. Government deficits hurt every American—those in farming are keenly aware of the deficit-induced high interest rates and trade deficit. We have been spending our children into financial slavery by borrowing to fund programs which we cannot afford, and never in history have tax increases prevented Government expenditures from rising. Our only answer is to cut spending—quickly and radically.

Of course, Gramm-Rudman calls for harsh steps. Many Government programs will be affected. Most Americans realize how serious our Nation's financial problems are, however. I took on as a top priority the task of working to reduce Government deficits when I first came to Congress, and I will not avoid this task because it is difficult. The measure requires 50 percent of all cuts to come first from the Defense Department with the other 50 percent coming from all other agencies, excluding several poverty programs.

Some protections have been built into the budget-cutting measure. For example, agricultural commodity contracts already signed cannot be broken. Also, the Secretary of Agriculture must abide by the provisions of the farm bill as passed by Congress. As for public assistance and poverty programs, no program can be entirely eliminated and certain programs are protected from more than a 1–2 percent cut below baseline spending. Nonetheless, Gramm-Rudman will help us to begin making the difficult fiscal decisions required, and I see no higher priority as a U.S. Representative.

In fact, one of the first pieces of legislation I cosponsored upon taking office was a measure to enact a balanced budget amendment to the U.S. Constitution. Unfortunately, this measure has been around Congress for a number of years with little chance of success. When Gramm-Rudman was proposed, it was the first real opportunity to achieve a balanced budget, therefore I became a cosponsor of the proposal.

Furthermore, I have voted against most spending bills considered in the House of Representatives and will continue doing so until spending is under control.

While the next few years will be difficult ones, the choices we will be forced to make are necessary. I look forward to the opportunity to continue in this effort to restore our Nation's economic health, and I am pleased my colleagues have helped to get the process started.

POLYGRAPH TESTING AS 20TH CENTURY WITCHCRAFT

HON. STEPHEN L. NEAL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 1985

Mr. NEAL. Mr. Speaker, in conjunction with today's debate on H.R. 1524, the Employees Polygraph Protection Act, I am inserting into the CONGRESSIONAL RECORD an article about this issue that appeared in a recent edition of the Washington Post.

Mr. Speaker, the polygraph is not a lie detector. The polygraph machine detects stress but it cannot detect whether the stress was caused by anxiety, fear, anger, nervousness or some other emotion. It is totally up to the examiner, therefore, to interpret the results of the test. In a recent investigation into the validity of the polygraph by the House Government Operations Committee, it was determined that polygraph tests cannot be trusted to reveal an individual's guilt or innocence. The committee's findings were supported by a 1983 study conducted by the Congressional Office of Technology Assessment, which concluded that, "The available research evidence does not establish the scientific validity of the polygraph test for personnel security screening," and further that, the polygraph can be fooled by the use of drugs, physical movement, and other techniques.

It is dangerous, Mr. Speaker, to rely on so-called lie detectors for important decisions, particularly for safeguarding information and materials important to our national security. The upshot of the administration's hasty policy of relying more heavily on polygraph machines may be that some innocent people will be denied sensitive jobs, and forever branded untrustworthy, and sophisticated spies and crooks may gain access to government secrets. We know that the professional criminal or the enemy agent familiar with polygraphs, for example, can beat these machines.

The use of polygraph testing by private companies to screen employees, Mr. Speaker, has increased dramatically in recent years. The evidence would indicate, however, that private firms that use polygraph testing may be doing their business more harm than good by placing faith in unreliable machines.

Mr. Speaker, the indiscriminate use of polygraph testing on employees must also be viewed in the context of constitutional protection of individual rights of privacy and presumption of innocence.

The fundamental principal of law in this country, that everyone is considered innocent until proven guilty, is violated by "lie detector tests, which are required to prove one's innocence. And the widespread use of "lie detectors" for employee screening is a massive invasion of privacy that may eventually extend to every level of society. Employee screening could eventually lead to screening of consumers before being allowed to use a credit card or write a check. One can even envision being screened before being permitted to enter a store.

Congress has been investigating the use of polygraph testing for over 20 years. The late Senator Sam Ervin, who as chairman of the Senate Judiciary Committee conducted his own hearings on the subject, concluded the polygraph is nothing more than "20th Century witchcraft."

Mr. Speaker, the growing use of the polygraph by government and business is unwarranted and a mistake. I urge passage of this legislation.

Proposed Lie-Detector Ban Splits Business Community

(By Morton Mintz)

Sweeping legislation that would prohibit most private employers from using polygraphs or any other kind of so-called lie detectors appears headed for congressional passage, carried along by strong bipartisan support.

Although the bill has encountered some opposition from employers who favor using the tests, the business community is sharply divided about the highly controversial devices—a rift that increases the bill's chances of passage.

On the House side, a bill sponsored by Rep. Pat Williams (D-Mont.), chairman of the House Education and Labor subcommittee on employment opportunities, has been approved by the subcommittee and the full committee without dissent.

On the Senate side, two powerful sponsors who often are adversaries, Senate Labor and Human Resources Committee Chairman Orrin G. Hatch (R-Utah) and ranking Democrat Sen. Edward M. Kennedy (D-Mass.), are backing the bill.

Some business interests, including the Jewelers of America, the Association of General Merchandise Chains, the U.S. Chamber of Commerce and some drugstore chains, fiercely oppose the legislation.

No major corporation has taken a leadership role in support of the legislation. But many of them, including International Business Machines Corps., never use polygraphs, even where state laws permit the machines and union contracts do not bar them. Other companies, including such major employers as the top national fast-food chains and Safeway Stores Inc., seldom or rarely use polygraphs—and then only for investigations of thefts or other offenses.

Still others who oppose the proposed legislation use the devices for investigations and for pre-employment screening—by far the most hotly disputed use of the machines. Corporations that favor using the machines say the devices are critical to efforts to protect against employe dishonesty.

Zale Corp., a leading owner of jewelry stores, supported their use in a statement presented at a hearing on the proposed legislation. "It is the policy of Zale Corp. to polygraph all of its employees who occupy sensitive positions, [including the] chairman of the board . . ." the statement said. "We feel that, as a result of the availability and use of the polygraph, the Zale Corp. was able to recover money and merchandise during the past four years valued at just under $2 million."

Polygraph use has been an issue on Capitol Hill for more than 20 years. During that time, a strongly bipartisan base of support for restrictions has been growing, nurtured by a 1983 Office of Technology Assessment research review and evaluation and by the AFL-CIO, mainly through its Food & Allied Services Trades Department, which has lobbied against the devices.

At the heart of the debate is the question of how accurate and reliable the devices are, particularly when used in pre-employment screening. The OTA report concluded that, "While there is some evidence for the validity of polygraph testing as an adjunct to criminal investigations, there is very little research or scientific evidence to establish polygraph-test validity in screening situations.* * *."

* * * An OTA estimate of a 5 percent rate of error in analysis of test results, Senate sponsor Hatch said that, "Even under the best of circumstances, some 50,000 workers may have their employment opportunities terminated, curtailed or blocked each year, due not to their own work record, but due to employer reliance on the results of invalid polygraph tests."

Not everyone shares that assessment of the tests' accuracy. Lawrence W. Talley, vice president for risk management for Days Inn, a motel chain that uses the devices, said recently "there are absolutely hundreds of tests to show that the polygraph is a reliable instrument . . ."

The proposed Employe Polygraph Protection Act of 1985 would make it unlawful for an employer "to require, request, suggest or cause any employe or prospective employe to take or submit to any lie detector test." Forbidden tests are defined to include those done with a voice-stress analyzer or any other device—mechanical, electrical or chemical—"for the purpose of detecting deception or verifying the truth of statements."

The bill, as passed by the House subcommittee and introduced in the Senate, has exemptions for only three categories: all governmental employers, CIA and National Security Agency counterintelligence activities, and FBI counterintelligence contractors.

When the full committee passed the bill on Oct. 23, it added a narrow exemption for investigations of thefts or illicit diversions of federally regulated drugs with a potential for abuse. Employers making such investigations—mostly drug manufacturers and wholesalers and retail pharmacies—could give polygraph tests to employes, but only to those who had "direct access" to the so-called controlled substances.

According to Williams, "Polygraphs have become vehicles for employe intimidation, and for screening out employes of political or union beliefs different from those of a particular manager." He added that, in most work places, "Employers can polygraph workers for any reason: to verify employment applications, for periodic surveys of employe honesty, to find out why merchandise is missing or, perhaps just for intimidation."

Williams said in an interview that he expects the House to pass the bill this month "with a considerable majority."

Williams has 164 co-sponsors, including 20 Republicans. One is Rep. Jack Kemp (N.Y.), a presidential candidate who said he is "proud" to be an original backer. "The time has come to proscribe these inaccurate devices from the work place," he said in a June "Dear Colleague" letter urging fellow Republicans to back the bill.

In the key Senate Labor and Human Resources Committee, meanwhile, Chairman Hatch and top ranking Democrat Kennedy quietly reached a surprise agreement to cosponsor the Williams bill in the Senate.

Hatch introduced this bill Nov. 1, nine days after House Labor acted, said research has shown "that even the most respected and reputable polygraphers make mistakes . . . which can unjustly condemn and stigmatize an individual for life, rob him of his livelihood or bar him from just advancement."

"The Hatch-Kennedy combination will make the bill extremely difficult to stop" in the Senate, Williams said. But a leading opponent, Richard L. Lesher, president of the Chamber of Commerce of the United States, has predicted that it will be stopped "before this is all over."

"I just can't see passing more legislation to protect criminals and drug-pushers," Lesher said on "It's Your Business" earlier this month. The Chamber of Commerce television program was taped before the introduction of the Hatch-Kennedy bill.

Problems such as "getting drugs off the street" and trying to protect "the future of our children," including those in day care centers, "are just as important as national security issues," Lesher said, adding that polygraph tests in the work place could assist in accomplishing those aims. The chamber favors polygraphing "the executive work force" as well as rank-and-file employees, he said.

Currently, seven states prohibit any use of polygraphs in private employment. In varying ways, 19 other states and the District of Columbia make it illegal for a private employer to require or request polygraphing.

Polygraph tests generally are not admissible as evidence in criminal trials. "How ironic that we protect criminals from these devices, yet subject hundreds of thousands of innocent workers to these devices," Kemp said in urging support for the House bill. "It is time that we extend the same basic protection to workers which we offer hardened criminals."

Many companies have decided on their own not to use polygraphs. IBM told the Senate Judiciary subcommittee on the Constitution in 1978 that it "does not and has not used polygraph or similar types of equipment. . . .IBM is committed to respecting the dignity of its employes, and the way in which the company handles information about them is a part of that basic respect." IBM has not changed its position in the ensuing seven years, a spokesman said recently.

The now-defunct Privacy Protection Study Commission heard testimony about polygraphs from 12 major employers, including Equitable Life Assurance Society of the U.S., General Electric, IBM, Inland Steel Co. Inc., J.C. Penney co., Ford Motor Co., Manufacturers Hanover Trust Co., Exxon Corp., E. I. duPont de Nemours Inc. and Rockwell International Corp. The commission also received written statements from, or interviews with, a number of other employers, including General Motors Corp., Procter & Gamble Co. and Abbott Laboratories.

None of the 12 "used polygraphs in pre-employment screening of job applicants, or regularly administered the polygraph or any similar truth-verifications test to its employes," Chairman david F. Linowes told the Senate subcommittee in 1978.

Other companeis use the machines only for special purposes such as investigations, rejecting their routine use in pre-employment screening. Members of this group include at least three large corporations that own and franchise a combined total of nearly 15,000 McDonald's, Pizza Hut and Burger King fast-food outlets; Safeway, the largest supermarket chain; Holiday Corp., which owns and franchises Holiday Inns and also owns Harrah's casinos, and Montgomery Ward.

All of the fast-food firms said their polygraph policies are mandatory for corporate-owned outlets, but voluntary for their franchisees. These independent business operators are encouraged to, and do, follow the corporate policies voluntarily, spokesmen said.

McDonald's Corp.'s "policy is that we do not use polygraphs for pre-employment screening," spokesman Terri Capatosto said. "We prefer to rely on the integrity of our people. . . . I know of no franchises that are using polygraphs. In particular, they like to develop a family-type atmosphere among their employes, and they put their faith in their people." McDonald's has about 6,700 U.S. outlets and owns about one-quarter of them.

Pizza Hut's policy is the policy of its owner, PepsiCo Inc., which, with 110,000 employes, is the country's 11th largest private employer. That policy is: no polygraphing of job applicants.

"The reason we don't give [pre-employment polygraph tests] is that there's no evidence that they are either valid or useful for this purpose," said PepsiCo. Public Affairs Director James M. Griffith. "And there's also the perception that the tests can be misused."

He added, "We can't dictate to franchises, but as far as we know, if polygraphs are used, it's on a rare occasion. . . . Virtually everyone follows our lead."

Griffith said his inquiries turned up no one who knew of polygrath use by Pizza Hut. Pizza Hut owns about 2,000 outlets and franchises about the same number.

Burger King has "not used, and [does] not intend to use in the future, polygraphs as a pre-employment screening tool," said Joyce Meyers, a spokesman for Pillsbury Co., the owner. She added that Burger King "apparently never [has] considered using them." Burger King has more than 4,000 outlets, of which Pillsbury owns about 800.

Safeway's "corporate policy is to not use the polygraph as a prescreening device when we're hiring," said public relations manager Felicia del Campo. "We feel there is no proof that the polygraph works for this purpose. . . .

"We don't have a corporate policy on using polygraphs in investigations," del Campo continued. "However, retail divisions in states which permit their use do sometimes offer a polygraph test to employees suspected of theft when a large loss is involved. But it's not mandated, and we don't use it regularly or to any great extent." Safeway has about 2,000 U.S. stores.

"Holiday Inns does not use a polygraph except in investigations where permissible by law," Holiday Corp., Communications Director David G. Daly said. "It is used with the employee's permission only, as an aid or tool, but never as evidence, and never as the only tool. In none of our properties is it used for pre-employment screening." There are 1,500 U.S. Holiday Inns, including 170 that are company-owned.

Holiday Corp. also owns a Harrah's casino in New Jersey, which does not permit polygraphing, and a Harrah's in Nevada, which does allow it. "Neither East nor West Harrah's uses a polygraph for preemployment screening," Daly said.

Many companies do use the machines for a variety of purposes, including screening would-be employees. These include members of the National Wholesale Druggists Association, the National Association of Chain Drug Stores Inc. and the National Association of Retail Druggists. Those associations take a position on polygraph exams shared by the federal Drug Enforcement Administration.

Ronald W. Buzzeo, DEA's deputy administrator for diversion control, says that the agency supports polygraph use "for pre-employment screening and as a subsequent investigatory tool in appropriate [controlled-substance] cases, provided that it is permitted by state and local laws."

Peoples Drug Stores Inc. Chairman Sheldon W. Fantle said that the nationwide, 835-store chain uses polygraphs to control drug diversions and thefts. Polygraphing should be "at the discretion of the employer," he said. He termed the House bill "a weak recognition" of the need, and said it will "not get the job done."

Jewelers of America, an organization of 12,000 retail jewelers, and Manfacturing Jewelers and Silversmiths of America, which has 2,400 members, told the House subcommittee hearing that a ban on private-sector use of polygraphs "would have a devastating impact on the jewelry industry."

The machine "is not infallible, [but] it has been my experience, and that of many other jewelers, that it is the most accurate and efficient means of confirming information included on an employment application," spokesman Larry Sherwood said.

Security consultant William L. Cole of Borg-Warner Corp., owner of Wells Fargo Armored Service Corp., Wells Fargo Guard Services and Burns International Security Services, has raised this question: "If the U.S. government, states and municipalities have the right to use polygraph testing to protect themselves from dishonest employes, why should the security industry as well as other employers not have access to the same technology and protection?

Profile of a Polygraph—How It Works, and What It Doesn't Do

(By Morton Mitz)

Each year, hundreds of thousands of job-seekers take a polygraph test. The prospective employer's assumption and rationale are that it—or any screening technique—will enable the company to predict illegal conduct more accurately than by relying on chance.

A polygraph measures certain "arousal" reactions. Advocates contend that, under questioning by the machine operator, lying or deceptiveness induces fear, the fear creates stress and the stress reveals itself in measurable changes in cardiovascular activity (blood pressure, heart rate, pulse), the rate and depth of breathing, and sweating.

Under this theory, the polygraph is not a "lie detector," because what it measures is the fear of detection, not lying or deceptiveness itself.

Similarly, J. Kirk Barfoot, past president of the American Polygraph Association, said: "The instrument makes no decisions and is nothing more than a diagnostic tool. No bells ring, no lights light, and there is nothing that can be compared to a computer which gives a definitive answer based on the input which is fed into it."

The examiner attaches three devices to a person taking a test (the "examinee," in the jargon): an arm cuff similar to the "cardio cuff" used to measure blood pressure, one tube around the chest and another around the abdomen, and electrodes on two fingertips. The cuff drives one pen, the tubes two more, and the electrodes a fourth. Each pen produces a line on a chart.

Normally, the operator conducts an initial interview to try to generate a psychological atmosphere in which the examinee will accept the accuracy of the test he is about to take and accept also that all of the questions to be put are of equal importance. These include "irrelevant" questions involving usually innocuous matters (such as the person's nickname) and "relevant" questions (such as, Have you ever been fired?). The responses to irrelevant questions yield baselines to be contracted with the lines resulting from responses to sensitive questions.

Commonly, pre-employment screening tests last 15 minutes to an hour, compared with three, four, or more hours for national-security-related and criminal-investigation examinations. During the examination, the operator reviews with the person answers suggesting possible deception.

Finally, after a post-test interview, the examiner assesses all of the results. He is the one who "must make a decision as to truthfulness or falsehood," Lightfoot told a House Education and Labor subcommittee last summer. In screening job applicants, "The examiner should be thought of as a personnel or interviewing specialist, who simply uses a polygraph to assist him in making decisions," he said.

Often, an examiner is paid $25 to $50—a fee well below the cost of time-consuming reviews of resumes, checks of references and the like.

The Office of Technology Assessment concluded in a 1983 report "that there is at present only limited scientific evidence for establishing the validity of polygraph testing." OTA said its review of 24 relevant studies meeting minimal acceptable scientific criteria found that, for example, correct guilty detections ranged from about 35 to 100 percent.

"Overall, the cumulative research evidence suggests that, when used in criminal investigations, the polygraph test detects deception better than chance, but with error rates that could be considered significant," OTA said.

OTA also found "that the mathematical chance of incorrect identification of innocent persons as deceptive (false positives) is highest when the polygraph is used for screening purposes."

The report said that "the examinee's intelligence level, state of psychological health, emotional stability and belief in the 'machine' are among the other factors that may, at least theoretically, affect physiological responses."

Supporters of using the results of polygraph tests argue that the results are reliable and that the tests provide a cost-effective method of screening out undesirable employes.

"Hundreds of thousands of companies . . . depend on polygraph screening to maintain acceptable profit margins," Barefoot said. "If [it] were to be denied to these companies, many of them eventually would be forced out of business due to higher theft rates by employes. Those which would not be forced out of business would simply have to raise the prices of their products . . .

Douglas G. Williams, a former Oklahoma City detective sergeant and author of a widely circulated underground manual on how to beat the machine, told House hearings on whether to bar the results of polygraph tests that it is possible to defeat the machine.

"I can tell the complete truth, or a complete lie, or anything in between, and still pass any lie detector test given any time, by anyone anywhere," Williams testified.

The OTA report cited "limited" evidence that deceptive persons who use physicial countermeasures including meprobamate, a particular tranquilizer, and hypnosis, "and who can distinguish nonrelevant from relevant questions . . . can increase their chances of avoiding detection."

"Employers routinely circumvent Federal law simply by asking employees to take a lie detector test," Williams charged. Although many areas such as past arrests and sexual habits are off-limits to employers in pre-employment tests, an employer "can disregard the law by paying a 'hired gun' to ask questions he is legally prohibited from asking . . ." he said.

Sharply contrasting appraisals come from Barefoot and Lawrence W. Talley, Days Inns' vice president for risk management.

"All of the scientific surveys of people who have actually taken polygraph tests show that the great majority do not find the test to be offensive, objectionable, or an invasion of privacy," Professor Frank Horvath, director of the American Polygraph Association Research Center at Michigan State University, wrote in USA Today.

Most polygraphers "have had little scientific or clinical psychological training," said psychologist Benjamin Kleinmuntz of the University of Illinois. "The typical background is a high school education and a six-week-to-six-month course in polygraphic examination and psychology—depending on state certification requirements, if any."

Even under the best of circumstances, when an examiner advises a person not be hired, he doesn't know whether the applicant would have made a bad or good employe, according to opponents of the tests. Nor does he know whether his inferences from the person's past foretell his or her future. And, commonly, the applicant neither sees the results of the exam or of the examiner's assessment nor knows just who may see the results.

TRIBUTE TO LEROY TYUS

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 1985

Mr. CLAY. Mr. Speaker, I am honored and privileged that Mr. Leroy Tyus, a longtime friend and political ally, has been chosen by the Service Employee Union, Local 50, as its "Person of the Year."

This award is given annually to a person or an organization that has given dedicated service to the St. Louis community.

My friend, Leroy Tyus, was born in Brownsville, TN, on February 4, 1916, to Mr. O.T. and Odelia Parker Tyus. He began his elementary and secondary education here in Brownsville and later attended Lane College in Jackson, TN. After 3 years at Lane College he decided to enter Lincoln University Law School, which was at that time located in St. Louis, MO. This was the beginning of his service years to the city of St. Louis.

In 1945, Leroy married Marie Holton and from this union two daughters were born, Cheryl and Cathy.

His first years of service to the St. Louis community began when he assumed the operation of the Army canteen from 1942–45. Shortly thereafter he owned and operated the very popular and successful Tyus Hotel and Antler Tavern. Soon after this Mr. Tyus became involved in local politics. He was elected to the Missouri House of Representatives where he served with distinction from 1950–60. He then was elected the committeeman of the 20th ward from 1960–83, at which time he retired. He also served as a delegate to the Democratic National Convention from 1964–80, was chairman of the first congressional Democratic Party, constable, righth magistrate district, operated his own private security agency, was a real estate broker, and is now currently a member of the Missouri Democratic Executive Committee.

Mr. Speaker, I feel that it is altogether fitting and proper that this distinguished, dedicated public servant, and politician has been selected to receive this outstanding award from the Service Employee Union, Local 50. I offer him and his wife and family my congratulations for a job well done and my best wishes for continued success in the future.

TRIBUTE TO MARGARET HELFRICH RETTINO

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 1985

Mr. TORRICELLI. Mr. Speaker, I rise today to pay tribute to Margaret Helfrich Rettino on the occasion of her 90th birthday. Born in Jersey City to William Helfrich and Margaret Reilly, Mrs. Rettino made her home in Moonachie, NJ when she met and married Louis F. Rettino in 1916.

Always actively involved in social causes, Margaret began her participation more than 70 years ago when she marched through the streets of Jersey City demanding the right to vote for the women of America. She is active in the Moonachie Senior Citizens Club, of which she is a past president.

Through the years she has also served her community as a reporter for the record, as a county committee woman from Bergen County, NJ as an officer of the St. Margaret of Cortona Rosary Society, as a member of the Washington Park Hose Co., Auxiliary, the Moonachie Volunteer Ambulance Corps, and has been a visiting homemaker with the Home Health Aide Service of Bergen County.

The Bergen County Board of Freeholders has recognized her work with the Bergen County Senior Citizens by presenting her with several citations throughout the years.

On Saturday, January 11, 1986, I look forward to joining Margaret Helfrich Rettino and her six children—Gesulmina Stagg, Agnes De Santo, Rose Wuestefeld, Louis, Rev. Mr. Robert Rettino and Brother William Rettino—her two sisters—Gertrude McVicar and Genevieve McCarthy—and her many friends and family to pay tribute to this fine woman on such a special occasion.

TORT REFORM RESPONSE TO INSURANCE CRISIS QUESTIONED

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 1985

Mr. FLORIO. Mr. Speaker, in seeking solutions to the current crisis of liability insurance availability, it is tempting to blame our tort system and the courts. This inclination is understandable. The courts have the authority to require compensation for injuries, so some people conclude that if premiums are rising, the courts must be entirely to blame.

Others point out that the purpose of insurance is to pay people when they are injured and that many factors besides tort standards affect whether coverage can be provided. They suggest that availability and affordability of insurance are also a function of whether there are enough prudently managed insurance companies financially capable of providing insurance; whether injuries are minimized through careful risk management; and whether regulators are exercising appropriate oversight. An ill-conceived or precipitous revision of the tort system might ultimately make things worse by removing incentives for risk management.

An articulate statement by Marlen Dooley elaborating some of these points appeared in a recent edition of the Camden Courier-Post. I am inserting a copy in the RECORD for the information of my colleagues and the public.

LIABILITY STANDARDS ARE NOT THE CAUSE OF INSURANCE CRISIS

(By Marlen Dooley)

Last August, a legislative commission was formed in New Jersey to examine the reduced availability of environmental impairment liability (EIL) insurance, and the dramatic rise in premiums. EIL insurance covers injury or property damage due to non-sudden, accidental releases of hazardous substances.

Insurance companies blame large awards, judicial interpretations favoring the insured rather the insurer, and the unpredictability of the high-risk market for their reluctance to cover EIL. The solution they offer is to alter the present liability standards—by legislating a monetary limit for liability, and by weakening the strict liability, or no-fault, standard used in court cases.

While these measures may be a safety net for the insurance industry, they are a disaster for the people of New Jersey. A cap on liability would only require industry to be responsible for claims filed against it up to a set amount. But someone must still pay for damages in excess of that amount. In all likelihood, that someone will be the state and, in the end, the taxpayer. This is wrong. The creators of pollution must be made to bear responsibility for it.

In addition, strict liability makes those who operate hazardous activities liable for damages regardless of how carefully they operate. This is because the industry is aware from the start that a plant, simply by its operation, creates a danger.

This standard does not mean that a victim will automatically win a court case. Plaintiffs must still prove that a particular site or chemical was the cause of their injury. This standard does, however, make it easier for victims to have their day in court. It also serves to place the initial burden of proof on the industry. If the standard is changed, the burden will be difficult for the victim to bear, both from a financial and an evidentiary standpoint.

But, there is another reason for maintaining strict liability. The purpose of strict liability is to cause those in control of dangerous substances to take whatever action is necessary to prevent releases into the environment. If those who handle toxic waste are aware that they are responsible for all damages occurring from their activities no matter how careful they are, they will be motivated to use the highest standard of care to avoid accidents.

Rather than seek to change the strict liability standard, insurance companies should play a major role in encouraging safer practices. First, the industry could require safety measures in its EIL contracts. For example, many insurance contracts require smoke alarms or sprinkler systems for fire coverage.

Second, by setting the costs of insurance premiums in relation to the amount of risk involved, those activities that are extremely dangerous would become very costly to insure. At some point, they could be priced out of the market. Thus the market would decide that an activity cannot be continued unless a safer method of operation is used.

But, the insurance companies have not sought to encourage safer practices. Instead, there has been little relationship between the level of risk to the environment and the cost of insurance. A 1985 U.S. Government Accounting Office study shows that for the past 10 years, the casualty insurance industry has charged unrealistically low premiums for high-risk activities. The premiums did not cover the possible claims, but they did provide a steady source of cash for reinvestment purposes. Now that investment rates have fallen, the gap between premium loss and investment gain has narrowed.

To make up for investment income, insurance companies are charging excessive premiums. This cash-flow underwriting practice not only doesn't result in safer practices but also leads to an unstable market and periodic crises, such as New Jersey's.

Insurance companies were given a monopoly under the McCarron-Ferguson Act. They receive substantial tax advantages, and cannot be sued for antitrust violations. The extraordinary economic benefits typical of a monopoly were granted because of the belief that the public good would be served by a uniformity of standards. The public would not be served by changing much needed liability standards. It is time the insurance companies lived up to their responsibility to the public.

Until they do, the state, which was granted power by Congress to oversee this industry, should examine the rate-making practices that have led to this crisis, and more strongly regulate the industry. In the interim, the state should institute measures, such as self-insurance pools, to assist municipalities and private entities that are unable to afford or even obtain EIL insurance.

EAST BAY WOMEN FOR PEACE AND EDITH LAUB CONTINUE TO STRIVE FOR WORLD PEACE ON 24TH ANNIVERSARY

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 1985

Mr. DELLUMS. Mr. Speaker, I wish to call your attention to a remarkable group, and invite you and my colleagues to join me in sending greetings to the East Bay Women for Peace, on the occasion of their 24th anniversary celebration, as well as to Edith Laub, who has been its chairwoman for the past 12 years.

I ask my colleagues to join me in saluting their dedication to the achievement of disarmament under effective international controls, large cuts in the military budget, and fulfillment of human needs. East Bay Women for Peace, which is affiliated with Women Strike for Peace nationally, came into being in 1961 to protest atmospheric nuclear tests. They have continued the campaign over the years to stop all nuclear tests, leading to the thousands of signatures collected for presentation at the summit meeting in Geneva, urging the United States to join the Soviet Union in a permanent comprehensive nuclear test ban treaty.

I take great pleasure in wishing them as productive a record in their next 24 years as in the first and to acknowledge the leadership of their chair, Edith Laub.

Happy 24th birthday, East Bay Women for Peace.

JAMAICA HIGH SCHOOL TO RECEIVE PRESIDENTIAL AWARD FOR EDUCATIONAL EXCELLENCE

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 1985

Mr. ACKERMAN. Mr. Speaker, I rise today to congratulate and praise Jamaica High School, of Queens County, NY, which will receive the Presidential award honoring educational excellence, to be presented by the regional representative of the Secretary of Education, on Friday, December 13.

Mr. Speaker, the truly outstanding and exemplary academic achievements of Jamaica High School make it uniquely deserving of this honor. Through a highly dedicated staff, whose motto is "Standards and Sympathy," along with the introduction of new and innovative programs, this preeminent high school has managed to inspire its students collectively to achieve a graduation rate that is over 94 percent, a dropout rate that is less than 4 percent, and a competency rate of 98 percent. These statistics, along with the fact that approximately 85 percent of its students go on to further their education, place Jamaica High School well above the national average.

More important than these numbers, however, is the high school's rich tradition of blazing new trails with innovative programs designed to fill intellectual gaps. Jamaica was the first high school in New York City to offer a humanities program. Furthermore, this fine hall of learning does not forsake the underachiever; it has projects that develop and cultivate the potential of young students who may need some additional or intensive instruction. Its math-science institute; a program to develop critical thinking skills; the school's computer science institute; and the Queens Academy of Finance, which the school directs, are just a few of the bold educational initiatives which set Jamaica High School apart.

As further testimony to the exceptional quality of this fine academic institution, it recently received a Carnegie Foundation grant of $43,000 for humanities research in multiethnic values. It is entirely appropriate that this school should be so honored, for it is itself so ethnically diverse, and it has worked so hard to emphasize the advantages of this diversity and capitalize on it.

I am proud to say that the accomplishments of Jamaica High School are not merely confined to the classroom. Its Action Program, set up at the start of this decade, requires students to complete four terms of community service before graduation, thus giving them a feeling of esteem and positive direction, as well as offering benefits to the school's neighbors.

Mr. Speaker, I call now on my colleagues in the U.S. House of Representatives to join me in congratulating Jamaica High School, its principal, Eileen Petruzillo, its staff, and its student body, for the unique and laudatory academic and social achievements that have earned this high honor.

OREGON JTPA PROGRAM

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 1985

Mr. AuCOIN. Mr. Speaker, recognizing that it was time for a new approach to the problems of unemployment, Congress passed the Job Training Partnership Act [JTPA] in 1983. JTPA combines Federal dollars with local initiatives, giving States wide latitude to tailor job training programs to meet specific needs.

During the 2 years JTPA has been in operation, my State of Oregon has come up with some innovative training programs. So innovative, in fact, that the National Alliance of Business has singled out Oregon as the premier JTPA program in the Nation. In presenting the award, William Kolberg, president of the National Alliance of Business, stated that "Oregon has been selected as the outstanding example of how a State is working with public-private partnerships to solve the Nation's unemployment problems."

Oregon's JTPA Program is administered by an outstanding group of private industry councils. These councils employ the talents of local government officials, business executives and managers—individuals such as Chuck McClellan, Western division manager for Portland General Electric; Chuck Frost, vice president of Tektronix, Inc; Vern Ryles of Poppers Supply, Co. and many other busy executives who have given freely of their time.

The wisdom of this approach is borne out by the number of people who have received services through the program. In 1984, 80 percent of all adult clients, 70 percent of youth, and 86 percent of their dislocated worker participants found jobs.

This year, JTPA has provided services to over 24,000 economically disadvantaged or unemployed individuals. Despite double-digit unemployment in much of the State, three out of four persons who contacted the Oregon Private Industry Council were given the chance to find meaningful, long-term employment.

Oregon's JTPA program has been unique in other ways. We've developed cooperative efforts between JTPA and local economic development agencies, creating a favorable climate for the expansion of existing firms and the location of new business in our State. The involvement of area business has made it possible for JTPA to focus on the needs of the community and fill those needs more effectively and more efficiently.

The Oregon JTPA coalition has also initiated an effort to reduce the number of high school dropouts in Oregon. The coalition is in the midst of a 3-year program to create alternative schools, combining job training with the regular academic curriculum. The goal of the program is to keep kids in school longer, with supplementary job training to help them meet the challenges of the marketplace when they do leave.

I congratulate those individuals involved with the Oregon JTPA Program, and wish them continued success.

VICTORY OVER DRUGS IN PARAGUAY

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 1985

Mr. KOSTMAYER. Mr. Speaker, the problem of drug abuse is something that concerns us all.

I hear frequently from parents, teachers, law enforcement personnel, and students about drug problems—problems that infect all communities, all types of schools, and potentially young adults of all ages and social background.

The battle against drugs must be fought in all areas—not the least of which is off our shores. For nearly all abused narcotics, particularly cocaine and heroin, are illegally imported from abroad.

That is why it is vital our State Department through its Bureau on International Narcotics Matters continues to urge other countries to cooperate with us in eliminating international traffic in narcotics.

I want to report a tremendous success in this war against drugs in Latin America to my colleagues, Mr. Speaker.

In October 1984 some 49,000 gallons of chemicals—ether, acetone, and hydrochloric acid—obviously intended for use in the manufacture of cocaine, were seized in Paraguay.

Paraguayan officials at first refused repeated requests by our Ambassador to meet to discuss the seized chemicals, and it was only natural that officials at the Bureau for International Narcotics Matters believed that the material seized would eventually wind up producing cocaine.

When I visited Paraguay in January of this year as a member of the House Foreign Affairs Committee with my colleague from New Jersey [Mr. TORRICELLI], I raised this issue with Gen. Alfredo Stroessner, the President of Paraguay.

Mr. TORRICELLI and I pressed the issue, and I told General Stroessner that there were concerns that high Paraguayan officials could be involved in the importation and ultimate use of the seized chemicals. I urged him in the strongest possible terms to destroy these chemicals.

General Stroessner assured me that the chemicals would not wind up in the drug trade. I am happy to inform my colleagues, Mr. Speaker, that today I have received confirmation from the State Department that after a lengthy legal process in Paraguay, the chemicals have been returned to Germany, where they were manufactured. This transfer took place under U.S. supervision. The U.S. Consul in Frankfurt cabled Washington that the chemicals, sent by ship through Bremerhaven, have been received at their place of origin, the German chemical firm, Merck.

I want to commend the State Department for following through on this case. The cooperation of other governments has not always been what it should be in matters involving narcotics trafficking. In this instance, pressure was brought to bear, and we have achieved a significant victory. The 49,000 gallons of chemicals seized, if used by drug traffickers, could have produced 8 tons of cocaine—the equivalent of fully 10 percent of the estimated United States annual consumption.

I would also like to thank 59 of my colleagues who joined me in writing to General Stroessner last February to express our concern.

We must continue to work with Latin America and other countries to halt drug production at its source. This type of effort is worth it in the long run, Mr. Speaker.

SALUTE TO TOMMY WINEBRENNER

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Ms. SNOWE. Mr. Speaker, I want to join in the genuine and sincere outpouring of farewell wishes for Tommy Winebrenner, whose departure takes away a part of this great institution, the U.S. House of Representatives.

Like some other Members, I had experience in the State legislature before being elected to this body, but I quickly found that the differences were legion. As a freshman, the complexities and confusion here in the House were overwhelming at times. Tommy Winebrenner, with courtesy and without fail, was enormously helpful in assisting me to get my bearing. He made me realize that there was indeed some hope that I would survive my first term.

I know that we've all probably gone to Tommy with what might charitably be described as inane questions, yet he handled even these with grace and aplomb. I think that he proves without question that merely having the information is not enough, you have to care about others and know their needs if you are to be a success in life. Tommy's great skill lies not just in his knowledge of this House, but in his appreciation of it and his willingness to help in any way possible.

Mr. Speaker, I am tempted to say that I hope Tommy doesn't really enjoy his new career, and that he will come back and work with us again. But I will not. He has given more of himself than anyone could possibly ask. He has made contribution to the success and prestige of this body any elected official would be proud of.

Tommy, you have been part of the fiber, unseen by the public, which nonetheless keeps our great experiment in democracy alive and well. I am, personally, grateful, for your patience and assistance to me, and for your undying faith in the American Republic.

PEGGY GOLDWATER WAS A FRIEND

HON. JOHN McCAIN

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. McCAIN. Mr. Speaker, those of us who were fortunate enough to have known Peggy Goldwater, who passed away Wednesday, were inspired by her compassion, intelligence, and sincere consideration for everyone she met. The 1964 convention is so memorable because of the picture of Senator GOLDWATER with a very lovely, striking woman at his side. I sincerely hope that all America will remember her this way.

For many years, sometimes trying years, Peggy stood beside her husband, providing support and inspiration to one of the country's most distinguished leaders. She touched the lives of thousands through her work for Planned Parenthood, Phoenix's St. Luke's Hospital, and Mount Vernon College in Washington, DC. Few have accomplished as much in one lifetime as Peggy Goldwater and few could ever hope to match her dedication to serving mankind.

I consider myself a very lucky person to say Peggy Goldwater was a friend. Treasuring that friendship forever, I will turn often to my memories of this remarkable woman for inspiration.

HOLLYWOOD, FL, CELEBRATES 60TH BIRTHDAY

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 1985

Mr. SMITH of Florida. Mr. Speaker, I salute 60 great citizens who have made contributions to the past, present, and future of the city of Hollywood, FL. These people came to Hollywood and fell in love with this oasis on the exciting gold coast and not only made it their home, but made it bigger and better. These people live and raised families in Hollywood and put back into the community what they took out to ensure that our city has another 60 vibrant years.

These citizens were recently honored by the Hollywood Democratic Club at a wonderful dinner and they are so deserving of honor that I want to personally record their names in this record. I salute the following people: Wilson Atkinson, Hank August, Ross Beckerman, Claude Blocker, Harvey Breeding, Dave Coay, Maurice Connell, Walter Cope, Irv Cowan, Betty Derington, Doug Donn, Barry Epstein, Bill Foster, Ed Foster, Art Frimet, Issac Gammel, Harry Gampel, Henry Graham, Myrtle Gray, Skip Grkovic, Jeff Gross, Gleason Halloway, Jim Hartley, Keith Hessey, William Horvitz, Doug Kaplan, Charles Lantz, Molly Leban, Quentin Long, Stan Marguilies, Mike Marinelli, Jesse Martin, Marilyn Morris, Bill Moy, Sal Mudano, Charlie Nelson, August Paoli, Charles Paoli, Michael Phillips, Frank Pinter, Arthur Raymond, David Rusah, Edward Salzman, Sheldon Schlessinger, Ronnie Schlichte, Art Segall, Al Serman, Phyllis Silverman, Mark Siple, Slatts Slater, Lew Soli, Ted Sorin, Cedric Start, Ben Tobin, Gert Tulk, Elmer Weigle, Rodney Young, George Young, Donald Zeller, and George Zinkler.

CALL TO CONSCIENCE

HON. BEN ERDREICH

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 1985

Mr. ERDREICH. Mr. Speaker, I want to add my voice to those of my colleagues who speak out on the deplorable situation of those in the Soviet Union who wish to emigrate but have over and over been denied this very basic human right.

Having returned from a trip to the Soviet Union this summer and meeting with many Soviet Jews, and those of other faiths, I am as committed as ever to continue our efforts to help those who have sought to emigrate, be reunited with family and have the freedom to follow their religious beliefs.

The recent summit with President Reagan and Secretary Gorbachev has produced little hope that the situation will change for people like the Boris Ghinis family or the Mikhail Kazanovich family who have been trying to emigrate for years but because of absurd reasons have not been granted visas. I was able to meet Mikhail Kazanovich while in Leningrad and have been in touch here in the United States with Irene Ghinis' family. I was moved by the courage and continued sense of hope that these people displayed in spite of the loss of employment, restrictions on university enrollment, illegal searches of homes, and an endless list of harassments of those who have tried to exercise their right to emigrate.

Mr. Speaker, I implore the Soviet Union to uphold the treaties and agreements they have signed and allow those that wish to emigrate so that husbands, wives, and children will be reunited to live as a family and live a life that they seek.

A BILL TO ESTABLISH THE RICHARD M. NIXON NATIONAL HISTORIC SITE

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 1985

Mr. DANNEMEYER. Mr. Speaker, today I am introducing a bill, at the unanimous request of the Yorba Linda City Council, to establish the Richard M. Nixon National Historic Site at the place of his birth in Yorba Linda, CA. The site will consist of his birthplace home and a visitor service center in existing facilities on 7.2 acres of land located in my congressional district.

This small one and one-half story frame bungalow was the home of Frank and Hannah Nixon for 10 years. Frank Nixon built the house in 1912 on the 9-acre farm where he raised citrus. The following year, on January 9, 1913, it was the birthplace of their second son, Richard Milhous. In 1922, when citrus farming became unprofitable, he sold the property and moved the family to Whittier. A small rear addition was put on the house at an unknown date and would be removed during restoration.

The property was owned by various individuals and by the local school board before the Nixon Birthplace Foundation gained title in 1978. The foundation owns a 1.1-acre tract in the immediate vicinity of the house. The Yorba Linda Elementary School District owns 6.1 acres of the original property which includes buildings ideally suited for the visitor service center envisioned by the bill. Private residents own the remaining 1.8 acres which would not be affected by this bill. The birthplace, which is in good repair, is currently leased out and not open to the public, although the exterior and historic markers may be viewed.

President Nixon expressed a preference for the birthplace as a National Historic Landmark at the time the issue was considered and ultimately agreed to by the National Park Service in May 1973. Representatives of former President Nixon, in response to recent inquiries, have confirmed that he still regards the birthplace as the most significant of the sites associated with him.

Specifically, the bill does the following:

SECTION 1. SHORT TITLE

This section states that this act may be cited as the "Richard M. Nixon National Historic Site Act".

SECTION 2. STATEMENT OF PURPOSE

This section states that the purpose of this act is to preserve and interpret the birthplace of Richard M. Nixon for the benefit, education, and inspiration of present and future generations.

SECTION 3. ACQUISITION AND RESTORATION OF PROPERTY

This section authorizes the Secretary of the Interior to:

First, acquire the birthplace property and improvements located at 18061 Yorba Linda Boulevard in Yorba Linda, CA;

Second, acquire the adjacent property and improvements owned by the Yorba Linda Elementary School District;

Third, restore the birthplace home and property surrounding the home within this historic site to its condition at the time of the birth of Richard M. Nixon; and

Fourth, develop the existing buildings within the site as a visitor center.

The Secretary is authorized to acquire and restore the property in this section by donation, or with donated or appropriated funds.

SECTION 4. ESTABLISHMENT AND ADMINISTRATION OF THE RICHARD M. NIXON NATIONAL HISTORIC SITE

This section establishes that the property acquired under section 3 shall be known as the Richard M. Nixon National Historic site and shall be administered by the Secretary in accordance with the act of August 25, 1916 (16 U.S.C. 1 et seq.) the act of August 21, 1935 (16 U.S.C. 461 et seq.), and the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–4 et seq.).

The Secretary is authorized to enter into agreements with public or private entities for the operation and maintenance of the site under the law cited in this section. The Secretary is also authorized to collect entrance or user fees under this section.

SECTION 5. ESTABLISHMENT OF THE RICHARD M. NIXON NATIONAL HISTORIC LANDMARK AT THE SITE OF HIS FIRST LAW OFFICE IN LA HABRA, CA

This section requires the Secretary of the Interior to list the former law office of Richard M. Nixon on the National Register of Historic Places if it satisfies the criteria established by the Secretary for listing on such Register.

Because of the size and location of the office, it is not feasible for the National Park Service to operate and administer the site. Since listing property on the National Register does not require any appropriations, it is an appropriate method for recognizing the significant role of Richard Nixon's legal background in his political career. This bill does not change current criteria for listing property on the National Register of Historic Places and expenditures beyond commemorating the property with announcements and plaques are specifically prohibited.

While my bill focuses on the Richard M. Nixon National Historic Site, I understand that the National Park Service has recommended passage of legislation to authorize historic sites for all three living former Presidents. I support this effort and hope that the committee will act favorably on this bill in tandem with legislation for the other living Presidents.

BALANCING ACT

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 1985

Mr. GARCIA. Mr. Speaker, after 4 years of ballooning deficits, the administration has finally come to its senses and, for the moment at least, has agreed to cut defense spending equally with domestic spending. As I said yesterday during the discussion on the Gramm-Rudman budget proposal, this administration has a history of insisting on increased defense spending while lowering taxes despite the size of the deficit. If, as they say, history repeats itself, we can predict from now the breakdown of the Gramm-Rudman reduction process. It almost sounds like some new diet—let's hope new weapons do not prove to be too much of a temptation.

Where has this adminstration been for the last 4 years, that they have just now begun to wake up to the dangers of their economic policies? The question of why the President is willing to do a complete turnabout on his pet program was succinctly answered in an article in today's Washington Post.

> One reason, they said, is that with three years left in his term, Reagan has come to view the $200 billion deficits as a potentially serious blot on the record of his presidency. For several years, Reagan ignored those aides—such as then-director of the budget David A. Stockman—who warned of peril in big deficits. But last summer, officials say, Reagan began taking a different—and more urgent—view of the red ink.
>
> "He said, 'I am going to be judged on it.'" says the senior official. "That's made it real for him."

This deficit has been real since this administration took office. All of a sudden the fear that history may show that this President left office with the most staggering deficits in our country's history has put the fear of spending into the President.

The Congress, in passing this legislation, has bound itself to reducing deficits. Let us hope that the President will feel equally bound when it comes time to do the cutting.

GRAMM-RUDMAN AMENDMENT

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 1985

Mr. RAHALL. Mr. Speaker, I wish to comment on the Balanced Budget and Emergency Deficit Control Act, frequently referred to as the Gramm-Rudman amendment, which has been incorporated into House Joint Resolution 372, the debt limit increase. After a great deal of deliberation, I find that in the interests of my constituents, I must vote against this measure, and did so last evening.

Initially, I opposed the Gramm-Rudman proposal to incorporate a balanced budget mechanism into the debt limit bill. My reasons were twofold. First, if this type of reform had merit, I believed that it could and should withstand the rigor of the committee process. A bill which is addressed by the full House and Senate without deliberation by the appropriate House and Senate committees, has more than ample room for serious flaw. As Representatives of our fellow countrymen, we are entrusted to review, to the fullest extent possible, every measure which is to become the law of the land. In a matter of such magnitude, this responsibility is especially present. I continue to believe that we cannot justify bypassing the committee process with such haste on a matter of such grave importance.

Second, I did not believe that this proposal was either fair or responsible. The original Gramm-Rudman proposal exempted several important, and costly, programs—totaling roughly one-half of the Federal budget—from the automatic reduction mechanism created by the amendment, leaving the burden of deficit reduction to America's veterans, needy, handicapped, and elderly. The President and the Senate were especially protective of defense programs at the expense of much needed social programs. It was with great consternation that I noted the exemption of prior-year contracts and obligations under the defense program, representing 38 percent of the total defense budget. I support a strong national defense. However, I do not believe that it can only be maintained by gouging Federal programs which are designed to provide the basic needs of our Nation's children, veterans, elderly, disabled, and needy.

While the conference agreement attempts to alleviate some of the burden placed on the recepients of certain low-income and pension programs, I do not believe that it fully satisfies my original concerns.

As in the original proposal, the agreement fails to address the matter of automatic reductions in the most fair and responsible fashion. It sets fixed dollar limits on the deficit, declining steadily until a balanced budget is reached in 1991. Further, the agreement also estalbishes a process referred to as "sequestration," that would make automatic spending cuts if the deficit limits are not otherwise met.

To make matters worse, however, the deficit targets for fiscal year 1986 were lowered considerably from what the Senate had proposed, thus ensuring that the process of making further cuts in the deficit will begin this year. The revised year-by-year limits would be as follows: fiscal year 1986, $179.9 billion; fiscal year 1987, $144 billion; fiscal year 1988, $108 billion; fiscal year 1989, $72 billion; fiscal year 1990, $36 billion; fiscal year 1991, $0. There will almost certainly be cuts in social programs this year if this measure is adopted.

Congress as a body has not prepared for the level of deficit reduction required by this measure. We can not now say that we would like to have a deficit of $179.9 billion in 1986. That is something that we should have prepared for. It is our job to ensure that the purse is divided in a fair and responsible fashion. We can not shirk that responsibility by saying at this late hour that everyone—no matter what the circumstances—must pay a fair share to achieve our whim.

Some of my colleagues will argue that this is a fair compromise. After all, the conference agreement requires that half of the necessary spending cuts come from defense and half from nondefense programs. In addition, some programs would be exempted from automatic cuts, and cuts for others would be determined by special rules and limitations. While this is a more reasonable approach to deficit reduction, we can not be so blind as to assume that this type of radical reduction will not do harm—both in the short and long term—to our economy.

Furthermore, in so short a time, can we be certain that we have thoroughly reviewed this measure? We must not jump on the bandwagon of deficit reduction without first checking that the wheels are secure. I urge my colleagues to think about this measure. See it for what it is—a hastily conceived attempt to address one of the most serious issues of this decade. I for one believe we owe our opponent—the Federal deficit—a more thorough review. We can no longer afford to be hasty in determining budgetary matters.

SENATE—*Friday, December 13, 1985*

(Legislative day of Monday, December 9, 1985)

The Senate met at 10:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

In a moment of silence, let us remember Dean Burridge, who works in our leader's office. His father was buried yesterday.

God of Abraham, Isaac, and Israel, this sixth day of Hanukkah, remembered by Jewish people worldwide, celebrates their deliverance and the miracle 2,000 years ago, of the lamps in the temple which burned for 8 days though there was oil enough for only 1 day. We praise You, Lord, for the resilience and perseverance of this remarkable people, despite indescribable suffering and persecution. May Your sovereign blessing continue to rest and abide with them everywhere and may Your divine deliverance come to those who are oppressed today, to the glory of Your name and fulfillment of Your purpose.

Father in Heaven, be present in the midst of conferences and committees and with those seeking agreement on the issues which face Congress and must be resolved before we adjourn. Give wisdom to the conferees that justice will be done and especially we pray for Your care and Your comfort for the farmers who wait anxiously for equitable resolution to their desperate plight. In the name of Him who knows, who understands, who loves. Amen.

RECOGNITION OF THE MAJORITY LEADER

The **PRESIDENT** pro tempore. The distinguished majority leader is recognized.

SCHEDULE

Mr. DOLE. Mr. President, under the standing order, the leaders have 10 minutes, and then routine morning business not to extend beyond the hour of 11:15 a.m., with Senators permitted to speak therein for not more than 5 minutes each. Then we are going to return to the White Earth Indian bill, S. 1396, under a time agreement. I am advised, unfortunately, that there have been three votes asked for on that matter. I would hope that we could vitiate the yeas and nays in a couple of those instances. It is another example of punishing a number of our colleagues who are tied up in very important conferences. They are going to have to leave the conference, come to the floor, and cast a vote that I think could be handled with a voice vote or a division or whatever.

So I hope that the managers of that bill can reduce the number of rollcalls, since the majority leader is involved in a conference on the farm bill. We have 20 or 30 other Senators involved in the reconciliation conference, and the continuing resolution conference I hope that—and I was not here when the votes were ordered—whoever requested the votes might reconsider and let us maybe have one instead of three votes.

Also, the Senate could turn to S. 1915, the counterterrorism bill, but only if there is a time agreement; the same with armor-piercing bullets, S. 104; and any conference reports available on the so-called must items. I do not believe any of those will be available today. We will also take up any other Legislative or Executive Calendar items that can be cleared. I hope we can now take care of most of the nominations on the Executive Calendar, particularly the judicial nominations some of which have been pending for a long time. I have had a call this morning from the Attorney General asking for us to expedite or at least clear those before we leave here today. I am hopeful that the distinguished Presiding Officer might be able to help us in that area.

I am advised that the low level nuclear waste compact, which we hoped to do by unanimous consent, is now being objected to by the Senator from Oklahoma, Senator BOREN. Hopefully that can be worked out.

Therefore, we will have a fairly busy day today. I do not know of any reason to be in session on tomorrow, unless I am advised by 1 or 2 o'clock by Senator HATFIELD or Senator DOMENICI that they would have the continuing resolution conference report completed, which I do not believe is possible, or the reconciliation conference report, which I do not believe is possible.

So I believe it is safe to assume, unless I hear to the contrary, that we will not be in session tomorrow and there is not much reason for a late session today. If we can dispose of all these matters, perhaps we can be gone from here by 3 o'clock. Again, we are seeking to accommodate over half the Members of the Senate who are involved in one conference or another. They will be involved in those, I assume, late into the evening and probably most of the day tomorrow.

TRAGIC CRASH OF A MILITARY AIRCRAFT

Mr. DOLE. Mr. President, yesterday morning, a DC-8 charter, which left Germany bound for Hopkinsville, KY, carrying 250 servicemen of the 3d Battalion 502d Infantry of the 101st Division and 8 crew, tragically crashed, killing all aboard—including servicemen from my home State of Kansas.

The families of these brave men returning home for the holidays deserve our heartfelt condolences. While difficult times lay ahead, I know their loved ones will find comfort in the many expressions of love and affection from family and friends.

It is a cruel irony, Mr. President, that these servicemen, as part of the Sinai Peacekeeping Force, served in an area of the world fraught with violence. It was their responsibility to help maintain the peace and security in a region accustomed to the scourge of war. These servicemen may not have died on the battlefield, but how often we forget that simply being an American serviceman is a dangerous undertaking. How often we forget the routine stresses and strains to which these courageous men are subjected on a daily basis.

These proud men in uniform were returning home to spend time with family and friends; it was indeed going to be a joyous holiday. While tragedies of this kind happen all too often, the fact that so many servicemen died in this one plane crash serves, once again, as a graphic reminder to all of us the sacrifice these patriotic Americans are prepared to make on behalf of their country in the cause of peace and freedom.

Mr. President, I know I speak for my many colleagues who represent the many States these men hail from, in expressing profound sorrow at the death of these men, and extend our condolences to the families of the deceased.

RECOGNITION OF THE ACTING MINORITY LEADER

The **PRESIDENT** pro tempore. The distinguished acting minority leader is recognized.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that 2 minutes of the Democratic leader's time be reserved for his use later in the day at his discretion.

The PRESIDENT pro tempore. Without objection, it is so ordered.

WHEN THE RISE OF TERRORISM JOINS NUKE PROLIFERATION: WATCH OUT!

Mr. PROXMIRE. Mr. President, one of the most disturbing elements in international relations in 1985 is the rise of terrorism. It is the nightmare of the age. Within the next few years, it could become infinitely worse. Why? Here is why: To date, terrorists have struck with TNT, grenades, and small arms. Unless we stop the spread of nuclear weapons, the time is coming, and coming soon, when terrorists will strike with small but absolutely devastating nuclear charges. Already both superpowers have tens of thousands of tactical nuclear weapons. Many of these weapons are small enough to be carried by one person. They can easily be concealed in the trunk or back seat of an ordinary passenger car. These compact nuclear weapons have the power to blow an entire city block to smithereens. So what happens when, sometime in the next few years, terrorists begin to work with tactical nuclear weapons?

Because of the shocking impact of television, right now, terrorism is a front and center concern throughout the world. Americans still carry vividly in our minds the terrible massacre of 231 marines in Beirut. We are haunted by the tragedy of U.S. State Department officials kidnaped and murdered. In the last few months, civilian passenger planes carrying American citizens have been hijacked. Terrorists savagely shot some of the passengers. Terrorists even seized a cruise ship. They brutally murdered an elderly, ill American passenger.

Will these terrible incidents pass like a bad dream? No. We can expect these cruel, violent acts to continue. Have we developed a strategy or even the beginning of a strategy to stop these terrorist acts? No. Terrorists strike at anytime, in any place, with an infinite variety of motives. Escape is easy for them. Jet flight has spectacularly diminished the time it takes to traverse thousands of miles. A terrorist can choose any of 213 separate sovereign countries in every part of the world. Even on those rare occasions when U.S. military officials can trace a terrorist's escape route, the United States has no effective extradition treaties in many cases.

There are steps we can take to protect ourselves against this terrorist threat. We can increase our efforts to penetrate terrorist organizations wherever they exist with our own intelligence agencies. We can work more cooperatively with foreign intelligence. For instance, the Israelis are reputed to have an extraordinarily efficient intelligence capability in the Middle East. We can provide more thorough security precautions for international flights that use American airports. We can insist, as a condition of American travel, that other countries also institute the most meticulous and thorough security safeguards for international flights. We can put far more resources into the pursuit of terrorists who perpetrate crimes against American citizens. We can pursue such criminals, relentlessly, and do our best to bring them to justice.

Now let us not kid ourselves, Mr. President. Even if we pursue all of these antiterrorist activities fully and faithfully, we cannot prevent determined and fanatical terrorists from vicious acts of violence and brutality against American citizens everywhere in the world including within the territory of our own United States. And we can only diminish that terrorist activity to the extent that we make its results in the damage it does to America's resolve less than the damage we can threaten to the terrorists, and to the state that may support the terrorists.

Now suppose these terrorists begin to secure control of tactical nuclear weapons. Then what happens? The advantage for the terrorist swiftly and sharply increases. Then a single terrorist bomb does not simply blow up a barracks and some 200 Americans. It can blow up a large part of a city and kill tens of thousands of Americans.

Armed with tactical nuclear weapons, the terrorist does not become more vulnerable. He becomes less vulnerable. He can plant his nuclear charge in a locker in the Grand Central Station in New York City, peacefully deposit his 50 cents, set the timer on his nuclear charge for 6 hours, and take the next flight to someplace a couple of thousands miles away.

Could this happen? It not only can—it will. How do we stop it? We stop the spread of nuclear weapons technology. Only a few weeks ago, a new study by Leonard Spector for the Carnegie Endowment for Peace showed how dangerously nuclear weapons proliferation has been picking up steam. Mr. President, this country has the greatest potential capability of any country in the world to stop nuclear weapons proliferation. Together with the Soviet Union, we have the power, the technology, and certainly the motive to stem the spread of nuclear weapons. We are not doing that now. We will not do it unless we recognize that with the rist of terrorism, the spread of nuclear weapons to more and more countries constitutes the most serious danger to human life in the world today. We can stop it. We must.

TRIBUTE TO MESSRS. HYNES, BEAN, HART, AND NORTON

Mr. PROXMIRE. Mr. President, it is time we Senators recognize the long, hard hours put in on behalf of the Senate by the young men who serve this body in the Democratic cloakroom. They are Patrick Hynes, Bob Bean, Joe Hart, and Bill Norton. They come to work every morning at 8 o'clock or earlier. They work until at least 45 minutes after the Senate has gone out. They take little or no time out for breaks—even for lunch and dinner. Typically they eat at their desks. They man the telephones for 10 or 12 or 14 hours day after day, every day. Sometimes they work until after midnight. Unlike Senators, during those long hours they never take a nap, or have a drink or watch television or read the paper. They work.

They do everything they can to round up Senators during rollcalls. They have to know whether Senators are in their offices in the Senate office building, or in their capital offices, or at a committee hearing, or a committee markup or in one of the House office buildings in conference, or at some agency downtown, or in a restaurant or a tavern or an embassy. Wherever Senators are, the young men in the cloakroom find them, alert them to rollcalls, and often provide transportation for them.

Patrick, Bob, Joe, and Bill also keep Senators informed and up-to-date on what is going on on the floor, what is pending, what the pending business provides, what the prospects are for a rollcall and when the rollcall may occur.

Mr. President, this cloakroom work is highpressure business. These young men have to respond instantly and accurately. They have to put up with criticism—almost always unfair criticism. Senators occasionally take out their frustration at missing a rollcall or missing plane reservations, or staying too late by rudeness to the cloakroom people. Senators' staffs also are sometimes brusque and mean. But in spite of the long hours, the high pressure, the often rude treatment, I have never in the 28 years I have served in this body heard a single ill tempered or impolite word from these young men, or their predecessors, and I have never heard another Senator or Senate staffer who has reported even a single incident of impolite conduct.

Mr. President, my secretary tells me when she talks with staff people on other staffs, she often gets a brush-off—or from the White House, or from other people. They are human. We can expect them to make mistakes. But it is astonishing to me that these young men in our cloakroom have been so remarkably polite.

Mr. President, here is a civility aspect of this body that we have too seldom noted. We take it for granted. We should not. I doubt if there is any group of people in this country who when they work long hours, under pressure, are more faithfully, competently, and courteously served than we are by our cloakroom personnel. All of us owe thanks to Patrick Hynes, Bob Bean, Joe Hart, and Bill Norton. It is time they received it.

Mr. President, I apologize for having made this expression of gratitude to Democratic cloakroom workers partisan. But I am a Democrat. My associations with the Republican cloakroom have all been very happy and civil. But they have been confined to rare occasions.

MYTH OF THE DAY: CHINA IS ABANDONING SOCIALISM

Mr. PROXMIRE. Mr. President, the myth of the day is that China is abandoning socialism. Catchy slogans have recently glossed the front covers of America's weeklies, describing extraordinary changes now being undertaken in China. Two of the most expressive titles were "Capitalism in China" and "China, Moving Away from Marx." Some observers have stretched the interpretation further, claiming that China was "repudiating Marxism," "embracing capitalism" and even adopting a pluralistic form of government.

Now, the political and economic reforms instituted in China since Mao's death in 1976 have been significant, but limited, very limited. Specifically, let us examine the four key determinants of an economic system: property ownership, decisionmaking power, information and coordination flows, and motivational factors.

PROPERTY OWNERSHIP

If capitalism can be defined as the private proprietorship of economic activity, then signs of capitalism in China remain very minor indeed. The state continues to own almost all of the means of production—the land, buildings, and technology—and some 400,000 industrial enterprises. In fact, in 1984, state-owned enterprises produced 75 percent of gross urban industrial output, and accounted for 68 percent of total retail sales. Cooperatives not privately owned enterprise accounted for almost all of the remainder. Private enterprise as we know it is still doing little in China.

Over the past 5 years, the number of individually owned retail and service stores have multiplied more than 15 fold—from 686,000 in 1980 to 9.3 million in 1984 to 10.6 million today.

In the rural areas, the collectives still own most of the land, although they are increasingly leasing out parcels of land to individual families for 15 years or longer. Under this new production responsibility system, families meet state production quotas and then are free to decide what to produce and how much.

DECISIONMAKING POWERS

Decisionmaking in China remains largely vertical, in the sense that the party plays a major role in society. The party continues to control appointments to important positions in the government and state enterprises and exercise supervision over the nomination of candidates for election to local legislatures. The party still initiates the great majority of major national policies and undertakes occasional attempts to encourage proper moral behavior, such as the spiritual pollution campaign. While the party is willing to permit considerable creativity in the interpretation of Marxism, it does not tolerate the acceptance of any ideological alternative.

The Chinese leadership has accelerated its program of decentralizing economic control. After 1978, and more dramatically following the Third Plenum of the Twelfth Party Central Committee in October 1984, the party provided greater autonomy to various enterprises, allowing them production, supply, marketing, and even some pricing decisions. They were also given greater freedom over labor recruitment practices and wage levels. The decentralization of decisionmaking authority—used with great success in the countryside as well—has helped China's top 8 percent real economic growth in the past 2 years.

INFORMATION AND COORDINATION FLOWS

The state still plays the determining role in the setting of prices. Commodities of national importance, such as steel, coal, oil, and grain, are still subject to mandatory planning. Other goods are generally subject to guidance planning—whereby the state uses its control over taxes, pricing, capital, and supplies to encourage production—with market adjustments. In both industry and agriculture the state makes most of the production and allocation decisions.

While the state does influence the setting of prices to a large extent, markets are increasingly playing a major role in allocation and pricing. In the rural areas, more and more produce is being sold on the free market. In industry, products that remain after state plans have been fufilled can be sold to consumers or wholesalers for prices determined by market forces. In the end, however, the role of the market is still subordinate to that of the plan.

MOTIVATIONAL FACTORS

Material incentives are not only accepted by the Chinese leadership, but also are praised. The pragmatic Deng Xiaoping, who once remarked that it did not matter if a cat was black or white—as long as it catches mice, was recently enthusiastic in discussing the responsibility system: "If you want to bring the initiative of the peasants into play, you should given them the power to make money." Making money and profit is no longer a bad thing.

The collective ideals have not been tarnished either. The educational system, the workplace, and the family unit all encourage the inculcation of strong moral and social values. Indeed, social cooperation and harmonious society have both constituted a foundation for Chinese political philosophy throughout the centuries. The conclusion, then, is that material and moral incentives both play vital roles in the Chinese economy.

In sum, remarkable transformations have gripped China in the past months. The reforms are real; their consequences are potentially revolutionary. Somehow and someway, the American observer needs to take off his colored lenses and take a good hard look at the world's most populous country. He will not find a modern Western liberal state nor a free market laissez-faire economy. It is time to debunk the myth: China is not abandoning socialism.

ATROCITIES REVEALED IN AFGHANISTAN

Mr. PROXMIRE. Mr. President, Dr. Julliette Fournot is director of a French humanitarian organization aiding victims of the war in Afghanistan. On October 4, the National Review published her account of an incident in a southern Afghani province where hundreds of men, women, and children were murdered.

Based on a series of interviews conducted among survivors, Dr. Fournot documented synchronized massacres in four Afghani villages. She learned that on December 12 of last year, 400 Soviet soldiers had surrounded these 4 villages. With tank reinforcements, the soldiers entered homes and at close range shot the occupants, including pregnant women. Before Afghani resistance could arrive, the number of dead rose to 631.

More accounts from Afghanistan reveal other atrocities: Decapitation, mutilation, and gory murders. These are not acts of war. These calculated, deliberate killings of hundreds of innocent civilians closely compare to genocide.

Documentation of incidents like the Afghanistan massacres prove that genocidal tendencies are not things of the past. These events continue to occur today. Their gruesome details not only remind us of the Holocaust of the past, but also of the need to prevent such human disasters from occurring today and in the future.

The Genocide Convention is a preventive mechanism against this awful phenomenon. Its provisions will check the abuse of human rights and human life in grotesquely violated nations like Afghanistan. Ratification of the convention will champion progress toward peace across the globe.

For more than 30 years the Genocide Convention has awaited the advice and consent of the Senate. Eight Presidents have urged for its ratification.

This unquestionable mandate should spur the Senate to quickly ratify the Genocide Convention. It must be done to restrain the rising death tolls in Afghanistan and around the world.

Mr. President, I yield the floor.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER (Mr. HATFIELD). Under the previous order, there will now be a period for the transaction of routine morning business for not to extend beyond the hour of 11:15 a.m. with statements limited therein to 5 minutes each.

CRISIS IN NATURAL GAS MARKETPLACE

Mr. BOREN. Mr. President, I would like to point out a crisis situation that is emerging in the natural gas marketplace among producers, transporters, and consumers. It is also of grave concern to many of my colleagues from both producing and consuming States.

I see my colleague from New Jersey is on the floor at the moment. He is one of those who has expressed the greatest level of concern for this crisis, and how it is impacting consumers.

My own State of Oklahoma is one of the largest producers of natural gas. At present, it is estimated that approximately 600 million cubic feet a day of natural gas is "shut in," causing tremendous economic dislocation.

Not enough attention has been paid to the problems of independent producers whose gas has been shut in. Something must be done immediately to assure that their gas will be carried to their markets on a fair and nondiscriminatory basis by pipelines.

I want also to assure that the pipelines will be fairly treated. They have some legitimate concerns I will work to address. However, in the meantime, if pipelines do not start to voluntarily carry gas for the producers, I will work with my colleagues, including the distinguished Senator from New Jersey, early in the next session to write legislation to make certain that shut-in gas will be moved to the consumer markets.

Of course, consumers as well as producers are suffering as a result of the present stalemate. We could face the closing of plants and the loss of jobs if we fail to get gas to the end use consumers on a fair basis. We cannot afford to wait until all of the problems of gas pricing are solved before dealing with the immediate transportation crisis.

This problem stems from the failure of the interstate pipelines to participate in the opportunity to voluntarily carry gas, which was afforded them by the Federal Energy Regulatory Commission [FERC] in their order 436. The FERC attempted to address many problems within the industry in this order: Transportation, take-or-pay liabilities, expedited certification, and block billing. As the Senate struggled and failed to comprehensively address these issues last year because there were too many problems to resolve, so the FERC may also be hampered. Perhaps it is time to address these issues separately.

Part A of FERC order 436 was intended to introduce competition into the interstate natural gas industry so as to benefit both consumer and producers through the vehicle of open access transportation. But, its effect on the industry since its issuance on October 9 has been just the opposite. Various programs that have been in place, referred to as special marketing programs [SMP], that heretofore provided for the transportation of natural gas, have ceased, thereby causing two immediate adverse effects. First, producers have lost the opportunity to sell "market sensitive" priced gas via the SMP's, causing billions of cubic feet a day of gas to be shut in in the producing States. Second, commercial and industrial companies, which represent all residential customers throughout the country, have lost the opportunity to purchase market-sensitive priced gas. This gas, in all instances, falls below the weighted average cost of the gas supplied by interstate pipelines system.

Congressional hearings were held on this order. The testimony heard from a vast segment of the Natural Gas Industry States in essence that open access, nondiscriminating transportation of natural gas, a concept known as contract carriage, must be available to insure the accessibility of competitive supplies of natural gas.

In response to the problems caused by the order, Senate Resolution 255 was introduced on November 7. It asked that the FERC provide certain incentives to pipelines which would provide them a reason to voluntarily transport gas.

Recent action by the FERC has provided some incentives. On Tuesday, December 10, the FERC extended the period for conversion for contract demand customers from 4 years to 5 years and reduced the percentage reduction from 25 percent annually to 15 percent the first 2 years, 20 percent the third year, and 25 percent each of the 2 remaining years. In addition, the FERC allowed for the extension of the expiration date previously set this Sunday, December 15, for section 311 transactions under the NGPA to continue until February 15, 1986. The pipelines have now received additional incentives to participate voluntarily in the open access transportation.

I hope that they will move to do so while we work on the overall pricing problems in the natural gas industry. Pipelines do have legitimate long-range concerns but we must in the short run get the gas moving to consumers on a non-discriminatory basis for the independent producing sector and for the sake of consumers as well.

I repeat, Mr. President, if this does not happen on a voluntary basis, I will certainly work with my colleagues early in the next session to write legislation to make certain that this shut-in gas moves at fair prices to consumer markets.

Mr. BRADLEY. Mr. President, the problem that both the Senator from Oklahoma and I are addressing today is a problem that results from there being more than adequate supplies of gas in the producing States of this country, there being very strong demand for this gas in the consuming States of this country, and there being an expressed unwillingness on the part of the major interstate pipelines to carry the gas from the willing producer to the willing consumer. This is a problem that I have worked with for at least the last 2 to 3 years on so-called contract carriage legislation, as part of the overall effort to try to allow the market to allocate gas and price gas nationally, and, over the last year, as an effort simply to connect these two willing participants in the marketplace, the consumer and the producer.

Mr. President, a little history: the original rule 436 was issued back in May 1985. It was a complex order and contained four interdependent parts. All aspects of the industry were affected and the four parts worked together as a package to spread the burden implicit in a sudden shift to a decontrolled national gas transportation system.

In October 1985, part 4 of the rules, the so-called block billing part, was delayed until the summer of 1986. This move, which was largely due to unsubtle pressure, I might say, from elements of the Senate Energy Committee, was an expensive one for consumers and a victory, I believe, for the producers. Studies have estimated that the block billing provision would have saved consumers about $5 billion this year.

But then in November 1985 a modified rule was enacted. It did not have block billing. The emphasis was now solidly on pipeline companies and the access to gas transportation on a nondiscriminatory basis.

This, I believe, was still a proconsumer rule and it had only two problems: The rule was voluntary and, almost without exception, the pipelines did not volunteer. In fact, only one major pipeline, Columbia Gas, has agreed to participate.

As it has turned out, the Columbia system is now being used to capacity for the first time in years.

Mr. President, there was also on this page Tuesday another FERC action. That action made two fundamental changes in the rule. First, it reduced the flexibility that pipeline customers will have to switch to suppliers who decide to participate in a competitive market. And, second, the grandfathering provisions which allowed certain gas transportation agreements to remain temporarily in effect were extended.

Neither of these changes represents a strengthening of the rule. Both, in fact, are changes much more likely to undercut the rule.

I say this for several reasons.

First, the extension of grandfathering provisions takes the heat off the pipelines. Even though many customers will remain cut off from the benefits of a competitive transportation system, the pipelines now face an enlarged market for gas. The market pressures for nondiscriminatory access, therefore, are mitigated.

Second, the access to competitive markets envisioned by FERC is metered by customers' allowable contract demand reduction. The latest FERC action slows dramatically the rate at which firm customers can turn to the competitive market.

The rule originally permitted a yearly contract demand reduction of 25 percent for each of 4 years. The modified rule has a 5-year phasing period with only 15 percent contract demand reduction allowed in the first or second year.

I might say by reference that the original bill that I introduced on contract carriage would have permitted 100 percent access immediately.

So, Mr. President, I think it is important that we look ahead at the direction that the FERC rulings have taken and at the reluctance on the part of the pipelines to carry the gas. In looking at the FERC rulings in the best possible light, we could say they should be incentives for the pipelines. Then we have to caution the pipelines to make sure they take this opportunity to embrace a market based on price competition.

The Senate is going to recess and we are going to go over until January. If over the next 6 weeks there is no progress and pipelines do not begin to carry more gas to willing consumers from willing producers, personally I think it could be time for legislation to mandate such action.

I might also say that a piece of legislation that was backed by a coalition of angry gas producers who have the gas and want to sell it, and angry gas consumers who want to buy the lowest possible priced gas, seems to me to be legislation that would move with speed and success in this body.

Mr. BOREN. Mr. President, I want to congratulate my colleague from New Jersey for the comments he has just made. Of course, it would be no surprise that on some points of the energy policy, the Senator from New Jersey and the Senator from Oklahoma would not be in absolute and total agreement. Block billing is one instance which has been mentioned today. Oklahoma has a different point of view.

What does come through loud and clear is what has just been said by both of us, that there is a very strong common bond between consumers who want to buy gas at a fair price and producers who now have their gas shut in and want an opportunity to sell it.

I agree with what the Senator from New Jersey said, that this is a very strong coalition that is building, a very strong community of interests that binds producing and consuming States together. I think it is a coalition that will be able very effectively to move legislation early in the next session if there is not action taken on a voluntary basis by the pipelines to provide the transportation of this gas.

My State is both a producing and a consuming State. We have consumers who are also going to be hurt and are being hurt by the failure to move gas. We have producers who are being devastated. They have no cash-flow now as their gas is being shut in. They are not able to service the notes on the money they borrowed to drill those wells, produce those wells. We have farmers. I do not tell anybody in this body the plight the farmers are in even those who are royalty owners. There are 100,000 royalty owners in my State alone who are principally farmers but who are deprived of that source of extra income to help pay their mortgage and save their land because this gas is now being shut in and not moved by the pipelines.

I understand the pipelines have some concerns. As I said earlier I am willing to try to work to address those concerns, but at this time, there is such a strong common interest in fair nondiscriminatory distribution of the gas now being shut in—inflicting economic damage at one end of the pipeline, being denied to consumers on a fair basis, inflicting economic damage at the other end of the pipeline—that I think we will be forced to take action if there is no action by the producers themselves.

Mr. President, I appreciate the comments made by my colleague from New Jersey.

Mr. BRADLEY. Mr. President, if I may, I wish to compliment the Senator from Oklahoma on the conviction with which he made his point. I think that both of us would like to see pipelines voluntarily carry gas. Both of us would like to see FERC remain strong in its view that the pipelines should carry the gas. I think as a last resort, we would look at legislative remedies, but I think the colloquy today should clearly put people on notice that we certainly do not exclude legislative remedies and that we will continue to talk along with many of our other colleagues, so that in the absence of any kind of substantial progress, there could very well be a legislative effort in the next session.

Mr. BOREN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. COHEN). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BOREN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO TOM IMESON

Mr. HATFIELD. Mr. President, as the Sun sets on this session of the Congress, it might be helpful to look in retrospect at the milestones which came to pass in the last 12 months. Many will be quick to point to the Reagan-Gorbachev summit, the hysteria surrounding the adoption of deficit reduction package, which led to the resulting exercise in fantasy called Gramm-Rudman, and the numerous incidents worldwide exposing the spread of terrorism. All of those are worthy of immediate recognition.

But I would like to point to another milestone, one which passed quietly but not without poigniancy, which occurred in September when Tom Imeson left my staff to take a position with my friends at Pacific Power & Light [PP&L].

I first met Tom when he was a scruffy, wild-eyed 19-year-old kid. It was at that time in 1969 that Tom began working on my staff, and no one, not Tom, not I, not anyone, could have foreseen the tremendous service which was to come to the citizens of Oregon and this great country. When he left the Senate 3 months ago, in his wake were countless hours of staff work which went into historic legislation like the Oregon Omnibus Wilderness Act of 1977, the Wilderness Act of 1984, the timber contract relief bill, and the multitudes of other Oregon natural resource initiatives. Excepting a brief period in 1972 when he was working on my first reelection campaign, and the year of 1980 when Tom left my office to go into private business—until he came to his senses and returned to my employ—Tom Imeson's service to the people of Oregon was

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uninterrupted. In many ways he became my eyes, my ears, and my voice in meeting after meeting on natural resource issues in virtually every city and county in Oregon. I cannot count the number of times representatives of environmental groups or timber companies or civic groups came to me and shared with me their high regard for Tom and for the manner in which he represented me. They would point to his sincerity, his humiliy, and most of all, to his truthfulness and competence, and value him as an exceptional asset of my office. Of course they did not have to tell me this—I knew it, Gerry Frank, our office AA knew it, and every past or present member of my staff knew it.

In the departure of Tom Imeson, I am reminded of a statement attributed to George Bernard Shaw, on precisely what constitutes happiness and fulfillment. He said:

> This is the true joy in life, the being used for a purpose recognized by yourself as a mighty one; the being thoroughly worn out before you are thrown on the scrap heap; the being a force of Nature instead of a feverish, selfish little clod of ailments and grievances complaining that the world will not devote itself to making you happy.

When I think of Tom Imeson, I think of a man with a great sense of purpose. He sees himself first as a husband to his wife Brenda and as a father to his sons Sean and David. And he sees himself as playing a role in the stewardship of the natural resources of the Nation, particularly the Northwest. In both of these capacities, Tom sees his purpose permeated by the desire to serve his God.

So while the Senate's loss, particularly my loss, is great, it is not begrudging. We are happy for Tom in his new employment with PP&L and we know that he will bring to that organization his customary competence and pleasantness as he endeavors to serve his purpose on this Earth by serving the needs of his family and his fellow citizens.

MIA's

Mr. LEAHY. Mr. President, one of the tragic legacies of the Vietnam war is the nearly 2,500 American servicemen listed as missing in action and, over a decade after the end of the war, still unaccounted for. The MIA families continue to endure uncertainty about the fate of their loved ones. There continue to be tantalizing hints that a handful may even still be alive. The Nation cannot bring to a close this sad chapter in its history. Whatever one thinks of the Vietnam war—and I was a firm opponent of our involvement—all Americans want to see this terrible MIA tragedy brought to a conclusive end.

I am appalled by the Government of Vietnam's manipulation of the MIA issue, apparently as part of an effort to prolong contact with the United States Government in the hope that these discussions might lead to wider contacts. Vietnam desperately needs economic assistance, and has long hoped the United States might become a major source of aid. In this Chamber, there may be many differing views on the wisdom or value of diplomatic ties or aid relationships with Vietnam. However, I believe no member of the Senate or indeed the Congress, would tolerate for an instant the use of the MIA issue as the basis for a broader exchange with that country.

If, as many believe, Vietnam is deliberately prolonging the search for the MIA's, and even is "warehousing" the remains of some to release periodically so that the United States will continue this channel of contact, then Hanoi profoundly misunderstands the feelings of all Americans about our missing men.

Mr. President, a bipartisan delegation of Senators, led by Senators FRANK MURKOWSKI and DENNIS DECONCINI, will go to Vietnam, Laos, and Thailand in January to seek greater cooperation from the governments of those countries in finally resolving the MIA cases. This is a most important and difficult mission, and I warmly commend Senators MURKOWSKI and DECONCINI for undertaking it. They have my strong support and my best wishes for success in their meetings. There are families of MIA's in my own State of Vermont. I want the U.S. Government to do everything possible to free any prisoners that may still remain in Indochina, and to find and bring home to a final resting place the honored dead.

Senators MURKOWSKI and DECONCINI demonstrate that this is an issue which unites Americans. It is a human issue—not a partisan one.

MARTHA LAMKIN AWARDED PRESIDENTIAL RANK MERITORIOUS EXECUTIVE AWARD

Mr. LUGAR. Mr. President, this week, my longtime friend, the area office director for HUD, Martha Lamkin, was awarded the Presidential Rank Meritorious Executive Award. She was 1 of only 96 Federal executives who received this award, although over 6,700 Federal executives were eligible.

To me, this was an extraordinary event. Located outside of Washington, working in a department that has not always enjoyed the best reputation, Martha Lamkin was picked for one of the most prestigious awards available to Federal employees.

She was picked because she epitomizes the best in public service. Quietly and professionally, she has transformed the State HUD office into an efficient, responsive, cost-effective organization.

In spite of large budget cuts at HUD, staff reductions at every level, and new stringent cost limitations in each program, Mrs. Lamkin has made HUD a positive force for Indiana progress. Builders, city officials, and homeowners have all found a new partner.

Cities throughout Indiana have found a willing ally in their efforts to develop, and to fight decay. Builders have found someone who has tried to help projects move forward rather than someone who has hindered. Cooperation and partnership have been achieved while meeting every efficiency and cost-cutting directive imposed by Washington.

Martha has achieved a remarkable record which is altogether consistent with her past record of dedication and high public service. She is well known and respected throughout Indiana. Now she has received a little well-deserved recognition at the national level and I thought my colleagues would like to hear an example of dedication and excellence as we struggle through the final days of this session.

YOUTH EMPLOYMENT OPPORTUNITY WAGE ACT OF 1985

Mr. DENTON. Mr. President, I regret that the Congress has not yet enacted the Youth Employment Opportunity Wage Act of 1985. It contains a jobs program that makes sense. The bill has 28 cosponsors and is an initiative proposed by the administration.

We know that employers are often reluctant to hire unskilled young people at the current minimum wage. By passing this legislation, we will give employers a real incentive to hire and train young people who might not otherwise have the opportunity to gain work experience and a paycheck.

I believe that we all understand the importance of work experience as a qualification for many types of employment. The National Bureau of Economic Research has estimated that work experience for young people is an important determinant of wages in the first 4 years out of school. The study suggests that each year of work experience is associated with a 10- to 20-percent increase in wages.

It is not surprising, therefore, that the proposal has gained the support of political and community leaders from across the political spectrum.

Supporters of the proposal from the business community include the U.S. Chamber of Commerce, the Business Roundtable, the National Federation of Independent Business, the National Association of Manufacturers, and the National Small Business Association. Furthermore, the proposal is supported by the National Conference of

Black Mayors, the American Association of Black Women Entrepreneurs, Inc., the National Alliance of Postal and Federal Employees, the National Association of Cuban-American Women and Men, and the other organizations particularly concerned about the well-being of minorities. These are only some of the organizations that support the bill. Many of these organizations have worked diligently for the enactment of the proposal. I am particularly proud that the Alabama Conference of Black Mayors strongly supports the measure. These leaders realize that the best hope for America's future lies in promoting job opportunities for teenagers.

It is not simply a question of economics. Serious social problems are created by youth unemployment. There is a definite correlation between juvenile crime and unemployment among young people. On the other hand, youthful employment teaches responsibility, budgeting skills, and the importance of economic independence. Most of us can remember well the great value of our own early employment and realize that we want our young people today to enjoy those same benefits.

The amendment contains several important provisions. It targets jobs for young people under the age of 20 years; the program would run from May 1 to September 30 for a period of 3 years; it allows employers to hire youth at $2.50 per hour, or about 75 percent of the current minimum wage, without requiring employers to meet certain paperwork requirements; it prohibits employers from using the program to displace current employees; and it would not add to the Federal budget deficit.

Some people are worried that by creating a youth minimum wage differential we will harm adult workers. I reemphasize, therefore, that this measure contains several important safeguards. First, it would create a temporary program of only 3 years duration; and it would require a report by the Secretary of Labor on the efficacy and effectiveness of a youth wage differential.

Second, the bill contains prohibitions against, and penalties for, displacing adult workers by substituting lower cost youth employees. Moreover, the program would not apply to any young person who has been employed by the employer at any time during the 90-day period prior to May 1 of any year during which the program would be in effect.

Those protections should ensure the integrity of the existing minimum wage, provide employers with incentives to hire teenagers, and give us an opportunity to experiment boldly with a new type jobs program, one that does not add to the Federal deficit.

Mr. President, I hope that my colleagues will recognize the need for the youth opportunity wage amendment. Despite sustained economic growth over the past several years, youth unemployment remains tragically high. The Department of Labor announced last week that over 10 million jobs have been created since President Reagan took office. Unfortunately, far too few have been created for our youth. The unemployment rate for youths as a whole is approximately 20 percent, while the rate is more than double that for black youth. In my home State of Alabama, the overall rate is approximately 30 percent.

If we act soon, thousands of teenagers in Alabama and across the Nation will benefit. It is estimated that the program would create approximately 400,000 new summer jobs for our youth. In addition, if those States with minimum wage laws also provide for a $2.50 summer minimum for young people, the employment could increase to 640,000 new jobs.

It is time for the Congress to enact this proposal. We should not let pass another summer during which millions of teenagers face the discouragement and frustration of unemployment. Let us instead use the power of the marketplace to tape the tremendous resource represented by our Nation's young people.

Mr. President, I ask unanimous consent to insert in the RECORD an article from the Birmingham News written by the Honorable William Brock, a list of all the organizations supporting the measure, and other material from several organizations supporting the bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Birmingham News, June 23, 1985]

A "YOUTH OPPORTUNITY WAGE" BELOW MINIMUM WAGE MAKES LOTS OF SENSE

(By William E. Brock, Secretary of Labor)

Diversity is an exciting American phenomenon. As I've traveled throughout the country it's a fascinating montage. But there is, sadly, a common tragedy—teenagers are out of work in alarming proportions. According to the latest Labor Department figures, the nation's overall teenage unemployment rate is 18.9 percent. For black kids it's much worse—40.4 percent.

This is simply unacceptable. There is no single solution to this problem, but one idea that can be tried quickly and easily is a youth opportunity wage. This proposal would create additional summer jobs for teenagers by permitting employers to pay them $2.50 per hour instead of $3.35. It's a pretty straightforward concept. It says that many youngsters can't get work, can't get that first job, because companies now are required to pay any and all workers the minimum wage.

For many young people—especially those from disadvantaged backgrounds—the first step on the job ladder is the steepest. They've never had a real job before, so they have no work experience and no references from former employers. Often their parents and friends are unemployed, so they are of little help in finding a job. The result is a cycle of frustration and failure that can lead to a lifetime of unemployment, welfare and crime.

A youth wage could help break the cycle. It imposes no paperwork or other bureaucratic burdens on employers. It simply encourages them to take a look at their operations with an eye toward finding additional entry-level jobs that they are willing to fill at $2.50 per hour but not $3.35. Isn't it better for a teenager to be working for $2.50 an hour than not to be working at all?

Of course, young people hired under a youth wage will appreciate the money they earn. In the long run, however, less tangible benefits may be more important. Those hired will experience the sense of pride and self-respect that goes with being a productive member of a society that puts a high value on work. They also will learn the essential disciplines of work: Punctuality, productivity, following directions and respect for supervisors and co-workers.

The youth wage proposal is only one part of a much broader effort to reduce teenage unemployment. This year the administration has allocated $825 million to the states to fund 770,000 summer jobs for disadvantaged youth. Young people also receive priority attention under the Job Training Partnership Act. Of the more than $3.2 billion spent on job training by the Department of Labor last year, more than $2 billion was targeted to youth.

The youth wage would supplement these efforts. But it would do so without requiring the expenditure of any tax dollars or adding to the budget deficit. And it would create jobs in the private sector. Here in the Birmingham area, as in the rest of the nation, the private sector is where the vast majority of jobs are, and where today's young people will have to earn their living as tomorrow's adults. The sooner they become acquainted with the private job market, how it functions and what its employers expect, the better.

Although untried in the United States, a general youth wage differential is not an untested idea. It is part of an overall approach to youth unemployment in Canada, as well as in the Netherlands, Sweden, New Zealand and Australia. By and large, the youth differential wage programs in these democracies have increased employment opportunities for young people.

Youth unemployment has been a festering problem in our country for more than three decades. A special wage for teenagers might make some difference. It could create 400,000 or more additional jobs. The administration's proposal calls for a three-year test limited to the summer months. It includes safeguards that can and will be enforced. It requires an evaluation report to Congress. And if it doesn't work, we can go on to something else.

But we owe it to ourselves and to our young people to give it a chance.

ORGANIZATIONS IN SUPPORT OF THE YOUTH EMPLOYMENT OPPORTUNITY WAGE

American Association of Black Women Entrepreneurs, Inc.

American Association of Nurserymen.

American Farm Bureau.

American Furniture Manufacturers Association.

American G.I. Forum.

Associated Builders and Contractors.

Board of Supervisors, County of Los Angeles.
Boys Clubs of America.
Business Roundtable.
Coalition of Hispanic Mental Health and Human Services Organizations.
Community Service Society of New York.
Food Service and Lodging Institute.
Fraternal Order of Police.
National Alliance of Business.
National Alliance of Postal & Federal Employees.
National Association of Cuban-American Women and Men.
National Association for Equal Opportunity in Higher Education.
National Association of Home Builders.
National Association of Manufacturers.
National Association of Minority Contractors.
National Association of Retail Grocers.
National Association of Truck Stop Operators.
National Association of Uniform Manufacturers & Distributors.
National Association of Wholesale Distributors.
National Conference of Black Mayors.
National Conference of Republican Mayors and Municipal Elected Officials.
National Club Associations.
National Federation of Independent Business.
National Grocers Association.
National Puerto Rican Forum.
National Restaurant Association.
National Small Business Association.
Organization of Chinese American Women.
Printing Industries of America.
Retail Bakers Association.
Recreational Vehicle Dealers Association.
SER-Jobs for Progress, Inc.
U.S. Chamber of Commerce.

Statement by Board of National Conference of Black Mayors, April 20, 1984

In a dramatic opening session of the National Conference of Black Mayors, the urgent need for new national policies to reduce unemployment among minority youth led to the passage of a resolution in support of an experimental summer youth opportunity wage program.

The resolution came in the face of strong arguments against relaxing any aspect of the standard wage floor.

At issue was the Mayors' concern that any lessening of wage standards versus the compelling need to develop new solutions to get minority youth off the streets and into gainful employment be addressed immediately. Present estimates of black teenage unemployment range as high at 75 percent.

A critical element in persuading the National Conference of Black Mayors' membership to go along with the ground-breaking resolution was the experimental character of the initiative, as well as the crisis in black teenage unemployment.

The real-life experience of black mayors at the grass roots level of government—seeing more and more structurally unemployed minorities and especially young blacks—and less and less money for summer employment—dictated that there be some effort, some experiment to help now to solve the problem.

The mayors hope that their leadership on the subject will lead to a constructive dialogue within the national and local black communities on how best to assure mainstream employment for black youth.

The fear expressed by some mayors was that support for this youth measure might be misread or misconstrued to suggest weakened support for full adult employment at full wages. To meet these concerns, clear provisions were insisted upon to bar any adult worker displacement, under pain of civil and criminal penalties.

Resolution Adopted by Board of National Conference of Black Mayors, St. Louis, Mo., April 18, 1984

The National Conference of Black Mayors (NCBM) believes that everyone should earn the minimum wage or above. However, given the tremendous problem of youth unemployment and particularly the problem of minority youth unemployment and given the persistence of the tragedy of youth unemployment, despite a history of programs designed to reduce youth unemployment, be it resolved the NCBM supports an experimental summer youth opportunity wage program which increases youth employment opportunities which would not displace youth or adults currently employed at or above the minimum wage, and which provides sanctions sufficient to prevent abuse.

Nation's Oldest Federal Industrial Union Endorses YEOW

In spite of labor opposition to a lower wage for youth workers during the summer months, the National Executive Board of the independent black led National Alliance of Postal and Federal Employees, today, endorsed the "Youth Employment Opportunity Wage Act of 1985."

"As the men and women on the National Alliance's Board struggled with the competing arguments for and against the legislative proposal known as YEOW, two factors above others compelled us to support the proposal," explained NAPFE President, Robert L. White, in announcing the Union's decision.

"First, youth unemployment is a major problem. The excessively high rate of unemployment among black teens is a national disgrace. No program to date has stemmed the tide of runaway youth unemployment. Clearly, our youth need job opportunities. And YEOW promises to create 400,000 summer jobs for youth.

"Second, even though the National Alliance unequivocally supports the minimum wage and believes that the current minimum is too low, the Union also realizes that many youth lack the adequate skills to earn the minimum wage. The YEOW program will give youth a foot in the door. The YEOW wage rate is a floor not a ceiling. A youth's first job leads to another job. We cannot afford to trap our youth in a lifetime of joblessness. Even if not fully successful, YEOW deserves a chance to prove its critics wrong."

Essentially, YEOW, if enacted, would apply to youth 19 and under from May 1 to September 30. It calls for a temporary three year program which would allow employers to hire youth at $2.50 per hour. White said the Union's leadership is satisified adult workers will not be displaced by youth workers provided there is strong enforcement of sanctions against substitution.

Commenting on the fact that the NAPFE position is a sharp departure from the stance taken by the affiliated unions, White said, "We are not afraid to stand alone on issues when we are guided by principle. In 1984, we were the only union at the national level to endorse Reverend Jesse Jackson's candidacy for the Democratic nomination. We were criticized then and we expect criticism now."

White emphasized the Union's endorsement of YEOW in no way supersedes its strong support for H.R. 671, "The Youth Employment Incentive Act." According to White, "It is simply imperative that as many steps as possible be taken to cure the problem of youth unemployment." White concluded, "It is significant that the National Conference of Black Mayors endorsed the experimental summer program since it is comprised of the very mayors who are confronted with the problems of jobless youth on a daily basis."

The NAPFE, the oldest industrial union in the federal government, has a regular and associate membership of approximately 50,000 spanning 137 locals in 37 states, the District of Columbia and the Virgin Islands.

U.S. Chamber Asks Every Member of Congress To Support Youth Employment Opportunity Wage Act

Washington.—The U.S. Chamber of Commerce has asked each member of Congress to support passage of the Youth Employment Opportunity Wage Act which would allow the summertime hiring of 16-to-19-year-olds at 75 percent of the federal minimum wage.

In individual letters to all senators and representatives, Chamber President Richard L. Lesher said, "The need to provide job opportunities for youth is a critical problem which Congress has not addressed adequately to date."

He noted that the bill is also backed by the National Conference of Black Mayors, the Fraternal Order of Police and the Boys' Clubs of America.

Passage of the legislation would give more young people the opportunity not only to make necessary money from summer jobs but to gain the needed work experience for future permanent employment, Lesher said.

"The youth differential benefits employers, employees, consumers and young people. Employers, particularly small businesses in the service and retail industries, could hire additional workers and offer more services. The full-time year-round employee, who now often carries a heavier workload and more responsibilities as a result of reduced staffs, would benefit from additional help.

"Consumers might be afforded better service in cleaner and safer marketplaces. Most importantly, more young people would be given the opportunity to work, would be told "yes" instead of "no" when they put in their job applications, and would learn job skills and disciplines," Lesher said.

Resolution of Support—Youth Employment Opportunity Wage Act

Whereas, Boys Clubs of America currently serves over 1.2 million boys and girls in 1,100 Clubs across this nation and has been in service to young people for 78 years;

Whereas, the youth unemployment rate among 16 to 19-year-olds is currently over 18%, and is much higher among inner city youth;

Whereas, less than 3% of the more than 6,000,000 jobs created since November, 1982, have gone to teenagers;

Whereas, the unemployment rate for adults has consistently shown improvement and been under the 10% level for some time, thereby, easing the concern that teenagers might take their parents' jobs;

Whereas, the Youth Employment Opportunity Wage Act provides for stiff penalties, including fines and prison terms, against employers who discharge adult workers to hire eligible youth;

Whereas, the Youth Employment Opportunity Wage Act provides for a three year experimental program where 16 to 19-year-olds could be paid 75% of current minimum wage ($2.50 per hour);

Whereas, this Youth Employment Opportunity wage would only be in effect from May 1 through September 30, each of the three years;

Whereas, thousands of Boys Club members are unemployed and currently faced with limited employment opportunities;

Whereas, research indicates that the Youth Employment Opportunity Wage Act would create 400,000 to 640,000 new summer jobs for youth;

Whereas, at the summer peak only 58% of all the nation's white youth have jobs, and only 31% of all black youths have summer jobs;

Therefore, be it resolved that Boys Clubs of America supports the proposed Youth Employment Opportunity Wage Act which we view as a realistic effort to ease the unemployment problem among our nation's young people.

IN SUPPORT OF THE YOUTH EMPLOYMENT OPPORTUNITY WAGE

DEAR SENATOR: The Boys Club of America, Inc., Inter-Racial Conference for Human Life, National Alliance of Business, National Puerto Rican Forum, OICs of America, Inc., and SER—Jobs for Progress, Inc. share a common goal of increasing employment opportunities for the economically disadvantaged. For many years, a large part of our resources and daily activities have centered on providing training, counseling and leadership to needy and minority youth as they seek jobs or to those who work with them in this endeavor. We are very aware, from first hand experience, of the debilitating effects on society and young people when they cannot find work at a critical state in their development toward self-sufficiency.

We join together in this letter to reiterate our support for the youth employment opportunity wage (S. 797) now before the Senate. We endorse this measure because we realize, as does the Senate, that the magnitude of youth unemployment, particularly for minorities, affects our national well being and that this tragic situation cannot continue unabated without serious consequences. The youth employment opportunity wage provides an immediate and important response.

We have carefully considered the many issues inherent in a youth wage rate. Ultimately, we chose to support the Administration's proposal because it offers the promise of employment to potentially hundreds of thousands of young people currently denied the chance to gain experience, self confidence, effective work habits, and income for one's labor. Youth unemployment is caused, to a great extent, by the economy's inability to absorb all those who want work. The summer youth employment opportunity is designed to act as a stimulus for job creation—as many as 400,000 new jobs could result from its implementation. Any other initiative providing immediate job opportunities for so many young people would be prohibitive in a time of budget constraint.

Further, we believe that this legislation has been constructed to address the most pertinent concerns arising from a nationwide implementation of a youth differential. The legislation limits the wage rate to May through September and puts in place sanctions for the discharge, transfer or demotion of any current employees to protect workers not covered by the youth wage. Most significantly, this is a demonstration proposal that must be evaluated during the trial period. If Congress is satisfied with the results, the youth employment opportunity wage may be reauthorized. If not, the demonstration will be terminated. Regardless, we will have gathered extensive and valuable information on this long debated issue and its effect on youth employment.

At times, the current minimum wage works against the interest of those who are perceived by employers as less productive due to limited experience or age or immaturity. Workers who bear this burden most heavily are youth, and minorities in particular—the very individuals who often need extra help in entering the labor market. We are hopeful that by easing the minimum wage on a very limited basis, that young people will be less penalized by this side effect of the minimum wage law.

Finally, our organizations are strong advocates on behalf of targeted education and training programs serving economically and educationally disadvantaged young people. The youth employment opportunity wage is not a substitute for those programs that provide basic education, employability development, and skill training that will lead to long-term integration into the work force. These programs are essential because they deal with youth unemployment and its causal relationship from poor schooling, racial discrimination, and other socio-economic factors. But we recognize that these programs are limited to the extent that they depend on public funding, federal, state or local institutional support, attendant paperwork, and outreach to the targeted population. The youth employment opportunity wage is able to by-pass these hurdles in large part and make its case directly to the public. Employers may choose whether or not they will offer youth the new wage rate for summer employment, and teenagers can decide on their own whether to accept a job at that rate.

We believe the youth employment opportunity wage rate deserves to be tried. Coupled with a thorough federally supported evaluation, there is much to be gained and learned with little risk from this effort that can help improve the futures of our nation's young people.

We urge your support for this proposal, and we look forward to discussing this issue with you further.

Sincerely,

William R. Bricker, National Director, Boys Clubs of America; William H. Kolberg, President, National Alliance of Business; Elton Jolly, President, OICs of America, Inc.; Maurice Dawkins, President, Inter-Racial Conference for Human Life; Hector Valezquez, President, National Puerto Rican Forum; Rolando Esparza, President, SER-Jobs for Progress, Inc.

THE SALT II TREATY

Mr. LEAHY. Mr. President, as the 1st session of the 99th Congress draws to its weary close, I ask the Members to reflect on a very important fact: Had the SALT II Treaty been ratified, it would have expired on December 31 of this year. However, instead of having a legally binding treaty, the United States has been following a policy of informal observance of the main provisions of SALT II, so long as the Soviet Union showed equal restraint. That is a policy I and others in this body have advocated and, under considerable political pressure from the administration to leave it a free hand, fought to preserve.

In 1984, Senators BUMPER, CHAFEE, HEINZ and I introduced an amendment to the defense authorization bill urging President Reagan to continue the mutual observance of the SALT II ceilings, which the President calls the no-undercut policy. Our amendment putting the Senate on record for the first time in support of observance of SALT since Congress voted in favor of the SALT I agreements, passed by an 82 to 17 vote. To put it bluntly, Mr. President, 1984 was an election year, and many people wished to have a cost-free arms control vote. I say cost-free because, as was well understood in the executive branch and in Congress, the "no-undercut" policy required nothing of the United States in terms of dismantlements to that point, while forcing the Soviet Union to make significant cuts in sea-launched ballistic missiles to remain within the applicable SALT limits. Nevertheless, as I vividly recall, our amendment was bitterly criticized by some in this body, and fought until the last moment by the administration. Only when it became crystal clear that the Bumpers-Leahy-Chafee-Heinz amendment would pass comfortably did the administration drop its resistance.

This year proved a more difficult test for the mutual restraint policy. In August, the seventh U.S. Trident submarine, the U.S.S. *Alaska*, went to sea trials. Had the United States not initiated compensating reductions in other mutiple warhead ballistic missiles, we would have beached a key SALT II ceiling. Again, the same bipartisan coalition pressed the Senate to declare its support for the "no-undercut" or mutual restraint policy, in order to avoid a total collapse of restraints on strategic offensive systems. On June 5, by a 90 to 5 vote, the Senate adopted our resolution. This was the second time the Senate voted overwhelmingly that the United States should continue the SALT II ceilings. Mr. President, I would like to recall for my colleagues the key language of that amendment:

> The United States should, through December 31, 1986, continue to refrain from undercutting the provisions of existing strategic offensive arms agreements to the extent that the Soviet Union refrains from undercutting those provisions, or until a new strategic offensive arms agreement is concluded; and provided, however, nothing in this section shall be construed as prohibiting the U.S. from carrying out other pro-

portionate responses to Soviet undercutting of strategic arms provisions.

On June 10, after the Senate vote, President Reagan announced that he would order the dismantling of the launchers on an old Poseidon submarine to offset the missiles on the new Trident. Thus, the policy of informally observing the SALT II limits was preserved, even at the cost of the United States, for the first time, actually dismantling strategic launchers to comply with the numerical ceilings.

Mr. President, we are all familiar with President Reagan's characterization of the SALT II Treaty as "fatally flawed" when he was campaigning against then-President Carter. Once in office, however, and facing the responsibility for U.S. security, President Reagan found, just as the Joint Chiefs of Staff had testified in 1979, that the SALT II Treaty limits favored the United States. More was required of the Soviet Union to comply with the SALT ceilings than was required of the United States. The deal was a good one for the United States, and it made no sense to scrap it. So, campaign rhetoric forgotten and real responsibility on his shoulders, the President decided to protect the national interest. I applaud him for it, even though I believe it would have been far better had he used his tremendous political base in 1981 to have asked the Senate to approve ratification of the SALT Treaty. This would have gained for the United States even more advantage, as the Soviets would have had to take a net reduction in strategic missiles of some 250 launchers to reach the new ceiling of 2,250. Perhaps even more importantly, the way would have been cleared for immediate initiation of SALT III negotiations. I do not think it inconceivable that, had SALT II been ratified in 1981, we could be on the threshold of deep reductions in SALT III at this very moment.

Mr. President, I ask unanimous consent to include in the RECORD several newspaper articles about the views of the Joint Chiefs of Staff toward observance of the SALT II limits and about the President's June 10 decision. I also ask unanimous consent to include in the RECORD at the conclusion of my remarks some excerpts from a recent study by the Arms Control Association entitled "Countdown on SALT II," which detail the dismantlements required by both the Soviet Union and the United States to remain within the numerical limits of SALT, and an article from today's Washington Post about the support of our NATO allies of the no-Undercut policy.

I would like to remind Members of the Senate again of the December 31, 1986, date cited in the Bumpers-Leahy amendment. It is clear the balance of obligations under the SALT II limits favor the United States through that period—and even longer in my judgment. Therefore, when the November summit was announced, I was optimistic that President Reagan, having twice made the decision to preserve the SALT limits, would seek an agreement with General Secretary Gorbachev to extend the interim restraint regime at least through next year. Senators BUMPERS, CHAFEE, HEINZ and I wrote the President urging him to take this step. My hopes were heightened when I read several stories in the press as the summit approached that conversations were going on between Secretary of State Shultz and his Soviet counterpart about the "no-undercut" policy, and that tentative agreement had been reached.

Then, Mr. President, came the notorious leak of the letter to the President from Secretary of Defense Weinberger recommending against any understanding with Mr. Gorbachev on SALT. This was a heavy-handed maneuver to energize SALT opponents and to box in the President. It may have coincided with the Presidents own views. It certainly made it politically more difficult for him to deal with the issue in Geneva. In any event, as we all know, the opportunity to seek an explicit understanding with the Soviets on the interim restrain regime was foregone. By all accounts in the press, the Soviets wanted such an understanding and it was easily within our reach had the President wished to capitalize on Secretary Shultz' presummit discussions.

Next year more decisions will be required of the President about SALT. In May, the United States will send the eighth Trident submarine to sea. The U.S.S. *Nevada* will put the United States over the 1,200 limit on launchers of multiple warhead missiles unless the President orders the offsetting dismantlement of the launchers on two Poseidon-class submarines. I read in the press that the Navy has already identified the candidate submarines. This is very encouraging. With another summit scheduled next year, there is reason to think that the President will maintain the current policy at least until he meets again with Mr. Gorbachev. Nevertheless, there will be great pressure on him to scrap the SALT limits. This effort is already visible in the press. I would simply remind the President that the U.S. Senate has twice made known, by huge majorities, that it believes the United States should not abandon the SALT regime, at least through 1986, while efforts are made to conclude a new arms agreement.

I ask unanimous consent that an article from Business Week of December 9 on the arms control situation facing the President after the summit be included in the RECORD at the conclusion on my remarks.

Mr. President, I and many others have fought for several years now to keep the United States and the Soviet Union within the SALT framework. We do so knowing full well that the SALT II Treaty is less than an ideal arms control agreement. We are aware that much more significant reductions and limitations are urgently needed to bring the arms race under control. But, we also recognize that, even with its absurdly high ceilings, its designed room for growth in weapons, its allowances for new systems, SALT is all that presently stands between the two superpowers and a totally unrestrained race in strategic nuclear weapons. That is why we have fought so hard, and why we, or certainly I at least, will continue to fight to keep the SALT regime in being until a new agreement is in place.

Mr. President, I firmly believe history will someday judge that not ratifying the SALT II Treaty was one of the major failures of the U.S. foreign policy in the final quarter of the 20th century. The strategic, diplomatic, and political costs have been very high, and only partly redeemed by the informal mutual observance of the numerical limits. In truth, the limits and ceilings of SALT are far less significant than the process of dialog on strategic stability for which SALT framework was devised. That process, inaugurated in 1968, was to be a rational effort by two nations which understood their very physical existence was at stake to reduce the risk of nuclear war. Its interruption in 1979 was a tragedy. The failure to resume it seriously in 1981 was equally a tragedy. What else but tragedy can we call the loss of the last 5 years?

Mr. President, one of the peculiar characteristics of being American is to have an abiding faith in technology's ability to solve problems. Technology has served us well, and contributed to the highest living standard in the world. But we also have a tendency to think technology can solve the nuclear threat. The President's conviction, and I believe it is a sincere and well-meant conviction, that star wars can end the nuclear menace is a manifestation of our fascination with technological solutions to a fundamentally political problem. Real disarmament depends on a basic alteration of the political equation between East and West. That will be a long time in coming. In the meantime, it is vital that we do whatever is possible to avoid a nuclear catastrophe. By failing to ratify SALT II and to get on immediately with SALT III, we have disrupted the most hopeful, most meaningful attempt to lower that terrible danger.

President Reagan has chosen a new and different strategy, one which combines an immense nuclear modernization program, a new technological initiative in strategic defense, and an effort to negotiate deep reductions at Geneva. I do not know what his strategy will produce. In frankness, my fear is it will lead only to even more frightful weapons, less security, greater instability, and a growing risk of nuclear holocaust.

Mr. President, December 1985 is indeed a month to remember. It might have been a month when we were celebrating the replacement of SALT by a new arms reduction treaty. Instead, to my profound regret, it is a month when we are marking what might have been.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[Published by the Arms Control Association and the Ploughshares Fund]

COUNTDOWN ON SALT II

U.S. SALT DEACTIVATIONS

The SALT I and SALT II agreements have required the United States to deactivate 320 ICBMs, 544 SLBMs and 11 nuclear-missile carrying submarines:

Between 1972-75, the United States removed 260 Minuteman I ICBMs and 60 Minuteman II ICBMs in order to increase the number of Minuteman III ICBMs from 230 to 550. (Replacement of the Minuteman I and II by the newer, MIRVed Minuteman III had been scheduled before SALT I.)

Since 1972, the United States has replaced 176 Polaris A-3 SLBMs on 11 submarines with Poseidon C-3 SLBMs.

Since 1979, the United States has replaced 192 C-3 SLBMs with Trident C-4 SLBMs on 12 submarines.

Since 1980, the United States has withdrawn 10 Polaris submarines carrying 160 A-3 SLBMs in preparation for the deployment of Trident subs.

In 1985 the United States was required to dismantle a Poseidon submarine carrying 16 C-3 missiles to remain within the SALT II limits as a new Trident missile-carrying sub began sea trials.

Between 1985-90, SALT II will require the United States to remove or retire a number of older ICBMs, SLBMs or ALCM-carrying bombers as new ones are deployed. Although the precise number of deactivations would depend on developments in U.S. modernization programs, approximately 200-300 systems would have to be removed:

The United States is scheduled to deploy between 50 and 100 MX missiles. For every MX deployed, a Minuteman III will have to be removed.

Three additional Trident subs are scheduled to be deployed, each with 24 C-4 or D-5 missiles. Because the United States has reached the 1,200 ceiling on MIRVed launchers, it will have to dismantle a MIRVed ICBM launcher or MIRVed SLBM launcher for every MIRVed SLBM deployed.

The United States plans to modify 96 B-52H bombers to carry ALCMs. (98 B-52Gs have already been so modified.) Once the number of ALCM-carrying B-52s reaches 120 in late 1986, the United States will have to retire either an existing ALCM-carrying B-52G or a MIRVed ICBM or SLBM launcher for each additional B-52H deployed.

SOVIET SALT DEACTIVATIONS

The SALT I and SALT II accords have required the Soviet Union to remove 1,007 ICBMs, 233 SLBMs, and 13 Yankee-class nuclear missile-carrying submarines:

In order to comply with the SALT I and II "freeze" on "heavy" ICBMs, between 1973-80 the Soviet Union withdrew 288 SS-9 ICBMs as SS-18 ICBMs entered the force. SALT II also prohibited the Soviet Union from testing and deploying a "new" heavy ICBM and limited the extent to which existing heavy ICBMs could be modernized.

Between 1974-84, the Soviet Union removed 510 SS-11 ICBMs as newer SS-17, SS-18 and SS-19 ICBMs were deployed.

Between 1979-85, the Soviet Union dismantled the missile-carrying portion of 13 Yankee-class submarines as new Delta- and Typhoon-class subs were added.

Between 1975-78, the Soviet Union dismantled 209 SS-7 and SS-8 ICBM launchers to allow for permitted increases in SLBMs.

Between 1977-85, the Soviet Union removed 212 SS-N-6 SLBMs as SS-N-18 and SS-N-20 SLBMs were introduced.

Between 1980-85, the Soviet Union removed 15 SS-N-5 SLBMs as it increased the number of SS-N-18 SLBMs.

Between 1983-85, the Soviet Union removed six SS-N-8 SLBMs as it increased the number of SS-N-20 SLBMs.

Had SALT II been ratified, the Soviet Union would have been obligated to reduce its aggregate number of ICBMs, SLBMs, and heavy bombers to 2,400 and then to 2,250 by January 1, 1981. Under those limits, the Soviet Union would have been obligated to dismantle approximately 250 additional launchers, probably ICBMs.

Between 1985-90, SALT II will require the Soviet Union to remove older ICBMs and SLBMs as new ones are deployed. Although the precise number of retirements will depend on the number and character of the new systems the Soviets deploy, they will have to deactivate approximately 500 to 600 missiles and launchers.

Between 1985-90, the Soviet Union is expected to deploy 250 SS-25 single-warheads ICBMs. For every SS-25 deployed in a silo, SS-11 or SS-13 ICBM will have to be removed. For every SS-25 deployed in a mobile mode, an SS-11 or SS-13 silo will have to be destroyed. (Recent reports indicate that the Soviet Union has begun dismantling SS-11 silos.)

Between 1986-90, the Soviet Union is expected to deploy 135 new SS-24 ten-MIRV ICBMs. For every SS-24 deployed in a silo, a MIRVed SS-17, SS-18 or SS-19 will have to be removed. For every SS-24 deployed in a mobile mode, an SS-17, SS-18, or SS-19 silo will have to be destroyed.

Between 1985 and 1988, the Soviet Union is expected to continue deployments of its MIRVed SS-NX-23 and SS-N-20 SLBMs. Prior to reaching the 1,200 ceiling on MIRVed launchers, the Soviets will have to remove an existing single-warhead SLBM for each SS-NX-23 or SS-N-20 deployed in order to stay within the overall aggregate of 2,504 launchers. In all, 80 SS-N-6s and SS-N-8s will probably be deactivated.

Once the 1,200 ceiling on MIRVed launchers is reached, the Soviet Union will be obliged to retire the MIRVed SS-N-18 SLBM or a MIRVed ICBM for every SS-N-20 and SS-NX-23 SLBM deployed. In all, 64 such systems will probably be removed.

Between 1985-90, the Soviet Union is expected to continue deployment of one Delta- and one Typhoon-class sub per year. For every sub deployed, the Soviet Union will have to dismantle the missile-launch section of a Yankee- or older Delta-class submarine.

[From the Burlington Free Press, June 12, 1985]

SALT II DECISION WAS CORRECT

Proving again that he knows when to part company with his right wing friends, President Reagan has abandoned his cold war rhetoric to announce that the United States will continue to honor the spirit of the Salt II treaty.

Angry conservatives, citing numerous violations by the Soviet Union, say Reagan has engaged in appeasement and unilateral disarmament by agreeing to dismantle an older Poseidon missile-firing submarine when a new Trident submarine is put in service later this year.

Our guess is that criticism is not shared by most Americans who understand that to abandon Salt II now would undermine efforts by the United States to conclude a new agreement with the Russians.

Even those of us who supported ratification of Salt II—the treaty was signed in 1979 by President Carter but was never approved by Congress—acknowledged is only a small step in efforts to reduce the nuclear arsenals of the world's superpowers.

However flawed the treaty might be, it represents a step in the direction of bringing the nuclear arms race under control in an era of overkill. If it had been abandoned by the United States, it would have been impossible to reach a more comprehensive agreement between the United States and the Soviet Union.

Certainly conservatives should be concerned about the failure of the Soviet Union to live up to the agreement. To abandon it, however, is to admit there is no hope of achieving sane controls over nuclear arms. Better that conservatives continue to press the fight for the Star Wars defense system than advocate our refusal to honor the treaty.

Reagan's decision is a clear signal to the rest of the world that the United States is committed to bringing an end to the arms race; and to reducing the risk of a nuclear holocaust.

[From the Christian Science Monitor, June 11, 1985]

WHY SALT II SURVIVES

(By Joseph C. Harsch)

Without much doubt President Reagan would have been happy to kill off the SALT II arms control treaty as he was being urged to do up to the last moment by his secretary of defense. Caspar Weinberger.

After all, Mr. Reagan had campaigned against the SALT II treaty during the 1980 campaign, just as he campaigned against the treaty with Panama.

But, as in the case of the Panama treaty. the matter of strategic arms limitations can look different from inside the White House. Mr. Reagan has never said a public word against the Panama treaty since he entered the White House or made any serious move to undo it. Now he has decided to let SALT live on in spite of alleged imperfections in the unratified treaty itself and in spite of allegations that the Soviets have been cheating on its provisions.

The reason comes in three parts. You may judge for yourself which reason carried the most weight when the President finally had to make his decision between Mr. Weinberger, who wanted to kill the whole SALT process, and Secretary of State George Shultz, who wants to go on with it.

First, there was a vote in the Senate last Thursday, June 6. The resolution before the chamber was "whether the U.S. should, through Dec. 31, 1986, continue to refrain from undercutting the provisions of existing strategic arms agreements to the extent that the Soviet Union refrains from undercutting those provisions. . . ."

The resolution is not binding on the administration, but the vote was 90 in favor of continuing to observe the SALT provisions against 5 in favor of ending the whole process. Any president will give serious attention to a vote in the Senate as overwhelming as 90 to 5.

It is a footnote to the Senate vote that public opinion polls have consistently shown a strong balance in favor both of pursuing arms control talks with the Soviets and of honoring those arms control agreements that already exist. It is assumed by all concerned that if the President were to scrap SALT II, the action would put an abrupt end to any prospect of any further arms control agreements with the Soviets. It would mean an open and unrestrained arms race.

Second, the NATO allies are all strongly in favor of continuing the arms control process, both by honoring all existing arms control agreements (insofar as the Soviets honor them) and by pursuing the arms control talks in Geneva. Had Mr. Reagan decided to go against the wishes of his partners in the NATO alliance, he would have handed an enormous propaganda platform to the Soviets.

Repudiation of the arms control process by the U.S. would have revived the peaceniks, and ban-the-bombers, the neutralists, and the marchers. The anti-American forces all over Europe would have been reactivated. The urge to neutralism that is always latent in Europe would have revived. America's best friends in Europe begged the President to keep SALT alive.

Then there was a third and essentially realistic reason. Which side would actually build the new strategic weapons, or weapons of any kind, if the lid were taken off the arms race?

Neither you nor I know for certain the answer to that question. But the people best qualified by training to appraise that answer are the members of the Joint Chiefs of Staff in Washington. They recommended in favor of keeping SALT II, on the ground that it would be easier for the Soviets to increase the number of their strategic missiles than for the U.S. The Soviets have their assembly lines going. They have bigger launcher missiles than the U.S. These could be fitted with more warheads.

In the opinion of the military experts, the present SALT rules restrict and limit the Soviets more than they restrict and limit the U.S. Besides, if the Soviets built many more nuclear warheads for their long-range missiles, the Pentagon would feel forced to try to meet the new Soviet buildup. This could take funds that the Joint Chiefs would rather have for other weapons.

Add that in the present Washington climate dominated by a torrent of reports of defense contract cheating, it would be more difficult for the Pentagon to get extra funds out of Congress than it would be for Moscow to get extra funds.

For these reasons Mr. Reagan continues to observe the SALT II treaty in spite of what he said about it on the hustings before he became President.

[From the Christian Science Monitor, June 11, 1985]

Reagan Decides To Abide by SALT II

WASHINGTON.—SALT II remains intact.

After intense debate within the administration and facing extremely strong pressure from the European allies and Congress, President Reagan Monday announced the United States will continue to comply with the unratified second strategic arms limitation treaty.

Mr. Reagan has informed Soviet leader Mikhail Gorbachev of this decision, the White House said.

This means the US will deactivate and disassemble a Poseidon missile submarine to keep the US within the SALT II limits when sea trials of the seventh Trident submarine begin in September.

But in view of alleged Soviet violations of the accord, the President will keep available "proportionate responses" as a hedge against the consequences of Soviet actions. Such responses include accelerating development of the one-warhead Midgetman missile in addition to the 10-warhead MX and beefing up command and control facilities.

Reagan's decision indicates that the more moderate forces in his administration, led by US Secretary of State George P. Shultz, have won out over Defense Secretary Casper W. Weinberger and the hard-liners, who favor scrapping the pact. Clearly the decision has been a politically difficult one for the President, who treads a fine line between wanting not to undermine the arms negotiations in Geneva and yet still satisfy his conservative constituents.

The President's present stance carries some ironies. For years he campaigned against the unratified SALT II as running counter to US national interests and giving the Soviets the ability to build up their strategic nuclear forces. Now there is a growing recognition within the administration that, while the accord is far from ideal as an arms control vehicle, it is better than having no limits at all.

This is the basic position of the NATO allies, who warn that abandonment of SALT II would remove the one instrument now providing some stability in the US-Soviet strategic balance. Administration officials say the NATO pressures mounted greatly over the weekend, as European leaders urged the US not to further burden the nuclear and space arms negotiations under way in Geneva, and strain the atmosphere for a possible Gorbachev-Reagan summit meeting. The Geneva talks already are deadlocked over the President's "star wars" program.

"We studied this carefully from all ends and there's no doubt that the Soviets are violating the pact and we have no reason to continue the present policy of restraint," says a senior official.

"But because of the strong sentiment of our allies, who argued that we should go the extra mile and because of our own desire to go one step better and put ourselves on a higher plane than they, we went in this direction."

Under the pact, each side is permitted 1,200 multiple-warhead ballistic missiles on land and at sea. The Trident submarine carries 24 missiles, as against 16 on the Poseidon. So deployment of the next Trident will put the US at 14 missiles over the 1,200-missile limit unless a Poseidon is dismantled. The US has 1,190 long-range ballistic missiles.

Defense Secretary Weinberger argued that, inasmuch as the Soviets have not shown restraint in complying with SALT II, the US is under no further obligation to do so and should allow the pact to lapse.

Many in the arms control community and even members of the Joint Chiefs of Staff believe that an American breach of the treaty would be far more advantageous to the Soviets than to the US. This argument apparently weighed heavily in the final decision to comply with the pact.

For instance, the Soviet Union now has 818 ICBMs with multiple warheads, just under the 820 limit for land-based missiles. The US has only 550 multiple-warhead land-based missiles. So if there is a mutual breakout from the accord, the Soviet could quickly breach the 820 limit, especially because they are ready to deploy the new SS-X-24, the one new missile permitted under SALT II.

Some arms control experts say that—administration claims to the contrary—there has been no material Soviet breach of SALT II. Even the encryption of some missile-test data, while bad, has not been crucial to checking USSR missile tests.

"Encryption was done in the face of our not ratifying the treaty," says Gerard Smith, who negotiated the SALT I treaty. "Why should they help us out when we did not ratify the treaty? From their view, there was some flexibility because we can verify the Soviets without having access to all the telemetry."

The more important measure of compliance, says Mr. Smith, is staying within the limits for land-based and sea-based missiles—which the Soviets have done.

For all the flaws of the SALT agreements, arms controllers feel they have served a constructive purpose. Since the SALT I agreement was signed in 1972, experts estimate, the Soviets have dismantled 458 operational missiles on land and sea to stay within treaty limits (as against none for the US). This is more than 25 percent of the current US force in numbers and about one-third in terms of throw-weight, say experts.

One option considered in the National Security Council during heated internal debate these past few weeks involved dry-docking a Poseidon submarine but not destroying the missiles. Inasmuch as the US has six months to destroy the Poseidon, simply dry-coking the vessel would be technically within the treaty provisions.

The President has also directed the Department of Defense to make a specific review of Soviet actions and uncorrected violations and to identify specific actions the US might take to accelerate or augment its modernization program in response to Soviet violations. Such review would relate to defense activities and budget for 1986, say officials.

[From the Washington Post, June 4, 1985]

Advisers Conflict on SALT II

(By George C. Wilson)

When President Reagan heard recommendations of his top advisers yesterday on whether to continue respecting the SALT II treaty, he faced an ironic difference of opinion between his civilian secretary of defense and his uniformed military aides.

The secretary recommended that the United States cease observing an arms control agreement he considers useless to American security, but the admiral and generals of the Joint Chiefs of Staff declined to endorse that suggestion.

Instead, the chiefs said the decision on sticking by SALT II after the unratified treaty expires at the end of this year is a "political" one that Reagan will have to make. They warned that it would be risky to retire a Poseidon submarine and its 14 missiles later this year, as SALT II would require, but also noted the benefits of continued adherence to the arms pact's limits on both superpowers' nuclear arsenals.

The chiefs' presentation at the National Security Council meeting "was an analytical one," according to an administration official. "They reviewed where we are and where we would be in our strategic modernization program compared to the Soviets under various situations."

Gen. John W. Vessey Jr., chairman of the Joint Chiefs, emphasized that Congress may restrict the deployment of the new MX land missile so severely, officials said, that it might not be wise to retire the older Poseidon submarines as more new Trident missile subs go to sea.

Vessey's linkage of MX and Poseidon sounded to some officials like a step away from the chief's formerly solid support of SALT II and toward the position of Defense Secretary Casper W. Weinberger.

But the chiefs would not join Weinberger in flatly recommending abandonment of the SALT II treaty. Usually it is the civilian leaders urging the generals and admirals to support an arms control treaty, as was the case during the birth of both SALT I and II.

In the past, Vessey and the other chiefs have said that anything that limits the number of warheads targeted on the United States eases their problem of protecting the nation. From a military point of view, the potential nuclear threat to the United States depends on the number of warheads the Soviets can target against this nation's weapons and cities. The Joint Chiefs have traditionally argued that arms control agreements that hold down the number of Soviet warheads tend to stabilize the balance of terror, and hence are useful.

Both superpowers have relied on more than arms control agreements to protect their strategic forces. The United States and Soviet Union first fortified their land missiles by placing them underground and later sent other missiles to sea in submarines to decrease their vulnerability. Now the United States and Soviet Union are trying to make their land-based strategic missiles mobile to foil attack.

The Air Force is developing a small, mobile land missile called Midgetman which would be hauled around military bases to make it hard to target or hit. But the Midgetman could eventually prove vulnerable, too, if the Soviet Union deploys enough warheads to barrage the limited number of military bases where they could be located.

Without negotiated limits, some military analysts warn, the Soviets could deploy so many warheads that the only survivable long-range mobile missiles would belong to the Navy and its submarine fleet. Many Air Force leaders see the limits in SALT II as the best way to keep their land missiles from becoming obsolete. The Air Force could lose much of its strategic role if even mobile missiles became unacceptably vulnerable.

Navy and Army leaders also see military advantages to sticking with SALT II limits. With an unlimited number of warheads, the Soviets might be able to spray the areas of the oceans where U.S. submarines are known to hide. The Army, which has a big role in the nation's missile defense effort, would find itself faced with more Soviet warheads than its missile defenses could handle. Some military specialists also see an unlimited number of Soviet warheads as a threat to Reagan's hopes for a missile defense.

Weinberger and his arms control adviser at the Pentagon, Richard N. Perle, counter that the Soviet strategic buildup and modernization program would not be as inhibited as the United States' under the SALT II limits. They add that the Soviets have failed to live up to the limits in existing arms control agreements anyway, making continuing with SALT a losing proposition for the United States.

[From the Washington Post, June 4, 1985]

Allies Counsel Keeping Treaty

(By Karen DeYoung)

London, June 3.—The Western European allies believe that the SALT II limits on nuclear weapons should not be allowed to lapse, and fear that a U.S. decision against continued observance of the accord would be a setback for arms control, according to a number of allied government officials interviewed recently.

Several North Atlantic Treaty Organization governments, as well as NATO Secretary General Lord Carrington, have let the Reagan administration know that refusal to respect SALT II now could generate a hostile public backlash.

One European political leader, reflecting a widespread view, said that doing away with SALT II would make it more difficult in general for allied governments to defend the idea that the Reagan administration is sincere about arms control.

The Europeans say they are acutely conscious of their reputation in some U.S. circles as weak-willed, interfering partners. They say they have remained discreet in expressing to Washington their desire that the United States not break the treaty restrictions when they expire at the end of this year.

But they nevertheless have followed closely internal administration debates over continued U.S. observance. Officials said that the U.S.-Soviet treaty, which never was ratified by Congress but to which both countries pledged adherence until expiration, will be a key topic in their discussions with Secretary of State George P. Shultz when NATO foreign ministers meet in Estoril, Portugal, this week.

Already, Dutch Foreign Minister Hans van den Broeck is said to have told Shultz that breaking out of SALT II limits would make it even more difficult for his governments to win public support for deployment of 48 cruise missiles this fall.

"There will be many, many discussions between now and the 10th" of June, when the administration is due to inform Congress of its SALT II plans, one British official said.

Shultz is said to share the European belief that although the Soviets may have "cheated" on compliance, SALT II should continue in some form.

Shultz is expected to use the European warnings as ammunition in the debate with Defense Secretary Caspar W. Weinberger, who is said to argue that the treaty has been "unsuccessful" in holding back the Soviets and should be abandoned.

But while they continue to hold discussions with U.S. officials, the allies say they are reluctant to press the administration, or to make their views public. To do so, officials here and in West Germany said, would give the impression of a possible rift between them and the United States just as the second round of U.S.-Soviet talks on nuclear weapons reductions are to begin in Geneva.

At the same time, European governments feel that they have spent a significant amount of alliance capital recently in wavering over deployment of medium-range missiles, questioning U.S. economic policies and in their somewhat equivocal response to President Reagan's Strategic Defense Initiative.

Since SALT II is a bilateral accord between the United States and the Soviets, the British official said, it would be seen as "a bit cheeky to tell the U.S. what to do."

This official and others in the government and private defense community here said that the British government has three criteria on which its concerns about the SALT II decision are based.

First is that it "not undermine the whole process of arms control," either substantively or by supporting public notions here that Reagan is not serious about the subject.

"There is no public relations value in terminating the treaty," one defense academic said. "Now that the Russians have said they are willing to carry on" with the treaty from their end, "for the Americans to say no would be very silly. It is hard to see what they would gain."

Arguments by U.S. officials such as Assistant Defense Secretary Richard Perle that the Soviets already are so far ahead of the United States in ballistic missiles that the treaty is meaningless "have no intellectual substance," he said. "If the numbers don't matter, why are [U.S. officials] always putting out all those charts and graphs, and talking about gaps?"

The second British concern, officials here said, is that "whatever is decided helps in Geneva."

"The European view, or at least the British view," said one official, "is that we are basically in favor of arms control. Anything that makes that more difficult, or undermines existing agreements, we're against."

Thirdly, they said, there is an inherent element of "alliance management" in the SALT II decision, and a need to allay allied concerns even if consultation is not mandatory.

Several European allies remain skeptical about administration claims that it has the right to "break out" of arms control deals because of Soviet violations.

There is some concern about the Soviet encoding of missile test data and deployment of SSX24 missiles that are expected to become operational next year. But the Europeans say such matters are not grave enough to warrant desertion of the SALT II framework.

In addition, there is disagreement between Washington and the allies over what the administration has described as a principal example of Soviet treaty violations.

The view of many in the Pentagon is that the Soviet radar installation at Krasnoyarsk in Siberia is a battle-management facility that violates the antiballistic missile treaty.

The Europeans say they have not seen satellite reconnaissance photos that lead them to believe that the radar system is anything but an early warning or space tracking station. "We don't absolutely think it is a violation," an official here said.

The Europeans say, however, that they will continue to be discreet in expressing their concerns. "There is a limit to how much Europe can get involved in American strategic planning," said the academic.

[From Business Week, Dec. 9, 1985]

HOW TO TELL IF THE SUMMIT WAS MORE THAN JUST TALK

The attempt by President Ronald Reagan and General Secretary Mikhail S. Gorbachev to arrange a modus vivendi between the two superpowers is a fragile process. So far, it amounts to a pledge to keep talking despite continuing disagreements in key areas such as curbing nuclear weapons and avoiding conflicts in Third World trouble spots. By contrast, the Nixon-Brezhnev detente in the 1970s created a major stake, for both sides, in containing the arms race through the Anti-Ballistic Missile (AMB) treaty, the SALT I treaty, and negotiations for SALT II.

Decisions on SALT II that Reagan faces early next year will help to sustain the new "minidetente"—or to bury it. After Jan. 1, the formal expiration date of the unratified SALT II treaty, Reagan will have to decide whether to continue to observe its provisions or at least not to repudiate them. A test will come next spring when, to stay within the SALT II limitations, he will have to decide whether to dismantle an old Poseidon missile submarine when a new Trident begins sea trials. Compliance would give the arms talks an impetus they now lack. The deadlines on these issues could also force Reagan to take sides more clearly than he has up to now in the fierce debate within the Administration between arms control advocates and those, like Defense Secretary Caspar W. Weinberger, who want to scrap SALT II and relax ABM.

NO CLEAR PICTURE

For the time being, the summit is yielding substantial political gains for both Reagan and Gorbachev, at home as well as in countries they seek to influence, particularly in Western Europe. For Reagan, the agreement to consult regularly, to meet again at summits in 1986 and 1987, and to "accelerate" arms talks will ease worries in Congress and among European allies about an open-ended nuclear arms race. And Gorbachev, by yielding nothing on substantive issues, proved to the Communist Party hierarchy in Moscow that he is tough and consistent while reassuring Western Europeans with his reasonable approach. But "neither side has developed a clear picture of where it thinks relations are going and where it wants them to go," says Dimitri Simes, a Soviet expert at the Carnegie Endowment for International Peace and the Johns Hopkins School of Advanced International Studies. "That leaves future summits very vulnerable to events in Afghanistan, Nicaragua, Eastern Europe, or elsewhere, even if the Soviets don't want to stir things up."

In the arms talks that resume early next year, the lack of guidelines for negotiators could create a new deadlock at the outset over the major U.S.-Soviet dispute: whether to link cutbacks in offensive missiles to the Kremlin's demand that President Reagan halt his Strategic Defense Initiative, known as Star Wars. "Some Administration officials are taking [the Geneva commitment] to mean that we can go ahead with negotiations on offensive weapons and put SDI at least temporarily to one side," says Helmut Sonnenfeldt, a former National Security Council expert on the Soviet Union. "I doubt that the Soviets see it that way."

JUST DREAMING

Less predictable, and potentially less manageable, are U.S.-Soviet strains that could flare up in "regional" trouble spots. What put the last nail in the coffin of the Nixon-Brezhnev detente was Moscow's 1979 invasion of Afghanistan. Gorbachev indicated, according to Secretary of State George P. Shultz, that he is looking for a way out of the Afghan stalemate. But chances of a settlement are remote because Moscow, like the U.S. in Vietnam, is not willing to admit defeat. The Soviets "are determined not to abandon the regime in Kabul," warns Simes. "And if anyone thinks the U.S. and Pakistan can or will guarantee that the rebels won't continue to rise against that regime, they are living in a land of dreams."

One boost to stability in U.S.-Soviet relations is the apparent decline in Soviet enthusiasm for investing resources and political prestige to support new "wars of national liberation" in the Third World. But there is no sign that Moscow and its allies intend to abandon commitments they have already made. In Vietnam, which occupies Cambodia, the Soviets are expanding their naval base. In Angola, Fidel Castro is more determined than ever to keep Cuban troops in place as turmoil mounts in South Africa. And in Nicaragua, the payoff from a relatively modest Soviet investment in military and economic aid is a political asset that Gorbachev will not abandon lightly.

For U.S. business, a potential benefit is suggested by Gorbachev's invitation to U.S. companies to participate in "major" Soviet Projects. Top executives who will fly to Moscow in December for a meeting of the U.S.-U.S.S.R. Trade & Economic Council should learn more about their prospects.

So far, though, there is little to fill out the framework of the Geneva process in the months ahead. The good news, in the view of Paul C. Warnke, who headed the U.S. SALT II negotiators, is that the two leaders plan to meet again. The bad news, he fears, is that they will not achieve much in those talks, either.

[From the New York Times, Nov. 24, 1985]

U.S. SAYS SOVIET COMPLIES ON SOME ARMS ISSUES

(By Michael R. Gordon)

WASHINGTON, Nov. 23.—The Soviet Union has quietly taken steps to reduce some American concerns over purported arms-control violations, according to Administration officials.

The Soviet moves involve the cutting up of bombers and, according to intelligence reports, the possible removal of SS-16 missiles from a test center at Plesetsk in northern Russia.

The moves are of political importance because the United States has taken the position that it will not undercut the 1979 strategic arms treaty as long as the Soviet Union does not.

The 1979 treaty issue was not pursued at the Geneva summit meeting, officials said today. Nor was the question of Soviet violations dealt with in detail.

On Friday, a State Department official said these issues had not been raised in Geneva because they had been discussed by Secretary of State George P. Shultz on an earlier visit to Moscow. Mr. Shultz was said to have affirmed the policy not to undercut the treaty, although reserving the right to make appropriate responses to actions not permitted in the treaty.

REPORT TO CONGRESS DUE DEC. 1

The issue will receive attention soon when the Administration submits a report to Congress on purported Soviet violations. The report is due Dec. 1.

Administration officials caution that the positive Soviet moves have not removed concerns over other purported violations, such as the charge that the Soviet Union has violated the 1972 antiballistic missile treaty by building a large phased-array radar at Abalakovo near Krasnoyarsk in central Siberia.

The United States says the ABM Treaty does not permit such missile-tracking tracking radars in the interior of either country. The Soviet Union says the radar is intended to track space vehicles not incoming missiles.

The reported developments at Plesetsk are of interest because the 1979 treaty bans the testing and deployment of the mobile SS-16. It had been kept at Plesetsk, and an issue has been whether this constituted deployment.

In February, the United States said the Russians had committed a "probable violation" by deploying. But now, an American official said, "that problem may be going away."

The evidence is not conclusive and consists of observations of the moving of support equipment for mobile missiles, such as transporters for warheads, onto rail cars.

CONSENSUS ON PLESETSK MOVES

Officials said there was a consensus among intelligence officials that the activity at Plesetsk was consistent with the view that equipment for SS-16 missiles was being sent into storage.

But another possible interpretation, an official said, is that the equipment being moved might be for a different missile, the mobile SS-25.

Officials say the Russians may be in the process of moving in SS-25's as SS-16's are being taken away.

"They do not make the activities observable at a time when national technical means are capable of monitoring them," an official said, referring to satellite surveillance. Officials said no S-16's had been seen since the signing of the 1979 treaty.

There is less debate over other steps described by the Russians. The Soviet Union has said that it will not add to the number of strategic systems it had at the time of the signing of the 1979 treaty. That number was 2,504.

SYSTEMS DEPLOYED AND RETIRED

As new systems have been deployed, older systems have been retired. By a recent count the Soviet Union has dismantled 50 SS-11's to compensate for the deployment of 45 SS-25's.

The Soviet Union has also said that it has dismantled more than 30 Bison bombers to compensate for the deployment of new Bear-H bombers, which can carry cruise missiles.

The bombers have been placed in plain view at an airfield, officials said. This summer, the tail sections of 15 of the old Bison bombers were being cut off. The Soviet Union says the others have been converted to fuel tankers.

An Administration official said the United States have not accepted this Soviet assertion because the conversion of the planes could not be verified.

"There is no discernible difference in their external configuration," he said.

Officials say the issue is complicated by the fact that procedures on bomber dismantlements were never worked out after the Soviet intervention in Afghanistan and the United States decision not to ratify the 1979 treaty.

In addition to the moves relating to this treaty, there is general agreement that the Soviet Union has taken steps to stay within the limits of the first strategic arms treaty, of 1972, by continuing to cut up the missile-carrying portion of old Yankee submarines.

This leaves three purported violations of concern to the United States. They are the Siberian radar, which the United States says violates the 1972 antiballistic missile treaty, and the encoding of missile test telemetry and the development of the SS-25, which are said to be in violation of the 1979 treaty.

[From the Washington Post, Dec. 13, 1985]

NATO ALLIES PRAISE U.S. COOPERATION

(By John M. Goshko)

BRUSSELS, Dec. 12.—North Atlantic Treaty Organization foreign ministers unanimously praised the United States today for consulting its European allies prior to last month's Geneva summit and urged Washington to continue such consultations as it pursues further negotiations with the Soviet Union.

Sources familiar with the secret discussions at the NATO winter meeting here agreed that they were characterized by unusual harmony and praise for President Reagan's performance in his meeting with Soviet leader Mikhal Gorbachev.

The Europeans made clear to Secretary of State George P. Shultz their desire that the United States continue its voluntary compliance with the restraints spelled out in the unratified 1979 SALT II treaty.

There also were signs of continued European uneasiness about Reagan's Strategic Defense Initiative, or "Star Wars," and the effects that the Star Wars research program have on existing NATO doctrines of nuclear deterrence.

But, the sources agreed, the dominant theme was an upbeat emphasis on what one source called the need for "strength, dialogue and realism" as the United States prepares for further Geneva arms-control talks with the Soviets and an expected second Reagan-Gorbachev summit during 1986.

The ministers also approved a new policy, pushed strongly by the United States, calling for greater efforts to avoid duplication and waste in the development and production of new armaments. NATO officials acknowledged that substantial problems must be overcome if the policy is to be successful, but the U.S. delegation greeted the move as a positive step at a time of "national budget restraints and a widening gap between Warsaw Pact and NATO conventional capabilities."

The major European concern was focused on an impending decision by Reagan about whether the United States will continue adhering to SALT II restraints. Some senior administration officials have advocated abandoning that policy because of alleged Soviet violations of SALT II.

At the time of the last NATO ministerial meeting in June, Reagan announced that the United States would continue observing SALT II restrictions, but would keep reviewing that policy in the light of future Soviet conduct. The sources said that the Europeans, apparently relying on private assurances from Shultz, appear satisfied that the United States will continue that approach.

Some ministers, particularly British Foreign Secretary Geoffrey Howe, reportedly emphasized to Shultz the need for substantive progress in the Geneva arms talks if the United States wants to avoid a resurgence of antinuclear sentiment in West European public opinion.

Others, notably West German Foreign Minister Hans-Dietrich Genscher, reportedly noted lingering concern in Europe that the American SDI program, with its emphasis on a space-based shield against offensive nuclear missiles, could weaken the U.S. commitment to the nuclear defense of Western Europe.

But, while Gorbachev stressed that considerable further study and discussion is needed about the long-range effects of Star Wars defenses, the sources said that the issue appeared to be less controversial than in the past.

INTERIM RESTRAINT

Mr. **CHAFEE**. Mr. President, I am pleased to join my colleagues in this very important colloquy on the question of U.S. adherance to the unratified SALT II Treaty that expires on December 31.

In the absence of a new agreement on strategic offensive arms, a decision by the United States to abandon the existing policy not to undercut the terms of that SALT II Treaty would severely threaten the stability and predictability of the United States-Soviet strategic relationship. If we fail to adhere to SALT II restrictions, we would once again be off to the races—an arms race in which the Soviet Union would outpace the United States, at least in the near term. Over the longer term, the two sides would be forced to dramatically increase their advanced strategic weapons. To enter into such a race would jeopardize the chances for effective arms control and would have serious negative consequences on U.S. security objectives.

The United States and the Soviet Union should extend their commitment to adhere to the treaty, as was done when the SALT I Interim Agreement on Strategic Offensive Arms expired in 1977. If this is not done, there will be no agreed constraints in effect on the strategic offensive forces of the two superpowers.

I am not overlooking the fact that we have formally charged the Soviet Union with violations of the SALT II Treaty dealing with encryption and deployment of the SS-16 mobile missile. Likewise, the Soviet Union has leveled countercharges of U.S. violations concerning deployment of ground launched cruise missiles and Pershing II missiles in Europe. None of these charges are clear cut, and all relate to complex treaty provisions that are subject to differing interpretations. These problems should be vigorously addressed through the Standing Consultative Commission set up by the treaty for that purpose. The conversion of these accusations into a propaganda battle reduces the prospects of a satisfactory resolution and will undercut public confidence not only in SALT II, but also in the arms control process in general.

I would, however, like to point out that the both nations have generally adhered to the provisions of the SALT treaties on offensive weaponry. To comply with the limits established by SALT II and SALT I Interim Agreement, which SALT II replaced, the Soviet Union from 1972 to 1985 removed 1,007 land-based and 233 submarine-based ballistic missiles from its active force and dismantled 13 Yankee-class ballistic missile-carrying submarines as new weapons entered the force. Past Soviet military practices suggest that these missiles would not have been retired nearly as rapidly in the absence of SALT I limitations. On the U.S. side, 320 land-based and 544 submarine-based missiles have been removed and 11 ballistic missile-carrying submarines have been dismantled.

In the years 1985–90, SALT II will require the Soviet Union to remove between 500 and 600 ballistic missiles and to destroy missile silos equivalent to the number of mobile missiles deployed. In the absence of SALT II, the Soviet Union could deploy the SS-X-24, the SS-25 and other missiles now in advanced development without retiring any of its fixed land-based missiles, such as the SS-17, SS-18, SS-19 and SS-11. On the U.S. side, SALT II will require, between 1985 and 1990, the removal of between 200 and 300 missiles or bombers from the force as new systems are deployed.

Abandonment of the SALT II limits before a new strategic arms agreement is reached would thus harm U.S. security interests. By 1990 the Soviet Union could increase its total number of nuclear warheads and bomber weapons by almost 7,000—roughly twice the increase that the United States could make over the same period, and 4,000 more than the Soviets could deploy under SALT II. Without SALT, the Soviet Union could significantly increase the number and improve the capabilities of its heavy land-based missiles—the weapons that the Reagan administration considers the most threatening. In the long run, irrespective of which side ultimately gained a quantitative advantage, the United States would face the serious dangers and expenses of an all out nuclear arms race.

I feel it is in the best interest of our Nation to reaffirm the present political commitment not to undercut the SALT agreements. Reaffirmation, whether through bilateral agreement with the Soviet Union or unilateral declarations, would preserve crucial constraints on the arms race and improve the prospects for resolving disputes and for negotiating a new United States-Soviet agreement to limit and reduce nuclear weapons.

INTERIM STRATEGIC ARMS RESTRAINT

Mr. **HEINZ**. Mr. President, in 2 weeks the SALT II Treaty signed by the United States and the Soviet

Union in 1979, but never ratified, will expire. I want to use that milestone as another opportunity to stress the benefits of maintaining the current U.S. policy of conditional compliance with the treaty.

As most of my colleagues and I reaffirmed in June of this year, the United States is better off with the essential quantitative limits imposed by the SALT II Treaty than it would be without them. And despite serious, unresolved questions concerning Soviet compliance with certain other provisons of the SALT II regime, both sides have so far taken the steps necessary to stay within the central limits on multiple warhead missiles.

As the SALT II expiration approaches, so does the deadline for a Pentagon report on proportionate responses to Soviet violations of treaty provisions. Whatever the findings of this report, I hope that when President Reagan reads this document and considers its recommendations he will stand by his wise decision earlier this year to preserve the essential restraints on MIRV'd missiles so long as the Soviets do the same. There are responses to unsatisfactory Soviet behavior which will not undermine this crucial element of the SALT II package. We must keep in mind that while the Soviet Union has not been forthcoming in explaining such actions as the construction of the Krasnoyarsk radar or the testing of two new ICBM types, they have dismantled missiles in order to stay within the ceilings on MIRV'd systems.

So long as the Soviets respect the MIRV sublimits now in place, it will remain in the interest of the United States to likewise abide by these limits. Our military leaders recognize this. That is the reason they support President Reagan's policy of conditional compliance. This past March the then-commander of the Strategic Air Command, Gen. Bennie Davis, told a Senate committee that he had concluded the United States should continue to abide by SALT II limitations. His sentiments are shared by many prominent former military leaders, including Gen. Brent Scowcroft and Gen. David Jones, former head of the Joint Chiefs.

Our European allies also support continued compliance with existing limits. At a June conference of the NATO countries in Lisbon, West German Foreign Minister Hans Dietrich Genscher strongly endorsed President Reagan's policy of not undercutting SALT II. The allies recognize that maintaining the important restraints we have in place today is a good way of increasing the chances for success at the bargaining table in Geneva.

I join my colleagues in urging the President to reaffirm his commitment to abide by the essential provisions of the SALT II Treaty so long as the Soviets do the same.

Mr. SIMON. Mr. President, I am pleased to speak in favor of continuing to abide by the terms of the 1979 SALT II Treaty. If this treaty had been ratified by the Senate, it would have expired on December 31, 1985. Our policy has been to live up to its provisions as long as the Soviets do likewise. Apart from some ongoing minor disputes, they have done so, and we have generally done so. I urge the administration to continue its "no undercut" commitment until a new strategic arms treaty is negotiated.

The SALT II Treaty has been under attack for some time now. Candidate Reagan in 1980 called it "fatally flawed." Just before the summit, Secretary of Defense Caspar Weinberger wrote the President asking him to consider the disadvantages we would face if we maintained our support for the treaty. Secretary Weinberger outlined the numbers, but he was mixing apples and oranges: He listed all the reductions that would take place under the treaty, concluding that we would have to dismantle many more weapons systems than the Soviets, but failed to point out that he compared United States warheads with Soviet missiles.

Since many warheads can fit on one missile, naturally his numbers favored the U.S.S.R.

Some in the Defense Department are preparing a proportional response study, reportedly advocating selective violations to match Soviet violations. This is not the way to bolster a treaty that virtually all agree is in our national interest. Proportional responses should be a matter of last resort, and only then after we are absolutely certain that significant Soviet violations are occurring.

But instead of taking advantage of the dispute-resolution mechanism established in SALT I—the Standing Consultative Commission, or SCC—we have been treated to more than 2 years of public disclosure and denunciation. We have not allowed the SCC to operate quietly and privately and effectively. In the constant glare of publicity, the most insignificant or questionable violation becomes a major incident. If we are really concerned about Soviet violations, our time would be better spent trying to rectify problems through the SCC instead of amplifying them through the media.

SALT II is a long and complex treaty, the product of 7 years of negotiation. The treaty set up special counting rules and prohibited excessive encryption of missile flight test data to ease the difficulties of verification; imposed a freeze on the number of warheads that could be placed on a missile; prohibited new heavy ICBM's like the Soviet SS-18; and placed subceilings on the number of multiple warhead ballistic missiles that may be deployed by either side.

Critics charge that the Soviets have not lived up to these and other key provisions. There are questions about compliance; this is natural on something as complex as this. But it should be noted that Moscow has dismantled almost 700 more land-based missiles and 2 more ballistic missile submarines than we have since SALT I began in 1972.

But the importance of SALT II lies in what may have occurred in its absence. There the record is clear. Without SALT II constraints, the U.S.S.R. could have added another 4,000 strategic warheads by 1990. Under SALT II, the Soviets must dismantle about 300 more missiles than we must as each side modernizes its strategic forces.

The treaty has been unfairly abused. Its ratification would have been in our national security interests. That is still true today. But some of the treaty's terms need revision and others have expired.

I urge my colleagues and administration officials who are not in favor of the treaty to reconsider the consequences to the strategic balance and to arms control if we abandon SALT II. I would also urge the Reagan administration to live up to the treaty's terms as long as the Soviet Union does likewise, and to postpone any proportional responses until the SCC has a fair chance of resolving disputes. We should not usher in 1986 with a program designed to damage the climate for future arms reductions. Let's give the summit process a chance to succeed, and let's give our Geneva negotiators a vote of confidence in diplomacy over confrontation.

SALT NO-UNDERCUT

Mr. EVANS. Mr. President, September 16, 1985, was a milestone in the recent history of arms control. On that day the commander of the *Sam Rayburn*, a 22-year-old Poseidon nuclear missile submarine, piloted that vessel into the Charleston Naval Shipyard so that work could begin on dismantling its missile tubes.

Taking the *Sam Rayburn* out of service was a clear and unequivocal statement that the United States has retained its featly to the arms control process. In effect, we have said that even though the SALT II Treaty was never ratified, and even though the treaty, even had it been ratified, would have expired on the last day of December this year, we believe that the integrity of the arms control framework should be preserved even as we seek to improve it.

I am certain that it was difficult for the President to make the decision he did. He has stated in the past his belief that the SALT II Treaty has serious flaws. Yet he recognizes that, despite its flaws, SALT II is good for America.

Mr. President, there is a certain irony in the belief that the imperfections of arms control agreements are cause to abandon the arms control process. No one has ever claimed that the process is infallible or that the agreements concluded to date are the best possible agreements. However, if history teaches us any lesson, it teaches us success is often forged in the hot fires of failure.

We as humans are imperfect by nature. Yet it is our unique ability to apprehend an idea that often guides us to proper action.

The SALT I interim agreement was, by today's standards, crude. By its terms it froze each superpower's arsenal of missile launchers without imposing any qualitative restrictions on the missiles placed in those launchers. One of the results of that lack of foresight was that the Soviets were able to deploy the SS-18 missile with its tremendous throw-weight capability. No missile poses a greater threat to the United States today.

By any measure, the SALT II agreement was a vast improvement over SALT I. SALT II established quantitative ceilings and subceilings limiting deployment of the major strategic weapons systems possessed by each side. We also learned from the mistakes of SALT I and established certain qualitative restrictions on new systems.

Yet, despite the lessons learned during a decade of negotiations, we have only recently begun to focus on the appropriate arms control idea: arms reduction. SALT I and SALT II were flawed not so much because of their terms, but because they served merely to manage what have proved to be ineluctable increases in the destructive capability possessed by both the Soviet Union and the United States.

We need to reduce our nuclear stockpiles. I am greatly encouraged that both the United States and the Soviet Union currently have on the table at Geneva proposals to reduce by half the number of warheads deployed on each side. Yet, it is apparent that much more work—and much more time—is needed before we can expect an agreement.

I firmly believe that, just as SALT II was founded on SALT I, future agreements must rest on a firm footing. The rubble of destroyed agreements will not sustain any lasting future structure.

Over the next months, I expect to be involved actively in the continuing debate about the defense policies of our country. Yet, I recognize that as a U.S. Senator I can only provide advice to those ultimately charged with preserving our security. It is my fervent hope that the next round of discussions in Geneva will take us closer to the ultimate goal that all people share: A secure and lasting peace.

ON MAINTAINING THE SALT II TREATY

Mr. KERRY. Mr. President, the SALT II Treaty expires in 2 weeks.

The question this Nation faces is whether or not continued adherence to the agreement is in the interests of the national security of the United States.

Simply put, is the United States safer if both it and the Soviet Union abide by the numerical restraints on nuclear weapons contained in SALT II, or are we safer resuming an unrestrained competition to add warheads and delivery systems to the nuclear stockpile by both sides?

Neither the President nor anyone I think in this body believes that anyone can win a nuclear war. Our nuclear forces can blow up the Soviet Union many times over, should it ever attempt a first strike. How is our security improved by eliminating the restraints on the arms race by ceasing to abide by SALT II?

It has been suggested that SALT II offers the United States no real protections against a Soviet buildup, and that the Soviet Union cheats on arms control agreements, and that the United States should not tie its hands while the Soviets continue a relentless nuclear buildup.

It is true that there are compliance issues, and these issues must be resolved—either in Geneva, or at the Standing Consultative Commission. But it is also true that SALT II has already demonstrably restrained Soviet behavior, and continues to place limits on nuclear weapons.

To comply with the limits established by SALT II and by the SALT I interim agreement, the Soviet Union, from 1972 to 1985, removed more than 1,000 land-based and 233 submarine-based ballistic missiles as new weapons have entered the force. Without these limits, the Soviets need not have dismantled these nuclear weapons. In the same period, the United States has dismantled 320 land-based missiles and 544 submarine-based missiles to comply with the SALT limits.

The SALT II limits will become even more important over the next 5 years than they have in the past. If SALT II limits remain in effect, the Soviet Union must remove 500 to 600 ballistic missiles by 1990, and must destroy missile silos equivalent to the number of mobile missiles they deploy. In the absence of this treaty, the Soviet Union could deploy SS-X-24 and SS-25 missiles without retiring any of its land-based missiles—SS-17's, SS-18's, SS-19's, and SS-11's.

It is particularly important that the United States not abandon the SALT II limits while we are seeking to negotiate cuts in nuclear weapons at Geneva. The Geneva negotiations will be difficult in any case. The difficulties can only increase if the fixed limits set by SALT II are abandoned, and both sides begin unilateral deployments of new nuclear weapons. At the least, SALT II has provided a fixed base from which both sides can work to negotiate a new treaty. It is far harder to negotiate a treaty when both sides present a "moving target" in the form of further deployments beyond the SALT II levels.

I believe that U.S. security would be best served by formal ratification of SALT II. In the absence of ratification, we should at least reaffirm our present political commitment not to undercut the SALT agreements. Such a reaffirmation would preserve constraints on the arms race, improve the prospects for resolving disputes over compliance, and for negotiating a new United States-Soviet agreement to limit and reduce nuclear weapons.

Now is not the time to abandon SALT II and the treaty process, but to strengthen it.

(By request of Mr. EVANS, the following statement was ordered to be printed in the RECORD:)

● Mr. GORTON. Mr. President, the Geneva meeting between the leaders of the United States and the Soviet Union focused the world's attention on issues of peace, including the critical importance of the arms control talks. This meeting did not produce a breakthrough in arms control, but so long as the United States and the Soviet Union continue to show restraint in developing and deploying new nuclear weapons systems there is good reason to be hopeful that progress may come in the future. I'd like to take this opportunity to express my strong support for the President's decision earlier this summer which keeps the United States in compliance with strategic arms agreements and to explain why I believe he made the right choice.

In the summer of 1984, I urged the President to abide by SALT II so long as the Soviets acted with comparable restraint. At that time, his position on continued United States compliance was under reconsideration because of concerns over questionable Soviet activities. In my view, eventual progress in arms control, then impossible because of the Soviet walkout, depended on a period of mutual interim restraint to keep the cap on the arms race until talks could resume and new agreements reached. The President assured me personally that we would continue not to undercut the agreements until a thorough policy review was completed.

That review was mandated by Congress and was timely because the seventh Trident nuclear submarine, the *Alaska*, would soon begin sea trials. Its 24 missiles would have put the United States over SALT II limitations. In order to comply, we would need to dismantle an older Poseidon submarine. The result of our restraint, if the Soviets matched it, would be to demonstrate faith in strategic arms negotiations without loss to our security.

Essentially, the President had three choices. He could have decided to keep the Poseidon, thus exceeding SALT II limits going against the advice of the Senate and our NATO allies. Such a course of action was advocated by some on the ground that, in view of probable Soviet violations, it would make little sense for the United States to adhere to SALT II unilaterally. The problem with this position is that Soviet violations have not yet been flagrant and irreversible, but would probably become so if the United States opted to ignore the agreements. The arms race would surely escalate.

Another option open to the President was to exploit a gray area of the treaty, specifically that portion which requires dismantling older weapons systems when new ones come on line. The possibility of putting the Poseidon in drydock, rather than removing its missiles and launch tubes, was given very serious consideration. The problem with this option is that it would clearly violate the spirit of SALT, and give the Soviets the opportunity to build more offensive weapons as they could claim that they were not responsible for the collapse of the agreements.

In addition to removing curbs on the arms race, both of these options would also have damaged the negotiating atmosphere at Geneva. Wisely, the President chose the third path of moderation. By making a commitment to another period of compliance, which should extend beyond SALT's expiration date, the United States has given the Soviets an opportunity to show restraint themselves and good faith at the bargaining table. An interim framework for mutual restraint, which establishes a bridge between SALT and future agreements, is in American and Soviet—indeed all people's—interests.

Mr. President, if the Soviet Union shows comparable faith, the likelihood for progress in the Geneva talks and continued peace will be greatly enhanced. The ball is clearly in the Soviet's court.●

Mr. RIEGLE. Mr. President, according to recent news reports, President Reagan may be preparing to alter current U.S. policy of adhering to the limits of the SALT II Treaty.

I rise today to join my colleagues in urging the President to continue our no-undercut policy with respect to this important arms control agreement.

Through an amendment adopted last year by a vote of 82-17, the Senate expressed its overwhelming support for continuation, through 1985, of this policy. The Senate further urged the administration to vigorously pursue the resolution of any alleged Soviet treaty violations through proper channels—the Standing Consultative Commission.

Mr. President, I commend the administration for its voluntary compliance with Congress' recommendation to honor the SALT II limits.

On June 10, 1985, President Reagan announced that, despite concerns over Soviet noncompliance with SALT II, he believed it to be in our national interest to:

> * * * continue to refrain from undercutting existing strategic arms agreements to the extent that the Soviet Union exercises comparable restraint and provided that the Soviet Union actively pursues arms reduction agreements in the currently ongoing nuclear and space talks in Geneva.

In September, the United States dismantled a Poseidon nuclear submarine in order to prevent the imminent deployment of a new Trident submarine from pushing the number of U.S. multiwarhead ballistic missiles above the ceilings set by SALT II.

Mr. President, the question of continued compliance with the terms of the SALT II Treaty first presented itself to the Reagan administration in 1981.

The reasoning that led the President to determine that it was in our best national security interests to continue a no-undercut policy 3 years ago is just as compelling today.

SALT II, despite its flaws, has imposed some important restraints on the arms race. Superpower compliance with that agreement has reduced somewhat the risk of a nuclear war, and has, I believe, moved us one step closer to stopping and eventually reversing, the nuclear buildup. That is why both countries find it in their mutual interests, despite deep suspicion and mistrust, to continue to honor the limits of the SALT II Treaty.

Two key issues of concern to advocates and opponents of the no-undercut policy alike are alleged violations of the terms of the treaty and the fear that one superpower may decide to break out of the treaty's limits altogether.

It remains a fact that the Soviet Union has a much greater breakout potential than does the United States. Instead of building complicated new systems like the MX, the Soviets could simply add more warheads to the missiles they already have. The giant SS-18 missile currently carries 10 warheads, but it could be fitted with 30 or more. As a result, the Soviets could have 15,000 warheads by the end of the decade—a significantly higher number than they are allowed to have under SALT II. That, in turn, could force the United States into a costly expansion of its offensive and defensive capabilities.

I have long felt that failure to decelerate the arms race by mutual agreement can only lead to an unrestrained acceleration of the arms race. However frail the tangible gains of SALT II may appear, their greatest value can be measured by the absence of monumental new dangers that would quickly appear without SALT II.

My support for continuation of the no-undercut policy, like my earlier support for Senate ratification of the SALT II Treaty, is based on my belief that the monitoring safeguards and procedures in the treaty provide us with important means of keeping track of Soviet strategic arms activity.

Our legitimate concern over Soviet treaty violations must not blind us to the fact that, like the United States, the Soviet Union has taken concrete steps, including the dismantling of some of their own weapons systems, in order to stay within the SALT limits.

Mr. President, the Standing Consultative Commission, created by the SALT I accords in 1972, exists to monitor SALT compliance, and provides a forum in which the two superpowers can address their concerns over potential violations. In a recent article, Sidney N. Graybeal, former U.S. Commissioner to the SCC, and Michael Krepon, of the Carnegie Endowment for International Peace, noted:

> * * * both governments have taken care to keep the SCC channel open during periods of harsh public exchanges. Useful discussions of sensitive military subjects continued even after the Soviet Union walked out of negotiations on strategic and intermediate range nuclear forces in 1983. Recently, modest progress has been made in the SCC, although major compliance problems, such as the construction of the Krasnoyarsk radar, have not been satisfactorily resolved.

Arguing that "the Standing Consultative Commission is an indispensable channel of communications between the superpowers over SALT implementation and compliance * * *", the authors caution that:

> When political relations between negotiating partners deteriorate to the point where intentions toward existing treaty obligations are called into question, the SCC cannot be an effective, problem-solving forum. If and when bilateral relations improve and both superpowers clearly signal their desire to reaffirm existing SALT commitments, the SCC can again resolve difficult compliance problems.

Mr. President, the recent summit meeting in Geneva between President Reagan and Soviet leader Gorbachev demonstrated the desire of both superpowers for improved bilateral relations.

As efforts continue to put into place concrete agreements to facilitate closer United States-Soviet relations, it is critically important to preserve, for as long as possible, existing arms control agreements. It would be the height of folly to discard the only mechanism we have to restrain an even more frantic arms race.

Therefore, I urge the President continue the no-undercut policy, which has the strong support of our NATO allies. Their vital security interests, like our own, are best served through continued compliance with SALT II.

Mr. HART. Mr. President, as we approach the formal expiration of the SALT II Treaty on December 31 of this year, it is critical for this body to express its strong, bipartisan support for continued adherence to this treaty. Although unratified, this treaty has guided this administration in its nuclear policies since 1981. This is sound policy and the administration should be commended. However, it is now time for both the United States and the Soviet Union to extend their commitment to the treaty's provisions, as was done when the SALT I interim agreement on offsensive arms expired in 1977.

Mr. President, as the administration has recognized by its own actions, the SALT II Treaty has contributed to the security of the United States by imposing verifiable constraints on Soviet force developments. Even with the controversies we have experienced in the past few years over both sides' compliance to the treaty's provisions, no one disputes we are better off with some contraints on the Soviet nuclear arsenal than with none at all.

By the administration's own analysis, the Soviet Unon is observing the most important numerical ceilings in SALT II, including those of special importance to U.S. security—constraints on multiple warhead systems. Agreed constraints on these systems have directly contributed to stability by discouraging accelerated Soviet development of missiles which pose a particular threat to the survivability of our own deterent.

Moreover, since the inception of the SALT I interim agreement, treaty obligations have forced the Soviet Union to dismantle a significant number of strategic nuclear systems. Between 1972 and 1985, the Soviet Union removed 1,057 land-based and 233 submarine-based ballistic missiles from its active forces and dismantled 13 *Yankee* class ballistic missile-carrying submarines. These force reductions would not have been possible in the absence of SALT II.

Mr. President, at a time when our Government has placed the highest priority on reducing nuclear arsenals and lessening the risk of nuclear war, continued adherence to a treaty which constrains a Soviet strategic buildup is simple prudence. Abandonment of the SALT II limits would reduce significantly the prospects for reaching a new United States-Soviet strategic arms agreement. Any further erosion of the framework for arms control developed over three successive administrations would, by definition, erode the foundations upon which any new agreements must build.

In the aftermath of the recent United States-Soviet summit meeting, even the modest step of extending the SALT II Treaty would be an important demonstration of our commitment to seek broader and more comprehensive arms control agreements—and of our commitment as a nation to world peace.

SALT STRENGTHENS AMERICAN SECURITY

Mr. BUMPERS. Mr. President, It has been 6½ years since the United States and the Soviet Union last signed an agreement to place some restraints on the nuclear arms race. There was a great debate at the time about whether SALT II was in our national security interest. I was greatly disappointed that the Senate chose not to ratify the treaty because I thought then, as I believe now, that SALT II was a modest but useful step for our security. This was also the opinion of the Joint Chiefs of Staff and has remained their opinion. Why SALT's critics didn't believe them I just don't know.

Today, as we approach the date of December 31, 1985, when that treaty would have expired had it been ratified, we can look back and see who was right. For even though we didn't ratify SALT II, we did the next best thing: We pledged to abide by it, and the Soviets did likewise. More importantly, with the benefit of this look back, we can look forward and see what should be our future policy with regard to both SALT II and the offensive limits of SALT I which, incredibly enough, expired over 8 years ago yet still place limits on the forces of both sides.

A look back shows clearly that the arguments of those who opposed SALT II were seriously flawed. SALT II was criticized because it would not produce real reductions in nuclear weapons, it would allow the Soviets to increase its warhead levels, it would allow the Soviets a monopoly in heavy ICBM's, and it did not count the Backfire bomber as a strategic weapon. The major flaws in the critics' arguments were that they ignored the advantages that SALT II gave us. They never demonstrated—because they could not—how rejecting SALT II made any of those problems easier for us, and they utterly failed to address the real question: Would we be better off with the treaty or without it?

So SALT II would not have stopped the Soviets from increasing their warhead levels. Did failing to ratify SALT II stop them? Of course not. But Soviet SALT adherence has left their warhead totals smaller than they otherwise would be, and continued SALT adherence will continue to provide that important benefit.

So SALT II would give the Soviets a monopoly in heavy ICBM's. Did failing to ratify SALT II make this monopoly go away? Of course not. We never planned to build any of those monster missiles anyway.

SALT II didn't include the Backfire bomber in its limits. Did failing to ratify SALT II limit the Soviet Backfire threat? Of course not. But SALT II did limit the Backfire's production rate, and now it has been recently reported that the Pentagon was wrong, the Backfire does not have the range that SALT's critics once claimed it did.

What has SALT done over the years? A lot more than its critics want the American people to know about. SALT has forced the Soviets to dismantle about 500 operational missiles and bombers that otherwise would have remained operational. The United States, by contrast, has had to dismantle only 16.

The Soviets are continuing to dismantle missiles today to comply with SALT. This is one of the great untold stories of arms control. Since 1978, the Soviets have dismantled 13 operational missile firing Yankee-class nuclear submarines to comply with SALT I's offensive limits, which technically have expired, and they continue to do this. According to the New York Times, the Soviets have dismantled SS-11 ICBM's and Bison bombers in recent months to compensate for the deployment of SS-25 missiles and Bear-H bombers. I ask unanimous consent that the article "United States Says Soviet Complies on Some Arms Issues" be printed in the RECORD at the conclusion of my remarks.

It is ironic that renewed opposition to SALT is occurring now, just as both sides really begin to bump up against the SALT II limits, requiring significant dismantling on both sides. One wonders if the critics aren't really just objecting to any reductions in nuclear weapons at all.

What would happen if we continue the President's wise policy of continuing to abide by SALT? Through 1987, the Soviets would have to dismantle about 4 times as many missiles as would the United States, 308 versus about 74. Depending on which missiles are dismantled, the United States would dismantle from 240 to 740 warheads, while the Soviets would dismantle about 500. The Soviets would have to dismantle far more throw-weight than would we.

Furthermore, Poseidon submarines to be dismantled for SALT reasons would reach their 30-year life limits and have to be dismantled anyway in 1993 and 1994.

If we drop our policy of abiding by SALT, the Soviets will not have to make any of these reductions. Furthermore, they would be free to add up to 20 more warheads on each of their 308 SS-18 ICBM's, adding over 6,000 warheads to their totals. They could build still more SS-18's. They could easily exceed the SALT II limit of 820 MIRV'd ICBM launchers—since they now have 818—and are getting ready to deploy their new MIRV'd SS-24 next year.

The great increase in Soviet ICBM warheads would pose a major threat to the survivability of the small ICBM because the Soviets could just barrage the area in which the mobile small ICBM would be deployed. In addition, this growth of Soviet warheads would also magnify the already difficult task confronting any star wars system, as the administration has already conceded.

Some say that because the Soviets have violated some of SALT's provisions we should junk the treaty. Yet every Soviet compliance problem we have would be worse without SALT. Ending SALT will not stop the SS-25, will not stop the Soviet missile encryption, and will not stop the Krasnoyarsk radar. We should press our compliance concerns with Soviets, but we would be foolish to junk SALT.

Defense Secretary Weinberger, a known foe of SALT, recently said in London that the Soviets are deploying more SS-25 missiles. What he fails to tell us is that the Soviets are chopping up older missiles to stay within the SALT limits. Ending SALT won't stop the Soviets from deploying those SS-25's. All it will stop is the Soviet practice of dismantling older missiles as they deploy new ones. That's why the Joint Chiefs support SALT, and why I do, too.

The Senate has spoken out clearly and convincingly for maintaining our current SALT policy on several occasions. In 1984 the Senate accepted my amendment supporting the President's SALT policy by the vote of 82-17. Earlier this year the Senate again accepted my SALT amendment by a vote of 90-5. And again, the Senate rejected an attempt to overturn the President's wise decision to scrap a Poseidon submarine and stay within the SALT II limits by a vote of 80-17.

Our distinguished colleague, the senior Senator from Virginia, has put it very well when he told a Washington Times reporter last month that it's "quite logical" for President Reagan and Mr. Gorbachev to talk about extending SALT II. According to the Times story:

> Mr. Warner said extending the SALT II agreement would be "conducive to continuation" of the separate arms control talks between the two countries, scheduled to continue in Geneva next year. "A sharp turn away from that policy could well be detrimental to the atmosphere in which these talks are being conducted," he said.

I heartily agree with this typically astute assessment from our esteemed colleague.

Our allies strongly support our current SALT policy. Every one of our NATO allies endorsed SALT II back in 1979, and they continue to do so today. Listen to the words of West Germany's Hans-Dietrich Genscher, West Germany's Foreign Minister, just last month, as quoted by Stern magazine:

> At the Lisbon NATO conference in June we supported the United States sentiment of commitment to the SALT II Treaty, although it was never ratified. Because it is very difficult to make new agreements in arms control, it is all the more important to most carefully preserve existing treaties and adhere to them.

Rejecting SALT now, before we have a new strategic arms agreement in place, would be a body blow to the NATO alliance, and would allow the Soviets to have a propaganda field day in Europe.

Listen to what our top military experts say. Gen. Brent Scowcroft has pointed out:

> Yes, I think we should [comply with SALT II]. There are restraints in the treaty on the Soviets which, however modest, are better than having no restraints at all.

Or Gen. David Jones, then-JCS Chairman, pointed out in 1981: "There is not even a marginal military reason for exceeding the SALT limits."

Or the then-commander in chief of the Strategic Air Command, Gen. Bennie Davis, told the Strategic Forces Subcommittee of Armed Services in March, "I have made that assessment privately that we should continue to abide by the SALT II limitations."

Despite all these arguments, some persist in hawking the myth that SALT is not good for our security. They suggest that since SALT II would have expired on December 31, 1985, we should just let it drop. What a mistake that would be. There is no magic to the date December 31. After all, both we and the Soviets have been abiding by the offensive limits of SALT I, and they technically expired on October 3, 1977.

If we had done the right thing back in 1979 and ratified SALT II, there would still have been no significance to the end of this month. We probably would have already ratified SALT III by now and would be well on our way to negotiating SALT IV. We would have had substantially lower limits on nuclear weapons, warheads as well as launchers, and the Soviets' throw-weight would have been lower as well. Everyone knew that warheads had to be limited in future arms agreements, and advanced planning in 1979 and 1980 was already pointing in that direction. We might already be at the 4,500 to 6,000 warhead level that is the centerpiece of this administration's proposals, and which still seems far away.

So where do we go from here? Clearly, we should continue to pursue a new arms agreement that will reduce the number of nuclear weapons on both sides and increase the stability of the forces that both sides have. And in the meantime, we should keep some form of restraints in place while we pursue this new agreement.

The existing SALT framework is an excellent place to start. We should modify it so that our small ICBM program can proceed. We should also give serious thought to a mutual cut of say 10 percent in the existing SALT II ceilings. This would force the Soviets to dismantle 500 missiles and bombers, including 30 of their giant SS-18 ICBM's, with about 1,000 warheads. Because we are already under most of SALT's ceilings, we would only have to dismantle 130 vulnerable ICBM's with fewer than 400 warheads.

For someone who campaigned in 1980 on a misguided platform that claimed SALT II was fatally flawed, this 10-percent cut might be too much for the President, despite its clear advantages for the United States. But, at a minimum, the United States should continue to keep the SALT limits in place in the crucial months and years ahead before a new agreement is reached.

The next decision point will be this coming May, when the eighth Trident submarine goes out to sea trials. This would cause us to exceed the SALT II limit of 1,200 launchers of MIRV'd missiles unless we take offsetting steps. I call upon the President to continue the fine precedent he established last June and direct the Defense Department to dismantle the appropriate weapons so that we stay within the SALT ceilings.

As President Reagan so wisely said last June:

> Despite the Soviet record over the last years, it remains in our interest to establish an interim framework of truly mutual restraint on strategic offensive arms as we pursue * * * the ongoing negotiations in Geneva.

Let's go forward and follow this sound advice, and make our great country, and the whole world, a little safer.

Mr. President, I ask unanimous consent that the executive summary of the Arms Control Association's recent excellent report, "Countdown on SALT II," be placed in the RECORD at the conclusion of my statement, as well as an article I wrote last month for the Christian Science Monitor.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Nov. 24, 1985]

U.S. SAYS SOVIET COMPLIES ON SOME ARMS ISSUES

(By Michael R. Gordon)

WASHINGTON.—The Soviet Union has quietly taken steps to reduce some American concerns over purported arms-control violations, according to Administration officials.

The Soviet moves involve the cutting up of bombers and, according to intelligence reports, the possible removal of SS-16 missiles from a test center at Plesetsk in northern Russia.

The moves are of political importance because the United States has taken the position that it will not undercut the 1979 strategic arms treaty as long as the Soviet Union does not.

The 1979 treaty issue was not pursued at the Geneva summit meeting, officials said today. Nor was the question of Soviet violations dealt with in detail.

On Friday, a State Department official said these issues had not been raised in Geneva because they had been discussed by Secretary of State George P. Shultz on an earlier visit to Moscow. Mr. Shultz was said to have affirmed the policy not to undercut the treaty, although reserving the right to make appropriate responses to actions not permitted by the treaty.

REPORT TO CONGRESS DUE DECEMBER 1

The issue will receive attention soon when the Administration submits a report to Congress on purported Soviet violations. The report is due Dec. 1.

Administration officials caution that the positive Soviet moves have not removed concerns over other purported violations, such as the charge that the Soviet Union has violated the 1972 antiballistic missile treaty by building a large phased-array radar at Abalakovo near Krasnoyarsk in central Siberia.

The United States says the ABM Treaty does not permit such missile-tracking radars in the interior of either country. The Soviet Union says the radar is intended to track space vehicles not incoming missiles.

The reported developments at Plesetsk are of interest because the 1979 treaty bans the testing and deployment of the mobile SS-16. It has been kept at Plesetsk and an issue has been whether this constituted deployment.

In February, the United States said the Russians had committed a "probable violation" by deploying. But now, an American official said, "that problem may be going away."

The evidence is not conclusive and consists of observations of the moving of support equipment for mobile missiles, such as transporters for warheads, onto rail cars.

CONSENSUS ON PLESETSK MOVES

Officials said there was a consensus among intelligence officials that the activity at Plesetsk was consistent with the view that equipment for SS-16 missiles was being sent into storage.

But another possible interpretation, an official said, is that the equipment being moved might be for a different missile, the mobile SS-25.

Officials say the Russians may be in the process of moving in SS-25's as SS-16's are being taken away.

"They do not make the activities observable at a time when national technical means are capable of monitoring them," an official said, referring to satellite surveillance. Officials said no SS-16's had been seen since the signing of the 1979 treaty.

There is less debate over steps described by the Russians. The Soviet Union has said that it will not add to the number of strategic systems it had at the time of the signing of the 1979 treaty. That number was 2,504.

SYSTEMS DEPLOYED AND RETIRED

As new systems have been deployed, older systems have been retired. By a recent count the Soviet Union has dismantled 50 SS-11's to compensate for the deployment of 45 SS-25's.

The Soviet Union has also said that it has dismantled more than 30 Bison bombers to compensate for the deployment of new Bear-H bombers, which can carry cruise missiles.

The bombers have been placed in plain view at an airfield, officials said. This summer, the tail sections of 15 of the old Bison bombers were being cut off. The Soviet Union says the others have been converted to fuel tankers.

An Administration official said the United States had not accepted this Soviet assertion because the conversion of the planes could not be verified.

"There is no discernible difference in their external configuration," he said.

Officials say the issue is complicated by the fact that procedures on bomber dismantlements were never worked out after the Soviet intervention in Afghanistan and the United States decision not to ratify the 1979 treaty.

In addition to the moves relating to this treaty, there is general agreement that the Soviet Union has taken steps to stay within the limits of the first strategic arms treaty, of 1972, by continuing to cut up the missile-carrying portion of old Yankee submarines.

This leaves three purported violations of concern to the United States. They are the Siberian radar, which the United States says violates the 1972 antiballistic missile treaty, and the encoding of missile test telemetry and the development of the SS-25, which are said to be in violation of the 1979 treaty.

Countdown on SALT II—the Case for Preserving SALT II Limits on U.S. and Soviet Strategic Forces

EXECUTIVE SUMMARY

The survival of the unratified SALT II Treaty, which has limited U.S. and Soviet strategic forces since 1979, is in doubt. The treaty, whose provisions are presently adhered to as the result of a political commitment by both the United States and the Soviet Union, is scheduled to expire on December 31, 1985. The United States and the Soviet Union could extend their commitment to adhere to the treaty's provisions, as was done when the SALT I Interim Agreement on Strategic Offensive Arms expired in 1977. If this is not done, there will be no agreed constraints in effect on the strategic offensive forces of the superpowers. If the United States pursues a policy of "proportionate responses" to alleged Soviet acts of non-compliance with SALT II, the treaty will almost certainly erode to accommodate the military programs of the superpowers.

The SALT II Treaty has contributed to U.S. security by substantially constraining the buildup of threatening Soviet strategic offensive forces. SALT II establishes equal limits on the aggregate number of strategic offensive systems (land-based and sea-based ballistic missile launchers and long-range bombers) of the two superpowers. The Treaty also imposes equal sublimits and qualitative restrictions on fixed land-based missiles and MIRVs—the weapons that are most threatening to the strategic balance. These provisions of SALT II will prove of even greater value to U.S. security during the balance of this decade as a new generation of Soviet strategic forces enters the field.

To comply with the limits established by SALT II and the SALT I Interim Agreement, which SALT II replaced, the Soviet Union from 1972 to 1985 removed 1,007 land-based and 233 submarine-based ballistic missiles from the active force and dismantled 13 Yankee-class ballistic missile-carrying submarines as new weapons entered the force. Past Soviet military practices suggest that these missiles would not have been retired nearly as rapidly in the absence of SALT limitations. On the U.S. side, 320 land-based and 544 submarine-based missiles have been removed and 11 ballistic missile-carrying submarines have been dismantled.

In the years 1985-1990, SALT II will require the Soviet Union to remove at least 500 to 600 ballistic missiles and to destroy missile silos equivalent to the number of mobile missiles deployed. In the absence of SALT II, the Soviet Union could deploy SS-X-24, SS-25, and other missiles now in advanced development without retiring any of its fixed land-based missiles (SS-17, SS-18, SS-19, SS-11). On the U.S. side, SALT II will require from 1985 to 1990 the removal of between 200 to 300 missiles or bombers from the force as new systems are deployed.

Abandonment of the SALT II limits before a new strategic arms agreement is reached would harm U.S. security interests. By 1990 the Soviet Union could increase its total number of nuclear warheads and bomber weapons by almost 7,000, roughly twice the increase that the United States could make over the same period and 4,000 more than the Soviets could deploy under SALT II. Without SALT, the Soviet Union could significantly increase the number and improve the capabilities of its "heavy" land-based missiles, the weapons that the Reagan administration considers the most threatening. In the longer run, irrespective of which side ultimately gained a quantitative advantage, the United States would face the serious dangers and expenses of an all-out nuclear arms race.

Abandonment of the SALT II limits would reduce significantly the prospects for reaching a new U.S.-Soviet strategic arms accord. The collapse of the existing framework of arms control and the buildup of additional nuclear forces would inevitably complicate the process of attempting to achieve deep reductions in strategic forces.

The U.S. policy of "proportionate response" to alleged Soviet non-compliance with the provisions of SALT II threatens to erode the Treaty and destroy it over a period of time as an effective constraint on strategic offensive forces. When President Reagan announced on June 10 that the United States would refrain from undercutting SALT II by deactivating and dismantling an existing Poseidon submarine to compensate for a new Trident II submarine scheduled to start sea trials in September 1985, he stated that the United States will carry out "proportionate responses" to alleged Soviet SALT II violations. He also stated that the United States "will keep open all programmatic options for handling such milestones as they occur in the future." Specifically, he indicated that the United States retained the option to test and deploy the Midgetman missile in response to the alleged Soviet testing and deployment of a second new intercontinental missile (SS-25) in violation of a provision of SALT II. A policy of "proportionate responses" could result in the rapid erosion of the SALT II Treaty regime. Since the Soviet Union insists it is operating in compliance with SALT II, U.S. actions clearly in violation would very likely provoke the Soviet Union to undertake its own "proportionate responses." The Soviet Union could quickly implement such a policy since it has a number of new strategic missiles in advanced development. Such a process would soon convert SALT II into a meaningless document which each side would circumvent whenever the treaty conflicted with ongoing weapons programs.

The United States has formally charged the Soviet Union with violations of the SALT II Treaty, and the Soviet Union has leveled countercharges of U.S. violations. Specifically, the United States has accused the Soviet Union of the following violations of the Treaty: testing and deployment of a second "new type" of land-based ballistic missile when only one is allowed; telemetry "encryption" that impedes treaty verification; and deployment of SS-16 mobile land-based ballistic missiles. The Soviet Union has denied these charges and in turn accused the United States of several violations of the treaty, including the deployment of ground-launched cruise and Pershing II missiles in Europe. None of these charges are clear-cut, and all relate to complex treaty provisions that are subject to differing interpretations. While these problems should be vigorously pursued to maintain the integrity of the treaty, they cannot be resolved by public accusations that only harden positions or "proportionate responses" that legitimize and institutionalize the process of non-compliance with the treaty. Compliance issues should be addressed through the Standing Consultative Commission, which was established under SALT for this purpose, and by high-level private diplomacy. The conversion of this serious problem into a propaganda battle reduces the prospects of a satisfactory resolution and will undercut public confidence not only in SALT II, but also in the arms control process in general.

U.S. security would be best served by formal ratification of SALT II, extended for several years, but such an outcome appears unlikely. In the absence of formal ratification, the best course at this time for the United States would be reaffirmation of the present political commitment not to undercut the SALT agreements. Reaffirmation, either through bilateral agreement with the Soviet Union or unilateral declarations, would preserve crucial constraints on the arms race and improve the prospects for resolving compliance disputes and for negotiating a new U.S.-Soviet agreement to limit and reduce nuclear weapons.

[From the Christian Science Monitor, Nov. 19, 1985]

SALT Successes and the Geneva Summit

(By Dale Bumpers)

In the weeks preceding the Reagan-Gorbachev summit, the administration sought to dampen expectations that any major arms control agreements will be reached. While White House aversion to disappointing the American people on this important issue is understandable, it overlooks the real possibilities for limited but significant steps to slow the arms race.

The Reagan administration has sought to keep down expectations that a major breakthrough is likely, particularly on arms control. It should not be surprising that Americans have high hopes for the summit: all five summits of the Nixon, Ford, and Carter administrations yielded important arms accords. Given the absence of any arms control progress during the five Reagan years, it is natural that the public would look to the first Reagan summit for hope of at least some curbs on the arms race.

While the United States and Soviet Union are miles apart on almost every arms control issue, from strategic arms and antisatellite weapons to nuclear testing, there is one area where their positions are similar and the potential for agreement is high: a framework for keeping existing arms restraints in place while we continue the task of negotiating a new one.

President Reagan made an important first step in this direction when he said in June that "despite the Soviet record over the last years, it remains in our interest to establish an interim framework of truly mutual restraint on strategic offensive arms as we pursue . . . the ongoing negotiations in Geneva." Surely we are better off with SALT than without it. SALT has forced the Soviets to dismantle over 450 nuclear-tipped missiles vs. only 16 for the U.S., and it will force them to dismantle over four times more than we do by the end of 1987. It also recognizes that the Soviets would have thousands more nuclear warheads without SALT than with it.

While SALT II was never ratified and the SALT I offensive arms limits technically expired eight years ago, each side has announced separately that it would abide by them. This informal and very fragile arrangement is under new attack by some political appointees in the administration who have a long track record of unremitting hostility to SALT and other realistic arms control measures, such as the ABM Treaty. In addition to the usual litany of Soviet arms violations, they also argue that since SALT II would have expired on Dec. 31 of this year anyway, we should stop complying with it.

Renouncing SALT would be a dangerous decision that would trigger an all-out offensive arms race which studies show could double the already bloated nuclear arsenals of both sides in less than a decade. Furthermore, the pressures on SALT will increase in the months ahead as we approach the time when our eighth Trident sub goes out to sea in May, and as the Soviets start to deploy their new MIRVed SS-24 ICBM. Both these events would violate SALT ceilings unless offsetting actions are taken. Renouncing SALT would also damage US relations with our NATO allies, who strongly support the SALT restraint framework. At a minimum, our policy of maintaining existing SALT limits while trying to negotiate new agreements needs to be reinforced. Recent comments by a senior administration official that SALT II could be extended past 1985 constitutes sound advice.

Given how far apart both sides are in the arms talks, I believe the President when he says a new agreement may well not be reached in the next several years. This makes it all the more important to strengthen the currently shaky interim restraint framework the President discussed in June. There is great similarity in the public statements on SALT made by both sides, so agreement on a common position should be possible. This could also be accomplished by language dealing with avenues for resolving our concerns about certain alleged Soviet SALT violations. The alleged ABM Treaty violations could be dealt with similarly.

Reaffirming SALT would have important benefits for US security. Continuation of SALT will force the Soviets to dismantle older SS-11 and MIRVed SS-17 missiles as they deploy their new SS-25s and MIRVed SS-24s. SALT will also force them to dismantle additional missile-firing submarines as they deploy new ones. (SALT has already forced them to dismantle 13 since 1978.)

If the President wanted to make a bolder move, he could offer a mutual cut of 10 percent in the existing SALT II ceilings. This would force the USSR to dismantle 500 missiles and bombers, including 30 giant SS-18 ICBMs, with about 1,000 warheads. The US, benefiting from the fact that we are already under most of SALT's ceilings, would only have to dismantle as few as 130 vulnerable ICBMs with fewer than 400 warheads. Other kinds of interim agreements are possible as well.

For someone who campaigned in 1980 on a platform that mistakenly claimed SALT II was fatally flawed, this 10 percent cut in SALT ceilings might be too much for the President, despite its clear advantages. At the summit he should seek the realistic goal of ensuring that there will be at least some restraints on offensive arms in place in the crucial next few years before a new agreement is reached. We must have the wisdom and courage to take these small steps to strengthen US security and set the stage for further arms control progress.

COMMEMORATING THE 75TH ANNIVERSARY OF THE NEW PITTSBURGH COURIER

Mr. SPECTER. Mr. President, on Wednesday, December 11, 1985, the New Pittsburgh Courier, one of Pennsylvania's most prestigious newspapers commemorated its 75th anniversary of service to Pittsburgh's black community, the Commonwealth of Pennsylvania, and the Nation.

Since 1910, the Pittsburgh Courier has consistently demonstrated its commitment to being the voice, eyes, and ears of the black community. Historically, this has been the role of the black press since the founding of the Nation's first black newspaper, Freedom's Journal, 158 years ago. As the voice of its readers, the black press has had to speak out against the injustices perpetrated against black Americans. It has also served as a major vehicle for communicating events occurring within the black community, and informing readers of events in Africa and other locations in the Third World.

For the past several years, I have had the opportunity of working with the New Pittsburgh Courier to help inform the Pittsburgh black community of legislative initiatives under consideration by the U.S. Senate. I have been greatly impressed by the commitment and dedication of this newspaper to its readers, and what in my view has seemed to be unfailing integrity in reporting.

It is, therefore, with sincere admiration that I salute the New Pittsburgh Courier on the occasion of its 75th anniversary, and wish this newspaper many, many more years of continuing to serve its readers in the fine tradition of the black press in America.

Mr. President, I ask that the text of an article appearing in the December 14, 1985, edition of the New Pittsburgh

Courier appear in the RECORD immediately following my statement.

COMMEMORATING 75 YEARS OF COMMUNITY SERVICE

(By Y. Denise Caldwell)

"Without the black press, the black man would not know who he is nor what is happening to his struggle for the freedom of citizenship."—Valerie Myers, former editor of the Syracuse (N.Y.) Challenger.

Historically, the role of the black press has been to be the voice of the black community. As the voice, it has had to speak out on all the issues pertinent to achieving amicable relations between Blacks and Whites, both nationally and locally.

In addition, the black press has been the eyes and ears of the black community, relaying to its readers the events that occur within their realms—from weddings, births and deaths to meetings and balls.

Locally, the *New Pittsburgh Courier* has been valiantly providing its readers with news and information for the past 75 years.

Since 1910, it has acted as a vessel for local black leaders to use to combat the problems associated with being Black.

Robert L. Vann, a founding father and editor of the *Courier*, is credited with establishing the reputation of the paper. He and Ira Lewis were responsible for the focus of the paper. They purportedly "launched numerous crusades on behalf of the black community and black citizens generally. These crusades were against jim-crowism and discrimination against Blacks in major league baseball."

In addition, Vann "saw to it that the paper was taken into the South, for in some localities black citizens were prohibited from reading black publications."

This greatly improved the circulation of the paper, which fell off during the decline of the railroad industry.

"In some instances, Pullman porters distributed the product as a courtesy to help spread the word of the black press," said Rod Doss, vice-president and general manager of the *New Pittsburgh Courier*.

The word was being spread, and the people were listening to and heeding the advice of *Courier* editors.

As reported in a special issue of the *Pittsburgh Press* Sunday Roto Magazine, by Jerry Byrd "those old enough to remember like to recall that the '*Courier* urged two million black voters to go turn (Abraham) Lincoln's picture to the wall. That debt is paid' . . . and switch from Republican to Democratic party."

"The *Courier* was always a crusading organ," said Hazel Garland, columnist and former editor-in-chief of the *Courier*. "We crusaded for the rights of Blacks."

Her tenure at the paper began in 1944 when she was a part-time reporter. Two years later she became a full-time reporter and in 1972 was named city editor. She became editor-in-chief in 1974 but retired from that position in 1977 to become a columnist.

An example of the editorial attitude of the *Courier*, as remembered by Mrs. Garland, includes the time the paper published "Muhammad Speaks" columns.

"It was for the black Moslems," she said. "They were calling whites 'White Devils' and a lot of white Jewish merchants threatened to pull out (their advertising)."

Another issue attacked by the *Courier* was the Double-V for Victory At Home As Well As Abroad.

"This was during WWII, and we were fighting to break down the walls of segregation while our boys were overseas fighting for freedom," Mrs. Garland explained.

She said that publicity generated by the *Courier* and other black newspapers led to the creation of the Anti-Discrimination laws by President Truman.

Under the auspices of William G. Nunn, Sr., the managing editor of the *Courier*, and P.L. Prattis, executive editor, the *Courier* reached an all-time high circulation of 400,000 in 1948.

"We took on the issues," said Mrs. Garland. "We were particularly strong in the South. We crusaded the rights of the Scottsboro Boys (as well as others). During this period, Blacks relied on the *Courier*. Many grew up on the paper and it was the only way they found out what was happening in the country (and in the city)," she said.

Writing these stories were well-known *Courier* correspondents and editors. Most notable were the national reporters, such as former editor Robert Ratcliffe. He travelled through the South during the 1950s to gather information on the living conditions of Blacks.

Courier reporters could be found around the world. They covered the news from the war efforts to the political status of foreign countries. Some of them went on to become famous working for white news bureaus.

They included George Padmore, who was the *Courier* London correspondent in 1923; Theodore Stanford and Collins George were war correspondents in 1945; and Stanley Roberts, who was the Washington Bureau chief for the *Courier*.

Roberts is particularly remembered for being the only reporter to interview Gen. Douglas MacArthur after his return from the Orient. Roberts' interview concerned the fact that the black press was blaming MacArthur for the abuse black soldiers were suffering and for army desegregation. MacArthur told Roberts that black soldiers were not being utilized by the armed forces. His quote, "They didn't send me enough of them," became part of a two-part series on black troops.

Another renowned *Courier* editor and reporter, George S. Schuyler, covered South Africa, the West Indies, French West Africa and the Dominican Republic as a war correspondent. He was with the *Courier* from 1944 until 1964.

The *Courier* also maintained an excellent relationship with the community locally by publishing news from community reporters.

There were several people assigned to various neighborhoods in the area. In the 1940's, Allen R. Reddick wrote "News of Hill City" which focused on the Hill District; Cheerful Parrish reported on events in Beaver Valley. Amelia Ray covered Shenango Valley; Writt A. Richards wrote the "Bedford-Terrace Notes" and John Clark was responsible for the Wylie Avenue column.

Besides international and local news there were articles from special correspondents on everything from social ills to philosophical laments. These writers included Leotha Hick-Shaw; Ethel L. Payne; Zora Neale Hurston and Langston Hughes.

Frank E. Bolden, who was *Courier* city editor from 1954 to 1962, recalls some of the strident series published during his reign.

"I'm especially proud of the series 'Heroes In Blue.' (which was responsible for the) upgrading of the city police department," he said. "There was only one black police lieutenant at that time—Jim Robertson."

In keeping with the policy to upgrade the status of Blacks in the community and to protect their civil rights, the *Courier* also ran a series on how Blacks were being shortchanged by area merchants.

"Some butcher stores had scales that were not honest," said Bolden. "They were cheating black customers . . . and some taverns were using shot glasses with thick bottoms. So we ran the article and the Tavern Owners Association and some Italian thugs threatened us, but we weren't afraid."

Bolden said that the article eventually led to Pennsylvania Liquor Control Board investigation which straightened things out.

Most recently, the *Courier* ran a story concerning a fire-bombing in Forest Hills which has led to an investigation of the neighborhoods's racial composition and policies.

Currently under the management of the Sengstacke Newspaper chain, which purchased the paper in 1966, the *Courier* has been focusing on rebuilding and restructuring its standing in the community.

Issues and events of particular interest to the *Courier* editorial staff include reporting on the lack of black representation in city government, the increase of violence towards black homeowners in predominantly white neighborhoods and the massive unemployment problem among young black males.

Traditional values are still strong, however. They are seen in the longstanding social columms by Mrs. Garland: the religious coverage by Mattie Trent, *Courier* religion and lifestyle editor: the well-established sports acumen of Sports Editor Eddie Jefferies and the single-handed coverage of black entertainers in the city by Timothy Cox.

All of these serve to illustrate the commitment the *Courier* has to providing the black community with news and information about their world as only a black newspaper can—by being the voice, the eyes and the ears of its readers.

CONCLUSION OF MORNING BUSINESS

The **PRESIDING OFFICER**. Morning business is closed.

WHITE EARTH RESERVATION LAND SETTLEMENT ACT OF 1985

Mr. **ANDREWS**. Mr. President, what is the pending business?

The **PRESIDING OFFICER**. Under the previous order, the Senate will now resume consideration of the pending business, S. 1396, which will be stated by title.

The legislative clerk read as follows:

A bill (S. 1396) to settle unresolved claims relating to certain Indian lands on the White Earth Indian Reservation, to remove clouds from the titles to certain lands, and for other purposes.

The Senate proceeded to consider the bill.

AMENDMENT NO. 1415

The **PRESIDING OFFICER**. Under the previous order, there will now be 20 minutes debate on amendment No. 1415, to be equally divided and controlled by the Senator from Montana [Mr. MELCHER] and the Senator from Minnesota [Mr. BOSCHWITZ], or their designees, to permit debate on the

Durenberger motion to table the Melcher motion to appeal the ruling of the Chair that the Melcher amendment No. 1415 was nongermane.

Mr. ANDREWS. Mr. President, I reserve temporarily the time allotted on this side, pending the arrival of the Senator from Minnesota.

Mr. MELCHER. Mr. President, this is a bill to extinguish the title of thousands of Indian allottees. It is strongly backed by the State of Minnesota, by its Governor, by its legislature, and by its Senators and some of the House Members. But it is opposed totally by the White Earth Band of the Chippewas. It is opposed totally by a couple of public interest groups in the State of Minnesota: The Minnesota Public Interest Research Group and the League of Women Voters of Minnesota, who specifically, on November 18, issued a resolution opposing the passage of this bill. It is also opposed by the United Townships Association, which represents both Indians and non-Indians in the White Earth Indian Reservation.

The White Earth Indian Reservation was originally 762,000 acres reserved for the White Earth Band of the Chippewas. It has presently dwindled to 56,000 acres. That is 6 percent of the total.

Early in this century, most of the Indian allotments on White Earth passed into the hands of the timber companies, and they passed into the hands of the timber companies because there was valuable timber on the land. Now they have the timber off, and that value is gone; most is now in private hands.

Also, strangely enough, the State of Minnesota possesses 165,000 acres of the Indian allotment land on the White Earth Reservation.

All this was purported to be legal under the Clapp amendment, which passed Congress in 1906. But let us review a couple of facts.

The Indian land was held in trust by the United States for the individual Indians. As long as the land was held in trust, it could neither be sold nor taxed.

There are literally thousands of claims now pending by the Indians who are trying to get some just compensation for their land or their land back, one or the other. The Department of the Interior has been looking at this over the last 5 years, putting together the most valid claims, and they have identified those that they say have "merit."

This bill would do two things: It would extinguish the title for these Indian allottees, but it would permit a narrow window of opportunity to go into court and fight out this battle. I say a narrow window because it is only for 6 months, and they must find all the records they can during that time. They must get legal advice during that 6 months, and then they must go into court and claim what is theirs, and get some compensation for it.

Even that narrow window would not be in this bill except for one fact: The Justice Department advised the authors of this bill that unless there was some narrow window, there would be a question of constitutionality. That, in itself, raises a point of how you limit somebody's constitutional rights to a narrow window of 6 months.

The bill in its totality should be defeated.

It is no small wonder that the Governor of Minnesota is for it, that the attorney general of Minnesota is for it, that the legislature of Minnesota is for it. Why would they not be for it? How are they going to explain why the State has 165,000 acres of Indian land?

I know of no other State that has acquired land through tax forfeitures or fraudulent, unlawful probates. But this State has. It is a disgrace. It is a disgrace for those who want to accommodate the interests—the political interests, mind you—of the Governor, of the attorney general, of the State legislature.

A word or two about the generosity of the State legislature of Minnesota. Within the bill, they are going to give back 10,000 acres out of the 165,000 acres that they probably have no right at all to hold. The claims that have been identified on behalf of the Indians, which the Department of the Interior says have "merit," amount to about 100,000 acres of what the State now holds, out of that 165,000 acres.

So the pending amendment merely allows some help from the United States in legal advice and legal assistance in those instances that have been identified as having "claims with legal merit" by these Indians.

These are individual Indians. These are heirs for the most part to the original Indian allottee. They do have their rights. There is equity, we hope, within the Government itself, the U.S. Government. I hope there is equity in the government of the State of Minnesota. I trust there is. I trust there is because after all, these Chippewas, this White Earth Band of Chippewas are also citizens of the State of Minnesota. So the State should be evenhanded.

The question immediately before us is a ruling on the amendment that would allow some legal advice and assistance by the United States to those Indians for whose claims the U.S. Government, through the Department of Interior, have found to have "legal merit," and to assist them in that process. That is all the amendment does. I believe it was unfortunate that the amendment was challenged on the basis of whether or not it was germane because it certainly is germane and that is why I appealed the ruling of the Chair, and I hope that we will win on that one because it is basic. It is fundamental. It is a question of whether we want to show some equity and justice in our deliberations here in the Senate.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. ANDREWS. Mr. President, while I do not share the opinions of my colleague from Montana on the basic bill, I think this amendment has a good deal of justice and reason in it, but I would be more than happy now to yield the time reserved for this side to my colleague and good friend, the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I am grateful to my colleague from North Dakota. I am not going to take much time. I am prepared to yield back at least any time that the Senator from North Dakota might allot to me off of our side.

I just restate the argument that I made yesterday on my own behalf and on behalf of the main author of this legislation, my colleague from Minnesota.

The whole purpose of S. 1396 on the floor today is to avoid litigation. In many of these claim cases, practically all of your claim cases, the choice is to litigate the claims or the choice is to resolve the claims without litigation. The whole purpose of the latter course of action, of course, is to determine people's rights and their compensation by involving all of the parties or as many of the parties who might be claimed against as possible in that process.

Of course, that is what we have done here. I spoke yesterday to the liability, if any, of the State of Minnesota, of the counties involved, and of the Federal Government, three of the levels of Government that may be involved, in order to bring all three parties in in some equitable fashion to discharge their obligations in monetary terms to the claimants, and then in addition to that without any legal claim against any of the governments to provide for the White Earth Tribe additional compensation in the form of monetary and land which is all part of one single compromise. And part of that compromise was that we not promote the litigation this amendment would promote.

For that reason, I will object, and continue to object to my colleague's amendment simply because it is designed to promote litigation in an area where that kind of litigation would be antithetical to the interest of the Indian claimants.

Mr. MELCHER. Mr. President, there has been no compromise. Compromise indicates that there is an agreement between the two sides. One side here is the Indians and the other side is the

State of Minnesota. That is where these legal claims are, these claims "that have legal merit." They are against the State of Minnesota.

There has been no compromise and that is the fallacy of this whole bill. The precedent that is being set here, if this bill becomes law, of not having a consensus agreement with the injured party, and that is the Indians, is a terrible precedent for this Senate to endure.

The PRESIDING OFFICER. The time of the Senator has expired.

There remains 7 minutes of the Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I am prepared to yield back my time. However, I do not know whether or not the manager of the bill and chairman of the committee may want to make any comments.

Mr. ANDREWS. Mr. President, I yield back the remainder of time that might be allotted to me.

The PRESIDING OFFICER. The question is on the motion to table.

Mr. MELCHER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BOSCHWITZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MELCHER. Mr. President, I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. MELCHER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ANDREWS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ANDREWS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question recurs on the motion of the Senator from Minnesota [Mr. DURENBERGER] to table the appeal of the ruling of the Chair.

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. EAST], the Senator from Arizona [Mr. GOLDWATER], the Senator from Washington [Mr. GORTON], the Senator from Utah [Mr. HATCH], the Senator from Kansas [Mrs. KASSEBAUM], and the Senator from Maryland [Mr. MATHIAS], are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Connecticut [Mr. DODD], is necessarily absent.

I also announce that the Senator from Florida [Mr. CHILES], is absent because of illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 56, nays 36, as follows:

[Rollcall Vote No. 374 Leg.]

YEAS—56

Abdnor
Armstrong
Bentsen
Biden
Bingaman
Boschwitz
Bumpers
Chafee
Cochran
Cohen
D'Amato
Danforth
Denton
Dixon
Dole
Domenici
Durenberger
Evans
Garn
Gramm
Grassley
Hatfield
Hawkins
Hecht
Heinz
Helms
Hollings
Humphrey
Johnston
Kasten
Laxalt
Long
Lugar
Mattingly
McClure
McConnell
Murkowski
Nickles
Packwood
Pressler
Proxmire
Quayle
Roth
Rudman
Simpson
Specter
Stafford
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Zorinsky

NAYS—36

Andrews
Baucus
Boren
Bradley
Burdick
Byrd
Cranston
DeConcini
Eagleton
Exon
Ford
Glenn
Gore
Harkin
Hart
Heflin
Inouye
Kennedy
Kerry
Lautenberg
Leahy
Levin
Matsunaga
Melcher
Metzenbaum
Mitchell
Moynihan
Nunn
Pell
Pryor
Riegle
Rockefeller
Sarbanes
Sasser
Simon
Stennis

NOT VOTING—8

Chiles
Dodd
East
Goldwater
Gorton
Hatch
Kassebaum
Mathias

So the motion to lay on the table the appeal of the ruling of the Chair was agreed to.

Mr. DOLE. I move to reconsider the vote by which the motion was agreed to.

Mr. DURENBERGER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1416

THE PRESIDING OFFICER. The question is on amendment 1416. Who yields time?

Mr. MELCHER addressed the Chair.

THE PRESIDING OFFICER. The Senator from Montana.

Mr. MELCHER. Mr. President, Indian land is not subject to taxation by the county or the State as long as it is held in trust by the United States for the Indian allottee or for the tribe.

The original 760,000 acres of the White Earth Reservation belonging to the White Earth Band and the Chippewas has shrunk to 56,000 acres at present.

In that shrinkage, in that loss of land, 165,000 acres is now held by the State of Minnesota on the reservation. Over 100,000 acres of that land that the State of Minnesota now owns was acquired by tax forfeiture.

There is no doubt that in the case of tax forfeiture, the Indian land was held in trust. On the question of the collection of taxes, that collection is unlawful. There is no question about that.

Mr. President, I ask for the yeas and nays on the amendment.

THE PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MELCHER. Mr. President, what is not known is how much of that 165,000 acres was acquired through unlawful tax forfeiture.

There has been a 7-year investigation by the Interior Department to identify these Indians whose claims have legal merit and that involve the land that the State of Minnesota now holds. So this amendment which I am now offering requires that the State of Minnesota enter into an agreement with the Secretary providing for the transfer of that amount of Indian land which is determined by the U.S. Department of Justice to have been acquired by the State of Minnesota through tax forfeiture and that that land shall be returned to the tribe.

Mr. President, the plenary power over Indians is in the hands of Congress. The responsibility to make sure that that is handled correctly between the Indians and the States is the responsibility of Congress.

This bill would only return 10,000 acres to the Indians out of the 165,000 acres that the State now has. I think that is totally unjust and has no merit. The amendment would correct that flaw to the extent that, on those claims where it was clearly demonstrated that the State acquired them unlawfully, the land would be returned to the tribe. That is simple justice, no more and no less than that. I strongly urge support of the amendment.

WHITE EARTH INDIANS AGREE TO PROVISIONS IN S. 1396

Mr. BOSCHWITZ. Mr. President, my colleague from Montana argues that there isn't a consensus for this bill. There will never be appropriate Indian consent to this bill. The real parties in interest are Indian heirs to the original allottees—and no one knows who they are because the Department of THE Interior for the last 60 years did not think it needed to keep track of White Earth mixedbloods. The heirs probably number in the thousands. They will not be identified unless the Department of THE Interior does so under the mandate of this bill. In short, the heirs cannot consent because we don't know who they are, and they do not know who they are.

In the absence of the heirs, we look to the White Earth Tribe. Tribal representatives helped draft this bill. The tribal council voted 3 to 1 to endorse this bill in April of this year. The tribe sent letters to the congressional delegation urging us to introduce it and pass it.

Later, this became a tribal political football. In the absence of the full council, a 2-to-0 vote withdrew endorsement later in the year. However, nothing can alter the fact that the tribe helped write it, the tribe originally endorsed it, and the popularly elected tribal chief continues to support it. And it has significant support among rank and file tribal members.

In the last analysis, we must assume some responsibility for doing what is right. In the absence of this bill, both Indians and non-Indians will suffer.

A couple of months ago the chief judge of the U.S. District Court for South Dakota ruled against Indian heirs in a lawsuit based on one type of land claims. The chief judge concluded:

> While the court has found there to be no judicial merit to plaintiff's claims, this does not mean that it is not repelled by what was done to the Indian allottees by the United States under the authority of the Burke Act. These claims can justly be considered a "moral" debt, but one that cannot be paid by clouding the title to the millions of acres affected by the forced fee policy of 1916-21 . . . Congress should now accept responsibility for its actions, and provide monetary compensation for the estates of those allottees injured by the forced fee patent policy, at the same time relieving the thousands of innocent parties who now own the land of the expenses and uncertainties of further litigation. Congressional action is the only complete solution to this dispute, and it should be delayed no longer.

Those words could have been written about the White Earth land dispute. This bill does offer a just, fair, and complete solution to a problem caused by our own predecessors in these congressional halls. The bill has the support of local Democrats and Republicans; it was drafted with the assistance of the Indians, administration, and congressional committees. It is the right thing to do.

(Mr. HECHT assumed the Chair.)

Mr. ANDREWS. Mr. President, this matter was debated extensively yesterday. We yield back the time on this side.

Mr. DURENBERGER. Mr. President, if the Senator from Montana has yielded back his time, I am prepared to make a motion.

Mr. MELCHER. Yes, Mr. President, I am prepared to yield it back.

Mr. DURENBERGER. Mr. President, I move to lay the amendment on the table.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay the amendment of the Senator from Montana on the table. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. EAST], the Senator from Arizona [Mr. GOLDWATER], the Senator from Washington [Mr. GORTON], the Senator from Utah [Mr. HATCH], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Nevada [Mr. LAXALT], and the Senator from Maryland [Mr. MATHIAS] are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Connecticut [Mr. DODD] and the Senator from Mississippi [Mr. STENNIS] are necessarily absent.

I also announce that the Senator from Florida [Mr. CHILES] is absent because of illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 53, nays 37, as follows:

[Rollcall Vote No. 375 Leg.]

YEAS—53

Abdnor
Andrews
Armstrong
Bentsen
Biden
Bingaman
Boschwitz
Chafee
Cochran
Cohen
D'Amato
Danforth
Denton
Dixon
Dole
Domenici
Durenberger
Evans
Garn
Gramm
Grassley
Hatfield
Hawkins
Hecht
Heinz
Helms
Hollings
Humphrey
Kasten
Lugar
Mattingly
McClure
McConnell
Murkowski
Nickles
Packwood
Pressler
Proxmire
Quayle
Roth
Rudman
Simpson
Specter
Stafford
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Zorinsky

NAYS—37

Baucus
Boren
Bradley
Bumpers
Burdick
Byrd
Cranston
DeConcini
Eagleton
Exon
Ford
Glenn
Gore
Harkin
Hart
Heflin
Inouye
Johnston
Kennedy
Kerry
Lautenberg
Leahy
Levin
Long
Matsunaga
Melcher
Metzenbaum
Mitchell
Moynihan
Nunn
Pell
Pryor
Riegle
Rockefeller
Sarbanes
Sasser
Simon

NOT VOTING—10

Chiles
Dodd
East
Goldwater
Gorton
Hatch
Kassebaum
Laxalt
Mathias
Stennis

So the motion to lay on the table was agreed to.

Mr. DURENBERGER. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. ANDREWS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MELCHER. Mr. President, the distinguished Senators from Minnesota are my friends. They testified before the Select Committee on Indian Affairs, and have repeated here on the floor of the Senate, that the land dispute on the White Earth Reservation exists because of congressional acts and Federal actions and that there is a responsibility for the Federal Government to provide a remedy.

I certainly agree with the Senators that certain acts of Congress and the executive branch contributed to the problems at White Earth. While I agree that a legislative resolution is preferable to a litigated solution, I strongly disagree with the settlement provisions contained in this bill, S. 1396.

This bill is not fair to the Indians who have been deprived of the use of their land for nearly 80 years. This bill does not require an adequate contribution from the State of Minnesota, which possesses 165,000 acres of land on the reservation.

The State of Minnesota certainly shares with the Federal Government and private individuals complicity in unlawfully taking Indian land. This bill does not provide sufficient constitutional safeguards for those Indians who seek to rightfully assert title to their land.

This land dispute on the White Earth originated in 1906, right here in the U.S. Senate, when Senator Clapp of Minnesota was successful in having an amendment adopted to an appropriation bill, and it started a chain reaction. Without following the proper procedures, the land was acquired from the Indians, while still in trust. That was unlawful.

In the nearly 80 years following the Clapp amendment, the courts, including the Supreme Court, have consistently held that the tax immunity of Indian trust land could not be ended without the Indians' consent, so long as the trust status continued. The *Zay Zah* case, decided by the Minnesota Supreme Court in 1977, which brought the entire issue to a head, extended this protection to all aspects of the trust status, including restrictions on alienation. In other words, the court ruled against the Clapp amendment.

Now, the words that have been spoken here on the floor by the Senators from Minnesota sound good, as did Senator Clapps' back in 1906. They use the words "negotiations," "settlement," "fairness," and "cooperation." Unfortunately, these words do not apply to this legislation. The White Earth Indians have fought this bill tooth and nail, and I judge they will continue to do so, probably in the courts, if the bill is signed into law. Just as the courts following the Clapp amendment found that that law could not deny Indians of their rights as beneficiaries of the Federal trustee, I am convinced the courts will find that this bill also denies Indians of their property rights in violation of the U.S. Constitution. This bill will not clear up anything. Not only will claims be filed in court by Indian allottees and heirs seeking title to their land as well as damages, but also suits will be brought challenging the constitutionality of this bill should it become law.

The amendments I proposed would have made this a fairer bill and perhaps provided some remedy for the constitutional problems the bill raises. However, even if these amendments had been adopted the bill still would have been flawed. I think the Senate should reject this bill so that all parties can engage in meaningful negotiations on the White Earth land claims in Minnesota.

Mr. President, I ask unanimous consent to have printed in the Record certain correspondence with the Department of Justice relating to this matter.

There being no objection, the correspondence was ordered to be printed in the Record, as follows:

U.S. Department of Justice,
Washington, DC, September 21, 1984.

Hon. Mark Andrews,
Chairman, Select Committee on Indian Affairs, U.S. Senate, Washington, DC.

Dear Mr. Chairman: In an effort to develop the Administration's position on an amendment to H.R. 2246, the "White Earth Reservation Land Settlement Act," the Office of Management and Budget requested the Department of Justice to review this amendment. The Department was in the process of studying this amendment when we were advised that the Department of the Interior had submitted the amendment to your Committee for consideration.

The situation on the White Earth Land Reservation poses some interesting legal questions that require careful review. On that reservation, there are a number of cases where Indians have claims to land which have not been owned by other for decades. Those Indians lost the land for a variety of reasons. In some situations, they were deprived of the land through transactions which were legally void. This bill seeks to provide compensation to the Indians or their successors while preserving the present status of ownership of the land.

The Department will continue to study this complicated issue and the proposed amendment. When we have completed our analysis, we will advise you of our views.

Sincerely,

Robert A. McConnell,
Assistant Attorney General, Office of Legislative and Intergovernmental Affairs.

September 27, 1985.

Mr. Phillip D. Brady,
Acting Assistant Attorney General, Office of Legislative and Inter-Governmental Affairs, U.S. Department of Justice, Washington, DC.

Dear Mr. Brady: S. 1396, a bill to settle unresolved land claims on the White Earth Indian Reservation, is currently under consideration by the Select Committee on Indian Affairs. A similar version of S. 1396 was before the Senate in the 98th Congress but was never acted upon.

On Septebmer 21, 1984, Robert A. McConnell, Assistant Attorney General, Office of Legislative and Intergovernmental Affairs, Department of Justice wrote to the Committee and indicated that the Department would study the legal questions raised by the proposed legislation, complete an analysis, and advise the Committee of the Department's views. To date, the Department of Justice has not forwarded to the Committee any critique of the White Earth legislation, or offered any alternative suggestions on how the land claim issues on White Earth might be resolved.

A copy of S. 1396 is enclosed for your information and use as is a copy of the September 21, 1984 letter. Please review and provide the Committee with a written analysis of the bill as soon a possible.

Best regards.

Sincerely,

Mark Andrews,
Chairman.
John Melcher,
Ranking Minority Member.

U.S. Senate,
Select Committee on Indian Affairs,
Washington, DC, October 28, 1985.

Hon. Mark Andrews,
Chairman, Select Committee on Indian Affairs, U.S. Senate, Washington, DC.

Dear Mark: As you know, on September 27th we sent a letter to Mr. Phillip Brady, Acting Assistant Attorney General, Office of Legislative and Intergovernmental Affairs, U.S. Department of Justice, a copy of which is attached, requesting an analysis of S. 1396, the White Earth Settlement Act.

As of today we have not received this analysis or even an acknowledgement to our letter. The staff has inquired about the status of the analysis and was told by an official in Mr. Brady's office that the Department was working on it but there was no projected completion date.

In light of the fact that during the last Congress the Justice Department believed that similar legislation raised legal questions requiring careful review, I believe it would be advisable to postpone Committee consideration of the bill until the Justice Department has completed the analysis and advised the Committee of its views.

Best personal regards.

Sincerely,

John Melcher

U.S. Department of Justice,
Office of Legislative and Intergovernmental Affairs,
Washington, D.C., November 6, 1985.

Hon. John Melcher,
Ranking Minority Member, Select Committee on Indian Affairs, U.S. Senate, Washington, DC.

Dear Senator Melcher: This is in response to your request for the views of the Department of Justice on S. 1396, a bill to settle unresolved land claims on the White Earth Indian Reservation.

The Department has had the opportunity to review and analyze several predecessor versions of this bill. On May 16, 1985, we reported on S. 885 to the Office of Management and Budget and noted potential constitutional and technical issues with that bill. Our detailed review of S. 1396 indicates, however, that these problems have been rectified and that it does not appear to contain any legal or constitutional infirmities. Whether this legislation should be enacted involves questions as to which the Department of Justice defers to the Department of Interior.

The Office of Management and Budget has advised this Department that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

Phillip D. Brady,
Acting Assistant Attorney General.

November 12, 1985.

Mr. Phillip Brady,
Acting Assistant Attorney General, Office of Legislative and Intergovernmental Affairs, U.S. Department of Justice, Washington, DC.

Dear Mr. Brady: On November 7, 1985, the Select Committee on Indian Affairs ordered reported S. 1396, a bill to settle unresolved land claims on the White Earth Indian Reservation. At that time the Committee reviewed and discussed the letter dated November 6, 1985, from the Department of Justice which simply concluded that S. 1396 does not appear to contain any "legal or constitutional infirmities."

This conclusory statement is simply inadequate to the Committee's needs and is not responsive to the inquiries that were raised in the letter from the Chairman and Ranking Minority Member of this Committee to you on September 27, 1985, or the questions posed by Senator Boschwitz, Senator Durenberger and Congressman Stangeland in their letter to Attorney General Meese on May 23, 1985.

We are particularly troubled by the statement in your letter that on May 16, 1985, the Department of Justice, in a report to OMB on S. 885, noted "potential constitutional and technical issues" with that bill. Since S. 1396 is patterned after S. 885 and is similar in most major respects, it is most important that this Committee be provided with an adequate analysis of any constitutional issues touching upon this legislation, particularly as it relates to issues identified in your report to OMB on S. 885.

We would sincerely appreciate it if you would take immediate steps to provide the Committee with this analysis.

Best regards.

Sincerely,

Mark Andrews, Chairman, John Melcher, Ranking Minority Member, Barry Goldwater, Daniel K. Inouye, Slade Gorton, Dennis DeConcini, Frank H. Murkowski, Quentin N. Burdick, James Abdnor.

U.S. Department of Justice,
Office of Legislative and Intergovernmental Affairs,
Washington, DC, December 4, 1985.

Hon. Mark Andrews,
Chairman, Select Committee on Indian Affairs, U.S. Senate, Washington, DC.

Dear Mr. Chairman: This responds to your letter of November 12, 1985, concerning possible constitutional infirmities in S. 1396, a bill to settle unresolved claims relating to certain allotted Indian lands on the White Earth Reservation in Minnesota. While we very much regret that you concluded that our analysis was not sufficiently detailed to assist you, the fact remains that the bill was carefully researched by lawyers in the Department and no authority was found which rendered any portion of the bill unconstitutional.

The November 12 letter indicated that you were particularly concerned about "potential constitutional and technical issues" mentioned in our May 16, 1984, report to the Office of Management and Budget on S. 885, an earlier version of S. 1396. In that report (a copy of which is attached) we noted that S. 885 could present constitutional difficulties if it was interpreted to legislate a taking without just compensation of some claims by Indian allottees to land associated with the White Earth Reservation. However, we noted that this difficulty did not necessarily render the bill unconstitutional because of the existence of the Tucker Act, 28 U.S.C. §§ 1346, 1491, which provides a general right to recover just compensation for the taking of property. Because a Tucker Act remedy likely existed for any taking caused by S. 885, the bill presented no fatal constitutional infirmity, but we recommended that an explicit reference to the Tucker Act be made in the proposed statute to remove any risk that a court might hold it unconstitutional. S. 1396 has addressed the taking issue by explicitly providing, in subsections 6(d) and 6(e), a Tucker Act remedy to any person entitled to just compensation for the loss of his property.[1]

In their letter dated May 23, 1985, Senators Boschwitz and Durenberger and Congressman Stangeland requested the Department's opinion regarding the constitutionality of two specific provisions of the proposed legislation. Those provisions (1) extinguish the right of an allottee or an heir to sue for the title to the property in question as of the date of enactment and (2) require the Secretary of the Interior to forfeit to the White Earth Band the amount of compensation due to any allottee or heir if they cannot be found after two years of diligent effort by the Secretary to locate them. As to the first issue, *State of Minnesota* v. *Zay Zah*, 259 N.W. 2d 580 (Minn. 1977), *cert. denied*, 436 U.S. 917 (1978) and other cases establish Congress may, in the exercise of its authority over the conduct of Indian affairs, create vested property rights by virtue of establishing a trust relationship. Once created, "none of the rights derived from the trust can be divested without due process under the Fifth Amendment." *Zay Zah*, 259 N.W.2d at 584. S. 1396 provides the necessary Fifth Amendment due process by rpoviding a Tucker Act remedy to those allottees or heirs who establish a taking.

Similarly, in regard to the forfeiture provision, Congress can put whatever restrictions it chooses on an allottee's or an heir's claim to compensation as long as appropriate constitutional protections are provided as required by the Fifth Amendment's right to adequate compensation and due process of law for the taking of property. S. 1396 provides not only the minimal Tucker Act remedy and compensation but also additional due process protections including notice, appropriate administrative procedures and judicial review of those procedures. The requirement that the Secretary diligently attempt to find each allottee and heir for two years is another procedural safeguard to ensure that compensation is in fact paid to the appropriate persons. We understand that the forfeiture provision of the bill is merely a mechanism to alleviate the administrative burden and economic waste of holding the compensation funds for an extended period, possibly in perpetuity. Because the allottees and heirs have a Tucker Act remedy for any taking of their property that results from the bill, the forfeiture provision does not render the bill unconstitutional. In fact, the forfeiture provision is very much akin to the escheat provisions of Title 25 which provide that where an Indian holding a trust or restricted allotment of lands dies intestate without heirs, the land shall escheat to the tribe owning the land at the time of allotment or to the United States. See 25 U.S.C. §§ 373a, 373b; *see also Minn. Stat.* § 525.16(6).

We trust that the foregoing will be helpful to you in explaining our position on the constitutionality of S. 1396. Whether this legislation should be enacted involves policy considerations as to which the Department of Justice defers to the Department of the Interior. We are ready to assist you further in any way you consider appropriate.

Sincerely,

PHILLIP D. BRADY,
Acting Assistant Attorney General, Office of Legislative and Intergovernmental Affairs.

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AND INTERGOVERNMENTAL AFFAIRS,
Washington, DC, May 16, 1984.

Hon. DAVID A. STOCKMAN,
Director, Office of Management and Budget, Washington, DC.

DEAR MR. STOCKMAN: We have reviewed S. 885, a bill "To settle unresolved claims relating to certain allotted Indian lands on the White Earth Indian Reservation, to remove clouds from the titles to certain lands, and for other purposes." We defer to the views of the Department of the Interior as to the passage of this bill.

This bill seeks to solve a particularly difficult situation on the White Earth Reservation in Minnesota. On that reservation, there are a number of cases where Indians have claims to land which have now been owned by others for decades. Those Indians lost the land for a variety of reasons. In some situations, they were deprived of the land through transactions which were legally void. This bill seeks to provide compensation to the Indians or their successors but, at the same time, to preserve the present status of ownership of the land.

This is a situation which has no solution which will satisfy everybody. No doubt, many of the Indians would prefer to have their land back, rather than compensation. Nonetheless, the bill represents a reasonable solution to the problem.

One legal problem, however, needs to be addressed. Under the Fifth Amendment to the Constitution, the United States is required to pay just compensation for any property which it takes. Although parties may agree to the amount of just compensation, in the absence of agreement the property owner is entitled to have a court determine the issue. If the United States takes property by statute and does not provide an opportunity for a judicial determination of just compensation, the statute is unconstitutional and void. Compare *Choate* v. *Trapp*, 224 U.S. 665 (1912).

At present, some Indians may have valid claims to real property on the White Earth Reservation, which would be taken by the bill. If such valid claims exist they are, of course, property, and if the bill "takes" them the owners of the claims are entitled to just compensation for the value of that property at the date the bill was enacted. The provisions in the bill are insufficient to meet this requirement because they do not purport to address the present value of the claims, nor do they purport to provide for a judicial determination of that present value. Nor does the bill provide for interest, the amount of which is also a question for the courts.

This difficulty is not fatal because of the existence of the Tucker Act, 23 U.S.C. 1346 and 1491. The Supreme Court has held that when statutes take property, there is a general right to recover just compensation under that Act, unless that Act is made expressly inapplicable. See the *Regional Rail Act Cases*, 419 U.S. 102, 126–127 (1974). Under the proposed bill, a Tucker Act remedy probably exists for constitutional takings caused by the Act. Nonetheless, it would be useful to expressly so state in the language of the proposed statute itself, or (less desirably) in its legislative history. Otherwise, there is at least some risk that a court might hold the statute unconstitutional.

We also have some technical comments:

1. Section 1(a). The Act of January 14, 1889, is set out at 25 Stat. 642. The Act of February 8, 1887, is set out at 24 Stat. 388. The citations to the Statutes at Large should probably be included in the bill.

2. Section 1(c) (page 2, line 7), "toll" should be "roll".

3. Section 1(d). This section defines "inherited" as used in the bill to mean received as a result of testate or intestate succession, as determined by the Secretary. It would be useful to add "or any combination of testate or intestate successiono" after the words "intestate succession" in this definition, to make it clear that a person need not be the direct heir of the first allottee in order to come under the bill. In addition, the term "heir", which is also used in the statute, should be defined. A sentence might be added to the end of this subsection: "An 'Heir' shall be a person who has 'inherited,' as that term is defined in the preceding sentence."

4. Section 1(j) (page 4, lines 5–7). It would simplify the definition of "Interest" by adding a period after "allotment" and deleting the rest of the sentence.

5. Section 2(b). On page 5, lines 10 and 24, and page 6, line 3, the bill refers to "interests." In each instance, this should be changed to "allotments or interests".

On page 7, lines 1 and 7, the bill refers to "any allotment". In each instance, this should be changed to any allotment or interest".

6. Section 4. On page 7, line 25, and page 8, lines 1 and 3, "allotments" should be changed to "interests or allotments".

7. Section 5. On page 8, line 17, "allotment" should be changed to "interest or allotment".

Sincerely, (Signed)

ROBERT A. MCCONNELL,
Assistant Attorney General, Office of Legislative and Intergovernmental Affairs.

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[1] In our report to OMB, the Department also made some technical comments on S. 885. We suggested that (1) citations to the Statutes at Large be included in the bill; (2) an apparent typographical error be corrected; (3) the definition of "inherited" be clarified; (4) the term "heir" be explicitly defined; (5) the definition "interest" be modified; and (6) that various references to the term "allotment" or "allotments" be clarified to include any "interest" or "interests." Our current review of S. 1396 indicates that all of these technical changes have been made in accordance with our suggestions.

U.S. Senate,
Select Committee on Indian Affairs,
Washington, DC, December 5, 1985.
Mr. Phillip Brady,
Acting Assistant Attorney General, Office of Legislative and Intergovernmental Affairs, U.S. Department of Justice, Office of the Assistant Attorney General, Washington, DC.

Dear Mr. Brady: Thank you for your letter of December 4, 1985, regarding the constitutionality of S. 1396, a bill to settle unresolved claims relating to certain allotted Indian lands on the White Earth Reservation in Minnesota.

Please respond to the following additional questions regarding S. 1396, as soon as possible.

1. Was the trust status ended on the Indian allottee's land in question on the White Earth Reservation?

2. Since the case law has established that trust allotments could not go out of trust status, what could be the rationale to extinguish Indian title on the White Earth Reservation?

3. Was the trust responsibility adhered to on the White Earth Reservation?

4. How could the state of Minnesota acquire the lands in question?

Sincerely,

John Melcher.

U.S. Department of Justice,
Office of Legislative and Intergovernmental Affairs,
Washington, DC, December 6, 1985.
Hon. John Melcher,
U.S. Senate, Washington, DC.

Dear Senator Melcher: This is in response to your December 5, 1985, letter concerning S. 1396, a bill to settle unresolved claims relating to certain allotted Indian lands of the White Earth Reservation in Minnesota. Your letter requested that we respond to the four following questions:

1. Was the trust status ended on the Indian allottee's land in question on the White Earth Reservation?

Response: We are not sufficiently aware of the facts in the White Earth situation to ascertain whether in some instances the trust status of certain allottees has been terminated. We would defer to the Interior Department for that information. *State of Minnesota* v. *Zay Zah*, 259 N.W. 2d 580 (Minn. 1977), *cert. denied* 436 U.S. 917 (1978), held that the trust status for all allotments was not terminated by the Clapp Amendment, 34 Stat. 353 (1906), but did not answer whether Congress was constitutionally prohibited from terminating allotments on the White Earth Reservation. We are unaware of any cases which deny Congress the authority to terminate allotments as long as appropriate constitutional safeguards against a taking without due process or just compensation are observed.

2. Since the case law has established that trust allotments could not go out of trust status, what could be the rationale to extinguish Indian title on the White Earth Reservation?

Response:

As is evident from our response to Question (1), we do not necessarily agree that case law has established that trust allotments cannot go out of trust status. In fact, Zay Zah explicitly recognizes that the rights derived from the trust status can be divested as long as the necessary Fifth Amendment due process is provided. We can only state that we know of no case law which holds that Congress is constitutionally proscribed from terminating allotments on the White Earth Reservation.

3. Was the trust responsibility adhered to on the White Earth Reservation?

Response: We are not sufficiently acquainted with the facts surrounding the White Earth Reservation to answer that question and would once again defer to the Interior Department for a response.

4. How could the state of Minnesota acquire the lands in question?

Response:

Although we are not aware of all the facts, it is our understanding that the state acquired title to some allotments when taxes were not paid after the expiration of the twenty-five year tax-free period.

We would note that the Department of Justice has taken no position on whether this legislation should or should not be enacted. We have reviewed the legislation and found it not to be in violation of the United States Constitution because it provides that anyone who can establish that his property rights are adversely affected can recover just compensation in a judicial proceeding. If the legislation is enacted and any person sues pursuant to the Tucker Act to recover just compensation, the court hearing the case will have to decide the legal issue of whether the plaintiff had title to land or title to a claim to land on the date of enactment, whether the bill caused his land or claim to be taken, and, if so, the amount of compensation that must be paid to him.

Sincerely,

Phillip D. Brady,
Acting Assistant Attorney General, Office of Legislative and Intergovernmental Affairs.

The PRESIDING OFFICER. The time of the Senator from Montana has expired.

Mr. BOSCHWITZ. Mr. President, again, I rise to urge my colleagues to support the bill now before the Senate, S. 1396, the White Earth Reservation Land Settlement Act of 1985.

As I explained to my colleagues yesterday, on June 27, 1985, Senator Durenberger joined me to introduce S. 1396. This bill seeks to solve a very difficult and complex land claims problem that exists on the White Earth Reservation in Minnesota. Over 100,000 acres of land on the reservation are subject to claims. Our bill would provide compensation to the Indian allottees or their heirs while at the same time removing the cloud on the titles to the affected lands.

This bill is supported by the chairman of the White Earth Band of Chippewa Indians and all State and Federal elected officials from both parties representing the area, including Governor Rudy Perpich, Congressman Arlan Stangeland, Minnesota Attorney General Hubert H. Humphrey III, and former Governor and U.S. Senator Wendell Anderson.

The circumstances surrounding the land disputes we seek to resolve are extremely complex and involve highly technical legal issues. We feel the bill confronts these problems in a comprehensive and fair manner. The alternative to enacting S. 1396 is expensive, time consuming, and potentially explosive litigation which very likely would leave most Indian claimants with nothing.

The land claim problems stem from conflicting congressional and executive actions beginning nearly 100 years ago. Congressional acts in 1887 and 1889 established a national policy of allotting tribal lands among individual members of the tribes occupying a reservation. The allotment process on White Earth began in 1902. The land was to be held in trust by the United States on behalf of the individual Indian allottees.

In 1906, Congress enacted the Burke Act which permitted the Secretary of the Interior to issue to each Indian a "patent in fee," conferring outright ownership and legal title and removing all restrictions to sale, encumbrance or taxation. That same year Congress adopted the Clapp amendment to an Indian appropriation bill which removed restrictions from allotments made to "mixed blood" Indians on the White Earth Reservation and in line with the Burke Act, authorized the Secretary to approve sales by "full bloods" with their consent. These actions led to the taxation of land by the State and counties, some of which was lost because of nonpayment of taxes.

Court decisions, including a 1977 Minnesota Supreme Court decision—Minnesota versus Zay Zah—have held that, taken together, these congressional actions may have abrogated vested rights of Indians without compensation. Currently, nearly 19,000 acres of land are under claim because of these tax forfeitures. This is one category of claim addressed by this bill.

A second category of claims results from conflicting rulings by Interior Department Solicitors. In 1915, the Solictor ruled that the Federal Government was not responsible for determining the heirs of deceased White Earth Indians and distributing their trust estates. Therefore, this probating was done by the State and counties. In 1979 the Solicitor reversed the 1915 ruling, stating that these probates were, in fact, the responsibility of the Federal Government. Therefore, any lands sold by Indian heirs determined by a non-Federal probate are subject to claim. Currently, over 10,000 acres of land are under claim due to having been the subject of State court probates.

The third major category of claim is due to conflicting State and Federal interpretation of the age of majority for females. At the time of these transactions—and still today—Minnesota's age of majority was 18. Federal common law recognizes 21 as the age of majority for females in certain circumstances. Federal statutes required that any sale of land by minor Indians have the approval of the Secretary of the Interior. Many sales were made by female Indians between the ages of 18 and 21 without Secretarial approval. They were made in accordance with State law and without objection by the Secretary of the Interior. Current owners of land originally sold by these 18- to 21-year-old females now find their land titles clouded. These sales make up most of the largest category of claims, totaling over 60,000 acres.

These very complex issues will lead to protracted litigation if not resolved by legislation. And the only certain result of litigating those claims is that these problems would continue to exist for a long time. If litigated, there are no assurances those making the claims would prevail, especially those claims resulting from minor aged sales and improper probates. If litigated, the White Earth Band as an entity would have no claim.

By contrast, this legislative solution has the following components.

First. Compensation would be provided for all the claims. The allottees and heirs would receive compensation equal to the fair market value of the land as of the transaction, less compensation actually received, plus 5-percent interest compounded annually. The Department of the Interior estimates that this compensation would total approximately $10.4 million. Any unclaimed shares will revert to the White Earth Band.

Second. An additional $6.6 million will be provided to the White Earth Band for economic development.

Third. The State of Minnesota, by an act of the State legislature, will provide 10,000 acres of current State and county land to the band.

Fourth. The clearing of land titles would take place at the time of the appropriation of the $6.6 million for the White Earth Band, and the Secretary of the Interior's approval of the 10,000 acres to be provided by the State of Minnesota, or 180 days following enactment, whichever is later.

Some opponents of this bill argue that the Federal Government should restore the full 825,000 acres that originally comprised the reservation to the White Earth Band. This is an unrealistic attempt to rewrite history to undo the allotment process that took place on many reservations, and only took place on White Earth after being agreed to by a vote of the tribal membership.

The opponents also claim the bill is unconstitutional because claimants' rights are being extinguished. This is done in many Indian land claim cases. The Department of Justice and the CRS American Law Division have both reviewed the bill and concluded that it is constitutional.

Some opponents may argue that the Federal Government has no responsibility to resolve these issues. Such a position is clearly irresponsible and ignores the results of Federal acts of legislation that led to the problem.

The White Earth situation differs from the usual eastern land claim matters in that it does not involve the State violating Federal law. The land claims at White Earth appear mostly to be based on transactions which took place in accordance with specific Federal statutes or executive branch policies, and which were subsequently questioned several decades later.

For example, the claims relating to allegedly invalid State probates are a direct result of a 1915 Department of the Interior Solicitor's opinion—an opinion which was reversed by a different Solicitor and declared invalid in 1978. The forced fee patent claims are a direct result of transactions made under the Federal Burke Act and Interior Department policies. The tax forfeitures were conducted in accordance with the clear wording of the Clapp Act. Sales by mixed-blood women between the ages of 18 and 21 were valid under State law and were accepted for decades by the Interior Department, which deferred to State law on questions of age of majority. The fact that virtually all of the claims dealt with in S. 1396 arise because of past Federal laws and policies is what lead the bill authors to accept the propriety of a Federal settlement.

Most of the provisions of the bill are a result of over 2 years of negotiations among the State of Minnesota, Department of the Interior, White Earth Band, local governments, members and staff of the House Interior Committee and Senate Select Committee on Indian Affairs, and the OMB. The bill embodies several compromises to accommodate some quite varying interests. It was drafted with the assistance of the White Earth Band of Chippewa Indians. It received the endorsement of the White Earth Band in April, although tribal political infighting has resulted in the withdrawal of that endorsement. As I previously stated, the bill is supported by Minnesota State and Federal officials, including Gov. Rudy Perpich, Attorney General Hubert H. Humphrey III, and Congressman ARLAN STANGELAND.

It is a fair and equitable proposal. I ask for my colleagues' support.

Mr. DURENBERGER. Mr. President, I am prepared to yield back the remainder of our time.

The PRESIDING OFFICER. The question is on agreeing to the committee substitute.

The committee substitute was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed by a third reading and was read the third time.

The PRESIDING OFFICER. The question is on final passage.

Mr. MELCHER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. EAST], the Senator from Arizona [Mr. GOLDWATER], the Senator from Washington [Mr. GORTON], the Senator from Utah [Mr. HATCH], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Nevada [Mr. LAXALT], the Senator from Maryland [Mr. MATHIAS], and the Senator from South Carolina [Mr. THURMOND] are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Florida [Mr. CHILES] is absent because of illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 56, nays 35, as follows:

[Rollcall Vote No. 376 Leg.]

YEAS—56

Abdnor
Andrews
Armstrong
Bentsen
Biden
Bingaman
Boren
Boschwitz
Bumpers
Chafee
Cochran
Cohen
D'Amato
Danforth
DeConcini
Denton
Dodd
Dole
Domenici
Durenberger
Eagleton
Evans
Garn
Gramm
Grassley
Hatfield
Hawkins
Hecht
Heinz
Helms
Hollings
Humphrey
Johnston
Kasten
Leahy
Long
Lugar
Mattingly
McClure
McConnell
Murkowski
Nickles
Packwood
Pressler
Quayle
Rudman
Simpson
Specter
Stafford
Stevens
Symms
Trible
Wallop
Warner
Weicker
Wilson

NAYS—35

Baucus
Bradley
Burdick
Byrd
Cranston
Dixon
Exon
Ford
Glenn
Gore
Harkin
Hart
Heflin
Inouye
Kennedy
Kerry
Lautenberg
Levin
Matsunaga
Melcher
Metzenbaum
Mitchell
Moynihan
Nunn
Pell
Proxmire
Pryor
Riegle
Rockefeller
Roth
Sarbanes
Sasser
Simon
Stennis
Zorinsky

NOT VOTING—9

Chiles
East
Goldwater
Gorton
Hatch
Kassebaum
Laxalt
Mathias
Thurmond

So the bill (S. 1396), as amended, was passed, as follows:

S. 1396

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

That this Act may be cited as the "White Earth Reservation Land Settlement Act of 1985".

SEC. 2. The Congress finds that—

(1) claims on behalf of Indian allottees or heirs and the White Earth Band involving substantial amounts of land within the White Earth Indian Reservation in Minnesota are the subject of existing and potential lawsuits involving many and diverse interests in Minnesota, and are creating great hardship and uncertainty for government, Indian communities, and non-Indian communities;

(2) the lawsuits and uncertainty will result in great expense and expenditure of time, and could have a profound negative impact on the social and well-being of everyone on the reservation;

(3) the White Earth Band of Chippewa Indians, State of Minnesota, along with its political subdivisions, and other interested parties have made diligent efforts to fashion a settlement to these claims, and the Federal Government, by providing the assistance specified in this Act, will make possible the implementation of a permanent settlement with regard to these claims;

(4) past United States laws and policies have contributed to the uncertainty surrounding the claims;

(5) it is in the long-term interest of the United States, State of Minnesota, White Earth Band, Indians, and non-Indians for the United States to assist in the implementation of a fair and equitable settlement of these claims; and

(6) this Act will settle unresolved legal uncertainties relating to these claims.

SEC. 3. For purposes of this Act:

(a) "Allotment" shall mean an allocation of land on the White Earth Reservation, Minnesota, granted, pursuant to the Act of January 14, 1889 (25 Stat. 642), and the Act of February 8, 1887 (24 Stat. 388), to a Chippewa Indian.

(b) "Allottee" shall mean the recipient of an allotment.

(c) "Full blood" shall mean a Chippewa Indian of the White Earth Reservation, Minnesota, who was designated as a full blood Indian on the roll approved by the United States District Court for the District of Minnesota on October 1, 1920, or who was so designated by a decree of a Federal court of competent jurisdiction; it shall also refer to an individual who is not designated on said roll but who is the biological child of two full blood parents so designated on the roll or of one full blood parent so designated on the roll and one parent who was an Indian enrolled in any other federally recognized Indian tribe, band, or community.

(d) "Inherited" shall mean received as a result of testate or intestate succession or any combination of testate or intestate succession, which succession shall be determined by the Secretary of the Interior or his authorized representative.

(e) "Mixed blood" shall mean a Chippewa Indian of the White Earth Reservation, Minnesota, who was designated as a mixed blood Indian on the roll approved by the United States District Court of Minnesota on October 1, 1920, unless designated a full blood by decree of a Federal court of competent jurisdiction; it shall also refer to any descendants of an individual who was listed on said roll providing the descendant was not a full blood under the definition in subsection (c) of this section. The term "mixed blood" shall not include an Indian enrolled in any federally recognized Indian tribe, band, or community other than the White Earth Band.

(f) "Tax forfeited" shall mean an allotment which, pursuant to State law, was declared forfeited for nonpayment of real property taxes and purportedly transferred directly to the State of Minnesota or to private parties or governmental entities.

(g) "Majority" shall mean the age of twenty-one years or older.

(h) "Secretary" shall mean the Secretary of the Interior or his/or her authorized representative.

(i) "Trust period" shall mean the period during which the United States held an allotment in trust for the allottee or the allottee's heirs. For the purpose of this Act, the Executive Order Numbered 4642 of May 5, 1927, Executive Order Numbered 5768 of December 10, 1931, and Executive Order Numbered 5953 of November 23, 1932, shall be deemed to have extended trust periods on all allotments or interests therein the trust periods for which would otherwise have expired in 1927, 1932, or 1933, notwithstanding the issuance of any fee patents for which there were no applications, and if such allotments were not specifically exempted from the Executive orders; and the Indian Reorganization Act of June 18, 1934, shall be deemed to have extended indefinitely trust periods on all allotments or interests therein the trust periods for which would otherwise have expired on June 18, 1934, or at any time thereafter. Said Executive orders and Act shall be deemed not to have extended the trust period for allotments or interests which were sold or mortgaged by adult mixed bloods, by non-Indians, or with the approval of the Secretary, or for allotments or interests which were sold or mortgaged by anyone where such sale or mortgage was the subject of litigation in Federal court which proceeded to a judgment on the merits and where the outcome of such litigation did not vacate or void said sale or mortgage.

(j) "Interest", except where such item is used in conjunction with "compound", shall mean a fractional holding, less than the whole, held in an allotment.

(k) "Adult" shall mean having attained the age of majority.

(l) "Heir" shall mean one who received or was entitled to receive an allotment or interest as a result of testate or intestate succession under applicable Federal or Minnesota law.

(m) "Transfer" includes but is not limited to any voluntary or involuntary sale, mortgage, tax forfeiture or conveyance pursuant to State law; any transaction the purpose of which was to effect a sale, mortgage, tax forfeiture or conveyance pursuant to State law; any Act, event, or circumstance that resulted in a change of title to, possession of, dominion over, or control of an allotment or interest therein.

SEC. 4. (a) The provisions of this Act shall apply to the following allotments:

(1) allotments which were never sold or mortgaged by the allottees or by their heirs and which were tax forfeited during the trust period;

(2) allotments which were sold or mortgaged during the trust period, without the approval of the Secretary, by the allottees prior to having attained majority, and were never again sold or mortgaged either by the allottees upon their having attained majority or by heirs of the allottees;

(3) allotments which were sold or mortgaged during the trust period by full blood allottees without the approval of the Secretary, and were never again the subject of a sale or mortgage by heirs of the allottees; and

(4) allotments which were never sold or mortgaged by the allottees, but which subsequent to the deaths of the allottees, purportedly were sold or mortgaged, during the trust period, by administrators, executors, or representatives, operating under authority from State courts, and were never again the subject of a sale or mortgage by heirs of the allottees.

(b) The provisions of this Act shall also apply to the following allotments or interests in allotments:

(1) allotments or interests which were inherited by full or mixed bloods who never sold or mortgaged their allotments or interests or by Indians enrolled in other federally recognized Indian tribes, bands, or communities who never sold or mortgaged their allotments or interests, where the allotments or interests were tax forfeited during the trust period;

(2) allotments or interests which were inherited by mixed bloods under the age of majority and which were sold or mortgaged during the trust period without the approval of the Secretary prior to such mixed bloods having attained majority, but which were never again sold or mortgaged by them upon having attained majority or by their heirs;

(3) allotments or interests which were inherited by full bloods or by Indians enrolled in other federally recognized Indian tribes, bands, or communities, who sold or mortgaged such allotments or interests during the trust period without the approval of the Secretary;

(4) allotments or interests which were inherited by full or mixed bloods who never sold or mortgaged their allotments or interests, but which, subsequent to the deaths of such heirs, were sold or mortgaged during the trust period by administrators, operating under authority from State courts;

(5) allotments or interests which were owned by allottees or which were inherited by full or mixed bloods for whom guardians were appointed by State courts, which guardians sold or mortgaged the allotments or interests during the trust period without the approval of the Secretary;

(6) interests which were inherited by full or mixed bloods who never sold or mortgaged their interests during the trust period, even though other interests in the same allotment were sold by other heirs where the land comprising the allotment has been claimed in full by other parties adversely to the full or mixed bloods who never sold or mortgaged their interests; and

(7) allotments or interests which were inherited by full or mixed bloods or by Indians enrolled in other federally recognized Indian tribes, bands, or communities which were never sold or mortgaged during the trust period but which were purportedly distributed by State court probate proceedings to other individuals.

(c) This Act shall not apply to—

(1) any allotment or interest the sale or mortgage of which was the subject of litigation which proceeded to a judgment on the merits in Federal courts and where the outcome of such litigation was other than vacating and voiding such sale or mortgage;

(2) any allotment or interest which was tax forfeited subsequent to the date on which the tax exemption was declared by a Federal court to have expired;

(3) any allotment or interest which was sold, mortgaged, or tax forfeited after the expiration of the trust period; or

(4) any allotment or interest which was sold or mortgaged at any time by an adult mixed blood Indian.

Nothing in this Act is intended to question the validity of the transactions relating to allotments or interests as described in section 4(c), and such allotments and interests are declared to be outside the scope of this Act.

SEC. 5. (a) Any determination of the heirs of any person holding an allotment or interest, made by the courts of the State of Minnesota, which is filed with the proper county recording officer prior to May 9, 1979, shall be deemed to have effectively transferred the title of the decedent in the allotment or interest to the heirs so determined unless a separate determination of heirs has been made by the Secretary before the effective date of this Act and such determination has been filed with the proper county recording officer within six months after the effective date of this Act. Nothing in this subsection shall be construed to remove any allotment described in section 4 from the compensation provided for in the Act.

(b) The proper county recording officer is the county recorder of the county in which the allotment or interest is located if the title has not been registered pursuant to Minnesota law. If the title has been so registered, the proper county recording officer shall be the Registrar of Titles in the county in which the allotment or interest is located.

(c) As to any allotment which was granted to an allottee who had died prior to the selection date of the allotment, the granting of such allotment is hereby ratified and confirmed, and shall be of the same effect as if the allotment had been selected by the allottee before the allottee's death: *Provided*, That the White Earth Band of Chippewa Indians shall be compensated for such allotments in the manner provided in sections 6, 7, and 8.

(d) As to any allotment that was made under the provisions of the Treaty of March 19, 1867 (16 Stat. 719), and which was reallotted under the provisions of the Act of January 14, 1889 (25 Stat. 642), such reallotment is hereby ratified and confirmed.

SEC. 6. (a) As soon as the conditions set forth in section 10 of this Act have been met, the Secretary shall publish a certification in the Federal Register that such conditions have been met. After such publication, any allotment or interest which the Secretary, in accordance with this Act, determines falls within the provisions of section 4(a), 4(b), or 5(c), the tax forfeiture, sale, mortgage, or other transfer, as described therein, shall be deemed to have been made in accordance with the Constitution and all laws of the United States specifically applicable to transfers of allotments or interests held by the United States in trust for Indians, and Congress hereby does approve and ratify any such transfer effective as of the date of said transfer, subject to the provisions of section 6(c). Compensation for loss of allotments or interests resulting from this approval and ratification shall be determined and processed according to the provisions of section 8.

(b) By virtue of the approval and ratification of transfers of allotments or interests therein effected by this section, all claims against the United States, the State of Minnesota or any subdivisions thereof, or any other person or entity, by the White Earth Band, its members, or by any other Indian tribe or Indian, or any successors in interest thereof, arising out of, and at the time of or subsequent to, the transfers described in section 4(a), 4(b), or 5(c) and based on any interest in or nontreaty rights involving such allotments or interests therein, shall be deemed never to have existed as of the date of the transfer, subject to the provisions of this Act.

(c) Notwithstanding any provision of law other than the provisions of this section, any action in any court to recover title or damages relating to transactions described in section 4(a), 4(b), 5(a), or 5(c), shall be forever barred unless the complaint is filed not later than one hundred and eighty days following enactment of this Act, or prior to the publication required by section 6(a) whichever occurs later in time: *Provided*, That immediately upon the date of enactment of this Act any such action on behalf of the White Earth Band of Chippewa Indians shall be forever barred, unless the publication required by section 6(a) does not take place within two years of the date of enactment of this Act in which case the bar of any such action on behalf of the White Earth Band of Chippewa Indians shall be deemed lifted and nullified: *Provided further*, That the Secretary shall not issue to the White Earth Band any report rejecting litigation nor submit to Congress any legislation report pursuant to section 2415 of title 28, United States Code, relating to transactions described in section 4(a), 4(b), 5(a), or 5(c) of this Act, until and unless the bar against actions on behalf of the White Earth Band is lifted and nullified. Any such action filed within the time period allowed by this subsection shall not be barred; however, the filing of any such action by an allottee, heir, or others entitled to compensation under this Act shall bar such allottee, heir, or others from receiving compensation pursuant to the provisions of section 8. The United States District Court for the District of Minnesota shall have exclusive jurisdiction over any such action otherwise properly filed within the time allowed by this subsection.

(d) This section shall not bar an heir, allottee, or any other person entitled to compensation under this Act from maintaining an action, based on the transactions described in section 4(a), 4(b), 5(a), or 5(c), against the United States in the Claims Court pursuant to the Tucker Act, section 1491 of title 28, United States Code, challenging the constitutional adequacy of the compensation provisions of section 8(a) as they apply to a particular allotment or interest: *Provided*, That such action shall be filed with the Claims Court not later than one hundred and eighty days after the issuance of the notice of the Secretary's compensation determination as provided in section 8(c). If such an action is not filed within the one-hundred-and-eighty-day period, it shall be forever barred. The United States hereby waives any sovereign immunity defense it may have to such an action but does not waive any other defenses it may have to such action. The filing of an action by any heir, allottee, or any other person under the provisions of this section shall bar such person forever from receiving compensation pursuant to the provisions of section 8.

SEC. 7. (a) The Secretary is hereby authorized to and shall diligently investigate to the maximum extent practicable all White Earth allotments and shall determine which allotments or interest fall within any of the provisions of section 4(a), 4(b), or 5(c). As to all such allotments or interests determined to be within the provisions of section 4(a), 4(b), or 5(c), the Secretary shall prepare lists of such allotments or interests, which shall include allotment number, land description, and allottee's name, in English and Ojibway where available. A first list shall be published within one hundred and eighty days after the date of enactment of this Act in the Federal Register; in a newspaper of general circulation in Mahnomen County, Minnesota; in a newspaper of general circulation in Becker County, Minnesota; in a newspaper of general circulation in Clearwater County, Minnesota; in one newspaper of general circulation in metropolitan Minneapolis-Saint Paul; and, in the Secretary's discretion, in any appropriate band or tribal newspaper. Publication in the required newspapers shall take place no later than thirty days after publication in the Federal Register.

(b) Any tribe, band, or group of Indians, or any individual shall have one year after the date of publication in the Federal Register to submit to the Secretary any additional allotments or interests which the tribe, band, group, or individual believes should fall within any of the provisions of section 4(a), 4(b), or 5(c). The Secretary, without such submissions, may also independently determine that additional allotments or interests fall within such provisions. Any additional allotments or interests submitted to the Secretary shall be accompanied by a statement identifying the allotment or interest and its land description and summarizing the reasons why it should be added to the list required by this section.

(c) The Secretary shall determine which additional allotments or interests fall within the provisions of the section 4(a), 4(b), or 5(c), and not later than five hundred and forty days of the date of publication of the Secretary's first list in the Federal Register, the Secretary shall publish a second list in the Federal Register and previously required newspapers of the allotments or interests the Secretary has determined should be added to the first published list.

(d) Any determination made by the Secretary under this section to include an allotment or interest on the first list required by the section to be published in the Federal Register may be judicially reviewed pursuant to the Administrative Procedure Act not later than ninety days of the publication date of the first list of the Federal Register. Any such action not filed within such ninety-day period shall be forever barred. Any determination made by the Secretary to include an allotment or interest on the second list required by this section to be published in the Federal Register, or any determination made by the Secretary not to include an allotment or interest on such list, may be judicially reviewed pursuant to the Administrative Procedure Act within ninety days of the publication date of the second list in the Federal Register. Any such action not filed within such ninety-day period shall be forever barred. Exclusive jurisdiction over actions under this subdivision is hereby vested in the United States District Court for the District of Minnesota.

SEC. 8. (a) Compensation for a loss of an allotment or interest shall be the fair market value of the land interest therein as of the date of tax forfeiture, sale, allotment, mortgage, or other transfer described in section 4(a), 4(b), or 5(c), less any compensation actually received, plus interest compounded annually at 5 per centum from the date of said loss of an allotment or interest until the date of enactment of this Act, and at the general rate of interest earned by United States Department of the Interior funds thereafter. A determination of compensation actually received shall be supported by federal, state, or local public documents filed contemporaneously with the transaction or by clear and convincing evidence. Compensation actually received shall not be subtracted from the fair market value in any instance where an allotment or interest was sold or mortgaged by a full or mixed blood, under the age of eighteen years, or in any instance where there is prima facie evidence that fraud occurred in a sale or mortgage. No compensation for loss of an allotment or interest relating to transfers described in section 4(b) shall be granted to any person or the heirs of such person where such allotment or interest was received pursuant to State court probate proceedings and where also it has been or is determined by the Secretary that such person or heirs were not entitled to inherit the allotment or interest.

(b) For the purpose of this section, the date of transfer applicable to interests described in section 4(b)(6) shall be the last date on which any interest in the subject allotment was transferred by document of record by any other heir of the allottee; and the date of transfer applicable to allotments described in section 5(c) shall be the selection date. For purposes of this section, the Secretary shall establish the fair market value of various types of land for various years, which shall govern the compensation payable under this section unless a claimant demonstrates that a particular allotment or interest had a value materially different from the value established by the Secretary.

(c) The Secretary shall provide written notice of the Secretary's compensation determination to the allottees or heirs entitled thereto. Such notice shall describe the basis for the Secretary's determination, the applicable time limits for judicial review of the determination, and the process whereby such compensation will be distributed. The Secretary shall proceed to make such heirship determinations as may be necessary to provide the notice required by this section: *Provided*, That the Secretary shall accept as conclusive evidence of heirship any determination of the courts of the State of Minnesota as provided in section 5(a) of this Act: *Provided further*, That the Secretary shall give written notice only to those allottees or heirs whose addresses can be ascertained by reasonable and diligent efforts; otherwise such notice shall be given by publication in the Federal Register.

(d) The Secretary's administrative determination of the appropriate amount of compensation computed pursuant to the provisions of this Act may be judicially reviewed pursuant to the Administrative Procedure Act not later one hundred and eighty days after the issuance of notice as aforesaid; after such time the Secretary's determination shall be conclusive and all judicial review shall be barred. Exclusive jurisdiction over any such action is hereby vested in the United States District Court for the District of Minnesota.

(e) Once a compensation determination has become conclusive according to the provisions of subsection (d), the Secretary shall certify such determination to the Secretary of the Treasury and such conclusive determination shall be treated as a final judgment, award or, compromise settlement under the provisions of title 31, United States Code, section 1304. The Secretary of the Treasury is authorized and directed to pay out of the funds in the Treasury into a separate interest bearing White Earth Settlement Fund account the amount certified by the Secretary of the Interior in each case. The Secretary of the Interior shall then make a diligent effort to locate each allottee or heir; however, if, after two years from the date on which a determination becomes conclusive an allottee or heir cannot be located, the Secretary of the Interior shall declare the amount owing to such allottee or heir forfeited.

(f) Any and all amounts forfeited pursuant to subsection (e) together with the interest accumulated thereon, pursuant to section 8 shall be transferred annually to the fund established under section 12 for the White Earth Band.

SEC. 9. The Secretary shall determine the heirs, if heretofore undetermined, or modify the inventory of an existing heirship determination of any full or mixed blood or Indian enrolled in any other federally recognized Indian tribe, band, or community, where appropriate for the purposes of this Act: *Provided*, That the Secretary shall accept any determination of heirship by the courts of the State of Minnesota as provided in section 5(a) of this Act.

SEC. 10. (a) The provisions of section 6 of this Act shall take effect upon the publication in the Federal Register by the Secretary of certification that the following conditions have been satisfied:

(1) The State of Minnesota, in accordance with Laws of Minnesota 1984, chapter 539, has entered into an agreement with the Secretary providing for the transfer of ten thousand acres of land within the exterior boundaries of the White Earth Reservation to the United States to hold in trust for the White Earth Band of Chippewa Indians as the State's contribution to the settlement provided for by this Act. The Secretary shall not enter into such an agreement until the Secretary determines, or the authorized governing body of the band certifies to the Secretary in writing, that the agreement will result in the transfer of ten thousand acres which possess reasonable value for the White Earth Band, including but not limited to value for agricultural, recreational, forestry, commercial, residential, industrial, or general land consolidation purposes. The land transferred pursuant to this subsection shall be accepted by the United States subject to all existing accesses, roads, easements, rights of way, or similar uses unless the Governor and Attorney General of the State of Minnesota certify in writing to the Secretary the State's intent to abandon such uses on a particular parcel.

(2) The State, in accordance with the Laws of Minnesota 1984, chapter 539, has appropriated $500,000 for the purpose of providing the United States with technical and computer assistance for implementing the settlement provided for in this Act.

(3) The United States has appropriated $6,600,000 for economic development for the benefit of the White Earth Band of Chippewa Indians.

(b) Upon final acceptance by the Secretary, the land referred to in subsection (a)(1) shall be deemed to have been reserved as of the date of the establishment of the White Earth Reservation and to be part of the trust land of the White Earth Reservation for all purposes.

SEC. 11. Nothing in this Act is intended to alter the jurisdiction currently possessed by the White Earth Band of Chippewa Indians, the State of Minnesota, or the United States over Indians or non-Indians within the exterior boundaries of the White Earth Reservation.

SEC. 12. (a) There is established in the Treasury of the United States a fund to be known as the White Earth Economic Development and Tribal Government Fund. Money in this Fund shall be held in trust by the United States for the White Earth Band of Chippewa Indians, and shall be invested and managed by the Secretary in the same manner as tribal trust funds pursuant to the Act of June 24, 1938 (25 U.S.C. 162a).

(b) The White Earth Economic Development and Tribal Government Fund shall consist of—

(1) money received by the White Earth Band as compensation pursuant to section 8; and

(2) money received by the White Earth Band as a result of amounts forfeited pursuant to section 8(f); and

(3) money received as an appropriation pursuant to section 15; and

(4) income accruing on such sums.

Income accruing to the White Earth Economic Development and Tribal Government Fund shall, without further appropriation, be available for expenditure as provided in subsection (c).

(c) Income from the fund may be used by the authorized governing body of the band for band administration. Principal and income may be used by the authorized governing body of the band for economic development, land acquisition, and investments: *Provided, however*, That under no circumstances shall any portion of the moneys described in subsection (b) be used for per capita payments to any members of the band: *Provided further*, That none of the funds described in subsection (b) shall be expended by the governing body of the band until—

(1) such body has adopted a band financial ordinance and investment plan for the use of such funds; and

(2) such body has submitted to the Secretary a waiver of liability on the part of the United States for any loss resulting from the use of such funds; and

(3) the Secretary has approved the band financial ordinance and investment plan. The Secretary shall approve or reject in writing such ordinance and plan within sixty days of the date it is mailed or otherwise submitted to him: *Provided*, That such ordinance and plan shall be deemed approved if, sixty days after submission, the Secretary has not so approved or rejected it. The Secretary shall approve the ordinance and plan if it adequately contains the element specified in section 12(d).

SEC. 13. Notwithstanding any other law to the contrary, the United States grants its permission to the State of Minnesota to transfer land to the White Earth Band as described in section 10(a)(1) which prior to the date of enactment of this Act may have been obtained by the State pursuant to other Federal law or with Federal assistance. Any restrictions or conditions imposed by any other Federal law or regulation on the transfer of such land are hereby waived and removed.

SEC. 14. Not later than five years, or as soon as possible, after the date of enactment of this Act, the Secretary shall make all determinations, provide all notices, and complete the administrative work necessary to accomplish the objectives of this Act. The Secretary shall give priority in making compensation determinations and payments under this Act to original allottees and elderly heirs. The Secretary shall submit a report by January 1 of each year to the chairman of the House of Representatives Committee on Interior and Insular Affairs and the chairman of the Senate Committee on Indian Affairs, which report shall summarize the administrative progress to date and shall estimate the amount and nature of work left to be done.

SEC. 15. (a) There are hereby authorized to be appropriated to the White Earth Band $6,600,000 as a grant to be expended as provided in section 12.

SEC. 16. None of the moneys which are distributed under this Act shall be subject to Federal or State income taxes or be considered as income or resources in determining eligibility for or the amount of assistance under the Social Security Act or any other federally assisted program.

SEC. 17. The Secretary is authorized, if so requested by the authorized governing body of the White Earth Band, to exchange any of the land which is transferred to the United States as described in section 10(a)(1) for any other land within the exterior boundaries of the White Earth Reservation which is owned by the United States, the State of Minnesota, or any of the State's political subdivisions. Nothing in this section shall be deemed to require an exchange not agreed to by all parties to the exchange.

SEC. 18. Any lands acquired by the White Earth Band within the exterior boundaries of the White Earth Reservation with funds referred to in section 12, or by the Secretary pursuant to section 17, shall be held in trust by the United States. Such lands shall be deemed to have been reserved from the date of the establishment of said reservation and to be part of the trust land of the White Earth Band for all purposes.

Mr. DURENBERGER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BOSCHWITZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DURENBERGER. Mr. President, I want to express my gratitude to the chairmen of the committees involved—Senator ANDREWS of North Dakota, and the ranking member, Senator MELCHER—for expediting passage of this legislation.

It has not been easy legislation. It has not been easy legislation here on the floor.

I appreciate also the indulgence of all of our colleagues. It was not our desire to have the bill voted on at this particular time. At least, speaking on my own behalf, I regret the timing by which this bill was passed.

Also I expressed my particular appreciation to my colleague from Minnesota, for his initiative, and in particular for his patience outside of this Chamber in various ways. He probably has been pressed to the limit by a most difficult undertaking on his behalf. But he has stuck to his guns, so to speak, on a matter that was very difficult to compromise.

I conclude by complimenting him in particular for providing that patient leadership which was so necessary to bring this matter to a successful conclusion.

Mr. BOSCHWITZ. Mr. President, I thank my senior colleague from Minnesota, Senator DURENBERGER. Indeed, it has taken considerable patience. His patience was an integral part in making the whole thing happen. We spent an enormous amount of time on this. I thank him. I also thank my colleague on the other side of the Hill, Congressman STANGELAND, who attended innumerable meetings with us in trying to work out a moderate, fair, and balanced package.

I also want to thank the officials of the State of Minnesota, the Governor, Rudy Perpich, and also Attorney General Humphrey; and, particularly Jim Schoessler, who is on his staff and who put an inordinate amount of time and effort into making and developing this bill, and helping to see that it pass.

I also must say a word about the leader of the White Earth Band of Chippewa Indians, Darrell "Chip" Wadena, who, in the face of considerable adversity stood for his principles, and stood for his people. He is the leader of that band. He has supported this bill. He hung in there in the face of considerable political adversity because he felt it was right for his people. For this he must certainly be complimented.

It is not often that we see that type of genuine leadership, taking such political risks, and going this far in supporting the principles he believes in.

I yield the floor.

Mr. MELCHER. Mr. President, I recognize the diligence, persistence, and the great amount of time that the Senators from Minnesota put into this bill on the White Earth settlement.

I think it is unfortunate that the bill, however, is flawed, and probably needs to be looked at very seriously by the House of Representatives.

It is for that reason that I wanted to make sure that the Senate voted on my amendments, and on final passage so that we do have the record clear on the bill itself.

If there is going to be a White Earth settlement that avoids rather than promotes litigation, I believe the bill will have to be changed. The amendments I offered, while not correcting all of the bills flaws would have made it a better bill. I am not sure how the House wants to treat this bill. But we have a record here in the Senate for review by the House Members who will handle the bill, which I think is important.

I hope the record will be reviewed before the House takes action on this bill. And I understand the hopes and intentions of my friends from Minnesota that the bill be enacted into law this session, or at least be passed by the House so that we can see whether the President will sign it. But I trust the House will want to review the debate here in the Senate, and be advised of what issues were raised in that debate.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. DENTON). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SASSER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEMORIALIZING CERTAIN MEMBERS OF THE 101ST AIRBORNE DIVISION

Mr. SASSER. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 274) memorializing certain members of the 101st Airborne Division.

The PRESIDING OFFICER. Is the objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. SASSER. Mr. President, I rise today to address my colleagues on behalf of the 250 members of the 101st Airborne Division who lost their lives in one of the most tragic peacetime accidents in our history.

These brave soldiers were returning home to their families and loved ones after serving for several months as members of the Sinai Peacekeeping Force. They had kept the peace in a part of the world that desperately needed their service. And now, during this holiest of times, they were coming home to celebrate the Christmas season with family and friends.

But shortly after takeoff from Gander International Airport, their plane crashed, and in an instant these brave men were taken from us in one of the worst military air disasters in history.

Certainly no one here can fully comprehend the dimensions of this tragedy. One is literally numb at the loss that we have incurred. And I know that every Member of the U.S. Senate, joins with us in offering our heartfelt condolences to the families, friends, and neighbors of these brave soldiers.

The loss that we have experienced in this tragedy will be felt for many years to come, by the mothers and fathers, the wives, the children, and the friends of all who lost their lives yesterday morning. But in our grief, we must never lose sight of the fact that these courageous members of the 101st Airborne Division were working to protect our country and bring about peace in a troubled world. They had a mission to fulfill that took them far away from family and friends. They had a lonely mission that did not receive a tremendous amount of attention or notice. But they had the most important mission of all—the mission of peace.

As we all celebrate the joy of this holy season, let us all stop and offer our prayers for these men and their loved ones. Let us remember them and be thankful for their service to us.

And let us remember the words of our Lord who said nearly 2,000 years ago, "Blessed are the peacemakers for they shall inherit the Earth."

These men who were with us and now are gone were peacemakers in every sense of the word. We are all the better for their time with us, and may the good Lord receive them and bless them for peace, honor, and bravery they brought to an imperfect world.

Mr. GORE. Mr. President, I join my senior colleague, Senator SASSER, as well as Senator FORD and Senator McCONNELL, in expressing grief at the events in Newfoundland and expressing condolences to the families of the brave soldiers who died.

It was with shock and sorrow that America received the terrible news of the DC-8 crash in Newfoundland yesterday morning, the worst military air crash in our Nation's history.

Our prayers and our heartfelt condolences go out for the families of these heroes, who were returning from a mission of peace on the world's behalf.

They performed their duties with excellence in every respect. Their dignity and dedication made all America proud. Now their tragic and terrible deaths deeply sadden every American.

The details of the crash are not fully known. The charter flight, arranged by Arrow Airlines of Miami, FL, crashed at 5:15 a.m. e.s.t. upon takeoff from the Gander Airport in Newfoundland. Aboard were 8 crew members and 250 Army persons, all members of the 3d Battalion, 502 Infantry of the 101 Airborne Division. All were stationed at Fort Campbell.

The group had been serving at South Camp in Sinai since last July as part of the multinational force. This group was the third such party to depart for Fort Campbell over the last several weeks. Also participating in this peacekeeping mission were troops from Australia, Colombia, Fiji, France, Italy, the Netherlands, New Zealand, the United Kingdom, and Uruguay.

The flight originated in Cairo and stopped to refuel twice, in Koln, West Germany, and at Gander.

This loss represents the most men the 101st Airborne Division has ever lost in a single day, even in battle.

This division has fought and won more important battles for this country than any other division in our armed services.

No official determination has yet been made as to the cause of the crash. The Canadian Government will be conducting the investigation. The Pentagon, the Federal Aviation Administration, and the National Highway Safety Transportation Administration will be assisting in the investigation. Certainly, authorities in both our countries must make haste to determine what went wrong in the skies over Newfoundland.

This has been a tragic year for aviation—the worst in history. Nearly 2,000 people have died in some 34 accidents.

If it is eventually determined that faulty procedures contributed to this crash, then we in this body must wait no longer before insisting upon dramatic improvements in procedures for ensuring air safety.

A complete list of the casualties has not yet been made public because the next of kin are being located and informed. Many Tennesseans have lost their lives, as have many brave soldiers from States throughout our Nation.

A relief fund has been established by the Tennessean, a newspaper in Nashville, and WSMV, a television station in Nashville, to help the family members of those who perished in this air disaster.

Mr. President, it is difficult to describe in words the shock experienced by Fort Campbell in particular, by Tennessee and Kentucky, and by the entire county. These Americans devoted their lives to the pursuit of peace in our world. In this season of peace, we owe it to their memory to devote ourselves to the pursuit of peace.

Mr. President, I ask unanimous consent to have printed in the RECORD statements made on the editorial pages of the Nashville Banner, the Nashville Tennessean, and the Clarksville Leaf-Chronicle, which have eloquently expressed the sadness we all feel and the tribute we all wish to pay to these heroes who died in Newfoundland.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Nashville Banner, Dec. 13, 1985]

A HEAVY LOSS FOR FORT, MIDSTATE

All Middle Tennesseans will join their neighbors at Fort Campbell in sorrow for the disaster that has struck the Army base.

The crash that killed 258 people in Gander, Newfoundland, Thursday—248 of them Fort Campbell soldiers—is all the more saddening because it came at a festive time of year, when the troops aboard the plane were on their way home for Christmas.

The plane, a DC-8 which belonged to Arrow Air of Miami, Fla., was carrying members of the 101st Airborne Division from the Middle East home to Fort Campbell. The soldiers had been assigned to the international peacekeeping force on Egypt's Siani Peninsula since July. Their tour of duty was over and they were heading home.

One planeload arrived at the base Dec. 5. The plane that crashed was the second of three.

The atmosphere at the fort changed quickly from one of celebration and anticipation to one of shock and sadness. The troops had been expected home at 9 a.m., and would have been greeted by their relatives and the fort's band in a traditional homecoming ceremony.

Many of those waiting did not even know whether their loved ones had been aboard the plane, since the casualty list had not been completed and relatives notified.

The toll from the crash was the worst ever in military aviation. The only disaster even close was the crash in 1975 of a C-5 cargo plane carrying babies and orphans out of South Vietnam. That crash left 155 people dead.

The famed 101st Airborne Division, in all its battles in World War II and the Vietnam War, has had no comparable single-day loss of life.

Base commander Maj. Gen. Burton D. Patrick expressed well the loss to the Army and to the community. "We have suffered a tragic loss that will be everlasting, and our hearts go out to the families and loved ones of these brave soldiers who were on their way home from the peacekeeping mission in the Sinai," he said.

"They did a magnificent job. Their mission was flawless. For six months there, they kept the peace. Then by some quirk of fate, some plane falls from the sky. . . . This is the deepest, most heartfelt tragedy of my time in the Army."

The cause of the crash was not immediately known, and many questions remain to be answered about the accident. The plane was an old one. It was a veteran of service with five airlines. It had 50,000 hours of flying—about 27 million miles.

Arrow Air was the subject of an in-depth government investigation in early 1984 after authorities expressed concern the airline might be expanding too quickly. A company spokesman said the airline had since resolved matters with the Federal Aviation Administration and now is in good standing.

Appropriately, Gov. Lamar Alexander ordered flags outside all state buildings in Tennessee flown at half-staff.

Even before Thursday's crash, 1985 had become commercial aviation's worst year ever, with more than 1,400 people killed in air accidents worldwide. The loss of the Fort Campbell troops brings that reality home to Middle Tennesseans.

[From the Nashville Tennessean, Dec. 13, 1985]

A TRAGIC BLOW TO THIS AREA

The deaths of 248 Fort Campbell soldiers in a plane crash in Newfoundland yesterday is a cause of great sadness in this region. Many of the servicemen were known to people in middle Tennessee and southern Kentucky and many had wives, children, other relatives and friends in the area.

The servicemen were coming home for Christmas from the Sinai Peninsula where they had been serving as part of a multi-national force monitoring the peace treaty between Egypt and Israel.

The crash was a shock to the entire nation. But the grief was especially keen at Fort Campbell where families and friends had gathered yesterday morning to welcome the men home. "The family members had not seen their loved ones for more than five months," said a spokesman at the base. "They were already in the gymnasium ready to greet them when the announcement (of the crash) was made."

The troops were part of an 11-nation force created under the 1979 peace treaty ending hostilities between Egypt and Israel. The Fort Campbell troops were stationed at the southern end of the peninsula.

There are many ways for American servicemen to die in this turbulent era of "local" wars, terrorism and other threats to peace. This nation, in its efforts to keep the peace and prevent the spread of hostile forces, places great burdens on those who volunteer to serve in its armed forces.

These men and women are sent to distant spots on the earth to serve long periods of time in desolate, lonely places, often without due recognition by the public. Although much of their service is tedious and dull it is not trivial and thankless.

The soldiers in the Sinai Peninsula generally found their duty there to be uneventful, and perhaps many Americans had forgotten they were there. But the Fort Campbell men killed in Newfoundland yesterday died in the line of duty just as surely as if they had died on the battlefield, and their families and friends should know that the nation mourns their deaths just as it mourns the loss of all its heroes.

[From the Clarksville Leaf-Chronicle, Dec. 13, 1985]

AIR DISASTER SHOCKS AREA

They were superbly trained; they had performed their mission well; they were coming home; they were almost there—and then they were dead.

Not killed by enemy fire or in the name of freedom, but in an accident—a freak accident that could have happened to anyone, except that it didn't. It happened to 250 Fort Campbell solidiers.

Our soldiers.

Our neighbors, our freinds, our loved ones.

The enormity of the loss is almost too great to contemplate at such close range.

When the men left in July, they knew their mission was dangerous, but the danger was in the Middle East, in the Sinai, where the soldiers were acting as a peace-keeping force. When their assignment ended Wednesday, their long months of battling the desert, its tension and its loneliness, were finally over, and they thought they were safe.

So did their families, who joyfully prepared for their homecoming and the holidays ahead. Thursday was the day they had all been waiting for through 180 days of agonizing separation and worry.

But when the families gathered on post for the expected arrival of their men, they were greeted instead by an announcement of their deaths. The soldiers made it out of Egypt and across the ocean but not out of Newfoundland.

Never has the community felt such a shock—for this is peacetime, and the number killed is so high.

In the next few days, there should be more information about why the plane crashed. Was it ice, or was there some kind of explosion?

Why did our men die?

A technical explanation is only the beginning; a deeper understanding of what happened on Dec. 12, 1985 will take years of searching and prayer to accomplish.

Until then, along with every citizen in Montgomery County, we can only add our sympathy and our grief to those whose husbands, sons, fathers and brothers have died so tragically.

Mr. FORD. Mr. President, Kentuckians are saddened during this Christmas season after the crash yesterday morning which killed 248 persons, most of whom were members of the U.S. Army's 101st Airborne Division.

We in Kentucky have always been proud to provide a home for this division which has given us some of our Nation's most outstanding soldiers. Sadly, through its storied history of combat in World War II and Vietnam, the division never suffered more deaths in a single day than it did when the DC-8 plane crashed just after takeoff from Gander International Airport in Newfoundland.

It was heartbreaking to learn of the young families who, while anxiously awaiting the return of their loved ones for the holidays, were told of the fatal crash. Two hundred people had gathered at Fort Campbell for a welcome home event for the members of the 3d Battalion, 502d Infantry of the 101st Airborne Division, Air Assault, only to have this tragic news dash their hopes and expectations for a happy homecoming and joyous holiday season.

These soldiers were returning from spending 6 months in the Sinai Desert with the United Nations peacekeeping force. They were looking forward to being back in the United States and spending leisure time with their loved ones after a job well done.

Our thoughts and prayers are with the families and friends of the soldiers on the ill-fated plane and with the entire Fort Campbell community. We share their sorrow and grieve with them.

These young men died in service to their country and for the cause of world peace. One cannot ask more than this of a citizen soldier, and we honor their names.

Mr. McCONNELL. Mr. President, as I rise in support of this resolution my heart goes out to the families of the men and women of the 101st Division who died in this tragic plane crash. There is little which I can say to ease the grief and pain they are experiencing.

These families supported the 101st as they served their Nation here and in the Sinai. These families have been proud of the skill, the record of accomplishments and the spirit of the 101st. I spent more time with the Screamin' Eagles this spring and I didn't just see talent and dedication, I experienced it. I was completely swept up by it. It was a pleasure to be a part of a group of men and women who liked what they were doing and did it exceptionally well. This is the tradition of the 101st.

This tradition has been dependent on the care, the love, and support of the families of those who serve. The backbone of the 101st and this country are those men, those women, those children who have encouraged, humored, advised, stood by and stood fast with their servicemen. As a father, I know just how important a child's smile or story can be. I know how flagging morale can be boosted by that spark. I know the difference family can make. Just as we pay homage today to the valor, dedication, and capabilities of the men who served, so too, should we pay tribute to those who stood by them.

We are all familiar with the record of the 101st. We know how ably they served in the Sinai fulfilling our Nation's responsibility and commitment to peace in the Middle East. They are soldiers we can be proud of and deeply mourn their loss. But the tradition continues. The 101st will go on to serve the United States with distinction and honor. We can be sure of that. I hope the families will look to the example of the 101st and find the courage and faith to continue to believe they served with dignity, honor, and for cause. It is the last which is the hardest for all of us to accept in this time of loss. The cause was peace, the price was high, but the tradition they exemplified will be with us always.

Mr. SASSER. Mr. President, I ask unanimous consent that the 100 Members of the Senate be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SASSER. Mr. President, I move adoption of the resolution.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the resolution.

The resolution (S. Res. 274) was unanimously agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 274

Whereas the Sinai Peacekeeping Force has been essential to maintaining world peace since the signing of the Camp David Accord,

Whereas the 101st Airborne Division Screamin' Eagles is one of our nation's finest and best trained units and has a distinguished history of sacrifice and commitment to the nation in the cause of peace,

Whereas, members of the 3rd Battalion 502nd Infantry of the 101st Airborne Division had just completed a six-month assignment as members of the multinational peacekeeping force in the Sinai,

Whereas 250 members of the 3rd Battalion 502 Infantry of the 101st Airborne, on their journey home from a mission of peace died in a plane crash in Gander, New Foundland, Canada,

Whereas this accident involved more casualities than the 101st Airborne Division has suffered in any single day in peacetime or wartime.

Whereas in this season of Christmas the nation owes a debt of gratitude to these soldiers who gave their lives selflessly in maintaining our country's national security and goal of world peace,

Be it resolved by the United States Senate that it extends its sincere condolences to members of all the families of the soldiers of the 101st Airborne division who died in service to their country.

Mr. SASSER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, I ask unanimous consent that I be allowed to proceed as if in morning business for 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

JAPAN THREATENS TO MAKE TRADE PROBLEMS WORSE

Mr. LEVIN. Mr. President, the Japanese Government is reported today to have decided to allow Japanese automobile manufacturers to ship an unlimited number of cars to the United States market next year, ending 5 years of so-called voluntary restraint. This decision, if the reports prove to be accurate, would follow a year of explosive growth in Japanese exports to the United States, coupled with foot-dragging in the negotiations to open up Japanese markets to our goods. Japan's automobile exports to the United States have increased by nearly 25 percent this year over last year, which means more than $4 billion worth of additional cars and trucks made in Japan have entered our markets in 1985 than in 1984.

Japan cannot be so naive as to believe that the United States will continue to be taken advantage of like this. Trade is supposed to be a two-way street, but Japan is overloading its side of the street and they have "One Way" signs on the other. Prime Minister Nakasone of Japan has declared his determination to lower the United States-Japan trade deficit and exhorted his countrymen to "Buy American." But if this decision on unrestrained auto exports is an indication of his plan, I shudder to see the rest of it.

Mr. President, we have, for too long sat by and watched our trade deficit with Japan escalate. Congress must enact strong legislation to reduce our trade deficit. It has long been obvious Japan has no intention of doing so.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESIGNATION OF ROBERT McFARLANE

Mr. WARNER. Mr. President, it is a privilege for me to appear on the floor of the Senate this afternoon with my distinguished colleague, the Senator from Georgia [Mr. NUNN]. We serve together on the Senate Armed Services Committee, where he is the ranking minority member. It has been a privilege to serve these past 7 years together.

This afternoon, we join to express our views with respect to the very significant contributions to our Nation's security made by Robert McFarlane while serving as the President's National Security Adviser.

Mr. McFarlane brought to this position a long career of professional achievements which uniquely qualified him to protect the interests of the United States and to make his contribution toward a more peaceful world.

As a principal adviser to the President on national security matters, he provided reasoned and balanced advice on many crucial issues involving war and peace, as well as long-term national goals and interests, that shape America's relations with other nations.

Bud McFarlane's steady hand during crisis situations, his mastery of complex arms control issues, and his perseverance in convincing the President to undertake a series of summit meetings with the Soviet General Secretary highlight the proud legacy of service he leaves behind.

The Washington Post, in a December 5 editorial entitled "The McFarlane Loss," offers an insightful look into the service of Mr. McFarlane.

I would like to quote a portion of this unusual and highly commendatory piece and I ask unanimous consent that the article be printed in its entirety following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. WARNER. Mr. President, I quote: "He has been that rarest of public officials, a loyal, honorable, and unassuming man who was also intelligent and tough."

That is a characterization that would make any man proud.

Bud McFarlane deserves it.

I would add that his low-key nature, his willingness to accept responsibility and his keen understanding of the value of letting other people take credit for the many successes he and his staff achieved are key reasons for the outstanding reputation he enjoys.

I worked very closely with Bud McFarlane when I was designated by Senators Tower and STENNIS to investigate the Iran rescue operation for the Senate Armed Services Committee. His work on that report clearly reflects his understanding of the men and women of our Armed Forces from private to four star rank.

His unwavering loyalty to the President, his ability to mediate egos and yet keep his own ego intact, and the manner in which he never let his many successes go to his head mark him as one of a kind.

His lengthy, subdued, and sometimes a little boring after-dinner speeches also marked him as one of a kind, but he went for substance not glitter.

Thomas Jefferson, that most distinguished statesman from Virginia, during times of peril past, once offered the hope that "God grant that men of principle shall be our principal men."

I offer my thanks and those of my distinguished colleagues to one of this country's "principal" men for the leadership and selfless service he has provided this great country of ours.

There is no greater tribute we can offer to Bud McFarlane than the thanks of a grateful nation.

We are also grateful for the training he provided his successor, Admiral Poindexter. I know the Admiral well from the early 1970's, where we served together in the Navy Secretariat, and I look forward to the solid leadership he will provide as the President's newly appointed National Security Adviser.

With those thanks, I know that all join me in wishing Bud, his charming wife, Jonda, and his family, who steadfastly stood beside him and accepted the hardships thrust on families from a total commitment to public service, Godspeed in all they undertake.

I yield to the Senator from Georgia.

EXHIBIT 1

[From the Washington Post, Dec. 5, 1985]

THE McFARLANE LOSS

It is too late to save the president's resigning national security adviser, Robert C. McFarlane, from what befell him at the White House. But there may still be time to save him now: transformation by administration critics on the left into someone he never was—a kind of doomed and valiant closet dove shoved out by the forces of reaction and darkness. By about Friday, we should guess, the aforementioned dark forces will of course be striking back, countering that Mr. McFarlane, mourned by so many of the administration's ideological foes, can hardly have been the right man for the job. Et cetera.

Let us try a little pre-emptive strike here. Mr. McFarlane is no dove—doomed, valiant, closet or otherwise. He is a very conservative and sober-minded military officer turned civilian, who has become a specialist in national security policy. The job he had has always been a delicate one to fill and has regularly been redefined by those who held it. Some were more and some were less assertive, intrusive, imaginative, self-starting and egomaniacal. McGeorge Bundy, Walt Rostow, Henry Kissinger, Brent Scowcroft, Zbigniew Brzezinski, Richard Allen, William Clark—you don't exactly find a pattern there.

Some of these men were more illustrious than Mr. McFarlane, but we can't think of any who was more helpful to the president he served. This, we suspect, will be noted as time goes on. By the time Mr. McFarlane took the White House job, a major task awaited: to find a way to turn the fruits of Mr. Reagan's military buildup into actual policy options. He gave over a great deal of time and thought to this. Mr. McFarlane also had some successes as a manager and arbiter of departmental clashes. He has been the kind of public servant who is not fully appreciated until he is no longer around to do the countless quiet, essential tasks that an employer tends to take for granted. He has been that rarest of public officials, a loyal, honorable and unassuming man who was also intelligent and tough.

A near-frantic effort has been mounted by persons close to White House chief of staff Donald Regan to counter the stories that Mr. Regan's manipulating and muscling had a part in Mr. McFarlane's decision to leave. And yesterday both Mr. McFarlane and the president dismissed the reports as nonsense. We wish they had been nonsense. The muscling and manipulating were particularly egregious, and they did have an effect.

Neither Mr. McFarlane's job nor that of Mr. Regan is subject to Senate confirmation, and a president has the widest possible discretion in choosing the persons he wants for them. Chemistry, as it is called, work habits, style and personal quirk all play a part, and for all we know Mr. Regan may suit Mr. Reagan's needs just fine. But from the outside it sure doesn't look that way. His ascendancy has been one grating episode after another—George Bush, Margaret Heckler, Robert McFarlane—just as his Cabinet years were marked by open combat with others high up in the Reagan government. Mr. Regan is a very ambitious man. He is said to like to be seen in the right places at the right time. The stories are legion. At Geneva he had himself photographed draped over the back of the couch on which Ronald Reagan and Mikhail Gorbachev were sitting. Mr. McFarlane is just the opposite, and you would think that the self-effacing man would have presented no particular challenge or threat to the other. But it seems not to have been regarded by Mr. Regan that way.

Mr. McFarlane's successor is to be his deputy, Vice Adm. John Poindexter. Good luck. That the choice evidently had to be agreeable to Mr. Regan as well as to the president puts a couple of extra bricks in the new fellow's knapsack. But Adm. Poindexter must know, from his time in the White House, how great is the president's need for someone capable of performing the crucial balance-wheel function defined and assumed by Mr. McFarlane.

At the summit, the president put himself in a way to move toward major policy decisions. But he has not yet made those decisions. In the absence of a McFarlane, the internal chemistry of the Reagan administration's policy process will be different. Let us hope it works.

Mr. NUNN. Mr. President, I should like to associate myself with the very fine remarks of the Senator from Virginia, who has known Mr. McFarlane for a number of years. The Senator from Virginia has expressed very eloquently the views of all of us who know Robert McFarlane and know him to be a very fine and dedicated American public servant.

Mr. President, I want to pay tribute to Robert C. McFarlane on the occasion of his resignation as the Assistant to the President for National Security Affairs. He has served as President Reagan's National Security Adviser since October of 1983 and has served the President and the country in an outstanding fashion.

Bud McFarlane first concluded a distinguished career as a Marine Corps officer and retired as a lieutenant colonel. He is a graduate of the Naval Academy and his tours of duty included Japan, Korea, and Vietnam.

In 1971, Bud joined the Nixon administration as a White House Fellow and in 1973 became military assistant to Henry Kissinger at the National Security Council as well as continuing State Department duties. He remained during the Ford administration.

In 1979, he left the Marine Corps and joined the Senate Armed Services Committee as a professional staff member. That was the first time I had had a chance to meet and work with Bud McFarlane directly.

He worked closely with the committee members and shared his vast knowledge of national security issues.

In 1981, he went to the State Department to serve as a counselor and later became Deputy Assistant to the President for National Security Affairs. He also served as a special envoy to the Middle East before being elevated by President Reagan to the position of Assistant to the President for National Security Affairs.

I have always believed that the first prerequisite to a strong national defense is the establishment of a bipartisan consensus in support of the key elements of our national security policy. Bud McFarlane has a keen recognition of this. It has been the hallmark of Bud's approach ever since I first met him when he joined the Armed Services Committee staff in 1979.

Over the past 2 years, Bud McFarlane repeatedly demonstrated a great capacity for forging a partnership between the President and a bipartisan majority in the Congress on major national security issues. His leadership helped reach understandings on such issues as MX, the strategic builddown concept, humanitarian aid to resistance forces in Nicaragua, the establishment of risk reduction centers, in which Senator WARNER and I have been involved over the last 3 years, and U.S. policy with respect to existing strategic arms control agreements.

Bud McFarlane's success in concluding these agreements underscored his appreciation for the constitutional role of the Congress in this area. But it is also reflected in the extraordinary level of trust and confidence that he was able to establish with congressional leaders.

I might add that Bud McFarlane always did his homework well and he knew the issues inside and out. He was an individual who knew the substance of complex issues in great detail, and I found this to be of tremendous help in all of my conversations and dealings with him.

Mr. President, as the Senator from Virginia has said so well, we owe a great debt of gratitude to Robert McFarlane for the service he has rendered this country for almost 30 years in uniform, in the Senate, and in the White House. I wish him every success in whatever enterprise or endeavor to which he turns his attention.

Mr. WARNER. Mr. President, I address to my colleague the observation that as we and other Members of the Senate pursue our tasks we frequently call on former members of the administration, the bipartisans, to come forward and give us advice.

The distinguished Senator from Georgia mentioned the nuclear risk reduction center concept on which I have been privileged to work with him these many years, and indeed we formed a group of advisers in that context to assist us in our work. This has made major contributions to the success of this effort to date.

I was thinking this week when we were scheduled to have a hearing of the Armed Services Committee at which time Dr. Brzezinski, a former National Security Adviser, was to have appeared as a witness.

The Senator will also recall that when we were preparing to go to the Soviet Union in September of this year we talked extensively with Dr. Kissinger.

I bring forth this history only to state that it would be my expectation that Mr. McFarlane will be invited in a formal and informal sense by Members of the Senate on a number of occasions to give his advice on subjects in the future.

Mr. NUNN. Mr. President, I certainly share that observation and I hope that we are able to take advantage of Bud McFarlane's considerable expertise and his reputation for candor and integrity.

I believe that if we do reschedule the hearing with Dr. Brzezinski, which had to be postponed on the defense reorganization, it would be a great help to have Bud McFarlane to come some time next year to talk about that subject, perhaps informally and perhaps in a hearing, and on many other subjects he would possibly be a great benefit to our committee.

The Senator from Virginia has made a very good suggestion in which I wholly concur.

Mr. WARNER. I thank the Senator from Georgia.

Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER**. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. **RIEGLE**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

JAPAN INTENDS TO REMOVE VOLUNTARY AUTO IMPORT LIMITATION

Mr. **RIEGLE**. Mr. President, I take the floor this afternoon to alert my colleagues to a very disturbing piece of news, and that is an announcement coming from Japan today and the newspapers in that country indicating that in the coming year, 1986, they intend to remove any further voluntary import limitation on the number of Japanese-built cars coming into the United States.

I believe this is a very serious error in judgment on the part of the decisionmakers in Japan. And this is an action I think that cannot be tolerated by this country.

We have a trade deficit with Japan this year of roughly $50 billion. That means that $50 billion in American wealth is going out of this country to Japan and with it hundreds of thousands, indeed, millions of American jobs. The Japanese automobile penetration in the United States market is now about 23 percent and rising. That means that 23 percent of all the cars sold in the United States are Japanese automobiles.

If the voluntary import limitations are taken off, using various pricing advantages and currency valuation advantages and other trade gimmicks employed by the Japanese, it is estimated they could easily drive their market share in the United States up to 30 percent and higher over a relatively short period of time, perhaps 2 years or so, to a penetration level of as much as 40 percent.

If that is allowed to happen, we will probably lose another million American jobs—and I am talking about good jobs; I am talking about jobs in the industrial base, middle-class jobs, jobs involved with high-value-added work that are critical to maintaining American leadership in manufacturing. We need to have available those manufacturing resources in the event there is a need for a full defense mobilization, as we found in earlier wartime periods.

We need to have that manufacturing base in place and it needs to be modern, it needs to be state of the art. That cannot happen if we continue to see an increase in the trade invasion from countries like Japan.

Japan is not a fair trading partner. They are an unfair trading partner. That is the reason today why our trade deficit with that nation, the highest we have with any nation, is at the $50 billion a year level. They systematically block American products out of the Japanese market in instance after instance after instance—agricultural products, manufacturing products, high-technology products.

We cannot sell our products in Japan because they will not let us do so. And yet they take full advantage of the open U.S. market and they use a variety of predatory trading practices. One of the worst we have seen recently is with respect to semiconductor sales. They have come in, in a high-technology area, with below-cost pricing, which is a violation of the trade laws, in order to kill off the American companies and to achieve a dominant market position. That is not what friendly nations do. That is what unfriendly nations do. It is outrageous that it is happening. It is outrageous that it continues.

There is absolutely no justification for any increase in the percentage of Japanese cars coming into the United States, particularly in light of the sorry record of the trading rules and activities on the part of Japan, who, in so many ways, are unfair in their dealings with us in the trading system.

It is estimated that we have already lost at least 1 million jobs out of the manufacturing automotive sector because of our trade deficit with Japan in cars and trucks. They will ship in this year about 2.3 million Japanese cars and take about approximately 2,000 American cars. And we are going to lose about $25 billion in the process.

That is $25 billion of scarce American capital going overseas, and of course the loss of jobs that it represents. So we cannot afford, and this Nation cannot afford to see that penetration level go higher. It is absolutely irresponsible, and selfish in the extreme for Japan to even contemplate increasing this trade surplus with the United States and dumping more Japanese products in this country. It is unthinkable.

When we provide as we do such a large share of the free world defense in costs—and most particularly for Japan which spends a pittance on national defense—we pay for their defense, and at the same time we provide the defense umbrella for Japan and other free world nations. They turn around and damage consciously the economy of the United States.

We became a debtor nation just 4 months ago for the first time since 1914. At the rate we are going in another 10 months we will be the leading debtor nation in the world. We will surpass Brazil, Mexico, and other nations standing there with a tin cup. We are going to be out borrowing and begging international money just as they have had to do, and are doing today. It has been estimated by the New York Federal Reserve Board that by 1990 we will owe the rest of the world, because of these trade deficits, a figure somewhere between $500 billion and $1 trillion—that we will net debtors to that extent. When that happens, we have to continue to borrow foreign money. What interest rates will we have to pay? How much will the American standard of living have to come down to accommodate those foreign lenders' willingness to extend that kind of credit to us? They will have us right by the throat. It is outrageous if they get away with this.

Frankly, the President and this administration has done virtually nothing to step up to this problem. They do not even seem to understand that it is happening. They are late, they are weak, and they have failed to respond time after time after time. That is why the trade deficit now is at $150 billion and why we have now slipped into this disgrace of having become a debtor Nation.

We have no program to restore our competitiveness, and no systematic broad-gauged national level program to do it. We had a national commission established a year ago on U.S. competitiveness named by the Reagan administration with 30 leading people across this country named to that Presidential commission.

After nearly a year's work, they reported back and said our country was in deep trouble in the trade area. They recommended a whole series of initiatives that needed to be taken to make us more competitive, more productive, to lower the cost of capital, and to create a new trade department in the Cabinet. It was such a strong set of recommendations, and they were unanimous—even the President's science adviser was on the commission.

And yet the Reagan administration has done absolutely nothing to implement the findings of that Presidential commission—yes, their own Presidential commission. They have just looked the other way. They have put the report in a file drawer, and America continues to slide further and further behind.

Now we see the arrogance of Japan today, saying they are going to drive their level of import penetration even higher in the area of cars and trucks even though they keep our products out of Japan, and they have a $50 billion trade surplus with the United States this year. It is just outrageous. It is time for action. It is time for leadership—not a lot of talk, not a lot of diversion action but real action that deals directly with this problem.

So I have sent a letter to the President today asking him to give the kind of strong leadership in dealing with this problem that is required, and not to wait any longer—not to let us slip deeper into the hole in terms of our international standing as a debtor nation but to tell the Japanese that they already have a large enough market share in this country.

If they want to take action, the action they ought to take is to open their markets to U.S. goods—open their markets to U.S. computers and to U.S. products of all kinds, U.S. cars, and U.S. agricultural products. But they have been unwilling to do that. They want a one-way street in the trade area, not a two-way street. That is not the action of a friendly nation.

I am here to say today that this is one Senator that will not stand by and watch this continue. If this persists, if Japan holds to this course of increasing the trade surplus, of damaging the industrial base in this country, of blocking our products out of their market at the same time they come in with predatory practices to swamp our market with their surplus production, then they will have made some adversaries for themselves in this country that will fight back, and fight back with every means at our command.

It is unreasonable, it is unfair, and it is an act of national arrogance. It is a form of piracy. It is a form of trade piracy to do what they are doing—to operate on a double standard. Every time we engage them in this discussion, they just give us the runaround. We cannot get straight answers. They promise action but it is action off in the future. They say they will open up this market. Then they fail to do it. They say they will provide relief, and then it is a pittance. Those are not acceptable actions. This news coming out of Japan today is really an outrageous declaration. I think the Japanese intend to do more damage to the American economy.

Free trade ought to mean fair trade. It ought to mean an equal kind of relationship. There are many ways that Japan can close its trade surplus they have with us instead of driving it higher. Bring it down. Bring it down to a balance. Come in here and buy American products, open up their markets to our goods, and not flood their surplus production into the United States. That is what a good friend would do. That is what a fair trading partner would do. But that is not the behavior we see.

I say to the others in this country that continue to pound on the domestic auto industry, or other industries, such as the semiconductor industry in this country, that we had better start helping American industry because they are facing not just competition from other companies that happen to be international companies. They are facing a concerted strategy by national governments—national governments working in concert with the companies of these countries—to come in here and devastate the industrial base of the United States. The numbers are there to show it.

We now have millions of workers that have lost their jobs in this country, and many more that are in jeopardy if these kinds of additional predatory steps are going to be taken by nations like Japan.

So it is not right. I hope that the officials in Japan will pay attention to the feeling here in the United States about it. It is unfair on its face. It is unacceptable on its face. To have the gall, as is the case today with these announcements out of Japan—that they are prepared to make this problem even worse—is not something that I think the United States can accept or will accept.

Mr. President, I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. QUAYLE). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

PRESIDENTIAL APPROVAL

A message from the President of the United States announced that on December 11, 1985, he approved and signed the following joint resolution:

S.J. Res. 206. Joint resolution to authorize and request the President to designate the month of December 1985 as "Made in America Month."

MESSAGE FROM THE HOUSE RECEIVED DURING THE RECESS

ENROLLED JOINT RESOLUTION SIGNED

Under the authority of the order of the Senate of January 3, 1985, the Secretary of the Senate, on December 12, 1985, during the recess of the Senate, received a message from the House of Representatives announcing that the Speaker had signed the following enrolled joint resolution:

H.J. Res. 476. Joint resolution making further continuing appropriations for fiscal year 1986.

Under the authority of the order of the Senate of January 3, 1985, the enrolled joint resolution was signed on December 12, 1985, during the recess of the Senate, by the President pro tempore [Mr. THURMOND].

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 3:27 p.m., a message from the House of Representatives, delivered by Mr. Solomon, one of its clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 664. An act to amend the Panama Canal Act of 1979 with respect to the payment of interest on the investment of the United States;

H.R. 729. An act to amend the Panama Canal Act of 1979 in order that claims for vessels damaged outside-the-locks may be resolved in the same manner as those vessels damaged inside the locks, and for other purposes;

H.R. 1534. An act to convert the temporary authority to allow Federal employees to work on a flexible or compressed schedule under title 5, United States Code, into permanent authority;

H.R. 1627. An act to designate certain national forest system lands in the State of Kentucky for inclusion in the National Wilderness Preservation System, to release other forest lands for multiple use management, and for other purposes;

H.R. 2976. An act to direct the Secretary of Agriculture to release the condition requiring that a parcel of land conveyed to New York State be used for public purposes and to convey U.S. mineral interests in the parcel to New York State;

H.R. 3085. An act to clear title to certain lands along the California-Nevada boundary;

H.R. 3735. An act to designate the pedestrian walkway crossing the Potomac River at Harpers Ferry National Historic Park as the "Goodloe E. Byron Memorial Pedestrian Walkway";

H.R. 3918. An act to extend until December 18, 1985, the application of certain tobacco excise taxes, trade adjustment assistance, certain medicare reimbursement provisions, and borrowing authority under the railroad unemployment insurance program; and

H.R. 3919. An act to extend temporarily the dairy price support program and certain food stamp program provisions, and for other purposes.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, December 13, 1985, she had presented to the President of the United States the following enrolled bill:

S. 947. An act to amend the Foreign Assistance Act of 1961 with respect to the activities of the Overseas Private Investment Corporation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STAFFORD, from the Committee on Environment and Public Works, without amendment:

S. 1740. A bill to designate Bloomington Lake located on the North Branch of the Potomac River, near Bloomington, MD, and Keyser, WV, as the "Jennings Randolph Lake" (Rept. No. 99-221).

By Mr. HATFIELD (for Mr. MATHIAS), from the Committee on Rules and Administration, with amendments:

S. Res. 204. An original resolution authorizing supplemental expenditures by the Select Committee on Indian Affairs (Rept. No. 99-222).

By Mr. THURMOND, from the Committee on the Judiciary, with an amendment:

H.R. 3511. A bill to amend title 18, United States Code, with respect to certain bribery and related offenses.

By Mr. D'AMATO (for Mr. GARN), from the Committee on Banking, Housing, and Urban Affairs, with an amendment in the nature of a substitute:

S. 918. A bill to amend the Securities Exchange Act of 1934 to authorize the Securities and Exchange Commission to subject banks, associations, and other entities that exercise fiduciary powers, to the same regulations as brokers-dealers, pursuant to section 14(b) of the Securities Exchange Act of 1934.

Mr. THURMOND. Mr. President, I am reporting H.R. 3511, a bill to amend the current bank bribery statue of more precisely define the prohibited conduct. The bill was ordered to be reported favorably with one amendment by the Committee on the Judiciary on December 12, 1985. Due to the fact that the end of the first session of this Congress is imminent and we are most eager to pass this bill prior to adjournment, we have decided not to file a report. The committee does, however, agree with the recommendation and the substantive comments in the report submitted by the Committee on the Judiciary of the House of Representatives.

The efforts of the 98th Congress to revise the bank bribery provisions in the Comprehensive Crime Control Act resulted in far too broad an offense. Because the offense does not require a corrupt or bad purpose, it reaches all kinds of otherwise legitimate and acceptable conduct. Thus, a person may commit a Federal crime for engaging in activities recognized by all to be normal, legitimate business conduct. This bill appropriately cures this and other defects in the current law.

The amendment added by the Judiciary Committee was recommended by the Department of Justice. The amendment corrects an enigma in the bill as passed by the House. In order for the receipt of a bribe or gratuity by a bank official to fall within the prohibitions of subsection (A)(2) of new section 215, according to the House version, the giving of the bribe or gratuity must be prohibited by subsection (A)(1) which proscribes "corruptly" giving a "thing or value" to a bank official. Thus, the criminality of the receipt of a "thing of value" would depend on the intent of both the person who gives it and the person who receives it. In practice, this element of derivative intent would require the Government to prove beyond a reasonable doubt in the trial of a bank official the corrupt intent of the person giving the "thing of value." If proof is sufficient to show corrupt intent on the part of the recipient, the intent of the donor should be irrelevant as a matter of law. This problem has been cured by striking the words in subsection (A)(2) "if the giving, offering or promising of that thing of value would be or is in violation of paragraph (1)" and substituting the language of subsection (A)(1), which would, in its current form, be "intending to be influenced or rewarded in connection with any business or transaction of such institution."

H.R. 3511 has passed the House of Representatives and has been reported by the Committee on the Judiciary without objection. I urge my colleagues to act swiftly on passing this noncontroversial legislation.

Mr. DECONCINI. Mr. President, I am pleased to join with Chairman THURMOND in reporting H.R. 3511 to the Senate from the Judiciary Committee. This legislation would clarify certain ambiguities in the Comprehensive Crime Control Act of 1984 related to the crime of bank bribery.

On May 22, 1985, I introduced S. 1214 to address the problem presented by the 1984 act. S. 1214 was identical to H.R. 2617, introduced in the House by Representatives GEKAS, GLICKMAN, and MCCOLLUM. This House bill became H.R. 3511 when it passed the House Judciary Committee. S. 1214 and H.R. 3511 take the same approach to the problem and I wholeheartedly recommend that the Senate take action to quickly approve H.R. 3511.

Section 1107 of the 1984 Comprehensive Crime Control Act amended section 215 of title 18 to strengthen the Federal prohibition against offering or receiving bribes in connection with the business of a bank or other financial institution. I believe, however, that the language of the section encompasses a wide range of accepted business practices that were not the intended target of the statute.

Many routine banking activities are now potential violations under the law since the statute covers all situations where financial institution employees, directly or indirectly, seek or accept "anything of value" from anyone in "connection with any transaction or business of such financial institution." The statute fails to draw necessary distinctions between recognized business conduct and conduct that may constitute a danger to customers or investors. The receipt of advertising and promotional items of nominal value and the testimonial dinner recognizing the community services of a financial institution executive are just two examples of activities that could be construed to be covered by this statute.

Unless modified, this statute threatens to chill legitimate interaction between financial institution employees, customers, and professionals who serve these institutions. The impact of this unnecessarily broad language could impair the business operations of financial institutions resulting in a detriment to their customers, stockholders, and the general public. The sweeping and overbroad terms of the statute equally condemn those involved in legitimate business activity and those intent upon obtaining an illegal gain from the business of banking and suggest no ground for distinguishing between them. No limiting purpose is set forth in the legislative history. Finally, the statue enacted last year contains no *mens rea* or knowledge requirement.

H.R. 3511 amends title 18 to make a distinction between the conduct Congress intended to proscribe and legitimate business activities. I support any effort to penalize those who would subvert the fiduciary relationship that America's financial institutions have with its customers and the public at large. I believe that we can accomplish this purpose without calling into question legitimate conduct. The proposed language would modify the section to apply only to conduct undertaken with an "intent" to corruptly influence any transaction of a financial institution. These changes will insure that the common-law, State, and Federal statutory definitions of bribery as the "corrupt intent to influence" remain unchanged.

Mr. D'AMATO. Mr. President, I urge my colleagues to support S. 918, the Shareholder Communications Act of 1984 because it will improve the access of certain shareholders to proxy materials. S. 918, in its present form, varies from the legislation that I introduced earlier this year. The legislation was amended in the Senate Banking Committee in response to the concerns of the banking industry during our consideration of this legislation. These institutions were concerned that S. 918, as originally introduced, could have breached the confidential relationship between a bank and certain of its clients. As explained in greater detail below, S. 918 as amended by the Senate Banking Committee, avoids the breach of any existing confidential relationship between a bank and its present clients by recognizing the important distinctions between stock held by broker-dealers for their customers and stock held by a bank trust departments as a fiduciary.

The Shareholder Communications Act is designed to extend the authority of the Securities and Exchange Commission [SEC] to improve the proxy dissemination process by enabling the SEC to promulgate rules and regulations relating to the dissemination of these materials to banks, associations and other entities that exercise fiduciary powers and hold stock on behalf of beneficial owner.

Section 14(b) of the Exchange Act currently grants the SEC the authority to regulate the activities of broker-dealers regarding proxy dissemination and voting with respect to shares held by them on behalf of beneficial owners. Under this authority, the Commission has adopted rule 14b-1, which requires broker-dealers to disseminate proxy and other material to beneficial owners. (See, Release No. 34-13719 (July 5, 1977) (42 FR 35953)). The Commission amended that rule to improve the proxy dissemination process with respect to the activities of broker-dealers and to add a provision which will make it easier for issuers to communicate directly with certain beneficial owners. (See, Release No. 34-20021 (July 28, 1983) (48 FR 35082)).

However, neither the SEC, nor bank regulators have authority to regulate the proxy processing activities of banks, associations and other entities that exercise fiduciary powers and hold stock on behalf of beneficial owners. The SEC is therefore unable to extend rule 14b-1 or similar provisions to them. The inability to regulate banks and other entities in this regard creates a gap which denies beneficial owners of securities held by banks and other entities the benefits of the rules of the SEC that require timely delivery of information. The absence of such authority is especially significant with respect to banks, because banks hold a majority of the securities registered in nominee name. To remedy this deficiency, the Commission's Advisory Committee on Shareholder Communications, composed of private sector participants, including representatives of issuers, banks, broker-dealers and others, recommended that legislation be enacted to cover banks. (See, "Improving Communications Between Issuers and Beneficial Owners of Nominee Held Securities," report of the Advisory Committee on Shareholder Communications, June 1982).

Section 2 of the Shareholder Communications Act amends section 14(b) of the Exchange Act to make that section applicable to banks, associations, and any other entities that exercise fiduciary powers. This would give the SEC the authority to adopt rules and regulations that would require bank nominees, association nominees, and other nominees that exercise fiduciary powers, to perform certain tasks with respect to proxy voting and distribution of proxies in respect of shares held in nominee name but where voting rights have been reserved. This authority would be delayed for 1 year, under section 3 of the bill to accord the SEC an adequate opportunity to promulgate thoughtful and effective rules and regulations.

Section 2 extends the SEC's authority to the trust and custodial activities of "banks," as that term is defined in section 3(a)(6) of the Exchange Act, and to other entities, such as savings and loan associations and savings banks. Among the entities covered by this provision are associations, as defined in 12 U.S.C. section 1462(d) (1982). Such associations are Federal savings and loan associations or savings banks chartered by the Federal Home Loan Bank Board [FHLBB] under 12 U.S.C. section 1464(n) (1982). In addition, State savings and loan associations and savings banks and other entities who are or become authorized to exercise fiduciary powers would come within the ambit of the legislation. Historically, these other entities did not have fiduciary powers and, thus, did not hold securities in trust or custodian accounts on behalf of their customers. In recent years, however, a growing number of these entities, both at the State and Federal level, have been granted fiduciary powers and now are maintaining trust and custodian accounts. These activities are indistinguishable from the trust activities of banks and other entities that engage in similar fiduciary activities, and, thus, should be subject to the same regulations as banks with respect to those activities.

Section 2 recognizes that banks, and other associations and entities, as well as broker-dealers, hold securities that are beneficially owned by others. The legislation is intended to assure that shareholders who have retained the right to vote stock held in another name have the opportunity to vote that stock in a timely manner irrespective of the nature of the institution in whose name the stock is registered.

Consistent with this section, the SEC has indicated that it expects to extend rule 14b-1 to banks and, as it becomes appropriate, to other entities. Extension of similar requirements to banks and other entities will ensure that beneficial owners of securities held by them will receive the same protection as beneficial owners of securities held by broker-dealers.

Section 2 enables the SEC more effectively to carry out its mandate to protect shareholders. It is not intended to alter the overall regulatory scheme for banks and other institutions affected by this provision. The SEC is not intended to serve as a bank inspector or investigator, nor does this legislation provide that authority. However, when a securities violation occurs under this section, the SEC shall use its existing enforcement authority to obtain compliance.

THE COMMITTEE AMENDMENT

The Banking Committee amended S. 918 by adding section 2(b). Section 2(b) was added to ensure that the SEC, in carrying out its responsibilities under this provision, recognizes the important distinctions between stock held by broker-dealers for their customers and stock held by a bank trust department as fiduciary. The relationship between a trustee and a beneficiary is unique, and the courts have consistently held trustees to high standards.

During the Banking Committee's consideration of this legislation, issues were raised by banking institutions with regard to the disclosure of the identity of beneficial owners of securities held in nominee's name. The banking institutions contended that such disclosures would violate an institution's fiduciary duty to protect the privacy of a customer. In recognition of the unique relationships between trustees and beneficiaries and the duties owed by trustees to beneficiaries, the regulations to be issued by the SEC under section 2(b) shall be applicable only where someone other than the bank trustee has voting authority, and any disclosure required by the regulations shall be applicable only to those who have voting authority. The legislation does not require trustees to disclose trust beneficiaries or other bank customers who do not have the power to vote.

Concerns about violations of a shareholder's privacy were particularly relevant to the standard of disclosure that the SEC could adopt. The SEC's rules with respect to broker-dealers require disclosure of the name, address and number of shares registered in the name of the brokerage firm unless the shareholder objects. Representatives of the banking industry felt that disclosing the same information—required from broker-dealers by the SEC's rules—with regard to their existing accounts without the customer's affirmative consent would violate the customer's privacy and potentially expose the banks to liability. They argued that they should be required to supply the names and other customer information only if the customer affirmatively consented. At the same time, banking industry representatives contended that these same considerations would not apply with new customers, who could be advised upon the opening of an account that their names would be supplied to issuers unless they objected.

Therefore, section 2(b) was adopted to accommodate these concerns. The SEC, in exercising its rulemaking authority under section 2(b) shall not require the disclosure of names of beneficial owners of securities in an account held by the bank on the date of enactment unless the beneficial owner consents to the disclosure. By contrast, the SEC could require that the names of beneficial owners of securities held in accounts with the bank after the date of enactment must be supplied to issuers unless the customer objected to the disclosure.

Because of the differences between brokerage accounts and fiduciary accounts and the numerous State statutes specifically relating to the confidentiality of bank records, an "affirmative consent" requirement, may be the more appropriate standard for rules promulgated pursuant to this section that are applicable to banks, associations and any other entities that exercise fiduciary powers, rather than the "nonobjection" standard adopted in the Commission's rule applicable to brokerage accounts. While the affirmative consent standard is appropriate to avoid breaches of a bank's duty to or the violation of a privacy right of a customer, a bank is in a different posture with regard to a new customer upon enactment of this legislation. Upon enactment of this legislation, a bank opening a new customer account would be on notice of the applicability of the nonobjection standard for beneficial owner disclosure and any such concerns would be adequately addressed by the bank at the time the new account is opened.

Section 2(b) is designed to grant the SEC authority to address the concerns of the banks and simultaneously ensure that banks are complying with the legislation's purpose of facilitating shareholder communication. The rules promulgated by the SEC should be designed to ensure that the intent of the legislation is realized and that the institutions covered by this act make a good faith effort to obtain responses from their customers. Therefore the legislation provides that the restrictions on SEC rulemaking shall not apply if the SEC determines that the institutions covered by this act have not made a good faith effort to obtain the affirmative consent of their existing customers. The SEC will provide guidance in its rulemaking to assist the affected institutions in the determination of the conduct constituting a good faith effort to obtain affirmative consent.

In recognition of the concerns expressed to the committee that led to the adoption of section 2(b), the SEC must consider the privacy rights of bank customers in promulgating any rule governing bank proxy processing. The legislation contemplates that the SEC, in its rulemaking, must address the concerns of those who comment on the rules and regulations promulgated pursuant to this section. The SEC is expected to work in conjunction with the bank regulatory agencies to develop a regulatory scheme that is appropriate for banks.

Legislation, containing identical provisions, was passed by the other body this summer. I urge my colleagues to give favorable consideration to this bill which will enable shareholders to be provided with more information and allow issuers to communicate more expeditiously with their shareholders.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HATCH, from the Committee on Labor and Human Resources:

William J. Doyle, III, of Maryland, to be inspector general, Railroad Retirement Board.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. METZENBAUM (for himself, Mr. Leahy, Mr. Simon, Mr. Specter, and Mr. DeConcini):

S. 1938. A bill to make permanent the requirements of the manufacturing clause of the copyright law; to the Committee on the Judiciary.

By Mr. HELMS:

S. 1939. A bill for the relief of Ali Maalizadeh; to the Committee on the Judicary.

By Mr. DENTON:

S. 1940. A bill to protect the security of the United States by creating the offense of international terrorism, and for other purposes; to the Committee on the Judiciary.

S. 1941. A bill to protect the security of the United States by providing for sanctions against any country that provides support for perpetrators of acts of international terrorism; to the Committee on Foreign Relations.

S. 1942. A bill to amend title 10, United States Code, to improve the security of United States military installations; to the Committee on Armed Services.

By Mr. DIXON:

S. 1943. A bill to amend the Federal Deposit Insurance Act; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SASSER (for himself, Mr. Heinz, Mr. Sarbanes and Mr. Gore):

S. 1944. A bill to amend titles II and XVI of the Social Security Act to prohibit, in hearings relating to disability benefits, the adversarial involvement of any representative of the Department of Health and Human Services, or any State agency involved; to the Committee on Finance.

By Mr. DURENBERGER (for himself, Mr. Lugar and Mr. Pell):

S. 1945. A bill to authorize the expenditure of Polish currencies held by the United States for projects to assist handicapped and orphaned Polish children; to the Committee on Foreign Relations.

By Mr. WEICKER:

S. 1946. A bill to designate the West Branch of the Farmington River as a study area for inclusion in the national wild and scenic rivers system, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DURENBERGER (for himself and Mr. Leahy):

S. 1947. A bill to enhance the protection of United States interests under the Foreign Missions Act; to the Committee on Foreign Relations.

By Mr. WEICKER:

S. 1948. A bill to assure that high quality services are furnished to developmentally disabled individuals and mentally ill individuals in residential facilities and by providers of home and community-based services which receive funds under the Medicare or Medicaid programs, and to amend the Developmental Disabilities Assistance and Bill of Rights Act to require that residential programs meet Medicaid standards; to the Committee on Finance.

By Mr. DENTON (for himself and Mr. Leahy):

S.J. Res. 249. Joint resolution to proclaim October 23, 1986, as "A Time of Remembrance" for all victims of terrorism throughout the world; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SASSER (for himself, Mr. Gore, Mr. Ford, Mr. Nunn, Mr. McConnell, Mr. Byrd, Mr. Abdnor, Mr. Andrews, Mr. Armstrong, Mr. Baucus, Mr. Bentsen, Mr. Biden, Mr. Bingaman, Mr. Boren, Mr. Boschwitz, Mr. Bradley, Mr. Bumpers, Mr. Burdick, Mr. Chafee, Mr. Chiles, Mr. Cochran, Mr. Cohen, Mr. Cranston, Mr. D'Amato, Mr. Danforth, Mr. DeConcini, Mr. Denton, Mr. Dixon, Mr. Dodd, Mr. Dole, Mr. Domenici, Mr. Durenberger, Mr. Eagleton, Mr. East, Mr. Evans, Mr. Exon, Mr. Garn, Mr. Glenn, Mr. Goldwater, Mr. Gorton, Mr. Gramm, Mr. Grassley, Mr. Harkin, Mr. Hart, Mr. Hatch, Mr. Hatfield, Mrs. Hawkins, Mr. Hecht, Mr. Heflin, Mr. Heinz, Mr. Helms, Mr. Hollings, Mr. Humphrey, Mr. Inouye, Mr. Johnston, Mrs. Kassebaum, Mr. Kasten, Mr. Kennedy, Mr. Kerry, Mr. Lautenberg, Mr. Laxalt, Mr. Leahy, Mr. Levin, Mr. Long, Mr. Lugar, Mr. Mathias, Mr. Matsunaga, Mr. Mattingly, Mr. McClure, Mr. Melcher, Mr. Metzenbaum, Mr. Mitchell, Mr. Moynihan, Mr. Murkowski, Mr. Nickles, Mr. Packwood, Mr. Pell, Mr. Pressler, Mr. Proxmire, Mr. Pryor, Mr. Quayle, Mr. Riegle, Mr. Rockefeller, Mr. Roth, Mr. Rudman, Mr. Sarbanes, Mr. Simon, Mr. Simpson, Mr. Specter, Mr. Stafford, Mr. Stennis, Mr. Stevens, Mr. Symms, Mr. Thurmond, Mr. Trible, Mr. Wallop, Mr. Warner, Mr. Weicker, Mr. Wilson, and Mr. Zorinsky):

S. Res. 274. Resolution memorializing certain members of the 101st Airborne Division; considered and agreed to.

By Mr. HUMPHREY:

S. Res. 275. Resolution to express the opposition of the United States to the "one-child" family planning policies of the Government of the People's Republic of China and to encourage the People's Republic of China to abandon such policies; to the Committee on Foreign Relations.

By Mr. DENTON:

S. Con. Res. 94. Concurrent resolution expressing the sense of the Congress that the President should declare a State of national emergency with respect to terrorist acts committed against nationals of the United States; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. METZENBAUM (for himself, Mr. PACKWOOD and Mr. MOYNIHAN):

S. Con. Res. 95. Concurrent resolution to recognize and honor the contributions of Consumers Union; to the Committee on Commerce, Science, and Transportation.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. METZENBAUM (for himself, Mr. LEAHY, Mr. SIMON, Mr. Specter, and Mr. DECONCINI):

S. 1938. A bill to make permanent the requirements of the manufacturing clause of the copyright law; to the Committee on the Judiciary.

EXTENDING MANUFACTURING CLAUSE OF COPYRIGHT ACT

● Mr. METZENBAUM. Mr. President, today I am introducing legislation which permanently extends the manufacturing clause of the Copyright Act. For over 94 years, the manufacturing clause has helped U.S. printing to become a modern, vibrant industry, able to employ 1.2 million persons across all 50 States. The legislation which I am introducing today will ensure the continued success of our Nation's seventh largest industry.

The manufacturing clause of the Copyright Act requires that material which is preponderantly of a nondramatic literary nature and is written in English by an American or by an author domiciled in the United States must be printed in the United States or Canada in order to be entitled to the full and unqualified protection of U.S. copyright laws. The manufacturing clause is currently due to expire on July 1, 1986.

Our Nation is fortunate to have a strong printing industry. However, the expiration of the manufacturing clause would cripple our domestic industry. A 1981 Department of Labor study anticipated a loss of up to 172,000 jobs in the printing industry and a total loss of as many as 367,000 job opportunities throughout our economy as a result of foreign competition. Much of the work now done by the American printing industry, including books, catalogs, directories, commercial printing, business forms and periodicals, would be victims of low-wage foreign competition. Essentially, American printing would lose the bulk of domestic printing orders.

Furthermore, the expiration of the manufacturing clause would have a catastrophic effect on our Nation's small businesses. Small printing shops comprise the backbone of U.S. printing. In fact, more than 31,000 of the 42,000 printing companies in the United States employ 20 or fewer workers. These small businesses do not have the resources to build offshore plants.

As in many other areas of international trade, our foreign trading partners are not playing fair. Many foreign nations have established both tariff and nontariff trade barriers which restrict imports of U.S. printing goods.

The trade deficit has reached record proportions. The United States has become a debtor nation for the first time since World War I, and America is rapidly losing its manufacturing base. For the American printing industry, the manufacturing clause remains the most important way to alleviate the severe influence of threatening international economic conditions.

The extension of the manufacturing clause will provide the conditions necessary for our Nation's modern printing industry to remain successful. Clearly, by continuing this important provision of the Copyright Act, we will enable hundreds of thousands of Americans to remain employed.

Mr. President, I ask unanimous consent to have the text of the bill to extend the manufacturing clause of the Copyright Act printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1938

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 601(a) of title 17, United States Code, is amended by striking out "Prior to July 1, 1986, and except" and inserting in lieu thereof "Except".●

By Mr. DENTON:

S. 1940. A bill to protect the security of the United States by creating the offense of international terrorism, and for other purposes; to the Committee on the Judiciary.

INTERNATIONAL TERRORISM CONTROL ACT

Mr. DENTON. Mr. President, I rise today to introduce the International Terrorism Control Act of 1985, which would help to protect American lives and interests by creating the legal offense of international terrorism. The bill provides for the prosecution and punishment of individuals who commit terrorist acts which are directed against Americans or the U.S. Government and which are committed outside the boundaries of the United States. It also provides for the punishment of Americans who either serve or provide training to international terrorists.

We are all mindful of the depraved and barbaric acts that terrorists have committed against Americans abroad in just the last 6 months. Incidents such as the TWA and *Achille Lauro* hijackings, involving, as they did, the brutal and senseless murders of innocent Americans, have filled us all with anger and frustration. Those feelings, have intensified as we have watched the major criminals go free, often with the assistance of foreign governments.

The final and, perhaps, bitterest irony of each of these episodes has been our realization that international terrorism is not, in itself, a crime under current U.S. law. The International Terrorism Control Act of 1985 is designed to rectify that situation.

The bill provides that the crime of international terrorism involves a violent act occurring outside the boundaries of the United States which would be in violation of U.S. law if committed within the United States, and which appears to be intended to intimidate a civilian population, to influence Government policy by intimidation, or to affect the conduct of Government. Such an act is punishable under the bill by imprisonment for any term of years, or life, or by death if such act results in the death of any person.

In order for a terrorist act to be punishable under the bill, either the offender or the victim of the act must be a national of the United States, the offender must be found in the United States, or the government which is sought to be compelled by the terrorist act must be the U.S. Government. Even if the terrorist act is committed inside the United States, it would still be punishable under the bill if the U.S. Government is the government sought to be compelled by the act.

The bill also makes it a crime for any national, permanent resident alien, or business entity of the United States either to serve in or provide training to the armed forces or intelligence agencies of any foreign government, faction, or international terrorist group whose terrorist activities are determined by the President to affect adversely the national security or foreign relations of the United States or the physical security or propety interests of Americans. The penalties for such activities would include imprisonment for up to 10 years, fines of $500,000 or more, and forfeiture of property derived from or used in the commission of such acts.

In addition, the bill would permit the President, upon authorization of the Congress by joint resolution, to exercise a broad range of powers in dealing with foreign countries that either engage in or support international terrorism. Those powers would include the use of military force to protect Americans abroad, the conduct of intelligence activities, and the imposition of economic and other sanctions against those countries.

Finally, the bill would facilitate cooperation between the United States and foreign governments in combating terrorism by authorizing our Government to assist foreign governments in finding and prosecuting terrorists, and also by greatly improving our statutes governing the extradiction of criminals.

Mr. President, we simply must act now to fill the critical void that currently exists in our Criminal Code. We must have the ability to prosecute and punish international terrorists for their acts, many of which are not now crimes under U.S. law. The bill will fill the void. It will make it abundantly clear to terrorists that the United States will spare no effort to bring them to justice. Terrorists must understand the fact if they are to be discouraged from engaging in their heinous activities. It is in the interest of deterring future incidents of international terrorism that I urge the Senate to act promptly on the bill.

I ask unanimous consent that the text of the bill appear in the RECORD immediately following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1940

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "International Terrorism Control Act of 1985".

STATEMENT OF FINDINGS

SEC. 2. The Congress finds that international terrorism is—

(1) a violent act dangerous to human life;

(2) directed at government, diplomacy, commerce, and innocent people throughout the world;

(3) a violent, coercive, intimidating means to gain notoriety or achieve a political goal;

(4) an offense against humanity which results in the loss of life of innocent people, denial of rights, and damage to property;

(5) an unlawful restraint on diplomacy and commerce;

(6) a threat to national security and United States nationals; and

(7) an illegitimate force in relations between States.

TERRORISM OFFENSES

SEC. 3. (a) Title 18 of the United States Code is amended by adding the following new chapter after chapter 113:

"CHAPTER 113A—TERRORISM

"Sec.
"2331. International terrorist activities.
"2332. Military and intelligence assistance to certain foreign governments, factions, groups.

"§ 2331. International terrorist activities

"(a) Except as provided in subsection (b) of this section, whoever, whether inside the United States or outside the United States, commits a violent act or an act dangerous to human life that—

"(1) is a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or any State;

"(2) appears to be intended—

"(A) to intimidate or coerce a civilian population;

"(B) to influence the policy of a government by intimidation or coercion; or

"(C) to affect the conduct of a government by assassination or kidnaping; and

"(3) occurs totally outside the United States or transcends national boundaries in terms of the means by which it is accomplished, the persons they appear intended to coerce or intimidate, or the locale in which their perpetrators operate or seek asylum,

shall be punished by imprisonment for any term of years or life or by death, subject to the provisions of subsection (c), if the death of any person results from the commission of such act.

"(b)(1) It is not an offense under this section if the conduct required for the offense occurred outside the United States unless—

"(A) the offender or the person seized, killed, assaulted, attacked, or detained is a national of the United States;

"(B) the offender is found in the United States; or

"(C) the governmental organization sought to be compelled is the Government of the United States.

"(2) It is not an offense under this section if,—

"(A) the conduct required for the offense occurred inside the United States; and

"(B) each alleged offender and each person seized, killed, assaulted, attacked, or detained are nationals of the United States and each alleged offender is found in the United States,

unless the governmental organization sought to be compelled is the Government of the United States.

"(c)(1) A person shall be subjected to the penalty of death for an offense prohibited by this section only if a hearing is held in accordance with this subsection.

"(2) When a defendant is found guilty of or pleads guilty to an offense under this section for which one of the sentences provided is death, the judge who presided at the trial or before whom the guilty plea was entered shall conduct a separate sentencing hearing to determine the existence or nonexistence of the factors set forth in paragraphs (6) and (7), for the purpose of determining the sentence to be imposed. The hearing shall not be held if the Government stipulates that none of the aggravating factors set forth in paragraph (7) exists or that one or more of the mitigating factors set forth in paragraph (6) exists. The hearings shall be conducted—

"(A) before the jury which determined the defendant's guilt;

"(B) before a jury impaneled for the purpose of the hearing if—

"(i) the defendant was convicted upon a plea of guilty;

"(ii) the defendant was convicted after a trial before the court sitting without a jury; or

"(iii) the jury which determined the defendant's guilt has been discharged by the court for good cause; or

"(C) before the court alone, upon the motion of the defendant and with the approval of the court and of the Government.

"(3) In the sentencing hearing the court shall disclose to the defendant or his counsel all material contained in any presentence report, if one has been prepared, except such material as the court determines is required to be withheld for the protection of human life or for the protection of the national security. Any presentence information withheld from the defendant shall not be considered in determining the existence or the nonexistence of the factors set forth in paragraph (6) or (7). Any information relevant to any of the mitigating factors set forth in paragraph (6) may be presented by either the Government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials; but the admissibility of information relevant to any of the aggravating factors set forth in paragraph (7) shall be governed by the rules governing the admission of evidence at criminal trials. The Government and the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any of the factors set forth in paragraph (6) or (7). The burden of establishing the existence of any of the factors set forth in paragraph (7) is on the Government. The burden of establishing the existence of any of the factors set forth in paragraph (6) is on the defendant.

"(4) The jury, or if there is no jury, the court shall return a special verdict setting forth its findings as to the existence or nonexistence of each of the factors set forth in paragraph (6) and as to the existence or nonexistence of each of the factors set forth in paragraph (7).

"(5) If the jury or, if there is no jury, the court finds by a preponderance of the information that one or more of the factors set forth in paragraph (7) exists and that none of the factors set forth in paragraph (6) exists, the court shall sentence the defendant to death. If the jury or, if there is no jury, the court finds that none of the aggravating factors set forth in paragraph (7) exists, or finds that one or more of the mitigating factors set forth in paragraph (6) exists, the court shall not sentence the defendant to death but shall impose any other sentence provided for the offense for which the defendant was convicted.

"(6) The court shall not impose the sentence of death on the defendant if the jury or, if there is no jury, the court finds by a special verdict as provided in paragraph (4) that at the time of the offense—

"(A) he was under the age of eighteen;

"(B) his capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired, but not so impaired as to constitute a defense to prosecution;

"(C) he was under unusual and substantial duress, although not such duress as to constitute a defense to prosecution;

"(D) he was a principal (as defined in section 2(a) of title 18 of the United States Code (18 U.S.C. 2(a))) in the offense, which was committed by another, but his participation was relatively minor, although not so minor as to constitute a defense to prosecution; or

"(E) he could not reasonably have foreseen that his conduct in the course of the commission of the offense for which he was convicted would cause, or would create a grave risk of causing death to another person.

"(7) If no factor set forth in paragraph (6) is present, the court shall impose the sentence of death on the defendant if the jury, or, if there is no jury, the court finds by a special verdict as provided in paragraph (4) that the death of another person resulted from the commission or attempted commission of the offense, and

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"(A) the defendant has been convicted of another Federal or State offense (committed either before or at the time of the commission or attempted commission of the offense) for which a sentence of life imprisonment or death was impossible;

"(B) the defendant has previously been convicted of two or more Federal or State offenses with a penalty of more than one year imprisonment (committed on different occasions before the time of the commission or attempted commission of the offense), involving the infliction of serious bodily injury upon another person;

"(C) in the commission or attempted commission of the offense, the defendant knowingly created a grave risk of death to another person in addition to the victim of the offense or attempted offense; or

"(D) the defendant committed or attempted to commit the offense in an especially heinous, cruel, or depraved manner.

"(d) As used in this section, the term 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

"§ 2332. Military and intelligence assistance to certain foreign governments, factions, and international terrorist groups

"(a) Except as provided in subsections (h) and (i), it shall be unlawful for any national of the United States, any permanent resident alien of the United States, or any United States business entity willfully to perform or attempt to perform anywhere in the world any of the following acts:

"(1) serve in the armed forces or any intelligence agency of any foreign government, faction, or international terrorist group which is named in a determination in effect under subsection (d); or

"(2) provide training in any capacity to the armed forces or any intelligence agency, or their agents, of any foreign government, faction, or international terrorist group named in a determination in effect under subsection (d).

"(b) Except as provided in subsections (h) and (i), it shall be unlawful for any person or entity within the boundaries of the United States, its territories or possessions, willfully to perform or attempt to provide training in any capacity to the armed forces or any intelligence agency, or their agents, of any foreign government, faction, or international terrorist group named in a determination in effect under subsection (d).

"(c) Whoever violates this section shall be fined not more than five times the total compensation received for such violation, or $500,000, whichever is greater, or imprisoned for not more than ten years, or both, for each such offense.

"(d) Whenever the President in consultation with his Cabinet finds that the acts or likely acts of international terrorism of a foreign government, faction, or international terrorist group are such to adversely affect the national security, foreign relations of the United States, or the physical security of the person or property of a private entity of the United States warrant a ban on the foreign government's, faction's or international terrorist group's receipt of services or other assistance in support of such acts as described in subsection (a) or (b), the President may issue a determination naming such foreign government, faction, or international terrorist group for which such finding has been made. If the Secretary of State in consultation with the Cabinet finds that the conditions which were the basis for any determination issued under this subsection have changed in such a manner as to warrant revocation of such determination, or that the national security or foreign relations of the United States so warrant, the Secretary may revoke such determination in whole or in part. Any determination issued pursuant to this subsection shall cease to have any effect one year from the date of its publication unless renewed at or before that time by the Secretary of State. Any determination, or the renewal or revocation thereof, issued pursuant to this subsection shall be published in the Federal Register and shall become effective immediately on publication. Any revocation or lapsing of a determination shall not affect any action or proceeding based on any conduct committed prior to the effective date of such revocation or lapsing.

"(e) For the purpose of this section, any finding of fact made in any determination or renewal issued pursuant to subsection (d) shall be conclusive. No question concerning the validity of the issuance of such determination or renewal may be raised by a defendant as a defense in or as an objection to any trial or hearing if such determination or renewal was issued and published in the Federal Register in accordance with subsection (d).

"(f) An affirmative defense shall exist with respect to any act committed outside of the United States within thirty days after the effective date of any determination affecting such person if the act was performed pursuant to an agreement or contract entered into prior to the effective date of the determination.

"(g)(1) Whoever has been convicted of a violation of this section, in addition to any other penalty prescribed by this section, shall forfeit to the United States—

"(A) any property constituting, or derived from, any proceeds he obtained, directly or indirectly, as a result of such violation; and

"(B) any of his property used, or intended to be used, to commit, or to facilitate the commission of, such violation.

"(2) The procedures in any criminal forfeiture under this section, and the duties and authority of the courts of the United States and the Attorney General with respect to any criminal forfeiture action under this section or with respect to any property that may be subject to forfeiture under this section, are to be governed by the provisions of section 1963 of this title.

"(h) This section shall not be construed to prohibit the provision of medical services or medical training for humanitarian purposes, or the recruitment or solicitation thereof.

"(i) Nothing in this section shall be construed to create criminal liability for any activities conducted by officials of the United States Government, or their agents, which are properly authorized and conducted in accordance with Federal statutes and Executive orders governing such activities.

"(j) For the purposes of this section—

"(1) the term 'foreign government' has the meaning given it in section 1116(b)(2) of this title;

"(2) the term 'armed forces' includes any regular, irregular, paramilitary, guerrilla, or police force;

"(3) the term 'faction' includes any political party, body of insurgents, or other group which seeks to overthrow the government of, become the government of, or otherwise assert control over or influence any foreign country or territory, possession, department, district, province, or other political subdivision of any such foreign country through the threat or use of force of arms;

"(4) the term 'group' means an association of persons, whether or not a legal entity;

"(5) the term 'international terrorist group' means a group which engages in international terrorism;

"(6) the term 'international terrorism' has the meaning given to it in section 101(c) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(c));

"(7) the term 'intelligence agency' means any entity which engages in the collection, analysis, or dissemination of information concerning the activities, capabilities, plan or intention of governments, organization, or persons, in whole or in part by covert means;

"(8) the term 'United States business entity' means any sole proprietorship, partnership, company, association, or corporation organized under the laws of, or having its principal place of business within the United States, any State, the District of Columbia, or any territory or possession of the United States;

"(9) the term 'national of the United States' has the meaning given to it in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

"(10) the term 'permanent resident alien of the United States' means an alien lawfully admitted for permanent residence in the United States as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20)); and

"(11) the term 'private entity of the United States' means

"(A) an individual who is—

"(i) a national of the United States; or

"(ii) a permanent resident alien of the United States;

"(B) an employee or contractor of the United States Government, regardless of nationality, who is the victim or intended victim of an act of terrorism by virtue of that employment;

"(C) a sole proprietorship, partnership, company, or association composed in whole or in part of nationals or permanent resident aliens of the United States; or

"(D) a corporation organized under the laws of the United States, any State, the District of Columbia, or any territory or possession of the United States, and any foreign subsidiary of such corporation.".

(b) The chapter analysis of part I of title 18 is amended by adding the following new item after the item relating to chapter 113:

"113A. Terrorism .... 2331".

(c) Section 3238 of title 18, United States Code, is amended by—

(1) striking out "The" and inserting in lieu thereof "(a) Except as provided in subsection (b), the"; and

(2) adding at the end the following new subsection:

"(b) The trial of any offense under section 2332 of this title which is committed out of the jurisdiction of any particular State or district may be held in any district. Nothing contained in this subsection may be construed to restrict any right of a defendant under any rule in effect under section 3771 of this title.".

(d) Section 11 of title 18 is amended by striking out the phrase "as used in this title except in sections 112, 878, 970, 1116, and 1201," and inserting in lieu thereof: "as used in this title except in sections 112, 878, 970, 1116, 1201, and 2332,".

UNITED STATES COOPERATION WITH FOREIGN GOVERNMENTS IN COMBATING TERRORISM

SEC. 4. The Attorney General and the Secretary of State are authorized to—

(1) cooperate jointly with foreign and international law enforcement agencies for the purpose of combating international terrorism; and

(2) provide evidentiary support to foreign governments for the prosecution of international terrorists.

EXTRADITION

SEC. 5. (a) Chapter 209 of title 18, United States Code, is amended as follows:

(1) Section 3181 is deleted.

(2) Section 3182 is redesignated as section "3181".

(3) Section 3183 is redesignated as section "3182" and is amended by striking out "or the Panama Canal Zone" in the first sentence.

(4) A new section 3183 is added as follows:

"§ 3183. Payment of fees and costs

"All costs or expenses incurred in any interstate rendition proceeding and apprehending, securing, and transmitting a fugitive shall be paid by the demanding authority.".

(5) Sections 3184 through 3195 are deleted.

(6) The chapter heading and section analysis are amended to read as follows:

"CHAPTER 209—INTERSTATE RENDITION

"3181. Fugitives from State or Territory to State, District, or Territory.
"3182. Fugitives from State, Territory or Possession into extraterritorial jurisdiction of the United States.
"3183. Payment of fees and costs.".

(b) A new chapter 210 of title 18 of the United States Code is added as follows:

"CHAPTER 210—INTERNATIONAL EXTRADITION

"Sec.
"3191. Extradition authority in general.
"3192. Initial procedure.
"3193. Waiver of extradition hearing and consent to removal.
"3194. Extradition hearing.
"3195. Appeal.
"3196. Surrender of a person to a foreign state.
"3197. Receipt of a person from a foreign state.
"3198. General provisions for chapter.

"§ 3191. Extradition authority in general

"The United States may extradite a person to a foreign state pursuant to this chapter only if—

"(a) there is a treaty concerning extradition between the United States and the foreign state; and

"(b) the foreign state requests extradition within the terms of the applicable treaty.

"§ 3192. Initial procedure

"(a) IN GENERAL.—The Attorney General may file a complaint charging that a person is extraditable. The Attorney General shall file the complaint in the United States district court—

"(1) for the district in which the person may be found; or

"(2) for the District of Columbia, if the Attorney General does not know where the person may be found.

"(b) COMPLAINT.—The complaint shall be made under oath or affirmation, and shall specify the offense for which extradition is sought. The complaint—

"(1) shall be accompanied by a copy of the request for extradition and by the evidence and documents required by the applicable treaty; or

"(2) if not accompanied by the materials specified in paragraph (1)—

"(A) shall contain—

"(i) information sufficient to identify the person sought;

"(ii) a statement of the essential facts constituting the offense that the person is believed to have committed, or a statement that an arrest warrant for the person is outstanding in the foreign state; and

"(iii) a description of the circumstances that justify the person's arrest; or

"(B) shall contain such other information as is required by the applicable treaty;

and shall be supplemented before the extradition hearing by the materials specified in paragraph (1).

"(c) ARREST OR SUMMONS.—Upon receipt of a complaint, the court shall issue a warrant for the arrest of the person sought, or, if the Attorney General so requests, a summons to the person to appear at an extradition hearing. The warrant or summons shall be executed in the manner prescribed by rule 4(d) of the Federal Rules of Criminal Procedure. A person arrested pursuant to this section shall be taken without unnecessary delay before the nearest available court for an extradition hearing.

"(d) DETENTION OR RELEASE OF ARRESTED PERSON.—

"(1) The court shall order that a person arrested under this section be held in official detention pending the extradition hearing unless the person establishes to the satisfaction of the court that special circumstances require his release.

"(2) Unless otherwise provided by the applicable treaty, if a person is detained pursuant to paragraph (1) in a proceeding in which the complaint is filed under subsection (b)(2), and if, within sixty days of the person's arrest, the court has not received—

"(A) the evidence or documents required by the applicable treaty; or

"(B) notice that the evidence or documents have been received by the Department of State and will promptly be transmitted to the court;

the court may order that the person be released from official detention pending the extradition hearing.

"(3) If the court orders the release of the person pending the extradition hearing, it shall impose conditions of release that will reasonably assure the appearance of the person as required and the safety of any other person and the community.

"§ 3193. Waiver of extradition hearing and consent to removal

"(a) INFORMING THE COURT OF WAIVER AND CONSENT.—A person against whom a complaint is filed may waive the requirements of formal extradition proceedings, including an order of surrender, by informing the court that he consents to removal to the foreign state.

"(b) INQUIRY BY THE COURT.—The court, upon being informed of the person's consent to removal, shall—

"(1) inform the person that he has a right to consult with counsel and that, if he is financially unable to obtain counsel, counsel may be appointed to represent him pursuant to section 3006A; and

"(2) address the person to determine whether his consent is—

"(A) voluntary, and not the result of a threat or other improper inducement; and

"(B) given with full knowledge of its consequences, including the fact that it may not be revoked after the court has accepted it.

"(c) FINDING OF CONSENT AND ORDER OF REMOVAL.—If the court finds that the person's consent to removal is voluntary and given with full knowledge of its consequences, it shall, unless the Attorney General notifies the court that the foreign state or the United States objects to such removal, order the surrender of the person to the custody of a duly appointed agent of the foreign state requesting extradition. The court shall order that the person be held in official detention until surrendered.

"(d) LIMITATION ON DETENTION PENDING REMOVAL.—A person whom the court orders surrendered pursuant to subsection (c) may, upon reasonable notice to the Secretary of State, petition the court for release from official detention if, excluding any time during which removal is delayed by judicial proceedings, the person is not removed from the United States within thirty days after the court ordered the person's surrender. The court may grant the petition unless the Secretary of State, through the Attorney General, shows good cause why the petition should not be granted.

"§ 3194. Extradition hearing

"(a) IN GENERAL.—The court shall hold a hearing to determine whether the person against whom a complaint is filed is extraditable as provided in subsection (d), unless the hearing is waived pursuant to section 3193. The court does not have jurisdiction to determine—

"(1) the merits of the charge against the person by the foreign state;

"(2) whether the foreign state is seeking the extradition of the person for the purpose of prosecuting or punishing the person for his political opinions, race, religion, or nationality; or

"(3) whether the extradition of the person to the foreign state seeking his return would be incompatible with humanitarian considerations.

The hearing shall be held as soon as practicable after the arrest of the person or issuance of the summons.

"(b) RIGHTS OF THE PERSON SOUGHT.—The court shall inform the person of the limited purpose of the hearing, and shall inform him that—

"(1) he has the right to be represented by counsel and that, if he is financially unable to obtain counsel, counsel may be appointed to represent him pursuant to section 3006A; and

"(2) he may cross-examine witnesses who appear against him and may introduce evidence in his own behalf with respect to the matters set forth in subsection (d).

"(c) EVIDENCE.—

"(1) A deposition, warrant, or other document, or a copy thereof, is admissible as evidence in the hearing if—

"(A) it is authenticated in accordance with the provisions of an applicable treaty or law of the United States;

"(B) it is authenticated in accordance with the applicable law of the foreign state, and such authentication may be established conclusively by a showing that—

"(i) a judge, magistrate, or other appropriate officer of the foreign state has signed a certification to that effect; and

"(ii) a diplomatic or consular officer of the United States who is assigned or accredited to the foreign state, or a diplomatic or consular officer of the foreign state who is assigned or accredited to the United States, has certified the signature and position of the judge, magistrate, or other officer; or

"(C) other evidence is sufficient to enable the court to conclude that the document is authentic.

"(2) A certificate or affidavit by an appropriate official of the Department of State is admissible as evidence of the existence of a treaty or its interpretation.

"(3) If the applicable treaty requires that such evidence be presented on behalf of the foreign state as would justify ordering a trial of the person if the offense had been committed in the United States, the requirement is satisfied if the evidence establishes probable cause to believe that an offense was committed and that the person sought committed it.

"(d) Findings.—The court shall find that the person is extraditable if it finds that—

"(1) there is probable cause to believe that the person arrested or summoned to appear is the person sought in the foreign state;

"(2) the evidence presented is sufficient to support the complaint under the provisions of the applicable treaty;

"(3) no defense to extradition specified in the applicable treaty, and within the jurisdiction of the court, exists; and

"(4) the act upon which the request for extradition is based would constitute an offense punishable under the laws of—

"(A) the United States;

"(B) the State where the fugitive is found; or

"(C) a majority of the States.

The court may base a finding that a person is extraditable upon evidence consisting, in whole or in part, of hearsay or of properly certified documents.

"(e) Political Offenses and Offenses of a Political Character.—The court shall not find the person extraditable after a hearing under this section if the court finds that the person has established by clear and convincing evidence that any offense for which such person may be subject to prosecution or punishment if extradited is a political offense or an offense of a political character. For the purposes of this subsection, the terms 'political offense' and 'offense of a political character'—

"(1) do not include—

"(A) an offense within the scope of the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on December 16, 1970;

"(B) an offense within the scope of the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, signed at Montreal on September 23, 1971;

"(C) a serious offense involving an attack against the life, physical integrity, or liberty of internationally protected persons (as defined in section 1116 of this title), including diplomatic agents;

"(D) an offense with respect to which a multilateral treaty obligates the United States to either extradite or prosecute a person accused of the offense;

"(E) an offense that consists of the manufacture, importation, distribution, or sale of narcotics or dangerous drugs;

"(F) an offense that consists of rape;

"(G) an attempt or conspiracy to commit an offense described in subparagraphs (A) through (F) of this paragraph, or participation as an accomplice of a person who commits, attempts, or conspires to commit such an offense.

"(2) Except in extraordinary circumstances, do not include—

"(A) an offense that consists of homicide, assault with intent to commit serious bodily injury, kidnaping, the taking of a hostage, or a serious unlawful detention;

"(B) an offense involving the use of a firearm (as such term is defined in section 921 of this title) if such use endangers a person other than the offender;

"(C) an attempt or conspiracy to commit an offense described in subparagraph (A) or (B) of this paragraph, or participation as an accomplice of a person who commits, attempts, or conspires to commit such an offense.

The court shall not take evidence with respect to, or otherwise consider, an issue under this subsection until the court determines the person is otherwise extraditable. Upon motion of the Attorney General or the person sought to be extradited, the United States district court may order the determination of any issue under this subsection by a judge of such court.

"(f) Certification of Findings to the Secretary of State.—

"(1) If the court finds that the person is extraditable, it shall state the reasons for its findings as to each charge or conviction, and certify its findings, together with a transcript of the proceedings, to the Secretary of State. The court shall order that the person be held in official detention until surrendered to a duly appointed agent of the foreign state, or until the Secretary of State declines to order the person's surrender.

"(2) If the court finds that the person is not extraditable, it shall state the reasons for its findings as to each charge or conviction, and certify the findings, together with such report as the court considers appropriate, to the Secretary of State. The Attorney General may commence a new action for extradition of the person only with the agreement of the Secretary of State.

"§ 3195. Appeal

"(a) In General.—Either party may appeal, to the appropriate United States court of appeals, the findings by the district court on a complaint for extradition. The appeal shall be taken in the manner prescribed by rules 3 and 4(b) of the Federal Rules of Appellate Procedure, and shall be heard as soon as practicable after the filing of the notice of appeal. Pending determination of the appeal, the district court shall stay the extradition of a person found extraditable.

"(b) Detention or Release Pending Appeal.—If the district court found that the person sought is—

"(1) extraditable, it shall order that the person be held in official detention pending determination of the appeal, or pending a finding by the court of appeals that the person has established that special circumstances require his release;

"(2) not extraditable, it shall order that the person be released pending determination of an appeal unless the court is satisfied that the person is likely to flee or to endanger the safety of any other person or the community.

If the court orders the release of a person pending determination of an appeal, it shall impose conditions of release that will reasonably assure the appearance of the person as required and the safety of any other person and the community.

"(c) Subsequent Review.—No court has jurisdiction to review a finding that a person is extraditable unless the person has exhausted his remedies under subsection (a). If the person files a petition for habeas corpus or for other review, he shall specify whether the finding that he is extraditable has been upheld by a court, and, if so, shall specify the court, the date, and the nature of each such proceeding. A court does not have jurisdiction to entertain a person's petition for habeas corpus or for other review if his commitment has previously been upheld, unless the court finds that the grounds for the petition or appeal could not previously have been presented.

"§ 3196. Surrender of a person to a foreign state

"(a) Responsibility of the Secretary of State.—If a person is found extraditable pursuant to section 3194, the Secretary of State, upon consideration of the provisions of the applicable treaty and this chapter—

"(1) may order the surrender of the person to the custody of a duly appointed agent of the foreign state requesting extradition;

"(2) may order such surrender of the person contingent on the acceptance by the foreign state of such conditions as the Secretary considers necessary to effectuate the purposes of the treaty or the interest of justice; or

"(3) may decline to order the surrender of the person if the Secretary is persuaded that—

"(A) the foreign state is seeking extradition of the person for the purpose of prosecuting or punishing the person because of his political opinions, race, religion, or nationality; or

"(B) the extradition of the person to the foreign state seeking his return would be incompatible with humanitarian considerations.

The Secretary may order the surrender of a person who is a national of the United States unless such surrender is expressly forbidden by the applicable treaty or by the laws of the United States. A decision of the Secretary under paragraph (1), (2), or (3) is a matter solely within the discretion of the Secretary and is not subject to judicial review: *Provided, however,* That in determining the application of paragraph (3), the Secretary shall consult with the appropriate bureaus and offices of the Department of State, including the Bureau of Human Rights and Humanitarian Affairs.

"(b) Notice of Decision.—The Secretary of State, upon ordering a person's surrender or denying a request for extradition in whole or in part, shall notify the person sought, the diplomatic representative of the foreign state, the Attorney General, and the court that found the person extraditable. If the Secretary orders the person's surrender, he also shall notify the diplomatic representative of the foreign state of the time limitation on the person's detention that is provided by subsection (c)(2).

"(c) Limitation on Detention Pending Decision or Removal.—A person who is found extraditable pursuant to section 3194 may, upon reasonable notice to the Secretary of State, petition the court for release from official detention if, excluding any time during which removal is delayed by judicial proceedings—

"(1) the Secretary does not order the person's surrender, or decline to order the person's surrender, within forty-five days after his receipt of the court's findings and the transcript of the proceedings; or

"(2) the person is not removed from the United States within thirty days after the Secretary ordered the person's surrender.

The court may grant the petition unless the Secretary of State, through the Attorney General, shows good cause why the petition should not be granted.

"§ 3197. Receipt of a person from a foreign state

"(a) Appointment and Authority of Receiving Agent.—The Attorney General shall appoint an agent to receive, from a foreign state, custody of a person accused of a Federal, State, or local offense. The agent shall have the authority of a United States marshal. The agent shall convey the person directly to the Federal or State jurisdiction that sought his return.

"(b) Temporary Extradition to the United States.—If a foreign state delivers custody of a person accused of a Federal, State, or local offense to an agent of the United States on the condition that the person be returned to the foreign state at the conclusion of criminal proceedings in the United States, the Bureau of Prisons shall hold the person in custody pending the conclusion of the proceedings, and shall then surrender the person to a duly appointed agent of the foreign state. The return of the person to the foreign state is not subject to the requirements of this chapter.

"§ 3198. General provisions for chapter

"(a) Definitions.—As used in this chapter—

"(1) 'court' means

"(A) a United States district court established pursuant to section 132 of title 28, United States Code, the District Court of Guam, the District Court of the Virgin Islands, or the District Court of the Northern Mariana Islands; or

"(B) a United States magistrate authorized to conduct an extradition proceeding;

"(2) 'foreign state', when used in other than a geographic sense, means the government of a foreign state;

"(3) 'foreign state', when used in a geographic sense, includes all territory under the jurisdiction of a foreign state, including a colony, dependency, and constituent part of the state; its air space and territorial waters; and vessels or aircraft registered in the state;

"(4) 'treaty' includes a treaty, convention, or international agreement, bilateral or multilateral, that is in force after advice and consent by the Senate; and

"(5) 'warrant', as used with reference to a foreign state, means any judicial document authorizing the arrest or detention of a person accused or convicted of a crime.

"(b) Payment of Fees and Costs.—Unless otherwise specified by treaty, all transportation costs, subsistence expenses, and translation costs incurred in connection with the extradition or return of a person at the request of—

"(1) a foreign state, shall be borne by the foreign state unless the Secretary of State directs otherwise;

"(2) a State, shall be borne by the State; and

"(3) the United States, shall be borne by the United States.".

(c) This section shall take effect on the first day of the first month after enactment, and shall be applicable to extradition and rendition proceedings commenced thereafter.

SPECIAL AUTHORITIES FOR THE PRESIDENT

Sec. 6. (a) Whenever the President determines that a foreign country is engaging in or supporting acts of terrorism against United States nationals and that he needs the authority contained in subsection (b) to deal effectively with the actions of such country, he shall prepare and transmit to the Congress a report identifying such country and requesting the enactment of a joint resolution granting him such authority.

(b) Upon the enactment into law of a joint resolution declaring a foreign country to be engaging in or supporting acts of terrorism against United States nationals, the President is authorized for a period of not to exceed one year or until the termination of such joint resolution, whichever occurs first, to—

(1) introduce United States Armed Forces, notwithstanding any other provision of law, to—

(A) protect, rescue, or allow the safe evacuation of United States nationals; or

(B) conduct operations within the terrorist country to prevent, interdict, or retaliate against acts of terrorism directed against United States nationals;

(2) conduct increased intelligence activities, including carrying out covert activities and making propaganda broadcasts against the terrorist country;

(3) evacuate United States nationals from such country;

(4) restrict the travel of United States nationals to such country;

(5) seize assets of such country which are subject to the jurisdiction of the United States;

(6) cease cultural, technical, and humanitarian exchanges with such country;

(7) increase trade and cultural, technical, and humanitarian exchanges with countries which are adversaries of such country;

(8) terminate telecommunications to and from such country;

(9) quarantine the armed forces, regular and irregular, of such country; and

(10) impose a trade embargo on such country.

(c)(1) For purposes of subsection (b), the term "joint resolution" means a joint resolution, the matter after the resolving clause of which is as follows: "That the country of ———— is declared to be engaging in or supporting acts of terrorism against United States nationals", the blank space therein to be appropriately filled.

(2) A joint resolution described in paragraph (1) shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976, except that for purposes of such section the report described in subsection (a) shall be deemed to be a certification.

(3) For the purpose of expediting the consideration and enactment of a joint resolution under this subsection, a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

(d) For purposes of this section, the term "national of the United States" means—

(1) a natural person who is a citizen of the United States or who owes permanent allegiance to the United States; and

(2) a corporation or other legal entity which is organized under the laws of the United States, any State or territory thereof, or the District of Columbia, if natural persons who are nationals of the United States own, directly or indirectly, more than 50 per centum of the outstanding capital stock or other beneficial interest in such legal entity.

By Mr. DENTON:

S. 1941. A bill to protect the security of the United States by providing for sanctions against any country that provides support for perpetrators of acts of international terrorism; to the Committee on Foreign Relations.

INTERNATIONAL TERRORISM DETERRENCE ACT

● Mr. DENTON. Mr. President, I rise today to introduce the International Terrorism Deterrence Act of 1985. The bill is aimed at curbing the activities of various nation states in support of international terrorism, which—as a form of low intensity warfare—is being used to erode the influence and strategic position of the Western democracies and to enhance the power of the Soviet Union, its client states, and allies.

The shocking hijacking of the Italian cruise ship, the *Achille Lauro*, TWA flight 847, and EgyptAir 648 were not isolated incidents. They were only 3 of the more than roughly 705 terrorist acts that have been committed to date in 1985, at a cost of death or injury to 143 Americans and countless others. They are among only the most recent of the thousands of terrorist acts undertaken since 1973, except that the hijackings have served to heighten American awareness of the cold, calculating nature of those persons or groups who use international terrorism to advance their political and ideological objectives. They have starkly revealed how little regard their perpetrators, strategists, and financiers have for human life and the values that are the core of the Western democratic world. Accordingly, a consensus is developing for stronger action against terrorism.

During the past 4 years, however, it has become clearly evident from studying the testimony obtained, in more than 60 hearings before the Subcommittee on Security and Terrorism, which I chair, that terrorist groups do not operate alone. Indeed, their effectiveness is considerably influenced by the material assistance, training, and sanctuary that they receive from state sponsors. Yet, there has been very little effort to discourage such support, even though it is every bit as despicable as the terrorist acts and organizations themselves.

The International Terrorism Deterrence Act seeks to impair the life support system for international terrorism. First, it would require the Secretary of State to identify those foreign states that provide support for international acts of terrorism. The resulting designations would be subject to annual review and update. Only a determination that a particular nation state has ceased its support for international terrorism would qualify it to be removed from the list.

Then, upon a finding that a state supports terrorists, the President would be required to impose a range of sanctions against it. All or a portion of sanctions could be waived if the President notifies the Congress that such a waiver would be in the national security interests of the United States.

The sanctions are designed to convey our displeasure and to establish clear penalties for state support of international terrorism. They include a suspension of any U.S. assistance or preferential trade treatment, a mandate for U.S. representatives to oppose loans through multilateral lending institutions, and termination of access to Export-Import Bank Loans. Furthermore, the bill would require the President either to prohibit the importation of any products from that country or to impose an additional duty on their import.

I recognize that unilateral U.S. action to restrict imports may be considered by some as a controversial course, but the dangers posed to life and liberty by international terrorism have become too great. The countries that encourage such criminal behavior must be made to feel the full weight of our condemnation. In those cases where we do not now provide bilateral aid or preferential trade treatment, a restriction on imports might be the only penalty we are able to impose.

Furthermore, the right to restrict imports for reasons of national security has long been recognized by the international community. I believe that the time has now come to state explicitly that the Congress regards international terrorism as a clear threat to our national security, which requires extraordinary unilateral action. To the extent that we are able to deny export revenue to a state sponsor of international terrorism, we diminish its ability to destabilize the western world through intimidation and violence.

The International Terrorism Deterrence Act of 1985, however, also requires the President to negotiate with our allies to obtain an agreement that they would impose similar sanctions. Since 40 percent of all terrorists acts are now aimed at Americans, American facilities, or American interests, it is appropriate for the United States to lead the effort, but the history of sanctions demonstrates that the most effective action is coordinated action. I believe that a joint effort to ostracize and penalize those nation states that support international terrorists is long overdue and hope that the President will pursue this option vigorously, with the full support of the U.S. Congress.

In conclusion, the International Terrorism Deterrence Act contains two other important provisions. It would establish a trust fund, to be known as the "Anti-Terrorism Trust Fund," which would be administered by the Secretary of the Treasury. The Secretary would be authorized to replenish the trust fund from revenue arising from any antiterrorism import duties, and it would be used to combat terrorism and to compensate its victims. It seems entirely appropriate that those states that finance terrorism should also make restitution to the victims.

The bill also makes clear that acts of international terrorism are an "unusual and extraordinary threat against the national security, foreign policy or economy of the United States" within the meaning of section 202 of the International Emergency Economic Powers Act. In 1979, in response to the Iranian seizure of the American Embassy and its occupants in Teheran, President Carter exercised his authority under that act to freeze Iranian assets in the United States. I believe that the threat of further use of that authority could help to deter states from sponsoring terror, or indirectly deny to those countries the benefits of investing or otherwise locating some of their resources in the United States.

Mr. President, despite all the discussion about international terrorism that has taken place on the Senate floor and in the Halls of Congress, as a body we have yet done little to stem its growth. I urge my colleagues to cosponsor the International Terrorism Deterrence Act of 1985 and to help me move it through the Congress to the President's desk for signature. It is an attempt to target the source of international terrorism—those states that provide the material aid, the training, the sanctuary.

Mr. President, I ask unanimous consent that the text of the bill as printed in the RECORD.

There being no objection the bill was ordered to be printed in the RECORD, as follows:

S. 1941

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "International Terrorism Deterrence Act of 1985."

STATEMENT OF FINDINGS

SEC. 2. The Congress finds that international terrorism—

(1) involves acts dangerous to human life or other violent acts;

(2) is directed at government, diplomacy, commerce, and innocent people throughout the world;

(3) is a violent, coercive, intimidating means to gain notoriety for a cause or achieve a political goal;

(4) involves offenses against humanity which result in the loss of life of innocent people, denial of human rights, or damage to property;

(5) is an unlawful restraint on diplomacy and commerce;

(6) is a threat to the national security of the United States and its nationals; and

(7) is an illegitimate force in relations between states.

SANCTIONS AGAINST INTERNATIONAL TERRORISM

SEC. 3. (a)(1) The Secretary of State shall identify each foreign state that provides support for acts of international terrorism and shall cause such identification to be published in the Federal Register. Such identification shall remain in effect until a determination is made with respect to such country under paragraph (2).

(2) If the Secretary of State determines that a foreign state identified under paragraph (1) has ceased providing support for acts of international terrorism, the Secretary of State shall cause such determination to be published in the Federal Register.

(3) Not later than February 15 of 1986, and not later than February 15 of each year thereafter, the Secretary of State shall submit to the Congress a report listing the names of each foreign state with respect to which an identification under paragraph (1) has been made.

(4) For purposes of this subsection, the term "support" includes financial or other material support, sanctuary, or training.

(b) Notwithstanding any other provision of law, if a foreign state is identified under subsection (a)(1)—

(1) the President shall terminate, withdraw, or suspend any portion of any trade agreement or treaty that relates to the provision of nondiscriminatory (most-favored-nation) trade treatment to such state;

(2) such state shall be denied nondiscriminatory (most-favored-nation) trade treatment by the United States and the products of such country shall be subject to the rates of duty set forth in column number 2 of the Tariff Schedules of the United States;

(3) the provisions of title V of the Trade Act of 1974 shall not apply with respect to the products of such state;

(4) the provisions of the Caribbean Basin Economic Recovery Act shall not apply with respect to the products of such state during the period covered by such indentification;

(5) the President shall—

(A) prohibit the importation into the United States of all articles that are the growth or product of such state, or

(B) impose an additional duty on such articles; (6) the President shall—

(A) terminate United States assistance,

(B) terminate duty-free treatment provided under any provision of law to the products of such state,

(C) terminate access to Export-Import Bank loans, and

(D) require the United States Executive Director to each international financial institution to vote against loans from such institution to such state; and

(7) the President may suspend the foreign air carrier permit issued pursuant to section 402 of the Federal Aviation Act of 1958 of each airline of such state and further suspend the right of any air carrier to operate in foreign air transportation to or from such state.

(c) It is the sense of the Congress that whenever a foreign state is identified under subsection (a)(1) the President should negotiate with the allies of the United States an agreement to impose against such foreign state sanctions which are similar to the sanctions described in subsection (b).

(d)(1) The President may waive all, or any portion of, the provisions of subsection (b) with respect to any foreign state if the President determines that such a waiver would be in the national security interests of the United States. the President shall submit to the Congress written notice of any waiver made under this paragraph.

(2) Any waiver made under paragraph (1) may be revoked by the President at any time.

ANTI-TERRORISM TRUST FUND

SEC. 4. (a) There is hereby established within the Treasury of the United States a trust fund to be known as the Anti-Terrorism Trust Fund (hereafter in this section referred to as the "Trust Fund"), consisting of such amounts as may be transferred or credited to the Trust Fund as provided in this section or otherwise appropriated to the Trust Fund.

(b) The Secretary of the Treasury shall transfer to the Trust Fund out of the general fund of the Treasury of the United States amounts determined by the Secretary of the Treasury to be equivalent to the amounts received into such general fund that are attributable to duties imposed by the President under section 3(b)(5)(E).

(c) The amounts which are required to be transferred under subsection (b) shall be transferred at least quarterly from the general fund of the Treasury of the United States to the Trust Fund on the basis of estimates made by the Secretary of the Treasury of the amounts referred to in subsection (b) that are received into the Treasury. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of, or less than, the amounts required to be transferred.

(d) The Secretary of the Treasury shall be the trustee of the Trust Fund, and shall submit an annual report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives on the financial condition and the results of the operations of the Trust Fund during the fiscal year preceding the fiscal year in which such report is submitted and on the expected condition and operations of the Trust Fund during the fiscal year in which such report is submitted and the 5 fiscal years succeeding such fiscal year. Such report shall be printed as a House document of the session of the Congress to which the report is made.

(e) It shall be the duty of the Secretary of the Treasury to invest such portion of the Trust Fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired—

(1) on original issue at the issue price, or

(2) by purchase of outstanding obligations at the market price.

(f) Any obligation acquired by the trust Fund may be sold by the secretary of the Treasury at the market price.

(g) The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund shall be credited to and form a part of the Trust Fund.

(h) Amounts in the Trust Fund shall be available, as provided in advance by appropriations Acts, only to provide compensation to the victims of terrorism and to combat terrorism, including the payment of any reward granted under chapter 204 of title 18, United States Code.

APPLICATION OF INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT

SEC. 5. Any act of terrorism against a citizen, property, or interests of the United States, occurring in whole or substantial part outside the United States, may be considered by the President to be an unusual and extraordinary threat against the national security, foreign policy, or economy of the United States within the meaning of section 202 of the International Emergency Economic Powers Act.

DEFINITIONS

SEC. 6. For purposes of this Act—

(1) the term "international financial institution" means the International Monetary Fund, the International Bank for Reconstruction and Development, the International Development Association, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, and the African Development Fund; and

(2) the term "international terrorism" means activities that—

(A) involve acts dangerous to human life or other violent acts that are a violation of the criminal laws of the United States or of any state or that would be a criminal violation if committed within the jurisdiction of the United States or any state;

(B) appear to be intended—

(i) to intimidate or coerce a civilian population;

(ii) to influence the policy of a government by intimidation or coercion; or

(iii) to affect the conduct of a government by assassination or kidnaping; and

(C) occur totally outside the United States or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to coerce or intimidate, or the locale in which their perpetrators operate or seek asylum; and

(3) the term "United States assistance" means any assistance of any kind (other than assistance involving only the provision of food or medicine) which is provided by grant, sale, loan, lease, credit, guaranty, or insurance, or by any other means, by any agency or instrumentality of the United States Government to or for the benefit of any foreign country, including—

(A) assistance under the Foreign Assistance Act of 1961 (including programs under title IV of chapter 2 of part I, relating to the Overseas Private Investment Corporation, but excluding programs under chapter 8 of part I, relating to international narcotic control assistance);

(B) sales, credits, and guaranties under the Arms Export Control Act;

(C) sales under title I (including title III) of the Agricultural Trade Development and Assistance Act of 1954 and donations under title II of such Act of nonfood commodities;

(D) financing programs of the Commodity Credit Corporation for export sales of nonfood commodities;

(E) financing under the Export-Import Bank Act of 1945;

(F) assistance under the Migration and Refugee Assistance Act of 1962;

(G) programs under the Peace Corps Act;

(H) assistance under the Inter-American Foundation Act;

(I) assistance under the African Development Foundation Act;

(J) financial assistance for foreign persons or groups under the Mutual Educational and Cultural Exchange Act of 1961; and

(K) assistance of any kind under any other Act.●

By Mr. DENTON:

S. 1942. A bill to amend title 10, U.S. Code, to improve the security of U.S. military installations; to the Committee on Armed Services.

MILITARY INSTALLATION SECURITY AND ANTITERRORISM ACT

● Mr. DENTON. Mr. President, I rise today to introduce the "Military Installation Security and Antiterrorism Act of 1985." The bill will provide for the common defense and security of the United States by securing the Nation's military installations from access by terrorists and those persons who may engage in espionage against the Nation's interests.

Mr. President, recent events surrounding the Walker espionage case have made it abundantly clear that the threat of Soviet and Eastern bloc espionage is real and pervasive. The Soviet Union and its client-states have a massive effort underway in this country to amass large amounts of material about our military secrets and technology.

Often the security of our Nation and its military installations has been compromised by Soviet agents working with defense contractors. For example, the following defense contractor employees have been convicted of espionage:

First. Arthur James Walker, VSE Corp., Chesapeake, VA. Convicted on August 9, 1985, for selling—conspiring to sell—secret information to the Soviet Union.

Second. Thomas Patrick Cavanagh, Northrop Corp., Advanced Systems Division, Pico Rivera, CA, convicted of espionage in May 1984 for attempting to sell classified information to the Soviet Union.

Third. Ruby Louise Schuler, employee of System Control Technology, Inc., CA, deceased before the facts became known, but found to have conspired with James Durward Harper, her husband, who was subsequently convicted of espionage in 1983, for the Polish Intelligence Service.

Fourth. William Holden Bell, Hughes Aircraft Co., El Segundo, CA, convicted on four counts of espionage, involving the Polish Intelligence Service, in October 1981.

Fifth. Christopher J. Boyce, TRW, Inc., Redondo Beach, CA, convicted of eight counts of espionage in 1977, on behalf of the Soviet Union.

Sixth. Sadag K. Dedeyan, John Hopkins Applied Physics Laboratory, convicted on violation of Espionage Act by failing to report the illegal photographing of documents in his possession in 1975. Classified information was passed to the Soviet Union by an accomplice.

Seventh. John William Butenko, convicted on December 2, 1964, of espionage for the Soviet Union. Identified as civilian electronic engineer, specific contractor unknown.

Mr. President, the Soviets and Eastern bloc intelligence gathering in the United States has caused untold damage to our national security. The technological lead enjoyed by the United States in certain defense-related areas has been seriously eroded by the Soviet successes in obtaining classified scientific and technical information. In addition, Soviet spying has cost our country billions of dollars in stolen technology and military secrets. To reverse the trend, we must protect our military installations from access by would-be terrorists and those persons who may engage in espionage activity.

The "Military Installation Security and Antiterrorism Act of 1985" will provide the necessary protection. Specifically, the bill will require appropriate Federal agencies to conduct a criminal history check on contractor personnel whenever such personnel are to perform a contract on a military installation. The bill also requires that the Secretary of Defense to institute such procedures as the Secretary determines necessary to ensure that contractor personnel are not granted access to a military installation until a criminal history check has been conducted on such contractor personnel and the Secretary concerned has reviewed the information made available as the result of the check.

Finally, the bill specifically authorizes the Federal Government to obtain access to local criminal justice records when conducting the required criminal history check. Such access is permitted only if the person under investigation consents in writing. Additionally, the criminal history information obtained pursuant to the request would be afforded the same protection as provided by the Privacy Act.

Mr. President, the bill will help to ensure that only individuals who are reliable and trustworthy will have access to our military installations. It will safeguard the security of the United States and the welfare of the American people by protecting our military installations from infiltration by would-be espionage agents. Additionally, the bill will help protect against terrorists who would find military installations an attractive target.

Mr. President, I urge the Senate to pass this necessary legislation expeditiously.

I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1942

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This act may be cited as "Military Installation Security and Antiterrorism Act of 1985".

CONGRESSIONAL FINDINGS

Sec. 2. The Congress finds—

(1) that Congress has the responsibility under the Constitution to provide for the common defense and security of the United States;

(2) that the interests of national security require that the Nation's military installations be secure from access by terrorists and those persons who may engage in espionage against the interest of the United States;

(3) that the increasing threat of terrorist and espionage against the United States is greatly enhanced by the relatively free access available to facilities on military installations;

(4) that the interests of national security require that appropriate Federal agencies conduct a criminal history check on contractor personnel whenever such personnel are to perform a contract on a military installation; and

(5) that the interests of national security require that the Department of Defense have access to criminal history information on contractor personnel referred to in clause (4) in order to determine whether any such personnel should be prohibited from performing a contract on a military installation.

DEFENSE CONTRACTORS

Sec. 3. (a) Chapter 141 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 2407. Contractor security requirements

"(a) In this section—

"(1) 'Criminal justice agency' means—

"(A) a Federal or State court; or

"(B) an agency of the Federal Government or of a State or local government, or a component of any such agency, which (i) performs law enforcement or other criminal justice functions for such government pursuant to law or an Executive order, and (ii) allocates a substantial part of its annual budget to performing such functions.

"(2) 'Criminal history' means, in the case of any person, information which has been collected by a criminal justice agency on that person, including descriptions and notations with regard to the following:

"(A) Arrest.

"(B) Detention.

"(C) Indictment, information, or other formal criminal charge.

"(D) The disposition, if any, of a matter specified in clause (A), (B), or (C).

"(E) Sentencing.

"(F) Correction supervision.

"(G) Release from confinement.

The term also includes fingerprint records and other identifying information on a person if such records or other information has been included in a criminal history record in connection with any action described in clauses (A) through (G) of the first sentence or such records or other information has been used in connection with any such action taken in the case of such person.

"(3) 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

"(b)(1) Each contract which is to be performed on a military installation shall include a provision which prohibits contractor personnel from performing such contract until (A) a criminal history check has been made on such contractor personnel by one or more appropriate Federal agencies, as determined by the Secretary concerned, and (B) the Secretary has reviewed any information made available as the result of such check.

"(2) The Secretary of Defense shall institute such procedures as the Secretary determines necessary to ensure that contractor personnel are not granted access to a military installation to perform a contract until a criminal history check has been conducted on such contractor personnel and the Secretary concerned has reviewed the information made available as the result of such check.

"(c)(1) Notwithstanding any other provision of Federal law or of any law or regulation of any State or political subdivision of a State, upon receiving a request from the Secretary concerned or the head of any other department or agency of the Federal Government for a criminal history record or any person referred to in subsection (b) and the written consent of the person concerned (as required by subsection (a)), the head of a criminal justice agency shall make available to the Secretary or other head of a department or agency requesting such record any criminal history record maintained by the criminal justice agency on such person.

"(2) A fee charged by a criminal justice agency for furnishing a criminal history record to the Department of Defense or another department or agency of the Federal Government under this subsection may not exceed the fee charged for furnishing such information to such department or agency or any other department or agency of a government referred to in subsection (a)(1)(B) under any other provision of law.

"(d) The Secretary concerned or the head of any other department or agency of the Federal Government may not request, under this section, a criminal history record on any person unless such Secretary or other head of a department or agency has first obtained the person's written consent for the release of any such criminal history record to such Secretary or other head of a department or agency for the purposes of this section.

"(e) A criminal history record obtained by the Secretary concerned or the head of any other department or agency of the Federal Government under this section may not be disclosed except (1) in response to a request referred to in subsection (c), or (2) as provided in section 552a of title 5.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"2407. Contractor security requirements.".

(b)(1) Subsection (b) of section 2407 of title 10, United States Code, as added by such subsection (a), shall apply to contracts awarded on or after the date of the enactment of this Act.

(2) Subsections (c), (d), and (e) of such section shall apply with respect to any request made under such subsection (c) on or after the date of the enactment of this Act.●

By Mr. DIXON:

S. 1943. A bill to amend the Federal Deposit Insurance Act; to the Committee on Banking, Housing, and Urban Affairs.

AGRICULTURAL BANK ASSISTANCE ACT

● Mr. DIXON. Mr. President, I am today introducing the Agricultural Bank Assistance Act of 1985. This legislation is based on S. 1151, the Farm Credit Relief Act, which I introduced, together with my distinguished colleagues, Senators Johnston, Pryor, Sasser, and Riegle, on May 16 of this year.

This bill is more limited than S. 1151. It is an attempt at a compromise, to ensure that hard-pressed agricultural banks and their farmer-customers get the kind of assistance they need. It is, however, similar in concept to the Farm Credit Relief Act, and it does contain the provisions that are at the core of that legislation.

This bill is an attempt to address part of the crisis that is devastating American agriculture and our rural economy. One of the most troubling aspects of this crisis has been the explosion of farm debt. Farmers now owe more than $215 billion, and the simple truth is that too-low prices for agricultural products means that it is more and more difficult for farmers to service that debt.

Farm prices are down, and the value of farm land has dropped by as much as 40 percent or even more. Bankruptcies, however, are way up, and unless we are able to provide some badly needed assistance, the current appalling bankruptcy rate is likely to go much, much higher.

Unless we act, many of our Nation's full-time farmers will be wiped out. Many of these farmers were able to get a crop into the ground this spring, but without help, its doubtful that many of them will be able to do so next year. The shakiest of these mid-sized farmers owe nearly a third of total farm debt—over $73 billion—an amount that compares with the Latin American debt held by the Nation's largest banks.

Farm debt, however, unlike foreign debt, is not held largely by money center banks. It is held by the Nation's more than 4,200 agricultural banks. These banks are small in size, but they are of vital importance to their communities.

While they do not hold the bulk of long-term debt, agricultural banks are a major source of operating and other short-term loans. According to the Comptroller of the Currency, banks hold about $9 billion of the $112 billion in long-term debt, and they hold almost $40 billion, or about 40 percent of the short-term debt. This is a serious problem because while most farmers have the resources to service their mortgage debt, many can no longer also meet their short-term debt obligations.

Agricultural banks are therefore also under serious strains, and the evidence is that their problems are becoming more severe. We had 79 bank failures last year—the highest number since the Great Depression—and a disproportionate number of those failing were agricultural banks. This trend appears to be continuing. Over 1,100 banks—an all-time record—are on the Federal regulators problem list. There have already been over 100 bank failures this year, many of which were agricultural banks, and there could be as many as 130 or more before the year is out.

This trend is especially troubling because historically agricultural banks are among the strongest in our financial system. Agricultural banks traditionally have a very strong capital base, and they have followed the kind of prudent banking practices that have protected their depositors.

As strong as they are, however, agricultural banks are not immune from a crisis in the overall agricultural economy. There is no way they could be immune. More than 1,700 banks have more than 50 percent of their portfolios in agricultural loans, and that figure greatly understates the true dimensions of the problem since it does not include loans to agribusiness and other rural businesses dependent on a strong and profitable agricultural sector.

What we need, therefore, are solutions directed toward helping both farmers and the agricultural banks that serve them. It makes no sense to help the banks alone if that help does not permit them to continue to play an active role in their local communities. And farmers clearly need help to restructure their debts so that they are not forced off the land or put in the position of being tenant farmers on what was their land.

This bill, Mr. President, is an attempt to provide assistance and needed flexibility for both farmers and their lenders. It does not pretend to be a complete solution to the problems of either, but it will provide needed transitional assistance as more fundamental, long-term solutions are put into place. We need to make it possible for farm exports to begin expanding again. We need to restore the opportunity to make a profit to American farmers. We need to bring interest rates down to more reasonable levels. But all these things will take time; time that many of our farmers and rural financial institutions do not have unless we are able to act soon on appropriate safety net protections.

The provisions of this amendment ought to be a component of this safety net. It will permit banks to negotiate with farmers on appropriate debt restructuring, restructuring that will leave farmers with payments they can meet while bringing the banks greater financial returns than foreclosure would. It helps ensure that farmers aren't forced off their land, and helps the banks retain customers that they want to retain, customers that they have had a good relationship with over the years and who, with this help, will be good customers again. It does not require any bank to act to restructure loans. It simply permits banks to take actions, with the approval of Federal regulators, that banks believe are in their interests and which will benefit hard-pressed but fundamentally sound farmers.

The heart of the legislation is a provision that permits agricultural banks to write down loans from their book value to their fair market value. Banks can do this now, but under current law, they must deduct the amount written off from their capital all at once. Even though agricultural banks are well-capitalized, they cannot withstand losses of this magnitude, so banks are forced to foreclose rather than write down loans. This benefits neither the banks nor the farmers.

Current law forces banks to try not to acknowledge the extent of their problems, because any losses in a loan portfolio must be written off against capital at the time they are recognized. Now in normal business conditions that is sound practice. In the current crisis situation in our agricultural economy, however, the pressure on agriculture bank capital it creates is so great that it actually adds to the problems facing both farmers and banks. Losses on agricultural loans can cause reductions in bank capital. That reduction can force a bank to call in more loans, generating more losses, forcing still further reductions in bank capital, and so on, in a destructive cycle that could destroy both the bank and many basically sound American farmers. At the very least, banks may have to withdraw as lenders to their communities with all the problems that the loss of such a major source of credit always causes.

Amortizing the losses, however, creates an incentive for banks to deal with their problems in a way that can help to minimize those losses. I do not suggest this step lightly. I recognize the seriousness of this proposal. But I believe that the only alternative to this kind of package is direct assistance—and with our budget problems, it is difficult to see how that kind of help could be provided.

The bill also permits eligible banks to amortize their losses on the reduced value of farmland they acquired in the process of handling an agricultural loan where the bank is still holding the property but must write down the asset value of the land on its books. This provision will help reduce the continued downward pressure on agricultural land prices, and assist banks in managing the swollen land portfolios many of them now hold.

Let me say in conclusion that this proposal, if enacted, will work to provide needed assistance for American farmers who deserve our help. It will also provide assistance for agricultural banks, who through no fault of their own, are being squeezed by the ongoing agricultural crisis, permitting these fundamentally sound banks to weather this storm.

The bill has been drastically scaled back from the proposal I offered during consideration of the farm bill.

It can truly be called a compromise. It is however, the best sort of compromise, one that will still work effectively for farmers and bankers.

We have provided special assistance for financial institutions in the past, most recently for foreign loans and for the housing industry. We are assisting the Farm Credit System. I think agricultural banks and their farmer-customers are just as deserving of the assistance of the U.S. Senate. There will be hearings on this legislation, S. 1151, and perhaps other proposals to assist financial institutions in their customers in rural America. I urge my colleagues to join me in working to see that this issue gets the kind of high-priority consideration it needs, and I hope to see early enactment of this legislation in the next session. I ask unanimous consent that an explanation of the bill and a copy of the legislation be included in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 1943

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Agricultural Bank Assistance Act of 1985".

Sec. 2. Section 13 of the Federal Deposit Insurance Act (12 U.S.C. 1823) is amended by adding at the end thereof the following:

"(j)(1) The appropriate Federal banking agency shall permit an agricultural bank to take the actions referred to in paragraph (2) if it finds that there is no evidence that fraud or criminal abuse on the part of the bank led to the losses referred to in paragraph (2).

"(2)(A) Any loss on any qualified agricultural loan that an agricultural bank would otherwise be required to show on its annual financial statement for any year between December 31, 1984, and January 1, 1990, may be amortized on its financial statements over a period of not to exceed 10 years, as specified in regulations issued by the appropriate Federal banking agency.

"(B) An agricultural bank may reappraise the value of any real estate or other property, real or personal, that it acquired coincident to the making of a qualified agricultural loan and that it owned on January 1, 1985, and any such additional property that it acquires prior to January 1, 1990. Any loss that such bank would otherwise be required to show on its annual financial statements as the results of such reappraisal may be amortized on its financial statements over a period of not to exceed 10 years, as specified in regulations issued by the appropriate Federal banking agency.

"(3) The appropriate Federal banking agency may issue regulations implementing this subsection with respect to banks that it supervises.

"(4) As used in this subsection—

"(A) the term 'agricultural' means a bank which is significantly involved in agricultural lending, as determined by the appropriate Federal banking agency, and the deposits of which are insured by the Federal Deposit Insurance Corporation; and

"(P) the term 'qualified agricultural loan' means a loan made to finance the production of agricultural products or livestock in the United States, a loan secured by farmland or farm machinery, or such other category of loans as the appropriate Federal banking agency may deem eligible.".

AGRICULTURAL BANK ASSISTANCE ACT OF 1985—EXPLANATION OF PROVISIONS

The bill would permit a commercial bank which is significantly involved in agricultural lending to amortize, over a period up to 10 years, two kinds of losses resulting from its lending activity to agriculture (provided that such losses did not result from fraud or criminal abuse on the part of the bank). The two kinds of losses eligible for multi-year amortization are:

(1) Losses on agricultural loans, whereby in the absence of the bill the bank would have to charge off the entire loss in the immediate year that it is recognized.

Example: An agricultural bank makes an operating loan to a farmer who owes $100,000 on the loan. A bank regulatory agency classifies the loan, so that $30,000 of loss must be recognized by the bank in 1985. Without the bill, the bank must charge off $30,000 in 1985; with the bill, the bank may charge off $3,000 per year during 1985-1994.

(2) Losses on reduced value of property (mostly farmland) which a bank acquired in the process of handling an agricultural loan, whereby the bank still holds the property but must devalue it as an asset.

Example: An agricultural bank acquires 200 acres of farmland in 1984 in a farm debt workout situation. At the time acquired, the land was valued at $2,000 per acre ($400,000), but in 1985 is appraised and revalued at $1,500 per acre ($300,000). Without the bill, the bank asset value of the land would be reduced by $100,000 in 1985; with the bill, the bank may reduce the asset value of the land by $10,000 per year in 1985-1994.

The bill provides for a 5-year period (1985-1989), during which losses that are recognized of the two kinds described above could be stretched out over a period up to 10 years. The bill should result in no cost to the U.S. Treasury, since the banks themselves would absorb the losses over the period of time that is provided.

The amortized farm loan loss accounting will help agricultural banks to remain competitive suppliers of credit to farmers, by permitting the banks to absorb part of their farm lending losses over a period of time sufficient for the agricultural economy and the banks' earnings to have an opportunity to recover. Once the banks' net earnings recovered, the retained earnings and capital position of the agricultural banks could be fully replenished.●

By Mr. SASSER (for himself, Mr. Heinz, Mr. Sarbanes, and Mr. Gore):

S. 1944. A bill to amend titles II and XVI of the Social Security Act to prohibit, in hearings relating to disability benefits, the adversarial involvement of any representative of the Department of Health and Human Services, or any State agency involved; to the Committee on Finance.

SOCIAL SECURITY DISABILITY HEARING ACT

● Mr. SASSER. Mr. President, I rise today to introduce legislation which will greatly improve the Social Security Disability Insurance Program.

Mr. President, in the last 2 years, the Senate has led efforts making sure that the Social Security Disability Program was being administered fairly and efficiently. The Social Security Disability Reform Act of 1984 went a long way toward ensuring that individuals who were, in fact, disabled were granted the disability benefits to which they were rightfully entitled. And we can be proud of this major legislative achievement. But there remains a major flaw in the disability system—a remnant from the days when benefits were wrongly denied because the system was inequitably tilted against claimants.

I am referring to the Social Security Administration's so-called representation project which was initiated by the SSA 3 years ago and which continues today in four offices of hearings and appeals across the country: Baltimore, MD, Pasadena, CA, Columbia, SC, and Kingsport, TN. In a nutshell, the project allowed the Social Security Administration to hire paid adversaries to oppose in both oral and written form the disability claims of individuals at the hearing level of disability adjudication.

This program was originally labeled an experiment designed to increase the efficiency and decrease the costs of Social Security hearing offices. However, the House Select Committee on Aging has examined this program and found that these objectives have not been met. Rather, this project has proven to be unwise, unfair, and unsuccessful. It is unwise because it promotes adversarial proceedings when they are uncalled for. It is unfair because it pits disability claimants against high-powered lawyers. And it is unsuccessful because there are no proven savings or increases in efficiency.

Today, along with my distinguished colleagues, Mr. Heinz, Mr. Sarbanes, and Mr. Gore, I am introducing legislation which will end the use of these so-called representatives who are hired to advocate against individuals' claims for Social Security disability benefits. Our legislation curbs the use of adversarial administrative hearings which have the effect of forcing Social Security claimants to hire their own lawyers if they want to get a fair hearing. It is simply not appropriate for our Social Security Administration to be in the business of defeating claims brought under the Social Security Disability Insurance Program and Supplemental Security Income Program, both entitlement programs.

These disability programs should require only that claimants demonstrate their entitlement to benefits by showing that their condition(s) meet the disability guidelines. Moving beyond this framework toward adversarial proceedings not only violates the intent of the Social Security Act, it violates both the due process and equal protection clauses of the 14th amendment. If there is a need for additional staff assistance at hearing offices, this need should be met through additional nonadversarial staff, thereby avoiding such violations.

The legislation which we are introducing today prohibits the use of SSA representatives at any level of disability determination at which there is a face-to-face meeting between the SSA or contracted State agency and an individual claimant. It prohibits retroactively to April 9, 1985, the use of such representatives. This date is appropriate because it is the 3-year anniversary of the representation project. In 1982, the SSA announced the program as an experiment. But, after 2 years, the SSA extended the experiment, which had evolved into a project, for "at least 1 year" in order to do further evaluation. This meant that the project could continue indefinitely, and that it could be expanded.

Today, the program has survived well beyond the 1-year extension, and the SSA is already in the process of expanding it to affect more hearing offices and to give the representatives even more power in their advocacy against disability claimants. This planned expansion is occurring despite the House Select Committee on Aging's finding that no savings were forthcoming from the program. Indeed, it appears that the SSA has been trying to secure more time in order to obtain better figures to justify the continued existence and expansion of the program. In view of the absence of administrative savings and equity to disability claimants, these expansion plans must be halted and the program terminated.

Our legislation also addresses the difficulties and hardships which have been generated by this adversarial project. We require the SSA to provide to individuals for whom the SSA's decision to deny or terminate disability benefits was affirmed at a hearing after April 9, 1985, and in which an SSA representative participated, due notice and a 60-day opportunity to request a rehearing on the entitlement of that individual to disability benefits.

At the rehearing, the evidence of disability will be limited to the evidence which was in the record prior to the hearing in which the SSA representative participated. The claimant and the administrative law judge may continue to call upon witnesses as provided in current law. However, no witness may take the role of an advocate for the SSA. The rehearing will simply be a hearing without the use of the SSA representative.

If the individual's claim for benefits is approved at the rehearing, then benefits will be paid retroactively for all months in which benefits would have been payable had the approval of benefits been made at the prior hearing in which the representative participated.

Mr. President, I believe that this legislation will help to ensure that the Social Security disability determination process is fair. It is wrong for us to permit this abuse of administrative power to continue unabated. I urge my colleagues to join as cosponsors to this important piece of legislation. Our legislation is a major step forward in our disability program. It guarantees that our Nation's disabled persons will not face immense and often insurmountable obstacles as they pursue their lawful entitlements.●

By Mr. DURENBERGER (for himself, Mr. Lugar, and Mr. Pell):

S. 1945. A bill to authorize the expenditure of Polish currencies held by the United States for projects to assist handicapped and orphaned Polish children; to the Committee on Foreign Relations.

ASSISTANCE FOR HANDICAPPED AND ORPHANED POLISH CHILDREN

● Mr. DURENBERGER. Mr. President, it gives me great pleasure to introduce legislation that will further both the foreign policy of the United States and the best humanitarian impulses of the American people, without cost to the taxpayers of our country.

During my trip to Poland this past summer, I became acutely aware of the need to maintain the bonds of friendship between the American and Polish peoples despite our differences with the Polish Government. I also am convinced that it is essential for us to do what we can to strengthen Polish institutions that can moderate the behavior of the regime.

After consulting with the administration, I am today introducing legislation that will help accomplish both of these objectives, as well as advance U.S. humanitarian efforts on behalf of the Polish people. This bill would make available nonconvertible Polish zloties, generated by the sale of surplus U.S. dairy products to Poland since 1981, for use in construction and renovation projects to be undertaken under the auspices of the Charity Commission of the Polish Catholic Episcopate for the benefit of handicapped and orphaned children.

Mr. President, this bill is patterned after Public Law 98-266 of April 17, 1984, which provided in a similar fashion for the Clement J. Zablocki Memorial Outpatient Facility at the American Children's Hospital in Krakow. Unlike that legislation, however, the bill that I have introduced today would not require the appropriation of any U.S. funds.

Mr. President, my bill would make available in amounts to be determined by the United States certain so-called nonconvertible zloties held by the U.S. Government. These Polish currencies can be used only within Poland for Embassy in-country expenses and for humanitarian purposes agreed upon by the Polish and United States Governments. Thus, the renovation and construction projects for which the bill provides will be accomplished without cost to U.S. taxpayers. Moreover, the projects will be undertaken under church auspices, which will advance the U.S. foreign policy goal of strengthening such nongovernmental institutions in Poland. The bill does not constitute or imply an endorsement of the Polish regime. It is designed to carry forward the historic people-to-people friendship between America and Poland, and to benefit orphaned and handicapped children, a worthy cause anywhere.

Mr. President, I am honored to have the distinguished chairman and ranking minority member of the Committee on Foreign Relations as cosponsors of this legislation, and I welcome other Senators to join me in sponsoring this bill.

Mr. President, I ask that the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1945

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That such amounts as may be necessary of the Polish currencies held by the United States which have been generated by the sale to Poland of surplus United States dairy products shall be available for construction and renovation projects to be undertaken in Poland under the auspices of the Charity Commission of the Polish Catholic Episcopate for the benefit of handicapped and orphaned children. Such currencies may be utilized without regard to the requirements of section 1306 of title 31, United States Code, or any other provision of law.●

By Mr. WEICKER:

S. 1946. A bill to designate the West Branch of the Farmington River as a study area for inclusion in the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Energy and Natural Resources.

FARMINGTON WILD AND SCENIC RIVER STUDY ACT

Mr. WEICKER. Mr. President, Connecticut ranks fourth among the 50 States in population density, with 647 residents per square mile. Nobody would expect with this population density there could be significant area classified as wild or scenic. Yet in the midst of this urban center, only 12 miles from Hartford, CT's second largest city, there lies a river, the Farmington, that possesses a unique diversity of natural, cultural, historic, and recreational features.

Due to the unique features of the Farmington, the National Park Service included three segments of the river in the Nationwide Rivers Inventory in 1980. The inventory determines which rivers and river segments are eligible for study and inclusion in the National Wild and Scenic Rivers System. By including the Farmington River, the Park Service recognized the unique resources that demonstrate the river to be of national significance and worthy of conservation.

Among the river's resources are its white water rapids and gorges, undeveloped lands, important sport fisheries, prime agricultural lands, scenic and cultural areas, and buildings and structures that played an historic role in Connecticut and New England.

A mere listing of the characteristics of the Farmington does not do it justice. However, special attention should be paid to the fact that the river is an exceptional recreational resource and one of New England's outstanding sport fisheries. Connecticut's largest trout fishery is supported by the river and the New England River Basins Commission has recognized it as an important cold water fishery.

The Farmington also plays a role in the Connecticut River Basin Atlantic Salmon Restoration Program. Its part in this program could make the Farmington River an important salmon sport fishing area.

The river's recreational potential is immense and its use is growing every year. There is white water canoeing and kayaking through the river's gorges and rapids. One segment of one river, the Tariffville Gorge, is used for the National Olympic Kayaking Trials and the National Poling Championships.

Twenty sites in the river corridor have been recognized as National Historic Landmarks and National Historic Register sites. The Farmington River has come a long way since the 1950's when it was considered an open sewer. In fact, the water quality efforts along the river are now recognized by the Department of Interior as a proven example of intergovernmental and private efforts that have led to the rivers' excellent water quality today. This important job is never complete and there is continued support for ongoing purification efforts along the Farmington.

The Farmington River Watershed Association deserves much of the credit for its efforts over the past 32 years to encourage conservation of the natural resources of the Farmington River and for its many contributions to improve the river's water quality. The association has always been in the forefront of protecting and enhancing the river's resources.

As the Farmington River comes under increased pressure of conflicting interests that could bring deterioration of its unique resources, it is imperative that we maintain, preserve, and protect these resources for the future.

Therefore, I am today introducing legislation, the Farmington Wild and Scenic River Study Act, that would designate the West Branch of the Farmington River as a study area for inclusion in the National Wild and Scenic River System. This bill is nearly identical to legislation introduced in the House by Representative NANCY JOHNSON, H.R. 2191. A minor change has been made in the Senate bill that is intended to promote greater participation in the study by representatives of each of the towns that border along the rivers' banks, and from the two States through which the river flows. This would be accomplished by expanding the membership of the study committee to include; two members appointed by the Governor of the State of Connecticut, at least one of whom shall be a member of the Metropolitan District Commission; two members appointed by the Governor of the Commonwealth of Massachusetts; two members of the Farmington River Watershed Association, and, one member from each of the eight towns located along the west branch of the river, each to be appointed by the governing body of the respective towns.

Mr. President, I am also pleased to add that the proposal to study the west branch of the Farmington River has the unanimous support of the Connecticut communities in the Farmington River Valley.

I urge prompt consideration of this legislation by the Senate.

By Mr. DURENBERGER (for himself and Mr. LEAHY):

S. 1947. A bill to enhance the protection of U.S. interests under the Foreign Missions Act; to the Committee on Foreign Relations.

COVERAGE OF COMMERCIAL ENTITIES UNDER THE FOREIGN MISSIONS ACT

● Mr. DURENBERGER. Mr. President, today I join with the distinguished vice chairman of the Select Committee on Intelligence to introduce legislation to ensure that the national security interests of the United States are safeguarded from the activities of corporations or other commercial entities controlled by foreign elements hostile to our country. The legislation we have introduced would clarify the definition of "foreign mission" in the Foreign Missions Act so as to remove any doubt that such commercial entities can be subjected to the controls in that act.

When Senator LEAHY and I testified before the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs in October on the hostile intelligence services threat to the United States, we emphasized that our adversaries have become adept at using commercial cover and business dealings for espionage purposes, and we cited a number of specific instances in which activities had done damage to our national security.

The Select Committee on Intelligence and the Permanent Subcommittee on Investigations have been focusing on counterintelligence issues throughout the year. Senator ROTH, the distinguished chairman of the Committee on Governmental Affairs and of the Permanent Subcommittee on Investigations, and Senator NUNN, the ranking minority member of that subcommittee, also are members of the Intelligence Committee, and there has been excellent cooperation between the committees as both seek to identify, in concert with the executive branch, actions that can be taken to improve U.S. counterintelligence and security protections.

A number of important steps already have been taken this year, including an expansion of the Foreign Missions Act definition of "foreign mission" that was included in section 127 of the Foreign Relations Authorization Act for fiscal years 1986 and 1987 (Public Law 99-93, August 16, 1985). That change substituted the phrase "mission to or agency in" for the more restrictive term "official mission." Thus, while there may have been ambiguity previously, it now is clear that Foreign Missions Act controls can be applied to Soviet and Warsaw Pact state trading organizations such as the Soviet company AMTORG, because such organizations clearly are foreign government agencies performing governmental activities.

The remaining problem, which Senator LEAHY and I seek to solve with the legislation we have introduced today, involves commercial entities that may not fall under the rubric of an agency or may not, at least ostensibly, be involved in diplomatic, consular, or other governmental activities, even if they are owned or controlled by foreign governments or organizations. The record available to us indicates that such commercial entities are capable of engaging in or providing cover for activities just as inimical to the United States as some of the activities of State trading companies.

In order to prevent potentially dangerous commercial establishments from continuing to avoid Foreign Missions Act controls, our bill makes several changes in the act's definition of "foreign mission." First the phrase "or entity" is added, so that the definition would state that foreign mission means any mission to or agency or entity in the United States. This would permit commercial establishments to be designated as "foreign missions" by categorizing them as "entities" rather than as missions or agencies. Next, the bill would strike the word "governmental" from the text above clause (A) and substitute the phrase "which is involved in" for the word "involving." This change would enable commercial entities to be subject to Foreign Missions Act restrictions on the basis of their involvement in any "activities" of a foreign government or organization; the current redundent and confusing specification that such activities must be diplomatic, consular, or governmental would be eliminated. Finally, the phrase "or which is substantially owned or effectively controlled by" is added to the definition, so that a commercial entity can also be subjected to Foreign Missions Act restrictions strictly on the basis of an ownership or control test.

We believe that these changes are advisable to clarify the ability of the Secretary of State to apply Foreign Missions Act controls to commercial entities operating in the United States which are involved in the activities of foreign governments or organizations, or which are owned or controlled by such governments or organizations. It is clear that certain of these commercial establishments may be performing activities which pose a threat to U.S. national security. We must give those charged with defending U.S. interests the tools that they need to deal effectively with such threats.

It should be emphasized that the changes made by the bill that Senator LEAHY and I have introduced today would not require application of Foreign Missions Act controls to any commercial establishment. Instead, the bill would enable the Secretary of State to apply such controls in appropriate circumstances. Thus, commercial establishments engaged exclusively in legitimate business activities will not be affected. The bill would impact only on commercial establishments whose activities on behalf of foreign governments or organizations are inimical to U.S. national security interests.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1947

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 202(a)(4) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4302(a)(4)) is amended to read as follows:

"(4) "foreign mission" means any mission to or agency or entity in the United States which is involved in the diplomatic, consular or other activities of, or which is substantially owned or effectively controlled by—

(A) a foreign government, or

(B) an organization (other than an international organization, as defined in section 209(b) of this title) representing a territory or political entity which has been granted diplomatic or other official privileges and immunities under the laws of the United States or which engages in some aspect of the conduct of the international affairs to such territory or political entity,

including any real property of such a mission and including the personnel of such a mission;".●

By Mr. WEICKER:

S. 1948. A bill to assure that high quality services are furnished to developmentally disabled individuals and mentally ill individuals in residential facilties and by providers of home and community-based services which receive funds under the Medicare or Medicaid Programs, and to amend the Developmental Disabilities Assistance and Bill of Rights Act to require that residential programs meet Medicaid standards; to the Committee on Finance.

QUALITY SERVICES FOR DISABLED INDIVIDUALS ACT

Mr. WEICKER. Mr. President, I rise today to introduce the Quality Services for Disabled Individuals Act. This bill is my second legislative initiative in response to the hearing I chaired this session on the care of institutionized mentally disabled persons, and the 9-month investigation which preceded them. My interest in initiating this investigation was not solely because of my role as chairman of the Subcommittee on the Handicapped. As a parent and a citizen I have been regularly shocked by reports in the media of physical abuse, violence, and death in State facilities for the mentally disabled.

So last year, I initiated an intensive investigation into care and treatment in our Nation's institutions for the mentally disabled. This was a followup to nearly 2 years of hearings, investigations, and other research. What we found was not pretty. What we found was not acceptable. What we found left me, and I think the American public, with a sense of shock and outrage. Right now, in 1985, in the United States, our most vulnerable citizens are routinely victims of abuse, neglect, and serious physical injury, and are forced to live in conditions which we ourselves would not tolerate. What we found is the shame of this great Nation.

In 3 days of testimony before the Subcommittee on the Handicapped and the Appropriations Subcommitte on Labor/HHS/Education, we heard example after example of mistreatment of this Nation's mentally disabled citizens. We heard of misuse and overuse of drugs. We heard of physical violence, of rape, of unexplained death. We heard of young people tied naked to the floor in four-point restraints for days. We heard of filthy living conditions and received testimony about conditions in which a retarded boy who developed a near-fatal brain infection after periods when he was observed chewing on a urine soaked stocking and crawling through human feces. We heard of a human being, who happened to be retarded, being confined to a shower stall for 3 years with nothing but a thin cotton sheet between his naked body and the tile floor. We heard of residents denied water and food so that they suffered from malnutrition.

Yes, this is the Nation's shame. But even more, it is the shame of this esteemed body and the Federal Government that supports these institutions by certifying them as acceptable and funding them with Federal dollars.

You might ask how this can happen. I certainly did. I asked how our Federal system of monitoring to assure quality care in programs receiving Federal funds could allow such conditions to exist. After all, when we provided for Federal audits of institutional care as part of Federal funding, we expected our tax money would be linked directly to quality care.

But that is not the case. Indeed the monitoring of State facilities is minimal and ineffective and focuses on paperwork rather than people. For the most part, States certify their own facilities as acceptable for receipt of Federal funds. And while statutory authority exists for the Department of Health and Human Services to "look-behind" or validate the State certification decision, such validation reviews have been limited and do not ensure timely corrections when deficiencies are identified. In fact, many facilities have repeated deficiencies yet still maintain their certification. At our hearings, a nurse told us of a State hospital operating below "minimally acceptable standards" for 2 consecutive years. Still no action was taken by State or Federal officials.

A system based on such a conflict of interest cannot work. Indeed we have documented that it is not working. And we in the Congress cannot allow our precious tax revenues to be spent in facilities that strip the very essence of citizenship from disabled Americans. We cannot allow individual State agencies to be the sole authority to tap the U.S. Treasury when that money is spent in facilities that include in their list of abuses a trampling of basic human rights.

Today I introduce a bill to remedy this situation.

The Quality of Services for Disabled Individuals Act has been developed, after months of research and lengthy discussions, to remedy the problems identified during the staff investigation and hearings. Its purpose is simple: To create a mechanism to ensure that disabled individuals receive quality services in programs receiving Federal funds—quality services that enables them to achieve their maximum potential through increased independence, productivity, and integration into the community. The quality services bill accomplishes this by establishing a system of monitoring and certification that removes the existing conflict of interest in the certification process, and creates a new client-centered survey system for certification to replace the current paper-centered survey. It centralizes within the Department of Health and Human Services the responsibilities for assuring quality of services furnished to disabled persons in programs receiving funds through titles 18 and 19 of the Social Security Act, so that coordinated leadership, guidance, and support for such services will be available. And it creates financial incentives for States to develop a range of community programs so that institutionalization can be prevented or reduced, so that our disabled citizens can be under the watchful eye of their neighbors with the community supports they need and deserve.

We must be clear about the Federal Government's responsibilities—our responsibilities—to the vulnerable citizens of this country. We must create a mechanism to ensure quality services—in the institutions, in the hospitals, and in the communities, so that our successors 10 years from now will not hear the same tragic stories that we hear today.

The Quality Services for Disabled Individuals Act will accomplish this goal.

I urge my colleagues to examine the record on this issue and join me in this vital and important reform. I ask unanimous consent that the text of this bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1948

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Quality Services for Disabled Individuals Act of 1985".

SEC. 2. FINDINGS AND PURPOSE.

(a) Findings.—The Congress finds that—

(1) institutionalized developmentally disabled individuals and mentally ill individuals in this country frequently live in substandard conditions and are vulnerable to abuse and neglect;

(2) the Federal Government does not have an adequate system of quality assurance for services furnished to developmentally disabled individuals and mentally ill individuals through the Medicaid and Medicare programs, and that, specifically—

(A) current law governing certification of institutions for developmentally disabled individuals and psychiatric hospitals for mentally ill individuals is inadequate, and creates a conflict of interest by allowing the State to certify that facilities which it operates meet Federal requirements;

(B) State surveys for certification, and validation surveys performed by the Secretary of Health and Human Services, focus on written policies and plans and do not measure the actual provision of services to residents; and

(C) validation surveys by the Secretary of Health and Human Services are limited in number and do not ensure timely corrections when deficiencies are identified; and

(3) substantial amounts of Medicaid dollars are spent in large institutions, and there is little Federal financial incentive for States to create smaller alternative settings.

(b) Purpose.—(1) It is the overall purpose of this Act to amend titles XVIII and XIX of the Social Security Act to—

(A) assure that individuals with developmental disabilities or mental illness receive the quality services necessary to enable them to achieve their maximum potential through increased independence, productivity, and integration into the community; and

(B) establish and operate a system for monitoring the provision of such services to eligible individuals.

(2) The specific purposes of this Act are—

(A) to centralize within the Department of Health and Human Services the responsibilities for assuring the quality of services furnished to developmentally disabled individuals and mentally ill individuals under titles XVIII and XIX of the Social Security Act;

(B) to create quality assurance mechanisms in the survey and certification of providers of services for such individuals under such titles in order to ensure that appropriate services are furnished to promote the independence, productivity, and integration of such individuals into society; and

(C) to create incentives for States to include home and community-based services for such individuals under their Medicaid programs.

TITLE I—BUREAU OF QUALITY SERVICES

SEC. 101. BUREAU OF QUALITY SERVICES.

Title XIX of the Social Security Act is amended by adding at the end thereof the following new section:

"BUREAU OF QUALITY SERVICES

"Sec. 1919. (a) Establishment of Bureau.—(1) The Secretary shall establish, within the Health Care Financing Administration, a Bureau of Quality Services for Developmentally Disabled Individuals and Mentally Ill Individuals (hereafter in this section referred to as the 'Bureau'). The Bureau shall be the principal office in the Department of Health and Human Services for administering and carrying out programs relating to the furnishing of quality services to developmentally disabled individuals and mentally ill individuals under this title and title XVIII, in order to promote their independence, productivity, and integration into the community, and to provide coordinated leadership, guidance, and support for such services.

"(2) The Bureau shall be headed by a Director who shall be appointed by the Secretary. Such position shall be placed in grade ES-4, and shall be designated a career reserved position in the Senior Executive Service. The Director shall have training and experience in the furnishing of services to developmentally disabled individuals and mentally ill individuals.

"(3) The Secretary shall establish within the Bureau an Office of Quality Service for Developmentally Disabled Individuals, which shall be headed by a Director who shall be appointed by the Secretary in consultation with the Bureau Director. Such position shall be placed in grade GS-15 of the General Schedule. Such Director shall have training and experience in the furnishing of services to developmentally disabled individuals.

"(4) The Secretary shall establish within the Bureau an Office of Quality Service for Mentally Ill Individuals, which shall be headed by a Director who shall be appointed by the Secretary in consultation with the Bureau Director. Such position shall be placed in grade GS-15 of the General Schedule. Such Director shall have training and experience in the furnishing of services to mentally ill individuals.

"(5) The additional staffing of the Bureau and its divisions shall be in sufficient numbers to meet program needs, and at levels which will attract and maintain the most qualified personnel. Such staff shall include individuals who have training and experience in the provision of services to developmentally disabled individuals, and individuals who have training and experience in the provision of services to mentally ill individuals.

"(6) The Bureau shall be established and staffed within 6 months after the date of the enactment of this section.

"(b) Duties and Responsibilities.—The Bureau shall—

"(1) make a determination, within 30 days, to certify, decertify, or terminate participation of residential facilities based on the surveys conducted by the States pursuant to section 1922;

"(2) oversee regional offices of the Department of Health and Human Services in the certification process for residential facilities which furnish services under State plans approved under this title to developmentally disabled individuals or mentally ill individuals or which furnish services under title XVIII to mentally ill individuals;

"(3) perform surveys of such facilities and other providers if the State does not satisfactorily perform such surveys in accordance with section 1922;

"(4) receive and review the findings and recommendations of the State survey agencies established under section 1922 and of any other reviews of such facilities and other providers, and consider such findings and recommendations in the certification process and validation surveys for such facilities and other providers;

"(5) conduct independent validation surveys of residential facilities and providers of home and community-based services which furnish services under State plans approved under this title to developmentally disabled individuals, including annual surveys of—

"(A) 100 percent of such residential facilities which have 300 or more beds;

"(B) 40 percent of such residential facilities which have more than 15 but less than 300 beds;

"(C) 20 percent of such residential facilities which have 15 beds or less;

"(D) 30 percent of the providers which furnish home and community-based services; and

"(E) 100 percent of such residential facilities and other providers which have serious deficiencies or repeated deficiencies noted in previous State or Federal surveys;

"(6) conduct independent annual validation surveys of—

"(A) 100 percent of the psychiatric hospitals (and distinct parts of hospitals which qualify as psychiatric hospitals) which furnish services under title XVIII, or under State plans approved under this title, to mentally ill individuals; and

"(B) 50 percent of other residential facilities and other providers which furnish home and community-based services under such State plan to mentally ill individuals, including 100 percent of such providers which have serious or repeated deficiencies noted in previous State or Federal surveys;

"(7) with the Assistant Secretary of Education for Special Education and Rehabilitative Services and with the Commissioner of the Administration on Developmental Disabilities—

"(A) jointly develop, within 12 months after the date of the enactment of this section, standards for residential facilities which furnish services under the State plan to developmentally disabled individuals, as required by section 1920(a); and

"(B) jointly develop, within 18 months after the date of the enactment of this section, survey procedures and a training curriculum for surveyors who conduct surveys under section 1922 of residential facilities and providers of home and community-based services which furnish services under State plans approved under this title to developmentally disabled individuals;

"(8) with the Assistant Secretary of Education for Special Education and Rehabilitative Services and with the Director of the National Institute of Mental Health—

"(A) jointly develop, within 12 months after the date of the enactment of this section, standards for residential facilities which furnish services under the State plan to mentally ill individuals, as required by section 1921(a); and

"(B) jointly develop, within 18 months after the date of the enactment of this section, survey procedures and a training curriculum for surveyors who conduct surveys under section 1922 of residential facilities and providers of home and community-based services which furnish services under title XVIII or under State plans approved under this title to mentally ill individuals;

"(9) implement, oversee, and evaluate the effectiveness of, the training programs for State surveyors established under sections 1920(c) and 1921(c);

"(10) review provisions of State plans (and amendments thereto), and make recommendations with respect to the approval of such provisions or amendments, to furnish home and community-based services for developmentally disabled individuals or mentally ill individuals under sections 1920(d) and 1921(d), and establish and implement a monitoring system to evaluate the furnishing of services pursuant to such sections; and

"(11) advise the Secretary with respect to all aspects of the policies implemented under this title and title XVIII which may have an impact on developmentally disabled or mentally ill individuals, and recommend policy initiatives and modifications as necessary in order to improve overall services under this title and title XVIII in order to promote the independence, productivity, and integration into the community of developmentally disabled individuals and mentally ill individuals.".

TITLE II—QUALITY SERVICES FOR DEVELOPMENTALLY DISABLED INDIVIDUALS.

SEC. 201. STANDARDS AND TRAINING.

(a) Title XIX of the Social Security Act is amended by adding after section 1919 (as added by section 101 of this Act) the following new section:

"QUALITY SERVICES FOR DEVELOPMENTALLY DISABLED INDIVIDUALS

"Sec. 1920. (a) Standards for Residential Facilities.—(1) The Secretary shall establish standards, within 12 months after the date of the enactment of this section, which shall apply to all residential facilities which furnish services under a State plan under this title to developmentally disabled individuals. Such standards shall be developed jointly by the Secretary, the Assistant Secretary of Education for Special Education and Rehabilitative Services, and the Commissioner of the Administration on Developmental Disabilities.

"(2) The standards shall be developed on the basis of the following principles:

"(A) Services shall be furnished based on individual needs and shall be systematically organized to assure optimal individual development and independent functioning.

"(B) Services shall be furnished in accordance with the requirements of an individualized habilitation plan which reflects the needs of the individual in all areas of independent functioning, including (but not limited to) health and physical development, independent living skills, receptive and expressive communication skills, cognitive learning, mobility, self-direction, socialization skills, leisure skills, vocational and work skills, and use of integrated community services.

"(C) Services shall be furnished in a manner which will maximize opportunities for interaction between disabled and nondisabled individuals.

"(D) Physical facilities used for the purpose of habilitation or living shall comply with the applicable standards governing fire safety, health, and sanitation.

"(E) Community-based facilities used for the purpose of living shall have interior and exterior features comparable to those of other residences in the local surrounding area which are occupied by nondisabled individuals.

"(F) Active treatment shall be furnished.

"(3) For purposes of this subsection, the term 'active treatment' means treatment which—

"(A) requires the furnishing of health-related and habilitative services;

"(B) requires the individual's regular participation in a program of service enabling the individual to achieve maximum potential through increased independence, productivity, and integration into the community (as defined in paragraphs (8), (9), and (10) of section 102 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001)); and

"(C) is specified within an individualized, written habilitation plan which—

"(i) is developed by an interdisciplinary team of professionals, the individual, and, where appropriate, such individual's parents, guardian, or other representative;

"(ii) is based on a comprehensive assessment of the individual's health, behavioral, therapeutic, and comprehensive habilitative service needs, including (but not limited to) consideration of independent living skills, receptive and expressive communication skills, cognitive learning, mobility, self-direction, socialization skills, leisure skills, vocational and work skills, and use of integrated community services; and

"(iii) is reevaluated at least annually by the agency primarily responsible for the delivery of services to such individual, with participation by such individual and his parents, guardian, or other representative, in order to determine the appropriateness and effectiveness of the services being furnished.

"(4) For purposes of this subsection, the term 'habilitative services' means any services designed to assist individuals in acquiring, retaining, and improving self-help, socialization, and adaptive skills, including (but not limited to) prevocational, vocational, educational, and supported employment services.

"(5) For purposes of this section, section 1919, and section 1922, the term 'developmentally disabled individual' means an individual who has a developmental disability as defined in section 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(7)).

"(b) State Assurances.—As a condition of participation under this title, the State must make assurances satisfactory to the Secretary that—

"(1) the State will fully implement the Bill of Rights for the Developmentally Disabled as specified in section 110 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6009); and

"(2) the State will furnish access to all residential facilities providing services under the State plan to developmentally disabled individuals by the Protection and Advocacy Program for the Developmentally Disabled, established under section 142 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6042).

"(c) Training of Survey Personnel.—(1) The Secretary, through the Bureau of Quality Services established under section 1919, shall, with the Assistant Secretary of Education for Special Education and Rehabilitative Services and the Commissioner of the Administration on Developmental Disabilities—

"(A) jointly develop, within 18 months after the date of the enactment of this section, a standard training curriculum for State personnel who perform surveys under section 1922 of residential facilities and providers of home and community-based services which furnish services under the State plan to individuals with developmental disabilities; and

"(B) jointly establish, within 18 months after the date of the enactment of this section, standard procedures for conducting surveys of such facilities and other providers.

The training curriculum and survey procedures shall include evaluation of the furnishing of active treatment as required under subsection (a)(2)(F) of this section.

"(2) Using the curriculum developed under paragraph (1)(A), the Secretary, through the Bureau of Quality Services, shall establish, within 18 months after the date of the enactment of this section, regional training centers for providing training to State personnel who conduct surveys of such facilities and other providers. Training at such centers shall be furnished by contracts awarded on a competitive basis. Such contracts may be awarded only to applicants who have demonstrated experience and competence in the training of specialists in the field of developmental disabilities.".

SEC. 202. HOME AND COMMUNITY-BASED SERVICES FOR DEVELOPMENTALLY DISABLED INDIVIDUALS.

Section 1920 of the Social Security Act (as added by section 201 of this Act) is amended by adding at the end thereof the following new subsection:

"(d) Home and Community-Based Services.—(1) Each State shall include under its State plan home and community-based services for developmentally disabled individuals in accordance with this subsection.

"(2)(A) For purposes of this subsection, the term 'home and community-based services' means—

"(i) case management;

"(ii) services of a homemaker or home health aide;

"(iii) personal care, including attendant care;

"(iv) adult day health services;

"(v) habilitative and rehabilitative services;

"(vi) respite care; and

"(vii) any other services which the Secretary approves, excluding room and board.

"(B) For purposes of this subsection, the term 'habilitative services' means habilitative services (as defined in subsection (a)(4)) necessary to successfully reside in home or community-based settings.

"(3) Any State which includes home and community-based services under this subsection must—

"(A) furnish assurances satisfactory to the Secretary that the State will—

"(i) maintain at least its fiscal year 1985 level of funding in supporting similar services for eligible and potentially eligible developmentally disabled individuals through available State and local funding sources;

"(ii) restrict such services to those developmentally disabled individuals who, in the absence of such services, would require placement in long-term care institutions for which payment would be made under the State plan, the average per capita cost of which is estimated to be equal to or greater than the proposed home and community-based care alternative; and

"(iii) institute necessary safeguards to protect the health and welfare of developmentally disabled individuals receiving services under this subsection, including licensing or certification standards and furnishing of active treatment as defined in subsection (a)(3); and

"(B) submit to the Secretary a comprehensive plan which—

"(i) establishes an identification and screening process for potentially eligible developmentally disabled individuals;

"(ii) establishes appropriate level of care criteria which will ensure placement which meets individual needs, and maximizes opportunities for independence, productivity, and integration into the community;

"(iii) establishes a preadmission screening program to prevent unnecessary institutionalization;

"(iv) outlines a strategy for developing the required home and community-based resources;

"(v) specifies a strategy for coordinating the activities of State and local agencies responsible for achieving these objectives;

"(vi) outlines procedures to assure that developmentally disabled individuals are guaranteed procedural due process safeguards in the provision of services under the State plan, comparable to the procedures required under section 615 of the Education of the Handicapped Act; and

"(vii) is approved by the State Developmental Disabilities Council.

"(4) The Secretary shall approve any services furnished under this subsection if the State meets the requirements of this subsection. The Secretary may not—

"(A) impose any restriction on the number of individuals who receive home and community-based services under this subsection;

"(B) limit the manner in which the State compares the costs of home and community-based services versus institutional services for purposes of paragraph (3)(A)(ii); or

"(C) delay action or approval of any provision of the State plan (or amendment thereto) to furnish services under this subsection beyond 90 days after the date on which the provision or amendment is submitted.".

TITLE III—QUALITY SERVICES FOR MENTALLY ILL INDIVIDUALS

SEC. 301. STANDARDS AND TRAINING.

Title XIX of the Social Security Act is amended by adding after section 1920 (as added by title II of this Act) the following new section:

"QUALITY SERVICES FOR MENTALLY ILL INDIVIDUALS

"SEC. 1921. (a) STANDARDS FOR RESIDENTIAL FACILITIES.—(1) The Secretary shall establish standards, within 18 months after the date of the enactment of this section, which shall apply to all residential facilities which furnish services under title XVIII or under a State plan under this title to mentally ill individuals. Such standards shall be jointly developed by the Secretary, the Assistant Secretary of Education for Special Education and Rehabilitative Services, and the Director of the National Institute of Mental Health.

"(2) The standards shall include the requirement that active treatment be furnished for all mentally ill individuals receiving services in the facility.

"(3) For purposes of paragraph (2), the term 'active treatment' means that—

"(A) an individualized, goal-oriented, written plan of services, developed by an interdisciplinary team of mental health professionals and members of other appropriate disciplines, and with the participation of the mentally ill individual, shall be developed within 5 days after admission to the facility, based on—

"(i) daily interviews with the patient for the first 5 days after admission;

"(ii) a thorough diagnosis and assessment of the individual's medical, psychological, behavioral, and current functional status; and

"(iii) consultation with family members and legal guardians; and

"(B) the written plan of services developed under subparagraph (A) shall—

"(i) be designed to improve the symptoms which necessitated placement in a residential facility and improve the individual's level of functioning;

"(ii) prescribe an integrated program of therapies, activities, and experiences to assure optimal individual development and enhance independence, productivity, and integration into the community (as defined in paragraphs (8), (9), and (10) of section 102 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001));

"(iii) include postdischarge plans and coordination of residential services with related community services to ensure continuity of care, including assistance in applying for public benefits to which the individual may be entitled;

"(iv) include documentation of all treatments administered, as well as an assessment of the individual's response to such treatments, which shall be included in the individual's medical record in a manner and frequency which enables the treatment team to evaluate the effectiveness of such treatments;

"(v) require that all treatment and therapeutic activities be administered or supervised by a qualified mental health professional; and

"(vi) be reviewed and modified as needed, but not less often than every 30 days, with the active participation of the mentally ill individual in such reviews.

"(b) STATE ASSURANCES.—As a condition of participation under this title, the State must make assurances satisfactory to the Secretary that—

"(1) the State will fully implement the Bill of Rights for the Mentally Ill as specified in the provisions of S. 974 (99th Congress, 1st Session) as such bill was passed by the Senate; and

"(2) the State will furnish access to all residential facilities providing services under the State plan to mentally ill individuals by the Protection and Advocacy Program for the Mentally Ill, as established under such bill S. 974.

"(c) TRAINING OF SURVEY PERSONNEL.—(1) The Secretary, through the Bureau of Quality Services established under section 1919, the Assistant Secretary of Education for Special Education and Rehabilitative Services, and the Director of the National Institute of Mental Health shall—

"(A) jointly develop, within 18 months after the date of the enactment of this section, a standard training curriculum for State personnel who perform surveys under section 1922 of residential facilities and providers of home and community-based services which furnish services under title XVIII or under the State plan to mentally ill individuals; and

"(B) jointly establish, within 18 months after the date of the enactment of this section, standard procedures for conducting surveys of such facilities and other providers.

The training curriculum and survey procedures shall include evaluation of the furnishing of active treatment as required under subsection (a)(3) of this section.

"(2) Using the curriculum developed under paragraph (1)(A), the Secretary, through the Bureau of Quality Services, shall, within 18 months after the date of the enactment of this section, establish regional training centers for providing training to State personnel who conduct surveys of such facilities and other providers. Training at such centers shall be furnished by contracts awarded on a competitive basis. Such contracts may be awarded only to applicants who have demonstrated experience and competence in the training of specialists in the field of mental illness.".

SEC. 302. HOME AND COMMUNITY-BASED SERVICES FOR MENTALLY ILL INDIVIDUALS.

Section 1921 of the Social Security Act (as added by section 301 of this Act) is amended by adding at the end thereof the following new subsection:

"(d) HOME AND COMMUNITY-BASED SERVICES.—(1) Any State may include under its State plan home and community-based services for mentally ill individuals in accordance with this subsection.

"(2)(A) For purposes of this subsection, the term 'home and community-based services' means—

"(i) case management;

"(ii) specialized, prevocational and vocational services to enhance independence, productivity, and community integration of mentally ill individuals, including employment training, support necessary to maintain the employment of such individuals, and other training and therapeutic activities;

"(iii) day mental health treatment and services;

"(iv) habilitative and rehabilitative services;

"(v) respite care; and

"(vi) any other services which the Secretary approves, excluding room and board.

"(3) Any State which includes home and community-based services under this subsection must—

"(A) furnish assurances satisfactory to the Secretary that the State will—

"(i) maintain at least its fiscal year 1985 level of funding in supporting similar services for eligible and potentially eligible mentally ill individuals through available State and local funding sources;

"(ii) restrict such services to those mentally ill individuals who, in the absence of such services, would require placement in residential facilities for which payment would be made under title XVIII or under the State plan, the average per capita cost of which is estimated to be equal to or greater than the proposed home and community-based care alternative; and

"(iii) institute necessary safeguards to protect the health and welfare of mentally ill individuals receiving services under this subsection, including licensing or certification standards and provision of active treatment as defined in subsection (a)(3); and

"(B) submit to the Secretary a comprehensive plan which—

"(i) establishes an identification and screening process for potentially eligible mentally ill individuals;

"(ii) establishes appropriate level of care criteria which will ensure placement which meets individual needs, and maximizes opportunities for independence, productivity, and integration into the community;

"(iii) establishes a preadmission screening program to prevent unnecessary hospitalization or institutionalization;

"(iv) outlines a strategy for developing the required home and community-based resources;

"(v) specifies a strategy for coordinating the activities of State and local agencies responsible for achieving these objectives; and

"(vi) outlines procedures to assure that mentally ill individuals are guaranteed procedural due process safeguards in the provision of services under the State plan.

"(4) The Secretary shall approve any services furnished under this subsection if the State meets the requirements of this subsection. The Secretary may not—

"(A) impose any restriction on the number of individuals who receive home and community-based services under this subsection;

"(B) limit the manner in which the State compares the costs of home and community-based services versus institutional services for purposes of paragraph (3)(A)(ii); or

"(C) delay action or approval of any provision of the State plan (or amendment thereto) to furnish services under this subsection beyond 90 days after the date on which the provision or amendment is submitted.".

TITLE IV—STATE SURVEYS AND CERTIFICATIONS

SEC. 401. STATE SURVEYS AND CERTIFICATIONS OF RESIDENTIAL FACILITIES AND OTHER PROVIDERS FURNISHING SERVICES TO DEVELOPMENTALLY DISABLED OR MENTALLY ILL INDIVIDUALS.

Title XIX of the Social Security Act is amended by adding after section 1921 (as added by title III of this Act) the following new section:

"STATE SURVEYS AND CERTIFICATIONS OF FACILITIES AND OTHER PROVIDERS FURNISHING SERVICES TO DEVELOPMENTALLY DISABLED OR MENTALLY ILL INDIVIDUALS

"Sec. 1922. (a) Designation of State Survey Agency.—(1) The State shall designate a State survey agency which shall be responsible for conducting surveys in accordance with subsection (b) of all residential facilities and providers of home and community-based services in the State which receive payments under the State plan for services furnished to developmentally disabled individuals or mentally ill individuals, and all residential facilities in the State which receive payments under title XVIII for services furnished to mentally ill individuals.

"(2) The State survey agency designated under paragraph (1) must—

"(A) have sufficient personnel who are adequately trained to carry out the required surveys and are experienced in providing services to developmentally disabled individuals, and have sufficient personnel who are adequately trained to carry out the required surveys and are experienced in providing services to mentally ill individuals;

"(B) not have any responsibility for operating or financing any residential facility or other provider which receives funds under the State plan or under title XVIII; and

"(C) have sufficient authority under State law to carry out all activities required of such agency under this section.

"(b) Responsibilities of State Survey Agency.—(1) The State survey agency shall—

"(A) conduct annual surveys of all residential facilities and providers of home and community-based services in the State which furnish services under the State plan to developmentally disabled individuals, using one or more survey teams each of which is headed by a professional skilled in the field of services for developmentally disabled individuals;

"(B) conduct annual surveys of all residential facilities and providers of home and community-based services in the State which furnish services under the State plan to mentally ill individuals, and all residential facilities in the State which furnish services under title XVIII to mentally ill individuals, using one or more survey teams each of which is headed by a professional skilled in the field of services for mentally ill individuals;

"(C) receive and review the findings of utilization reviews, independent professional reviews, and inspections of care, carried out pursuant to paragraphs (26), (30), and (31) of section 1902(a), and consider such findings in making recommendations under subparagraph (D);

"(D) make recommendations to the Secretary on the basis of the surveys and other findings with respect to whether any facility or other provider surveyed should be certified or decertified for participation under the State plan and under title XVIII; and

"(E) furnish technical assistance to such facilities and other providers with respect to compliance with applicable Federal and State standards for participation under the State plan and under title XVIII.

"(2) Surveys conducted pursuant to paragraph (1) shall examine compliance by the facility or other provider with all requirements applicable under the State plan and title XVIII, including compliance with the standards established pursuant to sections 1919, 1920, and 1921.".

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. CONFORMING AMENDMENTS.

(a) State Plan Requirements.—(1) Section 1902(a) of the Social Security Act is amended—

(A) by striking out "and" at the end of paragraph (45);

(B) by striking out the period at the end of paragraph (46) and inserting in lieu thereof "; and"; and

(C) by inserting after paragraph (46) the following new paragraph:

"(47) provide that the State will comply with the requirements of (and standards established under) sections 1920, 1921, and 1922 with respect to services for developmentally disabled individuals and mentally ill individuals.".

(2) Section 1902(a)(33)(B) of such Act is amended—

(A) by inserting "or, if applicable under section 1922, the State survey agency designated under such section," before "will perform"; and

(B) by inserting ", using the Bureau established under section 1919 where appropriate," after "to validate State determinations".

(3) Section 1903(g)(2) of such Act is amended by adding at the end thereof the following: "Such surveys shall, in the case of facilities providing services to developmentally disabled or mentally ill individuals, be carried out as provided in section 1922.".

(b) Definitions of Psychiatric Hospital.—(1) Section 1861(f)(4) of such Act is amended by striking out "to carry out an active program of treatment" and inserting in lieu thereof "to provide active treatment (as defined in section 1921(a)(3))".

(2) Section 1905(h)(1)(B) of such Act is amended to read as follows:

"(B) inpatient services which involve active treatment as defined in section 1921(a)(3); and".

(c) Definition of Intermediate Care Facility Services.—Section 1905(d) of the Social Security Act is amended by striking out all that precedes paragraph (3) and inserting in lieu thereof the following:

"(d) The term 'intermediate care facility services' may include services in a public institution (or distinct part thereof) for developmentally disabled individuals if—

"(1) the primary purpose of such institution (or distinct part thereof) is to furnish health or habilitative services to developmentally disabled individuals, and the institution meets the requirements of section 1920(a);

"(2) the developmentally disabled individual with respect to whom a request for payment is made under the plan is receiving active treatment as defined in section 1920(a)(3); and".

(d) Modification of Waiver Provisions.—Section 1915(c) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(5) Effective at such time as the provisions of sections 1920(d) and 1921(d) are implemented, waivers under this subsection shall not apply to home and community-based services provided to developmentally disabled individuals or mentally ill individuals; except that any waiver in effect under this subsection at the time such sections are implemented with respect to services for such individuals may remain in effect until the expiration of such waiver.".

(e) Independent Professional Reviews and Utilization Reviews.—(1) Section 1902(a)(26)(C) of the Social Security Act is amended by inserting after "the State agency" the following: ", the State survey agency established under section 1922(a), and the Bureau of Quality Services established under section 1919,".

(2) Section 1902(a)(30)(B) of such Act is amended—

(A) by striking out "and" at the end of clause (i);

(B) by striking out the semicolon at the end of clause (ii) and inserting in lieu thereof ", and"; and

(C) by adding at the end thereof the following new clause:

"(iii) the information and data referred to in clause (ii) which relates to developmentally disabled individuals or mentally ill individuals shall be reported to the State survey agency established under section 1922(a) and to the Bureau of Quality Services established under section 1919;".

(3) Section 1902(a)(31)(C) of such Act is amended by inserting after "State agency" the following: "(and in the case of services furnished to developmentally disabled individuals or mentally ill individuals, to the State survey agency established under section 1922(a) and to the Bureau of Quality Services established under section 1919)".

(f) STANDARDS FOR RESIDENTIAL PROGRAMS.—Section 110(4)(A) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6009(4)(A)) is amended by striking out "on January 17, 1974 (39 Fed. Reg. pt. II)" and inserting in lieu thereof "pursuant to section 1920 of the Social Security Act".

SEC. 502. EFFECT OF ACCREDITATION.

Section 1865(b) of the Social Security Act is amended by inserting "(1)" after "(b)" and by adding at the end thereof the following new paragraph:

"(2) Notwithstanding any other provision of this title or title XIX, any institution (or distinct part thereof) shall not be deemed to meet the health and safety standards required for certification as a psychiatric hospital under section 1861(f) by reason of its accreditation by the Joint Commission on Accreditation of Hospitals.".

SEC. 503. EFFECTIVE DATE.

The amendments made by this Act shall become effective on the date of the enactment of this Act.●

By Mr. DENTON (for himself and Mr. LEAHY):

S.J. Res. 249. Joint resolution to proclaim October 23, 1986, as "A Time of Remembrance" for all victims of terrorism throughout the world; to the Committee on the Judiciary.

A TIME OF REMEMBRANCE

● Mr. DENTON. Mr. President, I rise today, along with my distinguished colleague and the ranking minority member of the Senate Judiciary Subcommittee on Security and Terrorism, Senator PATRICK J. LEAHY, to introduce a joint resolution proclaiming October 23, 1986, as "A Time of Remembrance" for all victims of terrorism throughout the world.

We have recently seen several acts of terrorism that resulted in the death of American citizens.

In June, the bloody terrorist assault on an outdoor cafe in El Salvador left four U.S. marines and two other Americans dead.

Also in June, the hijacking of TWA Flight 847 resulted in the death of Robert Dean Stethem, a member of the U.S. Navy.

Also, in October, we learned of the despicable and cowardly slaying of Leon Klinghoffer on board the *Achille Lauro*.

Most recently, we learned of the death of Scarlett Marie Rogenkamp, a passenger aboard Egypt Air Flight 648.

We are continually reminded by events such as those that America and its citizens are the primary target of international terrorists.

I know that we can do nothing to bring back the brave people who have lost their lives to terrorism, nor can we mitigate the losses suffered by their loved ones. We can, however, take the time to remember and honor the victims of terrorism throughout the world, and to let their friends and loved ones know that our remembrance of the victims will serve to strengthen our resolve to fight terrorism with all of our strength.

Mr. President, I am confident that we will win the fight against terrorism. We will win because, as my good friend and colleague from Vermont, Mr. LEAHY, has said, "Our love and strength is greater than their hate."

The Senator from Vermont made that statement on April 3, 1985, the day that he, I, and 35 other original cosponsors introduced Senate Joint Resolution 104, a joint resolution proclaiming October 23, 1985, as the second "Time of Remembrance" for all victims of terrorism throughout the world. The first "Time of Remembrance" was observed on October 23, 1984, the first anniversary of the tragic death of 241 U.S. servicemen in the terrorist bombing of the Marine barracks in Beirut.

The originating and driving organization behind the effort is No Greater Love, a national, nonprofit, nonpolitical, humanitarian organization dedicated to providing programs of care and friendship to children whose parents were killed while serving our country. During past year's "Times of Remembrance," No Greater Love sponsored commemorative ceremonies at Arlington National Cemetery.

The ceremonies were of international significance and success. Letters of support and appreciation were received from diplomatic officials, Governors, private organizations, and individuals throughout the Nation and around the world. It is because of the tremendous response, and because of the continuing tragedy of worldwide terrorism, that we introduced Senate Joint Resolution 249 in an effort to make "A Time of Remembrance" an annual occurrence.

Senate Joint Resolution 249 proclaims October 23, 1986, as "A Time of Remembrance." It urges "all Americans to take time to reflect on the sacrifices that have been made in the pursuit of peace and freedom and to promote active participation by the American people by the wearing of a purple ribbon, a symbol of patriotism, dignity, loyalty, and martyrdom." It also requests the President to issue a proclamation "calling upon the departments and agencies of the United States and interested organizations, groups, and individuals to fly U.S. flags at half mast throughout the world in the hope that the desire for peace and freedom may take firm root in every person and every nation."

Mr. President, I strongly urge my colleagues to support the resolution by joining as cosponsors.

I ask unanimous consent that the text of the resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

SENATE JOINT RESOLUTION 249

Whereas the problem of terrorism has become an international concern that knows no boundaries—religious, racial, political, or national;

Whereas thousands of men, women, and children have died at the hands of terrorists in nations around the world, and today terrorism continues to claim the lives of many peace-loving individuals;

Whereas October 23, 1983, is the date on which the largest number of Americans were killed in a single act of terrorism—the bombing of the United States compound in Beirut, Lebanon, in which two hundred and forty-one United States servicemen lost their lives;

Whereas many of these victims died defending ideals of peace and freedom; and

Whereas it is appropriate to honor all victims of terrorism, and in America to console the families of victims, and to cherish the freedom that their sacrifices make possible for all Americans: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 23, 1986, be proclaimed as "A Time of Remembrance", to urge all Americans to take time to reflect on the sacrifices that have been made in the pursuit of peace and freedom, and to promote active participation by the American people through the wearing of a purple ribbon, a symbol of patriotism, dignity, loyalty, and martydom. The President is authorized and requested to issue a proclamation calling upon the departments and agencies of the United States and interested organizations, groups, and individuals to fly United States flags at half staff throughout the world in the hope that the desire for peace and freedom take firm root in every person and every nation.●

ADDITIONAL COSPONSORS

S. 104

At the request of Mr. THURMOND, the names of the Senator from Iowa [Mr. HARKIN], and the Senator from Texas [Mr. BENTSEN] were added as cosponsors of S. 104, a bill to amend chapter 44, title 18, United States Code, to regulate the manufacture and importation of armor piercing bullets.

S. 1815

At the request of Mr. **Hatch**, the name of the Senator from California [Mr. **Cranston**] was added as a cosponsor of S. 1815, a bill to prevent the denial of employment opportunities by prohibiting the use of lie detectors by employers involved in or affecting interstate commerce.

S. 1835

At the request of Mr. **Metzenbaum**, the name of the Senator from South Carolina [Mr. **Hollings**] was added as a cosponsor of S. 1835, a bill to provide assistance in alleviating the suffering of victims of Alzheimer's disease and their families.

S. 1889

At the request of Mr. **Denton**, the names of the Senator from Maine [Mr. **Cohen**], and the Senator from Colorado [Mr. **Armstrong**] were added as cosponsors of S. 1889, a bill to amend title 11 of the United States Code, relating to bankruptcy, to prevent discharge of administratively ordered support obligations.

S. 1919

At the request of Mr. **Andrews**, the names of the Senator from Florida [Mrs. **Hawkins**], the Senator from North Dakota [Mr. **Burdick**], and the Senator from Maryland [Mr. **Sarbanes**] were added as cosponsors of S. 1919, a bill to establish a task force to examine the issues associated with abuse of the elderly.

S. 1920

At the request of Mr. **Lautenberg**, the names of the Senator from Michigan [Mr. **Riegle**], the Senator from Massachusetts [Mr. **Kennedy**], the Senator from California [Mr. **Wilson**], the Senator from Maryland [Mr. **Mathias**], the Senator from Maryland [Mr. **Sarbanes**], and the Senator from North Dakota [Mr. **Burdick**] were added as cosponsors of S. 1920, a bill to extend the Superfund taxes.

S. 1935

At the request of Mr. **Stevens**, the name of the Senator from Florida [Mr. **Chiles**] was withdrawn as a cosponsor of S. 1935, a bill to direct the Secretary of the department in which the Coast Guard is operating to cause certain vessels to be documented as vessels of the United States so as to be entitled to engage in the domestic coastwise trade, and for other purposes.

SENATE CONCURRENT RESOLUTION 69

At the request of Mr. **Danforth**, the names of the Senator from New Mexico [Mr. **Domenici**], and the Senator from Connecticut [Mr. **Weicker**] were added as cosponsors of Senate Concurrent Resolution 69, a concurrent resolution to recognize the National Camp Fire Organization for 75 years of service.

SENATE CONCURRENT RESOLUTION 94—EXPRESSING THE SENSE OF CONGRESS WITH RESPECT TO TERRORIST ACTS COMMITTED AGAINST U.S. NATIONALS

Mr. DENTON submitted the following concurrent resolution; which was referred to the Committee on Banking, Housing, and Urban Affairs:

S. Con. Res. 94

Whereas acts of terrorism violate the civil rights of all people;

Whereas acts of terrorism cause wanton destruction of life and property;

Whereas acts of terrorism escalate violence and incite hatreds among peoples;

Whereas acts of terrorism undermine legitimate attempts to seek peaceful resolution of conflicts among nations;

Whereas acts of terrorism increase the risk of war;

Whereas the United States has been the principal target of international terrorism since 1968;

Whereas 459 nationals of the United States have been killed in terrorist attacks since 1970;

Whereas no single group, organization, or faction enjoys a monopoly on the perpetration of terrorist acts;

Whereas terrorism constitutes an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States;

Whereas victims of terrorist acts or their survivors may seek a prejudgment attachment on and sue for damages against the assets or holdings of those committing terrorist acts; and

Whereas the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) provides Presidential authority to deal with unusual and extraordinary threats to the national security, foreign policy, or economy of the United States if the President declares a national emergency with respect to such a threat: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that the President should—

(1) declare a national emergency with respect to acts of terrorism directed against the nationals, property, and interests of the United States;

(2) investigate and determine the nature and extent of those assets and holdings in the United States of the groups, organizations, or factions responsible for committing acts of terrorism; and

(3) prohibit transactions involving such assets and holdings in accordance with, and to the extent specified by, the authority granted by section 203 of the International Emergency Economic Powers Act (50 U.S.C. 1702).

● Mr. DENTON. Mr. President, I rise today to introduce a concurrent resolution expressing the sense of the Congress that the President should declare a state of national emergency with respect to terrorist acts committed against nationals of the United States and exercise the authority granted him by the International Emergency Economic Powers Act.

Mr. President, the pattern that emerges from studying the testimony obtained, in more than 60 hearings before the Subcommittee on Security and Terrorism, which I chair, and in joint hearings with the Foreign Relations Committee, is that terrorism is the most widely practiced form of modern warfare. It is both a major force and a major trend in international affairs. It has the strategic advantages of low risk, low cost, and alternatives of total deniability of self-accreditation. The blood is only on the hands of the fanatics, the surrogates in that kind of warfare.

The direct measured costs of terrorism to the United States are that since 1980, terrorist incidents overseas have taken over 300 American lives, and more than 400 Americans have suffered injuries. More than 100 Americans are acknowledged to have been kidnaped or taken hostage. I want to emphasize that many more are victims, but the ransoms are often paid quietly by companies seeking to avoid publicity and who write off the ransoms as a business expense.

Terrorism also costs the United States a very high, and still uncounted sacrifice in strategies and economic terms: Loss of access to raw materials, to trade advantages, sometimes to any trade at all. The synergism of connection between drugs and terrorism costs us dearly in social, economic, and security terms.

In responding to terrorism, this administration and others before it have often promised to take swift, firm action. We have said, we will pay no ransom, release no prisoners, nor yield in any way to terrorists demands. We have espoused a policy of no concessions.

Yet those statements of strong antiterrorist policy did not stop the attacks on our Embassies in Lebanon, or the October 23, 1983, suicide bombing attack of the Marine compound at Beirut Airport with the loss of 241 American lives. It did not stop the bombing of United States installations in Kuwait, and the continuing murders of United States military and civilian personnel abroad (including four marines and two American civilians plus seven others in El Salvador), the murder of Robert Dean Stethem aboard TWA flight 847 and, most recently, the murder of Leon Klinghoffer aboard the *Achille Lauro*.

Mr. President, we have come to a point in our history that requires that we establish both a foreign and domestic policy for dealing with the obvious threat. This country must take the offensive in the fight against terrorism. In this vein, I introduce Senate Concurrent Resolution 94.

The resolution would express the sense of Congress that the President should declare a state of national emergency with respect to terrorist acts committed against nationals of the United States. Specifically, the resolution states:

That it is the sense of the Congress that the President should—

First, declare a national emergency with respect to acts of terrorism directed against the nationals, property, and interests of the United States;

Second, investigate and determine the nature and extent of those assets and holdings in the United States of the groups, organizations, or factions responsible for committing acts of terrorism; and

Third, prohibit transactions involving such assets and holdings in accordance with, and to the extent specified by, the authority granted by section 203 of the International Emergency Economic Powers Act (50 U.S.C. 1702).

The purpose of this resolution is simple: If this country can't apprehend the individuals responsible for terrorist acts, we can at least enjoin the terrorists from earning money in this country.

Mr. President, I believe that this resolution will represent a necessary step toward winning the fight against terrorism. I urge my colleagues to support this measure.●

SENATE CONCURRENT RESOLUTION 95—COMMENDING CONSUMERS UNION

Mr. METZENBAUM (for himself, Mr. Packwood, and Mr. Moynihan) submitted the following concurrent resolution; which was referred to the Committee on Commerce, Science, and Transportation:

S. Con. Res. 95

Whereas Consumers Union of United States, Inc., was formed in February of 1936, to provide consumers with information and counsel on consumer goods and services and matters relating to the expenditure of the family income, and to initiate and cooperate with individual and group efforts seeking to create and maintain decent living standards;

Whereas for the past fifty years Consumers Union has provided consumers with necessary facts to participate in an increasingly complex marketplace, through the publication Consumer Reports;

Whereas Consumers Union has become a widely respected source of impartial information about consumer products and services, and legislation and regulations affecting consumers;

Whereas Consumers Union has crusaded for fifty years for improvements in product safety, and has played an important role in reducing hazards to consumers;

Whereas Consumers Union has pursued reforms to make the marketplace more fair for consumers, and has been a leader in helping advance the consumer interest in the United States and around the world; and

Whereas Consumers Union is celebrating its fiftieth anniversary in 1986, with plans that include providing increased services: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress recognizes and honors the Consumers Union for the continuing contributions made in informing, protecting, and aiding consumers in the Nation.

● Mr. METZENBAUM. Mr. President, it is with great pleasure that I rise to submit a concurrent resolution commemorating 50 years of dedicated public service by Consumers Union of United States, Inc. Senators Packwood and Moynihan join me in cosponsoring this resolution honoring Consumers Union which celebrates its 50th anniversary throughout 1986.

Consumer Reports, the flagship monthly magazine of Consumers Union, has helped millions of Americans make better informed decisions in an increasingly complex marketplace. Beholden to no commercial interest because of its longstanding policy to accept no advertising, the magazine, and the organization behind it, have a well-deserved reputation for objectivity and independence. The magazine's unbiased information on everything from "best buys" in home appliances to reports on health quackery and inadequate labeling, have not only benefited consumers' pocketbooks but also their health.

The efforts of Consumers Union, however, do not stop with the publication of Consumer Reports. This organization operates an advocacy program which, to name but a few accomplishments, has helped forestall massive telephone-rate increases for consumers in the Southwest, reformed milk-pricing rules in California, and helped bring about the right of doctors, dentists, and vision specialists to advertise their services.

Through other publications and programs, Consumers Union has helped young children become better consumers, developed consumer-oriented radio and television programming, and provided consumer education services to schools throughout the Nation. In short, Consumers Union, through a variety of activities, has helped us all learn more about the purchases we make each day.

We all owe a debt of gratitude to this outstanding organization. Plain and simple—Consumers Union has made the marketplace a better, safer place for people in this country and throughout the world. I urge my colleagues to join me in honoring the 50th anniversary of Consumers Union of United States, Inc., and help me wish the organization continued success in its noble effort to inform and represent consumers.●

● Mr. PACKWOOD. Mr. President, I am pleased to be a cosponsor of the concurrent resolution offered by my good friend and colleague Senator Metzenbaum.

Consumers Union, which publishes Consumer Reports magazine, will celebrate its 50th anniversary throughout 1986. In the past 50 years Consumers Union has done much to protect and promote the interests of consumers. The world's largest independent product-testing organization, it has spoken out on behalf of consumers and has been instrumental in the creation of the Consumer Federation of America, the Center for Auto Safety, the American Council on Consumer Interests, the Washington Center for the Study of Services, and the International Organization of Consumers Union.

Millions of readers of Consumer Reports rely on Consumer Union's independent and impartial testing of business products and evaluation of business services. The valuable information provided by Consumers Union has improved the health, safety, and living standards of Americans. I commend Consumers Union for a job well done and I am pleased to honor the accomplishments of this organization during its 50th anniversary.●

SENATE RESOLUTION 274—MEMORIALIZING CERTAIN MEMBERS OF THE 101ST AIRBORNE

Mr. SASSER (for himself, Mr. Gore, Mr. Ford, Mr. Nunn, Mr. McConnell, Mr. Byrd, Mr. Abdnor, Mr. Andrews, Mr. Armstrong, Mr. Baucus, Mr. Bentsen, Mr. Biden, Mr. Bingaman, Mr. Boren, Mr. Boschwitz, Mr. Bradley, Mr. Bumpers, Mr. Burdick, Mr. Chafee, Mr. Chiles, Mr. Cochran, Mr. Cohen, Mr. Cranston, Mr. D'Amato, Mr. Danforth, Mr. DeConcini, Mr. Denton, Mr. Dixon, Mr. Dodd, Mr. Dole, Mr. Domenici, Mr. Durenberger, Mr. Eagleton, Mr. East, Mr. Evans, Mr. Exon, Mr. Garn, Mr. Glenn, Mr. Goldwater, Mr. Gorton, Mr. Gramm, Mr. Grassley, Mr. Harkin, Mr. Hart, Mr. Hatch, Mr. Hatfield, Mrs. Hawkins, Mr. Hecht, Mr. Heflin, Mr. Heinz, Mr. Helms, Mr. Hollings, Mr. Humphrey, Mr. Inouye, Mr. Johnston, Mrs. Kassebaum, Mr. Kasten, Mr. Kennedy, Mr. Kerry, Mr. Lautenberg, Mr. Laxalt, Mr. Leahy, Mr. Levin, Mr. Long, Mr. Lugar, Mr. Mathias, Mr. Matsunaga, Mr. Mattingly, Mr. McClure, Mr. Melcher, Mr. Metzenbaum, Mr. Mitchell, Mr. Moynihan, Mr. Murkowski, Mr. Nickles, Mr. Packwood, Mr. Pell, Mr. Pressler, Mr. Proxmire, Mr. Pryor, Mr. Quayle, Mr. Riegle, Mr. Rockefeller, Mr. Roth, Mr. Rudman, Mr. Sarbanes, Mr. Simon, Mr. Simpson, Mr. Specter, Mr. Stafford, Mr. Stennis, Mr. Stevens, Mr. Symms, Mr. Thurmond, Mr. Trible, Mr. Wallop, Mr. Warner, Mr. Weicker, Mr. Wilson, and Mr. Zorinsky) submitted the following resolution; which was considered and agreed to:

S. Res. 274

Whereas the Sinai Peacekeeping Force has been essential to maintaining world peace since the signing of the Camp David Accord.

Whereas the 101st Airborne Division Screamin' Eagles is one of our nation's finest and best trained units and has a distinguished history of sacrifice and commitment to the nation in the cause of peace,

Whereas, members of the 3d Battalion 502d Infantry of the 101st Airborne Division had just completed a six month assignment as members of the multinational peacekeeping force in the Sinai,

Whereas 250 members of the 3d Battalion 502d Infantry of the 101st Airborne, on their journey home from a mission of peace died in a plane crash in Gander, Newfoundland, Canada,

Whereas this accident involved more casualities than the 101st Airborne Division has suffered in any single day in peacetime or wartime,

Whereas in this season of Christmas the nation owes a debt of gratitude to these soldiers who gave their lives selflessly in maintaining our country's national security and goal of world peace: Therefore, be it

Resolved by the United States Senate, That it extends it sincere condolences to members of all the families of the soldiers of the 101st Airborne Division who died in service to their country.

SENATE RESOLUTION 275—CONDEMNING THE CHINESE POPULATION POLICY

Mr. HUMPHREY submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. Res. 275

Whereas, the policy and practice of the "one-child policy" of the People's Republic of China--

(A) establishes quotas limiting almost all citizens to one child per couple;

(B) determines, through the rationing of "birth coupons," when a couple may have their child;

(C) invades individual privacy by subjecting citizens to strict monitoring by State officials;

(D) intimidates couples verbally and threatens them with force to pressure compliance;

(E) reduces basic means of living such as salaries, rations, and housing and garden allotments; and applies various other disincentives and penalties;

(F) mandates the use of contraceptives or abortifacients such as the pill and the intrauterine device (IUD);

(G) forces the abortion of any pregnancies not planned by the State, even through the ninth month;

(H) compels sterilization for at least one individual in any couple with two children; and

(I) coerces individuals not complying with the mandates, requirements, and limitations described in clauses (A) through (H) by subjecting them to forced IUD-implantation, abortion, and sterilization;

Whereas, the policy and practice of the "one-child policy" leads couples to practice infanticide of female children in order that, in accordance with strong cultural and economic pressures, their single child be male; and

Whereas, the policy and practice of the "one-child policy" is repugnant to the moral and political values of democratic and free societies and runs counter to United States policies to promote democratic governments throughout the world and respect for human rights.

The Congress, therefore, be it:

Resolved, That the Senate encourages the Government of the People's Republic of China to abandon its coercive policies and practices under the "one-child" program and urges that Government to severely punish violators and to document efforts to this effect.

● Mr. HUMPHREY. Mr. President, we are all aware of the human rights abuses evident in China's population policies. Documentation of forced abortions and mandatory sterilization has come from various Government sources and from knowlegeable individuals representing the breadth of the political spectrum. Indeed, the Chinese Government itself has confirmed details of its coercive program in numerous policy statements.

Reports on the coercive aspects of the Chinese population policy are readily available to those with any interest at all in pursuing the subject. We continually learn of forced abortion and sterilization. We hear of female infanticide of enormous proportions—at least 200,000 little girls killed annually—according to Nick Eberstadt in his April 22, 1984 New York Times article—by desperate parents. This is an outrage!

And yet the Congress seems to be blind to the very real, documented abuses of the Chinese program. We force the imposition of sanctions in response to South African apartheid. For weeks apartheid occupied the front pages of this Nation's papers. We berate El Salvador for its death squads. There was a time when little else seemed to merit news attention. Shock and anger have all been registered in response to the policies of Chile, Argentina, the Phillipines—and the list goes on.

But the Congress fails to recognize or understand the gravity, the magnitude, the pervasiveness of the human rights abuses perpetrated by the Chinese Population Program. I will detail once again some of the abuses that have already been extensively documented by the State Department, by such authors as John Aird, Fox Butterfield, Nick Eberstadt, Steven Mosher, and by correspondents from the Washington Post, the New York Times, and "60 Minutes."

I begin with a brief description of the basis for the Communist population control program. After a 20-year period of turbulence and inconsistent population policy, the Chinese, in the mid-1970's, faced with the prospect of a rapidly growing population. The Communist government, therefore, set population limits of 1.2 billion Chinese in the year 2000, as noted in John Aird's testimony on October 9, 1985 before the House Subcommittees on Human Rights and International Organizations and on Asian and Pacific Affairs. At that time, the target dictated that each Chinese couple have no more than two children. However, the Communist government did not strictly enforce the two child policy, and by the very early 1980's population growth has not abated.

In 1982, the Chinese Communist Party reassesed the population situation and related policies. In order to meet the 1.2 billion person goal, a growth rate of 1 percent had to be achieved. Such a target limited each couple to no more than one child. The one child policy, then, summarized in policy statements by Wang Pingshan in two radio addresses on May 14 and 15, 1983, became the fundamental tenet of the Chinese Population Program.

To enforce the one-child limit, the Central Government establishes annual quotas of children for each province. Provincial bureaus then dictate to increasingly local levels of Government their particular birth quotas. At the lowest bureaucratic level, production team leadership assembles to assign birth coupons to the established number of childless couples. As the U.S. State Department "Country Report on Human Rights Practices for 1984" indicates, the Government then determines both the number of children—one—and the timing of that birth. State policy also regulates when an individual may marry, and encourages quality birth or eugenics. Exceptions to the one child policy exist only for certain high-level officials, and ethnic minorities.

As noted by the 1984 "Country Report," and Fox Butterfield in "China: Alive in the Bitter Sea," each Chinese couple is carefully monitored by small, local organizations known as street committees. The street committee tracks the woman's menstrual periods, and records other basic pregnancy information in order to pick up deviations from quotas and general family planning policies. Government family planners, alert to any menstrual irregularities, then provide prenatal care to women who are within the quota. Those mothers pregnant outside the quota—even those without children—are encouraged to seek an abortion. Steven Mosher in "Broken Earth" and Christopher Wren in a May 16, 1982 article in the New York Times explain that, if after repeated appeals, education, and increasingly forceful threats, the mother refuses to yield, officials apply various disincentives to the couple. These penalties range from the short-term reduction of rations, salaries, and privileges described in Eberstadt's article, to permanent cuts in food, garden, and housing allotments, salary, seniority, and so forth. Couples who have two or more children may suffer especially severe punishment.

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In his radio addresses, Wang Ping-shan and other family planning workers have described extensively the Government's official policy with regard to birth control and couples with extra-quota pregnancies. As I have noted above, each couple may have only one child, and that can occur only at the time established by the state. Michele Vink in a November 30, 1981 Wall Street Journal article, and John Erik in a January 3, 1982 New York Times article, note that couples not yet scheduled for a child must, regardless of their personal views on contraceptives and abortifacients use birth control methods such as the pill and the IUD. Unplanned pregnancies must—again, regardless of the couple's personal views on abortion—be aborted as soon as possible. The state mandates that any woman who has one living child must have an IUD inserted. The state, says Wang, prescribes mandatory sterilization for at least one partner of any couple with two children. "Under no circumstances," Wang insists, "may a third child be born." Let me repeat that: In no case, will a third child be born.

The strict birth requirements, the quotas and rewards established for state family planning workers, and the Government's unimpeded ability to probe even the most personal aspects of couples' lives—each of these factors interact and result in very few couples bearing two children. None, needless to say, bear a third.

Almost all researchers of Chinese population policy—and Michael Weisskopf of the Washington Post, in particular—note that to enforce such a policy effectively, the Government has resorted to coercion. Consequently, sterilizations are compelled, and IUD's are forcibly implanted. Abortion—78 million have been performed during 1971-82 according to the Chinese Government—is legal up to and beyond the eighth month. Often forced upon women who must be bound and carted off to "clinics," abortions have been performed as late as the ninth month of pregnancy.

One of the more heart-rending, and tragic conseqences of the Communist Population Program—noted by Mosher, Eberstadt and others—involves the widespread practice of female infanticide. I am unaware of any direct statements from the Government endorsing infanticide as a family planning tool, but there is concern that the absence of actual punishment for the practice of infanticide may indirectly indicate the state condones such activities. In addition, strong cultural and economic factors pressure parents to bear a male as their only child. Consequently, numerous sources indicate widespread female infanticide. Indeed, the Communist Government's Statistics for 1983 record a 111:100 ratio of male infants to female, revealing a loss of over 200,000 children of the latter gender.

Mr. President, I propose that we respond to this colossal abuse of human rights—both those rights of couples who desire to bear their children in privacy when and as often as they wish, and the rights of the preborn and newly born who lose their lives to the economically motivated dictates of the Chinese Communist population policy. I propose that the very least we can do is pass this resolution as a token of our sympathy with the people of China, and as an expression of our opposition to the population policy of the People's Republic of China.●

AMENDMENTS SUBMITTED

REGISTERING THE TITLES OF MOTOR VEHICLES

DANFORTH AMENDMENT NO. 1418

Mr. DOLE (for Mr. DANFORTH) proposes an amendment to the bill (S. 475) to amend the Motor Vehicle Information and Cost Savings Act to require certain information to be filed in registering the title of motor vehicles, and for other purposes; as follows:

On page 2, line 9, strike all from "by—" through "(ii)" on line 12 and insert in lieu thereof "by".

On page 3, line 8, strike "clause (ii) of".

On page 3, amend lines 12 through 20 to read as follows:

"(3) No registration card may be issued in any State for any motor vehicle used in interstate commerce unless the application for such registration card contains (determined as of the date on which such application is submitted) the information specified in paragraphs (1) and (2) of subsection (a). Each State shall maintain such information, together with the vehicle identification number to which such information pertains, for a period of 5 years after the information is received by the State.

On page 4, insert the following immediately after line 3:

"(5) The Secretary shall prescribe such rules as may be necessary to avoid the printing of mileage information pursuant to paragraph (1)(B)(ii) which may be false, misleading, or inaccurate. In order to prevent falsification or alteration of the mileage information required to be disclosed by a prior owner in accordance with paragraph (2), the Secretary shall prescribe such rules as may be necessary regarding the specific form to be used on certificates of title for compliance with the provisions of paragraph (1)(B)(iii). In addition, the Secretary shall prescribe rules regarding the actions to be taken by States with respect to the unauthorized alteration of motor vehicle certificates of title and other documents on which odometer information is required to be recorded or maintained.

On page 4, line 15, strike the quotation marks and the second period.

On page 4, insert the following immediately after line 15:

"(f)(1) Upon the termination or expiration of any lease for a motor vehicle, the lessee shall provide written disclosure to the lessor of the mileage of the vehicle at the time of such termination or expiration. Upon the request of such lessor, the lessee shall also provide to the lessor such mileage information as may be necessary for the lessor to comply with the requirements of subsection (d)(3).

"(2) The lessor of a motor vehicle shall provide written notice to the lessee of—

"(A) the mileage disclosure requirement set forth in paragraph (1); and

"(B) the penalties for failure to comply with such requirement.

"(3) Each lessor of a motor vehicle shall retain the written disclosure made by the lessee under paragraph (1) for four years after the date on which such lessor transfers ownership of the vehicle to any other person.

"(4) A lessor of a motor vehicle may use the vehicle mileage information provided by lessees under paragraph (1) for purposes of compliance with the requirements of subsection (a) unless such lessor has reason to believe that such information does not reflect the actual mileage of the vehicle. Failure of any lessee to comply with paragraph (1) shall not affect the ability of the lessor to transfer ownership of the vehicle to any other person.".

On page 5, line 6, strike "408(d)(4)" and insert in lieu thereof "408(d) (3) and (4)".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. DURENBERGER. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Friday, December 13, 1985, in order to conduct a hearing on the nominations of: J.H. Tyler McConnell, Barry D. Schreibor, and Robert Setrakian to be members of the Board of Governors of the U.S. Postal Service.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

L.L. BEAN

● Mr. COHEN. Mr. President, over 70 years ago, an enterprising young hunter from Freeport, ME, grew tired of getting his feet soaked during deer season. To remedy his discomfort, he came up with the idea of creating a pair of lightweight rubber boots guaranteed to keep his feet dry.

The boots worked so well that he decided to sell them to his fellow hunters through the mail. The hunter was Leon Leonwood Bean, the founder of the world famous L.L. Bean Co.

That small business venture has grown into a multimillion-dollar corporation, a corporation that enjoyed $257 million in sales last year and hopes to hit $280 million this year. President Leon Gorman, the grandson of the founder, deserves much credit for carrying on this fine Maine tradition.

The "down home" qualities that have put L.L. Bean on the map have not eroded over time. In many ways, the company represents the very best in Maine—the healthy outdoor way of life, quality craftsmanship, outstanding and friendly service, unmatched expertise and efficiency, and the willingness to stand behind every sale.

Mr. President, at this time, I submit two articles that recently appeared in Sports Illustrated and the Baltimore Sun that feature the most renowned outdoor company in the world for printing in the RECORD.

The articles follow:

USING THE OLD BEAN

(By John Skow)

Leon Leonwood Bean, the country slicker and demon merchandiser who founded the L.L. Bean store in Freeport, Maine, used to brush aside suggestions for expanding his business with a Down East nifty: "I'm eating three meals a day now, and I can't eat four." That was intensely exasperating to his grandson Leon Gorman, a young man just getting a feel for the family business. This was back in the early '60s, when L.L., who was born in 1872, was a very old man, and the catalog house he started more or less by accident in 1912 had fallen into a profound snooze.

Gorman was right to be worried. The average age of the employees in the store, he says now, was something like 67. L.L. was a humane employer and he never fired anyone, but he also was a tightfisted State-of-Mainer—minimum wage plus a nickel was his wage policy—who regarded company retirement programs as a gross extravagance. Thus no one retired. Ancient clerks filling catalog orders during the pre-Christmas rush ambled slowly into the systemless confusion of the stockroom, passed the time of day with each other, deliberated about deer hunts and gall-bladder operations and the weather, past and present, and eventually returned with a chamois shirt or a pair of Maine Hunting Shoes, or the news that the required item was out of stock, or maybe misplaced.

All of that has changed. L.L. Bean, the modern corporation, eats four meals a day. Gorman, now 51, is president. The company has a good retirement policy and pays good wages, for Maine. Sales last year were $253.7 million and are expected to reach $280 million to $290 million for '85. Growth seems to have steadied, after several roller-coaster years, at a healthy 12%. Some 68 million catalogs are mailed each year. Outside Gorman's office this fall, concrete was being poured and steel bolted for another expansion of Bean's huge distribution center in Freeport. Half a mile away, the Bean retail store, which looks like a ski lodge, is vast and prosperous. A sizable trout pool is the centerpiece of its main floor, but the place is so busy the fish are easy to miss.

The two million people who come here every year make Bean's the State's second-biggest tourist attraction, after the Atlantic Ocean, but ahead of Moosehead Lake and Mount Katahdin. On a normal day through the spring, summer and fall, parking lots at the retail store fill by 10:30 a.m., and customers are directed to satellite lots maintained by Bean a couple blocks away.

Freeport, an old shoe-factory town that once had a comfortable, old-shoe shabbiness to it, has been transformed by L.L. Bean's stupendous popularity into a theme park for shoppers. Dozens of outlet stores along the main street, all New Englandy in neat clapboards and carved wooden signs with gold letters, feed to satiation on the spillover from the Bean store. Frye Boots, Ethel! Hathaway, O mistress mine! Dansk! Sweaterville! And look, the heart leapeth up Ralph Lauren! A free jitney bus that looks something like a San Francisco cable car percolates around town. McDonald's is so discreet that it is hard to find, but it's there.

What old L.L. would have made of this is uncertain. "Money," a compulsive truth-teller might answer. Sure, although from all accounts, three meals a day really were enough for this very shrewd old gent, just as long as about half of those days in his later years could be spent fishing in places like Florida. But L.L. died in 1974, at 94, and his attitudes were firmly in place before World War I. One of his shotguns, an old Parker 20-gauge, hangs on the wall of Gorman's neat office. But it is outlandish to imagine him sitting in his grandson's chair as president of L.L. Bean, Inc. in the mid-1980s, and having to deal with the corporate problems that are now basic stuff to every CEO in the nation. Can a healthy company simply stay at its present size, selling a good product at a good price, without growing? In L.L.'s world, why not? In Gorman's, the idea is absurd.

The singularity here is not so much that Bean under Gorman has had its operations brought up to date, and has positioned itself—we may as well speak corporatese—to run smoothly through the remainder of the century. A lot of medium-sized businesses have overcome similar problems after a founding entrepreneur has died or faltered. What sets L.L. Bean apart is something quite different from ordinary good management. Everyone seems to love L.L. Bean. At least those of us who are customers do. It is as if Bean were family, some sort of mildly eccentric but amiable uncle who lives up in Maine and sends us packages.

Yes, Sears sends us packages, and so do Eddie Bauer, Lands' End, Recreational Equipment, Inc., Brookstone, International Mountain Equipment, Orvis and so many others that if the tons of catalogs they mail only burned a little better, a householder in the snow belt would not have to split cordwood. Bean is just one of five or six firms I deal with. Over the last few months I have bought a good bench saw from Sears, an excellent pair of lightweight Raichle hiking shoes from REI, and some polypropylene expedition longies, no complaints, from IME. I have no emotional involvement whatsoever with these outfits. But Bean is another matter.

Mine is by no means the only mushy smile visible when Bean is mentioned. People send family photos to L.L. Bean, generally showing themselves proudly wearing some Bean garment. They chat on the phone to Bean, mentioning, perhaps, that they are thinking of sending their teenagers to Outward Bound, because you know how kids are these days, and does Bean's customer service rep think this is a good idea? He or she does. What sort of equipment would the kid need? Bean has a list, and can supply the stuff. Well, thanks, the customer will say, grateful for this pastoral counseling, you've really been a big help.

A few months ago a man called from California to ask for suggestions about names for his 8-week-old brindle Scottie. He had no catalog purchase in mind, and clearly he did not feel that his relationship with Bean necessarily had to involve matters of commerce. He got results, too; the customer service department deliberated and called him back, offering Drambuie, Chivas Regal, Wee Willie, Bonnie Prince Charlie and—since it was not clear that the pup was male—Blue Belle of Scotland.

Last New Year's Eve, about 6 p.m., two men and one woman walked into the store and, operating with the precision of a guerrilla team, committed matrimony on the landing of the main stairway. The woman and one of the men pledged to love and honor each other, while the other man, a justice of the peace, pronounced them husband and wife. They left to the cheers of customers and clerks.

Presumably most of this loosely focused good will is traceable, in one way or another, to L.L. himself. What is odd about this is that, as far as a listener can determine now, L.L. was a decent enough fellow, but by no means cuddly, by no means a lovable old coot. The sense is that he kept his distance emotionally from other people, a habit that in Maine is considered prudent and normal. The distance between L.L. and his customers, however, turned out to be precisely right, so that an astonishing spark of respect and friendliness could pass in both directions. This electrical current first began to alternate in 1912. Much later Leon Gorman wrote of his grandfather, "To hear that one of his products failed was a genuine shock to his system. He'd charge around the factory trying to find an explanation. Then he'd write the customer, return his money, enclose a gift, invite him fishing or do anything to make the matter right. That customer was a real person to L.L."

What happened in 1912 was that L.L., then 39 and a partner in a small and sleepy dry-goods store in Freeport run by his brother Ervin, decided to go into the mail-order business. Before this, he had sold soap and worked in a creamery without piling up either money or renown. Now he had a new product to sell, one of his own invention. The year before, vexed by chronically wet feet on deer hunts, he had hit on the notion of sewing lightweight, comfortable leather uppers to the rubber bottoms of ordinary galoshes. A local shoemaker had made up a pair for him, and he had tried the shoes out. They kept his feet dry, so he ordered a few more pairs and sold some of them in his brother's store.

L.L. said later that his first mail-order list came from Maine hunting licenses. He wrote and mailed out copies of a flier selling what he called the Maine Hunting Shoe. The flier's prose was pure L.L., as distinctive as early Hemingway: "Outside of your gun, nothing is so important to your outfit as your footwear. You cannot expect success hunting deer or moose if your feet are not properly dressed. The Maine Hunting Shoe is designed by a hunter who has tramped Maine woods for the past 18 years. They are light as a pair of moccasins with the protection of a heavy hunting boot. The vamps are made of the very best gum rubber money will buy. . . ."

The Bean prose style was to reach its peak decades later in the ad that ran year after year for the wondrous Heavy-Duty Belt: "A fancy dress belt looks out of place on heavy hunting pants. Made of high grade genuine cowhide with a brass-plated buckle." But all of the elements were there in that initial hunting-shoe puff—from the firm, friendly advice to the insecure city tourist who, L.L. clearly understood, secretly dreaded showing up with the wrong hunting gear, to the forthright huckster's boast about superior materials. L.L. did not just mail his fliers and wait for the money to roll in. He sent follow-up letters. One F.N. Sawyer of Wakefield, Mass. received a note typed on the blank reverse side of the hunting-shoe flier. "Dear Sir," it began, "Recently I sent you a circular of my Maine Hunting Shoe. As I have not received your order I take the liberty of again calling your attention to my shoe. I am receiving so many compliments from all over the states that I am sure the shoe would please you and am willing to send you a pair on approval."

The truth was that the Maine Hunting Shoe was a flop, and L.L. was receiving little but complaints. Some 90 of the first 100 pairs were sent back by customers, or so went the story that Bean himself told, because the stitching that held the leather tops pulled out of the soft rubber bottoms. He had guaranteed each pair, however, and he scraped up enough money to turn 90 angry customers into 90 citizens impressed with his honesty. He borrowed more capital, persuaded the U.S. Rubber Co. of Boston to manufacture soles that would not separate from the uppers, sent out more fliers and was off at a gallop toward destiny. The new soles remained faithfully married to their uppers, and the "sports" (as city people who come to Maine to hunt, fish and paddle canoes were, and still are, called) happily sent in their orders.

In 1917 L.L. moved his growing operation from the basement of brother Ervin's dry-goods store to a building across the street and added hand-knit stockings to his line. By 1924 he employed 25 people at an average wage of $25 a week, and yearly sales had reached $135,000. He was shipping out hunting shoes, which were made to seem finer and more up to date in each successive catalog—"The 1923 Maine Hunting Shoe," "The 1924 Maine Hunting Shoe," and so on. But what he was selling, he seemed to understand instinctively, was the absolute, unqualified reliability of L.L. Bean. The guarantee was and still is unconditional. You can send back a Bean product for any reason at any time, and get a replacement or your money back. Wear it a year, decide that it is not holding up and send it back. The guarantee still holds.

Hear this from Ken Stone, coach of the U.S. white-water canoeing team. Years ago, he said, he bought an inexpensive fishing rod from L.L. Bean. He used it for several seasons, and then snapped off the tip by slamming a car door on it. He took it to the Freeport store, explained what had happened, not failing to mention the car door, and asked if he could buy a replacement tip. He got one, for no charge, and used the rod for another few years. Then a friend borrowed it, tripped while climbing down a steep riverbank and again broke the tip off. This time the Freeport store had no replacement tip; the rod was too old. The clerk told Stone to pick out a new rod. Stone explained that the break could not be blamed on Bean or the manufacturer. "It doesn't matter," said the clerk. "There's no charge. Bean stands behind its products."

Full disclosure: When he said this, Stone was under contract to L.L. Bean to make an instructional videotape on white-water canoeing techniques. But it was clear that he did not tell the story to please Bean but simply because the subject of Bean had come up. It was his Bean story, and like most of us who have one, he had been telling it for years.

Those unlucky buyers of the first poorly made hunting shoes no doubt told similar Bean stories after L.L. sent their money back, and so the customer list grew. The reputation Bean was developing was not just for honesty and straightforward products, but for a kind of quirky thriftiness that made customers grin and think, "That's Maine for you." Don't throw away your worn-out hunting shoes, L.L. advised. Send them back and we will sew on brand new bottoms, with new eyelets and laces, for $3.10, or $3.30 for the style with heels. This was genius at work. The reason that customers had worn-out hunting shoes was that gum rubber is very soft and not especially durable. L.L. turned this flaw into unbeatable word-of-mouth advertising.

No item was too piffling for the Bean treatment. In the fall 1926 book, he boasted that his bootlaces were "the result of several seasons of experimenting to produce a perfect lace for high-cut shoes and moccasins. These laces are not rawhide with weak places, but are hand-cut from high grade selected leather. Every lace is hand-tested and guaranteed 100% perfect." The laces went for 10¢ for eight-inch shoes and 26¢ for 16-inch shoes. Even in 1926 the profit on such transactions could not have justified the catalog space given to them. But L.L. knew what he was doing. The message here was that Bean took pains to make the smallest details perfect.

Some of Bean's offerings, it must be admitted, were completely gaga, though even these seemed only to add to L.L.'s reputation. *In Search of L.L. Bean*, the graceful and entertaining history of the company by *The Boston Globe* outdoor writer M.R. Montgomery, notes some rubber long johns that L.L. tried out, no doubt after being soaked on a deer-hunting trip. In the fall of 1933, a Depression year and thus a time for thrift, L.L. suggested that for only $2.85, moccasin bottoms could be sewn to the uppers of rubber-bottomed hunting shoes for the upland bird season, and then, before deer-hunting began, the same boot could be returned to Freeport for reconversion to rubber for another $2.85.

In the same catalog, however, L.L. promoted an alltime winner, the Bean chamois shirt, at $2.15. "This is the shirt I personally use on all my hunting and fishing trips," he advised his congregation. It was, he said, "the best value in a shirt we have ever offered." True enough, last year an elderly widow sent a 50-year-old red chamois shirt back to Bean's, not for a refund, but because she thought the firm might like to see how good it still was. Chamois shirts, like blue jeans and violins, mellow with age, and while Bean did not invent them, neither did Johnny Appleseed invent apples. The Freeport store spread them around the country and saw them sprout in other companies' mail-order catalogs.

That sort of competition was decades in the future in 1951, the year L.L. made his last major contribution to Bean's reputation for vivid eccentricity. Weary of being awakened at his home in Freeport by hunters and fishermen who were driving through town late at night and needed a few articles from the store, he made the sort of decision that would have driven an accountant to distraction. It might have been reasonable to keep the place open to 10 p.m., say, on Friday and Saturday nights. But no, L.L. was not in a mood to fool around with halfway measures or hard-to-remember schedules. He did not ponder unduly over cost effectiveness. He simply decided that L.L. Bean would never close.

To this day it has not, except for L.L.'s funeral. When a major remodeling of L.L.'s old white-frame store was undertaken in 1976, no locks were fitted to the front door. You can stroll through the place at 4 a.m. on Christmas, and more than a few people do.

The oddly personal loyalty that L.L.'s customers felt for the store and its eccentric owner might have been expected to disappear like morning dew after the old man's death. The store was running on inertia, says Gorman, who took over as president in 1967 when he was 32. Much of what the catalog offered was outdated, and quality had slipped. The store itself was old and shabby, inventory control was a matter of guess and hunch; shipping was slow and disorganized; sales figures had flattened. Gorman's preparation for running a business consisted of a B.A. in government from Bowdoin College and four years in the Navy, supplemented by some night courses in business after he had signed on in 1960 as the only college graduate working for L.L. Bean. "I was green as grass," he says now, shaking his head at the memory.

Gorman in his middle years is a lean, reserved man, polite and thoughtful in manner. He is not a storyteller or speechifier, and he will never be a beloved old Maine character even if he runs the company til he is 94. An outsider gets the impression of considerable intelligence, doggedly applied. He was not much of a sportsman when he took over, he admits. Did L.L. ever take him hunting? "Only once," Gorman says. But sport, like marketing techniques, was part of what the new company president had to learn. He did learn and now is a bicyclist, a bird shooter and an enthusiastic cross-country skier—though it's as sure as Halley's Comet that you will never read, in some future Bean catalog, "These are the skis and poles that Mr. Gorman himself uses in his conditioning runs. . . ."

The business that Gorman took over in 1967 was essentially a turn-of-the century dry-goods store with a hunting and fishing department and, somewhere out back, a shoe factory whose artisans also made duffel bags and red suspenders. How Gorman rebuilt this creaky structure as a sizable modern corporation still recognizable as L.L. Bean has been a case study three times for the Harvard Business School and has been cited in textbooks, as well as in *A Passion for Excellence* by Tom Peters (coauthor of *In Search of Excellence*) and Nancy Austin, as an example of superior executive practice.

The company now has the look and feel of institutional strength. Bill End, Gorman's 36-year-old second in command, sits at his clean desk looking, though only from the shinbones up, as it turns out, like the alert young Harvard MBA that he is—his shirtsleeves are buttoned and his tie pinned. He answers questions easily. No, Bean should not expand by starting a chain of retail stores. Retailing on a nationwide scale is a tough business and not Bean's specialty. "We should stick to what we know," he says.

He sounds very corporate indeed, until he is asked about his own sporting interests. Then he jacks one leg above desk level, revealing an enormous Danner Yukon cold-weather hunting boot. He is breaking these monsters in, he says, for a bighorn-sheep hunting trip in British Columbia he has scheduled in 10 days. Furthermore, he says.

he has just returned from a fly-fishing trip to Alaska, and he expects to be in Ontario for the opening of the duck and goose season.

The company encourages active sports participation, he says, and any Bean exec can get an extra week's vacation to do product testing, an activity that includes checking out Danner Yukon Boots in British Columbia.

It is not just management that gets out in the field. Clerks in the canoe department, as you would expect, can tell you from experience the relative advantages of a square-ended or a beaver-tail paddle. Somewhat surprisingly, however, the lecturer at a free public slide show on fall bird migration is Dan Nickerson, a hand sewer of shoes in the Bean shop. He is a skilled amateur ornithologist who spent 4½ weeks this year helping to make an atlas of bird-breeding sites in the outback of northwestern Ontario, on an expedition partly sponsored by Bean. The company puts on about 100 clinics a year in Freeport on such subjects as bird-dog handling and winter camping, and most of them draw on the specialized knowledge of Bean employees.

Obviously a firm like L.L. Bean would be expected to attract workers who enjoy hunting, fishing and other outdoor sports that don't involve throwing a ball around. But now something more than natural selection is going on. In the past couple of years Bean's commitment to outdoor sports has reached a level so intense as to almost suggest Casper Weinberger brooming about the Soviets.

What alarmed the Bean management, from Gorman on down, was a fluky wave of prosperity that began in 1980. That was the year when Lisa Birnback came out with *The Official Preppy Handbook*, a wickedly accurate satire on the feeding, mating and dress habits of the Eastern private school set. If you were a preppy, the handbook explained, you wore a lot of gear from L.L. Bean: hunting shoes, chinos, Norwegian sweaters and so on. As a result of the book, Bean was flooded with unexpected orders. Everyone wanted to be a preppy and treated Birnbach's joke book as if it really were a handbook. It was hard to get into Phillips Andover, but it was easy to order boating moccasins and a down vest from Bean's. For a while it seemed that the fad would not die until everyone in the country was fully Beaned—from trooper cap to gum-soled loungers.

The company's sales grew crazily in 1981 and '82 then nearly stopped growing in '83. By this time Gorman had realized that Bean was in danger of being seen by its new customers not as a sporting-goods dealer, but as last year's fashion house. Bean's rededication to sports began forthwith. Pushed by Gorman, product-development man Ned Kitchel developed a line of Bean bicycles, with light aluminum frames built by a U.S. firm called Cannondale. Hunting and fishing product development manager Scott Sanford, a 32-year-old U of Southern Maine grad, reviewed Bean's fishing-rod line and installed a $200 graphite fly rod, high for Bean. Bill End describes testing a line of Spanish shotguns being considered for Beans house label. After 10 days of shooting, he said, "not one of the five guns we bought was still functioning." Bean chose an Italian manufacturer. Fishing rods and shotguns don't add much to Bean's bottom line. What they do is give Bean the opportunity to sell chamois shirts and Baxter State Parkas to customers who value shooting and fishing. Stone's instructional tape on white-water canoeing and three others that Bean will market on fly-fishing, bicycling and outdoor photography are as much statements as products, and the statement is that Bean knows the outdoors.

In the meantime, the world of L.L. Bean goes on 24 hours a day: 100 order-takers in Portland, 12 miles from Freeport, reassure callers panicked by the looming specter of Christmas. Shoemaker Nickerson, working with an awl in each hand, stitches the right toe of a pair of size 8 men's premium beef-roll loungers and perhaps thinks about the tiny blackpool warbler, a bird that is known to fly from the U.S. to South America without stopping. Laboratory technician Merv Wyman is 3½ hours into an eight-hour test of a sample of down insulation that requires him to separate every fiber with a pair of tweezers. And customer service rep John Noone is speaking soothingly on the phone to a man in Florida who says, grumpily that he has just received notice that the shirt he ordered for his son's birthday is out of stock.

Does Bean have the same thing in yellow? Noone calls up the man's transaction on his computer terminal, sees that a refund check has already been sent, then makes sure that the store has a yellow tennis shirt in the right size, and says yes. The trouble is, the man gripes, his son's birthday is five days away, and there isn't time for him to send another personal check to Bean. That's O.K., says Noone, just send back our refund check when you get it; we're not worried. He marks the delivery as Federal Express, no charge, thereby turning Bean's profit on a $16 item into quite a loss. The customer says, "Well, uh, that's fine," sounding surprised to find that he is no longer grumpy. "I've been dealing with you for a long time." Noone thanks him, says goodby and hangs up. In a moment the red light on his phone is glowing again.

On this same fall day or one just like it, Rod Lane, 29, an assistant product manager for Bean, and Erika Hadley, 25, one of the firm's computer operators, are standing on a rocky shore in Freeport overlooking Casco Bay. The sun is shining. The sea is calm. The dollar is steady against major European currencies.

A photographer crouches and twiddles. An art director calls out directions. Lane and Hadley, impeccably Beaned in New Balance light hiking shoes, unwrinkled stretch chinos and plaid shirts just out of the box, are posing for a spring catalog. They seem slightly ill at ease, as if they feel silly having all this attention paid to them. They are good-looking people—he is tall and light-haired, she is slim and dark—but it is easy to see that they are not professional models. They look, in fact, like people from an L.L. Bean catalog. L.L. himself was his own model, the cheapest available, in the early catalogs.

Bean now publishes some 20 different catalogs a year, counting the four large seasonal books of 136 pages each that are sent to regular customers. The catalog art is sent to be digitalized on tape, composed into pages on CRT consoles and beamed to the printers by satellite—in an operation that begins in Freeport, continues in Warsaw, Ind. and is completed in Spartanburg, S.C. The expense of professional models would not add much to what all of this costs, but Gorman, very much his grandfather's grandson, clearly feels that the cleft-chinned men and the hearty, glorious women from the modeling agencies still would not look right.

By tradition, Bean's models not only look like real people, that is exactly what they are. The cheerful, imperfect faces in the catalogs are those of company employees and, in one recent instance, of Bill End's English setter, Rémy, a real dog. After Rémy made his appearance, looking jaunty on a Hollofil-stuffed, plaid dog bed, one Bean customer called in to say, Never mind the bed, where could he find such a dog?

No such stardom is likely for Lane or Hadley, because as it happens their photo will be cropped, showing only their snappy chinos, 97% cotton/3% Lycra spandex, which "look like your old favorites but provide a superior and comfortable nonbinding fit." Better luck next time, when one or the other may get to pose in some upper-body garment that usually has a head sticking out, such as a handknit Icelandic sweater or a camouflage mackinaw. In the meantime, the phones in the order department ring steadily. All of which suggests that L.L.'s 73-year-old bright idea is still in good hands.

[From the Baltimore Sun, Dec. 9, 1985]

THE MAINE THING IS SAYING YOU HAVE BEAN THERE

The best thing about L.L. Bean is that there isn't anything in the whole store I want, and the second best thing is that it's open all the time, 365 days a year, in case I change my mind.

The store, as you probably know, is in Freeport, Maine, a coastal town north of Portland. Although movie producers probably would pass it by when searching for the perfect New England set, the town nevertheless is in New England and therefore possesses some degree of what we may call "quaint quotient." Especially on Thanksgiving, when ice covers the ground and snow fills the air.

Picture this. Because of the holiday and hazardous driving conditions, the streets and sidewalks are virtually empty and silent in the snow. It is the kind of scene where serenity and almost pure simplicity cause you unconsciously to hold your breath, so as not to disturb even one element of the whole.

Then, you round a corner, and there it is. L.L. Bean. Big, modern, new. And amazingly, because you've seen almost no one else on the surrounding highways, hundreds of people appear, scurrying to and from hundreds of cars on the adjoining parking lots. All of a sudden, this tiny nick of New England is Saturday morning K mart.

Where did they all come from? And why, on Thanksgiving, are they not home with kith and kin, celebrating with American traditional turkey dinner and American traditional football watching? Because they have chosen an even more American, more traditional means of celebration. Shopping.

"Except for the baby, we did every bit of our entire Christmas shopping just in this one afternoon," says Mary Elizabeth Watson of Boston, who, along with her husband and two small children, is barely visible above the mountain of packages they've purchased.

All of it? What about elderly aunts and teeny-bopper nieces, we ask. Aren't there any of those on your list? The food section for the aunts, Ms. Watson says, and granny gowns for the nieces. But another woman, a visitor from Wisconsin, says she made only one purchase, a pair of corduroy slacks. "They're for me, just so I could go home with something that has 'L.L. Bean' on it," she says.

In our party is a young man, a freshman at nearby Bowdoin. He has chosen me as his ally because we are the scoffers of the group. We laugh at the plethora of BMWs, Volvos and Jeeps in the lot and shake our heads at all these Bean-crazed consumers: then walk inside for a better view of the spectacle.

The spacious lobby resembles that of a fine hotel and, after passing through—signing the guest book first, of course—we discover brightly lit, wide aisles, attractively arranged displays and clearly marked specials. The staff is friendly, helpful and efficient.

In spite of the crowd, checkout lines are short, there is ample space for browsing, and I soon realize that while there isn't anything in the store I want for myself, there are many things my nephews—one collegiate, the other outdoorsy—want. There are many things my brother wants and neighbors and old friends. And OK. There are a few things I might consent to own myself.

The freshman slides up to me and snickers. "This is capitalism run amok," he says.

"Umm," I reply and hold up two sweaters. "What do you think? The blue or the wine? The blue's on my color chart."

Clearly, he considers me a traitor. But I like L.L. Bean, I've decided. I like it a lot. As I said, the best thing about the store is that there isn't anything I want, and the second-best thing is that it's open all the time, in case I change my mind. Sometimes I do.●

INCREASES IN APPAREL IMPORTS NOT DUE TO DOLLAR

● Mr. HEINZ. Mr. President, one of the major issues in the debate Congress has been having on textile and apparel imports is the nature and source of the industries' problems. Throughout the debate there have been those, primarily academic economists, who have argued that the bulk of the problem is due to the high value of the dollar which has made imports relatively cheaper and our exports more expensive. Though this is an argument which has some validity when our entire economy's performance is examined, recent research demonstrates that, with respect to apparel imports, it is not the cause of the problem. Other factors, such as relative differences in labor costs, LDC industrial development and export promotion programs, and our negotiation and enforcement—or lack thereof—of bilateral agreements within the multifiber arrangement, have played a determinative role.

The research to which I refer, Mr. President, was done by Stanley Nehmer, president of Economic Consulting Services, Inc. Mr. Nehmer is probably one of the most experienced analysts of the textile and apparel industries in the country, having worked with them in both the Government and the private sector for more than 20 years. Mr. Nehmer and his colleagues at Economic Consulting Services make regular and frequent appearances before a number of congressional committees and are people on whom I rely for research and analysis on current international economic problems. Mr. Nehmer's latest study is an excellent piece of work on a timely subject. I commend it to Senators' attention, and I ask that it be printed in the Record.

The study follows:

Remarks of Stanley Nehmer, President, Economic Consulting Services Inc., Washington, DC, to International Conference of the Knitting Industries

CURRENCY FLUCTUATIONS AND INTERNATIONAL TRADE IN TEXTILES AND APPAREL: THE U.S. EXPERIENCE

I

Several important developments in the last few years with regard to the international trade and monetary positions of the United States have led many to conclude that they are all interrelated. Indeed some have been. But certainly not all.

The U.S. trade deficit rose in 1983 to $69 billion and again in 1984 to $123 billion. The forecast for this year is for a trade deficit of $140 billion to perhaps as high as $150 billion.

While this has been happening, the U.S. dollar was appreciating against the major currencies of the world by significant degrees. Between the end of 1982 and the end of 1984, the dollar appreciated by 7 percent against the Japanese yen, by 40 percent against the British pound, by 32 percent against the German mark, and by 43 percent against the French franc.

At the same time the Federal budget deficit in the U.S. was getting out of hand, keeping interest rates in this country high in relation to those in other countries. This has resulted in high demand for U.S. dollars by foreign investors seeking to place funds in relatively high yielding U.S. assets.

Thus, a high budget deficit, resulting in relatively high interest rates, spurring demand for U.S. dollars, has brought about an overvalued dollar in relation to other currencies, depressing the price of imports into the U.S. market and increasing the price of U.S. exports. The bottom line result, according to this analysis, is the large and growing U.S. trade deficit. If we can correct the overvalued U.S. dollar, many say, we will reduce our tremendous trade deficit.

If we apply this scenario to the textile/apparel situation we find that imports increased 32 percent in 1984, after a 25 percent increase in 1983. The textile/apparel trade deficit which was a mere $2.1 billion ten years ago became $10.6 billion in 1983 and $16.2 billion in 1984. In the first half of 1985, the textile/apparel trade deficit was 15 percent higher than in the same period a year earlier.

If the booming overall trade deficit is caused by the overvalued dollar, some say, then the import difficulties faced by the U.S. textile/apparel industries will be ameliorated when the U.S. dollar ceases to be overvalued and recedes to a lower rate of exchange with other currencies. Thus, to these soothsayers, both within the U.S. Government and those in the private sector, the cure for the very serious difficulties faced by the textile and apparel industries due to burgeoning imports, is to be found in rectifying the foreign exchange situation. Bring down the dollar, they say, and the textile/apparel import problems will be solved!

They are wrong. Certainly the meteoric rise in the strength of the dollar in recent years has had an impact on the level of imports into the U.S., but this has not been the primary cause of increasing textile/apparel imports. Superficial assumptions about the impact of the strength of the U.S. dollar on U.S. textile/apparel imports break down upon closer analysis.

Economic Consulting Services Inc. has done that analysis. I should like to share our findings with you.

II

We examined U.S. imports of textiles and apparel from the 25 largest country suppliers of these products to the United States. These 25 countries accounted for 92 percent of U.S. imports of textiles and apparel last year. The time period over which trends in imports and exchange rates and other factors were examined covered the years from 1974 to 1984. Total textile/apparel imports from these 25 countries rose from 3.9 billion square yard equivalents (SYE) in 1974 to 9.0 billion in 1984. Textile imports in this period increased from 2.1 billion SYE to 4.6 billion SYE apparel imports rose from 1.8 billion SYE to 4.4 billion SYE.

The 1974-84 period was chosen for several reasons. First, the years since 1974 cover the period during which the Multifiber Arrangement (MFA) has been in effect. Limiting our analysis to this time period permits a review of trends under a single ongoing international trade regime.

Second, this time period provides some historical perspective in which the recent trends in imports and their relationship to U.S. exchange rate movements can be more properly assessed. Significant increases in imports of textiles and apparel have occurred in the past absent the strong appreciation of the dollar, suggesting that other economic forces are at work in the current import surge as well.

Finally, the years 1974–1984 offer a period in which the U.S. dollar went through several phases of rapid change and relative stability. During the period we found the following changes in the strength of the U.S dollar against other world currencies: small fluctuations during 1974 and 1975, stability of the U.S. dollar during the 1976–1977 period, significant depreciation during 1978, stability at the "depreciated" level reached by year-end 1978 throughout 1979 and 1980, the return to the 1976–1977 level by 1981, and then steady and rapid appreciation through 1982–1984.

General assumptions about the relationship between the strength or weakness of the U.S. dollar and trends in U.S. imports of textiles and apparel can overlook the complexities of trade in these products. There have been for years several dozen major suppliers of textiles and apparel to the United States market. The trends in U.S. imports from these countries have not operated in concert but rather have fluctuated dramatically in patterns quite different from each other. Moreover, the rate of exchange between the U.S. dollar and the respective currencies of each of these countries has also moved in different patterns.

The broad product category known as "textiles and apparel" actually encompasses thousands of different products. An evaluation of the impact of exchange rate changes on U.S. imports had to take into account, at the very least, the two major groups of products, namely, apparel products and textile products. In general, the industrial structure, the level of capital intensity, the production process technology, and the characteristics of the end-use markets for apparel vary quite dramatically from those of textiles.

There are other key factors to be considered. Primary among these other factors is relative labor costs. Textile production and, particularly, apparel production are relatively labor intensive. As a result, wage rates and overall labor costs are an important determinant of competitiveness of producers of these products, both within national economies and internationally. Given the wide disparity in labor costs among the major textile and apparel producing countries in the world, one would expect to find different relationships between exchange rate movements and the trend of U.S. imports from countries with significant differences in labor costs.

A second factor involves the active industrial development and export promotion programs of numerous developing countries. Such programs have frequently targeted the textile and apparel sectors as a prime means of creating employment and generating foreign exchange. Often these programs have involved the use of unfair trade practices by foreign countries and/or suppliers to augment their competitiveness. The use of subsidies that unfairly promote exports is widespread among many countries covered by our analysis and has been specifically documented with respect to textiles and apparel for many. These activities and practices have led to increased exports to the United States quite independently of exchange rate movements.

The third factor which will have a major impact on the trends in U.S. imports of textiles and apparel is competition among major country suppliers. Because of the size of the U.S. market and the importance of that market to many of these countries, intense competition has developed. One tool at the disposal of each country is the competitive devaluation of their currencies to improve price competitiveness. This does not refer to price competitiveness with U.S. producers, an advantage which most developing countries can already claim due to greatly lower labor costs. Rather this refers to price competitiveness with respect to other competing foreign suppliers.

Such devaluations may bear little or no relationship to the overall international strength or weakness of the U.S. dollar and can thus occur whether the U.S. dollar is considered generally strong or weak. These competitive devaluations may, however, have an impact on the ability of a given developing country to remain even with, or to increase sales to the U.S. market at a rate faster than, its competitors. This factor may affect the particular source of U.S. imports of textiles and apparel in any given year, but not the trend in aggeregate imports.

A fourth factor which has had an impact on the level of imports from individual countries has been the implementation of bilateral agreements between the United States and various foreign country suppliers pursuant to the Multi-Fiber Arrangement. The irregular application of selective controls on imports from various countries over the past decade in attempts to prevent disruption of the U.S. market has caused some fluctuations in the pattern of trade from various countries. In particular, the focus of import restraints on the very largest suppliers (i.e., Hong Kong, Taiwan, and Korea) has fostered the development of "new starters", many of which have grown rapidly in recent years.

The final factor which must be taken into account is, of course, the trend in the level of U.S. demand for textile and apparel products. Without properly factoring in the impact of changes in U.S. demand, assessments of the particular impact of exchange rate movements on the level of U.S. imports will be rendered less useful.

In consideration of the first of these factors—relative labor costs—one hypothesis of the analysis was that the trends in imports from those foreign countries with labor costs close or comparable to those in the United States would reflect relatively higher sensitivity to the rate of exchange between the U.S. dollar and the currencies of such countries. On the other hand, those countries with a significant absolute disparity in labor cost compared with the United States could be expected to demonstrate considerably less sensitivity in the relationship between their level of exports of textiles and apparel to the United States and the rate of exchange of their currencies against the U.S. dollar.

A second hypothesis was that U.S. imports of apparel, as opposed to textiles, would tend to show a less obvious relationship with exchange rate movements for several reasons.

First, apparel production is significantly more labor intensive than textile production. This would make U.S. apparel imports from highly competitive low-wage suppliers less sensitive to exchange rate movements than textile imports.

Second, apparel imports serve markets that are not "commodity type" markets as in the case of markets for most major textile products such as yarn and fabrics. Therefore, textile product markets are more sensitive to smaller price changes among suppliers and can be expected to be more sensitive to exchange rate movements.

Finally, this hypothesis also rests upon the fact that certain bilateral agreements may have led to a greater focus by certain foreign countries on the export of apparel and others on the export of textiles. For example, any restraining impact of a bilateral agreement on overall imports from a given country might cause a shift to apparel exports, which represent significantly higher value added per physical unit. On the other hand, a country facing particular restraints on major items of apparel could shift its focus to unrestrained textile categories. This would tend to affect U.S. import trends quite independently from exchange rate movements.

III

There were eighteen low-wage, developing countries included among the top 25 suppliers in 1984. Aggregate imports from these countries have increased sharply. Between 1974 and 1984, apparel imports from these eighteen countries rose from 1.5 billion SYE to 4.1 billion SYE. Textile imports rose from 0.86 billion SYE to 2.7 billion SYE.

The remaining top foreign country suppliers of textiles and apparel to the U.S. market in 1984 included five Western European countries, Canada, and Japan. Among the Western European countries were the United Kingdom, France, West Germany, Italy, and Spain. These seven countries generally have considerably higher labor costs than other countries included among the top 25 suppliers. One result of this is the heavy concentration of U.S. imports from these countries in textiles, as opposed to apparel. In 1984, the United States imported 1.1 billion square yard equivalents (SYE) of textiles and apparel from the Western European countries. Of this total, 1.0 billion SYE were textiles and 0.10 billion SYE were apparel.

Japan alone accounted for 0.74 billion SYE of U.S. textile and apparel imports in 1984, with imports of textiles at 0.6 billion SYE and imports of apparel at 0.14 billion SYE. With respect to Canada, the United States imported 0.30 billion SYE in 1984, virtually all of which was textiles.

Although there are some significant differences in import trends among these seven higher-wage countries, they have together experienced a loss in their share of U.S. imports since 1974. Of the combined total of imports from the top 25 suppliers covered in our analysis, these seven countries' share of U.S. textile imports fell from 59 percent in 1974 to 41 percent in 1984. For apparel, the decline was from an already low 14 percent to only 6 percent.

Thus, the overall trend in imports from the higher-wage countries is downward over the 1974-1984 period, despite increases registered in 1983 and 1984. In contrast, there is a clear increasing trend in imports from the eighteen low-wage developing countries throughout the period.

The period upon which this analysis focused includes the years 1982-1984. This is the period during which the dollar appreciated strongly against the currencies of the rest of the world to levels well above those registered during the previous decade. This is also the period when the U.S. began to experience massive increases in its merchandise trade deficit to successive record levels. The coincident trends in the U.S. dollar appreciation and the U.S. trade deficit have led, quite logically, to a common assumption that the latter is largely a function of the former. It is this period that should, therefore, show the greatest impact of the U.S. dollar appreciation on U.S. imports of textiles and apparel.

The first step of the analysis involved generating a general measurement of the magnitude of the impact of the U.S. dollar appreciation on the level of U.S. imports of textiles and apparel. Assuming the existence of such an impact, the central question to be answered is what would imports have been if the U.S. dollar had not appreciated during 1982-1984, all other things being equal. Available data provide a straightforward approach to estimating the answer.

The premise of this approach is that the growth in imports of textiles and apparel in recent years cannot be attributed to the appreciating U.S. dollar for those countries with currencies that have either maintained a stable rate of exchange with the U.S. dollar during the relevant period, or that have appreciated against the U.S. dollar. A review of the trends in each of the exchange rates between the U.S. dollar and the currencies of each of the top twenty-five suppliers identified several such instances, including the Dominican Republic, Haiti, Malaysia, Singapore, and Taiwan. In addition, Egypt has maintained parity with the U.S. dollar since 1979.

In 1984, these six countries accounted for 533 million SYE of textiles, and 1.2 billion SYE of apparel. Thus, these six countries in 1984 accounted for more than 11 percent of textile imports and for more than 27 percent of apparel imports from the 25 top suppliers.

These countries have maintained relatively stable or appreciating rates of exchange against the U.S. dollar. Of particular relevance is that in 1981 and 1984, and for most countries in other years as well, the currencies of each country were at virtually the same level against the U.S. dollar.

Imports of textiles and apparel from these countries should thus provide a useful measurement of import trends that are reasonably exchange rate "neutral". Moreover, trends from these low-wage countries can provide some indication of the basic competitiveness of low-wage countries vis a vis the U.S. industry and provide a basis for estimating what U.S. imports from other low-wage suppliers would have been in the absence of the recent strong U.S. dollar appreciation.

Between 1981 and 1984, U.S. imports of textiles from the six exchange rate neutral countries rose by 84 percent, while imports of apparel increased by 48 percent. If we then look at the import growth rates of the other nineteen top suppliers, virtually all of which experienced significant depreciation of their currencies against the U.S. dollar during 1981-1984, we find that U.S. imports of textiles from these nineteen other top suppliers did not rise markedly more than the increase in textile imports from countries with relatively stable exchange rates. With respect to apparel, imports from the nineteen other countries rose by essentially the same rate as apparel imports from the six exchange rate neutral countries.

These comparisons suggest that the U.S. dollar appreciation in 1982-1984 had an impact, albeit relatively small, on the overall increase in U.S. imports of textiles, but had virtually no impact on increasing U.S. imports of apparel. These findings support the hypothesis that textile imports have been more sensitive to the U.S. dollar appreciation than apparel imports.

The observed exchange rate impact on U.S. textile imports can be quantified. If U.S. textile imports from the nineteen major suppliers had increased only by as much as U.S. textile imports from the six exchange rate neutral countries, then U.S. textile imports from these nineteen countries would have been 3.97 billion SYE in 1984 instead of the actual 4.12 billion SYE. This difference of 150 million SYE accounts for 7 percent of the total increase in U.S. textile imports between 1981 and 1984 from the top twenty-five countries. By this measurement, therefore, the U.S. dollar appreciation accounted for less than 10 percent of the increase in U.S. imports of textiles from these countries during the 1981-1984 period.

With respect to apparel, as noted, the observed exchange rate effect was negligible, as imports from the six exchange rate neutral countries and all other countries increased by essentially the same percent.

A further breakdown of the nineteen other top countries was done to ascertain any obvious patterns. Imports of both textiles and apparel from the twelve low-wage developing countries included among the nineteen other countries rose somewhat less rapidly than imports from the six exchange rate neutral countries.

By contrast, imports of both textiles and apparel from the five European countries and from Canada rose much more rapidly than other countries. Textile imports rose by 168 percent and 158 percent, respectively, from these sources. Apparel imports rose by 250 percent and 136 percent, respectively.

Japan alone showed growth of 46 percent in imports of textiles over the 1981-1984 period, or less than other countries, while growth in imports of apparel from Japan was 49 percent, or in line with all countries.

These comparisons strongly support the hypothesis that the U.S. dollar appreciation has had a greater impact on imports from countries with wage rates comparable to or close to those in the United States. The relatively small difference in the rates of growth in imports of both textiles and apparel from the six exchange rate neutral countries and the comparable growth in imports from other low-wage countries and Japan once again suggest little impact from the U.S. dollar appreciation.

To summarize our findings—

A large share of U.S. imports of textiles and apparel is supplied by a number of low-wage developing countries which have maintained relatively stable rates of exchange between their currencies and the U.S. dollar.

Between 1981 and 1984, aggregate U.S. imports from these six countries with stable rates of exchange against the dollar increased rapidly. Textile imports rose by 84 percent, and apparel imports rose by 48 percent.

The remaining major suppliers of U.S. imports of textiles and apparel include both low-wage and high-wage countries, most of whose currencies have depreciated significantly in the last several years.

Between 1981 and 1984, U.S. imports from these other major supplying countries also increased rapidly, but at a rate that was not significantly different than import growth from countries with stable exchange rates. Textile imports rose by 91 percent and apparel import rose by 49 percent.

A further breakdown of the major supplying countries experiencing depreciation against the U.S. dollar revealed significant differences between higher-wage countries and low-wage countries. Imports of both textiles and apparel from the low-wage developing countries rose less rapidly than imports from the six countries with relatively stable exchange rates. Imports of textiles rose 76 percent, and imports of apparel rose 46 percent.

By contrast, imports of both textiles and apparel from the five European countries and from Canada rose much more rapidly than other countries. Textile imports rose by 168 percent and 158 percent, respectively, from these sources. Apparel imports rose by 250 percent and 136 percent, respectively.

Japan alone showed growth of 46 percent in imports of textiles over the 1981-1984 period, or less than other countries, while growth in imports of apparel from Japan was 49 percent, or roughly in line with all countries.

Further analysis on a country-by-country basis supported the differences found in the impact of U.S. dollar appreciation on imports from higher-wage and low-wage countries. Country analyses suggest that virtually all apparel import growth and much of textile import growth from low-wage countries was not related to the U.S. dollar appreciation.

Country analyses further suggest that the increase in imports from the European countries and Canada, most of which is textiles, is largely related to the U.S. dollar appreciation.

My remarks would not be complete without some discussion of the recent intervention in the foreign exchange markets by the U.S., United Kingdom, France, Germany and Japan. On September 22, 1985, the finance ministers of these five countries agreed to a plan for governmental intervention in the foreign exchange markets to force down the value of the dollar. Recognize that this a formidable task. The daily volume of foreign exchange trading in U.S. dollars is absolutely immense, estimated at more than $100 billion per day.

Intervention has meant that the central banks in the other four countries embarked upon a program of selling U.S. dollars. As more dollars are made available for sale, the value of the dollar in relation to the other currencies declines while their values in relation to the dollar increases.

This is pretty strong medicine for these other governments to take. After all, to the extent their currencies appreciate against the dollar, their exports to us become more expensive and our exports to them become cheaper.

The greatest change that has happened since the September 22 meeting has been with the Japanese yen which has appreciated by about 16 percent to just over 200 yen to the dollar from around 240 yen to the dollar. The increase for both the German mark and the French franc has been around 9 percent. The British pound has strengthened by about 5 percent.

Two questions for us to consider is whether this decline in the value of the dollar will last and perhaps continue to decline, and whether this development will have an effect on the U.S. trade deficit and specifically on U.S. textile/apparel imports.

On the first question, no one knows what targets were agreed upon by the five finance ministers. Reports that are circulating indicated that the target for the yen is 190 to the dollar.

Time and again, governments have learned that you cannot fight "the market." You can make it pause, you can encourage it one way or the other, but corporate treasurers around the globe will not make business decisions on any basis other than the fundamentals of rates of return and profit. As the Economist magazine stated in an editorial immediately after the September 22 announcement, those intervening "will succeed only if they are working with the grain of the market."

The grain is set by economic fundamentals of monetary and fiscal policy. The important questions outstanding are: Will the United States be able to take the steps necessary to cut its budget deficit enough to ease its intense demand for credit? How long will governments, including our own, permit the massive buying and selling of currencies to expand or contract their own money supplies without measures to "sterilize" such movements? (Note that monetary policy is no less controversial in other countries than in the Unites States.) If significant monetary countermeasures by these governments are taken, it is guaranteed that there will be little lasting change in the strength of the dollar.

My own cynical view is that under present circumstances considering the policies of the governments involved, I do not believe that what has happened since September 22 will be of lasting effect.

But even if long lasting, we should remember that changes of this magnitude are unlikely to have a sufficiently powerful effect on trade flows to make much of a dent in our trade deficit. In addition, because of normal commercial ordering schedules, the trade effects that do take place will only begin to show up sometime next year.

Finally, if our analysis of the textile/apparel import situation in relation to the foreign exchange issue is correct, the recent developments will have no effect on the bulk of our textile/apparel imports, although conceivably, these developments could have an ameliorating effect sometime next year on imports from Western Europe and perhaps Japan.●

NOTABLE ACTIVITIES FOR VETERANS IN ARKANSAS

● Mr. PRYOR. Mr. President, I would like to take a moment today to commend two notable activities in my home State of Arkansas. These are fitting examples of what can happen when public and private interests join together in a special partnership and solve some serious local problems.

There are today 55 national cemeteries in this country, cemeteries which theoretically contain a burial plot for every man and woman who ever served in our country's Armed Forces. But those cemeteries are quickly filling up. Since World War II, the Korean conflict, and the Vietnam war, we are literally running out of space.

In Arkansas we have three national cemeteries. These are in Little Rock, Fayetteville, and Fort Smith. The Little Rock cemetery is scheduled to close by the year 1987 and the one in Fayetteville next year. There are no plans to build any new cemeteries in the State.

But fortunately, Mr. President, a solution is in sight. And my fellow Arkansans, as they have done so many times in the past, are working to solve this problem on their own.

They have come up with a method of public and private partnership that can serve as a model to all of us. Fundraising efforts are underway in Fayetteville and Little Rock to expand those cemeteries. This is an attempt to ensure that those who gave so much in this country's hour of need will be given the right of a burial plot in a national cemetery.

The goal in Fayetteville is $200,000, and in Little Rock $100,000. When these are reached the land will be given to the Government to be maintained as part of the national cemetery system. This will be a gift in honor of those veterans who made the ultimate sacrifice. And with this successful expansion, burial space in Arkansas should be adequate well into the 21st century.

The other example of public and private partnership in Arkansas involves the men and women who served in Vietnam. As you know, Mr. President, the Vietnam Veterans Memorial here in Washington, dedicated in 1982, has become one of the most visited attractions in our Nation's Capital. Its presence has created an outpouring of affection for the veterans who served our country in one of its most trying times.

In Arkansas we are planning to pay tribute by building a monument to the nearly 1,000 Arkansans who answered their country's call by giving their lives. And again we are moving on our own to do the job, raising the necessary funds ourselves.

Act 394 of the 74th General Assembly of the State of Arkansas authorized the establishment of a fitting memorial to the Arkansas Vietnam veterans and provided a spot for its construction on the State capitol grounds. I am pleased to say that the goal of raising $100,000 for this memorial is almost a reality, and it is our hope that it will be dedicated on Veterans Day next year.

These are two examples, Mr. President, of the spirit of my home State and the people who live there. I feel they are worthy of recognition by my colleagues in the Senate.●

TRIBUTE TO AMBASSADOR RICHARD MULLER, AMBASSADOR OF FINLAND TO THE UNITED STATES

● Mr. LUGAR. Mr. President, this country, and the Congress in particular, is about to lose a valued friend. Dick Muller, the current Ambassador of Finland to the United States, is about to return home after years of valuable service in Washington on behalf of his country.

No foreign Ambassador to the United States has represented the interests and views of his country more fervently or objectively than Ambassador Muller. Like his immediate predecessor, he has not been content to merely observe the policymaking process in Washington; rather, he has sought out those in positions of authority not only in an effort to understand the process but also to insure that the views and positions of his country were taken into account in the decisionmaking process.

He initiated a series of monthly seminars at his residence that brought together key foreign policy personalities in Washington. He imparted to those seminar discussions great intellectual stimulation and rigor, while compelling the participants to consider all sides of an issue, particularly those with a direct impact on Northern Europe. He also sought to share his many contacts with other officials of the Finnish Government, including members of the Foreign Affairs Committee of the Finnish Parliament. It has been my pleasure as chairman of the Senate Foreign Relations Committee to welcome the Ambassador and visiting members of the Finnish Parliament to committee discussions on numerous occasions.

But his educational and representational tasks were not confined to Washington. He constantly urged Members of Congress to visit Finland in order to more fully appreciate the values, views and positions of the Finnish people and political parties. Last year, I was privileged to visit Finland for 3 days along with Senators Roth and Chafee. It was a most enlightening and enjoyable experience, one that contributed greatly to my understanding of the policies and positions of the Finnish Government. Ambassador Muller took a personal interest and role in developing a schedule which made the visit so successful.

The firm foundation on which bilateral Finnish-American relations rests owes much to Dick Muller's talent and diligence. He has left his mark on Washington; he has also put his country "on the map" in the policy making community in this country. He has helped to mold our perceptions of Finland in a constructive manner. Our keener appreciation of Finland's policies and role in the world owes much to his untiring efforts.

We will miss him in Washington, but the improved level of understanding between our two countries will remain as a legacy of his tenure as Ambassador of Finland to the United States.●

FORMER SPECIAL AGENTS OF THE FBI URGE REDUCTION IN SOVIET BLOCK OFFICIALS IN UNITED STATES

● Mr. DENTON. Mr. President, the recent wave of espionage cases has made our country more aware of the threat to national security posed by the intelligence operations of the Soviet block countries. Those cases have involved the U.S. military services, and even U.S. intelligence agencies. The indication is that the hostile intelligence presence is widespread, and that the damage being done to our national security is indeed very serious.

Although much of the hostile intelligence activity against United States interests occurs overseas, the gravest threat to the national security of the United States is represented by the extensive presence of Soviet bloc intelligence officials in our country. As a recent unclassified report from the Department of Defense indicates, the Soviets have amassed, through their systematic intelligence gathering efforts, a large amount of material about American military technology and programs, as well as other national security-related information.

Most of the intelligence collected by the Soviets and their surrogates in the United States appears to derive from the activities of their diplomats and other official representatives. More then 2,500 Soviet and East bloc officials and quasi-official representatives—such as press correspondents and commerical officers—are present in the United States at any one time. The Soviets alone have about 1,400 official personnel of one type or another in the United States.

The FBI has estimated that between one-third and 40 percent of all Soviet and Eastern bloc personnel in the United States are professional intelligence officers. Most of the rest must be presumed to be co-opted by the KGB, GRU—the Soviet military intelligence organization—or other East bloc intelligence services for a variety of espionage activities, including collecting information, spotting and recruiting Americans and other persons, serving as couriers, and other tasks.

All in all, Soviet and East bloc intelligence gathering in the United States causes untold damage to our national security. The United States technological lead in certain defense-related areas has been eroded by Soviet successes in obtaining classified scientific and technical information. The security of our military operations has been compromised by Soviet agents within the military. Soviet spying has cost us billions of dollars in stolen technology and military secrets. To reverse the trend, we must reduce the number of Soviet bloc officials in our country.

Mr. President, I ask to place in the RECORD a resolution, approved by the Society of Former Special Agents of the Federal Bureau of Investigation, urging support for a reduction in the number of Soviet bloc officials in our country as a means of countering Soviet bloc espionage. I urge my colleagues to review that well-reasoned resolution.

The resolution follows:

RESOLUTION ON COUNTERING SOVIET BLOC ESPIONAGE

Whereas, there are more than 2,500 Soviet bloc officials operating in the United States; and

Whereas, one-third to 40 percent of these diplomatic officials have intelligence missions in our country; and

Whereas, there has been a recent spate of arrests of Americans charged with espionage on behalf of the KGB and its allied intelligence services; and

Whereas, these arrests attest to the grave danger posed to our national security by the presence in the United States of such massive numbers of Soviet bloc spies; and

Whereas, the Director of the Federal Bureau of Investigation has stated, "We cannot, with the resources that have been given to us, continue to deal with foreign hostile presence in this country, without doing one of two things—increasing the resources or reducing the presence. I happen to favor reducing the presence": Now, therefore, be it

Resolved, That the Society of Former Special Agents of the Federal Bureau of Investigation, Inc., in support of the Director of the F.B.I., urges all patriotic Americans to lend their support and call for a reduction in the number of Soviet bloc officials in our country.

CHARLES J. WYLAND,
President, Society of Former Special Agents of the F.B.I., Inc.
LONG ISLAND CITY, NY, *December 9, 1985.*

JIM JONES

● Mr. SYMMS. Mr. President, whenever a man of real conviction, or solid "guts" as some call it, comes along, I believe the world should take note.

Mr. President, I would like to bring to the attention of my colleagues one such man, Idaho's attorney general, Jim Jones.

Jim may be known by some of my colleagues' staff members. At one time, he was a legislative assistant to former Senator Len Jordan of Idaho. While with Senator Jordan, Jim learned the virtues of brevity and tenacity.

That tenacity, together with his "guts" has helped Jim as he has taken on some very unpopular cases as attorney general.

But Jim has never been one to back away from a challenge. I really feel that if we had more people of solid conviction, more people like Jim Jones, our great Nation would be a far better place in which to live.

Mr. President, I ask that the following article from the Idaho Statesman about Jim Jones be printed in the RECORD.

The article follows:

[From the Idaho Statesman, Oct. 20, 1985]

JIM JONES: "I HAVE PROBABLY SUED MORE OF MY FRIENDS THAN MY ENEMIES."

(By Rod Gramer)

Three years ago, Idaho Attorney General Jim Jones was returning to Idaho from Washington, D.C., when he struck up a conversation with a man who was sitting in the next seat on the airplane.

The man asked Jones if he was a college student. When Jones told him that he was 40 years old and the attorney general of Idaho, the man replied, "Oh, you don't look like it."

A lot of people mistake Jones' age. It's easy to do, given his boyish face, post-like build and low-key personality.

"Several years ago I felt bad about it." Jones said. "After you hit 40, such comments only make you feel good."

Strangers might mistake Jones for a mild-mannered college student. But the people who have tangled with him on legal or political issues would not make the same mistake. After three years at the helm of the state's largest law office. Jones has established himself as a political maverick.

"I have probably sued more of my friends than my enemies," Jones said.

Jones was in office less than a year when he challenged the Idaho Power Co., one of the most Republican and politically powerful companies in Idaho, over water rights. Since then, he has clashed repeatedly with the company.

Idaho Power isn't the only one that has fenced with Jones. He has taken on the state's top Democrats and northern Idaho citizens over a Priest Lake resort development; he has sued gasoline dealers in Pocatello for price fixing; and soon he will argue for the right-to-work law before the Idaho Supreme Court.

Because the Legislature refused to fund a consumer fraud division in his office, Jones recently set up a volunteer program. But he hasn't given up on the Legislature: He plans to ask it for $129,000 next year to start a consumer fraud division.

The "con artists" know Idaho doesn't have a program and take advantage of it, Jones said. He said the average citizens can't afford to spend $400 pursuing a con artist. "We shouldn't have to put up with it," Jones said.

Jones seems to relish his reputation. "I think being willing to take a risk; I think people like that. I think you can be a low-key person and still have solid principles . . .," he said.

Jones grew up on a farm near Eden, 20 miles east of Jerome, and attended the University of Oregon, where he majored in engineering. He decided after a year that he didn't want to sit over a drawing board for the next 50 years.

He switched his major to political science and decided he wanted to be a U.S. Senator. He graduated from Northwestern Law School in Chicago.

After law school, Jones went into the Army as a first lieutenant (he had been in ROTC during college) and was sent to Vietnam, where he served from July 1968 to August 1969. Jones left the Army as a captain.

While in school, he worked summers for Idaho's Republican Sen. Len Jordan. In 1970, he joined Jordan's staff as a legislative assistant. It was then that Jones met his wife, Nancy who was working as a secretary for the House Administration Committee. They now have one child, Kathy, 8.

NO WORDS WASTED

In Jordan, Jones found a model for his own political ambition.

"He (Jordan) wouldn't waste 200 words when 20 would do," Jones said. "He didn't do things just to get political mileage out of them. He was a pretty good guy to look up to."

Jones liked Jordan's independent, common-sense style, which he believes he has duplicated in the attorney general's office.

Idaho Power probably wouldn't argue that Jones is an independent cuss. In 1982, Jones was interviewed by Idaho Power's political action committee, received its endorsement and its money.

But Idaho Power's PAC failed to ask Jones about water rights. If it had, Jones would have said that hydroelectric water rights should have a lower priority than other water uses. When the Idaho Supreme Court ruled in late 1982 that Idaho Power's water rights were not subordinated to other uses, Jones led efforts to get the company's rights subordinated.

Idaho Power Senior Vice President Logan Lanham told Jones that they should maintain good relations, even though they were on opposite sides of the water issue, Jones said. But the good relations didn't last long.

"It seemed from that period on the subject escalated," Jones said. "Each time they stepped up the tempo, I felt the state had to, too."

When Idaho Power launched a TV ad campaign to promote its water stand, Jones accused it of using ratepayers' money for propaganda. A pro-Idaho Power state senator accused Jones of having a conflict of interest because his family's water rights were at stake.

. . . A BIT PUZZLING

In an unprecedented move, Jones has filed as an intervenor in Idaho Power's $84 million rate increase case before the Idaho Public Utilities Commission.

Idaho Power spokesman Jim Taney said the company wonders about some of Jones' positions, such as intervening in the rate case. "It is a bit puzzling because the PUC is staffed by members of the attorney general's staff," he said.

Taney said there are issues on which Jones and Idaho Power agree, but he admitted the rhetoric on both sides was excessive during the water rights fight. "At times we thought he (Jones) was excessive in some of the things he said, which made it more difficult," he said.

A friend recently asked Lanham if Jones could expect a donation from Idaho Power in 1986. Lanham replied with a "very cold no," Jones said.

Some people think Jones has benefited politically by taking on Idaho Power. His water stand probably helped him in eastern Idaho, where he could use some political fence-mending after challenging former 2nd District Rep. George Hansen in the 1978 and 1980 Republican primaries.

LIKE ROBIN HOOD

Democrats say Jones is vulnerable because he supported the state land swap with Diamond Lands Corp. on Priest Lake. When Jones went to Priest River last July, he was met by an angry crowd carrying placards and singing an anti-Jones song to the music of "John Brown's Body."

Democratic Chairman Mel Morgan said Jones made Justice Department lawyers look like "like Robin Hood" when he filed a civil lawsuit against Pocatello gas dealers, who were convicted of price fixing.

The Justice Department prosecuted the dealers for price-fixing and Jones later sued them for civil damages. The civil suit was settled out of court for $130,000. Jones plans to ask the court to give the money to the Bannock County Highway District.

Jones admits that 99 percent of his mail ran against the suit. "It seemed like everyone in the Rotary Club and all of my supporters" wrote, he said.

But Jones said: "If you are the state's lawyer, you have to pursue the unpopular cases as well as the popular ones."

On election day 1986, Jones hopes voters will back him because he took on the unpopular causes. "I think people like to see someone who will stick his neck on the line and do what's right for the state," he said.

With all his enemies, one would expect to see people standing in line next year to challenge Jones. But no Republican opponent is on the horizon, and the Democrats are having trouble finding a candidate.

THE POWER OF MONEY

Morgan said Democrats are concerned that Jones will "buy" the election with his personal wealth. "If not for that, we'd have two or three candidates interested in the job," he said.

Jones has spent about $220,000 of his own money in his two unsuccessful campaigns for Congress and his 1982 attorney general's race.

Jones earns about $100,000 a year, $42,000 from his attorney general's salary and $58,000 from his one-fifth interest in the family's corporate farm. The family corporation farms, 3,000 acres in the Magic Valley and operates a cattle feed lot.

Morgan said four Democrats may challenge Jones: Preston lawyer J.D. Williams; former Blaine County Prosecutor Keith Roark, Bonneville Democratic Chairman Russ Webb, and state Rep. Larry EchoHawk, D-Pocatello. But Williams who lost to Jones in 1982 by 5,980 votes, says he probably won't run. EchoHawk and Roark say they won't. Webb is thinking about it.

In one breath, Webb lists all the reasons Jones is vulnerable. In the next, he counts all the reasons not to run. One reason is that "lawyers are smart enough to avoid a suicide mission," he said.

If he runs, Webb thinks some money would come from Jones' foes. "I think it's fair to say there are a few dollars there that will shake off the branches without a lot of work," he said. The question is, how much, he added.

Jones said he's no longer interested in a House seat. He is looking for a race in 1990 for governor or for the Senate seat now held by Republican Jim McClure.

"I'd much prefer the Senate, if it's open," Jones said. He is sentimental about it; McClure's seat used to belong to Len Jordan. "If I can fill the seat, that is an additional inducement."●

IDAHO SPUD

● Mr. SYMMS. Mr. President, as we enter this holiday time our thoughts often turn to the symbols of the season: children, gifts, music, and candy. It is the latter that I want to bring to my colleagues' attention.

Mr. President, many of my colleagues probably do not know that Idaho has a thriving candy industry; and even has its own famous candy bar, the Idaho Spud, which sells very well along side Snickers and other national candies.

The Idaho Candy Co. owned by my friend John Wagers, still produces sweets in the same place, using much of the same equipment, as it did decades ago. In fact, in this high-technology age, a stroll into Idaho Candy Co. may remind a person of a trip to Santa's workshop.

Mr. President, I commend the founders and owners of the Idaho Candy Co. for their entrepreneurship, their concern for quality, and their support for their community.

Mr. President, I request that the attached article from the Idaho Statesman be printed in the RECORD.

The article follows:

[From the Idaho Statesman, Nov. 17, 1985]

THE CANDY MAN

(By Paul Beebe)

With its old-fashioned machines, glossy maple floors and an elevator still driven by leather belts, the Idaho Candy Co. factory on South 8th Street seems more like a museum than the modern business it actually is.

Idaho Candy, reportedly the state's oldest and largest candy-maker and distributor of confections, is preparing for the Christmas holiday season. But, inside the turn-of-the-century brick building on the east side of 8th Street, the frenetic Christmas season rush typical of late 20th-century factories still is a thing of the future.

The factory, at 512 S. 8th St., is just up the street from the company offices and shipping department at 500 S. 8th St. Two-thirds of the company's business is wholesaling confections, tobacco and other products. The rest is candy-making.

Under the high ceilings of the brick factory's second floor last week, chief candymaker and plant manager Walter Gericke directed the production of 6 tons of hard Christmas candy.

With almost three decades of experience under his belt, Gericke rapidly worked coloring and flavor into a hundred-pound lump of sugar and corn syrup that had been scooped from an old copper vacuum pot.

Two assistants placed the lump into a machine where it was slowly turned. Soon, Gericke was feeding a green and white ribbon of candy into a second machine that shaped, textured and cut the plastic-like mass into hundreds of tiny candies.

"It's like being an artist," the German-born Gericke said later. "You have such a variety of items and decorations you can make. I've enjoyed it all my life."

The Christmas candy-making is watched over by John Wagers, an accountant who bought Idaho Candy two years ago from former owner Don Wakeman. Showing off his business to an outsider, Wagers acts more like a proud parent than the owner of a large company.

He likens candy-making to a retailing business. The company makes products that its customers want to buy.

"Retailing is a fun game," he said. "There is a magic in retailing. If I can come up with a good product (at the factory), then I know it can be resold."

Christmas candy sales are important, but the company's bread-and-butter product is the Idaho Spud, a coconut and chocolate-covered candy bar with a marshmallow center introduced by company founder T.O. Smith in the early 1900s. Wagers says the Spud, which is a regional brand, sells well alongside such national giants as the Snickers bar.

Two other candies also introduced by Smith—butter toffee and a peanut cluster bar with a vanilla center and smothered in chocolate known as the Old Faithful—also are large sellers.

Wagers declined to say what he paid for Idaho Candy or what its annual sales figures are. But, since 1983, when he bought the firm, sales have chugged forward 15 percent each year and the company is shipping about eight tons of candy to customers every day.

Is it profitable?

"You bet it is," Wagers said. "It's a stable business and a business that gives a reasonable return for the investment."

Wagers sees little advantage to modernizing the operation, despite the fact some machines are nearly 100 years old. Replacement parts are available, and "the new equipment would be somewhat the same thing," he said.

He is frequently amazed at the volume of candy that enters and leaves the company warehouse just down the street from the plant. On the day he took over the actual operations of Idaho Candy, he placed an order for 12 tons of licorice, which turned out to be little more than a month's supply.

"I had no idea people could eat so much," he said.

In Idaho Candy's main office are wooden cases that display most of the candies made or distributed by the firm. On the walls are old pictures of the company. Missing, however, is a picture of the founder, who Wagers calls a "genius."

Smith started making candy at the age of 17, shortly after leaving his family home in Salt Lake City. After working in several cities, he became a journeyman candymaker for McDonald's Candy Co. in Salt Lake City.

When he moved to Idaho in 1901, he tried other professions, working as a farmer, railroad fireman and construction worker.

Wagers said Smith helped build the Dewey Palace Hotel in Nampa.

But Smith decided to return to candymaking. In 1904, he started his own business in his home at 905 N. 7th St. When the business outgrew his house, Smith started a small factory behind what now is known as Baird's Dry Cleaners at 902 N. 8th St.

One of Smith's employees, Violet Brewer, 85, still works for the company. She began working at Idaho Candy 57 years ago, when she was 13.

A legend among the 22 employees for her longevity and the hand-dipped chocolates that she used to make, Brewer said she has no intention of retiring soon.

'I really don't know why I still work," she said. "I just like it here."●

PROPOSED ARMS SALES

● Mr. LUGAR. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $50 million or, in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon such notification, the Congress has 30 calendar days during which the sale may be reviewed. The provision stipulates that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

In keeping with the committee's intention to see that such information is available to the full Senate, I ask to have printed in the RECORD at this point the notifications which have been received. The classified annexes referred to in two of the covering letters are available to Senators in the office of the Foreign Relations Committee, SD-423.

The material follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, DC, December 6, 1985.
Hon. RICHARD C. LUGAR,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding under separate cover Transmittal No. 86-15, concerning the Department of the Navy's proposed Letters) of Offer to Singapore for defense articles and services estimated to cost $14 million or more. Since most of the essential elements of this proposed sale are to remain classified, we will not notify the news media.

Sincerely,

GLENN A. RUDD,
Acting Director.

Attachments.

POLICY JUSTIFICATION

(Deleted.)

(Deleted.)

(U) This proposed sale will contribute to the foreign policy and national security objectives of the United States by helping to improve the security of a friendly country which is a continuing force for peace and regional stability in Southeast Asia. Singapore's strategic location commands the primary route between the Indian and Pacific Oceans. Recognizing that its small size could make Singapore a target of aggression, Singapore's defense strategy has been to make it clear that an attack would be prohibitively expensive. Singapore sits astride the narrow entrance to the Strait of Malacca, one of the world's busiest waterways. Through this strait passes the bulk of tanker traffic from the Middle East to the Far East.

(Deleted) difficulty absorbing these missiles into its armed forces.

(U) The sale of this equipment and support will not affect the basic military balance in the region.

(U) The prime contractor will be the McDonnell Douglas Corporation of St. Louis, Missouri.

(U) Implementation of this sale will not require the assignment of any additional U.S. Government personnel or contractor representatives to Singapore.

(U) There will be no adverse impact on U.S. defense readiness as a result of this sale.

TRANSMITTAL No. 86-15—NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b)(1) OF THE ARMS EXPORT CONTROL ACT

(i) (U) Prospective Purchaser: Singapore.

(ii) Total Estimated Value: Major Defense Equipment (Deleted); Other (Deleted); Total (Deleted).

(iii) Description of Articles or Services Offered: (Deleted).

(iv) (U) Military Department: Navy (LAY).

(v) (U) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None.

(vi) (U) Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be Sold: See attached Annex.

(vii) (U) Section 28 Report: Case not included in Section 28 report.

(viii) (U) Date Report Delivered to Congress: December 9, 1985.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, DC, December 9, 1985.
Hon. RICHARD C. LUGAR,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 86-16 and under separate cover the classified annex thereto. This Transmittal concerns the Department of the Army's proposed Letter(s) of Offer to Korea for defense articles and services estimated to cost $57 million. Shortly after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Sincerely,

GLENN A. RUDD,
Deputy Director.

Attachments.

TRANSMITTAL No. 86-16—NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b)(1) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Korea.

(ii) Total Estimated Value: Major Defense Equipment,[1] $38 million; Other, $19 million; Total, $57 million.

(iii) Description of Articles or Services Offered: One hundred thirty-three STINGER Guided Missile Systems, 599 STINGER reload rounds, tool kits, concurrent spare parts, technical assistance and training.

(iv) Military Department: Army (XWA and JFV).

(v) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None.

(vi) Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be Sold: See Annex under separate cover.

(vii) Section 28 Report: Case not included in Section 28 report.

(viii) Date Report Delivered to Congress: December 9, 1985.

POLICY JUSTIFICATION

KOREA—GUIDED MISSILE SYSTEMS AND STINGER MISSILE ROUNDS

The Government of Korea has requested the purchase of 133 STINGER Guided Missile Systems, 599 STINGER reload rounds, tool kits, concurrent spare parts, technical assistance and training. The estimated cost is $57 million.

This sale will contribute to the foreign policy objectives of the United States by helping to improve the security of a friendly country which has been and continues to be an impetus for modernization and progress in Eastern Asia. The sale of this equipment and support will enhance deterrence and contribute to the preservation of peace and stability on the Korean peninsula.

The system proposed in this sale will enhance the Republic of Korea defensive capability and complement the preservation of peace and stability on the Korea peninsula, a key element in the security of Northeast Asia. Korea will have no difficulty absorbing these systems into its armed forces.

The sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be the General Dynamics Corporation of Pomona, California.

Implementation of this sale will require the assignment of five additional U.S. Government personnel for five months and one contractor representative for one month to Korea.

There will be no adverse impact on U.S. defense readiness as a result of this sale.●

ACADEMIC FREEDOM IN POLAND?

● Mr. DURENBERGER. Mr. President, on July 25, Poland's Sejm or Parliament approved a series of highly restrictive amendments to that country's law on higher education, despite the nearly unanimous opposition of the academic community. We now can determine that the Polish Government has decided to relegate the academic independence of Poland's universities to the ash heap of history. In order to comply with these antiacademic and antidemocratic amendments, the Polish Government has dismissed approximately 70 rectors and deans at 15 of Poland's leading universities for political reasons.

Historically, universities in Poland have been characterized by a high degree of self-government. When the

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[1] As defined in Section 47(6) of the Arms Export Control Act.

Polish Government first announced that it would seek to modify the administrative structures of Poland's universities in the fall of 1984. Deputy Prime Minister Rakowski also indicated that this draft proposal would be submitted to the academic community for consultation and amendment.

At all main universities in Poland, commissions established by faculty councils conducted opinion surveys among faculty members and students in January and February in order to gather wide-ranging opinion about specific items in the Government's education proposals. The results of that study were submitted by the senates of universities to the Main Council for Higher Education. Ninety percent of faculty members and a similar percentage of students expressed strong opposition to the proposed amendments to the law on higher education. The opposition of the Main Council to these proposals was formally published on March 8.

The Polish Government responded to this academic opposition by preparing an even more draconian proposal, which went much further in the direction of limiting university self-government than did the 1984 recommendations. These proposals were ultimately adopted by the Sejm in July and have now been acted upon by the Jaruzelski regime. The main features of the new law on higher education are as follows:

First, the Government will have increased powers to dismiss, suspend or transfer university teachers—it is feared that many dismissals will follow the passing of the new law;

Second, university teachers will have to take an oath pledging loyalty to the principle of a socialist university;

Third, the Government will have the right to veto any of four candidates for the post of rector, possibly also prorectors and deans of faculties;

Fourth, the Main Council of Higher Education—an elected body of 70 members representing all higher education institutions—will no longer have decisionmaking powers on the direction of education and research policies, but will serve only as a consultative body;

Fifth, the Government will have the right to close down, or to suspend, faculties or whole institutions "in the public interest;"

Sixth, the police will have the right to enter university campuses, even without being summoned by the university authorities;

Seventh, student self-government is virtually disbanded and their interests are to be represented by national Government-licensed youth organizations;

Eight, the Government will have the right to suspend or to expel students.

In the last weeks of November, the Government's ax began to fall against those academic leaders who differed with the Government's policies. The dismissal of the rectors and key deans of such institutions as Gdansk and Posnan Universities were conducted in an almost surreptitious fashion by a Government that is obviously fearful of negative public reaction. It is clear that General Jaruzelski feels that such repression will be lost in the warm afterglow of his visit with French President Francois Mitterand and that of former West German Chancellor Willy Brandt to Warsaw. It should be equally clear, however, that these dictatorial edicts against academic freedom will not go unremembered. The loss of academic independence of Poland's universities is a great tragedy for Western civilization.

Mr. President, I ask that articles from the Washington Post and Nature be printed in the RECORD. I further request that a June resolution by the Senate of the Technical University of Warsaw be printed in the RECORD.

The material follows:

[From the Washington Post]

POLISH REGIME CRACKS DOWN ON REBELLIOUS INTELLECTUALS

(By Jackson Diehl)

WARSAW, December 7.—The firing by communist authorities of about 70 rectors and deans in Poland's universities has prompted protests from students and faculty and signaled a toughening approach by the government of Gen. Wojciech Jaruzelski toward the nation's rebellious intellectuals.

Acting on recommendations by communist party cells, Education Ministry officials dismissed six rectors, the top university officials, and removed dozens of deans charged with individual schools and administrative affairs in 15 of Poland's 91 universities. Although carried out last week, the actions were confirmed only last night by the official news agency PAP.

The firings followed a controversial new law on higher education that drastically curtailed the role in university decision making by faculty and students and reintroduced political criteria into course work as well as the hiring and firing of staff.

University teachers, students and opposition intellectuals said the law was meant to put an end to independent activity in Poland's schools and the dismissals may mark the beginning of an extensive purge of intellectuals.

"The firings are a kind of test to see what will be the reaction of society," said Bronislaw Geremek, a medieval historian and an adviser to the outlawed trade union Solidarity who was fired from his own job at the Academy of Science earlier this year. "If there is not much reaction, they will move into a new phase of getting control over all intellectual circles through aggression."

The new education law was condemned by the senates of more than 50 universities last summer and was opposed even by some official political organizations and deputies in the communist-controlled parliament. Several university senates, made up of student, faculty, and university worker representatives, also met last week to criticize the firings.

After some debate, students in Warsaw decided not to strike over the latest action, fearing they would not attract enough active public support to win a confrontation with the authorities.

"It is simply not a good time in the country to start a student strike," said a university source active in the talks. "But if the authorities push further now they will be risking a united response."

Government officials have explained both the new university law and the firings as steps to improve efficiency and restore the "socialist character" of education.

Faculty members and political analysts say Jaruzelski is intent on restoring the leadership of the communist party to key social institutions before a party congress early next year. The party's lack of control over intellectual circles and cultural activities remains one of its most glaring failings by the standards of Soviet Bloc communism, they noted.

"The authorities know the intelligentsia has a tremendous impact on the social climate," said Geremek. "And the spirit of freedom in the Policy people is first of all, they think, connective to the intelligentsia."

In universities, authorities have faced the problem of losing authority to noncommunists. Ironically, the government facilitated this development during the period of martial law in 1982 by sanctioning a university reform that gave substantial power to the elected senates as well as to student self-governing council.

Three years later, official student organizations at major universities have only a handful of members and communist activists have found themselves outnumbered in the senate, the student government and other key bodies making decisions on faculty, administrators and courses. The Warsaw senate even created a special committee to monitor political prisoners.

Most of the deans and rectors dismissed last week were political independents or sympathizers of Solidarity who had been elected by senates and hoped to maintain a measure of university autonomy from the party and government. Under the new law, the minister of education was given blanket authority until Nov. 30 to fire the administrators and appoint new ones to complete their terms. In the future, the minister will also have the power to veto rector candidates nominated by the senate.

"The communists got tired of losing so many secret ballots," said Wojciech Lamentovich, a poltiical science professor. "Party candidates for professorships were losing quite frequently. . . . It was very unpleasant for them."

The new law also stripped the student government organizations of most of their powers, ousted their elected officers and turned their leadership over to the three communist-backed student organizations.

Even as such organizational changes will allow the communist party to regain control over university personnel and affairs, other parts of the law restore political criteria to curricula and the evaluation of professors.

In addition, professors hired or promoted by the universities will be required to sign an oath of loyalty to Poland's socialist system.

Faculty members said the new criteria open the way for an extensive purging of professors, and predicted that may be the government's next step.

[From Nature, Feb. 14, 1985]

HIGHER EDUCATION LAW REVISED

(By Vera Rich)

The Polish Higher Education Act of 1982, which embodies a watered down version of the reforms of the Solidarity period, is now up for revision. Last month, a "public debate" was launched on proposed amendments to the act. Discussion is somewhat hampered, however, because no provisional draft of the proposed changes has been officially published. But reports in the underground press claim that the Ministry of Science, Higher Education and Technology wishes to deprive the universities of virtually all the autonomy won in 1980-81 and embodied in the 1982 act.

The minister himself, Dr Benon Miskiewicz, in an interview with the official Polish news agency PAP at the beginning of the present academic year, made barely-veiled threats that the law would be revised if the self-government bodies in higher education continued to exercise their autonomy. Within a few weeks, an alleged draft of the proposed changes began to circulate in academic circles, claiming to be a "confidential" document leaked to Solidarity by a source within the Ministry of Science, Higher Education and Technology. Miskiewicz repudiated the document, claiming that it was simply a "provocation" engineered by "antisocialist forces". Nevertheless, in a meeting with the Main Council for Higher Education, he outlined a scheme of tentative changes which one participant in the meeting described as "the same only less detailed" than the underground draft.

According to the draft, the proposed changes include.

Replacement of the open elections for university rectors by a choice between two candidates nominated by the minister; the successful candidate would then nominate the various deans who are also, at present, elected.

Depriving the university senates and faculty councils ("collegial bodies") of various rights which would then be vested in the selected nominees.

Removing from the collegial bodies the representatives of students, junior academic staff and auxiliary staff (such as librarians), leaving only senior academics and party and military representatives.

Empowering the minister to suspend or disband any collegial body, and to dismiss university staff and expel students, if he deems their activities "contrary to the interests of society."

Reorganizing the students' self-government bodies, described as an obstacle to "comprehensive socialist development" on the basis of the party-linked youth organizations, thereby bringing all matters of student welfare and social activity under party control.

Not surprisingly, former Solidarity activists in the universities and members of the pro-Solidarity Independent Students' Association (NZS) are opposed to the changes. Equally inevitably, the student "self-government committees" want to put up a fight, although the 1982 act forbids any formal links between the self-government committees of different universities and colleges, giving the minister an additional weapon against them.

More significant is the opposition shown by the Main Council for Higher Education. This is also an innovation of the Solidarity period, and consists of one representative of every higher education institution in Poland (except the Catholic University of Lublin). Many of the delegates to the Main Council are, however, Party members, elected because the universities feel that they might prove effective in putting over the university viewpoint to state and Party authorities without unnecessary hassle. The principal objection of the Main Council is that, even if the changes are necessary, they are premature. The existing law, it says, should be allowed to run for at least another three years, until the expiry of the term of office of the rectors elected under the law. Chopping and changing so quickly can only destabilize the universities.

Individual academics have spoken out strongly in favour of academic autonomy and the present structure of student "self-government committees"; they include Dr Jozef Gierowski, of the Jagiellonian University of Krakow and Dr Grzegorz Bialkowski of Warsaw who was elected in November in place of Dr Klemens Szaniawski, whose election in May was vetoed by Minister Miskiewicz. Some of their statements and press interviews were made before the official launching of the debate and make no direct reference to changing the act. Nevertheless, their tacit opposition to the proposals is clear. So far, the only group reported to have come out in favour of the change is a "young scientist" conference held earlier this month under the auspices of the official "Association of Polish Students". Even they, however, urged the active participation in academic decision-making by students, junior lecturers and auxiliary staff.

POSITION OF THE SENATE OF THE TECHNICAL UNIVERSITY OF WARSAW, 26 JUNE 1985

The Senate of the Warsaw Technical University deeply concerned for the future of Polish higher education, steeped in a sense of responsibility for generations which will determine the future of not only science and technology but also of our nation and state, feels morally obliged to present the following position.

In its resolution of 27th February 1985 the Senate took position on the proposed changes in legislation on higher education, by raising the fundamental issues of the social role of universities and conditions necessary for their proper functioning. The Senate said it shared the deep anxiety and concern caused in academic circles by the attempt, undertaken by the authorities, to inhibit the process of self-governing renewal of the universities, and to introduce an administrative system of control.

Contrary to the almost unanimous opinion of higher education establishments and the stand of the Main Council for Science and Higher Education, the authorities have recently decided to submit to the Sejm of the Polish People's Republic a bill changing the existing law on higher education in a way which almost totally liquidates the principle of self-government of universities and their independence. The severity of these changes is still further enhanced by regulations contained in two other legislative drafts: one on the office of the Minister of Science and Higher Education, and the other on changes in legislation governing academic degrees and distinctions. Particularly vigorous opposition is aroused by subjecting the whole range of staffing policy to political criteria and by the quite unprecedented step of making procedures on bestowing doctorates and assistant professorships dependent on arbitrary evaluations of ideological orthodoxy.

Disregard of the opinion of academic communities and the repressive character of the changes will cause serious damage to higher education, science and the national culture. We consider these steps to be a further stage in the process of subjecting legislation to the immediate interests of the authorities and another attempt to deprive society of its freedom.

Our community will find it difficult to resist feelings of bitterness and despondency. But such feelings must not be allowed for a moment to overshadow our primary aim which is to educate and form generations of young people who one day will decide the destiny of our nation. The legislative changes herald a time when the realization of this goal will become difficult and may require sacrifices. This, however, does not absolve any one of us from carrying to the utmost duties inherent in the dignity of academic teacher and the reputation of the Technical University of Warsaw with its patriotic and scientific traditions, in accordance with the text of the oath incorporated in the statute recently adopted by the Senate. We all have to carry out those duties conscientiously and with the greatest care, always mindful of the words of Jan Zamoyski, carved out in the Great Hall: "The Commonwealth is such as the upbringing of its youth allows."

The Senate appeals to the entire personnel of the Technical University for a wise and prudent stand needed to preserve our common achievements of recent years. The Senate hopes that Warsaw Technical University shall unitedly defend the supreme values necessary for the fulfillment of its social role.●

JUSTICE FOR ATOMIC VETERANS

● Mr. SIMON. Mr. President, a report released recently by the General Accounting Office and requested by my good friend, the senior Senator from California, makes for compelling reading, and also gives rise to greater impetus for Congress to fully address the health needs of those former service personnel who today are called atomic veterans.

Atomic veterans are former service men and women, originally numbering 250,000, who participated in the above-ground atomic testing program or in the occupation of Nagasaki or Hiroshima.

Senator CRANSTON, who has been at the forefront of addressing the inequities facing atomic veterans, asked the GAO to perform a case study to see if the Defense Nuclear Agency is correct when it claims that dose reconstructions of many of these service people prove they were not harmfully exposed to ionizing radiation in those atomic tests. Thousands of ailing veterans have been denied help based on these calculations by the Defense Nuclear Agency.

Based on what the GAO has discovered, we should all be grateful that Senator CRANSTON made that request, because it now is all the more apparent that a great injustice is being done to hundreds of veterans through these dose reconstructions—a methodology that is used to judge whether a veteran's cancer should be considered service-connected.

The GAO report faults the Defense Nuclear Agency for overreliance on imprecise radiation film badge readings; ignoring internal radiation exposure of service personnel caused by breathing, eating, or drinking contaminated particles; neglecting evidence about safety violations; and dismissing ample evidence showing incomplete decontamination procedures during the test used in GAO's case study.

In some cases these problems during the atomic testing program were caused by intent, as with the Army troops who were ordered to march through the Nevada desert to ground zero after a test shot. In some cases they were caused by ignorance of the extent of the hazards of low-level radiation. But in every case it is injustice for these veterans to have their government as adversary when they appeal for medical and disability relief for ailments that are known to be related to radiation exposure.

The example studied by GAO was "Operation Crossroads." This was the exercise near Bikini Atoll in the South Pacific in which thousands of our constituents took part in two atomic tests. Let me speak for a moment about one of my constituents who participated. Bob Farmer of Steeleville, IL, was exposed to ionizing radiation as a young Navy seaman who scrubbed down the target ships after the two tests, swam in the contaminated lagoon and ingested contaminated food and water. Later in life Bob Farmer has had a number of health problems—including a thyroidectomy—that seem linked to his exposure, and all nine of the Farmer children have turned up with genetically linked problems, though only one was physically deformed at birth, and neither he nor his wife has any history of genetic problems.

Bob Farmer's case was my entry point into the atomic veterans issue several years ago, and his experience—along with the experiences of hundreds of other atomic veterans whose cases I have learned about in recent years—has convinced me that a legislative remedy for these veterans is needed. The legislative remedy I have proposed is the Atomic Veterans Relief Act, S. 707.

Medical science knows enough to show a relationship between low-level ionizing radiation and later health effects—particularly several kinds of cancer—but not enough yet to prove it in individual cases. That is why it is only fair, when exposed veterans are struck with radiogenic cancers, that we presume a relationship. With this service-connection status they could get adequate care in VA health facilities, their survivors can have death allowances, and disabled veterans can have disability allowances when warranted. Former service personnel have no other recourse for relief—not the courts, not the Pentagon—because damage suits by them are banned under the Feres Doctrine. Congress must provide the remedy.

I commend this GAO report to my colleagues. You will find it verifies what we have seen in case after case: Dose reconstruction is a convenient fiction that the Defense Nuclear Agency uses to deny its responsibility to these veterans.

It is time to close the book on that fiction.

Mr. President, I ask that the Executive Summary of this GAO report be printed in the Record.

The material follows:

Executive Summary

(GAO Report: "Operation Crossroads: Personnel Radiation Exposure Estimates Should Be Improved")

Many of the 42,000 military participants in the 1946 atmospheric nuclear weapons test, known as Operation Crossroads, were subjected to varying amounts of radiation exposure. Documents recently discovered by concerned private citizens raise questions about the accuracy of the Defense Nuclear Agency's [DNA] radiation exposure estimates. The Veterans Administration uses these estimates in adjudicating former participants' radiation-related disability claims.

Because of specific Congressional concerns, GAO reviewed certain issues regarding the radiation exposure of Crossroads participants, such as the reliability of the personnel film badges used to measure radiation, adequacy of the personnel decontamination procedures, and accuracy of DNA's radiation dose reconstruction.

BACKGROUND

Crossroads consisted of two nuclear bomb detonations in the Pacific Bikini Island lagoon from July 1 to August 10, 1946. After each detonation, a task force of approximately 42,000 military personnel and civilian scientists entered the lagoon and examined the damage to and radiation intensities on target ships.

Given the responsibility by the Secretary of Defense to estimate radiation doses for atmospheric nuclear weapons test participants, DNA—in October 1984—issued its report on Operation Crossroads, concluding that personnel had not been overexposed to radiation. DNA's position is based on radiation data recorded on film badges worn by about 6,300 of the 42,000 Crossroads participants and reconstructed external and internal radiation dose estimates for the participants.

RESULTS IN BRIEF

Crossroads personnel were exposed to four specific radiation types—internal alpha, internal and external beta, and external gamma. GAO found that DNA's calculation of exposure estimates for each radiation type may need adjustment because:

Film badges were not reliable for measuring both external gamma and beta radiation, as intended, and were not worn by all Crossroads participants;

Personnel decontamination procedures did not provide adequate protection for Crossroads personnel throughout the operation; and

DNA's dose reconstruction analysis for internal alpha and beta radiation has not properly estimated the possible personnel exposure from three potential pathways—inhalation, ingestion, and open wounds.

PRINCIPAL FINDINGS

Reliability of film badges.—DNA's radiation exposure estimates have made no allowance for inaccuracies attributable to film (in badges) or its processing. GAO found and DNA acknowledges that the recorded film badge readings would have had an overall inaccuracy of approximately ±30 percent because of inaccuracies in the film.

Further inaccuracies normally occur during film processing and reading. While it was not possible to calculate actual Crossroads inaccuracies, GAO found that a mid-1950's U.S. National Bureau of Standards test showed that readings by several laboratories of film badges similar to those at Crossroads, exposed to known amounts of radiation, were inaccurate by as much as ±100 percent. GAO believes it is unlikely that the film badge readings performed under harsh Crossroads conditions would have been more accurate than those in laboratories.

DNA recognizes the film badges at Crossroads were incapable of accurately recording external beta because the portion of the film intended for that measurement actually recorded both external gamma and beta. Although DNA assigned doses to personnel believing the badges overestimated external beta radiation, GAO found cases in which beta exposure may have been underestimated or not estimated at all.

Adequacy of personnel decontamination procedures.—Because DNA believes adequate personnel decontamination procedures existed for the beginning at Crossroads, its radiation exposure estimates do not recognize the possibility that personnel may have retained radioactivity on their bodies and clothes after working on contaminated target ships. In contast GAO believes this possibility exists because decontamination procedures were evolving at Crossroads. For example, the earliest evidence that GAO found of personnel being required to shower or change clothes after returning from contaminated target ships was in procedures issued on July 31, 1946, 6 days after the second detonation. Moreover, even after comprehensive decontamination procedures were instituted, some violations were reported. Thus, Crossroads participants were probably exposed to more radiation than accounted for by DNA.

Accuracy of international exposure dose reconstruction.—Internal radiation exposure was not measured at Operation Crossroads. DNA has estimated the exposure from inhaling radioactive materials but used a constant ration between alpha, beta, and gamma radiation that may have underestimated alpha radiation by a factor of from 5 to 10. Moreover, DNA has not evaluated internal radiation exposure from ingestion and open wounds. DNA believed, incorrectly, a prohibition against food consumption aboard target ships effectively precluded ingestion and did not know how to calculate from open wounds.

RECOMMENDATIONS

GAO recommends that the Secretary of Defense direct DNA to adjust, where feasible, the Crossroads participants' exposure estimates in the following manner:

Develop a range for each film badge reading that recognizes film and film processing inaccuracies; reassess the accuracy of the external beta radiation dose information for those who wore film badges and, because not all wore film badges, perform a dose reconstruction for external beta radiation;

Estimate the extent to which personnel received radiation exposure from a lack or violation of comprehensive decontamination procedures;

Reevaluate and disclose the possible errors or uncertainties associated with its analysis of internal radiation exposure by inhalation and analyze possible internal radiation exposure through ingestion or open wounds.

In addition, where any of the proceding actions have been determined not to be feasible, GAO recommends that the Secretary of Defense require DNA to document the reasons for each such determination so that the military services can provide this information to the Veterans Administration and the affected veterans.

AGENCY COMMENTS

The Department of Defense generally disagreed with the report's findings, conclusions, and recommendations. However, GAO's analysis of its comments showed that the Department (1) provided incorrect or unsupported statements, (2) misinterpreted certain Crossroads-related documents, or (3) presented information inconsistent with DNA's historical report on Operation Crossroads and other material. For these reasons, GAO continues to believe that the Department can improve radiation exposure estimates for Crossroads personnel by effectively addressing and implementing GAO's recommendations. The Veterans Administration stated that the report's recommendations for calculating radiation doses for Crossroads participants should also be applied to participants in all other atmospheric nuclear tests.●

● **Mr. D'AMATO.** Mr. President, I rise to day as "Human Rights Week" comes to a close to send a message to the Soviet Union and to express this Senator's view on the truth of human rights in the Soviet Union. Although today we end a week which has been set aside by Congress so the Nation's attention could be focused on violations of international human rights agreements, I would like to call the attention of Soviet leaders to the fact that, by doing so, we are not closing the record book on this issue until next year. Observing "Human Rights Week" is not an annual ritual during which we loft general platitudes on human rights toward the Soviet Union. Rather, it is a reflection of our continued commitment to see to it that human rights and fundamental freedoms for all people are secure.

This is not an easy task, but at last we are not alone in this effort. The dream for human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion has grown to international proportion. Since World War II, when the world witnessed the Nazis systematic execution of the Jews, the issue of human rights has been catapulted to the forefront of the international agenda. In 1948, in 1966, and again in 1975, nations gathered together at the United Nations and in Helsinki to discuss basic human freedoms and to find ways to make certain they are respected by all nations—now and forever.

Out of these meetings emerged international human rights agreements which together detailed a broad range of specific, fundamental human freedoms: the Universal Declaration of Human Rights in 1948, the International Convention of the Elimination of Racial Discrimination and the International Convenant of Civil and Political Rights in 1966, and the Helsinki Final Act in 1975. These agreements concern what governments must not do to their people and what governments must do for their people.

By ratifying these agreements, governments pledge as a matter of law to refrain from subjecting its own people to arbitrary imprisonment and to execution of cruel or degrading treatment. They recognize the right of every person to the freedom of movement, the freedom of thought, the freedom of opinion; they recognize the freedom of conscience, religion, expression, assembly, and the right to freely emigrate.

But there exists today a government which has joined in these agreements, which has signed and ratified these agreements, and which has openly and flagrantly violated each and every human freedom the world has joined in agreement to protect. I speak, of course, of the Soviet Union.

This year is the 10th anniversary of the Helsinki Final Act, and we have seen no improvement in the treatment of Soviet Jewry since the Soviet Union signed the Final Act in 1975. The opportunity for renewed dialog between the United States and the Soviet Union offers some hope. As we are painfully aware, however, since Mr. Gorbachev became the First Secretary of the Soviet Communist Party, there has been no significant improvement in the position of Soviet Jewry. In fact, the situation has deteriorated further.

The hopes spawned by their signing of the Helsinki Final Act have been further dimmed. As chairman of the Helsinki Commission, I have heard nothing but witnesses telling horror stories of the repression and the persecution suffered by Jews in the Soviet Union—unparalled in any nation since World War II. Behind the Soviet's thinly disguished veil of anti-Zionism the number of "refuseniks," and the number of Jews carted off to Siberia and thrown into Gulags, has mounted dramatically.

Why? Because they speak out against those who deny them basic human freedoms. For this, they are jailed, brutalized, and persecuted.

In recent history, in an attempt to bargain with the West and to attain legitimacy and stature in the eyes of the world, the Soviet Union has allowed more than 250,000 Jews to emigrate. This approval, however, was not given to all Jews who wished to leave. After their failed policy of "induced assimilation," which followed Stalin's death and continued to the early 1960's, the Soviet Union selected those Jews for emigration who were deemed "nonassimilable"—those Jews who refused to be Russified by intense Soviet indoctrination efforts and who were considered by Soviet leaders as not willing to pledge their allegience to the Soviet state. Unfortunately, the Soviet Union today has all but barred Jewish emigration.

Since 1979, the level of Soviet-Jewish emigration has dropped by more than 98 percent, from 51,000 to only 896 in 1984. This decline has occured at a time when nearly 400,000 Jews, or refuseniks, have expressed a desire to emigrate to either the United States or to Israel, but are not given permission to leave.

As a result, they must live their lives in a society where they endure intimidation, where they are forced from their jobs, and where any attempt to preserve Jewish culture is met with swift retribution. Those brave enough to teach Hebrew, as Joseph Begun has been, are harassed, threatened, and incarcerated on trumped-up charges. They are kept in a closet, unable to tell their stories of inhuman treatment, and unable to live their lives according to basic human standards.

We know the story of the Beguns, the Sakharovs, and the many who suffered a similar fate, and yet the Soviet Union is unable to fathum our distrust of their system. How can the Soviet Union expect us to treat their words and their promises as meaningful expressions of the will of the Soviet State when they demonstrate systematic, pervasive, and continuing violations of every international human rights agreement they have signed. Our distrust will never change unless we see significant, permanent changes in Soviet actions.

Where do—and should—U.S. concerns about Soviet Jews and human rights rank among our concerns about arms control, trade, and regional issues? In my opinion, right up there at the top. When negotiating with the Soviet Union, the United States must not trade off the rights and futures of our fellow human beings in exchange for promises of trade, cultural exchange, or even security.

One possible option which may pressure the Soviet Union for change when approaching the question of Soviet Jewry is the concept of "operational linkage," an option the administration now is reviewing. This is not quiet diplomacy, but applied public pressure and international concern where appropriate. As envisaged in this option international standards of behavior are considered as a factor in our relations with the Soviet Union, specifically in areas such as trade and regional issues. We will reach agreements and we will abide by them, unlike the Soviet Union, so long as other parties to the agreements honor their part.

It is my hope, as well as the hope of all freedom-loving peoples throughout the world, that the Soviet Union someday will change its historical persecution of innocent people whose dream it is to live as they choose—whose dream has become our and the world's dream, that all people should live with dignity, that their basic and fundamental freedoms must be respected. We must keep this dream alive.●

MIROSLAV MEDVID

● Mr. HUMPHREY. Mr. President, the case of Soviet seaman Miroslav Medvid is one in which I have maintained an active interest since this incident occurred last October. The plight of this brave young man brought together a coalition of public officials and organizations all across the political spectrum. All were united by the desire and efforts to ascertain Mr. Medvid's true intentions regarding his return to the Soviet Union. Many interested parties have issued statements in support of efforts to thoroughly investigate the bungling of the case of Miroslav Medvid by U.S. Government officials. On Friday, December 6, I introduced a resolution on behalf of myself and 52 of my colleagues that would establish a Senate panel on asylum to investigate the Medvid case, and the issue of political asylum in general. In view of the desire in the Senate for an immediate legislative investigation of this matter, I ask that several statements issued over the past few weeks by a few of those organizations interested in seeing a thorough review of this matter be printed in the RECORD.

The statements follow:

THE FREEDOM COUNCIL,
December 5, 1985.

To: TFC National Staff; TFC Regional Directors; State Coordinators.

From: TFC National Office, Bill James, Director, Marketing and Communication.

SPECIAL ALERT

In the next few days, Senator Gordon Humphrey (R-NH) will introduce a bill authorizing the creation of a special Senate panel on asylum. This is an outgrowth of the recent controversy in which American immigration officials twice forced a Russian seaman seeking asylum to return to the Soviet ship from which he had escaped.

Already, Senator Humphrey has about a dozen co-sponsors, including Democrats as well as Republicans, liberals as well as conservatives. This probably reflects the fact that the recent incident is one the American people understand and feel deeply about. The list of co-sponsors includes Senators Dixon of Illinois, Denton of Alabama, Grassley of Iowa, Kerry of Massachusetts, Wallop of Wyoming, Symms of Idaho, and Riegle of Michigan. The goal is to have over half of the Senate listed as co-sponsors by the middle of December.

You should alert members of The Freedom Council in your area about this matter and urge them to contact their Senators, asking them to put their names on the Humphrey-Dixon bill as co-sponsors.

The purpose of the panel is to investigate immigration policy as regards those seeking political asylum. The panel plans to investigate not only the Medvid incident, but additional similar problems that include a lack of coherent policy on the part of the Immigration Department.

NOVEMBER 5, 1985.

ACLU DEMANDS THAT MEDVID CASE BE REOPENED

The American Civil Liberties Union today called upon the INS to reopen the case of Myroslav Medvid, the Soviet seaman who last week fled his vessel and sought refuge in the United States.

In a telegram sent by Ira Glasser, ACLU Executive Director, to the Commissioner of the INS the civil liberties organization demanded that Mr. Medvid be taken off the ship and that counsel now seeking to represent him be permitted to meet with him. (A copy of the telegram is attached.)

Wade Henderson, Associate Director of the ACLU Washington Office, described the INS treatment as an all too typical violation of the spirit and letter of the law relating to political asylum. "Under the 1980 Refugee Act," Henderson pointed out, "an individual arriving on our shores is entitled to a meaningful opportunity to present a claim for asylum in a noncoercive setting. Whether the case involves Salvadorans or Nicaraguans stopped at the border, Haitians detained at sea, or a Soviet seaman jumping ship, the person should be questioned sympathetically to determine if he or she fears political persecution if sent home."

In Medvid's case, the ACLU pointed out, there were numerous violations of the existing regulations designed to safeguard an individual's right to seek asylum in the United States. Medvid, the record shows, was never offered the opportunity to file an asylum applications, was not told of his right to counsel or given access to counsel, and was forcibly returned to his ship prior to the consultation between INS and the State Department which the regulations require. These errors were compounded by his subsequent interrogation in the presence of Soviet authorities, violating the confidentiality of his claim and perhaps jeopordizing his safety.

Because of the substantial doubt that Medvid voluntarily waived his claim to asylum, he should be given an opportunity to consult with counsel, the right to file an asylum application if he desires to after that meeting, and a private interview before an impartial INS official. In its telegram to the INS, the ACLU demanded that those procedures be followed before Medvid leaves the United States.

"The first step," Henderson said, "is to seek to protect Medvid's rights. The second is for Congress to conduct a full inquiry into how the right to claim asylum is administered at our borders. This episode points up the urgent need for changes in the conduct of INS employees, if not in statutes and regulations, to insure that all who come to our borders seeking refuge from political oppression of any kind get a fair hearing."

The following is the text of a telegram sent today to the Commissioner of the INS by Ira Glasser, Executive Director of the ACLU:

The ACLU demands that the American government take whatever steps are necessary to insure that Myroslav Medvid is assured of his rights under the 1980 Refugee Act. At a minimum we believe that counsel now seeking to represent him must be given an opportunity to meet with him in a noncoercive setting to determine if he wishes to file a claim for asylum. If such a claim were to be filed we believe that it would require that Mr. Medvid be permitted to remain in the United States until the request is fully adjudicated.

STATEMENT OF HELSINKI WATCH REGARDING THE CASE OF MR. MIROSLAV MEDVID

[November 1, 1985]

The Helsinki Watch calls on United States officials to take further action in the case of Miroslav Medvid, the seaman who jumped ship, to assure that he is not returned to the Soviet Union involuntarily, if he has a well-founded fear of persecution.

In the view of the Helsinki Watch, the hurried processing of Mr. Medvid did not give him an adequate opportunity to obtain advice about his rights nor to consider in a calm atmosphere the consequences that he might suffer. We urge a delay in which Mr. Medvid would have an opportunity to determine how he wishes to exercise his rights.

The obvious contradiction between Mr. Medvid's behavior when he was forcibly put back on a Soviet freighter and his reported decision subsequently to return to the U.S.S.R. underscores the need for a less hurried consideration of his legal rights.

If Mr. Medvid is returned the United States should receive assurances that the United States Embassy personnel in the U.S.S.R. can see him to ascertain his well being.

The Helsinki Watch is a citizen organization that monitors and promotes compliance with the human rights provisions of the 1975 Helsinki Accords in the thirty-five nations that signed them. Its Chairman is Robert L. Bernstein; its Vice-Chairman are Orville Schell and Aryeh Neier; its Executive Director is Jeri Laber.

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS
Washington, DC, November 4, 1985.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: I am writing to you regarding the very urgent matter of Miroslav Medvid, the young Ukrainian sailor who was returned by the U.S. Border Patrol to the Soviet ship, the Marshal Konev.

Since his return to Soviet hands sufficient evidence has arisen to suggest that Mr. Medvid had in fact clearly sought political asylum but that his intentions were not properly conveyed to U.S. immigration officials.

Mrs. Irene Padoch, a translator for the Immigration and Naturalization Service, has indicated that Mr. Medvid had asked U.S. authorities for political asylum.

Moreover, there is reason to believe that before his second interview, he was subjected to severe coercion and threats at the hands of Soviet authorities.

Because this matter appears to be the source of a great deal of uncertainty and because there is the danger that an unconscionable injustice may be perpetrated, I urge you to act now to allow Mr. Medvid to be removed from the Marshal Konev so that he can clearly and freely state his views to U.S. authorities.

If Mr. Medvid truly wants to return to the USSR, there can be no reason for the Soviets to deny him the opportunity to say so clearly and unequivocally. If, on the other hand, he wishes to seek asylum he ought to be permitted the opportunity to do so.

Your intervention would help to alleviate widespread public concern that a terrible mistake and grave injustice may have been committed in this matter.

The stakes in this case are high. We need recall the case of the Lithuanian sailor Simus Kudirka, who through an error was returned to Soviet authorities. Mr. Kudirka was subsequently sentenced to a decade of imprisonment for having sought freedom.

I urge you to act to see that justice is done and Mr. Medvid does not suffer the fate of Simas Kudirka. Such action is important because it would send a clear signal that the U.S. is ready to protect any Soviet citizen who risks his life in the hope of gaining freedom on our shores.

Sincerely,

Lane Kirkland,
President.

Save the
Oppressed People Committee,
Washington, DC, December 3, 1985.

Hon. Gordon Humphrey,
531 Hart Building,
Washington, DC.

Dear Senator Humphrey: It is our understanding that you and other Members of Congress may investigate the circumstances surrounding the case of would-be defector Miroslav Medvid, the Ukranian soldier who was forcibly returned to the Soviet grainship Marshal Konev.

The Save the Oppressed People Committee was on the scene in Freedom Warrior, a 38 foot crew boat rented by STOP to draw attention to Medvid's plight. Our goal was to slow the progress of the ship and to buy time for legal appeals. We also sought to increase public pressure on the Administration to reconsider its handling of the case.

Unfortunately, the United States Coast Guard did not enforce the duly served Senate subpoena for Medvid. Further, Freedom Warrior was illegally detained for an hour and a half "safety inspection" as the Konev left the grain loading facility.

As Freedom Warrior steamed down river (and away from the press boat) to catch up with the ship, Coast Guard boat number 41475 attempted to ram us. We are fully prepared to substantiate this with photos and actual tapes of Coast Guard radio communications. Our attorneys are now preparing a $10 million lawsuit for infringement of our First Amendment rights, harassment, and vehicular assault.

We pleased that Members of Congress concerned about human rights are looking into this matter, and offer the full cooperation of the STOP Committee.

If there is anything we can to facilitate your efforts in this human rights case, please do not hesitate to contact us.

Sincerely,

David Finzer,
Chairman.
Lee Bellinger,
President.

Statement of Myron Wasylyk, Director, Washington Office—UCCA

"On behalf of Ukrainian-Americans, the Ukrainian Congress Committee of America calls upon the Departments of State and Justice for a full and thorough accounting of all events involving the bureaucratic foul-up of the case of Ukrainian sailor, Myroslav Medvid.

"There are several questions that the State Department has left unanswered.

"First, in class involving defections, there is a standard set of procedures which call for the individual to be taken into custody for several days until necessary interviews are conducted. Yesterday, a State Department spokeman said that the prudent necessary steps in cases involving political asylum were not taken. We know that the sailor was taken to a hospital and that during his stay Soviet officials were present at all times. Those familiar with the Soviet style of justice know that the mere presence of Soviet officials during legal examination causes intimidation and heavy duress.

"If the State Department admits that necessary steps were not taken, then how did the State Department reach the conclusion to allow the sailor to leave?

"Secondly, in a White House meeting yesterday and in a letter sent to the President on Monday, the Ukrainian Congress urged the need for a Ukrainian interpretor. Since the seaman had specifically identified himself as a Ukrainian and not a Russian, we feel appropriate sensitivities regarding his position needed to be met by U.S. officials. The State Department yesterday refused to provide a Ukrainian interpretor. Since the press has reported that the text of the written document was in Russian, we have no assurances that the sailor knew what he was signing since he previously had trouble understanding a Russian interpretor.

"Thirdly, the State Department has given no assurances that the man captured by the border patrol is the same sailor who was interviewed by State Department officials, since several hours had elapsed from the time the border patrol placed him on the ship and the arrival of the first State Department official.

"Based on these facts, we urge the Departments of State and Justice to reveal a full accounting of the events involving Miroslav Medvid. Furthermore, knowing the fate awaiting any individual who embarrasses the Soviet state, we call upon Secretary of State Shultz to inform the U.S. Embassy in Moscow of our concerns and the need to monitor Miroslav Medvid to ensure his safety and well being.

Coalition for Constitutional Justice and Security

CCJS protest the reprehensible return of Ukrainian seaman, Miroslav Medvid to the Soviets yesterday. We condemn the wanton disregard of Medvid's human rights as well as the serious violation of the U.S. Refugee Act, 1980., carried out deliberately and maliciously by the Justice Department's INS, the State Department, and Soviet officials.

We further condemn the blatant cover-up attempt being engineered. There has been no independent verification of what has transpired since Mr. Medvid first attempted to defect. No transcript has been made available. No attorneys, no church groups, no human right groups such as Amnesty International, no members of the media have been permitted to take part.

CCJS urges:

(1) an immediate investigation by Congress of the entire incident,

(2) Prosecution under U.S. law of those responsible for violation of U.S. Federal and State Statutes, and

(3) Detention of the Soviet ship until a Congressional probe is complete and Congress is satisfied that Medvid has been able to freely express his desire to leave or to stay in the U.S.

The current situation is an insult to the dignity and integrity of this country. CCJS, along with other groups such as State Department Watch, Baltic American Freedom League, Joint Baltic American National Committee, Ukrainian National Information Service, and many members of Congress have already issued statements condemning and deploring the Administration's handling of the Medvid affair to date.

Estonian American National Council

We are shocked and outraged by the decision to return Ukrainian defector Miroslav Medvid to Soviet authorities, apparently with approval from the highest level of our government. For the U.S. Government to cold-bloodedly sacrifice any individual in order that an international photo opportunity in Geneva will not be upset is the height of hypocrisy and a betrayal of the ideals this country was founded on. This is a day of shame for all American and for freedom-loving people everywhere!

The Estonian American National Council joins the call for a full and thorough investigation of this entire incident, beginning with the Justice Department's Immigration and Naturalization Service. We ask that Representative Romano Mazzoli, House Subcommittee on Immigration, Refugees and International Law, and Senator Alan K. Simpson, Senate Subcommittee on Immigration and Refugee Policy, as Chairmen of the two congressional bodies with direct INS oversight, initiate immediate hearings into the disastrous handing of this case.

The U.S. Coast Guard and most other Americans learned the lessons of the 1970 Simas Kudirka case; tragically, INS did not.●

REPRESSION IN HAITI

● Mr. DURENBERGER. Mr. President, recent developments in Haiti leave one to question whether that country's Government will tolerate open dissent or a real process of democratization.

Over the past year, the Duvalier government had made some very tentative moves toward allowing opposition voices to speak out. Several events since the end of November suggests that democracy remains very far away for the unlucky people of Haiti. To commemorate the fifth anniversary of a crackdown by the Duvalier regime, a number of demonstrators marched peacefully through Haiti's third-largest city, Gonaives, on November 28. The Haitian security forces responded in characteristically heavy-handed fashion by firing into the crowd. Four youths, including a 13-year-old boy, were killed and as many as 14 others were wounded in this incident. In an official statement, the State Department called on the Haitian Government to punish all those responsible for this deplorable incident and critized the Haitian Government's use of force in suppressing a peaceful demonstration.

The increasing outspokenness of the Haitian opposition has apparently caused the Duvalier government to strike back at dissidents. On July 22, President Duvalier conducted a referendum to ratify his position as president-for-life, to affirm his right to choose a successor and to create the post of prime minister. Many independent observers reported that this election was neither free nor fair. Since this referendum on political adjustments within Haiti was held, the Catholic Church radio station in Port-au-Prince, Radio Soleil, has been increasingly critical of the Government and has broadcast the views of leading opposition figures. In late July, several Catholic priests who had worked with Radio Soleil were expelled from Haiti by the Government.

Radio Soleil's reportage of the protest in Gonaives clearly proved an embarrassment for the Haitian Government. It is my understanding that heavy Government pressure was exerted on Radio Soleil and its manager, Monique Saint Vincent, from November 28 until December 5. Several high-ranking Haitian officials, including Foreign Affairs Minister Jean-Robert Estime, visited Radio Soleil's facilities on December 5 and ordered the station to cease all reporting on the Gonaives incident. At 11 a.m. on that day, Radio Soleil announced that it could not report on the Gonaives incident because of orders and named the officials. Later in the day, the Government denounced this action as "subversion" and closed the station. The ofifcial explanation for the closure was that the station's license had lapsed.

A second Catholic Church radio station in Haiti, Radio Ave Maria in Cap Haitien, was closed the next day following telephone threats against the staff and its manager, Emanuel Blaise, as well as several power outages. It appears that the Haitian Government was displeased with Radio Ave Maria's sponsorship of a prayer march to mark the events in Gonaives. The last remaining independent radio station in Haiti, the Protestant Radio Lumiere, voluntarily ceased broadcasting news on Monday. Several leaders of the opposition, including Hubert Deronceray, have been seized by the Government since November 28. Haiti's Catholic bishops have been summoned to meet with the Government, but they have thus far refused to comply.

I am pleased to report that the State Department has conveyed its strongest possible concern with all of these developments to the highest levels of the Haitian Government. I would like to state my full agreement with this position of our Government, and I would urge the Haitian Government to rescind its actions against these three radio stations and to allow these stations to resume their customary operations. I would also hope that Mr. Deronceray and the other political detainees would be released immediately and without condition.

Mr. President, I ask to enter an article from the Washington Post of December 8 on the recent events in Haiti in the RECORD.

The article follows:

SECOND CATHOLIC RADIO CLOSES IN HAITI—STATIONS WENT OFF THE AIR AFTER REPORTING ON DEMONSTRATIONS

PORT-AU-PRINCE, HAITI, December 7.—A Catholic radio station in Cap Haitien, Haiti's second-largest city, went off the air yesterday following several power outages and telephone threats against the staff, a spokesman said. It was the second station to go off the air following growing unrest in the country.

"Things have been rough. We've had interruptions in electric power and telephone threats," a spokesman for Radio Ave Maria said.

The 5-kilowatt radio station is affiliated with Catholic Radio Soleil, a station ordered off the air late Thursday. Authorities closed down Radio Soleil after it reported on the growing unrest and violence.

[A spokesman for the Washington Office on Haiti, a church-funded group, said two Cabinet ministers visited Radio Soleil on Thursday and ordered the station not to broadcast any news about demonstrations. It was then shut down.]

Four students were killed by police Nov. 28 in Gonaives, the scene of Haiti's food riots last year, and several other demonstrators were wounded.

Although no government-run media issued an official statement on Radio Ave Maria, officials say authorities were unhappy with its antigovernment stand.

Radio Ave Maria sponsored a prayer march following the Nov. 28 deaths in Gonaives, 110 miles north of Port-au-Prince.

The students were killed during a demonstration protesting the July 22 referendum giving President Jean-Claude Duvalier more power.

The government-run national television repeated an official statement issued by the minister of interior and national security, Jean-Marie Chanoince, announcing that Hubert Deronceray, a former minister of social affairs and delegate to UNESCO, has been arrested in his home Thursday.

Unconfirmed reports suggested that several other people have been arrested in Petit Goave, Cayes and Gonaives, where several demonstrations have been held following the student's death.

In Port-au-Prince, a government official said, "The president is in full control of the situation."●

NATIONAL THEATRE WEEK

● Mr. HATFIELD. Mr. President, I rise today in support of Senate Joint Resolution 247 sponsored by my good friend Senator MCCLURE designating the week of June 1-7, 1986, as National Theatre Week. The State of Oregon is fortunate to have several excellent professional and amateur theatre groups within its borders. Foremost among these organizations is the Oregon Shakespearean Festival which holds annual performances of William Shakespeare's works in the picturesque community of Ashland, OR.

Founded by Angus L. Bowmer on July 2, 1935, the Oregon Shakespearean Festival just celebrated its 50th anniversary. The festival is one of the oldest and largest not-for-profit theatres in North America, and has the distinction of having the first Elizabethan stage on this continent. It currently is heralded around the world as presenting some of the best and most authentic performances of Shakespeare's works.

Awarded in 1983 with both the Tony Award for outstanding regional theatre and the National Governors' Award for excellence in the arts, the Oregon Shakespearean Festival has brought Shakespeare's characters, as well as those of his fellow playwrights, to life for a diverse audience which now numbers more than 4 million. Shakespeare has a universal appeal, and as a people's theatre the festival is committed to an intensive program for youth as well as nourshing to the hearts and minds of its older audience.

The State of Oregon is proud to count the Oregon Shakespearean Festival as one of its most prized cultural jewels.●

SISTERLY LOVE

● Mr. DURENBERGER. Mr. President, those who are fortunate enough to live in the State of Minnesota have much to be proud of. Our lakes and parks and educational facilities provide a quality of life second to none in the United States. But our greatest source of pride is the remarkable quality of our people.

One such Minnesotan is Sister Mary Giovanni. Her story of service and compassion is an inspiring one. We first got acquainted when I was working on community projects in St. Paul. Sister Giovanni had a singular way of rounding up food and clothing for the needy. It did not matter the time or the day, she would just pick up the telephone and call whomever to inform them of what she wanted for a particular needy family. And more often than not, she got what she wanted.

She is equally as forthright in her approach to teaching. When society can no longer handle them, Sister Giovanni takes into her school the kids from St. Paul's West Side who have been in trouble with the law for drugs, alcohol, and theft. She teaches these kids "survival skills," and she does it firmly but with compassion.

I am a great admirer of her successful way of reaching kids who have been turned off by the traditional educational system. Not only does Sister Giovanni pray her kids will succeed; she makes it happen.

Mr. President, I ask that an article about Sister Giovanni from the November 1985 issue of Minneapolis-St. Paul magazine be inserted in the RECORD at this point. I trust my colleagues will find it inspiring.

The article follows:

Sisterly Love

(Peg Meier prepared this first-person profile of Sister Mary Giovanni, 71, who heads the Guadalupe Area Project (GAP) on St. Paul's West Side, where she grew up. She and her staff teach teenage boys and girls who haven't succeeded in regular schools. She has been a nun for 50 years and has been with GAP for 25 years)

I get along with the underdog. Always have. It's no virtue; it's just the way I'm built. Good girls bore me. Some people get along with nice little girls who always do what they are told. I don't know how to handle them. What do you do if you come to class and everybody has their assignment done?

I like a challenge. I like these kids. I don't like what they do sometimes. I see them run in the streets and get into drugs and drink and stealing. They are basically survivors. I don't have a dumb bunny in the crowd.

Our kids are sent here by the courts or by counselors who can't handle them. The criterion is they have to be in trouble. If two kids want in and we have room for one. I'll take the one who's in the most trouble. I just tell the other one to hang on—somebody is going to goof up and them I'll have to kick them out and then you can take their place.

We've been around a long time and have a lot of success stories. People know that we care, and above all they know they will learn something here. Isn't that neat! So I have great expectations and I'm very, very hard on the kids. Man, you mess up here, kid, and you get it. Or I kick you out. And when I kick you out, you know I pray for you and you know you can come back when you're in shape again. The world is not waiting for them with a silver tray. Ten people are after a job, and they're not going to take a dropout. So you can come back if you settle down and study.

We've got about 45 kids in grades 9 through 12. Last year we didn't have any graduates because the four smart ones who could have earned credits didn't.

This place works for two reasons: First, kids know I'd sell the shirt off my back for them. Secondly, we have small classes. Some have only seven or eight kids, and that's a large class for us. See, our kids are not stupid, but they have lots of absenteeism. They lack skills. The only way you can pick up on that is if you have small classes.

I've found that naughty kids are usually very honest. They know they've got it coming. Another thing, these kids can smell a fake a mile off. You don't have to tell them, "Oh I love you" and all that. No, they know. If a kid comes to you for a math class, he knows you're not his mother or probation officer. Just teach him math he can use, and he'll know you're doing something for him, that you care about him.

I have nine teachers, and five of them have master's degrees. If the staff person isn't doing a good job, I fire them, no matter how good they may think they are. But I don't just fire them if they pull a boo-boo, once you know. They get a chance like the kids do. I try to be fair. I don't kick somebody out just because I happen to have an undigested bean in my middle. You're warned. See, all I'm concerned about is the kids. Sure, I care about the staff, but people smart enough to get hired here have got ways of taking care of themselves.

Here at GAP, we help neighborhood people. We used to do a lot with jobs, food, clothing, housing. But since His Nibs [President Reagan] is in, what can I do about jobs or housing for them? Now we have more food shelves to send them to, and one of our sisters opened a rummage center so I can send my people there for clothing. I think what our people need most is education. We have a terrible dropout rate in this area. I don't like to badmouth anybody, but I think that's the fault of inadequate facilities and, more important, inadequate educators. Now if that hurts their feelings, that's their problem. Teachers have to be good. I teach a course or two myself—Effective Living. I give you the tools and you use them. If you don't, you're a dunderhead.

We work with parents a lot. The adult haven't had a good education. They do fine with their kids up to fourth, fifth, sixth grade; they're the cutest most darling little kids. If the parents were in Mexico, they could handle adolescents too. In Mexico you tell them what to do and they do it. Here, your parents tell you to do something, and you don't do it. Our people don't know how to handle that. One woman told me, "I told him again and again not to do that." That's not how you train a kid. Get it?

The school is supported partially by the United Way. They give us $89,000 toward our budget of something like $308,000. The rest I pick up from here, there and everywhere. I run around to get support for the program—give talks, beg, sell stuff from our ceramics shop. The line I've used for some 20 years is, "There is not a thing on these tables that you need, but I need you so pick up one thing." I tell people they should make a choice of their charities, not contribute just because somebody has you on the mailing list.

I am positively certain that God wants this place, because when I first came here I had no source of income except donations. I wasn't under the United Way until about six or seven years ago. And so I told God, "Okay, if you want this program to succeed, you'll have to see that we get the green stuff." And He's never failed. Right now, I'm terribly much in the hole, but maybe we can get a second mortgage on this house.

I don't know any millionaires, but it's those numbers of people donating a little bit of their hard-earned money that have kept us going. Sometimes I'm told, "Tell people what it is you need. Computers? Books?" I say it sounds awful, but what I need is money! If I'm going to hold on to teachers I need to be able to pay them at least a little bit. I try to pay $13,000, up to $16,000. That's not very much. Our nuns have taken a cut in pay so I could do it.

One thing I don't do is teach religion in this house. There are a lot of ways to skin a cat, don't you know. In Effective Living class, I calm them down and get rid of tension. I teach them how to go into a deep relaxation. When they feel really great and relaxed, I say okay, imagine Christ is walking along the shore. If you don't want to talk to Him, that's fine. He'll just go right past. If you want, invite Him to sit down with you.

I tell them, "I believe God made me because He wanted me. He had a choice. He could have made a bird or a tree, but He wanted me. Wow, there must be something special about me! How come he made you, kid?" Same reason. Now, see, my kids are beginning to sit up taller. There are so many people in their lives who don't want them. Maybe they were never wanted; maybe they were classified as an "accident."

So when they're relaxed and feel like talking to Christ, I tell them to tell Him what's bugging them today. He knows it, but He would like you to tell Him. Then I keep my mouth shut. I tell God, "I don't know what they need but You know it, so get into them." After five, six minutes, they come out of it. I say, write down how you felt. What did you smell or what was your reaction? What insight did you get? It helps not only their souls but their writing.

Also, in the morning, I have them keep a journal. Each entry can't be more than half a page. It's good for their English to keep their thoughts concise.

I love to teach. I really love it. I'm supposed to have retired a long time ago, but I'm just getting into second gear. The thing that energizes me the most, outside of praying, is people. Kids know it. I get high on people. Some of my ideas are wacky, and they go out the window. But some are real good and I fight for them, and the fighting energizes me. To see a kid who is not succeeding and then to turn his life around. Wow!

It's great. The kids come back, those who make it, anyway. They come in and check on the kids who are misbehaving. That's another advantage of being here so long. When kids come in, I hardly have to tell them what the rules are. They know. They know if you're coming to waste time, this is not the place to be. 'Cuz she'll get you, kid. One of the guys who comes back regularly never even graduated. I threw him out. He was off his rocker about a girl. Oh God, I could wring those girls sometimes. They get a guy so confused he doesn't know which side is up. So anyway, he left school but he caught himself before it was too late. He's happily married now, to another girl, and he had a job putting in mufflers at some auto shop. He bragged about the fact that he worked there for seven years and never once was late. We taught him something.

I tell the kids, "I'll chew you out in this house, really good, because I want you to succeed. But I step my foot outside the door and I brag about whoever I can." So every once in a while, I'll meet a kid and I'll say, "Hey, I need to brag about you. What have you done lately?"

Another thing—every teacher has to write an evaluation for me every day of every class. If a kid did well or poorly, that's written on the evaluation. So when I come in the next morning, the kid gets patted on the back, either up high or low down.

We have all kinds of specialists working with the kids. We take volunteers from outside the area. I pay people in the area, even if it's only a little bit. Poor people can't volunteer. Also what you want is to get the kids out of the neighborhood every once in a while and let them see there's another world out there. We took the five best art students to the Minneapolis Institute of Arts. We took eight people who were very good with computers out to H.B. Fuller. The science kids went to the science museum.

I wear a habit for two reasons. First, I really treasure my position as a sister, a School Sister of Notre Dame. I worked hard to get that. That's why whenever I sign my name, I put SSND after it. Secondly, I want people to know who I work for. I work for God. In civvies I'd be just another old lady. Another old kooky lady. This way I'm a kooky nun. This way I can smile at people and no one will think I'm making a pass at them. I get to smile or wave at anybody; even that can bring someone a little bit of happiness. Now, some people have said that I wear a habit because I can get money out of people. I'm insulted by that.

Sure, I'm a rebel. Got it from my father. He was always fighting the union, fighting the powers that be. I'm always fighting the bureaucracy every time I can. Some people say I fight the church, but I say, who's the church? It's like asking, what's America? America is the people, isn't it? You wouldn't say America is Reagan and those crazy fool senators and representatives, not some of them anyway. In your wildest dreams you wouldn't say that Reagan was America, would you? All right. Well, I say the church is people, and Christ is the head of the church. He's not here, so he has to delegate his power to humans, who make human mistakes.

Me too. I make mistakes. That's why every single day, I listen to people. How can we make this school better? That's not telling me what to do, that's helping me. Some people, once they get the smell of authority, they got to tell everybody down below. When I first came here, they thought if you were a teacher you were better than they were. It took me a long time to get them over that.

People come here to talk. They say, "I got a problem. I don't know if you can help me." And I'll say, "Come on, you tell me." And they'll say, "Do you have time?" I'll say, "Yeah, I've got time." And then everything gets shoved aside a bit. The deeper the trouble, the higher the priority of making a space for them.●

PROPOSED ARMS SALES

● Mr. LUGAR. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $50 million or, in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon such notification, the Congress has 30 calendar days during which the sale may be reviewed. The provision stipulates that, in the Senate, the notification of proposed sales be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is available to the full Senate, I ask to have printed in the Record at this point the notification I have received.

The notification follows:

Defense Security Assistance Agency,
Washington, DC, December 11, 1985.

Hon. Richard C. Lugar,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, DC.

Dear Mr. Chairman: Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are fowarding herewith Transmittal No. 86-17, concerning the Department of the Air Force's proposed Letter(s) of Offer to Saudi Arabia for defense articles and services estimated to cost $500 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

Philip C. Gast,
Lieutenant General, USAF,
Director.

Transmittal No. 86-17

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b)(1) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Saudi Arabia.

(ii) Total Estimated Value: Major Defense Equipment:[1] $0 million; other: $500 million; total: $500 million.

(iii) Description of Articles or Services Offered: Contractor Technical Services (CTS) in support of the previous sale of F-15 aircraft and associated systems to the Royal Saudi Air Force (RSAF) to continue providing organizational and intermediate level maintenance and in-Kingdom classroom and on-the-job training for the period 1 July 1987 through 30 June 1990.

(iv) Military Department: Air Force (YGU).

(v) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:

(vi) Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be Sold:

(vii) Section 28 Report: Case not included in Section 38 report.

(viii) Date Report Delivered to Congress: December 11, 1985.

Policy Justification

SAUDI ARABIA—CONTRACTOR TECHNICAL SERVICES

The Government of Saudi Arabia has requested the purchase of Contractor Technical Services (CTS) in support of the previous sale of F-15 aircraft and associated systems to the Royal Saudi Air Force (RSAF) to continue providing organizational and intermediate level maintenance and in-Kingdom classroom and on-the-job training for the period 1 July 1987 through 30 June 1990. The estimated cost is $500 million.

This sale is consistent with the stated U.S. policy of assisting friendly nations to provide for their own defense by allowing the transfer of reasonable amounts of defense articles and services. It will demonstrate the continuing willingness of the United States to support the Saudi Arabian effort to improve the security of the country through modernization of its forces. In a regional context, enhancement of the defensive capabilities of Saudi Arabia will also contribute to overall Middle East security.

This case will provide for continuation of contractor organizational and intermediate level maintenance and training services provided since the 1978 purchase of F-15 aircraft. Assuring the readiness of previously purchased equipment is essential in demonstrating the reliability of U.S. equipment and commitments. For this reason it is important that provision of these services be unimpeded and that their quality be assured through U.S. Air Force program management and contract administration.

This sale will not affect the basic military balance in the region.

This proposed sale is being notified at this time to allow sufficient lead-time for full and competitive procurement in the implementation of this sale. Identification of the prime contractor will be determined at a later date.

Implementation of this sale will not require the assignment of any additional U.S. Government personnel or contractor representative to Saudi Arabia.

There will be no adverse impact of U.S. defense readiness as a result of this sale.●

PROPOSED ARMS SALES

● Mr. LUGAR. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive prior notification of proposed arms sales under that act in excess of $50 million or, in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon such notification, the Congress has 30 calendar days during which the sale may be reviewed. The provision stipulates that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Committee on Foreign Relations.

In keeping with the committee's intention to see that such information is available to the full Senate, I ask to have printed in the Record at this point the notifications which have been received. The classified annex referred to in one of the covering letters is available to Senators in the office of the Committee on Foreign Relations, room SD-423.

The notifications follow:

Defense Security
Assistance Agency,
Washington, DC, December 11, 1985.
In reply refer to: I-17168/85ct.

Hon. Richard C. Lugar,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, DC.

Dear Mr. Chairman: Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 86-18 and under separate cover the classified annex thereto. This Transmittal concerns the Department of the Army's proposed Letter(s) of Offer to Egypt for defense articles and services estimated to cost $68 million. Shortly after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Sincerely,

Lt. Gen. Philip C. Gast,
USAF, Director.

Transmittal No. 86-18

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

(i) Prospective Purchaser: Egypt.

(ii) Total Estimated Value:

	Million
Major defense equipment[1]	$56
Other	12
Total	68

[1] As defined in section 47(6) of the Arms Export Control Act.

(iii) Description of Articles or Services Offered: Thirty-six M60A3 tanks with Tank Thermal Sights, machine guns, searchlights and smoke grenade launchers. This purchase will also include spare parts, tools, test sets and a basic load of smoke grenades.

(iv) Military Department: Army (UGW).

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[1] As defined in Section 47(6) of the Arms Export Control Act.

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(v) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None.

(vi) Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be Sold: See Annex under separate cover.

(vii) Section 28 Report: Included in report for quarter ending June 30, 1985.

(viii) Date Report Delivered to Congress: December 11, 1985.

POLICY JUSTIFICATION

EGYPT—M60A3 TANKS

The Government of Egypt has requested the purchase of 36 M60A3 tanks with Tank Thermal Sights, machine guns, searchlights and smoke grenade launchers. This purchase will also include spare parts, tools, test sets and a basic load of smoke grenades. The estimated cost is $68 million.

The proposed sale supports the American foreign policy and national security objectives of assisting Egypt in its program of modernizing its armed forces to that it may provide for its own security and self-defense and contribute to regional security and stability. A strong and independent Egypt will be able to continue to participate in the Middle East peace process and resist incursions of Soviet client states in the region.

The Government of Egypt plans to use these tanks for force modernization. This sale would continue the ongoing program of replacing aging Soviet equipment with modern U.S. equipment. Egypt will have no difficulty absorbing these tanks into its armed forces.

The sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be the General Dynamics Corporation of Warren, Michigan.

Implementation of this sale will require the assignment to Egypt of four additional U.S. Government personnel for 10 days.

There will be no adverse impact on U.S. defense readiness as a result of this sale.●

AID TO UNITA: A TEST OF THE REAGAN DOCTRINE

● **Mr. ARMSTRONG.** Mr. President, much has been said recently about the Reagan doctrine's commitment to aid freedom fighters attempting to push back the frontiers of Communist domination. It was my pleasure recently to appear on the PBS program, "American Interests," to debate the issue of the Reagan doctrine, particularly as it relates to Angola.

At the close of the program, Owen Harries, editor of the National Interest, said that the question of aid for the free forces in Angola comes down to one point—do we stand up for freedom or do we not. Or as he specifically stated, "It is time to put up or shut up."

Aid to UNITA, the National Union for the Total Independence of Angola, is in the national interest of the United States. In addition, UNITA's democratic freedom fighters enjoy bipartisan congressional support as was shown by the repeal of the Clark amendment which had prohibited aid to the free forces in Angola. Now it is time for the administration to put action behind the words. As Mr. Harries so clearly stated, if we truly believe in freedom, it is indeed time for us to put up or shut up.

Nowhere is there a better chance of success for democratic forces than in Angola. To better understand how we can help. I commend to my colleagues a recent piece by William W. Pascoe III which provides background on UNITA's struggle against Communist tyranny and clearly outlines why the Reagan doctrine is sound foreign policy for the United States to pursue in Angola. I ask that the article be printed in the RECORD.

The article follows:

ANGOLA TESTS THE REAGAN DOCTRINE

INTRODUCTION

Angolan government troops, backed by Cuban forces and directed by Soviet battle commanders, have been escalating their military campaign against the pro-Western insurgents of the National Union for the Total Independence of Angola (UNITA) led by Jonas Savimbi. Heavily resupplied by the Soviet Union over the past eighteen months, and bolstered by as many as 7,000 extra Cuban troops—bringing their total to more than 35,000[1]—government forces launched their most serious offensive yet in their ten-year-old war against UNITA. Their goal: the capture of Jamba, UNITA's headquarters in southeastern Angola, and the destruction of Savimbi's formidable fighting forces.

The combat has been fierce. On September 28, the Luanda government claimed that Savimbi had abandoned his base at Jamba and withdrawn into neighboring Namibia.[2] Savimbi denied this and on October 8, brought Western journalists to the Lomba River to see the remains of a decimated MPLA-PT mechanized column.[3] UNITA had blunted the Angolan offensive 20 miles northwest of Mavinga, a key UNITA stronghold, and had forced the MPLA-PT to retreat.[4] For the moment, at least, Savimbi had won.

In Washington, meanwhile, a different battle has been raging. This one tests the Reagan Doctrine's commitment to help Freedom Fighters and push back the frontiers of communist domination. In this battle, U.S. officials have been wrestling with the question of Washington's policy toward Savimbi. His forces are genuine Freedom Fighters as defined by the Reagan Doctrine and thus clearly deserve U.S. backing. This is recognized on Capitol Hill by Republicans and Democrats alike. In the House, legislation calling for $27 million in humanitarian aid for UNITA was introduced on October 1;[5] a bill providing a similar amount in military aid was introduced October 24. Inexplicably, the State Department is actively opposing these bipartisan measures, even though they simply translate the Reagan Doctrine into action. Secretary of State George Shultz even has gone so far as to write House Minority Leader Robert Michel of Illinois, asking him to block the legislation.

This understandably puzzles some of Shultz's colleagues in the Administration. Secretary of Defense Caspar Weinberger and CIA Director William Casey apparently are pushing for substantial covert aid to UNITA.[6] They recognize that since 1976, Angola has been the key to Moscow's strategy for the region, providing a stable base for SWAPO guerrillas to destabilize Namibia.

The Administration now must make up its mind. Does it or does it not take seriously the Reagan Doctrine's pledge to aid Freedom Fighters? If it is more than empty rhetoric, the White House must direct the State Department to embrace and back vigorously Congress' bipartisan efforts to help UNITA.

ROOTS OF THE PROBLEM

Ten years ago, the departing Portuguese colonial government signed an agreement with the three Angolan independence movements. The Alvor Agreement created a coalition government made up of the MPLA, FNLA, and UNITA, which was to hold elections. Before they could be held, the MPLA imported 13,000 Cuban troops and Soviet advisors, and ousted the other two movements. The FNLA disbanded, while Savimbi and his UNITA forces retreated into Angola's southeastern corner, an area labelled by the Portuguese as "The Land That God Forgot."

From his redoubt, Savimbi has forged a powerful fighting machine.[7] In 1981, with his troops numbering 50,000, he recaptured Mavinga, a small town 150 miles to the northeast of Jamba. With its hard-packed gravel airstrip, Mavinga became a key logistical center for UNITA and the base for its supply lines to the north.

In August 1983, Savimbi launched a successful assault against the MPLA-PT garrison at Cangamba in central Angola. The two-week battle, the first major conventional UNITA attack against MPLA-PT forces, was a turning point in the war. It confirmed Savimbi as a serious threat to the Luanda regime, forced the Angolan communists to shift away from tentative negotiations with South Africa and back to the battlefield, and forced Moscow and Havana to reassess the situation.[8]

Immediately following the battle, Lucio Lara, believed to be the leader of the MPLA-PT's pro-Soviet faction, rushed to Moscow.[9] The Soviets apparently decided to reinforce their Angolan clients and began sending massive amounts of arms to Luanda, including T-62 heavy tanks, MiG-23 jet fighters, SU-22 fighter bombers, and MI-24 helicopter gunships. This bolstered an arsenal which already included MiG-17s, MiG-21s, and hundreds of T-54/55 and PT-76 tanks. Concurrently, the Soviets installed a new air defense line in southern Angola, deploying radars and SA-8 surface-to-air missiles. In November and December 1983, Additional Cuban troops were transferred to Angola from Ethiopia, bringing the total number to 35,000.[10]

Through last year and the first half of this year, the Soviets restocked the MPLA-PT's arsenal. By this August, government forces had over 500 Soviet tanks, including 30 T-62s; over 100 sophisticated Soviet fighter aircraft, including about 30 MiG-23s and 70 MiG-21s; and roughly 25 deadly MI-24 helicopter gunships. The value of these arms transfer has been estimated at $1 to $2 billion.[11]

THE SOVIET OFFENSIVE

The Soviet offensive began in earnest in late July, with a two-pronged assault. The strategic objective of the first prong was the capture of the Cazombo salient, an area of eastern Angola which juts into neighboring Zambia. It has the psychologicial importance of being the birthplace of the MPLA. Its recapture, and with it the reopening of the Benguela railway linking the mineral

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Footnotes at end of article.

wealth of eastern Angola to the west coast ports, would provide a tremendous morale boost to MPLA-PT forces.

The assault was launched from recently recaptured Menongue, with air cover from Luena on the Benguela railway. Four government brigades, directed by Soviet commanders who coordinated ground, artillery, and air attacks, moved against UNITA positions. The advantages of direct Soviet operational control down to the battalion, and possibly even platoon, level were immediately evident: where MPLA-PT troops previously had advanced only until they encountered strong enemy fire and then fell back, this time they fought on under heavy fire. Savimbi inflicted hundreds of casualties on the attackers. But rather than risk a major conventional battle where he was outmanned and outgunned, he withdrew his forces to the south, where he anticipated the next thrust.

The objective of the second Soviet-led prong was the occupation of Jamba itself. Built up over the last several years, Jamba is UNITA's political, social, and cultural headquarters. With a population of 10,000 and factories, schools, and hospitals, it is Savimbi's showplace in the Angolan bush. Its loss would be a devastating blow to UNITA.

Four brigades of government troops were commanded by Soviet officers. Soviet and Cuban pilots flew the Angolan Air Force's MiG-21s, MiG-23s, SU-22s, and MI-24s, according to an Angolan pilot shot down and captured by UNITA.[12]

On September 25, Savimbi launched a counterattack, leading 5,500 UNITA soldiers against the 4,600 MPLA-PT troops caught between Mavinga and the river. Trapped in the loose, sandy soil of southeastern Angola, the Soviet armored vehicles and tanks were sitting ducks for the more mobile UNITA forces. The result was an overwhelming UNITA victory. On September 29, Soviet commanders ordered retreat, leaving behind 2,300 dead MPLA-PT troops; 410 UNITA soldiers were dead.[13] By one account, MPLA-PT losses included 79 vehicles destroyed, 52 captured, and 22 aircraft downed—including several MI-24s and at least one MiG-21.[14]

REASONS FOR THE OFFENSIVE

Several factors apparently prompted the Soviets and Angolans to launch their offensive. For one thing, Moscow surely wanted to bolster a client regime in geostrategically important southern Africa and to appear tough before the Geneva summit with Ronald Reagan. For another, Moscow probably wanted to shatter the Lusaka Accord and demonstrate to the black African states the vulnerability and weakness of U.S. diplomacy, which had backed the accord. For the Angolans, questions of prestige were involved, along with internal debates within the MPLA-PT politburo.

The Soviets and the MPLA also almost certainly felt that they had to check Savimbi's advances. July 1985 had been UNITA's best month ever. With 60,000 troops—34,000 guerrillas and 26,000 regulars[15]—under his command, Savimbi had mounted hundreds of attacks all over the country that month.

Moscow's decision to attack in Angola seems part of a worldwide pattern of Soviet offensives that include Afghanistan, Ethiopia, Mozambique, and Nicaragua. This may be part of Moscow's pre-summit posturing. Gorbachev not only would be testing the Reagan Doctrine but would be daring the U.S. Congress to deliver on its much-ballyhooed new support for anti-communist insurgencies.

The MPLA-PT had its own reasons for the offensive. Luanda was hosting the Ministerial Conference of Non-Aligned Nations in September and was anxious to undermine the image of UNITA as a viable force. Luanda probably feared that several of the delegations to the conference would call for negotiations that could lead to an Angolan coalition government as had originally been planned under the Alvor Agreement. UNITA already had demonstrated its capability to black out the capital. For good reason did the Angolan communist regime want to force Savimbi back into his base of operations.

The MPLA-PT, moreover, had scheduled its Second Party Congress for late November and early December. One faction of the party was expected to push for negotiations with UNITA, possibly leading to a coalition government. The aim of this group was to appear moderate enough to get U.S. diplomatic recognition and economic aid. The hardliners, however, sought to make the question moot by crushing UNITA before the Congress.

U.S. POLICY OPTIONS

The Reagan Administration now has an extraordinary opportunity in Angola. This is due to Savimbi's success in holding his troops together in the face of a massive Soviet-led onslaught, the rainy season which prevents another Soviet offensive at least until next March, and Congress' repeal of the 1976 Clark Amendment which banned U.S. aid to UNITA. Administration options include:

(1) Overt humanitarian aid. Representative Claude Pepper, a long-time liberal Democrat from Florida, helped lead the move to repeal the Clark Amendment. He now has introduced legislation in the House providing $27 million in humanitarian aid to Savimbi's forces. Modeled on the current aid package for the Nicaraguan Freedom Fighters, the funds would purchase food, clothing, and medicine; neither the CIA nor the Pentagon would be allowed to administer the program. It is believed that the White House assured Pepper that it will back such legislation.[16]

(2) Economic sanctions. Representative Bill McCollum, a Republican from Florida, has introduced legislation imposing economic sanctions on the Angolan government if progress is not made toward democracy in Angola; this must include negotiations with UNITA on forming a coalition government to prepare for elections. Based on the South Africa sanctions enacted by Congress this summer, McCollum's bill would restrict imports from Angola and prohibit new loans by U.S. government agencies and private banks to the Angolan government.

(3) Declare Angola Communist. The State Department has not yet formally labelled the decade-old MPLA-PT regime as "communist." That the Luanda regime is communist should be beyond doubt. Ten years ago it asked for and received massive arms supplies from Moscow; it hosts some 35,000 Cuban, Soviet, and communist bloc troops; and it has modeled its internal policies after the Soviet-dominated regimes of Eastern Europe. Whether the State Department classifies a nation as "communist" is of considerable substantive as well as symbolic importance. Communist nations, for example, cannot receive any U.S. economic or military assistance; nor are they eligible for Export-Import Bank loans.

(4) Raise the Angola issue at the Geneva summit. At his meeting later this month with Mikhail Gorbachev, Ronald Reagan could warn that continued Soviet interference in Angola contradicts Moscow's rhetoric that it is seeking world peace and stability. Reagan further could warn that this Soviet intervention in Angola is going to start meeting with active U.S. resistance.

(5) Covert military aid. Several Senators, including Republicans Steven Symms of Idaho and Orrin Hatch of Utah, are pressing the Administration to give covert military aid to UNITA. These funds could buy UNITA anti-aircraft and anti-tank weaponry, the arms they most need. This aid could be funnelled to UNITA through a friendly nation (as Pakistan channels U.S. covert aid to the Afghan Freedom Fighters) or the aid could be distributed directly to UNITA.

(6) Overt military aid. Representative Mark Siljander, a Republican from Michigan, has introduced legislation providing $27 million in overt military aid to UNITA. This bill already has 70 bipartisan cosponsors.[17] They argue that the time has come for the President to back up his rhetoric about supporting Freedom Fighters with action. And since the U.S. never has recognized the Luanda regime as the legitimate government of Angola, no laws would be broken by aiding forces seeking to overthrow the MPLA-PT.

CRITICISMS OF AID TO UNITA

Critics offer four arguments against providing such aid: (1) U.S. aid to UNITA strengthens the Angolan government's dependence on the Soviet Union and Cuba, and thereby increases Soviet influence in the region; (2) aid to UNITA undermines the three-way negotiations between the Angolans, the South Africans, and the U.S. over the independence of South West Africa/Namibia at a very delicate stage in the negotiations; (3) aid to UNITA would "ally" the U.S. with South Africa, thus damaging the U.S. image in southern Africa; and (4) aid to UNITA would widen the Angolan civil war.

As for the first argument, it is hard to see how the MPLA-PT could possibly become more dependent on the Soviets and Cubans than it already is. The regime receives massive amounts of military and economic assistance from the Soviet bloc, Soviet and Cuban pilots fly the combat missions for the Angolan Air Force, and Soviet officers have taken direct control of combat operations.[18]

There are serious doubts, moreover, as to the ability of the Angolan communist regime to send the Cuban troops and Soviet commanders home even if they wanted to. In a conversation held with The Heritage Foundation earlier this fall, Angolan Minister of Trade Ismael Gaspar Martins could not answer in the affirmative when asked if the MPLA-PT would be able to remove all Soviet bloc forces if it wanted to. Three times he was asked this question very specifically; three times he evaded it.

Even if U.S. aid to Savimbi would increase Soviet influence over the MPLA-PT, this would be of little consequence if Savimbi continues to win battles and eventually defeats the MPLA-PT or, at least, forces his way into a coalition government. The best way to reduce Soviet influence in southern Africa is to remove a Soviet client regime from power. Aid to UNITA could do just that.

The second argument against U.S. aid is made, curiously, by Secretary of State George Shultz. He claims that negotiations between South Africa and Angola have reached a very delicate stage; as such, goes the argument, U.S. aid to UNITA would cause Angola to quit the discussions. Shultz and his principal State Department advisors feel that the only way to ease Cuban forces out of Angola is to broker an accord trading their departure for a South African withdrawal from Namibia.

The problem with this, of course, is that these negotiations have been underway for a decade and are no closer to conclusion now than when they began. The State Department, for reasons unknown, overlooks the fact that the main purpose of Cuban forces in Angola is to prop up the MPLA-PT regime. The only realistic hope of removing Cuban troops is a UNITA victory over the MPLA-PT.

The third argument is that aid to UNITA effectively would ally the U.S. with South Africa. While it is true that Pretoria aids UNITA overtly, so do West European, black African, and Middle Eastern states concerned about Soviet expansionism in southern Africa. By helping UNITA, therefore, Washington also would be allying with these nations.

U.S. aid to UNITA, in fact, actually would lessen Savimbi's reliance on South Africa. For one thing, U.S. aid would dilute immediately the influence of South Africa. For another, and more important, it would signal those nations already aiding UNITA that the U.S. agrees with them on the need to help Savimbi. They probably would increase their own aid, further weakening South Africa's influence.

The final argument against U.S. aid to UNITA is that it would widen the war. But this is only true if "widening" means enabling UNITA to fight effectively enough to win—and to end the civil war. The men and women of UNITA—Angolan, nationalist, and anti-colonialist—are fighting to drive the foreign Cuban and Soviet occupying forces from Angolan soil. Savimbi does not want or need foreign needs to help UNITA wage its war; in fact, he specifically rejects this solution. He merely wants aid.

CONCLUSION

The Soviet assumption of control of military actions in Angola is a serious escalation of Soviet intervention in southern Africa. It is a new threat to U.S. interests in that geostrategically and economically critical region. In response, the U.S. must take new actions to prevent the defeat of UNITA by Soviet-directed and Cuban-backed MPLA-PT troops.

The greatest threat to Savimbi comes from the addition of massive airpower to the Angolan arsenal. The deadly MI-24 helicopter gunship, already used by the Soviets in Afghanistan and Nicaragua, gives the MPLA-PT effective air cover and, when used in conjuction with high performance MiG-23 and SU-22 fighters, and in coordination with heavy T-62 tanks, shifts the tactical balance in Angola. Savimbi's forces so far have been able to destroy some of these helicopters only by attacking them on the ground with mortars. Shoulder-fired anti-aircraft missiles would greatly improve UNITA's defensive capability and would help to balance the tactical equation. Anti-tank weapons similarly would help UNITA.

Western European, black African, and Middle Eastern nations already aid UNITA. But they are hesitant to make their assistance known publicly for fear of provoking the Soviet Union. U.S. aid to UNITA would reassure them and encourage them to boost their backing. When the rainy season ends in March, the Soviets are sure to launch another offensive against UNITA. By then, the Reagan Administration will have demonstrated whether the Reagan Doctrine and its vow to help Freedom Fighters are simply empty rhetoric or a blueprint for American policy. Democrats and Republicans in Congress, in mounting numbers, want to turn that rehtoric into policy. Perplexingly, only the Administration—and particularly the State Department—stands in the way.

FOOTNOTES

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[1] The additional 5,000 to 7,000 Cubans were troops that had been transferred from service in Ethiopia, according to a CIA analyst. See Peter Clement, "Moscow and Southern Africa." in Problems of Communism, March-April 1985, p. 34. Regarding the total number of Cuban troops, see David B. Ottoway, "U.S. Weighs Angolan Rebel Aid," The Washington Post, October 16, 1985, p. A29.

[2] Allister Sparks, "Rebels Driven from Base, Angolan Government Claims." The Washington Post, September 29, 1985, p. A23.

[3] The official name of the communist party that rules Angola is The Popular Movement for the Liberation of Angola-Workers Party (MPLA-PT). Its army is the Popular Armed Forces for the Liberation of Angola, or FAPLA.

[4] Allister Sparks, "Angolan Forces Fall Back from Site of Heavy Battle," The Washington Post, October 9, 1985, p. A1; Michael Sullivan, "Costly Rebel Victory in 'A Land God Forgot,'" The Washington Times, October 9, 1985, p. 1A.

[5] Bob Robinson, "Bill Asks $27 Million to Aid Angolan Rebels," The Washington Times, October 3, 1985, p. 1A.

[6] David B. Ottoway, "Angola Rebel Aid Is Pushed," The Washington Post, November 1, 1985, p. A1. On the Secretary of State's letter to the Minority Leader, see James Morrison, "Shultz Works Against Bill To Aid UNITA Anti-Marxists," The Washington Times, October 23, 1985, p. 1A.

[7] For a more detailed overview of the growth of UNITA, see Edward P. Cain, "The Agony of Angola" in Charles Moser, ed., Combat on Communist Territory (Lake Bluff, Illinois Regnery-Gateway, 1985).

[8] See Clement, op. cit.

[9] Ibid. pp. 32, 34.

[10] Ibid.

[11] Ottoway, "U.S. Weighs Angolan Rebel Aid," op. cit.

[12] Sparks, "Angolan Forces Fall Back . . ." The Angolan pilot, Franciscoe Matamba, told reporters he had spent three years in the Soviet Union learning to fly Soviet MiG aircraft.

[13] "UNITA's Savimbi Holds Press Conference," Foreign Broadcast Information Service Daily-Middle East and Africa, October 9, 1985, p. U4.

[14] Sullivan, op. cit.

[15] R. Evans and R. Novak, "The Soviet Move in Angola," The Washington Post, September 30, 1985.

[16] Ottoway, "Angola Rebel Aid . . . ", op. cit. p. A1.

[17] Interview with Kevin Callwood, Minority Staff Consultant to the Africa Subcommittee of the House Foreign Affairs Committee, October 31, 1985.

[18] R. Evans and R. Novak, "The Soviet Move in Angola," The Washington Post, September 30, 1985. See also "South Africa and UNITA," Station Commentary by Johannesburg Domestic Service, "Defense Minister cited on UNITA Support," FBIS-MEA, Septemer 24, 1985, P. U3.

ADVANCE NOTIFICATION PROPOSED ARMS SALES

● Mr. **LUGAR**. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $50 million or, in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be reviewed. The provision stipulates that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Committee on Foreign Relations.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the RECORD in accordance with previous practice.

I wish to inform Members of the Senate that such a notification has been received.

Interested Senators may inquire as to the details of this advance notification at the office of the Committee on Foreign Relations, room SD 423.

The notification follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, DC, December 6, 1985.
In reply refer to I-17394/85ct.
Dr. M. GRAEME BANNERMAN,
Deputy Staff Director, Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR DR. BANNERMAN: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(d)(1) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Northeast Asian country tentatively estimated to cost $14 million or more.

Sincerely,

GLENN A. RUDD,
Acting Director. ●

UNITED STATES-JAPANESE TRADE

● Mr. **MURKOWSKI**. Mr. President, now that Japan has announced that it will lift voluntary restraints on auto exports to the United States next year, the trade issue is squarely before the Congress. I have offered a sense of the Senate resolution (S. Res. 223) as one solution that could be beneficial to our trade problems in several ways.

We need United States participation in the transportation of Japanese automobile imports. Vehicle imports from Japan to the United States are projected to reach 2.3 million units, or 21.5 percent of the total United States automobile market in the current year. With today's announcement, that figure may well increase next year.

At the present time, all of the vehicles are being transported on Japanese owned or controlled ships. This is not a result of a competitive advantage of Japanese ships but the direct result of commercial cargo preference practiced between Japanese vehicle manufacturers and the Japanese shipowners.

Maritime union leaders and United States shipping companies have testified before Congress that United States-flag vessels can be competitive with Japanese vessels on a per voyage operating cost basis. To garner some of this trade, both groups have indicated their willingness to join together to build ships in Japan, to be manned by American crews, assuming contracts could be obtained from Japanese auto manufacturers to amortize the cost of the ships.

As Japan's largest customer in the automobile market, it is only fair that we share in some of this trade. It would bring positive relief not only to our increasing services trade deficit with Japan but would create new jobs for our maritime labor industry.

For example, if United States shipping participated in just 20 percent of the Japanese carcarrier trade, almost $200 million would be generated in United States services trade. Additionally, the maintenance of a reasonable number of U.S.-flag vehicle carriers and attendant merchant seamen corps is an important national security consideration.

Mr. President, We have to find realistic ways to reduce our trade deficits without throwing up barriers of our own. To do this we are going to have to identify some specific proposals to Japan. We have only two choices—to ask them to market less in our country, which is unrealistic, or to encourage them to buy more U.S. products, natural resources and services.

I ask my colleagues to support this resolution. I intend to offer it as an amendment when the Senate next considers trade legislation.●

INDIAN EDUCATION PROGRAMS

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 397, S. 1621, dealing with Indian education programs.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1621) to amend title 25, United States Code, relating to Indian education programs, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which has been reported from the Select Committee on Indian Affairs with an amendment to strike out all after the enacting clause, and insert the following:

That section 1128 of Public Law 95-561 (25 U.S.C. 2008), as amended, is amended by—

(1) deleting "Indian students" in subsection (a)(1) and substituting in lieu thereof "eligible Indian students"; and

(2) deleting "Indian child" between the words "for each" and "attending such school", and "for an" and "in public school" in subsection (b), and substitute in lieu thereof "eligible Indian student"; and

(3) by adding the following new subsections:

"(f) In this section 'eligible Indian student' means a student who—

"(1) is a member of or is at least a one-fourth degree Indian blood descendant of a member of an Indian tribe which is eligible for the special programs and services provided by the United States through the Bureau of Indian Affairs to Indians because of their status as Indians, and

"(2) resides on or near an Indian reservation or meets the criteria for attendance at a Bureau off-reservation boarding school.

"(g)(1) An eligible Indian student may not be charged tuition for attendance at a Bureau or contract school. A student attending a Bureau school under clause 2(C) of this subsection may not be charged tuition.

"(2) The Secretary may permit the attendance at a Bureau school of a student who is not an eligible Indian student if—

"(A) the Secretary determines that the student's attendance will not adversely affect the school's program for eligible Indian students because of cost, overcrowding, or violation of standards,

"(B) the school board consents, and

"(C) the student is a dependent of a bureau, Indian Health Service, or tribal government employee who lives on or near the school site, or

"(D) a tuition is paid for the student that is not more than that charged by the nearest public school district for out-of-district students. The tuition collected is in addition to the school's allocation under this section.

"(3) The school board of a contract school may permit students who are not eligible Indian students under this subsection to attend its contract school and any tuition collected for those students is in addition to funding under this section.".

SEC. 2. Any other provision of law notwithstanding, the Secretary of the Interior shall count for funding purposes under section 1128 of Public Law 95-561 during the 1985-1986 academic year each student attending a Bureau or contrct school during the count week for that year if the student (a) was counted for funding purposes under section 1128 for the 1984-1985 academic year and (b) is an eligible Indian student under the amendment to section 1128 in section 1 of this Act.

SEC. 3. The following provisions of law are hereby repealed—

(1) in the Act of March 1, 1907 (ch. 2285, 34 Stat. 1015) the first full paragraph on page 1018 (25 U.S.C. 288).

(2) in the Act of March 3, 1909 (ch. 263, 35 Stat. 781) the last two provisos in the second full paragraph on page 783 (25 U.S.C. 289).

"(3) in the Act of May 27, 1918 (ch. 86, 40 Stat. 561) the third proviso in the paragraph under the heading "SUPPORT OF INDIAN SCHOOLS" on page 564 (25 U.S.C. 297).".

Mr. ANDREWS. Mr. President, I rise in support of S. 1621, a bill to amend title 25 of the United States Code as it relates to Indian education programs.

Mr. President, beginning around 1912 Congress, in its annual appropriation acts, began limiting expenditure of Federal funds to educate children of less than one-quarter degree Indian blood if their parents were citizens of the United States and of the State wherein they lived and where there were adequate free school facilities provided. This provision was reenacted in each appropriation act until 1918 when it apparently became permanent law. The provision is now found in section 297 of title 25 of the United States Code.

Mr. President, tremendous changes have occurred in both Indian law and Indian policy since the date this provision was enacted. As a simple example, I would note that in 1924 all Indians born in the United States were made citizens of the United States. This citizenship legislation was in recognition of the fine military service performed by the American Indians in World War I. In 1934 Congress enacted the Indian Reorganization Act, an act that reversed 50 years of Federal policy that had looked toward the breakup of Indian reservations and disintegration of tribal governments. Both of these policy changes are inconsistent with the policy embodied in 25 U.S.C. 297. It has been a cornerstone of Federal Indian policy that Indian tribes are free to define their own membership. Section 297 encroaches on that policy.

Mr. President, in fashioning the provisions of S. 1621 as reported out of my committee, the committee was cognizant of a number of concerns of the executive branch. I believe we have reported a bill that addresses most, if not all, of those concerns.

Certainly there is no good reason why an Indian child living on an Indian reservation should be compelled to attend any school other than that which his fellow Indian children attend. The recent proposal of the Bureau of Indian Affairs to promulgate regulations to enforce the 1918 act after the many years of contrary practice is simply not reasonable. I might say, this BIA proposal would affect a number of children in my own State of North Dakota and I can well appreciate the concerns of these Indian children and their parents.

Mr. President, I urge that the Senate join with me in supporting this bill.

Mr. ABDNOR. Mr. President, I rise in support of S. 1621 which will define eligibility for BIA funded education programs. I commend my good friend, Senator MELCHER for his efforts on this bill and I am pleased to be a cosponsor of this legislation.

This legislation is vital to the well-being of nearly 1,000 schoolchildren attending schools funded by the Bureau of Indian Affairs and is necessary because of the BIA's efforts to enforce an old law which requires that students of less than one-fourth blood not be eligible for Federal Indian education programs.

Mr. President, this is a very serious premise. It has been the position of the Federal Government that individual Indian tribes have the right to determine their own membership criteria. If this legislation is not enacted, we are taking the step of deciding by statute who is, and who is not, an American Indian.

Mr. President, the Bureau of Indian Affairs provided our committee with figures which indicate that 922 children attended BIA schools who, by the earlier statute, were not entitled to receive Federal assistance; 298 were identified as non-Indian and 590 as Indians of less than one-fourth degree. It is important to note that the majority of non-Indian students were dependents of BIA and Indian Health Service [IHS] employees. Many of the other children were of the Eastern Cherokee Tribe whom the BIA would deem ineligible for assistance. In my own State of South Dakota, it has been estimated that nearly 500 children would be made ineligible for Indian education programs.

This situation cannot continue. Our bill, S. 1621 addresses these concerns in a direct and simple manner by clarifying the eligibility criteria for BIA Programs and will assure that none of these children will be abandoned by the schools they are now attending. I urge my colleagues to consider the importance of this issue and join in assuring the education of these children.

Mr. MELCHER. Mr. President, I rise in support of the bill, S. 1621, to provide BIA school funding for all students who are members of federally recognized tribes.

Sometime in the past year or so, the BIA began to enforce a law that has been on the books for 67 years but which has never been enforced. Prior to the 1978 Indian Education Amendments and the regulations published pursuant thereto, schools were funded on a budgetary basis. The new amendments require a formula based on the number of students. Once the per pupil funding scheme became part of the budget, ways were sought to reduce this to eliminate ineligible students. The 1918 act was resurrected. Implementation of this act will have its greatest effect on the Cherokee School, Cherokee, NC, a school which has been funded for more than a century by the BIA and which has always served all children enrolled in the tribe. For 67 years the 1918 act was never enforced against the Cherokee School or the Indian children enrolled there. Now, it turns out, of the 900 students at the school, about 140 are ineligible because they are less than quarter blood. They can still go there but BIA is refusing to fund them, so the school will have to absorb the costs of educating these children. Or, they can go to public school. Neither of these choices is fair for anyone concerned, but least of all for the children.

I introduced this bill for various reasons, including the fact that for all BIA services, except education, membership in a federally recognized tribe is the sole criteria for eligibility. Second, the Congress has passed at least six major acts since 1918 dealing with education or eligibility for services and in each of those tribal membership is the criteria. It simply makes no sense now to change a practice that has continued for over half a century in a way that will discriminate, by race, against certain children, and to use as justification an old law that has been repealed by implication on at least six occasions. I hope all of my colleagues will join me in supporting this bill.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and the third reading of the bill.

The bill (S. 1621), as amended was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1621

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1128 of Public Law 95-561 (25 U.S.C. 2008), as amended, is amended by—

(1) deleting "Indian students" in subsection (a)(1) and substituting in lieu thereof "eligible Indian students"; and

(2) deleting "Indian child" between the words "for each" and "attending such school", and "for an" and "in public school" in subsection (b), and substitute in lieu thereof "eligible Indian student"; and

(3) by adding the following new subsections:

"(f) In this section 'eligible Indian student' means a student who—

"(1) is a member of or is at least a one-fourth degree Indian blood descendent of a member of an Indian tribe which is eligible for the special programs and services provided by the United States through the Bureau of Indian Affairs to Indians because of their status as Indians, and

"(2) resides on or near an Indian reservation or meets the criteria for attendance at a Bureau off-reservation boarding school.

"(g)(1) An eligible Indian student may not be charged tuition for attendance at a Bureau or contract school. A student attending a Bureau school under clause 2(C) of this subsection may not be charged tuition.

"(2) The Secretary may permit the attendance at a Bureau school of a student who is not an eligible Indian student if—

"(A) the Secretary determines that the student's attendance will not adversely affect the school's program for eligible Indian students because of cost, overcrowding, or violation of standards,

"(B) the school board consents, and

"(C) the student is a dependent of a Bureau, Indian Health Service, or tribal government employee who lives on or near the school site, or

"(D) a tuition is paid for the student that is not more than that charged by the nearest public school district for out-of-district students. The tuition collected is in addition to the school's allocation under this section.

"(3) The school board of a contract school may permit students who are not eligible Indian students under this subsection to attend its contract school and any tuition collected for those students is in addition to funding under this section.".

Sec. 2. Any other provision of law notwithstanding, the Secretary of the Interior shall count for funding purposes under section 1128 of Public Law 95-561 during the 1985-1986 academic year each student attending a Bureau or contract school during the count week for that year if the student (a) was counted for funding purposes under section 1128 for the 1984-1985 academic year and (b) is an eligible Indian student under the amendment to section 1128 in section 1 of this Act.

Sec. 3. The following provisions of law are hereby repealed—

(1) in the Act of March 1, 1907 (ch. 2285, 34 Stat. 1015) the first full paragraph on page 1018 (25 U.S.C. 288).

(2) in the Act of March 3, 1909 (ch. 263, 35 Stat. 781) the last two privisos in the second full paragraph on page 783 (25 U.S.C. 289).

(3) in the Act of May 27, 1918 (ch. 86, 40 Stat. 561) the third proviso in the paragraph under the heading "SUPPORT OF INDIAN SCHOOLS" on page 564 (25 U.S.C. 297).

Mr. DOLE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMPACT OF FREE ASSOCIATION

Mr. DOLE. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on House Joint Resolution 187.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the amendment of the Senate to the joint resolution (H.J. Res. 187) to approve the "Compact of Free Association."

(The amendment of the House to the amendment of the Senate is printed in the Record of December 11, 1985, beginning at page 35808.)

Mr. McCLURE. Mr. President, I urge my colleagues to agree to the amendments to the joint resolution which have been passed by the House. While I believe that the original language passed by the Senate would be preferable, I do believe that the language passed by the House is an acceptable compromise to the original House version and Senate acceptance would avoid the need for a conference with the House.

For the benefit of my colleagues, since there will not be a conference and a statement of managers to rely on to interpret these provisions, I will ask unanimous consent that a section-by-section analysis of the House provisions be included in the Record at the close of my remarks. This analysis represents our interpretation of these provisions and how they relate to the original Senate action.

Mr. President, I regret that final congressional action could not have taken place earlier this session, or even last Congress when the Committee on Energy and Natural Resources first reported the compact to the Senate. I again would like to offer my congratulations to the representatives of the Federated States of Micronesia and the Marshall Islands for their efforts in negotiating this agreement. While it is unfortunate that the agreement could not be preserved in its original form, I think that with the additional provisions they will find that the package, when taken as a whole, does represent an improvement. I would offer them my personal assurance that I will continue to take a strong and sympathtic interest in their future. I would hope that our respective nations will be able to enter into and develop this relationship with the same spirit of mutual respect and confidence which we have had over the years.

I think the record made during the Senate consideration of the compact fully lays out the history of the negotiations. I would refer anyone to that discussion and the report of the Committee on Energy and Natural Resources and the extensive hearing record. While I expressed some great displeasure with the sabotage of the agreement by the Department of the Treasury and the singular lackluster performance of the Office of Management and Budget in defending the President during the initial consideration of the compact, I think we can all breathe a little easier because Treasury did not follow through on their commitment to help after Senate passage. Had we had any more of their help, the President would probably be facing another 15 years of negotiations. I do appreciate the efforts of Senator PACKWOOD to try to hold the Senate version of trade. Without his assistance we would indeed be facing great difficulties.

I do want to say something about the trade provisions. I appreciate the support for the compact which the Governors of American Samoa, Guam, the Northern Mariana Islands, and Hawaii expressed. Governor Aryoshi's comments before the House Interior Committee in Hawaii are eloquent and to the point. Governor Bordallo also has made an exceptional statement in support. Governor Lutali's support is also important for those who would attempt to use the economy of American Samoa to undermine this agreement. I would hope that we would not have to consider local labor requirements as some would have us do.

This is a good agreement. I know that it has been frustrating for the Micronesians. I can only assure them that it has been as frustrating for me. There were significant differences between the Senate and the House and I know that at times the Micronesians must have thought that no one really cared or understood what was at issue. I can assure them that was not the case.

The number of hearings held by the House in fact represented their concern that the agreement be the best for all parties. The extensive House amendments were not designed to diminish in any fashion the commitment to free association. We had significant disagreements with the House, and we have resolved them, but I want to emphasize that at all times all parties kept in mind the aspirations of the Micronesian peoples and their governments. The significant amendments agreed to by the House bears ample evidence of that concern.

Mr. President, it has been a long 15 years since the Secretary of the Interior sent Harrison Loesch out to begin the negotiations. It has been a long 20 years since the first Congress of Micronesia studied the options for the future. There are many individuals whose contributions should be noted for we would not be here today if not for their work. Certainly the Micronesian leadership including Presidents Nakayama and Kabua are to be congratulated on their ability to hold fast to their determination to seek and achieve free association. The negotiators, including Andon Amaraich from the Federated States of Micronesia and the other members of their Commission including the Governors of the four states, Tony deBrum and the members of the delegations from the Marshall Islands, and the earliest negotiators for the original Congress of Micronesia including Lazarus Salii, now the President of the Republic of Palau all have faithfully represented the hopes and desires of their peoples and have achieved their goal of establishing a firm base for their future. I would also like to express my appreciation to Epel Ilon, the Washington representative for the federated states and to Asterio Takesy for their hard work and assistance to the committee as well as Oscar deBrum and Carl Ingram for the Marshall Islands. Without the patience and understanding which all of these individuals showed, we would not have been able to accomplish what we have. I am deeply grateful to all of them and their willingness to help the committee.

The negotiations with the Congress at times must have made the previous 15 years seem easy. The success of free association is more a tribute to their efforts than any action which we have taken here. I hope that the peoples of Micronesia fully appreciate the exceptional work which all of them have done to bring their nations into being.

I also think that appreciation should be expressed to the negotiators for the United States: Harrison Loesch, Haydn Williams, Phil Manhard, Peter Rosenblatt, and Fred Zeder. I have dealt with each and can assure my colleagues that through four administrations, these men held to the concept of free association and worked out a good arrangement. They are to be congratulated. I must say that we have had our differences, and some of the amendments reflect those differences. As firm as they were in their negotiations with the Micronesians, they were equally as firm with the Congress. Luckily we have the last word.

I think it would also be appropriate to mention some of the staff who labored on this agreement. I especially would like to mention Herman Marcuse of the Department of Justice who participated from Palau to Maui through virtually the entire negotiations. His mark is throughout the compact and he has been invaluable. I would note that the committee has relied on Herman's expertise in other areas such as the comprehensive judicial reform measure for the territories which was enacted last year. The late C. Brewster Chapman should also be noted. His contributions for the Department of the Interior were likewise of great value. Ruth Van Cleve and Rick Montoya from their positions responsible for the trust territory also made significant contributions. The staff over the years at the Office for Micronesian Status Negotiations also labored long and hard and should be congratulated. I would mention Jim Berg, Dick Teare, John Armstrong, Al Short, Dick Williams, and the others who have worked in the office over the years.

I would also like to acknowledge the deep commitment of many of our colleagues in the House. Congressmen SOLARZ, UDALL, SIEBERLING, YOUNG, LUJAN, BLAZ, LEACH, and others made this compact possible. Congressman LAGOMARSINO especially worked to bridge the two committees he serves on and his sympathetic consideration was essential. Several of the staff on the House side should also be acknowledged including Stanley Roth and Cindy Sprunger of the House Foreign Affairs Committee and Pat Krause, Manase Monsur, Stan Sloss, Roy Jones, and Jeff Farrow of the House Interior Committee. I especially want to single out Tom Dunmire who retired earlier this year after many years of service to the House committee. While Tom had many reservations about the compact, his commitment to the future of the trust territory over the years made many of the advancements which have occurred possible. The Micronesian peoples owe Tom a deep debt for his efforts on their behalf over the years.

I also want to acknowledge the late Congressman Phil Burton. Anyone who knew him also knew of his passion for the peoples of the territories and the trust territory. When the Covenant for the Mariana Islands was submitted 10 years ago, Phil had it out of the House almost before we had introduced it in the Senate. It took him a total of 3 days. His legacy is in the projects and the increased self-government throughout the islands and if it were not for him and his dedication, the Micronesian peoples would not have the basis for development which they now enjoy.

I want to express my appreication to Senators Packwood and Lugar for their assistance. This was a difficult road and we could not have traveled it without their assistance. I want to especially thank my colleague Senator Johnston for his assistance. We came to the Senate together and have worked since we came here on this issue in a nonpartisan fashion. He, more than any other individual is responsible for the oversight and investigation in 1974-75 into public works management in the Trust Territory of the Pacific Islands. That oversight led to a definition of the capital infrastructure program. His support in the Appropriations Committee has enabled us to fulfill our commitments and we could not have reached this point without his strong support. I also need to say that Senator Jackson provided the committee throughout his service with a knowledge and concern which enabled us to present this agreement to the Senate. He had been present during the initial discussions which led to the trusteeship and he was responsible for virtually every significant development in the trust territory. He made it clear that this was not a partisan issue and I am grateful for his efforts as chairman of the committee until 1981 to involve all members of the committee.

I finally want to thank the staff who worked on this agreement: Jim Beirne, Frank Cushing, Al Stayman, and Gary Ellworth of the committee staff, Mike Harvey of the minority staff of the committee, and Laura Hudson of Senator Johnston's staff. Their contributions have been invaluable.

Mr. President, this is a good agreement and I urge the Senate to agree with the House amendment to clear this measure for the President's signature.

Mr. President, I ask unanimous consent that the section-by-section analysis be printed in the Record.

There being no objection, the analysis was ordered to be printed in the Record, as follows:

Section-by-Section Analysis of House Amendment to Senate Amendment to H.J. Res. 187

Section 1—provides for a short title and table of contents.

TITLE I—APPROVAL OF COMPACT; INTERPRETATION OF, AND U.S. POLICIES REGARDING COMPACT AND SUPPLEMENTAL PROVISIONS

Section 101. Approval of compact.

This section approves the Compact for the Federated States of Micronesia (FSM) and the Republic of the Marshall Islands (RMI) and requires an Act of Congress to change any part of the Compact and certain of the subsidiary agreements. This section further provides that the subsidiary agreements to the Compact shall be considered to be bilateral agreements. Finally, the section provides that the Compact shall not become effective until the President has certified that the agreements under Sections 102 and 103 have been reached between the Free Associated States (FAS) and the U.S.

The Senate has previously provided that neither the Compact nor those subsidiary agreements incorporated by reference into it as well as the mutual security agreements could be changed other than by an act of Congress. The House originally would have enacted all of the subsidiary agreements. In discussions with the House, they agreed not to enact any agreements but would agree with the Senate formula of requiring formal action by Congress to change certain important agreements, provide for a notice and wait period for changes to other agreements which were more administrative, and a single notice requirement on others to ensure that the Congress remains informed. This is a substantial change, but one which does protect the legitimate interest of the Congress in seeing that the understandings which support the Compact are maintained.

Section 102. Agreements with FSM.

(a) Law enforcement assistance. This provision expands the provisions of Section 175 of the Compact by requiring the President of the U.S. to negotiate an agreement with the FSM which shall provide for mutual assistance in law enforcement, the control of illegal substances and other criminal laws. This provision also extends technical and training assistance in law enforcement as anticipated under Sections 224 and 226 of the Compact. Finally, this provision requires the President to consult with the appropriate agencies and to make annual reports to Congress on this agreement.

The Micronesian governments will need the full support of the United States as they fully assume the responsibilities of self government. Various programs such as that undertaken by the State of Alaska on police training have been very helpful, and this agreement will ensure full cooperation and, as requested, support from the United States as may be required.

(b) Economic development plan review process. This provision requires the FSM to submit economic development plans every 5 years to the U.S. and that the President review and report to Congress on these plans. The provision also requires that the President shall negotiate an agreement with the FSM to provide for GAO audits of U.S. assistance to the FSM, and that the FSM cooperate in those audits.

The section also authorizes the President to agree to an effective date based on the submission of three five-year plans for concurrence rather than a single fifteen-year plan. While the Compact contemplates a single plan, the difficulties of planning even five years in advance are obvious. We would not want to back the Micronesian governments into either a vague fifteen-year plan or hamper the needed flexibility which they must have to deal with unforeseen circumstances. The importance of the GAO audit can not be underestimated. GAO is capable of providing these new governments with important analyses of how various programs are working. Their recommendations can provide invaluable assistance to Micronesian managers in improving the operations of government and identifying weaknesses.

Section 103. Agreements with the RMI.

(a) and (b) These sections provide for the same agreements as Section 102 (a) and (b) but with the RMI.

(c) Ejit. This provision requires the President to negotiate an agreement with the RMI to ensure the continued use of Ejit Island by the people of Bikini until Bikini is habitable. This is consistent with U.S. policy regarding nuclear test victims.

It is important to note that the Government of the Marshall Islands has expressed a strong commitment to protect and provide for the populations of the four affected atolls. Should legal question arise which would affect the ability of the Government of the Marshall Islands to make Ejit available, the provision ensues assistance from the United States to help the Marshall Islands government provide alternative areas for the people of Bikini until Bikini is restored. Authorization for such assistance had been included within the ex gratia authorization contained in the Senate measure.

(d) Kwajalein. This provision declares that it is Congressional policy that payments to the Kwajalein Atoll landowners are required for U.S. national security under Title III of the Compact and that the failure to make these payments shall initiate the consultative procedures under Section 313 of the Compact. This section also authorizes assistance to the Kwajalein Atoll Development Authority. The authorization is covered by the existing open-ended authorization.

(e) Section 177 agreement. This provision amplifies the subsidiary agreement to section 177 of the Compact with respect to the selection of the fund manager. It is designed to ensure that the Republic of the Marshall Islands receives the fullest technical assitance from the United States in the selection of a fund manager.

(f) Nuclear test effects. This provision reiterates the provisions of Section 177 of the Compact which provides that the peoples of the four atolls shall receive $150 million in compensation for their injuries.

(g) Espousal provisions. This provision retiterates the provisions of Section 177 of the Compact which provide that there is full and final settlement of all nuclear effects claims.

In light of the statement made by some more interested in protracted litigation than compensation for the victims of the testing program, both the Senate and House agreed that an explicit endorsement of the resolution was important. Additional ex gratia assistance will be available in the future if circumstances warrant and this provision in no manner lessens the concern which we have for the population of the affected atolls. It is designed to prevent the Marshall Islands from becoming a tropical Bleak House.

(h) DOE health care programs and USDA food programs. This provision authorizes the U.S. to provide continued medical care to the 174 people of Rongelap exposed to radiation in a 1954 nuclear test and to provide continued food assistance to the people of Bikini and Enewetak pursuant to public laws 95-134 and 96-205. These provisions are covered by the existing open-end authorization and are consistent with current U.S. policy on compensation to nuclear test victims.

It is our expectation that the cost of medical care and logistical support will total approximately $22.5 million over the next 11 years. The trust fund established under the section 177 agreement will provide the bulk of the funds necessary for this, but the ex gratia authorization will be available, as provided in the original Senate language, to cover any shortfall.

(i) Rongelap. This provision further refines Article II, section 1(e) of the subsidiary agreement implementing Section 177 of the Compact by requiring that the RMI review and report to the President on the DOE study of radiation levels on Rongelap to verify their adequacy. If they are not adequate, authorization is made for funds necessary to restore Rongelap to habitability. This is covered by the existing openended authorization and is consistent with the Senate report language on compensation to nuclear test victims.

(J) Four Atoll Health Care Program. This provision reiterates that U.S. assistance under section 1(a) of Article II of the Agreement for the Implementation of Section 177, shall be only for the people of the four atolls who were affected by U.S. nuclear testing. The provision clarifies that unspent funds under the program shall be returned each year to the Fund Manager for future use.

(k) Enjebi community trust fund. This provision requires the establishment of an "Enjebi Community Trust Fund" by the Secretary of the Treasury with a balance of $7.5 million to be transferred to the RMI provided that: the RMI establishes a fund manager, the U.S. monitors radiation conditions on Enjebi, and the U.S. provides for the resettlement of Enjebi or some other location by the people of Enjebi. This is covered by the openended authorization and is consistent with current U.S. policy on compensation to nuclear test victims.

It is important to note that although a fund will be established with a credited amount of $7.5 million, it remains for the Appropriations Committees to appropriate to the fund before any funds would be available. The Appropriations Committees have been considering this issue, and, as specified in the section, these funds would be ex gratia and covered by the original Senate language.

(l) Bikini Atoll cleanup. This provision reiterates and reaffirms the U.S. position as stated in the settlement agreement of March 15, 1985 in the People of Bikini et al. vs. the U.S. et al. Civ. No. 84-0425 (Dist. Ha.).

(m) Agreement on audits. This provision requires that the President shall negotiate an agreement with the RMI to provide for GAO audits of U.S. assistance to the RMI, and that the RMI shall cooperate in those audits. As with the FSM, this agreement will provide the new government with the expertise of the GAO to improve its operations.

Section 104. Interpretation of and United States policy regarding the compact.

(a) Human rights. This provision recognizes the FAS' official statements respecting human rights and freedoms and requires the Secretary of State to include the FSM and RMI in its annual report on human rights.

(b) Immigration. This provision clarifies that the right of an FSM or RMI citizen to enter the U.S. will not extend to persons who obtained such citizenship solely for the purpose offentering the U.S.

(c) Nonalienation of lands. This provision endorses the policies of the FSM and the RMI to prevent the alienation of land.

(d) Nuclear waste disposal. This provision states the Congressional understanding that the FSM and RMI will not permit other nations to store nuclear wastes as prohibited for the U.S. by Section 314 of the Compact.

(e) Impact of compact on U.S. areas. This provision requires the President to report to Congress on the impact of the Compact on other U.S. areas and recommend mitigation measures. It also declares Congressional intent to sympathetically and expeditiously redress adverse impacts. The provision also authorizes such sums as may be necessary to cover increased demands on services in the U.S. territories and Hawaii by immigrants from the FSM and RMI.

(f) Fisheries management. This provision clarifies that Section 121(b)(1) of the Compact is consistent with the MFCMA and the Fisherman's Protective Act and forbids that Compact funds may be used for enforcement actions against U.S. fishing (tuna) vessels in the absence of a licensing agreement. This provision also reaffirms U.S. policy to negotiate and conclude Pacific regional tuna licensing agreements. This is a restatement of existing policy.

Section 104(g). Foreign loans.

This provision specifically reaffirms the position of U.S. Government that it is not responsible for foreign loans or debt obtained by the FSM or RMI. It is a restatment of existing policy.

Section 105. Supplemental provision.

(a) Domestic program requirements. This provision specifically reaffirms the policy that U.S. programs and services extended to the Freely Associated States shall remain subject to the rules and regulations applicable to such programs in the U.S. It is a restatement of existing policy.

(b) Relations with the Federated States of Micronesia and the Marshall Islands. This provision amplifies that provisions of the Compact regarding U.S. representatives to the FSM or RMI by requiring the advice and consent of the Senate on the appointment of U.S. Representatives. It also concurs with the Senate position that the Secretary of State shall have responsibility over government to government relations while the Secretary of the Interior shall have responsibility over U.S. appropriations, program and services provided to the FSM or RMI.

The provision is specific in that all funds must be appropriated only to the Secretary of the Interior and may not be allocated to other agencies. To the extent the Administration believes that certain activities could best be conducted by other agencies, such as health care, it must so state explicitly in its annual budget submission and provide necessary legislative language. Only to the extent that Appropriations Acts specifically provide for such transfers will they be permitted. The language also permits the establishment of an interagency group to provide policy guidance. This language was suggested by OMB and neither the House nor the Senate could find a problem since we believed the President already had such authority and had already established Cabinet Councils and various other interagency task forces and advisory groups. Since there is presently an interagency group and a senior interagency group for status negotiations, the establishment of a single group may result in some economy in government. It should be made clear, however, that policy guidance is not a synonym for management nor would such a group have any ability to affect the responsibility or authority of the Secretary of the Interior.

(c) Continuing Trust Territory authorization. This section concurs with the Senate amendment extending the current open-end authorization of the Trust Territory.

(d) Medical referral debts. This provision specifically authorizes appropriations for medical referrals from the FSM or RMI. This provision is consistent with the broader Senate language.

(e) Survivability. This provision states that the provisions of this title shall continue to apply to any provision of the Compact so long as that specific provision remains effective, and even though the Compact itself may have ended.

(f) Registration for agents of Micronesian Governments. This provision provides for the registration of certain persons who act as agents of a FAS with an exception for individuals who are employed by such governments.

(g) Noncompliance sanctions. This provision states that the President of the U.S. shall not withhold payments with respect to the Compact unless as a sanction for noncompliance with an exception for certain provisions. Further this provision states that the Congress expects the FSM or RMI will abide by their agreements. This provision merely restates existing remedies available to contracting parties.

(h) Continuing programs and laws. This provision concurs with the Senate amendment extending certain programs (legal services, Public Health Service, FHA, FHmLA) and adds three more post-secondary education grant and loan assistance programs. This provision further provides for the termination of tort claims as the Trusteeship Agreement ceases.

(i) College of Micronesia. This provision specifically authorizes appropriations for education programs already covered by the open-end authorization, and reiterates eligibility for certain educational benefits and programs as anticipated under Section 224 of the Compact.

(j) Trust Territory debts to U.S. Federal agencies. This provision specifically authorizes appropriations to pay instrumentalities of the U.S. any amounts owed to them by the FSM or RMI. This is covered by existing open-end authorization.

(k) Use of DOD medical facilities. This provision authorizes continuation of medical referrals to DOD facilities and continuation of the National Health Service Corps as anticipated under Section 224 of the Compact.

(l) Technical assistance. This provision further details which U.S. technical assistance services may be provided under Section 226 of the Compact and enables agencies to provide such assistance if it could be provided domestically.

(m) Prior service benefits. This provision notes that persons who received Prior Service Benefits before July 1, 1968 shall continue to receive such payments. The original Senate language provided authorization to appropriate funds so that the program would have the resources to meet these obligations. That authorization is contained elsewhere in these amendments.

(n) Indefinite land use payments. This provision specifically authorizes appropriations for repayment of debts of the U.S. for use of land in the FSM or RMI. This is covered by the existing open-ended authorization.

(o) Communicable Disease Control Program. This provision specifically authorizes appropriations for disease control programs. This is covered by the existing open ended authorization.

(p) Trust funds. This provision further specifies the terms of Section 235 of the Compact regarding post Compact administration by requiring that the Secretary of the Interior discharge Section 235 responsibilities in consultation with the Government of the Marshall Islands.

(q) Annual reports. This provision further specifies the contents of the President's annual report to Congress to include determinations under Section 313 of the Compact regarding consultations between the U.S. government and the FSM and RMI.

(r) User fees. This provision clarifies that user fees shall apply in the FSM or RMI in the U.S.

Section 106. Construction contract assistance.

(a) Assistance to U.S. firms. This provision authorizes appropriations to assist U.S. firms (up to 20 percent of contract cost) which obtain contracts for construction or major repair of capital infrastructure within the FSM or RMI in providing technical assistance and training of local labor.

(b) Authorization appropriations to the FSM or RMI for the increased cost of awarding contracts to U.S. firms if they were to enact a U.S. preference law.

Section 107. Limitations.

(a) Prohibition. This provision specifically prohibits personnel of the Office for Micronesia Status Negotiations from working for the FSM or RMI for three years after U.S. employment has ceased. It is an amplification and specific extension of existing conflict-of-interest laws (Title 18. U.S.C. Chap. 11).

(b) Termination. This provision terminates the Office for Micronesian Status Negotiations and forbids support for such Office. This provision was not in the Senate passed resolution.

Section 108. Transitional immigration rule.

This provision provides that citizens of the Northern Marianas shall be treated as citizens of the U.S. for purposes of entry into the U.S.

Section 109. Timing.

This provision clarifies that no Compact payments may be made before October 1, 1985. This is no longer applicable.

Section 110. Implementation of audit agreements.

This section expands the provisions of sections 102(c)(4) and 103(m)(4) by detailing the President's responsibilities regarding financial audits of the FSM or RMI.

Section 111. Compensatory adjustments.

This section extends additional benefits to the FSM or RMI to compensate for the loss of certain tax and trade advantages as a result of amendments by the Senate Finance and House Ways and Means Committees. These benefits include the extension of certain educational and economic development services and programs as anticipated under Sections 221 and 224 of the Compact. In addition, authorization for full faith and credit appropriations are made to establish two Investment Development Loan Funds of $20 million for the FSM and $10 million for the RMI.

This section is explicitly designed to replace the tax and trade provisions which the Administration sought to have deleted. The funds should be so structured so that they will encourage U.S. private sector to enter into the FAS and assist in the economic development of the area. To that extent, they are to be limited to U.S. firms since the tax provisions would have been available only to U.S. firms.

TITLE II—COMPACT OF FREE ASSOCIATION

Section 201. This section contains the text of the Compact as submitted to Congress by the Administration and passed by the House and Senate. No changes have been made to the Compact language itself.

Section 202. Jurisdiction.

This section amplifies Section 321 of the Compact regarding U.S. military areas by reaffirming U.S. jurisdiction in these areas and providing for jurisdiction of the laws of the State of Hawaii in these areas. The section further provides that the U.S. District Court for Hawaii shall have jurisdiction for offenses and the authority to appoint Magistrates in these areas.

TITLE III—PACIFIC POLICY REPORTS

This title provides for a one year, then every 5 years, report to Congress on policies regarding the noncontiguous Pacific areas and specifies the content and procedures for development of these reports.

TITLE IV—CLARIFICATIONS OF CERTAIN TRADE AND TAX PROVISIONS OF THE COMPACT

Section 401. Tariff treatment.

As agreed to by the Senate Finance and House Ways and Means Committees, this section limits the trade benefits under Sections 242 and 243 of the Compact by excluding certain products from duty free import to the U.S. (watches, buttons, textiles, footware and to a degree, tuna).

Sections 402 and 403. These sections reconstruct the tax provisions of Sections 253 and 254 of the Compact so as to close certain potential tax loopholes of concern to the tax writing Committees.

Section 404. This section limits the tax benefits of Section 255 of the Compact regarding the extension of Section 936 of the IRC. The title reconstructs Section 255 to provide that Section 936 tax incentives to the FSM or RMI may be changed as a result of changes to the IRC and, in that case, the Secretary of Treasury shall negotiate with the FSM or RMI for equivalent benefits.

Section 405-408. Technical sections on tax provision regarding: definitions, effective dates, studies and consistency.

TITLE V—COMPACT OF FREE ASSOCIATION WITH PALAU

This title expresses Congressional approval, in principle, of a Compact with Palau as printed in the Congressional Record November 14, 1985, and provides that such Compact shall become effective upon transmittal by the President, certification by the President that the U.S. will be able to fully implement Title III of the Compact and enactment by Congress of a resolution of approval. This title also provides that certain Sections of this resolution shall apply to such Compact with Palau.

Mr. JOHNSTON. Mr. President, I join with the remarks of the distinguished chairman of the Committee on Energy and Natural Resources. I also support the compromise worked out with the House to avoid a conference on this vital measure. I fully concur with the assessment of Senator McClure that when taken as a whole this is a better agreement than that originally submitted by the administration. I also share his frustration with the efforts of the Department of the Treasury and the Office of Management and Budget to undercut the President. I hope that the territories were watching the performance of the Treasury and will keep it in mind before signing on with some strange proposal for "autonomy." I think that they, as well as the rest of us, will regret trusting our security and responsibility for the territories to the administrative convenience of Treasury.

I do want to emphasize certain aspects of the agreement with the House. Our agreement preserves the Senate position that no change or alteration may be made in the Mutual Security Agreements without an act of Congress. This is a condition of congressional approval and an explicit limitation to which the President must agree if he signs this resolution. I also want to repeat the comment in the sectional analysis that the authorization to establish an interagency group does not in any fashion limit or otherwise affect the authority or the responsibility of the Secretary of the Interior as set forth in the amendments. I am certain that OMB has other ideas in mind, but I want to serve notice that they will not work. I think that State can also forget about any significant new hires or elaborate residences. That is not in their future either.

I want to comment on one amendment which I think is just a bad idea, and that is the limitations placed on the future employment of the employees of the Office for Micronesian Status Negotiations which go far beyond existing law. Fred Zeder is not the easiest person to deal with, but I understand that he represents the administration and I really do not mind a difficult negotiator. The answer to difficult negotiators who fail to see right and reason are the other amendments which we have added to this resolution, not this type of personal assault. While I think it is just terrible to penalize clerical help in that office just because Fred does his job with his own unique style, I am willing to agree to this provision as part of this package. I do want to express my distaste for it. I know that the chairman shares my unhappiness.

I also want to join in Senator McClure's comments with respect to all the people who labored to produce this agreement. I really think that everyone should read the testimony presented by the Micronesians at our hearings. The testimony was moving and eloquent. I wish both the Federated States of Micronesia and the Republic of the Marshall Islands well. We have worked together during the trusteeship to build the basis for their nations, and I look forward to continuing to work with them to help build their nations so that they can achieve their aspirations. They can count on my continued support and friendship. I last visited there when they were a trusteeship, I look forward to visiting them as sovereign self-governing nations. I hope the bonds of friendship and mutual respect between our peoples will continue and deepen in the future.

Mr. DOLE. Mr. President, I move that the Senate concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Kanasa.

The motion was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MOTOR VEHICLE INFORMATION AND COST SAVINGS ACT AMENDMENTS

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of Calendar No. 121, S. 475, the odometer bill.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 475) to amend the Motor Vehicle Information and Cost Savings Act to require certain information to be filed in registering the title of motor vehicles, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 1418

(Purpose: Make various amendments to the bill)

Mr. DOLE. Mr. President, I send an amendment to the desk on behalf of Senator DANFORTH and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] for Mr. DANFORTH proposes an amendment numbered 1418.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 9, strike all from "by—" through "(ii)" on line 12 and insert in lieu thereof "by".

On page 3, line 8, strike "clause (ii) of".

On page 3, amend lines 12 through 20 to read as follows:

"(3) No registration card may be issued in any State for any motor vehicle used in interstate commerce unless the application for such registration card contains (determined as of the date on which such application is submitted) the information specified in paragraphs (1) and (2) of subsection (a). Each State shall maintain such information, together with the vehicle identification number to which such information pertains, for a period of 5 years after the information is received by the State.

On page 4, insert the following immediately after line 3:

"(5) The Secretary shall prescribe such rules as may be necessary to avoid the printing of mileage information pursuant to paragraph (1)(B)(ii) which may be false, misleading, or inaccurate. In order to prevent falsification or alteration of the mileage information required to be disclosed by a prior owner in accordance with paragraph (2), the Secretary shall prescribe such rules as may be necessary regarding the specific form to be used on certificates of title for compliance with the provisions of paragraph (a)(B)(iii). In addition, the Secretary shall prescribe rules regarding the actions to be taken by States with respect to the unauthorized alteration of motor vehicle certifications of title and other documents on which odometer information is required to be recorded or maintained.

On page 4, line 15, strike the quotation marks and the second period.

On page 4, insert the following immediately after line 15:

"(f)(1) Upon the termination or expiration of any lease for a motor vehicle, the lessee shall provide written disclosure to the lessor of the mileage of the vehicle at the time of such termination or expiration. Upon the request of such lessor, the lessee shall also provide to the lessor such mileage information as may be necessary for the lessor to comply with the requirements of subsection (d)(3).

"(2) The lessor of a motor vehicle shall provide written notice to the lessee of—

"(A) the mileage disclosure requirement set forth in paragraph (1); and

"(B) the penalties for failure to comply with such requirement.

"(3) Each lessor of a motor vehicle shall retain the written disclosure made by the lessee under paragraph (1) for four years after the date on which such lessor transfers ownership of the vehicle to any other person.

"(4) A lessor of a motor vehicle may use the vehicle mileage information provided by lessees under paragraph (1) for purposes of compliance with the requirements of subsection (a) unless such lessor has reason to believe that such information does not reflect the actual mileage of the vehicle. Failure of any lessee to comply with paragraph (1) shall not affect the ability of the lessor to transfer ownership of the vehicle to any other person.".

On page 5, line 6, strike "408(d)(4)" and insert in lieu thereof "408(d) (3) and (4)".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1418) was agreed to.

Mr. DANFORTH. Mr. President, S. 475 addresses a serious type of crime. Odometer tampering is a significant problem in this country; the U.S. Department of Transportation's National Highway Traffic Safety Administration estimates that the annual cost of odometer fraud to consumers exceeds $2 billion.

S. 475 takes steps to address this problem by closing the current loopholes in State motor vehicle titling laws. This legislation would create a record which would enable consumers to be better informed about the true mileage on used motor vehicles. Recognizing the varied titling and registration procedures among the States, however, S. 475 also would allow a State to submit to the Secretary of Transportation an alternative method for compliance with this legislation's registration requirements if that alternative method is effective in deterring odometer fraud.

S. 475 provides another effective means of combating odometer tampering by increasing the civil penalty for this crime from $1,000 to $2,000 and by making this crime a felony, with violators subject to a maximum criminal penalty of $50,000 and/or 3 years' imprisonment.

I would like to offer a committee amendment, endorsed by all Commerce Committee members. This amendment clarifies several of the provisions of S. 475 as reported by the committee, enhancing the effectiveness of this legislation. This amendment is not, however, intended to create any burdensome requirements for State authorities responsible for administering this legislation.

Mr. President, I believe S. 475 will help to reduce greatly the crime of odometer fraud. I urge my colleagues to join me in supporting this legislation.

Mr. GORTON. I congratulate my distinguished colleague from Nebraska for sponsoring this important bill. During my tenure as Washington's attorney general, I became very well aware of the risks posed to consumers by odometer fraud. This bill will make it easier to detect and prosecute those who profit from this unscrupulous practice.

I do have one question that I would like to discuss briefly with the Senator from Nebraska. The bill gives State departments of licensing 18 months from the date of enactment to comply with its provisions. It is my understanding that the State of Washington is in the process of purchasing and installing a computer system that will allow it to keep an annual record of odometer readings, as required by the bill. The system is scheduled to be in place as of January 1988. If the 18 month compliance period expired before this date, the State would be forced to incur considerable expense unless it could get an extension. It is possible that other States would have similar problems. Is it the Senator's understanding that, if a State is in the process of installing an automated system for handling license renewals, it may apply to the Secretary of Transportation for an extension of time to come into compliance until that system is in place?

Mr. EXON. That is correct. I appreciate my colleague's efforts to clarify this point.

Mr. GORTON. I thank the Senator.

Mr. EXON. Mr. President, one of the largest consumer frauds being perpetrated on the American public today is automobile and truck odometer rollback. This consumer fraud is not only one of the largest in terms of the number of consumers being defrauded, but it is also one of the most costly consumer frauds. It has been conservatively estimated that over 3 million used cars sold each year have had their odometers rolled back. It is also estimated that the average mileage reduction on a used car on which the odometer has been rolled back is 30,000 miles. This is equal to almost 3 years of driving by the average American.

The cost of this fraud to consumers is even more astounding. The National Highway Traffic Safety Administration estimates that the cost of odometer tampering to consumers is in excess of $2 billion annually. This amounts to an average cost of approximately $750 per car in cases where the odometer has been rolled back. However, because of the difficulty in tracing and identifying cars on which odometers have been rolled back, the number of cars involved and the total cost to consumers may be substantially greater than current estimates indicate. Even more alarming is the fact that the practice of odometer rollback is increasing each year. Not only is this particular consumer fraud extremely lucrative, but, in addition, it can be perpetrated with very little risk of ever being caught.

This is an extremely difficult problem to eliminate entirely, but certain steps can be taken and should be taken to help enforcement agencies, as well as the general public, in identifying those vehicles which have odometers that have been rolled back.

Mr. President, S. 475 is designed to prevent the rollback of odometers by strengthening the present law in three major ways. First, the bill would alter current annual registration and titling procedures so that a uniform "paper trail" of odometer readings can be created. Second, the bill attempts to deter odometer rollback by increasing both criminal and civil penalties for those who engage in odometer tampering. Third, this legislation grants new authority to the Secretary of Transportation to issue rules and regulations to address the problems of false and misleading odometer disclosures as well as to prescribe actions to be taken in the case of unauthorized alterations of documents containing odometer disclosures.

Mr. President, following the introduction of and the hearings on S. 475, a number of groups expressed an interest in the bill and offered suggestions to strengthen the bill and to reduce both the administrative and cost burdens associated with its implementation. State motor vehicle administrators expressed concern that the paperwork and administrative costs associated with printing the current odometer mileage on the face of the annual registration card would impose significant burdens on some State motor vehicle departments. They also expressed a concern that the provision requiring that the most recent registration card accompany the title in all vehicle sales could hamper the expeditious transfer of titles, since many owners misplace their registration cards.

We believe, Mr. President, that these expressions of concern have validity and consequently we have proposed to alter these requirements through committee amendments. First, the committee amendments being proposed today would eliminate both the requirement that the State print the current odometer reading of vehicles on the face of the registration card. Second, the requirement that the most recent registration card accompany the title in any vehicle transfer has also been eliminated. However, in order to establish a record of odometer readings for all vehicles, we have retained the requirement that an application for a registration card must include the true odometer reading of the vehicle at the time the application is submitted. The State must then retain this information together with the vehicle identification number for a period of 5 years. This information should prove extremely valuable to law enforcement agencies and to prosecutors in establishing that an odometer has been spun, and in identifying the owner of the vehicle at the time of the odometer rollback.

Mr. President, the automobile leasing companies expressed concern regarding their ability to provide accurate odometer mileage information as required by the bill. Although the leasing companies own the motor vehicle, the lessee has possession of the automobile. In order to help assure that the required odometer disclosures by leasing companies are accurate, the committee amendments would require the lessee to provide written disclosure to the lessor of the true odometer reading on the vehicle on an annual basis for registration purposes, as well as at the termination or expiration of their lease. The amendments would direct the leasing companies to notify the lessee of the reporting requirements and the penalties for failure to comply with the law. The leasing companies are required to retain the written disclosure made by the lessee for a period of 4 years. Leased automobiles are prime targets for those who engage in the clocking of odometers since they are normally high mileage, late model vehicles at the time of sale. The reporting requirements included in this legislation should aid in dramatically curtailing this practice.

Mr. President, these committee amendments also provide additional authorities to the Secretary of Transportation. As a result of information provided by the auto auction companies, it became apparent that the alteration of registration and title documents could be minimized if the Secretary were granted authority to prescribe rules regarding the specific form of odometer disclosure to be used on certificates of title. In addition, if the Secretary is granted authority to prescribe rules regarding this bill, we would not find ourselves here today passing this legislation which I believe would go a long way toward the elimination of odometer tampering in this Nation.

Mr. HOLLINGS. Mr. President, I commend Senator Exon for his efforts on behalf of consumers, paticularly used-car buyers, regarding his sponsorship of S. 475, the odometer tampering bill. This legislation is basically the same as that which was passed by the Senate in the 98th Congress, but was never taken up by the House. Hopefully, we'll get it signed into law this time around.

It has become apparent that odometer fraud is an extremely attractive method of making a fast and illegal buck. According to estimates by the National Highway Traffic Safety Administration [NHTSA], this practice is becoming increasingly widespread. NHTSA estimates that roughly 3 million used cars sold each year have had their odometers rolled back on an average of 30,000 miles per car, costing American consumers some $2 billion annually. Odometer tampering is clearly one of the largest consumer frauds being perpetrated on the American public today.

One of the reasons this practice is so lucrative is that it is so easy to do it without getting caught. This is especially true in the commercial market, which accounts for about 80 percent of used car sales. In a typical case of odometer fraud, a wholesaler will purchase one or more cars at an auction. The actual rollback of the odometer can be accomplished in a few seconds, and acquiring the supporting paperwork is often nearly as simple. In most cases, the odometer disclosure is made on a separate sheet of paper accompanying the title. The wholesaler can simply alter the odometer reading or provide a new disclosure.

In cases where the odometer reading is included on the title, the wholesaler can either alter the title or retitle the car in a State which doesn't require the reading to be included on the title.

To do this, a person need only send the information and the necessary registration and title fee to a business associate in another State, who would then have the car retitled. Since the new title would have no odometer reading, the wholesaler could then disclose whatever odometer reading he chooses.

The current situation, of course, presents law enforcement officials, reputable automobile dealers, and used car buyers with tremendous difficulties in identifying cars on which odometers have been rolled back. The outward appearance of the tampered vehicles often provides no clue as to its true mileage, because many of them are late model, high-mileage autos, such as those which have been leased. And once odometer tampering is discovered, the varieties and loopholes in State titling procedures virtually preclude any possibility of catching whoever is responsible and putting a stop to it.

Even if we were able to apprehend and convict a greater number of those engaging in odometer fraud, the existing penalties are hardly severe enough to discourage this practice. The current civil penalty is $1,000 per violation. Considering that an automobile is the second largest purchase that the average American makes in his or her lifetime, anyone convicted of defrauding an auto buyer should be subject to harsher penalties.

S. 475 is designed to reduce odometer fraud by providing for greater uniformity among States and tighter control of both the registration and titling of motor vehicles. In addition, the bill would increase the civil penalty for odometer tampering to $2,000 per violation. The bill also changes the criminal penalty for odometer tampering from 1 to 3 years' imprisonment, thereby making this crime a felony.

This legislation will protect both consumers and legitimate automobile dealers from a colossal ripoff that is increasing in size each year. I urge its swift Senate approval.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 475), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 475

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 408 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1988) is amended by adding at the end thereof the following new subsections:

"(d)(1) No motor vehicle, the ownership of which is transferred by any person to another person in interstate commerce, may be registered or licensed for use in any State, or used in interstate commerce, unless—

"(A) the application to the State by the new owner of such motor vehicle for a certificate of title is accompanied by the prior owner's title (containing the information required under paragraph (2), where applicable);

"(B) the certificate of title (or other document indicating ownership) of such motor vehicle which is issued by the State to the new owner following such transfer—

"(i) is printed in bank note intaglio printing process;

"(ii) indicates on its face the mileage required to be disclosed by the transferor under subsection (a); and

"(iii) contains a space for the transferee to disclose (in the event of a future sale or other transfer of title by such transferee) the mileage at the time of such future transfer and to sign and date such disclosures.

"(2) In the case of an application for a new certificate of title for a motor vehicle, if the prior owner's certificate of title contains the space referred to in clause (iii) of paragraph (1)(B), when such certificate of title is submitted to the State under paragraph (1)(A), it shall contain a statement, signed and dated by such prior owner, of the mileage required to be disclosed by such prior owner under subsection (a).

"(3) No registration card may be issued in any State for any motor vehicle used in interstate commerce unless the application for such registration card contains (determined as of the date on which such application is submitted) the information specified in paragraphs (1) and (2) of subsection (a). Each State shall maintain such information, together with the vehicle identification number to which such information pertains, for a period of 5 years after the information is received by the State.

"(4) Any State may submit to the Secretary an alternative method for compliance with the requirements of this subsection by motor vehicles registered or licensed for use in the State. The Secretary may promulgate regulations establishing procedures for the consideration and approval of such alternative methods of compliance. No such alternative method may be approved unless the Secretary determines that such method is consistent with the purposes of this subsection.

"(5) The Secretary shall prescribe such rules as may be necessary to avoid the printing of mileage information pursuant to paragraph (1)(B)(ii) which may be false, misleading, or inaccurate. In order to prevent falsification or alteration of the mileage information required to be disclosed by a prior owner in accordance with paragraph (2), the Secretary shall prescribe such rules as may be necessary regardng the specific form to be used on certificates of title for compliance with the provisions of paragraph (1)(B)(iii). In addition, the Secretary shall prescribe rules regarding the actions to be taken by States with respect to the unauthorized alteration of motor vehicle certificates of title and other documents on which odometer information is required to be recorded or maintained.

"(e) If any motor vehicle is sold at an auction, the auction company which owns or operates the facilities at which such auction takes place shall maintain a record for a period of at least four years following the date of such sale that includes—

"(1) the name of the seller and the name of the buyer of the motor vehicle;

"(2) the vehicle identification number of the motor vehicle; and

"(3) the odometer reading on the date on which the auction company took possession of the motor vehicle.

"(f)(1) Upon the termination or expiration of any lease for a motor vehicle, the lessee shall provide written disclosure to the lessor of the mileage of the vehicle at the time of such termination or expiration. Upon the request of such lessor, the lessee shall also provide to the lessor such mileage information as may be necessary for the lessor to comply with the requirements of subsection (d)(3).

"(2) The lessor of a motor vehicle shall provide written notice to the lessee of—

"(A) the mileage disclosure requirement set forth in paragraph (1); and

"(B) the penalties for failure to comply with such requirement.

"(3) Each lessor of a motor vehicle shall retain the written disclosure made by the lessee under paragraph (1) for four years after the date on which such lesser transfers ownership of the vehicle to any other person.

"(4) A lessor of a motor vehicle may use the vehicle mileage information provided by lessees under paragraph (1) for purposes of compliance with the requirements of subsection (a) unless such lessor has reason to believe that such information does not reflect the actual mileage of the vehicle. Failure of any lessee to comply with paragraph (1) shall not affect the ability of the lessor to transfer ownership of the vehicle to any other person.".

Sec. 2. Section 402 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C 1982) is amended by redesignating paragraphs (1) through (5) as (2) through (6), respectively, and by inserting before the newly designated paragraph (2) the following:

"(1) The term 'auction company' means any person who takes possession (whether through consignment, bailment, or through any other arrangement) of a motor vehicle owned by another person for purposes of selling such motor vehicle at an auction.".

Sec. 3. (a) Paragraphs (1) and (2) of section 408(d) of the Motor Vehicle Information and Cost Saving Act, as added by the first section, shall apply with respect to motor vehicles which are transferred after eighteen months after the date of enactment of this Act.

(b) Section 408(d) (3) and (4) of the Motor Vehicle Information and Cost Saving Act, as added by the first section, shall apply with respect to motor vehicles which are registered in any State after eighteen months after the date of the enactment of this Act.

(c) Section 408(e) of the Motor Vehicle Information and Cost Saving Act, as added by the first section, shall apply with respect to motor vehicles which are sold by an auction company after eighteen months after the date of the enactment of this Act.

(d) For purposes of this section, the terms "motor vehicle" and "auction company" shall have the same meanings as used in the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.).

Sec. 4 (a) Section 412(a) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1990b(a)) is amended by striking out "$1,000" and inserting in lieu thereof "$2,000".

(b) Section 413(a) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1990c(a)) is amended by striking out "one year" and inserting in lieu thereof "three years".

Mr. DOLE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AUTHORIZING THE COMPILATION AND PRINTING OF BICENTENNIAL EDITION OF THE BIOGRAPHICAL DIRECTORY OF THE CONGRESS

Mr. DOLE. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on Senate Concurrent Resolution 85.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the concurrent resolution (S. Con. Res. 85) to authorize the compilation and printing of the Bicentennial Edition of the Biographical Directory of the U.S. Congress, as follows:

Resolved, That the resolution from the Senate (S. Con. Res. 85) entitled "Concurrent resolution to authorize the compilation and printing of the Bicentennial Edition of the Biographical Directory of the United States Congress", do pass with the following amendments:

Strike out all after the resolving clause, and insert:

That (a) the Joint Committee on Printing shall publish and there shall be printed as a Senate document (with such illustrations and in such style and form as may be directed by the Joint Committee on Printing) a revised edition of the Biographical Directory of the American Congress for the period ending with the One Hundredth Congress (1774-1989). In celebration of the Bicentennial of the United States Congress, the revised edition shall be known as the "Biographical Directory of the United States Congress, 1774-1989: Bicentennial Edition".

(b) The Historian of the Senate and the Historian of the House of Representatives shall provide appropriate biographical data and other material for the revised edition, including data for—

(1) Senators and individuals who have served in both the Senate and the House of Representatives, to be provided by the Historian of the Senate; and

(2) Members of the House of Representatives (including Delegates and Resident Commissioners), to be provided by the Historian of the House of Representatives.

(c) In addition to the usual number, there shall be printed 7,985 copies of the revised edition, of which 2,045 copies shall be for the use of the Senate, 5,390 copies shall be for the use of the House of Representatives, and 550 copies shall be for the use of the Joint Committee on Printing.

Amend the title so as to read: "Concurrent resolution authorizing printing of the Biographical Directory of the United States Congress, 1774-1989: Bicentennial Edition.".

Mr. DOLE. Mr. President, I move that the Senate concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Kansas.

The motion was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PRINTING AUTHORIZATION—"1984: CIVIL LIBERTIES AND THE NATIONAL SECURITY STATE"

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be discharged from further consideration of House Concurrent Resolution 230 and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution will be stated by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 230) authorizing printing of additional copies of the transcript of hearings entitled "1984: Civil Liberties and the National Security State."

The PRESIDING OFFICER. Is there objection to the present consideration of the concurrent resolution?

There being no objection, the concurrent resolution (H. Con. Res. 230) was considered and agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE CALENDAR

Mr. DOLE. Mr. President, I inquire of the distinguished minority leader if he is in a position to pass any of the following calendar items: Calendar Order No. 433, Calendar Order No. 467, Calendar Order No. 473, Calendar Order No. 474, and Calendar Order No. 479.

Mr. BYRD. Mr. President, there is no objection.

Mr. DOLE. Mr. President, I ask unanimous consent that the calendar items just identified be considered en bloc and passed en bloc and all committee amendments and preambles be considered agreed to en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRINTING OF COSTS ASSOCIATED WITH PROCESSING MASS-MAIL

The concurrent resolution (S. Con. Res. 91) to require publication in the Congressional Record of the costs incurred for processing mass-mail for individual Senators, Representatives, committees, and other offices, was considered, and agreed to; as follows:

S. Con. Res. 91

Resolved by the Senate (the House of Representatives concurring), That, two weeks after the close of each calendar quarter, or as soon as pacticable thereafter, the chairman of the Senate Committee on Rules and Administration shall cause to be published in the Congressional Record a tabulation of the costs of mass-mail processed for individual Senators, committees of Senate, and other offices of the Senate. Such tabulations shall set forth for each Senator, committee, or other office: (1) the name of the Senator, committee, or other office, (2) the total number of pieces mailed during the quarter, (3) the total postage and other costs associated with such mail for the quarter, and (4) with respect to Senators, the cost per capita, based on the total population of each Senator's State as set forth in the latest estimates of the Bureau of the Census. Information shall be arranged in three groups: Senators, committees, and other offices, and in alphabetical order by name of Senator, committee, or other office within such groupings.

Sec. 2. Two weeks after the close of each calendar quarter, or as soon as practicable thereafter, the chairman of the House Committee on House Administration shall cause to be published in the Congressional Record a tabulation of the costs of mass-mail processed for individual Representatives, committees of the House, and other offices of the House. Such tabulations shall set forth for each Representative, committee, or other office: (1) the name of the Representative, committee, or other office, (2) the total number of pieces mailed during the quarter, (3) the total postage and other costs associated with such mail for the quarter, and (4) with respect to Representatives, the cost per capita, based on the total population of each Representative's district as set forth in the latest estimates of the Bureau of the Census. Information shall be arranged in three groups: Representatives, committees, and other offices, and in alphabetical order by name of Representative, committee, or other office within such groupings.

Sec. 3. The mass-mail costs required to be published by sections 1 and 2 shall include the costs of postage, paper, and other operating costs incurred as a result of mass-mailings processed for such Senators, Representatives, committees, or other offices. Other operating costs, as used in the preceding sentence, shall include direct labor and managerial overhead, supplies and materials, and the prorated value of equipment. It shall not include the costs of space, power, heating, ventilation, and air conditioning with respect to mass-mailings processed by employees of the Senate or the House of Representatives in public buildings. Costs for space, power, heating, ventilation, and air conditioning included in costs for processing purchased from commercial sources may but need not be excluded. Costs associated with the writing and editing of the material printed in such mass-mailings shall not be included. The Senate Committee on Rules and Administration and the House Committee on House Administration shall prescribe regulations pertaining to the compilation of such costs by the appropriate organizations within their respective Houses.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

OPPOSING THE SOVIET UNION'S OCCUPATION OF AFGHANISTAN

The Senate proceeded to consider the joint resolution (S.J. Res. 240) opposing the Soviet Union's invasion and 6-year occupation of Afghanistan against the national will of the Afghan people, which had been reported from the Committee on Foreign Relations, with an amendment.

On page 2, strike line 7, through and including "(3)" on line 9.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. HUMPHREY. Mr. President, December 27 of this month marks the sixth anniversary of the brutal Soviet invasion of Afghanistan. This resolution strongly condemns the 6 years of aggression waged against the independent country and people of Afghanistan, and calls for a resolution to the conflict that provides self-determination for the Afghan people. The swift consideration that this resolution has received in both Houses of Congress clearly demonstrates the level of concern that the U.S. Government has for the situation in Afghanistan.

Now in its sixth year, the war has forced at least 4 million Afghans to flee for refuge in neighboring countries and throughout the world. The war has reduced vast areas of settled fields and pastures to absolute desolation. Farmers returning to their villages after having fled Afghanistan to escape the frequent carpet bombings, often can not even find a trace of their former homes and fields. Once eradicated diseases such as malaria and typhus have reappeared and are crippling the civilian population. Hepatitus has assumed epidemic proportions in Afghanistan.

The scale of the destruction wrought by the Soviet troops has recently been documented and confirmed by the United Nations. The Human Rights Committee of the General Assembly recently voted 75 to 23 to approve the report of the special rapporteur on the worsening human rights situation in Afghanistan. This report is the first United Nations document to ever openly condemn the Soviet Union for its human rights record.

This report stresses that current tactics being employed by Soviet and Karmal forces are "totally out of all proportion to any military requirement," and are designed not only to destroy opposition but to break the spirit of the people and destroy the traditional family structure. Soviet tactics have included the indiscriminate mass bombings and killings of civilians, mutilations and routine torture, the forced evacuation of rural areas, the imprisonment without trial of tens of thousands of political prisoners, and religious intolerance. Despite these ruthless Soviet tactics, the Afghan people continue to resist the imposition of an alien and atheistic ideology on their society.

The Soviet Union is finding it more and more difficult to hide its illegal occupation of Afghanistan behind the slogan of "fraternal socialism." The unrepresentative and ineffective character of the Karmal regime is obvious. The resistance is able to carry out its operations in all areas of the country while Soviet forces are unable to protect their own supply lines from ambush or sabotage. Meanwhile, the various Afghan commanders have been able to secure large areas of the country and have begun to rebuild the rudiments of government.

Mr. President, I am deeply saddened by the fact that the brutal Soviet invasion and occupation of Afghanistan has continued for 6 years, longer than the Soviet involvement in the Second World War. The Afghans are standing on the front line of the fight against totalitarianism. We must continue to support and honor their fight for it is the fight of all freedom loving people.

This resolution sends a strong message to the Soviet Union that the United States is firmly committed to seeing an immediate end to this brutal, genocidal attack on an innocent nation. The United States has not forgotten the Afghan people and we continue to support their heroic struggle for freedom.

The PRESIDING OFFICER. The joint resolution is before the Senate and open to further amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the joint resolution.

The joint resolution (S.J. Res. 240) was ordered to be engrossed for a third reading, was read the third time, and passed.

The preamble was agreed to.

The joint resolution, as amended, and the preamble are as follows:

S.J. Res. 240

Whereas December 27, 1985, will mark six years years since the Soviet Union invaded the independent nation of Afghanistan;

Whereas, as a result of said invasion, over one-fourth of the prewar population has fled the country and now constitutes the largest refugee population in the world.

Whereas Soviet and Kabul regime forces have stepped up their military campaign against the civilian population, including attacks on Pakistan's territory;

Whereas Afghan freedom fighters have frustrated all Soviet attempts to suppress them and withstood unrelenting attacks by Soviet forces with unmatched courage and sacrifice and with high morale; and

Whereas the Soviet invasion and repression of the Afghan nation and people has been repreatedly condemned by the Nonaligned Movement, the United Nations, the European Parliament, the Islamic Conference Organization, and the Association of Southeast Asian Nations: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Senate of the United States of America—

(1) condemns the six years of aggression waged against the independent country and people of Afghanistan;

(2) urges expeditious conclusion of a negotiated political settlement based on—

(A) the complete withdrawal of all foreign troop;

(B) restoration of the independent and nonaligned status of Afghanistan;

(C) self-determination for the Afghan people; and

(D) the return of the Afghan refugees with safety and honor.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TRUCK AND BUS SAFETY WEEK

The joint resolution (S.J. Res. 235) to designate the week of January 26, 1986, to February 1, 1986, as "Truck and Bus Safety Week," was considered, ordered to be engrossed for a third reading, read the third time and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. Res. 235

Whereas trucks and buses provide essential transportation services to all Americans;

Whereas five million trucks travel more than one hundred and thirty-eight billion miles each year, bringing raw materials, finished goods, food, and other essential products to market;

Whereas the trucking industry alone employes more than seven million four hundred thousand Americans and generates annual revenues in excess of $200,000,000,000;

Whereas the bus industry employs approximately fifty thousand people and provides service to over ten thousand cities and communities;

Whereas the safe maintenance and operation of trucks and buses is vital to the health and safety of motorists, pedestrians, and other users of the Nation's highways, roads, and streets;

Whereas the safe maintenance and operation of trucks and buses is also vital to the companies and individuals directly involved in the provision of such transporation services;

Whereas the safe maintenance and operation of trucks carrying hazardous materials is essential not only to the safety of the immediate highway environment, but often to the surrounding environment as well;

Whereas State governments are increasing their efforts to improve safety compliance both on their own and with funding assistance provided by the Federal Government;

Whereas there is a continuing need for congressional inducement to improve highway safety; and

Whereas improvement in the safe operation of trucks and buses result from activities undertaken by management and labor, including activities to ensure driver professionalism: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to designate the week of January 26, 1986, to February 1, 1986, as "Truck and Bus Safety Week" and to call upon Federal, State, and local government agencies and the people of the United States to observe such week with appropriate programs, ceremonies, and activities.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL ORGAN AND TISSUE DONOR AWARENESS WEEK

The joint resolution (H.J. Res. 450) to authorize and request the President to issue a proclamation designating April 20 through April 26, 1986, as "National Organ and Tissue Donor Awareness Week," was considered.

Mr. GORTON. Mr. President, it is my great pleasure to speak in support of House Joint Resolution 450, and I urge my colleagues to join me in giving the Senate's final approval to this measure. House Joint Resolution 450 authorizes and requests the President to proclaim April 20 through 26, 1986, as "National Organ and Tissue Donor Awareness Week." It is the companion bill to Senate Joint Resolution 236 which I introduced earlier this year.

Modern medical technology has provided our health professions with the ability to take miraculous steps in improving the lives of debilitated Americans. A little more than 3 weeks ago, a 46-year-old Seattle man was suffering in intensive care at the University of Washington Hospital. This patient had endured two heart attacks within the last few years, and his doctors gave him very little time to live. On November 18, however, surgeons at the University of Washington in Seattle performed the first heart transplant in the Pacific Northwest on this patient. Thanks to the skill of his doctors, this 46-year-old man now has a greater than 65 percent chance of surviving for 5 years or more. His doctors even suggest that he may be able to return to work within 3 months.

Although this first recipient of a heart transplant in the Pacific Northwest will enjoy many productive years with loved ones and work associates, several other citizens presently are waiting in University Hospital's pool of potential heart recipients. Their average survival time if a heart cannot be found is 55 days. New antirejection drugs and doctors with improved surgical techniques are ready to extend these patients' lives—the missing ingredient to complete this miracle is a gift of life from an organ donor. Without donors, these patients and their families will continue to suffer pain, trauma, and frustration while waiting for the uncertain receipt of suitable organs.

The frustration of those on the waiting list at University Hospital is shared by the thousands who could have their quality of life improved by transplants of other tissues and organs. A corneal transplant can provide sight to the blind. A skin transplant can speed the recovery of burn victims and reduce their suffering significantly. Kidney transplants can break the chains that tie thousands of Americans to dialysis machines. Organ and tissue transplant technology can help those with bone cancer, liver disease, and pancreatic disorders. Yet without donors, none of these medical wonders can occur.

The American Council on Transplantation [ACT] reports that although over 90 percent of all Americans are aware of the need for organ and tissue donation, less than 15 percent of potential donors actually become donors. National groups such as ACT, as well as State and local organizations, currently are planning events for National Organ and Tissue Donor Awareness Week that will show these potential donors how easy it is to complete a donor card. My hope is that passage of this resolution will aid these organizations in their efforts to help the thousands who still wait for the miracle that can give them the gift of life or significantly improve the quality of their lives.

The PRESIDING OFFICER. The joint resolution is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the joint resolution.

The joint resolution (H.J. Res. 450) was ordered to a third reading, was read the third time, and passed.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

JOHN W. BYRNES POST OFFICE AND FEDERAL BUILDING

The bill (H.R. 2694) designating the U.S. Post Office Building located at 300 Packerland Drive, Green Bay, WI, as the "John W. Byrnes Post Office and Federal Building," was considered, ordered to a third reading, read the third time, and passed.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NOMINATIONS

Mr. DOLE. Mr. President, there are a number of nominations on the Executive Calendar. I understand that there are problems, on each side. In one case a Senator is demanding a vote on a certain nominee before they release the others. On this side, it is a question of getting some answers from the Attorney General before they will release any of the other 22 nominees. I do not suggest that is reasonable, but I suggest that it is happening.

There are also other nominations not even related to the Judiciary, one of those being the nomination of Margaret Heckler to be Ambassador to Ireland. I, frankly, see no reason why we should not dispose of that nomination. I hope there would be no objection.

I am willing to go along with the others, although I must say I have had more calls than I wished to take today on various nominees. But since the concerns are being expressed on both sides of the aisle, I advise Members that we probably will not be able to dispose of any of those until Monday.

Is there any objection to considering the nomination of Mrs. Heckler?

Mr. BYRD. Mr. President, I personally have no objection, may I say to the majority leader. There is an objection to taking up that nomination until there is agreement to a call up of Mr. Sporkin, also, which I believe is the first one under new reports on the list for the judiciary.

Mr. DOLE. That is the problem; they are judicial nominations and this is not.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR MONDAY, DECEMBER 16, 1985

RECESS UNTIL 12 NOON, MONDAY, DECEMBER 16, 1985

Mr. DOLE. Mr. President, I ask unanimous consent that once the Senate completes its business today, it stand in recess until the hour of 12 noon on Monday, December 16, 1985.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF SENATOR PROXMIRE

Mr. DOLE. Mr. President, I further ask unanimous consent that following the recognition of the two leaders under the standing order there be a special order in favor of the Senator from Wisconsin, Mr. PROXMIRE, for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. DOLE. Following the special order for Senator PROXMIRE, Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business for not to extend beyond the hour of 1 p.m. with Senators permitted to speak therein for not more than 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DOLE. Mr. President, following routine morning business, the Senate can be expected to turn to any legislative or executive items that have been cleared—hopefully, all nominations. And I indicate that if we cannot clear nominations on Monday, we will just call up the nominations. There will be no protection on Monday, I would say, after 2 o'clock, on votes.

I just talked to Mrs. Heckler. She regrets that her nomination cannot be considered. I also regret that it cannot be considered. It has no relationship to anything that happened in the Judiciary Committee. But she is being held hostage along with a number of other people.

Mr. BYRD. Mr. President, as I have indicated earlier, I have no personal objection to taking up the nomination of Mrs. Heckler, but there are other Senators here who have rights, and, as I indicated to the distinguished majority leader, there is an objection on this side at least for today, the problem being that the nomination of Mr. Stanley Sporkin of Maryland to be U.S. District Judge for the District of Columbia is not being cleared on the other side.

I just say that for the RECORD.

Mr. DOLE. Mr. President, there is not any problem with Mr. Sporkin on this side. I understood in talking with Senator METZENBAUM that once the committee took action on the Sporkin nomination there would be no attempt to hold other nominations.

That has been changed saying, well, now they have it out of committee they will not vote. I am for Mr. Sporkin. I would be happy to do it at this very moment. There is a problem on the other side, as I expressed earlier.

I am prepared on this side, notwithstanding the objection, to take action on the Heckler nomination. I believe she is not any part of the problem, or in any way involved in any of the problems that have been occurring in relationship to the judicial nomination.

The holds are on the judicial nominations, one on this side, Buckley, and one on that side, Sporkin. Even if they wanted to hold judicial nominees, that would be of some relevance. But to hold all nominees, regardless of what they may have been nominated for, seems to me to be stretching the point. I guess that is a right Members have. It is not responsible, but it is a right, I guess.

Mr. BYRD. Mr. President, if the Senator will yield, I am sure that there is no problem with Ms. Heckler on this side. I can understand the distinguished majority leader's frustration that a Senator is objecting to Ms. Heckler. I experienced the same frustrations when I was the majority leader.

Of course, the Senator knows that any Senator can object. Of course, there cannot be unanimous consent, even though 99 Senators may be in favor of moving forward, if one Senator objects. The distinguished majority leader can move the nomination. He certainly has that right and he can do that.

It is not the first time, Mr. President, that the calendar has been held up because of one objection. I hope the matter will be resolved. I have no part in the quarrel, as far as I am concerned, but I do have to protect Senators on this side who may wish to object for the time being.

I know the distinguished majority leader has the same responsibility.

I thank the Senator.

RECESS UNTIL MONDAY, DECEMBER 16, 1985

Mr. DOLE. Mr. President, there being no further business to come before the Senate, I move that the Senate stand in recess until the hour of 12 noon, Monday, December 16, 1985.

The motion was agreed to, and the Senate, at 4:31 p.m., recessed until Monday, December 16, 1985, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate December 13, 1985:

Department of State

James L. Malone, of Virginia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Belize.

EXECUTIVE OFFICE OF THE PRESIDENT

Michael A. Samuels, of the District of Columbia, to be a Deputy U.S. Trade Representative, with the rank of Ambassador vice Peter Otto Murphy.

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

Hugh W. Foster, of California, to be U.S. Alternate Executive Director of the International Bank for Reconstruction and Development for a term of 2 years. (Reappointment.)

NATIONAL COUNCIL ON EDUCATIONAL RESEASRCH

Donald Barr, of Connecticut, to be a member of the National Council on Educational Research for a term expiring September 30, 1988. (Reappointment.)

Robert H. Mattson, of Oregon, to be a member of the National Council on Educational Research for a term expiring September 30, 1988, vice Paul Copperman, term expired.

SENATE—*Monday December 16, 1985*

(*Legislative day of Monday, December 9, 1985*)

The Senate met at 12 noon, on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Death and life are in the power of the tongue * * *.—Proverbs 18:21.

Pleasant words are as a honeycomb, sweet to the soul and health to the bones.—Proverbs 16:24.

Father in Heaven, at this critical hour in the Senate, may the wisdom of Proverbs penetrate mind and heart. We have been this way before and the signs are very familiar: urgency, tension, stress, disappointment, impatience, frustration, anger—raw nerves, strong emotions, weary minds and bodies. Harsh, harmful words come easy under these conditions. Despite the pressure of these hours, loving Lord, grant that the Spirit who promises peace will control our tongues, that our speech "be always with grace, seasoned with salt, that we may know how we ought to answer everyone." (Colossians 4:6.)

In the name of Him who loved and healed with His words. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The distinguished majority leader is recognized.

SCHEDULE

Mr. DOLE. Mr. President, under the standing order, the leaders have 10 minutes each, followed by a special order for the distinguished Senator from Wisconsin [Mr. PROXMIRE] for not to exceed 15 minutes, and routine morning business not to extend beyond 1 p.m., with Senators permitted to speak therein for not more than 5 minutes each.

Following routine morning business, the Senate can be expected to turn to any legislative or executive items that can be cleared for action. It is my hope that we can remove any problems which may remain concerning the Executive Calendar nominations today, and I would hope we might be able to do that by 2 p.m. As far as legislative matters, I am advised that the continuing resolution conference report will not be ready today. I am advised that the reconciliation conference report will not be ready today, and I know, having been a conferee on the farm bill, that that conference report will not be ready until late tomorrow evening. We are trying to get some agreement on farm credit, which is in the process. It may be, if we cannot reach an agreement, we will just have to go to conference on the differing House and Senate bills.

Beyond that, unless there is some agreement on that legislation, it would not be my intention to call it up. There is an Angola resolution, and I hope we can have bipartisan support for it. We have a number of cosponsors I understand on both sides of the aisle. I know the Senator from New Hampshire [Mr. HUMPHREY] has a resolution with reference to the Medvid case he desperately would like to have acted upon before Congress adjourns. On the cop-killer bullet legislation, we thought we had an agreement, but apparently the distinguished Senator from Idaho [Mr. SYMMS] has some amendments that he insists on offering. We probably will not be able to bring that bill up, but we are still working on it. Beyond that, I do not at this time think the Senate will be in session late. If we can clear up some of the executive nominations, we probably will not be in long.

There is the possibility of counterterrorism legislation. That would not occur until around 3 o'clock today.

I would assume it is safe to say this is the last week of the session. I cannot believe we would be in next week.

Mr. BYRD. Mr. President, will the distinguished majority leader yield?

Mr. DOLE. I yield.

Mr. BYRD. Does he anticipate rollcalls today?

Mr. DOLE. I hope not. I hope we could clear up the Executive Calendar, as much as we can. I have been working with Senator WEICKER from Connecticut. We are now I think about ready to have his objection satisfied. I do not think there are any real objections on that side.

It is a question of one nominee, and I think we can dispose of that nominee without any question.

I would rather not have any rollcalls if we can avoid it because I know some Members are unavoidably absent. Some have come back thinking there would be rollcalls, but if there is a way to avoid rollcalls, I would certainly like to do that. I understand a number of Senators may want to participate in the memorial service in Dover, DE, this afternoon.

Mr. BYRD. I thank the distinguished majority leader.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER (Mr. HECHT). The minority leader is recognized.

SENATE AGENDA

CONTINUING RESOLUTION CONFERENCE

Mr. BYRD. Mr. President, the conference on the continuing resolution seems to be going along very well. There are a small number of issues outstanding, one of which involves the Interior appropriations bill. I have been in on that conference. One of the major thorns of disagreement was the clean coal technology moneys. I think that we have reached agreement on that item just a few minutes ago. There are a few other items have been cleared.

If I understand the distinguished majority leader, he is saying that conference reports in the main are what may be utilizing the attention of the Senate plus the Executive Calendar?

Mr. DOLE. Yes.

Mr. BYRD. On the calendar, is he thinking only with respect to nominees and not with respect to treaties?

Mr. DOLE. There are, I understand, maybe four treaties that can be cleared for action. We may be able to act on two of those treaties, and I guess we could have a division on those. It might not require a rollcall vote. But if there were to be a rollcall, I would hope we would postpone that until tomorrow after the policy luncheons.

Mr. BYRD. So I take it that the distinguished majority leader is talking about the conference reports on the continuing resolution, the reconciliation measure, the farm legislation, farm credit, and the Executive Calendar.

Mr. DOLE. That is essentially it.

The distinguished minority leader knows, having experienced it, that there are always a lot of Members trying to do things at the last moment. I do not fault them for it. If we can do it, I want to accommodate all Members. But I do not want to become involved in some lengthy debate with a number of rollcall votes on a bill that

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● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

may not be going anywhere, in any event, until next year.

So I hope we will be able to finish our business early on Wednesday, by noon or midafternoon.

Mr. BYRD. I thank the distinguished majority leader.

THE FARM BILL

Mr. DOLE. Mr. President, one of the conference reports is the farm bill. I know that—unless someone really covered the conference, and some reporters did—it is not a matter of national interest, in the sense that people follow it on television or radio or the daily papers, unless they live in the Farm Belt.

I just want to say that I believe that the conferees did good work on both sides—the House and the Senate, Republicans and Democrats. Having been a conferee in a number of farm conferences, I think the test really is how many people signed the conference report, and in this case it was unanimous. there was not a single member on either side—the House or the Senate, Democrat or Republican—who did not sign the conference report and who did not vote for the conference report.

That does not mean that all believe it is a perfect piece of legislation. There are things in the bill that I would like to have seen changed, and I am certain that could be said for other members on both sides of the aisle, in both bodies. But overall, in my view, it ended as it should have—a bipartisan farm bill, which has been the norm around this place as long as I have been here, and I hope that will continue through the consideration of the conference report. I see no reason why it should not.

Another encouraging sign is the fact that we were able to reduce the cost of this program in the neighborhood of $51 billion. Some will say $52 billion, some may say less, some may say whatever; but I am going to continue to say in the neighborhood of $51 billion.

It seems to me that we are fairly much on target with the figure announced by the White House that the President would agree to. He would sign the bill if we could come in that range, and we are in that range.

There has been no public statement from the White House. I have been in touch with the Secretary of Agriculture yesterday: with Don Regan, the Chief of Staff, late Saturday evening; with the White House congressional liaison today; with the Office of Management and Budget on Saturday. It is my hope that they are carefully reviewing not only the cost but also the policy changes, because there are a number of good policy changes in the farm bill that make it very worthwhile. So I am optimistic that the bill can and should be signed by the President.

I also suggest that another thing we need to complete would be the farm credit legislation; and in my view, that is fairly near completion. We need to get an agreement to bring it up, to bring the House language up, to put on a Senate amendment, and send it back to the House. From the farm front, I think many of us on both sides of the aisle are encouraged. We know there is still a serious problem that is going to take some time, but we believe that, with the passage of the farm bill and the farm credit bill, we have given rural America some hope for the holiday season.

Mr. BYRD. Mr. President, I ask unanimous consent to reserve the remainder of my time throughout the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I yield the floor.

RECOGNITION OF SENATOR PROXMIRE

The PRESIDING OFFICER. Under the previous order, the Senator from Wisconsin [Mr. PROXMIRE] is recognized for not to exceed 15 minutes.

A MODEST BUT CRITICAL STEP FOR ARMS CONTROL

Mr. PROXMIRE. Mr. President, it may be a crumb. It may be a whole loaf. But it is encouraging news these days when arms control gets anything. The conferees in the Defense Appropriations Subcommittee on the continuing resolution agreed on a larger increase in the defense budget than most observers thought possible. But arms control did salvage one mark of progress. Probably. For the time being. The House and Senate conferees on Defense appropriations settled in the conference report for a ban on the testing of new antisatellite weapons. Congressman LES AUCOIN is an able and staunch champion of arms control. AUCOIN called the conference decision, "An absolute triumph." He added: "We did more for arms control in 5 hours than has been done in the last 5 years." The Defense Department conducted one test in October. It had planned at least two other tests soon.

Why is this decision by the Defense appropriations conferees to end antisatellite testing important to arms control? The answer is that satellites are quintessential to arms control verification. Their destruction would make arms control agreements impossible. Testimony before the Defense Appropriations Committees by such experts as former CIA Directors William Colby and Stansfield Turner have documented the fact that satellites not only provide an extraordinary window on nuclear developments in the Soviet Union. They do more. They provide far and away the most reliable monitoring system for both sides in determining compliance or violation of arms control agreements. Our experts can secure only very limited material from published Soviet sources. Human intelligence, from defectors and American and foreign agents in the Soviet Union provides some help. But it is fragmentary, anecdotal, erratic, and unreliable. Satellites cannot only observe through photographs but they can derive a great deal of useful intelligence by detecting degrees of sound and heat. The satellite technology has been progressing swiftly—satellites now provide a far more useful source of intelligence for the United States than they do for the Soviet Union, for two reasons.

First, the American satellite technology is more advanced. Second, the United States is an open society. The Soviet Union is a closed society. The Soviets can determine a great deal about American nuclear developments simply by reading our free and wide-open press. Our military and technical journals, our great newspapers, even our congressional hearing records, disclose detailed, massive data about our American nuclear developments, including our compliance or lack of compliance with arms control treaties. As we know, in the Soviet Union the totalitarian Communist Party controls everything. It is simple for the Soviet Government to conceal their nuclear activities, including any violations of arms control treaties.

So satellites serve the interest of the United States far more importantly than they serve the interests of the Soviet Union in arms control. But won't the decision of Congress to stop antisatellite testing simply leave the antisatellite capability in the hands of the Soviet Union? And, are not the Soviets already ahead of us? Is it not true that they have tested and perfected antisatellite capability already?

The answer to that charge, Mr. President, is that the Soviets have, indeed, developed and deployed an antisatellite system. But it is crude and limited. It poses no threat to our high altitude satellites. These American satellites provide far-and-away the most critical and useful information about Soviet compliance or violation of arms control treaties. If the conferees had not acted to prevent the United States from going ahead with its planned additional tests on our high altitude antisatellite technology, our own satellites would certainly be in danger of a greatly stepped-up Soviet effort to destroy our high altitude satellites. The development by either superpower of this high altitude antisatellite technology would surely have jeopardized all future arms control agreements.

If either superpower were to develop the capacity to destroy the adversary's high altitude satellites the adversary would know that the other superpower held his most critical intelligence capability hostage. It would mean that, at any time and without notice, the adversary could take out the one satellite system that could provide by far the most important and the most reliable evidence of compliance or violation.

Suppose the Soviet Union now proceeds with its antisatellite technology. Suppose it begins to test as the United States already has. Then we can and should resume our antisatellite testing and development. But the Soviets surely know this. With both sides desisting from testing, satellites can continue to do the monitoring work that is quintessential to verification which in turn makes possible arms control agreements that can begin to stop the nuclear weapons arms race.

This has been a bad year for arms control. SDI or star wars seems on its way to destroying that most successful of all arms control agreements, the 1972 ABM Treaty. SALT II, the treaty that restrains offensive missiles, expires in 2 weeks and may not be revived. At least we still have the monitoring capability of our satellites healthy and constantly improving. The conferees' agreements on the continuing resolution keeps arms control hopes alive. Congressman Les AuCoin may well be right when he said, "We did more for arms control in 5 hours than has been done in the last 5 years."

MYTH OF THE DAY

Mr. PROXMIRE. Mr. President, my myth of the day is that the tax changes made in the 1981 and 1982 tax laws will, in the long run, stimulate business investment, economic growth, and eventually reduce the Federal deficit.

A study prepared by members of the Federal Reserve Board and International Monetary Fund staffs reached just the opposite conclusion.

Using their sophisticated econometric model, the economists found that in large part the Federal deficit in the past 4 years was a result of the 23-percent reduction in personal income taxes and the substantial acceleration in depreciation allowances legislated in the two tax laws passed in 1981 and 1982.

When the econometric model is manipulated to keep the unemployment rate unchanged through monetary policy, the study found that the tax law changes "significantly skews the composition of output toward consumption and away from housing. The formation of business capital is boosted in the short run but eventually it too is reduced. Consequently, potential output is lower in the long run."

The study goes on to show that if the current fiscal policy is maintained it is likely that the real after-tax rate of interest will rise above the rate of growth of real output. The study concludes that:

> Under such conditions, the ratio of Federal debt to GNP would grow explosively unless fiscal policy were made sufficiently restrictive.

In other words, if we do not raise taxes, cut spending or do a combination of both, we will be faced with rising real interest rates, lower investment, anemic growth and runaway Federal deficits.

A FIRST STEP AGAINST TERRORISM

Mr. PROXMIRE. Mr. President, we have each been troubled by terrorism in recent weeks. The *Achille Lauro* and the TWA hijackings. The Beirut bombing. These incidents form a gruesome chain forged of disregard for human life and rejection of international law.

After each incident, I have listened to the recommendations of the President and my Senate colleagues and the fine people of Wisconsin. There is a remarkable consistency in these recommendations. Each of these Americans declares that human life is precious and the United States must do more to protect that life. Each declares that we should work to build greater international cooperation to battle terrorism. And each of these Americans is right.

We should start this battle by ratifying the Genocide Convention. For what is genocide? Surely it is terrorism bloated with the grotesque desire to destroy an entire civilization. What is the Genocide Convention but an effort to set up an international mechanism to battle this scourge?

The Genocide Convention is a sound piece of international law that does not threaten the rights of American citizens. Rather, it is a first step toward implementing the recommendations of so many Americans. The convention reaffirms that human life is precious and provides a framework for international cooperation to fight genocide.

Let us battle terrorism. Let us start by battling genocide—one of the ugliest manifestations of terrorism. Let us start by ratifying the Genocide Convention.

Mr. President, I yield the floor.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business for not to extend beyond the hour of 1 p.m., with statements therein limited to 5 minutes each.

COMPLIMENTS TO STAFF

Mr. LEAHY. Mr. President, I will be very brief. But during the past week-and-a-half, I have served on two committees of conference, both in appropriations and agriculture. The appropriation one is still going on; agriculture finished at around 6:30, 6:45 Saturday night.

In these committees of conference, we met late into the night each night, sometimes midnight. A number of us would meet afterward for another hour or 2 and then Members would go home.

The reason I mention this is not to talk about the long hours that Members on both sides of the aisle have put in, but, rather, Mr. President, to note the extraordinary work and dedicated work of the staff in both the Appropriations Committee and the Agriculture Committee, and say that I wish to compliment the staff of both bodies of both parties.

I believe many times when we hear the expression that we have agreed on something and "we will let staff work it out," that is a signal for us to leave and the staff to spend hours of very difficult work in doing just that—working it out.

Mr. President, we should realize that this body functions sometimes in spite of the 100 Members, but always because of the dedicated staff on both sides of the aisle, and those within the Chamber, the Official Reporters who are taking down the notes of what I am saying now, those who work in the various aspects of the Secretary's office, the Parliamentarians, those who run both the Cloakrooms here, and the pages, who are some of the most extraordinary young people that I have seen during the last 11 years I have been here. When people talk about those in Government, I do not think they will find any more dedicated than the people who make this branch of Government, the legislative branch of Government, work.

The 100 Senators, the 435 Representatives, the other Commissioners, Delegates, and so on who are elected come here temporarily to represent the people of their State or district. So much of the staff, though, are permanent professionals who ultimately work to do what is best for the country.

I know that the Agriculture Committee staff is now working on the statement of the managers. I hope that we would give them all the time they need. It is an extraordinary document, probably will run about a thousand pages long, and they need the time to make sure that no mistakes are made in incorporating those things we voted on. I have the utmost confidence in them. I will have even more confidence if we give these extremely weary men and women the time to do their work.

Nobody is more eager to get home than I. Vermont is beautiful at this time of the year. I mention that to anybody who is planning to travel there. We have fresh snow; the skiing is great. It is lovely. Unlike Washington, the snow does not slow up anything.

But I am one Senator who is willing to take an extra day, if necessary, to allow those on the staff that are working out the reports from the various committee conferences to do it right. We have asked Herculean labors from them, but even Hercules needed time to complete his labors.

DISPOSAL OF LOW-LEVEL NUCLEAR WASTE

Mr. BOREN. Mr. President, there are four bills on the calendar now pending dealing with the problem of the disposal of low-level nuclear wastes. These bills include H.R. 1083, H.R. 3878, S. 1578, and S. 1517. There are also six bills on the calendar that grant the consent of Congress to regional compacts dealing with the same subject.

As our colleagues will recall, one of these became the vehicle for the consideration of the campaign reform amendment which I offered several days ago. That amendment was not tabled at that time, and still remains on the calendar attached to that particular piece of legislation. We had a discussion on the floor several days ago in which I said it was my intention to deny unanimous consent for the bringing up of any of these packages of bills which we regarded as necessary to secure the viability of the vehicle for consideration of campaign reform.

The majority leader during the discussion of the campaign reform amendment had indicated that it was his hope—not a definite promise, but it was his hope—that we could return to the campaign reform amendments sometime in the spring.

Mr. President, I simply want to say that I am absolutely willing—and I have communicated this to the majority leader, and I hope we will be able to work something out—to bring these matters, the compacts and the piece of legislation, to the floor for consideration. I would be perfectly willing to allow for all of them to be considered.

I will not object to any of them being considered as long as we could be assured that we would return to the campaign reform amendment, and make it the pending order of business on a date certain. I had proposed March 12. I am not particularly dedicated to any one date if that does not fit the schedule of the majority leader, if he wanted to make it a week earlier or a week later according to what would be beneficial to the Senate schedule.

I also understand that the initial proposal we made indicated that we would remain on this particular piece of legislation until it was disposed of.

I know the majority leader is under terrible time pressures. If, for example, we ended up facing a filibuster or prolonged debate of that particular issue, and the majority leader had other matters that he needed to bring before the body, I would understand why it might be difficult for him to agree to stay on that particular measure until action was fully concluded.

I would certainly be willing to also negotiate with him a reasonable amount of time that he would allow us to operate on this particular piece of legislation to see if we could complete it within a reasonable period of time understanding that if we could not he might then have to move on to other matters before action was completed.

I wanted to say, Mr. President, that as far as this Senator is concerned I am absolutely willing to listen to any counterproposals that might be made from the suggestion that I have previously made and had conveyed through the floor staff to the majority leader.

I am very optimistic that something can be worked out. This Senator is very flexible as to the particular date on which we would return. I feel very strongly we must be assured that we will return to it on a date certain.

I am also very flexible in terms of my understanding of the problems of the majority leader, that he might have to only promise that he would stay on it a certain period of time knowing we were going to have a very busy schedule on the Senate floor in the early and midspring period, and that we might have to make more than that one attempt to complete action on this proposal before we actually succeed.

So I am very hopeful that something can be worked out.

I see the distinguished majority whip on the floor. I hope we will not try to do that now, but I hope he will convey that there is a good deal of flexibility on this side in terms of what we might be able to work out.

THE 1985 FARM BILL

Mr. BOREN. Mr. President, I would like to mention there was discussion on this floor last week by this Senator, and potentially by others, that there might be a prolonged debate that would prevent the timely completion of the conference report of the Agriculture Committee on the 1985 farm bill.

I have to report that I think there was very significant progress made on the farm bill over the weekend. I have had an opportunity to be in discussions during the weekend as that conference report was finalized and to also have a chance to look at the report.

I certainly would not call the bill that we are going to be voting on later this week an adequate bill. Overall I think the bill fails to adequately address the income problems for farmers or provide an aggressive program to increase exports. Passage of this farm bill will do very little to reduce the crisis in rural America. As far as I am concerned, the fight is not over.

I think we should all realize that Congress will have to grapple with many of these same problems again next year. About the best thing we can say about the bill that has come out of conference is that it is not as bad as the original conference committee proposal.

I think it would have been even worse had there not been a group of Senators willing to bring that proposal to prolonged debate and postpone legislation until next year.

Originally, just over a week ago, we were looking at a proposal from the conference committee which would have dropped the income of an average Oklahoma wheat farmer in my State by 12 percent next year. At least the bill ended up coming out of conference not including any substantial reduction in farm income. Income levels at least in the first 2 years will continue about the same as under current law.

With the farmers in such a desperate situation today, there is no way that continuing the status quo can be considered as adequate.

As I said, Mr. President, it is at least a step forward from the 12-percent drop in income originally being considered by the conference committee.

Though I cannot say that I can endorse this bill and I cannot say that I think this bill will solve the problems that are out there in the agricultural community, it would not be the intention of this Senator to try to participate in any way in delaying consideration of that matter before we go home. I would anticipate that we will have the conference report before us and this Senator will participate to try to assure timely consideration of that conference report before Congress finishes this year.

Mr. SIMPSON addressed the Chair.

The **PRESIDING OFFICER.** The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I listened to the remarks of my friend and colleague from Oklahoma. I appreciate his good faith, particularly with regard to the low-level waste bill.

Let me inform all Senators that we do have a very critical problem. I will not go into that to be repetitive, but I

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will say swiftly—and you can go back and review my remarks on this topic the other day—on January 1, 1986, the three receiving States in the United States will reject low-level waste coming from any other State in the Union. They will simply reject low-level radioactive material.

That is not from nuclear generators of electric power. That is ordinarily high-level waste.

What it is, effectively, is something that will stop hospitals that engage in uses of nuclear medicine who produce low-level waste products that are gloves, boots, things that go with nuclear medicine that helps to save lives in the country in all hospitals within the entire United States. In my State, the Senator's State, any State in the improvement of living standards. As Hungary, East Germany and even Bulgaria explore economic reform and trade openings to the West, we should encourage this slow and sometimes even stealthy evolution in their policies. As they increase economic tiese majority leader speak for himself on this negotiation. I hope he will continue negotiations with the leader because he alone can speak on this issue.

In my mind, I am certain that the majority leader will try to work toward a date and a time certain. I see no way personally, and the majority leader will certainly judge this, how we would stay on it until it is disposed of. I know of no way to assure that to any Senator. It would be folly to stand here and say that we would select a time and date certain and that we would stay on that issue until its final disposition. Even staying on it and interrupting and bringing up other things that would be topical is not something that I think would be for the "good of the order" in the Senate. We already have enough problems with quality of life. We have discussed that among ourselves. The Senator from Oklahoma is a very key part of that group.

If we are going to have a situation where everyone has their particular issue and it is to be brought up at a date and time certain until it is disposed of, where it cannot be laid aside, and it can be in order as business of the Senate that it cannot be returned to for a time, then I think we have sounded another death knell to the quality of life in the Senate. I wanted to share that with the Senator.

Mr. BOREN. Mr. President, I thank the Senator from Wyoming for the comments he has just made. Of course, I have had an opportunity to review fully the situation discussed earlier a few days ago on the floor in regard to these compacts and in regard to the transition legislation needed to assure that we have an adequate and a safe place to dispose of these low-level radiation wastes. I share with him the hope that we will be able to deal with that.

I understand that there are some difficulties now surfacing perhaps between two committees of the Senate that have been working on this same matter. I hope they will be able to resolve them.

I did simply want to say that if those two committees are able to resolve their problems, this Senator does stand very ready and willing to work with the majority leader to try to obtain an agreement so that we can move on and have them all considered. I do understand the point made by the Senator from Wyoming that if we were to take up the campaign reform amendments on a certain day, none of us standing here today can guarantee how much time the consideration of that issue might take.

Understanding the majority leader's problems, being sensitive to his problems of scheduling, and there may be other pressing matters at that time for us to consider, this Senator would be very willing to enter into some time agreement that while giving us a reasonable opportunity, assuring that we will have a reasonable chance for a reasonable period of time to look at this matter at that time it is called up for consideration, to not try to put the majority leader into a box where he could not move on to other things, or that he could not set this aside, after we have had a reasonable time to work on it, and go to some other matter.

I am sensitive to the point made by the Senator from Wyoming. If we got into a prolonged situation, a week or 2 weeks or some extended period of time on this measure, this Senator certainly understands there may be other pressing matters at that time and I would not want to tie the hands of the majority leader.

The first proposal we had sent to the majority leader did indicate we would remain on it until disposed of. This Senator would certainly be open to some counteroffer from the majority leader which will address his concerns about not having to stay on it an unreasonable amount of time if we were not able to finish it in a timely way.

I thank the Senator from Wyoming for his remarks. It sounds like we are well on our way toward approaching an agreement on that.

I see the distinguished Senator from South Carolina on the floor. He has discussed with me the very serious nature of this matter. I know it affects the State of South Carolina, one of the three States providing disposal sites. I know it is important not only nationally but to him particularly as it impinges upon South Carolina.

This Senator wants to assure all concerned that he is very willing to look at some proposal of the majority leader and to try to look at it in a very sympathetic fashion. Part of the opportunity will certainly be, if we had the chance to bring up this subject again and deal with it in a reasonable period of time, to give the majority leader flexibility for that to happen. I think we can arrange that.

As far as I am concerned, we see all of these numbers released except for our bid. The subject matter could be included on another vehicle. We have here, I think, potentially seven or eight different pieces of legislation and those numbers are available.

I appreciate the comments of the Senator from Wyoming and I appreciate also the information which has been supplied to me by my colleague from South Carolina, who is now on the floor. I am very hopeful we can work that out. I hope the two committees involved will also be able to proceed and to work out any problems they might have.

Mr. SIMPSON. Mr. President, I shall certainly yield the floor, but I want to indicate that the two committees are working diligently on the settlement of this matter. I think they are close with regard to the milestones that must be reached. Certainly, with what the Senator has said this morning, I think we can reach some accommodation; I certainly hope so. We shall certainly work toward that.

I yield the floor, Mr. President.

NATIONAL DRUNK AND DRUGGED DRIVING AWARENESS WEEK

Mr. DOLE. Mr. President, the week of December 15-21 has been designated as "National Drunk and Drugged Driving Awareness Week," to draw attention to the dangers of drunk driving and the efforts of people across the country to make our Nation's roads safer.

Thanks to the combined efforts of Federal, State and local governments and citizen's organizations such as Mothers Against Drunk Drivers and Students Against Drunk Drivers, between 1980 and 1984 the percentage of drunk drivers decreased 24 percent and the number of intoxicated drivers killed declined 24 percent.

MORE TO BE DONE

Although we are grateful for these past accomplishments, much more must be done. Many States have raised the legal drinking age to 21 in an effort to curb the use of alcohol by our Nation's youth. However, this affects only 15 percent of the drivers responsible for alcohol-related deaths. We must recognize that drunk drivers of any age are killers and target our programs accordingly to remove all drunk drivers from the roads.

Having served as a member of the President's Commission on Drunk Driving, I am fully aware of the perilous situation drunk drivers impose upon our Nation. It is imperative that we combine educational programs, legislative measures, sentencing reform and enforcement. Designation of National Drunk and Drugged Driving Awareness Week is an important step in our battle against drunk driving. I salute the progress made thus far and reaffirm my commitment to make our roads and highways safe for the future.

CONRAIL

Mr. **SPECTER.** Mr. President, I rise today to address an issue of paramount importance to the freight rail system in the Northeast-Midwest region, and indeed, to the entire national transportation system. I refer to the proposed merger of the Conrail and Norfolk Southern railroads, and the creation thereby of the largest rail network in this country.

This issue clearly is not yet ripe for Senate action. Despite pressures from Norfolk Southern proponents, and recently quoted allegations by one of their lobbyists that "a handful of Senators treat this as a joke rather than as an important question of public policy," the fact remains that major antitrust issues have yet to be evaluated and resolved. That is hardly a joke.

In January 1985, the U.S. Department of Justice completed its review of the Norfolk Southern proposal to purchase Conrail. Its conclusion was unambiguous: "The merger would have a significant adverse effect on competition * * *." The Department of Justice found that, "* * * without appropriate divestitures, the proposed merger would violate both Clayton Act and Interstate Commerce Act merger review standards." (January 29, 1985, letter from Assistant Attorney General J. Paul McGrath to Secretary Dole, p. 1).

Since that date, almost 1 year ago, Norfolk Southern repeatedly has attempted to devise a divestiture plan that would meet Justice's requirements for "long-term, viable and competitive rail service" in the counties that would be most affected by the merger. Norfolk Southern also has been attempting to convince a rightfully skeptical audience that the two proposed divestee carriers—Guilford Transportation Industries and the Pittsburgh & Lake Erie Railroad—would provide a competitive counterbalance for the service currently provided by an independent Conrail.

Every analysis of these divestiture proposals thus far has produced the same conclusion: no divestiture plan can recreate the existing benefits of a strong, competitive independent Conrail. The proposed operations of Guilford and P&LE are miniscule in comparison to the proposed Norfolk Southern/Conrail merged system, which is more than five times the size of postdivestiture Guilford and P&LE combined, and which in 1984 had nearly 20 times their combined operating revenues. both the Interstate Commerce Commission staff, and the independent consultant to the Department of Justice, R.L. Banks & Associates, Inc., in analyses of previous divestiture proposals, have raised serious questions as to any prognosis of continued viability for both of these regional carriers.

Yet the present proposal—No. 3 to date—has not addressed these critical financial questions, and the Justice Department has admitted that the divestee carriers have not even submitted financial statements, financial projections, operating plans, and traffic and marketing studies.

With such obvious holes in the evaluation of divestiture plan No. 3, it is difficult to surmise how the Department of Justice can even state, as it did in its November 19 press release, that "on its face" this plan "appears" to address the anticompetitive concerns outlined in prior Justice analyses. Critics of the plan have noted that, in addition to the financial problems of the proposed divestees, the third plan continues to rely heavily on trackage rights, reciprocal switching arrangements, and car haulage agreements, which are costly, result in indirect routes, and create multicarrier service that often is inefficient and noncompetitive. Such shortcomings existed in the prior—rejected—plans, and they have not been remedied.

There has been a tremendous recent rush to remove the threat of antitrust violations. First, by a hurriedly announced Department of Justice "preliminary" indication of prima facie plan approval, and second, by a push to hold a Judiciary Committee hearing on this topic less than 48 hours after divestiture plan No. 3 was publicly released. The lack of opportunity to study this proposal, along with other procedural problems, let to the cancellation of the formal hearing and the substitution instead of an "informal gathering." Thus, the Judiciary Committee has not had opportunity to address the newest divestiture plan and Secretary Dole's commitment to appear before the Judiciary Committee to testify regarding the merger remains unfulfilled.

This last minute flurry of activity suggests a fear that plan No. 3, like its predecessors, will not withstand careful and measured analysis. The quickened desire for Senate action, as evidence by the attempt to raise the issue by unanimous consent on the Senate floor on December 5, to which I and numerous other Senators voiced strenuous objection, further indicates the pressure created by Norfolk Southern's threat to withdraw its offer at the end of 1985 if "substantial progress" has not been achieved.

Threats such as these should not sway Congress from its obligation to ensure that a divestiture does not violate the antitrust laws. In every respect, divestiture plan No. 3, like the others before it, demands careful scrutiny. Critical pieces are absent; critical assumptions are factually incorrect; and experts suggest that the marketing and operating assertions do not comport with reality.

The fundamental question is this: Why is Congress being asked to approve hastily a massive restructuring of the Northeast-Midwest rail system, which necessarily will cause a startup period of unknown duration, disrupt service, dislocate thousands of employees, and risk severe injury to rail competition? If the only answer to this question, as many may guess, is to accommodate Norfolk Southern's bid for Conrail, then the real joke is on the American taxpayer.

The independent Conrail of today is working. It has produced innovative, procompetitive, shipper-oriented service. Its long-term viability has been verified by the U.S. Railway Association, and by each and every independent analysis on this topic.

Sophisticated financial investors are willing to back the sale of Conrail through a series of public offerings which would keep Conrail independent and generate a higher sale price for the Government. This Morgan Stanley alternative, which I have supported through legislation, will guarantee continued aggressive rail competition by ensuring that three major railroads maintain existence in the region.

It has been almost 2 years since Secretary Dole solicited bids for the purchase of Conrail. Those 2 years gave Conrail the opportunity to prove itself even further as a money maker, and as a stand-alone rail system. Perhaps the idea of a rail merger, and the reliance on Norfolk Southern's "deep pockets" made sense 2 years ago. At this moment, however, it is quite clear that Conrail does not need Norfolk Southern. To the contrary, it is Norfolk Southern that needs Conrail—precisely because of Conrail's proven financial success, and the $100-$600 million in tax benefits which Norfolk Southern would gain through the merger.

Let us not proceed to a hasty decision on this important issue. Much is at stake—the proposed merger would injure local economies, cause job losses, and decrease any remaining incentive for economic development in the already suffering Northeast-Midwest region. Norfolk Southern voluntarily entered this process, and must be prepared to withstand reasonable scrutiny of its offer. Given the huge gains Norfolk Southern stands to reap if the merger is approved, its threats to withdraw its bid must be examined nearly as closely as its continued—and thus far futile—attempts to provide sufficient divestiture plans. In any event, haste and hurried activity are not in order—Conrail must be returned to the public, but in the manner which provides the best return to the taxpayers, proper service to shippers, fair prices to consumers, and a minimum of competitive problems to the national rail transit network.

DON'T SCRAP SALT II

Mr. **EAGLETON**. Mr. President, if President Reagan is serious about negotiating a new arms accord with the Soviet Union, he must not make the perilous mistake of dismantling a mechanism that serves American national security interests and represents an important bridge between the superpowers. Yet, President Reagan has signaled that he may do just that by ceasing to honor the terms of the second Strategic Arms Limitation Treaty, SALT II, when it expires on December 31.

The administration's attitude toward SALT II over the years can best be described as fickle. The Reagan team has gone from condemning the fatally flawed treaty during the 1980 campaign, to announcing in 1981 that, while it would not submit the treaty for congressional ratification, it would observe a policy of not undercutting the provisions of the agreement.

Earlier this year the administration's commitment to a no undercut policy wavered in the face of a big test; the activation of the new *Ohio*-class Trident submarine, which went to sea trials last September. This new weapon carries 24 MIRV'd nuclear missiles, and its deployment would have pushed the United States over the SALT II ceiling of 1,200 MIRV'd ICBM's. In the course of public discussions about how to proceed, the White House threatened to ignore the treaty's MIRV limits as a proportional response to Soviet noncompliance with other provisions in SALT II. In June, the administration finally announced that it would dismantle a Poseidon nuclear submarine in order to stay within the MIRV limits.

Mr. President, can you imagine what turning our back to the agreement would have done to the Reagan-Gorbachev summit recently completed in Geneva? At worst, the summit would not have occurred, and at best, the atmosphere of the summit would have been poisoned by Soviet charges—which would not have been altogether off the mark—that the President was not serious about the summit or arms talks.

Would exceeding the MIRV limit have strengthened the President's position in Geneva? Clearly not. Would it have improved our standing in the world community? Hardly. Would it have given the Soviets a public relations club with which to beat us and an excuse to discontinue important constraints on its forces? Absolutely. Finally, would our national security have been enhanced by scrapping observance of the MIRV limits? The answer is no.

Mr. President, that is what it is all about: enhancing national security. At a point in time when nuclear Armageddon hangs above us like Damocles' sword, part of ensuring our national security involves limiting nuclear arsenals and reducing incentives for either side to launch a nuclear attack, which is precisely what the SALT agreements have provided us.

The other side of the national security equation in an arms control context—maintaining our military strength relative to Soviet's—has also been served by the SALT agreements. To stay within SALT boundaries, both sides have been forced to dismantle nuclear assets and it can be argued that the Soviets have been forced to dismantle more than the United States. It can also be said that should we decide to exceed the numerical limits on ICBM launchers, the Soviets would follow suit and are in a very good position to take advantage of such a break-out.

The Reagan administration's threats to ignore SALT II have been founded on its itemization of Soviet treaty violations. None of us should treat Soviet noncompliance lightly. The Reagan charges are serious. There is evidence that restraints are breaking down, if not according to the letter of the treaty, then certainly according to its spirit. That is not to say, however, that restraints are irretrievable.

The Reagan administration should dog the Soviets on its noncompliance at the diplomatic level. In the short term, it should seek to reach a mutual clarification of current obligations under treaties now in force—this would be a laudable and attainable goal for the U.S. team at the Geneva negotiations which are to resume in January. In the longer term, the administration should pursue the noncompliance issues in the Standing Consultative Committee—the forum created by the SALT talks to address SALT compliance questions.

The administration should not throw the baby out with the bath water by responding to Soviet noncompliance of certain provisions by rejecting the entire SALT II agreement. The risks of the current compliance problems are clearly outweighed by the benefits we reap from existing restraints on Soviet forces.

Mr. President, I cannot believe that the administration would be so foolish as follow through with its threat of ceasing its observance of SALT II, but my beliefs have been shaken by the President's recent statements and by the power that the antiarms control faction of White House advisors seems to have in the policymaking process.

Ignoring certain provisions of SALT II earlier this year would have been bad, but reneging on our commitment to the entire agreement at this delicate moment in superpower relations would be far worse. The tenuous momentum that the Reagan-Gorbachev summit gave to arms negotiations would be all but destroyed and President Reagan would probably end his second term with the dubious distinctions of being the only U.S. President in over two decades to have, first, not reached an arms accord with the Soviets; and second, ruined a predecessor's arms agreement.

Mr. President, the United States and the Soviet Union stand at a crossroads in their relationship. Both know that the present arms control regime is far from perfect. Both are aware that for the first time during the Reagan presidency, there exists a slight opportunity for improving bilateral relations and for finding new, mutually beneficial arms limitations. By discarding the unratified SALT II Agreement after its expiration later this month, President Reagan would shut the door to the potential for healthier United States-Soviet relations, productive arms negotiations, and a safer world. I join many of my colleagues in calling on the President to add to the momentum of the Geneva summit by continuing to abide by the unratified SALT II Treaty.

Mr. **BOREN**. Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER**. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

(Mr. **PRESSLER** occupied the chair during the quorum call.)

Mr. **MELCHER**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER** (Mr. GORTON). Without objection, it is so ordered.

MINIMUM FARM BILL

Mr. **MELCHER**. Mr. President, the farm bill has passed the conference committee in a way that will probably assure House and Senate acceptance and get the President's signature. It is just the minimum framework to attempt to meet the farm crisis to keep American agriculture intact until better days come. More on agriculture credit and trade corrections must come yet. The total cost of the farm program will be a little more than $17 billion a year for commodities and conservation.

President Reagan should be the last person to complain about the cost because it is his administration's policies that have curtailed agricultural exports and winked at increased agricultural imports. Farmers should squawk the loudest because it is these policies that drive them to the wall and make them dependent upon Federal price supports and deficiency payments rather than on a decent market for their production. Wheat exports were down 20 percent over the past several years. They are even more disastrous this year, running well below 50 percent of the past 4-year average. Corn, soybean, and rice exports are also being clobbered, leaving commodity prices at a level that can only be compared to that of the 1930's.

The farm bill for farmers is not much to shout about, but at least it maintains target prices at virtually the same level for the next 3 years, something the Reagan administration said it could not stomach. If there is going to be any hope for farmers and rural America, it is because target price stability has been maintained and the export provisions in the bill have drawn to force the administration to export more. Mandatory minimum tonnages for food for peace—Public Law 480—and a broadened section 416, with more surplus commodities for friendly and hungry countries, plus the utilization of both those donations and commercial sales to match subsidized food sales from other countries, will require both the Agriculture and State Departments to get off the dime and clear more food exports.

To make sure that there is a some coordination in expediting of agricultural exports, the bill requires the appointment of a special adviser to the President.

While President Reagan has not sufficiently concerned himself with agriculture, the continuing sag in the farm and rural economy mandates attention to that problem now. The balance of trade for this year—with $150 billion more being imported than we have exported—has tracked with the continuing climb in Federal deficits. One cannot be corrected without correcting the other. A stronger U.S. economy is dependent upon production here.

American agricultural producers are the most efficient in the world. The failure to meet the subsidized competition from other countries in foreign food sales is not the fault of U.S. farmers, but the fault of the policies of this administration. The State Department has thwarted to delayed food sales to traditional U.S. customers such as Sierra Leone, Kenya, and the Philippines.

In addition, the bill has very strong conservation provisions. Prohibitions against sodbusting and swampbusting are significant and a major conservation reserve has been established that will be phased in over 5 years. Anybody who cares about the longrun future of the water and soil resources of this country has to be pleased with these provisions.

PLIGHT OF SOVIET JEWS

Mr. MATHIAS. Mr. President, the decision by the five Maryland rabbis to accept 15 days' imprisonment in a Federal penitentiary to dramatize the plight of Soviet Jews is an inspiring and exemplary gesture. This choice, which is consistent with the highest traditions of civil disobedience, sends a powerful message to the Soviet leaders, and should stimulate our own Government to ask itself whether we are doing enough to address this critical issue of human rights.

The circumstances surrounding these cases raise troubling questions.

While ordinarily a decision on a Presidential pardon must await the outcome of all judicial proceedings, surely it would be appropriate for the President to consider exercising his power to commute the sentences the rabbis are now serving. This decision would show compassion, while leaving the ultimate decision of legal issues to the courts.

In the meantime, my thoughts, and those of Marylanders of all creeds, are with the imprisoned rabbis, their families, and their congregations. Even more importantly, our thoughts must be with the Jewish victims of official mistreatment in the Soviet Union, along with our hopes for an improvement in their situation in the year ahead.

UNANIMOUS CONSENT AGREEMENT

NOMINATION OF JAMES L. BUCKLEY TO BE U.S. CIRCUIT COURT JUDGE FOR THE DISTRICT OF COLUMBIA

Mr. DOLE. Mr. President, as in executive session I ask unanimous consent that at the hour of 2 p.m. on tomorrow, Tuesday, December 17, 1985, the Senate go into executive session in order to consider the nomination of James L. Buckley to be U.S. circuit court judge for the District of Columbia, that there be 1 hour of debate equally divided between the chairman of the Judiciary Committee, and the Senator from Connecticut, Mr. DODD, or their designees.

I further ask unanimous consent that it now be in order to ask for the yeas and nays on the Buckley nomination, and that the vote on the nomination occur following the debate.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, reserving the right to object, is the distinguished majority leader saying that the vote on the nomination will occur immediately upon the expiration, or yielding back of the time?

Mr. DOLE. Yes.

Mr. BYRD. Mr. President, I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

(Later the following occurred:)

Mr. DOLE. Mr. President, under the previous unanimous-consent agreement we were to take up the Buckley nomination at 2 p.m. tomorrow. I now ask unanimous consent that we take up the nomination at 11 a.m. on tomorrow, Tuesday, December 17; that we got into executive session to consider the nomination of James L. Buckley to be U.S. circuit judge for the District of Columbia; that there be 1 hour of debate to be equally divided between the chairman of the Judiciary Committee and the Senator from Connecticut [Mr. DODD] or their designees.

I further ask unanimous consent that following yielding back of time or the separation of time the vote immediately occur.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Conclusion of late proceedings.)

EXECUTIVE CALENDAR

Mr. DOLE. Mr. President, I would like to inquire of the distinguished minority leader if he is in a position to confirm any or all of the nominations on the Executive Calendar as follows: Calendar No. 519, Calendar No. 520, Calendar Nos. 522, 523, 524, 525, 526, Calendar Nos. 558, 570, 571, 572, 573, Calendar Nos. 577, 578, 579, Calendar No. 581, Calendar Nos. 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, Calendar Nos. 609, 610, 611, 612, Calendar Nos. 614, 615, 616, 617, and 618, Calendar Nos. 620, 621, 622, 623, 624, and all nominations placed on the Secretary's desk except for Foreign Service nominations beginning with L. Paul Bremer III, and ending with Jerome F. Tolson, Jr.; and if the distinguished minority leader is in the position to confirm any or all of the nominations to which I just referred, I ask unanimous consent that the nominations just identified be considered en bloc, and confirmed en bloc.

Mr. BYRD. Mr. President, reserving the right to object, I wish to confer with the majority leader.

Mr. President, I believe we are ready on this side to go forward with the nominees. In fact, I know we are.

I would like to ask, however, while still reserving the right to object—and the distinguished majority leader and I have had conferences on this matter—for the RECORD, I would like to ask the majority leader whether or not the administration has—in keeping with its recent assurances that were given in my office with the distinguished majority leader present—notified the distinguished majority leader present—notified the distinguished majority leader as to whether or not there are any candidates for recess appointments during the forthcoming adjournment sine die over to the 2 session of the 99th Congress.

Mr. DOLE. I might respond there has been no indication. As a matter of fact, the minority leader will recall they indicated that we would have advance notice, that we would be notified prior to adjournment.

I will ask further that a letter we are sending to the President today be made part of the RECORD, a letter where we jointly request that information in writing.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, December 16, 1985.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: In the past, the issue of recess appointments has generated considerable controversy that has disrupted the expeditious handling on nonrecess appointments in the Senate. As we approach sine die adjournment, we would like to be advised of any plans the Administration has for making recess appointments before the Senate returns on January 21 of next year.

This request for notice prior to making the recess appointments is in accordance with the discussions we had earlier in the year on this subject.

Sincerely yours,
BOB DOLE,
Majority Leader.
ROBERT C. BYRD,
Minority Leader.

Mr. BYRD. Mr. President, I thank the distinguished majority leader. I take it the distinguished majority leader is in the same position I am at the moment; namely, that the administration has not indicated that any such recess appointments will be made.

Mr. DOLE. That is correct.

Mr. BYRD. I thank the distinguished majority leader. I revoke my reservation.

The PRESIDING OFFICER (Mr. COHEN). Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

THE JUDICIARY

David R. Thompson, of California, to be U.S. circuit judge for the ninth circuit.

Bobby Ray Baldock, of New Mexico, to be U.S. circuit judge for the tenth circuit.

Glenn L. Archer, Jr., of Virginia, to be U.S. circuit judge for the Federal circuit.

Frank X. Altimari, of New York, to be U.S. circuit judge for the second circuit.

Patrick A. Conmy, of North Dakota, to be U.S. district judge for the District of North Dakota.

Lynn N. Hughes, of Texas, to be U.S. district judge for the Southern District of Texas.

Morris S. Arnold, of Arkansas, to be U.S. district judge for the Western District of Arkansas.

John T. Noonan, Jr., of California, to be U.S. circuit judge for the ninth circuit.

Deanell Reece Tacha, of Kansas, to be U.S. circuit judge for the tenth circuit.

Garrett E. Brown, Jr., of New Jersey, to be U.S. district judge for the District of New Jersey.

Robert L. Miller, Jr., of Indiana, to be U.S. district judge for the Northern District of Indiana.

DEPARTMENT OF JUSTICE

John R. Bolton, of Virginia, to be an Assistant Attorney General.

U.S. INTERNATIONAL TRADE COMMISSION

Anne E. Brunsdale, of the District of Columbia, to be a Member of the U.S. International Trade Commission.

DEPARTMENT OF COMMERCE

Paul Freedenberg, of Maryland, to be an Assistant Secretary of Commerce.

DEPARTMENT OF THE TREASURY

Francis Anthony Keating, II, of Oklahoma, to be an Assistant Secretary of the Treasury.

DEPARTMENT OF THE INTERIOR

Ralph W. Tarr, of Virginia, to be Solicitor of the Department of the Interior.

DEPARTMENT OF ENERGY

John C. Layton, of Virginia, to be Inspector General of the Department of Energy.

David M. L. Lindahl, of Virginia, to be Director of the Office of Alcohol Fuels.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Ford Barney Ford, of Virginia, to be a member of the Federal Mine Safety and Health Review Commission.

NATIONAL MEDIATION BOARD

Walter C. Wallace, of New York, to be a member of the National Mediation Board.

Helen M. Witt, of Pennsylvania, to be a member of the National Mediation Board.

Charles L. Woods, of California, to be a member of the National Mediation Board.

DEPARTMENT OF EDUCATION

Bruce M. Carnes, of Virginia, to be Deputy Under Secretary for Planning, Budget and Evaluation, Department of Education.

Wendell L. Willkie, II, of the District of Columbia, to be General Counsel, Department of Education.

DEPARTMENT OF STATE

John Edwin Upston, of Virginia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Rwanda.

Rockwell Anthony Schnabel, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Finland.

Margaret M. O'Shaughnessy Heckler, of Massachusetts, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Ireland.

Fred L. Hartley, of California, for the rank of Ambassador during the tenure of his service as Commissioner General of the U.S. Exhibition for the International Exposition, Vancouver, British Columbia, Canada, 1986.

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

Michael H. Mobbs, of the District of Columbia, to be an Assistant Director of the U.S. Arms Control and Disarmament Agency.

U.S. INFORMATION AGENCY

Charles Edward Horner, of the District of Columbia, to be an Associate Director of the U.S. Informtion Agency.

SECURITIES AND EXCHANGE COMMISSION

Edward H. Fleischman, of New Jersey, to be a member of the Securities and Exchange Commission.

NATIONAL INSTITUTE OF BUILDING SCIENCES

Fred E. Hummel, of California, to be a member of the Board of Directors of the National Institute of Building Sciences.

THE JUDICIARY

Stanley Sporkin, of Maryland, to be U.S. district judge for the District of Columbia.

Alan B. Johnson, of Wyoming, to be U.S. district judge for the District of Wyoming.

J. Spencer Letts, of California, to be U.S. district judge for the Central District of California.

Dickran M. Tevrizian, Jr., of California, to be U.S. district judge for the Central District of California.

Harry D. Leinenweber, of Illinois, to be U.S. district judge for the Northern District of Illinois.

George H. Revercomb, of Virginia, to be U.S. district judge for the District of Columbia.

Duross Fitzpatrick, of Georgia, to be U.S. district judge for the Middle Ditrict of Georgia.

DEPARTMENT OF JUSTICE

Arnold I. Burns, of New York, to be Associate Attorney General.

MARINE MAMMAI COMMISSION

Robert Elsner, of Alaska, to be a member of the Marine Mammal Commission for the term expiring May 13, 1987.

DEPARTMENT OF COMMERCE

Alexander Hansen Good, of the District of Columbia, to be Director General of the United States and Foreign Commercial Services.

FEDERAL MARITIME COMMISSION

James J. Carey, of Illinois, to be a Federal Maritime Commissioner.

THE JUDICIARY

Harold L. Cushenberry, Jr., of the District of Columbia, to be an associate judge of the Superior Court of the District of Columbia.

Michael L. Rankin, of the District of Columbia, to be an associate judge of the Superior Court of the District of Columbia.

DEPARTMENT OF ENERGY

Sylvester R. Foley, Jr., of Florida, to be an Assistant Secretary of Energy (Defense Programs).

DEPARTMENT OF DEFENSE

Chapman B. Cox, of Virginia, to be an Assistant Secretary of Defense.

IN THE AIR FORCE

The following-named officers for appointment in the Reserve of the Air Force to the grade indicated, under the provisions of sections 593, 8218, 8373, and 8374, Title 10, United States Code:

To be major general

Brig. Gen. William G. Work, 356-16-9533FG, Air National Guard of the United States.

To be brigadier general

Col. Ray D. Airy, 478-32-9488FG, Air National Guard of the United States.

Col. Jacob J. Braig, 517-40-1108FG, Air National Guard of the United States.

Col. Alfred P. Bunting, 486-38-1317FG, Air National Guard of the United States.

Col. Jerry W. Cook, 442-34-6051FG, Air National Guard of the United States.

Col. Charles R. Driggers, 467-50-0585FG, Air National Guard of the United States.

Col. Ralph C. Jensen, 399-26-7890FG, Air National Guard of the United States.

Col. Joseph A. Kazek. 322-28-0265FG, Air National Guard of the United States.

Col. Curtis A. Madson, 542-24-6782FG, Air National Guard of the United States.

Col. Roy C. Martin, Jr., 021-24-6044FG, Air National Guard of the United States.

Col. Ernest C. Park, 004-26-3896FG, Air National Guard of the United States.

Col. John J. Roark, 466-46-3801FG, Air National Guard of the United States.

Col. Robert L. Slaughter, 417-46-2632FG, Air National Guard of the United States.

Col. John A. Slifer, Jr., 491-28-3453FG, Air National Guard of the United States.

Col. Thomas P. Webb, III 244-46-1917FG, Air National Guard of the United States.

The following-named officer under the provisions of Title 10, United States Code, Section 601, to be assigned to a position of importance and responsibility designated by the President under Title 10, United States Code, Section 601:

To be lieutenant general

Maj. Gen. Richard A. Burpee, 363-30-8559FR, U.S. Air Force.

In the Army

The following-named officer to be placed on the retired list in grade indicated under the provision of Title 10, United States Code. Section 1370.

To be lieutenant general

Lt. Gen. Robert L. Bergquist, 034-22-3682, (age 54), U.S. Army.

In the Navy

The following-named officer to be placed on the retired list in the grade indicated under the provisions of Title 10, United States Code, Section 1370.

To be vice admiral

Vice Adm. William P. Lawrence, 410-44-3904/1310, U. S. Navy.

The following-named captains of the line of the Navy for promotion to the permanent grade of rear admiral (lower half), pursuant to Title 10, United States Code, Section 624, subject to qualifications therefor as provided by law:

UNRESTRICTED LINE OFFICER

To be rear admiral (lower half)

Phillip Don Smith.
David Roland Morris.
Fredrick John Metz.
Edward Bigelow Baker, Jr.
Peter Gordon Chabot.
Jimmie Wilkes Taylor.
John Franklin Calhoun.
George Henry Strohsahl, Jr.
Jesse Jiminez Hernandez.
John William Bitoff.
David Michael Bennett.
Thomas Alexander Mercer.
Leighton Warren Smith, Jr.
Richard Chester Macke.
Henry Clayton McKinney.
David Rogers Oliver, Jr.
Kenneth Leroy Carlsen.
David Brooks Robinson.
George Washington Davis VI.
Arlington Fichtner Campbell.
Jerome Frost Smith, Jr.
Stephen Kent Chadwick.
Glenn Edward Whisler, Jr.
Craig Emery Dorman.
Geoffrey Lynn Chesbrough.
Grady Lee Jackson.
James Bernard Greene, Jr.
Joseph Paul Reason.

RESTRICTED LINE OFFICER—ENGINEERING DUTY OFFICER

To be rear admiral (lower half)

George Richard Meinig, Jr.
Walter Hollingsworth Cantrell.

AERONAUTICAL ENGINEERING DUTY OFFICER

To be rear admiral (lower half)

Larry Eugene Blose.

The following-named captains of the U.S. Navy for promotion to the permanent grade of rear admiral (lower half), pursuant to Title 10, United States Code, Section 624, subject to qualifications therefor as provided by law:

MEDICAL CORPS

To be rear admiral (lower half)

Russell Larry Marlor.
Daniel Barfield Lestage.
Donald Floyd Hagen.
William Arthur Buckendorf.

SUPPLY CORPS

To be rear admiral (lower half)

Brady Marshall Cole.
Peter Demayo.
Francis Leonard Filipiak.

CIVIL ENGINEER CORPS

To be rear admiral (lower half)

David Elliott Bottorff.
Jon Robert Ives.

DENTAL CORPS

To be rear admiral (lower half)

Milton Chipman Clegg.

MEDICAL SERVICE CORPS

To be rear admiral (lower half)

Donald Eugene Shuler.

The following-named officer, under the provisions of Title 10, United States Code, Section 601, to be reassigned to a position of importance and responsibility designated by the President under Title 10, United States Code, Section 601:

To be vice admiral

Vice Adm. Huntington Hardesty,
242-32-5034/1310, U.S. Navy.

The following-named officer, under the provisions of Title 10, United States Code, Section 601, to be reassigned to a position of importance and responsibility designated by the President under Title 10, United States Code, Section 601:

To be vice admiral

Rear Adm. James H. Webber,
556-36-0721/1440, U.S. Navy.

Nominations Placed on the Secretary's Desk in the Air Force, Army, Coast Guard, Foreign Service, Navy

Air Force nominations beginning Donald R. Klein, and ending Wesley G. Petty, which nominations were received by the Senate and appeared in the Congressional Record of December 6, 1985.

Army nominations beginning Mani Bala, and ending Alan F. Weir, which nominations were received by the Senate and appeared in the Congressional Record of December 6, 1985.

Army nominations beginning Benny L. Bachulis, and ending Anthony E. Curcio, which nominations were received by the Senate and appeared in the Congressional Record of December 9, 1985.

Coast Guard nominations beginning John J. Clare, and ending Robert P. Sniffen, which nominations were received by the Senate and appeared in the Congressional Record of December 6, 1985.

Coast Guard nominations beginning Barry R. Moore, and ending John H. Wigger, which nominations were received by the Senate and appeared in the Congressional Record of December 9, 1985.

Foreign Service nominations beginning Frank A. Padovano, and ending John E. Riesz, which nominations were received by the Senate and appeared in the Congressional Record of December 4, 1985.

Foreign Service nominations beginning Gerald W. Harvey, and ending Vincente Tang, which nominations were received by the Senate and appeared in the Congressional Record of December 4, 1985.

Navy nominations beginning Victor H. Ackley, and ending John E. Wilson, which nominations were received by the Senate and appeared in the Congressional Record of December 6, 1985.

Navy nomination of Donald F. Schorr, II, which was received by the Senate and appeared in the Congressional Record of December 11, 1985.

Navy nominations beginning Briana M. Albert, and ending Eric J. Zintz, which nominations were received by the Senate and appeared in the Congressional Record of December 11, 1985.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the nominations were confirmed.

Mr. BYRD. Mr. President, were the nominations confirmed en bloc?

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD. Mr. President, I move to lay the motion to reconsider on the table.

The motion to lay on the table is agreed to.

Mr. DOLE. I ask unanimous consent that the President be immediately notified that the Senate has given its consent to these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF FRANK KEATING

Mr. BOREN. Mr. President, I rise to express my wholehearted support for the nomination of Mr. Frank Keating as Assistant Secretary of Treasury for Enforcement and Operations. I have long known him to be an able and dedicated public servant.

Since we were classmates in law school, I have respected Frank Keating for his unquestionable integrity and his commitment to the strict enforcement of the law. Through the years, he demonstrated those attributes in his capacity as a practicing attorney, as a State senator, and later as U.S. attorney. I have every confidence that he will continue to dedicate himself in a way that will make this body proud to have confirmed his Presidential nomination.

We are fortunate to have such a man as Frank Keating willing to make the personal sacrifices that invariably accompany public service. I urge my colleagues to support it unanimously.

NOMINATION OF DAVID M.L. LINDAHL

Mr. McCLURE. Mr. President, on December 11, 1985 the Committee on Energy and Natural Resources, by a vote of 18 to 0, reported the nomination of David M.L. Lindahl, to be Director of the Office of Alcohol Fuels of the Department of Energy. Mr. Lindahl's nomination hearing was held on December 6. He has fully complied with the committee's rules requiring submittal of a financial disclosure report and a detailed information statement.

Mr. Lindahl's 13 years of experience with the Congressional Research Service as an energy policy specialist have provided him with extensive background knowledge of the alcohol fuel industry. In addition, for 2 years beginning in 1978, he served concurrently as a Federal representative for the National Petroleum Council. He has also worked for the U.S. Geological Survey and the Defense Intelligence Agency.

In his testimony before the committee, Mr. Lindahl described his view of the importance of alcohol fuels:

> I believe alcohol fuels is a valued ingredient of our energy diversification efforts. It is an important component of energy security and our energy future. I am committed to a strong alcohol fuels alternative, and I look forward to working with Secretary Herrington towards helping fulfill the promise of this alternative fuel.

Mr. President, on behalf of the Committee on Energy and Natural Resources, I am pleased to recommend Senate approval of the Presidential nomination of David M.L. Lindahl for the position of Director of the Office of Alcohol Fuels of the Department of Energy.

NOMINATION OF BOBBY R. BALDOCK TO THE TENTH CIRCUIT COURT OF APPEALS

Mr. DOMENICI. Mr. President, it is a distinct pleasure to rise to commend the Senate's confirmation of the Honorable Bobby R. Baldock to a position on the U.S. Court of Appeals for the Tenth Circuit. It is a distinct pleasure because Judge Baldock is highly qualified for this position and because it is an uncommon privilege for a New Mexican to be accorded such an honor. As you know, New Mexico is relatively a new State, as States go, and we haven't had the opportunity to have many of our citizens serve on the court of appeals.

Let me share a story with you which illustrates how uncommon it is for a New Mexican to be nominated to the U.S. court of appeals. I am well aware that, by tradition, we Senators play a major role in the selection of Federal district court judges. In fact, we all know that it is very difficult for the President to get a district court judge approved if the Senator from the State opposes the nomination. But no New Mexican had ever been nominated for a court of appeals position in the 13 years in which I have served in this body, so I was unaware of the protocol of such nominations. I did not know that nominations to the court of appeals always have been the exclusive prerogative of the President. So when a New Mexican retired from the tenth circuit, I saw the vacancy and I really thought that the President had to appoint the person I wanted to the seat. It turns out that I was mistaken. But it just so happens that the man I thought ought to have the job is the man that the President wanted to nominate. Thus, the President did what I wanted him to do all along: He nominated the Honorable Bobby R. Baldock.

Let me point out that, not only does Judge Baldock have my support and the support of the President, but he has the support of the distinguished junior Senator from New Mexico and the support of all three members of the New Mexico delegation in the House of Representatives. So it is no surprise that the President did what I wanted him to do because it is clear to all concerned that Judge Baldock is the right man for this position. To illustrate my point, let me briefly summarize Judge Baldock's qualifications for you.

Judge Baldock has served as a judge of the Federal District Court of New Mexico since 1983. In his 2½ years on the bench, Judge Baldock has demonstrated that he possesses the qualities which are hallmarks of our American judiciary. His written opinions demonstrate research, analysis, and citation of the highest caliber. They are notable especially for their clarity, and occasionally for their humor, which should surprise no one who knows him. Judge Baldock's opinions highlight that he is a practitioner of judicial restraint and an advocate of judicial economy. He is protective of the right of access of litigants to the Federal courts, but dedicated to preserving federalism and the sovereignty of the States. He is sensitive to the separation of powers and the role of each of the branches of government. He is tough on crime, yet protective of the rights of criminal defendants. Judge Baldock's approach to law can best be characterized as nondogmatic and, above all, guided by commonsense.

Prior to assuming his place on the bench, Judge Baldock had a long and distinguished career as an attorney in Roswell, NM. He graduated from the University of Arizona School of Law in 1960, where he was on the law review and a member of Phi Alpha Delta Law Fraternity. Upon graduation, he entered private practice in Roswell with the firm that was to become Sanders, Bruin & Baldock when he became a partner in 1965. Judge Baldock remained with the firm until he was appointed to the district court in 1983.

Over the years, Judge Baldock has been involved with many professional organizations. He is a member of the State Bars of New Mexico and Arizona, the American Bar Association, and the New Mexico Trial Lawyers Association. He is a past president of the Chaves County Bar Association and has also served as a test grader for the New Mexico Board of Bar Examiners.

Although Judge Baldock was a distinguished trial attorney, he has taken an active role in examining and promoting alternative methods of dispute resolution. He has previously served on the New Mexico Medical-Legal Malpractice Panel and was a member of the American Arbitration Association. Currently, Judge Baldock serves as the New Mexico Federal Court Liason to the Alternative Methods of Dispute Resolution Committee of the State Bar of New Mexico.

Judge Baldock is noted for his service to his community. He was a charter member and chairman of the board of the Valley Bank of Commerce. For 9 years, he served with the New Mexico National Guard in the judge advocate's office. He has participated in a major way—as president, as chairman, or as board member—of the Roswell YMCA, the Eastern New Mexico State Fair Board, the Chaves County Cancer Crusade, the Roswell High School Booster Club, the Roswell chapter of Rotary International, and the Roswell Chamber of Commerce. He has been an active member of his church. Judge Baldock also has taken a particular interest in the well-being of our youth. In addition to his activities with the YMCA, he was director, manager, and coach of Roswell Little League for 10 years. For 18 years, he taught business law at Eastern New Mexico State University.

I have known Judge Baldock for many years. He is above all a very strong family man. I would be remiss if I didn't acknowledge the role his wife, Mary Jane, who everyone calls Spunky because of her vivacious personality, plays in his life. They are truly a team. They have been blessed with two fine sons, Bobby and Christopher. God willing, Judge Baldock will be on the bench for many years, as he is both young in age and young in spirit and he is dedicated to serving the cause of justice.

Let me say that the activities and achievements which I have mentioned today are just a small example of Judge Baldock's commitment and dedication to his work and his personal life. In sum, Judge Baldock is an outstanding individual, one who is well-qualified, by temperament and experience, to meet the challenges and demands of the court of appeals. I commend the Senate on approving his nomination. I have no doubt that Judge Baldock will live up to the confidence and trust that this body has placed in him.

NOMINATION OF RALPH TARR

Mr. McCLURE. Mr. President, I urge the Senate to consent to the nomination of Ralph Tarr to be the Solicitor for the Department of the Interior. Mr. Tarr comes to the position well qualified to provide the advice which the Secretary of the Interior needs to fulfill his responsibilities for the programs within the Department. Mr. Tarr has complied with all of the requirements of the Senate and the Committee on Energy and Natural Resources. He testified before the committee on Wednesday, December 4, 1985, and has fully responded to all questions which members of the committee posed to him. Based on that record, the committee ordered the nomination favorably reported to the Senate on December 11, 1985, with a unanimous vote.

One issue which I feel should be addressed with respect to Mr. Tarr, and which obtains to almost any attorney who assumes Federal office, is the issue of recusal. There is a fine line which must be respected to preserve the integrity of the Government and at the same time provide to the Government the knowledge, experience, and leadership of nominees. When selecting a person to be the solicitor of an agency, you look not only to their general legal qualifications, but also to their experience and familiarity with the body of law which they must interpret. For most attorneys, the experience is gained in the practice of their profession, often in litigation against the very department which they will now serve. Mr. Tarr is no exception.

Water and water-related issues are perhaps the most complicated areas with which the Solicitor for the Department of the Interior must deal. They arise not only with respect to the Reclamation Program, but are also at the heart of many of our trust responsibilities for the Indian tribes. I would be very uncomfortable recommending to the Senate any nominee for this position who did not have some familiarity with this issue and certainly would not recommend a candidate who did not appreciate how complicated and fraught with controversy any water issue inevitably becomes. At the same time, I also want to be completely assured that the nominee will faithfully represent the Department and has appropriately considered the extent to which he must recuse himself from such issues. Mr. Tarr has done so.

The Westlands Water District of California is and has been the source of many issues affecting both Federal and State interests. Mr. Tarr at one point represented several farmers, some of whom were within the district, in litigation between the district and the Federal Government. At no time did he represent the district. Mr. Tarr made a complete and forthright explanation of his representation in that case. He has recused himself while at the Department of Justice from that case, and will continue to do so. Mr. Tarr's responses to questions for the record follow:

> 1. I wanted to clarify your answers to my questions regarding your future participation in matters involving the Westlands Water District.
>
> (a) Will you recuse yourself from any participation in the case *Westlands Water District et al. vs. United States of America* (No. CV F-81-245-EDP)?
>
> (b) Will you recuse yourself from any involvement in any future litigation involving the *Westlands Water District?*
>
> Answer: (a) I am not familiar with the details of *Westlands Water District et al.*, v. *United States* (No. CV F-81-245-EDP). Based upon press reports concerning the issues of that case, however, there would appear to be no legal, ethical, or personal reason that would require my recusal from participation in the case if I am confirmed as Solicitor. As suggested in my testimony, I have never represented the Westlands Water District, and more specifically, I have never, nor I have been advised has my former law firm, been an attorney of record on behalf of any party in the case.
>
> (b) Any such determination must be made on a case-by-case basis. The only case concerning which I have already made such a determination is the one I discussed during my testimony: *Pilibos* v. *Andrus* (No. F-78-62-CIV). I have recused myself from that case since coming to the government and will continue to do so, because I was counsel of record for plaintiff Pilibos in that case.
>
> I can assure the Committee that, if confirmed as Solicitor, I will be vigilant in satisfying my ethical responsibilities as a lawyer and as an employee of the federal government. I will seek the assistance and advice of the Designated Agency Ethics Official in the Department to resolve any uncertainty I may have about the propriety of my participating in a particular matter.

In light of Mr. Tarr's responses and my own reading of the applicable Federal or professional ethical standards, I can find no reason for Mr. Tarr, as Solicitor of the Department of the Interior to disqualify himself from any case regarding reclamation law in general on the Westlands Water District. He must, of course, recuse himself from Pilibos versus Andrews.

I want to emphasize that I do not subscribe to any theory that a nominee must recuse himself from any area in which he is qualified to express an opinion. I want to state that explicitly for the record so that there is no uncertainty as to my expectations with respect to his future conduct. I concur fully in his statement of the circumstances which would lead to a future decision to recuse himself and I see no reason to question his integrity.

I would note that I also fully expect that he will immediately focus on the recent decisions by Judge Kane in Sierra Club versus John Block, et al., and Judge Pratt in National Wildlife Federation versus Robert F. Burford, et al., as well as the other significant issues which await the new solicitor. I wish Mr. Tarr well for he will have little time to relax. The job ahead of him will require all of his skills and patience. I believe he can do the job and I urge the Senate to consent to his nomination.

NOMINATION OF JOHN C. LAYTON

Mr. McCLURE. Mr. President, on December 11, 1985, the Committee on Energy and Natural Resources reported the nomination of John C. Layton to be inspector general of the Department of Energy. The vote was 18 to zero. Mr. Layton's nomination hearing was held on December 6. He has fully complied with the committee's rules requiring submittal of a financial disclosure report and a detailed information statement.

Mr. Layton is well qualified to be DOE's inspector general. He has served as the inspector general for the Department of the Treasury since September of last year, and he was deputy inspector general at NASA from 1983 to 1984. He has also worked as a special agent with the FBI for 8 years. Regarding his experience, Mr. Layton stated the following during his hearing:

> My six years of experience in the Inspector General community has taught me that the Inspector General plays a critical role in assuring that tax dollars are spent in the most efficient manner possible and that government programs are free from fraud and waste. The nature of the position, as detailed by statute, and as it has evolved, places the Inspector General in a unique position, both as "independent" agency watchdog and as chief advisor to the Secretary on matters of program economy and integrity.

The duties of the inspector general are set forth in detail in the Department of Energy Organization Act. Mr. Layton described those responsibilities at his hearing:

> The duties and responsibilities of the Department of Energy Inspector General are quite specific. He supervises and coordinates audit and investigative activities, as well as recommends policies and procedures to the Secretary of Energy for promoting economy and efficiency in the Department. The Inspector General is responsible for preventing and detecting fraud and abuse in the Department's programs and for identification of persons participating in fraud and abuse. Semi-annually, he reports a summary of his activities to the Secretary of Energy, Congress, and the Federal Energy Regulatory Commission.

Mr. President, on behalf of the Committee on Energy and Natural Resources, I am pleased to recommend Senate approval of the Presidential nomination of John C. Layton for the position of inspector general of the Department of Energy.

EDWARD FLEISCHMAN: A WELCOME ADDITION TO GOVERNMENT

Mr. LAUTENBERG. Mr. President, I am pleased to rise in support of the nomination of Edward Fleischman of New Jersey to serve on the Securities and Exchange Commission.

Mr. Fleischman is an able, well-respected securities lawyer. He has practiced law with the Wall Street firm of Beekman & Bogue, and then Gaston Snow Beekman & Bogue for over 25 years. Those who know him well speak highly of his skills and integrity.

He has been an adjunct professor in securities regulation at New York University Law School, and has lectured and written on the subject. He has participated in a variety of American Bar Association committee activities, in an effort to assist practitioners and to improve the law in the area of securities regulation.

He will bring to the Commission experience, intelligence, and wisdom in the area of law and regulation that has a critical impact on capital formation, and the economy as a whole. Unfortunately, there are too few people like him, who are willing to leave prosperous careers in the private sector in order to apply their knowledge, and to make a contribution, to the work of government.

There are substantial issues that will come before the SEC during Mr. Fleischman's term. I understand that a comprehensive review of issues involving the area of takeovers and tender offers has been held off by the Commission Chairman, until vacancies on the Commission were filled. With Mr. Fleischman's confirmation, the Commission will finally be up to full strength.

Mr. President, the Securities and Exchange Commission has made a laudable effort in enforcing the law against insider trading. SEC enforcement actions have increased significantly since 1979. Yet, other enforcement, supervisory and regulatory matters are challenging the resources of the agency. Customer complaints and inquiries to the agency have doubled from 1979 to 1984. The number of companies registered under the Investment Company Act have gone up 200 percent. Broker dealer applications have gone up 100 percent. The number of registrations of initial public offerings is up 157 percent. The number of investor cases brought to securities dealers for arbitration has more than tripled.

I am hopeful that Mr. Fleischman will make a major contribution to fulfilling the Commission's mandate to police and regulate the securities industry, to protect the public, and to contribute to the maintenance of fair, orderly, and efficient capital markets essential to the health of our economy.

I support his nomination and urge my colleagues to confirm him.

DEANELL REECE TACHA NOMINATION TO BE A JUDGE OF THE TENTH CIRCUIT COURT OF APPEALS

Mr. DOLE. Mr. President, I am pleased and proud today to rise in support of the confirmation of Deanell Reece Tacha to serve on the 10th Circuit Court of Appeals. Joining me in my support for this outstanding nominee is my distinguished colleague from Kansas, Senator KASSEBAUM, and the many people throughout the State of Kansas who know and admire Deanell Tacha.

The nominee possesses excellent qualifications for the Senate's review and approval. Her background in law, teaching, college administration, Government and civic affairs is of the highest caliber. This background gives her the education, experience, discipline, and temperament needed for effective service on the Federal bench.

Deanell is a 1968 graduate of the University of Kansas. Among the many honors she received while attending Kansas University are her election to Phi Beta Kappa and Mortar board and her selection as an outstanding senior woman at the university and in the country.

While attending the Unviersity of Michigan Law School, she was a member of the student senate, competed successfully in moot court competition and served on the student-faculty admissions committee. She received her juris doctorate in 1971.

She was then appointed a White House fellow, in which capacity she directed a task force on lawyers and trial examiners designing an adjudication system as part of welfare reform legislation. She served in the office of the Secretary of Labor and represented the Secretary at several international meetings and conferences. She also was executive assistant to then Under Secretary of Labor for Manpower, Laurence Silberman, who the Senate recently confirmed to be a judge on the D.C. Circuit Court of Appeals.

Following her tenure at the Department of Labor, Deanell joined the faculty of the Kansas University Law School where she taught courses in administrative law, oil and gas, and communications law and directed the school's student legal aid program. In 1979 she was appointed the University's associate vice chancellor for academic affairs and in 1981, she assumed her current position as vice chancellor, which entails the supervision of all the university's academic programs and budgetary matters.

Her outside activities are too numerous to mention. Suffice it to say she has served on numerous law school and university committees, including the Blue Ribbon Committee on Freedom of Speech, Academic Affairs Affirmative Action, and Title IX Self-Evaluation. She has also been quite active on community- and State-based groups and organizations, including the Kansas Committee for the Humanities, the Kansas Women's Sports Advisory Committee, and a rape victim support service in Lawrence. In business affairs she has served on the boards of directors of Alliance Life Insurance Co. and the Lawrence Federal Savings and Loans Association.

Mr. President, I could go on for quite some time about the accomplishments of the nominee, but I will not belabor the point. I will simply reiterate my strongest support for this outstanding judicial candidate who, once confirmed by the Senate, will become only the second woman to be appointed to the 10th circuit bench and only the 17th in the 100 years since the circuit courts of appeal were established. I urge her prompt, unanimous approval by the full Senate and extend my deepest congratulations to her and her husband, John, and children, John, David, Sarah, and Leah.

IN SUPPORT OF THE NOMINATION OF STANLEY SPORKIN TO BE A U.S. DISTRICT JUDGE FOR THE DISTRICT OF COLUMBIA

Mr. PROXMIRE. Mr. President, it is with genuine enthusiasm and a feeling of personal affection that I lend my support to the nomination of Stanley Sporkin to be a U.S. district judge for the District of Columbia.

My Chairmanship of the Senate Banking Committee overlapped in large measure Stanley Sporkin's directorship of the Division of Enforcement of the Securities and Exchange Commission and a result I had numerous opportunities to work with and get to know him. Civil servants come and they go, but in my experience there has never been a more dedicated or effective public servant—or for that matter a more honest or compassionate one than Stanley Sporkin.

His outstanding career is documented by the many awards he has received. In 1979 Mr. Sporkin was a recipient of the President's Award for Distinguished Federal Civilian Service, the highest honor that can be granted to a member of the Federal career service. He received in 1978 the Rockefeller Award for Public Service from the Woodrow Wilson School of Public and International Affairs at Princeton University and in 1976 the National Civil Service League's Special Achievement Award. He has also been presented the Securities and Exchange Commission's Distinguished Service Award and Supervisory Excellence Award. In 1979 Mr. Sporkin was given the alumnus of the year award by Pennsylvania

State University. In 1981 Mr. Sporkin received the rank of the Meritorious Executive in the Senior Executive Service for sustained superior accomplishment in management of programs of the U.S. Government and for noteworthy achievement of quality and efficiency in the public service. In 1984 Mr. Sporkin received the Meritorious Officer in the Senior Intelligence Service Award for sustained superior accomplishments.

As the Chief of the Enforcement Division of the Securities and Exchange Commission Stanley Sporkin made his reputation as a fighter of corporate wrongdoing. Oftentimes he brought to justice prestigious corporations and white-collar businessmen who had run afoul of the law. But I have heard on excellent authority that in a number of instances the very lawyers who found themselves at the opposite end of the table of Stanley Sporkin were among his greatest admirers. I don't think any higher tribute can be paid a law enforcment official than to be respected by an adversary.

I think it is also fair to say that Stanley Sporkin attracted into Government some of the best talent the Enforcement Division of the SEC has seen in recent years and that his leadership of the division inspired many of the younger lawyers who worked with him and that morale at the Commission in the Enforcement Division was never higher than when he was there.

I have said it before and I will say it again: I think that this nomination is one of the best things President Reagan has done since he took office.

Stanley Sporkin's entire background attests to his qualifications for this position. He graduated Phi Beta Kappa from Pennsylvania State University. He graduated from Yale Law School. Afer graduate school he was a law clerk for two separate district court judges. He has trial experience and he has a proven record as being one of the toughest and fairest law enforcement officials ever to serve in the U.S. Government.

With respect to the judicial temperament he may be expected to bring to the job, one of this country's outstanding corporate securities lawyers has written:

> Mr. Sporkin reflects the very best qualities one could hope for in a judge. A man of great personal integrity, with a commitment to the highest professional ethics, I have watched Mr. Sporkin eschew prosecution where individuals claimed they had not been given a fair hearing, and I cannot recount the number of times Mr. Sporkin refused to pursue theories of law that he believed were not well grounded, either factually, or legally. In cases where violations of law had undoubtedly occurred, but unusual extenuating situations existed, Mr. Sporkin always found a way to effectuate the law's spirit, without crushing human spirit. It would be hard to characterize Mr. Sporkin as anything but committed to strong law enforcement, but never at the expense of human dignity, or individual liberties.

I think Harvey Pitt is right.

Mr. President, Stanley Sporkin's father was a judge in Philadelphia and I derive a great deal of satisfaction in helping to give a worthy son the opportunity to emulate his father.

I recommend this nomination to the full Senate without reservation or qualification and have no doubt that Stanley Sporkin will be an outstanding judge and a credit to our judiciary.

CONFIRMATION OF GARRETT BROWN TO THE U.S. DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY

Mr. LAUTENBERG. Mr. President, I rise in support of the confirmation of Garrett Brown, who has been nominated to serve on the U.S. District Court for the District of New Jersey.

Mr. Brown is now acting Deputy Administrator of the Maritime Administration, where he previously served as chief counsel. He has also served as general counsel to the Government Printing Office.

Before 1981, Mr. Brown was engaged in the private practice of law in New Jersey. He was a partner in the Newark law firm of Stryker, Tams & Dill. Before entering private practice, he served as an assistant U.S. attorney for 4 years.

Mr. Brown has received high praise from those who have worked with him. If confirmed, he will be bestowed with the greatest honor of his career, and, I would say, the most profound responsibility and his greatest challenge. He will be charged with dispensing justice to all segments of our society—the poor, the accused, and the powerless, as well as the rich and powerful.

He will be charged with maintaining the public's respect for the law and the judicial system, while at the same time, not bending the law or the rights of individuals to popular opinion. Mr. Brown has expressed to me his appreciation of this responsibility.

Mr. President, New Jersey's courts are the most burdened in the third circuit. While the 14 district court judgeships assigned to the State are inadequate to meet the rising caseload, unfilled vacancies on the court have made matters worse. With Mr. Brown's confirmation, the State will have the benefit of its full complement of authorized judges.

Mr. Brown is an able, experienced practitioner. I am pleased his nomination has been confirmed.

INTERNATIONAL TELECOMMUNICATION CONVENTION (NAIROBI, 1982)

TAX CONVENTION WITH ITALY

TAX CONVENTION WITH CYPRUS

TAX CONVENTION WITH BARBADOS

Mr. DOLE. Mr. President, as in executive session, I ask unanimous consent that the following treaties on the Executive Calendar be considered at this time. Treaty documents numbered 99-6, International Convention with Nairobi; 98-28, Tax Convention with Italy; 98-32, Tax Convention with Cyprus; and 99-3, Tax Convention with Barbados.

Mr. BYRD. Mr. President, if I may respond to the distinguished majority leader's question in respect to the treaties, there is no objection on this side to the majority leader's request.

Mr. DOLE. I ask unanimous consent that the treaties be advanced through the various parliamentary stages up to and including the presentation of the resolutions of ratification; that all Foreign Relations Committee reported reservations and understandings be agreed to; and that there be 10 minutes of debate on the resolutions of ratification to the four treaties mentioned above, to be equally divided between the chairman of the Foreign Relations Committee and the ranking minority member or their designees.

Mr. BYRD. Mr. President, does the distinguished majority leader want to go forward with these today?

Mr. DOLE. Yes, Mr. President. I understand the distinguished chairman of the Foreign Relations Committee only asked that he might include a statement in the RECORD.

Mr. BYRD. Very well, Mr. President.

Mr. DOLE. Mr. President, I further ask unanimous consent that, following the conclusion or yielding back of time, the Senate proceed to vote on the resolutions of ratification, with one vote counting as four votes.

The PRESIDING OFFICER. Without objection, it is to ordered.

The resolutions of ratification are as follows:

RESOLUTION OF ADVICE AND CONSENT TO RATIFICATION TO THE INTERNATIONAL TELECOMMUNICATION CONVENTION—NAIROBI, 1982

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the International Telecommunication Convention, with Annexes, and a Final Protocol to the Convention, signed on behalf of the United States at Nairobi on November 6, 1982.

Resolution of Advice and Consent to Ratification to the Tax Convention With Italy

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention between the Government of the United States and the Government of Italy for the Avoidance of Double Taxation with Respect to Taxes on Income and the Prevention of Fraud or Fiscal Evasion, together with a supplementary protocol and exchange of notes, signed at Rome on April 17, 1984, subject to the following: Understanding:

That the indirect credit available to a United States corporation with respect to dividends from a company which is a resident of Italy is not available if such company is a resident of the United States under United States law.

Resolution of Advice and Consent to Ratification to the Tax Convention With Cyprus

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention between the Government of the United States and the Government of the Republic of Cyprus for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, signed at Nicosia on March 19, 1984.

Resolution of Advice and Consent to Ratification to the Tax Convention With Barbados

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention between the Government of the United States of America and the Government of Barbados for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, together with a related exchange of notes, signed at Washington on December 31, 1984, subject to the following: Reservation.

That the words "voting power" in Article 10, paragraph 5 shall be construed to mean "voting power or value" for purposes of imposing the tax under section 531 of the Internal Revenue Code of 1954.

TAX TREATIES BETWEEN THE UNITED STATES AND ITALY, BARBADOS, AND CYPRUS

Mr. **LUGAR.** Mr. President, today the Senate is being asked to give its consent to the ratification of three bilateral tax treaties: an income tax convention and protocol with the Government of Italy [Treaty Doc. 98-28; Ex. Rept. 99-6]; an income tax convention with the Government of Cyprus [Treaty Doc. 98-32; Ex. Rept. 98-8]; and an income tax convention with the Government of Barbados [Treaty Doc. 99-3; Ex. Rept. 99-9].

These treaties are similar to those already in force between the United States and some 35 other countries. Generally speaking, these treaties provide that income earned by the national of one country in the other country will be taxed only once. Absent the treaties, in many cases this income would be taxed twice: Once in the country where it is earned and again by the home country of the national who earned it. Removing this burden of double taxation will encourage investment and otherwise promote economic cooperation between the United States and each of its treaty partners.

A second feature of these treaties is that they contain a number of provisions to reduce tax evasion and avoidance. The revenue authorities of each of our treaty partners will be able to share information with the Internal Revenue Service. Certain types of transactions, entered into only to avoid the payment of taxes, will no longer be permitted. These and other sections of the treaties will reduce opportunities for abuse.

The Committee on Foreign Relations reviewed these treaties at a hearing chaired by the distinguished Senator from Washington [Mr. Evans]. Thanks to his leadership, the committee subsequently approved each of these treaties unanimously.

Mr. President, during the committee's deliberations on these treaties, the views of the Committee on Finance as well as those of the tax writing committee of the other body were solicited. The views of these two committee's are reflected in the reports filed by the Committee of Foreign Relations as well as the conditions attached to the resolutions of ratification. The Foreign Relations Committee appreciates the cooperation and assistance these two committees provided. The committee also thanks the staff of the Joint Committee on Taxation for its help.

Mr. President, I urge the Senate to approve these three treaties.

NAIROBI CONVENTION

Mr. **PELL.** Mr. President, I join with the chairman in support of the International Telecommunication Convention. This international agreement provides the legal basis for the International Telecommunications Union [ITU], which provides the framework for the orderly conduct of international telecommunications. The ITU, originally formed in 1932, is an amalgamation of earlier organizations developed by the international community over the past century to deal with questions of international telegraph, telephone, and radio communications. The purposes of the union are: (1) to maintain and extend international cooperation for the improvement and rational use of telecommunications of all kinds; (2) to promote the development of technical facilities and their most efficient operation with a view to improving telecommunication services and making these services generally available to the public; and (3) to harmonize the actions of nations in the attainment of those goals.

Mr. President, the ITU provides protection for U.S. Government and industry interests. Without the ITU, uses of the radio frequency spectrum and the geostationary orbit would be in disarray and conflict. Management of these resources would be extremely difficult, if not impossible, without recourse to a multilateral forum such as the ITU. Therefore, I urge my colleagues to support this Convention.

VARIOUS INCOME TAX TREATIES

Mr. President, today, the Senate is being asked to give its advice and consent to ratification of bilateral income tax treaties between the United States and Barbados, Cyprus, and Italy.

By and large, these treaties are similar to those already in effect between the United States and some 35 countries. The purpose of the pending treaties is to remove the burden of double taxation from U.S. persons and firms which may be doing business in another country and be subject to tax both there and in the United States on the same income. The treaties are also intended to provide U.S. persons with some certainty with respect to the rates at which various sources of income will be taxed. This will better enable U.S. citizens to make sound financial decisions. Finally, these treaties are intended to provide a framework by which tax officials in both countries can ensure that taxes are collected on those transactions which are subject to taxation, thereby thwarting tax evasion.

The Committee on Foreign Relations held hearings on all of these treaties and overwhelmingly recommended that the Senate give its advice and consent to ratification. I urge my colleagues to do so.

The **PRESIDING OFFICER.** Who yields time?

Mr. **DOLE.** I request a division vote, and I yield back the time on this side, Mr. President.

Mr. **BYRD.** Mr. President, I yield back the time on this side.

The **PRESIDING OFFICER.** All time having been yielded back, the question occurs on the resolutions of ratification. A division is requested. Senators in favor of the resolutions of ratification will rise and stand until counted. (After a pause.) Those opposed will rise and stand until counted.

On a division, two-thirds of the Senators present having voted in the affirmative, the resolutions of ratification are agreed to.

Mr. **DOLE.** Mr. President, I move to reconsider the vote by which the resolutions of ratification were agreed to.

Mr. **BYRD.** Mr. President, I move to lay the motion on the table.

The motion to lay on the table was agreed to.

DOD APPROPRIATIONS

Mr. **PRYOR.** Mr. President, in the next few hours the Senate will be taking up the Department of Defense appropriations which I assume is embodied in the continuing resolution conference report. We have had a lot of discussion around here in the last several weeks about what the Gramm-Rudman amendment is going to do to the Department of Defense.

Now, Mr. President, this is a very major issue for Democrats, for the Republicans, for our country, and for this Congress. I rise this afternoon to pose some questions which I will ask the managers of the Department of Defense appropriation bill embodied in the continuing resolution. Whenever it comes up, whether it is Tuesday or Wednesday or Thursday, I am going to pose some questions and I want the managers, Mr. President, to be able to say that they have had ample time to consider my questions because I may be off base, but I do not think I am.

Mr. President, the House continuing resolution allowed $7.8 billion in transfers of previous year money for spending this year. The Senate bill comes along and allows $5.5 billion in these transfers to be spent this year.

Mr. President, from where did these billions of dollars come? It is very simple. They came from the funds in the Department of Defense that had been authorized, appropriated, but not spent—sitting there in an account or in several accounts and which were not obligated.

A great number of these dollars resulted from the fact that we over-appropriated to the Department of Defense because of inflation. We over-appropriated for inflation, inflation that never actually occurred.

And some of my colleagues have spoken at some length on this subject in the past.

When the House and Senate went to conference, the resulting conference report allowed zero dollars to be spent for transfers, but, Mr. President—and here is the clincher—the conference fenced $6.3 billion in previous year money identified as excess to current DOD needs.

Reportedly, this fenced $6.3 billion from past year accounts is available for subsequent supplementals and/or reductions, specifically when Gramm-Rudman hits us in February.

Does the Department of HHS have this same cushion that is brought forward to take care of Gramm-Rudman? Does the Department of Housing and Urban Development or the Commerce Department, or the U.S. Department of Agriculture? The answer, Mr. President, to the best of my knowledge, is "No." This, by the way, is the precise subject of a request that several other Senators and I have presented to the General Accounting Office. There is one department that today is going to be insulated, that is going to be protected from the claws of Gramm-Rudman. You guessed it, Mr. President. It is the Department of Defense. They have outfoxed us again—$6.3 billion carried over from previous years for a slush fund to pay the Gramm-Rudman bill for the Department of Defense. These, and some others, are the questions that I will ask the managers of the DOD bill when it comes to the floor of the Senate.

Another question is: Why is this $6.3 billion cushion being preserved for the Department of Defense? If all this money is excess to current needs, why is not this money being saved or, in other words, returned to the Treasury to reduce the deficit?

With all of this extra money floating around, with DOD awash in billions of dollars in unspent, unobligated funds in accounts, are we sure we have found all of it? Well, we found $6.3 billion of it. There might just be more laying around somewhere down there in unobligated accounts or in unused expenditures. I will be asking the GAO to look into exactly this question.

Mr. BYRD. Mr. President, will the Senator yield for a question?

Mr. PRYOR. I yield.

Mr. BYRD. I congratulate the Senator.

On two occasions at the White House, I told the President: "Mr. President, if you think for a moment that national defense is going to escape unscathed with the passage of Gramm-Rudman, you've got a big surprise."

Now that I have listened to the distinguished Senator from Arkansas, I am not so sure, after all, that the President is going to be surprised.

Mr. PRYOR. I might say to the distinguished Democratic leader that I do not know of another budget, other than the Department of Defense's, that will come before us that has this type of slush fund to accommodate Gramm-Rudman.

We heard, some weeks ago, Secretary Weinberger, to the effect that: "Oh, my goodness, Gramm-Rudman is going to close down the DOD. The Russians are going to be coming up the Potomac River the day after tomorrow if we pass Gramm-Rudman and have its claws into the money in the Department of Defense."

Even a larger question arises: We have found this $6.3 billion unspent. We are transferrring it now, it appears, to pay for Gramm-Rudman. My question is, how many more billions of dollars are unspent that we might actually save and help reduce the deficit? How much more from previous years? How much more from the fiscal year 1986 bill we are about to pass?

Mr. BYRD. Mr. President, will the Senator yield?

Mr. PRYOR. I yield.

Mr. BYRD. Does the Senator feel that, if the committees had held hearings on Gramm-Rudman, some of these moneys would have been discovered before now? Were there any hearings on Gramm-Rudman, any hearings in the Senate?

Mr. PRYOR. The Democratic leader is correct. There were no hearings, as I recall, on Gramm-Rudman. It came up one day, and I think they tried to pass it that same day.

Mr. BYRD. Did it not spring full flower here on the Senate floor?

Mr. PRYOR. It certainly did.

Mr. BYRD. Was there a committee markup?

Mr. PRYOR. There were weekend debates, Sunday debates. The "Sunday Afternon Debating Society" gathered, all 100 of us, to look at Gramm-Rudman.

Not to argue the merits or demerits of Gramm-Rudman; but if Gramm-Rudman is to apply, now that it has become law it should apply to all equally. The President signed it, by the way, in an almost top-secret ceremony. It was not publicized a great deal.

Mr. BYRD. There was not a Rose Garden ceremony.

Mr. PRYOR. It was too cold in the Rose Garden that day.

If Gramm-Rudman is to apply, then Gramm-Rudman must apply to all departments and all agencies equally, and there must not be any unequal treatment or an unfair advantage of one department over another or one function of Government over another. No department of agency should start out with a head start. It is this Senator's opinion that we have created just this situation.

We have insulated the Department of Defense from the Gramm-Rudman claws, we have isolated the Department of Defense from any real budget cuts. I think this is unfair.

This Senator may be proved wrong. If the managers of the bill come tomorrow or Wednesday or Thursday and can say, "Senator PRYOR, you are wrong," I will accept the fact that I am wrong.

From the past year's unobligated balances DOD, we have now created, in 1986, a slush fund of $6.3 billion to pay for Gramm-Rudman, so that the Department of Defense is not going to lose one paper clip. They have outfoxed us again, I say to the Democratic leader—the Department of Defense.

I hope I am wrong, and I hope that one of the managers will come to the floor today or tomorrow or Wednesday, during the debate, and say, "Senator PRYOR, you are wrong," and I will glady admit it. But I think these figures are right. If the conference report were available, I could speak with greater authority.

Mr. EXON. Mr. President, will the Senator yield for a question?

Mr. PRYOR. I am glad to yield to the Senator from Nebraska.

Mr. EXON. Mr. President, I say to my dear friend and colleague from Arkansas that if he is accurate in telling the Senate what I am delighted to have brought to the attention of the U.S. Senate, this possible $6.3 billion slush fund—if he is accurate in his assessment, there is good news and there is bad news with regard to that, to use a cliche.

The bad part is that I do not know how many times we were all assured on the floor of the U.S. Senate, including a specific amendment offered by the junior Senator from Michigan, with regard to a mandatory, assured, guaranteed, 50-50 cut from domestic programs on one side and defense on the other. Of course, that was after more than half of the budget was essentially off limits. But the half of the budget that falls under Gramm-Rudman in this meat-ax approach guaranteed—I do not know how many times we heard that. Does the Senator mean to say that if this $6.3 billion slush fund to which he alluded is in fact the case, that means that the Senate was misled by the leaders into the position where 61 Members of the Senate, as I recall, voted for Gramm-Rudman under a false premise?

Mr. PRYOR. I respond to the Senator from Nebraska by saying that when Gramm-Rudman was discussed and debated and voted on, on this floor, we had not reached the final stage of the continuing resolution and the transferring of the $6.3 billion into what I call the Defense Department's Gramm-Rudman slush fund. So I am not saying that we were misled.

I am saying that something has happened that I want to look further into. I want to find the facts as they relate to the Department of Defense, and I want to know if the Department of Defense is going to be insulated, isolated, and removed from actually being cut like the rest of the Departments of Government in order to reduce the deficit.

Let me also say to my very good friend from Nebraska and to my very good friend the Democratic leader, the Senator from West Virginia, that I do not know that the Transportation Department has a slush fund to pay for Gramm-Rudman. I do not know that the Agriculture Department has a slush fund that we have built in to pay for Gramm-Rudman. I do not know that any of the public works projects or any other of the functions of Government have been granted a specific slush fund, so that we are going to be able to apply Gramm-Rudman but yet not have any meaningful effect on tightening up our belt.

So I say to my friend from Nebraska that what we have done—and I hope I will be proved wrong—is to have created a Gramm-Rudman slush fund account for the Department of Defense so that they will not have to tighten their belt and expend their money more wisely and efficiently, as the rest of the agencies and functions of Government will have to do. Under the fiscal policy being set, $435 hammers will continue to be possible.

Mr. EXON. Mr. President, will the Senator yield?

Mr. PRYOR. I yield.

Mr. EXON. A specific question: To the knowledge of the Senator from Arkansas, there is no Gramm-Rudman slush fund, billions of dollars or in any amount, for agriculture?

Mr. PRYOR. So far as I know, not 1 penny for agriculture. There is no slush fund to take care of Gramm-Rudman.

Mr. EXON. The bad news, I said a few moments ago, is that I feel that if the particular text of Gramm-Rudman has not been violated by this $6.3 billion slush fund that we are speculating may be the case—if that was not violated, certainly the spirit of that was violated, and there can be no question about that.

The good news, on the other hand, is that because the Senator from Arkansas has called this to our attention, I suspect that there will be a hue and cry: "Don't send this back to conference, because we want to go home for Christmas."

If we were to stay here, could we not amend and send them back in disagreement and take that $6.3 billion slush fund, which the Senator from Arkansas suspects is for defense only, and use that to make a dramatic reduction in the some $11 billion that we are told we will have to cut this spring?

The good news is that since the Senator has found it, and if Congress wishes to work its will, in the spirit of Gramm-Rudman, we could take that $6.3 billion slush fund which is not now appropriated and apply it to the horrifying $11 billion cuts that we are now told we will have to make sometime this spring.

Is that the good part of the equation?

Mr. PRYOR. The other option, I say to my friend from Nebraska is we could take that $6.3 billion, and whoever knows how much else, and we could apply it to the deficit. We could reduce the deficit by that much. That would be that much we would not have to cut.

The second thing we could do with that $6.3 billion is we could let that be a red flag to us to say if there is that much down in the Department of Defense in unexpended balances and accounts that are not obligated, then why do we not go back and look for more?

I think the Senator from Nebraska will well remember last spring when we were debating defense procurement and the reforms that we were attempting to adopt in order not to have any more Pentagon nightmares embarrassing ourselves, embarrassing the whole system because of the tremendous waste. I think the Senator from Nebraska will remember that all of a sudden Secretary Weinberger said: "Wait a minute. I have just found $4 billion that I did not know we had."

He said, "We did not know we had it."

How many more billions of dollars are down there? I am just very concerned. I am not raising an accusation this afternoon, I say to my friend from Nebraska and the Democratic leader. I am not making this as a statement of fact. I am just saying these are questions that I am going to ask when the DOD appropriation issue comes to the floor.

We did something else. Last May we debated for a whole day on this floor procurement reform: How to make those tax dollars go farther, how to keep these tremendous cost overruns from happening, how to really keep those Pentagon scandals that come out month after month from ever taking place again.

Well, the Senate beat back those major reforms. We adopted some minor reforms. It went to conference after the House had adopted major reforms, strong reforms that would have been meaningful. In conference, they were watered done. The conferees said, "Well, we do not have time to do this now, but when that appropriation bill for DOD comes into the Senate and to the House we are going to make certain that we have strong procurement reforms."

I say to my friend when the DOD appropriation conference report comes to the floor of the Senate if you can find one scintilla of a procurement reform in his legislation I will eat my hat because it is not in there. They have all been taken out, completely.

We have spent all of 1985 talking about how we are going to make those contractors honest, talking about how we are going to clean up that Pentagon, who we are going to stop buying $435 hammers, and all this business. Yet, here we are, almost Christmas Eve, and what have we done—not much. Just a few very weak proposals have made it into law. We have made a sham, and we have laughed, and we have made a mockery of procurement reform, and we today are also seeing, I am afraid to report, a $6.3 billion slush fund that is here for one reason and one reason only, and that is to keep the Department of Defense from having to sacrifice one paper clip toward the effects of Gramm-Rudman and the need for deficit reduction.

Mr. President, I yield the floor.

Mr. EXON. Mr. President, I thank my friend from Arkansas for his comments, and I am very pleased that I was here for the first beginning of a debate on Gramm-Rudman. I predict that there will be many hours, days, months, perhaps years of debate on Gramm-Rudman and what it does or does not do, and that was one of the reasons that this Senator strongly opposed Gramm-Rudman as merely an instrument to break through the $2 trillion debt ceiling limit at the request of the President and that Gramm-Rudman was an escape valve to allow people to vote for the $2 trillion debt ceiling limit when otherwise those votes could not likely have been obtained at least in the Senate, very possibly in the House of Representatives.

So, at least the three of us who have spoken on this subject today can go down in history as the ones who were here when the first debate took place after the aftermath, the ruination aftermath of Gramm-Rudman, which I predict will come home to haunt us in many, many areas.

Mr. BYRD. Mr. President, anent Gramm-Rudman—in connection with which there were no Senate hearings, no Senate committee markup, no testimony given, no amendments offered in committee, nothing, it is just something that sprang full bloom right here on the Senate floor—there is a commonly known tune which I think is probably very fitting now for some who voted for Gramm-Rudman.

"I cried but my tears came too late."

Mr. PRYOR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SASSER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Stafford). Without objection, it is so ordered.

MICHAEL GREHL—A MEMPHIS TREASURE RETIRES

Mr. SASSER. Mr. President, I rise today to pay tribute to the career of a truly distinguished journalist and an extraordinary individual.

Last week, Michael Grehl retired from the Memphis Commercial Appeal. He had been its editor for 10 years. He came to Memphis in 1957—by way of Anchorage, AK—and through nearly 20 years, he helped to shape the consciousness of Memphis and of the Midsouth region.

Michael Grehl was a journalist's journalist. He began as an obit writer and worked his way up through every reporting and editing job in the newspaper business.

In each of those capacities, he held to the same principles. He was a stickler for detail. He was obsessed with accuracy. He was unmoved by special pleading. He was, quite simply, above fear or favor.

Mr. Grehl's strictness, his honesty, his devotion to the truth, have become virtual legends in Memphis, and they have given him a national reputation for maintaining the highest standards of journalistic integrity.

Throughout his working career, Mr. Grehl stood steadfastly for civil rights and equal justice. He despised ceremony without substance, and privilege without accomplishment. Above all, he fought tirelessly for the right of the people to know, and insisted on the responsibility of the journalist to inform.

His presence on a daily basis will be sorely missed by the journalistic community throughout the country, and he will always be remembered by the citizens of my own State for putting the demands of truthful, honest reporting above all personal or private motives.

But I am reassured that his sage counsel will continue to be available for those wise enough to seek it—and that includes this Senator, and I suspect many other people from all stations of life in Memphis and around the country.

I know my colleagues join me in wishing Mike Grehl a happy retirement. May he and his wonderful wife Audrey spend week after joyous week cruising their beloved Greek Islands.

Mr. President, I ask unanimous consent that the editorial about Michael Grehl, which appeared in the Commercial Appeal following his retirement, be printed in the Record. It is an eloquent testimonial to the work of a man who made a genuine contribution to the life of his city and the life of his profession.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

A Fighter Retires

The editor of The Commercial Appeal is not a distant, executive-suite presence, a disembodied voice of curt and abstruse memos interpreted down a chain of command.

The editor is a hands-on boss, a pervasive and persuasive personality, an active leader who puts his stamp on the newspaper.

That's the way it was under Edward Carmack, C. P. J. Mooney, Frank Ahlgren and Gordon Hanna.

That's that way it has been under Michael Grehl, who announced his retirement Wednesday.

The Commercial Appeal has been fortunate to have had superb editors over the years, men who set high standards and who had the talent and energy to lead by example. Grehl carried that heritage forward with a relentless commitment to excellence.

Grehl's retirement, however, is not so much an occasion for the newspaper's staff to reflect on his achievements as it is a mandate to assess the challenges that those achievements will continue to represent, like the beacon of the Scripps Howard Lighthouse.

When he came to Memphis in 1957 from Anchorage, Alaska, as a young reporter, Grehl did not know he would become The Commercial Appeal's editor. But he knew he wanted two things: to work for a great news-gathering organization and a widely respected newspaper and to understand the historic changes he sensed were taking place in the South.

Scripps Howard Newspapers and The Commercial Appeal met his first goal.

His passion for news and for the meaning of the news made him not only knowledgeable about but also keenly sensitive to the conflicts, strivings and potential of his adopted home.

Grehl's 10 years as editor of this newspaper were, in his words, "the best most satisfying years" of his career. It was a career of which any journalist could be proud, but which few journalists can duplicate.

Grehl taught many journalists their trade. More important, he taught them their calling—the honesty and fairness that should command their every professional act, the constant drive for improvement that should be their daily mission.

To some readers—even to some staff members—he may have seemed irascible and argumentative. He often said to his editorial page board. "What are you mad at today?," as if being mad and finding fault were the basic elements of the newspaper's opinion as expressed through its editorials.

But he also said often, "We can't always be mad at people."

There was no inconsistency.

He wanted editorials that said something of importance, that didn't wander aimlessly among "on the other hands," that were based on facts, that sopke simply and directly to readers about matters that affected them, that played no favorites, that excused no official failures or bunglings, that challenged men and women of influence to do their best for the community at large rather than for narrow interests. Being "mad" was a way of questioning everything, even the newspaper's policies.

He wanted editorials to be reasonable—up to a point. There were times when reason was not enough to express passionate convition. At those times he would thunder, "Can't we just say this is wrong and has to be fixed?

Grehl wanted to fix everything, but not just to be different or provocative.

Among his causes were these:

A State income tax, to be fair to taxpayers and to finance necessary public services, not just to expand State coffers.

Downtown redevelopment, to stimulate economic growth that would benefit all Memphians and Shelby Countians, not for the sake of nostalgia.

City-county consolidation, to create more effective decision-making, not for the sake of bigger government.

Social programs and civil rights legislation, to help the needy and to open up opportunities for all Americans to have fulfilling, productive lives, not because the programs could be characterized as "progressive."

Freedom of the press, to inform citizens of what was happening in their world, not—definately not—to assert privileges for the news media.

His goal was to enrich life, not to see the vindication of a pet idea or theory. He approached problems in search of realistic answers, not to justify proconceived ones.

Grehl is moving on to rest for a period beside a lake and to regain the strength that an editor's office consumes in a daily ritual of stress and aggravation. Severe illness had slowed him appreciably over the past year. But nothing was so characteristic of him, perhaps, as his battle against that illness. It was a remarkable recovery, even if incomplete. It was the performance of a fighter.

He will continue to fight—to probe the meanings of the next chapter, to snap at whatever limits there may be, to gnaw on accepted wisdom and doctrinaire opinions and to dare all who will listen to question their own ideas and then to act with courage.

He will be mad at something, ready to argue with anyone and quick to support the underdog.

Those he has taught well will try to practice the same virtues at The Commercial Appeal as it ventures anew on the paths he marked. We can only hope to keep up with him.

VOLUNTARY AUTO RESTRAINT AGREEMENT WITH JAPAN

Mr. EAGLETON. Mr. President, in March 1985, I sharply criticized the administration's decision to abandon the voluntary auto restraint agreement with Japan in the absence of assurances that United States exports would have greater access to the Japanese market.

In a high-stakes poker game, which in many ways trade talks resemble, it isn't especially smart to lay your cards face up on the table before the betting begins.

That is precisely what we did when we dropped voluntary auto restraints without condition and without concession.

The results were predictable. Almost immediately, Japan announced that it would increase its shipment of autos to the United States by 25 percent in 1985 from 1.85 million units to 2.3 million units. At that figure, the Japanese share of the United States market would grow from about 18 to 22 percent.

According to press reports last week, an unidentified MITI official has said Japan will drop all restrictions on auto exports to the United States beginning March 1986. If that report is true—and it has not yet been officially confirmed—it is not inconceivable that Japanese penetration of our auto market could go as high as 30 percent in the next year or two. There are good reasons to expect such an import invasion.

First, Japan has a production capacity of approximately 12 million cars a year with a demand of only 3 million cars in its home market. Except for the United States, which now imposes no limit, export sales around the world are severely restricted by import quotas or domestic content requirements. Italy, for example, limits Japan to 2,000 vehicles a year. Great Britain restricts it to 11 percent of its market.

Second, not only is the United States the freest market in the world, it is also the most profitable. Despite a recent 16-percent reduction in the dollar's value over the yen, Japanese manufacturers have been able to maintain their prices in the United States market even while increasing sales volume. With the lifting of export restrictions, there will be intense competition among Japanese producers to capture an even larger share of the lucrative United States market.

Mr. President, the United States trade deficit with Japan in 1984 was $37 billion. This year, it will be $50 billion. Fully half of that deficit is in the automotive sector.

What has happened to United States sales to Japan during this time? Since the United States lifting of voluntary restraints, Japanese auto exports have increased at a $4 billion rate. United States exports to Japan, however, have been virtually flat. Complaints about Japan's restrictions on the export of United States leather goods, semiconductors, citrus, telecommunications equipment, et cetera, remain on the table, but unresolved issues.

Mr. President, Japanese auto exports to this country are speeding down a one-way street headed for a major collision with public sentiment in this country unless there is a recognition of the need for restraint and reciprocity. Congress will not sit by and should not sit by passively and allow the basic industry of this Nation to be destroyed by ungoverned trade exploitation.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

(Mr. BOSCHWITZ occupied the chair during the quorum call.)

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER (Mr. WARNER). The Chair advises the Senate that there is no pending business at the moment.

PREVENTION OF AIR DISASTERS

Mr. BUMPERS. Mr. President, I rise first to express my deep and profound sympathy to the families of the men who were killed in the tragic crash of the DC-8 taking off from Gander Airport in Newfoundland. I know that there was a memorial service held at Fort Campbell today, and I regret that some of us were unable to attend, but it is tragedy of mammoth proportions and my heart goes out to the families of all of those fine, fine men who died in that crash.

The way to make sure that neither I nor any other Member of the Senate ever again has to rise on the floor and express our sympathy to the families of men in a situation similar to this is to prevent it. The way not to experience a disaster is to make sure it does not happen.

Back in October 1983, the marine barracks in Lebanon were bombed by a terrorist, and the tragic loss of life there raised cries of negligence in the United States. I said at the time that I could not understand why the situation which occurred there could not have been foreseen. But I understand also that hindsight is always 20-20.

Now, in this instance, based on the superficial information I have about Arrow Air, the charter company that owned this flight, I cannot for the life of me understand why they were still flying for the Defense Department. But they have been doing a lot of business with the Defense Department. A lot of other charters do, too. The Army used 44 different charter airlines. Arrow, which is headquartered in Miami, flew 34 DOD charter flights in fiscal year 1985, and so far they have flown 16 in fiscal year 1986. Normally these domestic flights are handled by the Military Traffic Management Command; international flights are handled by the Military Airlift Command, but this particular flight was handled by the multinational force office in Rome, which was set up pursuant to the Camp David Accords.

Arrow moved about 7,000 passengers for DOD in fiscal year 1985, for which they were paid $1.6 million. Now, Arrow does not have any more charters scheduled for DOD in this year but they have three scheduled in January, one on January 11, one on January 15, and one on January 26, 1986. They have 14 planes: 3 727's, 1 DC-10, and 10 DC-8's. So far the only action that has ever been taken against them by the military was for a broken air-conditioning system, torn carpets, and having dirty airplanes. But, Mr. President, Arrow has apparently paid $35,000 since 1984 to the Federal Aviation Administration in civil penalties for a variety of infractions: Bad recordkeeping, maintenance problems, flight time delays. What's more, their record in such matters has been worse than other airlines of the same size.

On November 15 of this year, one of their planes, transporting 128 marines, was leaving Grand Rapids, MI, for Toledo, OH, to pick up 124 soldiers from the Army. As they left Grand Rapids they put all the marines in the back of the plane because that would made it easier to board the soldiers in the front when they landed in Toledo. And so on takeoff the tail of the plane scraped the runway. Now, that is always a very dicey situation. But if that were not enough, the pilot did not even report the incident. Whether or not that plane and the plane that crashed at Gander are the same, I do not know. There have been unconfirmed reports that it was. But I join my colleagues from Tennessee, Senators GORE and SASSER, in calling for a full-scale investigation. There were two investigations of Arrow underway at the time, one dealing with a situation where one or two maintenance people refused to sign off on some work, and the plane may have flown anyway. Furthermore, all of their DC-8's are technically in nonconformance. With FAR 36, the noise regulations. As a matter of fact, the noise regulation required that all older planes, chiefly 707's and DC-8's, either be retired or reengined with quieter engines by last January 1, 1985, and Arrow did not comply. Now they were granted an exemption, but the fact remains that our soldiers were being flown on aircraft with old jet engines that very few airlines still have.

Mr. President, the Government investigation ought to first determine whether or not these infractions were ever reported to either the Military Airlift Command, to the Military Traffic Management Command, and especially to the Multinational Force Office in Rome. If it was reported, why was Arrow permitted to continue flying charter flights for the Defense Department?

Second, there is a question, Was this the same plane that had had two aborted takeoffs in the past few months? Was it the same plane that scraped the runway? Was it a policy of Arrow when they were picking up troops at two different points to put all the troops in the back so it would be easier to load from the front. I would note that the civilian airlines on which I fly almost always put as many passengers in front as they can if it is not a full flight or if it is a light load.

Third, we should find out why the carrier was permitted to continue flying all their DC-8's, all apparently with old engines and in nonconformance with Federal regulations.

Mr. President, I have been in the Senate 11 years, and every time there is a tragedy—not of this magnitude, because we have not had many of this size—everybody comes over here to express their sorrow and then their outrage. It is a terribly frustrating thing to ask these questions about why 248 servicemen, the flower of American youth, are now dead, if it was not an unavoidable accident, and to say to all the parents of these men that if we make sure that this kind of negligence never occurs again, their sons would not have died in vain. But if we simply express our temporary outrage, calling for investigations and asking all the why-why-why's, then we know that this sort of thing is going to happen again.

Mr. President, I have made speeches many times about the Vietnam war. Terrible as it was, it could be the most productive war the United States ever fought, if we simply learn from it. History seems to show that we never learn anything from a war. As memories dim, people become anxious to find another war, because they do not remember how terrible wars are.

As memories dim here, sometimes people have a tendency to go back to the same old stand, doing business the same old way.

I hope there will be a very thorough investigation of that tragic plane crash. All the pinpointing of blame or indictments that might be handed down will not bring back those 248 men. But what we want to do is to make sure it does not happen again.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GOLDWATER). Without objection, it is so ordered.

REFERRAL OF S. 1574

Mr. SIMPSON. Mr. President, I ask unanimous consent that S. 1574, the smokeless tobacco health bill, be deemed to be referred to the Commerce Committee for 1 calendar day, and be placed back on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMPREHENSIVE SMOKELESS TOBACCO AND HEALTH EDUCATION ACT OF 1985

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Senate now turn to Calendar No. 448, S. 1574, smokeless tobacco.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1574) to provide for public education concerning the health consequences for using smokeless tobacco products.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the bill which had been reported from the Committee on Labor and Human Resources with an amendment to strike out all after the enabling clause and insert the following:

S. 1574

That this Act may be cited as the "Comprehensive Smokeless Tobacco and Health Education Act of 1985".

PUBLIC EDUCATION

SEC. 2. (a)(1) The Secretary of Health and Human Services shall establish and carry out a program to inform the public of any changes to human health resulting from the use of smokeless tobacco products. In carrying out such program, the Secretary shall—

(A) develop educational programs and materials and public service announcements respecting the dangers to human health from the use of smokeless tobacco;

(B) make such programs, materials, and announcement available to States, local governments, school systems, and such other entities as the Secretary determines appropriate to further the purposes of this Act;

(C) conduct and support research on the effect of smokeless tobacco on human health; and

(D) collect, analyze, and disseminate information and studies on smokeless tobacco and health.

(2) In developing programs, materials, and announcements under paragraph (1), the Secretary shall consult with the Secretary of Education medical and public health entities, consumer groups, representatives of manufacturers of smokeless tobacco products, and other appropriate entities.

(b) The Secretary may provide technical assistance to States to assist such States in the development of educational programs and materials and public service announcements respecting the dangers to human health from the use of smokeless tobacco.

REPORT ON SMOKELESS TOBACCO AND HEALTH

SEC. 3. The Secretary shall transmit a report to the Congress not later than January 1, 1987, and biennially thereafter, containing—

(1) a description of the effects of health education efforts on the use of smokeless tobacco products;

(2) a description of the use by the public of smokeless tobacco products;

(3) an evaluation of the health effects of smokeless tobacco products and an identification of areas appropriate for further research; and

(4) such recommendations for legislation and administrative action as the Secretary considers appropriate.

SMOKELESS TOBACCO PRODUCTS PACKAGES

SEC. 4. (a) It shall be unlawful for any person to knowingly manufacture, package, or import for sale or distribution within the United States any smokeless tobacco product unless the package of the product bears, in accordance with the requirements of this Act, one of the following statements:

"WARNING: THIS PRODUCT MAY CAUSE MOUTH CANCER

"WARNING: THIS PRODUCT MAY CAUSE GUM DISEASE AND TOOTH LOSS

"WARNING: THIS PRODUCT IS NOT A SAFE ALTERNATIVE TO CIGARETTES".

(b) One of the statements required by subsection (a) shall appear in a conspicuous and prominent location on each package of a smokeless tobacco product, and shall appear in a conspicuous format and in conspicuous and legible type in contrast with all other printed material on the package.

(c) The statements required by subsection (a) shall—

(1) be randomly displayed by a manufacturer, packager, or importer of a smokeless tobacco product in each twelve-month period in as equal a number of times as is possible; and

(2) be randomly distributed in all parts of the United States in which such product is marketed.

(d)(1) Each manufacturer, packager, or importer of a smokeless tobacco product shall submit a plan to the Federal Trade Commission which specifies the method such manufacturer, packager, or importer will use to display and distribute the statements required by subsection (a) in accordance with the requirements of subsections (b) and (c).

(2) The Federal Trade Commission shall approve a plan submitted by a manufacturer, packager, or importer of a smokeless tobacco product under paragraph (1) if such plan provides for the display and distribution on smokeless tobacco product packages of the statements required by subsection (a) in a manner which complies with this Act and the guidelines promulgated under section 6.

(e) This section and section 5 do not apply to a distributor or a retailer of any smokeless tobacco product which does not manufacture, package, or import smokeless tobacco products for sale or distribution within the United States.

ADVERTISING OF SMOKELESS TOBACCO PRODUCTS

SEC. 5. (a) It shall be unlawful for any manufacturer, packager, or importer of a smokeless tobacco product to knowingly advertise or cause to be advertised in the United States such smokeless tobacco product unless such advertisement bears, in accordance with this section, one of the statements specified in section 4(a).

(b) Each statement specified in section 4(a) shall be rotated every four months by the manufacturer, packager, or importer of smokeless tobacco products in an alternating sequence in the advertisements for each brand of a smokeless tobacco product, in accordance with a method prescribed by the Federal Trade Commission.

(c)(1) In the case of a printed advertisement of a smokeless tobacco product, one of the statements specified in section 4(a) shall appear on such advertisement in a conspicuous and prominent location and a conspicuous formal approved by the Federal Trade Commission, and in conspicuous and legible type in contrast with all other printed material in the advertisement.

(2) In the case of a radio or television advertisement of a smokeless tobacco product, one of the statements specified in section 4(a) shall be read once during the advertisement.

(d)(1) Each manufacturer, packager, or importer of a smokeless tobacco product shall submit a plan to the Federal Trade Commission which specifies the method such manufacturer, packager, or importer will use to rotate, display, and distribute in accordance with this Act the statements specified by section 4(a) in advertisements of smokeless tobacco products.

(2) The Federal Trade Commission shall approve a plan submitted by a manufacturer, packager, or importer of a smokeless tobacco product under paragraph (1) if such plan provides for the rotation, display, and distribution of the statements specified in section 4(a) on each advertisement of a smokeless tobacco product in a manner which complies with this Act and the guidelines promulgated under section 6.

REGULATIONS AND GUIDELINES

SEC. 6. (a) The Federal Trade Commission shall promulgate and periodically revise such regulations and guidelines as it may require to implement sections 4 and 5.

(b) Within 180 days after the date of enactment of this Act, the Federal Trade Commission shall promulgate guidelines with respect to—

(1) the display and distribution of the statements required by section 4(a) on packages of smokeless tobacco products; and

(2) the rotation, display, and distribution of the statements specified in section 4(a) on each advertisement of a smokeless tobacco product.

INGREDIENT REPORTING

SEC. 7. (a)(1) Each person who manufactures, packages, or imports smokeless tobacco products shall annually provide the Secretary with—

(A) a list of the ingredients added to tobacco in the manufacture of such products which does not identify the company which uses the ingredients or the brand of smokeless tobacco which contain the ingredients; and

(B) a specification of the quantity of nicotine contained in each such product.

(2) A person or group of persons required to provide information by this subsection may designate an individual or entity to provide the information required by this subsection.

(b)(1) At such times as the Secretary considers appropriate, the Secretary shall transmit to the Congress a report, based on the information provided under subsection (a), respecting—

(A) a summary of research activities and proposed research activities on the health effects of ingredients added to tobacco in the manufacture of smokeless tobacco products and the findings of such research;

(B) information pertaining to any such ingredient which in the judgment of the Secretary poses a health risk to users of smokeless tobacco; and

(C) any other information which the Secretary determines to be in the public interest.

(2)(A) Any information provided to the Secretary under subsection (A) shall be treated as trade secret or confidential information subject to section 552(B)(4) of title 5, United States Code, and section 1905 of title 18, United States Code, and shall not be revealed, except as provided in paragraph (1), to any person other than those authorized by the Secretary in carrying out their official duties under this section.

(B) Subparagraph (A) does not authorize the withholding of information provided under subsection (a) of this section from any duly authorized subcommittee or committee of the Congress. If a subcommittee or committee of the Congress requests the Secretary to provide it such information, the Secretary shall make the information available to the subcommittee or committee and shall, at the same time, notify in writing the person who provided the information of such request.

(C) The Secretary shall establish written procedures to assure the confidentiality of information provided under subsection (a) of this section. Such procedures shall include the designation of a duly authorized agent to serve as custodian of such information. The agent—

(i) shall take physical possession of the information and, when not in use by a person authorized to have access to such information, shall store it in a locked cabinet or file; and

(ii) shall maintain a complete record of any person who inspects or uses the information.

Such procedures shall require that any person permitted access to the information shall be instructed in writing not to disclose the information to anyone who is not entitled to have access to the information.

PENALTY

SEC. 8. Any person who is found to violate any provision of this Act shall be guilty of a misdemeanor and shall on conviction thereof be subject to a fine of not more than $10,000.

ENFORCEMENT

SEC. 9. The several district courts of the United States are invested with jurisdiction, for cause shown, to prevent and restrain violations of this Act upon application of the Federal Trade Commission or upon application of the Attorney General of the United States acting through the several United States attorneys in their several districts.

PREEMPTION

SEC. 10. (a) No statement relating to the use of smokeless tobacco products and health, other than the statements required by this Act, shall be required by any Federal agency to appear on any package or in any advertisement of a smokeless tobacco product.

(b) No statement relating to the use of smokeless tobacco products and health, other than the statements required by this Act, shall be required by any State or local law or regulation to be included on any package or in any advertisement of a smokeless tobacco product.

STUDY AND RECOMMENDATIONS

SEC. 11. After the Advisory Committee on the Health Consequences of Using Smokeless Tobacco appointed by the Surgeon General of the United States completes its study and report concerning the health consequences of using smokeless tobacco products, the Surgeon General shall review the findings and conclusions of such study. After the completion of such review, the Surgeon General, in consultation with the Federal Trade Commission, shall recommend to the Congress appropriate revisions to the statements specified in section 4(a). Any such recommendations shall be based on the findings and conclusions of such study.

DEFINITIONS

SEC. 12. For purposes of this Act—

(1) the term "package" means a pack, box, carton, can, or any other container of any kind in which smokeless tobacco is offered for sale, sold, or otherwise distributed to consumers;

(2) the term "person" has the same meaning as in section 3(5) of the Federal Cigarette Labeling and Advertising Act;

(3) the term "Secretary" means the Secretary of Health and Human Services;

(4) the term "smokeless tobacco" means any finely cut, ground, powdered, or leaf tobacco that is intended to be placed in the oral cavity; and

(5) the term "United States" has the same meaning as in section 3(3) of such Act.

EFFECTIVE DATE

SEC. 13. (a) Except as provided in subsection (b), this Act shall take effect one year after the date of enactment of this Act.

(b) Sections 2, 3, 4(d), 5(d), and 6 shall take effect on the date of enactment of this Act.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

Mr. HATCH. Mr. President, today we are considering S. 1574, the Smokeless Tobacco and Health Education Act of 1985. This bill, introduced by our colleague, Senator LUGAR and myself, is an important first step toward educating the public about the health risks of smokeless tobacco products.

This bill requires warning labels on smokeless tobacco packages. It requires a warning to be read during each radio and television advertisement, and it requires a warning to be printed on all other advertisements. In addition, it will make the ingredients added to smokeless tobacco products be made available for research regarding their health effects.

There is now a pressing need for this legislation. Use of smokeless tobacco products is estimated to double between 1980 and 1990. Studies have shown that almost 10 percent of high school students regularly use smokeless tobacco products. In a recent study of the individuals who regularly use smokeless tobacco products, 88 percent started using these products before the age of 15, and 55 percent started before the age of 12. Among high school males, the number who regularly use smokeless tobacco products may actually be higher than the number who regularly smoke cigarettes. While the majority of teenagers know that cigarettes are dangerous, less than 40 percent are aware of the hazards of smokeless tobacco products.

I urge my colleagues to vote with me on this important piece of legislation.

Mr. DANFORTH. Mr. President, as chairman of the Senate Committee on Commerce, Science, and Transportation, I rise in support of S. 1574, the Comprehensive Smokeless Tobacco and Health Education Act of 1985. This measure has been referred to the Commerce Committee. The committee has reviewed S. 1574, and I commend the distinguished chairman and other members of the Labor and Human Resources Committee for their work on this important legislation and for their effort to promote disease prevention and health care with this bill.

Tobacco products are unique. Unlike many other products which may be hazardous only when misused, these products pose health hazards when used as intended, and S. 1574 is a timely and necessary effort to broaden public awareness of the particular health effects of smokeless tobacco use. There is a growing need for such legislation, because today more than 22 million Americans use smokeless tobacco products regularly, and the use of such products is increasing in popularity, particularly among young people, who regard them as a safe alternative to cigarettes.

In order to increase public awareness of the health consequences of smokeless tobacco use, S. 1574 imposes new warning requirements with respect to the labeling and advertising of smokeless tobacco products, and requires regulation and enforcement of these requirements by the Federal Trade Commission. Of course, such matters involving the labeling and advertising of consumer products and the authority of the Federal Trade Commission are within the jurisdiction of the Commerce Committee, and this committee has had a long history of involvement with legislation pertaining to the labeling and advertising of tobacco products.

Accordingly, Senator HOLLINGS, the ranking minority member of the Commerce Committee, and I are very pleased that S. 1574 has been referred to our committee and that we will have the opportunity to address any committee concerns in conference. We have, however, expedited our review of this legislation and have sought only a limited referral of S. 1574 because of the necessity to avoid delay of this important measure. Our committee was urged by both the smokeless tobacco industry and health interests to speed up review of S. 1574 and we have done so, working in cooperation with the Labor Committee, which has recognized the legitimate and significant jurisdictional interests of the Commerce Committee in this legislation and which has agreed to our request that Senator HOLLINGS and I participate as Commerce Committee conferees in any House-Senate conference with respect to this legislation.

Mr. President, Senator HOLLINGS and I thank the chairman of the Labor and Human Resources Committee, Senator HATCH, and the ranking minority member, Senator KENNEDY, for their cooperation and their recognition of our concerns. We hope that we can move ahead expeditiously with S. 1574 and that our colleagues will support this important legislation.

Mr. DANFORTH. Mr. President, as I have noted, I support S. 1574, and I compliment the distinguished chairman of the Labor and Human Resources Committee, as well as Senator LUGAR, the cosponsor of this bill, for their work on this legislation. However, as chairman of the Senate Committee on Commerce, Science, and Transportation, I would like clarification with respect to one matter of particular concern to the Commerce Committee.

It is my understanding that S. 1574 in no way addresses the question of product liability and is not intended to alter current product liability law with respect to the duties and rights of manufacturers and consumers of smokeless tobacco products—that S. 1574 leaves to the courts in each particular case the question of what significance will be given to the health warnings required by this legislation.

I would ask the chairman of the Labor and Human Resources Committee whether this understanding is correct, particularly in light of the language of the Labor Committee report on this issue.

Mr. HATCH. The distinguished chairman of the Commerce Committee is correct. S. 1574 is not intended to have any impact whatsoever upon current product liability law. On the contrary, I would like to stress on behalf of the Labor and Human Resources Committee, and as a matter of legislative history, that this legislation is not intended to alter or affect the current status of product liability law and is not intended to either enhance or diminish any rights, causes of action, or defenses available under current product liability law.

Senator LUGAR, as the original cosponsor of this legislation, would you agree that this is the intent of this measure?

Mr. LUGAR. I agree with that.

Mr. HATCH. Mr. President, I would like to add that the understanding of the chairman of the Commerce Committee is correct as a matter of legislative history, notwithstanding the first and fifth full paragraphs of page 14 of the Labor and Human Resources Committee report accompanying this legislation. It is not the intention or purpose of the bill or report to alter product liability law in any respect, whatsoever.

Mr. DANFORTH. I thank the chairman.

Mr. HATCH. Mr. President, if I may take this opportunity to clarify a few additional points. The first four paragraphs in the committee views section were inadvertently repeated when the report was printed. The first four paragraphs in this section should be ignored.

In addition, the section on hearings says that this legislation extends the Comprehensive Smoking Education Act of 1984. This simply refers to the fact that many of the concerns, principles, and information which is applicable to the Comprehensive Smoking Education Act of 1984 is also applicable to smokeless tobacco. This legislation is not intended as an amendment to Public Law 98-474 or to adopt its legislative history.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill (S. 1574, as amended) was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SAVE FOR THE U.S.A. YEAR

Mr. **SIMPSON**. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of House Joint Resolution 436, "Save for the U.S.A. Year," and I ask for its immediate consideration.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 436) to designate 1986 as "Save for the U.S.A. Year," and for other purposes.

There being no objection, the Senate proceeded to consider the joint resolution.

The **PRESIDING OFFICER**. The joint resolution is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the joint resolution.

The joint resolution (H.J. Res. 436) was ordered to a third reading, was read the third time, and passed.

DATE CHANGE FOR TRANSMITTAL OF A REPORT

Mr. **SIMPSON**. Mr. President, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of S. 1918, to change the date for transmittal of a report, and I ask for its immediate consideration.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 1918) to change the date for transmittal of a report.

The **PRESIDING OFFICER**. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the bill.

The **PRESIDING OFFICER**. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1918

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 713(d) of the International Security and Development Cooperation Act of 1985 is amended by striking out "December 31, 1985," and inserting in lieu thereof "October 1, 1986,".

(b) The amendment made by subsection (a) shall take effect as of December 30, 1985.

Mr. **SIMPSON**. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. **BYRD**. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BILL HELD AT DESK—HOUSE CONCURRENT RESOLUTION 231

Mr. **SIMPSON**. Mr. President, I ask unanimous consent that once the Senate receives from the House of Representatives House Concurrent Resolution 231, commending the first teacher in space, it be held at the desk pending further disposition.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

THE FARM BILL

Mr. **HELMS**. Mr. President, I am receiving numerous inquiries from my fellow Senators and others interested in my assessment of the farm bill we are soon to consider.

It occurs to me that an assessment and brief explanation I have prepared may respond to most if not all of the questions I have received.

Therefore, I ask unanimous consent that a copy of my assessment and explanation, and a description prepared by the Committee on Agriculture be printed immediately following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONFERENCE COMMITTEE PASSES FARM BILL

WASHINGTON.—The 1985 farm bill, approved unanimously Saturday night by the Senate/House conference committee, "is the beginning of a transition to market-oriented farm policy," in the view of Senator Jesse Helms of North Carolina, chairman of the Senate Agriculture Committee. Helms served as chairman of the conference committee.

Also, Helms says that the new farm bill (H.R. 2100) will restore the U.S. as a strong competitor in world markets and thereby increase exports of U.S. farm commodities. "No longer will our nation encourage farmers to produce commodities just to be sold to the government for storage," Helms said. "We're heading back to the free market concept which should never have been abandoned in the first place."

The 5-year bill reduces loan rates for wheat, feed grain, cotton, and rice, sets target prices for those program commodities, reauthorizes other commodity programs, extends and expands export programs of the U.S. Department of Agriculture, contains strong, new soil conservation provisions and improves the effectiveness of the credit programs of the Farmers Home Administration.

"This bill, as approved by the conference, is the beginning of a slow, but decisive, transition to market-oriented farm policy," said Senate Agriculture Committee Chairman Jesse Helms. "The significance of the 1985 farm bill is that Congress has begun the process of correcting the failures of past farm policies. A new era of hope is in store for American farmers.

"Passage of this legislation marks the starting point for the return of the American farmer as a strong competitor in world markets. By allowing for reductions in the basic price support mechanisms and giving the Secretary of Agriculture authority to make additional reductions when competitive conditions warrant, Congress has made a commitment to a vigorous export policy for U.S. agriculture.

"The bill sends a clear and unmistakeable message to countries which have been using export subsidies to unfairly increase their share of world markets: The American farmer is back as the major competitor in world markets," said Helms.

Helms said the loan rate reductions in the bill are supplemented by a strong export title which expands current export programs and creates new tools for the Secretary of Agriculture to use to promote U.S. exports.

"At the same time," said Helms, "farm income protection will be maintained at record levels in order to aid farmers financially during the transition to market-oriented pricing of their products.

"The problem is that those income protection mechanisms, are set at high levels, and in a way that directs billions of dollars in taxpayer subsidies to support the income of the largest and wealthiest farmers. In a time of massive budget deficits and the need to reduce those deficits, this kind of policy just doesn't make sense. These high support levels will also induce large surplus production, which can only delay for serveral years longer a solid recovery in the farm economy."

The projected cost of the Commodity Credit Corporation programs under the provisions of the bill are estimated to be about $52 billion in fiscal years 1986–1988.

"The bill makes historic reforms in conservation policy," said Helms. "It makes U.S. agriculture more efficient by protecting our soil and water resources and ensuring that the most productive land will be used, and not abused."

"Important reforms are even made in the dairy program. The price supports will be reduced over the life of the bill, reducing government costs, helping to balance supply and demand. I am extremely disappointed, though, at the imposition of a milk tax in the bill."

"Despite the shortcomings I have described, the bottom line is that this bill makes many significant and effective reforms in farm policy. It signals the intention of Congress to make a decisive transition to market-oriented farm policy. At the same time, there are important reforms yet to be made. Congress must continue to try to reduce the cost of farm programs by devising a way to more effectively limit large subsidies to those producers least in need of assistance," said Helms.

Major provisions of the bill include:

WHEAT AND FEED GRAINS

Basic initial loan rates for grains would start at $3.00 a bushel for 1986 wheat and $2.40 for 1986 corn. From 1987 on, loans for grains would be set each year at between 75 and 85 percent of the average price received by producers during the immediate preceding 5 marketing years, excluding the high and low years, with annual reductions limited to 5 percent.

After calculating the basic initial rates, the Secretary could then further reduce the rate for any year by up to 20 percent if (1) market prices in the previous seasons failed to top 110 percent of the previous year's basic loan rate, or (2) he determines that a further cut is needed to compete on world markets.

For the 1986 crop only, the Secretary would be required to use this authority to drop the loan at least 10 percent.

The Secretary would have discretionary authority to allow repayment of price support loans at levels which could be set as low as 70 percent of the original loan rate. The Secretary would have additional discretionary authority to give the producers one of two alternate types of marketing certificates to help promote exports.

Target price income protection would operate alongside whichever loan system was used, and any reduction below the basic initial loan rates would be offset by increased target price deficiency payments which would not be subject to payment limits.

Target prices, which provide direct payments to farmers when market prices are below the target rate, would be frozen at current levels ($4.38 a bushel for wheat and $3.03 a bushel for corn) through 1987. For the 1988 crop, the Secretary would have authority to set the target price level at not less than 98 percent of the 1986 level ($4.38 and $3.03); at not less than 95 percent for the 1989 crop; and at not less than 90 percent for the 1990 crop, but not to lower than $4 for wheat and $2.75 for corn.

To qualify for benefits in any years in which carryover wheat stocks exceed 1 million bushels, wheat producers would be required to reduce acreage as follows: in 1986, a maximum diversion of 25 percent; (including a mandatory minimum reduction of 15 percent, a mandatory in-kind paid diversion of 2.5 percent, and further discretion for reductions of 7.5 percent); in 1987, a maximum reduction of 27.5 percent (including a mandatory minimum reduction of 20 percent and a further 7.5 percent at the Secretary's discretion); and in 1988-90, a maximum of 30 percent (including a mandatory minimum of 20 percent and a further 10 percent at the Secretary's discretion). For the 1986 crop only, the Secretary would be required to offer growers who planted before announcement of the program a chance to idle 10 percent of their base in return for payments.)

For feed grains, if stocks exceed 2 billion bushels of corn, the 1986 reduction would be a maximum of 20 percent (including a mandatory minimum of 12.5 percent, a mandatory in-kind paid diversion of 2.5 percent, and further discretion for reductions of 5 percent. For 1987-90, the maximum would be 20 percent (including a mandatory minimum of 12.5 percent plus up to 7.5 percent at the Secretary's discretion).

For all grains, the Secretary would have the authority to offer producers a further, voluntary, paid diversion beyond the basic minimums in the bill.

The Secretary is required to allow haying and grazing on diverted acres in 1986, permit grazing in 1987-90 if state Agricultural Stabilization Committees request it. Current law gives the Secretary discretionary authority to permit haying in 1987-90.

The Secretary would have discretionary authority to offer producers a "Target Option Program" under which the individual grower's wheat target price would rise if he elected higher levels of acreage reduction or decline at lower acreage-cut levels. Also optional for the Secretary would be a plan varying target price levels for farms of different sizes an effort to concentrate benefits on medium-sized farms. For the 1986 crop, the Secretary would be required to pay part of the expected target price deficiency payments on an advance basis and to make part of the payment "in-kind."

Under the bill, the Secretary would have the discretionary authority to proclaim marketing quotas for wheat, and establish a mandatory acreage control program for wheat, subject to the approval of producers in a referendum.

The bill requires the Office of Technology Assessment to study Federal grain export quality standards. It also provides that 6 months after the study, the Agriculture Department would have to revise its export grading rules, in line with the study findings, to protect grain quality.

COTTON

The basic support loan rate is set at 55 cents per pound for 1986. In 1987 and thereafter for the life of the bill, the loan rates would be based on 85 percent of the world market price, with reductions limited to 5 percent annually, with a floor of 50 cents.

If the basic rate is not competitive on world markets, the Secretary would choose one of two alternate "market enhancement" plans for repayment of loans. Under one plan, he could lower the repayment rate by up to 20 percent, thus allowing farmers to redeem their crops and sell them at a competitive price. Under the second plan, repayment would be at rates varied periodically through the year to keep pace with world markets. In instances where world market levels fall below the new loan repayment levels, the Secretary would issue "in-kind" certificates to domestic and foreign buyers to bridge the gap between the effective support and the market.

Target prices would be frozen for the 1986 crop at the 1985 level of 81 cents per pound. For the 1986 crop, the Secretary would have the authority to set the target price at not less than 98 percent of the 1986 level (81 cents); at not less than 95 percent for the 1988 crop; at not less than 92 percent for the 1989 crop; and at not less than 90 percent for the 1990 crop.

To qualify for program benefits, producers would be required to divert up to 25 percent and the Secretary could offer a voluntary payment in kind supplemental diversion plan, including payments in kind, if greater acreage cuts were needed.

RICE

The basic loan rate would be set at $7.20 per hundredweight for 1986 and then based on 85 percent of the average market price in the past 5 years, excluding the high-low years, with annual reductions limited to 5 percent and a floor of $6.50.

The Secretary is required to permit repayment of the price support loan at the world market price, but for 1986 and 1987 not below 50 percent of the original loan rate, for 1986 not below 60 percent of the original loan, and for 1989 and therefore not below 70 percent of the original loan. Up to one-half of the difference between the original level and repayment level may be paid in negotiable in-kind certificates.

If the market price falls below the repayment level, the Secretary must issue in-kind marketing certificates to exporters bridging the gap between domestic and world prices. (The "marketing loan" plan under which growers can repay support loans at a reduced rate would be applied in the case of rice to the 1985 crop as well as the 1986-90 crops.)

Target prices would be frozen at $11.90 per hundredweight for the 1986 crop and then scaled down using the same formula as for cotton. (Percentages of 98, 95, 92, and 90 of the original level for the years 1987-90.) Producers who want to enter the program would be subject to acreage reductions of up to 35 percent. The Secretary could also offer a voluntary paid diversion program and make in-kind payments.

DAIRY

The bill retains the current $11.60 support price for 1986.

The Secretary is required to implement a whole herd buyout program for 18 months, under which producers—on a bid basis—may take their entire herds out of production. The program will be funded by a producer assessment of 40 cents per hundredweight.

The Secretary is required to purchase 400 million pounds of red meat for export and domestic feeding programs during the 18-month program.

The Secretary is required to implement orderly marketing provisions during the whole herd program.

On January 1, 1987, the Secretary is required to reduce the price support level by 25 cents per hundredweight, and is required to reduce the assessment to 25 cents per hundredweight.

The Secretary is required to reduce the price support level by 25 cents per hundredweight on October 1, 1987, at which time the assessment is terminated.

For the rest of the life of the bill—1988-1990—the Secretary is required to reduce the support price level by 50 cents per hundredweight if CCC purchases are projected to exceed 5 billion pounds. If CCC purchases are projected to be less than 2.5 billion pounds, the Secretary must raise the price support 50 cents per hundredweight.

Differentials used in setting minimum fluid milk prices in some marketing orders would be increased.

SOYBEANS

The bill continues the basic price support loan rate through 1986 and 1987 at the current minimum rate of $5.02 a bushel. For the next three years, rates would be based on an average market price formula with reductions limited to no more than 5 percent a year and with a floor of $4.50 per bushel. In all of the 5 years, the Secretary would have authority to reduce loan levels by an additional 5 percent if necessary to keep the crop competitive in world markets. The Secretary would also have discretionary power to allow repayment of loans under a "marketing loan" system.

SUGAR AND WOOL

The bill also generally extends current programs. The wool price support formula would be frozen for the life of the bill.

The sugar price support is maintained for the life of the bill at 18 cents per pound.

1986 import quotas, scheduled to expire September 30, would be extended for at least 3 months.

Beginning with the next quota year, the Secretary would be directed to operate the sugar program with quota levels which avoid any cost to the government. Also, beginning in the 1987 quota year, no import quotas can be given to a country that is a net importer of sugar unless the country can verify that it does not import any sugar produced in Cuba.

PEANUTS

The peanut program would be continued without major changes. Supports for peanuts grown within a domestic (food and seed) quota in 1986 would be set at the 1985 level plus any increase in the cost of production; for 1987 and thereafter for the life of the bill, such support levels would be adjusted to reflect increases in the cost of production, but not by more than 6 percent annu-

BEST COPY AVAILABLE

ally, and access to quota sales at the domestic support level would be broadened by sharing any growth in the quota between old and new growers. The bill sets a floor of 1.1 million tons (the statutory 1985 level) under the annual domestic peanut quota for the next 5 years, but provides the quota can increase if actual domestic needs grow.

HONEY

The price support would be reduced from the present level of 65 cents a pound to 64 cents for 1986 and 63 cents for 1987. In the following 3 years the Secretary would be authorized to provide reductions of up to 5 percent annually and to implement a marketing loan.

PAYMENT LIMITATIONS AND GENERAL COMMODITY PROVISIONS

The bill continues the present $50,000 annual per producer ceiling for program payments. Exempt from the ceiling would be: (1) target price payments required to offset support loan cuts below basic loan levels, (2) payments made under several program cost-reduction items which the bill provides for discretionary use by the Secretary, and (3) any gains farmers realize when paying off support loans at less than the initial loan level.

A $100,000 ceiling would be placed on disaster payments to producers of grains, cotton, and rice and similar disaster payments are authorized for the 1985-90 crops of soybeans, sugar beets, sugarcane and peanuts.

Advance deficiency payments would be required for the 1986 crops wheat, feed grains, cotton, and rice, and would be discretionary in future years for the life of the bill. The Secretary also would be given authority to make up to 5 percent of the total deficiency payment with surplus commodities.

New provisions for determining crop and total farm acreage bases are included, along with revisions in the farmer-owned grain reserve program, putting new limits on the program.

Also for the programs using target prices, the Secretary would have the discretion to make payments to producers who are eligible for loan and target price payments but agree to forgo those benfits.

A beef promotion board is established to administer a beef promotion program. The program will be funded by a $1 per head checkoff at the point of sale, including imported beef. A credit of up to 50 cents per head is provided for assessments paid to State beef councils. Provision is also made for refunds to producers and importers. The program will begin as soon as practicable, and a referendum of beef producers must be held within 22 months of the beginning of the program.

A similar pork promotion board is established to operate a pork promotion program, funded by a ¼ of 1 percent checkoff of the sales price of swine and imported pork products. The checkoff is refundable at the request of the producer until a referendum is approved by pork producers. A referendum must be held within 24 to 30 months of date of enactment of the bill.

EXPORT TITLE

Requires the Secretary to offer surplus commodities owned by the Agriculture Department to exporters, processors or foreign buyers to encourage the development and expansion of overseas markets for American crops including processed farm products. The Secretary would be directed to use $2 billion worth of commodities for the program over the next 3 years to counter unfair foreign trade practices and generally to make American products more competitive, and at least 15 percent of the program could to be devoted to exports of poultry, meat and meat products. To the extent practical, the Secretary must use the commodities in equal amounts in each of the 3 years.

Requires the Secretary of Agriculture to make available not less than $5 billion annually in short-term export credit guarantees for the life of the bill where such guarantees would improve the competitive position of American exports.

The Secretary is required to make not less than $325 million available annually in FY 86-88 in cash or in surplus commodities for direct export credits to counter the subsidies, import quotas or unfair trade practices of foreign countries. (The direct credits, whether in cash or in kind, could be used in so-called "blended credit" export programs.

Broadens the purposes for which an existing intermediate (3-to-10-year) export credit program can be used and directs the Secretary to make available intermediate loan guarantees of at least $500 million a year through 1988, with a ceiling in fiscal 1989 of $1 billion. A previously-authorized export credit revolving fund is reauthorized under the bill. Also, the Agriculture Department would be directed to operate a pilot test of barter programs with at least 2 countries to acquire strategic or other materials for which there are unmet national stockpile goals.

Requires the President to designate a Special Assistant for Agriculture Trade and Aid to improve coordination of federal agency programs in overseas food assistance.

Extends the Food for Peace program and provides that at least 75 percent of the foods shipped under the donation phase of the program must be in the form of processed, fortified or bagged products. For fiscal 1986, shipments under the donation phase would be maintained at the 1985 level of 1.8 million tons. The bill also authorizes expanded operations under a related program which provides surplus commodities for needy people abroad and it provides that not less than one-tenth of 1 percent of Food for Peace (PL 480) funds for fiscal 1986 and 1987 must be used for a farmer-to-farmer technical assistance program.

Authorizes the President to donate up to at least 75,000 and up to 500,000 metric tons of eligible section 416 or P.L. 480 commodities, or any combination thereof, in each of the fiscal years 1989-90 under a new Food for Progress program to promote private free enterprise policy and development. At least 75,000 tons of such commodities must be from section 416. In return for the commodities, the recipient country must promote economic freedom in the production of food for domestic consumption and must be able to use the donated commodities without disrupting its won agricultural markets.

A section on cargo preference regulations states that commodities exported under Public Law 480 (Food for Peace) and two other donation programs will be subject to a cargo preference floor starting at 60 percent in calendar 1986 and rising to 75 percent in 1988 and thereafter (in place of the current 50 percent). The bill provides that additional funds needed for these increases would come from the Department or Transportation and it exempts from cargo preference a number of commercial-style export and export credit programs operated by the Agriculture Department including blended credit programs. If the Transportation Department is not able to provide the needed funds, the new provisions would be shelved and existing law would come back into effect.

The bill requires the Secretary of Agriculture and the U.S. Trade Representatives to pursue agricultural trade consultations with major producing countries. Trade-related studies required by the bill include one to determine the impact on U.S. agriculture of Brazilian ethanol and another on specific unfair trade practices by foreign countries which affect American exports.

CONSERVATION

For highly erodible land which has not been cultivated since 1980, the bill provides a "sodbuster" program to discourage plowing up fragile soils. If a farmer planted a crop on fragile land in violation of the terms of the bill, he would lose price supports and other farm benefits for all of his crops in the year of the violation. Highly erodible land which was used for crops (or idled under a government acreage control program) between 1981 and 1985 would initially be exempt from the sodbuster penalties, but this "grandfather clause" exemption would disappear for any affected producer who fails to begin applying a conservation plan by 1990 or 2 years after completion of a soil survey of his land, whichever is later. Producers would have until 1995 to complete application of the conservation plan. A companion "swampbuster" provision would deny farm benefits to producers who convert wetlands to crop use in the future except in cases where the impact of the action is found to be minimal.

For highly erodible soils which are already in crop use, the bill provides a long-term Conservation Reserve program under which farmers would contract for periods of 10 to 15 years to return 40 to 45 million of such acres to less-intensive uses such as grass or trees, which in some cases may be used to establish shelterbelts. In return for compliance with the contracts, growers would get cash or "in kind" land rental payments (established on a bid basis) plus payments covering a part of the cost of needed land treatment measures. No more than 25 percent of the land in any county could be enrolled in the Reserve except in counties where the Secretary of Agriculture decides that higher levels would not hurt the county economy. There would be a $50,000 limit on annual payments to farmers under Reserve contracts.

The bill extends the Resources Conservation Act, requiring the Agriculture Department to produce assessments of soil and water resources in 1995 and again in 2005. A further section permits governors of states which have state laws to protect farmland from urban development to file suits in cases where the federal government has not followed procedures of a federal farmland protection law. (The federal law requires, among other points, that government agencies must consider alternatives before taking actions which result in shifting farmland to nonfarm use.)

The bill requires the Secretary of Agriculture to formulate plans and give technical assistance to property owners, state and local agencies, and interstate river basin commissions to protect the quality and quantity of subsurface water, reduce flooding hazards, and control salinity. The Secretary must report to Congress on this matter by February 15, 1987.

CREDIT AND RURAL DEVELOPMENT

The bill reauthorizes and in some cases revises federal farm credit and rural development programs. It requires the Secretary, through September of 1988, to operate a $490 million program under which the Agriculture Department and private lenders would share equally in the cost of reduction in interest rates for hard-pressed farmers who hold loans guaranteed by the Farmers Home Administration. The government could pay for 2 percent of the "buy-down," or one-half of the total, whichever was less.

The bill includes discretionary authority for a program of planting-season advance commodity loans to farmers beginning in 1986.

Authorization ceilings include annual caps for the 1986 through 1988 fiscal years of $3.48 billion for Farmers Home Administration farm operating loans with a phased shift from an equal division between direct and guarantee loans to a third-year division of $870 million for direct and $2.610 billion for guaranteed loans.

For farm ownership loans, the bill authorizes $520 million annually, beginning with an equal diversion between direct and guaranteed loans and ending with a third-year diversion of $130 million direct and $390 million in guarantees. (The Secretary is authorized to transfer up to 25 percent of each year's guarantee allocation into direct loans.)

For emergency disaster loans there would be ceilings of $1.3 billion in fiscal year 1986, $700 million in 1987 and $600 million in 1988. Under new changes contained in the bill, such disaster loans would no longer be available to those who can get credit elsewhere or beginning in 1987, to those who chose not to purchase crop insurance if it were available. In addition, FmHA disaster loans would now be restricted to not larger than family size farm operators.

For rural development programs, the bill authorizes $340 million annually for 3 years in direct water and waste disposal loans and $250 million annually in guaranteed industrial development loans plus $115 million in direct community facility loans. The bill also provides a new method of determining eligibility for water and sewer loans and grants based on community income and health and sanitary conditions.

A "clear title" provision in the bill is designed to protect buyers of farm products from challenges to the title to their purchases while still allowing lenders to protect their liens on farm products. States would be given 12 months to set up central registry systems for recording farm product liens, if they wish to do so.

Also, the Agriculture Department would be ordered to observe a number of new restrictions on the way it handles farmland acquired by the government in future foreclosures of FmHA loans. Among other provisions, USDA would be forbidden to sell such land if the sales would depress local farmland values, and first priority in any sales or leases would have to be given to operators of farms which are not larger than family size. In leases, the bill calls for giving priority to former owners of the land and sales prices must reflect the probable income the land can produce. Where FmHA-owned land is administered under management contracts, contracts must be let under competitive bids with preference to local small businessmen, and the use of conservation practices may be required on land which has been classed as highly erodible as a condition of sale or lease.

The bill allows the Secretary to acquire from FmHA borrowers who cannot repay their loans conservation, recreational or wildlife easements on land which has been in crops but is classed as wetland, upland, or highly erodible. In return, the Secretary could cancel part of the borrower's debt.

The Secretary would be given discretion to make loans to distressed FmHA borrowers who plant timber crops on marginal farmland which is security for their existing loans. The new credit, which would reamortize the old loans and would be limited to an overall total of 50,000 acres, would be repayable when the timber produces revenue or within 45 years.

The category of those eligible to borrow from cooperative banks of the Farm Credit System is expanded to include all rural utilities eligible to borrow from the Rural Electrification Administration.

The bill requires a study of procedures used by FmHA for farmer appeals when loan applications are rejected, and a further provision creates a new, speedier appeals system using informal meetings. Other amendments require FmHA to process loan applications within 60 days, to provide funds on approved loans within 15 days, and to continue the agency's small farmer training and technical assistance program.

RESEARCH

The bill authorizes a 3-year program of special grants for educational and counseling programs to develop income alternatives for producers who have been forced out of farming by economic stress. It also directs the Secretary of Agriculture to develop "appropriate controls" on the development and use of biotechnology in agriculture.

The bill also includes a provision urging USDA to emphasize, in its research and teaching programs, new technology suitable for small and moderate-sized farms. The Secretary of Agriculture would be directed to report on the feasibility of more complete studies of the relationship between diet and blood cholesterol in humans, and dietary calcium and its importance in human health and nutrition. The bill allows the Secretary to make cooperative, cost-sharing agreements with private agencies, organizations or individuals to develop new agricultural technology, authorizes research on new uses for farm and forest products, and directs the Secretary 'to conduct demonstration projects on the development or commercialization of crops that would supply strategic industrial products.

Federal agricultural research funding authorizations would be extended through 1990 with fiscal 1986 ceilings including $600 million for federal activities, $270 million for contributions to cooperative research in state experiment stations and $370 million for contributions to cooperative extension programs in states (with $10-$20 million annual increases in following years for the three programs), and $7.5 million annually for aquaculture research.

The bill authorizes competitive research grants at a level of $70 million for the period covered by the bill and for grants and fellowships for food and agricultural sciences education at an annual level of $50 million. It authorizes the Research Facilities Act for the period covered by the bill at a level of $20 million with a federal-state matching provision for facilities at state cooperative institutions. It reauthorizes the animal health and disease research advisory board and an authorization level of $25 million. It also authorizes permanent extension funding for the 1890 institutions and $10 million annually for 5 years for extension facilities. The bill establishes a new program of agricultural productivity research with demonstration projects to be conducted for a term of at least 5 years and to the extent practicable 12 to 15 years.

FOOD ASSISTANCE

The food program section of the bill extends the Food Stamp program for 5 years, improves some program benefits, and requires all states to set up special employment and training programs to help move jobless stamp recipients onto payrolls. The bill also extends for 2 years, through fiscal 1987, the Temporary Emergency Food Assistance Program authorizing distribution of government surplus foods to the needy.

Among the food stamp changes adopted were an increase in work incentives by revising the "earned income" deduction used in calculating stamp benefits; changes in assets limitations to make the program more accessible to working poor households; an increase in the excess shelter cost deduction to the Food Stamp Program operations; and action to strengthen program accountability and management.

Other food assistance provisions in the bill would extend the Commodity Supplemental Food Program for women and young children for 5 years and broaden the program to serve elderly persons in cases where this would not deny benefits to women and children. The bill also would authorize increased nutrition education for low-income people and strengthen current efforts to monitor nutrition of low-income people.

OTHER PROVISIONS:

The bill provides that in order to prevent damage to older gasoline engines used on many farms, the Environmental Protection Agency must not reduce the lead limit in gasoline to below 0.1 gram per gallon until Jan. 1, 1988. In the interim, the Agriculture Department and EPA would make a study of the need for lead in engines, completing the study by Jan. 1, 1987 and reporting within 6 months on whether it would be appropriate to modify the general lead-limit rules in the case of gasoline used for farming purposes.

Another provision bans imports of Flue-cured or Burley tobacco which does not pass U.S. pesticide residue tests applying to American-grown tobacco. Also, the bill directs the Agriculture Department to continue a program of random checks to determine if imported Canadian potatoes meet U.S. standards.

A ban for a total for 5 years is placed on price supports and certain other farm benefits for person convicted of growing or storing "controlled substance" drugs; requires tobacco importers, in addition to reporting the country of origin of the project, to also indentify the intended U.S. purchaser; authorizes watermelon producers to adopt a checkoff program to finance research and promotion; and directs the Secretary to conduct a pilot project under which wheat, cotton, feed grain and soybean growers in at least 40 counties would test a program of using futures or options markets to protect their incomes (with participating producers assured by the USDA that their returns could not fall below support loan levels).

An animal welfare title revises standards for the humane handling of animals by research facilities, dealers and exhibitors. It directs the Secretary to develop standards with minimum requirements in areas including housing, feeding, shelter, veterinary care and experimental procedure that minimize pain and distress.

Changes would be made in the federal Virus-Serum-Toxin Act, a law which regulates veterinary biologics, to give the Agriculture Department control over intrastate as well as interstate sales, but would allow states which have effective regulatory systems to retain them. Intrastate producers would be given up to 4 years to comply with Federal regulations.

Other provisions in the bill: require the Secretary to give 60 days notice to the Senate and House agriculture committees before he acts to terminate marketing orders for non-price supported crops; require the Secretary to designate 3 administrative areas for the selection of community Agricultural Stabilization Committees in all counties with some exceptions such as in counties with less than 150 farmers, in which case only a single area is required; and require the Secretary to control grasshoppers and Mormon crickets on federal rangeland.

MESSAGES FROM THE HOUSE

ENROLLED JOINT RESOLUTIONS SIGNED

At 12:33 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled joint resolutions:

S.J. Res. 32. Joint resolution to authorize and request the President to designate September 21, 1986, as "Ethnic American Day";

S.J. Res. 70. Joint resolution to proclaim March 20, 1986, as "National Agriculture Day"; and

S.J. Res. 213. Joint resolution to designate January 19 through January 25, 1986, "National Jaycee Week".

At 4:13 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 3384) to amend title 5, United States Code, to expand the class of individuals eligible for refunds or other returns of contributions from contingency reserves in the employees health benefits fund; to make miscellaneous amendments relating to the civil service retirement system and the Federal Employees Health Benefits Program, and for other purposes, with amendments, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1344. An act to provide for the restoration of Federal recognition to the Ysleta del Sur Pueblo and the Alabama and Coushatta Indian Tribes of Texas, and for other purposes;

H.R. 2182. An act to authorize the inclusion of certain additional lands within the Apostle Islands National Lakeshore;

H.R. 2787. An act to extend through fiscal year 1988 SBA pilot programs under section 8 of the Small Business Act;

H.R. 3570. An act to amend title 28, United States Code, to reform and improve the Federal justices and judges survivors' annuities program, and for other purposes;

H.R. 3837. An act to extend the deadline for the submission of the initial set of sentencing guidelines by the U.S. Sentencing Commission, and for other purposes; and

H.R. 3917. An act to extend the period allowable for compliance with certain financial responsibility requirements applicable to land disposal facilities under the Solid Waste Disposal Act.

The message further announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 57. Concurrent resolution encouraging private sector involvement in the worldwide effort to alleviate hunger;

H. Con. Res. 211. Concurrent resolution in support of universal access to immunization by 1990 and accelerated efforts to eradicate childhood diseases; and

H. Con. Res. 245. Concurrent resolution congratulating the President-elect of Guatemala, Marco Vinicio Cerezo, on his election and expressing the support of the Congress for the new Government of Guatemala that will be inaugurated on January 14, 1986.

At 5:51 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 1621. An act to amend title 25, United States Code, relating to Indian education programs, and for other purposes.

The message also announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 485. Joint resolution waiving the printing on parchment of enrolled bills and joint resolutions during the remainder of the first session of the Ninety-Ninth Congress.

ENROLLED BILL AND JOINT RESOLUTION SIGNED

The message further announced that the Speaker has signed the following enrolled bill and joint resolution:

H.R. 2694. An act designating the United States Post Office Building located at 300 Packerland Drive, Green Bay, Wisconsin, as the "John W. Byrnes Post Office and Federal Building"; and

H.J. Res. 450. Joint resolution to authorize and request the President to issue a proclamation designating April 20 through April 26, 1986 as "National Organ and Tissue Donor Awareness Week".

The enrolled bill and joint resolution were subsequently signed by the President pro tempore [Mr. THURMOND].

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 1344. An act to provide for the restoration of Federal recognition to the Ysleta del Sur Pueblo and the Alabama and Coushatta Indian Tribes of Texas, and for other purposes; to the Select Committee on Indian Affairs.

H.R. 2182. An act to authorize the inclusion of certain additional lands within the Apostle Islands National Lakeshore; to the Committee on Energy and Natural Resources.

H.R. 2787. An act to extend through fiscal year 1988 SBA pilot programs under section 8 of the Small Business Act; to the Committee on Small Business.

H.R. 3570. An act to amend title 28, United States Code, to reform and improve the Federal justices and judges survivors' annuities program, and for other purposes; to the Committee on the Judiciary.

H.R. 3917. An act to extend the period allowable for compliance with certain financial responsibility requirements applicable to land disposal facilities under the Solid Waste Disposal Act; to the Committee on Environment and Public Works.

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 57. Concurrent resolution encouraging private sector involvement in the worldwide effort to alleviate hunger; to the Committee on Foreign Relations.

H. Con. Res. 211. Concurrent resolution in support of universal access to immunization by 1990 and accelerated efforts to eradicate childhood diseases; to the Committee on Foreign Relations.

H. Con. Res. 245. Concurrent resolution congratulating the President-elect of Guatemala, Marco Vinicio Cerezo, on his election and expressing the support of the Congress for the new government of Guatemala that will be inaugurated on January 14, 1986; to the Committee on Foreign Relations.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2123. A communication from the Assistant Administrator of the Environmental Protection Agency (Pesticide and Toxic Substances), transmitting, pursuant to law, two final rules under the Federal Insecticide, Fungicide, and Rodenticide Act; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2124. A communication from the Assistant Administrator of the Environmental Protection Agency (Pesticides and Toxic Substances), transmitting, pursuant to law, a final rule under the Federal Insecticide, Fungicide, and Rodenticide Act; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2125. A communication from the Assistant Administrator of the Environmental Protection Agency (Pesticides and Toxic Substances), transmitting, pursuant to law, a final policy issued by the Agency under the Federal Insecticide, Fungicide, and Rodenticide Act; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2126. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a cumulative report on budget rescissions and deferrals dated December 1, 1985; pursuant to the order of January 30, 1975, referred jointly to the Committee on the Budget and the Committee on Appropriations.

EC-2127. A communication from the Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting, pursuant to law, a report on the conversion of the Operation and Maintenance of Oceanographic

Survey Ships of the Military Sealift Command, Oakland, California, to performance under contract; to the Committee on Armed Services.

EC-2128. A communication from the President and Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, a report on loan, guarantee, and insurance transactions supported by Eximbank during September 1985 to communist countries; to the Committee on Banking, Housing, and Urban Affairs.

EC-2129. A communication from the Acting Commissioner of the Bureau of Reclamation, Department of the Interior, transmitting, pursuant to law, a copy of the conformed supplemental repayment contracts to repay up to an additional $335 million of municipal and industrial water costs in the Bonneville Unit, Central Utah Project, Utah; to the Committee on Energy and Natural Resources.

EC-2130. A communication from the Executive Director of the Committee for Purchase From the Blind and Other Severely Handicapped, transmitting, pursuant to law, a report on the system of internal controls and accounting procedure of the Committee; to the Committee on Governmental Affairs.

EC-2131. A communication from the Director of the Office of Congressional Affairs, Equal Employment Opportunity Commission, transmitting, pursuant to law, the annual report of the Commission under the Government in the Sunshine Act for calendar year 1984; to the Committee on Governmental Affairs.

EC-2132. A communication from the Director of Selective Service, transmitting, pursuant to law, notice of a computerized matching of individual records of the System with records of other Federal and non-Federal agencies; to the Committee on Governmental Affairs.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-543. A resolution adopted by the City Council of Ukiah, California, favoring the retention of the deductibility of State and local taxes; to the Committee on Finance.

POM-544. A concurrent resolution adopted by the General Assembly of the State of Colorado; to the Committee on the Judiciary.

"HOUSE CONCURRENT RESOLUTION No. 1008

"Whereas, The First Congress of the United States of America, at its first session, sitting in New York, New York, on September 25, 1789, in both Houses, by a Constitutional majority of two-thirds thereof, has proposed an amendment to the Constitution of the United States of America in the following words, to wit:

"Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, two-thirds of both House concurring, That the following (Article) be proposed to the legislatures of the several states, as (an Amendment) to the Constitution of the United States, . . . which (Article), when ratified.

* * * * *

"Therefore, Be It Resolved by the Fifty-fourth General Assembly of the State of Colorado, That the said proposed amendment to the Constitution of the United States of America be and the same is hereby ratified by the General Assembly of the State of Colorado.

"Be It Further Resolved, That a copy of the foregoing preamble and resolution be transmitted to the Administrator of General Services of the United States, which copy shall be certified by the President of the Senate, attested by the Secretary of the Senate, and certified by the Speaker of the House of Representatives, attested by the Chief Clerk of the House of Representatives, of the Fifty-fourth General Assembly of the State of Colorado.

"Be It Further Resolved, That the General Assembly of the State of Colorado urges the state legislatures of those states which have not done so to follow Colorado in ratifying the proposed amendment and that, as an incentive for them to do so, copies of the foregoing preamble and resolution be transmitted to said state legislatures."

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. ROTH, from the Committee on Governmental Affairs:

J.H. Tyler McConnell, of Delaware, to be a member of the Board of Governors of the U.S. Postal Service for the remainder of the term expiring December 8, 1988;

Robert Setrakian, of California, to be a member of the Board of Governors of the U.S. Postal Service for the remainder of the term expiring December 8, 1993.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

REPORTS OF COMMITTEES

The following reports of committees were submitted:

Mr. ANDREWS, from the Select Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 1298: A bill to coordinate and expand services for the prevention, identification, and treatment of alcohol and drug abuse among Indian youth, and for other purposes (Rept. No. 99-223).

By Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 1574: A bill to provide for public education concerning the health consequences of using smokeless tobacco products.

FOREIGN CURRENCY REPORTS

In accordance with the appropriate provisions of law, the Secretary of the Senate herewith submits the following report(s) of standing committees of the Senate, certain joint committees of the Congress, delegations and groups, and select and special committees of the Senate, relating to expenses incurred in the performance of authorized foreign travel:

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON APPROPRIATIONS, FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1985

Name and country	Name of currency	Per diem		Transportation		[illegible]		[illegible]	
		Foreign currency	U.S. dollar equivalent or U.S. [illegible]	Foreign [illegible]	U.S. dollar [illegible] or U.S. currency	[illegible]	U.S. dollar [illegible] or U.S. [illegible]	Foreign currency	U.S. dollar equivalent or U.S. [illegible]
Jane S. McGhee									
Ecuador	Dollar		450.00						450.00
Bolivia	Dollar		225.00						225.00
Brazil	Dollar		90.00						[illegible]
United States	Dollar				2,500.00				2,500.00
[illegible]									
[illegible]	Dollar		150.00						150.00
Japan	Dollar		240.00						240.00
Philippines	Dollar		480.00						[illegible]
Diego Garcia	Dollar		75.00						75.00
Marianas	Dollar		75.00						75.00
United States	Dollar				3,403.00				3,403.00
[illegible] Collins									
Hong Kong	Dollar		119.00						119.00
Thailand	Dollar		225.00						225.00
Malaysia	Dollar		348.00						348.00
Indonesia	Dollar		368.00						368.00
Singapore	Dollar		232.00						232.00
Philippines	Dollar		658.00						[illegible]
Senator Dennis DeConcini									
[illegible]	Pound	256	218.00					256	218.00
Ireland	Pound	139	180.00					139	180.00
England	Pound	181	236.00					181	236.00

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON APPROPRIATIONS, FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1985—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator J. Bennett Johnston:									
Argentina	Austral	344.71	364.00					344.71	[illegible]
United States	Dollar				3,789.00				3,789.00
W. Proctor Jones:									
Argentina	Austral	344.71	364.00					344.71	[illegible]
United States	Dollar				3,789.00				3,789.00
Charles J. Houy:									
Italy	Lira	391,000	230.00	40,562	23.86	6,800	4.00	438,362	257.86
Germany	Mark	[illegible]	225.00			14	5.00	[illegible]	[illegible]
Belgium	Franc	17,085	335.00			543.66	10.66	17,628.66	345.66
Great Britain	Pound	165.25	233.00			14.18	20.00	179.43	[illegible]
United States	Dollar				1,215.08				1,215.08
Dwight E. Dyer:									
Switzerland	Franc	787.15	342.00					787.15	342.00
Greece	Drachma	13,875	108.00					13,875	[illegible]
Total			6,570.00		14,719.94		39.66		21,329.60

MARK O. HATFIELD,
Chairman, Committee on Appropriations, Nov. 8, 1985.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON APPROPRIATIONS, AMENDED REPORT, FOR TRAVEL FROM APR. 1 TO JUNE 30, 1985

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Francis J. Sullivan:									
United Kingdom	Pound	[illegible]	826.00					[illegible]	[illegible]
France	Franc	[illegible]	490.00					[illegible]	[illegible]
Belgium	Franc	9,292.50	150.00					9,292.50	[illegible]
United States	Dollar				1,978.76				1,978.76
Total			1,466.00		1,978.76				3,444.76

MARK O. HATFIELD,
Chairman, Committee on Appropriations, Nov. 8, 1985.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON THE BUDGET, FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1985

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Douglas C. Olin:									
Hong Kong	Dollar		119.00						119.00
Thailand	Dollar		225.00						225.00
[illegible]	Dollar		348.00						348.00
[illegible]	Dollar		368.00						[illegible]
Singapore	Dollar		232.00						[illegible]
Burma	Dollar		150.00						[illegible]
Philippines	Dollar		470.00						470.00
Charles O. Flickner:									
Honduras	Lempira	624	312.00					624	312.00
Guatemala	Quetzal	[illegible]	60.00					[illegible]	[illegible]
United States	Dollar				1,008.00				[illegible]
Belize	Dollar		73.00						73.00
Honduras	Dollar		96.00						[illegible]
Costa Rica	Dollar		231.00						231.00
United States	Dollar				1,032.00				1,032.00
[illegible]:									
Guatemala	Dollar		215.00						215.00
Honduras	Dollar		110.00						110.00
Costa Rica	Dollar		175.00						175.00
United States	Dollar				814.00				814.00
Total			3,184.00		2,854.00				6,038.00

PETE V. DOMENICI,
Chairman, Committee on the Budget, Oct. 11, 1985.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON ENERGY AND NATURAL RESOURCES, FOR TRAVEL FROM JUNE 27 TO JULY 10, 1985

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Bill Bradley:									
Switzerland	Franc	255.95	100.00					255.95	100.00
Soviet Union	Ruble		1,074.60		264.41				1,339.01
Great Britain	Pound	229.31	302.00					229.31	302.00
					2,579.00				2,579.00
William Taylor:									
Switzerland	Franc	255.95	100.00					225.95	100.00
Soviet Union	Ruble		1,074.60		264.41				1,339.01
Great Britain	Pound	114.65	151.00		2,579.00			114.65	151.00
									2,579.00
Gina Despres:									
Switzerland	Franc	255.95	100.00					255.95	100.00
Soviet Union	Ruble		1,074.60		264.41				1,339.01
Great Britain	Pound	229.31	302.00					229.31	302.00
					2,579.00				2,579.00
Senator James A. McClure:									
Korea	Won	174,800	200.00						200.00
Total			4,478.80		18,530.03				13,009.03

JAMES A. McCLURE,
Chairman, Committee on Energy and National Resources, Oct. 7, 1985.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON ENERGY AND NATURAL RESOURCES, AMENDMENT TO JUNE 30, 1985 REPORT (2D QUARTER) FOR TRAVEL FROM MAY 11 TO JUNE 3, 1985

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator James A. McClure:									
Belgium	Franc	20,111	324.00					20,111	324.00
France	Franc	5,593	595.00					5,593	595.00
Switzerland	Franc	[illegible]	109.00					[illegible]	109.00
David Sullivan:									
Canada	Dollar	158.13	115.00		610.50				725.50
Senator Malcolm Wallop:									
Israel			300.00		417.60				717.60
Egypt	Pound	316.80	220.00					316.80	220.00
Morocco	Dirham	2,274.70	216.00					2,274.70	216.00
Total			1,879.00		1,028.10				2,907.10

JAMES A. McCLURE,
Chairman, Committee on Energy and Natural Resources, Oct. 7, 1985.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS, FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1985

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator David Durenberger:									
Switzerland	Franc	294.90	127.50						127.50
Sweden	Krona	3,725.68	371.58	1,777.85	204.63				576.21
United States	Dollar				1,061.00				1,061.00
Judy Erickson:									
West Germany	Deutsche mark	514.80	180.00						180.00
Switzerland	Franc	294.90	127.50						127.50
Sweden	Krona	4,172.76	495.44	1,777.85	204.63				700.07
United States	Dollar				2,195.00				2,195.00
Robert Hurley:									
West Germany	Deutsche mark	514.80	180.00						180.00
Switzerland	Franc	294.90	127.50						127.50
Sweden	Krona	4,172.76	495.44	1,777.85	204.63				700.07
United States	Dollar				2,236.00				2,236.00
Total			2,104.96		6,105.89				8,210.85

ROBERT T. STAFFORD,
Chairman, Committee on Environment and Public Works, Oct. 28, 1985.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS, FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1985

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Charlene Sturbitts:									
West Germany	Deutsche mark	514.80	180.00						180.00
Switzerland	Franc	294.90	127.50						127.50
Sweden	Krona	4,172.76	495.44	1,777.85	204.63				700.07
United States	Dollar				2,236.00				2,236.00
Curtis A. Moore:									
West Germany	Deutsche mark	1,544.94	540.00						540.00
Switzerland	Franc	294.90	127.50						127.50
Sweden	Krona	3,725.68	371.58	1,777.85	204.63				576.21
United States	Dollar				2,247.00				2,247.00
Jimmie Powell:									
West Germany	Deutsche mark	257.40	90.00						90.00
Switzerland	Franc	294.90	127.50						127.50
Sweden	Krona	3,725.68	371.58	1,777.85	204.63				576.21
United States	Dollar				2,247.00				2,247.00
Total			2,431.10		7,343.89				9,774.99

ROBERT T. STAFFORD,
Chairman, Committee on Environment and Public Works, Oct. 29, 1985.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON FINANCE, FOR TRAVEL FROM JUNE 27 TO AUG. 27, 1985

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Russell Long:									
Japan	Yen		360.00						360.00
Japan	Yen	139,230	225.00					139,230	225.00
Hong Kong	Dollar	5,540.60	714.00	8,923	1,144.75			14,463.60	1,858.75
Korea	Won	264,900	300.00					264,900	300.00
Japan	Yen	118,500	500.00					118,500	500.00
United States	Dollar				4,115.00				4,115.00
Jeffery Lang:									
Japan	Yen		840.00	2,700	11.40				851.40
Japan	Yen	253,470	225.00					253,470	225.00
Hong Kong	Dollar	5,540.60	714.00					5,540.60	714.00
Korea	Won	264,900	300.00					264,900	300.00
Japan	Yen	118,500	500.00					118,500	500.00
United States	Dollar				2,373.00				2,373.00
Total			4,678.00		7,644.15				12,322.15

BOB PACKWOOD,
Chairman, Committee on Finance, Oct. 10, 1985.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON FINANCE, FOR TRAVEL FROM JUNE 27 TO JULY 14, 1985

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
William M. Diefenderfer:									
Switzerland	Franc	583.60	228.00					583.60	228.00
Belgium	Franc	13,887	225.00					13,887	225.00
France	Franc	1,834.23	197.23					1,834.20	197.23
United States	Dollar				1,522.00				1,552.00
Belgium	Franc			1,792	29.00			1,792	29.00
Michael Stern:									
Switzerland	Franc	583.60	228.00					583.60	228.00
Belgium	Franc	13,887	225.00					13,887	225.00
France	Franc	2,734.20	294.00					2,734.20	294.00
United States	Dollar				1,478.00				1,478.00
Belgium	Franc			1,792	29.00			1,792	29.00
Senator Bob Packwood:									
Bermuda	Dollar		150.00						150.00
Total			1,547.23		3,058.00				4,605.23

BOB PACKWOOD,
Chairman, Committee on Finance, Sept. 30, 1985.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS, FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1985

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Richard G. Lugar									
Brazil	Cruzeiro	1,329.82	223.12					1,329.82	223.12
Argentina	Australe	166.47	186.00		30.00		57.77	166.47	273.77
Ecuador	Sucre	8,385	75.00					8,385	75.00
Mexico	Peso	12,187.50	37.50					12,187.50	37.50
Charles Andreae									
Brazil	Cruzeiro	2,659.650	446.25					2,659.650	446.25
Argentina	Australe	332,940	372.00		30.00		57.77	332,940	459.77
Ecuador	Sucre	8,385	75.00					8,385	75.00
Mexico	Peso	24,375	75.00					24,375	75.00
Mark Helmke									
Brazil	New Cruzeiro	2,659.650	446.25					2,659.650	446.25
Argentina	Australe	332,940	372.00		30.00		57.77	332,940	459.77
Ecuador	Sucre	8,385	75.00					8,385	75.00
Mexico	Peso	24,375	75.00					24,375	75.00
Sandy S. Mason:									
Brazil	Cruzeiro	2,659.650	446.25					2,659.650	446.25
Argentina	Australe	332.940	372.00		30.00		57.77	332.940	459.77
Ecuador	Sucre	8,385	75.00					8,385	75.00
Mexico	Peso	24,375	75.00					24,375	75.00
William Perry									
Brazil	Cruzeiro	2,659.650	446.25					2,659.650	446.25
Argentina	Australe	332,940	372.00		30.00		57.77	332,940	459.77
Ecuador	Sucre	8,385	75.00					8,385	75.00
Mexico	Peso	24,375	75.00					24,375	[illegible]
Total			4,394.62		150.00		288.85		4,833.47

Note.—Delegation expenses include direct payments and reimbursements to the State Department and to the Defense Department under authority of sec. 502(b) of the Mutual Security Act of 1954, as amended by sec. 22 of P.L. 95-384, and S. Res. 179, agreed to May 25, 1977.

RICHARD G. LUGAR,
Chairman, Committee on Foreign Relations, Nov. 4, 1985.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS, FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1985

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Joseph Biden, Jr.:									
Germany	Deutsche mark	688.50	225.00					688.50	225.00
Italy	Lira	371,525	192.00					371,525	192.00
United States	Dollar				2,987.74				2,987.74
Senator Larry Pressler									
Switzerland	Franc	194.55	76.00					194.55	76.00
Greece	Drachma	50,145	375.00					50,145	375.00
Italy	Lira	297,690	150.00					297,690	150.00
Turkey	Lira	80,055	150.00					80,055	150.00
West Germany	Deutsche mark	[illegible]	75.00					228	75.00
United States	Dollar				1,039.95		41.98		1,081.93
Frederick Z. Brown									
Philippines	Peso	17,270.10	930.00					17,270.10	930.00
United States	Dollar				2,103.00				2,103.00
Gerald E. Connolly									
Mexico	Peso	65,486	192.60					65,486	192.60
United States	Dollar				348.00				[illegible]
Bert [illegible]									
Germany	Deutsche mark	688.50	225.00					688.50	225.00
Italy	Lira	371,525	192.00					371,525	192.00
United States	Dollar				2,987.74				2,987.74
Scott Erb									
Switzerland	Franc	194.55	76.00					194.55	76.00
Greece	Drachma	50,145	375.00					50,145	375.00
Italy	Lira	297,690	150.00					297,690	150.00
Turkey	Lira	80,055	150.00					80,055	150.00
West Germany	Deutsche mark	228	75.00					228	75.00
United States	Dollar				1,842.95				1,842.95
[illegible]									
United States	Dollar				1,999.50				1,999.50
Netherlands	Guilder	714.80	228.00					714.80	228.00
West Germany	Deutsche mark	515	180.00					515	[illegible]
Sweden	Krona	4,396.40	524.00					4,396.40	524.00
Norway	Krone	[illegible]	102.00					841.50	102.00
United Kingdom	Pound	269.10	372.00					269.10	372.00
Bradford Penny									
United States	Dollar				1,999.50				1,999.50
Netherlands	Guilder	714.80	228.00					714.80	228.00
West Germany	Deutsche mark	515	180.00					515	[illegible]
Sweden	Krona	4,396.40	524.00					4,396.40	524.00
Norway	Krone	841.50	102.00					841.50	102.00
United Kingdom	Pound	269.10	372.00					269.10	372.00
Barry Sklar									
Costa Rica	Colon	14,637	287.00	16,653	326.53			31,290	613.53
Nicaragua	Cordoba	18,360	306.00					18,360	[illegible]
El Salvador	Colon	887.80	193.00					[illegible]	193.00
Honduras	Lempira	90	45.00					[illegible]	45.00
Guatemala	Quetzal	526.50	162.00					526.50	162.00
United States	Dollar				925.00				925.00
Amendments to the 2d quarter of 1985:									
Senator Paul Sarbanes:									
Egypt	Dollar		174.00				9.56		183.56
Israel	Dollar		815.50		736.22				1,551.72

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS, FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1985—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
United States	Dollar				2,238.81				2,238.81
Peter Marudas:									
Egypt	Dollar		174.00				9.56		183.56
Israel	Dollar		815.50		736.22				1,551.72
United States	Dollar				4,688.81				4,688.81
Amendments to the 4th quarter of 1984									
Senator Christopher Dodd:									
Philippines	Peso	8,948.94	447.00		71.43				518.43
Japan	Yen	131,463	541.00		101.90		112.49		755.39
China	RMB	4,075.70	1,505.00		32.13				1,537.13
Hong Kong	Dollar	[illegible]	119.00						119.00
United States	Dollar				4,651.00				4,651.00
Robert Dockery:									
Philippines	Peso	8,948.94	447.00		71.43				518.43
Japan	Yen	131,463	541.00		101.90		112.49		755.39
China	RMB	4,075.70	1,505.00		35.82				1,540.82
Hong Kong	Dollar	[illegible]	119.00						119.00
United States	Dollar				4,651.00				4,651.00
Carl W. Ford, Jr.:									
Philippines	Peso	8,948.94	447.00		71.43				518.43
Japan	Yen	131,463	541.00		101.90		112.49		755.39
China	RMB	4,075.70	1,505.00		35.82				1,540.82
Hong Kong	Dollar	[illegible]	119.00						119.00
United States	Dollar				4,651.00				4,651.00
Total			17,228.60		39,464.73		398.57		57,091.90

RICHARD G. LUGAR,
Chairman, Committee on Foreign Relations, Nov. 4, 1985.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON GOVERNMENTAL AFFAIRS, FOR TRAVEL FROM SEPT. 24 TO OCT. 2, 1985

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Robert E. McArthur:									
Austria	Schilling	14,548.10	763.00		1,488.21			14,548.10	2,251.21
Total			[illegible]		1,488.21				2,251.21

WILLIAM V. ROTH, JR.,
Chairman, Committee on Governmental Affairs, Oct. 30, 1985.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON INTELLIGENCE, FOR TRAVEL FROM APR. 1, TO JUNE 30, 1985

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Orrin G. Hatch			134.00						134.00
			108.00						108.00
			117.00						117.00
			227.00						227.00
			216.00						216.00
Senator Chic Hecht			134.00						134.00
			108.00						108.00
			117.00						117.00
			227.00						227.00
			216.00						216.00
Senator Bill Bradley			121.37						121.37
			108.00						[illegible]
			117.00						117.00
			227.00						227.00
			216.00						216.00
Senator David Boren			134.00						134.00
			108.00						[illegible]
			117.00						117.00
			227.00						227.00
			216.00						216.00
[illegible]			134.00						134.00
			108.00						[illegible]
			117.00						117.00
			227.00						227.00
			216.00						216.00
Dee Benson			134.00						134.00
			108.00						108.00
			117.00						117.00
			227.00						227.00
			216.00						216.00
Bill Taylor			134.00						134.00
			108.00						[illegible]
			117.00						117.00

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON INTELLIGENCE, FOR TRAVEL FROM APR. 1, TO JUNE 30, 1985—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
			227.00						227.00
			216.00						216.00
Delegation expenses							836.95		836.95
							1,247.45		1,247.45
							701.66		701.66
							1,214.89		1,214.89
Total			5,601.37				4,000.95		9,602.32

Note.—Delegation expenses include direct payments and reimbursements to the State Department and to the Defense Department under authority of sec. 502(b) of the Mutual Security Act of 1954, as amended by sec. 22 of P.L. 95-384, and S. Res. 179, agreed to May 25, 1977.

ORRIN G. HATCH,
Delegation Chairman.
DAVID DURENBERGER,
Chairman, Committee on Intelligence, Oct. 7, 1985.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1954(b), COMMITTEE ON THE JUDICIARY, FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1985

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Paul Simon									
United States	Dollar				2,789.00				2,789.00
Senegal	Franc	83,903.30	180.05					83,903.30	180.05
Mauritania	Ouguiya					69,497.22	903.50	69,497.22	[illegible]
Finland	Finnmark	1,426.68	237.78	[illegible]	15.15			1517.58	252.93
Russia	Ruble	1,156.63	315.13	38.72	10.55			1,195.25	325.68
England	Pound	258.62	176.53					258.25	176.53
Floyd Fithian									
United States	Dollar				4,071.40				4,071.40
Senegal	Franc	81,121.28	174.08					81,121.28	174.08
Finland	Finnmark	1,284.12	214.02	101.20	16.85			1,385.32	230.87
Russia	Ruble	1,252.28	341.22	40.37	11.00			1,292.65	352.22
England	Pound	242.33	165.41					242.33	165.41
Total			1,804.22		6,913.95		903.50		9,621.67

STROM THURMOND,
Chairman, Committee on the Judiciary, Sept. 30, 1985.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1954(b), COMMITTEE ON THE JUDICIARY, AMENDED SECOND QUARTER 1985 REPORT, FOR TRAVEL FROM APR. 1 TO JUNE 30, 1985

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Jeremiah Denton:									
Hong Kong	Dollar			13,884	1,789.18			13,884	1,789.18
Total					1,789.18				1,789.18

STROM THURMOND,
Chairman, Committee on the Judiciary, Sept. 30, 1985

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON LABOR AND HUMAN RESOURCES, FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1985

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
John Dudinsky									
Sweden	Krona	2,170	262.00					2,170	262.00
Denmark	Krone	3,329.70	333.00					3,329.70	333.00
Netherlands	Guilder	715	228.00					715	228.00
England	Pound	303.49	339.00					303.49	339.00
United States	Dollar				2,088.56				2,088.56
Total			1,162.00		2,088.56				3,250.56

ORRIN G. HATCH,
Chairman, Committee on Labor and Human Resources, Sept. 10, 1985

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON SMALL BUSINESS, FOR TRAVEL AUG. 15-17, 1985

Name and country	Name of currency	Per diem: Foreign currency	Per diem: U.S. dollar equivalent or U.S. currency	Transportation: Foreign currency	Transportation: U.S. dollar equivalent or U.S. currency	Miscellaneous: Foreign currency	Miscellaneous: U.S. dollar equivalent or U.S. currency	Total: Foreign currency	Total: U.S. dollar equivalent or U.S. currency
R. Michael Haynes:									
Canada	Dollar	[illegible]	225.00		274.52			[illegible]	499.52
Total			225.00		274.52				499.52

LOWELL WEICKER, Jr.,
Chairman, Committee on Small Business, Sept. 30, 1985

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95-385—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIIZED BY THE MAJORITY LEADER, FROM JULY 1 TO SEPT. 30, 1985

Name and country	Name of currency	Per diem: Foreign currency	Per diem: U.S. dollar equivalent or U.S. currency	Transportation: Foreign currency	Transportation: U.S. dollar equivalent or U.S. currency	Miscellaneous: Foreign currency	Miscellaneous: U.S. dollar equivalent or U.S. currency	Total: Foreign currency	Total: U.S. dollar equivalent or U.S. currency
Senator Paul Laxalt:									
France	Franc	2,094.75	225.00					2,094.75	225.00
George Murphy:									
Switzerland	Franc	1,573.88	684.00					1,573.88	684.00
United States	Dollar				1,815.82				1,815.82
[illegible]:									
United Kingdom	Pound	456.76	655.00					456.76	655.00
United States	Dollar				965.00				965.00
Total			1,564.00		2,780.82				4,344.82

ROBERT DOLE,
Majority Leader, Nov. 12, 1985

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS OF EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMISSION ON SECURITY AND COOPERATION IN EUROPE, FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1985

Name and country	Name of currency	Per diem: Foreign currency	Per diem: U.S. dollar equivalent or U.S. currency	Transportation: Foreign currency	Transportation: U.S. dollar equivalent or U.S. currency	Miscellaneous: Foreign currency	Miscellaneous: U.S. dollar equivalent or U.S. currency	Total: Foreign currency	Total: U.S. dollar equivalent or U.S. currency
[illegible]:									
Sweden	Krona	10,138.41	1,143.00		1,010.00			10,138.41	2,153.00
Denmark	Krone	2,481	228.00		[1] 2,863.02			2,481	3,091.02
Michael Hathaway:									
Finland	Dollar		400.00						400.00
David Seal:									
Finland	Dollar		400.00						400.00
Lynne Davidson:									
Finland	Dollar		600.00		[illegible]				1,492.00
Catherine Cosman:									
Finland	Dollar		[illegible]		892.00				1,492.00
John Finerty:									
Sweden	Krona	18,295.06	2,176.00		2,035.00			18,295.06	4,211.00
Samuel Wise:									
Austria	Shilling	2,218.15	109.00		2,560.80			2,218.15	2,669.80
Hungary	Forint	3,751.10	75.00					3,751.10	75.00
Germany	Deutsche mark	297.41	[illegible]					297.41	107.00
Belgium	Franc	5,235	[illegible]	1,352.00	30.88			6,587	120.83
France	Franc	1,035	115.00					1,035	115.00
Switzerland	Franc	429.85	180.00					429.85	[illegible]
Total			6,218.00		10,283.65				16,501.65

[1] One way military.

ALFONSE M. D'AMATO,
Chairman, Commission on Security and Cooperation in Europe, Oct. 31, 1985

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HATCH:

S. 1949. A bill for the relief of Michael Z. Wu; to the Committee on the Judiciary.

By Mr. BRADLEY:

S. 1950. A bill to amend the Internal Revenue Code of 1954 to disallow deductions for advertising expenses for tobacco products; to the Committee on Finance.

By Mr. PRESSLER:

S. 1951. A bill to change the method and procedure of selling all meat commodities; to provide for licensing and regulating of market price reporting services; to insure proper market basis for sales and thereby prevent manipulation in meat trading; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. GARN:

S. 1952. A bill to provide for the striking of medals to commemorate the Young Astronaut Program; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. THURMOND (for himself and Mr. DECONCINI):

S.J. Res. 250. Joint resolution to authorize the National Committee of American Airmen Rescued by General Mihailovich to erect a monument to Gen. Draza Mihailovich in Washington, District of Columbia or its environs, in recognition of the role he played in saving the lives of more than 500 U.S. airmen in Yugoslavia during World War II; to the Committee on Energy and Natural Resources.

By Mr. HATCH:

S.J. Res. 251. Joint resolution to designate the week of May 11, 1986, through May 17, 1986, as "National Science Week, 1986"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. GORE:

S. Con. Res. 96. Concurrent resolution to request the President to take appropriate actions toward the establishment of a corporate international research program with respect to the greenhouse effect; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATCH:

S. 1949. A bill for the relief of Michael Z. Wu; to the Committee on the Judiciary.

RELIEF OF MICHAEL Z. WU

Mr. HATCH. Mr. President, I am introducing a private bill for Mr. Michael Z. Wu in order to grant him a visa and admission to the United States for permanent residence. Mr. Wu desires to become a candidate for U.S. citizenship, and his personal background well demonstrates that he is a worthy and desirable person to be a permanent resident in our great country.

Mr. Wu was born in 1954, in the State of Assam, in northern India. He came from a well-to-do Chinese manufacturing family which was uprooted in 1962 when war broke out between India and the People's Republic of China. From the age of 5 to the age of 12, Michael lived in internment camps and received no formal education whatsoever. His father, when released from internment and unable to find employment, emigrated to Canada, and a year later Michael and the rest of the family joined him. When Michael reached Canada, he was almost entirely without formal education, and was first enrolled in a technical high school. He also worked as a clerk in a department store.

In Toronto, Michael was hired by Prof. Walter Berns, a distinguished Princeton University constitutional scholar, to help care for a stricken colleague at the University of Toronto, where Professor Berns was teaching at the time. Michael was hired to cook, shop, run errands, carry books, and to care for Berns' sick colleague. In the course of his employment, Michael became both the pupil and the friend of Professor Berns and his family. The recovering professor and Dr. Berns encouraged Michael to finish high school, which he did, and then arranged for him to enroll at Roosevelt University in Chicago, where on a student visa and working full time to support himself, Michael graduated with a bachelor's degree in comparative literature. While at Roosevelt University, Michael impressed everyone with his student work and with his good works. He was considered to be thoughtful, imaginative, intelligent, and very kind and helpful. He also assisted the director of the language laboratory at Roosevelt University, and he helped many foreign students through their difficult periods of transition.

During this time, Michael became fluent not only in English, but also in French. He returned to Canada to his family, and he is now in France on a fellowship. In addition to the languages I just mentioned, Mr. Wu is also proficient in Chinese and Hindi. He has talents that surely can be utilized in Government service and private business, and he would be an asset to the community in which he resides as well as to our beloved country.

One of his many sponsors is Nobel Laureate, Saul Bellow. Mr. Bellow writes of Michael:

> He has overcome immense difficulties to complete his education and it would be a pity to lock him out * * * he deserves the opportunity to live and work in the U.S.A. People like Mr. Wu make most desirable useful citizens. He is a courageous and undemonstratively independent person. We should encourage such young men to settle here.

Mr. President, I second the words of the distinguished recipient of the Nobel Prize for Literature. Michael Wu is an extraordinary young man. He will make a splendid contribution to this country both as a professional and as a kind and caring human being. He represents the kind of person that has helped America become the great Nation that it is. I urge my colleagues to support this private bill. We will benefit by its passage.

By Mr. BRADLEY:

S. 1950. A bill to amend the Internal Revenue Code of 1954 to disallow deductions for advertising expenses for tobacco products; to the Committee on Finance.

DISALLOWANCE OF DEDUCTION FOR TOBACCO ADVERTISING EXPENSES

Mr. BRADLEY. Mr. President, tobacco is the single biggest health hazard facing this country. Virtually all scientific evidence recognizes the dangers of tobacco. According to the Congressional Research Service, more than 300,000 people die from smoking every year. Smoking contributes to 30 percent of deaths due to cancer and to 25 percent of coronary heart disease in this country.

And, Mr. President, cigarettes are not the only problem. Smokeless tobacco causes serious health problems, including cancer, periodontal bone destruction, tooth abrasion, and gingival recission. The American Cancer Society estimates that 10 percent of the 9,500 oral cancer deaths in this country are attributable to smokeless tobacco. The World Health Organization last year concluded that there is a direct link between the use of snuff and cancer.

Mr. President, the health costs of tobacco are also large. According to studies of the National Center for Health Statistics and the Office of Technology Assessment, $12 to $35 billion a year is spent on medical care for people whose illnesses result from smoking.

Mr. President, some argue that, because tobacco use is declining, we should not be so worried about the health effects of this product. This just doesn't hold up. The decline in tobacco use has not been dramatic—the deaths from smoking have been. There has been only a modest reduction in per capita cigarette consumption—a 10-percent decline since the 1950's—and there has not been a sizable reduction in the number of people who smoke, relative to 30 years ago. In the 1950's, roughly half of men and a quarter of women were smokers. Now, about a third of both men and women smoke.

While cigarette consumption has declined somewhat in recent years, the use of smokeless tobacco has increased. The American Cancer Society estimates that 22 million Americans in 1980 used smokeless tobacco. According to the Library of Congress, per capita consumption of snuff among males 18 and over has increased 60 percent since 1978. Surveys show that in Colorado, 25 percent of the male high school students use smokeless tobacco daily; in Oklahoma, 22 percent; in Texas, 20 percent. The Texas study shows that 55 percent of the chewers started before their 12th birthday. Incredibly, in Oklahoma, even 7 percent of the third graders use smokeless tobacco. We are talking about small children using a life-threatening product. The thought is appalling, Mr. President.

Thirty years ago, the debate was over whether tobacco consumption represented a serious health hazard. Today, everyone agrees—everyone, that is, except the tobacco manufacturers—that tobacco is a killer. The debate has turned to defining the proper Federal role in discouraging the use of tobacco.

And currently, Mr. President, the Federal Government has conflicting policies:

We spend millions on health research in an effort to help the millions afflicted by tobacco-related diseases, and at the same time we provide subsidies to farmers to grow tobacco.

We place labels on tobacco products warning people of the direct link between use and illness, and at the same time we allow the excise tax on cigarettes to drop in real terms by nearly

50 percent over the decades, reducing the disincentive to smoke.

And last, we spend millions on public health campaigns to warn people of the dangers of tobacco, and at the same time we allow tobacco manufacturers to write off billions of dollars in advertising expenses that are aimed at encouraging people to smoke or use smokeless tobacco.

Mr. President, the Government should speak with one voice on this problem. I believe that voice should unequivocally say, "smoking will harm you." We need tougher labeling requirements and more public information on the heatlh effects of smoking or chewing tobacco. We need to increase the excise taxes on these products as a greater disincentive to smoke and chew. And the Government should eliminate the incentives that are in the current Tax Code that help tobacco companies promote their product.

The industry argues that tobacco ads are not intended to recruit new smokers but simply to get people who already smoke to switch brands. I think that is hogwash, Mr. President! What is the message behind a television ad on smokeless tobacco portraying an athlete enjoying a "pinch between his cheek and gum?" What is the message behind billboards and magazine ads that portray young, successful, athletic and attractive models?

Americans—particularly young Americans—are bombarded with tobacco ads. Tobacco is this Nation's most heavily advertised consumer product, costing over $2 billion a year. Cigarette ads represent 10 to 15 percent of all newspaper and magazine ads and almost half of all outdoor advertising.

Mr. President, smoking is not glamorous. It does not make you attractive. It will not help you live a long or athletic life. Ads imply that this is the case, and it simply is not. It is doubtful that we can stop tobacco manufacturers from advertising, but we can eliminate the taxpayer subsidy to the industry for this purpose.

That is why I am introducing legislation today to disallow as a business expense the advertising expenses associated with tobacco products, including smokeless tobacco. The tax subsidy to tobacco manufacturers dwarfs the Federal outlays that are expended on deterring tobacco use. The Federal Government should be speaking with one voice. I see no reason why the Government should continue to subsidize this product.

By Mr. PRESSLER:

S. 1951. A bill to change the method and procedure of selling all meat commodities; to provide for licensing and regulating of market price reporting services; to ensure proper market basis for sales and thereby prevent manipulation of prices in meat trading; to the Committee on Agriculture, Nutrition, and Forestry.

FAIR MEAT TRADING ACT

Mr. PRESSLER. Mr. President, today I am introducing legislation to require the reporting of large transactions of meat and prohibits the use of formula pricing to establish prices for meat. The bill provides for more complete reporting of transactions and competitive marketing of meat products.

Currently, we have accurate reporting of the marketing of dozens of commodities. Yet there is very little public information available on the marketing of this Nation's largest commodity by far, meat. Once the livestock is sold by the farmer or rancher, the pricing and marketing of the products produced from the livestock are virtually unmonitored until they reach the supermarket meat counter or the restaurant. The most widely used reporting service used to establish meat prices is a publication known as the Yellow Sheet. This private publication collects information from wholesalers, retailers, and packers on their transactions in meat. Currently, the purchaser or seller of the meat is not required to report any information. As a result, the Yellow Sheet bases its information on less than 1 percent of the actual transactions. The American Meat Institute [AMI], which is an organization of meat packers, recently completed a meat price reporting study. AMI's survey found that almost two-thirds of the large retailers do not report meat purchases to the reporting service. Most of the packers did not report sales but would confirm sales if the information was requested. Many other buyers and sellers then use this information to determine the prices they pay and receive for meat products. Because of the very small percentage of transactions reported, there has been a great deal of speculation that the reporting of the Yellow Sheet could be manipulated. There is a strong incentive for the buyer or seller to try to influence the report. The AMI report states, "The temptations of selective reporting are considerable for all sizes of packers."

The legislation I am introducing today would only require the buyer or seller of meat to provide information on transaction to a reporting service if the service requests such information. The AMI survey found neither the packers or the retailers trusted the current reporting service. In the survey 96 percent of the packers were mildly or highly critical of the existing reporting services. The buyers also expressed their distrust for the accuracy of all market news reports. The basic reason for the distrust of the system is the lack of reporting requirements. The requirement of more complete reporting of transactions would eliminate the possibility of manipulating the information in the report and increase trust in the reports.

Many of the meat products are currently priced through the use of a formula pricing system. The study found that over 50 percent of the beef carcasses sold by the large packers are priced based on one of the reporting services. A similar system is used to establish the price for over two-thirds of the pork sold. These formula pricing systems are based on the price quotes in one of the reporting services. For example, a buyer will purchase a carload of beef a week from today at whatever price the Yellow Sheet quotes for beef that day. In other words, there is no consideration given to the supply, demand, cost of production, or any other factors in the pricing of the meat products. This strong dependence on the Yellow Sheet to establish prices gives a great incentive to try and manipulate the reports of the Yellow Sheet. Such manipulation is made more possible by the totally discretionary reporting requirement. This legislation will add some accountability to the reporting service and the meat industry.

The need for better reporting on meat transactions is also highlighted by the growing ownership concentration in the meat packing and food retail industries. Since 1972, the number of firms reporting steer and heifer slaughter to USDA declined from 710 to 471 in 1982. During the same period, the 20 largest firms increased their share of the total U.S. livestock slaughter from 59 percent to 76 percent. These trends have continued since 1982 at an increased rate. During the same period, the number of wholesale and retail buyers has declined and the market share of the largest firms has also increased. As a result, we have a continually declining number of firms conducting transactions in meat with little or no information on key aspects of their operations.

To facilitate the reporting service and encourage competitive bidding on meat transactions, the bill also suggests the development of an electronic marketing system. The development of such a system is encouraged by providing an exemption of reporting requirements for meat traded on competitive electronic marketing system. A 1984 General Accounting Office study found that the development of an electronic marketing system can provide an opportunity to trim some of the cost in marketing food products. Currently, marketing costs account for about 73 percent of the cost of food purchased by consumers. If these marketing costs could be reduced the consumer would benefit and the farmer could also receive a higher price.

All of the studies and previous experiences with electronic marketing of agricultural commodities have found that farmers and ranchers receive a higher price for their product. The higher prices are possible due to increased marketing efficiencies and competition. This legislation has the potential for substantially increasing farm income at no cost to the Federal Government or consumer. It would be done through increased marketing efficiencies.

Electronic marketing has been used for certain commodities for about 20 years. Many hogs and feeder pigs as well as much of the cotton produced in the United States are traded in this manner. Canada has used electronic marketing for hogs for many years. Experience has demonstrated that electronic marketing reduces transportation costs and increases competitive bidding. USDA has also conducted numerous pilot projects on electronic marketing, but many of these projects have not included enough participants to provide a fair test of the system. However, studies indicate that electronic marketing increases competitive interaction, reflecting supply and demand more closely. It also facilitates the collection and dissemination of price and market information, which reduces the potential for information distortion or bias in transaction prices.

The AMI's survey found over 50 percent of the packers supporting the development of an electronic marketing system and a large number felt some sort of mandatory reporting may be a necessary part of a viable system. The survey clearly indicates the need for change in the current meat reporting system and the industry's recognition of this need. This legislation would facilitate the implementation of these needed changes.

Mr. President, the legislation I am introducing today does not force the meat industry to adopt an electronic marketing system, but it would encourage the development of such a system. It would require a more comprehensive reporting of market transactions. It appears that the most feasible means of achieving this would be to develop an electronic marketing system. All of the available information indicates that such a system would increase the competitiveness and efficiency of the food marketing system. It could also substantially increase farm income at no cost to the Government or consumers. That should be a goal of the industry, and it would be in the best interests of all Americans—taxpayers, consumers, and farmers.

By Mr. GARN:

S. 1952. A bill to provide for the striking of medals to commemorate the Young Astronaut Program; to the Committee on Banking, Housing, and Urban Affairs.

YOUNG ASTRONAUT PROGRAM MEDAL ACT

● Mr. GARN. Mr. President, the Young Astronaut Program is a national educational program for elementary and junior high school students which is designed to educate and interest young people in science, math, and technological skills. It uses the excitement of the U.S. Space Program to capture the imagination of young people all over the Nation. Although the program has existed for a little over a year, it has already:

Established thousands of chapters involving hundreds of thousands of students worldwide.

Produced diverse classroom curriculum materials for grades 1-9, including an adventure series of science activities called Toys That Teach, Recycled Science, Physics of Fun, and Space Watch. Model rocket kits and Halley's Comet posters are typical of other materials made available to chapters.

Sponsored field trips by chapters to science and space-related locations.

Published a national newsletter for chapter leaders and students and provided a national computer network for chapters that gives monthly updates on the latest shuttle missions and supplemental curriculum materials.

Sent 50 economically disadvantaged students to Space Camp for a 5-day "mission" to Huntsville, AL.

Sponsored a trip to a shuttle launch for the best young astronaut flag design.

Given two young astronauts the opportunity to be "movie stars" as winners of a contest to appear in the upcoming ABC film "SpaceCamp."

Allowed young astronauts to communicate with the crew of a recent space shuttle via ham radio in a project called "Ham In Space."

The Young Astronaut Program has so far been entirely supported and financed by private sector contributions and initiatives. This legislation calls for the minting of medals to commemorate the program, and allows the Young Astronaut Council to sell the medals and use the proceeds to sponsor program activities in schools all over the country.

Mr. President, I believe that the Young Astronaut Program is extremely worthwhile, and that passage of this legislation would provide further support for its activities, projects, and goals.●

By Mr. THURMOND (for himself and Mr. DECONCINI):

S.J. Res. 250. Joint resolution to authorize the National Committee of American Airmen Rescued by General Mihailovich to erect a monument to Gen. Draza Mihailovich in Washington, District of Columbia or its environs, in recognition of the role he played in saving the lives of more than 500 United States airmen in Yugoslavia during World War II; to the Committee on Energy and Natural Resources.

GEN. DRAZA MIHAILOVICH MONUMENT

Mr. THURMOND. Mr. President, I send to the desk a bill to authorize the National Committee of American Airmen Rescued by Gen. Draza Mihailovich to erect a monument in Washington dedicated to "General Draza Mihailovich, Savior of American Airmen."

The reason for having such a monument so designated stems back to World War II. During that war the United States and Great Britain initially supported the nationalist resistance movement in Yugoslavia, led by Gen. Draza Mihailovich. Due to a tragic combination of errors and mistaken information, the Allies withdrew their support for Mihailovich at the end of 1943 and backed the Communist resistance movement of Marshal Tito.

Despite his abandonment by the Allies and despite the merciless war waged against him by both the Communists and the Nazis during 1944, General Draza Mihailovich and his forces, known as the Chetniks, succeeded in rescuing some 500 American airmen who were shot down over Yugoslavia. Most of these men were safely evacuated from Nazi-occupied Yugoslavia to Italy.

In 1948, President Harry S. Truman awarded posthumously the Legion of Merit to General Mihailovich for his heroics in rescuing American airmen and for his larger services to the allied cause. Unfortunately, the American public was unaware of this award since the State Department, fearful of offending the sensitivities of the Yugoslavian Communist Government, made the award to Mihailovich "secret" for almost 20 years.

Since that time, a group of American airmen have organized themselves into a National Committee of American Airmen Rescued by General Mihailovich and have launched a movement to build a memorial in Washington, DC, dedicated in gratitude to the man who saved their lives. This effort has been ongoing for some time now, with the support of many Members of Congress, and I can think of no better way to discharge this debt than to authorize these airmen to erect the monument they have in mind.

Mr. President, in voicing my support for this effort, I want to emphasize the fact that this project is to be financed, not by the American taxpayers, but through the fundraising efforts of the airmen's group. All costs for the construction and maintenance of this memorial will be borne by the private sector.

This legislation is virtually identical to previous measures that have been approved overwhelmingly in the Senate.

Mr. President, the airmen who seek authority to have this monument erected do not wish to make political noises that would offend the present Government of Yugoslavia. They seek only to acknowledge their deep sense of gratitude to a man who was instrumental in rescuing nearly 500 downed American flyers during World War II. They merely want the simple recognition that would be imparted by the erection of a General Mihailovich monument.

Mr. President, I ask unanimous consent that the text of the resolution be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 250

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the National Committee of American Airmen Rescued by General Mihailovich is authorized to establish a monument on public grounds in the District of Columbia or its environs, subject to authorization by the Secretary of the Interior pursuant to section 2, to honor General Draza Mihailovich for the role he played in saving the lives of more than five hundred United States airmen in Yugoslavia during World War II.

SEC. 2. (a) The Secretary of the Interior, in consultation with the National Committee of American Airmen Rescued by General Mihailovich, shall select with the approval of the Commission of Fine Arts and the National Capitol Planning Commission a suitable site on grounds owned by the Federal Government in the District of Columbia or its environs for erection of the monument referred to in the first section of this joint resolution.

(b) The National Committee of American Airmen Rescued by General Mihailovich shall be responsible for the development of the design and plans of such monument, which shall be subject to the approval of the Secretary of the Interior, the Commission of Fine Arts, and the National Capitol Planning Commission. If the Secretary of the Interior, the Commission of Fine Arts, or the National Capital Planning Commission fails to approve or make specific objection to such design and plans within ninety days after submission, such approval shall be deemed to be given.

(c) Neither the United States nor the District of Columbia shall bear any expense in the erection of the monument other than expenses incurred in the process of site selection and approval of design and plans.

SEC. 3. The Secretary of the Interior shall permit ground breaking for construction of the monument only after he determines that sufficient funds are available to complete the monument in accordance with the approved design and plans.

SEC. 4. The authority conferred by this joint resolution shall lapse unless the construction of the monument begins within two years after the date of enactment of this joint resolution.

SEC. 5. The maintenance and care of the monument erected under this joint resolution shall be the responsibility of the National Committee of American Airmen Rescued by General Mihailovich.

Mr. DECONCINI. Mr. President, I am pleased to cosponsor Senator THURMOND's legislation to authorize the National Committee of American Airmen Rescued by General Mihailovich to establish a monument to Gen. Draza Mihailovich in Washington, DC.

As many of us are aware, General Mihailovich is responsible for saving the lives of over 500 American flyers who were shot or forced down over Yugoslavia during World War II. For his acts of heroism and bravery at that time, he made the ultimate sacrifice—his life—during the internecine strife which plagued his country following the war.

In an era when we find a paucity of heroes, it is fitting to remember the heroic acts of an earlier time—a time which many of us remember all too dimly. In this, the 40th year after the end of the bloodiest war ever to face this planet, it is important to remember the bravery, sacrifice, and the combined efforts of many peoples and groups who gave their lives to preserve the democratic freedoms we all cherish. For an all too brief period of time, we were allies against a common enemy. American and Soviet, Serb and Croat, Partisan and Chetnik—all fought for and secured the peace which we experience to this very day.

Unfortunately, many of the fragile alliances of World War II were swiftly shattered following the war when former allies squared off against each other in a quest for power. Yugoslavia faced the same political rivalries which the world faced on a larger scale. In a struggle for power between the leaders of the two Yugoslav resistance forces, the Chetniks and the Partisans, General Mihailovich lost his battle and eventually his life.

Today, we are here to remember his heroic efforts during the war on behalf of American flyers, not the events within Yugoslavia following the war. Just as we have recognized the valiant acts of the Marquis de Lafayette and Gen. Casimir Pulaski, so it is fitting that we do so for this courageous man to whom so many Americans still living owe their lives.

One of those men is Richard L. Felman of Tucson, AZ, who has devoted his life to seeking recognition of General Mihailovich's efforts to save the lives of American servicemen. I congratulate Mr. Felman of Tucson, AZ, who has devoted his life to seeking recognition of General Mihailovich's efforts to save the lives of American servicemen. I congratulate Mr. Felman on his diligence and devotion, and admire the dedication to this cause which he has displayed since the end of the war. A 40-year crusade, such as the one waged by Mr. Felman and his fellow survivors, is one which merits a successful conclusion.

As you know, this legislation has twice been passed by this body only to be stalled in the House due in large measure to objections raised by the State Department. I simply cannot believe that a monument to General Mihailovich, built with private moneys on American soil, could be considered a diplomatic affront to the Yugoslav Government. We have delayed too long on this matter and I urge expeditious action by both Houses.

By Mr. HATCH:

S.J. Res. 251. Joint resolution to designate the week of May 11, 1986, through May 17, 1986, as "National Science Week, 1986"; to the Committee on the Judiciary.

NATIONAL SCIENCE WEEK, 1986

Mr. HATCH. Mr. President, the Smithsonian Institution has sponsored a film called "The Dream Is Alive." It is an appropriate title for a film depicting the wonder of space flight. It reminds us that we live in an age of opportunity and technological advancement. It is an age when we can prepare a meal in minutes; when artificial organs can replace natural organs; an age when astronauts can repair satellites in space; when we can store millions of pieces of information on a 5-inch disk. Our dreams are becoming reality.

Today, we have access to technology and knowledge that our forefathers could only dream about. Our young people will have even more. The impact of science and new technology on us is immediate and profound, not only in our individual lifestyles, but also on us as a nation. We should encourage our childrens' interest in and study of the sciences. It is an exciting time. The possibilities and opportunities available for us are innumerable.

Today, I am pleased to introduce legislation designating the week of May 11-17, 1986, as "National Science Week." The National Science Foundation will act as a catalyst, coordinating events to boost public awareness and understanding of science and technology, and to encourage our young people to study science and math. Last year, four corporations joined the NSF in sponsoring National Science Week: Dupont, IBM, Eastman-Kodak, and General Electric.

Schools and communities all over the country, along with many of our Nation's most prestigious scientific associations, rallied together to develop special exhibits, lectures, workshops, demonstrations, and other programs during National Science Week. Nearly 1,000 local, State, and national groups participated. In Salt Lake City, one of the 10 target cities, the planned activities received generous attention. The University of Utah, the Terra Tek Co., and other business and university departments hosted events including planetarium displays, magic shows by the university's chemistry department, and demonstrations of aircraft and aerodynamics.

The interest in science and technology generated by these activities is contagious, and I am honored to participate in this grand national project. I invite all Senators to join me as a cosponsor of this joint resolution in this national salute to American achievement in science and technology.

ADDITIONAL COSPONSORS

S. 17

At the request of Mr. MOYNIHAN, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 17, a bill to establish an independent agency, governed by a bipartisan board, to administer the old-age, Survivors, and Disability Insurance Program under title II of the Social Security Act, the supplemental security income program under title XVI of such act, and the medicare program under title XVIII of such act, and for other purposes.

S. 1799

At the request of Mr. GORTON, his name was added as a cosponsor of S. 1799, a bill to amend the Internal Revenue Code of 1954 to exclude from inclusion in personal holding company income computer software royalties received by businesses actively engaged in developing, manufacturing, and producing computer software, and for other purposes.

S. 1912

At the request of Mr. BENTSEN, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 1912, a bill to provide for a 6-month extension of certain temporary provisions relating to the Internal Revenue Code of 1954.

S. 1936

At the request of Mr. KERRY, the names of the Senator from Connecticut [Mr. WEICKER], and the Senator from Hawaii [Mr. MATSUNAGA] were added as cosponsors of S. 1936, a bill to amend title 23, United States Code, to provide for a uniform system for handicapped parking.

S.J. RES. 239

At the request of Mr. DURENBERGER, the names of the Senator from Maryland [Mr. SARBANES], the Senator from Utah [Mr. HATCH], the Senator from New Jersey [Mr. BRADLEY], and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of Senate Joint Resolution 239, a joint resolution designating the week beginning on June 1, 1986, as "National Maternal and Child Health Week."

S. RES. 267

At the request of Mr. HUMPHREY, the names of the Senator from Rhode Island [Mr. CHAFEE], the Senator from Washington [Mr. GORTON], and the Senator from New Mexico [Mr. DOMENICI] were added as cosponsors of Senate Resolution 267, a resolution establishing a special panel on asylum.

SENATE CONCURRENT RESOLUTION 96—RELATING TO RESEARCH WITH RESPECT TO THE GREENHOUSE EFFECT

Mr. GORE submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 96

Whereas scientists have documented a continuing increase in the concentration of carbon dioxide and greenhouse gases in the atmosphere of the Earth, which may result in a phenomenon known as the greenhouse effect;

Whereas scientists predict that the greenhouse effect could have many adverse effects on the Earth, including—

(1) changes in climatic patterns which could cause alterations in agricultural productivity and patterns of land use; and

(2) the melting of glacial ice, resulting in a rise in sea levels worldwide;

Whereas human activities, including the burning of fossil fuels, are primarily responsible for the increase in the concentration of carbon dioxide and the release of other greenhouse gases in the atmosphere;

Whereas all nations may be adversely affected if the greenhouse effect occurs, and each nation has an interest in protecting the Earth from this environmental threat; and

Whereas the magnitude of the impact of the occurrence of the greenhouse effect has been investigated by scientists and is only beginning to be understood: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That—

(1) the United States should promote and support—

(A) domestic and international research efforts with respect to the greenhouse effect and its impact;

(B) studies of methods to reduce the rate of increase in the concentration of carbon dioxide and greenhouse gases in the atmosphere of the Earth; and

(C) efforts to prevent degradation of the environment of the Earth by the greenhouse effect;

(2) the President is requested to take all appropriate actions, in cooperation with any international organization which the President determines to be appropriate, to establish a long-term study, beginning with a 1-year cooperative international research program, with respect to the greenhouse effect with the purposes of—

(A) increasing the worldwide dissemination of information with respect to the causes of the greenhouse effect and methods to alleviate or avoid effect;

(B) coordinating the research efforts of the participating nations with respect to the greenhouse effect;

(C) fostering cooperation among nations to develop more extensive research efforts with respect to the greenhouse effect;

(D) preparing a report on the accomplishments of the program;

(E) identifying the potential alternative policies necessary to avoid a buildup of greenhouse gases beyond levels which could have catastrophic results; and

(F) developing a long-term plan for future research efforts with respect to the greenhouse effect;

(3) any such program established by the President should be started during or before the calendar year 1991, which year shall be known as the "International Year of the Greenhouse Effect"; and

(4) the participation of the United States in any such program established by the President should be planned and coordinated on behalf of the United States by the Chairman of the National Academy of Sciences and the Secretary of Energy.

● Mr. GORE. Mr. President, today I am introducing legislation to establish the International Greenhouse Effect Year. The purpose of this measure is to expand and focus scientific research efforts on the greenhouse effect and its consequences for society.

Modern man has acquired the technology to catastrophically alter the fragile atmosphere of our planet. Simply burning fossil fuels for warmth could have the insidious long-term effect of warming the globe. The buildup of carbon dioxide and other trace gases traps radiation, causing the atmosphere to heat up—a phenomenon known as the greenhouse effect. If today's worst case scenarios become tomorrow's facts, we may have only a few decades in which to ameliorate the impact—which could range from drought in the Midwest to floods on both coasts.

At first glance, the greenhouse effect may sound more like the plot of a bad science fiction novel than a serious environmental issue deserving immediate public policy review. But given its serious and potentially drastic impacts, Federal research and study efforts must place the highest priority on solving the mysteries surrounding the greenhouse effect. Otherwise future generations may experience a science fiction horror story come true.

I am proposing legislation that would decrease the scientific uncertainties and provide us more information on the greenhouse effect.

This concurrent resolution calls for the establishment of an international year of scientific study of the greenhouse effect, and requests the President to take steps to launch a worldwide cooperative program. That would be just the beginning, as many of the studies would continue for years.

The legislation would (1) coordinate and promote domestic and international research efforts on both the scientific and policy aspects of this problem; (2) identify strategies to reduce the increase of carbon dioxide and greenhouse gases; (3) study ways to minimize the impact of the greenhouse effect; and (4) establish long-term research plans.

The concept of an international year of study has been used successfully in the past. In fact, the best and most complete collection of data based on atmospheric concentrations of carbon dioxide began in 1957 as a result of the International Geophysical Year. At that time a sampling station was established on Mona Loa, HI. Today scientists are still collecting data from that station.

Mr. President, I believe this bill will significantly improve national and international research coordination and cooperation. In time, it will produce the vital data Congress needs to make the appropriate policy decisions regarding the greenhouse effect. I urge my colleagues to support this legislation.●

ADDITIONAL STATEMENTS

WEEKLY BUDGET SCOREKEEPING REPORT

● Mr. DOMENICI. Mr. President, I hereby submit to the Senate the budget scorekeeping report for the week of December 9, 1985, prepared by the Congressional Budget Office in response to section 5 of the first budget resolution for fiscal year 1986. This report also serves as the scorekeeping report for the purposes of section 311 of the Congressional Budget Act.

The report follows:

U.S. Congress,
Congressional Budget Office,
Washington, DC, December 16, 1985.

Hon. Pete V. Domenici,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

Dear Mr. Chairman: The attached report shows the effects of Congressional action on the budget for fiscal year 1986. The estimated totals of budget authority, outlays, and revenues are compared to the appropriate or recommended levels contained in the most recent budget resolution, S. Con. Res. 32. This report meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32 and is current through December 13, 1985. The report is submitted under Section 308(b) and in aid of Section 311(b) of the Congressional Budget Act.

Since my last report the Congress has cleared for the President's signature the Further Temporary Extension (Medicare) and Extension of Tobacco Excise Tax (H.R. 3918), changing outlay and revenue estimates.

With best wishes,
Sincerely,
Rudolph G. Penner.

CBO WEEKLY SCOREKEEPING REPORT FOR THE U.S. SENATE, 99TH CONG., 1ST SESS. AS OF DEC. 13, 1985

[In billions of dollars]

	Budget authority	Outlays	Revenues	Debt subject to limit
FISCAL YEAR 1986				
Current level [1]	1,067.3	983.6	792.9	1,902.0
Budget resolution, S. Con. Res. 32	1,069.7	[illegible]	795.7	[2] 2,078.7
Current level is:				
Over resolution by		16.0		
Under resolution by	2.4		2.8	176.7

[1] The current level represents the estimated revenue and direct spending effects (budget authority and outlays) of all legislation that Congress has enacted in this or previous sessions or sent to the President for his approval. In addition, estimates are included of the direct spending effects for all entitlement or other programs requiring annual appropriations under current law even though the appropriations have not been made. The current level excludes the revenue and direct spending effects of legislation that is in earlier stages of completion, such as reported from a Senate committee or passed by the Senate. Thus, savings from reconciliation action assumed in S. Con. Res. 32 will not be included until Congress sends the legislation to the President for his approval. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

[2] The current statutory debt limit is $2,078,700,000,000.

SUPPORTING DETAILS FOR CBO WEEKLY SCOREKEEPING REPORT, U.S. SENATE, 99TH CONG., 1ST SESS. AS OF DEC. 13, 1985

[In billions of dollars]

	Budget authority	Outlays	Revenues
FISCAL YEAR 1986			
Revenues			[illegible]
I			
Permanent appropriations and trust funds	717,617	[illegible]	
Other appropriations		[illegible]	
Offsetting receipts	−162,006	−162,006	
Total, enacted in previous sessions	555,610	654,351	792,800
II. Enacted this session:			
Famine relief and recovery in Africa (Public Law 99-10)		421	
Federal supplemental compensation phaseout (Public Law 99-15)			10
Appropriations for the MX missile (Public Law 99-18)		[illegible]	
Contemporaneous recordkeeping repeal bill (Public Law 99-44)			13
United States-Israel Free Trade Act (Public Law 99-47)			−8
Statue of Liberty-Ellis Island Coin Act (Public Law 99-61)	−15	31	
International Security and Development Cooperation Act (Public Law 99-83)	−25	−25	
Supplemental appropriations bill (Public Law 99-88)	[illegible]	3,138	
State Department authorization (Public Law 99-93)			2
Emergency Extension Act of 1985 (Public Law 99-107)	−49	−230	210
Simplification of imputed interest rules (Public Law 99-121)			−31
Health professions eductional assistance (Public Law 99-129)		−8	
Amendments—Special defense acquisition fund (Public Law 99-139)	[illegible]		
Energy and water appropriations, 1986 (Public Law 99-141)	15,252	8,245	
Department of Defense Authorization Act, 1986 (Public Law 99-145)	[illegible]	−5	
Legislative branch appropriations, 1986 (Public Law 99-151)	1,599	1,385	
Temporary debt limit increase (Public Law 99-155)	−34	−154	140
Agricultural extension, tobacco provision (Public Law 99-157)	−20	−20	
HUD-independent agencies appropriations, 1986 (Public Law 99-160)	[illegible]	36,247	
Offsetting receipts	−4,185	−4,185	
Military construction appropriations, 1986 (Public Law 99-167)	[illegible]	2,151	
NASA Authorization Act of 1986 (Public Law 99-170)		107	
Labor, HHS, Education appropriations, 1986 (Public Law 99-178)	[illegible]	[illegible]	
Offsetting receipts	−19,816	−19,816	
Commerce, State, Justice appropriations, 1986 (Public Law 99-180)	11,926	9,711	
Offsetting receipts	−118	−118	
Total, enacted this session	165,199	118,647	335
III. Continuing resolution authority:			
Continuing appropriations, 1986 (Public Law 99-179)	348,779	212,985	
Offsetting receipts	−4,449	−4,449	
Total, continuing resolution authority	344,330	208,536	
IV. Conference agreements ratified by both Houses:			
Textile and Apparel Trade Enforcement Act, 1985 (HR 1562)			−200
Further temporary extension (Medicare) (H.R. 3918)		−20	
Extension of Tobacco Excise tax (H.R 3918)			12
Compact of free association (H.J. Res. 187).		NA	NA
Total, conference agreements		−20	−188
V. Entitlement authority and other mandatory items requiring further appropriation action:			
Payment to the CIA retirement fund	10	10	
Claims, defense	[illegible]	3	
Payment to the foreign service retirement trust fund [1]	(1)	(1)	
Range improvements	1		
BLM Miscellaneous trust fund	(2)		
Payment to air carriers, EAS	[illegible]	17	
Retired pay—Coast Guard	21	19	
Maritime, operating-differential subsidies		3	
BIA Miscellaneous trust funds	(2)	(2)	
Retirement pay for PHS officers	[illegible]		
Medical facilities loan guarantee	3		
Payment to health care trust funds [1]	(907)	(907)	
Child nutrition programs	[illegible]	234	
Child support enforcement	[illegible]	3	
Advances to unemployment trust fund [1]	(51)	(51)	
Federal unemployment benefits and allowances	[illegible]	64	
Black lung disability trust fund	[illegible]	[illegible]	
Special benefits (disabled coal miners)	36	36	
Assistance payments	544	544	
Supplemental security income	52	52	
Veterans readjustment benefits	[illegible]	137	
Veterans pensions	10		
Payment to civil service retirement [1]	(214)	(214)	
National wildlife refuge fund	(2)	(2)	
Defense pay raise—Military	[illegible]	[illegible]	
Total, entitlements	2,179	[illegible]	
Total, current level as of Dec. 13, 1985	1,067,319	[illegible]	792,947
1986 budget resolution (S. Con. Res. 32)	1,069,700	[illegible]	795,700
Amount remaining:			
Over budget resolution			15,979
Under budget resolution	2,381		2,753

[1] Interfund transactions do not add to budget totals.

[2] Less than $500,000.

Note.—Numbers may not add due to rounding.●

EXTENSION OF FOREIGN MISSIONS ACT TO COVER FOREIGN COMMERCIAL ENTITIES

● Mr. LEAHY. Mr. President, I rise as cosponsor with Senator Durenberger of S. 1947, a bill to extend the Foreign Missions Act to cover certain foreign commercial entities operating in the United States.

The Office of Foreign Missions in the State Department is empowered under the act to control various activities of foreign diplomatic and consular missions, certain other foreign official organizations—such as commercial missions and official news bureaus—foreign missions to the United Nations, and United Nations Secretariat employees from countries whose officials are subject to such control. But currently there is no explicit legal authority for the Office of Foreign Missions to regulate the activities of commercial entities which are actually owned or controlled by foreign governments.

It is clear that considerable espionage activities against the United States may originate from such organizations. Foreign governments are free, through their quasipublic trading firms, to form or join commercial entities in the United States which are not currently subject to control by the Office of Foreign Missions. This enables them to establish in areas that would otherwise be denied to officials from their country or into which their officials would not be completely free to travel into such areas.

It is clear that the existence of such free arrangements provides the opportunity for espionage by governments which engage in intelligence activities against the United States. I can state based on information which has been provided to the Select Committee on Intelligence that some foreign commercial entities are actually a source of considerable espionage, especially in the area of the transfer of high technology—particularly military technology—to the Soviet bloc.

One case is particularly enlightening in this regard. In 1981 William Holden Bell, an employee of the Hughes Aircraft Corp., was arrested for having served as an agent of Marian Zacharski, then president of the Polish Government-owned commercial company Polamco. Bell was cultivated by Zacharski in a highly professional agent recruitment scenario which began with a social contact and developed in Zacharski's providing Bell financial assistance. Bell was experiencing serious personal and financial difficulties when he was first contacted by Zacharski at his residence in the high-technology area outside Los Angeles.

Bell ultimately received about $170,000 in money and valuable items from Zacharski. In return, he turned over numerous documents between 1979 and 1981 dealing with a variety of sensitive military technologies including the F-15 look-down shoot-down radar system, "quite" radar systems, all-weather radar for tanks, naval radars, components of the Phoenix air-to-air missile and the Patriot air defense missile, and other systems used by the United States and NATO. The Soviets are known to be developing and deploying similar technologies, particularly look-down, shoot-down radar systems and radar-guided air-to-air missiles for their new fighters, apparently based in large part on information purloined from this country.

Mr. President, the Select Committee on Intelligence is currently conducting a major review of security and counterintelligence programs not only in the intelligence community but throughout the national security agencies and programs of the Government. While we expect to release a preliminary report next year, we have already reviewed considerable material and formulated some beginning recommendations. One of the areas that has emerged from this review is the necessity to extend the restrictions applied by the Office of Foreign Missions to foreign commercial entities which are currently entirely free to operate throughout the United States.

Earlier this year, on October 22, Senator DURENBERGER and I addressed the Permanent Subcommittee on Investigations, which is also conducting a review of security programs. We testified at that time on the importance of regulating foreign-controlled commercial entities as part of an overall program to directly control the presence and activities of hostile intelligence services in the United States, which would also include equalizing the number of United States and Soviet diplomats in one another's countries; applying Office of Foreign Missions travel restrictions to Warsaw Pact country representatives; and reducing the size of the Soviet mission to the United Nations. We said at that time:

> The Foreign Missions Act applies not only to diplomatic establishments such as embassies and U.N. missions, but also to state trading organizations and other entities that perform governmental functions. There is, once again, clear counterintelligence information establishing that Soviet and Warsaw Pact trading companies and other commercial entities in the U.S. controlled by those countries are engaged in espionage-related activities. There are two avenues to pursue in regulating their operations.
>
> First, the Export Administration Act as adopted earlier this year authorizes the Commerce Department to require a license for transfer of controlled goods or technology to an embassy or other "affiliate" of a Communist government in the United States. This language should be applied by the Commerce Department to commercial entities that are owned or controlled by Communist governments and that may be used to transfer technology abroad surreptitiously.
>
> Second, the Foreign Missions Act requirements should be applied to these same entities. Under the law as it now stands, such requirements clearly can be applied to state trading organizations such as the Soviet company AMTORG. It is more difficult, however, to apply the Foreign Missions Act to other Soviet bloc-controlled businesses. To close this gap, legislation should be enacted to amend the Foreign Missions Act and authorize the State Department to apply its requirements to "affiliates" of foreign governments, with the same meaning as in the Export Administration Act. A bill for this purpose will be introduced shortly.

Enactment of the Durenberger-Leahy bill introduced today would help to complete the fabric of controls the Congress has woven over the past several past years on the size and activities of the hostile intelligence presence in the United States. I am proud to have taken a leading role in this effort, which has also included the following elements—

The Leahy-Cohen Amendment to the State Department Authorization Act signed into law last summer: Under this amendment, the President must see to it that the number of Soviet officials allowed to serve at their embassy and consulate in the United States not exceed the equivalent number of American officials serving in the Soviet Union. Currently, the Soviets station about 320 officials in their embassy and consulates here while the U.S. has only about 200 American employees in the U.S.S.R. and also hires over 200 Soviet nationals to work at our embassy and consulates there. The President has endorsed this approach, and I will be carefully monitoring its implementation by the State Department, which has unfortunately been very slow to understand, accept and apply this policy.

The Leahy-Cohen bill, S. 1773, introduced last October 18: Under this bill, the President would be required to reduce the size of the Soviet Mission to the United Nations in New York City. With a staff of nearly 300, the Soviet Mission is more than twice the size of the U.S. Mission (130) and the next-largest mission, that of the Chinese (125) and more than three times as large as all the rest.

The Huddleston-Leahy Amendment to the Fiscal Year 1985 Intelligence Authorization Act, enacted in 1984: Under this amendment, the President was called upon to see to it that the numbers and privileges of official representatives from countries involved in intelligence activities against the U.S. not exceed the corresponding numbers and conditions permitted by their governments for our diplomats there. This amendment also required that either the Director or Deputy Director of the Office of Foreign Missions be a career counterintelligence official, who would be sensitive to the importance of controlling certain activities by foreign government representatives in the United States.

And other initiatives by Congress to expand the jurisdiction of the Office of Foreign Missions over certain foreign officials.

I would like to conclude, Mr. President, by saying that these measures have received strong support at the White House. The President has spoken on several of them, and White House spokesmen have recently indicated that additional measures on this subject are contained in the President's new National Security decision directive on counterintelligence policy. The bill which Senator DURENBERGER and I have introduced today will provide addtional legal authority to help implement these policies.

Finally, Mr. President, I would like to say that nothing in the bill requires the Office of Foreign Missions to control the activities of all or even any particular foreign government associated commercial entities. The language of the bill brings certain "entit[ies] in the United States * * * which is substantially owned or effectively controlled by" a foreign power within the scope of the act. The Secretary may determine which foreign powers to apply this provision to and may also develop guidelines or procedures to determine the nature of ownership or actual control which should trigger application of this power. We expect that the Secretary will move to apply his authority under this provision to commercial entities which are associated with foreign governments which conduct intelligence activities against the United States and which actually employ such entities as bases for such activities.

JACK HOOLEY—MINNESOTA'S 1985 GROCER OF THE YEAR

● **Mr. DURENBERGER.** Mr. President, in today's changing economy, those businesses that succeed are those that are innovative and well-managed. They are not afraid of competition, rather they welcome it because they are at least one step ahead of their competitors.

Cub Foods, headquartered in my home State of Minnesota, is a shining example of this successful business. Now a member of the Super Valu family, Cub has grown from one small warehouse store into a national discount food chain. And it did so because of my friend Jack Hooley. Jack began his career as a grocery stock boy over 40 years ago, and worked his way up to become chairman of Cub Foods. Along with his brother Charlie and friend Cub Davis, Jack has dedicated his career to providing consumers quality products of affordable prices—a valuable service in today's economy.

And in recognition of his many contributions to the industry, Jack has recently been named Minnesota's 1985 Grocer of the Year by his peers in the Minnesota Grocers Association. It is especially fitting that Jack receive the honor this year, for this year he is retiring from Cub and leaving his son John to carry on the family tradition.

Mr. President, I ask that an article from the September-October issue of the Minnesota Food Guide be printed in the RECORD as a tribute to Jack's commitment to serving the people of Minnesota through Cub Foods.

The article follows:

[From the Minnesota Food Guide, September-October 1985]

MINNESOTA'S 1985 GROCER OF THE YEAR

From a stock boy in the post-Depression WW II era to president of a billion dollar corporation in the 1980's, Jack W. Hooley is a true example of the American Dream.

Named 1985 Grocer of the Year by his colleagues in the Minnesota Grocers Association, Hooley was presented the award in recognition of his leadership role in setting the standard for discount superstores in the United States. He is chairman of Cub Foods.

How does Hooley feel about Cub's success?

"There were so many people involved in it. There were so many ideas that came from the people who worked here. A real company effort."

As chairman of the Cub Food empire, Hooley manages a conglomerate of 27 stores, 13 of which are corporate. And 12 new stores will be opening this year, the latest one in Atlanta, Georgia.

"Most of the growth from now on will be in franchising," said Hooley during an interview in his Stillwater office.

COMMUNITY SERVICE

Hooley's community service record also is impressive. In his hometown of Stillwater, he serves on the Board of Directors for Lakeview Hospital and the First National Bank. He also serves on the Church Advisory Council at St. Michael's Catholic Church and is active with the Boy Scouts of America as well as a boys rehabilitation center in Minneapolis.

A FAMILY TRADITION

Hooley began his life-long career in the grocery business by sweeping floors and stocking shelves in stores owned by his father and grandfather in the early 1940's.

The family business, which had begun as a meat delivery service for lumber camps between Stillwater and Taylor's Falls, had grown to include four grocery stores in the St. Croix Valley. The stores were located in Stillwater, Red Wing and Hudson. And it was there that the self-service concept in the grocery business was born.

THE EARLY YEARS

After graduating from high school, Hooley served in the U.S. Navy for four years, and then returned to attend college at St. Thomas. After graduation, he became manager of his first store.

He transferred to Hooley's Downtown Supermarket, Stillwater, in 1950 and became store manager in 1955. By 1958, he was named president of Hooley's Supermarket.

BIRTH OF A CONCEPT

It was in 1960 that Hooley, his brother Charlie and friend Cub Davis joined forces to open a discount foodstore operation and bought a franchise with Food Bonanza out of Decorah, Iowa.

"We decided on a warehouse market format," Hooley said.

What did that mean? Well, no air conditioning, no music, no employee uniforms. Wooden planks served as shelves, and checkout stands were nailed together by hand. All equipment was second-hand.

Choosing a name was the next step. Consumers United for Buying (CUB) was finalley decided upon. "It pretty well said what we wanted," Hooley said. No, he said, the name had nothing to do with Cub Davis, "Just a coincidence."

"It was unbelievably hard when we first started out to let people know who we were," Hooley recalled. "We relied on word of mouth. We wanted people to think of it as their store."

The soultion? They changed ad agencies and stopped using the bear cub and shadow as their logo. "We wanted to emphasize our low prices, not our bear cub logo," Hooley said.

EXPANSION BEGINS

At the same time that the logo changed, Davis and Hooley traveled to California to inspect produce departments. They had decided to add produce to the store as well as complete dairy and frozen departments.

"We are doing about $150,000 a week and thought we should be doing about $200,000," Hooley said.

At that time, the store had only limited frozen and dairy departments—no bakery, no deli, no meat and no refrigeration departments.

The rest is history. With an expanded inventory, the $200,000 mark was passed within two weeks. By the third week, business was up to $250,000, and the $400,000 mark was reached by the end of the year.

With the added resources came improvements in decor. Air conditioning, tiled floors and music were added.

Uniforms, too, were added. This was a definite change in policy from the old concept, Hooley noted. "Everyday clothes" had been the standard at the old stores, and it was a standard that worked. "We thought it was kind of quaint," Hooley said.

What changed all of that?

"Some kid came up to check me out in his [long] underwear," Hooley said. "That's when we decided things had to change. It wasn't a warehouse anymore. It was a complete superstore."

THE MODERN DAY CLUB

In order to upgrade and expand, CUB was sold to Super Valu in 1980, and Jack was named chairman. That was the beginning of national expansion. Today there are stores in Illinois, Wisconsin and Indiana in addition to the six stores in Minnesota. (After Super Valu acquired CUB Inc. in 1980, the name was changed to Cub Foods.)

Although Cub is now a corporate giant, remnants of the old family atmosphere linger on. Brother Charlie retired in March, and Hooley himself will be retiring in October. But son John will carry on the family tradition. He currently heads up the Minnesota division of Cub.

Other family members in the business include Maureen Hooley, who serves as director of advertising, and Charles "Chip" Hooley, Jr., who serves as assistant store manager for Stillwater.

What impact has Cub had on the grocery industry?

"Wherever we go, we reduce the price level," Hooley said. Most Cub stores, he explained, operate at about one-half the operating costs of most conventionals. Hooley credits this to the reduced labor costs in Cub stores and the efficient use of recent technological innovations.

What does he think about the grocery business in general today?

"It's simpler. You don't have to know so much about the products. There are more standards. The product overall is much better.

That attitude is easy to understand since Hooley spent his younger years cutting cans of peas to test for quality, choosing cuts of meat and picking out produce.

"Now you have to know more about management," Hooley noted.

Overall, "It's an awfully good business," Hooley concluded. "To me, that's the best business in the world."●

NEW JERSEY LEADING THE WAY IN TOXIC WASTE RESEARCH

● Mr. LAUTENBERG. Mr. President, I note with pride that the Newark Star-Ledger has published an illuminating seven-part series by Gordon Bishop, which describes how the "Industry/University Cooperative Center for Research in Hazardous and Toxic Substances," located on the Newark Campus of the New Jersey Institute of Technology [NJIT], is blazing a trail in toxic chemical research. The Star-Ledger is to be commended for this informative and interesting series, and I commend these articles to my colleagues.

This national toxic substances research center at NJIT is the largest of its kind in the world. The center's focus is on developing the most advanced technologies yet designed for solving America's environmental toxics crisis. As implied by the name of the center, it is a partnership formed by a cooperative consortium of major universities and corporations. In this respect, it is as pioneering in structure as the challenging work being done by the center. The center grew out of the NJIT Institute for Hazardous and Toxic Waste Management.

This multimillion-dollar center is sponsored by the National Science Foundation and the New Jersey Commission on Science and Technology. Funding and the invaluable talent of experts is being contributed by a Fortune 500 list of international corporations including Exxon, American Cyanamid, IBM, and several companies affiliated with Princeton's industrial support group—Allied, Signal, Ciba-Geigy, Du Pont, Mobil, Occidental, Phillips, Shell, and Union Carbide. Other participating members include the Public Service Electric & Gas Company and the Port Authority of New York and New Jersey. The academic participants, in addition to NJIT and Princeton, are Rutgers University, Stevens Institute of Technology, and the University of Medicine and Dentistry of New Jersey.

Participating members are entitled to use any of the center's patented technology at no cost. The center hopes to have a total of 30 participating corporate members by mid-1986.

The exciting technological advances which the center is working on, to develop and perfect new means of controlling and cleaning up toxic substances, include the following:

Techniques for locating and tracking underground pollution in aquifers using high technology sonar and computer methodologies, to reduce the need to drill hundreds of test holes to sample water supplies.

Fast-breeding "superbugs," which would comprise the next generation of bacteria now used in wastewater treatment plants, to feed on and break down toxic wastes, particularly those in underground water supplies which are now almost impossible to clean up.

Use of coal ash, now an unwanted waste product, as a giant sponge to soak up contaminants leaking from garbage dumps and hazardous waste sites.

A high-temperature super incinerator which is 99.99 percent efficient to achieve a high efficiency burn to safely destroy some of the most indestructible toxic substances, such as dioxin and PCB's.

The center's work should complement the research and development and toxic site demonstration program included in both Senate and House Superfund reauthorization legislation.

As a cosponsor, with the distinguished Senator from New York, Mr. MOYNIHAN, of this amendment to the Senate Superfund bill, I strongly support this effort to develop means to reduce, clean up, and dispose of our Nation's hazardous wastes. As we have painfully learned, this is far preferable to simply trying to contain them in landfills. Containment is risky and may end up being the most costly of remedies. Funds expended for innovative treatment methods will ultimately pay for themselves many times over in reduced disposal and cleanup costs.

New cleanup and treatment technologies, such as those being developed at the center, when coupled with waste reduction, can help us put a stop to the terrible legacy of hazardous wastes which has beset our country.

Mr. President, I ask that the series from the Newark Star-Ledger be printed in the RECORD.

The material follows:

[From the Newark Star-Ledger, Dec. 1, 1985]

JERSEY BLAZING A TRAIL IN TOXIC CHEMICAL RESEARCH

(By Gordon Bishop)

A national toxic substances research center, the largest of its kind in the world, has been established in New Jersey by a consortium of major universities and corporations developing the most advanced technologies yet designed for solving America's environmental/health hazards crisis.

Working quietly behind the scenes during the past year, specialists from around the world are pushing scientific technology to its limits to control toxic substances from their source right through to their final disposal.

The center's goal is "revolutionary research" aimed at recycling, destroying or rendering harmless thousands of toxic substances, as well as preventing hazardous materials from entering the environment and the human population.

The long-term objective is to make chemicals safe for society by neutralizing or eliminating toxic waste and controlling the production of harmful materials before they can cause any damage to the environment or human health.

After bringing together the finest research resources from industry and academia, the multi-disciplinary organization will be building its new headquarters next year—a modern $10 million, 40,000-square-foot complex on the Newark campus of the New Jersey Institute of Technology (NJIT).

The new center, a unique research partnership between academia and business, is also assisting American industry in overhauling its manufacturing processes to prevent the proliferation of toxics hazards throughout the environment, eliminating future waste disposal problems.

Until their block-long headquarters in central Newark is completed, the participating universities and corporations will continue conducting their own highly specialized research projects at their various campuses and business sites.

Sponsored by the National Science Foundation and the New Jersey Commission on Science and Technology, the new center intends to take on its unprecedented task by combining the best human and technical resources of leading academic institutions and global corporations that consider chemical production and hazardous wastes the nation's most serious environmental-economic-public health problem.

The magnitude of the problem is succinctly illustrated in an overview by Victor Kimm, director of the Office of Drinking Water in the U.S. Environmental Protection Agency (EPA):

"About one-third of our drinking water supplies in America have measurable traces of contaminants because of our inability to manage our environmental and economic resources very well."

And the federal government is only beginning to set "risk standards" on the thousands of chemicals, heavy metals and other toxic substances finding their way into the nation's surface and ground water supplies, Kimm reported.

More than 60,000 public water suppliers serve more than 200 million consumers. The U.S. population is about 235 million.

Responding to that and myriad other toxic exposure conditions in the home, workplace and environment are the center's academic participants: NJIT, Princeton and Rutgers universities, Stevens Institute of Technology in Hoboken and the University of Medicine and Dentistry of New Jersey.

Funding their multimillion-dollar research, in addition to the National Science Foundation and state science commission, is a Fortune 500 list of international corporations led by Exxon, IBM, American Cyanamid, Bristol-Myers, Schering-Plough and several companies affiliated with Princeton's industrial support group—Allied Signal, DuPont, Mobil, Shell, Occidental, Phillips, Union Carbide and Ciba-Geigy.

Alex Schwarzkopps, program manager at the National Science Foundation, said the New Jersey center will have a capability unmatched anywhere in the world.

"For the first time in our nation, New Jersey has brought together under one umbrella everything you need to deal with the toxic substances problem," Schwarzkopps stated.

A native of Teaneck, Schwarzkopps feels the new center will create "a synergism, or interaction, opening up new fields and new ideas on hazards prevention and risks."

The center's resources are truly global. At NJIT alone, there are teams of doctoral students working at the center from the Soviet

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Union, India, Sri Lanka, China, Taiwan, Korea, Canada and other countries, plus many from the United States.

Through the center's "cutting-edge" research, industry wants to develop the most efficient technology possible to improve their production processes, making better use of raw materials and saving money, while also eliminating the costly disposal of hazardous wastes and future cleanups of huge landfills and extensive water supplies.

"If you use lousy technology, you wind up spending 10 times more in manufacturing products and later cleaning up toxic dumps because so much was wasted in the process," observes Joseph F. Terenzi, vice president of environmental affairs for American Cyanamid Corp., based in Wayne.

Robert B. Morris Jr., director of environmental programs for IBM Corp., Tarrytown, N.Y., comments:

"In my grandchildren's lifetime, nothing will be able to be discarded. Today's hazardous waste repositories will be utilized for their valuable materials."

Alvin Skopp, manager of Exxon's environmental control and safety division, remarks:

"We've simply got to develop cost-effective methods for dealing with hazardous wastes. We're in on the ground floor because we're hopeful we can solve the problem for industry and society."

One of the reasons New Jersey was selected as the national center for toxics research is the state's pioneering efforts in the recently evolving multi-billion-dollar waste control and cleanup industry.

"We were the first to close down toxic waste dumps and the first to develop programs to attack the problem," said John W. Liskowitz, executive director of the Newark center and a professor of civil and environmental engineering.

Kin-Buc, the largest chemcial-garbage landfill in the East, was shut by the state Department of Environmental Protection (DEP) in early 1976 following a series of articles in 1975 in The Star-Ledger depicting the impact of a mountainous "toxic time-bomb" along the Raritan River.

In 1982, New Jersey established the nation's first commission to site hazardous waste facilities. After three years of painstaking reviews and public hearings, the first "candidate sites" will be announced in February.

New Jersey also set up the nation's first spill fund in 1977 to clean up hazardous waste sites and accidental spills. It became the model for the $1.6 billion federal superfund that became law in 1981.

A second superfund costing industry anywhere from $5 billion to $10 billion is awaiting approval in Congress. The exact amount has yet to be resolved.

Some members of Congress are pushing for a $10 billion Superfund II, while some industry leaders are warning that exorbitant taxes on the nation's manufacturing sector will result in more plant closings and unemployment.

Such political clashes between government and industry over how to deal with the toxic waste problem led to the creation of the New Jersey research center.

Where industry has been unable to work "open and freely" with government on the issue of toxic waste, the academic community has stepped into the conflict as a neutral third party, or go-between, doing what it does best: Pure research leading to practical technology benefiting both consumers and producers.

Liskowitz says the public continues to demand the "fruits of a high standard of living, including protection and safety, with a reasonable price tag on consumer goods.

"The center's mission is to stimulate the development of technology with economically and environmentally acceptable applications."

For the first time, a national research center will be merging enormous economic-environmental interests to declare war on toxic waste, an unwanted byproduct of a chemical-based, consumer-oriented society.

Because of the delays and confusion often arising out of government bureaucracies over constantly changing rules and regulations, industry is looking forward to working with graduate students and their professors who have become experts in their respective fields.

Liskowitz sees the center as an independent entity interested only in valid information and results.

"We don't want to become an extension of a bureaucracy," Liskowitz asserted. "Industry looks at us as an unbiased source of information. Too often state and federal agencies are talking to themselves and their own consultants, like a little club, a fraternity."

To avoid that self-serving pitfall, the New Jersey center reaches out to experts in industry and academia, bringing together the finest human and technical resources needed to solve extremely complicated chemical problems in an atmosphere outside the noisy political arena, Liskowitz noted.

The center quietly grew out of an academic program initiated at NJIT in 1981. Exxon, which operates one of the world's largest oil-chemical refineries in Linden, suggested that the company's engineers learn more about toxicology, the scientific study of poisons, their effects, their detection and the treatment of the conditions produced by them.

The Exxon proposal was made during NJIT's 100th anniversary. The institute, which started out as a technical trade school in 1881, was known for most of its life as Newark College of Engineering (NEC).

At the same time NJIT launched its Institute for Hazardous and Toxic Waste Management, teaching Exxon and other engineers the fine points of pharmacology and physiology, Princeton University organized an industrial support group on hazardous waste in its Department of Civil Engineering.

Princeton and NJIT worked independently of each other until the formation of the national toxics center last year.

Exxon's original $500,000 contribution made possible the NJIT hazards management institute. American Cyanamid anted up $200,000 to attract qualified personnel to the fledgling institute.

The new center got off the ground last year with a $385,000 grant from the National Science Foundation and a $558,000 grant from the New Jersey Commission on Science and Technology to provide equipment for research.

Over the past year, 15 companies have become participating members of the national center, formally known as The Industry/University Cooperative Center for Research in Hazardous and Toxic Substances.

A member company pays $30,000 a year, which entitles it to use any of the center's patented technology at no cost and to participate in the development of technology needed by a particular industry.

The center hopes to have a total of 30 participating corporate sponsors by mid-1986.

Not all sponsors are from industry or the business sector.

The Port Authority of New York and New Jersey joined the group in order to "enchance the port's economy" by cleaning up urban wastelands and making them fit for modern industrial parks.

For the Port Authority, billions of dollars of potential manufacturing and high-tech industries are at stake in its transportation/shipping district encompassing much of northeastern New Jersey.

NJIT already has assisted the Port Authority in improving an 90-acre industrial tract at Port Elizabeth by removing lethal PCBs (polychlorinated-biphenyls) and preparing the site for redevelopment.

The authority maintains thousands of acres of commercial property in its North Jersey district, including Newark International Airport and the world's largest containerized shipping port in Elizabeth.

Public Service Electric & Gas Co. joined the center because the giant utility is interested in research for the development of new technologies, which are long-term in nature, and the improvement of existing technologies in the short term.

"As New Jersey moves through the metamorphosis of becoming a technological center, its general business health is as much at stake as the physical health of its residents," noted Carlos Guerra, manager of PSE&G's energy supply research and development division.

"It is in the best interests of a utility serving more than seven out of 10 residents of New Jersey to participate in this venture. When technology prospers in the Garden State, PSE&G prospers and, by extension, its customers enjoy energy that is both safe and reasonable."

Electric utilities generate tons of hazardous wastes, from radioactive materials to such insulating oils as PCBs, which are now banned by the federal government although they still remain in use in many electrical transformers.

The impetus behind the university/industry consortium is one of the toughest environmental laws passed by Congress—the 1976 Resource Conservation and Recovery Act (RECRA).

RECRA set the stage for today's showdown between government and industry over the role of toxic substances in the marketplace. RECRA set standards on materials that had never before been regulated from production through disposal of toxic substances.

In 1984, those standards got even tougher as Congress extended the regulatory powers of the federal EPA.

Initially EPA was regulating the discharge of industrial effluents based on how much grease, oil or suspended solids were in the wastewater. Then EPA added ammonia, pesticides and other chemical compounds to its growing list of substances to be monitored.

In the 1960s, technology was measuring chemicals and heavy metals in the water at parts per hundreds or thousands. By the time the 1972 Clean Water Act became law, instrumentation had improved to the extent that tiny molecules could be detected by the electronmicroscope in parts per millions.

Today, super scanners and microscopes can identify molecules in parts per trillion and quadrillion. That's equivalent to examining a little drop of water in a backyard swimming pool and its chemical effect on the human organism and surrounding environment.

The issue of risk has become so uncertain in the medical-scientific communities that insurance companies now refuse to insure workers cleaning up toxic waste sites. No one knows if one part per million or billion or trillion of a particular substance can cause cancer if inadvertently inhaled or ingested by workers wearing breathing apparatus and "moon suits" covering their bodies.

One toxic waste site may contain as many as 2,000 different chemicals, each reacting in its own special way to the other chemicals in the landfill, creating thousands of possible lethal combinations.

As a result, work on major superfund sites in New Jersey has slowed until the state decides how to approach the liability issue.

Recent lawsuits have produced jury awards in the millions of dollars to individuals who drank tainted water and later contracted cancer.

The challenge for the toxics center will be to learn what the real risks are at such finite levels and how technology can deal with it.

To relate risks and technology to the human organism and environment, the center has been structured around six research divisions.

Incineration, under the direction of Rich Magee, professor of mechanical engineering at Stevens Institute of Technology in Hoboken.

Biological and Chemical treatment, under the direction of Gordon Lewandowski, associate professor of chemical enginering and chemistry at NJIT

Physical Treatment, headed by Paul Cheremisinoff, associate professor of civil and environmental engineering at NJIT.

On-Site Assessment and Remedial Action, jointly shared by G. Fred Lee, professor of civil and environmental engineering at NJIT, and George Pinder, chairman of Princeton's Department of Civil Engineering.

Health Effects Assessment, shared by three co-directors at Rutgers; Dr. Michael Gochfeld, clinical associate professor of environmental and community medicine at the University of Medicine and Dentistry of New Jersey (UNDNJ), and Robert Synder, professor of pharmacology at Rutgers University, both in New Brunswick, and Mohamed Abdel-Rahman, associate professor of pharmacology at UMDNJ in Newark.

Public Policy and Education, directed by Michael R. Grenberg, professor of urban studies at Rutgers University, new Brunswick.

The center's immediate business will be developing cost-effective methods to respond to the latest changes in RECRA.

There are five specific areas affecting nearly all sectors of industry, according to Daniel J. Watts, director of the center's operations.

"The anticipated changes in use of land disposal techniques will have the greatest immediate effect on American industry as a whole," Watts predicts.

"The intent of these new regulations will be to encourage reuse and recycling substances used in manufacturing or produced as byproducts, and to encourage new technologies to treat and destroy hazardous wastes."

Watt believes land disposal of hazardous wastes will be prohibited unless EPA determines that, for specific situations, such disposal will not affect human health or the environment.

The second area of concern is correcting groundwater contamination.

"The EPA must modify hazardous waste regulations to require that for all landfills, surface impoundments, waste piles and land treatment facilities that have received waste after July 26, 1982, any contamination of groundwater must be corrected, even if the contamination extends beyond the boundary of the particular site." Watts explained.

Using existing sewage treatment plants as hazardous waste disposal facilities is the third issue addressed in the RECRA amendments.

"The EPA," Watts said, "must devise rules to assure that any hazardous wastes sent to a publicly owned treatment works for treatment are adequately controlled to protect people and their environment."

The fourth item on the RECRA agenda involves assessment of risk of public exposure.

"Permit applications to the EPA for landfills and surface impoundments must be accompanied by information about the potential of exposure to the public of hazardous wastes resulting from releases from the site," Watts said.

Finally, the center will be tackling the toughest industry problem of all: Reducing wastes at the source.

Under the new RECRA rules, industry will be required to obtain "Waste Reduction Certificates." The quantity and toxicity of wastes must first be analyzed and approved before any materials can be moved off-site.

"All practical methods will be considered to reduce the amount and concentrations of toxic substances to as close to zero as possible," Watts said.

"It's what the public has demanded—and Congress is now forcing industry to do it."

[From the Newark Star-Ledger, Dec. 2, 1985]

SCIENTISTS DEPLOY TOXIC 'SONAR' TO FIND CONTAMINATED AQUIFERS

(By Gordon Bishop)

Finding toxic chemicals in underground water supplies is much like searching for enemy submarines in the open oceans.

Using advanced ultra-sonic techniques, scientists at Princeton University are probing the subterranean aquifers for signs of poisonous organic compounds and deadly heavy metals such as mercury, cadmium and lead.

"We're using technology similar to that used by the Navy to search and track submarines, except we're looking for the spread of underground pollution plumes," said George Pinder, chairman of Princeton's Department of Civil Engineering and one of the partners in New Jersey's national toxic substances research center.

A pollution "plume" occurs when hazardous substances begin to spread in a body of water.

Detecting the range of pollution in aqueous ground formations has been a frustrating obstacle for engineers and scientists responsible for cleaning up the nation's water supplies, of which 25 to 35 percent have been tainted by improper waste disposal.

To plot the flow of plumes below the ground, the traditional approach has been to drill hundreds of holes and then bring up the water at varying depth levels and sample it for contaminants.

Today, highly sensitive sonar equipment is being fine-tuned to locate the plumes without having to punch hundreds of holes in the ground to depths of 10 feet or thousands of feet.

The new detection equipment will also speed up the search for leaky underground storage tanks now fouling hundreds of artesian wells across the country.

Gasoline, heating oil, various petroleum distillates and dilute wastes are stored in as many as five million underground tanks, many of them rusting away after 20 years and dripping unhealthful hydrocarbons into private and public water systems, according to the U.S. Environmental Protection Agency (EPA).

An estimated one million tanks are more than 16 years old. Anywhere from 75,000 to 700,000 of them are believed to be leaking their toxic contents into the ground.

Cleaning up leaks and spills can typically cost from $20,000 to $250,000. If groundwater is contaminated, the costs can be in the millions of dollars.

Princeton's sonar research will be a boon to the petrochemical industry in checking every one of its aging tanks for leaks. It's the kind of problem-solving research private industry wants to support, according to Joseph Terenzi, vice president of environmental affairs for American Cyanamid, headquartered in Wayne.

Princeton University joined the new toxics research center last year because government was throwing "good money after the toxic problem" and not getting the job done, Pinder pointed out.

The center is based at New Jersey Institute of Technology (NJIT) in Newark and is sponsored by the National Science Foundation and the New Jersey Commission on Science and Technology.

Participating in the largest center on toxics of its kind are Stephens Institute of Technology, Rutgers University and the University of Medicine and Dentistry of New Jersey.

Among the 25 international corporate sponsors are American Cyanimid, Bristol-Myers, Exxon, IBM and Schering-Plough.

Princeton and NJIT have been assigned the task of assessing hazardous waste sites and coming up with remedial action that is both effective and affordable.

Pinder, an expert on groundwater movement and geologic formations, is working on the massive cleanup problem with G. Fred Lee, professor of civil and environmental engineering at NJIT.

Technically, their mission is to determine if sites contaminated with hazardous chemical compounds pose problems to the environment, and then identify effective solutions.

Their specific projects include examination of the "interaction of substances with soil particulates, effects of contaminants on liquid flow through soil, biological renovation of contaminated sites and pharmacokinetics of pollutants absorbed to soil."

Pinder founded an industrial support group at Princeton in 1981 to bring the producers of pollution together to solve the problem. Funding the Princeton research are Allied Chemical, Cyanamid, Ciba-Geigy, Dupont, Exxon, Mobil, Occidental Chemical, Phillips Petroleum, Shell and Union Carbide.

Pinder is now pooling his resources with the new $10 million Newark center, formally known as The Industry/University Cooperative Center for Research in Hazardous and Toxic Substances.

"Industry is reluctant to work with government authorities because of their generally adversarial relationship," Pinder said, stressing the importance of a university/industry cooperative research center.

"In a government setting, industry will hold its cards close to its chest. In an academic setting, industry is willing to open up and do whatever it can to get the job done.

They benefit directly from any successes, and these benefits are passed on to society."

The veteran engineer believes the toxic waste issue is not amenable to quick solutions because every site, every situation, is unique.

"We're looking at different pots of soups—different chemicals interacting with different hydrologies," Pinder elaborated.

"People today are showering with and drinking water containing traces of contaminants. Just how serious the problem is and what has to be done to control it is the purpose of the research center."

Keeping a safe distance from government and its enforcement authorities, Princeton will not accept funds from such agencies as the EPA, but it will take grants from the National Science Foundation and the U.S. Geological Service, which Pinder feels are independent organizations with no political axes to grind.

Freedom from government intervention and politics is what Princeton seeks in the already controversial toxic wastes arena, Pinder emphasized.

That academic freedom is putting Princeton on the razor's edge of research in the battle against toxic wastes.

"We're developing new concepts in mathematics to understand how contaminants are transported through a liquid medium," Pinder disclosed. "Specifically, we're focusing on the diffusion of contaminants in time by utilizing flow and wave travel methodology.

Doing the math for Princeton is a graduate student from Switzerland, Bernard Joos. His computer models look like colorful fingerprints that pinpoint geometric boundaries, making detection of a pollutant as easy as tapping a letter on a keyboard and having the picture appear before your eyes on a three-dimensional color map displayed on a TV screen.

Computer modeling and high-tech sound frequencies will be needed to examine thousands of miles of moving underground streams and aquifers and the thousands of chemicals and metals finding their way into these unseen, irreplaceable resources.

Industry leaders met at Princeton recently to learn of the latest developments in the toxic cleanup field, which is becoming a multi-billion dollar business and an increasing financial burden on taxpayers and consumers footing the bill.

Thirteen experts (graduate students, professors and technical staff) presented their specific approaches for solving extremely complicated industrial pollution problems.

Lin Ferrand, for example, a graduate student spoke on the use of "dual-energy gamma rays" to determine the amount of a particular pollutant in the soil. Her work involves porosity, bulk density of liquids, saturation and sample thickness.

Ferrand's pure research will give industry a tool to use to find out precisely the contents of "soil water." Identifying what's in the environment and at what toxicity levels has been a tedious, time-consuming process. Gamma ray research is expected to accelerate such soil and water investigations.

At NJIT, Professor Lee's geotechnical site assessment/remedial action group is exploring similar problems.

"Pollution becomes a problem when it moves," said Lee, an engineering troubleshooter whose work takes him from Israel and Tunisia to most of the European countries trying to cope with modern industrial systems.

"One of our immediate goals is developing risk assessment techniques, in particular the transport of a hazardous substance from where it is dumped or stored to a point of concern: Someone's well, wildlife, people, vegetation."

Lee is looking at "sorption"—the ability of a chemical to bind tightly in soil. Dioxin, for instance, is a cancer-causing substance that locks into the soil and hardly moves through the environment, Lee instructed.

"Dioxin may move one inch in 500 years. But solvents such as trichlorethylene, also a carcinogen, move as fast as water through the ground—one foot a year several feet a year, depending on the composition and structure of the aquifer."

NJIT is studying the three most mobile types of solvents and the three most common types of soils found in New Jersey in order to develop strategies to contain or remove them from aquifers and the soil.

To render contaminated soil non-toxic, organic chemicals have to be destroyed and heavy metals immobilized. One method being tested is to heat the soil using either microwave technology, or ultrasonics.

"The problem in treating contaminated soils is that it is not economical to heat such a large mass by using conventional means, such as hot sulfuric acid plus additives," Lee said. "Microwaves and ultrasonics might be able to detoxify soil much more economically."

One indicator for detecting chemicals in the environment is plant life. Plants react to chemicals at concentrations far less than those that can be detected by even the most sensitive nose.

"Some plants are like a litmus test," Lee said. "We can look for contaminated soils by examining sensitive plants affected by any changes in the soil characteristics. A plant's rate of growth, for instance, is one warning sign that chemicals may be in the soil."

Natural plants are serving a purpose similar to the canaries that used to go into coal mines and were the first to feel the effects of any escaping gas. Any changes in the canary's physical condition alerted miners to a potential disaster.

One of Lee's projects involves the containment of wastes at a site, preventing movement through the environment.

Installation of "slurry cut-off walls" is one method of protecting surface and ground water. A slurry wall is wet clay poured like wet concrete into the ground around a site. The one-to-two-foot thick slurry walls are sunk as much as 100 feet in the ground, providing an impermeable barrier. The clay dries like a potter's finished works. Treatment of the leachate (the chemicals that ooze from a mound of wastes) is then provided behind the slurry walls.

Isolating toxic wastes from the environment is the first priority, followed by treatment and ultimate reduction of the hazardous materials.

Lee describes his innovative experiments as "generic projects" that will eventually benefit any municipality or industry trying to defuse a ticking chemical time bomb.

"The scope of the hazards problem is as large as the population of the United States," Lee said. "Each person, on the average, gets rid of a gallon of hazardous wastes a year, whether it's paints, solvents or detergents. In New Jersey that represents a 7½ million gallons a year. Nationally, it's about 235 million gallons. It's now going to either the garbage dump or into the sewer system."

The new toxics research center is concentrating first on keeping hazardous substances out of the nation's water supply. That entails not just cleaning up present sites and preventing future superfund sites, but creating the technology to get rid of past, present and future hazardous materials.

NJIT, Princeton, Rutgers and Stevens Institute in Hoboken launched the unprecedented research effort with the multinational corporations because they view New Jersey as a compact laboratory containing all of the hazardous waste problems facing America—and their highly specialized engineering solutions.

SCIENTISTS DEVELOP 'SUPERBUGS' TO CONSUME HAZARDOUS WASTES

(By Gordon Bishop)

Fast-breeding "superbugs" that feed on toxic wastes can be used to remove chemical contaminants in underground water supplies that are practically impossible to clean up with even the most advanced purification technology.

"Superbugs" are the next generation of common bacteria now used in wastewater treatment plants to break down raw sewage and other organic matter, a necessary biological process in purging water of gross pollutants.

The bugs are really just stronger versions of ordinary micro-organisms that have been around for millions of years, feasting on garbage, carasses and natural organic material such as leaves and trees.

It's nature's way of recycling matter into energy and back into matter again—a perpetual, productive cycle of life.

Superbugs are seen as an inexpensive method of cleaning up water supplies and hazardous waste sites containing a array of harmful organic compounds that can cause cancer and other diseases.

Like man-made chemicals, superbugs are created in a laboratory by manipulating the genes of certain bacteria capable of eating, say, oil or PCBs and other synthetic compounds.

As scientists have manipulated molecules to create synthetic substances, many of which cause serious problems when they get into the environment or human organism, scientists are now rearranging molecules to attack, or devour, their chemical creations.

The new generations of mutant bacteria must be tailor-made in the laboratory to deal with a specific class of chemicals, according to Gordon A. Lewandowski, a professor of chemical engineering and chemistry at New Jersey Institute of Technology (NJIT) in Newark.

Lewandowski's biomolecular experiments are being conducted at the newly organized national toxic waste research center, headquartered at the NJIT campus.

The center is the nation's largest in the field of toxic wastes, combining the resources of five academic institutions—NJIT, Princeton, Rutgers, Stevens Institute of Technology and the University of Medicine and Dentistry of New Jersey—with some 25 major corporations, including Exxon, IBM, Allied, Mobil, Shell, Bristol-Myers and Union Carbide.

Lewandowski, 40, directs one of the six research divisions within the center. He is charged with developing biological and chemical treatment technologies. The division's work focuses on:

The detoxification of industrial organic waste in sewage treatment plants.

The degradation of organic substances by photo-oxidative and microbial methods, or by composting.

And the detoxification of contaminated soils by chemical and biological treatment.

The bacterial process is the basis of biological degradation. It occurs naturally in the environment.

But with the advent of synthetic chemicals, man intervened in the natural cycle, manufacturing materials that could no longer be broken down by bacteria that have been an essential part of the natural system since the earth was formed 4 billion years ago, Lewandowski related.

To break down man-made chemicals a special breed of bacteria is being fashioned in the laboratory that can convert toxic substances into food, or energy, allowing the superbugs to multiply rapidly.

General Electric has found a mirco-organism in the muddy bottom of the Hudson River that actually thrives on PCBs (polychlorinated biphenyls), a synthetic compound so toxic it was banned by the federal government several years ago.

PCBs were used as a liquid insulating material in electrical motors and transformers. Thousands of tons of PCBs are being disposed of in high-temperature incinerators as electrical equipment gradually is being replaced by more efficient models.

But removing the slippery substance from an underground water supply is almost impossible without the introduction of superbugs, according to Lewandowski.

"This particular organism in the Hudson's muddy bottom adapted to the toxic conditions caused by the PCBs," Lewandowski explained. "The bacteria adapted to the change, taking up the PCBs as a fuel to produce energy—a food source to reproduce itself."

The products of bacterial interaction with organic materials are carbon dioxide, water and organic sodium chloride (common table salt), all of which exist naturally in the environment.

"Bacteria are extremely adaptive," Lewandowski said. "They reproduce every 45 minutes at room temperature (70 degrees) and can break down organisms (waste matter) rather easily."

The center's research will determine the ultimate products of biological degradation, any residues beyond the known carbon, water and salt "leftovers."

"The process itself reduces the toxicity of compounds, which is very encouraging when you're trying to find ways to reduce and ultimately eliminate hazardous man-made substances in the environment," Lewandowski said.

He cited another example of naturally occurring bacteria adapting to man-made changes in the environment.

"Researchers at Cornell University have found bacteria around a fence post in the ground thriving on PCP, a very toxic chemical. The fence post, before it was put in the ground 20 years ago, was treated with pentachlorophenol, a wood preservative.

"Over the years the bacteria modified itself in order to utilize the PCP as a form of fuel. Nature was able to accomplish that adaptation without the intervention of a genetic engineer."

Lewandowski thinks some bacteria will be able to make the transition to the age of chemicals, as in the PCB and PCP cases.

But with the introduction of tens of thousands of new chemicals into the environment since early this century, bacteria will need a helping hand from man to be effective in attacking all of the compounds concocted in the laboratory.

"Of the 6 million compounds invented over the past century, 90 percent are organic and, therefore, capable of being broken down by either existing bacteria or the specially developed superbugs," Lewandowski said.

The superbugs will be let loose in "dilute waste"—groundwater, wastewater from chemical processes and compounds in the soil.

The more concentrated the waste, the more difficult it is for superbugs to convert chemicals into energy, Lewandowski noted.

"There are limitations on biological treatment. Biological success depends on the rate of evolution or adaptability of the bacteria.

"These superbugs must be able to compete effectively with the other microbes present in the environment. We may have to keep adding these new bacteria in sufficient quantity to insure their reproductive rates, providing effective treatment at a chemical waste site."

The goal of the biological chemical treatment division is to overcome the ecological barriers to the genetically engineered microbes so they can be successfully used in waste treatment.

Lewandowski is confident that microbiology and other treatment techniques will be developed at the New Jersey research center to permit the continued use of chemicals essential to the well-being of the human population.

"There is no way not to have a chemically oriented society," Lewandowski declared. "We cannot feed 4 billion people on earth without chemicals. There would be mass starvation and disease. A chemical society is a given."

The challenge for the chemical industry, Lewandowski finds, is to control its wastes and products that eventually wind up as wastes.

"New Jersey is in the forefront of this awareness," he acknowledged. "We were the first to recognize the problem. Now we have to ask ourselves if we are willing to pay for these solutions."

Lewandowski feels public policy should be shaped to prevent the storage of chemical wastes.

"We must alter chemicals so they will not be a threat to society," Lewandowski stressed.

"If there is a choice between a landfill or an incinerator, I'd go with incineration. A landfill is not a solution. It's a storage problem which eventually must be dealt with some day by society."

Other technical projects being pursued by the biological-chemical treatment division are:

Using oxygen, ozone, hydrogen peroxide and ultraviolet light to degrade organic waste, in combination with the superbugs.

By exposing organic wastes to photo-oxidants, organic material can be degraded to less toxic levels that can then be digested by the superbugs.

Using public sewerage systems to treat certain kinds of chemicals.

Since the 1972 Clean Water Act, billions of dollars of public funds have been invested in secondary treatment plants that may be able to break down various chemicals at a great savings to society, according to Lewandowski.

"We intend to demonstrate the potential for using public treatment facilities for industrial organic compounds, minimizing the need for additional capital investment in industrial pretreatment," Lewandowski disclosed.

The new center will collect data to "counter the growing regulatory trend toward decreasing industrial discharge limits into publicly owned treatment works."

The U.S. Environmental Protection Agency (EPA) launched an industrial pretreatment program in the late 1970s, requiring industrial dischargers to reduce the levels of liquid wastes entering public sewer pipelines.

EPA estimated that the cost to industry to eliminate such discharges would be as expensive as the nation's $30 billion clean water program enacted in 1972.

Research at the New Jersey center during the past year suggests that many of those industrial chemicals can be treated in public facilities by a combination of photo-oxidant and microbial methods, Lewandowski reported.

"We have had long discussions with representatives of large sewer facilities, members of Sen. Lautenberg's staff and Water Coalition representing various watershed associations in northern New Jersey," Lewandowski said.

"All of these groups agreed that there were problems with the current (EPA) categorical standards, and that our approach is a promising alternative.

"No one felt that the objective was politically unattainable, and all were encouraging about continuing this research."

Industry, he added, wants to "tighten up" its production processes as a matter of economic survival.

"The less waste industry generates, the more it saves in disposal and treatment costs," Lewandowski remarked.

Before Lewandowski became a chemcial engineering professor at NJIT in 1977, he worked as a project engineer in Exxon's Environmental Control and Safety Division and before that as a research engineer with the FMC Corp.'s industrial chemical division.

John Liskowitz, executive director of the hazardous waste research center, said specialists of the caliber of Lewandowski and others on the center's staff have proven to be invaluable in the search for solutions to industrial waste problems.

"One of the reasons a national center for toxic substances research was established in New Jersey was the number of exceptionally qualified individuals available in both the industrial and academic communities throughout the state," Liskowitz said. "New Jersey is a recognized leader in identifying hazardous waste problems and coming up with their solutions."

Coal Ash Used To Neutralize Liquid Toxic Wastes

(By Gordon Bishop)

The mountains of ash produced by burning coal at electric power plants can be used like giant sponges to soak up chemical contaminants leaking from garbage dumps and hazardous waste sites.

The ash, which usually piles up as unwanted waste at distant burial grounds, is an ideal, inexpensive absorbent for removing and "fixing" hazardous liquid materials in soil and leachate oozing from landfills, according to Paul Cheremisinoff, associate professor of civil and environmental engineering at New Jersey Institute of Technology (NJIT) in Newark.

"Fly ash is a cheap source of material for solving a major environmental problem in America," Cheremisinoff said. "It's one solution we are exploring to contain hazardous wastes at thousands of sites across the country."

Cheremisinoff is in charge of the physical treatment division at the national toxic substances research center in Newark, the largest operation of its kind in the world.

Funded by the National Science Foundation, the New Jersey Commission on Science and Technology and some 25 international corporations, the research center is composed of five academic institutions led by NJIT. Other participants are Princeton and Rutgers Universities, Stevens Institute of Technology and the University of Medicine and Dentistry of New Jersey.

Among the many chemicals fly ash can mop up to prevent contaminants of soil, surface and groundwater are 11 highly toxic components—aniline, benzene, cholorbenzene, chloroform, cyclohexanol, 1-4 dioxane, ethylbenzene, methanol, O-xylene, phenol and toluene.

Physical treatment of hazardous substances is the first step towards immobilizing wastes. Hazardous wastes pose the greatest threat to water supplies when they begin to travel over and through the land and into aquifers deep in the ground.

Fly ash, an abundant byproduct of industrial activity, can help prevent further pollution of the nation's critical water supplies, based on preliminary studies at the hazards research center.

Some 35 percent of the nation's public water supplies already have been contaminated with chemicals and heavy metals such as cadmium, mercury and lead, according to the U.S. Environmental Protection Agency (EPA).

Cheremisinoff, a prolific technical author who was once chief environmental engineer for Engelhard Minerals & Chemicals Corp., is perfecting technology for the "irreversible transformation of hazardous substances to non-hazardous forms . . . or for isolation of hazardous materials allowing for later destruction."

Some clay soils are also being used as liners to retard the flow of leachate from landfills. Clays and fly ash are fairly common and available materials that are now being tested on hundreds of kinds of chemical waste.

Fly ash, a coagulant aid, has been used for years to make cinderblocks and as a subsurface for roadbeds.

Several doctoral and post-doctoral students from around the globe are assigned to specific projects at the research center working to develop methods and technologies that will ultimately save industry, taxpayers and consumers billions of dollars in prevention, protection and cleanup costs.

Su Ling Cheng of China, a Ph.D. in civil-environmental engineering, is getting free tuition at NJIT plus an annual salary of $5,500 to improve techniques for volume reduction and stabilization of hazardous materials.

Volume reduction involves removing water from sludges and chemical waste streams, leading to the destruction or detoxification of a very small amount of dry hazardous materials.

Like other engineers who 20–30 years ago helped advance the use of chemicals in making new products, Cheremisinoff today is counting on that molecular experience to solve the problems created by many of those compounds.

"A chemically based society can have its cake and eat it too" Cheremisinoff contends. "We've conquered polio and other diseases. We can now develop controls for chemicals from the source to their final disposition."

The proliferation of chemicals is a 20th Century phenomenon. In 1900, there were 400,000 compounds listed in the Chemistry Abstract Service. The 1985 Abstract lists about 6 million compounds, many of which never go beyond the laboratory and an official patent number. And 1,000 new compounds are being added to the list each year.

"We don't know what the effects of these new compounds are having on the environment or human health, let alone the thousands of others that have yet to be tested one at a time or in endless combinations," Cheremisinoff said.

"The question we have to ask ourselves as a society is whether we are willing to accept the greater costs for clean air and water.

"We have the know-how and we can develop the technology to live in a chemical-based world, but that comes with a price. We're finally getting around to addressing the economics of chemicals, the environment and public health."

Cheremisinoff illustrated the dimension of the problem by looking at the 60,000-odd "articles of commerce" that can be found on the shelves of supermarkets.

"We live in a throwaway society," he observed. "Just about everything winds up in a landfill. That will obviously have to change."

To Cheremisinoff, any significant change begins with education. One of his projects at the research center is the training of thousands of engineers, managers and professionals responsible for taking care of the society's wastes.

During November and December, personnel from industry, government and academia have been learning the ABCs of "Hazardous Occupations and Environments." The program is being sponsored by NJIT's Division of Continuing Education in cooperation with the National Science Foundation, the new hazards research center and Pollution Engineering Magazine, whose 22,000 subscribers range from New England to Washington and as far west as Ohio.

The courses are designed to provide "state-of-the-art" information on regulations, cost-effective methods on disposal of hazardous wastes and management of "occupational environments" or workplaces.

"Two billion dollars will be spent on managing hazardous materials this year and industry will supply funds for much of this," Cheremisinoff said.

What industrial managers and operators want to know is how they can run their factories and businesses without violating any of the hundreds of rules and regulations coming out of state and federal bureaucracies.

With penalties as high as $250,000 a day and up to five years in jail if the responsible party is convicted, corporate executives are taking the hazardous exposure problem very seriously, Cheremisinoff said.

The courses range from $285 to $475 and cover just about everything business without knowingly violating occupational safety and environmental laws.

For example, the content for just one seminar in a course on hazardous waste management includes the following:

Responsibility of generators, transporters, owners and operators of treatment storage and disposal sites.

Responsibilities under the federal superfund legislation to clean up hazardous waste sites.

Impact of other environmental legislation.

State programs.

Impact of Department of Transportation and Occupational Safety and Health Administration regulations.

Keeping abreast of regulatory development.

Preparing an organization for the Resource Recovery and Conservation Act.

Internal audits and inspections.

Federal and state inspection protocols.

Handling compliance inspections.

Record-keeping, reporting and government inquiries.

Confidentiality of information.

Integrating hazardous waste issues into management planning.

Training requirements and programs.

Developing contingency plans.

Public affairs issues.

Lobbying and influencing government.

Selecting hazardous waste contractors.

The program reaches as many as 35,000 managers in the field of hazardous occupations and environments.

The NJIT continuing education courses are also open to contractors and laborers.

Because of its leading role in toxics research, NJIT has become the national certification center for hazardous materials managers. To become certified, a manager must have a bachelor's degree in a field related to hazardous materials management and engineering, plus three years of appropriate experience.

If a manager doesn't have a bachelor's degree, he or she must have at least 11 years of appropriate experience in the hazardous materials field.

An academy of Certified Hazardous Materials Managers has been established to provide a mechanism to further professional development and for exchange of ideas and information to advance the practice of hazardous materials management.

Regional chapters and industrial divisions provide opportunities for professional development and education.

The Department of Defense is currently discussing with NJIT training 5,000 of its employes responsible for managing the DOD's hazardous materials, including radioactive wastes.

[From the Newark Star-Ledger, Dec. 5, 1985]

SCIENTISTS SEEK "PERFECT" INCINERATOR TO ELIMINATE DIOXIN FROM WASTES

(By Gordon Bishop)

If a student graduated from high school or college with 99.99 percent grade average, the word "perfect" would certainly apply to that academic performance.

A constant 99.99 performance in the real world is the goal of a group of engineers and technicians at Stevens Institute of Technology developing the "perfect" destruction machine—a high-tech, high-temperature incinerator.

Professor Richard S. Magee, project leader in charge of building the "perfect" incinerator at the Stevens campus in Hoboken, refers to his pioneering thermal research as "the four 9's."

"We are defining the operating parameters of thermal destruction at efficiences of 99.99 percent, meaning a practically perfect burn of hazardous wastes," Magee said.

"We want to create a 'safe envelope' for the combustion of toxic wastes. The margin of safety will be one-one hundredth of 1 percent. That's about as safe and clean as you can get in the real world."

A workaholic with a quick Irish wit, Magee and his team of 15 teachers and 25 graduate students are venturing into unexplored areas of thermal dynamics, the science of converting matter into usable energy and harmless byproducts such as carbondioxide, salt and water.

"New Jersey's incinerator will be the state-of-the-art, the model for others that will follow in the emerging field of hazardous waste destruction," Magee said enthusiastically from behind a desk piled high with research papers.

"Take dioxin, for example. It's one of the most indestructible substances man ever made."

Magee jumped up and stepped over to the blackboard in his office crammed with books and reports. He picked up a piece of white chalk and drew on the blackboard a molecular representation of the most feared form of dioxin, known to the specialists as 2,3,7,8 TCDD.

It looked like three joined hexagons with antennae angling out at both ends like feelers on a well-fed caterpillar.

"That's the problem," Magee said. "Breaking down .that molecule at temperatures above 1,800 degrees is what this challenge is all about."

Dioxin was the big environmental health issue this year in the siting of New Jersey's first garbage-power plant in the Ironbound section of Newark.

Dioxin is the menacing molecule the public fears because it is associated with the word "cancer" and Agent Orange, a defoliant used in the Vietnam War to strip the jungles bare of green life.

Hundreds of other chemicals can also cause cancer, but dioxin became the catchword in the citizens' battle against incinerators in their "backyard."

One of the reasons for the emotional reaction to dioxin is the difficulty of destroying it once it gets into the environment. Dioxin has been found in soil in Newark's industrial area. As long as it stays there, it doesn't pose a danger to the public. But if ingested, it can cause death.

Dioxin is formed when plastic packaging is burned in conventional incinerators operating at temperatures below 1,700 degrees.

Environmentalists want certain plastic bottles and packaging made with polyvinylchloride (PVC) banned from the marketplace.

American consumers, however, use more plastic today than steel, aluminum and copper combined. In 1976, plastic passed steel as the nation's most widely used material.

The U.S. plastics industry, the world's largest, manufactured more than 21 metric tons worth more than $18 billion.

Magee and other thermal experts think it might be a costly economic mistake to outlaw plastics simply because existing incinerators cannot handle them. When burned routinely, they wind up as dioxin molecules emitted into the atmosphere, eventually falling back to earth where they can be taken up in the food chain.

Magee's super-incinerator will destroy not only dioxins but other equally dangerous petrochemical molecules discarded by industry as hazardous waste.

He'll get his first chance at proving the destructive powers of his super-incinerator next spring. A laboratory-scale verson costing $200,000 should be ready to start incinerating eight pounds an hour of toxic wastes mixed with fuel oil. Operating temperatures will range from 1,200 to 2,200 degrees. The little furnace will be fed different chemicals and chemical mixes to determine at which temperature each batch is destroyed.

The actual time a chemical or batch of fuel-enriched chemicals passes over the combustion flame will be from a half-second up to 10 seconds. The "residue time" is important for the effective operation of an incinerator. Magee noted.

The particular technology for Magee's super-incinerator is called the "fluidized bed." Although it sounds like a popular water bed, a fluidized bed is really an incredibly hot bed of gases that destroys molecules by bombarding them with tiny superheated particles, the most common being ordinary sand.

The fluidized bed process is much more efficient than passing wastes over a hot flame capable of burning most of the material but not all of it, Magee pointed out.

The Stevens fluidized bed laboratory experiment will be the first demonstration of the latest technology being developed by the national toxic substances research center, based at New Jersey Institute of Technology in Newark.

Stevens is one of six New Jersey academic institutions participating in the nation's largest research project on toxic substances.

At Stevens, where the world's first mechanical engineering society was founded a century ago, energy conversion systems are being refined to make use of an available resource—hazardous wastes.

"A few years ago, stack gases were measured in the parts per millions, which were considered perfectly safe levels to protect the public health," Magee recalled.

"But computers and better instrumentation can now measure gases leaving an incinerator stack at parts per billion. We can now design an incinerator to reduce emissions of PCBs to one part per billion, an undetectable level not too long ago."

PCB (polychlorinated biphenyl) is another chemical culprit, now banned by the federal government, that has found its way into the soil, groundwater and on the surfaces of floors, walls and ceilings when the compound was not regulated. PCBs were used as a liquid insulator in electrical motors, as well as lighting systems.

Like the other five research divisions in the hazardous wastes center, the Stevens mechanical/thermal engineering approach shows promise for major industries, including electric utilities.

Magee, director of the Stevens energy center, will be establishing guidelines for the use of various hazardous wastes in industrial boilers for heating and generating electricity.

"We might be able to burn certain liquid waste chemicals in coal-fired boilers that operate at temperatures from 2,000 to 3,000 degrees Fahrenheit, more than enough to destroy many organic compounds," Magee said. "These petroleum-derived compounds can be utilized for their BTU value."

Magee will be testing that waste energy potential with Public Service Electric & Gas Co., the state's largest utility. PSE&G operates several coal- and oil-fired boilers to generate electricity for its nearly 2 million customers.

Magee recently became chairman of PSE&G's Research Advisory Council, a group of specialists and persons with other interests from real estate to the environment who help shape the utility's policy on future technologies and capital investments.

Stevens' waste-energy research will become the basis for a computerized data bank for the center and the state.

Any new technologies that come out of the research will be shared with the corporate sponsors.

"We write all of our reports to our sponsors," Magee said. "They get the first crack at it. We're also a resource for the state."

The State Hazardous Waste Facility Siting Commission was established three years ago to find appropriate places to locate new waste-reduction facilities such as Magee's super-incinerator.

The commission will announce the first 10 or 12 "candidate sites" in February. They will be narrowed down to one major incinerator site and a backup site for landfilling the residue from the new generation of waste-processing facilities.

After the laboratory experiments are completed next year, Magee plans to build a $2 million "thermal destruction machine" developed on the information gained from the smaller scale-model incinerator.

The decision has not yet been made on what kind of thermal system Magee and his incineration group want to scale up for "real world" conditions. On the drawing boards are the fluidized-bed project, a rotary kiln similar to the kind that makes cement, and liquid injection, wherein waste is injected directly into a shower of sizzling heat.

The $2 million prototype of an advanced thermal destruction system is scheduled for operation in 1988.

The laboratory-scale incinerator is now being designed by Stone & Webster Co. in Cherry Hill, an international design, engineering and construction firm.

Liquid injection research is being carried out with Trade Thermal Co. in Pennsylvania, the closest such waste-destruction facility to New Jersey.

[From the Star-Ledger, Dec. 6, 1985]

JERSEY RESEARCH CENTER STUDIES HEALTH RISKS OF TOXIC EXPOSURE

(By Gordon Bishop)

What variety of toxic substances is New Jersey's population exposed to and what are the real health risks of these hazards proliferating throughout the environment?

To find the answers to these puzzling and troubling man-made problems, a group of specialists at the national toxic substances research center in New Jersey is studying the exposure rates and related risks in general population and environment.

Their laboratory is the real world: The compact state of New Jersey, its residents and workers, industry and an incredibly complex ecology of water and wastes, air pollutants and chemical discharges into rivers and the land.

The overall population and environment have never been adequately examined in terms of exposure and risks, according to Dr. Michael Gochfeld, clinical associate director of environmental and community medicine at the Rutgers Medical School in Piscataway.

"Our ultimate goal at the toxics research center is to improve society's ability to evaluate risks associated with particular kinds and levels of exposure," Gochfeld explained, outlining his strategy in assessing the health risks on humans of thousands of chemicals and their countless combinations interacting in the air, water and soil.

Joining the 45-year-old hazards expert in the quest for "toxics truths" are Robert Snyder, a professor of pharmacology at

Rutgers University, and Mohammed Abdel-Rahman, an associate professor of pharmacology at the New Jersey Medical School-University of Medicine and Dentistry of New Jersey in Newark.

They head one of six divisions in the national toxic substances research center comprising several major universities and corporations.

Based at the New Jersey Institute of Technology (NJIT) in Newark, the nation's premier toxics research center, formally incorporated as the Industry/University Cooperative Center for Research in Hazardous and Toxic Substances, is sponsored by the National Science Foundation, the New Jersey Commisison Science and Technology and some 25 worldwide companies.

The center's health effects division is using the latest scientific research tools in epidemiology, toxicology and clinical analysis to learn precisely what effects toxic substances are having in the workplace and general community.

The new center already has identified about 1,000 workers exposed to hazardous waste while cleaning up disposal sites over the past eight years.

Under the federal superfund law—a multibillion-dollar cleanup program—"front line" workers must be medically examined on a regular basis.

"These tests, including analyses of blood and urine, are not designed for healthy individuals with very little exposure to toxic substances," Gochfeld said "Some front-line workers we've been tracking since 1978. They are our first concern."

The health effects division is collecting two kinds of information. The first involves those subjected to excessive exposure levels that they are not aware of; the second has to do with a group of workers showing a certain trend or symptoms, pointing the way to an unsuspected hazard.

"The hazardous waste industry has its own unique problems," Gochfeld said. "That is our immediate target for this new toxics research."

Among the 1,000 workers being studied by the health effects division is the state's deputy environmental commissioner, Richard T. Dewling. Before becoming the state's second highest environmental official, Dewling, 49, was exposed to several of the biggest hazardous waste sites as an investigator with the federal Environmental Protection Agency (EPA), where he served as deputy and acting regional administrator over the last eight years.

Dewling, once in charge of EPA's laboratories in Edison, designed the world's first incinerator-on-wheels for destroying hazardous wastes on site.

Dewling's mobile invention was nicknamed the "Fire Dragon." It was used for the first time to burn extremely toxic EBs at the huge Kir-Buc garbage-chemical landfill in Edison.

Gochfeld's partner in the health effects division is a 49-year biochemist from Brooklyn. Snyder, chairman of Rutgers Department of Pharmacology, said he is getting out into the general population and community to ascertain the toxic exposure rates and their impact on human health.

"We're looking at dose levels and response," Synder revealed. "We're able to do this now because molecular epidemiology is just burgeoning.

"We'll be looking at chromosome damage and relate that to chemical exposure."

The technique the researchers are using is called DNA adducts."

DNA (deoxyribonucleic acid is the genetic material, or chemical code, that determines the physiology of every human being, from the color of one's eyes and hair to bone structure skin texture, height and other features.

When a toxic chemical irreversibly binds to the DNA material the reaction initiates cancer. It is the process of new breed of microbiologists at the research center will be examining to determine what happens when various synthetic chemicals come in contact with the human organism, particularly DNA, the "chemical of life."

"It's not difficult determining the effect of one chemical on human health," Gochfeld said. "But it is much more difficult when you add a second or third chemical. And it becomes practically impossible when the mixture gets into the hundreds and thousands."

The New Jersey toxic substances research center and the National Academy of Sciences are tackling the same mind-boggling problem, known as "synergism"—the collective impact of two or 200 chemicals on human health.

"We are starting with compounds we know about—some dozen chemicals," Gochfeld said. "They represent different classes of compounds. We're looking at organics, pesticides, metals, and other classes of toxic substances.

"If we can come out with a strategy in dealing with these substances, there will be great ramifications in the hazardous waste field, especially the engineering side, where we'll be able to come up with quicker solutions such as destroying certain chemicals in an incinerator."

Gochfeld, Snyder and their associate Abdel-rahman are building on 350 years of clinical data on hazardous materials, beginning with the Industrial Revolution in Europe.

"Metal toxicity goes back to the Greeks a couple of thousand years ago," Gochfeld noted. "There's a long history of toxic problems leading up to the advent of synthetic compounds during the past century."

The New Jersey toxic center, Snyder disclosed, will be doing research into areas beyond those of state and federal environmental and health agencies.

"We have a to develop methods to prevent problems and then correct them," Snyder said. "We have to learn what is safe and what is not."

Gochfeld drew an analogy on the complex issue of safety and risk:

"There is no chemical so dangerous that it is impossible to handle safely. And there is no chemical so safe that some fool can't figure out how to make it dangerous."

The public, Gochfeld added, believes society cannot handle toxic substances safely, whether it's installing asbestos in ceilings as a fire retardant or operating a hazardous waste incinerator.

Snyder referred to the latest toxic "crisis" in Florida.

"If that state can detect 1 part per billion of benzene in drinking water, gas stations and manufacturing plants responsible for the benzene must clean it up," Snyder said.

"What we do not know yet is the level of benzene occurring naturally in the environment. Is benzene naturally in the environment at one part per billion?"

Snyder wants to know what level of resources should be applied to removing one part per billion of benzene from the environment if it poses a "potential" hazard.

Nature, Snyder noted, also contributes organic chemicals to the environment.

"We're never starting from zero," he said. "What we have to discover is what is there before man adds to that existing level."

Snyder and Gochfeld reject "zero risk" in the real world. They go along with the federal EPA risk standard of one death per million people from a man-made cause of pollution.

That is, the standard for protecting public health has been reduced to one death per million people. If a particular chemical, for example, causes more than one death per million, then it must be regulated.

Since 1970, EPA has been regulating and controlling emissions from industry and motor vehicles to reduce "involuntary" risks to the general population.

Government regulations what Gochfeld and Snyder categorize as "involuntary risks," meaning those risks over which the public has no control, such as breathing unhealthful air or drinking contaminated water without knowing it.

"The public accepts 'voluntary risks' as a routine matter," Snyder said. "A voluntary risk is when an individual decides whether to drive a car, or fly in a plane, or ride a bicycle, all of which have known risks associated with them."

Gochfeld said the 30 students in the risk assessment course taught at Rutgers do not agree on one risk level for all activities.

"Some will say for a certain activity that one death per 10,000 population is acceptable, while for another activity it might be one in 100,000," Gochfeld said. "The EPA one-in-a-million risk standard is considered a reasonable one for involuntary risks such as pollution."

The public's awareness of risk has been sharpened in recent years by what Snyder calls "the vanishing zero."

"Science keeps pushing zero away from real-world conditions," Snyder said. "The zero has gone from 1 part per hundred, to 1 part per thousand, to 1 part per million, to 1 part per billion, to 1 part per trillion, so that today we can measure a pollutant down to 1 part per quadrillion."

A quadrillion comes out to 15 zeroes, or 1,000,000,000,000,000.

One part of an organic moelcule in one trillion or quadrillion may prove to be an impractical measurement in the real world, scientists are now speculating.

Practically indetectable amounts of a pollutant in the environment or workplace raise yet another environmental issue: How clean is clean?

What standard, health authorities are wondering, is considered safe—or an acceptable risk? One part per million, billion, trillion . . . or whatever finite fraction of a substance today's powerful probes can pick up in a sample of air, water or soil?

"Our assignment is to find out at what level a substance becomes a risk, causing cancer and other diseases," Synder said.

In one experiment at the National Center for Toxicological Research in Arkansas, scientists were trying to determine the threshold for a particular carcinogen by subjecting 25,000 mice to decreasing doses of acetylaminofluorene, a potent insecticide known to create tumors in-livers.

"As the doses got smaller and smaller, we saw no more liver tumors," Snyder recalled of the "megamass" experiment. "But we began to see tumors of the bladder when the doses got down to those levels approximating levels found in the environment."

The laboratory mice were used to approximate conditions in the workplace.

The health effects group is also establishing a "protocol" based on the distance one lives from a hazardous waste site.

"It has been assumed that people exposed to chemical disposal sites are in greater danger the closer they live to the site." Gochfeld hypothesized. "We are going to test that theory in New Jersey."

The protocol is designed to investigate exposure to a waste site with three types of illnesses:

Cancer.

Major reproductive problems such as birth defects, low birth weight, impotence, sterility, miscarriage, spontaneous abortion and infant mortality.

Neurotoxic disorders such as convulsions, peripheral neuropathy, encephalopathy, blindness and related problems.

For their community exposure research, the health effects investigators have selected three sites—one each in Newark, Woodbridge and Millville, Cumberland County.

From information collected there, they expect to know what effects chemical waste sites have on the surrounding population and what can be done to reduce and eliminate exposure to the toxic conditions.

"Our task," Synder summarized the group's efforts, 'is to understand the underlying bioprocesses—the mechanism of toxicity.

"We have to use mechanistic data applied to risk assessment."

Over the next three years, they hope to have some answers on just how dangerous it is to work in a chemical environment or live near a toxic waste site, and what safety precautions are needed to prevent unacceptable risks.

[From the Sunday Star-Ledger, Dec. 8, 1985]

Center To Examine "Backyard" Syndrome in Siting Toxic Waste Facilities

(By Gordon Bishop)

If public opposition blocks the siting of airports, highways, power plants, waste disposal systems and other necessary facilities, the delivery of basic services can be interrupted and economic growth stifled.

The siting of publicly vital projects such as garbage-power plants or hazardous waste treatment systems has been stymied by people who do not want any major economic activity in their "backyard."

How to accommodate the legitimate concerns of residents affected by a particular project, while also providing basic services to the very people objecting to essential economic activities, is the conflict confronting the nation's first public policy and education program on siting and related impact issues.

The public policy/education program is part of the national toxic substances research center based in New Jersey. The center, the largest of its kind in the world, consists of five leading New Jersey academic institutions and some 25 international corporations, several of them either headquartered or conducting extensive operations within the state.

Shaping public policy through education is one of the six objectives of the national research center Heading that component of the new center, to be housed in a $10 million laboratory-office complex on the New Jersey Institute of Technology (NJIT) Newark campus, is Michael R. Greenberg, doctoral professor of urban studies at Rutgers, New Brunswick.

Greenberg has put together a multidisciplinary faculty of 25 specialists drawn from 17 departments in four universities.

One of the eight research projects under way at the center's policy/education division is a study on how industry responds to public protests over siting industrial projects.

Frank Popper, associate professor of urban studies, is examining the responses of industry to delays or blockage of their plans to construct new facilities, such as oil refineries, airports, power stations and nuclear waste disposal sites.

Popper classifies these development projects as necessary but which are almost always rejected by residents who live near them.

Popper is analyzing the industry responses to consider the implications for siting hazardous waste incinerators and landfills in New Jersey, which the State Hazardous Waste Facility Siting Commission is planning to do next year.

Popper coined the word "LULU" to convey the problems associated with siting objectional facilities in developed areas. LULU stands for Locally Unwanted Land Use.

Another project on Greenberg's agenda is how industry is coping with the decreasing availability of inexpensive alternatives for managing hazardous wastes.

Among the questions Greenberg's group will attempt to get answers to are:

Is industry making process changes?

Is industry banding together to find sites?

Is industry moving processes out of the United States?

What kinds of industries are making which choices?

Another project on the 1986–87 calendar involves the kinds of negotiations that are occurring about siting between local governments and industries.

One phase will be to determine what kinds of concessions are offered or extracted from firms to reach negotiated location settlements.

The researchers also want to know if there are any differences between large and small and long-time resident firms versus newly-entering firms.

And, "how do the perceptions of government and private sector 'risk managers' affect their decisions about the risk of environmental chemicals?" Greenberg wants to know.

Greenberg also wants to learn which is the dominant factor (education, experiences or job role) controlling one's perceptions of toxic substances.

And, how are those different perceptions manifested in the way decisions about environmental risk are made?

From his own studies and experience, Greenberg, who grew up near Yankee Stadium 40 years ago, see organized citizens as the main driving force in shaping public policy on environmental issues.

"The public is carrying government and industry along with it," Greenberg said.

The public's role in siting major facilities is the focus of a three-year study at the policy/education division. A national survey, with case studies, is being conducted on "Improving Public Participation in the Permitting of Hazardous Waste Storage, Threatment and Disposal Facilities."

The broad-based survey and indepth case studies will explore public participation within the overall permitting process. The project will identify exemplary state and local procedures for public participation, and develop recommendations for improving and streamlining public participation in the permitting of hazardous waste facilities.

Greenbery singled out the state of Massachusetts, which requires "negotiations" with the public in siting major impact facilities. New Jersey has no such law, although public participation is a voluntary part of the state's siting procedures.

The national siting survey will be submitted to government, industry and academia for review in 1987.

Because siting has become such a political, emotional issue, industry is moving towards non-siting solutions to their waste problems, including changes in processes to eliminate hazardous chemicals, reduction of waste discharges at the source and recycling byproducts on site.

"An industry will develop one of these approaches and then try to market" Greenberg said. "It comes down to economic efficiency versus the real danger of manufacturing certain products with various chemicals and the costs associated with that."

Making changes in industrial production can often be less expensive than paying for the escalating costs of handling waste byproducts, Greenberg said.

COMPUTER SOFTWARE ROYALTIES EXCLUSION

● Mr. GORTON. Mr. President, I ask to be added as a cosponsor of S. 1799, a bill to exclude computer software royalties from the personal holding company tax.

The problem that this bill deals with is a classic example of the situation in which technology has outrun law. The original personal holding company tax was designed to prevent avoidance of taxes by certain wealthy individuals who were able to incorporate themselves to enjoy lower tax rates, and whose income consisted primarily of royalties. There is a special exemption in the law for copyright royalty income, but it does not apply to most computer software developers because it does not apply if the work under royalty was created by a shareholder in the corporation. It happens that this is the particular case that most software developers find themselves in, with the principles of such corporations creating the software. Thus, the personal holding company tax is anachronistic in its application to the computer software industry.

It is time for Congress to enact the amendments contained in S. 1799. Indeed, I would add that it is also important that S. 1799 be clarified to ensure that the exemption from the personal holding company tax that it creates be retroactive, and I intend to work to achieve this.●

ASAT MORATORIUM COULD LEAD TO ARMS TREATY

● Mr. KERRY. Mr. President, I am delighted that as a result of the conference on the defense appropriations in the continuing resolution we have achieved a moratorium on Asat testing that could enable the United States and the Soviet Union to reach an agreement halting the testing and development of Asat systems.

This decision by the House-Senate conferees preserves the chance to achieve an Asat agreement, despite the headlong rush by the Reagan administration to test the U.S. Asat this September.

After a single test the U.S. Asat does not yet pose a profound threat to Soviet satellites. However, further testing of the U.S. miniature homing device against objects in space will threaten the ability of the United States to achieve an Asat agreement which would promote our national interest. This is because the U.S. Asat is profoundly superior to the Soviet Asat and potentially threatens Soviet early-warning satellites in elliptical orbit, and because possession of the U.S. Asat is essentially unverifiable once the system is fully operational.

As this administration has suggested on so many occasions, an arms agreement that can't be verified cannot be negotiated. If we are to negotiate an Asat agreement, we must do it before we complete the development of an unverifiable Asat system.

Who would doubt that the continued security of our satellites is an essential component of our national security? Our satellites are our eyes and ears—they provide us with the ability to monitor Soviet military activities and to verify Soviet compliance with arms control agreements. Satellites are expensive, and they are inherently vulnerable because of their known trajectories, their limited numbers, and their fragility. Significant cost and performance tradeoffs are required to protect satellites against attack. No one here doubts that we need our own satellites much more than we need to attack Soviet satellites.

Today, our most important satellites—our high-altitude early warning satellites—are completely invulnerable from Soviet attack. Even our lower level satellites are at relatively slight risk from the Soviets clumsy and limited coorbital Asat system. But although current technologies pose little threat to our satellites, future possibilities are very threatening. It is far easier to protect our satellites against the current Soviet threat than it will be against subsequent generations of Asat's. The later we take action, the more systems will be deployed, the more complicated the technology will become, and the more difificult compliance with any treaty will be to verify.

These facts have been generally accepted by the Congress, and that is precisely why we have again legislated a moratorium on Asat testing, following the single test by the United States of its Asat against an object in space in September. The U.S. conducted that test in the fact of congressional restrictions requiring that the United States engage in serious negotiations to bring about an Asat agreement before any such test took place.

Prior to the test, the President certified, as required by law, that the United States had endeavored, in good faith, to negotiate with the Soviet Union a mutual and verifiable agreement with the strictest possible limitations on antisatellite weapons consistent with the national security interest of the United States. He also certified the other requirements for conducting the test: that pending agreement on such strict limitations, testing against objects in space of the F-15 launched miniature homing vehicle antisatellite warhead by the United States is necessary to avert clear and irrevocable harm to the national security; that such testing would not constitute an irreversible step that would gravely impair prospects for negotiations on antisatellite weapons; and that such testing is fully consistent with the rights and obligations of the United States under the Antiballistic Missile Treaty of 1972 as those rights and obligations exist at the time of such testing.

Yet this certification was a fraud, a demonstration to the Congress that the congressionally imposed certification in no way limited the freedom of the administration to conduct a test regardless of whether it was meeting the terms of the law. As ACDA director Ken Adelman put it in a May 20 letter to the Senate, "Tests of the MV Asat system are following a schedule determined by technical factors," not arms control.

Mr. Adelman's May 20 letter demonstrated that the administration was bent on conducting an Asat test regardless of the limits on the test imposed by Congress. In imposing an outright ban on further tests, subject only to Soviet testing, Congress is finally denying the administration any freedom to go forward with the Asat Program. This is an important step, since the administration demonstrated with its September test that it was fully willing to disregard looser congressional restrictions.

Despite the congressional requirement that the September test only take place after the United States conducted serious negotiations toward a treaty, the President stated in the certification document to the Congress that the United States was "unable to identify a specific Asat proposal which meets the requirements identified by the Congress in 1984," because "no arrangements or agreements beyond those already governing military activities in outer space have been found to date that are judged to be in the overall interest of the United States and its allies."

The Reagan administration continues to object to an Asat treaty on the ground that it cannot be verified, and that it is in the national security interest of the United States to develop the capabilities to destroy Soviet satellites. But a study commissioned by ACDA last year, written by William Durch of Harvard University, concluded that such a treaty is in the U.S. national interest.

Mr. Durch found several options available for the United States to accomplish Asat limitations.

> If the objective of policy is to eliminate all dedicated, direct attack Asat capabilities, options for arms control would include, (a) a zero-possession regime coupled with a test ban, and (b) a test ban only, of indefinite duration. Option (a) entails verification of the dismantlement, or equivalent decommissioning, of the current Soviet coplanar ASAT capability, which may be difficult. An accompanying test ban and launch site inspection regime would seek to reduce Soviet confidence in covertly-retained interceptors, and to increase the amount of time required to use such interceptors, respectively. Option (a) is negotiable in principle, as dismantling and a ban on tests are both incorporated in the 1983 Soviet draft space treaty, but the U.S.S.R. has not acknowledged publicly that it possesses an ASAT capability.
>
> Option (b) would bypass the problem of dismantling and seek to produce the operational results of option (a) through decay of existing capability from lack of testing and troop training. Because it does not seek to eliminate the current Soviet ASAT system and makes no provision for testing a U.S. system to a comparable level of proficiency, option (b) could be viewed as unbalanced. However, considering the limited reach of the Soviet coplanar system and its spotty success record, the effective difference between a dismantling regime and a test ban could be low. Moreover, a test ban would address future capabilities, such as improved orbital or direct ascent interceptors, or beam weapons, that coud pose a real threat to American statellites. Negotiability seems feasible, since the U.S.S.R. has proposed a moratorium on space testing of ASATs.
>
> A modified form of option (b) would be consistent with the research program associated with the strategic defense initiatives, namely, a 3-5 year testing moratorium in lieu of one of indefinite duration.
>
> Options (a) and (b) would require that the United States forego testing and deployment of the F-15/MV system. Thus the U.S. would not develop a capability to destroy by impact such targets as Soviet ROSAT/EROSAT constellations. It would retain the option to negate those constellations by nondestructive means.

Mr. Durch then identified two other Asat treaties that the United States could seek to negotiate:

> If the objective of policy is to place a ceiling on ASAT capabilities with one operational system each, options would include, (c) possession of "one current type" ASAT with further testing allowed, or (d) "one current type" with a declining test quota and a test ban on all other types of ASAT means. Option (c) permits the United States to test and deploy the F-15/MV system, and conceivably to test upgraded systems. This

> option avoids the dismantling questions, but its negotiability is uncertain. If the U.S.S.R.'s major objective in undertaking such a negotiation is indeed to ban space weapons, then this approach may be acceptable, even though it tends to provide the United States with a technological edge which it is permitted to maintain. Restraining U.S. technology is frequently a key arms control objective for Moscow. Finally, option (c) does less for the potential impact of ASAT on crisis stability than either option (a) or option (b).
>
> Option (d) allows the United States to develop the MV system but closes down testing after an agreed period of time and/or number of tests; and it bans outright the testing of all other types of ASAT's (eg. directed energy systems). It would thus fall between the first two options and option (c) in terms of immediate impact on crisis stability: over time, both sides would tend to lose confidence in their ASAT systems. It would prohibit space-based ASAT capabilities and testing of high-altitude direct-ascent or ground-based co-orbital systems. It is likely to be somewhat more negotiable than option (c); if enacted after 1985-1986, it reduces to option (b).
>
> Any of these options could be associated with an ASAT non-use agreement, as discussed in text. A non-use agreement would extend to all satellites the type of protection now enjoyed by satellites used as national technical means of verification.

In the course of his paper for ACDA, Mr. Durch elaborately discussed each of these alternatives for an Asat agreement. Yet the President, in making his certification to Congress, stated:

> No arrangements or agreements beyond those already governing military activities in outer space have been found to date that are judged to be in the ovrerall interest of the United States and its Allies.

For the record, I want to take a moment to list at least five possible Asat proposals that I believe the Reagan administration could have sought in Geneva in compliance with the intent of Congress:

First. A ban on all testing, use, and possession of all Asat capability.

Second. A ban on all testing, use, and possession of dedicated Asat's.

Third. A ban on use and testing, but not possession, of dedicated Asat's.

Fourth. A ban on development or use types Asat's; no restrictions on existing Asat systems.

Fifth. A ban on the use of Asat's: no restrictions on possession or testing.

There is some expert consensus that the first type of agreement is unattainable at the present time, because some non-Asat systems have some theoretical capability to serve as Asat's. Residual capabilities would remain even if dedicated Asat systems were banned.

But the second type of agreement is something we could negotiate if the Reagan administration desired to protect our satellites and limit competition in space weaponry. Even if administration believes that verification problems prevent the second type of agreement because of the Soviet possession of an Asat today, it could certainly have tried to negotiate the third type of treaty, halting use and testing. The fourth type of treaty, banning development and use of new types of Asat's is clearly feasible, and might be in our interests since the Soviet Asat has little military use, and that little use would degrade further if the 3-year Soviet moratorium were made permanent by an accord.

Even the fifth type of agreement, despite its obvious limitations, is possible if the United States and Soviet Union chose to codify rules of the road to provide both sides with a buffer against use of Asat's.

Instead, the Reagan administration has said that no Asat proposal of any kind is in the national security interests of the United States, and therefore has not sought to negotiate one.

One reason the administration gives for its refusal to negotiate any Asat limits is its claim that any limits on Asat's are not verifiable.

The truth is that despite the administration's claims, we can verify the current Soviet system. We know they have a system—we know how big it is—we know how many tests of it have been conducted—we know how many of them have succeeded—we know how long it takes to intercept an object in space—and in what orbital inclinations. We know the Soviet Union hasn't tested it in more than 3 years. We know from numerous nonclassified published reports and testimony that in all it has been tested 20 times. We know it has failed to intercept its target 11 times, for an overall success rate of just 45 percent. We know the Soviet Asat is not exactly a modern, state-of-the-art weapon—it was introduced in 1968. We know it is lofted into orbit atop a modified SS-9 booster rocket, a large-liquid fueled intercontinental ballistic missile, and weighs more than 2,000 kilograms and is about 6 meters long. We know in each test it has been launched from Tyuratum in Karzakhstan into orbits within a narrow range of inclinations—between 62 and 65 degrees with respect to the Equator. We know that to test it the Soviets have launched target satellites into orbits within the same narrow range of inclinations. We know it takes the Soviet Asat one to two trips around the Earth before its orbit crosses that of the target and interception occurs. And yet the administration claims that somehow this system is unverifiable.

The limited orbital inclination and the fact that there are so few U.S. satellites at these inclinations have led some to speculate that the Soviet Asat may be intended for attacking Chinese satellites rather than U.S. satellites. Whatever the intent of the Soviet Asat Program, it clearly does not today threaten most U.S. satellites. The administration states that it can reach 5,000 kilometers or 3,100 miles. But it has never been tested above 2,400 kilometers. That might enable the Soviet Asat to threaten some few U.S. weather satellites and some military spy and communication satellites—on a two-shot basis. It does not enable the Soviets to threaten United States early warning satellites, which are vital to our national security. Nor does it enable the Soviets to threaten most other U.S. military satellites.

Moreover, the Soviet system is susceptible to countermeasures like jamming or deception of the radar homing device or evasive maneuvering on detection of the launch, since interception takes some 3 hours.

There are also some basic conceptual flaws in the Soviet Asat system. First, a satellite can be attacked only when its ground track runs close to the launch site of the Asat, a condition that is satisfied only for satellite orbits with inclinations higher than the latitude of the antisatellite weapon's launch site. This happens only twice a day, so one must wait an average of 6 hours to attack a given satellite. Second, the heavy antisatellite weapon itself requires a massive booster rocket, which can only be launched from a very limited number of facilities in the U.S.S.R. Third, it is difficult to fire massive liquid-fueled boosters in rapid succession from a single launch site.

When you put this all together, it is inescapable that we would have long responded one way or another to an attack on our satellites. It would take the Soviet Asat's a week or more to destroy low-level U.S. weather and reconnaissance satellites, and the Soviets could not touch our far more militarily important early warning satellites.

For these reasons, despite the administration certification, there was simply no reasonable military scenario arising in September whereby the Soviet Asat "threatens clear and irrevocable harm to the national security," as Congress required before such a test should have taken place.

The administration conducted the test anyway, disregarding the intent of Congress. And so, Congress has responded with this new moratorium, which should stop the Asat Testing Program for at least fiscal year 1986.

Congress has explicitly recognized that further testing of our Asat against objects in space jeopardizes our national security, precisely because the U.S. Asat is more sophisticated than the Soviet Asat, and will invite the Soviets to develop a comparable system to ours that is effective against our satellites.

The real threat to U.S. security is not the current Asat the Soviets have today but the Asat the Soviets will develop in the future should the United States decide to engage the Soviet Union in an all-out competition in

Asat technology. The result will be that 5 to 10 years in the future, the Soviets will be able to threaten more and more of our satellites, our space stations, and our space shuttle.

We have much to lose from this. We rely on our satellites for information that is vital to our national defense, from command and control of our military forces to early warning of nuclear attack. Our military forces are far-flung: not only do we have bases around the world, but the preponderance of our nuclear weapons are located beyond our shores. If our satellites were to be threatened, we would risk the decapitation of both nuclear and conventional forces, making it difficult for the United States to maintain a credible response to a sneak attack.

As the United States begins flying more frequent space shuttle missions to service, supply, and bring fresh crews to continuously inhabited space stations, the threat to U.S. interests from Soviet development of Asat technology will continue to grow. The long-term damage to our strategic security from the further development of Asat technologies by both sides thus far outweighs whatever short-term theoretical advantage the administration has claimed from going ahead with the testing of our current Asat.

In the words of Prof. Donald Hafner of Boston College, an adviser to the SALT delegation and the National Security Council in 1977-78:

> The opportunity that the United States now has before it to place constraints upon arms competition in the broad reaches of outer space is ripe but perishable. The ASAT technologies currently available to the United States and the Soviet Union are crude but suggestive. Should the momentum of ASAT programs increase, it is evident that the two sides will provoke the other into expending billions of dollars, all in preparation for a "Brobdingnagian skeet shoot" from which neither side is likely to derive a net advantage in security.

Mr. President, let me briefly summarize the arguments in favor of achieving an Asat treaty.

First, Asat's extend the arms race into outer space, and can be used to attack reconnaissance, navigation, early warning and communication satellites. These Asat missions are part of a first strike strategy which emphasizes winning a nuclear war through initiating the nuclear exchange. Asat's help make possible a preemptive attack in a time of crisis.

Second, as the SDI Program acknowledges, Asat technology is essentially a more primitive version of ABM technology. If we are to prevent the ABM Treaty from being eroded further, we need to add an Asat Treaty that would further limit the development of space weapons, originally designed for Asat functions, that would have some capabilities as the kind of ABM systems and components banned under the ABM Treaty.

Third, an unconstrained arms race in space to deploy ABM's will reduce international stability by intensifying the buildup of offensive nuclear weapons and countermeasures designed to overwhelm the defense.

As Albert Wheelon, senior vice president of the Hughes Aircraft Corp., and a former defense analyst with the CIA told Science magazine—

> It's a good idea and to everyone's net advantage to keep mines and torpedoes and lasers and other weapons out of space.

An Asat treaty is in the U.S. security interest and can be verified, according to scientists, because the United States has "very robust" technologies to detect tests of Asat's—indeed, we know the dates and types of every Soviet Asat test from 1968 through 1982, when the Soviet Union conducted its last test of an Asat.

We know that the Soviets have had 12 failures and 9 successes in testing their Asat overall, and that their first-generation Asat failed five times in out of 14 tests, and that their second generation Asat failed every time it was tested.

As Leslie Dirks, vice president of Raytheon Corp., told Science:

> I'm quite confident that testing things surreptitiously in space is a hard thing to do, and the United States has a very robust detection capability in this area. It would be pretty difficult to guarantee absolutely that no testing was going on. But I hope one would take a liberal view of the verification problems, and be prepared to take a few risks, because there are clearly strong U.S. national interests in a treaty that would deter continued testing of the existing Soviet ASAT or prevent the development of a better Soviet system.

Mr. President, as Commander in Chief, President Reagan is responsible for ensuring that our Nation can never be threatened by a foreign power. An Asat agreement is in the national interest. It is time that the administration uses the opportunity given it by the Congress and by the Geneva talks to negotiate real limits on Asat systems as one step in achieving the comprehensive goal of a ban on all weapons in space.●

FEDERAL TECHNOLOGY TRANSFER ACT OF 1985

● Mr. D'AMATO. Mr. President, I rise today in support of legislation, the Federal Technology Transfer Act of 1985, proposed by my distinguished colleague from Washington, Mr. Gorton.

This legislation addresses an overlooked area of our Federal research efforts—the inability of Federal laboratories to work collaboratively with private research labs. Because collaborative research is not allowed in Federal laboratories, the capabilities of these institutions are limited significantly.

Current research in this country is extremely isolated and independent. Quite often, one laboratory is unaware of activities taking place in another laboratory which is performing comparable research. As a result, there is a great deal of duplication within the research community. Easier and more accessible exchange of information would decrease this redundancy and would promote educational and informational exchanges among researchers.

The Federal Technology Transfer Act of 1985 attempts to alleviate this duplication. This legislation establishes a Federal Laboratory Consortium to promote the exchange of information between Federal and private laboratories.

This information center would be administered by the Bureau of Standards, a Federal organization very experienced in facilitating the dissemination of information. The Bureau of Standards has expressed a desire to administer this program.

A great deal of innovative research takes place in non-Federal laboratories. Companies and universities are involved in a broad spectrum of research, much of which is related to research taking place in Federal laboratories. Not promoting collaborative research efforts only hurts our Federal research efforts.

In addition to this technological exchange, S. 1914 provides Federal researchers with a percentage of the royalties if their research leads to a viable product sold in the marketplace. This type of incentive encourages quality research within Federal laboratories, and it promotes collaborative efforts between Federal and private researchers. This type of incentive can only lead to a greater quality of research in this country.

I call on my colleagues to join me in promoting the research efforts of this country.●

THE MOTOR VEHICLE INFORMATION AND COST SAVINGS ACT

● Mr. ZORINSKY. Mr. President, I was pleased the Senate Friday passed by unanimous consent S. 475, a bill I cosponsored providing increased protection to motor vehicle consumers from odometer fraud.

Widespread odometer fraud is costly and potentially hazardous to the consumer. It is estimated that of the 20 million to 40 million used cars sold annually in the United States, approximately 3 million had the odometer reading rolled back, costing consumers $2 billion per annum.

The average odometer rollback is approximately 30,000 miles for each car tampered with. Common sense dictates that a consumer who buys a car with 90,000 actual miles, believing that it has 60,000 miles or less, may rely on the car to perform in an unrealistic manner and may be running a risk to his or her safety.

Odometer fraud is lucrative, on the rise, and can currently be committed with little chance of being caught. This bill will close a substantial loophole in current law and increase the available criminal penalty from a maximum of 1 year in jail to 3 years, and increase potential civil penalties from $1,000 to $2,000.

Federal law currently mandates that a written statement disclosing the odometer reading be presented to the buyer when a vehicle is sold. However, it does not require that the disclosure be a part of the title. Therefore, an unscrupulous buyer can destroy the piece of paper with the odometer reading, rollback the odometer, and prepare a fraudulent disclosure for the next buyer. Significantly, S. 475 will require the odometer reading to be on the title, making this type of fraud impossible.

Mr. President, I congratulate my colleague from Nebraska, Senator Exon, for sponsoring this legislation. I look forward to quick action on it by the House of Representatives.●

POLAND UNDER SIEGE: THE FOURTH MARTIAL LAW ANNIVERSARY

● **Mr. D'AMATO.** Mr. President, on the night of December 12-13, 1981, the most devastating damage ever perpetrated against the people of a Helsinki signatory state was dealt to the Polish people. Today marks the fourth anniversary of the declaration of martial law in Poland, a day when 8 out of the 10 fundamental Helsinki principles were violated in one fell blow. As Chairman of the U.S. Helsinki Commission, I would ask my colleagues in Congress to consider that for 4 years the Polish people have lived under a state of siege by their own government. Yet, recent months have witnessed the attempts of General Jaruzelski to obtain in the West the legitmacy that he is denied at home. Will Jaruzelski's travels to the West—against the picture-postcard backdrop of the U.N. Building, the Eiffel Tower, the personal vignettes that portray him as a devoted family man—blot out our memories of only 4 years ago, of water cannon and night sticks wielded by helmeted mobile security police against defenseless crowds?

Jaruzelski has calculated that our memories in the West of the dramatic and violent aftermath of martial law are short and convenient. The more invidious regime efforts to destroy all independent associations and activities now underway in Poland are harder for the Western press and public to grasp. The careful orchestration of periodic, but highly conditional amnesties is designed further to complicate our image of the human rights picture in Poland. Yet, new arrests of amnestied Solidarity members and unofficial publishers, have brought to 265 the number of prisoners of conscience in Poland today. And what of the murdered priests, attacks by "unknown assailants" and disappearances of union sympathizers, the threats of violence against activities? We have recently learned about the purges in universities, where 70 deans and rectors have been fired for trying to maintain high standards of free and searching academic inquiry.

Today is the day to remember that human, civil, and trade union rights in Poland remain under siege. And Poland continues to resist. The living legacy of Solidarity can be found in nationwide union networks, above, and underground, the literally hundreds of unofficial publishing houses, the constellations of independent cultural and educational groups all seeking to preserve and develop within Polish society a national pride and consciousness free from the suffocating control of the regime.

Four years ago, this body voiced its outrage. Symbolic candles were lit in homes across America for the people of Poland. Can we forget the alarming images that fluttered across our television screens at Christmastime only 4 years ago? Mr. President, on this tragic December 13 anniversary, we must pause to consider the high price still being paid in Poland for defending the values that we share. We in Congress must send a clear message to General Jaruzelski that our outrage and concern has not diminished with time. His slick public relations campaign will not work here. His image can only be altered by the release of prisoners and by putting an end to police state methods against Solidarity and other defenders of freedom and independent culture in Poland today. In short, when Jaruzelski delivers on the promises that the Polish Government made when it signed the Helsinki Final Act and the Gdansk Agreement.●

WILL TRIDENT II CONTRIBUTE TO STABILITY?

● **Mr. KERRY.** Mr. President, when it comes to our national security, the issue must not be how much we spend on the military, as is suggested when the Pentagon claims that the Gramm-Rudman-Hollings bill will "give comfort to the Soviet Union."

When you claim that throwing money at the Pentagon is the only measure of U.S. national security, you lose sight of our real interests. What we have to ask ourselves is what kind of defense will buy us real national security—stability—the security that when it comes to a crisis, no one will ever have the incentive to start a war between the superpowers, conventional or nuclear.

Keeping the peace through military stability has got to be our priority when it comes to defense. The goal of stability must be a factor in judging every strategic weapons system.

When you look at the trillion dollars we have spent on the military during the first 5 years of this administration, it is regrettably easy to see that we are spending billions of dollars on things that do not add to stability—and that may even reduce it.

What kinds of systems are destabilizing? As retired Gen. Glenn Kent has forcefully argued, any system that decreases the aim points for the enemy, such as the MX, is destabilizing. Similarly, any system which is more costly to build than to destroy, is destablizing, and this argument against the deployment of strategic defenses is one which even administration officials such as Ambassador Paul Nitze accept.

Asat systems are destabilizing, because their development threatens the satellites which both sides use for early warning and for military communications, adding an incentive for a first strike.

One of the problems of the Reagan military buildup is that the Reagan administration is not making choices between destabilizing first-strike weapons and potentially stabilizing second-strike weapons, which contribute to deterrence.

Next year, Congress will have to decide whether to build a new strategic system, the Trident II or D-5 missile, a weapon that could cost $50 billion or more.

As an article which appeared in the December 11, 1985, issue of the Chicago Tribune suggests, D-5 would for the first time give "U.S. submarines the ability to destroy hardened targets in the Soviet Union—like missile silos and command centers. And it will be able to do so within 15 minutes of launch."

The writer, Stephen Chapman, concludes that this "formidable capacity is valuable only if the United States might want to start world war III. It is of scant value if the purpose of the American nuclear arsenal is, as it should be, not to start a war but to deter one."

The potential of the Trident 2 with the D-5 missile to threaten a first-strike is an issue which I believe this body needs to consider carefully next year as it decides whether the administration should start buying this system.

I ask that the Chicago Tribune article, "The Trouble With the Trident II," be printed in the Record at the conclusion of my statement.

The article follows:

The Trouble With the Trident II

In the aftermath of the Geneva summit, the Reagan administration continues to hold out the hope of progress in restraining the nuclear arms race. But it is on the verge of deploying a new weapon that will speed up the race, at a large cost in both dollars and nuclear stability.

Unlike the land-based MX missile, whose proposed deployment has been sharply curtailed and whose ultimate fate is still in doubt, the submarine-based Trident II has had no trouble on Capitol Hill. For many members who oppose the MX, a vote for the Trident II has been a way to mollify the hawks at home.

Still, after providing some $7 billion to develop the weapon, Congress has to decide next year whether to let administration start buying it. Despite the high price tag—over $50 billion, or some $35 billion more than sticking with the existing missile—everyone expects the answer to be yes.

The Trident II missile, also known as the D-5, is designed to replace the existing ballistic missiles on American submarines. It will dramatically increase this force's size, explosive power range and accuracy. This last is crucial. For the first time, the Trident II gives U.S. submarines the ability to destroy hardened targets in the Soviet Union—like missile silos and command centers. And it will be able to do so within 15 minutes of launch.

This extreme accuracy might not matter if only a handful of missiles were contemplated. But the Pentagon plans to buy nearly 600 of them, carrying some 5,200 nuclear warheads. After subtracting for those submarines that are in port at any given time, the U.S. would have the capacity to deliver at least two warheads on every Soviet missile silo—with plenty left over for command centers and strategic air bases. Especially when combined with the MX and Pershing II missiles, the Trident II gives the U.S. something like the ability to destroy the Soviet deterrent on the ground.

That formidable capacity is valuable only if the U.S. might want to start World War III. It is of scant value if the purpose of the American nuclear arsenal is, as it should be, not to start a war but to deter one. Deterrence requires an ability to annihilate the Soviets if they attack first, thus eliminating any incentive for them to do so.

The Trident II, like other super-accurate missiles, actually provides an incentive. In a period of extreme tension, Soviet planners would be confronted with the risk of losing their means of retaliation to an American attack. They would be encouraged to preempt the U.S. threat by hitting first themselves. At the very least, they would be compelled to adopt a policy of launch on warning, thus increasing the chance that a mistake will set off the final holocaust.

It may be argued that, even with the Trident II, the U.S. would have nothing to gain by striking first. Hitting all the Soviets' land-based forces, the thinking goes, would leave them with the ability to retaliate with their own submarine-based missiles.

There are two flaws in this argument. The first is that fewer than one-fourth of the Soviets' missiles are based at sea, compared with half for the U.S., which means they have more to fear from an attack on their land-based forces. The second is that because of their comparative noisiness, Soviet submarines are vulnerable to antisubmarine warfare—unlike American ones, which are beyond any Soviet hope of detection, much less destruction.

The best measure of how alarming the Soviets will find this new threat is the trouble the U.S. has taken to avoid being put in a similar position. Thanks to a calculated shift to sea, only 18 percent of our nuclear warheads remain in land-based missiles. And yet Americans were acutely worried when Soviet advances put our ICBMs at risk. Remember the "window of vulnerability" decried by Ronald Reagan in his 1980 campaign?

The Trident II would be worth building if the effect were to scare the enemy into more peaceable conduct. But the opposite is likely to be true. If its great accuracy has any use at all, it is to threaten the Soviet deterrent. That makes the missile an expensive way to reduce American safety.●

THE NESTER HOSE COMPANY'S 100TH ANNIVERSARY

● Mr. D'AMATO. Mr. President, I rise today to recognize and commend the Nester Hose Company of volunteer firefighters for 100 years of dedicated service, which will be celebrated at their annual banquet on January 31, 1986.

This historic milestone is backed by a proud tradition of men who gallantly and selflessly have volunteered their time and talents to the residents of Geneva, NY. Now more than 200-members strong, the Nester Hose Company carries the legacy of their forebears with great pride and determination. Their aim to protect the lives and property of their community has earned them both great respect and well-deserved admiration.

As a volunteer firefighter myself, I take special pride in these citizens who risk their lives in service of others. They risk their lives against a force which knows no bounds and discriminates against no one. Every year in the United States, fires kill about 10,000 persons, injure about 140,000 others, and destroy more than $6 billion worth of property. Thanks to the volunteers of the Nester Hose Company, ready to respond at any hour of the day or night, the residents of Geneva can sleep peacefully.

I join many members of the Geneva community in commending these volunteers for their courage, dedication, and unswerving loyalty. I hope their centennial celebration marks the beginning of another 100 years of continued success.

Mr. President, I thank you for allowing me this opportunity to salute the Nester Hose Company. They make it possible for us to function safely without fear in our daily lives.●

SUPPORT FOR "HANDICAPPED PARKING ACT OF 1985"

● Mr. WEICKER. Mr. President, I rise today to join my distinguished colleage, Senator KERRY, in supporting the "Handicapped Parking Act of 1985." This bill addresses a problem faced by the majority of our Nation's handicapped persons whose mobility is impaired: State reciprocity in honoring handicapped parking stickers.

Currently, the majority of our handicapped citizens are impeded in their ability to properly utilize special parking privileges designated to them because of the lack of reciprocity from State to State in honoring handicapped parking permits. Law enforcement officials, unaware of symbols used to identify vehicles entitled to use handicapped parking spaces, may unintentionally issue parking citations to handicapped individuals who travel to other jurisdictions. Recently a woman named Ruby DeGiovanni brought this problem to the public's attention.

Mrs. DeGiovanni, herself mobility impaired, was traveling from Connecticut to her doctor's office in Massachusetts. She received a parking ticket for parking in a designated handicapped parking space even though she holds a valid handicapped parking permit in Connecticut entitling her to park in handicapped parking spaces. There is currently no Federal law that allows handicapped persons in one State to cross the line and use handicapped parking spaces in other States. Crossing a State line does not change a handicapped person's need for a handicapped parking space.

For most travelers the major factor limiting travel is cost. But for a percentage of Americans freedom to travel is limited by conflicting State laws. Mobility impaired citizens have been denied what virtually every American assumes to be a natural birthright—mobility. Currently 6.5 million handicapped Americans are mobility impaired and in need of special parking permits to ensure their personal mobility. However, only 26 States have reciprocity agreements honoring handicapped permits.

Clearly, disability does not end when crossing State lines. The handicapped Parking Act of 1985 will require all States to honor the international symbol of access and grant general reciprocity to persons displaying this symbol and properly utilizing designated handicapped parking spaces.

Accessibility cannot be denied to handicapped people on the basis of what State they are in. Our Nation's handicapped citizens deserve every avenue of access if they are to fully exercise their rights in our society. I urge my colleagues to join me in reaffirming their support for full citizenship of handicapped persons by cosponsoring the Handicapped Parking Act of 1985.●

INTERNATIONAL DRUG INTERDICTION

● Mr. GARN. Mr. President, recently an article appeared in the December issue of the U.S. Naval Institute's publication Proceedings. This article, written by Rear Adm. Norman C. Venzke, concisely describes the difficulties of dealing with international drug interdiction. As a former member of the Coast Guard, Rear Admiral Venzke effectively illustrates the enormous task of those who are fighting the war against drugs. He also offers concrete suggestions for improving our international drug interdiction efforts. I highly recommend this article to my colleagues.

Mr. President I ask that the text of the article be printed in the RECORD.

The article follows:

[From Proceedings Magazine, December 1985]

NOBODY ASKED ME, BUT . . .

(By Rear Adm. Norman C. Venzke, U.S. Coast Guard (Retired))

What is the "Drug War" threat?

Discussions of the "drug war" and various methods for winning it are rampant. But what's the story? Why is it called a war? Where does this war fit in our national strategy? How successful are we in fighting this war? I'd like to share my thoughts on the answers to these questions from my perspective as one who recently retired from the service assigned to front-line duty in this war.

First, the threat can best be measured by the estimated street value of smuggled drugs—more than $100 billion per year! The adverse effects of that trade are obvious. The drug trade offers no benefits to the United States.

Second, the United States is at war with the drug smuggler. He is a clever adversary whose goal is a form of aggression—monetary greed at the expense of many victims. Also, it is possible that some governments are employing narcotics trafficking as a strategy to undermine democratic societies. And, narcotics profits may be converted into munitions for terrorists. We employ innovative, bold, and flexible tactics to anticipate and defeat the guerrilla-like operations of these traffickers. It is an air and sea operation. We rely heavily on intelligence. We employ operational security precautions to protect our operations from compromise. Effective command and control are required. Well-planned logistics are necessary to support the large numbers of interdicting ships and aircraft. Force, including disabling fire, is required quite often.

Third, the Reagan administration stands strong in the fight against illicit narcotics. Its actions include the development of a national strategy and the formation of the National Narcotics Border Interdiction System (NNBIS).

The "National Strategy for Prevention of Drug Abuse and Trafficking" is a comprehensive approach to reducing the availability of illict drugs and reducing adverse effects of drug abuse on the individual and society. The five major elements of the administration's drug program are: drug abuse prevention through awareness and action; drug law enforcement; international cooperation to control narcotics; medical detoxification and treatment; and research directed at causes, treatments, and understanding of drug addiction.

Established in 1983, NNBIS coordinates the activities of the many federal, state, and local agencies that must attempt to stop narcotics at the border. With NNBIS, coordination and intelligenece support both have improved significantly.

But how successfully are we waging the drug war at sea? Not as effectively as we could be by a long shot. Interdiction is a "stopgap" measure which buys the time the national strategy needs to reduce the demand for illegal drugs and to eliminate the supply of drugs.

Our maritime marijuana seizures over the past seven years do not suggest any significant trends. No doubt we have hurt the smuggler and increased his cost of doing business. On the other hand, we have not rendered smuggling unprofitable or effectively severed smuggling routes for an extended period of time.

We have not been as successful as we might have been for five reasons:

No one is in charge of drug war operations. Unified action is needed to fight any air/sea war encompassing a large area. NNBIS provides for coordination or, in other words, a loose confederation of agencies. It does not provide effective command and control. Its regional coordinators are divided between the Coast Guard and the Customs Service.

No approved drug interdiction strategy exists. One should be developed within the framework of the national strategy. This is necessary if we are to achieve effective and cost-effective operations over the long haul. Anti-drug running operations are currently planned on an ad hoc basis.

A force mix to fight this war has not been developed. If a "commander in chief" were appointed and an approved interdiction strategy adopted, an appropriate force mix could be developed. Some agencies are proceeding independently in developing their own force mixes for employment in joint jurisdiction areas. Congress has provided needed equipment on its own initiative. These procedures will not result in the most effective force mix in the long run.

Sufficient ships and aircraft are not available to law enforcement agencies (and probably never will be) to meet the requirements which long-term operations demand to counter the threat. Thus, additional support from the U.S. Navy during surge periods is necessary.

Jurisdictional questions among government agencies require resolution. First, the Customs Service and the Coast Guard exercise joint jurisdiction within customs waters (12 miles). Second, the Customs Service has acquired responsibility for interdiction of aircraft, which involves detection of air smugglers over the high seas using long-range patrol aircraft (P-3A). Customs is reportedly considering using medium-range aircraft to detect surface craft on the high seas and is developing "marine modules" for interdiction in customs waters and perhaps beyond.

I offer some recommendations:

Fight the drug war in the same way as any other war: Employ the unified approach.

Improve command and control: Draw upon the successes of Operation Market Time from our days in Vietnam. During that operation, Commander Task Force 115 (CTF-115) commanded all interdiction forces from the demilitarized zone to Cambodia. The U.S. Navy, Coast Guard, and the Royal Thai Navy contributed the forces. CTF-115 divided his forces into four task groups which were comprised of inshore patrol vessels, offshore patrol ships, and Navy patrol aircraft. This approach is in contrast to maritime drug interdiction operations, where no one officer is responsible for an entire region.

Determine which agency—Customs Service or Coast Guard—has primary responsibility in the at-sea customs business and if there is a real need for developing another federal maritime law enforcement agency.

Assign operational control of all maritime interdiction operations, including air detection and surface interdiction, to the Coast Guard. The proposed area of operations would extend from either the shoreline, or 12-mile limit, seaward depending upon resolution of the question of which agency is responsible for the customs business from the shoreline to the 12-mile limit. This should not impact upon the coordinating role of NNBIS, which has a number of regional coordinators—New York Customs, Miami Coast Guard, New Orleans Coast Guard, Chicago Customs, etc.

Task the Commander Atlantic Area and Commander Pacific Area for interdiction operations within their respective areas (the North Atlantic, Gulf of Mexico and Caribbean, and the Pacific Ocean) and the development of a strategy and required force mix. Currently, the area commanders have been left "out of the loop." Their respective district commanders could serve in the specific role of "task group" commanders without making changes to the existing organization.

As a footnote and in anticipation of an allegation of parochialism, there is a sound rationale for the Coast Guard to have the maritime interdiction mission. The Coast Guard:

Was formed in 1790 to suppress maritime smuggling;

Performed maritime interdiction of whiskey during prohibition;

Participated in Operation Market Time in Vietnam to suppress shipments of munitions;

Possesses the infrastructure necessary for support of ships, boats, and aircraft in maritime law enforcement; and

Has area commanders "double-hatted" as Commanders, Maritime Defense Zone, under their respective fleet commanders in chief. Their wartime duties involve maritime interdiction of various threats—analogous with drug interdiction.

The Coast Guard simply is in the best position to assess the drug threat within its areas of operations.●

RETIREMENT OF DONALD HIRSCH

● Mr. WEICKER. Mr. President, I rise to pay tribute to Mr. Donald Hirsch, who is retiring this month after a distinguished career of public service.

During the past year, I have become very well acquainted with Mr. Hirsch, who has become virtually indispensable as a consultant to the Labor-HHS-Education Appropriations Subcommittee. Time and time again, he has helped us resolve highly complex technical matters relating to appropriations legislation, often working under the pressure of extremely tight deadlines. He has never complained about the long hours due to the all too frequent night sessions of the Senate. I find it hard to understand how Don maintains his cheerful disposition under the most adverse of circumstances.

For many years prior to his assignment with the Appropriations Committee, Don Hirsch provided valuable technical assistance in his capacity as Assistant General Counsel for the Department of Health and Human Services, and prior to that, as Deputy Chief of the Legislation Division in HHS's Office of the General Counsel. He also served as Deputy Chief of the Education Division and as Special Assistant, to the General Counsel in the former Department of Health, Education, and Welfare. In the early 1960's, Mr. Hirsch was assistant U.S. attorney for the District of Columbia and his governmental service in 1958 was as a legislative attorney for the Department of Health, Education, and Welfare.

He is the recipient of numerous awards, including a Superior Service Award in 1972, a Distinguished Service Award in 1975, a Special Citation from the Secretary of HEW, and a Senior Executive Service bonus award in 1982.

Over the years, Mr. Hirsch has had extensive teaching experience, including many seminars on the legislative process, and frequent lectures on legislative drafting and the legislative and appropriations process. In 1980, he published "Drafting Federal Law," establishing him as one of the Nation's leading experts in this area.

It has been a long journey from his graduation from Harvard Law School in 1958, and the college of arts and sciences at New York University in 1951. That journey included 4 years of service with the U.S. Air Force between 1951-1955. The journey is far from complete, however, since I understand Mr. Hirsch will be active as a consultant and educator following his retirement from Federal civil service.

On behalf of all the members of the Appropriations Committee and its staff, we wish Don Hirsch the best of luck and happiness in his future endeavors.●

ORDERS FOR TUESDAY

RECESS UNTIL 9 A.M.

Mr. SIMPSON. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 9 a.m. on Tuesday, December 17, 1985.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. SIMPSON. Mr. President, following the recognition of the two leaders under the standing order, I ask unanimous consent that there be a period for the transaction of routine morning business, not to extend beyond the hour of 9:30 a.m., with Senators permitted to speak therein for not more than 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF JAMES L. BUCKLEY

Mr. SIMPSON. Mr. President, at the hour of 11 a.m., the Senate will turn to the consideration of the Buckley nomination under a previous unanimous-consent agreement, with a 1-hour time limitation.

A vote will occur on the confirmation of James L. Buckley.

RECESS FROM 12 NOON UNTIL 2 P.M.

Mr. SIMPSON. Mr. President, I ask unanimus consent that on tomorrow the Senate stand in recess between the hours of 12 noon and 2 p.m. in order for the party caucuses to meet.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. SIMPSON. Mr. President, when the Senate reconvenes at 2 p.m., the Senate will be expected to turn to any legislative or Executive orders that have been cleared. The Senate may turn to the consideration of the farm credit bill, S. 1884, or the conference reports to accompany H.R. 2100, the farm bill, or House Joint Resolution 465, the continuing resolution.

Rollcall votes can be expected to occur throughout the day on Tuesday.

RECESS UNTIL TOMORROW AT 9 A.M.

Mr. SIMPSON. Mr. President, I move that under the previous order the Senate now stand in recess until the hour of 9 a.m., Tuesday, December 17, 1985.

The motion was agreed to; and the Senate, at 6:47 p.m., recessed until Tuesday, December 17, 1985, at 9 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate December 16, 1985:

DEPARTMENT OF JUSTICE

John R. Bolton, of Virginia, to be an Assistant Attorney General.

U.S. INTERNATIONAL TRADE COMMISSION

Anne E. Brunsdale, of the District of Columbia, to be a member of the U.S. International Trade Commission for the term expiring June 16, 1983.

DEPARTMENT OF COMMERCE

Paul Freedenberg, of Maryland, to be an Assistant Secretary of Commerce.

DEPARTMENT OF THE TREASURY

Francis Anthony Keating II, of Oklahoma, to be an Assistant Secretary of the Treasury.

DEPARTMENT OF THE INTERIOR

Ralph W. Tarr, of Virginia, to be Solicitor of the Department of the Interior.

DEPARTMENT OF ENERGY

John C. Layton, of Virginia, to be inspector general of the Department of Energy.

David M.L. Lindahl, of Virginia, to be Director of the Office of Alcohol Fuels.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Ford Barney Ford, of Virginia, to be a member of the Federal Mine Safety and Health Review Commission for a term of 6 years expiring August 30, 1990.

NATIONAL MEDIATION BOARD

Walter C. Wallace, of New York, to be a member of the National Mediation Board for the term expiring July 1, 1987.

Helen M. Witt, of Pennsylvania, to be a member of the National Mediation Board for the term expiring July 1, 1988.

Charles L. Woods, of California, to be a member of the National Mediation Board for the remainder of the term expiring July 1, 1986.

DEPARTMENT OF EDUCATION

Bruce M. Carnes, of Virginia, to be Deputy Under Secretary for Planning, Budget and Evaluation, Department of Education.

Wendell L. Willkie II, of the District of Columbia, to be general counsel, Department of Education.

DEPARTMENT OF STATE

John Edwin Upston, of Virginia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Rwanda.

Rockwell Anthony Schnabel, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Finland.

Margaret M. O'Shaughnessy Heckler, of Massachusetts, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Ireland.

Fred L. Hartley, of California, for the rank of Ambassador during the tenure of his service as Commissioner General of the United States Exhibition for the International Exposition, Vancouver, British Columbia, Canada, 1986.

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

Michael H. Mobbs, of the District of Columbia, to be an Assistant Director of the U.S. Arms Control and Disarmament Agency.

U.S. INFORMATION AGENCY

Charles Edward Horner, of the District of Columbia, to be an Associate Director of the U.S. Information Agency.

SECURITIES AND EXCHANGE COMMISSION

Edward H. Fleischman, of New Jersey, to be a member of the Securities and Exchange Commission for the remainder of the term expiring June 5, 1987.

NATIONAL INSTITUTE OF BUILDING SCIENCES

Fred E. Hummel, of California, to be a member of the Board of Directors of the National Institute of Building Sciences for a term expiring September 7, 1986.

DEPARTMENT OF JUSTICE

Arnold I. Burns, of New York, to be Associate Attorney General.

MARINE MAMMAL COMMISSION

Robert Elsner, of Alaska, to be a member of the Marine Mammal Commission for the term expiring May 13, 1987.

DEPARTMENT OF COMMERCE

Alexander Hansen Good, of the District of Columbia, to be Director General of the United States and Foreign Commercial Services.

FEDERAL MARITIME COMMISSION

James J. Carey, of Illinois, to be a Federal Maritime Commissioner for the term expiring June 30, 1990.

DEPARTMENT OF ENERGY

Sylvester R. Foley, Jr., of Florida, to be an Assistant Secretary of Energy (Defense Programs).

DEPARTMENT OF DEFENSE

Chapman B. Cox, of Virginia, to be an Assistant Secretary of Defense.

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

THE JUDICIARY

David R. Thompson, of California, to be U.S. circuit judge for the ninth circuit.

Bobby Ray Baldock, of New Mexico, to be U.S. circuit judge for the tenth circuit.

Glenn L. Archer, Jr., of Virginia, to be U.S. circuit judge for the Federal circuit.

Frank X. Altimari, of New York, to be U.S. circuit judge for the second circuit.

Patrick A. Conmy, of North Dakota, to be U.S. district judge for the District of North Dakota.

Lynn N. Hughes, of Texas, to be U.S. district judge for the Southern District of Texas.

Morris S. Arnold, of Arkansas, to be U.S. district judge for the Western District of Arkansas.

John T. Noonan, Jr., of California, to be U.S. circuit judge for the ninth circuit.

Deanell Reece Tacha, of Kansas, to be U.S. circuit judge for the tenth circuit.

Garrett E. Brown, Jr., of New Jersey, to be U.S. district judge for the District of New Jersey.

Robert L. Miller, Jr., of Indiana, to be U.S. district judge for the Northern District of Indiana.

Stanley Sporkin, of Maryland, to be U.S. district judge for the District of Columbia.

Alan B. Johnson, of Wyoming, to be U.S. district judge for the District of Wyoming.

J. Spencer Letts, of California, to be U.S. district judge for the Central District of California.

Dickran M. Tevrizian, Jr., of California, to be U.S. district judge for the Central District of California.

Harry D. Leinenweber, of Illinois, to be U.S. district judge for the Northern District of Illinois.

George H. Revercomb, of Virginia, to be U.S. district judge for the District of Columbia.

Duross Fitzpatrick, of Georgia, to be U.S. district judge for the Middle District of Georgia.

Harold L. Cushenberry, Jr., of the District of Columbia, to be an associate judge of the Superior Court of the District of Columbia for a term of 15 years.

Michael L. Rankin, of the District of Columbia, to be an associate judge of the Superior Court of the District of Columbia for a term of 15 years.

IN THE AIR FORCE

The following-named officers for appointment in the Reserve of the Air Force to the grade indicated, under the provisions of sections 593, 8218, 8373, and 8374, title 10, United States Code:

To be major general

Brig. Gen. William G. William G. Work, 356-16-9533FG, Air National Guard of the United States.

To be brigadier general

Col. Ray D. Airy, 478-32-9488FG, Air National Guard of the United States.

Col. Jacob J. Braig, 517-40-1108FG, Air National Guard of the United States.

Col. Alfred P. Bunting, 486-38-1317FG, Air National Guard of the United States.

Col. Jerry W. Cook, 442-34-6051FG, Air National Guard of the United States.

Col. Charles R. Driggers, 467-50-0585FG, Air National Guard of the United States.

Col. Ralph C. Jensen, 399-26-7890FG, Air National Guard of the United States.

Col. Joseph A. Kazek, 322-28-0265FG, Air National Guard of the United States.

Col. Curtis A. Madson, 542-24-6782FG, Air National Guard of the United States.

Col. Roy C. Martin, Jr., 021-24-6044FG, Air National Guard of the United States.

Col. Ernest C. Park, 004-26-3896FG, Air National Guard of the United States.

Col. John J. Roark, 466-46-3801FG, Air National Guard of the United States.

Col. Robert L. Slaughter, 417-46-2632FG, Air National Guard of the United States.

Col. John A. Slifer, Jr., 491-28-3453FG, Air National Guard of the United States.

Col. Thomas P. Webb, III, 244-46-1917FG, Air National Guard of the United States.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, Section 601:

To be lieutenant general

Maj. Gen. Richard A. Burpee, 363-30-8559FR, U.S. Air Force.

IN THE ARMY

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Robert L. Bergquist, 034-22-3682, (age 54), U.S. Army.

IN THE NAVY

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370.

To be vice admiral

Vice Adm. William P. Lawrence, 410-44-3904/1310, U.S. Navy.

The following-named captains of the line of the Navy for promotion to the permanent grade of rear admiral (lower half), pursuant to title 10, United States Code, section 624, subject to qualifications therefor as provided by law:

UNRESTRICTED LINE OFFICER

To be rear admiral (lower half)

Phillip Don Smith.
David Roland Morris.
Fredrick John Metz.
Edward Bigelow Baker, Jr.
Peter Gordon Chabot.
Jimmie Wilkes Taylor.
John Franklin Calhoun.
George Henry Strohsahl, Jr.
Jesse Jiminez Hernandez.
John William Bitoff.
David Michael Bennett.
Thomas Alexander Mercer.
Leighton Warren Smith, Jr.
Richard Chester Macke.
Henry Clayton McKinney.
David Rogers Oliver, Jr.
Kenneth Leroy Carlsen.
David Brooks Robinson.
George Washington Davis VI.
Arlington Fichtner Campbell.
Jerome Frost Smith, Jr.
Stephen Kent Chadwick.
Glenn Edward Whisler, Jr.
Graig Emery Dorman.
Geoffrey Lynn Chesbrough.
Grady Lee Jackson.
James Bernard Greene, Jr.
Joseph Paul Reason.

RESTRICTED LINE OFFICER—ENGINEERING DUTY OFFICER

To be rear admiral (lower half)

George Richard Meinig, Jr.
Walter Hollingsworth Cantrell.

AERONAUTICAL ENGINEERING DUTY OFFICER

To be rear Admiral (lower half)

Larry Eugene Blose.

The following-named captains of the U.S. Navy for promotion to the permanent grade of rear admiral (lower half), pursuant to title 10, United States Code, section 624, subject to qualifications therefore as provided by law:

MEDICAL CORPS

To be real admiral (lower half)

Russell Larry Marlor.
Daniel Barfield Lestage.
Donald Floyd Hagen.
William Arthur Buckendorf.

SUPPLY CORPS

To be rear admiral (lower half)

Brady Marshall Cole.
Peter Demayo.
Francis Leonard Filipiak.

CIVIL ENGINEER CORPS

To be rear admiral (lower half)

David Elliott Bottorff.
Jon Robert Ives.

DENTAL CORPS

To be rear admiral (lower half)

Milton Chipman Clegg.

MEDICAL SERVICE CORPS

To be rear admiral (lower half)

Donald Eugene Shuler.

The following-named officer, under the provisions of title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be vice admiral

Vice Adm. Huntington Hardisty, 242-32-5034/1310, U.S. Navy.

The following-named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be vice admiral

Rear Adm. James H. Webber, 556-36-0721/1440, U.S. Navy.

IN THE AIR FORCE

Air Force nominations beginning Donald R. Klein, and ending Wesley G. Petty, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of December 6, 1985.

IN THE ARMY

Army nominations beginning Mani Bala, and ending Alan F. Weir, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of December 6, 1985.

Army nominations beginning Benny L. Bachulis, and ending Anthony E. Curcio, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of December 9, 1985.

IN THE COAST GUARD

Coast Guard nominations beginning John J. Clare, and ending Robert P. Sniffen, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of December 6, 1985.

Coast Guard nominations beginning Barry R. Moore, and ending John H. Wiger, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of December 9, 1985.

IN THE FOREIGN SERVICE

Foreign Service nominations beginning Frank A. Padovano, and ending John Riesz, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of December 4, 1985.

Foreign Service nominations beginning Gerald W. Harvey, and ending Vincente Tang, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of December 4, 1985.

IN THE NAVY

Navy nominations beginning Victor H. Ackley, and ending John E. Wilson, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of December 6, 1985.

Navy nomination of Donald F. Schorr II, which was received by the Senate and appeared in the CONGRESSIONAL RECORD of December 11, 1985.

Navy nominations beginning Briana M. Albert, and ending Eric J. Zintz, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of December 11, 1985.

HOUSE OF REPRESENTATIVES—*Monday, December 16, 1985*

The House met at 12 o'clock noon.

The Reverend Edward Gardiner Latch, D.D., L.H.D., former Chaplain of the House of Representatives, offered the following prayer:

Trust in the Lord with all your heart; and lean not on your own understanding. In all your ways acknowledge Him and He shall direct your paths.—Proverbs 3:5, 6.

Eternal God, who has given us the morning light, give us also the morning blessing as we lift our hearts unto Thee in prayer.

Grant unto us the blessing of wisdom—not only to make wise choices but also to find the right paths we ought to take.

Grant unto us the blessing of love. Give us grace to rise above the low prejudices that separate people and help us to enter the realm of high principles where all persons are brought together with respect and in good will.

Grant unto us the blessing of faith. In these trying times may we keep our faith in Thee and may this faith keep us strong and good.

As statesmen grant us wisdom, grant us love, grant us faith that in these trying times we fail not man nor Thee.

We pray for the families of those young GI's who were killed in the plane crash. May the time soon come when all planes shall be made safe for flying or perhaps we should get busy and see that this be done soon. Amen.

THE JOURNAL

The **SPEAKER**. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. GEKAS. Mr. Speaker, pursuant to clause 1, rule 1, I demand a vote on agreeing to the Speaker's approval of the Journal.

The **SPEAKER**. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. GEKAS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The **SPEAKER**. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 241, nays 121, answered "present" 5, not voting 67, as follows:

[Roll No. 460]

YEAS—241

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Archer
Aspin
AuCoin
Barnard
Bateman
Bedell
Beilenson
Bennett
Berman
Bevill
Boggs
Boland
Boner (TN)
Borski
Bosco
Boucher
Breaux
Brooks
Broomfield
Brown (CA)
Bruce
Bryant
Burton (CA)
Bustamante
Byron
Carper
Carr
Chapman
Chappell
Coats
Coelho
Coleman (TX)
Collins
Combest
Conyers
Cooper
Coyne
Crockett
Daniel
Darden
Daschle
de la Garza
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Duncan
Dwyer
Eckart (OH)
Eckert (NY)
Edgar
Edwards (CA)
Erdreich
Evans (IL)
Fascell
Fazio
Fish
Flippo
Florio
Foglietta
Foley
Ford (TN)
Fowler
Frank
Franklin
Frost
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Gradison
Gray (IL)
Gray (PA)
Green
Hall, Ralph
Hamilton
Hammerschmidt
Hatcher
Hawkins
Hayes
Hefner
Heftel
Hertel
Horton
Howard
Hoyer
Huckaby
Hughes
Hutto
Hyde
Jeffords
Jenkins
Johnson
Jones (NC)
Jones (OK)
Jones (TN)
Kanjorski
Kaptur
Kastenmeier
Kemp
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lantos
Leath (TX)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lipinski
Livingston
Lowry (WA)
Lujan
Luken
Manton
Markey
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCurdy
McDade
McEwen
McHugh
Mica
Miller (CA)
Miller (WA)
Mineta
Mollohan
Montgomery
Moody
Moore
Mrazek
Murphy
Murtha
Natcher
Nichols
Nowak
Oakar
Oberstar
Olin
Packard
Panetta
Pease
Pepper
Perkins
Petri
Pickle
Porter
Pursell
Quillen
Rahall
Rangel
Ray
Regula
Reid
Richardson
Rinaldo
Ritter
Robinson
Roe
Rose
Rostenkowski
Rowland (GA)
Roybal
Rudd
Russo
Sabo
Scheuer
Schneider
Schulze
Schumer
Sharp
Shelby
Shumway
Sisisky
Skelton
Slattery
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Snyder
Solarz
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Stratton
Studds
Swift
Synar
Tallon
Taylor
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Volkmer
Watkins
Weaver
Wheat
Whitley
Whitten
Wilson
Wirth
Wise
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron

NAYS—121

Armey
Badham
Bartlett
Barton
Bentley
Bereuter
Bliley
Boehlert
Boulter
Burton (IN)
Callahan
Carney
Chandler
Chappie
Cheney
Clay
Cobey
Coble
Coleman (MO)
Conte
Coughlin
Craig
Crane
Dannemeyer
Daub
DeLay
DeWine
Dickinson
Dreier
Durbin
Edwards (OK)
Emerson
Evans (IA)
Fawell
Fiedler
Fields
Frenzel
Gallo
Gekas
Gingrich
Goodling
Grotberg
Gunderson
Hendon
Henry
Hiler
Holt
Ireland
Jacobs
Kasich
Kindness
Kolbe
Kramer
Lagomarsino
Latta
Leach (IA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lloyd
Lott
Lungren
Mack
Madigan
Marlenee
Martin (IL)
McCain
McCandless
McKernan
McMillan
Meyers
Michel
Miller (OH)
Mitchell
Molinari
Monson
Moorhead
Morrison (WA)
Myers
Nielson
Oxley
Parris
Pashayan
Penny
Roberts
Roemer
Rogers
Roth
Roukema
Rowland (CT)
Saxton
Schaefer
Schroeder
Schuette
Sensenbrenner
Shaw
Sikorski
Siljander
Skeen
Slaughter
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Strang
Stump
Swindall
Tauke
Tauzin
Thomas (CA)
Vander Jagt
Vucanovich
Walker
Weber
Whitehurst
Whittaker
Wolf
Young (FL)
Zschau

PRESENT—5

Bonker
Martinez
Obey
Seiberling
Waxman

NOT VOTING—67

Addabbo
Applegate
Atkins
Barnes
Bates
Biaggi
Bilirakis
Bonior (MI)
Boxer
Brown (CO)
Broyhill
Campbell
Clinger
Courter
Davis
Dellums
DioGuardi
Dornan (CA)
Dowdy
Dymally
Dyson
Early
English
Feighan
Ford (MI)
Fuqua
Gregg
Guarini
Hall (OH)
Hansen
Hartnett
Hillis
Hopkins
Hubbard
Hunter
Lehman (CA)
Loeffler
Long
Lowery (CA)
Lundine
MacKay
Martin (NY)
McGrath
McKinney
Mikulski
Moakley
Morrison (CT)
Neal
Nelson
O'Brien
Ortiz
Owens
Price
Ridge
Rodino
Savage
Shuster
Spence
St Germain
Stangeland
Sundquist
Sweeney
Walgren
Weiss
Williams
Young (AK)
Young (MO)

☐ 1215

Mr. CARR changed his vote from "nay" to "yea."

So the Journal was approved.

The result of the vote was announced as above recorded.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Boldface type indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 3914. An act to preserve the authority of the Supreme Court Police to provide protective services for Justices and Court personnel.

The message also announced that the Senate had passed joint resolutions of the following titles, in which the concurrence of the House is requested:

S.J. Res. 214. Joint resolution to provide for the reappointment of Carlisle H. Humelsine as a citizen regent of the Board of Regents of the Smithsonian Institution; and

S.J. Res. 215. Joint resolution to provide for the reappointment of William G. Bower as a citizen regent of the Board of Regents of the Smithsonian Institution.

PERMISSION FOR COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO SIT TODAY DURING 5-MINUTE RULE

Mr. MINETA. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation be permitted to sit today, Monday, December 16, 1985, during the 5-minute rule of the House.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

Washington, DC,
December 13, 1985.

Hon. Thomas P. O'Neill, Jr.,
The Speaker, U.S. House of Representatives,
Washington, DC.

Dear Mr. Speaker: Pursuant to the permission granted in Clause 5, Rule III of the Rules of the U.S. House of Representatives, the Clerk received at 10:20 a.m. on Friday, December 13, 1985, the following message from the Secretary of the Senate: That the Senate passed H.R. 3918, H.R. 3919, H.R. 1627, H. Con. Res. 247, and H. Con. Res. 239.

With kind regards, I am,

Sincerely,

Benjamin J. Guthrie,
Clerk, House of Representatives.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to announce that pursuant to clause 4 of rule I, the Speaker signed the following enrolled joint resolution on Thursday, December 12, 1985:

H.J. Res. 476. Joint resolution making further continuing appropriations for fiscal year 1986.

And the following enrolled bills on Friday, December 13, 1985:

H.R. 664. An act to amend the Panama Canal Act of 1979 with respect to the payment of interest on investment of the United States;

H.R. 729. An act to amend the Panama Canal Act of 1979 in order that claims for vessels damaged outside the locks may be resolved in the same manner as those vessels damaged inside the locks, and for other purposes;

H.R. 1534. An act to convert the temporary authority to allow Federal employees to work on a flexible or compressed schedule under title 5, United States Code, into permanent authority;

H.R. 2976. An act to direct the Secretary of Agriculture to release the condition requiring that a parcel of land conveyed to New York State be used for public purposes and to convey U.S. mineral interests in the parcel to New York State;

H.R. 3735. An act to designate the pedestrian walkway crossing the Potomac River at Harpers Ferry National Historical Park as the "Goodloe E. Byron Memorial Pedestrian Walkway";

H.R. 3085. An act to clear title to certain lands along the California-Nevada boundary;

H.R. 1627. An act to designate certain National Forest System lands in the State of Kentucky for inclusion in the National Wilderness Preservation System, to release other forest lands for multiple use management, and for other purposes;

H.R. 3919. An act to extend temporarily the Dairy Price Support Program and certain Food Stamp Program provisions, and for other purposes; and

H.R. 3918. An act to extend until December 18, 1985, the application of certain tobacco excise taxes, trade adjustment assistance, certain Medicare reimbursement provisions, and borrowing authority under the Railroad Unemployment Insurance Program.

UNFAIR TRADE PRACTICES

(Mr. BONKER asked and was given permission to address the House for 1 minute.)

Mr. BONKER. Mr. Speaker, many of us learned over the weekend that the White House has backed away from its much heralded plan to penalize the next generation of Japanese semiconductor imports if those products are coming in at less than market value.

The allegation has been made that Secretary Baldrige has "overstepped" the authority given to him by the President. Actually, the Commerce Department was carrying out the Presidential trade offensive announced in September, to set up a "strike force" to deal with the unfair trade practices that exist.

A Washington Post article noted that the White House reacted after aides there were subjected to heavy lobbying all week by lawyers for the Japanese industry who wanted to narrow the scope of possible penalties.

Mr. Speaker, it is obvious to anyone familiar with the trade issue in this town what is going on. Former high-ranking officials in the Reagan Administration are now employed by law firms and consultants to represent foreign interests often at odds with our own Nation's best interests.

This reminds me of the example set by former Pentagon officials going to work for defense contractors, profiting from their knowledge and contacts gained by their work experience in the Federal Government.

Perhaps it is time that Congress placed some restrictions on this practice so that we can allow our Government to deal more effectively with our trade problems.

THE COMMUNIST SANDINISTA REGIME IN NICARAGUA

(Mr. LAGOMARSINO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Speaker, it seems you can't pick up a newspaper these days without reading about some further abuses or persecution carried out by the Communist Sandinista regime in Nicaragua.

In recent days there have been reports of 300 opposition figures detained for questioning by the Communist Sandinistas. There have also been accounts of Roman Catholic bishops from Central America accusing Nicaragua's Government of persecuting the church and mistreating detainees.

The bishops' statement was released following a message sent by Pope John Paul last week to Nicaraguan Catholics which complained about "various forms of intimidation" against priests and church members. Cardinal Obando Y Bravo and Salvadoran Archbishop Rivera Y Damas were among those reported to have issued the statement condemning the Sandinista Communists.

And just today, the press is carrying a lengthy report of an interview with American labor leader Bill Doherty saying, "The Sandinista dictatorship is even worse than the Somoza dictatorship." In today's report he also says, "There are more Sandinistas, the true Sandinistas, fighting in the freedom forces than there are in the Sandinista militia."

□ 1230

IT IS YOUR ONLY CHANCE

(Mr. ROEMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROEMER. Mr. Speaker, the President is trying to get Republicans to support the Ways and Means tax bill. It is going to be tough, Mr. President. You cannot argue for the substance of the bill since it flies in the face of everything you claim to stand for. It is antigrowth; it is antijobs. It adds complexity to the code.

Anyone who argues that it is simple, is. How can we ask American workers to accept a slightly lower marginal tax rate and lose their job in return? Bad trade. No, you cannot sell the bill on its merits. You cannot argue the process either. Ways and Means insists on closed rule, with no chance to amend their bill. No chance to impose a corporate and wealthy minimum tax and apply the proceeds to the deficit. What kind of process is that?

In addition, our Constitution demands that revenue bills originate in the House, not passed blindly over to the Senate. The process is a good reason to vote "no," Mr. President: not "yes." Your only chance, Mr. President, is to follow the example of a late Louisiana politician, Gov. Earl Long. When trying to get votes for a tax bill, and told by a north Louisiana legislator, "I am with you when you are right, Governor," Earl responded, "Hell, I do not need you when I am right."

Since you are wrong on this one as to substance and to process, Mr. President, you have got to try the old, cold political statement. I do not need you when I am right. Will it work? I do not know, but it is your only chance.

ON AN ABUSE OF POWER

(Mr. SOLOMON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SOLOMON. Mr. Speaker, this could be a very sad day in the history of the House of Representatives. Today, the Foreign Affairs Committee will be asked to authorize the contempt citation of two American citizens. Mr. Speaker, this body should be very careful never to abuse the powers and to be arrogant when it comes to its citizens.

Not only that, Mr. Speaker, but this action is being brought because one Member, the chairman of the House Asia-Pacific Subcommittee, a Democrat on your side of the aisle, insists on being inflexible; insists on carrying out a witchhunt to bring down the leader of a sovereign nation and ally of this country. Mr. Speaker, that is disgraceful, and I certainly hope that this House will not be a party to it.

SURPLUS BUTTER ALLOTMENT CUT

(Mr. WILSON asked and was given permission to address the House for 1 minute.)

Mr. WILSON. Mr. Speaker, I am really pleased so many of the more powerful Members on the floor at this particular time so that I can finally get their attention on the butter issue.

As I have spoken four or five times previously, the Agriculture Department has cut the surplus butter allotment to the poor in half all over the country. I really think that this is something that Members should be interested in on both sides of the aisle. Let me tell you why they did this. They did this because the margarine people complained that they were not selling enough margarine, and so the butter allotment was cut into half of what the very poorest of the poor in Indiana can get. I do not see how anybody could approve of that.

Let me tell the Members what the options were that the Agriculture Department had. They have three programs they can cut. They can cut the School Lunch Program and make them buy margarine that they do not want. They can cut the nonprofit hospital programs and make them buy margarine. They can cut the SSI nutrition for pregnant mothers and AFDC programs, and thereby please this powerful margarine lobby which I never heard of.

What did they do? Of course, what they did was leave the hospitals alone because the hospitals have boards of directors that have power. They let the school kids alone because the school kids' parents have power, and what they did was cut the hungry children of the poor, and we are going to continue to hear about that until the more powerful Members of my party get interested.

AMENDING TITLE XVIII AND TITLE XI OF THE SOCIAL SECURITY ACT

(Mr. HAMMERSCHMIDT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAMMERSCHMIDT. Mr. Speaker, the administration of the prospective payment system has generated many comments and suggestions by the health care community. Since 1983, many Arkansas physicians, hospital administrators, and Medicare patients have contacted me about their problems with the prospective payment system. Based on the information collected from these meetings, letters, and calls, I introduced three bills on November 19 which respond to some of their concerns with the system.

The Medicare Program, since its inception, had utilized a retrospective cost-based method of hospital reimbursement. That system provided little incentive for hospitals to be cost-conscious in their provision of services because the more they spent for Medicare allowable costs, the more they were reimbursed.

In the 1982 Tax Equity and Fiscal Responsibility Act [TEFRA], as a means of controlling hospital costs, Congress required that the Department of Health and Human Services [HHS] develop a proposal for a prospective reimbursement. At that time hospital costs were rising at twice the rate of overall inflation. Based on the TEFRA amendment, the prospective payment system became title VI of the Social Security Amendments of 1983.

The prospective payment system of reimbursement became operational on or after October 1, 1983. Arkansas was one of the first six States to operate under the new system. During the last 2 years, health care professionals in Arkansas have had a number of problems with the program, some of which may have a more severe impact on smaller, nonurban hospitals. It seems to me that in other States, hospitals in nonurban areas would experience similar problems.

My first bill, H.R. 3781, would require the Secretary of HHS, by regulation, to take into account the relative severity of an illness within particular diagnosis related groups [DRG's]. Currently, the DRG classification system does not take into account the severity of illness within each category. In each DRG there can be a wide variation in the length of hospitalization and the amount of resources needed to treat individual patients. And, unless a patient's condition far exceeds the norm and falls into the outlier categories, there is no way to increase the reimbursement for the expensive and lengthy hospital stays. I'd like to present one example of how hospitals are adversely affected by not having a severity of illness index.

Some small nonurban hospitals in Arkansas are located in areas that had been engaged in the mining industry. Many of those who worked for years in the mines have a condition called chronic obstructive pulmonary disease. I'm informed that when hospitalized these patients often run up bills of $5,000 but that hospitals are being reimbursed under the prospective payment system in the range of $1,700. Administrators at these hospitals have stated that they can't absorb this amount of loss. And the people in Arkansas can't afford to lose these hospitals. Furthermore, in my State, if a hospital were to close, the next closest hospital could be 80 or 90 miles away.

My second bill, H.R. 3782, extends to providers and practitioners the same right of appeal that is available to Medicare recipients. Currently, if a claim is denied at the reconsideration level, only the patient has the right to pursue an appeal to the administrative law judge and, if necessary, for judicial review. Patients, however, have little incentive to pursue an appeal because they are not responsible for the costs. Recently released patients are often frail. Most are unfamiliar with the legal process. These conditions, coupled with their lack of financial responsibility, explain why patients often lack the incentive to continue an appeal through the rigors of the multilevel appeals process.

The current statutory provision excludes a practitioner or provider from appealing an adverse determination by a peer review organization [PRO] beyond the reconsideration level. Many physicians and hospital administrators in Arkansas feel that be-

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cause it is the providers and practitioners who bear the financial burden when a claim is denied, they should have the right to pursue an appeal to the administrative hearing and judicial review. Additionally, many physicians believe that they should have the right to pursue an appeal under the due process clause of the Constitution.

It has been suggested that many claims are denied by the PRO because the participants in the decisionmaking process are not using the same standards to make decisions. This results in delays and unnecessary denials. Many of these denials are administratively based and not clinically based. It seems that these problems may stem from the overlay of a very new and complex reimbursement system on an old and ingrained one. It is difficult to believe that the Prospective Payment Program has never included any comprehensive training that imparts similar knowledge and information to all of the program's participants. If all participants in the program—the attending physicians, the review coordinators, physician advisers, appropriate personnel of the fiscal intermediary and the hospitals—were similarly trained, there should be a reduction in the number of cases denied as well as all of the costs connected with unnecessary appeals.

My third bill, H.R. 3783, would require that each PRO develop its own training model in accordance with its State developed criteria and Federal regulations. Training would involve all of the individuals that are a part of the decisionmaking process. Each PRO would receive funds for training at the rate of 20 cents for each eligible Medicare beneficiary for each of the first 2 contract years, and for the next 2 contract years would be 15 cents and 10 cents respectively. For each contract year thereafter the amount would be equal to 10 cents increased by a factor that approximates the increase in inflation. Training would be ongoing as both the system and participants are continually changing.

Although there are other concerns with the prospective payment system that need to be addressed, particularly quality of care, I believe that the bills I've introduced will make some important improvements in the system. I urge my colleagues to review this proposed legislation and become cosponsors of these bills.

THE 101ST AIRBORNE DIVISION: PEACEMAKERS

(Mr. SKELTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SKELTON. Mr. Speaker, like so many Americans this time of year, John Trosper Bradley, Jr., of Henley, MO, of my district, was traveling home last week to be with his family during the holidays. Tragically, however, his journey, and the journeys of 247 other members of 101st Airborne Division, ended abruptly when the chartered plane on which they were flying crashed in Gander, Newfoundland.

The fate of Specialist Fourth Class Bradley and his comrades has a tragic irony. Having been spared any combat casualties during their tour of duty as peacekeepers in the violent Middle East, descriptions of the crash site relate that those dedicated men and women died in a quite field strewn with festively wrapped Christmas presents.

At times like this, words seem inadequate to express the grief we all share over the untimely loss of so many young lives. However, it is my most fervent hope that the loved ones of those who died will find solace in words spoken almost 2,000 years ago: "Blessed are the peacemakers: for they shall be called the children of God."

Today, I am adding my name as cosponsor with the gentleman from Kentucky [Mr. HUBBARD] and the gentleman from Tennessee [Mr. SUNDQUIST] to a resolution in memory of our lost soldiers of the 101st Airborne Division, and I extend my sympathy to their families and to their comrades and to their commanding officer, Maj. Gen. Burton Patrick.

LETTERS TO VIETNAM MIA'S BEING THROWN OUT

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURTON of Indiana. Mr. Speaker, today it was reported that a woman whose husband was listed as missing in action in Vietnam in 1970 said Sunday she found a garbage can full of letters, most of them unopened, addressed to MIA's in care of the Vietnam Mission to the United Nations. A spokesman for that mission said, "Such mail is routinely thrown out because there is too much of it to be processed."

Mr. Speaker, can you imagine that? At this time of the year? People who have loved ones who have not been found in Vietnam, MIA's, write letters to them in the hope that someday they will be found and the letters will be delivered, find that the Vietnam Mission to the United Nations takes that mail and just throws it in the trash.

Now we support that mission with our tax dollars; 25 percent of the U.N. expenses are paid for by the United States of America, and I think this Congress ought to make a formal demand to the Vietnam Mission to the United Nations to make sure there is a sympathetic response to every one of those Vietnam MIA letters. I think it is extremely important, especially at this time of the year.

IT IS TIME TO ABANDON THE "ROYALIST" POSITION ON TAX REFORM

(Mr. DURBIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DURBIN. Mr. Speaker, early this morning as I was driving from Springfield, IL, to St. Louis, MO, to catch a flight, the radio announcer said that today we are observing the anniversary of the Boston Tea Party. In 1773, 212 years ago, a band of willful colonists protested the unfairness of British taxes by dumping tea in the Boston Harbor. King George did not get the message. A revolution followed.

This afternoon the President meets with our Republican colleagues to convince them that they should join the new American Revolution against our unfair tax system. Last week, the Tories in the House stood firm against tax reform. Only 14 Republicans supported the President on the Ways and Means bill.

We can only hope that this afternoon's tea party hosted by President Reagan for Republican House Members will result in a decision by the Republicans to change their votes, abandon their royalist position, support their President, and vote for tax reform before it is too late.

SAVE FOR THE U.S.A. WITH SAVINGS BONDS

(Mr. GROTBERG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GROTBERG. Mr. Speaker, last week the House passed a resolution to designate 1986 as "Save for the U.S.A. Year." I, along with my colleague from Ohio, MARCY KAPTUR, sponsored this resolution to fill a gap which exists in Congress and the executive branch. Despite the fact that Americans reduced the costs to the Federal Government as a result of lower interest costs by $2 billion in 1984 through the purchase of savings bonds, Congress and the President have not played a prominent role in the promotion of this savings and investment tool. Our resolution urges the President and Congress to actively campaign for savings bonds. The President is urged to kick off a national "Buy Back America" campaign during the state of the Union address in January. In addition, over 1 million Federal employees regularly purchase U.S. savings bonds through payroll allotment. Only 7 percent of the 12,000 employees of the House of Representatives regularly purchase bonds. We're ignoring our own back yard by not communicating the benefits of savings bonds to congressional employees.

I urge my colleagues to take part in the program, and pass along your commitment to your staff and constituents.

☐ 1240

THE LURE OF REDSKINS TICKETS IS STING OPERATION'S CENTERPIECE

(Mr. HUGHES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUGHES. Mr. Speaker, I rise today to salute the U.S. Marshals Service and the Washington, DC, Metropolitan Police, for the successful sting operation they carried out over the weekend.

Using the promise of Washington Redskins tickets as bait, they lured more than 100 of the area's most wanted criminals into the D.C. Convention Center, where they were quickly put under arrest.

The criminals were taken completely by surprise. No shots were fired, no lives were jeopardized, and the operation was a total success.

This sting operation is just one example of how innovative crime-fighting programs are being developed and put to use by the U.S. Marshals Service and other law enforcement agencies these days. It is such techniques and strategy that is encouraged by the Justice Assistance Act of 1984.

It just goes to show you that our law enforcement community can indeed stay one step ahead of the criminals, if the Congress provides the support, tools and financial resources they need to do the job.

I hope my colleagues with keep this need in mind as the various budget and appropriations bills for our law enforcement agencies are considered in the months ahead.

UNITED NATIONS COMMENDED FOR TAKING A STAND AGAINST TERRORISM

(Mr. BEREUTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BEREUTER. Mr. Speaker, we do not receive too much good information about the United Nations, but when that body does something that is commendable, I think we ought to recognize it here in the Congress.

Last week the General Assembly of the United Nations, after a decade of debate, passed a resolution condemning "as criminal all acts, methods and practices of terrorism wherever and by whomever committed . . ." in whatever form, wherever conducted, and by that action, although long delayed, is certainly to be commended. The only dissenting vote was by—guess which country? Cuba.

Now the United Nations should address its attention to the Vienna Convention. The Vienna Convention is aimed at protecting diplomatic missions and diplomats. Surely the United Nations ought to be able to agree on reasonable penalties by all nations against terrorism aimed at diplomats and diplomatic missions. That is one of the next logical steps for the United Nations and I hope the General Assembly will now take that step. As the Washington Post editorially commented today: "It is a long way from word to deed: But saying the right word is important and finally, on terrorism, the U.N. has said it."

SIX NATIONS FETED BY THE BEYOND WAR FOUNDATION FOR EFFORTS AGAINST NUCLEAR WAR

(Mr. DOWNEY of New York asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOWNEY of New York. Mr. Speaker, an extraordinary event occurred on Saturday. The very prestigous Beyond War Foundation based in San Francisco gave its annual award to the five continent peace initiative. There are six countries—Greece, Sweden, Tanzania, India, Argentina, and Mexico—which have gotten together to try and explain to the superpowers the fact that they believe they have a role to play in reducing the likelihood of nuclear war.

In Delhi, on January 28, 1985, they produced a resolution that asked for two things from the superpowers: First, that they stop testing of nuclear weapons underground; and second, to prevent the militarization of outer space.

Most recently, on Saturday, the Beyond War Foundation recognized these six leaders from across the globe and had each one of them speak. Amazingly enough Olof Palme, the Prime Minister of Sweden, renewed his request to the superpowers that if there was some difficulty in the monitoring of nuclear weapons testing underground, these six countries and indeed the technological capacilities of the Swedes would be more than happy to be placed at our disposal to stop nuclear weapons testing.

It was a small blip on the radar screens of political notice in this country. It received some notoriety in papers on the west coast, but it is likely to spread, and I urge my colleagues to learn more about this very worthy endeavor by these six countries.

CALL FOR INVESTIGATION INTO HIRING PRIVATE AIRLINES TO TRANSPORT MILITARY PERSONNEL

(Mr. GEKAS asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, the tragedy of the air crash that took the lives of 248 American servicemen is beyond description, and all of us feel a sense of loss, as we should. But it will become even more tragic if developments reveal that the crash was due to poor maintenance or to some practices on the part of someone or some entity which led inexorably to the tragedy itself.

We want to know, in the wake of this crash: what are the practices of hiring private airlines for the lifting of servicemen from one place to another? We want to know: what are the qualifications required of an airline to qualify for such contracts?

We want to know the full story, Mr. Speaker, so that whatever the tragic results, already so monumental in this regard, they will not become even more severe in the future.

SOLIDARITY WITH SOVIET JEWRY

(Mr. HOYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOYER. Mr. Speaker, this past weekend the Jewish festival of lights, Hanukkah, commemorating the ancient struggle for religious freedom, came to a close. We now look ahead to the Christmas holiday, when the precious gift of life and personal freedom are uppermost in our minds. In Washington and other cities around the country it has become traditional during this joyous season for Jews, Christians, and people of goodwill from other proud faiths to unite in defense of Soviet Jewry.

I want to draw the attention of my colleagues today to the efforts of one such group of concerned citizens—eight rabbis and a Catholic priest—who demonstrated within 500 feet of the Soviet Embassy on May 1, of this year. By an act of civil disobedience they dramatized the plight of Soviet Jewry. In so doing, they followed the moral precepts of the ancient Hebrew Sage Hillel, whose bibilical commentaries form the basis of sermons to this day. Hillel taught: "If I am not for myself who is for me; and being for my own self what am I? If not now when?"

If I am not for myself who is for me; and being for my own self what am I? Mr. Speaker, the group of Jewish and Christian clerics who demonstrated in solidarity at the Soviet Embassy exercised their rights of free speech and association. These are the birthright of every American. They also felt compelled by reasons of conscience to take further action beyond the limits prescribed by law and in so doing sought to make political statements regarding the plight of Soviet Jews. They were prepared to take the consequences prescribed by the District law. Five of the rabbis from the Washington metropolitan area have chosen 2-weeks in prison instead of the suspended sentence and a fine as imposed by the District court for demonstrating too close to the U.S.S.R. Embassy. Those five rabbis are Harold Steven Bavar, of Greenbelt, Leonard Cahan, of Potomac, Bruce Kahn, of Chevy Chase, Mark Levine, of Silver Spring, and David Oder, of Gaithersburg.

If not now when? For the 2 weeks of their symbolic protest, it is fitting that we do our part as well in drawing public attention to the grim conditions under which Soviet Jewry must live. Mr. Speaker, the Reagan-Gorbachev summit, at which the President forthrightly raised the concern of the American people for human rights, has engendered some yet-to-be-realized hopes that conditions might ease for Soviet Jewry. Despite the resolution of a very few cases, the road to freedom still remains closed to an estimated 30,000 to 50,000 refuseniks. Among them are approximately 200 people who have been refused for more than a decade and over 30 prisoners of Zion who languish in Soviet prisons and labor camps. The Soviet anti-Zionist committee continues to circulate its vicious libel. Jewish cultural activists are targeted for vilification and physical attack.

According to the State Department, since the summer of 1984, Soviet authorities have tried 16 Jews for cultural activism. The last was the sentencing in October of Leonid Volvovsky to 3 years' confinement for anti-Soviet slander. Iosie Begun, a prisoner of conscience since 1982, is suffering greatly in a punishment cell in Chistopol prison. Denied physical nourishment—in the freezing cell he is without warm clothing and must subsist on bread and water every second day—he is also denied spiritual sustenance. His pleas for a bible are scornfully ignored. In the same prison is Anatoly Shcharansky, whose health continues to deteriorate. In and out of isolation cells, he tenaciously insists on his right to emigrate and join his wife Avital in Israel.

Mr. Speaker, in closing, I would only say that by their act of civil disobedience the religious leaders I have honored today have helped to focus public opinion on the plight of Soviet Jewry. We in Congress also must act upon our own consciences and use the power vested in us by the American people to keep the spotlight of world opinion on this important cause.

U.S. DEFENSES AT RISK IF MARCOS GOVERNMENT FALLS

(Mr. RUDD asked and was given permission to address the House for 1 minute, and to revise and extend his remarks, and include extraneous matter.)

Mr. RUDD. Mr. Speaker, to the critics who would bring the Marcos government of the Philippines down and install instead a Communist government, let me remind them that the Philippines is the geopolitical key to the rapidly developing Pacific Basin and the Orient and a key to the defense of the United States in the Pacific. The Soviets know this and have placed a third of their surface submarine and air capability force and the full force of their disinformation operation machine in the area to obtain the support of gullible American apologists and critics to set a Communist government there.

These same critics were instrumental in bringing down the friendly governments of Cuba, Iran, Vietnam, Cambodia, and Nicaragua, but once the brutal Communist governments were installed in their stead the critics rapidly disappeared.

Mr. Speaker, we must take care that this does not happen in the Philippines.

Mr. Speaker, I include for the perusal of my colleagues an article by Jeane Kirkpatrick which appeared in today's Washington Post, as follows:

[From the Washington Post, Dec. 16, 1985]

MARCOS AND THE PURISTS

(By Jeane J. Kirkpatrick)

There is more at stake in the Philippines than two U.S. bases or the continuation of the Marcos regime. Look at the map. The Philippines' location is of enormous geopolitical significance. To the north lie Taiwan, Japan, Korea and the People's Republic of China; to the west Vietnam; to the south Malaysia and other Asian states. Economically, this is the most dynamic region in the world. U.S. trade with the nations of the Pacific Rim is growing rapidly and has already surpassed our trade with Europe. Technology and industry give these Pacific nations a strategic importance equal to that of Western Europe. But they are much more vulnerable to outside military pressures.

NATO forces protect the independent nations of Western Europe, but no such alliance system offsets Soviet proximity and power in the Pacific. There is only the United States operating from two bases in the Philippines. "It is," as a U.S. military commander commented to me last year, "very nearly all we've got there."

That fact has not escaped the attention of the global chessmasters in the Kremlin.

The overriding U.S. goal in the Pacific is, I assume, to preserve the sovereignty of the independent nations that exist there. It would be bad for them and bad for us if those nations were incorporated into the "socialist world system," their industrial power available to the Soviet empire, their territory available for the projection of Soviet military might—as Vietnam lends Cam Ranh Bay to the Soviet Pacific fleet.

The Soviet Union's lively interest in the North Pacific has been manifest in its dramatic military buildup in that region, a buildup that has already altered the balance of power. The Soviet Pacific fleet already contains roughly one-third of all its submarines, surface combat vessels and naval aircraft. The Soviet air force in the four easternmost districts of the U.S.S.R. has been dramatically expanded to more than 3,000 combat aircraft. The number of their intermediate-range missiles in Asia more than doubled from 1982 through 1984, and the number of Soviet ground forces east of the Urals, including those on the Sino-Soviet border, has increased from a mere 150,000 in 1965 to more than one-half million today.

Yet from reading the American press one would think that President Ferdinand Marcos is the "focus of evil" in the contemporary world and that his government is the major threat to American interests in Asia. Day after day American newspapers, news weeklies and network newscasts treat Marcos' real and imagined failures, inefficiencies and corruption as though they were extraordinary and unique. They are not. Of 159 member states of the United Nations, at least 100 are probably governed more poorly than the Philippines.

One of the many disturbing aspects of the current campaign against the government of the Philippines is that similar or more serious charges could be made against many, if not most, of the independent governments in the area. Most exhibit authoritarian tendencies, have serious internal divisions, harbor low-level insurgencies, suffer corruption, and, in some cases, sponsor violence. Most, but not all, have made more impressive economic progress than the Philippines, but they too are beginning to encounter difficulties.

It is not the first time we have seen obsessive intolerance displayed by a government in a nation of great strategic importance to the United States. Remember Batista, Ngo Dinh Diem of Vietnam, Lon Nol of Cambodia, the Shah of Iran, Anastasio Somoza? The failings of each were magnified by people who played on American political purism as skillfully as Iago played on Othello's doubts.

Yet once these rulers had fallen, those who worked indefatigably to bring them down quickly forgot them and had little to say about the more tragically repressive, aggressive dictatorships imposed by their successors. Will a continuation of the current economic, diplomatic and political campaign against the government of the Philippines produce similar consequences?

There are real problems in the Philippines. There are real economic problems caused by corporatism, monopoly and corruption, problems that have been made worse by a U.S. insistence in international fiscal institutions and private banks that the Philippines meet standards we would not dream of imposing on, say, Mexico.

There are real political problems in the Philippines, some that led to the brutal murder of Benigno Aquino, and some others that have little to do with the Marcoses.

There are real military problems in the Philippines created by an armed guerrilla movement whose brutality is graphically described by Time correspondent Ross H. Munro in the current issue of Commentary Magazine. And there is a Philippine army without experience or training in counterinsurgency.

That is not all. There are Americans in Congress, in the executive branch and in the press who believe that bringing down Marcos is the overriding goal of U.S. policy in the Pacific.

But the U.S. interest in the Pacific is different. The U.S. goal must be to protect the independent nations of the region and to help, as appropriate, Filipinos build a more effective democracy. Many countries in the world are worse governed than the Philippines. None is more important to the stability and security of the United States, Japan and other independent nations in the Pacific.

Choosing a Philippine government is their business. Protecting American interests is ours.

TAX REFORM WOULD RESULT IN NOT RECESSION BUT TAX FAIRNESS

(Mr. DORGAN of North Dakota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORGAN of North Dakota. Mr. Speaker, there are some who are trying to portray tax reform as something that will promote recession. That is absolute nonsense. Let me tell the Members what tax reform will cause. It will cause not a recession; it will cause those who are not paying taxes to start paying some.

There are 29,000 Americans earning over $250,000 each paid less than 5 percent in taxes; nearly 5,000 Americans earning over a million dollars each paid nothing; and 65 American corporations earning a total of $50 billion in 3 years paid zero.

These are the folks who want us to believe that if we pass a tax bill, it will cause a recession. I will tell the Members what it will cause. it will cause those folks to pay the same kind of taxes that working people have been paying for a long time. They do not want to do that. That is tough. Good government requires that they pay taxes.

The vote on the floor of the House is not on a recession because this will not cause a recession. The vote is: Do you believe in tax reform or do you not? When the vote comes, vote yes, if you care about it, because most Members on this floor and most people in politics have been making a living talking about how they are going to support tax reform. The time has come. If you vote no, it means you do not care about forcing the big shots to pay the same taxes the rest of the folks in this country have been paying for years, and I think that is a shame.

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NO TAX CREDIT FOR SPECIAL INTERESTS

(Mr. SCHEUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHEUER. Mr. Speaker, I appreciate the words of the gentleman from North Dakota, Mr. BYRON DORGAN, who just preceded me.

I think we should do exactly that and I think we ought to go even further. We took away the investment tax credit and we lengthened out depreciation, but we did it across the board, which does not seem to indicate any particular national policy.

We juggled tax rates. We juggled loopholes. We juggled exemptions, but we did not seem to have any clear evidence of where we are going.

It seems to me that what we ought to do is to preserve the investment tax credit and to preserve accelerated depreciation for the productive sectors of our economy that are in desperate competition with foreign manufacturers and we ought to take away these excessively generous tax benefits from those protected sectors of the economy, the apartment house builders, the hotel builders, the shopping center builders and the luxury apartment builders who are not in competition with anybody and who are building something that really is not very high on our national priorities list.

We have got to give radical incentives in our productive economy. Right now we are saving less than 5 percent of our GNP. The Japanese are doing four times better than that. That is why they are outproducing us.

TRIBUTE TO HARD WORKING CONFEREES

(Mr. BROWN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of California. Mr. Speaker, I take this moment just to pay tribute to our colleagues who worked so hard over the weekend to produce a conference agreement on a number of important bills. I know we will hear much more discussion of these conference reports later on in the week when we get around to discussing them; but I think there is much that we can take satisfaction from in the agreements that have been reached.

I think we all ought to be aware that they would not have been reached, those agreements would not have been reached, unless a lot of our colleagues spent a lot of hours over the weekend. I was not one of them. I was able to relax a little bit, but I think they deserve a great deal of credit, and particularly on the farm bill under the leadership of the gentleman from Texas [Mr. DE LA GARZA] and the appropriation bill for continuing appropriations.

I think we reached agreements which in the long run were in the interests of the House position and in the interests of the Nation. I want to commend our colleagues for doing that.

IS PRESIDENT REAGAN SERIOUS ABOUT DEFICIT REDUCTION?

(Mr. GRAY of Pennsylvania asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GRAY of Pennsylvania. Mr. Speaker, I would like my colleagues in the House to know that on Friday I received a most extraordinary letter from the Director of the OMB, James C. Miller III, on the reconciliation bill now in conference.

Director Miller said reconciliation is of great importance, and I agree; but then he said the administration does not like some of the specific provisions being considered by the conferees, and that unless action is taken to significantly revise or delete them, the President's senior advisers will recommend that he veto the bill.

This raises in the starkest possible form the fundamental question about the economic policy of this administration. Is the President serious about deficits?

I fear that the truth is that this administration objects to the fact that the reconciliation proposal that we now have before us raises some revenues, principally by just keeping the cigarette tax at its current rate.

The administration has not faced up to the realities of the budget, and they still have deficit reduction at the bottom of their list of priorities—all rhetoric and no substance. In fact, after this letter from the OMB Director, I have to question whether it appears on their list at all.

THE PRESIDENT'S LAST CHANCE FOR TAX REFORM

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, in a few hours the President of this country will appear before our colleagues on the other side of the aisle and ask them to vote for tax reform.

Mr. President, if you have any magic left in your bag of tricks, use it today, because today is the last chance for tax reform in this Congress and probably in this decade.

Mr. President, you are going before your Republican caucus like King Henry did before Pope Gregory at his castle in Canossa. You are in sackcloth with ashes on your forehead and you are putting your fate in the hands of your Republican colleagues.

This is it, Mr. President. There is no last chance other than this one today for tax reform. Let us hope that you can work your magic and persuade our good colleagues on the other side of the aisle that this bill is a worthy bill, a bill worth supporting, a bill good for your party and good for this country.

THE IMPORTANCE OF ELIMINATING USELESS TAX SHELTERS

(Mr. SEIBERLING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SEIBERLING. Mr. Speaker, I am addressing this primarily to our Republican colleagues, but I know a lot of my Democratic colleagues feel the same way.

I was very concerned when I first read the tax bill about the impact on our national competitiveness of the effect of eliminating the investment tax credit, the ACR's and the other incentives to capital investment, particularly in high capital intensive industries, of which there are many in my part of Ohio; but the more I looked at this bill and the more I talked to businessmen, I began to realize that the most important feature of this bill is eliminating a lot of the useless tax shelters, real estate and buildings that can never possibly pay off, and yet people are investing billions of dollars in them simply because they get a tax shelter for the rest of their income.

If we can have business investment based on economic factors, rather than tax gimmicks, we are going to have more capital available for industry, we are going to have more profitable industry, and there is no question about that, resulting from the lower overall rates, and we are going to have the capital necessary at reasonable rates to make our industries competitive.

That took a lot of study and a long time thinking about this problem, but that is where I come out and I thought I would share that with you.

HAVE YOU READ THE TAX BILL?

(Mr. EMERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EMERSON. Mr. Speaker, I rise to ask the gentleman from Ohio how many times he has had the opportunity in the week that the bill has been available to read that 1,350-page tax bill.

FEDERAL EMPLOYEES BENEFITS IMPROVEMENT ACT OF 1985

Ms. OAKAR. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3384) to amend title 5, United States Code, to expand the class of individuals eligible for refunds or other returns of contributions from contingency reserves in the employees health benefits fund; to make miscellaneous amendments relating to the civil service retirement system and the Federal Employees Health Benefits Program; and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment with amendments.

The Clerk read the title of the bill.

The Clerk read the House amendments to the Senate amendment, as follows:

Page 1, strike line 9 and all that follows thereafter through page 3, line 21, and insert in lieu thereof the following:

(a) Definitions.—Section 8901 of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (9);

(2) by striking out the period at the end of paragraph (10) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new paragraphs:

"(11) 'certified nurse-midwife' has the same meaning given to such term in section 1905(m) of the Social Security Act; and

"(12) 'qualified clinical social worker' means an individual—

"(A) who is licensed or certified as a clinical social worker by the state in which such individual practices; or

"(B) who, if such State does not provide for the licensing or certification of clinical social workers—

"(i) is certified by a national professional organization offering certification of clinical social workers; or

"(ii) meets equivalent requirements (as prescribed by the Office).".

(b) Nurses and Nurse-Midwives.—Section 8902(k) of title 5, United States Code, is amended by striking out "or optometrist" each place it appears and inserting in lieu thereof ", optometrist, nurse, or certified nurse-midwife".

(c) Clinical Social Workers.—Section 8902(k) of title 5, United States Code, is further amended—

(1) by striking out "(k)" and inserting in lieu thereof "(k)(1)";

(2) by striking out the last sentence; and

(3) by inserting at the end thereof the following:

"(2) When a contract under this chapter requires payment or reimbursement for services which may be performed by a qualified clinical social worker, an employee, annuitant, family member, or former spouse covered by the contract shall be entitled under the contract to have payment or reimbursement made to him or on his behalf for the services performed. As a condition for the payment or reimbursement, the contract—

"(A) may require that the services be performed pursuant to a referral by a psychiatrist; but

"(B) may not require that the services be performed under the supervision of a psychiatrist or other health practitioner.

"(3) The provisions of this subsection shall not apply to group practice prepayment plans.".

(d) Effective Dates.—The amendments made by subsections (a), (b), and (c) shall be effective with respect to contracts entered into or renewed for calendar years beginning after December 31, 1986.

Page 10, lines 1 and 2, strike "physician or nurse;" and insert in lieu thereof "physician, nurse, or other licensed health professional with training in occupational safety and health;".

Page 10, line 14, strike "fitness;" and insert in lieu thereof "fitness, including weight reduction;".

Page 11, lines 5 and 6, strike "physicians and dentists;" and insert in lieu thereof "physicians, dentists, and other licensed health professionals;".

Page 11, line 12, strike "production" and insert in lieu thereof "productivity".

Page 13, line 18, after "public health," insert "school of nursing,".

Page 13, after line 21, insert the following:

(B) the authority of the Director of the Office of Personnel Management to enter into contracts or to make grants under subparagraph (A) is effective for fiscal year 1986 and subsequent fiscal years only to such extent or in such amounts as are provided in appropriation Acts.

Page 13, line 22, strike "(B)" and insert in lieu thereof "(C).

Page 14, after line 10, insert the following:

SEC. 110. ADDITIONAL TYPE OF HEALTH BENEFITS PLAN.

Paragraph (4) of section 8903 of title 5, United States Code, is amended by adding at the end thereof the following new subparagaph:

"(C) Mixed model prepayment plans.—Mixed model prepayment plans which are a combination of the type of plans described in subparagraph (A) and the type of plans described in subparagraph (B).".

SEC. 111. REPEAL OF 75 PERCENT MAXIMUM IN GOVERNMENT CONTRIBUTIONS.

(a) Repeal of 75 Percent Maximum.—Section 8906(b)(2) of title 5, United States Code, is amended to read as follows:

"(2) The biweekly Government contribution for an employee or annuitant enrolled in a plan under this chapter shall not exceed 100 percent of the subscription charge.".

(b) Effective Date.—The amendment made by subsection (a) shall be effective with respect to pay periods commencing on or after March 1, 1986.

SEC. 112. RESTRICTIONS RELATING TO AMOUNTS REFUNDED TO THE EMPLOYEES HEALTH BENEFITS FUND FROM CARRIERS' SPECIAL RESERVES.

(a) Prohibited Transfers.—(1) No amount in the Employees Health Benefits Fund may be transferred to the general fund of the Treasury of the United States or the United States Postal Service as a result of a refund described in paragraph (2).

(2) This subsection applies with respect to any refund made by a carrier during fiscal year 1986 or 1987 to the Employees Health Benefits Fund to the extent that such refund represents amounts in excess of the minimum level of financial reserves necessary to be held by such carrier to ensure the stable and efficient operation of its health benefits plan.

(b) Restriction Relating to Use of Certain Amounts in the Fund.—(1) Any amount which is in the Employees Health Benefits Fund, and which is described in paragraph (2), may be used solely for the purpose of paying the Government contribution under chapter 89 of title 5, United States Code, for health benefits for annuitants enrolled in health benefits plans.

(2) This subsection applies with respect to any amounts—

(A) which are referred to in subsection (a)(2); and

(B) which are attributable to Government contributions (other than contributions by the government of the District of Columbia) that were made under section 8906(b) of title 5, United States Code, as determined under regulations which the Office of Personnel Management shall prescribe.

(c) Definitions.—For the purpose of this section—

(1) the term "Employees Health Benefits Fund" refers to the fund described in section 8909(a) of title 5, United States Code;

(2) the term "carrier" has the meaning given such term by section 8901(7) of such title; and

(3) the term "health benefits plan" has the meaning given such term by section 8901(6) of such title.

Page 16, line 14, insert "on or" after "occurring".

Page 17, line 6, strike "to" and insert in lieu thereof "in the case of".

Page 17, strike lines 10 through 18 and insert in lieu thereof the following:

"(B)(i) The requirement described in clause (ii) shall not apply to an election made by an employee or Member under section 8339(j)(3) of title 5, United States Code (as amended by section 2(3)(A) of this Act), in order to provide a survivor annuity under section 8341(h) of such title (as amended by section 2(4)(G) of this act) in the case of a former spouse referred to in subparagraph (A) if the election meets the requirements of clause (iii).

"(ii) The requirement referred to in clause (i) is the requirement prescribed in section 8339(j)(3) of title 5, United States Code, for an employee or Member to make an election in the case of a former spouse under such section 8339(j)(3) at the time of retirement or, if later, within 2 years after the date on which the marriage of the former spouse to the employee or Member is dissolved.

"(iii) Clause (i) applies to an election which is made by an employee or Member who retires on or after May 7, 1985, and before the date of the enactment of the Federal Employees Benefits Improvement Act of 1985, and is received by the Office of Personnel Management within the 2-year period beginning on the date of the enactment of such Act.

Page 18, line 9, strike "May 7, 1985" and insert in lieu thereof "the date of the enactment of this Act".

Page 19, line 4, strike "(6)" and insert in lieu thereof "(5)".

Page 20, line 3, strike "(6)" and insert in lieu thereof "(5)".

Page 22, line 17, through page 24, line 11, strike section 202 and redesignate the following sections accordingly.

Page 32, after line 9, add the following:

SEC. 305. MINIMUM ANNUITY UNDER THE CIVIL SERVICE RETIREMENT AND DISABILITY SYSTEM

(a) Repeal.—Section 8345(f) of title 5, United States Code, is repealed.

(b) Savings Provision.—An annuity payable from the Civil Service Retirement and Disability Fund as of the day before the date of enactment of this Act shall not be reduced—

(1) by reason of the repeal of section 8345(f) of title 5, United States Code; or

(2) if or to the extent that the reduction is to be made for the purpose of eliminating an overpayment resulting from the manner in which such section 8345(f) has been administered by the Office of Personnel Management.

(c) Ratification of Erroneous Payments.—Any individual to whom an overpayment of an annuity has been made from the Civil Service Retirement and Disability Fund before the date of enactment of this Act shall be deemed to have been entitled to that overpayment if and to the extent that such overpayment resulted from the manner in which the Office of Personnel Management has administered section 8345(f) of title 5, United States Code.

(d) Adjustments of Certain Reductions.—(1) Effective for any month after the date of enactment of this Act, the amount of any annuity which—

(A) is payable from the Civil Service Retirement and Disability Fund; and

(B) was reduced after June 30, 1985, and before the date of enactment of this Act, to eliminate any overpayment resulting from the manner in which the Office of Personnel Management administered section 8345(f) of title 5, United States Code,

shall not be less than the amount which would have been payable as of such date of enactment if the reduction described in clause (B) had not been made.

(2)(A) The Office shall make a lump-sum payment to each individual receiving an annuity to which paragraph (1) applies.

(B) The lump-sum payment made to any individual under this paragraph shall be equal to the excess of—

(i) the total amount of the annuity payments which would have been made to the individual for the period beginning with the first month in which the reduction described in paragraph (1)(B) was made and ending on the last day of the month in which this Act is enacted if the reduction had not been made, over

(ii) the total amount of the annuity payments which have been paid to such individual for that period.

SEC. 306. CIVIL SERVICE BENEFITS FOR FORMER EMPLOYEES OF COUNTY COMMITTEES.

(a) Retention.—Section 3502(a)(C) of title 5, United States Code, is amended by striking out "who is an employee in or under the Department of Agriculture".

(b) Rate of Pay on Change of Position.—Section 5334(e) of title 5, United States Code, is amended—

(1) by inserting a comma after "may"; and

(2) by striking out "under the Department of Agriculture,".

(c) Accrual and Accumulation of Leave.—The first sentence of section 6312 of title 5, United States Code, is amended by striking out "in the case of any officer or employee in or under the Department of Agriculture".

SEC. 307. 18-MONTH PERIOD TO ELECT A SURVIVOR ANNUITY UNDER THE CIVIL SERVICE RETIREMENT AND DISABILITY SYSTEM.

(a) In General.—Section 8339 of title 5, United States Code, is amended by adding at the end thereof the following:

"(o)(1)(A) An employee or Member—

"(i) who, at the time of retirement, is married, and

(ii) who notifies the Office at such time (in accordance with subsection (j)) that a survivor annuity under section 8341(b) of this title is not desired,

may, during the 18-month period beginning on the date of the retirement of such employee or Member, elect to have a reduction under subsection (j) made in the annuity of the employee or Member (or in such portion thereof as the employee or Member may designate) in order to provide a survivor annuity for the spouse of such employee or Member.

"(B) An employee or Member—

"(i) who, at the time of retirement, is married, and

"(ii) who at such time designates (in accordance with subsection (j)) that a limited portion of the annuity of such employee or Member is to be used as the base for a survivor annuity under section 8341(b) of this title,

may, during the 18-month period beginning on the date of the retirement of such employee or Member, elect to have a greater portion of the annuity of such employee or Member so used.

"(2)(A) An election under subparagraph (A) or (B) of paragraph (1) of this subsection shall not be considered effective unless the amount specified in subparagraph (B) of this paragraph is deposited into the Fund before the expiration of the applicable 18-month period under paragraph (1).

"(B) The amount to be deposited with respect to an election under this subsection is an amount equal to the sum of—

"(i) the additional cost to the System which is associated with providing a survivor annuity under subsection (b)(2) of this section and results from such election taking into account (I) the difference (for the period between the date on which the annuity of the participant or former participant commences and the date of the election) between the amount paid to such participant or former participant under this subchapter and the amount which would have been paid if such election had been made at the time the participant or former participant applied for the annuity, and (II) the costs associated with providing for the later election; and

"(ii) interest on the additional cost determined under clause (i) of this subparagraph computed using the interest rate specified or determined under section 8334(e) of this title for the calendaar year in which the amount to be deposited is determined.

"(3) An election by an employee or Member under this subsection voids prospectively an election previously made in the case of such employee or Member under subsection (j).

"(4) An annuity which is reduced in connection with an election under this subsection shall be reduced by the same percentage reductions as were in effect at the time of the retirement of the employee or Member whose annuity is so reduced.

"(5) Rights and obligations resulting from the election of a reduced annuity under this subsection shall be the same as the rights and obligations which would have resulted had the employee or Member involved elected such annuity at the time of retiring.

"(6) The Office shall, on an annual basis, inform each employee or Member who is eligible to make an election under this subsection of the right to make such election and the procedures and deadlines applicable to such election.".

(b) Effective date and Application.—(1) The amendment made by subsection (a) shall take effect 3 months after the date of the enactment of this Act.

(2)(A) Subject to paragraph (B), the amendment made by subsection (a) shall apply with respect to employees and Members who retire before, on, or after such amendment first takes effect.

(B) For the purpose of applying the provisions of paragraph (1) of section 8339(o) of title 5, United States Code (as added by subsection (a) of this section) to employees and Members who retire before the date on which the amendment made by subsection (a) first takes effect—

(i) the period referred to in subparagraph (A) or (B) of such paragraph (as the case may be) shall be considered to begin on the date on which such amendment first becomes effective; and

(ii) the amount referred to in paragraph (2) of such section 8339(o) shall be computed without regard to the provisions of subparagraph (B)(ii) of such paragraph (relating to interest).

(3) For purposes of this subsection, the terms "employee" and "Member" each has the meaning given that term in sections 8331(1) and 8331(2) of title 5, United States Code, respectively.

Ms. OAKAR (during the reading). Mr. Speaker, I ask unanimous consent that the House amendments to the Senate amendment be considered as read and printed in the Record.

The SPEAKER pro tempore (Mr. Kildee). Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentlewoman from Ohio?

Mr. TAYLOR. Mr. Speaker, reserving the right to object, I yield to the gentlewoman from Ohio [Ms. Oakar].

Ms. OAKAR. Mr. Speaker, first, I want to point out that these amendments have been cleared with the minority.

H.R. 3384 passed the House last September 30 under suspension of the rules. The bill permitted health insurance premium rebates to civil service annuitants—rebates which the Justice Department has ruled are not authorized under existing law. The bill also made needed improvements in the Federal Employees Health Benefits Program and the Civil Service Retirement Spouse Equity Act. The Senate amendment makes further improvements in these areas.

The House amendments correct an unfortunate situation which has resulted in about 4,000 widows and widowers losing eligibility for a minimum survivor annuity, permit survivor elections by certain civil service retirees, and clarify the law concerning certain benefits for employees of county committees under the Agriculture Department. These latter amendments are, as I understand it, acceptable to the other body.

Mr. Speaker, today the House will consider H.R. 3384, the Federal Employees Benefits Improvement Act of 1985. This legislation passed the U.S. House of Representatives on September 30, 1985, under suspension of the rules. Its purpose is to make all enrollees, including Federal annuitants, eligible for refunds from the Federal Employees Health Benefits Program [FEHBP], and to make other necessary changes in the FEHBP and the civil service retirement system.

This legislation was the result of extensive hearings held by the Subcommittee on Compensation and Employee Benefits, which I chair, on the need for reform in the Federal Employees' Health Insurance Program. In addition, H.R. 3384 made a number of technical changes in a law, enacted last year, which guarantees survival benefits for former spouses of Federal employees.

On November 19, the Senate Committee on Governmental Affairs approved H.R. 3384 with an amendment in the nature of a substitute. The amended legislation passed the Senate on December 11. The Senate's action, however, failed to include one key provision from the original House bill and several other provisions supported by the chairman of the Senate Subcommittee on Civil Service, Post Office, and General Services. Consequently, I am asking my colleagues to again vote in favor of H.R. 3384, this time with five amendments.

The first amendment I am offering to H.R. 3384 would permanently eliminate the 75-percent ceiling on the Federal Government's contribution to the FEHBP premium, effective March 1, 1986. By allowing for the full Government contribution, this amendment should lower the cost of health insurance for more than 1 million FEHBP subscribers. In a year when Federal workers and annuitants can expect no pay raise and possibly no retirement COLA, this change is especially important. The proposal to remove the 75-percent cap has a history of past support by the administration, the health insurance carriers, and Federal employee organizations. I urge its support by my colleagues today.

The second amendment to H.R. 3384 restates and modifies slightly a requirement included in the Omnibus Budget Reconciliation Act of 1985, H.R. 3500. H.R. 3500 prohibits the transfer of any moneys from the Federal Employees Health Benefits fund into the general treasury. My amendment to H.R. 3384 would require that moneys transferred from special reserves into the FEHBP contingency reserves be used only to offset the Federal Government's contribution to FEHBP premiums for annuitants. In this way, we will ensure that all FEHBP funds remain in the program and are used only to benefit Federal participants.

A third amendment, authored by the distinguished ranking minority member of the Committee on Post Office and Civil Service, Mr. Taylor, would extend certain benefits to former employees of county committees established under the Soil Conservation and Domestic Allotment Act.

The final two amendments would make technical changes in the Civil Service Retirement System and the Health Benefits Program. The first of these would repeal an outdated provision affecting the retirement system. The other amendment relates to the FEHBP. Currently, either group-practice or individual practice comprehensive plans may participate in the health program. Under my final amendment mixed model plans, which are a combination of both, would be allowed to participate in the FEHBP.

Mr. Speaker, this legislation and the five amendments will improve the operation of the FEHBP to the benefit of Federal subscribers. I urge my colleagues' approval of H.R. 3384 as amended, and I hope the Senate will approve this legislation with equal dispatch.

Mr. TAYLOR. Mr. Speaker, I would just like to endorse what the gentlewoman from Ohio has said. She has worked hard to bring about a rectification of these situations which have arisen, that have adversely and unfairly affected our Federal employees.

I certainly endorse the amendments that the gentlewoman has offered and would urge the House to adopt them.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentlewoman from Ohio?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Ms. OAKAR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the House amendments to the Senate amendment just adopted.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken after debate has been concluded on all motions to suspend the rules.

EXTENDING SMALL BUSINESS ADMINISTRATION PILOT PROGRAMS

Mr. MITCHELL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2787) to extend through fiscal year 1988 SBA pilot programs under section 8 of the Small Business Act.

The Clerk read as follows:

H.R. 2787

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, SECTION 1. (a) Subparagraph (B) of section 8(a)(1) of the Small Business Act is amended by striking out "(other than the Department of Defense or any component thereof)".

(b) The designation of an agency pursuant to the amendment made by subsection (a) shall be made not later than sixty days after the date of enactment of this Act.

SEC. 2. The last sentence of section 8(a)(1) of the Small Business Act is amended to read as follows: "No contract may be entered into under subparagraph (B) after September 30, 1988.".

SEC. 3. The last sentence of section 8(a)(2) is amended to read as follows: "The authority to waive bonds provided in this paragraph (2) may not be exercised after September 30, 1988.".

The **SPEAKER** pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Maryland [Mr. MITCHELL] will be recognized for 20 minutes and the gentleman from Florida [Mr. IRELAND] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Maryland [Mr. MITCHELL].

Mr. MITCHELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2787.

The purpose of this bill is to extend through September 30, 1988 two pilot programs administered by the Small Business Administration [SBA]. These pilots are intended to promote the competitive viability of firms owned and controlled by disadvantaged individuals who are participating in SBA's capital ownership and development program.

Under the Procurement Pilot Program, the President is to designate an agency that will participate with the SBA in an effort to secure a steady stream of contracts for small businesses owned by the socially and economically disadvantaged.

The Surety Bond Pilot Program is intended to help startup firms owned and controlled by disadvantaged individuals to obtain a "track record" needed to secure bonds in the private sector.

Both pilot programs have been extended twice before by the Congress. The extension proposed by H.R. 2787 is needed to obtain more empirical evidence necessary to evaluate properly these approaches to running the Capital Ownership and Development Program.

This measure enjoys the strong bipartisan support of our committee which ordered the bill favorably reported by a vote of 38 to 1.

I reserve the balance of my time.

Mr. IRELAND. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the chairman of the committee has outlined, I believe, sufficiently the nature of this legislation.

The pilot program and the designation particularly last year of the Department of Transportation was quite successful. The legislation has had near unanimous support in the committee.

Mr. Speaker, I rise in strong support of the legislation.

Mr. ADDABBO. Mr. Speaker, I rise in support of H.R. 2787, a bill to extend two SBA pilot programs authorized under section 8(a) of the Small Business Act.

Investigatory hearings held on the pilot programs by the House Small Business Committee clearly demonstrated a need to extend the Procurement Pilot Program primarily because the Federal agencies are still using blatant and arbitrary procedures to deny contracting opportunities to qualified 8(a) concerns. Until such time as these agencies become completely receptive to awarding quality contracts to these concerns, the SBA increased authority under the pilot program must be maintained.

The Surety Bond Waiver Pilot Program could, if properly implemented, effectively assist 8(a) concerns in establishing a track record needed to obtain bonding on their own. Instead, SBA chooses to defy the law and not give this program a fair test.

I would urge my colleagues to support the extension of both measures which is vital to the economic development of minority business concerns.

Mr. IRELAND. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. MITCHELL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from Maryland [Mr. MITCHELL] that the House suspend the rules and pass the bill, H.R. 2787.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MITCHELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2787, the bill just passed.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

SENTENCING REFORM AMENDMENTS ACT of 1985

Mr. CONYERS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3837) to extend the deadline for the submission of the initial set of sentencing guidelines by the U.S. Sentencing Commission, and for other purposes.

The Clerk read as follows:

H.R. 3837

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Sentencing Reform Amendments Act of 1985".

SEC. 2. DEADLINE FOR INITIAL SET OF SENTENCING GUIDELINES.

(a) EXTENSION.—Section 235(a)(1)(B)(i) of the Comprehensive Crime Control Act of 1984 is amended by striking out "eighteen" and inserting "30" in lieu thereof.

(b) TECHNICAL AMENDMENT.—Section 235(a)(1)(B)(i) of the Comprehensive Crime Control Act of 1984 is amended by striking out "to section" and inserting "under section" in lieu thereof.

SEC. 3. CONFORMING CHANGE IN TITLE 28, UNITED STATES CODE.

Section 994(q) of title 28, United States Code, is amended by striking out "within three years" and all that follows through "Act of 1983" and inserting in lieu thereof "not later than one year after the initial set of sentencing guidelines promulgated under subsection (a) goes into effect".

SEC. 4. CONFORMING CHANGE IN COMPREHENSIVE CRIME CONTROL ACT OF 1984.

Section 235(a)(1) of the Comprehensive Crime Control Act of 1984 is amended by striking out "twenty-four" and inserting "36" in lieu thereof.

The **SPEAKER** pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Michigan [Mr. CONYERS] will be recognized for 20 minutes and the gentleman from Pennsylvania [Mr. GEKAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3837 is a straightforward bill that simply extends by 1 year the deadline for the newly created U.S. Sentencing Commission to submit to Congress the initial set of sentencing guidelines that Federal judges will use when sentencing convicted defendants. These guidelines are the heart of the new Federal sentencing system established last year by the Sentencing Reform Act.

That act provided the Sentencing Commission with 18 months in which to draft the initial guidelines. Unfortunately, 12 of those 18 months were consumed in establishing the Commission—appointing, confirming, and swearing in Commission members. This was not anticipated. Indeed, the legislative history is clear that the Sentencing Commission was expected to be established late last year, soon after enactment of the Sentencing Reform Act, rather than late this year.

The result of the delay in getting the Commission organized has been to reduce the time available to it for the substantive work of producing the initial sentencing guidelines. The initial guidelines presently must be submitted to Congress by next April 13, a virtually impossible task.

The Commission has, therefore, requested an extension of the deadline. The Commission has asked for an additional 12 months, and H.R. 3837 provides it with that time. The additional 12 months simply restores to the Commission the time that was lost in the process of naming and confirming Commission members. H.R. 3837 does just that.

Mr. Speaker, H.R. 3837 has bipartisan support. It is endorsed by the U.S. Sentencing Commission, and was unanimously reported by the Subcommittee on Criminal Justice. I urge my colleagues to support it.

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Mr. Speaker, I reserve the balance of my time.

Mr. GEKAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3837.

This legislation would extend by 1 year the deadline for promulgation of initial guidelines by the U.S. Sentencing Commission. The bill is necessary because the Sentencing Commissioners have only recently been confirmed and thus have but 6 short months until the original due date for the initial guidelines.

Mr. Speaker, the Sentencing Commission was established by Congress as a part of the Comprehensive Crime Control Act fully recognizing the immense effect it would have on the criminal justice system. We allocated 18 months in the original statute to the development of initial guidelines—and I think no less a period is desirable or even practical.

Sentencing guidelines will have a lasting impact on how our laws are made and enforced for decades to come and it is certainly unwise to rush these guidelines into effect before they can be properly formulated.

Mr. Speaker, I know of no controversy over this bill and I urge its passage today under suspension of the rules.

Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. LUNGREN].

Mr. LUNGREN. I thank the gentleman for yielding this time to me.

Mr. Speaker, as both gentlemen before me have said, this is required because of the terms of the 1984 Comprehensive Crime Control Act. That act, which probably is the most comprehensive and far-reaching crime measure ever to see this Congress in any year, is important in many features.

In my judgment, perhaps the sentencing changes are the most important single set of changes that are found in that entire act. The Sentencing Commission has an important role. Its role basically is to establish those guidelines that would be used to create a conformity of sentencing procedures across this Nation.

The need for this has vividly been brought forward to a number of Members. I know personally, having an individual in my own district coming to me and talking about it. Someone who had served time in the Federal prison system for an offense with respect to the use of narcotics. The point made to me by this individual was the tremendous disparity in the sentence she received in a Federal courtroom in Texas versus the sentences that were being given in other States of the Union, particularly her own home State of California, that is, the Federal courts in those areas.

It is a problem, a serious problem, with respect to the entire Federal judicial system. In addition, it is the judgment of many of us that the Parole Commission approach does not work; that somehow setting a sentence at the time of trial really does not mean anything; that the only people who pay attention to it and believe that it means anything are the public, and the victim and the victim's family, is not good for our society, is not good for the credibility of the law, is not good for the institution of courts and that, in fact, instead of playing that guessing game of the Parole Commission, that is, after a person has been sentenced, within about 120 to 180 days having the Parole Commission review it completely and set its sentence, and then after a third to a half of that new sentence is served, have the Parole Commission come in again and set a further sentence, and that all that confusion and uncertainty really does no good.

What we ought to have is what many of us have been talking about on this floor for a long period of time, and that is truth in sentencing: The sentence given at the time of trial is the sentence to be served, absent just a short amount of time for good time.

So this extension does nothing to change any of the premises I have mentioned; rather, it gives the Sentencing Commission the time to come up with the guidelines that hopefully will be put into effect. So I hope no one is misjudging this action and believing that somehow by extending the life of the Commission we somehow do not believe that the Parole Commission ought to be ultimately abolished, that we do not believe that we ought to have the conformity of sentencing, that we do not believe that we ought to have truth in sentencing.

As a matter of fact, we believe that even more firmly than we did when we brought this to the floor a year ago. This is necessary not just because, as some have suggested, the executive branch did not act with all dispatch. With all due respect, the judicial branch did not act with all due dispatch, and it is necessary to have their input so that we have guidelines that are workable, that are guidelines that not only take into consideration the parameters we have established, but the experience of the Federal court system, the judges who have been there for some time.

So I urge support of this particular bill before us.

Mr. GEKAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, one correction for the RECORD. When I spoke of a technical provision that extended a life, I was referring to the life of the Parole Commission. We do not want the parole process to die before the sentencing guidelines are created, so we stretch out the period of the life of the parole process to allow the Sentencing Commission work to be completed.

With that, Mr. Speaker, I yield back the balance of my time.

Mr. CONYERS. Mr. Speaker, I thank my colleagues and the ranking minority member, the gentleman from Pennsylvania [Mr. GEKAS].

Mr. RODINO. Mr. Speaker, I rise in support of the bill.

The need for the bill is simple. When the Sentencing Reform Act was enacted late last year, the Sentencing Commission was expected to be established and begin functioning very soon after enactment. This did not take place. In fact, the Commission's members were not appointed until late September of this year, and the Commission was not organized until late October of this year.

Consequently, the Commission has lost about a year of time that could have been spent doing the substantive work of drafting sentencing guidelines. The Commission is now faced with a task of completing in 5 months—by April 13 of next year—what it was intended to have 18 months to complete. This is virtually impossible if the job is to be done properly.

H.R. 3837 simply gives the Commission an additional 12 months to do its important, substantive work of drafting sentencing guidelines. The bill is endorsed by the Sentencing Commission and has bipartisan support on the Commiteee on the Judiciary. I urge my colleagues to support it.

Mr. CONYERS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. CONYERS] that the House suspend the rules and pass the bill, H.R. 3837.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. CONYERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3837, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

JUDICIAL IMPROVEMENTS ACT OF 1985

Mr. KASTENMEIER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3570) to amend title 28, United States Code, to reform and improve the Federal justices and judges survivors' annuities program, and for other purposes as amended.

The Clerk read as follows:

H.R. 3570

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Judicial Improvements Act of 1985".

SEC. 2. JUDICIAL SURVIVOR'S, ANNUITIES AMENDMENTS.

(a) Benefit Reforms.—Section 376 of title 28, United States Code, is amended as follows:

(1) Subsection (a)(1) is amended by striking out "or (iii) the date upon which the Judicial Survivors' Annuities Reform Act becomes effective;" and inserting in lieu thereof "(iii) January 1, 1977; or (iv) January 1, 1986;".

(2) Subsections (b) and (d) are each amended by striking out "4.5 percent" each place it appears and inserting in lieu thereof "5 percent".

(3) Subsection (c) is amended to read as follows:

"(c)(1) There shall also be deposited to the credit of the Judicial Survivors' Annuities Fund, in accordance with such procedures as the Comptroller General of the United States may prescribe, amounts required to reduce to zero the unfunded liability of the Judicial Survivors' Annuities Fund. Such deposits shall, subject to appropriations Acts, be taken from the fund used to pay the compensation of the judicial official, and shall immediately become an integrated part of the Judicial Survivors' Annuities Fund for any use required under this section.

"(2) For purposes of paragraph (1), the term 'unfunded liability' means the estimated excess, determined by the Comptroller General on an annual basis, of the present value of all benefits payable from the Judicial Survivors' Annuities Fund, over the sum of—

"(A) the present value of deductions to be withheld from the future basic pay of judicial officials; plus

"(B) the balance in the Fund as of the date the unfunded liability is determined.

In making any determination under this paragraph, the Comptroller General shall use the applicable information contained in the reports filed pursuant to section 9503 of title 31, United States Code, with respect to the judicial survivors' annuities plan established by this section.

"(3) There are authorized to be appropriated such sums as may be necessary to carry out this subsection.".

(3) Subsection (h) is amended—

(A) in paragraph (1)(B), by striking out clauses (i) and (ii) and inserting in lieu thereof the following:

"(i) 10 percent of the average annual salary determined under subsection (1)(1) of this section; or

"(ii) 20 percent of such average annual salary, divided by the number of children;";

(B) in paragraph (1)(C) by striking out clauses (ii) and (iii) and inserting in lieu thereof the following:

"(ii) 20 percent of the average annual salary determined under subsection (1)(1) of this section; or

"(iii) 40 percent of such average annual salary amount, divided by the number of children;"; and

(C) in paragraph (2) by inserting immediately after "remarriage" the following: "before attaining age 55".

(4) Subsection (1) is amended—

(A) by striking out "1¼ percent" and inserting in lieu thereof "1.5 percent";

(B) in paragraph (2) by striking out the colon after "subsection" and inserting in lieu thereof a semicolon; and

(C) by striking out the proviso and inserting in lieu thereof the following: "except that such annuity shall not exceed an amount equal to 55 percent of such average annual salary, nor be less than an amount equal to 30 percent of such average annual salary. Any annuity determined in accordance with the provisions of this subsection shall be reduced to the extent required by subsection (d) of this section.".

(5) Subsection (a) is amended—

(A) in paragraph (1)(C) by inserting "or Deputy Director" immediately after "Director"; and

(B) in paragraph (2)(C) by inserting "or Deputy Director" immediately after "Director".

(b) Beneficiaries.—The benefits conferred by section 376 of title 28, United States Code, by reason of the amendments made by this section shall apply only to individuals who become eligible for annuities under such section on or after the effective date of this section, except that—

(1) such annuities shall be computed in accordance with the provisions of section 376 of title 28, United States Code, as amended by this section, notwithstanding contributions or deposits made in accordance with applicable law at lower rates; and

(2) no additional liability shall be created with respect to deposits made in accordance with applicable law before the effective date of this section, or after such effective date pursuant to an agreement entered into before such effective date.

(c) Revocation.—(1) Within 180 days after the effective date of this section, any judicial official who, before such effective date, made an election under section 376 of title 28, United States Code, to come within the purview of that section, shall be entitled to revoke that election. Such revocation shall constitute a complete withdrawal from the judicial survivors' annuities program provided for in such section 376. No such revocation shall be effective unless it is submitted in writing to the Director of the Administrative Office of the United States Courts, and until such writing is received by the Director. Upon receipt by the Director of such writing, any rights to survivorship benefits for the survivors of such judicial official shall terminate, and all amounts credited to the individual account of such judicial official under section 376(e), together with interest at 3 percent per annum, compounded on December 31 of each year to such date of revocation, shall be returned to that judicial official in a lump-sum payment.

(2) Any judicial official who makes a revocation under paragraph (1) of this subsection and who thereafter becomes eligible to make an election under section 376(b) of title 28, United States Code, may make such election only if such judicial official redeposits, to the credit of the Judicial Survivors' Annuities Fund, the full amount of the lump-sum payment made to such judicial official under paragraph (1) of this subsection, together with interest at 3 percent per annum, compounded on December 31 of each year from the date of such revocation until the date upon which that amount is so redeposited.

(3) Any judicial official who fails to revoke an election in accordance with paragraph (1) of this subsection shall be deemed to have irrevocably waived the right to make that revocation.

(d) Annuities for Former Spouses.—

(1) Section 376 of title 28, United States Code, is amended in subsection (a)—

(A) by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; and"; and

(B) by adding at the end the following new paragraph:

"(6) 'former spouse' means a former spouse of a judicial official if the former spouse was married to such judicial official for at least 9 months.".

(2) Section 376 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(s) A judicial official who has a former spouse may elect, under procedures prescribed by the Director of the Administrative Office of the United States Courts, to provide a survivor annuity for such former spouse under subsection (t). An election under this subsection shall be made at the time of retirement, or, if later, within 2 years after the date on which the marriage of the former spouse to the judicial official is dissolved. An election under this subsection—

"(1) shall not be effective to the extent that it—

"(A) conflicts with—

"(i) any court order or decree referred to in subsection (t)(1), which was issued before the date of such election, or

"(ii) any agreement referred to in such subsection which was entered into before such date; or

"(B) would cause the total of survivor annuities payable under subsections (h) and (t) based on the service of the judicial official to exceed 55 percent of the average annual salary (as such term is used in subsection (1)) of such official; and

"(2) shall not be effective, in the case of a judicial official who is then married, unless it is made with the spouse's written consent.

The Director of the Administrative Office of the United States Courts shall provide by regulation that paragraph (2) of this subsection may be waived if the judicial official establishes to the satisfaction of the Director that the spouse's whereabouts cannot be determined, or that, due to exceptional circumstances, requiring the judicial official to seek the spouse's consent would otherwise be inappropriate.

"(t) (1) Subject to paragraphs (2) through (4) of this subsection, a former spouse of a deceased judicial official is entitled to a survivor annuity under this section if and to the extent expressly provided for in an election under subsection (s), or in the terms of any decree of divorce or annulment or any court order or court-approved property settlement agreement incident to such decree.

"(2) The annuity payable to a former spouse under this subsection may not exceed the difference between—

"(A) the maximum amount that would be payable as an annuity to a widow or widower under subsection (l), determined without taking into account any reduction of such annuity caused by payment of an annuity to a former spouse; and

"(B) the amount of any annuity payable under this subsection to any other former spouse of the judicial official, based on an election previously made under subsection (s), or a court order previously issued.

"(3) The commencement and termination of an annuity payable under this subsection shall be governed by the terms of the applicable order, decree, agreement, or election, as the case may be, except that any such annuity—

"(A) shall not commence before—

"(i) the day after the judicial official dies, or

"(ii) the first day of the second month beginning after the date on which the Director of the Administrative Office of the United States Courts receives written notice of the order, decree, agreement, or election, as the case may be, together with such additional information or documentation as the Director may prescribe,

whichever is later, and

"(B) shall terminate no later than the last day of the month before the former spouse remarries before becoming 55 years of age or dies.

"(4) For purposes of this section, a modification in a decree, order, agreement, or election referred to in paragraph (1) of this subsection shall not be effective—

"(A) if such modification is made after the retirement of the judicial official concerned, and

"(B) to the extent that such modification involves an annuity under this subsection.".

(3)(A) Subsection (l) of section 376 of title 28, United States Code (as amended by subsection (1)(4)(C) of this section), is amended by striking out the period at the end of the last sentence and by adding at the end the following: ", and by the amount of any annuity payable to a former spouse under subsection (t)."

(B) Subsection (n) of section 376 of such title is amended in the last sentence by inserting after "equity," the following: "except as provided in subsections (s) and (t),".

(C) Subsection (o) of section 376 of such title is amended in paragraphs (2) and (3) by inserting "or (t)" after "subsection (h)" each place it appears.

(4) Payments of retirement salary as defined in section 376(a)(2) of title 28, United States Code, which would otherwise be made to the judicial official upon whose service the retirement salary is based, shall be paid (in whole or in part) to another person if and to the extent expressly provided for in the terms of any court decree of divorce, annulment, or legal separation, or the terms of any court order or court-approved property settlement agreement incident to any court decree of divorce, annulment, or legal separation. Any payment under this paragraph to a person bars recovery by any other person. This paragraph shall apply only to payments made after the date of receipt by the Director of the Administrative Office of United States Courts of written notice of such decree, order, or agreement, and such additional information and documentation as the Director may prescribe. As used in this paragraph, "court" means any court of any State or the District of Columbia.

(e) Effective Date.—This section shall take effect on October 1, 1986.

SEC. 3. REMOVAL JURISDICTION.

(a) Section 1441 Amendment.—Section 1441 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(e) The court to which such civil action is removed is not precluded from hearing and determining any claim in such civil action because the State court from which such civil action is removed did not have jurisdiction over that claim.".

(b) Effective Date.—The amendment made by this section shall apply with respect to claims in civil actions commenced in State courts on or after the date of the enactment of this section.

SEC. 4. TRAVEL EXPENSES OF JUSTICES AND JUDGES.

(a) Section 456 Amendment.—Section 456(a) of title 28, United States Code, is amended by striking out "for any continuous period" and all that follows through the end of the subsection and inserting in lieu thereof the following: "(1) all necessary transportation expenses; and (2) a per diem allowance for travel at the rate which the Director establishes not to exceed the maximum per diem allowance fixed by section 5702(a) of title 5, or actual and necessary expenses of subsistence actually incurred, notwithstanding the provisions of section 5702 of title 5, United States Code, in accordance with regulations which the Director shall prescribe with the approval of the Judicial Conference of the United States. In determining necessary expenses, the Director shall take into account the reasonable costs of transportation and subsistence generally incurred for travel to the geographic area involved.".

(b) Effective Date.—The amendment made by this section shall take effect on October 1, 1986.

SEC. 5. COLLECTION OF FEES FOR THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA.

(a) Section 1914 Amendment.—Section 1914 of title 28, United States Code, relating to district court fees, is amended by striking out subsection (d).

(b) Amendments to District of Columbia Code.—

(1) Section 15-701(a) of the District of Columbia Code, relating to compensation taxed as costs, is amended by striking out "clerk of the United States District Court for the District of Columbia,".

(2) Section 15-702 of such code, relating to docket fees, is amended—

(A) by striking out "(a)" and all that follows through "(b)"; and

(B) by striking out the section heading and inserting in lieu thereof the following:

"§ 15-702. Attorney fees taxed as costs"

(3) Section 15-703 of such code, relating to deposit and security for costs, is amended—

(A) by striking out "(a)" and all that follows through "(b)" and inserting in lieu thereof "(a)";

(B) in the undersignated paragraph by inserting "(b)" immediately before "A nonresident"; and

(C) in the section heading by striking out "Deposit for costs; security" and inserting in lieu thereof "Security".

(4) Section 15-704 of such code, relating to advance payment of costs and fees, is amended—

(A) in subsection (a) by striking out "(a)" and by striking out "the clerk of the United States District Court for the District of Columbia and"; and

(B) by striking out subsection (b).

(5) Section 15-706 of such code, relating to clerk's fees in the United States District Court for the District of Columbia, is hereby repealed.

(6) Section 15-709(a) of such code, relating to fees and costs in Superior Court, is amended by striking out the second sentence.

(7) The table of contents for chapter 7 of title 15 of such code, relating to fees and costs, is amended—

(A) by striking out the item relating to section 15-702 and inserting in lieu thereof

"15-702. Attorney fees taxed as costs."; and

(B) by striking out "Deposit for costs; security" in the items relating to section 15-703 and inserting in lieu thereof "Security".

(c) Effective Date.—The amendments made by this section shall apply with respect to any civil action, suit, or proceeding instituted on or after the date of the enactment of this Act.

SEC. 6. JUDICIAL REVIEW OF FEDERAL MARITIME COMMISSION AND MARITIME ADMINISTRATION ORDERS.

(a) Section 2342 Amendment.—Section 2342(3) of title 28, United States Code, is amended to read as follows:

"(3) all rules, regulations, or final orders of—

"(A) the Secretary of Transportation issued pursuant to section 2, 9, 37, 41 or 43 of the Shipping Act, 1916 (46 U.S.C. App. 839); and

"(B) the Federal Maritime Commission issued pursuant to—

"(i) section 23, 25, or 43 of the Shipping Act, 1916 (46 U.S.C. App. 822, 824, or 841a);

"(ii) section 19 of the Merchant Marine Act, 1920 (46 U.S.C. App. 876);

"(iii) section 2, 3, 4, or 5 of the Intercoastal Shipping Act, 1933 (46 U.S.C. App. 844, 845, 845a, or 845b);

"(iv) section 14 or 17 of the Shipping Act of 1984 (46 U.S.C. App. 1713 or 1716); or

"(v) section 2(d) or 3(d) of the Act of November 6, 1966 (46 U.S.C. App. 817d(d) or 817e(d));".

(b) Effective Date.—The amendment made by this section shall apply with respect to any rule, regulation, or final order described in such amendment which is issued on or after the date of the enactment of this Act.

SEC. 7. TECHNICAL AMENDMENTS.

(a) Redesignation of Duplicate Sections.—

(1) Title 28 amendments.—Chapter 85 of title 28, United States Code, is amended—

(A) in the table of sections by striking out

"1364. Senate Actions.
"1364. Construction of references to laws of the United States or Acts of Congress."

and inserting in lieu thereof the following:

"1365. Senate Actions.
"1366. Construction of references to laws of the United States or Acts of Congress.";

(B) by striking out the section heading

"§ 1364. Senate actions"

and inserting in lieu thereof the following:

"§ 1365. Senate actions"; and

(C) by striking out the section heading

"§ 1364. Construction of references to laws of the United States or Acts of Congress"

and inserting in lieu thereof the following:

"§ 1366. Construction of references to laws of the United States or Acts of Congress".

(2) Conforming amendment.—Section 705(a) of the Ethics in Government Act of 1978 (P.L. 95-521; 2 U.S.C. 288d(a)) is amended by striking out "1364" and substituting "1365".

(b) Deletion of Incorrect References.—Paragraph (3) of section 620(b) of title 28. United States Code, is amended—

(1) by striking out "referees,"; and

(2) by substituting "magistrates" for "commissioners".

(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. MOORHEAD. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Wisconsin [Mr. Kastenmeier] will be recognized for 20 minutes and the gentleman from California [Mr. Moorhead] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. KASTENMEIER].

Mr. KASTENMEIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today I bring to the floor the Judicial Improvements Act of 1985 (H.R. 3570) an omnibus court reform package to improve the functioning of the Federal judicial branch. H.R. 3570 consists of provisions previously contained in the following House bills (H.R. 3081, H.R. 1472, H.R. 2446, H.R. 2561, H.R. 2724, and H.R. 3049).

At the outset, I would like to thank the ranking minority member, the gentleman from California [Mr. Moorhead], of my subcommittee for his efforts. In addition, 14 of the 15 members of the subcommittee [Mr. Brooks, Mr. Mazzoli, Mr. Synar, Mrs. Schroeder, Mr. Frank, Mr. Morrison, Mr. Berman, Mr. Boucher, Mr. Moorhead, Mr. Hyde, Mr. Kindness, Mr DeWine, and Mr. Swindall] have cosponsored the bill. Their efforts are to be commended.

The Committee on Appropriations has no objection to consideration of the bill under suspension of the rules. The Appropriations Committee has worked on an amendment relating to the Judicial Survivors Annuities Fund (section 2) already incorporated in the bill: The amendment clarifies that the Government's contribution to the fund will be subjected to the appropriations process. The intent of the amendment is that the Government's contribution will be made only to such amounts as is provided in appropriations acts.

Both committees, Judiciary and appropriations, are very interested in and deeply committed to keeping costs to a reasonable level. We also want to exercise appropriate oversight. We want to see whether more judges elect to participate, whether the unfunded liability estimates are accurate, and whether the general purposes of the legislation are achieved. Obviously, we also are concerned about any legislation that creates entitlements. Our concerns are reflected in the amendment and the annual appropriations review that will result.

I would like to thank the ranking members of the Appropriations Committee—including Chairman Whitten, the ranking minority member, Mr. Conte, and Subcommittee Chairman Smith and the subcommittee's ranking minority member Mr. O'Brien—for not only their expeditious consideration of H.R. 3570 but also for the constructive amendment.

H.R. 3570 has been endorsed by the Judicial Conference of the United States and the administration. Two sections of the bill—section 2, relating to judicial survivors annuities, and section 6, relating to judicial review of Federal Maritime Commission and Maritime Administration orders—have passed the Senate in virtually the same form as they are presented to the House today.

All provisions of the omnibus bill have received virtually universal support and are without expressed opposition. Everything in the bill has received full and fair hearings. Testimony was received from representatives of the Judicial Conference of the United States, the U.S. Department of Justice, and the Federal Judges Association. Written statements have also been submitted by numerous other individuals and organizations, including the American Bar Association. Two proposals considered by the subcommittee—a bill relating to the commuting expenses of Federal judges and a bill relating to judicial disqualification—generated controversy and are not in this bill.

Let me now give a summary of the contents of the Judicial Improvement Act. I will be brief. Members who desire a more detailed explanation are referred to the House report (No. 99-423) which was filed on December 6, 1985.

Section 1 of the bill is the short title: Judicial Improvements Act of 1985.

Section 2—the most important section in the bill—reforms and improves the existing Annuities Program for survivors of justices and judges. This section includes the provisions of H.R. 3081, which has been cosponsored by 63 Members, a broad cross-section of the House. Section 2 makes several necessary improvements to a scheme, elective for Federal judges, which was created by Congress in 1956 and later updated in 1976. The Annuities Program has not kept pace with comparability adjustments in Federal judicial salaries. As a result of annuity payment amounts having not increased as anticipated, participation in the program for new judges entering on duty has dramatically diminished. Today fewer than 25 percent of newly appointed judges elect to participate. In essence, recently appointed Federal judges are routinely concluding that the program is "a whistle which isn't worth the penny." At the very least, inadequacies in the existing system have an effect on whether highly qualified individuals accept or reject a Presidential call to become a Federal judge or whether a sitting judge will stay on the bench or resign. One highly respected judge recently left office, stating candidly that "I can afford to live on the salary of a Federal judge but I can't afford to die on it." Section 2 attempts, by increasing annuity payment amounts by both judges and the Federal Government, by creating a minimum floor annuity, and by establishing an accelerated schedule of benefit amounts, to revitalize the existing program.

Section 3 of the bill sets forth a removal jurisdiction amendment originally proposed by Congressman Synar in H.R. 2446. It amends 28 U.S.C. 1441 to provide that a Federal court in which an action is removed from State court is not barred from hearing and determining a claim because the State court lacked jurisdiction over it.

Section 4 basically tracks the contents of H.R. 2561, which amends the statute governing reimbursement of travel expenses for judges while working away from their official duty stations, 28 U.S.C. 456. The amendment provides generally that judges are to be reimbursed for actual and necessary transportation and reasonable subsistence expenses incurred in such circumstances, in accordance with regulations prescribed by the Director of the Administrative Office of the U.S. Courts with approval of the Judicial Conference.

Section 5 of the bill relates to the collection of fees for the U.S. District Court for the District of Columbia. The effect of this amendment would be to make the fees charged in the D.C. District Court the same as the fees charged in other district courts—$60 for each civil filing. This change will place the D.C. District Court on an equal footing with all the other Federal district courts, which is where it deserves to be. The bill contains requisite conforming amendments to the D.C. Code, which has been cleared by the Chief Judge of the District Court for the District of Columbia, the Honorable Audrey Robinson, and the chairman of the Subcommittee on Judiciary and Education of the District of Columbia Committee, Mr. Dymally.

Section 6 was originally sponsored by Chairman Rodino as H.R. 3049. Section 6 clarifies the intended impact of the Shipping Act of 1984 by providing for judicial review—in the circuit courts of appeals—of certain orders of the Federal Maritime Commission and the Maritime Administration. Unfortunately, the Shipping Act of 1984—processed by the Merchant Marine and Fisheries Committee—did not contain a clear and concise judicial review provision. Rather than curing drafting problems in the Maritime Appropriation Authorization Act for fiscal year 1986, which was originally proposed, Chairman Rodino's proposal addressed the need for statutory clarification directly. Section 6 of H.R. 3570 solves the problem of great impact to the agenices involved as well as litigants who must seek judicial review.

Section 7 of the bill sets forth two technical amendments to title 28 United States Code, that have been brought to the attention of the committee.

In sum, I ask support for this modest, but nonetheless important, legislation. Each section of H.R. 3570 is like a brick to be used in a large edifice, like a cathedral. Each brick appears to be insignificant, but the larger structure—in this case, the Federal judiciary—depends on each.

□ 1315

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3570, the Judicial Improvements Act of 1985. This omnibus bill, which is comprised of six judicial housekeeping and court reform measures enjoys strong bipartisan support and is without opposition. I would like to commend the Chairman of the Subcommittee on Courts, Civil Liberties, and the Administration of Justice, the gentleman from Wisconsin [Mr. Kastenmeier] for his leadership on the legislation.

The provisions of H.R. 3570 that would reform the Judicial Survivors Annuity Program are greatly needed as evidenced by the number of judges declining to participate in the program. In 1976, 90 percent of Federal judges were participants in the program; last year only 74 percent were participating. In 1978, 74 percent of "entering on duty" or newly appointed judges elected to participate; in each of the last 3 years, fewer than 25 percent of newly appointed judges have elected to participate.

During the Courts Subcommittee's hearings on the legislation it became clear that the two most pressing problems with the current program are the lack of a minimum floor annuity and the prolonged period of years of service needed to achieve annuity amounts which are realistically adequate. H.R. 3570 addresses both these problems. First, it would establish a floor on benefits equal to 30 percent of average annual salary, which would be available once a judge has served at least 18 months. Second, it revises the annuity computation formula to provide an accelerated schedule of benefit payments that recognize both a judge's service and his or her participation in the program.

The legislation would also authorize judges now serving who have not previously elected to participate in the program to make such an election. Judges who do so will be required by existing statutory language to deposit amounts required to qualify their service for credit under the program. This provision will entail no additional costs to the Government and to the extent that it encourages slightly greater participation in the program, it will strengthen the actuarial stability of the program.

In addition to making other needed changes in the Judicial Survivors Annuity Program, H.R. 3570, incorporates the proposal introduced by our colleague, the gentleman from New York, Bill Green. It provides that an annuity payable to the surviving spouse of a judge is not to be terminated by remarriage of the surviving spouse after the age of 55. This is a worthwhile proposal, that conforms to the corresponding provision in the civil service retirement and I commend the gentleman [Mr. Green] for his initiative on this issue.

Another important proposal incorporated in H.R. 3570, is the administration's proposal that was introduced by the chairman of the Judiciary Committee, the gentleman from New Jersey [Mr. Rodino] that would clarify the intended impact of the Shipping Act of 1984 on judicial review of orders issued by the Federal Maritime Commission and the Maritime Administration.

The other proposal incorporated in H.R. 3570 dealing with travel expenses of judges, removal jurisdiction, and district court fees, are solid proposals, that, as I noted earlier are without opposition. I urge the passage of H.R. 3570.

Mr. KASTENMEIER. Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma [Mr. Synar], the author of H.R. 2446, the text of which is incorporated in this bill as section 3, and I would like to compliment him for his contribution.

Mr. SYNAR. Mr. Speaker, first of all, let me thank Chairman Kastenmeier for those kind words and also commend him and our ranking minority member for their excellent work.

Mr. Speaker, section 2 of the Judicial Improvements Act incorporates legislation I introduced as a separate bill earlier this year. It enables plaintiffs whose attorneys misfile a Federal cause of action in State court to remove the action directly to the Federal courts instead of having to refile the action and risk a statute of limitations problem.

This legislation won't help millions of Americans but it will help those who lose the opportunity to vindicate their rights because of a mistake by their attorney. It helps all of us, however, by making our legal system more efficient.

I want to thank the person who suggested this legislation and helped me draft it. Prof. Emeritus George Fraser of the University of Oklahoma Law Center wrote about this problem in the Michigan Law Review in 1950. When I took his civil procedure course as a student, a removal question was on the final exam. And once I was appointed to the House Judiciary Committee, he suggested legislation.

Mr. Speaker, good ideas made good laws. I want to thank Professor Fraser, Chairman Kastenmeier and my colleagues on the Judiciary Committee who recognized that this moderate reform of our Judicial Code will help make our system of justice operate more efficiently.

Mr. MOORHEAD. Mr. Speaker, I yield such time as he may consume to the gentleman from New York, Mr. Bill Green.

The gentleman from New York is the author of H.R. 1472, which was incorporated into H.R. 3570, and I commend him for his contribution.

Mr. GREEN. Mr. Speaker, I rise to express my appreciation to the chairman of the subcommittee, its ranking minority member and the members of the subcommittee for including in section 2 the judicial survivors annuities amendments, provisions to deal with the problem on which I have been working for some 5 years now.

That problem arose as a result of some technical language in the 1976 civil service retirement survivors annuities reinstatement law and the Social Security Amendments of 1977. That problem has now been addressed by the inclusion in section 2 of this legislation an amendment to title 28, United States Code, section 376, that will provide that an annuity payable to the surviving spouse of a judge is not to be terminated by remarriage of the surviving spouse after attaining the age of 55.

This change reflects concern for the situation of surviving spouses who are considering marriage at a point in their lives at which it is unlikely that either they or their potential spouses are likely to have long-term sources of earned income, and thus are looking forward to a period when they are going to be dependent upon their retirement income.

The provision thus avoids the situation of having a widow who might otherwise be forced to choose to refrain from remarriage in order to avoid incurring financial hardships.

So I appreciate the members of the committee for dealing with this problem in what I think is a humane and inexpensive way.

Mr. KASTENMEIER. Mr. Speaker, will the gentleman from New York [Mr. GREEN] yield?

Mr. GREEN. I am delighted to yield to the distinguished gentleman from Wisconsin [Mr. KASTENMEIER].

Mr. KASTENMEIER. Mr. Speaker, I would like to recognize the contribution the gentleman from New York [Mr. GREEN] made. He was very conscientious in impressing this point on the committee. It does significantly improve the survivors annunity section of the bill and we appreciate his contribution.

Mr. GREEN. Mr. Speaker, I thank the distinguished chairman of the subcommittee, the gentleman from Wisconsin [Mr. KASTENMEIER].

Mr. MOORHEAD. Mr. Speaker, I have no further request for time, and I yield back the balance of my time.

Mr. KASTENMEIER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin [Mr. KASTENMEIER] that the House suspend the rules and pass the bill, H.R. 3570, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on H.R. 3570, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

HAZARDOUS DUMPING AREAS

Mr. FLORIO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3917), to extend the period allowed for compliance with certain financial responsibility requirements applicable to land disposal facilities under the Solid Waste Disposal Act.

The Clerk read as follows:

H.R. 3917

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CERTIFICATION OF COMPLIANCE WITH FINANCIAL RESPONSIBILITY REQUIREMENTS

(a) EXTENSION.—In the case of any facility used for land disposal of hazardous waste, notwithstanding the termination of interim status of the facility by reason of the failure of the owner or operator of the facility to file a certification under section 3005(e)(2)(B) of the Solid Waste Disposal Act, such interim status shall be treated as continuing in effect if the owner or operator—

(1) filed on or before November 8, 1985, with the Administrator an adequate certification (under section 3005(e)(2)(B) of such Act) of compliance with (A) groundwater monitoring requirements as of November 8, 1985, and (B) financial responsibility requirements (except for the liability requirements of 40 C.F.R. 265.147),

(2) applied on or before November 8, 1985, for final determination regarding the issuance of a permit pursuant to section 3005(e)(2)(A) of such act, and

(3) files with the Administrator within the time limits set forth in subsection (d) of this section each of the following:

(A) A certification that, in addition to the certification required in paragraph (1), the facility is in compliance with all other major applicable requirements under subtitle C of such act, or is in timely compliance with an enforceable compliance schedule.

(B) A certification that the facility is not contaminating groundwater or has established the applicable compliance monitoring or corrective action program.

(C) A certification that the facility could not meet the requirements of the financial test under 40 C.F.R. 265.147(f).

(D) A certification that the owner or operator of the facility has been making good faith efforts to satisfy all applicable financial responsibility requirements for the facility pursuant to the Solid Waste Disposal Act and provides documentation of that effort which is satisfactory to the Administrator.

(b) OTHER FACILITIES.—An extension of interim status under this section shall also apply to any facility used for land disposal of hazardous waste which had been operating pursuant to interim status under section 3005(e) of the Solid Waste Disposal Act, if the owner or operator of the facility files each of the following with the Administrator within the time limits set forth in subsection (d):

(1) A certification that the owner or operator of the facility applied for a final determination regarding the issuance of a permit on or before November 8, 1985, pursuant to section 3005(e)(2)(A) of such Act, or submitted a closure plan on or before November 23, 1985.

(2) A certification that the facility was in compliance with the groundwater monitoring requirements and the financial responsibility requirements (except for the liability requirements of 40 C.F.R. 265.147) on November 8, 1985, but failed to certify as required under section 3005(e)(2)(B) of the Solid Waste Disposal Act.

(3) A certification that the facility is in compliance with the groundwater monitoring requirements and financial responsibility requirements (except the liability requirements of 40 C.F.R. 265.147) supported by documentation in a form satisfactory to the Administrator that may include a notarized statement by a professional engineer not an employee of the owner or operator who corroborates such certification.

(4) A certification that, in addition to the certification required in paragraph (3), the facility is in compliance with all other major applicable requirements under subtitle C of such Act, or is in timely compliance with an enforceable compliance schedule.

(5) A certification that the facility is not contaminating groundwater or has established the applicable compliance monitoring or corrective action program.

(6) A certification that the owner or operator of the facility could not meet the requirements of the financial test under 40 C.F.R. 265.147(f).

(7) A certification that the owner or operator of the facility has been making good faith efforts to satisfy all applicable financial responsibility requirements pursuant to the Solid Waste Disposal Act and provides documentation of that effort which is satisfactory to the Administrator.

(c) REJECTION BY THE ADMINISTRATOR.—Within the time limits set forth in subsection (d), the Administrator shall reject the information submitted by the owner or operator of a facility pursuant to subsection (a) or (b) if the information fails to meet the requirements of such subsections. The determinations of the Administrator under this section shall not be subject to judicial review.

(d) TIME LIMITS.—

(1) NOTICE.—The Administrator shall identify each facility the interim status of which under section 3005(e) of the Solid Waste Disposal Act terminated on November 8, 1985, by reason of section 3005(e)(2) of that Act. Within 15 days after enactment of this Act, the Administrator shall notify the owner or operator of each such facility of the extensions available under this Act.

(2) DEADLINES.—Each certification described in subsections (a) and (b) shall be submitted before the earlier of the following:

(A) 45 days after the owner or operator of the facility receives notice under paragraph (1).

(B) 60 days after enactment of this Act.

(3) INITIAL EXTENSION PERIOD.—If the owner or operator of a facility has submitted the required filings under subsection (a) or (b) within the time limits set forth in this subsection, the extension of interim status under subsection (a) or (b) shall continue for a period ending 45 days after the date of such submission.

(4) SECOND EXTENSION PERIOD.—The extension of interim status for a facility under subsection (a) or (b) shall be extended until June 30, 1986, if the Administrator certifies, based on information submitted by the owner or operator of the facility concerned, in the Federal Register that the facility is not contaminating the groundwater or has entered into an order to implement as soon as practicable a compliance monitoring or corrective action program.

(e) MODIFICATION OF REGULATIONS.—Not later than March 1, 1986, the Administrator shall revise the regulations set forth in 40 C.F.R. 265.147 to provide additional financial responsibility alternatives to the insurance requirement contained in such regulations and may provide for a lesser demonstration of financial responsibility if the Administrator has made the certification required in subsection (d)(4). The Administrator may consider such alternatives as indemnity contracts, surety bonds, corporate guarantees, and other means of assuring financial responsibility.

(f) Definition of Terms.—The terms used in this section shall have the same meaning as when used in the Solid Waste Disposal Act.

(g) Additional Extension.—In the case of a facility for which an extension has been provided under subsection (d)(4), the Administrator may issue an additional extension for such facility for a period ending November 8, 1986, if the Administrator finds that an additional extension under this subsection for the facility is necessary because of constraints in the insurance market and if, on June 30, 1986, the owner or operator of the facility files both of the following with the Administrator:

(1) A certification that the facility is not contaminating groundwater or is in timely compliance with an enforceable compliance monitoring or corrective action program.

(2) A certification that he has been making good faith efforts to satisfy all applicable financial responsibility requirements pursuant to the Solid Waste Disposal Act and provides documentation of that effort which is satisfactory to the Administrator.

(h) Satisfaction of Liability Requirements.—If a facility is operating pursuant to an extension under this section and the owner or operator certifies that he has satisfied the liability requirements of 40 C.F.R. 265.147 for such facility, such facility shall be treated as if the facility had fully certified under section 3005(e)(2) of the Solid Waste Disposal Act as of November 8, 1985.

The **SPEAKER** pro tempore. Is a second demanded?

Mr. **LENT**. Mr. Speaker, I demand a second.

The **SPEAKER** pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The **SPEAKER** pro tempore. The gentleman from New Jersey [Mr. Florio] will be recognized for 20 minutes and the gentleman from New York [Mr. Lent] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. Florio].

Mr. **FLORIO**. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today, we consider a bill that would afford relief to certain hazardous waste land disposal facilities which lost their interim permit to operate on November 8, 1985, solely because they could not obtain the liability insurance required to satisfy the Hazardous and Solid Waste Amendments of 1984. The path we have taken to consider this bill has been a complicated one. Therefore, I think it would be useful to review briefly the events leading to this proposal.

In 1976, Congress passed the Resource Conservation and Recovery Act, which required the Environmental Protection Agency to develop a permitting procedure for hazardous waste facilities. As part of that act, Congress included a provision allowing facilities to operate under a short term of interim permit until a final permit was issued.

On November 19, 1980, EPA issued regulations to govern facilities operating under interim status permits which required ground water monitoring and financial responsibility. These minimum requirements have been widely ignored, and EPA has done little or nothing to enforce them. A 1984 GAO report documented widespread noncompliance, finding that well over half of the disposal facilities were not complying with the regulations.

Last year, out of sheer frustration with EPA's effort, the Congress required compliance with ground water monitoring and financial responsibility within 1 year. Let me make it clear that these two requirements do not guarantee that hazardous waste disposal facilities be safe or not leaking. All they require is that there be wells to determine if there are leaks and that owners have the financial ability to respond if problems occur.

Only a few days before the November 8 deadline, EPA informed Congress that some facilities could not demonstrate the necessary financial responsibility requirements, and suggested that it was up to Congress to do something to address the problem. Although the number of facilities affected is relatively small—EPA estimate between 50 and 90, I have been concerned if there is a problem with legitimate, safe disposal facilities simply being unable to demonstrate financial assurance under EPA regulations.

EPA was apparently unwilling or unable to develop a regulatory system with sufficient flexibility to allow legitimate, financially viable disposal companies the opportunity to remain in business. Congress was forced to act.

The bill before us applies to a narrow class of hazardous waste land disposal facilities which on or before November 9, 1985, filed with the Administrator an adequate certification under section 3005(e)(2)(B) of the Solid Waste Disposal Act—hereafter referred to as "RCRA" except for a certification of compliance with the liability requirements of 40 CFR 265.147. Such facility must also have applied on or before November 8, 1985 for a final determination pursuant to section 3005(e)(2)(A) of RCRA. If a facility satisfies both of these requirements, it can obtain an extension of interim status, but only if it further provides to the Administrator the following additional certifications.

First, the owner or operator must certify that, in addition to its certification of compliance with ground water monitoring and financial responsibility requirements—except for the liability requirement—the facility is in compliance with all other major applicable requirements under subtitle C of the Solid Waste Disposal Act, or is in timely compliance with an enforceable compliance schedule. Major applicable requirements are those the violation of which would constitute so-called class 1 violations under the Administrator's enforcement program. An enforceable compliance schedule is one in which the owner or operator of the facility has entered into an order with the Administrator to correct any violations.

Second, the owner or operator must certify that the facility is not contaminating ground water or has established the applicable compliance monitoring or corrective action program. It is incombent on the owner or operator of the facility to provide to the Administrator all the information necessary to demonstrate that there is no ground water contamination. The applicable compliance monitoring or corrective action program refers to requirements in the so-called part B final permit application which require that such programs be established upon the submission of such an application if ground water contamination has been detected. Such programs shall include any additional provisions the Administrator determines to be necessary to ensure that the program controls ground water contamination. The owner or operator must also certify to the satisfaction of the Administrator that such programs are actually in place.

Third, the owner or operator of the facility must certify that the facility could not meet the requirements of the financial test under 40 CFR 265.147(f). The facility must specifically certify that it is incapable of meeting one or more of the requirements necessary to meet the financial test and must provide evidence sufficient to support such a certification.

Finally, the owner or operator of the facility must certify that he has been making good faith efforts to satisfy all applicable financial responsibility requirements, including the liability requirement. This certification must provide all documentation necessary to satisfy the Administrator that the owner or operator has been making good faith efforts on an ongoing basis to satisfy the liability requirement.

Extensions of interim status may also be afforded to other hazardous waste land disposal facilities, if the owner or operator of the facility files with the Administrator a certification that the owner or operator of the facility applied for a final determination regarding the issuance of a permit on or before November 8, 1985, pursuant to section 3005(e)(2)(A) of RCRA, or that the owner or operator submitted a closure plan on or before November 23, 1985. An interim status extension for facilities which have submitted timely closure plans should apply only to closure plans which specifically call for limited use of the hazardous waste land disposal facility during closure.

The owner or operator of such a facility must also certify that the facility was in compliance with applicable ground water monitoring and financial responsibility requirements—except the liability requirements—on or before November 8, 1985, but failed to certify as required under section 3005(e)(2)(B) of RCRA. The owner or operator must further certify that the facility is in compliance with those requirements as of the date of certification and such certification must be supported by documentation satisfactory to the Administrator.

The owner and operator of such a facility must also provide certifications regarding compliance with all other major applicable requirements under subtitle C of RCRA, regarding ground water contamination, regarding the owner or operator's inability to satisfy the financial test, and regarding the owner or operator's ongoing good faith efforts to satisfy all of the financial responsibility requirements. These certifications must be submitted in the same manner as required for those facilities which filed on or before November 8, 1985, with the Administrator an adequate certification under section 3005(e)(2)(B) except for the liability requirements and an application for a final determination pursuant to section 3005(e)(2)(A).

The Administrator is required to reject the information submitted by the owner or operator of a facility if such information fails to meet the requirements under this bill. If the information is rejected by the Administrator, the owner or operator of the facility will be treated as if the owner or operator had not submitted the necessary information. Determinations of the Administrator shall not be subject to judicial review.

Under this bill, the Administrator must identify and, within 15 days of enactment, notify each facility the interim status of which was terminated on November 8, 1985, by reason of section 3005(e)(2) of RCRA. The notification shall provide a complete description of the extensions available under this bill and a detailed description of the information and certifications that must be submitted to satisfy the requirements for such extensions.

The owner or operator of any facility has 45 days after the owner or operator receives the Administrator's notification to submit the information and certifications necessary to receive an extension of interim status.

In no event will interim status extensions be provided if the required information and certifications are submitted more than 60 days after enactment. Interim status of the facility is not extended until all of the required certifications and information have been submitted by the owner or operator.

If all the required certifications and information is submitted by the facility owner or operator in a timely fashion, the interm status of such facility shall extend for a period ending 45 days after the date of such submission.

A second extension of interim status for a facility shall be provided until June 30, 1986, if the Administrator certifies in the Federal Register, based on information submitted by the owner or operator of the facility concerned, that the facility is not contaminating ground water or has entered into an order to implement as soon as practicable a compliance monitoring or corrective action program. If the Administrator certifies that the owner or operator of the facility is not contaminating the ground water, the Administrator must publish, along with the certification, a description of the evidence upon which the Administrator relied to make such certification. If the Administrator certifies that the owner or operator of the facility has entered into an order to implement as soon as practicable a compliance monitoring or corrective action program, the Administrator should certify that, under the order, the owner or operator of the facility will be controlling ground water contamination at the time of the Administration's certification or that the owner or operator could practicably not do so at the time of the certification.

Not later than March 1, 1986, the Administrator shall revise the regulations set forth in 40 CFR 265.147 to provide additional financial responsibility alternatives to the insurance requirement contained in such regulations. He may also provide for a lesser demonstration of financial responsibility for certain facilities, but only if the Administrator has made the certification regarding ground water contamination at such facilities as is required for an extension of interim status until June 30, 1986. Such modifications may apply to all interim status land disposal facilities, except for modifications involving lesser demonstrations of financial responsibility which shall apply only to those facilities certified by the Administrator as required for an extension of interim status until June 30, 1986. The Administrator may consider alternatives such as indemnity contracts, surety bonds, corporate guarantees, and other means of assuring financial responsibility as long as such alternatives do not lessen the protections afforded to third parties from injury or property damage.

The terms used in this section shall have the same meaning as when used in RCRA.

If an interim status extension has been provided until June 30, 1986, the Administrator may issue an additional extension for such facility for a period ending November 8, 1986. The Administrator must find that an additional extension is necessary because of constraints in the insurance market. The owner or operator must also file with the Administrator on June 30, 1986, a certification that the facility is not contaminating ground water or is in timely compliance with an enforceable compliance monitoring or corrective action program as well as a certification that the owner or operator of the facility has been making good faith efforts to satisfy all applicable financial responsibility requirements and provides documentation of that effort which is satisfactory to the Administrator. The Administrator may reject the certifications submitted for this additional extension if they do not adequately demonstrate that the facility is either not contaminating ground water or is not in timely compliance with an enforceable compliance monitoring or corrective action program. Timely compliance with an enforceable compliance monitoring or corrective action program under this bill means that the owner or operator of the facility has met all of the requirements set forth in the order implementing the compliance monitoring or corrective action program under the time schedule set forth in the order. It is the intent of the provision to ensure that there are no delays in the implementation of a compliance monitoring or corrective action program for whatever reason.

Finally, this bill makes it clear that if the owner or operator of a facility certifies at any time during the extensions afforded in this legislation that it has satisified the liability requirements of 40 CFR 265.147 for such facility, such facility shall be treated as if the facility had been fully certified under section 3005(e)(2) of the Solid Waste Disposal Act as of November 8, 1985. During the time in which a facility is operating pursuant to an extension afforded in this legislation, such facility is subject to all of the requirements applicable to hazardous waste land disposal facilities operating under interim status.

This is a carefully crafted, limited bill that provides relief to a narrow class of adversely affected facilities. I want to make it absolutely clear that this bill does nothing to affect the impact of the 1984 RCRA amendments on facilities which could not certify compliance with applicable ground water monitoring requirements. EPA has reported that over two-thirds of the 1,600 operating interim status facilities closed down on November 8, 1985. This bill would only affect approximately 50 of those facilities.

We must make sure that the firm deadlines imposed in the 1984 RCRA amendments remain firm, and I believe this narrow relief legislation would not undercut that critical goal.

□ 1330

Mr. Speaker, I reserve the balance of my time.

Mr. LENT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 3917, a bill to extend the time period for compliance with the financial responsibility requirements under RCRA.

Mr. BROYHILL, the distinguished ranking minority member of the Committee on Energy and Commerce, together with the gentlewoman from Connecticut [Mrs. JOHNSON] is the prime sponsor of this important legislation. Unfortunately, Mr. BROYHILL, was detained in his district this morning and cannot be here.

Without this legislation, businesses that depend on onsite land disposal to make their operation viable, will have to close. This legislation provides those businesses—under stringent safeguards—the ability to continue to operate even if they cannot get the liability insurance required under RCRA. Before an extension can be granted, however, the Administrator must find that the land disposal facility is in compliance with the requirement of RCRA.

I want to commend Mr. BROYHILL and Mrs. JOHNSON for their diligent efforts in fashioning this bill under difficult conditions. I also want to commend Mr. FLORIO for his role in this legislation. Without his input into the bill and his statesman like willingness to move this legislation expeditiously through subcommittee, we would not be here today. Of course, I would be remiss if I did not mention the important role played by our distinguished full committee chairman, Mr. DINGELL, in aiding our efforts to bring this legislation to the floor before the end of the first session.

I also want to commend two additional cosponsors, Mr. FOLEY and Mr. LOTT. Their help and interest has enabled us to promptly bring this legislation before the House today.

I look forward to seeing this legislation approved by the House this afternoon so that the other body will also have an opportunity to take this up before it adjourns for Christmas recess.

Mr. Speaker, in that regard, in order to enhance the chances of quick action by the other body, I have joined Mr. DINGELL, Mr. FLORIO, and Mr. BROYHILL in writing to the appropriate committee advising them of this legislation and urging them act quickly.

Mr. Speaker, I urge my colleagues to support H.R. 3917.

Mr. FLORIO. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. ECKART.]

Mr. ECKART of Ohio. Mr. Speaker, for purposes of a colloquy, I would like to address the gentleman from New Jersey [Mr. FLORIO].

I feel strongly that the action we are taking here today should not in any way be construed to mean that, with regard to the dozens of other approaching deadlines contained in the Hazardous and Solid Waste Amendments of 1984, we intend to be granting extensions. These deadlines, and the hammers attached to them, were enacted for very important reasons. Can I get some assurance from the subcommittee chairman that we are not, however, going to be granting such extensions on other deadlines as they arise?

Mr. FLORIO. If the gentleman would yield, the gentleman is correct; that this is a piece of legislation that is designed to deal with a specific problem related to the insurance industry, and that there should be no interpretation taken from this legislation passing that we are in any way going to vary from the legislation that has imposed other deadlines, the RCRA Amendment of 1984.

Mr. ECKART of Ohio. Second, I want to emphasize that the concept of compliance schedules embodied in this bill is not a substitute for physical compliance with the requirements mandated by the solid waste disposal act. Do I understand that it is the intention of the sponsors of this bill and the subcommittee chairman that this means actual physical compliance?

Mr. FLORIO. If the gentleman would yield, the gentleman is correct, that in fact as I have indicated in my remarks, the protection in terms of certifying that these facilities will not be lacking in many respects is stronger than even the language in the initial act.

Mr. ECKART of Ohio. Could I inquire as to whether my understanding is correct that this legislation does not in any way change the certification requirements for ground water monitoring set forth in section 3005(e) of the Solid Waste Disposal Act?

Mr. FLORIO. The gentleman is correct.

Mr. ECKART of Ohio. Fifth, with respect to the "second extension period," the EPA Administrator must certify to the facility's compliance, I feel it is important that the Administrator must have and use all the knowledge that is available to him.

Is it the intent of the authors of this legislation, in your understanding, Mr. FLORIO, that the Agency also use any information available to it, and not rely solely on the information provided by the owner/operator?

Mr. FLORIO. If the gentleman would yield, it is the requirement that the Agency use all of the information that may be available to it.

□ 1340

Mr. ECKART of Ohio. Finally, Mr. Speaker, could the gentleman from New Jersey describe what requirements of subtitle C are considered by this legislation to be "major requirements"?

Mr. FLORIO. If the gentleman will yield further, under this legislation violation of a major requirement is considered to be a class 1 violation under the Solid Waste Disposal Act.

Mr. ECKART of Ohio. I thank the gentleman from New Jersey for his able assistance in clarifying the effect and intent of certain provisions of this bill. I commend the gentleman from New York, colleague from Connecticut, and the sponsors of the bill, for their good faith efforts to find a solution to what they see as a real problem, one which is probably the fault of the insurance industry and not that of legitimate people engaged in the proper disposal of hazardous waste. Nonetheless, I cannot feel comfortable about what we are doing here today. I frankly do not believe we should be going forward with this bill at all.

First, we are sending the wrong signal to EPA, the public and the industry by extending the first major deadline of the Hazardous and Solid Waste Amendments of 1984. Will we now be expected to blink every time a new, supposedly "onerous" deadline approaches?

Second, we really don't know what results we are effecting with this legislation. Neither the EPA nor the sponsors of this legislation can tell us how many facilities this bill covers, or why they couldn't get insurance. Is it because they are polluting the ground water? Because they really didn't try? Or was it in fact a phenomenon of fluctuations in the insurance market? In short, we are legislating without any hard knowledge at all.

The one thing we can be sure of is that, by allowing hazardous waste disposal facilities to operate without insurance, we are shifting the burden of a possible leak from the owner/operator, where it belongs, to the victimized community. I submit that this fact alone, weighed against the dearth of other knowledge, is enough to militate against our taking this action here today.

But more than that troubles me about this bill. Subsection (h), entitled "Satisfaction of Liability Requirements," grandfathers back to November 8, 1985 the interim status of any facility receiving a renewal of that status pursuant to this bill. This means that any facility covered by this bill that continued to accept waste after November 8, in criminal violation of the law, would be safe from prosecution. The Justice Department could not enforce against such a facility for illegally continuing to accept waste in violation of interim status because that interim status will have been retroactively restored. And, unless the facility owner/operator, out of the goodness of his heart, decided to admit his illegal behavior to EPA, the Agency would probably never know, and the renewal of interim status would be granted.

Mr. Speaker, I realize the efforts that have gone into this bill, and the good faith attempt to resolve what is perceived as a real and unfair problem. But I suggest that there are too many loopholes, too much potential negative impact, and too many unanswered questions to go forward with this legislation as currently written.

Mr. LENT. Mr. Speaker, I take pleasure in yielding such time as she may consume to one of the cosponsors of this legislation, the gentlewoman from Connecticut [Mrs. Johnson], whose input was so important in the passage of this legislation.

Mrs. JOHNSON. Mr. Speaker, I rise in strong support of H.R. 3917 and commend my colleagues on the Energy and Commerce Committee for responding to an emergency situation with a reasonable, tightly drawn extension for those companies that find themselves in full compliance with the letter and spirit of the Resource Conservation and Recovery Act but are unable to purchase liability insurance, as required by the financial responsibility provisions of RCRA.

My original cosponsorship of this bill came about because of the predicament several small metal-plating companies in my district found themselves in on November 8. As my colleagues are well aware, November 8 was the deadline for meeting RCRA-mandated ground water monitoring and financial responsibility requirements. Yet, just like for day care providers, truckers, ski lift operators, and many others, liability insurance markets simply have dried up. The environmental impairment liability insurance that these small metal-finishers require because they produce metal-hydroxide sludges is just not available at any price.

Despite months and months of searching for adequate coverage to meet the standards set forth in RCRA regulations, my constituents have found either outright refusals or inadequate coverage limits available to them in the insurance market.

I appreciate my colleagues persistence in their labors on this matter because the small companies in my district and others nationwide are among the first victims of what is certain to be an epidemic of insurance-related problems in the business sector in coming years. In my district we have seen enough business dislocations and layoffs in bearings, machine tools, brass, and so on, so that I hope we can avoid the spectacle of people losing their jobs right before Christmas, especially if it is unnecessary. The extension granted by this legislation will give these otherwise-complying industries a chance to meet the financial responsibility requirements promulgated by the Environmental Protection Agency and continue providing jobs and products.

Mr. LENT. Mr. Speaker, I yield such time as he may consume to the gentleman from Colorado [Mr. Schaefer].

Mr. SCHAEFER. I thank the gentleman for yielding time to me.

Mr. Speaker, last year Congress passed the Resource Conservation and Reovery Act [RCRA] which forced compliance with ground water monitoring regulations anf financial responsibility requirements by November 8 of this year.

Unfortunately, we currently find ourselves in the position of requiring some landfills to close even though they have taken all the necessary steps to remain open, except for one that is beyond their control, the difficulty in obtaining insurance.

I want to emphasize that only one change will be made in current law: land disposal facilities have been given one more year to obtain insurance before they are forced to close.

In my home State of Colorado, 11 of the State's 14 private toxic waste dumps will continue to have operations affected without this extension.

These facilities will be forced to ship their wastes through Colorado within the next month and a half if Congress doesn't act. Federal regulations require companies to carry up to $6 million in liability protection against toxic leaks and spills and such policies are simply not available to many operators.

Mr. Speaker, last year this body decided to set November 8 as a compliance date because of 3 years of little action on meeting regulations. We still need to set a compliance date, but we should also recognize that there are legitimate reasons that operators were not able to meet the deadline.

I urge the support of my colleagues for this extension.

Mr. Speaker, I yield back the balance of my time.

Mr. LENT. Mr. Speaker, I have no further requests for time, and Mr. Speaker, assuming the gentleman from New Jersey [Mr. Florio] has no further requests for time, I yield back the balance of my time.

Mr. FLORIO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. Florio] that the House suspend the rules and pass the bill, H.R. 3917.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON ENERGY AND COMMERCE TO FILE REPORTS ON H.R. 3777 AND H.R. 3131 ON JANUARY 10, 1986

Mr. FLORIO. Mr. Speaker, on behalf of the Committee on Energy and Commerce, I ask unanimous consent that the committee may be permitted to file its reports on two bills, H.R. 3777 and H.R. 3131, on Friday, January 10, 1986.

Mr. Speaker, this is being done with the concurrence of the minority.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

Mr. LENT. Mr Speaker, reserving the right to object, and I shall not object, these two trade bills are both bills which passed the Committee on Energy and Commerce by wide margins, and I think the gentleman's request is in order.

Mr. Speaker, I would join with the gentleman in his request.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

MAKING IN ORDER ON TODAY OR ANY DAY THEREAFTER CONSIDERATION OF CONFERENCE REPORT AND AMENDMENTS IN DISAGREEMENT ON HOUSE JOINT RESOLUTION 465 FURTHER CONTINUING APPROPRIATIONS, 1986

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that it shall be in order, any rule of the House to the contrary notwithstanding, at any time on today, Monday, December 16, 1985, or any day thereafter, to consider the conference report and amendments in disagreement and motions to dispose of said amendments on House Joint Resolution 465 subject to the availability of said conference report and motions to dispose of amendments in disagreement for at least 1 hour, that all points of order be waived against the conference report and amendments in disagreement and motions to dispose of said amendments, and that said conference report and amendments in disagreement be considered as having been read when called up for consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

PERMISSION TO FILE CONFERENCE REPORT ON HOUSE JOINT RESOLUTION 465, FURTHER CONTINUING APPROPRIATIONS, 1986

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the joint resolution (H.J. Res. 465) making further continuing appropriations for the fiscal year 1986, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

AUTHORIZING ADDITION TO APOSTLE ISLANDS NATIONAL LAKESHORE

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2182) to authorize the inclusion of certain additional lands within the Apostle Islands National Lakeshore, as amended.

The Clerk read as follows:

H.R. 2182

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of September 26, 1970 (P.L. 91-424; 16 U.S.C. 460w) is amended as follows:

(1) In section 1:

(a) in the first sentence, after the phrase "consisting of", insert: ": (a) In General.—";

(b) at the end of the first sentence, delete "1970" and insert: "1970; and

"(b) Long Island Addition.—Approximately 200 acres of land at the mouth of Chequamegon Bay known as 'Long Island', as depicted on the map numbered NL-AI-91,001 and dated December, 1985.";

(c) in the last sentence, delete "map" and insert "maps".

(2) In section 3, after the word "donation.", strike the following sentence and insert in lieu thereof the following: "Notwithstanding any other provision of law, any Federal property located within the boundaries of the lakeshore is hereby transferred without transfer of funds to the administrative jurisdiction of the Secretary for the purposes of the lakeshore: Except, that the United States Coast Guard may retain a right to utilize a portion of such land and facilities for use as navigational aids so long as may be required."

(3) In section 4(c), after "January 1, 1967", insert: ", or before January 1, 1985 for those lands referred to in section 1(b)".

(4) Section 8 of such Act is amended by adding the following at the end thereof: "Effective October 1, 1986, there are authorized to be appropriated such additional sums as may be necessary for the acquisition of the lands described in section 1(b)."

The SPEAKER pro tempore. Is a second demanded?

Mr. LAGOMARSINO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. Vento] will be recognized for 20 minutes and the gentleman from California [Mr. Lagomarsino] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. Vento].

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to bring to the House H.R. 2182. This legislation authorizes the inclusion of a small land area known as "Long Island" within the Apostle Islands National Lakeshore. This is a freshwater barrier island one of the few in existence, a sand spit initially connected to the mainland but blown out in the early 1800's.

The Apostle Islands are a 22-island chain located on Lake Superior in northern Wisconsin; 20 of the 22 islands are presently part of the Apostle Islands National Lakeshore, established in 1970. Long Island is the southernmost island in the Apostle Islands chain. The island is a long and narrow barrier island formation with several miles of sandy beach and low dunes. This Wisconsin island includes important nesting areas for two endangered bird species, the Piping Plover and the common Tern, in this area. The known history of this island dates back to the mid-1600's when forts and trading posts were established by French voyageurs on the island.

This island land area proposed to be included by this legislation comprises approximately 270 acres, of which 137 acres are already owned by the Federal Government. Except for the two automated lighthouses, the Coast Guard property on the island was transferred to the care and custody of the Bureau of Land Management in 1967. Other than the two lighthouses, the Coast Guard has no real interest in the property, and the Bureau of Land Management is in the process of eliminating its landholdings within Wisconsin. Based on these facts, the Committee on Interior and Insular Affairs adopted an amendment that transfers the Federal land on Long Island to the National Park Service, but allows the Coast Guard to continue to maintain its automated lighthouses for necessary navigation purposes.

H.R. 2182 enjoys widespread support within the State of Wisconsin. The committee received testimony in support of this bill from Senator William Proxmire, Representative Dave Obey and Representative Jim Moody, the Wisconsin Governor's office and a number of environmental organizations including the Sierra Club, the National Audubon Society and the Wilderness Society. Importantly, this measure has bipartisan support from the Wisconsin congressional delegation.

Mr. Speaker, Long Island was originally part of the National Park Service proposal for Lakeshore but was deleted due to an unrelated controversy over Indian land on the mainland. The legislation before us corrects that omission.

I want to commend the gentleman from Wisconsin [Mr. Obey] for his initiative in introducing this measure and the subsequent assistance he offered the committee in its deliberations.

I urge adoption of H.R. 2182.

Mr. Speaker, I recommend the bill to the House, and I reserve the balance of my time.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to briefly comment on H.R. 2182. This bill would add 230-acre Long Island to the Apostle Islands National Lakeshore in Wisconsin.

One-half of Long Island is currently owned by the U.S. Coast Guard for navigational aid purposes. The Coast Guard has no objections to the transfer of the land since the bill permits the Coast Guard continued use and occupancy of the light stations on the island for as long as necessary.

Although I am concerned about authorizing new Federal acquisitions of parkland in view of the current backlog of authorized, but unpurchased park additions, I do believe Long Island is an appropriate addition to the National Park System. The estimated acquisition costs are relatively modest and the island seems to be a logical expansion of the Apostle Islands National Lakeshore.

Therefore, I urge the adoption of H.R. 2182.

Mr. Speaker, I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I thank the gentleman from California [Mr. Lagomarsino] for his cooperation and assistance with regard to this legislation.

Mr. Speaker, I yield such time as he may consume to the main sponsor of the bill, the gentleman from Wisconsin [Mr. Obey].

Mr. OBEY. Mr. Speaker, I simply would like to thank the gentleman from Minnesota [Mr. Vento] and the gentleman from California [Mr. Lagomarsino] for their consideration of this proposal.

As has been indicated, this proposal has bipartisan support within the congressional delegation.

I appreciate the support of the delegation and of the committee in bringing the measure before us today.

Mr. Speaker, I rise in support of legislation which would further enhance the picturesque Apostle Islands National Lakeshore at the tip of the northern Wisconsin mainland in Lake Superior. Since Senator Nelson and Representative Kastenmeier

led the effort to create this unique Federal park in 1970, thousands of people have enjoyed the unspoiled beauty of the 20-island cluster in the world's largest freshwater lake. Today, the park is enjoyed for its recreational and scenic value by both tourists and year-round residents alike.

The bill that I and several members of the Wisconsin delegation including Representatives, ASPIN, KASTENMEIER, KLEZCKA, MOODY, PETRI, and SENSENBRENNER have introduced, would add an environmentally important and scenic island to the National Lakeshore—a sandspit called Long Island.

Long Island is a low, curving sandy island about 3 miles in length averaging about one-quarter mile wide and historically separated and reconnected several times to the mainland Chequamegon Point to the southeast.

Due to lack of clarity when the park was created in 1970, Long Island got knocked out of the bill along with Chequamegon Point.

For many years however, groups like the Wisconsin Scientific Preservation Council have recognized the unique geological and natural resources attributes of this sandspit.

It is one of the best shorebirding areas in the State, and several protected and endangered bird species including the Piping Plover, Common Tern, and Bald Eagle have been found there.

The Island is both culturally and historically significant in the region, and was thought to play an important role in the fur trade of the 1660's. Long Island also has one of the first lighthouses in the western end of Lake Superior dating back to 1852.

From a recreational point of view, Long Island is much more accessible to nearby mainland communities than the other 20 islands. Because Long Island is a sandspit, the water surrounding it is very shallow and warms up more than the water around the other rocky cliff Apostles, making it possible to swim in the extremely cold Lake Superior waters.

A lot of people think that Long Island is in the park right now. Much of it is already government owned and many people want to use it like a park. The problem is that it isn't being managed like a park.

Abandoned Coast Guard buildings on BLM owned land have fallen into disrepair, and there is considerable litter on the premises this year, and recently the tire tracks of off road vehicles were found on the dunes and in other environmentally sensitive areas. Safety is also a concern.

Basically there needs to be an overall plan for the well managed use and preservation of Long Island's unique features.

We believe that this beautiful resource would be best managed by the National Park Service and I strongly urge adoption of H.R. 2182 with the committee amendment.

That's the best way to preserve the island in its existing state. The recently constructed Washburn and proposed Ashland Marina are expected to bring more boating traffic into the area. Long Island is close to both, and the legislation is a good way to link the Apostles Park to these nearby mainland communities while ensuring the preservation of a resource which might otherwise succumb to the increased pressures that increased traffic is likely to bring.

Mr. VENTO. I thank the gentleman for his comments.

Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin [Mr. MOODY], a member of the committee.

Mr. MOODY. Mr. Speaker, I, too, would like to add my support to this bill.

Mr. Speaker, I am pleased to support H.R. 2182, which would add the southernmost island in the Apostle Islands chain, Long Island, to the Apostle Islands National Lakeshore.

This legislation, introduced by my colleague Representative OBEY, myself and other members of the delegation has received bipartisan support within our delegation, and this indicates its importance to the State of Wisconsin.

Long Island, which is about 2½ miles in length, has been connected and separated several times from the long Chequamegon Point to the southeast, but since 1977, has been connected by low sandy deposits. This area, known as the sand cut, would also be included in this legislation. The bill would immediately transfer the Federal property on Long Island to the administrative jurisdiction of the Secretary of the Interior for use as part of the Lakeshore, with the U.S. Coast Guard allowed to continue utilizing a portion of the island for use as navigational aids.

There are several advantages for desiring the inclusion of Long Island as the 21st island to be added to the National Lakeshore:

The increase in tourism in the Ashland-Washburn area would benefit from the close proximity of the island to the mainland for scenic and recreational experiences alike. In fact, the old Coast Guard buildings on Long Island could possible be restored and become points of historical interest in the National Lakeshore; and

Long Island is also one of the last remaining habitats in the Great Lakes region of two seriously endangered bird species, the piping plover and the common tern.

Bringing this island under the purview of the National Park Service will ensure good land management practices are followed in maintaining a balance between protecting wildlife and habitats and allowing the public to utilize the island for a variety of activities including research, birdwatching, hiking, and boating access.

H.R. 2182 has received a hearing and been favorably reported out of the Interior and Insular Affairs Committee, of which I am a member. Most importantly, there will be no significant increase in Federal expenditures as a result of this legislation being enacted.

I urge my colleagues to support passage of this legislation.

□ 1355

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin [Mr. KLECZKA]

Mr. KLECZKA. I thank the gentleman for yielding time to me.

Mr. Speaker, I rise today as a cosponsor of H.R. 2182, and urge the House to approve this addition of Long Island to the Apostle Islands National Lakeshore.

My Milwaukee district bears little resemblance to the Apostle Islands region, but my constituents know a great vacation spot when they see one. Long Island's sandy beaches and dunes provide superb opportunities for swimming and hiking. The island's unique geological formations provide a safe nesting spot to over a hundred species or birds, several of them endangered. Finally, Long Island's proximity to the Washburn Marina and the proposed marina in Ashland would make its inclusion in the National Lakeshore an economic boon to these communities.

Mr. Speaker, I am proud to come from a State of unparalleled natural beauty. Let's preserve these gifts for the enjoyment of our children and grandchilden by passing this sensible legislation.

I congratulate Mr. OBEY, Mr. VENTO, Mr. MOODY, and Mr. LAGOMARSINO for their fine work,

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 2182, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

BEST COPY AVAILABLE

SENSE OF THE HOUSE THAT THE SOVIET UNION SHOULD ALLOW IGOR OGURTSOV TO EMIGRATE TO THE WEST WITHOUT RENOUNCING HIS VIEWS

Mr. FASCELL. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 76) expressing the sense of the House of Representatives that the Soviet Union should allow Igor Ogurtsov to be released from internal exile and allowed to emigrate to the West without renouncing his views.

The Clerk read as follows:

H. Res. 76

Whereas the Soviet Union is a signatory to the Final Act of the Conference on Security and Cooperation in Europe and is obligated to comply with the Universal Declaration of Human Rights;

Whereas Igor Ogurtsov, the founder of a religious-political opposition group in Soviet Union known as the All-Russian Social Christian Alliance for the Liberation of the People [VSKhSON], was tried in late 1976, without benefit of a fair and public hearing, with three other leaders of VSKhSON and was found guilty of treason;

Whereas while Igor Ogurtsov denied that he was guilty of treason, he was nonetheless sentenced to seven years in Vladimir Prison, eight years in a strict regime camp, and five years in internal exile;

Whereas the latest reports indicate that Igor Ogurtsov is very undernourished and weak; suffers from high blood pressure, liver malfunction, poor eye sight, loss of teeth; and has been described by his mother as a walking skeleton;

Whereas Igor Ogurtsov desperately wishes to emigrate to any country in the West that will accept him and his parents;

Whereas Igor Ogurtsov was offered an exit visa that would allow him and his parents to emigrate, but only if he signed a statement of pardon renouncing his views;

Whereas Igor Ogurtsov is the only remaining VSKhSON member still imprisoned: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that the President should—

(1) continue to express at every suitable opportunity and in the strongest possible terms the opposition of the United States to the forced internal exile and repressive treatment of Igor Ogurtsov; and

(2) urge the Soviet Union to—

(A) provide Igor Ogurtsov adequate medical care;

(B) grant Igor Ogurtsov immediate release from internal exile; and

(C) accept Igor Ogurtsov's application for exit visa and allow him emigrate with his parents without forcing him to renounce his views, in accordance with the Final act of the Conference on Security and Cooperation in Europe and with the Universal Declaration of Human Rights.

Sec. 2. The Clerk of the House of Representatives shall transmit a copy of this resolution to the President with the request that he further transmit copies of this resolution to the leadership of the Soviet Union and to the Ambassador of the Soviet Union to the United States.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Florida [Mr. Fascell] will be recognized for 20 minutes and the gentleman from Michigan [Mr. Broomfield] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. Fascell].

Mr. FASCELL. Mr. Speaker, I yield myself such time as I may consume.

GENERAL LEAVE

Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Resolution 76, the resolution presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. FASCELL. Mr. Speaker, I rise in support House Resolution 76 and commend the ranking minority member of the committee, the gentleman from Michigan, [Mr. Broomfield], for his efforts on this legislation.

Mr. Speaker, Igor Ogurtsov is the founder of the religious-political opposition group in the Soviet Union known as the All-Russian Social Christian Alliance for the Liberation of the People. Because of his activities, Mr. Ogurstov was tried for treason in 1967 and received a long prison sentence of 15 years and is now in internal exile.

The physical condition of Mr. Ogurtsov is very poor. He suffers from undernourishment, high blood pressure, liver and eye problems, and other impairments. He desperately wishes to leave the Soviet Union but cannot do so unless he renounces his political views.

House Resolution 76 simply expresses the sense of the House of Representatives that the Soviet Union should release Igor Ogurtsov and allow him and his parents to emigrate without conditions. This is a step the Soviet Union must take if it is to comply with its obligations under the Helsinki Final Act.

I hope the House will act unanimously to support this resolution.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the resolution before us today concerns the plight of Soviet dissident Igor Ogurtsov. House Resolution 76 expresses the sense of the House of Representatives that the President should continue to express the opposition of the United States to the forced internal exile and repressive treatment of Igor Ogurtsov. The President is asked to urge the Soviet Union to provide Igor Ogurtsov with adequate medical care, grant his immediate release from internal exile, and accept his application for exit visa and allow him to emigrate to the West with his parents without forcing him to renounce his views.

Born in Volgagrad in 1937, Igor Ogurtsov spent most of his life residing in Leningrad and graduated from Leningrad State University in 1966 taking a degree in oriental studies. Ogurtsov was the founder in 1964 of a religious-political opposition group in the Soviet Union known as the All Russian Social Christian Alliance for the Liberation of the People. The organization survived for 3 years and when it was finally broken up by the KGB its membership numbered 28. Despite Ogurtsov's denial of guilt, he was convicted of treason in a closed Leningrad court and sentenced to 15 years of imprisonment, to be followed by 5 years of internal exile.

Recent reports indicate that Igor Ogurtsov is in poor health suffering from high blood pressure, liver malfunction, loss of teeth, and a number of other serious maladies. He was recently released to visit relatives in Leningrad, but is scheduled to return to internal exile very shortly. Given his poor health, the urgency of this situation cannot be overstated.

The harsh treatment accorded Mr. Ogurtsov is a matter of great concern to the Russian-American community. Deserving special mention for her tireless efforts to facilitate Igor Ogurtsov's release is Mrs. Vera Politis, chairwoman of the National Human Rights Committee of the Congress of Russian Americans. I would like to commend Mrs. Politis for the worthy efforts of her organization on behalf of Mr. Ogurtsov and other victims of Soviet repression.

House Resolution 76 has over 80 cosponsors and the Senate last year passed a resolution similar to the one before us today. Mr. Ogurtsov is now serving the 18th year of his sentence for his "crimes" against the Soviet state. These alleged "crimes" were to urge that his country follow a Christian faith and observe basic human rights.

Mr. Speaker, House Resolution 76 raises a very personal and specific human rights issue of immediate and crucial importance. I urge my colleagues to support the measure now before us.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. Gilman].

Mr. GILMAN. Mr. Speaker, I rise in strong support of the legislation now pending before us. I commend the gentleman from Michigan [Mr. Broomfield] who, as ranking minority member of our Foreign Affairs Committee, has played a large role in bringing this important measure to the floor of the House. As primary sponsor of House Resolution 76 with our good colleague, Congressman Wortley of New York, Congressman Broomfield has once again given the Members of the House the vital opportunity to speak out on human rights practices in the Soviet Union. Igor Ogurtsov is an innocent man who has spent many years wasting away in the vast expanse of the Soviet gulag. A prolific writer, he has committed no crime against either Soviet society or the state. Yet he continues to languish in prison for no other reason than some bureaucrat wanted him to suffer. The Congress of Russian Americans, many of whose members reside in my district, have consistently supported Mr. Ogurtsov over the years, and are to be commended for their perseverence of purpose.

Mr. Speaker, I was pleased to have cosponsored this resolution of support for Mr. Ogurtsov last Congress as well, and coming on the heels of the recent Geneva summit meeting, this legislation is yet another expression of our feelings on the very important issue of human rights. Though the Soviets are signatories to numerous documents detailing the freedom of the individual by thought, word, or deed, they have not fulfilled either the spirit or the letter of these international treaties. By voting for House Resolution 76 today, the Members of this body have a twofold opportunity to relay to the Soviet Government their intentions with respect to human rights—first, that Igor Ogurtsov enjoys the full support and solidarity of the entire House of Representatives, and second, that this Congress will reiterate as necessary our commitment to human rights and the dignity of the individual. Accordingly, Mr. Speaker, I urge our colleagues to join me in voting for House Resolution 76; Igor Ogurtsov, an innocent and courageous man, deserves no less.

Mr. FASCELL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. Fascell] that the House suspend the rules and agree to the resolution, House Resolution 76.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

ENCOURAGING PRIVATE SECTOR INVOLVEMENT IN WORLD HUNGER

Mr. FASCELL. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 57) encouraging private sector involvement in the worldwide effort to alleviate hunger, as amended.

The Clerk read as follows:

H. Con. Res. 57

Whereas the United States faces the challenge of leading the world to a new era of prosperity, created in significant part by enabling the dynamism of the private sector to use its creative talents in the third world;

Whereas nations have identified food self-reliance as a priority national goal;

Whereas the challenge to help the world's hungry is a global concern and ultimately a matter of United States national security, the direct result of a world grown more interdependent, and dictated by traditional humanitarian concerns;

Whereas the challenge must not be confronted solely within the context of an existing crisis, but with an eye toward the future food requirements of developing countries;

Whereas both the private and public sectors, by reason of their knowledge, experience, and other resources, have a valuable role to play in alleviating world hunger;

Whereas American involvement with helping the hungry abroad has encompassed a wide spectrum of activities in both the public and private sectors;

Whereas out of past successes and failures have come a better understanding of the benefits and limitations of the activities of each sector;

Whereas the issue is not generally public sector activities versus private sector activities, but the appropriate combination of each under the *appropriate* conditions;

Whereas the conditions that are *appropriate* vary enormously from country to country, depending on the respective stage of development of and the development priorities established by the country, and the services offered by prospective foreign investors;

Whereas corporate investment, as is evidenced by the work of the organizations represented by the Fowler-McCracken Commission, has far-reaching implications for efforts to alleviate world hunger, both through direct involvement in national food systems and, more generally, through its impact upon employment levels, purchasing power, income distribution, balance of payments questions, and productivity in developing nations;

Whereas the most attractive countries for foreign investors remain the middle- and upper-income developing countries where rapid advances are being made in industrialization and the expansion of economic and social infrastructure; and

Whereas the less affluent developing countries have the greatest food problems—the critical lack of trained manpower and expertise and the need for farm-to-market roads, irrigation systems, communication networks, and newer port facilities—but offer little incentive for investment by foreign corporations: Now, therefore, be it,

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the order to meet the challenge of encouraging private sector investment indeveloping countries and to target some of that investment so that it helps allevate hunger, it is necesary to encourage the private sector to become invovled with other nations wherever it can in the worldwide effort to alleviate hunger.

Sec. 2. It is further the sense of the Congress that, in light of the market for many developing country products, such investment by the private sector must be encouraged in order to promote income generation, improved natural resource management, and efforts to alleviate world hunger.

Sec. 3. It is further the sense of the Congress that—

(1) America's leading institutions in the public and private sectors should join forces, during this year and through the balance of this decade, in developing the commitments and the action plan essential to ending world hunger;

(2) the Fowler-McCracken Commission and other interested organizations should work together at the national, regional, and State level to build a national commitment so crucial to the success of this mission;

(3) such an undertaking should be designed to secure from private firms a commitment to a corporate agenda that reflects a resolve to end world hunger;

(4) particular consideration should be devoted to mobilizing the public and private resources needed to assist the less-affluent developing countries in enabling their people to meet basic human needs; and

(5) those nations in need of further assistance should consider how best to create the political and economic conditions necessary to enable their own people and the world's public and private sectors to invest in the development of those nations.

The SPEAKER pro tempore. Is a second demanded?

Mr. GILMAN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Florida [Mr. Fascell] will be recognized for 20 minutes and the gentleman from New York [Mr. Gilman] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. Fascell].

Mr. FASCELL. Mr. Speaker, I yield myself such time as I may consume.

GENERAL LEAVE

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Concurrent Resolution 57 which is presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. FASCELL. Mr. Speaker, I rise in support of House Concurrent Resolution 57, encouraging private sector involvement in the worldwide effort to alleviate hunger.

This resolution endorses the work of the Fowler-McCracken Commission in urging private sector investment in agricultural activities in developing countries as part of the effort to alleviate world hunger.

In developing countries as in this country, the farmer represents the essence of the private sector. These farmers must be supported by appropriate policies in order to work most efficiently in their basic goal of food production. Encouragement of corporate investment in agriculture-related industry is fundamental to creating and maintaining one demand for agricultural production. This demand creation is a necessary incentive for increasing agricultural output.

The resolution also calls for a partnership between the public and private sectors in order to develop the commitments and action plan essential to ending world hunger. It urges mobilization of the public and private resources needed to assist the poorer developing countries to feed their people.

We know that there is no one answer to the complex issues of hunger and poverty. Our experience in this country, however, confirms that a strong private sector provides the means for people to help themselves to a better life. I urge my colleagues to support this resolution encouraging the involvement of the private sector in developing country agricultural activities.

Mr. BROOMFIELD. Mr. Speaker, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from Michigan.

Mr. BROOMFIELD. Mr. Speaker, in February, I joined the distinguished gentleman from New York [Mr. GILMAN] and the distinguished chairman of the Foreign Affairs Committee [Mr. FASCELL], in sponsoring House Concurrent Resolution 57, legislation calling upon the private sector to apply itself in the worldwide effort to alleviate hunger. Congress can help to provide impetus to the private sector to use its creative talents to meet the challenge of helping the world's hungry.

The hunger issue is of great concern for both humanitarian and national security reasons. House Concurrent Resolution 57 expresses the sense of Congress that it is necessary to encourage the private sector to become involved with other nations wherever it can in the global effort to alleviate hunger. It also suggests that the private and public sectors should join forces in this worthwhile effort.

Mr. Speaker, this resolution supports the work of the Fowler-McCraken Commission the goal of which is cementing the corporate commitment to ending world hunger. I urge my colleagues to support the resolution as yet another way of broadening the attack on a serious situation that must be faced with both public and private initiative and resources.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to commend the distinguished chairman, the gentleman from Florida [Mr. FASCELL], and the ranking minority member on the committee, the gentleman from Michigan [Mr. BROOMFIELD], for helping to bring this measure to the floor at this time.

Mr. Speaker, the American corporate community has the unique capability and the necessary interest to help alleviate world hunger. The private sector has an undeniable stake in developing strong, viable overseas partners. Hunger and malnutrition are enemies of mankind that not only threaten world peace and prosperity but also severely limit potential international markets and domestic job opportunities.

Today's challenges go beyond poor rainfall and declining food production to encompass the longer term dilemmas such as inadquate transportation, poor health systems, environmental degradation and the lack of sound economic and agricultural policies in the recipient countries.

The private sector can: Build the required infrastucture, enhance food production, infuse solely-needed management expertise and an entrepreneurial spirit into the markets of the affected countries, and, through successful international business practices and trade, help to encourage the necessary long-term economic reforms.

Accordingly, the Congress must challenge and encourage the American private sector to commit its time, expertise and captial investment to help alleviate not only the short-term crisis but the longer-term costs as well. While, in Africa the short-term crisis is abating, the problems to move the African nations and other hungry countries from relief to self-reliance are not yet in place—at least nowhere the magnitude that is needed.

House Concurrent Resolution 57 would pay a significant role in recognizing this problem and in helping to draw attention to its resolution.

I urge my colleagues to adopt House Concurrent Resolution 57.

Mrs. ROUKEMA. Mr. Speaker, first, I would like to commend the gentleman from New York [Mr. GILMAN] for his leadership on this issue, his sponsorship of House Concurrent Resolution 57 and his work on the Fowler-McCracken Commission's executive committee. This is just another example of his untiring commitment to the task of ending world hunger.

Over the past year we have seen an unprecedented response by the U.S. Government, other Western nations, numerous voluntary organizations, and the public at large to the famine crisis in Africa. The United States alone has sent over 3 million metric tons of food aid valued at over $1 billion. We made this effort because millions of people were on the brink of starvation. The United Nations estimated that 200 million people were affected by the famine, with up to 30 million seriously at risk of dying due to disease and malnutrition. Thankfully, our aid went a long way toward saving many.

Unfortunately, the dire situation for many in Africa is not over. We must continue to send food aid, while we search for ways to bolster Africa's unproductive economic and agricultural sectors. As the ranking minority member of the House Select Committee on Hunger, I, and my colleagues, have heard from a number of expert witnesses, most recently former Defense Secretary and ex-President of the World Bank, Robert McNamara, on the need for a concerted, coordinated, long-term commitment to solving the problems in Africa. We must do so for humanitarian reasons, as well as economic and strategic ones.

Make no mistake about it, this will take the continued commitment of our national resources. We also clearly realize that in this age of astronomical budget deficits, there may be limits to what we can afford to contribute. The best approach is to take full advantage of what we can commit. This Congress can facilitate both public and private involvement and coordination in this effort. That is exactly what House Conference Report 57 is designed to do. It makes note of the special role that the private sector, especially American corporations, can play in terms of money, strategy, and expertise. Greater private sector investment and involvement in the poorest developing countries will serve to enhance our governmental efforts to end hunger and malnutrition.

In the last year Mr. LELAND and I encouraged U.S. pharmaceutical companies to donate supplies for the famine relief effort. They responded with large quantities of vaccines, antibiotics, and vitamins, valued at millions of dollars. Transportation for these much-needed supplies was paid for by the employees of a major air freight company. That is but one example of the kind of corporate involvement that is possible if we clearly state our needs and objectives. By building a national commitment, we can gain much broader participation by the American private sector in addressing hunger issues.

We are well aware and are grateful for the proven generosity of American corporations in helping the truly needy, But they can do more. I view this resolution as somewhat of a challenge to them. I believe that a vast public spirit and altruism remains to be tapped in America. We saw it begin to surface in the generosity displayed through the Live-Aid and USA for Africa events, which raised over $100 million and the consciousness of our youngest generation. Can our corporate board rooms do as well? Rotary International and thousands of Rotarians in the United States have pledged to raise $120 million for worldwide immunization of children against polio. Can other organizations set and reach such a goal in this admirable effort? I think that they can, and we in the Congress should encourage them every step of the way.

This resolution is one small part of that encouragement. The solutions to the problems of Africa lie in long-term efforts to increase food production in the poorest countries and to improve food distribution in nearly every country. With the commitment of both the public and private sectors, and the proper coordination between them, we can utilize our resources to their utmost advantage. We may not solve the problems in a day or a year, but we can do it, we must do it and should start today. I urge all Members to support this resolution.

Mr. FASCELL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. FASCELL] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 57, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

RESTORATION OF FEDERAL RECOGNITION TO YSLETA DEL SUR PUEBLO AND ALABAMA AND COUSHATTA INDIAN TRIBES OF TEXAS

Mr. UDALL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1344) to provide for the restoration of Federal recognition to the Ysleta del Sur Pueblo and the Alabama and Coushatta Indian Tribes of Texas, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1344

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Ysleta del Sur Pueblo and Alabama and Coushatta Indian Tribes of Texas Restoration Act".

REGULATIONS

SEC. 2. The Secretary of the Interior or his designated representative may promulgate such regulations as may be necessary to carry out the provisions of this Act.

TITLE I—YSLETA DEL SUR PUEBLO RESTORATION

DEFINITIONS

SEC. 101. For purposes of this title—

(1) the term "tribe" means the Ysleta del Sur Pueblo (as so designated by section 102);

(2) the term "Secretary" means the Secretary of the Interior or his designated representative;

(3) the term "reservation" means the lands held by the tribe on the date of the enactment of this title and the lands held in trust by the State and by the Texas Indian Commission for the benefit of the tribe on such date;

(4) the term "State" means the State of Texas;

(5) the term "Tribal Council" means the governing body of the tribe; and

(6) the term "Tiwa Indians Act" means the Act entitled "An Act relating to the Tiwa Indians of Texas." and approved April 12, 1968 (82 Stat. 93).

REDESIGNATION OF TRIBE

SEC. 102. The Indians designated as the Tiwa Indians of Ysleta, Texas, by the Tiwa Indians Act shall, on and after the date of the enactment of this title, be known and designated as the Ysleta del Sur Pueblo. Any reference in any law, map, regulation, document, record, or other paper of the United States to the Tiwa Indians of Ysleta, Texas, shall be deemed to be a reference to the Ysleta del Sur Pueblo.

RESTORATION OF FEDERAL RECOGNITION, RIGHTS, AND BENEFITS

SEC. 103. (a) FEDERAL RECOGNITION.—Federal recognition of the tribe and of the trust relationship between the United States and the tribe is hereby restored. All laws and rules of law of the United States of general application to Indians, to nations, tribes, or bands of Indians, or to Indian reservations which are not inconsistent with any specific provision contained in this title shall apply to the members of the tribe, the tribe, and the reservation.

(b) RESTORATION OF RIGHTS AND PRIVILEGES.—All rights and privileges of the tribe and members of the tribe under any Federal treaty, statute, Executive order, agreement, or under any authority of the United States which may have been diminished or lost under the Tiwa Indians Act are hereby restored.

(c) FEDERAL SERVICES AND BENEFITS.—Notwithstanding any other provision of law, the tribe and the members of the tribe shall be eligible, on and after the date of the enactment of this title, for all benefits and services furnished to federally recognized Indian tribes.

(d) EFFECT OF PROPERTY RIGHTS AND OTHER OBLIGATIONS.—Except as otherwise specifically provided in this title, the enactment of this title shall not affect any property right or obligation or any contractual right or obligation in existence before the date of the enactment of this title or any obligation for taxes levied before such date.

STATE AND TRIBAL AUTHORITY

SEC. 104. (a) STATE AUTHORITY.—Nothing in this Act shall affect the power of the State of Texas to enact special legislation benefiting the tribe.

(b) TRIBAL AUTHORITY.—The Tribal Council, as such Council is constituted on the date of the enactment of this title, shall represent the tribe and its members in the implementation of this title and shall have full authority and capacity—

(1) to enter into contracts, grant agreements, and other arrangements with any Federal department or agency, and

(2) to administer or operate any program or activity under or in connection with any such contract, agreement, or arrangement, to enter into subcontracts or award grants to provide for the administration of any such program or activity, or to conduct any other activity under or in connection with any such contract, agreement, or arrangement.

PROVISIONS RELATING TO TRIBAL RESERVATION

SEC. 105. (a) FEDERAL RESERVATION ESTABLISHED.—The reservation is hereby declared to be a Federal Indian reservation for the use and benefit of the tribe without regard to whether legal title to such lands is held by the State or by the tribe.

(b) CONVEYANCE OF LAND BY STATE.—The Secretary shall—

(1) accept any offer from the State to convey title to any land held in trust by the State or by the Texas Indian Commission for the benefit of the tribe to the Secretary, and

(2) hold such title, upon conveyance by the State, in trust for the benefit of the tribe.

(c) CONVEYANCE OF LAND BY TRIBE.—At the written request of the Tribal Council, the Secretary shall—

(1) accept conveyance by the tribe of title to any land held by the tribe to the Secretary, and

(2) hold such title, upon such conveyance by the tribe, in trust for the benefit of the tribe.

(d) APPROVAL OF DEED BY ATTORNEY GENERAL.—Notwithstanding any other provision of law regulation, the Attorney General of the United States shall approve any deed or other instrument from the State or the tribe which conveys title to land within the reservation to the United States.

(e) PERMANENT IMPROVEMENT AUTHORIZED.—Notwithstanding any other provision of law or rule of law, the Secretary or the tribe any erect permanent improvements, improvements of substantial value, or any other improvement authorized by law on the reservation without regard to whether legal title to such lands has been conveyed to the Secretary by the State or the tribe.

(f) CIVIL AND CRIMINAL JURISDICTION WITHIN RESERVATION.—The State shall exercise civil criminal jurisdiction within the boundaries of the reservation as if such State had assumed such jurisdiction with the consent of the tribe under sections 401 and 402 of the Act entitled "An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes," and approved April 11, 1968 (25 U.S.C. 1321, 1322).

(g) PLAN FOR ENLARGEMENT OF PRESERVATION.—The Secretary shall negotiate with the tribe concerning the enlargement of the reservation and, not later than two years after the date of the enactment of this Act, shall develop a plan for the enlargement of the reservation for the tribe. The plan shall include provisions for the acquisition of land to be selected from available public, State, or private lands within El Paso or Hudspeth Counties, Texas. Upon approval of such plan by the tribe, the Secretary shall submit such plan, in the form of proposed legislation, to the Congress.

(h) NOTIFICATION AND CONSULTIVE REQUIREMENTS FOR PLAN.—To assure that legitimate State and local interests are not prejudiced by the enlargement of the reservation for the tribe, the Secretary, in developing the plan under subsection (g) shall notify and consult with all appropriate officials of the State of Texas, all appropriate local government officials in the affected area in the State of Texas, and any other interested party. The consultations required under this subsection shall include—

(1) the size and location of the additions to the reservation;

(2) the effect the enlargement of the reservation would have on State and local tax revenues;

(3) the criminal and civil jurisdiction of the State of Texas with respect to the reservation and persons on the reservation;

(4) the provision of State and local services to the reservation and to the tribe and members of the tribe on the reservation; and

(5) the provision of Federal services to the reservation and to the tribe and members of the tribe and the provision of services by the tribe to members of the tribe.

(i) CONTENTS OF PLAN.—Any plan developed for the enlargement of the reservation shall provide that the Secretary shall not accept any real property in trust for the benefit of the tribe or bands unless such real property is located either within El Paso or Hudspeth Counties, State of Texas.

(j) STATEMENT APPENDED TO ENLARGEMENT PLAN RESPECTING IMPLEMENTATION OF NOTIFICATION AND CONSULTATIVE REQUIREMENTS.—The Secretary shall append to the plan a detailed statement describing the manner in which the notification and consultation prescribed by subsection (h) was carried out and shall include any written comments with respect to the enlargement of the reservation for the tribe submitted to the Secretary by State and local officials and other interested parties in the course of such consultation.

TIWA INDIANS ACT REPEALED

SEC. 106. The Tiwa Indians Act is hereby repealed.

SEC. 107. Gaming, lottery or bingo on the tribe's reservation and on tribal lands shall only be conducted pursuant to a tribal ordinance or law approved by the Secretary of the Interior. Until amended as provided below, the tribal gaming laws, regulations and licensing requirements shall be identical to the laws and regulations of the State of Texas regarding gambling, lottery and bingo. Any amendments to the tribal gaming laws, regulations and licensing requirements shall be submitted by the tribe to the Secretary for approval. Upon such approval, the Secretary shall submit such amendments to the Congress. Such amendments shall become effective at the end of a 60 legislative day period beginning on the day such amendments are submitted to the Congress, unless during such 60-day period Congress adopts a joint resolution disapproving such amendments.

TITLE II—ALABAMA AND COUSHATTA INDIAN TRIBES OF TEXAS

DEFINITIONS

SEC. 201. For purposes of this title—

(1) the term "tribe" means the Alabama and Coushatta Indian Tribes of Texas (considered as one tribe in accordance with section 202);

(2) the term "Secretary" means the Secretary of the Interior or his designated representative;

(3) the term "reservation" means the Alabama and Coushatta Indian Reservation in Polk County, Texas, comprised of—

(A) the lands and other natural resources conveyed to the State of Texas by the Secretary pursuant to the provisions of section 1 of the Act entitled "An Act to provide for the termination of Federal supervision over the property of the Alabama and Coushatta Tribes of Indians of Texas, and the individual members thereof; and for other purposes." and approved August 23, 1954 (25 U.S.C. 721), and

(B) the lands and other natural resources purchased for and deeded to the Alabama Indians in accordance with an act of the legislature of the State of Texas approved February 3, 1854;

(4) the term "State" means the State of Texas;

(5) the term "constitution and bylaws" means the constitution and bylaws of the tribe which were adopted on June 16, 1971; and

(6) the term "Tribal Council" means the governing body of the tribe under the constitution and bylaws.

ALABAMA AND COUSHATTA INDIAN TRIBES OF TEXAS CONSIDERED AS ONE TRIBE

SEC. 202. The Alabama and Coushatta Indian Tribes of Texas shall be considered as one tribal unit for purposes of this title and any other law or rule of law of the United States.

RESTORATION OF FEDERAL RECOGNITION, RIGHTS AND BENEFITS

SEC. 203. (a) FEDERAL RECOGNITION.—Federal recognition of the tribe and of the trust relationship between the United States and the tribe is hereby restored. The Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 476) and all laws and rules of law of the United States of general application to Indians, to nations, tribes, or bands of Indians, or to Indian reservations which are not inconsistent with any specific provision contained in this title shall apply to the members of the tribe, the tribe, and the reservation.

(b) RESTORATION OF RIGHTS AND PRIVILEGES.—All rights and privileges of the tribe and members of the tribe under any Federal treaty, Executive order, agreement, statute, or under any other authority of the United States which may have been diminished or lost under the Act entitled "An Act to provide for the termination of Federal supervision over the property of the Alabama and Coushatta Tribes of Indians of Texas, and the individual members thereof; and for other purposes." and approved August 23, 1954, are hereby restored and such Act shall not apply to the tribe or to members of the tribe after the date of the enactment of this title.

(c) FEDERAL BENEFITS AND SERVICES.—Notwithstanding any other provision of law, the tribe and the members of the tribe shall be eligible, on and after the date of the enactment of this title, for all benefits and services furnished to federally recognized Indian tribes.

(d) EFFECT ON PROPERTY RIGHTS AND OTHER OBLIGATIONS.—Except as otherwise specifically provided in this title, the enactment of this title shall not affect any property right or obligation or any contractual right or obligation in existence before the date of the enactment of this title or any obligation for taxes levied before such date.

STATE AND TRIBAL AUTHORITY

SEC. 204. (a) STATE AUTHORITY.—Nothing in this Act shall affect the power of the State of Texas to enact special legislation benefiting the tribe.

(b) CURRENT CONSTITUTION AND BYLAWS TO REMAIN IN EFFECT.—The constitution and bylaws of the tribe on file with the Committee on Interior and Insular Affairs is hereby declared to be approved for the purposes of section 16 of the Act of June 18, 1934 (48 Stat. 987; 25 U.S.C. 476) except that all reference to the Texas Indian Commission shall be considered as reference to the Secretary of the Interior.

(c) AUTHORITY AND CAPACITY OF TRIBAL COUNCIL.—No provision contained in this title shall affect the power of the Tribal Council to take any action under the constitution and bylaws described in subsection (b). The Tribal Council shall represent the tribe and its members in the implementation of this title and shall have full authority and capacity—

(1) to enter into contracts, grant agreements, and other arrangements with any Federal department or agency;

(2) to administer or operate any program or activity under or in connection with any such contract, agreement, or arrangement, to enter into subcontracts or award grants to provide for the administration of any such program or activity, or to conduct any other activity under or in connection with any such contract, agreement, or arrangement; and

(3) to bind any tribal governing body selected under any new constitution adopted in accordance with section 205 as the successor in interest to the Tribal Council.

ADOPTION OF NEW CONSTITUTION AND BYLAWS

SEC. 205. Upon written request of the tribal council, the Secretary shall hold an election for the members of the tribe for the purpose of adopting a new constitution and bylaws in accordance with section 16 of the Act of June 18, 1934 (25 U.S.C. 476).

PROVISIONS RELATING TO TRIBAL RESERVATION

SEC. 206. (a) FEDERAL RESERVATION ESTABLISHED.—The reservation is hereby declared to be a Federal Indian reservation for the use and benefit of the tribe without regard to whether legal title to such lands is held by the State or by the tribe.

(b) CONVEYANCE OF LAND BY STATE.—The Secretary shall—

(1) accept any offer from the State to convey title to any lands held in trust by the State or the Texas Indian Commission for the benefit of the tribe to the Secretary, and

(2) shall hold such title, upon conveyance by the State, in trust for the benefit of the tribe.

(c) CONVEYANCE OF LAND BY TRIBE.—At the written request of the Tribal Council, the Secretary shall—

(1) accept conveyance by the tribe of title to any lands within the reservation which are held by the tribe to the Secretary, and

(2) hold such title, upon such conveyance by the tribe, in trust for the benefit of the tribe.

(d) APPROVAL OF DEED BY ATTORNEY GENERAL.—Notwithstanding any other provision of law or regulation, the Attorney General of the United States shall approve any deed or other instrument from the State or the tribe which conveys title to lands within the reservation to the United States.

(e) PERMANENT IMPROVEMENTS AUTHORIZED.—Notwithstanding any other provision of law or rule of law, the Secretary of the tribe may erect permanent improvements, improvements of substantial value, or any other improvement authorized by law on the reservation without regard to whether legal title to such lands has been conveyed to the Secretary by the State or the tribe.

(f) CIVIL AND CRIMINAL JURISDICTION WITHIN RESERVATION.—The state shall exercise civil and criminal jurisdiction within the boundaries of the reservation as if such State had assumed such jurisdiction with the consent of the tribe under sections 401 and 402 of the Act entitled "An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes," and approved April 11, 1968 (25 U.S.C. 1321, 1322).

SEC. 207. Gaming, lottery or bingo on the tribe's reservation and on tribal lands shall only be conducted pursuant to a tribal ordinance or law approved by the Secretary of the Interior. Until amended as provided below, the tribal gaming laws, regulations and licensing requirements shall be identical to the laws and regulations of the State of Texas regarding gambling, lottery and bingo. Any amendments to the tribal gaming laws, regulations and licensing requirements shall be submitted by the tribe to the Secretary for approval. Upon such approval, the Secretary shall submit such amendments to the Congress. Such amendments shall become effective at the end of a 60 legislative day period beginning on the day such amendments are submitted to the Congress, unless during such 60-day period Congress adopts a joint resolution disapproving such amendments.

The SPEAKER pro tempore. Is a second demanded?

Mr. DeWINE. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Arizona [Mr. Udall] will be recognized for 20 minutes and the gentleman from Ohio [Mr. DeWine] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Arizona [Mr. Udall].

Mr. UDALL. Mr. Speaker, I yield myself such time as I may consume.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise their remarks on H.R. 1344, the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. UDALL. Mr. Speaker, H.R. 1344 is a bill to provide for the restoration of Federal recognition to the Ysleta Del Sur Pueblo and the Alabama and Coushatta Indian Tribes. Both tribes are located in the State of Texas.

The Ysleta Del Sur Pueblo had its Federal trust relationship terminated by an act of Congress in 1967 and transferred to the State of Texas. The Alabama Coushatta Tribe had its trust relationship with the United States terminated in 1954 and that relationship was transferred to the State of Texas.

The attorney general of the State of Texas issued an opinion recently in which he stated that under the Texas Constitution, it is illegal for the State to continue to maintain a trust relationship with these two tribes. This bill therefore would reestablish a trust relationship with the United States so that the tribal members could again be eligible to participate in Federal programs that are available to Indians because of their special status as Indians.

This bill does not call for any additional appropriations or authorization and is supported by the tribes and the State of Texas. I therefore urge passage of this legislation.

Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Texas [Mr. Coleman], the author of the bill.

Mr. COLEMAN of Texas. I thank the gentleman for yielding time to me.

Mr. Speaker, I wish to take this opportunity to extend the appreciation of both myself and the people of Texas for the chance to this legislation considered in such a timely manner.

Since my esteemed colleague, Congressman Charles Wilson, will address that portion of the legislation pertaining to the Alabama-Coushatta Tribe, I will focus my remarks of the other Texas tribe, that of the Pueblo de la Ysleta Del Sur, or, more simply, the Tiwas of El Paso.

In the course of drafting this legislation, I had the chance to come across a recounting of a conversation that took place several years ago between a good friend of mine, Mr. Tom Diamond, an attorney from El Paso, and a National Park Service Ranger. It seems that Mr. Diamond was visiting the Grand Quivira National Monument in the hope of obtaining more information about a small band of native Americans he had heard resided in El Paso. When approached by Mr. Diamond the Ranger said, "I think you'll find the Tiwas of Ysleta Del Sur no longer exist." Mr. Diamond's now famous reply was, "I know, but the Tiwas don't know they no longer exist."

That particular exchange, Mr. Speaker, I believe best explains the turn of events, both historical and legal, which brings us here today. The story of the Tiwas of El Paso is one that finally can be told—a story enmeshed in the fabric of life along the Southwest border over the past 300 years.

More importantly, Mr. Speaker, it is a story that describes how one small band of native Americans, forced away from their original tribe and lands, existed in the white man's world while still managing to retain the culture, the customs, and the proud way of life their ancestors bequeathed to them hundreds of years ago. To fully appreciate the cultural strength and integrity exemplified by this saga, it is necessary to turn back the hands of time to the mid-1600's.

For some 20 years prior to 1680, the Spanish Conquistadors were having difficulty in keeping various factions of the Pueblo Indians in and around what is now Albuquerque, NM, peaceful, practicing Christians, and under their control. The Tiwas had become, by this time, nominal Catholics and occupied themselves with work on behalf of the Spanish and with defending themselves from attacks by the Navajo and Apache Tribes. The growing instability of the secular form of government created by the Spanish along with increasing unrest within the Pueblo Indians caused the Spanish to retreat southward toward El Paso. In so doing, the Spanish also forced a large number of Tiwa Indians from the Isletta Pueblo to accompany them.

Upon reaching the El Paso Del Norte area, this rather bedraggled band of Spaniards and Tiwas established camp at what is now known as El Paso, TX. The Tiwas were given a tract of land on which to establish a new Pueblo, called Isleta, or Ysleta Del Sur—a fact which, occurring in 1680, surely makes this the oldest town in the entire State of Texas. A Catholic church was built by the Tiwas and St. Anthony's mission, erected in 1682, still stands today as a silent witness to these events.

In 1751, Spain granted the land of Ysleta Pueblo to its inhabitants as communal property, measuring 1 league in all directions from the church doors. In 1825, the Mexican State of Chihuahua confirmed this grant. Later, in 1854, the State of Texas confirmed the Ysleta grant and, at the same time, granted the inhabitants of the town additional land to compensate for the loss of land resulting from a change of course in the Rio Grande River. The 1854 act also provided that a patent should be issued to the tribe.

On May 3, 1871, the Texas Legislature enacted "an act to incorporate the town of Ysleta in El Paso County." The boundaries of the new town were coextensive with those of the Ysleta grants. This act purported to authorize the newly incorporated town to issue patents to all lands to actual settlers or any person who desired to become a settler. Through this insidious legal device, all but 3 of the more than 23,000 acres of the Ysleta grant were patented to non-Indians. The Tiwas at this point, Mr. Speaker, were a people without a home.

From this time until the late 1960's, the Tiwas continued to reside in this same area and maintained their ethnic identification as well as their basic political system, although this cultural integrity served to place them at a socioeconomic disadvantage frequently. Also during this time there is a record of increasing interactions between the Tiwas and both the U.S. Government as well as the State of Texas.

In May 1967, the Texas Legislature enacted a bill which authorized the State to accept a transfer of Federal trust responsibilities to the Tiwa Indian Tribe. In the act of April 12, 1968, Congress provided that the Federal trust responsibility, if any, be transferred to the State of Texas.

Pursuant to these acts, the State of Texas administers the Tiwa Tribe's affairs. The State holds the 100-acre reservation in trust for the tribe and, through the Texas Indian Commission, provides a superintendent as well as administrative and economic development funding for the tribe.

It now appears, however, that the State may renounce the obligations it undertook in 1967 and 1968. The Texas attorney general has issued a formal opinion in which he concludes that the State may not maintain a trust relationship with an Indian tribe. While this opinion focused specifically on a cause of action accruing on the Alabama-Coushatta Reservation, the implications for the Tiwas are most disturbing. Their lands are provided protection only by State law. Thus, the restricted status of the reservation, as well as continued State funding for tribal government and management of the reservation, is seriously threatened.

Mr. Speaker, what this legislation seeks, on behalf of both the Tiwas and the Alabama-Coushattas, is the restoration of the Federal trust relationship in order to provide adequate protection of the reservations and to ensure the continued survival of their respective tribal governments. Just as important, is the simple fact that this legislation will guarantee both tribes the ability to retain their heritage and their way of life—a way of life too precious to turn our collective backs on.

In searching for some possible clue to explain the lack of awareness of the Tiwas by the Federal Government, it is difficult to isolate a particular reason for this oversight. Since the Tiwas peacefully coexisted with the white man, and in fact served as scouts and guides for the U.S. Army on several occasions, the United States never found it necessary to enter into a formal treaty with the tribe. Other possible reasons for the Tiwas escaping Federal awareness seem rooted to a variety of causes, including the fact that they never occupied land subject to Federal jurisdiction, they were far removed from other known Indian groups, and when Federal recognition was conferred on their distant ancestors—the Pueblo Indians—the Tiwas were residents of Texas while Texas was part of the Confederacy. Just possibly, Mr. Speaker, the Tiwas were simply too proud and retiring a people to have to request something that they knew they already possessed.

In examining the Department of Interior's written testimony. I note with interest the assertion that the U.S. Government has never formally recognized the Tiwas and that for this reason, Congress was asked to defer action on this legislation until the tribe is officially acknowledged to be legitimate native Americans. I believe that the Department has apparently misread the legislative history and intent of the 1968 act of Congress regarding the Tiwa Tribe.

The 1968 act has, as one of its purposes, provided recognition to the Tiwas of El Paso as a band of American Indians—this is so stated in the Senate committee report accompanying the legislation. The Interior Department apparently, and mistakenly, premises its position on the fact that the legislation did not make the Tiwas eligible for Federal services. The legislation does, however, provide recognition to the tribe as a legitimate one.

On a final note, Mr. Speaker, I would like to direct the house's attention to the broad-based support throughout the involved communities, the State of Texas, and the numerous native American groups for this piece of legislation. This support was evidenced to the interior committee through the diverse groups which testified as well as by the resolutions of support which were entered into the Record. This bill represents the culmination of almost 2½ years of work by all the interested parties and I am proud to represent these groups as well as my west Texas constituents in seeking this bill's passage.

Mr. Speaker, I insert in the Record the following letters and resolutions in support of this legislation:

The Senate of
The State of Texas,
Austin, TX, January 11, 1985.

Don B. Miller,
Native American Rights Fund,
Boulder, CO.

Dear Mr. Miller: Thank you very much for your highly informative letter. It alerted me to the pressing problem that faces the Tigua and Alabama-Coushatta Tribes.

The bill proposed by U.S. Representative Coleman is potentially of great benefit to the Tigua and Alabama-Coushatta Tribes. It will provide them a defined status and will also make them eligible for federal benefits which they do not currently have. From a federal and state perspective, the bill will be beneficial, because it will establish the standing of the Tribes and clarify the uncertainties created by JM-17.

Thank you for focusing my attention on the proposed federal legislation and the current situation of the Alabama-Coushatta and Tigua Indian Tribes. Please contact me if you should need my assistance.

Sincerely,

H. Tati Santiesteban.

[From the El Paso Times, May 9, 1985]

TIGUAS DESERVE FEDERAL PROTECTION

The Tigua Indians of Ysleta del Sur Pueblo have made remarkable strides in improving their living conditions in the last decade. But that progress may be stopped if Texas withdraws its support of Indian tribes in the state.

For that reason, Congress should pass legislation by U.S. Rep. Ron Coleman that would put the Tiguas under federal jurisdiction.

U.S. Rep. Morris Udall, D-Ariz., chairman of the House Interior Committee, has formally requested hearings on the bill.

Since 1968, when U.S. Congress approved the transfer of any and all federal trust responsibilities to Texas, the state has held the Tigua's 100-acre reservation in trust. It also provided administrative and economic development funding through the Texas Indian Commission. And much has been done. The Tiguas have made their reservation one of the area's top tourist attractions. More Tiguas are at work, and more are completing their education.

But because of a ruling by Texas Attorney General Jim Mattox, it all could come to a halt. Last year, Mattox issued a formal opinion in which he disputed the special relationship between the state, the Tiguas and Texas' other Indian tribe, the Alabama-Coushatta tribe near Livingston. In essence, he said the maintenance of the relationship, i.e. funding support, would run counter to the intent of the Equal Rights Amendment of the Texas Constitution.

As a result, the Tiguas, and the Alabama-Coushattas, could find that their lands are without protection. Their reservations, as well as state funding, could be jeopardized.

For that reason, Coleman has introduced legislation that would give this trust back to the federal government, so both tribes can receive the benefit of government assistance and support. His move has the support of the Tiguas and Alabama-Coushattas, state Sen. Tati Santiesteban, plus every major Indian group in the country, including the Native American Rights Fund.

The tribe has come too far to withdraw support. With assistance, the tribe might one day be able to reach the goal it wants, self-sufficiency.

El Paso Herald-Post,
El Paso, TX, May 10, 1985.

Manny Silvas,
Tribal Governor,
Tigua Indian Reservation,
El Paso, TX.

Dear Mr. Silvas: This letter is to let you know that I support efforts to put the Tigua Indians of Ysleta del Sur Pueblo under federal jurisdiction.

The move would be especially important, I believe, if state support is cut off, as is now threatened.

I am aware of the many good things being achieved at the reservation. It has become a favored tourist spot in El Paso. I my self enjoy visiting the reservation. The restaurant is excellent, with good food and a pleasant atmosphere. I have found the reservation educational and enriching for my children. It provides an opportunity for them—and other youngsters who live in or visit this city—to be exposed to another culture.

Beyond that, I know from the facts reported in the media, as well as from my own impressions and conversations with Tiguas, that the tribe has made great strides against tremendous odds. Without governmental support, I fear these gains could be negated, and that the most desperate poverty and misery could ensue. This result would be a horror for the tribe and a blow to the whole city.

I hope Congress can be made aware of how hard you and others have worked, how successful you have been, and what a tragedy it would be to yank the rug from under you at this time of high hope and achievement.

Sincerely,

Jay Ambrose.

EL PASO CONVENTION AND VISITORS BUREAU RESOLUTION

Whereas, the Pueblo of Ysleta Del Sur commonly known as the Tigua Indian Community has a long and distinguished record in our community being the first permanent settlers herein; and, Whereas, they have constantly been of service to this area first acting as scouts, guides and troops protecting this community from hostile Indians; and,

Whereas, they served with great distinction as scouts for the United States Cavalry and the Texas Rangers; and,

Whereas, they have maintained their tribal traditions and government and identify in spite of all adversity,

Now, therefore, in recognition of the esteem by which they are held by the citizens of the City of El Paso, the El Paso Convention and Visitors Bureau does hereby endorse the passage of House Resolution 1344 introduced by Congressman Coleman to restore the Ysleta Pueblo Del Sur to restore Federal recognition to the Ysleta Pueblo Del Sur.

RESOLUTION

Whereas, the Pueblo of Ysleta Del Sur commonly known as the Tigua Indian Community has a long and distinguished record in our community being the first permanent settlers herein; and,

Whereas, they have constantly been of service to this area first acting as scouts, guides and troops protecting this community from hostile Indians; and,

Whereas, they served with great distinction as scouts for the United States Cavalry and the Texas Rangers; and,

Whereas, they have maintained their tribal traditions and government and identity in spite of all adversity,

Now, therefore, in recognition of the esteem by which they are held by the citizens of El Paso, Texas, the El Paso City Council does hereby endorse the passage of House Resolution 1344 introduced by Congressman Coleman to restore the Ysleta Pueblo Del Sur to restore Federal recognition to the Ysleta Pueblo Del Sur.

RESOLUTION

Whereas, the Pueblo of Ysleta Del Sur commonly known as the Tigua Indian Community has a long distinguished record in our community being the first permanent settlers herein; and,

Whereas, they have constantly been of service to this area first acting as scouts, guides and troops protecting this community from hostile Indians; and,

Whereas, they served with great distinction as scouts for the United States Cavalry and the Texas Rangers; and,

Whereas, they have maintained their tribal traditions and government and identity in spite of all adversity,

Now, therefore, in recognition of the esteem by which they are held by the citizens of El Paso County, Texas, the Commissioners' Court of El Paso County, Texas, does hereby endorse the passage of House Resolution 1344 introduced by Congressman Coleman to restore Federal recognition to the Pueblo of Ysleta Del Sur.

TEXAS INDIAN COMMISSION RESOLUTION TIC-85-004

Whereas, the Texas Indian Commission is the Trust Agency of the State of Texas with regard to the Alabama-Coushatta and Tigua Indian Tribe, and,

Whereas, its main duty and responsibility as trustee is to assist these tribes in the development of their human and economic resources by improving their health, educational, agricultural, business, and industrial capacities and to insure the protection of their lands, resources, and people, and,

Whereas, the Commission has sought and will continue to seek to work with the tribes in a cooperative, constructive manner, to meet its legal and moral obligations, and to protect the interests of the State of Texas and the Tribes in executing these responsibilities and duties, now,

Therefore, the Commission, after having thoroughly studied H.R. 1344 (R. Coleman and C. Wilson) as introduced in the United States Congress, does agree that it is not opposed to the passage of said legislation provided that it is in the best interests of the Tribes and the insurance of their future good and welfare.

RESOLUTION OF THE NATIONAL CONGRESS OF AMERICAN INDIANS

Whereas, the Pueblo at Ysleta del Sur in El Paso, Texas, was established in 1680 and in 1751 Spain granted the land of the Ysleta Pueblo to its inhabitants as common property, which grant was confirmed by the Mexican State of Chihuahua; and,

Whereas, the State of Texas in 1854 also confirmed and provided a patent to be issued to the Tigua Tribe; and,

Whereas, the Texas Legislature in 1871 enacted an "Act to Incorporate the Town of Ysleta," which had the effect of transferring the Ysleta grants to non-Indian patents, and the Tribe lost possession of its aboriginal lands through a gradual process of encroachment by non-Indians, pursuant to State patents; and

Whereas, the United States in 1968 provided that the federal trust responsibility was transferred to the State of Texas and, since 1968, the State of Texas has acquired over 100 acres of land which it now holds in trust as a Reservation for the Tribes; and,

Whereas, the Tigua Tribe is now subject to the Attorney General of Texas' Opinion No. JM-17, which has held that the trust relationship between the State and the Alabama-Coushatta Tribe is unconstitutional, in that the Alabama-Coushattas are no longer a Tribe and their lands are no longer an Indian Reservation; and,

Whereas, the restricted/protected status of the Tribe's Reservation is threatened; and,

Whereas, the Tigua Tribe is seeking federal restoration to assure protection of its lands;

Now, Therefore, Be It Resolved, that the National Congress of American Indians supports the Tigua Tribe of Texas in its efforts to attain federal restoration.

PUEBLO OF ISLETA

Resolution 84-051

Whereas, the Tribal Council of the Pueblo of Isleta, New Mexico is the duly recognized legal legislative body of said Pueblo of Isleta, New Mexico is the duly recognized legal legislative body of said Pueblo and as such is empowered to speak and act for and on behalf of the members of the Pueblo, and,

Whereas, the Pueblo of Isleta does acknowledge and confirm that the people of Ysleta de Sur Pueblo in Texas, also know as the Tiwa (Tigua) Indian Tribe of Texas, are direct bloodline descendants of Pueblo Indian People forcibly removed and relocated form Isleta Pueblo, New Mexico in 1680 and 1681 to their present site in El Paso County Texas, and,

Whereas, the People of Ysleta de Sur Pueblo constitute a Pueblo by all definitions, by virtue of having maintained their historical, legal, cultural, and religious character and existence from 1680 to the present, and,

Whereas, the continued, existence of Ysleta del Sur Pueblo, its land, and its people has been legally recognized and confirmed by the United States Congress through P.L. 90-287 and by the State of Texas through H.B. 888 and H.B. 654, and,

Whereas, the same P.L. 90-287 which did transfer trust responsibility for Ysleta del Sur Pueblo from the Federal Government to the State of Texas is discriminatory and blatantly unfair in that it deprives the people of Ysleta del Sur Pueblo from enjoying all the rights, benefits, protections, and services normally guaranteed to Pueblo People and other Indians because of their status as Indians, and,

Whereas, Texas State Attorney General's Opinion JM-17, dated March 22, 1983, has ruled that the longstanding trust relationship between the Texas Tribes and the State of Texas is illegal and this ruling is a direct threat to and an attack on the very survival of the Ysleta del Sur Pueblo and its people, and,

Whereas, Congressman Ron Coleman of Texas has introduced H.R. 6391, entitled The Restoration of Federal Recognition to the Ysleta del Sur Pueblo and the Alabama and Coushatta Indian Tribes of Texas, legislation that would restore complete federal recognition and trust status to the Ysleta del Sur Pueblo and its People, and,

Whereas, H.R. 6391 would guarantee the rights, benefits, protection and services to the Ysleta del Sur Pueblo and its people which affect Indians because of their status as Indians, and,

Whereas, the restoration of full federal recognition and trust status to Ysleta del Sur Pueblo would serve not only to afford and guarantee to it and its people the protections and amenities to which they are rightfully entitled as a Pueblo Indian People, but would help to insure the continued existence and ultimate survival of the Pueblo itself, and,

Whereas, Ysleta del Sur Pueblo Resolution TC-04-84 was adopted on October 19, 1984 which formally disclaims any lands associated with the Isleta Pueblo New Mexico or any lands within the State of New Mexico, now,

Therefore, be it resolved, that the Tribal Council of the Pueblo of Isaleta acting in their legal capacity does hereby endorse, without reservation, the efforts of Ysleta del Sur Pueblo to attain full federal trust status and recognition and does further endorse the passage of H.R. 6391 as pertains to Ysleta del Sur Pueblo and/or other appropriate legislation necessary to accomplish this action, and,

Be it further resolved, that the Pueblo of Isleta does urge the Congress of the United States to appropriate such additional funds as necessary to provide for such protections, benefits, and services to the people of Ysleta del Sur Pueblo as they should be entitled to because of their status as Indians, and,

Be it further resolved, that the Pueblo of Isleta does commit its continuing assistance to Ysleta del Sur Pueblo in this effort, and,

Be it further resolved, that the Pueblo of Isleta calls upon the All Indian Pueblo Council and its member Pueblos to unite in the effort to support the Ysleta del Sur Pueblo in guaranteeing their just rights as a Pueblo, and,

Be it further resolved, that the Pueblo of Isleta hereby recommends and requests the New Mexico Congressional Delegation to support the passage of H.R. 6391 and/or other appropriate legislation as should be introduced in the Federal Congress to restore full federal trust to Ysleta del Sur Pueblo.

Texas Indian Commission,
El Paso, TX, October 19, 1984.

Don Miller,
Native American Rights Fund,
Boulder, CO.

Dear Mr. Miller: As per your request, I have reviewed H.B. 1232, legislation pertaining to the reestablishment of the trust relationship between the Alabama-Coushatta and Tigua Indian Tribes of Texas and the United States, introduced in the Congress of the United States by Representatives Ron Coleman and Charles Wilson. Additionally, I have had it reviewed by our staff and have received an appropriate review and briefing on its content, intent, and affect.

Based on our evaluation and understanding of this legislation, its background, and purpose, we find it to be appropriate and necessary for the protection of the Tribes and their people, lands, and resources.

The Texas Indian Commission will continue to work with the Tribes and all parties concerned to insure that the interests of the State and the Tribes are fully protected.

We are ready now and will continue to work with the Tribes in whatever degree and level of involvement and type relationship is determined to be most proper and beneficial for the protection of their rights, lands, and resources, and to assist them in serving the needs of their people.

I would invite you to meet with myself and the Commission staff for discussion of the legislation as soon as would be practicable.

Sincerely,

Edd Fifer,
Chairman.

Mr. DeWINE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is my understanding, after discussing this matter with the gentleman from Arizona [Mr. McCain] and other members of the committee that the minority has no objection to the bill and supports the bill.

Mr. McCAIN. Mr. Speaker, the pueblo at Ysleta Del Sur was established in 1680 following the Pueblo Indian revolt against the Spanish.

The Alabama and Coushatta Tribes were originally part of Creek confederacy and entered the east Texas area in the late 1700's. The State of Texas purchased land for the tribe in 1854—as thanks for their part in the Texas war of independence—and the tribes were recognized by the United States in 1928.

In 1954, the United States terminated its relationship with the Alabama and Coushatta Tribes and in 1968 terminated its relationship—whatever responsibility—with the Pueblo Ysleta Del Sur. Texas accepted the trust responsibility for the tribes.

However, in 1983 the Texas attorney general issued an opinion that the trust relationship violated the equal rights amendment to the Texas constitution. Thus the trust protections of the reservations are in jeopardy.

H.R. 1344 would restore the Federal trust status to the Pueblo Ysleta Del Sur and the Alabama and Coushatta Tribes. I urge my colleagues to support the bill.

Mr. UDALL. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona [Mr. Udall] that the House suspend the rules and pass the bill, H.R. 1344, as amended.

The question was taken; and—two-thirds having voted in favor thereof—the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

CONGRATULATING PRESIDENT-ELECT CEREZO OF GUATEMALA ON WINNING HIS ELECTION AND EXPRESSING CONGRESSIONAL SUPPORT

Mr. BARNES. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 245) congratulating the President-elect of Guatemala, Marco Vinicio Cerezo, on his election and expressing the support of the Congress for the new Government of Guatemala that will be inaugurated January 14, 1986, as amended.

The Clerk read as follows:

H. Con. Res. 245

Whereas the Government of Guatemala has facilitated the return to civilian rule through free, fair, and open Presidential elections;

Whereas Constituent Assembly elections were completed in July 1984 and the Assembly approved a Constitution in May 1985, and congressional and municipal elections were successfully held on November 3, 1985;

Whereas on December 8, 1985, the people of Guatemala elected their first civilian President since 1966;

Whereas this election gives the people of Guatemala their first chance for genuine civilian rule since the coup of 1954;

Whereas the new civilian government that will be inaugurated on January 14, 1986, will have an opportunity to bring to an end the gross violations of human rights that have been characteristic of previous governments and to achieve a better life for the Guatemalan people by promoting equitable economic growth;

Whereas the achievement of these objectives will require the full support of the United States for the efforts of the new government to assert civilian control over the military and to reorient the economy; and

Whereas it is in the interest of the United States to support the new government in these efforts; Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) congratulates the President-elect of Guatemala, Marco Vinicio Cerezo, on his election;

(2) expresses its support for the new government that will be inaugurated on January 14, 1986; and

(3) urges the President to ensure that United States policy toward Guatemala fully supports the objectives of civilian control of the military and a better life for the Guatemalan people through equitable economic growth.

The SPEAKER pro tempore. Is a second demanded?

Mr. GILMAN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Maryland [Mr. Barnes] will be recognized for 20 minutes and the gentleman from New York [Mr. Gilman] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Maryland [Mr. Barnes].

Mr. BARNES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I will not take up the time of the House with a lengthy statement on this resolution, because it is noncontroversial, it simply congratulates my good friend, Vinicio Cerezo, upon his election as President of Guatemala, expresses the support of the Congress for President-elect Cerezo, and urges the administration to give him its full support.

When I became chairman of the Subcommittee on Western Hemisphere Affairs 5 years ago, Mr. Speaker, Vinicio Cerezo was a hunted man—hunted by his own government for the crime of practicing democratic politics. When he visited the United States, he would come to see me in my office, and we would talk about the attempts on his life, and about how many officials and activists of his Christian Democratic Party had been killed recently. And we would talk about how the United States could support Guatemala's democratic politicians and a transition to democratic rule in that country. It was in large part because of my friendship with Vinicio Cerezo that I led our successful efforts in the House to prevent the resumption of military aid to Guatemala's military regimes. I hardly dared to dream back in those days that this incredibly courageous man would become Guatemala's first democratically elected President in nearly two decades.

But now it has come to pass. Because of the election of this man, Guatemala has been transformed overnight from Central America's pariah, to Central America's latest hope for achieving a government where the people rule, where the military is subject to effective civilian control, and where citizens do not live in fear of their own rulers.

The last time Guatemala had a chance like this was more than 30 years ago. In an act that will live in infamy, the United States helped abort that chance when we helped overthrow President Jacobo Arbenz in 1954. Now history has given Guatemala—and us—another opportunity. Mr.

Speaker, I pray that we will not blow it again.

As the resolution states, the Cerezo government will have an opportunity to bring gross violations of human rights to an end and to achieve a better life for the people of Guatemala by promoting equitable economic growth. But—as the resolution also states—the achievement of these objectives will require the full support of the United States for President Cerezo's efforts to assert control over the military and to reorient the economy. I urge President Reagan to give this support—and not to succumb to the temptation of working directly with the military, or of trying to impose any particular economic model on Guatemala.

Mr. Speaker, in the dark days of the regime of Gen. Romeo Lucas Garcia, when the killing was at its height, a State Department official was heard to remark, "If only we had an Arbenz now. We are going to have to invent one, but all the candidates are dead." He was wrong. A candidate survived, and he has just been elected by his people to lead Guatemala out of its nightmare. President-elect Cerezo has a heavy responsibility, and so do we. I know he will meet his; I hope we will meet ours.

Mr. FASCELL. Mr. Speaker, will the gentleman yield?

Mr. BARNES. I yield to the distinguished chairman of the Committee on Foreign Affairs.

Mr. FASCELL. Mr. Speaker, I first would like to commend the gentleman from Maryland [Mr. BARNES] for bringing this resolution before the House today and for his efforts over the past several years to encourage the democratization process in Guatemala.

The human rights situation became so deplorable in 1977 that the United States terminated military assistance to that country. Several years ago the climate began to change in Guatemala, and Mr. BARNES, along with support from myself and other members of the Committee on Foreign Affairs, had taken action to support the process of restoring democratic institutions and a greater respect for human rights.

The purpose of this resolution is to commend the people of Guatemala for the recently held election and to offer the support of the American people to President-elect Marco Vinicio Cerezo. Mr. Cerezo has a difficult but historic task before him, to bring legitimacy and stability to the fledgling democratic institutions and to reverse the economic malaise which is afflicting the Guatemalan economy. Mr. Cerezo will be in Washington tomorrow. And we look forward to meeting with him to discuss the prospects for political and economic development in this country.

Mr. Speaker, I urge support for the resolution.

Mr. BARNES. I thank the distinguished chairman of the committee, and, Mr. Speaker, I would note that we had strong bipartisan support for this resolution in the committee.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I commend the distinguished chairman of the Subcommittee on Western Hemisphere Affairs for bringing this measure to the floor, and it is with real pleasure that I rise in support of House Concurrent Resolution 245, congratulating the President-elect of Guatemala, Marco Vinicio Cerezo, on his election, and expressing the support of Congress for the new Government of his country.

Mr. Speaker, Guatemala has perhaps the most troubled history of all of the nations of Central America. Its military has seen fit to intervene in its political affairs countless times in the past. Nevertheless, earlier this month, the people of Guatemala, in free, fair, and open elections, elected Marco Vinicio Cerezo. Moreover, in similarly free, fair, and open elections, the people of Guatemala have elected a constituent assembly, and congressional and municipal officials. The military government, which has unquestionably committed or allowed abuses in the past, did allow these elections to be run openly and fairly and is prepared to allow a transition to civilian rule to occur, and that is to their credit.

It is important that we pass this resolution, Mr. Speaker, to underline our approval of the process of a military turning power over to civilians. We have observed this process, in recent years, in El Salvador, and Argentina, among other places. We have not seen any Marxist states return to democratic rule, I might add, which is perhaps the reason it is crucial to prevent any states in this hemisphere from falling under Moscow's sway.

Tomorrow, we will have the pleasure of meeting President-elect Vinicio Cerezo in our Committee on Foreign Affairs. At that time we will have an opportunity to express our good wishes and our support directly. Nevertheless, Mr. Speaker, we must bear in mind that Guatemala has a long road ahead of it before it is a fully stable, functioning democracy. It must continue to work to curb human rights abuses, develop its economy, and promote social justice. The American people hold out their hand in friendship and support to their newest neighbor under civilian rule, Guatemala.

Mr. BROOMFIELD. Mr. Speaker, I support House Concurrent Resolution 245, which congratulates the President-elect of Guatemala, Marco Vinicio Cerezo, on his election and expresses the support of the Congress for the new Government of Guatemala that will be inaugurated on January 14, 1986. On December 8, 1985, the Guatmalan people elected their first civilian President since 1966. The new civilian Government will have an opportunity to improve the quality of life in Guatemala and allow the people of that country a voice in their Government.

It is certainly in the interest of the United States to support the efforts of yet another democratic government in Central America. House Concurrent Resolution 245 urges the President to ensure that United States policy toward Guatemala fully supports the objectives of civilian control of the military and a better life for the Guatemalan people through equitable economic growth. I support this resolution and I would like to express my appreciation to the gentleman from Maryland [Mr. BARNES] and the gentleman from California [Mr. LAGOMARSINO] for their efforts in sponsoring and fine tuning this measure during Foreign Affairs Committee consideration.

Mr. LAGOMARSINO. Mr. Speaker, I rise in support of House Concurrent Resolution 245 congratulating the President-elect of Guatemala and expressing the support of the Congress for the new Government of Guatemala.

The successful elections held November 3 and December 8 in Guatemala will leave only Nicaragua as the single remaining country in Central America without a democratic government.

[Panama does not consider itself to be part of Central America.]

The trend in the region is clearly toward democracy, and we in the Congress should do everything we can to encourage and strengthen the process. It is for that reason that I have taken such particular interest in this resolution.

The current government in Guatemala is a military government led by Gen. Oscar Mejia. It has been his commitment to return his country to civilian rule and he should be commended for his backing of the process. Certainly, without his commitment to democracy, there would be no hope for a civilian administration assuming power. There's also no question that the military will continue to play a stronger role in Guatemala, and I believe we should encourage the military to follow the example of the military in El Salvador which has supported the Government and not dominated it.

The new Government of President-elect Cerezo will need the support and encouragement of the Congress in efforts to gain the cooperation of the military. It is important that the Congress not tie his hands as he moves forward at a very delicate time of transition in Guatemala. President-elect Cerezo is expected to be in Washington this week, meeting with Members of the Congress. I hope the Members he meets with will offer their support and encouragement so that the democratic process in Guatemala can be strengthened.

As we consider this resolution, I would also like to call attention to House Concur-

rent Resolution 200, authored by my colleague and good friend Bob Livingston and cosponsored by myself and some 50 other Members of the House. The Livingston resolution also commended the Government of Guatemala for leading that country toward democracy under freely elected civilian leadership. Important elements of that resolution have been incorporated into House Concurrent Resolution 245, so I am pleased that we have been able to develop legislation that carries broad ranging support in the House.

I urge my colleagues to join in supporting this resolution.

Mr. BARNES. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Maryland [Mr. Barnes] that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 245, as amended,

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BARNES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the concurrent resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

□ 1410

IN SUPPORT OF UNIVERSAL ACCESS TO IMMUNIZATION BY 1990 AND TO ERADICATE CHILDHOOD DISEASES

Mr. FASCELL. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 211) in support of universal access to immunization by 1990 and accelerated efforts to eradicate childhood diseases, as amended.

The Clerk read as follows:

H. Con. Res. 211

Whereas the United Nations Childen's Fund (UNICEF) reports that four million children die annually because they have not been immunized against the six major childhood diseases: polio, measles, whooping cough, diptheria, tetanus, and tuberculosis;

Whereas at present less than 20 percent of children in the developing world are fully immunized against these diseases;

Whereas each year more than five million additional children are permanently disabled and suffer diminished capacities to contribute to the economic, social, and political development of their countries because they have not been immunized;

Whereas ten million additional childhood deaths from immunizable and potentially immunizable diseases could be averted annually by the development of techniques in biotechnology for new and cost-effective vaccines;

Whereas the World Health Assembly, the Executive Board of the United Nations Children's Fund, and the United Nations General Assembly are calling upon the nations of the world to commit the resources necessary to meet the challenge of universal access to childhood immunization by 1990;

Whereas the United States, through the Centers for Disease Control and the Agency for International Development, joined in a global effort by providing political and technical leadership that made possible the eradication of smallpox during the 1970s;

Whereas the development of national immunization systems that can both be sustained and also serve as a model for a wide range of primary health care actions is a desired outcome of our foreign assistance policy;

Whereas the United States Center for Disease Control headquartered in Atlanta is uniquely qualified to provide technical assistance for a worldwide immunization and eradication effort and is universally respected;

Whereas at the 1984 "Bellagio Conference" it was determined that the goal of universal child immunization by 1990 is indeed achievable;

Whereas the Congress, through authorizations and appropriations for international health research and primary health care activities and the establishment of the Child Survival Fund, has played a vital role in providing for the well-being of the world's children;

Whereas the Congress has expressed its expectation that the Agency for International Development will set as a goal the immunization by 1990 of at least 80 percent of all the children in those countries in which the Agency has a program;

Whereas the United States private sector and public at large have responded generously to appeals for support for national immunization campaigns in developing countries: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That (a) the Congress calls upon the President to direct the Agency for International Development, working through the Centers for Disease Control and other appropriate Federal agencies, to work in a global effort to provide enhanced support toward achieving the goal of universal access to childhood immunization by 1990 by—

(1) assisting in the delivery, distribution, and use of vaccines, including—

(A) the building of locally sustainable systems and technical capacities in developing countries to reach, by the appropriate age, not less than 80 percent of their annually projected target population with the full schedule of required immunizations, and

(B) the development of a sufficient network of indigenous professionals and institutions with responsibility for developing, monitoring, and assessing immunization programs, together with other primary health care programs, and continually adapting strategies to reach the goal of preventing immunizable diseases; and

(2) performing, supporting, and encouraging research and development activities, both in the public and private sector, that will be targeted at developing new vaccines and at modifying and improving existing vaccines to make them more appropriate for use in developing countries.

(b) In support of this global effort, the President should appeal to the people of the United States and the United States private sector to support public and private efforts to provide the resources necessary to achieve universal access to childhood immunization by 1990.

The SPEAKER pro tempore. Is a second demanded?

Mr. SMITH of New Jersey. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Florida [Mr. Fascell] will be recognized for 20 minutes and the gentleman from New Jersey [Mr. Smith] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. Fascell].

Mr. FASCELL. Mr. Speaker, I yield myself such time as I may consume.

GENERAL LEAVE

Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Concurrent Resolution 211.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. FASCELL. Mr. Speaker, I rise in support of House Concurrent Resolution 211, which calls for universal access to immunization by 1990 and other efforts to eradicate childhood diseases, and take this opportunity to commend the gentleman from Ohio [Mr. Hall] sponsor of this measure, Mr. Smith of New Jersey, who has taken a great interest in this issue, and the gentleman from Pennsylvania [Mr. Yatron] chairman of the Subcommittee on Human Rights and International Organizations, who has shown leadership in promoting child survival.

This resolution calls our attention to a very attainable goal—eradication of the six basic childhood diseases which currently kill 4 million children annually and afflict more than 5 million others. In authorizing the Child Survival Fund as a central part of our development assistance programs, the United States has given increased priority to this goal. The United States, working through the Agency for International Development and through its contributions to such international organizations as UNICEF and the World Health Organization, [WHO], is already an active participant in programs around the world to make vaccines more effective and more available in developing countries. This resolution recognizes that perseverance in this global effort can make possible the achievement of this most laudable goal.

I urge support for this resolution.

Mr. SMITH of New Jersey. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. I thank the gentleman for yielding time to me.

Mr. Speaker, I want to commend the gentleman from New Jersey and the gentleman from Ohio for their leadership in this measure.

Mr. Speaker, last week, along with several of my colleagues, I introduced the Child Immunization Act of 1986, legislation to ensure that the world's children are immunized by 1990. The bill calls for a total of $100 million: $50 million for immunization programs and $50 million for child survival activities. This bill is the proper legislative response to House Concurrent Resolution 211. Most of the infant deaths in developing countries are caused by a combination of malnutrition and infection. Children weakened by measles and other infectious diseases become quickly malnourished which makes them susceptible to further infections.

Every minute, eight children under the age of 5 die in the developing world of six diseases: measles, tetanus, whooping cough, tuberculosis, diphtheria, and polio. Eight other children are crippled or rendered deaf, blind, or mentally retarded. WHO estimates that the present annual death toll among Third World children, due to these six diseases, is 3.6 million. A similar number are crippled or handicapped. Two children out of 10,000 die of measles in the United States, but in the developing world, measles kill 3 out of 100.

If we can prevent immunizable diseases, malnutrition will not be so severe.

Last month, the House Select Committee on Hunger, responding to a wave of public interest and concern, held hearings on the subject of global immunization. During our investigation we learned that Colombia immunized in just a few months three-quarters of its young children against five major diseases in a massive campaign spread over 3 national vaccination days, and that Niger and Sudan are also well on the road to complete immunization.

In addition, it was brought to our attention that Rotary International plans to eradicate polio by committing $120 million to a worldwide effort it will help coordinate around the globe. The $50 million that our legislation would authorize will help immunize all the world's children by 1990, and would place America in a leading role in this historic effort.

In early October, at the United Nation's 40th anniversary, the world community went on record rising to the challenge of universal immunization by 1990.

As Dr. Stephen Joseph, of UNICEF, put it:

> What could be a more appropriate demonstration of the international solidarity aspired to by the United Nations on its 40th than to give this gift to our children? What could be a better starting point for our children's view of this one small planet than a world free of polio, of tetanus, and of measles? As we have the means within our grasp, we cannot afford not to reach for universal immunization by 1990.

Accordingly, I urge my colleagues to accept the resolution.

Mr. SMITH of New Jersey. Mr. Speaker, I rise today in full support of House Concurrent Resolution 211, a resolution proclaiming U.S. support of the goal to achieve access to universal immunization by 1990 and to accelerate efforts to eradicate childhood diseases.

Mr. Speaker, as an original cosponsor of this legislation and as a floor manager of the bill, I would like to take a moment to commend my good friend from Ohio, Mr. HALL, for his heartfelt commitment and leadership in this effort which will undoubtedly save the lives of thousands of children around the world. Through his work on the Select Committee on Hunger, and through his leadership on the floor, Mr. HALL has supported and secured the passage of various pieces of legislation which have enhanced and protected the lives of children who are very vulnerable and susceptible to painful, crippling, and even fatal diseases.

In addition, Mr. Speaker, I would like to recognize the active role our colleague from New York, Mr. GILMAN, has played in this issue. In fact, I am proud to be working with both Mr. GILMAN and Mr. HALL on this legislation, as well as on new legislation which not only recognizes the effort of worldwide immunization by 1990, but also identifies the mechanism that the United States can use to participate in and help facilitate the achievement of this lifesaving goal.

Mr. Speaker, clearly, one of the most pathetic, disturbing tragedies of our time is the prevalence of sickness, hunger, and even death of the world's children. Just last week, in its 1986 edition of "The State of the World's Children," UNICEF reported that more than 4 million children die each year from polio, measles, diphtheria, tetanus, whooping cough, and tuberculosis. Another 5 million who contract these diseases each year are permanently handicapped or crippled. Furthermore, these children, in less developed countries, have no access whatsoever to the medical, educational, or legal accommodations that one finds here. So, in addition to their poverty, in addition to the problem of contracting these diseases, these children have various complicating forces working against them.

Mr. Speaker, last April, I joined UNICEF officials and Dr. Albert Sabin, originator of the oral polio vaccine, in El Salvador to observe the third and final mass vaccination day. Up to 300,000 children were immunized and, for the first time in history, a cease-fire was declared in the midst of war for the singular purpose of innoculating children. Similarly, in the past 18 months, more than 20 other countries, including Turkey, Brazil, and Ethiopia, have embarked upon mass immunization projects in an effort to protect their children.

While there has been an increased emphasis on immunization projects, we must remember, Mr. Speaker, that still only 20 percent of the world's children are being reached by present immunization efforts. For this reason, on October 25, 1985, at the United Nations, numerous countries, including the United States, rededicated themselves to the goal of immunizing the world's children by 1990 against the six child-killing diseases. Several speakers, including myself, expressed our gratitude to UNICEF for its leadership in this endeavor and especially to executive director Jim Grant for his tremendous vision and drive. But words and sentiment are not enough. The only true barometer of commitment is performance. Deeds speak louder than words.

Mr. Speaker, I am pleased to point out that language similar to that in House Concurrent Resolution 211 has been included in the continuing resolution we are likely to adopt this week. Furthermore, and perhaps even more importantly, I would like to remind my colleagues that the same continuing resolution also includes an appropriation of almost $50 million for the Child Survival Fund which supports immunization projects around the world. As the sponsor of this year's legislation, which reauthorized the Child Survival Fund and doubled its appropriation (H.R. 1746), I am pleased that the Congress has recognized and supported the benefits which can be attained from immunization programs.

Mr. Speaker, the United States can be proud of its contributions to saving and enhancing the lives of children through the Child Survival Fund and other immunization programs. However, it seems clear that the goal of universal immunization by 1990 may not be realized unless up to $150 million more per year from various sources is pumped into the program.

Mr. Speaker, Canada, Italy, Spain, and more than 30 other countries have pledged their support for universal immunization by 1990, and today, through House Concurrent Resolution 211, we do the same. This resolution clearly helps to promote universal immunization, and may also serve as a forerunner for other legislative initiatives which will deepen the U.S. commitment to innoculating the world's children by 1990.

Again, Mr. Speaker, I would like to commend Mr. Hall for his leadership in this regard. I would also like to commend Mr. Yatron, the chairman of the Human Rights Subcommittee, for his commitment to this issue as well as his steadfast support for the Child Survival Fund and UNICEF. I would like to thank Mr. Fascell, the committee chairman, for his leadership in bringing this bill to the floor of the House.

Mr. FASCELL. Mr. Speaker, I thank the gentleman from New Jersey, and I also want to commend him for his leadership on this issue, as well as the distinguished gentleman from Ohio [Mr. Hall]. I also wish to thank the chairman of the subcommittee, the gentleman from Pennsylvania [Mr. Yatron].

Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. Yatron].

Mr. YATRON. I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in strong support of House Concurrent Resolution 211, as amended, which supports universal access to immunization by 1990 to eradicate childhood diseases. The House Foreign Affairs Committee approved the resolution on December 10 with an amendment that appropriately gives credit to the role that the U.S. Agency for International Development has played in implementing a worldwide child survival strategy.

As the chairman of the Subcommittee on Human Rights and International Organizations which authorizes our Bilateral Child Survival Fund, as well as our voluntary contributions to the United Nations including UNICEF, I cannot underscore enough the threat posed to the world's children by lethal diseases that could be prevented.

According to UNICEF and its executive director, James P. Grant, approximately 4 million children die annually because they have not been immunized against the six major childhood diseases: polio, measles, whooping cough, diphtheria, tetanus, and tuberculosis. Another major killer is dehydration caused by severe and seemingly uncontrollable diarrhea.

Mr. Speaker, as serious as these health problems are, they can be eradicated by two inexpensive forms of child protection techniques: oral rehydration therapy and immunization. This is borne out by the fact that in the last year alone these two techniques have saved the lives of over 1 million children.

Mr. Speaker, House Concurrent Resolution 211 outlines a bold immunization strategy based on recommendations which emanated from the 1984 "Bellagio Conference." Participants at this conference, including representatives of U.S. AID, UNICEF, UNDP, WHO, and the Rockefeller Foundation, concluded that the goal of universal immunization by 1990 is indeed achievable. To obtain this important goal, it will take a concerted effort by the Congress and the administration to provide the necessary resources in coordination with the leading international agencies. In short, if the United States does not take the lead in promoting child immunization, what country will?

I want to commend the sponsor of this resolution, Congressman Tony Hall, as well as all the cosponsors, for their unwavering commitment to eradicate childhood diseases. I would also like to commend Chairman Fascell, Congressman Smith of New Jersey, Congressman Solomon, and Congressman Gilman for the crucial role they have played on this important issue. I would be remiss if I did not commend James Grant of UNICEF and our former colleague Brad Morse, of UNDP, for the tireless efforts to achieve the goal of universal immunization.

I strongly urge my colleagues to approve the resolution.

Mr. FASCELL. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. Hall].

Mr. HALL of Ohio. I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of this resolution, House Concurrent Resolution 211. I, along with eight of my colleagues here in the House and three Members of the other body, introduced this resolution to call on the President to support expanded access to immunization programs for all the world's children.

Each year 3½ million children die, and another 4 million are disabled from easily preventable diseases. This means that every minute of every day, 8 children die and 10 more are handicapped from the effects of immunizable diseases.

These tragedies need not occur. Vaccines to prevent six leading diseases which kill and cripple children have existed for years. But less than 20 percent of the 90 million children born in developing countries each year are immunized against these common childhood diseases: measles, polio, tuberculosis, diptheria, pertussis, and tetanus.

The world health community has set a goal of immunizing all the world's children against these diseases by 1990. In October, the United Nations General Assembly passed a resolution calling upon the nations of the world to commit the resources necessary to meet this challenge.

This is not only a very important goal, it is also achievable. The World Health Organization, the United Nations Children's Fund, the United Nations Development Program, the International Bank for Reconstruction and Development, and the Rockefeller Foundation stated at an international meeting in Bellagio, Italy, last year that the goal of universal child immunization by 1990 was indeed possible to reach.

We in the Congress have affirmed our support for immunization programs and other basic health programs for people in less developed countries by funding such agencies as the Agency for International Development and the Center for Disease Control, by our contributions to UNICEF, and by the establishment of the Child Survival Fund. However, to reach the goal of universal immunization, we must enhance our support of these vital efforts.

This resolution was passed unanimously by the Human Rights and International Organizations Subcommittee on December 4, and by the Foreign Affairs Committee on December 11. It calls upon the President to direct all appropriate Federal agencies to work in the global effort to provide enhanced support toward achieving the goal of universal access to childhood immunization by 1990.

I hope you will join us in working toward this goal. The lives and wellbeing of millions of children around the world are at stake.

Mrs. ROUKEMA. Mr. Speaker, I want to commend the sponsors of House Concurrent Resolution 211 for their commitment in seeking better health and nutritional care for all the world's children, especially those most in need. Last month I joined 12 of my colleagues as an original cosponsor of House Concurrent Resolution 211. This resolution calls upon the President to direct the Agency for International Development to work with international health organizations in achieving the goal of universal access to childhood immunization by the year 1990. The efforts of world health officials will concentrate on the eradication of six dangerous childhood diseases: tuberculosis, diphtheria, tetanus, whooping cough, polio, and measles.

A year ago this month I traveled to Ethiopia as a member of a congressional factfinding delegation, with a number of members of the Select Committee on Hunger. The shock of seeing miasmic men, women, and children in the grip of starvation was a soul-searing experience. We could not prevent this tragedy, which was due in large part to history, civil strife, and drought. But there is another tragedy continuing this very day, a malevolent and insidious one. Millions of children die each year from diseases that are entirely preventable. It is this needless human suffering that is the greater tragedy, because we have the immunizational know-how to stop these diseases right now.

The statistics on the six childhood diseases I mentioned and their effects on Third World children are well known, but I would like to reiterate just a few for the

RECORD. Only 2 children in every 10,000 die of measles in the United States, yet this affliction kills 3 of every 100 children in lesser developed countries. The percentage of children immunized against all six diseases in industrialized nations is more than twice as high as for those in the developing world. In 1984, less than 20 percent of the developing world's children were protected against all or most of these infections. Measles is a disease that kills 2 million children a year, tetanus 800,000, and whooping cough 600,000. These numbers are appalling and very discouraging. We must employ every means possible to reduce these numbers significantly.

This is a formidable challenge and raises specific questions. First, we must know what the needs are in developing countries, in terms of vaccines, medical personnel, logistics, and education. Second, we need to ask how we can implement a program that is sustainable, especially in the poorest countries, so that generation after generation can enjoy the benefits of immunization. And finally, we must ask what resources and efforts are necessary to reach our goal.

The costs of immunizing a child are small when you consider that the results pay huge dividends in terms of reduced future health-care costs, reduced infant mortality, and healthier children. High-level political support is essential if we are to make progress in immunizing all the world's children. If other countries, international organizations, and private voluntary organizations maintain a commitment to work with the United States, we can save these children. A redoubling of efforts by all the parties involved will set us on the road to reaching our goal—universal immunization.

Mr. BROOMFIELD. Mr. Speaker, I support House Concurrent Resolution 211 which calls upon the President to direct the Agency for International Development and other appropriate Federal agencies to work in a global effort to provide enhanced support toward the goal of universal access to childhood immunization by 1990.

The United Nations Children's Fund [UNICEF] reports that 4 million children die annually because they have not been immunized against the six major childhood diseases: polio, meales, whooping cough, diphtheria, tetanus, and tuberculosis. As the resolution states, less than one-fifth of children in the developing world are fully immunized against these diseases and each year over 5 million of the remaining children are permanently disabled and suffer diminished capacities to contribute to the economic, social, and political development of their countries. House Concurrent Resolution 211 targets an important and achievable goal of fully immunizing at least 80 percent of the annually projected population in developing countries.

Mr. Speaker, I would like to commend the sponsors of this resolution for their efforts, as well as the gentleman from New York [Mr. SOLOMON] for his thoughtful and constructive amendment that was adopted by the Foreign Affairs Committee during its consideration of this matter. I urge my colleagues to support House Concurrent Resolution 211.

Mr. FASCELL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SMITH of New Jersey. Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. FASCELL] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 211, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

□ 1420

RECESS

The SPEAKER pro tempore. Pursuant to the order of the House of Thursday, December 12, 1985, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 2 o'clock and 20 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 1700

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 5 o'clock and 2 minutes p.m.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill, joint resolution, and concurrent resolution of the House of the following titles:

H.R. 2694. An act designating the U.S. Post Office Building located at 300 Packerland Drive, Green Bay, WI, as the "John W. Byrnes Post Office and Federal Building";

H.J. Res. 450. Joint resolution to authorize and request the President to issue a proclamation designating April 20 through April 26, 1986 as "National Organ and Tissue Donor Awareness Week"; and

H. Con. Res. 230. Authorizing printing of additional copies of the transcript of hearings entitled "1984: Civil Liberties and the National Security State."

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 1784. An act to authorize appropriations for fiscal year 1986 for the operation and maintenance of the Panama Canal, and for other purposes.

The message also announced that the Senate agrees to the amendments of the House to the concurrent resolution (S. Con. Res. 85) "Concurrent resolution to authorize the compilation and printing of the Bicentennial edition of the Biographical Directory of the U.S. Congress."

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate to the text of the joint resolution (H.J. Res. 187) "Joint resolution to approve the 'Compact of Free Association', and for other purposes."

The message also announced that the Senate had passed bills, joint resolutions, and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 475. An act to amend the Motor Vehicle Information and Cost Savings Act to require certain information to be filed in registering the title of motor vehicles, and for other purposes;

S. 1396. An act to settle unresolved claims relating to certain allotted Indian lands on the White Earth Indian Reservation, to remove clouds from the titles to certain lands, and for other purposes;

S. 1621. An act to amend title 25, United States Code, relating to Indian education programs, and for other purposes;

S.J. Res. 235. Joint resolution to designate the week of January 26, 1986, to February 1, 1986, as "Truck and Bus Safety Week";

S.J. Res. 240. Joint resolution opposing the Soviet Union's invasion and six-year occupation of Afghanistan against the national will of the Afghan people;

S. Con. Res. 91. Concurrent resolution to require publication in the CONGRESSIONAL RECORD of the costs incurred for processing mass-mail for individual Senators, Representatives, committees, and other offices.

REQUEST FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 486, FURTHER CONTINUING APPROPRIATIONS, 1986

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations be discharged from further consideration of the joint resolution (H.J. Res. 486) making further continuing appropriations for fiscal year 1986, and ask for its immediate consideration in the House, any rule of the House to the contrary notwithstanding, and that debate be limited to 1 hour, the time to be equally divided and controlled by myself and the gentleman from Massachusetts [Mr. CONTE], and that the previous question shall be considered as ordered on the resolution to final passage without intervening motion.

The SPEAKER. The Clerk will report the joint resolution.

The Clerk read the joint resolution, as follows:

H.J. RES. 486

Resolved by the Senate and House of Representatives of the United States of America *in Congress assembled,* That the joint resolution of December 13, 1985 (Public Law 99-179) is hereby amended by striking out "six o'clock post meridiem, eastern standard time, December 16, 1985" and inserting in lieu thereof "six o'clock post meridiem, eastern standard time, December 17, 1985".

The **SPEAKER**. Is there objection to the request of the gentleman from Mississippi?

At this point, a Republican Member has the right to object and the Chair recognizes the gentleman from Massachusetts [Mr. Conte].

Mr. **CONTE**. I thank the Speaker.

Mr. Speaker, reserving the right to object, I thank the Speaker for his courtesy, and I ask the gentleman from Mississippi if it would be in order for me to offer a motion to recommit in regard to the Synfuels Corporation.

Mr. **WHITTEN**. Mr. Speaker, will the gentleman yield?

Mr. **CONTE**. I yield to the chairman.

Mr. **WHITTEN**. I thank the gentleman for yielding.

Mr. Speaker, it would depend upon the nature. If it is nongermane, we would not wish to agree in advance. I would be glad to discuss with the gentleman what he might have in mind.

Mr. **CONTE**. Will the gentleman amend his motion in order that it will make it in order to offer a motion to recommit? Because under the rule, under the motion that the gentleman has before the desk there, as I read it and understand it, it is without any intervening motions, and therefore my motion would be out of order. And this is a matter of life and death. If we do not get this opportunity, as the gentleman knows, we went with the other body in full conference, and it was brought up in the full conference. The other body is very interested in stopping the Synfuels Corporation for 24 hours, from letting out these contracts.

Mr. **WHITTEN**. The gentleman and I have worked together very closely, and I am sure we will continue to do so. But a general motion to recommit is one thing and a motion to recommit with instructions is another. I think we should discuss further what the gentleman might have in mind.

Mr. **CONTE**. It is very clear, Mr. Chairman, for I am only asking a motion to recommit with instructions in regard to this synfuels amendment. I could read the amendment to the gentleman and ask that he give us that opportunity.

Mr. **WHITTEN**. I would prefer the gentleman not ask that at this time even if we have to delay and recess a minute while we discuss it.

Mr. **CONTE**. I did not hear.

Mr. **WHITTEN**. I say I cannot agree offhand. I may be able to after discussing that with the gentleman.

Mr. **CONTE**. Can the gentleman withdraw his motion, Mr. Whitten?

Mr. Chairman, I have to protect myself to be able to offer the motion.

Mr. **WHITTEN**. May I say there are a whole lot of items in here. I have a little need to protect myself from that which I do not know is coming up. I think we are in the same situation. I have to, and so do you. But I would like to know what the gentleman has in mind.

Mr. **CONTE**. I am telling the gentleman what I have in mind. My motion will ask to recommit the bill, we could discuss that at that time. Only in that one particular area in regard to synfuels.

Mr. **WOLPE**. Mr. Speaker, will the gentleman yield?

Mr. **CONTE**. I would be glad to yield to the gentleman from Michigan.

Mr. **WOLPE**. I thank the gentleman for yielding.

Mr. Speaker, it is my understanding that the gentleman from Massachusetts in his recommittal motion would be moving to simply prohibit the Corporation only for the period of the continuing resolution, 24 hours.

Mr. **CONTE**. That is right, that is all, extending it 24 hours, that it all.

Mr. **WOLPE**. I would hope that that would be acceptable to the chairman, because it really is a matter of life or death, if we do not have the prohibition, that money can be spent, up to $1 billion.

Mr. **WHITTEN**. May I say that I happened to vote differently from my colleagues on this. It is not a personal matter with me at all. I am caught unaware of what is being offered.

Mr. Speaker, I ask unanimous consent to withdraw my request at the moment and bring it up again in about 30 minutes.

The **SPEAKER**. The gentleman has the right to withdraw his motion. It does not require a unanimous-consent request.

Mr. **WHITTEN**. Mr. Speaker, I withdraw my request at this time.

The **SPEAKER**. The gentleman from Mississippi withdraws his request.

INDIAN EDUCATION PROGRAMS AMENDMENTS

Mr. **KILDEE**. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1621) to amend title 25, United States Code, relating to Indian education programs, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The **SPEAKER**. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1621

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1128 of Public Law 95-561 (25 U.S.C. 2008), as amended, is amended by—

(1) deleting "Indian students" in subsection (a)(1) and substituting in lieu thereof "eligible Indian students"; and

(2) deleting "Indian child" between the words "for each" and "attending such school", and "for an" and "in public school" in subsection (b), and substitute in lieu thereof "eligible Indian student"; and

(3) by adding the following new subsections:

"(f) In this section 'eligible Indian student' means a student who—

"(1) is a member of or is at least a one-fourth degree Indian blood descendant of a member of an Indian tribe which is eligible for the special programs and services provided by the United States through the Bureau of Indian Affairs to Indians because of their status as Indians, and

"(2) resides on or near an Indian reservation or meets the criteria for attendance at a Bureau off-reservation boarding school.

"(g)(1) An eligible Indian student may not be charged tuition for attendance at a Bureau or contract school. A student attending a Bureau school under clause 2(C) of this subsection may not be charged tuition.

"(2) The Secretary may permit the attendance at a Bureau school of a student who is not an eligible Indian student if—

"(A) the Secretary determines that the student's attendance will not adversely affect the school's program for eligible Indian students because of cost, overcrowding, or violation of standards,

"(B) the school board consents, and

"(C) the student is a dependent of a Bureau, Indian Health Service, or tribal government employee who lives on or near the school site, or

"(D) a tuition is paid for the student that is not more than that charged by the nearest public school district for out-of-district students. The tuition collected is in addition to the school's allocation under this section.

"(3) The school board of a contract school may permit students who are not eligible Indian students under this subsection to attend its contract school and any tuition collected for those students is in addition to funding under this section.".

Sec. 2. Any other provision of law notwithstanding, the Secretary of the Interior shall count for funding purposes under section 1128 of Public Law 95-561 during the 1985-1986 academic year each student attending a Bureau or contract school during the count week for that year if the student (a) was counted for funding purposes under section 1128 for the 1984-1985 academic year and (b) is an eligible Indian student under the amendment to section 1128 in section 1 of this Act.

Sec. 3. The following provisions of law are hereby repealed—

(1) in the Act of March 1, 1907 (ch. 2285, 34 Stat. 1015) the first full paragraph on page 1018 (25 U.S.C. 288).

(2) in the Act of March 3, 1909 (ch. 263, 35 Stat. 781) the last two provisos in the second full paragraph on page 783 (25 U.S.C. 289).

(3) in the Act of March 27, 1918 (ch. 86, 40 Stat. 561) the third proviso in the paragraph under the heading "SUPPORT OF INDIAN SCHOOLS" on page 564 (25 U.S.C. 297)".

Mr. **KILDEE**. Mr. Speaker, S. 1621 passed unanimously in the Senate on December 13. It would resolve a small but important problem which threatens the ability of about 900 students to continue attending Federal Indian schools. The need for the legislation arises from a 1918 statute which clouds the right of members of certain tribes to attend Indian schools if they have an insufficient quantum of Indian blood. This provision, ignored and forgotten for over 65 years, has suddenly been resurrected. To permit implementation of this outmoded provision now would cause a tragic disruption in the education of these students, many of whom have spent their entire academic careers in Federal Indian schools.

S. 1621 protects the status quo by continuing past practices and repealing the old, discredited provision. Students could qualify to attend Federal Indian schools either by virtue of possessing one-fourth degree of Indian blood of one or a combination of federally recognized tribes, or by being members of a federally recognized tribe. The measure also maintains the current practice of allowing children of Bureau of Indian Affairs and Indian Health Service employees who work on the reservation to attend schools near their homes. This second group of children, however, could not be counted for purposes of attracting BIA dollars.

The Congressional Budget Office has stated that there are no costs associated with this bill. The affected students have been attending Federal Indian schools and this measure simply protects their right to continue their educations without interruption. Appropriations will not be affected. There also will be no need for new construction or renovation since the schools are already accommodating these students. In fact, there may be a need for additional Federal expenditures if we do not rectify this situation because these students would be counted for the purposes of receiving impact aid, Johnson O'Malley, title IV—Indian Education Act, chapter 1 and other Federal moneys at any public school which they would attend.

Mr. Speaker, this bill has had strong bipartisan support at every step of its consideration. I urge its adoption.

Mr. HENDON. Mr. Speaker, I rise in strong support of S. 1621 which will provide BIA school funding for all Indian children and children of BIA and Indian Health Service [IHS] employees. I commend my colleague, the gentleman from Michigan, Mr. KILDEE, as well as my good friends, Mr. JEFFORDS and Mr. GOODLING, for their concern and swift action on behalf of our Indian children.

Mr. Speaker, passage of this legislation is essential because of recent attempts to deny funding for Indian children based on a blood quantum requirement found in a 1918 appropriation act. Prior to 1980, and for more than a century, BIA had always funded education services for Cherokee students regardless of blood quantum. In fact, a BIA pamphlet entitled "Statistics Concerning Indian Education," explains the unique relationship between the Cherokees and the BIA rather succinctly:

> Congressional appropriations to the Bureau of Indian Affairs are limited to the education of children of one-fourth or more degree of Indian blood and native children in Alaska, except for the Cherokee Agency where children of less than one-quarter degree of Indian blood enrolled in the tribe may attend Federal schools. (page three, 1976 Edition)

The recent proposal to enforce the 1918 Appropriations Act language after 67 years of contrary practice is simply without reason. Since 1918, the Congress has passed at least six major acts dealing with education or eligibility for services and in each, without exception, tribal membership is the sole criterion. Importantly, all BIA services, except education, require tribal membership as the sole criterion for eligibility.

Surely, there is no good reason why an Indian child who lives on the reservation should be forced to attend a school other than the BIA school. Recent budgetary analyses clearly show that the cost to the Treasury would increase should these children be uprooted and sent off the reservation to public schools. In substance, it is illogical, presumably for budget-saving motives, to enforce a law which has been de facto repealed at least six times and which doesn't achieve any discernible goal.

Most importantly, and in the final analysis, we must take into account the Indian children, about 150 from Cherokee, who would become ineligible for funding at their present school and be forced to attend a different school. We cannot allow these children to be affected and I hope that all of my colleagues will join me in support of this crucial legislation.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KILDEE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill, S. 1621.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

WAIVING PRINTING ON PARCHMENT OF ENROLLED BILLS AND JOINT RESOLUTIONS DURING REMAINDER OF 1ST SESSION, 99TH CONGRESS

Mr. WRIGHT. Mr. Speaker, I call up from the Speaker's table the joint resolution (H.J. Res. 485) waiving the printing on parchment of enrolled bills and joint resolutions during the remainder of the 1st session of the 99th Congress, and ask unanimous consent for its immediate consideration.

The SPEAKER. The Clerk will report the joint resolution.

The Clerk read the joint resolution, as follows:

H.J. RES. 485

Resolved by the Senate and House of Representatives of the United States of America in Congress Assembled, That the requirement of sections 106 and 107 of title I, United States Code, that the enrollment of any bill or joint resolution originating in the House be printed on parchment be waived at the discretion of the Speaker, after consultation with the Minority Leader of the House for the duration of the first session of the Ninety-ninth Congress, and that any enrollment be in such form as may be certified by the Committee on House Administration to be truly enrolled.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. WALKER. Mr. Speaker, reserving the right to object, I do so to inquire of the majority leader whether or not this has been checked with the minority and cleared by the minority.

Mr. WRIGHT. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the majority leader.

Mr. WRIGHT. I thank the gentleman for yielding.

Mr. Speaker, indeed we did not offer this until it had been cleared by the minority leader. There is language in the resolution which expressly states that printing on parchment may be waived at the discretion of the Speaker after consultation with the minority leader.

Mr. WALKER. I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid upon the table.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will state to the Members that they may now take 1 minute on special orders if they so desire.

RECESS

The SPEAKER. Pursuant to the order of the House of Thursday, December 12, 1985, the Chair declares a recess subject to the call of the Chair.

Accordingly (at 5 o'clock and 10 minutes, p.m.) the House stood in recess subject to the call of the Chair.

☐ 2215

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. KILDEE] at 10 o'clock and 19 minutes p.m.

CONFERENCE REPORT ON HOUSE JOINT RESOLUTION 465, FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1986

Mr. WHITTEN submitted the following conference report and statement on the concurrent resolution (H.J. Res. 465) making further continuing appropriations for the fiscal year 1986, and for other purposes:

Conference Report (H. Rept. 99-443)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.J. Res. 465) making further continuing appropriations for the fiscal year 1986, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 3, 5, 11, 15, 16, 27, 28, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 52, 53, 54, 55, 59, 63, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 106, 116, 121, and 134.

That the House recede from its disagreement to the amendments of the Senate numbered 9, 12, 17, 18, 19, 20, 21, 25, 61, 118, 119, and 120, and agree to the same.

Amendment numbered 1:

That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert the following:

(a) Such amounts as may be necessary for programs, projects, or activities provided for in the Agriculture, Rural Development, and Related Agencies Appropriations Act, 1986 (H.R. 3037). to the extent and in the manner provided for in the conference report and joint explanatory statement of the Committee on Conference (House Report Numbered 99-439), as filed in the House of Representatives on December 12, 1985, as if such Act had been enacted into law.

And the Senate agree to the same.

Amendment numbered 2:

That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment, as follows:

Delete the matter proposed by the House and stricken by the Senate and delete the matter proposed by the Senate; and the Senate agree to the same.

Amendment numbered 4:

That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

(b) such amounts as may be necessary for programs, projects or activities provided for in the Department of Defense Appropriations Act, 1986, at a rate of operations and to the extent and in the manner provided as follows, to be effective as if it had been enacted into law as the regular appropriation Act:

An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1986, and for other purposes

TITLE I

MILITARY PERSONNEL

Military Personnel, Army

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Army on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund; $21,078,169,000.

Military Personnel, Navy

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Navy on active duty (except members of the Reserve provided for elsewhere), midshipmen, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund; $15,917,144,000.

Military Personnel, Marine Corps

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Marine Corps on active duty (except members of the Reserve provided for elsewhere); and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund; $4,870,016,000.

Military Personnel, Air Force

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Air Force on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund; $17,744,770,000.

Reserve Personnel, Army

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army Reserve on active duty under sections 265, 3019, and 3033 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $2,178,564,000.

Reserve Personnel, Navy

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Naval Reserve on active duty under section 265 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $1,267,734,000.

Reserve Personnel, Marine Corps

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Marine Corps Reserve on active duty under section 265 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Marine Corps platoon leaders class, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $272,250,000.

Reserve Personnel, Air Force

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air Force Reserve on active duty under sections 265, 8019, and 8033 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Air Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $584,430,000.

National Guard Personnel, Army

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army National Guard while on duty under section 265, 3033, or 3496 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 672(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $3,066,568,000.

National Guard Personnel, Air Force

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air National Guard on duty under section 265, 8033, or 8496 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 672(d) of title 10 or section 502(f) of title 32, United

States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $926,716,000.

TITLE II

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Army, as authorized by law; and not to exceed $12,642,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Army, and payments may be made on his certificate of necessity for confidential military purposes; $18,975,507,000, of which not less than $1,471,600,000 shall be available only for the maintenance of real property facilities.

OPERATION AND MAINTENANCE, NAVY

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Navy and the Marine Corps, as authorized by law; and not to exceed $3,787,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Navy, and payments may be made on his certificate of necessity for confidential military purposes; $24,477,071,000, of which not less than $770,000,000 shall be available only for the maintenance of real property facilities, and of which $100,000,000 shall be available only to reimburse United States Coast Guard Operating Expenses for operations and training relating to the Coast Guard's defense and military readiness missions: Provided, That of the total amount of this appropriation made available for the alteration, overhaul, and repair of naval vessels, not more than $3,650,000,000 shall be available for the performance of such work in Navy shipyards: Provided further, That from the amounts of this appropriation for the alteration, overhaul and repair of naval vessels, funds shall be available for a test program to acquire the overhaul of four or more vessels by competition between public and private shipyards. The Secretary of the Navy shall certify, prior to award of a contract under this test, that the successful bid includes comparable estimates of all direct and indirect costs for both public and private shipyards. Competition under such test program shall not be subject to section 502 of the Department of Defense Authorization Act, 1981, as amended, or Office of Management and Budget Circular A-76: Provided further, That funds herein provided shall be available for payments in support of the LEASAT program in accordance with the terms of the Aide Memoire, dated January 5, 1981: Provided further, That obligations incurred or to be incurred hereafter for termination liability and charter hire in connection with the TAKX and T-5 programs, for which the Navy has already entered into agreement for charter and time charters including conversion or construction related to such agreements or charters shall, for the purposes of title 31, United States Code, (1) in regard to and so long as the Government remains liable for termination costs, be considered as obligations in the current Operation and Maintenance, Navy, appropriation account, to be held in reserve in the event such termination liability is incurred, in an amount equal to 10 per centum of the outstanding termination liability, and (2) in regard to charter hire, be considered obligations in the Navy Industrial Fund with an amount equal to the estimated charter hire for the then current fiscal year recorded as an obligation against such fund. Obligations of the Navy under such time charters are general obligations of the United States secured by its full faith and credit.

OPERATION AND MAINTENANCE, MARINE CORPS

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Marine Corps, as authorized by law; $1,612,050,000, of which not less than $238,000,000 shall be available only for the maintenance of real property facilities.

OPERATION AND MAINTENANCE, AIR FORCE

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Air Force, as authorized by law, including the lease and associated maintenance of replacement aircraft for the CT-39 aircraft to the same extent and manner as authorized for service contracts by section 2306(g), title 10, United States Code; and not to exceed $5,556,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Air Force, and payments may be made on his certificate of necessity for confidential military purposes; $19,536,813,000, of which not less than $1,385,000,000 shall be available only for the maintenance of real property facilities.

OPERATION AND MAINTENANCE, DEFENSE AGENCIES

For expenses, not otherwise provided for, necessary for the operation and maintenance of activities and agencies of the Department of Defense (other than the military departments), as authorized by law; $7,432,569,000, of which not to exceed $11,117,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of Defense, and payments may be made on his certificate of necessity for confidential military purposes: Provided, That not less than $91,147,000 shall be available only for the maintenance of real property facilities.

OPERATION AND MAINTENANCE, ARMY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Army Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $780,100,000, of which not less than $49,865,000, shall be available only for the maintenance of real property facilities.

OPERATION AND MAINTENANCE, NAVY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Navy Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $894,950,000, of which not less than $37,100,000 shall be available only for the maintenance of real property facilities.

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Marine Corps Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $57,200,000, of which not less than $2,850,000 shall be available only for the maintenance of real property facilities.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Air Force Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $902,700,000, of which not less than $22,200,000 shall be available only for the maintenance of real property facilities.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For expenses of training, organizing, and administering the Army National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; hire of passenger motor vehicles; personnel services in the National Guard Bureau; travel expenses (other than mileage), as authorized by law for Army personnel on active duty, for Army National Guard division, regimental, and battalion commanders while inspecting units in compliance with National Guard regulations when specifically authorized by the Chief, National Guard Bureau; supplying and equipping the Army National Guard as authorized by law; and expenses of repair, modification, maintenance, and issue of supplies and equipment (including aircraft); $1,652,800,000, of which not less than $57,300,000 shall be available only for the maintenance of real property facilities.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For operation and maintenance of the Air National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, repair, and other necessary expenses of facilities for the training and administration of the Air National Guard, including repair of facilities, maintenance, operation, and modification of aircraft; transportation of things; hire of passenger motor vehicles; supplies, materials, and equipment, as authorized by law for the Air National Guard; and expenses incident to the maintenance and use of supplies, materials, and equipment, including such as may be furnished from stocks under the control of agencies of the Department of Defense; travel expenses (other than mileage) on the same basis as authorized by law for Air National Guard personnel on active Federal duty, for Air National Guard commanders while inspecting units in compliance with National Guard regulations when specifically authorized by the Chief, National Guard Bureau; $1,806,200,000, of which not less than $37,000,000 shall be available only for the maintenance of real property facilities.

NATIONAL BOARD FOR THE PROMOTION OF RIFLE PRACTICE, ARMY

For the necessary expenses, in accordance with law, for construction, equipment, and maintenance of rifle ranges; the instruction *of citizens in marksmanship; the promotion of rifle practice; and the travel of rifle teams, military personnel, and individuals attending regional, national, and international competitions; not to exceed $920,000, of which not to exceed $7,500 shall be available for incidental expenses of the National Board; and from other funds provided in this Act, not to exceed $680,000 worth of ammunition may be issued under authority of title 10, United States Code, section 4311: Provided, That competitors at national matches under title 10, United States Code, section 4312, may be paid subsistence and travel allowances in excess of the amounts provided under title 10, United States Code, section 4313.*

Claims, Defense

For payment, not otherwise provided for, of claims authorized by law to be paid by the Department of Defense (except for civil functions), including claims for damages arising under training contracts with carriers, and repayment of amounts determined by the Secretary concerned, or officers designated by him, to have been erroneously collected from military and civilian personnel of the Department of Defense, or from States, territories, or the District of Columbia, or members of the National Guard units thereof; $143,300,000.

Court of Military Appeals, Defense

For salaries and expenses necessary for the United States Court of Military Appeals; $3,200,000, and not to exceed $1,500 can be used for official representation purposes.

Tenth International Pan American Games

For logistical support and personnel services (other than pay and nontravel related allowances of members of the Armed Forces of the United States, except for members of the Reserve components thereof called or ordered to active duty to provide support for the Tenth International Pan American Games) provided by any component of the Department of Defense to the Tenth International Pan American Games; $10,000,000.

Environmental Restoration, Defense

For the Department of Defense; $379,100,000, to remain available until transferred: Provided, That the Secretary of Defense shall, upon determining that such funds are required for environmental restoration and hazardous waste disposal operations, reduction and recycling of hazardous waste, research and development associated with hazardous wastes and removal of unsafe buildings and debris of the Department of Defense, or for similar purposes (including programs and operations at sites formerly used by the Department of Defense), transfer the funds made available by this appropriation to other appropriations made available to the Department of Defense as the Secretary may designate, to be merged with and to be available for the same purposes and for the same time period as the appropriations of funds to which transferred: Provided further, That upon a determination that all or part of the funds transferred pursuant to this provision are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

TITLE III

PROCUREMENT

Aircraft Procurement, Army

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $3,567,448,000, to remain available for obligation until September 30, 1988.

Missile Procurement, Army

For construction, procurement, production, modification, and modernization of missiles, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, as follows:

Chaparral program, $57,500,000;
Other Missile Support, $5,000,000;
Patriot program, $963,400,000;
Stinger program, $258,500,000;
Laser Hellfire program, $234,200,000;
TOW program, $190,500,000;
Pershing II program, $236,300,000;
MLRS program, $531,900,000;
Modification of missiles, $196,800,000;
Spares and repair parts, $312,000,000;
Support equipment and facilities, $56,632,000;

In all: $2,942,174,000, to remain available for obligation until September 30, 1988: Provided, That within the total amount appropriated, the subdivisions within this appropriation shall be reduced by $100,558,000.

Procurement of Weapons and Tracked Combat Vehicles, Army

For construction, procurement, production, and modification of weapons and tracked combat vehicles, equipment, including ordnance, spare parts and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $4,748,771,000, to remain available for obligation until September 30, 1988.

Procurement of Ammunition, Army

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized in military construction authorization Acts or authorized by section 2854, title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $2,497,200,000, to remain available for obligation until September 30, 1988: Provided, That none of the funds provided herein may be obligated or expended for production base projects until the Secretary of the Army has submitted to the Committees on Appropriations of the House of Representatives and the Senate a specific funding and program plan for RDX modernization which responds to congressional requirements on program phasing and direction concerning full funding, and which provides for initiation of site specific work at Louisiana Army Ammunition Plant not later than June 30, 1986.

Other Procurement, Army

For construction, procurement, production, and modification of vehicles, including tactical, support, and nontracked combat vehicles; the purchase of not to exceed two thousand four hundred and sixty-four passenger motor vehicles for replacement only; communications and electronic equipment; other support equipment; spare parts, ordnance, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, as follows:

Tactical and support vehicles, $965,397,000;

Communications and electronics equipment, $2,868,859,000;

Other support equipment, $1,341,000,000;

Non-centrally managed items, $105,300,000;

In all: $5,275,556,000, to remain available for obligation until September 30, 1988: Provided, That within the total amount appropriated, the subdivisions within this appropriation shall be reduced by $5,000,000.

Aircraft Procurement, Navy

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; $11,376,927,000, to remain available for obligation until September 30, 1988: Provided, That $322,871,000 shall be available only for the procurement of nine new P-3C anti-submarine warfare aircraft: Provided further, That six P-3C aircraft shall be for the Naval Reserve.

Weapons Procurement, Navy

For construction, procurement, production, modification, and modernization of missiles, torpedoes, other weapons, and related support equipment including spare *parts, and accessories therefor; expansion of public and private plants, including the land necessary therefor, and such lands and interest therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, as follows:*

Poseidon, $5,001,000;

TRIDENT I, $36,226,000;

TRIDENT II, $581,986,000;

Support equipment and facilities, $17,107,000;

Tomahawk, $724,804,000;

AIM/RIM-7 F/M Sparrow, $359,200,000;

AIM-9L/M Sidewinder, $125,800,000;

AIM-54A/C Phoenix, $343,600,000;

AIM-54A/C Phoenix advance procurement, $24,800,000;

AGM-84A Harpoon, $314,873,000;

AGM-88A HARM, $236,000,000;

SM-1 MR, $20,300,000;

SM-2 MR, $509,719,000;

SM-2 ER, $303,200,000;

Sidearm, $30,500,000;

Hellfire, $51,768,000;

Laser Maverick, $173,458,000;

IIR Maverick, $27,809,000;

Aerial targets, $105,600,000;

Drones and decoys, $29,400,000;

Other missile support, $12,309,000;

Modification of missiles, $64,933,000;

Support equipment and facilities, $86,210,000;

Ordnance support equipment, $16,289,000;

MK-48 ADCAP torpedo program, $417,437,000;

MK-46 torpedo program, $125,115,000;

MK-60 CAPTOR mine program, $59,600,000;

MK-30 mobile target program, $18,600,000;

MK-38 mini-mobile target program, $3,499,000;

Antisubmarine rocket (ASROC) program, $15,551,000;

Modification of torpedoes, $115,055,000;

Torpedo support equipment program, $70,575,000;

MK-15 close-in weapons system program, $150,146,000;

MK-75 gun mount program, $17,905,000;

MK-19 machine gun program, $1,196,000;

25mm gun mount, $5,501,000;

Small arms and weapons, $11,305,000;

Modification of guns and gun mounts, $58,117,000;

Guns and gun mounts support equipment program, $1,200,000;

Spares and repair parts, $166,601,000;

In all: $5,290,865,000, to remain available for obligation until September 30, 1988: Provided, That within the total amount appropriated, the subdivisions within this appropriation shall be reduced by $147,430,000.

Shipbuilding and Conversion, Navy

For expenses necessary for the construction, acquisition, or conversion of vessels as authorized by law, including armor and armament thereof, plant equipment, appliances, and machine tools and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; procurement of critical, long leadtime components and designs for vessels to be constructed or converted in the future; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, as follows:

TRIDENT ballistic missile submarine program, $1,354,700,000;

SSN-688 attack submarine program, $2,609,600,000;

Battleship reactivation program, $469,000,000;

Aircraft carrier service life extension program, $52,000,000;

CG-47 cruiser program, $2,652,500,000;

DDG-51 destroyer program, $74,000,000: Provided, That the Secretary of the Navy shall select a second source, by the most expeditious means available, for the CG-47 and DDG-51 SPY-1 radar; AEGIS production test center, shipyard and shipboard combat system integration; AEGIS color graphic display systems; solid state frequency converters; and propellors in order to begin competition between the current contractors and the second source contractors in fiscal year 1988: Provided further, That any such selection shall not adversely affect the CG-47 and DDG-51 shipbuilding program schedule and costs;

LSD-41 landing ship dock program, $403,400,000;

LHD-1 amphibious assault ship program, $1,313,600,000;

MCM mine countermeasures ship program, $197,200,000;

MSH coastal mine hunter program, $184,500,000;

T-AO fleet oiler program, $278,500,000;

T-AGOS ocean surveillance ship program, $115,100,000;

T-AG acoustic research ship program, $57,000,000;

ARTB nuclear reactor training ship conversion program, $175,400,000;

T-ACS auxiliary crane ship conversion program, $82,500,000;

T-AVB logistic support ship program, $26,900,000;

LCAC landing craft program, $307,000,000;

Strategic sealift program, $228,400,000;

For craft, outfitting, post delivery, and cost growth, $500,800,000;

In all: $10,969,440,000, to remain available for obligation until September 30, 1990: Provided, That within the total amount appropriated, the subdivisions within this appropriation shall be reduced by $112,660,000: Provided further, That additional obligations may be incurred after September 30, 1990, for engineering services, tests, evaluations, and other such budgeted work that must be performed in the final stage of ship construction; and each Shipbuilding and Conversion, Navy, appropriation that is currently available for such obligations may also hereafter be so obligated after the date of its expiration: Provided further, That none of the funds herein provided for the construction or conversion of any naval vessel to be constructed in shipyards in the United States shall be expended in foreign shipyards for the construction of major components of the hull or superstructure of such vessel: Provided further, That none of the funds herein provided shall be used for the construction of any naval vessel in foreign shipyards: Provided further, That of the funds appropriated in fiscal year 1983 for the FFG-7 guided missile frigate program, $40,000,000 previously available only for an X-band phased array radar shall be available for the fiscal year 1984 guided missile frigate program (FFG-61). The FFG-61 shall be equipped with the MK-92 fire control system, Phase II update.

Other Procurement, Navy

For procurement, production, and modernization of support equipment and materials not otherwise provided for, Navy ordnance and ammunition (except ordnance for new aircraft, new ships, and ships authorized for conversion); the purchase of not to exceed nine hundred and twenty-four passenger motor vehicles of which eight hundred and twenty-five shall be for replacement only; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, as follows:

Ship support equipment, $923,806,000;

Communications and electronics equipment, $2,096,302,000;

Aviation support equipment, $1,133,019,000;

Ordnance support equipment, $1,349,747,000;

Civil engineering support equipment, $232,558,000;

Supply support equipment, $58,917,000;

Personnel and command support equipment, $434,143,000;

Spares and repair parts, $279,838,000;

Non-centrally managed items, $125,300,000;

In all: $6,377,630,000, to remain available for obligation until September 30, 1988: Provided, That within the total amount appropriated, the subdivisions within this appropriation shall be reduced by $256,000,000.

Coastal Defense Augmentation

For the augmentation of United States Coast Guard inventories to meet national security requirements, $235,000,000, to remain available until expended: Provided, That these funds shall be for the procurement by the Department of Defense of vessels, aircraft, and equipment and for modernization of existing Coast Guard assets, to be made available to the Coast Guard for operation and maintenance.

Procurement, Marine Corps

For expenses necessary for the procurement, manufacture, and modification of missiles, armament, ammunition, military equipment, spare parts, and accessories therefor; plant equipment, appliances, and machine tools, and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; vehicles for the Marine Corps, including purchase of not to exceed two hundred and three passenger motor vehicles for replacement only; and expansion of public and private plants, including land necessary therefor, and such lands, and interests therein, may be acquired and construction prosecuted thereon prior to approval of title; $1,680,588,000, to remain available for obligation until September 30, 1988.

Aircraft Procurement, Air Force

For construction, procurement, and modification of aircraft and equipment, including armor and armament, specialized ground handling equipment, and training devices, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve

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plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things; $23,546,447,000, to remain available for obligation until September 30, 1988, of which $200,000,000 shall be available only to initiate the air defense aircraft competition authorized by law: Provided, That of the amounts appropriated not to exceed $280,000,000 shall be available for competitive procurement of Air Force One mission replacement aircraft: Provided further, That none of the funds in this Act may be obligated on B-1B bomber production contracts if such contracts would cause the production portion of the Air Force's $20,500,000,000 estimate for the B-1B bomber baseline costs expressed in fiscal year 1981 constant dollars to be exceeded: Provided further, That funds appropriated by this Act may be applied to a follow-on multiyear contract for F-16 production in which contract options shall be included to adjust the multiyear contract to accommodate the results of the air defense aircraft competition; such competition shall be completed no later than July 1, 1986, and a contract awarded within sixty days thereafter.

Missile Procurement, Air Force

For construction, procurement, and modification of missiles, spacecraft, rockets, and related equipment, including spare parts and accessories therefor, ground handling equipment, and training devices; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things; $8,433,177,000, to remain available for obligation until September 30, 1988.

Other Procurement, Air Force

For procurement and modification of equipment (including ground guidance and electronic control equipment, and ground electronic and communication equipment), and supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed eight hundred and forty-nine passenger motor vehicles of which eight hundred and one shall be for replacement only; and expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon, prior to approval of title; reserve plant and Government and contractor-owned equipment layaway, as follows:

Munitions and associated equipment, $1,239,877,000;

Vehicular equipment, $340,869,000;

Electronics and telecommunications equipment, $2,608,650,000;

Other base maintenance and support equipment, $4,626,287,000;

Non-centrally managed items, $54,700,000;

In all: $8,611,383,000, to remain available for obligation until September 30, 1988: Provided, That within the total amount appropriated, the subdivisions within this appropriation shall be reduced by $259,000,000: Provided further, That no obligation may be incurred for the procurement of 30mm armor piercing ammunition unless there is component breakout for the depleted uranium penetrator.

National Guard and Reserve Equipment

For procurement of aircraft, missiles, tracked combat vehicles, ammunition, other weapons, and other procurement for the reserve components of the Armed Forces, as follows:

Army Reserve, $385,000,000;

Army National Guard, $548,800,000, of which, subject to enactment of authorizing legislation, not more than $40,000,000 may be used for minor projects to facilitate the delivery, storage, training and maintenance of Army National Guard equipment;

Air National Guard, $255,000,000;

Naval Reserve, $100,000,000;

Marine Corps Reserve, $70,000,000;

Air Force Reserve, $180,000,000;

In all: $1,518,800,000, to remain available for obligation until September 30, 1988.

Procurement, Defense Agencies

For expenses of activities and agencies of the Department of Defense (other than the military departments) necessary for procurement, production, and modification of equipment, supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed four hundred and ninety passenger motor vehicles of which two hundred and fifty-one shall be for replacement only; expansion of public and private plants, equipment, and installation thereof in such plants, erection of structures, and acquisition of land for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; $1,302,740,000, to remain available for obligation until September 30, 1988.

Defense Production Act Purchases

For purchases or commitments to purchase metals, minerals, or other materials by the Department of Defense pursuant to section 303 of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2093); $31,000,000, to remain available for obligation until September 30, 1988.

NATO Cooperative Defense Programs

For acquisition of point air defense of United States airbases and other critical United States military facilities in Italy; $15,000,000, to remain available for obligation until September 30, 1988.

TITLE IV

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Research, Development, Test, and Evaluation, Army

For expenses necessary for basic and applied scientific research, development, test, and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $4,838,172,000, of which $17,000,000 is available only for completing development, transitioning into low-rate initial production, and initial procurement of shipsets required to arm UH-60 Blackhawk helicopters with Hellfire missiles, to remain available for obligation until September 30, 1987.

Research, Development, Test, and Evaluation, Navy

For expenses necessary for basic and applied scientific research, development, test, and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $10,125,239,000, of which $17,523,000 is available only for the Low Cost Anti-Radiation Seeker Program and $5,500,000 is available only for the Laser Articulating Robotic System, to remain available for obligation until September 30, 1987.

Research, Development, Test, and Evaluation, Air Force

For expenses necessary for basic and applied scientific research, development, test, and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $13,860,208,000, of which $17,613,000 is available only for the Low Cost Seeker Program and $5,000,000 is available only for the purpose of carrying out a research program to develop new and improved verification techniques to monitor compliance with any antisatellite weapon agreement that may be entered into by the United States and the Soviet Union, to remain available for obligation until September 30, 1987.

Research, Development, Test, and Evaluation, Defense Agencies

For expenses of activities and agencies of the Department of Defense (other than the military departments), necessary for basic and applied scientific research, development, test, and evaluation; advanced research projects as may be designated and determined by the Secretary of Defense, pursuant to law; maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $6,668,386,000, of which $700,000 shall be available only for the purpose of carrying out, through the Office of Technology Assessment, a comprehensive classified study to be submitted to the Appropriations Committees of the House of Representatives and the Senate, together with an unclassified version, no later than August 30, 1987, to determine the technological feasibility and implications, and the ability to survive and function despite a preemptive attack by an aggressor possessing comparable technology, of the Strategic Defense Initiative Program; and $8,287,000 shall be available only for the joint Department of Defense-Department of Energy Conventional Munitions Technology Development Program, to remain available for obligation until September 30, 1987: Provided, That such amounts as may be determined by the Secretary of Defense to have been made available in other appropriations available to the Department of Defense during the current fiscal year for programs related to advanced research may be transferred to and merged with this appropriation to be available for the same purposes and time period: Provided further, That such amounts of this appropriation as may be determined by the Secretary of Defense may be transferred to carry out the purposes of advanced research to those appropriations for military functions under the Department of Defense which are being utilized for related programs to be merged with and to be available for the same time period as the appropriation to which transferred.

Director of Test and Evaluation, Defense

For expenses, not otherwise provided for, of independent activities of the Director of Defense Test and Evaluation in the direction and supervision of test and evaluation, including initial operational testing and evaluation; and performance of joint testing and evaluation; and administrative expenses in connection therewith; $118,500,000, to remain available for obligation until September 30, 1987.

TITLE V

SPECIAL FOREIGN CURRENCY PROGRAM

For payment in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States for expenses in carrying out programs of the Department of Defense, as authorized by law; $2,100,000, to remain available for obligation until September 30, 1987: Provided, That this appropriation shall be available in addition to other appropriations to such Department, for payments in the foregoing currencies.

TITLE VI

REVOLVING AND MANAGEMENT FUNDS

ARMY STOCK FUND

For the Army stock fund; $393,000,000.

NAVY STOCK FUND

For the Navy stock fund; $638,500,000.

MARINE CORPS STOCK FUND

For the Marine Corps stock fund; $37,700,000.

AIR FORCE STOCK FUND

For the Air Force stock fund; $415,900,000.

DEFENSE STOCK FUND

For the Defense stock fund; $149,700,000.

ADP EQUIPMENT MANAGEMENT FUND

For the purchase of automatic data processing (ADP) equipment; $100,000,000.

TITLE VII

RELATED AGENCIES

CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM FUND

For payment to the Central Intelligence Agency Retirement and Disability System Fund, to maintain proper funding level for continuing the operation of the Central Intelligence Agency Retirement and Disability System; $101,400,000.

INTELLIGENCE COMMUNITY STAFF

For necessary expenses of the Intelligence Community Staff; $22,083,000.

TITLE VIII

GENERAL PROVISIONS

SEC. 8001. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 8002. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 8003. During the current fiscal year, the Secretary of Defense and the Secretaries of the Army, Navy, and Air Force, respectively, if they should deem it advantageous to the national defense, and if in their opinions the existing facilities of the Department of Defense are inadequate, are authorized to procure services in accordance with section 3109 of title 5, United States Code, under regulations prescribed by the Secretary of Defense, and to pay in connection therewith travel expenses of individuals, including actual transportation and per diem in lieu of subsistence while traveling from their homes or places of business to official duty stations and return as may be authorized by law: Provided, That such contracts may be renewed annually.

SEC. 8004. During the current fiscal year, provisions of law prohibiting the payment of compensation to, or employment of, any person not a citizen of the United States shall not apply to personnel of the Department of Defense.

SEC. 8005. Appropriations for the Department of Defense for the current fiscal year and hereafter shall be available for: (a) expenses in connection with administration of occupied areas; (b) payment of rewards as authorized for the Navy by section 7209(a) of title 10, United States Code, for information leading to the discovery of missing naval property or the recovery thereof; (c) payment of deficiency judgments and interests thereon arising out of condemnation proceedings; (d) leasing of buildings and facilities including payment of rentals for special purpose space at the seat of government, and in the conduct of field exercises and maneuvers or, in administering the provisions of the Act of July 9, 1942 (56 Stat. 654; 43 U.S.C. 315q), rentals may be paid in advance; (e) payments under contracts for maintenance of tools and facilities for twelve months beginning at any time during the fiscal year; (f) maintenance of defense access roads certified as important to national defense in accordance with section 210 of title 23, United States Code; (g) the purchase of milk for enlisted personnel of the Department of Defense heretofore made available pursuant to section 202 of the Agricultural Act of 1949 (7 U.S.C. 1446a), and the cost of milk so purchased, as determined by the Secretary of Defense, shall be included in the value of the commuted ration; (h) payments under leases for real or personal property, including maintenance thereof when contracted for as a part of the lease agreement, for twelve months beginning at any time during the fiscal year; (i) the purchase of right-hand-drive vehicles not to exceed $12,000 per vehicle; (j) payment of unusual cost overruns incident to ship overhaul, maintenance, and repair for ships inducted into industrial fund activities or contracted for in prior fiscal years: Provided, That the Secretary of Defense shall notify the Congress promptly prior to obligation of any such payments; (k) payments from annual appropriations to industrial fund activities and/or under contract for changes in scope of ship overhaul, maintenance, and repair after expiration of such appropriations, for such work either inducted into the industrial fund activity or contracted for in that fiscal year; and (l) payments for depot maintenance contracts for twelve months beginning at any time during the fiscal year.

SEC. 8006. Appropriations for the Department of Defense for the current fiscal year and hereafter shall be available for: (a) military courts, boards, and commissions; (b) utility services for buildings erected at private cost, as authorized by law, and buildings on military reservations authorized by regulations to be used for welfare and recreational purposes; and (c) exchange fees, and losses in the accounts of disbursing officers or agents in accordance with law.

SEC. 8007. The Secretary of Defense and each purchasing and contracting agency of the Department of Defense shall assist American small and minority-owned business to participate equitably in the furnishing of commodities and services financed with funds appropriated under this Act by increasing, to an optimum level, the resources and number of personnel jointly assigned to promoting both small and minority business involvement in purchases financed with funds appropriated herein, and by making available or causing to be made available to such businesses, information, as far in advance as possible, with respect to purchases proposed to be financed with funds appropriated under this Act, and by assisting small and minority business concerns to participate equitably as subcontractors on contracts financed with funds appropriated herein, and by otherwise advocating and providing small and minority business opportunities to participate in the furnishing of commodities and services financed with funds appropriated by this Act.

SEC. 8008. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 8009. During the current fiscal year and hereafter:

(a) The President may exempt appropriations, funds, and contract authorizations, available for military functions under the Department of Defense, from the provisions of section 1512 of title 31, United States Code, whenever he deems such action to be necessary in the interest of national defense.

(b) Upon determination by the President that such action is necessary, the Secretary of Defense is authorized to provide for the cost of an airborne alert as an excepted expense in accordance with the provisions of section 3732 of the Revised Statutes (41 U.S.C. 11).

(c) Upon determination by the President that it is necessary to increase the number of military personnel on active duty subject to existing laws beyond the number for which funds are provided in this Act, the Secretary of Defense is authorized to provide for the cost of such increased military personnel, as an excepted expense in accordance with the provisions of section 3732 of the Revised Statutes (41 U.S.C. 11).

(d) The Secretary of Defense shall immediately advise Congress of the exercise of any authority granted in this section, and shall report monthly on the estimated obligations incurred pursuant to subsections (b) and (c).

SEC. 8010. No part of the appropriations in this Act shall be available for any expense of operating aircraft under the jurisdiction of the armed forces for the purpose of proficiency flying, as defined in Department of Defense Directive 1340.4, except in accordance with regulations prescribed by the Secretary of Defense. Such regulations (1) may not require such flying except that required to maintain proficiency in anticipation of a member's assignment to combat operations and (2) such flying may not be permitted in cases of members who have been assigned to a course of instruction of ninety days or more.

SEC. 8011. No part of any appropriation contained in this Act shall be available for expense of transportation, packing, crating, temporary storage, drayage, and unpacking of household goods and personal effects in any one shipment having a net weight in excess of eighteen thousand pounds.

SEC. 8012. During the current fiscal year and hereafter, vessels under the jurisdiction of the Department of Transportation, the Department of the Army, the Department of the Air Force, or the Department of the Navy may be transferred or otherwise made available without reimbursement to any such agencies upon the request of the head of one agency and the approval of the agency having jurisdiction of the vessels concerned.

SEC. 8013. Not more than 20 per centum of the appropriations in this Act which are limited for obligation during the current fiscal year shall be obligated during the last *two months of the fiscal year: Provided, That this section shall not apply to obligations for support of active duty training of civilian components or summer camp training of the Reserve Officers' Training Corps, or the National Board for the Promotion of Rifle Practice, Army, or to the appropriations provided in this Act for Claims, Defense.*

SEC. 8014. During the current fiscal year the agencies of the Department of Defense may accept the use of real property from foreign countries for the United States in accordance with mutual defense agreements or occupational arrangements and may accept services furnished by foreign countries as reciprocal international courtesies or as services customarily made available without charge; and such agencies may use the same for the support of the United States forces in such areas without specific appropriation therefor.

In addition to the foregoing, agencies of the Department of Defense may accept real property, services, and commodities from foreign countries for the use of the United States in accordance with mutual defense agreements or occupational arrangements and such agencies may use the same for the support of the United States forces in such areas, without specific appropriations therefor: Provided, That the foregoing authority shall not be available for the conversion of heating plants from coal to oil at defense facilities in Europe: Provided further, That within thirty days after the end of each quarter the Secretary of Defense shall render to Congress and to the Office of Management and Budget a full report of such property, supplies, and commodities received during such quarter.

SEC. 8015. During the current fiscal year and hereafter, appropriations available to the Department of Defense for research and development may be used for the purposes of section 2353 of title 10, United States Code, and for purposes related to research and development for which expenditures are specifically authorized in other appropriations of the Service concerned.

SEC. 8016. No part of any appropriation contained in this Act, except for small purchases in amounts not exceeding $10,000 shall be available for the procurement of any article of food, clothing, cotton, woven silk or woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, or wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured articles), or specialty metals including stainless steel flatware, or hand or measuring tools, not grown, reprocessed, reused, or produced in the United States or its possessions, except to the extent that the Secretary of the Department concerned shall determine that satisfactory quality and sufficient quantity of any articles of food or clothing or any form of cotton, woven silk and woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, wool, or specialty metals including stainless steel flatware, grown, reprocessed, reused, or produced in the United States or its possessions cannot be procured as and when needed at United States market prices and except procurements outside the United States in support of combat operations, procurements by vessels in foreign waters, and emergency procurements or procurements of perishable foods by establishments located outside the United States for the personnel attached thereto: Provided, That nothing herein shall preclude the procurement of specialty metals or chemical warfare protective clothing produced outside the United States or its possessions when such procurement is necessary to comply with agreements with foreign governments requiring the United States to purchase supplies from foreign sources for the purposes of offsetting sales made by the United States Government or United States firms under approved programs serving defense requirements or where such procurement is necessary in furtherance of the standardization and interoperability of equipment requirements within NATO so long as such agreements with foreign governments comply, where applicable, with the requirements of section 36 of the Arms Export Control Act and with section 2457 of title 10, United States Code: Provided further, That nothing herein shall preclude the procurement of foods manufactured or processed in the United States or its possessions: Provided further, That no funds herein appropriated shall be used for the payment of a price differential on contracts hereafter made for the purpose of relieving economic dislocations: Provided further, That none of the funds appropriated in this Act shall be used except that, so far as practicable, all contracts shall be awarded on a formally advertised competitive bid basis to the lowest responsible bidder.

SEC. 8017. During the current fiscal year, appropriations available to the Department of Defense for pay of civilian employees shall be available for uniforms, or allowances therefor, as authorized by section 5901 of title 5, United States Code.

SEC. 8018. Funds provided in this Act for legislative liaison activities of the Department of the Army, the Department of the Navy, the Department of the Air Force, and the Office of the Secretary of Defense shall not exceed $13,334,000 for the current fiscal year: Provided, That this amount shall be available for apportionment to the Department of the Army, the Department of the Navy, the Department of the Air Force, and the Office of the Secretary of Defense as determined by the Secretary of Defense: Provided further, That costs for military retired pay accrual shall be included within this limitation.

SEC. 8019. Of the funds made available by this Act for the services of the Military Airlift Command, $100,000,000 shall be available only for procurement of commercial transportation service from carriers participating in the civil reserve air fleet program; and the Secretary of Defense shall utilize the services of such carriers which qualify as small businesses to the fullest extent found practicable: Provided, That the Secretary of Defense shall specify in such procurement, performance characteristics for aircraft to be used based upon modern aircraft operated by the civil reserve air fleet.

(TRANSFER OF FUNDS)

SEC. 8020. Upon determination by the Secretary of Defense that such action is necessary in the national interest, he may, with the approval of the Office of Management and Budget, transfer not to exceed $950,000,000 of working capital funds of the Department of Defense or funds made available in this Act to the Department of Defense for military functions (except military construction) between such appropriations or funds or any subdivision thereof, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: Provided, That such authority to transfer may not be used unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which funds are requested has been denied by Congress: Provided further, That the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority.

(TRANSFER OF FUNDS)

SEC. 8021. During the current fiscal year, cash balances in working capital funds of the Department of Defense established pursuant to section 2208 of title 10, United States Code, may be maintained in only such amounts as are necessary at any time for cash disbursements to be made from such funds: Provided, That transfers may be made between such funds in such amounts as may be determined by the Secretary of Defense, with the approval of the Office of Management and Budget, except that transfers between a stock fund account and an industrial fund account may not be made unless the Secretary of Defense has notified the Congress of the proposed transfer. Except in amounts equal to the amounts appropriated to working capital funds in this Act, no obligations may be made against a working capital fund to procure war reserve material inventory, unless the Secretary of Defense has notified the Congress prior to any such obligation.

SEC. 8022. None of the funds available to the Department of Defense shall be utilized for the conversion of heating plants from coal to oil at defense facilities in Europe.

SEC. 8023. No part of the funds in this Act shall be available to prepare or present a request to the Committees on Appropriations for reprograming of funds, unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which reprograming is requested has been denied by the Congress.

SEC. 8024. None of the funds contained in this Act available for the Civilian Health and Medical Program of the Uniformed Services under the provisions of section 1079(a) of title 10, United States Code, shall be available for reimbursement of any physician or other authorized individual provider of medical care in excess of the eightieth percentile of the customary charges made for similar services in the same locality where the medical care was furnished, as determined for physicians in accordance with section 1079(h) of title 10, United States Code.

SEC. 8025. No appropriation contained in this Act may be used to pay for the cost of public affairs activities of the Department of Defense in excess of $43,563,000: Provided, That costs for military retired pay accrual shall be included within this limitation.

SEC. 8026. None of the funds provided in this Act shall be available for the planning or execution of programs which utilize amounts credited to Department of Defense appropriations or funds pursuant to the provisions of section 37(a) of the Arms Export Control Act representing payment for the actual value of defense articles specified in section 21(a)(1)(A) of that Act: Provided, That such amounts shall be credited to the Special Defense Acquisition Fund, as authorized by law, or, to the extent not so credited shall be deposited in the Treasury as miscellaneous receipts as provided in section 3302(b) of title 31, United States Code.

SEC. 8027. No appropriation contained in this Act shall be available to fund any costs of a Senior Reserve Officers' Training Corps unit—except to complete training of person-

nel enrolled in Military Science 4—which in its junior year class (Military Science 3) has for the four preceding academic years, and as of September 30, 1983, enrolled less than (a) seventeen students where the institution prescribes a four-year or a combination four- and two-year program; or (b) twelve students where the institution prescribes a two-year program: Provided, That, notwithstanding the foregoing limitation, funds shall be available to maintain one Senior Reserve Officers' Training Corps unit in each State and at each State-operated maritime academy: Provided further, That units under the consortium system shall be considered as a single unit for purposes of evaluation of productivity under this provision: Provided further, That enrollment standards contained in Department of Defense Directive 1215.8 for Senior Reserve Officers' Training Corps units, as revised during fiscal year 1981, may be used to determine compliance with this provision, in lieu of the standards cited above.

Sec. 8028. None of the funds appropriated by this Act for programs of the Central Intelligence Agency shall remain available for obligation beyond the current fiscal year, except for funds appropriated for the Reserve for Contingencies, which shall remain available until September 30, 1987.

Sec. 8029. None of the funds appropriated by this Act may be used to support more than 9,901 full-time and 2,603 part-time military personnel assigned to or used in the support of Morale, Welfare, and Recreation activities as described in Department of Defense Instruction 7000.12 and its enclosures, dated September 4, 1980.

Sec. 8030. All obligations incurred in anticipation of the appropriations and authority provided in this Act are hereby ratified and confirmed if otherwise in accordance with the provisions of this Act.

Sec. 8031. None of the funds appropriated by this Act or heretofore appropriated by any other Act shall be obligated or expended for the payment of anticipatory possession compensation claims to the Federal Republic of Germany other than claims listed in the 1973 agreement (commonly referred to as the Global Agreement) between the United States and the Federal Republic of Germany.

Sec. 8032. During the current fiscal year the Department of Defense may enter into contracts to recover indebtedness to the United States pursuant to section 3718 of title 31, United States Code.

Sec. 8033. None of the funds appropriated by this Act shall be available for a contract for studies, analyses, or consulting services entered into without competition on the basis of an unsolicited proposal unless the head of the activity responsible for the procurement determines:

(a) as a result of thorough technical evaluation, only one source is found fully qualified to perform the proposed work, or

(b) the purpose of the contract is to explore an unsolicited proposal which offers significant scientific or technological promise, represents the product of original thinking, and was submitted in confidence by one source, or

(c) where the purpose of the contract is to take advantage of unique and significant industrial accomplishment by a specific concern, or to insure that a new product or idea of a specific concern is given financial support:

Provided, That this limitation shall not apply to contracts in an amount of less than $25,000, contracts related to improvements of equipment that is in development or production, or contracts as to which a civilian official of the Department of Defense, who has been confirmed by the Senate, determines that the award of such contract is in the interest of the national defense.

Sec. 8034. None of the funds appropriated by this Act shall be available to provide medical care in the United States on an inpatient basis to foreign military and diplomatic personnel or their dependents unless the Department of Defense is reimbursed for the costs of providing such care: Provided, That reimbursements for medical care covered by this section shall be credited to the appropriations against which charges have been made for providing such care, except that inpatient medical care may be provided in the United States without cost to military personnel and their dependents from a foreign country if comparable care is made available to a comparable number of United States military personnel in that foreign country.

Sec. 8035. None of the funds appropriated by this Act shall be obligated for the second career training program authorized by Public Law 96-347.

Sec. 8036. None of the funds appropriated or otherwise made available in this Act shall be obligated or expended for salaries or expenses during the current fiscal year for the purposes of demilitarization of surplus nonautomatic firearms less than .50 caliber.

Sec. 8037. None of the funds provided in this Act shall be available to initiate (1) a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any one year of the contract or that includes an unfunded contingent liability in excess of $20,000,000, or (2) a contract for advance procurement leading to a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any one year, unless the Committees on Appropriations and Armed Services of the Senate and House of Representatives have been notified at least thirty days in advance of the proposed contract award: Provided, That no part of any appropriation contained in this Act shall be available to initiate a multiyear contract for which the economic order quantity advance procurement is not funded at least to the limits of the Government's liability: Provided further, That no part of any appropriation contained in this Act shall be available to initiate multiyear procurement contracts for any systems or component thereof if the value of the multiyear contract would exceed $500,000,000 unless specifically provided in this Act: Provided further, That the execution of multiyear authority shall require the use of a present value analysis to determine lowest cost compared to an annual procurement. Funds appropriated in title III of this Act may be used for multiyear procurement contracts as follows:

T-700 series aircraft engines;
MK-46 torpedo program;
Bradley Fighting Vehicle transmission;
M-1 tank chassis;
M-1 tank engine;
M-1 tank fire control components; and
LHD-1 amphibious assault ships.

Sec. 8038. None of the funds appropriated by this Act which are available for payment of travel allowances for per diem in lieu of subsistence to enlisted personnel shall be used to pay such an allowance to any enlisted member in an amount that is more than the amount of per diem in lieu of subsistence that the enlisted member is otherwise entitled to receive minus the basic allowance for subsistence, or pro rata portion of such allowance, that the enlisted member is entitled to receive during any day, or portion of a day, that the enlisted member is also entitled to be paid a per diem in lieu of subsistence.

Sec. 8039. None of the funds appropriated by this Act shall be available to approve a request for waiver of the costs otherwise required to be recovered under the provisions of section 21(e)(1)(C) of the Arms Export Control Act unless the Committees on Appropriations have been notified in advance of the proposed waiver.

Sec. 8040. None of the funds appropriated by this Act shall be available for the transportation of equipment or materiel designated as Prepositioned Materiel Configured in Unit Sets (POMCUS) in Europe in excess of four division sets: Provided, That the foregoing limitation shall not apply with respect to any item of equipment or materiel which is maintained in the inventories of the Active and Reserve Forces at levels of at least 70 per centum of the established requirements for such an item of equipment or materiel for the Active Forces and 50 per centum of the established requirement for the Reserve Forces for such an item of equipment or materiel: Provided further, That no additional commitments to the establishment of POMCUS sites shall be made without prior approval of Congress.

Sec. 8041. (a) None of the funds in this Act may be used to transfer any article of military equipment or data related to the manufacture of such equipment to a foreign country prior to the approval in writing of such transfer by the Secretary of the military service involved.

(b) No funds appropriated by this Act may be used for the transfer of a technical data package from any Government-owned and operated defense plant manufacturing large caliber cannons to any foreign government, nor for assisting any such government in producing any defense item currently being manufactured or developed in a United States Government-owned, Government-operated, defense plant manufacturing large caliber cannons.

(TRANSFER OF FUNDS)

Sec. 8042. None of the funds appropriated in this Act may be made available through transfer, reprograming, or other means for any intelligence or special activity different from that previously justified to the Congress unless the Director of Central Intelligence or the Secretary of Defense has notified the House and Senate Appropriations Committees of the intent to make such funds available for such activity.

Sec. 8043. Of the funds appropriated by this Act for strategic programs, the Secretary of Defense shall provide funds for the Advanced Technology Bomber program at a level at least equal to the amount provided by the committee of conference on this Act in order to maintain priority emphasis on this program.

Sec. 8044. None of the funds available to the Department of Defense during the current fiscal year shall be used by the Secretary of a military department to purchase coal or coke from foreign nations for use at United States defense facilities in Europe when coal from the United States is available.

Sec. 8045. None of the funds available to the Department of Defense shall be available for the procurement of manual typewriters which were manufactured by facilities located within states which are Signatories to the Warsaw Pact.

Sec. 8046. None of the funds appropriated by this Act may be used to appoint or compensate more than 37 individuals in the Department of Defense in positions in the Executive Schedule (as provided in sections 5312-5316 of title 5, United States Code).

Sec. 8047. None of the funds appropriated by this Act shall be available to convert a position in support of the Army Reserve, Air Force Reserve, Army National Guard, and Air National Guard occupied by, or programed to be occupied by, a (civilian) military technician to a position to be held by a person in an active Guard or Reserve status if that conversion would reduce the total number of positions occupied by, or programed to be occupied by, (civilian) military technicians of the component concerned, below 66,086: Provided, That none of the funds appropriated by this Act shall be available to support more than 43,157 positions in support of the Army Reserve, Army National Guard or Air National Guard occupied by, or programed to be occupied by, persons in an active Guard or Reserve status: Provided further, That none of the funds appropriated by this Act may be used to include (civilian) military technicians in computing civilian personnel ceilings, including statutory or administratively imposed ceilings, on activities in support of the Army Reserve, Air Force Reserve, Army National Guard or Air National Guard.

Sec. 8048. (a) The provisions of section 138(c)(2) of title 10, United States Code, shall not apply with respect to fiscal year 1986 or with respect to the appropriation of funds for that year.

(b) During fiscal year 1986, the civilian personnel of the Department of Defense may not be managed on the basis of any end-strength, and the management of such personnel during that fiscal year shall not be subject to any constraint or limitation (known as an end-strength) on the number of such personnel who may be employed on the last day of such fiscal year.

(c) The fiscal year 1987 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 1987 Department of Defense budget request shall be prepared and submitted to the Congress as if subsections (a) and (b) of this provision were effective with regard to fiscal year 1987.

(TRANSFER OF FUNDS)

Sec. 8049. Appropriations or funds available to the Department of Defense during the current fiscal year may be transferred to appropriations provided in this Act for research, development, test, and evaluation to the extent necessary to meet increased pay costs authorized by or pursuant to law, to be merged with and to be available for the same purposes, and the same time period, as the appropriation to which transferred.

Sec. 8050. None of the funds available to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States involved in intelligence activities may be obligated or expended during fiscal year 1986 to provide funds, materiel, or other assistance to the Nicaraguan democratic resistance unless in accordance with the terms and conditions specified by section 105 of the Intelligence Authorization Act (Public Law 99-169) for fiscal year 1986.

(TRANSFER OF FUNDS)

Sec. 8051. In addition to any other transfer authority contained in this Act, amounts from working capital funds may be transferred to the Operation and Maintenance, Army, Navy, and Air Force appropriations contained in this Act to be merged with and to be available for the same purposes and for the same time period as the appropriation to which transferred: Provided, That such transfers shall not exceed $168,200,000 for Operation and Maintenance, Army; $420,300,000 for Operation and Maintenance, Navy; and $164,000,000 for Operation and Maintenance, Air Force.

Sec. 8052. None of the funds made available by this Act shall be used in any way for the leasing to non-Federal agencies in the United States aircraft or vehicles owned or operated by the Department of Defense when suitable aircraft or vehicles are commercially available in the private sector: Provided, That nothing in this section shall affect authorized and established procedures for the sale of surplus aircraft or vehicles: Provided further, That nothing in this section shall prohibit the leasing of helicopters authorized by section 1463 of the Department of Defense Authorization Act of 1986.

Sec. 8053. None of the funds made available by this Act shall be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before the Congress.

Sec. 8054. No funds available to the Department of Defense during the current fiscal year may be used to enter into any contract with a term of eighteen months or more or to extend or renew any contract for a term of eighteen months or more, for any vessel, aircraft or vehicles, through a lease, charter, or similar agreement without previously having been submitted to the Committees on Appropriations of the House of Representatives and the Senate in the budgetary process. Further, any contractual agreement which imposes an estimated termination liability (excluding the estimated value of the leased item at the time of termination) on the Government exceeding 50 per centum of the original purchase value of the vessel, aircraft, or vehicle must have specific authority in an appropriation Act for the obligation of 10 per centum of such termination liability.

Sec. 8055. None of the funds appropriated in this Act may be obligated or expended in any way for the purpose of the sale, lease, rental, or excessing of any portion of land currently identified as Fort DeRussy, Honolulu, Hawaii.

Sec. 8056. None of the funds made available by this Act shall be available to operate in excess of 247 commissaries in the contiguous United States.

Sec. 8057. None of the funds provided in this Act shall be used to procure aircraft ejection seats manufactured in any foreign nation that does not permit United States manufacturers to compete for ejection seat procurement requirements in that foreign nation. This limitation shall apply only to ejection seats procured for installation on aircraft produced or assembled in the United States.

Sec. 8058. No more than $166,766,000 of the funds appropriated by this Act shall be available for the payment of unemployment compensation benefits.

Sec. 8059. None of the funds appropriated by this Act should be obligated for the pay of any individual who is initially employed after the date of enactment of this Act as a technician in the administration and training of the Army Reserve and the maintenance and repair of supplies issued to the Army Reserve unless such individual is also a military member of the Army Reserve troop program unit that he or she is employed to support. Those technicians employed by the Army Reserve in areas other than Army Reserve troop program units need only be members of the Selected Reserve.

Sec. 8060. None of the funds appropriated by this Act shall be used for the transfer of the Department of Defense Dependents Schools (DODDS) to the Department of Education.

Sec. 8061. None of the funds appropriated by this Act shall be used to purchase dogs or cats or otherwise fund the use of dogs or cats for the purpose of training Department of Defense students or other personnel in surgical or other medical treatment of wounds produced by any type of weapon: Provided, That the standards of such training with respect to the treatment of animals shall adhere to the Federal Animal Welfare Law and to those prevailing in the civilian medical community.

Sec. 8062. None of the funds made available by this Act shall be used to initiate full-scale engineering development of any major defense acquisition program until the Secretary of Defense has provided to the Committees on Appropriations of the House and Senate—

(a) a certification that the system or subsystem being developed will be procured in quantities that are not sufficient to warrant development of two or more production sources, or

(b) a plan for the development of two or more sources for the production of the system or subsystem being developed.

Sec. 8063. None of the funds appropriated by this Act shall be available to pay any member of the uniformed services for unused accrued leave pursuant to section 501 of title 37, United States Code, for more than sixty days of such leave, less the number of days for which payment was previously made under section 501 after February 9, 1976.

Sec. 8064. Within funds available under title II of this Act, but not to exceed $100,000, and under such regulations as the Secretary of Defense may prescribe, the Department of Defense may, in addition to allowances currently available, make payments for travel and transportation expenses of the surviving spouse, children, parents, and brothers and sisters of any member of the Armed Forces of the United States, who dies as the result of an injury or disease incurred in line of duty to attend the funeral of such member in any case in which the funeral of such member is more than two hundred miles from the residence of the surviving spouse, children, parents or brothers and sisters, if such spouse, children, parents or brothers and sisters, as the case may be, are financially unable to pay their own travel and transportation expenses to attend the funeral of such member.

Sec. 8065. None of the funds available to the Department of Defense may be used for the floating storage of petroleum or petroleum products except in vessels of or belonging to the United States.

Sec. 8066. Of the funds made available to the Department of the Air Force in this Act, not less than $3,000,000 shall be available for the Civil Air Patrol.

Sec. 8067. Funds available to the Department of Defense may be used by the Department of Defense for the use of helicopters and motorized equipment at Defense instal-

lations for removal of feral burros and horses.

Sec. 8068. So far as may be practicable, Indian labor shall be employed, and purchases of the products of Indian industry may be made in open market in the discretion of the Secretary of Defense: Provided, That the products must meet pre-set contract specifications.

(TRANSFER OF FUNDS)

Sec. 8069. Not to exceed $100,000,000 may be transferred from the appropriation "Operation and Maintenance, Defense Agencies" to operation and maintenance appropriations under the military departments in connection with demonstration projects authorized by section 1092 of title 10, United States Code: Provided, That the Secretary of Defense shall promptly notify the Congress of any such transfer of funds under this provision: Provided further, That the authority to make transfers pursuant to this section is in addition to the authority to make transfers under other provisions of this Act.

Sec. 8070. None of the funds available for Defense installations in Europe shall be used for the consolidation or conversion of heating facilities to district heating distribution systems in Europe: Provided, That those facilities identified by the Department of the Army as of April 11, 1985, as being in advanced stages of negotiations shall be exempt from such provision: Provided further, That nothing in this section shall prohibit the conversion or consolidation of heating facilities to district heating distribution systems at Bad Kissingen, Hessen, in the Federal Republic of Germany.

Sec. 8071. None of the funds appropriated by this Act shall be available to compensate foreign selling costs as described in Federal Acquisition Regulation 31.205-38(b) as in effect on April 1, 1984.

Sec. 8072. Of the funds appropriated for the operation and maintenance of the Armed Forces, obligations may be incurred for humanitarian and civic assistance costs incidental to authorized operations, and these obligations shall be reported to Congress on September 30, 1986: Provided, That funds available for operation and maintenance shall be available for providing humanitarian and similar assistance in the Trust Territories of the Pacific Islands by using Civic Action Teams.

Sec. 8073. Notwithstanding any other provision of law, the Secretaries of the Army and Air Force may authorize the retention in an active status until age sixty of any officer who would otherwise be removed from an active status and who is employed as a National Guard or Reserve technician in a position in which active status in a reserve component of the Army or Air Force is required as a condition of that employment.

Sec. 8074. None of the funds available to the Department of Defense may be used to transport any chemical munitions into the Lexington-Blue Grass Army Depot for purposes of future demilitarization.

Sec. 8075. None of the funds appropriated by this Act may be obligated or expended for the purposes delineated in section 1002(e)(2) of the Department of Defense Authorization Act, 1985, without the prior notification to the Committees on Appropriations of the House of Representatives and the Senate.

Sec. 8076. It is the sense of the Congress that the Secretary of Defense should formulate and carry out a program under which contracts awarded by the Department of Defense in fiscal year 1986 would, to the maximum extent practicable and consistent with existing law, be awarded to contractors who agree to carry out such contracts in labor surplus areas (as defined and identified by the Department of Labor).

Sec. 8077. It is the sense of the Congress that competition, which is necessary to enhance innovation, effectiveness, and efficiency, and which has served our Nation so well in other spheres of political and economic endeavor, should be expanded and increased in the provision of our national defense.

Sec. 8078. Notwithstanding any other provision of law, each contract awarded by the Department of Defense in fiscal year 1986 for construction or services to be performed in whole or in part in a State which is not contiguous with another State and has an unemployment rate in excess of the national average rate of unemployment as determined by the Secretary of Labor shall include a provision requiring the contractor to employ, for the purpose of performing that portion of the contract in such State that is not contiguous with another State, individuals who are residents of such State and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills: Provided, That the Secretary of Defense may waive the requirements of this section in the interest of national security.

Sec. 8079. None of the funds appropriated by this Act shall be available to pay a dislocation allowance pursuant to section 407 of title 37, United States Code, in excess of one month's basic allowance for quarters.

Sec. 8080. None of the funds available to the Department of Defense shall be obligated or expended to contract out any activity currently performed by the Defense Personnel Support Center in Philadelphia, Pennsylvania: Provided, That this provision shall not apply after notification to the Committees on Appropriations of the House of Representatives and the Senate of the results of the cost analysis of contracting out any such activity.

Sec. 8081. None of the funds appropriated by this Act shall be used to make contributions to the Department of Defense Education Benefits Fund pursuant to section 2006(g) of title 10, United States Code, representing the normal cost for future benefits under section 1415(c) of title 38, United States Code, for any member of the armed services who, on or after the date of enactment of this Act, receives an enlistment bonus under section 308a or 308f of title 37, United States Code; nor shall any amounts representing the normal cost of such future benefits be transferred from the Fund by the Secretary of the Treasury to the Administrator of Veterans' Affairs pursuant to section 2006(d) of title 10, United States Code; nor shall the Administrator pay such benefits to any such member.

Sec. 8082. Notwithstanding any other provision of this Act, no funds appropriated by this Act shall be expended for the research, development, test, evaluation or procurement for integration of a nuclear warhead into the Joint Tactical Missile System (JTACMS).

Sec. 8083. Under regulations prescribed by the Secretary of Defense, the Department of the Air Force and the Defense Logistics Agency may test a flat rate per diem system for military and civilian travel allowances: Provided, That per diem allowances paid under a flat rate per diem system shall be in an amount determined by the Secretary of Defense to be sufficient to meet normal and necessary expenses in the area in which travel is performed, but in no event will the travel allowances exceed $75 for each day in travel status within the continental United States: Provided further, That the test approved under this section shall expire upon the effective date of permanent legislation establishing a flat rate per diem system for both military and civilian personnel.

Sec. 8084. Notwithstanding any other provision of law, during fiscal year 1986, the Department of Defense is to conduct a pilot test project of providing home health care to dependents entitled to health care under section 1076 of title 10, United States Code: Provided, That such care is medically necessary or appropriate, more cost effective than to continue paying for otherwise authorized CHAMPUS benefits in medical facilities, and the beneficiary is not covered for such care under any other public or private health insurance plan.

Sec. 8085. Not more than $2,744,293,000 of the funds appropriated by this Act may be obligated for permanent change of station travel (including all expenses of such travel for organizational movements): Provided, That assignments for temporary duty may not be increased in order to circumvent this limitation: Provided further, That this limitation may be exceeded only upon a determination and notification to the Congress by the Secretary of Defense that such action is necessary to meet national security requirements.

Sec. 8086. Funds appropriated in this Act shall be available for the payment of not more than 75 percent of the charges of a postsecondary educational institution for the tuition or expenses of an officer in the Ready Reserve of the Army National Guard or Army Reserve for education or training during his off-duty periods, except that no part of the charges may be paid unless the officer agrees to remain a member of the Ready Reserve for at least four years after completion of such training or education: Provided, That notwithstanding any other provision of law, those individuals who received assistance under the Army National Guard Assistance for Military Professional Development program and who forfeited money as a result of its cancellation on July 22, 1985, and who could not continue in this program, shall be reimbursed for the moneys they forfeited: Provided further, That no interest shall be paid on the amounts reimbursed.

Sec. 8087. None of the funds appropriated in this Act shall be used for professional surveying and mapping services performed by contract for the Defense Mapping Agency unless those contracts are procured in accordance with the selection procedures outlined pursuant to section 2855 of title 10, United States Code.

Sec. 8088. During the current fiscal year, effective January 1, 1985, the rate of the basic allowance for quarters authorized by section 403(a) of title 37, United States Code, which is payable to a member of the uniformed services who was entitled to that allowance on December 31, 1984, shall not be less than the rate of the basic allowance for quarters that was in effect for that member on December 31, 1984 (unless the member holds a lower grade than he held on that date or has had a change in dependent status from a "with dependents" status to a "without dependents" status).

Sec. 8089. None of the funds appropriated by this Act shall be available to convert to contractor performance an activity or function of the Department of Defense that, on or after the date of enactment of this Act, is performed by more than ten Department of

Defense civilian employees until a most efficient and cost-effective organization analysis is completed on such activity or function and certification of the analysis is made to the Committees on Appropriations of the House of Representatives and the Senate.

(TRANSFER OF FUNDS)

SEC. 8090. Upon a determination by the Secretary of Defense that such action will result in a more economical acquisition of automatic data processing equipment, funds provided in this Act under one appropriation account for the lease or purchase of such equipment may be transferred through the Automatic Data Processing Equipment Management Fund to another appropriation account in this Act for the lease or purchase of automatic data processing equipment to be merged with and to be available for the same purposes, and for the same time period, as the appropriation to which transferred: Provided, That within thirty days after the end of each quarter the Secretary of Defense shall report transfers made under this section to the Committees on Appropriations of the Senate and the House of Representatives: Provided further, That the authority to transfer funds under this section shall be in addition to any other transfer authority contained in this Act.

SEC. 8091. Appropriations available to the Department of Defense during the current fiscal year shall be available, under such regulations as the Secretary of Defense may deem appropriate, to exchange or furnish mapping, charting, and geodetic data, supplies or services to a foreign country pursuant to an agreement for the production or exchange of mapping, charting, and geodetic data.

SEC. 8092. The lands described in Bureau of Land Management casefile AA-57372 shall be conveyed to the Municipality of Anchorage pursuant to the public interest land provisions of the North Anchorage Land Agreement if such lands are declared excess to the needs of the Army in Alaska.

SEC. 8093. Section 1411 of the Department of Defense Authorization Act, 1986, (Public Law 99-145) is amended to read as follows:

"SEC. 1411. CONDITIONS ON SPENDING FUNDS FOR BINARY CHEMICAL MUNITIONS.

"(a) LIMITATION ON FISCAL YEAR 1986 FUNDS.—Funds appropriated pursuant to authorizations of appropriations in title I may not be used—

"(1) for procurement or assembly of binary chemical munitions (or components of such munitions); or

"(2) for establishment of production facilities necessary for procurement or assembly of binary chemical munitions (or components of such munitions), except in accordance with subsections (b), (c), (d), and (e).

"(b) NATO CONSULTATION.—Subject to subsections (c), (d), and (e), funds referred to in subsection (a) may be used for procurement or assembly of binary chemical munitions or for the establishment of production facilities necessary for the procurement or assembly of binary chemical munitions (or components of such munitions) if the President certifies to Congress that the United States—

"(1) has submitted to the North Atlantic Treaty Organization, a force goal stating the requirement for modernization of the United States proportional share of the NATO chemical deterrent with binary munitions and said force goal has been formally adopted by the North Atlantic Council;

"(2) has developed in coordination with the Supreme Allied Commander, Europe, a plan under which United States binary chemical munitions can be deployed under appropriate contingency plans to deter chemical weapons attacks against the United States and its allies; and

"(3) has consulted with other member nations of the North Atlantic Treaty Organization (NATO) on that plan.

"(c) CONDITIONS FOR FINAL ASSEMBLY.—Funds referred to in subsection (a) may not be used for the final assembly of complete binary chemical munitions before October 1, 1987, and, subject to subsections (d) and (e), may only be used for such purpose on or after that date if—

"(1) a mutually verifiable international agreement concerning binary and other similar chemical munitions has not been entered into by the United States by that date;

"(2) the President, after that date, transmits to Congress a certification that—

"(A) final assembly of such complete munitions is necessitated by national security interests of the United States and the interests of other NATO member nations;

"(B) handling and storage safety specifications established by the Department of Defense with respect to such munitions will be met or exceeded;

"(C) applicable Federal safety requirements will be met or exceeded in the handling, storage, and other use of such munitions; and

"(D) the plan of the Secretary of Defense for destruction of existing United States chemical warfare stocks developed pursuant to section 1412 (which shall, if not sooner transmitted to Congress, accompany such certification) is ready to be implemented;

"(3) final assembly is carried out only after the end of the 60-day period beginning on the date such certification is received by the Congress;

"(4) the plan of the Secretary of Defense for land-based storage of such munitions within the United States during peacetime provides that the two components that constitute a binary chemical munition are to be stored in separate States; and

"(5) the plan of the Secretary of Defense for the transportation of such munitions within the United States during peacetime provides that the two components that constitute a binary munition are transported separately.

"(d) RESTRICTIONS ON PRODUCTION OF THE BIGEYE BOMB.—Except as provided below, none of the funds appropriated pursuant to authorizations of appropriations in title I may be used for procurement or assembly of the BIGEYE binary chemical bomb or for procurement of components for the BIGEYE bomb until 60 days after the Secretary of Defense has submitted a report describing—

"(1) the specific operational requirements which must be achieved by the BIGEYE system; and

"(2) the actual performance of the system during operational testing with respect to each of the operational test criteria; and

"(3) any exceptions to the operational criteria deemed acceptable by the Department of Defense.

"Subject to subsection (b) nothing in this subsection will prohibit the procurement of BIGEYE production facilities and associated equipment.

"(e) RESTRICTION ON PRODUCTION OF THE GB-2 ARTILLERY PROJECTILE.—None of the funds appropriated pursuant to authorizations in title I for procurement or assembly of the GB-2 artillery projectile may be obligated or expended before October 1, 1986.

"(f) SENSE OF CONGRESS.—It is the sense of Congress that existing unitary chemical munitions currently stored in the United States and in European member nations of NATO should be replaced by modern, safer binary chemical munitions.

"(g) REPORT.—Not later than October 1, 1986, the President shall submit to Congress a report describing the results of consultations among NATO member nations concerning the organization's chemical deterrent posture. The report shall include descriptions of any consultations concerning—

"(1) efforts to provide key civilian workers at military support facilities in Europe—

"(A) with personal and collective equipment to protect against the use of chemical munitions; and

"(B) with the training required for the use of such equipment;

"(2) efforts to upgrade the chemical reconnaissance, decontamination, and protective capabilities of the military forces of each NATO member nation to a level adequate to meet the chemical threat identified in NATO intelligence estimates;

"(3) efforts to initiate a NATO-wide study of measures required to protect ports, airfields, logistics centers, and command and control facilities in European member nations of NATO against chemical attack; and

"(4) efforts to initiate a NATO-wide study of equitable and efficient sharing among NATO member nations of responsibilities with regard to deterring the use of chemical munitions in Europe.".

SEC. 8094. None of the funds appropriated in this Act may be obligated or expended for procurement of C-12 aircraft unless such aircraft are procured through competitive procedures (as defined in section 2302(2) of title 10, United States Code), which shall be restricted to turboprop aircraft.

SEC. 8095. None of the funds in this Act may be obligated for procurement of 120mm mortars or 120mm mortar ammunition manufactured outside of the United States: Provided, That this limitation shall not apply to procurement of such mortars or ammunition required for testing, evaluation, type classification or equipping the Army's Ninth Infantry Division (Motorized).

SEC. 8096. Appropriations made available to the Department of Defense by this Act may be used at sites formerly used by the Department of Defense for removal of unsafe buildings or debris of the Department of Defense: Provided, That such removal must be completed before the property is released from Federal Government control, other than property conveyed to State or local government entities or native corporations.

SEC. 8097. None of the funds appropriated by this Act or any other Act may be obligated or expended to carry out a test of the Space Defense System (anti-satellite weapon) against an object in space until the President certifies to Congress that the Soviet Union has conducted, after October 3, 1985, a test against an object in space of a dedicated anti-satellite weapon.

SEC. 8098. Of the funds made available by this Act to the Department of the Army, $7,200,000 shall be transferred to the Bureau of Land Management for the relocation of the district office at Fort Wainwright, Alaska.

SEC. 8099. None of the funds appropriated by this Act shall be used for the support of any nonappropriated fund activity of the Department of Defense that procures alcoholic beverages with nonappropriated funds for resale (including alcoholic beverages sold by the drink) on a military installation located in the United States, unless such al-

coholic beverages are procured in the State, or in the case of the District of Columbia, within the District of Columbia, in which the installation is located: Provided, That in a case in which a military installation is located in more than one State, purchases may be made in any State in which the installation is located: Provided further, That not later than one year after the date of enactment of this Act, the Secretary shall transmit a report to the Congress concerning the implementation of this section.

(TRANSFER OF FUNDS)

SEC. 8100. The Secretary of Defense may transfer, not to exceed $468,000,000 from the Foreign Currency Fluctuation, Defense account to appropriations provided in title II of this Act: Provided, That the Secretary of Defense shall report to the Committees on Appropriations of the House of Representatives and Senate of transfers made under this authority: Provided further, That funds so transferred shall be made available for the same time period and purpose as the appropriation to which transferred: Provided further, That this transfer authority is in addition to any other transfer authority provided elsewhere in this Act.

SEC. 8101. Within the funds made available under title II of this Act, the military departments may use such funds as necessary, but not to exceed $4,700,000, to carry out the provisions of section 430 of title 37, United States Code.

SEC. 8102. The amendments made to section 7572(b)(3) of title 10, United States Code, and to section 3 of Public Law 96-357 (10 U.S.C. 7572 note) by section 606 of the Department of Defense Authorization Act, 1986, shall apply to reimbursement of expenses incurred on or after October 1, 1985, by a member of a uniformed service on sea duty.

SEC. 8103. (a) In addition to other funds made available by this Act, $6,306,906,000 shall be available for obligation and expenditure from prior year unobligated balances from the following accounts in the amounts specified:

	Prior Year Transfer
Aircraft Procurement, Army—1985/87	$117,900,000
Missile Procurement, Army—1984/86	10,100,000
Missile Procurement, Army—1985/87	56,400,000
Procurement of Weapons and Tracked Combat Vehicles, Army—1984/86	336,500,000
Procurement of Weapons and Tracked Combat Vehicles, Army—1985/87	253,800,000
Procurement of Ammunition, Army—1984/86	30,400,000
Procurement of Ammunition, Army—1985/87	147,700,000
Other Procurement, Army—1984/86	81,000,000
Other Procurement, Army—1985/87	176,500,000
Aircraft Procurement, Navy—1984/86	60,800,000
Aircraft Procurement, Navy—1985/87	490,500,000
Weapons Procurement, Navy—1985/87	15,000,000
Shipbuilding and Conversion, Navy—1982/86	391,600,000
Shipbuilding and Conversion, Navy—1983/87	691,300,000
Shipbuilding and Conversion, Navy—1984/88	398,600,000
Shipbuilding and Conversion, Navy—1985/89	517,800,000
Other Procurement, Navy—1984/86	75,790,000
Other Procurement, Navy—1985/87	200,693,000
Procurement, Marine Corps—1985/87	47,717,000
Aircraft Procurement, Air Force—1984/86	246,400,000
Aircraft Procurement, Air Force—1985/87	864,000,000
Missile Procurement, Air Force—1984/86	29,400,000
Missile Procurement, Air Force—1985/87	53,400,000
Other Procurement, Air Force—1984/86	94,127,000
Other Procurement, Air Force—1985/87	253,349,000
Procurement, Defense Agencies—1984/86	15,000,000
Procurement, Defense Agencies—1985/87	21,000,000
Research, Development, Test and Evaluation, Army—1985/86	96,130,000
Research, Development, Test and Evaluation, Navy—1985/86	188,000,000
Research, Development, Test and Evaluation, Air Force—1985/86	264,000,000
Research, Development, Test and Evaluation, Defense Agencies—1985/86	82,000,000
TOTAL	$6,306,906,000

(b) The foregoing unobligated balances in subsection (a) shall remain available for obligation only for the time period provided when originally appropriated, and may be transferred by the Secretary of Defense to appropriations in titles I, II, III, IV, VI and VII as may be required for military personnel and other purposes, including those requirements that may be established by subsequent acts of Congress: Provided, That no funds may be transferred or obligated until 15 days after the Secretary of Defense notifies the Committees on Appropriations of the House and Senate of such transfers and obligations: Provided further, That $852,100,000 shall be available only for the Mariner Fund and may not be obligated or expended for any purpose until enactment of legislation establishing a Mariner Fund program for construction and lease of militarily useful vessels and until 60 days after notification to the Committees on Appropriations of the House and Senate of the intent to obligate from such Fund: Provided further, That notwithstanding any other provision of this section, after May 1, 1986, obligations from the Military Personnel accounts contained in this Act shall not exceed a rate in excess of the rate required to limit total obligations to the obligation ceilings established by law for such accounts for fiscal year 1986: Provided further, That the transfer authority contained in this section shall be in addition to any other transfer authority contained in this Act.

SEC. 8104. None of the funds available to the Department of the Navy may be used to enter into any contract for the overhaul, repair, or maintenance of any naval vessel on the West Coast of the United States which includes charges for interport differential as an evaluation factor for award.

SEC. 8105. Notwithstanding any other provision of law, none of the funds appropriated by this Act shall be used for the installation, maintenance, and operation of a 22¾ x 36-inch perfecting web offset press with in-line folder procured by or for the Department of the Air Force under solicitation number F01600-85-B0021.

SEC. 8106. None of the funds made available by this Act may be used to alter the command structure for military forces in Alaska.

SEC. 8107. None of the funds appropriated in this Act may be obligated or expended to carry out a program to paint any naval vessel with paint known as organotin or with any other paint containing the chemical compound tributyltin until such time as the Environmental Protection Agency certifies to the Department of Defense that whatever toxicity as generated by organotin paints as included in Navy specifications does not pose an unacceptable hazard to the marine environment.

SEC. 8108. No funds appropriated under this Act for the Strategic Defense Initiative Program shall be earmarked by any agency of the United States Government or any contractor exclusively for contracts with non-United States contractors, subcontractors, or vendors, or exclusively for consortia containing non-United States contractors, subcontractors, or vendors, prior to source selection in order to meet a specific quota or allocation of funds to any allied nation. Furthermore, it is the sense of the Congress that, whenever possible, the Secretary of Defense and others should attempt to award Strategic Defense Initiative contracts to United States contractors, subcontractors, and vendors unless such awards would degrade the likely results obtained from such contracts: Provided, That allied nations should be encouraged to participate in the Strategic Defense Initiative research effort on a competitive basis and be awarded contracts on the basis of technical merit.

SEC. 8109. None of the funds appropriated pursuant to this Act to or for the use of the Department of Defense may be obligated or expended for any purpose unless such funds have been authorized to be appropriated for such purpose by law: Provided, That the preceding sentence does not apply to funds appropriated in this Act for Coastal Defense Augmentation; $235,000,000.

SEC. 8110. Of the funds available in the Army Industrial Fund, $25,000,000 shall be available to be used to implement immediately, or to transfer to another appropriation account in this Act to be used to implement immediately, the program proposed by the Department in its letter of August 30, 1985, from the Assistant Secretary of Defense for Acquisition and Logistics, to rehabilitate and convert current steam generating plants at defense facilities in the United States to coal burning facilities in order to achieve a coal consumption target of 1,600,000 short tons of coal per year above current consumption levels at Department of Defense facilities in the United States by fiscal year 1994: Provided, That anthracite or bituminous coal shall be the source of energy at such installations: Provided further, That during the implementation of this proposal, the amount of anthracite coal purchased by the Department shall remain at least at the current annual purchase level, 302,000 short tons.

SEC. 8111. The Secretary of Defense and the Administrator of the National Aeronautics and Space Administration will jointly determine which payloads will be launched on Titan II launch vehicles and certify by notice to the Congress that such launches are cost-effective as compared to launches by the space shuttle and do not diminish the efficient and effective utilization of the space shuttle capability: Provided, That this section may be waived only upon certification by the Secretary of Defense that certain classified payloads must be launched on the Titan II launch vehicle as opposed to the space shuttle, for national security reasons.

This Act may be cited as the "Department of Defense Appropriations Act, 1986".; and the Senate agree to the same.

Amendment numbered 6:

That the House recede from its disagreement to the amendment of the Senate numbered 6, and agree to the same with an amendment, as follows:

In lieu of the subsection named in said amendment insert: (c); and the Senate agree to the same.

Amendment numbered 7:

That the House recede from its disagreement to the amendment of the Senate numbered 7, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

"(d) Such amounts as may be necessary for programs, projects or activities provided for in the Department of the Interior and Related Agencies Appropriations Act, 1986, at a rate of operations and to the extent and in the manner provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:".

An Act making appropriations for the Department of the Interior and Related Agencies for the fiscal year ending September 30, 1986, and for other purposes.

TITLE I—DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

For expenses necessary for protection, use, improvement, development, disposal, cadastral surveying, classification, and performance of other functions, including maintenance of facilities, as authorized by law, in the management of lands and their resources under the jurisdiction of the Bureau of Land Management, including the general administration of the Bureau of Land Management, $398,566,000.

CONSTRUCTION AND ACCESS

For acquisition of lands and interests therein, and construction of buildings, recreation facilities, roads, trails, and appurtenant facilities, $1,403,000, to remain available until expended.

PAYMENTS IN LIEU OF TAXES

For expenses necessary to implement the Act of October 20, 1976 (31 U.S.C. 6901–07), $105,000,000, of which not to exceed $400,000 shall be available for administrative expenses.

LAND ACQUISITION

For expenses necessary to carry out the provisions of sections 205, 206, and 318(d) of Public Law 94–579 including administrative expenses and acquisition of lands or waters, or interest therein, $2,300,000, to be derived from the Land and Water Conservation Fund, to remain available until expended.

OREGON AND CALIFORNIA GRANT LANDS

For expenses necessary for management, protection, and development of resources and for construction, operation, and maintenance of access roads, reforestation, and other improvements on the revested Oregon and California Railroad grant lands, on other Federal lands in the Oregon and California land-grant counties of Oregon, and on adjacent rights-of-way; and acquisition of lands or interests therein including existing connecting roads on or adjacent to such grant lands; $56,114,000, to remain available until expended: Provided, That the amount appropriated herein for road construction shall be transferred to the Federal Highway Administration, Department of Transportation: Provided further, That 25 per centum of the aggregate of all receipts during the current fiscal year from the revested Oregon and California Railroad grant lands is hereby made a charge against the Oregon and California land grant fund and shall be transferred to the General Fund in the Treasury in accordance with the provisions of the second paragraph of subsection (b) of title II of the Act of August 28, 1937 (50 Stat. 876).

RANGE IMPROVEMENTS

For rehabilitation, protection, and acquisition of lands and interests therein, and improvement of Federal rangelands pursuant to section 401 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701), notwithstanding any other Act, sums equal to 50 per centum of all moneys received during the prior fiscal year under sections 3 and 15 of the Taylor Grazing Act (43 U.S.C. 315, et seq.), but not less than $10,000,000 (43 U.S.C. 1901), and the amount designated for range improvements from grazing fees and mineral leasing receipts from Bankhead-Jones lands transferred to the Department of the Interior pursuant to law, to remain available until expended: Provided, That not to exceed $600,000 shall be available for administrative expenses: Provided further, That the dollar equivalent of value, in excess of the grazing fee established under law and paid to the United States Government, received by any permittee or lessee as compensation for an assignment of a grazing permit or lease, or any grazing privileges or rights thereunder, and in excess of the installation and maintenance cost of grazing improvements provided for by the permittee in the allotment management plan or amendments or otherwise approved by the Bureau of Land Management, shall be paid to the Bureau of Land Management and disposed of as provided for by section 401(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701): Provided further, That if the dollar value prescribed above is not paid to the Bureau of Land Management, the grazing permit or lease shall be canceled.

SERVICE CHARGES, DEPOSITS, AND FORFEITURES

For administrative expenses and other costs related to processing application documents and other authorizations for use and disposal of public lands and resources, for monitoring construction, operation, and termination of facilities in conjunction with use authorizations, and for rehabilitation of damaged property, such amounts as may be collected under sections 209(b), 304(a), 304(b), 305(a), and 504(g) of the Act approved October 21, 1976 (43 U.S.C. 1701), and sections 101 and 203 of Public Law 93–153, to be immediately available until expended.

MISCELLANEOUS TRUST FUNDS

In addition to amounts authorized to be expended under existing law, there is hereby appropriated such amounts as may be contributed under section 307 of the Act of October 21, 1976 (43 U.S.C. 1701), and such amounts as may be advanced for administrative costs, surveys, appraisals, and costs of making conveyances of omitted lands under section 211(b) of that Act, to remain available until expended.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Land Management shall be available for purchase, erection, and dismantlement of temporary structures and alteration and maintenance of necessary buildings and appurtenant facilities to which the United States has title; up to $10,000 for payments, at the discretion of the Secretary, for information or evidence concerning violations of laws administered by the United States Bureau of Land Management; miscellaneous and emergency expenses of enforcement activities authorized or approved by the Secretary and to be accounted for solely on his certificate, not to exceed $10,000: Provided, That appropriations herein made for the Bureau of Land Management expenditures in connection with the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands (other than expenditures made under the appropriation "Oregon and California grant lands") shall be reimbursed to the General Fund of the Treasury from the 25 per centum referred to in subsection (c), title II, of the Act approved August 28, 1937 (50 Stat. 876), of the special fund designated the "Oregon and California land grant fund" and section 4 of the Act approved May 24, 1939 (53 Stat. 754), of the special fund designated the "Coos Bay Wagon Road grant fund": Provided further, That appropriations herein made may be expended for surveys of Federal lands of the United States and on a reimbursable basis for surveys of Federal lands of the United States and for protection of lands for the State of Alaska: Provided further, That an appeal of any reductions in grazing allotments on public rangelands must be taken within thirty days after receipt of a final grazing allotment decision. Reductions of up to 10 per centum in grazing allotments shall become effective when so designated by the Secretary of the Interior. Upon appeal any proposed reduction in excess of 10 per centum shall be suspended pending final action on the appeal, which shall be completed within two years after the appeal is filed: Provided further, That appropriations herein made shall be available for paying costs incidental to the utilization of services contributed by individuals who serve without compensation as volunteers in aid of work of the Bureau.

Notwithstanding any other provision of this Act, in the event the sale, award, or operation of any timber sale or sales in the Medford (Oregon) District of the Bureau of Land Management is enjoined, stayed or otherwise delayed by reason of administrative appeal or judicial review, the Secretary of the Interior shall resell timber returned under provisions of the Federal Timber Contract Payment Modification Act to the extent necessary to achieve sale of the full annual allowable cut for fiscal years 1985 and 1986 in the Medford District. The Secretary shall determine the potential environmental degradation of timber sales returned pursuant to the Federal Timber Contract Payment Modification Act and shall characterize each sale's potential environmental impact as minimal, moderate, or serious. The Secretary must give resale priority to those sales with the least risk of potential environmental degradation. Sales that are reoffered may be modified, including minor additions. Any decision of the Secretary to resell such timber shall not be subject to judicial review.

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

For expenses necessary for scientific and economic studies, conservation, management, investigations, protection, and utilization of sport fishery and wildlife resources, except whales, seals, and sea lions, and for the performance of other authorized functions related to such resources; for the general administration of the United States Fish and Wildlife Service; and for maintenance of the herd of long-horned cattle on the Wichita Mountains Wildlife Refuge; and not less than $3,300,000 for high priority projects within the scope of the approved budget which shall be carried out by Youth Conservation Corps as if authorized by the Act of August 13, 1970, as amended by Public Law 93–408, $301,222,000, of which $4,420,000 to carry out the purposes of 16 U.S.C. 1535, shall remain available until expended; and of which $5,665,000 shall be for operation and maintenance of fishery mitigation facilities constructed by the Corps of Engineers under the Lower Snake River Compensation Plan, authorized by the Water Resources Development Act of 1976 (90 Stat. 2921), to compensate for loss of fishery resources from water development projects on the Lower Snake River, which will remain available until expended.

CONSTRUCTION AND ANADROMOUS FISH

For construction and acquisition of buildings and other facilities required in the conservation, management, investigations, protection, and utilization of sport fishery and wildlife resources, and the acquisition of lands and interests therein; $21,296,000, to remain available until expended, of which $2,000,000 shall be available for expenses to carry out the Anadromous Fish Conservation Act (16 U.S.C. 757a–757g).

MIGRATORY BIRD CONSERVATION ACCOUNT

For an advance to the migratory bird conservation account, as authorized by the Act of October 4, 1971, as amended (16 U.S.C. 715k-3, 5), $15,000,000, to remain available until expended.

LAND ACQUISITION

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l-4-11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the United States Fish and Wildlife Service, $40,670,000, to be derived from the Land and Water Conservation Fund, to remain available until expended.

NATIONAL WILDLIFE REFUGE FUND

For expenses necessary to implement the Act of October 17, 1978 (16 U.S.C. 715s), $5,645,000.

ADMINISTRATIVE PROVISIONS

Appropriations and funds available to the United States Fish and Wildlife Service shall be available for purchase of not to exceed 191 passenger motor vehicles of which 178 are for replacement only (including 67 for police-type use); purchase of 4 new aircraft for replacement only; acceptance of one donated aircraft as an addition; not to exceed $300,000 for payment, at the discretion of the Secretary, for information, rewards, or evidence concerning violations of laws administered by the United States Fish and Wildlife Service, and miscellaneous and emergency expenses of enforcement activities, authorized or approved by the Secretary and to be accounted for solely on his certificate; repair of damage to public roads within and adjacent to reservation areas caused by operations of the United States Fish and Wildlife Service; options for the purchase of land at not to exceed $1 for each option; facilities incident to such public recreational uses on conservation areas as are consistent with their primary purpose; and the maintenance and improvement of aquaria, buildings, and other facilities under the jurisdiction of the United States Fish and Wildlife Service and to which the United States has title, and which are utilized pursuant to law in connection with management and investigation of fish and wildlife resources.

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

For expenses necessary for the management, operation, and maintenance of areas and facilities administered by the National Park Service (including special road maintenance service to trucking permittees on a reimbursable basis), and for the general administration of the National Park Service, including not to exceed $410,000 for the Roosevelt Campobello International Park Commission, $490,000 for the Volunteers-in-the-Park program, not less than $3,300,000 for high priority projects within the scope of the approved budget which shall be carried out by Youth Conservation Corps as if authorized by the Act of August 13, 1970, as amended by Public Law 93-408, and $175,000 for the National Capital Children's Museum and $175,000 for the Arena Stage as if authorized by the Historic Sites Act of 1935 (16 U.S.C. 462(e)), $627,763,000 without regard to the Act of August 24, 1912, as amended (16 U.S.C. 451): Provided, That the Park Service shall not enter into future concessionaire contracts, including renewals, that do not include a termination for cause clause that provides for possible extinguishment of possessory interests excluding depreciated book value of concessionaire investments without compensation: Provided further, That hereafter appropriations for maintenance and improvement of roads within the boundary of Indiana Dunes National Lakeshore shall be available for such purposes without regard to whether title to such road rights-of-way is in the United States: Provided further, That $85,000 shall be available to assist the town of Harpers Ferry, West Virginia, for police force use: Provided further, That the educational center to be located at the Boott Mill Complex, Building No. 6, in the Lowell National Historical Park, Massachusetts, is hereby designated and shall be known as the "Paul E. Tsongas Industrial History Center": Provided further, That $150,000 shall be available solely for the restoration and renovation of the Lonoke Depot in Lonoke, Arkansas.

NATIONAL RECREATION AND PRESERVATION

For expenses necessary to carry out recreation programs, natural programs, cultural programs, environmental compliance and review, and grant administration, not otherwise provided for, $11,096,000.

HISTORIC PRESERVATION FUND

For expenses necessary in carrying out the provisions of the Historic Preservation Act of 1966 (80 Stat. 915), as amended (16 U.S.C. 470), $24,945,000 to be derived from the Historic Preservation Fund, established by section 108 of that Act, as amended, to remain available for obligation until September 30, 1987.

CONSTRUCTION

For construction, improvements, repair or replacement of physical facilities, without regard to the Act of August 24, 1912, as amended (16 U.S.C. 451), $114,121,000, to remain available until expended, of which $8,500,000 shall be derived by transfer from the National Park System Visitor Facilities Fund, including $3,168,000 to carry out the provisions of sections 303 and 304 of Public Law 95-290; including, subject to authorization, $8,100,000 be expended for engineering and construction of the Burr Trail National Rural Scenic Road in and adjacent to the Capitol Reef National Park and the Glen Canyon National Recreation Area and an interpretive center near the town of Boulder, Utah, such funds to be transferred to the State of Utah for accomplishment of these activities in accordance with the provisions of a cooperative agreement to be developed among the National Park Service, the Bureau of Land Management, Garfield County, and the State of Utah: Provided, That appropriations for maintenance and improvement of roads within Capitol Reef National Park and Glen Canyon National Recreation Area and construction and maintenance of an interpretive center shall hereafter be available for such purposes without regard to whether title to such road rights-of-way or lands for the interpretive center is in the United States: Provided further, That in the event the National Park Service fails to maintain the road as provided under the terms of said cooperative agreement, any rights-of-way which may be transferred to the National Park Service will revert to Garfield County: Provided further, That in the event of reversion of the road to Garfield County, the County shall provide payment to the United States of an amount based upon the depreciated value of the capital investment resulting from Federal funds expended on the road for construction purposes; and including $2,000,000 to assist local communities to protect Mammoth Cave National Park from groundwater pollution: Provided further, That the National Park Service share of the Mammoth Cave protection project shall not exceed 25 per centum: Provided further, That for payment of obligations incurred for continued construction of the Cumberland Gap Tunnel, as authorized by section 160 of Public Law 93-87, $10,300,000, to be derived from the Highway Trust Fund and to remain available until expended to liquidate contract authority provided under section 104(a)(8) of Public Law 95-599, as amended, such contract authority to remain available until expended: Provided further, That funds made available pursuant to this Act for the Cumberland Gap Tunnel shall only be available when the States of Kentucky and Tennessee have entered into an agreement with the National Park Service to operate and maintain all portions of U.S. Route 25E, including the Tunnel, within the boundaries of the Cumberland Gap National Historic Park.

LAND ACQUISITION AND STATE ASSISTANCE

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l-4-11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the National Park Service, $98,400,000, to be derived from the Land and Water Conservation Fund, to remain available until expended, of which $50,000,000 is for the State Assistance program including $1,650,000 to administer the program: Provided, That State administrative expenses associated with the State grant portion of the State Assistance program shall not exceed 15 percent: Provided further, That none of the State Assistance funds may be used as a contingency fund: Provided further, That of the amounts previously appropriated to the Secretary's contingency fund for grants to States, $852,000 shall be available in 1986 for administrative expenses of the State grant program.

JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

For expenses necessary for operating and maintaining the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts, $4,800,000.

ILLINOIS AND MICHIGAN CANAL NATIONAL HERITAGE CORRIDOR COMMISSION

For the operation of the Illinois and Michigan Canal National Heritage Corridor Commission, $250,000.

JEFFERSON NATIONAL EXPANSION MEMORIAL COMMISSION

For the operation of the Jefferson National Expansion Memorial Commission, $75,000.

ADMINISTRATIVE PROVISIONS

Appropriations for the National Park Service shall be available for the purchase of not to exceed 1 aircraft and 286 passenger motor vehicles, of which 242 shall be for replacement only, including not to exceed 174 for police-type use and 6 buses; to provide, notwithstanding any other provision of law, at a cost not exceeding $100,000, transportation for children in nearby communities to and from any unit of the National Park System used in connection with organized recreation and interpretive programs of the National Park Service; options for the purchase of land at not to exceed $1 for each option; and for the procurement and delivery of medical services within the jurisdiction of units of the National Park System: Provided, That any funds available to the

National Park Service may be used, with the approval of the Secretary, to maintain law and order in emergency and other unforeseen law enforcement situations and conduct emergency search and rescue operations in the National Park System: Provided further, That none of the funds appropriated to the National Park Service may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: Provided further, That none of the funds appropriated to the National Park Service may be used to add industrial facilities to the list of National Historic Landmarks without the consent of the owner: Provided further, That the National Park Service may use helicopters and motorized equipment at Death Valley National Monument for removal of feral burros and horses: Provided further, That the loan ceiling established under section 4(b) of Public Law 97-310, the Wolf Trap Farm Park Act, as amended, is increased to $9,500,000. Notwithstanding the loan repayment provisions of Public Law 97-310, the dollar amount of items paid for by the Wolf Trap Foundation from funds provided by the additional loan authority in this section that is subsequently reimbursed to the Foundation by a court award or insurance settlement shall be repaid to the Secretary of the Interior by the Wolf Trap Foundation within 90 days of the date of the court award or insurance settlement.

GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

For expenses necessary for the Geological Survey to perform surveys, investigations, and research covering topography, geology, and the mineral and water resources of the United States, its Territories and possessions, and other areas as authorized by law (43 U.S.C. 31, 1332 and 1340); classify lands as to their mineral and water resources; give engineering supervision to power permittees and Federal Energy Regulatory Commission licensees; administer the minerals exploration program (30 U.S.C. 641); and publish and disseminate data relative to the foregoing activities; $431,961,000: Provided, That $52,324,000 shall be available only for cooperation with States or municipalities for water resources investigations: Provided further, That no part of this appropriation shall be used to pay more than one-half the cost of any topographic mapping or water resources investigations carried on in cooperation with any State or municipality: Provided further, That in fiscal year 1986 and thereafter, all amortization fees resulting from the Geological Survey providing telecommunications services shall be deposited in a special fund to be established on the books of the Treasury and be immediately available for payment of replacement or expansion of telecommunications services, to remain available until expended: Provided further, That the Geological Survey is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private.

ADMINISTRATIVE PROVISIONS

The amount appropriated for the Geological Survey shall be available for purchase of not to exceed 16 passenger motor vehicles, for replacement only; reimbursement to the General Services Administration for security guard services; contracting for the furnishing of topographic maps and for the making of geophysical or other specialized surveys when it is administratively determined that such procedures are in the public interest; construction and maintenance of necessary buildings and appurtenant facilities; acquisition of lands for observation wells; expenses of the United States National Committee on Geology; and payment of compensation and expenses of persons on the rolls of the Geological Survey appointed, as authorized by law, to represent the United States in the negotiation and administration of interstate compacts: Provided, That appropriations herein made shall be available for paying costs incidental to the utilization of services contributed by individuals who serve without compensation as volunteers in aid of work of the Geological Survey, and that within appropriations herein provided, Geological Survey officials may authorize either direct procurement of or reimbursement for expenses incidental to the effective use of volunteers such as, but not limited to, training, transportation, lodging, subsistence, equipment, and supplies: Provided further, That provision for such expenses or services is in accord with volunteer or cooperative agreements made with such individuals, private organizations, educational institutions, or State or local governments.

MINERALS MANAGEMENT SERVICE

LEASING AND ROYALTY MANAGEMENT

For expenses necessary for minerals leasing and environmental studies, regulation of industry operations, and collection of royalties, as authorized by law; for enforcing laws and regulations applicable to oil, gas, and other minerals leases, permits, licenses and operating contracts; and for matching grants or cooperative agreements; including the purchase of not to exceed 8 passenger motor vehicles for replacement only; $168,018,000, of which not less than $45,260,000 shall be available for royalty management activities including general administration: Provided, That notwithstanding any other provision of law, when in fiscal year 1986 and thereafter any permittee provides data and information to the Secretary pursuant to section 1352(a)(1)(C)(iii) of title 43, United States Code, the Secretary shall pay only the reasonable cost of reproducing such data and information: Provided further, That notwithstanding any other provision of law, funds appropriated under this Act shall be available for the payment of interest in accordance with 30 U.S.C. 1721(b) and (d).

BUREAU OF MINES

MINES AND MINERALS

For expenses necessary for conducting inquiries, technological investigations and research concerning the extraction, processing, use and disposal of mineral substances without objectionable social and environmental costs; to foster and encourage private enterprise in the development of mineral resources and the prevention of waste in the mining, minerals, metal and mineral reclamation industries; to inquire into the economic conditions affecting those industries; to promote health and safety in mines and the mineral industry through research; and for other related purposes as authorized by law, $134,255,000, of which $79,537,000 shall remain available until expended.

ADMINISTRATIVE PROVISIONS

The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private: Provided, That the Bureau of Mines is authorized, during the current fiscal year, to sell directly or through any Government agency, including corporations, any metal or mineral product that may be manufactured in pilot plants operated by the Bureau of Mines, and the proceeds of such sales shall be covered into the Treasury as miscellaneous receipts.

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

REGULATION AND TECHNOLOGY

For necessary expenses to carry out the provisions of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, $85,153,000, including the purchase of not to exceed 14 passenger motor vehicles, of which 9 shall be for replacement only; and uniform allowances of not to exceed $400 for each uniformed employee of the Office of Surface Mining Reclamation and Enforcement; and notwithstanding 31 U.S.C. 3302, an amount equal to receipts to the General Fund of the Treasury from performance bond forfeitures, estimated at $500,000 in fiscal year 1986, to remain available until expended: Provided, That no funds shall be used to finalize or implement any proposed rule, or take any other action which would result in the adoption by the Office of Surface Mining Reclamation and Enforcement of a rule or regulation pursuant to section 507(a) of Public Law 95-87 which would require applicants to reimburse the Department of the Interior for costs incurred in the collection of application fees for permits to conduct surface coal mining and reclamation operations; for permits to conduct coal exploration; for processing mining plans; or for the review of surface coal mining and reclamation permits.

ABANDONED MINE RECLAMATION FUND

For necessary expenses to carry out the provisions of title IV of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, including the purchase of not more than 21 passenger motor vehicles, of which 15 shall be for replacement only, to remain available until expended, $207,385,000, to be derived from receipts of the Abandoned Mine Reclamation Fund: Provided, That pursuant to Public Law 97-365, the Department of the Interior is authorized to utilize up to 20 per centum from the recovery of the delinquent debt owed to the United States Government to pay for contracts to collect these debts: Provided further, That of the funds made available to the States to contract for reclamation projects authorized in section 406(a) of Public Law 95-87, administrative expenses may not exceed 15 per centum: Provided further, That none of these funds shall be used for a reclamation grant to any State if the State has not agreed to participate in a nationwide data system established by the Office of Surface Mining Reclamation and Enforcement through which all permit applications are reviewed and approvals withheld if the applicants (or those who control the applicants) applying for or receiving such permits have outstanding State or Federal air or water quality violations in accordance with section 510(c) of the Act of August 3, 1977 (30 U.S.C. 1260(c)), including failure to abate cessation orders, outstanding civil penalties associated with such failure to abate cessation orders or uncontested past due Abandoned Mine Land fees: Provided further, That the Secretary of the Interior may deny fifty percent of an Abandoned Mine Reclamation fund grant, available to a State pursuant to title IV of Public Law 95-87, when pursuant to the procedures set forth in section 521 of the Act, the Secretary determines that a State is systematically *failing to adequately administer the enforcement provisions of the approved State regulatory program. Funds will be denied until such time as the State and the Office of Surface Mining Reclamation and Enforcement have agreed upon an explicit plan of action for correcting the enforcement deficiency. A State may enter into such agreement without admission of culpability. If a State enters into such agreement, the Secretary shall take no action pursuant to section 521(b) of the Act as long as the State is complying with the terms of the agreement: Provided further, That expenditure of moneys as authorized in section 402(g)(3) shall be on a priority basis with the first priority being protection of public health, safety, general welfare, and property from extreme danger of adverse effects of coal mining practices, as stated in section 403 of Public Law 95-87.*

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

For operation of Indian programs by direct expenditure, contracts, cooperative agreements and grants including expenses necessary to provide education and welfare services for Indians, either directly or in cooperation with States and other organizations, including payment of care, tuition, assistance, and other expenses of Indians in boarding homes, institutions, or schools; grants and other assistance to needy Indians; maintenance of law and order; management, development, improvement, and protection of resources and appurtenant facilities under the jurisdiction of the Bureau of Indian Affairs, including payment of irrigation assessments and charges; acquisition of water rights; advances for Indian industrial and business enterprises; operation of Indian arts and crafts shops and museums; development of Indian arts and crafts, as authorized by law; for the general administration of the Bureau of Indian Affairs, including such expenses in field offices, $897,312,000, of which not to exceed $54,556,000 for higher education scholarships and assistance to public schools under the Act of April 16, 1934 (48 Stat. 596), as amended (25 U.S.C. 452 et seq.), shall remain available for obligation until September 30, 1987, and the funds made available to tribes and tribal organizations through contracts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450 et seq.) shall remain available until September 30, 1987: Provided, That this carryover authority does not extend to programs directly operated by the Bureau of Indian Affairs: Provided further, That not to exceed $17,966,000 shall be obligated for automatic data processing in fiscal year 1986; and includes expenses necessary to carry out the provisions of section 19(a) of Public Law 93-531 (25 U.S.C. 640d-18(a)), $2,886,000, to remain available until expended; and an additional $6,000,000 which, notwithstanding any other law, is immediately available for obligation before January 18, 1986, by the Secretary of the Interior through the Bureau of Indian Affairs only for the emergency provision of hay to Indians using the distribution formula of the Indian Acute Distress Donation Program to aid in maintaining foundation cattle herds in Montana, North Dakota, and South Dakota. The Secretary may, but is not required to, enter into contracts under section 102 of the Indian Self-Determination Act (88 Stat. 2206; 25 U.S.C. 450f) in connection with the appropriation made in this paragraph and no indirect cost or overhead shall be allowed under any such contract from any appropriation. All costs incurred directly or indirectly by the Secretary in connection with the appropriation made in this paragraph for other than the direct cost of the hay and its transportation shall be met from other amounts appropriated for the operation of Indian programs. Any part of the appropriation made in this paragraph which is not expended by March 15, 1986, shall be deobligated and shall not be available for obligation or expenditure.

The Secretary of the Interior shall make a report or reports to Congress by September 1, 1986 on (1) the use of the appropriation in the preceding paragraph, (2) the impact of the drought disaster on the Indian reservations in Montana, North Dakota, and South Dakota, (3) long-term strategies to address the disaster on each of those reservations, and (4) the effectiveness of the carrying out of the roles (including resource management and the establishment, waiver, and collection of grazing fees and rents or other payments) of the Federal and tribal governments in ranching, agriculture, and other land use on Indian reservations throughout the United States with recommendations to improve that effectiveness.

None of the funds appropriated to the Bureau of Indian Affairs shall be expended as matching funds for programs funded under section 103(b)(2) of the Carl D. Perkins Vocational Education Act: Provided further, That no part of any appropriations to the Bureau of Indian Affairs shall be available to provide general assistance payments for Alaska Natives in the State of Alaska unless and until otherwise specifically provided for by Congress: Provided further, That notwithstanding any other provision of law, within fourteen days of the date of enactment of this Act the Snowflake Dormitory in Arizona shall be closed and thereafter no funds available to the Bureau of Indian Affairs shall be available to operate an educational or boarding program at that location: Provided further, That notwithstanding any law or regulation, in allocating funds for aid to public schools under the Act of April 16, 1934, as amended, the Secretary shall enter into contracts only for the provision of supplementary educational services for Indian children: Provided further, That the Secretary of the Interior shall transfer without cost to the Saint Labre Indian School of Ashland, Montana, the interests of the United States in the supplies and equipment acquired by or for the school during the period when it was financially aided by the Bureau of Indian Affairs.

CONSTRUCTION

For construction, major repair and improvement of irrigation and power systems, including architectural and engineering services by contract; acquisition of lands and interests in lands; preparation of lands for farming; and construction, repair, and improvement of Indian housing, $101,054,000, to remain available until expended: Provided, That no funds shall be expended for land acquisition on behalf of the Covelo Indian Community until the Community has sufficient non-Federal funds, which when combined with the Federal funds, will complete the land acquisition: Provided further, That such amount includes $22,000,000 for use by the Secretary to construct homes and related facilities for the Navajo and Hopi Indian Relocation Commission in lieu of construction by the Commission under section 15(d)(3) of the Act of December 22, 1974 (88 Stat. 1719; 25 U.S.C. 640d-14(d)(3)), and to ensure that a priority for the use of these funds is given to Navajo families who are actual, physical residents of the Hopi Partitioned Lands on the date of enactment hereof, and to expedite relocations and construction under this proviso (1) with respect to any lands acquired pursuant to section 11(a) of the Act of December 22, 1974 (25 U.S.C. 640d-10(a)), the Secretary shall not be required to enter into contracts under section 102 of the Indian Self-Determination Act (88 Stat. 2206; 25 U.S.C. 450f) in carrying out this proviso, (2) the Secretary's authority under section 106(a) of the Indian Self-Determination Act (88 Stat. 2210; 25 U.S.C. 450j(a)) shall apply for contracts for construction under this proviso without regard to the status of the contractors with respect to any lands acquired pursuant to section 11(a) of the Act of December 22, 1974 (25 U.S.C. 640d-10(a)), (3) the Secretary may carry out construction and lease approvals or executions under this proviso without regard to the Commission's regulations and under such administrative procedures as the Secretary may adopt without regard to the rule-making requirements of any law, executive order, or regulation, (4) an action under this proviso is not a major Federal action for the purpose of the National Environmental Policy Act of 1969, as amended, and (5) after January 1, 1986, the Secretary may issue leases and rights-of-way for housing and related facilities to be constructed on the lands which are subject to section 11(h) of the Act of December 22, 1974, as amended (25 U.S.C. 640d-10(h)).

ROAD CONSTRUCTION

Not to exceed 5 per centum of contract authority available to the Bureau of Indian Affairs from the Federal Highway Trust Fund may be used to cover roads program management costs and construction supervision costs of the Bureau of Indian Affairs: Provided, That $3,200,000 of the contract authority available to the Bureau of Indian Affairs from the Federal Highway Trust Fund for road construction to serve the Navajo Reservation shall be used by the Secretary of the Interior for road construction projects to serve land transferred or acquired under the Act of December 22, 1974, as amended (88 Stat. 1712; 25 U.S.C. 640d et seq.): Provided further, That the foregoing shall not alter the amount of funds or contract authority that would otherwise be available for road construction to serve any Indian reservation or land other than the Navajo reservation.

ALASKA NATIVE ESCROW ACCOUNT

For the Federal contribution to the Alaska Native Escrow Account related to proceeds received by Federal agencies from lands or resources of lands after the date of withdrawal of the land for Native selection as authorized by Public Law 94-204, an amendment to the Alaska Native Claims Settlement Act (43 U.S.C. 1631-1641; 89 Stat. 1476), and Public Law 96-487, the Alaska National Interest Lands Conservation Act (94 Stat. 2497), $7,877,000: Provided, That those funds appropriated hereunder which represent proceeds received from lands which have been conveyed on or before the date of enactment of this Act shall be distributed to the appropriate Native corporations pursuant to Public Law 96-487 immediately upon receipt in the escrow account: Provided further, That those funds which represent proceeds received from lands withdrawn for Native Selection but not yet conveyed on the date of the enactment of this Act will be held in the escrow account and invested until conveyance, and shall, during *the time that such funds are on deposit in the escrow account, be entitled to their share of the interest earned by the escrow account pursuant to the first proviso of section 2(b) of Public Law 94-204.*

TRIBAL TRUST FUNDS

In addition to the tribal funds authorized to be expended by existing law, there is hereby appropriated not to exceed $4,000,000 from tribal funds not otherwise available for expenditure.

REVOLVING FUND FOR LOANS

During fiscal year 1986, and within the resources and authority available, gross obligations for the principal amount of direct loans pursuant to the Indian Financing Act of 1974 (88 Stat. 77; 25 U.S.C. 1451 et seq.), shall not exceed $16,300,000: Provided, That notwithstanding section 102 of the Indian Financing Act of 1974, as amended (25 U.S.C. 1462) and regulations restricting the purposes for loans under that Act, the Secretary may make a loan under title I of that Act to the Zuni Pueblo for the acquisition in trust for the Pueblo of private lands in the area known as Zuni Heaven in an amount not to exceed $1,470,000.

INDIAN LOAN GUARANTY AND INSURANCE FUND

For payment of interest subsidies on new and outstanding guaranteed loans and for necessary expenses of management and technical assistance in carrying out the provisions of the Indian Financing Act of 1974, as amended (88 Stat. 77; 25 U.S.C. 1451 et seq.), $2,210,000, to remain available until expended: Provided, That during fiscal year 1986, total commitments to guarantee loans pursuant to the Indian Financing Act of 1974 (88 Stat. 77; 25 U.S.C. 1451 et seq.), may be made only to the extent that the total loan principal, any part of which is to be guaranteed, shall not exceed resources and authority available.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Indian Affairs (except the revolving fund for loans and the Indian loan guarantee and insurance fund) shall be available for expenses of exhibits; and purchase of not to exceed 150 passenger carrying motor vehicles, of which 100 shall be for replacement only.

TERRITORIAL AND INTERNATIONAL AFFAIRS

ADMINISTRATION OF TERRITORIES

For expenses necessary for the administration of territories under the jurisdiction of the Department of the Interior, $80,376,000, of which (1) $77,903,000 shall be available until expended for technical assistance; repurchase premium, late charges, and payments of the annual interest rate differential required by the Federal Financing Bank, under terms of the second refinancing of an existing loan to the Guam Power Authority, as authorized by law (Public Law 98-454; 98 Stat. 1732); grants to the judiciary in American Samoa for compensation and expenses, as authorized by law (48 U.S.C. 1661(c)); grants to the Government of American Samoa, in addition to current local revenues, for support of governmental functions; $2,000,000 for a loan to the Government of the United States Virgin Islands, for construction of an extension to the Alexander Hamilton Airport runway, St. Croix: Provided, That issuance of such loan shall be contingent upon approval of a multiyear grant of Airport Improvement Program funds from the Federal Aviation Administration, and a written guarantee from the Government of the United States Virgin Islands as to the source of funds to be used for repayment of the loan; construction grants to the Government of Guam of $4,583,000, as authorized by law (Public Law 98-454; 98 Stat. 1732); direct grants to the Government of the Northern Mariana Islands as authorized by law (Public Law 94-241; 90 Stat. 272, and Public Law 98-454; 98 Stat. 1732); and (2) $2,473,000 for fiscal year 1986 for salaries and expenses of the Office of Territorial and International Affairs, of which not to exceed $1,000 shall be available during 1986 for official reception and representation expenses: Provided further, That the territorial and local governments herein provided for are authorized to make purchases through the General Services Administration: Provided further, That all financial transactions of the territorial and local governments herein provided for, including such transactions of all agencies or instrumentalities established or utilized by such governments, shall be audited by the General Accounting Office, in accordance with the provisions of the Budget and Accounting Act, 1921 (42 Stat. 23), as amended, and the Accounting and Auditing Act of 1950 (64 Stat. 834): Provided further, That upon enactment of this Act the remaining balance of fiscal year 1985 funds provided in Public Law 98-473 for a grant to the College of the Virgin Islands Eastern Caribbean Center is released to the College of the Virgin Islands.

TRUST TERRITORY OF THE PACIFIC ISLANDS

For expenses necessary for the Department of the Interior in administration of the Trust Territory of the Pacific Islands pursuant to the Trusteeship Agreement approved by joint resolution of July 18, 1947 (61 Stat. 397), and the Act of June 30, 1954 (68 Stat. 330), as amended (90 Stat. 299; 91 Stat. 1159; 92 Stat. 495), grants for the expenses of the High Commissioner of the Trust Territory of the Pacific Islands; grants for the compensation and expenses of the Judiciary of the Trust Territory of the Pacific Islands; grants to the Trust Territory of the Pacific Islands, in addition to local revenues, for support of governmental functions; $80,372,000, of which $70,922,000 is for operations, and $9,450,000 is for construction, to remain available until expended: Provided, That all financial transactions of the Trust Territory, including such transactions of all agencies or instrumentalities established or utilized by such Trust Territory, shall be audited by the General Accounting Office in accordance with the provisions of the Budget and Accounting Act, 1921 (42 Stat. 23), as amended, and the Accounting and Auditing Act of 1950 (64 Stat. 834): Provided further, That the government of the Trust Territory of the Pacific Islands is authorized to make purchases through the General Services Administration.

DEPARTMENTAL OFFICES

OFFICE OF THE SECRETARY

For necessary expenses of the Office of the Secretary of the Interior, $43,411,000, of which not to exceed $10,000 may be for official reception and representation expenses: Provided, That notwithstanding any other provision of law, of the funds provided under this heading, not to exceed $300,000 shall be used to pay or repay the costs of development of alternative winter stock water supplies by water users who have been deprived of winter stock water from the main channel of Willow Creek, Idaho, below Ririe Dam and Reservoir because of the operation of the dam and reservoir (hereinafter in this account referred to as claimants).

Any payment to a claimant made under this section shall constitute full settlement and satisfaction of all claims such claimant may have against the United States relating to the loss of winter stock water from Willow Creek, Idaho. The provisions of this section shall not apply to any claim settled prior to the date of enactment of this Act.

The Secretary shall make a payment to a claimant only if—

(1) the claimant notifies the Secretary of his claim within six months after the date of enactment of this Act;

(2) the claimant provides an affidavit proving, to the satisfaction of the Secretary, his use of winter stock water from Willow Creek prior to December 31, 1979; and

(3) the claimant executes a waiver and release, in a manner satisfactory to the Secretary, of any and all claims against the United States relating to the loss of winter stock water from Willow Creek, Idaho. Such waiver and release shall be recorded in the county where the claimant's land is located.

Any claimant who has developed an alternate winter stock water supply since December 31, 1979, shall be eligible for a payment of an amount equal to the actual construction costs incurred by such claimant in the development of such supply, as determined by the Secretary.

Any claimant who has not developed an alternate winter stock water supply as of the date of enactment of this Act, shall be eligible for a payment of an amount equal to the funds necessary for the development of such supply, as determined by the Secretary. The Secretary's determination shall be based on the size and configuration of the claimant's land and on the size and type of the claimant's livestock operation.

Costs and expenses incurred by a claimant in the operation and maintenance of his alternate winter stock water supply shall not be reimbursable.

OFFICE OF THE SOLICITOR

SALARIES AND EXPENSES

For necessary expenses of the Office of the Solicitor, $20,378,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General, $16,214,000.

CONSTRUCTION MANAGEMENT

For necessary expenses of the Office of Construction Management, $780,000: Provided, That the Secretary of the Interior shall submit to the House and Senate Committees on Appropriations a revised Memorandum of Agreement between the Bureau of Indian Affairs and the Office of Construction Management, vesting the program direction and control of the facility design, construction, repair, operation and maintenance programs of the Bureau in the Office of Construction Management, and a detailed plan for implementation of said Agreement, within 60 days of the enactment of this Act.

OFFICE OF THE SECRETARY

(SPECIAL FOREIGN CURRENCY PROGRAM)

For payment in foreign currencies which the Treasury Department shall determine to be excess to the normal requirement of the United States, for necessary expenses of the United States Fish and Wildlife Service and the National Park Service as authorized by law, $1,000,000, to remain available until expended: Provided, That this appropriation shall be available, in addition to other appropriations, to such office for payment in the foregoing currencies (7 U.S.C. 1704).

ADMINISTRATIVE PROVISIONS

There is hereby authorized for acquisition from available resources within the Working Capital Fund, 5 additional aircraft, all of which shall be for replacement only: Provided, That no programs funded with appropri-

ated funds in the "Office of the Secretary", "Office of the Solicitor", and "Office of Inspector General" may be augmented through the Working Capital Fund or the Consolidated Working Fund.

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

Sec. 101. Appropriations made in this title shall be available for expenditure or transfer (within each bureau or office), with the approval of the Secretary, for the emergency reconstruction, replacement, or repair of aircraft, buildings, utilities, or other facilities or equipment damaged or destroyed by fire, flood, storm, or other unavoidable causes: Provided, That no funds shall be made available under this authority until funds specifically made available to the Department of the Interior for emergencies shall have been exhausted.

Sec. 102. The Secretary may authorize the expenditure or transfer of any no year appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of forest or range fires on or threatening lands under jurisdiction of the Department of the Interior; for the emergency rehabilitation of burned-over lands under its jurisdiction; for emergency actions related to potential or actual earthquakes, floods or volcanoes; for emergency reclamation projects under section 410 of Public Law 95-87; and shall transfer, from any no year funds available to the Office of Surface Mining Reclamation and Enforcement, such funds as may be necessary to permit assumption of regulatory authority in the event a primacy State is not carrying out the regulatory provisions of the Surface Mining Act: Provided, That appropriations made in this title for fire suppression purposes shall be available for the payment of obligations incurred during the preceding fiscal year, and for reimbursement to other Federal agencies for destruction of vehicles, aircraft, or other equipment in connection with their use for fire suppression purposes, such reimbursement to be credited to appropriations currently available at the time of receipt thereof: Provided further, That funds transferred pursuant to this section must be replenished by a supplemental appropriation which must be requested as promptly as possible.

Sec. 103. Appropriations made in this title shall be available for operation of warehouses, garages, shops, and similar facilities, wherever consolidation of activities will contribute to efficiency or economy, and said appropriations shall be reimbursed for services rendered to any other activity in the same manner as authorized by sections 1535 and 1536 of title 31, U.S.C.: Provided, That reimbursements for costs and supplies, materials, equipment, and for services rendered may be credited to the appropriation current at the time such reimbursements are received.

Sec. 104. Appropriations made to the Department of the Interior in this title shall be available for services as authorized by 5 U.S.C. 3109, when authorized by the Secretary, in total amount not to exceed $300,000; hire, maintenance, and operation of aircraft; hire of passenger motor vehicles; purchase of reprints; payment for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; and the payment of dues, when authorized by the Secretary, for library membership in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members: Provided, That no funds available to the Department of the Interior are available for any expenses of the Great Hall of Commerce.

Sec. 105. Appropriations available to the Department of the Interior for salaries and expenses shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902 and D.C. Code 4-204).

Sec. 106. Appropriations made in this title shall be available for obligation in connection with contracts issued by the General Services Administration for services or rentals for periods not in excess of twelve months beginning at any time during the fiscal year.

Sec. 107. No funds provided in this title may be expended by the Department of the Interior for the preparation for, or conduct of, pre-leasing and leasing activities (including but not limited to: calls for information, tract selection, notices of sale, receipt of bids and award of leases) of lands within:

(a) An area of the Outer Continental Shelf, as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)), located in the Atlantic Ocean, bounded by the following line: from the intersection of the seaward limit of the Commonwealth of Massachusetts territorial sea and the 71 degree west longitude line south along that longitude line to its intersection with the line which passes between blocks 598 and 642 on Outer Continental Shelf protraction diagram NK 19-10; then along that line in an easterly direction to its intersection with the line between blocks 600 and 601 of protraction diagram NK 19-11; then in a northerly direction along that line to the intersection with the 60 meter isobath between blocks 204 and 205 of protraction diagram NK 19-11; then along the 60 meter isobath, starting in a roughly southeasterly direction; then turning northeast and north until such isobath intersects the maritime boundary between Canada and the United States of America, then north northeasterly along this boundary until this line intersects the 60 meter isobath at the northern edge of block 851 of protraction diagram NK 19-6; then along a line that lies between blocks 851 and 807 of protraction diagram NK 19-6 in a westerly direction to the first point of intersection with the seaward limit of the Commonwealth of Massachusetts territorial sea; then southwesterly along the seaward limit of the territorial sea to the point of beginning at the intersection of the seaward limit of the territorial sea and the 71 degree west longitude line.

(b) The following blocks are excluded from the described area: In protraction diagram NK 19-10, blocks numbered 474 through 478, 516 through 524, 560 through 568, and 604 through 612; in protraction diagram NK 19-6, blocks numbered 969 through 971; in protraction diagram NK 19-5, blocks numbered 1005 through 1008; and in protraction diagram NK 19-8, blocks numbered 37 through 40, 80 through 84, 124 through 127, and 168 through 169.

(c) The following blocks are included in the described area: In protraction diagram NK 19-11, blocks numbered 633 through 644, 677 through 686, 721 through 724, 765 through 767, 809 through 810, and 853; in protraction diagram NK 19-9, blocks numbered 106, 150, 194, 238, 239, and 283; and in protraction diagram NK 19-6, blocks numbered 854, 899, 929, 943, 944, and 987.

(d) Blocks in and at the head of submarine canyons: An area of the Outer Continental Shelf, as defined in section 2(a) of the Outer Continental Shelf Lands Act (45 U.S.C. 1331(a)), located in the Atlantic Ocean off the coastline of the Commonwealth of Massachusetts, lying at the head of, or within the submarine canyons known as Atlantis Canyon, Veatch Canyon, Hydrographer Canyon, Welker Canyon, Oceanographer Canyon, Gilbert Canyon, Lydonia Canyon, Alvin Canyon, Powell Canyon, and Munson Canyon, and consisting of the following blocks, respectively:

(1) On Outer Continental Shelf protraction diagram NJ 19-1; blocks 36, 37, 38, 42-44, 80-82, 86-88, 124, 125, 130-132, 168, 169, 174-176, 212, 213.

(2) On Outer Continental Shelf protraction diagram NJ 19-2; blocks 8, 9, 17-19, 51-52, 53, 54, 61-63, 95-98, 139, 140.

(3) On Outer Continental Shelf protraction diagram NK 19-10; blocks 916, 917, 921, 922, 960, 961, 965, 966, 1003-1005, 1009, 1011.

(4) On Outer Continental Shelf protraction diagram NK 19-11; blocks 521, 522, 565, 566, 609, 610, 653-655, 697-700, 734, 735, 741-744, 769, 778-781, 785-788, 813, 814, 822-826, 829-831, 857, 858, 866-869, 873-875, 901, 902, 910-913, 917, 945-947, 955, 956, 979, 980, 989-991, 999.

(5) On Outer Continental Shelf protraction diagram NK 19-12; blocks 155, 156, 198, 199, 280-282, 324-326, 369-371, 401, 413-416, 442-446, 450, 451, 489-490, 494, 495, 530, 531, 533-540, 574, 575, 577-583, 618, 619, 621-623, 626, 627, 662, 663, 665-667, 671, 672, 706, 707, 710, 711, 750, 751, 754, 755, 794, 795, 798, 799.

(e) Nothing in this section shall prohibit the lease of that portion of any blocks described in subsection (d) above which lies outside the geographical boundaries of the submarine canyons and submarine canyon heads described in subsection (d) above: Provided, That for purposes of this subsection, the geographical boundaries of the submarine canyons and submarine canyon heads shall be those recognized by the National Oceanographic and Atmospheric Administration, Department of Commerce, on the date of enactment of this Act.

(f) Nothing in this section shall prohibit the Secretary of the Interior from granting contracts for scientific study, the results of which could be used in making future leasing decisions in the planning area and in preparing environmental impact statements as required by the National Environmental Policy Act.

(g) References made to blocks, protraction diagrams, and isobaths are to such blocks, protraction diagrams, and isobaths as they appear on the map entitled Outer Continental Shelf of the North Atlantic from 39° to 45° North Latitude (Map No. MMS-10), prepared by the United States Department of the Interior, Minerals Management Service, Atlantic OCS Region.

Sec. 108. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance changing the name of the mountain located 63 degrees, 04 minutes, 15 seconds west, presently named and referred to as Mount McKinley.

Sec. 109. Notwithstanding any other provision of law, appropriations in this title shall be available to provide insurance on official motor vehicles, aircraft, and boats operated by the Department of the Interior in Canada and Mexico.

Sec. 110. No funds provided in this title may be used to detail any employee to an organization unless such detail is in accordance with Office of Personnel Management regulations.

Sec. 111. None of the funds provided by this Act shall be expended by the Secretary of the Interior to promulgate final regulations concerning paleontological research on Federal lands until the Secretary has received the National Academy of Sciences' report concerning the permitting and post-permitting regulations concerning paleontological research and until the Secretary has, within 30 days, submitted a report to the appropriate committees of the Congress comparing the National Academy of Sciences' report with the proposed regulations of the Department of the Interior.

TITLE II—RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

FOREST RESEARCH

For necessary expenses of forest research as authorized by law, $126,283,000, of which $6,840,000 shall remain available until expended for competitive research grants, as authorized by section 5 of Public Law 95-307.

STATE AND PRIVATE FORESTRY

For necessary expenses of cooperating with, and providing technical and financial assistance to States, Territories, possessions, and others; and for forest pest management activities, $57,986,000, to remain available for obligation until expended, to carry out activities authorized in Public Law 95-313: Provided, That a grant of $3,000,000 shall be made to the State of Minnesota for the purposes authorized by section 6 of Public Law 95-495.

NATIONAL FOREST SYSTEM

For necessary expenses of the Forest Service, not otherwise provided for, for management, protection, improvement, and utilization of the National Forest System, and for liquidation of obligations incurred in the preceding fiscal year for forest fire protection and emergency rehabilitation, including administrative expenses associated with the management of funds provided under the heads "Forest Research", "State and Private Forestry", "National Forest System", "Construction", and "Land Acquisition", $1,054,629,000, of which $166,761,000, for reforestation, timber stand improvement, cooperative law enforcement, and maintenance of forest development roads and trails shall remain available for obligation until September 30, 1987: Provided, That the unobligated balances available September 30, 1985 and funds becoming available in fiscal year 1986 under the Act of October 14, 1980 (16 U.S.C. 1606), shall be transferred to and merged with the National Forest System appropriation account as of October 1, 1985: Provided further, That notwithstanding any other provision of law, subsection (e) of section 303 of the Act of October 14, 1980, as amended by the Act of January 6, 1983, Public Law 97-424 (16 U.S.C. 1606), is repealed and subsection (d) of section 303 of the Act of October 14, 1980, as amended by the Act of January 6, 1983, Public Law 97-424 (16 U.S.C. 1606), is amended to read as follows:

"(d) The Secretary of Agriculture is hereafter authorized to obligate such sums as are available in the Trust Fund (including any amounts not obligated in previous fiscal years) for—

(1) reforestation and timber stand improvement as specified in section (3)(d) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1601 (d)); and

(2) properly allocable administrative costs of the Federal Government for the activities specified above.".

CONSTRUCTION

For necessary expenses of the Forest Service, not otherwise provided for, for construction, $223,865,000, to remain available until expended, of which $27,449,000 is for construction and acquisition of buildings and other facilities; and $196,416,000 is for construction of forest roads and trails by the Forest Service as authorized by 16 U.S.C. 532-538 and 23 U.S.C. 101 and 205: Provided, That funds becoming available in fiscal year 1986 under the Act of March 4, 1913 (16 U.S.C. 501), shall be transferred to the General Fund of the Treasury of the United States: Provided further, That road construction standards used to construct Forest Service roads, purchaser credit roads, or purchaser elect roads shall be applied, or other management initiatives or administrative cost-saving actions taken, including reductions in personnel or overhead charges, in fiscal year 1986 in a manner so as to achieve a 5 per centum reduction in the average cost per road mile as compared to fiscal year 1985: Provided further, That such actions shall be taken so as to achieve this 5 per centum reduction in each Forest Service region: Provided further, That notwithstanding any other provision of this Act or any other provision of law, $9,915,000 of the contract authority available in the Federal Highway Trust Fund and not otherwise appropriated shall be available to the Forest Service for road construction to Forest Development Road Standards to serve the Mount St. Helens National Volcanic Monument, Washington: Provided further, That the foregoing shall not alter the amount of funds or contract authority that would otherwise be available for road construction to serve any State other than the State of Washington.

LAND ACQUISITION

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l-4-11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the Forest Service, $28,300,000, to be derived from the Land and Water Conservation Fund, to remain available until expended: Provided, That of the amount appropriated, $3,900,000 shall be paid to Edwards Investments, an Idaho partnership, upon delivery of a quitclaim deed to the United States conveying acceptable title to all of Edwards Investments' interest in all of those portions of a former Chicago, Milwaukee, St. Paul, and Pacific Railroad right-of-way between Avery, Idaho and St. Regis, Montana that cross or adjoin Federal lands, including all of Edwards Investments' interests in all improvements on said right-of-way. Upon acquisition, some or all of the right-of-way may be used as a road and available for public travel where determined appropriate by the Chief of the Forest Service.

ACQUISITION OF LANDS FOR NATIONAL FORESTS, SPECIAL ACTS

For acquisition of land within the exterior boundaries of the Cache, Uinta, and Wasatch National Forests, Utah; the Toiyabe National Forest, Nevada; and the Angeles, San Bernardino, and Cleveland National Forests, California, as authorized by law, $782,000, to be derived from forest receipts.

ACQUISITION OF LANDS TO COMPLETE LAND EXCHANGES

For acquisition of lands in accordance with the Act of December 4, 1967, as amended (16 U.S.C. 484a), all funds deposited by State, county or municipal governments, public school districts or other public school authorities pursuant to that Act, to remain available until expended.

RANGE BETTERMENT FUND

For necessary expenses of range rehabilitation, protection, and improvement in accordance with section 401(b)(1), of the Act of October 21, 1976, Public Law 94-579, as amended, 50 per centum of all moneys received during the prior fiscal year, as fees for grazing domestic livestock on lands in National Forests in the sixteen Western States, to remain available until expended.

MISCELLANEOUS TRUST FUNDS

For expenses authorized by 16 U.S.C. 1643(b), $90,000, to remain available until expended, to be derived from the fund established pursuant to 16 U.S.C. 1643(b).

ADMINISTRATIVE PROVISIONS, FOREST SERVICE

Appropriations to the Forest Service for the current fiscal year shall be available for: (a) purchase of not to exceed 252 passenger motor vehicles of which 13 will be used primarily for law enforcement purposes and of which 233 shall be for replacement only; acquisition of 161 passenger motor vehicles from excess sources, and hire of such vehicles; operation and maintenance of aircraft, the purchase of not to exceed 2 for replacement only, and acquisition of 43 aircraft from excess sources; notwithstanding other provisions of law, existing aircraft being replaced may be sold, with proceeds derived or trade-in value used to offset the purchase price for the replacement aircraft; (b) services pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $100,000 for employment under 5 U.S.C. 3109; (c) uniform allowances for each uniformed employee of the Forest Service, not in excess of $400 annually; (d) purchase, erection, and alteration of buildings and other public improvements (7 U.S.C. 2250); (e) acquisition of land, waters, and interests therein, pursuant to the Act of August 3, 1956 (7 U.S.C. 428a); (f) for expenses pursuant to the Volunteers in the National Forest Act of 1972 (16 U.S.C. 558a, 558d, 558a note); and (g) for debt collection contracts in accordance with 31 U.S.C. 3718(c).

None of the funds made available under this Act shall be obligated or expended to change the boundaries of any region, to abolish any region, to move or close any regional office for research, State and private forestry, or National Forest System administration of the Forest Service, Department of Agriculture, without the consent of the House and Senate Committees on Appropriations and the Committee on Agriculture, Nutrition, and Forestry in the United States Senate and the Committee on Agriculture in the United States House of Representatives.

Any appropriations or funds available to the Forest Service may be advanced to the National Forest System appropriation for the emergency rehabilitation of burned-over lands under its jurisdiction. The Secretary of Agriculture may authorize the expenditure of any no year appropriation available to the Forest Service for emergency actions related to emergency flood repair needs at the Monongahela National Forest and at the Parsons, West Virginia, Research Laboratory: Provided, That funds made available for such emergency actions shall be available for the payment of obligations incurred during the preceding fiscal year and funds expended pursuant to this provision must be replenished by a supplemental appropria-

tion which must be requested as promptly as possible.

Appropriations and funds available to the Forest Service shall be available to comply with the requirements of section 313(a) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1323(a)).

The appropriation structure for the Forest Service may not be altered without advance approval of the House and Senate Committees on Appropriations.

Funds appropriated to the Forest Service shall be available for assistance to or through the Agency for International Development and the Office of International Cooperation and Development in connection with forest and rangeland research, and technical information and assistance in foreign countries.

Funds previously appropriated for timber salvage sales may be recovered from receipts deposited for use by the applicable national forest and credited to the Forest Service Permanent Appropriations to be expended for timber salvage sales from any national forest: Provided further, That no less than $24,000,000 shall be made available to the Forest Service for obligation in fiscal year 1986 from the Timber Salvage Sale Fund appropriation.

Provisions of section 702(b) of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 2257) shall apply to appropriations available to the Forest Service only to the extent that the proposed transfer is approved by the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in House Report 97-942.

No funds appropriated to the Forest Service shall be transferred to the Working Capital Fund of the Department of Agriculture without the approval of the Chief of the Forest Service.

Not to exceed $900,000 shall be available from National Forest System appropriations or permanent appropriations for the specific purpose of removing slash and cull logs from the Bull Run, Oregon, watershed to preserve water quality and reduce fire hazards.

None of the funds made available under this Act shall be obligated or expended to adjust annual recreational residence fees to an amount greater than that annual fee in effect at the time of the next to last fee adjustment, plus 50 per centum. In those cases where the currently applicable annual recreational residence fee exceeds that adjusted amount, the Forest Service shall credit to the permittee that excess amount, times the number of years that that fee has been in effect, to offset future fees owed to the Forest Service.

Current permit holders who acquired their recreational residence permit after the next to last fee adjustment shall have their annual permit fee computed as if they had their permit prior to the next to last fee adjustment, except that no permittee shall receive an unearned credit.

Notwithstanding any delegations of authority provided for in regulations of the Department of Agriculture or in the Forest Service manual, the Chief of the Forest Service shall, personally and without aid of mechanical devices or persons acting on his behalf, execute (1) all deeds conveying federally owned land which exceeds $250,000 in value, (2) all acceptances of options on lands to be acquired which exceed $250,000 in value, (3) all recommendations that condemnation be initiated, (4) all letters accepting donations of land, (5) all decisions on appeals of decisions related to land transactions made by regional foresters, and (6) land related transmittals to the House or Senate Committees on Appropriations, including all proposals for congressional action such as the acquisition of lands in excess of the approved appraised value, condemnation actions, and other items covered in reprogramming guidelines.

Funds available to the Forest Service shall be available to conduct a program of not less than $3,400,000 for high priority projects within the scope of the approved budget which shall be carried out by Youth Conservation Corps as if authorized by the Act of August 13, 1970, as amended by Public Law 93-408.

DEPARTMENT OF THE TREASURY

ENERGY SECURITY RESERVE

(INCLUDING RESCISSION)

Of the funds appropriated to the Energy Security Reserve by the Department of the Interior and Related Agencies Appropriations Act, 1980, (Public Law 96-126) and subsequently made available to carry out Part B of title I of the Energy Security Act (Public Law 96-294) by Public Laws 96-304, 96-514, and 98-473, the amounts available to the Board of Directors of the United States Synthetic Fuels Corporation and not obligated as of the date of enactment of this Act are rescinded, except that this rescission shall not apply to (1) funds made available for Clean Coal Technology by this Act; (2) such amounts as may be necessary to make payments for synthetic fuels projects or modules for which legally binding awards or commitments for financial assistance were entered into under title I of the Energy Security Act before the date of enactment of this Act; and (3) $10,000,000 to be used to terminate the Corporation in accordance with subtitle J of the Energy Security Act: Provided, That to the extent that the Secretary of the Treasury may be required to take an action under section 131(q) of the Energy Security Act in connection with such awards or commitments, the Secretary shall complete such action within 30 days of enactment of this Act: Provided further, That the limitation in Public Law 98-473 on the initial use of $5,700,000,000 of such funds only for obligation to synthetic fuel projects with Letters of Intent authorized by the Board of Directors of the United States Synthetic Fuels Corporation on or before June 1, 1984, is hereby repealed: Provided further, That of the funds in the Energy Security Reserve prior to the date of enactment of this Act $400,000,000 shall be available for the Clean Coal Technology Program in the Department of Energy authorized under the Clean Coal Technology Reserve proviso of Public Law 98-473 for the purpose of conducting cost-shared Clean Coal Technology projects for the construction and operation of facilities to demonstrate the feasibility for future commercial applications of such technology, to remain available until expended, of which $100,000,000 shall be immediately available; (2) an additional $150,000,000 shall be available beginning October 1, 1986; and (3) an additional $150,000,000 shall be available beginning october 1, 1987: Provided further, That the proviso in Public Law 98-473 depositing and retaining in the Clean Coal Technology Reserve $750,000,000 of funds in the Energy Security Reserve rescinded by said Act is amended so as to reduce the current amount of such deposited and retained funds to $350,000,000: Provided further, That notwithstanding section 191 of the Energy Security Act (Public Law 96-294), effective the date of enactment of this Act, the Board may not make any legally binding awards or commitments for financial assistance (including any changes in an existing award or commitment) pursuant to the Energy Security Act for synthetic fuel project proposals, except that nothing in this Act shall impair or alter the powers, duties, rights, obligations, privileges, or liabilities of the Corporation, its Board or Chairman, or project sponsors in the performance and completion of the terms and undertakings of a legally binding award or commitment entered into prior to the date of enactment of the Act: Provided further, That (1) within 60 days of enactment of this Act, the Directors of the Synthetic Fuels Corporation shall terminate their duties under the Energy Security Act and be discharged; and (2) within 120 days of enactment of this Act, the Corporation shall terminate in accordance with Subtitle J of said Act: Provided further, That within 60 days of enactment of this Act (or earlier, in the event of absence of a Chairman of the Synthetic Fuels Corporation) the Secretary of the Treasury shall assume the duties of the Chairman: Provided further, That, notwithstanding any other provisions of law, the duties and responsibilities of the Secretary of the Treasury under Subtitle J of said Act or this Act may not be transferred to any other Federal department or agency: Provided further, That notwithstanding such termination, the Advisory Committee established under section 123 of the Energy Security Act (42 U.S.C. 8719) shall remain in effect to advise the Secretary of the Treasury regarding the administration of any contract or obligation of the Corporation pursuant to subtitle D of said Act: Provided further, That the Director of the Office of Personnel Management shall, before February 1, 1986, determine the amount of compensation rights which each Director, officer, or employee shall be legally entitled to under any contract in effect on the date of enactment of this Act: Provided further, That effective on the date of enactment of this Act, no change in any compensation or benefit in effect on the date of enactment of this Act shall be allowed or permitted, unless the Director of the Office of Personnel Management agrees that such change is reasonable: Provided further, That effective on the date of enactment of this Act, (1) no officer or employee of the Corporation shall receive a salary in excess of the rate of basic pay payable for level IV of the Executive Schedule under title 5 of the United States Code; and (2) the Corporation shall not waive any requirements in its By-Laws which are necessary for a Director, officer, or employee to qualify for pension or termination benefits under the By-Laws and written personnel policies and procedures in effect on the date of enactment of this Act: Provided further, That the Corporation, within 60 days of enactment, shall transmit to the Committee on Energy and Natural Resources of the Senate and to the Committee on Energy and Commerce and Committee on Banking, Housing and Urban Affairs of the House of Representatives a report (1) containing a review of implementation of its Phase I Business Plan dated February 19, 1985 and (2) fulfilling the requirements of section 126(b)(3) of the Energy Security Act (42 U.S.C. 8722(c)(3)).

Of the funds available from the Energy Security Reserve to the Secretary of Energy for alcohol fuel loan guarantees under Public Law 96-304, as amended by Public Laws 96-514, 97-12 and 97-394, the Secretary shall *provide a loan for odor abatement at an ethanol producing facility that has received financial assistance under title II of Public Law 96-294 and that was in operation on November 1, 1985: Provided, That—*

(1) such loan shall not exceed 90 percent of the net cost of the odor abatement project and in no case shall the amount of such loan exceed $3,000,000,

(2) the Secretary shall not provide such loan until the Secretary has received satisfactory assurances that a non-Federal share in the amount of 10 percent of the net cost of the odor abatement project is available,

(3) payment of principal under the loan shall not be due until the repayment in full of permanent financing guaranteed by the Department of Energy for the construction of such ethanol producing facility,

(4) interest shall accrue immediately upon receipt of the loan and payment of interest shall be made at regular intervals established by the Secretary but not to exceed the current average rate of outstanding marketable obligations of the United States with comparable maturities,

(5) the Secretary shall not make such loan until the Secretary has received satisfactory assurances that any expenses of operating equipment installed using funds made available under this loan shall be paid by the New Energy Corporation of Indiana,

(6) principal and interest payments made under this loan shall be repaid into the Alcohol Fuels Loan Guarantee Reserve, and

(7) the Secretary shall establish such other terms and conditions as the Secretary considers appropriate.

DEPARTMENT OF ENERGY

CLEAN COAL TECHNOLOGY

Within 60 days following enactment of this Act, the Secretary of Energy shall, pursuant to the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901, et seq.), issue a general request for proposals for clean coal technology projects for which the Secretary of Energy upon review may provide financial assistance awards. Proposals for clean coal technology projects under this section shall be submitted to the Department of Energy within 60 days after issuance of the general request for proposals. The Secretary of Energy shall make any project selections no later than August 1, 1986: Provided, That the Secretary may vest fee title or other property interests acquired under cost-shared clean coal technology agreements in any entity, including the United States: Provided further, That the Secretary shall not finance more than 50 per centum of the total costs of a project as estimated by the Secretary as of the date of award of financial assistance: Provided further, That cost-sharing by project sponsors is required in each of the design, construction, and operating phases proposed to be included in a project: Provided further, That financial assistance for costs in excess of those estimated as of the date of award of original financial assistance may not be provided in excess of the proportion of costs borne by the Government in the original agreement and only up to 25 per centum of the original financial assistance: Provided further, That revenues or royalties from prospective operation of projects beyond the time considered in the award of financial assistance, or proceeds from prospective sale of the assets of the project, or revenues or royalties from replication of technology in future projects or plants are not cost-sharing for the purposes of this appropriation: Provided further, That other appropriated Federal funds are not cost-sharing for the purposes of this appropriation: Provided further, That existing facilities, equipment, and supplies, or previously expended research or development funds are not cost-sharing for the purposes of this appropriation, except as amortized, depreciated, or expensed in normal business practice.

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses in carrying out fossil energy research and development activities, under the authority of the Department of Energy Organization Act (Public Law 95-91), including the acquisition of interest, including defeasible and equitable interests in any real property or any facility or for plant or facility acquisition or expansion, $312,848,000, to remain available until expended, of which $535,000 is for the functions of the Office of the Federal Inspector for the Alaska Natural Gas Transportation System established pursuant to the authority of Public Law 94-586 (90 Stat. 2908-2909), and $8,230,000 to be derived by transfer from unobligated balances in the "Fossil energy construction" account, $2,010,000 to be derived by transfer from the account entitled "Alternative fuels production", of which $200,000 is derived from Public Law 98-146 for a wood pellet gasifier facility, and $2,775,000 to be derived by transfer from amounts derived from fees for guarantees of obligations collected pursuant to section 19 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended (42 U.S.C. 5919), and deposited in the "Energy security reserve" established by Public Law 96-126: Provided, That no part of the sum herein made available shall be used for the field testing of nuclear explosives in the recovery of oil and gas: Provided further, That notwithstanding any other provision of law, funds appropriated under this head in Public Law 97-394 for a Western Hemisphere alternative fuels facility feasibility study, which remain unobligated, shall be available for carrying out any fossil energy research and development activities: Provided further, That $15,000,000 of the sum provided under this heading shall be available for demonstration of the Kilngas coal gasification process, with the provision that the United States Treasury shall be repaid up to double the total Federal expenditure for such process from proceeds to the participants from the commercial sale, lease, manufacture, or use of such process.

Of the funds herein provided, $29,000,000 is for implementation of the June, 1984 multiyear, cost-shared magnetohydrodynamics program targeted on proof-of-concept testing: Provided further, That 10 per centum private sector cash or in-kind contributions shall be required for obligations incurred in fiscal year 1986, 20 per centum private sector cash or in-kind contributions shall be required for obligations in fiscal year 1987, and for each subsequent fiscal year's obligations private sector contributions shall increase by 5 per centum over the life of the proof-of-concept plan: Provided further, That existing facilities, equipment, and supplies, or previously expended research or development funds are not cost-sharing for the purposes of this appropriation, except as amortized, depreciated, or expensed in normal business practice: Provided further, That cost-sharing shall not be required for the costs of constructing or operating government-owned facilities or for the costs of Government organizations, National Laboratories, or universities and such costs shall not be used in calculating the required percentage for private sector contributions: Provided further, That private sector contribution percentages need not be met on each contract but must be met in total for each fiscal year.

NAVAL PETROLEUM AND OIL SHALE RESERVES

For necessary expenses in carrying out naval petroleum and oil shale reserves activities, including the purchase of not to exceed 3 passenger motor vehicles, for replacement only, $13,668,000, to remain available until expended.

ENERGY CONSERVATION

For necessary expenses in carrying out energy conservation activities, $449,418,000, to remain available until expended: Provided, That pursuant to section 111(b)(1)(B) of the Energy Reorganization Act of 1974, as amended, 42 U.S.C. 5821(b)(1)(B), of the amount appropriated under this head, $10,319,000 shall be available for a grant for basic industry research facilities located at Northwestern University without section 111(b)(2) of such Act being applicable: Provided further, That section 404 of Public Law 98-558 shall not be effective in any fiscal year in which the amount made available for low income weatherization assistance from appropriations under this head is less than 5 per centum above the amount made available in fiscal year 1985: Provided further, That $7,500,000 of the amount provided under this heading shall be available for a research and development initiative with the National Laboratories for new technologies up to proof-of-concept testing to increase significantly the energy efficiency of processes that produce steel: Provided further, That obligation of funds for these activities shall be contingent on an agreement to provide cash or in-kind contributions to the initiative or to other collaborative research and development activities related to the purpose of the initiative equal to 30 percent of the amount of Federal government obligations: Provided further, That existing facilities, equipment, and supplies, or previously expended research or development funds are not acceptable as contributions for the purposes of this appropriation, except as amortized, depreciated, or expensed in normal business practice. Provided further, That the total Federal expenditure under this proviso shall be repaid up to one and one-half times from the proceeds of the commercial sale, lease, manufacture, or use of technologies developed under this proviso, at a rate of one-fourth of all net proceeds.

ECONOMIC REGULATION

For necessary expenses in carrying out the activities of the Economic Regulatory Administration and the Office of Hearings and Appeals, $24,623,000.

EMERGENCY PREPAREDNESS

For necessary expenses in carrying out emergency preparedness activities, $6,044,000.

STRATEGIC PETROLEUM RESERVE

For expenses necessary to carry out the provisions of sections 151 through 166 of the Energy Policy and Conservation Act of 1975 (Public Law 94-163), $113,043,000, to remain available until expended.

SPR PETROLEUM ACCOUNT

Notwithstanding any other provision of law, the Secretary of Agriculture, at the request of the Secretary of Energy, may exchange agricultural products owned by the Commodity Credit Corporation for crude oil to be delivered to the Strategic Petroleum Reserve: Provided, That the Secretary of

Energy shall approve the quantity, quality, delivery method, scheduling, market value and other aspects of the exchange of such agricultural products: Provided further, That if the volume of agricultural products to be exchanged has a value in excess of the market value of the crude oil acquired by such exchange, then the Secretary of Agriculture shall require as part of the terms and conditions of the exchange that the party or entity providing such crude oil shall agree to purchase, within six months following the exchange, current crop commodities or value-added food products from United States producers or processors in an amount equal to at least one-half the difference between the value of the commodities received in exchange and the market value of the crude oil acquired for the Strategic Petroleum Reserve.

ENERGY INFORMATION ADMINISTRATION

For necessary expenses in carrying out the activities of the Energy Information Administration, $60,682,000.

ADMINISTRATIVE PROVISIONS, DEPARTMENT OF ENERGY

Appropriations under this Act for the current fiscal year shall be available for hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; purchase, repair, and cleaning of uniforms; and reimbursement to the General Services Administration for security guard services.

From appropriations under this Act, transfers of sums may be made to other agencies of the Government for the performance of work for which the appropriation is made.

None of the funds made available to the Department of Energy under this Act shall be used to implement or finance authorized price support or loan guarantee programs unless specific provision is made for such programs in an appropriations Act.

The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, private, or foreign: Provided, That revenues and other moneys received by or for the account of the Department of Energy or otherwise generated by sale of products in connection with projects of the Department appropriated under this Act may be retained by the Secretary of Energy, to be available until expended, and used only for plant construction, operation, costs, and payments to cost-sharing entities as provided in appropriate cost-sharing contracts or agreements: Provided further, That the remainder of revenues after the making of such payments shall be covered into the Treasury as miscellaneous receipts: Provided further, That any contract, agreement or provision thereof entered into by the Secretary pursuant to this authority shall not be executed prior to the expiration of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the receipt by the Speaker of the House of Representatives and the President of the Senate of a full and comprehensive report on such project, including the facts and circumstances relied upon in support of the proposed project.

The Secretary of Energy may transfer to the Emergency Preparedness appropriation such funds as are necessary to meet any unforeseen emergency needs from any funds available to the Department of Energy from this Act.

The reporting requirement established by the last paragraph under the heading "Department of Energy Alternative Fuels Production" in an Act making appropriations for the Department of the Interior and Related Agencies for the fiscal year ending September 30, 1980 (42 U.S.C. 5915 note; Public Law 96-126), is hereby repealed.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

INDIAN HEALTH SERVICES

For expenses necessary to carry out the Act of August 5, 1954 (68 Stat. 674), the Indian Self-Determination Act, the Indian Health Care Improvement Act, and titles III and V and section 338G of the Public Health Service Act with respect to the Indian Health Service, including hire of passenger motor vehicles and aircraft; purchase of reprints; purchase and erection of portable buildings; payments for telephone service in private residences in the field, when authorized under regulations approved by the Secretary, $823,133,000: Provided, That funds made available to tribes and tribal organizations through grants and contracts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450), shall remain available until September 30, 1987. Funds provided in this Act may be used for one-year contracts and grants which are to be performed in two fiscal years, so long as the total obligation is recorded in the year for which the funds are appropriated: Provided further, That the amounts collected by the Secretary of Health and Human Services under the authority of title IV of the Indian Health Care Improvement Act shall be available until September 30, 1987, for the purpose of achieving compliance with the applicable conditions and requirements of titles XVIII and XIX of the Social Security Act (exclusive of planning, design, construction of new facilities, or major renovation of existing Indian Health Service facilities): Provided further, That funding contained herein, and in any earlier appropriations Acts, for scholarship programs under section 103 of the Indian Health Care Improvement Act and section 338G of the Public Health Service Act with respect to the Indian Health Service shall remain available for expenditure until September 30, 1987.

INDIAN HEALTH FACILITIES

For construction, major repair, improvement, and equipment of health and related auxiliary facilities, including quarters for personnel; preparation of plans, specifications, and drawings; acquisition of sites, purchase and erection of portable buildings, purchases of trailers and for provision of domestic and community sanitation facilities for Indians, as authorized by section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a), the Indian Self-Determination Act and the Indian Health Care Improvement Act, $46,947,000, to remain available until expended: Provided, That the Rosebud, South Dakota, hospital shall be designed and constructed with a capacity of 35 beds.

ADMINISTRATIVE PROVISIONS

INDIAN HEALTH SERVICE

Appropriations in this Act to the Indian Health Service, available for salaries and expenses, shall be available for services as authorized by 5 U.S.C. 3109 but at rates not to exceed the per diem equivalent to the rate for GS-18, and for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901-5902), and for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities: Provided, That none of the funds appropriated under this Act to the Indian Health Service shall be available for the initial lease of permanent structures without advance provision therefor in appropriations Acts: Provided further, That non-Indian patients may be extended health care at all Indian Health Service facilities, if such care can be extended without impairing the ability of the Indian Health Service to fulfill its responsibility to provide health care to Indians served by such facilities and subject to such reasonable charges as the Secretary of Health and Human Services shall prescribe, the proceeds of which shall be deposited in the fund established by sections 401 and 402 of the Indian Health Care Improvement Act: Provided further, That funds appropriated to the Indian Health Service in this Act, except those used for administrative and program direction purposes, shall not be subject to limitations directed at curtailing Federal travel and transportation: Provided further, That with the exception of service units which currently have a billing policy, the Indian Health Service shall not initiate any further action to bill Indians in order to collect from third-party payers nor to charge those Indians who may have the economic means to pay unless and until such time as Congress has agreed upon a specific policy to do so and has directed the Indian Health Service to implement such a policy: Provided further, That notwithstanding any other provision of law, to satisfy the outstanding judgment against the Seattle Indian Health Board resulting from termination of its occupancy of the Kobe Park building in Seattle, Washington, $180,000 shall be provided from the unobligated balance available to the Indian Health Service from prior years' appropriations. Such payment shall be made only if the owners of the Kobe Park Building Company accept the sum named as full satisfaction for current or future claims against the Seattle Indian Health Board and the individual members of the Board.

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education

INDIAN EDUCATION

For necessary expenses to carry out, to the extent not otherwise provided, the Indian Education Act, $67,476,000 of which $50,323,000 shall be for part A and $14,820,000 shall be for parts B and C: Provided, That the amounts available pursuant to section 423 of the Act shall remain available for obligation until September 30, 1987.

OTHER RELATED AGENCIES

Navajo and Hopi Indian Relocation Commission

SALARIES AND EXPENSES

For necessary expenses of the Navajo and Hopi Indian Relocation Commission as authorized by Public Law 93-531, $22,491,000 to remain available until expended, for operating expenses of the Commission: Provided, That notwithstanding any regulation to the contrary, the Commission shall notify the Secretary of the Interior by January 1, 1986, of those eligible relocatees who, as of November 30, 1985, were physically domiciled on the lands partitioned to the Hopi Tribe, who had applied by November 30, 1985, for relocation to the lands which are subject to section 11(h) of the Act of December 22, 1974, as amended (25 U.S.C. 640d-10(h)): Provided further, That none of the funds contained in this or any other Act may be used to evict any Navajo houshold who, as of November 30, 1985, is physically domiciled on the lands partitioned to the Hopi Tribe until such time as a new or replacement home is available for such household.

Smithsonian Institution

SALARIES AND EXPENSES

For necessary expenses of the Smithsonian Institution, including research in the fields of art, science, and history; development, preservation, and documentation of the National Collections; presentation of public exhibits and performances; collection, preparation, dissemination, and exchange of information and publications; conduct of education, training, and museum assistance programs; maintenance, alteration, operation, lease (for terms not to exceed ten years), and protection of buildings, facilities, and approaches; not to exceed $100,000 for services as authorized by 5 U.S.C. 3109; up to 5 replacement passenger vehicles; purchase, rental, repair, and cleaning of uniforms for employees; $178,063,000 including not less than $777,000 to carry out the provisions of the National Museum Act, $175,000 to be made available to the trustees of the John F. Kennedy Center for the Performing Arts for payment to the National Symphony Orchestra and $175,000 for payment to the Washington Opera Society for activities related to their responsibilities as resident entities of the Center, and such funds as may be necessary to support American overseas research centers: Provided, That funds appropriated herein are available for advance payments to independent contractors performing research services or participating in official Smithsonian presentations: Provided further, That none of these funds shall be available to a Smithsonian Research Foundation.

MUSEUM PROGRAMS AND RELATED RESEARCH

(SPECIAL FOREIGN CURRENCY PROGRAM)

For payments in foreign currencies which the Treasury Department shall determine to be excess to the normal requirements of the United States, for necessary expenses for carrying out museum programs, scientific and cultural research, and related educational activities, as authorized by law, $2,500,000, to remain available until expended and to be available only to United States institutions: Provided, That this appropriation shall be available, in addition to other appropriations to the Smithsonian Institution, for payments in the foregoing currencies: Provided further, That none of these funds shall be available to a Smithsonian Research Foundation: Provided further, That not to exceed $500,000 may be used to make grant awards to employees of the Smithsonian Institution.

CONSTRUCTION AND IMPROVEMENTS, NATIONAL ZOOLOGICAL PARK

For necessary expenses of planning, construction, remodeling, and equipping of buildings and facilities at the National Zoological Park, by contract or otherwise, $5,551,000, to remain available until expended.

RESTORATION AND RENOVATION OF BUILDINGS

For necessary expenses of restoration and renovation of buildings owned or occupied by the Smithsonian Institution, by contract or otherwise, as authorized by section 2 of the Act of August 22, 1949 (63 Stat. 623), including not to exceed $10,000 for services as authorized by 5 U.S.C. 3109, $11,075,000, to remain available until expended: Provided, That contracts awarded for environmental systems, protection systems, and exterior repair or renovation of buildings of the Smithsonian Institution may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price.

CONSTRUCTION

For necessary expenses to construct, equip, and furnish the Center for African, Near Eastern, and Asian Cultures in the area south of the original Smithsonian Institution Building, $4,000,000, to remain available until expended.

National Gallery of Art

SALARIES AND EXPENSES

For the upkeep and operations of the National Gallery of Art, the protection and care of the works of art therein, and administrative expenses incident thereto, as authorized by the Act of March 24, 1937 (50 Stat. 51), as amended by the public resolution of April 13, 1939 (Public Resolution 9, Seventy-sixth Congress), including services as authorized by 5 U.S.C. 3109; payment in advance when authorized by the treasurer of the Gallery for membership in library, museum, and art associations or societies whose publications or services are available to members only, or to members at a price lower than to the general public; purchase, repair, and cleaning of uniforms for guards, and uniforms, or allowances therefor, for other employees as authorized by law (5 U.S.C. 5901-5902); purchase, or rental of devices and services for protecting buildings and contents thereof, and maintenance, alteration, improvement, and repair of buildings, approaches, and grounds; and purchase of services for restoration and repair of works of art for the National Gallery of Art by contracts made, without advertising, with individuals, firms, or organizations at such rates or prices and under such terms and conditions as the Gallery may deem proper, $33,754,000, of which not to exceed $2,200,000 for the special exhibition program shall remain available until expended.

REPAIR, RESTORATION AND RENOVATION OF BUILDINGS

For necessary expenses of repair, restoration and renovation of buildings, grounds and facilities owned or occupied by the National Gallery of Art, by contract or otherwise, as authorized, $3,300,000, to remain available until expended: Provided, That contracts awarded for environmental systems, protection systems, and exterior repair or renovation of buildings of the National Gallery of Art may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price.

Woodrow Wilson International Center for Scholars

SALARIES AND EXPENSES

For expenses necessary in carrying out the provisions of the Woodrow Wilson Memorial Act of 1968 (82 Stat. 1356), including hire of passenger vehicles and services as authorized by 5 U.S.C. 3109, $3,392,000.

ENDOWMENT CHALLENGE FUND

For the purpose of an endowment challenge fund for the Woodrow Wilson International Center for Scholars, $1,000,000, to remain available until September 30, 1988: Provided, That such sums shall become available only to the extent matched on a three-to-one basis by private funds: Provided further, That these funds may be invested in securities approved by the Board of Trustees and the income from such investments may be used to support programs of the Center deemed appropriate by the Trustees and by the Director of the Center.

National Foundation on the Arts and the Humanities

National Endowment for the Arts

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, $137,260,000, of which $121,678,000 shall be available to the National Endowment for the Arts for the support of projects and productions in the arts through assistance to groups and individuals pursuant to section 5(c) of the Act, of which not less than 20 per centum of the funds provided for section 5(c) shall be available for assistance pursuant to section 5(g) of the Act, and $15,582,000 shall be available for administering the functions of the Act.

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, $29,400,000, to remain available until September 30, 1987, to the National Endowment for the Arts, of which $20,580,000 shall be available for purposes of section 5(1): Provided, That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the Chairman or by grantees of the Endowment under the provisions of section 10(a)(2), subsections 11(a)(2)(A) and 11(a)(3)(A) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.

ARTS AND ARTIFACTS INDEMNITY FUND

For payment of certified claims for losses or damages pursuant to the Arts and Artifacts Indemnity Act of 1975, $300,000, to remain available until expended: Provided, That such funds shall be available to the National Endowment for the Arts for obligation only for claims for losses or damages which the Federal Council on the Arts and Humanities has certified as valid and reported to the Speaker of the House of Representatives and the President pro tempore of the Senate, as provided by the Act.

National Endowment for the Humanities

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, $110,818,000, of which $96,618,000 shall be available to the National Endowment for the Humanities for support of activities in the humanities, pursuant to section 7(c) of the Act, of which not less than 20 per centum shall be available for assistance pursuant to section 7(f) of the Act, and $14,200,000 shall be available for administering the functions of the Act.

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, $28,660,000, to remain available until September 30, 1987, of which $17,000,000 shall be available to the National Endowment for the Humanities for the purposes of section 7(h): Provided, That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accept-

ed by the Chairman or by grantees of the Endowment under the provisions of subsections 11(a)(2)(B) and 11(a)(3)(B) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.

NATIONAL CAPITAL ARTS AND CULTURAL AFFAIRS

There is hereby authorized a program to support artistic and cultural programs in the Nation's Capital to be established under the direction of the National Endowment for the Humanities. Not to exceed $5,000,000 annually is authorized to provide grants for general operating support to eligible organizations located in the District of Columbia which are engaged primarily in performing, exhibiting and/or presenting arts.

Eligibility for grants shall be limited to not-for-profit, non-academic institutions of demonstrated national repute and is further limited to organizations having an annual operating budget in excess of $1,000,000 for each of the three years prior to receipt of a grant. The following organizations are deemed eligible to receive grants under this section: Folger Theater, Corcoran Gallery of Art, Phillips Gallery, Arena Stage, the National Building Museum, the National Capital Children's Museum, the National Symphony Orchestra, the Washington Opera Society, and Ford's Theater.

The Chairman of the National Endowment for the Humanities shall establish an application process and shall, along with the Chairman of the National Endowment for the Arts and the Chairman of the Commission on Fine Arts determine the eligibility of applicant organizations in addition to those herein named.

Of the funds provided for grants, 70 per centum shall be equally distributed among all qualifying organizations and 30 per centum shall be distributed based on the size of an organization's total operating budget compared to the combined total of the operating budgets of all eligible institutions. No organization shall receive a grant in excess of $500,000 in a single year.

An application process shall be established no later than March 1, 1986, and initial grants shall be awarded no later than June 1, 1986.

There is hereby appropriated $2,000,000, to remain available until expended, to carry out the provisions of this section.

INSTITUTE OF MUSEUM SERVICES

GRANTS AND ADMINISTRATION

For carrying out title II of the Arts, Humanities, and Cultural Affairs Act of 1976, as amended, $21,523,000: Provided, That none of these funds shall be available for the compensation of Executive Level V or higher positions.

ADMINISTRATIVE PROVISIONS

None of the funds appropriated to the National Foundation on the Arts and the Humanities may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: Provided, That none of the funds appropriated to the National Foundation on the Arts and the Humanities may be used for official reception and representation expenses.

COMMISSION OF FINE ARTS

SALARIES AND EXPENSES

For expenses made necessary by the Act establishing a Commission of Fine Arts (40 U.S.C. 104), $382,000.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

SALARIES AND EXPENSES

For expenses made necessary by the Act establishing an Advisory Council on Historic Preservation, Public Law 89-665, as amended, $1,585,000: Provided, That none of these funds shall be available for the compensation of Executive Level V or higher positions.

NATIONAL CAPITAL PLANNING COMMISSION

SALARIES AND EXPENSES

For necessary expenses, as authorized by the National Capital Planning Act of 1952 (40 U.S.C. 71-71i), including services as authorized by 5 U.S.C. 3109, $2,712,000.

FRANKLIN DELANO ROOSEVELT MEMORIAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Franklin Delano Roosevelt Memorial Commission, established by the Act of August 11, 1955 (69 Stat. 694), as amended by Public Law 92-332 (86 Stat. 401), $21,000, to remain available for obligation until September 30, 1987.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

SALARIES AND EXPENSES

For necessary expenses, as authorized by section 17(a) of Public Law 92-578, as amended, $2,329,000 for operating and administrative expenses of the Corporation.

PUBLIC DEVELOPMENT

For public development activities and projects in accordance with the development plan as authorized by section 17(b) of Public Law 92-578, as amended, $3,250,000, to remain available for obligation until expended.

UNITED STATES HOLOCAUST MEMORIAL COUNCIL

HOLOCAUST MEMORIAL COUNCIL

For expenses of the Holocaust Memorial Council, as authorized by Public Law 96-388, $2,125,000: Provided, That persons other than members of the United States Holocaust Memorial Council may be designated as members of committees associated with the United States Holocaust Memorial Council subject to appointment by the Chairman of the Council: Provided further, That any persons so designated shall serve without cost to the Federal Government.

TITLE III—GENERAL PROVISIONS

SEC. 301. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive Order issued pursuant to existing law.

SEC. 302. No part of any appropriation under this Act shall be available to the Secretaries of the Interior and Agriculture for use for any sale hereafter made of unprocessed timber from Federal lands west of the 100th meridian in the contiguous 48 States which will be exported from the United States, or which will be used as a substitute for timber from private lands which is exported by the purchaser: Provided, That this limitation shall not apply to specific quantities of grades and species of timber which said Secretaries determine are surplus to domestic lumber and plywood manufacturing needs.

SEC. 303. No part of any appropriation under this Act shall be available to the Secretary of the Interior or the Secretary of Agriculture for the leasing of oil and natural gas by noncompetitive bidding on publicly owned lands within the boundaries of the Shawnee National Forest, Illinois: Provided, That nothing herein is intended to inhibit or otherwise affect the sale, lease, or right to access to minerals owned by private individuals.

SEC. 304. No part of any appropriation contained in this Act shall be available for any activity or the publication or distribution of literature that in any way tends to promote public support or opposition to any legislative proposal on which congressional action is not complete.

SEC. 305. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 306. None of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency.

SEC. 307. Except for lands described by sections 105 and 106 of Public Law 96-560, section 103 of Public Law 96-550, section 5(d)(1) of Public Law 96-312, and except for land in the State of Alaska, and lands in the national forest system released to management for any use the Secretary of Agriculture deems appropriate through the land management planning process by any statement or other Act of Congress designating components of the National Wilderness Preservation System now in effect or hereinafter enacted, and except to carry out the obligations and responsibilities of the Secretary of the Interior under section 17(k)(1)(A) and (B) of the Mineral Leasing Act of 1920 (30 U.S.C. 226), none of the funds provided in this Act shall be obligated for any aspect of the processing or issuance of permits or leases pertaining to exploration for or development of coal, oil, gas, oil shale, phosphate, potassium, sulphur, gilsonite, or geothermal resources on Federal lands within any component of the National Wilderness Preservation System or within any Forest Service RARE II areas recommended for wilderness designation or allocated to further planning in Executive Communication 1504, Ninety-sixth Congress (House Document numbered 96-119); or within any lands designated by Congress as wilderness study areas or within Bureau of Land Management wilderness study areas: Provided, That nothing in this section shall prohibit the expenditure of funds for any aspect of the processing or issuance of permits pertaining to exploration for or development of the mineral resources described in this section, within any component of the National Wilderness Preservation System now in effect or hereinafter enacted, any Forest Service RARE II areas recommended for wilderness designation or allocated to further planning, within any lands designated by Congress as wilderness study areas, or Bureau of Land Management wilderness study areas, under valid existing rights, or leases validly issued in accordance with all applicable Federal, State, and local laws or valid mineral rights in existence prior to October 1, 1982: Provided further, That funds provided in this Act may be used by the Secretary of Agriculture in any area of National Forest lands or the Secretary of the Interior to issue under their existing authority in any area of National Forest or public lands withdrawn pursuant to this Act such permits as may be necessary to conduct prospecting, seismic surveys, and core sampling conducted by helicopter or other means not requiring construction of roads or improvement of existing roads or ways, for the purpose of gathering information about and in-

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ventorying energy, mineral, and other resource values of such area, if such activity is carried out in a manner compatible with the preservation of the wilderness environment: Provided further, That seismic activities involving the use of explosives shall not be permitted in designated wilderness areas: Provided further, That funds provided in this Act may be used by the Secretary of the Interior to augment recurring surveys of the mineral values of wilderness areas pursuant to section 4(d)(2) of the Wilderness Act and acquire information on other national forest and public land areas withdrawn pursuant to this Act, by conducting in conjunction with the Secretary of Energy, the National Laboratories, or other Federal agencies, as appropriate, such mineral inventories of areas withdrawn pursuant to this Act as he deems appropriate. These inventories shall be conducted in a manner compatible with the preservation of the wilderness environment through the use of methods including core sampling conducted by helicopter; geophysical techniques such as induced polarization, synthetic aperture radar, magnetic and gravity surveys; geochemical techniques including stream sediment reconnaissance and x-ray diffraction analysis; land satellites; or any other methods he deems appropriate. The Secretary of the Interior is hereby authorized to conduct inventories or segments of inventories, such as data analysis activities, by contract with private entities deemed by him to be qualified to engage in such activities whenever he has determined that such contracts would decrease Federal expenditures and would produce comparable or superior results: Provided further, That in carrying out any such inventory or surveys, where National Forest System lands are involved, the Secretary of the Interior shall consult with the Secretary of Agriculture concerning any activities affecting surface resources: Provided further, That funds provided in this Act may be used by the Secretary of the Interior to issue oil and gas leases for the subsurface of any lands designated by Congress as wilderness study areas, that are immediately adjacent to producing oil and gas fields or areas that are prospectively valuable. Such leases shall allow no surface occupancy and may be entered only by directional drilling from outside the wilderness study area or other nonsurface disturbing methods.

SEC. 308. None of the funds provided in this Act shall be used to evaluate, consider, process, or award oil, gas, or geothermal leases on Federal lands in the Mount Baker-Snoqualmie National Forest, State of Washington, within the hydrographic boundaries of the Cedar River municipal watershed upstream of river mile 21.6, the Green River municipal watershed upstream of river mile 61.0, the North Fork of the Tolt River proposed municipal watershed upstream of river mile 11.7, and the South Fork Tolt River municipal watershed upstream of river mile 8.4.

SEC. 309. No assessments may be levied against any program, budget activity, subactivity, or project funded by this Act unless such assessments and the basis therefor are presented to the Committees on Appropriations and are approved by such committees.

SEC. 310. Employment funded by this Act shall not be subject to any personnel ceiling or other personnel restriction for permanent or other than permanent employment except as provided by law.

SEC. 311. Notwithstanding any other provisions of law, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Energy, and the Secretary of the Smithsonian Institution, are authorized to enter into contracts with State and local governmental entities, including local fire districts, for procurement of services in the presuppression, detection, and suppression of fires on any units within their jurisdiction.

SEC. 312. None of the funds provided by this Act to the United States Fish and Wildlife Service may be obligated or expended to plan for, conduct, or supervise deer hunting on the Loxahatchee National Wildlife Refuge.

SEC. 313. No funds appropriated by this Act shall be available for the implementation or enforcement of any rule or regulation of the United States Fish and Wildlife Service, Department of the Interior, requiring the use of steel shot in connection with the hunting of waterfowl in any State of the United States unless the appropriate State regulatory authority approves such implementation.

SEC. 314. None of the funds provided in this Act may be used to establish new grizzly bear populations in any unit of the National Park System or the National Forest System where no verified grizzly bear population currently exists. None of the funds provided in this Act may be used for augmentation in occupied areas of grizzly bear habitat unless an augmentation plan has been developed and made available for public review and comment in full compliance with the National Environmental Policy Act by all participating federal agencies: Provided, That it is not intended to prohibit the preparation of proposals to augment existing grizzly bear populations in occupied grizzly bear habitat: Provided further, That such augmentation may be conducted only with funds specifically identified for such purpose in an agency budget justification and subsequently approved in a report accompanying an appropriation bill making appropriations for that agency, or with funds provided for through reprogramming procedures: Provided further, That notwithstanding any other provision of law, agencies included in this Act are authorized to reimburse permittees for such reasonable expenses as may be incurred as a result of moving permitted animals from one location to another, as may be required by the permitting agency, in order to prevent harassment and attacks by grizzly bears. Such expenses are to be determined by the agency responsible for the permitted action.

SEC. 315. Notwithstanding any other provision of law, section 8336(j)(3)(A) of title 5, United States Code is amended by striking "5 years" and inserting in lieu thereof "10 years".

SEC. 316. Section 317 of title III of the Act of December 30, 1982 (96 Stat. 1966), is amended by deleting the words "but before December 31, 1985".

SEC. 317. Funds available to the Department of the Interior and the Forest Service in fiscal year 1986 for the purpose of contracting for services that require the utilization of privately owned aircraft for the carriage of cargo or freight shall be used only to contract for aircraft that are certified as air-worthy by the Administrator of the Federal Aviation Administration as standard category aircraft under 14 CFR 21.183 unless the Secretary of the contracting department determines that such aircraft are not reasonably available to conduct such services.

SEC. 318. None of the funds made available to the Department of the Interior or the Forest Service during fiscal year 1986 by this or any other Act may be used to implement the proposed jurisdictional interchange program until enactment of legislation which authorizes the jurisdictional interchange.

SEC. 319. Notwithstanding any other provision of law, any lease for those Federal lands within the Gallatin and Flathead National Forests which were affected by case CV-82-42-BU of the United States District Court for the District of Montana, Butte Division, for which the Secretary has directed or assented to the suspension of operations and production pursuant to section 39 of the Act of February 25, 1920 (30 U.S.C. 184) shall be excepted from the limits on aggregate acreage set out in that Act: Provided, That any person, association or corporation receiving relief under this section shall bring its aggregate acreage into compliance with the provisions of the Act of February 25, 1920 (30 U.S.C. 184) within six months from the date the suspension of operation and production ends.

SEC. 320. The provisions of section 2(a)(2)(A) of the Mineral Lands Leasing Act of 1920 (41 Stat. 437), as amended by section 3 of the Federal Coal Leasing Amendments Act of 1976 (90 Stat. 1083) shall not take effect until December 31, 1986.

SEC. 321. (a) None of the funds available to the Bureau of Indian Affairs for the construction of housing on lands acquired pursuant to section 11 of Public Law 93-531, as amended, shall be expended until a report is submitted to the House and Senate Committees on Appropriations detailing the proposed uses of such funds on the lands acquired pursuant to section 11 of Public Law 93-531.

(b) In addition to plans for housing, the report shall include a description of other services intended to be provided including, but not limited to, water, sewers, roads, schools, and health facilities. If such services are not to be provided the report shall describe alternative services available. The report shall further identify the proposed sites to which households will be relocated, including the distance from the Joint Use Area to such sites. This report shall be submitted no later than February 15, 1986, by the Navajo and Hopi Indian Relocation Commission and shall include the views of the Secretary of the Interior on the provision of housing and roads on the new lands.

SEC. 322. Notwithstanding any other provision of law, the limitation placed on the Secretary of the Interior by the last sentence of section 319 of "An Act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1985, and for other purposes", as enacted into law by Public Law 98-473 (98 Stat. 1837), shall remain in effect until Congress determines otherwise.

SEC. 323. The Secretary of the Interior, acting through the Bureau of Indian Affairs and in consultation and cooperation with the Secretary of Health and Human Services and the Secretary of Education, shall develop and begin implementation of a program which provides instruction in health promotion and disease prevention to juvenile Indians enrolled in schools operated by, or on behalf of, the Bureau of Indian Affairs

And the Senate Agree to the same.

SEC. 324. Public Law 96-388, as amended (36 U.S.C. 1401 et seq.), is further amended as follows:

(1) The first sentence of section 36 U.S.C. 1401 is amended to read: "There is hereby established as an independent Federal agency

the United States Holocaust Memorial Council (hereinafter in this chapter referred to as the 'Council').";

(2) 36 U.S.C. 1407 is amended by adding the word "invest," after the word "administer," in the first sentence, and by adding the following new sentence as the penultimate sentence: "Funds donated to and accepted by the Council pursuant to this section are not to be regarded as appropriated funds and are not subject to any requirements or restrictions applicable to appropriated funds."; and

(3) By adding the following new sections at the end of 36 U.S.C. 1408:

"REPORT TO THE CONGRESS

The Eexecutive Director shall make a full report annually to the Congress of his stewardship of the authority to construct, operate, and maintain the Holocaust Museum, including an accounting of all financial transactions involving donated funds.

AUDIT BY THE COMPTROLLER GENERAL; ACCESS TO RECORDS

Financial transactions of the Council, including those involving donated funds, shall be audited by the Comptroller General as requested by the Congress, in accordance with generally accepted auditing standards. In conducting any audit pursuant to this section, appropriate representatives of the Comptroller General shall have access to all books, accounts, financial records, reports, files and other papers, items or property in use by the Council, as necessary to facilitate such audit, and such representatives shall be afforded full facilities for verifying transactions with the balances."; and the Senate agree to the same.

Amendment numbered 8:

That the House recede from its disagreement to the amendment of the Senate numbered 8, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

(e) Such amounts as may be necessary for projects or activities provided for in the Department of Transportation and Related Agencies Appropriation Act, 1986, at a rate for operations and to the extent and in the manner provided for in the following Act; this subsection shall be effective as if it had been enacted into law as the regular appropriation Act:

AN ACT Making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1986, and for other purposes.

TITLE I—DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

Salaries and Expenses

For necessary expenses of the Office of the Secretary of Transportation, including not to exceed $30,000 for allocation within the Department of official reception and representation expenses as the Secretary may determine, $51,300,000, together with $500,000 of the unobligated balances available under this head at the beginning of fiscal year 1986, and of which $3,500,000 shall remain available until expended and shall be available for the purposes of the Minority Business Resource Center as authorized by 49 U.S.C. 332: Provided, That, notwithstanding any other provision of law, funds available for the purposes of the Minority Business Resource Center in this or any other Act may be used for business opportunities related to any mode of transportation.

Transportation Planning, Research, and Development

For necessary expenses for conducting transportation planning, research, and development activities, including the collection of national transportation statistics, and university research and internships, to remain available until expended, $3,500,000.

Working Capital Fund

Necessary expenses for operating costs and capital outlays of the Department of Transportation Working Capital Fund not to exceed $64,500,000 shall be paid, in accordance with law, from appropriations made available by this Act and prior appropriation Acts to the Department of Transportation, together with advances and reimbursements received by the Department of Transportation.

Payments to Air Carriers

For payments to air carriers of so much of the compensation fixed and determined under section 419 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1389), as is payable by the Department of Transportation, $28,000,000, to remain available until expended.

COAST GUARD

Operating Expenses

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for the operation and maintenance of the Coast Guard, not otherwise provided for; purchase of not to exceed eight passenger motor vehicles for replacement only; and recreation and welfare, $1,652,000,000, of which $10,000,000 shall be derived from unobligated balances of "Pollution fund" and of which $15,000,000 shall be expended from the Boat Safety Account: Provided, That, notwithstanding any other provision of law, of the funds available under this head $789,800,000 shall be available for compensation and benefits of military personnel: Provided further, That, of the funds available under this head, not less than $328,000,000 shall be available for drug enforcement activities: Provided further, That the number of aircraft on hand at any one time shall not exceed two hundred and ten, exclusive of planes and parts stored to meet future attrition: Provided further, That none of the funds appropriated in this or any other Act shall be available for pay or administrative expenses in connection with shipping commissioners in the United States: Provided further, That none of the funds provided in this Act shall be available for expenses incurred for yacht documentation under 46 U.S.C. 103 except to the extent fees are collected from yacht owners and credited to this appropriation.

Acquisition, Construction, and Improvements

For necessary expenses of acquisition, construction, rebuilding, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto; to remain available until September 30, 1990, $267,300,000: Provided, That the Secretary of Transportation shall issue regulations requiring that written warranties shall be included in all contracts with prime contractors for major systems acquisitions of the Coast Guard: Provided further, That any such written warranty shall not apply in the case of any system or component thereof that has been furnished by the Government to a contractor: Provided further, That the Secretary of Transportation may provide for a waiver of the requirements for a warranty where: (1) the waiver is necessary in the interest of the national defense or the warranty would not be cost effective; and (2) the Committees on Appropriations of the Senate and the House of Representatives are notified in writing of the Secretary's intention to waive and reasons for waiving such requirements: Provided further, That the requirements for such written warranties shall not cover combat damage.

Alteration of Bridges

For necessary expenses for alteration or removal of obstructive bridges, $5,200,000, to remain available until expended.

Retired Pay

For retired pay, including the payment of obligations therefor otherwise chargeable to lapsed appropriations for this purpose, and payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and for payments for medical care of retired personnel and their dependents under the Dependents Medical Care Act (10 U.S.C., ch. 55), $351,800,000.

Reserve Training

For all necessary expenses for the Coast Guard Reserve, as authorized by law; maintenance and operation of facilities; and supplies, equipment, and services, $61,502,000.

Research, Development, Test, and Evaluation

For necessary expenses, not otherwise provided for, for basic and applied scientific research, development, test, and evaluation; maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law, $21,000,000, to remain available until expended: Provided, That there may be credited to this appropriation funds received from State and local governments, other public authorities, private sources and foreign countries, for expenses incurred for research, development, testing, and evaluation.

Offshore Oil Pollution Compensation Fund

For necessary expenses to carry out the provisions of title III of the Outer Continental Shelf Lands Act Amendments of 1978 (Public Law 95-372), $1,000,000, to be derived from the Offshore Oil Pollution Compensation Fund and to remain available until expended. In addition, to the extent that available appropriations are not adequate to meet the obligations of the Fund, the Secretary of Transportation is authorized to issue to the Secretary of the Treasury notes or other obligations in such amounts and at such times as may be necessary: Provided, That none of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $60,000,000 in fiscal year 1986 for the "Offshore Oil Pollution Compensation Fund".

Deepwater Port Liability Fund

For necessary expenses to carry out the provisions of section 18 of the Deepwater Port Act of 1974 (Public Law 93-627), $1,000,000, to be derived from the Deepwater Port Liability Fund and to remain available until expended. In addition, to the extent that available appropriations are not adequate to meet the obligations of the Fund, the Secretary of Transportation is authorized to issue, and the Secretary of the Treasury is authorized to purchase, without fiscal year limitation, notes or other obligations in such amounts and at such times as may be necessary: Provided, That none of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of

$50,000,000 in fiscal year 1986 for the "Deepwater Port Liability Fund".

Boat Safety

(Liquidation of Contract Authorization)

For payment of obligations incurred for recreational boating safety assistance under Public Law 92-75, as amended, $30,000,000, to be derived from the Boat Safety Account and to remain available until expended: Provided, That none of the funds in this Act shall be available for the planning or execution of programs the obligations for which are in excess of $30,000,000 in fiscal year 1986 for recreational boating safety assistance: Provided further, That no obligations may be incurred for the improvement of recreational boating facilities.

FEDERAL AVIATION ADMINISTRATION

Headquarters Administration

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses, not otherwise provided for, of providing administrative services at the headquarters location of the Federal Aviation Administration, including but not limited to accounting, budgeting, personnel, legal, public affairs, and executive direction for the Federal Aviation Administration, $64,400,000: Provided, That the Secretary of Transportation is authorized to transfer appropriated funds between this appropriation and the Federal Aviation Administration appropriation for operations: Provided further, That this appropriation shall be neither increased nor decreased by more than 2 per centum by any such transfers: Provided further, That any such transfers shall be reported to the Committees on Appropriations.

Operations

For necessary expenses of the Federal Aviation Administration, not otherwise provided for, including administrative expenses for research and development, and for establishment of air navigation facilities, and carrying out the provisions of the Airport and Airway Development Act, as amended, or other provisions of law authorizing obligation of funds for similar programs of airport and airway development or improvement; purchase of four passenger motor vehicles for replacement only, $2,694,600,000, of which not to exceed $446,000,000 shall be derived from the Airport and Airway Trust Fund: Provided, That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred in the maintenance and operation of air navigation facilities: Provided further, That none of these funds shall be available for new applicants for the second career training program.

Facilities and Equipment (Airport and Airway Trust Fund)

For necessary expenses, not otherwise provided for, for acquisition, establishment, and improvement by contract or purchase, and hire of air navigation and experimental facilities, including initial acquisition of necessary sites by lease or grant; engineering and service testing including construction of test facilities and acquisition of necessary sites by lease or grant; and construction and furnishing of quarters and related accommodations of officers and employees of the Federal Aviation Administration stationed at remote localities where such accommodations are not available; to be derived from the Airport and Airway Trust Fund and to remain available until September 30, 1990, $993,000,000: Provided, That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred in the establishment and modernization of air navigation facilities: Provided further, That of the funds available under this head, $10,000,000 shall be available for the Secretary of Transportation to enter into grant agreements with universities or colleges to conduct demonstration projects in the development, advancement, or expansion of airway science curriculum programs, and such funds, which shall remain available until expended, shall be made available under such terms and conditions as the Secretary of Transportation may prescribe, to such universities or colleges for the purchase or lease of buildings and associated facilities, instructional materials, or equipment to be used in conjunction with airway science curriculum programs.

Research, Engineering and Development (Airport and Airway Trust Fund)

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses, not otherwise provided for, for research, engineering and development, in accordance with the provisions of the Federal Aviation Act (49 U.S.C. 1301-1542), including construction of experimental facilities and acquisition of necessary sites by lease or grant, to be derived from the Airport and Airway Trust Fund and to remain available until expended, $190,000,000, together with $15,000,000 to be transferred from unobligated balances of "Facilities and equipment", of which $3,036,412 shall be available for icing and related next generation weather radar atmospheric research to be conducted by the University of North Dakota, $2,000,000 shall be available for the Center for Research and Training in Information-based Aviation and Transportation Management at Barry University and $2,000,000 shall be available for the Institute for Aviation Safety Research at Wichita State University: Provided, That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred for research, engineering and development.

Grants-in-Aid for Airports (Liquidation of Contract Authorization) (Airport and Airway Trust Fund)

For liquidation of obligations incurred for airport planning and development under section 14 of Public Law 91-258, as amended, and under other law authorizing such obligations, and obligations for noise compatibility planning and programs, $693,000,000, to be derived from the Airport and Airway Trust Fund and to remain available until expended: Provided, That none of the funds in this Act shall be available for the planning or execution of programs the commitments for which are in excess of $925,000,000 in fiscal year 1986 for grants-in-aid for airport planning and development, and noise compatibility planning and programs, notwithstanding section 506(e)(4) of the Airport and Airway Improvement Act of 1982.

Operation and Maintenance, Metropolitan Washington Airports

For expenses incident to the care, operation, maintenance, improvement, and protection of the federally-owned civil airports in the vicinity of the District of Columbia, including purchase of eight passenger motor vehicles for police use, for replacement only; purchase, cleaning, and repair of uniforms; and arms and ammunition, $34,100,000: Provided, That there may be credited to this appropriation funds received from air carriers, concessionaires, and non-federal tenants sufficient to cover utility and fuel costs which are in excess of $6,682,000: Provided further, That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, or private sources, for expenses incurred in the maintenance and operation of the federally-owned civil airports.

Construction, Metropolitan Washington Airports

For necessary expenses for construction at the federally-owned civil airports in the vicinity of the District of Columbia, $7,000,000, to remain available until September 30, 1988.

Aviation Insurance Revolving Fund

The Secretary of Transportation is hereby authorized to make such expenditures and investments, within the limits of funds available pursuant to section 1306 of the Act of August 23, 1958, as amended (49 U.S.C. 1536), and in accordance with section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 9104), as may be necessary in carrying out the programs set forth in the budget for the current fiscal year for aviation insurance activities under said Act.

Aircraft Purchase Loan Guarantee Program

The Secretary of Transportation may hereafter issue notes or other obligations to the Secretary of the Treasury, in such forms and denominations, bearing such maturities, and subject to such terms and conditions as the Secretary of the Treasury may prescribe. Such obligations may be issued to pay any necessary expenses required pursuant to any guarantee issued under the Act of September 7, 1957, Public Law 85-307, as amended (49 U.S.C. 1324 note). The aggregate amount of such obligations during fiscal year 1986 shall not exceed $75,000,000. Such obligations shall be redeemed by the Secretary from appropriations authorized by this section. The Secretary of the Treasury shall purchase any such obligations, and for such purpose he may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force. The purposes for which securities may be issued under such Act are extended to include any purchase of notes or other obligations issued under the subsection. The Secretary of the Treasury may sell any such obligations at such times and price and upon such terms and conditions as he shall determine in his discretion. All purchases, redemptions, and sales of such obligations by such Secretary shall be treated as public debt transactions of the United States.

FEDERAL HIGHWAY ADMINISTRATION

Limitation on General Operating Expenses

Necessary expenses for administration, operation, and research of the Federal Highway Administration, not to exceed $203,761,000, shall be paid, in accordance with law, from appropriations made available by this Act to the Federal Highway Administration together with advances and reimbursements received by the Federal Highway Administration: Provided, That not to exceed $48,415,000 of the amount provided herein shall remain available until expended: Provided further, That all unobligated amounts made available under this head in prior fiscal years for the establishment and *implementation of a demonstration bonding program for economically and socially disadvantaged businesses shall remain available for such purposes until expended: Provided further, That, notwithstanding any other provision of law, there may be credited to this account funds received from States, counties, municipalities, other public authorities and private sources, for training expenses incurred for non-federal employees: Provided further, That none of the funds provided in this Act shall be used for the approval of, or to pay the salary of any person who approves projects to construct a landfill in the Hudson River as part of an Interstate System highway in New York City.*

Highway Safety Research and Development

(Highway Trust Fund)

For necessary expenses in carrying out provisions of sections 307(a) and 403 of title 23, United States Code, to be derived from the Highway Trust Fund and to remain available until expended, $8,500,000.

Highway-Related Safety Grants (Liquidation of Contract Authorization) (Highway Trust Fund)

For payment of obligations incurred in carrying out the provisions of title 23, United States Code, section 402, administered by the Federal Highway Administration, to remain available until expended, $9,000,000 to be derived from the Highway Trust Fund: Provided, That not to exceed $100,000 of the amount appropriated herein shall be available for "Limitation on general operating expenses": Provided further, That none of the funds in this Act shall be available for the planning or execution of programs the obligations for which are in excess of $10,000,000 in fiscal year 1986 for "Highway-related safety grants".

Highway Beautification

Funds appropriated and obligated to carry out sections 131 and 136 of title 23, United States Code, which have been deobligated subsequent to enactment of this Act shall remain available until expended.

Railroad-Highway Crossings Demonstration Projects

For necessary expenses of certain railroad-highway crossings demonstration projects as authorized by section 163 of the Federal-Aid Highway Act of 1973, as amended, to remain available until expended, $16,000,000, of which $10,666,667 shall be derived from the Highway Trust Fund: Provided, That the unobligated balance of funds appropriated in Public Law 93-98 for Wheeling, West Virginia, is hereby made available for allocation to carry out highway projects on the Federal-aid system in Wheeling, West Virginia at full federal expense.

Federal-Aid Highways (Liquidation of Contract Authorization) (Highway Trust Fund)

For carrying out the provisions of title 23, United States Code, which are attributable to Federal-aid highways, including the National Scenic and Recreational Highway as authorized by 23 U.S.C. 148, not otherwise provided, including reimbursements for sums expended pursuant to the provisions of 23 U.S.C. 308, $13,836,000,000 or so much thereof as may be available in and derived from the Highway Trust Fund, to remain available until expended: Provided, That none of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $12,750,000,000 for Federal-aid highways and highway safety construction programs for fiscal year 1986, except that this limitation shall not apply to obligations for emergency relief under section 125 of title 23, United States Code, obligations under section 157 of title 23, United States Code, projects covered under section 147 of the Surface Transportation Assistance Act of 1978, section 9 of the Federal-Aid Highway Act of 1981, subsections 131 (b) and (j) of Public Law 97-424, section 118 of the National Visitors Center Facilities Act of 1968, or section 320 of title 23, United States Code.

Right-of-Way Revolving Fund (Limitation on Direct Loans) (Highway Trust Fund)

During fiscal year 1986 and with the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed $50,000,000.

Motor Carrier Safety

For necessary expenses to carry out the motor carrier safety functions of the Secretary as authorized by the Department of Transportation Act (80 Stat. 939-940), $13,900,000, of which $953,000 shall remain available until expended, and not to exceed $1,601,000 shall be available for "Limitation on general operating expenses".

Motor Carrier Safety Grants

(Highway Trust Fund)

For necessary expenses to carry out provisions of section 402 of Public Law 97-424, $17,000,000, to be derived from the Highway Trust Fund and to remain available until September 30, 1989.

Access Highways to Public Recreation Areas on Certain Lakes

(including transfer of funds)

For necessary expenses of certain access highway projects, as authorized by section 155, title 23, United States Code, to remain available until expended, $10,000,000, of which $5,000,000 shall be derived from unobligated balances of "Research, training, and human resources".

Baltimore-Washington Parkway

(Highway Trust Fund)

For necessary expenses, not otherwise provided, to carry out the provisions of the Federal-Aid Highway Act of 1970, for the Baltimore-Washington Parkway, to remain available until expended, $3,000,000 to be derived from the Highway Trust Fund and to be withdrawn therefrom at such times and in such amounts as may be necessary: Provided, That, notwithstanding subsection (b) of section 146 of the Federal-Aid Highway Act of 1970 and any agreement entered into under such subsection, the Secretary of the Interior shall not be required to convey to the State of Maryland any portion of the Baltimore-Washington Parkway located in the State of Maryland, and the State of Maryland shall not be required to accept conveyance of any such portion: Provided further, That funds authorized by such section may be expended without regard to any requirement of such an agreement that such portion of the Baltimore-Washington Parkway be conveyed to the State of Maryland.

Waste Isolation Pilot Project Roads

For necessary expenses in connection with the upgrading of certain highways for the transportation of nuclear waste generated during defense-related activities, not otherwise provided for, $7,000,000, to remain available until expended.

Rail Line Consolidation Project

(transfer of funds)

For necessary expenses to carry out a project to consolidate two rail lines on a common alignment in the vicinity of Orange, Texas, that demonstrates methods by which a rail line consolidation project will reduce motor vehicle traffic congestion and increase employment, to remain available until expended, $4,000,000 to be derived from unobligated balances of "Research, training, and human resources".

Airport-Highway Demonstration Project

(transfer of funds)

For necessary expenses to carry out a highway project to depress a highway in Shawnee, Oklahoma, that demonstrates methods of improving air service to a small community by extension of a runway over a depressed road, to remain available until expended, $1,350,000 to be derived from unobligated balances of "Research, training, and human resources".

Expressway Gap Closing Demonstration Project

For necessary expenses to carry out a highway construction project along State Route 113 in north-central California that demonstrates methods of reducing motor vehicle congestion and increasing employment, there is authorized to be appropriated $23,500,000, to remain available until expended, of which $9,000,000 is hereby appropriated: Provided, That such funds shall be exempt from any limitation on obligations for Federal-aid highways and highway safety construction programs.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

Operations and Research

(including transfers of funds)

For expenses necessary to discharge the functions of the Secretary with respect to traffic and highway safety and functions under the Motor Vehicle Information and Cost Savings Act (Public Law 92-513, as amended), $88,851,000, of which $5,000,000 shall be derived from unobligated balances of "Research, training, and human resources", and of which $29,894,000 shall be derived from the Highway Trust Fund: Provided, That not to exceed $36,296,000 shall remain available until expended, of which $14,833,000 shall be derived from the Highway Trust Fund: Provided further, That, of the funds available under this head, $10,000,000 shall be available to implement the recommendations of the 1985 National Academy of Sciences report on trauma research: Provided further, That for the purpose of carrying out a national program to encourage the use of automobile passive restraints as authorized by 23 U.S.C. 403, an additional $500,000 is available to be derived from unobligated balances of "Carpool and vanpool projects".

Highway Traffic Safety Grants

(Liquidation of Contract Authorization)

(Highway Trust Fund)

For payment of obligations incurred in carrying out the provisions of 23 U.S.C. 402, 406 and 408, and section 209 of Public Law 95-599, as amended, to remain available until expended, $149,000,000, to be derived from the Highway Trust Fund: Provided, That none of the funds in this Act shall be available for the planning or execution of programs the total obligations for which are in excess of $126,500,000 in fiscal year 1986 for "State and community highway safety" authorized under 23 U.S.C. 402: Provided further, That none of these funds shall be used for construction, rehabilitation or remodeling costs or for office furnishings and fixtures for State, local, or private buildings or structures: Provided further, That none of *the funds in this Act shall be available for the planning or execution of programs the total obligations for which are in excess of $28,800,000 for "Alcohol safety incentive grants" authorized under 23 U.S.C. 408: Provided further, That none of the funds in this Act shall be available for the planning or execution of programs authorized by section 209 of Public Law 95-599, as amended, the total obligations for which are in excess of $5,000,000 in fiscal years 1983, 1984, 1985, and 1986: Provided further, That not to exceed $5,000,000 shall be available for administering the provisions of 23 U.S.C. 402.*

FEDERAL RAILROAD ADMINISTRATION

Office of the Administrator

For necessary expenses of the Federal Railroad Administration, not otherwise provided for, $10,120,000.

Railroad Safety

For necessary expenses in connection with railroad safety, not otherwise provided for, $27,764,000, of which $1,500,000 shall remain available until expended.

Railroad Research and Development

For necessary expenses for railroad research and development, $10,600,000, to remain available until expended.

Rail Service Assistance

For necessary expenses for rail service assistance authorized by section 5 of the Department of Transportation Act, as amended, for Washington Union Station, as authorized by Public Law 97-125, and for necessary administrative expenses in connection with federal rail assistance programs not otherwise provided for, $20,200,000, to remain available until expended: Provided, That none of the funds provided under this Act shall be available for the planning or execution of a program making commitments to guarantee new loans under the Emergency Rail Services Act of 1970, as amended, and that no new commitments to guarantee loans under section 211(a) or 211(h) of the Regional Rail Reorganization Act of 1973, as amended, shall be made: Provided further, That none of the funds in this Act shall be available for the acquisition, sale or transference of Washington Union Station without the prior approval of the House and Senate Committees on Appropriations: Provided further, That, of the funds available under this head, $15,000,000 shall be available for allocation to the States under section 5(h)(2) of the Department of Transportation Act, as amended: Provided further, That, notwithstanding any other provision of law, a State may not apply for fiscal year 1986 funds available under section 5(h)(2) until such State has expended all funds granted to it in the fiscal years prior to the beginning of fiscal year 1981, other than funds not expended due to pending litigation: Provided further, That a State denied funding by reason of the immediately preceding proviso may still apply for and receive funds for planning purposes: Provided further, That, notwithstanding any other provision of law, of the funds available under section 5(h)(2), $10,000,000 shall be made available for use under sections 5(h)(3)(B)(ii) and 5(h)(3)(C) of the Department of Transportation Act, as amended, notwithstanding the limitations set forth in section 5(h)(3)(B)(ii).

Conrail Labor Protection

Such sums as may be necessary shall be made available for necessary expenses of administration of section 701 of the Regional Rail Reorganization Act of 1973 by the Railroad Retirement Board.

Northeast Corridor Improvement Program

For necessary expenses related to Northeast Corridor improvements authorized by title VII of the Railroad Revitalization and Regulatory Reform Act of 1976, as amended (45 U.S.C. 851 et seq.), $12,500,000, to remain available until expended: Provided, That, notwithstanding any other provision of law, the provisions of Public Law 85-804 shall apply to the Northeast Corridor Improvement Program: Provided further, That the Secretary may waive the provisions of 23 U.S.C. 322 (c) and (d) if such action would serve a public purpose: Provided further, That all public at grade-level crossings remaining along the Northeast Corridor upon completion of the project shall be equipped with protective devices including gates and lights.

Grants to the National Railroad Passenger Corporation

(INCLUDING TRANSFERS OF FUNDS)

To enable the Secretary of Transportation to make grants to the National Railroad Passenger Corporation for operating losses incurred by the Corporation, capital improvements, and labor protection costs authorized by 45 U.S.C. 565, to remain available until expended, $616,000,000, of which $23,000,000 shall be derived from unobligated balances of "Conrail labor protection" and $5,500,000 shall be derived from unobligated balances of "Rail labor assistance" as of September 30, 1985: Provided, That none of the funds herein appropriated shall be used for lease or purchase of passenger motor vehicles or for the hire of vehicle operators for any officer or employee, other than the president of the Corporation, excluding the lease of passenger motor vehicles for those officers or employees while in official travel status: Provided further, That the Secretary shall make no commitments to guarantee new loans or loans for new purposes under 45 U.S.C. 602 in fiscal year 1986: Provided further, That the incurring of any obligation or commitment by the Corporation for the purchase of capital improvements prohibited by this Act or not expressly provided for in an appropriation Act shall be deemed a violation of 31 U.S.C. 1341: Provided further, That no funds are required to be expended or reserved for expenditure pursuant to 45 U.S.C. 601(e): Provided further, That none of the funds in this or any other Act shall be made available to finance the rehabilitation and other improvements (including upgrading track and the signal system, ensuring safety at public and private highway and pedestrian crossings by improving signals or eliminating such crossings, and the improvement of operational portions of stations related to intercity rail passenger service) on the main line track between Atlantic City, New Jersey, and the main line of the Northeast Corridor, unless the Secretary of Transportation certifies that not less than 40 per centum of the costs of such improvements shall be derived from non-federal sources: Provided further, That, notwithstanding any other provision of law, the National Railroad Passenger Corporation shall not operate rail passenger service between Atlantic City, New Jersey, and the Northeast Corridor main line unless the Corporation's Board of Directors determines that revenues from such service have covered or exceeded 80 per centum of the short term avoidable costs of operating such service in the first year of operation and 100 per centum of the short term avoidable operating costs for each year thereafter: Provided further, That none of the funds provided in this or any other Act shall be made available to finance the acquisition and rehabilitation of a line, and construction necessary to facilitate improved rail passenger service, between Spuyten Duyvil, New York, and the main line of the Northeast Corridor unless the Secretary of Transportation certifies that not less than 40 per centum of the costs of such improvement shall be derived from non-Amtrak sources.

Railroad Rehabilitation and Improvement Financing Funds

The total commitments to guarantee new loans pursuant to sections 511 through 513 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94-210), as amended, shall not exceed $4,000,000 of contingent liabilities for loan principal during fiscal year 1986: Provided, That the Secretary of Transportation is authorized to issue to the Secretary of the Treasury notes or other obligations pursuant to section 512 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94-210), as amended, in such amounts and at such times as may be necessary to pay any amounts required pursuant to the guarantee of the principal amount of obligations under sections 511 through 513 of such Act, such authority to exist as long as any such guaranteed obligation is outstanding: Provided further, That the aggregate amount of such notes or other obligations during fiscal year 1986 shall not exceed $100,000,000.

Redeemable Preference Shares

Notwithstanding any other provision of law, the Secretary of Transportation is hereby authorized to expend proceeds from the sale of fund anticipation notes to the Secretary of the Treasury and any other moneys deposited in the Railroad Rehabilitation and Improvement Fund pursuant to sections 502, 505-507, and 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94-210), as amended, and section 803 of Public Law 95-620, for uses authorized for the Fund, in amounts not to exceed $33,500,000.

Conrail Commuter Transition Assistance

(TRANSFER OF FUNDS)

For necessary capital expenses of Conrail commuter transition assistance, not otherwise provided for, $5,000,000 to be derived from unobligated balances of "Research, training, and human resources" and to remain available until expended.

URBAN MASS TRANSPORTATION ADMINISTRATION

Administrative Expenses

For necessary administrative expenses of the urban mass transportation program authorized by the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), and 23 U.S.C. chapter 1, in connection with these activities, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, $30,000,000, of which not to exceed $650,000 shall be available for the Office of the Administrator.

Research, Training, and Human Resources

For necessary expenses for research, training, and human resources as authorized by the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), to remain available until expended, $17,400,000: Provided, That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities and private sources, for expenses incurred for training.

FORMULA GRANTS

For necessary expenses to carry out the provisions of sections 9 and 18 of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), $2,150,000,000, to remain available until expended.

DISCRETIONARY GRANTS

None of the funds in this Act shall be available for the implementation or execution of programs in excess of $1,045,500,000 in fiscal year 1986 for grants under the contract authority authorized in section 21(a)(2)(B) of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.).

LIQUIDATION OF CONTRACT AUTHORIZATION

For payment of obligations incurred in carrying out section 21(a)(2) of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), administered by the Urban Mass Transportation Administration, $775,000,000, to be derived from the Highway Trust Fund and to remain available until expended.

INTERSTATE TRANSFER GRANTS—TRANSIT

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out the provisions of 23 U.S.C. 103(e)(4) related to transit projects, to remain available until September 30, 1987, $218,750,000, of which $18,750,000 shall be derived from unobligated balances of "Research, training, and human resources".

WASHINGTON METRO

For necessary expenses to carry out the provisions of section 14 of Public Law 96-184, $227,000,000, to remain available until expended.

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

The Saint Lawrence Seaway Development Corporation is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to the Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the Corporation's budget for the current fiscal year except as hereinafter provided.

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $1,916,000 shall be available for administrative expenses which shall be computed on an accrual basis, including not to exceed $3,000 for official entertainment expenses to be expended upon the approval or authority of the Secretary of Transportation: Provided, That Corporation funds shall be available for the hire of passenger motor vehicles and aircraft, operation and maintenance of aircraft, uniforms or allowances therefor for operation and maintenance personnel, as authorized by law (5 U.S.C. 5901-5902), and $15,000 shall be available for services as authorized by 5 U.S.C. 3109.

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

RESEARCH AND SPECIAL PROGRAMS

For expenses necessary to discharge the functions of the Research and Special Programs Administration, for expenses for conducting research and development and for grants-in-aid to carry out a pipeline safety program, as authorized by section 5 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1674), $19,300,000, of which $6,975,000 shall remain available until expended.

OFFICE OF THE INSPECTOR GENERAL

SALARIES AND EXPENSES

For necessary expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, $27,600,000.

TITLE II—RELATED AGENCIES

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

SALARIES AND EXPENSES

For expenses necessary for the Architectural and Transportation Barriers Compliance Board, as authorized by section 502 of the Rehabilitation Act of 1973, as amended, $1,975,000.

NATIONAL TRANSPORTATION SAFETY BOARD

SALARIES AND EXPENSES

For necessary expenses of the National Transportation Safety Board, including hire of passenger motor vehicles and aircraft; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for a GS-18; uniforms, or allowances therefor, as authorized by law (5 U.S.C 5901-5902), $22,300,000, of which not to exceed $500 may be used for official reception and representation expenses.

INTERSTATE COMMERCE COMMISSION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Interstate Commerce Commission, including services as authorized by 5 U.S.C. 3109, and not to exceed $1,500 for official reception and representation expenses, $50,480,000, of which $2,300,000 shall be derived from unobligated balances of "Payments for directed rail service": Provided, That joint board members and cooperating State commissioners may use Government transportation requests when traveling in connection with their official duties as such.

PAYMENTS FOR DIRECTED RAIL SERVICE

None of the funds provided in this Act shall be available for the execution of programs the obligations for which can reasonably be expected to exceed $1,000,000 for directed rail service authorized under 49 U.S.C. 11125 or any other legislation.

PANAMA CANAL COMMISSION

OPERATING EXPENSES

For operating expenses necessary for the Panama Canal Commission, including hire of passenger motor vehicles and aircraft; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); not to exceed $10,000 for official reception and representation expenses of the Board; operation of guide services; residence for the Administrator; disbursements by the Administrator for employee and community projects; not to exceed $1,000 for official reception and representation expenses of the Secretary; not to exceed $25,000 for official reception and representation expenses of the Administrator; and to employ services as authorized by law (5 U.S.C. 3109); $400,284,000, to be derived from the Panama Canal Commission Fund: Provided, That there may be credited to this appropriation funds received from the Panama Canal Commission's capital outlay account for expenses incurred for supplies and services provided for capital projects.

CAPITAL OUTLAY

For acquisition, construction, replacement, and improvement of facilities, structures, and equipment required by the Panama Canal Commission, including the purchase of not to exceed forty-four passenger motor vehicles for replacement only (including large heavy-duty vehicles used to transport Commission personnel across the Isthmus of Panama, the purchase price of which shall not exceed $14,000 per vehicle); to employ services authorized by law (5 U.S.C. 3109); $25,500,000 to be derived from the Panama Canal Commission Fund and to remain available until expended.

DEPARTMENT OF THE TREASURY

OFFICE OF THE SECRETARY

INVESTMENT IN FUND ANTICIPATION NOTES

For the acquisition, in accordance with section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976, as amended, and section 803 of Public Law 95-620, of fund anticipation notes, $33,500,000.

UNITED STATES RAILWAY ASSOCIATION

ADMINISTRATIVE EXPENSES

For necessary administrative expenses to enable the United States Railway Association to carry out its functions under the Regional Rail Reorganization Act of 1973, as amended, to remain available until expended, $2,400,000, of which not to exceed $500 may be available for official reception and representation expenses.

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

INTEREST PAYMENTS

For necessary expenses for interest payments, to remain available until expended, $51,663,569: Provided, That these funds shall be disbursed pursuant to terms and conditions established by Public Law 96-184 and the Initial Bond Repayment Participation Agreement.

TITLE III—GENERAL PROVISIONS

SEC. 301. During the current fiscal year applicable appropriations to the Department of Transportation shall be available for maintenance and operation of aircraft; hire of passenger motor vehicles and aircraft; purchase of liability insurance for motor vehicles operating in foreign countries on official departmental business; and uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901-5902).

SEC. 302. Funds appropriated for the Panama Canal Commission may be apportioned notwithstanding section 3679 of the Revised Statutes, as amended (31 U.S.C. 1341), to the extent necessary to permit payment of such pay increases for officers or employees as may be authorized by administrative action pursuant to law which are not in excess of statutory increases granted for the same period in corresponding rates of compensation for other employees of the Government in comparable positions.

SEC. 303. Funds appropriated under this Act for expenditures by the Federal Aviation Administration shall be available (1) except as otherwise authorized by the Act of September 30, 1950 (20 U.S.C. 236-244), for expenses of primary and secondary schooling for dependents of Federal Aviation Administration personnel stationed outside the continental United States at costs for any given area not in excess of those of the Department of Defense for the same area, when it is determined by the Secretary that the schools, if any, available in the locality are unable to provide adequately for the education of such dependents and (2) for transportation of said dependents between schools serving the area which they attend and their places of *residence when the Secretary, under such regulations as may be prescribed, determines that such schools are not accessible by public means of transportation on a regular basis.*

SEC. 304. Appropriations contained in this Act for the Department of Transportation shall be available for services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for a GS-18.

SEC. 305. None of the funds appropriated in this Act for the Panama Canal Commission may be expended unless in conformance with the Panama Canal Treaties of 1977 and any law implementing those treaties.

SEC. 306. None of the funds provided in this Act may be used for planning or construction of rail-highway crossings under section 322(a) of title 23, United States Code, or under section 701(a)(5) or section 703(1)(A) of the Railroad Revitalization and Regulatory Reform Act of 1976 at the—

(1) School Street crossing in Groton, Connecticut; and

(2) Broadway Extension crossing in Stonington, Connecticut.

SEC. 307. None of the funds in this Act shall be used for the planning or execution of any program to pay the expenses of, or otherwise compensate, non-federal parties intervening in regulatory or adjudicatory proceedings funded in this Act.

SEC. 308. None of the funds in this Act shall be used to assist, directly or indirectly, any State in imposing mandatory State inspection fees or sticker requirements on vehicles which are lawfully registered in another State, including vehicles engaged in interstate commercial transportation which are in compliance with Part 396—Inspection and Maintenance of the Federal Motor Carrier Safety Regulations of the United States Department of Transportation.

SEC. 309. None of the funds contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 310. Notwithstanding any other provision of law, total amounts of contract authority authorized for fiscal year 1986 in section 21(a)(2)(B) of the Urban Mass Transportation Act of 1964, as amended, shall be available for obligation through fiscal year 1989.

SEC. 311. None of the funds in this or any other Act shall be available for the planning or implementation of any change in the current federal status of the Transportation Systems Center.

SEC. 312. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive Order issued pursuant to existing law.

SEC. 313. (a) For fiscal year 1986 the Secretary of Transportation shall distribute the obligation limitation for Federal-aid highways by allocation in the ratio which sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to each State for such fiscal year bear to the total of the sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to all the States for such fiscal year.

(b) During the period October 1 through December 31, 1985, no State shall obligate more than 40 per centum of the amount distributed to such State under subsection (a), and the total of all State obligations during such period shall not exceed 25 per centum of the total amount distributed to all States under such subsection.

(c) Notwithstanding subsections (a) and (b), the Secretary shall—

(1) provide all States with authority sufficient to prevent lapses of sums authorized to be appropriated for Federal-aid highways and highway safety construction which have been apportioned to a State, except in those instances in which a State indicates its intention to lapse sums apportioned under section 104(b)(5)(A) of title 23, United States Code;

(2) after August 1, 1986, revise a distribution of the funds made available under subsection (a) if a State will not obligate the amount distributed during that fiscal year and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during that fiscal year giving priority to those States having large unobligated balances of funds apportioned under section 104 of title 23, United States Code, and giving priority to those States which, because of statutory changes made by the Surface Transportation Assistance Act of 1982 and the Federal-Aid Highway Act of 1981, have experienced substantial proportional reductions in their apportionments and allocations; and

(3) not distribute amounts authorized for administrative expenses and the Federal Lands Highway Programs.

SEC. 314. None of the funds in this Act shall be available for salaries and expenses of more than one hundred thirty-eight political appointees in the Department of Transportation.

SEC. 315. Not to exceed $1,700,000 of the funds provided in this Act for the Department of Transportation shall be available for the necessary expenses of advisory committees.

SEC. 316. The limitation on obligations for Federal-aid highways and highway safety construction programs for fiscal year 1986 shall not apply to obligations for the remaining approach and bridge removal work necessary to complete the new bridge alignment for the Zilwaukee Bridge.

SEC. 317. (a) Section 5(b)(2) of the Urban Mass Transportation Act of 1964 is amended by inserting after the first sentence the following new sentence: "Any funds apportioned for fiscal year 1982 or 1983 under subsection (a) for expenditure in an urbanized area with a population of less than 200,000 may be expended in an urbanized area with a population of 200,000 or more.".

(b) Section 5(c)(4) of the Urban Mass Transportation Act of 1964 is amended by striking the period at the end of the first sentence, and inserting the following: "except that any fiscal year 1982 funds made available to a Governor under section 5(b)(2) of the Urban Mass Transportation Act of 1964, as amended, that are unobligated as of October 1, 1985, or become unobligated thereafter, shall remain available for expenditure under section 5 until October 1, 1986.".

SEC. 318. Notwithstanding any other provision of law, within 60 days of the effective date of this Act the Urban Mass Transportation Administration shall reapportion under section 9 of the Urban Mass Transportation Act of 1964, as amended, those funds available for reapportionment pursuant to subsection (c)(4) of section 5 of that Act.

SEC. 319. None of the funds in this or any other Act shall be made available for the proposed Woodward light rail line in the Detroit, Michigan, area until a source of operating funds has been approved in accordance with Michigan law: Provided, That this limitation shall not apply to alternatives analysis studies under section 21(a)(2)(B) of the Urban Mass Transportation Act of 1964, as amended.

SEC. 320. The Secretary of Transportation shall enter into negotiations for full funding contracts with the appropriate local governmental authorities to construct (1) the minimum operable segment, MOS-1, of the downtown Los Angeles to San Fernando Valley Metro Rail project; (2) the north and south legs of the downtown component of metrorail in Dade County, Florida; and (3) the downtown transit project (bus tunnel) in Seattle, Washington: Provided, That the Secretary shall commence negotiations with appropriate local authorities to enter into such contracts no later than 30 days after enactment and shall conclude such negotiations no later than 90 days after enactment: Provided further, That such contracts shall cover total project costs including federal financial participation consisting of fiscal year 1984 and fiscal year 1985 discretionary grants funding made available pursuant to section 331 of this Act, fiscal year 1986 discretionary grants funding in accordance with the accompanying Joint Explanatory Statement of the Managers, and future funding as made available by the Congress.

SEC. 321. The Urban Mass Transportation Administration shall enter into a contract with the Southern California Rapid Transit District to conduct a study of the potential methane gas risks relating to the proposed alignment of the Metro Rail project beyond the Minimum Operable Segment, MOS-1. None of the funds described in section 320 may be made available for any segment of the downtown Los Angeles to San Fernando Valley Metro Rail project unless and until the Southern California Rapid Transit District officially notifies and commits to the Urban Mass Transportation Administration that no part of the Metro Rail project will tunnel into or through any zone designated as a potential risk zone or high potential risk zone in the report of the City of Los Angeles dated June 10, 1985, entitled "Task Force Report on the March 24, 1985 Methane Gas Explosion and Fire in the Fairfax Area". Funds for this study, in an amount not to exceed $1,000,000, shall be made available from funds previously allocated for the MOS-1 project, commencing within 30 days of enactment.

SEC. 322. The limitation on obligations for the Discretionary Grants Program of the Urban Mass Transportation Administration shall not apply to any authority under section 21(a)(2)(B) of the Urban Mass Transportation Act of 1964, as amended, previously made available for obligation.

SEC. 323. (a) Notwithstanding any other provision of law, the Secretary of Transportation may use not to exceed one-half of 1 percent of—

(1) the funds made available for fiscal year 1986 by section 21(a)(2)(B) of the Urban Mass Transportation Act of 1964, as amended, to carry out section 3 of such Act to contract with any person to oversee the construction of any major project under such section;

(2) the funds appropriated for fiscal year 1986 pursuant to section 21(a)(1) of the Urban Mass Transportation Act of 1964, as amended, to carry out section 9 of such Act

to contract with any person to oversee the construction of any major project under such section;

(3) the funds appropriated for fiscal year 1986 pursuant to section 21(a)(1) of the Urban Mass Transportation Act of 1964, as amended, to carry out section 18 of such Act to contract with any person to oversee the construction of any major project under such section;

(4) the funds appropriated for fiscal year 1986 pursuant to section 4(g) of the Urban Mass Transportation Act of 1964, as amended, to contract with any person to oversee the construction of any major public transportation project substituted for an Interstate segment withdrawn under section 103(e)(4) of title 23, United States Code; and

(5) the funds appropriated for fiscal year 1986 pursuant to the National Capital Transportation Act of 1969 to contract with any person to oversee the construction of any major project under such Act.

(b) Any contract entered into under subsection (a) shall provide for the payment by the Secretary of Transportation of 100 percent of the cost of carrying out the contract.

(c) This section shall take effect on October 1, 1985, and shall cease to be in effect at the close of September 30, 1986.

Sec. 324. (a) General Rule.—Tolls collected for motor vehicles on any bridge connecting the borough of Brooklyn, New York, and Staten Island, New York, shall only be collected for those vehicles exiting from such bridge in Staten Island.

(b) Enforcement.—The Secretary shall withhold 1 percent of the amount required to be apportioned to the State of New York under sections 104 and 144 of title 23, United States Code, on the first day of the fiscal year succeeding any fiscal year in which tolls collected for motor vehicles on the bridge referred to in subsection (a) are collected for those vehicles exiting from such bridge in the borough of Brooklyn.

(c) Period of Applicability.—This section shall apply on and after the 90th day following the date of enactment of this section, except that this section shall not apply after the date on which the Secretary publishes in the Federal Register a determination under subsection (d).

(d) Removal of Limitation.—

(1) Determination of Secretary.—Subsections (a) and (b) shall cease to be in effect if, upon petition by the Governor of New York under paragraph (2), the Secretary determines that—

(A) a substantial loss of revenues has resulted from the limitation imposed by subsection (a), or

(B) such limitation has resulted in significant traffic problems,

and the Secretary publishes such determination in the Federal Register.

(2) Petition.—The Governor of New York may petition the Secretary for a determination under paragraph (1) at any time after a period of six consecutive months in which tolls collected for motor vehicles on the bridge referred to in subsection (a) have been collected only for those vehicles exiting from such bridge in Staten Island.

Sec. 325. Notwithstanding section 127 of title 23, United States Code, the State of Wyoming may conduct a demonstration project for a period not to exceed two years in order to determine the effects on the National System of Interstate and Defense Highways located in Wyoming of the use of such highways by vehicles in excess of 80,000 pounds gross weight but meeting axle and bridge formula specifications in section 127 of title 23, United States Code.

Sec. 326. Section 18(e) of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following: "For the purpose of this subsection, the term 'Federal funds or revenues' does not include funds received by a recipient of funds under this section pursuant to a service agreement with a State or local social service agency or a private social service organization.".

Sec. 327. Section 119(d), 23 U.S.C. is amended by adding at the end of such section: "Notwithstanding any other provision of law, and for the purposes of this subsection, the phrase 'segments of the interstate system open to traffic' shall include a proposed four-lane, limited access highway, 6.4 miles in length, the construction of which will relocate to a southern alignment a portion of an existing interstate highway which was originally built without the aid of funds authorized by section 108(b) of the Federal-Aid Highway Act of 1956, as amended, and which connects to the east with an interstate highway on which tolls are charged. The construction of the proposed highway shall include a bridge over the Monongahela River.".

Sec. 328. (a) Title XI of the Federal Aviation Act of 1958 (49 App. U.S.C. 1501 et seq.) is amended by adding at the end thereof the following:

"AERONAUTICAL CHARTS AND MAPS

"Sec. 1118. Notwithstanding the provisions of section 1341 of title 31, United States Code, or any other provision of law, the United States Government shall enter into agreements to indemnify any person who publishes a chart or map for use in aeronautics from any claim, or portion of a claim, which arises out of such person's depiction on such chart or map of any defective or deficient flight procedure or airway, if such flight procedure or airway was—

"(1) promulgated by the Federal Aviation Administration;

"(2) accurately depicted on such chart or map; and

"(3) not obviously defective or deficient.".

(b) The table of contents of the Federal Aviation Act of 1958 is amended by inserting immediately after the item relating to section 1117 the following:

"Sec. 1118. Aeronautical charts and maps.".

Sec. 329. Notwithstanding section 108(b) of the Federal-Aid Highway Act of 1956, sums appropriated to the State of New York under 23 U.S.C. 104(b)(5)(A) during the fiscal year ending September 30, 1986, may be obligated for Interstate construction projects under section 108(b) of the Federal-Aid Highway Act of 1956 or for Interstate substitute highway projects under 23 U.S.C. 103(e)(4): Provided, That the withdrawal value for New York under 23 U.S.C. 103(e)(4) shall be reduced by the amounts obligated hereunder for Interstate highway substitute projects. The federal share of the cost to complete any such Interstate substitute highway projects to which this provision applies shall be 85 per centum. In carrying out this provision the State of New York and the Secretary of Transportation shall assign highest priority to the completion of Interstate construction projects. This section shall expire on October 1, 1986.

Sec. 330. Notwithstanding any other provision of law, none of the funds in this Act shall be available for the construction of the Central Automated Transit System (Downtown People Mover) in Detroit, Michigan: Provided, That the immediately preceding provision shall not apply to $10,000,000 apportioned to the Detroit Department of Transportation.

Sec. 331. The Congress disapproves the proposed deferral D86-21, pertaining to the Urban Mass Transportation Administration, as set forth in the message of October 1, 1985, which was transmitted to the Congress by the President. This disapproval shall be effective upon enactment into law of this Act and the amount of the proposed deferral disapproved herein shall be made available for obligation.

Sec. 332. Section 201 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 711) is amended—

(1) in the first sentence of paragraph (2) of subsection (d) by inserting "freight" before "railroad"; and

(2) in the first sentence of subsection (e) by striking out "1985" and inserting in lieu thereof "1987".

Sec. 333. The Act approved July 28, 1937 (50 Stat. 535), is amended by striking out in the first paragraph thereof, "and approaches thereto" and by inserting at the end thereof "The States of Maine and New Hampshire are authorized to assume all construction, maintenance, and operational authority over the approach roads and grade separation stuctures in their respective areas. As provided in Maine Private and Special Law, Chapter 38, 1985, and New Hampshire Statutes, Chapter 415, 1985, the respective States shall require the Authority to provide Authority funds for capital improvements.".

Sec. 334. Notwithstanding any other provision of law, the first sentence of section 125(b) of title 23, United States Code, is amended by inserting after "$30,000,000" the following: "($55,000,000 for projects in connection with disasters or failures occurring in calendar year 1985)".

Sec. 335. Notwithstanding any other provision of law or regulation, the Secretary of Transportation shall, within 30 days after enactment of this section, issue in the Federal Register a Notice of Intent to prepare an environmental impact statement for the construction of the north and south legs of the downtown component of metrorail in Dade County, Florida: Provided, That the absence of a federally-approved environmental impact statement for this project shall not preclude or delay the negotiations required under section 320 of this Act.

This Act may be cited as the "Department of Transportation and Related Agencies Appropriation Act, 1986".

And the Senate agree to the same.

Amendment Numbered 10:

That the House recede from its disagreement to the amendment of the Senate numbered 10, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by the House and stricken by the Senate, insert the following:

(h) For the purposes of Sec. 252(a)(6)(D)(i)(II) of Public Law 99-177, the section of the Statement of the Managers entitled "Definition of Program, Project, and Activity as provided by Public Law 99-177, the Balanced Budget and Emergency Deficit Control Act of 1985" shall be considered to be the reports filed by the Committees on Appropriations for the purpose of defining "Program, Project, and Activity".

And the Senate agree to the same.

Amendment numbered 13:

That the House recede from its disagreement to the amendment of the Senate numbered 13, and agree to the same with an amendment, as follows:

In lieu of the first sum named in said amendment insert: *$1,065,000,000*; and the Senate agree to the same.

Amendment numbered 14:

That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert:

(j) such amounts as may be necessary for projects or activities provided for in the Foreign Assistance and Related Programs Appropriations Act, 1986, at a rate for operations and to the extent in the following Act; this subsection shall be effective as if it had been enacted into law as the regular appropriation Act:

AN ACT making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1986, and for other purposes, namely:

TITLE I—MULTILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL FINANCIAL INSTITUTIONS

CONTRIBUTION TO THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

For payment to the International Bank for Reconstruction and Development by the Secretary of the Treasury, for the United States share of the paid-in share portion of the increase in capital stock, $109,720,549 for the General Capital Increase, as authorized by section 39 of the Bretton Woods Agreements Act, as amended (Public Law 79–171), to remain available until expended: Provided, That no such payment may be made while the United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the International Bank for Reconstruction and Development may subscribe without fiscal year limitation to the callable capital portion of the United States share of increases in capital stock in an amount not to exceed $1,353,220,096.

CONTRIBUTION TO THE INTERNATIONAL DEVELOPMENT ASSOCIATION

For payment to the International Development Association by the Secretary of the Treasury, $700,000,000, for the second installment of the United States contribution to the seventh replenishment, to remain available until expended: Provided, That no such payment may be made while the United States Executive Director to the International Bank for Reconstruction and Development is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

CONTRIBUTION TO THE SPECIAL FACILITY FOR SUB-SAHARAN AFRICA

For payment to the Special Facility for Sub-Saharan Africa by the Secretary of the Treasury, $75,000,000, to remain available until expended: Provided, That funds made available under this heading shall be paid to the Special Facility for Sub-Saharan Africa no later than December 31, 1985.

CONTRIBUTION TO THE INTERNATIONAL FINANCE CORPORATION

For payment to the International Finance Corporation by the Secretary of the Treasury, $29,077,390, for the United States share of the increase in subscriptions to capital stock, to remain available until expended.

CONTRIBUTION TO THE INTER-AMERICAN DEVELOPMENT BANK

For payment to the Inter-American Development Bank by the Secretary of the Treasury for the United States share of the increase in the resources of the Fund for Special Operations, $40,000,000, to remain available until expended; and $38,000,983 for the United States share of the increase in paid-in capital stock to remain available until expended; and $11,700,000 for the United States share of the capital stock of the Inter-American Investment Corporation to remain availalbe until expended: Provided, That no such payment may be made while the United States Executive Director for the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director for the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the Inter-American Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of such increase in capital stock in an amount not to exceed $1,230,964,704.

CONTRIBUTION TO THE ASIAN DEVELOPMENT BANK

For payment to the Asian Development Bank by the Secretary of the Treasury, for the paid-in share portion of the United States share of the increase in capital stock, $11,909,408 to remain available until expended; and for the United States contribution to the increases in resources of the Asian Development Fund, as authorized by the Asian Development Bank Act, as amended (Public Law 89–369), $100,000,000 to remain available until expended: Provided, That none of the funds provided by the United States to the Asian Development Bank may be made available if the Republic of China (Taiwan) is denied any of the rights and privileges of full membership in the Asian Development Bank: Provided further, That no such payment may be made while the United States Director of the Bank is compensated by the Bank at a rate which, together with whatever compensation such Director receives from the United States, is in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while any alternate United States Director to the Bank in excess of the rate provided for an individual occupying a position at level V of the Evecutive Schedule under section 5316 of title 5, United States Code.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the Asian Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of such increase in capital stock in an amount not to exceed $226,230,498.

CONTRIBUTION TO THE AFRICAN DEVELOPMENT FUND

For payment to the African Development Fund by the Secretary of the Treasury, $62,250,000, for the United States contribution to the fourth replenishment of the African Development Fund, to remain available until expended.

CONTRIBUTION TO THE AFRICAN DEVELOPMENT BANK

For payment to the African Development Bank by the Secretary of the Treasury, for the paid-in share portion of the United States share of the increase in capital stock, $16,188,910, to remain available until expended: Provided, That no such payment may be made while the United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the African Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of such capital stock in an amount not to exceed $48,564,032.

PARTICIPATION IN INTERNATIONAL FINANCIAL INSTITUTIONS

(a) Titles I, II, and III of H.R. 2253 as reported on May 15, 1985 and section 3 of H.R. 1948 as introduced April 3, 1985, are hereby enacted.

(b) Section 102 of H.J. Res. 465 shall not apply with respect to the provisions enacted by this paragraph.

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

For necessary expenses to carry out the provisions of sections 301 and 103(g) of the Foreign Assistance Act of 1961, and of section 2 of the United Nations Environment Program Participation Act of 1983, $277,922,475: Provided, That no funds shall be available for the United Nations Fund for Science and Techology: Provided further, That the total amount of funds made available by this paragraph shall be available only as follows: $148,500,000 for the United Nations Development Program; $48,150,000 for the United Nations Children's Fund; $1,900,000 for the World Food Program; $900,000 for the United Nations Capital Development Fund; $250,000 for the United Nations Voluntary Fund for the Decade for Women; $1,282,500 for the International Convention and Scientific Organization Contributions; $1,800,000 for the World Meteorological Organization Voluntary Cooperation Program; $17,715,000 for the International Atomic Energy Agency; $9,000,000 for the United Nations Environment Program; $900,000 for the United Nations Educational and Training Program for South Africa; $1,429,975 for the United Nations Development Program Trust Fund to Combat Poverty and Hunger in Africa; $225,000 for the United Nations Institute for Namibia; $180,000 for the Convention on International Trade in Endangered Species; $250,000 for *the World Heritage Fund; $90,000 for the United Nations Voluntary Fund for Victims of Torture; $225,000 for the United Nations Fellowship Program; $400,000 for the Center on Human Settlements; $14,725,000 for the Organization of American States; and $30,000,000 for the International Fund for Agricultural Development (except that the funds provided by this paragraph for the International Fund for Agricultural Development shall not be made available to such organization until a budget request has been received by the Congress and the United States has entered into an agreement to participate in the second replenishment of the organization and, notwithstanding sections 451, 492(b), or 614 of the Foreign Assistance Act of 1961, or any other provision of law, such funds may be made available only for the second replenishment of the International Fund for Agricultural Development, except that to the extent that these funds cannot be so utilized, they shall revert to the Treasury as miscellaneous receipts).*

TITLE II—BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

For expenses necessary to enable the President to carry out the provisions of the Foreign Assistance Act of 1961, and for other purposes, to remain available until September 30, 1986, unless otherwise specified herein, as follows:

AGENCY FOR INTERNATIONAL DEVELOPMENT

Agriculture, rural development and nutrition, Development Assistance: For necessary expenses to carry out the provisions of section 103, $699,995,900: Provided, That not less than $5,000,000 shall be provided for new development projects of private entities and cooperatives utilizing surplus dairy products: Provided further, That not less than $8,000,000 shall be provided for the Vitamin A Deficiency Program.

Population, Development Assistance: For necessary expenses to carry out the provisions of section 104(b), $250,000,000: Provided, That none of the funds made available in this Act nor any unobligated balances from prior appropriations may be made available to any organization or program which, as determined by the President of the United States, supports or participates in the management of a program of coercive abortion or involuntary sterilization: Provided further, That none of the funds made available under this heading may be used to pay for the performance of abortion as a method of family planning or to motivate or coerce any person to practice abortions; and that in order to reduce reliance on abortion in developing nations, funds shall shall be available only to voluntary family planning projects which offer, either directly or through referral to or information about access to, a broad range of family planning methods and services: Provided further, That nothing in this subsection shall be construed to alter any existing statutory prohibitions against abortion under section 104 of the Foreign Assistance Act.

Health, Development Assistance: For necessary expenses to carry out the provisions of section 104(c), $200,824,200: Provided, That not less than $12,500,000 shall be provided for child survival programs and activities.

Child Survival Fund: For necessary expenses to carry out the provisions of section 104(c)(2), $25,000,000.

Education and human resources development, Development Assistance: For necessary expenses to carry out the provisions of section 105, $169,949,700: Provided, That of this amount not less than $4,000,000 shall be made available only for the International Student Exchange Program.

Energy and selected development activities, Development Assistance: For necessary expenses to carry out the provisions of section 106, $174,358,930: Provided, That not less than $5,000,000 shall be made available only for cooperative projects among the United States, Israel and developing countries: Provided further, That up to $2,280,000 may be made available for hybrid poplar energy farming in Nepal: Provided further, That up to $1,200,000 may be made available for the establishment of land use management system in Costa Rica if requested by the Government of Costa Rica.

Central America Development Assistance: Of the funds appropriated to carry out the provisions of sections 103 through 106, not more than $250,000,000 shall be available for Central America except as provided through the regular notification process of the Committees on Appropriations.

Private and Voluntary Organizations: None of the funds appropriated or otherwise made available in this Act for development assistance may be made available after January 1, 1986, to any United States private and voluntary organization, except any cooperative development organization, which obtains less than 20 per centum of its total annual funding for international activities from sources other than the United States Government: Provided, That the requirements of the provisions of section 123(g) of the Foreign Assistance Act of 1961 and the provisions on private and voluntary organizations in Title II of the "Foreign Assistance and Related Programs Appropriations Act, 1985" (as enacted in Public Law 98-473) shall be superseded by the provisions of this section.

Science and technology, Development Assistance: For necessary expenses to carry out the provisions of section 106, $10,790,000.

Private sector revolving fund: For necessary expenses to carry out the provisions of section 108 of the Foreign Assistance Act of 1961, as amended, not to exceed $18,000,000 to be derived by transfer from funds appropriated to carry out the provisions of chapter 1 of part I of such Act, to remain available until expended. During fiscal year 1986, obligations for assistance from amounts in the revolving fund account under section 108 shall not exceed $18,000,000.

Loan allocation, Development Assistance: In order to carry out the provisions of part I, the Administrator of the Agency responsible for administering such part may furnish loan assistance pursuant to existing law and on such terms and conditions as he may determine: Provided, That to the maximum extent practicable, loans to private sector institutions, from funds made available to carry out the provisions of sections 103 through 106, shall be provided at or near the prevailing interest rate paid on Treasury obligations of similar maturity at the time of obligating such funds: Provided further, That amounts appropriated to carry out the provisions of chapter 1 of part I which are provided in the form of loans shall remain available until September 30, 1987.

American schools and hospitals abroad: For necessary expenses to carry out the provisions of section 214, $35,000,000.

International disaster assistance: For necessary expenses to carry out the provisions of section 491, $22,500,000, to remain available until expended.

Sahel development program: For necessary expenses to carry out the provisions of section 121, $80,500,000, to remain available until expended: Provided, That no part of such appropriation may be available to make any contribution of the United States to the Sahel development program in excess of 10 percent of the total contributions to such program.

Payment to the Foreign Service Retirement and Disability Fund: For payment to the "Foreign Service Retirement and Disability Fund", as authorized by the Foreign Service Act of 1980, $43,122,000.

Operating expenses of the Agency for International Development: For necessary expenses to carry out the provisions of section 667, $376,350,000 : Provided, That not more than $20,000,000 of this amount shall be for Foreign Affairs Administrative Support: Provided further, That except to the extent that the Administrator of the Agency for International Development determines otherwise, not less than 10 per centum of the aggregate of the funds made available for the fiscal year 1986 to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 shall be made available only for activities of economically and socially disadvantaged enterprises (within the meaning of section 133(c)(5) of the International Development and Food Assistance Act of 1977), historically black colleges and universities, and private and voluntary organizations which are controlled by individuals who are black Americans, Hispanic Americans, or Native Americans, or who are economically and socially disadvantaged (within the meaning of section 133(c)(5) (B) and (C) of the International Development and Food Assistance Act of 1977). For purposes of this section, economically and socially disadvantaged individuals shall be deemed to include women: Provided further, That not less than $2,500,000 shall be used to carry out the purposes of section 636(d): Provided further, That not less than $1,200,000 shall be available for the International Development Intern Program: Provided further, That none of the funds appropriated or made available (other than funds appropriated or made available by this paragraph) pursuant to this Act for carrying out the Foreign Assistance Act of 1961, may be used for the operating expenses of the Agency for International Development: Provided further, That none of the funds in this Act may be used to relocate the Regional Inspector General's Office in Cairo to another country: Provided further, That after February 28, 1986, none of the funds appropriated by this paragraph shall be available for the operating expenses of the International Development Cooperation Agency.

Operating expenses of the Agency for International Development Office of Inspector General: For necessary expenses to carry out the provisions of section 667, $21,050,000, which sum shall be available only for the operating expenses of the Office of the Inspector General notwithstanding sections 451 or 614 of the Foreign Assistance Act of 1961 or any other provision of law: Provided, That the full-time equivalent staff years for the Office of the Inspector General for fiscal year 1986 shall not be less than one hundred and ninety-three: Provided further, That up to three percent of the amount made available under the paragraph "Operating expenses of the Agency for International Development" may be transferred to and merged and consolidated with amounts made available under this paragraph.

Trade credit insurance program: During the fiscal year 1986, total commitments to guarantee or insure loans for the "Trade credit insurance program" shall not exceed $250,000,000 of contingent liability for loan principal.

Trade and development program: For necessary expenses to carry out the provisions of section 661, $18,900,000.

Housing and other credit guaranty programs: During the fiscal year 1986, total commitments to guarantee loans shall not exceed $152,000,000 of contingent liability for loan principal: Provided, That the President shall enter into commitments to guarantee such loans in the full amount by this paragraph, subject only to the availability of qualified applicants for such guarantees.

Economic support fund: For necessary expenses to carry out the provisions of chapter 4 of part II, $3,700,000,000: Provided, That of the funds appropriated under this paragraph, not less than $1,200,000,000 shall be available only for Israel, which sum shall be available on a grant basis as a cash transfer and shall be disbursed within 30 days of enactment of this Act or by October 31, 1985, whichever is later: Provided further, That not less than $815,000,000 shall be available only for Egypt, which sum shall be provided on a grant basis, of which not less than $115,000,000 shall be provided as a cash transfer in accordance with the provisions of section 202(b) of Public Law 99-83, and not less than $200,000,000 shall be provided as a Commodity Import Program: Provided further, That it is the same sense of the Congress that the recommended levels assistance for Egypt and Israel are based in great measure upon their continued participation in the Camp David Accords and upon the Egyptian-Israeli peace treaty; and that Egypt and Israel are urged to continue their efforts to restore a full diplomatic relationship, including ambassadors, and achieve realization of the Camp David Accords: Provided further, That not less than $250,000,000 of the funds appropriated under this paragraph shall be available only for Pakistan: Provided further, That any of the funds appropriated under this paragraph for El Salvador which are placed in the Central Reserve Bank of El Salvador shall be maintained in a separate account and not commingled with any other funds, except that such funds may be obligated and expended notwithstanding provisions of law, which are inconsistent with the cash transfer nature of this assistance, or which are referenced in the Joint Explanatory Statement of the Committee of Conference accompanying House Joint Resolution 648(H. Rept. No. 98-1159): Provided further, That pursuant to section 660(d) of the Foreign Assistance Act of 1961 up to $1,000,000 of the funds appropriated under this paragraph shall be available to assist the Government of El Salvador's Special Investigative Unit for the purpose of bringing to justice those responsible for the murders of United States citizens in El Salvador: Provided further, That a report of the investigation shall be provided to the Congress: Provided further, That funds appropriated under this paragraph for Mozambique may be made available only for activities in support of the private sector: Provided further, That of the amounts made available by this paragraph for Mozambique, $5,000,000 may not be made available until a democratic election has been held in Mozambique: Provided further, That of the funds provided under this paragraph only $125,000,000 shall be made available for the Philippines: Provided further, That of the funds appropriated or otherwise made available under this heading, $15,000,000 shall be made available only for Cyprus (except that any offshore procurement must meet Agency for International Development procurement source and origin regulations): Provided further, That not less than $15,000,000 of the funds provided under this paragraph shall be made available only for Ecuador, which sum shall be disbursed within thirty days of enactment of this Act: Provided further, That up to $20,000,000 of the funds provided under this paragraph may be made available to carry out the Administration of Justice program pursuant to section 534 of the Foreign Assistance Act of 1961: Provided further, That not less than 35 percent of the funds allocated for the Human Rights Fund for South Africa shall be made available in accordance with section 802(d) of Public Law 99-83: Provided forther, That the obligation of funds made available under this paragraph to finance tied all credits shall be subject to the regular notification procedures of the Committees on Appropriations.

TRANSFER OF FUNDS

Transfer of funds: Of the unobligated funds remaining from funds appropriated for the "Economic support fund" for Lebanon in Public Law 98-63, $22,850,000 shall be tranferred as follows: (1) $12,500,000 to the "Child Survival Fund", (2) $5,350,000 to "Internal Organizations and Programs" for the United Nations Children's Fund, and (3) to "International Narcotics Control: Provided, that except for such transfers", amounts remaining unobligated as of September 30, 1985, from funds appropriated for the "Economic Support Fund" for Lebanon in Public Law 98-63 shall, notwithstanding sections 451, 492(b), and 614 of the Foreign Assistance Act of 1961, or any other provision of law, be made available only for Lebanon: Provided further, That, to the extent that these funds cannot be used to provide assistance for Lebanon, they shall revert to the Treasury as miscellaneous receipts.

RESCISSION

Deobligation and rescission of funds: $11,200,000 of the funds remaining in the "Syria Termination Account" created by Public Law 98-151 are deobligated and are rescinded: Provided, That the authority contained in sections 451, 492(b), and 614 of the Foreign Assistance Act of 1961, or any other provision of law, shall not be exercised to permit the use of funds remaining in the "Syria Termination Account" created by Public Law 98-151 for any other purposes that those for which the account was created.

INDEPENDENT AGENCIES

AFRICAN DEVELOPMENT FOUNDATIONS

For necessary expenses to carry out the provisions of title V of the International Security and Development Cooperation Act of 1980, Public Law 96-533, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 9104, title 31, United States Code, $3,872,000.

INTER-AMERICAN FOUNDATION

For expenses necessary to carry out the functions of the Inter-American Foundation in accordance with the provisions of section 401 of the Foreign Assistance Act of 1969, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 9104, title 31, United States Code, $11,969,000.

OVERSEAS PRIVATE INVESTMENT CORPORATION

The Overseas Private Investment Corporation is authorized to make such expenditures within the limits of funds available to it and in accordance with law (including not to exceed $35,000 for official reception and representation expenses), and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 9104 of title 31, United States Code, as may be necessary in carrying out the program set forth in the budget for the current fiscal year.

During the fiscal year 1986 and within the resources and authority available, gross obligations for the amount of direct loans shall not exceed $14,250,000.

During the fiscal year 1986, total commitments to guarantee loans shall not exceed $142,500,000 of contingent liability for loan principal.

PEACE CORPS

For expenses necessary to carry out the provisions of the Peace Corps Act (75 Stat. 612), $130,000,000: Provided, That none of the funds appropriated in this paragraph shall be used to pay for abortions.

DEPARTMENT OF STATE

INTERNATIONAL NARCOTICS CONTROL

For necessary expenses to carry out the provisions of section 481, $57,529,000.

MIGRATION AND REFUGEE ASSISTANCE

For expenses, not otherwise provided for, necessary to enable the Secretary of State to provide, as authorized by law, a contribution to the International Committee of the Red Cross and assistance to refugees, including contributions to the Intergovernmental Committee for Migration and the United Nations High Commissioner for Refugees; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1980, allowances as authorized by sections 5921 through 5925 of title 5, United States Code; hire of passenger motor vehicles; and services as authorized by section 3109 of title 5, United States Code; $338,930,000: Provided, That not less than $12,500,000 shall be available for Soviet, Eastern European and other refugees resettling in Israel: Provided further, That these funds shall be administered in a manner that ensures equity in the treatment of all refugees receiving Federal assistance: Provided further, That no funds herein appropriated shall be used to assist directly in the migration to any nation in the Western Hemisphere of any person not having a security clearance based on reasonable standards to ensure against Communist infiltration in the Western Hemisphere: Provided further, That no more than $8,150,396 of the funds appropriated under this heading shall be available for the administrative expenses of the Office of Refugee Programs of the Department of State: Provided further, That not more than $2,500,000 of the funds appropriated under this heading shall be available for the orderly movement of overland Vietnamese refugees presently located at the Dong Ruk (Site 2) refugee camp in Thailand to a safe haven either in Thailand or in another location more directly under the control of the United States where they may be joined with other Vietnamese refugees: Provided further, That each of the earmarks contained in section 108 of Public Law 99-93 shall be reduced by 1.7 percent.

ANTI-TERRORISM ASSISTANCE

For necessary expenses to carry out the provisions of chapter 8 of part II, $7,420,000.

PEACEKEEPING OPERATIONS

For necessary expenses to carry out the provisions of section 551, $34,000,000: Provided, That, notwithstanding sections 451, *492(b), or 614 of the Foreign Assistance Act of 1961, or any other provision of law, these funds may be used only as justified in the Congressional Presentation Document for fiscal year 1986: Provided further, That, to the extent that these funds cannot be used to provide for such assistance, they shall revert to the Treasury as miscellaneous receipts.*

TITLE III—MILITARY ASSISTANCE

Funds Appropriated to the President

MILITARY ASSISTANCE

For necessary expenses to carry out the provisions of section 503 of the Foreign Assistance Act of 1961, including administrative expenses and purchase of passenger motor vehicles for replacement only for use outside of the United States, $782,000,000: Provided, That of the funds made available under this paragraph only $40,000,000 shall be available for the Philippines: Provided further, That only $215,000,000 shall be made available for Turkey: Provided further, That the reports required by section 702 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83) shall also be provided to the Committees on Appropriations: Provided further, That these reports shall supersede the reporting requirements relating to El Salvador contained in the last proviso of the paragraph under the heading "Military Assistance" contained in the joint resolution entitled "a joint resolution making urgent supplemental appropriations for the fiscal year ending September 30, 1984, for the Department of Agriculture", approved July 2, 1984 (Public Law 98-332) and section 533 of the Foreign Assistance and Related Programs Appropriations Act, 1985 (as enacted in Public Law 98–473); Provided further, That not less than $40,000,000 of the funds made available under this paragraph shall be available only for Tunisia.

INTERNATIONAL MILITARY EDUCATION AND TRAINING

For necessary expenses to carry out the provisions of section 541, $54,489,500.

FOREIGN MILITARY CREDIT SALES

For expenses necessary to enable the President to carry out the provisions of section 23 of the Arms Export Control Act, $5,190,000,000, of which not less than $1,800,000,000 shall be available only for Israel, not less than $1,300,000,000 shall be available only for Egypt, and not less than $325,000,000 shall be available only for Pakistan: Provided, That if the Government of Israel requests that funds be used for such purposes, up to $150,000,000 of the amount of credits made available for Israel pursuant to this paragraph shall be available for research and development in the United States for the Lavi program, and not less than $300,000,000 shall be for the procurement in Israel of defense articles and services, including research and development, for the Lavi program and other activities if requested by Israel: Provided further, That during fiscal year 1986, gross obligations for the principal amount of direct loans, exclusive of loan guarantee defaults, shall not exceed $5,190,000,000: Provided further, That of the funds made available under this paragraph, only $427,852,000 shall be available for Turkey: Provided further, That of the funds made available under this paragraph, only $450,000,000 shall be available for Greece: Provided further, That of the funds provided under this paragraph only $15,000,000 shall be made available for the Philippines: Provided further, That none of the funds made available under this paragraph shall be available for Guatemala, unless the President makes the following certifications to the Congress:

(1) For Fiscal Year 1986, an elected civilian government is in power in Guatemala and has submitted a formal written request to the United States for the assistance, sales, or financing to be provided.

(2) For Fiscal Year 1986, the Government of Guatemala made demonstrated progress during the preceding year (A) in achieving control over its military and security forces, (B) toward eliminating kidnapings and disappearances, forced recruitment into the civil defense patrols, and other abuses by such forces of internationally recognized human rights, and (C) in respecting the internationally recognized human rights of its indigenous Indian population: Provided further, That not more than $553,900,000 of the funds made available under this paragraph shall be available at concessional rates of interest: Provided further, That all country and funding level changes in requested concessional financing allocations shall be submitted through the regular notification process of the Committees on Appropriations: Provided further, That not less than $27,000,000 of concessional credits shall be provided only for Tunisia.

SPECIAL DEFENSE ACQUISITION FUND

(LIMITATION ON OBLIGATIONS)

Not to exceed $325,000,000 may be obligated pursuant to section 51(c)(2) of the Arms Export Control Act for the purposes of the Special Defense Acquisition Fund during fiscal year 1986.

TITLE IV—EXPORT-IMPORT BANK OF THE UNITED STATES

The Export-Import Bank of the United States is authorized to make such expenditures within the limits of funds and borrowing authority available to such corporation, and in accordance with law, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 104 of the Government Corporation Control Act, as may be necessary in carrying out the program for the current fiscal year for such corporation: Provided, That none of the funds available during the current fiscal year may be used to make expenditures, contracts, or commitments for the export of nuclear equipment, fuel, or technology to any country other than a nuclear-weapon State as defined in article IX of the Treaty on the Non-Proliferation of Nuclear Weapons eligible to receive economic or military assistance under this Act that has detonated a nuclear explosive after the date of enactment of this Act.

LIMITATION ON PROGRAM ACTIVITY

During the fiscal year 1986 and within the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed $1,110,000,000: Provided, That during the fiscal year 1986, total commitments to guarantee loans shall not exceed $12,000,000,000 of contingent liability for loan principal.

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $18,357,000 (to be computed on an accrual basis) shall be available during the current fiscal year for administrative expenses, including hire of passenger motor vehicles and services as authorized by section 3109 of title 5, United States Code, and not to exceed $16,000 for official reception and representation expenses for members of the Board of Directors: Provided, That (1) fees or dues to international organizations of credit institutions engaged in financing foreign trade, (2) necessary expenses (including special services performed on a contract or a fee basis, but not including other personal services) in connection with the acquisition, operation, maintenance, improvement, or disposition of any real or personal property belonging to the Export-Import Bank or in which it has an interest, including expenses of collections of pledged collateral, or the investigation or appraisal of any property in respect to which an application for a loan has been made, and (3) expenses (other than internal expenses of the Export-Import Bank) incurred in connection with the issuance and servicing of guarantees, insurance, and reinsurance, shall be considered as nonadministrative expenses for the purposes of this paragraph.

TITLE V—GENERAL PROVISIONS

Sec. 501. None of the funds appropriated in this act (other than funds appropriated for "International organizations and programs") shall be used to finance the construction of any new flood control, reclamation, or other water or related land resource project or program which has not met the standards and criteria used in determining the feasibility of flood control, reclamation, and other water and related land resource programs and projects proposed for construction within the United States of America under the principles, standards and procedures established pursuant to the Water Resources Planning Act (42 U.S.C. 1962, et seq.) or Act amendatory of supplementary thereto.

Sec. 502. Except for the appropriations entitled " International disaster assistance". and "United States emergency refugee and migration assistance fund" not more than 15 per centum of any appropriation item made available by this Act for the current fiscal year shall be obligated during the last month of availability.

Sec. 503. None of the funds appropriated in this Act nor any of the counterpart funds generated as a result of assistance hereunder or any prior Act shall be used to pensions, annuities, retirement pay, or adjusted service compensation for any person heretofore or hereafter serving in the armed forces of any recipient country.

Sec. 504. None of the funds appropriated or made available pursuant to this Act for carrying out the Foreign Assistance Act of 1961, may be used for making payments on any contract for procurement to which the United States is a party entered into after the date of enactment of this Act which does not contain a provision authorizing the termination of such contract for the convenience of the United States.

Sec. 505. None of the funds appropriated or made available pursuant to this Act for carrying out the Foreign Assistance Act of 1961, may be used to pay in whole or in part any assessments, arrearages, or dues of any member of the United Nations.

Sec. 506. None of the funds contained in title II of this Act may be used to carry out the provisions of section 209(d) of the Foreign Assistance Act of 1961.

Sec. 507. Of the funds appropriated or made available pursuant to this Act, not to exceed $110,000 shall be for official residence expenses of the Agency for International Development during the current fiscal year: Provided, That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars.

SEC. 508. Of the funds appropriated or made available pursuant to this Act, not to exceed $10,000 shall be for entertainment expenses of the Agency for International Development during the current fiscal year.

SEC. 509. Of the funds appropriated or made available pursuant to this Act, not to exceed $100,000 shall be for representation allowances for the Agency for International Development during the current fiscal year: Provided, That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars: Provided further, That of the total funds made available by this Act under the headings "Military Assistance" and "Foreign Military Credit Sales", not to exceed $2,500 shall be available for entertainment expenses and not to exceed $70,000 shall be available for representation allowances: Provided further, That of the funds made available by this Act under the heading "International Military Education and Training", not to exceed $125,000 shall be available for entertainment allowances: Provided further, That of the funds made available by this Act for the Inter-American Foundation, not to exceed $2,500 shall be available for entertainment and representation allowances: Provided further, That of the funds made available by this Act for the Peace Corps, not to exceed a total of $4,000 shall be available for entertainment expenses: Provided further, That of the funds made available by this Act under the heading "Trade and development program", not to exceed $2,000 shall be available for representation and entertainment allowances.

SEC. 510. None of the funds appropriated or made available (other than funds for "International organizations and programs") pursuant to this Act, for carrying out the Foreign Assistance Act of 1961, may be used to finance the export of nuclear equipment, fuel, or technology.

SEC. 511. Funds appropriated by this act may not be obligated or expended to provide assistance to any country for the purpose of aiding the efforts of the government of such country to repress the legitimate rights of the population of such country contrary to the Universal Declaration of Human Rights.

SEC. 512. None of the funds appropriated or otherwise made available pursuant to this act shall be obligated or expended to finance directly any assistance or reparations to Angola, Cambodia, Cuba, Iraq, Libya, the Socialist Republic of Vietnam, South Yemen, or Syria.

SEC. 513. None of the funds appropriated or otherwise made available pursuant to this act shall be obligated or expended to finance directly any assistance to any country whose duly elected Head of Government is deposed by military coup or decree.

SEC. 514. None of the funds made available by this act may be obligated under an appropriation account to which they were not appropriated without the written prior approval of the Appropriations Committees of both Houses of the Congress.

SEC. 515. Amounts certified pursuant to section 1311 of the Supplemental appropriations act, 1955, as having been obligated against appropriations heretofore made under the authority of the Foreign Assistance Act of 1961 for the same general purpose as any of the paragraphs under "Agency for International Development" are, if deobligated, hereby continued available for the same period as the respective appropriations in such paragraphs for the same general purpose and for the same country as originally obligated or for activities in the Andean region: Provided, That the Appropriations Committees of both Houses of the Congress are notified fifteen days in advance of the deobligation or reobligation of such funds.

SEC. 516. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes within the United States not authorized before the date of enactment of this Act by the Congress.

SEC. 517. No part of any appropriation contained in this Act shall remain available for obligation after the expiration of the current fiscal year unless expressly so provided in this Act.

SEC. 518. No part of any appropriation contained in this Act shall be used to furnish assistance to any country which is in default during a period in excess of one calendar year in payment to the United States of principal or interest on any loan made to such country by the United States pursuant to a program for which funds are appropriated under this Act.

SEC. 519. None of the funds appropriated or made available pursuant to this Act shall be available to any international financial institution whose United States governor or representative cannot upon request obtain the amounts and the names of borrowers for all loans of the international financial institution, including loans to employees of the institution, or the compensation and related benefits of employees of the institution.

SEC. 520. None of the funds appropriated or made available pursuant to this Act shall be available to any international financial institution whose United States governor or representative cannot upon request obtain any document developed by the management of the international financial institution.

SEC. 521. Section 620A(a) of the Foreign Assistance Act of 1961 is amended by inserting "the Export-Import Bank Act of 1945," after "the Peace Corps Act,".

SEC. 522. None of the funds appropriated or made available pursuant to this Act for direct assistance and none of the funds otherwise made available pursuant to this Act to the Export-Import Bank and the Overseas Private Investment Corporation shall be obligated or expended to finance any loan, any assistance or any other financial commitments for establishing or expanding production of any commodity for export by any country other than the United States, if the commodity is likely to be in surplus on world markets at the time the resulting productive capacity is expected to become operative and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity: Provided, That such prohibition shall not apply to the Export-Import Bank if in the judgment of its Board of Directors the benefits to industry and employment in the United States are likely to outweight the injury to United States producers of the same, similar, or competing commodity.

SEC. 523. The Secretary of the Treasury shall instruct the United States Executive Directors of the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the International Monetary Fund, the Asian Development Bank, the Inter-American Investment Corporation, the African Development Bank, and the African Development Fund to use the voice and vote of the United States to oppose any assistance by these institutions, using funds appropriated or made available pursuant to this Act, for the production of any commodity for export, if it is in surplus on world markets and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity.

SEC. 524. None of the funds made available under this Act for "Agriculture, rural development and nutrition, Development Assistance", "Population, Development Assistance", Child Survival Fund", "Health, Development Assistance", "Education and human resources development, Development Assistance," "Energy and selected development activities, Development Assistance", "Science and technology, Development Assistance", "International organizations and programs", "American schools and hospitals abroad", "Sahel development program", "Trade and development program", "International narcotics control", "Economic support fund", "Peacekeeping operations", "Operating expenses of the Agency for International Development", "Operating Expenses of the Agency for International, Development Office of Inspector General", "Anti-terrorism assistance", "Military assistance", "International military education and training", "Foreign military credit sales", "Inter-American Foundation", "African Development Foundation", "Peace Corps", or "Migration and refugee assistance", shall be available for obligation for activities, programs, projects, type of material assistance, countries, or other operation not justified or in excess of the amount justified to the Appropriations Committees for obligation under any of these specific headings for the current fiscal year unless the Appropriations Committees of both Houses of Congress are previously notified fifteen days in advance.

SEC. 525. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order pursuant to existing law.

SEC. 526. None of the funds appropriated under this Act may be used to lobby for abortion.

SEC. 527. None of the funds appropriated or otherwise made available under this Act may be available for any country during any three-month period beginning on or after October 1, 1985, immediately following a certification by the President to the Congress that the government of such country is failing to take adequate measures to prevent narcotic drugs or other controlled substances (as listed in the schedules in section 202 of the Comprehensive Drug Abuse and Prevention Control Act of 1971 (21 U.S.C. 812)) which are cultivated, produced, or processed illicitly, on whole or in part, in such country, or transported through such country from being sold illegally within the jurisdiction of such country to the United States Government personnel or their dependents or from entering the United States unlawfully.

SEC. 528. Notwithstanding any other provision of law or this Act, none of the funds provided for "International organizations and programs" shall be available for the United States' proportionate share for any programs for the Palestine Liberation Organization, the Southwest African Peoples Or-

ganization, Libya, Iran, or, at the discretion of the President, Communist countries listed in section 620(f) of the Foreign Assistance Act of 1961, as amended.

Sec. 529. (a) Not later than January 31 of each year, or at the time of the transmittal by the President to the Congress of the annual presentation materials on foreign assistance, whichever is earlier, the President shall transmit to the Speaker of the House of Representatives and the President of the Senate a full and complete report which assesses, with respect to each foreign country, the degree of support by the government of each such country during the preceding twelve-month period for the foreign policy of the United States. Such report shall include, with respect to each such country which is a member of the United Nations, information to be compiled and supplied by the Permanent Representative of the United States to the United Nations, consisting of a comparison of the overall voting practices in the principal bodies of the United Nations during the preceding twelve-month period of such country and the United States, with special notes of the voting and speaking records of such country on issues of major importance to the United States in the General Assembly and the Security Council, and shall also include a report on actions with regard to the United States in important related documents such as the Non-Aligned Communique. A full compilation of the information supplied by the Permanent Representative of the United States to the United Nations for inclusion in such report shall be provided as an addendum to such report.

(b) None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance to a country which the President finds, based on the contents of the report required to be transmitted under subsection (a), is engaged in a consistent pattern of opposition to the foreign policy of the United States.

Sec. 530. Notwithstanding any other provision of law, Israel may utilize any loan which is or was made available under the Arms Export Control Act and for which repayment is or was forgiven before utilizing any other loan made available under the Arms Export Control Act.

Sec. 531. In reaffirmation of the 1975 memorandum of agreement between the United States and Israel, and in accordance with section 1302 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83), no employee of or individual acting on behalf of the United States Government shall recognize or negotiate with the Palestine Liberation Organization or representatives thereof, as long as the Palestine Liberation Organization does not recognize Israel's right to exist, does not accept Security Council Resolutions 242 and 338, and does not renounce the use of terrorism.

Sec. 532. The Congress finds that progress on the peace process in the Middle East is vitally important to United States security interests in the region. The Congress recognizes that, in fulfilling its obligations under the Treaty of Peace Between the Arab Republic of Egypt and the State of Israel, done at Washington on March 26, 1979, Israel incurred severe economic burdens. Furthermore, the Congress recognizes that an economically and militarily secure Israel serves the security interests of the United States, for a secure Israel is an Israel which has the incentive and confidence to continue pursuing the peace process. Therefore, the Congress declares that it is the policy and the intention of the United States that the funds provided in annual appropriations for the Economic Support Fund which are allocated to Israel shall not be less than the annual debt repayment (interest and principal) from Israel to the United States Government in recognition that such a principle serves United States interests in the region.

Sec. 533. None of the funds made available in this Act shall be restricted for obligation or disbursement solely as a result of the policies of any multilateral institution.

Sec. 534. Ceilings and earmarks contained in this Act shall not be applicable to funds or authorities appropriated or otherwise made available by any subsequent act unless such act specifically so directs.

Sec. 535. The Secretary of the Treasury and the Secretary of State are directed to submit to the Committees on Foreign Affairs and the Committees on Appropriations by February 1, 1986, a report on the domestic economic policies of those nations receiving economic assistance, either directly or indirectly from the United States including, where appropriate, an analysis of the foreign assistance program conducted by these recipient nations.

Sec. 536. None of the funds appropriated or otherwise made available pursuant to this Act for "Economic Support Fund" or for "Foreign Military Credit Sales" shall be obligated or expended for Lebanon except as provided through the regular notification process of the Committees on Appropriations.

Sec. 537. Of the funds made available by this Act for Jamaica and Peru, not more than 50 per centum of the funds made available for each country shall be obligated unless the President determines and reports to the Congress that the Governments of these countries are sufficiently responsive to the United States Government concerns on drug control and that the added expenditures of the funds for that country are in the national interest of the United States: Provided, That this provision shall not be applicable to funds made available to carry out section 481 of the Foreign Assistance Act of 1961: Provided further, That assistance may be provided to Bolivia for Fiscal Year 1986, under chapter 2 (relating to grant military assistance), chapter 4 (relating to the economic support fund), and chapter 5 (relating to international military education and training) of part II of the Foreign Assistance Act of 1961, and under chapter 2 of the Arms Export Control Act (relating to foreign military sales financing), only under the following conditions:

For Fiscal Year 1986—

(A) up to 50 percent of the aggregate amount of such assistance allocated for Bolivia may be provided at any time after the President certifies to the Congress that the Government of Bolivia has enacted legislation that will establish its legal coca requirements, provide for the licensing of the number of hectares necessary to produce the legal requirement, and make unlicensed coca production illegal; and

(B) the remaining amount of such assistance may be provided at any time following a certification pursuant to subparagraph (A) if the President certifies to the Congress that the Government of Bolivia achieved the eradication targets for the calendar year 1985 contained in its 1983 narcotics agreements with the United States.

Sec. 538. None of the funds available in this Act may be used to make available to El Salvador any helicopters or other aircraft, and licenses may not be issued under section 38 of the Arms Export Control Act for the export to El Salvador of any such aircraft, unless the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate are notified at least fifteen days in advance in accordance with the procedures applicable to notifications.

Sec. 539. Funds provided in this Act for Guatemala may not be provided to the Government of Guatemala for use in its rural resettlement program, except through the regular notification procedures of the Committees on Appropriations.

Sec. 540. (a) The Secretary of the Treasury shall instruct the United States Executive Directors of the Multilateral Development Banks to—

(1) vigorously promote a commitment of these institutions to add or strengthen professionally trained staff to undertake environmental review of projects; or have development management plans to substantially increase the environmentally trained staff engaged in review of the ecological impacts of prospective projects;

(2) vigorously promote changes in these institutions in their preparation of projects and country programs that will encourage staff and borrower countries to—

(A) actively and regularly involve environmental and health ministers, or comparable representatives, in the preparation of environmentally sensitive projects and in bank-supported country program planning and strategy sessions;

(B) actively and regularly use the resources of available nongovernmental conservation and indigenous peoples' organizations, and consistent with international procurement policies, in the preparation of environmentally sensitive projects and in bank-supported country program planning and strategy sessions;

(3) vigorously promote a commitment of these institutions to increase the proportion of their lending programs supporting environmentally beneficial projects and project components, resource rehabilitation projects and project components, protection of indigenous peoples, and appropriate or light capital technology projects. Examples of such projects include small scale mixed farming and multiple cropping; agroforestry; programs to promote kitchen gardens; watershed management and rehabilitation; high yield woodlots; integrated pest management systems; dune stabilization programs; programs to improve energy efficiency; energy efficient technologies such as small scale hydro projects, rural solar energy systems, and rural and mobile telecommunications systems; and improved efficiency and management of irrigation systems.

(4) vigorously promote the establishment within the Economic Development Institute of the World Bank to institute a component which provides training in environmental and natural resource planning and program development;

(5) ensure that there is a thorough evaluation within the U.S. Government of the potential environmental problems, and the adequacy of measures to address these problems, associated with all proposed loans for projects involving large impoundments of rivers in tropical countries; penetration roads into relatively undeveloped areas; and agricultural and rural development programs; the potential environmental problems to be addressed in such evaluations shall include those relating to deterioration of water quality, siltation, spread of water borne diseases, forced resettlement, deforestation, threats to the land, health and culture of indigenous peoples, top soil management,

water logging and salinization in irrigation projects, and pesticide misuse and resistance;

(6) call for, by May 31, 1986, separate and special meetings of each of the Boards of Executive Directors of these insitutions to discuss their environmental performance, and ways in which this performance can be improved, including alternative projects considered and alternative configurations of projects with specific attention to environmental problems associated with the following categories of projects: large impoundments of rivers in tropical countries; penetration roads into relatively undeveloped areas; agriculture and rural development projects; and

(7) in preparation for the meetings referred to in clause (6), the United States Executive Directors of the Multilateral Development Banks shall request the preparation of reviews by the International Bank for Reconstruction and Development and the Inter-American Development Bank from available information, of their environmental performance over the past decade with respect to the categories of projects referred to in clause (6); the United States Executive Directors shall request that these reviews specifically discuss the environmental problems explicitly referred to in clause (5).

(b) The Secretary of the Treasury shall prepare and submit to the Committees on Appropriations by March 31, 1986, a report documenting the progress the Multilateral Development Banks have made in implementing the environmental reform measures described in clauses (1) through (4) of subsection (a).

(c) The Secretary of the Treasury and the Secretary of State shall undertake initiatives, in addition to those described in clause (6) of subsection (a) to discuss measures to improve the environmental performance of the Multilateral Development Banks with the representatives, and with the ministries from which they receive their instructions, of other donor nations to these institutions.

(d) In the report of the Secretary of the Treasury required by subsection (b) regarding the implementaion of staffing measures suggested in clause (1) of subsection (a), the Secretary of the Treasury shall specifically discuss the International Bank for Reconstruction and Development's progress in adding environmentally trained professionals, or in developing and implementing alternative plans for invironmental staffing in each of the Bank's six regional offices to review projects for their prospective ecological impacts.

SEC. 541. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of involuntary sterilization as a method of family planning or to coerce or provide any financial incentive to any person to undergo sterilizations. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for any biomedical research which relates in whole or in part, to methods of, or the performance of, abortions or involuntary sterilization as a means of family planning. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be obligated or expended for any country or organization if the President certifies that the use of these funds by any such country or organization would violate any of the above provisions related to abortions and involuntary sterilizations. The Congress reaffirms its commitments to population, development assistance and to the need for informed voluntary family planning.

SEC. 542. Not less than $15,000,000 of the aggregate amount of funds appropriated by this Act to carry out the provisions of chapter 1 of part I of the Foreign Assistance Act of 1961 and chapter 4 of part II of that Act, shall be available for the provision of food, medicine, or other humanitarian assistance to the Afghan people, notwithstanding any other provision of law.

SEC. 543. None of the funds provided in this Act shall be available for the Sudan if the President determines that the Sudan is acting in a manner that would endanger the stability of the region, or the Camp David peace process.

SEC. 544. The President shall make available to the Cambodian non-communist resistance forces not less than $1,500,000 nor more than $5,000,000 of the funds appropriated by this Act for "Military Assistance" and for the "Ecomonic Support Fund", notwithstanding any other provision of law: Provided, That funds appropriated by this Act for this purpose shall be obligated in accordance with the provisions of section 906 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83).

SEC. 545. (a) SENSE OF CONGRESS.—It is the sense of Congress that no foreign military sales financing appropriated by this Act may be used to finance the procurement by Jordan of United States advanced aircraft, new air defense weapons systems, or other new advanced military weapons systems, and no notification may be made pursuant to section 36(b) of the Arms Export Control Act with respect to a proposed sale to Jordan of United States advanced aircraft, new air defense systems, or other new advanced military weapons systems, unless Jordan is publicly committed to the recognition of Israel and to negotiate promptly and directly with Israel under the basic tenets of United Nations Security Council Resolutions 242 and 338.

(b) CERTIFICATION.—Any notification made pursuant to section 36(b) of the Arms Export Control Act with respect to a proposed sale to Jordan of United States advanced aircraft, new air defense systems or other new advanced military weapons, must be accompanied by a Presidential certification of Jordan's public commitment to the recognition of Israel and to negotiate promptly and directly with Israel under the basic tenets of United Nations Security Council Resolutions 242 and 338.

SEC. 546. None to the funds appropriated or made available pursuant to this Act shall be available to a private voluntary organization which fails to provide upon timely request any document, file, or record necessary to the auditing requirements of the Agency for International Development.

SEC. 547. Of the amounts made available by this Act for military assistance and financing for El Salvador under chapters 2 and 5 of part II of the Foreign Assistance Act of 1961 and under the Arms Export Control Act, $5,000,000 may not be expended until the President reports, following the conclusion of the Appeals process in the case of Captain Avila, to the Committees on Appropriations that the Government of El Salvador has (1) substantially concluded all investigative action with respect to those responsible for the January 1981 deaths of the two United States land reform consultants Michael Hammer and Mark Pearlman and the Salvadoran Land Reform Institute Director Jose Rodolfo Viera, and (2) pursued all legal avenues to bring to trial and obtain a verdict of those who ordered and carried out the January 1981 murders.

SEC. 548. It is the sense of the Congress that all countries receiving United States foreign assistance under the "Economic Support Fund", "Foreign Military Credit Sales", "Military Assistance" program, "International Military Education and Training", Agricultural Trade Development and Assistance Act of 1954 (Public Law 480) development assistance programs, or trade promotion programs should fully cooperate with the international refugee assistance organizations, the United States, and other governments in facilitating lasting solutions to refugee situations. Further, where resettlement to other countries is the appropriate solution, such resettlement should be expedited in cooperation with the country of asylum without respect to race, sex, religion, or national origin.

SEC. 549. Any joint resolution introduced on or after February 1, 1986, which states that the Congress objects to the proposed sale to Jordan of advanced weapons systems, including advanced aircraft and advanced air defense systems (submitted to the Congress on October 21, 1985), shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

SEC. 550. (a) The Congress finds that—

(1) the United Nations Children's Fund (UNICEF) reports that four million children die annually because they have not been immunized against the six major childhood diseases: polio, measles, whooping cough, diphtheria, tetanus, and tuberculosis;

(2) at present less than 20 percent of children in the developing world are fully immunized against these diseases;

(3) each year more than five million additional children are permanently disabled and suffer diminished capacities to contribute to the economic, social and political development of their countries because they have not been immunized;

(4) ten million additional childhood deaths from immunizable and potentially immunized diseases could be averted annually by the development of techniques in biotechnology for new and cost-effective vaccines;

(5) the World Health Assembly, the Executive Board of the United Nations Children's Fund, and the United Nations General Assembly are calling upon the nations of the world to commit the resources necessary to meet the challenge of universal access to childhood immunization by 1990;

(6) the United States, through the Centers for Disease Control and the Agency for International Development, joined in a global effort by providing political and technical leadership that made possible the eradication of smallpox during the 1970's;

(7) the development of national immunization systems that can both be sustained and also serve as a model for a wide range of primary health care actions is a desired outcome of our foreign assistance policy;

(8) the United States Centers for Disease Control headquartered in Atlanta is uniquely qualified to provide technical assistance for a worldwide immunization and eradication effort and is universally respected;

(9) at the 1984 Bellagio Conference it was determined that the goal of universal childhood immunization by 1990 is indeed achievable;

(10) the Congress, through authorizations and appropriations for international health research and primary health care activities and the establishment of the Child Survival Fund, has played a vital role in providing for the well-being of the world's children;

(11) the Congress has expressed its expectation that the Agency for International Development will set as a goal the immunization by 1990 of at least 80 percent of all the children in those countries in which the Agency has a program; and

(12) the United States private sector and public at large have responded generously to appeals for support for national immunization campaigns in developing countries.

(b)(1) The Congress calls upon the President to direct the Agency for International Development, working through the Centers for Disease Control and other appropriate Federal agencies, to work in a global effort to provide enhanced support toward achieving the goal of universal access to childhood immunization by 1990 by—

(A) assisting in the delivery, distribution, and use of vaccines, including—

(i) the building of locally sustainable systems and technical capacities in developing countries to reach, by the appropriate age, not less than 80 per centum of their annually projected target population with the full schedule of required immunizations, and

(ii) the development of a sufficient network of indigenous professionals and institutions with responsibility for developing, monitoring, and assessing immunization programs and continually adapting strategies to reach the goal of preventing immunizable diseases; and

(B) performing, supporting, and encouraging research and development activities, both in the public and private sector, that will be targeted at developing new vaccines and at modifying and improving existing vaccines to make them more appropriate for use in developing countries.

(2) In support of this global effort, the President should appeal to the people of the United States and the United States private sector to support public and private efforts to provide the resources necessary to achieve universal access to childhood immunization by 1990.

Sec. 551. The foreign debt burdens of many Third World nations have contributed to their economic decline and inability to engage in a significant economic recovery;

The United States foreign military assistance loan programs, which have had very high interest rates in past years, have contributed to the security of our friends and allies, but also have played a contributing role in adding to the debt burdens of many of our friends and allies;

United States foreign aid has, among its major objectives, the enhancement of the military and economic security of our friends and allies and our own security;

A foreign assistance program which adds significantly to the debt burdens of our friends and allies by forcing the weaker of those nations to use funds which could be used for development for repayment of loans impairs their economic development unnecessarily and is not in either their or our interest;

The past few years have seen several positive legislative steps taken to alleviate the FMS loan-related debt burdens of our friends and allies by reducing interest rates, stretching out the repayment period of these loans, and by increasing the level of MAP grants and forgiven FMS credits;

These steps have helped to ease these problems in the short term, but the long-term debt servicing problems of our friends and allies remain;

It would be in the best interests of our friends and allies to alleviate their debt burdens brought about by past loans and to bring about a more streamlined and straightforward approach to their programs in this area;

Such streamlined, straightforward programs would make it easier to develop country programs and would ease current pressures on the United States to grant to aid recipients the most favorable terms on their military loan programs: Now therefore

(1) it is the sense of the Congress that a more simplified, streamlined, straightforward foreign military assistance program is in the national interest and in the interest of the military and economic security of our friends and allies throughout the world;

(2) that greater concessionality only to match economic need as appropriate should be incorporated into future military assistance programs;

(3) that FMS loan programs extending the repayment period beyond the useful life of the items to be purchased could tend to increase the long-term debt burdens of our friends and allies;

(4) that the FMS concessional loan program contains a significant grant element in the recipient nation and that the Congress should actively consider replacing this program with a more straightforward approach;

(5) the President is urged to propose, in the next formal Congressional Presentation for Security Assistance Programs, reforms and refinements in the foreign military assistance programs along these lines for consideration by the appropriate committees of the Congress.

Sec. 552. (a) Notwithstanding any other provision of law, the President is authorized—

(1) to deny nondiscriminatory (most-favored/nation) trade treatment to the products of Afghanistan and thereby cause such products to be subject to the rate of duty set forth in column number 2 of the Tariff Schedules of the United States, and

(2) to deny credit, credit guarantees, and investment guarantees to, or for the benefit of, Afghanistan under any Federal program.

*(b) If the President has not denied nondiscriminatory trade treatment to the products of Afghanistan before the date that is 45 days after the date of enactment of this joint resolution, the President shall submit to the Congress on such date * * *.*

This subsection may be cited as the "Foreign Assistance and Related Programs Appropriations Act, 1986".

And the Senate agree to the same.

Amendment numbered 22:

That the House recede from its disagreement to the amendment of the Senate numbered 22, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

Sec. 106. Notwithstanding any other provision of this joint resolution, and in addition to amounts appropriated elsewhere, there are appropriated $40,000,000, to remain available until expended, for "Watershed and Flood Prevention Operations" for emergency measures as provided in sections 401 and 403–405 of the Agricultural Credit Act of 1978 (16 U.S.C. 2201 and 2203–2205).

And the Senate agree to the same.

Amendment numbered 23:

That the House recede from its disagreement to the amendment of the Senate numbered 23, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

Sec. 107. Notwithstanding any other provision of this joint resolution, not to exceed an additional $9,549,000 (from assessments collected from farm credit system banks) shall be obligated during the current fiscal year for administrative expenses, as authorized under 12 U.S.C 2249: Provided, That hereafter the Comptroller General or his duly authorized representatives shall have access to and the right to examine all books, documents, papers, records, or other recorded information within the possession or control of the Federal land banks and Federal land bank associations, Federal intermediate credit banks and production credit associations and banks for cooperatives.

And the Senate agree to the same.

Amendment numbered 24:

That the House recede from its disagreement to the amendment of the Senate numbered 24, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

Sec. 108. (a) Notwithstanding any provision of title I of the Local Public Works Capital Development and Investment Act of 1976, as amended (Public Law 94–369) or any other provision of law, any funds authorized and appropriated under title I of such Act, as amended, in any fiscal year for projects in: (1) New York, New York but currently obligated and not disbursed, shall be obligated and expended during fiscal years 1986 and 1987 for any authorized project in New York, New York under title I of such Act, as amended or for any authorized project in New York, New York under title I of the Public Works and Economic Development Act of 1965, as amended; (2) New Jersey but currently obligated and not disbursed, shall be obligated and expended during fiscal years 1986 and 1987 for the rehabilitation and renovation of Buildings 1002, 1006 and such other structures at Camp Kilmer, Edison, New Jersey as may be agreed upon between Middlesex County and the Department of Defense for use as a shelter for the homeless in Middlesex County, New Jersey; (3) California but currently obligated and not disbursed, shall be obligated and expended during fiscal years 1986 and 1987 for infrastructure projects and economic development activities at the site of the abandoned General Motors plant in the city of South Gate, California; (4) Alabama but currently obligated and not disbursed, shall be obligated and expended during fiscal years 1986 and 1987 for infrastructure projects and related economic development activities for the Jasper Industrial Park at Jasper, Alabama; and (5) Illinois but currently obligated and not disbursed, shall be obligated and expended during fiscal years 1986 and 1987 for (i) the restoration, rehabilitation and renovation of existing buildings and structures within the Illinois and Michigan Canal National Heritage Corridor, and (ii) a $400,000 grant to the Will County Development Company for the establishment of a revolving loan fund.

(b) The project for flood control, Red Rock Dam and Lake, Iowa authorized by the Flood Control Act approved June 28, 1938, is

modified to authorize and direct the Secretary of the Army, acting through the Chief of Engineers to acquire from willing sellers fee simple interest in real property which is subject to periodic flooding in connection with the operation of the project, using funds heretofore and hereafter appropriated.

(c) In addition, for the Economic Development Administration, "Economic development assistance programs"; $8,500,000, to remain available until expended, of which $4,000,000 is for a grant to Lexington County, South Carolina, for all expenditures related to the development of a state-of-the-art fiber optics/medium power cable research and development facility in Lexington County; and of which $4,500,000 is for a grant to the City of Fort Worth for the continued renovation, construction, rehabilitation and establishment of economic development facilities and related infrastructure activities of the Fort Worth Stockyards project.

(d) In addition, for the United States Information Agency, "Educational and Cultural Exchange Programs"; $2,500,000 for reimbursement of expenses for international games for the handicapped as authorized by section 207 of Public Law 99-93: Provided, That reimbursement for each organization conducting such games shall not exceed the total amount of necessary and reasonable expenses incurred by such organization in excess of donations and government services furnished.

And the Senate agree to the same.

Amendment numbered 26:

That the House recede from its disagreement to the amendment of the Senate numbered 26, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 110. (a) Notwithstanding any other provision of this joint resolution, no funds made available to the Department of Justice during fiscal year 1986 shall be used to implement, or to adopt as a permanent rule, New Offense Example 363, providing coverage for "insider trading" offenses, of 28 C.F.R. section 2.20.

(b) This section shall become effective upon the date of enactment of this joint resolution and shall expire 180 days after the effective date of this joint resolution: Provided, That this section shall not apply to any case pending before the United States Parole Commission as of the effective date of this joint resolution.

And the Senate agree to the same.

Amendment numbered 29:

That the House recede from its disagreement to the amendment of the Senate numbered 29, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 111. (a) For an additional amount for the Commission on the Bicentennial of the United States Constitution, "Salaries and Expenses", authorized by Public Law 98-101 (97 Stat. 719-723), $12,000,000 to remain available until expended.

(b) Section 5 of Public Law 98-101 (97 Stat. 719) is amended—

(1) in section (b), by striking out "up to five persons,"; and

(2) in paragraph (2) of subsection (e), by striking out "the services" through the end of such paragraph and inserting in lieu thereof "services".

(c) Notwithstanding section 5(a) of Public Law 98-101 (97 Stat. 719), the rate of pay of the staff director of the Commission on the Bicentennial of the United States Constitution shall not exceed 95 per cent of the rate of basic pay for level I of the Executive Schedule pursuant to section 5312 of title 5, United States Code.

And the Senate agree to the same.

Amendment numbered 30:

That the House recede from its disagreement to the amendment of the Senate numbered 30, and agree to the same with amendment, as follows:

In lieu of the matter proposed by said amendment insert:

Sec. 112. None of the funds appropriated to the Legal Services Corporation for fiscal years prior to fiscal year 1986 and carried over into fiscal year 1986, either by the Corporation itself or by any recipient of such funds, may be expended, unless such funds are expended in accordance with all of the restrictions and provisions of Public Law 99-180 of December 13, 1985, except that such funds may be expended for the continued representation of aliens prohibited by said Act where such representation commenced prior to January 1, 1983, or as approved by the Corporation.

And the Senate agree to the same.

Amendment numbered 31:

That the House recede from its disagreement to the amendment of the Senate numbered 31, and agree to the same with an amendment, as follows:

In lieu of the section number named in said amendment insert: *113*; and the Senate agree to the same.

Amendment numbered 49:

That the House recede from its disagreement to the amendment of the Senate numbered 49, and agree to the same with an amendment, as follows:

In lieu of the first section number named in said amendment insert: *114*; and the Senate agree to the same.

Amendment numbered 50:

That the House recede from its disagreement to the amendment of the Senate numbered 50, and agree to the same with an amendment, as follows:

In lieu of the section number named in said amendment insert: *115*; and the Senate agree to the same.

Amendment numbered 51:

That the House recede from its disagreement to the amendment of the Senate numbered 51, and agree to the same with an amendment, as follows:

In lieu of the first section number named in said amendment insert: *116*; and the Senate agree to the same.

Amendment numbered 56:

That the House recede from its disagreement to the amendment of the Senate numbered 56, and agree to the same with an amendment, as follows:

In lieu of the section number named in said amendment, insert: *117*; and the Senate agree to the same.

Amendment numbered 57:

That the House recede from its disagreement to the amendment of the Senate numbered 57, and agree to the same with an amendment, as follows:

In lieu of the first section number named in said amendment insert: *118*; and the Senate agree to the same.

Amendment numbered 58:

That the House recede from its disagreement to the amendment of the Senate numbered 58, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 119. Notwithstanding any other provision of this joint resolution, up to $8,000,000 of the funds appropriated for the Veterans Administration under the heading "Medical care" in Public Law 99-160 may be transferred to and merged with the funds provided under the heading "General operating expenses".

SEC. 120. Notwithstanding any other provision of law or this joint resolution, the Administrator of Veterans Affairs shall delegate to hospital directors the authority to administer not less than 15 of the new fiscal year 1985 major construction projects and not less than 10 of the new fiscal year 1986 major construction projects in the manner and under the conditions established for the delegation of the nursing home care construction projects at Ann Arbor, Tampa, and Fresno. The Administration shall submit to the Committees on Appropriations of the House of Representatives and the Senate a list of the proposed delegations not later than 15 days after enactment of this joint resolution. The Administrator shall, within available resources, provide additional funds and personnel ceilings to each hospital director with a delegated project for necessary and adequate engineering, contracting, and other technical support. The delegation of authority for actual construction of said facilities shall be at the discretion of the selected hospital directors.

And the Senate agree to the same.

Amendment numbered 60:

That the House recede from its disagreement to the amendment of the Senate numbered 60, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

SEC. 121. None of the funds made available by this or any other Act for fiscal year 1986 to the Office of the Secretary, Department of the Interior, shall be expended to submit to the United States District Court for Eastern California any settlement with respect to Westlands Water District v. United States, et al., (CV-F-81-245-EDP) until: (1) April 15, 1986, and (2) until the Congress has received from the Secretary and reviewed for a period of 30 days a copy of the proposed settlement agreement which has been approved and signed by the Secretary.

And the Senate agree to the same.

Amendment numbered 62:

That the House recede from its disagreement to the amendment of the Senate numbered 62, and agree to the same with an amendment, as follows:

Delete the matter proposed by the House and stricken by the Senate and delete the matter proposed by the Senate in said amendment; and the Senate agree to the same.

Amendment numbered 64:

That the House recede from its disagreement to the amendment of the Senate numbered 64, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 122. Appropriations and funds available to the United States Fish and Wildlife Service shall be available for, and the Secretary of the Interior shall immediately resume preparation of, all environmental assessments and statements that are necessary prerequisites to the translocation of a portion of the existing population of Southern sea otters (Enhydra lutris nereis) to one or more locations within their historic range in accordance with the recovery plan for such species. In preparing such assessments and statements the Secretary shall consider section 10(j) of the Endangered

Species Act (16 U.S.C. 1539(j)) as well as pending legislation that would amend such Act: Provided, That the Secretary of the Army is directed to accomplish emergency bank stabilization, shore protection, and flood control work to protect public-owned property in the vicinity of Jarvis Avenue, Fargo Avenue, North Shore Avenue, Rosemont Avenue, Burger Park, North Sheridan Road, and Lake Michigan in Chicago, Illinois, at full Federal expense using funds heretofore and hereafter appropriated at an estimated cost of $1,000,000.

And the Senate agree to the same.

Amendment numbered 102:

That the House recede from its disagreement to the amendment of the Senate numbered 102, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 123. No penalty shall be applied nor any State or agency agreement terminated pursuant to sections 1512, 1515, or 1521 of the Public Health Service Act during fiscal year 1986, nor if appropriations under title XV of that Act are reauthorized by August 15, 1986, shall any agency be required to take action to anticipate termination of financial assistance under that title. Sums appropriated by the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act, 1986, for the award of grants under section 1516 of the Public Health Service Act may be used for grants under that section to State agencies that were authorized to receive grants for fiscal year 1982 under section 935(b) of the Omnibus Budget Reconciliation Act of 1981: Provided, That no sums may be obligated under the authority of this sentence after the date upon which a law is enacted to extend the authority to appropriate amounts to carry out title XV of such Act.

And the Senate agree to the same.

Amendment numbered 103:

That the House recede from its disagreement to the amendment of the Senate numbered 103, and agree to the same with an amendment, as follows:

In lieu of the first section number named in said amendment insert: *124*; and the Senate agree to the same.

Amendment numbered 104:

That the House recede from its disagreement to the amendment of the Senate numbered 104, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 125. Notwithstanding any other provision of this joint resolution, the Secretary of Health and Human Services shall extend, for one additional year, approval of the municipal health services demonstration projects located in Baltimore, Cincinnati, Milwaukee, and San Jose authorized under section 402(a) of the Social Security Amendments of 1967.

And the Senate agree to the same.

Amendment numbered 105:

That the House recede from its disagreement to the amendment of the Senate numbered 105, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 126. From the amounts awarded to a State from its allotment under section 2003 of the Social Security Act for fiscal year 1986, the State shall use to maintain and improve the availability and quality of training provided under section 401(b)(1), 98 Stat. 2196, such sums as the State may determine to be required.

And the Senate agree to the same.

Amendment numbered 107:

That the House recede from its disagreement to the amendment of the Senate numbered 107, and agree to the same with an amendment, as follows:

In lieu of the section number named in said amendment insert: *127*; and the Senate agree to the same.

Amendment numbered 108:

That the House recede from its disagreement to the amendment of the Senate numbered 108, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 128. Notwithstanding any other provisions of this joint resolution or any other provision of law, any student residing in an area designated as a natural disaster area pursuant to a provision of Federal law may apply or reapply for a Pell Grant under subpart 1 of part A of title IV of the Higher Education Act of 1965 and be eligible for and receive a Pell award based on income earned in calendar year 1985 instead of 1984 if individuals whose incomes are taken into account in determining the student's eligibility for and amount of a Pell Grant have been unable to pursue normal income-producing activities in 1985 as a result of the natural disaster.

And the Senate agree to the same.

Amendment numbered 109:

That the House recede from its disagreement to the amendment of the Senate numberd 109, and agree to the same with an amendment, as follows:

In lieu of the matter sticken and inserted by said amendment, insert: *129*; and the Senate agree to the same.

Amendment numbered 110:

That the House recede from its disagreement to the amendment of the Senate numberd 110, and agree to the same with an amendment, as follows:

In lieu of the section number named in said amendment, insert: *130*; and the Senate agree to the same.

Amendment numbered 111:

That the House recede from its disagreement to the amendment of the Senate numbered 111, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

SEC. 131. Notwithstanding any other provision of this joint resolution, there is appropriated $150,000 for fiscal year 1986 for the establishment and operation of the Biomedical Ethics Board and the Biomedical Ethics Advisory Committee pursuant to section 381 of the Public Health Service Act.

And the Senate agree to the same.

Amendment numbered 112:

That the House recede from its disagreement to the amendment of the Senate numbered 112, and agree to the same with an amendment, as follows:

In lieu of the first section number named in said amendment: insert: *132*; and the Senate agree to the same.

Amendment numbered 113:

That the House recede from its disagreement to the amendment of the Senate numbered 113, and agree to the same with an amendment, as follows:

In lieu of the first section number named in said amendment, insert: *133*; and the Senate agree to the same.

Amendment numbered 114:

That the House recede from its disagreement to the amendment of the Senate numbered 114, and agree to the same with an amendment, as follows:

In lieu of the first section number named in said amendment, insert: *134*; and the Senate agree to the same.

Amendment numbered 115:

That the House recede from its disagreement to the amendment of the Senate numbered 115, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert the following:

SEC. 135. Notwithstanding any other provision of this joint resolution or any other Act, the Department of the Navy is authorized, within existing appropriations, to expend such sums as are necessary to effectuate a settlement with the State of Washington of back tax liabilities arising out of Federal construction and procurement projects in Washington State. Such settlement may be negotiated directly between the Department of the Navy and the State of Washington, notwithstanding the fact that the liability of the Department of the Navy may be derivative from persons contracting with the Department.

And the Senate agree to the same.

Amendment numbered 117:

That the House recede from its disagreement to the amendment of the Senate numbered 117, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

SEC. 136. Effective on and after January 1, 1986, section 908(b) of the Supplemental Appropriations Act, 1983 (2 U.S.C. 31-1), is amended by striking out "30 percent" in paragraphs (1) and (2) and inserting in lieu thereof "40 percent".

And the Senate agree to the same.

Amendment numbered 122:

That the House recede from its disagreement to the amendment of the Senate numbered 122, and agree to the same with an amendment, as follows:

In lieu of the first section number named in said amendment, insert: *137*; and the Senate agree to the same.

Amendment numbered 123:

That the House recede from its disagreement to the amendment of the Senate numbered 123, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *138*; and the Senate agree to the same.

Amendment numbered 124:

That the House recede from its disagreement to the amendment of the Senate numbered 124, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *139*; and the Senate agree to the same.

Amendment numbered 125:

That the House recede from its disagreement to the amendment of the Senate numbered 125, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *140*; and the Senate agree to the same.

Amendment numbered 126:

That the House recede from its disagreement to the amendment of the Senate numbered 126, and agree to the same with an amendment, as follows:

In lieu of the first section number named in said amendment insert: *141*; and the Senate agree to the same.

Amendment numbered 127:

That the House recede from its disagreement to the amendment of the Senate numbered 127, and agree to the same with an amendment, as follows:

In lieu of the first section number named in said amendment insert: *142*; and the Senate agree to the same.

Amendment numbered 128:

That the House recede from its disagreement to the amendment of the Senate numbered 128, and agree to the same with an amendment, as follows:

In lieu of the first section number named in said amendment insert: *143*; and the Senate agree to the same.

Amendment numbered 129:

That the House recede from its disagreement to the amendment of the Senate numbered 129, and agree to the same with an amendment, as follows:

In lieu of the first section number named in said amendment insert: *144*; and the Senate agree to the same.

Amendment numbered 130:

That the House recede from its disagreement to the amendment of the Senate numbered 130, and agree to the same with an amendment, as follows:

In lieu of the first section number named in said amendment insert: *145*; and the Senate agree to the same.

Amendment numbered 131:

That the House recede from its disagreement to the amendment of the Senate numberd 131, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

Sec. 146. Notwithstanding any other provision of law, the Administrator of the General Services Administration and the Secretary of Commerce are hereby authorized, for the purposes of supporting the United States' international trade position, to locate the International Trade Administration Boston District Office in the new World Trade Center, Boston, Massachusetts. A report shall be made to the Committees on Appropriations no later than February 1, 1986, detailing the steps taken and agreements reached to achieve this move.

And the Senate agree to the same.

Amendment numbered 132:

That the House recede from its disagreement to the amendment of the Senate numbered 132, and agree to the same with an amendment, as follows:

In lieu of the first section number named in said amendment insert: *147*; and the Senate agree to the same.

Amendment numbered 133:

That the House recede from its disagreement to the amendment of the Senate numbered 133, and agree to the same with an amendment, as follows:

In lieu of the first section number named in said amendment insert: *148*; and the Senate agree to the same.

Amendment numbered 135:

That the House recede from its disagreement to the amendment of the Senate numbered 135, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *149*; and the Senate agree to the same.

For the entire resolution and Senate amendments:

Jamie L. Whitten
(except for amendment No. 4 only in regard to chemical weapons, strategic defense initiative, and unobligated balances set aside; amendment No. 5; and amendment No. 47)
Edward P. Boland,
William H. Natcher,
Neal Smith,
Sidney R. Yates
(except Nos. 4 and 117),
David R. Obey
(except Nos. 4, 117, and 122),
Edward R. Roybal
(except No. 4),
Tom Bevill,
Bill Chappell,
William Lehman,
Julian C. Dixon,
Vic Fazio,
W.G. (Bill) Hefner,
Silvio O. Conte
(except Nos. 4 and 117),
Joseph M. McDade,
John T. Myers,
Larry Coughlin,
Ralph Regula,
Virginia Smith,
Joe Skeen,

Solely for consideration of Senate amendments numbered 1, and 19 through 23, and modifications committed to conference:

Bob Traxler,
Matthew F. McHugh,
Daniel K. Akaka,
Wesley W. Watkins,
Richard J. Durbin,
Harold Rogers,

Solely for consideration of Senate amendments numbered 4, 5, and 33 through 48, and modifications committed to conference:

John P. Murtha,
Norman D. Dicks,
Charles Wilson,
Les AuCoin,
Bill Young,
Clarence Miller,
Bob Livingston,

Solely for consideration of Senate amendments numbered 7, 60 through 65, and 67 through 100, and modifications committed to conference:

John P. Murtha,
Norman D. Dicks,
Les AuCoin,

Solely for consideration of Senate amendments numbered 8, 118, 119, 120, 121, and 122, and modifications committed to conference:

Martin O. Sabo,
William H. Gray III,
Bob Carr,
Richard J. Durbin,
Robert J. Mrazek,
C. Pursell,
Frank R. Wolf,

Solely for consideration of Senate amendments numbered 14, 52, 53, 54, 55, and 56, and modifications committed to conference:

Matthew F. McHugh,
Charles Wilson,
William H. Gray III,
Robert J. Mrazek,
Managers on the Part of the House.

Mark O. Hatfield
(except No. 4),
Ted Stevens,
Lowell P. Weicker, Jr.
James A. McClure,
Thad Cochran,
Mark Andrews,
Jim Abdnor,
Robert Kasten,
Alfonse D'Amato,
Mack Mattingly,
Warren B. Rudman,
Arlen Specter,
John C. Stennis,
Robert C. Byrd,
Daniel K. Inouye,
J. Bennett Johnston,
Quentin N. Burdick
(but not with respect to congressional honoraria No. 117),
Dennis DeConcini,
Frank R. Lautenberg,
Tom Harkin,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the joint resolution (H.J. Res. 465) making further continuing appropriations for the fiscal year 1986, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

AGRICULTURE, RURAL DEVELOPMENT, AND RELATED AGENCIES

Amendment No. 1: Provides that programs, projects, or activities provided for in Agriculture, Rural Development, and Related Agencies Appropriation Act of 1986 (H.R. 3037) shall be available to the extent and in the manner provided for in the conference report and joint explanatory statement of the managers (H. Rept. 99-439), filed in the House of Representatives on December 12, 1985, as if such Act had been enacted into law. The House resolution provided for a rate of operations based on the House passed bill and the Senate amendment provided for a rate of operations based on the Senate passed bill.

COMMERCE, JUSTICE, STATE AND JUDICIARY

Amendment No. 2: Deletes language proposed by the House and stricken by the Senate which would have funded the Departments of Commerce, Justice, State, the Judiciary, and Related Agencies at the levels in H.R. 2965 as passed the House, and deletes language proposed by the Senate which would have funded these departments and agencies at the levels in the conference report on H.R. 2965. The President signed H.R. 2965 into law on December 13, 1985 (Public Law 99-180). Therefore, language specifying funding levels for these departments and agencies in this joint resolution is unnecessary.

Amendment No. 3: Deletes language proposed by the Senate that the conference report on H.R. 2965 be considered as including Senate Amendment No. 134.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT

Amendment No. 4: Section 101(b) of House Joint Resolution 465 provides appropriations for programs, projects and activities provided for in the Department of Defense Appropriations Act, 1986. The House version of the joint resolution provides appropriations for programs, projects and activities at a rate of operations and to the extent and in the manner provided for in H.R. 3629 as passed the House of Representatives on October 30, 1985. The Senate version of the joint resolution provides appropriations for these programs, projects and activities at the rate and in the manner provided for in H.R. 3629 as reported to the Senate on November 6, 1985, with certain additional provisions and exceptions provided for in the joint resolution.

The conference agreement on House Joint Resolution 465 incorporates some of the provisions of both the House and Senate versions of the Department of Defense Appropriations Act, 1986, and has the effect of enacting the Act into law. The language and allocations set forth in House Report 99-332 and Senate Report 99-176 should be complied with unless specifically addressed in this joint resolution and statement of the managers to the contrary. The Department of Defense Appropriations Act, 1986, put in place by this joint resolution incorporates the following agreements of the managers.

TITLE I—MILITARY PERSONNEL

The conferees agree to the following amounts for the Military Personnel accounts:

[In thousands of dollars]

	Budget	House	Senate	Conference
SUMMARY				
MILITARY PERSONNEL, ARMY	22,712,000	21,761,423	21,109,765	21,078,169
MILITARY PERSONNEL, NAVY	17,221,400	16,472,073	15,838,363	15,917,144
MILITARY PERSONNEL, MARINE CORPS	5,217,400	5,041,377	[illegible]	4,870,016
MILITARY PERSONNEL, AIR FORCE	19,187,900	18,341,185	17,688,587	17,744,770
RESERVE PERSONNEL, ARMY	2,264,400	2,159,254	2,203,014	2,178,564
RESERVE PERSONNEL, NAVY	1,353,600	1,297,123	1,264,334	1,267,734
RESERVE PERSONNEL, MARINE CORPS	290,000	278,842	[illegible]	272,250
RESERVE PERSONNEL, AIR FORCE	577,500	597,153	[illegible]	[illegible]
NATIONAL GUARD PERSONNEL, ARMY	3,430,800	3,238,217	[illegible]	[illegible]
NATIONAL GUARD PERSONNEL, AIR FORCE	995,100	953,204	926,516	926,716
TOTAL, MILITARY PERSONNEL	73,425,100	70,139,851	67,783,663	67,906,361

The following items represent language as agreed to by the conferees:

MILITARY PAY RAISE

The conferees agree to a reduction of $1,887,500,000 from requested amounts associated with the October 1, 1985, military pay raise. Funding for this requirement is discussed further under the heading Availability of Unobligated Balances later in the statement of the managers.

MILITARY/CIVILIAN WORKYEAR REDUCTIONS

The Senate reduced military personnel funding by $330,191,000 and civilian personnel funding by $477,500,000 as a result of its recommendation to hold workyears at fiscal year 1985 levels. The Senate recommendations are based on its contention that the Department is overstaffed in headquarters and administrative personnel. The conferees agree that reductions are available in these areas, but believe that levels recommended by the Senate would not be achievable in one fiscal year. The conferees agree to a reduction of $217,100,000 in the military personnel accounts. The conferees direct that any decreases in end strength below authorization as a result of this funding reduction must come from headquarters and administrative staff functions. In addition, the conferees recommended a reduction of $477,500,000 in Operation and Maintenance funding for improved productivity. The conferees encourage the Secretary of Defense to apply this adjustment by using sound management techniques that encourage productivity and quality improvement. The conferees agree that this reduction should be, but is not required to be, applied against civilian personnel workyears.

PERMANENT CHANGE OF STATION TRAVEL

The conferees agree to total funding of $2,744,293,000 for Permanent Change of Station (PCS) travel for fiscal year 1986. In addition the conferees have agreed to a general provision (Section 8085) which places a ceiling of a like amount on funds to be obligated by the Department for PCS Travel in fiscal year 1986. The funds provided for PCS Travel are sufficient to initiate all new PCS programs and allowances contained in the appropriation request. The conferees agree that the Department may initiate the PCS reimbursements which a newly authorized for fiscal year 1986, but only from within the funding ceiling allowed in this Bill. If additional funds are required to initiate these new programs, they should only be derived through a reduction in PCS moves or costs. The following chart identifies the funds requested and appropriated for specific new PCS initiatives in fiscal year 1986.

PCS REIMBURSEMENTS

[In thousands of dollars]

	Budget	Conference
Household Goods Weights	242,300	126,600
New PCS Reimbursements	0	0
Temporary Lodging Entitlement	132,472	132,472
Junior Enlisted Dependent Travel	21,051	17,556
Travel to Designated Place	15,325	12,781
Dependent Under 2 Mileage	10,100	8,423
All Other PCS Items	2,446,461	2,446,461.
Total PCS	2,867,709	2,744,293

Insofar as the increase to Household Goods Weight Allowances is concerned, the conferees agree that the Department may only increase weight allowances as follows: junior enlisted personnel with dependents to 5,000 pounds and junior enlisted with no dependents may increase up to 1,500 pounds in all situations. No other increases may be funded until the Department and GAO completed their respective reviews of the PCS program and the Congress has received and approved a funding request.

ARMY ENLISTMENT BONUS/NEW ARMY COLLEGE FUND DUPLICATION

The Senate included a general provision prohibiting payment of an Army College Fund kicker to any service member who also receives an enlistment bonus, and expressed concern that duplication of these two programs is excessive to the needs of the Army. This provision would apply only to these service members who contract to enlist on or after the date of enactment of this Act. The House did not address this issue. The Senate also reduced the Army's enlistment bonus request by $8,000,000, based on a lower accession mission due to increased retention. The conferees accept the Senate general provision but reduce the Army's enlistment bonus request by only $2,000,000, as proposed by the House, to allow additional funding flexibility which may be required as a result to this modification.

The conferees realize that the impact of such a change in the Army's overall enlistment benefits package cannot be quantified without data based on actual Army experience. The conferees expect to be kept fully informed regarding the Army's accession programs, and will continue to examine this issue during its consideration of the fiscal year 1987 budget request.

TUITION ASSISTANCE

The House included report language directing the Department of Defense to provide guidance to all Services to implement a uniform policy which would allow students under the DOD tuition assistance program to utilize any educational institutions accredited by the Department of Education and the Council on Postsecondary Accreditation. The Senate did not address this issue. The conferees agree with the House position.

GUARD/RESERVE FORCES

The conferees agree to a reduction of $195,530,000 from requested amounts resulting from authorization reductions in full-time reserve end strengths. The conferees also agree that the Department should make every effort within available resources to increase drilling reserve average strengths above the minimums required in the 1986 Defense Authorization. Additionally, the Civilian Technician strengths addressed below are the basis for the Technician floor as established in Section 8047.

The following table summarizes strength levels as agreed to by the conferees.

FISCAL YEAR 1986 GUARD/RESERVE STRENGTHS

	Budget	Authorization	Conference
Selected Reserve (average strength):			
Army Reserve	291,921	290,639	290,639
Navy Reserve	134,400	134,212	134,212

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FISCAL YEAR 1986 GUARD/RESERVE STRENGTHS—Continued

	Budget	Authorization	Conferees
Marine Corps Reserve	[illegible]	[illegible]	41,900
Air Force Reserve	75,600	75,600	75,600
Army National Guard	[illegible]	440,025	440,025
Air National Guard	108,700	108,700	108,700
Total	1,096,521	1,091,076	1,091,076
Full-Time Reserve (end strength):			
Army Reserve	14,714	12,157	12,157
Navy Reserve	19,510	19,010	19,010
Marine Corps Reserve	1,475	1,475	1,475
Air Force Reserve	[illegible]	[illegible]	635
Army National Guard	30,679	23,731	23,731
Air National Guard	7,269	7,269	7,269

FISCAL YEAR 1986 GUARD/RESERVE STRENGTHS—Continued

	Budget	Authorization	Conferees
Total	74,282	64,277	64,277
Military (Civilian) Technicians:			
Army Reserve	7,623	7,623	7,623
Air Force Reserve	9,042	9,042	9,042
Army National Guard	24,129	[illegible]	[illegible]
Air National Guard	22,792	22,792	22,792
Total	63,586	[illegible]	[illegible]

MANAGEMENT OF RESERVE FORCES FULL-TIME SUPPORT PROGRAMS

The House included report language directing the Department of Defense not to allow further conversions of civilian technicians to AGR status until a report is submitted to the Committee outlining the Department's efforts to resolve the problems associated with the full-time support program and the House Appropriations Committee responds to such report. The Senate did not address this issue. The conferees agree to the House language.

MILITARY PERSONNEL, ARMY

The conferees agree to provide $21,078,169,000 instead of $21,761,423,000 as recommended by the House and $21,109,765,000 as recommended by the Senate. Details of the adjustments are as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
VHA WINDFALL		−8,000	−12,100	−10,000
Military pay raise	601,157	541,041		
RENT PLUS TO VHA IN ALASKA/HAWAII SAVINGS		−2,500		
DEPENDENT UNDER 2 MILEAGE	4,400		3,667	3,667
HOUSEHOLD GOOD WEIGHTS	[illegible]	43,700	79,207	[illegible]
RETIRED PAY ACCRUAL	5,650,951	4,833,690	4,748,551	4,748,551
OVERSEAS HOUSING ALLOWANCES	98,714	97,714	98,714	97,714
AVERAGE END STRENGTHS—GROWTH	[illegible]	22,000	44,000	[illegible]
SELECTIVE REENLISTMENT BONUS	158,703	149,203	135,504	140,504
ENLISTMENT BONUS	115,400	113,400	107,400	113,400
OFFICER AVERAGE PAY RATES	4,736,478	4,721,478	4,721,478	4,721,478
PCS REIMBURSEMENTS		42,500		
SUBSISTENCE-IN-KIND	[illegible]	[illegible]	394,138	394,138
TEMPORARY LODGING EXPENSE	[illegible]	[illegible]	44,769	[illegible]
JUNIOR ENLISTED DEPENDENT TRAVEL	9,230	9,230	7,697	7,697
TRAVEL TO A DESIGNATED PLACE	6,075	6,075	[illegible]	[illegible]
ALL OTHER ITEMS	10,731,674	10,731,674	10,731,674	10,731,674
TOTAL, MILITARY PERSONNEL, ARMY	22,712,000	21,761,423	21,109,765	21,078,169

MILITARY PERSONNEL, NAVY

The conferees agree to provide $15,917,144,000 instead of $16,472,073,000 as recommended by the House and $15,838,363,000 as recommended by the Senate. Details of the adjustments are as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
VHA WINDFALL		−10,100	−19,650	−15,000
MILITARY PAY RAISE	429,483	386,535		
RENT PLUS TO VHA IN ALASKA/HAWAII SAVINGS		−2,300		
DEPENT UNDER 2 MILEAGE	2,100		1,754	1,754
HOUSEHOLD GOOD WEIGHTS	43,200	21,700	36,029	24,100
RETIRED PAY ACCRUAL	4,160,052	3,551,923	3,498,852	3,498,852
FUNDED TRAVEL—SHIP O/H		−1,900	−1,900	−1,900
MILITARY PERSONNEL ADJUSTMENTS	9,150,339	9,150,339	8,962,992	9,033,139
AUTHORIZED END STRENGTH GROWTH	162,400	115,400	[illegible]	[illegible]
SELECTIVE REENLISTMENT BONUS	269,554	[illegible]	228,740	238,740
AVERAGE STRENGTH GROWTH	37,000	22,000	37,000	37,000
TEMAC FUNDING	23,000		23,000	13,000
PCS REIMBURSEMENTS		25,400		
UNEMPLOYMENT COMPENSATION	31,980	31,980	[illegible]	[illegible]
SUBSISTENCE-IN-KIND	351,291	351,291	336,091	336,091
TEMPORY LODGING EXPENSE	35,621	35,621	29,708	35,621
JUNIOR ENLISTED DEPENDENT TRAVEL	3,300	3,300	2,752	2,752
TRAVEL TO A DESIGNATED PLACE	2,800	[illegible]	2,335	2,335
PCS MOVES—MANAGEMENT			10,000	
ALL OTHER ITEMS	2,519,280	2,519,280	2,519,280	2,519,280
TOTAL, MILITARY PERSONNEL, NAVY	17,221,400	16,472,073	15,838,363	15,917,144

MILITARY PERSONNEL, MARINE CORPS

The conferees agree to provide $4,870,016,000 instead of $5,041,377,000 as recommended by the House and $4,835,456,000 as recommended by the Senate. Details of the adjustments are as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
VHA WINDFALL		−3,000	−4,800	−4,000
MILITARY PAY RAISE	136,491	122,842		
DEPENDENT UNDER 2 MILEAGE	100		80	80
HOUSEHOLD GOOD WEIGHTS	15,600	7,700	13,009	[illegible]
RETIRED PAY ACCRUAL	1,297,896	1,106,022	[illegible]	[illegible]
FY 1985 RETENTION CARRYOVER		33,000		[illegible]
SELECTIVE REENLISTMENT BONUS	104,253	101,753	94,472	94,472
MILITARY PERSONNEL ADJUSTMENTS	2,828,524	2,828,524	2,814,811	2,818,624
AUTHORIZED END STRENGTH GROWTH	10,700	4,700	10,700	10,700
PCS REIMBURSEMENTS		[illegible]		
UNEMPLOYMENT COMPENSATION	17,614	17,614	14,614	14,614
SUBSISTENCE-IN-KIND	100,586	[illegible]	[illegible]	[illegible]
TEMPORARY LODGING EXPENSE	8,171	8,171	6,815	8,171
JUNIOR RELISTED DEPENDENT TRAVEL	2,221	2,221	1,853	1,853
TRAVEL TO A DESIGNATED PLACE	[illegible]	750	[illegible]	626
ALL OTHER ITEMS	[illegible]	[illegible]	[illegible]	[illegible]
TOTAL, MILITARY PERSONNEL, MARINE CORPS	5,217,400	5,041,377	4,835,456	4,870,016

MILITARY PERSONNEL, AIR FORCE

The conferees agree to provide $17,744,770,000 instead of $18,341,185,000 as recommended by the House and $17,688,587,000 as recommended by the Senate. Details of the adjustments are as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
VHA WINDFALL		−5,900	−13,350	−9,500
MILITARY PAY RAISE	510,061	459,055		
RENT PLUS TO VHA IN ALASKA/HAWAII SAVINGS		−2,500		
DEPENDENT UNDER 2 MILEAGE	3,500		2,922	2,922
HOUSEHOLD GOOD WEIGHTS	[illegible]	[illegible]	73,808	[illegible]
RETIRED PAY ACCRUAL	4,816,907	4,079,198	4,051,307	4,051,307
MILITARY PERSONNEL ADJUSTMENTS	10,446,035	10,446,035	10,316,904	10,356,035
AUTHORIZED PERSONNEL END STRENGTH GROWTH	[illegible]	[illegible]	[illegible]	[illegible]
SELECTIVE REENLISTMENT BONUS	100,283	97,783	91,284	[illegible]
RENTENTION/LONGEVITY GROWTH	21,700	10,700	21,700	21,700
PCS REIMBURSEMENTS		[illegible]		
OFFICER MANYEARS			−27,900	
UNEMPLOYMENT COMPENSATION	39,021	39,021	27,021	27,021
SUBSISTENCE-IN-KIND	141,809	141,809	137,609	137,609
TEMPORARY LODGING EXPENSE	[illegible]	[illegible]	[illegible]	[illegible]
JUNIOR ENLISTED DEPENDENT TRAVEL	[illegible]	[illegible]	5,254	5,254
TRAVEL TO A DESIGNATED PLACE	5,700	5,700	4,754	4,754
PCS MOVES–MANAGEMENT			−5,000	
ALL OTHER ITEMS	2,872,584	2,872,584	2,872,584	2,872,584
TOTAL, MILITARY PERSONNEL, AIR FORCE	19,187,900	18,341,185	17,688,587	17,744,770

RESERVE PERSONNEL, ARMY

The conferees agree to provide $2,178,564,000 instead of $2,159,254,000 as recommended by the House and $2,203,014,000 as recommended by the Senate. Details of the adjustments are as follows:

[In thousand of dollars]

	Budget	House	Senate	Conference
SURPLUS FUNDING	[illegible]	[illegible]	50,000	[illegible]
MILITARY PAY RAISE	[illegible]	49,217		
RETIRED PAY ACCRUAL	603 447	443,820	513,247	513,247
AGR END STRENGTH GROWTH	[illegible]	29,261	35,061	29,261
BRANCH OFFICERS BASIC COURSE	32,451	27,451	32,451	27,451
RESERVE INCENTIVES		6,350		[illegible]
SUBSISTENCE-IN-KIND			−900	−900
ALL OTHER ITEMS	1,573,155	1,573,155	1,573,155	1,573,155
TOTAL, RESERVE PERSONNEL, ARMY	2,394,400	2,159,254	2,203,014	2,178,564

RESERVE PERSONNEL, NAVY

The conferees agree to provide $1,267,734,000 instead of $1,297,123,000 as recommended by the House and $1,264,334,000 as recommended by the Senate. Details of the adjustments are as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
TAR END STRENGTH GROWTH	58,172	53,672	51,372	53,672
MILITARY PAY RAISE	[illegible]	26,429		
RETIRED PAY ACCRUAL	334,628	[illegible]	281,528	281,528
RESERVE INCENTIVES		1,100		1,100

[In thousands of dollars]

	Budget	House	Senate	Conference
ALL OTHER ITEMS	931,434	931,434	931,434	931,434
TOTAL, RESERVE PERSONNEL, NAVY	1,353,600	1,297,123	1,264,334	1,267,734

Reserve Personnal, Marine Corps

The conferees agree to provide $272,250,000 instead of $278,842,000 as recommended by the House and $272,200,000 as recommended by the Senate. Details of the adjustments are as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
MILITARY PAY RAISE	[illegible]	5,760		
RETIRED PAY ACCRUAL	71,450	[illegible]	60,050	[illegible]
RESERVE INCENTIVES		50		50
ALL OTHER ITEMS	212,150	212,150	212,150	212,150
TOTAL, RESERVE PERSONNEL, MARINE CORPS	[illegible]	278,842	272,200	272,250

Reserve Personnel, Air Force

The conferees agree to provide $584,430,000 instead of $597,153,000 as recommended by the House and $583,330,000 as recommended by the Senate. Details of the adjustments are as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
MILITARY PAY RAISE	14,370	12,933		
RETIRED PAY ACCRUAL	155,531	130,521	130,731	130,73
RESERVE INCENTIVES		1,100		1,10
ALL OTHER ITEMS	452,599	452,599	452,599	452,59
TOTAL, RESERVE PERSONNEL, AIR FORCE	622,500	597,153	583,330	584,43

National Guard Personnel, Army

The Conferees agree to provide $3,066.568,000 instead of $3,238,217,000 as recommended by the House and $3,062,098,000 as recommended by the Senate. Details of the adjustments are as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
MILITARY PAY RAISE	79,802	71,822		
RETIRED PAY ACCRUAL	898,792	835,558	757,192	757,192
AGR END STRENGTH	203,942	64,312	60,042	64,312
DRILLING RESERVE AVG. STRENGTH	1,698,925	1,716,986	1,698,925	1,698,925
RESERVE INCENTIVES		200		200
SUBSISTENCE-IN-KIND			−3,400	−3,400
ALL OTHER ITEMS	549,339	549,339	549,339	549,339
TOTAL, NATIONAL GUARD PERSONNEL, ARMY	3,430,800	3,238,217	3,062,098	3,066,568

National Guard Personnel, Air Force

The Conferees agree to provide $926,516,000 instead of $953,204,000 as recommended by the House and $926,516,000 as recommended by the Senate. Details of the adjustments are as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
MILITARY PAY RAISE	25,684	23,116		
RETIRED PAY ACCRUAL	267,136	227,608	224,436	224,436
RESERVE INCENTIVES		200		200
SUBSISTENCE-IN-KIND			−200	−200
ALL OTHER ITEMS	702,280	702,280	702,280	702,280
TOTAL, NATIONAL GUARD PERSONNEL, AIR FORCE	[illegible]	953,204	926,516	926,716

TITLE II—OPERATION AND MAINTENANCE

The conferees agree to the following amounts for the Operation and Maintenance accounts:

[In thousands of dollars]

	Budget	House	Senate	Conference
OPERATION AND MAINTENANCE—SUMMARY				
ARMY	20,190,630	18,559,518	19,043,039	18,975,507
NAVY	25,797,700	23,862,102	24,528,310	24,477,071
MARINE CORPS	1,667,400	1,615,128	1,609,000	1,612,050
AIR FORCE	20,924,400	19,507,672	19,488,901	19,536,813
DEFENSE AGENCIES	7,568,900	7,340,076	7,479,956	7,432,569
ARMY RESERVE	779,600	774,900	783,100	780,100
NAVY RESERVE	954,500	896,415	896,700	894,930
MARINE CORPS RESERVE	61,600	57,120	57,200	57,200
AIR FORCE RESERVE	907,700	890,844	910,300	907,700
ARMY NATIONAL GUARD	1,805,700	1,646,305	1,656,500	1,652,880
AIR NATIONAL GUARD	1,830,100	1,803,862	1,806,700	1,806,700
NATIONAL BRD FOR THE PROMOTIN OF RIFLE PRACTICE, ARMY	970	970	970	970
CLAIMS, DEFENSE	154,300	148,300	143,300	143,300
COURT OF MILITARY APPEALS	3,200	3,200	3,200	3,200
PAN AMERICAN GAMES		10,000	10,000	10,000
ENVIRONMENT RESTORATION, DEFENSE			420,100	379,100
(BY TRANSFER)		(329,100)		
GRAND TOTAL, OPERATION AND MAINTENANCE	82,450,150	77,222,362	78,835,626	78,664,480

The following items represent agreements of the conferees:

AUTHORIZATION COMPLIANCE

The amounts recommended by the conferees for each Operation and Maintenance appropriation are, for the most part, at or below the authorized level for those accounts. The exceptions to this compliance with authorization are in the Guard and Reserve accounts and result from the conferees' attempts to improve the capabilities of the reserve components. The conferees were able to fund some high priority readiness items which were not in the Authorization package by offsetting these readiness initiatives with reductions against lower priority or over-budgeted programs. The conferees agree not to apply all of the Authorization non-programmatic reductions in the Operation and Maintenance accounts, because this would have resulted in a "double-dip" against many of the specific program reductions agreed to by the conferees. The Department is directed, where appropriate, to consider the unspecified Authorization cuts when applying the conference reductions.

DRUG INTERDICTION

PATROL AIRCRAFT FOR CUSTOMS SERVICE

The conferees agree to provide $6,000,000 for modification of two patrol (P-3A) aircraft to be transferred to the Customs Service instead of $7,427,000 as provided by the Senate. Any additional funds required to complete modification of these aircraft should be provided within available resources.

DEPARTMENT OF DEFENSE DRUG INTERDICTION MISSIONS

The conferees provide nearly $300,000,000 to enhance drug interdicton efforts of the Department of Defense. The conferees strongly believe that the Department can and should play a major role in helping to minimize the importation of illegal drugs.

In addition to specific enhancements of drug interdiction contained in this conference report, the conferees provide an appropriation of $35,000,000 to Aircraft Procurement, Air Force to initiate the formation of a drug interdiction element or elements within the Air Force. This level of funding will allow the Air Force to commence the configuration of one AC-130H-30 pressurized drug surveillance aircraft and to establish an appropriate command and control element for the drug interdiction mission within the Air Force.

The conferees believe that the Air Force special operations forces would be the appropriate choice to carry out this new mission. The conferees note that the provisions of the Posse Comitatus Act require that support to civilian law enforcement be provided with no degradation to service combat readiness. Although the Department has considered other approaches, the conferees strongly believe that the best balance of providing peacetime drug interdiction and building wartime combat capability is to purchase and configure the initial AC-130H-30 special operations aircraft for both missions. The conferees believe that this approach will be the most cost-effective in meeting both the drug interdiction and Posse Comitatus objectives of the Department.

To this end, the conferees believe that this new drug interdiction initiative is compatible with and addresses the need for the replacement of aging AC-130 gunships. The configuration of replacement AC-130 pressurized gunships can provide an ideal surveillance and detection aircraft with sensors, communications, and other equipment that is also compatible with the drug interdiction assistance mission. The conferees believe it is important for the Air Force to move promptly to establish this new drug interdiction program. Accordingly, the conferees direct the Air Force to take the necessary steps to ensure delivery of the first AC-130H-30 pressurized drug interdiction aircraft no later than January 31, 1987. The configuration and schedule for this initial aircraft is predicated on the use of a currently available C-130h-30 stretched variant, in order to permit a pressurized drug interdiction/gunship aircraft. Older gunship configurations are unpressurized and thereby unsuitable for the drug interdiction role and are severely limited in the gunship role. The first aircraft shall be a fully operational drug interdiction aircraft with maximum subsystems integration possible to permit contingency installation of remaining gunship-peculiar equipment in wartime or other national emergency.

The conferees recognize the contracted nature of this schedule and therefore direct the Air Force to immediately proceed with the contracting necessary to assure the needed priorities for the radar and subsystems, CFE airframes and equipment, and other such means of expediting delivery of the aircraft. The conferees strongly support the national consensus for a swift response to the need for DOD assistance against the drug threat. In this regard, the Department should consider budgeting for an additional nine pressurized drug surveillance aircraft in fiscal years 1987 and 1988, in order to allow the Air Force to perform its priority role in assisting the overall drug interdiction effort.

CUSTOMS SERVICE DRUG INTERDICTION PROGRAM

The conferees agree with the Senate position to allocate $7,900,000 in contract savings to purchase two additional Blackhawk helicopters to replace two older Blackhawk helicopters which the Senate directed the Army to transfer to the Customs Service Drug Interdiction Program.

STOCK FUNDS REFUNDS

The House refunded a total of $2,425,000,000 from Defense Department stock funds to the Operation and Maintenance accounts as a result of reduced fuel prices and excess cash balances. In addition, the House directed the Stock Funds to reduce cash reserves from 11 to 5 days. The Senate refunded a total of $1,774,900,000 for the same reasons; however, the Senate reductions were based on different assumptions. Additionally, the Senate directed the Departments to study the proposal to reduce cash reserves from 11 to 5 days.

The conferees agree to a total refund of $2,043,600,000 to the Operation and Maintenance accounts. This refund assumes that the Department has overestimated fuel prices by $435,500,000. The conferees also agree that the stock funds will experience cash excesses in fiscal year 1986 in an amount equal to the excess cash earned in fiscal year 1985 (above the amounts assumed when the fiscal year 1986 budget was prepared), and have reduced stock fund cash balances by $1,608,100. Included in this reduction is the Army Aviation spares refund addressed in the Senate report. The conferees did not agree to the House position to refund from the stock funds refunds directly to the Operation and Maintenance account for Navy real property maintenance, Marine Corps Reserve material readiness items, or Air Force depot maintenance. Finally, the conferees agree that the Department should study the House proposal to reduce stock fund cash reserves from 11 to 5 days and submit a report to the Committees by February 15, 1986.

INDUSTRIAL FUNDS

The House recommended refunds from Defense Department Industrial Funds to the Operation and Maintenance accounts of

$940,000,000 based on net operating results in fiscal year 1985 in excess of estimates made by the Department in the fiscal year 1986 request. The Senate recommended reductions of $200,000,000 for the same reason, but based on the Department's latest estimates on net operating results. The conferees agree that the appropriate refund amount to the Operation and Maintenance accounts is $400,000,000. This refund is based on the Defense estimates for excess fiscal year 1985 net operating results of $200,000,000 but assumes that fiscal year 1986 rates are overpriced by a like amount and that the Industrial Funds will experience another $200,000,000 excess in net operating results in fiscal year 1986. The conferees do not agree to the House recommendation to refund $71,000,000 from the Industrial Funds directly to Navy Operation and Maintenance for Depot Maintenance.

REAL PROPERTY MAINTENANCE

The conferees agree to increase funding for Real Property Maintenance by $114,500,000 from the budget request instead of $175,500,000 as recommended by the Senate. The conferees further agree with the Senate language requiring all funding identified in the justification material for recurring maintenance projects be used for only that purpose. Further, the additional funding provided in excess of the budget request shall be used for recurring maintenance except that $5,928,000 shall be available for projects associated with Hurricane Elena damage as identified in the Senate report.

RECRUITING AND ADVERTISING

The conferees agree to a total reduction of $35,550,000 to recruiting and advertising resources. This is $13,450,000 below the Senate and $13,750,000 above the House amounts. The conferees question the Army's minimum desired goal of 59% of high quality non-prior service accessions, considering the minimum requirement of the Marine Corps is 35% and the two services are similar in their requirements for technical expertise. As such, the conferees direct the Office of the Secretary of Defense to examine whether the Army's minimum quality requirement should be higher than the Marine Corps and report its results to the Committees on Appropriations by May 1, 1986.

Acquired Immune Deficiency Syndrome (AIDS) Testing and Research

The House provided $15,000,000 for the Army to begin testing recruits for Acquired Immune Deficiency Syndrome (AIDS). The Senate provided $67,600,000 for all the Services to begin testing all military for AIDS. The Senate also included $52,600,000 in Army Research and Development funds for research on AIDS. The conferees agree to provide a total of $55,100,000 for testing for AIDS, broken out as follow:

Army	$42,600,000
Navy	5,000,000
Air Force	5,000,000
Army National Guard	2,500,000
Total	55,100,000

The conferees agree that the Department of Defense must submit to the Committees on Appropriation a comprehensive AIDS Testing policy by February 1, 1986.

The conferees agree to provide $40,000,000 to the Army for research on AIDS. The conferees insist that the Department of Defense work, to the maximum extent possible, with the National Institutes of Health in developing AIDS testing and research programs.

PROFESSIONAL DEVELOPMENT EDUCATION ISSUES

The Senate reduced $13,923,000 from the various Services' professional education programs based on a Defense Inspector General report which cited serious problems with how education requirements are determined and how officers educated under this program are not effectively utilized. The House did not address this issue. The conferees agree to a reduction of $11,423,000, but direct that, to the extent possible, the cuts not be applied against in-house professional education programs, such as the Naval Post Graduate School.

FLAT RATE PER DIEM

The conferees agree to a reduction of $6,400,000 instead of the $11,800,000 as provided by the Senate. The conferees further agree to the Senate general provision (Sec. 8083) on flat rate per diem with the understanding this provision is intended to be in effect throughout the period covered by this Act.

PUBLIC AFFAIRS AND LEGISLATIVE LIAISON LIMITATIONS

The conferees agree with the Senate that public affairs and legislative liaison activities should not be held to fiscal year 1985 levels. However, the following public affairs and legislative liaison programs are reduced due to excessive program growth:

	Public Affairs	Legislative Liaison
Army	0	−$50,000
Defense Agencies	−$50,000	−50,000
Total	−50,000	−100,000

MEDICAL READINESS .

The conferees agree to increase funding for medical readiness by $125,900,000 instead of $235,500,000 as proposed by the Senate. The conferees recognize the critical need for improving wartime medical readiness. Funds will provide for requirements for two Army MASH units, one combat support hospital, two medical evacuation units, two Navy fleet hospitals, and one Air Force 500 bed hospital. In addition, funding provides $20,000,000 to further reduce the backlog of Army maintenance and repair projects at medical facilities in Central Europe below the levels programmed in the fiscal year 1986 budget request.

The conferees direct that this funding is contingent upon the Assistant Secretary of Defense for Health Affairs submitting a plan and funding profile to the Committees on Appropriations by March 15, 1986, which describes the unfinanced requirement for wartime medical readiness and how the requirement will be satisfied.

The conferees further agree with the House report language on medical readiness in the European Command (EUCOM)

PREFINANCING NATO REPAIR PROJECTS

The conferees agree to permit the Defense Department to continue to prefinance NATO repair projects in fiscal year 1986. The conferees are concerned that by prefinancing repair projects, the United States is not reimbursed for projects that are eligible for and should be funded with NATO Infrastructure funds. The conferees direct the U.S. European Command (EUCOM) to submit a report to the Committees on Appropriations by May 1, 1986, to include for fiscal years 1983 through 1985 a list of repair projects and associated costs: (1) for which the Department has applied for NATO Infrastructure funding; (2) that were determined eligible for NATO Infrastructure funding; (3) that were prefinanced with operating funds; and (4) that were recouped by NATO Infrastructure funds. The conferees also direct EUCOM to report on the status of the fiscal year 1986 repair project and associated costs by May 1, 1986.

COMPETITIVE RATE PROGRAM

The conferees agree with the report language of the Senate regarding any future change in the existing rate system for Alaska and Hawaii.

PRICE OF TOBACCO PRODUCTS

The conferees agree to delete the Senate provision requiring the Department to increase the price of tobacco products and also have restored associated funding. The conferees are concerned about the health issues surrounding tobacco products and the military, and direct the Assistant Secretary of Defense for Health Affairs to submit a report on his recommendation concerning this vital issue by March 1, 1986. This report should include a study to determine the effects of cigarette prices on military consumption patterns, the health of military personnel, and the economic cost to the military and society. Additionally, the conferees direct the Defense Department to report on the economic impact of increasing the price of tobacco products in commissaries and exchanges, and of including state and local taxes in the price of tobacco products. Further, the Department should inform the Committees of the status of an internal Defense Department proposal to discontinue the sale of cigarettes in commissaries.

CONTRACTING OUT LIBRARIES

The House requested that the Department of Defense ensure that if contractors are used to provide technical library services, their practices take into account national security concerns. The Senate did not address this issue. The conferees accept the House position, with clarifying language as follows:

The conferees are concerned that the Department of Defense may be contracting with corporations, partnerships, associations, or individuals who are not employees of the Department of Defense, for the management of technical libraries, including proprietary data and information that is classified or of a sensitive nature. The conferees request that if the Department considers the use of outside contractors in providing technical library services, it must ensure their practices take into account national security concerns.

REPORT ON COST SAVINGS UNDER CONTRACTING OUT PROCEDURES

The House requested the Secretary of Defense to submit a report on cost savings resulting from efforts contracted to the private sector since January 1, 1981. The Senate considered this reporting requirement excessive. The conferees agree the requirement for a report on the experience of the Department of Defense since October 1, 1983, on the conversion to contractor operation, commercial, or industrial type functions which had previously been performed by Department of Defense personnel, is not excessive and is requested by April 15, 1985.

CONTRACTED ADVISORY AND ASSISTANCE SERVICES

The House directed the Department of Defense to revise the definitions of contracted advisory and assistance services and submit the fiscal year 1987 budget exhibits based on the new definitions. The Senate did not address this issue. The conferees agree with the House language and further agree that this requirement does not affect the execution of the fiscal year 1986 program. The language refers to the preparation and execution of fiscal year 1987 and future budgets.

NONREIMBURSABLE DETAILS OF DOD PERSONNEL

The conferees agree with the House position on limiting nonreimbursable details of Department of Defense personnel. While the conferees agree that, in general, nonreimbursable details are improper, there are limited circumstances in which they may still be allowed. If the detail is in fulfillment of a specific personnel development, or career enhancement program, or to a headquarters, or appropriate Office of the Secretary of Defense level, it would not be subjected to this limitation.

SPECIAL OPERATIONS FORCES

The conferees agree with the language included in the House report concerning Special Operations Forces, with the exceptions that (1) there to no personnel ceiling placed on the 23rd Air Force, (2) the reports requested by the House should be submitted to the Congress no later than March 1, 1986, and (3) the report addressing the feasibility of creating a single command structure for Special Operations should also address options other than creation of a subordinate command of JCS.

CIVILIAN WORKYEAR REDUCTIONS

Reductions made in reference to civilian workyear reductions are discussed in the Military Personnel section of this report.

OPERATION AND MAINTENANCE, ARMY

The conferees agree to provide $18,975,507,000 instead of $18,659,638,000 as recommended by the House and $19,043,039,000 as recommended by the Senate. Details of the adjustments are as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
OPERATION AND MAINTENANCE, ARMY				
STOCK FUND FUEL (REFUND)	441,237	400,237	412,537	406,387
STOCK FUND PRICE REESTIMATE	2,695,941	2,210,541	2,318,241	2,318,241
FOREIGN CURRENCY EXCHANGE RATE		−462,400	−418,400	−418,400
INDUSTRIAL FUND—REFUND	1,941,256	1,761,256	1,881,256	1,871,256
INFLATION REESTIMATE	372,599	311,599	311,599	311,599
DEPOT MAINTENANCE	1,888,000	1,699,000	1,699,000	1,699,000
EXPENSE/INVESTMENT CRITERIA CHANGE	164,100	31,000	31,000	31,000
REAL PROPERTY MAINTENANCE	1,607,400	1,632,400	1,657,400	1,632,400
CIVILIAN PAY REDUCTION RESTORATION	−262,400	−131,200		
UNEMPLOYMENT COMPENSATION (NAFE)	13,459	12,163	13,459	12,163
CLASSIFIED PROGRAMS		−2,735	−3,240	−4,240
BASE OPERATING SUPPORT		−30,000	−30,000	−30,000
FORCE MODERNIZATION	564,700	534,200	483,100	483,100
COMMAND AND CONTROL	912,600	872,600	877,600	877,600
COMMUNICATIONS		−10,000	−10,000	−10,000
ADP MANAGEMENT		−15,000		−2,300
IMPROPER USE OF O&M FUNDS		−15,000		
YEAR END SPENDING		−6,000		
PERSONAL SERVICES CONTRACTING	19,000	16,000	19,000	17,000
CONTRACT STUDIES		−5,000		−2,500
ADMINISTRATION	658,700	678,700	658,700	638,700
PRODUCTIVITY	5,288,484	5,188,484	5,288,484	5,288,484
RECRUITING/ADVERTISING	280,800	273,800	265,800	273,800
ADMINISTRATION/SUPERVISION	7,000	4,000	7,000	7,000
OTHER COMBAT EQUIPMENT ACTIVITIES	154,600	152,600	154,600	154,600
MECHANIZATION OF THE CORPS OF ENGINEERS	3,400	2,400	2,400	2,400
DISPLACED EQUIPMENT	238,100	235,100	238,100	238,100
INFRASTRUCTURE SUPPORT	2,200	1,200	1,200	1,200
CONTRACTING INITIATIVES	5,000		5,000	5,000
CAPITAL EXPENSE EQUIPMENT	8,800	5,800	5,800	5,800
OTHER PERSONNEL ACTIVITIES	41,000	39,500	41,500	41,500
CIVILIAN TRAINING	6,000	5,000	6,000	6,000
OPERATIONAL SUPPORT	5,800	3,800	5,800	5,800
AREA ORIENTED DEPOT MODERNIZATION	8,000	4,500	6,000	5,000
AUDIT FOLLOW-UP		−10,000		
AAFES LEASE PAYMENTS		−1,000		
DESIGN COSTS OF NONAPPROPRIATED FUND PROJECTS		−1,000		
FAMILY ACTION PROGRAMS		−10,000	−24,500	−20,000
FINANCIAL MANAGEMENT		−5,000		
EXCESS PROPERTY		−5,000		
INVENTORY CONTROL		15,000		
BASE OPERATIONS—EUROPE HOMES	8,086	7,086	5,085	2,586
MORALE, WELFARE & RECREATION	503,585	479,085	503,585	499,085
REICHEL FACILITY—RUG AND SHOE FACTORY	15,300	14,800	15,300	14,800
WESTCOM HEADQUARTERS	2,041	355	2,041	355
WARTIME HOST NATION	8,800	4,400	8,800	8,800
AUTOMATIC TELEPHONE SWITCH	10,000		10,000	10,000
HISTORIAN PROGRAM	4,428	3,628	4,428	3,828
DRUG TESTING	9,800	11,300	9,800	11,300
SGT. YORK OPERATING SUPPORT	69,800			
AIDS TESTING		15,000	42,600	42,600
MEDICAL ENHANCEMENTS		40,000		20,000
LEGISLATIVE LIAISON ACTIVITIES		−140		−50
PUBLIC AFFAIRS ACTIVITIES		−385		
PROFESSIONAL EDUCATION			−4,708	−4,708
AVIATION SPARE REFUND			−98,000	−98,000
ARMY LIFE CYCLE SUPPORT SOFTWARE			−1,143	−1,143
ARMY DEPOT SYSTEM REORGANIZATION			−1,200	−1,200
AUDIOVISUAL ACTIVITIES TRANSFER			7,000	1,000
ENVIRONMENTAL RESTORATION			−128,400	−128,400
COMMISSARY SUBSIDY			−32,700	
MEDICAL READINESS			65,100	38,200
DIVAD REPLACEMENT			4,800	4,800
READINESS INITIATIVES			1,87,000	137,000
CIVILIAN WORKYEAR REDUCTION			−149,800	−149,800
ALL OTHER ITEMS	2,717,613	2,717,613	2,717,613	2,717,613

[In thousands of dollars]

	Budget	House	Senate	Conference
TOTAL, ARMY	20,190,630	18,659,638	19,043,039	18,975,507

ARMY READINESS INITIATIVES

The conferees agree to provide $137,000,000 for Army readiness initiatives instead of $187,000,000 as recommended by the Senate. The conferees understand this funding will be used to enhance unit training, and provide for necessary equipment and supplies for force protection and organizational clothing and equipment.

MEDICAL ENHANCEMENTS

The conferees agree to provide $20,000,000 to the Army for the enhancement of medical staffing. Based on the recent review of Madigan Army Medical Center citing a severe shortage in nursing staff, the conferees direct that $7,700,000 of this funding be used to satisfy the shortage of nursing and ancillary staff at Madigan.

WARTIME HOST NATION SUPPORT

The conferees agree to provide $8,800,000 in operation and maintenance funding for Wartime Host Nation Support, $4,400,000 above the House level. The conferees agree with the direction included in the Senate report restricting the use of the funds only for the Host Nation Support program and instructing the Army to budget for operations in the fiscal year the units are activated.

ARMY REDUCTIONS FOR ADP MANAGEMENT

The conferees agree to a reduction of $2,300,000 for management of automatic data processing (ADP) to be applied to the Army's National Training Center Feedback System.

YUMA PROVING GROUNDS

The conferees agree to the Senate Report language contained in the continuing resolution which allows the Army to move forward with contract support functions at Yuma Proving Grounds under the conditions established in the Senate report accompanying H.J. Res. 465.

OPERATION AND MAINTENANCE, NAVY

The conferees agree to provide $24,477,071,000 instead of $23,862,002,000 as recommended by the House and $24,528,310,000 as recommended by the Senate. Details of the adjustments are as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
OPERATION AND MAINTENANCE NAVY				
STOCK FUND FUEL—REFUND	1,906,303	1,728,303	1,786,603	1,757,453
STOCK FUND PRICE REESTIMATE	3,440,203	2,651,303	2,759,803	2,707,803
INFLATION REESTIMATE	379,000	[illegible]	164,000	164,000
FOREIGN CURRENCY EXCHANGE RATE		−242,800	−198,800	−198,800
INDUSTRIAL FUND—REFUND	7,663,222	7,194,222	7,593,222	7,523,222
DEPOT MAINTENANCE (AIRCRAFT-VEHICLES)	2,027,200	2,047,200	2,047,200	2,047,200
REAL PROPERTY MAINTENANCE	[illegible]	[illegible]	851,000	846,000
PRODUCTIVITY	[illegible]	2,831,308	[illegible]	[illegible]
PAY REDUCTION RESTORATION	−345,700	−172,850		
UNEMPLOYMENT COMPENSATION (NAFE)	2,500	2,175	[illegible]	2,175
EXPENSE/INVESTMENT CRITERIA CHANGE	223,300	42,100	42,100	42,100
MILITARY PERSONNEL	30,000	10,900	10,900	10,900
CLASSIFIED PROGRAMS		−4,612	−4,612	−4,112
FLEET COMMANDS AND STAFF	105,623	97,919	104,623	103,523
SPECIALIZED TRAINING	166,300	165,300	[illegible]	[illegible]
INACTIVE SHIP REWORK	75,422	422	422	422
BASE OPERATING SUPPORT		−35,000	−35,000	−35,000
NAVAL SEA SYSTEMS COMMAND	1,766,697	1,736,697	1,736,697	1,736,697
TRAINING SUPPORT	376,900	375,900	375,900	375,900
CNO STAFF OFFICES	48,375	46,755	47,375	46,755
MILITARY PERSONNEL COMMAND	117,386	112,386	112,386	112,386
EXCESS PROPERTY		−5,000		
ADP MANAGEMENT		−25,000	−25,000	−25,000
IMPROPER USE OF O&M FUNDS		−20,000		
CONTRACT STUDIES		−10,000		−5,000
NAVAL SPACE COMMAND	17,857	16,857	16,857	16,857
CRUISE MISSILE	87,183	86,183	86,183	86,183
AUDIT FOLLOWUP		−10,000		
YEAR END SPENDING		−10,000		
SMALL CLUBS		−1,000		
FINANCIAL MANAGEMENT		−10,000		
SEALIFT	573,400	557,400	573,400	573,400
COMMAND AND CONTROL	651,600	[illegible]	[illegible]	[illegible]
COMMUNICATIONS		−11,000	−11,000	−11,000
SUBMARINE INACTIVATIONS	61 641	29,641	61,641	61,641
T-AGOS OPERATIONS	38,232	33,232	38,232	38,232
MCM OPERATIONS	800		800	
AIRCRAFT MOD INSTALLATIONS	268,112	258,112		258,112
STATION HOSPITALS	165,406	165,294	165,406	165,294
MANPOWER ENGINEERING CENTER	20,353	[illegible]	20,353	[illegible]
NAVAL AUDIT SERVICE	26,346	25,846	26,346	25,846
COMMAND HEALTH CARE	519, 287	518,237	519,287	518,237
LAW ENFORCEMENT PERSONNEL ON NAVAL VESSELS		15,000	15,000	15,000
READY RESERVE FLEET DISPOSAL		3,600		3,600
LEGISLATIVE LIAISON ACTIVITIES		−65		
PUBLIC AFFAIRS ACTIVITIES		−135		
RECRUITING/ADVERTISING		−2,500	−4,000	−3,250
PROFESSIONAL EDUCATION			−3,585	−3,585
TRANSPORTATION			−13,000	−13,000
NAVY MATERIAL COMMAND			−20,040	−15,000
STEAMING HOURS			−85,000	−65,000
AUDIOVISUAL ACTIVITIES			[illegible]	[illegible]
ENVIRONMENTAL RESTORATION			−42,900	−42,900
COAST GUARD REIMBURSEMENT		100,000		[illegible]
AIDS			11,000	5,000
P-3A MODIFICATIONS			3,747	[illegible]
COMMISSARY SUBSIDY			−1,600	
CIVILIAN WORKYEAR REDUCTION			−54,900	−54,900

[In thousands of dollars]

	Budget	House	Senate	Conference
ALL OTHER ITEMS	1,703,044	1,703,044	1,703,044	1,703,044
TOTAL, NAVY	25,797,700	23,862,002	24,528,310	24,477,071

STEAMING HOURS

The conferees agree to reduce funding for steaming hours by $65,000,000 instead of $85,000,000 as provided by the Senate. The conferees further agree with the Senate report language which expresses concern with the Navy's continued overallocation of steaming hours to the deployed fleet. The conferees believe the Navy should make every attempt to stay within the budget request of 50.5 steaming days per quarter for the deployed fleet and the historical experience of 27.4 steaming days per quarter for the non-deployed fleet. If additional steaming days become available during fiscal year 1986, they should be allocated to the non-deployed fleet.

FLEET COMMANDS AND STAFF

The conferees agree to a reduction of $1,050,000 for the Navy's Fleet Commands and Staff based on the Navy's insistence on funding fiscal year 1985 audiovisual activities for the Fleet Commands and Staff after the Congress specifically reduced this program in fiscal year 1985.

While the conferees agree to restore $6,654,000 of the reduction made by the House, the conferees direct that funds shall not be moved into or out of this account without prior approval of Congress. Furthermore, the conferees wish to make it understood that the way in which the Navy internally reprograms and shifts funding in the administrative and associated activities account is of Congressional concern and will be monitored by the House and Senate Defense Appropriations subcommittee in fiscal year 1986.

SHIP REPAIR AND MAINTENANCE POLICY

The House included report language which opened up Selected Restricted Availabilities (SRAs) on a coast-wide basis. The Senate included a general provision which expressed the sense of the Senate to encourage competition while recognizing personnel impacts. The Senate provision also called for opening up repair work on Naval Reserve Ships to coast-wide bids.

The conferees agree with the intent of the sense of the Congress bill language proposed by the Senate to encourage competition while recognizing personnel impact. Since the language does not pertain to the use of funds, the conferees have included the intent of the discussion of ship maintenance policy in this statement of the managers.

The primary objection to expansion of ship repair work for short-term maintenance projects is that the personnel impact could be substantial. The conferees understand that the nature of Navy service frequently requires personnel to spend extended periods of time away from their families which has become the most significant personnel retention impediment. Performance of short-term maintenance in homeport permits Navy personnel to be with their families periodically. This consideration has driven Navy policy toward retention of such short-term ship work to homeport.

Although the conferees are understanding of the personnel concerns, there is also a recognition that expanded competition beyond the homeport is an effective means to instill competition in the industry, achieve lower costs, and retain the broadest possible industrial mobilization base. For shorter term maintenance work, the personnel and expanded competition objectives can be conflicting.

The conferees believe that the Navy should endeavor to maximize competition for ship repair with the objective of attaining lowest cost while remaining cognizant of personnel impact. In this regard, consideration of the competitive contract bidding methodology should be determined on the basis of the nature of the work to be performed, independent of duration.

The Navy has repeatedly testified to the critical need to retain the ship repair industrial base. The dearth of work planned for the current and future years for non-homeport yards will make it difficult to achieve the dual objectives of retaining industrial capacity and the current Navy personnel policy. As an interim measure, until the Navy has established a competitive contract bidding methodology for all forms of ship maintenance based on the nature and scope of the work to be performed, the Navy should endeavor to implement increased competition in short-term maintenance and repair contracts, where feasible, with a goal of competing twenty-five percent on a coastwide basis.

Since there is a marginal personnel impact for SRA and PMA Navy Reserve fleet ship repair conducted outside the homeport area, the Navy should contract for such work through coast-wide bidding procedures. The exception to this approach would be for those Naval Reserve vessels which do not share a homeport with the active Navy fleet.

CERTIFICATION OF PRIVATE YARDS

The House included language which directed the Navy to cease providing the use of Navy piers and drydocks to private shipyards to perform ship maintenance and repair projects, unless no such facilities are available in other private shipyards. The Senate did not address this issue. The conferees agree that there are instances where, for operational, security or other mission reasons, the Navy desires to contract out ship repair work to be performed at Navy yards. The conferees agree that in these circumstances, the Navy may award contracts to ship repair facilities who do not own their own piers or drydocks. Additionally, the conferees agree that ship repair facilities which lease piers or docks from other concerns should be eligible for repair work.

PUBLIC/PRIVATE SHIP REPAIR COMPETITION

The House included language to provide for a test program to require the overhaul of two or more vessels by competition between public and private shipyards. The Senate language called for six or more ships. The conferees agree to a competition between four or more ships.

COAST GUARD OPERATING EXPENSES

The House included a provision providing $100,000,000 to the Navy to transfer to Coast Guard operating accounts. The Senate did not address this issue. The conferees agree to add $100,000,000 to the Operation and Maintenance, Navy account. The conferees agree that these funds shall be used by the Navy to reimburse the Coast Guard for expenses related to training of the Coast Guard and maintenance by the Coast Guard of equipment which would be available to carry out missions determined by the Navy in the event of hostilities. The conferees also agreed to fund additional Coast Guard equipment as addressed in the Procurement section of the Conference Report and Statement of Managers.

ROTATION OF SES IN THE NAVY

The House requested the Secretary of the Navy to delay the implementation of his plan to rotate Senior Executive Service members throughout the Navy. The Senate did not address this issue. The conferees agree with the House position. The conferees believe this issue requires the benefit of hearings and further review by the cognizant congressional committees before implementation to determine its impact on program turbulence. The conferees would be greatly concerned if the Secretary of the Navy implemented a program to rotate Senior Executive Service members before hearings can be held.

OPERATION AND MAINTENANCE, MARINE CORPS

The conferees agree to provide $1,612,050,000 instead of $1,615,128,000 as recommended by the House and $1,609,000,000 as recommended by the Senate. Details of the adjustments are as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
OPERATION AND MAINTENANCE, MARINE CORPS				
STOCK FUND FUEL—REFUND	37,700	35,400	[illegible]	35,650
STOCK FUND PRICE REESTIMATE	240,790	212,790	212,790	212,790
FOREIGN CURRENCY EXCHANGE RATE		−11,200	−11,200	−11,200
REAL PROPERTY MAINTENANCE	242,000	248,000	[illegible]	[illegible]
EXPENSE/INVESTMENT CHANGE	15,400	[illegible]	[illegible]	[illegible]

[In thousands of dollars]

	Budget	House	Senate	Conference
PAY REDUCTION RESTORATION	−15,500	−7,750		
PRODUCTIVITY	453,152	446,452	453,152	453,152
IMPROPER USE OF O&M FUNDS		−2,000		
O&M OF NEW EQUIPMENT/INITIAL ISSUE EQUIPMENT	55,861	54,861	55,861	54,861
RECRUITING/ADVERTISTING		−2,300	−1,000	−1,700
AUTHORIZATION ADJUSTMENT		−22		
TRANSPORTATION			−15,600	−10,600
INFLATION			−1,000	−1,000
MILITARY END STRENGTH			−1,400	−1,400
CIVILIAN WORKYEAR REDUCTION			−7,400	−7,400
ALL OTHER ITEMS	637,997	637,997	637,997	637,997
TOTAL, MARINE CORPS	1,667,400	1,615,128	1,609,000	1,612,050

OPERATION AND MAINTENANCE, AIR FORCE

The Conferees agree to provide $19,536,813,000 instead of $19,507,672,000 as recommended by the House and $19,468,901,000 as recommended by the Senate. Details of the adjustments are as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
OPERATION AND MAINTENANCE, AIR FORCE				
STOCK FUND FUEL—REFUND	2,251,970	2,022,870	2,089,170	2,056,020
STOCK FUND PRICE REESTIMATE	1,950,768	1,614,268	1,751,968	1,701,968
FOREIGN CURRENCY EXCHANGE RATES		−269,200	−225,200	−225,200
INDUSTRIAL FUND—REFUND	2,303,800	2,083,800	2,233,800	2,163,800
INFLATION REESTIMATE	191,239	178,239	178,239	178,239
REAL PROPERTY MAINTENANCE	1,500,300	1,535,300	1,535,300	1,535,300
PAY REDUCTION RESTORATION	−201,900	−100,950		
EXPENSE/INVESTMENT CRITERIA CHANGE	82,100	15,500	15,500	15,500
UNEMPLOYMENT COMPENSATION (NAFE)	12,137	9,224	12,137	9,224
PRODUCTIVITY	4,122,192	4,041,792	4,122,192	4,122,192
MILITARY PERSONNEL	18,860	−240	−240	−240
SPACE OPERATIONS, ETC	972,240	922,240	922,240	922,240
INVENTORY CONTROL POINT	571,733	566,733	571,733	571,733
INVENTORY CONTROL AUDIT		−10,000		
LOGISTICS SUPPORT	205,415	203,415	205,415	205,415
BASE OPERATIONS SUPPORT		−30,000	−30,000	−30,000
CLASSIFIED PROGRAMS		−1,885	1,046	−785
ADMINISTRATION	596,300	591,300	596,300	596,300
TRAINING AND PERSONNEL	1,390,270	1,388,470	1,390,270	1,390,270
COMMUNICATIONS DIVESTITURE SAVINGS		−10,000		
NORTH WARNING RADAR	368,056	361,856	361,856	361,856
CONTRACTOR SUPPORT	37,720	17,720	17,720	17,720
STRATEGIC SUPPORT		−5,000		
SOFTWARE MODERNIZATION		−2,000		
MEDICAL	1,273,800	1,270,550	1,273,800	1,272,550
MANAGEMENT OF ADP		−25,000		−6,800
IMPROPER USE OF O&M FUNDS		−10,000		
AUDIT FOLLOW-UP		−10,000		
YEAR END SPENDING		−4,000		
GOLF COURSES		−5,000		
TAC DEPLOYMENT COSTS	10,790	9,590	10,790	9,590
AIR BASE SURVIVABILITY	40,000	24,000	40,000	34,000
I-S/A AMPE	58,000		58,000	
TELEPHONE SYSTEM UPGRADES (SCOPE DIAL/SCOPE EXCHANGE)	10,800	3,300	10,800	3,300
HISTORIAN PROGRAM	6,634	5,634	6,634	5,634
SERVICE WIDE SUPPORT	376,239	373,139	376,239	373,139
DEPARTMENTAL HEADQUARTERS	104,992	102,312	104,992	102,312
COMMAND AND CONTROL		−20,000	−20,000	−20,000
LEGISLATIVE LIAISON ACTIVITIES		−120		
DRUG INTERDICTION			2,100	
MEDICAL READINESS			5,600	5,600
PROFESSIONAL EDUCATION			−5,000	−2,500
PUBLIC AFFAIRS ACTIVITIES		−130		
FLAT RATE PER DIEM			−10,800	−5,400
TRANSPORTATION			−28,000	−28,000
NATO AWACS			−4,486	
KC-135 FLYING HOURS			−86,700	−22,000
[illegible]			−4,500	−2,250
COMPTROLLER CONTRACT			−3,959	−2,759
COMMISSARY SUBSIDY			−43,400	
COMPONENT REPAIR			−334,000	−167,000
USAFE			−50,000	−25,000
AUDIOVISUAL TRANSFER			3,000	8,000
CIVILIAN WORKYEAR REDUCTION			−157,600	−157,600
RECRUITING AND ADVERTISING			−3,000	−1,500
AIDS			9,000	5,000
CIVILIAN TRAINING			6,000	3,000
NON-LETHAL AID TO AFGHANISTAN			10,000	10,000
ENVIRONMENTAL TRANSFER			−96,000	−96,000
STUDS			−20,000	−20,000
ALL OTHER ITEMS	2,669,945	2,669,945	2,669,945	2,669,945
TOTAL, AIR FORCE	20,924,400	19,507,672	19,468,901	19,536,813

AIRCRAFT ENGINE COMPONENT REPAIR

The conferees agree to reduce funding for aircraft engine component repair by $167,000,000 instead of $334,000,000 as recommended by the Senate. The conferees further agree that the Air Force was not justified in requesting funding in fiscal year 1986 for a deficiency which was funded in fiscal year 1985, but have recommended the lower reduction so as not to create a depot maintenance backlog. The conferees direct the Air Force to provide more detailed and appropriate justification for depot maintenance activities in the fiscal year 1987 budget request.

KC-135 FLYING HOURS

The Senate, based on a Defense Inspector General report, reducted fiscal year 1986 KC-135 flying hours from 157,165 to 115,185 which resulted in a cut of $86,700,000 from Operation and Maintenance, Air Force. The House did not address this issue. The conferees, based on futher discussions with Defense Inspector General and Air Force personnel, have agreed to a reduction of $22,000,000 which equates to a flying hour decrease of 9,800. The conferees have concluded that KC-135 flying hour requirements have been overstated, especially in the overhead and training categories.

MANAGEMENT OF ADP

The House recommended a decrease of $25,000,000 as a result of a non-programmatic Authorization reduction of ADP management. The Senate did not address this decrease, but instead made other specific reductions. The conferees agreed to a specific reduction of $6,800,000 against ADP Management associated with the Command ADP Modernization Program (CAMP). Since CAMP procurement funds have been eliminated by the Department in the outyears, the conferees agree the fiscal year 1986 Operation and Maintenance funding is not required.

USAFE

The Senate reduced funding for USAFE by $50,000,000. The House did not address the issue. The conferees agree to a $25,000 reduction for USAFE to streamline administrative headquarters activities in Europe.

EUROPEAN DISTRIBUTION SYSTEM

The Senate reduced the European Distribution System (EDS) program by 4,500,000 based on the rationale that the Air Force has overstated the peacetime mission requirements of this wartime system. Additionally, the Senate questioned the fact that this system flies preset/predetermined routes on a regular basis, often with little or no cargo. Also, the Senate questioned whether the use of the system solely by the Air Force is the most efficient use of Government resources. The House did not address this issue. The conferees have aqreed to a reduction of $2,250,000 which should still allow EDS crews to meet or exceed their minimum proficiency requirements. Furthermore, the conferees agree that the Air Force should not fly regularly scheduled routes, except on a short term basis for training purposes. Finally, the conferees agree that, in peacetime EDS should be available for use by all United States military components in the European theatre. In fiscal year 1986, this use should be on a space-available basis. In fiscal year 1987, the Air Force should develop an operational plan, in conjunction with the U.S. European Command to provide theatre airlift support. The conferees agree that the Air Force should not consider increases in EDS flying hours unless they are associated with this multi-service mission.

AIR FORCE COMPTROLLER CONTRACT SERVICES

The conferees agree to a reduction of $2,759,000 to the Air Force for comptroller contract services in fiscal year 1986. This is $1,200,000 above the Senate and $2,759,000 below the House. The conferees direct the Air Force to demonstrate the productivity improvements and how manpower can be streamlined as a result of this effort with a report to the Committees on Appropriations by May 1, 1986.

OPERATION AND MAINTENANCE, DEFENSE AGENCIES

The conferees agree to provide $7,432,569,000 instead of $7,340,076,000 as recommended by the House and $7,479,956,000 as recommended by the Senate. Details of the adjustments are as follows:

	Budget	House	Senate	Conference
OPERATION AND MAINTENANCE, DEFENSE AGENCIES				
FOREIGN CURRENCY EXCHANGE RATE		−14,400	−14,400	−14,400
STOCK FUND PRICE REESTIMATE	130,203	41,203	116,203	116,203
OSD—GENERAL REDUCTION	134,756	133,756	134,756	134,756
OSD—CONTRACT STUDIES AND ANALYSIS	[illegible]	16,320	[illegible]	16,320
PAY REDUCTION RESTORATION	−151,400	−75,700		
ORGANIZATION OF JCS—SPECIAL FUND	50,000			
ORGANIZATION OF JCS—GENERAL REDUCTION	379,236	[illegible]	379,236	379,236
DEFENSE LOGISTICS AGENCY	1,701,770	1,694,504	1,701,770	1,701,770
WASHINGTON HEADQUARTERS SERVICES	94,004	88,304	94,004	88,304
YEAR END SPENDING		−7,000		
ADP MANAGEMENT		−10,000		
SMALL CLUBS		−1,000		
BASE OPERATIONS SUPPORT	190,700	190,200	190,200	190,200
INVENTORY CONTROL		−5,000		
AMERICAN FORCES INFORMATION SERVICE	56,433	54,433	56,433	56,433
DOD DEPENDENT SCHOOLS	664,070	653,770	664,070	668,070
MEDICAL INFORMATION SYSTEMS	81,763	78,763	81,763	81,763
DEFENSE COMMUNICATION AGENCY/DCA	280,612	276,612	280,612	280,612
CLASSIFIED ACTIVITIES		−18,048	−20,526	−16,653
PRODUCTIVITY		−38,700		
CONTRACT STUDIES		−10,000		
IMPROPER USE OF O&M FUNDS		−2,000		
EXPENSE/INVESTMENT CRITERIA CHANGE	16,000	3,000	3,000	3,000
REAL PROPERTY MAINTENANCE	83,800	87,800	[illegible]	83,800
STUDY OF JOINT-DUTY CAREER SPECIALTY		100		100
DEFENSE AUDIOVISUAL AGENCY	71,534	11,936		
DEFENSE NUCLEAR AGENCY—TRAVEL	3,290	2,757	3,290	2,757
DEFENSE CONTRACT AUDIT AGENCY—HEADQUARTERS	173,082	172,882	173,082	172,882
AID TO AFGHANISTAN		10,000		
DLA—PROCUREMENT TECH. ASSISTANCE PROGRAM	2,000	7,500	5,000	7,500
DIS—BACKLOG		70,000	[illegible]	70,000
DEFENSE COMMUNICATIONS AGENCY—CINC INITIATIVES	4,182			
COMMAND AND CONTROL		−10,000	−10,000	−10,000
LEGISLATIVE LIAISON ACTIVITIES		−175		−50
PUBLIC AFFAIRS ACTIVITIES		−75		−50
INFLATION			−4,500	−4,500
CHAMPUS			−15,000	−15,000
FLAT RATE PER DIEM			−1,000	−1,000
ENVIRONMENTAL TRANSFER			−43,400	−42,400
CIVILIAN WORKYEAR REDUCTION			−107,800	−107,800
RECRUITING AND ADVERTISING			−7,100	−7,100
FAMILY ADVOCACY			−4,000	−4,000
PEER REVIEW			7,500	7,500
QUALITY ASSURENCE			30,000	30,000
ALL OTHER ITEMS	3,624,316	3,624,316	3,624,316	3,624,316
TOTAL DEFENSE AGENCIES	7,568,900	7,340,076	7,479,956	7,432,569

DEPARTMENT OF DEFENSE DEPENDENT SCHOOLS

The House provided a total reduction of $10,300,000 to the Department of Defense Dependent Schools (DODDS). This was based on a reduction of $7,100,000 for the Master Teacher Program and $3,200,000 for a Department of Defense Inspector General report. The Senate did not address this issue. The conferees agree on a reduction of $6,000,000

Investigation into the reduction of $7,100,000 for the Master Teacher Program revealed that included in this number is $6,250,000 to purchase computers for classrooms. A classroom computer purchase was approved by the Defense Resources Board for fiscal year 1987. However, the conferees agree that $3,500,000 of the $7,100,000 reduced for the Master Teacher Program, should be reinstated to purchase computers for the classroom. The conferees believe the funding provided here is adequate for the total program requirements, and no funds to purchase computers for classrooms should be included in the fiscal year 1987 budget request.

AUDIOVISUAL ACTIVITIES

Based on the disestablishment of the Defense Audiovisual Agency (DAVA), the House reduced the DAVA budget by $10,000,000, leaving $11,936,000 for reprogramming to other services and Agencies receiving the DAVA workload. The Senate reduced the DAVA budget by $21,936,000 and provided a total of $5,000,000 to the Services for audiovisual activities.

The conferees agree to reduce the DAVA budget by $21,936,000 and provided a total of $10,000,000 to the Services for audiovisual activities, as follows:

Army	$1,000,000
Navy	1,000,000
Air Force	8,000,000
Total	10,000,000

The conferees believe the Services and the Armed Forces Information Service can provide the necessary audiovisual operations, at the same level provided by DAVA, within the funds provided in this Bill.

QUALITY ASSURANCE

The conferees agree to appropriate $30,000,000 to fund quality assurance and quality enhancement programs at the Defense Logistics Agency. This funding is to provide training for contract management and quality assurance personnel to ensure the Department receives quality products from commercial sources.

FAMILY ADVOCACY

The conferees agree to the Senate's position on the Department of Defense Family Advocacy Program. The conferees agree that the Family Advocacy Program is a health care program and should not be transferred to the force management and personnel directorate.

OPERATION AND MAINTENANCE, ARMY RESERVE

The conferees agree to provide $780,100,000 instead of $774,980,000 as recommended by the House and $793,100,000 as recommended by the Senate. Details of the adjustments are as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
OPERATION AND MAINTENANCE, ARMY RESERVE				
STOCK FUND FUEL-REFUND	24,730	23,630	23,630	23,630
STOCK FUND PRICE REESTIMATE	137,241	119,041	119,041	119,041
CIVILIAN PAY RESTORATION	−12,400	−3,100		
EXPENSE/INVESTMENT CRITERIA CHANGE	200			
ANTITERRORISM INITIATIVES		4,700	4,700	4,700
TRAINING ASSISTANCE BY READINESS GROUPS		1,000	1,000	1,000
UPGRADE OF COMMUNICATIONS		1,200	1,200	1,200
[illegible]	8,389	7,069	8,389	8,389
MILITARY END STRENGTH			−5,400	−4,000
RECRUITING AND ADVERTISING	52,900	52,900	[illegible]	[illegible]
OVER 40 MEDICAL SCREENING			700	
FORCE STRUCTURE INITIATIVE			[illegible]	[illegible]
ALL OTHER ITEMS	568,540	568,540	[illegible]	[illegible]
TOTAL, ARMY RESERVE	779,600	774,980	793,100	780,100

OPERATION AND MAINTENANCE, NAVY RESERVE

The conferees agree to provide $894,950,000 instead of $896,415,000 as recommended by the House and $896,700,000 as recommended by the Senate. Details of the adjustments are as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
OPERATION AND MAINTENANCE, NAVY RESERVE				
STOCK FUND FUEL—REFUND	139 284	132 284	132 284	132 284
STOCK FUND PRICE REESTIMATE	233 679	193 079	193 079	193.079
EXPENSE/INVESTMENT CRITERIA CHANGE	17,700	3,400	3,400	3,400
REAL PROPERTY MAINTENANCE	37,381	40,881	44,381	40,881
PAY REDUCTION RESTORATION	−2,700	−675		
PRODUCTIVITY	67,051	65,351	65,351	65,351
AUTHORIZATION ADJUSTMENT		−10		
MILITARY END STRENGTH			−400	−400
RECRUITING AND ADVERTISING	17,100	17,100	13,600	15,350
ALL OTHER ITEMS	445,005	445,005	445,005	445,005
TOTAL, NAVY RESERVE	954,500	896,415	896,700	894,950

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

The conferees agree to provide $57,200,000 as recommended by the Senate instead of $57,120,000 as recommended by the House. Details of the adjustment are as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
OPERATION AND MAINTENANCE, MARINE CORPS RESERVE				
STOCK FUND FUEL—REFUND	21,596	17,396	17,396	17,396
PAY REDUCTION RESTORATION	−200	−50		
PRODUCTIVITY	4,110	3,810	3,810	3,810

[In thousands of dollars]

	Budget	House	Senate	Conference
EXPENSE/INVESTMENT CRITERIA CHANGE	100			
AUTHORIZATION ADJUSTMENT		−30		
ALL OTHER ITEMS	35,994	35,994	35,994	35,994
TOTAL, MARINE CORPS RESERVE	61,500	57,120	57,200	57,200

Operation and Maintenance, Air Force Reserve

The conferees agree to provide $902,700,000 instead of $896,844,000 as recommended by the House and $910,200,000 as recommended by the Senate. Details of the adjustments are as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
OPERATION AND MAINTENANCE, AIR FORCE RESERVE				
STOCK FUND FUEL—REFUND	137,734	130,334	130,334	130,334
STOCK FUND PRICE REESTIMATE	71,055	64,055	64,055	64,055
EXPENSE/INVESTMENT CRITERIA CHANGE	1,000	200	200	200
PAY REDUCTION RESTORATION	−14,000	−3,500		
PRODUCTIVITY	330,174	317,674	317,674	317,674
SPECIAL OPERATIONS FORCES READINESS ENHANCEMENT	15,735	22,035	22,035	22,035
AUTHORIZATION ADJUSTMENT		44		
REAL PROPERTY MAINTENANCE			7,500	
F-4 UPGRADE			2,400	2,400
ALL OTHER ITEMS	366,002	366,002	366,002	366,002
TOTAL, AIR FORCE RESERVE	907,700	896,844	910,200	902,700

Operation and Maintenance, Army National Guard

The conferees agree to provide $1,652,800,000 instead of $1,646,305,000 as recommended by the House and $1,656,500,000 as recommended by the Senate. Details of the adjustments are as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD				
STOCK FUND FUEL—REFUND	63,448	49,348	49,348	49,348
STOCK FUND PRICE REESTIMATE	434,795	406,795	406,795	406,795
EXPENSE/INVESTMENT CRITERIA CHANGE	5,000	1,000	1,000	1,000
CIVILIAN TECHNICIANS	653,372	688,372	688,372	688,372
FEDERAL FUNDING FOR ARMORY OPERATIONAL COSTS		20,000		20,000
MOD & REPAIR OF OFFICE FOR FULL-TIME NATL GUARD PER		6,000	6,000	6,000
PARTIAL FED FUNDING FOR MAJOR REPAIR & RENOVATION		7,000		7,000
PAY REDUCTION RESTORATION	−25,900	−6,475		
PRODUCTIVITY		−200	−200	−200
AUTHORIZATION ADJUSTMENT		−20		
MILITARY END STRENGTH			−7,700	−6,000
RECRUITING AND ADVERTISING	39,200	39,200	37,200	34,100
ROLAND MAINTENANCE			15,000	4,100
FORCE STRUCTURE INITIATIVE			20,000	4,100
AIDS			5,000	2,500
ENVIRONMENTAL PROJECTS			400	400
ALL OTHER ITEMS	435,285	435,285	435,285	435,285
TOTAL, ARMY NATIONAL GUARD	1,605,200	1,646,305	1,656,500	1,652,800

NATIONAL GUARD ARMORY OPERATION AND MAINTENANCE

The House included $33,000,000 to fund the the modification and repair of armory office and work space resulting from increased Federal missions, major repair and renovations to the armories, and to offset armory operating costs resulting from the influx of Federal equipment and full-time Federal personnel. The Senate included only $6,000,000 for this purpose. The conferees agree to the House position concerning funding, but direct the Department to request only such funds in fiscal year 1987 that are sufficient to match the growth in funding by the states over fiscal year 1986 levels for these purposes.

ENVIRONMENTAL PROJECTS

The conferees agree to the increase of $400,000 as recommended by the Senate for the continuation of the program to conduct engineering projects coordinated with State and other Federal agencies at national or state parks and forests. To amplify on the parameters of the test, the conferees agree that such projects must be restricted within the United States and territories. The test projects selected must enhance military related training and must not compete with projects which would otherwise be performed by private concerns. The conferees agree that the Army National Guard should begin budgeting this important program in fiscal year 1987.

Operation and Maintenance, Air National Guard

The conferees agree to provide $1,806,200,000 as recommended by the Senate instead of $1,803,862,000 as recommended by the House. Details of the adjustments are as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
OPERATION AND MAINTENANCE, AIR NATIONAL GUARD				
STOCK FUND FUEL—REFUND	[illegible]	344,580	344,580	344,580
STOCK FUND PRICE REESTIMATE	140,361	124,961	124,961	124,961
PAY REDUCTION RESTORATION	−26,800	−6,700	−4,400	[illegible]
PRODUCTIVITY	703,855	[illegible]	696,855	696,855
EXPENSE/INVESTMENT CRITERIA CHANGE	4,800	[illegible]	900	900
AUTHORIZATION ADJUSTMENT		−38		
ALL OTHER ITEMS	643,304	643,304	643,304	643,304
TOTAL AIR NATIONAL GUARD	1,830,100	[illegible]	[illegible]	[illegible]

T-39 AIRCRAFT

The House and Senate have agreed that the Air Force must retire the Air National Guard's T-33 aircraft fleet in fiscal year 1986 and replace it with 45 T-39 aircraft. The conferees wish to clarify that this action is intended to provide an interim capability until such time that the Air Force budgets for and deploys a permanent replacement aircraft that fully meets the requirements of both the active and guard forces for electronic countermeasures training. As part of this interim measure, the Air Force should also phase out the T-33s in the active inventory as soon as possible, and either replace them with T-39 aircraft or provide the Guard with sufficient T-39s to accomplish the mission for the total force. The conferees further agree to the House language that allows transfer of leased C-21A aircraft to the Air National Guard for Detachment One, Andrews Air Force Base, Maryland, unless C-21A aircraft are purchased for this purpose in the Guard and Reserve equipment appropriation.

NATIONAL BOARD FOR THE PROMOTION OF RIFLE PRACTICE, ARMY

The conferees agree to provide $920,000 as recommended by the Senate instead of $820,000 as recommended by the House.

CLAIMS, DEFENSE

The conferees agree to provide $143,300,000 as recommended by the Senate instead of $148,300,000 as recommended by the House.

ENVIRONMENTAL RESTORATION, DEFENSE

The conferees agree to provide $379,100,000 in budget authority instead of $329,100,000 by transfer as recommended by the House or $429,100,000 as recommeded by the Senate.

TITLE III—PROCUREMENT

The conferees agree to the following amounts for the Procurement accounts:

[In thousands of dollars]

	Budget	House	Senate	Conference
SUMMARY				
ARMY:				
AIRCRAFT	3,892,500	3,337,300	3,504,200	3,567,448
TRANSFER FROM OTHER ACCOUNTS		(217,600)	(101,800)	
MISSILES	3,386,700	2,939,232	3,056,050	2,942,174
TRANSFER FROM OTHER ACCOUNTS		(124,500)	(49,700)	
WEAPONS, TRACKED COMBAT VEHICLES	5,739,100	3,749,004	4,629,900	4,748,771
TRANSFER FROM OTHER ACCOUNTS		(806,896)	(240,800)	
AMMUNITION	2,635,000	1,858,200	2,588,213	2,497,200
TRANSFER FROM OTHER ACCOUNTS		(215,200)	(209,900)	
OTHER	5,712,800	4,809,986	5,214,730	5,275,556
TRANSFER FROM OTHER ACCOUNTS		(297,400)	(238,000)	
TOTAL, ARMY	21,366,100	16,693,722	18,993,093	19,031,149
TRANSFER FROM OTHER ACCOUNTS		(1,661,596)	(840,200)	
TOTAL FUNDING AVAILABLE	21,366,100	18,355,318	19,833,293	19,031,149
NAVY:				
AIRCRAFT	12,062,600	10,446,400	10,289,651	11,376,927
TRANSFER FROM OTHER ACCOUNTS		(594,600)	(566,382)	
WEAPONS	5,627,900	5,093,733	5,372,563	5,290,865
TRANSFER FROM OTHER ACCOUNTS		(109,600)	(15,000)	
SHIPS	11,411,600	8,648,900	9,598,900	10,969,440
TRANSFER FROM OTHER ACCOUNTS		(2,058,500)	(1,057,600)	
OTHER	6,601,200	5,682,694	6,463,560	6,377,630
TRANSFER FROM OTHER ACCOUNTS		(312,762)	(221,000)	
COASTAL DEFENSE AUGMENTATION			375,000	235,000
MARINE CORPS	1,726,800	1,610,749	1,689,982	1,680,588
TRANSFER FROM OTHER ACCOUNTS		(85,717)	(31,056)	
TOTAL, NAVY	37,430,100	31,482,476	33,414,656	35,695,450
TRANSFER FROM OTHER ACCOUNTS		(3,161,179)	(1,891,038)	
TOTAL FUNDING AVAILABLE	37,430,100	34,643,655	35,305,694	35,695,450
AIR FORCE:				
AIRCRAFT	26,165,500	20,722,700	24,142,651	23,546,447
TRANSFER FROM OTHER ACCOUNTS		(1,458,300)	(648,000)	
MISSILES	10,862,700	8,043,527	8,770,831	8,433,177
TRANSFER FROM OTHER ACCOUNTS		(155,000)	(64,400)	
OTHER	9,538,000	7,890,918	8,831,674	8,611,383
TRANSFER FROM OTHER ACCOUNTS		(347,476)	(282,000)	
TOTAL, AIR FORCE	46,566,200	36,657,145	41,745,156	40,591,007
TRANSFER FROM OTHER ACCOUNTS		(1,960,776)	(994,400)	
TOTAL FUNDING AVAILABLE	46,566,200	38,617,921	42,739,556	40,591,007
NATIONAL GUARD AND RESERVE COMPONENTS		[illegible]	2,063,800	1,518,800
TRANSFER FROM OTHER ACCOUNTS		(8,000)	(178,400)	
TOTAL FUNDING AVAILABLE		[illegible]	2,242,200	1,518,800
DEFENSE AGENCIES	1,391,900	1,181,869	1,426,914	1,302,740

[In thousands of dollars]

	Budget	House	Senate	Conference
TRANSFER FROM OTHER ACCOUNTS		(36,000)	(36,000)	
TOTAL FUNDING AVAILABLE	1,391,900	1,217,869	1,462,914	1,302,740
DEFENSE PRODUCTION ACT PURCHASES	59,000		31,000	31,000
NATO COOPERATIVE DEFENSE PROGRAMS			15,000	15,000
TOTAL NOA	106,813,300	86,597,212	98,064,619	98,420,146
TRANSFER FROM OTHER ACCOUNTS		(6,827,551)	(3,940,038)	
TOTAL FUNDING AVAILABLE	106,813,300	93,424,763	102,004,657	98,420,146

INFLATION SAVINGS

The conferees recommend $1,036,000,000 in fiscal year 1985 inflation savings to adjust for the fact that actual inflation rates were lower than those originally estimated and funded for that year, as proposed by the House. Of this amount, $116,000,000 is reflected in agreed upon adjustments to individual Air Force aircraft procurement programs.

The conferees, in addition, recommend an $800,000,000 decrease in the fiscal year 1986, 30 percent, inflation premium budgeted for the major procurement accounts, instead of $1,702,000,000 as proposed by the House. The conferees understand that there is no consensus on the best index for accurately forecasting major procurement program inflation costs. That issue currently is under intensive review. The conferees strongly support the full funding principle to include the use of a properly adjusted inflation premium. The recommendation is intended to remove excess inflation adjustments for the major procurement accounts, but at the same time to ensure that adequate funds are included to cover future inflation costs.

BINARY CHEMICAL MUNITIONS

The House bill included no funds for production of chemical weapons or for related production facilities. The House bill also included a general provision incorporating the restrictive language in the House-passed authorization bill. The Senate bill included the budget request of $65,346,000 for production of the GB-2 artillery projectile and the Bigeye bomb and $98,300,000 for production facilities and prove-out.

The conference agreement provides the following funding:

	Budget	House	Senate	Conference
Weapons:				
GB-2 155mm Artillery Proj	$21,700,000		$21,700,000	$21,700,000
Bigeye Bomb:				
Navy	21,531,000		21,531,000	[1] 3,000,000
Air force	22,115,000		22,115,000	[1] 3,000,000
Subtotal, Production	65,346,000		65,346,000	27,700,000
Production Facilities:				
Bigeye QL Facility	48,000,000		48,000,000	48,000,000
Bigeye Fill/Lap Facility	28,300,000		28,300,000	28,300,000
Bigeye Metal Parts Facility	17,600,000		17,600,000	17,600,000
Components Prove-out	4,400,000		4,400,000	4,400,000
Subtotal, Production Facilities	98,300,000		98,300,000	98,300,000
Total	163,646,000		163,646,000	126,000,000

[1] Funded in Research, Development, Test and Evaluation, Navy.

The conference agreement also includes a general provision (Sec. 8093) which amends section 1411 of the Department of Defense Authorization Act, 1986 (P.L. 99-145). Section 1411 applies conditions on spending funds for binary chemical munitions. The conference agreement makes three substantive changes to the original section 1411. First, obligation of all funds is made subject to an additional requirement (b)(1) that the President certify to the Congress that a force goal stating the requirement for modernization of the United States share of NATO chemical deterrent has been submitted to NATO and formally adopted by the North Atlantic Alliance.

Second, obligation of funds for Bigeye components is subject to the requirement (d) that the Secretary of Defense submit a report describing the operational requirements for Bigeye, actual performance of Bigeye during operational testing with respect to the requirements, and any exceptions deemed acceptable. Obligation for Bigeye components may occur no sooner than 60 days after submission of the report. The conferees agree that the report required by section 1411(d) will be submitted to the Comptroller General for review and certification. The conferees urge the Department to cooperate with the General Accounting Office during Bigeye testing and to fully share data from prior tests so that this review and certification may be expedited. The $6,000,000 included in the bill for Bigeye, while authorized in title I of the Authorization Act (procurement), is appropriated in Research, Development, Test and Evaluation, Navy since it will be used for additional operational test and evaluation. The conferees agree that the restrictions included in the revised section 1411(d) shall apply to the $6,000,000 appropriated in RDT&E, Navy.

Third, none of the funds included for procurement of the GB-2 artillery projectile may be obligated before October 1, 1986, and then only when the provisions of subsection (b) ("NATO Consultation") are satisfied. Final assembly of the GB-2 may not occur before October 1, 1987 and then only when the provisions of subsection (c) ("Conditions for Final assembly") are satisfied. The conferees agree that the GB-2 artillery projectile be procured on a fully funded basis, consistent with Departmental policy.

The conferees agree that, by funding production facilities in the accompanying bill, the restrictions on the $10,800,000 for related construction in the statement of managers on the Military Construction Appropriation Act, 1986 are lifted.

MINORITY BUSINESS PARTICIPATION

The conferees reiterate the House's concern and expectations regarding expanded opportunities for minority businesses and historically black colleges and universities. Additionally, the conferees agree with the House language requesting a detailed plan to meet the stated goal for expanded participation.

NAVSTAR GLOBAL POSITIONING SYSTEM USER EQUIPMENT

The conferees regard the successful operation of the Global Positioning System (GPS) Joint User Equipment Program as essential, and therefore direct the Department of Defense not to develop any GPS user equipment outside the sponsorship, direction, and coordination of the Joint Program Office. The intention of the conferees is to ensure the successful implementation of programs within the responsibility of the Office, and not to expand its responsibilities to cover management of equipment for special uses, such as range, advance technology, mapping, special forces, and classified applications.

SOURCES OF BALL BEARINGS

High precision ball bearings are a necessity in the manufacture of jet engines and other high technology devices. The conferees are concerned over availability of ball bearings, and over the possible use of ball bearings of foreign manufacture in critical weapons systems and components. The conferees direct the Department to study and report not later than June 30, 1986 on this subject. The report is to include: an assessment of the criticality of the ball bearing industry to national defense; an assessment of the current strength and long term economic viability of the U.S. ball bearing industry; an analysis of the extent to which ball bearings of foreign manufacture are used in weapons systems and components procured by DOD; an assessment of the implications for readiness and sustainability of using ball bearings of foreign manufacture; and an analysis of the feasibility of restricting DOD to using ball bearings of domestic manufacture only.

Aircraft Procurement, Army

The conferees agree to the following amounts for the Aircraft Procurement, Army, account:

[In thousands of dollars]

	Budget	House	Senate	Conference
AIRCRAFT PROCUREMENT, ARMY				
Aircraft				
FIXED WING:				
C-12 CARGO AIRPLANE		17,000		12,000
ROTARY:				
EH-60A HELICOPTER (QUICKFIX) (MYP)	118,600	37,500	54,300	110,200
EH-60A HELICOPTER (QUICKFIX) (MYP) (PY TRANSFER)		(64,300)	(64,300)	
EH-60A HELICOPTER (QUICKFIX) (MYP) (AP-CY)	24,400	24,400	24,400	24,400
AH-64 ATTACK HELICOPTER (APACHE)	1,178,200	1,137,300	1,143,200	1,137,300
AH-64 ATTACK HELICOPTER (APACHE) (AP-CY)	55,300	55,300	46,100	55,300
UH-60A (BLACK HAWK) (MYP)	267,000	215,800	260,900	228,700
UH-60A (BLACK HAWK) (MYP) (AP-CY)	199,000	199,000	199,000	199,000
TOTAL, AIRCRAFT	1,842,500	1,686,300	1,727,900	1,766,900
MODIFICATION OF AIRCRAFT:				
OV-1 SURVEILLANCE AIRPLANE (MOHAWK)	27,700	22,700	22,700	22,700
RC-12D RECON AIRPLANE	500	500	500	500
RV-1 RECON AIRPLANE	500	500	500	500
AHIS ATTACK HELICOPTER (COBRA-TOW)	124,500	114,500	114,500	134,500
AHIS ATTACK HELICOPTER (COBRA-TOW) (PY TRANSFER)		(20,000)	(20,000)	
CH-47 CARGO HELICOPTER (MYP)	253,300	222,500	216,400	233,900
CH-47 CARGO HELICOPTER (MYP) (PY TRANSFER)		(11,200)	(17,500)	
CH-47 CARGO HELICOPTER (MYP) (AP-CY)	124,800	124,800	124,800	124,800
CH-54 CARGO HELICOPTER (TARHE)	500	500	500	500
UH-1 UTILITY HELICOPTER (IROQUOIS)	12,200	12,200	12,200	12,200
UH-60A (BLACK HAWK) MODS	15,400	14,200	15,400	14,200
ARMY HELICOPTER IMPROVEMENT PROGRAM (AHIP)	158,800	146,800	83,600	174,700
ARMY HELICOPTER IMPROVEMENT PROGRAM (AHIP) (AP-CY)	51,800	[illegible]	[illegible]	20,900
AIRBORNE AVIONICS	1,000	1,000	1,000	1,000
MODIFICATIONS UNDER $900,000 (AIRCRAFT)	100	100	100	100
ACFT 9WW	17,000	17,000	17,000	17,000
TOTAL, MODIFICATION OF AIRCRAFT	788,100	717,300	629,400	757,500
SPARES AND REPAIR PARTS	949,700	849,700	849,700	849,700
Support Equipment and Facilities				
OTHER SUPPORT:				
AVIONICS SUPPORT EQUIPMENT	67,800	51,700	57,800	67,800
AVIONICS SUPPORT EQUIPMENT (PY TRANSFER)		(16,100)		
COMMON GROUND EQUIPMENT	35,000	35,000	35,000	35,000
AIR TRAFFIC CONTROL	9,400	9,400	9,400	9,400
SYNTHETIC FLIGHT TRAINING SYSTEMS	131,600	122,100	131,600	122,100
INDUSTRIAL FACILITIES	61,900	61,900	61,900	61,900
WAR CONSUMABLES	6,500	6,500	6,500	6,500
UNDISTRIBUTED REDUCTION		−10,000		
TOTAL, SUPPORT EQUIPMENT AND FACILITIES	312,200	276,600	302,200	302,700
INFLATION REESTIMATES FOR FY86		−5,000	−5,000	−5,000
INFLATION PREMIUM, FY86		−81,600		−38,352
PRIOR YEAR PROGRAM SAVINGS		−40,000		
(PY TRANSFER)		(40,000)		
FY85 INFLATION FAIRNESS ADJUSTMENT		−66,000		−66,000
(PY TRANSFER)		(66,000)		
TOTAL, AIRCRAFT PROCUREMENT, ARMY	3,892,500	3,337,300	3,504,200	3,567,448
TRANSFER FROM OTHER ACCOUNTS		(217,600)	(101,800)	
TOTAL FUNDING AVAILABLE	3,892,500	3,554,900	3,606,000	3,567,448

PRIOR YEAR SAVINGS

The conferees recognize $117,900,000 in prior year savings in Army Aircraft Procurement. The sources and uses of these savings are identified in this Statement of the Managers under the heading "Availability of Unobligated Balances."

ARMY HELICOPTER IMPROVEMENT PROGRAM (AHIP)

The conferees agree to provide a total of $195,600,000 which includes $174,700,000 to fully fund 39 AHIPs and to extend the budgeted funded delivery period by 3 months, and $20,900,000 for advance procurement of 31 additional sets of long lead materiels. This advanced procurement funding level, combined with materiels currently on contract, will support production of 48 units in fiscal year 1987 as permitted by a recent Departmental decision memorandum.

The conferees note that the extra funding available by reducing the 1986 program from 56 to 39 will provide for procurement of maintenance sets and other support equipment associated with restricting the fielding to the field artillery aerial observer mission.

SYNTHETIC FLIGHT TRAINING SYSTEMS

The conferees agree to delete advance procurement funding which was improperly budgeted. The conferees agree, however, that this action shall not result in termination of any current contracts. If there is a demonstrated and justified need for advance procurement funds, the Committees agree that a new P-1 line may be established using internal reprogramming procedures with prior notification. The conferees are in agreement that all future simulator procurement be budgeted on a full-funding basis.

AH-64 APACHE ATTACK HELICOPTER

The conferees acknowledge the late receipt of a proposal to procure the AH-64 airframe and target acquisition/designation system under multiyear contracts. No such multiyear procurement is approved at this time due to the continuing difficulties in achieving rate production and uncertainties about the total AH-64 program and its stability. To preserve the option of having a multiyear contract, the conferees provide the full $55,300,000 for advance procurement as proposed by the House.

The conferees agree that a proposal to enter one or both of the proposed multiyear contracts may be considered as part of a 1986 supplemental or may be proposed as a new start in fiscal year 1987. Any such proposal should be substantiated by comparable, negotiated contract data.

The conferees agree that 18 AH-64s from the 1986 program will be provided for the Army National Guard as provided in the authorization legislation.

UH-60 BLACKHAWK

The conferees agree to provide $228,700,000 for 80 UH-60s which shall include two for the Customs Service drug interdiction program as proposed by the Senate. The conferees agree not to provide the $32,200,000 as budgeted and recommended by the Senate for special operations forces modifications. The conferees understand that additional research and development is required for the UH-60 as well as the CH-47 modifications proposed, and procurement is premature at this time.

The conferees agree to allocating $7,900,000 in contract savings to procure 2 additional helicopters to replace older ones which are to be transferred to the Customs Service Drug Interdiction Program, as proposed by the Senate.

MISSILE PROCUREMENT, ARMY

The conferees agree to the following amounts for Missile Procurement, Army:

[In thousands of dollars]

	Budget	House	Senate	Conference
MISSILE PROCUREMENT, ARMY				
Other Missiles				
SURFACE-TO-AIR MISSILE SYSTEM:				
CHAPARRAL	110,400	37,200	110,400	57,500
OTHER MISSILE SUPPORT	5,000	5,000	5,000	5,000
PATRIOT	983,400	967,400	974,600	963,400
STINGER	294,100	244,100	258,500	258,500
PERSHING II	334,700	334,700	236,300	236,300
AIR-TO-SURFCE MISSILE SYSTEM:				
LASER HELLFIRE SYSTEM	260,700	250,700	234,200	234,200
ANTI-TANK/ASSAULT MISSILE SYSTEM:				
TOW 2	226,900	159,300	177,650	168,500
TOW 2 (AP-CY)	22,000	22,000	22,000	22,000
MULTIPLE LAUNCH ROCKET SYSTEM (MYP)	507,800	450,600	459,900	490,900
MULTIPLE LAUNCH ROCKET SYSTEM (MYP) (PY TRANSFER)		(46,500)	(24,700)	
MULTIPLE LAUNCH ROCKET SYSTEM (MYP) (AP-CY)	41,000	41,000	41,00	41,000
TOTAL, OTHER MISSILES	2,786,000	2,512,000	2,519,550	2,477,300
Modification of Missiles				
MODIFICATIONS:				
PATRIOT	17,200	17,200	17,200	17,200
CHAPARRAL	112,900	112,900	112,900	112,900
HAWK	54,100	54,100	49,300	45,300
TOW	37,800	37,800	17,400	17,400
TOTAL, MODIFICATION OF MISSILES	222,000	222,000	196,800	192,800
SPARES AND REPAIR PARTS	322,000	312,000	312,000	317,000
SUPPORT EQUIPMENT AND FACILITIES:				
AIR DEFENSE TARGETS	21,000	21,000	21,000	21,000
ITEMS LESS THAN $900,000 (MISSILES)	3,800	3,732	3,800	3,732
PRODUCTION BASE SPT	29,900	29,900	29,900	29,900
OTHER PRODUCTION CHARGES	2,000	2,000	2,000	2,000
TOTAL, SUPPORT EQUIPMENT AND FACILITIES	56,700	56,632	56,700	56,632
COMPONENT BREAKOUT		−10,000		−10,000
INFLATION REESTIMATES FOR FY86		−4,000	−4,000	−4,000
INFLATION PREMIUM, FY86		−71,400		−33,558
PRIOR YEAR PROGRAM SAVINGS		−25,000	−25,000	
(PY TRANSFER)		(25,000)	(25,000)	
FY85 INFLATION FAIRNESS ADJUSTMENT		−53,000		−53,000
(PY TRANSFER)		(53,000)		
TOTAL, MISSILE PROCUREMENT, ARMY	3,386,700	2,939,232	3,056,050	2,942,174
TRANSFER FROM OTHER ACCOUNTS		(124,500)	(49,700)	
TOTAL FUNDING AVAILABLE	3,386,700	3,063,732	3,105,750	2,942,174

PRIOR YEAR SAVINGS

The conferees recognize $66,500,000 in prior year savings in Army Missile Procurement. The sources and uses of these savings are identified in this Statement of the Managers under the heading "Availability of Unobligated Balances."

CHAPARRAL

The conferees agree to provide $57,500,000 for Chaparral, instead of $37,200,000 as proposed by the House or $110,400,000 as proposed by the Senate. These funds will allow continuation of the program, to include some of the non-recurring production costs of the new Rosette Scan Seeker (RSS). This reduction is without prejudice, in anticipation of completion of the scheduled testing later in the year. Accordingly, no recurring production funding is provided.

PATRIOT AIR DEFENSE SYSTEM

The conferees agree to provide $963,400,000 instead of the $967,400,000 proposed by the House or the $974,600,000 proposed by the Senate. The conferees agree that the separate savings identified by each committee are achievable.

STINGER

The conferees agree to provide $258,500,000 as proposed by the Senate to procure at least 3,439 Stinger missiles, instead of $244,100,000 as proposed by the House. The conferees recognize that the agreed sum exceeds authorization, but are concerned over providing air defense assets, especially following cancellation of DIVAD. The Army is directed to obtain authorization before obligating or expending funds in excess of the sum currently authorized.

The conferees agree with the Senate position requiring a review of the continued sole source procurement of the Stinger missile.

The conferees agree to provide $168,500,000 for production of TOW-II, instead of $159,300,000 as proposed by the House or $177,650,000 as proposed by the Senate. The conferees direct the Army to procure the maximum possible number of missiles, with 14,000 as a goal.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

The conferees agree to the following amounts for Procurement of Weapons and Tracked Combat Vehicles, Army:

[In thousands of dollars]

	Budget	House	Senate	Conference
PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEH				
TRACKED COMBAT VEHICLES:				
CARRIER, COMMAND POST LIGHT, FT, M577A2	23,600	23,600	44,100	33,600
CARRIER, PERSONNEL, FT, ARM, M113A2	82,900	82,900	144,000	127,900
BRADLEY FIGHTING VEHICLES (MYP)	1,007,000	[illegible]	[illegible]	931,000
BRADLEY FIGHTING VEHICLES (MYP) (PY TRANSFER)		(21,700)		
BRADLEY FIGHTING VEHICLES (MYP) (AP-CY)	27,600	13,600	14,900	22,300
BRADLEY FVS TRAINING DEVICES	79,400	79,400	79,400	79,400
FIELD ARTILLELRY AMMUNITION SUPPORT VEH	101,500	70,200	101,500	70,200
RECOVERY VEHICLE, MED, FT, M88A1	215,800	181,600	215,800	211,400
RECOVERY VEHICLE, MED, FT, M88A1 (PY TRANSFER)		(2,800)		
ABRAMS TANK SERIES ROLL (MYP)	1,749,600	1,478,400	1,348,200	1,556,300
ABRAMS TANK SERIES ROLL (MYP) (PY TRANSFER)		(77,900)	(77,900)	
ABRAMS TANK SERIES ROLL (MYP) (AP-CY)	359,200	344,000	[illegible]	[illegible]
M60 SERIES TANK TRAINING DEVICES	20,400	20,400	20,400	20,400
M1 SERIES TANK TRAINING DEVICES	65,600	[illegible]	65,000	65,000
MODIFICATION OF TRACKED COMBAT VEHICLES:				
CARRIER, MOD	56,200	56,200	56,200	56,200
FIST VEHICLE (MOD)	80,800	76,100	80,800	76,100
BFVS SERIES (MOD)	19,000	5,000	19,000	12,000
HOWITZER, MED SP FT 155MM M109 SER(MOD)	25,400	15,700	25,400	15,700
ARMORED VEH LAUNCH BRIDGE (AVLB) (MOD)	20,400	20,400	20,400	20,400
TANK, CMBT, FT, 105MM GUN, M60SER(MOD) (MYP)	[illegible]	113,600	110,600	110,600
105MM TANK GUN (MOD)	[illegible]			
TANK, M1 SERIES (MOD)	70,100	47,500	64,200	64,200
TANK M1 SERIES (MOD) (PY TRANSFER)		(7,000)		
ROBOTIC OBST BREACHING ASSULT TANK (MOD)	17,800	9,600	9,600	9,600
SUPPORT EQUIPMENT AND FACILITIES:				
SPARES AND REPAIR PARTS	[illegible]	[illegible]	628,000	628,000
VALUE ENGINEERING	1,000	1,000	1,000	1,000
ITEM LESS THAN $900,000 (TCV-WTCV)	800	800	800	800
PRODUCTION BASE SUPPORT (TCV-WTCV)	[illegible]	[illegible]	10,800	10,800
PRODUCTION BASE SUPPORT (TCV-WTCV) (PY TRANSFER)		(8,600)		
TOTAL, TRACKED COMBAT VEHICLES	4,905,500	4,335,400	4,425,600	4,515,300
WEAPONS AND OTHER COMBAT VEHICLES:				
SERGEANT YORK DIVAD GUN	[illegible]			
SERGEANT YORK DIVAD GUN (GENERAL REDUCTION)		−256,517		
SERGEANT YORK DIVAD GUN (PY TRANSFER)		(256,517)		
SERGEANT YORK DIVAD GUN (AP-CY)	11,000			
SERGEANT YORK DIVAD GUN (AP-CY) (GENERAL REDUCTION)		−104,479		
SERGEANT YORK DIVAD GUN (AP-CY) (PY TRANSFER)		(104,479)		
FOLLOW-ON AIR DEFENSE GUN				150,000
FOLLOW-ON AIR DEFENSE EQUIPMENT (PY TRANSFER)			(150,000)	
ARMOR MACHINE GUN, 7.62MM M240	27,100	27,100	27,100	27,100
SQUAD AUTOMATIC WEAPON (SAW) 5.56MM	14,500			
SQUAD AUTOMATIC WEAPON (SAW) 5.56MM (GENERAL REDUCTION)		−12,900	−1,900	
SQUAD AUTOMATIC WEAPON (SAW) 5.56MM (PY TRANSFER)		(12,900)	(12,900)	
GRENADE LAUNCHER, AUTO, 40MM, MK19-3	9,000	9,000	9,000	9,000
LAUNCHER, SMOKE GRENADE	2,100	2,100	2,100	2,100
MORTAR, 81MM, XM252	6,100	6,100	6,100	6,100
MOTAR, 120MM	5,000	5,000		5,000
M16 RIFLE	39,300	35,000	35,000	35,000
PERSONAL DEFENSE WEAPON, 9MM	7,500	7,500	7,500	7,500
VEH RAPID FIRE WPN SYS-BUSHMASTER (MYP)	45,600	45,600	38,700	35,700
VEH RAPID FIRE WPN SYS-BUSHMASTER (MYP) (AP-CY)	8,300	3,700	5,000	5,000
TANK MUZZLE BORESIGHT DEVICE	4,600		4,600	4,600
MODIFICATION OF WEAPONS AND OTHER COMBAT VEH:				
DIVAD (MODS)	500			
HOWITZER, 155MM, M114A2 (MOD)	1,700	1,700	1,700	1,700
M16A1 RIFLE MODS	3,300	3,300	3,300	3,300
MODIFICATIONS UNDER $900,000 (WOCV-WTCV)	800	800	800	800
SUPPORT EQUIPMENT AND FACILITIES:				
SPARES AND REPAIR PARTS	183,600	29,000	29,000	29,000
SPARES AND REPAIR PARTS (GENERAL REDUCTION)		−125,000		
SPARES AND REPAIR PARTS (PY TRANSFER)		(125,000)		
ITEMS LESS THAN $900,000 (WOCV-WTCV)	7,900	2,900	2,900	2,900
PRODUCTION BASE SUPPORT (WOCV-WTCV)	51,400	15,400	51,400	51,400
(PY TRANSFER)		(36,000)		
5.56 CARBINE XM4	2,800			
TOTAL, WEAPONS AND OTHER COMBAT VEHICLES	[illegible]	−304,696	211,300	376,200
INFLATION REESTIMATES FOR FY86		−7,000	−7,000	−7,000
INFLATION PREMIUM, FY86		−120,700		−56,729
PRIOR YEAR PROGRAM SAVINGS		−75,000		
(PY TRANSFER)		(75,000		
FY 85 INFLATION FAIRNESS ADJUSTMENT		−79,000		−79,000
(PY TRANSFER)		(79,000)		
TOTAL, PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES	5,739,100	3,749,004	4,629,900	4,748,771

[In thousands of dollars]

	Budget	House	Senate	Conference
TRANSFER FROM OTHER ACCOUNTS		(806,896)	(240,800)	
TOTAL FUNDING AVAILABLE	5,739,100	4,555,900	4,870,700	4,748,771

PRIOR YEAR SAVINGS

The conferees recognize $590,300,000 in prior year savings in Army Procurement of Weapons and Tracked Combat Vehicles. The sources and uses of these savings are identified in this Statement of the Managers under the heading "Availability of Unobligated Balances."

M-1 TANK

The conference agreement funds 840 tanks in fiscal year 1986 as proposed by the House. The conferees agree that no basic multiyear contract for the tank program may provide a procurement rate greater than 720 per year, but that options for higher annual procurement may be established. Beyond fiscal year 1986, exercising these contract options must be approved by the Committees on Appropriations of the House and Senate.

DIVAD FOLLOW-ON

The conferees agree to provide $150,000,000 to procure off-the-shelf air defense equipment to be identified later by the Department. Such procurement shall be subject to standard reprogramming procedures, as specified by the Senate.

PROCUREMENT OF AMMUNITION, ARMY

The conferees agree to the following amounts for Procurement of Ammunition, Army:

[In thousands of dollars]

	Budget	House	Senate	Conference
PROCUREMENT OF AMMUNITION, ARMY				
AMMUNITION				
ATOMIC MATERIEL				
NUCLEAR WEAPONS SUPPORT MATERIEL	5,200	5,200	5,200	5,200
CONTROLLED ITEMS				
CTG, 5.56MM, BALL M193	18,100	18,100	18,100	18,100
CTG, 5.56MM, BLANK M200	12,000	12,000	12,000	12,000
CTG, 5.56MM, BLK M200, LKD F/SAW	2,200	2,200	3,000	2,200
CTG, 5.56MM, 4 BALL M855/1 TRCR M856 LKD	9,600	9,600	9,600	9,600
CTG, 5.56MM, BALL M16-A2	25,000	25,000	25,000	25,000
CTG, 5.56MM, TRACER M16-A2	6,500	6,500	6,500	6,500
GENERAL REDUCTION 5.56 MM		−10,000		−10,000
CTG, 7.62MM, TRCR M62 LKD	[illegible]	[illegible]	[illegible]	[illegible]
CTG, 7.62MM, 4 BALL M80/1 TRCER M62 LKD	25,000	25,800	25,800	25,800
CTG, 7.62MM, BALL M80 LKD/M13	700	700	700	700
CTG, 7.62MM, LKD 4 BALL ITRACER OHF	1,4000	2,000	2,000	2,000
CTG, 7.62MM, SPEC BALL M118	1,900	1,900	1,900	1,900
CTG, CAL .22, BALL LR	2,700	2,700	1,600	1,600
CTG, 9MM, BALL	1,400	1,400	1,400	1,400
CTG, CAL .45, BALL M1911	2,200	2,200	2,200	2,200
CTG, CAL .45, MATCH GRADE	[illegible]	[illegible]	100	100
CTG, CAL .50, LKD 4 BALL/1 TRCR W/M15A2L	9,600	11,300	11,300	11,300
CTG, CAL .50, APIT, M20 LKD	1,400	1,400	1,400	1,400
CTG, CAL .50, BALL LKD	2,400	3,800	3,800	[illegible]
CTG, CAL .50, BLK, M1A1, LKD W/M9LK F/M2	15,000			
CTG, CAL .50, LKD TRACER M17	4,100			
CTG, CAL .50, LKD 4 BALL/1 TRACER W/M9 L	44,400	[illegible]	[illegible]	44,000
CTG, 20MM, LKD TP-1 M220 SERIES MLB M14A	19,300	7,900	7,900	7,900
CTG, 25MM, HEI-T M792 W/F	18,900	18,900	18,900	18,900
CTG, 25MM, APDS-T M791 W/M28 (MYP)	11,100	11,100	11,100	11,100
CTG, 25MM, TPT LKD M793 MLB M28	37,700	37,700	37,700	37,700
CTG, 30MM, LKD HEDP M789 W/FUZE (MYP)	[illegible]	5,000	5,000	5,000
CTG, 30MM, LKD TP M788 (MYP)	[illegible]	9,300	9,300	[illegible]
CTG, 40MM, TP-T M813 F/SGT YORK (MYP)	11,300			
CTG, 40MM, HE W/PROX M822	31,000			
CTG, 40MM, HEDP M430	[illegible]	25,800	43,500	43,500
CTG, 40MM, TP F/MK19	4,800	4,800	4,800	4,800
CTG, 40MM, PRAC M781	5,000	4,600	4,600	4,600
CTG, 75MM, BLANK, M337A1 F/HOWITZER	2,800	2,800	7,800	7,800
CTG, 81MM, ILLUM IUK XM853	15,700		15,700	
CTG, 81MM, HE IUK W/FUZE	31,700		31,700	
CTG, 81MM, SMK RP IUK XM819	12,400		12,400	
CTG, 81MM, IMP 1/10 RANGE TNG XM880	2,400		2,400	
CTG, SUB CAL .22, PRACT CHG=2 M745M	1,100	1,100	1,100	1,100
MORTAR AMMO		96,200		96,200
CTG, 4.2-INCH, ILLUM, W/FUZE	27,300			
CTG, 4.2-INCH, SMOKE, WP	6,700			
CTG, 105MM, HEAT MP T M456A2	47,200	41,600	41,600	41,600
CTG, 105MM, TP-T, M490	51,200	14,600	32,100	32,100
CTG, 105MM, TRACE-P FOR M833	7,300	1,300	7,300	1,300
CTG, 105MM, DS-TP M724	89,400	89,200	89,400	89,400
CTG, 105MM, APFSDS-T M833	46,800	42,300	46,800	42,300
CTG, 120MM APFSDS-T M829	59,700	75,000	75,000	75,000
CTG, 120MM HEAT-MP-T, M830 (MYP)	27,300	31,000	27,300	31,000
CTG, 120MM TP-T XM831 (MYP)	[illegible]	29,600	29,600	29,600
CTG, 120MM TPCSDS-T, M865 (MYP)	29,700	35,000	35,000	35,000
CTG, 120MM, HE W/MULTI/OPTION FUZE	[illegible]			
CTG, 120MM, ILLUM	4,000			
CTG, 120MM, SMOKE	11,200			

[In thousands of dollars]

	Budget	House	Senate	Conference
PROJ, 155MM, HE, ICM M483 (MYP)	199,800	181,100	199,800	165,800
PROJ, 155M, SMK, WP, M825	16,300	10,000	16,300	13,100
PROJ, 155MM, HE, ADAM M731 (MYP)	76,500	14,600	76,500	[illegible]
PROJ, 155M, HE, RAAMS M741 (MYP)	71,600	45,800	71,600	46,700
PROJ, 155MM, HE, COPPERHEAD (EA)	235,000	220,800		220,800
(PY TRANSFER)			(167,613)	
CHARGE, PROPELLING, 155MM, GREEN BAG M3	27,700		24,400	12,200
CHARGE, PROPELLING, 155MM, WHITE BAG M4	30,400			
CHARGE, PROPELLING, 155MM, RED BAG M203	20,400	20,400	20,400	20,400
CHARGE, PROPELLING, 155MM, WHITE BAG M11	17,800	17,800		
PROJ. 8-INCH, HE, ICM (DP), M509		50,000	50,000	50,000
PROJ 8-INCH, HE, RAP, M650		10,000	10,000	10,000
CHARGE, PROPELLING, 8-INCH WB, M188	29,200	29,200		
FUZE, MTSQ M577/M577A1	49,300	40,700	49,300	49,300
FUZE, MTSQ M582/M582A1	10,500	10,400	10,500	10,500
PRIMER, PERC, M82	2,900	2,900	2,900	2,900
GROUND IMP MINE SCAT SYS AP M74 (MYP)	14,500			
GROUND IMP MINE SCAT SYS AT M75 (MYP)	26,500			
CANISTER MINE PRACTICE XM88 (VOLCANO)	1,500		1,500	
CANISTER MINE (VOLCANO) XM87	2,600		2,600	
MINE, AT, BLU-91/B (VOLCANO (MYP)	12,600		12,600	
MINE, AP, BLU-92/B (VOLCANO) (MYP)	5,000		5,000	
MTR RKT 5 IN MK22 MOD 4 (EA)	5,400	5,400	5,400	5,400
LINE CHARGE M58A3 (MICLIC) (EA)	12,300	12,300	12,300	12,300
LINE CHARGE INERT M68A2 (MICLIC) (EA)	1,200	1,200	1,200	1,200
MODULAR PACK MINE SYSTEM	36,000		36,000	
DEMOLITION MUNITIONS & OTHER	16,500	16,500	16,500	16,500
DEMO KIT BANGALORE TORPEDO	3,000	3,000	3,000	3,000
LIGHTWEIGHT MULTI-PURPOSE SYSTEM	107,600	41,600	59,200	59,200
LIGHT WGT MULTI PURPOSE SYSTEM TRNR	3,100	3,100	3,100	3,100
HYDRA 70 RKT, MPSM HE M261 WHD (MYP)	28,900	28,900	28,900	28,900
HYDRA 70 RKT, MPSM PRAC M267 WHD	5,400	5,400	5,400	5,400
GRENADE, HAND, ALL TYPES	33,000	33,000	33,000	33,000
SIGNALS, ALL TYPES	33,500	14,900	14,900	14,900
SIMULATORS, ALL TYPES	28,700	19,900	19,900	19,900
GENERAL INCREASE/WAR RESERVE AMMO		162,100	400,000	200,000
MISCELLANEOUS:				
AMMO COMPONENTS/SUPPORT, ALL TYPES	21,300	21,300	21,300	21,300
ITEMS LESS THAN $900,000 (MISC-AMMO)	3,700	3,700	3,700	3,700
SPARES AND REPAIR PARTS	1,000	1,000	1,000	1,000
AMMUNITION PECULIAR EQUIPMENT	5,200	5,200	5,200	5,200
NITROGUANIDINE (LB)	25,000	25,000	25,000	25,000
COMP A-5	9,100		9,100	
COMP C-4	9,000		9,000	
COMP B	4,400		4,400	
PBX 0280	1,600		1,600	
CYCLOTOL 70/30	2,800		2,800	
COMP LX-14	5,800		5,800	
AMMO 9WW/ELT	1,700	1,700	1,700	1,700
CLASSIFIED PROGRAMS	21,700		21,700	21,700
TOTAL, AMMUNITION	2,266,600	1,825,400	2,122,600	2,001,200
AMMUNITION PRODUCTION BASE SUPPORT				
PRODUCTION BASE SUPPORT:				
PROVISION OF INDUSTRIAL FACILITIES	[illegible]	167,500	[illegible]	276,100
COMPONENTS FOR PROVE-OUT	14,000	9,600	14,000	14,000
LAYAWAY OF INDUSTRIAL FACILITIES	22,500	22,500	22,500	22,500
JEFFERSON PROVING GROUND MODERNIZATION	2,000	2,000	2,000	2,000
CHEMICAL DEMILITARIZATION PROGRAM	49,300	49,300	81,300	81,300
PRODUCTION BASE MODERNIZATION			103,100	103,100
TOTAL, AMMUNITION PRODUCTION BASE SUPPORT	[illegible]	[illegible]	[illegible]	[illegible]
INFLATION REESTIMATES FOR FY86		−3,000	−3,000	−3,000
GENERAL REDUCTION, PY TRANSFER			−8,387	
(PY TRANSFER)			(8,387)	
PRIOR YEAR INFLATION SAVINGS		−78,000		
(PY TRANSFER)		(78,000)		
PRIOR YEAR PROGRAM SAVINGS		−137,200	−33,900	
(PY TRANSFER)		(137,200)	(33,900)	
TOTAL, PROCUREMENT OF AMMUNITION, ARMY	2,635,000	1,858,200	2,588,213	2,497,200
TRANSFER FROM OTHER ACOUNTS		(215,200)	(209,900)	
TOTAL FUNDING AVAILABLE	2,635,000	2,073,400	2,798,113	2,497,200

PRIOR YEAR SAVINGS

The conferees recognize $178,100,000 in prior year savings in Army Ammunition Procurement. The sources and uses of these savings are identified in this Statement of the Managers under the heading "Availability of Unobligated Balances."

MORTAR AMMUNITION

The conference agreement provides a lump sum of $96,200,000 for mortar ammunition, as proposed by the House. The conferees are in agreement that the Army shall submit a report to the Appropriations Committees for approval of the allocation of this sum. Such allocation shall include the two 81mm training rounds and 120mm mortar ammunition.

155MM ICM

The conferees agreement provides $269,000,000 for procurement of the 155mm Improved Conventional Munition. The Army has had serious start-up problems at the integrated production facility which manufactures this round which have resulted in delayed deliveries. The Army has turned top management attention to this problem and has made some progress; however, the conferees believe this effort must continue until the new plant is fully on-line. The conferees therefore direct that no more than $181,100,000 may be obligated until the Army conducts a thorough investigation of this situation and reports to the Appropriations Committees on specific problems, proposed solutions, and implementation plans and schedules.

COPPERHEAD

The conference agreement funds 6,900 projectiles for $220,800,000 as proposed by the House. The conferees are in agreement that the Department shall submit for approval a report to the Committees on Appropriations of the House and Senate on the cost effectiveness of establishing a second source for Copperhead prior to entering such a contract. The conferees are in agreement that the Committees will respond to such a report within thirty days after submittal of this report.

The conferees agree that the $69,900,000 proposed for transfer to the 1986 program by the Senate may be used for the 1985 Copperhead program as requested by the Army.

MODULAR MINE PACK SYSTEM (MOPMS)

The conferees agree that no procurement funding for MOPMS in fiscal year 1986 is necessary because of program delays. Unobligated funds available in fiscal year 1985 ($16,500,000) may be used to initiate procurement in fiscal year 1986 when testing is complete, the item is type-classified, and the required report is submitted to the committees. Additionally, a portion of the unallocated add-on may be used for MOPMS procurement if necessary. The conference action is taken without prejudice to the program.

LIGHTWEIGHT MULTIPURPOSE SYSTEM

The conference agreement provides sufficient funds in this program for the Army to exercise the second year production option for the AT-4 at the most economic production rate. The conferees agree that the DT/OT testing of the M72E4 be completed and the item be type-classified using available funds, with the understanding that this is done without expectation of subsequent procurement by the Department of Defense.

105MM TRAINING AMMUNITION

The conferees note that contracts for funds appropriated last year for the initial procurement of the XM-901 105mm tank training round have not yet been issued contract. This round has many advantages over the current round, including ballistic match. In order to verify these advantages, the conferees direct that the Army procure at least 55,000 XM-901 105mm tank training rounds using available unobligated funds in fiscal years 1984 and 1985. The Army is further directed to report to the Committee on the results of operational experience and plans for procurement in the future.

PROVISION OF INDUSTRIAL FACILITIES

The conference agreement provides the following amounts for items in conference:

	House	Senate	Conference
Binary chemical facilities		$93,900	$93,900
Explosive stockpiling-related project		3,200	
General reduction	−$15,900		
Holston RDX/HMX projects	7,600		6,300
RDX facility at Louisiana AAP		15,000	

BINARY CHEMICAL FACILITIES

The binary chemical munitions program is discussed at the beginning of the procurement section of this statement of managers.

RDX MODERNIZATION

The conferees are dissatisfied with the Army's response to previous direction to decide expeditiously on the number and location of additional RDX manufacturing facilities and to present a budget and program plan to accomplish this objective. The recently completed cost-benefit analysis explored alternatives, but the Army still has not submitted a plan which is responsive to Congressional requirements and direction. In order to expedite this effort, and get site specific work started at the first location (Louisiana Army Ammunition Plant), the conferees have agreed to bill language restricting the use of all production base projects funded in the bill. The language follows:

Provided, That none of the funds provided herein may be obligated or expended for production base projects until the Secretary of the Army has submitted to the Committees on Appropriations of the House and Senate a specific funding and program plan for RDX modernization which responds to Congressional requirements on program phasing and direction concerning full funding, and which provides for initiation of site specific work at Louisiana Army Ammunition Plant not later than June 30, 1986.

OTHER PROCUREMENT, ARMY

The conferees agree to the following amounts for Other Procurement, Army:

[In thousands of dollars]

	Budget	House	Senate	Conference
Other Procurement, Army				
Tactical and Support Vehicles				
Tactical vehicles				
Chassis trailer gen 2½ ton 2W, M200A1	7,600	7,600	7,600	7,600
Dolly set, trans shelter, 7½ t. M1022 2	5,500	5,500	5,500	5,500
Motorcycle, GED, 2W, rough terrain	5,600	2,900		2,000
Semitrailer, BB/cont 34T M872 C/S	3,400	3,400	3,400	3,400
Semitrailer, LB, 12T M270A1–M269A1	9,300	9,300	9,300	9,300
Semitrailer, low bed, 40T M870 (C/S)	12,200	12,200	12,200	12,200
Semitrailer, low bed HET, XM1000	11,200	11,200	200	
Semitrailer, tank, 5000G	19,800	15,800	19,800	15,800
Trailer, cargo 3/4T, 2W, M101A2 W/E	5,300	5,300	5,300	5,300
Trailer, cargo, 1½ T, 2W, M105A2	11,100	11,100	11,100	11,100
Trailer tank water 400G 1½T 2W M149A1	4,000	4,000	4,000	4,000
Hi mob multi-purpwhld veh (hmmwv) (myp)	375,000	313,914	326,000	313,914
Fast attack vehicle	3,100			
PY transfer reduction		−7,400		
(PY transfer)		(7,400)		
Small unit support vehicle (susv)	14,800	13,800	14,800	13,800
Truck, 5t, 6x6, abt (myp)	225,900	217,186	152,300	217,186
Truck, 10t, 8x8, abt (myp)	128,700	116,397	128,700	116,397
Truck, tractor, yard type, M878 (C/S)	3,100	3,100	3,100	3,100
Modification of in-service equipment	100	100	100	100
Shop equipment, auto maint & rep	900	900	900	900
Items less than $900,000 (tac veh)	1,700	1,700	1,700	1,700
Non-tactical vehicles				
Passenger carrying vehicles	30,000	30,000	30,000	30,000
General purpose vehicles	39,900	39,900	39,900	39,900
Special purpose vehicles	13,000	13,900	13,000	13,000
Support equipment and facilities:				
Spares and repair parts	135,200	135,200	135,200	134,200
Total, tactical and support vehicles	1,016,800	969,197	1,024,100	965,397
Communications and Electronics Equipment				
Telecomm equip—read comd comm:				
JCSE equipment (USREDCOM)	300	300	300	300
Classified project 9ww	14,200	14,200	14,200	14,200
Telecomm equip—joint tactical comm prog:				
Mod rcrd tlc term (mrtt)	15,900	7,500	16,200	16,200

BEST COPY AVAILABLE

[In thousands of dollars]

	Budget	House	Senate	Conference
DIG group multiplexer (DGM)	20,400	20,400	20,400	20,400
RPTR/term assmblgs	15,700	15,700	15,700	15,700
Radio terminals an/trc-170	29,200	29,200	29,200	29,200
Unit level switches	31,400		10,800	10,800
Com sys con el an/tyq-16	15,900	15,900	15,900	15,900
DIG nsec vter ta-954	4,000	4,000	4,000	4,000
ANDVT-tac term, cv-3591	4,000	4,000	4,000	4,000
Lightweight digital facsimile	7,400			
MOB subscriber eqp	335,300	335,300		335,300
(PY transfer)			(238,000)	
MOD of in-svc eq (tri-tac)	22,500	22,500	22,500	22,500
Telecomm equip-combat support comm:				
Comm sys (htld)	8,500		8,500	8,500
SINCGARS (roll)	231,300	172,951	102,300	102,300
SINCGARS (roll) (py transfer)		(22,100)		
Snap		15,400		15,400
Communications central, AN/TSC-99	11,700		11,700	
HMP hf radio family	26,600	20,100	26,600	26,600
PWR supply PP-6148/U	900	900	900	900
Radio set an/prc-70	11,600	11 600	11,600	11,600
Antenna group OE-254	2,500	2,500	2,500	2,500
Small unit trans an/prc-68	1,000	1,000	1,000	1,000
Teletypewriter terminal an/ugc-74	4,200		4,200	2,100
MOD of in-svc equip (csc)	[illegible]	11,800	20,600	[illegible]
RDF comm (s.w. Asia)	19,500	19,500	19,500	19,500
Items less than $900,000 (CSC-C-E)	10,100	7,100	10,100	7,100
Spec ops comm sup elmt	7,300	6,341	11,330	11,330
Telecomm Equip—NMCS Wide Support, Army				
Telecomm Equip—Starcom Non-DCS:				
Ar Telecom auto pr (atcap)	9,200	[illegible]	9,200	9,200
C-E facilities/projects	20,500	17,100	20,500	18,800
Southcom C3 upgrade	26,900	26,900	13,800	13,800
Electromag comp prog (emcp)	600	600	600	600
Long-haul com (DCS)				
Autodin (DCS)	4,800	4,800	4,800	4,800
Defense data network (DDN)	6,500	6,500	6,500	6,500
Transmission media (eucom)	16,200	16,200	16,200	16,200
Transmission media (pacom)	30,900	30,900	30,900	30,900
WW tech con imp pr (WWTCIP)	[illegible]	[illegible]	[illegible]	[illegible]
Telecomm equip—satcom-grd environ:				
Digital equipment (dacs)	40,000	40,000	40,000	40,000
Interconnect facility (dacs)	7,900	7,900	7,900	7,900
Jam resistant secure com (jrsc)	27,900	19,585	27,900	19,585
Med sat term an/gsc	67,100	67,100	67,100	67,100
Sprd spec mul acc (dacs)	23,000	17,970	23,000	17,970
Dacs operations control sys (dacs)	40,400	22,281	40,400	31,300
Mod in-svc equip (dacs)	8,500	8,500	8,500	8,500
Mpk sat uhf term, an/psc-3	3,900	3,900	3,900	3,900
Veh sat uhf term, an/vsc-7	1,400	1,400	1,400	1,400
Single channel object tact term (scott)	83 400			
Mod in-svc equip (tac sat)	53,400	53,400	53,400	53,400
Telecomm equip-eucom C3 system:				
Eucom C3 (mws)	[illegible]	[illegible]	60,600	60,600
Eucom alternate spt hq (ash)	11,500	7,700	11,500	7,700
Telecomm equip-comsec equipment:				
Auto key dc kgx-93/tsec	4,300	4,300	4,300	4,300
Sec. vo imprv prg (comsec)	8,400	8,400	18,400	12,000
Loop key gen tsec/kg-82	2,100	2,100	2,100	2,100
Key var gen tsec/kg-83	400	400	400	400
Ded loop encryp dev kg-84	21,800	21,800	[illegible]	31,800
Tnk encrp dev tsec/kg-93	2,200	2,200	2,200	2,200
Tsec/kg-94	7,800	7,800	7,800	7,800
Int lev t set tsec/st-34	800	800	800	800
Dig sub voice tsec/ky-68	2,000	2,000	2,000	2,000
Tsec/ky-90	5,400	5,400	5,400	5,400
Key generator, tsec/kg-87	2,000	2,000	2,000	2,000
Comsec module, tsec/kgv-13	5,100		5,100	3,800
Freq module, kgv-10/tsec	16,700	13,800	1,000	13,800
Elec tran dev kyk-13/tsec	1,500	1,500	1,500	1,500
Net con dev kyx-15/tsec	1,800	1,800	1,400	1,800
Speech secur eq tsec/ky-57	31,500	31,500	[illegible]	35,000
Tsec/kyv-5 (vactor) secure equip	900	900	900	900
Tempest (comsec)	1,100	1,100	1,100	1,100
Tsec/kgv-11/secure module	1,300	1,300	1,300	1,300
Umstead CC (ci-11-1)	3,000	3,000	3,000	3,000
Umstead RT (ci-11-2)	6,800	6,800	6,800	6,800
Batson II. tsec/ci-14	8,400	8,400	8,400	8,400
Items less than $900,000 (comsec)	4,500	4,500	4,500	4,500
Telecomm equip—base comm:				
Base comm (conus)	34,600	34,600	34,600	34,600
Base comm (eucom)	6,800	6,800	6,800	6,800
Base comm (pacom)	4,000	4,000	4,000	4,000
Da comd+con sys (daccs)	10,300	10,300	10,300	10,300
Army opns ctr	5,000	5,000	5,000	5,000
Pentagon telecom ctr (ptc)	9,800	9,800	9,800	9,800
[illegible]				
[illegible]	27,000	27,000	27,000	27,000
Other elect sys/equip—intelligence support:				
Trailblazer	38,400	19,200	19,200	19,200

[In thousands of dollars]

	Budget	House	Senate	Conference
Tac elec surv sys	15,800	15,800	15,800	15,800
Manpack radio df system (mrdfs)	7,000	7,000	7,000	7,000
Team pack	8,000	8,000	8,000	8,000
Mod in ser eq (int spt)	70,700	70,200	70,200	70,200
Reserve tactical intel enhancement	900	900	900	900
Items less than $900,000 (int spt-c-E)	4,700	4,700	4,700	4,700
Ft Devens training support	400	400	400	400
Trojan	5,300	5,300	5,300	5,300
Intelligence data handling system (idhs)	24,300	24,300	24,300	24,300
Tech recon and surv-sys (tecras)	7,900	7,900	7,900	7,900
Items less than $900,000 (gdip–C–E)	4,600	4,500	4,600	4,600
Other Elect Sys Equip—Gen Def Intel Prog				
Other Elect Sys/Equip—AUTO DATA PROCESS SYS:				
VERT INSTL AUTO BASELINE (VIABLE-BASOPS)	18,700	18,700	18,700	18,700
VERTICAL FORCE DEVELOP MIS	6,300	6,300	6,300	6,300
BATTERY COMPUTER SYSTEM	17,700	17,000	17,700	17,700
ARMY DATA DISTRIBUTION SYSTEM-ADDS	21,600	11,600	21,600	21,600
USAREUR TACTICAL AUTOMATION	7,700	2,200	2,700	2,200
LIFE CYCLE SOFTWARE SUP (ICSS)	3,500	3,500	3,500	3,500
ADPE FOR NON TAC MGT INFO SYS	9,400	22,700	33,000	37,900
ADPE FOR NON TAC MGT INFO SYS (PY TRANSFER)		(10,200)		
DIGITAL MESSAGE DEVICE	13,700			
FIRE SUPPORT TEAM DIGITAL MESSAGE	17,200	17,200	17,200	17,200
MANUEVER CONTROL SYS	77,300	10,687	72,300	60,000
MOD IN-SVC CMD/CONTROL (C2)	2,900	1,900	2,900	2,900
CORPS/THEATER ADP SVC CTR (CTASC)	8,900		8,900	
TACT ARMY CMBT COMPT SY (TACCS)	44,700	44,700	44,700	44,700
COMPUTER BALLISTICS MORTAR XM-23	6,000	6,000	6,000	6,000
CSS LOG APPLC AUTO MARK/READ SYMBS(LOG MA)	10,600	10,600	10,500	10,600
WW MIL COM & CONT SYS ADPE	7,100	7,100	7,100	7,100
UNIT LEVEL COMPUTER (ULC)	5,500	5,500	5,500	5,500
ADV FA TACTICAL DATA SYSTEM		25,574		25,574
AUDIO VISUAL				
AFRTS (AUDIO VISUAL)	4,300	4,300	7,600	7,600
DIG STRG & RTRVL ENGRG DATA SYS (DSREDS)	25,300	25,300	24,300	24,300
ITEMS LESS THAN $900,000 (A/V–C–E)	14,300	11,300	14,300	11,300
OTHER ELECT SYS/EQUP - ELECTRONIC WARFARE:				
COUNTERMEASURES SET AN/TLQ–17A	5,700	5,700	5,700	5,700
TACJAM, AN/MLQ–34	19,000	19,000	19,000	19,000
EW (HTLD)	5,200	5,200	5,700	5,200
MOD IN-SVC EQUIP (EW)	2,100	2,100	2,100	2,100
ITEMS LESS THAN $900,000 (EW–C–E)	2,900	1,900	2,900	2,900
OTHER ELECT SYS/EQUP—TACTICAL ELECTRONIC:				
CHARGER, RADIAC DETECTOR PP-4370/PD	3,800			
BATTERY CHARGER PP–7286/U	3,500	3,500	3,500	3,500
POWER SUPPLY, PP–6224	1,900	1,900	1,900	1,900
COMPUTER/INDICATOR CP–696/PD	4,000	4,000	4,000	4,000
METEOROLOGICAL DATA SYS (FAMAS)	33,100	33,100	33,100	33,100
GROUND LASER LOCATOR DESIGNATOR (GLLD)	45,100	45,100	45,100	45,100
INTRUSION DETECTION DEVICES	16,600	16,600	16,600	16,600
NAVSTAR GLOBAL POSITIONING SYSTEM	9,700	2,400		9,700
NAVSTAR GLOBAL POSITIONING SYSTEM(PY TRANSFER)		(7,300)		
POSITION/AZIMUTH DETERMINING SYS (PADS)	36,400		36,400	30,000
TAM–6 NIGHT SIGHT MAINTENANCE FACILITY	4,200	4,200	4,200	4,200
AN/TAM–3 TEST SET, NIGHT VISION SIGHT	2,300	2,300	2,300	2,300
NIGHT VISION GOGGLES	65,000	65,000	65,000	65,000
NIGHT VISION SIGHT INDIV WPN AN/PVS–4	9,900	9,900	9,900	9,900
POSITION LOCATION REPORTING SYS (PLRS)	45,100	45,100	45,100	45,100
RADIAC SET AN/VDR–2	7,000	7,000	7,000	7,000
REMBASS	22,000	22,000	22,000	22,000
RPV TA/DESIGN AERIAL RECON SYS (TADARS)	134,500	66,000	66,000	66,000
TACTICAL DOSIMETER, IM–185	2,400			
MODIFICATION OF IN-SERVICE EQ (TAC EL)	3,500	3,500	3,500	3,500
ITEMS LESS THAN $900,000 (TACT ELEC–C–E)	14,500	9,500	14,500	9,500
TMDE FOR TACTICAL ELECTRONICS:				
TEST STA, ELECTRONIC EQUIP, AN/USM–410	8,900	8,900	8,900	8,900
TMDE FOR STE/ICE	5,500	5,600	5,600	5,600
CORE ELECTRONIC AUTO TEST (STE–X)	8,500	8,500	8,500	8,500
OTHER ELECT SYS/EQUIP—SUP EQUIP AND FAC:				
SPARES AND REPAIR PARTS (TELECOM)	215,400	189,400	200,700	189,400
SPARES AND REPAIR PARTS(COMESC)	14,600	14,600	14,600	14,600
SPARES AND REPAIR PARTS (OTHER)	118,000	196,400	210,700	196,400
WAR RESERVE SPARES	32,800	18,000	32,800	18,000
SPECIAL PROGRAMS	95,000	95,000	95,000	95,000
QUICK RETURN ON INVESTMENT (QRIP) PGM	500	500	500	500
PRODUCTIVITY INVESTMENT FUNDING	40,700	40,700	40,700	40,700
PROD ENHANCING CAP INVESTMENT PROG (PECIP)	1,000	1,000	1,000	1,000
PRODUCTION BASE SUPPORT (C–E)	5,500	5,500	5,000	5,000
TOTAL, COMMUNICATIONS AND ELECTRONIC EQUIPMENT	3,306,300	2,731,789	2,639,630	[illegible]
Other Support Equipment				
CHEMICAL DEFENSIVE EQUIPMENT:				
SIM DET CHEM AGENT AUTO ALARM XM81	4,700	4,700	4,700	4,700
DECONTAMINATE APP PWR DR LT WT XM17	6,400	6,400	6,400	6,400
MASK, PROTECTIVE NBC	30,300	30,300	30,500	30,300
CHEMICAL AGENT MONITOR	19,400	19,400	19,400	19,400
SIMP COLL PROT EQUIP XM20	3,900	3,900	3,900	3,900
MODULAR/COLL PROT EQUIP FOR VV AND S	3,100	3,100	3,100	3,100

[In thousands of dollars]

	Budget	House	Senate	Conference
GEN SET, SMOKE, MECH: PUL JET, XM157	4,200	4,200	4,200	4,200
BRIDGING EQUIPMENT				
BOAT, BRIDGE ERECTION, DE, 27 FT	25,400	25,400	25,400	25,400
BRIDGE, FLOAT-RIBBON, INTERIOR BAY	7,100	7,100	7,100	7,100
BRIDGE, FLAT-RIBBON, RAMP	3,800	3,800	3,800	3,800
BRIDGE, FLOAT-RIBBON, TRANSPORTER	18,000	18,000	18,000	18,000
ITEMS LESS THAN $900,000 (BRIDGING)	900	900	900	900
ENGINEER (NON-CONSTRUCTION) EQUIPMENT				
GEMSS AUX MINE DISPNSR XM138 (FLIPPER)	2,000	2,000	2,000	2,000
DISPENSER MINE XM139	2,500		2,500	
LAUNCHER, MINE CLEARING LINE CHARGE	1,400	1,400	1,400	1,400
MARKING SYCS, CLEAR LANE	3,000	3,000	3,000	3,000
E DET SET, MINE, MET/NON-MET, AN/PRS-8	8,100	8,100	8,100	8,100
MINE CLEARING ROLLER	3,500	3,500	3,500	3,500
REMOTE CONTROL UNIT (MOPMS)	4,600	4,500	4,600	4,600
M-9 ARMORED COMBAT EARTHMOVER (ACE)	65,000	70,000	42,400	42,400
M-9 ARMORED COMBAT EARTHMOVER (ACE) (PY TRANSFER)		(12,400)		
ITEMS LESS THAN $900,000 (ENG NON COSTR)	1,900	1,900	1,900	1,900
COMBAT SERVICE SUPPORT EQUIPMENT				
AIR CONDITIONERS VARIOUS SIZE/CAPACITIES	19,100	19,100	19,100	19,100
FIELD KITCHENS, MOBILE, TRL MTD	5,300	5,300	5,300	5,300
DIVING EQUIPMENT	400	400	400	400
FIRETRUCKS	8,600	8,600	8,600	8,600
TAG PRINTING AND BINDING EQUIPMENT	5,400	5,400	5,400	5,400
HALON RECHARGE SERVICE KIT	2,100	2,100	2,100	2,100
ITEMS LESS THAN $900,000 (CCS-EQ)	10,000	13,000	10,000	11,000
MODIFICATIONS OF IN SERVICE EQUIP (CSE)	3,800	3,800	3,800	3,800
PETROLEUM EQUIPMENT				
TANK ASSEMBLY FAB COLL POL 50000 G	5,100	5,100	5,100	5,100
TANK ASSEMBLY FAB COLLAPSIBLE POL 10000G	5,800	5,800	5,800	5,800
TANK UNIT TRLR MTD 600 GAL	1,900	1,900	1,900	1,900
PUMP ASSY LIQ GAS WHL 4 IN OUT 350 GPM	5,800	5,800	5,800	5,800
SWA PETROLEUM DISTRIBUTION SYSTEM	38,900	38,900	38,900	38,900
ITEMS LESS THAN $900,000 (POL)	1,600	1,600	1,600	1,600
LOG UNIT PRODUCTIVITY SYS (LUPS)			53,700	
WATER EQUIPMENT				
WTR PUR UNIT REV OS 200/3000 GPM TK MID	14,000	14,000	14,000	14,000
WATER PUR UNIT REV OSMOSIS, 600GH	24,000	24,000	24,000	24,000
TACTICAL WATER DISTR SYS	8,300	8,300	8,300	8,300
TANK, FABRIC, COLL, WTR, SEMI-TRLR MTD	1,600	1,600	1,600	1,600
SMALL MOBILE WATER CHILLER (SMWC)	2,200	2,200	2,200	2,200
PUMP CENTRIFUGAL 65GPM	3,400	3,400	3,400	3,400
ITEMS LESS THAN $900,000 (WATER EQ)	1,900	1,900	1,900	1,900
MEDICAL EQUIPMENT				
DEPOYABLE MEDICAL SYSTEM (DMS)	84,400	84,400	132,100	96,700
CBT SOP EQUIP MEDICAL	77,500	77,500	[illegible]	[illegible]
MEDICAL SUPPORT EQUIPMENT	83,900	83,900	83,900	83,900
MAINTENANCE EQUIPMENT				
SHOP EQ CONTACT MAINTENANCE TK MTD (MP)	27,000	27,000	27,000	27,000
WELDING SHOP, TRAILER MTD	9,800	9,800	9,800	9,800
SHOP EQ ELECTRRICAL RPR SEMI-TRL MTD	13,500	13,500	13,500	13,500
CALIBRATION SET SUPPORT	7,700	7,700	7,700	7,700
ITEMS LESS THAN $900,000 (MAIN EQUIP)	9,500	9,500	9,500	9,500
CONSTRUCTION EQUIPMENT				
TRACTOR FULL TRACKED LOW SPEED DD MED	26,400	26,400	26,400	26,400
SMALL EMPLACEMENT EXCAVATOR (SEE)	25,300	25,300	25,300	25,300
ITEMS LESS THAN $900,000 (CONSTRUCTION)	7,700	7,700	7,700	7,700
RAIL FLOAT CONTAINERIZATION EQUIPMENT				
LANDING, CRAFT, UTILITY	22,900	22,900	22,900	22,900
RO/RO DISCHARGE PLATFORM	11,800	11,800	11,800	11,800
CAUSEWAY STSTEMS	13,400	13,400	13,400	14,400
MODIFICATIONS OF IN-SERV EQ (FLOAT/RAIL)	1,000	1,000	1,000	1,000
ITEMS LESS THAN $900,000 (FLOAT & RAIL)	4,200	4,200	4,200	4,200
GENERATORS				
GEN AND ASSOCIATED EQUIP	99,400	99,400	99,400	99,400
MATERIEL HANDLING EQUIPMENT				
TRUCK, FORK LIFT, GE, PT, 6000 LB	13,500	13,500	13,500	13,500
TRUCK, FORK LIFT, GE, SRT, 2000 LB	2,900	2,900	2,900	2,900
TRUCK, FORK, DE, PT, RT, 6000 LB	26,300	18,000		
TRUCK, FORK LIFT, ELEC, SRT, 6000 LB	4,600	4,600	4,600	4,600
TRUCK, FORK LFT, ELC, SRT, FRT/SIDE LDR	2,000	2,000	2,000	2,000
TRUCK, FORK LIFT, ELEC, SRT, 4000 LB	12,900	12,900	12,900	12,900
65 TON CRANE	6,200	6,200	6,200	6,200
ITEMS LESS THAN $900,000 (MHE)	6,000	6,000	6,000	6,000
SPARES AND REPAIR PARTS	37,700	37,700	37,700	37,700
AREA ORIENTED DEPOT UPGRADE	73,800	63,800	63,800	63,800
VALUE ENGINEERING(VE)	600	600	600	600
PROJECT RESHAPE (HQ DARCOM)	14,600	6,000	6,000	6,000
PRODUCTION BASE SUPPORT (OTH)	7,900	7,900	7,900	7,900
SPECIAL EQUIPMENT FOR USER TESTING	11,200	11,200	11,200	11,200
HOST NATION SUPPORT—EUROPE	58,200		58,200	41,000
NATIONAL TRAINING CTR SUP	13,300	13,300	13,300	13,300
SWA STAGING BASES	6,400	6,400	6,400	6,400
TRAINING DEVICES, NONSYSTEM	177,800	177,800	177,800	177,800
ARAPHO		3,000		3,000
TOTAL OTHER SUPPORT EQUIPMENT	1,389,700	1,272,100	1,450,700	1,341,000
NON-CENTRALLY MANAGED ITEMS		105,300	105,300	105,300
INFLATION REESTIMATES FOR FY86		−5,000	−5,000	−5,000

[In thousands of dollars]

	Budget	House	Senate	Conference
PRIOR YEAR INFLATION SAVINGS		−174,000		
(PY TRANSFER)		(174,000)		
PRIOR YEAR PROGRAM SAVINGS		−89,400		
(PY TRANSFER)		(64,000)		
TOTAL, OTHER PROCUREMENT, ARMY	5,712,800	[illegible]	5,214,730	5,275,556
TRANSFER FROM OTHER ACCOUNTS		(297,400)	(238,000)	
TOTAL FUNDING AVAILABLE	5,712,800	5,107,386	5,452,730	5,275,556

PRIOR YEAR SAVINGS

The conferees recognize $257,500,000 in prior year savings in Army Other Procurement. The sources and uses of these savings are identified in this Statement of the Managers under the heading "Availability of Unobligated Balances."

FIVE TON TRUCKS

The conferees agree to the House allowance for procurement of five ton trucks and further agree that additional five ton trucks may be procured for the Army National Guard with funds appropriated under "National Guard and Reserve Equipment."

XM-1000 SEMITRAILER

The conferees deny without prejudice the budgeted procurement funding for the XM-1000 in recognition of program delays. If procurement can be justified in fiscal year 1986, after successful completion of testing, a reprogramming will be considered.

FREQUENCY MODULE, KGV-10/TSEC

The conferees agree to provide $13,900,000 as proposed by the House instead of the $1,000,000 proposed by the Senate. The conferees direct the Army to apply excess funds available from these funds due to schedule slippages in the SINCGARS program to the purchase of KY-57 (Vinson) devices to provide additional communications security capability for the existing VRC-12 series radios which will now be retained longer.

MODULAR RECORD TERMINAL

The conferees recommend $36,200,000 for a more cost effective alternative to the Single Subscriber Terminal, with the understanding that the Army already is evaluating such alternatives. The conferees direct that none of the recommended funds be obligated until the Army submits a report to the Defense Appropriations Subcommittees of each House including the results of the evaluation, a recommendation for a more cost effective program, and the rationale for such recommendation. The conferees agree that no funding is provided for modular tactical communications centers as proposed by the Senate.

MOBILE SUBSCRIBER EQUIPMENT

The conferees recommend $335,000,000 for Mobile Subscriber Equipment as proposed by the House.

The conferees are concerned about the capability of the Army to manage the frequency and power management problems associated with the equipment of a mobile, cellular phone system in rapidly changing tactical situations where large numbers of other critical electronic emitter and receivers are used. The conferees therefore direct the Army to report by May 1, 1986 to the Defense Appropriations Subcommittees of the House and Senate on its plans to develop, demonstrate, and employ a frequency management capability for its mobile subscriber equipment.

TELETYPEWRITER TERMINAL AN/UGC-74

The conferees recommend $2,100,000 for the Teletypewriter Terminal AN/UGC-74 Program and direct that none of these terminal be utilized in a program that proivides for their operation solely as a printer.

AN/USC-28 SATELLITE COMMUNICATIONS SET

The conferees agree to provide $19,585,000 for Jam Resistant Secure Communications and $17,970,000 for Spread Spectrum Multiple Access modems (AN/USC-28) as proposed by the House. The conferees understand that the 1986 program requirements have already been purchased using excess fiscal year 1985 funds.

The conferees are concerned about the Department's long term plans for the development of a universal modem, and therefore direct the Department to submit a report to the Defense Appropriations Subcommittees of the House and Senate by April 1, 1986, including its plan for procurement and fielding of a universal modem, which fully considers the sizable sunk costs in existing hardware and software.

COMSEC MODULE, TSEC/KGV-13

The conferees recommend $3,800,000 for COMSEC module, TSEC/KGV-13 with the understanding that a revised schedule will permit obligation of these funds in fiscal year 1986. The reduction from the budget request is based on an estimated downward revision in unit costs and is made without prejudice.

MANEUVER CONTROL SYSTEM

The conferees recommend $60,000,000 for the Maneuver Control System (MCS). The conferees are concerned about the relatively high cost of military standard equipment and direct that provision of military standard equipment be limited to the training base and to the forward deployed and early deploying active component forces for the European, Korean, and Southwestern Asian Theaters. The conferees intend that (1) military standard equipment for these forces will be supplemented with nondevelopmental (NDI) equipment, (2) other active forces will be equipped entirely with NDI equipment, and (3) military standard equipment will be redistributed to the reserve component forces when the active forces are re-equipped under the Army Command and Control System (ACCS) program. The conferees direct that, to achieve greatest economy, priority should be given to acquiring the remaining military standard equipment in fiscal year 1986. For the remainder of the program equipment, procedures should be established to ensure that procurement and the ability to field this equipment is synchronized.

The conferees direct the Army to report to the Defense Appropriations Subcommittees of the House and Senate prior to obligation, but no later than March 1, 1986, on its proposed procurement and distribution plans of both military standard and NDI equipment for this program.

The conferees are aware that the MCS program has been developed and tested on an evolutionary basis and intend that the continuing development of the MCS will provide critical learning experience for the follow-on ACCS program. The conferees therefore direct that procurement be planned for completion in fiscal year 1987 and that fielding of this equipment be done expeditiously. An aggressive test and evaluation program should be established to ensure maximum transfer of MCS experience to the follow-on ACCS program. The success of this program is of interest to the conferees. Reports on its status should therefore be made from time to time to the Defense Appropriations Subcommittees of the House and Senate.

FIRE SUPPORT SYSTEM MODERNIZATION

The conferees agree to provide $25,574,000 for maximizing the near fire support command and control fielded capabilities in accordance with a Congressionally-approved plan which will culminate in the ultimate system for the 1990's. However, the Army's Light Divisions are of primary and immediate concern. These Divisions have the unique mission requirement to deploy on short notice by air transport, fully prepared to carry out a variety of missions in low to high intensity conflicts. Since the Light Divisions currently have no automated fire support system, the conferees agree that these procurement funds are provided solely for the Light Divisions.

In response to repeated requests by Light Division Commanders for a Lightweight Fire Support System, the Army equipped the 9th Division with a system specifically designed for this mission in October 1985. This system will undergo Operational Testing between February and April 1986.

The Conferees direct the Army to report on the test results of the lightweight system test program, and submit a proposed overall transition plan for achieving near-term improvements to the fielded systems of both the Light and Heavy Divisions. Obligation of these funds is contingent on Congressional review of test results and approval of the transition plan.

POSITIONING/AZIMUTH DETERMINING SYSTEM

The conferees recommend $20,000,000 for the Positioning/Azimuth Determining System (PADS) with the intention that a mimimum production level for PADS be maintained for one year.

The conferees are concerned that the Army has no definite plan for the use of the various positioning/azimuth determining systems both currently in the inventory and in development. The conferees therefore direct the Army by March 1, 1986, to submit to the Defense Appropriations Subcommittees of the House and Senate a detailed and comprehensive report including a definition of the current and future roles of all positioning/azimuth determining systems in the inventory or underdevelopment, the procurement plans for each system by fiscal year, a cost-benefit analysis of life cycle costs suppporting the planned use of each system, and a description and justification of plans for transition from one system to its successor system.

HOST NATION SUPPORT

The conferees recommend $41,000,000 for Host Nation Support-Europe. This recommondation reflects the conferees' continued support of the Host Nation Support program, revised activation schedules, the offer of the German government to prefinance construction of facilities for activated units, and the availability of unobligated balances for this program appropriated in fiscal years 1984 and 1985.

The conferees agree with the Senate direction to restrict the use of funds only for the Host Nation Support program, and the House direction for the Army to submit a report on its plans to synchronize future estimates of requirements with activation schedules, and to include details in future budget requests on the relationship of requirements to activation and operational schedules.

AIRCRAFT PROCUREMENT, NAVY

The conferees agree to the following amounts for Aircraft Procurement, Navy:

[In thousands of dollars]

	Budget	House	Senate	Conference
AIRCRAFT PROCUREMENT, NAVY				
BA-1 COMBAT AIRCRAFT				
A-6E (ATTACK) INTRUDER	202,582	293,282		293,282
(PY TRANSFER)			(202,582)	
A-6E (ATTACK) INTRUDER (AP-CY)	11,600	20,900		20,900
(PY TRANSFER)			(11,600)	
EA-6B (ELECTRONIC WARFARE) PROWLER	446,298	436,098	436,098	436,098
EA-6B (ELECTRONIC WARFARE) PROWLER (PY TRANSFER)		(3,400)		
EA-6B (ELECTRONIC WARFARE) PROWLER (AP-CY)	33,000	33,000	24,800	24,800
AV-8B (V/STOL)	892,459	637,259	821,459	821,459
AV-8B (V/STOL) (PY TRANSFER)		(139,200)		
AV-8B (V/STOL) (AP-CY)	86,569	86,569	86,569	86,569
F-14A (FIGHTER) TOMCAT	653,615	553,615	649,090	649,090
F-14A (FIGHTER) TOMCAT (AP-CY)	148,200	124,200	124,200	124,200
F/A-18 (FIGHTER) HORNET	2,493,741	2,153,741	2,267,900	2,267,900
F/A-18 (FIGHTER) HORNET (PY TRANSFER)		(118,000)		
F/A-18 (FIGHTER) HORNET (AP-CY)	268,130	210,130	210,130	210,130
CH/MH-53E (HELICOPTER) SUPER STALLION (MYP)	260,053	235,053	235,053	235,053
CH/MH-53E (HELICOPTER) SUPER STALLION (MYP) (AP-CY)	33,300	33,300	33,300	33,300
AH-1T (HELICOPTER) SEA COBRA	201,982	201,982	198,500	198,500
SH-60B (ASW HELO) SEAHAWK	315,580	202,980	250,080	249,980
SH-60B (ASW HELO) SEAHAWK (PY TRANSFER)		(47,000)		
SH-60B (ASW HELO) SEAHWAK (AP-CY)	54,900	54,900	54,900	54,900
CV ASW HELO (AP-CY)	30,000	30,000	30,000	30,000
P-3C (PATROL) ORION (MYP)	329,871	322,871		322,871
P-3C (PATROL) ORION (MYP) (AP-CY)	156,600	106,600		106,600
E-2C (EARLY WARNING) HAWKEYE	328,360	316,460		320,900
E-2C (EARLY WARNING) HAWKEYE (PY TRANSFER)		(6,000)	(320,900)	
E-2C (EARLY WARNING) HAWKEYE (AP-CY)	31,300	31,300		31,300
(PY TRANSFER)			(31,300)	
SH-2F (ASW HELO) SEASPRITE	69,900	60,900	60,900	60,900
TOTAL, BA-1 COMBAT AIRCRAFT	7,048,040	6,145,140	5,482,979	6,578,732
BA-2 AIRLIFT AIRCRAFT				
UC-12B/CX	26,867	26,867	26,867	26,867
C-20A		40,000	40,000	40,000
C-2 (MYP)	134,936	134,936	134,936	134,936
C-2 (MYP) (AP-CY)	35,200	35,200	35,200	35,200
TOTAL, BA-2 AIRLIFT AIRCRAFT	197,003	237,003	237,003	237,003
BA-3 TRAINER AIRCRAFT				
T-34C	49,431	24,731	24,731	24,731
ADVERSARY (F-16)	115,673	115,673	115,673	115,673
TOTAL, BA-3 TRAINER AIRCRAFT	165,104	140,404	140,404	140,404
BA-4 OTHER AIRCRAFT				
E-6A	297,300	297,300		297,300
E-6A (AP-CY)	58,300	58,300		58,300
SH-60F	102,800	102,800	102,800	102,800
TOTAL, BA-4 OTHER AIRCRAFT	458,400	458,400	102,800	458,400
BA-5 MODIFICATION OF AIRCRAFT:				
A-3 SERIES	5,359	5,359	5,359	5,359
A-4 SERIES	16,972	10,272	10,272	10,272
A-6 SERIES	248,535	231,535	224,115	230,936
EA-6 SERIES	45,394	38,594	45,394	38,594
A-7 SERIES	25,983	10,783	7,569	7,569
AV-8 SERIES	8,123	8,123	8,123	8,123
F-4 SERIES	5,012	3,712	3,712	3,712
RF-4 SERIES	2,469	2,469	2,469	2,469
F-14 SERIES	158,752	158,752	158,752	158,752
F-8 SERIES	100	100	100	100
F-5 SERIES	1,682	1,682	1,682	1,682
OV-10 SERIES	51,506	51,506	51,506	51,506
F-18 SERIES	17,814	17,814	17,814	17,814
H-46 SERIES	134,995	134,995	134,995	134,995
H-53 SERIES	40,255	40,255	40,255	40,255
SH-60 SERIES	1,635	1,635	1,635	1,635
H-1 SERIES	75,419	75,419	75,419	75,419
H-2 SERIES	33,851	33,851	33,851	33,851
H-3 SERIES	97,390	96,690	96,690	96,690
EP-3 SERIES	38,531	38,531	38,531	38,531
P-3 SERIES	157,849	157,849	396,089	396,089

[In thousands of dollars]

	Budget	House	Senate	Conference
S-3 SERIES	284,291	293,591	284,291	293,591
E-2 SERIES	72,062	65,662	[illegible]	65,662
TRAINER A/C SERIES	5,283	4,983	[illegible]	[illegible]
EC-130 SERIES	6,471	6,471	6,471	6,471
C-130 SERIES	12,485	12,485	12,485	12,485
KC-TANKER CONVERSION			110,000	110,000
FEWSG	22,673	22,673	22,673	22,673
CARGO/TRANSPORT A/C SERIES	6,939	6,939	[illegible]	[illegible]
VARIOUS	15,625	15,625	4,625	4,625
POWER PLANT CHANGES	8,339	[illegible]	[illegible]	[illegible]
MISC FLT SAFETY/OPER NECESSITY CHANGES	4,334	4,334	4,334	4,334
COMMON ECM EQUIPMENT	242,021	242,021	[illegible]	192,021
COMMON AVIONICS CHANGES	23,927	23,927	23,927	23,927
UNDISTRIBUTED REDUCTION		−30,000		
TOTAL, BA-5 MODIFICATION OF AIRCRAFT	1,865,717	1,791,417	2,074,429	2,110,403
BA-6 AIRCRAFT SPARES:				
SPARES AND REPAIR PARTS	1,463,662	1,325,162	1,425,162	1,325,162
SPARES AND REPAIR PARTS (PY TRANSFER)		(100,000)		
BA-7 AIRCRAFT SUPPORT EQUIPMENT AND FACIS:				
COMMON GROUND EQUIPMENT	[illegible]	684,820	668,520	668,520
AIRCRAFT INDUSTRIAL FACILITIES	57,132	57,132	57,132	57,132
WAR CONSUMABLES	65,042	65,042	60,242	60,242
OTHER PRODUCTION CHARGES	57,680	55,980	55,980	55,980
UNDISTRIBUTED REDUCTION		−64,800		
TOTAL, BA-7 AIRCRAFT SUPPORT EQUIPMENT AND FACIS	864,674	798,174	841,874	841,874
INFLATION REESTIMATES FOR FY86		−15,000	−15,000	−15,000
INFLATION PREMIUM, FY86		−253,300		−119,051
FY85 INFLATION FAIRNESS ADJUSTMENT		−181,000		−181,000
(PY TRANSFER)		(181,000)		
TOTAL, AIRCRAFT PROCUREMENT, NAVY	12,062,600	10,446,400	10,289,651	11,376,927
TRANSFER FROM OTHER ACCOUNTS		(594,600)	(566,382)	
TOTAL FUNDING AVAILABLE	12,062,600	11,041,000	10,856,033	11,376,927

PRIOR YEAR SAVINGS

The conferees recognize $551,300,000 in prior year savings in Navy Aircraft Procurement. The sources and uses of these savings are identified in this Statement of the Managers under the heading "Availability of Unobligated Balances."

CH-53E HEAVY LIFT HELICOPTER

The conferees agree that the CH-53E engines be procured under a multiyear contract as proposed b, the House.

P-3C ANTISUBMARINE WARFARE AIRCRAFT

The conferees agree to an allowance of $322,871,000 to procure nine P-3C aircraft and $106,600,000 for P-3C advance procurement. The conferees direct that six of the nine P-3C aircraft shall be for the Naval Reserve.

NAVY TANKER AIRCRAFT

The conferees agree with the Senate allowance of $110,000,000 for tanker aircraft modifications to support deployed carrier based fighter aircraft. The conferees believe the conversion of used commercial aircraft into tankers is substantially less costly than the procurement of new tanker aircraft. Accordingly, the conferees direct the Navy to request bids for used commercial aircraft that can be converted into aerial refueling tankers.

P-3C AIRCRAFT MODIFICATIONS

The conferees agree to the allowance of $396,089,000 for P-3C modifications. With respect to the P-3C modification program, the conferees direct the Department, with the available funds, to procure 33 additional update III modifications kits for a total of 48 aircrafts; to allot $27,500,000 to procure AN/AQA-7 systems with expanded channel capacity and compatibility with the planned advanced acoustic sensors. The conferees direct the Navy to procure sufficient test models of both the AN/AQA-7 improved processor system and improved display system in order to determine fleet operability and suitability. Upon completion of this evaluation, the Navy should obtain the technical data package and compete future procurements. Additionally, the conferees direct that $3,000,000 be made available to modify P-3A aircraft to be turned over to the Customs Service for drug interdiction.

WEAPONS PROCUREMENT, NAVY

The conferees agree to the following amounts to Weapons Procurement, Navy:

[In thousands of dollars]

	Budget	House	Senate	Conference
WEAPONS PROCUREMENT, NAVY				
BA-1 BALLISTIC MISSILES:				
BALLISTIC MISSILES				
UGM-73A (C-3) POSEIDON	5,001	5,001	5,001	5,001
UGM-96A (C-4) TRIDENT I	66,226	36,226	36,226	36,226
TRIDENT II	312,686	312,686	312,686	312,686
TRIDENT II (AP-CY)	269,300	[illegible]	269,300	[illegible]
MODIFICATION OF MISSILES				
UGM-73A (C-3) POSEIDON MODS	15,006			
SUPPORT EQUIPMENT AND FACILITIES:				
MISSILE INDUSTRIAL FACILITIES	4,501	4,501	4,501	4,501
ASTRONAUTICS	12,606	12,606	12,606	12,606
TOTAL, BA-1 BALLISTIC MISSILES	685,326	[illegible]	640,320	[illegible]
BA-2 OTHER MISSILES:				
STRATEGIC MISSILES:				
BGM-109 TOMAHAWK	670,204	670,204	670,204	670,204
BGM-109 TOMAHAWK (AP-CY)	64,600	[illegible]	[illegible]	[illegible]
TACTICAL MISSILES:				
AIM/RIM-7 F/M SPARROW	359,200	345,379	359,200	359,200

[In thousands of dollars]

	Budget	House	Senate	Conference
AIM/RIM-7 F/M SPARROW (AP-CY)	9,500			
AIM-9L/M SIDEWINDER	85,800	125,800	125,800	125,800
AIM-9L/M SIDEWINDER (AP-CY)	8,000			
AIM-54A/C (PHOENIX)	343,600	250,700	343,600	343,600
AIM-54A/C (PHOENIX) (AP-CY)	38,300	74,800	74,800	74,800
AGM-84A HARPOON	314,873	314,873	314,873	314,873
AGM-88A HARM	258,000	236,000	242,214	236,000
SM-1 MR	26,418	17,738	20,300	20,300
SM-1 MR (AP-CY)	9,500			
SM-2 MR	509,719	509,719	509,719	509,719
SM-2 ER	312,235	312,235	303,200	303,200
RAM	44,713	15,000		
SIDEARM	20,500	20,500	20,500	20,500
HELLFIRE	55,068	55,068	51,768	51,768
LASER MAVERICK	194,258	173,458	173,458	173,458
IIR MAVERICK	77,800	77,800	77,800	77,800
AERIAL TARGETS	105,600	108,600	105,600	105,600
DRONES AND DECOYS	29,600	29,600	29,600	29,600
OTHER MISSILE SUPPORT	12,309	12,309	12,309	12,309
MODIFICATION OF MISSILES:				
TOMAHAWK MODS	2,500	2,500	2,500	2,500
AIM/RIM-7E/F SPARROW MOD	2,302	2,302	2,302	2,302
AIM-9 SIDEWINDER MOD	30,317	20,317	25,271	20,317
AIM-54A/C PHOENIX MOD	13,205	13,205	13,205	13,205
AGM-84A HARPOON MOD	9,507	9,507	9,507	9,507
STANDARD MISSILES MOD	17,102	17,102	11,802	17,102
SUPPORT EQUIPMENT AND FACILITIES:				
WEAPONS INDUSTRIAL FACILITIES	18,908	18,908	24,908	24,908
FLEET SATELLITE COMMUNICATIONS	56,300	56,300	56,300	56,300
DEFENSE METEOROLOGICAL SATELLITE PROGRAM	8,802	5,002	5,002	5,002
ORDNANCE SUPPORT EQUIPMENT:				
ORDNANCE SUPPORT EQUIPMENT	71,689	16,789	16,789	16,789
TOTAL, BA-2 OTHER MISSILES	3,730,458	3,462,624	3,576,440	3,560,572
BA-3 TORPEDOES AND RELATED EQUIPMENT				
TORPEDOES AND RELATED EQUIPMENT				
TORPEDO MK-48 ADCAP	417,437	417,437	417,437	417,437
TORPEDO MK-46 (MYP)	105,515	101,515	101,515	101,515
TORPEDO MK-46 (MYP) (AP-CY)	23,600	23,600	23,600	23,600
MK-60 CAPTOR		59,600		59,600
MOBILE TARGET MK-30 (MYP)	20,600	16,600	18,600	18,600
MK-38 MINI MOBILE TARGET	3,499	3,499	3,499	3,499
ASROC	15,551	15,551	15,551	15,551
MOD OF TORPEDOES AND RELATED EQUIP:				
MOBILE MINE MK-67	23,727		3,714	3,714
MOBILE MINE MK-67 (PY TRANSFER)		(22,600)		
TORPEDO MK-46 MODS (MYP)	91,935	85,735	85,735	85,735
TORPEDO MK-46 MODS (MYP) (AP-CY)	8,400	8,400	8,400	8,400
CAPTOR MODS	15,705	15,705	15,705	15,705
SWIMMER WEAPONS SYSTEM	1,501	1,501	1,501	1,501
SUPPORT EQUIPMENT:				
TORPEDO SUPPORT EQUIPMENT	47,417	47,417	47,417	47,417
ASW RANGE SUPPORT	23,158	23,158	23,158	23,158
TOTAL, BA-3 TORPEDOES AND RELATED EQUIPMENT	798,045	819,718	765,832	825,432
BA-4 OTHER WEAPONS:				
GUNS AND GUN MOUNTS:				
MK-15 CLOSE IN WEAPONS SYSTEM	150,146	150,146	150,146	150,146
MK-75 76MM GUN MOUNT	20,005	15,005	17,905	17,905
MK-19/40MM MACHINE GUN	1,196	1,196	1,196	1,196
25MM GUN MOUNT	5,501	5,501	5,501	5,501
SMALL ARMS AND WEAPONS	11,305	11,305	11,305	11,305
MODIFICATION OF GUNS AND GUN MOUNTS:				
CIWS MODS	37,111	37,111	37,111	37,111
5"/54 GUN MOUNT MODS	14,104	14,104	14,104	14,104
3"/50 GUN MOUNT MODS	700	700	700	700
MK 75 76MM GUN MOUNT MODS	4,201	4,201	4,201	4,201
MODS UNDER $900,000	2,001	2,001	2,001	2,001
SUPPORT EQUIPMENT:				
GUN SUPPORT EQUIPMENT	1,200	1,200	1,200	1,200
TOTAL, BA-4 OTHER WEAPONS	247,470	242,470	245,370	245,370
BA-5 SPARES & REPAIR PARTS:				
SPARES AND REPAIR PARTS	166,601	166,601	166,601	166,601
UNDISTRIBUTED REDUCTION		−25,000		−12,500
INFLATION REESTIMATES FOR FY86		−7,000	−7,000	−7,000
INFLATION PREMIUM, FY86		−119,000		−55,930
PRIOR YEAR PROGRAM SAVINGS		−15,000	−15,000	
(PY TRANSFER)		(15,000)	(15,000)	
FY85 INFLATION FAIRNESS ADJUSTMENT		−72,000		−72,000
(PY TRANSFER)		(72,000)		
TOTAL, WEAPONS PROCUREMENT, NAVY	5,627,900	5,093,733	5,372,563	5,290,865
TRANSFER FROM OTHER ACCOUNTS		(109,600)	(15,000)	
TOTAL FUNDING AVAILABLE	5,627,900	5,203,333	5,387,563	5,290,865

PRIOR YEAR SAVINGS

The conferees recognize $15,000,000 in prior year savings in Navy Weapons Procurement. The sources and uses of these savings are identified in this Statement of the Managers under the heading "Availability of Unobligated Balances."

PHOENIX

The conferees agree to provide $343,600,000 for Phoenix missiles as proposed by the Senate, instead of $250,700,000 as proposed by the House.

The House had deleted $92,900,000 requested in the budget for establishing a second source to produce Phoenix missiles. The Senate had included those funds. The conferees agree with the Senate position with the following provisos:

1. The results of the Phase II analysis of Phoenix second sourcing now being conducted by the Navy are to be submitted to the Committees on Appropriations of the House and Senate, supported by an OSD GAIG review of the analysis, and by written proposals from prospective second source suppliers.

2. The Secretary of Defense is to provide certification that the underlying procurement program for Phoenix is supportable in the current five-year defense plan.

3. No more than $60,000,000 of the $92,900,000 may be obligated or expended for long lead materials and test equipment associated with second sourcing. The remaining $32,900,000 may not be obligated or expended until pending reprogramming action FY 85-65PA has been approved by the Congress. Consideration of that reprogramming will be made following receipt of the documentation cited in points 1 and 2, above.

4. If the Phase II analysis does not clearly support the establishment of a second source, all materials purchased with the $60,000,000 hereby released shall be applied to fiscal year 1988 procurement, with corresponding reductions in the fiscal year 1987 request.

The conferees emphasize their agreement with, and commitment to, competition in defense procurements. On the other hand, it is reasonable to require study and analysis which firmly show that the considerable expense of establishing a second source will be more than offset by reductions in future prices.

STANDARD MISSILE

The conferees agree to provide $20,300,000 for Standard Missile-1, Medium Range as proposed by the Senate instead of $17,738,000 as proposed by the House. This includes funds for the final year of the SM-1 motor multiyear procurement. These motors will be used for the SM-1 modification program.

ROLLING AIRFRAME MISSILE

The conferees agree to provide no funds for Rolling Airframe Missile (RAM) as proposed by the Senate, instead of $15,000,000 as proposed by the House. The conferees note the availability of unobligated prior year funds in the RAM program which can be used for production preparation. As an indication of support for RAM, the conferees have agreed to provide the full budgeted amount for RAM development in the RDT&E, Navy, appropriation. The conferees also deleted, without prejudice, the initial production funding for RAM launchers and fire controls as proposed by the Senate.

MK-67 SUBMARINE LAUNCHED MOBILE MINE

The conferees agree to provide $3,714,000 for the MK-67 Submarine Launched Mobile Mine as proposed by the Senate. The conferees are concerned about the slippage in deliveries and the technical problems associated with this important program. The conferees are hopeful that the Navy will get this program back on track in the near future. Once this is accomplished, the conferees would consider a reprogramming action to maintain program continuity during the fiscal year 1986 delivery period.

SHIPBUILDING AND CONVERSION, NAVY

The conferees agree to the following amounts for Shipbuilding and Conversion, Navy:

[In thousands of dollars]

	Budget	House	Senate	Conference
SHIPBUILDING AND CONVERSION, NAVY				
BA-1 FLEET BALLISTIC MISSILE SHIPS:				
TRIDENT (NUCLEAR)	1,283,600	816,700	1,196,600	1,196,600
TRIDENT (NUCLEAR) (PY TRANSFER)		(373,900)		
TRIDENT (NUCLEAR) (AP-CY)	248,200	248,200	158,100	158,100
TOTAL, BA-1 FLEET BALLISTIC MISSILE SHIPS	1,531,800	1,064,900	1,354,700	1,354,700
BA-2 OTHER WARSHIPS:				
SSN-688 CLASS SUBMARINE (NUCLEAR)	2,123,200	1,954,000	2,123,200	2,123,200
SSN-688 CLASS SUBMARINE (NUCLEAR) (PY TRANSFER)		(159,200)		
SSN-688 CLASS SUBMARINE (NUCLEAR) (AP-CY)	585,200	585,200	466,400	466,400
BATTLESHIP REACTIVATION				469,000
BATTLESHIP REACTIVATION (PY TRANSFER)		(469,000)		
BATTLESHIP REACT (AP-CY)	53,500			
BATTLESHIP REACT (AP-CY) (PY TRANSFER)			(53,500)	
CV SLEP (AP-CY)	133,400	133,400	52,000	52,000
CG-47 AEGIS CRUSIER (MYP)	133,400	133,400	57,000	52,000
CG-47 AEGIS CRUSIER (MYP) (PY TRANSFER)		(585,200)		
CG-47 AEGIS CRUSIER (MYP) (AP-CY)	14,600	14,600	14,600	14,600
DDG-51 (AP-CY)	164,300		14,700	74,000
DDG-51 (AP-CY) (PY TRANSFER)		(124,000)		
TOTAL, BA-2 OTHER WARSHIPS	5,825,800	4,745,400	5,328,800	5,857,100
BA-3 AMPHIBIOUS SHIPS:				
LSD-41 LANDING SHIP DOCK	414,400	384,500		403,400
LSD-41 LANDING SHIP DOCK (PY TRANSFER)		(18,900)	(404,600)	
LHD-1 AMPHIBIOUS ASSAULT SHIP	1,148,600	1,110,100	1,148,600	1,148,000
LHD-1 AMPHIBIOUS ASSAULT SHIP (PY TRANSFER)		(37,900)		
LHD-1 AMPHIBIOUS ASSAULT SHIP (AP-CY)	358,600	165,600	165,600	165,600
TOTAL, BA-3 AMPHIBIOUS SHIPS	1,921,600	1,660,200	1,314,200	1,717,000
BA-4 MINE WARFARE + PATROL SHIPS:				
MCM MINE COUNTERMEASURES SHIP	334,100		197,200	197,200
(PY TRANSFER)			(80,600)	
MCM MINE COUNTERMEASURES SHIP (AP-CY)		15,000		
MSH-1 COASTAL MINE HUNTER	184,500	184,500	184,500	185,500
TOTAL, BA-4 MINE WARFARE + PATROLS SHIPS	518,600	199,500	381,700	381,700
BA-5 AUXILIARIES, CRAFT + PY PROG COSTS:				
TAO FLEET OILER	278,500	197,900	262,300	178,500
TAO FLEET OILER (PY TRANSFER)		(80,600)		
TAGOS SURTASS SHIP	113,900	85,200	113,900	113,900
TAGOS SURTASS SHIP (PY TRANSFER)		(28,700)		
TAGOS SURTASS SHIP (AP-CY)	1,200		1,200	1,200
TAG ACOUSTIC RESEARCH SHIP	68,900		68,000	57,000
TAG ACOUSTIC RESEARCH SHIP (PY TRANSFER)		(40,000)		
ARTB NUCLEAR REACTOR TRAINING SHIP CONV	65,500	29,500	190,000	175,400

[In thousands of dollars]

	Budget	House	Senate	Conference
TACS CRANE SHIP (CONV)	82,500	74,000	74,000	[illegible]
TACS CRANE SHIP (CONV) (PY TRANSFER)		(8,500)	(8,500)	
TAVB (CONV)	26,900	26,900	26,900	26,900
LCAC LANDING CRAFT	276,200	276,200		276,200
(PY TRANSFER)			(276,200)	
LCAC LANDING CRAFT (AP-CY)	30,800	30,800		30,800
(PY TRANSFER)			(30,800)	
STRATEGIC SEALIFT	203,400	173,100		228,400
STRATEGIC SEALIFT (PY TRANSFER)		(55,300)	(203,400)	
SERVICE CRAFT	79,500	41,800	37,700	62,700
SERVICE CRAFT (PY TRANSFER)		(37,700)		
LANDING CRAFT	34,400		34,400	
LANDING CRAFT (PY TRANSFER)		(11,000)		
OUTFITTING	228,500	228,500	228,500	228,500
POST DELIVERY	112,600	84,000	112,600	112,600
POST DELIVERY (PY TRANSFER)		(28,600)		
COST GROWTH			97,000	97,000
TOTAL, BA-5 AUXILIARIES, CRAFT + PY PROG COSTS	1,613,800	1,220,600	1,219,500	1,771,600
INFLATION PREMIUM, [illegible]		−241,700		−112,600
TOTAL, SHIPBUILDING AND CONVERSION, NAVY	11,411,600	8,648,900	9,598,900	10,969,440
TRANSFER FROM OTHER ACCOUNTS		(2,058,500)	(1,057,600)	
TOTAL FUNDING AVAILABLE	11,411,600	10,707,400	10,656,500	10,969,440

PRIOR YEAR SAVINGS

The conferees recognize $1,999,300,000 in prior year savings in Navy Shipbuilding & Conversion. The sources and uses of these savings are identified in this Statement of the Managers under the heading "Availability of Unobligated Balances."

CG-47 AEGIS CRUISER

The conferees agree to an allowance of $2,637,900,000 to procure three CG-47 AEGIS Cruisers.

The conferees also include bill language which directs the Navy to select a second source, by the most expeditious means available, for the SPY-1 radar, AEGIS combat system components, shipyard/shipboard and production test center integration, AEGIS color graphic display systems, solid state frequency converters and propellors.

It is the conferees' intention that the necessary funds be made available for the second source selection to be fully established in order to begin competition between the current sole source contractors and the second source contractors in fiscal year 1988 provided that any such selection shall not adversely affect the CG-47 and DDG-51 shipbuilding program schedule and costs.

It is also the conferees intention that this second source procurement direction include the DDG-51 destroyer program.

DDG-51 DESTROYER

The conferees agree to an allowance of $74,000,000 for DDG-51 advance procurement. The advance procurement funds shall be available only for acquisition of components which require excessive production lead times to support early delivery of the fiscal year 1987 DDG-51 ships. The Navy is optimistic that DDG-51 construction time will be shortened compared to the CG-47 ships. Consequently the outyear budget plan should be realigned to assure compliance with the full funding policy. To the extent that future advance funding estimates exceed the amount of this allowance, the Navy should revise its budget plan to reflect full funding instead of major component incremental financing. Adoption of this financial benchmark will demonstrate the validity of estimated construction schedule improvements.

In its review of prior year funds, the conferees learned that significant cost growth could be incurred on the DDG-51 lead ship due to propulsion system price increases. As a result of testing delays on the Rankine Cycle Energy Recovery System (RACER), the ship construction schedule could slip more than a year and cost increases may be incurred in excess of 15 percent of basic construction cost. In view of the cost and schedule impact, Navy should discontinue plans for RACER installation on the lead ship. Concurrent with the ongoing RACER test program, the Navy should continue development of RACER installation plans for future Navy ship construction programs.

MCM MINE COUNTERMEASURES SHIPS

The conferees agree to the allowance of $197,200,000 for the construction of two MCM mine countermeasures ships. The conferees, in accord with the Navy's revised program, direct the Department to utilize fiscal year 1985 MCM funds to permit a three ship acquisition progam in fiscal year 1986.

T-AGOS OCEAN SURVEILLANCE SHIPS

The conferees agree to the Senate position which approves the construction of one monohull vessel and one SWATH hull vessel provided that the contract obligation for engines will be deferred until the Navy has determined which ship type has been selected for the fiscal year 1986 and 1987 construction plans.

SERVICE CRAFT

The conferees agree to the allowance of $62,700,000 for service craft programs. The conferees also agree that $25,000,000 of the allotted service craft funds is intended to be the ceiling price for the torpedo range tender which is to be designed to commercial standards. The conferees also agree that the obligation of these funds is subject to authorization approval.

STRATEGIC SEALIFT

The conferees agree to the allowance of $228,400,000 for the Strategic Sealift program. Of the amounts avilable, the Navy may use funds to reengine and modernize vessels procured. Upon enactment of legislation authorizing a "Mariner Fund" for the construction and charter of commercial vessels, the conferees agree that the Navy may charter any vessels modernized through these strategic sealift funds, provided such authority is granted. It is the conferees intent to begin the charter program as soon as possible after authorization is enacted thereby generating early revenues to the Marine Fund. Approval for modernization of vessels procured under this section should be considered an exception, not a precedent.

COST GROWTH

The conferees agree to an allowance of $97,000,000 to cover the cost overruns associated with the MCM mine countermeasures ship program as proposed by the Senate.

FFG-7 GUIDED MISSILE FRIGATE

The conferees agree to the bill language proposed by the Senate which formally completes the funding transfer of $40,000,000 to the FFG-61 program and removes the legislative restriction.

OTHER PROCUREMENT, NAVY

The Conferees agree to the following amounts for Other Procurement, Navy:

[In thousands of dollars]

	Budget	House	Senate	Conference
OTHER PROCUREMENT NAVY				
BA-1 SHIP SUPPORT EQUIPMENT				
SHIP PROPULSION EQUIPMENT				
LM-2500 GAS TURBINE	13,335	13,335	13,335	13,335

[In thousands of dollars]

	Budget	House	Senate	Conference
ALLISON 501K GAS TURBINE	15,534	15,534	15,534	15,534
LM2500 SPECIAL SUPPORT EQUIPMENT	940	940	940	940
STEAM PROPULSION IMPROVEMENT PROGRAM	6,830	6,830	6,830	6,830
OTHER PROPULSION EQUIPMENT	19,903	19,903	19,903	19,903
OTHER PROPULSION EQUIPMENT (PY TRANSFER)		(391)		
GENERATORS:				
OTHER GENERATORS	15,997	15,997	15,997	15,997
PUMPS:				
OTHER PUMPS	11,573	11,573	11,573	11,573
AIR COMPRESSORS:				
HIGH PRESSURE AIR COMPRESSOR	3,336	3,336	3,336	3,336
PROPELLERS:				
SUBMARINE PROPELLERS	3,018	3,018	3,018	3,018
OTHER PROPELLERS AND SHAFTS	11,492	11,492	10,492	10,492
NAVIGATION EQUIPMENT:				
ELECTRICALLY SUSPENDED GYRO NAVIGATOR	36,818	36,818	36,818	36,818
CARRIER NAVIGATION SYSTEM	9,499			6,296
CARRIER NAVIGATION SYSTEM (PY TRANSFER)		(6,296)		
OTHER NAVIGATION EQUIPMENT	16,070	16,070	16,070	16,070
UNDERWAY REPLENISH EQUIP:				
UNDERWAY REPLENISHMENT EQUIPMENT	8,457	8,457	8,457	8,457
PERISCOPES:				
TYPE 18 PERISCOPE	16,200	16,200	16,200	16,200
TYPE 8 PERISCOPES	143	143	143	143
PERISCOPES AND ACCESSORIES	5,399	5,399	5,399	5,399
OTHER SHIPBOARD EQUIPMENT:				
FIREFIGHTING EQUIPMENT	5,093	5,093	5,093	5,093
COMMAND AND CONTROL SWITCHBOARDS	10,585	10,585	10,585	10,585
POLLUTION CONTROL EQUIPMENT	9,286	9,286	9,286	9,286
SUBMARINE SILENCING EQUIPMENT	18,032	18,032	18,032	18,032
SURFACE SHIP SILENCING EQUIPMENT	3,379	3,379	3,379	3,379
SUBMARINE BATTERIES	8,267	8,267	8,267	8,267
STRATEGIC PLATFORM SUPPORT EQUIPMENT	56,455	56,455	56,455	56,455
DSSP EQUIPMENT	11,262	11,262	11,262	11,262
SEALIFT SUPPORT EQUIPMENT	58,972	70,972	58,972	70,972
MINESWEEPING CABLE	5,669	5,669	5,669	5,669
HM+E ITEMS UNDER 900K	10,752	10,752	10,752	10,752
SURFACE IMA	6,986	6,986	6,986	6,986
RADIOLOGICAL CONTROLS	2,317	2,317	2,317	2,317
MINI/MICROMINI ELECTRONIC REPAIR	1,028	1,028	1,028	1,028
CHEMICAL WARFARE DETECTORS	15,386	15,386	15,386	15,386
SUBMARINE LIFE SUPPORT SYSTEM	13,429			6,500
SUBMARINE LIFE SUPPORT (PY TRANSFER)		(6,500)		
HM&E ENGINEERED MAINTENANCE	8,407	8,407	8,407	8,407
REACTOR PLANT EQUIPMENT:				
REACTOR POWER UNITS	[illegible]	163,368	[illegible]	[illegible]
REACTOR COMPONENTS	227,754	227,754	227,754	227,754
OCEAN ENGINEERING:				
MAN IN THE SEA	868	868	[illegible]	868
DIVING AND SALVAGE EQUIPMENT	8,250	[illegible]	[illegible]	[illegible]
DIVING AND SALVAGE EQUIPMENT (PY TRANSFER)		(779)		
NAVAL SPECIAL WARFARE EQUIPMENT	30,797	30,797	30,797	30,797
SMALL BOATS:				
SMALL BOATS	14,777	14,777	14,777	14,777
TRAINING EQUIPMENT				
NEW SHIPS TRAINING EQUIP	19,572	19,572	19,572	19,572
OTHER SHIPS TRAINING EQUIPMENT	10,876	10,876	10,876	10,876
PRODUCTION FACILITIES EQUIPMENT				
CALIBRATION EQUIPMENT	1,052	1,052	1,052	1,052
PRODUCTION SUPPORT FACILITIES	5,794	5,794	5,794	5,794
TOTAL, BA-1 SHIP SUPPORT EQUIPMENT	922,957	910,840	[illegible]	[illegible]
BA-2 COMMUNICATIONS + ELECTRONICS EQUIPMENT				
SHIP RADARS:				
AN/SPS-67	9,207	6,138	9,207	9,207
AN/SPS-40	14,776	14,776	14,776	14,776
AN/SPS-48	67,484	67,484	67,484	67,484
AN/SPS-49	14,127	14,127	14,127	14,127
AN/SYS-()	13,073	10,648	10,648	12,256
AN/SYS-() (PY TRANSFER)		(1,608)		
MK 23 TARGET ACQUISITION SYSTEM	19,934	19,934	19,934	19,934
RADAR SUPPORT	24,989	24,989	[illegible]	[illegible]
SHIP SONARS:				
AN/SQS-26/53/53a	7,872	7,872	7,872	7,872
AN/SQS-53B	30,876	30,876	30,876	30,876
AN/BQQ-5	100,976	99,257	99,257	99,257
TB-16 TOWED ARRAY (MYP)	1,515	1,515	1,515	1,515
SURF SONAR WINDOWS AND DOMES	8,535	8,535	8,535	8,535
SONAR SUPPORT EQUIPMENT	11,843	11,843	11,843	11,843
SONAR SWITCHES AND TRANSDUCERS	40,320	[illegible]	[illegible]	40,320
SONAR SWITCHES AND TRANSDUCERS (PY TRANSFER)		(1,326)		
FBM SYSTEM SONARS	13,352	13,352	13,352	13,352
ASW ELECTRONIC EQUIPMENT:				
SUBMARINE ACOUSTIC WARFARE SYSTEMS	10,434	10,434	10,434	10,434
AN/SLQ-25 (NIXIE)	11,525	11,525	11,525	11,525
ACOUSTIC COMMUNICATIONS	411	411	411	411
SSUBMARINE ADVANCED COMBAT SYSTEM	2,849			
SOSUS	85,824	85,824	85,824	85,824
AN/SQR-17 ACOUSTIC PROCESSOR	15,249	22,049	15,249	22,049

[In thousands of dollars]

	Budget	House	Senate	Conference
AN/SQR-18 TOWED ARRAY SONAR	41,692	41,692	[illegible]	41,692
AN/SQR-15 TOWED ARRAY SONAR	1,918	1,918	1,918	1,918
AN/SQR-19 TOWED ARRAY SONAR	146,507	146,507	146,507	146,507
SURTASS	19,417	19,417	19,417	19,417
ASW OPERATIONS CENTER	30,008	27,408	27,408	[illegible]
ASW OPERATIONS CENTER (PY TRANSFER)		(200)		
CARRIER ASW MODULE	31,483	31,085	31,085	31,483
CARRIER ASW MODULE (PY TRANSFER)		(398)		
ELECTRONIC WARFARE EQUIPMENT				
AN/SLQ-32	102,377	97,337	97,337	97,337
AN/SLQ-17	14,229	14,229	14,229	14,229
AN/WLR-1	3,533	3,533	3,533	3,533
AN/WLR-8	3,011	3,011	3,011	3,011
ICAD SYSTEMS	4,822			4,822
ICAD SYSTEMS (PY TRANSFER)		(4,822)		
OFFBOARD DECEPTION DEVICES	22,163	22,163	22,163	22,163
EW SUPPORT EQUIPMENT	21,502	21,502	21,502	21,502
FLEET EW SUPPORT GROUP	1,716	1,716	1,716	1,716
C3 COUNTERMEASURES	8,458	8,458	8,458	8,458
RECONNAISSANCE EQUIPMENT				
COMBAT CRYPTOLOGIC SUPPORT CONSOLE	4,012	4,012	4,012	4,012
COMBAT DF	25,071	25,071	25,071	25,071
OUTBOARD	36,381	36,381	36,381	36,381
NAVAL INTELLIGENCE PROCESSING SYSTEM	15,624	15,624	15,624	15,624
SUBMARINE SURVEILLANCE EQUIPMENT				
AN/WLQ-4 DEPOT	5,441	5,441	5,441	5,441
AN/WLQ-4 IMPROVEMENTS	2,452	2,452	2,452	2,452
AN/BRD-7/8/9	12,774	12,774	12,774	12,774
AN/BLD-1 (INTERFEROMETER)		11,800	11,800	11,800
SUBMARINE SUPPORT EQUIPMENT PROGRAM	4,481	4,481	4,481	4,481
OTHER SHIP ELECTRONIC EQUIPMENT				
NAVY TACTICAL DATA SYSTEM	130,869	[illegible]	[illegible]	[illegible]
TACTICAL FLAG COMMAND CENTER	20,768	20,768	20,768	20,768
MINESWEEPING SYSTEM REPLACEMENT	3,494	3,494	3,494	3,494
OMEGA SHIPBOARD EQUIPMENT	1,619	1,619	1,619	1,619
NAVSTAR GPS RECEIVERS	24,763	16,525	[illegible]	[illegible]
NAVSTAR GPS RECEIVERS (PY TRANSFER)		(4,238)		
HF LINK-11 DATA TERMINALS	3,862	3,862	3,862	3,862
ARMED FORCES RADIO AND TV	6,943	6,943	6,943	6,943
STRATEGIC PLATFORM SUPPORT EQUIPMENT	193,814	193,814	193,814	193,814
TRAINING EQUIPMENT				
OTHER NAVELEX TRAINING EQUIPMENT	132	132	132	132
OTHER NAVSEA TRAINING EQUIPMENT	4,639	[illegible]	[illegible]	4,639
OTHER NAVSEA TRAINING EQUIPMENT (PY TRANSFER)		(71)		
AVIATION ELECTRONIC EQUIPMENT				
MATCALS	16,320	16,320	16,320	16,320
SHIPBOARD AIR TRAFFIC CONTROL	13,330	13,330	13,330	13,330
AUTOMATIC CARRIER LANDING SYSTEMS	9,176			
TACAN	4,831	4,831	4,831	4,831
AIR STATION SUPPORT EQUIPMENT	12,179	10,481	10,481	11,477
AIR STATION SUPPORT EQUIPMENT (PY TRANSFER)		(996)		
MICROWAVE LANDING SYSTEM	7,355			
FACSFAC	49,325	16,865	16,865	16,865
RADAR AIR TRAFFIC CONTROL	1,494	1,494	1,494	1,494
MK XII AIMS IFF	2,737	2,737	2,737	2,737
OTHER SHORE ELECTRONIC EQUIPMENT				
NAVAL SPACE SURVIELLANCE SYSTEM	3,060	3,060		
SPACE SYSTEM PROCESSING	2,133	2,133	2,133	2,133
MULTOTS	565	565	565	565
NCCS ASHORE	34,978	34,978	34,978	34,978
RADIAC	8,624	8,624	8,624	8,624
REMOTE SENSORS	1,578	1,578	1,578	1,578
GPETE	28,640	[illegible]	28,640	28,640
INTEG COMBAT SYS TEST FACILITY	5,260	5,260	5,260	5,260
CALIBRATION STANDARDS	[illegible]	[illegible]	[illegible]	[illegible]
EMI CONTROL INSTRUMENTATION	9,972	9,972	9,972	9,972
SHORE ELECTRONIC ITEMS UNDER 900K	5,142	5,142	5,142	5,142
SHIPBOARD COMMUNICATIONS				
SHIPBOARD HF COMMUNICATIONS	13,582	[illegible]	[illegible]	[illegible]
SHIPBOARD UHF COMMUNICATIONS	7,283	7,283	7,283	7,283
FLIGHT DECK COMMUNICATIONS	6,227	6,227	6,227	6,227
PORTABLE RADIOS	3,693	3,693	3,693	3,693
SHIPBOARD COMMUNICATIONS AUTOMATION	15,967	11,367	15,967	15,967
SHIP BOARD COMMUNICATIONS AUTOMATION (PY TRANSFER)		(4,600)		
SHIP COMM ITEMS UNDER $900K	7,693	7,693	7,693	7,693
SEALIFT SHIP COMMUNICATIONS	4,828	4,828	4,828	4,828
SUBMARINE COMMUNICATIONS:				
ELF COMMUNICATIONS	13,223	13,223	13,223	13,223
SHORE LF/VLF COMMUNICATIONS	19,330	19,330	19,330	19,330
VERDIN	16,096	[illegible]	16,096	[illegible]
SSN INTEGRATED COMMUNICATIONS	1,695	1,695	1,695	1,695
SUBMARINE COMMUNICATIONS ANTENNAS	15,455	15,455	15,455	15,455
DATA COLLECTION AND RECORD SYSTEM	979	979	979	979
CIRCUIT MAYFLOWER	254	254	254	254
SATELLITE COMMUNICATIONS:				
SATCOM SHIP TERMINALS	46,175	42,747	42,747	46,041
SATCOM SHIP TERMINALS (PY TRANSFER)		(3,294)		
SATCOM SHORE TERMINALS	22,902	22,902	22,902	22,902
SHORE COMMUNICATIONS:				
JCS COMMUNICATIONS EQUIPMENT	1,405	1,405	1,405	1,405

[In thousands of dollars]

	Budget	House	Senate	Conference
ELECTRICAL POWER SYSTEMS	132	132	132	132
SHORE HF COMMUNICATIONS	29,995	29,995	29,995	29,995
JOINT TACTICAL COMMUNICATIONS (TRI-TAC)	26,713	26,713	26,713	26,713
ASHORE MOBILE COMMUNICATIONS VANS	6,031	6,031	6,031	6,031
WORLDWIDE WIDEBAND COMMUNICATIONS	7,088	7,088	7,088	7,088
DEFENSE DATA NETWORK	2,783	2,783	2,783	2,783
WWMCCS COMMUNICATIONS EQUIPMENT	1,099	1,099	1,099	1,099
SHORE COMMUNICATIONS AUTOMATION	9,892	9,892	9,892	9,892
SHORE COMM ITEMS UNDER 900K	3,146	3,146	3,146	3,146
CRYPTOGRAPHIC EQUIPMENT				
SINGLE AUDIO SYSTEM	18,153	18,153	18,153	18,153
TSEC/KY-71/72 (STU-H/STU-IIM)	15,760	222	3,100	15,760
TSEC/KY-71/72 (STU-IIM) (PY TRANSFER)				
TSEC/KG-84	27,080	27,080	27,080	27,080
TSEC/KY-57/58 (VINSON)	25,017	25,017	25,017	25,017
TSEC/KYV-5 (ANDVT)	4,629	4,629	4,629	4,629
TSEC/KW-46	14,283	14,283	14,283	14,283
TSEC/KG-72/KGV-14 (FDCS)	1,363	1,363	1,363	1,363
TSEC/KG-81 (WALBURN)	5,251	5,251	5,251	5,251
TSEC/KG-44 (DMSP)	7,893	7,893	7,893	7,893
TSEC/KG-58/KGV-6 (PLRS)	9,483	9,483	9,483	9,483
TRI-TAC CRYPTO (TENLEY)	11,928	11,928	11,928	11,928
TSEC/KY-67 (BANCROFT)	13,474	13,474	13,474	13,474
TSEC/KGV-11	4,455	4,455	4,455	4,455
COMMON FILL DEVICES	1,997	1,997	1,997	1,997
SIGNAL SECURITY	1,891	1,891	1,891	1,891
CRYPTOGRAPHIC ITEMS UNDER 900K	5,500	5,500	5,500	5,500
CRYPTOLOGIC EQUIPMENT				
CRYPTOLOGIC COMMUNICATIONS EQUIPMENT	4,871	4,871	4,871	4,871
SHIPS SIGNAL EXPLOITATION SPACE	4,771	4,771	4,771	4,771
CRYPTOLOGIC ITEMS UNDER 900K	6,016	6,016	6,016	6,016
CRYPTOLOGIC RESERVES EQUIPMENT	824	824	824	824
CRYPTOLOGIC FIELD TRAINING EQUIPMENT	2,065	2,065	2,065	2,065
SHORE CRYPTOLOGIC SUPPORT SYSTEM	2,273	2,273	2,273	2,273
OTHER ELECTRONIC SUPPORT				
ADVANCE BASE FUNCTIONAL COMPONENTS	76	76	76	76
ELEC ENGINEERED MAINTENANCE (NAVSEA)	5,339	5,339	5,339	5,339
ELEC ENGINEERED MAINTENANCE (NAVELEX)	2,128	2,128	2,128	1,128
9TH BATTALION C&E EGYPT			2,000	1,000
TOTAL, BA-2 COMMUNICATIONS + ELECTRONICS EQUIPMENT	2,153,996	2,057,202	2,063,327	2,096,302
BA-3 AVIATION SUPPORT EQUIPMENT				
SONOBUOYS				
AN/SSQ-36 (BT)	2,384	2,384	2,384	2,384
AN/SSQ-53 (DIFAR)	142,954	129,154	142,954	142,954
AN/SSQ-57 (SPECIAL PURPOSE)	3,137	3,137	3,137	3,137
AN/SSQ-62 (DICASS)	27,005	27,005	27,005	27,005
AN/SSQ-77 (VLAD)	87,104	59,404	82,104	82,104
AN/SSQ-86 (DLC)	3,036	3,036	3,036	3,036
SIGNAL UNDERWATER SOUND (SUS)	1,351	1,351	1,351	1,351
LOW COST SONOBUOY	17,000	46,000	46,000	46,000
AIR LAUNCHED ORDNANCE:				
SKIPPER	27,616	27,616	27,616	27,616
GENERAL PURPOSE BOMBS	148,560	148,560	148,560	148,560
LASER GUIDED BOMB KITS	22,150		22,150	22,150
WALLEYE	37,595	37,595	37,595	37,595
ROCKEYE	8,829	8,829	8,829	8,829
ZUNI ROCKET	15,665	20,669	20,669	20,669
2.75 INCH ROCKET	27,997	27,997	27,997	27,997
PARACHUTE FLARES	2,052	7,052	2,052	2,052
MACHINE GUN AMMUNITION	27,042	21,042	13,800	13,800
PRACTICE BOMBS	76,527	60,027	60,027	60,027
CARTRIDGES + CARTRIDGE ACTUATED DEVICES	29,937	29,937	29,937	29,937
AIRCRAFT ESCAPE ROCKETS	8,055	8,055	8,055	8,055
AIRBORNE EXPENDABLE COUNTERMEASURES	91,888	91,888	82,588	82,588
MARINE LOCATION MARKERS	7,788	7,788	7,788	7,788
DEFENSE NUCLEAR AGENCY MATERIAL	2,186	2,186	2,186	2,186
BIGEYE CHEMICAL WEAPON	21,531		21,531	
JATOS	15,550	14,550	11,900	14,550
GATOR	44,662			
MISC AIR LAUNCHED ORDNANCE	186	186	186	186
WAR RESERVE MUNITIONS			75,000	50,000
AIRCRAFT SUPPORT EQUIPMENT:				
WEAPONS RANGE SUPPORT EQUIPMENT	85,854	85,854	85,854	85,854
EXPEDITIONARY AIRFIELDS	2,876	2,876	2,876	2,876
AIRCRAFT REARMING EQUIPMENT	78,995	46,995	78,995	46,995
CATAPULTS AND ARRESTING GEAR	27,463	26,087	26,087	26,087
METEOROLOGICAL EQUIPMENT	2,364	2,364	2,364	2,364
OTHER PHOTOGRAPOHIC EQUIPMENT	1,698	1,698	1,698	1,698
MISC SURVIVAL EQUIPMENT	17,705	16,817	16,817	16,817
AIRBORNE MINE COUNTERMEASURES	22,967	22,967	22,967	22,967
LAMPS MK III SHIPBOARD EQUIPMENT	42,683	42,683	42,683	42,683
REWSON PHOTOGRAPHIC EQUIPMENT	2,393	2,393	2,393	2,393
STOCK SURVEILLANCE EQUIPMENT	2,256	2,256	2,256	2,256
OTHER AVIATION SUPPORT EQUIPMENT	3,089	3,089	3,089	3,089
MOBILE VAN AMLM SPT. UNIT		4,300		4,300
TOTAL, BA-3 AVIATION SUPPORT EQUIPMENT	1,184,018	1,040,711	1,204,600	1,133,019

[In thousands of dollars]

	Budget	House	Senate	Conference
BA-4 ORDNANCE SUPPORT EQUIPMENT				
SHIP GUN AMMUNITION				
5 /38 GUN AMMUNITION	4,490	4,490	4,490	4,490
5 /54 GUN AMMUNITION	67,018	67,018	67,018	67,018
5 INCH GUIDED PROJECTILE	104,294	104,294	104,294	104,294
16 INCH GUN AMMUNITION	7,940	2,940	2,940	2,940
CIWS AMMUNITION	35,247	35,247	35,247	35,247
76MM GUN AMMUNITION	17,343	17,343		
OTHER SHIP GUN AMMUNITION	18,445	17,745	17,745	17,745
SHIP GUN SYSTEM EQUIPMENT				
GUN FIRE CONTROL EQUIPMENT	34,709	34,709	34,709	34,709
COAST GUARD GUN SYSTEM	28,801	28,801	28,801	28,801
SHIP MISSILE SYSTEMS EQUIPMENT				
MK 92 FIRE CONTROL SYSTEM	2,856	2,856	2,856	2,856
HARPOON SUPPORT EQUIPMENT	17,999	17,999	17,999	17,999
TERRIER SUPPORT EQUIPMENT	112,060	112,060	112,060	112,060
TARTAR SUPPORT EQUIPMENT	106,833	106,833	106,833	106,833
POINT DEFENSE SUPPORT EQUIPMENT (MYP)	43,842	43,842	11,842	11,842
AIRBORNE ECM/ECCM	1,044	1,044	1,044	1,044
AEGIS SUPPORT EQUIPMENT	61,785	61,785	61,785	61,785
SURFACE TOMAHAWK SUPPORT EQUIPMENT	86,572	86,572	86,572	86,572
SUBMARINE TOMAHAWK SUPPORT EQUIPMENT	19,021	19,021	19,021	19,021
VERTICAL LAUNCH SYSTEM	127,372	127,372	127,372	127,372
FBM SUPPORT EQUIPMENT				
STRATEGIC PLATFORM SUPPORT EQUIPMENT	[illegible]	[illegible]	[illegible]	[illegible]
ASW SUPPORT EQUIPMENT				
MK 117 FIRE CONTROL SYSTEM	[illegible]	[illegible]	[illegible]	[illegible]
SUBMARINE ASW SUPPORT EQUIPMENT	25,724	25,724	25,724	25,724
SURFACE ASW SUPPORT EQUIPMENT	20,810	20,810	20,810	20,810
MK 116 FIRE CONTROL SYSTEM	25,652	25,652	25,652	25,652
ASW RANGE SUPPORT EQUIPMENT	7,035	7,035	7,035	7,035
OTHER ORDNANCE SUPPORT EQUIPMENT				
EXPLOSIVE ORDNANCE DISPOSAL EQUIP	11,043	8,436	[illegible]	10,125
EXPLOSIVE ORDNANCE DISPOSAL EQUIP (PY TRANSFER)		(1,689)		
SWIMMER WEAPONS SYSTEMS	1,151	1,151	1,151	1,151
UNMANNED SEABORNE TARGET	7,786	7,786	7,786	7,786
ANTI-SHIP MISSILE DECOY SYSTEMS	4,606	4,606	4,606	4,606
CALIBRATION EQUIPMENT	3,276	3,276	3,276	3,276
STOCK SURVEILLANCE EQUIPMENT	2,109	2,109	2,109	2,109
OTHER ORDNANCE TRAINING EQUIPMENT	1,492	1,492	1,492	1,492
OTHER EXPENDABLE ORDNANCE				
SMALL ARMS AND LANDING PARTY AMMO	18,768	18,768	18,768	18,768
PYROTECHNIC AND DEMOLITION MATERIAL	25,491	25,491	25,491	25,491
QUICKSTRIKE	50,482		35,679	39,679
(PY TRANSFER)		(35,679)		
FLEET MINE SUPPORT EQUIPMENT	25,184	25,184	25,184	25,184
MINE NEUTRALIZATION DEVICES	3,208	3,208	3,208	3,208
DEFENSE NUCLEAR AGENCY MATERIAL	7,892	7,892	7,892	7,892
SHIPBOARD EXPENDABLE COUNTERMEASURES	33,191	33,191	33,191	33,191
WAR RESERVE MUNITIONS			25,000	25,000
TOTAL, BA-4 ORDNANCE SUPPORT EQUIPMENT	1,396,511	1,337,722	1,349,058	1,349,747
BA-5 CIVIL ENGINEERING SUP EQUIPMENT				
CIVIL ENGINEERING SUPPORT EQUIPMENT				
PASSENGER CARRYING VEHICLES	10,059	10,059	10,059	10,059
ARMORED SEDANS	95	95	95	95
TRUCKS	38,126	38,126	38,126	38,126
TRAILERS	4,043	4,043	4,043	4,043
CRUSH, MIX, BATCH, PAVE EQUIPMENT	4,673	4,673	4,673	4,673
DRILLING AND BLASTING EQUIPMENT	2,654	2,654	2,654	2,654
EARTH MOVING EQUIPMENT	11,430	11,430	11,430	11,430
LIGHTING AND POWER GENERATING EQUIP	3,513	3,513	3,513	3,513
MISC CONSTRUCTION AND MAINTENANCE EQUIP	3,541	3,541	3,541	3,541
FIRE FIGHTING EQUIPMENT	7,093	7,093	7,093	7,093
WEIGHT HANDLING EQUIPMENT	13,241	13,241	13,241	13,241
AMPHIBIOUS EQUIPMENT	72,998	72,998	72,998	72,998
COMBAT CONSTRUCTION SUPPORT EQUIPMENT	9,521	9,521	9,521	9,521
MOBILE UTILITIES SUPPORT EQUIPMENT	2,928	2,928	2,928	2,928
FLEET MOORINGS	7,336	7,336	7,336	7,336
POLLUTION CONTROL EQUIPMENT	2,653	2,653	2,653	2,653
FLEET HOSPITALS	27,654	27,654	27,654	27,654
9TH BATTALION EGYPT			11,000	11,000
TOTAL, BA-5 CIVIL ENGINEERING SUP EQUIPMENT	221,558	221,558	232,558	232,558
BA-6 SUPPLY SUPPORT EQUIPMENT				
SUPPLY SUPPORT EQUIPMENT				
FORKLIFT TRUCKS	9,064	9,064	9,064	9,064
OTHER MATERIALS HANDLING EQUIPMENT	3,326	3,326	3,326	3,326
AUTOMATED MATERIALS HANDLING SYSTEMS	12,917	12,917	12,917	12,917
POLLUTION CONTROL EQUIPMENT	2,288	2,288	2,288	2,288
SPECIAL PURPOSE SUPPLY SYSTEMS	34,900	31,322	31,322	31,322
TOTAL, BA-6 SUPPLY SUPPORT EQUIPMENT	62,495	58,917	58,917	58,917
BA-7 PERSONNEL AND COMM SUPPORT EQUIPMENT				
TRAINING DEVICES				
SURFACE SONAR TRAINERS	40,492	40,492	40,492	40,492
SUBMARINE SONAR TRAINERS	6,923	6,923	6,923	6,923
SURFACE COMBAT SYSTEM TRAINERS	23,694	23,694	23,694	23,694

[In thousands of dollars]

	Budget	House	Senate	Conference
SUBMARINE COMBAT SYSTEM TRAINERS	11,916	11,916	11,916	11,916
SHIP SYSTEM TRAINERS	15,268	15,268	15,268	15,268
TRAINING SUPPORT EQUIP	2,353	2,353	2,353	2,353
TRAINING DEVICE MODIFICATIONS	[illegible]	[illegible]	[illegible]	[illegible]
COMMAND SUPPORT EQUIPMENT				
MEDICAL SUPPORT EQUIPMENT	17,223	17,223	105,623	61,423
INTELLIGENCE SUPPORT EQUIPMENT	[illegible]	53,021	53,021	53,021
ITEMS UNDER 900K	1,218	1,218	1,218	1,218
OCEANOGRAPHIC SUPPORT EQUIPMENT			14,000	14,000
PHYSICAL SECURITY EQUIPMENT	17,226	17,226	17,226	17,226
COMPUTER ACQUISITION PROGRAM				
COMPUTER ACQUISITION PROGRAM	176,523	176,523	176,523	176,523
PRODUCTIVITY PROGRAMS				
PRODUCTIVITY INVESTMENT FUND (PIF)	3,420	3,420	3,420	3,420
TOTAL, BA-7 PERSONNEL AND COMM SUPPORT EQUIPMENT	379,827	375,943	478,343	434,143
BA-8 SPARES & REPAIR PARTS				
SPARES AND REPAIR PARTS	279,838	279,838	279,838	279,838
UNDISTRIBUTED REDUCTION		−495,000		−250,000
NON-CENTRALLY MANAGED ITEMS		125,300	125,300	125,300
INFLATION REESTIMATES FOR FY86		−6,000	−6,000	−6,000
PRIOR YEAR INFLATION SAVINGS		−168,000	−168,000	
(PY TRANSFER)		(168,000)	(168,000)	
PRIOR YEAR PROGRAM SAVINGS		−56,337	−53,000	
(PY TRANSFER)		(56,337)	(53,000)	
TOTAL, OTHER PROCUREMENT NAVY	6,601,200	5,682,694	6,463,560	6,377,630
TRANSFER FROM OTHER ACCOUNTS		(312,762)	(221,000)	
TOTAL FUNDING AVAILABLE	6,601,200	5,995,456	6,684,560	6,377,630

PRIOR YEAR SAVINGS

The conferees recognize $276,483,000 in prior year savings in Navy other Procurement. The sources and uses of these savings are identified in this Statement of the Managers under the heading "Availability of Unobligated Balances."

AN/SPS-67

The conferees direct the Navy to maximize savings in this program by beginning competitive procurement in fiscal year 1987.

AN/SQR-19 TOWED ARRAY SONAR

The conferees direct the Navy to conclude its testing of both versions of AN/SQR-19 systems currently being designed or produced to determine the acceptability of these towed array systems as soon as possible. Based on these determinations, the Navy should then proceed with its competitive procurement of the fiscal year 1986 AN/SQR-19 program.

NAVAL RESERVE ON-BOARD TRAINER

The conferees agree to the House position which provides $6,800,000 to procure three shipboard antisubmarine warfare training systems service test models of a modification to the AN/SQR-17A to provide onboard training capability for Naval Reserve Force ships. This procurement action should include the development of a technical data package in order that follow-on production can be competitively procured.

SQQ-89 ACOUSTIC VIDEO GENERATORS

The conferees are totally dissatisfied with the egregiously inadequate progress toward establishing competition for this equipment. The conferees expect full and immediate compliance with the December 11, 1985 Assistant Secretary of the Navy (Shipbuilding and Logistics) memorandum to the Commander, Naval Sea Systems Command which directs that an industry brief be made no later than the week of January 27, 1986; that Draft specifications be issued to industry for review prior to the aforementioned industry briefing; that contract award be made no later than September 1, 1986 and the procurement strategy include development of a second source.

The conferees agree in principle with the above mentioned memorandum direction. However, based upon the Department's failure to comply with the conferees' direction of fiscal year 1985, the conferees remain skeptical. Accordingly, the conferees additionally direct that the specifications for this program be reviewed simultaneously by both industry and the Specification Advocate General. Additionally, the conferees direct the contract award scheduled for September 1, 1986, include both the leader and the follower (second source).

Although the conferees agree not to place restrictions on the procurement of the SQQ-89, the conferees intend to closely monitor this program during the course of fiscal year 1986. Hopefully, this issue will be resolved and not have to be resurrected as it was during this year's appropriations process.

MK-92 UPGRADE (CORT)

The conferees agree that the Navy should proceed with MK-92 CORT upgrade production for the FFG-7 class frigate. Concurrent with the FFG-61 procurement, the Navy should proceed with both its test and evaluation plan and the contract option for six backfit alterations valued at a warranted fixed price of $9,000,000 per unit excluding spares and Navy support costs. Funds appropriated for this section are adequate to fund this program in fiscal year 1986.

SONOBUOYS

The conferees agree to the AN/SSQ-53 and AN/SSQ-77 sonobuoy funding as proposed by the Senate which includes $36,500,000 in "industrial surge" capability.

The conferees agree to the use of industrial surge for this program as an exception to their general belief that industrial surge should be used sparingly and only in special situations. The limited shelf life of these sonobuoys persuades the conferees that establishing the surge capability is a reasonable alternative to building war reserve inventories.

QUICKSTRIKE MINE

The conferees agree to an allowance of $39,679,000 for the Quickstrike mine program. The conferees commend the Navy's efforts to substantially reduce Quickstrike program costs through competition. In an effort to capitalize on these savings, the conferees agree to an appropriation of funds which will provide for the procurement of Quickstrike mines above the fiscal year 1986 budget request. In that regard, the conferees direct the Department to procure, with the funding provided, as many Quickstrike mines as possible by either renegotiating and exercising current contract options, since larger quantities are involved, or revising the current procurement strategy to obtain the most efficient and cost effective procurement.

COASTAL DEFENSE AUGMENTATION

The conferees agree to an appropriation of $235,000,000 for procurement of vessels, aircraft, and equipment to be acquired by the Navy to augment the Coast Guard inventory. Funds shall be available for such procurements as determined by the Coast Guard, but shall include the following items:

The conferees agree that the Navy should

Program	Quantity	Amount
Medium range recovery helicopter	2	$25,400,000
Bouy tender service life extension	3	42,000,000
C-130 aircraft	2	36,000,000
140 foot icebreaking tug	1	20,000,000
Forward looking airborne radar/C-130 modification	18	34,600,000
110 foot patrol boats to replace 95 foot PB's	12	77,000,000
Total Coastal Defense Augmentation		$235,000,000

Additional funds as may be required are to be derived by reprogramming from unobligated balances of appropriations available to the Coast Guard.

The Navy should consider the procedure outlined in the Senate report pertaining to the use of this account in the future for the budgeting of alterations to Coast Guard aircraft, vessels, and equipment rather than the Navy other procurement account.

As reflected in the Navy Operation and Maintenance section, the conferees agree to $100,000,000, for Coast Guard Operating Expenses as recommended by the House. However such sums shall be paid by the Navy for expenses related to training of the Coast Guard and maintenance by the Coast Guard of equipment which would be available to carry out missions determined by the Navy to be necessary in the event of hostilities.

PROCUREMENT, MARINE CORPS

The Conferees agree to the following amounts for Procurement, Marine Corps:

[In thousands of dollars]

	Budget	House	Senate	Conference
PROCUREMENT, MARINE CORPS				
Ammunition				
LINEAR CHARGES:				
LINEAR CHARGE HE C4/TRLR	3,194	3,194	3,194	3,194
SMALL ARMS AMMUNITION:				
CTG 5.56MM BALL M855	[illegible]	[illegible]	[illegible]	[illegible]
CTG 5.56MM TRACER M856	741	741	741	741
CTG 9MM BALL XM882	[illegible]	643	643	643
MACHINE GUN AMMO:				
CTG 5.56MM LINKED M855	[illegible]	[illegible]	[illegible]	5,958
CTG 25MM APDS-T M791	3,049	3,049	3,049	3,049
CTG 25MM HEI-T M792	6,053	6,053	6,053	[illegible]
CTG 40MM LINKED M430	15,320	15,320	15,320	15,320
CTG 7.62MM LINKED M80	4,552	4,552	4,552	4,552
MORTAR AMMUNITION:				
CTG 60MM HE M888	11,662	11,662	11,662	11,662
CTG 60MM SMOKE WP M302	1,321	1,321	1,321	1,321
CTG 81MM HE M374	[illegible]	[illegible]	[illegible]	[illegible]
GRENADES:				
GRENADE SMOKE SCREEN L8A3	1,160	1,160	1,160	1,160
SIGNAL ILLUM WSP M127	1,042	1,042	1,042	1,042
ROCKETS:				
ROCKET SMAW	52,431	52,431	52,431	52,431
ROCKET 5 INCH MOTOR	4,075	4,075	4,075	4,075
LIGHT ANTI ARMOR WEAPON XM	733	733	733	733
TRAINING AMMUNITION:				
CTG 25MM TP-T M793	4,835	4,835	4,835	4,835
ROCKET 83MM PRACTICE	13,405	13,405	13,405	13,405
CTG 5.56MM BLANK LKD (F/SAW) M200	3,258	3,258	3,258	3,258
CTG 5.56MM BLANK M200	3,052	3,052	3,052	3,052
CTG 7.62MM BLANK LINKED	1,993	1,993	1,993	1,993
CTG 105MM TPDS-T M724	2,423	2,423	2,423	2,423
155MM AMMUNITION:				
PROJ 155MM ADAM-L M692	38,872	38,872	38,872	38,872
PROJ 155MM ADAM-S M731	41,835	41,835	41,835	41,835
PROJ 155MM RAAMS-L M718	13,960	13,960	13,960	13,960
PROJ 155MM RAAMS-S M741	15,645	15,645	15,645	15,645
PROJ 155MM SMK WP SCREENING	9,324	9,324	9,324	9,324
CHARGE PROP 155MM WHITE BAG M4A2	[illegible]	25,830	25,830	25,830
PROJ 155MM HE ICM (DP)M483	55,218	55,218	55,218	55,218
CHARGE PROP 155MM GREEN BAG M3A1	5,277	5,277	5,277	5,277
CHARGE PROP 155MM RED BAG M119A2	[illegible]	[illegible]	[illegible]	[illegible]
GENERAL INCREASE		[illegible]	[illegible]	25,000
ANTI-ARMOR AMMUNITION:				
COPPERHEAD, 155MM PROJ	52,100	45,400	52,100	52,100
8 INCH AMMUNITION:				
PROJ 8 INCH ICM	11,238	11,238	11,238	11,238
FUZES:				
FUZE MECHANICAL TIME M577	19,615	19,615	19,615	19,615
FUZE MECHANICAL TIME M582	1,770	1,770	1,770	1,770
PRIMER PERCUSSION M82	1,569	1,569	[illegible]	1,569
FUZE PD M739A1	[illegible]	[illegible]	[illegible]	[illegible]
AMMO MODERNIZATION	5,718	5,718	5,718	5,718
OTHER SUPPORT:				
ITEMS LESS THAN $900,000	3,123	3,123	3,123	3,123
TOTAL, AMMUNITION	488,918	507,218	513,918	513,918
Weapons and Tracked Combat Vehicles				
TRACKED COMBAT VEHICLES:				
MODIFICATION KITS	1,093	1,093	1,093	1,093
M60 MINE PLOW	4,430		4,430	
GENERAL REDUCTION		−4,900		
(PY TRANSFER)		(4,900)		
RECOVERY VEHICLE	4,544	4,544	4,544	4,544
ARMORED VEHICLE LAUNCHED BRIDGE	8,640	[illegible]	[illegible]	8,640
ITEMS LESS THAN $900,000	1,479	1,479	1,479	1,479
ARTILLERY AND OTHER WEAPONS:				
BATTERY COMPUTER SYSTEM AN/GYK-29	32,345	32,345	32,345	32,345
M198 HOWITZER, MEDIUM, TOWED 155MM	21,001	28,001	28,001	28,001
ITEMS LESS THAN $900,000	1,869	[illegible]	1,869	1,869
WEAPONS:				
PERSONAL DEFENSE WEAPON (9MM)	2,970	2,970	2,970	2,970
MACHINE GUN, LIGHT, SQUAD, AUTO (SAW)	3,292			
GENERAL REDUCTION		−3,056	−3,056	
(PY TRANSFER)		(3,056)	(3,056)	
M16A2 RIFLE 5.56MM	14,093	14,093	14,093	14,093
MK-19 MACHINE GUN, 40MM	1,000	[illegible]	1,000	1,000
LOB EQUIPMENT	717	717	717	717
83MM LAUNCHER ASSAULT ROCKET (SMAW)	4,676	4,676	4,676	4,676

[In thousands of dollars]

	Budget	House	Senate	Conference
TOTAL, WEAPONS AND TRACKED COMBAT VEHICLES	102,149	93,471	[illegible]	101,427
Guided Missiles and Equipment				
GUIDED MISSILES:				
HAWK	139,976	139,976	139,976	139,976
HAWK MOD	[illegible]	[illegible]	39,078	[illegible]
STINGER	59,397	59,397	[illegible]	59,397
TOW	44,505	44,505	[illegible]	39,505
OTHER SUPPORT				
MODIFICATION KITS	712	712	712	712
TOTAL GUIDED MISSILES AND EQUIPMENT	283,668	283,668	[illegible]	[illegible]
Communications and Electronics				
[illegible]:				
MANPACK RADIOS AND EQUIPMENT	12,656	12,656	12,656	12,656
VEHICLE MOUNTED RADIOS AND EQUIPMENT:				
VEHICLE MTD RADIOS AND EQUIP	10,592	10,592	10,592	10,592
TELEPHONE AND TELETYPE EQUIPMENT				
UNIT LEVEL CIRCUIT SWITCH (UCLS)	18,600	12,600	11,950	12,600
UNIT LEVEL CIRCUIT SWITCH (ULCS) (PY TRANSFER)		(7,000)		
ULCS LIFE CYCLE SUPPORT	17,053		7,453	15,361
ULCS LIFE CYCLE SUPPORT (PY TRANSFER)		(11,761)		
AN/TGC-() TACTICAL COMM CENTER	3,970	3,970	3,970	3,970
REPAIR AND TEST EQUIPMENT				
AN/USM-323 ELECTRONIC GENERATOR SIGNAL	5,580	5,580	5,580	5,580
SHOP SETS ELECTRONIC	5,306	5,306	5,306	5,306
AUTOMATIC TEST EQUIPMENT SYSTEM	5,186	5,186	5,186	5,186
ELECTRONIC TEST EQUIPMENT	1,000	1,000	1,000	1,000
OTHER COMM/ELEC EQUIPMENT				
PP-7333 POWER SUPPLY	3,813	3,813	3,813	3,813
AN/GXC-7A FACSIMILE SET	6,725	6,725	6,725	6,725
[illegible]	1,513	1,513	1,513	1,513
OTHER SUPPORT (TEL)				
TEST CALIBRATION AND MAINT SUPPORT	1,000	1,000	1,000	
MODIFICATION KITS	3,600	3,600	3,600	3,600
ITEMS LESS THAN $900,000	927	927	927	927
COMMAND AND CONTROL SYSTEMS (NON-TEL):				
POSITION LOCATION REPORTING SYS (PLRS)	59,084	59,084	59,084	[illegible]
TACTICAL AIR OPS MODULE (TAOM)	[illegible]	75,300	75,300	75,300
RADAR AND EQUIPMENT (NON-TEL):				
AN/TPS-59 DECOY	9,109	9,109	9,109	9,109
AN/PPN-19 RADAR TRANSPONDER BEACON	13,192	13,192	13,192	13,192
INTELL/COMM EQUIPMENT (NON-TEL)				
REMOTE SENSOR EQUIPMENT	691	691	691	691
AN/TMQ-31 METEROLOGICAL DATA SYSTEM (MDS)	13,338	13,338	13,338	13,338
REPAIR AND TEST EQUIPMENT (NON-TEL):				
ELECTRONIC TEST EQUIPMENT	1,000	1,000	1,000	[illegible]
OTHER COMM/ELEC EQUIPMENT (NON-TEL)				
AN/TAS-4 NIGHT VISION SIGHT (TOW)	10,473	10,473	10,473	10,473
PRODUCTIVITY INVESTMENT	516	516	516	516
AUTOMATED DATA PROCESSING EQUIPMENT	15,016	15,016	15,016	15,016
OTHER SUPPORT (NON-TEL)				
TEST CALIBRATION AND MAINT SUPPORT	1,582	1,582	1,582	1,582
MODIFICATION KITS	8,433	8,433	8,433	8,433
ITEMS LESS THAN $900,000	[illegible]	[illegible]	[illegible]	388
TOTAL, COMMUNICATIONS AND ELECTRONICS	316,643	[illegible]	282,393	297,951
Support Vehicles				
ADMINISTRATIVE VEHICLES				
COMMERCIAL PASSENGER VEHICLES	2,702	2,702	2,702	2,702
COMMERCIAL CARGO VEHICLES	21,121	20,121	21,121	20,121
TACTICAL VEHICLES				
HIGH MOB MULTI-WHEELED VEH (HMMWV) (MYP)	121,666	121,666	121,666	121,666
AIR-CRASH FIRE & RESCUE VEH	1,006	1,006	1,006	[illegible]
TRUCKS 5-TON (ALL TYPES)	[illegible]	[illegible]	[illegible]	[illegible]
5 TON RETROFIT	17,878	17,878	17,878	17,878
LOGISTICAL VEHICLE SYSTEM (LVS)	71,440	69,520	69,520	[illegible]
TRAILERS (ALL TYPES)	10,544	10,544	10,544	10,544
LUBRICATING AND SERVICING UNIT POWER	2,018	2,018	2,018	2,018
OTHER SUPPORT				
MODIFICATION KITS	4,339	4,339	4,339	4,339
ITEMS LESS THAN $900,000	1,410	1,410	1,410	1,410
TOTAL, SUPPORT VEHICLES	293,813	[illegible]	291,893	[illegible]
Engineer and Other Equipment				
ENGINEER AND EQUIPMENT:				
ENVIRONMENTAL CONTROL EQUIP	2,653	2,653	2,653	2,653
MOTORIZED ROAD GRADER	8,370	8,370	8,370	8,370
TRACTORS (ALL TYPES)	[illegible]	[illegible]	17,560	17,560
RUNAWAY SWEEPER, VACUUM	2,268	2,268	[illegible]	[illegible]
SHOP EQUIP, GEN PUR, REPAIR, SEMI-TRLR	1,729	1,729	1,729	1,729
CONTAINER HANDLER, RT 50,0000LB	7,729	7,729	7,729	7,729
CH-53E HELICOPTER SLING	953	[illegible]	[illegible]	[illegible]
FORKLIFTS (ALL TYPES)	11,090	11,090	11,090	11,090
BATH SHOWER UNIT EXPEDITIONARY FIELD	2,349	2,349	2,349	2,349
REFRIGERATION UNIT, F/RIGID BOX	1,212	1,212	1,212	1,212

[In thousands of dollars]

	Budget	House	Senate	Conference
[illegible]	1,364	1,364	1,364	1,364
WATER PURIFICATION UNIT REV OSMOSIS	20,612	20,612	20,612	20,612
FUEL, WATER, PUMP AND STORAGE MODULE	4,168	4,168	4,168	4,168
FUEL SYS AMPHB ASSAULT 60,000 GAL	5,882	5,882	5,882	5,882
HELICOPTER EXPEDIENT REFUELING SYSTEM	652	652	652	652
BOAT BRIDGE ERECTION	5,220	5,220	5,220	5,220
MEDIUM GIRDER BRIDGE	11,122	11,122	11,122	11,122
POWER EQUIPMENT ASSORTED	8,526	8,526	8,526	8,526
ELECTRICAL POWER DISTRIBUTION SYSTEM	9,022	9,022	9,022	9,022
MATERIALS HANDLING EQUIPMENT				
COMMAND SUPPORT EQUIPMENT	[illegible]	[illegible]	[illegible]	788
GARRISON MOBILE ENGINEER EQUIP	6,331	6,331	6,331	6,331
TELEPHONE SYSTEM	4,300	4,300	4,300	4,300
MATERIEL HANDLING EQUIPMENT	1,509	1,509	1,509	[illegible]
GENERAL PROPERTY				
TRN DEVICES (AUDIO VISUAL)	1,635	1,635	1,635	1,635
TRN DEVICES (SIMULATORS)	10,408	10,408	10,408	10,408
SHELTER FAMILY	17,575	17,575	17,575	17,575
CONTAINER FAMILY	[illegible]	[illegible]	[illegible]	[illegible]
CHEMICAL ALARM SYSTEM	1,872	1,872	1,872	1,872
DECONTAMINATING APPARATUS	1,201	1,201	1,201	1,201
SANITATION SET, FIELD KITCHEN	1,166	1,166	1,166	1,166
OTHER SUPPORT				
MODIFICATION KITS	2,764	2,764	2,764	2,764
ITEMS LESS THAN 900,000	3,477	3,477	3,477	3,477
TOTAL, ENGINEER + OTHER EQUIPMENT	185,476	185,476	182,476	182,476
SPARES AND REPAIR PARTS	56,133	56,133	56,133	56,133
NON-CENTRALLY MANAGED ITEMS		9,700	9,700	9,700
INFLATION REESTIMATES FOR FY86		−2,000	−2,000	−2,000
INFLATION PREMIUM, FY 86		−37,400	−	−17,578
PRIOR YEAR PROGRAM SAVINGS		−28,000	−28,000	
(PY TRANSFER)		(28,000)	(28,000)	
FY85 INFLATION FAIRNESS ADJUSTMENT		−31,000		−31,000
(PY TRANSFER)		(31,000)		
TOTAL, PROCUREMENT, MARINE CORPS	1,726,800	1,610,749	1,689,982	[illegible]
TRANSFER FROM OTHER ACCOUNTS		(85,717)	(31,056)	
TOTAL FUNDING AVAILABLE	1,726,800	1,696,466	1,721,038	[illegible]

PRIOR YEAR SAVINGS

The conferees recognize $47,717,000 in prior year savings in Marine Corps Procurement. The sources and uses of these savings are identified in this Statement of the Managers under the heading "Availability of Unobligated Balances."

UNIT LEVEL CIRCUIT SWITCHES (ULCS)

The conference agreement provides $15,361,000 in Procurement, Marine Corps, and $6,200,000 in Other Procurement, Air Force for only 4 baseline first article AN/TTC-42 switches and associated first article production and test costs. The conferees direct that no other TTC-42's be funded in fiscal year 1986, and that further procurement of this switch should await successful completion of first article testing. The conference agreement also provides for procurement of the SB-3865 for the Army, Air Force, and Marine Corps as budgeted.

The conferees direct the Department of Defense to report to the Defense Appropriations Subcommittees on the systems competitively selected for procurement as the unit level circuit switches. This report, on the basis of contract award, should also outline the outyear procurement program and rationalize any differences from the Department's switch architecture report as requested by the House.

81MM MORTAR AMMUNITION

The conferees are in agreement with Senate report language allowing procurement of both the Improved 81mm high explosive mortar ammunition and the older version.

AIRCRAFT PROCUREMENT, AIR FORCE

The conferees agree to the following amounts for Aircraft Procurement, Air Force.

[In thousands of dollars]

	Budget	House	Senate	Conference
AIRCRAFT PROCUREMENT, AIR FORCE				
Combat Aircraft				
ACM INTEGRATION	122,800	100,000	100,000	100,000
B-1B (MYP)	5,461,800	4,861,800	5,261,800	5,161,800
(PY TRANSFER)		(300,000)		
TACTICAL FORCES:				
F-15 C/D/ E	1,902,900	1,757,300	1,757,300	1,757,300
F-15 C/D/E (PY TRANSFER)		(2,300)		
F-15 C/D/E (AP-CY)	236,000	210,000	210,000	210,000
F-16 C/D/ (MYP)	2,386,700	2,485,100	2,583,500	2,596,400
F-16 (MYP) (PY TRANSFER)		(66,300)		
F-16 C/D/ (MYP) (AP-CY)	553,100	553,100	535,700	535,700
AIR DEFENSE COMPETITION		200,000	200,000	200,000
OTHER COMBAT AIRCRAFT				
KC-10A (ATCA) (MYP))	238,800	191,300	[illegible]	[illegible]
KC-10A (ATCA) (MYP) (PY TRANSFER)		(18,600)		
KC-10A (ATCA) (MYP) (AP-CY)	208,200	184,500	208,200	226,800
(PY TRANSFER)			(18,600)	
MC-130H	73,600	55,000	55,000	55,000
MC-130H (AP-CY)	5,900	5,900	5,900	5,900
TOTAL, COMBAT AIRCRAFT	11,639,800	10,604,000	11,116,200	11,053,700

	Budget	House	Senate	Conference
Airlift/Tanker Aircraft				
STRATEGIC AIRLIFT:				
C-5B	1,942,100	1,587,900	1,840,100	1,809,300
C-5B (PY TRANSFER)		(85,600)		
3C-5B (AP-CY)	326,000	311,900	326,000	326,000
Tactical Airlift				
OTHER AIRLIFT:				
C-20A	[illegible]	154,000		154,000
(PY TRANSFER)			(160,800)	
TOTAL, AIRLIFT/TANKER AIRCRAFT	2,436,900	2,053,800	2,166,100	2,289,300
Trainer Aircraft				
UPT TRAINERS:				
T-46A (NGT)	142,800	125,300		130,600
T-46A (GT) (PY TRANSFER)		(5,300)	(125,300)	
T-46A (NGT) (AP-CY)	63,300	63,300		63,300
(PY TRANSFER)			(63,300)	
TOTAL, TRAINER AIRCRAFT	206,100	188,600		193,900
Other Aircraft				
HELICOPTERS:				
HH-60	94,300	93,400	73,000	95,000
HH-60 (AP-CY)	22,000	12,000	12,000	12,000
MISSION SUPPORT AIRCRAFT:				
AIR FORCE ONE REPLACEMENT				280,000
AF ONE REPLACEMENT (PY TRANSFER)			(280,000)	
AC-130H DRUG INTERDICTION AIRCRAFT				[illegible]
AEROSTAT REPLACEMENT			4,500	
AURORA	80,100			
TR-1/U-2	343,900	300,200	190,654	300,200
TR-1/U-2 (AP-CY)		9,000	9,000	9,000
TOTAL, OTHER AIRCRAFT	[illegible]	414,600	[illegible]	[illegible]
Modification on In-Service Aircraft				
SATRATEGIC AIRCRAFT:				
B-52	463,600	416,500	459,500	451,200
B-52 (PY TRANSFER)		(8,000)		
Fb-111	13,200	13,200	13,200	13,200
B-1b	5,100			31,400
TACTICAL AIRCRAFT:				
A-7	3,400	3,400	81,400	60,000
A-10	87,800	74,200	72,000	72,000
A-10 (PY TRANSFER)		(3,500)		
F/RF-4	174,200	168,200	194,300	190,100
F/RF-4 (PY TRANSFER)		(3,700)		
F-5	25,732	25,732	25,732	25,732
F-15	141,800	141,800	141,000	141,000
F-16	73,700	54,900	52,300	52,300
F-16 (PY TRANSFER)		(9,400)		
F-111	294,500	294,500	294,50	295,500
TR-1A	11,700	11,700	11,700	11,700
AIRLIFT AIRCRAFT:				
C-5	9,800	9,800	9,800	9,800
C-141	2,100	2,100	2,100	2,100
TRAINER AIRCRAFT:				
T-38	40,100	26,400	36,200	36,200
OTHER AIRCRAFT:				
KC-10A (ATCA)	4,300	1,000	1,000	1,000
C-12	5,000	5,000	5,000	5,000
C-130	201,000	201,300	191,000	200,700
C-130 (PY TRANSFER)		(8,800)		
C-135	868,100	852,500	852,500	852,500
E-3	33,400	33,400	33,400	33,400
E-4	20,400	20,100	20,100	20,100
HH-53 AIRCRAFT	26,400	76,400	51,400	76,400
OTHER AIRCRAFT	133,200	133,200	133,200	133,200
ACP COMM UPGRADE			50,000	50,000
OTHER MODIFICATIONS:				
CLASSIFIED PROJECTS	144,385	112,385	112,385	112,385
CIVIL RESERVE AIRLIFT FLEET (CRAF):				
CIVIL RESERVE AIRLIFT FLEET (CRAF)	164,900	164,000	[illegible]	[illegible]
DRUG INTERDICTION AIRCRAFT			47,900	
UNDISTRIBUTED REDUCTION		150,000		
TOTAL, MODIFICATON OF IN-SERVICE AIRCRAFT	2,917,817	2,692,617	3,050,417	3,034,717
SPARES AND REPAIR PARTS	4,934,581	3,412,281	4,560,181	3,975,000
AIRCRAFT SUPPORT EQUIPMENT AND FACILITIES:				
COMMON GROUND EQUIPMENT	630,997	506,297	630,997	536,297
COMMON GROUND EQUIPMENT (PY TRANSFER)		(50,000)		
INDUSTRIAL RESPONSIVENESS	89,200	[illegible]	74,200	54,200
WAR CONSUMABLES	86,400	[illegible]	86,400	[illegible]
OTHER PRODUCTION CHARGES	2,683,705	2,354,205	2,161,600	2,235,410
TOTAL, AIRCRAFT SUPPORT EQUIPMENT AND FACILITIES	3,490,302	2,987,702	2,953,197	2,932,307
ALR-74 RWR		−320,800		

	Budget	House	Senate	Conference
ALR-74 RWR (PY TRANSFER)		(167,800)		
ENVIRONMENTAL FUND TRANSFER			−10,600	−10,600
INFLATION REESTIMATES FOR FY86		−32,000	−32,000	−32,000
INFLATION PREMIUM, FY86		−549,100		−258,077
PRIOR YEAR PROGRAM SAVINGS		−406,000		
(PY TRANSFER)		(406,000)		
FY85 INFLATION FAIRNESS ADJUSTMENT		−323,000		−323,000
(PY TRANSFER)		(323,000)		
TOTAL, AIRCRAFT PROCUREMENT, AIR FORCE	26,165,500	20,722,700	24,142,651	23,546,447
TRANSFER FROM OTHER ACCOUNTS		(1,458,300)	(648,000)	
TOTAL FUNDING AVAILABLE	26,165,500	22,181,000	24,790,651	23,546,447

PRIOR YEAR SAVINGS

The conferees recognize $1,110,400,000 in prior year savings in Air Force Aircraft Procurement. The sources and uses of these savings are identified in this Statement of the Managers under the heading "Availability of Unobligated Balances."

B-1B

The conferees agree to provide $5,161,800,000, a reduction of $300,000,000. No B-1B production funds in any fiscal year are to be used for retrofit modifications. Instead the conferees have provided a separate allowance of $31,400,000 in the modification program. The conferees further agree to the reprogramming and reporting requirements in the Senate report.

F-16

The conferees agree to provide $2,596,400,000, a reduction of $240,300,000. The conferees have included bill language which allows award of the F-16 multiyear contract and directs that it contain priced contract options which can accommodate the results of the air defense competition.

AIR DEFENSE COMPETITION

The conferees agree to both the House and Senate report language on the air defense competition for approximately 300 air defense fighters competitively selected from among the F-16, F-20, and any other candidate deemed suitable by the Air Force. The Air Force must follow the acquisition strategy required in the Senate report, using a common cost base for bids as required by the House. The conferees expect this competition to be expedited, and have included bill language which requires the Air Force to make a source selection by July 1, 1986, with contract award to follow within sixty days. The bill appropriates $200,000,000 for this purpose in fiscal year 1986. As mentioned in the F-16 section of this report, the conferees have also approved the F-16 multiyear initiative because of the expedited air defense aircraft competition. The Air Force is encouraged to consider innovative pricing approaches for any aircraft in the competition.

KC-10

The conferees agree to provide $204,800,000, a budget reduction of $34,000,000, and $226,800,000 for advance procurement. The Air Force should notify Congress if it proposes to extend the KC-10 production line for additional tankers to meet strategic bomber refueling requirements.

C-5B

The conferees agree to provide $1,809,300,000, a budget reduction of $132,800,000. This is $30,800,000 below the Senate allowance to reduce excessive engineering change order funding. The conferees also agree to the provision of $326,000,000 for advance procurement of 21 C-5B aircraft in fiscal year 1987. The conferees believe that $177,100,000 of C-5B contract reserves for inflation as documented by the Congressional Budget Office is excess to current cost projections. Due to the possible adverse impact on program execution if a reduction were made at this time, the conferees recommend that such reserves be retained in the C-5B program. The Director of the Office of Management and Budget should formally propose rescission of all excess budget authority in amounts equal to contract adjustments under the current C-5B economic price adjustment contract clause once such adjustments are made in any fiscal year.

T-46 AIRCRAFT

The Air Force has testified on the need to replace obsolete training aircraft operated by the Air Force Air Training Command. The Congress has responded to this need and ratified this requirement by providing over $600,000,000 in T-46A research and development and procurement funds to date. The conferees have agreed to provide not only full funding for the fiscal year 1986 T-46 procurement, except for a minor inflation adjustment, but have also fully funded the advance procurement needed to procure T-46 aircraft in fiscal year 1987. The conferees expect the Air Force to budget for and procure T-46 aircraft in fiscal year 1987, where firm fixed price contract options are available, and in subsequent years to meet this critical and well justified requirement.

HH-60 SEARCH AND RESCUE HELICOPTER

The conferees agree to an appropriation of $55,000,000 for production start-up costs and procurement of three helicopters to fill the combat search and rescue mission, instead of $93,400,000 recommended by the House or $23,000,000 recommended by the Senate. The amounts agreed to are sufficient to begin an austere version HH-60A production program to provide minimum capability with approximately 63 helicopters and a total cost of not more than $500,000,000. The Air Force should consider this to be a design-to-cost objective.

The initial funding level is intended for costs related to the airframe, engines, and navigation systems costs as well as nonrecurring engineering expenses. All production tooling expenses are to be assumed by the airframe prime contractor. The conferees expect the Navy to coordinate its search and rescue program with the Air Force to optimize commonality.

AIR FORCE ONE

The conferees agree to the Senate funding level and its conditions for Air Force One replacement aircraft and reiterate the procurement design-to-cost objective, which excludes future R&D expense. While also excluded form the design-to-cost objective, initial spares requirements should be accommodated from within appropriated spares funding levels. The Air Force should obtain approval from the House and Senate Armed Services Committees for this procurement program. The conferees also expect advance written notification to Congress prior to contract award.

B-1B MODIFICATIONS

The current Air Force plan would fund $186,200,000 for B-1B retrofit modifications within the B-1B production program. The conferees feel that such costs are more appropriately funded from the allowances for modification of in-service aircraft. Consequently, $31,400,000 is recommended for B-1B retrofit modifications based on analysis of the aircraft modification installation schedule.

OTHER MODIFICATIONS

The conferees agree to the following adjustments in various Air Force modification line items that were in conference:

[dollars in millions]

B-52 ALCM	−$4.1
B-52 Strategic Radar	−8.3
A-7 Guard/Reserve	+56.6
A-10 GAO Savings	−13.6
A-10 TEMS	−2.2
F-4 GAO Savings	−6.0
F-4 INS/HUD	+92.0
F-4E ALR-74	−10.9
RF-4E ALR-74	−55.0
F-4 Simulator, ALR-74	−4.2
F-15 Mark XII IFF	−.8
F-16 GAO Savings	−18.8
F-16 ALR-74	−2.6
T-38 GAO Savings	−3.9
C-130 GAO Savings	−10.6
MC-130H Remodification	+10.3
HH-53 SOF	+50.0
ACP Upgrade	+50.0

SPARES AND REPAIR PARTS

The conferees agree to provide $3,975,000,000, a reduction of $959,581,000 of which $158,700,000 relates to initial spares and $800,881,000 relates to replenishment spares. The conferees agree to the language in both the House and Senate reports. Future budgets to Congress should clearly identify valid unfunded requirements that would be satisfied if surplus spares funds became available after the budget was submitted. Such unfunded requirements should be reviewed and validated by the Office of the Secretary of Defense during the annual budget review process.

The primary deficiency of the Air Force centrally managed spares requirements determination system is the excessive budget lead time required for future program cost projections. Over the past several years, requirements and cost projections have varied significantly from the actual spares consumption data. Adoption of the financial technique of stock funding repairables would assign financial and requirements responsibility to the spares consumer and significantly shorten budget lead time for cost estimates. Consequently, the conferees encourage the Air Force to consider stock funding of repairables to be managed at least at the major command level.

OTHER PRODUCTION CHARGES

The conferees agree to provide $2,235,410,000, a budget reduction of $448,295,000. The reduction includes $39,800,000 in the fiscal year 1986 ALQ-131 program, $59,000,000 related to production slip of the ALQ-184 ECM pod, $1,000,000 related to ALR-74, $43,000,000 related to PLSS, $44,000,000 related to ECM power management, and $261,495,000 related to classified programs.

ALR-74 RADAR WARNING RECEIVER

The conferees agree to the following reductions related to the ALR-74 production slip, which have been applied to the line items indicated:

FISCAL YEAR 1986
[dollars in millions]

F-16 Advance Procurement	$17.4
F-4E Modification	10.9
RF-4E Modification	55.0
F-4 Simulator Modification	4.2
F-16 Modification	2.6
Other Production Charges	1.0
Initial Spares	12.1
Total	103.2

The conferees recognize that approximately $56,900,000 in fiscal year 1984 appropriations will be used to repackage the ALR-56 radar warning receiver so that a competition between ALR-56M and ALR-74 may be conducted in the future.

ELECTRONIC COUNTER MEASURE (ECM) EQUIPMENT

The conferees have agreed to substantial funding reductions in the Airborne Self Protection Jammer (ASPJ), ALQ-119/184 pod, ALQ-131 pod, and ALR-74 radar warning receiver equipment due to inability to achieve production objectives. The budgets for these items were based on overly optimistic assessments of production capability in order to capitalize on emerging technologies. The conferees understand the need to counter the emerging threat, but future support for ECM programs will be contingent upon production feasibility. Consequently, the Air Force should realign its planning to achieve realistic production schedules for this equipment.

MISSILE PROCUREMENT, AIR FORCE

The conferees agree to the following amounts for Missile Procurement, Air Force:

[In thousands of dollars]

	Budget	House	Senate	Conference
MISSILE PROCUREMENT, AIR FORCE				
BALLISTIC MISSILES				
STRATEGIC PEACEKEEPER (M-X)	3,037,280	1,746,000	1,746,000	1,746,000
FORCE MODERNIZATION MISSILE REPLACEMENT EQUIPMENT-STRAT	86,701	66,701	66,701	66,701
TOTAL, BALLISTIC MISSILES	3,123,981	1,812,701	1,812,701	1,812,701
OTHER MISSILES				
STRATEGIC: AIR LAUNCH CRUISE MISSILE	33,440	33,440	33,440	33,440
TACTICAL				
AIM-7F/M SPARROW	87,300	70,400	85,300	82,300
AIM-9L/M SIDEWINDER	43,300	81,300	81,300	81,300
AGM-130 POWERED GBU-15	48,500	23,000	90,000	20,000
AGM-65D MAVERICK	488,389	435,889	393,389	[illegible]
AGM-88A HARM	470,107	438,107	448,407	438,107
RAPIER	7,581	3,581	7,581	7,581
AMRAAM	366,489		149,989	[illegible]
AMRAAM (AP-CY)	65,900		[illegible]	59,400
(PY TRANSFER)			(29,400)	
GRD LAUNCH CRUISE MISSILE	544,093	534,093	534,093	534,093
GRD LAUNCH CRUISE MISSILE (AP-CY)	9,772	9,772	9,772	9,772
TARGET DRONES: TARGET DRONES	[illegible]	[illegible]	[illegible]	[illegible]
TACTICAL DRONES:				
INDUSTRIAL FACILITIES	12,926	12,926	12,926	12,926
MISSILE REPLACEMENT EQUIPMENT-TACT	14,451	14,451	14,451	14,451
CLASSIFIED PROGRAM	663,000	533,000	633,000	585,900
TOTAL, OTHER MISSILES	2,895,746	2,218,857	2,488,146	2,417,046
MODIFICATION OF IN-SERVICE MISSILES				
CLASS IV: CLASS IV	92,749	92,749	[illegible]	90,800
CLASS V: LGM-30F/G MINUTEMAN II/III	13,540	8,440	[illegible]	43,440
UPDATE				
AGM-88A HARM	3,000	3,000	3,000	3,000
UPDATED ALCM	16,498	16,498	16,498	16,498
GRD LAUNCH CRUISE MISSILE UPDATE	8,707	8,707	8,707	8,707
TOTAL, MODIFICATION OF IN-SERVICE MISSILES	134,494	129,394	202,545	162,445
MISSILE SPARES PLUS REPAIR PARTS: SPARES AND REPAIR PARTS	[illegible]	461,170	[illegible]	461,170
OTHER SUPPORT				
SPACE PROGRAMS:				
SPACEBORNE EQUIP (COMSEC)	36,345	36,345	[illegible]	[illegible]
GLOBAL POSITIONING (MYP)	197,398	197,398	197,398	[illegible]
SPACE LAUNCH SUPPORT	293,399	260,999	[illegible]	[illegible]
DEF METEOROLOGICAL SAT PROG (MYP)	53,979	53,979	43,379	43,379
DEFENSE SUPPORT PROGRAM	131,282	131,282	131,282	131,282
DEFENSE SATELLITE COMM SYSTEM (MYP)	135,506	135,506	135,506	135,506
DEFENSE SATELLITE COMM SYSTEM (MYP) (AP-CY)	13,660	13,660	13,660	13,660
AF SATELLITE COMM SYSTEM	34,384	34,384	34,384	34,384
SPACE DEFENSE SYSTEM	83,016			
SPACE DEFENSE SYSTEM (AP-CY)	14,900			
SPACE BOOSTERS	126,894	[illegible]	80,000	85,000
SPACE BOOSTERS (AP-CY)		114,000	[illegible]	46,894
SPACE SHUTTLE	22,073	22,073	22,073	22,073
SPECIAL PROGRAMS				
OTHER PROGRAMS	170,024	170,024		
FOREST GREEN	4,749	4,749	4,749	4,749
IONDS (MYP)	45,835	45,835	45,835	45,835
SPECIAL PROGRAMS	1,915,800	1,661,600	1,885,200	1,834,900
SPECIAL PROGRAMS (PY TRANSFER)		(1,000)		

BEST COPY AVAILABLE

[In thousands of dollars]

	Budget	House	Senate	Conference
SPECIAL UPDATE PROGRAMS	887,376	927,476	927,476	927,476
TOTAL OTHER SUPPORT	4,169,221	3,816,205	3,850,181	3,814,881
GENERAL REDUCTION, PY TRANSFER		−4,000		
(PY TRANSFER		(−4,000)		
INFLATION REESTIMATES FOR FY86		−13,000	−13,000	−13,000
INFLATION PREMIUM, FY86		−227,800		−107,066
PRIOR YEAR PROGRAM SAVINGS		−35,000	−35,000	
(PY TRANSFER)		(35,000)	(35,000)	
FY85 INFLATION FAIRNESS ADJUSTMENT		−115,000		−115,000
(PY TRANSFER)		(115,000)		
TOTAL MISSILE PROCUREMENT, AIR FORCE	10,862,700	8,043,527	8,770,831	8,433,177
TRANSFER FROM OTHER ACCOUNTS		(155,000)	(64,400)	
TOTAL FUNDING AVAILABLE	10,862,700	8,198,527	8,835,231	8,433,177

PRIOR YEAR SAVINGS

The conferees recognize $82,800,000 in prior year savings in Air Force Missile Procurement. The sources and uses of these savings are identified in this Statement of the Managers under the heading "Availability of Unobligated Balances."

ADVANCED MEDIUM RANGE AIR-TO-AIR MISSILE

The conferees agree to provide $149,989,000 for Advanced Medium Range Air-to-Air Missile (AMRAAM) and $59,400,000 for AMRAAM Advance Procurement as proposed by the Senate.

MINUTEMAN II/III

The conferees agree to provide $43,400,000 for Minuteman II/III modifications. This is an increase of $35,000,000 over the House allowance to extend the Minuteman Extended Survivable Power (MESP) program starting in 1986. No funds are provided for lead acid batteries.

COMPLEMENTARY EXPENDABLE LAUNCH VEHICLES

The conferees agree to funding levels and distributions proposed by the Senate. This includes $80,000,000 for procurement of 1 fully funded Complementary Expendable Launch Vehicle and $46,894,000 in advance procurement for 1987.

The conferees agree that the CELV program of no more than 10 Titan 34D7s shall be fully funded but may be executed as a multi-year procurement if proposed to and approved by Congress.

The conferees further agree that the Air Force should include a program profile and description with its multi-year justification to both the House and Senate Defense Appropriations Subcommittees and that it should incorporate the policy guidance provided in the House report to this bill to include holding four CELV's in reserve, and the Senate language in the report accompanying the Continuing Resolution (S. Rpt. 99-210). Contract restructuring should explicitly accommodate, using priced contract options, the requirement of holding four CELV's in reserve.

OTHER PROCUREMENT, AIR FORCE

The conferees agree to the following amounts for Other Procurement, Air Force:

[In thousands of dollars]

	Budget	House	Senate	Conference
OTHER PROCUREMENT, AIR FORCE				
MUNITIONS AND ASSOCIATED EQUIPMENT				
ROCKETS AND LAUNCHERS:				
2.75 INCH ROCKET MOTOR	22,276	22,276	22,276	22,276
GTR-18 MISSILE SIMULATOR	1,987	1,987	1,987	1,987
ROCKET TRAINING 35MM	1,692	1,692	1,692	1,692
ITEMS LESS THAN $900,000	4,601	4,601	4,601	4,601
CARTRIDGES (THOUSANDS)				
9 MM PARABELLUM	1,178	1,178	1,178	1,178
5.56 MM	4,522	4,522	4,522	4,522
20 MM TRAINING	1,530	1,530	1,530	1,530
30 MM TRAINING	100,425	[illegible]	91,625	[illegible]
30 MM API	30,613	19,813	30,613	30,613
30 MM API (PY TRANSFER)		(10,800)		
40 MM TP GRENADES	3,533	3,533	3,533	3,533
40 MM HE GRENADES	16,613	16,613	16,613	16,613
CART CHAFF RR-170	17,823	17,823	17,823	17,823
CART CHAFF, RR-136	[illegible]	[illegible]	[illegible]	[illegible]
SIGNAL MK-4 MOD 3	1,681	1,681	1,681	1,681
MXU-4A/A ENGINE STARTER	4,972	4,972	4,972	4,972
CART IMP 3000 FT/LBS	4,281	3,181	3,181	3,181
ITEMS LESS THAN $900,000	[illegible]	[illegible]	[illegible]	[illegible]
BOMBS:				
MK-82 INERT/BDU-50	13,386	[illegible]	[illegible]	13,386
DURANDAL	[illegible]	[illegible]	[illegible]	[illegible]
TIMER ACTUATOR FIN FUZE	1,963			
BSU-49 INFLATABLE RETARDER	34,703	31,233	34,703	31,233
BSU-50 INFLATABLE RETARDER	10,231	10,231	10,231	10,231
BOMB 2000 LB HIGH EXPLOSIVE	34,056	31,856	31,856	31,856
CLUSTER BOMB, MK-20 (ROCKEYE)	4,397	4,397	4,397	4,397
LASER BOMB GUIDANCE KIT	103,677			
GBU-15	127,894	37,902	106,700	[illegible]
BOMB PRACTICE 25 POUND	20,892	20,892	20,892	20,892
BOMB PRACTICE BDU-38	5,421	5,421	5,421	5,421
BOMB, PRACTICE MK-106	1,303	1,303	1,303	1,303
MK-84 BOMB—EMPTY	6,810	6,810	6,810	6,810
CBU-89 (TMD/GATOR)	202,015	172,015	172,015	172,015
CBU-87 (COMBINED EFFECTS MUNITION)	552,934	330,534	552,934	[illegible]
BIGEYE	22,115		22,115	
ITEMS LESS THAN $900,000	1,531	1,531	1,531	1,531
TARGETS:				
AERIAL TOW TARGET	[illegible]	[illegible]	[illegible]	[illegible]

[In thousands of dollars]

	Budget	House	Senate	Conference
ITEMS LESS THAN $900,000	292	292	292	292
OTHER ITEMS				
FLARE, IR MJU-7B	13,346	13,346	13,346	13,346
FLARE, PARA, LUU-4B	1,401	1,401	1,401	1,401
FLARE, IR MJU-2	3,109	3,109	3,109	3,109
M-206 CARTRIDGE FLARE	1,445	1,445	1,445	1,445
SIGNAL, SMOKE/ILLUM MK-6	1,959	1,959	1,959	1,959
SIGNAL SMOKE AND ILLUMINATING	2,450	2,450	2,450	2,450
MC-3468, RETARD DEVICE	1,878	1,878	1,878	1,878
RAPID MUNITIONS ASSEMBLY	3,925	2,825	2,825	2,825
SPARES AND REPAIR PARTS	9,547	7,147	7,147	7,147
MODIFICATIONS	687	687	687	687
ITEMS LESS THAN $900,000	21,334	19,034	19,034	19,034
FUZES				
FMU-130	8,427			
FMU-112/FMU-139	61,725	41,725	41,725	41,725
ITEMS LESS THAN $900,000	184	184	184	184
OTHER WEAPONS				
M-203 GRENADE LAUNCHER	771	771	771	771
MACHINE GUN, 7 62MM, M-60	3,764	3,764	3,764	3,764
GAU-5 MACHINE GUN	1,367	1,367	1,367	1,367
40MM MACHINE GUN, MK-19	4,221	4,221	4,221	4,221
9MM HANDGUN	6,776	6,776	6,776	6,776
WAR RESERVE MUNITIONS			[illegible]	[illegible]
TOTAL, MUNITIONS AND ASSOCIATED EQUIPMENT	1,621,759	1,078,515	1,440,496	1,239,877
VEHICULAR EQUIPMENT				
PASSENGER CARRYING VEHICLES				
SEDAN, 4 DR 4×2	1,938	1,938	1,938	1,938
STATION WAGON, 4×2	2,183	2,183	2,183	2,183
BUS, 28 PASSENGER	4,818	4,818	4,818	4,818
BUS INTERCITY	1,754	1,754	1,754	1,754
BUS, 44 PASSENGER	2,779	2,779	2,779	2,779
AMBULANCE, BUS	2,150	2,150	2,150	2,150
CARGO + UTILITY VEHICLES				
TRUCK, STAKE/PLATFORM	6,758	6,758	6,758	6,758
TRUCK, CARGO-UTILITY, ¾T, 4×4	4,503	4,503	4,503	4,503
TRUCK, CARGO-UTILITY, ½T, 4×2	4,446	4,446	4,446	4,446
TRUCK, PICKUP, ½T, 4×2	6,463	6,463	6,463	[illegible]
TRUCK, PICKUP, COMPACT	6,417	6,417	6,417	6,417
TRUCK MULTI-STOP 1 TON 4×2	11,737	11,737	11,737	11,737
TRUCK, PANEL, 4×2	3,541	3,541	3,541	3,541
SHOP VAN 4×4	869	869	869	869
TRUCK CARRYALL	7,541	7,541	7,541	7,541
COMMERCIAL UTILITY CARGO VEHICLE	3,610	3,610	3,610	3,610
TRUCK, CARGO, 2½T, 6×6, M-35	15,588	15,588	15,588	[illegible]
TRUCK CARGO 5T M-923, M-925	[illegible]	[illegible]	[illegible]	[illegible]
SEMI-TRAILER, 20T	352	352	352	352
HIGH MOBILITY VEHICLE (MYP)	[illegible]	[illegible]	[illegible]	[illegible]
TRUCK TRACTOR 5T M-932 (MYP)	978	978	978	978
TRUCK TRACTOR, OVER 5T	4,382	4,382	4,382	4,382
TRUCK WRECKER	369	[illegible]	[illegible]	369
TRUCK WRECKER 5T M936 (MYP)	3,903	[illegible]	[illegible]	3,903
TRUCK, DUMP 5 TON	8,149	8,149	8,149	8,149
TRUCK, UTILITY	2,238	2,238	2,238	2,238
ITEMS LESS THAN $900,000	[illegible]	[illegible]	[illegible]	8,358
SPECIAL PURPOSE VEHICLES				
TRUCK MAINT, 4×2	2,552	2,552	2,552	2,552
TRUCK, MAINT, 4×4	1,222	1,222	1,222	1,222
TRUCK, MAINT, HI-REACH	[illegible]	[illegible]	[illegible]	[illegible]
TRUCK, TELEPHONE MAINTENANCE	3,778	3,778	3,778	3,778
TRUCK, TANK, 1200 GAL	1,992	1,992	1,992	1,992
TRUCK TANK FUEL R-9	23,645	23,645	23,645	23,645
TRUCK, TANK, FUEL, M-49	1,786	1,786	1,786	1,786
TRUCK, TANK, LIQ NIT, C-5	467	467	467	467
TRACTOR, A/C TOW, MB-4	2,854	2,854	2,854	2,854
TRACTOR, TOW, FLIGHTLINE	3,853	3,853	3,853	3,853
TRACTOR, WHEELED, INDUSTRIAL	1,915	1,915	1,915	1,915
TRACTOR, DOZER	2,443	2,443	2,443	2,443
VEHICLE, LAW ENFORCEMENT	2,342	2,342	2,342	2,342
TRUCK, DEMINERAL WATER, 2600 GAL	942	942	942	942
TRUCK HI LIFT C5	119	119	119	119
TRUCK HI LIFT 3T	[illegible]	[illegible]	[illegible]	[illegible]
TRUCK, HI LIFT, 9T	[illegible]	[illegible]	[illegible]	[illegible]
TRUCK REFUSE	1,793	1,793	1,793	1,793
TRUCK HYDRANT FUEL	3,877	3,877	3,877	3,877
TRAILER WATER M149	153	153	153	153
TRAILER FUEL A1B	201	201	201	201
SEMI TRAILER COMPRESSED GAS	2,725	2,725	2,725	2,725
SEMI TRAILER TANK UDMH	137	137	137	137
DOLLY M832	427	427	427	427
TRACTOR WHEELED W DOZER	360	360	360	360
ITEMS LESS THAN $900,000	7,530	7,530	7,530	7,530
FIRE FIGHTING EQUIPMENT				
TRUCK CRASH P-4/P-19	23,807	23,807	23,807	23,807
TRUCK CRASH P-15	3,494	3,494	3,494	3,494
TRUCK CRASH P-2	8,201	8,201	8,201	8,201
TRUCK WATER P-18	[illegible]	[illegible]	[illegible]	[illegible]
TRUCK, PUMPER, P-8	1,852	1,852	1,852	1,852

[In thousands of dollars]

	Budget	House	Senate	Conference
TRUCK, PUMPER, P-12	205	205	205	205
TRUCK CRASH P-10	[illegible]	405	[illegible]	[illegible]
TRUCK CRASH P-13/P-20	494	494	494	494
ITEMS LESS THAN $900,000	839	839	839	839
MATERIALS HANDLING EQUIPMENT				
TRUCK F/L 4,000 LB GED/DED 144"	2,188	2,188	2,188	2,188
TRUCK, F/L 6000 LB	4,934	4,934	4,934	4,934
TRUCK, F/L 10,000 LB	10,941	10,941	10,941	10,941
TRUCK F/L LARGE CAPACITY AT	627	627	627	627
TRUCK, F/L 15000 LB	760	760	760	760
LARGE CAPACITY LOADER	4,250	4,250	4,250	4,250
25K A/C LOADER	6,279	6,279	6,279	6,279
TRACTOR, WHSE, 4,000 LB	849	849	[illegible]	[illegible]
CONTAINER, LIFT, TRUCK	4,453	4,453	4,453	4,453
ITEMS LESS THAN $900,000	2,658	2,658	2,658	2,658
BASE MAINTENANCE SUPPORT:				
LOADER, SCOOP	3,601	3,601	3,601	3,601
LOADER, SCOOP, W/BACKHOE	699	699	699	699
DISTRIBUTOR, WATER 1500 GALLON	3,460	3,460	3,460	3,460
CLEANER, RUNWAY/STREET	6,032	6,032	6,032	6,032
ROLLER, VIBRATING	[illegible]	[illegible]	[illegible]	[illegible]
TRUCK DUMP 22T	860	860	[illegible]	[illegible]
GRADER, ROAD, MOTORIZED	3,110	3,110	3,110	3,110
CRANE, 7-50 TON	3,133	3,133	3,133	3,133
EXCAVATOR, DED, PT	4,305	4,305	4,305	4,305
WATERCRAFT	4,295	4,295	4,295	4,295
SPARES AND REPAIR PARTS	4,512	4,512	4,512	4,512
MODIFICATIONS	197	197	197	197
ITEMS LESS THAN $900,000	7,173	7,173	7,173	7,173
UNDISTRIBUTED REDUCTION		−20,000		
TOTAL, VEHICULAR EQUIPMENT	[illegible]	[illegible]	320,869	[illegible]

ELECTRONICS AND TELECOMMUNICATIONS EQUIPMENT

	Budget	House	Senate	Conference
COMM SECURITY EQUIPMENT (COMSEC):				
SPACE SYSTEMS (COMSEC)	33,497	33,497	33,497	33,497
TEMPEST EQUIPMENT	546	546	546	546
TAC SECURE VOICE	13,201	13,201	13,201	13,201
DCS SECURE VOICE (COMSEC)	27,685	27,685	27,685	27,685
SECURE DATA	40,990	40,990	40,990	40,990
TRI-TAC (COMSEC)	28,633	28,633	28,633	28,633
SPARES AND REPAIR PARTS	7,563	7,563	7,563	7,563
MODIFICATIONS (COMSEC)	282	282	282	282
INTELLIGENCE PROGRAMS				
INTELLIGENCE DATA HANDLING SYS	29,427	29,427	29,427	29,427
INTELLIGENCE TRAINING EQUIPMENT	9,101	9,101	9,101	9,101
INTELLIGENCE COMM EQUIP	4,585	4,585	4,585	4,585
COBRA SHOE	2,973	2,973	2,973	2,973
ITEMS LESS THAN $900,000	6,375	6,375	6,375	6,375
ELECTRONICS PROGRAMS				
TRAFFIC CONTROL/LANDING	4,981	4,981	4,981	4,981
TACTICAL AIR CONTROL SYS IMPROVE	95,408	84,408	84,408	84,408
TACAN		8,000	8,000	8,000
WEATHER OBSERV/FORCAST	31,639	31,639	31,639	31,639
DEFENSE SUPPORT PROGRAM	117,825	117,825	117,825	117,825
OTH-B RADAR	237,036	167,036	167,036	167,036
SACDIN	1,129	1,129	1,129	1,129
SAC COMMAND AND CONTROL	11,123	11,123	11,123	11,123
CHEYENNE MOUNTAIN COMPLEX	61,039	54,136	54,136	54,136
PAVE PAWS/SLBM WARNING SYSTEMS	9,025	9,025	9,025	9,025
BMEWS MODERNIZATION	70,754	38,250	70,754	70,754
SPACETRACK	10,067	10,067	10,067	10,067
NAVSTAR GPS	7,351	7,351	7,351	7,351
USAFE COMMAND/CONTROL SYSTEM	12,076	12,076	8,700	8,700
PACAF COMMAND/CONTROL	9,897	9,897	9,897	9,897
DEFENSE METEOROLOGICAL SAT PROG	9,998	9,998	9,998	9,998
CARIBBEAN BASIN RADER NETWORK	4,400	4,400	4,400	4,400
MARS/USAF-FAA RADAR UPGRADE	16,598	2,798	16,598	2,798
TAC SIGINT SUPPORT	34,671	34,671	34,671	34,671
DIST ERLY WARNING RDR/NORTH WARNING	8,858		8,858	8,858
DIST ERLY WARNING RDR/NORTH WARNING (PY TRANSFER)		(8,858)		
TRANSPORT GROUND INTERCEPT FACIL	17,464	17,464	17,464	17,464
TR-1 GROUND STATIONS	74,605	64,605	64,605	64,605
AIR BASE SURVIVABILITY	1,567	1,567	1,567	1,567
TEREC GROUND PROCESSOR	4,056	4,056	4,056	4,056
IMAGERY TRANS	37,460	20,000	20,000	25,000
TACTICAL WARNING SYSTEMS SUPPORT	390	390	390	390
NORTH ATLANTIC DEFENSE C3	22,362	22,362	22,362	22,362
SPECIAL COMM-ELECTRONICS PROJECTS:				
AUTOMATIC DATA PROCESSING EQUIP	170,528	148,028	170,528	163,128
WWMCCS ADPE	36,361	36,361	36,361	36,361
MAC COMMAND AND CONTROL SUPPORT	13,320	13,320	13,320	13,320
GLCM COMMUNICATIONS	14,471	14,471	14,471	14,471
AIR BASE DEFENSE/AF PHYS SECURITY	52,508	52,508	52,508	52,508
WEAPONS STORAGE/SECURITY	2,944	2,944	2,944	2,944
RANGE IMPROVEMENTS	105,173	90,173	90,173	90,173
HF RADIO CONSOLIDATION	9,768	9,768	9,768	9,768
RADAR BOMB SCORER	9,100	9,100	9,100	9,100
PLSS	25,123	25,123	25,123	25,123
C3 COUNTERMEASURES	21,388	21,388	21,388	21,388

[In thousands of dollars]

	Budget	House	Senate	Conference
SPACE SHUTTLE	4,978	4,978	4,978	4,978
BASE LEVEL DATA AUTO PROGRAM	64,904	47,904	47,904	47,904
SATELLITE CONTROL FACILITY	66,262	66,262	66,262	66,262
CONSTANT WATCH	15,924	15,924	15,924	15,924
CONSOLIDATED SPACE OPS CENTER	17,613	17,613	17,613	17,613
CMD CENTER PROCESSING/DISPLAY SYS	2,552	2,552	2,552	2,552
HAMMER ACE	831	831	831	831
SAMTO TEST RANGES I&M	32,144	22,144	22,144	22,144
EMP HARDENING	12,685	12,685	12,685	12,685
AIR FORCE COMMUNICATIONS				
PROGRAM 698AJ	1,965	1,965	1,965	1,965
INFORMATION TRANSMISSION SYSTEMS	5,748	5,748	5,748	5,748
TELEPHONE EXCHANGE	52,926	52,926	52,926	52,926
JOINT TACTICAL COMM PROGRAM	161,927	160,227	160,227	160,227
USREDCOM	2,971	2,971	2,971	2,971
USCENTCOM	26,063	26,063	26,063	26,063
AUTOMATED TELECOMMUNICATIONS PRG	19,114	19,114	19,114	19,114
TELETYPEWRITER EQUIPMENT	11,724	11,724	11,724	11,724
SATELLITE TERMINALS	65,071	65,071	65,071	65,071
DCA PROGRAMS				
WIDEBAND SYSTEMS UPGRADE	45,708	45,708	45,708	45,708
MINIMUM ESSENTIAL EMER COMM NET	14,385	14,385	14,385	14,385
DCS SECURE VOICE EQUIPMENT	18,380	18,380	18,380	18,380
ORGANIZATION AND BASE				
TACTICAL C-E EQUIPMENT	17,946	17,946	17,946	17,946
PRODUCTIVITY INV TELECOM	16,431	16,431	16,431	16,431
RADIO EQUIPMENT	38,609	38,609	38,609	38,609
FIBER OPTICS	1,430	1,430	1,430	1,430
TV EQUIPMENT (AFRTV)	4,493	4,493	4,493	4,493
CCTV/AUDIOVISUAL EQUIPMENT	4,657	4,657	4,657	4,657
E AND I REQUIREMENTS	10,795	10,795	10,795	10,795
SPARES AND REPAIR PARTS	[illegible]	364,644	[illegible]	370,000
ITEMS LESS THAN $900,000	15,468	15,468	15,468	15,468
MODIFICATIONS				
COMM-ELECTRONICS CLASS IV	39,446	39,446	39,446	39,446
TRAFFIC CONTROL/LANDING	3,418	3,418	3,418	3,418
TACTICAL EQUIPMENT	25,393	25,393	25,393	25,393
ANTIJAM VOICE	19,007	19,007	19,007	19,007
TOTAL, ELECTRONICS AND TELECOMMUNICATIONS EQUIPMENT	2,816,783	2,544,608	2,648,344	[illegible]
OTHER BASE MAINTENANCE AND SUPPORT EQUIPMENT				
TEST EQUIPMENT				
BASE/ALC CALIBRATION PACKAGE	52,827	45,027	10,000	45,027
NEWARK AFS CALIBRATION PACKAGE	3,359	3,359	3,359	3,359
TEST EQUIPMENT—GEN PURP	39,744	34,544	34,544	34,544
ITEMS LESS THAN $900,000	42,008	35,008	35,008	35,008
PERSONAL SAFETY AND RESCUE EQUIP:				
LIFE RAFT, 20 MAN	999	999	999	999
AUTOMATIC LIFE PRESERVER	3,681	3,681	3,681	3,681
NIGHT VISION GOGGLES	8,355	8,355	8,355	8,355
CHEMICAL/BIOLOGICAL DEF PROG	81,233	81,233	81,233	81,233
ITEMS LESS THAN $900,000	6,966	6,966	6,966	6,966
DEPOT PLANT AND MATERIALS HANDLING EQ:				
BASE MECHANIZATION EQUIPMENT	37,499	37,499	37,499	37,499
AIR TERMINAL MECHANIZATION EQUIP	1,215	1,215	1,215	1,215
ITEMS LESS THAN $900,000	18,476	13,476	13,476	13,476
ELECTRICAL EQUIPMENT				
GENERATORS—MOBILE ELECTRIC	30,098	30,098	30,098	30,098
FLOOD LIGHTS	10,691	7,745	10,691	7,745
ITEMS LESS THAN $900,000	479	479	479	479
BASE SUPPORT EQUIPMENT				
MEDICAL/DENTAL EQUIPMENT	132,339	[illegible]	[illegible]	135,739
AIR BASE SURVIVABILITY	36,747	36,747	71,900	71,900
COB ESSENTIAL FACILITIES	11,642	11,642	11,642	11,642
BARRIER, AIRCRAFT ARRESTING SYSTEM	185	185	185	185
PALLET, AIR CARGO, 108" × 88"	2,730	2,730	2,730	2,730
NET ASSEMBLY, 108" × 88"	3,306	3,306	3,306	3,306
PUMPS AND COMPRESSORS	1,282	1,282	1,282	1,282
MOBILITY CONTAINERS	2,058	2,058	2,058	2,058
BLADDERS FUEL	2,710	2,710	2,710	2,710
TACTICAL SHELTER	17,822	17,822	17,822	17,822
PHOTOGRAPHIC EQUIPMENT	6,486	6,486	6,486	6,486
PRODUCTIVITY INVESTMENTS	928	928	928	928
MOBILITY EQUIPMENT	43,068	43,068	43,068	43,068
WARTIME HOST NATION SUPPORT	5,069	5,069	5,069	5,069
SPARES AND REPAIR PARTS	14,297	14,297	14,297	14,297
ITEMS LESS THAN $900,000	17,832	15,032	15,032	15,032
SPECIAL SUPPORT PROJECTS				
INTELLIGENCE PRODUCTION ACTIVITY	[illegible]	[illegible]	[illegible]	[illegible]
SCIENTIFIC/TECHNICAL INTELLIGENCE	4,588	4,588	4,588	4,588
TECH SURV COUNTERMEASURES EQ	4,935	[illegible]	4,939	4,939
DEFENSE DISSEMINATION SYSTEM	21,357	15,467	12,457	12,457
AF TECHNICAL APPLICATION CENTER	15,878	15,878	15,878	15,878
PHOTO PROC/INTERPRET SYS	11,301	10,001	10,001	10,001
SELECTED ACTIVITIES	3,933,131	3,702,651	3,896,381	3,865,051
SPECIAL UPDATE PROGRAM	[illegible]	[illegible]	86,482	86,482
INDUSTRIAL PREPAREDNESS	14,326	2,497	14,326	2,497
MISC EQUIPMENT	[illegible]	[illegible]	[illegible]	[illegible]
MODIFICATIONS	[illegible]	5,000	[illegible]	[illegible]

[In thousands of dollars]

	Budget	House	Senate	Conference
TOTAL, OTHER BASE MAINTENANCE AND SUPPORT EQUIPMENT	4,758,589	4,466,044	4,638,265	4,626,287
UNDISTRIBUTED REDUCTION		−237,000		−250,000
NON-CENTRALLY MANAGED ITEMS		54,700	54,700	54,700
INFLATION REESTIMATES FOR FY86		−9,000	−9,000	−9,000
PRIOR YEAR INFLATION SAVINGS		−242,000	−242,000	
(PY TRANSFER)		(242,000)	(242,000)	
PRIOR YEAR PROGRAM SAVINGS		−85,818	−40,000	
(PY TRANSFER)		(85,818)	(40,000)	
TOTAL, OTHER PROCUREMENT, AIR FORCE	9,538,000	7,890,918	8,831,674	8,611,383
TRANSFER FROM OTHER ACCOUNTS		(347,476)	(282,000)	
TOTAL FUNDING AVAILABLE	9,538,000	8,238,394	9,113,674	8,611,383

PRIOR YEAR SAVINGS

The conferees recognize $347,476,000 in prior year savings in Air Force Other Procurement. The sources and uses of these savings are identified in this Statement of the Managers under the heading "Availability of Unobligated Balances."

30MM API

The conferees agree to House bill language requiring component breakout of the depleted uranium penetrator for 30mm armor piercing ammunition.

COMBINED EFFECTS MUNITION

The conferees are in agreement that competition for CEM procurement shall be continued in fiscal year 1986 with the funding provided.

MAR USAF/FAA RADAR UPGRADE

The conferees agree to the House allowance of $2,798,000 for the joint USAF/FAA minimally attended radar upgrade due to contract award schedule delay beyond the current fiscal year. The Air Force is requested to report to the Appropriations Committees by March 1, 1986, on the requirements for the upgrade, revised acquisition plans, and an assessment of future program growth potential. The report should include an estimate of total program cost and a comparison of the life cycle of unattended versus minimally attended radar sites.

AUTOMATIC DATA PROCESSING EQUIPMENT

The conferees agree to provide $163,128,000, which includes reductions of $1,400,000 in the "MAJCOM Link" and $6,000,000 in the Air Staff "Improved Service Program". No funds in any Air Force appropriation should be obligated on the Improved Service Program or other Air Staff office automation until the Secretary of the Air Force has approved an Air Staff automation master plan which addresses requirements and funding for each major Air Staff organization.

NORTHEAST REGIONAL COMMUNICATIONS CENTER

The conferees agree that no funds are provided in this bill for construction at Hawley, Massachusetts, or other locations on privately owned land, of the Northeast Regional Communications Center. The conferees also agree that if further consideration is given to construct such a facility only land presently owned by the Federal Government should be considered as sites.

NATIONAL GUARD AND RESERVE EQUIPMENT

The conferees agree to the following amounts for Reserve and National Guard:

[In thousands of dollars]

	Budget	House	Senate	Conference
NATIONAL GUARD AND RESERVE EQUIPMENT, DEFENSE				
RESERVE, ARMY:				
MISCELLANEOUS EQUIPMENT			575,400	350,000
TRUCK SLEP			15,000	15,000
PY PROGRAM SAVINGS		−150,400		
(PY TRANSFER) (DIVAD)			(150,400)	
TOTAL, RESERVE ARMY			440,000	365,000
RESERVE, NAVY:				
MISCELLANEOUS EQUIPMENT		20,000	230,000	75,000
UH-60 HELICOPTER		25,000	25,000	25,000
TOTAL, RESERVE NAVY		45,000	255,000	100,000
RESERVE, MARINE CORPS:				
MISCELLANEOUS EQUIPMENT		20,000	100,000	30,000
TANKER AIRCRAFT		40,000	40,000	40,000
TOTAL, RESERVE MARINE CORPS		60,000	140,000	70,000
RESERVE, AIR FORCE:				
MISCELLANEOUS EQUIPMENT			100,000	30,000
C-130H AIRCRAFT		120,000	130,000	150,000
(PY TRANSFER)			(20,000)	
TOTAL, RESERVE AIR FORCE		120,000	230,000	180,000
ARMY NATIONAL GUARD:				
MISCELLANEOUS EQUIPMENT		100,000	100,000	150,000
CHAPARRAL MISSILE			58,400	58,400
IMPROVED TOW (MOD)		15,000	28,200	28,200
M198 HOWITZER, TOWED			30,000	30,000
TRAINING DEVICES, NONSYSTEM		50,000	50,000	50,000
TRUCK SLEP			32,000	32,000
TOTAL, ARMY NATIONAL GUARD		165,000	298,600	348,600
AIR NATIONAL GUARD:				
Miscellaneous Equipment		30,000	150,000	75,000
C-130 AIRCRAFT		150,000	150,000	150,000
C-12J AIRCRAFT		18,000		18,000
C-131 AIRCRAFT MODIFICATIONS		2,000		12,000

[In thousands of dollars]

	Budget	House	Senate	Conference
GENERAL REDUCTION (C-131 MODS)		−8,000		
C-131 MOD (PY TRANSFER)		(8,000)	(8,000)	
TOTAL, AIR NATIONAL GUARD		[illegible]	[illegible]	155,000
TOTAL, NATIONAL GUARD AND RESERVE EQUIPMENT DEFENSE		[illegible]	2,063,800	1,518,800
TRANSFER FROM OTHER ACCOUNTS		(8,000)	(178,400)	
TOTAL FUNDING AVAILABLE		[illegible]	2,242,200	1,518,800

ARMY NATIONAL GUARD

The conferees agree to provide language in the bill enabling the use of $40,000,000 provided to the Army National Guard for minor projects to facilitate delivery, storage, training and maintenance of National Guard equipment as proposed by the Senate. The conferees added bill language providing that the proposed projects are subject to authorization.

AIR NATIONAL GUARD

The conferees agree to provide $75,000,000 for procurement of miscellaneous equipment for the Air National Guard. Of the amount authorized and appropriated for the Air National Guard, $25,000,000 shall be used for an Air Combat Maneuvering System as identified in the Senate report.

C-131 MODIFICATIONS

The conferees agree to provide $12,000,000 to modify 3 C-131 aircraft in fiscal year 1986. The fiscal year 1985 funds are now available for transfer, as indicated elsewhere in this report. The conferees also agree to the Senate conditions for modification of C-131 aircraft for the Air National Guard. These three aircraft are to be assigned to units in the states of South Carolina, Indiana, and Oregon.

PROCUREMENT, DEFENSE AGENCIES

The conferees agree to the following amounts for Procurement, Defense Agencies:

[In thousands of dollars]

	Budget	House	Senate	Conference
PROCUREMENT, DEFENSE AGENCIES				
MAJOR EQUIPMENT, OSD: MAJOR EQUIPMENT, OSD/WHS	59,439	59,439	59,439	59,439
MAJOR EQUIPMENT, DNA:				
VEHICLES	220	220	220	220
OTHER CAPITAL EQUIPMENT	5,580	5,580	5,580	5,580
MAJOR EQUIPMENT, DCA:				
WWMCCS ADP SYSTEMS	14,878	14,878	14,878	14,878
DEFENSE SWITCHING NETWORK	10,831	10,831	10,831	10,831
ITEMS LESS THAN $900,000 EACH	43,676	43,676	35,776	43,676
MAJOR EQUIPMENT, DLA:				
MATERIALS HANDLING EQUIPMENT	13,634	10,634	10,634	10,634
VEHICLES	1,870	1,870	1,870	1,870
MECHANIZED MATERIALS HANDLING SYS	16,431	16,431	16,431	16,431
ADP EQUIPMENT	74,602	74,602	54,602	54,602
TELECOMMUNICATIONS EQUIPMENT	11,014	11,014	11,014	11,014
OTHER MAJOR EQUIPMENT	6,780	6,780	6,780	6,780
MAJOR EQUIPMENT, DMA:				
ADP EQUIPMENT	16,767	16,767	16,767	16,767
VEHICLES	342	342	342	342
OTHER CAPITAL EQUIPMENT	26,639	26,639	26,639	26,639
AF PHASE IV COMPUTER	4,164	4,164	4,164	4,164
PASS REPLACEMENT	2,663	2,663	2,663	2,663
MAJOR EQUIPMENT, DIS:				
VEHICLES	1,686	1,686	1,686	1,686
OTHER DIS EQUIPMENT		5,000	5,000	5,000
MAJOR EQUIPMENT, USUHS: ITEMS LESS THAN $900,000 EACH	743	743	743	743
MAJOR EQUIPMENT, DCAA: ITEMS LESS THAN $900,000 EACH	7,588	7,588	7,588	7,588
MAJOR EQUIPMENT, DAVA: ITEMS LESS THAN $900,000 EACH	481	481	481	481
MAJOR EQUIPMENT, DIG: ITEMS LESS THAN $900,000 EACH	45	45	45	45
CLASSIFIED PROGRAMS	1,071,877	[illegible]	1,159,791	991,717
NON-CENTRALLY MANAGED ITEMS		10,000	10,000	10,000
INFLATION REESTIMATES FOR FY86		−1,000	−1,000	−1,000
PRIOR YEAR INFLATION SAVINGS		−36,000	−36,000	
(PY TRANSFER)		(36,000)	(36,000)	
TOTAL, PROCUREMENT, DEFENSE AGENCIES	1,391,900	1,181,869	1,426,914	1,302,740
TRANSFER FROM OTHER ACCOUNTS		(36,000)	(36,000)	
TOTAL FUNDING AVAILABLE	1,391,900	1,217,869	1,462,914	1,302,740

PRIOR YEAR SAVINGS

The conferees recognize $36,000,000 in prior year savings in Defense Agencies Procurement. The sources and uses of these savings are identified in this Statement of the Managers under the heading "Availability of Unobligated Balances."

DCA CINC INITIATIVES

The conferees agree to restore the Senate reduction of $7,900,000 for the Defense Communications Agency CINC Initiatives program. The conferees understand there are a number of critical requirements that necessitate funding in fiscal year 1986. The conferees direct the Department of Defense to budget for these procurement and operations requirements in the appropriate service requests in fiscal year 1987 rather than budget for them in this account and as a contingency fund.

DEFENSE PRODUCTION ACT PURCHASES

The conference agreement provides $31,000,000 as proposed by the Senate.

NATO COOPERATIVE DEFENSE PROGRAMS

The conferees agree to provide $15,000,000 for the acquisition of point air defense of United States air bases and other critical United States military facilities in Italy as proposed by the Senate in the Continuing Resolution (H.J. Res. 465). Enabling bill language has been added.

TITLE IV—RESEARCH, DEVELOPMENT, TEST AND EVALUATION

The conferees agree to the following amounts for the Research, Development, Test and Evaluation accounts:

[In thousands of dollars]

	Budget	House	Senate	Conference
RECAPITULATION				
TOTAL, RDTE, ARMY	5,279,900	4,436,475	4,841,169	4,838,172
TRANSFER FROM OTHER ACCOUNTS		(110,530)	(265,000)	
TOTAL, RDTE, NAVY	11,264,300	9,462,631	10,104,594	10,125,239
TRANSFER FROM OTHER ACCOUNTS		(271,496)	(183,000)	
TOTAL, RDTE, AIR FORCE	15,578,500	13,217,177	13,861,113	13,860,208
TRANSFER FROM OTHER ACCOUNTS		(359,000)	(256,000)	
TOTAL, RDTE, DEFENSE AGENCIES	7,053,900	5,943,038	7,033,745	[illegible]
TRANSFER FROM OTHER ACCOUNTS		(179,112)	(51,000)	
TOTAL, RDTE, DIRECTOR OF TEST AND EVALUATION	103,500	[illegible]	143,500	118,500
TOTAL, RDTE	39,280,100	33,152,821	35,984,121	35,610,505
TRANSFER FROM OTHER ACCOUNTS		(920,138)	(755,000)	
TOTAL FUNDING AVAILABLE	39,280,100	34,072,959	36,739,121	35,610,505

The conferees agree to the following language:

INDEPENDENT RESEARCH AND DEVELOPMENT BID AND PROPOSAL

The conferees agree with the House proposal that the ceiling for fiscal year 1986 for Independent Research and Development (IR&D) and Bid and Proposal (B&P) be set at $5,200,000,000. The conferees agree that an independent review of the IR&D/B&P program is required, as proposed by the House, particularly in light of recent allegations of improper charges to IR&D and B&P accounts by a major contractor.

NATO COOPERATIVE R&D

The conferees agree to provide $125,000,000 for NATO Cooperative R&D and Testing programs, instead of $250,000,000 as proposed by the Senate and no funds as proposed by the House. These funds are to be equally divided among the Army; Navy; Air Force; Defense Agencies; and Director, Test and Evaluation, Defense, RDT&E accounts.

The conferees note that the fiscal year 1986 Defense Authorization Act provided for a total of $250,000,000 in general authorization for this initiative. The conferees express their support for this important R&D program, and hope that it provides the basis for increased standardization and interoperability between the U.S. and our NATO allies in the field of armaments development and acquisition.

The Department of Defense should report back to the Committees on Appropriations of the House and Senate on the programs and projects initiated with the $125,000,000 fiscal year 1986 appropriation for NATO Cooperative R&D. Should the Department of Defense require additional funds, not to exceed the authorized amount, for this effort in fiscal year 1986, a prior approval reprogramming request must be submitted.

MANAGEMENT OF MEDICAL R&D

The conferees endorse the language of House Report 99-332, page 285, regarding Management of Medical R&D. The conferees direct that management responsibility for Infectious Disease and Combat Casualty Care be returned to USDR&E, effective immediately, with the sole exception that management responsibility for research on acquired immune deficiency syndrome shall lie with the Assistant Secretary for Health Affairs.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

The conferees agree to the following amounts for Research, Development, Test and Evaluation, Army:

[In thousands of dollars]

	Budget	House	Senate	Conference
RESEARCH DEVELOPMENT TEST AND EVAL ARMY				
Technology Base:				
IN-HOUSE LAB INDEPENDENT RESEARCH	[illegible]	25,280	25,280	25,280
DEFENSE RESEARCH SCIENCES	[illegible]	120,180	115,000	[illegible]
UNIVERSITY RESEARCH INITIATIVES	6,126	6,126	6,126	6,126
MATERIALS	[illegible]	[illegible]	[illegible]	12,380
ATMOSPHERIC INVESTIGATIONS	6,896	[illegible]	6,396	[illegible]
NUCLEAR WEAPONS EFFECTS/FLUIDICS	8,461	8,461	8,461	8,461
AIRCRAFT WEAPONS TECHNOLOGY	3,321	3,321	3,321	3,321
AIRCRAFT AVIONICS TECHNOLOGY	9,766	8,000	[illegible]	[illegible]
AERONAUTICAL TECHNOLOGY	31,171	26,771	30,000	27,500
AIRDROP TECHNOLOGY	2,061	2,061	2,061	2,061
MISSILE TECHNOLOGY	31,504	26,504	31,504	[illegible]
LASER WEAPON TECHNOLOGY	21,392	21,392	21,392	21,392
TANK AND AUTOMOTIVE TECHNOLOGY	22,226	22,226	22,226	22,226
SMALL CAL AND FIRE CNTRL TECHNOLOGY	12,794	11,294	12,044	11,500
BALLISTICS TECHNOLOGY	48,424	43,424	47,424	43,424
CHEMICAL AND SMOKE MUNITIONS	14,062	14,062	14,062	14,062
JOINT SERVICE SMALL ARMS PROGRAM (JSSAP)	6,542	5,542	6,542	5,542
COMMUNICATIONS TECH	21,403	16,403	19,403	17,403
COMBAT SURVEILL TARGET ACQUIS & IDENT	4,407	4,407	4,407	4,407
MIL ENVIRONMENTAL CRITERIA DEV	3,096	[illegible]	[illegible]	3,096
ELECTRICAL AND ELECTRONIC DEVICES	22,871	21,371	21,247	21,247
CHEM BIOLOGICAL DEF/GEN INVEST	41,724	39,724	39,724	39,724
MAPPING—GEODESY	10,364	8,864	9,635	[illegible]
NIGHT VISION INVESTIGATIONS	22,077	20,577	22,077	21,000
HUMAN FACTORS ENG SYS DEV	15,269	14,269	14,000	14,000
HUMAN PERFORMANCE EFFECT/SIMULATION	6,788	5,288	5,323	5,288
MOBILITY AND WEAPONS EFFECTS TECH	13,363	12,300	12,000	12,000
ENVIRONMENTAL QUALITY TECH	8,912	8,912	8,912	8,912
MANPOWER/PERSONNEL/TRAINING	8,016	7,516	8,016	7,516
CLOTHING EQUIP AND SHELTER TECH	10,537	10,537	9,023	9,023
JT SVC FOOD SYS TECH	6,432	5,932	6,432	5,932
COMPUTER AND INFORMATION SCIENCE	2,216	2,216	2,216	2,216
NONSYSTEMS TRAINING DEVICES TECH (NSTD)	5,103	5,103	5,103	5,103
COLD REGIONS ENGINEERING TECHNOLOGY	6,819	6,819	6,819	6,819
MILITARY FACILITIES ENGINEERING TECHNOLOGY	5,253	5,253	5,253	5,253
MOBILITY EQUIPMENT TECHNOLOGY	13,627	13,627	13,627	13,627
MED DEFENSE AGAINST CHEM AGENTS	32,309	[illegible]	32,309	31,309
TACTICAL ADP TECH	9,066	7,500	6,066	[illegible]
MILITARY DISEASE HAZARDS TECH	28,990	24,490	26,490	27,490
COMBAT CASUALTY CARE TECH	8,892	8,892	8,892	[illegible]

[In thousands of dollars]

	[redacted]	House	[redacted]	[redacted]
COMBAT MAXILLOFACIAL INJURY	2,167	2,167	2,167	2,167
SYSTEMS HEALTH HAZARD PREVENT TECH	19,461	19,461	19,461	19,461
ENERGY TECH APPL FOR MILITARY FACIL	2,230	2,230	2,230	2,230
CLASSIFIED PROGRAMS	45,765	42,265	42,265	42,265
TOTAL, TECHNOLOGY BASE	876,432	812,552	849,412	[redacted]
Advance Technology Development:				
MATERIALS AND STRUCTURES ADVANCED DEVELOPMENT	14,437	14,437	14,437	14,437
FUELS AND LUBRICANTS ADVANCED DEVELOPMENT	3,384	3,384	3,384	3,384
AIRCRAFT POWER PLANTS AND PROPULSION	21,833	19,833	19,833	19,833
AIRCRAFT WEAPONS	6,946	6,946	6,946	[redacted]
AIRCRAFT AVIONICS EQUIPMENT	10,970	10,970	10,970	10,970
ROATRY WING CONTROLS/ROTORS/STRUCTURES	31,104	17,104	17,104	17,104
SYNTHETIC FLIGHT SIMULATORS DEVELOPMENT	12,613	12,613	12,613	12,613
AIRDROP ADVANCEMENT	3,854	3,854	3,854	3,854
NOE AVIATION AND NAVIGATION EQUIPMENT	[redacted]	[redacted]	[redacted]	[redacted]
TERMINALLY GUIDED PROJECTILES	17,409	[redacted]	[redacted]	[redacted]
MSL/ROCKET COMPONENTS	42,836	18,912	34,872	18,912
BATTLEFIELD ENVIRONMENT SIMULATION	2,570	2,570	[redacted]	1,000
ARMY DEVEL & EMPLOYMENT ACTIVITY-ADEA	9,705	9,705	9,705	9,705
ADVANCED LAND MOB SYSTEMS CONCEPTS	16,474	16,474	16,474	16,474
LANDMINE WARFARE/BARRIER DEV	11,267	11,267	11,267	11,267
JOINT SERVICE SMALL ARMS PROGRAM (JSSAP)	3,463	3,463	3,463	3,463
COMBAT VEHICLE PROPULSION SYS	14,967	11,697	11,697	11,697
CMBT VEH TURRET AND CHASSIS SYBSYS	17,036	17,036	17,036	17,036
COMBAT VEHICLE ARMOR/ANTI ARMOR	11,363	11,363	11,363	11,363
ADV PROPULSION/LAUNCH SYS FOR MUN	8,233	8,233	8,233	8,233
AMMUNITION LOGISTICS	2,035	2,035	1,000	1,500
NIGHT VISION ADVANCED DEVELOPMENT	33,622	30,622	33,622	31,622
TAC CMD COMMO & COMPUTER (C4) INTEGRATN	31,774	29,774	26,529	26,529
MANPOWER AND PERSONNEL	16,938	12,938	15,000	14,000
ENGINEERING SYSTEMS	3,450	3,450	1,950	1,950
HUMAN FACTORS ENGINEERING APPLICATIONS	1,961	1,961		
HUMAN FACTOR IN TNG/OPER EFFECT	11,511	9,011	11,000	9,011
ADV ELECTRONIC DEVICES DEV	9,730	9,730	9,730	9,730
EDUCATION AND TRAINING	11,846	11,846	11,846	11,846
[redacted]	5,494	5,494	5,494	5,494
TEST MEASUREMENT & DIAGNOSTIC EQUIPMENT DEVEL	7,235	7,235	5,411	5,411
TECHNICAL VULNERABILITY REDUCTION	4,305	4,305	4,305	4,305
DEMILITARIZATION CONCEPTS	9,575	9,575	9,575	9,575
DOD SOFTWARE INITIATIVES (STARS)	52,000	42,000	42,000	42,000
TACTICAL ROBOTIC SYSTEMS	26,496	16,496	10,000	12,000
CB DEF/SMK ADV TECHNOLOGY DEMONSTRATIONS	3,045	3,045	3,045	3,045
ELECTRONIC WARFARE FEASIBILITY DEVELOPMENT	8,643	8,643	7,243	7,243
NONSYSTEMS MEDICAL MATERIAL DEVELOPMENT	16,221	16,221	16,221	16,221
MEDICAL CHEM DEFENSE LIFE SUPPORT MAT	22,612	22,612	22,612	22,612
NONTACTICAL ADP TECHNOLOGY	218	218		
CLASSIFIED PROGRAMS	51,084	19,328	19,284	19,328
TOTAL, ADVANCE TECHNOLOGY DEVELOPMENT	593,348	484,792	484,477	470,072
Strategic Programs:				
WORLDWIDE MILITARY CMD&CNT SYS INF SYS	30,914	30,914	30,914	30,914
CLASSIFIED PROGRAMS	204,743	198,743	198,743	198,743
TOTAL, STRATEGIC PROGRAMS	235,657	229,657	229,657	229,657
Tactical Programs:				
[redacted]	15,472	11,472	8,379	3,379
JOINT SURVIVABILITY INVESTIGATIONS	[redacted]	[redacted]	[redacted]	[redacted]
ADVANCED ROTORCRAFT TECH INTEGRATION/LHX	75,528	15,000	55,528	[redacted]
AIRDROP EQUIPMENT SYSTEMS	1,877	1,877	1,000	[redacted]
ANTI-TACTICAL MISSILE (ATM)	62,760	62,760	62,760	62,760
SURF-TO-SURF MSL ROCKET SYS	30,622	30,622	30,622	30,622
WEAPONS AND AMMUNITION	[redacted]	[redacted]	[redacted]	[redacted]
ADVANCED ANTI TANK WEAPON	81,077	61,077	61,077	61,077
LETHAL CHEMICAL MUNITIONS CONCEPTS	20,387		20,387	20,387
[redacted]	28,424	25,424	23,000	23,000
SMOKE MUNITIONS AND MATERIEL CONCEPTS	12,672	11,672	8,672	8,672
ARTILLERY/MORTAR AMMO DEVELOPMENT	10,157	10,157	10,157	10,157
TANK/FIGHTING VEHICLE AMMO DEVELOPMENT	5,734	5,734	5,734	5,734
MOBILE PROTECTED GUN PROGRAM	9,802			
ELECTRIC POWER SOURCES	11,258	11,258	11,258	11,258
PHYSICAL SECURITY	4,416	4,416	4,416	4,416
IDENTIFICATION FRIEND OR FOE EQUIP DEVEL	20,693	18,693	18,693	18,693
AIRCRAFT SURVIVABILITY EQUIPMENT	8,611	8,611	8,611	8,611
ARMY DATA DISTRIBUTION SYSTEM (ADDS)	38,016	38,016	38,016	38,016
ELECT WRFR VULNERABILITY/SUCEPTIBILITY	23,791	23,791	22,791	22,791
CHEMICAL/BIO DETECTION WARM/SAMP MAT CONCEPTS	15,192	15,192	15,192	15,192
CML BIO PROTECTIVE MATERIEL CONCEPTS	9,341	9,341	9,341	9,341
REMOTELY PILOTED VEHICLES/DRONES	20,977	16,000	[redacted]	[redacted]
COMBAT SUPPORT EQUIPMENT	28,363	28,363	25,363	25,363
COMBAT MEDICAL MATERIAL	9,379	9,379	9,379	9,379
SINGLE CHANNEL GRD/ABN RADIO SUB-SYS	2,265	2,265	2,265	2,265
SOLDIER SUPPORT/SURVIVABILITY	6,657	[redacted]	[redacted]	[redacted]
DRUG AND VACCINE DEVELOPMENT	16,932	16,932	16,932	16,932
MEDICAL DEFENSE AGAINST CHEM WARFARE	31,019	31,019	31,019	31,019
COMBAT SERVICE SUPPORT CONTROL SYS	[redacted]	[redacted]	[redacted]	[redacted]
AIRCRAFT WEAPONS	12,672	12,672	12,672	12,672
AIR MOBILITY SUPPORT EQUIPMENT	2,600	2,600	2,600	2,600

[In thousands of dollars]

	Budget	House	Senate	Conference
ADVANCED ATTACK HELICOPTER (AH-64)	17,506		17,506	10,000
AIRCRAFT PROPULSION SYSTEMS	70,791	70,791	50,791	70,791
SYNTHETIC FLIGHT TRAINING SYSTEMS	7,863	7,863	7,863	7,863
AIRDROP EQUIP DEVELOPMENT	3,141	3,141	3,141	3,141
ARMY HELICOPTER IMPROVEMENT PROG	6,802	6,802	6,802	6,802
AIRCRAFT COMPONENT IMPROVEMENT PROGRAM	16,158	16,158	16,158	16,158
STINGER	18,583	23,583	18,583	23,583
PATRIOT (SAM-D)	53,070	53,070	53,070	53,070
[illegible]	6,213	6,213	3,392	5,000
HELLFIRE ON BLACKHAWK		20,000		17,000
GRASS BLADE	10,878	10,878	10,878	10,878
DIVISION AIR DEFENSE GUN	43,176			
JOINT TACTICAL MISSILE SYSTEM-ARMY (JTACMS-A)	154,805	130,000	130,000	130,000
INFANTRY SUPPORT WEAPONS	24,003	18,603	24,003	24,003
INFANTRY SUPPORT WEAPONS (PY TRANSFER)		(5,400)		
MOBILITY	15,486	5,486	1,000	1,000
SMOKE MUNITIONS & MATERIEL	6,024	6,024	6,024	6,024
COUNTERMINE AND BARRIERS	10,417	6,870	5,617	8,000
COUNTERMINE AND BARRIERS (PY TRANSFER)		(1,130)		
FIGHTING VEHICLE SYS	2,228	2,228		
LANDMINE WARFARE	7,954	7,954	7,954	7,954
M1 E1 DEVELOPMENT PROGRAM	[illegible]	3,898	18,898	18,898
FIELD ARTILLERY AMMUNITION	62,590	27,722	52,790	27,722
105MM TANK AMMUNITION	1,543	1,543	1,543	1,543
COMM ENGINEERING DEV	10,716	10,716	10,716	10,716
JT TAC INFO DIST SYS (JTIDS)	12,243	12,243	12,243	12,243
UNATTENDED GROUND SENSORS	[illegible]	1,000		500
MODULAR INTEGRATED COMM AND NAVIGATION SYS	5,007	5,007	5,007	5,007
RADIOLOGICAL DEFENSE EQUIPMENT	664	664	664	664
NIGHT VISION DEVICES	14,567	14,567	14,567	14,567
AIRCRAFT SURVIVABILITY EQUIPMENT	24,777	22,500	22,000	22,500
ARMY CMD AND CONTROL SYSTEM (ACCS) SYS ENGR	9,896	9,896	9,896	9,896
COMBAT FEEDING, CLOTHING AND EQUIPMENT	6,461	3,461	5,000	4,000
TACTICAL ELECTRIC POWER SOURCES	10,122	10,122	10,122	10,122
GENERAL COMBAT SUPPORT	14,822	14,822	14,298	14,298
PHYSICAL SECURITY	6,496	6,496	6,496	6,496
EDUCATION AND TRAINING	6,611	6,611	6,611	6,611
SPECIAL PURPOSE DETECTORS	3,256	3,256	3,256	3,256
CMC BIO DETECTION WARNING & TRG MATERIAL	23,081	23,081	23,081	23,081
CHEM BIO PROTECTIVE MATERIEL	15,585	15,585	15,585	15,585
EUCOM C3 SYSTEMS	1,961	1,961	1,961	1,961
CLASSIFIED PROGRAMS	377,967	228,650	322,737	296,137
CLASSIFIED PROGRAMS	[illegible]	201,291	217,319	209,305
DIVAD ALTERNATIVES				41,000
DIVAD ALTERNATIVES (TRANSFER)			(176,000)	
ADV COMPOSITE AIRFRAME PROG			2,500	
TOTAL, TACTICAL PROGRAMS	2,366,366	1,880,512	2,076,023	2,069,243
TRANSFER FROM OTHER ACCOUNTS		(6,530)	(176,000)	
Intelligence & Communications:				
MAPPING AND GEODESY	4,205	4,205	3,225	3,225
AIRCRAFT AVIONICS	2,238	2,238	2,238	2,238
MAPPING AND GEODESY	3,430	3,430	2,254	2,254
NAVSTAR GLOBAL POS SYS (USER EQ)	11,271	11,271	11,271	11,271
LONG-HAUL COMMUNICATIONS (DCS)	4,312	4,312	4,312	4,312
SATCOM GROUND ENVIRONMENT	26,755	26,755	59,555	59,555
CLASSIFIED PROGRAMS	[illegible]	[illegible]	[illegible]	[illegible]
TOTAL, INTELLIGENCE AND COMMUNICATIONS	[illegible]	[illegible]	99,135	99,135
COMMAND AND CONTROL	5,799	5,799	5,799	5,799
REMOTELY PILOTED VEHICLES	30,014	23,114	23,114	23,114
DIVISION AIR DEFENSE COMMAND AND CONTROL	33,040	33,040	33,040	[illegible]
AUTOMATIC TEST EQUIPMENT DEVELOPMENT	21,310	21,310	16,310	18,310
SINGLE CHANNEL GRD/ABN RADIO SUB ENG	12,874	12,874	12,874	12,874
MEDICAL CHEMICAL DEFENSE LIFE SPT MAT	[illegible]	[illegible]	[illegible]	[illegible]
DRUG AND VACCINE DEVELOPMENT	10,497	10,497	10,497	10,497
JOINT SURVEILLANCE/TARGET ATTACK RADAR SYSTEM	43,818	33,818	43,818	43,818
JT INTEROP OF TAC CMD & CONT SYS (JINTACCS)	[illegible]	[illegible]	6,481	7,000
JT CB CONTACT POINT TEST AND ASSESSMENT	2,402	2,402	2,402	2,402
HV ANTI-TANK ASSAULT WPN SYS (TOW)	11,836	11,836	11,836	11,836
ADV FIELD ARTILLERY TACTICAL DATA SYSTEM	35,574	10,000	35,574	20,000
MED ANTI-TANK ASSAULT WPN (M)	3,842	3,000	7,900	7,500
CHAPARRAL	17,666	17,666	17,666	17,666
SAM HAWK/HAWK IMP PROG	5,212	5,212	5,212	5,212
COMBAT VEHICLE IMPROVEMENT PROGRAM	72,743	65,000	55,000	55,000
MANEUVER CONTROL SYSTEM (MCS)	8,636	8,636	8,636	8,636
155MM SELF-PROPELLED HOWITZER IMPROVEMENTS	26,105	26,105	26,105	26,105
EQUIPMENT UPGRADE	30,805	30,805	30,805	30,805
JOINT TACTICAL COMMO PROGRAM (TRI-TAC)	30,560	30,560	30,560	30,560
[illegible]				
TARGET MISSILES	4,041	3,000	4,000	4,000
NONSYSTEMS TRAINING DEVICES (NSTD) DEV	[illegible]	[illegible]	4,901	4,901
NON-SYSTEM TNG DEVICES ENGR	43,636	43,636	[illegible]	42,636
METEOROLOGICAL EQUIPMENT SYSTEMS	6,447	6,447	4,859	4,859
AVIATION ENGINEERING FLIGHT ACTIVITY	11,720	9,720	9,720	9,720
KWAJALEIN MISSILE RANGE	161,624	154,024	154,024	154,024
SUPPORT OF DEVELOPMENT TESTING	58,671	56,671	56,671	56,671
MATERIEL SYSTEMS ANALYSIS	15,930	15,930	15,930	15,930
EXPLOITATION OF FOREIGN ITEMS	3,569	3,569	3,569	3,569

[In thousands of dollars]

	Budget	House	Senate	Conference
SUPPORT OF OPERATIONAL TESTING	54,855	54,855	57,000	57,000
THREAT SIMULATORS FOR TESTING	36,149	33,000	36,149	33,000
PROGRAM-WIDE ACTIVITIES	183,766	173,766	165,000	170,000
INTL COOPERATIVE RESEARCH AND DEV	847	847	847	847
TECHNICAL INFO ACTIVITIES	6,765	6,265	6,265	6,265
DARCOM MAJOR RANGE/TEST FACIL	373,054	357,054	350,000	354,000
MUNITIONS-NATO STDZN DOD EFFEC SAFETY STDS	11,626	11,626	11,626	11,626
DOD HIGH ENERGY LASTER SYSTEMS TEST FAC	20,184	20,184	20,184	20,184
PRODUCTIVITY INVESTMENTS	23,335	21,000	21,000	21,000
MTG HQ (RESEARCH/DEVELOPMENT)	11,852	11,852	11,852	11,852
INDUSTRIAL PREPAREDNESS	104,062	97,062	97,062	97,062
TOTAL, DEFENSEWIDE MISSION SUPPORT	1,139,606	1,083,471	1,055,395	1,069,246
CERAMIC ROTARY VALVES			875	
CONSULTANTS, STUDIES & ANALYSES		−10,000	−2,000	−10,000
RESTORATION OF CIVILIAN PAY REDUCTION			33,600	16,800
MEDICAL RESEARCH/AIDS			52,690	40,000
GUARD/RESERVE UNIQUE R&D		5,000	5,000	3,000
GENERAL REDUCTION		−10,000		−5,000
PRIOR YEAR INFLATION SAVINGS		−40,000	−40,000	
(PY TRANSFER)		(40,000)	(40,000)	
INFLATION ESTIMATES FOR FY 1986		−4,000	−4,000	−4,000
PRIOR YEAR PROGRAM SAVINGS		−45,000	−49,000	
(PY TRANSFER)		(45,000)	(49,000)	
REPROGRAMMING DENIALS		−19,000		
(PY TRANSFER)		(19,000)		
NATO COOPERATIVE R&D PROGRAMS			50,000	25,000
TOTAL, RESEARCH DEVELOPMENT TEST AND EVAL, ARMY	5,279,900	4,436,475	4,841,169	4,838,172
TRANSFER FROM OTHER ACCOUNTS		(110,530)	(265,000)	
TOTAL FUNDING AVAILABLE	5,279,900	4,547,005	5,106,169	4,838,172

DEFENSE RESEARCH SCIENCES

The conferees agree to provide $234,500,000 for Defense Research Sciences, of which $5,000,000 shall be used only for aviation research at Wichita State University, and $3,500,000 shall be used only for computer research and related purposes at the University of Nevada, Las Vegas.

MILITARY DISEASE HAZARDS TECHNOLOGY

The conferees agree to provide $27,490,000 for Military Disease Hazards Technology, of which $2,000,000 shall be used only for neurotoxin research at the University of Kansas.

TERMINALLY GUIDED PROJECTILES

The conferees agree to provide $15,000,000 for Terminally Guided Projectiles as proposed by the House, instead of $11,000,000 as proposed by the Senate. The funds provided are to be used solely for the SADARM project; requests for funds for the CGSP and Guidance & Control Production projects are denied.

The conferees also agree to provide $21,000,000 in the Field Artillery Ammunition program for SADARM, for a total of $36,000,000. The conferees share the reservations expressed by the House concerning SADARM's technical maturity and readiness to enter full-scale engineering development (ED). It is noted that the issuance of a Request for Proposals (RFP) for ED of SADARM has been delayed, and the program schedule has slipped accordingly. Consequently, the conferees direct the Army to fashion the forthcoming RFP to provide for an ED program which is augmented in the early phases by concurrent gun firings of modified advance development (AD) hardware. Said modifications are to be those related to improvement of reliability and to refinement of algorithms for improvement of single shot probability of kill. Simultaneously with conduct of these gun firings, ED may proceed through component and subsystem development and qualification, and demonstration of the full-up ED system. Completion of a program of well instrumented gun firings of modified AD hardware before the end of ED subsystem qualification will significantly reduce the risks associated with the remainder of development, as will full consideration of the results and implications of the current Air Force testing program known as Chicken Little. The conferees direct that no funds be obligated or expended for materials required for the final phase of ED, system qualification in DT/OT II, until approved by the Committees on Appropriations of the House and Senate. Such approval will be contingent upon a satisfactory Critical Design Review (CDR) conducted by the Army at the end of demonstration of the full-up ED system. A satisfactory CDR will have addressed, among other issues, reliability, single shot probability of kill, resistance to countermeasures, accuracy of delivery methods, and lethality at required ranges. Transition to DT/OT II shall be made on the basis of specific technical accomplishment and risk reduction, rather than on an arbitrary calendar date.

The conferees direct that at least two prime competing contractors shall be involved in the two phase process described above, and that the Army plan for eventual production by at least two prime contractors.

The conferees agree that integration of SADARM with both the MLRS and the 155mm howitzer may be pursued with fiscal year 1986 funds.

The conferees recognize that the foregoing directives may add to the cost, and lengthen the duration, of the ED program currently planned by the Army. By the same token, continuing to support at least two competing prime contractors through development and into production may increase funding needs. On the other hand, these increased costs are viewed as a prudent investment which will be recouped through lower procurement costs and lower technical and financial risks. Further, the conferees insist that the program schedule be structured realistically and prudently.

MISSILE/ROCKET COMPONENTS

The conferees agree to provide $18,912,000 for Missile/Rocket Components as proposed by the House, instead of $34,872,000 as proposed by the Senate. The funds are specified for projects within the program as follows:

D085—Demonstration of Advanced Radar Techniques	$1,412,000
D087—Missile Rocket Components	192,000
D261—Fiber Optics Guidance	6,450,000
D263—Kinetic Energy Missile	5,858,000
D271—Multirole Survivable Missile	5,000,000

Funds for D272, Joint Service Imaging Infrared Seeker, are specifically denied.

ADVANCED ROTORCRAFT TECHNOLOGY INTEGRATION/LHX

The conferees agree to provide $45,000,000 for Advanced Rotorcraft Technology Integration (ARTI)/LHX, instead of $15,000,000 as proposed by the House or $55,528,000 as proposed by the Senate. The conferees emphasize that the funds provided are for advanced development only, and that no funds will be provided in the future for full scale development until the Army has better justified the LHX program. The funds are provided with the understanding that the program will be continued in fiscal year 1986 as presently structured by the Army with a reasonable level of competition being maintained in both elements of the program.

The conferees are concerned that the program is not well defined and that its cost could be significantly underestimated. For these reasons, the Army is directed to prepare for submission to the Committees on Appropriations of the House and Senate by August 1, 1986, a complete report on the program, describing the concept of operation, procurement strategy, quantities of aircraft to be procured, schedule, and program cost.

The Secretary of Defense, for his part, is to submit a separate report to the Committees on Appropriations of the House and Senate by August 1, 1986, certifying the accuracy of the Army's cost estimates. That report should be based on an independent assessment of Army cost estimates for the LHX helicopter as well as for potential alternative programs and should be conducted by the Cost Analysis Improvement Group within the Office of the Secretary of Defense. This analysis should verify whether the LHX can be procured for an average unit flyaway cost of $5,300,000 in fiscal year 1984 dollars as currently projected by the Army.

The Army should also reexamine its plan to retain two airframe design teams for 18 months during the full scale development phase, should that phase be funded. The conferees agree that steps should be taken to determine the most efficient and cost effective means to design the competitive airframes in less time and to include this plan in the August 1, 1986 report.

Further Congressional approval of this program may be contingent on the establishment of a cost ceiling for the LHX to be derived from the data provided by August 1, 1986. If the Army fails to present a cost estimate that is attainable, the Committees will consider terminating the program in acting on the fiscal year 1987 request.

AIRCRAFT PROPULSION SYSTEMS

The conferees agree to provide $70,791,000 for Aircraft Propulsion Systems, as proposed by the House instead of $50,791,000 as proposed by the Senate.

The funds provided are for continued development of the T-800 engine. Army plans envision funding two contractor teams through the preliminary flight rating stage of LHX full-scale development. The Senate report directed that the down selection to one team should be made in fiscal year 1986. While sympathetic to the Senate view that this will reduce development costs, the conferees agree that insufficient data will be available for the Army to make an informed decision. The potential for far larger savings in the production phase will be increased by continuing competition for as long as possible in the development phase. Therefore, the conferees agree that the Senate directive is rescinded, and that down selection will not be required to take place in fiscal year 1986.

HELLFIRE ON BLACKHAWK

The conferees agree to provide $17,000,000 for Hellfire on Blackhawk, instead of $20,000,000 as proposed by the House or no funds as proposed by the Senate. The funds provided are to be used to complete remaining development tasks for arming Blackhawk helicopters with Hellfire missiles, to transition into low-rate initial production, and to procure the first lot of shipsets. Subsequent funding for procurement is to be included in the Aircraft Procurement, Army account.

Language has been provided in the bill specifying that $17,000,000 of Army RDT&E funds are available only for the purposes stated above.

FIELD ARTILLERY AMMUNITION

The conferees agree to provide $27,722,000 for Field Artillery Ammunition as proposed by the House, instead of $52,790,000 as proposed by the Senate. The funds are specified for projects within the program as follows:

D175—Field Artillery Fuzes	$6,501,000
D286—Field Artillery Ammunition (NATO)	221,000
D644—Generic SADARM	21,000,000

Funds for D652, Light Artillery Guided Projectile, are specifically denied.

Language concerning SADARM is provided above under Terminally Guided Projectiles.

ADVANCED FIELD ARTILLERY TACTICAL DATA SYSTEM

The Army has requested $35,574,000 for the continued development of the Advanced Field Artillery Tactical Data System (AFATDS). The conferees are fully supportive of the effort to upgrade Army's fire support command and control posture. However, improvements in the fielded systesm are of more immediate and primary concern.

As specified in the Defense Department-approved Mission Element Needs Statement (MENS), such improvements are to be accomplished in gradual step progression with proven technology toward the ultimate aim of achieving the advanced capabilities of the ultimate system. Plans to accomplish these goals must maximize the near-term capabilities of the Light Divisions in parallel with block improvements in the fielded systems of the Heavy Divisions. The current program therefore, must be returned to a more equitable balance between near term and long term objectives.

Accordingly, the conferees agree to provide $20,000,000 in RDT&E for the continued development of AFATDS, and $25,574,000 in procurement to maximize the fielded capability of the Light Divisions. The conferees support the on-going AFATDS software program through completion of the Concept Evaluation Phase (CEP) within the $49,500,000 contract ceiling established by the Army. The Army is directed to submit for approval of the Committees on Appropriations of the House and Senate a comprehensive program status report, detailed plans for achieving the objective system requirements, and a schedule for bringing AFATDS under the required ASARC/DSARC review process by August 1, 1986.

DIVAD ALTERNATIVES

The conferees agree to provide $41,000,000 for examination of alternatives for DIVAD instead of no funds as proposed by the House or the transfer of $176,000,000 of prior year funds as proposed by the Senate. Information provided by the Army indicated that evaluation of off-the-shelf alternatives would require $41,000,000. The conferees agree that such evaluation should take place as rapidly as possible, and direct the Army to complete that evaluation expeditiously.

ADVANCED COMPOSITE AIRFRAME PROGRAM

The conferees agree to provide no additional funds for the Advanced composite Airframe Program (ACAP) as proposed by the House, instead of $2,500,000 as proposed by the Senate. The conferees believe that ACAP is adequately funded under the Advanced Structures project, and note that ACAP funding will receive a considerable increase in FY 1987.

Should the Army desire to accelerate ACAP static and fatigue testing as proposed by the Senate during fiscal year 1986, it should submit a prior approval reprogramming.

CERAMIC ROTARY VALVES

The conferees agree to provide no funds for Ceramic Rotary Valves, but agree that the Army may use $870,000 of available RDT&E funds to initiate in fiscal year 1986 a follow-on test of a multi-cylinder engine using ceramic elements for rotating valves, provided that evaluation of the single-cylinder engine is favorable.

PRIOR YEAR SAVINGS

The conferees recognize $96,130,000 in prior year savings in Research, Development, Test and Evaluation, Army. The sources and uses of these savings are identified in this Statement of Managers under the heading "Availability of Unobligated Balances."

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

The conferees agree to the following amounts for Research, Development, Test and Evaluation, Navy:

[In thousands of dollars]

	Budget	House	Senate	Conference
RESEARCH DEVELOPMENT TEST AND EVAL. NAVY				
TECHNOLOGY BASE:				
UNIVERSITY RESEARCH	6,250	6,250	6,250	6,250
IN-HOUSE INDEPEND LAB RES	26,277	26,277	26,277	26,277
DEFENSE RESEARCH SCIENCES	339,176	329,071	333,208	333,208
TACT DIRECTED ENERGY TECH	10,834	7,000	7,000	7,000
AIRCRAFT TECHNOLOGY	23,102	23,102	23,102	23,102
MISSILE PROPULSION TECH	10,503	10,503	10,503	10,503
SURF/AEROSPACE WPNRY TECH	27,218	27,218	27,218	27,218
NUCLEAR PROPULSION TECH	49,018	49,018	49,018	49,018
SHIP AND SUBMARINE TECH	25,272	25,272	25,272	25,272
UNDERSEA WARFAR WPNRY TECH	44,181	44,181	37,000	44,181
U/S TARGET SURV TECH	44,495	44,495	44,495	44,495
SURF/AEROSP TGT SURV TECH	32,240	32,240	32,240	32,240
COMMAND AND CONTROL TECH	28,943	24,443	24,443	24,443
COUNTERMEASURES TECH	27,005	27,005	25,000	25,000
M C AIR-GROUND TECHNOLOGY	18,499	14,499	14,499	14,499

[In thousands of dollars]

	Budget	House	Senate	Conference
HUMAN FACTORS&SIM TECH	7,652	7,652	7,652	7,652
BIOMEDICAL TECH	8,906	8,906	8,906	8,906
OCEAN AND ATMOS SUPT TECH	27,095	27,095	27,095	27,095
LOGISTICS TECH	13,311	13,311	13,311	13,311
MATERIALS TECH	33,004	33,004	33,004	33,004
ELEX DEVICE TECH	24,898	24,898	[illegible]	24,898
PERSONNEL & TRNG TECH	5,062	5,062	5,062	5,062
CHEM/BIOL/&RADIOL DEF TECH	4,765	4,765	4,765	4,765
LAB INDEP EXPLORATORY DEV	15,463	15,463	14,500	14,500
TOTAL, TECHNOLOGY BASE	853,169	[illegible]	824,718	[illegible]
ADVANCE TECHONOLGY DEVELOPMENT				
AVIONICS	4,909		[illegible]	1,750
AIR/OCEAN TACT APPLIC	8,946	5,819	8,946	6,750
ADV A/C PROPUL SYS	8,841	[illegible]	[illegible]	3,000
AVIATION LIFE SUPT SYS	1,377	[illegible]	1,377	1,377
ADV A/C SUBSYSTEMS	4,684	4,684	4,684	4,684
ERASE	10,149	10,149	10,149	10,149
ASM TECH	8,973	1,973		
SHIP PROP SYS (ADV)	30,664	[illegible]	27,664	30,664
ADV COMPUTER TECH	14,555	12,055	10,547	10,547
ELECTRIC DRIVE	9,762	9,762	9,762	9,762
CONVENTIONAL MUNITIONS	30,334	[illegible]	25,334	22,000
JOINT SERV EOD DEV (ADV)	[illegible]	[illegible]	[illegible]	[illegible]
HUMAN FACTORS ENG DEVEL	2,116	2,116	2,116	2,116
ASW OCEANOGRAPHY	6,376	6,376	6,376	6,376
MEDICAL DEVELOPMENT (ADV)	14,653	12,719	14,653	12,719
MNPWR CONTROL SYST DEV	4,099	4,099	3,599	3,599
ADV MARINE BIOLOGICAL SYS	5,477	5,477	5,477	5,477
GENERIC LOGISTICS R&D	[illegible]	[illegible]		[illegible]
OCEAN ENG TECH DEVELOP	13,083	13,083	13,083	13,083
EDUCATION & TRAINING	4,667	[illegible]	3,667	3,000
ENVIRONMENTAL PROTECTION	8,347	8,347	8,347	8,347
NAVAL SPECIAL WARFARE	11,862	9,554	[illegible]	9,554
ADV MANPOWER TRAINING SYS	6,144	2,933	6,144	2,933
TRAINING DEVICE TECH	8,679	7,567	8,679	8,000
NAV LOGISTICS PRODUCTIVITY	[illegible]	968	[illegible]	[illegible]
TOTAL, ADVANCE TECHNOLOLGY DEVELOPMENT	239,449	188,071	198,332	191,085
STRATEGIC PROGRAMS				
SPACE TECHNOLOGY	14,002	14,002	14,002	14,002
TRIDENT II	2,165,615	2,103,597	2,130,615	2,117,106
STRATEGIC TECH SUPPORT	3,882	3,882	3,882	3,882
FBM SYSTEM	33,550	33,550	33,550	33,550
SSBN SECURITY PROGRAM	38,591	38,591	38,591	38,591
TRIDENT I	47,195	38,195	38,195	38,195
ELF COMMUNICATIONS	28,283	28,283	28,283	28,283
NAVY STRATEGIC COMM	125,839	119,161	125,839	125,839
NAV SPASUR	954	954	954	954
[illegible]	1,615	1,615	1,615	1,615
WIS MODERNIZATION	22,504		15,000	15,000
TOTAL, STRATEGIC PROGRAMS	2,482,030	2,381,830	2,430,526	2,417,017
TACTICAL PROGRAMS				
ABN ELECTRONIC WARFARE EQ	61,587	61,587	61,587	61,587
T45-TS	114,128	114,128	114,128	114,128
CV ASW MODULE	5,022	4,259	4,259	4,259
A/C SYSTEMS (ADV)	5,894	5,894	5,894	5,894
AIR ASW	6,778	4,778	4,778	4,778
JVX	603,743	569,543	583,743	[illegible]
A-6E IMPROV	237,952	232,052	187,952	232,052
ABN MINE COUNTERMEASURES	14,148	14,148	14,148	14,148
TAC AIR RECON	6,906	6,906	2,317	2,377
A/C SURVIV & VULNER	14,825	14,825	14,825	14,825
RETRACT YELLOW	25,728	5,000	5,000	5,000
ADV SUR/AIR MSSLE(ASAM)	41,510	25,000	25,000	25,000
LOW COST ANTI-RADIATION SEEKER	16,523	17,523	16,523	17,523
SUBMARINE ASW STDOFF WPN	75,328	75,328	75,328	75,328
BGAAWC	11,183	5,000	11,183	8,000
SURFACE MCM	24,908	24,908	24,908	24,908
SUB SONAR DEVEL (ADV)	22,414	12,506	12,506	12,506
SURFACE SHIP TORP DEF	45,199	40,199	40,199	40,199
CATAPULTS	3,418			
SHIPBD SYS COMP DEV	21,427	15,427	15,427	15,427
SHIPBOARD DAMAGE CONTROL	32,320	23,606	25,000	23,606
ADV COMMAND DATA SYS	2,595			
SUB ARCTIC WF/SPT EQUIP PR	9,748	9,748	9,748	9,748
PILOT FISH	93,964	93,964	93,964	93,964
NON ACOUSTIC ASW	22,104	22,104	22,104	22,104
ADV ASW TARGET	12,646	7,550	12,646	9,400
SHIP SYS ENGR STDS	4,673		2,000	2,000
RETRACT JUNIPER	25,368	25,368	25,368	25,368
RADIOLOGICAL CONTROL	3,585	2,196	2,196	2,196
LINK DOGWOOD	26,247	26,247	26,247	26,247
SURFACE ASW	17,649	17,649	17,649	17,649
SUB HULL ARRAY DEV (ADV)	13,206	8,211	8,211	8,211
ADV SUB SYS DEVEL	180,586	163,000	[illegible]	170,000
SUB TAC W/F SYS (ADV)	23,171	23,171	23,171	23,171

[In thousands of dollars]

	Budget	House	Senate	Conference
SHIP DEVELOPMENT (ADV)	14,639	13,657	13,657	13,657
SURF SHIP NAVIG SYS	2,841		7,000	[illegible]
ATTACK SUBMARINE DEV	33,139	33,139	33,139	33,139
ADV NUC REACT COMP SYS DEV	120,175	120,175	120,175	120,175
SHIBD PHYSICAL SECURITY	3,703	3,703	3,703	3,703
CHALK EAGLE	[illegible]	[illegible]	64,783	64,783
A4W/AIG NUC PROP PLNT	3,327	3,327	3,327	3,327
COMBAT SYSTEM INTEGRATION	[illegible]	22,383	22,383	22,383
DDG-51	[illegible]	[illegible]	[illegible]	[illegible]
JOINT ADV SYS	[illegible]			
MINE DEVELOPMENT	1,964	4,464	4,464	4,464
ALWT (ADV)	10,113		7,000	
MC ASSAULT VEHICLES	10,407	10,407	10,407	10,407
TAC NUC DEVELOPMENT	9,721	7,846	9,721	[illegible]
GRD COMBAT/SUPP ARMS SYS	17,129	16,129	13,129	13,129
OCEAN ENGR SYS DEV	[illegible]	[illegible]	[illegible]	[illegible]
ANTI SUB W/F SIGN PROC	15,535	15,535	15,535	15,535
FLEET TAC D&E PROGRAM	[illegible]	[illegible]	7,000	3,000
COMMAND & CONTROL SYS (ADV)	42,973	30,473	30,473	30,473
CONTAINER OFFLOAD & TRNSFR SYS	1,515	1 515	1,515	1,515
NAVY ENERGY PROGRAM (ADV)	18,576	18,576	18,576	18,576
FACILITIES IMPROV	7,279	7,279	7,279	7,279
MERSHIP NAV AUX PROG	6,031	6,031	6,031	6,031
COMBAT SERVICES SUP (ADV)	[illegible]	9,356	9,356	9,356
MC INTELL/ELEC WARFARE SYS	70	70	70	70
CHALK CORAL	3,039	3,039	3,039	3,039
LINK HAZEL	23,564	23,564	23,564	23,564
LINK LAUREL	35,345	35,345	35,345	35,345
ARIADNE	2,185	2,185	2,185	2,185
LINK SPRUCE	67,352		[illegible]	35,000
RETRACT MAPLE	8,247	8,247	9,747	9,747
MCCS SE&I	7,181	7,181	7,181	7,181
ASW SURVEILLANCE	19,458	17,458	17,458	17,458
LRAP	15,678	15,678	15,678	15,678
SPECIAL PROCESSES	49,532	49,532	49,532	49,532
ROSS	[illegible]			
AVIONICS DEV	14,965	14,965	14,965	14,965
IFF SYS DEV	17,477	17,477	17,477	17,477
LAMPS III	[illegible]	14,100	[illegible]	14,100
HELICOPTER DEVELOPMENT	7,902	7,902	7,902	[illegible]
AV8B (ENG)	72,078	55,178	72,078	[illegible]
SUPPORT EQUIPMENT	16,428	13,128	14,494	16,428
SUPPORT EQUIPMENT (PY TRANSFER)		(3,300)		
S-3 WPN SYS IMP S-3( )	15,955	15,955	15,955	15,955
AIR OCEAN EQUIP ENG	[illegible]	[illegible]	[illegible]	[illegible]
ABN ASW DEVELOPMENTS	6,136	[illegible]	6,136	6,136
A/C IR SIGN SUPPRESSION	3,945	[illegible]	[illegible]	[illegible]
P-3 MODERNIZATION PROG	48,725	48,725	31,295	[illegible]
ABN EW ENG	[illegible]	[illegible]	[illegible]	[illegible]
ASPJ	[illegible]	19,169	24,985	[illegible]
CV IZ ASW HELO	12,722	12,722	12,722	12,722
A/C PROPULSION (ENG)	[illegible]	[illegible]	[illegible]	[illegible]
EW SIMULATOR DEV	40,275	[illegible]	[illegible]	[illegible]
C/MH-53E	[illegible]	[illegible]	7,300	[illegible]
C/MH-53E (PY TRANSFER)		[illegible]		
ACOUSTIC SRCH SENSRS (ENG)	42,630	[illegible]	30,630	[illegible]
AVIATION LIFE SUPRT SYS	[illegible]	[illegible]	[illegible]	27,500
A/C ENGINES COMP IMP PROG	65,843	64,943	[illegible]	[illegible]
A/C ENGINES COMP IMP PROG (PY TRANSFER)		(900)		
MK92 FCS UPGRADE	13,326	13,326	13,326	13,326
AEGIS AREA AIR DEF	11,081	9,927	11,081	11,081
AEGIS AREA AIR DEF (PY TRANSFER)		(1,154)		
CG-47 PRODUCT IMPROVEMENT	48,506	[illegible]	44,506	[illegible]
LINK ASH	13,636	13,636	13,636	13,636
AMRAAM	17,051	[illegible]	5,000	5,000
VERTICAL LAUNCHING SYS	[illegible]	[illegible]	[illegible]	[illegible]
AAM SYSTEMS ENGINEERING	[illegible]	13,589	10,000	[illegible]
VLS ASROC	37,444	37,444	37,444	37,444
CIWS (PHALANX)	7,612	7,612	4,771	4,771
NATO SEA SPARROW	8,047	3,047	3,047	3,047
SM-2 (N)	9,756		7,256	[illegible]
STANDARD MSL IMPROVEMENTS	47,185	47,185	47,185	47,185
TOMAHAWK	[illegible]	[illegible]	63,000	63,000
5" ROLLING AIR FRAME MSLE	10,948	[illegible]	[illegible]	[illegible]
SSN-688 VLS	25,695	25,695	[illegible]	[illegible]
NEW THREAT UPGRADE	54,034	54,034	54,034	54,034
SUBMARINE COMM	4,426	4,426	4,426	4,426
SUB SONAR DEVELOP (ENG)	[illegible]	[illegible]	40,299	40,299
AIR CONTROL ENG	[illegible]	20,335	20,335	[illegible]
BR/CW COUNTERMEASURES	6,079	6,079	[illegible]	[illegible]
EMSP	99,277	91,912	99,277	[illegible]
RADAR SURVEILLANCE EQUIP	[illegible]	[illegible]	[illegible]	[illegible]
ADV TACT RAD	[illegible]			
INTELLIGENCE SYSTEMS	[illegible]	[illegible]	801	801
SUB SURV EQUIP PROG (ENG)	19,429	13,747	15,429	13,747
SHIP SURVIVABILITY	[illegible]	[illegible]	[illegible]	[illegible]
CIC CONVERSION	[illegible]	29,204	[illegible]	29,204
SUB HULL ARRAY DEV (ENG)	25,974		25,974	13,000
SUBACS (ENG)	205,205			
SSN-21 COMBAT SYSTEMS (A-E)		[illegible]	[illegible]	[illegible]

[In thousands of dollars]

	Budget	House	Senate	Conference
SUB TAC W/F SYSTS (ENG)	[illegible]	37,798	37,798	37,798
SHPBD PHYS SECURITY (ENG)	4,617	4,617	3,617	3,617
SHIP SYBSYS DEV/LBTS	[illegible]	80,000	120,000	[illegible]
NATO SEA GNAT	2,284	2,284	2,284	2,284
SHPBD EW IMPROV	63,776	63,776	63,776	63,776
TACT EMBEDDED COMP PROG	19,169	9,169	9,169	9,169
AN/SQS-53C	37,713	37,713	37,713	37,713
LINK BIRCH	4,078	4,078	4,078	4,078
MINE DEVEL (ENG)	9,367	9,367	9,367	9,367
NAVAL GUNNERY IMPROVEMENT	15,870	[illegible]	[illegible]	[illegible]
UNGUIDED CONVENT A/L WPNS	4,678	4,678	4,678	4,678
SAL GP/EOI SENS DEVEL	48,717	44,717	44,717	44,717
BOMB-FUZE IMPR	5,672	5,672	5,672	5,672
MK 50 TORP (ALWT)	[illegible]	[illegible]	[illegible]	[illegible]
JOINT SERV EOD DEV (ENG)	4,405	4,405	4,405	4,405
MC ASSAULT VEHICLES	45,653	16,802	16,802	16,802
GRD COMBAT/SUP ARMS SYS	[illegible]	[illegible]	7,186	7,186
MK 48 ADCAP (ENG)	63,470	63,470	63,470	63,470
ASW OCEANOGRAPHIC EQUIP	506	[illegible]	[illegible]	506
CHALK BANYAN	5,826	5,826	5,826	5,826
NAVY ENERGY PROGRAM (ENG)	9,799	9,799	9,799	9,799
COMMAND & CONTROL SYS (ENG)	66,173	49,173	49,173	49,173
TACTAS (AN-SQR-19)	[illegible]	[illegible]	10,000	10,000
SURFACE W/F TRAINING DEV	25,821	23,410	23,274	23,274
SURFACE W/F TRAINING DEV (PY TRANSFER)		(2,142)		
COMBAT SERVICES SUPP	3,638	3,638	3,638	3,638
INTELL/ELECT W/F SYS	14,159	14,159	14,159	14,159
COMMAND/CONT/COMM SYS	[illegible]	[illegible]	[illegible]	[illegible]
REGIONAL TACTICAL SURV	56,225	56,225	56,225	56,225
INTELLIGENCE (ENG)	12,421	12,421	9,921	9,921
MEDICAL DEV (ENG)	[illegible]	1,380	[illegible]	[illegible]
JINTACCS	5,622	[illegible]	5,622	[illegible]
JINTACCS MC	2,945	[illegible]	2,945	[illegible]
FLT TACT D&E	17,197	14,197	14,197	14,197
EMI AND SPECTRUM CONTROL	3,870	2,297	3,870	[illegible]
MANAG & TECH SUPPORT	11,063	[illegible]	[illegible]	[illegible]
C2 SURV/RECONN SPT	3,979	3,979	3,979	3,979
MC TAC EXPLOIT NAT CAP	415	415	415	415
A6 SQUADRONS	19,205	[illegible]	12,196	[illegible]
F/A-18 SQUADRONS	58,314	58,314	[illegible]	58,314
EARLY WARNING ACFT SQDNS	23,666	[illegible]	[illegible]	23,666
AVIATION SUPPORT CVW	1,785	1,785	1,785	1,785
FLT TELECOM (TAC)	72,697	41,000	41,000	41,000
[illegible]	3,756		3,756	
UNDERSEAS SURVEILLANCE SYS	25,217	25,217	25,217	25,217
SURTASS	2,186	2,186	2,186	2,186
SPECIAL PROJECTS	20,513	14,002	20,513	17,000
NAVY COVER & DECEPT PROG	25,585	25,584	25,584	25,584
ELECTRONIC WARFARE SPT	8,573	8,573	8,573	8,573
COUNTER C3 DEV	22,563	22,563	22,563	22,563
HARM IMPROVEMENT	2,636	2,636	2,636	2,636
JTIDS	184,646			
ASW COMBAT SYS INTEG	12,271	12,271	12,271	12,271
ACFT EQ REL/MAINT PROG	7,852	7,852	7,852	7,852
SUBMARINE SILENCING	31,638	31,638	31,638	31,638
MODULAR GUIDED WPN IMPR	7,682			
LAB FLEET SUPPORT	6,158	6,158	6,158	6,158
F-14 D	348,065	348,065	345,000	348,065
TACTICAL INTELL PROC SUP	1,456	1,456	1,456	1,456
EW COUNTER RESPONSE	[illegible]	80,168	78,204	78,204
OPERATIONAL REACTOR DEV	12,719	12,719	12,719	12,719
MARINE CORPS TELECOM	3,587	3,587	3,587	3,587
GRD COMBAT/SUP ARMS SYS	[illegible]	41,800	41,800	41,800
COMBAT SERVICES SUP	1,449	1,449	1,449	1,449
INTELL/ELECT WARFARE SYS	1,163	1,163	1,163	1,163
COMMAND/CONT/COMM SYS	[illegible]	39,064	39,064	39,064
M/C TECH SUPT C/C SYS	4,094	4,094	4,094	4,094
TRI-TAC-MC	11.939	11,939	6,057	9,000
HY130 STEEL			5,000	
NAVAL OCEANOGRAPHY			5,900	5,900
WHITEHALL QUICK REACTION SURV SYS		20,000		20,000
WALLOPS ISLAND TEST RANGE		4,000		4,000
SKIPPER/PRACTICE BOMB		10,000		10,000
GENERAL REDUCTION, EW PROGRAMS		−30,000		−15,000
TAIL CONTROL SPARROW		5,000		5,000
CLASSIFIED PROGRAM		1,500		
GUIDED PROJECTILE		2,500		2,500
TOTAL, TACTICAL PROGRAMS	6,160,962	5,109,983	5,385,043	5,389,900
INTELLIGENCE AND COMMUNICATIONS:				
ADV NAVIG DEVELOPMENT	1,941	1,941	1,541	1,541
NAVIGATION SYSTEMS	920	[illegible]	[illegible]	[illegible]
EHF SATCOM	45,437	39,700	39,700	39,700
NAVSTAR GPS	70,079	62,079	62,079	62,079
C2 SYSTS PLAN/ENG SUPP	5,466	5,466	5,466	5,466
SATELLITE COMMUNICATIONS	17,973	17,973	17,973	17,973
MILSTAR JOINT PROJ OFFICE	4,418	4,418	4,418	4,418
CLASSIFIED PROGRAMS	557,773	380,973	517,773	450,973
(PY TRANSFER)		(27,200)		

[In thousands of dollars]

	Budget	House	Senate	Conference
TOTAL, INTELLIGENCE & COMMUNICATIONS	704,007	513,470	649,870	583,070
DEFENSEWIDE MISSION SUPPORT				
RANGE INST & SYS DEV	8,382	8,382	8,382	8,382
TARGET SYSTEMS DEV	109,012	99,012	99,012	99,012
TRNG & PERS SYS DEV	3,086	2,000	3,086	2,000
STUDIES & ANAL SUP/MC	1,785	1,785	1,785	1,785
STUDIES & ANAL SUP/NAVY	3,977	3,689	3,977	3,689
[illegible]	3,714	3,078	3,714	3,714
CENTER FOR NAVAL ANAL/NAVY	21,813	15,563	19,813	17,500
MC OPERATIONAL T&E	2,317	2,317	2,317	2,317
TECH INFO SERVICES	2,744	2,244	2,244	2,244
AUTEC	51,914	43,197	43,197	43,197
DEVELOPMENT CENTER SUPPORT	3,958	3,958	3,958	3,958
INTERNATIONAL RDT&E	2,436	1,836	1,836	1,836
MOBILE SEA RANGE	5,268	5,268	5,268	5,268
RDT&E LAB & FAC MGMT SPT	66,278	58,000	57,978	57,978
RDT&E INSTRUM & MATL SPT	20,321	19,321	19,321	19,321
RDT&E SHIP & AIRCRAFT SPT	84,293	78,293	78,293	78,293
TEST AND EVAL SPT	294,480	294,480	292,000	292,000
OT&E CAPABILITY	6,503	6,503	6,503	6,503
PRODUCTIVITY IMPROVEMENT	2,855			
WEATHER SERVICE	1,146	1,146	1,146	1,146
DEF METEOROLOG SATELL PROG	55,975	40,975	55,975	45,975
MANUFACTURING TECH	72,426	52,000	52,000	52,000
TOTAL, DEFENSEWIDE MISSION SUPPORT	824,683	743,047	761,805	748,118
GENERAL REDUCTION		−37,500		−37,500
RESTORATION OF CIVILIAN PAY REDUCTION			3,300	1,650
GENERAL REDUCTION CONSULTANTS/STUDIES ANALYSIS		−20,000	−5,000	−20,000
PRIOR YEAR INFLATION SAVINGS		−60,000	−60,000	
(PY TRANSFER)		(60,000)	(60,000)	
INFLATION ESTIMATES FOR FY 1986		−11,000	−11,000	−11,000
PRIOR YEAR PROGRAM SAVINGS		−176,000	−123,000	
(PY TRANSFER)		(176,000)	(123,000)	
NATO COOPERATIVE R&D PROGRAMS			50,000	25,000
BIGEYE OPERATIONAL TESTING				[illegible]
TOTAL, RESEARCH DEVELOPMENT AND EVAL. NAVY	11,264,300	9,462,631	10,104,594	10,125,239
TRANSFER FROM OTHER ACCOUNTS		(271,496)	(183,000)	
TOTAL FUNDING AVAILABLE	11,264,300	9,734,127	10,287,594	10,125,239

MEDICAL DEVELOPMENT (ADVANCED)

The conferees agree to provide $12,719,000 for Medical Development (Advanced) as proposed by the House instead of $14,653,000 as proposed by the Senate. The conferees note that Project M0097, Air Crew Impact Injury Prevention, continues to be of special interest to the Congress, and therefore the Navy is directed to allocate no less than $2,350,000 of this appropriation to this project in fiscal year 1986.

ORGANOTIN ANTI-FOULING PAINT

The conferees agree that no less than the budgeted amount of $1,695,000 be allocated by the Navy in fiscal year 1986 for continued research into the environmental and public health effects of organotin anti-fouling paint, as proposed by the House. The conferees believe that the effects of organotin on marine life have not been adequately determined, and consequently agree to a provision in the bill, as proposed by the Senate, which prohibits the navy from using such paints until the Environmental Protection Agency certifies that the environmental and public health risks are at an acceptable level.

TRIDENT II

The conferees agree to provide $2,117,106,000 for the Trident II/D-5 Weapon System program instead of $2,103,597,000 as proposed by the House and $2,130,615,000 as proposed by the Senate. The Navy is directed to allocate the reduction in such a way as to maintain the current schedule for missile flight testing. If this cannot be accomplished with available funds, the Navy should submit a reprogramming request.

The conferees endorse the proposal by the Senate to consolidate Navy and Air Force penetration aids research into a single, joint program. The conferees direct OSD to re-examine the feasibility of a joint Navy/Air Force penetration aids research program, and report to the Appropriations Committees of the House and Senate no later than June 1, 1986.

NAVY STRATEGIC COMMUNICATIONS

The conferees agree to provide $125,839,000 for Navy Strategic Communications as proposed by the Senate, instead of $119,161,000 as proposed by the House. The Navy is to allocate no less than $12,678,000 of this amount for the Strategic Survivable and Enduring Communications (STRATSEC) project.

WIS MODERNIZATION

The conferees agree to provide $15,000,000 for Navy participation in modernization of the Worldwide Military Command and Control System Information System (WIS) as proposed by the Senate instead of no funds as proposed by the House. The conferees also grant approval to Reprogramming No. 85-62PA, which proposed to use $14,000,000 from fiscal year 1985 appropriated funds to initiate Navy participation in the program.

V-22 OSPREY

The conferees agree to provide $580,000,000 for the V-22 Osprey program, instead of $569,543,000 as proposed by the House and $583,743,000 as proposed by the Senate. Furthermore, the conferees understand that the Navy is considering the use of a fixed-price type contract for this work. The conferees endorse House language which concludes that significant technical risk remains in the V-22 program, and therefore urge the Navy to weigh carefully the risks involved in using a fixed-price contract in this case.

LOW COST ANTI-RADIATION SEEKER

The conferees agree to provide $17,523,000 as proposed by the House, instead of $16,523,000 as proposed by the Senate, for Low Cost Anti-Radiation Seeker (LCS) in Navy RDT&E, and $17,613,000 for Low Cost Seeker in Air Force RDT&E. The combined sum shall be applied only to the LCS development now being pursued by the Naval Weapons Center (NWC), China Lake, California. Language to this effect has been provided in the bill.

The conferees specifically endorse the language of House Report 99-332, page 308, pertaining to the LCS program. In addition, the conferees note with approval that the original program plan required the involvement of two competing contractors. It is clear that rapid technical progress and lower future costs demand continued competition. Accordingly, the conferees direct that NWC continue to execute a program involving two competing contractors.

AAAM/ASAM

The conferees agree to provide $25,000,000 for the Advanced Air-to-Air Missile/Advanced Surface-to-Air Missile program. The conferees also agree that the allocation of these funds should be as directed in the Senate report.

ADVANCED ASW TARGET

The conferees agree to provide $9,400,000 for Advanced ASW Target instead of $7,550,000 as proposed by the House and

$12,646,000 as proposed by the Senate. The conferees endorse House language which emphasizes the need to accelerate development of an advanced torpedo testing target, and therefore direct that $3,000,000 of these funds be applied to accelerate development of the Advanced Stored Chemical Energy Propulsion System (AD-SCEPS).

SHIPBOARD DAMAGE CONTROL

The conferees recommend $23,606,000 for Shipboard Damage Control as proposed by the House, rather than $25,000,000 as proposed by the Senate. Further, the conferees endorse the Senate position on the EMPRESS II project (electromagnetic pulse radiation environment simulator for ships). The conference recommendation will fund EMPRESS II at the fiscal year 1985 level of effort.

SSN-21 BUDGETING

The conferees agree to House language directing the consolidation of program elements for the SSN-21 attack submarine, with the proviso that reactor development work may be excepted from the consolidation.

SHIP DEVELOPMENT (ADVANCED)

The conferees agree to provide $13,657,000 for Ship Development (Advanced), as proposed by both the House and the Senate. This amount involves a reduction of $982,000 as directed by the Department of Defense Authorization Act, 1986. However, the conferees do not agree to Senate language directing that the reduction be applied specifically toward termination of the EMSEDE project, but instead allow the Navy flexibility to allocate the reduction.

ADVANCED LIGHTWEIGHT TORPEDO (ADVANCED)

The conferees agree to provide no funds for Advanced Lightweight Torpedo (Advanced) as proposed by the House, instead of $7,000,000 as proposed by the Senate. The ALWT (Advanced) program was proposed in fiscal year 1986 to initiate certain classified improvements to the ALWT warhead.

While the conferees are not opposed to incremental improvements to the ALWT, they are not inclined to start them in fiscal year 1986. The Navy should resubmit this program for funding in future years, and clearly define why ALWT warhead improvement is required for advanced threats.

TOMAHAWK THEATER MISSION PLANNING CENTER

The conferees agree to House language directing that the Tomahawk Theater Mission Planning Center by fully funded at the budget level of $14,967,000, and that programming changes as described in the House report be instituted in the fiscal year 1987 budget.

AV-8B

The conferees agree to provide $66,000,000 for AV-8B instead of $55,178,000 as proposed by the House and $72,078,00 as proposed by the Senate. This reduction should be applied solely against the night attack project and not against the TAV-8B or other efforts. Should the Navy require additional funds to execute this project during fiscal year 1986, the conferees would consider a reprogramming request.

CG-47 PRODUCT IMPROVEMENT

The conferees agree to provide $35,000,000 for CG-47 Product Improvement instead of $29,006,000 as proposed by the House and $44,506,000 as proposed by the Senate. The conferees also support House language which expresses concern over increase in cost and scope in the program. It appears that this expansion of effort is due to the Navy's desire to transition a number of improvements in the DDG-51 AEGIS Combat System to the CG-47. The conferees support the introduction of VLS, the SPY-1B radar, UYQ-21 consoles, and UYK-43B computers to the CG-47 class, and direct the Navy to allocate the reduction so that these programs are unaffected.

SUBMARINE HULL ARRAY DEVELOPMENT (ENGINEERING)

The conferees agree to provide $13,000,000 for Submarine Hull Array Development (Engineering) instead of no funds as proposed by the House and $25,974,000 as proposed by the Senate. The Navy is directed to apply the majority of these funds to continue advanced development; however, some funds may be used for full scale development (FSD) preparation. The conferees share the concerns expressed by the House that commitment to FSD should not occur prior to approval by the Defense Acquisition Review Council at Milestone II.

SSN-21 COMBAT SYSTEM

The conferees agree to provide $200,000,000 for the SSN-21 Combat System as proposed by the Senate instead of $60,000,000 as proposed by the House. This level of funding is proposed for the authorized program due to Navy concerns that funding reductions might cause shipbuilding delays.

The conferees strongly criticize both the Navy and the Office of the Secretary of Defense for the weak management evidenced in this program, and insist that the Department of Defense incorporate whatever changes are necessary to ensure that these problems do not recur in the future. The conferees expect stronger performance particularly in the areas of financial management and technical risk management.

SHIP SUBSYSTEMS DEVELOPMENT/LBTS

The conferees agree to provide $109,000,000 for Ship Subsystems Development/LBTS, instead of $80,000,000 as proposed by the House or $120,000,000 as proposed by the Senate. The Senate added $40,000,000 to continue competitive contract design for the SSN-21 New Design Attack Submarine program. The additional $29,000,000 provided for this program element above the authorization is solely for continuation of competitive contract design for the SSN-21 through the first three quarters of fiscal year 1986.

The Navy should submit a reprogramming during fiscal year 1986 to cover the balance of the funding requirement for this effort. Funds budgeted for other ship contract design programs are to be used solely for those programs, and not diverted to support SSN-21 competitive contract design, unless those ships are not included in the fiscal year 1987 budget submission.

The conferees agree to the Senate language directing that at least $5,000,000 be provided for an AO oiler design project. This will provide five AO-177 class oilers with a design enlargement from a 120,000-barrel capacity to a 180,000-barrel capacity.

SURFACE WARFARE TRAINING DEVICES

The conferees agree to provide $23,274,000 for Surface Warfare Training Devices as proposed by the Senate instead of $23,410,000 as proposed by the House. However, the conferees do not endorse Senate language specifically directing the deletion of funding for the Surface Tomahawk Trainer project. The Navy is provided the flexibility to allocate the reduction.

MARINE CORPS LIGHTWEIGHT BATTLEFIELD SURVEILLANCE RADAR

With regard to the Lightweight Battlefield Surveillance Radar (LBSR), the conferees direct that the Marine Corps review the suitability of the Air Force's in-development PPS-22 Intruder Detection System and report to the House and Senate Committees on Appropriations by June 15, 1986. The PPS-22 development is being managed by the Army and it appears that the PPS-22 modified would provide the Marine Corps with an earlier capability plus providing interservice interoperability and hardware commonality.

HY-130 STEEL

The conferees agree to provide no funds for HY-130 Steel as proposed by the House instead of $5,000,000 as proposed by the Senate. The conferees will consider a reprogramming if the Navy determines that acceleration would be desirable.

WALLOPS ISLAND TEST RANGE

The conferees agree to provide $4,000,000 for the Wallops Island Test Range as proposed by the House, instead of no funds as proposed by the Senate. However, the conferees believe that the Wallops Island Test Range could be more efficiently utilized to support Navy test and evaluation activities. Prior to the obligation or expenditure of these additional funds, the Navy and NASA should submit to the Committees on Appropriations of the House and Senate a utilization plan for this expansion in Navy test and evaluation activity.

TAIL CONTROL SPARROW

The conferees agree to provide $5,000,000 for the Tail Control Sparrow as proposed by the House, instead of no funds as proposed by the Senate. These funds are to be used for guidance and ECCM improvements to the Sparrow missile.

The conferees acknowledge the potential application of generic low cost radiation seeker technology to the Sparrow airframe, for use of Sparrow as a dual-role anti-radiation missile. The conferees are willing to entertain a fiscal year 1986 reprogramming action to initiate such a program.

WHITEHALL QUICK REACTION SURVEILLANCE SYSTEM

The conferees agree to provide $20,000,000 for Whitehall Quick Reaction Surveillance System as proposed by the House instead of no funds as proposed by the Senate. These funds are for the first year of a three year lease, on a turnkey basis, of four systems together with vessels and crews. The conferees direct the Navy to enter into a lease arrangement not later than February 28, 1986, instead of December 31, 1985 as originally directed by the House.

CENTER FOR NAVAL ANALYSES

The conferees agree to provide $17,500,000 for the Center for Naval Analyses, instead of $15,563,000 as proposed by the House or $19,813,000 as proposed by the Senate. The conferees also agree that the Navy should submit a prior approval reprogramming to Congress should this level of funding prove inadequate.

ADVANCED CHEMICAL WEAPONS RESEARCH

The conferees direct the Navy and Air Force to report to the House and Senate Committees on Appropriations on their plans for undertaking research into future binary chemical munitions delivery mechanisms by March 15, 1986. After that date, the Committees would entertain a reprogramming request to implement such a plan.

PRIOR YEAR SAVINGS

The conferees recognize $188,000,000 in prior year savings in Research, Development, Test and Evaluation, Navy. The sources and uses of these savings are identified in this Statement of Managers under the heading "Availability of Unobligated Balances."

MANUFACTURING TECHNOLOGY

LASER ARTICULATING ROBOTIC SYSTEM

The conferees agree with the House directives concerning the Laser Articulating Robotic System (LARS), and agree that of the funds provided for P.E. 7.80.11N, Manufacturing Technology, a total of $5,500,000 be provided for the LARS program. Language has been provided in the bill to this effect.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

The conferees agree to the following amounts for Research, Development, Test and Evaluation, Air Force:

[In thousands of dollars]

	Budget	House	Senate	Conference
RESEARCH DEVELOPMENT TEST AND EVAL, AF				
TECHNOLOGY BASE				
IN-HOUSE LAB INDEPENDENT RESEARCH	17,444	15,000	17,000	15,000
DEFENSE RESEARCH SCIENCES	206,334	194,000	201,334	205,000
UNIVERSITY RESEARCH	6,250	6,250	6,250	6,250
GEOPHYSICS	38,614	38,614	38,614	38,614
MATERIALS	54,769	52,269	53,000	52,000
AEROSPACE FLIGHT DYNAMICS	67,545	67,545	67,545	67,545
AEROSPACE BIOTECHNOLOGY	[illegible]	47,340	48,000	47,500
AEROSPACE PROPULSION	72,600	72,600	67,600	[illegible]
AEROSPACE AVIONICS/VHSI CIRCUITS	74,806	60,000	60,000	60,000
TRAINING/SIMULATION TECH	[illegible]	25,236	25,236	25,236
CIVIL ENGINEERING & ENVIRONMENTAL QA	7,125	7,125	7,125	7,125
ROCKET PROPULSION	41,661	39,661	39,661	39,661
ADVANCED WEAPONS	37,020	35,500	35,500	35,500
CONVENTIONAL MUNITIONS	44,819	40,819	44,819	40,819
COMMAND/CONTROL/COMMUNICATION	[illegible]	76,720	76,720	76,720
PERS UTILIZATION TECH	9,421	8,421	9,421	8,421
TOTAL TECHNOLOGY BASE	825,213	782,109	792,834	[illegible]
ADVANCE TECHNOLOGY DEVELOPMENT				
LOGISTICS RESEARCH & DEV RQMTS	12,736	9,736	9,736	9,736
AUTOMATION OF TECHNICAL INFORMATION	5,382			
ACFT PROPULSION SUBSYS INTEGRATION	27,493	27,493	27,493	27,493
ADV AVIONICS FOR ACFT	22,651	22,651	21,651	21,651
FLT VEHICLE TECHNOLOGY	22,884	16,884	22,334	20,000
RECON SENSORS/PROCESSING TECHNOLOGY	9,182	6,000	6,000	6,000
AEROSPACE STRUCTURES/MATERIALS	23,596	18,596	18,596	18,596
AVIATION TURBINE FUEL TECHNOLOGY	4,671	3,671	4,671	3,671
ADV TURBINE ENGINE GAS GENERATOR	29,656	27,656	27,656	27,656
WEAPON SYSTEM POWER	1,947	1,947	1,267	1,267
DOD COMMON PROG LANGUAGE (ADA) ADV DEV	7,460	7,460	7,460	7,460
ADVANCED SIMULATOR TECHNOLOGY	4,410	4,410	4,410	4,410
CREW SYSTEMS TECHNOLOGY	12,754	11,000	12,054	11,500
ACFT NON-NUCLEAR SURVIVABILITY	3,278	3,278	3,278	3,278
ADV FIGHTER TECH INTEGRATION	22,276	19,776	19,776	19,776
LINCOLN LABORATORY	26,363	22,000	25,000	23,000
ADVANCED SYSTEM INTEGRATION DEMO	36,327			
INEWS/ICNIA		60,000	32,767	45,000
CARTOG APPLICATIONS-TAC & STRAT SYS	1,409	1,409	1,409	1,409
SPACE & MSL ROCKET PROPULSION	8,381	3,381	3,381	3,381
ADV MSL SUBSYSTEM DEMONSTRATION	1,209			
ADVANCED TECHNOLOGY CRUISE MISSILE	7,677	7,677	7,677	7,677
HYPERVELOCITY MISSILE	10,763	10,763	10,763	10,763
ADVANCED SPACECRAFT TECH	9,700	7,000	7,000	7,000
ADV MILITARY SPACEFLIGHT TECHNOLOGY	916			
APACE SYS ENVIRON INTERACTIONS TECH	4,954	3,954	3,954	3,954
MSL SURVEILLANCE TECH	11,550	11,550	11,550	11,550
VERY HIGH SPEED INTEGRATED CIRCUITS	193,776	211,276	175,500	207,276
NON-DESTRUCTIVE INSPECTION AD DEV	980			
CONVENTIONAL WEAPONS	28,590	26,590	25,590	25,590
ADVANCED RADIATION TECH	19,749	9,749	19,749	14,749
MANPOWER & PERSONNEL SYS TECH	2,199	2,199	2,199	2,199
WEATHER SYSTEMS	3,963	3,963	3,463	3,463
ELECTRONIC WARFARE TECHNOLOGY	29,436	29,436	29,436	29,436
CIVIL/ENVIRONMENTAL ENGR TECH	11,488	11,488	11,485	11,485
FIBER OPTICS DEVELOPMENT	3,861	3,861	3,461	3,461
ADVANCED COMMUNICATIONS TECHNOLOGY	4,895	4,895	4,895	4,895
ADVANCED COMPUTER TECHNOLOGY	8,643	7,500	7,500	7,500
ELECTRO/OPTICAL WARFARE	15,818	15,818	15,818	15,818
CHEMICAL WARFARE DEFENSE	6,165	6,165	5,000	5,000
COUNTER/COUNTERMEASURES /ADV DEV	14,444	13,444	13,444	13,444
TRAINING SYSTEMS TECHNOLOGY	2,324	2,324	2,324	2,324
DOD SOFTWARE ENGINEERING INSTITUTE	11,742	11,742	11,742	11,742
COMD/CNTRL/COMM ADV DEV	26,273	16,273	16,273	16,273
TOTAL ADVANCE TECHNOLOGY DEVELOPMENT	713,971	685,015	637,762	670,883
STRATEGIC PROGRAMS				
ADVANCED STRATEGIC MISSILE SYSTEMS	173,934	163,934	163,934	163,934
SRAM II	[illegible]	35,000	35,000	35,000
ATMOSPHERIC SURVEILANCE TECH	4,978	4,978	4,978	4,978
WWMCCS ARCHITECTURE	8,036	8,036	8,036	8,036
B-1B	367,438	280,438	250,438	250,438
COMMON STRATEGIC ROTARY LAUNCHER	72,629	72,629	72,629	72,629
ICBM MODERNIZATION	1,580,824	[illegible]	1,274,824	[illegible]
(PY TRANSFER) TO SMALL ICBM			(256,000)	
STRAT CONV STANDOFF CAPA (SCSC)	71,787	36,000	36,000	36,000

[In thousands of dollars]

	Budget	House	Senate	Conference
AIR LAUNCHED CRUISE MISSILE	14,179	11,179	14,179	11,179
SPACE DEFENSE SYS	149,934	149,934	182,934	165,000
SYSTEMS SURVIVABILITY (NUC AFFECTS)	7,927	7,927	7,927	7,1927
B-52 SQUADRONS	16,047	14,347	13,207	13,207
KC-135 SQUADRONS	968	968	968	968
MINUTEMAN SQUADRONS	31,203	6,003	6,000	6,000
PACCS/WWABNCP SYS EC-135 CL V MODS	5,163	4,163	4,163	4,163
SAC COMMUNICATIONS	10,625	10,625	7,589	7,589
NCMC - TW/AA SYSTEMS	57,445	52,445	52,445	52,445
NCMC - SPACE DEFENSE SYSTEMS	77,996	57,996	67,996	57,996
BALLISTIC MSL TAC WNG/ATK ASSES SYS	2,655	2,155	2,155	2,155
TW/AA INTERFACE NETWORK	1,468	1,468	1,468	1,468
JOINT SURVEILLANCE SYSTEM	2,069	3,069	2,069	2,069
SURVEILL RADAR STATIONS/SITES	20,215	20,215	20,215	20,215
DEW RADAR STATIONS	40,914	40,914	40,914	40,914
CONUS OVER-THE-HORIZON RADAR	67,457	67,457	67,457	67,457
BALLISTIC MSL EARLY WNG SYSTEM	12,966	12,966	12,966	12,966
SPACETRACK	9,613	9,613	9,613	9,613
DEFENSE SUPPORT PROGRAM	79,592	79,592	79,588	79,588
SLBM RADAR WARNING SYSTEMS	8,235	8,235	8,235	8,235
INTEGRATED OPER NUDETS DETECT SYS	20,538	20,538	20,538	20,538
COMD CTR PROCESS/DISPLAY SYS	14,807	14,807	14,807	14,807
MINIMUM ESSENTIAL EMER COMM NETWORK	97,199	87,199	107,199	102,199
WWMCCS INFORMATION SYSTEM	8,100	5,000	5,000	5,000
WWMCCS INFORMATION SYSTEM - JPMO	88,721	78,721	63,721	63,721
MILSTAR SAT COMM SYS (AF TERMINALS)	132,095	132,095	128,095	130,000
MILSTAR COMM SAT SYSTEM	345,696	345,696	345,696	345,696
THEATER NUC WPN STORAGE&SEC SYS	1,045	1,045	1,045	1,045
AIR FORCE ONE	....	....	20,000	20,000
CLASSIFFIED PROGRAMS	2,049,652	2,049,652	2,049,652	2,049,652
CLASSIFIED PROGRAMS	14,677	14,677	14,677	14,677
TOTAL, STRATEGIC PROGRAMS	5,743,785	5,395,316	5,320,237	5,420,284
TACTICAL PROGRAMS:				
ADVANCED TACTICAL FIGHTER	242,852	169,852	143,000	169,852
ADV TACTICAL AIR RECONNAISSANCE SYS	20,319	10,000	10,000	10,000
JNT SERVICE ADV VERT LIFT ACFT (JVX)	4,901	2,500	2,500	2,500
AIR BASE SURVIVABILITY & RECOVERY	6,178	6,178	5,011	5,011
LOW COST SEEKER	17,613	17,613	17,613	17,613
ADV ATTACK WEAPONS	19,113	19,113	19,113	19,113
DOD PHYSICAL SECURITY EQ-EXTERIOR	1,010	1,010	1,010	1,010
COMBAT IDENTIFICATION TECHNOLOGY	8,763	8,763	8,763	8,763
C3CM ADVANCED SYSTEMS	3,463	3,463	2,000	2,000
JT SURV TGT ATK RADAR SYS (JSTARS)	3,200	3,200	3,200	3,200
ACFT AVIONICS EQUIPMENT DEVELOPMENT	29,397	29,397	29,397	29,397
F-100 DURABILITY	2,899	2,899	2,899	2,899
AIRCRAFT EQUIPMENT DEV	8,779	8,779	8,799	8,779
ENGINE MODEL DERIVATIVE PROG	122,854	62,854	62,854	62,854
INTEGRATED DIGITAL AVIONICS	11,763	8,000	8,000	8,000
EW COUNTER RESPONSE	37,193	30,000	30,000	30,000
NUCLEAR WEAPONS SUPPORT	2,035	2,035	2,035	2,035
ALTERNATE FIGHTER ENGINE	33,353	33,353	33,353	33,353
C-17 PROGRAM	453,481	383,481	383,481	383,481
INFRARED SEARCH & TRACK SYS	23,657	23,657	23,657	23,657
MODULAR AUTOMATIC TEST EQUIPMENT	9,962	9,962	9,962	9,962
NIGHT PRECISION ATTACK	40,849	40,849	40,849	40,849
ACFT ENGINE COMPONENT IMPROVE PROG	138,574	110,144	138,574	125,000
T-46A	54,287	54,287	54,287	54,287
ADV MED RANGE AIR-TO-AIR MSL	101,382	101,382	101,382	101,382
JOINT TACTICAL FUSION PROGRAM	26,920	20,520	20,920	23,720
GRD LAUNCHED CRUISE MSL	685	685	685	685
C/B DEFENSE EQUIPMENT	22,488	22,488	22,488	22,488
ARMAMENT ORDNANCE DEVELOPMENT	17,563	17,563	17,563	17,563
SUBMUNITIONS	43,910	38,910	38,910	38,910
WIDE-AREA ANTI-ARMOR MUNITION	15,811	12,558	12,558	12,558
AIR BASE SURVIVABILITY & RECOVERY	21,900	21,900	19,900	19,900
AEROMEDICAL SYSTEMS DEVELOPMENT	8,049	8,049	8,049	8,049
LIFE SUPPORT SYSTEM	16,779	16,779	15,672	15,672
OTHER OPERATIONAL EQUIPMENT	17,087	17,087	16,939	15,939
RECONNAISSANCE EQUIPMENT	7,820	7,820	7,820	7,820
DOD PHYSICAL SECURITY EQ-EXTERIOR	15,733	15,733	15,733	15,733
TAC C3 COUNTER-MEASURES	17,441	17,441	16,462	16,462
COMBAT IDENTIFICATIONS SYSTEMS	13,164	13,164	13,164	13,164
SURFACE DEF SUPPRESSION	54,940	30,000	30,000	30,000
AIRBORNE SELF-PROTECTION JAMMER	11,220	5,000	5,000	5,000
PROTECTIVE SYSTEMS	65,792	50,792	65,792	65,792
TACTICAL PROTECTIVE SYSTEMS	75,709	55,709	65,709	55,709
COMPUTER RESOURCES MGT TECH	14,011	14,011	12,011	12,011
PRECISION LOCATION STRIKE SYSTEM	63,081	53,081	63,081	63,081
INTELLIGENCE EQUIPMENT	13,481	13,481	13,481	13,481
COMBAT HELICOPTER MODERNIZATION	14,100	14,100	....	10,000
JT TAC INFO DIST SYS	91,675	....	....	....
SIDE LOOKING AIRBORNE RADAR (SLAR)	20,667	20,667	20,667	20,667
JSTARS	260,221	....	....	....
JT INTEROPERABILITY TAC COMB/CNTRL	9,141	9,141	9,141	9,141
F-111 SQUADRONS	54,535	48,500	44,500	48,500
F-15 SQUADRONS	252,142	237,142	237,142	237,142
A-10 SQUADRONS	3,102	3,102	2,000	3,102
F-16 SQUADRONS	54,559	34,600	44,459	55,459

[In thousands of dollars]

	Budget	House	Senate	Conference
F-4G WILD WEASEL SQUADRONS	36,707	28,707	36,707	36,707
F-4G WILD WEASEL SQUADRONS (PY TRANSFER)		(8,000)		
TACTICAL AGM MISSILES	3,926	2,000	2,000	2,000
AIR FORCE TENCAP	250	250	250	250
OVERSEAS AIR WEAPON CONT SYS	3,068	3,068	3,068	3,068
TACTICAL AIR CONTROL SYSTEM	20,075	20,075	15,075	15,075
AIR BORNE WARNING & CONTROL SYS	137,302	122,000	122,000	122,000
TACTICAL AIRBORNE CMD & CONTROL SYS	8,151	8,151	5,000	8,151
ADV COMM SYS	123,785	113,785	113,785	113,785
TAC AIR INTELL SYS ACTYS	2,191	2,191	2,191	2,191
TACTICAL RECON IMAGERY EXPLOITATION	7,691	7,691	7,691	7,691
BASE COMM—TACTICAL AIR FORCES	899	899	899	899
JT TACTICAL COMM PROG (TRI-TAC)	4,947	4,947	4,947	4,947
SATELLITE COMMUNICATIONS TERMINALS	7,569	7,569	5,000	5,000
ELECTRIC COMBAT INTEL SPT	1,593	1,593	1,593	1,593
MAC COMMAND/CONTROL SYS	11,441	11,441	8,000	8,000
SPECIAL OEPRATIONS FORCES	13,993	10,000	10,000	10,000
F-4 AIR DEFENSE		22,000		15,000
CLASSIFIED PROGRAMS	666,386	339,755	402,700	411,555
LIQUID SYNTHETIC FUEL			4,500	4,500
PAVE TIGER (RPV)		15,000		15,000
GENERAL REDUCTION, EW PROGRAMS		−30,000		−30,000
TOTAL, TACTICAL PROGRAMS	3,792,137	2,703,516	2,748,171	2,784,357
INTELLIGENCE AND COMMUNICATIONS				
SPACE COMMUNICATIONS	45,012	43,012	43,012	43,012
DEF SATELLITE COMM SYS	6,930	6,930	6,930	6,930
AIR FORCE COMMUNICATIONS	978			
LONG-HAUL COMMUNICATIONS (DCS)	11,543	11,543	11,543	11,543
ELECTROMAG COMPATIBILITY ANAL CTR	7,191	7,191	7,191	7,191
TRAFFIC CNTRL/APPROACH/LANDING SYS	29,517	21,714	21,714	21,714
PRECISION TACTICAL APPROACH GUIDANCE (PTAG)			[illegible]	[illegible]
NAVSTAR GLOBAL POS SYS (USER EQ)	28,691	28,691	28,691	28,691
NAVSTAR GPS (SPACE/GRD SEGMENTS)	48,527	45,527	45,527	45,527
GEN INTELLIGENCE SKILL TNG	5,300	[illegible]	[illegible]	[illegible]
CLASSIFIED PROGRAMS	2,091,755	1,772,955	2,085,171	1,972,155
(PY TRANSFER)		(5,000)		
CLASSIFED PROGRAMS	107,388	107,388	107,388	107,388
I-S/A AMPE DEVELOPMENT		31,400		31,400
TOTAL, INTELLIGENCE & COMMUNICATIONS	2,382,832	2,081,651	2,365,467	2,283,851
DEFENSEWIDE MISSION SUPPORT				
CONCEPT DEVELOPMENT	3,028	3,028	7,000	7,000
SPACE TEST PROGRAM	70,434	68,434	68,434	68,434
SATELLITE SYS SURVIVABILITY	4,273	4,273	4,273	4,273
ADV AERIAL TARGETS DEV	13,505	13,505	13,505	13,505
FLIGHT SIMULATOR DEVELOPMENT	155,315	132,000	132,000	[illegible]
VARIABLE IN-FLT TEST ACFT (VISTA)	391	391		391
SPACE SHUTTLE	132,007	132,007	132,007	132,007
LOGISTICS TECH FOR WEAPONS SYSTEMS	6,750	6,750	6,750	6,750
WEATHER SYSTEMS	13,078	10,578	8,078	8,078
RANGE IMPROVEMENT	62,166	54,000	54,000	54,000
ELECTROMAC RADIATION TEST FACIL	3,376	3,376	3,376	3,376
IMPROVED CAPABILITY FOR RDT+E	46,417	46,417	46,417	46,417
PROJECT AIR FORCE	17,445	17,445	18,245	18,245
SCQ/COMD SPT—TELECOM	6,550	6,550	6,550	6,550
RANCH HAND II EPIDEMIOLOGY STUDY	4,695	4,695	4,695	4,695
NAV/RADAR/SLED TRACK TEST SPT	28,319	20,319	20,319	20,319
ACQUISITION AND COMMAND SUPPORT	366,620	346,620	346,620	346,620
TEST AND EVALUATION SPT	431,594	421,594	421,594	421,594
ADV SYS ENGINEERING/PLAN	3,895	[illegible]	[illegible]	[illegible]
RDT&E AIRCRAFT SUPPORT	59,820	57,000	57,000	57,000
PRODUCTIVITY INVESTMENTS	7,009	3,009	3,009	[illegible]
PRODUCT PERFORMANCE AGMT CNTR (PPAC)	975	975		
SATELLITE CONTROL FACILITY	83,122	73,122	73,122	73,122
SPACE BOOSTERS	221,393	214,193	221,393	221,393
CONSOLIDATED SPACE OPERATORS CENTER	87,415	87,415	87,415	87,415
DEF METEOROLOGICAL SATELLIE PROG	71,309	[illegible]	61,309	[illegible]
SPACE LAUNCH SUPPORT	79,232	79,232	79,232	79,232
INVENTORY CONTROL POINT OPERATIONS	4,034	4,034	3,000	3,000
DEPOT MAINTENANCE (NON-IF)	489			
INDUSTRIAL PREPAREDNESS	104,540	64,540	64,540	64,540
PRODUCT/RELIABLE/AVAIL/MAINTAIN PROG	17,365	14,365	14,365	14,365
LOGISTICS C3I SYSTEM	9,933	8,500	8,500	8,500
SERVICE-WIDE SUPPORT	196			
PRODUCTIVITY INVESTMENTS	978			
INTERNATIONAL ACTIVITIES	2,894	2,894	2,894	2,894
TOTAL, DEFENSEWIDE MISSION SUPPORT	2,120,562	1,959,570	1,966,642	1,962,033
CONSULTANTS, STUDIES & ANALYSES		−25,000	−25,000	−25,000
UNDISTRIBUTED REDUCTION "ASSESSMENTS"		−25,000		−10,000
ENVIRONMENT RESTORATION FUND TRANSFER			−5,400	
RESTORATION OF CIVILIAN PAY REDUCTION			24,400	12,000
GENERAL REDUCTION		−70,000		−40,000
PRIOR YEAR INFLATION SAVINGS		−100,000		
(PY TRANSFER)		(100,000)		
INFLATION ESTIMATES FOR FY 1986		−14,000	−14,000	−14,000
PRIOR YEAR PROGRAM SAVINGS		−156,000		

[In thousands of dollars]

	Budget	House	Senate	Conference
(PY TRANSFER)		(246,000)		
NATO COOPERATIVE R&D PROGRAMS			[illegible]	15,000
TOTAL, RESEARCH DEVELOPMENT TEST AND EVAL, AF	15,578,500	13,217,177	13,861,113	[illegible]
TRANSFER FROM OTHER ACCOUNTS		(359,000)	(256,000)	
TOTAL FUNDING AVAILABLE	15,578,500	13,576,177	14,117,113	[illegible]

DEFENSE RESEARCH SCIENCES

The conferees agree to provide $206,000,000 for Defense Research Sciences, of which $6,500,000 shall be used only for research and related purposes at Iowa State University.

VERY HIGH SPEED INTEGRATED CIRCUITS

The conferees agree to provide $207,276,000 for Very High Speed Integrated Circuits, of which $13,500,000 shall be used only for engineering research and related purposes at Northeastern University in Massachusetts.

ICBM MODERNIZATION

The conferees agree to provide $1,480,800,000 for ICBM Modernization, instead of $1,483,600,000 as proposed by the House and $1,274,824,000 as proposed by the Senate. The approved distribution of ICBM modernization funds is provided below:

Peacekeeper	$734,100,000
Small ICMB	624,500,000
Hard Silo Technology	102,200,000
Deep Basing	20,000,000

The conferees direct the Air Force to submit to the Appropriations Committees of the House and Senate a full accounting of all small ICBM guidance funds and contracts, and also the report requested by the Senate on the requirement for maintenance of three alternative guidance contracts during FY 1986. Senate language prohibiting the obligation or expenditure of funds on one of the three alternate guidance systems is modified to permit obligation, but not expenditure, of such funds until this report is submitted.

The conferees agree to provide $102,200,000 for Hard Silo Technology, as proposed by the Senate, instead of $70,000,000 as proposed by the House. Of the additional $32,200,000 provided for Hard Silo Technology above the House allotment, $17,200,000 is for additional risk reduction and test bed restoration tasks described in the Senate report. A total of $15,000,000 is solely for construction, test and evaluation of a double-walled cofferdam constructed of reinforced slipform concrete, as described in the House report. The evaluation effort should be conducted in accordance with the direction provided in the House report, except that the Air Force shall be the planning and management agent for the program. No funds for this project are to be drawn from the Defense Nuclear Agency appropriation.

NCMC/SPACE DEFENSE SYSTEMS

The conferees agree to provide $57,996,000 for NCMC/Space Defense Systems as proposed by the House, instead of $62,996,000 as proposed by the Senate. This program funds both the Mission Control Center (MCC) for the U.S. Anti-Satellite (ASAT) system and also the operation of the Prototype Mission Operations Center (PMOC) which supports the U.S. ASAT test program.

The conferees agree that this reduction shall be applied against the mission control center, and that the MCC should not be funded at this time.

ASAT TESTING

The conferees agree to the House position that no fiscal year 1986 funds are to be used for testing of anti-satellite weapons against objects in space. Bill language has been provided which further prohibits obligation or expenditure of funds provided by this or any other Act for such testing until the President certifies to Congress that the Soviet Union has conducted after October 3, 1985, a test against an object in space of a dedicated anti-satellite weapon.

ADVANCED TACTICAL FIGHTER

INEWS/ICNIA PROGRAM

The conferees agree to provide $169,852,000 for the Advanced Tactical Fighter (ATF) as proposed by the House, instead of $140,000,000 as proposed by the Senate. The conferees agree to provide $140,000,000 for the Joint Advanced Fighter Engine (JAFE) program, $16,852,000 for the airframe demonstration/validation effort and $13,000,000 for avionics development, to include PAVE PILLAR and VHSIC technology insertion.

The conferees endorse the position of the Senate that cost, as well as technology, must be given priority attention in the development of the ATF. The conferees support the decision of the Air Force to adopt a unit flyaway cost goal of $35,000,000 for ATF, expressed in 1985 dollars, and admonish the Air Force to hold to that goal. The conferees agree to the Senate position directing the submission of an annual report on ATF developmental and total acquisition costs, beginning with the FY 1987 budget submission.

Following completion of the defense authorization, the Air Force informed the appropriations committees that it intended to fund ATF avionics development (including Pave Pillar and VHSIC technology insertion) out of the newly created INEWS/ICNI program, rather than from the ATF program. Further, it was learned that the Air Force proposed funding two new projects within the ATF authorization not previously identified as requirements in the FY 1986 budget submission—AMRAAM Compressed Carriage Demonstration (ACCD) and radar/EO sensor, at $4,000,000 each.

The conferees object to the Air Force's funding ATF avionics development outside the ATF line item. The conferees direct that $13,000,000 for ATF avionics development be funded out of the ATF line item, and that no funds be provided for the ACCD and radar/EO projects.

The conferees have funded INEWS/ICNIA at $45,000,000 instead of $60,000,000 as proposed by the House and $32,767,000 as proposed by the Senate. The change from the authorized level of funding reflects the transfer of ATF avionics development funds back to the ATF line item.

The conferees agree to a general reduction of $30,000,000 against Air Force electronic warfare programs, as authorized, and a general reduction of $15,000,000 against Navy electronic warfare programs. The conferees note that the authorization made no provision for a Navy portion of INEWS/ICNIA funds. In light of that oversight, the conferees recommend a smaller general reduction against Navy electronic warfare programs of $15,000,000.

F-4 AIR DEFENSE

The conferees agree to provide $15,000,000 for F-4 Air Defense, instead of $22,000,000 as proposed by the House or no funds as proposed by the Senate. These funds are to be used only for developing F-4 avionics upgrades. The conferees direct the Air Force to study and report on the cost effectiveness of reengining the F-4. Should the results be favorable, the Committees on Appropriations will entertain a reprogramming request.

DEFENSE METEOROLOGICAL SATELLITE PROGRAM

The conferees agree to provide $56,309,000 for the Defense Meteorological Satellite Program (DMSP) as proposed by the House, instead of $61,309,000 as proposed by the Senate. The conferees understand that the full authorization for the program is required to deliver DMSP satellite S-15 in FY 1990, the prototype Block 5D-3 satellite.

Should the Air Force insist that the survivability upgrades proposed for DMSP are essential, and that its outyear space launch program will include the transition of the DMSP from the Atlas E to the Titan II launch vehicle, the conferees would be willing to entertain a reprogramming to keep the S-15 available for launch in FY 1990 on a Titan II.

"ASSESSMENTS" IN RDT&E

DEVELOPMENT PLANNING ACTIVITIES

The conferees agree to a general reduction of $10,000,000 against "assessments" made by the Air Force against RDT&E programs to fund development planning activities, instead of $25,000,000 as proposed by the House. The conferees direct the Air Force to place the balance of $15,000,000 which would have been "assessed" into a new separate program element for development planning activities. These activities must be budgeted and justified on their merits in future years. The conferees concur in the House directive which requires a report on the distribution of pro rata reductions.

I-S/A AMPE

The conferees agree with the House funding level of $31,400,000 for Inter-Service/Agency Automated Message Processing Equipment (I-S/A AMPE), and the transfer of the program from Operation and Maintenance to RDT&E, Air Force. The Senate report expressed concern with the Air Force decision to award only one contract for this program. Therefore, the conferees direct the Department of Defense Inspector Gen-

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eral to conduct a thorough review of the propriety of the Air Force's action, and the feasibility and life-cycle cost effectiveness of awarding a second contract. The findings of this study should be reported to the Committees on Appropriations of the House and the Senate no later than March 15, 1986. The conferees further direct the Secretary of Defense to develop a firm I-S/A AMPE 8-year funding profile to be submitted by March 15, 1986. The conferees agree that these directives shall not impact upon the ongoing contract efforts.

PRIOR YEAR SAVINGS

The conferees recognize $264,000,000 in prior year savings in Research, Development, Test and Evaluation, Air Force. The sources and uses of these savings are identified in this Statement of Managers under the heading "Availability of Unobligated Balances."

ADVANCED CHEMICAL WEAPONS RESEARCH

The conferees direct the Navy and Air Force to report to the House and Senate Committees on Appropriations on their plans for undertaking research into future binary chemical munitions delivery mechanisms by March 15, 1986. After that date, the Committees would entertain a reprogramming request to implement such a plan.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE AGENCIES

The conferees agree to the following amounts for Research, Development, Test and Evaluation, Defense Agencies:

[In thousands of dollars]

	Budget	House	Senate	Conference
RESEARCH DEVELOPMENT TEST AND EVAL DEF AGENCIES				
TECHNOLOGY BASE:				
DEFENSE RESEARCH SCIENCES	92,600	84,000	86,600	87,000
IN-HOUSE LAB INDEPENDENT RESEARCH	1,981	1,791	1,981	1,850
UNIVERSITY RESEARCH	6,250	6,250	6,250	6,250
UNIVERSITY RESEARCH INITIATIVES			75,000	75,000
TECHNICAL STUDIES	1,800	1,500	1,500	1,500
STRATEGIC TECHNOLOGY	244,400	247,900	259,900	259,900
TACTICAL TECHNOLOGY	112,000	107,000	107,000	107,000
PARTICLE BEAM TECHNOLOGY	21,500	21,500	21,500	21,500
INTEGRATED COMD/CONTROL TECH	53,000	53,000	53,000	53,000
MATERIALS PROCESSING TECH	33,000	33,000	31,000	31,000
NUCLEAR MONITORING	19,400	19,400	17,400	20,900
DEFENSE NUCLEAR AGENCY	384,361	325,214	374,361	373,550
POLYGRAPH		590	590	590
TOTAL, TECHNOLOGY BASE	970,292	901,145	1,036,082	1,039,040
ADVANCE TECHNOLOGY DEVELOPMENT				
SURVEILLANCE, ACQSM, TRACK & KILL ASSESSMENT	1,386,344	1,386,344	1,386,344	1,386,344
DIRECTED ENERGY WEAPONS	965,441	965,441	965,441	965,441
KINETIC ENERGY WEAPONS	859,724	859,724	859,724	859,724
SYSTEMS CONCEPTS AND BATTLE MANAGEMENT	243,300	243,300	243,300	243,300
SURVIVABILITY, LETHALITY & KEY SPT TECHNOLOGY	258,153	258,153	258,153	258,153
SDI—GENERAL REDUCTION		−1,212,962	−750,000	−962,962
JOIN DOD-DOE MUNITIONS TECH DEV	8,413	5,000	10,000	8,287
EXP EVAL OF MAJOR INNOVATIVE TECH	175,249	161,349	203,249	183,249
SPECIAL TECHNOLOGY OFFICE/USDR&E	4,177	4,177	4,177	4,177
COUNTER INSURGENCY & SPECIAL TECHNOLOGY	11,421	11,421	11,421	11,421
COMMAND AND CONTROL RESEARCH	2,313	2,313	2,313	2,313
TOTAL, ADVANCE TECHNOLOGY DEVELOPMENT	3,914,535	2,684,260	3,194,122	2,959,447
STRATEGIC PROGRAMS				
ISLAND SUN	17,000	17,000	14,500	14,500
WWMCCS-WIDE SUPPORT	43,498	38,498	38,498	38,498
WWMCCS SYSTEM ENGINEER	21,254	21,254	21,254	21,254
MINIMUM ESSENTIAL EMER COMM NETWORK	12,398	12,398	12,398	12,398
TOTAL, STRATEGIC PROGRAMS	94,150	89,150	86,650	86,650
TACTICAL PROGRAMS				
CINC C2 INITIATIVES	2,083	2,083	2,083	2,083
C3 INTEROPERABILITY (JOINT TACTICAL C3 AGCY)	72,152	62,152	62,152	62,152
MANAGEMENT HEADQUARTERS (JTC3A)	1,472	1,472	772	772
JOINT ADVANCED SYSTEMS		300,000	300,000	300,000
COMMON JTIDS		200,000	200,000	200,000
JSTARS		60,000	240,221	200,221
TOTAL, TACTICAL PROGRAMS	75,707	625,707	805,228	765,228
INTELLIGENCE & COMMUNICATIONS:				
MAP/CHART/GEODESY	975	975	975	975
MAP/CHART/GEODESY INV/PROTOTYPE DEV	20,197	18,197	18,197	18,197
MAP/CHART/GEODESY ENGR DEV/TEST	2,092	3,092	3,092	3,092
SUPPORT OF THE NCS	5,686	5,686	5,686	5,686
LONG-HAUL COMMUNICATION (DCS)	18,935	16,935	16,935	16,935
CLASSIFIED PROGRAMS	1,089,730	934,166	1,042,098	1,039,227
CLASSIFIED PROGRAMS	737,118	795,318	719,718	735,318
(PY TRANSFER)		(101,112)		
TOTAL, INTELLIGENCE & COMMUNICATIONS	1,875,733	1,673,257	1,806,701	1,819,430
DEFENSEWIDE MISSION SUPPORT:				
TECHNICAL SUPPORT TO USDR/E	23,593	23,093	23,093	23,093
GENERAL SUPPORT FOR PA/E	2,489	2,489	2,489	2,489
SUPPORT TO POLICY	6,445	6,000	6,000	6,000
GENERAL SUPPORT FOR NET ASSESSMENT	4,032	4,032	4,032	4,032
GENERAL SUPPORT FOR MRA/L	3,117	3,117	3,000	3,000
CRITICAL TECHNOLOGY	2,792	2,792	2,792	2,792
TECHNICAL ANALYTICAL SUPPORT	16,001	15,001	15,001	15,001
TAPISTRY	2,793		2,793	
BLACKLITE	4,000	4,000	4,000	4,000
DEFENSE TECHNICAL INFO CENTER	21,656	19,056	19,056	19,056

[In thousands of dollars]

	Budget	House	Senate	Conference
INFORMATION ANALYSIS CENTERS	6,550	4,500	[illegible]	4,500
MANAGEMENT HEADQUARTERS SDI	9,222	9,222	9,222	9,222
MGT HQ (RESEARCH/DEVELOPMENT)	13,148	12,148	12,148	12,148
INDUSTRIAL PREPAREDNESS	[illegible]	[illegible]	[illegible]	[illegible]
TECHNOLOGY TRANSFER FUNCTIONS	1,645	1,645	1,645	1,645
TOTAL, DEFENSEWIDE MISSION SUPPORT	123,483	110,919	116,349	111,978
CONSULTANTS, STUDIES & ANALYSES		−10,000	−10,000	−10,000
GENERAL REDUCTION		−42,000	−1,587	−122,587
RESTORATION OF CIVILIAN PAY REDUCTION			1,200	[illegible]
FY-1986 INFLATION SAVINGS		−6,400		−6,400
PRIOR YEAR PROGRAM SAVINGS		−47,000	−51,000	
(PY TRANSFER)		(47,000)	(51,000)	
PRIOR YEAR INFLATION SAVINGS		−31,000		
(PY TRANSFER)		(31,000)		
NATO COOPERATIVE R&D PROGRAMS			[illegible]	[illegible]
TOTAL, RESEARCH DEVELOPMENT TEST + EVAL, DEF AGENCIES	7,953,900	5,943,038	7,033,745	[illegible]
TRANSFER FROM OTHER ACCOUNTS		(179,112)	(51,000)	
TOTAL FUNDING AVAILABLE	7,053,900	6,122,150	7,084,745	[illegible]
DIRECTOR OF TEST AND EVALUATION, DEFENSE FOREIGN WEAPONS EVALUATION	17,010	17,010	17,010	17,010
NATO COOPERATIVE R&D TESTING			50,000	25,000
TEST AND EVALUATION	86,490	76,490	76,490	76,490
TOTAL, DIRECTOR OF TEST & EVALUATION, DEFENSE	103,500	93,500	143,500	118,500

DEFENSE RESEARCH SCIENCES

The conferees agree to provide $92,000,000 for Defense Research Sciences, of which $1,000,000 shall be used only for advanced semiconductor research at the Oregon Graduate Center, $1,000,000 shall be used only for research at Oklahoma State University, and $5,000,000 shall be used only for development and acquisition, and related activities, of a supercomputer with capabilities equal to or better than those of the Tesseract model parallel supercomputer, being developed by Floating Point Systems for use in basic research at Cornell University.

DEFENSE NUCLEAR AGENCY

The conferees agree to provide $373,550,000 for Defense Nuclear Agency, of which $5,000,000 is to be used for development and acquisition, and related activities, of a supercomputer with capabilities equal or better than those of the Tesseract model parallel supercomputer, being developed by Floating Point Systems for use in basic research at Cornell University; and of which $11,100,000 shall be used only for microelectronic engineering and imaging sciences, and related purposes, at the Rochester Institute of Technology, Rochester, New York.

STRATEGIC DEFENSE INITIATIVE

The conferees agree to provide $2,750,000,000 for the Strategic Defense Initiative (SDI) instead of $2,500,000,000 as proposed by the House and $2,962,962,000 as proposed by the Senate. The conferees also agree to provide, separate from these amounts, $9,222,000 for SDI Headquarters Management as proposed by the House instead of $9,000,000 as proposed by the Senate.

In addition, the conferees agree that the Department of Defense should not establish quotas, goals, or allocations as funding set-asides for offshore vendors concerning SDI research, and that whenever possible, SDI contracts should be awarded to U.S. contractors, subcontractors, and vendors, subject to the merit of these proposals. However, it is the sense of the Congress to encourage Allied participation in the SDI program on a competitive basis. These provisions, as proposed by the Senate, have been included in the bill.

SDI STUDIES AND ANALYSIS

The conferees note that the Office of Technology Assessment (OTA) has been conducting studies and analysis on the Strategic Defense Initiative at the request of the Congress. OTA has conducted reviews of the SDI research program, and issued reports on their findings pursuant to Congressional direction.

OTA will continue to study and review the SDI program, and is funded to do so under legislative branch appropriations. The conferees encourage OTA to continue the valuable work they are providing the Congress on the SDI research program.

The conferees agree to amend the House requirement for a study on SDI to be conducted by the National Academy of Sciences, and instead direct OTA to conduct this study. The study shall include an analysis of the feasibility of meeting SDI computer software requirements. Language has been provided in the bill specifying that $700,000 for this study shall be made available from funds provided for RDT&E, Defense Agencies.

MANAGEMENT SAVINGS BY SECRETARY OF DEFENSE

On May 14, 1985 the Secretary of Defense recommended a reduction of $100,000,000 to the Research, Development, Test and Evaluation, Defense Agencies funding already available in fiscal year 1985 as an offset against this fiscal year 1986 request. The Secretary stated that "savings of this nature are usually identified in the normal course of consideration of the Department's budget by the Congress and are reflected as legitimate financing adjustments in the appropriation bill."

The Secretary has since indicated that the allocation of this reduction to the National Security Agency by the House is incorrect. The conferees therefore agree that the reduction is not to be applied to NSA funding. Rather, it is reflected temporarily as a general reduction to the Research, Development, Test and Evaluation, Defense Agencies account with the understanding that the Secretary must submit a prior approval reprogramming specifying the source of the appropriations and management savings which will offset this unallocated cut to the Research, Development, Test and Evaluation, Defense Agencies account.

PRIOR YEAR SAVINGS

The conferees recognize $82,000,000 in prior year savings in Research, Development, Test and Evaluation, Defense Agencies. The sources and uses of these savings are identified in this Statement of Managers under the heading "Availability of Unobligated Balances."

TITLE VI—REVOLVING AND MANAGEMENT FUNDS

The conferees agree to the following amounts for the revolving and management fund accounts:

[In thousands of dollars]

	Budget	House	Senate	Conference
Revolving and Management Funds:				
ARMY STOCK FUND	442,000	[illegible]	[illegible]	353,000
NAVY STOCK FUND	716,500	616,500	[illegible]	638,500
MARINE CORPS STOCK FUND	42,700	37,700	37,700	37,700
AIR FORCE STOCK FUND	444,900	415,900	415,900	415,900

[In thousands of dollars]

	Budget	House	Senate	Conference
DEFENSE STOCK FUND	[illegible]	149,700	174,500	149,700
MARINER FUND			(852,100)	
ADP EQUIPMENT MANAGEMENT FUND			150,000	100,000
TOTAL, REVOLVING AND MANAGEMENT FUNDS	1,859,600	1,612,800	1,809,600	1,734,800
TRANSFER FROM OTHER ACCOUNTS			(852,100)	
TOTAL FUNDING AVAILABLE	1,859,600	1,612,800	2,661,700	1,734,800

The following items represent language as agreed to by the conferees:

ARMY STOCK FUND

The conferees agree to provide $393,000,000 as recommended by the House and the Senate.

NAVY STOCK FUND

The conferees agree to provide $638,500,000 as recommended by the Senate instead of $616,500,000 as recommended by the House.

The conferees agree with the Senate recommendation to make available $59,000,000 from within Navy Stock Fund peacetime inventory build funds to procure supplies for the Reserve Naval Construction Force.

MARINE CORPS STOCK FUND

The conferees agree to provide $37,700,000 as recommended by the House and the Senate.

DEFENSE STOCK FUND

The conferees agree to provide $149,700,000 as recommended by the House instead of $174,500,000 as recommended by the Senate.

AIR FORCE STOCK FUND

The conferees agree to provide $415,900,000 as recommended by the House and the Senate.

MARINER FUND

The conferees agree to delete the Mariner Fund account proposed by the Senate. Instead, Section 8103 dedicates $852,100,000 as a portion of the prior year unobligated balances, and makes obligations contingent upon enactment of authorizing legislation and subsequent review by the Appropriations Committees. This matter is further explored under the heading "Availability of Unobligated Balances" in the General Provisions section of this statement.

ADP EQUIPMENT MANAGEMENT FUND

The conferees agree to provide $100,000,000 instead of the $150,000,000 as recommended by the Senate. Details of the adjustments are as follows:

MANAGEMENT OF GENERAL PURPOSE AUTOMATIC DATA PROCESSING RESOURCES

The conferees agree that the House and Senate have identified persisting problems with the Defense Department's management of ADP resources. They stem from deficiencies of both a management and fiscal nature.

Management Reforms.—The conferees agree that management of general purpose automatic data processing resources, including those covered by the Warner amendment, should be immediately consolidated under the policy oversight of the Comptroller of the Defense Department. The Comptroller must demonstrate during the fiscal year 1987 appropriation hearings that aggressive action is being taken to address concerns raised by the Appropriations Committees related to the management of these resources. The conferees recognize that Department-wide participation is necessary, but the Comptroller should enforce standards and policies through the Major Automated Information System Review Council. The House agrees to waive the following Defense Department reporting requirements to the Congress since the Comptroller is expected to develop the necessary internal management tools to accomplish the objectives of the House report: delegation of oversight authority, new starts of major automated information systems, logistics systems, lease/purchase criteria, buyout of uneconomical ADP leases funded in operating appropriations, buyout of uneconomically leased office automation equipment, Pentagon automation, ADP acquisition training, local area networks, and software obsolescence. The Secretary of Defense should report by April 15, 1986 on the Defense Department's implementation of the management system to achieve these objectives.

The conferees agree to the House reporting requirements pertaining to automated logistics systems, collocation of ADP and telecommunications centers, and supercomputers. The conferees expect the Comptroller to make a good faith effort to improve ADP budget justification material submitted with the fiscal year 1987 budget, and to work with the Appropriations Committee staffs to achieve complete and standard justification for the fiscal year 1988 budget. The conferees also agree to the House language on TRIMIS, DEERS, ADPER, CAMIS, NALCOMIS, NICADMM, Phase IV, and AFLC Modernization.

Fiscal Reforms.—The Senate proposed establishment of a DoD ADP management fund in an attempt to redress financial disincentives which currently adversely affect cost effective acquisition of DoD ADP equipment. The conferees agree both to establishment of an ADP management fund, to be initially capitalized at $100,000,000, and to a general provision allowing DoD to move funds between appropriations in order to achieve the Congressional mandate that DoD general purpose ADP equipment be acquired in the most cost-effective manner. This DoD fund and attendant transfer authority in the general provision must be managed by the Office of the Secretary of Defense as envisioned by the Senate report. It cannot be delegated. The Department must ensure that a properly documented audit trail exists for all resources consumed using these authorities, to ensure strict internal control of resources and to facilitate future Congressional evaluation of the effectiveness of these initiatives. The Secretary of Defense should include a recommendation for continuation or termination of the management fund and its attendant transfer authority to accompany submission of the fiscal year 1989 budget to Congress.

The conferees direct that each service apply the necessary amount of procurement funds in fiscal year 1986 to meet programmed requirements of the Congressionally directed buyout of uneconomically leased ADP equipment funded in the Operation and Maintenance appropriations. Further, the conferees direct that no funds will be diverted from the buyout of uneconomical leases for other purposes or programs. The Department should also use the newly created ADP management fund and attendant transfer authority to ensure that uneconomical ADP leasing in any DoD appropriation or fund ceases.

TITLE VII—RELATED AGENCIES

INTELLIGENCE COMMUNITY STAFF

The conferees agree to provide $22,083,000 for the Intelligence Community Staff as proposed by the House instead of $22,283,000 as proposed by the Senate.

TITLE VIII—GENERAL PROVISIONS

The conferees agree to the following language in the General Provisions:

RESTRICTIONS ON SUPPORT FOR MILITARY OR PARAMILITARY OPERATIONS IN NICARAGUA

The House bill contained a provision (Sec. 8050) prohibiting material assistance to the Nicaraguan democratic resistance by the Central Intelligence Agency, the Department of Defense, or any other entity of the United States government involved in intelligence activities. The House provision also stated that this prohibition did not impair or affect the authority of the Nicaraguan Humanitarian Assistance Office to administer humanitarian assistance to the Nicaraguan democratic resistance under the terms and conditions specified in the Supplemental Appropriations Act, 1985 (P.L. 99-88). The Senate bill did not include any type of prohibition concerning funds for Nicaragua, relying on restrictions in the authorizing Act.

The conferees have included new language (Sec. 8050) which prohibits the expenditure of any funds or the providing of any assistance to the Nicaraguan democratic resistance other than to the extent provided for and under the terms and conditions specified by Section 105 of the Intelligence Authorization Act (P.L. 99-169) for fiscal year 1986. This provision permits the exchange of information with the Nicaraguan democratic resistance and permits a specified classified amount of funds for communications equipment and related training for the Nicaraguan democratic resistance. The conferees also note that this section will not impair or affect the authority of the Nicaraguan Humanitarian Assistance Office to administer humanitarian assistance to the Nicaraguan democratic resistance.

FORT DERUSSY

The House included a provision prohibiting the sale, lease, rental or excessing of any portion of Fort DeRussy, Honolulu, Hawaii. The Senate included a provision permitting the sale of up to 45 acres of land on Fort DeRussy to the city or county of Honolulu or the state of Hawaii. The conferees agreed with the House provision (Sec. 8055).

However, the conferees agree that the Department of Defense should study the availability of excess land on Fort DeRussy and the possible civic (non-commercial) uses the property could support. The Department should report to the cognizant congressional committees by April 15, 1986, where the committees are urged to take action on the sale of the property.

UNEMPLOYMENT COMPENSATION

The conferees agree to a general provision (Sec. 8057) that limits payments to the Department of Labor for unemployment compensation costs to $166,766,000, instead of the House limitation of $189,300,000 and the Senate limitation of $171,300,000.

DISTRICT HEATING

The conferees agree to the Senate provision on district heating (Sec. 8070). This provision provides an exception to allow the conversion or consolidation of heating facilities to district heating distribution systems at Bad Kissingen, Hessen, in the Federal Republic of Germany. The conferees reached the decision only with the understanding that the Department would immediately initiate the conversion to coal of steam plants in the CONUS, as discussed elsewhere in this report.

LOCAL HIRE

The conferees agree to the Senate general provision (sec. 8078) with an amendment stating the provision should be in effect only in fiscal year 1986. Further, the conferees agree that on union contract jobs a worker released by the union should be considered a resident of Alaska.

CHAMPUS HOME HEALTH CARE

The conferees agree to the general provision (Sec. 8084) included in the House bill with clarifying language which stipulates this program will cover home health care when CHAMPUS determines it is more cost effective than care which would otherwise be covered by CHAMPUS in medical facilities.

The conferees want it to be clear the intent of the provision is to save funds by identifying the most cost effective means for health care coverage to be provided by the government. Further, the conferees agree this will be a two year test and should not be considered a permanent change in CHAMPUS benefits.

READY RESERVE TUITION ASSISTANCE

The conferees agree to the Senate provision (Sec. 8086) on tuition assistance for the Ready Reserve. The conferees agree that the purpose of this tuition assistance is to provide for part-time education and degree programs, and should not be used for full-time degree programs which are provided by the Veterans Administration through GI Bill benefits.

ARMY LANDS CONVEYANCE

The conferees agree to Senate bill language (Sec. 8092) which directs that a sanitary landfill site on Fort Richardson in Alaska be conveyed to the Municipality of Anchorage if the site is declared excess to the needs of the Army. The language agreed to by the conferees is intended only to ensure that the landfill site, if excessed, is conveyed to the Municipality of Anchorage as public interest land. It has no bearing on any dispute over the legal effect of other provisions of the public interest lands section of the North Anchorage Land Agreement (NALA)—including the allocation of subsurface revenues among various native corporations.

DEBRIS REMOVAL

The Senate included a general provision which allows the removal of unsafe and unsightly buildings and debris from sites formerly used by the Department of Defense. The House did not address this issue. The conferees agree to a general provision (Sec. 8096) that allows the removal of unsafe buildings or debris, provided that it is done before the property leaves federal government control, unless the property is owned by a state or local government or native corporations.

SALE OF ALCOHOLIC BEVERAGES

The conferees agree to the Senate provision (Sec. 8099) which requires the Department to procure alcoholic beverages from the states in which Defense installations are located.

DEPENDENT STUDENTS TRAVEL

The Senate included a general provision (Sec. 8101) which places a limitation on the amount of funds available for Dependent Student Travel, and also denies travel under this program in the continental United States. The House removed this provision from its bill. The Conferees agree to continue the limitation at $4,700,000, but have deleted the CONUS travel restrictions.

AVAILABILITY OF UNOBLIGATED BALANCES

The conferees agree to set aside prior year unobligated balances of appropriations and retain them for anticipated requirements of the Defense Department, including military personnel costs and other needs, some of which may be established by subsequent acts of Congress. Under prescribed procedures, these unobligated balances, totaling $6,306,906,000, may be transferred by the Secretary of Defense to the major appropriation accounts and obligated only upon 15-day prior notification to the House and Senate Appropriations Committees. Section 8103 of the bill also provides that the availability of these unobligated balances is not extended beyond the time period specified when they were appropriated.

In notifying the Appropriations Committees of intent to transfer and obligate any prior year balances under this authority, the conferees instruct the Secretary to adhere to established reprogramming procedures. In this respect, full budget justifications should be submitted and, when required, additional time granted if needed by the Committees to permit adequate review and analysis and, if necessary, hearings on requirements and both programmatic and budgetary impacts.

The estimated costs of the October 1, 1985, military pay raise will be a clear requirement covered by the unobligated balances setaside. Estimated costs are $1,887,000,000, but the conferees will expect the Department of Defense to absorb as much of this cost as possible with the reduced budget resources available to it for fiscal year 1986—resources that will be reduced further under deficit reduction legislation just enacted by Congress.

The conferees recognize there may be substantial funding adjustments established by legislation that may be introduced in the 99th Congress. For example, savings were anticipated by Congress in its passage of the fiscal year 1986 Defense Authorization Act based on proposals for military retirement changes. That Act established ceilings on the military personnel accounts reflecting estimated cost savings, and funding in the accompanying Defense Appropriations Bill conforms to those limitations. It is not possible at this juncture to determine the cost effects of the eventual retirement reform legislation.

Accordingly, the conferees have included a provision as proposed by the Senate that requires a reduction in military personnel account obligations after May 1, 1985, to achieve a spending rate that will not exceed the obligation ceilings of the authorization act. Such reductions would require substantial personnel cuts in the absence of the anticipated legislation affecting retirement payment savings.

The following table details the program sources of prior year unobligated balances:

Appropriation and Line Item	*Amount*
Aircraft Procurement, Army, 1985/1987:	
EH-60	$64,300,000
AH-1S	20,000,000
CH-47	17,500,000
GPS	16,100,000
Total	117,900,000
Missile Procurement, Army, 1984/1986:	
MLRS	10,100,000
Missile Procurement, Army, 1985/1987:	
MLRS	31,400,000
Prior Year Savings	25,000,000
Total	56,400,000
Procurement of Weapons and Tracked Combat Vehicles, 1984/1986:	
DIVAD	256,600,000
DIVAD DMPE	20,800,000
DIVAD Spares	2,100,000
DIVAD Adv. Proc.	4,400,000
M-1	52,600,000
Total	336,500,000
Procurement of Weapons and Tracked Combat Vehicles, 1985/1987:	
DIVAD Adv. Proc.	100,000,000
DIVAD Spares	46,500,000
DIVAD DMPE	36,000,000
M-1	25,300,000
SAW	12,900,000
BFV-ISU	21,700,000
M-88	2,800,000
M-60 PBS	8,600,000
Total	253,800,000
Procurement of Ammunition, Army, 1984/1986:	
Prior Year Inflation	30,000,000
DIVAD	400,000
Total	30,400,000
Procurement of Ammunition, Army, 1985/1987:	
DIVAD	37,700,000
Prior Year Inflation	48,000,000
120mm	28,100,000
Prior Year Savings	33,900,000
Total	147,700,000
Other Procurement, Army, 1984/1986:	
FAV	2,000,000

	Amount
Prior Year Inflation	79,000,000
Total	81,000,000
Other Procurement, Army, 1985/1987:	
FAV	5,400,000
ADPE (CAMIS)	10,200,000
NAVSTAR GPS	7,300,000
M-9 ACE	12,400,000
Prior Year Inflation	95,000,000
Prior Year Savings	46,200,000
Total	176,500,000
Aircraft Procurement, Navy, 1984/1986:	
EA-6B	1,000,000
AV-8B	16,500,000
F/A-18	10,900,000
SH-2F	6,400,000
Mods	20,300,000
Aircraft Support Fac	1,500,000
Uncommitted	4,200,000
Total	60,800,000
Aircraft Procurement, Navy, 1985/1987:	
A-6E	4,700,000
EA-6B	4,200,000
AV-8B	139,200,000
F/A-18	176,200,000
CH-53E	2,500,000
SH-60	49,300,000
E-2C	7,300,000
SH-2F	6,700,000
Mods	92,900,000
Aircraft Support Fac	3,500,000
Total	490,500,000
Weapons Procurement, Navy, 1985/1987: Prior Year Savings	15,000,000
Shipbuilding and Conversion, Navy, 1982/1986:	
SSN-688	66,300,000
CG-47	125,000,000
FFG	40,100,000
T-AO	19,000,000
Outfitting	3,800,000
Post Delivery	700,000
Escalation	136,700,000
Total	391,600,000
Shipbuilding and Conversion, Navy 1983/1987:	
Trident	134,900,000
Battleship	5,000,000
CVN	304,000,000
CG-47	163,200,000
FFG	20,100,000
T-AO	11,000,000
T-AH	5,800,000
Service Craft	3,900,000
Outfitting	5,600,000
Post Delivery	9,500,000
Escalation	28,300,000
Total	691,300,000
Shipbuilding and Conversion, Navy, 1984/1988:	
Trident	151,900,000
CG-47	94,600,000
LSD-41	6,000,000
LHD-1	37,900,000
T-AO	26,400,000
T-AH	2,200,000
T-AKR	12,600,000
Service Craft	44,000,000

	Amount
Landing Craft	11,000,000
Post Delivery	12,000,000
Total	398,600,000
Shipbulding and Conversion, Navy, 1985/1989:	
Trident	133,400,000
CG-47	157,500,000
DDG-1	74,000,000
LSD-41	2,900,000
LPD SLEP	15,000,000
T-AO	53,100,000
T-AGOS	28,700,000
T-AGS	38,300,000
T-ACS	8,500,000
Post Delivery	6,400,000
Total	517,800,000
Other Procurement, Navy, 1984/1986:	
AN/SYS ( )	940,000
NAVSEA Tng Equip	71,000
Air Station Support	165,000
SATCOM Ship Terminals	3,294,000
Explosive Ord Disposal	1,320,000
Prior Year Inflation	70,000,000
Total	75,790,000
Other Procurement, Navy, 1985/1987:	
Other Propulsion Equip	391,000
Carrier Nav System	6,296,000
Sub Life Support	6,500,000
Diving/Salvage Equip	779,000
AN-SYS ( )	668,000
Sonar Switches	1,326,000
ASW Ops Center	200,000
Carrier ASW Module	398,000
ICAD Systems	8,159,000
NAVSTAR GPS	4,238,000
Air Station Spt Equip	831,000
TSEC/KY-71/72	15,538,000
Explosive Ord Disposal	369,000
Quickstrike	4,000,000
Prior Year Inflation	98,000,000
Prior Year Savings	53,000,000
Total	200,693,000
Procurement, Marine Corps, 1985/1987:	
PLOW	4,900,000
SAW	3,056,000
ULCS-LCS	11,761,000
Prior Year Savings	28,000,000
Total	47,717,000
Aircraft Procurement, Air Force, 1984/1986:	
B-1 Overtarget Res	100,000,000
Engine Costs	29,800,000
ALR-74	27,100,000
EPA Savings	14,500,000
DoD Revision	49,000,000
KC-10 EPA	6,000,000
C-130H	20,000,000
Total	246,400,000
Aircraft Procurement, Air Force, 1985/1987:	
B-1 Overtarget Res	200,000,000
F-15 DoD Revision	9,100,000
F-16 ASPJ	237,800,000
Engine Costs	30,000,000
ALR-74	34,100,000
EPA Savings	51,800,000
DoD Revision	53,000,000
KC-10 EPA	18,600,000

	Amount
T-46 EPA	5,300,000
B-52 Mod DoD Rev	8,000,000
KC-135 Mod DoD Rev	36,400,000
Common Ground Equip	50,000,000
ALQ-131 ECM Pod	103,900,000
C-130H	18,000,000
C-131 Mod	8,000,000
Total	864,000,000
Missile Procurement, Air Force, 1984/1986: AMRAAM	29,400,000
Missile Procurement, Air Force, 1985/1987:	
Prior Year Savings	35,000,000
Reprogramming Denial	18,400,000
Total	53,400,000
Other Procurement, Air Force, 1984/1986:	
MARS Radar	8,127,000
Prior Year Inflation	86,000,000
Total	94,127,000
Other Procurement, Air Force, 1985/1987:	
30mm API	10,800,000
DEW Radar	30,758,000
MARS Radar	15,791,000
Prior Year Inflation	156,000,000
Prior Year Savings	40,000,000
Total	253,349,000
Procurement, Defense Agencies, 1984/1986: Prior Year Inflation	15,000,000
Procurement, Defense Agencies, 1985/1987: Prior Year Inflation	21,000,000
Research, Development, Test and Evaluation, Army, 1985/1986:	
Infantry Supt Wpns	5,400,000
Countermines & Barriers	1,130,000
Prior Year Savings	49,000,000
Prior Year Inflation	40,000,000
Reprogramming Denial	600,000
Total	96,130,000
Research, Development, Test and Evaluation, Navy, 1985/1986:	
Support Equipment	3,300,000
C/MH-53E	800,000
A/C Engines Comp Impr Pro	900,000
Prior Year Savings	123,000,000
Prior Year Inflation	60,000,000
Total	188,000,000
Research, Development, Test and Evaluation, Air Force, 1985/1986:	
F-4G Wild Weasel Squad	8,000,000
Prior Year Inflation	100,000,000
Prior Year Savings	156,000,000
Total	264,000,000
Research, Development, Test and Evaluation, Defense Agencies, 1985/1986:	
Prior Year Savings	51,000,000

	Amount
Prior Year Inflation	31,000,000
Total	82,000,000

MARINER FUND

The conferees agree to designate within the set-aside for unobligated balances that $852,100,000 shall be available for a revolving Mariner Fund for the construction and lease of cargo vessels configured for the military sealift mission. No funds could be transferred to the Mariner Fund nor obligated for any purpose without enactment by Congress of legislation establishing the Mariner fund program. Further, no funds could be obligated without notice to the House and Senate Appropriations Committees and after a 60-day review period following that notification.

It is the conferees' intent that, in the event of enabling legislation, the Appropriations Committees will have ample time to conduct hearings and otherwise review and approve any obligations for ship construction under the Mariner Fund mechanism. The conferees endorse the goal of establishing a modern sealift fleet, operating under revenue-producing charters and immediately available for military use in event of emergencies. However, full Congressional review at both the authorization and appropriations level is essential to assure the most cost-effective use of any funds made available to the Mariner Fund.

The concept of this build and charter program is patterned after President Eisenhower's Mariner program to construct ships for commercial operation which may be used for military sealift. This is a cost effective alternative to the construction of ships which are placed in an inactive status with the Ready Reserve Fleet. The Navy has been procuring used commercial vessels for retention in the inactive fleet, but the supply of militarily useful ships is dwindling. Although there is an excess of commercial tonnage on the world economy today, there is a severe shortage of vessels which are of the size, capacity and speed requirements for military sealift needs. Consequently, the Navy would be responsible for administering the Fund and selecting the types of vessels to be built under the Mariner Fund which maximize military utility while retaining commercial cost effectiveness features. Subsequent to the enactment of the authorizing legislation, but prior to obligation of funds, the Navy is required to provide a report to the Appropriations Committees on the types of vessels selected.

In addition to the $852,100,000 which may be made available, the authorizing legislation should identify the source of other revenues to maintain the program. Specifically, the legislation should provide for the lease of vessels constructed to the bidder of the highest competitive lease payment to the Fund. Similarly, construction contracts should be competitively awarded to the lowest bidder. In addition, such revenues as may accrue from repayment of construction differential subsidies should be permitted by the authorizing legislation to revert to the Mariner Fund. Consideration should also be given to the use of funds from the sale of such vessels constructed under the Mariner Fund, provided that the ships are at least five years old prior to sale.

After authorization is enacted, no funds shall be obligated until 60 days after notification to the House and Senate Appropriations Committees of the Navy's intent to incur contract obligations. The conferees direct that the following shipbuilding funds are not to be obligated without such approval. Although previously identified as a portion of the unobligated balances earlier in this statement, these funds are specifically earmarked for the Mariner Fund.

Shipbuilding and conversion, Navy

Fiscal Year 1983:	
Trident Submarine	$134,900,000
CVN Aricraft Carrier	304,000,000
CG-47 Cruiser	163,200,000
FFG-7 Frigate	20,100,000
Service Craft	4,000,000
Fiscal Year 1984: Trident Submarine	151,900,000
Fiscal Year 1985: DDG-51 Destroyer	74,000,000
Total	852,100,000

INTERPORT DIFFERENTIAL

The Senate continued the provision (Sec. 8104) first included in the fiscal year 1985 Supplemental which prohibits the Navy from considering charges for interport differentials as an evaluation factor for ship repair contract awards. The House did not include this provision. The conferees believe there is insufficient data available to determine whether the use of the differential is appropriate. The conferees direct the Department to initiate a test through fiscal year 1986 to determine the effects of the differential on competition and the cost of ship repair. To that end the conferees have agreed to apply the prohibition against use of the interport differential to the West coast only. This action will allow the Navy to compare results on the West coast, without the differential, against those of the East and Gulf coasts with the differential.

GUNTER AIR FORCE BASE PRINTING PRESS

The conferees agree with the Senate position and include a provision (Sec. 8105) prohibiting funding for the installation, maintenance and operation of the printing press recently purchased for the Gunter Air Force Base. The conferees direct that the Air Force report to the House and Senate Appropriations Committees by February 1, 1986, on how it will dispose of the printing press.

COMMAND STRUCTURE

The conferees are concerned with recent decisions to reorganize headquarters commands without full congressional consultation prior to approval. This is especially disconcerting when it results in additional bureaucratic layers. However, the conferees agree to delete that portion of the Senate general provisions which restricts funding of the reorganized Atlantic Command because of the danger of disrupting operations of the Command. The conferees agree to prohibit the alteration of the present structure of U.S. military forces in Alaska as proposed by the Senate (Sec. 8107).

CONVERSION OF DOMESTIC MILITARY FACILITIES TO COAL-BURNING FACILITIES

The conferees agree to a new general provision (Sec. 8110) on the use of coal in the United States. Specifically, in order to fully promote greater reliance on domestic energy resources, the conferees direct the Department of Defense to implement immediately its proposal to rehabilitate and convert current steam generating plants at defense facilities in the United States to coal burning facilities. This is directed in order to achieve a coal consumption target of 1,600,000 short tons of coal per year above current consumption levels at DoD facilities in the United States by fiscal year 1994. Further, the conferees direct that anthracite or bituminous coal shall be the source of energy at such installations.

During the implementation of this proposal, the amount of anthracite coal purchased by the Department shall remain at least at the current annual purchase level, 302,000 short tons. In order to maintain this level, the Department shall begin immediate stockpiling within the continental United States, and it shall vigorously pursue those rehabilitation projects which can convert to anthracite coal usage.

The Conferees direct that $25,000,000 in the Army Industrial Fund shall be available to initiate this conversion proposal. Moreover, the Department shall have the authority to fund from within this amount any expenses incurred in the administrative support of this effort. The Conferees further direct the department to present a comprehensive plan for this coal conversion proposal and to include appropriate funding in future budget submissions.

TITAN II EXPENDABLE LAUNCH VEHICLES

The conferees agrees that the joint DOD-NASA determination of which Department of Defense payloads will be launched on Titan II expendable launch vehicles will be made and reported to the Congress within 180 days of enactment. (Sec. 8111)

TITLE IX—COUNTERTERRORISM CONTINGENCY FUND

In his Annual Report to the Congress, the Secretary of Defense stated that "the United States will continue to seek a more active defense against terrorist attacks throughout the world." The conferees fully support maintaining an active defense against terrorism and believe that counterterrorism programs should be given a top priority since the terrorist threat is most likely one to be faced by the U.S. in the near term. Since the Secretary of Defense specifically requested that the $100,000,000 provided by the Senate not be appropriated, the conferees reluctantly agree to delete Title IX from the bill. However, in order to ensure that these critical programs are adquately financed, by March 31, 1986, the Secretary of Defense is directed to submit a report to the House and Senate Committees on Appropriations identifying what funds are included in the fiscal year 1987 budget request for contingency operations against the threat of or use of violence against United States personnel or property.

Amendment No. 5: Deletes Senate language which deleted sections 8097, 8098, 8099, and 8100 of the Department of Defense Appropriation Act, 1986 as passed the House on October 30, 1985 and section 8090 of the Act as reported to the Senate on November 6, 1985. These provisions pertain to the several procurement reform issues which were deleted from the Act.

DISTRICT OF COLUMBIA

Amendment No. 6: Changes subsection designation from "(d)" to "(c)" and provides that programs, projects, or activities provided for in the District of Columbia Appropriations Act for fiscal year 1986 (H.R. 3067) shall be available to the extent and in the manner provided for in the conference report and joint explanatory statement of the managers (H. Rept. 99-419), as filed in the House of Representatives on December 5, 1985, as if such Act had been enacted into law and provides that the appropriation for the Federal contribution to the District of Columbia for the "Criminal Justice Initiative" under Amendment No. 2 of H.R. 3067 shall be "$13,860,000" instead of

"$14,010,000" as proposed by the Senate. The House bill provided for a rate of operations based on the House-passed bill.

Appropriations for the Department of the Interior and Related Agencies

Amendment No. 7: Section 101(d) of House Joint Resolution 465 provides appropriations for programs, projects and activities provided for in the Department of the Interior and Related Agencies Appropriations Act, 1986. The House version of the joint resolution provides appropriations for programs, projects, or activities at a rate for operations and to the extent and in the manner provided for in H.R. 3011 as passed the House of Representatives on July 31, 1985. The Senate version of the joint resolution provides appropriations for these programs, projects, and activities at a rate for operations and to the extent and in the manner provided for in H.R. 3011 as reported to the Senate on September 24, 1985.

The conference agreement on House Joint Resolution 465 incorporates some of the provisions of both the House and Senate versions of the Department of the Interior and Related Agencies Appropriations Act, 1986, and has the effect of enacting the Act into law. The language and allocations set forth in House Report 99-205 and Senate Report 99-141 shall be complied with unless specifically addressed to the contrary in this joint resolution and accompanying statement of the managers. The Department of the Interior and Related Agencies Appropriations Act, 1986, put in place by this joint resolution, incorporates the following agreements of the managers:

TITLE I—DEPARTMENT OF THE INTERIOR

Bureau of Land Management

MANAGEMENT OF LANDS AND RESOURCES

Appropriates $398,566,000 instead of $378,556,000 as proposed by the House and $403,998,000 as proposed by the Senate.

The net decrease from the amount proposed by the Senate includes: decreases of $600,000 in oil and gas leasing; $220,000 in oil shale and tar sands leasing; $348,000 in withdrawal processing and review; $4,748,000 in wild horse and burro management; $841,000 in grazing management; $1,000,000 in noxious weed control; $300,000 to restore FTE's to the fiscal year 1985 level in wildlife habitat management; $350,000 for the automated land and mineral record system in Alaska; $500,000 for building maintenance and $500,000 for transportation maintenance; and increases of $100,000 in the amount reduced by the Senate to complete cost recovery regulations; $1,000,000 to provide better protection of rare cultural resources; $750,000 to protect designated wilderness areas as well as wilderness study areas; $925,000 for recreation management and $1,200,000 for the lower 48 states cadastral survey.

The managers agree that the desert land entry activity is to continue at the fiscal year 1985 level. The increase over the budget request for additional FTE's in wildlife habitat management is for priority wildlife management projects.

There is $330,000 within available funds to support the President's Commission on Americans Outdoors.

Within available funds there is $50,000 for the Barstow Way Station; $25,000 for the Calico Early Man Site and $100,000 for Soda Springs. There is also $925,000 within available funds to implement resource management plans for Steese NCA and the White Mountains NRA.

Bill language relating to the proposed Bureau of Land Management/Forest Service interchange has been moved to title III.

The managers agree that an increase of $500,000 is provided within available funds for hazardous waste control activities.

CONSTRUCTION AND ACCESS

Appropriates $1,403,000 for construction and access as proposed by the Senate instead of $1,203,000 as proposed by the House.

PAYMENTS IN LIEU OF TAXES

Appropriates $105,000,000 for Payments in Lieu of Taxes as proposed by the Senate instead of $102,900,000 as proposed by the House.

LAND ACQUISITION

Appropriates $2,300,000 for land acquisition instead of $2,800,000 as proposed by the House and nothing as proposed by the Senate. The amount made available includes $1,000,000 for the Steens Mountain Recreation Area, $300,000 for acquisition management, $500,000 for the King Range Conservation Area and $500,000 for wilderness inholdings.

OREGON AND CALIFORNIA GRANT LANDS

Appropriates $56,114,000 for the Oregon and California Grant Lands instead of $66,140,000 as proposed by the House and $54,443,000 as proposed by the Senate. The changes from the House amount include a decrease of $8,355,000 related to Forest Service activities which are included under the Forest Service and a decrease of $1,671,000 from the amount included by the Huse to maintain the 1985 program level in all activities. Included in the appropriation is $500,000 for anadromous fish initiatives and $150,000 for restoring recreation projects in Western Oregon.

RANGE IMPROVEMENTS

The managers agree to provide $10,000,000 as proposed by the Senate.

The managers have agreed to retain House bill language concerning grazing subleasing. New regulations have been promulgated and the managers want to ensure that they provide adequate control. To that end, the managers have agreed to ask the GAO to review subleasing and advise the Committees on the extent of the practice and the adequacy of the regulations.

SERVICE CHARGES, DEPOSITS, AND FORFEITURES

The managers have agreed to delete bill language proposed by the House regarding recovery of costs associated with preparation of environmental impact statements. The managers encourage the authorizing committees to review this matter and propose an appropriate resolution.

ADMINISTRATIVE PROVISIONS

The managers have agreed to bill language that will allow the Secretary of the Interior to resell timber within the Medford, Oregon BLM District, without further judicial review, that has been returned pursuant to the Federal Timber Contract Payment Modification Act if, as a result of administrative appeal or judicial review, there is a delay in the sale or award of timber, and only to the extent necessary to achieve sale of the allowable cut.

The language directs that the Secretary consider the environmental consequences of each sale and categorize each sale's environmental impact as minimal, moderate, or serious. Sales made pursuant to this section shall be made according to their relative environmental impacts. Once reoffered sales are defined and their degree of environmental impact assigned, they shall be available for public review for a period of 30 days before being reoffered.

The managers believe this is an appropriate resolution of last resort but want to emphasize the importance of resolving, at the local level, the many complicated and controversial issues involving competing and best use. Therefore, the BLM is directed to continue the consensus-building process it has pursued with local environmental and industry organizations. Specifically, the BLM should consider continuing the citizen participation committee, or other similar forum, by which management, planning and analysis information might be shared in order to lay a foundation for the next planning cycle. The Bureau shall report the results of its community participation efforts to the House and Senate Committees on Appropriations prior to their fiscal year 1987 budget hearings.

U.S. Fish and Wildlife Service

RESOURCE MANAGEMENT

Appropriates $301,222,000 for resource management instead of $317,202,000 as proposed by the House and $303,522,000 as proposed by the Senate. The above amount includes decreases from the Senate of $500,000 to expand public use programs on refuges, $1,500,000 from the accelerated refuge maintenance management program, $1,000,000 from hatchery maintenance, $250,000 for fishery management activities, $250,000 from operational and maintenance needs of the fishery research program, $750,000 for refuge operation and maintenance, $50,000 for law enforcement activities in the Caribbean, $50,000 for the CITES permitting process, $1,000,000 from administrative costs, $410,000 for endangered species recovery, and $110,000 from endangered species research; increases of $1,000,000 to study the relationship between avian disease outbreaks and environmental contaminants, $500,000 for Great Lakes Laboratory research as stated in the House report, $150,000 for additional staff at the Gainesville Research Laboratory, $70,000 for acid rain monitoring equipment at the Wellsboro National Fishery Research and Development Laboratory, $1,100,000 for a forensics laboratory, $500,000 for endangered species grants for the states, and $250,000 for endangered species listing.

The Wellsboro acid rain monitoring program is to be closely coordinated with those of other federal agencies such as the Forest Service. The managers agree that the Fish and Wildlife Service should submit to the House and Senate Committees on Appropriations its plans for the forensics laboratory prior to implementation so that the Committees may review the site plans and schedules.

Within the $6,926,000 provided for endangered species recovery there is $300,000 for the peregrine falcon, $50,000 for the grizzly bear, $150,000 for Hawaiian forest birds, $100,000 for the whooping crane, $20,000 for the California brown pelican and $200,000 for Upper Colorado River fish studies. The managers agree that within endangered species research there is $110,000 for the Puerto Rico aviary, $150,000 for black footed ferret research, $100,000 for whooping crane research, and $80,000 for Florida panther research.

The managers agree that the Fish and Wildlife Service should review the condition of the Nashua NH hatchery and make repairs as necessary. There is within available hatchery maintenance and operations funds

$480,000 for Norfork NFH and $200,000 for Greers Ferry NFH. The managers agree that there is $120,000 within available funds for the Upper Colorado River Federal-State working group.

Although administrative savings cannot be accumulated to offset future year budget needs, the managers agree that the Fish and Wildlife Service should document its administrative savings and report to the Committees no later than May 15, 1986 its anticipated administrative savings for fiscal year 1986.

There is $330,000 with available funds to support the Presidential Commission on American Outdoors.

The managers agree that not less than $3,300,000 for high priority projects within the scope of the approved budget shall be carried out by the Youth Conservation Corps as if authorized by the Act of August 13, 1970, as amended by Public Law 93-408.

The funds provided for Great Lakes research are for research only and are not to be available for the Great Lakes Indian Treaty settlement.

The managers agree to provide no funding for the Animal Damage Control program. Instead, funds are provided to the Department of Agriculture. The managers anticipate that such a transfer will result in a more cost-effective program.

The managers agree with the Senate proposal for research on alternative non-toxic shot, including cost-sharing if feasible.

CONSTRUCTION AND ANADROMOUS FISH

Appropriates $21,296,000 instead of $18,209,000 as proposed by the House and $15,033,000 as proposed by the Senate. The net increase of $3,087,000 above the House position includes increases of $600,000 for construction at Cape Charles NWR, Va and $3,097,000 for high priority construction on Alaskan wildlife refuges; and a decrease of $610,000 for the Northeast Fishery Center laboratory.

Language is included to earmark $2,000,000 for Anadromous Fish Grants.

MIGRATORY BIRD CONSERVATION ACCOUNT

Appropriates $15,000,000 as an advance to this account instead of $10,000,000 as proposed by the House and $20,000,000 as proposed by the Senate. The Migratory Bird Conservation Commission (MBCC) should consider acquisitions in the Anderson-Tully, Cache, and White River areas.

LAND ACQUISITION

Appropriates $40,670,000 instead of $45,970,000 as proposed by the House and $32,570,000 as proposed by the Senate. The following table shows the allocation agreed to by the managers.

Acquisition management....	$1,600,000
American crocodile, FL	1,500,000
Bon Secour NWR, AL..........	1,000,000
Cape Charles NWR, VA	2,640,000
Coachella Valley/fringe-toed lizard, CA	5,000,000
Connecticut Coastal NWR, CN	1,030,000
Florida panther, Fakahatchee Strand NWR, FL.....	3,000,000
Great Swamp NWR, NJ	1,000,000
Hawaii forest birds, HI	6,000,000
Lower Rio Grande, TX.......	5,000,000
Lower Suwanee, FL..............	2,500,000
Minnesota Valley NWR, MN	2,000,000
Minnesota Elk Wildlife Refuge, WY........................	1,400,000
National Key Deer, FL.......	2,000,000
Steigerwald Lake Wetlands (Kerr Estate), OR..	600,000
Willapa NWR, WA	3,400,000
Inholdings.............................	1,000,000
Total..............................	40,670,000

Language proposed by the House to make the land acquisition at Cape Charles NWR, VA subject to authorization is deleted. The managers request that the Fish and Wildlife Service provide the House and Senate Committees on Appropriations assurance that the wildlife resource values of proposed land acquisitions in Puerto Rico at Cartegena and Tortuguero Lagoons will not be impaired if the Service does not proceed with the acquisition. The managers agree that within funds available for acquisition management there is $100,000 to undertake a survey of the exterior boundary of the Tensas River NWR.

ADMINISTRATIVE PROVISIONS

The managers have agreed to delete House proposed bill language mandating repayment of funds advanced to or spent by the Fish and Wildlife Service for costs of the Fish and Wildlife Foundation.

The managers understand that the Foundation and the Service are establishing an agreement as to what the Foundation may do with funds advanced by the Service. The managers request that that agreement be submitted to the Committees with the fiscal year 1987 budget together with an evaluation of the legal requirement for the Foundation to repay all funds transferred to the Foundation, such as land acquisition funds that may pass through the Foundation.

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

Appropriates $627,763,000 for Operation of the National Park System instead of $628,996,000 as proposed by the House and $619,548,000 as proposed by the Senate.

The change from the Senate includes increases of $500,000 for the Student Conservation Association; $320,000 for Illinois and Michigan Canal Corridor; $260,000 for interpretation and visitor services for Lowell National Historic Park; $200,000 so that a new Park Police rookie class may be conducted; $290,000 for Route 209 maintenance; $4,626,000 for maintenance to restore the fiscal year 1985 level; $1,088,000 to add nine parks to those where air quality monitoring is being conducted; $150,000 for an airplane and pilot in Alaska; $11,000 for U.S. ICOMOS; $175,000 for Folger Theater; $175,000 for Corcoran Gallery; $175,000 for Phillips Gallery; $175,000 for Arena Stage; $175,000 for the National Building Museum; $175,000 for the National Capital Children's Museum and $450,000 for repairs and rehabilitation of William McKinley's tomb; and decreases of $80,000 for restoration of bighorn sheep at Yosemite NP; $400,000 for Yosemite NP, Mariposa Grove and building removal; and $250,000 for Grand Canyon NP trail maintenance.

The managers agree that within available funds there is $46,000 for Allegheny Portage NHS; $250,000 for trail maintenance at Grand Canyon NP; $400,000 for Yosemite NP for Mariposa Grove and for building removal; and $100,000 to remove non-salvageable structures at Delaware Water Gap.

There is $330,000 within available funds to support the Presidential Commission on Americans Outdoors.

The managers agree that improvements can be made in the allocation of cyclic maintenance and other funds appropriated to regional offices for distribution to various park units. The Park Service has acknowledged this in a letter to the Chairmen of the Interior and Related Agencies appropriations subcommittees. In part, the letter reads as follows:

> I would like to take the opportunity to comment on language included in the Senate Report on the Department of the Interior and Related Agencies Appropriation Bill for fiscal 1986 relating to the Cyclic Maintenance Program of the National Park Service.
>
> Specifically, the Committee expressed its view that the Service has used cyclic maintenance funds for work that is inconsistent with the criteria established for the program. In addition, the Committee concluded that part of this problem stemmed from management of the program by the Regional Offices. The Committee recommended that $40 million from Regionally managed programs be allocated to park base budgets.
>
> These are serious concerns, and I have taken steps to determine to what extent they represent the exception rather than the rule. Our examination of the cyclic maintenance projects programmed in fiscal 1985 shows that the Service did redirect cyclic funds to construct several small maintenance structures in two parks, and in other instances used funds for work which would be more appropriately categorized as repair and rehabilitation. Although this work was accomplished within available authorities and did represent high priority needs, I acknowledge that improvements are needed in the definition and management of the Cyclic Maintenance Program.
>
> To this end, I am directing that several steps be taken by field managers. Currently, the budget formulation process for the Cyclic Maintenance Program varies from Region to Region. In the near future, we will update guidelines and instructions for developing and executing the Cyclic Maintenance Program that will ensure consistency among Regions. Project requirements, based on strict program criteria, will be projected over a 10-year cycle and form the basis for annual funding allocations. Execution of the program will be closely monitored and appropriate reports submitted to the Appropriations Committees. Finally, we will more clearly differentiate the amounts budgeted for those projects which are cyclic in nature and those projects which are intended to repair and rehabiliate structures. The fiscal 1987 budget will reflect these improvements.

The Committee will monitor the Service's progress in improving the distribution of funds to the individual units.

The managers agree to the addition of an airplane and pilot for Alaska with the understanding that they will not be used to interfere with legal subsistence users.

The managers agree to a continuation of the Youth Conservation Corps program from within available funds at a level of $3,300,000.

The managers agree within available park operating funds there are increases of $157,000 for Jean Lafitte NP; $150,000 for Saguaro NM; $600,000 for Glen Canyon NRA; and $150,000 for New River Gorge NR. Further, not to exceed $150,000 shall be available to study the feasibility of several management alternatives to protect and interpret resources near Almo, Idaho, and $150,000 shall be available for the completion of a historic structures report for the New River Gorge NR.

NATIONAL RECREATION AND PRESERVATION

Appropriates $11,096,000 instead of $11,467,000 as proposed by the House and

$10,828,000 as proposed by the Senate. The managers agree that in addition to the amount proposed by the Senate there is $168,000 for the recreation programs and $100,000 for a national inventory of trails. The Park Service is encouraged to seek private sources of funds to assist in developing the national inventory of trails.

HISTORIC PRESERVATION FUND

The managers have agreed to provide $20,535,000 for state historic preservation grants and $4,410,000 for the National Trust for Historic Preservation.

VISITOR FACILITIES FUND

The managers have agreed to transfer the Visitor Facilities Fund amounts to the National Park Service, to be managed as part of the normal construction program. Despite the best efforts of all involved, the managers have concluded that the projects can be managed more effectively through the Service. The National Park Foundation is invited to continue to participate in the project selection process.

CONSTRUCTION

Appropriates $114,121,000 instead of $104,069,000 as proposed by the House and $86,220,000 as proposed by the Senate.

The managers agree on the following increases to the budget request:

Boston NHP, MA (Bldg. 28)	$1,333,000
Cuyahoga Valley NRA ($1,287,000):	
Erosion control	500,000
Everett road covered bridge	15,000
Coonrad ranger station and communications center	87,000
Everett village structures stabilization	235,000
Construction of three bridges	450,000
Delaware Water Gap NRA	1,700,000
Faneuil Hall, Boston NHP (planning)	600,000
Gateway NRA, NY—Great Kills seawall repairs and new bath house	5,100,000
Golden Gate NRA, CA—Phil Burton Memorial	750,000
Gulf Islands NS, FL—visitor center	2,800,000
Hot Springs NP, AR—Fordyce bath house	2,100,000
Johnstown Flood NM, PA—visitor center planning	429,000
Lowell NHS, MA—Boott Mill complex, bldg. No. 6	3,360,000
Lowell Historic Preservation Commission	3,168,000
Mammoth Cave NP, KY—(water project)	2,000,000
Voyageurs NP, MN—Kettle Falls Hotel, phase II, utilities for new units	1,065,000
William Howard Taft home, restoration	850,000
Yellowstone National Park—rehabilitation of visitor facilities	6,540,000
Grand Canyon, AZ, power system—North Rim	3,900,000
Apostle Islands NL, WI	458,000
Burr Trail Scenic Road—Glen Canyon NRA and Capitol Reef NP, UT	8,100,000
Kenai Fjords, AK, visitor facility and storage/maintenance facility	750,000
Sitka NP, Russian Bishop's House	742,000
Klondike Gold Rush NHP—buildings restoration	820,000
Federal Hall National Memorial, NY	1,000,000
Jean Lafitte NP, LA:	
Eunice cooperative unit—A&E	250,000
Chalmette and Barataria—Interpretive exhibits and A/V programs	561,000
Natches Trace Parkway—Palmetto crossing ($1,180,000) and the Bay Springs area access ($300,000)	1,480,000
Buffalo National River	900,000
Fort Larned NHS, KS—Blockhouse reconstruction	262,000
Propject planning	3,850,000
Advance planning	1,900,000
Visitor facilities fund	8,500,000

Within available planning funds there is $350,000 for Women's Rights NHP and $988,000 for Fort Union Trading Post in North Dakota. No funds are provided for the Arctic NP, AK. The funds for the Burr Trail are provided subject to authorization. The managers are confident that the authorizing committees will consider and resolve the authorization issue in a timely manner.

The Visitor Facility Fund projects provided for by transfer are as printed in the Senate Report.

The managers have agreed to continue development at Buffalo National River next year.

LAND ACQUISITION AND STATE ASSISTANCE

Appropriates $98,400,000 instead of $115,762,000 as proposed by the House and $75,400,000 as proposed by the Senate. The following table shows the allocation agreed to by the managers:

Assistance to States:	
Matching grants	$48,350,000
Administrative expenses	1,650,000
Total, assistance to States	50,000,000
National Park Service:	
Acquisition management	5,000,000
Appalachian Trail	7,000,000
Big Cypress NP	3,000,000
Big Thicket NP	2,000,000
Cuyahoga Valley NRA	4,500,000
Delaware Water Gap NRA	3,500,000
Golden Gate NRA (Marin County)	2,000,000
Lake Clark NPP, AK	1,500,000
New River Gorge NP, WV	300,000
North Cascades, WA	1,000,000
Olympic NP	1,000,000
Point Reyes NS	1,000,000
Salinas NM, NM	600,000
San Antonio Missions NHS	2,000,000
Santa Monica Mountains NRA	5,000,000
Sleeping Bears Dunes NL	1,500,000
Inholdings	3,000,000
Emergencies, hardships, deficiencies, and relocations	2,500,000
Subtotal NPS	48,400,000
Total, National Park Service	98,400,000

JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

Appropriates $4,800,000 for the John F. Kennedy Center for the Performing Arts as proposed by the Senate instead of $4,529,000 as proposed by the House.

JEFFERSON NATIONAL EXPANSION MEMORIAL COMMISSION

Appropriates $75,000 for the Jefferson National Expansion Memorial Commission as proposed by the House instead of nothing as proposed by the Senate.

GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

Appropriates $431,961,000 for surveys, investigations, and research instead of $428,098,000 as proposed by the House and $437,655,000 as proposed by the Senate. The decrease below the amount proposed by the Senate consists of increases of $500,000 for Geographic Information Systems (GIS); $600,000 for the geothermal program; and $2,500,000 for beginning a National water quality assessment; and decreases of $2,000,000 for SLAR; $1,500,000 for earthquake hazards investigations; $1,800,000 for mineral resource surveys in Alaska; $1,500,000 for study of erosion of coastal barriers in Louisiana; and $2,494,000 for research and technical development grants under the Water Resources Research Act of 1984.

The managers agree that $600,000 provided for mineral resource surveys in the Steese and White Mountain areas of Alaska is to be used for State of Alaska assistance to the Geological Survey and that the Geological Survey will complete the studies within available funds and in time for the Bureau of Land Management to meet the 1988 deadline for land-use decisions for these areas.

The managers agree that the Survey is to proceed within available funds to prepare a new estimate of offshore oil and gas resources in cooperation with the Minerals Management Service.

The managers agree that $750,000 included for the core hydrologic program is for ground water research at the Oregon Graduate Center.

The managers agree to provide $2,500,000 to begin a National water quality assessment program with the understanding that the Survey, and the Department, will endeavor to redirect existing water programs, strengthen existing programs that support water quality assessment, and obtain significant funding from other Federal agencies with water quality interests and responsibilities so that incremental increased funding for this important program can be kept to the lowest possible levels.

Bill language is included establishing a special fund in the Treasury for replacement and expansion of telecommunications facilities, as proposed by the Senate.

MINERALS MANAGEMENT SERVICE

LEASING AND ROYALTY MANAGEMENT

Appropriates $168,018,000 for leasing and royalty management instead of $165,118,000 as proposed by the House and $170,267,000 as proposed by the Senate. The decreases under the amount proposed by the Senate consist of $2,014,000 for geological and geophysical data acquisition and $235,000 for the Royalty Management Advisory Committee. The managers agree that if the Secretary of the Interior determines the need for an advisory committee it should be funded from within available resources. The managers expect MMS to be the lead agency and to cooperate fully with the Geological Survey in the estimating of offshore oil and gas resources. Further, the managers expect the MMS to use Geological Survey expertise to the maximum extent feasible on issues involving OCS research, including allowing the Survey to bid on proposed work. Available "in-house" expertise should be considered before outside contractors are used.

Bill language is also included which requires permittees to supply geological and geophysical data to the Secretary of the Interior as a condition of the permit. The managers have agreed to delete bill language proposed by the House requiring the deduction of the cost of production, collection and distribution of revenues from Federal onshore mineral leasing operations before they are distributed to the States.

No additional funds are provided for late interest payments to States as proposed by the House. The managers agree that within available funds the Minerals Management Service should pay the penalties for late payments to States and Indian allottees. If the new Minerals Management computer system and upgrades outlined in the reprogramming request in 1984 do not result in timely payments of royalties to States and Indian allottees, consideration will be given to a supplemental request for such funds. Due to this action the bill language providing the authority for late interest payments to States has been revised and is included under Leasing and Royalty Management.

Bill language is included under Administrative Provisions which prohibits the use of funds for leasing in the North Atlantic-Georges Bank planning area as proposed by the House.

The managers have agreed that negotiations should continue between the Secretary and members of the California delegation and members from the appropriate committees of jurisdiction. The managers hope that these negotiations provide the appropriate range of advice to the Secretary as he strives to seek consensus. The outgoing negotiations process must continue so this longstanding dispute can be resolved.

If after a reasonable period there is no agreement between the parties, Congress may reconsider this matter. During negotiations and for the balance of fiscal year 1986, the Department of the Interior may proceed with preliminary sales steps including a Call for Information, and Nominations for OCS lease sales in the Southern, Central and Northern California Planning Areas.

BUREAU OF MINES

Appropriates $134,255,000 for mines and minerals instead of $122,298,000 as proposed by the House and $131,445,000 as proposed by the Senate.

The change from the amount proposed by the Senate in health and safety technology consists of increases of $600,000 for respirable dust research resulting in a total increase of $2,200,000 over the budget request for respirable dust research to be conducted at Pennsylvania State University, West Virginia University, University of Minnesota, and the Massachusetts Institute of Technology ; $1,250,000 for work in ground control to accelerate mountain bump research and accelerate work in tomography; $1,000,000 for post-disaster research; $1,000,000 for industrial hazards for research in robotics; and $1,000,000 for methane control. The managers agree that within available funds $300,000 is to be used for a Coal Mine Injury Analysis Study at Pennsylvania State University.

In mining technology the change from the Senate recommendation consists of an increase of $1,000,000 for proof-of-concept validation and a decrease of $500,000 for research in in-situ leaching.

In minerals and materials the change from the Senate recommendation consists of decreases of $1,000,000 for research at the Idaho National Engineering Laboratory and $500,000 for additional minerals and materials research.

In minerals information and analysis the change from the Senate recommendation consists of decreases of $500,000 for the Alaska Field Operations Center; $500,000 for data analysis; and a $40,000 technical adjustment. The managers agree that within the funds available to the Alaska Field Operations Center, $185,000 will be used for field testing of a Bureau-developed polymer-screen-dewatering technique at placer mining sites in Alaska.

The managers agree that the Bureau of Mines should continue to fund the 31 Mineral Institutes. The $8,000,000 provided includes $4,650,000 to be divided equally among the 31 Mineral Institutes; $350,000 for administration and $3,000,000 for a competitive research program among the institutes. In respect to the competitive research program, it is the managers' expectation that there will be open competition among all 31 Mineral Institutes for these funds with the focus being on the highest priority research problems.

Language is included which earmarks $79,537,000 to remain available until expended.

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

REGULATION AND TECHNOLOGY

Appropriates $85,153,000 for regulation and technology instead of $85,538,000 as proposed by the House and $85,038,000 as proposed by the Senate. The change from the amount proposed by the Senate is for an increase of $115,000 for 2 additional FTE's, resulting in a total of 10 additional FTE's, to be used to assist States when their programs falter. Of the 10 FTE's, no more than 6 are to be stationed in Oklahoma to ensure a smooth transition for Federal primacy to State primacy. The remaining FTE's are to be divided between the Eastern and Western field centers. The managers expect OSM to utilize some of these individuals to conduct special studies and to notify the Congress on a quarterly basis on the location of the 10 FTE's and the tasks for which they are responsible.

The managers agree that in respect to the development of the applicant/violator computer system, OSM is to report to the appropriate Committees of the House and Senate on the milestones established for computer development and the progress made in meeting these milestones. OSM is to utilize the guidelines for computer development printed in the House report to the maximum extent feasible.

Bill language is included which prohibits OSM from using funds to finalize or implement any proposed rule or regulation which would require operators to reimburse the Interior Department for the cost of processing applications. The managers agree that study of this area is necessary and request that OSM report to Congress on its findings from the planning, development, and review of such rule or regulation.

ABANDONED MINE RECLAMATION FUND

Appropriates $207,385,000 for the Abandoned Mine Reclamation Fund instead of $233,585,000 as proposed by the House and $191,295,000 as proposed by the Senate. The change from the amount proposed by the Senate consists of increases of $10,000,000 for State Reclamation Program Grants; $6,000,000 for the Rural Abandoned Mine Program; $94,000 to restore the 5 percent pay reduction for General Administration; and a decrease of $4,000 for the undistributed reduction in the budget request.

The managers agree that within available funds in Federal Reclamation Projects $330,000 is to be used to maintain 40 FTE's in Wilkes Barre, PA. The Office of Surface Mining is to focus attention on processes which have demonstrated possible long-term or permanent control of bacterial action and acid formation on lands to be reclaimed under the AML program. In this regard, OSM is to report to the Committees on its findings as they relate to the administration of these bacterial control processes.

The managers have deleted bill language which would have stiuplated that no State would receive a reclamation grant if its prior year unobligated balances of the amount granted was not less than the amount of the grant obligated in the immediately preceding year. Due to the reduced amount for State Reclamation Grants, the managers agree that OSM should use State obligation rates as one of the criteria for determining the fiscal year 1986 grants to the States. OSM is to keep updated obligation records of the States and report to the Committees on a quarterly basis on the progress made by States in obligating prior year unobligated balances. In order to accurately reflect State obligation rates, this report should contain information on date of request for such funds by the State and date of issuance of such funds by OSM. The managers agree that if the States can demonstrate a capability to use additional funds, the Committees will consider providing these funds in the next relevant appropriations bill.

Bill language is included which restricts the use of funds for a reclamation grant to any State if it does not agree to participate in a nationwide data system established by the Office of Surface Mining Reclamation and Enforcement. This language is in no way contrary to the decision in *Save Our Cumberland Mountain Inc., et al. v. Hodel, et al.*, Civil Action No. 81-2134 (D.D.C.) (Parker, J.), or otherwise affects the substance and scope of action required under Section 510(c) of the Act of August 3, 1977. The bill also provides that the Secretary of the Interior may deny fifty percent of an Abandoned Mine Reclamation Fund grant to a State when it is inadequately enforcing the Surface Mining Act or its approved State regulatory program. States are provided the opportunity of entering into an agreement with the Office of Surface Mining to correct these deficiencies with the understanding that entering into such agreement is not an admission of culpability and the Secretary will not take action pursuant to section 521(b).

The bill does not include language which would require the Secretary's discretionary fund to be apportioned based on the Abandoned Mine Lands Inventory. The managers direct the Office of Surface Mining to submit an analysis of the merits of all allocation formulas which have been generally discussed to date or which it wishes to propose prior to hearings on the fiscal year 1987 OSM budget. During this review, OSM should consider a formula which would give priority to States that have good obligation rates.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

Appropriates $897,312,000 for operation of Indian programs instead of $857,303,000 as proposed by the House and $877,780,000 as proposed by the Senate. The changes from the amount proposed by the Senate include: increases of $400,000 for weighted student unit enhancement, $540,000 for school program expansions, $450,000 for institutionalized handicapped ($300,000 in education and $150,000 in social services), $500,000 for student transportation, $3,183,000 for Johnson-O'Malley educational assistance, $100,000 for special higher education, $100,000 for upgrading equipment at Southwestern Indian Polytechnic Institute, $122,000 for tribal courts, $500,000 for general assistance payments, $500,000 for training and technical assistance, $500,000 for Navajo and Hopi relocation, $236,000 for reforestation, $449,000 for forest inventories and plans, $400,000 for timber sales administration, $1,600,000 for high priority water resource studies (including $364,000 for the Flathead Tribe), an additional $390,000 for U.S.-Canada Pacific Salmon Treaty (for a total of $1,400,000), $347,000 for tribal hatchery operations, including $17,000 for the Mescalero hatchery, $48,000 for the Quinault NFH, $145,000 for the Klamath conservation program, $1,000,000 for Phase II mineral assessments, $100,000 for the Hopi Tribe's renegotiation of a coal lease, $1,340,000 for litigation support, $500,000 for Area Office facilities management staffing (to maintain the twenty positions proposed to be cut), $2,000,000 related to quarters rentals, and $247,000 for facilities operation and maintenance; and decreases of $746,000 for school board expenses, $100,000 for declining enrollment adjustment, $100,000 for education base adjustment, $500,000 for other social services, $400,000 for Choctaw land acquisition (transferred to the land acquisition account), $200,000 to the one-time grant to the Crownpoint Institute of Technology, $17,000 for the Mescalero hatchery, and $102,000 to management and administration.

With regard to the Klamath conservation program, the Bureau is directed to submit to the House and Senate Appropriations Committees within 30 days a report detailing what the required program is for the existing treaty rights program, not including the 700,000 acres of ceded land in dispute.

The managers agree the within available trust responsibility funds, $315,000 is to be used to conduct a survey of hazardous waste sites.

Bill and report language are included under the Office of Construction Management regarding the BIA facilities program.

Bill language is included providing that Johnson-O'Malley funds shall be used for supplementary educational services only. The managers expect the regulations to be revised accordingly, and the Bureau to report on any savings incurred as a result, after the initial year of operation under such revised regulations.

The managers expect the National Ironworker Training Program to be funded at $440,000, and the program to continue to be operated as it has in the past. The Alchesay/Williams Creek complex should be maintained at the 1985 level. The facilities management area office staffing is to be removed from the priority system.

The Bureau is directly to provide the amount required for tribal contractor employee pay raises from available funds.

The Bureau is requested to review the proposed distribution of school board expenses. The managers direct that other education funds shall not be used to pay school board legal fees. The Bureau should ensure that all school boards are aware of and abide by 18 U.S.C. 1913.

All contract support costs associated with pass-through funds from the Department of Education should be supported from Department of Education resources.

Once the Pinon, AZ public school expansion is completed, and assuming it then has adequate space for all local students, the managers agree that the Bureau shall operate the Pinon Boarding School only as a peripheral dormitory.

The managers agree that $500,000 of central office law enforcement funds shall be redistributed as directed in the Senate report. Within employment development, $1,238,200 is provided to continue the United States Educational Technical Center, and $100,000 for the United Sioux Tribes' employment assistance contract.

Within general administration funds, $270,000 is provided for the Congressional and Legislative Affairs office.

The managers disagree with the Bureau's directive grandfathering all contract support funds on an individual contract basis, and expect the Bureau and Inspector General's office to review these costs, determine new rates, recover overpayments from prior years, and carry out any other requirements with respect to contract support.

Bill language is included providing a cap on ADP expenditures. The managers repeat their direction, which evidently was not understood by the Bureau, that no other funds or "assessments" are to be made for ADPL expenditures.

Bill language is included mandating closure of the Snowflake dormitory in Arizona.

Bill language proposed by the Senate regarding a limitation on general assistance funds has not been included. However, the managers agree that this is not an entitlement program and the Bureau is directed to take every reasonable step to ensure that general assistance payments do not exceed the budgeted amount.

Bill language is included, as proposed by the Senate, providing $6,000,000 for obligation before January 18, 1986, for the emergency provision of hay in Montana, North Dakota, and South Dakota.

No further contract for law enforcement shall be made by the Bureau with the Navajo Tribe unless the tribe agrees to provide required law enforcement services on the new lands taken into trust for the Navajo Tribe under the Navajo and Hopi Indian Relocation Act.

CONSTRUCTION

Appropriates $101,054,000 for construction instead of $45,195,000 as proposed by the House and $141,254,000 as proposed by the Senate. The net decrease below the Senate consists of increases of $400,000 for advance planning and design for the St. Francis School and $2,400,000 for land acquisition, and a decrease of $43,000,000 for housing associated with the Navajo and Hopi Indian Relocation program.

The managers have included bill language and report language under the Office of Construction Management with respect to reorganization of the Bureau's construction program.

For all new school construction projects, the managers direct that the Bureau provide cost estimates based on modular as well as conventional construction. The Bureau should expedite redesign of the Two Eagle River and Rocky Boys high schools, assuming at least partial use of modular facilities. The managers agree that a modular multipurpose room is provided for the Bullhead school from available facility improvement and repair funds. The Bureau shall submit a report to the Committees on Appropriations on the Oglala community school. Such report shall include a full discussion of the current facility, repairs made to date, the feasibility of further repairs to standard, and the disposition of the current facility should new construction be proposed rather than renovation.

Due to the late release of funds appropriated in fiscal year 1985 for continued construction of the Navajo Indian Irrigation project, the managers have not provided additional funds for this year. The managers remain committed to completion of this project and urge the Department to request funds in fiscal year 1987 so that the project may proceed without interruption. The managers agree with the statements in the Senate report with respect to the Milk River irrigation project and the Miner Flat Dam and Canyon Day irrigation project.

The allocation for housing includes the reduction in contract support proposed by the Senate. The managers agree that overhead costs directly associated with housing construction or repair are allowable charges to the contract, but that other items allowed in general contract support are not permissible.

Language is included which provides $22,000,000 for use by the Secretary of the Interior to construct homes and related facilities for the Navajo and Hopi Indian Relocation Commission in lieu of construction by the Commission. This language ensures that a priority for the use of these funds is given to Navajo families who are actual, physical residents of the Hopi Partitioned Land. In addition, with respect to lands acquired pursuant to section 11(a) of the Act of December 22, 1974, the Secretary shall not be required to enter into contracts under section 102 of the Indian Self-Determination Act and the Secretary's authority under section 106 of said Act also shall apply. The language provides that the Secretary is not constrained in carrying out construction, lease approvals, or executiions by the Commission's regulations. The managers expect that the Secretary will use the plans developed by the Commission for the new lands and work with the Commission to ensure swift execution of the development of the new lands. The bill language also states that any action under this proviso is not a major action with respect to the National Environmental Policy Act of 1969, as amended, in order to facilitate an orderly development of the new lands. Authority is provided for the Secretary to issue leases and rights-of-way for housing and related facilities to be constructed on the new lands only. Language has also been included in this Act requiring a report by February 15, 1986 from the Navajo and Hopi Indian Relocation Commission, with the review and comment of the Secretary of the Intgerior, on how the BIA construction monies will be spent in respect to lands acquired pursuant to section 11(a) of the Act of December 22, 1974. The requirement for this report will not delay relocation to the new lands because it is a document that the Commission has been developing for some time and the managers understand that it can be submitted within the time requirement.

The BIA shall ensure that the Blackfeet Housing Improvement Program, within its regular allocation, builds at least three houses this year and two next year for the victims of the 1974 flood.

With respect to the Covelo Indian Community land acquisition, bill language has been included requiring that the tribe obtain sufficient funds from non-Federal sources to meet the remainder of the cost before the Federal funds are committed. An amount of $400,000 is included for land acquisition for the Mississippi Band of Choctaw Indians.

ROAD CONSTRUCTION

Appropriates no funds as proposed by the Senate instead of $785,000 proposed by the House.

The managers have included bill language earmarking $3,200,000 of the funds available to the Navajo area under the Federal Lands Highway Program for use on the new lands.

The managers do not agree to reprogramming funds provided for construction of a road from AZ Route 264 toward Hard Rocks via Rocky Ridge. Neither do the managers agree to any use of the funds for other than the specified route.

ALASKA NATIVE ESCROW ACCOUNT

Appropriates $7,877,000 for the Alaska Native Escrow Account as proposed by the Senate instead of no funds as proposed by the House.

The managers expect that in accordance with the policy of making the Native corporations whole as proposed by the 1980 amendment to the Alaska Native Claims Settlement Act, the Department of the Interior will calculate interest on the principal owed under the amendment as if the principal had been invested in short-term public debt obligations of the United States in accordance with the established practices of the Bureau of Indian Affairs pursuant to the Act of June 24, 1938. The BIA approach includes the periodic addition of accrued interest to principal. The Secretary is directed to report on the progress toward resolving the interest issue by May 31, 1986.

REVOLVING FUND FOR LOANS

Permits the award of $1,470,000 for a loan to the Zuni Pueblo instead of no funds as proposed by the House and an unspecified amount as proposed by the Senate.

The managers agree that the Zuni Pueblo must be able to demonstrate to the satisfaction of the Secretary the ability to repay the loan prior to any loan approval.

Territorial and International Affairs

ADMINISTRATION OF TERRITORIES

Appropriates $80,376,000 for administration of territories instead of $74,752,000 as proposed by the House and $80,366,000 as proposed by the Senate. The changes from the amount proposed by the Senate include an increase of $500,000 for hospital equipment for the Northern Marianas hospital, and a decrease of $490,000 for a grant to the Eastern Caribbean Center, College of the Virgin Islands.

Bill language is included directing the Secretary to release immediately the remaining fiscal year 1985 grant funds for the Eastern Caribbean Center, College of the Virgin Islands.

The managers agree that within technical assistance funds, up to $500,000 may be used for maintenance of the existing power plant in Palau. The $1,5000,000 provided for the American Samoa administration building will be the final contribution from the Federal government for this purpose.

With regard to the loan to the Virgin Islands government for construction of the extension of the Alexander Hamilton airport runway on St. Croix, the managers expect the terms of the loan to be negotiated by the Department of the Interior and the government of the Virgin Islands. The managers do not expect to fund the entire cost of this project, and expect the government of the Virgin Islands to continue to seek other funding, including FAA funds.

TRUST TERRITORY OF THE PACIFIC ISLANDS

Appropriates $80,372,000 instead of $107,972,000 as proposed by the House and $78,172,000 as proposed by the Senate.

The net increase from the amount proposed by the Senate includes: increases of an additional $300,000 for the College of Micronesia; $250,000 for Trust Territory general administration; $142,000 for prior service benefits; $408,000 for the Federated States of Micronesia operations; $3,000,000 for Phase I of the Palau hospital; $1,500,000 for the Bikini Atoll Rehabilitation Committee; $250,000 for design and planning of the base camp for the clean up of Bikini Atoll; and decreases of $250,000 for contract management, operation and training of the Palau hospital, $400,000 for the operation, maintenance, and purchase of a temporary generator for Palau, $2,500,000 for a prior service benefit trust fund, and $500,000 from the funds provided for the FSM power upgrade project. The managers agree that $250,000 for contract management, operation and training for the Palau hospital are included within available funds. The funds for maintenance of the existing powerplant in Palau shall be provided from technical assistance funds.

The total cost for the Palau hospital will be $10,000,000 with the remaining $5,000,000 for Phase II to be provided in subsequent appropriations Acts.

The managers remain committed to providing funds for capitol relocation for the Federated States of Micronesia, the Marshall Islands and Palau. The Federated States of Micronesia is ready to proceed with construction of its capitol and the managers expect budget requests for the capitols to be submitted pursuant to implementation of the Compact of Free Association.

$1,500,000 is provided for the Bikini Atoll Rehabilitation Committee. The managers expect the Committee to complete its work and make a final recommendation so cleanup plans can proceed. $250,000 is provided for the Secretary to contract for initial planning for a base camp on Eneu Island for the eventual cleanup of Bikini. No funds have been provided for the Enjebi Trust Fund or the Prior Service Benefit Trust Fund. The managers remain committed to the eventual resettlement of Enjebi Islands, and to providing for future costs of the prior service benefits program, and will address these items again when the Compact is implemented.

DEPARTMENTAL OFFICES

OFFICE OF THE SECRETARY

Appropriates $43,411,000 instead of $40,856,000 as proposed by the House and $44,673,000 as proposed by the Senate.

The managers have agreed to the following distribution of funds:

Secretary's office	$1,435,000
Executive Secretary	211,000
Congressional and Legislative Affairs	1,100,000
Equal opportunity	1,300,000
Public Affairs	700,000
Small and Disadvantaged Business Utilization	400,000
A/S Water and Science	750,000
A/S Lands and Minerals	790,000
A/S Fish and Wildlife and Parks	771,000
A/S Indian Affairs	743,000
A/S Territorial and International Affairs	551,000
A/S Policy, Budget and Administration	795,000
Environmental Project Review	1,500,000
Acquisition and property management	1,350,000
Office of Personnel	1,620,000
Administrative Services	3,250,000
Information resources management	4,700,000
Policy analysis	2,300,000
Office of Budget	1,525,000
Financial management	1,020,000
Hearings and Appeals	5,800,000
Aircraft Services	1,900,000
Central Services	8,900,000
Total	43,411,000

Bill language is included to permit up to $300,000 to be used to pay or repay the costs of development of alternative winter stock water supplies by water users who have been deprived of winter stock water from the main channel of Willow Creek, Idaho.

The managers are concerned about the billing practices of the Office of the Secretary for central administrative services provided to small independent agencies. The managers agree these charges must reflect actual cost of the services provided, and not be arbitrarily established.

OFFICE OF THE SOLICITOR

Appropriates $20,378,000 for the Office of Solicitor as proposed by the Senate instead of $20,266,000 as proposed by the House.

OFFICE OF THE INSPECTOR GENERAL

Appropriates $16,214,000 instead of $15,117,000 as proposed by the House and $16,908,000 as proposed by the Senate.

CONSTRUCTION MANAGEMENT

Appropriates $780,000 for the Office of Construction Management instead of $87,890,000 as proposed by the House and $660,000 as proposed by the Senate.

Bill language has been included directing the Secretary of the Interior to submit a new memorandum of agreement (MOA) between the Bureau of Indian Affairs (BIA) and the Office of Construction Management (OCM) to the House and Senate Appropriations Subcommittees on Interior for their approval. The MOA should state that OCM shall have complete control over the BIA facilities management and construction programs, as specified in the 1978 memorandum of agreement between OCM and BIA. This control shall include approval over the apportionment and allocation of funds and FTE's for the BIA facilities programs, including the Albuquerque and area office staffs as well as facilities operations and maintenance and facilities improvement and repair programs. The MOA shall also state that OCM shall have the primary responsibility for planning and directing the necessary reorganization of the BIA facilities programs to permit implementation of management improvements developed to date. Along with the MOA, the Secretary shall submit for the Subcommittees' approval a detailed plan for completing the facilities program reorganization, and for turning control of the program back to BIA, with specific dates for accomplishment of all goals. The Secretary shall also submit quarterly written status reports on implementation of the plan and the MOA to the Subcommittees, within ten calendar days of the end of each quarter. The MOA and plan shall be submitted to the Subcommittees no later than 60 days after enactment of this Act.

If the Secretary, BIA or OCM fail to meet any of these requirements, the Committees will take action at the eariest possible opportunity to eliminate funding for the appropriate Secretarial staff, BIA facilities staff and OCM staff, establish a new office to carry out the Committees' directives, and transfer all BIA facilities funding to that office until the Committees' directives are accomplished.

OFFICE OF THE SECRETARY

(SPECIAL FOREIGN CURRENCY PROGRAM)

Provides $1,000,000 for payment in foreign currencies for the U.S. Fish and Wildlife Service and the National Park Service as proposed by the Senate.

DEPARTMENT-WIDE PROVISIONS

Language proposed by the House prohibiting exchanges of National Park System or United States Fish and Wildlife Refuge System lands has been stricken.

The managers agree that the required consultation process regarding land exchanges in units of the National Wildlife Refuge and Park systems agreed to last year should be done in a satisfactory manner. It is the intent of the consultation requirement that the appropriate Committees have a meaningful opportunity to review and oversee land exchange proposals involving these two systems. Notification of the Committees at an early stage of a land exchange proposal is required to achieve this intent.

The managers have agreed to maintain the House proposed language relating to Mount McKinley. Section 112 is included to prevent final regulations concerning paleontological research on Federal lands until the Secretary has received a National Academy of Sciences report on regulations concerning paleontological research.

TITLE II—RELATED AGENCIES

Department of Agriculture

FOREST RESEARCH

Appropriates $126,283,000 for forest research instead of $124,989,000 as proposed by the House and $125,420,000 as proposed by the Senate. The changes from the amount proposed by the House are: an increase of $2,840,000 for competitive grants; and decreases of $488,000 to renewable resource economics, $1,000,000 to acid rain research, and $58,000 to recreation research.

The managers agree the following specific amounts are included within the available funds: within trees and timber management, an additional $150,000 for the FIR project, $250,000 for the Institute of Tropical Forestry, Puerto Rico, $98,000 for Sewanee, TN, and $75,000 for Moscow, ID; within watershed management and rehabilitation, $250,000 for the Institute of Tropical Forestry, P.R.; within recreation research, a $100,000 increase for urban forestry; and within forest products and harvesting, $250,000 for tropical harvest and utilization research, Madison, WI. The managers also agree that within the amount provided for forest inventory and analysis, there is an increase of $209,000 for Anchorage, AK, and in the wildlife, range, and fish habitat research program, the range evaluation project is restored to $590,000; there is $75,000 for the Skagit River Bald Eagle Natural Area; and the anadromous fish research program at Juneau, AK will remain intact.

The Forest Service is directed to develop a program plan to shift funding from the FIR program when it is completed to the COPE program.

In the acid rain research program, the managers expect the Forest Service to ensure that high altitude, western and midwestern areas receive adequate attention.

The authority to administer the $6,840,000 Competitive Research Grants program included in this Appropriations Act for fiscal year 1986 shall be carried out by the Office of Competitive Grants which currently is part of the Office of Grants and Program Systems. The $6,840,000 for conducting this program will be available until expended. Forest Service employees are to be eligible to compete for these funds. There are over 60 forestry schools and all of the land grant universities in the United States that can also compete for these grants.

The Committee recommends that these grants be targeted to mission oriented basic research in the following areas: (1) improved harvesting, processing, and utilization of the timber resource, with special emphasis on the chemical, mechanical, and engineering properties of wood and wood materials; and (2) forestry biology including biotechnology. Funds are to be divided equally between these two areas.

STATE AND PRIVATE FORESTRY

Appropriates $57,986,000 instead of $56,193,000 as proposed by the House and $55,786,000 as proposed by the Senate. The increases over the amount proposed by the Senate are $2,000,000 for urban forestry, and $200,000 for the Gifford Pinchot Institute.

Within the total of $495,000 provided for the Gifford Pinchot Institute, the Forest Service is expected to accomplish $30,000 in required scheduled maintenance.

NATIONAL FOREST SYSTEM

Appropriates $1,054,629,000 for the National forest system instead of $1,035,433,000 as proposed by the House and $1,070,146,000 as proposed by the Senate. The changes from the amount proposed by the House are as follows: increases of $237,000 for minerals, $574,000 for real estate management, $3,165,000 for land line location, $4,948,000 for fire protection, $7,000,000 for cooperative law enforcement, $2,619,000 for road maintenance, $500,000 for trail maintenance, $21,053,000 for timber sales (including $250,000 for Helistat, $6,640,000 for pay, $21,000 for the Alaska Land Use Council, $9,275,000 for the Oregon and California lands, and $4,867,000 for timber sales preparation), $7,375,000 for reforestation, $5,803,000 for timber stand improvement, $348,000 for nurseries, $1,142,000 for recreation use, $1,807,000 for wildlife and fish habitat improvement, $1,648,000 for range management, and $6,000,000 for forest level information processing; and decreases of $1,041,000 to soil, water and air management, $4,018,000 to general administation, $10,000,000 for pay, and $30,000,000 for reforestation trust fund offset.

Within available funds in the soil, water and air management program, $240,000 is included for a National Academy of Sciences study of Mono Lake in California, pursuant to the California Wilderness Act of 1984.

Within National Forest System funds, $330,000 is available to support the Presidential Commission on Americans Outdoors.

The Forest Service is directed to work with groups such as Ducks Unlimited, Rocky Mountain Bighorn Society, Martin Marietta Corp., Bass Anglers Sportsman Society, Trout Unlimited, the Sport Fishing Institute, State fish and wildlife agencies, other Federal agencies such as Bonneville Power Administration and others, to match the $950,000 increase to the habitat improvement program. The funds should be devoted primarily to projects improving habitat on the ground. The Forest Service should report to the Committees no later than June 1, 1986, on the resulting program.

Bill language proposed by the Senate is included, extending indefinitely the authority of the Secretary of Agriculture to spend money from the reforestation trust fund, and merging the fund with the National Forest System account.

The allowance provides funding for a timber sales program of 11.4 bbf, essentially a continuation of the actual sales offerings from fiscal year 1985. For example, region 6 sales will be at a level of 4.9 bbf of net merchantable sawtimber, of which 2.45 bbf will be derived from timber volume returned pursuant to the Federal Timber Contract Payment Modification Act (FTCPMA), and regions 1 and 4 will continue at the approximate 1985 levels. The managers have been able to reduce program costs by providing for a higher level of reoffered volume (3.2 bbf nationwide) than was assumed in the budget and by providing for additional salvage volume. The remainder of the volume is to be distributed nationwide in a balanced manner by the Forest Service.

The managers direct the Forest Service to provide the Committees with detailed information for contracts returned under the FTCPMA, at least at the Forest level. The information should enable the Committees to assess the rate at which additional reoffer volume should continue and the related cost.

The managers agree that the Forest Service has until May 31, 1986, to complete its review of the minimum bid rate system and submit that to the Committees for review.

CONSTRUCTION

Appropriates $223,865,000 for construction instead of $183,785,000 as proposed by the House and $219,608,000 as proposed by the Senate. Changes from the amount proposed by the Senate include: increases of $2,740,000 for recreation facilities and $1,379,000 for recreation roads in the Clear Creek Recreation Area, AL, $561,000 for recreation facilities and $330,000 for recreation trails in the Mount St. Helens National Volcanic Monument, $600,000 for recreation facilities in the Mount Hood NF, OR, $3,427,000 for other high priority recreation facilities, and $3,270,000 for trail construction; and decreases of $350,000 for the Cradle of Forestry, NC, $100,000 for the Tonto NF, AZ sheep crossing bridge, and $7,600,000 related to the proposed timber sales program.

The amount provided for trail construction is for the highest priority projects and is not limited to foot trails only.

The three projects included in the budget in the Tongass NF, AK are included in the recommended amount.

Bill language is included providing that $9,915,000 for road construction in the Mount St. Helens National Volcanic Monument shall be derived from the Federal Highway Trust Fund.

The managers have provided Forest Service road construction and reconstruction funding to support the timber program level of 11.4, bbf sales offerings. The managers have been able to reduce the road budget by substituting additional reoffer volume for new sales volume and by directing the Forest Service to achieve a 5 percent reduction in the average cost per road mile as compared to fiscal year 1985. These anticipated savings are included in the managers' allowance.

LAND ACQUISITION

Appropriates $28,300,000 instead of $29,500,000 as proposed by the House and $18,025,000 as proposed by the Senate. The following table shows the allocation agreed to by the managers:

Acquisition management	$3,500,000
Forest Service acquisitions:	
Appalachian Trail	700,000
Columbia Gorge (Gifford Pinchot and Mount Hood NF)	1,200,000
Green Mountain NF, VT	6,700,000
Huron NF, MI-Au Sable River (Wakeley tract)	800,000
Lake Tahoe	3,000,000
Nantahala NF, NC	1,000,000
Sawtooth NRA, ID	2,000,000
Wayne NF	2,000,000
Wilderness inholdings	2,500,000
Endangered species habitat	1,000,000
Edwards Investments	3,900,000
Total	28,300,000

No funds are provided for "Weeks Act" acquisition in the Wayne NF. Within the amount available for wilderness inholdings, $350,000 is for the Strawberry Mountain Wilderness Area.

Bill language is included providing $3,900,000 in payment to Edwards Investments for its interest in a former railroad right-of-way, including all improvements thereon.

YOUTH CONSERVATION CORPS

Appropriates no funds for Youth Conservation Corps, as proposed by the Senate, instead of $10,000,000 as proposed by the House.

The managers have agreed to a $10,000,000 YCC program, to be provided from available funds in the Fish and Wildlife Service ($3,300,000), National Park Service ($3,300,000), and the Forest Service ($3,400,000).

ACQUISITION OF LANDS FOR NATIONAL FORESTS, SPECIAL ACTS

Appropriates $782,000 for acquisition of lands, as proposed by the Senate, instead of $780,000 as proposed by the House.

ADMINISTRATIVE PROVISIONS, FOREST SERVICE

A provision limiting increases in recreational residence fees has been included, as proposed by the Senate. However, the managers understand the Forest Service and the permit holders are close to agreeing on a new fee system. The managers expect both sides to cooperate fully in reaching an early agreement, and based on this expectation, the managers agree that this language will not be carried in next year's Act. However, if an agreement is not reached by that time, the managers will address this issue in order to resolve it as quickly as possible.

Language is included, as proposed by the Senate, requiring the Chief of the Forest Service to sign personally certain documents relating to land transactions.

Language is included, as proposed by the Senate, providing authority for $24,000,000 to be provided for the timber sales program from the timber salvage sale fund.

Language is included, providing authority for the Forest Service to use $3,400,000 in funds available to it to carry out a Youth Conservation Corps program as if authorized by law.

Language is included giving the Secretary of Agriculture authority to transfer $1,500,000 from no-year funds available to him in this Act for emergency flood repairs in the Monongahela NF and the Parsons, WV, Forest Research Laboratory. The managers expect a supplemental request to be forthcoming to replenish the amount extended pursuant to this authority.

DEPARTMENT OF THE TREASURY

ENERGY SECURITY RESERVE

(INCLUDING RESCISSION)

The managers agree to rescind all funds appropriated to the Energy Security Reserve except $400,000,000 for a clean coal technology program to be administered by the Secretary of Energy in the Department of Energy, and $10,000,000 for expenses incidental to the closing of the Synthetic Fuels Corporation (SFC). Of the $400,000,000, $100,000,000 will be immediately available, $150,000,000 will be available beginning on October 1, 1986, and $150,000,000 will be available beginning on October 1, 1987. The remaining funds in the "Clean Coal Technology Reserve" are reduced to $350,000,000.

With regard to the Synthetic Fuels Corporation, the managers agree to bill language that:

(1) rescinds all unobligated funds except those noted above for clean coal technology and SFC close-out costs, as of the date of enactment of this Act,

(2) the Board of Directors may not make any legally binding awards or commitments for financial assistance as of the date of enactment of this Act,

(3) the Directors must terminate their duties and be discharged within 60 days of enactment,

(4) the Corporation terminates within 60 days of enactment,

(5) within 60 days, the Secretary of the Treasury assumes the duties of Chairman,

(6) the Director of Office of Personnel Management shall determine compensation rights of each Director, officer, and employee by February 1, 1986,

(7) effective on enactment, no pay levels shall be above level IV of the Executive Schedule and no existing pension or termination benefits or personnel policies may be changed, and

(8) a final report is due to Congress by September 15, 1986.

Language is also included as proposed by the Senate providing for a loan of up to $3,000,000 to an existing ethanol plant for odor abatement equipment. The facility has a current government loan guarantee under title II of the Energy Security Act, and funds would be provided from a loan guarantee reserve already available to the Secretary of Energy. The loan is for the purpose of protecting the government from a possible default payment of approximately $127 million if the plant cannot operate.

DEPARTMENT OF ENERGY

CLEAN COAL TECHNOLOGY

The managers have agreed to a $400,000,000 Clean Coal Technology program as described under the Department of the Treasury, Energy Security Reserve. Bill language is included which provides for the selection of projects no later than August 1, 1986. Within that period, a general request for proposals must be issued within 60 days and proposals must be submitted to the Department within 60 days after issuance of the general request for proposals. Language is also included allowing the Secretary of Energy to vest title in interests acquired under agreements in any entity, including the United States, and delineating cost-sharing requirements. Funds for these activities and projects are made available to the Clean Coal Technology program in the Energy Security program.

It is the intent of the managers that contributions in the form of facilities and equipment be considered only to the extent that they would be amortized, depreciated or expensed in normal business practice. Normal business practice shall be determined by the Secretary and is not necessarily the practice of any single proposer. Property which has been fully depreciated would not receive any cost-sharing value except to the extent that it has been in continuous use by the proposer during the calendar year immediately preceding the enactment of this Act. For this property, a fair use value for the life of the project may be assigned. Property offered as a cost-share by the proposer that is currently being depreciated would be limited in its cost-share value to the depreciation claimed during the life of the demonstration project. Furthermore, in determining normal business practice, the Secretary should not accept valuation for property sold, transferred, exchanged, or otherwise manipulated to acquire a new basis for depreciation purposes or to establish a rental value in circumstances which would amount to a transaction for the mere purpose of participating in this program.

The managers agree that, with respect to cost-sharing, tax implications of proposals and tax advantages available to individual proposers should not be considered in determining the percentage of Federal cost-sharing. This is consistent with current and historical practices in Department of Energy procurements.

It is the intent of the managers that there be full and open competition and that the solicitation be open to all markets utilizing the entire coal resource base. However, projects should be limited to the use of United States mined coal as the feedstock and demonstration sites should be located within the United States.

The managers agree that no more than $1,500,000 shall be available in FY 1986 and $2,000,000 each year thereafter for contracting, travel, and ancillary costs of the program, and that manpower costs are to be funded under the fossil energy research and development program.

The managers direct the Department, after projects are selected, to provide a comprehensive report to the Congress on proposals received.

The managers also expect the request for proposals to be for the full $400,000,000 program, and not only for the first $100,000,000 available in fiscal year 1986.

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

(INCLUDING TRANSFER OF FUNDS)

Appropriates $312,848,000 for fossil energy research and development instead of $299,534,000 as proposed by the House and $292,228,000 as proposed by the Senate. In addition to the new appropriations, $8,230,000 is transferred from fossil energy construction as proposed by the Senate instead of $12,760,000 as proposed by the House, and $2,010,000 is transferred from alternative fuels production as proposed by Senate instead of $2,137,000 as proposed by the House. The increase in the new appropriation amount above the Senate amount consists of increases of $1,500,000 for Carbondale Coal Technology Laboratory; $620,000 for Ames Laboratory (for a total of $1,240,000 for Ames); $1,000,000 for advanced combustors in advanced combustion technology; $11,000,000 for the 7.5 megawatt phosphoric acid fuel cell technology;

$1,000,000 for solid oxide fuel cells; $9,000,000 for testing of gas clean-up systems at the Waltz Mill, PA, gasifier; $1,000,000 for eastern oil shale; and $6,000,000 for deletion of management initiative savings; and decreases of $3,000,000 for on-site fuel cell technology; $1,500,000 for turbine technology in heat engines; $3,000,000 for the ash agglomerating gasifier PDU; $2,000,000 for eastern Devonian shales gas recovery; and $1,000,000 for general plant construction projects.

The managers agree not to earmark additional funds from within available funds for Ames laboratory, the consortium for fossil fuel liquefaction, or for liquefaction by pyrolysis, as originally proposed by the Senate.

The managers agree that an addition $4,000,000 is to be provided from available funds for the University of North Dakota Energy Research Center (UNDERC) for a total funding levels of $6,165,000 and that none of these additional funds should be from coal preparation technology.

Further, the managers agree that new cooperative agreements for UNDERC and Western Research Institute (WRI) should be negotiated to extend through the end of fiscal year 1992 as proposed by the Senate at the levels indicated in the Senate report (Senate Report 99–141). These levels are in addition to any funds provided by the Department in competitive processes.

The managers agree that $2,000,000, in addition to currently unobligated fiscal year 1985 funds, should be provided for the 11 megawatt fuel cell program to continue inverter and stack technology work through the development of stack configuration "B". This funding is a continuation of existing efforts to develop the system and the Department should promptly modify the existing contract with International Fuel Cells (IFC) to include FY 1985 funds already appropriated and FY 1986 funds provided in this Act.

The managers agree that of the $3,000,000 added above the budget for the oil shale program, $2,000,000 is to augment the eastern oil shale technology base and $1,000,000 is for oil shale extraction research to be administered by the Idaho Operations Office. The Department, through the Morgantown Energy Technology Center, is directed, within available funds, to study and report to the Committees on the feasibility of establishing and operating a generic oil shale test facility.

Language is included in the bill deriving $200,000 of transferred funds from a wood pellet gasifier facility as proposed by the Senate.

Language is also included in the bill providing that funds made available for demonstration of the Kilngas coal gasification process be repaid up to double the amount appropriated. The Department should move promptly to provide funds necessary to continue the Kilngas project.

Bill language is included providing for implementation of the multiyear plan for magnetohydrodynamics (MHD) which includes cost-sharing by private industry. The managers agree that if the Department's multiyear plan is significantly delayed because of failure to provide adequate and timely funding at a level approximaely the same as that in this Act, modifications will be made in cost-sharing requirements. The managers also agree that the costs of fabricating equipment to be tested in government-owned facilities and not intended to be installed as a permanent part of the facility are to be included in amounts that require cost-sharing and that the costs of installing and testing such equipment shall be costs of the government-owned facility and not subject to cost-sharing.

ENERGY CONSERVATION

Appropriates $449,418,000 for energy conservation instead of $468,326,000 as proposed by the House and $436,587,000 as proposed by the Senate. The increase above the amount proposed by the Senate consists of increases of $200,000 for windows and daylighting in building systems; $2,000,000 for the Urban Consortium; $500,000 for heat pumps in tehnology and consumer products; $900,000 for mercury isotope separation; $7,500,000 for a cost-shared steel industry initiative; $250,000 for nickel-cadmium battery research; $500,000 for the electric vehicle users group; $500,000 for territories energy projects; $750,000 for tribology research at Argonne National Laboratory; $10,319,000 for the basic industries research facility at Northwestern University; $4,000,000 for deletion of management initiative savings; and $3,639,000 to restore funding for employment floors; and decreases of $350,000 for the Rural Housing Act study; $250,000 for outside contractor support in waste energy reduction in industrial conservation; $8,000,000 for the Stirling engine; $630,000 for technology transfer in vehicle propulsion R&D; $100,000 for electric vehicle battery research; $250,000 for technology transfer in transportation systems utilization; $3,182,000 for State energy policy and conservation grants; $1,159,000 for the Energy Extension Service; $250,000 for program direction travel in State and local programs; $500,000 for biocatalysis; and $3,556,000 for increased use of prior year unobligated balances.

The managers have not agreed to include $8,000,000 proposed by the Senate for fiscal year 1987 requirements for the Stirling engine. That amount and $4,000,000 to come from private contributions would complete the project and the managers defer such funds without prejudice, to be reconsidered in the fiscal year 1987 budget process.

The managers agree that the increase of $1,500,000 over the budget for electric vehicle batteries should be for research on lead-acid, zinc-bromine, nickel-zinc, and iron-air battery concepts.

The managers also agree with the position stated in the House report (House Report 99–205) with regard to recognition of the Government's support for nickel-cadmium battery development in contracts using the technology.

The managers agree that $2,500,000 becoming available from the electric vehicle loan program and other unobligated electric vehicle research funds is to be used to develop an advanced vehicle propulsion system, the ETX-II.

Language is included in the bill specifying the amount for the basic industrial research facilities as proposed by the House.

Language is also included, as proposed by the House, providing that a weatherization "performance fund" not be implemented unless funding levels are at least 5 percent above fiscal year 1985 levels.

Bill language is included providing that $7,500,000 in Federal funding for a steel initiative to develop new technologies which will increase the energy efficency of steel production processes will be cost-shared by the U.S. steel industry in cooperative R&D efforts, starting with 30 percent cash and/or in-kind contributions for Federal government obligations made in fiscal year 1986. This initiative should be modeled after, but not exclusively follow, the April 1985 Field Task Proposal prepared by the Argonne National Laboratory.

EMERGENCY PREPAREDNESS

Appropriates $6,044,000 for emergency preparedness instead of $6,754,000 as proposed by the Senate and $3,989,000 as proposed by the House. The decrease from the Senate proposal is $710,000. The managers agree that analysis of risks to energy supplies and meeting defense energy requirements are higher priority activities than general energy awareness activity.

STRATEGIC PETROLEUM RESERVE

Appropriates $113,043,000 for the Strategic Petroleum Reserve as proposed by the Senate instead of $199,017,000 as proposed by the House. The appropriated amount, is the net budget authority required based on a reestimate by the Department of requirements for continuing construction of storage capacity as directed by the fiscal year 1985 Supplemental appropriations Act (P.L. 99–88). Total funds expected to be required are summarized in the following table:

Fiscal year 1986 requirements

Planning	$4,552,000
Phase III construction	156,691,000
Non-phase specific construction	210,737,000
Program direction	11,747,000
Total	383,727,000
Less: carry-over funds available	270,684,000
New budget authority for FY 1986	113,043,000

The managers agree that carry-over funds may be used to support stated FY 1986 requirements instead of those areas for which they were originally provided.

Bill language proposed by the House specifying minimum required fill rates for the Reserve has been deleted.

SPR PETROLEUM ACCOUNT

Provides for no rescission of SPR petroleum funds as proposed by the House instead of $160,000,000 as proposed by the Senate. The Department of Energy has adequate funds available to fill the reserve to 500 million barrels. Bill language is included to authorize the Secretary of Energy, in cooperation with the Secretary of Agriculture, to barter surplus Commodity Credit Corporation commodities for crude oil.

ENERGY INFORMATION ADMINISTRATION

Appropriates $60,682,000 for the Energy Information Administration as proposed by the Senate instead of $60,782,000 as proposed by the House. The managers agree that within available funds $100,000 is to be available for the State energy data system/energy price and expenditure data system and $200,000 is to be available for State heating oil price and inventory grants.

ADMINISTRATIVE PROVISIONS

Language is included which deletes the reporting requirements for the completed Alternative Fuels Production program, as proposed by the Senate.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES ADMINISTRATION

INDIAN HEALTH SERVICES

Appropriates $823,133,000 for Indian health services instead of $836,483,000 as proposed by the House and $802,684,000 as proposed by the Senate.

The decrease below the amount proposed by the House consists of: $3,000,000 for mandatory cost increases, $500,000 for emergency medical services, $2,000,000 for indirect costs, $1,000,000 for alcoholism, $4,800,000 for contract care, $412,000 for sanitation, $372,000 for public health nursing, $116,000 for health education, $200,000 for urban health programs, $450,000 for tribal management, and $500,000 for program management.

The managers agree that $1,900,000 is provided for the model diabetes program and $100,000 is provided for fetal alcohol syndrome research at the University of Washington.

The increase of $3,000,000 included for tribal contract indirect costs is for all tribal contracts, existing as well as new.

INDIAN HEALTH FACILITIES

Appropriates $46,947,000 for Indian health facilities instead of $61,483,000 as proposed by the House and $35,888,000 as proposed by the Senate.

The net decrease below the amount proposed by the House consists of an increase of $650,000 for repairs at Ft. Defiance, AZ and decreases of $1,000,000 for sitework for the Pine Ridge, SD hospital, $1,740,000 for planning and design of the Shiprock, NM hospital, and $12,446,000 for construction of the Sacaton, AZ hospital.

Bill language has been included directing that the Rosebud, SD hospital be designed and built with a capacity of 35 beds. The managers believe that there is a need for a surgical suite at either Rosebud or Pine Ridge to provide improved health care in that area. The Indian Health Service shall submit a report to the House and Senate Committees on Appropriations with recommendations as to the better location for a surgical unit within 90 days of enactment of this Act.

The managers must again express their dissatisfication with the slow progress made by HHS, PHS, HRSA and IHS in moving ahead with construction projects for which funds have been provided. Initial planning funds were provided for the Sacaton, AZ hospital in fiscal year 1982 and the design for this project has yet to be completed despite continued funding and support from the Congress. IHS is directed to expedite this project and to notify the Committees on Appropriations as soon as the design is complete and the project is read for bid.

The managers have not provided funds for sitework at Pine Ridge, SD, and design of the major modernization of the Shiprock, NM hospital only because of delays in schedules and the need to complete other projects already under construction before proceeding with additional projects. However, the managers are committed to proceeding with these projects at the earliest possible opportunity.

At the request of the subcommittees, the Office of Technology Assessment conducted a limited survey of the methodology employed by the Indian Health Service to determine if surgical capacity should be provided in new and replacement facilities. The survey identified several shortcomings in the current IHS application of the planning procedure. The Indian Health Service shall submit a report to the Interior appropriations subcommittees detailing the present system and any proposed changes to the system by March 31, 1986. Further, IHS is directed to employ the methodology uniformly with respect to all hospital construction projects.

The managers agree that within the amount provided for sanitation, $5,000,000 is available for construction of water and sewer facilities on the new lands acquired pursuant to the Navajo and Hopi Indian Relocation Act.

The managers agree that the IHS shall report to the Committees any unobligated balances remaining available at the completion of a construction project before using such balances for other projects.

ADMINISTRATIVE PROVISIONS

Earmarks $180,000 of prior year funds to settle a claim against the Seattle Indian Health Board as proposed by the Senate instead of $270,000 plus interest as proposed by the House.

The managers agree that the bill language limitation on the initial leasing of facilities does not apply to newly recognized tribes who contract with IHS and who require facilities in which to begin a health delivery program. Such lease costs shall be paid from funds otherwise available for such contract.

DEPARTMENT OF EDUCATION

OFFICE OF SECONDARY AND ELEMENTARY EDUCATION

INDIAN EDUCATION

Apppropriates $67,476,000 for Indian Education instead of $67,656,000 as proposed by the House and $67,356,000 as proposed by the Senate.

Within this amount $14,820,000 is for parts B and C instead of $15,000,000 as proposed by the House and $14,700,000 as proposed by the Senate. The change from the amount proposed by the Senate is for an increase of $120,000 for part B for educational personnel development to provide additional training for student teachers and educational personnel.

The managers agree that administrative actions to remedy problems in the part C program must be taken.

Language is included to allow funding for section 423 of the part B program to remain available until September 30, 1987 as proposed by the Senate.

OTHER RELATED AGENCIES

NAVAJO AND HOPI INDIAN RELOCATION COMMISSION

Appropriates $22,491,000 for salaries and expenses instead of $20,442,000 as proposed by the House and $22,241,000 as proposed by the Senate. The increase over the Senate recommendation is $250,000 for post-move counseling services.

Language is included which states that the Commission shall notify the Secretary of the Interior by January 1, 1986 of those eligible relocatees who as of November 30, 1985 were still physically domiciled on the Hopi Partitioned Land who had applied for relocation to the new lands as well as those who were physically domiciled on the lands partitioned to the Hopi Tribe who had not selected a site for relocation. The Commission shall designate these individuals for relocation to the lands selected in accordance with section 11(a) of the Act of December 22, 1974 after the Secretary has granted a homesite lease for the "new lands". Neither the Secretary of the Interior nor the Bureau of Indian Affairs shall grant homesite leases on behalf of relocatees onto the existing Navajo reservation. The bill also contains language prohibiting evictions of Navajo households which were physically domiciled on the lands partitioned to the Hopi Tribe as of November 30, 1985 until such time as a new or replacement dwelling is available for such household.

Approximately $48,000,000 will be available in fiscal year 1986 for the provision of housing and related facilities for relocatees. The reduction below the amount proposed by the Senate for the entire program does not reflect a desire to delay relocation, but is merely recognition of the fact that the full amount provided by the Senate could not be spent in a single year.

It is the managers' expectation that the Navajo and Hopi Tribal Chairmen will continue to meet and seek to negotiate a comprehensive settlement as suggested in the Clark/Morris report.

SMITHSONIAN INSTITUTION

SALARIES AND EXPENSES

Appropriates $178,063,000 for salaries and expenses instead of $182,599,000 as proposed by the House and $176,218,000 as proposed by the Senate.

The net increase over the Senate consists of increases of: $165,000 to the National Museum of American Art for the Bicentennial of the Constitution, $31,000 for asbestos removal at Silver Hill, $98,000 for storage and conservation for the National Portrait Gallery, $120,000 to the Archives of American Art for collections management and conservation, $360,000 for the inaugural exhibit of the Center for Asian Art, $250,000 for the Museum of African Art, $45,000 for the Conservation Analytic Laboratory, $350,000 for grants to the National Symphony Orchestra and the Washington Opera, and $676,000 for an inflation adjustment; and a decrease of $250,000 for Plant Services.

$777,000 is provided for the National Museum Act as proposed by the Senate rather than $793,000 as proposed by the House.

$175,000 each is earmarked for grants to the National Symphony Orchestra and the Washington Opera instead of $350,000 each as proposed by the House and no funds as proposed by the Senate.

Bill language is included, as proposed by the Senate, allowing the Secretary to support American overseas research centers.

CONSTRUCTION AND IMPROVEMENTS, NATIONAL ZOOLOGICAL PARK

Appropriates $5,551,000 as proposed by the Senate instead of $4,851,000 as proposed by the House.

RESTORATION AND RENOVATION OF BUILDINGS

Appropriates $11,075,000 as proposed by the House instead of $12,375,000 as proposed by the Senate.

Bill language is included, as proposed by the Senate, restoring language carried in prior years providing for funds to remain available until expended, and providing that the Secretary may negotiate and award contracts on the basis of qualifications as well as price.

NATIONAL GALLERY OF ART

SALARIES AND EXPENSES

Appropriates $33,754,000 for salaries and expenses, instead of $34,379,000 as proposed by the House and $33,934,000 as proposed by the Senate. The decrease from the amount proposed by the House includes $225,000 for conservation positions and related equipment, and $400,000 from operation and maintenance of buildings, for transfer to the repair, restoration and renovation account.

REPAIR, RESTORATION, AND RENOVATION OF BUILDINGS

Appropriates $3,300,000 instead of $2,900,000 as proposed by the House and $4,000,000 as proposed by the Senate.

Language is included, as proposed by the Senate, adding the words "grounds and facilities".

WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

SALARIES AND EXPENSES

Appropriates $3,392,000 for salaries and expenses instead of $2,902,000 as proposed by the Senate and $3,342,000 as proposed by the House. The increase over that amount proposed by the Senate is $490,000 for conference planning.

ENDOWMENT CHALLENGE FUND

Bill language is provided which establishes an endowment challenge fund for the Woodrow Wilson International Center for Scholars, to remain available until September 30, 1988. The managers agree to appropriate $1,000,000 for this endowment challenge with the stipulation that the Federal funds are to be matched on a 3:1 basis with new and increased sources of private support.

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

NATIONAL ENDOWMENT FOR THE ARTS

GRANTS AND ADMINISTRATION

Appropriates $137,260,000 as proposed by the House instead of $132,900,000 as proposed by the Senate. This includes $121,678,000 for program and state grants as proposed by the House instead of $116,900,000 as proposed by the Senate; and $15,582,000 for administrative programs as proposed by the House instead of $16,000,000 as proposed by the Senate.

The managers agree on the following allocation of funds:

Program grants:	
Artists-in-Schools	5,341,000
Educational program	98,000
Dance	8,900,000
Design Arts	4,312,000
Expansion Arts	6,713,000
Folk Arts	3,000,000
Inter Arts	4,000,000
Literature	5,145,000
Media Arts	12,065,000
Museums	11,370,000
Music	12,310,000
Opera/Musical Theatre	4,267,000
Locals Test	2,200,000
Theatre	10,880,000
Visual Arts	6,272,000
Advancement	200,000
Subtotal, program grants	97,073,000
State Programs	24,605,000
Subtotal, grants	121,678,000
Administration area:	
Policy Planning and Research	980,000
Administration	14,602,000
Subtotal, administrative area	15,582,000
Total, grants and administration	137,260,000

The managers agree that the increase over fiscal year 1985 for the media program includes $2,000,000 for the purpose of television programming in the arts and the sum of $1,000,000 for programming on National Public Radio.

MATCHING GRANTS

Appropriates $29,400,000 as proposed by the House instead of $30,000,000 as proposed by the Senate. This includes $8,820,000 for Treasury funds and $20,508,000 for challenge grants.

ARTS AND ARTIFACTS INDEMNITY FUND

Appropriates $300,000 for the Arts and Artifacts Indemnity Fund as proposed by the Senate.

NATIONAL ENDOWMENT FOR THE HUMANITIES

GRANTS AND ADMINISTRATION

Appropriates $110,818,000 instead of $111,549,000 as proposed by the House and $108,978,000 as proposed by the Senate. This includes $96,618,000 for program and state grants instead of $98,429,000 as proposed by the House and $94,650,000 as proposed by the Senate; and $14,200,000 for administrative programs instead of $13,120,000 as proposed by the House and $14,328,000 as proposed by the Senate.

The managers agree on the following allocation of funds:

Program grants:	
Media Grants	$8,918,000
Museums and Historical Organizations	8,820,000
Humanities programs for youth	750,000
Humanities programs for adults	1,900,000
Humanities projects in libraries	2,940,000
Education programs	16,500,000
Fellowships and seminars	15,077,000
Research grants	16,500,000
Subtotal, program grants	71,405,000
State programs	21,213,000
Office of Preservation	4,000,000
Subtotal, grants	96,618,000
Administrative area: Administration	14,200,000
Total, grants and administration	110,818,000

MATCHING GRANTS

Appropriates $28,660,000 instead of $27,929,000 as proposed by the House and $30,500,000 as proposed by the Senate. This includes $11,660,000 for Treasury funds and $17,000,000 for challenge grants.

NATIONAL CAPITAL ARTS AND CULTURAL AFFAIRS

Appropriates $2,000,000 for grants.

The managers have included bill language authorizing a grant program for artistic and cultural organizations of national repute which are located in the District of Columbia. For fiscal year 1986, the managers agree that the amounts provided to eligible organizations through the National Park Service and the Smithsonian Institution shall be counted against the $500,000 annual limit on grants contained in this section.

INSTITUTE OF MUSEUM SERVICES

Appropriates $21,523,000 for the Institute of Museum Services instead of $21,560,000 as proposed by the House and $15,870,000 as proposed by the Senate. The reduction below the amount proposed by the House consists of a decrease of $33,000 in administration and a decrease of $4,000 for the Museum Services board.

The managers agree that the Institute should clarify application packets with respect to the financial information which should accompany grant applications.

COMMISSION OF FINE ARTS

Appropriates $382,000 for salaries and expenses as proposed by the Senate instead of $377,000 as proposed by the House.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

The managers agree that the Council's administration of section 106 with principal reliance on consultation to accommodate historic preservation objectives with Federal project needs is sound and consistent with the intent of Congress underlying section 106. The managers further endorse the active role conferred upon the State Historic Preservation Officer in the consultation process.

NATIONAL CAPITAL PLANNING COMMISSION

Appropriates $2,712,000 for salaries and expenses instead of $2,721,000 as proposed by the House and $2,703,000 as proposed by the Senate. The increase of $9,000 from the amount proposed by the Senate is to restore funding for salaries and expenses reduced by the pay reduction proposed by the Administration.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

Appropriates $2,329,000 for salaries and expenses as proposed by the Senate instead of $2,316,000 as proposed by the House.

UNITED STATES HOLOCAUST MEMORIAL COUNCIL

Appropriates $2,125,000 for the Holocaust Memorial Council as proposed by the Senate instead of $2,119,000 as proposed by the House.

Language is included which provides the authority for the Chairman of the United States Holocaust Memorial Council to appoint persons who are not members of the Council to committees associated with the Council. If expenses are incurred by these designees they are to be paid out of the private funds of the Council.

Bill language is also included which clarifies that the Holocaust Memorial Council is an independent Federal agency, in addition to amending 36 U.S.C. 1407 to make it clear that the Congress regards the funds donated to the Council for the construction of the Holocaust Memorial Museum as nonappropriated funds notwithstanding other provisions of law which treat such funds as trust funds permanently appropriated for Government purposes. The managers agree that it is important that the Council be free to invest the donations in interest-bearing securities so as to provide an adequate endowment for operation and maintenance needs once the Museum is constructed. The Council may expend its donations for construction of the Museum is accordance with its statutory purpose but without regard to procurement-related statutes and regulations or other restrictions or requirements applicable to the expenditure of appropriated funds.

So as to ensure sufficient congressional oversight over the Council's nonappropriated fund activities and expenditures, two new sections are added to the end of 36 U.S.C. 1408 requiring an annual report to the Congress on the use of the funds donated for museum construction, and authorizing the Comptroller General of the United States to audit the Council's financial transactions using donated funds by granting access to all Council records required to facilitate such audit.

TITLE III—GENERAL PROVISIONS

SEC. 307. Continues unchanged the existing prohibition on the use of funds to process or issue leases for coal, oil, gas, oil shale, phosphate, potassium, sulfur, gilsonite, or geothermal resources on wilderness lands and Forest Service RARE II further planning and Bureau of Land Management study areas rather than providing new language as proposed by the House.

SEC. 312. Provides no dear hunting on Loxahatchee NWR as proposed by the House.

The managers agree that the refuge will support the current deer population and that at this time there is no biological or ecological basis to support a deer hunt.

SEC. 314. Provides certain restrictions on the use of funds for the management or enhancement of grizzly bear habitat on National Park System or National Forest System lands.

SEC. 315. Provides a five year extension of the deadline for benefits to certain nonpreference employees of the Indian Health Service and the Bureau of Indian Affairs.

SEC. 316. Provides an indefinite waiver of the requirement for Alaskan utilities to provide environmental information when requesting exemptions under the Fuel Use Act.

SEC. 317. Provides that the Department of the Interior and the Forest Service, when contracting for private air services, must use FAA certified aircraft unless the Secretary determines such aircraft are not available.

SEC. 318. Provides that no funds available to the Department of the Interior or to the Forest Service may be used to implement a jurisdictional interchange program until enactment of authorizing legislation.

SEC. 319. Provides temporary exceptions for certain acreage limitations for leaseholders on Federal lands within the Gallatin and Flathead National Forests.

SEC. 320. Provides an extension of the date on which certain provisions of the Mineral Lands Leasing Act of 1920, as amended by the Federal Coal Leasing Amendments, become effective. The managers agree that this is a one-time extension.

SEC. 321. Provides a requirement that the Navajo and Hopi Indian Relocation Commission submit a report to Congress by February 15, 1986, on plans for development of the new lands and requires review and comment on the plan by the Secretary of the Interior.

SEC. 322. Provides clarification that the current prohibition on geothermal leasing in the area of Yellowstone National Park is effective until action by Congress to the contrary.

SEC. 323. Provides for a coordinated program of health promotion and disease prevention in schools operated by the Bureau of Indian Affairs.

SEC. 324. Provides clarification in respect to donations utilized for construction and operation of the Holocaust Museum. This language requires an annual report to the Congress on the use of such funds and authorizes the Comptroller General of the United States to audit the Council's financial transactions involving donated funds.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATION ACT

Amendment No. 8: Deletes language proposed by the House and Senate and inserts new language relating to the rate for operations for projects or activities provided for in the Department of Transportation and Related Agencies Appropriation Act, 1986.

The House version of H.J. Res. 465 provides appropriations for activities of the Department of Transportation and related agencies at a rate for operations and to the extent and in the manner provided for in H.R. 3244 as passed by the House of Representatives on September 12, 1985. The Senate version of the joint resolution provides appropriations for these activities at a rate for operations and to the extent and in the manner provided for in H.R. 3244 as passed by the Senate on October 23, 1985, amended to provide $1,752,000,000, including transfers, for Coast Guard, operating expenses and $2,714,400,000 for Federal Aviation Administration, operations. The conference agreement incorporates some of the provisions of both the House and Senate versions of the Joint Resolution and has the effect of enacting the Department of Transportation and Related Agencies Appropriation Act, 1986, into law. The conferees agree that the language and allocations set forth in House Reports 99-256 and 99-403 or Senate Reports 99-152 and 99-210 shall be complied with unless specifically addressed to the contrary in the statement of the managers.

The conferees agree that for the purpose of section 252(a)(6)(D)(i)(II) of the Balanced Budget and Emergency Deficit Control Act of 1985 (H.J. Res 372,) with respect to appropriations contained in the Department of Transportation and Related Agencies Appropriation Act, 1986 (H.R. 3244) the terms "program, project, and activity" shall mean any item for which a dollar amount is contained in an appropriation Act (including joint resolutions providing continuing appropriations) or accompanying reports of the House and Senate Committees on Appropriations, or accompanying conference reports and joint explanatory statements of the committee of conference. The conferees agree that this definition shall apply to all programs for which new budget (obligational) authority is provided, as well as to Discretionary grants, Urban Mass Transportation Administration and Interstate transfer grants-highways, Federal Highway Administration. In addition, the percentage reductions made pursuant to section 252(a)(6)(D)(i)(II) of the Balanced Budget and Emergency Deficit Control Act of 1985 to funds appropriated for Facilities and equipment, Federal Aviation Administration and for Acquisition, construction, and improvements, Coast Guard, shall be applied equally to each "budget item" that is listed under said accounts in the budget justifications submitted to the House and Senate Committees on Appropriations as modified by subsequent appropriation Acts and accompanying committee reports, conference reports, or joint explanatory statements of the committee of conference.

The conference agreement incorporates the provisions of H.R. 3244 in accordance with the following agreements:

TITLE I—DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

Appropriates $51,300,000 together with $500,000 from prior year unobligated balances as proposed by the Senate instead of $50,500,000 together with $330,000 derived by transfer as proposed by the House. The conference agreement distributes these funds as follows:

	Allocation
Immediate Office of the Secretary	$980,000
Immediate Office of the Deputy Secretary	490,000
General Counsel	5,560,000
Policy and International Affairs	7,800,000
Budget and Programs	2,180,000
Governmental Affairs	2,600,000
Administration	20,930,000
Public Affairs	1,490,000
Executive Secretariat	780,000
Contract Appeals Board	400,000
Office of Civil Rights	1,300,000
Office of Commerical Space Transportation	500,000
Office of Small and Disadvantaged Business Utilization	[1] 4,400,000
Office of Essential Air Service	1,800,000
Regional Representatives	590,000

[1] Includes $500,000 in carryover funds.

Any deviation from the above allocation shall be requested through the normal reprogramming process.

TRANSPORTATION PLANNING, RESEARCH, AND DEVELOPMENT

Appropriates $3,500,000 instead of $3,000,000 as proposed by the House and $4,000,000 as proposed by the Senate.

PAYMENTS TO AIR CARRIERS

Appropriates $28,000,000 as proposed by the Senate instead of $36,000,000 as proposed by the House.

COAST GUARD

OPERATING EXPENSES

Appropriates $1,652,000,000 including $10,000,000 to be derived by transfer instead of $1,752,000,000 including $25,000,000 to be derived by transfer as proposed by the Senate and $1,785,200,000 including $23,000,000 to be derived by transfer as proposed by the House.

In addition, $100,000,000 has been made available by the Defense Appropriation Act, 1986, to be used in support of the Coast Guard's military readiness missions, and $15,000,000 has been appropriated to the Navy for the support of Coast Guard drug interdiction activities.

The conference agreement provides that $789,800,000 shall be available for compensation and benefits of military personnel instead of $786,800,000 as proposed by the House and $792,800,000 as proposed by the Senate.

The conference agreement delates position levels proposed by the Senate.

The conference agreement also provides that not less than $328,000,000 shall be available for drug enforcement activities as proposed by the Senate instead of $325,000,000 as proposed by the House.

The conferees direct the Coast Guard to construct a harbor office at Morro Bay, California, and to continue to operate the Great Lakes search and rescue facilities proposed for consolidation in the budget.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

Appropriates $267,300,000 as proposed by the House instead of $276,300,000 as proposed by the Senate. The Coast Guard is directed to submit within 30 days after enactment a spending plan for all acquisition, construction, and improvements projects to be funded with fiscal year 1986 funds (including those funded in the Defense Appropriation Act). Such plan shall be formulated using the guidance provided in House Report 99-256 and Senate Reports 99-152 and 99-176.

The conferees also direct the Coast Guard to proceed with completion of Phase III of the Boston Shore Support Facility, for which $6,850,000 was appropriated in fiscal year 1985. Phase III shall include construction of office and related support facilities, as originally proposed to and approved by the Congress.

ALTERATION OF BRIDGES

Appropriates $5,200,000 as proposed by the Senate instead of $7,195,000 as proposed by the House. Funds provided in the conference agreement together with available unolbligated funds should be sufficient to provide for the fiscal year 1986 costs of altering the Willamette River Bridge in Portland, Oregon and the Trent River Railroad Bridge in New Bern, North Carolina.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Appropriates $21,000,000 as proposed by the Senate instead of $23,000,000 as proposed by the House.

BOAT SAFETY

Limits obligations for recreational boating safety assistance to $30,000,000 in fiscal year 1986 and provides a liquidating cash appropriation of $30,000,000 as proposed by the Senate instead of appropriating $13,625,000 as proposed by the House.

The conferees have approved a funding level of $30,000,000 for state recreational boating safety assistance programs, the authorized amount. The conferees have also continued a restriction on these funds so that no obligations may be incurred for the improvement of recreational boating facilities. However, the conferees note that acquiring, constructing, or repairing public access sites used primarily by recreational boaters, and establishing and maintaining facilities for and providing emergency search and rescue assistance, are specific purposes for which the states may use these funds pursuant to Public Law 92-75, as amended. The conferees expect the Coast Guard to promulgate complete and adequate guidelines so that the public access and search and rescue purposes of Public Law 92-75, as amended, may be fully implemented subject to the restriction noted above.

The conferees intend to fully review during the fiscal year 1987 hearings the use of recreational boating safety funds by the states, and will expect the Coast Guard to be prepared to discuss in detail the effectiveness of the Coast Guard's boating safety program.

The conference agreement deletes language proposed by the House exempting Coast Guard training travel expenses from section 2901(a)(1) of the Deficit Reduction Act of 1984.

FEDERAL AVIATION ADMINISTRATION

HEADQUARTERS ADMINISTRATION

Provides transfer authority of up to two percent between the appropriations for Headquarters Administration and Operations as proposed by the Senate.

OPERATIONS

Appropriates $2,694,600,000 as proposed by the House instead of $2,714,400,000 as proposed by the Senate. The conferees direct the Federal Aviation Administration to submit a report to the House and Senate Committees on Appropriations within 15 days after enactment describing the adjustments to the fiscal year 1986 operations funding plan presented in its detailed budget justifications needed to meet the funding level provided in the conference agreement. Such report shall include dollar and position breakdowns by activity. In making this revised distribution, the conferees expect the FAA to use the House and Senate Committee reports as guidance and to include funding for an additional 300 aviation safety inspection positions above the original budget request. The additional inspection positions shall include additional support personnel as well as field inspectors. The conferees also assume that this funding level will support 14,306 air traffic control positions, the level reached in February 1985, plus an additional 500 positions announced by the Department on September 19, 1985. Any deviation from these staffing levels is to be reported promptly to the House and Senate Committees on Appropriations. The conferees expect the FAA to make special efforts to reach these staffing levels by July 31, 1986. The conferees also expect that any potential shortfalls in safety programs resulting from this distribution will be promptly reported to the House and Senate Committees on Appropriations.

The conferees object to restrictive Canadian policies toward aerial survey operations by U.S. affiliated companies in Canada. Canadian operators have established U.S. subsidiaries and obtained Federal Aviation Administration licenses that allow aerial survey aircraft to be used in the United States, and such subsidiary companies compete against U.S.-based corporations for United States government geological survey work. Although this side-looking airborne radar (SLAR) work is bid competitively by the geological survey, no reciprocity is practiced in Canada for U.S. firms.

The conferees expect the FAA to consider changes to 14 CFR Part 375 previously proposed by the Civil Aeronautics Board and published in the Federal Register of October 25, 1984, which would help assure reciprocity for foreign aircraft operating in U.S. airspace. Within 60 days after enactment of this Act the conferees expect the FAA to report to the House and Senate Committees on Appropriations on the status of the previously proposed rule changes and any plans to make other regulatory changes to assure reciprocity. The conferees urge the FAA to adopt rule changes that assure consideration of reciprocity or define foreign and U.S. ownership or control more precisely.

The conference agreement also provides that $446,000,000 of the amount provided for operations shall be derived from the Airport and Airway Trust Fund as proposed by the Senate instead of $548,000,000 as proposed by the House.

The conferees note with concern the two recent aircraft accidents involving air cargo planes at the Tri-State Airport serving West Virginia, Kentucky, and Ohio. One of those accidents involved the loss of life, and both occurred this year during the hours that the air traffic control tower was closed. It is the conferees' understanding that commercial flights carrying over 100 passengers arrive at this airport after the tower has been closed. In view of safety considerations, the Federal Aviation Administration is directed to operate this tower on a 24-hour basis.

FACILITIES AND EQUIPMENT

(AIRPORT AND AIRWAY TRUST FUND)

Appropriates $993,000,000 as proposed by the Senate instead of $1,044,000,000 as proposed by the House. The conference agreement includes the following amounts:

Air route traffic control centers	$231,720,600
Airport traffic control towers and terminal equipment	452,412,400
Flight service stations	-10,000,000
Air navigation facilities	158,079,300
Housing, utilities and miscellaneous facilities	174,871,700
Aircraft and related equipment	2,775,000
Development, test, and evaluation	10,141,000

The conferees expect the FAA to comply with the project distribution outlined in House Report 99-256 as modified by Senate Report 99-152. The conferees recognize that delays in some projects might necessitate adjustments to the above allocations and expect these adjustments, if required, to be accomplished through the normal reprogramming process. Within the amount provided for airport traffic control towers and terminal equipment, the conference agreement includes up to $40,000 to initiate design work for an air traffic control tower at Obyan, Saipan. In addition to the instrument landing systems identified in the House and Senate Committee reports, the conferees direct the FAA to install an instrument landing system for Runway 11 at Minneapolis-St. Paul International Airport.

The conferees continue to be concerned about both the adequacy and cost effectiveness of automated equipment for consolidated flight service station facilities. House Report 99-256 contains language requiring FAA to report on the relative cost, performance, availability, and eligibility for airport grant funds of commercial and government direct user access terminal (DUAT) systems. Until both the House and Senate Appropriations Committees have evaluated and approved FAA's reported DUAT comparison and selection process, the conferees direct that funding for development of the Model 2 automated flight service station be suspended.

In addition, Senate Report 99-152 required certification of Model 1 equipment and a revised facility consolidation plan to be submitted by December 1, 1985. Until the Committees have received and reviewed these reports, the conferees continue to disapprove fiscal year 1986 consolidations.

The conference agreement also provides that $10,000,000 shall be available to continue the airway science curriculum program as proposed by the Senate instead of $5,000,000 as proposed by the House. The conference agreement includes the following amounts:

University of North Dakota	$4,000,000
Florida Memorial College	3,000,000
Delta State University	2,300,000

RESEARCH, ENGINEERING, AND DEVELOPMENT

(AIRPORT AND AIRWAY TRUST FUND)

Appropriates $190,000,000 together with $15,000,000 to be derived by transfer, instead of $190,000,000 as proposed by the House and $192,000,000 together with $15,000,000 to be derived by transfer as proposed by the Senate. The conference agreement provides that $3,036,412 shall be available for icing and related next generation weather radar atmospheric research to be conducted by the University of North Dakota, $2,000,000 shall be available for the Center for Research and Training in Information-based Aviation and Transportation Management at Barry University, and $2,000,000 shall be available for the Institute for Aviation Safety Research at Wichita State University.

The FAA should perform a thorough, objective, and well documented, benefit-cost analysis to support its Advanced Automation System (AAS) acquisition phase appropriation request. This analysis should include a clear definition of the objective of each element of the AAS program, an identification of all feasible ways of achieving each objective, and a detailed analysis of the costs and benefits expected from each alternative. The analysis should (1) be based on a sound and credible methodology, (2) use as a baseline for comparison an analytical evaluation of the level of effectiveness provided in the ATC system with Host and other pre-AAS enhancements, (3) identify all significant assumptions and models and include an analysis of the sensitivity of results to changes in significant assumptions or variables such as air traffic growth, and (4) be fully documented to facilitate an independent evaluation. FAA should also conduct a full assessment of the technical risks associated with its current acquisition strategy and with alternative strategies. This assessment should clearly identify the technical risks associated with the AAS and each subsystem (including all major software components) and the potential cost, schedule, and performance impacts associated with these risks. Finally, FAA should validate its AAS cost estimates with an independent cost analysis.

The conferees believe these studies are necessary to support this multi-billion dollar investment decision and allocate up to $4,000,000 of this appropriation for FAA to complete them. If additional funding is needed, a supplemental request will be considered. All of these studies should use inputs as necessary from the program office, but should be conducted independent of the program management.

GRANTS-IN-AID FOR AIRPORTS

(AIRPORT AND AIRWAY TRUST FUND)

In addition to the specific projects identified in the House and Senate Committee reports, the conferees direct that priority consideration also be accorded to Mahlon Sweet Airport, Eugene, Oregon.

OPERATION AND MAINTENANCE, METROPOLITAN WASHINGTON AIRPORTS

Appropriates $34,100,000 as proposed by the Senate instead of $35,400,000 as proposed by the House.

CONSTRUCTION, METROPOLITAN WASHINGTON AIRPORTS

Appropriates $7,000,000 as proposed by the Senate instead of $12,000,000 as proposed by the House.

AIRCRAFT PURCHASE LOAN GURARANTEE PROGRAM

Limits the total amount that can be borrowed from the Secretary of the Treasury during fiscal year 1986 to pay off defaulted loans to $75,000,000 instead of $10,000,000 as proposed by the House and $125,000,000 as proposed by the Senate.

FEDERAL HIGHWAY ADMINISTRATION

(LIMITATION ON GENERAL OPERATING EXPENSES)

Limits operating expenses to $203,761,000 as proposed by the Senate instead of $204,500,000 as proposed by the House.

Provides that $48,415,000 of the amount provided for general operating expenses shall remain available until expended as proposed by the Senate instead of $48,589,000 as proposed by the House.

The conference agreement inserts language providing that all unobligated amounts made available under this head in prior fiscal years for the establishment and implementation of a demonstration bonding program for economically and socially disadvantaged businesses shall remain available for such purposes until expended.

The conference agreement does not include the additional fiscal year 1986 funding for the minority business demonstration bonding program proposed by the House. Funds carried over from fiscal year 1985 should be adequate to implement this program in fiscal year 1986. The conferees remain fully supportive of this particular effort, and are concerned about the Department's lack of progress in implementing this program. Bonding capacity for disadvantaged firms has been and continues to be a major impediment to their full participation in contract opportunities. The conferees fully expect the fiscal year 1985 funds made available for this program to be obligated promptly for bonding and bonding assistance programs in Florida, New York, and Pennsylvania. The Department is directed to report to the House and Senate Committees on Appropriations by February 15, 1986, regarding its progress in implementing this program and obligating these funds.

The conference agreement also includes bill language proposed by the House prohibiting the use of the funds in the bill to approve projects to construct a landfill in the Hudson River as part of the Interstate highway system.

RAILROAD-HIGHWAY CROSSING DEMONSTRATION PROJECTS

Appropriates $16,000,000 instead of $38,700,000 as proposed by the House. The Senate bill contained no funds for this program.

The conference agreement includes the following amounts:

Lincoln, Nebraska	$3,000,000
Pine Bluff, Arkansas	1,000,000
Augusta, Georgia	1,000,000
Carbondale, Illinois	3,000,000
Brownsville, Texas	2,500,000
Lafayette, Indiana	5,500,000

Includes language proposed by the Senate providing that the funds made available under this heading for Wheeling, West Virginia highway projects be available at full federal expense.

FEDERAL-AID HIGHWAYS

(LIMITATION ON OBLIGATIONS)

Limits obligations for the federal-aid highways and highway safety construction programs to $12,750,000,000 as proposed by the Senate instead of $13,250,000,000 as proposed by the House.

The conference agreement includes the following allocations of interstate transfer-highways discretionary funds:

Arizona	$1,128,228
Colorado	25,500,000
Illinois	48,646,772
Indiana	2,500,000
Iowa	6,125,000
Maryland	31,600,000
Minnesota	8,000,000
Duluth	(6,000,000)
Minn.-St. Paul	(2,000,000)
New Jersey	10,000,000
New York	6,050,000
Ohio	16,500,000
Oregon	11,350,000
Pennsylvania	7,050,000
Virginia	6,800,000

The conferees are aware of the recent severe flooding that has caused extensive damage to roads and bridges in West Virginia, Virginia, and Pennsylvania. Initial reports indicated that 47 bridges have been destroyed in West Virginia alone and extensive road damage has occurred isolating many communities from essential food supplies, health care, employment centers and markets. Recognizing the urgent need for assistance, the conferees direct the Secretary to give priority consideration to those states for moneys from the emergency relief fund for road and bridge repair and reconstruction. These funds are to be used only in those counties declared federal disaster areas.

In addition to those projects identified in the Senate Report 99-152 to receive priority consideration for discretionary bridge funding, the conferees direct that the Denver, Colorado 23rd Street Viaduct project also receive the same consideration.

MOTOR CARRIER SAFETY

Appropriates $13,900,000 as proposed by the House instead of $13,902,000 as proposed by the Senate.

MOTOR CARRIER SAFETY GRANTS

Appropriates $17,000,000 instead of $14,000,000 as proposed by the House and $20,000,000 as proposed by the Senate.

ACCESS HIGHWAYS TO PUBLIC RECREATION AREAS ON CERTAIN LAKES

Appropriates $10,000,000 of which $5,000,000 shall be derived by transfer instead of $10,000,000 proposed by the Senate. The House bill contained no funds for this program.

BALTIMORE-WASHINGTON PARKWAY

Appropriates $3,000,000 instead of $6,500,000 as proposed by the House.

WASTE ISOLATION PILOT PROJECT ROADS

Appropriates $7,000,000 for the waste isolation pilot project roads in New Mexico instead of $16,260,000 proposed by the Senate. The House bill contained no funds for this program.

RAIL LINE CONSOLIDATION PROJECT

Provides $4,000,000 by transfer instead of $5,000,000 by transfer as proposed by the House.

AIRPORT-HIGHWAY DEMONSTRATION PROJECT

Provides $1,350,000 by transfer instead of $2,700,000 by transfer as proposed by the House.

EXPRESSWAY GAP CLOSING DEMONSTRATION PROJECT

Inserts language authorizing an expressway gap closing project and appropriates $9,000,000 for such project.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

OPERATIONS AND RESEARCH

Appropriates $88,851,000, of which $5,000,000 shall be derived by transfer instead of $78,851,000 as proposed by the Senate and $89,365,000 as proposed by the House. The conference agreement includes the following distribution:

Rulemaking	$7,040,000
Enforcement	11,400,000
Highway safety	13,200,000
Research and analysis	48,261,000
General administration	6,600,000
Office of the administrator	2,350,000

Provides that $29,894,000 shall be derived from the Highway Trust Fund instead of $25,120,000 as proposed by the House and $25,455,000 as proposed by the Senate.

Provides that $36,296,000 shall remain available until expended instead of $36,624,000 as proposed by the Senate and $42,174,000 as proposed by the House.

BEST COPY AVAILABLE

Provides that $14,833,000 of the amount available until expended shall be derived from the Highway Trust Fund instead of $10,180,000 as proposed by the House and $13,729,000 as proposed by the Senate.

Inserts language proposed by the House requiring that $10,000,000 of the amount provided under this head be available only for the purpose of implementing the recommendations of the 1985 National Academy of Sciences report on trauma research.

Inserts language proposed by the Senate providing $500,000 by transfer for a national program to encourage the use of automobile passive restraints.

Deletes language proposed by the Senate prohibiting any manufacturer from earning credits for exceeding the corporate average fuel economy standard for any model year in which the Secretary has reduced the standard below that originally established by Congress, unless the manufacturer also exceeds the original standard.

FEDERAL RAILROAD ADMINISTRATION

RAILROAD SAFETY

Appropriates $27,764,000 as proposed by the Senate instead of $28,000,000 as proposed by the House.

The conference agreement includes the following amounts:

Federal enforcement	$22,564,000
(Positions)	(379)
Automated track inspection	100,000
Safety regulations/administration	3,600,000
(Positions)	(64)
State grants	1,500,000

In addition, the conferees expect an additional $1,000,000 in unobligated funds to be made available for state safety grants.

Provides that $1,500,000 shall remain available until expended as proposed by the Senate instead of $1,300,000 as proposed by the House.

RAILROAD RESEARCH AND DEVELOPMENT

Appropriates $10,600,000 instead of $10,384,000 as proposed by the Senate and $11,200,000 as proposed by the House.

The conference agreement includes $200,000 to support the development of cooperative efforts between the states, railroads, community groups, and other public service groups to reduce accidents at grade crossings, and up to $100,000 for research into corrosion and surge problems associated with tank car rupture disks that have recently experienced an increased incidence of uncontrolled release of hazardous materials.

The conference agreement also includes $320,000 for the Oregon Graduate Center's research into maintenance and repair of railroad-related components.

RAIL SERVICE ASSISTANCE

Appropriates $20,200,000 as proposed by the House instead of $20,200,000 as proposed by the Senate.

In addition to the Chaplene Tunnel project on the Wheeling Terminal Industrial line identified in the Senate Report to receive priority consideration for local rail service assistance, the conferees urge that priority consideration also be given to a railroad rehabilitation project in Massachusetts and Vermont.

CONRAIL LABOR PROTECTION

Deletes rescission of $8,000,000 proposed by the House.

NORTHEAST CORRIDOR IMPROVEMENT PROGRAM

Of the $12,500,000 provided in the bill for the northeast corridor improvement program, the conferees direct that such funds be allocated according to the distribution in House Report 99-256. The conferees expect Amtrak to submit a reprogramming request to the House and Senate Committees on Appropriations in accordance with standard procedures, if any revisions to this distribution are contemplated.

GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

Provides a total of $616,000,000 for Amtrak operations, capital improvements, and labor protection costs as proposed by the Senate instead of $603,500,000 as proposed by the House.

The conference agreement also provides that, of the total amount available for Amtrak grants, $23,000,000 shall be derived by transfer as proposed by the Senate instead of $15,000,000 by transfer as proposed by the House. These funds are to be derived from the Conrail labor protection account. The conferees have made this recommendation in light of recent reports of the United States Railway Association concluding that "Conrail credibly and reasonably projects that it can weather future economic cycles even while paying 'normalized' expenses such as wage rates, state taxes, and job protection benefits". The United States Railway Association has also endorsed Conrail's five-year outlook that projects healthy net income for the years 1985 to 1989. Therefore to ensure an adequate and necessary employee protection plan, the conferees direct the Secretary to conduct discussions with Conrail's Board of Directors and management to make all necessary arrangements for Conrail to assume full financial responsibility for payments due its employees under sections 701 and 702 of the Regional Rail Reorganization Act of 1973, as amended. The Secretary shall report on the progress of such discussions to the House and Senate Committees on Appropriations no later than March 1, 1986.

Inserts language proposed by the Senate providing $5,500,000 by transfer from unobligated balances of "Rail labor assistance".

RAILROAD REHABILITATION AND IMPROVEMENT FINANCING FUNDS

Limits new loan guarantee commitments under sections 511 through 513 of the Railroad Revitalization and Regulatory Reform Act of 1976 to $4,000,000 during fiscal year 1986 as proposeed by the Senate. The Senate amendment also deletes House language providing that no new loan guarantee commitments shall be made during fiscal year 1986.

REDEEMABLE PREFERENCE SHARES

Authorizes the expenditure of $33,500,000 as proposed by the Senate instead of $35,500,000 as proposed by the House.

The conference agreement includes the following amounts:

Columbus and Greenville Railroad	$1,900,000
Gulf and Mississippi Railroad	8,000,000
Miami commuter rail	12,500,000
Ann Arbor Railroad	2,600,000
Bangor and Aroostook Railroad	3,000,000
Chicago North Western Railroad	5,500,000

An appropriation of $5,500,000 of section 505 funds is earmarked for the Chicago North Western Railroad only for use in upgrading of trackage in North Dakota and South Dakota. The most pressing need is for the lines between Pierre and Rapid City and Aberdeen in South Dakota to Oakes in North Dakota. Both lines have previously been subjects of abandonment proceedings but provide important service to local shippers and it is therefore in the public interest that rail service continue.

A significant amount of this trackage is in need of work in excess of typical maintenance, including tie renewal, relay rail, surfacing, and bridge rehabilitation. Such work would enhance safe operations and improve service to shippers. The major beneficiaries of this upgrading would be the agricultural communities of North Dakota and South Dakota.

The conferees expect that under this program the Secretary, after complying with the above listed allocations, will give priority consideration to a rail rehabilitation project in Massachusetts and Vermont. It is also the intent of the conferees that priority consideration will be given to the additional needs of the Tri-County Commuter Rail project for a station connection with the Dade County metrorail for not to exceed $4,000,000, and for the Delaware-Otsego system for rehabilitation of a line between Warwick, New York and Butler, New Jersey. Furthermore, it is the intent of the conferees that Federal Highway Administration "maintenance of traffic" funding shall be available for the operation of the Tri-County commuter rail project.

Deletes the language proposed by the House providing that $5,500,000 shall be derived from unobligated balances of "Rail labor assistance".

Deletes the language proposed by the Senate providing that $17,000,000 shall be derived from unobligated balances of "Redeemable preference shares" as of September 30, 1985.

CONRAIL COMMUTER TRANSITION ASSISTANCE

Provides $5,000,000 by transfer instead of an appropriation of $10,000,000 as proposed by the House.

The conferees are aware of the unusual bridge repair funding needs of the Philadelphia-area commuter rail system that have been brought about by the federally-mandated transfer of ownership of Conrail commuter rail property. In addition to the $5,000,000 provided in the conference agreement to make such repairs, the conferees direct that UMTA make available to the Southeastern Pennsylvania Transportation Authority (SEPTA) an additional sum of $5,000,000 from Discretionary Grant program rail modernization funds for such commuter rail bridge repairs. The conferees expect these funds to be made available in addition to funds SEPTA could otherwise expect to receive from the rail modernization program based on its historical percentage share of program funds for the fiscal year 1981 to fiscal year 1985 period. In addition, to the maximum extent feasible, it is expected that minority businesses will be given every opportunity to perform the work resulting from this appropriation. However, the Department, in implementing such a plan, should not reduce its quality assurance criteria or lessen its standards of contract responsibility.

URBAN MASS TRANSPORTATION ADMINISTRATION

ADMINISTRATIVE EXPENSES

Appropriates $30,000,000 as proposed by the Senate instead of $31,000,000 as proposed by the House.

Limits funding for the Office of the Administrator to $650,000 instead of $350,000 as proposed by the House. The conferees expect all salaries and expenses associated with the immediate offices of the administrator, deputy administrator, and executive director to be financed from this account.

The conferees agree that the extent of private sector involvement in the provision of public transit is best decided at the local level. The federal policy under the existing Urban Mass Transportation Act relating to the choice of service providers is one of neutrality. The conferees expect that explicit policy on privatization in the transit industry should be explored by Congress and decided only after appropriate rulemaking with the opportunity for public comment. While such rulemaking is underway, it is the conferees' view that conditioning the release, allocation, or level of federal transit grant funding on a showing by applicants of a certain level of involvement of private sector providers in the provision of mass transportation services is not consistent with the Urban Mass Transportation Act of 1964, as amended.

RESEARCH, TRAINING, AND HUMAN RESOURCES

Appropriates $17,400,000 as proposed by the Senate instead of $28,103,000 as proposed by the House.

The conference agreement includes $7,700,000 for the integrated transportation center, $250,000 for the Michigan state assistance model, and $2,500,000 to continue the existing cold weather transit technology program. The conferees direct the Department's Transportation Systems Center to evaluate the cold weather transit technology program and to report to the House and Senate Committee on Appropriations regarding the applicability of this technology to transit operations that are affected by severe cold weather.

FORMULA GRANTS

Appropriates $2,150,000,000 instead of $2,100,000,000 as proposed by the Senate and $2,210,000,000 as proposed by the House.

DISCRETIONARY GRANTS

Limits obligations to $1,045,000,000 instead of $1,010,000,000 as proposed by the House and $1,100,000,000 as proposed by the Senate.

The conference agreement includes the following amounts:

Bus and bus facilities	$145,000,000
Rail modernization and extensions	430,000,000
New systems and new extensions	385,000,000
Portland	(8,950,000)
Seattle	(24,650,000)
Miami	(38,000,000)
Santa Clara	(65,000,000)
Atlanta	(69,000,000)
Los Angeles	(101,000,000)
Houston	(54,750,000)
St. Louis	(13,500,000)
Buffalo	(850,000)
San Diego	(9,300,000)
Planning	50,000,000
Elderly and handicapped	30,500,000
Innovative techniques and technology introduction	5,000,000

The conferees intend that the $850,000 included under new systems for Buffalo shall be used only for light rail construction on the Naval Park Station.

The conferees expect UMTA to be fully responsive to report language in the Senate Report 99-152 directing UMTA to credit certain funds beyond the local contribution, provided by local governments and downtown business towards the local match for additional federal moneys on the Banfield project in Portland, Oregon.

LIQUIDATION OF CONTRACT AUTHORIZATION

Appropriates $775,000,000 as proposed by the Senate instead of $720,000,000 as proposed by the House.

INTERSTATE TRANSFER GRANTS-TRANSIT

Appropriates $218,750,000, of which $18,750,000 shall be derived by transfer, instead of $200,000,000 as proposed by the Senate and $237,500,000 as proposed by the House.

The conference agreement includes the following discretionary allocations:

Sacramento	$10,855,500
Chicago	67,187,770
Boston	11,875,000
Duluth	237,500
New Jersey	4,201,721
Cleveland	14,125,000
Indianapolis	892,500

The conferees recognize that delays in some regions' projects might necessitate adjustments to the above allocations. The conferees expect these adjustments, if required, to be accomplished through the normal reprogramming process.

WASHINGTON METRO

Appropriations $227,000,000 instead of $187,500,000 as proposed by the Senate and $237,500,000 as proposed by the House.

Saint Lawrence Seaway Development Corporation

LIMITATION ON ADMINISTRATIVE EXPENSES

Limits administrative expenses to $1,916,000 instead of $1,890,000 as proposed by the House and $1,942,000 as proposed by the Senate.

Research and Special Programs Administration

RESEARCH AND SPECIAL PROGRAMS

Appropriates $19,300,000 instead of $19,200,000 as proposed by the Senate and $19,400,000 as proposed by the House.

The conference agreement includes three positions for a new special hazardous materials enforcement team and four positions to continue the essential air service information program. The conferees direct the Secretary to submit a report to the House and Senate Committee on Appropriations by March 1, 1986, describing the Research and Special Programs Administration's implementation plan for the new special enforcement team.

The conference agreement also deletes language proposed by the Senate allowing the research and special programs appropriation to be credited for training fees received from non-federal entities.

Office of the Inspector General

SALARIES AND EXPENSES

Appropriates $27,600,000 instead of $27,250,000 as proposed by the Senate and $27,950,000 as proposed by the House. The conference agreement provides funding for an additional 10 positions over the budget request to continue essential air service audits.

TITLE II—RELATED AGENCIES

Architectural and Transportation Barriers

Compliance Board

SALARIES AND EXPENSES

Appropriates $1,975,000 as proposed by the Senate instead of $2,000,000 as proposed by the House.

National Transportation Safety Board

SALARIES AND EXPENSES

Appropriates $22,300,000 instead of $22,200,000 as proposed by the Senate and $22,000,000 as proposed by the House.

Limits funds for official reception and representation expenses to $500 as proposed by the Senate instead of $300 as proposed by the House.

Interstate Commerce Commission

SALARIES AND EXPENSES

Provides a total of $50,480,000 of which $2,300,000 shall be derived by transfer as proposed by the House instead of a total of $49,300,000 including $2,300,000 by transfer as proposed by the Senate.

The conference agreement includes the following amounts:

Chairman	$500,000
(Staff years)	(7)
Commissioners	1,825,000
(Staff years)	(27)
Satellite offices	1,050,000
(Staff years)	(22)
Secretary	3,100,000
(Staff years)	(85)
General Counsel	1,800,000
(Staff years)	(27)
Proceedings	8,600,000
(Staff years)	(150)
Hearings	570,000
(Staff years)	(8)
Special Counsel	525,000
(Staff years)	(7)
Transportation analysis	2,400,000
(Staff years)	(30)
Accounts	6,910,000
(Staff years)	(100)
Traffic	3,800,000
(Staff years)	(81)
Compliance and Consumer Affairs	14,400,000
(Staff years)	(257)
Managing Director	5,000,000
(Staff years)	(88)

The conferees expect the Interstate Commerce Commission to use normal reprogramming procedures should it propose to deviate in any way from the staffing allocations or by more than five percent from the funding allocations listed above.

Panama Canal Commission

OPERATING EXPENSES

Limits funds for official reception and representation expenses of the Secretary to $1,000 instead of $5,000 as proposed by the House.

Appropriates $400,284,000 as proposed by the Senate instead of $401,284,000 as proposed by the House.

The conference agreement also deletes language proposed by the Senate requiring transfer of capital investment interest to the General fund.

Capital Outlay

Provides for the purchase of 44 passenger motor vehicles as proposed by the Senate instead of 47 passenger motor vehicles as proposed by the House.

Appropriates $25,500,000 as proposed by the Senate instead of $26,500,000 as proposed by the House.

Department of the Treasury

Office of the Secretary

Investment in Fund Anticipation Notes

Appropriates $33,500,000 as proposed by the Senate instead of $35,500,000 as proposed by the House.

UNITED STATES RAILWAY ASSOCIATION

ADMINISTRATIVE EXPENSES

Appropriates $2,400,000 as proposed by the Senate instead of $2,100,000 as proposed by the House.

TITLE III—GENERAL PROVISIONS

Restores House language prohibiting the use of funds for the planning or implementation of any change in the current federal status of the Transportation Systems Center.

Prohibits funds for salaries and expenses of more than 138 political appointees in The Department of Transportation instead of 105 political appointees as proposed by the House.

Limits funds for the Department of Transportation for expenses of advisory committees to $1,700,000 instead of $1,000,000 as proposed by the House.

The conferees have deleted the statutory requirement for letters of intent for Seattle, Los Angeles and Miami. However, the conference agreement includes languages requiring the Secretary to commence negotiations with appropriate local authorities to execute full funding contracts for Seattle, Los Angeles and Miami based upon past-years' funding and the available fiscal year 1986 funding identified elsewhere in the statement of the managers. Future years' funding will be considered in subsequent appropriation Acts. Such contracts shall provide for completion of these projects according to the following distribution:

Total Federal funding

Project	*Amount*
Los Angeles, MOS 1	$429,000,000
Miami, DCM (north [illegible] south legs)	180,000,000
Seattle, bus tunnel	175,000,000

In directing the Secretary to enter into negotiations of full funding contracts, the conferees expect that at least the following conditions will be included in such contracts. Each contract shall provide for a stable and reliable financial plan, agreed upon by both parties. The financial plan required should also identify actions to be taken if revenue forecasts prove to be inadequate with reference to capital and operating costs.

In setting a limit in UMTA's financial participation in these projects, the conferees do not intend to include cost overruns in excess of agreed upon extraordinary costs under the full funding contracts. The contracts shall contain language to provide that such cost overruns will be paid for from non-federal sources of funds. Also, assurances should be provided for adequate bus operations to support each system and other transit needs.

The conferees fully expect the Secretary and the designated cities to reach agreement within the 90-day time limit. This deadline may only be extended upon agreement by both parties. If the deadline is not met, the conferees expect the parties to report to the House and Senate Committees on Appropriations on the reason for any delays and to continue reporting on the status of the negotiations at regular intervals until each contract is executed.

In the absence of good faith negotiations by either party, the conferees intend to revisit the necessity for further legislative action regarding full funding contracts for these three projects.

Restores House language requiring the Urban Mass Transportation Administration to enter into a contract with the Southern California Rapid Transit District to conduct a study of the potential methane gas risks relating to the proposed alignment of the Metro Rail Project beyond the Minimum Operable Segment, MOS-1. An environmental impact statement (EIS) must be prepared in accordance with the National Environmental Policy Act and UMTA procedures. In addition to the already completed EIS, the Southern California Rapid Transit District must assess the geological risks of the project and methods for mitigating them. Such assessment must be conducted according to the language outlined in the resolution.

Restores House language providing that tolls collected for motor vehicles on any bridge connecting the borough of Brooklyn, New York, and Staten Island, New York, shall only be collected for those vehicles exiting for such bridge in Staten Island.

Inserts language proposed by the Senate allowing the State of Wyoming to conduct a 2-year demonstration project to determine the effects on the Interstate system of trucks that exceed the 80,000 pounds gross vehicle weight limit.

The conferees expect that after the completion of the demonstration project, the State of Wyoming will transmit to the Secretary of Transportation any study which the State of Wyoming conducts regarding such demonstration project. Within 30 months after the date of enactment of the accompanying resolution, the Secretary of Transportation shall submit to the Congress an evaluation of such demonstration project. Such evaluation shall include an assessment of the safety performance of such vehicles, and the effects of such vehicles on the condition of the highways over which they were operated.

Inserts language proposed by the Senate exempting funds received by a recipient of funds under section 18 pursuant to a service agreement with a State or local social service agency or a private social service organization from the definition of the term "Federal funds or revenues".

Deletes language proposed by the Senate requiring the Secretary to release all funds made available for fiscal year 1986 and prior years for grants under the contract authority authorized by section 21(a)(2)(B) of the Urban Mass Transportation Act of 1964, as amended, within 90 days.

Inserts language proposed by the Senate categorizing the proposed Belle Vernon Bypass as an open-to-traffic segment rather than an essential gap and enabling Pennsylvania to transfer an amount equivalent to the cost to complete the segment from its Interstate construction apportionment to Interstate 4R.

Inserts language proposed by the Senate requiring the United States government to indemnify any person who publishes aeronautical charts or maps under certain circumstances.

The conference agreement requires the United States to enter into agreements to indemnify the publishers of aeronautical charts or maps who incur liability for accurately depicting defective or deficient flight procedures promulgated by the Federal Aviation Administration, except where the defect or deficiency is obvious.

This section is not intended to impose a general duty on the publishers to verify independently the accuracy or safety of Federal Aviation Administration flight procedures or airways, or to imply that the publishers have the means to do so, except where there are obvious defects or deficiencies in such flight procedures or airways. It is not the conferees' intention to impose an unreasonable burden on the publisher.

The conferees have agreed to the Senate language because of the unusual conditions involved in the publication of such charts. It is therefore the intention of the conferees that this indemnification provision is not to be treated as a precedent for any other situation involving potential federal tort liability.

Inserts language proposed by the Senate permitting New York State to obligate interstate construction funds apportioned during fiscal year 1986 for both interstate construction projects and interstate substitute highway projects.

The conference agreement also includes language prohibiting the use of certain mass transportation section 9 grant funds to cover cost overruns of the Detroit central automated transit (peoplemover) system.

Inserts language proposed by the Senate disapproving the proposed deferral (D86-21) of $223,600,000 in UMTA section 3 funds for new start projects in five cities which would be distributed as follows:

Los Angeles	$129,000,000
Miami	71,500,000
San Diego	11,300,000
Jacksonville	10,000,000

Inserts language proposed by the Senate extending the term of the current United States Railway Association Chairman from 1985 to 1987 and requiring that the Chairman not have any financial relationship with any freight railroad.

Inserts language proposed by the Senate authorizing a transfer of the authority of the Maine-New Hampshire interstate bridge authority to the States of Maine and New Hampshire.

Deletes language proposed by the Senate providing a 1.6 percent reduction in "each dollar amount contained in this Act which is provided for non-defense discretionary programs and activities", excluding Panama Canal appropriations, and a reduction in transit operating assistance to $856,000,000.

Includes language increasing the State limitation for receipt of federal-aid highway emergency relief funds from $30,000,000 to $55,000,000 for grants associated with disasters that occurred in calendar year 1985.

Inserts language requiring the Secretary of Transportation to issue in the Federal Register a notice of intent to prepare an environmental impact statement (EIS) for the construction of the north and south legs of the downtown component of Metrorail in Dade County, Florida. The conferees expect the EIS for the construction of the north and south legs of the downtown component of metrorail to consider appropriate alignment options and the cost-effectiveness of each leg. In addition the conferees reiterate the language contained in House Report 99-403.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES AND EDUCATION AND RELATED AGENCIES

RATE FOR OPERATIONS

Amendment No. 9: Inserts language proposed by the Senate changing the rate for operations for the Departments of Labor, Health and Human Services and Education and Related Agencies to the rate provided in the conference report on H.R. 3424 as adopted by the House of Representatives on December 5, 1985. The House bill provided for the rate as filed in the House of Representatives on November 21, 1985.

DEFINITION OF PROGRAM AND PROJECT, AND ACTIVITY

Amendment No. 10: Inserts a provision which identifies the part of the statement of the managers entitled "Definition of Program, Project, and Activity as provided for by Public Law 99-177, the Balanced Budget and Emergency Deficit Control Act of 1985" as the report filed by the House and Senate Committees on Appropriations defining "program, project and activity" pursuant to section 252(a)(6)(D)(i)(II) of Public Law 99-177.

The House language, which was stricken by the Senate, provided for the Military Construction Appropriations Act, 1986, (H.R. 3327) at the rate specified in the conference report. The President signed H.R. 3327 into law on December 10, 1985. Therefore, the language specifying funding levels has been delated.

The following section provides the definition of "program, project, and activity" as provided for in the Balanced Budget Act and is arranged in appropriations bill order.

DEFINITION OF "PROGRAM, PROJECT, AND ACTIVITY" AS PROVIDED FOR BY PUBLIC LAW 99-177, THE BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985

The balanced budget act provides that when funds provided in annual appropriations Acts are sequestered, it shall be done from each affected program, project, and activity as set forth in the most recently enacted applicable appropriations Acts and accompanying committee reports including joint resolutions providing continuing appropriations and accompanying reports for the program, project, or activity in question.

Since most appropriations Act were already reported by the time the balanced budget legislation was considered, a special provision was included in Public Law 99-177 to allow the Appropriations Committees to define for fiscal year 1986 "programs, projects, and activities." The provision is as follows:

"The Committees on Appropriations of the House of Representatives and the Senate may, after consultation with each other, define the term program, project, and activity, and report to their respective Houses, with respect to matters within their jurisdiction, and the order issued by the President shall sequester funds in accordance with such definition."

The following report is submitted by the managers on behalf of the Committees on Appropriations to their respective Houses for the purposes of Sec. 252 (a)(1)(B)(i) and Sec. 252 (a)(6)(D)(i)(II) of Public Law 99-177:

Agriculture, Rural Development and Related Agencies During fiscal year 1986, for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177), the following information provides the definition of the term "program, project, and activity" for departments and agencies under the jurisdiction of the Agriculture, Rural Development and Related Agencies Subcommittee. The term "program, project, and activity" shall include the most specific level of budget items identified in the Agriculture, Rural Development, and Related Agencies Appropriations Act, 1986 (H.R. 3037), the House and Senate Committee reports (H. Rept. 99-211 and S. Rept. 99-137), and the conference report and accompanying joint explanatory statement of the managers of the committee of conference (H. Rept. 99-439).

In implementing the Presidential Order, departments and agencies shall apply the percentage reduction required for fiscal year 1986 pursuant to the provisions of Public Law 99-177 to all items specified in the explanatory notes submitted to the Committees on Appropriations of the House and Senate in support of the fiscal year 1986 budget estimates, as amended, for such departments and agencies, as modified by Congressional action, and in addition:

For the Agricultural Research Service the definition shall include specific research locations as identified in the explanatory notes and lines of research specifically identified in the reports of the House and Senate Appropriations Committees.

For the Soil Conservation Service the definition shall include individual flood prevention projects as identified in the explanatory notes and individual operational watershed projects as summarized in the notes.

For the Farmers Home Administration the definition shall include individual State, district and county offices.

For the Agricultural Stabilization and Conservation Service the definition shall include individual State and county offices.

DEPARTMENTS OF COMMERCE, JUSTICE, STATE, THE JUDICIARY AND RELATED AGENCIES

During the fiscal year 1986, for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177), the following information provides the definition of the term "program, projects, and activity" for departments and agencies under the jurisdiction of the Commerce, Justice, State, the Júdiciary and Related Agencies Subcommittee. The term "program, project, and activity" shall include the most specific level of budget items identified in the Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, 1986 (P.L. 99-180), the House and Senate Committee reports (H. Rept. 99-197 and S. Rept. 99-150), and the conference report and accompanying joint explanatory statement of the managers of the committee of conference (H. Rept. 99-414).

In implementing the Presidential Order, departments and agencies shall apply the percentage reduction required for fiscal year 1986 pursuant to the provisions of Public Law 99-177 to each program, project, activity and subactivity specific in the budget justification documents submitted to the Committees on Appropriations of the House and Senate in support of the fiscal year 1986 budget estimates, as amended, for such departments and agencies, as modified by Congressional action. In addition, the departments and agencies in implementing the Presidential order, shall not (1) eliminate any program, project or activity; (2) reorder priorities or funds; or (3) initiate any program, project or activity that was not funded in P.L. 99-180. However, for purposes of program extention these departments and agencies may propose reprogrammings between programs, projects, and activities pursuant to the provisions of P.L. 99-180 after they implement the reductions required under the Balanced Budget Act.

DEPARTMENT OF DEFENSE

For the purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177), the following information provides the definition of the term "program, project, and activity" for appropriations contained in the Department of Defense Appropriations Act. The term "program, project, and activity" shall include the most specific level of budget items identified in the Department of Defense Appropriations Act, 1986 (H.R. 3629), as passed the House on October 30, 1985 and as reported by the Senate on November 6, 1985, the House and Senate Appropriations Committee reports (H. Rept. 99-332 and S. Rept. 99-176 and the related classified annexes), the conference report and the accompanying joint explanatory statement of the managers of the committee of conference on the Further Continuing Resolution, 1986 (H.J. Res. 465, including the related classified annexes), and the P-1 and R-1 budget justification documents as subsequently modified by Congressional action.

In carrying out the Presidential sequestration order, the Department and agencies shall conform to the definition for "program, project, and activity" as set forth above, and in addition:

For the Military Personnel accounts, the definition shall include the appropriation accounts identified in the Department of Defense Appropriations Act, 1986, the Further Continuing Resolution, 1986 (H.J. Res. 465), and the accompanying House, Senate, and conference reports and accompanying statements of the managers, and further delineated in the program and financing schedules set forth in the Appendix to the Budget of the United States Government for fiscal year 1986, as modified by subsequent Congressional action.

For the Operation and Maintenance accounts, the definition shall include the appropriations accounts identified in the Department of Defense Appropriation Act, 1986, the Further Continuing Resolution, 1986 (H.J. Res. 465), and the accompanying House, Senate, and conference reports and the accompanying statements of the managers and further delineated in the program and financing schedules set forth in the Appendix to the Budget of the United States Government for fiscal year 1986, as modified by subsequent Congressional action.

For the National Foreign Intelligence Program, the definition shall further include the expenditure centers identified in the Congressional budget justification documents for fiscal year 1986, as modified by subsequent Congressional action.

The Department and agencies should carry forth the Presidential sequestration order in a manner that would not adversely affect or alter Congressional policies and priorities established for the Department of Defense and related agencies.

DISTRICT OF COLUMBIA

For purposes of sequestering new budget authority for Federal funds provided in the District of Columbia Appropriations Act, 1986 (H.R. 3067) under the terms prescribed in the Balanced Budget and Emergency Deficit Control Act of 1985, Public Law 99-177, the term "program, project and activity" shall be defined as any items specifically identified in written material set forth in enacted appropriations Acts and accompanying committee reports, including joint resolutions providing continuing appropriations and committee reports accompanying Acts referred to in such resolutions.

ENERGY AND WATER DEVELOPMENT

During fiscal year 1986, for purposes of section 252 of Public Law 99-177, the Balanced Budget and Emergency Deficit Control Act of 1985, "program, project and activity" as related to the Energy and Water Development Appropriation Act, 1986 (P.L. 99-141) and subsequent continuing resolutions for fiscal year 1986 affecting Energy and Water Development program, shall be defined for the purposes of deficit reduction and sequestration to include items in the fiscal year 1986 budget submission of the President as subsequntly altered, modified or changed by Congressional action and identified in the Energy and Water Development Appropriations Act, 1986, House and Senate committee reports (H. Rept. 99-195 and S. Rept. 99-110), the conference report and accompanying joint explanatory statement of the managers of the committee of conference (H. Rept. 99-307).

It is the intention that, for purposes of the Balanced Budget Act, each of the programs, projects and activities, as defined above, shall be appropriately funded and subsequently all reductions shall be made proportionately by applying the same reduction percentage as the percentage by which the account is reduced overall. For the purpose of program execution, it is not intended that normal reprogramming between programs, projects and activities necessitated by unforeseen circumstances beyond the control of the agency or required flexibility for normal operation and maintenance, or needed for the efficient prosecution and completion of scheduled work, or for other programmatic needs be precluded. In carrying out the Presidential Order, the agencies shall apply this definition and shall include additionally any and all individual items or line items listed, discussed, described, included in or in any way identified or referred to in narrative or tabular documentation or references including the supporting justification material submitted by the agencies. It is not intended that this be used (1) to eliminate programs, projects or activities, (2) to disproportionatley reduce personnel, (3) to otherwise reorder funds or priorities, or (4) to initiate unfunded new programs, projects or activities. It is also the intention that reductions apply to budget authority after the normal application of general reductions and savings and slippage.

FOREIGN ASSISTANCE AND RELATED PROGRAMS

For the purpose of the Foreign Assistance and Related Programs Appropriations Act, (H.R. 3228) "program, project, and activity" shall be defined at the appropriations Act account level and shall include all appropriations Act earmarks, ceilings, and limitations with the exception that for the following accounts: Economic Support Fund; Military Assistance; and, Foreign Military Credit Sales; "program, project, and activity" shall also be considered to include country, regional, and central program level funding within each such account, for the functional development assistance accounts of the Agency for International Development "program, project, and activity" shall also be considered to include central program level funding, either as (1) justified to the Congress, or (2) allocated by the Executive Bransh in accordance with a report, to be provided to the Committees on Appropriations within thirty days of enactment of a Foreign Assistance and Related Programs Appropriations Act or of enactment of a continuing resolution containing funding for these programs for the balance of the fiscal year, as requried by Sec. 653(a) of the Foreign Assistance Act of 1961, as amended, whichever is the more recent action. In addition, no "program, project, or activity", which has been justified to the Congress may be eliminated through the sequestering process.

HUD-INDEPENDENT AGENCIES

During the fiscal year 1986, for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985, (Public Law 99-177), the following information provides the definition of the term "program, project and activity" for departments and agencies under the jurisdiction of HUD-Independent Agencies Subcommittee. The term "program, project and activity" shall include the most specific level of budget items identified in the Housing and Urban Development-Independent Agencies Appropriations Act, 1986 (Public Law 99-160), the House and Senate Committee reports (H. Rept. 99-212 and S. Rept. 99-129), and the conference report and accompanying joint explanatory statement of the managers of the committee of conference (H. Rept. 99-363).

In implementing the Presidential Order, departments and agencies shall apply the percentage reduction required for fiscal year 1986 pursuant to the provisions of Public Law 99-177 to each program, project, activity and subactivity contained in the budget justification documents submitted to the Committees on Appropriations of the House and Senate in support of the fiscal year 1986 budget estimates, as amended, for such departments and agencies as have been subsequently altered, modified or changed by Congressional action identified by the aforementioned acts, resolutions and reports. Further, it is intended that in implementing the Presidential Order, (1) no program, project or activity should be eliminated, (2) no re-ordering of funds or priorities occur, and (3) no unfunded program, project or activity be initiated. However, for the purposes of program execution, it is not intended that normal reprogramming between programs, projects and activities be precluded *after* reductions required under the Balanced Budget Act are implemented.

INTERIOR AND RELATED AGENCIES

As provided for by Section 252(a)(6)(D)(i)(II) of Public Law 99-177 and for the purposes of a President Order issued pursuant to section 252 of said Act, the term "program, project, and activity" for items under the jurisdiction of the Appropriations Subcommittees on Interior and Related Agencies of the House of Representatives and the Senate is defined as (1) any item specifically identified in tables or written material set forth in the Interior and Related Agencies Appropriations Act, 1986 (H.R. 3011) and accompanying committee reports (H. Rept. 99-205 and S. Rept. 99-141), and the joint resolution providing continuing appropriations (H.J. Res. 465) and the conference report and accompanying joint explanatory statement of the managers of the committees of conference; (2) any Government-owned or Government-operated facility, and (3) management units, such as national parks, national forests, fish hatcheries, wildlife refuges and the like, for which funds are provided in fiscal year 1986.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES AND EDUCATION AND RELATED AGENCIES

During fiscal year 1986, for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177), the following information provides the definition of the term "program, project and activity" for departments and agencies under the jurisdiction of the Labor, Health and Human Services, and Education and Related Agencies Subcommittee. The term "program, project and activity" shall include the most specific level of budget items identified in Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1986 (Public Law 99-178), the House and Senate Committee reports (H. Rept. 99-289 and S. Rept. 99-151), the conference report and accompanying joint explanatory statement of the managers of the committee of conference (H. Rept. 99-402) and the table inserted on pages H10915 through H10940 of the Congressional Record of December 5, 1985.

LEGISLATIVE BRANCH

For purposes of sequestering new budget authority and reducing obligation limitations for funds provided in the Legislative Branch Appropriations Act, 1986 (Public Law 99-151), under the terms prescribed in the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177), the term "program, project, and activity" shall be synonomous with each appropriation account in the Act. Thus, the base which each sequestration or reduction is taken shall be the appropriation account specified in the Act. The sequestration and reduction so ordered will be administered by each Congressional operation or agency as follows: in the case of items for the House of Representatives and Joint Items disbursed by the House of Representatives, the Clerk of the House; in each case of items for the Senate and Joint Items disbursed by the Senate, by the Secretary of the Senate; in the case of the Library of Congress, including the Congressional Research Service, by the Librarian of Congress; and the heads of each of the following: Architect of the Capitol; Office of Technology Assessment; Congressional Budget Office; Government Printing Office; Botanical Garden; Copyright Royalty Tribunal; General Accounting Office; and the Railroad Accounting Principles Board. In administering such sequestrations and reductions, the normal reprogramming procedures of the House and Senate Committees on Appropriations shall apply.

MILITARY CONSTRUCTION

For the purposes of the Military Construction Appropriations for fiscal year 1986 the term "program, project and activity" is defined as any item identified as a project activity or line item listed in the conference report and joint explanatory statement of the managers (H. Rept. 99-380) and reflected in the table inserted on pages H10336 through H10380 of the CONGRESSIONAL RECORD of November 20, 1985. It is also the intention that sequestration apply to budget authority after the application of the general reductions shown in the tables accompanying the Military Construction Appropriations conference report.

TRANSPORTATION AND RELATED AGENCIES

For purposes of section 252(a)(6)(D)(i)(II) of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177), with respect to appropriations contained in the Department of Transportation and Related Agencies Appropriation Act, 1986 (H.R. 3244) the term "program, project, and activity" shall mean any item for which a dollar amount is contained in an appropriation Act (including joint resolutions providing continuing appropriations), accompanying reports of the House and Senate Committee on Appropriations (H. Rept. 99-256 and S. Rept. 99-152, and accompanying conference reports and joint explanatory statements of the committe of conference. This definition shall apply to all programs for which new budget (obligational) authority is provided, as well as to Discretionary grants, Urban Mass Transportation Administration and Interstate transfer grants-highways, Federal Highway Administration. In implementing the Presidential Order, departments and agencies shall apply the percentage reduction required for fiscal year 1986 pursuant to the provisions of Public Law 99-177 to funds appropriated for facilities and equipment, Federal Aviation Administration and for Acquisition, construction, and improvements, Coast Guard, equally to each "budget item" that is listed under said accounts in the budget justifications submitted to the House and Senate Committees on Appropriations as modified by subsequent appropriation Acts and accompanying committee reports, conference reports, or joint explanatory statements of the committee of conference.

TREASURY, POSTAL SERVICE AND GENERAL GOVERNMENT

During fiscal year 1986, for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177), the following information provides the definition of the term "program, project and activity" for departments and agencies under the jurisdiction of the Treasury, Postal Service and General Government Subcommittee. The term "program, project and activity" shall include the most specific level of budget items identified in the Treasury, Postal Service and General Government Appropriations Act, 1986 (H.R. 3036), the House and Senate committee reports (H. Rept. 99-210 and S. Rept. 99-133), and the conference report and accompanying joint explanatory statement of the managers of the committee of conference (H. Rept. 99-349). (Under the above definition, the Federal Buildings Fund, the Bureau of Engraving and Printing Fund and other intragovernmental funds are exempt under section 255(g)(1) of Public Law 99-177.)

TREASURY, POSTAL SERVICE AND GENERAL GOVERNMENT

Amendment No. 11: Restores subsection letter (i) as proposed by the House.

Amendment No. 12: Inserts language proposed by the Senate which makes a technical change by inserting the words "and the Senate". The Senate passed the Conference Report on H.R. 3036 on November 7, the same day the Conference Report passed the House.

Amendment No. 13: Inserts a provision proposed by the Senate amended to appropriate $1,065,000,000 for processing tax returns by the Internal Revenue Service of $1,019,391,000 as proposed by the Senate and $1,103,041,000 as proposed by the House. This provision also appropriates $1,419,451,000 for the examinations and appeals activity of the Internal Revenue Service and $748,000,000 for Payment to the Postal Service Fund as proposed by the Senate. The Conferees understand that the Administration will not request a supplemental for the revenue forgone subsidy. The Conferees direct the Postal Service to meet the liabilities of the former Post Office Department to the Employees' Compensation Fund.

The Conferees direct the Secretary of the Treasury to study the feasibility of transfering jurisdiction over Customs Bonded Warehouses used exclusively for the storage of imported alcohol beverages to ATF, and to report its findings to the Committees by March 1, 1986.

FOREIGN ASSISTANCE AND RELATED PROGRAMS

Amendment No. 14: Provides for funding for foreign assistance programs for fiscal year 1986. The amendment inserts the conference agreement for Foreign Assistance and Related Programs for fiscal year 1986. House language would have provided for foreign assistance programs at the level and terms and conditions of H.R. 3228 as reported to the House of Representatives on August 1, 1985 and modified by H.J. Resolution 465. Senate language would have provided for similar programs contained in S. 1816 as reported to the Senate on October 31, 1985 and modified by H.J. Resolution 465.

A summary of the title totals of the bill follows:

	FY 1986 estimates	House	Senate	Conference
Title I—MULTILATERAL ECONOMIC ASSISTANCE				
Contributions to International Financial Institutions	1,347,623,934	1,293,409,287	[illegible]	1,193,847,240
International organizations and programs	196,211,000	[illegible]	[illegible]	277,922,475
Total, contribution for Multilateral Economic Assistance	1,543,834,934	1,591,774,087	1,104,333,886	1,471,769,715
TITLE II—BILATERAL ECONOMIC ASSISTANCE				
Bilateral Development Assistance	2,7867,407,000	2,662,342,530	2,818,136,000	2,717,060,730
Economic support fund	4,024,000,000	3,689,386,666	3,745,000,000	[illegible]
Total, Bilateral Economic Assistance	6,791,407,000	6,351,629,196	6,563,136,000	6,417,060,730
TITLE III—MILITARY ASSISTANCE				
Military Assistance	[illegible]	764,648,000	[illegible]	[illegible]
Foreign Military Credit Sales	5,655,000,000	5,058,983,333	5,371,000,000	5,190,000,000
Other	65,650,000	54,489,500	106,221,000	[illegible]
Total, Military Assistance Programs	6,697,000,000	5,878,120,833	6,282,321,000	6,026,489,500
TITLE IV—EXPORT-IMPORT BANK OF THE UNITED STATES				
Budget authority effect of Ex-Im limitations		783,879,167	[illegible]	1,110,000,000
Total NBOA (including Ex-Im)	15,032,241,934	14,605,403,283	15,749,790,886	15,025,319,945

TITLE I
MULTILATERAL ECONOMIC ASSISTANCE

The following table shows the conference agreement for Title I, Multilateral Economic Assistance:

	FY 1986 estimates	House	Senate	Conference
TITLE I—MULTILATERAL ECONOMIC ASSISTANCE				
FUNDS APPROPRIATED TO THE PRESIDENT				
International Financial Institutions				
Contribution to the International Bank for Reconstruction and Development.				
Paid-in capital	182,870,597	151,782,596	109,720,549	109,720,549
Contribution to the International Development Association (IBA VI)	750,000,000	750,000,000	375,000,000	[illegible]
International Finance Corporation	35,033,000	29,077,390	35,033,000	29,077,390
Contribution to the Special Facility for Sub Saharan Africa				75,000,000
Contribution to the Inter-American Development Bank.				
Fund for special operations	72,500,000	72,500,000	40,000,000	[illegible]
Inter-regional paid-capital	58,000,983	58,000,983	[illegible]	[illegible]
Inter-American Investment Corporation	13,000,000	11,700,000	[illegible]	11,700,000
Contribution to the Asian Development Bank.				
Paid-in capital	13,232,676	11,989,408	13,232,676	11,909,408
Development fund	130,000,000	[illegible]	[illegible]	[illegible]

	[redacted]	[redacted]	[redacted]	[redacted]
Contribution to the African Development Fund	[redacted]	[redacted]	[redacted]	[redacted]
Contribution to the African Development Bank:				
Paid-in capital	17,986,678	16,188,910	17,986,678	16,188,910
[redacted]	11,347,623,934	1,293,409,287	816,973,886	1,193,847,240
Department of State				
International organizations and programs	196,211,000	298,364,000	287,360,000	277,922,475
[redacted]	1,543,834,934	1,591,774,087	1,104,333,886	1,471,769,715

SPECIAL FACILITY FOR SUB-SAHARAN AFRICA

The Conferees agree to provide $75,000,000 for the Special Facility for Sub-Saharan Africa under Title I, Multilateral Economic Assistance. The House had originally funded the contribution to this facility under the Economic Support Fund in Title II. The Senate had provided no funding for the facility.

ASIAN DEVELOPMENT BANK

The Conferees agree that support of the Asian Development Bank will be discontinued if the Republic of China (Taiwan) is prevented from remaining as a full member of the Bank. Its status and designation within the Asian Development Bank must remain unaltered notwithstanding how the issue of the People's Republic of China's application for membership is finally determined.

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

The following table shows the conference agreement for the International Organizations and Programs account.

Organization	*Conference Agreement*
UNDP	$148,500,000
UNICEF	48,150,000
World Food Program	1,900,000
U.N. Capital Development Fund	[redacted]
U.N. Decade for Women	[redacted]
International Convention and Scientific Organization Contributions	1,282,500
World Meteorological Organization Voluntary cooperation	1,800,000
International Atomic Energy Agency	17,715,000
U.N. Environment Program	9,000,000
U.N. Education and Training Program for South Africa	900,000
UNDP Trust Fund to Combat Poverty and Hunger in Africa	1,429,975
Institute for Namibia	225,000
U.N. Trust Fund for South Africa	0
Convention on International Trade in Endangered Species	180,000
UNIDO Investment Promotion Service	0
U.N. Fellowship Program	225,000
World Heritage Fund	250,000
U.N. Voluntary Fund for Victims of Torture	90,000
Center on Human Settlements	400,000
International Fund for Agricultural Development	30,000,000
Organization of American States	14,725,000
	$277,922,475

INTERNATIONAL FUND FOR AGRICULTURAL DEVELOPMENT

The House and Senate versions of the Continuing Resolution each provided $50 million in FY 1986 for the International Fund for Agricultural Development (IFAD). This amount was for a U.S. contribution to IFAD's Second Replenishment and, in the House version, to IFAD's Special Program for Africa as well.

The Conferees agree to provide $30 million for an FY 1986 contribution to IFAD's Second Replenishment, without prejudice to a contribution to IFAD's Special Program for Africa. It is noted that since U.S. participation in IFAD is authorized under Section 103 of the Foreign Assistance Act, funds may be made available, under established procedures, from the Agriculture, rural development and nutrition account.

TITLE II

BILATERAL ECONOMIC ASSISTANCE

The following table shows the conference agreement for Title II, Bilateral Economic Assistance:

	[redacted]	[redacted]	Senate	[redacted]
TITLE II—BILATERAL ECONOMIC ASSISTANCE				
FUNDS APPROPRIATED TO THE PRESIDENT				
Agency for International Development				
Agriculture, rural development, and nutrition, Development Assistance	792,352,000	[redacted]	[redacted]	[redacted]
Population, Development Assistance	250,017,000	[redacted]	[redacted]	[redacted]
Health, Development Assistance	146,427,000	200,824,200	[redacted]	200,824,200
Child Survival Fund		[redacted]	[redacted]	[redacted]
[redacted]	183,533,000	169,949,700	[redacted]	169,949,700
Energy and selected development activities, Development Assistance	210,071,000	174,358,930	[redacted]	174,358,930
Science and technology, Development Assistance	[redacted]	10,790,000	13,000,000	10,790,000
Private sector revolving fund (by transfer)	(20,000,000)	(18,000,000)	(18,000,000)	(18,000,000)
Subtotal, functional development assistance	1,595,400,000	1,519,418,730	1,623,000,000	1,530,918,730
American schools and hospitals abroad	[redacted]	[redacted]	[redacted]	35,000,000
International disaster assistance	25,000,000	[redacted]	[redacted]	22,500,000
[redacted] development program	[redacted]	87,750,000	[redacted]	[redacted]
Overseas training and special development activities (foreign currency program)				
Payment to the Foreign Service Retirement and Disability Fund	43,122,000	43,122,000	43,122,000	43,122,000
AID deobligate/reobligate reappropriation		5,000,000	[redacted]	5,000,000
Deobligate and rescind Surian termination account		−26,200,000		
Operating expenses of the Agency for International Development	393,700,000	[redacted]	372,200,000	376,350,000
Operating expenses of the Office of the Inspector General			25,200,000	21,050,000
Trade credit insurance program	(200,000,000)	(200,000,000)	(300,000,000)	(250,000,000)
Trade and development	20,034,000	[redacted]	20,034,000	18,900,000
Housing and other credit guaranty programs:				
Loan reserve				
(Limitation on guaranteed loans)	(45,000,000)	(144,000,000)	(160,000,000)	(152,000,000)
Subtotal, Agency for International Development	2,167,756,000	2,084,490,730	2,229,056,000	2,133,340,730
Economic support fund	4,024,000,000	3,689,286,666	3,745,000,000	3,700,000,000
Total, Agency for International Development	6,191,756,000	5,773,777,396	5,974,056,000	5,833,340,730
African Development Foundation				
Appropriations [1]	1,012,000	4,000,000	1,012,000	3,872,000

	FY 1986 estimates	House	Senate	Conference
Inter-American Foundation				
Appropriation	8,000,000	10,792,800	11,969,000	11,969,000
Overseas Private Investment Corporation				
(Limitation on direct loans)	(15,000,000)	(13,500,000)	(15,000,000)	(14,250,000
(Limitation on guaranteed loans)	(150,000,000)	(135,000,000)	(150,000,000)	(142,500,000)
Total: Funds appropriated to the President	6,201,568,000	5,788,570,196	5,987,037,000	5,849,181,730
Independent Agency				
Peace Corps	125,200,000	[illegible]	130,000,000	130,000,000
Department of State				
International narcotics control	57,709,000	57,529,000	57,529,000	57,529,000
Migration and refugee assistance	337,930,000	337,930,000	344,730,000	335,930,000
Anti-terrorism assistance	32,000,000	5,000,000	9,840,000	7,420,000
Peacekeeping operations	37,000,000	34,000,000	34,000,000	34,000,000
Total, Department of State	464,639,000	434,459,000	446,099,000	434,879,000
Total, Bilateral Economic Assistance	6,791,407,000	6,351,629,196	6,563,136,000	6,417,060,730

[1] African Development Foundation had additional funds available to be obligated in FY 1985 due to carry over provisions in the FY Continuing Resolution and no year Sahel programs funds.

HEALTH, DEVELOPMENT ASSISTANCE AND CHILD SURVIVAL FUND

The Conferees agree to fund Health, Development Assistance at the House proposed level of $200,824,200 instead of the Senate level of $205,000,000. The Conferees agree to earmark $12,500,000 within the Health, Development Assistance account for child survival programs and activities instead of the original Senate earmark of $25,000,000.

The Conferees also agree to fund the Child Survival Fund at the Senate proposed level of $25,000,000 instead of the House proposed level of $22,500,000. The Conferees further agree to transfer $12,500,000 in prior year unobligated funds from the amount for Lebanon in the Economic Support Fund to the Child Survival Fund.

AMERICAN SCHOOLS AND HOSPITALS ABROAD

The Conferees have been favorably impressed by the programs of the American University of Beirut and Project ORBIS. The American University of Beirut, particularly, has played an important role in an area of the world which has been constantly torn by strife over the last ten years. The Conferees are concerned that these two programs be sufficiently funded and strongly urge the Agency for International Development to fully fund their requests for assistance.

OPERATING EXPENSES OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT

IDCA

The Conferees agree to the Senate provision prohibiting the use of AID operating expenses to pay for the operating expenses of the International Development Cooperation Agency. This provision recognizes that relevant IDCA functions can continue to be carried out by the AID Administrator pursuant to existing delegations of authority. This provision does not repeal or otherwise affect existing authorization legislation relating to IDCA.

ACCOUNT CHANGES

The Conferees agree that for the purpose of funds made available by this act for FY 1986, the Agency for International Development may charge program-related overseas in-country travel to the relevant program (as opposed to the operating expenses) account. Similarly, for FY 1986, the cost of foreign service nationals who carry out program-related functions may also be charged against the relevant program account.

AID INSPECTOR GENERAL

The Conferees agree to provide a new account for the Inspector General of the Agency for International Development. The Conferees agree to include a provision allowing for the transfer of some funds from AID operating expenses to the Inspector General's office if necessary. Additionally, within the amount provided for the Inspector General, the Conferees agree to provide $1,600,000 for security purposes.

AID BUREAU OF EXTERNAL AFFAIRS

The Conferees agree to drop Senate language which would have limited the number of personnel assigned to AID's Bureau of External Affairs office, to nineteen. The Conferees direct that the Agency for International Development reduce personnel in that office to a level of thirty-four.

NATIONAL UNIVERSITY IN COSTA RICA

The Conferees agree to drop the Senate language under the Education and Human Resources Development account, which would have earmarked $340,000 to support a scholarship program at the National University in Costa Rica. The Conferees also have agreed to drop a provision under the Economic Support Fund account which would have earmarked $840,000 equivalent in Costa Rican currency for the same project. The Conferees agree however, that this program deserves to be closely considered for funding by AID. This program would support the very worthwhile goal of providing scholarships for young Costa Ricans in the United States as called for by the Kissinger Commission.

LIMITATION ON DEVELOPMENT ASSISTANCE IN CENTRAL AMERICA

The Conferees have set a limitation on development assistance activities in Central America at a total of not more than $250,000,000. Additional funds, if required, may be requested through the notification process of the Committees on Appropriations.

The Conferees strongly support development assistance programs in Sub-Saharan Africa, a region which is relatively worse off by most demographic and economic measures than several other regions. The Conferees strongly encourage the Administration to fund these programs at their full 1986 budget request levels.

PRIVATE AND VOLUNTARY ORGANIZATIONS

The Conferees agree that it is appropriate to require that private and voluntary organizations obtain a minimum of twenty percent of their funding from private, non-governmental sources in order to be eligible for participation in programs funded under the Agency for International Development. Further, the Conferees agree that, in implementing this twenty percent rule for the private and voluntary agencies, AID shall not include in the determination of the amount of Government support for an organization the value of commodities (including related transportation) made available to that organization for overseas distribution. It is also the intent of the Conferees that the value of contracts for services and grants for AID-initiated activities shall not be included in determining Government support for such an organization. Lastly, it is further the intent of the Conferees that any application of this rule not interrupt fiscal year 1986 support for ongoing PVO programs of assistance for which Congress has been notified.

ECONOMIC SUPPORT FUND

COMMODITY IMPORT PROGRAM

The Conferees agree to earmark not less than $200 million for Commodity Import Program activities in Egypt during FY 1986 as proposed by the Senate. This proposal can include the activities being financed under the ongoing Commodity Import Program as well as those financed by the newly proposed Private Enterprise Commodity Import Program.

GUATEMALA

In agreeing to remove the ceiling on the amount of Economic Support Fund assistance which can be made available for Guatemala, the Conferees are acting in light of the continuing progress Guatemala is making toward democracy and respect for human rights. The selection of a Congress and a civilian president in free and fair elections is a significant step forward in constitutional government in Guatemala. The Conferees will continue to watch closely the human rights situation in Guatemala. However, at this time, the Conferees believe that the United States should move quickly to support Guatemala's decisive steps toward democracy and to support the efforts of the newly elected president to address the serious economic difficulties confronting that nation.

PHILIPPINES

The Conferees agree to provide FY 1986 assistance to the Philippines, as follows:

	House	Senate	Conference agreement
ESF	(1)	$110,000,000	$125,000,000
MAP	$25,000,000	50,000,000	40,000,000
FMS	0	20,000,000	15,000,000

[1] No amount specified

TIED AID CREDIT PROGRAM

The FY 1986 International Security and Development Cooperation Act (P. L. (99-83) contains and earmark of $50,000,000 in Economic Support Fund monies to carry out a tied aid credit program for U.S. exports. Since the passage of this Act, the Administration has proposed a $300 million "war chest" to combat unfair trade practices. Therefore, in order to consider both issues, the Conferees agree that obligation of funds for the tied aid credit program be subject to the normal notification process.

SOUTHERN AFRICA REGIONAL PROGRAM

Under existing law, $30 million of the funds made available under the Economic Support Fund are earmarked for Southern Africa regional programs. That same law also provides that 50 percent of this earmark shall be allocated for sector projects supported by the Southern Africa Development Coordination Conference (SADCC). SADCC is a regional organization comprised of the nine so-called "front line" states. The Conferees support development assistance and Economic Support Fund projects in Southern Africa, but are concerned that this particular provision of the law may result in U.S. foreign assistance financing of projects in Angola and Mozambique which would otherwise be prohibited by law. The Conferees agree that this particular program will be examined carefully.

LEBANON

The Conferees have included a provision which redistributes funds previously appropriated but currently unobligated for Lebanon. This provision transfers $5,350,000 to UNICEF, $12,500,000 to the Child Survival Fund, and $5,000,000 to International Narcotics Control. Following this transfer, approximate $20,000,000 remains in this fund. The Conferees have included language which tightly restricts the use of these remaining funds solely for Lebanon as proposed by the Senate.

SYRIA

The Conferees agree to deobligate and rescind $11,200,000 from the Syria Termination Account instead of the $26,200,000 proposed by the House. The Conferees agree that the $15,000,000 remaining in the account be used only to pay costs associated with the termination of the Syrian economic assistance program in accordance with the original Senate proposal.

TITLE II

MILITARY ASSISTANCE

The following table shows the conference agreement for Title III, Military Assistance:

	FY 1986 Estimates 22	House 73	Senate 74	Conference 75
TITLE III—MILITARY ASSISTANCE				
Funds appropriated to the President				
Military Assistance	976,350,000	764,648,000	855,100,000	782,000,000
International Military Education and Training	65,650,000	54,489,500	56,221,000	54,489,500
Foreign Military Credit Sales:				
Direct credits and forgiven loans	5,655,000,000	5,058,983,333	5,371,000,000	5,190,000,000
Special Defense Acquisition Fund (limitation on obligations)	(345,000,000)	(325,000,000)	(345,000,000	(325,000,000)
Guarantee Reserve Fund				
Total Military Assistance Programs	6,697,000,000	5,878,120,833	6,282,321,000	6,026,489,500

GREECE AND TURKEY

The Conferees direct that military assistance for Greece and Turkey be provided only in accordance with a seven to ten ratio. The Conferees have earmarked military assistance to Greece and Turkey at a level which reflects both the seven to ten ratio and a ten percent reduction from the levels provided in the Senate bill as follows: $450,000,000; Turkey $427,852,000; Military Assistance programs—$215,000,000.

	FMS	MAP	Total
Greece	$450,000,000	0	$450,000,000
Turkey	427,852,000	215,000,000	642,852,000

TITLE IV—EXPORT-IMPORT BANK OF THE UNITED STATES

The following table shows the conference agreement for Title IV, Export-Import Bank:

TITLE IV—EXPORT BANK OF THE UNITED STATES

Limitation of Program Activity:				
(Limitation on direct loans)		(783,879,167)	(1,800,000,000)	(1,110,000,000)
(Limitation on guaranteed loans)	(12,000,000,000)	(12,000,000,000)	(12,000,000,000)	(12,000,000,000)
Limitation on administrative expenses	(18,357,000)	(18,000,000)	(18,000,000)	(18,357,000)
Total Export-Import Bank of the United States (limitations on use of corporate funds	(12,018,357,000)	(12,801,879,167)	(13,818,000,000)	(13,128,357,000)

TITLE V—GENERAL PROVISIONS

DRUG CONTROL

The Conferees agree to include a modified version of a House provision relating to drug control. The House provision was modified by deleting Colombia from the General Provision, section 537, which required that 50 percent of the funds (excluding International Narcotics Control funds) for Colombia, Jamaica and Peru be withheld from obligation unless the President determines and reports to Congress, that these Governments are "sufficiently responsive to the United States Government concerns on drug control and that the added expenditures of the funds for that country are in the national interest of the United States".

The Conferees removed Colombia from the restriction because of the progress that country has made during the past year in its drug control program. The Conferees believe that these efforts should be accelerated in order to avoid U.S. foreign assistance restrictions in the future.

The Conferees agree to retain the second section of this provision which placed additional requirements on the release of funds to Bolivia.

DEOBLIGATION-REOBLIGATION AUTHORITY

The Conferees agree to provide deob-reob authority to the Agency for International Development. Funds which are deobligated remain available for reobligation for one calendar year from the date of deobligation.

CESSATION OF ASSISTANCE FOLLOWING MILITARY COUPS

The Conferees agree to Senate language which provides that funds made available under this Act may not be obligated or expended for assistance to any country whose duly elected head of government is deposed by military coup or decree. This provision is in lieu of two separate House provisions which applied this restriction to El Salvador and Guatemala. The provision agreed to covers El Salvador, Guatemala, and any other country whose duly elected head of government is deposed by military coup or decree.

Amendment No. 15: Restores subsection letter proposed by the House.

TRADE ACT—ADMINISTRATIVE COSTS

Amendment No. 16: Deletes appropriation of $4,588,000 proposed by the Senate for State administrative costs related to the Trade Act. The House resolution contained no funds for this purpose.

The conferees are concerned that some States will not have sufficient unexpended carryover funds from prior allotments under the Dislocated Workers Assistance Program to maintain ongoing levels of job retraining and support services in program year 1986. Therefore, the conferees direct that in reviewing applications submitted by States for discretionary funds the Secretary of Labor shall give first priority to those applications submitted by States with insufficient unexpended carryover funds from prior year obligations to maintain ongoing expenditure levels throughout program year 1986. This should provide the desired assistance to those States which have utilized funds provided in prior years while also maintaining the Secretary's responsibility under the Job Training Partnership Act to consider throughout the year proposals submitted by States for special projects that could otherwise not be financed. The Secretary shall report to the House and Senate Appropriations Committees on the amount of carryover funds which are available to each State under section 301(b) of the Act and if additional appropriations are necessary to maintain current program levels in all States.

FOSTER CARE—RATE OF OPERATIONS

Amendment No. 17: Inserts language proposed by the Senate which has the effect of providing the current rate of spending for certain expired sections of Title IV-E of the Social Security Act relating to foster care and adoption assistance. The House resolution contained no similar provision.

PUBLIC BROADCASTING

Amendment No. 18: Deletes reference to Corporation for Public Broadcasting proposed by the House. An appropriation of $214,000,000 for the Corporation is included in the regular appropriation Act.

Amendment No. 19: Deletes House language as proposed by the Senate. The House language reads as follows:

Sec. 105. In view of the financial crisis facing many farmers, resulting from embargoes and suspension of exports in 1973, 1974, 1975, and 1980, and failure to use the Commodity Credit Corporation for a loan program which led to a fair price from the user, the Secretary of Agriculture shall use his authority under existing law to provide for nonrecourse loans on basic agricultural commodities at such levels as will reflect a fair return to the farm producer above the cost of production, and to issue such regulations as will carry out this provision and as will provide for payment by the purchaser, rather than by appropriation, for basic commodities sold for domestic use and the Secretary of Agriculture shall issue such regulations as will enable producers of any basic agricultural commodity to produce the amount needed for domestic consumption, to maintain the pipeline, and to regain and retain by competitive sales our normal share of the world market.

The House provisions directed the Secretary to carry our existing law. The House receded to Senate position since the authority to the Secretary continues to exist.

Amendemnt No. 20: Deletes House language as proposed by the Senate. The House language reads as follows:

Sec. 106. Public Law 99-88 funded a study by the Department of Agriculture to determine the losses suffered by United States farm producers of agricultural products during the last decade as a result of embargoes on the sale of United States agricultural products and the failure to offer for sale in world markets commodities surplus to domestic needs at competitive prices, for use in determining what part of existing indebtedness of farmers should be canceled as a result of such foreign policy. Pending the completion of the study, the Secretary shall determine, on a case-by-case basis, which borrowers are unable to continue making payments of principal and interest due to embargoes or the failure to sell competitively in world trade and, thereby, qualify for an adjustment of principal and interest due to prevent bankruptcy of foreclosure, all as authorized by existing law.

Upon presentation of substantial evidence to the Secretary that a borrower qualifies, payment of principal and interest shall be suspended and the Secretary shall forego foreclosure of loans owed to the Federal Government, as authorized by law, for 12 months or until an adjustment is agreed upon. Other creditors shall be requested by the Secretary to postpone payments due on the same basis.

The House provision directed the Secretary to take action authorized by existing law. The House receded to the Senate position, since authority to do as the language directs continues to exist.

RUIDOSO AIRPORT

Amendment No. 21: Makes a technical correction to the authority included in Public Law 99-98 for the relocation of the Fort Stanton Experiment Station in order to make room for a new Ruidoso airport as proposed by the Senate.

Soil Conservation Service

WATERSHED AND FLOOD PREVENTION OPERATIONS

EMERGENCY WATERSHED PROTECTION MEASURES

Amendment No. 22: Appropriates $40,000,000 for emergency assistance to repair watersheds that were damaged by Hurricane Juan and torrential rains this fall, as proposed by the Senate. The conference agreement also amends a U.S. Code citation to clarify that rehabilitation measures are funded.

The conferees agree that there is an urgent need for supplemental funds and that these funds should be used to (a) continue to remove debris from drains, streams, and structure openings to prevent further devastating floods and the resulting hazards to life and property; (b) restore the $5,000,000 emergency contingency fund; and (c) restore the $10,000,000 operating funds that have been redirected to provide immediate emergency assistance.

FARM CREDIT ADMINISTRATION

Amendment No. 23: Provides an incerase in the limitation on administrative expenses of $9,549,000 (from assessments collected from farm credit system banks) for fiscal year 1986 as proposed by the Senate. The conference agreement also provides that the Comptroller General or his duly authorized representatives shall have access to and the right to examine all books, documents, papers, records, or other recorded information within the possession or control of the Federal land banks and Federal land bank associations, Federal intermediate credit banks and production credit associations and banks for cooperatives.

EDA BALANCES NOT DISBURSED

Amendment No. 24: Inserts language proposed by the Senate concerning the use of obligated and undisbursed funds in New York, New York, amended to include the following: similar provisions for funds for New Jersey, California, Alabama and Illinois; clarifying language concerning Red Rock Dam and Lake, Iowa; two grants totalling $8,500,000 for the Economic Development Administration; and $2,500,000 for the United States Information Agency to reimburse organizations for expenses related to international games for the handicapped. The House bill contained none of these provisions.

The conference agreement provides that obligated but undisbursed balances from the appropriations pursuant to the Local Public Works Capital Development and Investment Act of 1976 be made available to the locations and for the purposes designated in the Joint Resolution in the following amounts: (1) New York, New York, $14,100,000; (2) New Jersey, $1,069,861; (3) California, $431,012; in addition, the conferees intend that his contribution toward the South Gate project is in addition to, and not in any way in lieu of, other fiscal year 1986 EDA funds to be applied to this important project; (4) Alabama, $470,224; (5) Illinois, $819,650; the conferees intend that $400,000 will be for a grant to the Will County Local Development Company and the balance of these funds will be allocated to the Illinois and Michigan Canal Commission for the purpose of achieving the objectives set forth in establishing the Corridor, for improving economic conditions in the area, engendering long-term, sustainable economic development for the creation of permanent jobs, and to meet additional administrative demands created through the provision of these funds.

The conference agreement also includes language to facilitate activities related to an existing flood control project at Red Rock Dam and Lake, Iowa. When the Red Rock Project was established, some owners were forced to sell flowage easements and not given the opportunity to sell the land instead. This was not the policy on projects since that time. Flooding has been more frequent than anticipated and caused great loss to some owners. Selling land subject to such an easement is very difficult and it would be in the interest of both the government and the owners to purchase the remaining interest where owners desire to sell it. The appraisal of the interests in the real estate involved shall be in accordance with usual appraisal principles, recognizing the percentage of the total fair market value paid for the flowage easement rights presently owned by the United States.

The conference agreement also provides two grants for economic development assistance purposes: (1) Lexington County, South Carolina, and (2) Fort Worth Stockyards. In addition, the conferees direct that, within available funds, the Secretary of Commerce make payment as expeditiously as possible to the City of East Grand Forks, Minnesota, in connection with the City's application for assistance under title I of the Public Works and Economic Development Act as approved by the Economic Development Administration in September, 1983. This is a unique case in that the project qualifies under recently revised regulations concerning the relocation of grantees.

The conference agreement provides $2,500,000 to the United States Information Agency for reimbursement of expenses associated with the exchange of athletes, coaches and officials for international games for the handicapped held in the United States as authorized by Public Law 99-93. The agreement also provides that reimbursement for each organization conducting such games shall not exceed the total amount of necessary and reasonable expenses incurred by the organization in excess of donations and government services furnished. The organizations which are expected to apply for reimbursement and the anticipated amounts of their claims are: The XV International

Games for the Deaf (not to exceed $1,977,600); the Fifth National Amputee Championships (not to exceed $250,000); the 1985 National Cerebral Palsy/Les Autres Games (not to exceed $330,000); the Ninth Annual National Championship for Blind Athletes (not to exceed $50,000); the National Wheelchair Athletic Association (not to exceed $40,000); National Handicapped Sports and Recreation Association (not to exceed $75,000); and the International Summer Special Olympic Games (not to exceed $25,000).

The conferees are agreed that the United States Information Agency shall carefully review each claim submitted under this program and provide reimbursement directly to claimants in accordance with the provisions of Public Law 99-93 and this conference agreement. Disbursements to the qualified claimants shall be made within 30 days after claims are submitted to the United States Information Agency. The conferees are further agreed that the United States Information Agency will submit a report to the House and Senate Appropriations Committees by April 1, 1986 concerning reimbursements made under this program and quarterly thereafter to the extent that any unobligated funds remain.

INTEGRATED FLOOD OBSERVING AND WARNING SYSTEM

Amendment No. 25: Appropriates $3,000,000 for the Integrated Flood Observing and Warning System (IFLOWS) as proposed by the Senate.

DEPARTMENT OF JUSTICE—"INSIDER TRADING"

Amendment No. 26: Inserts language which prohibits the Department of Justice, for a period of six months, from implementing or adopting as a permanent rule, New Offense Example 363, providing for "insider trading" offenses with the proviso that this language shall not apply to any case pending before the U.S. Parole Commission as of the effective date of this joint resolution. This language is the same as the Senate proposal except for the addition of the proviso. The House bill did not contain any provision on this matter.

The conference agreement is not intended to change the result in any case pending before the United States Parole Commission in which an initial hearing has been held.

COMPREHENSIVE CRIME CONTROL ACT

Amendment No. 27: Deletes Sec. 111 proposed by the Senate which would have amended the Comprehensive Crime Control Act of 1984 to permit the deputizing of local law enforcement officers for Federal investigations. This provision, along with the provision in Amendment No. 28, are part of a technical corrections legislative package to the Comprehensive Crime Control Act that the authorizing committees are expected to consider in the second session of the 99th Congress.

Amendment No. 28: Deletes Sec. 112 proposed by the Senate which would have amended the Comprehensive Crime Control Act of 1984 to impose a minimum mandatory five-year prison sentence for a conviction for carrying a firearm during the commission of a serious drug offense.

COMMISSION ON THE BICENTENNIAL OF THE CONSTITUTION

Amendment No. 29: Appropriates $12,000,000 for the Commission on the Bicentennial of the Constitution, removes the limitations in current law on the number of staff and details to the Commission, and provides that the salary of the director of the Commission shall not exceed 95 percent of level I of the Executive Schedule. The Senate had proposed an appropriation of $20,000,000 and language to remove the limitations on the number of staff and details to the Commission. The House bill did not contain any provision on this matter.

LEGAL SERVICES CORPORATION

Amendment No. 30: Inserts language which prohibits unobligated balances for the Legal Services Corporation which are carried over into fiscal year 1986 either by the Corporation or by any of its recipients from being expended unless such funds are expended pursuant to the restrictions and provisions of P.L. 99-180, except that such funds may be expended for continued representation of aliens commenced prior to January 1, 1983, or as approved by the Corporation. The Senate had proposed language which would have prohibited funds appropriated to the Legal Services Corporation and made available to grantees from being expended until such grantees had expended all funds carried over from previous fiscal years unless the failure to expend such funds had been approved by the Legal Services Corporation. The House bill contained no provision on this matter.

The conferees are agreed that attorneys in local legal services programs should not be put in the position of violating a judicial decree or the Code of Professional Responsibility because of the restrictions in the conference agreement. Therefore, the conferees have included a provision in the agreement which would permit the Corporation to waive these restrictions in order to preclude either of these situations.

SMALL BUSINESS ADMINISTRATION

Amendment No. 31: Inserts language as proposed by the Senate, with a section number change, which tansfers $10,000,000 from the Disaster Loan Fund to the Salaries and Expenses account of the Small Business Administration for disaster loan making activities, including loan servicing.

NUCLEAR TRANSFERS TO CHINA

Amendment No. 32: Deletes language proposed by the Senate which would have prohibited the availability of funds for the issuance of any license for export to, or for any approval for the transfer or retransfer to, the People's Republic of China of any nuclear equipment, materials, or technology subject to the Agreement for Cooperation Between the Government of the United States of America and the Government of the People's Republic of China Concerning Peaceful Uses of Nuclear Energy, until the President certifies that standard methods of accounting and inspection have been established for verification.

DEPARTMENT OF DEFENSE—MISCELLANEOUS PROVISIONS

Amendment No. 33: Deletes Senate language requiring the Secretary of Defense, beginning on May 1, 1986, to reduce the rate of obligations from the individual military personnel accounts to insure that none will exceed the appropriation ceiling for fiscal year 1986. This provision is included in the Department of Defense Appropriation Act, 1986 set forth in amendment number 4.

Amendment No. 34: Deletes Senate language limiting Department of Defense obligations and expenditures for consultants and related services for fiscal year 1986 to $1,277,793,000. The conferees agreed to remove this provision and it is not included in amendment number 4.

Amendment No. 35: Deletes Senate language raising the limitation for emergencies and extraordinary expenses by $708,000. This issue was agreed to and is addressed in amendment number 4.

Amendment No. 36: Deletes Senate language preventing the Department of Defense from using any paint containing the chemical compound tributyltin to paint naval vessels until the Environmental Protection Agency makes a certification to the Department. This provision was agreed to and is addressed in amendment number 4.

Amendment No. 37: Deletes Senate language appropriating an additional $400,000 to the Operation and Maintenance, Army National Guard account for the environmental projects program. This addition was agreed to and is addressed in amendment number 4.

Amendment No. 38: Deletes Senate language appropriating an additional $42,400,000 to the Other Procurement, Army account for the procurement of the M-9 Armored Combat Earthmover. This issue is addressed in amendment number 4 under the Other Procurement, Army account.

Amendment No. 39: Deletes Senate language appropriating an additional $126,894,000 to the Missile Procurement, Air Force account for Titan 3407 missile procurement. This issue is addressed in amendment number 4 under the Missile Procurement, Air Force account.

Amendment No. 40: Deletes Senate language prohibiting the earmarking of Strategic Defense Initiative funds for contracts with non-U.S. contractors prior to source selection in order to meet a specific allocation of funds to any allied nation. This provision was agreed to and is addressed in amendment number 4.

Amendment No. 41: Deletes Senate language earmarking $5,000,000 for a research program to develop new and improved verification techniques to monitor compliance with a possible anti-satellite weapons agreement from the RDT&E, Air Force account. This issue was agreed to and is addressed in amendment number 4.

Amendment No. 42: Deletes Senate language earmarking $10,000,000 for the Department of Defense/Department of Energy Conventional Munitions Technology Development Program for the RDT&E, Defense Agencies account. The earmarking was adjusted and is addressed in amendment number 4.

Amendment No. 43: Deletes Senate language earmarking $10,000,000 out of the Research, Development, Test and Evaluation, Defense Agencies account for research, devlopment and acquisition of an advanced super computer. This addition was agreed to and is addressed in amendment number 4.

Amendment No. 44: Deletes Senate language requiring that funds appropriated to or for the use of the Defense Department may not be obligated or expended until they have been authorized by law but exempting the Coastal Defense Augmentation appropriation form this requirement. This provision was agreed to and is addressed in amendment number 4.

Amendment No. 45: Deletes Senate language appropriating $15,000,000 for acquisition of point air defense in Italy. This addition was agreed to and is addressed in amendment number 4.

Amendment No. 46: Deletes Senate sense of the Congress provision regarding competition for ship maintenance and repair contracts. This issue is addressed in amendment number 4 under the Operation and Maintenance, Navy account.

Amendment No. 47: Deletes Senate sense of the Senate provision to launch investigations and audits of all defense contractor billing practices to expose possible fraudulent actions. Various initiatives have been enacted in recent years to address this issue.

Amendment No. 48: Deletes Senate language adding the words "authorizing such expenditures and". This language concerns the need to enact authorizing legislation to establish a Mariner Fund and is addressed in amendment number 4.

ENERGY AND WATER DEVELOPMENT PROVISIONS

Amendment No. 49: Inserts language proposed by the Senate which amends Section 1302 of Public Law 98-181 to substitute in the first sentence "period of two years" with "period ending January 1, 1989" and conforms section number.

Amendment No. 50: Inserts language proposed by the Senate which directs the Secretary of the Army to accomplish emergency bank stabilization work at Bethel, Dillingham, and Galena, Alaska, and conforms section number.

Amendment No. 51: Inserts language proposed by the Senate which provides that the Secretary of the Army shall include as part of the non-Federal contribution for the Fairfield Vicinity Streams, California, project the cost of any work carried out by non-Federal interests on the project after December 31, 1973, and conforms section number.

FOREIGN ASSISTANCE AND RELATED PROGRAMS APPROPRIATIONS MISCELLANEOUS PROVISIONS

Amendment No. 52: Deletes a Senate provision concerning refugee situations. The Conferees agree to include the Senate language in its entirety as part of the conference agreement inserted in Amendment No. 14.

Amendment No. 53: Deletes Senate provision concerning Jordan Arms Sales notification. The Conferees agree to include the Senate language in its entirety as part of the conference agreement inserted in Amendment No. 14.

Amendment No. 54: Deletes a Senate provision concerning child immunization. The Conferees agree to include the Senate language in its entirety as part of the conference agreement inserted in Amendment No. 14.

Amendment No. 55: Deletes a Senate provision concerning Foreign Military Sales concessional loans. The Conferees agree to include the Senate language in its entirety as part of the conference agreement inserted in Amendment No. 14.

Amendment No. 56: Adds Senate language, with a new section number, concerning the denial of most-favored-nation treatment to the products of Afghanistan.

ENVIRONMENTAL PROTECTION AGENCY

Amendment No. 57: Inserts language proposed by the Senate appropriating $2,400,000,000 for construction grants, and amends the section number accordingly. To prevent serious disruption and delays to construction projects, $600,000,000 is made available immediately. These funds are to be made available and expended only under the formula and other statutory provisions in effect during fiscal year 1985, without earmarkings or setasides for specific projects. In addition, these funds are to be made available for all eligible projects and categories and shall not be limited to existing phased or segmented projects through the apportionment process or other means. The conferees expect to make the remaining $1,800,000,000 available in a subsequent appropriations Act at the earliest opportunity *after* enactment of the Clean Water Act amendments.

VETERANS ADMINISTRATION

Amendment No. 58: Inserts language proposed by the Senate transferring up to $8,000,000 to the general operating expenses appropriation from the medical care account, amended to change the section number and to delegate the authority to administer certain major construction projects to hospital directors. In providing that up to $8,000,000 of the 1986 medical care appropriation may be transferred to and merged with the 1986 general operating expenses appropriation, the conferees have received assurance from the Administrator of Veterans Affairs that the VA would reprogram to personnel compensation and benefits from other object classifications, such as equipment or maintenance and repair projects, such funds as may be necessary to support 193,941 full-time equivalent employees (FTEEs). This FTEE level does not include an estimated 589 in common services employment which must also be funded from the medical care account. Further, the VA has agreed that any funds reprogrammed would not reduce the number of patients treated, either in-house or by contract.

DELEGATION OF CERTAIN MAJOR CONSTRUCTION PROJECTS

In the conference report accompanying the 1982 HUD-Independent Agencies Appropriation Act (House Report 97-222), the Committee of Conference agreed that the nursing home care construction projects at Ann Arbor, Fresno, and Tampa would be administered by the hospital directors. The hospital directors were delegated authority to select the architect/engineer to design and/or supervise the construction of the projects. It was hoped that the experiment involving the three nursing home care units would result in more effectively and efficiently managed construction projects.

Pursuant to the conference report, the authority to administer nursing home care construction projects was delegated to the hospital directors. The projects were completed on or ahead of schedule and under budget. Further, there were very positive comments made by the hospital directors involved concerning the benefits derived from delegation during the construction process.

In fiscal year 1985, the Congress further expanded the delegation process to 21 construction projects. It was also understood that the VA had begun a modified delegation process with most other 1985 and 1986 projects. Recently, however, the conferees learned that the VA central office acted to withdraw the delegation program. The conferees do not agree with this decision. Therefore, the Committee of Conference has included language in the joint resolution to continue the delegation of selected projects.

It is the intent of the conferees that the Administrator of Veterans Affairs, in consultation with the Committees on Appropriations, choose 15 fiscal year 1985 and 10 fiscal year 1986 major construction projects to be delegated to the respective hospital directors. The terms and conditions of the delegation are to be those granted to the hospital directors for the nursing home care construction projects at Ann Arbor, Fresno, and Tampa. Those conditions are delineated as follows:

1. The hospital directors are authorized to delegate the authority further as appropriate.
2. The authority delegated includes, but is not limited to, full responsibility for supervising the site selection, design, and construction of the respective projects, and the making of monthly and final payments to contractors. The Office of Construction and the Department of Medicine and Surgery will provide advice to hospital directors regarding these projects when so requested by the hospital directors or their staffs.
3. The administration of these projects will be in compliance with all applicable statutes and regulations, including the National Fire Protection Code (which includes the National Electric Code), State codes where appropriate, and VA construction criteria. The projects should make an effort to comply with seismic standards.
4. The design will conform to the standards set out in VA handbook H 08-3, VA Construction Standards. The hospital directors may authorize deviations from such construction standards, but must advise the Administrator in writing prior to authorizing such actions.

Further, the VA is urged to delegate planning and design of all future major construction projects to the hospital directors. Delegation of the construction phase is to be determined by the Administrator. This process will insure that hospital construction projects will benefit from the views of the employees who must utilize the projects when completed. Above all, this process will be beneficial to veteran patients and provide for a more effective and efficient construction program.

Amendment No. 59: Deletes language proposed by the Senate appropriating $55,000,000 for a veterans job training program.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES

MISCELLANEOUS PROVISIONS

Amendment No. 60: Provides that no funds shall be expended by the Secretary of the Interior to implement any Westlands settlement agreement prior to April 15, 1986 and until Congress has had 30 calendar days to review the proposed settlement agreement instead of no action until enactment of authorizing legislation as proposed by the House and a 120 day period for Congressional review as proposed by the Senate.

Amendment No. 61: Strikes House proposed Section 108, as proposed by the Senate. Section 108 would have provided $2,500,000 for renovation of the Freer Gallery of Art.

Amendment No. 62: Provides that persons appointed to committees of the Holocaust Memorial Council shall serve without cost to the Federal Government. This matter is addressed in Amendment No. 7.

Amendment No. 63: Reduces land acquisition in the Forest Service by $600,000 and increases land acquisition in the U.S. Fish and Wildlife Service by $600,000. This matter is addressed in Amendment No. 7.

Amendment No. 64: Provides that funds for the United States Fish and Wildlife Service shall be available for environmental work necessary to translocate a portion of the existing Southern sea otter population, as proposed by the Senate. The amendment also provides for emergency flood control work near Lake Michigan.

Amendment No. 65: Provides $1,700,000 for construction of a fish hatchery on the Nisqually River in Washington. This matter is addressed in Amendment No. 7.

REMOVAL OF THE "A. REGINA"

Amendment No. 66: Deletes language proposed by the Senate providing for the removal of the wreck of the "A. Regina."

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES

MISCELLANEOUS PROVISIONS

Amendment No. 67: Provides $80,000 for a study of the Florida panther. This matter is addressed in Amendment No. 7.

Amendment No. 68: Deletes provision in H.R. 3011 relating to costs of the National Fish and Wildlife Foundation. This matter is addressed in Amendment No. 7.

Amendment No. 69: Provides $80,700,000 for the Burr Trail National Rural Scenic Road. This matter is addressed in Amendment No. 7.

Amendment No. 70: Designates the educational center at Lowell National Historical Park the "Paul E. Tsongas Industrial History Center". This matter is addressed in Amendment No. 7.

Amendment No. 71: Increases the loan ceiling for Wolf Trap Farm Park for the Performing Arts in National Park Service, Administrative Provisions, and provides $150,000 for the restoration and renovation of the Lonoke Depot in Lonoke, Arkansas. These matters are addressed in Amendment No. 7.

Amendment No. 72: Provides that $2,000,000 be available to protect Mammoth Cave National Park. This matter is addressed in Amendment No. 7.

Amendment No. 73: Prohibits use of funds for establishing grizzly bear populations in the National Park System and the National Forest System where none currently exist. This matter is addressed in Amendment No. 7.

Amendment No. 74: Prohibits the Secretary of the Interior from promulgating final regulations concerning paleontological research on Federal lands pending a National Academy of Science report. This matter is addressed in Amendment No. 7.

Amendment No. 75: Provides $850,000 for restoration of the William H. Taft home. This matter is addressed in Amendment No. 7.

Amendment No. 76: Establishes a special fund in the Treasury for deposit of telecommunications fees received by the U.S. Geological Survey. This matter is addressed in Amendment No. 7.

Amendment No. 77: Deletes language in H.R. 3011 relating to the Abandoned Mine Reclamation Fund. This matter is addressed in Amendment No. 7.

Amendment No. 78: Revises language in H.R. 3011 to limit application of Johnson-O'Malley funds. This matter is addressed in Amendment No. 7.

Amendment No. 79: Provides for the no-cost transfer of supplies and equipment to the Saint Labre Indian School, Montana. This matter is addressed in Amendment No. 7.

Amendment No. 80: Requires the Secretary of the Interior to begin a program in BIA schools. This matter is addressed in Amendment No. 7.

Amendment No. 81: Strikes language in H.R. 3011 relating to terms of a loan for an airport in the Virgin Islands. This matter is addressed in Amendment No. 7.

Amendment No. 82: Provides $6,000,000 in emergency hay relief. This matter is addressed in Amendment No. 7.

Amendment No. 83: Provides for payment of up to $300,000 from the Office of the Secretary of the Interior, to certain water users for development of water supplies in Willow Creek, Idaho. This matter is addressed in Amendment No. 7.

Amendment No. 84: Allows the Secretary of the Interior to expend funds for emergency activities related to floods. This matter is addressed in Amendment No. 7.

Amendment No. 85: Provides language merging the Reforestation Trust Fund with the National Forest System account. This matter is addressed in Amendment No. 7.

Amendment No. 86: Provides $24,000,000 from the Timber Salvage Sale Fund instead of the National Forest System account. This matter is addressed in Amendment No. 7.

Amendment No. 87: Earmarks funds for emergency flood repairs in the Monongahela National Forest and Parsons, WV, Forest Research Laboratory. This matter is addressed in Amendment No. 7.

Amendment No. 88: Increases to $186,433,000 the amount for Forest Service reforestation, timber stand improvement, cooperative law enforcement and maintenance of forest development roads and trails. This matter is addressed in Amendment No. 7.

Amendment No. 89: Permits resale of timber in the Medford, Oregon district of the Bureau of Land Management under certain conditions. This matter is addressed in Amendment No. 7.

Amendment No. 90: Provides that road construction and related facilities of the Mt. St. Helens National Volcanic Monument, Washington, be derived from the Federal Highway Trust Fund. This matter is addressed in Amendment No. 7.

Amendment No. 91: Provides for certain exceptions related to mineral leasing on the Flathead and Gallatin National Forests. This matter is addressed in Amendment No. 7.

Amendment No. 92: Rescinds $3,000,000,000 of Synthetic Fuels Corporation funds and terminates the Corporation by 1992. This matter is addressed in Amendment No. 7.

Amendment No. 93: Provides a loan of up to $3,000,000 from an existing reserve to be used for odor abatement at an operating ethanol plant. This matter is addressed in Amendment No. 7.

Amendment No. 94: Rescinds $160,000,000 of Strategic Petroleum Reserve oil acquisition funds and provides for the exchange of agricultural products for crude oil. This matter is addressed in Amendment No. 7.

Amendment No. 95: Provides $180,000 from unobligated balances available to Indian Health Service to satisfy an outstanding judgment against the Seattle Indian Health Board. This matter is addressed in Amendment No. 7.

Amendment No. 96: Provides for funds under the Smithsonian Institution for American overseas research centers. This matter is addressed in Amendment No. 7.

Amendment No. 97: Provides that certain provisions of the Mineral Leasing Act shall not take effect until December 31, 1986. This matter is addressed in Amendment No. 7.

Amendment No. 98: Deletes language proposed by the Senate extending the termination date for conditional loan guarantees under the Biomass Energy and Alcohol Fuels Act of 1980. A similar provision is contained in Amendment No. 1.

Amendment No. 99: Requires the Navajo and Hopi Indian Relocation Commission to submit a report to Congress no later than January 15, 1986, on how relocation housing funds are to be used. This matter is addressed in Amendment No. 7.

Amendment No. 100: Prohibits geothermal leasing in the area of Yellowstone National Park. This matter is addressed in Amendment No. 7.

DISADVANTAGED ASSISTANCE

Amendment No. 101: Deletes language proposed by the Senate which would have appropriated $500,000 for activities under section 787 of the Public Health Service Act. The House resolution contained no similar provision.

HEALTH PLANNING

Amendment No. 102: The conference agreement changes section number and includes language proposed by the Senate to prohibit penalties under sections 1512, 1515, or 1521 of the Public Health Service Act and to allow awards to State agencies authorized to receive grants under section 935(b) of the Omnibus Budget Reconciliation Act of 1981. Similar language has been included in prior continuing resolutions for fiscal years 1983, 1984 and 1985. The conference agreement modifies language inserted by the Senate which prohibits actions in anticipation of the closure of health planning agencies due to a failure to reauthorize the program. The conference agreement prohibits such actions prior to August 15, 1986 instead of July 1, 1986 as proposed by the Senate. The House resolution included no similar provisions.

HEALTH EDUCATION ASSISTANCE LOANS (HEAL)

Amendment No. 103: Changes section number and inserts language proposed by the Senate making loan guarantees under the Health Education Assistance Loan program (HEAL) available without regard to any apportionments or other administrative limitations not specifically authorized under title VII. The House resolution included no similar provision of the Public Health Service Act.

MEDICARE DEMONSTRATIONS

Amendment No. 104: The conference agreement changes section number and modifies language proposed by the Senate to direct the Secretary of the Department of Health and Human Services to extend *for one year only* four municipal health service demonstration projects under Medicare. The Senate language directed that these grants be extended for three years. The House resolution included no similar provision. This agreement provides additional time for the authorizing committees to complete action on legislation currently in conference regarding the future of these projects.

CHILD CARE AND CHILD ABUSE PREVENTION

Amendment No. 105: Changes section number, deletes appropriations of $25,000,000 and modifies language proposed by the Senate relating to allocations to States for child care and child abuse prevention training. The House resolution contained no similar provision. The conferees view such training as a high priority and expect the States to use a portion of their 1986 allocation under Title XX of the Social Security Act for the training and retraining (including training in the prevention of child abuse in child care settings) of: providers of licensed or registered child care services; operators and staffs (including those receiving in-service training) of facilities where licensed or registered child care services are provided; State licensing and enforcement officials; and, parents.

MEDICARE HOSPITAL DEDUCTIBLE

Amendment No. 106: Deletes language proposed by the Senate. This language expressed the sense of the Senate regarding Medicare hospital deductible charges. The House resolution contained no similar provision.

SCIENCE AND MATHEMATICS EDUCATION

Amendment No. 107: Changes section number and inserts language proposed by the Senate making the 1986 appropriation for the Secretary of Education's discretionary fund under Title II of the Education for Economic Security Act immediately available upon enactment of the 1986 education appropriation bill, rather than July 1, 1986 as now provided in that bill. The House resolution contained no similar provision.

ELIGIBILITY FOR PELL GRANTS

Amendment No. 108: Changes section number and modifies language proposed by the Senate designed to assure that college students residing in areas designated as natural disaster areas may qualify for a Pell Grant for academic year 1985-86 without regard to the current 10 week limitation on the loss of income in determining expected family income. The conferees have modified the Senate language simply for the purpose of clarification.

The House resolution contained no similar provision.

Amendment No. 109: Changes section number.

Legislative Branch Miscellaneous Provisions

Amendment No. 110: Conforms the section number and provides that the Federal Law Enforcement Training Center in the Treasury Department continue to provide basic training within available funds for the Capitol Police, as proposed by the Senate.

Amendment No. 111: Conforms the section number and appropriates $150,000 for the establishment and operation of the Biomedical Ethics Board and the Biomedical Ethics Advisory Committee, instead of $1,000,000 as proposed by the Senate. In providing these funds the conferees expect that the only activities that can be accomplished over the next several months will be the development of a work program together with budget estimates in sufficient detail to be examined by the Committees on Appropriations during the next appropriations hearings. Further, during those hearings the Committees on Appropriations will also explore the availability of options in carrying out the import objectives set out for the Board and Committee in the Public Health Services Act.

Amendment No. 112: Conforms the section number and amends the Legislative Reorganization Act to provide that the budget estimates of the Congressional Research Service will be submitted to the Librarian of Congress, as proposed by the Senate.

Amendment No. 113: Conforms section number and amends the authorization for the Commission on Security and Cooperation in Europe to allow printing and binding costs of the Commission to be charged to the Congressional printing and binding appropriation, as proposed by the Senate.

Amendment No. 114: Conforms the section number and amends the Federal Salary Act in accordance with the findings of the Department of Justice and the recommendations of the Quadrennial Commission, as proposed by the Senate.

BACK TAX LIABILITY—NAVY

Amendment No. 115: Inserts language as proposed by the Senate with an amendment which authorizes the Navy to enter into direct settlement with the State of Washington on back tax liabilities arising out of Federal construction and procurement projects in Washington State. Amendment also changes the Section number to 135.

BRIGADE ACTIVITY CENTER—NAVAL ACADEMY

Amendment No. 116: Deletes language added by the Senate which appropriates $16,600,000 for a Brigade Activity Center at the United States Naval Academy, Annapolis, Maryland. The Conferees agreed to deny funding of the Brigade Activity Center at the U.S. Naval Academy because of budget constraints. However, the Department is urged to submit a reprogramming request for this project using available savings.

Amendment No. 117: Provides that honorarium income shall be limited to 40 percent of salary, instead of adjusting rules regarding compensation for professional services and affiliations with business entities as proposed by the Senate. Rule XLVII of the Rules of the House of Representatives, which imposes a 30 percent cap, will remain applicable to the Members of the House.

DADE COUNTY, FLORIDA METRORAIL

Amendment No. 118: Deletes language proposed by the House and stricken by the Senate requiring the Secretary of Transportation to issue in the Federal Register a notice of intent to prepare an environmental impact statement for the construction of the north and south legs of the downtown component of metrorail in Dade County, Florida. The conferees have deleted the House language because it is addressed in connection with the amendment numbered 8.

EXPRESSWAY GAP CLOSING PROJECT

Amendment No. 119: Deletes language proposed by the House and stricken by the Senate appropriating $23,500,000 for a highway construction project to close an expressway gap on California Route 113. The conferees have deleted the House language because it is addressed in connection with the amendment numbered 8.

DETROIT TRANSIT SYSTEM

Amendment No. 120: Deletes language proposed by the House and stricken by the Senate prohibiting the use of certain mass transportation section 9 grant funds to cover cost overruns of the Detroit Central Automated Transit (peoplemover) system. The conferees have deleted the House language because it is addressed in connection with the amendment numbered 8.

EMERGENCY RELIEF HIGHWAY FUNDS

Amendment No. 121: Deletes language proposed by the Senate increasing the state limitation for receipt of Federal-aid highway emergency relief funds from $30,000,000 to $55,000,000 for grants associated with disasters that occurred in calendar year 1985. The conferees have deleted the Senate language because it is addressed in connection with the amendment numbered 8.

MINIMUM DRINKING AGE

Amendment No. 122: Inserts language proposed by the Senate making permanent the withholding provisions contained in Public Law 98-363 and conforms section number. The House resolution contained no similar provision.

Amendment No. 123: Inserts Sec. 138 instead of Sec. 114 as proposed by the House and Sec. 203 as proposed by the Senate.

Amendment No. 124: Inserts Sec. 139 instead of Sec. 115 as proposed by the House and Sec. 204 as proposed by the Senate.

Amendment No. 125: Inserts Sec. 140 instead of Sec. 116 as proposed by the House and Sec. 205 as proposed by the Senate.

Treasury Postal Service Miscellaneous Provisions

Amendment No. 126: Changes section number and inserts a provision proposed by the Senate which would permit the Secretary of the Treasury to continue to have two Under Secretaries, but it would not require that one of those Under Secretaries be for Monetary Affairs. This provision permits the Secretary to have more flexibility in the assignment of duties to Under Secretaries in Treasury.

Amendment No. 127: Changes section number and inserts a provision proposed by the Senate which increases from 4 to 20 the number of airports at which reimbursable Customs Services may be provided. Small airports throughout the country are being provided with Customs Service on a reimbursable basis and this provides for an expansion of that program.

Amendment No. 128: Changes section number and inserts a provision proposed by the Senate which would permit the U.S. Secret Service to expend up to $75,000 for installation of security devices and construction related to the providing of security on certain residences of protectees. The current limitation is $10,000.

Amendment No. 129: Changes section number and inserts a provision proposed by the Senate which permits the Board of Governors of the U.S. Postal Service to meet for 42 days per year instead of 30 days as is provided for in current law.

Amendment No. 130: Changes section number and inserts a provision proposed by the Senate which prohibits the Office of Management and Budget from amending the administrative or regulatory methodology employed by the Bureau of Alcohol, Tobacco and Firearms to assure compliance with the Federal Alcohol Administration Act. This prohibits OMB from eliminating the form by which labels are approved for use on alcoholic beverages.

Amendment No. 131: Changes section number and inserts a provision proposed by the Senate amended to authorize the relocation of the International Trade Administration in Boston, MA. The Conferees direct that the General Services Administration take into account all the cost and other factors involved in this proposed relocation and take whatever action is most advantageous to the government and report back to the Committees on Appropriations by February 1, 1986.

Amendment No. 132: Changes section number and inserts a provision proposed by the Senate which temporarily extends the Current law regarding the retirement contributions which new federal employees are required to make the Civil Service retirement fund. The federal retirement program for new federal employees has not yet been enacted into law. Pending the enactment of that law, temporary adjustments have been made in employee contributions. That temporary legislation expires January 1, 1986. This provision extends that temporary legislation.

Amendment No. 133: Changes section number and inserts a provision proposed by the Senate which modifies the Ethics in Government Act of 1978. It inserts a new provision of permanent law which authorizes the President to require certain federal employees to file a confidential financial disclosure report.

Amendment No. 134: Deletes language proposed by the Senate which would have increased the limit on certain distilled spirit plants exempt from bond requirements when producing alcohol fuels.

Amendment No. 135: Inserts Sec. 149 instead of Sec. 117 as proposed by the House and Sec. 215 as proposed by the Senate.

For the entire resolution and Senate amendments:

Jamie L. Whitten
  (except for amendment No. 4 only in regard to chemical weapons, strategic defense initiative, and unobligated balances set aside; amendment No. 5; and amendment No. 47),
Edward P. Boland,
William H. Natcher,
Neal Smith,
Sidney R. Yates
  (except Nos. 4 and 117),
David R. Obey
  (except Nos. 4, 117, and 122),
Edward R. Roybal
  (except No. 4),
Tom Bevill,
Bill Chappell,
William Lehman,
Julian C. Dixon,
Vic Fazio,
W.G. (Bill) Hefner,
Silvio O. Conte
  (except Nos. 4 and 117),
Joseph M. McDade,
John T. Myers,
Larry Coughlin,
Ralph Regula,
Virginia Smith,
Joe Skeen,

Solely for consideration of Senate amendments numbered 1, and 19 through 23, and modifications committed to conference:

Bob Traxler,
Matthew F. McHugh,
Daniel K. Akaka,
Wesley W. Watkins,
Richard J. Durbin,
Harold Rogers,

Solely for consideration of Senate amendments numbered 4, 5, and 33 through 48, and modifications committed to conference:

John P. Murtha,
Norman D. Dicks,
Charles Wilson,
Les AuCoin,
Bill Young,
Clarence Miller,
Bob Livingston,

Solely for consideration of Senate amendments numbered 7, 60 through 65, and 67 through 100, and modifications committed to conference:

John P. Murtha,
Norman D. Dicks,
Les AuCoin,

Solely for consideration of Senate amendments numbered 8, 118, 119, 120, 121, and 122, and modifications committed to conference:

Martin O. Sabo,
William H. Gray III,
Bob Carr,
Richard J. Durbin,
Robert J. Mrazek,
C. Pursell,
Frank R. Wolf,

Solely for consideration of Senate amendments numbered 14, 52, 53, 54, 55, and 56, and modifications committed to conference:

Matthew F. McHugh,
Charles Wilson,
William H. Gray III,
Robert J. Mrazek,

Managers on the Part of the House.

Mark O. Hatfield
  except No. 4),
Ted Stevens,
Lowell P. Weicker, Jr.,
James A. McClure,
Thad Cochran,
Mark Andrews,
Jim Abdnor,
Robert Kasten,
Alfonse D'Amato,
Mack Mattingly,
Warren B. Rudman,
Arlen Specter,
John C. Stennis,
Robert C. Byrd,
Daniel K. Inouye,
J. Bennett Johnston,
Quentin N. Burdick
  (but not with respect to congressional honoraria No. 117),
Dennis DeConcini,
Frank R. Lautenberg,
Tom Harkin,

Managers on the Part of the Senate.

Mr. WHITTEN. Mr. Speaker, pursuant to the order of the House of today, I call up the conference report on the joint resolution (H.J. Res 456) making further continuing appropriations for the fiscal year 1986, and for other purposes, and ask for its immediate consideration.

PARLIAMENTARY INQUIRY

Mr. JEFFORDS. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. JEFFORDS. Mr. Speaker, I, would ask the Chair as to whether or not there is a rule on this particular resolution.

The SPEAKER pro tempore. This conference report is being considered pursuant to the unanimous consent request granted earlier today, which the Clerk will read.

The Clerk read as follows:

Mr. Whitten asked unanimous consent that it shall be in order, any rule of the House to the contrary notwithstanding, at any time on Monday, December 16, or any day thereafter, to consider the conference report and amendments in disagreement and motions to dispose of said amendments on House Joint Resolution 465 subject to the availability of said conference report and motions to dispose of amendments in disagreement for at least 1 hour, that all points of order be waived against the conference report and amendments in disagreement and motions to dispose of said amendments, and that said conference report and amendments in disagreement be considered as having been read when called up for consideration.

Mr. JEFFORDS. Mr. Speaker, I have a further parliamentary inquiry.

If I had a point of order, in that a legislative matter was contained herein that would make permanent the temporary law denying States their highway funds if they refused to raise their drinking age to 21, under this rule is that point of order now waived?

The SPEAKER pro tempore. All points of order were waived, pursuant to the unanimous consent request.

Mr. JEFFORDS. I thank the Chair.

Mr. Speaker, I think this is a terrible process and a terrible thing for the young people of this country to be treated in this manner.

The SPEAKER pro tempore. The gentleman from Mississippi [Mr. Whitten] will be recognized for 30 minutes and the gentleman from Massachusetts [Mr. Conte] will be recognized for 30 minutes.

Mr. FRANK. Mr. Speaker, is the gentleman from Massachusetts [Mr. Conte] opposed to the bill?

Mr. CONTE. No. I signed the conference report.

Mr. FRANK. Mr. Speaker, I ask for 20 minutes recognition in opposition because the gentleman from Massachusetts [Mr. Conte] is for the bill.

Mr. WALKER. Mr. Speaker, I ask for 20 minutes, under the rule.

The SPEAKER pro tempore. The Chair can hear only one Member at a time. Members will speak in order after they are recognized.

Mr. FRANK. Mr. Speaker, since the gentleman from Massachusetts is for the bill, under the rule I ask for the 20 minutes to be allotted to a Member in opposition, when both the chairman and the ranking minority Member are in support of the bill.

The SPEAKER pro tempore. The gentleman has that right.

The time will be divided in this fashion: The gentleman from Mississippi [Mr. Whitten] will be recognized for 20 minutes; the gentleman from Massachusetts [Mr. Conte] will be recognized for 20 minutes; and the gentleman from Massachusetts [Mr. Frank] will be recognized for 20 minutes.

PARLIAMENTARY INQUIRY

Mr. WALKER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. WALKER. Mr. Speaker, the minority has just been effectively frozen out of controlling any of the time, when I was seeking recognition to take the 20 minutes. The Chair has denied, then, the minority the opportunity to control our portion of the time.

Can the Chair explain why Members on this side were not recognized? I, too, am opposed to the bill and should have been entitled to the 20 minutes.

The SPEAKER pro tempore. The Chair will state that recognition of one Member who is opposed is in the Speaker's discretion, and the Speaker tries always to be fair.

The gentleman from Massachusetts [Mr. Frank] may yield time as he wishes.

Mr. WALKER. Mr. Speaker, I have a further parliamentary inquiry.

Under the procedure, we now have a bill that has been brought to us in this form, and the minority has been totally denied any time under this procedure to debate this particular resolution because the Chair recognized two Members on the other side of the aisle to control all of the time.

Mr. FRANK. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The Chair will make a statement and will then entertain the gentleman's parliamentary inquiry.

The gentleman from Massachusetts [Mr. Conte], on the minority side, will be recognized for 20 minutes; the gentleman from Massachusetts [Mr. Frank], who is opposed, will be recognized for 20 minutes; and the gentleman from Mississippi [Mr. Whitten] will be recognized for 20 minutes.

The procedure under which we are proceeding was agreed upon earlier today, and the Chair will be guided by the will of the House, which was stated earlier today.

The Chair recognizes the gentleman from Mississippi [Mr. Whitten].

Mr. WHITTEN. Mr. Speaker, I yield myself such time as I may require.

GENERAL LEAVE

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on consideration of the conference report on House Joint Resolution 465, and that I may include tabular and extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. WHITTEN. Mr. Speaker, the conference report on the continuing resolution which is now before the House is essential for continuing the operation of the Government.

The present continuing resolution under which the Government had been operating expired tonight at 6 p.m. Thus it is essential that the resolution that is before you be adopted.

Because the continuing resolution covers so many programs and activities of the Government, it is not possible that every item pleases every Member. But it is a resolution that can be supported.

Your Committee on Appropriations has again brought you a continuing resolution which in overall is below the President's recommendations. Six bills have been signed into law. In this bill there are seven bills, two of which have been agreed to in conference.

Under the law, the committee has made allocations of budget authority to various departments and agencies, all within the 302(b) allocation. We have exercised the power which rests with the committee to adjust and transfer within the departments and agencies which is essential to the orderly operations of the Government and to the peoples branch, the Congress.

It is under the President's Budget—I repeat, the continuing resolution is under the President's budget request.

It is under the 302 allocation and it is under the fiscal year 1985 levels.

Compared to the President's requests, the continuing resolution is $4,420 million below in new budget authority; compared to the 302 allocation it is $6,348 million below; and compared to the fiscal year 1985 level it is $6,316 million below.

Mr. Speaker, we will hear complaints about one item or the other being above what the administration wants. In fact, I personally made exception to parts of amendments—in defense amendments No. 4 in regard to chemical weapons the Strategic Defense Initiative, and unobligated balances set aside; amendment No. 5; and amendment No. 47. But the bottom line is that the resolution in overall new budget authority is significantly below what the President has requested. And that is what is important—the overall total.

After months and months of deliberation in the House and the other body, and hundreds of hearings and thousands of witnesses, this is what we have agreed to.

That is what the whole process is about—the President proposes and the Congress disposes.

Mr. Speaker, failure to pass the continuing resolution will seriously disrupt the operation of the Government.

Four appropriation bills are contained in the resolution: Defense, Transportation, Interior, and foreign assistance.

Two appropriations bills are cited by reference to their conference reports: Agriculture and the District of Columbia.

And the Treasury-Postal Service appropriations bill has been modified to try to meet the objections of the administration.

The provisions in the resolution passed by the House directing the Secretary of Agirculture to use existing law on basic commodities and to suspend for 12 months any foreclosure by the Farmers Home Administration were objected to by the Senate.

Such provisions are:

Sec. 105. In review of the financial risks facing many farmers, resulting from embargoes and suspension of exports in 1973, 1974, 1975, and 1980, and failure to use the Commodity Credit Corporation for a loan program which led to a fair price from the user, the Secretary of Agriculture shall use his authority under existing law to provide for nonrecourse loans on basic agricultural commodities at such levels as will reflect a fair return to the farm producer above the cost of production, and to issue such regulations as will carry out this provision and as will provide for payment by the purchaser, rather than by appropriation, for basic commodities sold for domestic use and the Secretary of Agriculture shall issue such regulations as will enable producers of any basic agricultural commodity to produce the amount needed for domestic consumption, to maintain the pipeline, and to regain and retain by competitive sales our normal share of the world market.

Sec. 106. Public Law 99-88 funded a study by the Department of Agriculture to determine the losses suffered by United States farm producers of agricultural products during the last decade as a result of embargoes on the sale of United States agricultural products and the failure to offer for sale in world markets commodities surplus to domestic needs at competitive prices, for use in determining what part of existing indebtedness of farmers should be canceled as a result of such foreign policy. Pending the completion of the study, the Secretary shall determine, on a case-by-case basis, which borrowers are unable to continue making payments of principal and interest due to embargoes or the failure to sell competitively in world trade and, thereby, qualify for an adjustment of principal and interest due to prevent bankruptcy or foreclosure, all as authorized by existing law.

Upon presentation of substantial evidence to the Secretary that a borrower qualifies, payment of principal and interest shall be suspended and the Secretary shall forego foreclosure of loans owed to the Federal Government, as authorized by law, for 12 months or until an adjustment is agreed upon. Other creditors shall be requested by the Secretary to postpone payments due on the same basis.

We take note again that these actions can be taken under existing law. What we lost was the directive to use this law. It is to be hoped that the Secretary of Agriculture will use such law to require the purchaser to pay the cost of a fair price instead of having to depend upon appropriations; that he will suspend foreclosures for 12 months—and determine the damage to the farmers by the restrictive and partial embargoes in 1973, 1974, 1975, and 1980—and the virtual embargo since—by a failure to sell competitively.

Mr. Speaker, as I stated before the authority to operate programs in these seven appropriations bills expired tonight at 6 p.m.

We must pass the continuing resolution before us, I urge passage of the resolution.

Mr. Speaker, I reserve the balance of my time.

The SPEAKER. The gentleman from Mississippi [Mr. Whitten] has consumed 3½ minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. Conte].

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, your conferees have completed work on the fourth continuing resolution for fiscal 1986.

We have reached an agreement with the Senate which I trust will be acceptable to a majority of this House. I hope that it will also be acceptable to the administration, but I cannot give you that assurance at this time.

Six of our bills have been signed: Commerce-Justice-State-Judidiary, Energy and Water Development, HUD, Labor-HHS/Education, legislative and military construction.

The continuing resolution covers the remaining seven bills, plus special provisions for individual programs and activities.

Three of these bills are continuing as provided in conference reports which have been filed or passed: Agriculture, District of Columbia, and Treasury-Postal Service.

Four of these bills are included in their entirety in the continuing resolution: Defense, Foreign Operations, Interior, and Transportation.

The committee estimates that the total appropriated by the conference agreement on these seven bills, and on other individual programs, is $370 billion, which is $4.6 billion above our 302(b) allocations, and $1.4 billion below the level appropriated for fiscal 1985.

Agriculture is $2.5 billion below our 302(b) allocation, and $0.2 billion below the level appropriated for fiscal 1985. I am pleased to report that the conferees agreed to drop the two provisions on farm credit, which would have cost an estimated $10 to $27 billion.

Defense is $5.3 billion above our 302(b) allocation, and $7 billion above the level appropriated for fiscal 1985. We cut funding for SDI $1 billion below the request, prohibited antisatellite testing in space unless the Soviets test, and provided that funds for binary weapons cannot be used until NATO approves force goals and other Presidential certifications are received and reviewed by the Congress.

District of Columbia is $7 million above our 302(b) allocation, and $1 million below the level appropriated for fiscal 1985, and includes $30 million for a badly needed new prison in the District of Columbia.

Foreign operations is $282 million over our 302(b) allocation, and $5.9 billion below the level appropriated for fiscal 1985. The conference agreement includes $700 million for IDA VI, $3.7 billion for the economic support fund, including $1.8 billion for Israel and $815 million for Egypt, $5.2 billion for foreign military credit sales, including $1.8 billion for Israel and $1.3 billion for Egypt, and $1.1 billion for direct loans for the Export-Import Bank.

Interior is $375 million below our 302(b) allocation, and $242 million below the level appropriated for fiscal 1985. We agreed to abolish the Synthetic Fuels Corporation, and to rescind all their remaining funds, except for $400 million transferred to a clean coal program, administered by the Department of Energy.

This $400 million is to be available over 3 years, and another $350 million is set aside in a separate account, for release in future appropriations acts. We did not agree with the Senate's rescission of $160 million from the strategic petroleum reserve, and amended the agriculture barter language to make it discretionary.

Transportation is $651 million below our 302(b) allocation, and $1.2 billion below the level appropriated for fiscal 1985. We provided $1.7 billion for Coast Guard operating expenses, which should be sufficient for drug interdiction, search and rescue, fisheries and environmental enforcement, icebreaking, coastal defense, and other activities.

We agreed to $2.7 billion for the FAA, which will provide for 300 additional safety inspectors, and an additional 500 traffic control positions.

Treasury-Postal Service is $440 million below our 302(b) allocation, and $68 million below the level appropriated for fiscal 1985. This includes reductions in the vetoed bill of $45 million in the IRS and $72 million in the postal subsidy.

The conference agreement also includes $2.4 billion for EPA construction grants, and $12 million for the Commission on the Bicentennial of the Constitution.

I deeply regret that the conferees could not agree with $25 million added by the Senate for child care training. This is an excellent program, but we could not accommodate the Senate amendment within the agreement with OMB on the regular appropriation bill.

The conferees did not agree to the Senate amendment which placed limitations on the export of nuclear equipment to the People's Republic of China.

Mr. Speaker, we went to conference with 135 amendments in disagreement. We have an agreement with the Senate because we got full cooperation from all of the principals.

In particular, I want to thank my chairman, who fought for what he thought was right, but let the conference agree when he could not prevail.

Although the administration has not yet taken a firm position on the conference report as a whole, I still have hope that they will recognize that this is the best agreement that we can get under the circumstances.

I will vote for the conference report.

H.J. RES. 465 FURTHER CONTINUING RESOLUTION, 1986 COMPARISON OF DISCRETIONARY SPENDING

[Budget Authority in millions of dollars]

Summary of bill	Administration benchmark	House continuing resolution	Senate continuing resolution	Conference report	Difference from benchmark		
					House continuing resolution	Senate continuing resolution	Conference report
Domestic bills included in continuing resolution:							
Agriculture	7,677	7,936	7,848	7,928	259	171	251
District of Columbia	532	532	[illegible]	[illegible]	0	34	34
Interior	8,125	[illegible]	9,075	[illegible]	785	[illegible]	734
Transportation	25,047	25,881	24,815	25,270	[illegible]	(232)	223
Treasury/Postal [1]	[illegible]	9,561	[illegible]	[illegible]	181	[illegible]	[illegible]
Total, domestic	50,761	[illegible]	51,793	NA	2,059	1,032	1,351
National security bills:							
Defense	[illegible]	276,349	[illegible]	NA	(9,838)	(3,786)	NA
Foreign assistance	14,960	14,597	15,764	14,990	(363)	[illegible]	[illegible]
Total, national security	301,147	[illegible]	[illegible]	NA	(10,201)	(2,982)	NA

[1] Includes savings of $108 million in obligation limitations. Senate continuing resolution estimates assume that adopted savings can in fact be achieved. The savings in the Postal Service ($72 million) will require a rate increase. Does not reflect assumed savings in the IRS.

Note: Senate continuing resolution reflects most, but not all, Senate amendments.

AGRICULTURE, RURAL DEVELOPMENT AND RELATED AGENCIES

Mr. Speaker, the conference agreement on funding for the U.S. Department of Agriculture, rural development and related agencies provides for total fiscal year 1986 new budget authority of $33.264 billion. This represents an increase of $183.5 million over the levels passed by the House on July 24, a decrease $946 million from levels passed by the Senate, and an increase of $71.14 million over the President's requests. The agreement is $4.957 billion below fiscal year 1985-enacted levels.

For agricultural programs, the managers have agreed to provide $11.68 billion. We have included $501 million for the Agricultural Research Service, and agreed to the $1 million increase over the administration's request for the Human Nutrition Research Center on Aging at Tufts University. This will make a total of $11.766 million available to expand utilization of the facility and to allow Center staff to further examine the role of nutrition in the aging process and the dietary needs of the elderly.

For the Cooperative State Research Service, we have included $290 million. Among the special research grants funded through CSRS in fiscal year 1986 will be $100,000 for cranberry and blueberry disease research at Rutgers State University.

The managers recommend $344.58 million for the Extension Service, and include a total of $60.35 million for the expanded food and nutrition education [EFNEP] program.

Our conference agreement includes $320.55 million for the Animal and Plant Health Inspection Service, and provides for the transfer of the Animal Damage Control program from the U.S. Fish and Wildlife Service to APHIS as requested by the secretaries of Agriculture and Interior. Among the many projects funded through the ADC program is livestock guarding dog research which is now in its third project year at the New England Farm Center at Hampshire College. The conferees have agreed to provide an additional $45,000 to expand the work underway in Massachusetts, Texas, and Oregon to include Minnesota.

For the Agricultural Marketing Service, the conference agreement provides $35.66 million, including $990,000 for the Federal-State Marketing Improvement Program. This matching grant program has been of tremendous assistance to farmer cooperative and commodity associations in Western Massachusetts, and I am pleased that we have been able to provide fiscal year 1986 assistance to continue these diversified direct market development projects.

Funding for fiscal year 1986 rural development programs in the conference agreement totals $4.88 billion. While I regret the decision of the conferees to terminate funding for the Office of Rural Development Policy, I would like to point out that we have agreed that the rural development policy coordination function revert directly to the Office of the Secretary. We have also included $25,000 for the Office of the Under Secretary for Small Community and Rural Development to assist in a rural product development and marketing assistance project to be undertaken by the Hilltown Community Development Corporation. This nonprofit organization has been working with ORDP for several years on projects designed to assist rural entrepreneurs in designing and marketing their products; the experience which they have gained, and the work which they will undertake, will prove most helpful to hilltown communities across the country.

For Rural Housing loans, the managers have included $2.112 billion, a reduction of $1.1 billion from House-passed loan levels. We provide $1.4 billion for the section 502 program, $700 million for section 515 and $12 million for the section 514 program. We have agreed to provide $100 million for community facility loans and $340 million for water and sewer facility loans through the Rural Development Insurance Fund. The conferees have also included $115 million for rural water and waste disposal grants, $12.5 million for very low-income housing repair grants, $8 million for mutual self-help housing and a reappropriation of $20 million for the rural housing preservation grants program.

The conference agreement for the Soil Conservation Service includes $660 million, including the $40 million proposed by the Senate in amendment 22 of the continuing resolution. For the Agricultural Stabilization and Conservation Service, we have agreed to $211.3 million, including $190 million for the ACP program. With regard to proposals which has been made earlier in fiscal year 1985 for the closure and consolidation of ASCS offices, and which had been of great concern to members in the Northeast, I would like to point out that the House and Senate reports accompanying H.R. 3037 have included language directing USDA to notify and advise all appropriate committees of Congress in writing of any proposed USDA programs, office structures and locations; and not to implement any changes prior to action by these committees.

For domestic food programs, the conference agreement provides $14.85 billion, including $4.1 billion for child nutrition programs, $1.57 billion for the WIC program, $11.89 billion for food stamps, $194.6 million for the food donation programs, and $50 million for the TEFAP program.

For USDA's international programs, the conferees have provided $1.39 billion, including $650 million for Public Law 480, title II.

For related agencies, our agreement includes $424.3 million for the Food and Drug Administration and $29.4 million for the Commodity Futures Trading Commission.

I would like to point out to my colleagues that the Office of Management and Budget calculates that our conference agreements on Senate amendments 1 and 22 total $251 million over their benchmark. OMB has indicated its opposition to increases agreed to by the conferees in the following areas: $100 million for reimbursements to the rural electrification and telephone revolving fund, $40 million for SCS emergency watershed repairs, $59 million over the requested transfer amounts from the food stamp program and the CCC, the $20 million reappropriation for FmHA rural housing preservation grants program and the $30 million for purchase of Rural Telephone Bank capital stock.

I would also like to point out to my colleagues that this conference agreement makes an additional $4.68 billion available to USDA agencies upon submissions of budget requests. These appropriated but currently unavailable funds include: $665 million for the child nutrition programs, $5.7 million for the Food Safety and Inspection Service, $4 billion for reimbursements to the CCC, and $6.7 million for the Food and Drug Administration. In all likelihood, early this spring we will require an urgent supplemental of another $6 billion for CCC reimbursements.

With regard to our 302(b) allocations, this conference agreement is currently $6 billion below our House subcommittee ceiling.

Finally, I am pleased to note that the conferees have agreed to recede to the Senate on sections 105 and 106, House Joint Resolution 465 makes no provision for raising price support loans or for mandating that the Secretary of Agriculture defer principal and interest payments on existing indebtedness to avoid foreclosure for borrowers who were adversely affected by export restriction policies over the past decade.

COMMERCE, JUSTICE, STATE AND JUDICIARY ITEMS IN THE CONTINUING RESOLUTION

The fiscal year 1986 appropriations act for the Departments of Commerce, Justice, and State, the Judiciary and related agencies was signed into law on December 13. (Public Law 99-180) therefore, the references to funding levels for those departments and agencies have been deleted from the continuing resolution.

The conferees have agreed to provide for the expenditure of unobligated balances of economic development administration funds for local public works projects in a number of states, including New York, New Jersey, California, Alabama, and Illinois. EDA funds are also approved for the University of Nevada, Las Vegas and for the city of Fort Worth, TX. The total for these items is $24,891,000.

Authorization for funding is also included for flood control in Iowa, and funds are provided for the reimbursement of expenses of a number of organizations in connection with the international games for the handicapped. Seven groups will share varying amounts of the $2.5 million provided for this latter purpose.

In response to the recent devastating flash floods in West Virginia, the conferees have accepted a Senate amendment appropriating $3 million for the integrated flood observing and warning system [IFLOWS].

The conferees agreed to another Senate amendment which blocks for 6 months the implementation of an interim rule by the U.S. Parole Commission allowing violators of insider trading laws much more lenient treatment than other white-collar criminals.

The conference report provides $12 million for salaries and expenses of the Commission on the Bicentennial of the U.S. Constitution, a reduction of $8 million from the Senate bill. The House provided no funds for the Commission.

The conferees have agreed to amended Senate language prohibiting Legal Services Corporation grantees from expending carryover funds for purposes currently prohibited by the fiscal year 1986 appropriations act, Public Law 99-180. This language is aimed at the practice of using funds appropriated prior to the enactment of limitations regarding illegal aliens for such cases.

The conference report provides for the transfer of $10 million from the SBA disaster loan fund to the salaries and expenses account to be used for servicing loan caseload increases.

And finally, the conferees on this section rejected Senate language requiring the President to certify that international atomic energy agency-type verification methods have been applied in regard to the export of nuclear equipment to the People's Republic of China. Both the House and Senate have now passed resolutions dealing adequately with this issue.

DEFENSE

The Defense Act in the resolution totals $282.5 billion, a figure $5.9 billion above the House passed level and $5.8 billion below the Senate. This represents an almost even split between the two Houses.

Defense is $2.5 billion below both the authorized level and the budget resolution target for this bill. It is $21.5 billion under the President's request. There is no real growth in Defense and inflation estimates are not quite covered above the 1985 enacted levels.

For those keeping score, the Defense function total, including military construction and nuclear funding is $298.7 billion, a reduction of $24 billion below the request.

Some Defense highlights are:

SDI, or star wars, is a billion below the request.

Antisatellite testing in space is prohibited unless the Soviets test.

I'm sorry to report the procurement reform issues are not in the resolution although I must point out this is a matter more properly before the authorizers who did make many changes this year to begin an overhaul of procurement by the Pentagon. I'm certain additional recommendations will be brought to the House by the Armed Services Committee next year.

The conferees did agree to fund production facilities and assembly of binary weapons but no funds can be used until NATO approves force goals and other Presidential certifications are received and reviewed by Congress. Funds for the 155 shell are made available but are tied up until fiscal year 1987. Congress still has firm control on this program.

Funds are provided for about $4.6 billion in unauthorized programs but these cannot be obligated until the programs are authorized. There is one exception. A total of $335 million is made available to support and operate the Coast Guard to prepare for their wartime mission.

All in all, despite some isolated matters which I am personally uncomfortable with, the defense conference represents an example of compromise on the some 2,000 items which were in conference and it can be supported on the basis of meeting the needs of our Nation's defense.

DISTRICT OF COLUMBIA APPROPRIATIONS

The conference agreement on the District of Columbia Appropriations Bill provides $566 million in Federal funds for the District. The House approved the budget request of $532 million, and the Senate added funds for a criminal justice initiative, including $30 million for a new prison in the District. $10 million would be available in fiscal year 1986 and $20 million in fiscal year 1987, provided that a plan for the siting and design of the new facility is submitted by the mayor and approved by the Subcommittees on District of Columbia of the House and Senate.

Because of these additional funds, OMB scores this conference agreement as $34 million over the budget benchmark.

In addition to the lump sum Federal payment and these add-ons, Federal funds appropriated in this bill include $30.1 million for water and sewer services furnished to the Federal Government, $52 million for the Federal contribution to the city's three retirement funds, and $25 million for St. Elizabeths Hospital.

The payment to the retirement fund is the seventh of 25 annual Federal payments which will total $1.3 billion and will cover a portion of the unfunded liability attributed to former District employees who retired before home rule took effect. As authorized by Public Law 98-621, the payment for St. Elizabeths Hospital is part of a 6-year place to transfer Administrative and financial responsibility from the Federal Government to the District of Columbia by 1991.

ENERGY AND WATER DEVELOPMENT

As it passed the House of Representatives, the continuing resolution contained no Energy and Water Development provisions. The regular fiscal year 1986 Energy and Water Development Appropriation Act was signed into law on November 1, 1985.

Of the four Energy and Water Development amendments added to the continuing resolution by the Senate, three were agreed to by the conferees and one was deleted.

The conferees agreed to language proposed by the Senate that amends section 1302 of Public Law 98-181 to substitute in the first sentence "period of 2 years" with "period ending January 1, 1989". This has the effect of extending for 2 years an ongoing study of the Everglades in Florida.

The conferees agreed to language proposed by the Senate that directs the Secretary of the Army to accomplish emergency bank stabilization work at Bethel, Dillingham, and Galena, AK.

The conferees agreed to language proposed by the Senate that provides that the Secretary of the Army shall include as part of the non-Federal contribution for the Fairfield Vicinity Streams, CA, project the cost of any work carried out by non-Federal interests on the project after December 31, 1973.

Finally, the conferees agreed to delete language proposed by the Senate that would have provided for the removal of the wreck *A. Regina* by the Corps of Engineers from the vicinity of Puerto Rico.

Foreign Aid Conference, Fiscal Year 1986 (in the Continuing Resolution)

Bill total	$15,025,319,945
Over House bill	+419,916,662
Below Senate bill	−724,470,941
Below budget requests	−6,921,989
Over House 302(b)	+282,000,000
Below Senate 302(b)	−175,000,000

MAJOR ITEMS

International Development Association [IDA VI]; Conference, $700 million; request, $750 million; House, $750 million; Senate, $375 million. In addition, $75 million is provided for the special facility for sub-Saharan Africa in title I, multilateral economic assistance, instead of the House transfer of the same amount for this purpose from the economic support fund in title II.

United Nations Development Program: Conference, $148.5 million; request, $120 million; House, $148.5 million; Senate, $135 million.

International fund for agricultural development [IFAD]: Conference, $30 million; request, 0; House, $50 million; Senate, $50 million. Funds are made available subject to the submission of a budget request and agreement on the second replenishment of IFAD. If the funds are not used by September 30, 1986, they revert to the Treasury. Statement of the managers allows additional funding for Africa through the AID agricultural account.

Child survival fund: Conference total is $50 million, funded as follows: $12.5 million earmarked in the health account, $12.5 million transferred from unobligated Lebanon ESE funds, and $25 million in the child survival fund account.

Agriculture: Conference, $699,995,900; request, $792,352,000; House, $679,995,900; Senate, $760,000,000. Two earmarks: $5 million for private and cooperative organizations utilizing surplus dairy products, and $8 million for the Vitamin A Deficiency Program.

Population: Conference, $250 million; request, $250,017,000; House, $261 million; Senate, $250 million. Current language is continued banning the use of funds for organizations or programs which support or participate in the management of programs of coercive abortion or involuntary sterilization. New language bans funding of abortion as a method of family planning or to motivate or coerce any person to practice abortions. New language also limits funds only to those voluntary family planning projects which offer either directly or through referral to or information about access to a broad range of family planning methods and services. Existing statutory prohibitions against abortion in the Foreign Assistance Act are restated by reference, and existing provisions prohibiting funds for abortions and involuntary sterilizations are repeated in section 541 of the general provisions of the bill.

American schools and hospitals abroad: Conference, $35 million; request, $10 million; House, $27 million; Senate, $35 million. Report language expresses support for the American University of Beirut and Project ORBIS.

Economic support fund: Conference, $3.7 billion; request, $4.024 billion; House, $3,689,286,666; Senate, $3.745 billion. Israel got $1.8 billion under this account on October 31, 1985, and Egypt will get $815 million. Sense of Congress language bases assistance levels for Israel and Egypt on continued participation in the Camp David accords. Pakistan gets $250 million, the Philippines $125 million, Cyprus $15 million, and Ecuador $15 million.

Transfer of Lebanon funds: Unobligated funds originally appropriated for Lebanon in Public Law 98–63 are transferred as follows: $12.5 million to the child survival fund, $5.35 million for UNICEF, and $5 million for international narcotics control. The remaining $20.5 million in the Lebanon account shall be used only for Lebanon or revert to the Treasury.

Peace Corps: Conference, $130 million; request, $125.2 million; House, $128.6 million, Senate, $130 million. Current anti-abortion language is continued.

Migration and refugee assistance: Conference, $338,930,000; request, $337,930,000; House, $337,930,000; Senate, $334,730,000. Included in the total is $12.5 million for Soviet, Eastern European, and other refugees resettling in Israel.

Military Assistance Program (MAP): Conference, $782 million; request, $976,350,000; House, $764,648,000; Senate, $805,100,000. Earmarks are as follows: The Philippines, $40 million, Turkey, $215 million; and Tunisia, $40 million.

Foreign military credit sales (FMS): Conference, $5,190,000,000; request, $5,655,000,000; House, $5,058,983,333; Senate, $5,371,000,000. Israel gets $1.8 billion, and Egypt gets $1.3 billion, neither of which requires repayment. Pakistan is earmarked for $325 million; Turkey for $427,852,000; Greece for $450 million; the Philippines for $15 million; and Tunisia for $27 million.

Export-Import Bank direct loans: Conference, $1.11 billion; request, 0; House, $783,879,167; Senate, $1.8 billion. Conference, request, House and Senate all provide $12 billion for guaranteed loans.

General provisions, Section 532: "The Congress declares that it is the policy and intention of the United States" that ESF funds for Israel shall not be less than the annual debt repayment—interest and principal—from Israel to the United States.

Assistance to Afghan people: Section 542 earmarks $15 million in development assistance and economic support funds for the provision of food, medicine, or other humanitarian assistance to the Afghan people.

Sudan limitation: Section 543 prohibits the use of funds for Sudan if that country is "acting in a manner that would endanger the stability of the region, or the Camp David peace process."

Assistance to Cambodian resistance forces: Section 544 earmarks not less than $1.5 million nor more than $5 million for military assistance and economic support funds for the Cambodian non-Communist resistance forces. The Foreign Assistance Authorization Act, Public Law 99–83 prohibits such aid to be used for the Khmer Rouge.

Jordan arms sales restrictions: Section 545 expresses the sense of the Congress against the U.S. sale of sophisticated weapons to Jordan unless that country is publicly committed to the recognition of Israel and requires a Presidential certification on that point to accompany any notification of such weapons sales. Section 549 provides for expedited Senate consideration of congressional objections of advanced weapons sales to Jordan.

HUD-INDEPENDENT AGENCIES

The fiscal year 1986 appropriations bill for the Department of Housing and Urban Development and independent agencies was signed into law on November 25, 1985. As my colleagues will recall, Public Law 99–160 contains $57.29 billion for HUD and the independent agencies including the Environmental Protection Agency, the Veterans' Administration, NASA, and NSF.

When House Joint Resolution 465 left this body, it contained no provisions for these agencies. The other body, however, did add three provisions and we have resolved our differences in conference.

For the currently unauthorized EPA construction grants program, the managers have agreed to provide $2.4 billion, the same amount as we included for fiscal year 1985, and the same as the budget request. Of this amount, however, only $600 million is to be made immediately available for obligation. The remainder of the funds are to be made available upon enactment of a subsequent appropriations measure, one that we hope will follow the enactment of authorizing legislation.

For the Veterans' Administration, the conferees have agreed to the Senate amendment providing for a transfer of up to $8 million from the medical care account to that of the VA general operating expenses. We have also included language pertaining to the delegation of authority to hospital directors for the administration of certain new fiscal year 1986 construction projects.

The conference agreement does not include funds proposed by the Senate for the Emergency Veterans Job Training Act of 1983.

The $2.4 billion appropriated for EPA construction grants brings fiscal year 1986 totals in the HUD–IA accounts to $59.69 billion in new budget authority. This level is $1.492 billion under the House 302(b) allocation and $719.9 million under fiscal year 1985 enacted totals.

INTERIOR AND RELATED AGENCIES CONFERENCE AGREEMENT

The conference agreement for the Interior and related agencies appropriations bill provides $8,145,912,000 in new budget authority, not including funds transferred for the Clean Coal Program. This amount is $243 million less than fiscal year 1985 enacted levels and $93 million less than the amount provided in the House-passed bill. The administration budget request is $776 million less than the amount in this conference agreement.

The Office of Management and Budget has a different view of this section. Even though the benchmark for this bill is $8.125 billion, OMB adds the $400 million transfer for clean coal to the conference agreement total of $8.145 million. As a result, with other scorekeeping adjustments, this section is at least $500 million over the benchmark.

In other action, the conferees essentially accepted the House position on the abolition of the Synthetic Fuels Corporation. The agreement provides for the rescission of all funds in the energy security reserve except for: $400 million for a clean coal technology program to be administered by the Department of Energy; $10 million for costs associated with closing the Corporation; and $350 million of the original $750 million authorized in the "clean coal technology reserve" by the fiscal year 1985 continuing resolution

Effective on enactment of this joint resolution, the Corporation may not obligate or commit funds for new projects. Shortly after enactment, the SFC is terminated and the financial commitment turned over to the Treasury Department.

The agreement also establishes a Clean Coal Technology Program within the Department of Energy to be funded through a transfer of $400 million from the energy security reserve; $100 million would become available this fiscal year, $150 million in fiscal year 1987 and another $150 million in fiscal year 1988.

The agreement reduces the $750 million clean coal reserve authorized by the fiscal year 1985 continuing resolution agreement to $350 million. These funds are not available until released by a future appropriations act.

During the conference on this section of the resolution, I raised a concern about the application of Gramm-Rudman cuts to the clean coal program. Since the program is financed by a transfer of funds and not "new budget authority," it's unlikely that sequester orders can be applied in this case. I asked the conferees to include clarifying language in the agreement, but nothing was accepted. I would hope that when we are faced with cuts in important domestic programs that the Clean Coal Program can carry its fair share, especially since the beneficiaries of these subsidies will largely be corporations and utilities.

Finally, in the energy area, the agreement rejects the Senate proposed $160 million rescission of previously deferred funds for the strategic petroleum reserve. These funds, appropriated last year, will allow the reserve to reach the 500-million-barrel level.

The conferees also agreed to accept a modified version of the barter language proposed by the Senate. The provision was modified to make the authority discretionary.

The agreement also provides funding for many important national resource management programs.

Agencies like the U.S. Fish and Wildlife Service, the Bureau of Land Management, the Forest Service, and the Park Service are custodians of millions of acres of federally owned land containing a tremendous amount of energy and natural resources.

BEST COPY AVAILABLE

I am particularly pleased that this agreement includes $5.56 million to complete design and begin construction of the Connecticut River Anadromous Fish Research Center.

This much needed faculty will fill a gaping hole in the Atlantic Salmon restoration effort in New England. Ongoing research on our fishery resources is urgently needed to answer some basic questions about anadromous fish native to the region and to ensure that the restoration effort is going in the right direction. This research has to be constant and ongoing, and according to the experts, a permanent research facility is the only effective way to fill basic research needs and guarantee the integrity of the restoration program.

The bill also lifts the proposed moratorium on land acquisition and provides a total of $169.7 million for the land and water conservation fund. In addition, through the migratory bird account, this bill provides $15 million for the acquisition of vanishing wetland habitat.

LABOR, HEALTH AND HUMAN SERVICES AND EDUCATION SECTION

Mr. Speaker, the bulk of issues relating to the Labor, Health and Human Services and Education appropriations bill were resolved, with the signing of H.R. 3234, the fiscal year 1986 regular Labor/HHS/Education appropriations bill by the President last Thursday. This law, Public Law 99-178, marks the third year in a row that the regular bill has been signed into law, and is one of 5 of the 13 regular appropriation bills that has been signed into law.

This conference report assures that the few programs that were deferred in the regular bill because of lack of authorization will be continued in fiscal year 1986 at the fiscal year 1985 levels. These programs include: Refugee programs, trade adjustment assistance, family planning, adolescent family life, and minority science improvement.

We agreed to drop the House language relating to the Corporation for Public Broadcasting because Public Law 99-178 provides for CPB.

While the House added no amendments to the continuing resolution affecting Labor/HHS programs, other than the basic provisions affecting the rate of operations, in case the regular bill did not clear, and making provision for deferred programs, the Senate went ahead and added 10 amendments involving both additional funding for certain programs and legislative language.

The most significant, in my view, was $25 million for Child Care Staff Training, continuing the funding for title XX training that was added in last year's continuing resolution. I supported this amendment and would very much have liked to see it adopted. In fact, at one point, we came close to an agreement of $15 million. Right now, there is no money in the Social Services Block Grant specifically designated for training, and with all the reports of child abuse in day-care centers, this amendment would have provided both funding and an incentive for States to examine their licensing requirements.

The problem we had, Mr. Speaker, was that at the time we considered this and other amendments, we were vigorously trying to get the President to sign our regular Labor/HHS appropriations bill, which he did.

We were right at the benchmark of total funding at which OMB said it would recommend a signature, and, as my colleagues will remember, we had to cut an additional $38 million on the House floor over and above the conference agreement on H.R. 3424 in order to get down to that benchmark. OBM made it clear that it would consider any funding in the continuing resolution together with the totals in the Labor/HHS bill and make its recommendations accordingly. So it became very hard to figure out how to add $25 million to those overall totals after we had just cut an additional $38 million. And it was also hard to figure how to add that amount without creating problems in the acceptability of this section in the continuing resolution, at the same time we were trying to put out the fires in other sections of the continuing resolution. We did put in language encouraging the States to continue the training activities initiated last year out of the title XX funds that became available when the Labor/HHS bill was signed.

I wish we could have found a way to do it, Mr. Speaker, I really do.

Just as we found ourselves constrained when it came to that money amendment, so we were constrained with regard to all other money amendments, and dropped the Senate amendments relating to additional funding for the administrative costs associated with the Trade Adjustment Assistance Program and for health professions disadvantaged assistance.

We accepted a number of Senate amendments containing minor legislative language changes, including language on the Foster Care Program, the Health Education Assistance Loan Program, a Medicare Research Demonstration Program, the timing of the availability of funding for the Secretary's discretionary fund under the Math and Science Program, and Pell grants for flood victims in West Virginia.

The Senate decided to drop its sense of the Senate resolution language relating to the deductible under Medicare, which did not involve the House or House conferees, relating solely to the Senate, as it did.

Finally, the Senate had adopted an amendment relating to health planning that provided a number of things, most important of which was a provision prohibiting HHS from beginning to close down any State health planning programs in fiscal year 1986, so long as a new authorization was in place by July 1, 1986. This resulted from the fact that in the regular Labor/HHS bill, funding for health planning was provided only through September 30, 1986, in order to find out whether the Congress would reauthorize the program thereafter. In conference we changed that July 1 date to August 15, in order to give the reauthorization process more time. There remain some questions as to how the funding will be handled, and I know I will work with HHS on some of my questions.

LEGISLATIVE BRANCH ITEMS IN THE CONTINUING RESOLUTION

The fiscal year 1986 Appropriations Act for the legislative branch and related agencies was signed into law on November 13. (Public Law 99-151) Therefore, this continuing resolution does not address the basic funding rates for these offices and agencies.

House conferees agreed to Senate provisions: First, continuing the basic training of Capitol Police by the Treasury Department at the Federal Law Enforcement Training Center; second, requiring the Congressional Research Service to submit annual budget estimates to the Librarian of Congress for review and approval; and third, allowing the Commission on Security and Cooperation in Europe (the Helsinki Commission) to utilize the Government Printing Office for necessary printing and binding.

The conferees have agreed to provide limited start-up funds in the amount of $150,000 for a new congressional agency, the Biomedical Ethics Board. This Board would be patterned after the Office of Technology Assessment. It was authorized in the NIH Authorization Act. When established, the Board will assist the Congress in addressing serious ethical questions affecting public policy, such as the definition of death, fetal research, treatment of research animals and genetic engineering.

House conferees have agreed to Senate language changing the statutory requirements of the Quadrennial Pay Commission in response to the Supreme Court's Chadha decision.

In the tradition of comity between the two bodies, House conferees have not objected to a Senate increase in that body's limitation on honoraria income from 30 percent of congressional salary in current law to 40 percent. House Members would continue to be limited to a 30-percent cap due to a House rule on outside income.

TRANSPORTATION AND RELATED AGENCIES

The continuing resolution has the effect of enacting into law the Department of Transportation and Related Agencies Appropriation Act for fiscal year 1986. I would like to briefly outline some of the highlights of the conference agreement.

For Payments to Air Carriers, the conferees have recommended $28 million. The administration had proposed the elimination of this program.

For Coast Guard operating expenses, the continuing resolution provides $1.652 billion (including $10 million by transfer) in this section, plus another $100 million in the Defense Appropriation Act, for a total operating program of $1.752 billion. This amount is $33 million below the original House level, but significantly above the original Senate level. These funds will enable the Coast Guard to continue its intensive drug interdiction activities, while also maintaining ongoing search and rescue, fisheries and environmental enforcement, icebreaking, coastal defense, and other critical missions. The Coast Guard is directed to continue the operation of the Great Lakes search and rescue facilities that had been proposed for consolidation in the fiscal year 1986 budget.

For the Coast Guard's acquisition, construction, and improvements account, the conference agreement provides $267.3 million in the transportation section. An additional $235 million in resources will be made available through the Defense Appropriation Act. The conference agreement also directs the Coast Guard to proceed with the completion of phase III of the Boston Shore Support Facility, as originally proposed to and approved by the Congress, out of previously appropriated funds.

For recreational boating safety, the conference agreement provides $30 million, the authorized amount. The conferees expect that the Coast Guard will be prepared to discuss in detail the use of these funds by the States and the overall effectiveness of the Coast Guard's boating safety program during the fiscal year 1987 budget hearings.

For the Federal Aviation Administration, the conference agreement provides nearly $2.7 billion for operations, the original House-passed level and approximately $70 million above the 1985 amount. This amount should be sufficient to provide an additional 300 aviation safety inspection positions above the original budget request, and an additional 500 air traffic control positions as proposed by the Department of Transportation on September 19, 1985.

For FAA facilities and equipment, the conferees have recommended $993 million, as proposed by the Senate. One effect of this level is to restore the $5 million for the Loran-C program that had been deleted by the House-passed bill.

For FAA's airport improvement program, a limitation on obligations of $925 million, the fiscal year 1985 level, has been provided. This amount was the same in both the House and Senate bills.

For the Federal Highway Administration, the conferees have agreed on a Federal-aid highway limitation on obligations of $12.75 billion, the amount proposed by the Senate. The conference agreement provides for an allocation of interstate transfer-highways funds that includes $25.5 million in discretionary funding for the C-470 project for Denver, CO. In addition, the conferees retained House language relating to the Westway project in New York.

With regard to the Westway project, I think that the proponents of this project should be on notice that the House will not be any more disposed to permit interstate transfer funds to be used for a landfill in the Hudson River than it was to have interstate construction funds used for that purpose.

For the Federal Railroad Administration, the State safety grant program has been continued at a level of $1.5 million, and expects an additional $1 million to be made available out of unobligated funds for this program. The rail service assistance program has been continued at a level of $20.2 million, with language urging that a railroad rehabilitation project in Massachusetts and Vermont be given priority consideration.

The conferees have recommended $616 million for Amtrak operations, capital improvements, and labor protection costs. In addition, $12.5 million has been made available for the Northeast Corridor Improvement Program. These amounts will permit Amtrak to continue the operation of its national route system.

For the Urban Mass Transportation Administration, the conference agreement provides $2.15 billion for formula grants, including the authorized level of $875 million for operating assistance. The conferees have also agreed to accept Senate language permitting recipients of funds under section 18 to use funds received under an agreement with a State or local social service agency to use such funds as part of their non-Federal match.

The conferees have agreed to Senate language disapproving the deferral of funds appropriated for the Los Angeles, San Diego, Miami, Jacksonville, and St. Louis transit projects.

Finally, the conference agreement contains the House-passed language prohibiting the Department of Transportation from planning or implementing any change in the current Federal status of the Transportation Systems Center.

TREASURY-POSTAL SERVICE-GENERAL GOVERNMENT

Working with the vetoed treasury-postal service appropriations bill, the conferees made several modifications to address the concerns of the President.

The conference agreement goes more than half way in meeting the President's funding objections. OMB claimed the conference report on H.R. 3036 was $180 million over the benchmark, and the conferees cut $117 million from two accounts in this bill. IRS funding was reduced by $45 million, and the revenue forgone postal subsidy was reduced to the budget reconciliation level of $748 million.

The conferees worked hard to spend the least amount possible to maintain the vital revenue producing and law enforcement functions funded in this bill. Just look at the facts:

The conference agreement is $332 million before fiscal year 1985 enacted levels for discretionary programs;

The conference agreement is $200 million below the House-passed bill; and

The postal subsidy in this conference agreement is $461 million below the amount appropriated last year.

Aside from the Postal subsidy, the remaining increase over the President's budget is largely for the Customs Service and IRS—both revenue-producing agencies.

In fact, I understand IRS has submitted a $250 million supplemental request to OMB to augment the funds provided in this conference report.

Moreover, 46 percent of the money appropriated in this bill is for mandatory items. The payments for retired Federal employee health benefits and to the civil service retirement and disability fund, along with the President's salary, amount to $6 billion out of the $13.1 billion provided in this conference agreement. These payments are fixed costs mandated by law. The Appropriations Committee has no control over this mandatory spending, and the amount provided in this bill is the same as the administration requested.

Three agencies will spend 75 percent of the discretionary appropriations provided in this conference report: The Customs Service, the IRS and the Postal Service payment.

The major funding objection specifically mentioned was in the veto message the $820 million postal subsidy, accounting for 86 percent of the increase over the President's budget. Although this is scored against the bill, the President's budget did not ask for the elimination of the reduced mail program, but instead proposed to use revenues from other classes of mail to finance the subsidy. The budget said legislation would be sent to the Hill to reform the program, but nothing was introduced.

As far as the budget resolution is concerned, there seems to be no agreement on the basis facts. Our committee allocation shows the bill $441 million under the congressional budget. The Senate claims the bill is now under, and OMB now says the conference agreement is $108 million over the congressional budget.

Very few, however, have looked at the other side of the budget resolution: revenues. Before conference, Bob Dole wrote me a letter and warned that lower funding levels for IRS "would make impossible the $2 billion increase in revenues from enhanced tax compliance assumed by the budget resolution." For this bill, when you're talking about the budget resolution, it's important to consider both sides—outlays and revenues.

Concerning the President's objections to language provisions, we agreed to remove the OPM ban on pay for performance and RIF regulations, and I just cannot understand his objections to the other items mentioned in the message. For example, the President doesn't want a general provision concerning presidential appointments—even though this language has been in the bill for 15 years and the President's budget requested the provision.

This resolution also contains several general provisions within the jurisdiction of the Treasury-Postal Service-General Government Subcommittee.

One section makes to modifications in a Federal employee child care provision contained in the Treasury-Postal Service conference report. The new language would mandate a 50-percent floor of Federal employees using the service—the present floor is 95 percent—and requires that Federal employees be given first priority. The changes are designed to facilitate the implementation of the law by GSA and to encourage these services in qualifying buildings around the country.

As the author of this amendment, it is my understanding that the user agencies would determine the need for day care fa-

cilities and the space to be provided. In addition, the agencies would determine whether any additional services, such as furniture or telephones, would be furnished for the day care facilities.

The user agencies would continue to pay the standard level users charge for the space to the GSA and would bear the costs of services not ordinarily provided as a standard service.

To avoid ambiguity, the entire child care provision with modifications is reprinted in this section.

Another section would make flextime for Federal workers permanent law. This section is identical to H.R. 1534 which passed the House on May 20, 1985, and is now pending before a Senate committee.

Although the Federal Government has allowed flextime for several years now, authority for the program expired on October 1, 1985, and was temporarily extended until January 1, 1986.

☐ 2230

Mr. SMITH of Iowa. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. I thank the gentleman.

Mr. Speaker, the gentleman did not mention it, but it is, in fact, about $4 billion under on defense, is it not? Under the budget resolution?

Mr. CONTE. Under the budget resolution.

Mr. SMITH of Iowa. So that means that it is a total of $6.3 billion under the $302 allocation of the budget resolution?

Mr. CONTE. Yes; taking in the defense figure.

Mr. SMITH of Iowa. I thank the gentleman.

Mr. FRANK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is indeed a day for continuity. We are not just here talking about the continuing resolution; we are here as part of the continuing saga of giving the Pentagon more money than it can reasonably spend to the detriment of virtually every other element of our society.

We began earlier this year talking about trying to put some limit on the increase in military spending at a time when other things are being cut. When the budget came up and the figure was $302 billion, we were told, "Do not worry about it; we will take care of it in the authorization." Then the authorization came up and we tried to hold it down, and it again came back in a conference when we said $292, the other body said $302. It came back at $302; we were told, "Well, do not worry about it, we will take care of it in the appropriation." Well, here is a the appropriation, and boy, did they take care of it.

The defense budget did not get everything. It only got almost everything. I understand the tough job of being in a conference, and I admire the people here, but the context in which we have defense conferences as such that I think we ought not to have them here any more. We ought to have them down at the Mine Safety and Health Administration, so when the inevitable cave-in of the House position comes, the experts are already there to give aid and comfort to the victims, and there are victims.

We have voted here, I do not know how much you want to talk about it, but the Wall Street Journal says it is about $12 billion over, that radical organ. The Democratic study group also has it many, many billions over. By the way, there were procurement reforms in the House authorization, and they were in the House appropriation. They will be in the House time capsule, because they died again. There is not an ounce of procurement reform in this bill despite overwhelming votes in the House. Not because our conferees did not want them, but because there was resistance elsewhere. So we have not only overspent in this bill by killing the procurement reforms, we have guaranteed we will continue to overspend.

People have said to us, "Well, you do not want to hurt the muscle; let us go after the fat." So we put into this bill some procurement reforms. Every single procurement reform voted by the House, twice at the authorization level, at the appropriation level, has gone bye-bye. Almost the only constructive thing in here is the antisatellite test ban, and that is very important and I am glad we had it. But it is the most expensive piece of arms control we have ever seen in the world because we paid about $10 billion for it.

There are people, as we speak, and we all want to like each other; the spirit of comity is important, but I have got to tell you, I think in this bill some very decent people are putting forward some policies that fall below what ought to be an acceptable moral standard for this country. There are people who, as we speak, are homeless, and we are hung up on trying to provide funds for the homeless in the tens of millions while the Pentagon gets billions over what this House has voted.

What this bill does is continue to exempt the Pentagon from anything like fiscal discipline. Housing for the elderly, Medicare, agriculture. I differed with some of my colleagues in Agriculture; I have understood the anguish they felt. They are going to be asked to vote for an agriculture bill which does far less than many of them think necessary. When they vote for it, they ought to understand that they are going to be able to tell their constituents not to worry about the cuts here and the farm foreclosures, because we have 10 more MX missiles. They will not have any purpose; we will not have anything to do with them, but we will have spent $1.7 billion on those MX missiles that will come out of the hides of your poor farmers and the homeless and the elderly because we are in the zero sum business now. Yet we have got Gramm-Rudman, and so they prepared for Gramm-Rudman. We did not pass the bill today for protective armor for police officers; that got pulled. But we put the bill in for protective fiscal armor for the Pentagon from Gramm-Rudman. When the Gramm-Rudman bullet is hit, it is going to have to penetrate a couple of extra billion dollars worth of layers on the Pentagon. We did not do that for the elderly who need housing and we have not done it for sick children and we have not done it for virtually any other group of genuinely needy. Come January, they will start knocking people off the disability rolls again, but the Pentagon will grow and grow, and Members can read about it in the DSG report; they can read about it in the Wall Street Journal.

There ought to be a moral bottom line. Yes, there is room for differences of opinion, but after Gramm-Rudman, after all that has happened, blithely to say that the Pentagon is not covered by this, and I understand this is not the druthers of my colleagues and friends and others in the House, but we have to deal with what the legislation is. The fact is that this exempts from fiscal discipline the Pentagon.

The House solemnly tried in the authorization and the appropriation to hold the Pentagon to some level. It was brushed aside. The Pentagon marches on. Military spending marches on and not just essential military spending because they want to repeat the procurement reforms, the revolving door, so that people do not leave the Pentagon and go to work for the people they negotiated with.

The allowable cost list that says you will not be recompensated for this or that. The whole should cost idea. It is all down the drain. Yes, we have got the Asat and I congratulate the Members for that, but we got too little else. What we have here is a bill, which, because of fiscal constraints, because of a budget deficit, continues to condemn many people to homelessness in this great, rich country, and has many elderly people paying more to receive less in Medicare and decimates housing programs and does not give adequate daycare to struggling young women who want to work and improve themselves, but the Pentagon marches on. The Pentagon continues to get more, billions and billions.

There are 8, 9, 12; we will have big accountants' arguments. Did the Pentagon get $9 billion more here or $12 billion more here. But the homeless we cannot spare tens of millions.

This, for me, goes too far. It goes too far in the direction of taking from those who most need it and putting resources where we know there has already been overspending and adding insult to injury, denying any procurement reform so the dilemma we have, yes, we want to have a strong country. We have a dilemma of wasteful practices, and, gee, if you cut this you are going to hurt that. So we try to build in procurement reform so that beginning now and into the future, we will not always face that choice, and it was brushed off the table. It is not even alive any more.

All the time and effort that Members, the gentlewoman from California and others put into procurement reform, blown away. Two votes of this House on two separate occasions, disregarded. We have got nothing for that effort.

Mr. SMITH of Iowa. Mr. Speaker, will the gentleman yield?

Mr. FRANK. I yield to the gentleman.

Mr. SMITH of Iowa. The gentleman and I stood together on this House floor on August the first and oppose a $10-billion increase in the budget resolution for the Pentagon. Ten billion dollars. But by a 3-to-1 vote, the House decided they wanted to give them the $10 billion. I think it is amazing that the conferees were willing to bring back a bill that is $4 billion under that budget resolution.

We did not need that budget resolution. We were proceeding on the basis of $292 billion, but it was raised here on the House floor to $302 billion. I do not know how anyone, and the gentleman is not included here, could possibly vote against this resolution today on the basis of providing too much for the Pentagon if they had voted for that budget resolution. It passed here by a 3-to-1 margin.

☐ 1040

Mr. FRANK. Mr. Speaker, I am going to take back my time now because the gentleman has 40 minutes to sing the praises of this bill and I only have 20 minutes to oppose it. I have yielded some to the gentleman, but I want to answer how I can vote against it.

In the first place, I voted against it before. And I want to go back: The gentleman is right, because this was the progression, and I will say in defense of those who may have voted for it before, when the budget resolution came up and there was too much for defense, they said, "Wait for the authorization." And when the authorization came up and there was too much for defense, they said, "Wait for the appropriation." And when people had qualms about the appropriation, they said, "Wait for the continuing resolution."

Well, I am tired of waiting. And I am not just tired of waiting for me, I am tired of continuing to grease that particular set of skids when there are homeless people and farmers and elderly people needing medical care. There are too many unmet needs in this country.

I understand when we are told, "Fiscal constraints, stop it." But I guess every Member now thinks for himself and herself. Vote for this, and vote these additional billions for the Pentagon, but when you go back and tell the farmers that you cannot help them when they are foreclosed on, or tell people that they are going to be knocked off disability, or tell women that there will not be day care for them, or elderly people that they will not have medical care, and you will not tell the homeless that there is no place for them to live, because many of them are just beyond being talked to, understand that what you have done is increase the likelihood of that deprivation by voting these billions for the Pentagon.

Mr. Speaker, I reserve the balance of my time.

Mr. WHITTEN. Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. LEHMAN].

Mr. LEHMAN of Florida. Mr. Speaker, I rise in support of the conference report. I would like to recognize the hard work, the tenacity, and patience of our chairman, the gentleman from Mississippi [Mr. WHITTEN], and our ranking member, the gentleman from Massachusetts [Mr. CONTE]. They have guided us through a very difficult conference with much skill.

I would also like to give special mention to the ranking minority member of the Transportation Subcommittee, my friend, the gentleman from Pennsylvania [Mr. COUGHLIN]. He has exhibited his usual grace and good judgment in working with me and the other transportation conferees, and has done much to help us hammer out the best possible deal for this body.

Mr. Speaker, the transportation section of this conference report would provide a total spending level of $25.533 billion for transportation programs for fiscal year 1986. This is comprised of $10.506 billion in new budget authority and $15.027 billion in contract authority obligation limitations.

Mr. Speaker, this total spending level is $1.728 billion, or about 6.4 percent, below the fiscal year 1985 level. It is a reduction that I wish we did not have to make, but I think is necessary given the fiscal realities of our budget. And let me add that, unlike the transportation budget submitted by the President, the "pain" is distributed as fairly and evenly as possible—aviation, maritime, and highway programs have all shared the burden with mass transit, Amtrak, and Federal workers.

I know the Members are also interested to know about the fate of the CAFE amendment added by the Senate. The conferees agreed to strike that provision; it is not in this conference report.

Mr. Speaker, the transportation section of the conference report also is substantially under the committee's section 302(b) allocation made pursuant to the budget resolution. We have gone the extra mile to continue our vital transportation programs and still contribute toward overall fiscal restraint. It deserves your support.

I insert at this point in the RECORD a table giving the conference figures in detail:

Comparative Statement of New Budget (Obligational) Authority

	FY 1985 Enacted	FY 1986 Estimates	House	Senate	Conference	Conference compared with Enacted	Conference compared with Estimates	Conference compared with House	Conference compared with Senate
TITLE I - DEPARTMENT OF TRANSPORTATION									
Office of the Secretary									
Salaries and expenses	50,000,000	51,995,000	50,500,000	51,300,000	51,300,000	+1,300,000	-695,000	+800,000	—
(By transfer)	(65,000)	—	(330,000)	—	—	(-65,000)	—	(-330,000)	—
Transportation planning, research, and development	5,700,000	5,558,000	3,000,000	4,000,000	3,500,000	-2,200,000	-2,058,000	+500,000	-500,000
(Limitation on working capital fund)	(64,500,000)	(67,033,000)	(64,500,000)	(64,500,000)	(64,500,000)	—	(-2,533,000)	—	—
Payments to air carriers	—	—	36,000,000	28,000,000	28,000,000	+28,000,000	+28,000,000	-8,000,000	—
Total, Office of the Secretary	55,700,000	57,553,000	89,500,000	83,300,000	82,800,000	+27,100,000	+25,247,000	-6,700,000	-500,000
Coast Guard									
Operating expenses	1,755,000,000	1,788,608,000	1,777,200,000	1,742,000,000	1,642,000,000	-113,000,000	-146,608,000	-135,200,000	-100,000,000
Appropriation for debt reduction	-202,861	—	—	—	—	+202,861	—	—	—
(By transfer)	(13,775,000)	—	(8,000,000)	(10,000,000)	(10,000,000)	(-3,775,000)	(+10,000,000)	(+2,000,000)	—
Total, operating expenses	1,754,797,139	1,788,608,000	1,777,200,000	1,742,000,000	1,642,000,000	-112,797,139	-146,608,000	-135,200,000	-100,000,000
Acquisition, construction, and improvements	374,200,000	303,058,000	267,300,000	276,300,000	267,300,000	-106,900,000	-35,758,000	—	-9,000,000
(By transfer)	(6,240,000)	—	—	—	—	(-6,240,000)	—	—	—
Alteration of bridges	13,600,000	5,200,000	7,195,000	5,200,000	5,200,000	-8,400,000	—	-1,995,000	—
Retired pay	330,000,000	351,000,000	351,000,000	351,000,000	351,000,000	+21,000,000	—	—	—
Reserve training	58,833,000	61,502,000	61,502,000	61,502,000	61,502,000	+2,669,000	—	—	—
(By transfer)	(1,025,000)	—	—	—	—	(-1,025,000)	—	—	—
Research, development, test, and evaluation	23,000,000	23,000,000	23,000,000	21,000,000	21,000,000	-2,000,000	-2,000,000	-2,000,000	—
Offshore oil pollution compensation fund	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	—	—	—	—
(Limitation on obligations)	(60,000,000)	(60,000,000)	(60,000,000)	(60,000,000)	(60,000,000)	—	—	—	—
Deepwater port liability fund	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	—	—	—	—
(Limitation on obligations)	(50,000,000)	(50,000,000)	(50,000,000)	(50,000,000)	(50,000,000)	—	—	—	—
Boat safety	13,625,000	13,625,000	13,625,000	—	—	-13,625,000	-13,625,000	-13,625,000	—
(Limitation on obligations)	(13,750,000)	—	—	(30,000,000)	(30,000,000)	(+16,250,000)	(+30,000,000)	(+30,000,000)	—
Total, Coast Guard	2,570,855,139	2,548,793,000	2,503,622,000	2,459,802,000	2,350,802,000	-220,053,139	-197,991,000	-152,820,000	-109,000,000
Federal Aviation Administration									
Headquarters administration	66,900,000	66,570,000	64,400,000	64,400,000	64,400,000	-2,500,000	-2,170,000	—	—
Operations	2,624,600,000	2,749,870,000	2,694,600,000	2,714,400,000	2,694,600,000	+70,000,000	-55,270,000	—	-19,800,000
(By transfer)	(18,112,000)	—	—	—	—	(-18,112,000)	—	—	—
Subtotal, Operations and headquarters administration	2,691,500,000	2,816,448,000	2,759,000,000	2,778,800,000	2,759,000,000	+67,500,000	-57,448,000	—	-19,800,000
Facilities and equipment (Airport and Airway Trust Fund)	1,358,000,000	1,146,500,000	1,044,000,000	993,000,000	993,000,000	-365,000,000	-153,500,000	-51,000,000	—
Research, engineering and development (Airport and Airway Trust Fund)	265,000,000	197,925,000	190,000,000	192,000,000	190,000,000	-75,000,000	-7,925,000	—	-2,000,000
(By transfer)	—	—	—	(15,000,000)	(15,000,000)	(+15,000,000)	(+15,000,000)	(+15,000,000)	—

Comparative Statement of New Budget (Obligational) Authority

	FY 1985 Enacted	FY 1986 Estimates	House	Senate	Conference	Conference compared with Enacted	Conference compared with Estimates	Conference compared with House	Conference compared with Senate
Grants-in-aid for airports:									
(Liquidation of contract authorization) (Airport and Airway Trust Fund)	(810,000,000)	(693,000,000)	(693,000,000)	(693,000,000)	(693,000,000)	(-117,000,000)	---	---	---
(Limitation on obligations)	(925,000,000)	(1,017,000,000)	(925,000,000)	(925,000,000)	(925,000,000)	---	(-92,000,000)	---	---
Operation and maintenance, Metropolitan Washington Airports	35,931,500	34,175,000	35,400,000	34,100,000	34,100,000	-1,831,500	-2,075,000	-1,300,000	---
(By transfer)	(505,000)	---	---	---	---	(-505,000)	---	---	---
Construction, Metropolitan Washington Airports	13,000,000	13,000,000	12,000,000	7,000,000	7,000,000	-6,000,000	-6,000,000	-5,000,000	---
Aircraft purchase loan guarantee program (borrowing authority)	(125,000,000)	(125,000,000)	(10,000,000)	(125,000,000)	(75,000,000)	(-50,000,000)	(-50,000,000)	(+65,000,000)	(-50,000,000)
Total, Federal Aviation Administration	4,363,431,500	4,210,048,000	4,040,400,000	4,004,900,000	3,983,100,000	-380,331,500	-226,948,000	-57,300,000	-21,800,000
Federal Highway Administration									
(Limitation on general operating expenses)	(204,452,000)	(203,761,000)	(204,500,000)	(203,761,000)	(203,761,000)	(-691,000)	---	(-739,000)	---
Highway safety research and development	8,500,000	8,500,000	8,500,000	8,500,000	8,500,000	---	---	---	---
Highway-related safety grants:									
(Liquidation of contract authorization) (Trust Fund)	(5,000,000)	(9,000,000)	(9,000,000)	(9,000,000)	(9,000,000)	(+4,000,000)	---	---	---
(Limitation on obligations)	(10,000,000)	(10,000,000)	(10,000,000)	(10,000,000)	(10,000,000)	---	---	---	---
Railroad-highway crossings demonstration projects	29,640,000	---	38,700,000	---	16,000,000	-13,640,000	+16,000,000	-22,700,000	+16,000,000
Intermodal Urban Demonstration Project	2,750,000	---	---	---	---	-2,750,000	---	---	---
Highway safety separations demonstration project	12,000,000	---	---	---	---	-12,000,000	---	---	---
Auto-Pedestrian separation demonstration project	1,750,000	---	---	---	---	-1,750,000	---	---	---
Federal-aid highways:									
(Liquidation of contract authorization)(Trust Fund)	(12,800,000,000)	(13,836,000,000)	(13,836,000,000)	(13,836,000,000)	(13,836,000,000)	(+1,036,000,000)	---	---	---
(Limitation on obligations)	(13,250,000,000)	(13,250,000,000)	(13,250,000,000)	(12,750,000,000)	(12,750,000,000)	(-500,000,000)	(-500,000,000)	(-500,000,000)	---
Right-of-way Revolving Fund (limitation on direct loans) (Trust Fund)	(50,000,000)	(50,000,000)	(50,000,000)	(50,000,000)	(50,000,000)	---	---	---	---
Motor carrier safety	13,902,000	13,993,000	13,900,000	13,902,000	13,900,000	-2,000	-93,000	---	-2,000
Motor carrier safety grants	14,000,000	14,000,000	14,000,000	20,000,000	17,000,000	+3,000,000	+3,000,000	+3,000,000	-3,000,000
Access highways to public recreation areas on certain lakes	5,000,000	---	---	10,000,000	5,000,000	---	+5,000,000	+5,000,000	-5,000,000
(By transfer)	---	---	---	---	(5,000,000)	(+5,000,000)	(+5,000,000)	(+5,000,000)	(+5,000,000)
Waste isolation pilot project roads	16,400,000	---	---	16,260,000	7,000,000	-9,400,000	+7,000,000	+7,000,000	-9,260,000
Baltimore-Washington Parkway	---	---	6,500,000	---	3,000,000	+3,000,000	+3,000,000	-3,500,000	+3,000,000
Rail Line Consolidation project (by transfer)	---	---	(5,000,000)	---	(4,000,000)	(+4,000,000)	(+4,000,000)	(-1,000,000)	(+4,000,000)
Airport Highway Demonstration project (by transfer)	---	---	(2,700,000)	---	(1,350,000)	(+1,350,000)	(+1,350,000)	(-1,350,000)	(+1,350,000)
Expressway gap closing project	---	---	23,500,000	---	9,000,000	+9,000,000	+9,000,000	-14,500,000	+9,000,000
Total, Federal Highway Administration	103,942,000	36,493,000	105,100,000	68,662,000	79,400,000	-24,542,000	+42,907,000	-25,700,000	+10,738,000
National Highway Traffic Safety Administration									
Operations and research	81,542,000	81,101,000	89,365,000	78,851,000	83,851,000	+2,309,000	+2,750,000	-5,514,000	+5,000,000
(By transfer)	---	(17,000,000)	---	(500,000)	(5,500,000)	(+5,500,000)	(-11,500,000)	(+5,500,000)	(+5,000,000)

Comparative Statement of New Budget (Obligational) Authority

	FY 1985 Enacted	FY 1986 Estimates	House	Senate	Conference	Conference compared with Enacted	Conference compared with Estimates	Conference compared with House	Conference compared with Senate
Highway traffic safety grants:									
Rescission	-250,000	—	—	—	—	+250,000	—	—	—
(Liquidation of contract authorization) (Trust Fund)	(125,000,000)	(149,000,000)	(149,000,000)	(149,000,000)	(149,000,000)	(+24,000,000)	—	—	—
State and community highway safety (limitation on obligations)	(126,500,000)	(126,500,000)	(126,500,000)	(126,500,000)	(126,500,000)	—	—	—	—
Alcohol safety incentive grants (limitation on obligations)	(50,000,000)	(28,800,000)	(28,800,000)	(28,800,000)	(28,800,000)	(-21,200,000)	—	—	—
Total, National Highway Traffic Safety Administration	81,292,000	81,101,000	89,365,000	78,851,000	83,851,000	+2,559,000	+2,750,000	-5,514,000	+5,000,000
Federal Railroad Administration									
Office of the Administrator	10,700,000	10,560,000	10,120,000	10,120,000	10,120,000	-580,000	-440,000	—	—
Railroad safety	26,061,000	27,975,000	28,000,000	27,764,000	27,764,000	+1,703,000	-211,000	-236,000	—
Railroad research and development	15,355,000	10,418,000	11,200,000	10,384,000	10,600,000	-4,755,000	+182,000	-600,000	+216,000
Rail service assistance	92,042,000	5,762,000	20,200,000	20,220,000	20,200,000	-71,842,000	+14,438,000	—	-20,000
Appropriation for debt reduction	-60,281,000	—	—	—	—	+60,281,000	—	—	—
Settlements of railroad litigation	4,320,000	—	—	—	—	-4,320,000	—	—	—
Appropriation for debt reduction	-4,223,000	—	—	—	—	+4,223,000	—	—	—
Conrail labor protection	15,000,000	—	—	—	—	-15,000,000	—	—	—
Conrail labor protection (rescission)	—	—	-8,000,000	—	—	—	—	+8,000,000	—
Northeast corridor improvement program	27,600,000	—	12,500,000	12,500,000	12,500,000	-15,100,000	+12,500,000	—	—
Grants to the National Railroad Passenger Corporation	684,000,000	—	588,500,000	587,500,000	587,500,000	-96,500,000	+587,500,000	-1,000,000	—
(By transfer)	—	—	(15,000,000)	(28,500,000)	(28,500,000)	(+28,500,000)	(+28,500,000)	(+13,500,000)	—
Railroad Rehabilitation and Improvement Financing Funds (limitation on new loan guarantees)	(6,500,000)	—	—	(4,000,000)	(4,000,000)	(-2,500,000)	(+4,000,000)	(+4,000,000)	—
Redeemable preference shares	—	—	30,000,000	16,500,000	33,500,000	+33,500,000	+33,500,000	+3,500,000	+17,000,000
(By transfer)	—	—	(5,500,000)	—	—	—	—	(-5,500,000)	—
Conrail commuter transition assistance	—	—	10,000,000	—	—	—	—	-10,000,000	—
(By transfer)	—	—	—	—	(5,000,000)	(+5,000,000)	(+5,000,000)	(+5,000,000)	(+5,000,000)
Total, Federal Railroad Administration (net)	810,582,000	54,715,000	702,520,000	684,968,000	702,184,000	-108,398,000	+647,469,000	-336,000	+17,196,000
Urban Mass Transportation Administration									
Administrative expenses	31,000,000	27,405,000	31,000,000	30,000,000	30,000,000	-1,000,000	+2,595,000	-1,000,000	—
Research, training, and human resources	51,000,000	—	28,103,000	17,400,000	17,400,000	-33,600,000	+17,400,000	-10,703,000	—
Formula grants	2,449,500,000	—	2,210,000,000	2,100,000,000	2,150,000,000	-299,500,000	+2,150,000,000	-60,000,000	+50,000,000
Formula capital grants:									
(Limitation of obligations)	—	(1,100,000,000)	—	—	—	—	(-1,100,000,000)	—	—
(Liquidation of contract authorization)	—	(55,000,000)	—	—	—	—	(-55,000,000)	—	—
Discretionary grants:									
(Limitation on obligations)	(1,120,000,000)	—	(1,010,000,000)	(1,100,000,000)	(1,045,500,000)	(-74,500,000)	(+1,045,500,000)	(+35,500,000)	(-54,500,000)
(Liquidation of contract authorization)	(450,000,000)	(720,000,000)	(720,000,000)	(775,000,000)	(775,000,000)	(+325,000,000)	(+55,000,000)	(+55,000,000)	—

Comparative Statement of New Budget (Obligational) Authority

	FY 1985 Enacted	FY 1986 Estimates	House	Senate	Conference	Conference compared with Enacted	Conference compared with Estimates	Conference compared with House	Conference compared with Senate
Interstate transfer grants-transit..........................	250,000,000	---	237,500,000	200,000,000	200,000,000	-50,000,000	+200,000,000	-37,500,000	---
(By transfer)..	---	---	---	---	(18,750,000)	(+18,750,000)	(+18,750,000)	(+18,750,000)	(+18,750,000)
Washington Metro..	250,000,000	250,000,000	237,500,000	187,500,000	227,000,000	-23,000,000	-23,000,000	-10,500,000	+39,500,000
Total, Urban Mass Transportation Administration.	3,031,500,000	277,405,000	2,744,103,000	2,534,900,000	2,624,400,000	-407,100,000	+2,346,995,000	-119,703,000	+89,500,000
Saint Lawrence Seaway Development Corporation									
(Limitation on administrative expenses)................	(1,792,000)	(1,942,000)	(1,890,000)	(1,942,000)	(1,916,000)	(+124,000)	(-26,000)	(+26,000)	(-26,000)
Research and Special Programs Administration									
Research and special programs............................	18,900,000	19,353,000	19,400,000	19,200,000	19,300,000	+400,000	-53,000	-100,000	+100,000
(By transfer)..	(950,000)	---	---	---	---	(-950,000)	---	---	---
Office of the Inspector General									
Salaries and expenses....................................	27,900,000	27,692,000	27,950,000	27,250,000	27,600,000	-300,000	-92,000	-350,000	+350,000
Total, title I, Department of Transportation:									
New budget (obligational) authority (net).....	11,064,102,639	7,313,153,000	10,321,960,000	9,961,853,000	9,953,437,000	-1,110,665,639	+2,640,284,000	-368,523,000	-8,416,000
Appropriations......................................	(11,128,809,500)	(7,313,153,000)	(10,329,960,000)	(9,961,853,000)	(9,953,437,000)	(-1,175,372,500)	(+2,640,284,000)	(-376,523,000)	(-8,416,000)
Appropriations for debt reduction..........	(-64,706,861)	---	---	---	---	(+64,706,861)	---	---	---
Rescission..	---	---	(-8,000,000)	---	---	---	---	(+8,000,000)	---
(By transfer)...	(40,672,000)	(17,000,000)	(36,530,000)	(54,000,000)	(93,100,000)	(+52,428,000)	(+76,100,000)	(+56,570,000)	(+39,100,000)
(Limitations on general operating and administrative expenses)........................	(206,244,000)	(205,703,000)	(206,390,000)	(205,703,000)	(205,677,000)	(-567,000)	(-26,000)	(-713,000)	(-26,000)
(Limitations on obligations)...................	(15,605,250,000)	(15,642,300,000)	(15,460,300,000)	(15,080,300,000)	(15,025,800,000)	(-579,450,000)	(-616,500,000)	(-434,500,000)	(-54,500,000)
(Limitations on direct loans)..................	(50,000,000)	(50,000,000)	(50,000,000)	(50,000,000)	(50,000,000)	---	---	---	---
(Limitations on new loan guarantees)...........	(6,500,000)	---	---	(4,000,000)	(4,000,000)	(-2,500,000)	(+4,000,000)	(+4,000,000)	---
(Limitation on working capital fund)..........	(64,500,000)	(67,033,000)	(64,500,000)	(64,500,000)	(64,500,000)	---	(-2,533,000)	---	---
(Liquidation of contract authorization).......	(14,190,000,000)	(15,462,000,000)	(15,407,000,000)	(15,462,000,000)	(15,462,000,000)	(+1,272,000,000)	---	(+55,000,000)	---
(Appropriation for debt reduction)............	(64,706,861)	---	---	---	---	(-64,706,861)	---	---	---
(Borrowing authority)............................	(125,000,000)	(125,000,000)	(10,000,000)	(125,000,000)	(75,000,000)	(-50,000,000)	(-50,000,000)	(+65,000,000)	(-50,000,000)
TITLE II - RELATED AGENCIES									
Architectural and Transportation Barriers Compliance Board									
Salaries and expenses....................................	2,000,000	1,975,000	2,000,000	1,975,000	1,975,000	-25,000	---	-25,000	---
National Transportation Safety Board									
Salaries and expenses....................................	21,899,000	22,087,000	22,400,000	22,200,000	22,300,000	+401,000	+213,000	-100,000	+100,000

Comparative Statement of New Budget (Obligational) Authority

	FY 1985 Enacted	FY 1986 Estimates	House	Senate	Conference	Conference compared with Enacted	Conference compared with Estimates	Conference compared with House	Conference compared with Senate
Civil Aeronautics Board									
Salaries and expenses	5,600,000	---	---	---	---	-5,600,000	---	---	---
Payments to air carriers	52,000,000	---	---	---	---	-52,000,000	---	---	---
Total, Civil Aeronautics Board	57,600,000	---	---	---	---	-57,600,000	---	---	---
Interstate Commerce Commission									
Salaries and expenses	51,100,000	52,557,000	48,180,000	47,000,000	48,180,000	-2,920,000	-4,377,000	---	+1,180,000
(By transfer)	---	---	(2,300,000)	(2,300,000)	(2,300,000)	(+2,300,000)	(+2,300,000)	---	---
Payments for directed rail service (limitation on obligations)	(1,000,000)	(1,000,000)	(1,000,000)	(1,000,000)	(1,000,000)	---	---	---	---
Panama Canal Commission									
Operating expenses	406,346,000	420,284,000	401,284,000	400,284,000	400,284,000	-6,062,000	-20,000,000	-1,000,000	---
Capital outlay	23,500,000	26,500,000	26,500,000	25,500,000	25,500,000	+2,000,000	-1,000,000	-1,000,000	---
(By transfer)	(1,700,000)	---	---	---	---	(-1,700,000)	---	---	---
Payments to the Republic of Panama (by transfer)	(2,705,000)	---	---	---	---	(-2,705,000)	---	---	---
Total, Panama Canal Commission	429,846,000	446,784,000	427,784,000	425,784,000	425,784,000	-4,062,000	-21,000,000	-2,000,000	---
United States Railway Association									
Administrative expenses	2,100,000	---	2,100,000	2,400,000	2,400,000	+300,000	+2,400,000	+300,000	---
Washington Metropolitan Area Transit Authority									
Interest payments	46,175,945	51,663,569	51,663,569	51,663,569	51,663,569	+5,487,624	---	---	---
Total, title II, related agencies:									
New budget (obligational) authority	610,720,945	575,066,569	554,127,569	551,022,569	552,302,569	-58,418,376	-22,764,000	-1,825,000	+1,280,000
(Limitation on obligations)	(1,000,000)	(1,000,000)	(1,000,000)	(1,000,000)	(1,000,000)	---	---	---	---
General Provision									
General reduction	---	---	---	-147,606,281	---	---	---	---	+147,606,281
(By transfer)	---	---	---	(-1,140,800)	---	---	---	---	(+1,140,800)
(Limitations on general operating and administrative expenses)	---	---	---	(-3,291,248)	---	---	---	---	(+3,291,248)
(Limitations on obligations)	---	---	---	(-241,300,800)	---	---	---	---	(+241,300,800)
(Limitations on direct loans)	---	---	---	(-800,000)	---	---	---	---	(+800,000)
(Limitations on new loan guarantees)	---	---	---	(-64,000)	---	---	---	---	(+64,000)
(Limitation on working capital fund)	---	---	---	(-1,032,000)	---	---	---	---	(+1,032,000)
(Appropriations to liquidate contract authorizations)	---	---	---	(-247,392,000)	---	---	---	---	(+247,392,000)

Comparative Statement of New Budget (Obligational) Authority

	FY 1985 Enacted	FY 1986 Estimates	House	Senate	Conference	Conference compared with Enacted	Conference compared with Estimates	Conference compared with House	Conference compared with Senate
RECAPITULATION									
Grand total:									
New budget (obligational) authority (net)......	11,674,823,584	7,888,219,569	10,876,087,569	10,365,269,288	10,505,739,569	-1,169,084,015	+2,617,520,000	-370,348,000	+140,470,281
Appropriations..............................	(11,739,530,445)	(7,888,219,569)	(10,884,087,569)	(10,365,269,288)	(10,505,739,569)	(-1,233,790,876)	(+2,617,520,000)	(-370,348,000)	(+140,470,281)
Appropriations for debt reduction..........	(-64,706,861)	---	---	---	---	(+64,706,861)	---	---	---
Rescission..................................	---	---	(-8,000,000)	---	---	---	---	(+8,000,000)	---
(By transfer)................................	(45,077,000)	(17,000,000)	(38,830,000)	(55,159,200)	(95,400,000)	(+50,323,000)	(+78,400,000)	(+56,570,000)	(+40,240,800)
(Limitations on general operating and administrative expenses)......................	(206,244,000)	(205,703,000)	(206,390,000)	(202,411,752)	(205,677,000)	(-567,000)	(-26,000)	(-713,000)	(+3,265,248)
(Limitations on obligations)..................	(15,606,250,000)	(15,643,300,000)	(15,461,300,000)	(14,839,999,200)	(15,026,800,000)	(-579,450,000)	(-616,500,000)	(-434,500,000)	(+186,800,800)
(Limitations on direct loans)..................	(50,000,000)	(50,000,000)	(50,000,000)	(49,200,000)	(50,000,000)	---	---	---	(+800,000)
(Limitations on new loan guarantees)...........	(6,500,000)	---	---	(3,936,000)	(4,000,000)	(-2,500,000)	(+4,000,000)	(+4,000,000)	(+64,000)
(Limitation on working capital fund)...........	(64,500,000)	(67,033,000)	(64,500,000)	(63,468,000)	(64,500,000)	---	(-2,533,000)	---	(+1,032,000)
(Borrowing authority)..........................	(125,000,000)	(125,000,000)	(10,000,000)	(125,000,000)	(75,000,000)	(-50,000,000)	(-50,000,000)	(+65,000,000)	(-50,000,000)
Memoranda:									
(Appropriations to liquidate contract authorizations)................................	(14,190,000,000)	(15,462,000,000)	(15,407,000,000)	(15,214,608,000)	(15,462,000,000)	(+1,272,000,000)	---	(+55,000,000)	(+247,392,000)
(Appropriation for debt reduction)...........	(64,706,861)	---	---	---	---	(-64,706,861)	---	---	---
Total, appropriations including appropriations to liquidate contract authorization and appropriations for debt reduction.............	(25,929,530,445)	(23,350,219,569)	(26,283,087,569)	(25,579,877,288)	(25,967,739,569)	(+38,209,124)	(+2,617,520,000)	(-315,348,000)	(+387,862,281)
Total, New budget (obligational) authority and limitation on obligations.......................	27,281,073,584	23,531,519,569	26,337,387,569	25,205,268,488	25,532,539,569	-1,748,534,015	+2,001,020,000	-804,848,000	+327,271,081
CONGRESSIONAL BUDGET RECAP									
Total..	11,674,823,584	7,888,219,569	10,876,087,569	10,365,269,288	10,505,739,569	-1,169,084,015	+2,617,520,000	-370,348,000	+140,470,281
Amounts in this bill..................................	(11,674,823,584)	(7,888,219,569)	(10,876,087,569)	(10,365,269,288)	(10,505,739,569)	(-1,169,084,015)	(+2,617,520,000)	(-370,348,000)	(+140,470,281)
Prior year outlays associated with this bill......	---	---	---	---	---	---	---	---	---
Total Congressional mandatory and discretionary.......	11,674,823,584	7,888,219,569	10,876,087,569	10,365,269,288	10,505,739,569	-1,169,084,015	+2,617,520,000	-370,348,000	+140,470,281
Mandatory (total).................................	(397,800,000)	(351,800,000)	(387,800,000)	(379,800,000)	(379,800,000)	(-18,000,000)	(+28,000,000)	(-8,000,000)	---
(Mandatory new)...................................	(397,800,000)	(351,800,000)	(387,800,000)	(379,800,000)	(379,800,000)	(-18,000,000)	(+28,000,000)	(-8,000,000)	---
(Prior year)......................................	---	---	---	---	---	---	---	---	---
Discretionary (new)................................	(11,277,023,584)	(7,536,419,569)	(10,488,287,569)	(9,985,469,288)	(10,125,939,569)	(-1,151,084,015)	(+2,589,520,000)	(-362,348,000)	(+140,470,281)

Mr. Speaker, I just want to add one other thing. The fact is that although the conference report is not perfect as far as transportation is concerned, it provides public transportation for those who need it, it provides money for the Coast Guard, it provides the kind of money they need for FAA, and it provides the money for Amtrak.

Mr. DIXON. Mr. Speaker, will the gentleman yield?

Mr. LEHMAN of Florida. I yield to my friend, the gentleman from California.

Mr. DIXON. Mr. Speaker, I would like to ask my good friend from Florida a question about the Metro Rail project in Los Angeles.

Language in this bill requires a study of the existence of methane gas in an area beyond the first phase of Metro Rail. When I worked with you as the chairman of the subcommittee to incorporate this language, it was not my intention that it apply to this first phase, known as MOS–1, or in any way delay funding for MOS–1. Is that your understanding as well?

Mr. LEHMAN of Florida. That is correct. It is my understanding that mitigation measures designed to address the presence of methane along the Metro Rail alignment during its construction and operation were first identified in 1983 in the project's environmental impact statement.

These measures were refined in the environmental assessment which was prepared specifically for MOS–1 in 1984. In fact, I have a letter from the Urban Mass Transportation Administration dated November 21, 1984, which states that no further environmental work would be required on MOS–1. Mr. Speaker, I include this document to be made a part of the RECORD:

DEPARTMENT OF TRANSPORTATION,
URBAN MASS TRANSPORTATION ADMINISTRATION,
Washington, DC, November 21, 1985.

FINDING OF NO SIGNIFICANT IMPACT

LOS ANGELES RAIL RAPID TRANSIT PROJECT
UNION STATION TO ALVARADO

The Urban Mass Transportation Administration (UMTA) is issuing a Finding of No Significant Impact relating to a change in the Los Angeles Rail Rapid Transit Project which would establish a new terminus for the rail line at the intersection of Wilshire Boulevard and Alvarado Street. This finding is made in compliance with the National Environmental Policy Act and implementing regulations.

The Finding of No Significant Impact is based on an Environmental Assessment (EA) prepared by UMTA and the Southern California Rapid Transit District (SCRTD) and consideration of the public comments made on that document. While the EA describes environmental impacts for the entire four-mile line, the primary focus is on the environmental effects resulting from terminating the rail line at the Alvarado Station.

The environmental record for the Metro Rail project includes two Environmental Impact Statements (EISs) in addition to the EA. The four-mile project per se is virtually identical to the rail alternatives described in the December, 1983, Final EIS on the Metro Rail project. Thus, much of the data and conclusions in that EIS applies to the four-mile line as well. The EA on the four-mile project supplements the 1983 Final EIS but does not supersede it. The federal government is currently considering construction funding for the four-mile line only; however, the line could be extended with funds from state and local sources. The Final EIS remains an accurate and up-to-date assessment for the longer rail alternatives described in that document.

In reaching this environmental finding, UMTA has carefully considered the EA and all substantive comments offered during the 30-day public review period. Responses to comments are contained in an addendum to the EA. This addendum, together with the EA, serves as the basis for the Finding of No Significant Impact. This completes the environmental review process for the four-mile Metro Rail project.

ROBERT H. MCMANUS,
Associate Administrator
for Grants Management.

Mr. Speaker, the additional study identified in this bill requires that Metro Rail be rerouted around a specific area, several miles to the west of MOS–1, which was identified as a methane risk zone by a city of Los Angeles task force. Regarding this area beyond MOS–1, language is included in the statement of the managers calling for a supplemental environmental study if the geological assessment generates significant changes in the project. A full alternatives analysis/environmental impact statement is not necessary because the same corridor and same mode, heavy rail, will be used.

Mr. DIXON. Mr. Speaker, I thank the gentleman from Florida [Mr. LEHMAN].

Mr. LEHMAN of Florida. Mr. Speaker, I thank my friend, the gentleman from California [Mr. DIXON], and I yield back the balance of my time.

Mr. CONTE. Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin [Mr. PETRI].

Mr. PETRI. Mr. Speaker, this is in my opinion an inappropriate vehicle for this provision making a penalty to the States for not raising the legal drinking age to 21.

Mr. Speaker, I appreciate the time that members of the conference on this continuing resolution have put in over the past few weeks. I continue to have reservations about one provision in particular. I continue to wonder why this vehicle is being used to sneak through a significant legislative amendment—that is, making permanent the penalty to States for not raising the legal drinking age to 21.

There are a number of reasons why we believe this is an inappropriate vehicle for this provision.

First, in October, our colleague JIM OBERSTAR asked GAO to do a study of the effectiveness of the 21 drinking age provisions. That study is to be completed next spring. Other studies have shown that the 21 drinking age has been an ineffective means of reducing fatalities among 18- to-20-year-old drivers.

Second, there have been no hearings devoted to the effectiveness of the 21 drinking age. We have yet to debate this issue fully either in the House or in committee. There is also some question as to whether this kind of mandate is germane.

Finally, several States have filed suit on the grounds that the provision is unconstitutional and in violation of States rights. The suit argues that the 21st amendment specifically permits States to establish their own legal drinking age. That case will probably be heard next year.

Current law doesn't expire until 1988. Why couldn't we have waited until all the facts are in?

Mr. CONTE. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. COUGHLIN].

Mr. COUGHLIN. Mr. Speaker, this is a tough bill. This is a bill that has to resolve all the differences between the House and the Senate and the President as we come to the end of a session, and I have got to congratulate the distinguished ranking minority member and the distinguished chairman of the committee for coming up with a good bill, a bill that I think we should all support. It resolves those differences, it resolves them in a way that is fiscally responsible, and it gives us programs and continuations that are important.

The very distinguished chairman of the Subcommittee on Transportation Appropriations has just referred to that chapter. That chapter covers the funding for mass transit. It keeps Amtrak rolling. It keeps the things that are vital to the transportation of this Nation going, and other chapters of the bill do the same.

None of it is easy. In the defense chapter we have imposed a ban on the testing of antisatellite weapons against an object in space, and that is something this House has sought and voted for time and again. It has finally come true. It is there.

In practically every chapter of this bill issues are resolved that are important to each and every Member of this House. When we conclude the business of a session in Congress, we have to pass a continuing resolution. It is not just generous to the Pentagon. In fact, the Pentagon did not want the Asat ban.

But it is a critical bill if we are to conclude the business of this House and to conduct our business in an orderly fashion. It is a good bill, I say to my colleagues. The chairman and the ranking minority member have done a sensational job of trying to resolve all those differences between the House and the Senate and the President.

Mr. Speaker, I urge support of the bill.

Mr. FRANK. Mr. Speaker, I yield 3 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Speaker, I want to thank the gentleman from Massachusetts [Mr. FRANK] for yielding me this time, and I really want to point out one more time what he is talking about.

This House has gone on record on defense as supporting the $292 billion figure over and over and over again, and according to the Democratic Study Group, which I think is accurate—it is practically always accurate—what we are really going to end up with is a $304.9 billion figure for defense. That is $12.9 billion over what we really wanted to do and what we have gone on record as doing.

I think it is very important to put this in the perspective of what we did last week, because we passed Gramm-Rudman, and one of the reasons Members voted for Gramm-Rudman was that they said the cuts that would start after the first of this year would be 50-50, 50 percent in defense and 50 percent in other programs. As we look at this, we now have more than enough cushion in here so that really the Gramm-Rudman cuts are not going to hurt defense, but there is no way that kind of cushion is on the other side, and they are going to be hurt drastically.

I also want to point out one very important omission in the defense part, and I hope that we can justify it tomorrow on the floor. We have the problem of the dependents of many of the people who were killed in this terrible, terrible accident, and I do not think people are aware of the fact that their housing allowances and everything will stop immediately and they will really get thrown out of their housing if they cannot make those payments. We really should do something about that 60-day transition period. We have not done it, and I hope we can do it tomorrow.

Once again, I think what we are trying to do here or what it appears we are doing is avoiding the 292 that so many of us talked about for so long on this House floor. We were talking about the number of 292, for which we thought we got a very good defense. We were also talking about the procurement reforms. But both have been avoided.

Mr. WHITTEN. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. YATES].

□ 2250

Mr. YATES. Mr. Sepaker, I am pleased to bring to the House the Interior and Related Agencies Appropriations bill for fiscal year 1986 as contained in House Joint Resolution 465. The total for the bill as recommended is $8,145,912,000. This is $92,185,000 less than the House passed version of this bill and $26,778,000 higher than the bill as reported by the Senate Appropriations Committee. This bill is also approximately $350 million below the House 302(b) allocation.

One of the most important parts of the bill is related to the Synfuels Corporation. The House voted to kill that corporation. The conferees have endorsed that proposal.

The bill reflects our continuing investment in America and the American people. It provides the amounts necessary to support the national heritage of all Americans—the public lands, the national parks, the national forests, and the cultural and historic preservation of the heritage that we want to pass along to our children, our grandchildren, and the generations to come; and to continue the hope and dream that each of us has that what we pass along for our children and the coming generations will be better than what we enjoy now.

The bill includes $4,124,592,000 for programs of the Department of the Interior; $1,495,947,000 for the U.S. Forest Service; $980,326,000 for programs of the Department of Energy; and $1,545,047,000 for Indian Health, Indian Education, the Smithsonian Institution, the National Endowments for the Arts and Humanities, and the other related agencies of the bill, all of which are described in detail in the statement of the managers accompanying the bill.

The programs within the bill in many ways represent an investment in America itself, and those investments provide significant returns. For example, programs funded in this bill will generate estimated revenues of over $12 billion from fiscal year 1986.

The committee has also recommended that all funds from the Synthetic Fuels Corporation be rescinded and establishes a $400 million Clean Coal Technology Program, $100 million of which will be available in fiscal year 1986. These funds will be used for projects which will substantially decrease the environmental impacts of using coal. The balance of the funds will be available as follows: $150 million in fiscal year 1987; $150 million in fiscal year 1988.

The committee has included funds to continue construction of capacity for the strategic petroleum reserve. This continues the House's policy of refusing to put a moratorium on the reserve, which we established in the fiscal year 1985 supplemental bill, and allows the reserve to be filled to 500 million barrels.

Mr. Chairman, this is a good conference report. It continues important programs necessary for the protection and enhancement of our unsurpassed natural resources, while maintaining fiscal responsibility and providing a substantial return to the Treasury. I urge the adoption of the Interior programs presented to you tonight. I also am including a letter following my statement from the Acting Comptroller General of the United States regarding clarifying bill language on the U.S. Holocaust Memorial Council. I also am inserting a table to show the agreements reached by the conferees.

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, DC, December 12, 1985.

Hon. SIDNEY R. YATES,
Chairman, Subcommittee on the Department of the Interior and Related Agencies, Committee on Appropriations, House of Representatives.

DEAR MR. CHAIRMAN: This letter results from our meeting with you and members and staff of the Holocaust Memorial Council on December 3, 1985. At that meeting we generally discussed questions regarding the Council's status, the applicability of Federal statutes and regulations to its activities and the rules governing the compensation and hiring of its employees or consultants. We agreed to provide answers to the specific questions you and Council members raised during our meeting. We also agreed to advise you if we thought additional legislation was necessary or desirable with respect to the Council and its activities, and if we did, to suggest appropriate statutory language.

Stated below are the questions derived from our review of the transcript of the meeting and our answers to them. We have also included several legislative recommendations and some suggested report language to explain them.

Question 1. What is the status of the Council?

Answer. The Holocaust Memorial Council is an independent Federal establishment. Its status has been subject to considerable debate because Pub. L. No. 96-388 (codified at 36 U.S.C. § 1401-1408) which established the Council does not specify what type of entity it is. There are important consequences which flow from a determination that the Council is or is not a Federal organization.

From our reading of the scant legislative history, we think that the Congress intended the Council to operate as a Federal agency in carrying out all three of its stated purposes. Its reason for being, as set forth at 36 U.S.C. § 1401, is (1) the fulfillment of recommendations made by the President's Commission on the Holocaust; (2) the sponsoring of annual Days of Remembrance of the holocaust; and (3) the duty to "plan, construct, and oversee the operation of a permanent living memorial to the victims of the holocaust * * *".

All three functions are clearly Federal in nature. The first two may be funded through direct appropriations of the Congress. Administrative expenses for all three functions, including salaries for the Executive Director and all Council staff as well as per diem and other designated expenses for the 65 Council members may also be paid from appropriated funds. However, all expenses directly related to the construction of the Holocaust Museum must be paid for with donated funds. 36 U.S.C. § 1408.

Because there are direct consequences which flow from the designation of an agency or establishment as "Federal" rather than as "private," we think it is important to remove any doubt about the Council's status. We suggest that the first sentence of section 1 of Public Law 96-388, 36 U.S.C. § 1401, be amended to read as follows:

"There is hereby established *as an independent Federal establishment* the United States Holocaust Memorial Council (hereinafter in this chapter referred to as the 'Council')."

(The italicized phrase is the language to be added to the current provision.)

Question 2. Is the Council subject to the statutes and regulations which are generally applicable to the expenditure of appropriated funds by Federal agencies?

Answer. The Council is governed by the statutes and regulations usually applicable to Government agencies when it is expending funds appropriated to it annually from the general fund of the Treasury. Because of its unique nature and purpose, we think that the Council is not subject to such rules when expending donated funds.

Like a number of other Federal entities, the Council expends both appropriated funds and donated funds to accomplish its purposes. As a general rule, expenditures from both sources would be regarded as appropriated fund expenditures and would be subject to all statutes governing such expenditures. *See, e.g.*, 31 U.S.C. § 3302(b) and 31 U.S.C. § 1321(a). We previously applied those statutes to the Council's museum functions in an opinion letter dated June 22, 1983 (B-211149) to Chairman James A. McClure, Subcommittee on the Department of the Interior and Related Agencies, Senate Committee on Appropriations. We are now modifying that position, for the following reasons.

a. The above-mentioned title 31 statutes are intended to prevent the augmentation of direct appropriations with funds from other sources, permitting a level of operations beyond that authorized by the Congress. However, the Council is one of the few, if not the only Federal entity which carries out a major function using only donated funds. There is thus no problem with augmentation.

b. The Holocaust Act is silent about the source of funding for operation and maintenance of the Museum, once it has been constructed. Unless the Congress is willing to authorize and enact annual appropriations for this purpose, it appears that the Council must either derive the necessary funds from continuous fund-raising drives or by building an endowment for this purpose by investing the donated funds judiciously until actually needed to pay for the construction. We are reluctant to attribute to the Congress any intent to preclude the latter alternative by treating the Council's donated funds as "appropriated" moneys which must be deposited in a non-interest-bearing account in the Treasury.

c. We think that the legislative history of the Holocaust Act, although sparse, supports our conclusion that the Congress intended a "no-strings" treatment of the donated funds. As noted, the Act establishes the Council in part to carryout the recommendations made by the President's Commission on the Holocaust. 36 U.S.C § 1401(3). The Commission recommended in its report that the Council be established as an independent institution or as an autonomous bureau of the Smithsonian Institution. Although the Act which the Congress enacted in response to the Commission's recommendations did not expressly designate the Council as part of the Smithsonian, it did create a Council which is significantly analogous to it. We think it is reasonable to conclude, as in the case of the Smithsonian, that the Congress intended to allow the Council to expend its donated funds in accordance with the directives of its governing board, free of the strictures generally applicable to Government funds.

Consistent with this intent, we conclude that:

(1) The Council is free to invest the donated funds in interest-bearing securities to the extent not needed for immediate payments for construction of the museum and related costs.

(2) Federal procurement requirements such as those found in the Federal Property and Administrative Services Act of 1949, and its implementing regulations, the Federal Acquisition Regulation, as well as other procurement-related statutes do not apply to any Council procurement involving the expenditure of its donated funds. We do, however, believe that the Council should use the body of Federal procurement law and regulations as models in developing and following its own internal procurement policies. The Council has previously indicated to us that it intends to do so.

(3) The Council may hire or otherwise acquire the services of fund-raisers or other specialists without regard to Federal Civil Service rules and regulations as long as compensation and other benefits are paid entirely from the donated funds.

We take no position on whether, as a matter of policy, donated funds should be used to pay a fund-raiser. We do, however, interpret section 7 of the Act (36 U.S.C. § 1407) as technically authorizing the Council to use donated funds to pay a fund-raiser Section 7 provides that "the Council may solicit, accept, hold, administer, and use gifts, bequests, and devises of property * * * *to aid or facilitate* the construction, maintenance, and operation of the Memorial." (Emphasis added.) In our view, fund-raising aids and facilitates the Museum's construction and therefore is authorized under the emphasized phrase. By the same reasoning, other specialized services may also be obtained with donated funds as long as they be fairly said to "aid or facilitate" the Museum construction.

Although we think that the Congress intended that the Council's donated funds be free from the constraints applicable to appropriated funds, this intent is not spelled out in the Council's organic act. To remove any doubts on this question, we suggest the following statutory amendments:

"Section 7 of Public Law 96-388 is amended by (1) adding the word 'invest,' following the word 'administer,' in the first sentence thereof; "(2) Adding a new penultimate sentence to read as follows 'Nothwithstanding any other provision of law, funds donated to and accepted by the Council pursuant to this section are not to be regarded as appropriated funds and are not subject to any requirements or restrictions applicable to appropriated funds.' "

Question 3. May appropriated funds be used to pay a fund-raiser or other specialist?

Answer. Yes. See our June 22, 1983 opinion to Chairman McClure (cited earlier) on this point.

Question 4. If the Council pays a fund-raiser with appropriated funds is there a limit upon what he or she may be paid? If so, what is that limit?

Answer. The compensation of a fund-raiser hired as an employee of the Council and paid with appropriated funds is subject to the provisions of title 5 of the United States Code pertaining to classification and general schedule payments except that the Council's organic statute allows the Executive Director to appoint and pay up to three employees at the rate established in the General Schedule for a GS-18. 36 U.S.C. § 1405(b).

Further, 16 U.S.C. § 1404(b) authorizes the Council to obtain the services of experts and consultants under the provisions of 5 U.S.C. § 3109, and to pay them at a rate equivalent to the maximum annual rate of pay for a grade GS-18. This authority might also be used to hire a highly experienced or specialized fund-raiser.

There is one additional way to obtain the services of a specialist (whether for fund-raising or any other duties) using appropriated funds. The Council could procure such services from an independent contractor, following all the requirements generally applicable to Federal agencies who procure goods or services with appropriated funds. The statutory compensation limits applicable to employees or section 3109 experts or consultants would not apply to such independent contractors.

We mention the independent contractor alternative with a caveat. In order to avoid the statutory compensation limits discussed above, the contractor must not be subject to the day-to-day supervision of the Council or its Executive Director. His contract must require him to produce a "concrete result," which he is to deliver as specified entirely through his independent efforts. If the relationship created under the contract is in fact tantamount to that of employer and employee, then the amount of compensation which he may be paid will be subject to the limits for experts and consultants under 5 U.S.C. § 3109. Thus, in order to avoid the statutory compensation limits, the Council must be willing to forego direct supervisory authority over its fund-raiser.

As explained earlier, none of the above restrictions are applicable if fund-raising or other services are obtained with the Council's donated funds.

Question 5. May the salary of a fund raiser who is paid with appropriated funds be augmented with donated funds in appropriate circumstances when the Federal compensation limits are too low to attract the best person for the job?

Answer. No. It is a Federal crime (misdemeanor) for any officer or employee of the Government to accept any additional compensation for his services as a Federal employee from any source other than the Federal Treasury (with certain exceptions not here applicable). *See* 18 U.S.C. § 209, and other "dual compensation" provisions listed in title 5 of the United States Code.

Question 6. If the Council's donated funds are exempt from the laws and regulations governing Federal activities funded with Federal appropriations, how can the Congress ensure that the construction of the museum is carried out in accordance with congressional intent?

Answer. We agree that it is very important to ensure accountability for all activities of the Council. While the Congress can exercise its oversight through the appropriations process for those Council activities authorized to be carried out with appropriated funds, the Act makes no provision for comparable oversight with respect to activities funded with its donated funds.

The following suggested amendments to the Act might overcome that problem:

"Section 4 of Public Law 96-388, 36 U.S.C. § 1404, is amended by adding at the end thereof a new subsection to read as follows:

'(f) Report to the Congress. The Executive Director shall make a full report annually to the Congress of his stewardship of the authority to construct, operate, and maintain the Holocaust Museum, including an accounting of all financial transactions involving donated funds.

"Section 4 is further amended by adding a new subsection (g) to read as follows: '(g) Audit by the Comptroller General; access to records. Financial transactions of the Council, including those involving donated funds, shall be audited by the Comptroller General as requested by the Congress, in accordance with generally accepted auditing standards. In conducting any audit pursuant to this section, appropriate representatives of the Comptroller General shall have access to all books, accounts, financial records, reports, files and other papers, items or property in use by the Council, as necessary to facilitate such audit, and such representatives shall be afforded full facilities for verifying transactions with the balances.' "

As promised, we have provided below some report language to explain the purpose of the various legislative amendments we have suggested. While the report language assumes that the amendments will be accepted, it could easily be adopted as a revised statement of congressional intent with respect to the existing language.

"The amendments to section 7 of Pub. L. 96-388 make it clear that the Congress regards the funds donated to the Council for the construction of the Holocaust Memorial Museum as nonappropriated funds notwithstanding other provisions of law which treat such funds as trust funds permanently appropriated for Government purposes. We think it is important that the Council be free to invest the donations in interest-bearing securities so as to build up an adequate endowment for operation and maintenance needs once the Museum is constructed. Moreover, in our view, the Council is free to expend its donations for construction of the Museum in accordance with its statutory purpose but without regard to procurement-related statutes and regulations or other restrictions or requirements applicable to the expenditure of appropriated funds.

"So as to ensure sufficient congressional oversight over the Council's nonappropriated fund activities and expenditures, two new subsections are added to section 4 of the Act, 36 U.S.C. § 1404. In new subsection (f), the Executive Director is required to make an annual report to the Congress on its stewardship of the funds donated for museum construction. New subsection (g) authorizes the Comptroller General of the United States to audit the Council's financial transactions using donated funds, and he is given access to all Council records required to facilitate his audit."

Please let us know if we can be any further assistance.

Sincerely yours,
MILTON J. SOCOLAR,
Acting Comptroller General of the United States.

Comparative Statement of New Budget (Obligational) Authority

	FY 1985 Enacted	FY 1986 Estimates	House	Senate	Conference	Conference compared with Enacted	Conference compared with Estimates	Conference compared with House	Conference compared with Senate
TITLE I - DEPARTMENT OF THE INTERIOR									
Bureau of Land Management									
Management of lands and resources	500,572,000	371,078,000	370,556,000	403,998,000	398,566,000	-102,006,000	+27,488,000	+28,010,000	-5,432,000
Construction and access	2,028,000	1,203,000	1,203,000	1,403,000	1,403,000	-625,000	+200,000	+200,000	---
Payments in lieu of taxes	102,900,000	105,000,000	102,900,000	105,000,000	105,000,000	+2,100,000	---	+2,100,000	---
Land acquisition	2,695,000	---	2,800,000	---	2,300,000	-395,000	+2,300,000	-500,000	+2,300,000
Oregon and California grant lands	53,939,000	---	66,140,000	54,443,000	56,114,000	+2,175,000	+56,114,000	-10,026,000	+1,671,000
Special acquisition of lands and minerals (authority to borrow)	14,700,000	---	---	---	---	-14,700,000	---	---	---
Range improvements	10,000,000	10,000,000	9,407,000	10,000,000	10,000,000	---	---	+593,000	---
Service charges, deposits, and forfeitures	4,070,000	5,920,000	5,920,000	4,070,000	4,070,000	---	-1,850,000	-1,850,000	---
Miscellaneous trust funds	100,000	100,000	100,000	100,000	100,000	---	---	---	---
Working capital fund	-2,951,000	---	---	---	---	+2,951,000	---	---	---
Total, Bureau of Land Management	688,053,000	495,301,000	567,026,000	579,014,000	577,553,000	-110,500,000	+82,252,000	+10,527,000	-1,461,000
United States Fish and Wildlife Service									
Resource management	308,438,000	305,329,000	317,202,000	303,522,000	301,222,000	-7,216,000	-4,107,000	-15,980,000	-2,300,000
Construction and anadromous fish	24,258,000	5,613,000	18,209,000	15,033,000	21,296,000	-2,962,000	+15,683,000	+3,087,000	+6,263,000
Migratory bird conservation account	21,266,000	---	10,000,000	20,000,000	15,000,000	-6,266,000	+15,000,000	+5,000,000	-5,000,000
Land acquisition	64,210,000	1,500,000	45,970,000	32,570,000	40,670,000	-23,540,000	+39,170,000	-5,300,000	+8,100,000
National Wildlife Refuge Fund	5,645,000	5,645,000	5,645,000	5,645,000	5,645,000	---	---	---	---
Sport fish restoration	---	44,000,000	---	---	---	---	-44,000,000	---	---
Total, United States Fish and Wildlife Service	423,825,000	362,087,000	397,026,000	376,770,000	383,833,000	-39,992,000	+21,746,000	-13,193,000	+7,063,000
National Park Service									
Operation of the national park system	626,818,000	600,808,000	628,996,000	619,548,000	627,763,000	+945,000	+26,955,000	-1,233,000	+8,215,000
National recreation and preservation	11,111,000	9,547,000	11,467,000	10,828,000	11,096,000	-15,000	+1,549,000	-371,000	+268,000
Historic preservation fund	25,480,000	---	24,410,000	25,480,000	24,945,000	-535,000	+24,945,000	+535,000	-535,000
Visitors facilities fund	5,000,000	8,500,000	7,070,000	---	---	-5,000,000	-8,500,000	-7,070,000	---
Construction	111,442,000	49,456,000	104,069,000	86,220,000	114,121,000	+2,679,000	+64,665,000	+10,052,000	+27,901,000
(Liquidation of contract authority)	(28,000,000)	---	(10,300,000)	(10,300,000)	(10,300,000)	(-17,700,000)	(+10,300,000)	---	---
Land acquisition and state assistance	169,164,000	11,275,000	115,762,000	75,400,000	98,400,000	-70,764,000	+87,125,000	-17,362,000	+23,000,000
John F. Kennedy Center for the Performing Arts	4,529,000	4,600,000	4,529,000	4,800,000	4,800,000	+271,000	+200,000	+271,000	---
National Capital Region Arts and Cultural Affairs Base program (1986 funding) 1/	(4,900,000)	---	---	---	---	(-4,900,000)	---	---	---
Illinois and Michigan Canal National Heritage Corridor Commission	245,000	---	250,000	250,000	250,000	+5,000	+250,000	---	---
Jefferson National Expansion Memorial Commission	73,000	---	75,000	---	75,000	+2,000	+75,000	---	+75,000
Total, National Park Service	954,742,000	684,186,000	896,628,000	822,526,000	881,450,000	-73,292,000	+197,264,000	-15,178,000	+58,924,000

Comparative Statement of New Budget (Obligational) Authority

	FY 1985 Enacted	FY 1986 Estimates	House	Senate	Conference	Conference compared with Enacted	Conference compared with Estimates	Conference compared with House	Conference compared with Senate
Geological Survey									
Surveys, investigations, and research 2/	416,368,000	415,348,000	428,098,000	437,655,000	431,961,000	+15,593,000	+16,613,000	+3,863,000	-5,694,000
Minerals Management Service									
Leasing and royalty management 2/	160,796,000	161,118,000	165,118,000	170,267,000	168,018,000	+7,222,000	+6,900,000	+2,900,000	-2,249,000
Payments to States from receipts under Mineral Leasing	800,000	800,000	---	800,000	---	-800,000	-800,000	---	-800,000
Total, Minerals Management Service	161,596,000	161,918,000	165,118,000	171,067,000	168,018,000	+6,422,000	+6,100,000	+2,900,000	-3,049,000
Bureau of Mines									
Mines and minerals	135,959,000	107,060,000	122,298,000	131,445,000	134,255,000	-1,704,000	+27,195,000	+11,957,000	+2,810,000
Office of Surface Mining Reclamation and Enforcement									
Regulation and technology	80,347,000	80,788,000	85,538,000	85,038,000	85,153,000	+4,806,000	+4,365,000	-385,000	+115,000
Abandoned mine reclamation fund (definite, trust fund)	296,941,000	250,818,000	233,585,000	191,295,000	207,385,000	-89,556,000	-43,433,000	-26,200,000	+16,090,000
Total, Office of Surface Mining Reclamation and Enforcement	377,288,000	331,606,000	319,123,000	276,333,000	292,538,000	-84,750,000	-39,068,000	-26,585,000	+16,205,000
Bureau of Indian Affairs									
Operation of Indian Programs	902,216,000	867,117,000	857,303,000	883,780,000	897,312,000	-4,904,000	+30,195,000	+40,009,000	+13,532,000
(By transfer)	(4,900,000)	---	---	---	---	(-4,900,000)	---	---	---
Construction	107,492,000	70,410,000	45,195,000	141,254,000	101,054,000	-6,438,000	+30,644,000	+55,859,000	-40,200,000
(By transfer)	---	(4,900,000)	---	---	---	---	(-4,900,000)	---	---
Road construction	5,000,000	---	785,000	---	---	-5,000,000	---	-785,000	---
Utah Paiute Trust Fund	2,500,000	---	---	---	---	-2,500,000	---	---	---
Payment to the Alaska Native Escrow account	---	7,877,000	---	7,877,000	7,877,000	+7,877,000	---	+7,877,000	---
Tribal trust funds:									
Definite amount	4,000,000	4,000,000	4,000,000	4,000,000	4,000,000	---	---	---	---
Indefinite amount	60,000,000	---	---	---	---	-60,000,000	---	---	---
Revolving fund for loans (limitation on direct loans)	(18,600,000)	(16,300,000)	(16,300,000)	(16,300,000)	(16,300,000)	(-2,300,000)	---	---	---
Indian loan guaranty and insurance fund	---	1,485,000	2,210,000	2,210,000	2,210,000	+2,210,000	+725,000	---	---
Indian loan guaranty and insurance fund (limitation on guaranteed loans)	---	(20,000,000)	---	---	---	---	(-20,000,000)	---	---
Total, Bureau of Indian Affairs	1,082,088,000	950,889,000	909,493,000	1,039,121,000	1,012,453,000	-69,635,000	+61,564,000	+102,960,000	-26,668,000

1/ Advance appropriation in P.L. 98-473, not requested in FY 1986 President's budget.

2/ Reflects transfer of 15 FTEs, $922,000, to USGS.

Comparative Statement of New Budget (Obligational) Authority

	FY 1985 Enacted	FY 1986 Estimates	House	Senate	Conference	Conference compared with Enacted	Conference compared with Estimates	Conference compared with House	Conference compared with Senate
Territorial and International Affairs									
Administration of territories	77,444,000	70,067,000	74,752,000	80,366,000	80,376,000	+2,932,000	+10,309,000	+5,624,000	+10,000
Trust Territory of the Pacific Islands	98,795,000	13,500,000	107,972,000	78,172,000	80,372,000	-18,423,000	+66,872,000	-27,600,000	+2,200,000
Total, Territorial Affairs	176,239,000	83,567,000	182,724,000	158,538,000	160,748,000	-15,491,000	+77,181,000	-21,976,000	+2,210,000
Departmental Offices									
Office of the Secretary	44,633,000	40,995,000	40,856,000	44,673,000	43,411,000	-1,222,000	+2,416,000	+2,555,000	-1,262,000
Office of the Solicitor	20,443,000	18,978,000	20,266,000	20,378,000	20,378,000	-65,000	+1,400,000	+112,000	---
Office of Inspector General	16,908,000	15,578,000	15,117,000	16,908,000	16,214,000	-694,000	+636,000	+1,097,000	-694,000
Construction Management	735,000	678,000	87,890,000	660,000	780,000	+45,000	+102,000	-87,110,000	+120,000
Office of the Secretary (special foreign currency program)	1,960,000	---	---	1,000,000	1,000,000	-960,000	+1,000,000	+1,000,000	---
Total, Secretarial Offices	84,679,000	76,229,000	164,129,000	83,619,000	81,783,000	-2,896,000	+5,554,000	-82,346,000	-1,836,000
Total, title I, new budget (obligational) authority, Department of the Interior	4,500,837,000	3,668,191,000	4,151,663,000	4,076,008,000	4,124,592,000	-376,245,000	+456,401,000	-27,071,000	+48,584,000
(Liquidation of contract authority)	(28,000,000)	---	(10,300,000)	(10,300,000)	(10,300,000)	(-17,700,000)	(+10,300,000)	---	---
(By transfer)	(4,900,000)	(4,900,000)	---	---	---	(-4,900,000)	(-4,900,000)	---	---
TITLE II - RELATED AGENCIES									
DEPARTMENT OF AGRICULTURE									
Forest Service									
Forest research	121,666,000	106,971,000	124,989,000	125,420,000	126,283,000	+4,617,000	+19,312,000	+1,294,000	+863,000
State and private forestry	58,292,000	30,391,000	56,193,000	55,786,000	57,986,000	-306,000	+27,595,000	+1,793,000	+2,200,000
National forest system	1,111,548,000	1,135,679,000	1,035,433,000	1,070,146,000	1,054,629,000	-56,919,000	-81,050,000	+19,196,000	-15,517,000
Construction	263,869,000	214,908,000	183,865,000	219,608,000	223,865,000	-40,004,000	+8,957,000	+40,000,000	+4,257,000
Purchaser credit transfer	-226,290,000	---	---	---	---	+226,290,000	---	---	---
Timber receipts transfer to General Fund	(-52,604,000)	(-88,608,000)	(-102,765,000)	(-88,608,000)	(-102,765,000)	(-50,161,000)	(-14,157,000)	---	(-14,157,000)
Timber purchaser credits	(192,301,000)	(190,300,000)	---	(190,300,000)	---	(-192,301,000)	(-190,300,000)	---	(-190,300,000)
Land acquisition	50,535,000	2,382,000	29,500,000	18,025,000	28,300,000	-22,235,000	+25,918,000	-1,200,000	+10,275,000
Youth Conservation Corps	---	---	10,000,000	---	---	---	---	-10,000,000	---
Acquisition of lands for national forests, special acts	766,000	782,000	780,000	782,000	782,000	+16,000	---	+2,000	---
Acquisition of lands to complete land exchanges	20,000	20,000	20,000	20,000	20,000	---	---	---	---
Range betterment fund	3,966,000	3,992,000	3,908,000	3,992,000	3,992,000	+26,000	---	+84,000	---
Miscellaneous trust funds	88,000	90,000	90,000	90,000	90,000	+2,000	---	---	---
Total, Forest Service	1,384,460,000	1,495,215,000	1,444,698,000	1,493,869,000	1,495,947,000	+111,487,000	+732,000	+51,249,000	+2,078,000
DEPARTMENT OF THE TREASURY									
Energy Security Reserve (rescission) 1/	(-5,375,000,000)	---	(-6,900,000,000)	---	---	(+5,375,000,000)	---	(+6,900,000,000)	---

1/ Rescission not included for comparison purposes.

Comparative Statement of New Budget (Obligational) Authority

	FY 1985 Enacted	FY 1986 Estimates	House	Senate	Conference	Conference compared with Enacted	Conference compared with Estimates	Conference compared with House	Conference compared with Senate
DEPARTMENT OF ENERGY									
Clean Coal Technology Reserve	---	---	---	100,000,000	---	---	---	---	-100,000,000
FY 1986 (by transfer) 2/	---	---	(100,000,000)	---	---	---	---	(-100,000,000)	---
Advance appropriation for 1987	---	---	---	175,000,000	---	---	---	---	-175,000,000
FY 1987 (by transfer) 2/	---	---	(200,000,000)	---	---	---	---	(-200,000,000)	---
Advance appropriation for 1988	---	---	---	300,000,000	---	---	---	---	-300,000,000
FY 1988 (by transfer) 2/	---	---	(200,000,000)	---	---	---	---	(-200,000,000)	---
Advance appropriation for 1989	---	---	---	175,000,000	---	---	---	---	-175,000,000
Fossil energy research and development	274,947,000	161,991,000	299,534,000	292,228,000	312,848,000	+37,901,000	+150,857,000	+13,314,000	+20,620,000
(By transfer)	(50,496,000)	(8,940,000)	(17,672,000)	(-10,240,000)	---	(-50,496,000)	(-8,940,000)	(-17,672,000)	(+10,240,000)
Naval petroleum and oil shale reserves	156,874,000	13,849,000	13,668,000	13,668,000	13,668,000	-143,206,000	-181,000	---	---
Energy conservation	458,610,000	367,357,000	468,326,000	436,587,000	449,418,000	-9,192,000	+82,061,000	-18,908,000	+12,831,000
Economic regulation	24,640,000	23,823,000	24,623,000	24,623,000	24,623,000	-17,000	+800,000	---	---
Emergency preparedness	6,045,000	6,044,000	3,989,000	6,754,000	6,044,000	-1,000	---	+2,055,000	-710,000
Strategic Petroleum Reserve	(459,190,000)	263,000	199,017,000	113,043,000	113,043,000	+113,043,000	+112,780,000	-85,974,000	---
SPR petroleum account	(2,049,550,000)	---	---	---	---	(-2,049,550,000)	---	---	---
Energy Information Administration	60,919,000	60,182,000	60,782,000	60,682,000	60,682,000	-237,000	+500,000	-100,000	---
Total, Department of Energy	982,035,000	633,509,000	1,069,939,000	1,697,585,000	980,326,000	-1,709,000	+346,817,000	-89,613,000	-717,259,000
Appropriations, 1986	(982,035,000)	(633,509,000)	(1,069,939,000)	(1,047,585,000)	(980,326,000)	(-1,709,000)	(+346,817,000)	(-89,613,000)	(-67,259,000)
Appropriations, 1987	---	---	---	(175,000,000)	---	---	---	---	(-175,000,000)
Appropriations, 1988	---	---	---	(300,000,000)	---	---	---	---	(-300,000,000)
Appropriations, 1989	---	---	---	(175,000,000)	---	---	---	---	(-175,000,000)

2/ Proposed transfer from Energy Security Reserve (Synthetic Fuels Corporation).

	FY 1985 Enacted	FY 1986 Estimates	House	Senate	Conference	Conference compared with Enacted	Conference compared with Estimates	Conference compared with House	Conference compared with Senate
DEPARTMENT OF HEALTH AND HUMAN SERVICES									
Health Resources and Services Administration									
Indian health services	800,567,000	766,583,000	836,483,000	802,684,000	823,133,000	+22,566,000	+56,550,000	-13,350,000	+20,449,000
Indian health facilities	61,634,000	---	61,483,000	35,888,000	46,947,000	-14,687,000	+46,947,000	-14,536,000	+11,059,000
Total, Department of Health and Human Services	862,201,000	766,583,000	897,966,000	838,572,000	870,080,000	+7,879,000	+103,497,000	-27,886,000	+31,508,000
DEPARTMENT OF EDUCATION									
Office of Elementary and Secondary Education									
Indian education	67,404,000	67,356,000	67,656,000	67,356,000	67,476,000	+72,000	+120,000	-180,000	+120,000
DEPARTMENT OF STATE									
Compact of Free Association	---	178,750,000	---	---	---	---	-178,750,000	---	---

Comparative Statement of New Budget (Obligational) Authority

	FY 1985 Enacted	FY 1986 Estimates	House	Senate	Conference	Conference compared with Enacted	Conference compared with Estimates	Conference compared with House	Conference compared with Senate
OTHER RELATED AGENCIES									
Navajo and Hopi Indian Relocation Commission									
Salaries and expenses	20,321,000	20,241,000	20,442,000	22,241,000	22,491,000	+2,170,000	+2,250,000	+2,049,000	+250,000
Smithsonian Institution									
Salaries and expenses	164,321,000	185,590,000	182,599,000	176,218,000	178,063,000	+13,742,000	-7,527,000	-4,536,000	+1,845,000
Museum programs and related research (special foreign currency program)	8,820,000	2,500,000	2,500,000	2,500,000	2,500,000	-6,320,000	---	---	---
Construction and improvements, National Zoological Park	4,851,000	4,851,000	4,851,000	5,551,000	5,551,000	+700,000	+700,000	+700,000	---
Restoration and renovation of buildings	13,475,000	14,075,000	11,075,000	12,375,000	11,075,000	-2,400,000	-3,000,000	---	-1,300,000
Construction	---	4,000,000	4,000,000	4,000,000	4,000,000	+4,000,000	---	---	---
Subtotal	191,467,000	211,016,000	205,025,000	200,644,000	201,189,000	+9,722,000	-10,627,000	-3,836,000	+545,000
National Gallery of Art									
Salaries and expenses	36,848,000	36,704,000	34,379,000	33,934,000	33,754,000	-3,094,000	-2,950,000	-625,000	-180,000
Repair, Restoration and Renovation of Buildings	---	---	2,900,000	4,000,000	3,300,000	+3,300,000	+3,300,000	+400,000	-700,000
Subtotal, National Gallery of Art	36,848,000	36,704,000	37,279,000	37,934,000	37,054,000	+206,000	+350,000	-225,000	-880,000
Woodrow Wilson International Center for Scholars, salaries and expenses	2,674,000	2,852,000	3,342,000	3,902,000	4,392,000	+1,718,000	+1,540,000	+1,050,000	+490,000
Total, Smithsonian Institution	230,989,000	251,372,000	245,646,000	242,480,000	242,635,000	+11,646,000	-8,737,000	-3,011,000	+155,000
National Foundation of the Arts and the Humanities									
National Endowment for the Arts									
Grants and administration	118,678,000	101,650,000	121,678,000	116,900,000	121,678,000	+3,000,000	+20,028,000	---	+4,778,000
Administrative expenses	15,582,000	15,650,000	15,582,000	16,000,000	15,582,000	---	-68,000	---	-418,000
Subtotal	134,260,000	117,300,000	137,260,000	132,900,000	137,260,000	+3,000,000	+19,960,000	---	+4,360,000
Matching grants	29,400,000	27,500,000	29,400,000	30,000,000	29,400,000	---	+1,900,000	---	-600,000
Total, National Endowment for the Arts	163,660,000	144,800,000	166,660,000	162,900,000	166,660,000	+3,000,000	+21,860,000	---	+3,760,000
Arts and Artifacts Indemnity Fund									
Salaries and expenses	---	---	---	300,000	300,000	+300,000	+300,000	+300,000	---

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Comparative Statement of New Budget (Obligational) Authority

	FY 1985 Enacted	FY 1986 Estimates	House	Senate	Conference	Conference compared with Enacted	Conference compared with Estimates	Conference compared with House	Conference compared with Senate
National Endowment for the Humanities									
Grants and administration	95,207,000	84,090,000	98,429,000	94,650,000	96,618,000	+1,411,000	+12,528,000	-1,811,000	+1,968,000
Administrative expenses	13,891,000	14,240,000	13,120,000	14,320,000	14,200,000	+309,000	-40,000	+1,080,000	-120,000
Subtotal	109,098,000	98,330,000	111,549,000	108,978,000	110,818,000	+1,720,000	+12,488,000	-731,000	+1,840,000
Matching grants	30,380,000	28,000,000	27,929,000	30,500,000	28,660,000	-1,720,000	+660,000	+731,000	-1,840,000
Total, National Endowment for the Humanities	139,478,000	126,330,000	139,478,000	139,478,000	139,478,000	---	+13,148,000	---	---
National Capital Arts and Cultural Affairs									
Grants	---	---	---	---	2,000,000	+2,000,000	+2,000,000	+2,000,000	+2,000,000
Institute of Museum Services									
Grants and administration	21,560,000	294,000	21,560,000	15,870,000	21,523,000	-37,000	+21,229,000	-37,000	+5,653,000
Total, National Foundation of the Arts and the Humanities	324,698,000	271,424,000	327,698,000	318,548,000	329,961,000	+5,263,000	+58,537,000	+2,263,000	+11,413,000
Commission of Fine Arts									
Salaries and expenses	374,000	374,000	377,000	382,000	382,000	+8,000	+8,000	+5,000	---
Advisory Council on Historic Preservation									
Salaries and expenses	1,546,000	1,239,000	1,585,000	1,585,000	1,585,000	+39,000	+346,000	---	---
National Capital Planning Commission									
Salaries and expenses	2,692,000	2,703,000	2,721,000	2,703,000	2,712,000	+20,000	+9,000	-9,000	+9,000
Franklin Delano Roosevelt Memorial Commission									
Salaries and expenses	21,000	21,000	21,000	21,000	21,000	---	---	---	---
Pennsylvania Avenue Development Corporation									
Salaries and expenses	2,272,000	2,221,000	2,316,000	2,329,000	2,329,000	+57,000	+108,000	+13,000	---
Public development	4,410,000	3,250,000	3,250,000	3,250,000	3,250,000	-1,160,000	---	---	---
Total, Pennsylvania Avenue Development Corporation	6,682,000	5,471,000	5,566,000	5,579,000	5,579,000	-1,103,000	+108,000	+13,000	---
Federal Inspector for the Alaska Gas Pipeline									
Permitting and enforcement	1,401,000	802,000	---	---	---	-1,401,000	-802,000	---	---

Comparative Statement of New Budget (Obligational) Authority

	FY 1985 Enacted	FY 1986 Estimates	House	Senate	Conference	Conference compared with Enacted	Conference compared with Estimates	Conference compared with House	Conference compared with Senate
United States Holocaust Memorial Council									
Holocaust Memorial Council	2,003,000	1,990,000	2,119,000	2,125,000	2,125,000	+122,000	+135,000	+6,000	---
Total, title II, new budget (obligational) authority, related agencies	3,886,827,000	3,697,130,000	4,086,434,000	4,693,046,000	4,021,320,000	+134,493,000	+324,190,000	-65,114,000	-671,726,000
Appropriations, 1986	3,886,827,000	3,697,130,000	4,086,434,000	4,043,046,000	4,021,320,000	+134,493,000	+324,190,000	-65,114,000	-21,726,000
Appropriations, 1987	---	---	---	175,000,000	---	---	---	---	-175,000,000
Appropriations, 1988	---	---	---	300,000,000	---	---	---	---	-300,000,000
Appropriations, 1989	---	---	---	175,000,000	---	---	---	---	-175,000,000
RECAPITULATION									
Total, new budget (obligational) authority, all titles	8,387,664,000	7,365,321,000	8,238,097,000	8,769,134,000	8,145,912,000	-241,752,000	+780,591,000	-92,185,000	-623,222,000
Consisting of:									
New Budget (obligational) authority (net)	8,387,664,000	7,365,321,000	8,238,097,000	8,769,134,000	8,145,912,000	-241,752,000	+780,591,000	-92,185,000	-623,222,000
Appropriations, 1986	8,387,664,000	7,365,321,000	8,238,097,000	8,119,134,000	8,145,912,000	-241,752,000	+780,591,000	-92,185,000	+26,778,000
Appropriations, 1987	---	---	---	175,000,000	---	---	---	---	-175,000,000
Appropriations, 1988	---	---	---	300,000,000	---	---	---	---	-300,000,000
Appropriations, 1989	---	---	---	175,000,000	---	---	---	---	-175,000,000
Rescissions	(-5,375,000,000)	---	(-6,900,000,000)	---	---	(+5,375,000,000)	---	(+6,900,000,000)	---
(Limitation on direct loans)	(18,600,000)	(16,300,000)	(16,300,000)	(16,300,000)	(16,300,000)	(-2,300,000)	---	---	---
(Limitation on guaranteed loans)	---	(20,000,000)	---	---	---	---	(-20,000,000)	---	---
(By transfer)	(55,396,000)	(13,040,000)	(517,672,000)	(-10,240,000)	---	(-55,396,000)	(-13,040,000)	(-517,672,000)	(+10,240,000)
(Timber receipt transfer to general fund)	(-52,604,000)	(-88,608,000)	(-102,765,000)	(-88,608,000)	(-102,765,000)	(-50,161,000)	(-14,157,000)	---	(-14,157,000)
(Timber purchaser credits)	(192,301,000)	(190,300,000)	---	(190,300,000)	---	(-192,301,000)	(-190,300,000)	---	(-190,300,000)
(Liquidation of contract authority)	(28,000,000)	---	(10,300,000)	(10,300,000)	(10,300,000)	(-17,700,000)	(+10,300,000)	---	---
(SPR petroleum account)	(2,049,550,000)	---	---	---	---	(-2,049,550,000)	---	---	---
(1986 funding)	(4,900,000)	---	---	---	---	(-4,900,000)	---	---	---
TITLE I -DEPARTMENT OF THE INTERIOR									
Bureau of Land Management	688,053,000	495,301,000	567,026,000	579,014,000	577,553,000	-110,500,000	+82,252,000	+10,527,000	-1,461,000
United States Fish and Wildlife Service	423,825,000	362,087,000	397,026,000	376,770,000	383,833,000	-39,992,000	+21,746,000	-13,193,000	+7,063,000
National Park Service	954,742,000	684,186,000	896,620,000	822,526,000	881,450,000	-73,292,000	+197,264,000	-15,170,000	+58,924,000
Geological Survey	416,368,000	415,348,000	428,098,000	437,655,000	431,961,000	+15,593,000	+16,613,000	+3,863,000	-5,694,000
Minerals Management Service	161,596,000	161,918,000	165,110,000	171,067,000	168,018,000	+6,422,000	+6,100,000	+2,908,000	-3,049,000
Bureau of Mines	135,959,000	107,060,000	122,298,000	131,445,000	134,255,000	-1,704,000	+27,195,000	+11,957,000	+2,810,000
Office of Surface Mining Reclamation and Enforcement	377,288,000	331,606,000	319,123,000	276,333,000	292,538,000	-84,750,000	-39,068,000	-26,585,000	+16,205,000
Bureau of Indian Affairs	1,082,088,000	950,889,000	909,493,000	1,039,121,000	1,012,453,000	-69,635,000	+61,564,000	+102,960,000	-26,668,000
Territorial and International Affairs	176,239,000	83,567,000	182,724,000	158,538,000	160,748,000	-15,491,000	+77,181,000	-21,976,000	+2,210,000
Secretarial Offices	84,679,000	76,229,000	164,129,000	83,619,000	81,783,000	-2,896,000	+5,554,000	-82,346,000	-1,836,000
Total, Title I - Department of the Interior	4,500,837,000	3,668,191,000	4,151,663,000	4,076,088,000	4,124,592,000	-376,245,000	+456,401,000	-27,071,000	+48,504,000

Comparative Statement of New Budget (Obligational) Authority

	FY 1985 Enacted	FY 1986 Estimates	House	Senate	Conference	Conference compared with			
						Enacted	Estimates	House	Senate
20600 TITLE II - RELATED AGENCIES									
20700 Forest Service	1,384,460,000	1,495,215,000	1,444,698,000	1,493,869,000	1,495,947,000	+111,487,000	+732,000	+51,249,000	+2,078,000
20710 Department of the Treasury	(-5,375,000,000)	---	(-6,900,000,000)	---	---	(+5,375,000,000)	---	(+6,900,000,000)	---
20800 Department of Energy	982,035,000	633,509,000	1,049,939,000	1,697,585,000	980,326,000	-1,709,000	+346,817,000	-69,613,000	-717,259,000
20810 Appropriations, 1986	(982,035,000)	(633,509,000)	(1,049,939,000)	(1,047,585,000)	(980,326,000)	(-1,709,000)	(+346,817,000)	(-69,613,000)	(-67,259,000)
20820 Appropriations, 1987	---	---	---	(175,000,000)	---	---	---	---	(-175,000,000)
20830 Appropriations, 1988	---	---	---	(300,000,000)	---	---	---	---	(-300,000,000)
20840 Appropriations, 1989	---	---	---	(175,000,000)	---	---	---	---	(-175,000,000)
20900 Indian Health	862,201,000	766,583,000	897,966,000	838,572,000	870,080,000	+7,879,000	+103,497,000	-27,886,000	+31,508,000
21000 Indian Education	67,404,000	67,356,000	67,656,000	67,356,000	67,476,000	+72,000	+120,000	-180,000	+120,000
21010 Department of State	---	178,750,000	---	---	---	---	-178,750,000	---	---
21100 Navajo and Hopi Indian Relocation Commission	20,321,000	20,241,000	20,442,000	22,241,000	22,491,000	+2,170,000	+2,250,000	+2,049,000	+250,000
21200 Smithsonian	191,467,000	211,816,000	205,025,000	200,644,000	201,189,000	+9,722,000	-10,627,000	-3,836,000	+545,000
21300 National Gallery of Art	36,848,000	36,704,000	37,279,000	37,934,000	37,054,000	+206,000	+350,000	-225,000	-880,000
21400 Woodrow Wilson International Center for Scholars	2,674,000	2,852,000	3,342,000	3,902,000	4,392,000	+1,718,000	+1,540,000	+1,050,000	+490,000
21500 National Endowment for the Arts	163,660,000	144,800,000	166,660,000	162,900,000	166,660,000	+3,000,000	+21,860,000	---	+3,760,000
21550 Arts and Artifacts Indemnity Fund	---	---	---	300,000	300,000	+300,000	+300,000	+300,000	---
21600 National Endowment for the Humanities	139,478,000	126,330,000	139,478,000	139,478,000	139,478,000	---	+13,148,000	---	---
21650 National Capital Arts and Cultural Affairs	---	---	---	---	2,000,000	+2,000,000	+2,000,000	+2,000,000	+2,000,000
21700 Institute of Museum Services	21,560,000	294,000	21,560,000	15,870,000	21,523,000	-37,000	+21,229,000	-37,000	+5,653,000
21800 Commission of Fine Arts	374,000	374,000	377,000	382,000	382,000	+8,000	+8,000	+5,000	---
21900 Advisory Council on Historic Preservation	1,546,000	1,239,000	1,585,000	1,585,000	1,585,000	+39,000	+346,000	---	---
22000 National Capital Planning Commission	2,692,000	2,703,000	2,721,000	2,703,000	2,712,000	+20,000	+9,000	-9,000	+9,000
22100 Franklin Delano Roosevelt Memorial Commission	21,000	21,000	21,000	21,000	21,000	---	---	---	---
22200 Pennsylvania Avenue Development Corporation	6,682,000	5,471,000	5,566,000	5,579,000	5,579,000	-1,103,000	+108,000	+13,000	---
22300 Federal Inspector for the Alaska Gas Pipeline	1,401,000	882,000	---	---	---	-1,401,000	-882,000	---	---
22400 Holocaust Memorial Council	2,003,000	1,990,000	2,119,000	2,125,000	2,125,000	+122,000	+135,000	+6,000	---
22600 Total, Title II - Related Agencies	3,886,827,000	3,697,130,000	4,086,434,000	4,693,046,000	4,021,320,000	+134,493,000	+324,190,000	-65,114,000	-671,726,000
22700 Grand total	8,387,664,000	7,365,321,000	8,238,097,000	8,769,134,000	8,145,912,000	-241,752,000	+780,591,000	-92,185,000	-623,222,000

Mr. SHARP. Mr. Speaker, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Indiana.

Mr. SHARP. Mr. Speaker, I want to ask the chairman a question about the Synthetic Fuels Corporation and to just double check this.

First, does the gentleman agree that the bill does not say that the SFC's action on Union I was or was not a legally binding commitment. That question ultimately lies, in case of any dispute, with the courts and general contract law. Thus, if the SFC's action was not a legally binding commitment, then nothing more can be done by the SFC regarding Union I in the 60 days after enactment.

Mr. YATES. Mr. Speaker, if the gentleman will yield that is my understanding. The gentleman is correct.

Mr. SHARP. Second, the conferees have agreed that even if an action such as the Union action was a legally binding contract before enactment, the Board still can only take actions in the 2 months after enactment, that are required in the preenactment contract, without any substantive change.

Mr. YATES. That is my impression of the intention of the conferees.

Mr. SHARP. Mr. Speaker, if the gentleman will bear with me, even if the November 7 Union action was legally binding, which I do not believe that is the case, binding on the SFC, then no change can be made in that commitment or award by the SFC Board in the 2 months after enactment of this resolution.

Mr. YATES. In my opinion, that is the intent of the conferees.

Mr. SHARP. Finally, the conferees have agreed that if pension benefits or other compensation, such as severance pay, are not specifically provided for and required under employment contracts as of enactment, then the Board cannot go ahead, after enactment, and grant such benefits or compensation to any Director, officer, or employee without OPM approval.

Mr. YATES. Yes; the gentleman is correct.

Mr. SHARP. Mr. Speaker, to further clarify the provisions of the synthetic fuels provisions of the continuing resolution:

FINAL SYNFUELS PROVISIONS IN CONTINUING RESOLUTION

Immediate rescission of $6.9 billion. Specifically:

	Millions
Available at start of fiscal year 1986	$7,822.04
For clean coal over 3 years	−400.00
For Union 1 if Nov. 7 award by SFC to Union 1 was a binding contract	−500.00
For administrative expenses as SFC is phased out over next 4 months	−10.00
Rescinded on enactment of the continuing resolution.	6,922.04

SFC Board of Directors is terminated within 60 days after enactment.

Secretary of Treasury replaces SFC Chairman within 60 days after enactment.

SFC terminates within 120 days after enactment.

The Secretary of the Treasury succeeds to all SFC rights and liabilities, administers preenactment awards, and so forth.

No new legally binding awards can be made after enactment, and changes cannot be made to preenactment awards. However, the Board can, during the month after enactment, perform and complete the terms and undertakings of legally binding preenactment contracts, if the preenactment contract required it to do so.

At least one preenactment action by the SFC is at issue—the attempted Union 1 award of $500 million on November 7.

The bill does not say that the SFC's action on Union 1 was or was not a legally binding commitment. That question ultimately lies, in case of any dispute, with the courts and general contract law.

If the SFC's action was not a legally binding commitment, then nothing more can be done by the SFC regarding Union 1 in the 60 days after enactment.

If the Union 1 award of November 7, 1985, was a legally binding commitment, then the question still remains: Did that preenactment commitment bind and require the Board to take whatever specific action it may attempt to take, regarding Union 1, in the 2 months after enactment? If not, the the attempted Board action is not allowed by this resolution.

In any event—and even if the November 7 action was legally binding on the SFC—no change can be made in that commitment or award by the SFC Board in the 2 months after enactment of this resolution.

Salaries of SFC officers and employees are capped after enactment at the ES IV level: $72,000.

By February 1, 1986, OPM is to review all SFC employment contracts and determine all rights under them.

Vested pension and compensation contracts in effect on enactment are not thereafter altered. But no changes in them can be made after enactment, unless the Director of OPM agrees the changes are reasonable.

If pension benefits or other compensation, such as severance pay, are not specifically provided for and required under employment contracts as of enactment, then the Board cannot go ahead—after enactment—and grant such benefits or compensation to any Director, officer, or employee.

Finally, we are including the same legislative language that I just summarized, in the fiscal year 1986 reconciliation package. But the rescission language in this continuing resolution is left out of the reconciliation package.

Mr. CONTE. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding.

While we were putting together this conference report, it appears as though we put together a few things for ourselves that I think ought to be pointed out here.

As I look at amendment No. 117, if I understand amendment 117, we are now raising the amount of honoraria income that the Members can earn. That now goes up to 40 percent of salary. That will be immediately permitted for the Senate. It would be subject to a rules change in the House; but that is a reform that there was a good deal of controversy about just a few months ago, which we are now reversing our position on and allowing to have substantially more honoraria income and setting up so that we ourselves may be able to do that in the future.

There is another amendment in here, amendment No. 114, that I would like to ask some questions on, because it appears as though what we are doing there is changing the means by which we raise our own pay. If I am correct on this, it appears to me as though we are going to now accept the recommendations of the Quadrennial Commission. If I am correct, instead of having a one-House veto for congressional pay increases in the future, this will now require a two-House veto. Is that correct?

Mr. FAZIO. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from California.

Mr. FAZIO. Mr. Speaker, I am sure the gentleman is aware of the Chadha decision, which mandates that we change all legislative enactments that violate the Constitution by permitting some sort of legislative veto over executive action; we have by our actions in this conference report come into conformity with the recent constitutional interpretation of the Supreme Court. The Chadha decision requires that we pass a bill to cancel a Presidential recommendation and that's what this legislation does.

Mr. WALKER. So we are not going to have a two-House veto on this.

It is also true that we have changed the effective date for the next pay increase and moved it back a year?

Mr. FAZIO. I do not know what the gentleman is referring to. This provision would certainly not provide for any pay raise in fiscal year 1985 or fiscal year 1986, and depending on whatever recommendation might be made by the President in furtherance of his next Quadrennial Commission report, there might possibly be one before the House in 1987.

Mr. WALKER. So that would be January 1 of 1987 and it would require a two-House disapproval vote if in fact that takes place.

It is also my understanding that the present thinking is that that particular pay increase would come to $99,000, about $99,500; is that correct?

Mr. FAZIO. Well, the gentleman hears voices that I do not hear. Certainly this is one instance when the gentleman has knowledge that I do not have.

I could not speak at all with any specificity as to what a commission that has yet to be appointed by this President might recommend sometime in 1987.

Mr. WALKER. Well, I thank the gentleman.

My concern is this, that we now have in law an automatic appropriation. I will tell the Members that it seems to me that buried down in this bill that we are not setting up a process that will assure that that automatic appropriation will at some point in the future take on a fairly substantial pay increase for the Members, that this bill is where we will do it and we will do it here this evening as part of the conference report.

I think the Members ought to be aware that in both the case of amendment 117 and 114 we have taken care of ourselves.

Mr. FRANK. Mr. Speaker, I yield 2 minutes to the gentleman from Vermont [Mr. JEFFORDS].

Mr. JEFFORDS. Mr. Speaker, we are sort of continuing the same kind of argument, legislating on an appropriations bill, on a different issue.

Here we go again. Last year on a summer evening at 1 a.m. by unanimous consent and after assurances that no more legislative business was pending, the House approved legislation intending to strong-arm the States into raising their minimum drinking age to 21.

Now we are being asked to approve a continuing resolution with language tacked on which would make permanent the penalties imposed upon States which for good reason had not succumbed to Federal blackmail, and thus chose not to raise their drinking ages to 21.

Mr. Speaker, I resent this attempt to sneak in this provision by the House with no opportunity for debate.

Back in 1971, after prolonged national debate, the Congress voted to lower the voting age. States uniformly reduced the age of majority to 18. We judged that those old enough to die for this country were old enough to have its rights, obligations, and privileges of citizenships; but last year, with no debate, without even a vote, the Congress approved legislation that instructs the Department of Transportation to withhold highway trust fund money from those States which do not comply.

Now we are asked to approve a Senate amendment that does the same thing and makes it permanent.

Proponents of this approach believe this is a way to help reduce the national tragedy of drunk driving. Facts show this approach is ill-conceived. States should be allowed to provide better alternatives.

We are all aware of the statistic that 18- to 21-year-olds make up 9 percent of the country's drinking population, yet they are involved in 17 percent of all alcohol-related accidents. This figure is high, but what of the remaining 83 percent of the accidents?

On a national basis, under 20-year-old drivers account for a high percentage of all fatal car accidents, alcohol-related or not. This can be explained in part by their inexperience and propensity to drive with a heavy foot. The insurance companies certainly see it this way and adjust their rates accordingly. I know this for a fact—I pay for my son's car insurance.

When looking at raising the drinking age to reduce the number of car accidents involving individuals under 20, I think we have to realize that this group, historically, are problem drivers. Data for all fatal car accidents in 1970 show that drivers less than 20 accounted for 15 percent of all accidents. This is of course prior to the time the drinking age was generally reduced to 18 across the country. In 1983, this group still accounted for 15 percent of all fatal accidents.

Proponents of the national minimum drinking age often cite statistics showing States which have raised their drinking age to 21 have experienced reductions in alcohol related fatalities among 18- to 20-year-olds. However, many of these States have also simultaneously toughened drunk driving laws and increased enforcement. Illinois, which raised its drinking age from 19 to 21 effective January 1980, saw alcohol-related fatalities among 19 and 20 year olds increase by 15 percent in 1981, then decrease by 15 percent in 1982, then increase by 12 percent in 1983. Florida raised their drinking age from 18 to 19, effective January 1981. Alcohol related fatalities among 18-year-olds dropped 5 percent in 1981, then increased 21 percent in 1982 and 26 percent in 1983. I fail to see the connection in these cases.

A few other statistics of interest are worth noting at this time. In 1983, 17- to 20-year-olds were involved in 18.8 percent of all alcohol-related fatal accidents. In this same year, 21- to 24-year-olds accounted for 22.2 percent of these accidents. Figures from my own State of Vermont show roughly the same relationship with 17- to 20-year-olds drivers accounting for 22 percent of alcohol-related fatal accidents and 21- to 24-year-olds accounting for 27 percent. If the answer to drunk driving is raising the drinking age, shouldn't we be looking at raising the age to 24? Or, is not the more logical answer to direct educational and other special programs toward our younger generation?

I am concerned because this national minimum drinking age legislation is a phoney solution to a very real problem. We need to find real solutions to this national problem, not raise the drinking age and pat ourselves on the back. Many States are enacting tough new drunk driving laws and increasing enforcement of drunk driving laws. State and local governments and school officials are developing innovative education programs.

In my home State of Vermont, bar and restaurant owners are implementing call-a-cab programs. Students at the University of Vermont have organized a free ride home for students and local residents who have had too much to drink. We should be commending these students, not taking away the opportunity to make responsible choices about alcohol. We should be educating students about the dangers of drinking and driving, and increasing public awareness of the tragedy of drunk driving with alcohol education programs.

Proponents of the national minimum drinking age cite the benefits of uniformity among the States. We hear about how the present system encourages 18- to 20-year-olds to drive across State borders to obtain alcohol. However, this legislation creates a whole new set of problems for border States. The largest city in Vermont with a college population of 13,400 is a quick drive to the Quebec Province where the drinking age is 18. This situation exists all across the northern tier where cities such as Buffalo, Detroit, Duluth, Grand Forks, Spokane, and Seattle, with an estimated combined population of 180,000 18- to 21-year-olds, are all within striking distant of Canadian provinces where the drinking age is less than 20. Along our Mexican border, cities such as Brownsville, Corpus Christi, El Paso, Tucson, and San Diego are all within easy reach of a drinking age less than 21. The combined population of 18- to 21-year-olds in these cities is approximately 152,000. All in all, the total 18-to-21 population that will be tempted to cross international borders is probably close to a half million.

The 21st amendment to the Constitution preserves the rights of States to regulate the sale of intoxicating liquors within their borders. Residents of my State of Vermont resent the Federal Government blackmail on this State issue, and the Vermont Legislature has passed a joint resolution which, and I quote, "* * * expresses on behalf of the people of the State of Vermont its outrage and opposition to very intrusive actions by the Federal Government on the drinking age." I would like to point out that the same Vermont Legislature has twice approved measures to raise the drinking age in Vermont.

Vermonters are correct in implying that the Congress is sticking its nose in somewhere it doesn't belong. This is a State issue. Even as we pass historic legislation which will shift massive Federal responsibilities back to the States, we choose blackmail on an issue which is unquestionably under the jurisdiction of the States.

This action is a gross abuse of the legislative process, a violation of States rights and an incredible lesson to our young people on how democracy should not work.

I cannot, for this and many other reasons, support this resolution.

Mr. WHITTEN. Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. CHAPPELL].

Mr. CHAPPELL. Mr. Speaker, I thank the gentleman for yielding time. I rise in complete support of this bill. I think, while it is not perfect for every one of us, it gives us a very fine bill and it ought to be adopted.

Let me speak specifically to the defense part.

The conferees of the Department of Defense Appropriations Act portion of the continuing resolution bring back a very delicately balanced agreement on the defense issues. We were faced with some extremely difficult issues which had to be weighed against each other and a final agreement crafted. These issues included the total funds provided for the defense programs, the funds allowed and the restrictions imposed on these funds for chemical weapons and facilities, the restriction of antisatellite weapons testing, the amounts approved for the strategic defense initiative [SDI], and many other important issues. Not all Members are satisfied with the conference agreement. I have difficulty with portions of the agreement myself but this is a compromise and I think basically a good bill.

The conference agreement appropriates $282.5 billion in new obligational authority some $5.9 billion above the House bill, $5.8 billion below the Senate bill totals and $21.5 billion below the budget request.

There is some concern regarding the treatment of unobligated balances. The conferees set aside $6.3 billion in unobligated balances, did not extend their availabilities, made them available for specific purposes, mainly to finance future military personnel costs and required the Department of Defense to observe the normal reprogramming procedures before any of these funds can be transferred or obligated.

If the conferees did not identify and fence these unobligated balances, the Department would still have these funds available in the original accounts and could reprogram them for other purposes. Some of these reprogrammings would be below-threshold and would not require approval or notification of Congress. The conferees have made the entire $6.3 billion setaside amount subject to reprogramming procedures and subject to congressional review.

The conferees intend that this $6.3 billion in set-asides be used for the military pay raise, military retirement fund requirements, the mariner fund and other reprogramming requirements as necessary.

These specific allocations of the setaside balances could total nearly $5 billion. The conferees expect these setaside amounts to satisfy all the requirements of the Department for fiscal year 1986 and would expect no submission of supplemental requests.

The conference agreement provides $126 million for binary chemical weapons and facilities. This includes $98.3 million for the Bigeye bomb production facilities, $6 million for Bigeye operational testing and $21.7 million for the production of the 155mm chemical projectile. Of course, there are a number of restrictions on the use of these funds.

First, obligation of all funds is made subject to an additional requirement that the President certify to the Congress that a force goal stating the requirement for modernization of the U.S. share of NATO chemical deterrent has been submitted to NATO and formally adopted by the North Atlantic alliance.

Second, obligation of funds for Bigeye components is subject to the requirement that the Secretary of Defense submit a report describing the operational requirements for Bigeye, actual performance of Bigeye during operational testing with respect to the requirements, and any exceptions deemed acceptable. Obligation for Bigeye components may occur no sooner than 60 days after submission of the report.

Third, none of the funds included for procurement of the GB-2 artillery projectile may be obligated before October 1, 1986, and then only when the provisions on NATO consultation are satisfied. Final assembly of the GB-2 may not occur before October 1, 1987, and then only when the provisions on conditions for final assembly are satisfied.

The conference agreement includes a prohibition on the use of funds in this act or any other act to carry out a test of an antisatellite weapon against an object in space until the President certifies that the Soviet Union has conducted, after October 3, 1985, such a test against an object in space of a dedicated antisatellite weapon. This was a difficult position to hold but your House conferees worked hard on this matter.

The conference agreement provides $2.750 billion for strategic defense initiatives, some $250 million above the House but $213 million below the Senate and roughly $1 billion below the budget request.

The conference report appropriates over $146 billion for military personnel and operation and maintenance accounts which includes many billions of dollars to improve the quality of life of our troops and to improve the readiness of our forces.

The conference agreement provides approximately $20 billion for the Guard and Reserve forces including over $1.5 billion above the budget request for a separate Guard and Reserve equipment account.

This is a good agreement and I urge its adoption.

Mr. CONTE. Mr. Speaker, I yield 4 minutes to the gentleman from Pennsylvania [Mr. McDADE].

Mr. McDADE. Mr. Speaker, I rise in support of the conference and I urge the support of my colleagues.

I do want to address myself rather briefly to the defense portion of the conference that my good friend, the gentleman from Florida, has just spoken about.

It was, you will not be surprised to hear, an extremely difficult conference to resolve. I want to say most emphatically, not because of those of our colleagues who served as conferees.

I want to express my deep appreciation and admiration to all the members of the Defense Subcommittee, all of whom did serve as conferees and who contributed enormously toward attempting to shape a bill that we could bring back and all support.

I especially want to take a moment to pay tribute to our good friend, the gentleman from New York [Mr. ADDABBO] who is back, and who aggressively played a role in the conference.

Also I want to pay tribute to my good friend, the gentleman from Florida, who skillfully presided over the conference, along with Chairman ADDABBO, and who brought us back a bill which I hope all of us will see fit to support.

Mr. Speaker, it is no secret that the defense title poses some of the most difficult choices that all of us face in the Congress today. This was borne out, may I say, by the sheer volume of items in disagreement between the House and the other body—roughly 2,000 items in conference, each in its own way important to the Nation's defense.

I shall not attempt to describe at length the various compromises reached by the conferees, nor to add to the details already mentioned by our chairman; but I want to mention just a few items that are of interest to this House, some of which have been alluded to tonight.

Regarding the overall spending level, going to conference the two defense bills were about $12 billion apart in total funding, but they encompassed, may I say to my colleagues, some $30 billion in differences between what the Senate product was and what the House product was; so there were two totals, one of $12 billion in new budget authority, the other representing $30 billion in differences of opinion between our colleagues and the other body.

The job we faced was trying to accommodate the priorities of both Chambers without breaking the budget. In my judgment, Mr. Speaker, we achieved that goal.

This conference report provides the Defense Department with $282.5 billion in new budget authority. That represents something that is not unusual for us to see, very nearly a 50-50 split between this body and our colleagues in the Senate.

I want to remind you that the total of $282.5 billion of new budget authority in this bill, is $2.5 billion less than both the budget resolution which was passed and which my colleague, the gentleman from Iowa, referred to, as well as the authorization bill which was passed.

While this is almost $6 billion above the bill that we enacted, I want to call to your attention the fact that $282.5 billion that is nearly $22 billion below the amount requested by the administration.

Looked at another way, Mr. Speaker, this conference report provides for less than 2 percent growth for fiscal year 1985 levels.

I want to remind my colleagues that in budget authority that is insufficient even to cover inflation

Mr. Speaker, it was a long, a difficult and an arduous conference.

☐ 2205

I believe that it merits our support. If we look at it either from the standpoint of the administration's request or our budget conference, our budget authority is below it and I hope our colleagues will adopt it.

Mr. FRANK. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. Mavroules].

Mr. MAVROULES. I thank the gentleman for yielding this time to me.

Mr. Speaker, this will be the first time that I vote against any conference report on appropriations and this kind of a resolution. Let me give my reasons very simply.

If you recall, during the debate on this floor when we talked about procurement reform, when we were taking polls throughout the country, most of the people in this country said to us, Member of Congress, "We want a strong defense, but we also feel that you spend too much money. You have to clean up your act."

When the authorization went over to the other body and we came back, we came back with 75 percent of the procurement reforms that we put forward as a body. And by the way, let me remind each and every one of my colleagues that when those reforms were voted on on this floor, they were voted on by margins of over 400 in the affirmative. We come back now with a conference report, and I am going to ask this question.

Can any person who was part of that conference come before us and say to us that they came to us with one procurement reform? Can anyone in this body stand up and say that we did that?

Mr. DICKS. Mr. Speaker, will the gentleman yield?

Mr. MAVROULES. I would be glad to yield to the gentleman from Washington.

Mr. DICKS. I thank the gentleman for yielding.

Mr. Speaker, I would like to say to the gentleman that he serves as a very distinguished member of the House Committee on Armed Services. It is the House Committee on Armed Services that has the jurisdiction over procurement reform.

Mr. MAVROULES. Mr. Speaker, if I may reclaim my time, the House Committee on Armed Services came back with 75 percent of what this body wanted. This conference report comes back with absolutely zero.

Mr. HERTEL of Michigan. Mr. Speaker, will the gentleman yield?

Mr. DICKS. Mr. Speaker, will the gentleman yield?

Mr. MAVROULES. I yield to the gentleman from Michigan.

Mr. DICKS. I do not think the gentleman wants to hear the answer.

Mr. HERTEL of Michigan. I thank the gentleman for yielding.

Mr. Speaker, the gentleman I respect and serve on the committee with. If this body is happy with business as usual, vote for this tonight. But if your people and if you believe that there should be some changes as to how the Pentagon does its business, then vote it down, because they have taken out all the procurement reforms, every single one that was in the appropriations bill that we labored so hard for earlier this year.

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, two items that I think were of particular interest to my colleagues in the House should be mentioned here tonight. One is the Coast Guard, and the other one is the Federal Aviation Administration.

When the original transportation bill was considered, the other body cut some $233 million from the Coast Guard and $300 million from the Federal Aviation Administration, causing great concern about the ability of those agencies to continue to perform their very critical functions.

For the Coast Guard, this conference agreement provides a total of $1.752 billion in operating expenses, $1.652 billion in the transportation appropriation bill, plus $100 million that I offered here on the floor of the House as an amendment to the defense appropriation bill. We prevailed in the defense appropriation section of this resolution and retained that $100 million.

That brings that figure down to a cut of less than $33 million below the House level on operating expenses. In addition, we were able to prevail in the conference in obtaining another $235 million in the defense appropriation bill for the Coast Guard for helicopters, for C-130's, for patrol boats, and for drug interdiction equipment.

This was a tremendous victory and I fought very hard, along with Senator Ted Stevens of Alaska, to secure this money.

In regard to the FAA operation, we provided almost $2.7 billion. That is $70 million more than last year's level. This should be sufficient to permit the hiring of an additional 300 aviation inspector positions above the original budget request, plus another 500 air traffic controller positions, as proposed by the Department of Transportation on September 19.

I know that both of those items are of great interest to the House.

Mr. FRANK. Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Mrs. Boxer], the author of the late-lamented procurement reforms.

Mrs. BOXER. I thank the gentleman for yielding this time to me.

Mr. Speaker, I am very pleased to see the ban on Asat testing that is included in this continuing resolution, and I want to particularly compliment the gentleman from Oregon [Mr. AuCoin], for all the hard work he did in that particular area. Also in this continuing resolution are other items which I care deeply about such as raising the drinking age to 21, aid to our ally Israel, and phasing out the Synfuels Corporation.

But it is with tremendous disappointment that I must oppose this continuing resolution, tremendous disappointment because we had such high hopes. We had a tremendous opportunity to pass some very significant procurement reform, to stop the ripoffs, to stop the overcharging, to stop the revolving door, and to bring competition into defense contracting.

It was not the fault of this body that none of these came to pass. It was the other body that refused to even discuss these procurement reforms.

To me, it is really amazing, my colleagues. Never has the House spoken out so clearly on an issue, overwhelming votes in this House for "should cost," for allowable cost, for dual-sourcing, for revolving door reform, and yet not a one of these, not a one of them, is included in this continuing resolution.

Again, I lay the blame at the feet of the other body. To those who think we are going away, we are not going away. We will be working with a broad coalition in this House to bring these reforms back again and again and again until we win. Should this continuing resolution fail, I hope it will come back to us with a more realistic defense number and some procurement reform.

Mr. STRATTON. Mr. Speaker, will the gentlewoman yield?

Mrs. BOXER. I would be happy to yield to the gentleman from New York.

Mr. STRATTON. I thank the gentlewoman for yielding.

Mr. Speaker, the point has already been made, has it not, that the House Committee on Armed Services, when we brought back our conference report, we had virtually everything in there that was wanted, and the gentleman from Massachusetts [Mr. MAVROULES] was commenting on it just a moment ago.

But for some strange reason, under rules of the House that I have never heard of, the documents that were contained in the House Committee on Armed Services were attached to——

Mrs. BOXER. The gentleman has mischaracterized——

The SPEAKER pro tempore. The time of the gentlewoman from California [Mrs. BOXER] has expired.

Mr. FRANK. Mr. Speaker, I yield 30 additional seconds to the gentlewoman from California [Mrs. BOXER] to respond to the speech of the gentleman from New York.

Mrs. BOXER. I thank the gentleman for yielding this additional time to me.

Mr. Speaker, the gentleman from New York has mischaracterized what has gone on in this body. This body overwhelmingly passed these reforms.

Mr. STRATTON. I do not dispute that.

The SPEAKER pro tempore. The gentlewoman from California has the time.

Mr. STRATTON. But the gentlewoman is trying to confuse the issue.

The SPEAKER pro tempore. The gentleman from New York is speaking out of order.

Mrs. BOXER. I know the gentleman is very upset whenever we talk about procurement reform, but if I may be allowed to complete my thought, the House was very clear that we wanted another opportunity at these four very significant reforms. We had much support in the House, we carried it into the conference, and at this point I am going to yield my time back.

Mr. STRATTON. But the gentlewoman does not recognize that legislation——

Mr. FRANK. Mr. Speaker, the gentleman from New York is out of order. Point of order.

The SPEAKER pro tempore. The gentleman from New York is not recognized at this time. The gentleman from New York does not control the time.

The time of the gentlewoman from California [Mrs. BOXER] has expired. There are three gentlemen on the floor who control the time. If you wish to speak, you must get time from one of those three gentlemen.

The gentleman from Massachusetts [Mr. FRANK] has 3 minutes remaining, the gentleman from Massachusetts [Mr. CONTE] has 5 minutes remaining, and the gentleman from Mississippi [Mr. WHITTEN] has 8½ minutes remaining.

Mr. WHITTEN. Mr. Speaker, I yield 2 minutes to the gentleman from Oregon [Mr. AUCOIN], a member of the committee.

Mr. AUCOIN. I thank the gentleman for yielding this time to me.

Mr. Speaker, a few minutes ago I heard one of my colleagues who I admire very much, and with whom I vote almost consistently, say that he was tired of waiting for procurement reform. I want to tell my colleagues, particularly those on this side of the aisle, that I am tired of waiting for procurement reform myself.

If it had been possible to gain even an inch in procurement reform out of this appropriations conference, I would have fought for it and tried to bring it back and it would be before us tonight, but it was not. And for any of my friends on this side of the aisle who know my record on procurement reform and on arms control, I want to suggest to them that I would not be standing here as I am tonight asking for an "aye" vote on the continuing resolution if I did not feel that the package, particularly with defense, is the best package that we could bring to you.

□ 2315

More importantly, one of my other good friends with whom I often find myself usually in agreement said tonight if we vote for this continuing resolution, we are voting for business as usual.

Ladies and gentlemen, this is not business as usual. I have been waiting for procurement reform, my friends, but I have been waiting for something else. I have been waiting for arms control, and this continuing resolution provides for meaningful arms control. It has an absolute freeze on flight tests for antisatellite weapons and says that will be continued to be frozen unless the President certifies that the Soviet Union is going forward and breaks out of its moratorium which it has had in effect since 1982.

Mr. Speaker, as much as I care about procurement reform, and have fought for procurement reform, I offered the amendment in the Appropriations Committee on procurement reform, the fact of the matter is we can still in the face of that particular defeat come back to that issue next year. But I want to ask anyone who believes in arms control if we will have a chance again.

It is a vote for arms control, and I urge my colleagues to support the continuing resolution.

Mr. CONTE. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Speaker, this continuing resolution is consistent with other continuing resolutions that we have adopted on the eve of adjournment, and illustrates that maxim that runs through all of them; namely, I do not think there is a big enough trough in Christiandom to accommodate the snouts that seek to feed at the public's expense.

If you want to do a favor for the taxpayers, for whom very little is spoken around this place, just vote no. Eventually we will get to a level that reflects a sense of respect for the taxpayers of this country.

I yield back the balance of my time.

Mr. FRANK. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. SEIBERLING].

Mr. SEIBERLING. Mr. Speaker, this is indeed a vote for arms control, and I commend the conferees for what they have achieved.

But it is also a breach of the understanding of this House on the basis of which we voted for $12-plus billion less for defense this year. It is a breach of the understanding of this House with respect to procurement reform, and I would say that if we do have a constitutional convention, and I am beginning to think maybe we should because this bill is the best argument for a unicameral legislature that I have seen in my career in Congress. The British, our mother of parliament, has effectively abolished the House of Lords. It is time we abolish ours, and I sympathize with the chairman and the other members of the conference committee in having to cope with this intolerable, incredible situation that has led to this monstrosity.

I yield back the balance of my time.

Mr. WHITTEN. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Speaker, there are a number of arguments pro and con on this bill, and I do intend to vote aye. I want to make that clear.

But I want to attempt to clarify some statements that were made by the gentleman from Pennsylvania which may confuse some Members, and perhaps cause them to vote no in fear that they are voting for a pay raise or doing something for this body that is inappropriate.

First of all, I would like to clarify those provisions that relate to the Quadrennial Commission. They are in this continuing resolution because the Commission, appointed by President Reagan, chaired by former Senator Brady of New Jersey, recommended that we conform the provisions law relating to the Quadrennial Commission to the Chadha decision. In voting to do that, we are receding to the Senate and to a request of the President.

There is no pay raise in this bill. There may be one in 1987 should another commission, appointed by this President, so recommend, and this Congress concur in it. But do not let anyone delude you into thinking we are doing something tonight that we are not. It is simply an effort to obfuscate this issue.

As it relates to honorariums, let me make clear there is no change in the House provisions that are governed by House rule. The other body was insistent upon some changes that the House could not accept, and we were in a position where we were forced to provide a 10-percent increase in the statute, and since the statute, not Senate rules, governs the other body, they will in January be able to earn an additional 10 percent of their salary as honorariums.

The House is not covered by the provision because our rule takes precedence.

Mr. Speaker, there is nothing in this bill that any Member of this body should be ashamed of. There is no pay raise. We should vote up or down based on our evaluation of the bill on its merits, and no confusion should reign over matters that are so much more fundamental and important as they relate to the basic provisions of this bill.

Mr. SPEAKER pro tempore. The gentleman from Mississippi [Mr. Whitten] has 4½ minutes remaining; the gentleman from Massachusetts [Mr. Conte] has 4 minutes remaining; and the gentleman from Massachusetts [Mr. Frank] has 2 minutes remaining.

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to comment on a matter that the gentleman from Illinois [Mr. Yates], chairman of the Interior Subcommittee, mentioned on the Synthetic Fuels Corporation. Incidentally, the gentleman, did a real bang-up job, and it was one of the most difficult of all of the appropriations mini-conferences that we had with the other body.

But as the gentleman mentioned, the conferees eventually accepted the House position on the abolition of the Synthetic Fuels Corporation, and the agreement, as I understand it, provides for a rescission of all of the funds in the energy security reserve except for the $400 million for the clean coal technology program to be administered by the Department of Energy and $10 million for costs associated with closing the Corporation, and $350 million of the original $750 million authorized for clean coal technology reserved, to be laid aside for future appropriations.

Mr. YATES. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I am glad to yield to my good friend from Illinois [Mr. Yates].

Mr. YATES. Mr. Speaker, I thank the gentleman for his kind words about my representation.

The gentleman is correct in his assessment of what the conferees did on the Synthetic Fuels Corporation.

Mr. CONTE. As I understand it, effective on enactment of this joint resolution, the Corporation may not obligate or commit funds any new projects.

Mr. YATES. The gentleman is correct.

Mr. CONTE. Mr. Speaker, I fired off a letter today to the Synthetic Fuels Corporation telling them that the rescission was adopted and they ought to abide by the intent of Congress. I understand that tomorrow they were scheduled to meet. I understand from news reports that the Corporation has now postponed tomorrow's meeting where it was going to consider contracts totaling nearly $1 billion—nearly $1 billion! If that is so, Mr. Speaker, we ought to send the marshals down there tonight and lock up the doors of Synthetic Fuels Corporation. That Corporation has no reason to be in existence, and it ought to follow the conference report to the spirit as well as the letter of the law.

Mr. YATES. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I am glad to yield to the gentleman from Illinois.

Mr. YATES. Mr. Speaker, I wish the gentleman had made that suggestion in the conference, and we would have put that provision in there to require them to lock up the doors.

Mr. CONTE. I thank the gentleman.

Mr. FRANK. Mr. Speaker, I yield 1 minute to the gentleman from Minnesota [Mr. Vento].

Mr. VENTO. Mr. Speaker, I rise in opposition to this conference committee report on H.R. 465.

Here we are in a time pinch again with a big package in which the House had good intentions going into the conference and the Senate prevailed in almost all DOD-related accounts. Nearly $3 billion more for Air Force procurement; $2 billion for Navy procurement, plus $800 million for Army procurement, over the House position, and yet less money for personnel.

Big significant increases for weapons but less than the House of Representatives position for soldiers and sailors. And the procurement reforms which would have meant that DOD could spend these billions more effectively and efficiently, all lost in conference, lost significantly in the DOD authorization and completely stripped from this appropriation measure.

This continuing appropriation has done a good job of insulating DOD from the impact of the newly passed balanced budget mandate that was just enacted last week. This measure before us adds over $13 billion total to the House figure of $292 billion for a total of $305 billion for DOD in total budget outlays.

I want to commend the conferees for their work on the ban of the antisatellite [Asat] testing. This is an appropriate step and a needed move toward meaningful arms control.

This continuing resolution also reduces the level of Federal highway funds for States without a 21-year-old drinking age. Minnesota, the State I represent, would lose funds under this measure, I feel very unfairly.

I opposed Federal legislation that was enacted in the last Congress which directs that a portion of Federal highway funds be withheld from those States that do not adopt a 21-year-old drinking age by 1987. This legislation causes States not enacting the 21-year-old drinking age to lose 5 percent of Federal highway funding in fiscal year 1987 and 10 percent in fiscal year 1988. However, in fiscal year 1989, the full highway funding level would be restored. Under the provision adopted by the House/Senate Conferees, the reduction would be 10 percent in fiscal year 1987, and 10 percent every year thereafter. This will have the positive effect of a uniform drinking age but whether it will reduce drunk driving certainly remains a question. Teenage alcohol-related driving problems are serious. However, virtually the same percentage of drunk driving offenders occurs in the 21-to-25 age group; and, according to highway traffic statistics, the most prevalent age for drunk driving offenses is 37.

I feel that other efforts are necessary if we are to address most effectively the problem of drunk driving. That is why I continue to support improved education programs and more severe penalties for all drunk drivers.

I submit for the record an article from the St. Paul Pioneer Press/Dispatch entitled "Raise in Drinking Age Disputed" that further demonstrates this point. The article discusses the work of two researchers who contend that if the minimum drinking age nationally were raised to 21, it would do little to help cut down on drunk driving.

In sum, Mr. Speaker, I believe the shortcomings of this measure H.R. 465 deserve a no vote and urge my colleagues to reject it.

[From the St. Paul Pioneer Press and Dispatch]

Raise in Drinking Age Disputed

Cleveland.—If the minimum drinking age nationally were raised to 21 it would do little to help cut down on drunken driving, two researchers say.

No pattern of significant decrease in the percentage of alcohol-related deaths among 18- to 20-year-olds in states that have raised the legal drinking age was found in a study conducted by Fredric Bolotin and Jack DeSario, assistant professors of political science at Case Western Reserve University.

In some states, the percentage of deaths attributed to alcohol increased after the legal drinking age was raised, the study found.

The researchers examined traffic fatalities in an eight-year period in some of the 29 states that have raised the drinking age for at least hard liquor since 1978.

The federal government in 1984 required states to adopt a minimum drinking age of 21 for all alcoholic beverages by 1987 or lose 5 percent of their federal highway funds.

"The government is well-intentioned, but it doesn't have a proven solution, so it experiments," said DeSario. "The expectation is not reasonable, as far as we're concerned."

DeSario and Bolotin calculated the percentage of traffic deaths that were related to alcohol, then compared that percentage among 18- to 20-year-olds before the drinking age was increased to the percentage after the new law took effect.

Figures for the test period also were compared with figures in states that did not increase the drinking age.

Of the states studied, only Texas and New York showed a desired decrease in the percentage of alcohol-related traffic deaths, the researchers said. Those states, however, also passed tougher drunken driving laws.

Some other states showed no significant improvement, and eight states—Florida, Georgia, Maine, Michigan, Montana, Nebraska, Tennessee and West Virginia—had increases in the percentage of traffic deaths related to alcohol after raising the drinking age.

The issue of a national minimum drinking age has been clouded because various groups use statistics in different ways, the researchers said.

For example, the number of alcohol-related traffic deaths among 18- to 20-year-olds in Michigan declined from 211 to 186 the year after the drinking age was raised, they said.

Mr. WHITTEN. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. Wilson].

Mr. WILSON. Mr. Speaker, I would like to ask a question of the gentleman from Wisconsin [Mr. Obey], chairman of the Subcommittee on Foreign Operations.

Let me preface my question by saying that it has been a general practice of the House since the Camp David agreements that we would try, in a rough sort of way, to maintain a balance between the amounts of appropriations ESF, FMS and others that we give Egypt and Israel; is that the gentleman's understanding.

Mr. OBEY. Mr. Speaker, will the gentleman yield?

Mr. WILSON. I yield to the gentleman from Wisconsin.

Mr. OBEY. I know what the gentleman is getting at. It has certainly been the intention of virtually every Member of the House to retain the relative relationship between the amounts appropriated to Israel and the amounts appropriated to Egypt.

But the gentleman knows Gramm/Rudman presents a problem in that regard with respect to the funding for Egypt.

Mr. WILSON. Mr. Speaker, would the gentleman explain what the problem is?

Mr. OBEY. The problem basically is that for the ESF account, the check for Israel is already in the mail, so to speak, and so they are exempt from Gramm/Rudman cuts. But it appears that Egypt is not.

Mr. WILSON. Does the chairman of the subcommittee foresee any possibility that this inequity could be addressed through some sort of an administrative initiative?

Mr. OBEY. I think it certainly would be at variance from the understanding of every member of the committee, and I would suggest that if the administration wants to deal with the problem they might have to consider an adjustment in their 1987 budget request with respect to the request for Egypt.

Mr. WILSON. Would the gentleman further agree if we did not have this Gramm/Rudman constraint that the committee would have kept this ratio roughly equal?

Mr. OBEY. No question.

Mr. WILSON. I thank the gentleman.

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume and would like to close by saying I have been listening to the debate, and I am the last one in the world who will say this is a perfect bill. I excepted to the defense portion of the bill. There were things in it I did not like.

But we have got to put this package together before Christmas. I do not know what we will accomplish by going back to conference that we have not accomplished here. It was a difficult conference. We were up to 2 or 3 o'clock in the morning.

I hope that we can get a majority here. The administration is not too pleased with this continuing resolution because they feel that on balance we are about $1.3 billion over their benchworks.

If you think this is tough, just wait until next year and see what is going to happen to the budget then. Under Gramm/Rudman, we are going to have to come back with about another big cut in the 1986 budget. I do not know where it is going to come from. Synthetic Fuels Corporation, yes, and if I had my way, in many other fields. But I think overall, this is a pretty good continuing resolution and I hope we vote for it.

□ 2230

Mr. FRANK. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. Hertel].

Mr. HERTEL of Michigan. Mr. Speaker, we sit here now at the end of the year. The gentleman from Massachusetts tells us there is no time left at the end of the year; we have 1 hour for the entire budget from now until next September.

We played the game fair in this body; we talked about a task force on defense waste, fraud and abuse, we went through the subcommittees, the committees—this whole House spent time and overwhelmingly passed procurement reform, and now they tell us—and more importantly, the people in your district, the people who you had town meetings with, the letters, the conversations you had with people in your districts that were outraged by what is going on in the Pentagon—they tell us no, it is all gone; all the reforms, every single one, are gone for an entire year.

It will cost billions of dollars, but more than that, they waste the defense and strength of this Nation when they steal from the taxpayers, they steal from the men and women fighting for us, serving for us, making sacrifices for us, by swiping it all away once again, and telling us once again, year after year, to wait for a change; wait until we can have our chance again.

It will come down to this again. It will come down to the last hour and the last year, and we will lose again if we do not have the courage to tell the other body "no," and to vote this "no" tonight.

Mr. WHITTEN. Mr. Speaker, I yield 1 minute to my colleague, the chairman of the Veterans' Affairs Committee, the gentleman from Mississippi [Mr. Montgomery].

Mr. MONTGOMERY. Mr. Speaker, I rise in support of this conference report, and I would like to say that I thank especially the conferees on defense did an excellent job, under a tough situation. What went over from the House was mainly knocked out by the other body, pertaining to procurement. I think our defense personnel over here on Appropriations did the best they could, and I ask for the support of this conference report.

Mr. Speaker, I just want to congratulate the conferees on their hard work.

In particular, I want to thank the conferees on the defense portion for retaining the language prohibiting the expenditure of funds unless they are authorized. The House and the Congress reviewed each of the defense programs carefully during the authorization process and this language will ensure that funds for every defense program will receive the necessary review before the money can be spent.

Mr. WHITTEN. Mr. Speaker, I yield 1 minute to the gentleman from Virginia [Mr. Daniel].

Mr. DANIEL. I thank the chairman for yielding me this time.

Mr. Speaker, the other body attempted to reduce, by substantial sums, some of our most cherished military people programs, and I want to take this opportunity to express appreciation on the part of our service people, to Mr. CHAPPELL, Mr. McDADE, Mr. HEFNER, and Mr. EDWARDS: They stood like a stone wall against these onslaughts, and the military people of this country I know are indeed grateful.

Mr. KEMP. Mr. Speaker, everyone here has been working long and hard under press of deadline this evening, and so I do not wish to consume the time of my colleagues unduly. However, I believe that it is important to note for the record my objections concerning the foreign aid and defense sections of the bill.

First, as many of you are aware, the foreign aid bill was the only part of this legislation not to have been debated on the House floor. The bill was reported out of the Appropriations Committee in July, but the House Democratic leadership refused to schedule it for consideration. Perhaps one reason for this reluctance was the fact that there was absolutely no Republican support for Mr. OBEY's bill.

I appeared before the Rules Committee to request that a full and open debate be allowed in this section when the continuing resolution came before the full House, but my petition was denied. The gross distortion of priorities in the foreign aid section favoring multilateral banks over bilateral assistance programs was a focal point of debate on the continuing resolution. While many issues were at play, the broad dissatisfaction with these skewed priorities was a significant factor in the near defeat of the continuing resolution on the House floor, as the record will show.

I am unhappy to report that these distored priorities have not been corrected by the work of the conference.

The conference mark of $9.7 billion in security assistance is $535 million below last year's level (after allowing for Egypt and Israel). This mark is $300 million under the authorized level—and nearly a billion under the President's request. we are going to experience a drastic shortfall in the security assistance resources—while guaranteeing that the United Nations and the World Bank systems are well protected.

I am frankly very disturbed by these developments. I have always regarded security assistance as an investment in the forward defense of this Nation. Yet we are cutting security assistance 10 percent below last year's level. Do the conferees believe that the world is 10 percent safer this year than last?

While increasing the Obey security assistance level only $160 million—not even a third of the difference between the Senate and House bills—the conferees decided to add over $300 million to the House level on the Export-Import Bank. Again, it seems to me that the security of our friends and allies is more important than corporate subsidies, however desirable.

Chairman OBEY points to the cuts made in the international banks as evidence of "balance" in the bill. But it is quite clear from statements during our conference that the savings in the MDBS are phony. Everyone expects a request from the Treasury for supplemental funding. Speaking for the Republican members of the Foreign Operations Subcommittee, we would very much like to hear from Chairman OBEY what his intentions are with respect to such a supplemental.

Earlier this year, Mr. FASCELL stalwartly protected the rights of the Foreign Affairs Authorizing Committee in working out an extensive series of amendments to our bill, that were accepted by Mr. OBEY and doggedly protected by him in last night's negotiations. Yet there seems to be a curious double standard at work here. This bill contains full funding and authorization for a new idea facility for sub-Saharan Africa, on which we have held no hearings and for which we have never received a budget request. This represents a 3-year commitment at a cost of $225 million. Who is protecting the authorization process in this action? And how do the conferees reconcile their support for a new World Bank soft loan facility for Africa with their decision to cut our bilateral funds for Africa in this bill?

Finally, I am saddened that the House Members never had an opportunity to review this bill, or to offer amendments. If we had been given that opportunity, I believe that the report of the conferees would be far different than what has been presented today. I also believe that we would then have a foreign aid bill that would be worthly of broad bipartisan support, one that I would sign with pride. As it is, I regret that I have found it necessary to decline to sign this report.

Second, I would like to take a moment to address the defense appropriations section of this legislation.

I am dismayed that the overall level of spending for defense for this fiscal year, under the decision of the conferees, will not even keep pace with inflation. That is to say, after 5 years committed to reversing the adverse trends in the military balance, the Congress has by this act backed away from that goal. While the Soviets continue to increase their spending by several percentage points year by year, we have cut back the resources available for our defenses. I can conceive of no more shocking a reversal in the national priorities of this Government than this decision. It defies the understanding we reached earlier during the negotiations over the budget resolution, under which defense spending would be kept at zero real growth, which means it was to have been adjusted for inflation. And the uncertain impact of Gramm-Rudman threatens further defense cuts—to the detriment of our national security.

I must also express my objection to the decision of the conferees to ban antisatellite weapons testing.

The fundamental impact of this decision is to give the Soviet Union control over the progress of a vital United States strategic program.

This decision, if not reversed, would do more than simply prohibit U.S. Asat tests. In practice, because of the current stage of our Asat development, a moratorium on Asat testing would amount to halting and denying an Asat capability to the United States to counter the system the Soviets already have in being.

The Soviet Union leads in antisatellite systems. They possess the world's only operation Asat. They began testing their Asat as early as 1968, achieving a 70 percent success rate in early tests. Many proponents of this amendment argue that the currently operational Soviet system really is not very sophisticated. But lack of sophistication does not eliminate the threat of the system. Sophisticated or not, it works.

The Soviets' offensive Asat threat is a serious problem. The existing Soviet Asat is reportedly able to reach an altitude of about 3,000 miles, enabling it to target most United States intelligence satellites and weather monitoring, plus a number of others. If the Soviet Asat were put on a more powerful booster, it could also threaten satellites at higher altitudes.

Antisatellite strikes figure prominently in Soviet strategic planning. In 1982, in the most comprehensive offensive military exercise the Soviets have conducted to date, an Asat was used to practice the destruction of United States satellites, followed by ICBM, SS-20, ABM and SLBM firings in a simulated strategic first strike.

The Soviets are continuing to improve their Asat capability, built upon the results of many tests they have conducted in the past. As it happens, the United States is at the point that we cannot advance our Asat program without testing. If the proponents of this position are really interested in mutual restraints on Asat, why have they advanced a ban that unilaterally halts the United States program while leaving the Soviets free to continue their Asat development as planned?

The legislation mandates that the Asat ban would be lifted in the event the Soviets were to test (again) an Asat system. But a ban on Asat testing is unverifiable. There are many different kinds of systems and emerging technologies that have antisatellite potential. As the Under Secretary of Defense for RDT&E reported to Congress, "The Soviets can test systems with inherent Asat capabilities in a manner that would make it very difficult for the United States to determine that the system was intended for Asat use or even the extent to which such systems constitute realistic threats to our satellites." Moreover, test procedures can be altered in such a way to make them either ambiguous or undetectable.

The United States Asat program is an integral part of our deterrent against any potential Soviet offensive action. For example, the Soviets consider their ability to strike at the United States Navy a key factor in their strategic planning. For this reason, Soviet satellites devoted to ocean reconnaissance and electronic transmission detection are integral to offensive Soviet operations. An effective United States Asat capability will be needed to counter the next generation of these satellites.

The Soviets have conducted a major propaganda campaign to popularize their call for a moratorium on Asat testing.

Their interest in a moratorium is in direct response to U.S. advances in Asat. During the Carter administration, when we had no active Asat program but they did, the Soviets evinced no interest whatsoever in a test moratorium. If this Soviet proposal is enacted into law, we will be giving the Soviet Union a unilateral strategic advantage.

Mr. Speaker, for all these reasons I will vote against this continuing resolution. If it should pass both Houses of Congess, it is my hope that President Reagan will decide to veto the legislation when it reaches his desk.

Mr. FRENZEL. Mr. Speaker, it is bad enough that Congress is so sloppy as to do much of its appropriating through a continuing resolution. It's worse that the continuing resolution is unnecessarily high.

Much has been said over the years about the use of continuing resolutions. They stem from laziness, sloppiness, and a desire to conjure up what is being spent. They are procedures of political convenience, unamendable, and barely undebatable. They are never available for scrutiny by the Members until they actually come to the floor.

Once in a while, a continuing resolution might be justified in an emergency. But we have made them a part of our routine. They have become the rule instead of the exception.

But, as bad as the procedures, so, too, are the high totals in the resolution. When this resolution, and our own cream puff reconciliation bill, are passed, the Congress will have positioned the budget for a $190 billion deficit, rather than the $171 billion called for in our budget resolution.

It is hard to find redeeming qualities in the resolution. It surely deserves a negative vote.

Mr. HOWARD. Mr. Speaker, I believe that it would have been possible to challenge this conference report on parliamentary grounds, and I rise to serve notice that my failure to do so should not be taken as indicating that this legislation does justice to our transportation needs or the integrity of the jurisdictional alignments in this House.

I object that this measure contains far too many provisions which constitute authorizations, an abuse which the Committee on Public Works and Transportation has been consistent in condemning in our dealings with the Committee on Appropriations, the Committee on Rules, and our colleagues here on the floor.

Our committee has tried to be flexible, realistic and practical in our assertions of legitimate jurisdictional prerogatives. Frequently when asked, we will assent to the inclusion of some matter properly lying within our jurisdiction in an appropriations bill in the interest of timely congressional action. In such cases, the integrity of the authorization process is preserved by consultation.

There has been a wholesale breakdown of this consultative process in connection with this bill. In the interests of time, I will offer only one example but I believe that it will suffice to make the case. This is language which would allow the operation of trucks on the interstate system in the State of Wyoming for 2 years at weights exceeding the maximum Federal limit of 80,000 pounds.

This is totally devoid of any reference to appropriation of funds or to limitations on obligations and is totally and absolutely without a shred of justification in writing. And it was included despite its being one Senate provision specifically challenged by the leadership of the full committee and the Surface Transportation Subcommittee.

I think you can make a case that because of this provision, a timely point of order would have prevailed against the entire bill in the absence of a waiver. While I had no wish to slow up the bill to avoid disruption of Government operations and in deference to colleagues' wishes to conclude the session, the record should show that committees on appropriations are at it again.

One other aspect of the conference report should be of concern to Members. I refer to the fact that it cuts the obligation limitation for the highway program from $13.25 billion to $12.75 billion, despite the fact that the higher number is consistent with that contained in the first concurrent resolution. In addition, the discretionary capital funding for mass transit is cut from the freeze level of 1.1 billion in the budget resolution to $1.045 billion.

Both of these budget items happen to be funded by deficit-proof, self-financing trust funds supported totally by users of the transportation system. The cuts will result in no real savings, because by law the funds cannot be used for anything other than the transportation purpose for which they are raised. The only effect is to make room for more spending in the unified budget.

This exercise through the appropriations process is a prime example of exactly what we had in mind when the committee attempted to remove certain transportation trust funds from the unified budget on October 24 of this year. At that time, we were admonished, in terms of exquisite concern for niceties of procedure, that the reconciliation bill was not the proper vehicle, that this was not the proper time. Many Members who argued to that effect share the responsibility for this continuing resolution and its utter disregard for the legislative process.

To them and my other colleagues, I would conclude by saying that none of the authorization-type provisions is necessarily etched in stone. There will be other sessions, other Congresses, other bills.

Thank you Mr. Speaker, and Merry Christmas.

Mr. ASPIN. Mr. Speaker, the status of unauthorized appropriations is an issue that has received substantial attention in both bodies in conjunction with the continuing resolution. This year, in particular, the problem was especially acute as a result of the inclusion by the other body of $7.2 billion of appropriations for defense programs that were not authorized.

Current law (section 138 of title 10, United States Code) requires that no funds be appropriated, obligated or expended unless previously authorized. The bill before us now does provide appropriations in excess of authorizations for some programs. I am disappointed that the conferees could not agree to eliminate all such instances; but I understand, as well, that information received subsequent to the consideration of the Defense Authorization Act could support requirements to fund certain programs that may be of higher priority than those authorized earlier in the year.

I am pleased, however, to note that the conferees adopted the amendment contained in the Senate bill that specifically prohibits the obligation and expenditure of funds for any purpose unless the funds have been otherwise authorized for that purpose. The floor debate in the other body suggested that the language of the provision referred to the account totals contained in the authorizing and appropriating legislation. However, in order to determine the programs for which funds have been authorized and appropriated, reliance must be placed on the reports accompanying the authorization and appropriation bills, respectively.

This provision will permit the Committees on Armed Services to review those programs early next year and to provide authorization should the justification be sufficient to demonstrate that these programs merit a higher priority than others previously authorized. Until these programs are authorized, no funds may be obligated or expended on them.

I believe that the provision in the resolution before us affords an excellent procedural solution for addressing the problems caused by the period of time that elapses between the consideration of authorization and appropriation bills.

Mr. Speaker, I want to take this opportunity to express my sincere thanks to the members of the Defense Subcommittee on Appropriations for their invaluable assistance prior to and during the conference on the continuing resolution. In particular, I appreciate the time and energy devoted to this issue by the chairman, the gentleman from New York [Mr. ADDABBO]; the acting chairman, the gentleman from Florida [Mr. CHAPPELL]; and the ranking member, the gentleman from Pennsylvania [Mr. MCDADE]. They could not have been more supportive of our requests. I look forward to working closely with them in the future, not only on substantive matters, but to further promote our joint efforts to ensure the viability of the authorization-appropriation process.

Mr. WHITTEN. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FRANK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 170, nays 239, not voting 25, as follows:

[Roll No. 461]

YEAS—170

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Atkins
AuCoin
Badham
Barnes
Bateman
Beilenson
Bennett
Berman
Bevill
Biaggi
Boehlert
Boggs
Boland
Bonior (MI)
Bonker
Borski
Bosco
Boucher
Brown (CA)
Burton (CA)
Burton (IN)
Bustamante
Byron
Carney
Carr
Chandler
Chappell
Cheney
Clinger
Coelho
Coleman (MO)
Coleman (TX)
Conte
Coughlin
Coyne
Daniel
Darden
Daub
de la Garza
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Dowdy
Downey
Duncan
Dwyer
Early
Fascell
Fazio
Fish
Flippo
Foglietta
Foley
Ford (TN)
Frost
Gaydos
Gephardt
Gibbons
Gilman
Gonzalez
Goodling
Gray (PA)
Hall (OH)
Hatcher
Heftel
Hiler
Holt
Horton
Howard
Hoyer
Hutto
Hyde
Jones (NC)
Jones (TN)
Kanjorski
Kennelly
Kolter
Kostmayer
Lantos
Latta
Lehman (CA)
Lehman (FL)
Leland
Levine (CA)
Lewis (CA)
Livingston
Lowery (CA)
Lujan
Manton
Martin (NY)
Matsui
Mazzoli
McDade
McGrath
McHugh
Mica
Michel
Mikulski
Miller (CA)
Miller (OH)
Mineta
Molinari
Montgomery
Morrison (WA)
Mrazek
Murtha
Myers
Natcher
Nichols
O'Brien
Oakar
Oberstar
Obey
Ortiz
Parris
Pepper
Quillen
Regula
Reid
Rogers
Rose
Rostenkowski
Rowland (GA)
Roybal
Rudd
Sabo
Scheuer
Schulze
Schumer
Sisisky
Skeen
Skelton
Smith (FL)
Smith (IA)
Smith (NE)
Smith (OR)
Solarz
Spence
Stangeland
Strang
Stratton
Sundquist
Thomas (GA)
Torricelli
Udall
Watkins
Waxman
Weiss
Whitehurst
Whitley
Whitten
Wilson
Wolf
Wolpe
Wright
Wyden
Wylie
Yates
Young (AK)
Young (FL)

NAYS—239

Anthony
Applegate
Archer
Armey
Barnard
Bartlett
Barton
Bates
Bedell
Bentley
Bereuter
Bilirakis
Bliley
Boner (TN)
Boulter
Boxer
Breaux
Broomfield
Brown (CO)
Broyhill
Bruce
Bryant
Callahan
Campbell
Carper
Chapman
Chappie
Clay
Coats
Cobey
Coble
Collins
Combest
Conyers
Cooper
Courter
Craig
Crane
Dannemeyer
Daschle
DeLay
Dellums
Donnelly
Dorgan (ND)
Dornan (CA)
Dreier
Durbin
Dyson
Eckart (OH)
Eckert (NY)
Edgar
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Evans (IA)
Evans (IL)
Fawell
Feighan
Fiedler
Fields
Florio
Ford (MI)
Fowler
Frank
Franklin
Frenzel
Gallo
Gejdenson
Gekas
Gingrich
Glickman
Gordon
Gradison
Green
Gregg
Grotberg
Guarini
Gunderson
Hall, Ralph
Hamilton
Hammerschmidt
Hansen
Hartnett
Hawkins
Hayes
Hendon
Henry
Hertel
Hopkins
Hubbard
Huckaby
Hughes
Hunter
Ireland
Jacobs
Jeffords
Jenkins
Johnson
Jones (OK)
Kaptur
Kasich
Kastenmeier
Kemp
Kildee
Kleczka
Kolbe
Kramer
LaFalce
Lagomarsino
Leach (IA)
Leath (TX)
Levin (MI)
Lewis (FL)
Lightfoot
Lipinski
Lloyd
Loeffler
Long
Lowry (WA)
Luken
Lundine
Lungren
Mack
MacKay
Madigan
Marlenee
Martin (IL)
Martinez
Mavroules
McCain
McCandless
McCloskey
McCollum
McCurdy
McEwen
McKernan
McMillan
Meyers
Miller (WA)
Mitchell
Mollohan
Monson
Moody
Moore
Moorhead
Morrison (CT)
Murphy
Neal
Nielson
Nowak
Olin
Owens
Oxley
Packard
Panetta
Pashayan
Pease
Penny
Perkins
Petri
Pickle
Porter
Pursell
Rahall
Ray
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Roemer
Roukema
Rowland (CT)
Russo
Savage
Saxton
Schaefer
Schneider
Schroeder
Schuette
Seiberling
Sensenbrenner
Sharp
Shaw
Shelby
Shumway
Shuster
Sikorski
Siljander
Slattery
Slaughter
Smith (NJ)
Smith, Denny (OR)
Smith, Robert (NH)
Snowe
Snyder
Solomon
Spratt
St Germain
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Stump
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Torres
Towns
Traficant
Traxler
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Weber
Wheat
Whittaker
Williams
Wirth
Wise
Wortley
Yatron
Zschau

NOT VOTING—25

Addabbo
Aspin
Brooks
Crockett
Davis
Dymally
Fuqua
Garcia
Gray (IL)
Hefner
Hillis
Kindness
Lent
Lott
Markey
McKinney
Moakley
Nelson
Price
Rangel
Roth
Valentine
Vander Jagt
Weaver
Young (MO)

☐ 2340

The Clerk announced the following pair:

On this vote:

Mr. Nelson of Florida, for, with Mr. Crockett against.

Messrs. WEBER, DORNAN of California, STOKES, GLICKMAN, ERDREICH, SCHAEFER, ZSCHAU, BEDELL, VOLKMER, and CAMPBELL changed their votes from "yea" to "nay."

Messrs. MORRISON of Washington, CHANDLER, BURTON of Indiana, and STANGELAND changed their votes from "nay" to "yea."

So the conference report was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AUTHORIZING THE SPEAKER TO DECLARE RECESSES AT ANY TIME ON THE LEGISLATIVE DAY OF TUESDAY, DECEMBER 17, 1985

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that it may be in order for the Speaker to declare recesses at any time on the legislative day of Tuesday, December 17, 1985, subject to the call of the Chair.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

HOUR OF MEETING ON TOMORROW

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 10 a.m. tomorrow.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

☐ 2355

LEGISLATIVE PROGRAM

(Mr. WRIGHT asked and was given permission to address the House for 1 minute.)

Mr. WRIGHT. Mr. Speaker, Members should be advised that we expect to have another continuing resolution very shortly this evening, tonight, before our adjournment, in order that we may extend the current level of expenditures for a number of days.

Then tomorrow when the House meets at 10 o'clock, we will have the Private Calendar and two bills on suspension, a bill opposing the Soviet Union's invasion of Afghanistan and the 6-year occupation, and H.R. 3132, the Law Officers Protection Act of 1985.

Then tomorrow we expect to proceed with a rule and, assuming the adoption of the rule, with the debate under a modified 3-hour rule on the Revenue Reform Act, the tax reform bill.

We expect two conference reports when they are available, a conference report on the Food Security Act of 1985 and a conference report on the Deficit Reduction Amendments of 1985.

The SPEAKER. It is the Chair's understanding that the gentleman from Mississippi is about to ask unanimous consent for consideration of a continuing resolution so that the Government will be able to function.

The Chair had hoped that the House would be able to get through with the business of the Congress by tomorrow night and adjourn. It is apparently the wish of the House that it continue to do all of the business.

Mr. DANNEMEYER. Mr. Speaker, reserving——

The SPEAKER. The gentleman has not made his request yet. Does the gentleman want to have a dialog with the Chair?

Mr. DANNEMEYER. Mr. Speaker, I have waited for you to ask me that for 7 years.

The SPEAKER. It is hard to believe the gentleman has been here for 7 years.

REQUEST FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 489, MAKING FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1986

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent to call up at this time the joint resolution (H.J. Res. 489) making further continuing appropriations for fiscal year 1986.

As the Members know, the defeat of the amendment a while ago leaves the Government where it will come to a close tomorrow except for certain special activities under present conditions.

What I have done is put in December 24 here. That does not mean we will have to wait that long.

The Clerk read the title to the joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

Mr. CONTE. Mr. Speaker, reserving the right to object, earlier today the gentleman from Mississippi tried a similar resolution for 1 day, and I reserved the right to object. At that time I asked him whether he would make in order an amendment, a motion to recommit, to stop the Synfuels Corporation from letting out any further contracts. There are rumors flying around here that tomorrow they are going to let out about a billion dollars in contracts and fly right in the face of what we are trying to do in continuing resolution. I am wondering if the gentleman at this time has had a change of heart.

Mr. WHITTEN. Mr. Speaker, may I say that my purpose in doing this, after talking to the staff and others, we do not have to stay here until December 24, but it enables us to.

Now, if I understand it correctly, it enables us to have a long time in which to do it.

The bill that has just been defeated, as I understand it, normally would go back to the Appropriations Committee. I am asking the Members to give us time to rework it in such a way that the committee may see fit, in case it is sent back to our committee. I am trying to give us some elbow room. I personally would like to quit tonight. I think we should have enough room in the continuing resolution to work this thing effectively.

Mr. CONTE. Mr. Speaker, further reserving the right to object, I believe the gentleman from Mississippi misunderstood me. I have no objection to staying here until December 24. However——

Mr. WHITTEN. That gives us that much elbow room.

Mr. CONTE. However, the problem here is that the Synthetic Fuels Corporation is about to embark on a billion dollar boondoggle unless the gentleman gives me a chance to put an amendment in here to stop them.

Mr. WHITTEN. The "here" the gentleman is talking about has just been defeated. The bill I have just presented at this time would be an amendment, and would lead to all of the other things we have just dealt with, and I would hope in order to get it going that we would just continue as is, which we have some chance to do.

Mr. CONTE. Could the gentleman answer my question?

Mr. WHITTEN. Tomorrow when they read in the paper that our Congress has—I am not finding fault with anybody, but it is a serious thing to see that we have let the Congress come to a standstill.

Mr. CONTE. I hope I get a better answer from Santa Claus.

Mr. DANNEMEYER. Mr. Speaker, I object.

The SPEAKER. Will the gentleman from Mississippi [Mr. WHITTEN] please restate his unanimous-consent request?

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations be discharged from further consideration of the joint resolution (H.J. Res. 489) making further continuing appropriations for fiscal year 1986, and ask for its immediate consideration in the House, any rule of the House to the contrary notwithstanding, and that debate be limited to 1 hour, the time to be equally divided and controlled by myself and the gentleman from Massachusetts [Mr. CONTE], and that the previous question shall be considered as ordered on the resolution to final passage without intervening motion.

The SPEAKER. Is there objection to the request of the gentlemen from Mississippi?

Mr. DANNEMEYER. Reserving the right to object, Mr. Speaker, may I ask the gentleman from Mississippi, what is the termination date or extension date of the CR contained in this unanimous-consent request?

Mr. WHITTEN. December 24.

And may I explain again——

Mr. DANNEMEYER. Mr. Speaker, I object.

The SPEAKER. The date is the 24th of December.

Mr. DANNEMEYER. I object, Mr. Speaker.

The SPEAKER. In view of the fact that we are acting here at midnight, and it appears to the Chair that the House will consider the agricultural conference report and the tax rule tomorrow, it is not the right thing for this body to be acting at midnight.

There is enough work to carry the House to Monday or Tuesday of next week.

If the gentleman's unanimous-consent request does not prevail at this time, the Government stops.

Mr. DANNEMEYER. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

PARLIAMENTARY INQUIRY

Mr. SEIBERLING. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. SEIBERLING. Mr. Speaker, the request made by the gentleman from Mississippi included a provision that all rules of the House to the contrary notwithstanding, it would be in order, and I ask the Chair——

The SPEAKER. The gentleman is not stating a parliamentary inquiry.

At the present time there has been an objection.

For what other purpose does the gentleman rise?

Mr. SEIBERLING. I assume——

The SPEAKER. There has been an objection. The matter is not before the House at the present time.

Mr. SEIBERLING. Mr. Speaker, my parliamentary inquiry——

The SPEAKER. The Chair will observe regular order. The gentleman will be seated.

MAKING IN ORDER CONSIDERATION OF CONFERENCE REPORT ON H.R. 2100, FOOD SECURITY ACT OF 1985

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that it shall be in order to consider on Tuesday or any day thereafter the conference report on the bill (H.R. 2100) to extend and revise agricultural price support and related programs, to provide for agricultural export, resource conservation, farm credit, and agricultural research and related programs, to continue food assistance to low-income persons, to ensure consumers an abundance of food and fiber at reasonable prices, and for other purposes, at any time after it has been filed, that it be considered as read if available to Members for 2 hours prior to being called up, and that all points of order against consideration of the conference report and against the conference be waived.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. MADIGAN. Mr. Speaker, reserving the right to object, I would like to ask the gentleman from Texas if he has a clear understanding that the objections of the gentleman from Minnesota [Mr. FRENZEL] have been resolved with regard to this unanimous-consent request?

Mr. DE LA GARZA. If the gentleman will yield, the gentleman from Minnesota [Mr. FRENZEL] has assured me that he has no objection.

Mr. MADIGAN. Mr. Speaker, further reserving the right to object, I would ask the gentleman from Texas if it is correct that it is within the power of the statement of the managers to make the technical corrections in the statement of the managers that addresses satisfactorily the objections of the gentleman from Illinois [Mr. CRANE].

Mr. DE LA GARZA. The gentleman is correct.

Mr. MADIGAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF A RESOLUTION BY COMMITTEE ON RULES PROVIDING FOR CONSIDERATION OF THE CONFERENCE REPORT ON H.R. 3128, DEFICIT REDUCTION AMENDMENTS OF 1985

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 99-444) on the resolution (H. Res. 342) providing for the consideration of a resolution reported by the Committee on Rules providing for the consideration of the conference report on H.R. 3128, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3838, TAX REFORM ACT OF 1985

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 99-445) on the resolution (H. Res. 343) providing for the consideration of the bill (H.R. 3838) to reform the internal revenue laws of the United States, which was referred to the House Calendar and ordered to be printed.

PARLIAMENTARY INQUIRY

Mr. WALKER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. WALKER. Since those reports were filed after 12 o'clock midnight, will that affect when they can be brought to the floor for consideration?

The SPEAKER. They can be called up on the next legislative day without a two-third vote to consider.

Mr. WALKER. On the next legislative day. I thank the Speaker.

The SPEAKER. The Chair would inquire of the chairman of the Committee on Appropriations, is it the intent of the committee to go to the Rules Committee and request a rule on a temporary continuing resolution?

Mr. WHITTEN. Mr. Speaker, if that is the desire of the leadership, we would be glad to cooperate.

RECESS

The SPEAKER. The House will stand in recess subject to the call of the Chair.

Accordingly (at 12 o'clock and 5 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 0010

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 12 o'clock and 11 minutes a.m.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. It is the Chair's understanding that the gentleman from Mississippi [Mr. WHITTEN] will offer a resolution and ask unanimous consent that the continuing resolution may be continued until 6 o'clock on Friday night next.

Mr. WHITTEN. Mr. Speaker, I ask again unanimous consent to bring up a new resolution to extend the present situation in a way of financing of the Federal Government until December 24.

Before I make this request, I ask the cooperation of all Members; let us look at our country first. Give us a chance to being this up and keep an orderly Government going and not have the disruption saddled on all of the Congress; both sides of the aisle. So I urge my colleagues to go along with us.

I have cooperated in every way in the world; I took exceptions to a number of things that have been argued here. Everybody has. I will tell you, you have made a great case for 2-year authorizations. We do not care to be put in this situation, and I ask the Members' help and sympathy in trying to save the day.

The SPEAKER. The gentleman from Mississippi will state his formal request.

REQUEST FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 490, MAKING FURTHER CONTINUING APPROPRIATIONS FISCAL YEAR 1986

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations be discharged from further consideration of the joint resolution (H.J. Res. 490) making further continuing appropriations for fiscal year 1986, and ask for its immediate consideration in the House, any rule of the House to the contrary notwithstanding, and that debate be limited to 1 hour, the time to be equally divided and controlled by myself and the gentleman from Massachusetts [Mr. CONTE], and that the previous questions shall be considered as ordered on the resolution to final passage without intervening motion.

Mr. Speaker, the date is to December 20.

The Clerk read the title of the joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi.

Mr. WALKER. Mr. Speaker, reserving the right to object, I would ask the gentleman if there is any language in this that would reflect the reservation of the gentleman from Massachusetts regarding the Synfuels Corporation?

I yield to the gentleman for his response.

Mr. WHITTEN. There is nothing in this to reflect it one way or the other.

Mr. WALKER. Can we get some agreeement that that language would be included? Now you are giving the Synfuels Corporation, as I understand it, 4 days to spend the billion dollars. It seems to me that we might want to get that kind of an exception put into the motion since we are extending the time out.

Can we get an agreement to do that? Otherwise, I would say to the gentleman that I do not think that we on this side, at least from this Member's standpoint, would want to go more than 1 day at a time on these continuing resolutions.

Mr. WHITTEN. If the gentleman will yield, may I say that when my colleague from Massachusetts asked about it before I made no objection. I did say that I needed to find out what the attitude would be. We called the Republican leadership in the Senate and they objected to any change; that it would not be brought up if we changed it in any way. So we acceded to that I advise my colleague from Massachusetts.

Mr. WALKER. Further reserving the right to object, I understand that the other body can work their will however they want, but I think that some of us feel very strongly that we ought not allow the Synfuels Corporation to go on a spending binge here at the end of the year. So that if we can find some way to protect that, and it seems to me that we are in a situation here now where that kind of protection could be offered on the House floor; that we ought to move in that direction.

Can we get an agreement from the gentleman as a part of his motion to include the language that has been offered by the gentleman from Massachusetts on the issue of Synfuels?

Mr. WHITTEN. If the gentleman will yield, I would say that if the leadership in the Senate has not changed its mind, we would be wasting our time.

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman.

Mr. CONTE. I do not know whether that is a complication or not because, as I told the gentleman from Mississippi, if the Senate wants to object to that language, let them object. We will go to conference on it.

But, God, give us that opportunity; give us that opportunity to offer that amendment to stop the Synfuels Corporation from spending any money on contracts.

Mr. WOLPE. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman.

Mr. WOLPE. I thank the gentleman.

Mr. Speaker, I would like to just make my own personal plea to our distinguished chairman that he acceded to the request of the gentleman from Massachusetts. This should not be a point of difference. The Senate and House conferees have agreed with respect to the termination of the Synfuels Corporation; this should not be a matter of concern to the Senate. But it is a matter of likely expenditure of tax dollars on wasteful projects if we do not meet the suggestion of the gentleman from Massachusetts. I would hope that we could.

Mr. WHITTEN. If the gentleman will yield, I am trying to find out what is possible. I would say again that I am trying to keep the Government from coming to a standstill, and there will be nobody here who does not suffer some criticism for letting it happen, and that includes me. All of us are here.

The one thing that I am advised that I might do, and with unanimous consent, I might amend the language that I presented and say, with one intervening motion to recommit, which would let the gentleman make that offer. Then the House could vote as to whether it did or not, and I trust we would be bound by it. For goodness sake let us get this on and show at least we are responsible.

Mr. CONTE. If the gentleman will yield, I would ask: To recommit with instructions?

Mr. WALKER. Further reserving the right to object, do I understand that the motion to recommit would be with instructions?

Mr. WHITTEN. That is what I meant; that as long as we leave it without qualification.

Mr. Speaker, I ask unanimous consent that the motion I made be amended to the following: Strike out the "out" and write "with one intervening motion to recommit."

It will be up to the authors whether it is with instructions or not.

Mr. CONTE. Regardless of germaness; I do not want you to raise a point of order against me.

Mr. WHITTEN. I think this is broad enough and I have agreed about as far as I can go.

Mr. CONTE. I take the gentleman's word.

Mr. JEFFORDS. Mr. Speaker, will the gentleman yield?

Mr. WALKER. Further reserving the right to object, I yield to the gentleman from Vermont.

Mr. JEFFORDS. I thank the gentleman for yielding.

Mr. Speaker, I would like to get the chairman's attention. I know there were a number of us from States whose legislatures have refused to submit to the Federal blackmail on raising the drinking age.

Mr. WHITTEN. If the gentleman will yield, may I say this. I have tried for years to get our legislative committees to get through in time so that we would not have this continuing resolution. Almost without exception, we face a divided committee with two sides, each one wanting us to take their side.

I took some exception in the bill we just dealt with. We have to come together; we have to get the Senate together. But if we open it up to all the controversies on this floor, we will never get through.

So I have agreed to change my motion so that there will be one motion to recommit with such instructions that might be included. That is as far as I feel I can go.

□ 0015

Mr. WALKER. Mr. Speaker, further reserving the right to object, I am glad to yield to the gentleman from Michigan.

Mr. WHITTEN. Mr. Speaker, if I may continue, if that comes to a vote, we can see what the House wants to do, may I say to my colleague, the gentleman from Michigan.

Mr. DINGELL. Mr. Speaker, I thank the gentleman for yielding, and with the greatest of respect to my dear friend, the gentleman from Mississippi, may I ask, will we face a bar to the offering of an appropriate motion to recommit with regard to the Synfuels Corporation because of the question of germaneness here?

Mr. WHITTEN. Well, I believe the rules provide who has the right to make the motion to recommit. I did not say who could make it, but I think they control that fact.

Mr. DINGELL. Could the unanimous-consent request afford the right for the motion to recommit, say, to the gentleman from Massachusetts for purposes of dealing with the Synthetic Fuels Corporation question? If that were done, I think we would absolve ourselves of that problem very tidily.

Mr. WHITTEN. That is a matter the gentleman can work out with the Member who makes the motion. All I have done is made it possible to have the motion made.

Mr. DINGELL. Mr. Speaker, will the gentleman yield further?

Mr. WALKER. I am glad to yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Speaker, I am troubled because there are certain requirements with regard to germaneness on a motion to recommit, and I have an apprehension that unless we have the necessary understandings at this time, we may find ourselves in the awkward position of having a perfectly fine motion to recommit which might not be germane to the motion before the House.

Mr. WHITTEN. I personally shall not make any objection based on the germaneness or for any other reason, since I have agreed the motion may be made. I mean an effective motion; I am not trying to hide behind any rules that may be raised.

Mr. WALKER. Mr. Speaker, reserving the right to object, can the gentleman further amend his request to simply waive all points of order against such motion?

Mr. WHITTEN. I did not understand the gentleman.

Mr. WALKER. Can the gentleman further amend his unanimous-consent request to waive all points of order against such motion to recommit?

Mr. WHITTEN. I am trying to keep the Government in shape. I have made my request. We just have to live with it. I cannot go further.

Mr. NIELSON of Utah. Mr. Speaker, reserving the right to object, I would like to have a colloquy with the chairman of the Appropriations Committee. Under my reservation, I will yield to him to answer a question.

Is it not true that if you do all these things that are being suggested to you, you are legislating right on the floor? Is that not true?

Mr. WHITTEN. I did not understand the gentleman.

Mr. NIELSON of Utah. If you accede to all these requests and are continually being pushed back and forth, are you not legislating on the floor?

Mr. WHITTEN. I do not know that I understand what the gentleman is talking about. I have made a straightforward agreement. I have filed a motion and have agreed to amend it so that one motion to recommit with instructions is in order.

Mr. NIELSON of Utah. I have no problem with that, but then you go further and say you waive all points of order against it and do other things.

Mr. WHITTEN. We did not do that, because if you had gone through what we have, with thousands of witnesses and weeks and days of conferences with the Senate, you would understand. With so many differences in this bill, I do not see how we ever got together on anything, and we cannot agree here with one-thousandth of the differences of the opinion that have been made.

So I have made the request. I think it is fair, and I hope the gentleman accepts it.

Mr. DINGELL. Mr. Speaker, will the gentleman yield?

Mr. NIELSON of Utah. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Speaker, I thank the gentleman for yielding.

I am aware of the apprehension of my dear friend, the gentleman from Mississippi. He is apprehensive.

Mr. WHITTEN. This House is full of differences on this bill, and we cannot accommodate them all. There is no way in the world to accommodate them.

Mr. DINGELL. I understand full well the concerns of the gentleman.

The SPEAKER. Does the Chair hear an objection?

Mr. DINGELL. If the unanimous-consent request is——

Mr. WALKER. I object, Mr. Speaker.

Mr. DINGELL. Mr. Speaker, will the gentleman withhold for just a second, please?

Mr. WALKER. The Chair asked whether or not an objection was heard, and I objected.

The SPEAKER. Objection is heard.

RECESS

The SPEAKER. Pursuant to the order of the House of Thursday, December 12, 1985, the Chair declares the House in recess subject to the call of the Chair. The Chair will call the Members back when the Rules Committee has reported a rule.

The Chair would like to announce to the House that when the Rules Committee files its rule, we will adjourn for the evening. So for all purposes, there should not be any more votes this evening.

The House stands in recess.

Accordingly (at 12 o'clock and 18 minutes a.m.) the House stood in recess subject to the call of the Chair.

☐ 0112

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. SMITH of Iowa) at 1 o'clock and 12 minutes a.m.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 491, FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1986

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 99-446) on the resolution (H. Res. 344) providing for the consideration of the joint resolution (H.J. Res. 491) making further continuing appropriations for fiscal year 1986, and for other purposes, which was referred to the House Calendar and ordered to be printed.

GENERAL LEAVE

Mr. OBEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include therein extraneous material on the subject of the special order today by the gentleman from Florida Mr. LARRY SMITH.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

VIOLENCE HAS NO PLACE IN PORTRAIT OF IOWA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa [Mr. LIGHTFOOT] is recognized for 5 minutes.

Mr. LIGHTFOOT. Mr. Speaker, in recent days, your and my State of Iowa has received some very negative publicity, and this past Sunday, Mr. James Gannon, editor of the Des Moines Register, printed in his paper an editorial that I would like to share with my colleagues, because he said some things that needed to be said.

VIOLENCE HAS NO PLACE IN PORTRAIT OF IOWA

(By James P. Gannon)

Iowa made a nationwide media splash last week. Front-page news, prime-time television and instant analysis about what it all means rapidly followed Dale Burr's murder rampage in the tiny town of Hills.

In the process, a crazy man with a shotgun somehow emerged as some sort of symbol of the American farmer, a prophet of what's ahead in rural America, and an "understandable" figure of tragedy.

The front page of The New York Times headlined the story: "Deaths on the Iowa Prairie: Four New Victims of Economy." In USA Today, it was "Iowa town's grief: 'They understand.'" Numerous Iowans—neighbors and friends of the killer, experts on the farm crisis, farmer's advocates—were quick to rationalize the irrational for the media.

Collectively, the results is to paint a portrait of a state full of desperate men in pickup trucks fingering loaded guns, driving around wondering whom to shoot first, with their friends and neighbors nodding sympathetically in understanding at the terrible financial pressures that have driven poor, old Harold to this tragic end.

That's garbage.

Furthermore, it's dangerous garbage. It tends to create something close to sympathy for insanely selfish, destructive behavior—inviting imitation of it.

Let's review the facts: Last Monday morning, 63-year-old Dale Burr took out his 12-gauge shotgun and shot his wife Emily, 65, in the chest at close range. He left her in their Lone Tree farmhouse and drove his pickup to Hills, where he entered the Hills Bank & Trust Co. Burr spotted bank president John Hughes in his office conferring with another bank officer; he opened the door slightly and shot John Hughes in the face.

Burr left the bank, drove out of town—smiling and waving to another farmer—to the farm of Richard Goody. He murdered Goody in the hog lot. He tried to shoot Goody's wife Marilyn, and their 6-year old son, Mark, as they escaped in their pickup. He missed. Finally, when he was stopped by a sheriff's deputy on a gravel road near his farm, he shot himself in the chest.

Some Iowans are portraying all this as a logical extension of the economic pressures on farmers. "It was bound to happen somewhere, and it will happen again too," one community mental-health-program director said. The killings "might be a torch to the woodpile; it might give others similar ideas," said an official of Prairiefire, a farmer-advocacy group. "Everybody understands why it happened," a sympathetic neighbor remarked.

Others, including a priest at John Hughes' furneral, portrayed Burr's acts of madness as a petition to President Reagan and Congress on the plight of farmers, as if he were lobbying for higher corn-price supports with a loaded shotgum.

No Dale Burr's slaughtering is not "understandable." It is not what we should expect from debt-ridden farmers. It was not a political act. John Hughes' pastor, the Rev. Alvin Desterhaft of St. Andrew Presbyterian Church in Iowa City, got it right when he called Burr's actions "bizarre, senseless and evil."

It is important they be seen in precisely that dark light. Dale Burr did not "go out in a blaze of glory," as one neighbor remarked—it was blaze of shame. To the extent that Iowans confuse murder with understandable human reaction to financial misfortune, Iowa will share that shame. Iowa values are better than that; we do not shoot our way out of debt.

What's more, this was not a classic case of hard-nosed banker pushing hard-luck farmer to the wall. Unlike hundreds of other Iowa farmers, Burr was not being foreclosed upon. He has debt troubles, but the Hills bank was planning on financing him again in 1986. He had a dispute with the bank over a government corn check—and a dispute with this neighbor Richard Goody over a land lease—and so the bank president and the neighbor are dead. Emily is dead. Marilyn and little Mark Goody would be dead if Burr had been a better shot.

There is no excuse for what Dale Burr did. If his financial problems are and excuse for his acts, hundreds of other Iowa farmers have better excuses for murder. If Burr's insanity can be rationalized, Iowa could become a slaughterhouse.

Let's tell America: If you think this madness makes sense to most Iowans, you've got us all wrong.

□ 0120

Those are the words of James P. Gannon, of the Des Moines Register, something I think that needed to be said.

I thank the Speaker.

ABM TREATY COMPLIANCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. BROWN] is recognized for 5 minutes.

Mr. BROWN of California. Mr. Speaker, in the aftermath of the November summit, and the resultant reduction of tensions between the United States and Soviets, there continues to be widespread public and congressional discussions of arms control agreements, and whether such agreements can maintain national security and help reduce the psychological and economic burden of the nuclear arms race. Such discussions invariably include the question of treaty compliance. Do the Soviets cheat? Is it worthwhile to pursue an arms control strategy if you cannot be sure that both sides observe the letter and the spirit of the agreement?

There are undoubtedly some on both sides of this issue whose views cannot be swayed. They are either so convinced of the value of arms control agreements that they cannot be troubled by evidence of noncompliance, or they are so convinced of the untrustworthiness of the Soviets that they regard agreements with them as either useless or positively harmful.

There is a much larger number who are willing to consider the possibility of arms control agreements with the Soviets if they are convinced that such agreements contribute to mutual security, can be verified with reasonably certainty, and will be complied with in letter and spirit. It is this larger group to whom we should look for the detailed analysis and pragmatic evaluation which will determine whether we should have arms control, and if so, what kind?

My remarks today are intended for this larger group. I proposed to discuss one compliance issue relating to the 1972 ABM Treaty, as an introduction to the general subject of treaty compliance. I hope in future remarks to discuss the issue more broadly, but time has not allowed for such a discussion today.

One may reasonably ask, if one is not versed in all of the arcane minutiae of arms control, what is there to discuss? You either comply, or you don't comply. If agreements are not complied with, they are worthless, and no more time should be wasted on them. Would that arms control were that simple.

The 1972 ABM Treaty was produced after years of heated debate on both the Johnson and Nixon administrations. Then, as now, there was a large and powerful constituency for building an ABM system to protect the United States. Then, as now, there were those who argued the merits of defensive versus offensive strategies and those who argued for basing the weapons in one location versus another location—shades of the MX. There were those who argued that it wouldn't work, or that it might, but would be destabilizing. And the specter of cost was raised then, as it is for SDI today. A decision was finally made by Johnson, over McNamara's private objections, to proceed with a "thin" ABM defense, more for political than military reasons. The ostensible reason was to protect against a small Chinese missile attack—China had virtually no missiles then—or an accidental or terrorist threat. The real reasons for the decision were primarily economic and political, not security, as so many defense decisions remain today. The cost of a full-scale system, on top of the cost of an unpopular war in Vietnam, would have been unsupportable. To do nothing about nuclear defense in the face of an upcoming Presidential campaign against a prodefense Republican, would have been too big a gamble. So the President proposed the "thin" alternative providing defense of one or two sites.

Nixon, who defeated Hubert Humphrey for the Presidency, continued the ABM Program while proceeding to explore détente with the Soviets. The 1972 ABM Treaty was one of the fruits of that détente, and the one ABM site that had been developed, although permitted by the treaty, was quickly dismantled. The Soviets maintained their one permitted site, still active around Moscow, using Galosh nuclear-tipped missiles.

The terms of the treaty, while permitting one ABM installation in each country, sought to prevent further development that would lead to the capability to defend the national territory from missile attack. That remains the goal of the ABM Treaty today.

Article XIII of the treaty establishes the Standing Consultative Committee [SCC] as the forum for discussion of future ABM Treaty issues, including all matters involving compliance with the terms of the treaty. By later agreement, the role of the SCC was broadened to include issues involving the interim agreement on offensive nuclear forces and SALT II compliance. The SCC has met regularly over the years, generally twice a year for several weeks at a time.

During all of this time, each country has brought only one charge of a violation of the treaty before the SCC. The United States has claimed that the Krasnoyarsk radar, when in operation, will be in violation. The Soviets have charged that the Thule (Greenland) radar when in operation will be a violation. Each side denies the other's charge, and the matter has been stalemated for several years. There have been reports that the Soviets, informally and outside the SCC, have offered to halt work at Krasnoyarsk if the United States would do the same at Thule.

I stress that during the entire life of the treaty, since 1972 there has been only the one charge of noncompliance on each side. A small number of other issues have been raised, on both sides, involving ambiguous situations, but no other charges of violations have been made in the SCC.

One would never believe this fact from reading the press releases and reports from the Weinberger Defense Department. One paragraph of the report "Soviet Military Power 1985" issued by the Pentagon illustrates the flavor of Weinberger's views:

> The U.S.S.R. continues to upgrade its heavily layered strategic defenses with expansion of ballistic missile detection and tracking systems and the development of new early warning and air surveillance radars. Silo-based high-acceleration interceptor missiles are replacing older aboveground launchers in the antiballistic missile system ringing Moscow, bringing increased capabilities to the world's only deployed ABM system. A new, large phased-array radar under construction at Krasnoyarsk violates the ABM Treaty. The U.S.S.R. may be preparing an ABM defense of its national territory. In addition, the Soviets are actively engaged in extensive research against ballistic missiles.

The ordinary citizen, or Member of Congress, reading this type of rhetoric, could only conclude that the Soviets are out to do us in, that we have somehow been lulled by the ABM Treaty into allowing a huge strategic defense gap to develop, and we must immediately act to redress this ominous security threat. I do not particularly fault those who use this tactic. They do not originate it. During my political career, Kennedy used the same rhetoric against Nixon in 1960, Nixon used it against Humphrey in 1968, and of course Reagan used it against Carter in 1980. I have it on a good authority that during the Peloponnesian Wars between Athens and Sparta such charges were common on both sides.

I have a "mole" over in the Kremlin who tells me that they use the same kind of rhetoric in Moscow, and that their report, entitled U.S. Military Power 1985, has the same paragraph I have quoted with only a few minor changes, such as Thule radar for Krasnoyarsk radar and reference to the SDI and operation homing overlay, as example of our intent to prepare an ABM defense of our national territory.

Let us now examine the merits and significance of the only two charges of actual violation of the ABM Treaty which have been made. The ABM Treaty permits the construction of large phased-array radars bv both countries. However, article VI(b) states that the parties undertake:

> Not to deploy in the future radars for early warning of strategic ballistic missile attack except at locations along the periphery of its national territory and oriented outward.

At the time that language was written, it was intended to prevent such radars from serving as engagement or battle management radars. They could warn of incoming missiles but, since there was no way such missiles could be attacked until they were in the vicinity of their targets in the interior of the country, they were not useful as integral parts of an ABM system. However, such a radar in the interior of the country, rather than on the periphery, could serve a battle management role, if there had also been put in place a nationwide system of interceptor missiles. In other words, such a radar could be an integral part of a system for the defense of the country, which is prohibited by the treaty.

There is no reasonable doubt that the Krasnoyarsk radar is a large phased-array radar similar in all respects to several other Soviet radars located on the periphery of the country, as provided by the treaty. It fills a gap not covered by the other radars, but is located far from the periphery of the country, and is therefore almost certainly a violation.

The Soviets do not deny the existence or capability of the radar, but contend that its purpose is not for early warning, but instead is a permitted space tracking radar.

Does the Krasnoyarsk radar present an immediate security threat to the United States? The answer is "No." If it were lifted and transported a thousand miles or so to the periphery of the country, it would be legal. In the absence of the deployment of a nationwide system of interceptor missiles, the Krasnoyarsk radar is no more of a security threat to the United States than any of the several other legal radars already in existence.

The significance of Krasnoyarsk is whether or not it represents a deliberate violation of the ABM Treaty in a possible effort to put in place all of the elements of an antimissile defense of the national territory. This would, if accomplished, be a serious security threat to United States. However, there is no evidence that such is the case. In any event, it would require many years of highly visible, and very expensive, engineering construction for such a goal to be accomplished.

Now what are the merits and significance of the Soviet charge with regard to the Thule radar? The United States has maintained a radar installation at Thule for many years. The system consisted of three radars and a control building. None of the radars were of the large phased-array type with ABM capability. The United States decided to replace the three old existing radars with one new large phased-array radar with ABM capability. The old radars were completely removed and the new phased-array radar is being constructed on top of the existing control building.

The Soviets protest that this is in fact a new large phased-array radar not located on the periphery of the Nation and as such is illegal under the treaty. The U.S. position is that this is a permitted modernization of an already existing radar and is legal. The security impact of the radar on the Soviets is about the same as that of Krasnoyarsk on the United States.

Absent the evidence of a program to develop a defense of the national territory with all of the requisite radars and ABM missiles, the security significance is minor. Its major significance otherwise is whether it portends a deliberate effort to violate the treaty preparatory to deploying a national ABM system.

What can we glean from this discussion? First, a major arms control treaty which has existed for 13 years with only one charge of noncompliance on each side over that period can hardly be called a total failure in terms of compliance. Second, at no time has any question of verification been a serious matter. Both sides feel that national technical means have provided adequate verification of the observance of the ABM Treaty. Third, the one asserted noncompliance issue on each side does not represent an immediate security threat to the other. Fourth, the most insignificant aspects of the two noncompliance issues revolve around perception and intent, factors which tend to reflect the eye of the beholder.

There is little question that most Americans would see Krasnoyarsk as a violation, believe the Soviets to be lying, and assume that their purpose is to deploy an ABM defense of their nation as quickly as possible, while they hope the United States will be restrained by the treaty. The Soviets have a mirror image of the situation, and are probably even more paranoid about it than the United States.

There is also little question that, at any time, the matter of the two radars could have been resolved with a little negotiation within the SCC. However, the SCC does not have the power to negotiate differences on matters of any significant importance. Its role is to project the position of the principals and convey the responses back to Washington and Moscow. Absent a desire to negotiate at the highest level, no resolution of differences is possible.

There is some evidence that for the last few years the position of the United States has been to denigrate arms control agreements, seek and present evidence of their weakness or failure, and use these purported failures to justify large increases in defense budgets and intractability to negotiations. Of course, that position may be changing. If so, we will see administration spokespersons hailing the dawn of a new era of accommodation, attributing it to administration toughness and the filling of all perceived "windows of vulnerability", and calling for prompt negotiations to resolve minor compliance problems like Krasnoyarsk.

I trust that my colleagues will accept the fact that I have presented this brief analysis in an honest effort to enhance understanding of a complex process. I do not wish to belittle the honestly held views of any other person. In a very real sense all of us must be transformed and rise above our old selves if we are to achieve a common approach to the world's most serious problem. I seek to encourage a process which will lead to that end.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. PEPPER] is recognized for 5 minutes.

Mr. PEPPER. Mr. Speaker, I was unavoidably absent on Thursday, December 12, 1985, for roll No. 458, a quorum call. Had I been present, of course I would have responded to that call.

MAZZINI-VERDI CLUB OF CHICAGO HONORS MRS. THERESA PETRONE AND DR. CLAUDIO FERRARI

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, I rise to congratulate two distinguished members of our Chicago community, Mrs. Theresa Petrone, vice chairman of the Illinois State Board of Elections, and Dr. Claudio Ferrari, Consul General of Italy, who were honored on Saturday, December 7, at the Mazzini-Verdi Club's 52d annual presidential ball.

The President of Italy, His Excellency Sandro Pertini, conferred upon Theresa Petrone the distinguished title of Cavaliere Ufficial Dell'Ordine "Al Merito della Repubblica Italiana"—Official Knight of Italy, in recognition of her numerous accomplishments as a civic and community leader in the Italian-American community. She became the first woman in the State of Illinois to receive this title.

Theresa Petrone has worked tirelessly on behalf of the needy and less fortunate. She has been a dedicated participant in the activities of the Joint Civic Committee of Italian Americans, and she richly deserves this honor in recognition of her outstanding commitment to public service.

Also honored at the Mazzini-Verdi Club's dinner was Dr. Claudio Ferrari. After spending 5 years in the Chicagoland area in service to the Italian Government, Dr. Ferrari is leaving his post as Council General of Italy on December 20 to return to his native country. Dr. Ferrari has been a dedicated, sincere, and conscientious representative of his government and his work has enhanced the warm friendship which exists between Italy and the United States. He has spent many hours in service to the people of Chicago during his stay, and he has carried on his duties in a manner that has established genuine good relations between Americans and Italians.

Dr. Ferrari has truly won a place in the hearts of all those who have had the good fortune to know and work with him, and his many contributions to our city shall be long remembered.

Mr. Speaker, I extend to Dr. Ferrari and Mrs. Petrone my best wishes for continued success in all their future endeavors.

INTRODUCTION OF LEGISLATION TO DENY TAX DEDUCTIONS FOR CIGARETTE ADVERTISING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. STARK] is recognized for 5 minutes.

Mr. STARK. Mr. Speaker, tobacco products are dangerous. There is incontrovertible evidence that they contribute to a myriad of health problems and are the cause of a large number of fires as well. In spite of the dangers of these products and in spite of the huge economic costs associated with the problems that they cause, the people of this country subsidize the promotion of these products by providing tax deductions for advertising costs. Today I will introduce legislation which would remove the subsidy for promoting these dangerous products.

Tobacco products, cigarettes and smokeless tobacco products, are associated with 350,000 premature deaths per year. This is more than the total number of American lives lost in World War I, Korea and Vietnam combined and nearly as many as were lost in World War II. Smoking is the largest single preventable cause of illness and death in the United States.

Lung cancer is the health problem most clearly associated with tobacco smoking. Smoking accounted for over 130,000 lung cancer deaths in 1984 and is implicated in 30 percent of all cancers. As a result of increased smoking among women, for the first time in history, lung cancer will surpass breast cancer this year as the leading cancer killer of women. Women have indeed come a long way.

Smoking is also associated with death and disability from heart disease, chronic obstructive lung disease, and burns. Pregnant women who smoke are more likely to have low birthweight babies.

The use of snuff and chewing tobacco is also associated with a host of medical problems. These products, whose use has increased markedly in recent years among schoolaged children, adolescents, and adults, are far from safe. Although users may be spared from lung cancer, they have a marked increased risk of cancer of the mouth and throat. Levels of various carcinogens in smokeless tobacco are much higher than levels in other tobacco products. The users of these products are also at risk from tooth and gum diseases and from cancers of the esophagus. As with smoking tobacco, nicotine enters the blood and causes its adverse effects on the cardiovascular system. Smokeless tobacco users become addicted to nicotine as do smokers.

The cost of medical care for smoking related disease amounts to an estimated $21 billion per year. This represents 7 percent of the total national expenditures on personal health care. An even greater economic toll is the $37 billion lost in productivity and earnings to U.S. business every year. It is estimated that the cost of smoking-related illness to Medicare and Medicaid is $4.2 billion per year.

It takes quite a bit of effort on the part of manufacturers to achieve the "successes' outlined above. In 1983, $2.7 billion was spent on the promotion of cigarettes alone, making them the Nation's most highly advertised consumer product, Multiple techniques are used to promote these dangerous products. Manufacturers of smokeless tobacco products give them away for free at rock concerts and other events where young people congregate. They make blatant use of sporting events and sports stars to hawk their wares.

Cigarette companies are precluded by law from advertising on radio and television. However, by sponsoring events which are broadcast, they are still able to use the airways to bring their product to the attention of the public.

The cigarette industry has a voluntary code which is supposed to control their print advertising. This is observed primarily in the breach. Supposedly they will not direct their advertising to those under 21. Why do they advertise in the Rolling Stone, a publication not exactly directed at the middle-aged? Supposedly they will not suggest in their advertising that smoking is essential to social prominence, distinction, success, or sexual attraction. Why then do they depict smokers draped in jewels in opulent, sexually suggestive settings? Supposedly they will not show smokers participating in or obviously having participated in vigorous physical activity. Why then do they depict a man smoking a cigarette toweling off in a locker room obviously just having finished a game of tennis?

All of these advertising activities are indirectly supported by the Federal Government. Under the Internal Revenue Code of 1954, these promotional activities are deductible from corporate Federal income taxes. Therefore, above and beyond what we spend to cope with the problems that stem from tobacco use, we allow the companies to deduct $2.7 billion per year from their taxable income. My proposal would remove that status from any promotional activities—advertising, coupons, sweepstakes, sporting events—for tobacco and tobacco products. Hopefully this would decrease or end tobacco advertising. If that does not occur, the Government would raise over a billion dollars per year if the industry continues to advertise at the current rate, thus offsetting some of the added costs to Medicare and Medicaid.

I urge you to support this bill.

CREATION OF BANKRUPTCY JUDGESHIPS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. BROOKS] is recognized for 5 minutes.

Mr. BROOKS. Mr. Speaker, I am introducing legislation today which will authorize the appointment of three additional bankruptcy judges for the southern district of Texas. These judges, who will serve in the bankruptcy courts of Houston and Galveston are desperately needed. In 1979, there were 2,069 active bankruptcy cases in this area. Now there are 20,000 with the same number of judges to handle this exploding workload.

The Judicial Conference of the United States, which has assessed the needs of all the districts in the United States for new bankruptcy judges, has determined that the southern district of Texas has one of the highest shortages of judges per case load in the Nation. The number of cases per judge is over twice the national average. They have recommended the creation of three new positions to alleviate this tremendous burden. My bill would implement this recommendation.

ACTION NEEDED ON HUNGER AND IMMUNIZATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota [Mr. PENNY] is recognized for 5 minutes.

Mr. PENNY. Mr. Speaker, we have before us today two resolutions expressing a commitment to the world's poor. I urge their passage today and I hope that during the next year we can take concrete action that complements the sentiments expressed in these resolutions.

House Concurrent Resolution 57 urges greater involvement by the private sector in efforts to alleviate hunger all over the world. As the U.S. Presidential Commission on World Hunger pointed out, people are hungry because they are poor. Increased private sector investment in developing countries is a means of promoting overall development—bringing jobs and income to growing populations—which will help to reduce the number of hungry people on this planet. We need to continue our efforts in the public sector to provide food and development aid that help to eliminate hunger. But it is important to recognize the contribution that the private sector can make to the economies of developing nations and, ultimately, on the lives of people who are hungry.

House Concurrent Resolution 211 urges U.S. participation in a global effort to achieve universal access to childhood immunization by 1990. It calls for us to join with other nations and representatives of the private sector to provide funding and materials to immunize all of the world's children by the end of this decade. Over 4 million children die each year from diseases that can be easily prevented by existing vaccines—diseases such as measles, tetanus, whooping cough, and polio. I am an original cosponsor of the Universal Child Immunization Act of 1986 which will actually provide funding for the kind of effort we have called for in the resolution we are considering today. It will provide an additional $50 million for immunization programs through the Child Survival Program of the Agency for International Development. This is money that will literally save the lives of hundreds of thousands of children around the world.

As we celebrate the holiday season it is fitting that we pass these resolutions. Let us also commit ourselves to take further action in the Congress during the next year to demonstrate our commitment to these noble goals.

FEDERAL INTRUSION INTO MINIMUM DRINKING AGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Vermont [Mr. JEFFORDS] is recognized for 30 minutes.

Mr. JEFFORDS. Mr. Speaker, here we go again. Last year, on a summer evening at 1 a.m., by unanimous consent and after assurances that no more legislative business was pending, the House approved legislation intended to strong-arm the States into raising their minimum drinking age to 21.

Now we have approved a continuing resolution with language tacked-on which will make permanent the penalties imposed upon States which, for good reasons, have not succumbed to Federal blackmail, and thus chosen not to raise their drinking ages to 21. Mr. Speaker, I resent the method by which this provision was snuck by the House with no opportunity for debate.

Back in 1971, after prolonged national debate the Congress voted to lower the voting age. States followed by lowering the age of majority to 18. We judged that those old enough to die for our country are old enough for all rights, obligations, and privileges of citizenship.

But last year, with no debate, without even a vote, the Congress approved legislation which instructs the Department of Transportation to withhold highway trust money from those States which do not have a 21-year-old drinking age, 5 percent in fiscal year 1986 and 10 percent in fiscal year 1987. Now we have just approved, again with no debate, an amendment added by the other body to the continuing resolution which required the Transportation Department to withhold 10 percent of Federal funds in fiscal years 1988 and beyond. This is money that the taxpayers of these States have paid into the highway trust fund. Yet we say, "We know what is best for your State, so we are going to take your money away until you do what we say."

In taking this ill-conceived action, Congress is led to believe that it is addressing the national tragedy of drunk driving. Is it? No, because the entire drunk driving is a national problem which cuts across the entire age spectrum.

We are all aware of the statistics that 18- to 21-year-olds make up 9 percent of the country's drinking population, yet they are involved in 17 percent of all alcohol-related accidents. This figure is high, but what of the remaining 83 percent of the accidents?

On a national basis, under 20-year-old drivers account for a high percentage of all fatal car accidents, alcohol related or not. This can be explained in part by their inexperience and propensity to drive with a heavy foot. The insurance companies certainly see it this way and adjust their rates accordingly. I know this for a fact—I pay for my son's car insurance.

When looking at raising the drinking age to reduce the number of car accidents involving individuals under 20, I think we have to realize that this group, historically, are problem drivers. Data for all fatal car accidents in 1970 show that drivers less than 20 accounted for 15 percent of all accidents. This is, of course, prior to the time the drinking age was generally reduced to 18 across the country. In 1983, this group still accounted for 15 percent of all fatal accidents.

Proponents of the national minimum drinking age often cite statistics which show that States which have raised their drinking age to 21 have experienced reductions in alcohol-related fatalities among 18- to 20-year-olds. However, many of these States have also simultaneously toughened drunk driving laws and increased enforcement. Illinois, which raised its drinking age from 19 to 21 effective January 1980, saw alcohol-related fatalities among 19- and 20-year-olds increase by 15 percent in 1981, then decrease by 15 percent in 1982, then increase 12 percent in 1983. Florida raised their drinking age from 18 to 19, effective January 1981. Alcohol-related fatalities among 18-year-olds dropped 5 percent in 1981, then increased 21 percent in 1982 and 26 percent in 1983. I fail to see the connection in these cases.

A few other statistics of interest are worth noting at this time. In 1983, 17- to 20-year-olds were involved in 18.8 percent of all alcohol-related fatal accidents. In this same year, 21- to 24-year-olds accounted for 22.2 percent of these accidents. Figures from my own State of Vermont show roughly the same relationship with 17- to 20-year-old drivers accounting for 22 percent of alcohol-related fatal accidents and 21- to 24-year-olds accounting for 27 percent. If the answer to drunk driving is raising the drinking age, shouldn't we be looking at raising the age to 24? Or, is not the more logical answer to direct educational and other special programs toward our younger generation?

I am concerned because this national minimum drinking age legislation is a phony solution to a very real problem. We need to find real solutions to this national problem, not raise the drinking age and pat ourselves on the back. Many States are enacting tough new drunk driving laws and increasing enforcement of drunk driving laws. State and local governments and school officials are developing innovative education programs.

In my home State of Vermont, bar and restaurant owners are implementing call-a-cab programs. Students at the University of Vermont have organized a free ride home for students and local residents who have had too much to drink. We should be commending these students, not taking away the opportunity to make responsible choices about alcohol. We should be educating students about the dangers of drinking and driving, and increasing public awareness of the tragedy of drunk driving with alcohol education programs.

Proponents of the national minimum drinking age cite the benefits of uniformity among the States. We hear about how the present system encourages 18- to 20-year-olds to drive across State borders to obtain alcohol. However, this legislation creates a whole new set of problems for border States. The largest city in Vermont with a college population of 13,400 is a quick drive to the Quebec Province where the drinking age is 18. This situation exists all across the northern tier where cities such as Buffalo, Detroit, Duluth, Grand Forks, Spokane, and Seattle, with an estimated combined population of 180,000 18- to 21-year-olds, are all within striking distant of Canadian Provinces where the drinking age is less than 20. Along our Mexican border, cities such as Brownsville, Corpus Christi, El Paso, Tucson, and San Diego are all within easy reach of a drinking age less than 21. The combined population of 18- to 21-year-olds in these cities is approximately 152,000. All in all, the total 18 to 21 population that will be tempted to cross international borders is probably close to a half million.

The 21st amendment to the Constitution preserves the rights of States to regulate the sale of intoxicating liquors within their borders. Residents of my home State of Vermont resent the Federal Government blackmail on this State issue, and the Vermont Legislature has passed a joint resolution which, and I quote, "* * * expresses on behalf of the people of the State of Vermont its outrage and opposition to very intrustive actions by the Federal Government on the drinking age." I would like to point out that the same Vermont Legislature has twice approved measures to raise the drinking age in Vermont. I am including for the RECORD this joint resolution of the Vermont Legislature which rightfully condemns this Federal intrusion.

Vermonters are correct in implying that the Congress is sticking its nose in somewhere it doesn't belong. This is a State issue. Even as we pass historic legislation which will shift massive Federal responsibilities back to the States, we choose blackmail on an issue which is unquestionably under the jurisdiction of the States.

Mr. Speaker, I resent the way this issue has been brought before the House. With no opportunity for debate, on a bill which has nothing to do with the issue, and on a bill which the House must pass to keep the Government operating, this was a prime example of bending the rules to circumvent the legislative process. What an example to set for our young voters.

JOINT RESOLUTION OF THE VERMONT LEGISLATURE ON NATIONAL MINIMUM DRINKING AGE

Whereas, the President of the United States has proposed and the Congress has enacted a "National Minimum Drinking Age" of 21 years (23 U.S.C. § 158); and

Whereas, under the federal legislation, the Secretary of Transportation of the United States must withhold a significant portion of federal highway funds from each state beginning October 1, 1986 unless said state has adopted a minimum drinking age of 21 years, and

Whereas, the Twenty-First Amendment of the United States Constitution preserves exclusively for the states the power to regulate the sale of intoxicating liquors within their borders, and

Whereas, the United States Constitution does not grant to the federal government the specific power to establish a drinking age and all powers not given to the United States Government are reserved to the states, and

Whereas, the Vermont Legislature has during the present term debated the bill to raise Vermont's minimum drinking age to 21, and said debate has been substantially affected by the presence of the federal legis-

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lation, particularly among those Senators and Representatives who are concerned about the threatened loss of federal funds or who resent the interference by Congress in a matter which is a state prerogative, and

Whereas, the State of South Dakota is currently challenging the constitutionality of the federal law, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly expresses on behalf of the people of the State of Vermont its outrage and opposition to very intrusive actions by the federal government on the drinking age, and be it further

Resolved: That the Attorney General of the State of Vermont be directed to join suit with South Dakota in challenging this law, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to the Vermont Congressional Delegation with a request that the delegation seek the repeal of the "National Minimum Drinking Age" as soon as possible, and be it further

Resolved: That the General Assembly requests the Congressional Delegation to convey the resolution and the request for repeal of the "National Minimum Drinking Age" to the President of the United States.

GOOD LUCK, BILL NELSON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. Smith] is recognized for 30 minutes.

Mr. SMITH of Florida. Mr. Speaker, this evening I rise to salute one of my colleagues from the Florida delegation, Congressman Bill Nelson. On Wednesday, at approximately 7 a.m. eastern standard time, Bill is scheduled to lift off into space aboard the space shuttle Columbia.

This flight is the culmination of a lifelong dream for Bill. A fifth-generation Floridian whose grandparents homesteaded on what is now the Kennedy Space Center, Bill is the ideal choice for the first U.S. Congressman to fly aboard the shuttle. Raised and educated merely miles from Cape Kennedy, Bill makes both his country and his community proud.

As chairman of the House Space Science and Applications Subcommittee, Bill is a strong advocate of the U.S. space program. He has worked long and hard to secure increased space funding that would bring the United States to, in his own words, "the full sunlight of world leadership where we belong."

During his 5 days in space, he will conduct a number of experiments, including tests to determine changes in heart rate and blood pressure during the flight. He will also be involved in a cancer research project to grow crystals in space of a protein linked to cancer. These are all experiments that have not previously been performed by the American space program.

In addition, Bill will be taking parts of America with him into space. He will be carrying items with a special meaning—a gavel from the Speaker's rostrum, a Soviet cosmonaut training pin, university banners, and Florida orange juice.

Bill will be flying out of the Earth's atmosphere as a representative of the U.S. Government, the State of Florida, and the American people. His flight aboard the Columbia will be another step toward fulfilling the goals of the Space Transportation System, NASA, and the United States.

I salute Bill's family—his wife Grace and two children, who are most supportive—and I wish Bill Godspeed and good luck. He makes Florida proud.

Mr. LEHMAN of Florida. Mr. Speaker, I am pleased to join with the other members of the Florida congressional delegation to honor one of our colleagues who is really going places—Congressman Bill Nelson. I want to thank Representative Larry Smith for his thoughtfulness in arranging this special order.

Bill Nelson is a man of extraordinary talents. I don't think there is a Member of the House of Representatives better equipped or better prepared for a space shuttle flight. He has distinguished himself over the years as an articulate and forceful proponent of the space program as a member of the House Committee on Science and Technology. He has developed a reputation in the House as an expert on Federal scientific programs and has sought to keep American technological know-how the best in the world. There is no doubt in my mind that he will put his experience in space to good use in improving our space program.

Although traveling on the space shuttle will help make Bill Nelson an even greater authority on the space program, it cannot possibly make him a better friend or a nicer person. Bill Nelson is one man I know who, when he says "God bless you," truly means it.

Mr. Speaker, I'm not certain that Bill Nelson will be a better astronaut because he is a Congressman, but I know he will be even more valuable to the House, to his district and to his country because of this experience. He is one astronaut with both feet firmly planted on the ground, and I want to join with my colleagues in offering him our best wishes for a safe and successful flight.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Hubbard (at the request of Mr. Wright), for today, on account of attending memorial services for deceased members of the 101st Airborne Division, Fort Campbell, KY.

Mr. Gray of Illinois (at his own request), for today, on account of illiness in the family.

Mr. Young of Missouri (at the request of Mr. Wright), for today and tomorrow, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. DeWine) to revise and extend their remarks and include extraneous material:)

Mr. Lightfoot, for 5 minutes, today.

Mr. Barton of Texas, for 5 minutes, today.

Mrs. Bentley, for 5 minutes, today.

Mr. Burton of Indiana, for 60 minutes, today.

Mr. Burton of Indiana, for 60 minutes, on December 17.

Mr. Jeffords, for 30 minutes, today.

Mr. Fish, for 5 minutes, today.

(The following Members (at the request of Mr. Obey) to revise and extend their remarks and include extraneous material:)

Mr. Brown of California, for 5 minutes, today.

Mr. Lipinski, for 5 minutes, today.

Mr. Pepper, for 5 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Stark, for 5 minutes, today.

Mr. Hubbard, for 5 minutes, today.

Mr. Brooks, for 5 minutes, today.

Mr. Smith of Florida, for 30 minutes, today.

Mr. Penny, for 5 minutes, today.

Mr. Rangel, for 60 minutes, on December 17.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. DeWine) and to include extraneous matter:)

Mr. Frenzel.

Mr. Gilman in three instances.

Mrs. Smith of Nebraska.

Mr. Crane.

Mr. Archer.

Mr. Lightfoot.

Mr. Kemp.

Mr. Courter.

Mr. Green.

Mr. McEwen.

Mr. Gradison in three instances.

Mr. Gunderson in four instances.

Mr. Blaz in two instances.

Mr. Dornan of California.

Mr. Molinari.

Mr. Schuette.

Mr. Coble.

Mr. Pursell.

Mr. Bereuter.

Mr. Bilirakis.

Ms. Snowe.

Mr. Whitehurst.

Mr. Sensenbrenner.

(The following Members (at the request of Mr. Obey) and to include extraneous matter:)

Mr. Montgomery in two instances.

Mr. Anderson in 10 instances.

Mr. Gonzalez in 10 instances.

Mr. Brown of California in 10 instances.

Mr. Annunzio in six instances.

Mr. Jones of Tennessee in five instances.

Mr. Boner of Tennessee in five instances.

Mr. HAMILTON.
Mr. DICKS.
Mr. SOLARZ.
Mr. BARNES in two instances.
Mr. KOSTMAYER in three instances.
Mr. RANGEL.
Mr. FLORIO in three instances.
Ms. OAKAR.
Mr. STARK.
Mr. LEVINE of California in two instances.
Mr. DOWNEY of New York.
Mr. MOAKLEY.
Mr. HOWARD.
Mr. GAYDOS.
Mr. FASCELL in four instances.
Mr. OBEY in two instances.
Mr. FAUNTROY.
Mr. WAXMAN.
Mr. GARCIA.
Mr. COELHO.
Mr. DINGELL.
Mr. LEHMAN of Florida.
Mr. DONNELLY.
Mr. TORRES.
Mr. DORGAN of North Dakota.
Mr. ACKERMAN.
Mr. BENNETT.
Mr. FORD of Michigan.
Mr. HUBBARD.
Mr. AUCOIN.
Mr. KASTENMEIER.
Mr. KILDEE.
Mr. HERTEL of Michigan.
Mr. LUKEN.
Mr. LEHMAN of California.
Mr. MRAZEK.
Mr. TRAFICANT.
Mr. STALLINGS.
Mr. CONYERS.

SENATE BILLS, JOINT RESOLUTION, AND CONCURRENT RESOLUTION REFERRED

Bills, a joint resolution, and a concurrent resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 475. An act to amend the Motor Vehicle Information and Cost Savings Act to require certain information to be filed in registering the title of motor vehicles, and for other purposes; to the Committee on Energy and Commerce.

S. 1396. An act to settle unresolved claims relating to certain allotted Indian lands on the White Earth Indian Reservation, to remove clouds from the titles to certain lands, and for other purposes; to the Committee on Interior and Insular Affairs.

S.J. Res. 235. Joint resoluton to designate the week of January 26, 1986, to February 1, 1986, as "Truck and Bus Safety Week"; to the Committee on Post Office and Civil Service.

S. Con. Res. 91. Concurrent resolution to require publication in the Congressional Record of the costs incurred for processing mass-mail for individual Senators, Representatives, committee, and other offices; to the Committee on House Administration.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and joint resolutions of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 664. An act to amend the Panama Canal Act of 1979 with respect to the payment of interest on the investment of the United States;

H.R. 729. An act to amend the Panama Canal Act of 1979 in order that claims for vessels damaged outside-the-locks may be resolved in the same manner as those vessels damaged inside the locks, and for other purposes;

H.R. 1534. An act to convert the temporary authority to allow Federal employees to work on a flexible or compressed schedule under title 5, United States Code, into permanent authority;

H.R. 1627. An act to designate certain national forest system lands in the State of Kentucky for inclusion in the National Wilderness Preservation System, to release other forest lands for multiple use management, and for other purposes;

H.R. 2694. An act designating the U.S. Post Office Building located at 300 Packerland Drive, Green Bay, WI, as the "John W. Byrnes Post Office and Federal Building"; and

H.R. 2976. An act to direct the Secretary of Agriculture to release the condition requiring that a parcel of land conveyed to New York State be used for public purposes and to convey United States mineral interests in the parcel to New York State.

H.R. 3085. An act to clear title to certain lands along the California-Nevada boundary;

H.R. 3735. An act to designate the pedestrian walkway crossing the Potomac River at Harpers Ferry National Historical Park as the "Goodloe E. Byron Memorial Pedestrian Walkway";

H.R. 3918. An act to extend until December 18, 1985, the application of certain tobacco excise taxes, trade adjustment assistance, certain medicare reimbursement provisions, and borrowing authority under the railroad unemployment insurance program;

H.R. 3919. An act to extend temporarily the dairy price support program and certain food stamp program provisions, and for other purposes;

H.J. Res. 450. Joint resolution to authorize and request the President to issue a proclamation designating April 20 through April 26, 1986 as "National Organ and Tissue Donor Awareness Week"; and

H.J. Res. 476. Joint resolution making further continuing appropriations for fiscal year 1986.

SENATE ENROLLED JOINT RESOLUTIONS SIGNED

The SPEAKER announced his signature to enrolled joint resolutions of the Senate of the following titles:

S.J. Res. 32. Joint resolution to authorize and request the President to designate September 21, 1986, as "Ethnic American Day";

S.J. Res. 70. Joint resolution to proclaim March 20, 1986, as "National Agriculture Day"; and

S.J. Res. 213. Joint resolution to designate January 19 through January 25, 1986, "National Jaycee Week."

BILLS AND A JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on the following day present to the President, for his approval, bills and a joint resolution of the House of the following titles:

On December 12, 1985:

H.J. Res. 476. Joint resolution making further continuing appropriations for fiscal year 1986.

On December 13, 1985:

H.R. 729. An act to amend the Panama Canal Act of 1979 in order that claims for vessels damaged outside-the-locks may be resolved in the same manner as those vessels damaged inside the locks, and for other purposes;

H.R. 1534. An act to convert the temporary authority to allow Federal employees to work on a flexible or compressed schedule under title 5, United States Code, into permanent authority;

H.R. 1627. An act to designate certain national forest system lands in the State of Kentucky for inclusion in the National Wilderness Preservation System, to release other forest lands for multiple use management, and for other purposes;

H.R. 3085. An act to clear title to certain lands along the California-Nevada boundary;

H.R. 3918. An act to extend until December 18, 1985, the application of certain medicare reimbursement provisions, and borrowing authority under the railroad unemployment insurance program;

H.R. 3919. An act to extend temporarily the dairy price support program and certain food stamp program provisions, and for other purposes;

H.R. 3735. An act to designate the pedestrian walkway crossing the Potomac River at Harpers Ferry National Historical Park as the "Goodloe E. Byron Memorial Pedestrian Walkway";

H.R. 664. An act to amend the Panama Canal Act of 1979 with respect to the payment of interest on the investment of the United States; and

H.R. 2976. An act to direct the Secretary of Agriculture to release the condition requiring that a parcel of land conveyed to New York State be used for public purposes and to convey United States Mineral interests in the parcel to New York State.

ADJOURNMENT

Mr. OBEY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 23 minutes a.m.) under its previous order, the House adjourned until today Tuesday, December 17, 1985, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as followings:

2393. A letter from the Acting Secretary of the Army, transmitting notification that the SINGGARS Program has exceeded the fiscal year 1986 current procurement unit cost baseline by more than 25 percent, pursuant to 10 U.S.C. 139b(e)(2)(A); to the Committee on Armed Services.

2394. A letter from the Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting notice of the decision to convert to contractor performance the Operation and Maintenance of Oceanographic Survey Ships of the Military Sealift Command, Oakland, CA, pursuant to 10 U.S.C. 2304 nt.; to the Committee on Armed Services.

2395. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting notice of intent to consent to a proposed transfer of the United States-European developed multiple launch rocket system among members of the European participating group, pursuant to 22 U.S.C. 2753(d)(i) (2)(B); to the Committee on Foreign Affairs.

2396. A letter from the Director, Defense Security Assistance Agency, transmitting a proposed procurement supplement to the memorandum of understanding among the Governments of the United States, Germany, United Kingdom, France, and Italy for the production of the multiple launch rocket system, pursuant to 22 U.S.C. 2767(c); to the Committee on Foreign Affairs.

2397. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs transmitting a report on the Foreign Service retirement and disability system, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

2398. A letter from the Deputy Director for Administration, Central Intelligence Agency, transmitting notice of a deletion of a Federal records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2399. A letter from the Director, Equal Employment Opportunity Commission, transmitting a report on compliance with the laws relating to open meetings of agencies of the Government (Government in the Sunshine Act), pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

2400. A letter from the Deputy Associate Director for Royalty Management Operations, Department of the Interior; transmitting a report on proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

2401. A letter from the Deputy Associate Director for Royalty Management Operations, Department of the Interior, transmitting report on proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

2402. A letter from the Acting Commissioner, Bureau of Reclamation, Department of the Interior, transmitting a conformed copy of the executed contract between the Central Utah Water Conservancy District and the Bureau of Reclamation, pursuant to Public Law 99-141; to the Committee on Interior and Insular Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 1344. A bill to provide for the restoration of Federal recognition to the Ysleta del Sur Pueblo and the Alabama and Coushatta Indian Tribes of Texas, and for other purposes; with amendments (Rept. 99-440). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 2182. A bill to authorize the inclusion of certain additional lands within the Apostle Islands National Lakeshore; with an amendment (Rept. 99-441). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 3556. A bill to provide for the exchange of land for the Cape Henry Memorial site in Fort Story, Virginia (Rept. 99-442 Pt. 1). Ordered to be printed.

Mr. WHITTEN: Committee of conference. Conference report on House Joint Resolution 465 (Rept. 99-443). Ordered to be printed.

[Dec. 17 (legislative day of Dec. 16), 1985]

Mr. DERRICK: Committee on Rules. House Resolution 342. Resolution providing for the consideration of the conference report on H.R. 3128; a bill to make changes in spending and revenue provisions for purposes of deficit reduction and program improvement, consistent with the budget process (Rept. 99-444). Referred to the House Calendar.

Mr. BONIOR: Committee on Rules. House Resolution 343. Resolution providing for the consideration of H.R. 3838; a bill to reform the internal revenue laws of the United States (Rept. 99-445). Referred to the House Calendar.

Mr. BEILENSON: Committee on Rules. House Resolution 344. Resolution providing for the consideration of House Joint Resolution 491, a joint resolution making further continuing appropriations for fiscal year 1986 (Rept. 99-446). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. FRENZEL (for himself, and Mr. Jones of Oklahoma):

H.R. 3939. A bill exempting from bilateral arrangements subject to the Steel Import Stablization Act steel products imported into the United States for processing into oil country tubular goods and subsequently exported; to the Committee on Ways and Means.

By Mr. ADDABBO (for himself, Mrs. Bentley, Mr. Bevill, Mr. Fauntroy, Mr. Horton, Mr. Kostmayer, Ms. Mikulski, Mr. McKinney, Mr. Owens, Mr. Rangel, Mr. Reid, Mr. Rodino, Mr. Roe, Mr. Rose, Mr. Smith of Florida, Mr. Solarz, and Mr. Towns):

H.R. 3940. A bill to require the Center for Environment alHealth of the Centers for Disease Control to evaluate State laws and regulations governing youth camp operations and to compile and disseminate the results of such evaluations; to the Committee on Education and Labor.

By Mr. ARCHER:

H.R. 3941. A bill to amend the Social Security Act and related laws to improve the administration of the old-age, survivors, and disability insurance program and the supplemental security income program, to improve coverage under the old-age, survivors, and disability insurance program, and for other purposes; to the Committee on Ways and Means.

By Mrs. BYRON:

H.R. 3942. A bill to designate the Cumberland terminus area of the Chesapeake and Ohio Canal National Historic Park as the "J. Glenn Beall, Sr., Memorial Terminus," and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. ERDREICH:

H.R. 3943. A bill to amend the Internal Revenue Code of 1954 to extend by 3 years the time for filing an application for an exemption from self-employment income tax by ministers and other members of religious orders; to the Committee on Ways and Means.

By Mr. EVANS of Iowa:

H.R. 3944. A bill to amend the Grain Standards Act of 1916 to provide for a quality variation statement on all official grade certificates, and for other purposes; to the Committee on Agriculture.

By Mr. MICA (for himself, and Ms. Snowe):

H.R. 3945. A bill to protect U.S. Government employees at U.S. Embassies; to the Committee on Foreign Affairs.

H.R. 3946. A bill to provide for the security of U.S. diplomatic personnel, facilities, and operations, and for other purposes; to the Committee on Foreign Affairs.

By Mr. RANGEL:

H.R. 3947. A bill to amend the Internal Revenue Code of 1954 to extend tax deferral advantages associated with the receipt of benefits from qualified pension plans to individuals who receive certain annuities during a corporate takeover to replace such plans; to the Committee on Ways and Means.

H.R. 3948. A bill to amend the Internal Revenue Code of 1954 to extend by two years the termination date of the exclusion from gross income of amounts received under qualified group legal services plans; to the Committee on Ways and Means.

By Mr. SENSENBRENNER:

H.R. 3949. A bill to amend chapter XIV of the Comprehensive Crime Control Act of 1984, relating to victims of crime, to provide funds to encourage States to implement protective reforms regarding the investigation and adjudication of child abuse cases which minimize the additional trauma to the child victim and improve the chances of successful criminal prosecution or legal action; to the Committee on the Judiciary.

By Mr. STARK:

H.R. 3950. A bill to amend the Internal Revenue Code of 1954 to disallow any deduction for advertising or other promotion expenses with respect to sales of tobacco and tobacco products; to the Committee on Ways and Means.

By Mr. WILSON:

H.R. 3951. A bill to designate the building which will house the Federal Court for the Eastern District of Texas in Lufkin, TX, as the "Ward R. Burke Federal Court Building;" to the Committee on Public Works and Transportation.

By Mr. BROOKS (for himself, Mr. LeLand, and Mr. Andrews):

H.R. 3952. A bill to amend title 28 of the United States Code to increase the number of bankruptcy judges authorized to be appointed for the southern district of Texas; to the Committee on the Judiciary.

By Mr. COBLE (for himself, Mr. Broyhill, Mr. Cobey, Mr. Goodling, Mr. Hefner, Mr. Hendon, Mr. Jones of North Carolina, Mr. Lott, Mr. Neal, Mr. Rogers, and Mr. Whitley):

H.R. 3953. A bill to require that United States contributions to an international financial institution be reduced by the United States proportionate share of any assistance provided by that institution to any foreign country for the production of any fiber, textile, or article of apparel; to the Committee on Banking, Finance and Urban Affairs.

By Mr. EDGAR:

H.R. 3954. A bill to establish a secondary market for industrial mortgages; to the Committee on Banking, Finance and Urban Affairs.

By Mr. EVANS of Iowa:

H.R. 3955. A bill to amend title VII of the United States Code to authorize the Secretary of Agriculture to pay a bonus in the form of commodities under certain circumstances for grain destined for export and for other purposes; to the Committee on Agriculture.

By Mr. KANJORSKI:

H.R. 3956. A bill to provide for greater accountability for all congressional travel, and for other purposes; to the Committee on House Administration.

By Mr. KASTENMEIER:

H.R. 3957. A bill to amend the Foreign Agents Registration Act of 1938, as amended (22 U.S.C. 611 et seq.) to eliminate unconstitutional provisions abridging the freedom of expression; to the Committee on the Judiciary.

By Mr. PACKARD:

H.R. 3958. A bill to provide for the settlement of water rights claims of the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians in San Diego County, CA, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. SCHEUER:

H.R. 3959. A bill to authorize appropriations for certain oceanic and atmospheric activities of the National Oceanic and Atmospheric Administration, and for other purposes; jointly, to the Committees on Science and Technology, and Merchant Marine and Fisheries.

By Mrs. SCHROEDER (for herself, Mrs. Holt, and Mr. Frank):

H.R. 3960. A bill to permit the Secretaries of military departments and heads of defense agencies to provide dependents of deceased military members family housing without charge for a period not to exceed 60 days; to the Committee on Armed Services.

By Mr. TRAFICANT:

H.R. 3961. A bill to amend title 23, United States Code, to increase the maximum Federal share payable on account of certain highway safety improvement projects which have a favorable cost-benefit ratio; to the Committee on Public Works and Transportation.

By Mr. WAXMAN:

H.R. 3962. A bill to amend the Federal Food, Drug, and Cosmetic Act to authorize the export of certain unapproved drugs, and for other purposes; to the Committee on Energy and Commerce.

By Mr. WHITEHURST:

H.R. 3963. A bill to provide authority to the Secretary of Defense to establish and operate commercial entities to provide cover for Department of Defense foreign intelligence collection activities, and for other purposes; jointly, to the Committee on Armed Services, and the Permanent Select Committee on Intelligence.

By Mr. FUQUA (for himself, Mr. Lujan, Mr. Walgren, and Mr. Boehlert):

H.J. Res. 484. Joint resolution to express the sense of the Congress that the week of May 11-17, 1986, be designated as "National Science Week 1986"; to the Committee on Post Office and Civil Service.

By Mr. WRIGHT:

H.J. Res. 485. Joint resolution waiving the printing on parchment of enrolled bills and joint resolutions during the remainder of the first session of the Ninety-ninth Congress; considered and passed.

By Mr. WHITTEN:

H.J. Res. 486. Joint resolution making further continuing appropriations for fiscal year 1986; to the Committee on Appropriations.

By Mr. ADDABBO (for himself, Mrs. Bentley, Mrs. Boxer, Mr. Bryant, Mr. Chappie, Mrs. Collins, Mr. Conte, Mr. Fauntroy, Mr. Fazio, Mr. Feighan, Mr. Frost, Mr. Horton, Mr. Rahall, Mr. Martinez, Mr. Matsui, Mr. McKinney, Ms. Mikulski, Mr. Mineta, Mr. Owens, Mr. Rangel, Mr. Reid, Mr. Rodino, Mr. Roe, Mr. Rose, Mr. Smith of Florida, Mr. Solarz, Mr. Sunia, Mr. Thomas of Georgia, Mr. Towns, Mr. Traficant, Mr. Volkmer, Mr. Weiss, Mr. Wortley, Mr. Kostmayer, Mr. Kolter, Mr. Wyden, and Mr. Gingrich):

H.J. Res. 487. Joint resolution to designate the month of April 1986 as "Youth Camp Safety Awareness Month"; to the Committee on Post Office and Civil Service.

By Mr. BENNETT:

H.J. Res. 488. Joint resolution to assert the right of the United States to provide economic and military assistance to any country in the Americas that is threatened covertly or overtly by the actions and policies of the Government of Nicaragua, and for other purposes; to the Committee on Foreign Affairs.

By Mr. WHITTEN:

H.J. Res. 489. Joint resolution making further continuing appropriations for fiscal year 1986; to the Committee on Appropriations.

H.J. Res. 490. Joint resolution making further continuing appropriations for fiscal year 1986; to the Committee on Appropriations.

H.J. Res. 491. Joint resolution making further continuing appropriations for fiscal year 1986; to the Committee on Appropriations.

By Mrs. BURTON of California:

H. Con. Res. 260. Concurrent resolution to recognize and honor the contributions of the Consumers Union; to the Committee on Energy and Commerce.

By Mr. HUBBARD (for himself, Mr. Sundquist, Mr. Skelton, and Mr. McCloskey):

H. Res. 345. Resolution to express the sentiment of Congress regarding the deaths of members of the 101st Air Assault Division in an airplane crash on December 12, 1985, at Gander, Newfoundland, Canada, while en route home for the season's holidays; to the Committee on Armed Services.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BARNARD:

H.R. 3964. A bill for the relief of Lynette J. Parker; to the Committee on the Judiciary.

By Mr. ERDREICH:

H.R. 3965. A bill for the relief of Robert Ballew; to the Committee on the Judiciary.

By Mr. ROBINSON:

H.R. 3966. A bill for the relief of Eudokia Georgiadou; to the Committee on the Judiciary.

By Mr. WHITEHURST:

H.R. 3967. A bill for the reimbursement of Wendell W. Crusenberry of Virginia Beach, to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 271: Mr. Gilman.

H.R. 604: Mr. Dyson.

H.R. 822: Mr. Fuster.

H.R. 1579: Mr. Torricelli.

H.R. 1690: Mr. Torricelli.

H.R. 1946: Mr. Cobey, Mr. Coughlin, Mr. Edwards of Oklahoma, and Mr. Saxton.

H.R. 2004: Mr. Moody.

H.R. 2020: Mr. Rodino.

H.R. 2365: Mr. Lehman of Florida, Mr. Weiss, Mr. Edgar, Mr. Kindness, and Mr. Lowry of Washington.

H.R. 2578: Mr. Lantos, Mr. Lowry of Washington, Mr. Myers of Indiana, Mr. Rangel, Mr. Roberts, and Mr. Wyden.

H.R. 2583: Mr. Jacobs, Mr. Swindall, Mr. Armey, Mr. Pursell, and Mr. Moorhead.

H.R. 2589: Mr. Barnes.

H.R. 2620: Mr. Bosco.

H.R. 2684: Mr. Richardson.

H.R. 2782: Mrs. Burton of California, Mr. Thomas of Georgia, and Mr. Udall.

H.R. 2793: Mr. Hendon.

H.R. 2902: Mr. Gray of Illinois, Mr. Gray of Pennsylvania, Mr. Hammerschmidt, Mr. Hoyer, Mr. Jacobs, and Mr. McKernan.

H.R. 2943: Mr. Spratt, Mr. Weaver, Mr. Daniel, Mr. Downey of New York, Mr. Mollohan, Mr. Eckert of New York, Mr. Levine of California, Mr. Scheuer, Mr. Burton of Indiana, Mr. Schaefer, Mrs. Roukema, and Mr. Cheney.

H.R. 3006: Mr. Leach of Iowa, and Mr. Miller of Ohio.

H.R. 3120: Mr. Bevill, Mr. Borski, Mr. Coleman of Missouri, Mr. Daub, Mr. Dornan of California, Mr. Dwyer of New Jersey, Ms. Kaptur, Mr. Kolter, Mr. Lowery of California, Mr. Matsui, Mr. Mitchell, Mr. Price, Mr. Schumer, and Mr. Rangel.

H.R. 3257: Mr. Strang.

H.R. 3260: Mr. Shelby, Mr. Martin of New York, and Mr. Smith of New Hampshire.

H.R. 3265: Mr. Nelson of Florida, Mr. Mitchell, Mr. Edwards of Oklahoma, and Mr. Gilman.

H.R. 3305: Mr. Rangel.

H.R. 3357: Mr. Combest and Mr. Nielson of Utah.

H.R. 3470: Mr. Gilman, Mr. Synar, Mr. Coleman of Texas, Mr. Aspin, Mr. Hayes, Mr. Schumer, Mr. Dyson, and Mr. Mazzoli.

H.R. 3486: Mr. Nielson of Utah and Mr. Ritter.

H.R. 3487: Mr. Wise and Mr. Applegate.

H.R. 3521: Mr. Daniel, Mr. Chandler, Mr. Emerson, Mr. Nichols, and Mr. Kolter.

H.R. 3557: Mr. Daschle.

H.R. 3585: Mr. Edwards of Oklahoma.

H.R. 3602: Mr. Crockett, Ms. Mikulski, and Mr. Rangel.

H.R. 3626: Mr. Edwards of Oklahoma, Mr. Gunderson, Mr. Bennett, and Mr. Blaz.

H.R. 3630: Mr. Price, Mr. Stokes, Mr. Weaver, Mr. Kolter, Mr. Dwyer of New Jersey, Mr. Jeffords, and Mr. St Germain.

H.R. 3634: Mr. Ford of Michigan, Mr. Gejdenson, Mr. Eckart of Ohio, and Mr. Boehlert.

H.R. 3660: Mr. Mrazek.

H.R. 3723: Mr. Morrison of Connecticut and Mr. Bates.

H.R. 3732: Mr. Daschle, Mr. Pursell, Mr. Darden, Mr. Glickman, Mr. Fields, and Mr. Lightfoot.

H.R. 3738: Mr. Chapman, Mr. Weiss, Ms. Kaptur, Mr. Kolter, and Mr. Hayes.

H.R. 3748: Mr. Addabbo, Mr. Atkins, Mr. Barnes, Mr. Bennett, Mr. Berman, Mr. Boland, Mrs. Boxer, Mrs. Burton of California, Mr. Bustamante, Mr. Clay, Mrs. Collins, Mr. Conyers, Mr. Crockett, Mr. Dellums, Mr. de Lugo, Mr. de la Garza, Mr. Dymally, Mr. Edwards of California, Mr. Evans of Illinois, Mr. Fauntroy, Mr. Fazio, Mr. Ford of Michigan, Mr. Fuster, Mr. Garcia, Mr. Gonzalez, Mr. Howard, Mr. Hoyer, Mr. Jacobs, Mr. Kildee, Mr. Kleczka, Mr. Lehman of Florida, Mr. Levin of Michigan, Mr. Levine of California, Mr. Lowry of Washington, Mr. Lundine, Mr. Martinez, Mr. Matsui, Mr. Miller of California, Mr. Mitchell, Mr. Morrison of Connecticut, Mr. Mrazek, Mr. Oberstar, Mr. Owens, Mr. Pepper, Mr. Rangel, Mr. Richardson, Mr. Rodino, Mr. Roe, Mr. Roybal, Mr. Sabo, Mr. Savage, Mrs. Schroeder, Mr. Schumer, Mr. Smith of Florida, Mr. Torres, Mr. Torricelli, Mr. Towns, Mr. Udall, Mr. Vento, Mr. Weaver, Mr. Weiss, Mr. Wirth, Mr. Wolpe, and Mr. Studds.

H.R. 3767: Mr. Henry, Mr. Weiss, Ms. Kaptur, Mr. Grotberg, Mr. Franklin, Mr. Bereuter, and Mr. Kindness.

H.R. 3804: Mr. Conyers, Mr. McCollum, Mr. Porter, Mr. Rangel, Mr. Weiss, and Mr. Wilson.

H.R. 3813: Mr. Hamilton.

H.R. 3814: Mr. Lehman of Florida, Mr. Ackerman, Mr. Robinson, Mr. Kostmayer, Mr. Owens, Mr. Kolter, Mr. Lantos, Mr. Bryant, Mr. Bedell, Mr. Smith of Florida, Mr. Schumer, Mr. Levine of California, Mr. Rangel, and Mr. Edwards of California.

H.R. 3822: Mr. Stokes,, Mr. Roe, Mr. Weiss, Mr. de Lugo, Mr. Howard, Mr. Kolter, and Mr. Mitchell.

H.R. 3830: Mr. Roemer, Mr. Horton, Mr. Gray of Illinois, Mr. Foglietta, Mr. Smith of Florida, Mr. Stark, Mr. Saxton, and Mr. Jacobs.

H.R. 3875: Mr. Smith of Florida, Mr. Smith of New Jersey, Mr. Solarz, Mr. Gilman, Mr. Schumer, Mrs. Burton of California, Mr. Frank, Mr. Scheuer, Mr. Garcia, Mr. Berman, Mr. Ackerman, Mr. Florio, Mr. Matsui, Mr. Torres, Mr. Bustamante, Mr. Morrison of Connecticut, Mr. Bereuter, Mr. Glickman, Mr. Edwards of California, Mr. Torricelli, and Mr. Reid.

H.R. 3917: Mr. Foley, Mr. Lott, and Mr. Roemer.

H.J. Res. 7: Mr. Matsui, Mr. Latta, and Mr. Molinari.

H.J. Res. 151: Mr. Hertel of Michigan, and Mr. Moody.

H.J. Res. 244: Mr. Leach of Iowa, Mr. Manton, Mr. Horton, Mr. DioGuardi, Mr. Penny, Mr. Frenzel, and Mr. Addabbo.

H.J. Res. 279: Mr. Roberts, Mr. Robinson, Mr. Hopkins, Mr. Combest, Mr. Ritter, and Mr. Lagomarsino.

H.J. Res. 297: Mr. Dellums.

H.J. Res. 332: Mr. Early, Mr. Pursell, Mr. Bevill, Mr. Guarini, Mr. Fuqua, Mr. Anderson, Mr. Fazio, Mr. Scheuer, Mrs. Bentley, Mr. Bedell, Mr. Borski, Mr. Boner of Tennessee, Mr. Carper, Mr. Conte, Mr. Daniel, Mr. Clay, Mr. DeWine, Mr. Darden, Mr. Emerson, Mr. Erdreich, Mr. Dowdy of Mississippi, Mr. Fauntroy, Mr. Feighan, Mr. Hansen, Mr. Henry, Mr. Hunter, Mr. Kostmayer, Mr. Boucher, Mr. Latta, Mr. Levin of Michigan, Mr. Lewis of Florida, Mr. Lundine, and Mr. Madigan.

H.J. Res. 336: Mr. Barnard, Mr. Bennett, Mrs. Bentley, Mr. Bruce, Mr. Kolter, and Mr. Nielson of Utah.

H.J. Res. 359: Mr. DioGuardi, Mr. Leland, Mr. Bryant, Mr. Kolter, Mr. Dwyer of New Jersey, Mr. Hartnett, Mr. Whitley, Mr. Frenzel, Mr. Panetta, Mr. Hammerschmidt, Mr. Chappell, Mr. Morrison of Washington, Mr. Stenholm, Mr. Derrick, Mr. Stangeland, Mr. Pickle, Mr. St Germain, Mr. Ford of Michigan, Mr. Henry, Mr. Murtha, Mr. Durbin, Mr. Kanjorski, Mr. Mineta, Mr. Tauzin, and Mr. Schaefer.

H.J. Res. 385: Mr. Burton of Indiana, Mr. Hyde, Mr. Murphy, Mr. Lent, Mr. Brown of California, Mr. Kramer, Mr. Weber, Mr. Lewis of California, Mr. McDade, Mr. Tauke, Mr. Chapman, Mr. Stenholm, Mr. Hendon, Mr. Moorhead, Mr. Owens, Mr. de Lugo, Mr. Gonzalez, Mr. Weaver, Mr. Whitten, Mr. Barnard, Mr. Bryant, Mr. Lipinski, Mr. Jenkins, Mr. Fish, Mr. Bates, Mr. Leach of Iowa, Mr. Rahall, Mr. Cooper, Mr. Hammerschmidt, Mr. Kildee, Mr. Beilenson, Mr. Moody, Mr. Daniel, Mr. Bedell, Mr. AuCoin, Mr. Schumer, Mr. Gray of Pennsylvania, Mr. Frank, Mr. Brooks, and Mr. Anthony.

H.J. Res. 417: Mr. Lowry of Washington and Mrs. Boxer.

H.J. Res. 421: Mr. Goodling.

H.J. Res. 429: Mr. Mrazek, Mr. Chandler, Mr. Roe, Mr. Guarini, Ms. Kaptur, Mr. Rangel, and Mr. Levine of California.

H.J. Res. 439: Mr. Chandler, Mr. Sweeney, Mr. Owens, Mr. Aspin, Mr. Bennett, Mr. Lewis of Florida, and Mr. Nelson of Florida.

H.J. Res. 445: Mr. Howard, Mr. Snyder, Mr. Rahall, Mr. Clinger, Mr. Horton, Mr. Hammerschmidt, Mr. Moody, Mr. Traficant, Mr. Dornan of California, Mr. Young of Missouri, Mr. Tallon, Mr. Dixon, Mr. McEwen, Mr. Savage, Mr. Martin of New York, Mr. Price, Mr. Fazio, Mr. Hoyer, Mr. O'Brien, Mr. Matsui, Mr. Packard, Mr. Ireland, Mr. Owens, Mr. Lent, Mrs. Johnson, Mr. Neal, Mr. Boehlert, Mr. Boner of Tennessee, Mr. Hubbard, Mr. Solomon, Mr. Ray, Mrs. Bentley, Mr. Kemp, Mrs. Boxer, Mr. Quillen, Mrs. Burton of California, Mr. Roth, Mrs. Byron, Mr. Dowdy of Mississippi, Mr. Carper, Mr. Breaux, Mr. Emerson, Mr. Kolter, Mr. Boucher, Mr. Bevill, Mr. Daschle, Mr. Applegate, Mr. Foglietta, Mr. Brown of California, Mr. Bryant, Mr. McCain, Mr. Gallo, Mr. Hayes, Mr. Gilman, Mr. Bosco, Mr. Borski, Mr. Kostmayer, Mr. Shelby, Mr. Derrick, Mr. Manton, Mr. Bedell, Mr. Rose, Mr. Lujan, Mr. Darden, Mr. Volkmer, Mr. Atkins, Mr. Hyde, Mr. Bennett, Mr. Pursell, Mr. Torricelli, Mr. Kleczka, Mr. Schuette, Mr. Sabo, Mr. Nowak, Mr. Bateman, Mr. Mineta, Mr. Carr, Mr. Olin, Mr. Flippo, Mr. Bustamante, Mr. Lungren, Mr. Jones of North Carolina, Mr. Gingrich, Mr. Conyers, Mr. Stangeland, Mr. Hefner, Mr. Levin of Michigan, Mr. Murphy, Mr. Murtha, Mr. Tauzin, Mr. Chandler, Mr. Perkins, Mr. Lagomarsino, Mr. Oberstar, Mr. Callahan, Mr. Lehman of Florida, Mr. Pashayan, Mr. Rodino, Mr. Jones of Tennessee, Mr. Hutto, Mr. Kasich, Mr. Lowery of California, Mr. Davis, Mr. Rowland, of Georgia, Mr. DeLay, Mr. Shaw, Mr. Hamilton, Mr. de la Garza, Mr. Levine of California, Mr. Coelho, Ms. Oakar, Mr. Dwyer of New Jersey, Mr. Courter, Mr. Edgar, Mr. Campbell, Mr. Monson, Mr. Wilson, Mr. Mavroules, Mr. Rinaldo, Mr. Frenzel, Mr. Fauntroy, Mr. Rudd, Mr. Wyden, Mr. Dickinson, Mr. McDade, Mr. Mica, Mr. Daniel, Mr. Sundquist, Mr. Parris, Mr. Wheat, Mr. Gordon, Mr. Stokes, Mr. Fuqua, Mr. Gekas, Mr. Kindness, Mr. Durbin, Mr. Coats, Mr. Rangel, Mr. Ralph M. Hall, Mr. Wolf, and Mr. Rowland of Connecticut.

H.J. Res. 452: Mr. Denny Smith, Mr. Jacobs, Mr. Fuster, Mr. Dornan of California, Mr. Dixon, Mrs. Bentley, Mr. Green, Mr. Andrews, Mr. Towns, Mr. Roe, Mr. Fazio, Mr. Matsui, Mr. Martinez, Mr. Rahall, Mr. Anderson, Mr. Hayes, Mr. Kolter, Mr. Gingrich, and Mr. Rangel.

H.J. Res. 462: Mr. Wise, Mr. Lewis of California, Mr. Heftel of Hawaii, Mr. Moody, Mr. Bevill, Mr. Fowler, Mr. Spratt, Mr. Barnard, Mr. Olin, Mr. Cooper, Mr. Huckaby, Mr. Fields, Mr. Torres, Mr. Gordon, Mr. Jones of Tennessee, Mr. Vento, Mr. Levin of Michigan, Mr. Dicks, Mr. Gonzalez, Mr. Nowak, Mr. Hayes, Mr. Mineta, Mr. Stark, Mr. Wheat, Mr. Evans of Illinois, and Mr. Mack.

H.J. Res. 470: Mr. Horton, Mr. Matsui, Mr. Price, Mr. Foley, Mr. Sunia, Mr. McKinney, Mr. Bosco, Mr. Crockett, Mr. Lewis of California, Mr. Ackerman, Mr. Scheuer, Mr. Addabbo, Mr. Hayes, Mr. Waxman, Mr. Rahall, Mr. Hatcher, Mrs. Burton of California, Mr. Manton, Mr. Erdreich, Mr. Coelho, Mr. Smith of Florida, Mr. Volkmer, Mr. Wilson, Mr. Mrazek, Mr. Carr, and Mr. Rangel.

H. Con. Res. 57: Mr. Atkins and Mr. Penny.

H. Con. Res. 127: Mr. Seiberling, Mr. Kolter, Mr. Lewis of Florida, and Mr. Gingrich.

H. Con. Res. 167: Mr. Rowland of Connecticut.

H. Con. Res. 243: Mr. Addabbo, Mr. Fazio, Mr. Rangel, Mrs. Burton of California, Mr. Morrison of Connecticut, Mr. Waxman, and Mr. Wolpe.

H. Res. 264: Mr. Morrison of Washington.

H. Res. 315: Mrs. Bentley, Mr. Boehlert, Mr. Bustamante, Mr. Eckart of Ohio, Mr. Frost, Mr. Kindness, Mr. Leland, Mr. Morrison of Connecticut, Mr. Rudd, Mr. Shaw, Mr. Torricelli, Mr. Volkmer, and Mr. Wortley.

H. Res. 323: Mr. Dannemeyer.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

262. By the SPEAKER: Petition of Celedonio V. Francisco, Kalibo, Aklan, Philippines, relative to citizenship; to the Committee on the Judiciary.

263. Also, petition of Guido I. Morato, Kalibo, Aklan, Philippines, relative to citizenship; to the Committee on the Judiciary.

EXTENSIONS OF REMARKS

A SALUTE TO ROSA PARKS

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. STOKES. Mr. Speaker, last week, an outstanding miniseries which ran for 3 days on WXYZ-TV, Detroit, MI, chronicled the great contribution Rosa Parks has made to American history.

December 1 was the 30th anniversary of an incident which sparked a revolution of conscience and policy in this Nation. On December 1, 1955, in Montgomery, AL, a black woman, Rosa Parks, changed the course of history when she refused to move to the back of a bus and give her seat to a white man. Because of segregation laws, black people in Montgomery, AL, and in many other parts of the South, were forced to live as second-class citizens.

The law was strictly enforced. Acts of defiance were considered to be crimes.

Therefore, for her act of defiance, Rosa Parks, a 42-year-old seamstress, was arrested. She was put on trial and convicted.

But, this act had still another and more permanent consequence. Tired of the segregation and humiliation they experienced in the South, black residents formed the Montgomery Improvement Association and launched a 381-day boycott of the bus system in Montgomery in response to Rosa Parks' arrest. They chose Dr. Martin Luther King, Jr., a young charismatic minister, to be the leader of the association and boycott.

The boycott was a success. One year later, after considering the appeal of Mrs. Parks, the U.S. Supreme Court overturned the 1896 Plessy versus Ferguson decision which has been used to legally justify segregation in Montgomery and the South.

Encouraged by the victory in Montgomery, black residents and people committed to equality for all citizens banded together in the civil rights movement. At the forefront of this great movement was the leader of the Montgomery Improvement Association—Dr. Martin Luther King, Jr.

Today, 30 years later, major victories in the struggle for civil rights for all Americans have been won. We have to thank Rosa Parks for her act of defiance and courage which helped to strengthen the civil rights movement and pricked the conscience of America.

Because of her pivotal role in the history of this Nation, I would like to share with my colleagues newspaper articles which appeared earlier this month on Rosa Parks and her role in the history of this Nation. I ask my colleagues to join with me in saluting her.

30 YEARS ON, MONTGOMERY STILL INSPIRES US

(By Coretta Scott King)

In early December of 1955, I was recovering from the birth of my first child a short time before, and the last thing on my mind was getting involved in a social revolution.

Mr. husband, the Rev. Martin Luther King Jr., had just refused the presidency of the Montgomery, Ala., NAACP. Having recently finished his PhD dissertation, he felt he should concentrate on implementing the ambitious program he had planned for his pastorate of the Dexter Avenue Baptist Church. I was much relieved and looked forward to starting our family in the relative calm of a small Southern city.

However, what Martin would later call the *zeitgeist* of history had descended on Montgomery in the will of a 42-year-old seamstress, who had boarded a bus after a long day of working and shopping. The woman: Rosa Parks; the date: Dec. 1, 1955.

The bus was crowded, and Parks sat down at the beginning of the section reserved for blacks. At the next stop, more whites got on and the driver ordered her to give her seat to a white man. As she said later, "I was just plain tired *and my feet hurt.*" Her cup of endurance had run over, and she refused to move. The driver called a policeman, who arrested her. Later, she was bailed out by E.D. Dixon, a prominent member of Montgomery's black community. Like Parks, he also had had enough, and soon telephones were ringing all over town.

Although 70 percent of its passengers were black, the Montgomery bus line humiliated and insulted them on a daily basis. The first seats on all buses were reserved for whites. Blacks had to pay their fares at the front of the bus, get off and walk to the rear door to board again. Sometimes the bus would drive off without them after they had paid the fare, which was considered a great joke by the drivers.

The Women's Political Council in the black community suggested a one-day bus boycott, and Nixon began to organize it. Martin joined in the organizing efforts, and I was drafted to make phone calls and take messages.

We woke early Monday morning, Dec. 5, to watch for the 6 o'clock bus that stopped in front of our house. Headlights blazing through the December darkness, the bus arrived right on time. Although it was usually full of black passengers, we were elated to see that it was empty. The next bus was empty as well.

All over Montgomery, blacks were walking to work. Some organized car pools. A few even rode mules and horse-drawn buggies. Others hitchhiked or took discount-fare taxis we had organized, but they did not ride the buses.

Later that morning, Parks was convicted of disobeying the city's segregation ordinance. She was fined $10 plus court costs. her attorney filed an appeal.

At an afternoon planning meeting, Martin was unanimously elected president of the protest group, the Montgomery Improvement Association. When he came home that evening, he was a little nervous about telling me what had happened. But this was clearly a crisis, and I was glad he had accepted the position. At the mass rally later that night, he was greeted by 5,000 jubilant black citizens.

It took more than a year to desegregate Montgomery's buses, but Martin's first speech as a civil rights leader set the tone and tempo of every campaign he led from Montgomery to Memphis, Tenn. Thirty years later, it continues to inspire those working to improve human rights in South Africa.

Martin concluded his speech that evening with these words: "If you will protest courageously, and yet with dignity and Christian love, future historians will say, 'There lived a great people—a black people—who injected new meaning and dignity into the veins of civilization.' This is our challenge and our overwhelming responsibility."

ROSA PARKS—THIRTY YEARS A RELUCTANT HEROINE—SHE KEPT HER SEAT AND CHANGED A NATION

(By Remer Tyson)

Thirty years ago today, Rosa Parks was having a bad day in Montgomery, Ala., and making history.

After working until past 5 p.m. as a $25-a-week seamstress in a downtown department store, she was arrested on her way home for refusing to give up her seat on a city bus to a white man. Police took her to the city jail, and she had to wait for friends to post her bond. The delay made her late cooking supper.

But the troubles that came Dec. 1, 1955, to the soft-spoken, strong-willed Alabama woman greatly accelerated the elimination of the South's segregation codes and catapulted into international influence a young Baptist preacher, Dr. Martin Luther King, Jr.

Appointed "mother of the civil rights movement," Mrs. Parks, now 72, lives, works and copes in Detroit, as she has for 27 years.

She carries with her the honor and the burden placed by the nation and the news media on an American heroine. In an interview last week, she expressed concern about young people, lamented the high level of violence, and spoke of hope that people of goodwill can bring about peace, prosperity and happiness.

Somewhat by chance 30 years ago, swelling, rebellious forces against racial discrimination put her in the thick of a storm sweeping across Dixie, changing the region forever.

Five days after Mrs. Parks' arrest, Montgomery blacks began a 381-day bus boycott. Her contested conviction in the case resulted in a 1956 U.S. Supreme Court opinion that reversed an 1896 court decision, Plessy vs. Ferguson, the cornerstone of the South's "separate but equal" post-Reconstruction laws, which in reality had kept blacks separate but unequal.

At the boycott's beginning, King was a 26-year-old, little-known pastor of the Dexter Avenue Baptist Church, located next to Alabama's state Capitol, where Jefferson Davis

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member of the Senate on the floor.

Boldface type indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

had stood to take the oath as president of the Confederate States of America in 1861.

By the boycott's end, King had emerged as the leader of a non-violent crusade that spread across the nation and in 1964 won him the Nobel Peace Prize.

In the interview at U.S. Rep. John Conyers' Detroit office, where she is employed, Mrs. Parks said she tries not to think of what happened to her 30 years ago today, "but people don't let me forget it."

"It was not a very pleasant time," said. "I don't think anybody enjoys thinking in terms of being arrested and taken off to jail when you were planning to go home and take care of things."

Mrs. Parks said she does not "feel too much" a historical figure, but "I'm happy to know that some changes for the better were made and I made a contribution. It had been such a long struggle with me. You have to pick the time and notice (to bring about change). The masses of people had not joined in to bring it (back-of-the-bus discrimination) before the public. It takes something sensational to attract attention, to attract the media's attention."

At the time of her arrest, Mrs. Parks was secretary of the Montgomery NAACP branch and had been involved in attempts to end segregation.

"As soon as I was arrested and people started staying off buses, everybody wanted to talk with me then about that particular day," Parks said. "It was a day just like any other day; the only thing that made it significant was that the masses of the people joined in . . . putting the bus company out of business, and we kept our protest going for more than a year and finally the Supreme Court decision to end racial discrimination on transportation systems and (then came) the protests and demonstrations that followed by the youths, the Student Nonviolent Coordinating Committee; Dr. King was chosen as the spokesman in Montgomery and that led to organizing the Southern Christian Leadership Conference."

Her arrest provoked the sustained bus boycott, she thinks, because many forces converged after World War II.

"With the veterans returning, many of them were anxious to come to a better life than when they left," Mrs. Parks said. "Young people were willing to sacrifice themselves to demonstrate for freedom and the end of legal segregation. There were many things—the death of young Emmett Till in Mississippi. People were concerned about that."

Earlier that year, Till, a 14-year-old Chicago black youth visiting relatives in Glendora, Miss., had been shot to death, ostensibly because he had whistled at a white woman. His body, badly beaten, was found in the Tallahatchie River. Two white men—one of them the woman's husband—were accused of kidnapping and murdering Till. After deliberating briefly, a jury acquitted the men.

Although much has changed since she refused to give up her seat on the Montgomery bus, Parks said: "We still have problems as long as there are problems of crime and welfare and violence and all that goes to take away value of human life. . . . It is up to people of goodwill to work together . . . to teach these young people, the children, the pitfalls and the dangers that they face and help them get strong enough to avoid so much violence and so much death and ruining of lives.

"I would like to hope that the future for blacks and all people would be one of peace and prosperity, as much happiness as possible. It is heartbreaking to see the violence being done to people by other people."

Mrs. Parks and her husband moved from Montgomery to Detroit in August 1957, after she could not find a job in Montgomery and because relatives feared for her safety.

She had lived in Detroit since, except for a year when she took a job as housemother at Hampton Institute, a college in Hampton, Va. Conyers hired her after he was elected to Congress in 1964.

In Detroit, Parks took care of her ill husband and mother, both of whom died here. Her brother also died in Detroit. She has no children, but she has nieces and nephews and their children in Detroit, and many friends.

The city named a street in her honor. A Detroit shrine in her memory has been planned for several years, but fundraising for it "fell through," she said. "It hasn't been built. I feel though we still have hopes something will be done if the economy changes or something good comes our way."

[From the Detroit Free Press, Dec. 1, 1985]

Civil Rights: Thirty Years Ago, One Bus Ride Made a World of Difference

Thirty years ago today Rosa Parks had had it. She got on a bus in Montgomery, Ala., and took the first seat she came to. She sat down where she pleased. She was tired—from work and, as it turned out, tired of toiling to the back of every bus because her skin was several shades darker than people who sat in the front of the bus. Rosa Parks' tired feet and tired but indomitable spirit marked the beginning of something that isn't over yet: the American civil rights movement.

Detroit is privileged to call Ms. Parks one of its own, since she has been a citizen of this city for some years now. And occasionally she comes out of her own quiet retirement to speak up for civility and civil rights, just as she did the other day in the matter of the Dearborn parks ordinance. But no word she has ever spoken will be so powerful as the gesture she made on Dec. 1, 1955, the day she refused to give up her seat to a white man on that Montgomery bus. That and her subsequent arrest provoked a young minister by the name of the Rev. Martin Luther King Jr. to engage himself in the struggle that began with a stupid, inhumane policy of a racist bus company and culminated in a march on Washington and the epochal "I have a dream" speech.

No decent American alive in 1985 could look back 30 years and think that the notion that a person by virtue of skin color should have to sit in the back of a bus, rather than in whatever empty seat suited him or her, was anything other than outrageous and obscene, not to mention un-American and unconstitutional. The temptation is to celebrate this modest anniversay as one celebrates VE or V. Day—as the anniversary of a decisive victory. Rosa Parks and Dr. King certainly did win some battles, but their followers in the 1980s are still fighting because the victory is not yet won. And it won't be until the nightmare found as all too true by the Kerner Commission 17 years ago—that the United States of America is evolving into two separate societies, one white and the other black—is finally turned into Dr. King's dream of unity and then into reality for all people.

Meanwhile, thank you, Citizen Parks for your noble protest, those 30 years ago.

[From the Christian Science Monitor, Nov. 29, 1985]

Rosa Parks Took Her Stand for Civil Rights—by Sitting Down—She Moved to Front of Bus and Integration Followed

(By Luix Overbea)

Boston.—Thirty years ago a black seamstress refused to give up her seat to a white passenger in a bus in Montgomery, Ala. She was arrested and fined $14.

This incident sparked a civil rights explosion in the United States, one that outlawed "separate but equal" facilities and education for blacks and whites in the South and challenged "lip service" freedom and civil rights for blacks outside the old Confederacy.

Rosa L. Parks sat until she was forced off the bus Dec. 1, 1955, thus igniting the Montgomery bus boycott, a movement that catapulted a young minister, Dr. Martin Luther King Jr., into the forefront of the civil rights movement.

"Montgomery and Alabama certainly have changed since those days, says Mrs. Parks, who now lives in Detroit. "Blacks hold elective office. They work downtown in good positions. Things are much better."

She cautions the nation and black people, however:

"We are disturbed when we see so little being done by so many. We are at an age now that it feels like it is time for others to move on and take our place. We must work together for peace, justice, and goodwill for all people. That was Dr. King's idea of the beloved community. We must keep alive this dream always."

Others agree with Mrs. Parks. Dr. King's dream has not been achieved, although much progress has been made in human rights.

"Her stand was quite remarkable, a heroic act when she refused to move to the back of the bus," says Prof. Glenn Loury of Harvard University, a black conservative, on leave to teach at Princeton University. "Unfortunately, that does not mean our problems have been resolved."

"The overt signs of racial bias—separate water fountains, separate waiting rooms, separate schools, separate dining facilities—are in the past," says Dr. Loury, an economist.

"Other problems are still with us, but we suffer most from severe economic plight. But solutions for today are not in the realm of civil rights."

Forget "handouts" and federal "social programs," he adds.

The private sector is concerned with effects of reported future changes in federal policy. "Affirmative action is no longer a hassle with us," B. Lawrence Branch, director of equal employment affairs at Merck & Co. of Rahway, N.J., told a recent conference in Boston.

"We're not threatened with reverse discrimination suits," he says of Merck's nationally copied affirmative-action program.

"Nor do white employees accuse us of hiring unqualified minorities to meet our affirmative-action goals. But what happens if the administration alters its civil rights policies radically?"

Civil rights leaders have mixed opinions.

"Everything has changed, but nothing has changed," says the Rev. Joseph E. Lowery, president of the Southern Christian Leadership Conference, once led by Dr. King.

"In the 1960s Bull Connor [Birmingham, Ala., police commissioner] threw us in jail, sicked dogs on us, turned the water hose on us. Today Birmingham has a black mayor.

Last year he picked me up at the airport and gave me a key to the city," Mr. Lowery says.

"But in the shadow of City Hall I saw black people still living in slums, still suffering from ill housing and empty stomachs. Downtown I met blacks of the expanding middle class. In the shadows of downtown I observed a growing underclass.

In Birmingham everything has changed, but nothing has changed."

The NAACP emphasis on legal rights is the key to equity for blacks in the United States," says Benjamin L. Hooks, executive director of the National Association for the Advancement of Colored People (NAACP), also a minister, lawyer, and business entrepreneur.

Rosa Parks was the prototype of the new civil rights activist, he says. "She took direct action," he explained. "In retrospect her action destroyed the framework of separate but equal. The whole cycle of Jim Crow had to go."

The movement is not dead, he contends. "The scene of battle has shifted—to affirmative action in housing, jobs, and education," he says. "And legally we must fight these battles case by case."

"I wish there were more courageous people like Rosa Parks today," says Joseph Delaney of Oxford, Miss., a community worker and journalist. "Mississippi has more elected black officials than any other state, but they have no power to improve our quality of life. It's business as usual in this state."

Mississippi blacks are fighting a number of voting rights cases in court, he says. "I don't think we've come very far. We're losing ground through at-large elections, gerrymandering, and our own naiveté. In one community we let $10 bills influence our vote."

"Many good things have happened in Boston since 1955 as well as in the rest of the country," says Jack E. Robinson, president of the Boston NAACP. "Boston has a black superintendent of schools. Blacks have been promoted in the police and fire departments, but our youth still can't find jobs here. Affordable housing is hard to find."

"One person, a black woman, made a difference in the dark days of Jim Crow," said Dorothy Height, president of the National Council of Negro Women. "Because of Rosa Parks, we struck down segregation as a system. We have the legislation, but not the enforcement. Today, we face a more difficult hour. We need the vigor of individuals and organizations to create a new impact."

Mrs. Parks, the "mother" of the 1960s "movement," crisscrosses the nation encouraging young people and students to wage the war for civil rights. She works as a receptionist in the Detroit office of US Rep. John Conyers (D) of Michigan. She moved to Detroit in 1957 after the US Supreme Court outlawed racial segregation on public transportation in her appeal of Montgomery's $14 fine.

DAY CARE INSURANCE CRISIS REFLECTS UNDERLYING PROBLEMS

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. FLORIO. Mr. Speaker, I am inserting in the RECORD a revealing article from the Philadelphia Inquirer regarding the crisis in the availability of insurance. A number of troubling aspects of this problem are described in the article. One of these is the lack of relationship between premium increases and the claims experience of insureds. This suggests that something more may be involved than rational calculation of risks. As part of our inquiry into the insurance crisis, my subcommittee will continue to examine this issue, among others. If the country is to address this troubling situation, there has to be a better understanding of the causes of the problem.

LIABILITY INSURANCE: DILEMMA FOR DAY CARE

(By Marc Kaufman)

A letter came to Bunnie Longo of Aunt Bunnie's Family Day Care home in Fairless Hills last summer with some bad and confusing news: The liability insurance had been canceled.

No reason was given.

As she soon learned from her insurance broker, the day-care center that she operates in her house—where she cares for 11 infants and toddlers—was hardly alone. The liability insurance for all the other 49 members of the Association of Bucks County Day Care Providers had been canceled, too.

Indeed, liability insurance for most of the nation's home day-care centers—where three to 12 children are cared for in a residence—had been canceled, according to officials of day-care associations.

Longo, like hundreds of other daycare providers, began a frantic search for new liability insurance, which protects day-care owners and workers in case of lawsuits. Five months later, she still has no liability coverage.

"I was paying under $100 a year before, but now all I can find is liability insurance for about $1,600," she said. "I can't possibly afford that, so now I'm uncovered—most of us still are. And it's a very scary thing.

"Already, people are talking about getting out of the day care because of this. And I'm sure, if it goes on, they will."

The economic forces that led to the cancellation of Bunnie Longo's liability insurance are, by all accounts, complex and hardly limited to day-care providers.

Insurance industry officials said that liability insurers in Pennsylvania also are pulling back from many other kinds of coverage—they are seldom writing policies any more for tavern owners, for municipalities, for ice-skating rinks. This is part of a nationwide retrenchment in the liability insurance business, following several years of serious financial losses, they said.

Day-care providers, expecially those who care for children in their houses, are among the hardest hit. And as those familiar with the situation tell it, the main reason for the withdrawal of insurance companies from day care if fear of potential lawsuits stemming from claims of child abuse by day-care workers, particularly child sexual abuse.

"There were some big and well-publicized sex-abuse cases in the last few years, and they got the liability insurers looking hard at the day-care industry," said Lee Felbinger, director of insurance information for the Insurance Federation of Pennsylvania.

In particular, he said, the arrest last year of seven workers at a respected day-care center in Manhattan Beach, Calif., on charges of molestering children—charges that have spawned numerous lawsuits—made the insurers very jumpy.

"They began seriously asking, 'What do we have here in terms of a liability risk?'" Felbinger said. "They say huge exposure over a long time period in a very emotional area. And with juries giving the kinds of verdicts and awards they are these days, [the companies] didn't like what they saw."

The result: Much of the day-care industry is now either without liability insurance or is struggling to pay for rate increases of 100 percent and more.

"This is really a crisis for us," said Leonard Weeks, president of the Day Care Association of Southeastern Pennsylvania. "The overall thrust will be to strain—and probably reduce—the availability of quality day care. And all this for what certainly seems like a major overreaction."

What makes this sudden crisis so galling to local day-care leaders is that there have been no major child-abuse cases involving day-care centers in this region. Further, nobody questioned knew of any child-abuse lawsuits against local day-care providers.

In fact, a recent survey of area providers by the southeastern Pennsylvania association concluded, "There seems to be no connection between claims against an agency and policy rates or rate increases."

This was based, in part, on the finding that providers that made an insurance claim and those that did not both had essentially the same cancellation experience: Fifteen percent of those agencies whose insurance was canceled had made some sort of claim in the last five years, and 13 percent of the providers whose policies were not canceled had made claims during the same period.

"There seems to be a real arbitrariness to it all," said Weeks, who conducted the survey. "Some people find new insurers at a high, but not astromonical, rate; others with the same kind of track record can't find anything at all."

In an effort to minimize the arbitrariness, at least, the Insurance Federation of Pennsylvania has been meeting for some time with the state insurance commissioner and is expected to announce a plan soon for easing the liability crisis. The plan will focus particularly on day-care centers and other operations, such as taverns, that recently have faced dramatic rate increases. There is general agreement, however, that the plan will address greater availability rather than lower prices.

Before July, much of the day-care liability insurance in the Philadelphia area was provided by a California-based firm, the Mission Insurance Co. Mission was especially important in the home day-care area—Bunnie Longo had been insured by Mission, as had all those in her Bucks County association. The company wrote between 12,000 and 20,000 such policies nationwide.

According to Timothy Leach, assistant general counsel for Mission, the company was forced out of the day-care insurance business because its reinsurers—the companies that, in effect, insure Mission—refused to reinsure for day care. The company learned of this refusal early in the year, Leach said, and tried to find new reinsurers for some time. More than 25 reinsurers, he said, turned the firm down.

"The reinsurers never specifically said why they wanted out of day care," Leach said. "But I personally wouldn't be surprised if child abuse, and fears about abuse lawsuits, played a large part."

For the day-care providers, the consequences of this retrenchment in the liability insurance industry have been many, and sometimes unexpected.

Day-care centers, for instance, cannot be licensed by the state unless they have liability insurance. By now, most of the larger centers have found new—though expensive—coverage, bus some smaller centers and home-care providers have not. Thus far, state officials have not revoked any licenses because of this, but the centers are not in compliance.

Many day-care officials fear that the insurance crisis will cause more providers to go "underground"—decide not to seek state licenses or to meet state standards.

"Some will certainly forget the insurance, and nobody will know they're out there anymore," said Sandra Gellert of Delaware County, who is president of the National Association for Family Day Care. "They'll have a false sense of security—until something goes wrong and they get sued."

Many home day-care centers also have been notified that with the loss of their liability insurance, their homeowner's policies were being revoked, too. According to Felbinger of the Insurance Federation, the writers of the homeowner's policies fear they will have to pay for injuries and damages that would have been covered by the day-care liability insurance.

So many home day-care providers in Washington state lost their home-owner's insurance last summer after their liability insurance was canceled that the state legislature felt forced to take action. It passed a bill making the practice illegal.

The most common offshoot of the insurance crisis, however, seems to be a freezing of staff salaries and benefits in the day-care industry—an industry already known for its low salaries.

At the Red Lion Day Care Center in Northeast Philadelphia, where liability rates this summer went from $500 to $1,800 a year, substitute teachers are no longer hired. When substitutes are needed, the director and other administrators now fill in as a way to save money.

"This is just not the kind of business where you can quickly raise the tuition for parents," said director Shirley Schwartz.

Perhaps the most troubling change being brought on by the liability situation involves the fear that children or their parents might misinterpret routine or innocuous actions by day-care workers.

According to Fred Citron, president of the Pennsylvania Child Care Association, at least one insurance company has written into its liability policy a clause forbidding day-care workers from touching the genitals of any child.

"What this means," he said, "is that a worker can't clean up a child's pants, no matter how dirty it gets."

Gellert of the National Association of Family Day Care said that, particularly for those with no liability coverage, the fear of lawsuits is a constant factor in day care now.

"You have to think, 'Oh, if this or that happens, what will the parent think?'" she said. "I don't think it has really changed how kids are cared for yet—how involved the workers will get. But in time, it certainly might."

RETHINKING U.S. POLICY IN EASTERN EUROPE

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. OBEY. Mr. Speaker, my good friend and colleague, LEE HAMILTON, has recently written an insightful article for the Wall Street Journal on U.S. policies in Eastern Europe.

From his perspective as chairman of the Europe and Middle East Subcommittee of the House Foreign Affairs Committee, Mr. HAMILTON has a unique understanding of this important foreign policy matter and offers suggestions that merit serious consideration.

For those concerned with the people of Eastern Europe and the long-range interests of the United States, Mr. HAMILTON'S balanced and prudent views will be refreshing. I recommend this article to my colleagues.

THE CASE FOR SPECIAL CASES IN EASTERN BLOC

(By Lee H. Hamilton)

U.S. policy toward Eastern Europe is under attack for being too easy on communists governments. Some critics want to cancel most-favored-nation (MFN) trading status for Romania, charging that Romania's foreign-policy independence is overstated. Some also attack U.S. policy on the basis of human rights. Romania has the worst human-rights record in Eastern Europe, and the imprisonment of Polish political activists has led to calls not only for the continuation of U.S. sanctions against Poland but additional punitive measures.

These arguments, taken together, are pushing U.S. policy toward treating all of Eastern Europe as we do the Soviet Union and its ideological shadow, Czechoslovakia. This is a mistake.

Our paramount interests in Europe since 1945 have been stability and the protection of Western Europe against communists aggression. When governments in Eastern Europe distance themselves from Soviet foreign policy, pursue liberal economic reform or improve their human rights record, they plant a double in Moscow about their political reliability, which can enhance U.S. interests. The U.S. has often responded positively to such developments with the modest tools available—increased high-level diplomatic contacts, MFN status, Ex-Im Bank credit eligibility, cultural and scientific exchange agreements, etc. Known as "differentation," this policy has been pursued under various names by very administration since Eisenhower's and has proven value. Nonetheless, many see it as a failure; it hasn't broken up the Warsaw Pact nor brought human rights and democracy to Eastern Europe, while providing these governments legitimacy without tangible benefits for the West.

Some of these goals have never been within our reach. The Soviet Union has made clear repeatedly—Hungary in 1956, Czechoslovakia in 1968, Poland in 1981—it will not tolerate challenges to communist rule. Each of these times we protested vigorously but did not judge it in our interest to confront the Soviets on turf so far from us and so near and important to them.

Deviations in Eastern Europe from the Soviet line, ironically, have taken place not through rebellion but through the assertion of nationalist policies by communists securely in power. Yugoslavia and Albania defected from the Soviet Bloc, and since the 1960s Romania in foreign affairs and Hungary in domestic affairs have steadily tested and stretched the limits of acceptable bloc behavior.

Eastern Europe is now at a critical juncture. During years of aged and indecisive leadership in Moscow, more independent economic and political trends emerged in Eastern Europe. Mr. Gorbachev is now pressured to seek conformity. He wants to cut trade subsidies to Eastern Europe and enlist capital from the bloc for Soviet energy and transportation projects, a strategy that conflicts with the Soviets' other policy goal of political stability in Eastern Europe. Every government in Eastern Europe knows that stable party rule depends upon the improvement of living standards. As Hungary, East Germany and even Bulgaria explore economic reform and trade openings to the West, we should encourage this slow and sometimes even stealthy evolution in their policies. As they increase economic ties with the West, they will become less beholden to the Soviets and more receptive to our concerns, including human rights.

U.S. policy of differentiation does pose difficult choices. Romania's internal stability is precarious and it has adopted many repressive, neo-Stalinist policies, but in accordance with the Jackson-Vanik amendment it has allowed the emigration of 150,000 of its citizens to West Germany, Israel and the U.S. since it received MFN trading status in 1975. Romania openly critized Soviet military intervention in Eastern Europe, does not permit Warsaw Pact troops to hold maneuvers on its territory, and is the only communist country with full diplomatic ties to Israel. While we should press human-rights issues when dealing with the Romanians, blocking MFN could affect future emigration levels.

In East Germany, the U.S. faces one of Moscow's closest allies. Yet today there may be a basis for settlement of U.S. and Jewish World War II claims and of several human-rights cases in exchange for some modest increases in trade.

Elsewhere, differentiation might mandate changes in U.S. policy toward Poland. Right now, the U.S. treats Poland more harshly than it does the U.S.S.R. President Reagan met with Chairman Gorbachev, but the U.S. shuns high-level contacts with the Jaruzelski government. The U.S. stopped its pipeline sanctions and grain embargo against the Soviet Union, but has kept key sanctions against Poland.

Still holding about 265 political prisoners, Poland reneged on its July 1984 amnesty agreement. But open circulation of publications critical of the government, and the ability of Catholics to practice their faith, indicate a freedom of expression unmatched in Eastern Europe. The Jaruzelski government has blamed its failings on U.S. sanctions, an argument many Poles are beginning to believe.

Whatever their original merit, U.S. sanctions against Poland are now counter productive. It is time for better ties. Poland is current on its debt-rescheduling payments and has paid more than $400 million to the U.S. Treasury this year. Our influence over economic policies in Poland will be greater if it is inside the IMF instead of out. Suspension of MFN makes Poland more dependent upon Soviet trade. Credits suspension is symbolic, since for economic reasons Poland is unable to secure new credits. But we should not block future credits if they are tied to sensible projects or economic-reform policies.

Immediate opportunities for the U.S. to wean Eastern Europe away from the Soviets are few, but should act when we can. The price of providing legitimacy or modest economic benefits to communist governments is surely outweighed by the development of economic and political ties that contribute to their greater independence. Emotional satisfaction should not frustrate a sound policy of differentiation consistent with long-term U.S. interests.

BOB MATSUI ON TAX REFORM: IT'S NOW OR NEVER

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. STARK. Mr. Speaker, our colleague Bob Matsui has done an excellent job in helping to explain the unfairness of the present Tax Code and the urgent need for the Ways and Means Committee's tax reform bill, H.R. 3838.

I would like to include in the Record at this point Representative Matsui's excellent op ed piece in the Los Angeles Times, entitled "Despite Scuffling, Tax Bill is Badly Needed."

Despite Scuffling, Tax Bill Is Badly Needed

(By Robert T. Matsui)

The fight for tax reform has always been an uphill battle, and the procedural setback in the House of Representatives on Wednesday certainly proved that. But aside from all the fingerpointing and party politics, let's not lose sight of the fact that we really do need to overhaul the tax code.

Last year about 3,000 millionaires didn't pay a dime in U.S. income taxes. Half of the largest and most profitable corporations in the country paid no taxes in at least one of the last four years, and some of them even got money back from the government.

That's what I call legalized tax evasion. Wealthy individuals and corporations are milking the loopholes in the tax code to avoid paying taxes, and the lion's share of the cost of government is falling squarely onto the backs of middle- and low-income taxpayers.

That's not fair. The average taxpayer knows that he's being taken for a ride.

But at the first mention of the words tax reform, millions of eyes glaze over. People are skeptical of empty promises to make the tax system fairer. Both the President and Congress have been talking about tax reform for a full year now. When are we going to see some action?

The answer is: Now, Assuming that the procedural question is settled today, the House will finally have a chance to vote on the tax-reform bill written by the Ways and Means Committee. It's a pretty good stab at substantive reform.

Like President Reagan's tax-reform plan, our bill cuts tax rates and abolishes many of the tax loopholes that are keeping billions of dollars out of the U.S. Treasury. Overall we kept most of the President's initiatives intact. The big difference is that we were less generous to corporate and wealthy taxpayers.

Under our legislation, business will pick up a larger share of the tax burden than it has been paying for the last five years. And individuals will pay less. We shift $141 billion away from the individual and make corporations pay about what they were paying back in 1980, before the President gave them a tax reduction.

We accomplish this by setting up a tough minimum corporate tax and by closing loopholes that are allowing some corporations to pay no taxes at all.

At the same time, by closing down some tax shelters, we restore economic rationality to investment practices in this country. We put business on a level playing field so that investment decisions are made on the basis of sound business practice, not on how much income they can shelter.

So if tax reform gets corporations to pay taxes just like the secretaries and the clerks who work for them, where do individual taxpayers stand?

Under our bill, we raised the personal exemption and cut tax rates so that 88% of all Americans will either receive a tax reduction or pay about the same as they do now. On the average, middle-income taxpayers will receive about a 10% tax cut and 6 million of the low-income working poor will be totally exempt from the tax rolls.

As far as deductions are concerned, the Ways and Means Committee bill retains the major reductions that most Americans depend on. We kept the state and local tax deduction, which the President would have eliminated, and also charitable deductions and the tax-free status of fringe benefits such as company-paid health insurance.

The result is a bill that I think is fairer and better than the current tax code. It may not be perfect, and I admit that it's not much simpler. But, as a result of this bill, a whole lot more low- and middle-income Americans will be enjoying more of the fruits of their own labor.

Not surprisingly, a small army of special interests opposes this bill. I have personally met with hundreds of lobbyists who predict nothing short of Armageddon if this bill is passed.

However, that's not to say that business as a whole opposes our tax package. Big names like General Motors, IBM and hundreds more support it and say that it will improve the climate of business production in this country.

In many cases those who oppose the bill are the ones who are most interested in preserving their own tax breaks. If you lump together all the businesses that oppose tax reform their combined average tax rate is about 4 percent. They know which side of the bread is buttered.

These are the people who are lobbying members of Congress at this very moment to vote against tax reform. And, if they succeed. The average American taxpayer won't just lose now. He or she will lose for a long time to come, because this is our only shot at reforming the tax code.

In order to keep tax reform alive we need bipartisan support in the House. We're counting on the President to sustain what he calls "the second American Revolution" by persuading Republicans and Democrats alike that he hasn't deserted his troops and that he wants to make his No. 1 domestic policy initiative a reality.

For tax reform it's now or never. Either we win the first battle in the revolution or we keep the kings on their thrones for a long time to come.

GIVING THANKS FOR THE NONSUMMIT

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. COURTER. Mr. Speaker, I would like to direct my colleagues' attention to the following essay by John Podhoretz in Insight magazine, because it captures many of my own sentiments about the recent Reagan-Gorbachev meeting. This meeting was noteworthy, not only for what was accomplished, but for what was not given away. As Mr. Podhoretz points out, past summits have achieved little that was positive or substantive, and more often than not, they were followed by further demonstrations of the unchanging Marxist-Leninist foreign policy of the Soviet Union. While there is no telling at this point what international outrage will follow this recent meeting, we should all be thankful that expectations were kept relatively low and President Reagan returned with the SDI Program more or less intact. Given the history of such meetings, this result was no small feat.

Giving Thanks for the Nonsummit

(By John Podhoretz)

The Sesame Street summit may well prove the most important in the history of U.S.-Soviet relations. Why? Because nothing of significance happened. If Ronald Reagan has done nothing else, he has changed the rules of summitry to the immense advantage of the United States.

Once upon a time, a few years ago, Reagan said that summits, even just "get-acquainted" summits, were dangerous.

His reasoning was sound: The pressures from all sides on an American president to make a deal are profound.

The Soviets, by contrast, make deals not in the name of abstract peace but when they have something specific and concrete to gain. This puts them ever at the advantage in bargaining with us. We tend to bargain not only in good faith but with good faith. That is to our credit as a people but to our discredit as grown-ups in the international world.

Reagan found his way around the problem: He turned the meeting into what he himself called a "fireside summit," conjuring up memories of Franklin D. Roosevelt's soothing but insubstantial chats with the nation during the Depression.

By working to minimize the expectations of the American people, and by brilliant coordination of the photo opportunity, Reagan simultaneously disarmed his critics on the left and the right.

Critics on the left were at the ready to denounce him for making agreement impossible, while critics on the right feared he would give away the store as Jimmy Carter did before him.

Thus NBC's Marvin Kalb could say that the summit was a success even though Reagan and Soviet leader Mikhail Gorbachev still have "profound differences" on strategic and intercontinental missiles, human rights and the Strategic Defense Initiative—everything, in short, that actually matters.

Gorbachev will come to the United States, and Reagan will go to Moscow; these, it seems, are the successes of the summit. This is meaningful?

Meaningful enough. Americans dislike the Cold War and are utopians; give us a chance to imagine that there is lasting solution to a painful problem, and we will grab at it.

The United States is the nation born during the Enlightenment, when reason was thought to be the means by which we would be set free.

We believe in reason even as we act from emotion. We cannot imagine that the Soviets would disagree with our aims to promote freedom and live in peace. After all, these aims are so reasonable.

The Soviets, however, do disagree. Consider the history of the summits—which, after all, are intended to relax tensions and provide peaceful solutions to world problems.

Following the summits at Yalta, Postdam and Tehran, the Soviets were so reasonable that they crushed democracy in Eastern Europe and tried to take Greece, Iran and Berlin for themselves.

The 1955 Spirit of Geneva summit was followed a year later by spirited Soviet tanks rolling over the Hungarians in revolt against communist tyranny.

The 1961 Vienna summit was followed by the peaceful construction of the Berlin Wall and the reasonable installation of missiles in the Soviet client state of Cuba.

The 1967 meeting in Glassboro, N.J., was followed a year later by the now-familiar Soviet tanks rolling over Czechoslovakia as spiritedly as they had rolled over Hungary.

The 1972 summit was followed by relaxed brinkmanship during the Yom Kippur War.

The same year the 1975 Helsinki Accords were signed, the Soviets reasonably directed the Cubans to install 25,000 troops in Angola.

In 1979 Leonid Brezhnev waited a peaceable six months after SALT II with Jimmy Carter before invading Afghanistan with 100,000 troops.

This is not to mention the kinds of deals we have struck with them at the summits themselves. At the 1972 summit, we signed 29 bilateral agreements with the Soviets on everything from wheat to Pepsi.

The purpose was to bind the Soviets to us in a relationship that the political scientists call "complex interdependence." The Soviets, Richard Nixon and Henry Kissinger believed, would need us and the existing world order too much to destabilize it.

Well, it you want to see Nixon and Kissinger's monument, look around.

Count the bodies of Soviet-style social engineering and systematic elimination, from the Vietnamese gulag and the tortured Afghans to the government-engineered Ethiopian famine.

Count the bodies dead from terrorism, whose germ was spread in the late 20th century by the establishment of that Caltech of political murder, Moscow's own Patrice Lumumba University.

Destablizing? Without a doubt. A safer world? Not for us, but certainly for the Soviets. In fact, their behavior is reasonable, though monstrous, because the Soviets act from a position of the starkest self-interest, in which their goal is not the promotion of better relations with the West but the creation of a world order comfortable to them.

Which means uncomfortable, or worse, to us. And until they decolonize—until they change their character as a tyrannical government, which cannot happen—we won't have much of value to talk about.

Which is why the Geneva meeting was possibly historic. Reagan has made the meaningless summit a reality and has set a precedent that others may follow. You don't have to give away the store.

Big Bird may suffice.

EPA MISMANAGEMENT OF ITS ASBESTOS PROGRAM

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. FLORIO. Mr. Speaker, last month I obtained audits prepared by the Environmental Protection Agency [EPA] inspector general which contained serious criticism of EPA's asbestos-in-schools program. The audits documented a consistent pattern of lax inspections and enforcement procedures and failures to distribute EPA guideance material. Although the audits were completed in only four regions, I was concerned that similar findings could be made throughout the country. Unfortunately, my fears have been justified.

Two weeks ago, school officials from a district in New Jersey contacted me regarding a fine their district received from EPA. The school district was fined for not having documents that EPA failed to provide to the district. Specifically, the school district was fined for not having copies of EPA's asbestos information booklets in one of the district's school buildings. However, the school officials made repeated attempts to obtain the booklets from EPA only to be told that they were out of print.

Furthermore, EPA Assistant Administrator for Pesticides and Toxic Substances, John A Moore, last month admitted that EPA "should have been more aggressive in getting information out" to school officials.

An estimated 15 million children attend school in buildings containing potentially deadly asbestos. I am greatly concerned about EPA's ability to protect our Nation's schoolchildren and ensure that safety of school employees from the hazards of asbestos.

This latest incident reaffirms my concern and suggests to me that forceful congressional action may be the only way to push EPA into positive action. To date, EPA's handling of the asbestos-in-schools problem has been most disappointing.

I commend to my colleagues a recent, informative article in the Philadelphia Inquirer which details the questionable logic behind the fine levied on the local New Jersey school district by the EPA.

[The Philadelphia Inquirer, Dec. 3, 1985]

Collingswood Schools Fined on Asbestos Guide

(By Inga Suffron)

Two years ago, the Collingswood school district requested spare copies of the U.S. Environmental Protection Agency's official guide to asbestos removal, School Superintendent Walter C. Ande says. The district was told the guide was out of print, according to Ande.

Now the EPA is fining Collingswood $2,000—for failing to obtain a copy of the two-part guide for the district's junior high school.

"The situation would be almost humorous if it were not so serious," complained Rep. James J. Florio (D., N.J.) who fired off a letter yesterday to EPA Administrator Lee M. Thomas complaining about the Collingswood fine. Florio, who criticized the EPA last month for failing to make information available to districts with asbestos problems, asked Thomas to suspend the penalty until the agency can double-check the violation.

Ande said yesterday that the school district in Camden County had asked the EPA "on six or seven occasions," in telephone conversations and by mail, for copies of the guide, called "Asbestos Containing Materials in Schools: A Guidance Document, Parts I and II." No copies ever arrived, he said.

On April 18, two EPA investigators making a routine inspection of Collingswood's asbestos removal program discovered the guide's absence from the file in the junior high school where asbestos has been found. EPA regulations require schools to keep a copy of the guide and related documents on file in any buildings contaminated with asbestos.

The district, in fact, owns a copy of the guide, Ande said. But because there weren't enough to go around for each of its five elementary schools, junior high and high school, the master copy was stored in the school board office. A photocopy of the guide's cover was placed in the junior high's asbestos case file with a note indicating the location of the original.

James C. Woods, the EPA staff attorney for the region including New Jersey, said that "no note was found in the file by our inspector." In any event, he argued, "they could have Xeroxed the document from their other file."

Ande said the district considered doing that but felt it would be a waste of money to photocopy the entire 70-page guide.

The EPA notified Ande in October that the district was being fined $6,000 for the missing guide. When the district protested that the guide had been unavailable for some time, Ande said, the EPA agreed to reduce the penalty to $2,000.

"It's petty," said Florio. "Instead of making the [asbestos removal] program relevant, they're slapping fines on school districts."

Florio, who heads the House subcommittee on commerce, transportation and tourism, which oversees the EPA's hazardous-substance programs, last month made public a copy of an internal audit that concluded that the federal asbestos-removal program was hampered by excessive red tape. Key documents explaining how to remove asbestos, which can cause cancer and a fatal lung disease, were never sent to schools, the audit found.

"What we've been trying to point out," Florio said yesterday, "is that the whole program is a colossal failure." New Jersey

Assemblyman John A. Rocco (R. Cherry Hill) has also sent a letter protesting Collingswood's fine to an assistant to President Reagan.

Although the Collingswood school board believes it is on the right side of the argument, Ande said, some members are ready to concede the penalty because it would be cheaper than a legal battle. Yet there is also strong sentiment to challenge the EPA charge.

"To us," Ande said, "it's more the principle of the thing, not the money."

THE UNVARNISHED TRUTH

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. KEMP. Mr. Speaker, Malcolm S. Forbes, Jr. is one of the Nation's best columnists and thinkers on economics and society. Although he uses statistics to good effect in his journalism, Mr. Forbes' best insights arise from his understanding that the true source of prosperity is not in economic abstractions but in the inspiration, hard work, luck, and sheer risk taking of free men and women who constitute the substance of economic life.

Reprinted in this month's Reader's Digest magazine, his article deflates six economic and social myths. I commend this article to my colleagues because the first step toward good public policy is to clear away the myths and theoretical flaws of what passes for conventional wisdom.

I know my colleagues in Congress will enjoy this thoughtful article by Malcolm Forbes, Jr.

SIX ECONOMIC MYTHS

(By Malcolm S. Forbes, Jr.)

1. We must raise taxes to reduce the deficit.

The worst response to the growing budget deficit would be to raise taxes. Government revenues are not the problem; lately they've been growing at a very healthy annual average of more than ten percent. A substantial tax boost would hurt the economy by raising the price people would pay for being productive—for being successful.

Don't underestimate the potency of prosperity. From the 1981-82 recession to the summer of 1984, when the Federal Reserve squeezed credit to slow down the "overheating" economy, the government's net deficit actually began to fall.

Now, however, the deficit is expanding because the economy has stalled. Meanwhile, federal spending continues to grow at a heavy pace.

The answer to Washington's red ink is obvious: tax reform combined with lower interest rates to spur economic growth, and Presidential spending-vetoes to curb government spending.

2. The trade deficit is bankrupting our future.

Contrary to what numerous economists and politicians seem to think, most of us would be considerably poorer if we weren't running a large trade deficit. A trade deficit can be a sign a country is growing vigorously.

For nearly a century after gaining independence, the United States routinely imported more than it exported as it became the world's leading industrial power. Brazil and Mexico now have impressive surpluses, yet their economies and currencies remain sick.

Some economists maintain that the trade gap cost us more than two million jobs in 1983-84. Listening to them, you would never know that in the same period, the United States created seven million new jobs.

The 1983-84 economic boom in this country would have been markedly weaker without imports. A key catalyst to our growth was the surge in capital spending by business, up more than 33 percent in real terms. No U.S. recovery in the past 40 years has experienced investment growth rates like this.

The leading investment area for growth was in high-technology equipment—computers and microprocessors. Much of that vital equipment exists because of foreign-made components. The desk-top computer, a staple in many offices around the country, easily has half of its parts made in Japan. Far from displacing U.S. capital goods, Japan's high-technology supplies were indispensable to their production.

By pushing on the frontier of high technology, by modernizing our plants and equipment, the United States is becoming richer and more efficient—and more competitive with the rest of the world, including Japan. Just as Japan's deficits in the 1950's and 1960's enabled it to become a world economic power, so, too, could our trade deficit help us maintain our position as the leading power for the rest of this century.

Without an open U.S. market in which to sell their goods, debtor nations would already have repudiated their loans. In the 1930's, debtor countries didn't have such a market, and the whole world paid dearly for it.

Moreover, Japan and others that have a trade surplus with us don't dump our money into some black hole. It gets spent or reinvested, much of it in the United States thereby providing more jobs for us.

3. We should require companies to pay workers what their jobs are worth—compared with other jobs.

A number of women's-rights advocates are pushing a doctrine called "comparable worth," which, if adopted by government courts, would bring chaos to the U.S. labor market. "Comparable worth" would lead to courts and government bureaucrats deciding how much each category of employee in the United States should be paid.

The doctrine holds that pay should be equal for all jobs that require "comparable skill, efforts and responsibility." No one would deny that male and female workers should receive the equivalent wage in a similar job category. But trying to compare the worth of one category of job with another is a different matter.

A judge may think that two different jobs are of equal value, but the free market may not agree. There is, for example, a glut of English Ph.D.s. Few get university jobs; they receive very low pay. Computer-software writers are in high demand. Should a judge dictate that English Ph.D.s must henceforth receive as much as the programmers because they are "better" educated?

In the state of Washington, wage scales of state employees are not out of line with those in the private sector. Yet a federal judge ruled that certain job categories where women predominated were receiving too little by the lights of "comparable worth." He ordered the state to pony up several hundred million dollars in back pay.

That decision was set aside recently by federal appeals court, but it may be taken to the Supreme Court. Meanwhile, "comparable worth" advocates are pressing other suits and lobbying federal, state and local governments to institute sweeping programs that would cost taxpayers billions.

Arbitrary judicial intervention in the labor market can only be destructive, as any look at non-market economies, such as those in Eastern Europe, makes clear. Government agencies should not be allowed to set salary scales on the basis of their notions of "fairness," ignoring the economic relations of supply and demand.

4. The Third World is sitting on a population time bomb.

To hear most experts tell it, rapid population growth is the economic curse of underdeveloped countries. Having more mouths to feed makes it difficult for poor nations to pull themselves out of poverty. Resources are limited. More births means less for everyone else.

The notion is flawed. Whether people are an asset or a liability depends on what kind of society they live in.

South Korea, Taiwan, Singapore and Hong Kong are the great economic success stories among developing nations. Yet all have population densities in excess of China's. Not coincidentally, all have far more of what we call free enterprise than most other nations. (They have also shown dramatic declines in population growth.) In fact, population problems are usually most acute in countries that have state-dominated economies.

The real economic villains in the Third World are governments that have crippled their farmers by making it illegal for them to get a fair price for their output. In some countries farmers must sell their produce to government boards, often far below market prices. Nigeria, once a food exporter, has done this—and now wonders why people abandon the countryside and flood the cities, and why it has become a major food importer. If people are permitted to be productive, they usually will be, and the population problem will be far less acute than modern Malthusians would lead us to believe.

5. Illegal immigrants are taking our jobs.

An important portion of this country's prosperity is now dependent on illegal immigrants, not just for servicing hotels and restaurants, but for more skilled jobs in construction—and computers as well. The American Southwest would suffer a depression without these people.

In Silicon Valley, more than one-fifth of the workers are probably "undocumented." Studies show that immigrants—legal and illegal—contribute far more to the economy than they take out. They pay taxes in excess of what they get in government services.

We formally admit about 500,000 immigrants a year. A country of our population and size could easily absorb two to three times that number. If the estimates made by experts on the number of illegal aliens entering this country every year are to be believed, we are currently coping with that number of immigrants anyway.

We also ought to make it easier for employers to hire foreign workers for a fixed period of time. Their earnings would help ease the plight of families in Mexico and elsewhere while not having them become permanent residents here.

6. Our government should learn from Japan and start controlling industrial policy.

President Reagan understands the true catalyst of the Japanese economic miracle better than most. Asked whether the U.S. government should have a national plan for our high-tech efforts à la the Japanese, the President said: "Well, no, I know there has been a great deal of talk about the government-business relationship in Japan. I think one of their greatest advantages is the much higher personal-savings rate of the Japanese people over ours, and the pool of capital that they've got for investment."

What is the source of the Japanese phenomenon? Three decades ago the Japanese government cut income taxes along the lines of Reagan's 1981 reductions; levies on dividends and interest were virtually eliminated. Additional tax cuts were enacted over the next 25 years.

The Bank of Japan, unlike our Federal Reserve in 1981-82, didn't respond to its government's tax reductions with a catastrophic tightening of credit that would have mitigated their beneficial effects. The United States, on the other hand, was captivated after World War II by the Keynesian notion, born of the Depression, that saving money was not good for the economy. Putting aside a portion of one's income in a bank or a bond or a stock was "sterilizing purchasing power."

That's why we got absurdly high tax rates on personal income. To prevent income earners from letting too much of their money go into savings, government would take it away via the income tax and spend it for them, thus preventing economic stagnation.

The losers of World War II grasped the silliness of such thinking more than its winners did. Keynesian notions were least influential in Japan and Germany, and strongest in the United Kingdom and the United States. The level of savings in Germany and Japan has been high, while we and our British cousins are routinely at the bottom among industrial nations in this category.

MIAMI SYMPOSIUM HONORS PEACE CORPS 25TH ANNIVERSARY

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. FASCELL. Mr. Speaker, the 25th anniversary year of the founding of the Peace Corps is being observed with a series of symposiums recognizing the role the Peace Corps has played in providing grassroots, people-to-people assistance for the last quarter of a century. These sessions, organized around the country by returned Peace Corps volunteers, World Affairs Councils, and local universities are reaching out to a diverse mix of people to observe this important anniversary by considering the issues involved in "The U.S. Partnership in the Developing World."

I am pleased to report that one of these conferences took place earlier this week at the University of Miami. At that time, Loret Ruppe, Director of the Peace Corps, also opened a recruitment office in Miami, with the hope that increased recruitment can be encouraged among the Spanish-speaking and retired populations in south Florida.

I am sure that my colleagues join in congratulating the Peace Corps for the 25 years of opportunities for service it has provided for nearly 100,000 Americans.

The following article, which appeared in the December 9 Miami Herald, describes the Miami symposium:

PEACE CORPS AT 25 RECOVERS ITS VIGOR

(By Ellen Livingston)

When Roosevelt Thomas joined the Peace Corps in 1967 and flew to Kenya to supervise the planting and harvesting of wheat, he was a 21-year-old jack of all trades, fresh out of college, who "had never seen wheat before in my life and didn't know diddley squat about it."

When Barbara H. Smith joined in 1983, she was a grandmother who had a long career as a librarian behind her, sent to Jamaica and Barbados to put her skills to use setting up government libraries.

The Peace Corps that John F. Kennedy first proposed in a middle-of-the-night speech in 1960 is still promoting world peace and friendship, but in 25 years, it's seen some changes.

"Our volunteers are definitely older. Our median age is now 30, where in the 1960s it was around 23," says Loret Miller Ruppe, the current director. "Our volunteers tend to be more skilled, as opposed to the early days when many of them just had general skills."

Ruppe—along with Thomas, Smith and other former volunteers—will be on hand today for a daylong symposium at the University of Miami honoring the Peace Corps' 25th anniversary. It is the fourth in a series of coast-to-coast public seminars on international development the organization is sponsoring.

Since 1960, the Peace Corps has grown, stumbled and begun to rise again. It has sent 120,000 volunteers—including 2,250 from Florida—to more than 90 countries, somehow managing to retain its optimism and purpose through some difficult years.

On a rainy night in October 1960, presidential candidate Kennedy arrived, exhausted, at the University of Michigan campus in Ann Arbor at 2 a.m. He asked the crowd of young campaign supporters if they might be willing to spend part of their lives doing good works abroad.

By March of the following year, President Kennedy had signed the executive order creating the Peace Corps.

The number of volunteers in the program peaked at 15,550 in 1966, when idealism was the catchword of the day. But as the Vietnam war dragged on, some saw the Peace Corps as a refuge for draft-dodgers, and others accused it of being a political ploy and a front for the CIA. Funding was cut, the number of volunteers fell, and the corps was absorbed into an umbrella organization called ACTION.

In 1981, when President Reagan appointed Ruppe, the wife of former six-term Michigan Congeressman Philip Ruppe, membership had fallen to about 5,000. Since then, things have improved.

The program has become more visible through its famine relief efforts in Africa. Funding and recruitment are up noticeably, but Ruppe wants more.

"People are finally hearing about the Peace Corps again," she said in a telephone interview. "When I was appointed in 1981, people would say,'The Peace Corps? Is that still around?' Way too many people are still asking that, but not as many."

With its more pragmatic and specialized approach, the corps has branched into more sophisticated long-term projects in the 61 countries that now host 6,000 volunteers. The aim is still to improve life in developing countries, but there is a greater emphasis on helping people help themselves, Ruppe said.

"We're doing a lot more in the 1980s of training trainers and teaching teachers," Ruppe said. A program that introduced macadamia nut trees to Costa Rico half a dozen years ago has created an industry that will have a wholesale value of $18 million this year, she said.

"We can show that six or seven or 10 years later, countries are able to have more jobs for their people, and income for the little people, which is so important," Ruppe said. "Our volunteers know they're not going to change the world, but they want to change a little piece of it."

Ruppe is working to increase the number of volunteers to 10,000 by the year 1990. She also helped open a recruiting office in Miami to capitalize on the large numbers of minorities and retirees in South Florida. She has visited 44 countries served by the Peace Corps.

The corps' budget is up to $130 million this year, though Ruppe is the first to tell you that's a drop in the bucket in the grand scheme of things.

"It's shown you can get more bang for the buck out of the Peace Corps than anything else we do," she said. "These people don't just help other countries; they come back to be better citizens of their own country in a world that is interdependent."

Sherri Porcelain, 32, is now a doctoral student in international health at the University of Miami. She went to Colombia in the late 1970s to help women and children who walked the streets of Bogota. Though she had to leave when the political climate turned violent, the program she worked with is still going strong.

"You go down there with the aspiration of curing the world, and you really can't expect to do that," Porcelain said. "I don't think I did that. I went down for an educational experience. I probably gained more than I was able to offer, though when I look back on my program it's still growing, and being copied by other countries and other places."

No matter how much the Peace Corps has changed, the vision of recent graduates of the program is not far from the idealistic vision of its earlier volunteers.

To Barbara Smith, who finished her stint last May and now lives in Coral Gables, "it was absolutely fascinating."

To Roosevelt Thomas, now the assistant vice president for personnel and affirmative action at the University of Miami, the experience in Kenya in the late 1960s "was the best experience one can possibly have."

"It's the people and the culture," he said. "All the volunteers I've talked to say we, as volunteers, got far more out of the experience than we gave.

"The hospitality has been unmatched by anything I've ever experienced. They invited you into their homes and killed their last chicken for you. . . . It's absolutely mind-blowing."

THE CASE FOR SPECIAL CASES IN THE EASTERN BLOC

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. HAMILTON. Mr. Speaker, on December 5 my observations on relations between the United States and the nations of Eastern Europe were published in the Wall Street Journal. I ask that they be inserted in the RECORD.

The article follows:

THE CASE FOR SPECIAL CASES IN EASTERN BLOC

(By Lee H. Hamilton)

U.S. policy toward Eastern Europe is under attack for being too easy on communist governments. Some critics want to cancel most-favored-nation (MFN) trading status for Romania, charging that Romania's foreign-policy independence is overstated. Some also attack U.S. policy on the basis of human rights. Romania has the worst human-rights record in Eastern Europe, and the imprisonment of Polish political activists has led to calls not only for the continuation of U.S. sanctions against Poland but additional punitive measures.

These arguments, taken together, are pushing U.S. policy toward treating all of Eastern Europe as we do the Soviet Union and its ideological shadow, Czechoslovakia. This is a mistake.

Our paramount interests in Europe since 1945 have been stability and the protection of Western Europe against communist aggression. When governments in Eastern Europe distance themselves from Soviet foreign policy, pursue liberal economic reform or improve their human rights record, they plant a doubt in Moscow about their political reliability, which can enhance U.S. interests. The U.S. has often responded positively to such developments with the modest tools available—increased high-level diplomatic contacts, MFN status, Ex-Im Bank credit eligibility, cultural and scientific exchange agreements, etc. Known as "differentiation," this policy has been pursued under various names by every administration since Eisenhower's, and has proven value. Nonetheless, many see it as a failure; it hasn't broken up the Warsaw Pact nor brought human rights and democracy to Eastern Europe, while providing those governments legitimacy without tangible benefits for the West.

Some of these goals have never been within our reach. The Soviet Union has made clear repeatedly—Hungary in 1956, Czechoslovakia in 1968, Poland in 1981—it will not tolerate challenges to communist rule. Each of those times we protested vigorously but did not judge it in our interest to confront the Soviets on turf so far from us and so near and important to them.

Deviations in Eastern Europe from the Soviet line, ironically, have taken place not through rebellion but through the assertion of nationalist policies by communists securely in power. Yugoslavia and Albania defected from the Soviet Bloc, and since the 1960s Romania in foreign affairs and Hungary in domestic affairs have steadily tested and stretched the limits of acceptable bloc behavior.

Eastern Europe is now at a critical juncture. During years of aged and indecisive leadership in Moscow, more independent economic and political trends emerged in Eastern Europe, Mr. Gorbachev is now pressured to seek conformity. He wants to cut trade subsidies to Eastern Europe and enlist capital from the block for Soviet energy and transportation projects, a strategy that conflicts with the Soviets' other policy goal of political stability in Eastern Europe. Every government in Eastern Europe knows that stable party rule depends upon the improvement of living standards. As Hungary, East Germany and even Bulgaria explore economic reform and trade openings to the West, we should encourage this slow and sometimes even stealthy evolution in their policies. As they increase economic ties with the West, they will become less beholden to the Soviets and more receptive to our concerns, including human rights.

U.S. policy of differentiation does pose difficult choices. Romania's internal stability is precarious and it has adopted many repressive, neo-Stalinist policies, but in accordance with the Jackson-Vanik amendment it has allowed the emigration of 150,000 of its citizens to West Germany, Israel and the U.S. Since it received MFN trading status in 1975. Romania openly criticized Soviet military intervention in Eastern Europe, does not permit Warsaw Pact troops to hold maneuvers on its territory, and is the only communist country with full diplomatic ties to Israel. While we should press human-rights issues when dealing with the Romanians, blocking MFN could affect future emigration levels.

In East Germany, the U.S. faces one of Moscow's closest allies. Yet today there may be a basis for settlement of U.S. and Jewish World War II claims and of several human-rights cases in exchange for some modest increases in trade.

Elsewhere, differentiation might mandate changes in U.S. policy toward Poland. Right now, the U.s. treats Poland more harshly than it does the U.S.S.R. President Reagan met with Chairman Gorbachev, but the U.S. shuns high-level contacts with the Jaruzelski government. The U.S. stopped its pipeline sanctions and grain embargo against the Soviet Union, but has kept key sanctions against Poland.

Still holding about 265 political prisoners, Poland reneged on its July 1984 amnesty agreement. But open circulation of publications critical of the government, and the ability of Catholics to practice their faith, indicate a freedom of expression unmatched in Eastern Europe. The Jaruzelski government has blamed its failings on U.S. sanctions, an argument many Poles are beginning to believe.

Whatever their original merit, U.S. sanctions against Poland are now counter-productive. It is time for better ties. Poland is current on its debt-rescheduling payments and has paid more than $400 million to the U.S. Treasury this year. Our influence over economic policies in Poland will be greater if it is inside the IMF instead of out. Suspension of MFN makes Poland more dependent upon Soviet trade. Credits suspension is symbolic, since for economic reasons Poland is unable to secure new credits. But we should not block future credits if they are tied to sensible projects or economic-reform policies.

Immediate opportunities for the U.S. to wean Eastern Europe away from the Soviets are few, but we should act when we can. The price of providing legitimacy or modest economic benefits to communist governments is surely outweighed by the development of economic and political ties that contribute to their greater independence. Emotional satisfaction should not frustrate a sound policy of differentiation consistent with long-term U.S. interests.

AS FREE-TRADE BASTION, UNITED STATES ISN'T HALF AS PURE AS MANY PEOPLE THINK

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. CRANE. Mr. Speaker, a very popular sentiment in response to the negative U.S. trading position is that America is the only country that follows a doctrine of free trade. Foreign countries are not playing by the "rules of free trade," therefore, the United States should "level the playing field" through the use of restrictive quotas and tariffs. This view is not only unfounded, but threatens the future of the entire world trading system.

During the recent floor debates on the textile and apparel bill, I repeatedly heard the proponents of the legislation say that the United States can't continue to leave it's markets open to import penetration, while foreign markets remain closed to U.S. products. Although the domestic textile and apparel industry remains one of the most highly protected sectors within our economy, this legislation seeks additional restrictions on imports. Interestingly, Hong Kong, which does not impose any duties, tariffs, or quotas of any kind of American imports, would be particularly hard hit by this textile legislation. How is it that we can criticize our foreign trading partners for not "playing by the rules," when the United States is guilty of protectionsim and discrimination as well?

In the following article by Alan Murray, he cites numerous examples of American protectionism ranging from sugar, to books, to chemicals, to steel. He asserts that although traditional barriers such as tariffs have been largely replaced by quotas and voluntary restraints, the U.S. consumer still has to bear the burden of protectionism.

The United States might not be guilty of protecting domestic markets to the extent of most of it's major trading partners, but until we eliminate our barriers, it is indeed hypocritical to preach what we don't practice. Before one laments over unfair trading practices, I would urge one to consider the examples of U.S. protectionism contained in the following article.

[From the Wall Street Journal, Nov. 1, 1985]

NATIONAL DUTY—AS FREE-TRADE BASTION, U.S. ISN'T HALF AS PURE AS MANY PEOPLE THINK

(By Alan Murray)

In Sault Ste. Marie, Ontario, a Canadian shopper can buy a four-kilogram bag of white cane sugar at New Dominion Stores Ltd. for about $1.50 (U.S.).

But across the St. Marys River in Sault Ste. Marie, Mich., 10-pound bag (4.54 kilograms) of the same sugar sells at Norden's

Foodland for $3.55, roughly double the Canadian price.

The reason is simple: protectionism. To support domestic sugar producers, the U.S. imposes stiff quotas on sugar imports, keeping the domestic wholesale price far higher than the world price. "It's a glaring discrepancy," says Francis Mansfield, director of the Sault-area Chamber of Commerce.

The current congressional debate overtrade legislation rings with complaints that the U.S. is the last bastion of unfettered international trade in a world of protectionists. "The United States has permitted imports to gush ashore freely while not demanding comparable access abroad," asserts Sen. Lloyd Bentsen, a Texas Democrat.

AN ARRAY OF BARRIERS

But the U.S. isn't the pure free-trader that many in Congress and business seem to think. Sugar quotas are just one example of a large array of trade barriers the U.S. has built to restict imports. High tariffs and other restictions provide substantial protection to producers of books, benzenoid chemicals, ceramic tiles, canned tuna, rubber footwear, steel, textiles, motorcyles, peanut, dairy products and more.

Indeed, significant trade barriers cover more than a quarter of all manufactured goods sold in the U.S. and cost American consumers more than $50 billion a year, or $450 for every working man and woman, according to Gary Hufbauer, a Georgetown University professor, in a book to be published later this year.

"We probably do less" to block imports than most of our major trading partners, Mr. Hufbauer says. "But we do a lot. We certainly protect a heck of a lot more than most congressmen say we do."

During most of the postwar period, the U.S. has been the world's leading force for free trade. Under its leadership, worldwide tariffs have been reduced sharply and trade has boomed. Average U.S. tariffs have fallen from 50% of the imports' value in the days of the Smoot-Hawley tariffs during the 1930s, to about 5% today; and European and Japanese tariffs have been reduced to about the same level.

"NEW PROTECTIONISM"

But in recent years, the U.S. has been caught up in the global trend toward a "new protectionsim," establishing quotas, "voluntary" import restrictions and other barriers rather than tariffs to shield its domestic industries from foreign competition. By Mr. Hufbauer's estimate, the percentage of U.S. imports covered by protection has risen to 21% today from 8% in 1975.

"My sense is that on net, trade restraints continued to drop through most of the 1970s," says William Niskanen, chairman of the Cato Institute, a Washington think tank. "But starting in the 1980s, the increase in nontariff barriers has been greater than the reduction in tariffs."

The trend toward protectionism has accelerated in the last five years, thanks largely to the dollar's steep rise in vialue relative to other currencies. The strong dollar has encouraged a flood of imports by making them cheaper, increasing domestic industries' demand for protection. Although the Reagan administration claims to be vigorously opposed to trade barriers, it has found it politically impossible to fully resist these protectionist pressures.

"I think it is probably true that we are less protectionist" than both Europe and Japan, says Rober Lawrence, a senior fellow at the Brookings Institution. Nonetheless, we have a lot of protectionism. We ought not to be necessarily as selfrighteous as we are."

FOREIGNERS' VIEW

Not surprisingly, foreign officials agree with Mr. Lawrence's assessment. Says Sir Roy Denman, head of the European Communities delegation in Washington: "The good Lord did not ordain that sin only started east of Cap Code or west of Alaska."

America's trade barriers impose large costs on U.S. consumers. And while they may save jobs in protected industries, economists say barriers reduce jobs elsewhere in the economy. As President Reagan pointed out at a recent press conference, "No one ever looks over their shoulder to see who lost their job because of protectionism."

Clothing tariffs and quotas provide a dramatic example of the high costs of U.S. protectionism. During the 1970s, the U.S. negotiated import quotas with all the major apparel-producing nations, and in 1983 those quotas were tightened substantially. The U.S. also has a tariff averaging 26% of the value on all clothing imports.

As a result, the cost of imported clothing here is more than double what it would be if the U.S. had no trade barriers, according to a recent study by the Federal Reserve Bank of New York. The study, which conservatively assumes that trade barriers don't raise the price of domestically manufactured clothes, estimates that consumers pay a tax of as much as $12 billion a year to protect the U.S. textile industry. A more comprehensive measurement, according to Georgetown's Prof. Hufbauer, puts the figure at $27 billion, or $42,000 for every job saved.

Much of that money goes to foreign companies. Textile-producing nations receive import quotas to allocate to manufacturers. Those quota rights are often auctioned off among producers, and the cost of the quota is passed on to the American importer. When demand is strong, the quotas guarantee manufacturers who hold them a hefty profit.

Clothing quotas are particularly troublesome for those who sell imported apparel. Retailers say they can tolerate tariffs because they are predictable; but quotas produce wide price fluctuations and sometimes block imports altogether.

Spiegel Inc., for example, has encountered many problems since the Reagan administration tightened quotas in 1983. Leo Sansone, the company's assistant vice president for merchandising, recalls that last year the catalog company arranged to buy wool sweaters from Hong Kong at a time when sweater demand was expected to be light, and quota rights—which are auctioned off daily in Hong Kong—were selling at about $1.50 per sweater. By the time the company decided to reorder more sweaters, strong demand had caused the quota price to soar to $6.50. As a result, Spiegel had to pay $18, including shipping and tariffs, for a sweater it had expected to cost only $10.

Spiegel also recently had a shipment of wool slacks from Taiwan confiscated by U.S. officials, who said the shipment exceeded the island's quota for such slacks. The Taiwanese manufacturer authorized the shipment at the end of 1984, counting it against the 1984 quota. But U.S. Customs counted it against the 1985 quota, which it says has run out. As a result, says Terry Coyone, Spiegel's import manager, "we have 150 dozen wool slacks that we've already paid for sitting in a bonded warehouse because we can't get them through customs."

Walter Killough, the company's senior vice president for merchandising, complains that "the way quotas are administered now, it's almost as if the people just want to create problems for us."

ECONOMIC IMPACT

Economists argue that such protectionist policies probably eliminate as many jobs in other parts of the economy as they save in the protected industry. For one thing, when consumers must pay more for clothes, they have less to spend on other items, leading to less employment in other industries. Most economists also believe that import restrictions usually result in reduced U.S. exports.

"I happen to believe there are no jobs saved in the economy as a whole" as a result of protectionist measures, says Mr. Lawrence of the Brookings Institution. Mr. Niskanen of the Cato Institute agrees. "By and large, the number of jobs in the economy is invariant to trade measures," he says.

Some other imported products that are protected by U.S. trade barriers:

Steel

The U.S. signed a quota agreement with the European Communities in October 1982 limiting steel imports. At about the same time, Japan initiated a system of "voluntary" steel export restraint to avoid more-direct U.S. trade action. These measures substantially reduced European and Japanese steel shipments to the U.S., but shipments from developing countries soared in their place. In September 1984, the U.S. began negotiating more "voluntary" export restraints with other steel suppliers designed to limit total steel imports. The New York Fed conservatively estimates that these restraints cost consumers about $2 billion a year by adding 5% to steel prices.

Book manufacturing

The U.S. book printing industry is largely shielded from foreign competition. To be eligible for U.S. copyright protection, virtually all books and periodicals published in this country must also be printed and bound here. According to Prof. Hufbauer, that restriction costs consumers an estimated $500 million each year.

Ceramic tiles

Makers of ceramic floor and wall tiles are protected by tariffs that average about 25% of the import value. The cost to consumers, Mr. Hufbauer says, is about $116 million a year.

Peanuts

To prevent imports from undermining its peanut price support program, the government has kept a strict quota on imported peanuts since 1953. The approximate annual cost to the consumer, according to Mr. Hufbauer's research: $170 million.

Shipping

The Jones Act, which dates back to the 1920s, bars foreign ships from carrying passengers or freight between any two U.S. ports. This protects coastal carriers from lower-cost foreign shipping lines.

Rubber shoes

The U.S. rubber footwear industry is shielded by high tariffs that in some cases have changed little since the days of the Smoot-Hawley Tariff Act of 1930. The cost to consumers: $230 million, Mr. Hufbauer says.

Motorcycles

In 1983 President Reagan imposed temporarily high tariffs, starting at 49.4%, on Japanese motorcycles with engines exceeding

700 cubic centimeters. Mr. Hufbauer estimates that the tariff, designed to protect about 2,500 Harley-Davidson Motor Co. workers, cost consumers $104 million last year.

Trucks

Foreign-manufactured light trucks face a stiff 25% tariff when they cross U.S. borders. The tariff prompted creation of the Subaru "Brat," which escaped the tariff by putting bucket seats in the truck bed to qualify as a car.

Autos

Under a "voluntary" agreement, Japan began restricting auto exports to the U.S. in April 1981. As a result, according to the New York Fed, Japanese car export prices rose more than $2,000, and cost consumers an estimated $4.5 billion in 1984. That restraint agreement formally expired last March, but most observers believe the Japanese continue to restrain auto exports to prevent a flare-up of further protectionist pressure. As a result, many Japanese auto dealers in the U.S. continue to add as much as $2,000 or $3,000 in "additional dealer markup" onto the sticker price of the cars they sell.

INSURANCE CRISIS: TORT PROBLEM OR MANAGEMENT PROBLEM?

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. FLORIO. Mr. Speaker, some people place all the blame for the availability crisis in insurance on our judicial system. But as the following article from the Journal of Commerce shows, insurers who did not engage in cash flow underwriting are doing all right today. This suggests that those who contend that the industry's difficulties are as much or more a result of its own practices as of the tort system, may have a point. In any event, that is an issue my subcommittee will explore in our current inquiry on this subject.

Smaller P/C Insurers Better Off

(By James Nolan)

There is an island of calm amidst the stormy seas battering the whole of the property/casualty insurance industry.

And dwelling thereon are some 400 of what A.M. Best lists as the smaller property/casualty companies—those writing up to $10 million in net premiums.

Best recently surveyed 866 property/casualty companies and broke them into four categories by net premiums written to determine the financial well being of the companies.

The 27 very large companies with a combined net premium written volume of $61 billion have much to envy when they look at their smaller brethren.

On a measure of quick liquidity, the smaller companies are immensely better off.

Quick liquidity is the ratio between liquid assets and net liabilities—the higher the better. In 1984, the larger companies combined stood at a ratio of 20 and the smaller ones were nudging up to the 100 line.

"The higher this ratio," said A.M. Best, "the better the company's ability to meet obligations without having to disturb long-term programs or take on expensive short-term debt."

Thus it was that the A.M. Best Co. caught up to what Melvin H. DeYoung has been preaching for a decade and more: And that is that small is beautiful when it comes to being a property/casualty insurance company.

Mr. DeYoung is retiring from his post as president and chief executive officer of the American Association of Insurance Services.

The AAIS serves some 400 companies which would fit into Best's small- and medium-sized categories. Although the mediums—writing up to $100 million—are not quite as well off as the smaller ones, they enjoy far better liquid positions than do the majors.

"The biggest problems our companies have at the present," Mr. DeYoung said recently, "is coping with the new business that is coming our way."

His reference was to a current conflict between the major property/casualty underwriters and the independent agents who market their products.

Virtually all of the major underwriters have been cutting back on the business they do through independent agents. The underwriters have been severing their contracts with the smaller of the agents, refusing to renew much commercial insurance sold through agents and in some cases, canceling liability insurance before the policies run out.

As a result, the agents are running to the member companies in the AAIS to market commercial risks, including commercial, fire general liability, commercial inland marine and burglary.

But, as Mr. DeYoung points out not all of the risks will find takers.

The smaller companies have achieved their stability, he said, by very, very conservative management principles.

The AAIS companies, for example, took no part in the price cutting war of the late 70s and early 80s, which proved so devastating to the major companies who battled each other for the premium dollar.

The majors cut premium rates far lower than they should have in anticipation of large investment income. Then, as high risk claims came due, the companies operating income plummeted.

Skeptical of the stability of investment income for an underwriter, Mr. DeYoung points out, the smaller companies did what they were supposed to do. They underwrote the risks. Period.

After a close analysis of the smaller companies' financial statements, A.M. Best agreed with Mr. DeYoung.

"For the past five years," Best said, "smaller companies have been more conservative than larger companies, becoming more so in recent years. They tend to keep a higher percentage of their investments in relatively liquid assets, with the aim to help them weather adverse market and economic conditions with greater stability."

THE REMARKABLE EV ERLICK

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. DINGELL. Mr. Speaker, when Capital Cities Communications, Inc., takes over the American Broadcasting Co., ABC will lose one of its most treasured confidants and corporate strategists—Everett Erlick. For over 25 years, Ev Erlick guided ABC from a fledgling corporation awash in red ink, through rough financial waters, ultimately to the position where it was an attractive catch for Capital Cities.

Ev Erlick also was a champion of many bold policies for ABC. Erlick's unbending adherence to the fairness doctrine and his contention that this important vehicle of free expression would not be dismantled by administrative fiat, and only by congressional action. I have always admired him for his tenacity in holding onto that position.

Most recently, Broadcasting Magazine did a retrospective interview with Ev Erlick on his retirement from ABC. I urge my colleagues to read the interview and get a closer look at what I consider to be a remarkable individual.

The article follows:

In Retrospect: the Erlick Years at ABC

If there has been an eminence grise at ABC during the past quarter century, his name was Everett Erlick—confidant to Leonard Goldenson, party to all principal decisions, adviser and consenter to corporate strategy; this is the story of a personal past that serves as preface and prologue

For almost 25 years, Everett Erlick has been a major factor in the development of ABC, helping to nurture it from its days as a fledgling corporation whose television network operations were awash in red ink to one that a savvy Capital Cities Communications Inc. is ready and eager to pay $3.5 billion to acquire. It has been a long march, and Erlick is now ready to move on to other things. But in his career can be read the story of what it took one communications company to survive and prosper—determination in large measure, plenty of street smarts and not a little luck.

Erlick, who moved over to the then American Broadcasting-Paramount Theaters from Young & Rubicam in 1961 at the invation of Leonard Goldenson, then AB-PT president, talked of those things the other day in ABC's Washington offices. He talked, too, of his plans for the future: He will serve as a consultant to the new Capcities/ABC and become special counsel to "a major law firm," which he declined to identify, developing business in communications—including international communications—and other areas ("I don't intend to confine myself to communications"). But like the veteran of a war, he is full of the emotions and memories of the battles he has fought. And as executive vice president, general counsel and director whose responsibilities followed his interests across the board of ABC's activities, he has fought in all of the major ones: "I've been part of everything this company has done."

Perhaps at the bottom there was the trauma of the ABC television network—it was the period during which some called it the "half" in a two-and-a-half-network system—hemorrhaging almost literally its life blood. Between 1961 and 1971, the network lost $120 million. And the loss inevitably shaped the tone and character of ABC. "The money had to come out of the [Corporation's] theaters, records and owned stations," Erlick said. "All that was used to support the building of the ABC network, particularly news and public affairs and other parts that were not profitable."

At one point, a group Erlick put together under the name of ABC Cablecom and headed by Martin Malarkey and Arch Taylor developed a plan for putting ABC into cable in a major way; ABC would have been the third or fourth largest MSO at a time when networks were still allowed such crossownerships. But with the compamy strapped for cash, the board through the plan too ambitious, and it was scrapped, to Erlick's regret. "It would have been a good thing to do," Erlick said last week. "It would have been a valuable asset for the stockholders. But we had to forgo a lot of things in those days."

For a time, in the last 1960's, ABC saw its salvation in a merger with ITT. Earlier, the corporation had turned back an effort by financier Norton Simon to gain control (as it would later fend off an effort by the late Howard Hughes). But the giant international telecommunications conglomerate, with its enormous resources, seemed an ideal partner. The Department of Justice's antitrust division thought otherwise, and its opposition tied up the merger in court long enough for ITT to lose interest and exercise its option to walk away. And that proved to be an element of the luck that has helped ABC. "It was," said Erlick, "one of the greatest things, if not the greatest thing, that ever happended to ABC."

For one thing, he said, "Things started coming together for the network. From that point on, ABC's real growth development was achieved." He attributes that in part to the fact that ABC "had gotten its act together; our programing strengths were evident," as well as to the fact that the loss of the rich suitor caused company officials and staff to steel themselves to greater effort. "We were really squeezed hard for a while, but that period of adversity was a great impetus for ABC," he said.

Another helpful factor, a major one, was the FCC's prime time access rule, adopted in 1971, which, by prohibiting the networks from programing more than three and a half hours of prime time (7-11 p.m. NYT), reduced the inventory ABC was having trouble filling. Then, too, there were the subsequent headlines announcing the series of messy scandals in which ITT and some of its officials were involved. "It was terrible," Erlick recalled of the way things could have been if ABC had become a part of ITT. "We could have had every license in hearing. It was a real mess."

Erlick has had two role models. One was the late James C. Hagerty, the former New York Times reporter who had been President Eisenhower's press secretary before he joined ABC in 1961 as vice president of news, special events and public affairs and then moved on to become executive vice president for corporate relations. Erlick said he was impressed by Hagerty's knowledge of the Washington scene and his ability to deal with people. "When Jim introduced you to someone, you had a golden handshake," Erlick said. He continues to benefit from the contacts he made through Hagerty. The other was Frank Stanton, former president and vice chairman of CBS, whom Erlick regarded as an industry statesman. "I thought he was great. . . . He represented not only his company but the industry. I've tried to do that."

Of course, Stanton had the luxury of an elegant, immensely successful corporation behind him. So the statesman's role was easier for him to play than for Erlick. The PTAR is a case in point. CBS and NBC opposed its adoption as undue government interference in their affairs, but not ABC. ABC, remember, had absorbed $120 million in television network losses over the previous 10 years. Not only that, Congress had just passed a law banning cigarette advertising from radio and television. Cigarettes accounted for about 10% of ABC television's prime time business—"and we already had too much inventory," Erlick recalled. "We needed some outside force," Erlick said. So at the point in ABC's history, PTAR was "a handy brass ring . . . a useful regulatory measure. As a matter of principle, we don't like to see government intervention . . . but sometimes, necessity causes those judgments to change."

So do circumstances. ABC was shoulder to shoulder with CBS and NBC two years ago in seeking repeal of the financial interest and syndication rules that are ancillary to the PTAR and were adopted with it. The effort failed because of the overwhelming opposition that the Hollywood creative community and its allies mustered on Capitol Hill to repeal the rules. Erlick said ABC would like to reach an agreement with Hollywood on the issue, and he believes it will happen. But he made it clear ABC does not endorse the agreement CBS appears to be reaching with representatives of the seven major production studies (Broadcasting, Oct. 7). Among other things, he said he is shaken" by the reported provision that would limit CBS in-house production to three and a half hours of programing weekly "in perpetuity." "We don't think anyone is smart enough now, with the radical changes going on in this business, to make an agreement in perpetuity." Unlike its situation in 1971, ABC believes it can profit from more rather than less freedom of action. "Nothing," says Erlick, "stays the same."

Then, too, there is Erlick's—and ABC's—position on the fairness doctrine. Again, it is probably less statesman Stanton than pragmatic Hagerty. Where most of the broadcasting establishment traditionally and repeatedly calls for elimination of the fairness doctrine as a violation of broadcasters' First Amendment rights, ABC operates on the assumption the argument is irrelevant. Nor is Erlick impressed with the challenge the Radio-Television News Directors Association, backed by CBS, and others are mounting in court to the constitutionality of the doctrine.

"My judgment is—our judgment is—that this is a legislative judgment call. It's a major national communications issue," Erlick says. "The whole controversy is about what that section of the statute says." (The section, 315 of the Communications Act, imposes the equal time obligation on broadcasters and provides for the fairness doctrine.) "If Congress expresses its sentiment [in favor of repeal], that's fine with us. But it's not a judicial question." But, he was asked, what if the courts declare the doctrine unconstitutional? "You're not going to win," Erlick insisted. "You'll get another law that will pass muster." With a note of impatience, he added: "I'm saying this Congress is not going to sit there and see this thing wiped out, fairness, and equal time. You have to contend with that as reality. That is a reality of the world we live in." That, he said, is and has been ABC's position. "Just accept it at face value."

If he offers no automatic reaction to mention of the fairness doctrine—"We can live with it," he says—neither does mention of the "public interest" the Communications Act imposes on broadcasters fill Erlick with unease. Indeed, he seems to regard the standard as a badge of honor—and a key to profit. "Yes," he says, it's a proper obligation. "I may be a little old-fashioned, but I feel good service is good business. If a local station is involved in the local community, in service, in community affairs. . . . these are the things that will distinguish a broadcast station from the other means of delivery of news and information and entertainment to the American home." He says he does not endorse the use of percentage guidelines to determine whether, say, the amount of non-entertainment programing a station offers is sufficient. But he does endorse "a broad standard of responsible service."

Like other veteran broadcasters who found much fault with the regulatory-minded regimes of such FCC chairmen as Newton N. Minow and E. William Henry, Erlick, ironically, appears to feel the current pace of the Mark S. Fowler commission's deregulation is too swift. He is concerned about the repeal of the three-year-rule—which prohibited owners from selling stations less than three years after acquiring them—as part of a general deregulatory movement and "the financial buccaneering" he says is evident on the broadcasting scene. "You have a lot of people buying and selling television stations as commodities," he says. "Not all . . . but some purchases are highly leveraged, with multiples being paid that are hard to justify. The danger is that those people will be forced to take from the operation to pay the interest and principle. When that starts happening on a broad scale, there is a risk the medium will be diminished."

But he also feels the system may be self-correcting: "The people who pay such prices will be so affected by market forces that they'll have to sell the stations or mend their ways."

Among Erlick's skills, and responsibilities, is lobbying—he was broken into the art form by Hagerty. But he feels the broadcasting industry generally is not as effective as it should be in its efforts on Capitol Hill. Years ago, he put it this way: "There are many people in this business whose idea of government relations is to go to the National Association of Broadcasters convention once a year, read Broadcasting once a week, and go to the bank every Friday." He thinks the industry now realizes something more is required. Recalling a defeat that evidently continues to rankle, he says the financial interest/syndication issue indicates that more is needed.

"The three networks and the three affiliate boards were solid in favor of repeal of the rules," he said. "We won everywhere on the merits—at the commission, at the Department of Justice, the Federal Trade Commission, the National Telecommunications and Information Administration—everywhere. Yet we got rolled on the Hill. Our mistake was that we thought the issue could be won on the merits." The other side—Hollywood—"was skillful," Erlick recalls ruefully. What's more, he said, it also took advantage of the "antinetwork sentiment on the Hill"—sentiment, he added, that was just then peaking.

What's the answer? "The company, the industry and the affiliates have to do a better job of government relations," Erlick says. "That means one-on-one in the field. It doesn't mean three guys from New York coming down to Washington and running around. A senator from Wyoming would rather hear from an affiliate in Wyoming than have someone from New York come down and shake his hand—although that is important, too, since we cover the national scene." Erlick said he is "encouraged" by ABC affiliates' recognition of the need to lobby on the Hill. And for their part, he says, the network types should visit senators and congressmen when things are *not* in crisis. "You can't come to Washington to try to put out fires. That doesn't work."

Erlick's association with ABC began when he was a Y&R executive in the late 1950s. In those days, advertisers, with their agencies, controlled programing. And at one point, Erlick and several colleagues found themselves with a substantial amount of daytime business from 16 clients that they could not place on CBS or NBC, which were sold out. The solution, Erlick recalls, was to "put ABC in business" with something called "Operation Daybreak." We worked out a charter contract, developed a five-year rate, and put ABC in business in one fell swoop." ABC had virtually no daytime programming at the time. Ollie Treyz was running the network, but "Operation Daybreak" put Erlick in touch with Goldenson for the first time. And over the years, the two developed what Erlick calls "a unique personal relationship."

With a new regime taking over, Erlick feels it's time to move on. After all, he can look back on a role in a senior management team that helped bring a young company, still shaky on its feet, to a point where it is "one of the great communications centers in the country, if not the world," as Erlick puts it. What's more, Goldenson will, as a practical matter, be leaving; he will head the executive committee but no longer will be involved in the company's day-to-day operations.

And Erlick says he doubts he could share with anyone else the kind of relationship he has shared with Goldenson. Besides, there is this reality that Erlick points out: "Capcities bought the store. They paid a good price for it, and they're entitled to put their own people in and run it, people with whom they're comfortable."

But, considering that "Murph and Dan"—Thomas S. Murphy, board chairman, and Daniel B. Burke, president—asked Erlick to remain as a consultant, he feels content: He will retain a connection with a company to which he has a strong emotional tie. And he will be able to pursue other interests through his association with the law firm. Erlick said he is looking forward to his "new agenda." I'm in good health. I still have strong interests. There is no way I could become a spectator with all this exciting stuff going on. I intend to be part of it."

HEBRON: JEWISH-ARAB FLASHPOINT

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. LEHMAN of Florida. Mr. Speaker, I would like to place in the CONGRESSIONAL RECORD an article written by Mark Olman (Ami/El) which appeared in the current issue of Jerusalem Letter/Viewpoints published by the Jersualem Center for Public Affairs.

Before immigrating to Israel 7 years ago, Mark was the legislative and press assistant in our office. His new life has brought him many new and unusual experiences as he and his family have sought to find their niche in Israeli society. I am always pleased to hear from him and to have his views on the issues affecting life in the Middle East today. I hope that my colleagues will also find his latest letter of interest.

HEBRON: JEWISH-ARAB FLASHPOINT

(By Mark Ami-El)

The soldier sped past me and raced toward headquarters shouting, "Sound the emergency siren!" Jewish worhsippers in Hebron had just entered the Hall of Isaac at the Cave of Machpelah (Tomb of the Patriarchs) and were holding an illegal prayer service. I was among the witnesses to local events during the High Holy Days as a member of the Israel Defense Forces reserve unit guarding the Cave of Machpelah and the Avraham Avinu Synagogue.

ENTRANCE TO PARADISE

The Cave of Machpelah (translated as "the Double Cave") is the traditional burial place of Abraham, Sarah, Isaac, Rebecca, Jacob, Leah (Rachel is buried in Bethlehem) and, some say, Adam and Eve. On this site, which Abraham bought from Ephron the Hittite for 400 shekels of silver in Genesis 23, the Jewish King Herod, builder of Masada, Herodion, and the Temple Wall in Jerusalem, erected a four story rectangle of massive stone blocks.

For thousands of years, Jewish worshippers have been making pilgrimages to this site, held by Jewish folk tradition to be the entrance to Paradise. During much of that time, a Jewish synagogue existed within the Herodian walls. However, for the last few hundred years, until 1967 when Hebron came under Israeli rule, Jews were not allowed to pray inside the Cave of Machpelah. Before 1967, Arab guards of the Wakf (the local Arab religious authority) prevented Jews from going past the seventh step. Jewish worshippers would leave notes with their prayers in the outside wall, just as at the Western Wall in Jerusalem.

After the 1967 war, the Israeli government signed certain documents which assured Moslem religious rights by preserving the status quo at the two most prominent mutual holy places newly under Jewish control—the Temple Mount in Jerusalem and the Cave of Machpelah in Hebron. The continued Israeli acceptance of the status quo at these holy sites is an issue which demands increasing attention. In recent years, police have arrested a number of Jewish activists associated with circles calling for Jewish sovereignty over the Temple Mount.

WHO CONTROLS THE HALL OF ISAAC?

At the Cave of Mechpelah, the issue is the Hall of Isaac, the main hall at the site. It was originally built as a Crusader Church. From the time of the expulsion of the Crusaders until 1967, it was a mosque closed to Jews and Christians.

The Hall of Isaac may be the only place in the world where Jews and Moslems pray in the same room, sometimes even at the same time. There is a complicated schedule allotting the room or parts of it to each of the two groups. Strict rules govern the hours of use, the placement of partitions, and the number of worshippers.

It was a violation of this last point which precipitated the emergency alert. On the morning before the Simchat Torah holiday, just after the news broke about the seven Israeli tourists killed in Sinai, Jewish settlers from Hebron walked into the Hall of Isaac at an hour when Jews are forbidden to pray there in a minyan (a group of ten or more men) and began the morning service.

The soldiers at the scene had clear orders to forbid this unauthorized worship. They told the men to move to the Halls of Abraham or Jacob at the other side of the building where such group prayer was permitted. A confrontation ensued between the green-clad soldiers and the armed settlers in prayer shawls. The settlers called the reserved squad leader "Nazi," not knowing that he was an immigrant from Romania who had lost four aunts and uncles in the Holocaust. The soldiers, outnumbered, sent a runner off to headquarters to bring reinforcements. Officers and more soldiers rushed into the Hall of Isaac. An intense round of negotiations followed, punctuated by pushing and threats. After some time, including consultation with superiors, permission was granted to allow the Jews to finish their service.

The settlers later explained that until recently Jews had been totally prohibited from praying in the Hall of Isaac and had won limited rights to pray there only after a protracted struggle with the Israeli military authorities. They intend to keep up the pressure until they are allowed the freedom to pray anywhere in the Hall of Isaac at any time.

The whole scene was very entertaining for the Moslem guards who lay on prayer rugs on their side of the Hall and watched Jewish soldiers defend Moslem rights, against Jewish civilians. Some of these same guards had once prevented Jews from entering any part of the Cave of Machpelah or had been present when Torah scrolls left under their guard were descrated. Seeing the smiles of the Moslem guards, the Jewish reservists, themselves civilians at heart, felt an urgency to see Jewish policy defined and differences among Jews settled in order to prevent any more such scenes from being played out in front of Moslem audiences.

During the Festival of Succoth, hundreds of Jews came by the busload to the Cave of Machpelah. Women came up to the Tomb of Rebecca and began to weep. Proud men stood before the Tomb of Isaac and blew the *shofar*—the ram's horn. A group of old weathered farmers sat down in the hall and began to pray. Technically, they too were forbidden to pray at that time, in that hall, and in that number, but out of a sense of respect for our elders we let these men pray without interference. We reasoned that they were only a visiting group and not the resident congregation, and therefore, they would not really threaten the status quo.

In the span of a few weeks thousands of Jews came to visit. I will always remember these warm, beautiful people—immigrants from Yemen and North Africa who blessed me because I was wearing the uniform of an Israeli soldier and who prayed for my safe return home: the Lubavitcher *hassid* whose smile made me glad to be a Jew; the young Bratslaver *hassid* with his big black hat who explained to me that the Messiah just might come tomorrow. We were all impressed by the great love, awe, excitement and reverence displayed by these Jews for the Cave of Machpelah.

The Cave of Machpelah also retains great importance to Moslems, In addition to its historic role as a major holy site, it serves as the central mosque for Hebron's 80,000 Arabs. Every Friday morning, hundreds of Moslem worshippers crowd the Halls of Isaac, Abraham and Jacob, overflowing into adjacent courtyard and corridors. Moslems use the Hall of Isaac throughout the week for daily prayer and funeral services. The Jordanian religious authorities are even underwriting the cost of major structural renovations at the site.

SEARCH FOR THE TOMB OF ABRAHAM

In addition to control over the Hall of Isaac, another ongoing point of contention at the Cave of Machpelah concerns the search for the actual tombs of the patriarchs. The tombs seen by visitors are only representations allegedly built over the true sites of the tombs three floors below. While Moslem religious law does not forbid archeological exploration, they do have a tradition which holds that Moslems who descend below to seek out the actual graves will die the same day.

It is said there are three entrances to the tombs, below. The main entrance was blocked hundreds of years ago by a tomb which the Moslems say is that of Joseph. The Jews believe Joseph is buried in Shechem (now the Arab town of Nablus) in Samaria. A second entrance is under the stones near the east wall in an area under tight Moslem control. A Moslem guard sleeps on the spot at night. A third entrance is a narrow hole in the floor of the Hall of Isaac, covered by an ornate grating. Every day the Moslem guards unlock the grating and refill oil lamps suspended on chains one floor below. It is too dark to see anything except the flame of the lamps, yet it piques the curiosity of many who wonder what is there.

Soon after the Cave of Machpelah came into Israeli hands, Moshe Dayan opened the grating and lowered down a slender, young girl, the daughter of a friend. She reported seeing a passageway and stairs leading down even further, which were blocked by stones after a few steps. The day after Dayan reported his findings, Arab newspapers headlined the story "Jews Break Into Cave Machpelah." No further exploration has been undertaken.

THE JEWISH RETURN TO HEBRON

Hebron is intense, Jewish politics—the Jewish resettlement of Hebron, capital of Judea—is being played out there in this ancient arena. Three thousand years ago, King David ruled from Hebron as king of Judah for seven years before assuming the rule of a united Jewish kingdom from Jerusalem. Jews lived continuously in Hebron from biblical times until the Arab revolt of 1936, even after a horrible massacre at the hands of the Arabs in 1929.

Jewish settlers returned to Hebron after the Six Day War in 1967. Today the Jewish suburbs of Kiryat Arba and Harsina are flourishing. A community of four thousand enjoys new housing, shopping, banking, medical services, frequent bus service to Jerusalem, an industrial zone and yeshivot.

In the older central downtown section of Hebron, Jewish property registered before 1936 is being resettled and is a point of daily contention. Tel Rumeda, Beit Romano, Beit Hadassah, and the Avraham Avinu Synagogue are four Jewish properties in the heart of Arab Hebron which today house fifty Jewish families. Their establishment and growth has been a long story of continuous attempts by Jewish settlers to expand in the face of official opposition. In the latest episode of this ongoing struggle, Jewish settlers purchased apartments in the covered Arab market known as the Casbah, but were refused permission by the military government to move in. In human terms, Jewish settlement in the midst of Arab Hebron means watching a group of five to ten year-old Jewish girls walking freely without adult escort through an Arab crowd at the wholesale vegetable market outside the Casbah. In contrast, armed soldiers tensely walk the same route, scanning the rooftops.

The military government has good reason to be concerned with the specifics of Jewish settlement in central Hebron, since a repeat of the Arab massacres and riots of the 1920s and 1930s is a realistic possibility. It is the military government which must arrange for twenty-four hour security with a detachment of soldiers at every site of Jewish settlement.

We soldiers debated the cost. Jewish civilian settlements in the heart of a heavily populated Arab town require a far more substantial investment by the Israel Defense Forces in order to maintain security than is the case with the more common pattern of rural settlements which are most often located apart from centers of Arab populations. Yet with all of the history involved, it is not easy to argue against the Jewish right to settle in Hebron.

HARD QUESTIONS TO FACE

We reservists discussed day and night what we saw. We wanted to understand why we were stationed in Hebron with the irony of left-wing kibbutzniks guarding Rabbi Levinger and Gush Emunim settlers guarding Arab prayer rugs. The issues we debated must be faced soon by the Jewish people as a whole.

In Jerusalem, the question is what are Jewish rights at the site of the Holy Temple? Today, Jews are permitted to pray only outside of the Western Wall and not at the site of the Temple itself within the Wall. There are groups of religious Jews who have moved into the Moslem Quarter of the Old City of Jerusalem and are actively studying the laws of the priests who officiated at the ancient temple in anticipation of its imminent restoration. The Orthodox Jewish establishment, however, maintains its opposition to any independent initiatives directed toward the Temple Mount prior to the coming of the Messiah.

In Jerusalem there is a defined, although not universally accepted, border between Jews and Moslems: the top of the Western Wall. In Hebron, the matter is more unsettled because there is no fixed border between the two religious communities but rather a floating or alternating one using partitions. Many Jews are today asking, "Since Israel won the war in 1967 and controls the territory, why doesn't Israel control these two sites which are so important to the Jewish religion? The Israeli government will certainly be more generous to the Moslems than they were to the Jews when they were in control. Why should the Israelis not determine procedures at the sites in terms more convenient to local Jewish worshippers? Why should Jews not be the custodians of the Cave of Machpelah, whose Jewish ownership is registered in the Bible?"

The government's answer is concern over the negative impact on the Arab world of a change in the religious status quo. However, when the status quo was formalized in 1967, there was no strong and growing local Jewish community in Hebron, as exists today, which uses the Cave of Machpelah as its main synagogue.

Another hard question which needs to be confronted urgently is what to do about Jewish settlement in heavily populated Arab urban areas. Only a minority advocatee this policy, even among settlement activists now living in Judea and Samaria. The previous Likud government did not favor this approach and actually permitted expanded settlement in the heart of Hebron only as a response to acts of Arab terror. Under the present government, Defense Minister Rabin has declared his total opposition to any such moves. Yet, there are forces within the Jewish-community actively at work on increasing the Jewish presence in Hebron, in the Moslem Quarter of Jerusalem's Old City, and even in the ancient Jewish capital of Shechem, where Jewish settlers in the area have established a yeshiva at Joseph's Tomb. A small, dedicated, militant group is challenging Jewish authorities to explain why they are prevented from settling on legally-owned Jewish property within the Land of Israel.

It is a difficult question to answer. Since the preservation of the status quo and the prevention of Jewish settlement adjacent to Arab population centers were never part of Zionist ideology and tradition in the days before Israel's independence, it will not be easy to block this drive indefinitely. The growth of Kiryat Arba and other Jewish settlements in Hebron have established a pattern. The time for discussion of the prevention of Jewish settlement in or near Arab population centers has passed. One needs to think now about how to live with this inevitable phenomenon. What actions must be taken to achieve the degree of security and tolerance which will enable those little girls to continue to walk unafraid on the streets of Hebron?

Both Judaism and Islam are today feeling the renewed strength of their fundamentalist streams. The most radical factions of both groups are especially strong in Hebron. We can expect to hear of more incidents regarding the clash of Jewish and Moslem religious rights at the holy sites in Israel. Soul-searching, careful decision-making, and statesmanship by Israeli political leaders will be required in order to reach mutually acceptable solutions without recourse to violence.

HOW A MEMBER DECIDES

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, December 11, 1985 into the CONGRESSIONAL RECORD:

HOW A MEMBER DECIDES

A question that has intrigued me is how various Members of Congress decide how to vote. Members cast about 400 votes a year on the most difficult and controversial issues on the national agenda. My impression is that in deciding how to vote, Members weigh three goals: they want to make good policy, gain respect inside Congress, and get re-elected. It is impossible to name all the factors that influence the vote of individual Members. They must balance many changing pressures, expectations and demands every day. In the end, of course, they must rely on their own judgment about the merits of a particular bill or amendment, but that judgment is influenced by many factors. Among the most important are these:

CONSTITUENTS

Constituents are the most important influence on a Member's voting decision. Whether Members are agents of their constituents' wishes or free to exercise their own judgment is a classic question in a representative democracy. Members have a duty to listen carefully to their constituents and to consider their views. After all, Members are not representatives if their actions bear little or no relationship to the views of constituents. Members may not always vote with the views of a majority of their constituents because in the absence of a referendum they cannot be certain what they think. But all Members ask themselves on each vote where their constituents stand on the issue. On those issues where the constituency expresses strong preferences, the Member is almost certain to favor them. Representatives who fail to reflect generally the views of their constituents will soon need other work. If they vote in a way their constituents may not approve, they will explain their votes in terms their constituents will respect, even if they do not agree.

COLLEAGUES

Members learn to identify certain colleagues whose judgment they respect on particular issues. Other Members are important sources of information because, as professional politicians, they will tailor their advice to a Member's needs; they are often well-informed on the issue; and they are available at the time of the vote. Members do not seek advice from just any colleague. Instead they seek out those who over time have earned the respect and attention of their colleagues. Members also pay special attention to the other Members of their state delegation—as well as to state and local officials—because they share common interests and problems.

LOBBIES

Interest groups are neither the most nor lease important influence on Congress. Lobbyists can help or hinder a Member's work. They can provide members with easily digested information and innovative proposals. They can identify allies, help round up votes, and aid election campaigns. They can provide or withhold campaign contributions, support or oppose a Member's reelection. Members ignore lobbyists at their peril.

THE EXECUTIVE

The President is, in many respects, the chief legislator. He and his Vice President are the only officials elected by all the people Although the President's lobbying activities do not differ significantly from those of other groups, the President's prestige, or standing in the polls, is often persuasive to Members. At the same time, partisan distrust may create opposition to the President's position. With his excellent sources of information, his ability to initiate legislation, to appeal to all Americans, and to set the legislative agenda, the President has formidable power in the legislative process. But that power no longer yields the unique advantage it once did, as other sources of information—the Congressional Budget Office, the Congressional Research Service, the Office of Technology Assessment, for example—have grown in respect and influence.

PARTY LEADERSHIP

Political party leadership has much less effect, on Members' decisions. Members of Congress do not hear often from their party leaders about specific votes on legislation. They do hear often from the leadership of their party in the Congress, i.e. the Speaker and the Majority and Minority leaders. The leadership does have resources besides gentle persuasion. It controls the scheduling of bills, parliamentary rulings, choice committee assignments and prerogatives, and it can choose, within limits, who is recognized to speak on the floor. The effects of these tools are not unimportant, and on close votes are often decisive.

MEDIA

News media may have their greatest effect on Congress as agenda setters. By focusing attention on a particular issue, they can get the American people and the Congress to deal with it. The stories the media emphasize, and how those stories are treated, have a real effect on which issues Congress considers and which it puts off. In considering a vote, Members must anticipate how that vote will be played by the media.

STAFF

It is a mistake to underestimate the importance of congressional staff in the legislative process. Because of Members' hectic schedules, they rely on staff to help them evaluate legislation. Today's staffers usually have a good appreciation of political processes, but their main strength is substantive technical knowledge. As a result, staffers have become important actors in the legislative arena. The greater their expertise, the more Members rely on them, and the more they shape the legislative product.

Members of Congress vote several times every legislative day on diverse and complex issues. Usually they have more information than they can assimilate, so they need and seek help. They cannot be experts on every bill that comes before the Congress. If all of the factors on which a Member ordinarily relies agree, the decision is easy. If these factors point to opposite conclusions, the decision becomes difficult. It is then that decision-making becomes a very personal matter. When the voting clock is running down the Member must make a decision. The Member knows that in our democracy he or she alone will be held accountable for it.

GERRY AND MARY ELLEN McHALE, DORCHESTER HEROES

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. DONNELLY. Mr. Speaker, I rise to pay tribute to two local heroes, whose quick reaction to the cries of an elderly mugging victim brought about the prompt arrest of a suspect. Gerry McHale is a Boston police officer and a recipient of his department's Medal of Honor. His wife Mary Ellen has been cited by the Boston Police Department, too, for her work in fighting crime in their Dorchester neighborhood, although she is not a member of the force.

At this point, I would like to read into the RECORD a newspaper account of the McHales' teamwork in the service of their community.

[From the Boston Globe, Dec. 12, 1985]

WIFE AT THE WHEEL, OFFICER SNAGS AN ALLEGED GETAWAY

(By Kevin Cullen)

An off-duty police officer and his wife teamed up yesterday to apprehend a Boston school van driver who allegedly used the van as a getaway vehicle in a pursesnatching.

Police said van driver LeRoy Lawrence, 23, of Rosseter Street, Dorchester, helped in the attempted escape of a teen-ager who stole the purse of an 86-year-old Dorchester woman.

There were no students aboard the van at the time, police said.

Lawrence and a 16-year-old Dorchester youth, who was not identified because of his age, were charged with unarmed robbery after the 1:20 p.m. incident. They were scheduled to be arraigned today in Dorchester District Court.

Boston Police Officer Gerard McHale and his wife, Mary Ellen, were leaving their Park Street home to go shopping for sneakers when they heard the screams of Alice Bournazian, who was mugged just around the corner across from her Marlowe Street home, police said.

"The kid ran right by me," said McHale, 36, a lifelong Dorchester resident and five-year veteran of the force who is assigned to Area A downtown.

McHale chased the teen-ager on foot, then jumped into the family car when the youth got into the school van, he said.

Mrs. McHale, a 35-year-old housewife and mother of three, pulled the family's 1983 Oldsmobile sedan in front of the van, forcing it to stop at the corner of Holiday Street and Geneva Avenue. Her husband leaped out, identified himself as a police officer and ordered the men at gunpoint back to the scene of the purse-snatching near McHale's home.

Area C officers Walter Fahey and Frank Venuti., who have known McHale for years, responded to McHale's radio call and took the two suspects into custody.

Witnesses said the van was parked on Park Street for at least 20 minutes yesterday prior to the purse-snatching. Lawrence was not scheduled to pick up students for another hour, police said.

When McHale first chased the youth up Park Street yesterday, he had hollered back for his wife to get the family car, which was parked on Marlowe Street.

"I figured I'd drive up Vinson Street and cut them off," said Mrs. McHale. "When I turned onto Vinson I saw a school van coming down the other way, I had no idea they were in the van, so I pulled over and let it go by. Then Gerard came running up and said it was them. We chased them and got them."

Police recovered the handbag, which McHale said the teen-ager had thrown at him just before entering the van at the corner of Park Street and Vinson Street. The purse contained no cash. Police said Bournazian, a widow, was on her way to get food stamps.

Mrs. McHale said Bournazian, who had suffered a broken finger and a fall during a mugging several years ago, was shaken up after the attack.

School spokesman Ian Forman said the school department had no immediate comment on the matter and referred questions to William Covalucci, president of Transcom Inc., the Roxbury-based carrier that transports students. Covalucci confirmed that

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Lawrence is a Transcom employee, but declined further comment.

Brookline Police are investigating a similar purse-snatching last Friday, in which a woman was mugged by suspects who fled in a school van, according to Lt. Daniel O'Leary.

McHale, who holds the police department's Medal of Honor, downplayed his part in the arrrest, saying "I'd do it for anybody." But he said he was very proud of his wife.

Asked if she was now considering a career in law enforcement Mrs. McHale laughed.

"One cop in the family is enough," she said. "I'll help him whenever he needs assistance."

Yesterday was not the first time the McHales, who have been married for 13 years, have rallied to help neighbors in the close-knit St. Ambrose parish neighborhood of Dorchester.

McHale said he has made five off-duty arrests there over the last few years when he saw thieves breaking into cars or homes. He said his wife received a commendation from police five years ago when her information led to the arrest of two housebreakers.

"The crime around here gets frustrating, but I love this neighborhood. I'm building a house across the street," said McHale. "I'm the last person that's going to leave here."

REAUTHORIZE ROWLESBURG—AND BUILD IT

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. GAYDOS. Mr. Speaker, nearly 50 years ago, the Congress authorized the construction of the Rowlesburg Dam on the Cheat River in West Virginia.

Last month, the project was one of several deauthorized in the water resources development bill. It was, in my opinion, a misjudgment.

That bill authorized $20 billion for a host of projects to be undertaken by the Army Corps of Engineers. Two of those projects are ones which I have been vitally interested in for more than 15 years—the replacement of locks and dams 7 and 8 on the Monongahela River in Pennsylvania.

The replacement of those structures is critical. The new facilities are vital to the future of commercial shipping on the "Mon" River. The present system is too old—built 60 years ago—too small and too deteriorated to do the job.

Authorizing their replacement gives me hope that one day Congress actually will appropriate the necessary funds for the work.

I recall in the spring of 1982 Chairman Bob Roe brought several members of his subcommittee to my district and conducted a formal hearing on the need for modernizing locks and dams 7 and 8, among other projects in the area.

In all, there were 14 Members from five States on hand that day, including myself and several colleagues from western Pennsylvania who testified before the subcommittee.

The number prompted on observer to remark: "There haven't been that many Congressmen in the same spot at the same time in Pennsylvania since the Continental Congress met in Philadelphia."

I would like to think that what the subcommittee heard that day from the Mon-Yough Chamber of Commerce, the Pittsburgh Waterways Association, representatives of the coal and shipping industries, and others, was instrumental in earning its continued support for the building of the new facilities.

I wish we could be as successful insofar as the Rowlesburg Dam is concerned.

Believe it or not, Mr. Speaker, the Rowlesburg Dam issue has been before the Congress for nearly 50 years. A half century and, still it has not been resolved. I cannot begin to guess how much personal and property damage could have been averted had the dam been built then; how much grief and misfortune avoided.

I know there were some who hoped the Rowlesburg project had finally been put to rest when the dam was quietly "deauthorized" in the passage of this year's water resources development bill.

I regret to inform them that I, for one, hope that will not be the case.

Why is a dam on the Cheat River in West Virginia so important to people who live and work along the Monongahela River in Pennsylvania?

Primarily for flood control purposes. But the dam also would improve commercial traffic on the river and stimulate development of recreational facilities.

The "Mon" has its headwaters in West Virginia. It starts at Fairmont with the merging of the West Fork and Tygart Rivers, then flows north into Pennsylvania where it is joined by the Cheat River at Point Marion. From there, the "Mon" continues to McKeesport, where it picks up the Youghiogheny River, then winds downstream to Pittsburgh where it meets the Allegheny and forms the Ohio River.

The "Mon" is considered navigable along its 128.7-mile length. A number of commercial companies that ship their products by river are located in the scores of small towns along the river's shores. These firms make the "Mon" one of the most used and valuable of the Nation's inland waterways.

Normally, the "Mon" is a placid river but its history is pock marked by incidents of severe flooding. Heavy rains and snow meltoff can turn it into a torrent.

Such was the case in early November. A week of steady rain sent the "Mon" and its tributaries spilling over their banks. Hundreds of homes were destroyed, thousands more damaged, and property losses soared into the millions of dollars.

Business firms, large and small, were hit by the flood. Near Clairton, the surging waters broke an estimated 80 barges loose from their moorings. These multiton cargo carriers, some fully loaded, were sent swirling downriver, crashing into bridge pilings and ramming and jamming several locks along the way. The Corps of Engineers worked for weeks to free some of the craft caught in the lock gates.

It should be emphasized at this point that locks and dams along the "Mon" are navigation facilities, not flood control dams.

Even before the flood crested, we knew we had a major problem on our hands. My office quickly contacted the Federal Emergency Management Agency [FEMA], its State counterpart, the Pennsylvania Emergency Management Agency [PEMA], the Small Business Administration [SBA], and the Governor's office.

These agencies should be commended for they already were putting together a plan of action, preparing to furnish aid whenever authorized.

The Governor's office quickly declared a state of disaster for five counties. Westmoreland County became the sixth when my office informed it the small community of Webster in Westmoreland County had been hit hard. PEMA sent its crews into the field and FEMA joined them as soon as the request for Federal help was received and approved.

As of December 5, these agencies had received applications for disaster assistance from thousands of individuals and hundreds of businesses located along the Pennsylvania stretch of the "Mon."

I mentioned earlier the primary reason why some of us in Pennsylvania are so interested in the Rowlesburg Dam is because of its immense value as a flood control facility.

On November 8, the day after the flood and before the House began debate on the water resources development bill, I sent a letter to the Army Corps of Engineer's district director in Pittsburgh, Col. Richard A. Rothblum, asking him for an evaluation of the impact the Rowlesburg Dam, had it been in place, would have had in lessening the damage caused by the flood.

His response, dated November 19, stated if the Rowlesburg Dam had been in place it would have had a significant impact on the flooding from the proposed dam site on the Cheat River all along the "Mon".

For instance, two communities on the Cheat—Rowlesburg and Albright—that were ravaged by the flood would have sustained no damage at all with the Rowlesburg Dam operating.

In addition, the dam would have substantially reduced the level of flood waters at several key points on the "Mon" between Point Marion and Pittsburgh. The level at Point Marion would have been reduced from 13 feet to 2.5 feet; at Greensboro, from 16.1 feet to 5.6 feet; at Elizabeth, from 13 feet to 4.5 feet; at Braddock, from 9.5 feet to 2.5 feet, and at Pittsburgh, from 8 feet to 3 feet.

"Reduction in actual damages if Rowlesburg Dam were in place," the colonel wrote, "is estimated at $77 million along the Monongahela River down to and including Pittsburgh."

A $77 million reduction in damages. That's astounding in light of estimates placing the total loss at $84 million. That figure, however, does not take into account the peace of mind residents would have had about their safety. It does not take into ac-

count the loss of income to workers whose plants were closed by the flood. It does not take into account the loss of business those plants have sustained because they could not operate.

At this point, I would like to insert copies of my correspondence with Colonel Rothblum (see attachments No. 1 and No. 2) before proceeding with a background briefing on the Rowlesburg Dam project.

ATTACHMENT NO. 1

HOUSE OF REPRESENTATIVES,
Washington, DC, November 8, 1985.

Col. RICHARD ROTHBLUM,
Director, Pittsburgh District, U.S. Army Corps of Engineers, Federal Building, Pittsburgh, PA.

Attention: Hydrology Department.

DEAR COLONEL ROTHBLUM: The recent flooding of the Monongahela River and the substantial damage sustained by several communities along its banks has raised new questions concerning the impact if the long-planned Rowlesburg Dam on the Cheat River had been in operation.

1. What is the Corps' current position on the proposed Rowlesburg Dam and its estimate of a cost-benefit ratio?

2. If the Dam had been in operation, would water levels have been reduced in the affected communities? If so, what specific areas in those communities damaged in the recent flood would have escaped personal and property damage?

3. Is the Corps in a position to estimate what damages have been done to river facilities and the repair cost?

4. Is the Corps able to furnish a report on the indirect damage caused by the flood and the subsequent delay in reopening river operations; i.e., what effect will the loss of barges and the closing of the river have on commercial businesses utilizing the river?

I would appreciate a response to these questions, Col. Rothblum, as well as any other information you may be able to furnish that would compare damages sustained in this flood to those that might have occured "if" Rowlesburg Dam had been operating.

Your cooperation in this matter will be greatly appreciated.

Sincerly yours,
JOSEPH M. GAYDOS,
Member of Congress.

ATTACHMENT NO. 2

PITTSBURGH DISTRICT,
CORPS OF ENGINEERS,
Pittsburgh, PA, November 19, 1985.

Hon. JOSEPH M. GAYDOS,
House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR MR. GAYDOS: This is in response to your November 8, 1985 inquiry into the recent flooding along the Monongahela River and the impact that the Rowlesburg Dam on the Cheat River would have had if it were in operation. The following paragraphs address your specific questions.

1. What is the Corps' current position on the proposed Rowlesburg Dam and its estimate of a cost-benefit ratio?

The authorized Rowlesburg Dam project is currently classified as inactive by the Corps of Engineers. The project has not received any study funding since 1978 and is, therefore, eligible for consideration for deauthorization this fiscal year. The estimated updated cost of the authorized project would be $394 million. This cost update, however, is based on a very old estimate as well as the implementation of project fetures such as recreation and water quality storage, that may no longer be feasible. It does not, therefore, represent a quality estimate for an up-to-date Rowlesburg Project. In like fashion, the benefits, with the exception of flood control, have not been reviewed recently. The development of a benefit-cost ratio under these circumstances would, therefore, not be appropriate. Some restudy and possible reformulation of project features would be necessary to develop this information.

2. If the Dam had been in operation, would water levels have been reduced in the affected communities? If so, what specific areas in those communities damaged in the recent flood would have escaped personal and property damage?

With a large percentage of the floodwaters originating in the Cheat River Basin, the Rowlesburg Dam, had it been in operation, would have reduced significantly the flood crest along the Cheat River below the Dam site and along the Monongahela River below the mouth of the Cheat River. Specific flood reduction information is not yet available for all of the individual communities along the rivers; however, the following provides an indication of the effect that the Rowlesburg Project would have had if it were in operation.

a. Rowlesburg and Albright, West Virginia, the two major communities on the Cheat River below the Dam site would have had no damage;

b. The potential reductions on the Monongahela River would have been as follows:

In the general area of (community)	Actual flooding above zero damage level (feet)	Flooding with Rowlesburg in place (feet)	Reduction by Rowlesburg (feet)
Point Marion, PA	13.0	2.5	10.5
Greensboro, PA	16.1	5.6	10.5
Elizabeth, PA	13.0	4.5	8.5
Braddock, PA	9.5	2.5	7.0
Pittsburgh, PA	8.0	3.0	5.0

Reduction in actual damages if Rowlesburg Dam were in place is estimated at $77 million along the Monongahela River down to and including Pittsburgh, Pennsylvania.

3. Is the Corps in a position to estimate what damages have been done to river facilities and the repair cost?

The only estimate that the Corps can make at the present time is the damage to our own facilities, i.e., the Locks and Dams. This damage is estimated at approximately $2 million and involves the repair or replacement of damaged and lost equipment and general cleanup work. There is undoubtedly a significant amount of damage to private docks and other commercial facilities along the rivers as well as damage to barges and towboats. The total extent of this damage is, however, not available at this time.

4. Is the Corps able to furnish a report on the indirect damage caused by the flood and the subsequent delay in reopening river operations: i.e., what effect will the loss of barges and the closing of the river have on commercial businesses utilizing the river?

The original estimate for the length of closure of the Monongahela River to effect the cleanup of sunken barges and debris at Mon L/D #2 and the Maxwell Dam was 30 days. The current progress of work in these two areas suggests that this estimate is still reasonable. The Corps of Engineers, however, has not made any estimates of indirect damages caused by the flooding or any effects that could accrue to any commercial businesses using the river. These estimates are best obtained from the river users themselves.

Sincerely,
RICHARD A. ROTHBLUM,
Colonel, Corps of Engineers,
District Engineer.

According to Arthur J. Parker of the Mon-Yough Chamber of Commerce, who served as secretary of the Rowlesburg Dam Association [RDA] back in the 1970's, the history of Rowlesburg Dam goes back to 1936.

After the St. Patrick's Day flood of that year, a preliminary examination and survey of the Cheat River and its tributaries for flood control and other purposes was authorized by Congress in the Flood Control Act of 1936.

The completed study recommended the dam, not only as a flood control measure but also as a means of impounding water to be released during dry seasons. The study was submitted to the Corps of Engineers for consideration and then, in 1942, it made its way to Congress where, as Mr. Parker puts it, it died a natural death.

Nothing more was done, apparently, until 1958 when the Pittsburgh Coal Exchange, forerunner of the Pittsburgh Waterways Association, revived interest in the project. A study was approved in 1958 and Congress, 8 years later, granted approval to begin planning and design work.

Despite its reputation for flooding, Mr. Parker notes that until 1967 no one had ever shown what a "Mon" flood would cost those caught in one, nor was the destruction of municipal and industrial facilities along the river ever documented.

To correct that situation, the Rowlesburg Dam Association was organized. It began to collect data on losses incurred by people and commerce when the "Mon" ran wild. Even then, it was apparent the building of the Rowlesburg Dam would have prevented most of these losses.

Support for the dam began to grow, largely through the efforts of the RDA. Detailed records were kept on damages sustained by flooding along the Cheat and the "Mon" and the association began outlining industrial and recreational benefits to be derived from the dam's construction.

In 1977, however, interest in the Rowlesburg project waned as attention shifted to the building of the Stonewall Jackson Dam on the West Fork River.

Incidentally, my office was told by a member of the corps that even in its partially completed stage the Stonewall Dam was a contributing factor in reducing losses in last month's flood. Although it will not be finished until next year, it is estimated that facility, in its current state, prevented $12 million in additional damages.

The proposed Rowlesburg Dam, it appears, was the victim of a difference of opinion over which State, West Virginia or Pennsylvania, would benefit most from its construction.

West Virginia, it was said, felt it would be losing valuable, fertile farmland and an area of natural wilderness, whereas Pennsylvania would reap the rewards of a flood controlled river. In last month's flood, however, it has been estimated that damages in West Virginia were 10 to 20 percent greater than those sustained in Pennsylvania.

Nevertheless, West Virginia's rejection of the proposal in 1977 set the stage for last month's deauthorization of the Rowlesburg project.

But I do not believe Congress has seen the last of the proposal. I understand some of those once opposed to it, after reviewing the devastating effect of last month's flood, have indicated they might now support it.

I welcome their endorsement, and anyone else's, in a new effort to have the Rowlesburg Dam placed back on the work schedule of the Corps of Engineers. I think it is clear now the dam would be of mutual benefit to both States.

Consequently, I have already initiated contact with individuals and organizations from western Pennsylvania who provided me with essential support when the dam was authorized in 1970.

The sooner steps are taken to prevent a recurrence of the misery, despair, and tragedy that took place last month along the Cheat and "Mon" Rivers, the better. And, we should keep in mind the cost involved.

Rowlesburg Dam once was estimated at a cost of $133 million; now the price tag is in the neighborhood of $394 million. The longer the delay, the more we will pay for it in dollars and cents as well as personal and property loss.

It would be presumptive of me, as a Member of Pennsylvania's congressional delegation, to propose legislation for the construction of a multi-million-dollars facility in another State but I want my colleagues from West Virginia to know that if they initiate such a bill they will have my full support, as they did in 1970.

Congress should reauthorize the Rowlesburg Dam—and build it.

CULTURAL EXCHANGE WITH THE SOVIET UNION

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. DOWNEY of New York. Mr. Speaker, I would like to bring to the attention of my colleagues House Concurrent Resolution 237, which I introduced along with Mr. JEFFORDS in support of expanded cultural exchange between the United States and the Soviet Union.

As chairman and vice chairman of the congressional arts caucus, we believe that this legislation will encourage an increased interchange of talent in the artistic disciplines between the U.S. and the U.S.S.R. and will lead to a greater mutual understanding between our two countries.

During a time when both the United States and the Soviet Union are examining methods to improve diplomatic relations, we must consider every means to facilitate peace. A better understanding of each other's culture will help to dissolve the barriers that exist between us.

The arts have a unique ability to achieve this type of understanding. Through observing the artistic expressions of cultures unlike our own, we can begin to understand our differences and realize our similarities.

In conclusion, then, Mr. Speaker, I strongly urge my colleagues to review this resolution, printed below, and to join in cosponsoring this most important legislation.

H. Con. Res. 237

Concurrent resolution supporting expanded cultural exchange between the United States and the Soviet Union

Whereas historically the arts have been recognized as a powerful expression of thoughts and feelings, a means to strengthen communication, and one of the most vital ways of understanding the human experience;

Whereas the visual arts, music, theatre, dance, and all other forms of creative expression have the ability to transcend national boundaries;

Whereas nations participating in cultural exchange gain mutual understanding which contributes to continued peaceful coexistence;

Whereas independent citizen groups across the United States have formed to promote cultural contacts between nations, particularly between the United States and the Soviet Union;

Whereas many Members of the Senate and House of Representatives have joined together in a Congressional Arts Caucus to demonstrate the importance of the arts to our Nation and the other countries of the world;

Whereas since 1981 the Congressional Art Caucus has worked to highlight America's cultural activities and the role of these activities in worldwide cooperation;

Whereas at the recently completed Geneva Summit of November 1985, the President, also recognizing the importance of artistic activity, indicated his intention to secure an increase in cultural exchange between the United States and the Soviet Union: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress strongly supports expanded cultural exchange between the United States and the Soviet Union and pledges to work with the President in strengthening such an expanded cultural exchange which will contribute to mutual cooperation and world peace.

TRUCK AND BUS SAFETY WEEK

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. ANDERSON. Mr. Speaker, as some of our colleagues may know, motor vehicle accidents involving trucks are on the rise in this country. The good news is that industry, labor, and the government are working together to address this situation. In the last few years, Congress has created the Motor Carrier Safety Assistance Program, and passed the Motor Carrier Safety Act, both aimed at assuring that truck and bus safety laws are strictly enforced.

To help foster discussion of solutions to this problem, Congressman BUD SHUSTER and I have introduced a resolution designating the week from January 26 to February 1, 1986, as "Truck and Bus Safety Week." A number of safety-related activities have already been scheduled for that week, and passage of this resolution will help stimulate others.

We know that passage of this resolution, by itself, will not significantly improve highway safety for our Nation's motoring public. But it will help call attention to the problem and get more people talking about it. And that has to help.

I hope all our colleagues will consider joining the 144 Members who have already cosponsored House Joint Resolution 445, designating the week of January 25, 1986 as "Truck and Bus Safety Week."

A list of these cosponsors follows:

Bud Shuster, James J. Howard, Gene Snyder, Nick Rahall, William Clinger, Frank Horton, J.P. Hammerschmidt, Jim Moody, James Traficant, Robert Dornan, Robert Young, Robin Tallon, Julian Dixon, Bob McEwen, Gus Savage, Dave Martin, Melvin Price, Vic Fazio, Steny Hoyer, George O'Brien.

Robert Matsui, Ron Packard, Andy Ireland, Major Owens, Norman Lent, Nancy Johnson, Steve Neal, Sherwood Boehlert, William Boner, Carroll Hubbard, Gerald Solomon, Richard Ray, Helen Delich Bentley, Jack Kemp, Barbara Boxer, James Quillen, Sala Burton, Toby Roth, Beverly Byron, Wayne Dowdy.

Thomas Carper, Albert Bustamante, Dan Lungren, Walter Jones, Newt Gingrich, John Conyers, Arlan Stangeland, Bill Hefner, Sander Levin, Austin Murphy, John Murtha, W.J. (Billy) Tauzin,, Rod Chandler, Carl Perkins, Robert Lagomarsino, James Oberstar, Sonny Callahan, William Lehman, Charles Pashayan, Peter Rodino.

Ed Jones, Earl Hutto, John Kasich, Bill Lowery, Robert Davis, Roy Rowland, Tom DeLay, Clay Shaw, Lee Hamilton, E. de la Garza, Mel Levine, Tony Coelho, Mary Rose Oakar, Bernard Dwyer, Jim Courter, Bob Edgar, Carroll Campbell, David Monson, Charles Wilson, Nicholas Mavroules.

Matthew Rinaldo, John Breaux, Bill Emerson, Joe Kolter, Rick Boucher, Tom Bevill, Tom Daschle, Douglas Applegate, Thomas Foglietta, George Brown, John Bryant, John McCain, Deal Gallo, Charles Hayes, Benjamin Gilman, Doug Bosco, Robert Borski, Peter Kostmayer, Richard Shelby, Butler Derrick.

Thomas Manton, Berkley Bedell, Charlie Rose, Manuel Lujan, Buddy Darden, Harold Volkmer, Chester Atkins, Henry Hyde, Charles Bennett, Carl Purcell, Robert Torricelli, Gerald Kleczka, Bill Schuette, Martin Olav Sabo, Henry Nowak, Herbert Bateman, Norman Mineta, Frederick Boucher, Bob Carr, Jim Olin.

Ronnie Flippo, Bill Frenzel, Walter Fauntroy, Eldon Rudd, Ron Wyden, William Dickinson, Joseph McDade, Dan Mica, Dan Daniel, Don Sundquist, Stan Parris, Alan Wheat, Bart Gordon, Louis Stokes, Don Fuqua, George Gekas, Thomas Kindness, Richard Durbin, Dan Coats, Charles Rangel, Ralph Hall, Frank Wolf, John Rowland.

NEWSPAPER'S COVERAGE OF INSURANCE CRISIS COMMENDED

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. FLORIO. Mr. Speaker, I would like to commend the Camden Courier-Post and reporter Jean Wallace for the balanced and informative coverage given to the insurance availability crisis in two articles I am here inserting in the RECORD.

Many of the points addressed in these articles are the subject of scrutiny in the hearings and investigations of the insurance crisis that my subcommittee has commenced. For example, the Courier-Post article quotes an insurance industry spokesperson as saying that insurers are looking to underwrite the least risky policies. But when does that approach become unacceptable "cream skimming," as insurance regulators call it, which may aggravate the availability crisis? That is only one of many important questions we will pursue in our subcommittee inquiry. An informed public is indispensable to our work and the Courier-Post deserves praise for a contribution to public enlightenment in the best tradition of public spirited journalism.

The articles follow:

[From the Courier-Post, Nov. 18, 1985]

PREMIUMS PUSH FIRMS, TOWNS TO TRY SELF-INSURANCE

(By Jean Wallace)

To beat the rising costs of commercial insurance, a growing number of employers are turning to do-it-yourself insurance plans.

Known as self-insurance, such programs are becoming popular among both companies and municipalities. Under the plans, employers set up in-house insurance funds to pay most of the claims—a route they contend is cheaper and more predictable than commercial policies.

"It's an idea whose time has come in this area," says Joseph Vozza, the administrator of the first group municipal self-insurance fund in New Jersey.

Started last January, the Bergen County Municipal Joint Insurance Fund provides pooled coverage for 25 towns in North Jersey. It offers a wide umbrella of coverage, including workers' compensation, general liability, motor vehicle and property insurance.

The private fund works much like commercial coverage. Twice a year, each municipality is asessed a fee based on its risks and claims history. The money is pooled and invested in interest-bearing accounts until needed to cover claims.

However, the Bergen County fund is not completely independent of commercial insurance. Some commercial coverage, known as excess insurance, also is carried to cover potentially large claims from catastrophes or large lawsuits.

"A self-insurance program is really like buying a policy with a very large deductible," explains Vozza. For example, if a borough hall burned down, the fund would pay the first $100,000, then the excess insurance would kick in, he says.

As more and more New Jersey towns confront cancellation of commercial property/liabity coverage or soaring costs, self-insurance plans may catch on. Next January, for example, a second self-insurance fund is scheduled to start for 13 townships in southern Bergen County.

Collectively, the towns will contribute about $2.2 million for their first year's budget—about $800,000 less than they would pay for equivalent commercial coverage, Vozza says.

And in South Jersey, Bellmawr Mayor Joseph Petruzzil is looking into a pooled self-insurance fund that may include Magnolia, Haddonfield and Lindenwold. Cherry Hill Mayor Maria Greenwald says the township also is studying self-insurance.

"The insurance companies are going to learn that they cannot force Cherry Hill taxpayers to pay any cost for insurance," Greenwald vows. "This is one mayor that is going to fight back."

Businesses, too, are turning to self-insurance, primarily for product liability and medical coverage. Companies with self-insurance plans include Control Data Corp. in Minneapolis, American Telephone & Telegraph Co. in New York and Squibb Corp. and Educational Testing Service (ETS), both in Princeton.

"We decided we were making our insurance company too wealthy," says Mary Jane Klansky, who started a self-funded medical plan for 2,600 ETS employees last August.

"With the money we save, we'll be able to provide more health benefits," she adds.

Savings for ETS in the first year may reach $60,000, the National Benefits Corp. estimates. The Horsham, Pa.-based company is one of a number of firms that help self-insured employers administer their plans.

"The best thing self-insurance does is to put you in control of your program," says Dennis Mulligan of National Benefits. "It puts you in the driver's seat."

Consumer advocates also approve, saying self-insured firms often are more safety-conscious than those with commercial coverage. The reason: Self-insured groups feel the impact of rising claims immediately, while commercially insured groups may not notice a problem until their premiums go up in following years.

But most important, self-insurance plans usually are cheaper than commercial coverage for several reasons:

First, self-insured groups retain their investment income—money that normally profits the commercial carrier. An added benefit: Municipalities don't pay taxes on their investment earnings.

Self-insured groups save on overhead expenses. Although most pay for professional services to compute their risks and process claims, they have no expenses for sales and marketing.

But experts warn that do-it-yourself insurance plans are not for everybody. Companies that have fewer than 200 employees may not be able to spread their risks over a large enough base, Mulligan at National Benefits says. Also, an employer with an erratic claims history probably should not self-insure.

Another drawback: Excess coverage, which is needed in virtually all self-insured plans, has become increasingly hard to find. In South Jersey, the dearth of excess coverage may prevent several self-insured plans from getting off the ground.

Insurance companies view the self-insurance trend with mixed emotions. Because the current property/casualty market is not profitable, many carriers are anxious to drop their high-risk-clients—and so are relieved to see self-insurance plans.

But when the market improves, there could be many fewer customers for commerical insurers.

"We just don't want to buy insurance in the private (commercial) market anymore," says Tom Conway, township manager in Evesham, which is looking into self-insurance. This year, the township's commercial excess liability coverage is 10 times what it was in 1984.

"Long-term, if this keeps up, I think insurance companies will work themselves right out of business." Conway says.

[From the Courier-Post, Nov. 17, 1985]

TOWNS IN BIND OVER INSURANCE COST

(By Jean Wallace)

On Aug. 1, the borough of Clayton was forced to go nude.

The Gloucester County community of 6,100 lost its general liability insurance coverage, stripping away its protection against lawsuits.

"Sure, I'm worried," says Paul Thomas, borough administrator. "If somebody gets injured on borough property, the borough would be liable. And in this day of litigation, that could be very costly."

Clayton is among the scores of towns going bare these days—that is, doing without liability insurance, which covers claims in such broad areas as pollution from municipal landfills, personal injuries on town property, car accidents caused by defective traffic signs and actions by police or other public officials.

Throughout the country, the property/casualty insurance industry is in a financial bind. The result in New Jersey is that about one-third of the state's 567 municipalities now either have no liability insurance or face cancellation of their coverage, the New Jersey State League of Municipalities, a statewide group of town and city administrators, estimates.

Moreover, as insurance carriers retrench from municipal liability coverage, they also are dropping policies or raising rates for other risky lines, including medical malpractice, day-care centers, taverns and hazardous waste contractors. (So far, personal liability insurance for homeowners has not been affected).

"Insurance, generally, is the number one problem in the state today," says state Sen. Lee Laskin, R-Camden, a member of a legislative insurance study commission. "It's a very, very serious problem."

And it's likely to deepen in January, when current liability policies for most towns expire. The result: Many communities may face higher property taxes next year to cover soaring municipal insurance rates. Other towns could be forced to lay off municipal employees or reduce services.

Similar choices could face cities across the country. In fact, a survey of 40 cities by the U.S. Conference of Mayors showed half rocked by insurance rates that had doubled in just two years. Only five of the towns reported no increase in liability insurance costs, says the Washington, D.C.-based group.

In Evesham, the excess liability premium is now 10 times what it was last year: Despite a low claims history, the cost went from $7,500 to $75,000 this year—out of a total municipal budget of $6.2 million.

And the maximum liability coverage has been cut in half by the insurance carrier to $5 million.

"It's depressing," says township manager Tom Conway. He says he worries that the added expense may prevent his growing town from hiring extra police officers and garbage collectors next year.

"It's going to put municipalities out of business," complains Cherry Hill Mayor Maria Greenwald. The township, which paid $400,000 for its total insurance this year, may face tripled costs for its coverage next year, she glumly forecasts.

In Sea Bright, the mayor and council members threatened to resign last August after the Monmouth County borough's liability insurance was cancelled. Borough officials feared they would be held personally liable for lawsuits against the municipality. Since then, Sea Bright has renewed its policy with another carrier—for a five-fold price increase.

"For public officials, going light on insurance is likened to playing Russian roulette with a Howitzer—it's a risky business," observes William Dressel, a spokesman for the New Jersey State League of Municipalities.

The problem is so serious that Gov. Thomas H. Kean in September issued an emergency order temporarily banning insurance companies from canceling their policies in the state. The ban, due to expire last Saturday, has been extended for at least 60 days. However, insurance groups have filed a lawsuit to overturn the order.

"Insurers today are looking to underwrite the least risky policies," says June Bruce of the Insurance Services Office Inc., a New York based industry advisory agency. "That simply makes the best business sense.

Yet just two years ago, insurance companies were hungry for new business—risky or not. From 1979 to 1983, underwriters competed fiercely for new policies to bring in extra premiums that the firms then invested at prevailing high interest rates.

"They were banging doors down and offering ridiculously low (premiums) to get your business," recalls James Cicalese, risk manager for Ocean County.

But when interest rates began to tumble in 1983, so did the industry's enthusiasm for offering low-priced policies. As investment income declined, many companies found they were unable to offset policy losses.

Last year, the property/casualty insurance industry lost $3.8 billion before taxes, reports the Insurance Information Institute, a Washington, D.C. industry information clearinghouse. General liability insurers were the worst losers, collectively paying out $1.51 in claims for every dollar in premiums they took in last year.

At the heart of the problem is a society obsessed with filing lawsuits, insurance officials contend. One example: In New Jersey, the number of private, civil lawsuits has risen 20 percent in the last five years, to 75,607 cases last year, according to the Administrative Office of the Courts, a state agency.

The size of court awards also has soared—creating a growing financial burden for insurance companies, industry officials complain.

"In our litigious society, Americans now seem to look on a civil lawsuit as a kind of lottery to be played whenever they can," David Rosenberg, a Philadelphia insurance broker, recently told state legislators. "These skyrocketing costs are naturally passed along to insurance policy holders in the form of higher premiums."

But a number of consumer advocates blame the insurance companies—not the public or the courts—for the industry's troubles.

"They've blamed everybody but themselves, but most of the damage they're suffering is self-inflicted," says Robert Hunter, a former federal insurance administrator who now heads the National Insurance Consumers Organization, a Washington, D.C. lobbying group.

When interest rates were high, insurance companies competed for extra business by grossly underpricing premiums, he maintains. For many companies, the result has been lower reserves and profitability.

Insurers also maintain they have been unfairly cast as the "deep pockets" in environmental cleanup efforts. In a landmark 1983 case, the New Jersey Supreme Court ruled that insurance companies were liable for $15.8 million in a Jackson Township water contamination case.

The insurance companies appealed, protesting that the pollution had occurred years before their coverage began. And though the award has since been reduced to $5.4 million, the decision convinced most insurers to shun pollution coverage in the state.

Many insurers say that in the face of such adverse court rulings, their liability risks are no longer predictable. Higher premium rates will be necessary to prepare for an uncertain future—unless the judicial system is revamped to reduce lawsuits, they contend.

The industry's recommendations include capping lawsuit awards and narrowing the liability of insurers.

Here, too, consumer advocates disagree. "Insurance companies act like judges are a bunch of hooligans who are totally out of control," says Gene Kimmelman, legislative director of the Consumer Federation of America in Washington, D.C. "I don't see any evidence that the courts are reckless or irresponsible (with respect to lawsuits)."

Resolving the insurance crisis will be a top priority for the state legislature next year, Sen. Laskin says—though specific legislative remedies are unclear.

One solution may be simply to wait a year or two. The insurance industry, much like the stock market, traditionally has profit cycles that respond to changing economic conditions. Should interest rates rise, premium costs are likely to fall as insurers—again—seek out additional business.

GENERAL ELECTRIC: WHY WE NEED TAX REFORM

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. STARK. Mr. Speaker, my office received the following document today. It explains better than I can why we so desperately need tax reform.

[From the GE Tax and Accounting Department, Dec. 12, 1985]

GENERAL ELECTRIC

In 1981, General Electric Company lobbied hard for new incentives for growth and investment. With President Reagan's assistance we got them, enough to help us avoid an otherwise crushing federal income tax burden that would have stifled our creativity over the past four years. Indeed, from 1981 through 1984, tax incentives allowed us to keep $4.5 billion in the private, growth-oriented sector of our economy—money that otherwise would have gone to feed the endless, gluttonous appetite of the big spenders in Washington.

For a while, however, the naysayers said the incentives weren't working. They said that GE was simply building up a big pile of cash, rather than investing in America's future. But this week we proved the critics wrong. Yesterday, GE put its cash to work to create jobs and enhance competition. We took our $4.5 billion in tax cuts, plus another $1.7 billion from other sources, and we bought RCA.

This is a new morning for America. No longer will GE and RCA be tearing each other down. Instead, our new cooperative venture will be able to take on the worldwide competition without pointless arguing among ourselves. Our expanded production and sales network—not to mention our new broadcast network, NBC—will be a force to be reckoned with around the globe.

As Congress reconsiders so called tax "reform," there's a crucial point to remember: we couldn't have done what we've done without incentives.

GE. We're more than lightbulbs.

A SOBER LOOK AT COUNTERTERRORISM

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. GARCIA. Mr. Speaker, the New York Times ran an editorial today on the administration's request for $54 million for counterterrorism training and hardware for Central America—excluding Nicaragua.

As the editorial rightly states, "It isn't police manuals that need changing so much as attitudes * * *." It goes on to say that unless the administration can make a better case for reinstituting counterterrorist programs—they were discontinued in 1974—then we ought to keep funds for these programs on "hold."

The Times is right on target. I urge my colleagues to read this editorial.

[From the New York Times, Dec. 16, 1985]

THE WRONG BEAT FOR AMERICAN COPS

The Reagan Administration's Central American counterterrorism bill repackages a dubious idea derived from a flawed premise. It would earmark $54 million for hardware and training for police in El Salvador, Guatemala, Honduras, Panama and Costa Rica. The hope is to turn bad cops into good cops under the tutelage of Uncle Sam.

Undeniably, Central America's police, underpaid and often overzealous, could benefit from better training. Most of the money would be spent in El Salvador, where the police are coping with a resurgence of urban terrorism. But it is naive to assume that training alone can "professionalize" police in societies where civilian authority is feeble, as in El Salvador, or nonexistent, as in Guatemala. The risk of involving the United States with police forces that are capable of torture or other atrocities far outweighs any benefit.

The risk is real. In Uruguay in the 1970's, American-trained policemen tortured leftist suspects, and guerrillas executed a U.S. adviser accused of complicity. In El Salvador last June, a American-trained SWAT team used excessive force to end a hospital strike. The attackers killed a patient and four police guards whom they failed to recognize.

No American training can overcome a failure of local authorities to control the police. Argentina's experience is instructive. "Disappearances" and torture were common when its military rulers were waging a dirty war against terrorism. But police behavior improved dramatically when an elected president took command in 1983. No special training was required to end police lawlessness.

By contrast, El Salvador's well-meaning but weak Government deals as a supplicant with security forces it only nominally controls. It isn't police manuals that need changing so much as attitudes—as happened when President Reagan finally made clear that if death-squad killings didn't cease, U.S. aid would.

In 1974, after the ugly business in Uruguay, Congress barred further aid for training foreign police. Already circumvented in El Salvador, the restriction was lifted this year. Now in the name of combatting terrorism, the Administration wants to revive police training in a whole region. Unless it can make a better case for the operation, Congress ought to keep it on hold.

GI BILL CAN BOOST ENROLLMENT, U.S. PRODUCTIVITY TOO

HON. G. V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. MONTGOMERY. Mr. Speaker, the new G.I. bill is off and running. We learned at hearings recently held by the Veterans Affairs' Subcommittee on Education, Training and Employment that high quality young people are already coming into our Armed Forces to take advantage of these new education benefits. An article in the Association of Community College Trustees [ACCT] Advisor, written by Mr. Frank Mensel, ACCT's director of Federal relations, further attests to the program's merits. According to Mr. Mensel, our nationwide system of community colleges will also be beneficiaries of the new G.I. bill. The article follows:

GI BILL CAN BOOST ENROLLMENT, U.S. PRODUCTIVITY TOO

(By Frank Mensel)

As Merrill Lynch likes to tell, predicting the future is not easy. Still, the stubborn crystal ball at this desk insists upon putting out this word:

"Get busy! The New GI Bill is going to be very big business for higher education. More so for community colleges—if they go after it.

"If a college does not already have staff making calls on the National Guard, the Reserve units and the military recruiters in its service area, it should get started. *Get Busy!*"

While many community colleges have established a veterans program office, many have not. Typically, the latter use the registrar's office to handle veterans benefits and report certification to the Veterans Administration.

However, under the New GI Bill, the veterans programs are moving into a new era on campus. The opportunities for a college education that it provides for the National Guard and Reserve members have not existed before.

"As this program gets rolling, colleges face new challenges and new complexities in serving both veterans and service personnel," said Bertie Rowland, President of the National Association of Veterans Program Administrators, who directs the veterans affairs office at California State University, Chico. Like many other schools, her university has found that veterans are better served by a separate veterans affairs office. "The veterans affairs office is operated for little more than the university would spend to routinely process VA paperwork in the registrar's office," she said.

Working with the New GI Bill is as much in the colleges' self-interest as it is in the national interest.

With fewer graduates leaving the high schools in the years ahead, higher education now must compete with industry and the military for the diminished stream of young talent. The New GI Bill offers the opportunity to minimize that competition—and to encourage students to mix these roles. If colleges are creative in their applications of the GI Bill, many students will turn out to be—if I may borrow an old affirmative action phrase—two-fers and three-fers.

Great numbers of the high school graduates, perhaps a majority, will be easily capable of handling two such roles at once—their Guard or Reserve commitment plus a full-time college load. And many will prove capable of handling all three roles at once—college, job and Guard or Reserve commitment.

If the current administration succeeds in its aims of making deep cuts in student aid, especially Pell Grants, or if the mounting deficits force Congress to hold the line on Pell Grants, the New GI Bill will become the new bulwark of college opportunities for the disadvantaged. The purchasing power of Pell Grants has slipped sharply in the last five years, and unless Congress can stabilize that purchasing power, more and more low-income high school graduates will realize that a Guard or Reserve enlistment and the GI Bill offer their first and best hope of fulfilling their college dreams.

Community colleges should persist in a vigorous assault on excessive regulation. It's wonderful that Senator Thurmond of South Carolina, the most senior Republican on the Armed Services Committee, has taken up this fight for us in S. 1207. This bill would institute the procedure in the VA of tracking the attendance of veterans in college on a credit-hour basis, thus setting aside the tracking by clock hours. Through the Joint Commission on Federal Relations, both AACJC and ACCT have pledged their vigorous support of S. 1207. We urge members to get behind it and to flood the House and Senate Veterans Affairs Committees and Armed Services Committees with letters supporting it.

If the new GI Bill increased enrollment by an average of just 100 students for each community, technical and junior college, this would increase their credit enrollment nationally be more than 2 percent.

If community college students use the GI Bill to gain the advanced skills to operate the advanced systems deployed in Guard and Reserve units, then use the same skills in careers with the industries that lead global competition in both new technology and armaments, U.S. productivity, employment and national security all will benefit. And so will the community colleges.

FUTURE LEADERS OF A FREE SOUTH AFRICA

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. RANGEL. Mr. Speaker, I rise to speak to my colleagues once again about the future of South Africa.

Many apologists for constructive engagement claim that an immediate change in the status quo in South Africa will lead to chaos. They argue that the various tribal and racial groups would fight for dominance in a postapartheid South Africa. This hypothetical war would be the result of too much freedom in too short a time.

I would like to point out, Mr. Speaker, that these apologists have completely ignored the growing reservoir of leadership which has sprung up in South Africa's freedom movement. These leaders do not speak in terms of racial or tribal confrontation. Rather, they are calling for universal franchise in a unitary state. They seek a united and democratic fatherland, not a loose confederation of squabbling fiefdoms.

To put it bluntly, Mr. Speaker, the constructive engagement apologists are once again wearing blinders.

I would like to submit the following article for submission in the CONGRESSIONAL RECORD. I urge my colleagues to read it, and to take note of the emerging leaders who will play a role in postapartheid South Africa.

[From the Washington Post, Nov. 2, 1985]

MIDWIVES OF A NEW SOUTH AFRICA

The new South Africa, if it is ever born, will not lack for leaders. A glimpse of those who might take over if the country is freed from apartheid was given at the Robert F. Kennedy Human Rights Awards at Georgetown. Two of the winners were prevented by their government from attending the ceremony.

They were vividly represented. The Rev. Allan Boesak, founder of the United Democratic Front, sent his wife, who read his acceptance speech with much spirit, and his 8-year-old son, Allan Jr. Winnie Mandela, wife of Nelson Mandela, who is serving a life term in prison, had her prize accepted by Bishop Desmond Tutu's daughter. Mpho Tutu, a U.S. college student, looks and sounds like her famous father. She referred to Winnie Mandela as "the first lady of South Africa."

The third recipient, the Rev. C.R. Beyers Naude, spoke for himself, and memorably. When Naude, scion of a preeminent Afrikaner family, was a rising star of the Dutch Reformed Church, he was spotted as a future prime minister of South Africa. But that was before he renounced apartheid, a heresy that led to his forced resignation from the ministry, and later, banning.

Naude is an orator of such force and fire that it was astonishing to hear him in Washington, where so many say so little and expect to be praised for their good judgment or at least their powerful survival instincts. If a free South Africa is seeking a prime minister of proven valor and eloquence, Naude may revive the speculations of his younger days.

He began by praising the judges for their selection of a white man (himself), the son of a black man and a white woman (Boesak) and a black women (Winnie Mandela). It was, he suggested, the kind of coalition that explains the force of resistance and the promise of a new South Africa.

Naude is nearing 70, a man with straight gray hair and a serious face. He said things that could easily cause the authorities to seize him when his plane lands back in Johannesburg.

He said of apartheid: "Such a system cannot be reformed. It has to be removed. And if it refuses to be removed, it has to be destroyed."

That could easily be reckoned as subversive by the desperate and obdurate men in South Africa, who are shooting into crowds, jailing children the age of Allan Boesak Jr. and whipping men and women in the streets.

Naude, when asked about the danger that could face him at home, said, almost jauntily, "I am aware of that, but I deliberately said it, because there is no point of going around it."

He spoke with great passion about Nelson Mandela. "As long as Nelson Mandela is forced to remain in prison, South Africa will also remain imprisoned. Only when Nelson Mandela is free will the whole of South Africa, black and white, be free."

He put America's obligation in terms stronger than our politicians dare use.

"If the U.S.A., economically the richest and militarily the most powerful nation on Earth, claims not to have the power to terminate the power of apartheid, then there is something drastically wrong either with the nature of that power or with the ability or the willingness of your country and its people to utilize such power in the service of justice.

"God has a funny way of confronting human beings and human societies at the most awkward moment of their existence of history," he told his mesmerized audience at Georgetown, "with their refusal to face up to themselves—which is exactly what God has been doing with South Africa during the last 12 months. Here is a classic example of a country which refused or delayed to face up to its situation, and now the moment of truth has arrived. The answer must be given—and white South Africa is neither ready nor able to give that answer."

But, he said, there is a solution: democracy.

Dorothy Boesak read her husband's acceptance speech, saying, "Our people have risen up from the ashes and claim with dignity and pride their rightful place in the land of our birth."

Winnie Mandela was shown on a short film, speaking somberly of the "20th-century slavery" that apartheid imposes on blacks and the miserable failure of "constructive engagement," President Reagan's way of expressing moral outrage.

The whole affair was a refutation of the concern that there is no alternative to the Botha government, with its whips and its guns. The bright, brave, eloquent people against apartheid have talent as well as a dream.

The awards were presented by Mrs. Robert F. Kennedy on the day that would have been the senator's 60th birthday.

GOV. MIKE O'CALLAGHAN—ONE OF A KIND

HON. HARRY REID

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. REID. Mr. Speaker, the chairman of the board of the Las Vegas Sun newspaper has a background of which the whole Nation should be proud. I know in Nevada we consider him one of a kind.

He served in the Marines, the Air Force, and the Army. His military career ended with the loss of one of his legs in a bunker in the mountains of Korea.

The injury ended a promising athletic career, his having had more than 100 amateur fights with but 2 losses. It caused this man, Mike O'Callaghan, to begin a career in academics. He graduated with honors from the University of Idaho, where he also received a master's degree. He has done additional graduate work at Georgetown, Claremont, and the University of Nevada, to name only a few of the schools.

O'Callaghan, thereafter, taught and worked at Basic High School in Henderson, NV, my alma mater, where I was one of his students. Later, he became chief probation officer for Clark County, State Director of Health and Welfare, regional director of the Job Corps, regional director of the Office of Emergency Preparedness, a private businessman, then, Governor of Nevada for two terms. He retired as the most popular political personality in the history of the State.

With this background, Mr. Speaker, I introduce into the CONGRESSIONAL RECORD a sample of his Las Vegas Sun "Where I Stand" columns on issues of foreign policy. A better analysis you could never find.

The columns follows:

NOVEMBER 8, 1979

I am damn well disgusted and angry enough to have every Iranian student in the United States sent home—the minute after all of our people are released from captivity.

Watching television and looking at wirephotos has irritated me beyond measure in recent days. Signs reading "Americans Get Out of Iran" and Death to Carter and the Shah" are being carried by Iranian students studying in our country. I believe they are abusing our hospitality by their extremely ill-mannered acts and open defiance of our laws and way of life.

The students who damaged America's First Lady when they occupied her last week should be prosecuted and be made to repair her and then shipped home to Iran. The hospitality our Statute of Liberty extends has been misused and she has been ravished by those who have been the beneficiaries of her light.

This shouldn't be shocking as we saw Iranian students, less than a year ago, throw rocks at Los Angeles policemen and burn cars that got in their way. Many Americans at that time requested our government come down on them. There is little evidence anything happened and therefore more recent demonstrations in New York and Washington, D.C. should have been expected.

I realize that, because of our prior displays of indecisiveness and lack of national will, we are now in a position where we must move cautiously so innocent Americans will not be slaughtered in Tehran. We must be embarrassed by a mob representing hoods hiding behind a religious facade, one which is put forth to hide real hate and jealousy of Americans. Why should they love us or anybody else when their executions have made Iranian blood run in the gutters of their country?

Yes; we must take a slapping around internationally until we get our people home. This should not include my favorite morning news show interviewing an Iranian official every morning so he can vent his spleen when discussing my country. I really don't care what he has to say and it is doubtful if many Americans really care. We do care about what his country is doing to our people that are being held in captivity.

When all Americans have finally been brought home we should close down our embassy and pack up all of our diplomatic people and bring them home also.

Economic sanctions as well as diplomatic sanctions should be imposed. By this I mean that American food and technical know how no longer be available for Iran.

If the mobs being urged on by Khomeini, kill any of our people being held hostage in the U.S. Embassy in Tehran, then they should be punished by military action . Exactly what military action will be taken should be decided by the Joint Chiefs of Staff. The action should be more than a military fly over or the moving of an aircraft carrier if we are to stop the erosion of America's pride.

The Lord knows that I dread war, and because of my personal experiences, would do anything to prevent military action. However, the time has come when we can no longer tolerate the actions of Iran either internally or externally.

We had better get their attention and the attention of the world that this nonsense has gone far enough and we will tolerate no more.

If we continue allowing Iran or any other nation to abuse our citizens we are asking for some big problems in the future. We must make clear that the United States cannot be blackmailed with oil embargoes or bullied by kidnapping our citizens.

Action now may save us from a world-wide confrontation which will cost millions of lives and mass destruction.

The iron is hot and so am I. The time to strike back is now.

NOVEMBER 15, 1979

The longshoremen have a word for it. Boycott is a two edged sword.

We should applaud President Jimmy Carter for his decisive actions in getting the attention of the fanatics trying to control the destiny of Iran under the guise of religious fervor. The followers of Ayatollah Ruhollah Khomeini have been chanting in a frenzy to frighten 60 Americans held hostage in the embassy the chanters surround. The hostages have experienced long days of anxiety and fear as they sit with their waists bound together listening to the voices calling for "death to the Americans."

Our president has moved cautiously, but firmly, not giving the mobs an excuse to kill their prisoners. He has demonstrated his high regard for human life and his compassion for the American hostages and their families here in our country.

In recent days he has reflected the feelings of Americans by telling Khomeini that we cannot be blackmailed with a threat of an oil embargo. He beat the Iranian leader to the punch by stopping all U.S. purchases of Iranian oil to prove his point. The message should be read, "American lives are more important than your damn oil."

Yesterday the president again beat Khomeini to the punch when rumbles rippling through the world financial community reached the White House. Iran was withdrawing $12 billion assets from U.S. financial institutions. The president, acting within the powers granted by the International Emergency Economic Powers Act, froze the assets of the Iranian government, the Central Bank of Iran, corporations controlled by the Iranian government, and all other government deposits.

Evidently the Iranians overestimated the value of assets they had in the U.S. by about $7 billion. The Federal Reserve Board estimates these assets total closer to $5 billion than they do $12 billion. Still, the already shaky dollar could have been struck another damaging blow if even the lesser sum were withdrawn from our financial institutions.

Particularly sweet was the detention of $775 million Iran had advanced to the U.S. for purchase of military equipment.

Iranians demonstrating within the U.S. against their host country have also received a message from the White House. The order that all of the Iranians here with a student visa must report into an Immigration and Naturalization Service office to show they meet all requirements to retain their visa got their attention.

This action has cooled down the fervor displayed by Iranian students who have been burning flags, stoning policemen and generally raising all kinds of hell in our streets. Now we are listening to them whining about being picked on and trying to compare themselves to the American-Japanese who were interned after Pearl Harbor. To even put themselves in the same class as these fine American citizens, who later distinguished themselves fighting for our flag in Italy, is laughable. There is no possible or reasonable comparison.

Nobody is holding these Iranian "students" as hostages and they are not going to be interned. They are not going to be physically harmed. If they do not qualify under law and if they have been breaking our laws, they will be sent home to join the rest of the mob in Tehran.

The next move for our country is to follow the example given by the dock workers refusing to load grain on a ship bound for Iran. Some political analysts say the Iranians have enough oil money to buy all of the food they need elsewhere and make their food purchases, if they can.

This year 75 percent of the rice, 50 percent of the wheat and about 35 percent of other grains used in Iran has been shipped in from the U.S. It is doubful if they can obtain the rice needed from any other country. Maybe, if there is a good crop, they can get some wheat from Russia.

Personally, I can care less if they have to drink their oil to survive.

President Carter deserves the support of all Americans during this period of diplomatic stress and strain. He can only be as strong as we'll allow him to be and at this time, strength and cool actions are the order of the day.

You are on the right road, Mr. President, don't stop now.

JANUARY 26, 1983

The schoolrooms were cold and overloaded with glum children repeating phrases chanted by teachers reading from a book. The children, 40 to 50 in a room, were seated in pairs on slivery benches behind crude wooden desks. The Nevadans watching the poorly clothed youngsters appeared uncomfortable as they peered through open doors and broken classroom windows.

The visiting Nevadans were not observing an isolated rural school, but were on the grounds of the Dr. Sun Yi-xian (Sun Yat-sen) Middle School near the village of the doctor's former home in South China. Our government guide took us to see the school after much bragging about the facility. The broken windows, filthy floors, poor lighting and coldness shocked the visitors.

The shock was intensified because our group of Nevadans had finished a stay of one week on Taiwan only four days earlier. The school children of Taiwan were well-clothed, happy and the school atmosphere was pleasant and productive. The people of the Republic of China have thrown their full support behind the educational system in Taiwan. It is evident the Communists running Red China don't have the same values and the children of South China are suffering from this neglect.

Vivienne Morris, a member of the Nevada State Board of Education and a former teacher, was visibly upset with the school visit. She and Bill, her husband, had spend several days in North China two years ago and had not been subjected to the conditions we observed in South China. Vivienne's concern for school children of all races was badly bruised by what she saw at the Dr. Sun Yi-xian Middle School.

During our swing into mainland China other mental comparisons between the Republic of China (Taiwan) and the Peoples Republic of China (mainland China) were made by the visitors. Five years ago Carolyn, my wife, and I had spent time visiting several excellent farms on Taiwan. During our most recent trip, we were allowed to visit a farm village on the mainland. Walking through the cold and dirty shacks last week, where the elderly and very young wandered aimlessly, we wondered why we were even allowed to visit the village.

Was this the best they had to offer? Our guide beamed and smiled as he told us of the revolution and gave us permission to ask questions of the people who could understand little English and we even less Chinese. What our eyes saw was enough to surpass anything we could express with written or spoken language. It's little wonder that Taiwan's farms are producing an abundance of food products and the mainland, like Russia, struggles from one crop to the next.

The stores in the villages and towns of South China relate an even more telling story. The few electronic products offered for sale are seldom bought and the food products are inferior. The stores and markets in Hong Kong and Taiwan are loaded with fresh, delicious pastry and succulent fruits. The pears, oranges, grapes, papayas, mangos, bananas and apples gracing the shelves are of the highest quality on the free world markets. The fruit for sale in Red China are the culls left over for the people and the food fruit is shipped to Hong Kong for sale on the free market.

As our bus bounced along a narrow country road toward a hot springs spa for lunch, I wondered how long the government could keep the people from realizing their plight. The fancy restaurant at the spa had several tourists as guests, but no local farmers or any of the numerous soldiers seen along the road were dining in the facility. Soon a fancy resort hotel, near the border separating Macau from China, will be completed. It is being built for tourists so the government can bring more foreign currency into the Communist economy. So it shouldn't be too long before the Chinese people on the mainland can see the difference between how the government treats them as compared to the treatment given to foreigners with money. Some day the roof will come off unless the Communists change some of the military and economic policies.

The Republic of China on Taiwan should do everything possible to encourage foreign visitors to extend their tours into mainland China. The contrast between the two countries is almost unbelievable. There is little equal comparison between the two Chinas as the social and economic progress of free China far outstrips even the wildest dreams of even the most optimistic communist.

The only thing the two countries have in common is that both are populated with Chinese people. It would be a shameful disaster if U.S. foreign policy would eventually result in the 18 million Chinese people on Taiwan being forced under the Red curtain covering the mainland.

OCTOBER 27, 1983

What should we do with the 30 Russians captured in Grenada?

Attorney Evan Wallach, a combat grunt in Vietnam, tells us to "send them home aboard Korean Airlines."

Good thinking Evan, you sound like an excellent replacement for Cap Weinberger as Secretary of Defense.

Infantry soldiers and Marines learn in boot camp the necessity of taking the high ground in combat. Let's hope the Beirut massacre has taught the same lesson to the people making U.S. decisions in Lebanon.

If we don't want U.S. Marines in the mountains surrounding Beirut, we should at least make the high ground unliveable for the troops operating from their haven in the hills. If our men are to remain there, our leaders should allow military men—not political appointees or State Department diplomats—to make military decisions.

Washington decision-makers have been warned privately and publicly during recent months about our men being in positions they cannot properly defend. Now it is evident that those were legitimate and sensible warning. Why did so many men have to die to bring about what we hope is corrective military action?

Now, however, is not the time to point fingers and blame President Reagan for the deaths of our fighting men in Lebanon. Democrats will tell you that the Republicans took unfair advantage of Lyndon Johnson's actions in Vietnam to get Nixon elected in 1968. Some will also remind you that Reagan campaigners blamed Carter for the aborted attempt to rescue the Americans held prisoner by Iran. Admittedly those political charges were actions of self-serving political hacks, but there is no need to drag out the same snipers to fire on our present president.

Now is the time for all Americans to act calmly and support our highest-elected official. Political charges and emotional cries should not be allowed to blot out the voice of President Reagan as he speaks on foreign affairs. More than one voice will only clutter up his message and eventually the world will not know where we stand on important issues.

Misunderstanding in the age of sophisticated nuclear weapons and delivery systems can result in the destruction of our entire civilization.

April 22, 1985

Once a Marine always a Marine. The pastor of St. Anne's parish showed his colors 10 years ago in Vietnam, according to Newsweek's special edition on "The Legacy of Vietnam." Father John McVeigh was then head of the Catholic Relief Service in Vietnam when the disorderly scramble to leave the country was underway.

Thousands of friendly Vietnamese were being left behind to be slaughtered by the Viet Cong. Gen. Brent Scowcroft, the top aid for Henry Kissinger, cabled Ambassador Graham Martin; "Should insure that all, rept. all, Americans are evacuated in this operation ASAP." According to Newsweek, Martin wired back: "Among Americans here is Father McVeigh, head of the Catholic Relief Service, who will not leave without his Vietnamese staff . . . How will the president explain to . . . Cardinal Cooke, Father McVeigh's great and good friend, why I left him?"

McVeigh's staff faced double jeopardy with a communist takeover. Being friendly to Americans was bad enough and being Catholic added to their problems. However, the Marine chaplin surfaced in the Irish priest who stayed to take his staff with him during the final hours of American presence in Saigon.

Marines never leave behind their living, dead or wounded buddies.

September 13, 1985

The syrupy female voice echoed across the valley that runs in front of Old Baldy, Pork Chop and T-Bone hills, It had the same sweetness and luring qualities of the voices heard long ago, only this time the message was in Korean and not English as it was in the 1950s.

Republic of Korea combat leader Colonel Jeung only grunted "propaganda" when I asked what she was telling his troops dug in on the hills facing North Korea.

I couldn't understand what the luring voice was saying in August, 1985, but 33 years ago a similar voice told us to come over and join her and her friends. Sometimes the loudspeaker would suddenly break the deadly silence of night with music and then the voice would tell one of us she had our mail from home. Other nights she would be more threatening and tell us it was a shame that we were going to die for a useless cause. This was usually followed by mortar shelling and sometimes by an infantry probe of our outpost.

Standing with the ROK soldiers looking directly down on the hill we called Pork Chop was irritating because it is now held by the North Koreans. The outline of a North Korean soldier was easily picked up as I gazed through the binoculars. Old Baldy and T-Bone, other hills where barrels of American blood were shed in the 1950s, are also in the hands of the enemy. One thing remains the same; the South Korean troops know that the men across from them are still the enemy. It is not a peaceful place for either Americans of the U.S. Second Division or their ROK comrades.

The steep hills are now covered with green foliage and most of the war's scars are covered with trees and brush. However, the slopes running off the hills are scraped bare so the troops can watch for possible infiltrators and if fighting breaks out they will have clear fields for firing their automatic weapons. During the winter months the snow covered hills are easy to scan for tracks of enemy infiltrators.

The north sides of the hills held by the Americans and ROK soldiers are covered with razor-sharp wire and a deep ditch runs along the forward slope. Also powerful spotlights, which flash on sporadically at night, face the North Koreans. The reverse slopes of the outposts have large orange panels to warn our airplanes not to fly north or they will come under fire. Also snuggled comfortably in pits by the orange panels are mortars in case they are needed.

Early in the morning Carolyn, my wife, neighbor George Brookman, cousin Bill Biesanz and I had met with U.S. Army Major Ernie Comer and ROK Col. Han Doo Sik at Camp Red Cloud near Uijongbu. Both men are key members of the ROK-US Combined Field Army who agreed to escort us to the demilitarized zone (DMZ) better known as "The Z" by Second Division troops. We were joined by Capt. Cynthia Kaywell and Lt. Col. Ken Okimoto, both reservists from Hawaii on active duty.

Camp Red Cloud is close to the 43rd MASH where I was patched up one time. It became known to world television viewers as the 4077th MASH. Probably the only realistic thing about the television series is the gap in the mountains the helicopter flies through at the beginning of every show. The gap in the mountains is still there but the old MASH is now home for a ROK army unit.

It was the first day of school for Korean youngsters and they waved to us as we headed for the DMZ in a military van. We stopped in a small village for a highly spiced Korean lunch at a small house we entered from an alley. Col. Han and Major Comer know the area well and were greeted with open arms.

The road out of the village took us through military activities which included live heavy artillery fire landing in the mountains. We soon left the paved road at a bridge where babies were being bathed in the river and people were working the fields. The rice fields, to be harvested in about four more weeks, should produce bumper crops. The already harvested red peppers were drying on the side of the dusty road.

Soon we were on the road winding behind the DMZ and it was necessary to transfer into ROK jeeps for the climb up to the outpost overlooking Pork Chop. Yes, the hills and mountains of Korea are just as steep as I remembered from the months spent climbing them during hot and steamy monsoon rains and bitter cold winter months.

The ROK troops of Col. Yeung are in top physical condition and according to Col. Han and Major Comer, they have the same tough mental attitude. I feel good about them and am happy they are our friends. They certainly proved it by joining us in Vietnam and sending crack troops there to fight.

Standing on the towering hill and looking down at the North Koreans on Pork Chop made me wonder if all of the blood shed for these hills was worth the end results. The names Estrada, Skipper, Vennecucci, King, Cunningham and Brown flashed through my mind. They are all dead and the North Koreans are sitting on the hills where these men died more than thirty years ago.

Then I recalled the happy children on their way to school, the little babies being bathed in the river, rice paddies ready to be harvested, red peppers drying by the road side and the people working the fields. It's a damn shame it took so many good lives to prove a point in an imperfect world which as a whole really hasn't changed that much.

I am happy that I had the opportunity to be in Korea when it counted. My return visit has convinced me that at least one small part of the world benefitted from the presence of Americans more than thirty years ago. If only Estrada, Skipper, Vennecucci, King, Cunningham, Brown and the other thousands who died could still be here to enjoy the fruits of their work and suffering.

December 9, 1985

Received a couple of letters letting me know that not everybody has forgotten the Korean Conflict. Lew Conant of Las Vegas, representing the Society of the Third Infantry Division, wants support for memorializing of his division. The "Rock of the Marne" Division did an excellent job in both world wars and Korea.

Having served in combat with the 38th "Rock of the Marne" Regiment in the Second Infantry Division helped me understand Conant's feeling. Our regiment prior to Korea was part of the old Third Division. Incidentally, the Second Infantry Division is still on the line in Korea.

Jerry Eitner of Kaysville, Utah, reminds me that the "Chosin Few" will commemorate their 35th anniversary in San Diego this month. He expects about 1,000 survivors of the battle at the Chosin Reservoir to attend the reunion. It was in December of 1950 when 15,000 allied ground troops battled 120,000 Chinese in below zero weather in North Korea.

Korea has been termed the forgotten war. Eitner said, but he points out that more than 54,000 Americans died during that three year war. He adds that 8,177 Americans are still listed as missing in action, compared to the 2,485 MIAs of Vietnam and 4,512 of WWI.

That's the battle which resulted in Marine Maj. Gen. Oliver P. Smith saying, "Retreat, hell! We're just attacking in a different direction."

TRIBUTE TO TOMMY WINEBRENNER

SPEECH OF

HON. DAN LUNGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. LUNGREN. Mr. Speaker, this evening I would like to salute Tommy Winebrenner, a stalwart and essential servant of this Chamber for over three decades. As minority doorkeeper, Tommy has kept Members of this body apprised of scheduling, debates, and votes amidst the most severe confusion—a state that frequently prevails in the House.

After serving as a page for Majority Leader Charlie Halleck, Tommy worked for 5 years as a telephone clerk in the House Republican Cloakroom, for 4 years as an assistant manager of that same Cloakroom, and then for 12 years as minority postmaster. He was elected by acclamation as the minority doorkeeper in 1975.

Tommy is very well-liked, and with good reason. A member of the Marine Corps Reserves for 6 years, he has displayed large amounts of civic and community spirit. He is chairman of the administrative board and council on ministries for the Aldersgate United Methodist Church in Alexandria. And he is an umpire and referee in the Fort Hunt Youth Athletic Association baseball and basketball leagues.

In the House, Tommy is conscientious, energetic, and always well-informed. He keeps this Chamber in operation by assisting both Democrats and Republicans with their responsibilities. In a time when Congress is constantly criticized, Tommy Winebrenner is a source of pride for his colleagues and the Members of Congress. I'm delighted to commend him for his many years of service.

MOROCCO, FRIEND OF THE UNITED STATES

HON. CHARLES WILSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. WILSON. Mr. Speaker, I would like to take this opportunity to bring to the attention of my colleagues the contribution made to United States worldwide strength and security by one of our oldest friends, the Kingdom of Morocco.

Morocco and its people have been a friend and ally of the United States for two centuries—in fact, Morocco was one of the first countries to extend the hand of recognition and friendship to the fledgling Republic at its birth.

Since that time, the ties between Morocco and the United States have grown and deepened to the point where Morocco now constitutes one of our most valuable strategic assets in the North African/Middle East region.

In fact, Mr. Speaker, the calm and steady nature of United States-Moroccan friendship has sometimes led the United States to take this old friend somewhat for granted. For example, I am willing to bet that not many of my colleagues realize the extent and variety of the military cooperation which we currently have with Morocco—a total of 30 joint military maneuvers scheduled for 1985 alone. That is the largest program we have with any country bordering the Mediterranean—and I don't have to remind my colleagues that several NATO countries border that sea.

The importance of this kind of cooperation is all too evident when one looks at a map; Morocco holds the key to the Straits of Gibraltar and is crucial to the security of the Western Atlantic approaches to the Mediterranean. Its location in the northwest part of Africa has often proved critical to Western efforts to assist friendly governments in Africa, such as Zaire.

Morocco has also proved to be an important player in United States efforts to reach a peaceful solution to the Arab-Israeli conflict. How many of us are aware that His Majesty King Hassan was a key intermediary in the first contacts between Egypt and Israel, resulting in the signing of the Camp David accords in 1979? The service which the Kingdom of Morocco has provided to the United States has been sustained over many years, but perhaps because His Majesty King Hassan prefers a low-key style, the United States often fails to adequately appreciate Morocco's efforts.

Mr. Speaker, we are all extremely conscious of the effects of the Federal spending reductions on the lives of the American people. I think we owe it to them to ensure that the money which is sent overseas as foreign aid goes to those countries which are in need of it and have proven themselves true friends of the United States. Too often we extend aid to governments which are known to be uncooperative and even hostile to the policies of the United States. We cannot afford to do that any longer.

As a superpower, America has worldwide political and economic interests which must be protected. It is my hope that when the administration and the Congress look at these interests next year, in preparation for a new foreign aid budget, they will realize that a long-time friend and ally such as the Kingdom of Morocco is deserving of more substantive recognition and support, and will increase Morocco's foreign aid levels.

The preservation of our national security depends on a more realistic and pragmatic vision of where our interests lie and who our friends are in the world. In my opinion, Morocco has shown itself to be a stable and steady friend of the United States, as well as a proud and independent nation—traits which we have found to be in scarce supply in that turbulent and critical part of the world. I would hope that my colleagues will join me in an effort next year to increase our aid to Morocco, to demonstrate to our friend and to the rest of the world that the United States stands by its friends and rewards them for their contribution to United States national security.

FORTIETH ANNIVERSARY OF THE BLEIBURG TRAGEDY

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Ms. OAKAR. Mr. Speaker, in 1985, we observed many 40-year anniversary commemorations of the end of World War II. We had an opportunity to ponder the horrible tragedy and remember its millions upon millions of victims. In my own city of Cleveland, the Croatian community organized a Joint Committee of Croatian-American organizations to observe the 40th anniversary of the Bleiburg-Maribor tragedy, a little-known catastrophe that claimed hundreds of thousands of victims. On Sunday, May 26, 1985 a memorial mass was celebrated for the war dead at St. Paul's Roman Catholic Church in Cleveland. A commemorative program was held afterward.

The history of Yugoslavia during World War II is very complex. It is also very cruel. Tragically, the cruelty did not end with the war's finish. During the war, different nationalities and ideological groups vied for power in Yugoslavia or struggled for national independence. As the war came to an end, the communists under Tito emerged as the victors. That meant that whole sections of the population who had opposed Tito were doomed to punishment. One of Tito's closes aides, Milovan Djilas, wrote in his book Wartime that people were held "guilty not necessarily of having done something, but simply of having belonged to something * * * OZNA, the secret police, was methodically tracking them down, spreading its dragnet, conducting arrests and executions."

An enormous flood of terrified refugees fled over the border into Italy and Austria. These included several hundred thousand Croatian soldiers and civilians. In May 1945, these refugees made contact with the British Army at the quiet Austrian village of Bleiburg, hoping to win sanctuary. Instead, they were disarmed and on May 16 escorted back across the border into Yugoslavia, where Tito's forces were waiting for them. According to accounts, the first groups were fired upon and massacred.

Other contingents of soldiers and refugees who had surrendered to the British were also extradited back to Yugoslavia in railway cars and military vehicles. Still others were forced to march across Yugoslavia. Eyewitness accounts that have been compiled, relate unspeakable cruelty and suffering. Croatian scholars in the West estimate that a quarter of a million Croatians died in the massacres, death marches and concentration camps. For Croatians, the quiet village of Bleiburg is now associated with tragedy and death.

Last week, the House of Representatives debated the resolution to commemorate man's inhumanity to man. Unhappily, the history of our century has too many examples of man's inhumanity to man. The Bleiburg tragedy is yet another example of how cruel people can be to one another. It is yet another reason to rededicate ourselves to the cause of peace and human rights. Mankind, which is capable of great creativity and good, can also perpetrate enormous destruction and suffering. Let us resolve to harness the dark side of human nature and assert our compassion, cooperation and tolerance of one another so that man's inhumanity to man, while a painful memory, will serve as a lesson to guide us toward a more humane and peaceful future.

INTERNATIONAL HUMAN RIGHTS DAY

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. WAXMAN. Mr. Speaker, I would like to join my colleagues in celebrating International Human Rights Day. This day commemorates the signing of the Universal Declaration on Human Rights in 1948 and honors the numerous men and women who have fought, and are still fighting, for fundamental human rights around the world.

Emerging from the horrors of World War II, the Universal Declaration of Human Rights was the first document to spell out the need for basic understandings on human rights held by all the peoples of this world. In terms of world history, the concept of human rights is a new and radical one. Thus, many governments still do not honor what we consider to be essential human rights. We must work hard to keep the struggle for human rights alive in these nations by supporting the countless people who have suffered because of their firm beliefs in human rights, and by never ceasing our pressure on their governments to honor their rights. We must speak out for these people and for those who insist that their countries be held accountable for human rights.

An individual story will underscore the importance of our struggle: The case of Mr. Yosef Berenshtein. Mr. Berenshtein is a Hewbrew teacher from Kiev who was falsely accused and charged within this past year. After being unjustly charged, he was sentenced to 4 years in a labor camp. While in the camp, he was subjected to a tremendous amount of physical burtality by other inmates; his eyes were severely injured and as a result became infected. Had it not been for the support of many voices in the West, including many in Congress, Mr. Berenshtein would never have been allowed to leave prison to receive the medical attention he so critically needed.

By committing ourselves, on a consistent, long-term basis, we can help make a difference in the worldwide struggle for human rights. I want to say today that I have made this commitment and will continue to uphold it in the coming years.

GRAIN EMBARGO CLAIMS

HON. VIRGINIA SMITH

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mrs. SMITH of Nebraska. Mr. Speaker, confusion has recently been generated in my State and across the Nation regarding the provisions of a law passed by the 96th Congress Public Law 96–494.

Apparently misleading information is currently being disseminated in many farm areas that this legislation, which was enacted on December 3, 1980, provides for reimbursement of losses incurred by grain farmers as a result of the 1980 grain embargo.

President Carter's 1980 grain embargo against the Soviet Union most certainly had a damaging impact on the American agricultural economy. In fact, the Department of Agriculture's Economic Research Service is in the midst of a study of the extent of this damage. While I support this study, I am concerned about the information currently being disseminated that legislation passed in 1980, Public Law 96–494, contains provisions allowing grain farmers hurt by the embargo to make damage claims to the Federal Government.

Mail reaching my office and those of other members of Congress has referred to a form 95 that would be used in filing these claims for alleged grain market damages. The basis for filing is cited as Public Law 96–494, signed into law on December 3, 1980.

The Department of Agriculture has reported that form 95 has no relationship whatsoever to embargo claims. Title II, section 406 of the cited law is the basis for claiming these refunds. Yet this section of the law specifically exempts grains from any potential claims. The full text of the section follows:

> Notwithstanding any other provision of law, the Secretary of Agriculture may use, subject to such terms and conditions as the Secretary may deem appropriate, the funds, facilitates, and authorities of the Commodity Credit Corporation in purchasing and handling agricultural products, other than grains, that (1) were intended to be exported to the Union of Soviet Socialist Republics under contracts entered into prior to January 5, 1980, but (2) cannot be exported under such contracts due to the imposition, on January 4, 1980, of restrictions on the export of agricultural products to the Union of Soviet Socialist Republics in the same manner and under the same conditions as the Secretary purchases and handles grains under similar contracts and subject to the imposition of the same restrictions.

Policymakers had taken action to attempt to ease the impact of the embargo prior to enactment of this law. President Carter directed then-Secretary Robert Bergland to use existng discretionary authority to stabilize commodity prices. Several actions were taken, including the purchase of export contract rights with respect to embargoed wheat, corn, soybeans, and soybean products.

Provisions of Public Law 96–494 included higher price support loans under the farm-owned grain reserve available to producers of 1980 and 1981 crops of wheat and feed grains. Secretary of Agriculture Bergland offered these higher support rates to producers on December 3, 1980.

Subsequent action took place under the provisions of Public Law 98–181, passed by the Congress in 1983. Section 2002 of this law authorized the Commodity Credit Corporation (CCC) to pay losses, if any, incurred by exporters of frozen hog carcasses and frozen broilers whose contract shipments had been suspended by the embargo. Final settlement has been made by the CCC on all such claims.

I do not feel that these actions were adequate to compensate grain producers for losses incurred as a result of this policy disaster. However, these were the actions taken by policymakers at that time, and no further direct compensation is available to grain producers under this legislation at this time.

CONGRESSMAN GILMAN IN TRIBUTE TO MARTIN LUTHER KING DAY

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 4, 1985

Mr. GILMAN. Mr. Speaker, on January 20, 1986, for the first time, Martin Luther King, Jr.'s birthday will be celebrated as a national holiday. It is not the first time, however, that a man has voiced a dream; a dream of ending racial inequality, a dream of affecting nonviolent social change. Dr. King's work echoes the efforts of so many black leaders who, through their struggles, may have gained popularity, infamy, or a combination of both. Consider Harriet Tubman, the escaped slave who risked death by returning to the South again and again, leading hundreds of slaves to freedom, or Frederick Douglass, the great abolitionist statesman, or, as a modern example of leadership Bishop Desmond Tutu. The setting may change from year to year, but the struggles and dreams go on. Honoring Martin Luther King, Jr., is a symbolic occasion . . . a day commemorating all these heroes from the past and the courageous men and women of today who have dedicated their lives to the battle against bigotry, injustice and, immorality.

Let us take a moment to put this symbolic occasion into the context of the American civil rights movement.

Martin Luther King, Jr., was born in 1929 in Atlanta, GA, to the son of a former slave. In a country that professed equality of rights for all men, most black Americans only knew the reality of segregation. Inequalities in employment opportunities, and physical separation from the American white population, was the unwritten law of the land. It was in this racial context that Martin Luther King, Jr., first set out in 1955 to "rewrite" the written and spoken word of racism.

When in 1955 a black woman named Rosa Parks was told to move to the back of the bus in Atlanta, GA, she said "No." Martin Luther, then a young minister in a local Baptist church, organized a boycott of the bus company. Within 6 months, the courts ruled that the segregation of public transportation unconstitutional.

This was only the beginning of a series of boycotts, rallies, and marches which eventually earned for Dr. King, in 1964, one of the world's highest honors, the Nobel Peace Prize. Nonviolent social change was Martin Luther's legacy. He knew in America that the most effective use of political power came through the revolution of values, not through any arm-twisting or bloodshed. Although, ironically, Dr. King's life was marked by many instances of violent opposition to his ideas and lead ultimately to his untimely death, the power of his words and deeds have been translated into concrete laws. The Civil Rights Act of 1964 guarantees all Americans equal use of public accommodations and employment opportunities based on merit, not on color. The Voting Rights Act of 1965 gave permanent voting rights to black Americans. Now it is the black American who is shaping those laws on which he previously was not even able to vote.

But maybe even more important than the laws, are the values which Martin Luther King, Jr., preached that have so deeply touched our lives: The commitment to fighting for quality education, for housing and jobs deserved by men and women of all color. It is not difficult to see how the demonstrations in Birmingham, AL, the freedom rides, and the legal battles in the courts were carried out in the name of true freedom and equality for all. As Dr. King so eloquently put it:

> The needs of 20 million Negros are not truly separable from those of nearly 200 million whites and Negros in America, all of whom will benefit from a color-blind land of plenty.

And if these words ring true for Americans, it is not difficult to see how these words apply to all those presently engaged in the struggle for equal treatment throughout the world. The South African crisis comes to mind when one thinks of social unrest and blatant segregation. Do not Dr. King's words ring true in this instance as do his principles and values time and time again?

And now we have before us a chance to rededicate ourselves to the dream of equal rights. By setting aside a special day, we will be reminded of the progress which we have made in attaining racial equality since the tumultuous days of the 1950's and 1960's and be able to recommit ourselves yearly to ensuring that Dr. King's dream becomes a permanent and worldwide reality. By setting aside this special day, we will be expressing the hope of creating a more just world—a world that rids itself of discrimination and which affects social change through nonviolent means.

Accordingly, Mr. Speaker, I urge my colleagues and all citizens to join in appropriate ceremonies and celebrations marking January 30, 1985 as the first national Martin Luther King holiday.

JUDAICA HIGH SCHOOL OF NORTH BROWARD, FL, PRESSES PRESIDENT REAGAN ON HUMAN RIGHTS ISSUES

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. SMITH of Florida. Mr. Speaker, today I rise to salute the energetic effort of the students of Judaica High School of Broward County, FL, in their project to petition President Reagan on behalf of religious freedom in the Soviet Union.

These high school students wrote the President:

> Whereas, November 10, 1985, marks the tenth anniversary of United Nations Resolution 3379 which declares that zionism is racism; and Whereas, President Reagan will be meeting with Soviet Premier Mikhail Gorbachev; Whereas, it is necessary for us as Jews to take action and make issues such as Soviet Jewry a prime concern of President Reagan; Therefore, on this 12th day of November, 1985, the Judaica High School of North Broward, FL, hereby proclaims November 10, 1985, to December 10, 1985, Social Action Month.

As members of the next generation, these young adults wanted to express their concern that peace without human rights is a meaningless peace. It pleases me to see young people involved in such a timely issue of world concern. Efforts like those of the Judaica High School are very important in keeping the spotlight of public attention on the human rights violations of the Soviet Union. Only through constant pressure will the Soviet Union change its treatment of Soviet Jews. I commend these students and encourage them to continue their efforts on behalf of the Jews and other persecuted minorities of the Soviet Union.

I will continue to speak out so that one day Soviet Jews will have the fundamental rights that all human beings enjoy.

STEEL EXPORT PROTECTION BILL INTRODUCED

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. FRENZEL. Mr. Speaker, today Congressman Jim Jones and I have introduced H.R. 3939, the Oil Country Tubular Goods Export Protection Act. The intent of this bill is to permit U.S. processors of oil country tubular goods [OCTG] to remain competitive in the international marketplace.

Mr. Speaker, many of the bilateral arrangements on steel products have had the unfortunate effect of limiting the importation of pipe and tube products that are finished here in the United States for export. Quantitative limitations on steel products, while attempting to save some U.S. steel jobs, have only eliminated jobs in other sectors of the U.S. steel industry by reducing the ability of steel processors to realize their full market potential abroad. Processors with whom I am familiar supply 50 to 60 percent or more U.S. value added during the finishing process, which gives them the potential of creating many new jobs in the steel industry.

While it is true that some of these pipe and tube products are available from U.S. manufacturers, they are often not available at prices that would ensure the international competitiveness of the U.S. processor. If my bill does not pass, U.S. processors cannot purchase U.S. product; they will just lose sales abroad. They must have low-cost inputs to compete with low-priced OCTG of other nations.

The current pipe and tube quantitative restrictions do not supply the quantity of products needed by U.S. processors to survive. Restrictions have already cost U.S. processors millions of dollars in lost business and jobs.

As a result, my bill would exempt casing, tubing, drill pipe or line pipe used to process oil country tubular goods from any quantitative limitations established under any of our bilateral steel arrangements. These materials must be entered under temporary import bond [TIB], certified by the selling country to be exported into the United States only for processing into goods to be subsequently exported. Upon importation into the United States, importers, in addition to posting the bond and presenting the certification from the exporting country, must give Customs information regarding how the unfinished product will be processed and when the finished goods will be exported. If the U.S. processor does not export the finished product within the 1-year deadline of the TIB, he or she will be penalized by an amount twice the FOB value of the imported merchandise. As under the current TIB, Customs may grant an extension of the bond to a maximum of 3 years if the bond holder can prove the need for an extension.

TIB's are normally held for twice the value of the estimated duty owed on the merchandise. My bill would increase the bond value to twice the FOB value of the goods. Therefore, if the terms of the bond were in default and any imports were to enter the domestic economic commerce of the United States, the resulting stiff penalty will ensure that the finished product could not undersell any domestic product.

Because of that likelihood, it is my expectation that all pipe and tube entered under this bill actually be exported and not directly compete with domestic product.

I urge my colleagues to support this bill which I believe will create many jobs in the steel industry.

COMMITTEE FOR MIGRATION

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. MOAKLEY. Mr. Speaker, there is a program in El Salvador, operated by the Intergovernmental Committee for Migration [ICM], which has received frequent mention of late within the context of the consideration of my Salvadoran refugee protection bill, H.R. 822. I think my colleagues should be given the facts about this program, as I think the significance of ICM's efforts in El Salvador is being misrepresented or misunderstood. There are some who argue, inaccurately, that ICM performs a protection function in El Salvador and that this has obviated the need for temporary protections proposed in my legislation. This could not be farther from the truth.

ICM is under contract to the U.S. Department of State to provide limited assistance and monitoring to Salvadorans returned from the United States to El Salvador. However valuable the ICM's services may be to returnees, theirs is not a protection program, nor are the program's findings conclusive as to the fates of Salvadoran returnees. ICM itself has commented, in a statement describing the monitoring functions of the program, that its contacts with returnees are based on voluntary reporting and do not represent a scientific data base upon which to construct definitive analyses of situations of returnees after a period of resettlement.

Why is this not a protection program?

First, it in no way alters the fundamental fact of violence in El Salvador. An estimated 50,000 civilians—innocent bystanders—have been killed in the 5-year-old civil war. Those 300–400 Salvadorans we return to El Salvador each month, as they endeavor once again to mix with the general Salvadoran population, have every prospect of meeting the same fate as those 50,000. The chance of returnees encountering a guerrilla ambush, a Salvadoran Air Force bombing raid, a death squad bullet, or a guerrilla conscription team are equally great whether or not they are participants in the ICM program.

Second, ICM is unable to follow up with almost half of those returned. This is due to several factors. Some returnees elect not to participate in the program. Others deliberately provide ICM with false addresses. Still others reside in conflict zones largely inaccessible to ICM staff.

Finally, ICM is not a refugee protection organization. Its considerable competence lies in its logistical assistance to refugees and immigrants around the world and in its various educational and assistance programs. It does not have an internationally recognized protection mandate, nor does it possess an accumulated body of experience in this area. I would think that both would be required of any organization working in the very fragile Salvadoran atmosphere.

You should know that ICM, on behalf of the State Department, does perform some potentially valuable services to those our Government returns to El Salvador. It provides inland transportation, temporary national ID cards (a necessity in El Salvador), initial food and lodging, and other services. ICM monitors the progress of many returnees through the Salvadoran postal system through a series of questionnaires which returnees are requested to mail to ICM on a periodic basis to inform ICM of their well-being. Other returnees receive direct followup by ICM or ICM-contract staff.

Since the ICM program began in December 1984, 22 Salvadoran participants in the program have requested ICM assistance with resettlement outside El Salvador. These 22 have stated that they have had "security problems" upon their return to El Salvador and felt it unsafe to remain in their homeland.

Mr. Speaker, I wish to reiterate that it is the general condition of violence and civil strife in El Salvador that justifies a stay of deportation for those Salvadorans fearing return to their homeland at this time. While I urge my colleagues to respect the humanitarian aspects of the ICM program in El Salvador, the program should be recognized as bearing little or no relationship to the issue of protection.

DR. DENNIS R. WYANT

HON. G. V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. MONTGOMERY. Mr. Speaker, it is with great pleasure that I bring to the attention of the Members of this body the remarkable achievements of a man who, though faced with tremendous adversity, has successfully dedicated himself and his talents to improving the condition of his fellow man.

On December 7, Dr. Dennis R. Wyant, Director of the Veterans' Administration's Vocational Rehabilitation and Counseling Service, received the outstanding alumni achievement award from the Wright State University Alumni Association.

Wright State's director of alumni affairs, James Dock, made the following comments upon presenting the award to Dennis during midyear commencement ceremonies:

> His quick but well-deserved rise to the top of his profession not only serves as encouragement to us but also represents all that is good in a loving, caring person. The WSU Alumni Association is proud of Dr. Wyant, a man most deserving of our highest award.

Mr. Speaker, the members of the Veterans' Affairs Committee share in that pride for Dennis Wyant's achievements. He is a good friend, a trusted adviser, and a successful administrator of our programs that provide training and employment assistance for disabled veterans.

Dennis' enthusiasm and energy are inspirational. He is an explorer, constantly looking for new and better ways to get the disabled back into the working mainstream. In the process, he is giving thousands of disabled veterans the opportunity to overcome their handicaps and disabilities, to fight back, and to remain productive.

Dennis' expertise in this endeavor was displayed long before he signed on with the VA, however. He served as Deputy Assistant Secretary for Veterans Employment at the Department of Labor and on the staff for the President's Committee on Employment of the Handicapped. He was also the national field service director of the Blinded Veterans' Association.

Dennis brings to the job a firsthand understanding of the frustrations, the anxieties, and the hopes of the disabled and the knowledge of how to cope with a disability. He is legally blind.

A Vietnam-era veteran, Dennis has received the Disabled American Veterans National Commanders Award for participation in improving the employment prospects of disabled persons; the American Legion Award of Merit; the Amvets Distinguished Service Award, and the Blind Person of the Year Award from the National Federaton of the Blind.

Mr. Speaker, Dennis Wyant exemplifies what is good and what is right about mankind. Put simply, he cares, and he has consistently and successfully channeled his caring and concern into action that is benefiting those who are in need of a helping hand and a chance to contribute to life through meaningful employment.

I know my colleagues will want to join me in offering our congratulations and our deepest appreciation to Dennis for his outstanding work.

AMERICAN HISTORY AND THE BLACK WOMAN AND FAMILY

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. FAUNTROY. Mr. Speaker, American history is an important record for the reference of future generations. One of the most neglected records, needing documentation, has been that of the black woman and the black family in America.

That unfortunate gap in our history of Americans is being addressed by the Mary McLeod Bethune Museum-Archives located here in Washington, DC, which on October 15, 1982 by Public Law 97–329 became a historic site.

This important, only site for the collection, indexing, preservation, and interpretation of American history as lived by black women throughout America's history is pressing forward in the collection and documentation of private family archives, local fraternal-civic organizations' records, and many other primary sources—all of which were rapidly disappearing through lack of an archival site for collection and an archival staff for indexing and preservation until the establishment of the Bethune Museum-Archives.

Public Law 97–329, the original legislation introduced by me and by Congressman JOHN SEIBERLING, contained funding language that needed clarification. H.R. 1391 was introduced in the 99th Congress by myself and Congressman JOHN SEIBERLING for this purpose and the identical bill, S. 1116, was introduced by Senator JOHN WARNER in the Senate.

H.R. 1391/S. 1116, with minor technical language changes, has now been passed by the Senate and House and will shortly become public law. In a period of tight money, when we appropriated from the same fund $350,000 each for the Shakespeare Library and the Corcoran Gallery of Art, for example, the $100,000 for 3 years for the work of the Bethune Museum-Archives seems a modest commitment but one that will pay large returns.

The credit for bringing about the passage of this legislation belongs to loyal and worthy friends of the Bethune Museum-Archives. Appreciation first must go the Congressman BRUCE VENTO and Congressman ROBERT LAGOMARSINO for moving this legislation through subcommittee and committee action to the House floor successfully. I want to also express the appreciation of myself and Congressman SEIBERLING to Senator JOHN WARNER for his good work in bringing his legislation through Senate subcommittee, committee and floor action successfully in a busy year of much legislative action.

Staff work on both the Senate and House side was exceptional. Particular mention needs to be made of the vital roles played by Dale Crane, staff of the House Interior Committee, and Marguerite Gras of my own staff.

As further evidence of the mission and capabilities of the Bethune Museum and Archives, I must pay high tribute to the work of Dr. Bettye Collier-Thomas, director of the museum, and Mr. Guy McElroy, curator and assistant director of the museum in providing expert information at each step of the legislative process. The loyal support of the members of the National Council of Negro Women, and Dr. Dorothy Height, president, were also of immeasurable assistance in bringing about this needed legislation. Mrs. Charles Rangel, chairperson of the legislative committee of the board of directors of the Bethune Museum-Archives presented a constant and dedicated assistance.

When the pages of American history are fully written, each of the above and the Congress of the United States, can claim some measure of credit for the assistance to that important mission.

My deepest thanks and gratitude to each of you for your support in this worthy cause.

PROUD OF JOHN JANKOWSKI

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. AUCOIN. Mr. Speaker, we've all heard the expression, "he pulled himself up by his bootstraps." I'd like to recognize an Oregonian today who did just that.

John Jankowski has been a vital part of Yamill County, OR, for 25 years. As a businessman and community leader, John has not only built a successful business, but he's made many close friends. I count myself as one of them.

The McMinnville Chamber of Commerce recently presented John with its President's Award for his outstanding commitment to his town and his State. This honor could not have gone to a more deserving person.

Life has not always been easy for John Jankowski. He was born in Poland. In 1939, he joined the army and received his officer's commission. He spent 5 years in a German prisoner-of-war camp. Because he escape his captors, John is one of only a handful of survivors of that camp.

John eventually made his way to England, where he joined the Polish Government in exile. After World War II, he traveled to Canada in search of work. He labored on a sugar beet farm by day, and studied English at night.

John Jankowski is a special man. In 1960, he opened the Safari Motel & Restaurant in McMinnville, OR. His commitment to quality and to service has served our community well. We have all grown and prospered under John's tutelage.

Pride and spirit can be measured in many ways. And I firmly believe that the true measure of a man is not in how much he earns, but in how much he gives back—to his friends, to his family, to his community.

McMinnville, OR, is proud of John Jankowski. And I am, too. Keep up the good work, John!

THE MADNESS COMES TO AN END

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. LUKEN. Mr. Speaker, the madness had to come to an end. The Federal Government's habit of spending $4 for every $3 taken in is winding down, finally. That is the promise of Gramm-Rudman. For the first time since the 1986 budget process began 11 months ago, fiscal sanity is showing its face in Congress.

The policy of spend, spend, spend, borrow, borrow, borrow, is morally and intellectually bankrupt—and America would soon be literally bankrupt if we allowed the policy to continue. Already we have seen our industrial base seriously weakened, and our agricultural sector deeply injured. It is none too soon that Congress and the administration are finally turning away from the policies of unlimited spending and borrowing.

Gramm-Rudman is based on the commonsense idea that if something is worth buying, it's worth paying for—and if it's not worth paying for, it's not worth buying. Most Americans understand that, and it's about time their Government understood.

Back in May, a small group of stingy Congresspeople (and I am proud to be counted as one of them) tried to bring fiscal sanity to the House of Representatives with a budget amendment designed to cut spending more deeply and fairly, and also close some of the most outrageous corporate tax loopholes.

Representative LEATH authored the amendment. I supported it, as did former Budget Committee Chairman JIM JONES of Oklahoma, and a small number of Democrats and Republicans who were willing to risk the anger of defense contractors, and other special interests. But, when the votes were counted, there were only 52 of us—and 372 who preferred a bigger budget and a bigger deficit.

I rose to speak on the floor of the House of Representatives at that time in support of the Leath amendment. I said that voting for the amendment was politically dangerous—but it was a "badge of courage" to vote for it.

The road ahead will also take courage. We still must close those outrageous corporate tax loopholes. We still must crack down on the profiteers who weaken America's defenses through padding and fraud in defense contracts. We still must make sure that wasteful domestic spending programs are eliminated.

But we have now taken the first step on a path that will end Federal budget deficits within 5 years. And, in the light of the last 5 years of fiscal madness, it's a giant step toward mental health.

MIRACLE WORKER—DANTE FASCELL

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. BENNETT. Mr. Speaker, the front page article of the November 10 edition of Tropic, the Miami Herald Sunday magazine told of our beloved colleague DANTE FASCELL in an article: "Miracle Worker." I include herewith a few quotations from this well deserved tribute to the great man who heads our Foreign Affairs Committee.

MIRACLE WORKER

"Let's go!" the congressman says, and he charges out of the office and down the hall, staffers and supplicants in tow. It is a Tuesday morning and the King is coming to town, the one from Jordan, Hussein. But first there is business to conduct, deals to make, meetings to attend. Fascell is in overdrive, power-walking like an Olympian, gaining speed from liberal use of the forearms. He would be believable as a plumber or a Navy mechanic. Old Southern congressmen are supposed to have distinguished white hair, mellifluous voices, distractingly articulate speech, but Fascell is gruff, jowly, blunt, a bulldog among the swans. He is built low to the ground, for better cornering.

After a quick left and a quick right he rides the elevator to the sub-basement, cuts through the boiler room—he *hates* to waste time—and then loads himself into a cart that looks a tad like the Conch Train down in Key West. An attendant throws a lever and the cart goes humming on train tracks down a curved, gloomy tunnel. A little subway for congressmen. This is the first thing that seems a little strange.

At the end of the ride he finds himself deep beneath the United States Capitol. An escalator and another elevator take him to the Rules Committee room. The entire trip avoids any contact with sunlight and, more importantly, tourists, thousands of whom roam the Capitol, driven by a thirst for the symbols of democracy. This is the second thing that seems a little strange. You just can't *believe* that the Congress actually works here, that it continues to operate the government of the United States above and below and around these innumerable busloads of people from Dubuque and Akron and Montgomery.

In the Rules Committee room a surprisingly small and cramped chamber with fancy curtains, Claude Pepper calls the meeting to order. Eight Democrats sit to his left. One Republican sits to his right. A few other Republicans wander in and then quickly leave. They know they don't have a chance against Fascell, who heads the Foreign Affairs Committee, and who is such a powerful congressman that he once pushed through foreign aid bill that included millions of dollars *for Miami*.

No one—it's almost sad—no one will ever build a big marble Lincoln Memorial-style monument in honor of Dante B. Fascell, D-Fla., representative of the 19th congressional district, going on 31 years in Congress.

He deserves something. Maybe a good, solid statue. It would not have to be a tall statute. In fact it could be rather squat. Stubby. Oblate. The countenance would have a lot of . . . character, shall we say. And instead of a scroll in his left hand, it would be a pipe. And a Captain Black pouch sticking out the back pocket. The inscription, the one glorious quotation to remember him by, could be simply: "You have to have the votes."

In a way Fascell already has monuments everywhere, particularly in his district, which runs from Coconut Grove to Key West and once covered all of Dade and Monroe counties. Radio Marti is a monument to his anti-Castro passion. Biscayne National Park is a monument to his stubbornness and refusal to cave in to developers. The new bridges in the Keys, and the new water main to Key West . . . those were Fascell. The new beach on Miami Beach . . . Fascell. The War Powers Act, the establishment of the Consumer Protection Agency, the Department of Housing and Urban Development, the Department of Education, the extension of the principle of government-in-the-sunshine to Congress . . . Fascell had his thick hand in all that.

Yet, even though he's by all estimates one of the 10 most powerful and respected men in Congress, maybe one of the top five, he's still . . . well, he's still just a congressman. And he is an intentionally low-key one at that.

What is perhaps most remarkable is that Fascell has prospered and grown powerful despite a reformist upheaval that has made life a little harder for many of the old-line breed.

The greatest change during his 31-year tenure has been the ditching of the seniority system, which essentially gave power to whoever could live the longest. Old Southern congressmen dominated the committees, created or disbanded subcommittees at will, picked themselves to chair all important panels, hired all staff, scheduled all meetings, stepped on any and all challengers. The Constitution, of course, didn't explicitly say that Congress had to be *fair*. The younger congressmen would arrive in Washington and discover that they had been more or less disenfranchised. Naturally they couldn't tell this to the people back home. They were supposed to be cheeses. And they knew it was suicide to buck the system and cross a committee chairman. So they all sucked in their guts, queued up and waited their turn.

Fascell waited 28 years. When he first got to Washington he was assigned an office in the basement next to the elevator shaft. "He couldn't talk on the phone because the elevator made so much noise," remembers Fascell's longtime campaign chairman, Pontiac dealer Burton Kahn.

Consider his foreign aid feat. Producing a foreign aid bill has historically been the single most important task faced every year by the House Foreign Affairs Committee, and yet, under the lame leadership of ancient Clement Zablocki of Wisconsin, the committee hadn't managed to put together a foreign aid bill for several years. Foreign aid has never been politically popular, even though it's a great way to implement and regulate a foreign policy. It means giving money to people who are not Americans. This doesn't go over well with the folks in the cheap seats. Zablocki couldn't even get a bill out of committee.

Then Fascell took over in January 1984, knocked heads, kicked tail, and within a few months he had rammed the bill through the House. Judging from the incredulous reaction of the Congress-watchers you'd have thought Fascell had single-handedly balanced the budget.

What does this stocky old guy know that others don't? What is The Secret?

The answer isn't obvious. Or maybe it's so obvious it's invisible. Mostly, Fascell talks to people.

On Feb. 9, 1984, barely a month after he finally became chairman of the Foreign Affairs Committee, Fascell was presiding over a hearing and listening to Defense Secretary Caspar Weinberger testify when he was summoned into a back room. Two of his aides, Bob O'Regan and Barbara Burris, were waiting. They told Fascell that his only son, Dante Jon, called "Deej" by the family, had been killed in a collision on the Seven Mile Bridge.

"It's just a big blur right now," he says as he shifts in his armchair. "Somebody got me, said it was an emergency call. My son had been killed. I don't know. Maybe I talked to my wife. It's just a big blur.

"You go on doing the best you can. You never really get over the loss of a child or a loved one. But it makes you realize philosophically about life and how quickly it can change. It also makes you realize how beautiful people are. We got correspondence from all over the country. There was a tremendous outpouring of sympathy and support. You know that there's just worlds of good people out there."

There's still the question of the Secret. Maybe it's just that everybody likes Fascell, because he's so straight-ahead, so raw and real and honest. That's not exactly common in Washington. He's just a Heckuva Guy.

Even the Republicans admire Fascell, though he doesn't vote with them like some of the Democratic "boll weevils" from the South. "He is well-liked on our side of the aisle," says California Republican Robert "B-1 Bob" Dornan, who flies as far right as anyone in the House. "Personal warmth goes a long way. Fairness goes even farther."

Maybe The Secret is that Fascell is a true patriot. He is an old-fashioned anti-Communist liberal, a disciple of the New Frontier. He is one of the leading forces in Congress to extend the message of America overseas, lobbying hard for the Voice of America and, of course, Radio Marti. He was never one, not even in the darkest hours of Vietnam and Watergate, to lose faith that we are the good guys.

"I haven't found a better system," he says, staunchly.

Maybe The Secret is just hard work. He's got some kind of internal energy source that isn't normal—it makes nuclear fusion look like static electricity. This is a man who once literally staggered into the House chamber with a blood clot on his brain, stumbling around and nearly paralyzed on his right side, but doggedly determined to vote against Reagan's tax cut. The next day the doctor drilled two holes in Fascell's head and he's been better ever since.

Most likely The Secret is nothing more than a special attitude about government. Fascell is viciously pragmatic, willing to compromise in a pinch. He beelines for the common ground with the unerring instinct of a sea turtle.

Thirty years he's been in Washington and he still gets a charge from it all, a sensation. To think: *He* is part of it. He is one of the chosen, picked from among the teeming minions to be a leader, his only boss the Constitution. He is part of it: Checks and balances. Representative government. The Grand Continuum of Democracy!

"It's still not lost on me, I still get tingles," he says at one point. "Y'know, looking at the flag flying over the Capitol, and the dome is lit and you're walking through the halls and you're looking at Washington and Lincoln and Roosevelt and Stevenson and all the rest of the great figures in American history . . ."

RABBIS PROTEST IN SUPPORT OF HUMAN RIGHTS

HON. MANUEL LUJAN, JR.

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. LUJAN. Mr. Speaker, I rise today to bring an urgent matter to the attention of my colleagues. Five American rabbis have been denied their right to due process and are now sitting in a jail in Petersburg, VA. The rabbis were arrested for protesting in front of the Soviet Embassy in support of human rights.

Although the rabbis have no quarrel with their treatment, they do not understand, and neither do I, why they were not allowed to plead their cases before a judge and jury.

We have an obligation to fight Soviet repression where it exists. There are many refuseniks waiting to leave the U.S.S.R. and we must bring attention to their case.

Although I do not support breaking the law, I do feel strongly that these rabbis deserve to have their day in court. The Congress must ensure that justice is applied equally. It doesn't matter in front of which embassy the protest occurs.

TRIBUTE TO MARIA KWITKOWSKY

HON. DENNIS M. HERTEL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. HERTEL of Michigan. Mr. Speaker, I rise to pay tribute in honor of the birthday of a special friend and constituent, Maria Kwitkowsky. December 19 marks the birth of a truly remarkable success story. Maria Kwitkowsky is a fabulous woman with multiple God-given talents, who gives endlessly of herself to her family and friends around the world. Mrs. Kwitkowsky is an exceptionally unique person who carries her gifts of wisdom, hope and love through her community in Michigan, throughout America and throughout the entire world. It is often said that Maria Kwitkowsky is the best known and most respected woman in the Ukrainian community.

Maria Kwitkowsky has served Michigan and the United States in many diverse capacities. Throughout these services, Maria constantly offers several fine qualities that exemplify her accomplishments. These include: a tremendous level of professionalism, a staggering amount of patience and diligence, accompanied by a true sense of conviction and dedication.

Appointed by then Gov. G. Mennen Williams to the Michigan Cultural Commission, Mrs. Kwitkowsky served the commission in an unparalleled fashion which helped trigger her illustrious career. Maria Kwitkowsky also served as administrator and supervisor of social services at Detroit International Institutes. Mrs. Kwitkowsky has given 20 years of loyal and invaluable expertise as president of the Ukrainian Gold Cross of the U.S.A. Moreover, Maria has inspired students by offering courses in social work at Wayne State University and the University of Michigan.

In 1985, Maria Kwitkowsky has not slowed or narrowed her scope of involvement. Presently, Maria is on several major women's organizations, which include the World Federation of Ukrainian Women's Organization and the General Federation of American Women's Organization. A respected leader throughout the world on many topics, Maria Kwitkowsky has recently served the United States of America in two very prestigious positions. In Copenhagen, 1980, as an official delegate to the U.N. Conference on the Decade for Women and Kenya, 1985, as the leader of the American delegation to the NGO conference on the Decade for Women, Mrs. Kwitkowsky again exemplified her role in the international community.

Maria Kwitkowsky, dating back to 1949, has dedicated her life to working within the Ukrainian and American communities in an effort to establish a higher quality of life for others. Many roads have been opened as a direct result of Maria Kwitkowsky's dedication and perseverance. The world community is forever grateful to Maria Kwitkowsky for sharing her rare qualities with us and for inspiring us to strive toward making the world a better place for everyone.

I extend my sincere best wishes for a happy celebration on the occasion of Maria Kwitkowsky's birthday, December 19, 1985.

DON'T TAX LIFE INSURANCE

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. HUBBARD. Mr. Speaker, I would like to share with my colleagues the excellent and timely letter I received from my friend and constituent Frank B. Lacy III of Hopkinsville, KY.

Frank Lacy, who is unopposed to fair tax code changes in an effort to balance the budget, has contracted me about his strong opposition to taxing life insurance policies.

I am hopeful that my colleagues will take the time to read his concerns about how this tax would not be constructive in any way. The letter to me from Frank B. Lacy III is as follows:

October 24, 1985.

Hon. Carroll Hubbard,
U.S. Representative, Rayburn House Office Building, Washington, DC.

Dear Congressman: I am absolutely opposed to the taxation of the accumulations within certain types of life insurance policies. In my opinion we in this country need to encourage all types of personal savings efforts, along with a few other old "tried and true" virtues.

To me this type of tax is not of a constructive nature, and I feel sure that most of you in the Congress feel the same way.

May I also emphasize that I am not opposed to more taxation, per se, provided we are going to restructure our spending on everything and balance the budget.

Let's just quit spending so much money!

Respectfully,
Frank B. Lacy III,
Munday, Lacy and Peden, Inc.,
P.O. Box 11, Hopkinsville, KY.

HULSEY SERVES NEW JERSEY CITIZENS

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. FLORIO. Mr. Speaker, on September 6, 1985, I was pleased to pay tribute to my special assistant, David J. Hulsey, for 10 years of uninterrupted voluntary service in my Gloucester County congressional district office.

Mr. David J. Hulsey is a retired master sergeant, having served in both World War II and the Korean conflict. He had a combination of 23 years service—active and Reserve time—in both Army and Air Force. A 100-percent disabled veteran, he is a member of the Air Force Sergeants Association, American Veterans, and the American Legion. He is also a lifetime member of the Disabled American Veterans, and the Veterans of Foreign Wars, and has been awarded the Patriotic Citizens Award by the VFW Post 5579 of Gibbstown, NJ.

Mr. Hulsey also served as a member of the Gibbstown Library Council, and of St. Michael's Church Council, and is a past president of St. Michael's Mutual Club of Gibbstown. He has recently helped organize a band in his community, which he manages. This band, "the Admirals," has contributed much of its time to community benefits.

Mr. Hulsey retired from Government service in 1975 after 35 years. He served such agencies as the Federal Power Commission, the Veterans' Administration, the Internal Revenue Service—where he received the Safety Honor Award in 1962 from the then Treasury Secretary, Douglas Dillon—and finally retired from the General Services Administration. He began his Government service as a messenger, went on to become a file clerk, then a supervisor, manager, and finally held the position of director of communications in the General Services Administration, region II.

Immediately upon his retirement in 1975, Mr. Hulsey volunteered his services in my Glassboro district office. Extraordinarily productive and versatile, Mr. Hulsey has had a broad range of responsibilities as my assistant. Casework relating to military, immigration and naturalization, and internal revenue matters are included within his area of expertise. For the last 3 years he has served as the coordinator for academy appointments.

Mr. Hulsey's indefatigable spirit has neither gone unnoticed nor unappreciated. My constituents have freely expressed their thanks for Mr. Hulsey's professional delivery of services as evidenced in the following quotes:

"I want to thank you for your efforts on my behalf for my Veterans' Administration disability benefits. This is the second time you have helped me. My wife and I are very grateful for this help.

"I could not begin to express the gratitude that I feel for your help in solving the problem I was having with IRS. I have no doubt that it was only through your kind intercession that this matter was solved so quickly."

Mr. Speaker, with the completion of a decade of distinguished volunteer service comes the realization that Mr. Hulsey is truly volunteerism personified, having responded unhesitatingly to President Kennedy's call: "Ask what you can do for your country."

It is indeed a privilege to have Dave Hulsey as a volunteer member of my staff and I salute him on his accomplishments.

HAMADY BROS. FOOD MARKET IN FLINT, MI. TO FEED 20,000 NEEDY FAMILIES THIS CHRISTMAS

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. KILDEE. Mr. Speaker, I rise today to bring to the attention of my distinguished colleagues in the U.S. House of Representatives the outstanding "Hamady Operation Christmas-1985" project in Flint, MI., founded by Mr. Alex Dandy.

Mr. Dandy, the chairman of the board of Hamady Bros. Food Markets, Inc., started this effort in 1981, when he, Hamady employees, and the citizens of the Seventh Congressional District provides 558 needy families with a wonderful Christmas meal. Through Mr. Dandy's hard work and generosity, Operation Christmas has grown over the last few years. This year the effort is expected to feed 20,000 families in the Flint area.

Mr. Dandy's selflessness has been an example to all of us in the Seventh District. His efforts have inspired private businesses and organizations such as General Motors and the United Auto Workers to donate their time and energy to this noble effort.

And Mr. Dandy noted that this year, contributions from individual community members are even higher than last year.

Donation cannisters have been placed in Hamady Bros. stores, factories, and other businesses to raise money for the project. And this year, for the first time, Operation Christmas will expand into Saginaw and Wayne counties.

Each family will receive a 6-pound roaster chicken, a box of stuffing mix, 3 pounds of Michigan apples, a dozen serving rolls, a loaf of white bread, a pumpkin pie, a large bottle of soft drink, 9 ounces of potato chips, 5 pounds of Michigan white potatoes, a half gallon of milk, a can of cranberry sauce, and two cans of green beens. More than 187 tons of food are expected to be distributed.

Mr. Speaker, Mr. Dandy's Operation Christmas project is a shining example of the generosity and compassion that are the Christmas spirit. We in Flint are proud to be a part of an effort that makes it possible for needy families to sit down to a full, nourishing holiday meal. Operation Christmas will make a tremendous difference in the lives of thousands of adults and children in Michigan this year—Chirstmas dinner will now be a joyous occasion for them.

Because of Mr. Dandy's dedication, and the subsequent generosity throughout our communities in the Flint area, this Christmas will be a special time for all of us. I would like to take this moment now to ask all of my colleagues in the House of Representatives to join with me in commending Mr. Alex Dandy for Hamady Operation Christmas 1985.

MARK NASHPITZ TO ADDRESS ALPHA OMEGA DENTAL FRATERNITY CONVENTION

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. GILMAN. Mr. Speaker, as you may well know, for almost 15 years I participated in the Adopt-a-Refusenik Program for Soviet Jewry on behalf of Dr. Mark Nashpitz, a Moscow dentist. After this extremely lengthy period of time Mark and his family were unexpectedly given permission to leave the Soviet Union, and arrived in Tel Aviv to be reunited with his parents on October 20, 1985.

That day will always rest in my memory as a day of joy—for it is concrete evidence to me that the Adopt-a-Refusenik and Adopt-a-Prisoner Programs work. After having been a refusenik for a number of years, Mark Nashpitz was arrested on two separate occasions, for which he served 6 years in internal exile in Siberia. His ordeal finally over, he will soon be traveling to the United States to address the Alpha Omega Dental Fraternity Convention in Boston within the next few weeks. This fine professional fraternal organization adopted Mark many years ago, and with each conference, marked his absence with an empty chair. This year, that chair will happily be filled by the presence of their follow dentist, Mark Nashpitz, the young man on whose behalf all of Alpha Omega's members worked so hard. I congratulate them all for their courage and their perseverance, for there were times when it was hard to believe that a day would come when Mark Nashpitz would indeed be free.

After having spoken with Mark and his parents in Israel, I recently received a letter from him, in which he states:

> The fact that my family and I are here now is a miracle . . . But this dream is still a horrible reality for thousands of Jews who want to leave for their historic Homeland. And one should never forget this.

Mr. Speaker, this sums up the many years of commitment and hopes expressed by us all. I look forward to greeting Mark in the near future. May Mark's reunification with his family inspire us to redouble our efforts. Ultimately, they will not be in vain.

PLANTATION, FL, DEMOCRATIC CLUB TO HONOR DENNIS WALTON, INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL 675

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. SMITH of Florida. Mr. Speaker, today I rise to salute an exceptional man. Dennis J. Walton is to be honored by his friends and colleagues on January 11, 1986, at the Plantation, FL, Democratic Club's annual testimonial dinner and dance.

Dennis Walton is the business manager of the International Union of Operating Engineers, Local 675, of Pompano Beach, FL. He simultaneously serves as chairman of the board of trustees of the union's $40 million pension fund. He is the president of his own consulting company, Fund Advisors, Inc. Mr. Walton is also registered as an investment advisor under the Security and Exchange Commission's Investment Advisors Act of 1940.

At 44 years of age, Mr. Walton has risen through the ranks of the Operating Engineers from a mere oiler to currently holding the position of chief executive officer. His hard work and preserverance has served as an inspiration to his fellow workers. His friends and coworkers have recognized the calibre of his professional work and his tireless energy by honoring him with this special tribute dinner.

Mr. Walton has made a name for himself nationally as an expert in pension fund policy. He is a recognized speaker and author. His comments and articles have appeared in Financial World, Wall Street Journal, Business Week, Pension and Investment Age, among other publications. He has addressed the Presidental Commission on Pension Policy during its tenure.

He is recognized as one of the most agressive and innovative trustees in the United States today. He is known as a pioneer of a pension investment program that directed the union's pension funds into real estate investments that have produced jobs for union contractors and employment for union members. He has been an outspoken critic of the way union pension funds should be handled by investment managers over the last 20 years.

Dennis Walton has truly been an asset to the Operating Engineers, Local 675. I regret that I am unable to attend this tribute dinner to honor him. His dedication, sincerity, and intensity are shared by few.

FOREIGN AGENTS REGISTRATION ACT AMENDMENT

HON. ROBERT W. KASTENMEIER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. KASTENMEIER. Mr. Speaker, today I am introducing a bill to amend the Foreign Agents Registration Act of 1938 (as amended, 22 U.S.C. 611 et seq.) ["FARA"] to eliminate unconstitutional provisions abridging the freedom of expression.

This bill, similar to one I introduced last Congress (H.R. 1969), is in accord with a recent decision by a Federal court in the case Keene versus Meese.[1] The court held that the use of the term "political propaganda" to label materials disseminated by registrants under the Foreign Agents Registration Act unconstitutionally burdens the first amendment rights of those who might want to distribute such materials.

The Keene case involves three Canadian films—"If You Love This Planet," "Acid Rain: Requiem or Recovery," and "Acid From Heaven"—that have been determined by the Justice Department to be "political propaganda" within the broad meaning given that term in the Foreign Agents Registration Act. The films are clearly identified as produced by the Canadian Film Board. But under current law, the films are required to bear an additional, stigmatizing label stating its connection with a foreign agent required to register with the Justice Department. The label must also state that reports of the dissemination of the film are filed with the Department and are open to public inspection. Last, the label contains a disclaimer of approval by the U.S. Government.

It is not difficult to imagine how requiring such an alarming message at the beginning of a film might have a chilling effect on those who would choose to exercise their first amendment rights by showing or viewing such a film. The required label—along with its chilling effect—are the same for printed materials.

Indeed, the court in the Keene case found that the term "political propaganda" is generally understood to be a term of opprobrium, and that whoever disseminates materials officially found to be "political propaganda" runs the risk of being held in a negative light for using materials officially censored by the Government. This burden on speech, the court decided, was not justified by any compelling governmental interest. The court therefore permanently enjoined enforcement of any portion of the Foreign Agents Registration Act incorporating the term "political propaganda."

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[1] 617 F. Supp. 1399 (1985). No appeal has yet been taken, although a protective notice has been filed by the Justice Department.

My bill responds to that decision by substituting the neutral term "political expression" for "political propaganda" whenever that term appears in the act. The bill goes further and eliminates the role of the Justice Department in reviewing, labeling, and keeping track of films and other materials merely because the source of those materials is registered under the Foreign Agents Registration Act.

My bill leaves intact all other requirements under the act. It will simply end what I view as unwarranted government intrusion into activities clearly protected by the first amendment. I invite my colleagues to join me in this endeavor by cosponsoring this bill.

REBIRTH OF DEMOCRACY IN CENTRAL AMERICA

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. MCEWEN. Mr. Speaker, recently I had the privilege, as a member of the observer delegation to the Guatemalan elections, to witness the rebirth of democracy in Central America. On December 8, Guatemalan citizens, without coercion or fear, flocked to the polls to determine the future of their fledging democracy. I observed numerous voting sites and monitored the actual vote counting process—the elections by all commonsense analysis were free of fraud, intimidation, or tampering.

The inauguration of a constitutional democracy in Guatemala will most dramatically contribute to the resurgence and continuation of democracy in Central America. This regionally historic and impactful event illustrates for all people of Central America that there is an alternative for resolving internal differences, other than through the violence of Marxist/Leninist revolutions. Guatemala will join the ranks of countries which have rejected the solutions of the far left and right, such as: Costa Rica, which has had unbroken democratic rule for more than 35 years; Honduras, which in 1982 returned to civilian government after 18 years of military rule; and El Salvador, which in 1984 elected Jose Napolean Duarte, the first Salvadoran head of state in 50 years chosen in free elections.

The allies of democracy have realized the importance of these elections. But so have its enemies. For this reason, we must remain forever vigilant in our support of these emerging democracies. As Sandinista Thomas Borge pronounced, "This revolution goes beyond our borders." The people of Guatemala have sent a message to the Marxist/Leninist oppressors of this world—they have rejected the course of violent revolution as a means of political self-determination.

We wholeheartedly congratulate the people and authorities of Guatemala that made this election such a success. It is through democratic ideas and institutions that the coercive alternative of communism will be defeated.

HONORING THE RETIREMENT OF RUTH NILSEN FROM THE BALDWIN PARK CHAMBER OF COMMERCE

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. TORRES. Mr. Speaker, I ask my colleagues to join with me in recognizing the outstanding service of Ruth Nilsen to the Baldwin Park Chamber of Commerce.

Ms. Nilsen will be retiring from the Baldwin Park chamber on December 31, 1985. She has worked at the chamber as an assistant executive director for the past 8 years. Her duties have included recordkeeping, publicity, and budget management.

She is leaving the chamber to enjoy retirement with her husband Karsten. They plan on beginning their well-deserved retirement by first traveling to Norway and then on to other parts of the world.

Mrs. Nilsen resides in Pasadena, CA, and is a graduate of Sawyer Business College. Her hobbies include art and gardening.

Mr. Speaker, I commend the dedicated service and contributions Mrs. Ruth Nilsen has made not only to the chamber, but also to the community of Baldwin Park. Mrs. Nilsen will be missed by her friends and fellow workers and I wish her all the best.

LINCROFT SCHOOL COMMENDED ON LEADERSHIP IN THE PRESIDENTIAL PHYSICAL FITNESS AWARD

HON. JAMES J. HOWARD

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. HOWARD. Mr. Speaker, I would like to take this opportunity to commend the Lincroft School, an elementary school in my district, for its leadership in the Presidential Physical Fitness Award.

The Presidential Physical Fitness Award Program, established in 1966, honors boys and girls who demonstrate exceptional physical achievement. It is designed: First, to motivate boys and girls to develop and maintain a high level of physical fitness; second, to encourage good testing programs in schools and communities; third, to stimulate improvement of health and physical education programs; and fourth, to provide additional information on the physical condition of America's youth. The award program was conceived by the President's Council on Physical Fitness and Sports, and program details were developed jointly by the Council and the American Alliance for Health, Physical Education and Recreation.

It is my great pleasure to commend the students of the Lincroft School for their achievement in attaining 1,005 Presidential awards since 1970. Lincroft School has been the leader in Middletown township for the past 16 years and I feel confident that the students will continue to strive for excellence.

The faculty members of the physical education department deserve congratulations along with their students, for it is the dedication and commitment of the faculty that motivates children to earn these awards. We all know that physical fitness is essential to leading fulfilling and productive lives. The faculty and students of Lincroft School can take pride in themselves and their school, and shine as a model of excellence to which other schools may aspire.

RABBI CHAIM P. LUBINSKY: A LIFETIME OF STUDY AND SHARING

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. SOLARZ. Mr. Speaker, I was saddened to learn the news that Rabbi Chaim Pinchas Lubinsky, a world renowned Torah expert, passed away.

Rabbi Lubinsky was a great hero during World War II. While some men distinguished themselves in the field of battle, Rabbi Lubinsky stood tall in the face of Nazi oppression. While entrapped in a concentration camp, he continued to study the Torah and share his spiritual strength with other inmates.

After the war, Rabbi Lubinsky served as the Chief Rabbi of Hanover, where he was responsible for the rebirth of Jewish life in wartorn Germany.

Here in the United States he labored to restore to good physical and psychological health the survivors of the Holocaust.

Rabbi Lubinsky was a great man whose memory shall remain with the Jewish people for eternity. We grieve his death, but we rejoice in his life.

TODAY'S COLLEGE STUDENTS

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. FORD of Michigan. Mr. Speaker, I recently concluded 36 days of hearings on the reauthorization of the Higher Education Act during which time I heard students in many different situations testify before my subcommittee on the need for a strong Federal role in education. Each of the students who appeared before the subcommittee came from a unique set of circumstances. Collectively, they presented a picture of determination to acquire a college education in the face of tremendous financial or other obstacles.

I believe Mr. William S. Spiegler captures the essence of these students who are striving to better themselves in two articles which appeared in November in the New York Times and Newsday. Mr. Spiegler comments on the students of the 1980's who are forced by economic circumstances to hold down one or more jobs while trying to find the time to attend class and complete course assignments. In addition, he notes many students have the added responsibilities of caring for families. He accurately summarizes what I so often heard in my hearings, that students have the commitment to learn and the willingness to work. What we need to provide them is the opportunity to devote their minds to that task without the inordinate economic encumbrances they now face.

I am very pleased to reprint these fine articles for the benefit of my colleagues.

[From the New York Times, Nov. 17, 1985]

Stop Knocking Students

(By William Spiegler)

It's high time someone spoke up for today's college students. They're probably the most industrious, ambitious people in America and their problems are not being properly appreciated.

People like the Secretary of Education, William J. Bennett, simply don't know what they're talking about when they knock students. Nor do those who complain about falling academic standards.

The vast majority of the nation's 12 million students are struggling to pay for their educations. They are part of an invisible workforce. Many hold down full-time jobs. They're frying hamburgers, photographing weddings, working in construction, waiting on tables. The fact that they even show up for classes is a miracle.

The financial situation of most students explains a lot about what is happening on campuses. Why are the traditional courses so unpopular? Why are students flocking to accounting and computer science and any of the other professional programs that seem to lead to careers?

Answer: Today's working student has been forced into a kind of premature pragmatism. Romance is gone. The notion of transforming one's self through study alone has disappeared. Today's student seeks deliverance from menial labor, and the status conferred by a good job.

There are other consequences. Today's students don't have much time or energy to be contemplative, carry out independent research or even do serious homework. That's the secret behind falling academic standards. Students have become consumers. They want grades and certifications. Their professors can't be expected to flunk students who are clearly weary from the effort to pay their bills.

There's a lot wrong with this situation. It's distorting the definition of education. Worse, it's creating a generation that's totally grim. The brightest students turn out to be yuppies. The vast majority are, at best, good natured semiliterates.

The time has run out for philosophical debates about curricula. What this country needs is someone to stand up and say that being a fulltime student during one's formative years is an honorable calling worthy of support. If families can't or won't give it to their children, then the Goverment should.

The students themselves have demonstrated their willingness to work to gain a college degree. Now they should be given the time to devote their minds to the task. If President Reagan were to give the word, you would see how quickly the old liberal arts would regain their popularity. And the competition for good grades would raise standards, too.

[From the Newsday, Nov. 18, 1985]

College Gives Adults An Opportunity To Recapture Dreams

(By William A. Spiegler)

The American dream is alive and well.

You can find it on the nation's college and university campuses—and it isn't walking around in blue jeans.

The American dream is in the hands of adult students, and it's no illusion.

The phenomenon that began with the H*Y*M*A*N K*A*P*L*A*N*S in the years before World War II continues. In the old days, of course, the goal was citizenship and acceptance in a land of opportunity. Today, the goals are more varied and idiosyncratic, and the paths a little bit lonelier. But the old spirit, the conviction that education can be a transforming experience, endures.

I discovered this truth recently as I helped the administration at Long Island University's C.W. Post campus prepare for New York State's celebration of Adult Learning Week, which began yesterday. The school's adult student counselor arranged for me to meet individually with the men and women she helped enroll in college.

And one by one they came—as varied a group of human beings as anyone could possibly meet. They were of all ages, 29 to 76. They had started their lives in many different places—from the Bronx to West Germany. Some were white, and some were black. Some were poor, and some were wealthy.

Yet they had some significant things in common:

First, they were all true believers—in themselves and in the future.

Secondly, they were all risk-takers. Each admitted that at first the idea of going to college had frightened them.

Perhaps most importantly, all had a private, personal account to settle. They were out to prove something—to themselves—and the ghosts that haunted them from times long ago.

Consider, for instance, a 59-year-old retired businessman's story. In his 45-year career, he made a lot of money and succeeded in his personal life. But he still wanted to make up for a decision he had made 45 years ago.

"I was going to City College at night," he remembered. "I quit because I discovered that I was earning more as a leather cutter than my professor of accounting, who brought his lunch in a paper bag," he recalls. Now, having resolved all of his financial problems, he has, at last, returned to the classroom.

A 29-year-old black woman said, "I was one of 11 children. All I could think about in high school was getting out and going to work to earn some money." Today, she holds a full-time job as a secretary and attends classes four nights a week, as well as attending C.W. Post's Weekend College.

A 47-year-old Long Island butcher, the father of two sons—one a student, the other a college grad—holds his job while he majors in art education. "I was a foster child. I was abandoned when I was three weeks old," he said without emotion. "I was in a lot of homes, and I never got any guidance. Most of the foster homes I was in, well, they only cared about the money. Nobody ever encouraged me to go to college or noticed that I could draw."

After winning many art competitions for amateurs, he earned a two-year degree at a community college. Now he's going for his bachelor's degree.

"I want to be an art teacher," he says. "I've learned I can speak art better than words."

Gaining the confidence to speak what is in one's heart—be it the language of visual art, the language of the great philosophers, or the language of computers—seems to be the big dividend for most adult learners.

The emotion they feel seems to be summed up by a 68-year-old Queens grandmother. She decided to go to college after a long widowhood and many years of clerical work in a top New York City ad agency. "I didn't come here to prove what I know," she says as she explains her enthusiasm for courses in philosophy and English. "I came to find out what I didn't know before."

THE SOCIAL SECURITY AMENDMENTS OF 1985

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. ARCHER. Mr. Speaker, today, at the request of the administration, I am introducing the Social Security Amendments of 1985. These amendments are not intended to interfere with consideration of several related Social Security provisions currently pending in the conference on H.R. 3128. Rather, the Social Security Amendments of 1985 are being offered now, so that they may be given prompt consideration during the second session of the 99th Congress.

Mr. Speaker, the complexity and importance of the Old-Age Survivors and Disability Insurance [OASDI] Program requires that provisions of the Social Security Act and the administration of the program be reviewed from time to time with an eye toward making beneficial adjustments to the program. The administration has undertaken such a review, and these amendments represent its recommendations regarding how the program could be improved. If enacted, these amendments would, in relation to the overall cost of the OASDI program, result in relatively minor but nonetheless important savings. Over the 5-year period from fiscal year 1986 through fiscal year 1990, it has been estimated that enactment of these amendments would save the American taxpayers approximately $90 million. I hope my colleagues on the Social Security Subcommittee and in the House will join me in giving consideration to this bill.

HONORING MANHATTAN CABLE TV

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. GREEN. Mr. Speaker, over the years, Manhattan Cable TV has created and developed a wide range of projects that both involve and benefit the community it has served since 1970.

Through its Community Outreach arm, MCTV works with a host of civic, educational, nonprofit and charitable institutions and organizations which have resulted in hundreds of hours of community-based programming and a wide ranging commitment to promote the medium of cable television as a community tool.

Hospitals, schools, museums and libraries are among the organizations that have been able to reach out to their various constituencies through the facilities of Manhattan Cable TV.

This year, Manhattan Cable developed an innovative project that is intended to enhance the academic performance of students and the quality of public education in New York City.

"Top of the Class" is a series of video quiz programs which involve teams of students from two high schools in Manhattan. This imaginative project seeks to underscore the fact that cable TV can make a significant contribution by helping to motivate students to higher achievement in the classroom and by encouraging these students to become more aware fo issues that affect their own lives, their communities and their understanding.

Manhattan Cable TV has applied its staff and resources to "Top of the Class" since the start of the school year, working closely with the faculty at Murry Bergtraum and Art & Design High Schools. The company has supplied 200 students with subscriptions to Time and Discover magazines and other educational materials, from which the questions posed on "Top of the Class" are drawn.

In connection with this project, New York City Schools Chancellor Nathan Quinones observed:

> Learning is everybody's business. New York City school children and their educaiton are everyone's responsibility—and I'm proud that Manhattan Cable TV has made a commitment to learning and achievement in our schools. The real beneficiaries are our students, teachers and our society when high academic performance is supported by a partnership such as this one between two schools and a public-spirited company like Manhattan Cable TV.

Manhattan Cable TV is to be commended for dramatically implementing its commitment to education through "Top of the Class."

U.S. MFO PLANE CRASH VICTIMS: HEROES OF PEACE

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. FASCELL. Mr. Speaker, I wish to take this occasion to express my sincere condolences to the families and friends of the 250 young men and women who were taken from us in the tragic airplane disaster in Newfoundland on December 12.

The soldiers killed in this tragedy were serving as part of the Multinational Force and Observers [MFO] peacekeeping force that performs a vital role in the Sinai Desert of monitoring compliance of the Egyptian-Israeli Peace Treaty. The Committee on Foreign Affairs, which authorizes the funds for the MFO, has had an opportunity to witness firsthand the outstanding performance of U.S. military personnel which are a part of the MFO and the quiet but important role they perform in keeping and reinforcing the peace between Israel and Egypt. It is indeed a bitter irony that these peacekeepers, returning home for the holiday season, should lose their lives in this horrible accident.

Early indications in the aftermath of the crash suggest that no sabotage of the aircraft took place. However, there are reports that the aircraft may have been in poor condition and should not have been flown. These allegations must be investigated fully. The enormous waste of human talent that this crash represented must not be allowed to be repeated.

Those who died in this tragedy served their country in the finest tradition of the U.S. Armed Forces by performing a mission which has significantly strengthened our Nation's security and its foreign policy interests. Our prayers go to their families in their sorrow and grief.

GOMIDAS VARTABED

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. COELHO. Mr. Speaker, I would like to take this opportunity to pay tribute to Gomidas Vartabed, Armenian musician, composer, and cleric of great accomplishment. On December 22, 1985, there will be a concert held at St. Vartan Cathedral in Manhattan in recognition of all that Gomidas did for the preservation and advancement of Armenian culture.

Born in 1869 in a remote part of Turkey, his musical ability and superb voice brought Gomidas to the Mother See of the Armenian Church. It was as an ordained priest, traveling throughout Armenia, that he discovered the beauty and tradition of the Armenian folk song which became a prime influence in his music.

Of his many accomplishments, it is the categorizing of these songs, historically passed from generation to generation without a written record that has been Gomidas' greatest contribution to the preservation of Armenian culture. In addition, Gomidas harmonized the Divine Liturgy of the Armenian Apostolic Church service which is still in use. Though little recognized by the public, Gomidas was respected by his peers. His contemporary, the composer Debussy, was said to have felt that the composition "Andoni" alone would insure Gomidas' notoriety.

Tragically, though he was not killed, Gomidas became a victim of the Armenian Genocide which threatened the existence of the Armenian people for 2 years. After witnessing the atrocities of these years, Gomidas spent the next 20 years producing nothing and eventually died in a Paris asylum in 1935. On December 22, we will pay long overdue respects to the life and achievements of this great human being. As a scholar, a composer, and a cleric, Gomidas Vartabed should be honored for all that he did for the Armenian people.

ADA DIRECTOR HAL CHRISTENSEN TO RETIRE

HON. NORMAN D. DICKS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. DICKS. Mr. Speaker, a friend and colleague of mine and many other Members of Congress is retiring in just a few days from the American Dental Association. Hal Christensen has been with ADA for 28 years. For the past 22 years, he has been the director of ADA's Washington office. Under his leadership the ADA has expanded its role in the establishment of health care programs for our citizens. Most of us in Congress are familiar with Hal's work on behalf of ADA and have enjoyed a close working relationship with him for many years. He can be proud of the issues he has promoted and the battles he has fought. ADA has been well-served by Hal over the years. We will certainly miss him but know how much he is looking forward to spending more time with his family and friends and wish him well in the years ahead.

A TRIBUTE TO SHIRLEY AND SETH HUFSTEDLER

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. LEVINE of California. Mr. Speaker, I rise today to ask that you and my distinguished colleagues join me in saluting two outstanding Americans, Shirley and Seth Hufstedler.

Shirley and Seth are the recipients of the American Jewish Committee's Learned Hand Award and will be honored at a gala affair on January 23, 1986. Shirley and

BEST COPY AVAILABLE

Seth have both enjoyed truly outstanding careers and have given so much back to our society. To mark this event, I would like to highlight a few of the numerous accomplishments of these two remarkable individuals. No biographical sketch could even begin to capture the high regard with which they are both held in the legal and the general community. Yet, some highlighting of their careers tells us a bit about their achievements.

Shirley Mount Hufstedler was born in 1925 in Denver, CO. She received her B.A. from the University of New Mexico in 1945, and her law degree from Stanford University in 1949. Seth Hufstedler was born September 20, 1922, in Dewar, OK. He received his B.A. from the University of Southern California in 1944, and his law degree from Stanford University in 1949. The couple was married in 1949, and they were blessed with their son, Steven, in 1954. Steven is a doctor, who is currently on the faculty of the University of California School of Medicine at Irvine.

Shirley Hufstedler was in the private practice of law in Los Angeles from 1950 to 1960. From 1960 to 1961, she served as special legal consultant to the attorney general of California in the complex Colorado River litigation before the U.S. Supreme Court. In 1961, she was appointed judge of the Los Angeles County Superior Court, a position to which she was elected in 1962. In 1966, she was appointed associate justice of the California Court of Appeal. President Lyndon B. Johnson appointed her judge of the U.S. Court of Appeals for the Ninth Circuit in September 1968. She served in that capacity for 11 years before President Jimmy Carter appointed her U.S. Secretary of Education. On January 20, 1981, Shirley returned to private life teaching and practicing law. Shirley serves on the boards of several institutions and has authored numerous articles for professional journals, newspapers, and magazines in the fields of law, education, government, national and international affairs. She is the recipient of many honorary degrees from universities and colleges and has received countless other awards and honors.

Seth Hufstedler is a senior partner to Hufstedler, Miller, Carlson & Beardsley. He has served on various committee of the Los Angeles County Bar Association and served as president in 1969–70. He served as chairman of the Committee on Judicial Selection and was awarded the 1976 Shattuck-Price Memorial Award by the Los Angeles County Bar Association for his "dedication to the improvement of the legal profession and the administration of justice." Seth has also served on various committees of the State Bar of California including the board of governors in 1971–74, and as president of the State Bar in 1973–74. Seth has served as chairman of various committees of the State Bar, including its Committee on Administration of Justice, its Committee to Draft Legislation for the Proposed Merit Plan, and its Committee on Structure of Appellate Courts. He was also special counsel to Commission on Judicial Performance regarding inquiry on various matters affecting the Supreme Court in 1969. He is a member of the board of trustees of the American Bar Foundation and has held several offices within the foundation. He is also a member of the American Bar Association and has served on various committees. Other community activities of Seth's have included the planning council of United Way and cochairman of the Public Commission of County Government.

It is a pleasure to share the outstanding accomplishments of the Hufstedler's with the leadership and Members of the House of Representatives. I ask that my colleges join me in expressing praise and gratitude for their exemplary display of public service. Shirley and Seth are extraordinary Americans and most deserving of this special honor.

CUT THE DEFICIT NOW!

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. DORGAN of North Dakota. Mr. Speaker, the Gramm-Rudman resolution which we've been asked to approve in the House of Representatives is a retreat back to the "funny money" budget solutions which created the deficit problem in the first place.

Today's record budget deficits—running $200 billion a year—stem from the 1981 package of tax cuts and defense increases proposed by President Reagan and enacted by Congress as the Gramm-Latta budget. That smoke and mirrors package promised the miracle of extraordinary economic growth, even though it rested on a foundation of economic quicksand. The President's men said that we could spend 25 percent of our national income on Government programs, while raising only 19 percent of that economic pie to pay the bills.

Well, it didn't work. Five years later, the national debt has grown from a staggering $1 trillion to an unfathomable $2 trillion. In other words, it took us only 5 years under what Vice President GEORGE BUSH once called "voodoo economics" to create deficits as big as the sum total of our national debt since the administration of President George Washington. The country is choking on a sea of red ink—with its associated record high interest rates, farm failure rates, and trade deficits—all because of faith in an economic illusion.

Nearly a month ago, we in the House of Representatives responded to this challenge. We said that if there is a budget crisis, let's tackle it now and let's get the job done quickly.

Unlike the Gramm-Rudman plan, we passed a bill which made real budget cuts this fiscal year and which balanced the budget sooner than the current, revised version of Gramm-Rudman. While our House bill would cut the fiscal year 1986 deficit in real terms, modified Gramm-Rudman could allow deficits to grow as high as $200 or $210 billion. In other words, the Gramm-Rudman proposal says "lets do this, but let's not really start until after the next election, That's foolish.

I just don't see how Gramm-Rudman moves us down the road to real, prompt deficit reduction. what we said a month ago is still true today: If everybody is serious about doing this, let's do it now and let's get it done soon.

You don't need very complicated arithmetic to understand that when the Federal Government spends nearly $150 billion a year more on military spending than it did 5 years ago, then it will have to raise some taxes to pay for it. There is no escape from that. But Gramm-Rudman pretends we can balance the budget without paying for the biggest defense buildup in peacetime history.

Nor does it take a genius to realize how unfairly Gramm-Rudman might work. As the Republican chairman of the Senate Appropriations Committee pointed out, the Reagan budgets have cut domestic spending by 34 percent while increasing military spending by 89 percent. With that as a baseline, Gramm-Rudman exempts 73 percent of the budget from mandatory cuts, meaning that only 23 percent of the budget will have to absorb all of the pain of further budget cutting. It means that farm programs, student aid, and education services will take it on the chin on behalf of defense contractors and other exempt groups.

We have at hand a better way than Gramm-Rudman's future road map to get us on the path of genuine budget cutting. Cut the deficit now and keep cutting it quickly. That's what North Dakotans sent me here to do and that's what I will do with my vote.

SHUJI MARUYAMA

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. KOSTMAYER. Mr. Speaker, I rise today to honor Shuji Maruyama who has been teaching Aikido martial arts in the Philadelphia and Cleveland areas for the last 20 years.

Aikido is the most modern of the traditional Japanese martial arts. Founded in the 1920's, Aikido is a system of effective self-defense techniques that emphasizes bringing attackers under control.

Shuji Maruyama came to the Philadelphia area to teach a group of Aikidoists who had been practicing without an instructor. Gradually, his students increased and Aikido was featured at an all-martial arts demonstration at the Philadelphia Civic Center. The Philadelphia Corrections Department hired him as a consultant, and he began teaching techniques for restraint and control of inmates to the prison guards.

Shuji Maruyama will be returning to his homeland of Japan this spring. I wish him well as he continues to spread peace, self-improvement, and universal understanding through Aikido.

HOW THE PORK BARREL WORKS

HON. WILLIS D. GRADISON, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. GRADISON. Mr. Speaker, recently the House passed H.R. 6, the Water Resources Act of 1985. I would like to call my colleagues' attention to the following article which appeared in today's Cincinnati Enquirer.

How the Pork Barrel Works

(By Bill Gradison)

In recent weeks, discussion of the deficit, and particularly the Gramm-Rudman-Hollings approach to eliminate it by 1991, has received considerable attention on the airwaves and editorial pages around the country. The public knows that the most pressing problem facing our country is a distorted fiscal policy characterized by $200 billion deficits.

Amidst the consideration the Congress is giving to deficit reduction, a bill recently came to the floor of the House of Representatives that reflects many of the ironies and contradictions in this process. On November 13, the House passed an authorization bill (H.R. 6) for water projects around the country by the overwhelming margin of 358 to 60. Support for the bill was broad-based. Republicans and Democrats from all regions of the country joined in approving the bill which authorizes $1.5 billion in new spending next year and which the Congressional Budget Office estimates could cost $20 billion through 1998.

Congress has not passed a major water projects bill since 1970. The last series of small projects and studies was authorized in 1976. H.R. 6 authorizes over 350 projects, including the improvement and deepening of port facilities, reservoirs, and dams. It truly has "something for everybody."

The House Public Works and Transportation Committee crafted a bill that significantly increases the share of project costs to be borne by local governments. At the same time, however, the Committee fended off all major challenges on the floor of the House to reduce the bill's cost. The White House has made it clear that, if the bill clears Congress in its present form, the President's advisors will recommend a veto.

One argument that has been raised in support of the bill is that enactment would result in significant budget savings because the bill "deauthorizes" more than 300 water projects. Yet, not one of the deauthorized projects has ever received the necessary appropriation to begin construction. In other words, the alleged $18 billion in "savings" is meaningless.

Certainly improvements are needed in the nation's infrastructure of ports, dams, reservoirs, and highways. Perhaps the federal government should play an important role in the repair and replacement of portions of this infrastructure. But, at a time when the federal government is running $200 billion deficits, Congress should do a better job of choosing and ranking national priorities.

Legislation like H.R. 6 fails to do this. Typically, if a Member wants his project funded, the chances are that he simply agrees to support the entire bill to ensure its inclusion. The result of this tradition was the overwhelming approval which enables Members of Congress to claim credit for securing a new project or two for their constituents. Never mind that these same constituents will pay one way or another—either through higher taxes, higher interest rates, or both.

Yes, there were projects included in the legislation that would have benefited the 2nd Congressional District of Ohio and nearby areas, including the construction of two bridges over the Ohio River. Nevertheless, I voted against H.R. 6.

This is the crux of the problem. Everyone wants to cut the deficit by slashing someone else's "waste, fraud, and abuse." The result is a package of pork that flies in the face of the deficit crisis before us. H.R. 6 represents the classic tension between parochial and national interests that continues to stifle a viable solution to the deficit problem.

No solution can succeed so long as Congress tries to have it both ways by refusing to break the tried and true pattern of spending while, at the same time, wringing its hands about the effects of enormous deficits.

From time to time, apparent progress on deficit reduction seems to indicate that the old pattern is changing. The House action of November 13, however, is a clear indication that Congress still has a long, long way to go.

THIRTY-SEVENTH ANNIVERSARY OF INTERNATIONAL HUMAN RIGHTS DAY

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. DORNAN of California. Mr. Speaker, I rise today to express my support in celebration of the 37th anniversary of the United States Universal Declaration of Human Rights. In particular, I would like to direct my attention to the spirit of this day and to mention individual cases which merit special consideration.

Human rights are fundamental to America's concept of itself and are a basic element of the Constitution of this country. The efforts of the U.S. Congress on behalf of these individuals frequently offers the only possibility to improve their situation. Unfortunately, America's intention to secure the protection of human rights is not easy to translate into an effective policy because it requires the cooperation of the country in violation.

Reacting to persistent violations of individual human rights abuses is admirable but cannot be considered as adequate or comprehensive policy for this country. The abuses which we stop are likely to continue as long as the system responsible for them does not change. Our long-term goals must be to encourage the establishment of a government which institutionalizes the protection of human rights.

While my liberal counterparts concentrate their efforts on friendly governments in which the United States has a comparatively high degree of leverage, they frequently neglect systematic abuses by Communist and hostile nations precisely because they are inherently repressive societies in which abuses of human rights are expected. In particular, the Soviet Union and those nations under Soviet tutelege have institutionalized systems of political killing, disappearance, torture, arbitrary arrest, and denial of fair trial. Soviet attempts to repress and persecute the entire nation of Afghanistan is the most recent example demonstrating a continuity of subjugation. The Soviet Government from its inception has relied on secret police terror and gulags to stay in power and repress legitimate opposition. By the most modest estimates, the Soviet Union has disposed of tens of millions of its own citizens.

Last year was the lowest level of emigration of Jews from the Soviet Union in more than two decades. In particular, teachers of Hebrew and Jewish culture continue to be harassed, arrested and tried on false charges. In the Soviet Union Jews are denied equal rights enjoyed by other nationalities, are not allowed to buy Jewish prayer books and cannot pursue their national heritage. Their persecution exemplifies the consistent violation of the Helsinki accords of 1975 by the Soviet Union.

Mr. Speaker, I would like to bring to the attention of this Congress the plight various cases of rights violations which deserve special attention.

Romanian Gheorghe-Emil Ursu. This innocent man was arrested on September 21, 1985, by the Romanian internal security forces without having been officially charged with any crime. He was fired from his job after 35 years of consistent service and remains in total isolation.

Lithuanian human rights activist Balys Gajauskas. Mr. Gajauskas has spent more than half of his life in concentration camps because of his religious convictions and his advocacy of human rights. His health is suffering, and he is not expected to live until his planned release date of 1993. He was nominated for the Nobel Peace Prize in 1979, and won the Rothko Chapel award in 1981.

I feel compelled to also mention six American hostages on this special occasion. All are innocent individuals who went to Lebanon to offer help and expertise to a beleagured nation. They are now paying for their constructive actions with their freedom.

Terry A. Anderson, 37 the chief Middle East correspondent for the Associated Press was kidnapped by gunmen on March 16, 1985.

William Buckley, 56 a political officer at the U.S. Embassy in Beirut was kidnapped on March 18, 1984.

David Jacobsen, 54, administrator of the American University Hospital was kidnapped on May 28, 1985.

Lawrence Martin Jenco, 50, a priest for the Order of Servants of Mary was kidnapped on January 8, 1985.

Peter Kilburn, 60, a librarian at the American University failed to report to work on December 3, 1984.

Thomas Sutherland, 54, was acting dean of agriculture at the American University of Beirut where he was abducted on June 9, 1985.

Mr. Speaker, I salute the 37th Anniversary of International Human Rights Day. I am confident that we in the Congress of the United States will continue to vigorously work for a coherent, effective, and long-term approach to affect proper respect for human rights in those nations most guilty of systematic violations. My thoughts and prayers are with those who now are not fortunate enough to live in societies which uphold human dignity and respect human freedom.

HARSH TIMES IN HONDURAS FOR SALVADOR REFUGEES

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. LEVINE of California. Mr. Speaker, refugees fleeing the continuing violence in El Salvador frequently seek safety in Honduran refugee camps. Unfortunately, these camps don't always provide the safety the refugees seek. Last August Honduran troops attacked the camp and killed three refugees, including an infant girl who, according to witnesses, was kicked to death by a government soldier.

Legislation is being considered in subcommittee which would grant Salvadoran refugees temporary haven here in the United States. The administration is opposing this bill on the grounds that the refugees are economic migrants fleeing poverty rather than violence. The administration argues that since the refugees can stay in the camps in Honduras, they don't need to come all the way to the United States to find shelter. Additionally, the administration claims that the violence against civilians in El Salvador is greatly decreasing, lessening the need for civilians to leave El Salvador.

Recent reports from Central America refute these arguments. Eyewitness accounts indicate that civilians are still innocent victims of conflict in El Salvador, and the recent attack on the Honduran camp, and similar incidents, show why the refugees need shelter here.

A recent article in the Los Angeles Times documents the continuing problems for Salvadorans, both in their country, and when they flee to Honduras. I submit the article for inclusion in the RECORD.

HARSH TIMES IN HONDURAS FOR SALVADOR REFUGEES

(By Anne Nelson)

COLOMONCAGUA, HONDURAS.—Three weeks ago, an influx of new Salvadoran refugees—134 exhausted men, women and children—stumbled into this camp, a sparse landscape of scrub pines just over the border from El Salvador. Another nine arrived three days later. They were the first new refugees to make it into the camp since last April.

Their stories make it clear why the refugees—now numbering about 9,000 and some here for five years—at this barren site fear Honduran threats of repatriation. And it is also clear, despite official denials, the civilians continue to be victims of fighting between Salvadoran forces and guerrillas.

On Aug. 29, the border camp briefly made world headlines when Honduran troops invaded and shot up the settlements. The attack left three refugees dead (one, who was deaf, died recently of his injuries) and dozens wounded. One soldier killed a 2-month-old baby, Gloria Noemi Blanco, by kicking her out of her grandmother's arms, according to the grandmother and other witnesses.

Since August the refugees have been restricted to their compounds by the Honduran army, with even their nearby vegetable gardens off limits. In September, Col. Abraham Turcios, head of the Honduran National Refugee Commission, declared that he intended to move the camp. Turcios presented the refugees with two basic options: relocation or repatriation.

The refugees who arrived this month said they were fleeing heavy aerial bombing by the Salvadoran armed forces in northern Morazan, including intense bombardment of the hamlet of La Tijera from Oct. 12 to Oct. 16, which was unreported in the Salvadoran or U.S. press.

Last year, under pressure from President Jose Napoleon Duarte, the Salvadoran air force issued a directive that it said was designed to limit civilian casualties. Earlier this year, at a briefing at the U.S. Embassy in San Salvador, Lt. Col. Nicholas Schillen, then the air attache, told a U.S. labor delegation that the standard practice was for air power "to go in and sanitize the area." When he was asked what "sanitize" meant, he said, "Sanitize is a euphemism for getting rid of what's there so you can land." when he was asked how the attackers could be certain civilians weren't killed along with guerrillas, he said, "The bombing has become almost surgical," adding, "I think the battalion commanders are sensitized to the jeopardy of the civilian population."

Many in the group of refugees at Colomoncagua shared the experience of 23-year-old Elena Romero, who had fled her home in the town of Perquin three years ago when it was bombed. She found shelter in an abandoned town to the north, only to lose that to another round of bombing. "I lived with a family," she said, "but they all died in the house. There was the grandfather, Felipe Garcia, and Wilfredo Romero, six months old. Others died too, but I don't know who—I was too nervous to see. When the bombs fell there was fire and smoke, it burned up the house and all the trees around it."

Modesto, a 37-year-old laborer from the village of Joateca, reported that the attack there began Oct. 15. "There were 18 planes and helicopters, bombing and landing troops who burned houses and crops. I heard gunfire and ran away into the hills. As I ran past the houses I saw pieces of arms and hands lying there. The people who stayed in the houses all died."

Twenty of the recent arrivals gave eyewitness accounts of at least two dozen deaths from the bombings, many with specific names, dates and locations. The refugees reported seeing many other bodies they couldn't identify. They said that they could hear fighting in the hills, but that there were not any guerrilla encampments within sight of their villages. They stated that the planes were aiming directly at their dwellings.

The residents of the camp at Colomoncagua, most of whom are from Morazan believe that to return to El Salvador under such conditions would be collective suicide. But the Honduran government's second option, relocation, is the more imminent threat. One local commander has threatened relief workers that if the refugees refuse to move, he will evacuate the camp with tear-gas bombs and burn them to the ground, no matter what the cost in bloodshed.

Honduran officials claim that the camp's proximity to the Salvadoran border invites Farabundo Marti National Liberation Front guerrillas to cross over at will, to feed, rest, receive medical treatment, and return to battle. But the camp is tightly controlled. The refugees under the supervision of the United Nations High Commissioner for Refugees must carry identity papers at all times. The Honduran military has yet to produce a convincing guerrilla from the camps wounded or otherwise, despite frequent searches and an army cordon around the camp that has been locked into place since last May.

The refugees say that the army wants to move them for tactical reasons. From the camp's modest chapel one can see helicopters shuttling troops towards the Salvadoran frontier and hear the distant thud of bombs. One of the officers told me that the Americans and the Hondurans want to turn this whole border area into one big military base," says Anton 50, a midwife. "But they don't want us here as witnesses to what they're going to do."

(The U.S. is supplying arms and equipment to both El Salvador and Honduras in addition to U.S. military advisers in both countries, there are currently 1,100 U.S. troops based in Honduras, according to the Pentagon.)

The Salvadoran refugees base their reluctance to move on a number of arguments. Many of them have been living in the camp for nearly five years. Over that time, they have built housing, communal kitchens, workshops and schoolrooms—a large number of the adults have learned to read and write as refugees. The humanitarian agencies there oversee the camp have already experienced crippling cutbacks in their budgets this year. How can they expect to rebuild relocated camps, the refugees demand, if they cannot adequately supply the ones that are already standing?

Furthermore, the refugees point out that had the camp been moved farther from the border, this month's new arrivals would never have made it. The Honduran armed forces have made it arduous for Salvadorans to find refuge, but they have not quite made it impossible. If they move the camp, future bombing victims will have no hope of refuge. Moreover, international relief workers maintain that the logistics of such a move would be disastrous, costing many refugee lives.

The Honduran Catholic Church's position is that the government has not presented adequate reasons as to why the move should take place. The refugees themselves, stretching their already scant resources to care for the new arrivals, are adamant that they are staying. As with so many of Honduras' supposedly local issues, international opinion will ultimately tip the balance.

TO SAVE AMERICAN JOBS

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. COBLE. Mr. Speaker, despite the strong, concerted efforts of Members of both parties, including a majority of Members in each body and despite the tremendous support and advocacy from workers around our Nation, jobs in the American fiber, textile, and apparel industries are still in jeopardy.

Today, I am joined by 10 of my colleagues in offering another legislative attempt to save both tax dollars and jobs in these important industries. The bill which we are introducing today will reduce American contributions to international financial institutions in an amount proportionate to any assistance provided by that institution to any foreign country for the production of any fiber, textile or article of apparel.

A report accompanying the 1985 general Government appropriations bill, H.R. 5798 (Rept. 98-830) expressed strong opposition to multilateral bank loans for textile and apparel projects because such loans might result in additional textile imports to the United States.

There is no question that the United States is vulnerable to massive imports of fiber, textile and apparel products. In fact, textile and apparel import growth has averaged 19 percent annually since 1980. Imported textile products comprise over 50 percent of our market, and 66,000 hardworking American textile workers have already lost their jobs in 1985 alone. The legislation introduced today will spare the taxpayers the unnecessary burden of helping to sponsor and subsidize overseas textile and apparel enterprises.

With the present trade deficit, the issue is fairness. The taxpayers should not be subsidizing the very industries that are competing for American jobs. Consider that interest rates on these loans range from about 8.8 percent to no interest—along with grace periods. This is far below the cost of capital for any American textile producer today.

I am asking every Member of this body to consider the equities of this remedial legislation and join me in this effort to save American jobs.

CHILD SURVIVAL REVOLUTION

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. DORGAN of North Dakota. Mr. Speaker, we hear a lot of bad news on the 6 o'clock news and see a lot more on the front page of the newspaper. So I am especially heartened by the good news about the child survival revolution.

This nonviolent revolution is saving lives, not taking them. In some 40 nations around the world, simple health techniques pioneered by UNICEF are sharply cutting child mortality rates. Two cheap, simple practices, immunization and antidehydration packets, are saving well over 1 million children each year. Even more encouraging, and despite the continuing African famine, UNICEF Executive Director James P. Grant believes that we could save up to 7 million lives a year by 1990.

Universal child immunization would cost only about $500 million a year. This is a small price to pay for the lives of some 3.5 million kids who die each year from preventable diseases. It is also a very effective way, with benefit cost ratios of up to 20:1, to share the very best of America with the very neediest in the Third World.

I would encourage my colleagues to cosponsor H.R. 3894 which would add $50 million to the Child Survival Program of the Agency for International Development. We can make no wiser investment in foreign aid.

Further, I would urge my colleagues to review the miraculous results of the Child Survival Program described in the following Christian Science Monitor article of December 12, 1985.

CHILD SURVIVAL REVOLUTION GAINS SPEED

(By David K. Willis)

LONDON.—The dominant image of third world children this year has been the face of a hungry African child. But now comes word of a different image: one of hope.

Three years ago, the United Nations Children's Fund (UNICEF) began predicting that a "child survival revolution" was possible in the third world within 12 years if political leaders galvanized available resources and technologies.

Last year, UNICEF reported the first glimmerings that the revolution had begun.

Now, in its annual "State of the World's Children 1986" report for 1986, UNICEF asserts that the revolution is well under way—and accelerating—in more than 40 nations including the world's two most populous, China and India.

Officials see it as a third world safety net being spread under society's most vulnerable members: children under the age of five.

Economic recession, unemployment, drought, exploitation, neglect, and other obstacles still keep the safety net away from countless millions of children. Faster economic development is also needed to let children make the most of the lives the "revolution" is said to be saving.

But UNICEF Deputy Executive Director Richard Jolly, during an interview in London, insisted that he saw "hard evidence" of a "near miracle" in health care and in changing parental attitudes.

For years now, about 45,000 children under five—15 million a year—have died daily from malnutrition and other "easily preventable diseases," UN officials say.

Today, Dr. Jolly says, child mortality rates are beginning to fall—dramatically—in China, India, Pakistan, Bangladesh, Brazil, Nigeria, Indonesia, Colombia, El Salvador, Ecuador, Bolivia, and elsewhere.

The lives of "well over 1 million children a year" are being saved by two cheap, simple techniques alone, says UNICEF Executive Director James P. Grant—immunization and tiny salt-and-sugar packets to fight the dehydration that afflicts millions of poor children. Despite the continuing African famine, he says, it is now conceivable that 7 million lives a year can be saved by 1990.

Among parents, Jolly believes, apathy is slowly retreating before greater awareness. Old ways are yielding to new.

The salt-and-sugar packets are so simple and cheap that parents can administer them without professional help. Release of the latest UNICEF report coincided with a global conference on the salt-sugar packets (technically referred to as "oral rehydration") organized by the US Agency for International Development in Washington Dec. 10-13.

Attended by about 1,000 delegates, the conference was opened by AID administrator M. Peter McPherson, who described his agency's own "Child Survival Action Program" now operating in 50 countries.

The program is partly financed by a special Congressional allocation of $50 million for the year ending Sept. 30, 1986. Last year Congress allocated $85 million. AID also provides some funds for UNICEF programs.

Two other methods included in UNICEF's "revolution" are also straightforward—breast-feeding of infants and regular weighing to check growth.

The fourth—widespread immuinization—means parents must know when to bring children in. So a self-help, self-health revolution is emerging, officials say.

"The attitude that health care is someone else's responsibility is linked to the fact that, in the past, health professionals have taken away from the people their [health] decisionmaking power," according to a recent UN World Health Organization committee cited by UNICEF. "Therefore an effort must now be made to give them back their confidence and to help them develop their skills in making the right choices."

One question raised by the report: Won't sharply lower infant mortality rates push up already high rates of population growth in poorer countries?

No, Mr. Grant replies. Parents who are confident that their children will survive into adulthood tend to have fewer, not more, children.

UN population experts agree that this has been the pattern in China, Sri Landa, South Korea, Costa Rica, Singapore, and the state of Kerala in India.

These experts also point out that more is needed than lower infant mortality. The status and literacy of women, for instance, must increase, along with their ability to find work outside the home.

UNICEF offers another argument: that the "child survival revolution" increases "parents' sense of control over their lives."

Anything that helps increase the "confidence of parents that they can improve their lives by their own informed decisions and actions . . . [is] also likely to lower birthrates."

The UNICEF report spotlights the importance of top political leaders supporting all aspects of the "revolution." It cites:

Prime Minister Rajiv Gandhi of India this year launching an immunization plan to save the lives of more than 1 million children a year by 1990 as a "living memorial" to his assassinated mother, Indira Gandhi.

Chinese leaders adopting this year the World Health Organization goal of halving infant mortality rates by 1990.

Turkish Prime Minister Turgut Ozal launching an immunization campaign in all 67 of Turkey's provinces in September.

Leaders in Colombia, the Dominican Republic, Ecuador, Bolivia, Pakistan, El Salvador, and Brazil pushing their own health programs hard this year, partly in response to the World Health Organization goal of major progress by 1990.

The number of salt-and-sugar packets distributed rising from 100 million in 1984 to 200 million in 1985.

Jolly cites several reasons for the "revolution" apparently taking off this year.

Political leaders from left to right—Prime Minister Gandhi, President Belisario Betancur of Colombia, Prime Minister Ozal in Turkey, President Thomas Sankara in Burkina Faso—see political as well as humanitarian appeal in reaching out to more people.

Private organizations such as Oxfam, Save the Children, and Rotary International have pitched in. The news media have helped make people aware. The Band Aid/Live Aid organization started by singer Bob Geldof has contributed $3 million for immunizations in Ethiopia, Sudan, and the Sahel.

Western governments have given money and knowhow: Italy, $100 million in 26 African countries; Canada, $25 million; plus US support for the salt-and-sugar packets.

HONORING REV. GOMIDAS VARTABED

HON. RICHARD H. LEHMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. LEHMAN of California. Mr. Speaker, on December 22, 1985, 80,000 Americans of Armenian descent will honor one of their most talented and inspiring clergymen, Gomidas Vartabed, with a Sunday Mass and commemorative concert in New York City. Many will pause and remember Gomidas Vartabed for the folk songs which he singlehandedly collected and refined over the course of his lifetime.

Born in 1869, Gomidas Vartabed was sent off to study music at the early age of 11 and soon became a true scholar and lover of Armenian music. After being ordained a priest at the age of 24, Gomidas traveled among the eastern provinces in Armenia gathering, assembling, and refining the various folksongs of the region which captivated the hearts of large audiences. He also harmonized the Divine Liturgy, the musical foundation of the Armenian Apostolic Church.

Fifty years after his death, the music and memory of Gomidas Vartabed lives with thousands of Armenians, grateful for his efforts to preserve transcriptions of Armenian religious and secular music even during the atrocities in Ottoman Turkey between 1915 and 1923. I am pleased to be one of many to acknowledge and commemorate Gomidas Vartabed for his special contribution to the history of Armenians around the world.

IN MEMORY OF DIRK A. MILLER

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. KOSTMAYER. Mr. Speaker, I rise today to pay tribute to a constituent, CWO Dirk A. Miller of Quakertown, PA, who lost his life on December 12, 1985, while returning from duty in the Sinai desert.

Chief Warrant Officer Miller and 247 other soldiers were killed when their chartered DC-8 crashed in Gander, Newfoundland.

Chief Warrant Officer Miller had made a career in the military and had served his country for 12 years. He was a member of the 502d Infantry Division, 3d Battalion, 101st Airborne Division of the U.S. Army.

He was a 1973 graduate of William Tennent High School in Warminster, PA.

The death of Chief Warrant Officer Miller is a grim reminder of the contribution of our families of servicemen to their country. Dirk Miller leaves a wife, Kathryn, a 6-year-old son, Jason, and a 9-month-old son, Brandon, all of Clarkesville, TN. He also leaves five sisters and a mother, Romaine Miller, of Quakertown, PA. We recognize their sacrifice and their loss, Mr. Speaker.

On the day of his tragic death I spoke to Dirk's mother and conveyed to her the pride all of us took in Dirk Miller's service to his family and his country.

The neighbors, friends, and all the people of Bucks and eastern Montgomery counties will miss Dirk Miller, and on behalf of the House of Representatives, Mr. Speaker, I want to extend our prayers and sympathy to his wife, mother and to his family.

MONSIGNOR FARRELL MARCHING BAND

HON. GUY V. MOLINARI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. MOLINARI. Mr. Speaker, I rise to pay tribute to the members of the Monsignor Farrell High School Marching Band of my district in Staten Island, NY. Under the direction of Larry Christiansen, the band has recently completed a season of performance excellence, winning the 1985 New York State-Class 1 championship in the Eastern Marching Band Association. In addition, the band placed a close second—missing first place by only one point—in the five State E.M.B.A. competition.

Beyond the accomplishments of the band as a whole, lie the individual success stories and talented contributions of the 80 students who comprise the marching band. I have no doubt that the level of quality displayed at every performance is the result of long hours of practice and extraordinary discipline. Such a steadfast commitment to excellence is a tribute to the character of these fine students and offers promise for more good things to come from them in the future.

To the students let me say that I hope your recent championship is the first of many yet to come. I can personally attest to your skillls and abilities and our entire community is proud of your accomplishments.

I consider it a personal pleasure to congratulate the Monsignor Farrell band on its remarkable triumphs.

U.S. ARMY SP4C ROBERT THOMAS

HON. ROBERT J. MRAZEK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. MRAZEK. Mr. Speaker, like many of my colleagues, I was shocked to learn last week of the tragic death of one of my constituents in the crash of the DC-8 charter in Gander, Newfoundland.

U.S. Army Sp4c. Robert Thomas of Roslyn, Long Island, was among 248 American soldiers killed in the accident. He leaves behind a bride of only 6 months, Wilhemenia Burney Thomas, and family in North Carolina.

Mr. Speaker, Robert Thomas came to Long Island while a teenager. His athletic prowess led him to a position on the varsity basketball team at Manhasset High School, from which he graduated in 1979.

In 1982, Robert Thomas joined the U.S. Army and he served for 2 years in West Germany. Returning to the headquarters of the 101st Airborne at Fort Campbell, KY, he married Wilhemenia in June and then left for assignment to the Middle East in July, where he served as a member of the multinational peacekeeping force stationed along the Egypt-Israel border.

In the New Testament book of Matthew, Mr. Speaker, it is written that "* * * Blessed are the peacemakers: for they shall be called the children of God." Though life is often unfair, it seems a particularly cruel fate for this young soldier and his colleagues from the peacekeeping mission on the doomed flight that they would be taken from us in so inexplicable a manner.

I'm sure that the hearts of my colleagues go out along with mine to the wife, family and friends of Robert Thomas, who served his country with pride and honor.

PERSONAL EXPLANATION

HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. BILIRAKIS. Mr. Speaker, last week I was unavoidably absent from the vote on Senate Joint Resolution 238, calling for nuclear cooperation with the People's Republic of China, due to a meeting I had with President Reagan at the White House.

Had I been present, I would have voted against this resolution. While a more productive relationship with China is a worthy goal, it must not be at the expense of our own security or the security of our more vulnerable non-Communist neighbors. Nuclear capability in the hands of potential aggressors poses a very serious threat, and I am concerned that the United States-Chinese agreement may only serve to increase that threat.

Despite evidence from our intelligence community that the Communist Chinese have provided nuclear assistance to Iran and Pakistan, the proposed agreement for nuclear cooperation lacks specific safeguards to assure nonproliferation. In light of China's track record and its opposing ideology, we should expect no less then written commitments from them. We should also strongly encourage them to become signatories to the Non-Proliferation Treaty, a move which they have thus far refused to make.

While this resolution calls for the addition of several conditions to address the obvious inadequacies of the proposed agreement, I just do not feel it goes far enough to assure us that China will comply with our nonproliferation standards. Since this would be the first agreement of this kind with a Communist government, I think it would be more appropriate to insist on more stringent safeguards, not less.

IN HONOR OF HARRY VAN ARSDALE, UNION LEADER IN QUEENS

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. ACKERMAN. Mr. Speaker, I rise today in tribute to Harry Van Arsdale, Jr., of Flushing, NY, upon the celebration of his 80th birthday on November 23, 1985.

Harry Van Arsdale has been a towering figure in organized labor in New York City for over 50 years. Born in 1905 while his father was on strike, Van Arsdale joined Local 3 of the International Brotherhood of Electrical Workers in 1925 at a time when it was plagued by untrustworthy officers and threatened with Communist takeover. He quickly moved to overhaul Local 3, instituting democratic handling of union practices and finances. By 1939, membership had more than quadrupled to 30,000.

As business agent, business manager, and financial secretary for Local 3, based in Flushing, Queens County, Van Arsdale has spearheaded many innovative ideas to benefit the members of the local and millions of other trade unionists across the United States. Under his direction, Local 3 instituted trailblazing programs to provide job security, better working conditions, greater benefits, and educational programs for workers' children.

Among the specific programs that Harry Van Arsdale pioneered have been courses for union members paid for by an educational and cultural fund; college scholarships for members' families; an annuity plan; and a jury duty benefit designed to encourage responsible citizenship among union members. In addition, he worked with management to found in 1943 the highly successful Joint Industry Board of the Electrical Industry, which has been reponsible for securing excellent benefits for electrical workers, such as new pension plans, an apprenticeship training program, a vacation holiday expense plan, and over a dozen other important benefits.

In 1957, Harry Van Arsdale was elected president of the newly created, 1,000,000-member New York Central Labor Trades Council. His farsighted leadership sparked the creation of a black trade union leadership committee and a Hispanic labor committee, which have helped all New York workers fight together for common goals. In addition, Van Arsdale successfully helped organize workers in many New York industries—including taxi drivers, who had failed in previous, attempts to unionize.

Mr. Speaker, I regret that I do not have the time to list all of Harry Van Arsdale's accomplishments in his more than 50 years as a major union official. This man is personally responsible for much of the progress that labor has made in this century in America, and we in Queens are very proud to claim him as one of our own. His example of leadership and dedication to the cause of helping America's workers has paid off for millions of Americans who work with their hands.

Mr. Speaker, I call now on all of my colleagues in the U.S. House of Representatives to join me in tribute to Harry Van Arsdale, of Queens County, NY, and in appreciation for all he has done for our Nation.

RIMA MANUFACTURING CO.

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. PURSELL. Mr. Speaker, I rise today in recognition of the 30th anniversary of an important company located in my home district. Headquartered in Hudson, MI, the Rima Manufacturing Co. is celebrating 30 years of operation—from 1955 to 1985.

This machining services supply company was founded by Ed Engle, Sr., and today is operated along with his son, Ed Engle, Jr. From a humble start in a wood-frame building that once housed horses, Rima has grown to an international company with facilities in Canada.

But beyond the business accomplishments, Rima has played an important role in the Hudson community—a role which must be recognized.

A major benefactor of Rima's community participation has been the Hudson Public Library. The Engles, through their company, have made donations which have built a children's room, audiovisual rooms, and a mezzanine addition to the local library.

Meanwhile, as the company has grown, Hudson has benefited from the construction of increased facilities and increased jobs. The company's prosperity has been passed along to employees—now some 170 strong. In 1966, when the company expanded its building, it also announced a full-paid retirement program for employees.

Mr. Speaker, I believe the dedication, vision, and hard work of people such as Ed Engle, Sr., is what makes this Nation great. Rima is a strong part of the Hudson community due to the generosity and work of the Engle family. I urge all of my colleagues to join with me in congratulating Rima on an outstanding 30 years and wish them many, many more years of success.

HOPEFUL SIGNS FROM CHINA

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. LEVINE of California. Mr. Speaker, China has been, and continues to be, a source of mystery and fascination to this country. Relatively closed off to the West, its secrets have seemed almost unfathomable, its adherence to Marxist principles frightening. But things are slowly changing, and for the better. These changes are discussed in an insightful and revealing article that appeared in the December 8, 1985 Los Angeles Times by Warren Christopher, former Deputy Secretary of State.

Mr. Christopher enjoys the reputation of one of the most distinguished public servant in our Nation. His example is just one recent example of his insight.

China was once aligned with the Soviet Union, but split in 1960. Mr. Christopher writes:

> This Sino-Soviet division has been a fact of life for many years, but many may not have grasped its full importance. Not long ago US defense planning was geared to fight 2½ wars at once—against the Soviet Union, against China and against a smaller regional power. Now, the United States does not arm itself against China—but the Soviet Union does. This one change has brought a major realignment in the global balance of power.

Clearly the impact of the Sino-Soviet split is important, not only to the United States, but to the world, and has produced what Mr. Christopher calls "a massive shift in the global balance of military power."

There has been a significant change in China's approach to ideology, as well. According to Mr. Christopher:

> The Marxist premise, "to each according to his need" is out of favor, being replaced with a quite different premise, "to each according to his performance." There is official acceptance, even approval, of the accumulation of wealth. Private ownership is permitted for shops, restaurants and medium-sized businesses.
>
> Perhaps most striking of all, China is granting permission for private companies to sell shares of stock to the public. To a

capitalist, this is the natural business process; to a Marxist, it is heresy.

Mr. Christopher states that "China is a remarkable vindication of the free-enterprise system," and so it is. Relying on the incentive system, it has chosen a system which is the antithesis of the Soviet approach.

True, China is still not a liberal, democratic society where its citizens enjoy political and personal freedom. Still, these changes are important in the geopolitical context, and are hopeful signs of decreasing hostility toward Western and democratic ideas.

The entire text of Mr. Christopher's article follows. I hope my colleagues will read it.

Thank you.

The article follows:

Reforms Reshape the World

LONG MARCH TO A PROFIT MOTIVE

(By Warren Christopher)

Napoleon once said about China: "There lies a sleeping giant. Let her sleep, for when she wakes she will shake the world." That time has come.

China is about to become a superpower. If China and the Soviet Union maintain the same respective growth rates they have averaged over the last decade, by the year 2000 China's economy will be three times as big as the Soviet Union's.

China is pursuing an independent course in foreign affairs, producing a massive shift in the global balance of military power.

China has emerged from the cultural revolution—from the convulsive and costly process of turning a whole society on its head to enforce ideological purity.

And China, to a degree unprecedented for a major communist society, is looking for guidance less and less to Marx, more and more to the magic of the marketplace. What a powerful example, when the world's largest developing country, a country with almost one-fourth of all mankind, embraces ideas like the profit motive, private entrepreneurship and market pricing.

In 1949, the "loss" of China sent a tremor through U.S. political life that reverberates even now. Sen. Joseph R. McCarthy's famous charge that there were precisely 57 communists in the State Department came less than eight weeks after Chiang Kai-shek picked up the remnants of his government and fled to the island province known as Formosa.

China's revolution helped define America's approach to the postwar world. Here was proof that the Soviets aspired to reshape the world in a Marxist image and that, unless resisted, they might. In the 1950s and 1960s, the memory of the fall of China and fears of the Chinese Communists lured us into two divisive land wars in Asia, first Korea, then Vietnam.

Against that background, it is stunning that we now find so much in common with China.

The shift began in the 1960s, with the deterioration in China's relations with her ostensible mentor, the Soviet Union. In retrospect, the Sino-Soviet split seems to have been inevitable. Resistance to foreign domination is deeply rooted in China's history, in the cultural self-confidence of the Confucian "Middle Kingdom" which for 2,000 years regarded all foreigners as "barbarians."

Even the communist revolution could not erase all this history. When the Soviet Union asserted the right to defend socialism by invading sovereign nations, Czechoslovakia was the 1983 target but China saw the message—and didn't like it. By 1969 there was sporadic fighting along the Sino-Soviet border and Mao Tse-tung was telling his people to "store grain everywhere," and to "dig tunnels deep"—words that resonated with Americans who were concerned about Soviet expansionism.

That parallel outlook toward the Soviets opened the way for gradual normalizing of U.S–China contacts, leading to the establishment of full diplomatic relations in 1979.

This Sino-Soviet division has been a fact of life for many years, but many may not have grasped its full importance. Not long ago U.S. defense planning was geared to fight 2½ wars at once—against the Soviet Union, against China and against a smaller regional power. Now, the United States does not arm itself against China—but the Soviet Union does. This one change has brought a major realignment in the global balance of power.

What about the future? Will China slip back into Soviet orbit? No—not necessarily because of our own influence—to confuse our diplomats' skill, but because of underlying realities. We all have a natural tendency to overstate our presence at an event with its cause, like the rooster who thinks his crowing calls forth the sun. The notion that the United States could manipulate China as part of a strategy toward the Soviet Union has always been the height of presumption—to regard the nation of 1 billion people as just a playing card in the U.S. deck.

What will keep China out of the Soviet orbit is not friendship for the United States, but reasons of her own—an underlying clash of cultures and a long and troubled border. Since China's position is grounded in self-interest, it is all the more durable and certain.

There have been compelling new indications of a pragmatic Chinese posture in dealing with other countries, notably in the handling of the Hong Kong matter. The British crown colony of Hong Kong, operating under a very pure strain of capitalism and British law, has become one of the world's most important commercial centers. The limits to further growth seemed defined by its lease; British tenancy runs out in 1997 when Chinese rule returns. Worries about the future were aggravated in late 1982 by some undiplomatic British hints that Hong Kong might be treated like the Falklands. Fortunately this moment passed and the negotiations that followed are a tribute to British realism and Chinese pragmatism.

Under the agreement, even after the Chinese resume sovereignty in 1997, Hong Kong's current economic and social systems will be left alone for 50 years. Hong Kong will maintain a high degree of autonomy except in foreign affairs and defense. The Chinese, with their great gift for summation, described the result as "one country, two systems."

The Chinese approach in this case had many audiences, not least of them Taiwan. It is one thing to talk about "one country, two systems"; it is another to enter into agreements to make it happen.

A refusal to be diverted from internal reform seems to be the operating principle of Chinese foreign policy in the 1980s. Chinese reaction to Vietnamese strikes this year in Cambodia has been muted indeed, especially in contrast to the "teach them a lesson" approach of the late 1970s. Relations with South Korea are edging toward normalcy.

For good measure, China has trimmed its military budget and plans to reduce the size of the People's Army by 1 million men. As a nuclear power, China has shown no interest in an arms race with anyone—maintaining less than 250 nuclear-capable missiles and bombers, compared with thousands for the Soviet Union and the United States.

Meanwhile, the country's domestic trends have been riveting.

China has not become a liberal, democratic society. Political and personal freedoms are still sharply confined. But there have been drastic and accelerating departures from the Marxist model in the economic sphere. They began with reform in agriculture. In 1978, the Chinese started shifting from farming communes to a system of contracts with family farmers. They adopted such unorthodox prescriptions for agriculture as regulation by market forces, profit incentives and experiments in enterprise economy.

The agricultural reform was called a "self-responsibility system." (Not a bad way to define U.S. aims.) It has been stunningly successful—bumper harvests for four years running, including a doubled production of food grains, permitting sharp cutbacks on purchases abroad. The shift produced great wealth in the countryside and a sense of excitement—perhaps even of mission—among rural Chinese. In the process, rural reform has helped China avoid the surge of migration to the large cities that has plagued so many developing countries.

Last year, the Chinese moved their economic revolution to urban areas. Reforms include far-reaching steps out of character with a Marxist system. The goal of the 400,000 state-owned enterprises in China is no longer aiming to fill bureaucratic orders but a return of reasonable profits. Managers now make their own plans in such areas as wages, suppliers, investment and production. American-style training has been adopted in management, marketing and accounting—using instructors from U.S. universities.

The Marxist premise, "to each according to his need" is out of favor, being replaced with a quite different premise, "to each according to his performance." There is official acceptance, even approval, of the accumulation of wealth. Private ownership is permitted for shops, restaurants and medium-sized businesses.

Perhaps most striking of all, China is granting permission for private companies to sell shares of stock to the public. To a capitalist, this is the natural business process; to a Marxist, it is heresy.

Chinese leaders are not timid about describing what they are doing and why. The party leader himself, Hu Yaobang, has said China "wasted 20 years" after 1949 because of the "radical leftist nonsense" associated with Mao. As an example of "nonsense," he recited Mao's phrase, "better to have socialist weeds than capitalist seedlings." Now the favored maxim is the reverse, summed up in the aphorism from China's top leader, Deng Xiaoping, that a cat of any color is welcome so long as it catches mice.

Such an extraordinary concept is now acceptable because, as Premier Zhao Ziyang says, "we learned our lessons the hard way . . . Now, we know what works best for China."

Quotations from Marx, Lenin and Mao are still invoked to rationalize the new policies, but the goals would be anathema to theoreticians like Mao. In China recently, one official told me that the reforms would create "200 million rich Chinese."

These are changes of historic proportions. No major communist country has tried to move so far, let alone so fast, toward a market economy. The Economist, a British weekly, recently suggested that "if the same thing were happening in Russia, it would be the wonder of the century. The West is entitled to be enthralled."

There is some evidence that the rapid pace of decentralization in China may have outrun the competence of local managers. Even the promise of change in the pervasive system of price controls produced a ripple of panic buying; when actual price increases come, discontent is bound to follow. Opposition is surfacing among bureaucrats who are losing power and who call the reforms "spiritual pollution." This is plainly a time of testing.

Many students of China also wonder what will happen when Deng, now 81 years old, leaves office. But Deng, the leading architect of reform, gives every indication of being concerned with posterity as well as power. He has firmly designated his successors—Hu the party leader, Zhao the premier. A cadre of younger people has replaced a generation of aging leaders, the largest power shift since 1949. The broad strategy is to assure that today's directions will survive their chief author.

The reforms are manifestly popular—and, on the whole, working. China has grown at sustained rates comparable to Japan in the 1960s and South Korea, Taiwan and Hong Kong in the '70s. As businessmen dealing with China can attest, the country hungers for advanced technology, and incorporates it readily—in effect, skipping whole generations in building an industrial base.

In the midst of its "self-responsibility" approach, China is a remarkable vindication of the free-enterprise system. The largest of all the emerging countries has announced its reliance on an incentive system, the antithesis of the Soviet approach. Certainly there are fits and starts. Predictably, they try to rationalize their reforms with quotations from leading communist theoreticians. But the Chinese are opting for a market economy and they are not turning back.

Modern China is also a forceful answer to the suggestion that every Marxist society is irretrievably hostile to Western interests. Nations can be subjugated by stronger outside powers, and we know that is a Soviet ambition. But modern China shows that nations, when able to do so, are more likely to follow their own interest than someone else's script.

It just might be true that time is on freedom's side.

SAFETY RECORD SETS EXAMPLE

HON. BILL SCHUETTE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. SCHUETTE. Mr. Speaker, an important milestone in industrial safety was reached recently. The Brazilian operations of the Dow Chemical Co., headquartered in Midland, MI, attained an all-time safety record of 30 million man-hours without a lost-time injury.

This represents the safe work of over 2,600 employees for 5 years and 7 months—some 2,040 consecutive days without an injury requiring lost time. This accomplishment is a testimony to sound safety practices.

Moreover, this achievement sets a record of performance for Dow globally. This is even more noteworthy considering the difficult conditions specific to Brazil.

Recently, the Dow Chemical Co. received the Lammont du Pont Safety Award from the Chemical Manufacturing Association for outstanding reduction in injury and illness frequency rates among chemcial companies in the United States, leading all eligible companies in the largest category, with a recordable injury rates reduction of 46.5 percent.

Dow's Brazilian operations encompass investments of approximately $500 million, which include complex chemical and pharmaceutical plants in five different locations, one research and development center and a number of sales and administrative offices all over the country. Among the chemicals produced are chlorine/caustic soda, chlorinated solvents, propylene oxide and propylene glycols, 2,4-D herbicides, and many other chemicals and products.

Mr. Speaker, this is quite an achievement, and will serve as the benchmark with which industrial safety levels will be measured in the future.

THE "RIGHTS" QUESTION

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. DORNAN of California. Mr. Speaker—

> If a woman becomes pregnant, the right of abortion is not implied by her right not to become pregnant. This is because her action no longer concerns only herself.

Mr. Speaker, those words correctly and simply clarify the "rights" debate around which much of our abortion discussion is centered. Mary Jane Trau, an instructor in the Department of Philosophy at the University of Miami in Coral Gables, has written a superb article, "Distinguishing Rights: Feminism's Misconceptions on Abortion," for the December issue of Catholicism in Crisis.

I insert the article in the RECORD today for serious review and reflection by all of my colleagues. Mary Jane Trau brilliantly explains the fallacy of the "rights" question. Unfortunately, there are Members of Congress who would argue with her statement that:

> The right of a woman to determine what happens to her own body has never been at stake. It is the right of the woman to determine what happens to the unborn child that raises the moral questions.

The article follows:

DISTINGUISHING RIGHTS: FEMINISM'S MISCONCEPTIONS ON ABORTION

(By Jane Mary Trau)

The Catholic Church is sometimes charged with holding positions and doctrines which derive from a desire to enforce male dominance. Many feminists currently claim that the church, as an institution, intentionally creates and preserves policies which support and encourage the suppression of women and their rights. In particular, the Church's positions on marriage, birth control, and abortion are accused of being constructed to serve best male interests. It may well be true that many a male chauvinst can be found within the ranks of clergy, religious, and laity. However, it is a more serious and difficult task to uncover any teaching of the Church which is genuinely derived from a proposition which affirms male superiority. One would simply commit the fallacy of composition if one concluded that a few high placed chauvinists represent the teachings of the Church. In fact the feminist critique of the Catholic position on abortion rests on a simple confusion which, once it is understood, will clear the Church's position from any further accusations of male chauvinism.

Many arguments for the moral permissibility of abortion center on the woman's right to determine what happens to her own body. The argument goes like this: a woman has a genuine right to decide what happens to her own body; included in that right is the choice to become pregnant; therefore a woman has a right to abort a fetus if she does not choose to bear the child. It is thus claimed that an anti-abortion position flies in the face of a woman's sovereignty over her own body. This argument is flawed because its second premise masks a confusion which rests on the failure to distinguish the right to become pregnant from the right to choose not to carry to term.

The first claim, that of sovereignty, means that a woman has a right not to be forced into manual labor, sexual acts, or to bear children against her will. This last point is the focus of the argument. A woman should not be forced to become pregnant if she chooses not to. The problem is, what happens once she has become pregnant against her own will? Does her right not to become pregnant in the first instance guarantee her a right to abort the fetus if she becomes pregnant as a result of force or accident?

This point has been the source of confusion. If a woman becomes pregnant, the right of abortion is not implied by her right not to become pregnant. This is because her action no longer concerns only herself. What she now chooses to do will seriously affect the life of another human being. The right of the woman to determine what happens to her own body has never been at stake. It is the right of the woman to determine what happens to the unborn child that raises the moral question.

In such a case, a conflict of claims is present. The right of the mother to her body is staked against the right of the child to live. One way of posing the question is as follows: under what conditions, if any, is it morally permissible to kill the unborn child? A popular framework for an answer is: when no rights are being violated, or the mother's rights override those of the fetus, it is morally permissible to take the life of the child. Now the whole issue of rights is at hand. Who has rights?

A contemporary answer is that persons have rights. Thus anyone who meets the criterion for personhood has defensible rights. The most accepted criterion for personhood includes three factors: self-awareness; an awareness of others; and the ability to reason. Whoever meets this criterion is a person and thus has rights. A major problem with this view is that such a class would exclude not only infants up to the age of three, but also the senile, severely retarded, and the insane. None of these creatures would have rights under the criterion listed. Thus no one would be violating any rights if these were to be killed. It would be morally permissible to kill them because they are not persons and therefore have no rights. If a decision were made not to abort or kill, it would derive from some position other than the issue of rights.

The rights issue would allow that a woman has the right to abort. If she chooses not to, it would be by appeal to some other position, e.g., utilitarianism. However, if one refers solely the rights criterion, those who do not have rights simply do not have any rights to be violated. Thus, the determination of exactly who does have rights is paramount. (And the rights issue, as we have seen, also has implications for the question of euthanasia and infanticide.) On the abortion issue, the question of moral permissibility is easily handled by simply denying that the fetus has any rights. The rights criterion solves the problem. The best attack on this position would therefore be the defeat of the rights criterion.

The seductive aspect of the rights argument lies in the fact that we are often called upon to make excruciatingly difficult moral choices. If a young, unwed girl is raped and becomes pregnant, it seems that asking her to carry the child to term is unfair, even cruel. The "rights" argument makes it easier to justify the killing of the unborn. If the fetus has no rights because it is not a person, then she would not be doing anything wrong if she were to kill it. Furthermore, since it is not a person by this criterion, the rights of a person would supersede any rights of another kind of being. Thus even if the fetus had rights, the rights of an actual person have more moral weight. However, with all sincere sympathy for the genuine hardship and trauma that would be borne in this situation, the legitimate questions are: does the violence against the girl justify the violence against the innocent child?; does the real trauma to the mother outweigh the value of the child's entire life?

To ask a young girl to bear the child, whether as a result of rape, incest, or one night's "reckless passion," is not to deny her the freedom to choose to become pregnant. Rather, it is to recognize the right of the child to live. The right to life outweighs the right to avoid trauma. No one would deny that a great deal of courage, love and faith would be necessary for the ordeal of bearing the child. At the same time, it is unique to Christian philosophy that we understand and bear suffering for the love of Him and His.

It is always difficult to settle conflicting claims. That problem is the crux of moral philosophy. The Christian must be true to the teachings of the Church as well as to the simple rules of logic. To recognize the right of the unborn is not to deny the sovereign right of a women to her own body. Furthermore, the Christian "right to life" is not grounded in an artificial or arbitrary criterion. Rather, we recognize God as the creator of all beings, regardless of the situation under which life was conceived. It is God, not the rapist, who gives life. This sanctity of life is the ultimate justification for a defensible right. The child's "right to life" is simply our belief that God alone is the giver of life.

Once a woman carries life within her, in spite of the circumstances of conception, she no longer has only her life to consider. The plea for her to bear the child reflects the Church's great respect and confidence in her ability to act with courage and conviction. It reveals our Church's faith in her daughters. No one would minimize or be insensitive to the tragedy of bearing an unwanted and forced pregnancy. Nonetheless, we cannot betray our obligation to protect the innocent and the helpless. Our strongest moral obligations are to those in need. The Catholic position on abortion has its roots in our most basic theology. To see this position as a desire to subjugate women to male dominance is short-sighted, misguided, and dishonest.

The fallacy in the argument for women's sovereignty lies in the simple fact that once a woman has become pregnant, under whatever circumstance, she is no longer dealing only with her own body. The rights she has concerning herself are different, as are all moral rights, when they concern and affect another. Clearly, with the very life of the unborn child at stake, a careful account must be made of the conflict of claims and the genuine ground of a right to life.

The argument that the fetus is only a potential person results in an even stronger moral obligation for the Christian. It is we who have been charged with the care of the least among us. Surely the innocent, the defenseless, and the unborn are the least among us. Even if the "rights criterion" were acceptable, that would put the "non-persons" as the least among us and thus create a stronger moral obligation to protect them. If any non-person needs defense, it is the Christian who must provide it. The confusion of women's rights and the rights of the unborn is easy to understand. After all it is she who must bear the child. However, the distinction between her right not to become pregnant and the right of the child to live, is the critical element of an honest Christian position.

A genuine search for the truth in this moral problem will reveal two distinct rights: that of a woman's sovereignty over her own body and that of the unborn child to be brought to life. The first right does not constitute a right which overrides the latter. Accordingly, the objection to the Church's position on the grounds that this is a feminist problem is fallacious because it fails to distinguish the two rights.

PEOPLE TO PEOPLE DIPLOMACY FOR PEACE

HON. BEN GARRIDO BLAZ

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. BLAZ. Mr. Speaker, a few weeks ago the eyes of the world were riveted on Geneva. Some 3,000 correspondents were there from as many as 100 countries. No event other than the Olympic games, perhaps, ever caused such worldwide interest and attention.

That attention was well deserved. President Reagan's historic meetings with General Secretary Gorbachev led to breakthroughs in vital areas, especially in creating the framework for a continuing dialog not only between United States and Soviet leaders but also between the American and Russian people.

On the leadership level, the summit was a star on the horizon, a light that just might point to a future of peace. Many have emphasized the remarkable new personal relationship that took root between President Reagan and General Secretary Gorbachev. That alone made the summit a success.

That star will remain on the horizon. Our nations and our two leaders will meet again, in two more summits: 1986 in Washington and 1987 in Moscow. President Reagan and General Secretary Gorbachev have agreed to keep on talking, to keep on trying to end the arms race. They have also declared their hope and their commitment to reduce fear and hate. They have said they want to approach peace in a new attitude of friendship.

The second major result of Geneva, in my view, was somehow overlooked or underplayed by the press, possibly because part of it happened before the summit. We have even been overlooking it here in Congress. It is this second result I want to discuss.

The result that may have even longer-lasting impact on world peace is the agreement by both sides that it is not only our leaders and our governments that are players in this most dangerous of all games on Earth but also the people of both nations in particular. The people played a vital role in this long-delayed series of summits. President Reagan has recognized them as full-fledged members of the team. It was a ringing declaration. I consider one of his greatest speeches on the idea to be the one he gave 4 days before the summit. On national TV the President, in what I call his "People to People" speech, said:

"I feel the time is ripe for us to take bold new steps to open the way for our peoples to participate in an unprecedented way in the building of peace * * *. People-to-people contacts can build genuine constituencies for peace in both countries. After all, people don't start wars, governments do. We are proposing the broadest people-to-people exchanges in the history of American-Soviet relations."

By coincidence at the very moment the President was saying these words on television, my good friend Congressman JOHN SEIBERLING was standing at another lectern, at a meeting called "People to People." It was a meeting at George Washington University's Lisner Auditorium to celebrate the national premiere of a film called "People to People"—a beautiful film produced by Marlow Boyer of Bethesda, MD, just before he died of cancer.

Congressman SEIBERLING, quoting President Eisenhower, said: "Some day the people of the world are going to want peace so much they're going to force their leaders to give it to them." President Eisenhower, as we all know, started the "People to People" program in 1956.

We do not exactly know how much either President Eisenhower, or the people themselves, may have influenced President Reagan's support of the "People to People" program. We do know that the people, encouraged by the President's vigorous endorsement, will be urging their governments to bring them peace. I think this is true not only in our country and in the Soviet Union but in every country of the world as well.

By another strange coincidence, I followed Congressman SEIBERLING to that "People to People" platform that night at Lisner Auditorium. I went on just moments after the President's speech, though I was unaware of it at the time. Had I known about it, I think I would have guessed what the President was going to do at Geneva.

I did not have a prepared speech that night. I wasn't even on the program. I was just filling in, at the last minute, for another Member of Congress who had been unable to come. So I was simply moved to say something from my own experience. As I recall, the remarks went like this.

"In much of my life I participated in a people-to-people program—as a soldier. We entered the battlefield as strangers, and we prayed to leave as strangers—because the alternative was not to leave the battlefield at all.

"As a young officer in the Marines, I also participated in an entirely different people-to-people program not on the battlefield but in the field of music. My colleagues and I would start a musical performance before total strangers in foreign countries and would invariably end up as friends of the audience—through the magic of music.

"Before I retired from the Marine Corps as a Brigadier General, I had been in three wars, two of them were against Communists in Korea and Vietnam. If my fighting contributed in some way to maintaining world peace and strengthening our freedoms, then I am honored to have made the sacrifice. But I do not want to be involved in another war.

"Over the years I have thought about how difficult it has been for soliders, everywhere, to correct the wrongs that were fought over on the battlefield; and about how difficult it has always been, for all countries involved. I made up my mind that one day I would trade my sword for a legislative pen. I would use black ink in the pursuit of peace in lieu of red blood in battle.

"I decided to become a Congressman. During my freshman year, I had an opportunity to go with some of my fellow Congressmen to see the Soviet Union as a civilian carrying only a pen. Along with Representatives MORRIS UDALL, JOHN SEIBERLING and others, we crossed that great country, from one side to the other, beginning in Siberia and what we saw was enlightening. I saw a people. I saw a culture I saw tenacity. I saw richness. I saw vastness. And I saw a bit of a swagger that must have been characteristic of our own American pioneers."

I've been around too long to think it's going to be easy to convert the Soviet Union to embrace our political philosophy and way of life. But I do think we should try to convert each other, as people, to friendship and cooperation and eventually peace, instead of suspicion and confrontation and eventually war. We each have vast resources, including ourselves, the people. We can employ them, and ourselves, for the benefit of each other, and of other people everywhere. And perhaps we will convert the Soviets, along the way, and ourselves, to each others' music and literature and dance, and their people to friendship, their farmers and fishermen, doctors and scientists, schoolteachers and students, as well as their children. And our people may come to know and better understand the Russian people.

I believe we must be involved in a "People to People" program. The alternative, as on the battlefield, is that there may be no people at all.

President Reagan and General Secretary Gorbachev have an unprecedented opportunity to be peacemakers. They could set in motion the saving of millions, possibly even billions, of lives. For that is what nuclear war could mean, in numbers.

I am proud to be an ally of the "People to People" program with President Reagan. This endeavor could provide the vital impetus for ending the nuclear arms race and making nuclear war merely a nightmare from which the world has finally woken.

It is indeed supremely ironic that it was General Dwight D. Eisenhower, who led the largest fighting force the world has ever known during World War II, who as President of the United States would inaugurate the people-to-people program as a way to lasting peace and goodwill toward men.

MAINE'S LONGEST-MARRIED COUPLE

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Ms. SNOWE. Mr. Speaker, I would like to take this opportunity to congratulate George and Isabelle Russell of Fort Kent, ME, on their designation as the State of Maine's longest-married couple.

Married for 74 years, the Russells were wed on July 1, 1911 in Upper Frenchville, ME. Parents of 8 children, they have 17 grandchildren, 19 great-grandchildren, and 2 great-great-grandchildren. Mr. and Mrs. Russell, age 94 and 90 respectively, now reside with their daughter in Fort Kent and are an inspiration to all who know of them.

The search for the longest-married couple in Maine was sponsored by the group Worldwide Marriage Encounter to coincide with World Marriage Day which will be celebrated on February 6, 1986. The Russells were one of more than 100 couples nominated for this title.

I wanted to share this wonderful expression of love and dedication with this body and I hope you will join me in congratulating this fortunate couple.

[From the Bangor (ME) Daily News, Dec. 13, 1985]

COUNTY COUPLE MARRIED 74 YEARS

(By Jeannine Albert)

FORT KENT.—A Fort Kent couple, George and Isabelle Russell, who have been married for 74 years, have been identified as Maine's longest-married couple.

"Seventy-four years is a long time. But it hasn't seemed that long . . . She's been very good to me and to her family," said Russell, 94, of his 90-year-old wife.

More than 100 couples throughout Maine received nominations for the search for the longest-married residents. The search was held in conjunction with area observances of World Marriage Day, which will be celebrated on Sunday, Feb. 9. The event is sponsored by the group, Worldwide Marriage Encounter.

The Russells were married at St. Luce Catholic Church in Upper Frenchville on July 1, 1911. They are the parents of eight children, six still living. They have 17 grandchildren, 19 great-grandchildren and two great-great-grandchildren.

Interviewed at their home on Pleasant Street, which they share with their daughter, Janet, and son-in-law, Don Dumond, the Russells—alert, witty and cheerful—look 20 years younger than their ages.

Mrs. Russell, the former Isabelle Bard, was born in Upper Frenchville in a family of eight.

Her soft-spoken husband was born in St. Jacques, New Brunswick, in a family of 11. His parents moved to the United States when Russell was about 3 years old.

The couple met at a dance. A year later, when he was 20 and she was 16, they married.

"The morning of our wedding, I remember I had second thoughts about getting married because of my age," Mrs. Russell said, "My father did not really approve because he felt I was too young. But I married, anyway. He (George) was such a nice and handsome man."

"She was very pretty when I met her. That's why I picked her," Russell said, looking fondly at his wife who was busy knitting.

The wedding took place at 9 a.m. A noon meal was held at the home of the bride's parents and an evening meal at the home of the bridegroom's parents. That evening, the couple danced at a local dance hall. "One did not go on a honeymoon then. It was the week of the Fourth of July. At that time the Fourth was celebrated all week," Russell said.

With not much money in their pockets, the young couple settled in Daigle. Later they moved to Fort Kent, where they rented a home. "One Saturday night, when I was putting the food on the table for our evening meal, a man walked in with his family and said he was the new owner," recalled Mrs. Russell.

The next day the couple moved out and lived in a tent, erected next door to where they previously lived, until their new home was built.

During the first few years that followed. Russell worked for local farmers and in the woods. Later, he was a foreman for the Great Northern Paper Co. After working in a defense plant in Old Orchard Beach for three years, Russell started his own business as a wood contractor for Great Northern.

Mrs. Russell said that because of his job, her husband was away most of the time. "I really raised the family alone. We were blessed with a beautiful family. They never gave us a moment's worry," she said.

Cutting and bringing in wood and hauling water were familiar jobs for the young mother. During the early years of the marriage Mrs. Russell did the family washing on a washboard. Later, her eldest son presented her with a new ringer-washer.

"They started picking up finanically when Dad started contracting in the woods," said their blonde, attractive daughter Janet.

Mrs. Russell said she was proud they had paid cash for their home when it was built. "It cost us $5,000 at the time. Of course, at first it was not all finished. No, we never owed a penny to anybody," she said.

At the age of 67, Russell retired from his contracting job. "But he found the time long. This was not for him," said Janet.

Shortly thereafter, Russell was employed as a foreman for the Austin Brothers of Fort Kent, where he worked until the age of 87.

Despite his 94 years, Russell putters around the house. He likes to take long walks and rakes the property grounds in the spring and fall. "Sometimes I'm gone for two or three hours. I even walk to town," he said.

The Russells said they never considered living in a nursing home. Their daughter said that having three generations under the same roof has never created problems. "It's been a pleasure having them with us," she said.

Said Mrs. Russell, "I guess God loved us. We're still together. After we're married, even if we don't want our man, we have to keep him, wash and press his clothes, and have his meals ready when he walks in the door and asks 'What's for supper?'" she said, teasing her husband.

CALIFORNIA AGRICULTURE OWES MUCH TO JIM KENDRICK

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. BROWN of California. Mr. Speaker, I was recently notified that Dr. James B. Kendrick, University of California vice president for agriculture and natural resources, will be retiring next year. The agriculture sector in California and the Nation owes a debt of gratitude to Jim Kendrick for all that he has done during his nearly 40 years of service to the University of California. As someone who has come to depend upon Jim's advice on agricultural matters, especially in the area of agricultural research, I will miss his contributions to ag policy in this town.

Jim started his career at the University of California at Riverside, in my district, when he joined the staff of the Citrus Experiment Station there in 1947. He then went on to become a professor of plant pathology there in 1961, serving as chairman of the plant pathology department from 1963 to 1968, when he became the vice president for the University of California's agricultural sciences.

As vice president, Jim has been responsible for a number of programs. He has given strong support to the agricultural research, extension, and teaching needs of the University of California system, proving himself an able representative of these programs with the State legislature and within the university system. Under his leadership, the university has developed an advanced integrated pest management system, designed to better match pest control to the target pest, and thus reduce chemical pesticide use. Under his administration, the University of California has expanded its natural reserve system to over 88,000 acres of protected natural habitats for use in research and teaching.

The university has been responsible for a number of research and extension breakthroughs during Jim's tenure. For instance, the Mosquito Abatement Program which Jim oversees has resulted in a number of mosquito control strategies which have virtually eliminated encephalitis and malaria in California. Jim has overseen the establishment of the Expanded Food and Nutrition Education Program [EFNEP] serving urban and rural disadvantaged families. He has also helped the expansion of the 4-H Program into urban and suburban communities.

On the national scene, Jim has made many contributions as well, serving on numerous national advisory panels, from the American Association for the Advancement of Science agriculture committee to an advisory panel for a study of water and agriculture conducted by the Congressional Office of Technology Assessment. He was chairman of the Council of Administrative Heads of Agriculture and the Division of Agriculture for the land-grant schools. And he is a member and fellow of a number of major national scientific organizations.

But mostly, I will think of Jim's good work when I think of the world class status that the University of California enjoys in agriculture studies. When I travel to another country and speak to their agricultural leaders, I invariably deal with a University of California graduate. When I speak with witnesses at hearings or with national agricultural policy experts, I find that many of them are University of California graduates. And much of this is due to the energy and effort that Jim Kendrick has put into his work over the years to keep the University of California on top in agriculture and natural resources sciences.

I wish Jim well in his retirement and hope that all of agriculture will take time to honor his deeds.

GOODYEAR SEES REALITY

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. BEREUTER. Mr. Speaker, employees at the Goodyear plant in Lincoln, NE, have taken a courageous and far-sighted step. They have bitten the bullet and agreed to give up cost-of-living raises and general raises for at least the next 2 years.

Eighty-five percent of the members of United Rubber Workers Local 286 voted to make that sacrifice as part of a united effort of Goodyear management and labor to invest in plant modernization in that Lincoln, NE, plant and to become more competitive in the world market. Clearly these workers are ready to make a commitment to the future.

I request permission to have the attached editorial and an edited version of the news story from the Lincoln Star included in the CONGRESSIONAL RECORD.

[From the Lincoln (NE) Star, Dec. 10, 1985]

GOODYEAR SEES REALITY

Goodyear Tire and Rubber Co. employees have traded job security for wages. It's a wise move.

If you have been shopping for a new clock for Christmas, maybe you have looked at an Elgin. An Elgin is likely to appeal to Lincoln people because watches of that name were once made here in a plant on North 17th Street just south of the State Fairgrounds.

Elgin clocks are now made in Japan, as you can notice on their faces.

If you have purchased Christmas lights or ornaments, you may have noticed they are made in Taiwan, even those lights sporting the well-known General Electric identification.

If you have shopped for clothing, you know that more is manufactured outside than inside the United States. Electronics and cameras are big gift items and far more of them come from beyond our own shores.

Foreign-made goods have become a pervasive part of the U.S. marketplace.

A Goodyear union spokesman explained that workers would forego wage hikes to facilitate a five-year company investment in plant modernization. Thus, Goodyear will become better able to meet competition from abroad and here at home, and jobs at the Lincoln plant will be retained.

It's not a pro-union or anti-union issue at all; it's good, common sense in facing current reality. The reality is that imports and advanced technology are taking a heavy toll of manufacturing jobs in the United States, making greater productivity absolutely essential.

We hope U.S. government policy will continue to encourage a decline in the value of the dollar. Other action is needed to offset the subsidies by which many foreign countries support their exports and the import charges they assess against U.S. imports.

In the meantime, Goodyear's labor-management accord over wages and plant modernization is a marriage of mutual survival and benefit.

[From the Lincoln (NE), Star, Dec. 10, 1985]

GOODYEAR WORKERS TRADE RAISES FOR MODERNIZATION

(By Gerry Switzer and Reid Warren)

Goodyear is making a five-year commitment to modernize its Lincoln plant, including a $23 million investment in 1986.

In exchange, Goodyear worker have voted to accept contractual changes that include wage freezes for at least the next two years.

According to Gib Laws president of United Rubber Workers Local 286, 85 percent of the union members voted to give up cost-of-living raises as well as general raises for at least the next two years.

* * * * *

Orme called the plan a "partnership" in investment for the future.

He said the $23 million first-year investment approved by the Goodyear board was the first of a substantial total investment the company planned to make in the Lincoln plant over the next years. He declined to reveal the amount of the total projected investment.

Orme said the plant has expanded six times since Goodyear came to Lincoln more than 40 years ago.

However, this first-year investment is the largest single commitment Goodyear has made in Lincoln, he said.

Plans call for investing between 70 percent and 75 percent in new equipment and the remaining 20 percent to 25 percent in new floors, walls, ventilation and a new receiving dock.

* * * * *

To compete in the world market, Orme said, it was necessary for the Lincoln plant to reduce the price to the customer between 25 percent and 30 percent over the next three to five years.

Orme said Goodyear was not modernizing the plant to "play catchup" but rather to be competitive in the world market.

"If you're not competitive in the world market, you might as well forget it," he said. "Now it's time for total modernization. Because of the faith in our people, Goodyear is taking steps necessary for this plant to be viable in future years."

* * * * *

He said modernization of a plant as old as Lincoln's was a tremendous cost to Goodyear.

"But our management is willing to do that because the workers here have been so good over the last 42 years."

Orme said projections show that it will take six years for Goodyear to start realizing any return on the investment.

Laws said the threat of competition, both domestic and foreign, "forced us to re-evaluate our own competitiveness in a world market."

"We don't like to do it, but there is no other alternative.

"We may lose some jobs, but in the future we should gain in the long run when the plant becomes more competitive."

Laws said Goodyear management did not give workers any guarantees of the maximum number of jobs that might be phased out or lost.

According to Laws, the workers would rather give up a wage increase than become "a statistic with a closed plant."

"If we don't make these changes, in three years the plant won't be viable. We'll be so far behind we'll not be able to compete," he said.

With the planned changes, the plant could be around 20 years from now, according to Laws.

The plant now has 1,295 workers in the bargaining unit and about 330 other employees.

Whatever the concessions, workers apparently are willing to accept them rather than face the possibility of having no jobs at all.

* * * * *

CONTINUING RESOLUTION—21-YEAR-OLD DRINKING LAW

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. GUNDERSON. Mr. Speaker, on June 7, 1984, Congress passed an amended highway appropriation bill with a provision placing fiscal pressure on States to increase their minimum drinking age to 21 in order to receive Federal highway funds. I was opposed to this infringement upon individual State rights then, and am equally opposed to amendment 22 of the continuing resolution. This amendment would make permanent a loss of Federal highway funds for States without a 21-year-old minimum drinking age law.

Representing a district of Wisconsin with a minimum drinking age of 19, I do not believe the continuing resolution is the appropriate legislative means by which to responsibly address this issue.

The 1984 action by Congress would allow States to change their minimum drinking age to 21 by 1987 or lose 5 percent of their Federal highway funds and 10 percent in 1988. Senator LAUTENBERG's amendment to the continuing resolution is premature and does not take into consideration a number of studies and statistics related to the minimum drinking age and alcohol-related highway accidents.

The University of Pennsylvania—Wharton School, in September of this year, presented the conclusions of a long-term study entitled, "The Relationship Between Increases in Minimum Purchase Age for Alcoholic Beverages and the Number of Traffic Fatalities." The Wharton School study takes a look at the traffic fatality index from State highway fatality data and analyzes the change over time in States where the minimum purchase age [MPA] of alcohol increased between 1975 and 1981. Conclusions from the Wharton Study assess that:

> Unaffected groups (those individuals of legal drinking age before and after the state law changed) experienced State Normalized Fatality Index [SNFI] increases following MPA increases.
>
> For individuals in the 18-20 age group there tended to be increases in highway fatalities following increases in the state minimum drinking age.
>
> The relationship between minimum drinking age incrases and highway performance, as measured by the SNFI, was not uniform across the states.
>
> For individuals under age (16 to 18 years of age), there is no benefit from an increase in the minimum drinking age.

The Wharton study found that of the 14 States studied, in 11 States the actual driver death rates increased as the mainimum drinking age was raised.

Another recent study conducted by two assistant professors of political science at Case Western Reserve University of Cleveland found no pattern of significant decline in the percentagae of alcohol-related deaths among 18- to 20-year-olds in States that have raised the legal drinking age.

For example, in Michigan, which increased its minimum drinking age from 18 to 21 in December 1978—and was included in this study—the number of alcohol-related traffic deaths among 18- to 21-year-olds declined from 211 to 186 the year after the drinking age was raised. However, the 186 alcohol-related deaths represent 48 percent of all of the traffic deaths in the 18- to 21-year-old age group and an increase from the year before.

Figures from the National Highway Traffic Safety Administration—PB83-133587—demonstrate that traffic accidents involving 21- to 34-year-olds are more frequently alcohol-related than those involving 18- to 20-year-olds.

Drinking in Fatal Accidents—National Highway Traffic Safety Administration

[Percent of drivers in fatal accidents who had been drinking, nationwide, 1979–80]

Age of driver:	*Percentage*
16 to 17	36.6
18	43.9
19	47.5
20	47.2
21	49.6
22 to 24	50.4
25 to 34	47.6

A Duke University researcher analyzed other data prepared by the National Highway Traffic Safety Administration and came to the conclusion that driver death rates were 8-percent higher among 18–20 year-olds in States where the legal drinking age was 21 than where it was 18 years of age.

In my home State of Wisconsin, the Wisconsin Department of Transportation [WIDOT] has conducted a number of studies related to the drinking age and the question of "border hopping" between Illinois. WIDOT has concluded that "border hopping" is not an age-specific problem. There is no evidence that alcohol-related highway accidents increased more for out-of-State drivers affected by raising the legal drinking age in their home States than for older drivers from the same State after the age was raised in Illinois, Iowa, Michigan, or Minnesota.—WIDOT, April 1985, pages 17 to 23.

Wisconsin drivers under the age of 21 have been more responsible and responsive to the need to reduce the number of alcohol-related accidents than any older driver age group. The number and percentage of alcohol-related accidents for those drivers under 21 has declined more than for older drivers. In 1984, drunk driving rates were the lowest for those under the age of 21, since 1973.—WIDOT, April 1985.

In a comparison between Illinois with a drinking age of 21 and Wisconsin with a drinking age of 18 until 1984, drunk driving related fatalities decreased 26 percent in Wisconsin and in Illinois the fatalities increased 24 percent.

In retrospect of the data above, it is clear that by increasing the minimum drinking age to 21 will not cure the national problem of drinking and driving. Other viable solutions, such as educational programs and more strict State enforcement of drunk driving laws must be sought to this national concern without placing unnecessary burdens upon the States. I commend Mr. OBERSTAR, chairperson of the Subcommittee on Investigation and Oversight, for requesting a GAO assessment of the effects of the minimum drinking age laws. Congress should utilize this study for initiating future policy on this issue, not the continuing resolution.

TRIBUTE TO TOMMY WEINBRENNER

SPEECH OF

HON. RALPH REGULA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. REGULA. Mr. Speaker, Tommy Weinbrenner is the epitome of a dedicated public servant.

He is always well informed on the issues and generous in sharing his expert knowledge with each of us.

He is pleasant and unflappable in responding to dozens of daily inquiries on procedure, substance, and educated guesses on adjournment time.

Members of both parties cherish Tommy as a counselor and friend.

Tommy, we will sorely miss you, but certainly you leave with our heartfelt best wishes for continued success, good health, and happiness.

NATIONAL DRUNK AND DRUGGED DRIVING AWARENESS WEEK

HON. RICHARD STALLINGS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. STALLINGS. Mr. Speaker, I have joined many of my colleagues in cosponsoring legislation which designates the week of December 15, 1985, through December 21, 1985, as "National Drunk and Drugged Driving Awareness Week." This legislation focuses attention on a growing concern for each of us. Its timing, near the holiday season, should help heighten our awareness of this national concern.

Statistics tell us more of our citizens are killed or injured each year by drunken drivers than were killed in Vietnam or Korea. According to the Presidential Commission on Drunk Driving's Final Report, almost 50 percent of all highway deaths involve the irresponsible use of alcohol. Over the past 10 years, 250,000 Americans have lost their lives in alcohol-related accidents. Conservative estimates, the report says, place the annual economic loss at $21 billion, while others run as high as $24 billion. And these figures say nothing about the loss of human life.

As a cosponsor of this legislation, I have taken the opportunity to discuss the problem with law enforcement officials in my Idaho district. Each of them have pointed to sobering statistics which show the loss of life attributed to drunken driving. Like others throughout the Nation, residents of the Second District of Idaho are demanding that solutions be found to the problem of drunken and drugged driving.

Clearly we must take every opportunity to help solve the problem of drunken driving. I believe the implementation of many of the recommendations of the Presidential Commission on Drunk Driving would help. These recommendations include stiffer consequences for persons convicted of driving under the influence of alcohol, encouraging citizen action groups and establishing education and rehabilitation services for convicted offenders.

I believe the designation of National Drunk and Drugged Driving Awareness Week will help focus needed national attention on this critical problem.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, December 17, 1985, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

DECEMBER 18

10:00 a.m.
Foreign Relations
To hold hearings on issues relating to the preparation for the February 1986 Philippine Presidential election.
SD-419

DECEMBER 19

9:30 a.m.
Labor and Human Resources
Aging Subcommittee
To hold hearings to examine the participation of older workers in the Job Training Partnership Act (P.L. 97-300).
SD-430

JANUARY 28

9:30 a.m.
Governmental Affairs
Intergovernmental Relations Subcommittee
To hold oversight hearings on regulatory activities of the Office of Management and Budget.
SD-342

CANCELLATIONS

DECEMBER 19

10:00
Labor and Human Resources
Education, Arts, and Humanities Subcommittee
Business meeting, to resume markup of proposed legislation authorizing funds for programs of the Higher Education Act.
SD-430

SENATE—*Tuesday, December 17, 1985*

(Legislative day of Monday, December 9, 1985)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Glory to God in the highest, and on earth peace, good will toward men.—Luke 2:14.

Thank You, Father in Heaven, for this simple formula for peace: good will toward men, which is love, and glory to God in the highest. Love each other—glorify God! With all our complicated proposals for peace, may we not ignore this transcendent event which has inspired armies to declare a cease fire and suspend hostilities for a day. With benevolent infusion, the Jesus' event permeates history and the holidays with a joyous spirit not even secularism with its materialistic, commercial preoccupation can vitiate. May the glory of God and good will toward each other transform the controversy which postpones adjournment sine die. Grant, Gracious God, that the burden of unfinished business not be allowed to mar this beautiful season of life and love and laughter with children, families, and friends. Loving Lord, surprise the Senate with joy! In the name of the Prince of Peace. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. DOLE. Mr. President, under the standing order the leaders have 10 minutes each, to be followed by routine morning business with statements not to exceed 5 minutes each.

NOMINATIONS

The Senate will then turn to the nomination of Anne Graham, to be a Commissioner of the Consumer Products Safety Commission, and we will also consider the nomination of Terrence M. Scanlon, to be Chairman of the Consumer Products Safety Commission.

Mr. President, I would hope that those who have problems with these nominees will let us vote on them. There is no reason that there should be some phantom hold. We understand that the Graham nomination is being held up at the request of House Members. If that is the case, maybe we ought to find out what the problems are.

I think these nominees have a right at this time of the session when we are about to adjourn, perhaps in the holiday spirit, to have those Members who have holds on these nominations be here and debate the merits of the nominations.

Mr. President, I hope we can dispose of the Graham nomination by 11 o'clock. By previous unanimous consent at 11 a.m. the Senate will begin consideration of the nomination of Mr. Buckley under a time agreement.

Mr. President, the Senate will stand in recess between the hours of 12 noon and 1:30 p.m.

ORDER FOR RECESS FROM 12 NOON UNTIL 1:30 P.M.

The PRESIDING OFFICER (Mr. DURENBERGER). Without objection, it is so ordered.

FARM LEGISLATION

Mr. DOLE. Mr. President, it is my hope that we can dispose of the farm credit bill today. There is one problem we are trying to work out with the distinguished Senator from Texas, Senator BENTSEN. If we can reach some agreement on that, there would likely be only one amendment by Senators HELMS and ZORINSKY. It seems to me it would be in the interest of American agriculture, American farmers, and the American Farm Credit System to pass this bill quickly.

Mr. President, I am advised that the farm bill will be finally drafted by midnight this evening. It is a very complicated and complex measure. The staff has been working almost around the clock and deserve a great deal of credit. It appears to me that we may be able to have that before us some time tomorrow.

CONTINUING RESOLUTION

Mr. President, of more immediate concern is the continuing resolution, a short-term resolution since the House defeated the long-term continuing resolution last evening. We hope to take that up without amendment as soon as it reaches the Senate floor so there will be no doubt about the Government continuing in operation.

RECONCILIATION

Mr. President, that leaves reconciliation. I am advised by the chairman of the Budget Committee, Senator DOMENICI, that they hope to complete most of the so-called subconferences tonight. One hangup, apparently, is the Superfund and how it should be financed. Should we have a new tax, a value-added tax, to finance the Superfund? That question has not been resolved between the chairman of the Finance Committee and the chairman of the Ways and Means Committee. Hopefully, that can be done sometime today.

There are a number of other minor items, but they will not come up unless we can work out an agreement. There is the Liberian resolution; the Angola resolution, and maybe some other resolutions that I do not know anything about at this point.

I think we have reached the point that if there is going to be extended debate on any legislative matter, it probably will not be brought before the Senate before adjournment.

Mr. President, we would appreciate it very much if those who have problems with any of the nominations on the Executive Calendar could make those objections known. Perhaps we can work out any problems.

Mr. President, I do believe, unless there is some just reason to hold someone over the holiday season and wait until we come back in late January for confirmation, we ought to make every effort to resolve any conflicts we may have on either side. I am not certain which side the objections are coming from so I am not pointing any fingers. I am speaking of whoever may be holding up these nominees.

The Graham nomination will be on the floor, as I said, at 9:30. Senators STAFFORD and DANFORTH on this side have been notified to be here when that nomination is called up.

Mr. President, I reserve the remainder of my time.

RECOGNITION OF THE ACTING MINORITY LEADER

The PRESIDING OFFICER. Under the previous order, the distinguished acting Democratic leader is recognized.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that 2 minutes of the Democratic leader's time be reserved for his use at his discretion later in the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

GRAMM - RUDMAN - HOLLINGS GIVES ARMS CONTROL BIG BOOST

Mr. PROXMIRE. Mr. President, Gramm-Rudman-Hollings has become law amid a torrent of warnings in this

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

body and the press that it could severely cripple America's military strength. Defense Secretary Caspar Weinberger has been consistently reported as opposed to the measure as it passed. This Senator has called attention to the irony in U.S. military policy of this deficit reduction measure. Here is legislation sponsored by three of the ablest and most enthusiastic champions of U.S. military strength in the U.S. Senate. The measure that seems certain to sharply cut military spending was pushed hard by the most military minded President in a generation.

What is the answer? How can this happen? What will be the consequences of this Draconian requirement for a reduction in the Federal Government's deficit?

Many of those consequences have been discussed at length in the long debate on the legislation when it passed the Senate. But, Mr. President, one surprising consequence of Gramm-Rudman-Hollings has been completely overlooked. Here is a measure that offers the best opportunity in at least 5 years for arms control. Why? Let me ask, what is the one way this country can increase its national security while reducing the size, the cost, and the firepower of its nuclear and conventional military arsenal? Answer: Arms control.

Gramm-Rudman-Hollings may turn out to be the best friend arms control has had in a very long time for that precise reason. And arms control may permit Gramm-Rudman-Hollings to work. Consider just the present arms control treaties. The second Strategic Arms Control Treaty—SALT II—expires December 31, 1985. That's only a few days away. It may or may not be renewed. Gramm-Rudman-Hollings makes the renewal of SALT II in the clearest interests of this country. Here's why: SALT II restrains both the Soviet Union and the United States from constructing additional missiles. In fact, it will require the Soviet Union to retire more offensive missiles than the United States will have to retire.

And what happens if we permit this arms control treaty—SALT II—to die? It means the Russians will be free to build up their offensive missiles. Will they do so? Mr. President, if anything is obvious, it is obvious that the Soviet Union intends to respond to this country's expressed determination to proceed with the missile defense—that is SDI or star wars—with a buildup of their offensive missiles. So, yes, indeed; if SALT II expires, the Soviets will proceed vigorously to build more offensive missiles.

And, if SALT II expires, what will be the consequences for the United States? We will certainly respond with a matching buildup of our own nuclear arsenal. That buildup will cost billions of dollars. What could stop it? Gramm-Rudman-Hollings could stop it. But Gramm-Rudman-Hollings could only stop it if a continuation of the SALT II Treaty made that possible. Would it? Yes, it would. How? It would restrain the Soviets as well as the United States. The mutual restraint would mean that neither superpower would lose its power in relation to the other. Both would save billions of dollars in military expenditure.

Mr. President, SALT II is not the only arms control agreement that is in serious jeopardy. The antiballistic missile or ABM Treaty will be dead if the United States proceeds with SDI, the missile defense to which the President has given such dedicated support. After all, the whole purpose of the ABM Treaty was to stop the antimissile defense, not only because of the uncertainty, instability and danger such a defense creates but also because of the overwhelming cost of SDI. If we continue to abide by the ABM Treaty, we can negotiate with the Soviet Union a reduction in the construction of offensive missiles on both sides, and a far more stable, safer, less dangerous relationship between the two superpower adversaries. We can negotiate the most stringent kind of verification system with a reinforcement of the Standing Consultative Commission. An aggressively used SCC will permit America to go to the mat directly with the Soviet Union over any evidence of violation of the agreement.

Mr. President, nothing we can do will more surely permit deficit reduction as required by Gramm-Rudman-Hollings to work than ending the star wars proposal. That SDI program will cost at least half a trillion dollars and probably much more than a trillion. If we proceed with it, both taxes and deficits will soar out of sight. If we end it with an arms control agreement, deficit reduction may become a reality.

The effect of these two current arms control treaties, SALT II and ABM, in holding down military spending and permitting deficit reduction to work suggests the big contribution arms control can bring to deficit reduction. Future arms control agreements can continue to help greatly in keeping military spending under control. Consider, for example, the effect on United States military spending of an arms control agreement with the Soviet Union requiring a mutual, comprehensive prohibition of all nuclear weapons testing.

First, such an arms control agreement would end the immense expenditure this country pours into research to develop new nuclear weapons. In doing so, it would mean the cost of producing and deploying those new weapons would also be eliminated. Recently, our initiative in proposing a reduction in troop strength on both sides between NATO and the Warsaw Pact illustrated the positive role arms control can play in reducing spending on conventional arms—where, of course, far more of our spending is than in the nuclear area.

Mr. President, the new deficit reduction legislation will put more pressure on Congress to hold down spending in every area of Government than we have ever had in the past. Many good and constructive programs will either have to end or suffer major curtailment. That is too bad. It is also necessary. In the military area, on the other hand, arms control can permit a major reduction in military spending while we actually improve our national security. Here is a happy and neglected side effect of Gramm-Rudman-Hollings.

MYTH OF THE DAY: STAR WARS IS NONNUCLEAR

Mr. PROXMIRE. Mr. President, the myth of the day is that the strategic defense initiative, or star wars, is nonnuclear.

Have we not heard that SDI is to be a nonnuclear shield against long-range missiles? This is what you have heard. That is what I have heard also. And we have heard it from the President of the United States.

Mr. Reagan has said many times that star wars, if it is ever built, will be nonnuclear. He told us that when he returned from his talks with Soviet leader Gorbachev. Moscow is worried we might put offensive weapons, especially atomic weapons, in outer space. That is not so, said Mr. Reagan. What we want, he said, is a "nonnuclear defense system. * * *"

Is that all the President has said on the matter? No, there is quite a bit more. In speeches and interviews, Mr. Reagan has been very clear, very precise. Is the SDI nonnuclear, asked the editors of one news magazine—U.S. News & World Report? "That's right. Yes," said the President.

So the record seems evident. We have it spelled out, then, that star wars will not unleash atomic weapons in outer space and the world will be spared the horror of even more senseless weapons.

Is that clear to you from these words? Well, it sure is not clear to me. Why? Consider this: The orbiting x-ray laser. Sounds like science fiction, does it not? It is not and we are working to build them. General Abrahamson, who directs SDI, is trying to accelerate the x-ray laser program. There already has been one test and they hope for more. Someday in the not too distant future, we may build these devices and send them into orbit over our skies as part of star wars.

So what, you say? The x-ray laser will shield us from threatening missiles and that is good, right?

Well, as the old saying goes, if you believe that, you will believe anything. Why the fuss? Let me tell you, Mr. President.

The x-ray laser is an atomic bomb. And if we launch them into orbit, however many there might be, there will be nuclear weapons zipping over our heads, over our cities, over friend and foe alike. Think about that: Nuclear weapons orbiting the planet. It is the stuff of nightmares.

Let us look at some basics. The x-ray laser gets its knockout punch from an exploding atomic bomb. Listen to what I said: An exploding nuclear weapon. I did not say atomic powered with a safe nuclear reactor that many of our satellites use. No. The x-ray laser can only work if it blows up the atom bomb it carries on board.

Why am I making this point? Simply this: There is a glaring contradiction here.

You know people say to err is human. And I could add we all make mistakes. But this takes the cake! How could anyone call SDI nonnuclear when one of its important components, the x-ray laser, is obviously nuclear, and an atomic weapon at that!

What does the President mean when he says star wars is nonnuclear? How can he and his advisers and supporters keep saying that when confronted by the evidence of the x-ray laser?

Mr. President, maybe you remember that President Reagan said his SDI Program would render nuclear weapons impotent and obsolete. It is pretty obvious to me that using the atomic explosion of an x-ray laser to zap the nuclear warheads of Soviet missiles does nothing to rid the planet of nuclear weapons. It adds more!

When, I ask you, is it going to stop? When are we going to say no to more nuclear weapons? The x-ray laser as part of star wars represents another step down that long, dark pathway of nuclear weapons. I wonder with each step if this will be the last before we plunge into the nuclear abyss?

THE GENOCIDE CONVENTION WILL AID SOVIET REFUSENIKS

Mr. PROXMIRE. Mr. President, the struggle for human rights is often epitomized by the unfortunate plight of individuals suffering for the persecution of entire nations. Standing alone, they proclaim the violations of the freedoms of their people while enduring the burden of harassment and repression by their oppressors.

People like Leonid Volvovsky. Leonid is a refusenik in the Soviet Union. His open involvement in a large refusenik community in Gorky has landed him in court. It is feared that he may receive an overly severe condemnation for his actions.

Beginning in 1976, after being refused an exit visa to Israel, Volvovsky became an object of keen Soviet surveillance. He was the victim of unauthorized searches, his books and other materials were confiscated, and personal threats were issued against him. His Hebrew books were taken as was his modest apartment. In July, the KGB arrested Volvovsky for speaking out against the Soviet Government. He awaits trial and the unfortunate outcome of being made an example for his outspoken behavior.

Volvovsky calls for the recognition of the injustices suffered by Soviet Jews and appeals for this people's freedom. A courageous call. And one to which we dare not turn a deaf ear.

But the road to freedom for people like Leonid Volvovsky will be a long one—far too long. A frustrating journey for those of us who want to play a positive role in the effort to end human rights abuses throughout the world.

Yet there is a step that we can take here in the Senate. A step that will result in immediate action—ratification of the Genocide Convention.

The Genocide Convention carries the same message as the brave actions of a Leonid Volvovsky. It declares the right of all people—every national, ethnic, racial, and religious group—to live without fear that their very identity as a group will be eliminated.

Ratification of the Genocide Convention will not, in itself, set Leonid and his people free. But it will give them hope. It will demonstrate that the leader of the free world has not given up on its commitment to establish basic fundamental human rights as the cornerstone of our foreign policy.

And it will give us the ability to go after those tyrants and nations which would seek to ignore these basic freedoms, which we declared inalienable so long ago.

Mr. President, Leonid Volvovsky should be a model of courage to each of us to do what we can: Ratify the Genocide Convention.

Mr. President, I yield the floor.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business not to extend beyond the hour of 9:30 a.m. with statements permitted therein of 5 minutes each.

SENATOR DURENBERGER'S REMARKS TO THE AMERICAN PUBLIC HEALTH ASSOCIATION

Mr. ANDREWS. Mr. President, protecting the health of the American people is one of our greatest national purposes. In these times of escalating budget deficits and cost-cutting, this body's concern for this purpose is evidence of our commitment to a healthy America.

As chairman of the Senate Finance Health Subcommittee and cochairman of the Senate Rural Health Caucus, my colleague, Senator Durenberger, is a leader in carrying out this purpose. As a chief national spokesman and advocate for protecting and promoting health, we should look to his recent remarks to the American Public Health Association for leadership and guidance in how we can cut excess cost and still maintain high quality health care for the American people.

Mr. President, I ask unanimous consent that the text of Senator Durenberger's speech be printed in the Record.

There being no objection, the speech was ordered to be printed in the Record, as follows:

American Public Health Association Rally

Seven years ago I was elected to the U.S. Senate to fill some very big shoes, those of the late Hubert H. Humphrey. Hubert had an unusual empathy and compassion for the less fortunate in our society. And I often think of the observation he made back in 1977, not long before his death, at the dedication of the Department of Health, Education and Welfare.

He said, "The moral test of government is how that government treats those who are in the dawn of life, the children . . . those who are in the twilight of life, the elderly . . . and those who are in the shadows of life—the sick, the needy and the handicapped."

That is the moral mandate that Hubert Humphrey charged us with, as we come to work every morning inside this building. It is a mandate shared in State Capitols and city halls across this nation. You have come here to help us do what we must to meet that mandate, to lend us your advice, your experience and your understanding—and for that we welcome you.

Given that quotation from Senator Humphrey, it's especially meaningful that we meet this year, during the 50th anniversary of Title V—the Maternal and Child Health program—and the 20th anniversary of Medicare and Medicaid.

These programs are ongoing proof of our commitment to health care. We will continue to push for reforms to make them more effective, and we will take our share of the budget cuts—only our share. But we will not break our commitment, our promise to the American people: That every individual will have access to quality health care, regardless of region, age or income.

But the nation's health care system is facing major change; if not a revolution, certainly an evolution. It's becoming a marketplace, a system more competitive, more efficient and more responsive to the needs of individuals. Americans are learning to be smart health care consumers, and the biggest consumer of all is the federal government. Millions of Americans depend upon us for access to proper health care.

Thirty million of those individuals are covered by Medicare. Last year we spent more than $70 billion on the Medicare program alone. We're trying to spend that money more wisely. That's why we created the prospective payment system, reimbursing hospitals for Medicare patients based on fixed fees. And we've set up a voucher program, giving the elderly choices by allowing them to use their Medicare entitlement to join health maintenance organizations.

The Maternal and Child Health Block grant is another success story. Since 1950, we've cut the national infant mortality rate by more than 250 percent. By turning the program into a block grant, we've given the states even more leeway in targeting the money where they need it most.

Later today I will be joining with my colleagues, Senators Bumpers, Bentsen and Dole, in introducing legislation to commemorate the achievements of Title V, and to designate the first week in June as "National Maternal and Child Health Week."

No investment is better, wiser, more significant, than the investment in our children. In the words of James Agee "In every child who is born, the potentiality of the human race is born again." There is no stronger imperative than producing healthy children. Without that, we are simply legislating ourselves into an empty future.

If we can learn from our success with the Maternal and Child Health program, the chief lesson should be the importance of preventive health services. Those services can range from prenatal care to wellness programs for the elderly. It's a lesson we in Washington are learning only slowly.

Only 1 percent of all federal health dollars are spent on prevention. Look at our infant mortality rate. Despite the advances, it's still higher than a dozen developed nations, and the rate for blacks and American Indians is as much as triple the national average. Look around you: Take this group here today and multiply it by 20. That's how many American kids died last year before their first birthday.

Better prenatal care could have saved a lot of those kids, and thousands more whose lives are touched by handicaps and chronic illnesses. Yet, only now are we talking about allowing states to expand their prenatal care services for poor women under the Medicaid program. Only now are we realizing that we spend up to $5,000 a day to treat a critically ill newborn in a neonatal unit, while we spend a pittance to keep a child in the best incubator of all, the mother's womb.

How much money—and how many lives—can we save if we put our investment up front, to give our kids a running chance at a healthy life before they're born? And how much could we improve the length of our lives and the quality of our lives by teaching Americans how to lead healthy lifestyles?

As all of you well know, prevention is only part of the story. Quality is only part of the story. The other part is access. As the health care system becomes more competitive for the consumer's dollar, those who can't afford health care—preventive or otherwise—are being squeezed out.

Many Americans, including one out of every five children, have no health insurance of any kind, public or private. Not all of them are poor. Some are self-employed people or seasonal workers. But many of them are falling between the cracks. They may even be turned away from hospitals for critical treatment.

At a recent public hearing here in Washington, I heard the story of a pregnant woman in a battered women's shelter in Minnesota. She was ineligible for Medicaid. The only way she could ensure the proper medical care was to go back to the husband who had abused her. She was soon beaten again, and her unborn child was injured in the womb.

We should all feel our stomachs turn when we hear those stories. But they remind us of our compelling mandate—federal, state and local governments alike—to give all Americans somewhere to turn for adequate health care . . . those in the dawn of life, those in the twilight of life, and those in the shadows of life.

We in this building are here to give you what you need to make that mandate a reality. You are the eyes, the backs, the hands that turn public health policy into healthy human beings. Help us do our jobs better, so we can help you do yours.

PROFESSIONAL SPORTS BILL

Mr. EAGLETON. Mr. President, last week the full Senate made great progress toward finishing its work on S. 259, the Professional Sports Community Protection Act of 1985. We have studied the issue of sports franchise stability since 1980 when the Oakland Raiders announced plans to move to Los Angeles. Several bills were introduced that provided a variety of approaches to the problem. After thorough and careful deliberations, the Senate Commerce Committee decided that S. 259 merits full Senate consideration.

I would like to congratulate my colleague from Missouri, Senator DANFORTH, who joined me as a cosponsor of S. 259. As chairman of the Senate Commerce Committee, Senator DANFORTH held extensive hearings on this legislation this year. Two days of hearings were also held by the Commerce Committee during the 98th Congress. Under Chairman DANFORTH's leadership, the Senate Commerce Committee favorably reported S. 259. It is my view that this bill, which is the product of long and thoughtful consideration, merits the Senate's unqualified support.

At the time of the introduction of S. 259, I detailed the state of chaos that reigns over professional sports leagues, as a result of the unwarranted relocation of professional sports teams. I also described how S. 259 will protect our cities from the hardships and economic dislocations that can occur when a professional sports team decides to relocate to greener pastures in a new area.

We have witnessed the problems that can occur when a team leaves a city without any regard for the fans and local government who have provided it with loyal emotional and financial support over the years. In Oakland, the Raiders were one of the most profitable teams in the National Football League and enjoyed strong fan support. Also, the city of Oakland and Alameda County built a stadium for the Raiders which was financed by local bonds. Despite these commitments the Raiders chose to move to Los Angeles, leaving thousands of disappointed fans and the local government to pay the debts for the stadium without the revenues provided by the Raiders.

Recently, the city of Philadelphia had a similar but, ultimately, more fortunate experience. Last year, after over 50 years in Philadelphia, the Eagles announced their intention to relocate. However, the last minute efforts of Mayor Wilson Goode led to the Eagles staying in Philadelphia to continue their long-standing tradition and identification with that city.

Thus, when considering these incidents, it is not surprising that mayors across the country want a solution to this growing problem and are circulating a resolution in support of S. 259. To date, over 20 mayors have signed the resolution and the number of signatories is growing. The resolution has been signed by such distinguished mayors as Dianne Feinstein of San Francisco, Andrew Young of Atlanta, Richard Caliguiri of Pittsburgh, Vincent Schoemehl of St. Louis, W. Wilson Goode of Philadelphia, Ernest Morial of New Orleans, George Latimer of St. Paul, Henry Maier of Milwaukee, A. Starke Taylor of Dallas, Henry Cisneros of San Antonio, Richard Hackett of Memphis, Bud Clark of Portland, and Jake Godbold of Jacksonville.

Mayors, as the chief executive officers of our cities, know the financial and civic contributions that professional sports teams make to our urban areas. Mayors are also aware of and extremely sensitive to the hardships and economic dislocations that can occur when a well-supported team decides to seek a more profitable location. Moreover, many of the mayors I listed are also seeking expansion teams and want to improve chances for expansion. Once expansion occurs they want to ensure stability. Most mayors have enough problems running our cities and can ill afford the added pressures created by the musical chair movement of professional sports franchises.

S. 259 will relieve our mayors of these unnecessary added pressures. The bill will ensure that the substantial interests of local communities who have supported a team will receive proper consideration when that team decides to relocate. Professional sports teams will have to adhere to a specific process and professional sports leagues will be required to consider specific factors, such as the adequacy of a team's present playing facility, team revenues, the extent of fan support and any publicly financed financial support provided to the team. Local governments and stadium owners will also have the right to seek judicial review of league team relocation decisions.

The mayors have also endorsed this bill because it will give professional sports leagues the authority to enforce their revenue-sharing rules and agreements. Revenue sharing is extremely important to medium-sized cities with professional sports teams because it provides the financial means to achieve competitive balance with teams in the major metropolitan areas. The use of revenue-sharing has allowed cities like Green Bay, Kansas City, Seattle, and New Orleans to field teams that are competitive with teams from Los Angeles, Chicago, and New York.

Finally, the mayors recognize that S. 259 will restore franchise stability and enable teams to expand to those cities that wish to acquire professional sports teams. Presently, it would not be prudent for many professional sports leagues to expand to a new city. Generally, an expansion team often faces financially difficult times in its early years, and the pressures to relocate could be great during that time. Recent court decisions have added to this problem by impeding the ability of leagues to enforce their team relocation rules. Hence, a league may not be able to prevent an expansion team from relocating after it has just arrived in its new home. S. 259 solves this problem by restoring the authority of professional sports leagues to enforce their rules governing team location. Thus, leagues can expand with the knowledge that a team will remain in its new home.

Moreover, by signing the resolution in support of S. 259, these mayors have expressed their disagreement with the advocates of forced expansion who contend that much of the problem of franchise instability can be attributed to an "artificial scarcity" of professional sports franchises. According to this view, professional sports franchises relocate because certain professional sports leagues have intentionally withheld franchises in order to maintain the high value of existing franchises. This proposition was specifically put to the Commerce Committee in the form a forced expansion amendment that was rejected by a vote of 14 to 2.

Further, an examination of the number of professional sports teams reveals the true nature of the myth of artificial scarcity. For example, the National Football League currently has 28 teams that play in 19 States. In addition, the United States Football League operates another nine football franchises. This is a total of 37 professional football teams that are currently operating throughout the country, with many clubs playing to less than stadium capacity audiences. The notion of artificial scarcity of professional football franchises is difficult to support given these facts.

When you compare football with the other professional sports, the scarcity argument seems even more transparent. Professional baseball has 24 teams in 14 States; basketball has 23 teams in 17 States; hockey has 14 teams in 11 States. Thus, whether you count the nine USFL teams or not, it is clear that professional football has more teams in more States than any other professional team sport.

The real issue is not artificial scarcity but rather whether professional sports leagues will be able to pursue consistent and orderly expansion policies based on sound business judgments. Decisions relating to team relocation and expansion are not judgments to be made on the spur of the moment based on emotional or other short term considerations. Such decisions require extensive planning and study because they affect the well-being of the entire league and all league sports communities. Professional sports leagues, not the Congress, possess the expertise and facts necessary to make these decisions. Just as Congress would not tell an automobile manufacturer when and where to locate an automobile plant, it should not tell a professional sports league when and where to place a team.

The Justice Department shares the view that there is no justification for legislatively-mandated professional sports league expansion. In recent testimony before the Senate Judiciary Committee, Assistant Attorney General Charles Rule of the Justice Department's Antitrust Division stated:

> [T]he Department believes that there is no justification for the legislatively-mandated expansion of Major League Baseball and the NFL. . . . In a free market system, firms—not regulators or legislators—are generally considered the best judges of how and where their products are marketed.

Mayors across the country are urging us to enact S. 259 to solve the problem of franchise instability. It is a problem that plagues our cities, and they deserve our help. I urge my colleagues to support this important measure when we return to this issue next year.

Mr. President, I ask unanimous consent for the reprinting of the mayoral resolution in its entirety in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

SPORTS COMMUNITY PROTECTION LEGISLATION

Whereas, the public interest is served by the successful and stable operation of professional sports teams in communities throughout the Nation;

Whereas, the United States Congress is considering legislation that would clarify the application of federal law to professional sports leagues and promote the public interest in such matters;

Whereas, there has been strong support from local government officials and others for legislation that restores sports league authority to retain teams in communities where they are successfully operating and to share league revenues in a manner that enables teams to operate in many communities;

Whereas, legislation of this character is set forth in Senate bill S. 259 as well as other equivalent Senate and House bills, and the Senate Commerce Committee may shortly report S. 259 to the full Senate for consideration; and

Whereas, it is in the best interest of communities to support the foregoing community protection legislation that would clarify federal law with respect to team stability and revenue sharing within professional sports leagues;

Now, Therefore, be it resolved, by the undersigned local government officials in support of stable relations between professional sports teams and communities:

1. That the local government officials lend their wholehearted support to the enactment of S. 259 or other equivalent Senate and House legislation containing the essential team stability and revenue sharing features noted above.

2. That the local government officials direct that this Resolution be sent to all members of the United States Congress as evidence of their support for the passage of the aforementioned legislation.

SIGNATORIES ON MAYORAL RESOLUTION

Richard Berkley, Mayor, Kansas City, Mo.
Dianne Feinstein, Mayor, San Francisco, Ca.
George Latimer, Mayor, St. Paul, Minn.
Samuel J. Halloin, Mayor, Green Bay, Wisc.
Jim Maddox, City Councilman, Atlanta, Ga.
Richard G. Hatcher, Mayor, Gary, Ind.
Janice C. Pine, President, Nevada League of Cities
Andrew Young, Mayor, Atlanta, Ga.
Richard Caliguiri, Mayor, Pittsburgh, Pa.
Vincent Schoemehl, Mayor, St. Louis, Mo.
G. Thane Akins, Mayor, Midland, Texas
Valance Gill, Mayor, San Leandro, Ca.
Henry Maier, Mayor, Milwaukee, Wisc.
Jake M. Godbold, Mayor, Jacksonville, Fla.
Gary Falati, Mayor, Fairfield, Ca.
Richard Hackett, Mayor, Memphis, Tenn.
Ernest N. Morial, Mayor, New Orleans, La.
Federico Pena, Mayor, Denver, Co.
J.E. "Bud" Clark, Mayor, Portland, Ore.
Eugene "Gus" Newport, Mayor, Berkeley, Ca.
Henry Cisneros, Mayor, San Antonio, Texas
Barbara J. Potts, Mayor, Independence, Mo.
W. Wilson Goode, Mayor, Philadelphia, Pa.
A. Starke Taylor, Mayor, Dallas, Texas.

U.N. REPORT ON SOVIET ATROCITIES IN AFGHANISTAN

Mr. DOLE. Mr. President, the United Nations—never known for its forthrightness in criticizing the Soviet Union—has issued a devastating report documenting massive Soviet human rights violations in Afghanistan.

As a result of that report, the U.N. General Assembly, by an overwhelming 75-to-23 vote, expressed its "profound concern" over what the Russians are doing in Afghanistan. When you read the report, you realize that "profound concern" hardly characterizes what any civilized person should feel about the Russian tactics.

The Russian invasion has driven more than 4 million Afghans from their country and another 2 million from their homes—a refugee situation of unprecedented proportions. The main Soviet military tactic is that of mass terror—the use of indiscriminate bombings of villages, homes, hospitals, and even funeral processions, and the widespread use of torture against anyone suspected of opposing the Russians.

One particularly Soviet trick is so abhorrent that it is literally sickening—the Russians have taken to dropping toys out of airplanes, which village children of course rush to pick up and play with. These "toys," tragically, conceal bombs timed to go off in the childrens' hands, literally tearing them limb from limb.

Our President once called the Soviet Union an evil empire, and for that he has been criticized and ridiculed by some in this country and even some in this body. In my dictionary, though, an empire includes invading and occupying neighboring countries, and evil certainly would encompass the practice of enticing innocent children to death and dismemberment with booby-trapped toys. Perhaps some owe our President an apology.

Mr. President, I would like to include in the RECORD at this point and commend to all of my colleagues an editorial which appeared recently in the Washington Post, discussing the U.N. report. That editorial says that what the Russians are doing is so abhorrent that it goes beyond questions of human rights violations—"the word that comes to mind," says the Post, "is genocide."

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

AFGHANISTAN: THIS IS GENOCIDE

"Human rights violations" is a phrase used so often and so casually that even the most compassionate among us can take it as routine. The quick meaning in most people's minds, we suspect, centers on police abuses, roughing and locking people up, perhaps killing some of them. Something like that is what you may expect to find in a new United Nations report entitled "Situation of Human Rights in Afghanistan."

But it's different. The second report on Afghanistan by Austrian parliamentarian and academic Felix Ermacora and a companion report on Iran mark the first time the United Nations has debated human rights in those countries on the basis of official U.N. reports. By a vote of 75 to 23 with 33 abstentions—India, lamentably, was the lone democracy holding Moscow's hand—the General Assembly registered its "profound concern." Afghanistan was singled out not just because a Third World Moslem country is the victim of aggression but also because of the terrible and deepening intensity of its ordeal.

Soviet troops with their Afghan clients have driven 4 million people out of the country and perhaps another 2 million out of their homes. Massively and indiscriminately, they bomb civilians—they bomb funerals. They destroy villages, crops and agricultural facilities. For the chidren, they drop cute, limb-shattering booby traps disguised as harmonicas and birds. Torture is "commonplace" and the operation of the judicial system "creates an atmosphere of insecurity and anguish." "There is apparently no health care for the majority of the population. As a consequence, the infant mortality rate has reached 300 and 400 per 1,000." Civilian deaths number "approximately 500,000."

When half the population is unrooted and a third driven into exile, when infant mortality reaches plague levels, when half a million civilians die and uncounted millions of others are maimed and malnourished, when, as Prof. Ermacora reports, the situation is getting worse, all this moves Soviet conduct well beyond what is ordinarily called "human rights violations." The word that comes to mind when one reads this report is genocide.

Soviets who talk about Afghanistan with foreigners sometimes solicit a certain sympathy for their policy dilemma and their costs. This is callous and arrogant. The people who deserve the sympathy are the Soviet Union's victims. Says a desperate Prof. Ermacora, "every hour lost is detrimental to the population"—the Afghan population. Moscow is committing one of the great crimes.

DEMONSTRATIONS PROTEST STATUS OF JEWS IN SOVIET UNION

Mr. SARBANES. Mr. President, on May 1 of this year a demonstration to protest the Soviet Government's treatment of its Jewish population took place near the Soviet Embassy. There have been other demonstrations for the same purpose in the past, and indeed for many years a silent vigil of protest has continued in the vicinity of the Embassy. The May 1 demonstration was different from the others, however, because the participants peacefully but deliberately moved within 500 feet of the Embassy, thereby violating the law. As a result of this action, 24 rabbis and a Lutheran minister were arrested.

The decision to violate the law was not taken lightly. Those involved in the demonstration have long been concerned, as indeed we all must be, about the status of Jews in the Soviet Union. Thousands upon thousands of Soviet Jews are truly prisoners in their own country even when they are not actually confined to camp or prison. They are not permitted to live openly in the Soviet Union as Jews, or freely to practice their religion, or to learn Hebrew or see that their children learn it. Refused these liberties at home, they are also refused permission to emigrate; and once having taken the courageous step of applying to emigrate they are generally denied gainful employment and forced to live a marginal existence where they are subject to harassment, abuse and, always, the threat of arrest and imprisonment on spurious charges. Emigration rose consistently in the 1970's and exceeded 51,000 in 1979. But in 1984 only 896 persons were permitted to leave, and this year the total is expected to be even lower. Families continue to be torn apart, and lives destroyed.

The plight of Soviet Jewry is an issue that must continue to be raised with the Soviet Government at the highest levels: That is our challenge and our responsibility. On May 1, 24 rabbis and a Lutheran minister chose to demonstrate their concern by gathering peacefully within 500 feet of the Soviet Embassy, for which they were arrested and charged. Following their example, others have similarly demonstrated near the Embassy in recent months, and 132 persons have been arrested.

The May 1 demonstrators were found guilty last week of the misdemeanor charge of congregating within 500 feet of an Embassy. For this they were fined, given 15-day suspended sentences, and 6 months' probation. Five of the convicted rabbis rejected the suspended sentence and chose instead to serve the 15 days in jail. As Rabbi David Oler, chairman of the Washington Board of Rabbis' Committee on Soviet Jewry, put it, their decision was "an act of solidarity with Soviet Jews."

Mr. President, in a moving and eloquent statement Rabbis David Oler, Mark Levine, Leonard Cahan, Bruce Kahn, and H. Steven Bayar explained their reasons for choosing to serve out the sentences handed down to them. I ask that the statement be reprinted in its entirety, along with recent newspaper articles about the case, in the hope that all Americans concerned about the basic human rights that we so cherish in our daily lives will read and reflect on the profound commitment expressed in these documents.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TEXT OF STATEMENT BY JAILED RABBIS, DECEMBER 13, 1985

Elie Wiesel, the Holocaust survivor and philosopher, wrote, "The opposite of love is not hate, it is indifference."

The Soviet Union is engaged in a cultural genocide, a spiritual holocaust. This year has been the worst in recent memory. Jews in Russia can not freely study Hebrew or Bible, pray, or conduct religious ceremonies. Scores of self-educated Hebrew teachers have been imprisoned. Their only crime was to assert their Jewish identity.

We are expressing our religious and moral obligation to act on their behalf. We can not give them material support in their struggle to be free. We can only give ourselves to their righteous cause. It is our responsibility as Jews and as Rabbis to see to it that every Jew is safe to study Torah.

This act will be worthwhile only if it will generate awareness and action on behalf of Prisoners of Conscience languishing in Soviet prisons.

We will not remain indifferent to their plight. We ask that the press not write or report about us, or our families, or our conditions during these fifteen days. We ask that instead the media focus on our oppressed brethren in Soviet jails, their families, and on the unbearable conditions of Soviet Jews who seek to live in freedom.

Today, on this festival of Chanukah, this festival of dedication to religious freedom, we call on the Soviet Union to let our people go. Furthermore, we call upon the world community to continue pressing the Soviet Union to live up to its international obligations toward human rights.

We will never be silent.

Rabbi H. Steven Bayar,
Rabbi Leonard Cahan,
Rabbi Bruce Kahn,
Rabbi Mark Levine,
Rabbi David Oler.

[From the Washington Post, Dec. 12, 1985]

Eight Area Rabbis May Go to Jail During Holiday

(By Marjorie Hyer)

Eight Washington area rabbis said yesterday that they may choose to serve 15-day jail sentences, including the remainder of the Jewish holiday of Hanukkah, to dramatize their concern for the treatment of Soviet Jews.

The eight are among 24 rabbis and a Lutheran pastor who were convicted yesterday in D.C. Superior Court for congregating within 500 feet of the Soviet Embassy during a demonstration May 1 and given 15-day suspended sentences.

Judge Colleen Kollar-Kotelly, who rejected the argument that their protests on behalf of Soviet Jews were compelled by their religious beliefs, yesterday gave the eight until 9 a.m. today to decide whether they will accept the suspended sentences or go to jail immediately. She also sentenced each protester to six months of unsupervised probation and fined each $50.

Rabbi David Oler of Gaithersburg, one of the eight and chairman of the Washington Board of Rabbi's Committee on Soviet Jewry, said it was "a matter of principle," that some of the rabbis "are not comfortable accepting probation . . . Some of us feel that Jews in the Soviet Union don't have the choice of accepting probation or paying a fine."

Oler, who said the protesters were acting in response to the Old Testament directive; "Do not stand idly by while your colleague's blood is being spilled," criticized the judge for "taking a very hard line."

"We still regard it as selective prosecution," he said, alluding to the fact that the thousands arrested during antiapartheid demonstrations at the South African Embassy throughout the last year have not been prosecuted.

The men and women convicted yesterday launched a series of demonstrations at the Soviet Embassy that have resulted in 132 arrests, including one group of 22 college students arrested in October. On Dec. 5, Kollar-Kotelly rejected the selective prosecution plea offered by a group of 21 rabbis arrested June 10, also fining them $50, and suspending 15-day jail terms.

One defendant, Rabbi Michael Berenbaum, pleaded guilty yesterday, was fined $10 in court costs and given the same suspended sentence and unsupervised probation.

The Rev. John Steinbruck, pastor of Luther Place Church, said last night he was undecided as to whether he will serve the jail term because it would extend through Christmas, when he has major responsibilities with his church.

[From the Washington Post, Dec. 13, 1985]

Five Area Rabbis Opt for Jail To Stress Soviet Jews' Plight

(By Marjorie Hyer)

Five Washington area rabbis decided yesterday to dramatize the plight of Jews in the Soviet Union by serving 15-day jail sentences rather than accept six months' probation and were ordered to report this morning to the federal prison in Petersburg, Va.

The five, who were among 24 rabbis and a Lutheran pastor arrested May 1 during a demonstration near the Soviet Embassy, attempted to postpone serving the sentences—which will continue through the remainder of the Jewish holiday of Hanukkah—but D.C. Superior Court Judge Colleen Kollar-Kotelly rejected their pleas.

"The choice to go to jail is the choice they have made, not the court," she said.

Rabbi David Oler of Gaithersburg, who must report to Petersburg, said the five were accepting the sentences as "an act of solidarity with Soviet Jews," but called the sentences "extreme, considering our crime was reading the Torah in front of the Soviet Embassy."

The rabbis, who argued during their trial Wednesday that they were compelled by their religious convictions to demonstrate, had sought to argue that they were being unfairly singled out for prosecution because more than 3,000 persons arrested for congregating outside the South African Embassy during antiapartheid demonstrations have not been prosecuted.

Defense attorney Henry W. Asbill said he attempted to raise the issue but was "denied the right to investigate that" by the judge.

A spokesman for the district attorney's office, Clendon Lee, said he could not comment on the question of selective prosecution because "our policy is that we can't discuss cases that are under litigation."

In another case involving a demonstrator outside the Soviet Embassy, D.C. Superior Court Judge Warren P. King ruled in July that the U.S. attorney's office may use broad discretion in deciding whom to prosecute and that the safety of American diplomatic personnel in other nations can be a factor in such decisions.

The Lutheran minister and 16 rabbis, who along with the five were convicted of the misdemeanor charge of congregating within 500 feet of an embassy, accepted fines of $50, suspended sentences of 15 days and six months of unsupervised probation. One rabbi pleaded guilty and was assessed only $10 in court costs.

A bench warrant has been issued for two rabbis who did not appear in court this week because they were out of the city.

Yesterday, as each stood before Kollar-Kotelly for sentencing, several rabbis spoke about their concern for Soviet Jews and their dissatisfaction with the trial's outcome.

Said Oler, "I feel we have not been treated fairly in terms of the spirit of the law . . . I feel there are moral imperatives involved here."

"[Writer] Elie Wiesel has said that the opposite of love is not hate but indifference," began Rabbi Mark Levine of Silver Spring. In recent years, he said, there has been a growing indifference to the plight of Soviet Jews.

"It is unfortunate that this court did not see fit to hear our argument" that the rabbis were conscience-bound to call attention to the hardships inflicted on Soviet Jews, he said.

"Let me correct you on that," the judge interrupted amiably. "We spent two hours on that yesterday."

"We are talking about serious matters in a very rational way while people are being arrested and tortured," Levine countered.

"The courtroom is not the forum for speaking out on some of the issues you have raised," the judge replied.

The only point on which the judge gave ground was in granting Asbill's request for the rabbis—Oler, Levine, Leonard Cahan of Potomac, Bruce Kahn of Chevy Chase and H. Steven Bayar of Greenbelt—to check themselves into the Petersburg prison this morning "so they will not have to be in the D.C. Jail overnight."

They are being sent to Petersburg because of the overcrowding in the D.C. Jail.

The Rev. John Steinbruck, pastor of Luther Place Church, said he accepted the suspended sentence yesterday because of responsibilities during the Christmas season.

"I'll be back on Jan. 30, your honor," he told the judge. In addition to the May 1 arrest, Steinbruck was arrested in another protest in October.

During court recesses, the rabbis and their supporters clustered in the hallway, talking somberly. Some busied themselves at pay telephones, trying to arrange for colleagues to take over congregational duties during their imprisonment.

Bayar, of Greenbelt, took turns with his wife Ilene holding their 3-month-old daughter, Meira. Nuzzling the sleeping infant, he said softly, "In 15 days she won't know me."

[From the Washington Post, Dec. 14, 1985]

Five Rabbis Report to U.S. Prison

(By Marjorie Hyer)

Five rabbis who chose to go to jail to protest the treatment of Jews in the Soviet Union reported to the federal prison in Petersburg, Va., yesterday morning, proclaiming "we will never be silent" about the problems of Soviet Jews.

The five, who were convicted of violating a federal law by demonstrating in May outside the Soviet Embassy, issued a statement urging that attention not be focused "on us or our families or our conditions" in prison. Instead, they asked that attention be given "our oppressed brethren in Soviet jails, their families, and on the unbearable conditions of Soviet Jews who seek to live in freedom.

Going to jail, the rabbis said, "will be worthwhile only if it will generate awareness and action on behalf of prisoners of conscience languishing in Soviet prisons."

The five were among 24 rabbis and a Lutheran pastor arrested May 1 for violating the law against congregating within 500 feet of an embassy. But they rejected the sentences, handed down Thursday in D.C. Superior Court, of $50 fines, six months of unsupervised probation and 15-day suspended jail terms.

Rep. Michael D. Barnes (D-Md.) has urged President Reagan to pardon the five rabbis.

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He called the sentences "unusually harsh" for the crime involved and Judge Colleen Kollar-Kotelly's refusal to postpone the jailings "an outrage" in light of the government's refusal to prosecute protesters arrested outside the South African Embassy.

The national membership organizations of both Reform and Conservative rabbis, representing the majority of rabbis in this country, also have petitioned for a presidential pardon for all who have been "sentenced for this act of human rights."

In a related development, the D.C.-Maryland chapter of the Anti-Defamation League of B'nai B'rith has agreed to underwrite the defense of all those arrested in the series of anti-Soviet protests. Nearly 90 protesters have yet to be tried. In addition, the attorney for 44 demonstrators already found guilty filed appeals of their convictions yesterday.

Helene Karpa, president of the Jewish Community Council of Greater Washington, issued a statement of support yesterday for the jailed rabbis.

PENALTY PROVISIONS IN THE TAX CODE

Mr. PRYOR. Mr. President, in this Christmas season, I thought I would let the Senate know about a present a constituent of mine recently received.

The present did not originate at the North Pole. It originated in Austin, TX. The location was the regional service center of the Internal Revenue Service. Santa Claus did not deliver the present—the U.S. Postal Service did.

What was the present? A form letter from the IRS office in Austin telling this taxpayer that because of an 11 cent error on a quarterly tax return involving over $37,000, it would have a penalty imposed of $319.11.

Just think about it, Mr. President, you make an error that is one-half the cost of a postage stamp when making a quarterly tax return involving thousands of dollars. Then, you get a letter telling you that a penalty of over $300 will be imposed. Just the correspondence between the Government and the taxpayer in this case will be four times the amount of the error. That does not even take into account the amount of time the business spent going over forms and trying to correct the situation.

There are several possible explanations, Mr. President. Perhaps a computer made a mistake. Maybe someone pushed the wrong button. Or, maybe the computer did everything correctly, and it is a problem with the penalty provisions now in the Tax Code. Whatever the reason, it seems absolutely incredible to me that we have a situation where an $0.11 error gives rise to a $319 penalty.

I think several things need to be done, Mr. President, and I want to highlight a couple today. First, we should have a thorough examination of all the penalty provisions in the Tax Code. We all know they are there for a good reason. Interest and penalty provisions must be in the code or individuals and corporations could simply not file returns on time, or not pay the proper amount of tax, and simply not have the worry about paying any more in the end. When the penalty provisions become so confusing, however, that the taxpayers cannot understand them, and even when the IRS does not know what they are, I think it is time to look at them. Today, I have written to the chairman of the Finance Committee, the Senator from Oregon, [Mr. Packwood], and asked that the Oversight Subcommittee of the IRS hold hearings on the overall penalty provisions in the code to see if they cannot be improved. These hearings could provide us with the information necessary to make some sensible, much-needed changes in this area. It seems to me that with all the talk about tax reform and making the Tax Code simpler, this would be a good place to start.

Further, I think we need to consider whether there should be some de minimis level, or threshold amount, below which the penalty provisions would not apply in the absence of fraud. I do not know what a reasonable level would be, but it should act to prevent situations like this one from reoccurring.

Finally, Mr. President, I think we should once again review the computer operations. The problems last year in the Philadelphia region have been in the press frequently. While it is my understanding that many of them have been resolved, I think further work needs to be done.

I look forward to working with my colleagues in the Finance Committee on these issues, Mr. President, and I hope we can hold hearings early next year on these matters.

MIROSLAV MEDVID

Mr. SIMPSON. Mr. President, I would like to comment on a recent flurry of statements in the Congressional Record concerning the Soviet sailor Miroslav Medvid, and the proposed Senate resolution that would create a special panel on asylum to review our asylum policy to nationals of Communist bloc countries.

In response to the proposal for a special panel on asylum, I would refer interested Members to a Dear Colleague letter of December 9, 1985—signed by Senator Thurmond, Senator Kennedy, and myself—which takes exception to the creation of such a panel. To summarize, the letter notes that the Subcommittee on Immigration and Refugee Policy has already held two hearings on the Medvid issue: November 5 and November 7, 1985. These hearings revealed the following: First, INS agents failed to follow established procedures in the initial interview of Mr. Medvid; second, current INS procedures and regulations state that potential asylum cases from Communist bloc countries require immediate notification of INS district officials and the State Department, and if these procedures had been followed the Medvid incident would likely not have occurred; and third, once INS supervisors and the State Department became aware of the incident, Medvid was removed from the Soviet ship and given several other opportunities to declare asylum. I firmly believe these finds shed a sufficient light on this difficult situation to avoid the need for any special panel or other extraordinary investigations. The Judiciary Committee's oversight function can deal well with this matter.

If there is new evidence, or if there are appropriate witnesses not available to us at the time we held the hearings, please advise the staff of the subcommittee or full committee and we will hold additional hearings, if necessary. Presently the subcommittee is planning a joint hearing with the Subcommittee on Administrative Practice and Procedure to review even more carefully our procedures for dealing with defectors or asylum seekers from Iron Curtain countries.

I would also like to address two allegations raised by some proponents of the Special Panel on Asylum: First, that the second interview with Medvid may have been held with an imposter, and second, that the second interview with Medvid in a United States naval facility was not valid because Soviet personnel were always present.

First, we do have photographic and personal observation proof that the same man who was interviewed initially by INS agents was also interviewed by State Department personnel 4 days later on U.S. soil. The Border Patrol agents took a picture of Mr. Medvid during the first interview, and this picture was later used by State Department personnel to identify Medvid when he was taken from the *Marshal Koniev* for a second interview. In addition, the ships captain provided State Department personnel with Medvid's passport, and this picture on the Soviet passport was also used to verify that they were taking "the right person" to United States facilities for a second interview. Thus, Miroslav Medvid was positively identified by two independent photographs.

Second, despite the presence of Soviet personnel during the second interview, it should have been clear to all involved that the United States was fully in charge. Medvid was twice removed from ocean vessels—once from the *Marshal Koniev*, once from a United States Coast Guard cutter—both to the obvious displeasure of Russian Embassy officials. United States officials present at the negotiations inform me that it was absolutely clear to Medvid that, had he expressed any wish or given any overture to declare political asylum, the Russian officials could not have prevented him from remaining in the United States. In addition, there is another critically important reason why Russian officials are allowed in these interviews—so that United States officials will be allowed to be present when Soviet officials interview American citizens in similar situations in Soviet waters. Would we wish to have the Soviets deny an official American presence when interviewing United States citizens in Russia? I should trust not, yet that is obviously the type of retaliation we could expect if we had excluded all Soviet personnel from our interviews with Medvid. 1Finally, I would like to include an editorial that appeared in the New York Times concerning the Medvid incident. While its references to the Senate Agricultural Committee's subpoena are no longer timely, the overall wisdom of the editorial still prevails.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the New York Times, Nov. 9, 1985]

THE SAILOR WHO SAID NO

Whatever now happens to poor young Miroslav Medved, reasonable Americans can agree on two points. One is that their Government handled his case disastrously at the outset. The other is that critics of the Administration are handling it so badly now.

The two low-level Border Patrol officers in charge could hardly have bungled worse in the case of the unhappy Ukrainian sailor. Twice he dived overboard to escape his ship docked in New Orleans. Twice, ignoring regulations, they sent him back. To them, ship jumpers are a dime a dozen, young men who have suddenly discovered that being a sailor is hard work—and are routinely turned back to their skippers.

In this case, the officers acted with relentless ignorance of Immigration Service policy for possible defectors from Communist countries. the officers should not only have called in their superior, but also *his* suprior in Washington.

By failing to do so, they have caused diplomatic turmoil on the eve of the Reagan-Gorbachev summit conference. They have opened the President to embarrassing attack from the right. They have even sparked a minor constitutional crisis, over the right of Congress to stick its subpoenas into executive branch business.

But granting every bit of that, the question remains: What to do about the sailor, Mr. Medved? No good remedy is possible. There's little doubt that once returned to this ship, he was subjected to threats and intimidation, physical and psychological. That contributes to American frustration and even fury as more and more people come to focus on the case. Yet the question still remains: What's the best possible remedy?

The prescription might go something like this: Insist on interviewing the sailor again, on shore, unrushed, after he's had a good, and safe, night's sleep. Have a doctor, maybe also a psychiatrist on hand. With an eye to the way Americans are treated in the Soviet Union, see to it that Soviet officials are on hand. Yet assure Mr. Medved that he can stay in this country if he wants to. Then, finally, look him in the eye and ask if he wishes to stay. If he says no, ask him please to put it in writing. And then, if he still says he wants to go back, there is no choice but to accede.

Why wasn't all that done? In fact, that's exactly what was done. The Immigration Service and State Department, sweating to make up for the original blunder, tried to set things straight in just that way, for 24 hours. They looked him in the eye. He went back to his ship.

All of that does not satisfy the Senate Agriculture Committee and other critics. Sanctimoniously, they demand that the Government conduct a third interview with Mr. Medved, as though it had ignored him in the second one. The result then was tragedy; an impetuous young man, forced to weight his freedom against his family, chose family. Where is the patriotism or humanity in trying to make him choose again?

THE ECONOMIC DISASTER IN THE FARM BELT

Mr. EXON. Mr. President, the present occupant of the chair, the distinguished Senator from North Dakota [Mr. ANDREWS] knows very well first hand what I am about to talk about today. There are those of us who have been warning for a long, long time about the totally disastrous situation economically in the Farm Belt.

Yes, it is true that, generally speaking, this Christmas is going to be a merry Christmas for most of the people of the United States. Things generally are humming. Unemployment generally has stabilized and is not going down, at least appreciably, in most sectors of the United States. The stock market has reached new highs and is giving signals that it might go even higher.

But, in view of the fact that we are about ready to face an important vote on a farm bill, which is only a momentary step, an interruption, if you will, on the farm crisis that is going to consume the Congress of the United States in the months to come, regardless of how bad or how good the farm bill is—and in my opinion it is a bad farm bill, on balance, although we did make significant improvements in that bill over what was originally envisioned by the administration and we were successful with our filibuster and other activities that took place in the conference between the House and the Senate on the agriculture bill to make some improvements—the bottom line still remains, as I view this upcoming bill, it is going to reduce farm income in 1986 and every year thereafter.

Now, in view of that, Mr. President, it seems to me that we better take a close look at where we are going, look back and see what we have done, and, therefore, consider appropriate action with regard to agriculture.

Mr. President, I can only tell you that the situation in my State of Nebraska—and I am sure that it is reflected in the Dakotas, in Kansas, certainly in Iowa, Minnesota, Oklahoma, and Missouri, with differing degrees of seriousness—is a very blanket attitude of things getting much worse before they get better. And I hope that the Senate will take that into consideration as it works its deliberations.

Over and above the farm bill, though, whether it is good or bad and how good or bad it is, rests like a meat cleaver the so-called Gramm-Rudman amendment that is poised and triggered to fall. I suggest, Mr. President, that the first brush of reality that the Farm Belt will be aware of up front and first hand is during the spring planting season of next spring. During that spring planting season of next spring there is a trigger that will be set in motion that will mandate and require the Congress to make an additional $10 billion to $11 billion decrease in expenditures for 1986, essentially a reconciliation move to put it into effect now.

Therefore, whatever we come out with in a farm bill, good, bad, or indifferent—you can take your choice on how you think it is—it is going to be cut. It is going to be cut, no question about it, because if agriculture is not one of those protected items as envisioned in Gramm-Rudman, I would simply say, Mr. President, that sooner or later the reality is going to hit home to all of those who do not seem to fully understand at the present time that, with more than 50 percent of the total Federal budget eliminated and protected from Gramm-Rudman cuts, a disproportionate and unfair share is going to fall on the rest of the budget.

Unfortunately, Mr. President, I am fearful that that is going to hit directly and very hard at agriculture. And that is going to happen next spring during the planting season. That is some way, is it not, Mr. President, for the distressed farmers and ranchers, and small businessmen that rely on them, to plan ahead, to plan their way out of the depression that they are in right now.

Mr. President, I come to the floor today to have printed in the RECORD some staggering new figures that have just come out of my State of Nebraska. If they have not come out in the surrounding States, they will be coming out in the very near future, because there is no way to go but down for agriculture. What we are doing, Mr. President, out in rural America is taking apart the very fabric of our society.

And I think that all too often that is not fully understood here on the banks of the Potomac, and certainly, Mr. President, it is not understood at 1600 Pennsylvania Avenue.

Mr. President, there were alarming statistics, all in big bold print in the last 3 days in the newspapers in Nebraska. The first one that I refer to is from the Omaha World Herald of December 14. The headline is "State Ag Report Estimates 2,300 Now Insolvent," by Kent Warneke, World-Herald farm writer.

> GRAND ISLAND, NE.—A Nebraska Agriculture Department report to be made public next week will show that Nebraska farmers and ranchers hold more than $1 billion in debt that probably will never be collected; said Chuck Schroeder, State Agriculture Department director.
>
> The report indicates that more than 2,300 Nebraska farmers and ranchers are technically insolvent and more than 10,000 have debt-to-asset ratios of more than 70 percent, he said. Economists say ratios that high indicate severe financial stress.

Mr. President, the next item that I would like to refer to was dated the next day, December 15. This big bold black headline is "6.1% Unemployed, Jobless Rise in Nebraska 'Alarming'," by Dick Piersol, journal business editor of the Lincoln Journal.

> The number of unemployed people in Nebraska has grown by 20,000 people, or two-thirds, from 30,000 to 50,000 in the past 12 months, according to state Department of Labor estimates.
>
> Ten thousand more Nebraskans were added to the estimate of the unemployed in a month as the department's calculation of the unemployment rate rose 1.1 percentage points in November, up to 6.1 percent, compared to 3.7 percent a year ago.
>
> The November report was one of the state's worst economic backslides since the recession of the early 1980s, and a reversal that demonstrates accelerated deterioration in the economy outside Lincoln and Omaha.

For the clarification of my colleagues, outside the metropolitan areas of Lincoln and Omaha means rural America, the heartbeat of our State, and the heartbeat of that whole great part of our great land.

It is particularly alarming, Mr. President, because while a 6.1 percent unemployment rate might seem small indeed to some States, as it affects Nebraska it is twice—twice—what the average has been in our usually sound financial state over the years. In fact, for the 8-year period that I had the privilege of serving my State as Governor, I think we were seldom, if ever, over 3 percent for that 8-year period. But that was another time and that was another era.

I simply say that the jobless rise is indeed alarming as stated in this interesting news story, and it is a harbinger, I suggest, of things to come. Likewise—I do not have a copy with me—in the last week the Department of Revenue of the State of Nebraska has announced another alarming decrease in the total tax receipts for Nebraska; another harbinger, I suggest, Mr. President, of things to come not only in Nebraska, but throughout the Farm Belt.

Another item that I have in my hand with big, bold headlines, and this is dated December 16—yesterday. This is from the Omaha World Herald, and the headline is "Farmland Declines In Value, Fed Says." Mr. President, this is written by Mr. Jeff Gauger, World Heralds staff writer, and it reads in opening paragraphs as follows:

> Farmland values in Nebraska declined in the July-September period for the 17th straight quarter, falling to about 50 percent of the high recorded in early 1981, the Federal Reserve Bank of Kansas City, Mo., said Monday.
>
> The bank said an acre of irrigated farmland in Nebraska cost $887 in the third quarter, down 8 percent from the second quarter and 23 percent from a year ago.
>
> The third-quarter figure was 51 percent below the peak of $1,733 an acre recorded in the second quarter of 1981.
>
> Weak farm income and high debt costs were to blame for the continued deline, the bank said in a November newsletter detailing results of a quarterly survey of 166 bankers in the Federal Reserve's 10th district, which includes Nebraska.

Mr. President, I am wondering what the average person in the United States today, rejoicing in having a merry Christmas, would think if the value of their holdings—if the value of their holdings—had gone down by 50 percent in the last 4 years.

An allied story, Mr. President, again from the Omaha World Herald, and this is dated yesterday also, December 16, 1985. "Bankers Meet, Discuss Farm Loan Proposals." The text of this article, by Mr. Steve Jordon, of the World Herald staff, deals with the uncertainty in the commercial bank structure today who have not had any help whatsoever. They are concerned with what we did with regard to the farm credit bailout a few days ago.

Mr. President, I ask unanimous consent that the articles that I have made reference to be printed in the RECORD in full immediately following the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

[See exhibit No. 1.]

Mr. EXON. Mr. President, there have been those of us who have come to this floor time and time again for the last several years to highlight the coming catastrophe in rual America today.

I simply hope that any of our colleagues whom we have gotten through to on the crisis will understand we need help.

I say once again that I am extremely certain, and one of the reasons I strongly oppose the Gramm-Rudman amendment, among other reasons, is the fact that I think it will eliminate any long-term planning, it will eliminate the chance of cash flow, and it will be a dreary hatchet hanging over the head of that farmer, that banker, or that small businessman in rural America who goes in to make a renegotiation of loans that he cannot possibly pay for.

The situation is deteriorating rapidly. I only sound the alarm once again, and express a feeling for more thoughtful consideration for our part of the country than it has thus far received.

EXHIBIT NO. 1

[From the Omaha (NE) World Herald, Dec. 16, 1985]

STATE AG REPORT ESTIMATES 2,300 NOW INSOLVENT

(By Kent Warneke)

GRAND ISLAND, NE.—A Nebraska Agriculture Department report to be made public next week will show that Nebraska farmers and ranchers hold more than $1 billion in debt that probably will never be collected; said Chuck Schroeder, State Agriculture Department Director.

The report indicates that more than 2,300 Nebraska farmers and ranchers are technically insolvent and more than 10,000 have debt-to-asset ratios of more than 70 percent, he said. Economists say ratios that high indicate severe financial stress.

Nebraska has between 55,000 and 60,000 farmers.

All together, there is more than $9.6 billion debt in Nebraska agriculture, and about 11 percent of that—about $1.1 billion—probably will have to be written off, Shroeder said.

"Next year's entire state budget wouldn't pay one year's interest on that total debt we have in Nebraska, agriculture," he said.

FARMERS UNION CONVENTION

Speaking Friday at the opening day of the Nebraska Farmers Union annual convention in Grand Island, Schroeder said the report was done to gauge the impact of the agriculture debt problem on Nebraska's economy.

"We especially wanted to show how much of the debt probably will never be able to be collected—that just extending more credit or delaying payments won't answer the whole problem," he said.

Schroeder said he was disappointed by a recent report by the University of Nebraska-Lincoln's Bureau of Business Research, which contends that while the agricultural economy is suffering, the economies of the state's cities will not be substantially affected.

"I'm not trying to pick a fight with those people, but we have got to show the economists the fallacies of their logic," he said. "We're the first to agree that economic diversity is healthy, the agriculture is not going to become a secondary industry in Nebraska—at least not in my lifetime."

Schroeder said Nebraska Job Training Council statistics indicate that 5,422 people have been laid off from their jobs in Omaha in the last year.

PENETRATED TO CITIES

"That's being described as an epidemic," he said. "The layoffs have occurred because the disease has penetrated into our cities, and the disease's roots are in agriculture."

Another emphasis of the department's report is to show how vital actions by the Farm Credit System can be in Nebraska.

"I see commercial lenders willing to work with their agricultural borrowers on debt workouts," he said. "But if the Farm Credit System, because of the large amount of agricultural lending it does, isn't willing to participate, it will be disastrous to all of us."

Some people say Nebraska agricultural is doing all right on the average, Schroder said.

"They say that on average, by golly, it's not too bad out there. But I don't know of any average people out there on farms. I think we're justified in looking at them as individuals and give them the opportunity to show their stuff."

[From the Lincoln (NE) Journal, Dec. 15, 1985]

JOBLESS RISE IN NEBRASKA "ALARMING"—6.1 PERCENT UNEMPLOYED

(By Dick Piersol)

The number of unemployed people in Nebraska has grown by 20,000 people, or two-thirds, from 30,000 to 50,000 in the past 12 months, according to state Department of Labor estimates.

Ten thousand more Nebraskans were added to the estimate of the unemployed in a month as the department's calculation of the unemployment rate rose 1.1 percentage points in November, up to 6.1 percent, compared to 3.7 percent a year ago.

The November report was one of the state's worst economic backslides since the recession of the early 1980s, and a reversal that demonstrates accelerated deterioration in the economy outside Lincoln and Omaha.

Construction and manufacturing, particularly of farm and garden machinery, but also food processing, showed declines. Retail trade showed seasonal gains.

State Labor Commissioner Ron Sorensen said most of the increase in unemployment occurred outside the state's two largest cities. Of the 20,000 more people unemployed in the past year, 11,171 of them live outside Lincoln and Omaha. Almost 7,000 of them live in the Omaha area.

The numbers of unemployed outstate grew by 6,367 from October to November. In the past 12 months outstate, only about 1 in 12 of the new members of the labor force got jobs, according to the report.

Nationally, the unemployment rate was 7 percent for November, almost flat for the past six months.

A seasonal increase in unemployment is typical for November, but last year it actually fell in Nebraska, from 3.8 percent to 3.7 percent.

Soresen called the November report "alarming."

Two critical factors are the typical seasonal change of employment and the unusually early and severe winter, but Sorensen said that doesn't completely explain the increase in unemployment.

The state's labor force, those working or looking for work, grew from 801,232 to 828,254 people in the past year; of the growth, 27,000 people, only 6,000 have jobs. In the state's two largest cities, the growth in the labor force was split about evenly among those with jobs and those without, so the worst deterioration is clearly in the non-metropolitan parts of the state.

"We're getting back to the levels of '82, when things were pretty bad," Sorensen said.

"I'm not expecting it to be quite that severe, because of the national improvement, but agriculture is in a much worse situation than at that time," he said. "I see the (unemployment) rate continuing to go up. There just isn't much out there that makes me optimistic that we're going to get a drastic recovery in the economy."

The Lancaster County unemployment rate, too, rose 1.1 percentage points to 4.3 percent in November, compared to 2.4 percent a year ago.

In the county, the number of people employed rose by 686 to 112,093 in the past 12 months, while unemployment rose by more than 2,200 to 5,005. The monthly changes showed unemployment kept pace with jobs—employment growth of 998, unemployment growth of 1,084.

The Omaha metropolitan area unemployment rate rose form 5.6 percent to 6.2 percent during November.

[From the Omaha (NE) World Herald, Dec. 16, 1985]

FARMLAND DECLINES IN VALUE, FED SAYS

(By Jeff Gauger)

Farmland values in Nebraska declined in the July-September period for the 17th straight quarter, falling to about 50 percent of the high recorded in early 1981, the Federal Reserve Bank of Kansas City, Mo., said Monday.

The bank said an acre of irrigated farmland in Nebraska cost $887 in the third quarter, down 8 percent from the second quarter and 23 percent from a year ago.

The third-quarter figure was 51 percent below the peak of $1,733 an acre recorded in the second quarter of 1981.

Weak farm income and high debt costs were to blame for the continued decline, the bank said in a November newsletter detailing results of a quaterly survey of 166 bankers in the Federal Reserve's 10th district, which includes Nebraska.

ALL CATEGORIES DECLINE

"The word around here is, if you want to invest in farmland now is the time to do it," said bank spokesman Lowell Jones. "Basically, it's been a steady decline (in land values) since the first or second quarter of 1981."

Districtwide, the survey found that average values for all land categories declined 7 percent from the second quarter and 22 percent from the same period a year ago. Values for non-irrigated land, irrigated land and ranchland were collected.

In Nebraska, non-irrigated land values fell to $500 an acre from $538 in the second quarter, a 7 percent decline. That was 24 percent below the price of $665 an acre that bankers reported last year, and 49 percent below the 1981 peak of $979.

Nebraska ranchland also declined in value, falling 9.5 percent between the second and third quarters to $152 an acre. The price in the year earlier period was $240 an acre. Ranchland values have plummeted 54 percent from the 1981 peak of $330.

The survey contained responses from bankers in Kansas, Oklahoma, Colorado, Wyoming, Nebraska and parts of Missouri and New Mexico.

IOWA FARMLAND VALUES

In Iowa, farmland values declined 8 percent from the second quarter and 28 percent for the same period in 1984, according to a quarterly survey by the Federal Reserve Bank of Chicago.

The latest decline put Iowa land values 49 percent below the level recorded in the third quarter of 1981, said Bank Economist Peter Heffernan.

"The Iowa bankers were, for the most part, pretty pessimistic" about the direction land values move in the fourth or current quarter, Heffernan said. Of about 150 Iowa bankers surveyed, 70 percent predicted further declines, he said.

NEBRASKA FARMLAND VALUES

[Prices per acre]

	Non-irrigated	Irrigated	Ranchland
1981:			
2nd quarter	$951	$1,733	$323
3rd quarter	979	1,712	330
4th quarter	870	1,582	332
1982: 3rd quarter	770	1,404	304
1983: 3rd quarter	768	1,401	273
1984: 3rd quarter	655	1,150	240
1985:			
1st quarter	555	990	179
2nd quarter	538	963	168
3rd quarter	500	887	152

Source: Federal Reserve Bank, 10th District Kansas City MO.

[From the Omaha (NE) World Herald, Dec. 16, 1985]

BANKERS MEET, DISCUSS FARM LOAN PROPOSALS

(By Steven Jordon)

KANSAS CITY, Mo.—Commercial agriculture bankers met here Monday to refine their ideas for easing the nation's farm problems into a plan that will win the approval of Congress and federal regulators before next year's planting.

"Bankers are beginning to agree on some ideas," said Bob Brenton of Des Moines, president of the Brenton Banks of Iowa. "We just need to get things to jell. It's our intent to come up with some proposals."

About 55 bankers and bank association members from 14 states met at the Airport Marriott Hotel. The American Bankers Association and the Independent Bankers Association of America, which sent representatives to the session, will carry the group's proposals to Congress and to federal regulations.

Mel Adams, president of the Nebraska Bankers Association, said Sen. Edward Zorinsky, D-Neb., is one of the senators interested in the proposals.

CONGRESSIONAL HEARINGS

Bruce Meriwether, president of the Iowa Bankers Association, said Sen. Jake Garn, R.-Utah, has said he would hold hearings early next year to see what Congress can do to assist commercial bankers.

Adams said the proposals are intended to keep the Farm Credit System from gaining an unfair advantage over banks thanks to a bailout package recently approved by Congress.

Changes in the Farm Credit System will make it the equivalent of a large national agricultural bank, said Adams, who is chairman of the Keith County Bank of Ogallala, Neb. "I've got a problem with that."

Brenton said Congress is aware of the farm problem enough to take steps to help the Farm Credit System.

"It is assinine to think that they would help one leader and their customers but not another lending group and their customers," he said, referring to commercial agriculture banks.

Lyle Campbell, chairman of the First National Bank of Danville, Ill., said commercial bankers usually favor the Farm Credit System because it provides financing to farmers who would have difficulty finding other funds.

"But we don't want to create a monster here that the private sector can't compete with," Campbell said.

Proposals being considered by the bankers include:

Allowing agriculture banks to "stretch' defaulted farm loans over a period of as long as 10 years rather than requiring a bank to immediately deduct loan losses from its capital;

Creating a "holding pool" of farmland. Rather than a bank foreclosing on a farm and trying to sell it on the depressed farmland market, the land would remain under control of the farm operator and off the market. A farmer could work to repay the loan;

Providing 80 to 90 percent federal loan guarantees for farmland so that farm banks would be supported by a healthy secondary loan market.

C.L. Gallagher, vice president of agriculture banking for the Bank of America in California, said the nationwide character of the farm industry problem is becomming more widely known.

Gallagher, who represents agriculture interest on the American Bankers Association's executive committee, said the broad scope of the problem makes it more likely that Congress and federal regulators will take action to provide relief.

"It is an agriculture problem, and it is not in any specific part of the country," he said.

He said 9.9 percent, of the United States' agribusiness loans are held by California banks, which are not considered agriculture banks because of the volume of other loans they hold.

California banks' $5 billion in farm debt is as large as the farm debt held in any two Midwestern states, he said, and the share of problem loans is just as high.

The bankers' proposals may or may not win support in Congress and among regulatory agencies, he said.

"I think the debate is still out on that," he said.

Illinois banker Campbell said declining farmland value is the key issue that bankers, Congress and others must address.

He recommended a "Farm Homestead Act" to set to set up a new agency, the Agricultural Homestead Corp. The agency would issue government-backed bonds and use the proceeds to buy up farm debt and then lease land to farm owners, who could repurchase the land later.

He said the system would eliminate forced liquidation of farmland, guarantee farmers the right to occupy land and to repurchase it and give farm families new hope, without requiring federal appropriations.

ECONOMIC CHANGES

Even if that specific proposal is not adopted. Campbell said, bankers agree that some mechanism should be created to give farmers and their banks time to adjust to economic changes.

With time to adjust, bankers can avoid foreclosures, and farmers can avoid being forced out of business, he said.

"That is not the solution, to have massive bankruptcies," Campbell said.

Adams said federal loan guarantees also would help stablize farmland values.

Federal loan guarantees have helped New York City, Lockheed and Chrysler, he said, and could help agriculture without costing federal funds.

C. G. "Kelley" Holthus, president of the First National Bank of York, Neb., said there are some signs that farmland values are reaching the bottom.

He said a farm York recently sold for $1,250 an acre when many observers expected $1,000 an acre. Althogh the sale was still below the land's peak value of about $2,000 an acre, Holthus said, it was still below the land's peak value of about $2,000 an acre, Holthus said, it was the best price paid recently for land in the area.

Besides Iowa and Nebraska, states represented at the meeting were North Dakota, Oklahoma, Wisconsin, Minnesota, South Dakota, Kansas, Missouri, California, Michigan, Illinois, Arkansas and Indiana.

THE PRAYER VIGIL OF ST. MARK'S EPISCOPAL CHURCH

Mr. HEFLIN. Mr. President, throughout the history of mankind, there has been an ongoing and neverending quest for peace on Earth. As we prepare for another holiday season, I am sure that the thoughts of each of us turn frequently to the many areas of the globe fraught with chaos and turmoil and to the threat posed to all of us by the presence of war and terrorism.

I have recently learned of an outstanding idea to promote world peace being carried out by St. Mark's Episcopal Church in Birmingham, AL. Under the leadership of Father Edward Wilson and John Meehan, chairman of the program planning committee, this congregation is sponsoring a 16-hour New Year's Eve Prayer Vigil for World Peace.

The members of St. Mark's see the help which prayer can provide us in facing the conflicts and chaos of today's world, from unrest abroad to economic problems at home. Their prayer vigil, designed to bring together people of various religious faiths in a united effort, is an excellent idea. The program they have planned includes segments emphasizing world problems and civic unrest in various areas of the globe, from the Middle East to Northern Ireland, along with others dealing with problems on our national level, as well as those at the local and family levels.

Mr. President, I wanted to take this opportunity to wish the members of St. Mark's Episcopal Church the best in their efforts. My prayers are with them.

THE RUSSELL CORPORATION: A DESERVING WINNER OF THE SENATE PRODUCTIVITY AWARD

Mr. HEFLIN. Mr. President, a few years ago, this body passed a resolution establishing the Senate Productivity Award Program. Through this program, a person or company who has shown outstanding achievement in productivity improvement may be selected as a recipient of this award. By doing so, the U.S. Senate can recognize deserving achievers who are contributing significantly to maintenance of the international competitiveness which has made America a world leader in productivity.

This year, I am very pleased and proud to announce the award of a Senate Productivity Award to the Russell Corp. of Alexander City, AL. Russell Corp. is a textile and apparel firm with over 9,000 employees in three States, which manufactures and markets a complete line of specialized apparel for the leisure market, including activewear and athletic uniforms.

Mr. President, I believe that the Russell Corp. is uniquely qualified to receive this productivity award because productivity improvement has always been an important part of their company credo. In fact, it was only a few weeks after this company, which was then known as Russell Manufacturing Co., was started by Benjamin Russell that the quest for ways to improve productivity became an integral part of this company.

The first mill opened in April of 1902, with 12 workers. The first finished product was a ladies' undershirt, and the plant's beginning capacity was 150 garments a day. A few weeks after the first goods were shipped from the mill, Ben Russell found the garments were costing a little more than a dollar to produce, but were only bringing 60 cents on the market.

Meeting the problem in the head-on manner that has become typical of the Russell Corp., the employees were asked for ideas on possible solutions to this problem. Clearly, steps had to be taken to lower costs while improving quality. With such "company spirit," the mill overcame the early losses and began to expand.

In 1902, the plant consisted of 6 knitting machines and 12 sewing machines, which had been bought used from a mill in Georgia. Six years later, Ben Russell, tired of buying yarn for his knitting mill from other plants, started spinning operations with 24 spinning frames. Today, Russell's yarn manufacturing operations have grown to the point where they require not only several yarn plants at the Alexander City complex, but also spurred the corporation to acquire Georgia's Habersham Mills.

The year 1927 saw Russell celebrate a quarter of a century of existence by opening a weaving plant and a yarn and cotton dyeing operation. These steps were part of fulfilling Ben Russell's dream of achieving a completely vertical textile operation—one that would cover the entire spectrum of the textile industry, from raw fiber to finished fabric and garments. This dream was achieved in 1932, with the opening of a full-scale bleachery and finishing plant, making Russell one of the few textile facilities in the world to have such a vertical operation.

From its modest beginnings, the Russell Corp. is continuing to grow and prosper, not only in the number of employees, or the amount of net sales, but in research and modernization in every aspect of textile manufacturing.

In many ways, this continuing progress lies at the base of the decision to award the Russell Corp., with a Senate Productivity Award. Such progress is a clear indication of an emphasis placed by the entire company—both management and labor—on the need for constant improvements and increased efforts.

Sales for the last year show a record year—an increase of 11 percent over the previous record, which had been reached by a 1-year record increase of 16 percent the year before. This growth in productivity can be attributed to many factors, including Russell management's ability to adjust operations and inventory levels, the ability of their labor force to respond quickly to day-to-day variables, and the good business judgment to be positioned with the correct products to meet increased consumer demand.

Another major contributing force in the Russell Corp.'s progress is the emphasis they place on modernization of facilities. During 1984, the company spent some $32 million for modernization, bringing the total for the last 5 years to $144 million. These efforts have enabled Russell to improve manufacturing operations and customer service, as well as to increase production, all as part of the company's goal of remaining efficient and competitive in the highly competitive textile and apparel field.

Today, largely because of this long-range emphasis on modernization, on staying on the leading edge of manufacturing innovation and efficiencies, Alabama's Russell Corp. is recognized as one of the most technologically advanced companies in its field, one which should continue to help America keep its world leadership in industrial productivity.

Of course, Mr. President, as with many outstanding corporations, the steadfastness of Russell's course is a tribute to their continuity in management. After being led for its first 66 years by its founder, Benjamin Russell, and his two sons, Benjamin and Thomas, the corporation has been blessed in recent years with a continuation of this outstanding leadership. From 1968 to 1982, Eugene Gwaltney served as Russell's fourth president. Today, he remains a voice for progress and innovation in his position as chairman of the board and chief executive officer. In these leadership efforts, Mr. Gwaltney is accompanied by an outstanding partner, Dwight Carlisle, the president and chief operating officer. These two men have been integral in helping Russell Corp. earn this recognition, but, even more so, the Senate Productivity Award is an outgrowth of the dedication and company pride shown by every single one of Russell's 9,000 employees. They each share in this recognition, and I congratulate every one of them.

SOCIAL SECURITY DISINVESTMENT

Mr. MOYNIHAN. Mr. President, for 2 months, I have raised questions about the Treasury Department's management, this autumn and last, of the assets of the Social Security trust funds. Under financing pressures associated with our unwillingness to raise the debt limit without also agreeing to the Gramm-Rudman-Hollings budget plan—an irresponsible act in its own right—the Treasury disinvested assets from these trust funds to help finance the other operations of Government.

Now two independent inquires into these disinvestments have questioned the basic legality of the Department's actions. The two studies by the General Accounting Office and the Congressional Research Service, examined Treasury's failure to invest trust fund assets and their decision to redeem more than $25 billion of such assets this fall. The GAO found Treasury's actions "in violation of the requirements of the Social Security Act"; the Congressional Research Service stated that the Secretary of the Treasury, as managing trustee of the funds,

> seems to have exceeded his authority under the law . . . As such, it may be argued that he breached a duty to OASI/DI beneficaries, particularly as there is an all but certain loss of interest to the Trust Funds.

The facts are well-known but bear repeating: the Secretary of the Treasury, as managing trustee of the Social Security trust funds, redeemed $6.9 billion of Social Security's long-term securities in September, another $4.8 billion in October and $13.7 billion in November, drawing down such trust funds to a level—$11 billion—not even sufficient to pay 1 month's worth of benefits.

Disinvestment of this magnitude is unprecedented. Neither Congress nor the public trustees of the system received any notification of these extraordinary steps. Not until November 7, 1985, under intense questioning by members of the Senate Finance Committee, did the Treasury Department finally admit to the disinvestment of some $5.5 billion in Social Security assets more than a year previous, in October 1984, at a $440 million loss in interest income to the trust funds.

In response to these extraordinary acts, of commission and omission, on November 12 I offered and the Senate approved an amendment to the reconciliation bill, calling not only for restoration of redeemed assets and interest losses, but also and quite importantly, for 15-day prior notification of Congress and the public trustees of any future intention by the Treasury Secretary to either not fully invest trust fund assets or cash-in such assets. The Gramm-Rudman compromise also included a provision to restore the redeemed securities and pay back the foregone interest, but it did not include this crucial prior notification.

There are matters of right and matters of rightful authority at stake here. On November 26, I joined other interested parties, including two former Secretaries of the—then-named—Department of Health, Education and Welfare and a former Commissioner of Social Security, Robert M. Ball, in a lawsuit against the five Social Security trustees. Our suit seeks to ensure that in the future, the Treasury Department will, as required by the law, transfer all monthly estimated Social Security payroll tax receipts due to the trust funds and fully invest those receipts, thereby avoiding the wholesale redemption of long-term securities. The suit also asks the court to "order the defendant trustees to discharge their statutory and fiduciary duties to the beneficiaries of the trust funds."

The CRS report on Social Security disinvestment speaks to the fiduciary responsibility of the Secretary of the Treasury, stating:

> [T]he conclusion seems inescapable that in enacting the Social Security Act Congress to a greater or lesser extent had certain features of private trust law in mind.

Comparing the Secretary's fiduciary responsibilities to those of private fiduciaries, CRS reasons that public officers who are responsible for holding, depositing, and investing public funds are properly held to an even higher standard than are private fiduciaries. The report cites American jurisprudence:

> It has generally been held that a public officer, in the absence of statutory provisions to the contrary, is held to a much stricter liability than fiduciaries handling private funds; he is absolutely liable as an insurer for the safekeeping of funds in his custody until disbursed in regular course, and is therefore liable for losses which occur even without his fault, except possibly for losses by act of God or by public enemies. This standard of responsiblity is, in some cases, based on public policy, in others, on the theory that a public officer having public moneys in charge is a debtor bound to account and pay over the exact sums received . . . 63A Am Jur. 2d, Public Officers and Employees S 393.

The whole experience suggests to me that it is time, perhaps well past time, to act to reestablish the Social Security Administration as an independent agency—which it was for the first decade of its existence. Senator PACKWOOD has assured me that hearings on my proposal for an independent agency, S. 17, will be held early next year. This measure would help prevent such events in the future and help assure public confidence in the administration of this most vital of all our social programs.

I urge my colleagues to study the reports by the GAO and the CRS, and to consider acting, and soon, to establish

Social Security as a separate and independent agency.

HOUSE PASSAGE OF H.R. 3132, THE LAW ENFORCEMENT OFFICERS PROTECTION ACT OF 1985

Mr. MOYNIHAN. Mr. President, I rise today to call my colleagues' attention to a very important action just taken by the House: its overwhelming approval of H.R. 3132, legislation to regulate the manufacture, importation, and sale of armor piercing ammunition, known as "cop-killer bullets."

Mr. President, Representative MARIO BIAGGI of New York has been a tireless advocate of this cause, as he and I have waged a long struggle to bring this matter to the attention of Congress. Today, with its resounding passage of the Law Enforcement Officers Protection Act of 1985—by a vote of 400 to 21—the House has spoken on behalf of police chiefs and police departments around the Nation, who know all too well the grave dangers posed by cop-killer bullets and have joined the call to ban them.

This is the fourth Congress in which I have introduced legislation to ban cop-killer bullets. Each time, the Nation's law enforcement officers have been told to wait. Each time, they have come back in greater numbers to tell Congress of their support for such legislation.

Legislation to ban cop-killer bullets has been endorsed by the International Association of Chiefs of Police, the Fraternal Order of Police, the National Sheriffs' Association, the National Troopers' Coalition, the International Brotherhood of Police Officers, the National Association of Police Organizations, the Police Executive Research Forum, the International Brotherhood of Police Associations, the United Federation of Police, the Federal Law Enforcement Officers Association, and hunderds of State and local law enforcement agencies. In my own State, the measure has been unanimously endorsed by the New York City Council and the New York State Assembly. The members of Handgun Control, Inc. also have been especially diligent in their efforts to protect the public from these bullets.

One obstacle remains before the Senate has an opportunity to second the House's action. Mr. President, one of our distinguished colleagues has insisted that the Senate version of this legislation—S. 104, which I introduced with the distinguished chairman of the Judiciary Committee, Senator THURMOND, and the ranking minority member, Senator BIDEN—be amended with a revenue provision. Such amendment, we know, would preclude House consideration, as all revenue legislation must originate in the other body.

Our legislation would ban the manufacture, importation, and sale of solid projectiles and projectile cores made entirely or as a combination of tungsten alloys, steel, brass, iron, beryllium copper, or depleted uranium. Such bullets travel faster than do normal bullets, and they do not collapse when they hit their targets. The bill would not ban gunshot used for hunting, nor would it ban the manufacture of armor-piercing bullets for export, for the use of law enforcement and military agencies, or for testing purposes.

I am especially pleased that the Judiciary Committee voted unanimously to include restrictions on the sale of these bullets and that the Treasury Department supported this amendment. As amended, S. 104 would prohibit the "willful" sale of cop-killer bullets manufactured after this bill is enacted, and would require that all armor-piercing ammunition bear a distinctive marking to distinguish it from conventional rounds.

Since the development of Kevlar and similar materials used in bulletproof vests more than a decade ago, flexible body armor has saved the lives of more than 500 police officers. From 1974 to 1983, the number of law enforcement officers slain in the line of duty fell 43 percent. Many of those lives were saved by bulletproof vests; a single cop-killer bullet could have rendered any of those vests useless. In a test conducted by the California State Police, one armor-piercing bullet—the KTW variety—penetrated four bulletproof vests and five Los Angeles County telephone books stacked behind them. This is ammunition of no legitimate use to hunters or target shooters.

Speaking before the National Sheriffs' Association in June 1984, President Reagan said, "I fully expect to be signing a cop-killer bullet bill before this Congress adjourns." We have the chance now to give the President that opportunity, denied him in the last Congress. Now is the time to enact strong and comprehensive legislation to end the threat to our police officers posed by cop-killer bullets.

LIMITATION ON THE MANUFACTURE AND IMPORTATION OF ARMOR-PIERCING BULLETS

Mr. THURMOND. Mr. President, I join my distinguished colleague from New York in emphasizing the need for the Senate to join the House of Representatives in passing legislation to regulate the manufacture, importation, and sale of armor-piercing bullets.

Such legislation will limit the proliferation of so-called cop-killer bullets, whose only purpose is to wound and kill law enforcement officers and other public officials when they are wearing bulletproof vests. These bullets do not fit pistols normally used for practice shooting; they are useless for stopping game hunted by sportsmen; and they are unnecessary for self-defense.

The legislation is important to protect our law enforcement officers who put their lives at risk everyday to free our Nation of crime.

Today the House evidenced its overwhelming support for such legislation by a vote of 400 to 21. I know there is equally strong support in the Senate. S. 104 has 63 cosponsors. Similar legislation introduced in the 98th Congress was cosponsored by 95 Members of the Senate and unanimously approved by the Committee on the Judiciary. I believe the Senate is ready to act on this important legislation.

I hope that all of my colleagues will join in pressing for passage of S. 104 prior to the end of the session.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

EXECUTIVE SESSION

Mr. HATCH. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nomination of Anne Graham, Calendar No. 531.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONSUMER PRODUCT SAFETY COMMISSION

NOMINATION OF ANNE GRAHAM TO BE A COMMISSIONER OF THE CONSUMER PRODUCT SAFETY COMMISSION

The PRESIDING OFFICER. The clerk will report the nomination.

The legislative clerk read the nomination of Anne Graham, of Virginia, to be a Commissioner of the Consumer Product Safety Commission.

The Senate proceeded to consider the nomination.

Mr. HATCH. Mr. President, let me just say that we have the distinguished chairman of the Subcommittee on Education here with me on this nomination.

I just want to speak very briefly for Anne Graham. She has done a terrific job in the positions she has held so far.

Mr. President, I rise to support the nomination of Ms. Anne Graham, currently an Assistant Secretary of Education, for the Consumer Products

Safety Board. I rise as well to protest the treatment which has been accorded this nominee. It is not in keeping with our system of government founded on respect for the dignity of the individual.

This is a candidate nominated for office over 5 months ago, twice cleared by thorough FBI investigations, voted out of the Commerce Committee unanimously, and strongly endorsed by the two Secretarys of Education for whom she has worked.

What is holding up this confirmation?—A protracted investigation, requested by a Member of the House of Representatives on a personal, ideological vendetta, an investigation requested the very day Ms. Graham's nomination would have been considered by the Senate. Thus, I am particularly concerned that the U.S. Senate is being impeded in performing its constitutionally enumerated power of confirmation of Presidential appointments by a request from the House of Representatives for a GAO investigation. Furthermore, this investigation is being unreasonably prolonged in utter disregard of the request of this body for its own separate, expedited, but thorough investigation. In other words, I fear that GAO is now being used by one Member of the House of Representatives as a political tool to interfere with the Senate's performance of its constitutional power of confirmation. We must put a stop to this immediately.

Let me first say that since 1981, when Ms. Graham became Assistance Secretary of Education for Legislation and Public Affairs, I and my staff have found her to be diligent and effective at performing her job. Never once, as chairman of the authorizing committee, has there been any hint of incompetence or dereliction of duty. Precisely the opposite is the case. I know that in this regard I speak also for my colleagues, Senators STAFFORD and PELL, the chairman and ranking minority of the Education Subcommittee as well.

Ms. Graham was nominated for this new position in the beginning of July—nearly 6 months ago—after a thorough FBI investigation. Her record was clean as a whistle. Only then were allegations concerning both her work and her character raised. The Commerce Committee did their own check on top of that performed by the FBI because they received anonymous calls and letters raising these allegations never heard before. Let me repeat, these were anonymous charges. The Commerce Committee found absolutely no substantiation for these charges—I repeat, after a full FBI check—the second one, since Ms. Graham had been investigated previously for the position she now holds—the Commerce Committee, presented with anonymous allegations, thorough rechecked Ms. Graham's record. The Commerce Committee, like the FBI, twice, found Ms. Graham eminently fit for the position of Commissioner on the Consumer Products Safety Board. The committee unanimously—let me repeat, unanimously—reported her nomination favorably to the Senate floor. That occurred in mid-November. The time spent investigating the validity of the anonymous charges was considerable. The Commerce Committee's decision was certainly no rush to judgment. Now, however, what do we have but some of these same old allegations surfacing again, this time in the request of a Member of the other House for an investigation by the GAO.

In response to this request by a Congressman—the second Congressman signing the request, I am told, has disassociated himself from it—and given our background of experience in working with Ms. Graham, the clearance by two FBI checks, and the further investigation by the Commerce Committee, Senators STAFFORD, PELL, and myself, on November 22 requested the GAO to do a preliminary investigation. They were to ascertain whether the questions posed by a Member of the House had any basis in fact. If they did, we requested an investigation be completed within 2 weeks so that the Senate could proceed to consider a nomination pending since July. Let me put this bluntly: The GAO has not complied with the request of the Senate. It replied that it was unable to do the expedited 72-hour investigation. And, do you know why? Because the very Congressman's office which requested the investigation, which made serious allegations of misconduct, was "unable for a week and a half to turn over to GAO the names of those making the charges." Wouldn't it be reasonable to expect that, if anyone thought that allegations were serious enough to request a GAO investigation, they would have had the fact of those allegations close at hand, available to be put in the hands of the investigators. But, no, this did not happen—perhaps with an eye to the hastening calendar in an attempt to kill a nomination. And, apparently, GAO has gone along with this.

Also, I am very distressed with the character of the investigation GAO has conducted. Let me explain. On November 25, my staff and that of Senators STAFFORD and PELL met with the GAO investigators. These investigators assured the staffs that they were well aware that a political appointee need not meet "specific production quotas" nor rigid clocked hours. They guaranteed that no such questions would be asked. Yet, listen to the list of questions which have been asked: "What time does she come in in the morning?" "Does she get her hair cut on her lunch hour?" "When she is away on her beeper, then you really don't know where she is?" Rather foolish, aren't they? And, certainly, they are exact questions GAO had admitted they knew were irrelevant and inappropriate to ask. So, instead we have had foolish and unnecessary questions asked for 3 weeks. Certainly this does not speak well of GAO's respect for a Senate investigation. We should not allow this disrespect for the Senate to win the day.

Let me also read you a firsthand report of someone interviewed in this investigation, and someone who can certainly speak for Ms. Graham's job performance. The report is contained in a letter, dated December 11, 1985, from Secretary of Education Bennett to the Honorable Charles A. Bowsher, Comptroller General of the United States. The letter reads:

DECEMBER 11, 1985.

Hon. CHARLES A. BOWSHER,
Comptroller General of the United States, General Accounting Office, Washington, DC.

DEAR MR. BOWSHER: During the time I have known Anne Graham, Assistant Secretary for Legislation and Public Affairs, she has fulfilled her duties with ability and integrity and has advanced the goals of the Administration. I am confident that the current investigation of the General Accounting Office, fairly conducted, will confirm my judgment of Anne's work. I hope that the GAO will fulfill the request of Senators Hatch, Stafford and Pell for an expedited investigation so that her record can be promptly vindicated.

It is remarkable to me that such sweeping allegations against Anne have surfaced now for the very first time, more than four years after she came into this position, and while her nomination to serve as a Commissioner for the Consumer Product Safety Commission is pending before the United States Senate.

In a meeting yesterday with two of your investigators, I advised them that I had no evidence to support the anonymous allegations of misconduct which have been made against Anne. I was then posed certain very general questions: Had I ever criticized her work? (I have criticized each of those under my supervision at some time or another.) Did I no longer take her with me to Congressional meetings? (Anne's nomination to the Consumer Product Safety Commission has been pending since July 1, and I have increasingly relied upon a number of different employees for such meetings.) Other pointed questions, in my view, raised clearly unfounded questions of personal character. Frankly, this line of questioning seemed to me to bear little relationship to specific issues of misconduct in office. The tone of one investigator in particular was, in my view, discourteous and disrespectful, raising my concern as to what impression was being left with junior employees of the Department who were also interviewed. I must especially take exception to the peremptory statement of your investigators that they were questioning Ms. Graham's general competence for both the Consumer Product Safety Commission and Department of Education positions. Is such "questioning" really within the purview of a GAO investigation?

I want to go on record regarding the invaluable assistance Anne has provided me over the past year, particularly during my transition from the National Endowment for the Humanities to the Department of Education. Anne's assistance was not limited to specific legislative or public affairs matters, for I have relied on her experience and judgment in countless matters of great importance to me. Had Anne not been nominated by the President to be a Commissioner of the Consumer Product Safety Commission, I would have been grateful to have her remain in her present capacity.

If there is anything further that I can do to help set the record straight, please do not hesitate to let me know.

Sincerely,

WILLIAM J. BENNETT.

Lest there be any doubt, one GAO investigator has admitted in front of my colleague, Senator STAFFORD, that, indeed, these were the questions asked of the Secretary.

Colleagues, certainly Secretary Bennett is correct in his complaint to the Comptroller General. Such an investigation is not within the purview of the GAO. The FBI had already satisfactorily completed such an investigation—twice. The Commerce Committee had rechecked when anonymous allegations surfaced. Both found Ms. Graham entirely worthy. Now GAO enters and pursues an investigation not pertaining to its charge and ranging improperly afield.

I strongly resent that the GAO has been this negligent in responding to a request from a coequal body, the U.S. Senate. It is very hard not to believe that, unwillingly or not, the GAO is letting itself be used for political purposes.

Let us go back to what the GAO admits it has found. It says that a few people make allegations; but many other people deny the validity of these allegations. On top of that, two Secretaries of Education have strongly praised both Ms. Graham's character and her performance at work. That evaluation was contained in the letter from Secretary Bennett which I just read. A similar laudatory evaluation was given by former Secretary of Education Bell in a telephone conversation with the GAO and which Secretary Bell confirmed in a phone conversation with Senator STAFFORD.

So, what do we have? We have a few allegations, all unproven, as the GAO investigators admitted last Thursday. And these allegations are positively denied by many others who have worked with Ms. Graham. Furthermore, two Secretaries of Education, on top of the FBI, and the Senate Commerce Committee, give her a clean and excellent rating. Whom should we trust? My colleagues, let me tell you, I'd put my trust in the FBI, the Senate Commerce Committee, and two Secretaries of Education.

How many of us would be confirmed for a position if unsubstantiated and positively contradicted allegations were to hold the day? How many of us can be sure that we would be free from someone spreading nasty rumors about us—absolutely none of us, I would venture to guess. This is certainly not a very good commentary on our system of government when unsubstantiated allegations can rule the day.

It is also not a good commentary on our system of government by law when one political body can misuse a supposedly independent agency to invade and impede the constitutional responsibilities of the President to nominate and the Senate to confirm appointees. This is particularly the case when the agency is exercising powers far beyond those it has by law.

This nominee has been found eminently qualified by all those legitimately charged with the task of making that judgment. Those of us who have worked with Ms. Graham for 5 years have every reason to agree with that evaluation. Let us get on with the business of the Senate, let us confirm this worthy nominee. I am pleased that many of my colleagues on the other side of the aisle are in agreement. This is not a partisan issue. This is an issue of fairness to one individual caught in the midst of a personal vendetta and this an issue of protecting the constitutional prerogatives of this Chamber.

Mr. STAFFORD. Mr. President, I thank the distinguished chairman of the full committee for yielding to me in connection with the nomination of Anne Graham. I simply wish to convey to my colleagues that during the past 5 years that I have served as chairman of the Education, Arts, and Humanities Subcommittee the committee staff has had fairly frequent contact with Anne Graham in connection with the business of the committee, that is educational matters at the Department of Education where she has been serving, and that generally—and I would say in every instance—the contacts between the committee staff and Anne Graham have been of a favorable nature. The work that has been done and the impression of her carrying out her duties at the Department has been very favorable.

Furthermore, it has been my privilege to know both of the Secretaries of Education who have served since 1980—Terrence Bell, the first Secretary, with whom I was on close and friendly terms; and, more recently, Secretary Bennett, who succeeded Secretary Bell, whom I am getting to know, and while we have had a few disagreements, I also find myself admiring the way he has carried out the Department.

In any event, I know both of the Secretaries quite well, well enough to be the recipient of their candid views on matters. Both of them have stated, not only to me, but to anyone who cares to interrogate them on the subject, that Anne Graham has carried out her duties to not only their satisfaction, but, in their opinion, in a very very good way while serving in the Department of Education.

It is also my understanding that Mr. DANFORTH is not here, but that, as chairman of the Committee on Commerce, Science, and Transportation, which reported her to the Senate favorably for confirmation to be a Commissioner of the Consumer Product Safety Commission for a term of 7 years, beginning last October 27, he feels she is well qualified to serve in that position.

So on the basis of her record at the Department of Education, as it is known to me with respect to educational matters, and on the basis of the statements given to the committee by two Secretaries of Education who served in that capacity during her tenure at the Department of Education, I urge the Senate to confirm the nomination.

Mr. PELL. Mr. President, it is a pleasure for me to join my distinguished colleagues, the chairman of the Labor and Human Resources Committee [Mr. HATCH] and the chairman of the Senate Subcommittee on Education, Arts and Humanities [Mr. STAFFORD] in supporting the nomination of Ms. Anne Graham to the Consumer Products Safety Commission.

For over 4 years we have worked closely with Ms. Graham in her capacity as Assistant Secretary of Education for Legislation and Public Affairs. Throughout that period, my office and my concerns were always delat with fairly and equitably. Ms. Graham consistently performed the duties of her office well, and in a most responsible and responsive manner. Our experience in working with her was an excellent one.

I am fully confident that Ms. Graham will bring to the Consumer Products Safety Commission the same kind of competence, dedication, and zeal for quality in public service that she brought to the Department of Education. I urge that her nomination be approved.

Mr. KASTEN. Mr. President, I wish to speak briefly on the pending business, the nomination of Anne Graham to be a Commissioner of the Consumer Product Safety Commission.

On September 10, 1985, I chaired a Commerce Committee hearing on Ms. Graham's nomination. On November 14, the Commerce Committee unanimously reported Ms. Graham's nomination.

Based on her experience at the Department of Education, I expect Ms. Graham will be a valuable addition to the Consumer Product Safety Commission. As the Department's chief congressional liaison, she has demonstrated a high degree of sensitivity to the need for a close and efficient working relationship with Congress. In addition, she has remained constantly attune to the needs of the public and particularly State and local officials. I have no doubt that this appreciation for congressional and public views will stay with her in her new post. As she acknowledged during her confirmation hearing, a strong and flexible liaison effort among Federal, State, and local consumer officials best serves the Consumer Product Safety Commission in fulfilling its compliance, information, and education programs.

Anne Graham also understands the occasional difficulty in balancing the needs of manufacturers and consumers. She has indicated she will remain flexible in her dealings with industries subject to CPSC regulation and where feasible will work with manufacturers to develop voluntary product safety standards. But, in those instances where voluntary standards are inefficient Ms. Graham has stated she will have no hesitation about supporting Commission efforts to mandate product safety standards.

Mr. President, in a recent letter regarding Anne Graham, Secretary of Education William J. Bennett stated:

> I want to go on record regarding the invaluable assistance Anne has provided me over the past year, particularly during my transition from the National Endowment for the Humanities to the Department of Education. Anne's assistance was not limited to specific legislative or public affairs matters, for I have relied on her experience and judgment in countless matters of great importance to me. Had Anne not been nominated by the President to be a Commissioner of the Consumer Product Safety Commission, I would have been grateful to have her remain in her present capacity.

Mr. President, Anne Graham will bring this experience and judgment to the Consumer Product Safety Commission. Accordingly, I urge my colleagues to join me in supporting her nomination.

Mr. GORE. Mr. President, I rise to speak on this nomination.

I placed a hold on this nomination some time ago, and I wish to describe for my colleague the circumstances which led to that hold and to my opposition to proceeding on the nomination. I also wish to outline the reasons why I am now ending my opposition to his nomination.

As my colleagues are aware, certain allegations were made against this nominee during a hearing before a committee of the other body. Two Members of the other body, whom I regard highly and whose judgment I respect greatly, were concerned about the serious charges made against this nominee. Because of their concern, those two Members formally requested that the General Accounting Office conduct an investigation to determine whether there was any validity to the allegations. The GAO investigation is now underway.

Neither of those Members of the other body personally requested that I oppose this nomination or put a hold on this nomination. Upon learning of their actions and their concerns, I simply decided that the Senate should take a closer look at this nominee's qualifications and the charges that were made against her. I did not think the Senate should act on the nomination while such serious questions persisted.

Let me say that in normal circumstances I think allegations of the kind that were made against this nominee might not in and of themselves justify holding up a nomination even for a short time. However, if I may say this without a tone of partisanship, we have had a number of "klunkers" sent to the Senate by this administration. These have been a number of embarrassments because nominations have been rushed through without much consideration. Several times the Senate has come to believe that we should have taken a closer look at a nominee.

In light of the record of less-than-stellar appointments by this administration, I felt a stricter standard of scrutiny was justified for this nomination, as well as because of the allegations that had been made against her and the GAO investigation that is being conducted.

Several things have happened since I placed my hold on this nomination, however, that have caused me now to change my position. First the two Members of the other body who requested the General Accounting Office investigation have both said that their evaluation of the evidence against this nominee is such that they would not recommend her nomination be held up or opposed. Second, the General Accounting Office, despite urging on my part, and on the part of several of my colleagues to speed up their investigation, has not yet been able to substantiate the charges against the nominee. It is my understanding that GAO has encountered some difficulties in collecting information in an expeditious manner.

In an ideal world I would prefer that the Senate wait for the results of the General Accounting Office investigation before acting on the nomination. I remain concerned that the GAO may eventually substantiate the allegations against the nominee after the Senate has given its approval to her. Nevertheless, it is now clear that the GAO investigation will not be concluded before the Senate adjourns for the year. In light of the exceptionally strong support that the nominee has received from my colleagues, Senator STAFFORD, Senator HATCH, and Senator PELL, I think that when all the circumstances are taken into account, it is acceptable for us to go forward and end the delay over the nomination.

So I will no longer oppose this nomination.

I yield the floor.

Mr. HATCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRAMM). Without objection, it is so ordered.

Mr. HATCH. Mr. President, will the Chair put the question on the nomination of Anne Graham?

The PRESIDING OFFICER. The question is on the nomination of Anne Graham.

Without objection, the nomination is confirmed.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. STAFFORD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STAFFORD. Mr. President, I ask unanimous consent that the President be immediately notified that the Senate has given its consent to this nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STAFFORD. Mr. President, what is the pending business?

The PRESIDING OFFICER. The clerk will report the next nomination.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GORTON). Without objection, it is so ordered.

THE JUDICIARY

NOMINATION OF JAMES L. BUCKLEY TO BE U.S. CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA CIRCUIT

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of the nomination of James L. Buckley of Connecticut to be U.S. circuit judge for the District of Columbia Circuit.

The nomination will be stated.

The legislative clerk read the nomination of James L. Buckley, of Connecticut, to be U.S. circuit judge for the District of Columbia Circuit.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise today to voice my strong support for James Buckley to be U.S. circuit judge for the District of Columbia.

Senator Buckley was born in New York City in 1923. He attended Yale College and served in the U.S. Navy as a commissioned officer from 1943 to 1946. He graduated from Yale Law School in 1949.

Following his formal education, Senator Buckley has compiled an impressive record in law, business and Government service. His Government service is particularly noteworthy in that he was elected and served as a U.S. Senator from New York from 1971 to 1977. From 1981 to 1982 he served as the Undersecretary of State for Security Assistance and as a Counselor. From 1982 to the present he has served as the president of Radio Free Europe/Radio Liberty in Munich, Germany. He has served with distinction in all these positions.

Senator Buckley appeared before the Judiciary Committee on October 30, 1985, where he answered all questions in a direct and forthright manner.

Senator Buckley is an individual who has demonstrated honor, dedication, and integrity. I urge my fellow colleagues to vote in favor of James Buckley to be a U.S. circuit judge for the District of Columbia.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Thank you, Mr. President.

Mr. President, I rise in opposition to the nomination of James Buckley to be U.S. circuit court judge for the District of Columbia. This nomination has posed a number of questions which involve the different roles a U.S. Senator is called upon to play. While I am confident of my decision to oppose this nomination, I would not be very candid with this body if I did not express some discomfort in that I consider Mr. Buckley to be extremely well-qualified for many other governmental positions, and in fact on two different occasions over the last 5 years I have supported his nomination to two other positions he has held in the present administration.

Mr. President, the solemn duty imposed upon U.S. Senators by our Constitution to the process of advise and consent is a responsibility which I and all others in this body take most seriously. For this reason the political considerations should have only slight if any bearing on this process. The fact that Mr. Buckley was my political opponent in the 1980 election for the U.S. Senate has had no effect on my decision to oppose this particular nomination.

To those who may feel that I am either seeking political retribution or letting Mr. Buckley, as some have suggested, off the hook too easily, I can only respond that my earlier support for Mr. Buckley, and my actions relative to other nominations do not substantiate these conclusions.

I have opposed very few Presidential nominees in the last 5 years. For positions in the executive branch I generally believe that the executive should be free to choose his or her administration free from the second-guessing based upon ideological or political differences. For these posts, these administration posts, Cabinet posts and the like, I looked in most instances to qualifications, potential conflicts and other such similar matters.

In the case of a lifetime appointment to a judicial postion, second only in importance to the U.S. Supreme Court, I believe that Senators have a higher responsibility, and that philosophical commitment does have a bearing. This court, this circuit court, and those whom we approve to sit on it will influence the policies of this Nation for decades to come. Quite frankly, I would have problems with anyone nominated to this court solely on the basis of ideology, whether conservative or liberal. Appellate judges interpret laws and the Constitution. They must be flexible to some degree in their approach to controversy so that their philosophies do not overwhelm their legal training and experience.

Based upon a review of Mr. Buckley's published record I am convinced that this nomination is being advanced almost exclusively for reasons of Mr. Buckley's ideological views. Whatever other qualifications and background as excellent as it is, Mr. Buckley is not a legal scholar who happens to hold strong conservative views.

Rather, this is a very ideologically conservative person who happens to be a lawyer. I am convinced further that he adheres to his principles with such rigidity and firmness that he would not be able in the future to exercise the judicial temperament to interpret our laws in relation to the changing mores of our society.

The court for which Mr. Buckley has been nominated has been given original jurisdiction in our judicial system for certain major Federal concerns such as the enforcement of the Voting Rights Act. During his service in this body, Mr. Buckley established a very consistent record of opposition to civil rights legislation and voted against extension, strengthening or even the preservation of the voting rights legislation at every available opportunity. I respect his purety of thought. I respect his position. But to place individuals to sit on this court which has original jurisdiction over these matters for years to come I think is going a step too far.

Based upon this record, I feel that the strength of his convictions, coupled with the lack of previous judicial record to evaluate, forces me to question his ability to undertake the unique mandate of this court.

Mr. President, the question may be asked as to whether I would oppose a nominee with credentials identical to Mr. Buckley except for philosophy. In the final analysis, Mr. President, no two nominees are alike, and my constitutents will obviously judge ultimately my philosophical consistency. I have acted with respect to Mr. Buckley's nomination in a manner which allows me to express my opposition. I have not chosen to delay this matter indefinitely and impose my will upon the U.S. Senate. I recognize that Senators have different tests which they apply to nominations. I hope that my colleagues will give very careful consideration to these remarks. If they share my views of our advise and consent responsibility, I trust they will join me in voting against this nomination to the Circuit Court of the District of Columia.

Mr. President, I ask unanimous consent to insert two additional matters into the Record at this point, if I may.

One is a statement that would come from the second circuit in New York. Mr. Buckley is not being selected or nominated for that particular court. His nomination was moved from the second circuit to the Circuit Court of the District of Columbia. But I think it is relevant to point out that the American Bar Association's ABA Committe on the Federal Judiciary in considering Mr. Buckley for that position which arguably is a far less significant court than the district court in the District of Columbia, given the mandate of jurisdiction, rated Mr. Buckley the lowest passing grade, a C. The New York City Bar resolved tht Mr. Buckley be not approved for the position as he failed to prove possessing a sufficient background and experience for the position.

I think it is worthwhile to further note, Mr. President, that when Mr. Buckley's nomination was sent to the Senate for the D.C. District Court, the D.C. Bar, which has no organized subdivision for passing judgment on appointments to the Federal benches—they usually rely on the ABA for such evaluation—on December 14 wrote to the chairman of the Judiciary Committee, the distinguished Senator from South Carolina, asking for 30 days' delay due to the fact that the nomination was suddenly shifted from the second circuit to the D.C. circuit.

Again, I do not want to place undue influence or to suggest that these committees should have an overwhelming amount of influence over the Judiciary Committee or the U.S. Senate as a whole, but I do think they are relevant. They should certainly be a part of this record.

Last, Mr. President, if I could, I would like to insert into the Record at this juncture the various statutes, and they are numerous. They cover some three pages, the various statutes that require that this circuit court be the court of jurisdiction. As I mentioned in my statement, Mr. President, they cover the Voting Rights Act, various civil rights acts, various issues involving environmental issues, surface mining, Outer Continental Shelf, and the like. I think it is extremely worthwhile for that to be part of the record.

Mr. President, I ask unanimous consent that those materials be included in the Record at this juncture.

There being no objection, the material was ordered to be printed in the Record, as follows:

The District of Columbia Bar,
Washington, DC, November 14, 1985.

Hon. Strom Thurmond,
Chairman, Committee on the Judiciary, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

Dear Chairman Thurmond: At its regularly scheduled meeting on November 12, 1985, the District of Columbia Bar Board of Governors discussed the status of the nomination of James L. Buckley to the United States Court of Appeals for the District of Columbia Circuit. The consensus of the Board reflected grave concern about the process by which this nomination has come to be before your Committee. Because the nomination was shifted at the last minute from the United States Court of Appeals for the Second Circuit to the United States Court of Appeals for the District of Columbia Circuit, the American Bar Association apparently did not conduct its usual inquiry of the lawyers and, as importantly, the Judiciary in the District of Columbia area regarding this nominee. The Board of Governors delegated to the Executive Committee of the Bar the forwarding of a resolution reflective of that concern, including a request that specific action be taken by your Judiciary Committee. The Executive Committee met immediately following the Board meeting on November 12, 1985 and passed the resolution which is attached.

I hope that it is clear from this Bar's previous correspondence to and the testimony before your Committee that our concern is with the integrity of the process. As you know, the District of Columbia, whose Bar numbers 44,000 lawyers, is without the great protection of senatorial privilege. Thus, reliance is made upon Senators from all states to guarantee that citizens of this jurisdiction and its Judiciary receive no less in fairness of process than the other citizens of this nation.

We thank you for your consideration of this most important matter.

Sincerely,

Frederick B. Abramson,
President.

Resolution of the District of Columbia Bar (Unified) Concerning the Judicial Nomination Process Involving James L. Buckley To Be a Circuit Judge for the United States Court of Appeals for the District of Columbia Circuit

Whereas, the District of Columbia Bar, through its Board of Governors, respects the customary process by which judges are nominated by the President and confirmed by the Senate to serve on the United States Court of Appeals for the District of Columbia Circuit;

Whereas, the District of Columbia Bar is troubled by the process by which the nomination of James L. Buckley to that Court was evaluated and then submitted to the Committee on the Judiciary of the United States Senate;

Whereas, the District of Columbia Bar understands that the evaluation of James L. Buckley for that Court was undertaken and his nomination submitted to the Senate Judiciary Committee without the customary inquiry and investigation undertaken of a nominee to a federal court in this jurisdiction; namely, that the American Bar Association Standing Committee on the Federal Judiciary ("the ABA Committee"), as part of its full and complete investigation of the nominee, did not follow its customary practice of contacting members of the Bar of the jurisdiction in which the nominee will serve, and of contacting the Bar leadership and members of the Judiciary in that jurisdiction;

Whereas, although the ABA Committee reviewed James L. Buckley's candidacy, it reviewed him as a nominee for the United States Court of Appeals for the Second Circuit and not as a nominee for the District of Columbia Circuit for which he is now being considered;

Whereas, the District of Columbia cannot call upon senatorial privilege to defer the confirmation of nominees to federal courts in this jurisdiction until full screening has been completed and material problems resolved;

Whereas, the District of Columbia Bar, therefore, has come to depend on the ABA Committee's evaluation of judicial candidates as its primary means of commenting on a proposed nomination;

Whereas, in the absence of a thorough ABA Committee investigation, or similar investigation, which includes the opportunity for comment by the Bar and the Judiciary in the District of Columbia, the 44,000 lawyers of the District of Columbia Bar and the citizens of the District of Columbia are denied an important means to screen a nomination to a court within the jurisdiction;

Now, Therefore, be it resolved That the District of Columbia Bar requests that the Committee on the Judiciary of the Senate or the Senate itself, as appropriate, in order to preserve the integrity of the judicial nomination process:

1. Delay action for thirty (30) days on the nomination of James L. Buckley to the United States Court of Appeals for the District of Columbia Circuit; and

2. During that period, (a) request that, with respect to the nomination, the ABA Committee conduct its customary investigation of a potential nominee to the United States Court of Appeals for the District of Columbia Circuit by contacting its normal and usual sources of information, including the leadership of the District of Columbia Bar (Unified), the Judiciary in the District of Columbia, the organized voluntary bar associations of the District of Columbia and individual lawyers who practice in the District of Columbia, or (b) itself undertake a thorough investigation of James L. Buckley, including the making of the contacts and the obtaining of the information that the ABA Committee normally would make and obtain as indicated above.

New York City Bar Association Releases Judiciary Committee Evaluations of Judge Francis X. Altimari and Former Senator James L. Buckley in Connection With Their Proposed Nominations as Judges of the United States Court of Appeals for the Second Circuit

New York, New York, September 20, 1985 . . . The Chair of the Committee on the Judiciary of the Association of the Bar of the City of New York, Justin N. Feldman, today reported that at a meeting of the Committee held on Thursday evening, September 19, 1985, to evaluate the qualifications of Judge Francis X. Altimari and former Senator James L. Buckley for appointment to the United States Court of Appeals for the Second Circuit, the Committee adopted the following resolutions;

With respect to Judge Altimari:

Resolved, That Francis X. Altimari be approved for the position of Judge of the United States Court of Appeals for the Second Circuit; with respect to Mr. Buckley:

Resolved, That James L. Buckley be not approved for the position of Judge of the United States Court of Appeals, Second Circuit, by reason of his failure affirmatively to demonstrate that he possesses the professional background and experience required for the position he seeks. Although Mr. Buckley has supplied certain of the requested biographical information, his refusal to submit to an interview has deprived the Committee of the opportunity to explore whether his experience, dedication, and other qualities would demonstrate his fitness for that position.

Mr. Feldman noted that the Judiciary Committee had completed its evaluations pursuant to the Association's By-Laws and in response to the request of the American Bar Association's Committee on the Federal Judiciary.

The Association's By-Laws provide that:

The Committee shall endeavor to secure the nomination, election, certification, or appointment of qualified candidates, to prevent the nomination, election, certification, or appointment of unqualified candidates, and to prevent political considerations from outweighing fitness in the selection of candidates for . . . the United States Court of Appeals for the Second Circuit. . . .

In accordance with its usual practice, the Committee is reporting its conclusions to the Committee on the Federal Judiciary of the American Bar Association, and to President Ronald Reagan, Attorney General Edwin Meese III, Senator Strom Thurmond and Senator Joseph R. Biden, respectively the Chairman and Ranking Minority Member of the Senate Committee on the Judiciary, and to New York's Senators Alfonse M. D'Amato and Daniel P. Moynihan.

Statutes Vesting Special Jurisdiction In the United States Circuit Court for the District of Columbia

United States Code (Title/Section)

2/159—Suits for the purpose of enforcing the provisions of any trust accepted by the Library of Congress Trust Fund Board.

2/437g(8)—Suits filed by parties aggrieved by an order of the Federal Election Commission dismissing complaint alleging violation of the Internal Revenue Code or certain election laws.

5/552b(g)—Suits filed by any person, under the Government in the Sunshine Act, to require an agency to promulgate regulations to conduct open meetings.

7/150dd(d)—Secretary of Agriculture has authority to order emergency measurer, including destruction of products, etc., to prevent dissemination of plant pests. Suit may be brought within one year after such emergency action by the Secretary by persons for just compensation under certain circumstances.

7/2462—Suit against the Secretary of Agriculture for failure to grant a certificate of plant variety protection to breeder of novel variety of plant.

7/2463—Suits against parties in interest relative to a decision under the plant variety protection provisions when there are adverse parties in a plurality of districts not in the same state or adverse parties residing in a foreign country. Case may be transferred by the court.

7/2569—Suits against proprietors not residing in the United States under plant variety protection provisions if none designated for service of process in United States.

15/160—Every China Trade Act [of 1922] corporation shall maintain an accredited agent in the District of Columbia for purposes of service in any suits to be brought.

15/1071—Jurisdiction of civil actions based upon decision of Commissioner of Patents and Trademarks or Trademark Trial and Appeal Board when adverse parties reside in a plurality of districts not in the same state or a party lives in a foreign country.

15/1312(d)(2)—Service of Department of Justice civil investigative demands when the recipient thereof is not to be found in the territorial jurisdiction of any court of the United States.

17/116—Suit may be brought against proprietors of establishments having phonorecord players if such proprietor refuses access to authorized individuals trying to determine the contributions of individual recording artist to the profit of the player.

20/127—Suits to seek reimbursement if Howard University should transfer certain property.

22/276ee—Suits to enforce the provisions of the Kermit Roosevelt fund administered by certain United States Army personnel.

26/6110—Suits to be brought either in the United States Tax Court or United States District Court for the District of Columbia relative to certain information pertaining to determinations made by the Secretary of the Treasury.

26/7428—Suits may be brought in the United States Tax Court, United States Claims Court or this court relative to the determination that an organization is tax exempt.

28/1391(f)(4)—Suits brought against a foreign state under Foreign Sovereign Immunities Act of 1976.

30/1276(a)(1)—Suits relative to the action of the Secretary of the Interior in promulgating rules and regulations or approving or disapproving state programs under the Surface Mining and Reclamation Act of 1977.

2/687—Comptroller General authorized to bring civil suit to require budget authority to be made available for obligations under certain circumstances.

35/32—Court may review the action of the Commissioner of Patents and Trademarks in suspending individuals from practice before the Patent and Trademark office.

35/145—An applicant, dissatisfied with the decision of the Board of Appeals, in a patent or trademark case, may seek remedy against the Commissioner of Patents and Trademarks unless appeal has been taken to the United States Court of Appeals for Federal Circuit.

35/146—Any party to an interference, i.e. conflict with a pending application or unexpired patent, decision by the Commissioner of patents and Trademarks, may seek remedy by civil action. If parties residing in a plurality of districts not in the same state or in a foreign country.

35/293—If a non-resident patentee doesn't have locatable agent residing in the United States, this court has jurisdiction over suits involving such person.

40/193h—Prosecution of offenses pertaining to the Capitol or the grounds thereof, including conspiracies, shall be in this court.

40/193s—Prosecution of certain offenses at the Smithsonian Institution and National Gallery of Art.

40/1973b—Jurisdiction over suits for declaratory brought by states or subdivisions under the Voting Rights Act.

42/1973c—Jurisdiction over suits for declaratory judgment brought by states or political subdivisions under the Voting Rights Act.

42/1973k—Jurisdiction over suits by states or political subdivisions to require the Attorney General or Director of the Census to take certain actions to relieve the plaintiffs of certain burdens under the Voting Rights Act.

42/6384—Penalties may be assessed by the Comptroller General for failure to comply with orders to supply certain energy information to that Officer. Such penalties may be collected by a civil action only in this court.

43/1335—May review determinations of the Secretary of Interior relative to validity of a mineral lease, and operations thereunder, issued by any state and covering the submerged lands of the outer Continental Shelf.

43/1349—May review cancellation of an oil and gas lease by the Secretary of Interior when such lease, governing submerged lands of the outer Continental Shelf, was issued by the Secretary.

50 Appx/34—Claimants whose claim has been disallowed in whole or in part by the Custodian of Office of Alien Property may bring suit for review of this determination under the Trading With the Enemy Act.

50 Appx/2158—Under the Defense Production Act of 1950, the court has jurisdiction to enjoin certain actions and order production of certain materials by the Government.

Mr. DODD. Mr. President, let me say in conclusion, if I may, to my colleagues, as I know there are others who may want to speak on this nomination, admittedly as I said in my statement this is somewhat awkward for a former opponent to be in opposition to this nomination. I stress once again that on previous occasions Mr. Buckley has been nominated for other positions. I have not only voted for his nomination in those cases, but I did so with some pleasure. I happen to have a great deal of respect for this individual. Too often those words are said on this floor as usually a forewarning of some devastating attack on an individual. That is not my purpose at all.

I am as deeply concerned about the lack of adequate legal background that this administration seems to be pursuing in suggesting nominations for our Federal courts. Again, it is not a question of Mr. Buckley's not being qualified for anything, but to place this individual on the second most important court in our land, with the unique jurisdictional responsibilities of this court, coupled with Mr. Buckley's strong ideological views, which in many ways, while I disagree with him, I respect his consistency.

I must tell my colleagues in the Chamber that during the 1980 election effort one of the things that I grew to respect about my opponent in that race was that he did not shift around from day to day, given shifts in public opinion and mood. You could count on him every single day regardless of where the winds were blowing to take his position and take it firmly and to argue it intelligently. I respect that. Too few people in our political environment today do not adhere to that same set of principles and explain their political convictions.

But it is that same sense of conviction, that same purpose of conviction which I respect so much in the political arena or in this Chamber, that concerns me about serving in the judiciary. There I think more temperance is needed, more temperance is involved and must be involved, particularly when you consider the jurisdiction that this court covers.

With those thoughts in mind, Mr. President, I reserve the remainder of my time.

Mr. THURMOND. Mr. President, the distinguished Senator from Connecticut is certainly my friend.

I want to say that Mr. Buckley is well qualified for this position. Mr. Robert Fisk, chairman of the Standing Committee on the Judiciary of the American Bar Association, was contacted concerning Senator Buckley's ABA investigation. Mr. Fisk stated that the ABA Standing Committee looks at the qualifications of the individual for the position to which nominated. The individual circuit for which the individual was nominated has no effect on the committee's deliberations.

The ABA committee was aware that Senator Buckley had been nominated for the D.C. Circuit and found him qualified for that position.

Mr. HATCH. Will the Senator yield?

Mr. THURMOND. I yield 5 minutes to the distinguished Senator from Utah.

Mr. HATCH. Mr. President, we are today considering the nomination of a former Member of this body, Senator James L. Buckley, for a seat on the U.S. Court of Appeals for the District of Columbia. Former Senator Buckley is uniquely qualified for the post for which the President has wisely nominated him. In recent years, the District of Columbia Circuit has come to play a vital role in governmental affairs. This circuit is the appropriate venue for many challenges to Federal

Government activities pertaining to both foreign and domestic policy.

By virtue of his experience in this body as well as his service for 4 years in various influential posts in the executive branch, including Under Secretary for Security Assistance at the Department of State and president of Radio Free Europe, he has acquired and demonstrated a sensitivity and understanding of the types of issues likely to be adjudicated before the District of Columbia Circuit. The District of Columbia Circuit has become a primary judicial body for reviewing Federal Government actions. Few individuals have had the diversity of legislative and executive experience that uniquely qualify former Senator Buckley to participate in judicial oversight of governmental decisions.

Former Senator Buckley's legislative experience will undoubtedly serve the Nation well on the court of appeals for another reason. Senator Buckley will grasp that legislatures have historically been as protective of minority interests and rights as have courts. Exemplary of this principle is the constellation of Federal statutes protecting minority interests enacted over the past few decades. The Civil Rights Act of 1964, the 1965 Voting Rights Act, the 1968 Fair Housing Act, the Age Discrimination Act of 1967, the Equal Credit Opportunity Act, the Higher Education Amendments of 1972, and the Civil Rights Attorneys' Fees Awards Act of 1976 are among the many legislative enactments whose beneficiaries are not majoritarian interests. Former Senator Buckley served in Congress from 1971-77 when many of those laws were enacted or amended. This will provide him with a personal insight into and respect for the legislative process with regard to these and other vital statutes.

For just a moment, I would like to add just a comment about the general subject of nominations by President Reagan. In connection with this nomination, we have heard many comments about the degree to which President Reagan is reshaping the judiciary. In fact, President Reagan has not had a disproportionate impact on the Federal bench. In 5 years, President Lyndon Johnson appointed 54 percent of the Federal judiciary. In the same period, President Reagan has appointed 30 percent. To give some other comparisons, President Carter appointed nearly 40 percent in 4 years—in other words, they had more impact in less time than President Reagan.

President Kennedy, too, appointed 31 percent of the Federal judiciary in 3 years. President Nixon appointed 45 percent in his term of office. These statistics illustrate that the orderly processes of judicial selection have not given President Reagan a disproportionate role in appointing Federal judges.

In conclusion, I commend President Reagan for appointing individuals of great merit to serve on the Federal bench. Justice Sandra Day O'Connor is an example of his insightful selection of judges. Former Senator Buckley falls into the same category.

I can name countless others because I believe he has done a very good job and the Justice Department as well. They range across the spectrum ideologically, politically, and otherwise. Senator Buckley, I think, falls in the same category.

I would not get too caught up in any bar association recommendations. I have seen some of the top minds in this world excluded by the bar and some who have not been very top have been given high ratings. So I do not think they should count too much. I think they are important in the process, but I do not think any bar, New York City Bar or the ABA, should make the decisions here. That is what we are here for.

I think anybody in this body who has served with the distinction Senator Buckley has and has served in the executive branch with the same distinction has a right to serve in the judiciary branch. I think he will do a good job.

I hope all our colleagues will support our former colleague and let him know that we expect him to do a good job, and get him on this bench, where we can replace a very good judge and keep this process moving.

I thank my colleague from South Carolina for his leadership in this matter.

The PRESIDING OFFICER. Who yields time?

Mr. DODD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have already been ordered.

Who yields time?

Mr. THURMOND. Mr. President, I yield such time as may be required by the able Senator from Kentucky [Mr. McCONNELL], a member of the Judiciary Committee.

Mr. McCONNELL. I thank the Senator.

Mr. President, I rise in support of this nomination.

I did not have the privilege of serving with Senator Buckley when he was a Member of this body but I have observed his career over the years and find him to be outstanding in a number of different ways. As everybody knows, he was a graduate of Yale University and of Yale Law School. He is a member of the U.S. Naval Reserve, Under Secretary of State for Security Assistance and counselor to that office. Of course, he was U.S. Senator from New York from 1971 until 1977. He has also been president of Radio Free Europe and Radio Liberty since 1982.

Senator Buckley has served with distinction, with integrity, with dedication in every position he has held. He is well qualified by education, experience, and temperament for the position he has been nominated to. I am proud to be here today to support his nomination and look forward to the wisdom and insight he will bring to the Federal bench.

The PRESIDING OFFICER. Who yields time?

Mr. MOYNIHAN addressed the Chair.

Mr. THURMOND. Mr. President, I yield such time as may be required to the able senior Senator from New York [Mr. MOYNIHAN].

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. I thank our distinguished chairman and President pro tempore.

Mr. President, I rise to support the nomination of the Honorable James L. Buckley for the distinguished position of circuit court judge for the District of Columbia. I shall speak not to his career, which is well known to this body and thoroughly set forth in hearings of the Judiciary Committee, where I had the honor to introduce him. If the Senate would not think this a diversion, I would like to speak to the personal qualities of a man against whom I ran for the seat in the U.S. Senate in 1976.

Mr. Buckley was born in New York City and, although he is now a resident of Connecticut, that is a somewhat porous border we have there, and people go back and forth with great advantage to both places.

He had earlier, in 1970, been elected to the Senate as an advocate of views which were thought perhaps unusual at the time, but which we have since seen rise to great levels of public acceptance and endorsement, even, in the decade that began 10 years later, in 1980. In 1976, it fell to me as a Democrat to run against him. Two things come to mind in terms of that campaign. The first is that it would have been the easiest of things for Senator Buckley, as he then was, to question my credentials by introducing what one might call procedural objections to my candidacy, to give the public, the electorate, some thought about what might be the scrupulousness of the person who was his opponent.

Until a bare 5 months before I became a candidate, I had been, a member of the Cabinet of President Ford, a Republican President. I had been that as a Democrat, in a Republican administration. I do not think anybody in this body would hold that against me. But even so, with perfect accuracy, one might have said, "Who is this person who has left President

Ford's Cabinet not 5 months ago suddenly presenting himself as a Democrat?"

Certainly, I was then employed teaching in another State. I was nothing if not a New Yorker, a resident of New York. The home we owned, and still do, is in New York. My wife and I were registered in New York, and I had had a series of Presidential commissions which declare me to be Daniel Patrick Moynihan of New York, as Presidential commissions do. Still, one could have said, "What is this fellow from another State, albeit a bordering State, doing in this campaign?" There could have been a number of automatic responses from a number of persons, but no such response came from Jim Buckley.

It was not his view that such matters were relevant. He knew perfectly well I had served as a Democrat at the request of President Ford, and that this was a respectable thing for an American to do. He knew perfectly well that New York was my home; and that if I was working somewhere else, it was because that is where I could make a living.

But much more important, Mr. President—and I think important to the concerns of the Senate today—is that he and I were persons of pronounced differences of views on a wide range of issues: his being a deeply felt conservative philosophy, as it was generally described in those days and perhaps still is, and mine being more of a New York Democrat with the associations that come from being born and coming of age in the era of Franklin Roosevelt and Harry Truman.

Well, it would be possible for Jim Buckley to have directed against me quite vehement, quite personal, and quite wounding charges of ideological unsoundness. He could have taken his view as one which was truth and suggested that opposing views were untruths.

He could have taken the view of the fanatic, defined by the political satirist Mr. Dooley as "a man who believes that God would agree with him if He knew the facts of the case."

There is a lot of that in our age, and there is a lot of that in this Chamber; yet none of that in Jim Buckley. He understands opinion. He understands disagreement, and he respects disagreement. He is interested in clarifying differences of opinion but not in misrepresenting or denigrating or smearing those who disagree with him. This is an honorable man. This is a man who understands, if I may say once again, the importance of principle. And while he may cleave with great conviction to one side, he is one of those whose conviction is that the other side has rights, too. I do not know what more important personal attribute a Senator might have.

In closing, Mr. President, may I say that he lost that election. It was not an easy thing. I cannot imagine a more painful thing for most of us. He, obviously, loved this place and served with distinction. He was admired here and was able to do many things that mattered to him, even though he was in the minority. I know in what high regard he was held in the Committee on Environment and Public Works, where I in effect succeeded him.

We were practically contemporaries. If he went to Yale and I went to City College, that was the fortunes of the time, and I may have had the better education. But what did he do to the man who succeeded him? Did he break off communications? Did he let this personal setback become a personal matter between the two of us? He did not. One of his first acts upon leaving the Senate—the next day after I had, in effect, come into the Senate—was to send me a copy of his book, "If Men Were Angels." I believe it is a line from the Federalist Papers; it is the position of Senator Buckley that men are not, and in that matter he cleaves closely to the views of the Founding Fathers. And that among other things, shows that he is a man capable of using precedent to the advantage of contemporaries, and that, too, is a quality of judicial temperament which I commend to this body.

Mr. President, I yield the floor. I thank the distinguished chairman for giving me time to address the body.

The PRESIDING OFFICER. Who yields time? The Senator from Connecticut.

Mr. DODD. How much time remains?

The PRESIDING OFFICER. Eighteen minutes for the Senator from Connecticut, 9 minutes for the Senator from South Carolina.

Mr. DODD. I yield to the Senator from Connecticut such time as he may desire.

Mr. WEICKER. I thank my good colleague from Connecticut.

Mr. President, let me state at the outset that political philosophy is not an issue here. That has already been determined rather conclusively with Mr. Buckley's sound defeat at the polls in New York State in 1976 and again his sound defeat at the polls in Connecticut in 1980. So those issues were resolved outside this Chamber, as indeed they should, and they are not a matter for concern vis-a-vis this nomination.

Mr. President, I rise today in opposition to the nomination of James L. Buckley to be a circuit judge for the United States Court of Appeals for the District of Columbia Circuit.

The basis of my opposition is twofold: First, I have serious reservations about Mr. Buckley's legal experience, which in my view, is far from adequate for a lifetime appointment to the Federal bench. Second, I am troubled by Mr. Buckley's response to questions posed to him by the Senate Judiciary Committee, which call into question his objectivity and his judicial temperment regarding certain philosophical issues.

Appellate judges are entrusted by our judicial system with the responsibility of interpreting the U.S. Constitution. This is a job that requires wholly independent thinking tempered by constitutional scholarship. It is in this application of founding principles to the questions of today that judges of the appellate bench are most often tested. This is not the exercise of the quiet, book-lined and paneled study that some may think. It is the most strenuous of processes, the subject of intense debate and the object of intense pressure from very powerful political forces.

We in the Senate with the responsibility of advice and consent can obviate this pressure on the Federal bench in limited fashion. Most importantly, we can approve for appointment those men and women of inner conviction and tested ability in the trenches of the legal system; the trial lawyers of the Nation's courts, judges of lower jurisdictions and even proven arbiters and scholars from the Nation's political and economic community.

Mr. President, on all these scores, Mr. Buckley falls short. Not by a small amount, but by an embarrasing and woefully inadequate amount. Mr. Buckley has never tried a case in court, except, and I quote the nominee himself, "other than representing a few obstreperous Yale students in the New Haven city court."

A man we consider today for perhaps the most active Federal appellate bench in the Nation has never appeared in Federal court, has never argued a case before a jury and indeed, answered "not applicable" when he was asked about the number of cases he tried to verdict or judgement.

Mr. President, the job of the Senate in these matters is not to count the number of jury trials or days in court and approve judges based on the bottom line. The judgment of the Senate concerning a lifetime appointment to the appellate bench must be applied with an understanding of a nominee's principles and probable judicial temperament.

Again I remind my colleagues of the great pressure on the Federal courts to bring their view of the Constitution and the role of the judiciary in line with the passing political majority. This pressure is wrong and, unfortunately, it has the support of the nominee before us today.

Mr. Buckley told the Judiciary Committee he is concerned about judicial activism. He said, "abrupt changes in the interpretation of constitutional provisions or statutes, and the imposition of novel remedies have the effect of depriving the law of that element of certainty and predictability that should be one of its most important functions."

Mr. President, the approval of Mr. Buckley will inject elements of "certainty and predictability" to the D.C. circuit court of appeals, but it will do so at the expense of insight and experience. We can predict what his rulings will be in cases involving a woman's right to choose an abortion. His ideology is one of strong opposition to this right. And we can be certain from his testimony that he will not recuse himself from such cases. There is no need to recount to my colleagues Mr. Buckley's rigid opposition to civil rights and voting rights legislation. His résumé of political activity is full.

But, Mr. President, his résumé of legal activity is empty and for that reason I urge this nomination be rejected. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. Mr. President, I wonder if the distinguished Senator from Connecticut is through.

Mr. DODD. Mr. President, I suggest the absence of a quorum.

Mr. THURMOND. Mr. President, will the Senator withhold that?

Mr. DODD. I do.

Mr. THURMOND. Are there any other speakers?

Mr. DODD. There may be one other Member on this side I am aware of who may wish to address this matter.

The PRESIDING OFFICER. Time will be charged against both sides.

Mr. DODD. Mr. President, I know of no further requests on this side.

Mr. THURMOND. Mr. President, I will make a brief response.

After Senator Buckley graduated from Yale Law School, he became a member of the bar and has been a member of the bar for 35 years. During this time, he practiced law for a number of years.

He has been connected with business organizations. He has served as U.S. Senator, and he has served in the U.S. Department of State.

He also served his country in uniform in the U.S. Naval Reserve for 3 years.

Mr. Buckley is a well-rounded man. He is a student. He will make an excellent member of the circuit court of appeals, to which he has been appointed.

Mr. Buckley has the highest regard for individualism and individual rights, and I am sure he will stand for the civil rights and humanitarian rights of people everywhere. We are very proud to recommend him to the Senate.

The Senate Judiciary Committee reported his nomination without any objection. He has been appointed by the President of the United States, he has been approved by the Judiciary Committee, and now we ask the Senate to approve him and send this fine man to the circuit court of appeals, where we feel he will make an outstanding record.

Mr. President, if there are no further speakers, I suggest that we yield back the remainder of our time and vote.

The PRESIDING OFFICER. Does the Senator from Connecticut yield back his time?

Mr. DODD. I yield back my time.

Mr. THURMOND. I yield back my time.

The PRESIDING OFFICER. All time have been yielded back, the question is, Will the Senate advise and consent to the nomination of James L. Buckley, of Connecticut, to be U.S. circuit judge for the District of Columbia Circuit? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. EAST] and the Senator from Alaska [Mr. MURKOWSKI] are necessarily absent.

I also announce that the Senator from Maryland [Mr. MATHIAS] is absent on official business.

Mr. CRANSTON. I announce that the Senator from Oklahoma [Mr. BOREN] is necessarily absent.

I also announce that the Senator from Florida [Mr. CHILES] is absent because of illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 84, nays 11, as follows:

[Rollcall Vote No. 377 Ex.]

YEAS—84

Abdnor
Andrews
Armstrong
Bentsen
Biden
Bingaman
Boschwitz
Bradley
Bumpers
Burdick
Chafee
Cochran
Cohen
Cranston
D'Amato
Danforth
DeConcini
Denton
Dixon
Dole
Domenici
Durenberger
Eagleton
Evans
Exon
Ford
Garn
Glenn
Goldwater
Gore
Gorton
Gramm
Grassley
Harkin
Hart
Hatch
Hatfield
Hawkins
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Johnston
Kassebaum
Kasten
Kennedy
Kerry
Laxalt
Leahy
Long
Lugar
Mattingly
McClure
McConnell
Melcher
Mitchell
Moynihan
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Quayle
Rockefeller
Roth
Rudman
Sarbanes
Sasser
Simon
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Wilson
Zorinsky

NAYS—11

Baucus
Byrd
Dodd
Inouye
Lautenberg
Levin
Matsunaga
Metzenbaum
Proxmire
Riegle
Weicker

NOT VOTING—5

Boren
Chiles
East
Mathias
Murkowski

So the nomination was confirmed.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I ask unanimous consent that the President be immediately notified that the Senate has given its consent to this nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 1:30 P.M.

The PRESIDING OFFICER. In accordance with the previous order, the Senate will now stand in recess until 1:30 p.m.

Thereupon, at 12:08 p.m., the Senate recessed until 1:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. PRESSLER).

Mr. BURDICK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

BRADFORD MORSE

Mr. MOYNIHAN. Mr. President, in my tenure as U.S. Permanent Representative to the United Nations, I was privileged to work with distinguished and learned diplomats from every part of the world. Among the finest of those was our administrator of the United Nations Development Fund, Bradford Morse. In 13 years at the United Nations, Brad Morse compiled what is probably that organization's most impressive record of achievement. The successes he engineered, particularly in his post at the development fund, are too numerous to list. Suffice it to say that the positive influence of his leadership has been felt in over 150 nations, and in New York, Brad is recognized for helping erase the United Nations' problems with indebtedness.

Mr. President, this year marks the 40th anniversary of the entry into force of the U.N. charter. In that organization's history, many have been quick to criticize its operation, its intent, and indeed its very existence. The career of Bradford Morse, happily, reminds us of the effectiveness and importance of the United Nations in so many areas.

I was especially pleased to read a story about Brad Morse's many accomplishments and his plans for a much-deserved retirement in Tuesday's New York Times. Mr. President, I ask unanimous consent that this article be printed in the RECORD, for Bradford Morse is a man of tremendous ability and exceptionally fine character. He is a credit to his profession and to his country, and he will be greatly missed.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Nov. 19, 1985]

AMERICAN RETIRING AT U.N.: 13 SATISFYING YEARS

(By Elaine Sciolino)

UNITED NATIONS, N.Y.—Bradford Morse, the highest-ranking American official employed by the United Nations, says that when he retires next year he will be leaving behind one of the most successful agencies in the United Nations system.

"You name it, we did it," Mr. Morse, the head of the United Nations Development Program, which helps finance and administer development projects in more than 150 nations, said in an interview.

From projects in Colombia that have trained 2 million people in 300 different vocations, to investigations into the migration patterns of maize-eating red locusts in Africa, his program's achievements can be described in one word, said Mr. Morse: "Unbelievable."

The high point of his 13-year career at the United Nations was the building of hundreds of miles of secondary roads in Senegal, Mauritania, Mali, Burkina Faso and Gambia, with a locally available material, lignite. "It saves thousands of lives because we were able to get food supplies to people in remote areas during the recent drought," he said.

His "bluest days" came when it seemed impossible for Rwanda to produce a natural pesticide from a homegrown flower petal, a project that eventually succeeded.

Earlier today, in a news conference, Mr. Morse said with pride, "I have been able over these years to persuade the world that the human dimension of development is the critical dimension."

During his tenure at the agency, he has been credited with helping to eliminate the organization's financial deficits, and in recent years, he focused the agency's attention on the problems of debt and obstacles to economic growth in the so-called least-developed countries.

"I leave at a time when the United Nations Development Program—and I can say it with some degree of modest satisfaction—is in excellent shape compared to what it was a few years back when I first took over what was then a bankrupt organization," he said.

Mr. Morse also announced that contributing countries had pledged a record $736 million to the agency's projects for next year, $36 million over the agency's goal.

Mr. Morse, who also heads the United Nations Office for Emergency Operations in Africa, which coordinates relief for famine-stricken nations in Africa, expressed disappointment that donor nations did not pledge more money for nonfood items related to health, water, agricultural development and logistics.

"We would have liked to see a lot more money provided by the donor countries for nonfood needs," he said. "The emergency is not over by any means."

Despite the fact that harvests are better, he said, money will be much more critical next year as many countries begin to tackle the problems of internal economic development. "We have now pretty much overcome the immediate relief aspect of the emergency," he said, but added, "The real problem in Africa has been and continues to be a crisis of development."

Mr. Morse, a former Republican Congressman from Massachusetts who is 64 years old, cited personal reasons for his decision to retire before his mandate was over at the end of 1987.

"It is an appropriate time for change," he said. "I'm not as young as when I started. I have a young daughter that I hardly know and want to get to know."

Upon his retirement, Mr. Morse will become president of the Salzburg Seminar, an American-funded organization based in Cambridge, Mass., that brings together politicians, academics and businessmen from countries in the West, the Soviet bloc and developing countries.

Mr. Morse said he presumed the United States would try to keep his position at the United Nations for an American.

Mr. Morse refused to speculate on who might be a possible successor, but said it should be "a woman or a man who has a very deep concern about the state of the world and who has confidence that something can be done to overcome the imbalances that exist."●

Mr. MOYNIHAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. McCLURE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MATTINGLY). Without objection, it is so ordered.

Mr. McCLURE. Mr. President, the Senate is in executive session. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

DEPARTMENT OF THE INTERIOR

NOMINATION OF J. STEVEN GRILES TO BE AN ASSISTANT SECRETARY OF THE INTERIOR

Mr. McCLURE. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 582, the nomination of J. Steven Griles, of Virginia, to be an Assistant Secretary of the Interior.

The PRESIDING OFFICER. Is there objection to the present consideration of the nomination?

Mr. BYRD. Mr. President, reserving the right to object—and I will not object—this nomination has been cleared on this side of the aisle.

The PRESIDING OFFICER. The nomination will be stated.

The bill clerk read as follows:

J. Steven Griles, of Virginia, to be an Assistant Secretary of the Interior.

There being no objection, the Senate proceeded to consider the nomination.

Mr. McCLURE. Mr. President, I strongly support the nomination of J. Steven Griles to be Assistant Secretary of the Interior. This is an outstanding nomination by the President which will bring a man of demonstrated abilities to one of the most difficult and thankless positions in the Department. Mr. Griles has complied with all requirements of the Senate and the Committee on Energy and Natural Resources. He has appeared before the committee in hearings on December 4, 1985, and responded fully and forthrightly to all questions asked of him. The committee considered his nomination in an open business meeting on December 11, and ordered the nomination favorably reported to the Senate.

Mr. President there has been an enormous amount of controversy surrounding the activities of the Office of Surface Mining and the Minerals Management Service. Mr. Griles has, I believe, done an outstanding job during his service at the Department to improve the activities of those two agencies. He has worked with the Congress and has always been responsive to questions and concerns. Under his leadership, the Congress has received several option analyses to assist us rather than just a take it or leave it approach. I deeply regret that some wish to vent their frustrations at the almost impossible task of managing OSM and MMS on Mr. Griles. He is far and away our best hope of seeing improvements.

Mr. President, there has been considerable discussion, debate, allegations, innuendo, and outright accusations directed at Mr. Steven Griles relative to his activities during his brief tenure as Deputy Director of the Office of Surface Mining Reclamation and Enforcement [OSMRE] in the Interior Department. While there is no question that there are serious problems with respest to the Office of Surface Mining and its implementation of the Surface Mining Control and Reclamation Act of 1977, I am convinced that Mr. Griles did not create these problems.

Anyone who takes the time to consider that the 1977 act is 87 pages of the most detailed, comprehensive and complex provisions to pass the Congress in recent memory; not to mention the fact that there are over 500 pages of rules currently in the Code of Federal Regulations that have been promulgated to implement the act; not to mention the fact that the act has been, and continues to be litigated, often resulting in regulations being modified and reissued; not to mention the fact that more rulemaking is in the offing; not to mention that there have been several changes in the leadership and staffing of OSM since its inception in 1978.

Consider, also, that for those of us in Congress and the executive branch who labored with the drafting of this act over several years it is still difficult to comprehend most of its provisions. I can't fathom what the various coal producing States must have thought when this law began to be implemented within their boundaries in the early days following its enactment, let alone the small coal operators who had to comply with its provisions. More importantly, the Federal inspectors who were hired to enforce the law at that time were too few and many of them inexperienced. At its peak size, the Office of Surface Mining employed approximately 220 inspectors, the majority of which were located in Appalachia. At the same time, the agency was charged with inspecting approximately 15,000 mines.

The Office of Surface Mining has never had sufficient inspection and enforcement personnel and resources to meet its statutory mandate to conduct an annual, fixed number of inspectors of each mine site. What does this mean? It means that some abuses were occurring unobserved by OSM. Was this the fault of the Director of OSM in charge at that time or was it the fault of Congress for not providing the manpower and money to effectively implement the law? Did those problems go away with the subsequent appointment of a new Director? The answer is that some were rectified but others were not. Those that were not were inherited by subsequent Directors. The Energy and Natural Resources Committee expects to confirm yet another Director of OSM early next session. Will he be blamed for the problems of the past? I certainly hope not.

As I pointed out earlier, considerable criticism was lodged against Mr. Griles during this confirmation hearing before my committee with respect to problems allegedly created by him during his tenure with OSM as Deputy Director. These critics dwelled only on the perceived negatives of Mr. Griles' tenure at OSM and conveniently omitted any of the positives so as to suggest that his entire tenure was one of undermining or circumventing the effective implementation of the 1977 act. In an effort to bring some balance to an otherwise negative hearing report, I asked Mr. Griles to provide for the record a list of positive or significant accomplishments that were achieved during his tenure at OSM.

Mr. President, I ask unanimous consent to have printed in the Record the question I put to Mr. Griles and his response.

There being no objection, the material was ordered to be printed in the Record, as follows:

Q. During your testimony, your role at the Office of Surface Mining (OSM) was called into question. Didn't OSM have a number of significant accomplishments during your tenure as Deputy Director and since that time? What were some of these accomplishments and what role have you played?

A. I believe that OSM has had several notable accomplishments since 1981. Major improvements have been made in the State and Federal regulatory programs, regulatory reform, enforcement, the AML program, and the administration of the agency.

STATE AND FEDERAL REGULATORY PROGRAMS

In early 1981, more than three years after the creation of OSM, only 12 percent of the coal mines in the country were subject to the full requirements of the Surface Mining Act's permanent program. 88 percent were still under the weaker interim program standards. By the end of my tenure at OSM in 1983, all coal mines in the major coal producing States were subject to the more stringent requirements of the law by virtue of approval of State programs for those States.

In a number of instances, the State programs were approved subject to conditions. Since 1981, the States have met 272 of the 296 conditions imposed, thus assuring that national standards are incorporated in State programs and imposed on all mining operations.

Another important accomplishment is the approval of seven cooperative agreements for the regulation and control of surface coal mining by States on Federal lands within those States' borders. No cooperative agreements existed prior to 1981. These agreements minimize duplication of State and Federal regulatory efforts and provide uniformity in the areas of intermingled State, Federal and private land ownership.

Another significant accomplishment was the implementation of Federal programs for nine States which did not choose to implement State programs, but which do have coal reserves. This major policy decision and accomplishment assures the public that all coal mining is controlled under SMCRA and provides full knowledge to the private sector of the regulatory requirements for coal mining. OSM has also promulgated a Federal program for Tennessee and taken direct responsibility for enforcement of part of the Oklahoma State program. These actions have proved that this Administration will require primacy States to enforce the law.

REGULATORY REFORM

In 1981, a regulatory rewrite was undertaken, partly as a result of rulings in litigation over OSM's 1979 regulations. Under these earlier rulings, a substantial number of regulations had been remanded by Judge Flannery, and many others were voluntarily withdrawn. The regulatory gaps which resulted had to be filled. In other instances, the 1979 rules were too rigid and burdensome and did not recognize important differences among the various regions and States where coal is mined.

The success of this effort is evident in that the more than two-thirds of the rule changes adopted in 1983 form a vital part of OSM's regulatory program and remain in place today. Many of these gave the States more involvement and flexibility in designing and administering their regulatory programs, thus carrying out Congress' stated aim to establish a national program that could be tailored to particular local conditions. Other changes curbed program abuses such as those associated with the two-acre exemption. These, too, remain in effect today. In addition, a number of standards adopted by OSM were more workable than their predecessors, benefiting OSM, the States, coal operators and the environment.

ENFORCEMENT

When I arrived at OSM in 1981, I found numerous problems. Enforcement records were in shambles. For example, no policy existed for assessing, processing or collecting the "megabuck" enforcement cases. All of the "megabuck" violations were issued between 1977 and 1980; they now total as much as one-third of the total outstanding debt of OSM. In addition, the "megabuck" enforcement cases and other violations resulting in huge civil penalties owed to the agency were written in confusing and inconsistent ways, and the records were disorganized and located haphazardly in regional offices and the Washington office.

Since that time, substantial progress has been made in the management of OSM's enforcement responsibilities. In 1982, OSM adopted a rule authorizing the agency to issue an immediate cessation order to coal mine operations mining without a permit. These operations are better known as "wildcat" mines. Prior to adoption of that rule, OSM had to go through the long administrative process of issuing a notice of violation before issuing a cessation order.

In 1982, I established a task force and hired a criminal investigator to address wildcat mining. Through that effort, we provided expert advice and personnel to key Kentucky State officials. Our efforts led to the indictment of 12 illegal operators and the confiscation of more than $900,000 in equipment from illegal operators.

Also in 1982, I assisted in drafting a rule to limit the scope of the two-acre exemption so as to curb that abuse. That rule was successfully defended in litigation which resulted in a landmark Court of Appeals decision preserving OSM's entire regulatory scheme controlling abuses of the two-acre exemption. In 1985, although I was not then directly responsible for OSM, I recommended to the Secretary settlement of the two-acre exemption litigation. That agreement established a rational method for correcting the environmental degradation caused by two-acre abuses, so that we were able to avoid the possible necessity of opening up SMCRA to amendment.

In 1984, although, again, I was not directly responsible for OSM, I recommended to the Secretary settlement of the "Parker" and "Gasch" "megabucks" cases. As a result of those settlements, it is my understanding that OSM has prioritized its enforcement efforts by first pursuing those who are responsible for correcting unabated cessation orders. These gross abusers and all operators who owe civil penalty or abandoned mine land fees are being placed on a computerized list, which OSM will use to prevent those persons from obtaining surface mining permits until they have corrected previous violations and paid the fees or penalties. In addition, OSM is also pursuing injunctive actions and some criminal prosecutions against those who appear to have adequate resources to correct violations. Moreover, OSM is promulgating several crucial enforcement-related rules, including rules concerning permit conditions, individual civil penalties, and the definition of "ownership and control." Additionally, OSM entered into a Memorandum of Understanding with the Tennessee Valley Authority (TVA) under which TVA has agreed not to purchase coal from mine operators who fail to abate violations.

ABANDONED MINE LANDS (AML)

In order to begin immediate correction of the past abuses of surface mining, we established a process in 1981 to shorten the time for approval of State AML programs. Prior to that time, the AML program was virtually nonexistent. Since that time, OSM has awarded almost $750 million in AML grants to the States. 85 percent of all emergency AML projects have been started since 1980.

Another accomplishment was the development and approval of the Centralia mine fire project. That project has resulted in 175 homeowners being relocated. 167 more have gone through closing procedures which will assure their personal safety and, hopefully, a better future.

ADMINISTRATION

In 1982, OSM entered into what I believe to be the first contract in the Federal Government under the Debt Collection Act for debt collection by a private contractor. This contract was intended to supplement OSM's workforce with private sector experts and to provide information on companies to maximize our ability to collect overdue AML funds.

In 1981, the Secretary authorized the establishment of a network of 13 State liaison officers and two technical centers to replace cumbersome regional operations. Since each State primacy program is unique and requires specialized knowledge and understanding of local and regional conditions, this realignment allowed OSM to have top agency officials and staff in each major coal-producing State—not only to provide State assistance, but also to assure proper enforcement of the Act.

In 1982, OSM assumed control over its own accounting systems and operations. Prior to that time, another Federal agency had provided those services. During 1981, I discovered that the accounting information being generated was inaccurate and outdated. The new system corrected these problems. In 1984, OSM implemented the Treasury electronic funds transfer system for letter of credit payments, reducing State needs for cash on hand. OSM now also operates this service for two other Bureaus with grant programs.

Mr. McCLURE. Mr. President, all is not well with the enforcement of the 1977 act but I believe that progress is being made. I recognize and abhor the fact that there continue to be some coal operators who continually and flagrantly violate the law. It is my hope that these habitual violators can be identified and dealt with expeditiously and with the full force and effect of the law. I am confident that Secretary Hodel is committed to that end and I am equally confident that Mr. Griles is as well. Therefore, Mr. President, I urge my colleagues to join me in supporting the confirmation of his nomination.

Mr. WARNER. Mr. President, I rise in support of the nomination of J. Steven Griles, whom the President has nominated to be Assistant Secretary of Interior for Land and Minerals Management.

I have known Steve since 1979 when I began my service in the Senate.

He is an outstanding Virginian who brings to the position a wealth of experience in both State and Federal Government.

After graduating from the University of Richmond, Steve began his career in Virginia's Department of Conservation and Economic Development where he supervised the successful implementation of 14 major State programs.

In 1981 with my strong support, Steve came to Washington where he seved as Deputy Director of the Office of Surface Mining for 2 years.

In 1983 he was promoted to Deputy Assistant Secretary of Interior for Land and Minerals Management.

Steve has been Acting Assistant Secretary for Land and Minerals Management for the past year, the position for which he has been nominated by the President.

Mr. President, Steve Griles is a man of unquestioned integrity, super judgment, and exceptional knowledge.

I know he will do a good job for the American people, and I urge the Senate to confirm his nomination.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of J. Steven Griles, of Virginia, to be an Assistant Secretary of the Interior?

The nomination was confirmed.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCLURE. Mr. President, I ask unanimous consent that the President be notified of the confirmation of the nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ARMSTRONG). Without objection, it is so ordered.

SENATE SCHEDULE

Mr. DOLE. Mr. President, I have just talked to the distinguished chairman of the Appropriations Committee, and he has asked that we withhold any action on the short-term continuing resolution for a couple of hours, and I am certainly prepared to do that. I think the Government is functioning fairly well. I believe that by 5 or 6 o'clock we will have resolved that short-term continuing resolution, to carry us until either tomorrow night or Thursday evening.

It is also my hope that the House will pass the farm bill after they have disposed of the tax reform bill one way or the other and that we will be able to take action on the farm bill conference report tomorrow; also, that there will be a later conference today on the continuing resolution, and that we will complete it tomorrow.

I am advised by the Senator from New Mexico, Senator DOMENICI, that the reconciliation bill could be completed by late this evening and there is hope we could act on that tomorrow.

That leaves the farm credit matter which I had hoped to have disposed of by now, but there is still some minor disagreement over one or two provisions.

What I do not want to do, if at all possible, is to bring up the House bill and then have a free-for-all on the floor and reargue the entire matter on farm credit. So hopefully we can reach some agreement. There will be an amendment by Senators HELMS and ZORINSKY and an amendment by Senators BENTSEN and GRASSLEY. We will have a unanimous-consent agreement that we will propound later on this afternoon.

As to the nomination of Mr. Scanlon, I understand there are discussions going on between Senators PACKWOOD and DANFORTH. Perhaps that matter can be resolved by late this evening or tomorrow morning.

We are still hopeful that we can act on the Angola resolution, a resolution on the effective date of the tax bill in the event one should pass the House of Representatives, a resolution on Liberia, the so-called Medvid resolution, and maybe others that are in process that we do not know about.

RECESS UNTIL 4:15 P.M.

Mr. DOLE. Mr. President, since we do not have anything else to do, I move the Senate stand in recess until 4:15 p.m. today.

The motion was agreed to, and at 3:22 p.m., the Senate recessed until 4:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. ANDREWS].

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

(Mr. COHEN and Mr. HECHT occupied the chair during the quorum call.)

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 1986

Mr. HATFIELD. Mr. President, we are in the situation of trying to extend the activities of the Government for a brief term, until midnight Thursday night as one continuing resolution has been passed by the House. We are also in the process of trying to get a reconvening of the regular conference dealing with the big continuing resolution which was defeated in the House of Representatives last night.

The House of Representatives has appointed conferees, and in this instance they have reduced the number of conferees from 47, the number that came to the first conference.

I have cleared with the Senator from Mississippi, the ranking Democrat of the Appropriations Committee, a list of conferees to meet with the House, hopefully tomorrow morning, in order to resolve some of the differences that the House has identified to cause defeat of the continuing resolution last night.

That is basically the situation we are in. I will soon propound a unanimous-consent request to respond to the House to their call for a conference, along with a list of the conferees that will represent the Senate.

Mr. METZENBAUM. Mr. President, will the Senator yield?

Mr. HATFIELD. I am happy to yield.

Mr. METZENBAUM. Mr. President, this is not my issue and I am not here objecting to it. However, I see no other members on my party on the floor. I do see one other Senator.

Mr. HATFIELD. And he is a member of the Appropriations Committee.

Mr. METZENBAUM. Mr. President, I am advised by staff that the question of the conferees has not as yet been resolved. I know the staff has indicated to me that they were trying to resolve who those conferees were. I would appreciate my colleague's withholding action temporarily until I can obtain the answers.

Mr. HATFIELD. Mr. President, I will be very happy to acquiesce to the request of the Senator from Ohio. Just to make the record clear, I would not want any reflection upon the Senator from Mississippi, the ranking member of our committee, that somehow he has not cleared or has not handled this case properly.

Let me assure the Senator concerning the Democratic member of our committee whom we all revere, Senator Stennis, that there should be no implication by the Senator's remarks that he has not performed his duties fully and completely and with integrity.

Mr. President, let me say again that the Senator from Mississippi, the ranking Democrat of our committee, has cleared this proposed list of conferees.

Mr. METZENBAUM. I fully understand. I am not on the floor to in any way question the representations concerning the Senator from Mississippi. I do not know anything at all about the facts. The staff came to my desk and indicated there was some problem. I am merely attempting to suggest to the manager of the bill that in making his unanimous-consent request that he withhold temporarily until the Senator from Ohio can see to it that Senator Byrd, Senator Stennis, or someone familiar with the facts in this issue can come to the floor.

That is the reason I am on the floor making this statement. I am not questioning the chairman's representations, Senator Stennis' representations, or those of anyone else.

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I ask unanimous consent that we proceed as if in legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on House Joint Resolution 465.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House insist upon its disagreement to the amendments of the Senate to the resolution (H.J. Res. 465) entitled "Joint resolution making further continuing appropriations for the fiscal year 1986, and for other purposes", and ask a further conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That Mr. Whitten, Mr. Boland, Mr. Natcher, Mr. Smith of Iowa, Mr. Addabbo, Mr. Yates, Mr. Obey, Mr. Roybal, Mr. Bevill, Mr. Chappell, Mr. Lehman of Florida, Mr. Dixon, Mr. Fazio, Mr. Hefner, Mr. Conte, Mr. McDade, Mr. Myers of Indiana, Mr. Coughlin, Mr. Kemp, Mr. Regula, Mrs. Smith of Nebraska, and Mr. Skeen be the managers of the conference on the part of the House.

Mr. HATFIELD. Mr. President, I observe that I wish we could proceed as orderly on the floor as the desk proceeds.

Mr. President, I ask unanimous consent that the Senate further insist on its amendments to House Joint Resolution 465, agree to the conference requested by the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees on the part of the Senate. This has been cleared on both sides.

The motion was agreed to, and the Chair (Mr. Hecht) appointed Mr. Hatfield, Mr. Stevens, Mr. Weicker, Mr. McClure, Mr. Garn, Mr. Cochran, Mr. Andrews, Mr. Stennis, Mr. Byrd, Mr. Proxmire, Mr. Johnston, Mr. Burdick, and Mr. Lautenberg conferees on the part of the Senate.

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SCHEDULE

Mr. DOLE. Mr. President, I have had inquiries on both sides of the aisle as to the program for the remainder of the evening. I wish I could indicate that we could leave here very quickly, and I think we can, if we could bring up the farm credit legislation. I think it is worked out with all the people who have an interest in it. I am not certain that there would be a rollcall on that measure. There could be, if someone demanded a rollcall. Then the short extension of the continuing resolution could be disposed of.

So far as this Senator is concerned, that is all we need to do, if it can be worked out. It might require debate.

We have asked the principals in the farm credit matter to come to the floor; and if we cannot get a unanimous-consent agreement, I think we can start on the bill itself, and it could be completed within 10 minutes.

Mr. METZENBAUM. Mr. President, will the distinguished majority leader yield for a question?

Mr. DOLE. I yield.

Mr. METZENBAUM. Mr. President, I think the leader is aware of the fact that the House of Representatives in the continuing resolution has indicated its intent to terminate the activities of the Synthetic Fuels Corporation.

There is a rumor around this body, and I do not know where else, that we are not moving in connection with the continuing resolution because a meeting is being held either at this moment or shortly by the Synthetic Fuels Corporation in order to authorize two projects which would amount to something around $700 million.

I rise to inquire of the majority leader whether or not (a) he is familiar with that; and, (b) whether or not he could not move promptly with the continuing resolution so that we could cut off this expenditure of $680 million, or whatever the amount is, before that occurs.

The leader is aware of the fact that the White House has indicated it wants to terminate the Synthetic Fuels Corporation, and now the rumor

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suggests that the White House is blinking its eyes and agreeing to these two particular projects.

I do not think the Senate should be a party to it, and knowing of the leader's role on this whole issue in the past, and I am not at all suggesting he is a party to it, I wish to know whether we cannot move with dispatch and dispose of the continuing resolution and the Synthetic Fuels Corporation and save $700 million.

Mr. DOLE. I have not been a party to any discussion in that area.

But I think as soon as the chairman of the Appropriations Committee can work out a few details he is prepared to move on the short extension, as I understand it, and has been for some time. We are almost prepared to do that, as I understand it.

I am just indicating that if we can do that and the farm credit legislation, and anything else that might be done very quickly, and the wrap-up, that does not require extended debate or rollcall, we could do that this evening. I am also advised that the farm bill will not be taken up until tomorrow. The conference in the House of Representatives will be held tomorrow morning, and if there cannot be a conference on the continuing resolution until tomorrow morning there is no need to hang around here tonight unless people just do not have anything else to do.

Mr. METZENBAUM. Mr. President, will the majority leader be willing to consider and accept a sense-of-the-Senate resolution that might be brought up promptly saying in so many words that the Synthetic Fuels Corporation should not be finalizing or acting in connection with any pending matters in view of the fact that the House of Representatives has already indicated its intent to terminate, the Senate has indicated its willingness to go along with respect to termination, there is an agreement in the conference committee on that issue, and the White House has indicated they are opposed to it.

I think sitting by and letting $684 million go out the back door while we are meeting really would be a reflection upon our own efforts in this respect. We are all working hard to balance budgets and save dollars, and I would be willing to have the majority leader or someone else indicate by a sense-of-the-Senate resolution that no hurry-up meeting should occur at 7 p.m. at night at the Synthetic Fuels Corporation in order to expend the taxpayers' dollars, or absent that I would hope that he might see fit to pick up the telephone and say to those who might be involved that this would be a rather negative reflection upon the Senate and Congress.

Mr. DOLE. I do not intend to move to it at this time. We have not even advised all the principals yet. So I will suggest the absence of a quorum here just momentarily. I want Members to know that I am being asked why are we here. I am not certain there is any good reason. We are here because for some reason we cannot get an agreement on farm credit, and I guess there is still some problem with the continuing resolution.

I am going to suggest the absence of a quorum and see if we can resolve those two matters. Then I would hope we could dispose of both by 7:30 p.m.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. TRIBLE). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I ask unanimous consent to proceed as if in legislative session.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DOLE. Again, I say I am not trying to evade the question.

Mr. METZENBAUM. I understand.

Mr. DOLE. I think it might be better addressed to the chairman of the Appropriations Committee.

Mr. METZENBAUM. I just saw him leave for a moment. I think he is in the cloakroom.

Mr. DOLE. He is not hiding.

Mr. METZENBAUM. I know he would not do that.

Mr. DOLE. Let me suggest, first, if we can, we would like to move to farm credit. We again advise the principals we are prepared to do that. I would hope that we would be permitted to proceed on that matter as soon as the distinguished Senator from Nebraska [Mr. ZORINSKY] and the Senator from North Carolina, [Mr. HELMS], and appropriate staff and other Senators are present. Senator BENTSEN has an interest in that, as does Senator GRASSLEY.

So, we tried to indicate to all the parties who have expressed interest that we would be taking it up shortly.

Mr. METZENBAUM. Mr. President, I certainly do not have any intention of standing in the way of orderly proceeding of the Senate, but I am very anxious to try to cut this matter off at the pass, if anyone has such a devious—and that is what it would be, a devious idea.

I certainly will yield the floor, but I would hope that the chairman of the Appropriations Committee might return to the Chamber so we might inquire of him as to why we are delaying action in connection with this continuing resolution.

May I ask the majority leader, would he be willing to have some understanding that just as soon as the chairman of the Appropriations Committee is ready to proceed, we would set aside the farm credit bill in order to take up this measure?

Mr. DOLE. Excuse me.

Mr. METZENBAUM. I was asking whether or not he would be willing to work out an arrangement where once we get on to the farm credit bill—it is the farm credit bill—that it would be set aside just as promptly as the chairman of the Appropriations Committee is ready to proceed. In fact, if the majority leader would not find it impertinent, I wish to suggest the absence of a quorum in order that I may inquire of Senator HATFIELD as to whether or not he is ready to proceed at this moment.

FURTHER CONTINUING APPROPRIATIONS—1986

Mr. HATFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of House Joint Resolution 491, making further continuing appropriations for fiscal year 1986.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> A joint resolution (H.J. Res. 491) making further continuing appropriations for fiscal year 1986.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Oregon?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. HATFIELD. Mr. President, this is a simple extension of the expiration date of the last continuing resolution, Public Law 99-179, until midnight, Thursday, December 19, to allow time for the House and Senate to draft a new continuing resolution for the full year. Our first attempt was defeated last night.

This joint resolution also includes language adopted by the House prohibiting the Synfuels Corporation from expending funds in this or any other act up to midnight Thursday or to award financial assistance or payments with respect to projects or modules under the U.S. Synthetic Fuels Corporation Act of 1980.

Mr. President, this is a matter that I would like to have had done much earlier today but, in order to try to get a clearance on both sides of the aisle, it has taken up time. And I am afraid, even at this moment, we do not have clearance on the other side of the aisle. So I just wish to make it very clear and make the record that the Appropriations Committee has been ready to act, with the support of Senator STENNIS, the ranking Democrat of the committee, and myself, as chairman of the committee, for many hours.

I only apologize at this time to the Membership that we have not been able to get it to the floor until this hour of 7:07 p.m. As soon as we get a further clearance on the Democratic side of the aisle—we are now cleared on this side—we will be ready to act on the continuing resolution.

Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER**. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. **METZENBAUM**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **METZENBAUM**. Mr. President, I have a parliamentary inquiry of the Chair. Assuming the Senate concludes its action on this joint resolution, which is a continuing resolution through Thursday, how long would it take for the enrolling clerk to conclude his responsibilities and get this down to the White House?

The **PRESIDING OFFICER**. This being a joint resolution that originated in the House of Representatives, the joint resolution will be returned to the Enrolling Clerk of the House of Representatives and it is his responsibility to move forward from that point.

Mr. **METZENBAUM**. I thank the Chair.

Mr. **HATFIELD**. Mr. President, I move the adoption of the continuing resolution. I have just been informed by the Democratic leader, the Senator from West Virginia, Mr. BYRD, that it is now cleared on the Democrat side of the aisle.

The **PRESIDING OFFICER**. Is there further debate? If not, the question is on the third reading and passage of the joint resolution.

The joint resolution (H.J. Res. 491) was ordered to a third reading, was read the third time, and passed.

Mr. **HATFIELD**. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. **BYRD**. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FARM CREDIT AMENDMENTS ACT OF 1985

Mr. **HELMS**. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1884.

The **PRESIDING OFFICER** laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1884) entitled "An Act to amend the Farm Credit Act of 1971, to restructure and reform the Farm Credit System, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause and insert:

That this Act may be cited as the "Farm Credit Amendments Act of 1985".

TITLE I—PROVISIONS TO STRENGTHEN THE OPERATION OF FARM CREDIT SYSTEM LENDING INSTITUTIONS

CAPITAL AND FINANCING

SEC. 101. Part A of title IV of the Farm Credit Act of 1971 is amended by—

(1) amending section 4.0 to read as follows:

"SEC. 4.0. REVOLVING FUNDS; INVESTMENTS.—The revolving fund established by Public Law 87-343, 75 Stat. 758, as amended, and the revolving fund established by Public Law 87-494, 76 Stat. 109, as amended, and continued by Public Law 96-592, shall be merged and shall be available to the Farm Credit Administration for the purchase, on behalf of the United States, of capital stock of the Capital Corporation. The Farm Credit Administration may make such purchases of stock as the Farm Credit Administration determines, in its discretion, are necessary to achieve the purposes of this Act.";

(2) striking out section 4.1;

(3) in section 4.3—

(A) redesignating subsection (b) as subsection (c); and

(B) by striking out the matter preceding subsection (b) and inserting in lieu thereof the following:

"SEC. 4.3. CAPITAL ADEQUACY OF BANKS AND ASSOCIATIONS.—(a) The Farm Credit Administration shall cause System institutions to achieve and maintain adequate capital by establishing minimum levels of capital for such System institutions and by using such other methods as the Farm Credit Administration deems appropriate. The Farm Credit Administration may establish such minimum level of capital for a System institution as the Farm Credit Administration, in its discretion, deems to be necessary or appropriate in light of the particular circumstances of the System institution.

"(b)(1) Failure of a System institution to maintain capital at or above its minimum level as established under subsection (a) may be deemed by the Farm Credit Administration, in its discretion, to constitute an unsafe and unsound practice within the meaning of this Act.

"(2)(A) In addition to, or in lieu of, any other action authorized by law, including paragraph (1), the Farm Credit Administration may issue a directive to a System institution that fails to maintain capital at or above its required level as established under subsection (a). Such directive may require the System institution to submit and adhere to a plan acceptable to the Farm Credit Administration describing the means and timing by which the System institution shall achieve its required capital level, but may not require merger or consolidation without a majority vote of the voting stockholders or the contributors to the guaranty fund of the institution.

"(B) Any directive issued under this paragraph, including plans submitted pursuant thereto, shall be enforceable under the provisions of section 5.31 of this Act to the same extent as an effective and outstanding order issued under section 5.25 of this Act that has become final.

"(3) The Farm Credit Administration may consider such System institution's progress in adhering to any plan required under paragraph (2) whenever such System institution, or an affiliate thereof, seeks the requisite approval of the Farm Credit Administration for any proposal that would divert earnings, diminish capital, or otherwise impede such System institution's progress in achieving its minimum capital level. The Farm Credit Administration may deny such approval where it determines that such proposal would adversely affect the ability of the System institution to comply with such plan."; and

(4) in section 4.4—

(A) redesignating subsection (c) as subsection (d); and

(B) inserting, after subsection (b), the following:

"(c) For purposes of this part, the term 'bank' shall include the Capital Corporation.".

APPOINTMENT OF CONSERVATOR OR RECEIVER

SEC. 102. Section 4.12 of the Farm Credit Act of 1971 is amended by striking out subsection (b) and inserting in lieu thereof the following:

"(b) The Farm Credit Administration may appoint a conservator or receiver for any System institution on the determination by the Farm Credit Administration that one or more of the following exists, or is occurring, with respect to the institution: (1) insolvency, in that the assets of the institution are less than its obligations to its creditors and others, including its members; (2) substantial dissipation of assets or earnings due to any violation of law, rules, or regulations, or to any unsafe or unsound practice; (3) an unsafe or unsound condition to transact business; (4) willful violation of a cease and desist order that has become final; (5) concealment of books, papers, records, or assets of the institution or refusal to submit books, papers, records, or other material relating to the affairs of the institution for inspection to any examiner or to any lawful agent of the Farm Credit Administration. The Farm Credit Administration shall have exclusive power and jurisdiction to appoint a conservator or receiver. If the Farm Credit Administration determines that a ground for the appointment of a conservator or receiver as herein provided exists, the Farm Credit Administration may appoint ex parte and without notice a conservator or receiver for the institution. In the event of such appointment, the institution, within thirty days thereafter, may bring an action in the United States district court for the judicial district in which the home office of such institution is located, or in the United States District Court for the District of Columbia, for an order requiring the Farm Credit Administration to remove such conservator or receiver, and the court, shall on the merits, dismiss such action or direct the Farm Credit Administration to remove such conservator or receiver. On the commencement of such an action, the court having jurisdiction of any other action or enforcement proceeding authorized under this Act to which the institution is a party shall stay such action or proceeding during the pendency of the action for removal of the conservator or receiver.".

FARM CREDIT SYSTEM CAPITAL CORPORATION

SEC. 103. Title IV of the Farm Credit Act of 1971 is amended by inserting, after section 4.28, the following:

"PART D1—FARM CREDIT SYSTEM CAPITAL CORPORATION

"SEC. 4.28A. EXISTENCE OF CORPORATION.—The Farm Credit Administration, not later than 60 days after enactment of the Farm Credit Amendments Act of 1985, shall (1)

charter the Farm Credit System Capital Corporation (referred to in this Act as 'the Capital Corporation'), which, subject to the provisions of this part and the regulations of the Farm Credit Administration, shall be a federally chartered instrumentality of the United States and an institution of the Farm Credit System, and (2) revoke the charter for the Farm Credit System Capital Corporation issued under part D of this title. The charter issued to the Farm Credit System Capital Corporation pursuant to this paragraph shall be reviewed on December 31, 1987. The Farm Credit Administration Board shall submit to Congress by December 31, 1987, a report and analysis of the Capital Corporation together with any recommendations for legislation to extend the charter of the Farm Credit System Capital Corporation.

"SEC. 4.28B. PURPOSES.—For the sole purpose of carrying out a program of financial and technical assistance to institutions within the Farm Credit System (and their borrowers) which are experiencing financial difficulties, the Capital Corporation shall, in accordance with this part—

"(1) carry out a program of financial assistance among institutions of the Farm Credit System;

"(2) acquire from other Farm Credit System institutions and participate with such institutions in nonperforming assets of such institutions;

"(3) hold, restructure, collect, and otherwise administer nonperforming assets acquired from or participated in with other Farm Credit System institutions, and guarantee performing and nonperforming assets held by other Farm Credit institutions;

"(4) provide technical assistance and related services to other Farm Credit System institutions in connection with the administration of their loan portfolios;

"(5) provide assistance and related services to Farm Credit System institutions to assist them in restructuring or refinancing loans of their member-borrowers; and

"(6) receive and administer financial assistance for Farm Credit System institutions that originates outside of the Farm Credit System.

"SEC. 4.28C. BOARD OF DIRECTORS OF THE CAPITAL CORPORATION.—(a) The Board of Directors of the Capital Corporation shall consist of five members, four of whom shall be elected in accordance with guidelines established by the Farm Credit Administration from the contributing farm credit district boards of the banks that own voting stock of the Capital Corporation, and one of whom shall be appointed by the Chairman of the Farm Credit Administration. The person appointed by the Chairman shall be selected from United States citizens who are not borrowers from, shareholders in, or employees of any System institution, and who are experienced in financial services and credit. Members of the board of directors shall serve three-year terms, except that, of the first board of directors, one elected member and one appointed member shall serve initial terms of one year. The board of directors shall elect, on an annual basis, a Chairman from among its members.

"(b) Members of the board may succeed themselves and may serve until their successors are duly seated. Vacancies on the board shall be filled in the same manner as the vacant position was previously filled.

"(c) The bylaws of the Capital Corporation shall prescribe the procedure by which directors of the Capital Corporation shall be nominated and elected by the contributing banks that own voting stock of the Corporation. Each stockholder bank shall be entitled to one vote regardless of the number of shares held by it.

"SEC. 4.28D. COMPENSATION OF BOARD MEMBERS.—Members of the board of directors of the Capital Corporation shall receive compensation, including reasonable allowances for necessary expenses, in attending meetings of the board. The compensation shall not be in excess of the level set by the Farm Credit Administration.

"SEC. 4.28E. BOARD PROCEDURES.—The board of directors of the Capital Corporation shall adopt such rules as it may deem appropriate for the transaction of its business and shall keep permanent and accurate records and minutes of its acts and proceedings.

"SEC. 4.28F. CHIEF EXECUTIVE OFFICER OF THE CORPORATION.—The chief executive officer of the Capital Corporation shall be selected by the board of directors of the Capital Corporation, subject to the approval of the Farm Credit Administration, and shall serve at the pleasure of the board.

"SEC. 4.28G. GENERAL CORPORATE POWERS.—(a) The Capital Corporation shall be a body corporate and, subject to regulation by the Farm Credit Administration, shall have the power to—

"(1) operate under the direction of its board of directors;

"(2) adopt, alter, and use a corporate seal, which shall be judicially noted;

"(3) provide for one or more vice presidents, a secretary, a treasurer, and such other officers, employees, and agents, as may be necessary, define their duties, and require surety bonds or make other provisions against losses occasioned by acts of such persons;

"(4) prescribe by its board of directors its bylaws, not inconsistent with law, which shall provide for the classes of its stock and the manner in which its stock shall be issued, transferred, and retired; the manner in which its officers, employees, and agents are selected; its property is acquired, held, and transferred; its loans, commitments, and other financial assistance are made; its general business is conducted; and the privileges granted by law are exercised and enjoyed;

"(5) enter into contracts and make advance, progress, or other payments with respect to such contracts;

"(6) contract with System institutions for local administration, servicing, and restructuring of loan and loan-related assets and management of acquired properties of the Corporation;

"(7) sue and be sued in its corporate name and complain and defend, in any court of competent jurisdiction, State or Federal;

"(8) acquire, hold, lease, mortgage, or dispose of, at public or private sale, real and personal property, and guarantee, sell, or exchange any securities or obligations, and otherwise exercise all the usual incidents of ownership of property necessary and convenient to its business;

"(9) authorize, through its board of directors, the issuance and sale of obligations, including notes, bonds, debentures, capital notes, and voting or nonvoting securities, to the Secretary of the Treasury or the Farm Credit Administration, under such terms and conditions as shall be determined;

"(10) obtain insurance against loss;

"(11) modify or consent to modification with respect to the rate of interest, time of payment of any installment of principal or interest, security, or any other term of any contract or agreement to which it is a party or in which it has an interest under this Act;

"(12) borrow from any commercial bank on its own individual responsibility on such terms and conditions as it may determine with the approval of the Farm Credit Administration;

"(13) join with Farm Credit System banks in the issuance of System-wide notes, bonds, debentures, and other similar obligations under section 4.2(d) of this Act, or assume liability with respect to outstanding System-wide obligations. If it satisfies the requirements applicable to banks under section 4.3(c) of this Act, it shall be jointly and severally liable with the System banks for the payment of principal and interest on such obligations, and pay on such obligations any sums as may be called on by the Farm Credit Administration to make payments of principal or interest that any bank or banks primarily liable therefor are unable to make;

"(14) require other institutions of the Farm Credit System, through purchase of stock in, or obligations of, the Capital Corporation, to make funds available to the Capital Corporation to enable it to make financial assistance available to institutions of the Farm Credit System as provided in paragraph (15). The Capital Corporation may also assess at such times and under such circumstances as it deems appropriate, System Institutions for the purpose of covering its operating expenses not to include interest costs. The guidelines to be used by the Capital Corporation in obtaining funds from other institutions of the Farm Credit System for the purpose of aggregating resources to assist System institutions, to the extent practicable, shall give priority to obtaining funds through the use of transactions that require the Capital Corporation, on reasonable terms, to repay the contributed funds from surpluses accumulated by the Capital Corporation, and otherwise shall be in conformity with regulations issued by the Farm Credit Administration;

"(15) administer financial assistance under regulations of the Farm Credit Administration which shall—

"(A) include standards to ensure that, consistent with sound business practices and subject to the criteria established under subparagraph (B) of this paragraph, the available capital and reserves of System institutions are committed to providing financial assistance to those institutions of the Farm Credit System eligible therefor. The term 'available capital and reserves', as used in this subparagraph, shall not include capital stock, participation certificates and allocated equities held by borrowers that are not associations chartered under this Act;

"(B) establish criteria pursuant to which the Capital Corporation shall require other institutions of the Farm Credit System, through the purchase of stock in, or obligations of, the Capital Corporation to make funds available to the Capital Corporation under paragraph (14). Such criteria shall—

"(i) provide for an equitable sharing of the burden of such assessments or purchases, taking into account (I) the relative financial strength and ability to pay of the contributing institutions; (II) the effect, including the effect on loan interest rates, on current borrowers and members of each System institution of the loss of the use of the accumulated net worth of their institution; and (III) the effect on lending rates of financial assistance already provided to other System institutions; and

"(ii) be designed to ensure that (I) the capital strength, earning capacity, loanable *funds and overall financial viability of each System institution providing funds to the Capital Corporation are maintained at such a level that credit shall continue to be available to eligible borrowers on reasonable and competitive terms taking into account the relative rates and terms available to them prior to investments in the Capital Corporation, (II) each bank shall continue to have access to funds in the public financial markets, and (III) each bank is able to maintain adequate financial resources to satisfy its liability on its own obligations and on that portion of systemwide notes, bonds, debentures, or other obligations for which it is primarily liable; and*

"(C) establish criteria to be used in determining eligibility of System institutions for financial assistance from the Capital Corporation and the types and amounts of financial assistance that can be obtained from the Corporation. Such regulations shall provide that an institution shall be eligible to receive financial assistance when its financial condition has deteriorated to a point where its continued operation is jeopardized and the provision of such financial assistance is necessary to ensure that farm credit services will continue to be available to borrowers in the institution's territory;

"(16) purchase at fair market value from any other System institution, on the request of such institution, loans (or interests in loans) that have been placed in nonaccrual status and assets (or interests in assets) in the account for acquired properties;

"(17) require System institutions to sell to the Capital Corporation loans, assets, and interests described in paragraph (16) as a condition to receiving financial assistance from the Capital Corporation;

"(18) exercise all the rights and privileges of any System institution with respect to any loan which it has acquired or in which it has participated, including the adjustment of interest rates, compromise of indebtedness, waiver of default, and other such rights and privileges;

"(19) assume debt or other liabilities from System institutions in connection with the acquisition of loans or interests therein or other assets from such institutions;

"(20) refinance, reamortize, guarantee, or compromise indebtedness, and otherwise provide debt adjustment assistance, with respect to any loan to a borrower of a System institution purchased under paragraph (16) or participated in by the Capital Corporation, and, after a determination by the Capital Corporation that the borrower could not reasonably be anticipated to meet loan servicing charges under a refinanced, reamortized, or otherwise restructured loan under reasonable terms and conditions acceptable to the Capital Corporation, liquidate any such loan;

"(21) purchase from associations undergoing liquidation all assets which are performing loans not voluntarily purchased by other associations;

"(22) adopt a salary scale for officers and employees of the Capital Corporation, in accordance with the directives of the board of directors; and

"(23) deposit its securities and its current funds with any member of the Federal Reserve System or any insured State nonmember bank as defined in section 2 of the Federal Deposit Insurance Act and pay fees therefor and receive interest thereon as may be agreed.

The Capital Corporation shall have such other incidental powers as are necessary to carry out its powers, duties, and functions in accordance with this Act.

"(b) The powers of the Capital Corporation set forth in subsection (a) of this section, to the extent they authorize the financial assistance of any type to borrowers and System institutions, shall be limited after December 31, 1990, as provided in this subsection. The powers of the Capital Corporation to directly or indirectly increase the level of such financial assistance to a borrower or institution or to provide directly or indirectly any such financial assistance to a borrower or institution not receiving such assistance on December 31, 1990, shall terminate on that date. All other powers, including those necessary for management and orderly liquidation of commitments made and obligations incurred in providing such assistance to borrowers and institutions on or before December 31, 1990, shall remain in effect thereafter.

"(c) Officers or employees of the Capital Corporation, like other Farm Credit System employees, shall not be considered officers or employees of the Federal Government. Funds held by the Capital Corporation shall not be construed to be Government funds or appropriated moneys.

"Sec. 4.28H. Succession of the Corporation.—On the issuance by the Farm Credit Administration of the new charter for the Capital Corporation under this part, the Capital Corporation shall succeed to the assets of and be liable for and assume all debts, obligations, contracts, and other liabilities of the Farm Credit System Capital Corporation chartered under part D of this title (referred to in this section as 'the predecessor corporation'), matured or unmatured, accrued, absolute, contingent or otherwise, and whether or not reflected or reserved against on balance sheets, books of account, or records of the predecessor corporation. The stock of the predecessor corporation shall be converted into stock of the Capital Corporation. The existing contractual obligations, security instruments, and title instruments of the predecessor corporation shall, by operation of law and without any further action by the Farm Credit Administration, the predecessor corporation, or any court, become and be converted into obligations, entitlements, and instruments of the Capital Corporation chartered under this part. To the extent that, on the extinguishing of liabilities assumed by the Capital Corporation under this section, and full performance or other final disposition of contract obligations under contracts assumed by the Capital Corporation under this section, there remain surplus funds attributable to such obligations or contracts, the Capital Corporation shall distribute such surplus funds among the System institutions that contributed funds to the predecessor corporation on the basis of the relative amount of funds so contributed by each institution.

"Sec. 4.28I. Limitation of Powers.—(a) The powers of the Capital Corporation under this part shall be exercised only for the purposes specified in this part and shall not be exercised in a manner that would result in the Capital Corporation supplanting the Farm Credit System institutions operating under titles I through III of this Act as the primary providers of credit and other financial services to farmers, ranchers, and their cooperatives.

"(b) Sales by the Capital Corporation of real property formerly securing a liquidated loan shall be conducted pursuant to guidelines adopted by the Capital Corporation that are compatible with the following criteria:

"(1) Notice of pending sales shall be made public.

"(2) Previous owners shall be advised of the pending sale and shall not be precluded from purchasing their former property.

"(3) The sale of real property acquired by the Corporation in large tracts shall be discouraged.

"Sec. 4.28J. Authority of the Secretary of the Treasury.—(a) On certification by the Farm Credit Administration that (1) the Farm Credit System is in need of financial assistance to address financial stress of System institutions, (2) the System has committed its available capital surplus and reserves to address such financial stress of System institutions, (3) officers of System institutions have frozen their salaries and benefits, such freeze to remain in effect until the earlier of five years after the freeze begins or such time as the Secretary no longer holds any obligations issued by the Capital Corporation, and (4) the System has used such capital surplus and reserves to the extent that further contributions from, or losses incurred by, System institutions likely will preclude such institutions from making credit available to eligible borrowers on reasonable terms, the Secretary of the Treasury, in the Secretary's discretion, may purchase any obligations issued by the Capital Corporation under this part, as heretofore, now, or hereafter in force; and for such purpose the Secretary of the Treasury may use as a public-debt transaction the proceeds of the sale of any securities hereafter issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act, as now or hereafter in force, are extended to include such purchases. The authorities provided to the Secretary of the Treasury by the preceding sentence shall be effective only to such extent or in such amounts as provided in advance in appropriation Acts. The Secretary of the Treasury, at any time, may sell, on such terms and conditions and at such price or prices as the Secretary shall determine, any of the obligations acquired by the Secretary under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of such obligations under this section shall be treated as public-debt transactions of the United States. Each purchase of obligations by the Secretary of the Treasury under this subsection shall be on terms and conditions as shall be determined by the Secretary of the Treasury, taking into consideration the objectives that System institutions retain the ability to make credit available to eligible borrowers on reasonable terms and that banks of the System continue to have access to funds in the public financial markets.

"(b) The Farm Credit Administration promptly shall submit a copy of any certification made under subsection (a) to Congress, and the Secretary of the Treasury shall, not later than forty-five days after such certification is made, make known to the Congress and the Farm Credit Administration the Secretary's decision as to exercising the authority under subsection (a) and the reasons and documentation therefor, if that decision is not to purchase obligations of the Capital Corporation.

"Sec. 4.28K. Initial Capitalization.—The Farm Credit Administration shall provide for the initial capitalization of the Capital Corporation by requiring, in accordance with section 4.28G, institutions of the System to contribute capital to the Capital Corporation in such amounts and under

such terms and conditions as the Farm Credit Administration, in consultation with System institutions, may prescribe.".

CONFORMING AMENDMENT

SEC. 104. Title IV of the Farm Credit Act of 1971 is further amended by inserting before section 4.2 the following:

"SEC. 4.1. REQUIREMENTS TO PURCHASE STOCK AND PAY ASSESSMENTS AND CONTRIBUTE CAPITAL TO CAPITAL CORPORATION.—The Federal land banks, the Federal intermediate credit banks, the banks for cooperatives, the Federal land bank associations, and the production credit associations shall purchase stock in, or obligations of, the Capital Corporation, pay assessments, make capital contributions, and take such other related actions as required by the Capital Corporation in the exercise of its powers under this Act. Any payment for retirement of stock so purchased, or repayment of obligations so purchased, by the Capital Corporation shall be distributed among all holders of such stock or obligations on the basis of the book value of the stock or obligations held by each such holder at the time of the distribution.".

CENTRAL RESERVE

SEC. 105. Part A of title IV of the Farm Credit Act of 1971 (12 U.S.C. 2151 et seq.) is amended by inserting after section 4.9 the following:

"SEC. 4.9A. CENTRAL RESERVE FOR FARM CREDIT SYSTEM.—(a) The Farm Credit Administration may, effective January 1, 1991, establish and maintain a central reserve for the Farm Credit System.

"(b) Such central reserve shall be held in the form of Treasury securities and demand deposits.

"(c) The Farm Credit Administration may use the reserve to make temporary deposits and temporary investments in financially troubled banks or associations of the Farm Credit System.

"(d)(1) The Farm Credit Administration may order payments into such central reserve of one-tenth of 1 percent of the proceeds of each individual, consolidated, or System-wide note, bond, debenture, or other obligation issued by the Farm Credit System, or any part thereof, under this Act.

"(2) Such payments under paragraph (1) may be ordered during any period when such central reserve contains the unobligated sum the Farm Credit Administration deems inadequate to achieve the purposes of such central reserve, but not more than a sum equal to 3 percent of the total of loans outstanding on December 31 of the last preceding calendar year from institutions in the Farm Credit System to persons other than other such institutions.

"(e) The Farm Credit Administration shall require a bank or association to repay in whole or in part a temporary deposit or retire in whole or in part a temporary investment, made in such bank or association under this section, at such time as in the opinion of the Farm Credit Administration such bank or association has resources available therefor and the need for such temporary deposit or temporary investment is reduced or no longer exists.

"(f) The Farm Credit Administration shall issue rules and regulations implementing this section.".

TITLE II—REGULATION OF THE FARM CREDIT SYSTEM

RESTRUCTURE OF THE FARM CREDIT ADMINISTRATION

SEC. 201. Part B of title V of the Farm Credit Act of 1971 is amended by—

(1) amending sections 5.7 through 5.12 to read as follows:

"SEC. 5.7. THE FARM CREDIT ADMINISTRATION.—The Farm Credit Administration shall be an independent agency in the executive branch of the Government. It shall be composed of the Farm Credit Administration Board and such other personnel as are employed in carrying out the functions, powers, and duties vested in the Farm Credit Administration by this Act.

"SEC. 5.8. THE FARM CREDIT ADMINISTRATION BOARD; APPOINTMENT; TERM OF OFFICE; ORGANIZATION AND COMPENSATION.—(a) The management of the Farm Credit Administration shall be vested in a Farm Credit Administration Board (referred to in this part as 'the Board'). The Board shall consist of three members, who shall be citizens of the United States and broadly representative of the public interest. Members of the Board shall be appointed by the President, by and with the advice and consent of the Senate. Not more than two members of the Board shall be members of the same political party. Of the persons thus appointed, one shall be designated by the President to serve as Chairman of the Board for the duration of the member's term. The members of the Board shall be ineligible during the time they are in office and for two years thereafter to hold any office, position, or employment in any institution of the Farm Credit System.

"(b) The term of office of each member of the Board shall be six years, except that the terms of the two members, other than the Chairman, first appointed under subsection (a) shall expire, one on the expiration of two years after the date of appointment, and one on the expiration of four years after the date of appointment. Members of the Board shall not be appointed to succeed themselves, except that the members first appointed under subsection (a) for a term of less than six years may be reappointed for a full six-year term and members appointed to fill unexpired terms of three years or less may be reappointed for a full six-year term. Any vacancy shall be filled for the unexpired term on like appointment. Any member of the Board shall continue to serve as such after the expiration of the member's term until a successor has been appointed and qualified.

"(c) Each member of the Board, within fifteen days after notice of appointment, shall subscribe to the oath of office. The Board may transact business if a vacancy exists, provided a quorum is present. A quorum shall consist of two members of the Board. The Board shall hold at least one meeting each month and such additional meetings at such times and places as it may fix and determine. Such meetings shall be held on the call of the Chairman or any two Board members. The Board shall adopt such rules as it deems appropriate for the transaction of its business and shall keep permanent and accurate records and minutes of its acts and proceedings.

"(d) The members of the Board shall devote their full time and attention to the business of the Board. The Chairman of the Board shall receive compensation at the rate prescribed for level III of the Executive Schedule under section 5314 of title 5 of the United States Code. Each of the other members of the Board shall receive compensation at the rate prescribed for level IV of the Executive Schedule under section 5315 of title 5 of the United States Code. Each member of the Board shall be reimbursed for necessary travel, subsistence, and other expenses in the discharge of the member's official duties without regard to other laws with respect to allowance for travel and subsistence of officers and employees of the United States. This subsection shall be subject to the provisions of section 5.11 of this Act.

"SEC. 5.9. POWERS OF THE BOARD; CIVIL PROCEEDINGS.—The Board shall manage and administer, and establish policies for, the Farm Credit Administration. It—

"(1) shall approve the rules and regulations for the implementation of this Act not inconsistent with its provisions;

"(2) shall provide for the examination of the condition of, and general regulation of the performance of the powers, functions, and duties vested in, each institution of the Farm Credit System;

"(3) shall provide for the performance of all the powers and duties vested in the Farm Credit Administration; and

"(4) may require such reports as it deems necessary from the institutions of the Farm Credit System.

"SEC. 5.10. CHAIRMAN; RESPONSIBILITIES; GOVERNING STANDARDS.—(a) The Chairman of the Board shall be the executive officer of the Board and the chief executive officer of the Farm Credit Administration. The Chairman shall be responsible for directing the implementation of the policies and regulations adopted by the Board and the execution of all of the administrative functions and duties of the Farm Credit Administration. The Chairman shall be the spokesman for the Board and the Farm Credit Administration and shall represent the Board and the Farm Credit Administration in their official relations within the Government. Under policies adopted by the Board, the Chairman shall consult on a regular basis with the Secretary of the Treasury in connection with the exercise by the System of the powers conferred under section 4.2 of this Act, with the Board of Governors of the Federal Reserve System in connection with the effect of System lending activities on national monetary policy, and with the Secretary of Agriculture in connection with the effect of System policies on farmers and the agricultural economy.

"(b) In carrying out responsibilities under this Act, the Chairman of the Board shall be governed by general policies adopted by the Board and by such regulatory decisions, findings, and determinations as the Board may by law be authorized to make and, as to third persons, all acts of the Chairman of the Board shall be conclusively presumed to be in compliance with such general policies and regulatory decisions, findings, and determinations.

"(c) The Chairman of the Board shall enforce the rules, regulations, and orders of the Board. Except as provided in section 518 of title 28 of the United States Code, relating to litigation before the Supreme Court, attorneys designated by the Chairman shall represent the Farm Credit Administration in any civil proceeding or civil action brought in connection with the administration of conservatorships and receiverships. Attorneys designated by the Chairman may represent the Farm Credit Administration in any other civil proceedings or civil action when so authorized by the Attorney General under provisions of title 28.

"SEC. 5.11. ORGANIZATION OF THE FARM CREDIT ADMINISTRATION.—The Chairman of the Board, in carrying out the powers and duties now or hereafter vested in the Chairman by this Act and acts supplementary thereto, may establish and fix the powers and the duties of such divisions or other units as the Chairman may deem necessary to the efficient functioning of the Farm

Credit Administration and the successful execution of the powers and duties vested in the Board and the Farm Credit Administration. The Chairman of the Board shall appoint such personnel as may be necessary to carry out the functions of the Farm Credit Administration. Officers and employees of the Farm Credit Administration shall be subject to the Ethics in Government Act of 1978 and shall be considered officers or employees of the United States for the purposes of sections 201 through 203, and sections 205 through 209, of title 18 of the United States Code. Officers and employees of the Farm Credit Administration shall be subject to section 5373 of title 5 of the United States Code. The powers of the Chairman as chief executive officer of the Farm Credit Administration may be exercised and performed by the Chairman through such other officers and employees of the Farm Credit Administration as the Chairman shall designate. The operations of the Farm Credit Administration, and the salaries of members of the Board and employees of the Administration, shall be funded and paid for from the fund created under section 5.15 of this Act.

"Sec. 5.12. Advisory Committees.—The Chairman of the Board may establish one or more advisory committees in accordance with the Federal Advisory Committee Act and may appoint to such committee or committees individuals who are members of the Federal Farm Credit Board when such Board is terminated by the Farm Credit Amendments Act of 1985.";

(2) striking out section 5.13;

(3) redesignating section 5.14 as section 5.13, and, in section 5.13, as so redesignated, striking out "Governor" and inserting in lieu thereof "Board";

(4) redesignating section 5.15 as section 5.14, and, in the second sentence of section 5.14, as so redesignated, striking out "section 5.16(b)" and "section 5.16(a)" and inserting in lieu thereof "section 5.15(b)" and "section 5.15(a)", respectively;

(5) redesignating section 5.16 as section 5.15;

(6) redesignating section 5.17 as section 5.16, and, in section 5.16, as so redesignated—

(A) striking out "section 5.15" in the first sentence and inserting in lieu thereof "section 5.14";

(B) striking out "Federal Farm Credit" in paragraph (2) of the first sentence; and

(C) striking out "section 5.16" and inserting in lieu thereof "section 5.15"; and

(7) redesignating section 5.18 as section 5.17 and amending subsection (a) thereof to read as follows:

"(a) The Farm Credit Administration shall have the following powers, functions, and responsibilities in connection with the institutions of the Farm Credit System and the administration of this Act:

"(1) Modify the boundaries of farm credit districts, with due regard for the farm credit needs of the country, as approved by the Board, with the concurrence of the district boards involved.

"(2) Where necessary or appropriate to carry out the policy and objectives of this Act, issue and amend or modify Federal charters of institutions of the System; approve change in names of banks operating under this Act; approve the merger of districts when agreed to by the boards of the districts involved and by a majority vote of the voting stockholders and contributors to the guaranty funds of each bank for each of such districts, voting in the same manner as is provided in section 4.10 of this Act; approve mergers of banks operating under the same title of this Act, merger of Federal land bank associations, merger of production credit associations, and the consolidation or division of the territories that they serve when agreed to by a majority vote of the voting stockholders or contributors to the guaranty fund of each of the institutions involved; and approve consolidations of boards of directors or management agreements when agreed to by a majority vote of the voting stockholders or contributors to the guaranty fund of each of the institutions involved. In issuing charters for district-wide mergers of associations where stockholders of one or more associations did not approve the merger, the charter of the new or merged association shall not include the territory of the disagreeing association or associations; charters issued during calendar year 1985 for district-wide new or merged associations which included the territory of a disagreeing association shall be revoked and reissued to exclude such territory; and the Farm Credit Administration shall ensure that the board of directors of district banks does not discriminate against the disapproving associations in exercising its supervisory authorities. The Chairman of the Farm Credit Administration Board, after consultation with the respective district board or boards and the board of directors of the Capital Corporation may require two or more banks of the Farm Credit System (other than Central Banks for Cooperatives) operating under the same title to merge if the Chairman determines that one of such banks has failed to meet outstanding obligations of such bank.

"(3) Make annual reports directly to Congress on the condition of the System and its institutions, based on the examinations carried out under section 5.19 of this Act, and on the manner and extent to which the purposes and objectives of this Act are being carried out and, from time to time, recommend directly legislative changes. The annual reports shall include a summary and analysis of the reports submitted to the Farm Credit Administration by the Federal land banks and Federal intermediate credit banks under section 4.19(b) of this Act relating to programs for serving young, beginning, and small farmers and ranchers.

"(4) Approve the issuance of obligations of the System under subsections (c) and (d) of section 4.2 of this Act for the purpose of funding the authorized operations of the institutions of the System, and prescribe collateral therefor.

"(5) Grant approvals provided for under this Act either on a case-by-case basis or through regulations that confer approval on actions of Farm Credit System institutions that meet standards and criteria established by the Farm Credit Administration, including standards and criteria with respect to (A) interest rates on obligations of Farm Credit System institutions and on loans made or discounted by such institutions, and (B) the payment of dividends or patronage refunds by Farm Credit System institutions.

"(6) Establish standards for the System institutions with respect to loan security requirements and the borrowing, repayment, and transfer of funds and equities between institutions of the System.

"(7) Conduct loan and collateral security review.

"(8) Make investments in stock of the Capital Corporation out of the revolving fund referred to in section 4.0, and require the retirement of such stock.

"(9) Regulate the preparation by System institutions and the dissemination to stockholders and investors of information on the financial condition and operations of such institutions.

"(10) Prescribe rules and regulations necessary or appropriate for carrying out this Act.

"(11) Exercise the powers conferred on it under part C of this title for the purpose of ensuring the safety and soundness of System institutions.

"(12) Exercise such incidental powers as may be necessary or appropriate to fulfill its duties and carry out the purposes of this Act.

"(13) Sue and be sued, complain and defend in any court of law or equity, State or Federal. All suits of a civil nature at common law or in equity to which the Farm Credit Administration shall be a party shall be deemed to arise under the laws of the United States, and the United States district courts shall have original jurisdiction thereof, without regard to the amount of the controversy; and the Farm Credit Administration may, without bond or security, remove any such action, suit, or proceeding from a State court to the United States district court for the district or division embracing the place where the same is pending by following any procedure for removal now or hereafter in effect. Service of process on the Farm Credit Administration shall be in accordance with provisions of title 28 of the United States Code and rules adopted under title 28 for suits in which an agency of the United States is a party. The Farm Credit Administration shall designate an agent at its principal office to accept service of process.

"(14) Require surety bonds or other provisions for protection of the assets of the institutions of the System against losses occasioned by employees.".

DELEGATIONS

Sec. 202. (a) Section 5.19 of the Farm Credit Act of 1971 is repealed.

(b) Part B of title V of the Farm Credit Act of 1971 is further amended by inserting, after section 5.17, as so redesignated by section 201 of this title, the following:

"Sec. 5.18. Prior Delegations.—Any delegations by the Farm Credit Administration and redelegations thereof made in accordance with section 5.19 of the Farm Credit Act of 1971 as in effect prior to the effective date of the Farm Credit Amendments Act of 1985 may continue in full force and effect, at the discretion of the Farm Credit Administration, for the period ending twelve months after the date of enactment of such Act.".

FARM CREDIT ADMINISTRATION EXAMINATIONS; CONFORMING AMENDMENT

Sec. 203. (a) Section 5.20 of the Farm Credit Act of 1971 is redesignated as section 5.19 and amended to read as follows:

"Sec. 5.19. Examinations.—(a) Each institution of the System shall be examined by Farm Credit Administration examiners at such times as the Chairman of the Board may determine, but in no event less than once each year. Such examinations shall include, but are not limited to, an analysis of credit and collateral quality and capitalization of the institution, and appraisals of the effectiveness of the institution's management and application of policies governing the carrying out of this Act and regulations of the Farm Credit Administration and servicing all eligible borrowers. At the direction of the Chairman of the Board, Farm Credit

Administration examiners also shall make examinations of the condition of any organization, other than national banks, to, for, or with which any institution of the System contemplates making a loan or discounting paper. For the purposes of this Act, examiners of the Farm Credit Administration shall be subject to the same requirements, responsibilities, and penalties as are applicable to examiners under the National Bank Act, the Federal Reserve Act, and Federal Deposit Insurance Act, and other provisions of law and shall have the same powers and privileges as are vested in such examiners by law.

"(b) Each institution of the System shall make and publish an annual report of condition as prescribed by the Farm Credit Administration. Each such report shall contain financial statements prepared in accordance with generally accepted accounting principles and contain such additional information as the Farm Credit Administration by regulation may require. Such financial statements of System institutions shall be audited by an independent public accountant.

"(c) The Farm Credit Administration may publish the report of examination of any System institution that does not, before the end of the 120th day after the date of notification of the recommendations and suggestions of the Farm Credit Administration, based on such examination, comply with such recommendations and suggestions to the satisfaction of the Farm Credit Administration. The Farm Credit Administration shall give notice of intention to publish in the event of such noncompliance at least 90 days before such publication. Such notice of intention may be given any time after such notification of recommendations and suggestions.".

(b) Sections 5.21, 5.22, 5.23, 5.24, and 5.25 of the Farm Credit Act of 1971 are redesignated as sections 5.20, 5.21, 5.22, 5.23, and 5.24, respectively.

ENFORCEMENT POWERS

Sec. 204. Title V of the Farm Credit Act of 1971 is amended by inserting after section 5.24, as so redesignated by section 203(b), the following:

"PART C—ENFORCEMENT POWERS OF FARM CREDIT ADMINISTRATION

"Sec. 5.25. Cease and Desist Proceedings.—(a) If, in the opinion of the Farm Credit Administration, any institution in the Farm Credit System, or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such an institution is engaging or has engaged, or the Farm Credit Administration has reasonable cause to believe that the institution or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution is about to engage, in an unsafe or unsound practice in conducting the business of such institution, or is violating or has violated, or the Farm Credit Administration has reasonable cause to believe that the institution or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution is about to violate, a law, rule, or regulation, or any condition imposed in writing by the Farm Credit Administration in connection with the granting of any application or other request by the institution or any written agreement entered into with the Farm Credit Administration, the Farm Credit Administration may issue and serve upon the institution or such director, officer, employee, agent, or other person a notice of charges in respect thereof. The notice shall contain a statement of the facts constituting the alleged violation or violations or the unsafe or unsound practice or practices, and shall fix a time and place at which a hearing will be held to determine whether an order to cease and desist therefrom should issue against the institution or the director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution. Such hearing shall be fixed for a date not earlier than thirty days nor later than sixty days after service of such notice unless an earlier or a later date is set by the Farm Credit Administration at the request of any party so served. Unless the party or parties so served shall appear at the hearing personally or by a duly authorized representative, they shall be deemed to have consented to the issuance of the cease and desist order. In the event of such consent, or if upon the record made at any such hearing, the Farm Credit Administration shall find that any violation or unsafe or unsound practice specified in the notice of charges has been established, the Farm Credit Administration may issue and serve upon the institution or the director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution an order to cease and desist from any such violation or practice. Such order may, by provisions that may be mandatory or otherwise, require the institution or its directors, officers, employees, agents, and other persons participating in the conduct of the affairs of such institution to cease and desist from the same, and, further, to take affirmative action to correct the conditions resulting from any such violation or practice.

"(b) A cease and desist order shall become effective at the expiration of thirty days after the service of such order upon the institution or other person concerned (except in the case of a cease and desist order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable as provided therein except to such extent as it is stayed, modified, terminated, or set aside by action of the Farm Credit Administration or a reviewing court.

"Sec. 5.26. Temporary Cease and Desist Orders.—(a) Whenever the Farm Credit Administration shall determine that the violation or threatened violation or the unsafe or unsound practice or practices, specified in the notice of charges served upon the institution or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution under section 5.25, or the continuation thereof, is likely to cause insolvency or substantial dissipation of assets or earnings of the institution, or is likely to seriously weaken the condition of the institution or otherwise seriously prejudice the interests of the investors in Farm Credit System obligations or shareholders in the institution prior to the completion of the proceedings conducted under section 5.25, the Farm Credit Administration may issue a temporary order requiring the institution or such director, officer, employee, agent, or other person to cease and desist from any such violation or practice and to take affirmative action to prevent such insolvency, dissipation, condition, or prejudice pending completion of such proceedings. Such order shall become effective upon service upon the institution or such director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution and, unless set aside, limited, or suspended by a court in proceedings authorized by subsection (b), shall remain effective and enforceable pending the completion of the administrative proceedings pursuant to such notice and until such time as the Farm Credit Administration shall dismiss the charges specified in such notice, or if a cease and desist order is issued against the institution or such director, officer, employee, agent, or other person, until effective date of such order.

"(b) Within ten days after the institution concerned or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution has been served with a temporary cease and desist order, the institution or such director, officer, employee, agent, or other person may apply to the United States district court for the judicial district in which the home office of the institution is located, or the United States district court for the District of Columbia, for an injunction setting aside, limiting, or suspending the enforcement, operation, or effectiveness of such order pending the completion of the administrative proceedings pursuant to the notice of charges served upon the institution or such director, officer, employee, agent, or other person under section 5.25, and such court shall have jurisdiction to issue such injunction.

"Sec. 5.27. Enforcement of Temporary Cease and Desist Orders.—In the case of violation or threatened violation of, or failure to obey, a temporary cease and desist order issued under section 5.26, the Farm Credit Administration may apply to the United States district court, or the United States court of any territory, within the jurisdiction of which the home office of the institution is located, for an injunction to enforce such order, and, if the court shall determine that there has been such violation or threatened violation or failure to obey, it shall be the duty of the court to issue such injunction.

"Sec. 5.28. Suspension or Removal of Director or Officer.—Whenever, in the opinion of the Farm Credit Administration, any director or officer of any institution in the Farm Credit System has committed any violation of law, rule, or regulation or of a cease and desist order that has become final, or has engaged or participated in any unsafe or unsound practice in connection with the institution, or has committed or engaged in any act, omission, or practice which constitutes a breach of a fiduciary duty as such director or officer, and the Farm Credit Administration determines that the institution has suffered or will probably suffer substantial financial loss or other damage or that the interests of its shareholders or investors in Farm Credit System obligations could be seriously prejudiced by reason of such violation or practice or breach of fiduciary duty, or that the director or officer has received financial gain by reason of such violation or practice or breach of fiduciary duty, and that such violation or practice or breach of fiduciary duty is one involving personal dishonesty on the part of such director or officer, or one that demonstrates a willful or continuing disregard for the safety or soundness of the System institution, the Farm Credit Administration may serve upon such director or officer a written notice of its intention to remove him from office.

"(b) Whenever, in the opinion of the Farm Credit Administration, any director or officer of an institution in the Farm Credit System, by conduct or practice with respect to another institution in the Farm Credit System or other business institution that resulted in substantial financial loss or other

damage, has evidenced either his personal dishonesty or a willful or continuing disregard for its safety and soundness and, in addition, has evidenced his unfitness to continue as a director or officer, and whenever, in the opinion of the Farm Credit Administration, any other person participating in the conduct of the affairs of an institution in the Farm Credit System, by the conduct or practice with respect to such institution or other institution in the Farm Credit System or other business institution that resulted in substantial financial loss or other damage, has evidenced either personal dishonesty or a willful or continuing disregard for its safety and soundness and, in addition, has evidenced his unfitness to participate in the conduct of the affairs of such institution, the Farm Credit Administration may serve upon such director, officer, or other person a written notice of its intention to remove that director, officer, or other person from office or to prohibit his further participation in any manner in the conduct of the affairs of the institution.

"(c) In respect to any director or officer of an institution in the Farm Credit System or any other person referred to in subsection (a) or (b) of this section, the Farm Credit Administration may, if it deems it necessary for the protection of the institution or the interests of its shareholders and the investors in the Farm Credit System obligations, by written notice to such effect served upon such director, officer, or other person, suspend such director, officer, or other person from office or prohibit such director, officer, or other person from further participation in any manner in the conduct of the affairs of the institution. Such suspension or prohibition shall become effective upon service of such notice and, unless stayed by a court in proceedings authorized by subsection (e) of this section, shall remain in effect pending the completion of the administrative proceedings pursuant to the notice served under subsection (a) or (b) and until such time as the Farm Credit Administration shall dismiss the charges specified in such notice, or, if an order of removal or prohibition is issued against the director or officer or other person, until the effective date of any such order. Copies of any such notice shall also be served upon the institution of which the person is a director or officer or in the conduct of whose affairs the person has participated.

"(d) A notice of intention to remove a director, officer, or other person from office or to prohibit such director's, officer's, or other person's participation in the conduct of the affairs of an institution in the Farm Credit System, shall contain a statement of the facts constituting grounds therefor, and shall fix a time and place at which a hearing will be held thereon. Such hearing shall be fixed for a date not earlier than thirty days nor later than sixty days after the date of service of such notice, unless an earlier or a later date is set by the Farm Credit Administration at the request of (1) such director or officer or other person, and for good cause shown, or (2) the Attorney General of the United States. Unless such director, officer, or other person shall appear at the hearing in person or by a duly authorized representative, such director, officer, or other person shall be deemed to have consented to the issuance of an order of such removal or prohibition. In the event of such consent, or if upon the record made at any such hearing the Farm Credit Administration shall find that any of the grounds specified in such notice have been established, the Farm Credit Administration may issue such orders of suspension or removal from office, or prohibition from participation in the conduct of the affairs of the institution, as it may deem appropriate. A copy of an order issued under this subsection shall be served upon the institution concerned. Any such order shall become effective at the expiration of thirty days after service upon such institution and the director, officer, or other person concerned (except in the case of an order issued upon consent, which shall become effective at the time specified therein). Such order shall remain effective and enforceable except to such extent as it is stayed, modified, terminated, or set aside by action of the agency or a reviewing court.

"(e) Within ten days after any director, officer, or other person has been suspended from office or prohibited from participation in the conduct of the affairs of a System institution under subsection (d)(3) of this section, such director, officer, or other person may apply to the United States district court for the judicial district in which the home office of the institution is located, or the United States district court for the District of Columbia, for a stay of either such suspension or prohibition, or both, pending the completion of the administrative proceedings pursuant to the notice served upon such director, officer, or other person under subsection (a) or (b), and such court shall have jurisdiction to stay either such suspension or prohibition, or both.

"Sec. 5.29. Suspension or Removal of Director or Officer Charged With Felony.—(a) Whenever any director or officer of an institution in the Farm Credit System, or other person participating in the conduct of the affairs of such institution, is charged in any information, indictment, or complaint authorized by a United States attorney, with the commission of or participation in a crime involving dishonesty or breach of trust that is punishable by imprisonment for a term exceeding one year under State or Federal law, the Farm Credit Administration may, if continued service or participation by the individual may pose a threat to the interest of the institution's shareholders or the investors in the Farm Credit System obligations or may threaten to impair public confidence in the institution or Farm Credit System, by written notice served upon such director, officer, or other person, suspend such director, officer, or other person from office or prohibit such director, officer, or other person from further participation in any manner in the conduct of the affairs of the institution. A copy of such notice shall also be served upon the institution. Such suspension or prohibition shall remain in effect until such information, indictment, or complaint is finally disposed of or until terminated by the Farm Credit Administration. In the event that a judgment of conviction with respect to such crime is entered against such director, officer, or other person, and at such time as such judgment is not subject to further appellate review, the Farm Credit Administration may, if continued service or participation by the individual may pose a threat to the interests of the institution's shareholders or the investors in Farm Credit System obligations or may threaten to impair public confidence in the institution or the Farm Credit System, issue and serve upon such director, officer, or other person an order removing such director, officer, or other person from office or prohibiting such director, officer, or other person from further participation in any manner in the conduct of the affairs of the institution except with the consent of the Farm Credit Administration. A copy of such order shall also be served upon such institution, whereupon such director or officer shall cease to be a director or officer of such institution. A finding of not guilty or other disposition of the charge shall not preclude the Farm Credit Administration from thereafter instituting proceedings to remove such director, officer, or other person from office or to prohibit further participation in Farm Credit System affairs under section 5.28. Any notice of suspension or order of removal issued under this paragraph shall remain effective and outstanding until the completion of any hearing or appeal authorized under subsection (b) unless terminated by the Farm Credit Administration.

"(b) Within thirty days from service of any notice of suspension or order of removal issued under subsection (a), the director, officer, or other person concerned may request in writing an opportunity to appear before the Farm Credit Administration to show that the continued service to or participation in the conduct of the affairs of the institution by such individual does not, or is not likely to, pose a threat to the interest in Farm Credit System obligations. Upon receipt of any such request, the Farm Credit Administration shall fix a time (not more than thirty days after receipt of such request, unless extended at the request of the concerned director, officer, or other person) and place at which the director, officer, or other person may appear, personally or through counsel, before the Chairman of the Farm Credit Administration or designated employees of the Farm Credit Administration to submit written materials (or, at the discretion of the Farm Credit Administration, oral testimony) and oral argument. Within sixty days of such hearing, the Farm Credit Administration shall notify the director, officer, or other person whether the suspension or prohibition from participation in any manner in the conduct of the affairs of the institution will be continued, terminated, or otherwise modified, or whether the order removing such director, officer, or other person from office or prohibiting such individual from further participation in any manner in the conduct of the affairs of the institution will be rescinded or otherwise modified. Such notification shall contain a statement of the basis for the Farm Credit Administration's decision, if adverse to the director, officer or other person. The Farm Credit Administration may prescribe such rules as may be necessary to effectuate the purposes of this subsection.

"Sec. 5.30. Hearings and Judicial Review.—(a) Any hearing provided for in this part (other than the hearing provided for in section 5.29) shall be held in the Federal judicial district or in the territory in which the home office of the institution is located unless the party afforded the hearing consents to another place, and shall be conducted in accordance with the provisions of chapter 5 of title 5 of the United States Code. Such hearing shall be private, unless the Farm Credit Administration, in its discretion, after fully considering the views of the party afforded the hearing, determines that a public hearing is necessary to protect the public interest. After such hearing, and within ninety days after the Farm Credit Administration has notified the parties that the case has been submitted to it for final decision, it shall render its decision (which shall include findings of fact upon which its decision is predicated) and shall issue and serve upon each party to the proceeding an

order or orders consistent with the provisions of this part. Judicial review of any such order shall be exclusively as provided in this subsection (g). Unless a petition for review is timely filed in a court of appeals of the United States, as hereinafter provided in subsection (b), and thereafter until the record in the proceeding has been filed as so provided, the Farm Credit Administration may at any time, upon such notice and in such manner as it shall deem proper, modify, terminate, or set aside any such order. Upon such filing of the record, the Farm Credit Administration may modify, terminate, or set aside any such order with permission of the court.

"(b) Any party to the proceeding, or any person required by an order issued under this part to cease and desist from any of the violations or practices stated therein, may obtain a review of any order served under subsection (a) (other than an order issued with the consent of the System institution or the director or officer or other person concerned, or an order issued under section 5.29) by the filing in the court of appeals of the United States for the circuit in which the home office of the institution is located, or in the United States Court of Appeals for the District of Columbia Circuit, within thirty days after the date of service of such order, a written petition praying that the order of the Farm Credit Administration be modified, terminated, or set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court to the Farm Credit Administration, and thereupon the Farm Credit Administration shall file in the court the record in the proceeding, as provided in section 2112 of title 28 of the United States Code. Upon the filing of such petition, such court shall have jurisdiction, which upon the filing of the record shall except as provided in the last sentence of subsection (a) be exclusive, to affirm, modify, terminate, or set aside, in whole or in part, the order of the Farm Credit Administration. Review of such proceedings shall be had as provided in chapter 7 of title 5 of the United States Code. The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari, as provided in section 1254 of title 28 of the United States Code.

"(c) The commencement of proceedings for judicial review under subsection (b) shall not, unless specifically ordered by the court, operate as a stay of any order issued by the Farm Credit Administration.

"Sec. 5.31. Jurisdiction and Enforcement.—The Farm Credit Administration may in its discretion apply to the United States district court, or the United States court of any territory, within the jurisdiction of which the home office of the institution is located, for the enforcement of any effective and outstanding notice or order issued under this part, and such courts shall have jurisdiction and power to order and require compliance herewith; but except as otherwise provided in this part no court shall have jurisdiction to affect by injunction or otherwise the issuance or enforcement of any notice or order under this part, or to review, modify, suspend, terminate, or set aside any such notice or order.

"Sec. 5.32. Penalty.—(a) Any institution in the System that violates or any officer, director, employee, agent, or other person participating in the conduct of the affairs of such an institution who violates the terms of any order that has become final and was issued under section 5.25 or 5.26 of this Act, shall forfeit and pay a civil penalty of not more than $1,000 per day for each day during which such violation continues, but the Farm Credit Administration may, in its discretion, compromise, modify, or remit any civil money penalty that is subject to imposition or has been imposed under such authority. The penalty may be assessed and collected by the Farm Credit Administration by written notice.

"(b) In determining the amount of the penalty, the Farm Credit Administration shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the System institution or person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

"(c) The System institution or person assessed shall be afforded an opportunity for a hearing by the Farm Credit Administration, upon request made within ten days after issuance of the notice of assessment. In such hearing all issues shall be determined on the record pursuant to section 554 of title 5 of the United States Code. The Farm Credit Administration determination shall be made by final order which may be reviewed only as provided in subsection (d). If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

"(d) Any System institution or person against whom an order imposing a civil money penalty has been entered after a Farm Credit Administration hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the System institution is located, or the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within twenty days after the service of such order, and simultaneously sending a copy of such notice by registered or certified mail to the Farm Credit Administration. The Farm Credit Administration shall promptly certify and file in such Court the record upon which the penalty was imposed, as provided in section 2112 of title 28 of the United States Code. The findings of the Farm Credit Administration shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5 of the United States Code.

"(e) If any System institution or person fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the Farm Credit Administration, the Farm Credit Administration shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action, the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

"(f) The Farm Credit Administration shall promulgate regulations establishing procedures necessary to implement sections 5.31 and 5.32.

"(g) All penalties collected under authority of this section shall be covered into the Treasury of the United States.

"Sec. 5.33. Further Penalties.—Any director or officer, or former director or officer of a System institution, or any other person, against whom there is outstanding and effective any notice or order (which is an order which has become final) served upon such director, officer, or other person under section 5.28 or 5.29 of this Act, and who (1) participates in any manner in the conduct of the affairs of the institution involved, or directly or indirectly solicits or procures, or transfers or attempts to transfer, or votes or attempts to vote, any proxies, consents, or authorizations in respect of any voting rights in such institution, or (2) without the prior written approval of the Farm Credit Administration, votes for a director, serves or acts as a director, officer, or employee of any System institution, shall upon conviction be fined not more than $5,000 or imprisoned for not more than one year, or both.

"Sec. 5.34. Replacement of Suspended or Removed Directors.—If at any time, because of the suspension or removal of one or more directors pursuant to section 5.28 or 5.29 of this Act, there shall be on the board of directors of a System institution less than a quorum of directors not so suspended, the Chairman shall appoint persons to serve temporarily as directors in their place and stead so as to establish a quorum until such time as those who have been removed are reinstated or their respective successors are duly elected and take office.

"Sec. 5.35. Definitions.—As used in this part—

"(1) the terms 'cease and desist order that has become final' and 'order which has become final' mean a cease and desist order, or an order, issued by the Farm Credit Administration with the consent of the System institution or the director or officer or other person concerned, or with respect to which no petition for review of the action of the Farm Credit administration has been filed and perfected in a court of appeals as specified in section 5.30(b) of this Act, or with respect to which the action of the court in which such petition is so filed is not subject to further review by the Supreme Court of the United States in proceedings provided for in section 5.30(b) of this Act, or an order issued under section 5.29 of this Act;

"(2) the term 'violation' includes without limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation;

"(3) the terms 'institution in the System', 'System institution', and 'institution' mean all institutions enumerated in section 1.2 of this Act, any service organization chartered under part D of title IV of this Act, and the Capital Corporation; and

"(4) the term 'unsafe or unsound practice' shall have the meaning given to it by the Farm Credit Administration by regulations, rule, or order.

"Sec. 5.36. Notice of Service.—Any service required or authorized to be made by the Farm Credit Administration under this section may be made by registered mail, or in such other manner reasonably calculated to give actual notice as the Farm Credit Administration may by regulation or otherwise provide. Any such service by mail is complete upon mailing. Copies of any notice or order served by the Farm Credit Administration on any association or any director or officer thereof or other person participating in the conduct of its affairs, under the provisions of this part, shall also be sent to the supervisory bank.

"Sec. 5.37. Ancillary Provisions; Subpena Power; Etc.—In the course of or in connection with any proceeding under this part or any examination or investigation under this Act, the Farm Credit Administration or any designated representative thereof, including any person designated to conduct any hearing under this part, shall have the power to administer oaths and affirmations,

to take or cause to be taken depositions, and to issue, revoke, quash, or modify subpenas and subpenas duces tecum; and the Farm Credit Administration is empowered to make rules and regulations with respect to any such proceedings, claims, examinations, or investigations. The attendance of witnesses and the production of documents provided for in this section may be required from any place in any State or in any territory or other place subject to the jurisdiction of the United States at any designated place where such proceeding is being conducted. The Farm Credit Administration or any party to proceedings under this part may apply to the United States District Court for the District of Columbia, or the United States district court for the judicial district or the United States court in any territory in which such proceeding is being conducted, or where the witness resides or carries on business, for enforcement of any subpena or subpena duces tecum issued pursuant to this part, and such courts shall have jurisdiction and power to order and require compliance therewith. Witnesses subpenaed under this section shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States. Any court having jurisdiction of any proceeding instituted under this part by a System institution or a director or officer thereof, may allow to any such party such reasonable expenses and attorneys' fees as it deems just and proper; and such expenses and fees shall be paid by the System institution or from its assets. Any person who willfully shall fail or refuse to attend or testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda, contracts, agreements, or other records, if in such person's power so to do, in obedience to the subpena of the Farm Credit Administration, shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine of not more than $1,000 or to imprisonment for a term of not more than one year or both.".

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 205. (a)(1) Title V of the Farm Credit Act of 1971 is further amended by inserting after section 5.37, as added by section 204, the following heading:

"PART D—MISCELLANEOUS".

(2) Sections 5.26, 5.27, 5.28, 5.29, and 5.30 of the Farm Credit Act of 1971 are redesignated as sections 5.40, 5.41, 5.42, 5.43, and 5.44, respectively.

(b) Section 2.15 of the Farm Credit Act of 1971 is amended by—

(1) in the first sentence of subsection (a)—

(A) striking out "rules and regulations" and inserting in lieu thereof "standards"; and

(B) striking out "and approved by the Farm Credit Administration";

(2) in the first sentence of subsection (b)—

(A) striking out "regulations" and inserting in lieu thereof "standards"; and

(B) striking out "with the approval of the Farm Credit Administration as provided in" and inserting in lieu thereof "subject to the provisions of"; and

(3) in the last sentence of subsection (b)—

(A) striking out "regulations" and inserting in lieu thereof "standards"; and

(B) striking out "or of Farm Credit Administration".

(c) Section 1.2 of the Farm Credit Act of 1971 is amended by striking out "supervision of" and inserting "regulation by" in lieu thereof.

(d) Title I of the Farm Credit Act of 1971 is amended by—

(1) in section 1.4—

(A) striking out "supervision" in the matter preceding paragraph (1) and inserting in lieu thereof "regulation";

(B) in paragraph (17), striking out "vested in or delegated to the bank";

(C) striking out paragraph (19); and

(D) redesignating paragraphs (20), (21), (22), and (23) as paragraphs (19), (20), (21), and (22), respectively;

(2) in section 1.5(d), striking out "to the Governor of the Farm Credit Administration,";

(3) in section 1.5(e)—

(A) striking out the first sentence; and

(B) striking out "other" in the second sentence;

(4) in section 1.13—

(A) striking out "GOVERNOR" in the section heading and inserting in lieu thereof "FARM CREDIT ADMINISTRATION";

(B) striking out "the Governor of" in the seventh sentence;

(C) striking out "Governor" each place that word appears in the eighth, ninth, and tenth sentences and inserting in lieu thereof "Farm Credit Administration"; and

(D) striking out "him" and "he" in the tenth sentence and inserting in lieu thereof, in both instances, "the Farm Credit Administration";

(5) in section 1.15—

(A) inserting "the regulation" before "of the Farm Credit Administration" in the matter preceding paragraph (1); and

(B) striking out "or delegated to" in paragraph (12);

(6) in section 1.17(b)—

(A) striking out paragraph (2); and

(B) redesignating paragraph (3) as paragraph (2); and

(7) in section 1.20, striking out "the Governor of the Farm Credit Administration".

(e) Title II of the Farm Credit Act of 1971 is amended by—

(1) in section 2.1—

(A) striking out "supervision of" in the matter preceding paragraph (1) and inserting in lieu thereof "regulation by";

(B) striking out "vested in or delegated to the intermediate credit bank" in paragraph (14); and

(C) striking out paragraph (21);

(2) in the first sentence of section 2.2(d), striking out "the Governor of the Farm Credit Administration, and may";

(3) in section 2.2(f)—

(A) striking out "Dividends" and all that follows through "noncumulative" and inserting "Noncumulative" in lieu thereof in the first sentence; and

(B) striking out ", when the Governor of the Farm Credit Administration holds no stock in the bank," in the second sentence;

(4) in section 2.2(g), striking out "After all stock held" and all that follows through "other stock" and inserting in lieu thereof "The bank may retire stock";

(5) in section 2.2(h), striking out "Governor" and inserting in lieu thereof "Farm Credit Administration";

(6) in the first sentence of section 2.3(c)—

(A) striking out "(a)(1) and (2)" and inserting in lieu thereof "(a)(2)"; and

(B) striking out "(in the case of financing institutions under subsection (a)(2) of this section)";

(7) striking out subsections (a) and (b) of section 2.6;

(8) in section 2.6(c), by striking out "If, at" and all that follows through "the net earnings of such bank" and inserting in lieu thereof "At the end of each fiscal year, the net earnings of each Federal intermediate credit bank";

(9) in the first sentence of section 2.7, striking out ", of all the stock held by the Governor of the Farm Credit Administration at par; third";

(10) in section 2.10—

(A) striking out "the Governor of" in the sixth sentence;

(B) striking out "Governor" in the seventh sentence and inserting in lieu thereof "Farm Credit Administration";

(C) striking out "Governor" in the eighth sentence and inserting in lieu thereof "Farm Credit Administration"; and

(D) in the ninth sentence—

(i) striking out "Governor" and inserting in lieu thereof "Farm Credit Administration"; and

(ii) striking out "him" and "he" and inserting in lieu thereof in both places "Farm Credit Administration";

(11) in section 2.12—

(A) in the matter preceding paragraph (1), inserting "regulation by" before "the Farm Credit Administration"; and

(B) striking out "or the Farm Credit Administration" in paragraph (19);

(12) in section 2.13(c), striking out "the Governor of the Farm Credit Administration and";

(13) in section 2.13(d)—

(A) striking out "to the Governor and"; and

(B) striking out ", except that all" and all that follows through "voting hereunder".

(14) in section 2.13(j), striking out "the Governor or";

(15) in section 2.14(b), striking out ", except that when the Governor" and all that follows through "Administration"; and

(16) striking out the last two sentences of section 2.17.

(e) Title III of the Farm Credit Act of 1971 is amended by—

(1) in section 3.1—

(A) in the matter preceding paragraph (1), striking out "supervision" and inserting in lieu thereof "regulation";

(B) in paragraph (13)(A), inserting "under regulations issued" after "authorized";

(C) striking out paragraph (16); and

(D) redesignating paragraphs (17), (18), and (19) as paragraphs (16), (17), and (18), respectively;

(2) in section 3.2(a), striking out "Governor with the advice and consent of the Federal Farm Credit Board"; and inserting in lieu thereof "Farm Credit Administration";

(3) in section 3.3(d), inserting "under regulations issued by" after "authorized";

(4) in section 3.3(e), striking out ", except for stock held by the Governor,".

(5) in section 3.4, striking out "the Governor of";

(6) in section 3.5—

(A) striking out the first sentence and all that follows through "nonvoting" in the second sentence and inserting "Nonvoting" in lieu thereof; and

(B) in the fourth sentence, striking out "When the requirements of section 4.0(b) have been met, voting" inserting in lieu thereof "Voting";

(7) striking out subsection (a) of section 3.11;

(8) in section 3.11—

(A) in subsection (b), striking out "Whenever" and all that follows through "Administration, the net" and inserting in lieu thereof "At the end of each fiscal year, the net"; and

(B)(i) in subsection (c), striking out "subsection (a) or (b)" and inserting "subsection (b)" in lieu thereof; and

(ii) in subsection (d), striking out "subsection (a) or (b)" and inserting "subsection (b)" in lieu thereof;

(9) in section 3.12—

(A) striking out ", any stock held by the Governor of the Farm Credit Administration at par"; and

(B) striking out "stock held by the Governor of the Farm Credit Administration,"; and

(10) striking out the last two sentences of section 3.13.

(f) Title IV of the Farm Credit Act of 1971 is further amended by—

(1) in section 4.2—

(A) in the matter preceding subsection (a), striking out "supervision of" and inserting in lieu thereof "regulation by";

(B) in subsection (b)—

(i) striking out "4.3(b)" and inserting in lieu thereof "4.3(c)"; and

(ii) striking out "Governor" and inserting in lieu thereof "Farm Credit Administration";

(C) in subsection (c), striking out "Governor" and inserting in lieu thereof "Farm Credit Administration"; and

(D) in subsection (d)—

(i) striking out "Governor" in the first sentence and inserting in lieu thereof "Farm Credit Administration"; and

(ii) in the second sentence, striking out "Governor" each place it appears and inserting in lieu thereof "Farm Credit Administration";

(2) in section 4.4(b)—

(A) striking out "Governor to execute" in the first sentence and inserting in lieu thereof "execution of"; and

(B) striking out "by the Governor" in the second sentence;

(3) in section 4.5, striking out "Governor" in the fourth sentence and inserting in lieu thereof "Farm Credit Administration";

(4) in the second sentence of section 4.11, striking out "Governor with the advice and consent of the Federal Farm Credit Board" and inserting in lieu thereof "Farm Credit Administration";

(5) in section 4.12(a), striking out "Federal Farm Credit Board" in the third sentence and inserting in lieu thereof "Farm Credit Administration";

(6) in the first sentence of section 4.17, inserting ", as provided in section 5.17(a)(5) of this Act," after "with the approval of";

(7) in section 4.18, inserting "under regulations issued" after "authorized";

(8) in section 4.25—

(A) striking out "the Governor of" in the second sentence;

(B) striking out "Governor" in the third sentence and inserting in lieu thereof "Farm Credit Administration"; and

(C) striking out "Governor" in the fourth sentence and inserting in lieu thereof "Farm Credit Administration";

(9) in section 4.26—

(A) striking out "GOVERNOR" in the section heading and inserting in lieu thereof "FARM CREDIT ADMINISTRATION";

(B) striking out "Governor" wherever that word appears in the text and inserting in lieu thereof "Farm Credit Administration";

(C) striking out "he" in the first sentence and inserting in lieu thereof "the Farm Credit Administration"; and

(10) in section 4.27, striking out "supervision" and inserting in lieu thereof "regulation".

(g) Title V of the Farm Credit Act of 1971 is further amended by—

(1) in section 5.0—

(A) striking out "Federal Farm Credit Board" in the first and second sentences and inserting in lieu thereof "Farm Credit Administration"; and

(B) striking out "5.18(2)" in the third sentence and inserting in lieu thereof "5.17(2)";

(2) in section 5.1(b), striking out "Federal Farm Credit Board" and inserting in lieu thereof "Farm Credit Administration Board";

(3) in section 5.2(a), striking out "Governor with the advice and consent of the Federal Farm Credit Board" and inserting in lieu thereof "Farm Credit Administration Board";

(4) in section 5.2(d), striking out "sections 5.1 and 5.2" and inserting in lieu thereof "section 5.1 and this section";

(5) in section 5.6(a), striking out "supervision of" in paragraph (5) and inserting in lieu thereof "regulation by"; and

(6) in section 5.15(b), as so redesignated by section 201(5)—

(A) striking out "said Administration" both places that phrase appears in the first sentence and inserting in lieu thereof "the Farm Credit Administration"; and

(B) striking out "the Administration" and "such Administration" in the second sentence and inserting in lieu thereof "the Farm Credit Administration".

TITLE III—PROTECTION FOR FARMERS AND OTHER FARM CREDIT SYSTEM BORROWERS

DISCLOSURE AND ACCESS TO INFORMATION

SEC. 301. (a) Section 4.13 of the Farm Credit Act of 1971 is redesignated as section 4.13B.

(b) The Farm Credit Act of 1971 is amended by inserting before section 4.13B, as so redesignated by subsection (a), the following:

"SEC. 4.13. DISCLOSURE.—(a) In accordance with regulations of the Farm Credit Administration, System institutions shall provide to their borrowers, for all loans that are not subject to the Truth in Lending Act (15 U.S.C. 1601 et seq.), meaningful and timely disclosure of the following:

"(1) the current rate of interest on the loan;

"(2) in the case of an adjustable or variable rate loan, the amount and frequency by which the interest rate can be increased during the term of the loan or, if there are no such limitations, a statement to that effect, and the factors (including, but not limited to, the cost of funds, operating expenses, and provision for loan losses) that will be taken into account by the lending institution in determining adjustments to the interest rate;

"(3) the effect, as shown by a representative example or examples, of the required purchase of stock or participation certificates in the institution on the effective rate of interest; and

"(4) any change in the interest rate applicable to the borrower's loan.

"(b) In accordance with regulations of the Farm Credit Administration, System institutions shall develop a policy governing forbearance. Each System institution shall provide borrowers with a copy of the institution's policy regarding forbearance at such time or times as the Farm Credit Administration shall prescribe in such regulations.

"SEC. 4.13A. ACCESS TO DOCUMENTS AND INFORMATION.—In accordance with regulations of the Farm Credit Administration, System institutions shall provide their borrowers, at the time of execution of loans, copies of all documents signed by the borrower and at any time thereafter, on a borrower's request, copies of all documents signed or delivered by the borrower and at any time, on request, a copy of the institution's articles of incorporation or charter and bylaws.".

NOTICE ON APPLICATIONS

SEC. 302. Section 4.13B of the Farm Credit Act of 1971, as so redesignated by section 301(a), is amended by (1) inserting "written" before "notice" and (2) inserting, before the period at the end thereof, the following: ", and of the applicant's right to review under section 4.14".

RECONSIDERATION

SEC. 303. Section 4.14 of the Farm Credit Act of 1971 is amended to read as follows:

"SEC. 4.14. RECONSIDERATION OF ACTION ON LOAN APPLICATION.—The board of directors of each Farm Credit System institution shall establish from among such board's members a credit review committee. Any loan applicant who has received written notice, under section 4.13, of a decision to deny or reduce the loan applied for, if the applicant so requests in writing within thirty days after receiving such notice, may obtain a review of such decision in person before the credit review committee. Promptly after any such review, the applicant shall be notified in writing of the credit review committee's decision and the reasons therefor.".

NOTICE WITH RESPECT TO STOCKHOLDERS ON LOAN DEFAULT

SEC. 304. (a) The sixth sentence of section 1.16(a) of the Farm Credit Act of 1971 is amended by inserting, before the period at the end thereof, the following: "and on written notice to the stockholder".

(b) Section 2.13(k) of the Farm Credit Act of 1971 is amended by inserting, before the period at the end thereof, the following: ", on written notice to the borrower and approval by the bank of such retirement".

MINIMIZING THE ADVERSE EFFECT ON BORROWERS OF SYSTEM INSTITUTION INSOLVENCY

SEC. 305. (a) Section 4.12(a) of the Farm Credit Act of 1971 is amended by inserting, immediately after the first sentence, the following: "In the case of a voluntary liquidation of an association, such regulations, among other things, shall direct the supervising bank to institute such measures as it deems appropriate to minimize the adverse effect of the liquidation on those borrowers whose loans are purchased by or otherwise transferred to another System institution.".

(b) Section 4.12 of the Farm Credit Act of 1971 is amended by inserting after the subsection (b) added by section 102, the following:

"(c) In the case of an involuntary liquidation of an association, regulations of the Farm Credit Administration, among other things, shall direct the supervising bank to institute such measures as it deems appropriate to minimize the adverse effect of the liquidation on those borrowers whose loans are purchased by or otherwise transferred to another System institution.".

MINERAL RIGHTS LIMITATION

SEC. 306. The Farm Credit Act of 1971 is amended by adding at the end of title IV the following:

"PART F—MISCELLANEOUS

"SEC. 4.35. LIMITATION ON SEPARATE SALE.—If real property is acquired by any institution of the Farm Credit System through foreclosure, no institution of the Farm Credit System shall sell the surface rights to that real property to any person unless the institution also sells all mineral rights to that real property to that person.

"SEC. 4.36. LIMITATION ON SALE OF TRACTS OF REAL ESTATE.—No institution of the Farm Credit System shall sell any real property that previously served as security for a loan in a tract larger than a normal family size *farm in the vicinity of the property for less than the amount it can receive from the Capital Corporation.".*

TITLE IV—IMPLEMENTATION PROCEDURES

EFFECTIVE DATE

SEC. 401. The provisions of titles I, II, III, and VI of this Act shall become effective thirty days after enactment.

INTERIM IMPLEMENTATION

SEC. 402. (a) Until the Chairman of the Farm Credit Administration Board provided for under the amendment made by section 201(1) of this Act is appointed by the President and confirmed by the Senate, the Governor of the Farm Credit Administration, under the Farm Credit Act of 1971 as in effect on the day before the date of enactment of this Act, shall perform the functions of the Chairman prescribed for the Chairman by this Act.

(b)(1) Except as provided in paragraph (2), until at least two members of the Farm Credit Administration Board provided under the amendment made by section 201(l) of this Act are appointed by the President and confirmed by the Senate, the Governor of the Farm Credit Administration, under the Farm Credit Act of 1971 as in effect on the day before the date of enactment of this Act, shall perform the functions of the Farm Credit Administration Board prescribed for such Board by this Act.

(2) When the Chairman of such Board is so appointed and confirmed, the Chairman shall assume any responsibilities and powers of the Board being exercised by the Governor under this subsection.

(c) All regulations of the Farm Credit Administration or the institutions of the System, and all charters, bylaws, resolutions, stock classifications, and policy directives issued or approved by the Farm Credit Administration, and all elections held and appointments made under the Farm Credit Act of 1971, before the date of enactment of this Act, shall be continuing and remain valid until superseded, modified, or replaced under the authority of this Act.

SENSE OF CONGRESS

SEC. 403. It is the sense of Congress that the pressing needs of the Farm Credit System and the United States agricultural industry require the implementation of this Act as soon as practicable, and that the President should ensure that the members of the Farm Credit Administration Board constituted under section 201(l) are appointed not later than thirty days after enactment of this Act.

TITLE V—NATIONAL COMMISSION ON AGRICULTURAL FINANCE

SEC. 501. (a) The President shall appoint a National Commission on Agricultural Finance. Such Commission shall be comprised of 15 members, of whom 7 shall be appointed by the President and 4 each by the Speaker of the House of Representatives and the President pro tempore of the Senate. The Commission shall consist of representatives of the financial community, the agricultural sector, and government.

(b) The National Commission on Agricultural Finance shall conduct a study of methods to ensure the availability of adequate credit to agricultural producers and agribusiness, taking into account the long-term financing needs of the agricultural economy; the roles of the commercial banks, the Farm Credit System, and the Farmers Home Administration in meeting those financial needs.

(c) In conducting such study, the National Commission on Agricultural Finance shall—

(1) evaluate the financial circumstances relative to both lenders and borrowers of farm credit;

(2) evaluate the structure, performance, and conduct of private lenders—commercial bankers and the Farm Credit System—and public lenders;

(3) explore the need for long-term assistance in stabilizing the value of agricultural assets; and

(4) evaluate the effect on suppliers, producers, processors, and local communities when financial institutions fail.

(d) Not later than one year after the date of enactment of this Act, the Commission shall submit a report containing the results of the study required by this section, together with comments and recommendations for legislation providing for a sound, reasonable, and primarily self-supporting credit program for farmers and ranchers as the Commission considers appropriate, to Congress.

(e) The Commission shall be comprised of volunteers and no Federal funds shall be expended by the Commission.

TITLE VI—MISCELLANEOUS AMENDMENTS

SEC. 601. Section 1.5 of the Farm Credit Act of 1971 is amended by adding at the end the following:

"(h) Nothing in this section limits the power of the Farm Credit Administration to provide general direction to Federal land banks with regard to the payment of dividends and patronage refunds.".

SEC. 602. Subsection (a) of section 1.17 of the Farm Credit Act of 1971 is amended to read as follows:

"(a) Federal land banks shall be required to carry a reserve account. Such reserve account shall be kept in accordance with standards set by the Farm Credit Administration.".

SEC. 603. Section 1.18 of the Farm Credit Act of 1971 is amended by—

(1) amending subsection (a) to read as follows:

"(a) Federal land bank associations shall be required to carry a reserve account. Such reserve account shall be kept in accordance with standards set by the Farm Credit Administration."; and

(2) adding at the end of subsection (b) the following: "Nothing in this subsection limits the power of the Farm Credit Administration to provide general direction to Federal land bank associations with regard to the payment of dividends and patronage refunds.".

SEC. 604. Subsection (f) of section 2.2 of the Farm Credit Act of 1971 is amended by adding at the end thereof the following: "Federal intermediate credit banks shall be subject to the general direction of the Farm Credit Administration with regard to the payment dividends.".

SEC. 605. Section 2.14 of the Farm Credit Act of 1971 is amended by—

(1) striking out the parenthetical matter in subsection (a) and inserting in lieu thereof the following: "(including provision for valuation reserves against loan assets in an amount equal to one-half of 1 percent of the loans outstanding at the end of the fiscal year to the extent that such earnings in such year in excess of other operating expenses permit, or in such greater amounts as are deemed necessary under generally accepted accounting principles, until such reserves equal or exceed 3½ percent of the loans outstanding at the end of the fiscal year, beyond which 3½ percent further additions to such reserves may be made, if deemed necessary under generally accepted accounting principles)";

(2)(A) in the first sentence of subsection (b), striking out "so provide," and inserting in lieu thereof "so provide and subject to the general directions of the Farm Credit Administration,"; and

(B) in the second sentence of subsection (b), striking out "Any" and inserting in lieu thereof "In accordance with the foregoing, any".

SEC. 606. Section 3.4 of the Farm Credit Act of 1971 is amended by adding before the period at the end thereof the following: ", subject to the general direction of the Farm Credit Administration".

AMENDMENT NO. 1420

(Purpose: To make certain conforming and technical changes to the House amendment to S. 1884)

Mr. HELMS. Mr. President, I move that the Senate concur in the House amendment, with a further Senate amendment, which I send to the desk on behalf of myself and Senator ZORINSKY.

The **PRESIDING OFFICER.** The clerk will report.

The legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS], for himself and Mr. ZORINSKY, proposes an amendment numbered 1420.

In the House engrossed amendment—

(1) On page 7, strike out line 24 and all that follows through line 25 on page 8 and insert in lieu thereof the following:

"SEC. 4.28C. BOARD OF DIRECTORS OF THE CAPITAL CORPORATION.—(a)(1) The Board of Directors of the Capital Corporation shall consist of five members, of which—

"(A)(i) three members shall be elected by the farm credit banks that own the voting stock in the Corporation, with—

"(I) one such member being elected from an institution and a district that, at the time of such election, is or is projected to be a net contributor of capital to the Corporation;

"(II) one such member being elected from an institution and a district that, at the time of such election, is or is projected to be a net recipient of capital (other than through the sale of loans or other assets at fair market value) from the Corporation; and

"(III) one such member being elected without regard to the restrictions in clause (i) and (ii).

"(ii) Each such bank shall have the right to cast one vote to fill each such vacancy without regard to the number of voting shares owned by such bank.

"(B) two members shall be appointed by the Chairman of the Farm Credit Administration Board.

"(2) Members appointed by the Chairman under paragraph (1)(B) shall be selected from United States citizens—

"(A) who are not borrowers from, shareholders in, or employees or agents of any institution of the Farm Credit System; and

"(B) who are experienced in financial services and credit.

"(3) The Farm Credit Administration Board shall, in its sole discretion and for purposes of the election of directors to the Capital Corporation only, project whether—

"(A) institutions within a district are or will be a net contributor of capital to the Corporation, or

“(B) the institutions within a district are or are expected to become net recipients of capital from the Corporation.

“(4) The Farm Credit Administration Board shall issue regulations providing for fair and equitable representation of all public and private interests on the Board of Directors of the Capital Corporation. The bylaws of the Corporation shall prescribe the procedures, established pursuant to regulations issued by the Board, under which directors of the Corporation will be nominated and elected.

“(5)(a) Notwithstanding paragraph (1), in the event the Secretary of the Treasury purchases any obligation of the Farm Credit System Capital Corporation under section 4.28J, and for so long as such obligation remains outstanding, the Board of Directors of the Capital Corporation shall be expanded by two members, of which—

“(A) one member shall be appointed by the Secretary of Agriculture; and

“(B) one member shall be selected by the other members of the Board of the Capital Corporation, including the appointee of the Secretary of Agriculture, which member shall not be a—

“(i) borrower from, shareholder in, or employee or agent of any institution of the Farm Credit System; or

“(ii) a government employee.

“(b) Members of the Board of Directors shall serve two-year terms, except that, of the members first elected or appointed to the Board of Directors, one elected member and one appointed member shall serve initial terms of one year.

“(c) The Board of Directors shall elect, on an annual basis, a Chairman from among the members of the Board.

“(d)(1) Members of the Board may succeed themselves and may serve until their successors are duly seated.

“(2) Vacancies on the Board shall be filled in the same manner as the vacant position was previously filled.”

(2) On page 21, line 10, strike out “fective only” and insert in lieu thereof “fective for any fiscal year only”;

(3) On page 22, between lines 17 and 18, insert a new section 4.28L as follows:

“SEC. 4.28L. TAX STATUS OF CONSOLIDATED OBLIGATIONS.—Consolidated notes, bonds, debentures, or other obligations, the issuance of which is joined in by the Capital Corporation pursuant to paragraph (13) of section 4.28G, shall have the same tax status as provided by this Act with respect to such obligations issued by the banks.”;

(4) On page 33—

(A) in line 13, insert “and certificates of territory” after “charters”;

(B) in line 21, after “territory”, insert “, unless subsequently agreed to by the board of directors of such association or associations”; and

(C) after the period in line 25, insert “Such associations shall not be (i) charged any assessment under this Act at a rate higher than that charged other like associations in the district or (ii) discriminated against in the provision of any financial service and assistance (including, but not limited to, access to credit and rates of interest on loans and discounts) by a district Farm Credit bank to the association and its member-borrowers.”;

(5) On page 35, line 12, insert “regulate” and “and”;

(6) On page 37, between lines 5 and 6, insert the following new paragraph:

“(15) Except for associations, approve the salary scale for employees of the institutions of the System, and approve the compensation of the chief executive officer of such institutions: *Provided*, That no salary scale or rate of compensation shall be approved under this provision unless determined to be fair and reasonable.”;

(7) On page 38, line 11, strike out “other” and all that follows through “banks” on line 12 and insert in lieu thereof “other than federally regulated financial institutions”;

(8)(A) On page 76, line 24, strike out “System” and all that follows through “committee” in line 25 and insert in lieu thereof “System institution shall establish one or more credit review committee(s), which shall include farmer board representation”;

(B) On page 77, line 4, insert “When a loan applicant requests review of an adverse credit decision, a majority of persons serving on such reviews committee must be persons who were not involved in making the adverse decision.” after “committee.”;

(9) On page 79, between lines 2 and 3, insert a new section 307 as follows:

“SEC. 307. Each local lending institution of the Farm Credit System established under the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) shall—

“(1) review each loan that has been placed in non-accrual status by such institution to determine whether such loan may be restructured based on changes in the circumstances of such institution as the result of this Act and the amendments made by this Act; and

“(2) notify in writing the borrower of each such loan of the provisions of this section.”;

(10) On page 80—

(A) in line 5, redesignate subsection (c) as subsection (d); and

(B) between lines 4 and 5, insert the following new subsection:

“(c) In carrying out the duties and functions specified in subsections (a) and (b), the Governor of the Farm Credit Administration shall serve at the pleasure of the President.”; and

(11) On page 84, after line 14, insert the following new section:

“SEC. 607. Section 5.2 of the Farm Credit Act of 1971 (12 U.S.C. 2223) is amended—

(1) by striking out “; APPOINTMENT” in the caption;

(2) in subsection (a)—

(A) by designating the first and second sentences as paragraphs (1) and (2), respectively; and

(B) by amending paragraph (2) (as so designated) to read as follows:

“(2)(A) The seventh member shall be elected by the borrowers at large in a district.

“(B) For purposes of this section, the term ‘borrowers at large in a district’ means—

“(i) a voting shareholder of a Federal land bank association and a direct borrower, and a borrower through an agency, from a Federal land bank;

“(ii) a voting shareholder of a production credit association; and

“(iii) a voting shareholder or subscriber to the guaranty fund of a bank for cooperatives.”;

(3) in the second sentence of subsection (b)—

(A) by striking out “and” before “in the case”; and

(B) by inserting before the period at the end thereof the following: “; and in the case of an election by the borrowers at large, such notice shall be sent to all borrowers at large in the district”; and

(4) by inserting after the fifth sentence of subsection (c) the following new sentence: “Each borrower at large shall be entitled to cast one vote.”.

(12) On page 14, line 10, strike out the following: “ of the loss of the use of the accumulated net worth of their institution ”

(13) On page 14, line 22, strike out the following: “taking into account the relative rates and terms available to them prior to investments in the Capital Corporation ”

On page 20 of the House engrossed amendment, strike out lines 15 and 16, and insert in lieu thereof the following: “System institutions, (3) the salaries and benefits of the senior executive officers of System institutions (except associations) will be frozen, such freeze to remain in”.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the motion of the Senator from North Carolina to concur in the House amendment with a further Senate amendment (No. 1420).

The motion was agreed to.

Mr. HELMS. Mr. President, on December 3, 1985, the Senate passed S. 1884, a bill to restructure and reform the Farm Credit System, by a vote of 57 to 34.

S. 1884 is intended to accomplish three key objectives. First, it tightens and reforms the regulation of the Farm Credit System to assure that it will operate under the same general rules of the road as other lending entities. Second, it enables the Farm Credit System to help itself by establishing a Capital Corporation to move System capital and reserves to those districts in greatest need. Third, it authorizes the Secretary of the Treasury, at the Secretary’s sole discretion, to purchase securities from the Capital Corporation to infuse capital into the Farm Credit System—but not unless and until the strengthened regulatory mechanisms and available capital of the System are utilized.

The House has now amended and passed S. 1884. The House’s version is substantially similar to the bill passed by the Senate. I recommend that we pass the House bill with an amendment.

This amendment protests interests raised by Senators either in the drafting of S. 1884 or through the adoption of amendments on the Senate floor. All the amendments to S. 1884 that were adopted by the Senate are either included in the House bill or are contained in the amendment I am offering today.

The amendment that I propose would accomplish the following:

First, the amendment would restructure the board of directors for the new capital corporation. Three board members would be elected by the farm credit banks that own stock in the corporation, with each bank having one vote. The three elected members would be selected, one from those districts contributing capital, one from those districts receiving capital, and the last without regard to these restrictions. Two board members would be appointed by the chairman of the FCA Board. In the event the

Secretary of the Treasury infuses funds into the capital corporation, the board of the corporation would be expanded by two members: The Secretary of Agriculture would first appoint an additional member to the board and the six directors together would then select a seventh board member, who would be independent of both the System and the Government.

Second, the amendment conforms the appropriations language to that proposed by Senator DOMENICI.

Third, we add a provision, drawn generally from the Senate bill, to ensure that the tax status of bonds issued collectively by the farm credit system banks will not change if the capital corporation participates in these bond issues.

Fourth, we have included Senator BOREN's amendment on mergers, to ensure that the House amendment addresses this issue in the same fashion as the Senate bill.

Fifth, we have restated current law, as did the Senate bill, concerning FCA's power to regulate fund transfers by adding one word inadvertently omitted in the House amendment and have inserted a clarification on the establishment and operation of institutional credit review committees.

Sixth, we have included another Boren amendment authorizing FCA to approve FCS salary scales. The House bill already includes a freeze on FCS officer compensation which is triggered in the event the Secretary of the Treasury is asked to infuse funds.

Seventh, we have included Senator GARN's technical amendment limiting the scope of FCA's examination powers as they concern federally regulated financial institutions.

Eighth, we have included language from the Senate bill proposed by Senator GRASSLEY concerning reviews of non-accrual loans to determine whether they may be restructured.

Ninth, we have included language providing that the Governor of the Farm Credit Administration serves at the pleasure of the President during the transition period in which the Governor exercises the authority of the Farm Credit Administration Board and the Chairman of such Board.

Tenth, we have inserted language from the Senate bill dealing with the selection of the seventh director on district boards. This provision authorizes district borrowers to elect the seventh director, this director was formerly appointed by FCA.

Finally, I should note that we checked to ensure that the House language fully addresses the issues raised in the other amendments offered by Senators DOMENICI, HARKIN, HAWKINS, and MELCHER.

Time is running short. The Farm Credit System and our Nation's farmers need this bill before we go home. I urge my colleagues to adopt this amendment and pass the House amendment to S. 1884.

Mr. ZORINSKY. Mr. President, I join the distinguished chairman of the Agriculture Committee in urging the Senate to approve the pending measure—S. 1884. I was pleased to join Senator HELMS in introducing S. 1884 on November 23. That legislation, although modified by the House, remains similar to the measure that we introduced and that the Senate approved about 1 week ago.

I want to emphasize the necessity for enacting this legislation this session of Congress. We are quickly approaching what will almost certainly be one of the most difficult lending seasons ever for agriculture. The financial condition of the agricultural economy and of agriculture's most important lender, the Farm Credit System, can be described as severely stressed.

This legislation will help ensure that the System will remain viable and continue to serve American agriculture. Congressional approval of this measure will send a clear message to the financial markets that the Federal Government will not allow the Farm Credit System to default on its bonds. This, in itself, will reduce the risk premium investors have been demanding from the System. A reduction in the System's cost of funds will have a positive effect on the cost of credit for farmers—saving them millions of dollars in interest expenses.

Today, the Senate will be considering several amendments designed to incorporate into the House-passed version of S. 1884, certain proposals that were adopted when the Senate first acted on this measure. I hope these amendments are acceptable to the House leadership and the House approves the bill before adjourning.

The amendments being offered today include the following:

An amendment providing that the Board of Directors of the Capital Corporation shall have five members, three elected by System banks—with equitable representation from banks that will be receiving assistance as well as representation from contributing banks—and two appointed by the Farm Credit Administration, until Federal financial assistance is made available. At such time, the Board will be expanded to seven members. Of the two additional members, one will be appointed by the Secretary of Agriculture and the other will be selected by the other six members of the Board. The seventh Director cannot be a Government employee or associated with any System institution.

An amendment that would provide an exception to the overchartering provision of the House-passed measure. The exception would allow overchartering of territories served by associations with the concurrence of the board of directors of the association that has declined to merge. In addition, if an association chooses not to merge, it will not be discriminated against—with regard to interet rates charged by a district farm credit bank.

An amendment retaining the Farm Credit Administration's authority to approve the salary scale for employees of System institutions, except for associations, and the compensation of the chief executive officer.

An amendment that makes it clear that the board of directors of each Farm Credit System institution shall establish one or more credit review committees that will include farmer-board representation. The purpose of this is to provide borrowers with an opportunity for administratively feasible review of adverse credit decisions by a committee that will include participation by persons who were not involved in the original adverse credit decision.

An amendment that requires the Farm Credit System to review each loan in nonaccrual status to determine whether such loan can be restructured based on changed circumstances resulting from enactment of this legislation.

In addition, there will be several technical and conforming amendments that will:

Make it clear that the Farm Credit Administration may not examine any federally regulated financial institution;

Make is clear that systemwide bonds, notes, debentures, or other obligations joined in by the Capital Corporation shall have the same tax status as provided in the Farm Credit Act with respect to obligations issued by the banks; and

Provide for the at-large election of the seventh director of district farm credit boards by the borrower-stockholders.

Provide that the Governor of the Farm Credit Administration will serve at the pleasure of the President during the transition to the new regulatory structure.

The amendments I have outlined will significantly strengthen the legislation. It is important to note that about 1 million Farm Credit System borrowers are looking to Congress to take action to address the System's problems.

The pending measure will restructure the Farm Credit Administration into a stronger, more effective arm's-length regulator. The bill will better enable the System to use its resources to resolve its problems, and it provides a mechanism by which Federal financial assistance can be made available in a responsible manner.

The legislation will provide significant assistance—in the form of lower than what could otherwise be expected interest rates—to Federal Land Bank Association and Production Credit Association borrowers. In addition, the measure will provide assurances and similar interest rate benefits to the farm and rural utility cooperatives, and agricultural exporters that rely on the Farm Credit System's banks for cooperatives for their credit needs.

Because it is important that this measure be enacted as soon as possible, I urge my colleagues to join me in supporting the amendments I have outlined and refrain from offering amendments that could jeopardize this essential legislation.

REFORMING THE FEDERAL FARM CREDIT SYSTEM

Mr. DOLE. Mr. President, I am pleased to add my support to the amendment of the distinguished chairman of the Agriculture Committee, Senator Helms, and its distinguished ranking member, Senator Zorinsky, to the pending legislation to reform the Federal Farm Credit System. I am hopeful that passage of this measure will be equally swift in the House of Representatives, and that the President will add his signature soon after the bill reaches his desk.

In brief, Mr. President, this legislation makes three critical changes in the Farm Credit System. It restructures the Farm Credit Administration, converting it to an effective arms-length regulator. A three-member Board of Directors, appointed by the President and confirmed by the Senate, will have strengthened management and oversight responsibilities.

Second, the bill facilitates much-needed self-help measures by member institutions of the System, enabling them to respond to the capital shortages of some members by redistributing the reserves and capital surpluses of others. This was the original intent of earlier reform legislation which made the System's districts and member banks interdependent and responsible for coordinating support for their securities in the financial markets. This key role will now be carried out through a temporary capital corporation, which will transfer reserves and, if necessary, distribute Federal assistance among System members.

The third element of this package is the contingency for providing Federal financial assistance, as needed, to assure the continued viability of the Farm Credit System as the linchpin for lending to U.S. agriculture. The level of such aid is left deliberately undefined, both because it may not be required and because the amount is not as important as the firm commitment that the Government will stand behind the System.

But first, Mr. President, the System must fully commit its resources in an effort to end erosion in the quality of its member bank portfolios, declining liquidity of its reserves, and the rising cost of new borrowing. These steps will not be easy, particularly at first. And they will need conviction on the part of those who want to see a revitalized system that the only way to long-term stability is through serious retrenchment and joint sacrifice.

One feature which I had a hand in shaping is in the composition of membership on the Capital Corporation Board of Directors. During the period in which the Corporation will essentially be working with the System's own assets, System Directors will have a 3-to-2 majority on the board over appointees of the Farm Credit Administration. If and when Federal funds are introduced, however, the Secretary of Agriculture will appoint one new member, and the six Directors will then select a seventh member from outside the System, the FCA, and the Government.

This method may not be perfect, Mr. President, but it will give the Capital Corporation some additional independence in carrying out its responsibility of managing Federal funds. It will also make the Board more of a buffer between the System and the FCA, avoiding some confrontation during the next crucial years of adjustment and reform.

I hope the House of Representatives will act quickly on this legislation, and that we can send a strong signal to farmers and investors that this vital element of the agricultural lending system will remain healthy. I commend my colleagues who have worked so hard on this bill and hope that, in conjunction with the 1985 farm bill, to be acted on by both Houses tomorrow, Congress will restore some hope in the future of American farm families during the coming new year.

Thank you, Mr. President.

Mr. BENTSEN. Mr. President, the bill now before the Senate is an improvement in many respects over the bill which originally passed the Senate. A number of needed improvements were made in the House Agriculture Committee. However, this is still a bad bill. It will not necessarily provide any financial assistance to the Farm Credit System. It will not provide any protection to the districts which have been prudent, fortunate, good managers, or for some other reason are not in financial trouble. It will drain them as dry as the bankrupt districts—in effect, rewarding those troubled districts.

Aside from the fact that this is a bad bill, there are a number of concerns which have not yet been resolved. A great deal of time and effort has been spent in seeking a resolution of certain concerns with regard to the membership of the board of the new Capital Corporation.

Mr. President, I regret that there appears to have been a misunderstanding with regard to this bill and to this package of Senate amendments. That is quite understandable considering the extreme pressures that are being placed on the Senate Agriculture Committee at this time as they race to complete a farm bill. Many of the committee staff members and other staff members involved in the farm bill were up all night last night drafting the conference report.

An attempt was made to avoid conference on this farm credit bill. A compromise was worked out between the House and Senate leadership on the bill. This would allow the Senate to pass the bill in a form acceptable to the House so that it could be enacted into law before Christmas. The compromise involved taking the House bill language, adding on the amendments adopted on the Senate floor, and adding on a new Senate amendment regarding the number of seats on the Board of the Capital Corporation.

It was my understanding, and the understanding of the chairman of the House Agriculture Committee, Congressman Kika de la Garza of Texas, that amendments offered by Congressman Stenholm of Texas and passed as part of the House bill would be included in the package. The sole exception would be deletion of the word "contributing" as it relates to qualifications for voting for the Capital Corporation Board members, so that all banks could vote.

The proposed amendment which I received on Saturday went beyond the scope of that agreement in several ways. It took out an additional House provision. That provision required the Capital Corporation board members to come from contributing districts. I was told by Chairman de la Garza that he was deeply concerned about that language assuring contributing districts some voice in these proceedings, and I share those concerns.

I discussed that with Chairman de la Garza and with Congressman Stenholm. We all felt that an equitable compromise should recognize that both contributing and receiving districts have concerns, that these concerns may be opposite, and that both should have a voice on the board. We discussed a compromise that would split the three elected board members one and one between contributing and receiving districts, with the third elected at large. We agreed to that compromise. This 1-1-1 split was a significant compromise from the House bill language which specified that all three elected members would come from contributing districts. I ask unanimous consent that a letter from the House on this issue be printed in the Record at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the letter was ordered to be printed in the Record, as follows:

U.S. House of Representatives,
Committee on Agriculture,
Washington, DC, December 17, 1985.

Hon. Robert Dole,
U.S. Senate, Hart Senate Office Building,
Washington, DC.

Dear Senator Dole: We understand that today the Senate will consider legislation to address the problems facing the Farm Credit System. We applaud your efforts in this regard.

On December 6, the House of Representatives approved, by an overwhelming margin, an amended version of S. 1884. This legislation was approved by the House after the Committee on Agriculture held a complete series of subcommittee and full committee hearings and markup sessions that allowed for the development of a balanced, equitable measure to restore financial strength to the Farm Credit System.

As amended by the House, Section 4.28C of S. 1884 would establish a five member board of directors to govern the newly formed Farm Credit System Capital Corporation. The House amendment provided that there be representation on the board from farm credit districts that contribute financial assistance to the Capital Corporation. In our view, net contributing farm credit districts, those which contribute more funds to the Capital Corporation than they receive, should be assured of representation on the board. We would like to reiterate our support for the House position on this issue.

Providing board representation to contributing districts is critical to the success of this legislation. We hope that the Senate will give close consideration to the concerns expressed by the House of Representatives in this regard.

Thanking you for your concern, we remain

Sincerely,

E. (KIKA) DE LA GARZA,
Chairman.
CHARLES W. STENHOLM,
Member of Congress.

Mr. BENTSEN. However, Mr. President, to make the compromise workable it is necessary to define "contributing" in such a way that the healthy districts would be represented on the Board. It is only fair that those who are going to pay most of the assessments should have a voice on the Board. If this were being done in the private sector those districts making the largest financial contributions would control the entire board. Those are also the districts that are not having problems and that are not pulling down the Farm Credit System.

This afternoon we tried and failed to reach a compromise on this definition. The amendment which I have would take care of those concerns.

I saw the effective effects of the majority leader and the chairman of the Senate Agriculture Committee when this bill passed the Senate on December 3. I saw all amendments tabled that were not accepted by the leadership. I believe that they can do that again, and I will not waste the Senate's time with a losing amendment.

I understand that language has been included in the proposed leadership amendment which will address somewhat the concerns which Texas and other healthy districts have. I appreciate that gesture.

However, this language is not adequate by itself to ensure that those who pay the most will have an adequate voice on the board of the Capital Corporation. Such arrangements can be made informally within the Farm Credit System itself, and I would hope that such arrangements would be made. They would do much to restore peace and harmony to the System.

The amendment which I had worked on would not just take care of a concern of Texas, Springfield, and other contributing districts. The amendment would have guaranteed that the bill would receive expeditious consideration in the House. There are a number of changes in the House bill made by the leadership amendment, and those will have to be reviewed before it can be accepted.

It is my understanding that the leadership is following this unusual procedure to allow the bill to be enacted before Christmas. Many of my colleagues feel strongly that this bill must be passed immediately. I do not share those concerns. But it is obvious the supporters of this bill have the majority of votes necessary for passage.

This bill will provide a lot of regulation and very little actual help. It will effectively eliminate the concept of local control on which the Farm Credit System was founded. It will wind up giving political appointees control of the System. And it will not even guarantee the stockholders who will pay the most for the Capital Corporation a voice in its management. I will vote against its passage; it is bad legislation.

Mr. CRANSTON. Mr. President, I am pleased to support this farm credit legislation.

The Farm Credit System is the Nation's largest farm lender, with about $74 billion in outstanding loans. But today the System is in trouble. Some $9.8 billion worth of loans are listed as nonperforming and in recent months we have seen an increase in System borrowing costs and borrower flight from the System. Serious efforts must be made to ensure that the Farm Credit System remains secure and to bolster public confidence in it so bondholders will be willing to purchase the System's debt at a reasonable price.

As my colleagues know, I did not vote for S. 1884 which passed the Senate on December 3. I was concerned that that bill did not provide sufficient protection for the healthy banks, such as those in the Sacramento district serving my State, from having their resources drained to shore up troubled banks elsewhere in the Nation.

I was also concerned about the effects financing the Capital Corporation would have on interest rates charged at the healthier banks. Moreover, the earlier bill threatened local control which has been the essence of the Farm Credit System. By giving the administration a majority of the appointments to new Capital Corporation, the original legislation severely limited input from local banks, their farmer-borrowers and stockholders. And it gave too much power to the Capital Corporation to draw on the resources of local banks.

The bill before us today is a substantial improvement over the earlier bill and addresses many of my concerns. It includes criteria to ensure that healthy banks do not have their resources drained without limit and it restores some measure of local control, ensuring that the local banks have more input regarding mergers and acquisitions.

Further, by providing that three members of the Capital Corporation board are elected by the Farm Credit System, and only two by the Governor of the Farm Credit Administration, majority control is given to the Farm Credit System, at least until Treasury money is infused into the System.

With these improvements, the legislation now has my support. I urge my colleagues to approve this bill to provide much needed financial assistance to the Farm Credit System.

Mr. QUAYLE. Mr. President, today, the Senate will finish work on and send to the House for final passage a package of legislative reform designed to assist the Farm Credit System in dealing with the difficult financial problems it now faces.

As I stated during debate on this matter on December 3, this legislation is now appropriate both in terms of timing and structure.

While this assistance is predominantly in the form of regulatory changes, it also sets forth a contingency plan for more direct Federal assistance. This approach should return confidence to the System's borrower/stockholders and to the financial markets as well, where instability has resulted in increased costs to the System.

I applaud the Congress' willingness to address this important problem in a gradual and determined way, while at the same time acting to deal with the causes of the System's weaknesses before more serious and permanent erosion of the System's balance sheet could occur.

By setting forth additional regulatory authorities for the Farm Credit Administration, the System's regulator, we help ensure a stronger future for the System itself. In addition, knowing that the current state of our farm economy may demand more direct financial assistance, this legislation authorizes the Secretary of the Treasury to provide assistance when he determines, in cooperation with the Farm Credit Administration and Congress, that it is in fact needed.

Of course, this piece of legislation alone will address only one of the many factors contributing to the financial deterioration of our rural lenders. If a long-term answer to the situation is to be truly effective, it must be coupled with continued efforts to improve the condition of our overall farm economy. This can only be accomplished by a combination of efforts, including export promotion, immediate progress toward a balanced Federal budget, and a more economically sound farm bill.

Again, Mr. President, I support this specific action because it attempts to address a difficult problem in a responsible and gradual way, by encouraging the Farm Credit System to utilize its own resources, by strengthening regulatory oversight powers and finally by providing a blueprint for Federal financial assistance. While this alone may not be enough, it is certainly a foundation, a beginning, if a reluctant one, which will send a firm message to the public that the Congress is not willing to allow the Nation's largest banking system to falter. I encourage my colleagues to vote in support of final passage of this measure.

Mr. BURDICK. Mr. President, I did not support this legislation when it was first considered by the Senate because I found it lacking. At that time, several amendments were offered which would have improved the legislation, but each of them was tabled. The Senate version did not provide direct assistance to farmers. It did not give priority to former landowners to rebuy the land they had lost. It did not provide for local control of the System and centralized the power in Washington.

The House greatly improved on that measure by requiring that three of the five Capital Corporation Board members be elected by farmers, as opposed to the Senate version which had two of the five elected by farmers. Furthermore, the House required that the original owner of an acquired property have first right of refusal when that property is resold. These changes are significant and I now feel comfortable in supporting this legislation.

Above all, this legislation keeps the Farm Credit System afloat and ensures that the System will be operating next spring when our farmers will be putting the crop in the ground. Many of our farmers are at the brink of disaster and this bill will enable the Farm Credit System to save some of our best farmers.

Mr. President, I support this legislation. I am concerned that it is not enough and that we will need to address the farm credit issue again next year, however. I want my colleagues to be prepared for that.

Mr. McCONNELL. Mr. President, I will not kid anybody; I wish this Farm Credit System Conference Report more adequately addressed the acute financial needs facing the Farm Credit System. But given the circumstances and environment under which this legislation is being considered, it is obvious to this Senator that broader changes in this proposal are not possible. I, therefore, plan to support this conference report and urge my colleagues to do so.

The reason for this fast track legislation, I think, is obvious. Unless dramatic action is taken soon to shore up the troubled Farm Credit System, thousands of farmers will drown in a pool of red ink and the taxpayers will be forced to pick up the tab for billions of dollars in losses. This conference report contains some important features which I believe will allow the Farm Credit System to regain its formerly sound financial footing.

Mr. President, I wholeheartedly concur with the distinguished chairman of the Agriculture Committee, Senator HELMS, that the Farm Credit System must use its own reserves before any Federal appropriation can be expected. This measure provides the tools for the System to do that, specifically that earnings from one part of the System can be used by another district within the System. I know that Senators from various States do not want their farm borrowers to be forced to share their earnings with Kentucky Farm Credit System borrowers, but I submit Mr. President, that is the nature of a cooperative venture. All Farm Credit System borrowers have benefited from low interest rates in the good times and I do not think it is unfair for borrowers to share in the not so good times.

I think that another outstanding feature of this proposal is the strengthening of the Farm Credit Administration's oversight powers. For too long, individual PCA's and FLB's have been encouraged to loan money to farmers with little regard for repayment ability. The overriding concern seemed to have been "Do you have enough collateral?" I am not criticizing the loan policies of local Farm Credit System officers, Mr. President, I am just saying that such policies should have undergone a little closer scrutiny. I know first hand that the officers of the Fourth Farm Credit District Bank in Louisville are anxious and willing to entertain closer inspection of lending policies within their district. I view this as positive proof that the System recognizes the need for some internal reforms and I applaud the willingness of the officers of the Fourth Farm Credit System Bank to accept the changes that are inevitable.

Finally, Mr. President, I am pleased that the administration is willing to tacitly recognize the serious financial problems of the Farm Credit System. Though the funding of the Capital Corporation is discretionary, this legislation provides the tools to make the Capital Corporation an important, functioning entity. I hope we never have to use it, but I see the day just on the horizon where the Secretary of the Treasury will announce that he is coming to the Hill to seek an appropriation to fund the Capital Corporation. I am glad, Mr. President, the mechanism is in place if and when we need it.

In conclusion, I support this measure Mr. President. My only hope is that it is not too little, too late.

Mr. McCLURE. Mr. President, I seek clarification by the chairman of one provision in the House passed version of S. 1884. My question pertains to section 201 as it amends section 5.17(a)(2) of the Farm Credit Act. As I understand this portion of the bill, it comes into play when one or more association in a district has rejected a proposed district-wide merger of PCA's or FLBA's in that district. Mr. Chairman, this is an issue of particular and immediate concern to farmers in my State. I have made a good faith effort with concerned PCA and FLBA borrower members in Idaho to work out an equitable arrangement between the new merged Interstate PCA and the Eastern Idaho PCA, which voted not to merge.

In our district there was one PCA that rejected the merger. If enacted, this provision which would prevent the new merged association from overchartering this one association. This is part of an amendment which I cosponsored. My concern now is whether there is anything about the provision that would invalidate the merger which was approved by all the other associations now that the territory of their merged association cannot include the territory of this one association that did not vote to merge.

Mr. HELMS. Mr. President, I thank the distinguished Senator from Idaho for inquiring. We certainly do not intend to invalidate the disclosures upon which the merger votes were based on the actions of the farmer/stockholders who have approved their association's participation in these district-wide mergers. Under this provision, the Farm Credit Administration would be precluded merely from issuing to the merged association, a charter which would include the territory served by those associations which did not approve the merger unless subsequently agreed to by the Board of Directors of such association or associations. It must not be read to also invalidate a merger that was approved by the other associations whose territories comprise the balance of the district.

MR. DOLE. Mr. President, we have completed action on that measure. Is that correct?

THE PRESIDING OFFICER. That is correct.

MR. DOLE. Mr. President, I want to thank my colleagues, the distinguished Senator from North Carolina [Mr. HELMS], and the distinguished Senator from Nebraska [Mr. ZORIN-

SKY]. I also want to thank the staff, the administration, Senator GRASSLEY, Senator BENTSEN, Senator HAWKINS, and there have been a number of Senators involved throughout this process.

My view is that we have taken the first step to assist the rural American farmers and rural America insofar as the Farm Credit System is concerned.

We will follow this up tomorrow by passing the farm bill conference report. That will be the second step. Maybe we have to take another step next year. But at least we are taking steps, and moving in the right direction.

Much of the credit goes to the distinguished chairman of the committee, Senator HELMS, and to the distinguished ranking member, Senator ZORINSKY, to the members of the staff, Frank Naylor, of the Department, and all others who participated in the farm credit debate.

I think the RECORD should reflect that we have acted, that we have taken the House bill, and amended it.

I hope now that we can move on to the farm bill conference tomorrow.

Mr. HELMS. Mr. President, I certainly want to associate myself with the remarks of the distinguished majority leader. However, I have one person to add to the list, and that is the majority leader himself.

He has been most patient, diligent, and he has been extremely helpful. Also I want to pay my respects to Senator ZORINSKY. I have never worked with anyone who is more cooperative, helpful, and understanding in the production of legislation. I want to thank Senator ZORINSKY for that.

Mr. President, I wish I had the words to thank the staff for the enormous amount of work they have done. I do not think Members of the Senate really understand the sacrifice that the staff makes. They have worked all night for the past 3 nights on the farm bill, and the farm credit bill.

They are dedicated young people, and I am very, very proud of them.

I thank the Chair.

Mr. ZORINSKY. Mr. President, I would like to add my comments to those of the chairman of the Senate Agriculture Committee, and in addition to say that it has been a fascinating experience, an educational experience, working with the chairman, his staff, and our staff on the minority side.

I would like to thank very, very much the Democratic leader, Senator BYRD, for his support, his help, and for this continued diligence in helping move the bill forward, and for his ever-present parliamentary recommendations to me on behalf of the minority on this side of the aisle.

He has been exemplary and outstanding. I cannot find enough adjectives to use for Senator BYRD's support of this very emotional issue, and one which was highly controversial.

Also, I would like to thank Senator DOLE, the majority leader, for all of his devotion to this duty. There were many occasions when, if I were a betting person, I would have had to look elsewhere for a farm bill, but with his perseverance and continued dedication to the bill, quite obviously we were able to reach that end of the tunnel. I am pleased that the Senate has completed action on the Farm Credit System bill and is to consider the conference report in the 1985 farm bill tomorrow.

I thank him for his support, and cooperation also.

Also I thank the staffs for their work day in and day out. When we became tired, left, and adjourned the conferences, they were still there to pick up the pieces, and put things back together even though we tore them asunder for the evening.

Mr. BYRD. Mr. President, will the distinguished Senator yield?

Mr. ZORINSKY. I yield.

Mr. BYRD. Mr. President, the distinguished Senator has already used far more adjectives than I know. I am very grateful for his kind words. He is overly charitable toward me.

Mr. ZORINSKY. I thank the minority leader.

I yield the floor.

MESSAGES FROM THE HOUSE

At 2:15 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 1728. An act to authorize the Cherokee Nation of Oklahoma to lease certain lands held in trust for up to 99 years.

The message also announced that the House insists upon its disagreement to the amendments of the Senate to the joint resolution (H.J. Res. 465) making further continuing appropriations for the fiscal year 1986, and for other purposes; it asks a further conference with the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. WHITTEN, Mr. BOLAND, Mr. NATCHER, Mr. SMITH of Iowa, Mr. ADDABBO, Mr. YATES, Mr. OBEY, Mr. ROYBAL, Mr. BEVILL, Mr. CHAPPELL, Mr. LEHMAN of Florida, Mr. DIXON, Mr. FAZIO, Mr. HEFNER, Mr. CONTE, Mr. MCDADE, Mr. MYERS of Indiana, Mr. COUGHLIN, Mr. KEMP, Mr. REGULA, Mr. SMITH of Nebraska, and Mr. SKEEN as managers of the conference on the part of the House.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 3914) to preserve the authority of the Supreme Court Police to provide protective services for Justices and Court personnel.

The message also announced that the House has agreed to the amendments of the Senate numbered 1, 2, 4, 5, 6, 8, 9, and 11 to the bill (H.R. 1890) to provide for an equitable waiver in the compromise and collection of Federal claims; and that it agrees to the amendments of the Senate numbered 3, 7, and 10 to the bill, with amendments, in which it requests the concurrence of the Senate.

The message further announced that the House has passed the following bill and joint resolution, in which it requests the concurrence of the Senate:

H.R. 3363. An act for the relief of Hamilton Jordan; and

H.J. Res. 491. Joint resolution making further continuing appropriations for fiscal year 1986.

ENROLLED BILLS SIGNED

At 5:10 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 1621. An act to amend title 25, United States Code, relating to Indian education programs; and

H.R. 3003. An act to authorize the Secretary of the Interior to convey certain land located in the State of Maryland to the Maryland National Capital Park and Planning Commission.

The enrolled bills were subsequently signed by the President pro tempore [Mr. THURMOND].

MEASURE HELD AT THE DESK

The following bill was held at the desk by unanimous consent pending further disposition:

H.R. 3363. An act for the relief of Hamilton Jordan.

ENROLLED JOINT RESOLUTIONS SIGNED

The Vice President announced that on today, December 17, 1985, he signed the following enrolled joint resolutions, which had previously been signed by the Speaker of the House of Representatives:

S.J. Res. 32. Joint resolution to authorize and request the President to designate September 21, 1986, as "Ethnic American Day";

S.J. Res. 70. Joint resolution to proclaim March 20, 1986, as "National Agriculture Day"; and

S.J. Res. 213. Joint resolution to designate January 19 through January 25, 1986, as "National Jaycee Week."

ENROLLED JOINT RESOLUTIONS PRESENTED

The Secretary of the Senate reported that on today, December 17, 1985, she had presented to the President of the United States the following enrolled joint resolutions:

S.J. Res. 32. Joint resolution to authorize and request the President to designate September 21, 1986, as "Ethnic American Day";

S.J. Res. 70. Joint resolution to proclaim March 20, 1986, as "National Agriculture Day"; and

S.J. Res. 213. Joint resolution to designate January 19 through January 25, 1986, as 'National Jaycee Week."

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. McCLURE, from the Committee on Energy and Natural Resources:

Gerald Ralph Riso, of New York, to be an Assistant Secretary of the Interior;

James R. Richards, of Virginia, to be Inspector General, Department of the Interior; and

C. Dale Duvall, of Washington, to be Commissioner of Reclamation.

(The above nominations were reported from the Committee on Energy and Natural Resources with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. HATCH, from the Committee on Labor and Human Resources:

Sidney Lovett, of Connecticut, to be a Member of the Board of Directors of the U.S. Institute of Peace for a term of 2 years expiring January 19, 1987;

John Norton Moore, of Virginia, to be a Member of the Board of Directors of the U.S. Institute of Peace for a term of 4 years expiring January 19, 1989;

Richard John Neuhaus, of New York, to be a Member of the Board of Directors of the U.S. Institute of Peace for a term of 2 years expiring January 19, 1987;

W. Bruce Weinrod, of the District of Columbia, to be a Member of the Board of Directors of the U.S. Institute of Peace for a term of 2 years expiring January 19, 1987;

Dennis L. Bark, of California, to be a Member of the Board of Directors of the U.S. Institute of Peace for a term of 4 years expiring January 19, 1989;

Evron M. Kirkpatrick, of Maryland, to be a Member of the Board of Directors of the U.S. Institute of Peace for a term of 4 years expiring January 19, 1989;

W. Scott Thompson, of New Hampshire, to be a Member of the Board of Directors of the U.S. Institute of Peace for a term of 4 years expiring January 19, 1989;

Allen Weinstein, of the District of Columbia, to be a Member of the Board of Directors of the U.S. Institute of Peace for a term of 4 years expiring January 19, 1989;

William R. Kintner, of Pennsylvania, to be a Member of the Board of Directors of the U.S. Institute of Peace for a term of 2 years, expiring January 19, 1987.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. PRYOR:

S. 1953. A bill to clarify certain restrictions from a parcel of land in Baxter County, AR; to the Committee on Armed Services.

By Mr. KENNEDY:

S. 1954. A bill to amend title 5, United States Code, to authorize temporary family housing for certain dependents of deceased members of the Armed Forces; and to amend title 37, United States Code, to authorize temporary payment of a basic allowance for quarters for certain dependents of deceased members of the Armed Forces; to the Committee on Armed Services.

By Mr. DODD:

S. 1955. A bill to authorize the importation of lottery materials for use in State lotteries; to the Committee on Finance.

By Mr. THURMOND (for himself, Mr. Dole, Mr. Wilson, Mr. Warner, Mr. Kennedy, Mr. Helms, Mr. McConnell, Mr. Hecht, Mr. Stennis, Mr. Trible, Mr. Leahy, Mr. Bentsen, Mr. Rudman, Mr. Humphrey, Mr. Exon, and Mr. Sasser):

S. 1956. A bill to amend title 5, United States Code, to authorize temporary family housing for certain dependents of deceased members of the Armed Forces; and to amend title 37, United States Code, to authorize temporary payment of an allowance for quarters for certain dependents of deceased members of the uniformed services; ordered held at the desk.

By Mr. MOYNIHAN:

S. 1957. A bill for the relief of Lynne Cleaver and her child, Leigh Alison Cleaver; to the Committee on the Judiciary.

By Mr. DECONCINI:

S. 1958. A bill to prohibit the Department of Defense from obligating or expending any funds for the procurement of certain toilet cover shrouds; to the Committee on Armed Services.

By Mr. CHAFEE:

S. 1959. A bill to clarify the tax treatment of certain mortgage related securities, to authorize the ownership of certain mortgage loans in multiple class arrangements, and for other purposes; to the Committee on Finance.

By Mr. DURENBERGER (for himself and Mr. Danforth):

S. 1960. A bill entitled the "Medical Offer and Recovery Act"; to the Committee on Finance.

By Mr. THURMOND (for himself, Mr. DeConcini, Mr. Andrews, Mr. Burdick, Mr. D'Amato, Mr. Dixon, Mr. Simon, and Mr. Warner) (by request):

S. 1961. A bill to amend title 28 and title 11 of the United States Code to authorize a new U.S. Trustee System by providing for the appointment of U.S. trustees to supervise the administration of bankruptcy cases in judicial districts throughout the United States and for other purposes; to the Committee on the Judiciary.

By Mr. INOUYE:

S. 1962. A bill for the relief of Walter Chang; to the Committee on the Judiciary.

By Mr. DOMENICI (for himself and Mr. Bingaman):

S. 1963. A bill to direct the Secretary of the Interior to convey certain interests in lands in Socorro County, NM, to the New Mexico Institute of Mining and Technology; to the Committee on Energy and Natural Resources.

By Mr. MOYNIHAN:

S. 1964. A bill to extend the revenue sharing program for local governments through fiscal year 1988; to the Committee on Finance.

By Mr. STAFFORD (for himself, Mr. Pell, Mr. Quayle, Mr. Kennedy, Mr. Weicker, Mr. Dodd, Mr. Wallop, Mr. Matsunaga, Mr. Simon, and Mr. Pressler):

S. 1965. A bill to reauthorize and revise the Higher Education Act of 1984, and for other purposes; to the Committee on Labor and Human Resources.

By Mrs. KASSEBAUM (for herself, Mr. Danforth, Mr. Hollings, Mr. Exon, Mr. Ford, Mr. Rockefeller, Mr. Kasten, Mr. Goldwater, Mr. Proxmire, Mr. Metzenbaum, Mr. Abdnor, Mr. Nunn, Mr. Simon, Mr. Burdick, Mr. Lautenberg, and Mr. DeConcini):

S. 1966. A bill to provide for efficient and equitable use of operating rights at congested airports, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. DURENBERGER (for himself and Mr. Baucus):

S. 1967. A bill to amend the Toxic Substances Control Act to protect the environment and human health from adverse effects caused by the release of genetically engineered microorganisms into the environment, to promote the safe use of genetically engineered microorganisms, and for other purposes; to the Committee on Environment and Public Works.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LAUTENBERG (for himself, Mr. Dixon, Mr. Simon, Mr. Bradley, Mr. Kerry, Mr. Dodd, and Mr. Moynihan):

S. Res. 276. Resolution expressing the sense of the Senate regarding the Federal air traffic control system; to the Committee on Commerce, Science, and Transportation.

By Mr. INOUYE:

S. Res. 277. Resolution to refer S. 1962 entitled "A Bill for the Relief of Walter Chang" to the chief judge of the U.S. Claims Court for a report thereon; to the Committee on the Judiciary.

By Mr. BAUCUS (for himself, Mr. Bentsen, Mr. Burdick, Mr. Chafee, Mr. Dodd, Mr. Durenberger, Mr. Hart, Mr. Humphrey, Mr. Kerry, Mr. Mitchell, Mr. Moynihan, Mr. Pell, Mr. Stafford, Mr. Lautenberg, Mr. Bingaman, and Mr. Leahy):

S. Con. Res. 97. Concurrent resolution to request the President to negotiate a North American Treaty on Air Pollution; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KENNEDY:

S. 1954. A bill to amend title 5, United States Code, to authorize temporary family housing for certain dependents of deceased members of the Armed Forces; and to amend title 37, United States Code, to authorize temporary payment of a basic allowance for quarters for certain dependents of deceased members of the armed services.

TEMPORARY MILITARY HOUSING FOR DEPENDENTS OF GANDER, NEWFOUNDLAND CRASH VICTIMS

● Mr. KENNEDY. Mr. President, the recent airline disaster in Gander, Newfoundland, which claimed the lives of 248 American service personnel is a tragedy for the families of those killed and for our country. Our prayers are with the anguished survivors who mourn the loss of their loved ones.

The bill I am introducing will assure that unnecessary financial hardship will not be added to the emotional stress of these families by allowing them to remain temporarily in military quarters without charge. This legislation is urgently needed because existing law requires that a reasonable value be charged for housing civilian employees in the United States. The Office of Management and Budget circular which implements the law allows dependents of deceased service members to remain in Government quarters for up to 60 days and pay either the fair market rental or an amount equivalent to the service members' housing allowance. This policy imposes a financial hardship on the dependents when housing allowances terminate on the death of the military member.

Dependents of military personnel living in the community at the time of the death of the personnel are also faced with financial hardship. In most instances they must continue to make rental or mortgage payments, even though they no longer receive the deceased military member's income.

This legislation will allow dependents of deceased service members to remain in government quarters without charge for 60 days. It will also provide a housing allowance to dependents of deceased military members who are not residing in government housing for a period not to exceed 60 days. This proposal offers dependents an opportunity to find other housing without imposing the additional financial burden and stress of a housing rental or mortgage payment during the period immediately following loss of the military breadwinner.

Any additional cost resulting from the enactment of this proposal will be negligible and will be absorbed in applicable appropriations.

This bill is a small, but significant way to ease the tremendous burdens of the service families who lost loved ones in the Gander crash. I urge my colleagues to adopt this measure quickly.●

By Mr. DODD:

S. 1955. A bill to authorize the importation of lottery materials for use in State lotteries; to the Committee on Finance.

IMPORTATION OF LOTTERY MATERIALS

Mr. DODD. Mr. President, lotteries conducted by State governments are increasingly important source of State revenues. In 1984 22 States and the District of Columbia—including my own State of Connecticut—generated over $8 billion in revenues in this manner. Spurred by shrinking tax bases and shares of Federal funds, several other States have authorized lotteries, although they have not yet commenced operations. Modern computer operations and security techniques ensure avoidance of the scandals that plagued lotteries in the 19th century.

Indeed, the growth in State lotteries is directly attributable to the enactment in 1974 of Public Law No. 93-583, which became 18 U.S.C. 1307. That law created an exception to 18 U.S.C. 1301, which bans the importation or transportation in interstate commerce of equipment, tickets, and other materials for use in a lottery. Under section 1307, the ban on imports does not apply to equipment, tickets, or materials concerning a lottery which is conducted by that State acting under the authority of State law, or which is designed to be used within a foreign country in a lottery which is authorized by the law of that foreign country.

Unfortunately, the drafters of Public Law No. 93-583 did not fully accomplish their intended amendment of Federal law to allow the free operation of State lotteries. The exception to ban on imports of lottery materials in the criminal laws, by oversight was not incorporated in the customs laws. Specifically, section 305 of the Tariff Act of 1930 (19 U.S.C. 1305) enumerates lottery tickets among the immoral articles which it prohibits from importation into the United States. The Customs Service has ruled that the 1974 amendments to the Criminal Code did not extend to title 19; therefore, the import ban remains in effect despite the intent of Congress.

This inadvertent drafting error should be corrected to free the procurement operations of State lotteries from Federal constraint, and to ensure reciprocity in the treatment of U.S. lottery vendors bidding for business in increasingly lucrative foreign markets. The legislation I introduce today is intended to accomplish those goals. It would add a new subsection (b) to 19 U.S.C. 1305 that parallels 18 U.S.C. 1307(b), thus allowing the importation of lottery materials in specifically limited circumstances; like 18 U.S.C. 1307(b), the exception is confined to materials used in authorized State lotteries. The legislation would complete the job Congress intended to accomplish over a decade ago, and benefit the State lotteries in their efforts to operate secure and efficient games. I ask unanimous consent that the text of the bill be printed in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1955

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. STATE-CONDUCTED LOTTERIES.

Section 305 of the Tariff Act of 1930 (19 U.S.C. 1305) is amended by adding at the end thereof the following new subsection:

"(b)(1) This section shall not apply to printed paper that may be used as tickets, advertisements, or other materials concerning a lottery which—

"(A) is conducted by a State under the authority of State law, or

"(B) is designed to be used in a foreign country in a lottery authorized by the law of that foreign country.

"(2) For purposes of this section—

"(A) The term 'State' means a State of the United States, the District of Columbia, the commonwealth of Puerto Rico, or any territory or possession of the United States.

"(B) The term 'foreign country' means any foreign country, empire, dominion, colony, protectorate, or any subdivision thereof.

"(C) The term 'lottery' means the pooling of proceeds derived from the sale of tickets or chances and allotting those proceeds, or parts thereof, by chance to one or more chance takers or ticket purchasers. Such term does not include the placing or accepting of bets or wagers on sporting events or contests.".

SEC. 2. EFFECTIVE DATE.

The amendment made by this Act shall take effect on the date that is 15 days after the date of enactment of this Act.

By Mr. MOYNIHAN:

S. 1957. A bill for the relief of Lynne Cleaver and her child, Leigh Alison Cleaver; to the Committee on the Judiciary.

RELIEF OF LYNNE CLEAVER AND HER CHILD LEIGH ALISON CLEAVER

Mr. MOYNIHAN. Mr. President, I rise to introduce a private bill for the relief of Lynne Cleaver and her child, Leigh Alison Cleaver.

The situation of Mrs. Cleaver, who is an Australian national, and her child is one that commends itself to me as ordinary decency in the treatment of persons at work in this country who have supported themselves and have made themselves invaluable members of the community, but who have also found themselves in the situation where through no fault of their own, they are likely to have their children separated one from the other if they are required to return to Australia.

It is my great hope that the Committee on the Judiciary might expedite the consideration of this matter and that the Immigration and Naturalization Service will, in the meantime, stay its deportation, which would

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serve no useful purpose, and which would jeopardize children in a way that none of us would wish to have happen.

By Mr. DECONCINI:

S. 1958. A bill to prohibit the Department of Defense from obligating or expending any funds for the procurement of certain toilet cover shrouds; to the Committee on Armed Services.

TO CURB ABUSE IN DEFENSE PROCUREMENT SYSTEM

● Mr. DECONCINI. Mr. President, I am introducing legislation today aimed at curbing waste in the Department of Defense procurement system.

Ten months ago the weapons procurement reformers and concerned American taxpayers read about the $640 custom-made toilet seat covers built for Navy planes by the Lockheed Corp. After the ensuing public outcry and swirling controversy the company decided in February to lower the price to $100 each for 54 of the toilet parts. However, hoping to cap the controversy, the company invited 30 small plastics products firms to bid for the next lot of 10 covers. These companies have declined to bid on such a small quantity and Lockheed has thus decided to continue to supply covers to the Navy at their lowest possible price—$544 each. This type of arrogance by defense contractors cannot and should not be tolerated.

My bill, Mr. President, would not permit more than $125 to be obligated or expended by the Department of Defense during fiscal year 1986 for each plastic toilet cover shroud referred to as toilet assembly 941673-101. The $125 figure was arrived at by using the lowest bid offered by a private firm before the quantity was limited to 10.

My staff has spent time researching the cost of "civilian" toilet seats. Local drug stores and plumbing suppliers enumerated prices for fancy oak-stained seats and covers at $23.99; heavily padded, no-tear, and automatic return-to-form cushioned (guaranteed not to indent) at $25; regular generic plastic seats and cover at $7.99; and even your favorite college or professional team logo inscribed for $25 as you lift up the seat.

Many of my esteemed colleagues will consider this legislation frivolous and light-hearted. They might say this is an insignificant and paltry amount of money in comparison to high cost ticket items such as the B-1 bomber, the MX missile, or star wars. When Pentagon programs have a $302 billion military budget for this year—$827 million a day—the potential savings of $419 per toilet cover seems trivial. This amendment seeks to address the underlying problem of over-runs, waste and abuse. The growing publicity about the excesses—the $7,622 coffeemakers, the $439 hammers, and the $544 toilet covers—is symptomatic of this widespread perception of a gluttonous industry. If we allow the military contractors to continue this spectacular run of fraud, waste, and overcharge on spare parts—what hope do we have to keep them honest in their bids on weapons, aircraft and engines?

This bill is not intended to be humorous. My effort to flush this costly and flawed program into the open is a serious attempt to hold contractors to goals and targets and keep the military budget within prudent spending limits. The potential for public furor and condemnation increases dramatically if we cannot control and account for the small items in the procurement process. Contractors must realize we Senators are genuinely serious about controlling gross inefficiency and reckless use of taxpayers' money. Vigorous fact-checking and congressional oversight now will save us millions in future contracts.

Not long ago General Dynamics Corp. was indicted when three of its top officials were charged with defrauding the government on a weapons contract. The indictment alleges that General Dynamics tried to hide the cost overruns on the Division Air Defense antiaircraft gun project known as Divad. This involved shifting $7.5 million in excess costs to two other company accounts that were also funded by the Defense Department. In addition, General Dynamics did not pay any taxes between 1981 and 1984.

My amendment cannot be called ridiculous or outrageous if it intends to discourage waste and inefficiency. Whether it involves $500 or $7.5 million, we have to send a firm and resounding message to companies which overtly attempt to flush taxpayers' money down the drain. There were 72 suspensions and debarments of contractors abusing Government policy and procedure in 1980. This has dramatically proliferated to 402 in 1984 and 457 so far in 1985. This incredible increase can be attributed to better enforcement methods, more available money for defense programs, eroding ethical practices on the part of defense industries, and less concern voiced by the U.S. Congress. We cannot afford to let this continue.

Mr. President, it took Government much too long to uncover the abuse and overruns on spare parts. History cannot repeat itself on costly weapons including cruise missiles, fighter planes and laser systems in star wars. Cost overruns in these systems will eventually bust the budget. American taxpayers need to know that the expenditure of these tax dollars have been rigorously scrutinized. After all, Mr. President, if it costs over $500 to cover a toilet in an airplane, how much will it cost in space?

Mr. President, I ask unanimous consent that an editorial from the Los Angeles Times concerning the potential for abuse in the highly classified "black project areas" of the Pentagon be printed at the end of my statement. These programs are hidden from public view and have grown from $742 million in research and development in 1980 to $5.7 billion in 1985.

Mr. President, I also ask unanimous consent that the bill be printed in the CONGRESSIONAL RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Los Angeles Times, Nov. 17, 1985]

DEFENSE DEPARTMENT ABUSES NEED FOR WEAPONS SECRECY

(By Richard C. Barnard)

Once again, the Defense Department is tip-toeing backward into the tar pits of public condemnation. The Public furor over spare parts pricing will pale by comparison with a second public backlash against defense spending that is likely to arrive soon.

In the coming months, the taxpayers gradually will realize that too many weapons projects and too many billions of dollars are hidden from public view in the rats' maze of highly "black" programs nurtured by the Pentagon. Those digging into their pockets to pay for an ample defense will grow resentful that so much is needlessly kept from them.

A wide range of costly weapons including a fighter plane, a bomber and a variety of cruise missiles are called black projects because they are both highly classified and compartmentalized. Money for the black programs is disguised by tucking it away in a number of public budget lines items. The black funds there are placed in what Pentagon officials call pockets. Few people knowwhere the pockets are or how much is in them.

One black project, the Stealth bomber, is reported to be one of the most costly in the nation's history. Information about black projects is circulated to a comparatively tiny number of government and congressional officials.

Despite their cost and diversity, black projects are exempt from much of the fact-checking and congressional oversight common to billion-dollar weapons developed in plain view.

Major policy and budget decisions are made without benefit of the discussion and debate that are a normal part of decision-making in Washington.

The number and diversity of black projects once were controlled to keep the nation's real secrets secret. Since 1980, however, the Pentagon's use of black stamps has become a bureaucratic cancer. By unofficial count, black projects in 1980 totaled $742 million, or 6% of the Pentagon's $12.4 billion in research and development accounts.

By 1985 that figure had risen almost eightfold to at least $5.7 billion or 17% of the R&D total. That is what can be estimated with a calculator and common sense. Old hands in the Pentagon place the actual R&D figure closer to $9 billion. Procurement dollars push the total even higher.

The likelihood of bureaucratic abuse rises right along with the dollar amounts. "We need secrecy," says an industry official who has run black projects for years, "but a lot of the programs are black because the people involved want to protect themselves. There has to be an end to it."

Cost overruns and system failures are easier to handle far from the spotlight's hot glare. It is simple to begin a new venture—needed or not—under the protective cover of a black stamp. Eventually, the security officer's power becomes a convenience.

When appropriate, secrecy is synonymous with defense. Surveilliance and intelligence programs should be kept far from prying eyes. That is vital. But is it necessary that all aspects of the $47 billion Stealth bomber project be black? American taxpayer have never been asked. The Pentagon should release the budget, in general terms, and protect the technology.

Only months ago, senior Air Force officials rejected an internal plan to declassify much of the bomber project. With the exception of engine design and mounting, there is little about the Air Force Joint Tactical Missile that need by highly classifed.

It is only a matter of time before the public gets a peek inside the rats' maze and is repelled by what is there. A huge systems failure? Another crash of a black plane? A billion dollars squandered? What will be the equivalent of the infamous $650 hammer within the black system? It certainly is there somewhere. And it will be used for the same purpose as was the scandal over spare parts pricing: to damage public faith in the Pentagon and in the defense industry.

There are even larger reasons why the number and cost of black projects must be reduced. Our is an open society. We remain a free people partly because of our adversarial system of government. We normally choose the marketplace of ideas over the government censor.

There is a need for secrecy. But the Defense Department is abusing its broad authority for short-term gains.

Government and industry awakened far too late to the political implications of the horror stories about spare parts. Let us hope that sad performance is not repeated.

S. 1958

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding any other provision of law, no funds appropriated to or for the use of the Department of Defense may be obligated or expended for the procurement of any plastic toilet cover shrouds, identified as toilet assembly number 941673-101, at a unit cost in excess of $125.●

By Mr. CHAFEE:

S. 1959. A bill to clarify the tax treatment of certain mortgage related securities, to authorize the ownership of certain mortgage loans in multiple class arrangements, and for other purposes; to the Committee on Finance.

SECONDARY MARKET TAX AMENDMENTS

● Mr. CHAFEE. Mr. President, I am today introducing the Secondary Market Tax Amendments of 1986 [SECTA]. This bill is designed to clarify and modernize the tax treatment of the instruments issued in the growing secondary mortgage market. Currently, securities in this market are issued and traded under a set of anachronistic tax rules that are causing inefficiencies in the market and creating confusion for investors as to the proper tax treatment of earnings on these securities.

The legislation is expected to reduce mortgage interest costs for homeowners by facilitating investments in mortgages, and to provide greater flexibility, higher yields, and reduced transaction costs to financial institutions seeking to liquidate portions of their portfolio of seasoned mortgages. The legislation is intended to be revenue neutral. Indeed, I hope there may be some revenue gains from improved taxpayer compliance.

In 1983 about $200 billion in home mortgage loans were originated by thrift institutions, mortgage bankers, commercial banks, and other lenders. Although most of these loans were made to be held in the portfolio of the original lender, more than a third of the loans—about $70 billion—were sold to investors in the form of securities backed by mortgage loans. An additional $15 billion of seasoned mortgage loans, originated some years earlier and initially held in the lender's portfolio, were also sold to investors in the form of mortgage backed securities. The market in which these mortgage loans are pooled, turned into securities, and sold to investors is known as the secondary mortgage market.

The existence of an efficient secondary market for both new loans and older seasoned mortgage loans is of critical importance to mortgage lenders of all types. And, since the secondary market can help lower mortgage interest rates for the consumer, improvements in the efficiency of the secondary market can also spur greater home construction and home ownership.

The secondary mortgage market is not only of concern to the housing sector. It is a large and important part of the financial and credit markets. By the end of 1984 the total amount of outstanding publicly issued mortgage backed securities was about $300 billion. In comparison, outstanding publicly issued corporate securities totaled slightly over $400 billion.

Despite its importance to the housing industry, and its significant size in relation to the rest of the credit markets, the secondary mortgage operates under a set of tax rules that are at best ambiguous and uncertain, and at worst simply ill-suited to the unique characteristics of the market. In almost all cases, the inadequacy of these rules does not result from an intentional decision to tax mortgage-backed securities in a particular way to serve some competing policy goal. Rather, the inadequacy results from the rapid growth of the secondary market in the last 15 years, and the concomitant failure to focus on the problems arising from applying existing rules to these transactions.

A fundamental feature of any successful mortgage-backed security is the imposition of tax liability arising from mortgage payments on the investors in the security, rather than the issuer of the security. Under current law this can be accomplished in two ways. The most common way is to use a so-called pass-through investment vehicle, in which the mortgages are legally owned by the trustee of a grantor trust, and beneficially owned by the investors. Cash payments on the underlying mortgages, as well as all tax consequences of the ownership of such mortgages are passed through to the investors as beneficiaries of the trust. The second way is to create a taxable entity that issues bonds—backed by mortgage loans—called collateralized mortgage obligations [CMO's]. In this situation, the bond issuer recognizes income arising from ownership of the mortgages and deducts interest on the obligation issued to the bondholders, who in turn report the interest as income on their tax returns.

Unfortunately, the tax rules governing both of these investment vehicles were not designed with mortgage-backed securities in mind. The grantor trust rules were written principally to deal with family trusts, and the rules governing corporate obligations were written with traditional corporate securities in mind.

Current law permits investors to acquire direct interests in a pool of mortgage loans by acquiring ownership interests in a grantor trust. Under the grantor trust rules, the trust is not treated as a taxable entity. The trust investors, who as beneficiaries are entitled to receive all net income from the trust assets, are instead required to pay taxes on their allocable portion of the trust's income. This method of taxation is commonly referred to as pass-through treatment. It is similar to the treatment afforded to partnerships and S corporations.

Under longstanding principles of case law and Treasury regulations, an investment trust qualifying for pass-through treatment must provide terms of investment that are essentially fixed when the trust is created. Thus, mortgages generally cannot be bought and sold or replaced with other investments without losing the benefits of pass-through treatment. If a trust provides for such powers of active investment management it will be characterized as an association taxable as a corporation. The imposition of a separate corporate income tax on the income of the trust, in addition to the shareholder level income taxes would more than offset the financial advantages of pooling mortgages into an investment vehicle.

Under proposed Treasury regulations, pass-through treatment is denied to certain trusts with a fixed portfolio of investments where the trust provides for multiple classes of beneficial ownership. Under the proposed regulations, such trusts are entitled to pass-through treatment only if the different classes of ownership represent ownership in specifically identified stripped coupons or stripped bonds that are subject to the rules of code section 1286. The regulations deny pass-through treatment of so-called fast-pay/slow-pay trusts that entitle different classes to receive different payments of interest and principal that are not specifically identified, but identified by reference to the timing of the receipt of cash payments by the trust—that is, the cash-flows at the trust level).

Despite the fact that CMO's and pass-through trust arrangements are similar, there are a number of advantages to the trust format. In the trust format, the thrift institution, mortgage banker, commercial bank, or other institution sells the mortgages to the trust. In the CMO format, the institution retains ownership of the mortgages and issues bonds secured by the mortgages.

The advantages of selling mortgages to a trust include the following:

First, selling mortgages, instead of issuing debt backed by mortgages, means that added debt does not need to be carried on an institutions's balance sheet. Balance sheet concerns now effectively preclude many mortgage bankers, thrifts, and other financial institutions from participating in the CMO market to any significant extent.

Second, in a CMO issue that is classified as debt for tax purposes, the issuer may be required to retain an equity interest in the mortgages. In other words, the issuer cannot fully borrow against the value of the mortgages, and must retain a residual interest in the mortgages. With less cash received up front, the CMO is less useful as a financial liquidity device for thrifts seeking to restructure their portfolios. This equity requirement also imposes additional legal, accounting and capital costs on the issuer. In part, this is attributable to the fact that current law is unclear as to whether any equity at all is required. These transaction costs may reduce the financial advantages of the CMO.

Third, investments in CMO's, as opposed to investments in a grantor trust containing mortgages, do not technically qualify as mortgage investments. This is of concern to thrifts and other entities that are required by various tax rules to invest in mortgages.

Fourth, the technical tax rules for CMO's are uncertain and may impose taxes on an issuer despite the fact that it has not truly received any economic gain. This phantom income problem of income without gain can be quite serious where the collateral is seasoned mortgages that bear less than current market interest rates.

The bill I am introducing today is based on the technical recommendations of a group of distinguished tax practitioners and financial experts who have been meeting to study the tax problems of the secondary mortgage market transactions for almost a year now. Their efforts to suggest helpful legislative changes in this area will be the first step in a legislative process that I am sure will involve further refinements of this proposal. I welcome the comments and suggestions of the Treasury Department and other interested parties in the private sector, such as the tax bar and mortgage finance experts. In that regard, Mr. President, I also wish to announce that as chairman of the Senate Finance Subcommittee on Taxation and Debt Management I intend to schedule a hearing early next year on the provisions of this bill, and other possible approaches to the tax issues facing the secondary mortgage market.

The legislation has four major provisions:

First, the bill permits CMO-like investment arrangements to be structured as ownership interests in a passive, multiple class entity—referred to as a collateralized mortgage security or CMS—with strict rules designed to ensure that the amount, timing, and character of income realized by the investors is not reduced, slowed down or otherwise modified so as to be adverse to the revenues of the Treasury.

Second, the bill clarifies the precise method of computing original issue discount on CMS's, in a manner that reduces inappropriate phantom income taxable to issuers.

Third, the bill provides that investments in the newly authorized CMS are treated as investments in mortgages under the Tax Code. This would enable thrift institutions and real estate investment trusts to invest in the new instrument and retain the tax advantages of investing in mortgages.

Fourth, the bill provides for expanded information reporting on mortgage related securities.

The tax rules and principle which the bill applies to mortgage backed securities were written with residential mortgages in mind, principally because that is the area where there is the greatest volume of secondary market transactions and thus the greatest need for clarification of the Tax Code. Residential mortgages are generally obligations of individuals, and generally self-amortizing loans. This contrasts with the traditional bonds and debentures traded in the capital markets, which tend to be corporate obligations with balloon payments of principal.

The focus of the bill is on mortgages for another reason. There is much more data, and better understanding, of how mortgages and mortgage backed securities behave than there is of other asset-based securities. However, it is my understanding and expectation that as this bill is considered, one of the issues that will arise is whether the bill's proposed tax rules should be extended to other types of asset-based securities, such as car loans or consumer credit loans.

It is my expectation that if the Congress concludes that these rules make sense for mortgage backed securities, and we come to more fully understand how they would apply to other asset-based securities, then it may be sensible to extend these rules to a broader category of asset-based securities. I welcome the support and comments of my colleagues in trying to establish clearer tax rules which could eventually apply to many types of asset-based securities.

Finally, there is one important point I would like to make about the scope of this bill. The major impetus for this legislation, in my view, is the need to clarify and rationalize the tax rules governing a large and important segment of the capital markets, the secondary mortgage market. There is an existing industry with existing financing mechanisms that are in need of sensible and neutral tax rules, that reflect the true economic substance of the transactions involved. This bill is strictly a tax bill that does not address any credit policy issues, or differentiate among different types of securities on the basis of any credit policy concerns, and consequently debate on the bill should be confined to tax policy issues.

At this point, Mr. President, I would ask unanimous consent to include in the RECORD the text of the bill and a technical explanation of the bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1959

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as "The Secondary Market Tax Amendments of 1986."

SEC. 2. AMENDMENTS TO ORIGINAL ISSUE DISCOUNT RULES.

Section 1272(a) of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new paragraphs:

"(7) If the schedule of amounts payable on any debt instrument is subject to acceleration under a formula based principally on the extent of prepayments of qualified obligations owned by the issuer, then

"(A) the increase described in paragraph (3) shall be determined under paragraph (8), and

"(B) the issuer may elect, subject to such conditions as may be prescribed by the Secretary, to apply this section using a regular accrual period shorter than that required by paragraph (5).

For purposes of this paragraph, a qualified obligation includes any obligation or interest described in section 1290(e) (1) or (2) (without regard to any requirement of assignment to an issue).

"(8) In the case of an instrument to which this paragraph applies, the increase described in paragraph (3) for an accrual period shall be the excess (if any) of—

"(A) the sum of—

"(i) any payments during the accrual period of amounts included in the stated redemption price at maturity of the instrument, and

"(ii) the present value of the debt instrument at the beginning of the following accrual period, determined using as the discount rate the original yield to maturity of the debt instrument (within the meaning of paragraph (3)), over

"(B) the adjusted issue price of the instrument at the beginning of the accrual period.

In the case of any debt instrument to which this paragraph applies, no prepayments on qualified obligations (other than those guaranteed to occur) shall be anticipated in determining the instrument's original yield to maturity under this section, or in determining the instrument's present value under this paragraph."

SEC. 3. MULTIPLE CLASS INTERESTS IN CERTAIN DEBT INSTRUMENTS.

Part V of Subchapter P of Chapter 1 of the Internal Revenue Code of 1954 (relating to special rules for bonds and other debt instruments) is amended by adding at the end thereof the following new Subpart:

"Subpart E. Multiple Class Interests in Certain Debt Instruments.

"Sec. 1290. Definitions.
"Sec. 1291. Consequences of Transferring Assets to Issue.
"Sec. 1292. Taxation of Holders Generally.
"Sec. 1293. Basis Rules and Transfers of Interests.
"Sec. 1294. Outside Discount and Premium.
"Sec. 1295. Special Rules.

"SEC. 1290. DEFINITIONS.

"For purposes of this subpart—

"(a) An 'issue' of collateralized mortgage securities is an arrangement for the division of interests in a portfolio of qualified obligations and permitted investments into one or more classes of interests.

"(b) An 'issuer' is a corporation, partnership, trust, or association availed of to hold one or more portfolios of qualified obligations and permissible investments in one of more issues.

"(c) A 'regular interest' is a registered transferable interest in an issue whose terms are fixed on the first day of the first taxable year of the issue, and which—

"(1) unconditionally entitles the holder to receive specified principal payments or other similar amounts the timing (but not the amount) of which may be contingent upon the extent of prepayments on qualified obligations and the amount of income from permitted investments;

"(2) may provide for interest or similar amounts to be paid or accrued on the outstanding balance of the payments described in the preceding paragraph.

"(d) A 'residual interest' is a registered transferable interest in an issue whose terms are fixed on the first day of the first taxable year of the issue and which entitles the holder only to receive one or more payments the amount and timing of which are wholly contingent upon—

"(1) the extent of prepayments on qualified obligations;

"(2) the extent of income from permitted investments; or

"(3) contingent payments on qualified obligations.

"(e) A 'qualified obligation' includes—

"(1) Any obligation (including any participation or certificate or beneficial ownership therein) that—

"(A) is transferred to the issue on the first day of the first taxable year of the issue, and

"(B) is principally secured, directly or indirectly, by an interest in real property;

"(2) Any interest (including any participation or certificate of beneficial ownership therein) in an issue of collateralized mortgage securities that is transferred to the issue on the first day of the first taxable year of the issue;

"(3) Any interest or obligation substituted for a defective interest or obligation described in paragraph (1) within 2 years of the first day of the first taxable year of the issue;

"(4) Any guaranteed investment contract.

"(5) Any property acquired in connection with the default or imminent default of a qualified obligation described in paragraph (1), (2), (3) or (4).

"(f) A 'permitted investment' includes any cash, cash items, government securities (within the meaning of section 856(c)(5)) or other money market debt instruments that are transferred to the issue on the first day of the first taxable year of the issue or subsequently acquired out of the proceeds of such investments or qualified obligations pursuant to—

"(1) the establishment or maintenance of reasonable reserves incidental to the holding of qualified obligations, or

"(2) the temporary reinvestment of portfolio cash flows.

"(g) A 'holder' is an owner of one or more interests of an issue.

"SEC. 1291. CONSEQUENCES OF TRANSFERRING ASSETS TO ISSUE.

"(a) Holders, Not Issuer or Issue, Subject to Tax.—

"(1) Except as otherwise provided in section 1295(a) (relating to penalty taxes) an issuer electing (in the manner prescribed by regulations) to apply the provisions of this section, and any issue subject to such election, shall not be subject to tax imposed by this subtitle on income attributable to the ownership or disposition of qualified obligations or permitted investments of the issue.

"(2) Notwithstanding the form in which interests are issued, the holders (including the issuer to the extent the issuer is also a holder)—

"(A) shall be subject to taxation on such income in the manner prescribed in this subpart, and

"(B) for purposes of this subtitle shall be treated as the owners of undivided interests in the qualified obligations and permitted investments of the issue (in proportion to the adjusted basis of the holder's interest, divided by the aggregate adjusted basis of all outstanding interests of the issue).

"(b) Transfers of Property To Issue.—

"(1) Recognition of gains in general.—Upon the transfer of property to an issue, gain shall be recognized to the transferor to the extent such property is transferred in exchange for money and any other property (other than residual interests).

"(2) Recognition of losses in general.—Upon the transfer of property to an issue, loss shall not be recognized to the transferor to the extent such property is transferred in exchange for money and other property (other than regular and residual interests).

"(3) Allocation of basis of property transferred.—The amount of gain or loss recognized under paragraphs (1) and (2) shall be determined by allocating the basis of the property transferred in proportion to the amount of money and the fair market value of the other property (including interests) received. For purposes of the preceding sentence, if on the first day of the first taxable year of the issue the fair market value of the residual interests in the issue is less than 1 percent of the fair market value of all interests in the issue, the issuer may elect to treat such residual interests as having a fair market value equal to zero.

"(4) Deferred recognition of gains and losses.—Any gain (or loss) not recognized to the holder of an interest pursuant to paragraph (1) (or paragraph (2)) shall be treated as outside discount (or outside premium) subject to section 1294.

"(5) Deferred recognition of gains.—The Secretary may prescribe regulations providing for the deferred recognition of gain in a transfer subject to paragraph (1), to the extent the interests received and owned by the transferor are in the aggregate substantially similar to the property transferred.

"(6) Adjusted basis of interests.—The adjusted basis of an interest received in a transfer described in paragraphs (1) or (2) shall be equal to the amount of money and the fair market value of property transferred in exchange for the interest (determined as of the first day of the first taxable year of the issue).

"(c) Recovery of Expenses of Issue.—

"(1) General rule.—Expenses paid or incurred by any holder, or the withholding of any expenses from amounts otherwise payable to any holder (other than deductions allowable to the beneficial owner of qualified obligations pursuant to the provision's of section 671) shall not be taken into account in determining the holder's income under section 1292 or section 1294. Such expenses shall be recovered in the manner prescribed by this subsection.

"(2) Operating expenses.—Expenses paid or incurred by the issuer, any holder, or any other taxpayer in connection with the operation of the issue (whether or not such expenses are subject to being withheld from amounts otherwise payable to the taxpayer as a holder) shall be recovered as if the issue were a debt instrument issued by the taxpayer responsible for such expenses.

"(3) Issuance expenses.—Expenses paid or incurred by the issuer (whether or not such expenses are subject to being withheld from amounts otherwise payable to the issuer as a holder) in connection with the creation of an issue shall be allocated among the interests sold or exchanged and the interests retained by the issuer in proportion to their respective fair market values. Expenses in connection with the sale or exchange of interests shall be allocated to the interests sold or exchanged and shall be recovered as selling expenses. Any expenses allocated under this paragraph to interests retained shall be recovered as if such expenses were outside premium (within the meaning of section 1294).

"SEC. 1292. TAXATION OF HOLDERS.

"(a) Regular Interests.—The holder of a regular interest shall include as ordinary interest income—

"(1) the amount of income (including original issue discount) which would be includible by an accrual basis holder if such interest were a debt instrument to which section 1272(a) applied (determined without regard to section 1272(a)(6)), and

"(2) the sum of the daily portions of additional issue income allocable to the interest under subsection (c) for each day during the taxable year on which such holder holds such interest.

For purposes of this subsection, in determining the amount of original issue discount described in paragraph (1) for any accrual period, an interest shall be considered to have an adjusted issue price at the beginning of the accrual period equal to its adjusted basis at the beginning of the period.

"(b) Residual Interests.—

"(1) In general.—The holder of a residual interest shall include as ordinary interest income the sum of the daily portions of residual income determined under paragraph (2), and the daily portions of additional issue income allocated to the interest under subsection (c) for each day during the taxable year on which such holder holds such interest.

"(2) Residual income.—For purposes of paragraph (1) the daily portion of residual income shall be determined by allocating to each day in the accrual period its ratable portion of amounts paid or credited with respect to the interest for the period, reduced (but not below zero) by its basis recovery amount.

"(3) Basis recovery amount.—The basis recovery amount of an interest for an accrual period is the sum of—

"(A) the unused basis recovery amount carried forward from the preceding accrual period, and

"(B) the allocable portion of the adjusted basis of the interest on its issuance date, determined by allocating such basis ratably over its estimated duration (determined as of its issuance date).

"(4) Unused basis recovery amount.—The unused basis recovery amount for an accrual period is the excess of

"(A) basis recovery amount for such period over,

"(B) the amounts paid or credited with respect to the interest for the period.

"(c) Additional Issue Income.—

"(1) Determination of amount of additional issue income.—For purposes of this subsection, the additional issue income for an accrual period is the excess of—

"(A) the cumulative amount of taxable income which would have been includible with respect to the issue for the term ending with the end of the accrual period, if the issue were a corporation reporting income on the accrual method with a taxable year beginning on the first day of its first taxable year, over

"(B) the sum of—

"(i) the cumulative amount of income includible under this section (determined without regard to section 1294), for the term ending with the end of the prior accrual period, and

"(ii) the income includible under subsections (a) and (b) (determined without regard to section 1294) for the period.

"(2) Special rules.—For purposes of subparagraph (A) of the preceding paragraph—

"(A) All gains and losses on the sale, exchange, or redemption of qualified obligations and permitted investments shall be treated as giving rise to ordinary income and loss;

"(B) No deductions shall be allowed for any expenses other than expenses allowable to the beneficial owner of a qualified obligation under section 671;

"(C) The basis of property transferred to an issue shall be its fair market value on the first day of the first taxable year of the issue; and

"(D) The Secretary may prescribe such additional exceptions and rules as may be necessary to implement the purposes of this subsection.

"(3) Allocation rules.—

"(A) General rule of allocation.—Additional issue income for an accrual period shall be allocated among all regular interests outstanding at the end of the period in proportion to the amount of original issue discount described in section 1292(a)(1) with respect to such interests for the period.

"(B) Limitation to untaxed discount.—If the application of paragraph (A) would result in the allocation of additional issue income to any interest in excess of its untaxed discount (determined as of the beginning of the accrual period), then additional issue income shall be allocated to such interest only to the extent of such untaxed discount. Any additional issue income not allocated by the application of the preceding sentence shall then be allocated by applying paragraph (A) and this paragraph as if such interest was not outstanding.

"(C) Untaxed discount.—For purposes of this section, the untaxed discount of a regular interest at the beginning of an accrual period is the excess of:

"(1) the original issue discount of such interest determined as if it were a debt instrument to which section 1272(a) applied over,

"(2) the sum of the adjustments to the adjusted basis of such interest under section 1293(a) for all prior accrual periods.

"(D) Allocation to residual holders.—Any additional issue income not allocated to regular interests for an accrual period shall be allocated among all residual interests outstanding at the end of the period, in proportion to the amount of income includible with respect to each such interest for the period under subsection (b).

"SEC. 1293. BASIS RULES AND TRANSFERS OF INTERESTS

"(a) Basis Adjustments.—The adjusted basis of an interest in the hands of any holder shall be equal to its adjusted basis on the first day of the first taxable year of the issue—

"(1) increased by the amount of income includible with respect to the interest under section 1292 (determined without regard to section 1294), and

"(2) decreased (but not below zero) by any amounts distributed with respect to the interest.

"(b) Transfers of Interests.—If a holder transfers an interest in a sale or other disposition, gain or loss shall be recognized to the transferor as if the interest were a debt instrument with a basis in the hands of the transferor equal to the adjusted basis of the interest on the date of the transfer.

"(c) Partial or Complete Worthlessness of Interests.—A holder of an interest shall be entitled to a deduction for losses attributable to the partial or total worthlessness of an interest (but only to the extent such worthlessness is attributable to the partial or total worthlessness of a qualifying obligation or permitted investment of an issue) to the same extent as if the interest were a debt instrument with a basis in the hands of the owner of such instrument equal to the adjusted basis of the interest on the date the loss arises (increased by the amount of any outside premium (or decreased by the amount of any outside discount) not accounted for under section 1294 as of the date the loss arises).

"SEC. 1294. OUTSIDE DISCOUNT AND PREMIUM.

"(a) Definitions.—

"(1) A holder's outside premium is the excess (if any) of the holder's cost for the interest, over the adjusted basis of the interest on the date of acquisition by the holder.

"(2) A holder's outside discount is the excess (if any) of the adjusted basis of the interest on the date of acquisition by the holder over the holder's cost for the interest.

"(b) Regular Interests.—

"(1) Recovery of outside premium in general.—Outside premium with respect to a holder's regular interest that does not exceed the untaxed discount of the interest on the date of acquisition by the holder shall be recovered as a deduction amortized in proportion to the inclusion of amounts treated as original issue discount and additional issue income with respect to the interest. The excess outside premium, if any, shall be recovered as a deduction amortized in proportion to the recovery of principal or similar amounts.

"(2) Inclusion of outside discount in general.—Outside discount with respect to a holder's regular interest shall be includible in income in the same manner as if the interest were an obligation acquired with market discount equal to the holder's outside discount.

"(3) Sales of interests.—Any outside premium not accounted for under paragraph (1) (or outside discount not accounted for under paragraph (2)) before an interest is sold or exchanged in a transaction in which gain or loss is recognized shall be treated as if attributable to an increase (or decrease in the case of outside discount) in the adjusted basis of the interest immediately before such sale or exchange.

"(4) Character of gain or loss, etc.—The character of gain or loss attributable to paragraphs (2) or (3) of this subsection (whether attributable to the holding of an interest or to its retirement or sale or exchange) shall be determined by treating the interest as an obligation of the same type as the qualified obligations and permitted investments comprising the portfolio of the issue. If the portfolio is comprised of assets of different types of issuers, this paragraph shall be applied by allocating such gain or loss among the different types of assets in proportion to their adjusted basis in the hands of the issue (except to the extent the Secretary prescribes a different allocation method). If 85 percent or more of the aggregate adjusted basis of such assets is attributable to one type of asset, all of the assets shall be treated as of that type.

"(c) Residual Interests.—

"(1) Outside premium.—Outside premium with respect to a residual interest shall be recovered by the holder as if a ratable portion of such premium were added to the basis recovery amounts of such interest for the period (if any) beginning with the date of acquisition of the interest and ending with the end of the estimated duration of the interest (within the meaning of section 1292(b)(3)).

"(2) Outside discount.—A holder's outside discount on a residual interest shall be included in income as if a ratable portion of the discount were subtracted from the basis recovery amounts of such interest for the period (if any) beginning with the date of acquisition of the interest and ending with the end of the estimated duration of the interest (within the meaning of section 1292(b)(3)).

"(3) Sales of interests.—Any premium not accounted for under paragraph (1) (or discount not accounted for under paragraph (2)) before an interest is sold or exchanged in a transaction in which gain or loss is recognized shall be treated as if attributable to an increase (or decrease, in the case of discount) in the adjusted basis of such interest immediately before such sale or exchange.

"(4) Character of gain or loss, etc.—The character of gain or loss attributable to paragraphs (2) or (3) of this subsection (whether attributable to the holding of an interest or to its retirement or sale or exchange) shall be determined by treating the interest as an obligation of the same type as the qualified obligations and permitted investments comprising the portfolio of the issue. If the portfolio is comprised of assets of different types, this paragraph shall be applied by allocating such gain or loss among the different types of assets in proportion to their adjusted basis in the hands of the issue (except to the extent the Secretary prescribes a different allocation method). If 85 percent or more of the aggregate adjusted basis of such assets is attributable to one type of asset, all of the assets shall be treated as of that type.

"SEC. 1295. SPECIAL RULES.

"(a) Taxes on Prohibited Transactions.—There is hereby imposed on the issuer a tax of 100% of the net income derived from the following prohibited transactions (determined in a manner similar to that prescribed in section 857(b)(6):

"(1) the sale or other disposition of any qualified obligation transferred to an issue, other than pursuant to—

"(A) the substitution of a defective obligation within 2 years of the first day of the first taxable year of the issue;

"(B) the bankruptcy or insolvency of the issuer or the issue;

"(C) a qualifying complete liquidation described in subsection (b).

"(D) dispositions incident to the foreclosure, default, or imminent default of an obligation;

"(2) the receipt of any income attributable to any assets transferred to an issue other then qualified obligations and permitted investments;

"(3) the receipt of any income from the sale or operation of property described in section 1290(e)(5) more than 1 year after its acquisition by the issue; and

"(4) the receipt or retention by the issue of amounts representing fees or other compensation for services.

"(b) Rules for Complete Liquidations.—

"(1) Requirements for complete liquidation.—If the issuer adopts a plan of complete liquidation and,

"(A) all of the assets of the issue (other than cash) are sold within a 90-day liquidation period ending no later than 90 days after the adoption of the plan, and

"(B) all of the cash proceeds of the liquidation are credited or distributed to holders on the last day of such liquidation period, then the provisions of paragraph (2) of this subsection shall apply.

"(2) Treatment of complete liquidation.—Except as otherwise provided in regulations consistent with the purposes of this subsection, in the case of a complete liquidation to which this paragraph applies—

(A) no gain or loss shall be recognized to the issue for purposes of section 1292(c)(1) on the sale of any qualified obligations during the liquidation period, and

(B) amounts credited or distributed to holders (other than amounts representing interest or similar amounts) shall be treated as amounts received upon the sale or exchange of an interest.

"(c) Procedural Provision.—

"(1) Annual returns.—Every issuer shall file an annual return for each issue providing such information as the Secretary may require for the purpose of carrying out the provisions of this subpart. Each failure to comply with this requirement shall be treated as a failure to comply with this section 1275(c)(2) with respect to a separate issue.

"(2) Tax treatment of issue items.—Under regulations prescribed by the Secretary, provisions similar to those contained in sections 6241, 6242, 6243, 6244, and 6245 shall apply to the issuers and holders of any issue."

"(d) Special Rules Applicable To Residual Interests.—

(1) Any statement in a prospectus subject to the Securities Act of 1933, stating the estimated prepayment rate and estimated reinvestment rate used in determining the estimated lives of interests for purposes of pricing such issue may be relied upon in estimating the duration of a residual interest under section 1292(b), unless such estimated rates are clearly erroneous.

(2) The Secretary may, by regulation, prescribe rules (in place of the provisions of section 1292(b)) applying the principles of section 1286 to—

"(A) residual interests that entitle the holder to payments wholly contingent upon the receipt of contingent payments on qualified obligations (excluding contingencies related to the prepayment of such obligation), and

"(B) residual interests that entitle the holder to receive payments of interest on qualified obligations based on a rate of interest payable on such obligations in excess of the highest coupon rate payable on a substantial portion of interests in the issue."

SEC. 4. TAX COMPLIANCE PROVISIONS.

Section 6049(d) of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new paragraph:

"(7) Multiple class instruments.—

"(A) Interest on collateralized mortgage securities.—For purposes of subsection (a), the term "interest" includes amounts includible as ordinary interest income under section 1292 (determined without regard to sections 1291 and 1294).

"(B) Reporting of corporations, etc.—Except as otherwise provided in regulations, in the case of any interest described in subparagraph (A) of this paragraph, or interest on any obligation to which section 1272(a)(8) applies, subsection (b)(4) of this section shall be applied without regard to subparagraphs (A), (H), (I), (J), and (K).

"(C) Additional information.—Except as otherwise provided in regulations, any return or statement required to be filed or furnished under this section with respect to interest income described in subparagraph (B) of this paragraph shall also provide information setting forth the adjusted basis of the instrument or interest to which the return or statement relates at the beginning of each accrual period with respect to which interest income is required to be reported on such return or statement."

SEC. 5. EFFECTIVE DATES.

(a) The amendments made by section 2 shall apply to debt instruments issued after the date of enactment of this Act.

(b) The amendments made by section 3 shall apply to property transferred to an issue after the date of enactment of this Act.

(c) The amendments made by section 4 shall apply to all debt instruments and issues to which this Act applies.

(d) Any issuer of a debt instrument or issue of collateralized mortgage securities issued after the date of introduction of this bill may elect (subject to such conditions as the Secretary of the Treasury may prescribe by regulations) to apply the provisions of sections 2, 3, and 4, of this Act to such issue.

Technical Explanation of the Secondary Market Tax Amendment of 1986 [SECTA]

OVERVIEW

The bill would clarify the proper method of applying the OID rules of current law to mortgage related debt where the timing of payments by the issuer of the debt obligation is not fixed but is related to the timing of payments received by the issuer on the underlying loans backing the debt obligation.[1]

The bill would also authorize a new multiple class, mortgage related security referred to as a collateralized mortgage security or CMS. For Federal tax purposes, the issuer would be treated as transferring to the security holders beneficial ownership of the underlying loans. Rules would be provided to ensure that security holders are taxed appropriately.[2]

In addition, the bill would require issuers of mortgage related securities to file information returns reporting the security holders' interest income.[3]

The bill is intended to solve a variety of tax problems and anomalies that have arisen in the context of securities backed by mortgage loans. However, the principles underlying the bill's provisions are not industry specific, and could be applied to securities backed by other types of debt instruments similar to mortgages.

1. Clarification of OID Rules

A. Present Law OID Computation

Under present law, the amount of OID required to be accounted for currently is computed under the so-called constant yield method. Under that method, the first step is to compute an obligation's yield assuming that it has a constant yield to maturity.

The OID for the first 6-month accrual period is computed by multiplying the obligation's yield by its initial issue price, and subtracting any amount payable as interest during that period. For the succeeding period, the obligation's new adjusted issue price is computed by adding to its initial issue price the amount of OID previously reported and subtracting any payments of stated redemption price.

The OID for the period is then computed with reference to the new adjusted issue price in the same manner. This method is applied for each succeeding accrual period until the obligation is redeemed.

B. Applying the OID Rules to Mortgage-Backed Debt

In theory, the periodic adjustments to the obligation's issue price should reflect the increase in the obligation's fair market value, as the period within which the discount will be realized is shortened. This mechanism should ensure that there will be no artificial gains or losses on the sale or redemption of an OID obligation prior to maturity.

In the case of mortgage backed debt, prepayments on underlying loans can alter the obligation's payment schedule, rendering the constant yield method less accurate as a method of accounting for interest income and deductions, and as a method of keeping

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Footnotes at the end of article

track of the obligation's adjusted issue price or adjusted prepayments. Without appropriate adjustments for the effect of prepayments, investors and issuers may be overtaxed or undertaxed in comparison to their economic income. In addition, amounts that in economic terms constitute interest may be converted into capital gains.

Several methods have been proposed as possible ways to take into account the effect of prepayments in applying in OID rules. The method adopted by the bill accelerates the recognition of income attributable to the effect of prepayments on the obligation's payment schedule and substantially diminishes or eliminates the possibility of converting ordinary interest income into capital gains. The issuer's interest deductions are accounted for on the same method as the holder's income.

C. Proposal

Instead of computing OID and determining the obligation's new adjusted issue price by reference to the amount of OID previously recognized, the bill would determine the amount of OID to be reported by reference to changes in the obligation's adjusted issue price.[4] The advantage of this method is that adjusted issue price for any period can be determined with greater accuracy simply by determining the present value of the obligation's scheduled payments, as adjusted to take account of the effect of prior prepayments.

Under the bill, the adjusted issue price of a debt obligation at the beginning of any period is the present value of its outstanding scheduled payments after adjusting the payment schedule to take into account prior prepayments, assuming no further prepayments, and discounting at the obligation's yield to maturity.[5] If the yield curve is level, as assumption embodied in the constant yield method, the adjusted issue prices determined in this manner would closely approximate the obligation's fair market value.

Once adjusted issue prices are determined, OID is derived by applying the formula embodied in current law.[6] Under this formula, the OID for a given period is equal to the adjusted issue price at the beginning of the succeeding period, minus the adjusted issue price at the beginning of the given period, plus the amount of stated redemption price paid in the given period.[6] Generally, this amount will be a positive number, in which case it will be the amount of OID deductions allowable to the issuer and the amount of OID income recognized by the holder.

In theory, a negative OID amount produced by this formula would reflect premature accrual of OID in prior periods. Such a negative amount should be reflected in a deduction to the holder and income to the issuer. Since the method prescribed by the bill assumes no prepayments, however, and adjusts for actual prepayments periodically, negative OID amounts should not arise normally. Accordingly, the bill does not provide for negative OID deductions or negative OID income in cases where the application of the formula produces a negative number.

These rules will apply to any instrument subject to the periodic inclusion (OID) rules of Section 1272 of the Internal Revenue Code, whose payment schedule is subject to acceleration under a formula based principally on the extent of prepayments of qualified obligations owned by the issuer.[7] For this purpose, a qualified obligation includes any interest in a collateralized mortgage security, any debt obligation that is principally secured by an interest in real property, and any participation certificate of beneficial ownership in any such interest or obligation.[8] It is intended that a formula based on the extent of prepayments of qualified obligations and the amount of income from temporary reinvestment of cash flows on such obligations would be within the ambit of this provision.

The bill would also permit the issuer to elect to account for OID on such instruments on the basis of any regular accrual period shorter than the 6-month period generally applicable.[9]

No inference is intended, by the adoption of these rules, regarding the appropriate method of applying the OID rules under current law.

2. Authorization of Multiple Class Ownership Arrangements

A. Overview

The bill would authorize a multiple-class, mortgage related security referred to as a collateralized mortgage security or CMS.[10] The issuance of a CMS would be treated for Federal tax purposes as a sale of the loans backing the security. However, the security could be structured either in the form of a sale of assets or as debt for state law purposes. In this way, the bill would ensure that the substance of the transaction would govern its treatment for tax purposes.[11] At the same time, however, holders of mortgages with below-market coupons, for example, could issue the security in the form of debt to accommodate state law, regulatory, and accounting concerns unrelated to the security's classification for Federal tax purposes.

Treating the security's issuance for Federal tax purposes as a sale of assets to the security holders will ensure that all income attributable to the assets backing the security will be taxed to the security holders who in substance own the collateral, with no "phantom income" (i.e., income in the absence of economic gain) recognized at the entity level.[12] In addition, by avoiding any requirement that the issuer retain a minimum amount of "equity" in the loans backing the security (a requirement that may be applicable in the case of similar securities qualifying as debt for tax purposes) transaction costs and uncertainty now associated with multiple class mortgage backed securities will be substantially reduced.

Investors in a CMS will be treated as owners of the underlying collateral.[13] Thus, thrift institutions, Real Estate Investment Trusts, and other entities required by the tax law to invest in mortgage loans could do so by investing in a CMS.

B. Organizational Requirements in General

An issue of collateralized mortgage securities is an arrangement created by the issuer for the division of ownership interests in a pool of mortgages and related investment assets into multiple classes of ownership interests.[14] A CMS issue can be issued by, or have the form of, a corporation, trust, association, or partnership.[15]

Under the bill, the tax rules applicable to an issue apply only to the mortgages and related investment assets that are transferred to the issue and accounted for as part of that issue. Accordingly, the bill generally does not affect the taxation of activities of the issuer that are unrelated to the issue.[16]

For example, a corporation may be engaged in mortgage servicing activities, and may also pool mortgages into an issue and sell interests in that issue. The bill's provisions treating the holders of interests in the issue as the owners of the assets of the issue would not affect the existing rules governing the taxation of the issuer's activities as a mortgage servicer. Thus, in this example, the issuer would be subject to tax on such servicing activities, but not on the investment income of the issue, which is properly taxed to the holders of interests in the issue. If the issuer were also a holder of an interest in the issue, however, it would be subject to tax on that interest in the same manner as any other holder.[17] This result is essentially similar to the treatment of a corporation or other entity engaged in business activities that also pools mortgages into a fixed investment trust, acts as the trustee, and sells interests in the trust to investors.

An issuer creates an issue by transferring assets to the issue and electing to apply the provisions of the bill to the issue.[18] The transfer of assets to an issue is accomplished by an appropriate accounting entry identifying the assets transferred. Assets that may be transferred and held in the issue are limited to "qualified obligations" and "permitted investments".

Qualified obligations in general include mortgage loans, interests in other CMS issues, participations or certificates of beneficial ownership in such loans or interests, guaranteed investment contracts, and assets that are acquired in connection with the default of a qualified obligation or pursuant to a permitted substitution for a defective qualified obligation.[19] Since an issue is a self-liquidating security, the bill generally requires qualified obligations to be transferred to the issue on the first day of the first taxable year of the issue,[20] and generally prohibits the issue from selling or disposing of qualified obligations.[21] Exceptions to these rules are limited to permitted substitutions for defective qualified obligations, the acquisition of property in connection with the default of a qualified obligation, and the complete liquidation of an issue.[22]

Permitted investments include cash and money market debt instruments that are transferred to the issue on the first day of the first taxable year of the issue, or subsequently acquired pursuant to the establishment or maintenance of reserves incident to the holding of qualified obligations, or the temporary reinvestment of cash flows of the issue.[23]

Consistent with these basis rules, gains and losses are generally recognized upon a transfer of property in exchange for interests. In certain circumstances, however, gains and losses are not recognized to the transferor currently, but are accounted for under the bill's rules for "outside discount" and "outside premium". (See discussion below at page 16.)[24]

In order to prevent the accelerated deduction of built-in losses on transferred property that in substance has not been sold, the bill disallows loss recognition to the extent the transferor transfers property to an issue in exchange for any regular or residual interests in that issue.[25]

A similar non-recognition rule applies with respect to gains on property transferred in exchange for residual interests,

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[6] Under current law, the adjusted issue price of an obligation at the beginning of an accrual period is derived by applying the formula:

$$AIP_i + OID_i - SRP_i = AIP_{i+1}$$

In this formula, AIP_i is the adjusted issue price at the beginning of period i, OID_i is the OID accrued in period i, and SRP_i is the amount of any payments of stated redemption price in period i.

Applying the formula to solve for OID produces the formula:

$$OID_i = AIP_{i+1} - AIP_i + SRP_i$$

but not in the case of exchanges for regular interests.[32] This limited non-recognition rule is intended to impose a tax on gain where the transferor has received regular interests (which tend to be marketable securities similar to conventional debt instruments) while avoiding the imposition of an immediate tax on the transferor's retention of residual interests in the issue (which are unlike conventional marketable securities because they are contingent and highly speculative). (See discussion below at page 13.)

To prevent transferors from inappropriately accelerating income (e.g., in order to utilize expiring net operating losses) the Treasury Department is authorized to prescribe regulations deferring gain recognition when a transfer of assets and the retention of interests in an issue is tantamount to the retention of ownership of the transferred assets.[33]

For purposes of determining the amount of gains and losses recognized under these rules, the bill provides for an allocation of the basis of transferred property in proportion to the amount of money and the fair market value of interests and other property received in exchange.[34] For example, if mortgages with a basis of $80 and a value of $100 are transferred in exchange for $20 of cash, regular interests worth $80, residual interests worth $10, and other property worth $10, the $80 basis would be allocated 20 percent to the cash, 60 percent to the regular interests, 10 percent to the residual interests and 10 percent to the other property.[35] To simplify the application of this allocation rule, the bill permits an issuer to elect to treat the residual interests in an issue as having a fair market value of zero, if the value of such interests is less than one percent of the value of all interests in the issue.[36] The effect of this election is to allocate all of the basis of transferred property to the money, regular interests, and other property (other than residual interests) received.

C. Taxation of Holders

1. Generally.—Holders of regular interests are taxed in a manner similar to the taxation of holders of debt instruments subject to the OID rules of current law. Holders of residual interests are taxed under statutory rules designed to accommodate the contingent nature of these interests.

2. Taxation of Regular Interests.—Holders of regular interests are taxed under a hybrid method, based on the rules of current law governing debt instruments. Essentially, holders first determine their income as if their interests were debt obligations, subject to the OID rules where applicable.[37] Thus, the OID rules would be applicable to regular interests issued at a discount regardless of whether the underlying mortgage loans in the issue were themselves subject to the OID rules (for example, seasoned mortgage loans with market discount). For purposes of applying the OID rules to regular interests the "issue price" of the interest is its initial basis (i.e., the amount of money and the fair market value of property initially transferred in exchange for the interest).

In addition, holders would be allocated additional income[38] for any accrual period in which the cumulative amount of income recognized by all holders of regular and residual interests (under the OID rules, the normal rules applicable to paid interest, and the special rules for residual interests) is less than the cumulative amount of income that would have been recognized if the assets of the issue had been held continuously by a single taxable entity.[39]

Additional amounts required to be recognized under this allocation rule would first be allocated among the holders of regular interests in proportion to the amount of OID recognized by each holder in the period to which the additional amount is attributable.[40] However, no amount would be allocated to an interest in excess of the interest's unrealized discount.[41] Any remaining amounts would be allocated to the holders of the residual interests in the issue.[42] Additional amounts recognized under this rule would be credited against income required to be recognized in future periods by adding the amounts recognized in prior periods to an interest's adjusted basis and adjusted issue price.[43]

3. Taxation of Residual Interests.—In practice, there are several basic forms of residual interests. In one form, sometimes referred to as "excess servicing," the stated interest rate on the qualified obligations of the issue exceeds the stated interest rate on some or all of the regular interests in the issue. As long as the qualified obligations are not prepaid, the holder of the residual interest will receive this "excess" interest. It is uncertain, however, to what extent prepayments on the qualified obligations will extinguish the residual holder's right to receive this "excess" interest. In the extreme case, if all of the obligations prepay immediately, this form of residual interest will become worthless.

In another form of residual, sometimes referred to as principal-to-principal overcollateralization, the face amount of the qualified obligations of the issue exceeds the face amount of the regular interests, but the stated interest rate on one or more of the regular interests exceeds the stated interest that will be received on the qualified obligations. To the extent there are prepayments, the residual holder will profit because the amount of principal received exceeds the amount required to retire the regular shares. However, it is uncertain to what extent the absence of prepayments will require this "excess" principal to be used to pay interest on the regular interests. In the extreme case, if there are no prepayments for the life of the security, this form of residual will become worthless.

Another form of residual interest is a payment that depends on reinvestment income on funds received prior to required payments to holders. This residual is similar to excess servicing, except that the amount of reinvestment income can be dependent upon market interest rates and other factors.

Another form of residual interest is a payment that is contingent upon the receipt of contingent payments on a qualified obligation (such as contingent interest, equity kickers, etc.)

In general, amounts paid or accrued on a residual interest are included in income as they are paid or credited to the holder.[44] The basis of a residual interest will be recovered as a deduction against amounts includible in income on a straight line method, over the estimated duration of the residual.[45]

Any gain not recognized to an issuer upon the transfer of assets in exchange for a residual interest will be includible in the issuer's income, in addition to amounts actually paid or credited with respect to the interest, on a straight line method over the estimated duration of the interest.[46]

The bill provides that the estimated duration of a residual interest can be computed on the basis of certain estimates used in pricing an issue subject to securities law registration requirements, unless those estimates are clearly erroneous.[47]

The bill's rules for the taxation of residual interests depart somewhat from the so-called "scientific" method for the taxation of debt instruments, embodied in the OID rules and coupon stripping rules of current law. This departure is appropriate inasmuch as these residual interests depart from the characteristics of the traditional debt instruments for which the OID rules and coupon stripping were designed. Nevertheless, the bill also authorizes the Treasury Department to issue regulations adopting different rules, based on the OID and coupon-stripping rules of existing law, to certain residual interests that may be more appropriately taxed under such rules in certain circumstances.[48] The residual interest subject to this grant of regulatory authority include residuals that entitle the holder to receive contingent payments on underlying obligations,[49] and certain residuals that entitle the holder to receive payments of excess servicing (i.e., interest only on a qualified obligation).[50] Excess servicing residuals are subject to these rules only to the extent they are based on a rate of interest paid on a qualifying obligation that exceeds the highest coupon rate payable on a substantial portion of interests in the issue. For example, if the mortgages in an issue pay 12 percent interest, and regular interests are issued with coupon rates of 8 percent, 10 percent, and 13 percent, an excess servicing residual would not be subject to these regulations. However, if the regular interest were issued with coupon rates of 6 percent, 8 percent, and 10 percent, two percentage points of the excess servicing residual would be within the scope of the regulations.

4. Transfer of Interests.—The sale or exchange of an interest will give rise to gain or loss, generally in the same manner as if the interest were a debt obligation.[51]

The amount of gain or loss on a sale or exchange is determined by reference to the adjusted basis of the interest, which is equal to the initial transferor's cost basis (i.e., the amount of money and the value of property transferred in exchange for the interest) increased by the cumulative amount of income includible with respect to the interest, and decreased by the cumulative amount of distributions with respect to the interest.[52] The adjusted basis computed in this manner carries over, without other adjustments, whenever the interest is sold or exchanged.[53] However, the amounts of gain or loss recognized by a holder are appropriately adjusted for cases where an interest is acquired at a premium or discount relative to its adjusted basis.[54] Similar adjustments are provided to account for an issuer's unrecognized gain or loss.[55] These adjustments are referred to as outside discount and outside premium.

In the case of an interest that becomes partially or completely worthless, the holder is entitled to deduct the resulting loss without selling or exchanging the interest, in the same manner as if the interest were a debt instrument.[56] This rule, however, applies only to partial or complete worthlessness attributable to the partial or complete worthlessness of an underlying obligation, and not to the occurrence or nonoccurrence of contingencies related to prepayments or reinvestment income.

5. Adjustments for Outside Premium and Discount.—Outside premiums and discounts arise in two circumstances: where an inter-

est is purchased at a premium or discount from its adjusted basis (as carried over from previous holders), and where there are unrecognized gains and losses arising from the transfer of property in exchange for interests, in transactions subject to the bill's nonrecognition rules. An unrecognized gain is treated as outside discount, and an unrecognized loss is treated as outside premium. Outside premium and discount are accounted for over time, as in interest is held.

Outside premium in the case of a regular interest first reduces the amount of original issue discount and additional issue income required to be included, in proportion to the inclusion of such amounts in income over the interest's life.[57] Any excess outside premium is then recovered as an ordinary deduction, amortized over the life of the interest in proportion to the recovery of principal or similar amounts.[58] Any outside premium not accounted for by the time an interest is sold or exchanged will be treated as an adjustment to the amount of gain or loss recognized on such a sale.[59]

Outside discount with respect to a regular interest is includible in income, as if it were market discount on a debt instrument, over the life of the interest in proportion to the recovery of principal or similar amounts.[60]

The character of gains attributable to the recovery of outside discount is determined by reference to the type of qualified obligations underlying the issue.[61] (Thus, if the qualified obligations are obligations issued before July 19, 1984, amounts received as a recovery of outside discount upon the sale of an interest would be treated as capital gains). In the case of issues with underlying obligations of different types, an appropriate allocation would be made. However, if 85 percent or more of the obligations are of a single type, all of the obligations will be treated as of that type.[62] For purposes of this provision, the type of obligation includes its issuer's status as a corporation or individual, its issuance date, and any other factors that would be relevant to the character of market discount of an underlying obligation.

With respect to residual interests, outside premium and discount are recovered ratably over the estimated duration of the interest by adding a ratable portion of the amount of premium to be recovered to the amounts allocable to basis recovery for the interest (or subtraction a ratable portion of the amount of discount to be included in income).[63] The rules for amounts of premium or discount not accounted for under these rules by the time an interest is sold or exchanged, and the rules for determining the character of market discount, are the same as those provided for regular interests.[64]

6. Rocovery of expenses of Issue.—In general, the bill provides that expense associated with the operation of an issue are not taken into account in determining the income includible by holders of interests in the issue.[65] (Servicing fees that are withheld from amounts payable as interest on pass-through securities, which are accounted for under current law as deductions, rather than reductions of interest income, are an exception from this rule.) Instead, operating expenses are accounted for separately by the taxpayer responsible for such expenses, who may or may not also be a holder of interests in the issue.[66] This rule applies regardless of whether a taxpayer's liability to bear certain expenses requires that such expenses be withheld from the amount of cash payable to the taxpayer with respect to interests held by the taxpayer. It is intended that operating expenses, including trustee fees, legal fees, and accounting fees, will be deductible when paid or incurred, without requirement that such expenses be amortized over the life of the issue.

The bill provides that issuance and sales expenses allocable to interests that are sold are recovered as selling expenses. Any issuance expenses properly allocable to interests retained by an issuer are treated as outside premium.[67]

7. Prohibited Transactions.—In order to ensure that an issue or an issuer does not engage in activities for which the bill's provisions are not designed, the bill imposes a 100 percent tax on the net income from certain prohibited transaction.[68] These include the sale or disposition of qualified obligations (with certain limited exceptions), the receipt of income from assets not permitted to be held in an issue, and the receipt or retention by the issue of amounts representing fees or other compensation for services.[69]

8. Complete Liquidations.—Rules are provided to permit the sale of an issue's assets, and the distribution of cash to holders of interests, in a qualifying complete liquidation without incurring tax at the issue level. The purpose of these rules is to permit holders to obtain similar treatment in a complete liquidation to that which would obtain if they had sold all of their interests in the issue.

D. Tax Compliance and Administrative Provisions

In the case of mortgage backed bonds and other debt obligations subject to the OID rules of the bill, the bill would repeal certain exemptions from the information reporting rules of current law. In particular, the bill would repeal the exemption for payments to corporations, registered securities and commodities dealers, real estate investment trusts, registered investment companies, and common trust funds (other than organizations exempt from taxation).[70] In addition, additional information relevant to the taxation of multiple class debt instruments would be required to be reported.[71]

In the case of CMSs subject to the bill, similar information reporting requirements would be imposed.[72] In addition, CMS issues would be required to file annual information returns, and would be subject to rules similar to the entity level audit rules applicable to partnerships and S corporations.[73] Finally, it is intended that CMS issues would be subject to the registration requirements of current law.[74]

EFFECTIVE DATES

The bill would generally be effective upon enactment, however, issuers could elect to apply the bill to any obligation or CMS issued after the date the legislation is introduced. Such an election would be binding upon the issuer and the holders.[75]

FOOTNOTES

[1] New Code sections 1272(a)(7), 1272(a)(8).

[2] New Code sections 1290-1295.

[3] New Code section 6049(d)(7).

[4] New Code section 1272(a)(7).

[5] New Code section 1272(a)(8).

[6] New Code section 1272(a)(8).

[7] New Code section 1272(a)(7).

[8] New Code sections 1272(a)(7), 1290(e).

[9] New Code section 1272(a)(7)(B).

[10] New Code sections 1290-1295.

[11] New Code section 1291(a)(2).

[12] New Code section 1291(a)(2).

[13] New Code section 1291(a)(2)(b).

[14] New Code section 1290(a).

[15] New Code section 1290(b).

[16] New Code section 1291(a)(1).

[17] New Code section 1291(a)(2).

[18] New Code section 1291(a)(1).

[19] New Code section 1290(e).

[20] Id.

[21] New Code section 1295(a)(1).

[22] Id.

[23] New Code section 1290(f).

[24-29] * * *

[30] New Code section 1291(b).

[31] New Code section 1291(b)(2).

[32] New Code section 1291(b)(1).

[33] New Code section 1291(b)(5).

[34] New Code section 1291(b)(3).

[35] Id.

[36] Id.

[37] New Code section 1292(a)(1).

[38] New Code section 1292(a)(2).

[39] New Code section 1292(c)(1) and (2).

[40] New Code section 1292(c)(3)(a).

[41] New Code section 1292(c)(3)(b) and (c).

[42] New Code section 1292(c)(3)(d).

[43] New Code section 1293(a)(1).

[44] New Code section 1292(b)

[45] Id.

[46] Id.

[47] New Code section 1295(d)(1).

[48] New Code section 1295(d)(2).

[49] New Code section 1295(d)(2)(a).

[50] New Code section 1295(d)(2)(b).

[51] New Code section 1293(b).

[52] New Code section 1293(a).

[53] New Code section 1293(b).

[54] New Code section 1294.

[55] New Code section 1291(b)(4).

[56] New Code section 1293(c).

[57] New Code section 1294(b)(1).

[58] Id.

[59] New Code section 1294(b)(3).

[60] New Code section 1294(b)(2).

[61] New Code section 1294(b)(4).

[62] Id.

[63] New Code section 1294(c).

[64] New Code section 1294(c)(3) and (4).

[65] New Code section 1291(c)(1).

[66] New Code section 1291(c)(2).

[67] New Code section 1291(c)(3).

[68] New Code section 1295(a).

[69] New Code section 1295(b).

[70] New Code section 6049(d)(7).

[71] New Code section 6049(d)(7)(c).

[72] New Code section 6049(d)(7)(a).

[73] New Code section 1295(c).

[74] New Code section 1290(c) and (d).

[75] Bill section 5.●

By Mr. DURENBERGER (for himself and Mr. Danforth):

S. 1960. A bill entitled the "Medical Offer and Recovery Act"; to the Committee on Finance.

MEDICAL OFFER AND RECOVERY ACT

● Mr. DURENBERGER. Mr. President, today I am introducing the Medical Offer and Recovery Act along with my distinguished colleague, the Senator from Missouri [Mr. Danforth]. I am introducing this bill as a courtesy to my distinguished House colleagues, Representatives Moore and Gephardt. It is a companion bill to H.R. 3084 which would propose to reform this country's medical malpractive system. This measure includes refinements to the proposal which they introduced last year and I am including a summary of the bill after my statement which outlines the provisions and changes from last year's version.

My House colleagues spent considerable time and effort developing this proposal and it is a serious contribution to a much needed national debate. It is the one major measure that provides an alternative to State tort reform, and therefore deserves examination and scrutiny in the Senate along with another important measure, S. 1804, introduced by my distinguished Senate colleague, Orrin Hatch. His proposal is authored by the American Medical Association.

Mr. President, there is no question that the funding of malpractice insurance is reaching a crisis point. I was reading an article in the Mankato Free Press from my own State of Minnesota, about a young woman named Ann McCall, who was looking forward to having the doctor who had delivered her 21 years before also deliver her new baby. Just 2 weeks before the anticipated delivery date, her doctor informed her that he was turning over his obstetric practice to another doctor because he could no longer afford the escalating cost of his malpractice insurance premiums. Zachary McCall was born to Ann and Pat McCall with the assistance of a physician they had known for only 2 weeks.

This story is repeated every day all over this country. And it's happening because there are major problems with the medical malpractice system in the United States.

Malpractice insurance premium costs are skyrocketing, reaching as high as $100,000 a year for some specialty physicians in certain areas of the country. The number of malpractice claims has tripled over the past decade and million dollar settlements happen on a regular basis. The average settlement has grown from $5,000 to over $300,000 in just 6 years.

Growing numbers of claims have resulted in physicians practicing defensive medicine. The AMA estimates that this may cost Americans at least $15 billion a year in extra costs. Still the number of claims against doctors continues to grow, and the public pays for it through high hospital bills, doctor bills, and health insurance premiums.

Higher malpractice insurance costs force doctors and hospitals to raise their charges and pass these costs on to third party payers and consumers. It is also pricing some physicians out of business. The Minnesota Medical Association estimates that 40 family practice doctors have stopped delivering babies and more are expected to drop the obstetric part of their practice. This could create serious problems for residents in rural Minnesota and similar areas around the country who rely on their community doctor for all their medical care.

The litigation of malpractice cases is unwieldy and expensive. It is also time-consuming and inequitable. A few plaintiffs are awarded large recoveries, but only after a long, drawn out litigation process. But the real tragedy is that the expense of litigation discourages many with valid claims from even prosecuting those claims. And international reinsurance companies are threatening to quit reinsuring American malpractice insurance companies. These reinsurers are concerned that damage awards in the United States have gotten too far out of line from premium revenues.

These problems are not new. In the mid-1970's, in response to increased numbers of claims and sizes of settlements, many liability insurance carriers were left out of the market and others had to raise their premiums by as much as 750 percent. The States responded to this by enacting medical malpractice reform legislation. But these reforms have obviously not had much of an effect.

States are now taking even more steps to reform their tort laws. I was in Florida in November and learned about their newly passed law which includes a sliding fee scale for attorneys' contingency fees. States are trying other methods of reform, and the jury is still out on the likely success of these measures. We will watch these changes closely. But it is time to determine whether a Federal role in this area is appropriate.

The crisis may be upon us again. This demands action. We must bring down the cost of malpractice insurance to physicians, insurers, and the public, and at the same time, create a more equitable, efficient system to adjudicate malpractice. At a time when the health care marketplace is becoming more and more cost conscious, we can ill afford this lopsided, ineffective malpractice system that perpetuates an insensitivity to price and unresponsiveness to fairness.

I trust the new year will bring serious debate and resolution of the professional liability crisis. I intend to be at the center of that debate. Mr. President, I ask unanimous consent that the bill and summary of the Medical Offer and Recovery Act be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 1960

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medical Offer and Recovery Act".

SEC. 2. ALTERNATIVE LIABILITY SYSTEM FOR MALPRACTICE

(a) Medicare Amendment.—Part A of title XVIII of the Social Security Act is amended—

(1) by inserting after the heading to part A the following new subpart heading:

"Subpart I—Hospital Insurance Program".

and

(2) by adding at the end the following new subpart:

"Subpart II—Alternative Liability System for Malpractice

"TENDER OF COMPENSATION BENEFITS IN SETTLEMENT OF MALPRACTICE CLAIMS

"Sec. 1821. (a)(1)(A) In the case of a health care provider (as defined in paragraph (4)(D)) which—

"(i) is participating in an assigned claims plan under section 1826 and

"(ii) is potentially liable for a personal injury (as defined in paragraph (4)(A)) to an injured individual,

if the provider provides the individual not later than the date specified in subparagraph (C) with a written tender to pay compensation benefits with respect to such injury in accordance with this subpart, the individual and any other entity shall (except as provided in paragraph (3)) be foreclosed from bringing any civil action described in paragraph (2) against such provider or other entity joined under subsection (b) based on such personal injury.

"(B) If the provider fails to provide an individual with such a written tender on a timely basis with respect to a personal injury, the individual may, during the 90-day period beginning on the date specified in subparagraph (C), serve on the provider a written request for arbitration on the question of the legal liability for the personal injury and the provisions of this section shall apply as though a tender under subparagraph (A) had been made. If the arbitrator determines that the provider was wholly or partly legally liable for the personal injury—

"(i) the amount of the liability of the provider shall be determined as though the provider had made a timely tender under subparagraph (A), and

"(ii) the provider shall be liable for reasonable attorneys fees incurred by the individual who requested the arbitration.

"(C) The date referred to in subparagraphs (A) and (B) is—

"(i) in the case of a personal injury resulting from a stay as an inpatient in an institution, 180 days after the date of the patient's discharge from the institution,

"(ii) in the case of failure to provide informed consent, erroneous diagnosis, or injury to a new born caused by action or inaction before or at the time of birth, 180 days after the date of the filing of a claim against the provider, or

"(iii) in the case of any other personal injury, 180 days after the date of the action or inaction giving rise to the personal injury,

except that such date may be extended for up to an additional 60 days for purposes of subparagraph (A) if the provider and the patient agree in writing to such extension.

"(D) Nothing in this subpart shall be construed as changing any applicable statute of limitations of any State or of the United States.

"(2)(A) Except as provided in subparagraph (B), civil actions referred to in paragraph (1) include any civil action (whether brought in a Federal or State court) which could have been brought against a compensation obligor (as defined in subsection (d)(1)) for recovery of damages relating to personal injury, whether based on (i) negligence or gross negligence, (ii) strict or absolute liability in tort, (iii) breach of express or implied warranty or contract, (iv) failure to discharge a duty to warn or instruct or to obtain consent, or (v) any other theory that is (or may be) a basis for an award of damages for personal injury.

"(B) Civil actions referred to in subparagraph (1) do not include—

"(i) any action to recover for compensation benefits tendered under this subpart, or

"(ii) any action in the nature of a wrongful death action, but only in the case of such an action for losses accruing to survivors after the death of an injured individual and resulting from the death of the individual.

"(3) In no event shall a civil action be foreclosed under paragraph (1) against any entity which intentionally caused or intended to cause injury, except that this paragraph shall not apply with respect to a personal injury unless the injured individual provides the provider making a tender with a notice of election not later than 90 days after the date the tender of compensation benefits was made.

"(4) As used in this subpart:

"(A) The terms 'injury' and 'personal injury' mean sickness or disease or bodily harm arising in the course of the provision of health care services provided pursuant to (or for which payment may be made under) this title, a State plan approved under title XIX, plans under sections 1079 and 1086 of title 10, United States Code (relating to the CHAMPUS program), section 613 of title 38, United States Code (relating to the CHAMPVA program), a health benefits plan pursuant to a contract with the Office of Personnel Management under chapter 89 of title 5, United States Code (relating to the Federal employees health benefits program), title 10 or title 38 of the United States Code (relating to the Department of Defense and the Veterans' Administration), or any other program established under Federal law.

"(B) The term 'injured individual' means an individual suffering injury in the course of health care provided by an individual or entity.

"(C) An entity intentionally causes or attempts to cause a personal injury when the entity acts or fails to act for the purpose of causing injury or with knowledge that injury is substantially certain to follow; but an entity does not intentionally cause or attempt to cause injury merely because the individual's act or failure to act is intentional or is done with the individual's realization only that it creates a grave risk of causing injury without the purpose of causing injury or if the act or omission is for the purpose of averting bodily harm to the individual or another entity.

"(D) The term 'health care provider' means—

"(i) any institution described in subsection (e)(1), (f)(1), (j)(1) of section 1861 which is a Federal institution or meets the requirement of section 1861(e)(7),

"(ii) an agency or organization described in section 1861(o)(1) which meets the requirement of section 1861(o)(4),

"(iii) any health care professional described in section 1861(r), and

"(iv) a rural health clinic (as defined in section 1861(aa)(2)), a comprehensive outpatient rehabilitation facility (as defined in section 1861(cc)(2)), and a hospice program (as defined in section 1861(dd)(2)).

"(E) The term 'entity' includes an individual or person.

"(b)(1)(A) A health care provider which has tendered (or deemed to have tendered) compensation benefits under subsection (a) may, by written notice to the entity, join in the foreclosure provided under subsection (a) any entity which is potentially liable, in whole or in part, for the personal injury and who may benefit from foreclosure of action against the entity under subsection (a). Joinder under this subparagraph may only be by written notice to the entity to be joined and such notice shall not be effective if provided later than the date the provider makes the tender under subsection (a).

"(B) Any entity which would benefit from foreclosure of action against the entity under subsection (a) with respect to a personal injury shall be joined in any tender made (or deemed to have been made) under subsection (a) with respect to that injury if the entity requests such joinder by written notice to the provider making the tender under subsection (a) not later than the date the tender under subsection (a) is made.

"(2) By joinder under this subsection, an entity is deemed to have agreed to pay a share of (A) such compensation benefits and (B) the reasonable costs incurred by the provider in preparing and making such tender and paying compensation benefits. Any disagreement between such entities involved as to any entity's share of the benefits and costs or the amount of such costs shall be submitted to binding arbitration for determination and each entity's share shall be based on the comparative fault of the entities (other than the injured individual) involved.

"(c)(1) Any entity which has tendered (or deemed to have tendered) compensation benefits with respect to an individual under subsection (a) or been joined in the tender under subsection (b) shall be subrogated to any rights of the individual against another entity (other than against another entity joined under subsection (b)) arising from or contributing to the personal injury and shall have a cause of action separate from that of the individual to the extent that (A) elements of damage compensated for by compensation benefits are recoverable and (B) the entity has paid or becomes obligated to pay accrued or future compensation benefits.

"(2) In the case that a foreclosure from liability is effected under subsection (a), no right of subrogation, contribution, or indemnity shall exist against a compensation obligor other than the right of contribution among compensation obligors under subsection (b)(2), nor shall any provision of any contract be enforced that has the effect of limiting or excluding payment under that contract because of the existence or payment of compensation benefits under this subpart.

"(3) The District Courts of the United States shall not have jurisdiction under section 1331 or 1337 of title 28, United States Code, over any civil action arising under this subpart.

"(d) As used in this subpart:

"(1) The term 'compensation obligor'—

"(A) means, with respect to a personal injury, the health care provider that has obligated itself to pay compensation benefits under subsection (a) with respect to that injury, and

"(B) includes—

"(i) any entity that has been joined under subsection (b) with respect to that injury, and

"(ii) any other entity (including an insurance company) which is contractually responsible for payment of the obligations of a compensation obligor under this subpart.

"(2) The term 'initiating compensation obligor' means, with respect to a personal injury, the compensation obligor which (A) first tenders compensation benefits to the injured individual, or (B) agrees to serve as an initiating compensation obligor and has been designated as such by a majority of the compensation obligors for that injury for purposes of this subpart.

"AMOUNT OF, AND ADJUSTMENTS TO, COMPENSATION BENEFITS

"SEC. 1822. (a)(1) The amount of compensation benefits payable with respect to a personal injury is equal to the net economic loss (as defined in subsection (b)(1)) resulting from such injury, plus attorney's fees (as provided under subsection (c)).

"(b) For purposes of this subpart:

"(1) The term 'net economic loss' means—

"(A) economic detriment, consisting only of—

"(i) allowable expense (as defined in paragraph (2)(A)),

"(ii) work loss (as defined in paragraph (2)(B)), and

"(iii) replacement services loss (as defined in paragraph (2)(C)),

whether caused by pain and suffering or physical impairment, but not including noneconomic loss (as defined in paragraph (3)), less collateral benefits (as defined in paragraph (4)).

"(2)(A) The term 'allowable expense' means reasonable expenses incurred for products, services, and accommodations reasonably needed for medical care, training, and other remedial treatment and care of an injured individual, but includes expenses for rehabilitation treatment and occupational training only in accordance with subsection (d).

"(B) The term 'work loss' means 100 percent of the loss of income from work the injured individual would have performed if the individual had not been injured, reduced by any income from substitute work actually performed by the individual or by income the individual would have earned in available appropriate substitute work the individual was capable of performing but unreasonably failed to undertake.

"(C) The term 'replacement services loss' means reasonable expenses incurred in obtaining ordinary and necessary services in lieu of those the injured individual would have performed, not for income but for the benefit of the individual or the individual's family, if the individual had not been injured.

"(3) The term 'noneconomic detriment' means pain, suffering, inconvenience, physical impairment, mental anguish, emotional pain and suffering, punitive or exemplary damages, and all other general (as opposed to special) damages, including loss of earning capacity and loss of any of the following which would have been provided by an injured individual to another: consortium, society, companionship, comfort, protection, marital care, attention, advice, counsel, training, guidance, and education. Such term does not include pecuniary loss caused by pain and suffering or by physical impairment.

"(4) The term 'collateral benefits' means all benefits and advantages received or entitled to be received (regardless of any right any other entity has or is entitled to assert for recoupment through subrogation, trust agreement, lien, or otherwise) by an injured individual or other entity as reimbursement of loss because of personal injury, payable or required to be paid, under—

"(A) the laws of any State or the Federal government (other than through a claim for breach of an obligation or duty), or

"(B) any health or accident insurance, wage or salary continuation plan, or disability income insurance;

except that no benefits payable with respect to an injury under a State plan approved under title XIX shall be considered to be collateral benefits for purposes of this subparagraph.

"(c)(1) Compensation benefits shall include reasonable expenses incurred by the injured individual in collecting such benefits, including a reasonable attorney's fee. Such expenses may be offset from the amount of compensation benefits otherwise provided, if any significant part of a claim for compensation benefits is fraudulent or so excessive as to have no reasonable foundation.

"(2) A compensation obligor defending a claim for compensation benefits shall be allowed a reasonable attorney's fee, in addition to other reasonable expenses incurred, in defending such a claim or part thereof that is fraudulent or so excessive as to have no reasonable foundation. The fee or expenses may be treated as an offset to any compensation benefits due. The compensation obligor may recover from the claimant any part of the fee or expenses not offset or otherwise paid.

"(d)(1) Allowable expenses under subsection (b)(2)(A) include expenses for a procedure or treatment for rehabilitation and rehabilitative occupational training if the procedure, treatment, or training is reasonable and appropriate for the particular case, the expenses are reasonable in relation to the probable rehabilitative effects and the compensation benefits otherwise payable, and it is likely to contribute substantially to rehabiliation, even though it will not enhance the injured individual's earning capacity.

"(2) Allowable expenses shall not include expenses described in paragraph (1) with respect to a procedure or treatment for rehabilitation or a course of rehabilitative occupational training which exceed $2,000 in any 30-day period unless the injured individual has provided the initiating compensation obligor with notice of such procedure, treatment, or course of training before expenses totaling $2,000 with respect to such procedure, treatment, or course of training during such period have been incurred.

"PAYMENT OF COMPENSATION BENEFITS

"SEC. 1823. (a)(1)(A) Compensation benefits shall be paid not later than 30 days after the date there is submitted to the initiating compensation obligor reasonable proof of the fact and amount of net economic loss incurred, except that payment may be made, for expenses incurred over periods not exceeding 31 days, within 15 days after the end of the period. If reasonable proof is supplied as to only a portion of net economic loss, and the portion totals $100 or more, the compensation benefits with respect to that portion shall be paid without regard to the remainder of the net economic loss. An injured individual to whom a tender of compensation benefits has been made under section 1821 shall be entitled to interest, at the annual rate of interest applied to judgments in the State in which the injury occurred, on such benefits not paid on a timely basis.

"(B) If there elapses a period of five years after a claim for payment of net economic loss incurred is last made with respect to a personal injury, the injured individual is no longer entitled to receive compensation benefits with respect to that injury.

"(2) A compensation obligor who rejects in whole or in part a claim for compensation benefits shall give to the claimant prompt written notice of the rejection and the reasons therefor.

"(3) Compensation benefits with respect to allowable expenses may be paid either to the injured individual or to the entity supplying the products, services, or accomodations to the individual.

"(b) In lieu of payment therefor as a part of allowable expenses and with the consent of the injured individual, a health care provider may provide medical or rehabilitative services needed by the injured individual.

"(c)(1) Except as otherwise provided in this subsection, subsection (d)(2), or section 1822(c)(2), compensation benefits shall be paid without deduction or setoff.

"(2) An assignment or an agreement to assign any right to compensation benefits under this subpart for net economic loss accruing in the future is unenforceable except as to benefits for—

"(A) work loss to secure payment of alimony, maintenance, or child support; or

"(B) allowable expenses to the extent the benefits are for the cost of products, services, or accomodations provided or to be provided by the assignee.

"(3)(A) Compensation benefits for allowable expense are exempt from garnishment, attachment, execution, and any other process or claim, except upon a claim of a creditor who has provided products, services, or accommodations to the extent benefits are for allowable expense for those products, services, or accommodation.

"(B) Compensation benefits other than those for allowable expense are exempt from garnishment, attachment, execution, and any other process or claim to the extent that wages or earnings are exempt under any applicable law exempting wages or earnings from process or claims.

"(4)(i) Except as provided in clause (iii), a claim for compensation benefits shall be paid without deduction or offset for collateral benefits, if the collateral benefits have not been paid to the injured individual before the incurring of expenses included in net economic loss.

"(ii) The compensation obligor is entitled to reimbursement from the entity obligated to make the payments or from the entity which actually receives the payments.

"(iii) A compensation obligor may offset amounts it is entitled to recover under clause (ii) against any compensation benefits otherwise due.

"(d)(1) An entity making payment of compensation benefits under this subpart may bring an action against an entity to recover compensation benefits paid because of an intentional misrepresentation of a material fact by that entity upon which the entity relied, except that such an action may not be brought against the injured individual unless the injured individual made or had knowledge of the making of the misrepresentation.

"(2) If such entity secures judgment in an action under paragraph (1), the entity may offset amounts it is entitled to recover under such judgment against any compensation benefits otherwise due.

"REQUIRING DISCLOSURE OF FACTS ABOUT, AND MENTAL AND PHYSICAL EXAMINATION OF, INJURED INDIVIDUALS

"SEC. 1824. (a)(1) Upon request of an injured individual or compensation obligor, information relevant to payment of compensation benefits shall be disclosed as follows:

"(A) The injured individual shall furnish evidence of the individual's earnings, if self-employed.

"(B) An employer of the individual shall furnish a statement of the work record and earnings of an injured individual who is or was an employee of the employer, for the period specified by the injured individual or obligor making the request, which may include a reasonable period before, and the entire period after, the injury.

"(C) The injured individual shall deliver to the compensation obligor upon request a copy of every written report, not otherwise available to the compensation obligor, previously or thereafter made, available to the individual, concerning any medical treatment or examination of the injured individual and the names and addresses of hospitals, physicians, and other entities, examining, diagnosing, treating, or providing accommodations to the individual in regard to the injury or to a relevant past injury, and the injured individual shall authorize the compensation obligor to inspect and copy all relevant records made by such entities.

"(D) A hospital, physician, or other entity examining, diagnosing, testing, or providing accommodations to an injured individual in connection with a condition alleged to be connected with an injury upon which a claim for compensation benefits is based, upon authorization of the injured individual, shall furnish a written report of the history, condition, diagnosis, medical tests, treatment, and dates and cost of treatment of the injured individual in connection with that condition or any previous or other condition which may be relevant to assessing such condition, and permit inspection and copying of all records and reports as to the history, condition, treatment, and dates and cost of treatment.

Any entity (other than the injured individual or a compensation obligor) providing information under this paragraph may charge the entity requesting the information for the reasonable cost of providing it.

"(2) In case of dispute as to the right of an injured individual or compensation obligor to discover information required to be disclosed under this subsection, the individual or obligor may petition a court having jurisdiction over the matter for an order for discovery, including the right to take written or oral depositions. Upon notice to all entities having an interest, the order may be made for good cause shown. It shall specify the time, place, manner, conditions, and scope of the discovery. To protect against oppression, the court may enter an order refusing discovery or specifying conditions of discovery and directing payment of costs and expenses of the proceeding, including reasonable attorney's fees.

"(b)(1) If the mental or physical condition of an injured individual is material and relevant to compensation benefits, a compensation obligor may petition a court having jurisdiction over the matter for an order directing the individual to submit to a mental or physical examination by a physician. Upon notice to the individual to be examined and all entities having an interest, the court may make the order for good cause shown. The order shall specify the time, place, manner, conditions, scope of the examination, and the physician by whom it is to be made.

"(2) If requested by the individual examined, a compensation obligor causing a mental or physical examination to be made shall deliver to the individual examined a copy of the written report of the examining physician, and reports of earlier examinations of the same condition. By requesting and obtaining a report of the examination ordered or by taking the deposition of the physician, the individual examined waives any privilege the individual may have, in relation to the claim for compensation benefits, regarding the testimony of every other person who has examined or may thereafter examine the individual respecting the same condition. This subsection does not preclude discovery of a report of an examining physician, taking a deposition of the physician, or other discovery procedures in accordance with any rule of court or other provision of law. This paragraph applies to examinations made by agreement of the individual examined and a compensation obligor, unless the agreement provides otherwise.

"(3) If any individual refuses to comply with an order entered under this subsection, the court may make any just order as to the refusal, but may not find a individual in contempt for failure to submit to a mental or physical examination

"(c) If a health care provider tenders compensation benefits with respect to an injured individual under this subpart and there is a dispute between the initiating compensation obligor and the injured individual respecting the determination of the amount of the compensation benefits owing, except as otherwise provided under this subpart, the initiating compensation obligor or the individual may apply to a court with appropriate jurisdiction for a declaration as to the amount of the compensation benefits owed.

"LUMP SUM AND INSTALLMENT SETTLEMENTS AND DECLARATIONS OF BENEFITS

"SEC. 1825. (a) An obligation to pay compensation benefits may be discharged initially or at any time thereafter by a settlement or lump sum payment, except that no such discharge shall be made with respect to an injury with a current value of net economic loss exceeding $5,000 unless a court having jurisdiction over the matter determines that the settlement is fair to the injured individual. A settlement agreement may also provide that the compensation obligor shall pay the reasonable cost of appropriate medical treatment or procedures, with reference to a specified condition, to be performed in the future.

"(b)(1) In an action for payment of unpaid compensation benefits, a judgment may be entered for compensation benefits, other than allowable expense, that would accrue after the date of the award. The court may enter a judgment declaring that the compensation obligor is liable for the reasonable cost of appropriate medical treatment or procedures, with reference to a specified condition, to be performed in the future if it is ascertainable or foreseeable that treatment will be required as a result of the injury for which the claim is made.

"(2) A judgment for compensation benefits, other than with respect to allowable expenses, that will accrue thereafter may be entered only for a period as to which the court can reasonably determine future net economic loss.

"(3) If the injured individual notifies the initiating compensation obligor of a proposed specified procedure or treatment for rehabilitation or specified course of rehabiliation occupational training the expenses of which are an allowable expense and the compensation obligor does not promptly agree to such characterization, the injured individual may move the court in an action to adjudicate the individual's claim, or, if no action is pending, bring an action in a court having jurisdiction over the matter for a determination respecting whether or not such expenses are allowable expenses for which compensation benefits are payable. The initiating compensation obligor may move the court in an action to adjudicate the injured individual's claim, or, if no action is pending, bring an action in a court having jurisdiction over the matter for such a determination as to whether or not expenses for such a procedure, treatment, or course or training which an injured individual has undertaken or proposes to undertake are allowable expenses for which compensation benefits are payable. This subsection does not preclude an action by the initiating compensation obligor or the injured individual for declaratory relief under any other applicable law, nor an action by the injured individual to recover compensation benefits.

"(4) If an injured individual unreasonably fails, either directly or through one legally empowered to act on the individual's behalf, to obtain medical care, rehabilitation, rehabilitative occupational training, or other medical treatment which is reasonable and appropriate, the initiating compensation obligor may move the court in an action to adjudicate the injured individual's claim, or, if no action is pending, may bring an action in a court having jurisdiction over the matter for a determination that future benefits will be reduced or terminated so that they equal the benefits that in reasonable probability would have been due if the injured individual had submitted to the procedure, treatment, or training, and for other reasonable order. In determining whether an injured individual has reasonable ground for refusal to undertake the procedure, treatment, or training, the court shall consider all relevant factors, including the risks to the injured individual, the extent of the probable benefit, the place where the procedure, treatment, or training is offered, the extent to which the procedure, treatment, or training is recognized as standard and customary, and whether the restriction of this paragraph because of the individual's refusal would abridge the individual's right to the free exercise of religion.

"(c)(1) A settlement agreement or judgment under this section may be modified as to amounts to be paid in the future upon a finding that a material and substantial change of circumstances has occurred after the date the agreement or judgment was made, or that there is newly discovered evidence concerning the injured individual's physical condition, loss, or rehabilitation, which would not have been known previously or discovered in the exercise of reasonable diligence prior to such agreement or judgment.

"(2) The court may make appropriate orders concerning the safeguarding and disposing of the proceeds of settlement agreements and funds collected under judgments under this section.

"(3) A settlement agreement or judgment for compensation benefits may be set aside if it is found to have been procured by fraud.

"ASSIGNED CLAIMS PLAN

"SEC. 1826. (a) In order to participate in the alternative liability program under this subpart, a health care provider must participate, directly or through an insurance company which has agreed to be the compensation obligor with respect to that provider, in an assigned claims plan which meets the requirements of this section in order to insure the payment of compensation benefits by compensation obligors.

"(b)(1) Entities (including insurance companies) in a State may organize and maintain, subject to approval and regulation by the regulator of insurance therein, an assigned claims plan and adopt rules for its operation (including designation of assignees) consistent with this section.

"(2) If such a plan is not established or maintained in a State, whether organized by such entities or otherwise under State law, the Secretary shall organize and maintain an assigned claims plan for the State meeting the requirements of this section for purposes of this subpart. The Secretary may not establish an assigned claims plan under this paragraph with respect to health care providers located in a State unless the Secretary determines that no plan under paragraph (1) has been established in the State and the Secretary has provided the State with notice providing the State at least six months in which to establish such a plan.

"(3) Each assigned claims plan shall provide for assessment of costs on a fair and equitable basis consistent with this subpart and providing for assignment of claims in accordance with subsection (c). An assigned claims plan may not permit an entity covered under the plan to withdraw from the plan retrospectively.

"(c)(1) An injured individual entitled to compensation benefits from a compensation obligor pursuant to this subpart may obtain them through the assigned claims plan established pursuant to this section if the initiating compensation obligor obligated therefor is financially unable to fulfill its obligation.

"(2) Where an assigned claims plan finds that a compensation obligor which is associated with such plan reasonably is financially unable to pay the compensation benefits it owes, the assigned claims plan shall promptly assign the claims to a member or members of the plan and notify the individual or individuals entitled to receive such benefits of the identity and address of the assignee or assignees. Claims shall be assigned so as to minimize inconvenience to injured individuals. Any such assignee shall have all rights and obligations as if it had lawfully obligated itself to pay such compensation benefits and the plan and assignee may seek payment (including interest) from the compensation obligor or its successor of 120 percent of the costs and expenses incurred in fulfilling the obligor's obligations.

"(d) If an obligation qualifies for assignment under this section, the assigned claims plan or any compensation obligor to whom the claim is assigned is subrogated to all rights of the injured individual against any compensation obligor, its successor in interest or substitute, legally obligated to provide compensation benefits to the injured individual, for compensation benefits provided by the assignee.

"ACTIVITIES TO ENHANCE QUALITY OF CARE

"SEC. 1827. (a)(1) As a condition of participation for an institutional health care provider (as defined in subsection (c)(3)) under this title, if the provider—

"(A) takes an action adversely affecting the clinical privileges of a health care professional (other than a suspension of clinical privileges for a period of 30 days or less), or

"(B) terminates or does not renew a contract with a health care professional,

for reasons relating to the professional incapability (as defined in subsection (c)(7)) of the professional, the provider shall submit a written report detailing the action to the appropriate health care licensing board in the jurisdiction where the provider is located.

"(2)(A) Except as provided in subparagraph (C), no one shall disclose—

"(i) the identity of an entity that provides information to an institutional health care provider (or to a peer review committee) concerning the professional incapability of a health care professional who is or was a member of (or who has applied for membership in) the medical staff of the provider, and

"(ii) the minutes, analyses, findings, deliberations, and reports of a peer review committee.

"(B) Except as provided in subparagraph (C), information described in subparagraph (A) shall not be subject to discovery, and is not admissible into evidence, in any civil, administrative, or criminal proceeding.

"(C) The restrictions of subparagraphs (A)(ii) and (B) shall not apply to the disclosure, upon the request of a health care professional against whom an adverse action is taken by the institutional health care provider, of information relating to that professional, but only if the disclosure is made in a proceeding to determine the lawfulness of the adverse action.

"(b)(1) In the case of a health care professional who is or was a member of (or who has applied for membership in) the medical staff of an institutional health care provider, no one shall be liable to anyone in damages—

"(A) for an institutional health care provider transmitting to a health care licensing board or to another institutional health care provider information respecting the professional, or

"(B) for any entity transmitting to an institutional health care provider (or a peer review committee) information bearing on the professional incapability of the professional,

unless—

"(i) the information transmitted was false, and

"(ii) the entity transmitting the information (I) knew (or had reason to believe) that the information was false, and (II) acted with actual malice in transmitting the information.

"(2) No one shall be liable in damages for any decision (or recommendation of a peer review committee) adversely affecting the clinical privileges of a health care professional or terminating or failing to renew a contract with a health care professional, if the decision (or recommendation) was made in good faith for the purpose of enhancing the quality of care furnished by the provider.

"(c) As used in this section:

"(1) The term 'adversely affecting the clinical privileges' means reducing, restricting, suspending, revoking, denying, or failing to renew clinical privileges.

"(2) The term 'health care licensing board' means, with respect to a health care professional, the governmental board, commission, or other authority (if any) responsible for the licensing of a health care professional of that type.

"(3) The term 'institutional health care provider' means a health care provider described in section 1821(a)(4)(D)(i).

"(4) The term 'medical staff' means the professional staff of an institutional health care provider.

"(5) The term 'peer review activity' means any activity engaged in by an institutional health care provider—

"(A) in determining which health care professionals may have clinical privileges at the provider,

"(B) in determining the scope and conditions of these privileges, or

"(C) in changing or modifying these privileges.

"(6) The term 'peer review committee' means—

"(A) the governing body (or any committee thereof) of an institutional health care provider when conducting a peer review activity, and

"(B) any committee of the medical staff of an institutional health care provider assisting the governing body in a peer review activity under the authority of (and with functions delineated by) the governing body.

"(7) The term 'professional incapability' means professional incompetence, mental or physical impairment, or unprofessional or unethical conduct.

"REQUIRING MALPRACTICE INSURANCE FOR PHYSICIANS TO OBTAIN BENEFITS OF SUBPART

"SEC. 1828. A health care professional described in section 1861(r) may not participate in the alternative liability program under this subpart unless the professional has insurance against professional malpractice (or has a suitable bond or other indemnity against liability for professional malpractice) at least in such amount as the Secretary determines to be appropriate, based on the amounts that are consistent with the insurance or bond maintained by professionals in the community and specialty involved.

"EFFECTIVE DATE AND APPLICATION OF ALTERNATIVE STATE MEDICAL LIABILITY LAW

"SEC. 1829. Notwithstanding any other provision of this subpart, the preceding provisions of this subpart shall not apply to any personal injury occurring—

"(1) before January 1, 1988, or

"(2) in a State which has in effect a law that the Secretary determines is designed to bring about prompt payment for loss in the case of damages relating to sickness, disease, or bodily harm arising from the provision of health care services.".

(b) PREVENTING DUPLICATE PAYMENTS.—The first sentence of section 1862(b)(1) of the Social Security Act (42 U.S.C. 1395y(b)(1)) is amended by inserting before the period at the end the following: "or as compensation benefits under subpart II of part A or under an alternative State liability law meeting the requirements of section 1829(2)".

EXPLANATION OF THE MEDICAL OFFER AND RECOVERY ACT OF 1985 BY CONGRESSMEN W. HENSON MOORE AND RICHARD A. GEPHARDT

RATIONALE

The country again is facing a medical malpractice crisis. Litigation is increasing rapidly. The relationship between physicians and patients has become an adversarial one. Physicians engage in the practice of defensive medicine. They raise their fees to patients to offset increased insurance premiums. In some cases they abandon their practices, making it more difficult for patients to obtain care.

Patients are not being well-served by the current malpractice litigation system. Today's system does not provide a fair, rapid or rational method for compensating victims of medical malpractice. The process requires patients, physicians and hospitals to assume stances diametrically opposed to their best interest. The high cost of malpractice insurance is causing some physicians to abandon their practice, making it more difficult for patients to obtain care.

Today's system for determining and paying compensation for malpractice is unfair and inefficient. A few plaintiffs win large recoveries but only after the long and arduous litigation process, while others equally deserving receive nothing. Most insurance money currently is spent on transactional costs (fees for expert witnesses and lawyers and other costs of litigation) and on payment to a few victims of damages for noneconomic loss (pain and suffering, loss of consortium, etc.)

PROVISIONS OF THE BILL

Model for State Legislation.—The Medical Offer and Recovery Act is designed to serve as model legislation for state legislatures to consider in passing their own mechanism for providing prompt payment of a patient's economic loss. The federal provisions of the Medical Offer and Recovery Act will not apply to states that implement such reforms by January 1, 1988.

Mechanics of Proposal.—1. A health care provider would, within 180 days of an occurrence, have the option of making a commitment to pay the patient's economic loss. Payments from collateral sources such as private health insurance and workers compensation would offset the amount owed by the provider.

2. If the provider makes the commitment to pay the patient's economic loss, a patient's right to sue for malpractice under the conventional tort system would be foreclosed except for cases where the provider intentionally caused the injury or a wrongful death occurred.

3. The *offer must by definition encompass all of the patient's economic loss.* Economic loss includes the cost of continued medical and hospital care, rehabilitation, nursing care, wage loss, the cost of a housekeeper and adapting the patient's house and car, as well as reasonable attorneys' fees in advising the patient. The *payments would occur periodically* as the patient's economic loss accured.

4. The provider making a commitment to pay a patient's economic loss may join to the settlement other third parties (potential defendants) who may be responsible for the injury. Similarly, other third parties may request to be joined. Any disagreement between the joined parties will be settled by binding arbitration.

Patient Protections.—1. The patient's rights to sue for the enforcement of the commitment are protected should the provider default or breach the commitment.

2. If a provider and patient wish to settle for a lump sum payment instead of periodic payments, they may do so by agreement. However, the agreement would be ineffective (if the patient's net economic loss was in excess of $5,000) without court approval and the provider would be responsible for all of the patients net economic loss.

3.[1] Patients are *assured of payment.* The bill requires physicians to carry sufficient malpractice insurance or post bond in order to participate in the program. This protects patients against judgement proof providers.

4.[1] A patient may demand compensation for economic loss without going to court. In the event that a provider does not choose to voluntarily make a commitment for economic loss, a patient who believed he or she had been a victim of malpractice could request that an expeditious arbitration proceeding be conducted. If the arbitrator determined the provider was at fault, the patient would be awarded compensation for economic loss as if the provider had voluntarily made the commitment. A request for arbitration would foreclose the patient's right to sue for noneconomic damages.

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[1] Denotes a new provision added to H.R. 5400 from the 98th Congress.

5.[1] A patient is further protected by provisions to reduce malpractice by preventing incompetent physicians and other health care professionals from practicing. Health care institutions must notify state licensing authorities if they terminate the privileges or take other adverse actions with respect to the privileges of a health care professional. It also provides confidentiality and immunity for those who provide information to a hospital or its medical staff that a member of the staff is incompetent or impaired. Finally, it provides immunity from suit for those who review health care professionals' conduct and those who take disciplinary action against them.

● Mr. DANFORTH. Mr. President, I am pleased to join my colleague on the Senate Finance Committee, Senator DURENBERGER, as a cosponsor of the Medical Offer and Recovery Act. This legislation addresses one of the Nation's critical health care problems—the spiraling cost of medical malpractice insurance.

In my own State of Missouri, malpractice insurance rates for family practice physicians rose by 135 percent this year, and hospital insurance costs increased by more than 150 percent. The problem is particularly severe in obstetrics and gynecology, where skyrocketing malpractice insurance rates are discouraging many rural physicians from performing such services and greatly diminishing and availability of care to high-risk maternal patients, who in many cases are poor.

At the Wetzel Clinic in Clinton, MO, which provides care to a wide rural area in the western part of the State, 7 of the 10 doctors who used to deliver babies have been squeezed out of this essential part of their practice by insurance rate increases.

Faced with a tenfold increase in its medical malpractice insurance premiums, Truman Medical Center, a public hospital in Kansas City, was forced to seek a $1.5 million loan from the city to form a self-insurance pool and avoid closing down or operating without insurance. A recent series of medical malpractice jury awards in excess of $10 million has made commercial reinsurance coverage virtually unavailable in western Missouri.

As these examples clearly demonstrate, the medical malpractice insurance crisis is not a problem faced only by doctors and hospitals—it is a problem which affects every one of us. The costs of medical malpractice—which include not only the rising price of insurance, but also the cost of additional tests and procedures ordered by doctors primarily to guard themselves against lawsuits—are paid by employers and individuals in the form of higher health insurance premiums and higher taxes.

This malpractice insurance crisis is but one facet of a much larger problem affecting all purchasers of liability insurance. Accountants, truck drivers, commercial fishermen, municipal governments, and many other groups also are confronting huge increases in the cost of insurance coverage. Indeed, the problem of cost and availability of liability insurance is so widespread and severe that it is becoming one of the most pressing economic issues the country faces today.

At the heart of the problem is a complicated and expensive civil justice system which consumes more money determining fault than compensating victims. If we are to get at the true cause of our insurance woes—in medical malpractice and other areas—something must be done to provide for more just and predictable awards to injured parties, while reducing the massive transactions costs associated with litigating disputes.

Although I am not yet certain that the legislation introduced today provides the best proposal for civil justice reform in the medical malpractice area, it is an important beginning. The Medical Offer and Recovery Act would provide for an alternative compensation scheme similar in design to legislation I have sponsored with regard to products liability. The goal is to get people out of the court system and to encourage swift and certain compensation for out-of-pocket losses. The products bill is moving ahead in the Commerce Committee, and I look forward to working on this legislation in the Finance Committee.

While I support the concept of setting up alternatives to formal court litigation of personal injury disputes, I am also aware that tort law reform is an issue within the purview of the States. Many States, including Missouri, have been very active recently in attempting to reform their laws governing personal injury litigation. This legislation is not attempting to discourage these efforts, but rather to complement and support them.

Mr. President, the Medical Offer and Recovery Act is directed at a complex problem, and there are a number of competing interests involved. While the task ahead is a challenging one, I am encouraged by the prospect of real reform that would benefit both the providers and consumers of medical care.●

By Mr. THURMOND (for himself, Mr. DECONCINI, Mr. ANDREWS, Mr. BURDICK, Mr. D'AMATO, Mr. DIXON, Mr. SIMON, and Mr. WARNER) (by request):

S. 1961. A bill to amend title 28 and title 11 of the United States Code to authorize a new U.S. trustee system by providing for the appointment of U.S. trustees to supervise the administration of bankruptcy cases in judicial districts throughout the United States, and for other purposes; to the Committee on the Judiciary.

UNITED STATES TRUSTEES ACT

Mr. THURMOND. Mr. President, on behalf of the administration, I rise to introduce the United States Trustee Act of 1985. This bill would expand and make permanent the U.S. Trustee Pilot Program for Bankruptcy Administration, which was established by title I of the Bankruptcy Act of 1978 (Public Law 95-598). The initial period for the project was 4½ years, but it was extended twice: First until September 30, 1984 (Public Law 98-166), and again until September 30, 1986 (Public Law 98-353).

The U.S. trustees would be charged with overseeing the administration of bankruptcy cases filed under chapters 7, 11, and 13 of the Bankruptcy Code. Under the aegis of the Justice Department, the U.S. trustee system would effect a separation of the administrative and case monitoring functions from the adjudicative functions carried out by the bankruptcy judges and the judiciary. In the nonpilot areas, the bankruptcy judges have continued to adjudicate legal issues and to supervise the administration of bankruptcy cases.

This legislation would expand the pilot program from 10 field offices covering 18 judicial districts to 30 regional offices covering the entire United States. Each region would be headed by a U.S. trustee appointed by the Attorney General for a 4-year term.

Pursuant to the 1976 act, an independent study to compare the pilot and nonpilot programs was undertaken by Abt Associates, Inc. of Cambridge, MA. The findings of that study indicate that the pilot program has resulted in "enhanced honesty and efficiency in bankruptcy administration" in the pilot districts. Certainly this approach deserves careful consideration.

I am pleased to introduce this measure by request and to be joined by Senators DECONCINI, ANDREWS, BURDICK, D'AMATO, DIXON, SIMON, and WARNER. Having the proposal before the Senate Committee on the Judiciary this early will ensure that the committee will have adequate time to study the issue prior to the sunset date of September 30, 1986.

I ask unanimous consent that the bill from the Department of Justice be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1961

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "United States Trustees Act of 1985".

TITLE I—AMENDMENTS TO TITLE 28 OF THE UNITED STATES CODE

SEC. 101. Section 156 of title 28, United States Code, is amended by—

(1) redesignating subsection (c) as subsection (d); and

(2) inserting after subsection (b) the following new subsection:

"(c) In a judicial district where a bankruptcy clerk has been appointed pursuant to subsection (b), the bankruptcy clerk shall be the official custodian of the records of the bankruptcy court and of the dockets of all bankruptcy cases and proceedings.".

SEC. 102. (a) Section 519 of title 28, United States Code, is amended by striking out "United States attorneys, assistant United States attorneys, and special attorneys" and inserting "United States attorneys and trustees, assistant United States attorneys and trustees, and special attorneys" in lieu thereof.

(b) The table of sections for chapter 31 of title 28, United States Code, is amended by amending the item relating to section 519 to read as follows:

"519. Supervision."

SEC. 103. Section 526 of title 28, United States Code, is amended—

(1) in the heading thereof by striking out "trustee" and inserting "trustees" in lieu thereof:

(2) at paragraph (a)(1) by striking out "and" the first time it appears and inserting ", and also those of trustees in cases under title 11" immediately before the semicolon; and

(3) at paragraph (a)(2) by striking out "courts of the Canal Zone and the Virgin Islands, probation officers, trustees in cases under title 11," and inserting "court of the Virgin Islands, probation officers," in lieu thereof.

SEC. 104. Section 581 of title 28, United States Code, is amended to read as follows:

"§ 581. United States trustees

"(a) The Attorney General shall appoint one United States trustee for each of the thirty bankruptcy regions of the United States. Such regions are constituted of Federal judicial districts (without regard to section 451 of this title) as follows:

"(1) The judicial districts established for the States of Maine, Massachusetts, New Hampshire, and Rhode Island.

"(2) The Northern and Western Districts of New York and the judicial districts established for the States of Connecticut, and Vermont.

"(3) The Southern and Eastern Districts of New York.

"(4) The Eastern District of Pennsylvania and the judicial districts established for the States of Delaware, and New Jersey.

"(5) The Middle and Western Districts of Pennsylvania.

"(6) The District of Columbia and the judicial districts established for the State of Maryland.

"(7) The judicial districts established for the States of Virginia and West Virginia.

"(8) The judicial districts established for the States of North Carolina and South Carolina.

"(9) The judicial districts established for the State of Alabama.

"(10) The judicial districts established for the State of Georgia.

"(11) The judicial districts established for the State of Florida, for the Commonwealth of Puerto Rico and for the Virgin Islands of the United States.

"(12) The judicial districts established for the States of Louisiana and Mississippi.

"(13) The judicial districts established for the State of Texas.

"(14) The judicial districts established for the State of Ohio.

"(15) The judicial districts established for the State of Michigan.

"(16) The judicial districts established for the States of Tennessee, and Kentucky.

"(17) The Northern District of Illinois.

"(18) The judicial districts established for the State of Wisconsin.

"(19) The Central and Southern Districts of Illinois and the judicial districts established for the State of Indiana.

"(20) The judicial districts established for the States of Minnesota, North Dakota, and South Dakota.

"(21) The judicial districts established for the States of Iowa and Nebraska.

"(22) The judicial districts established for the States of Arkansas, and Missouri.

"(23) The judicial districts established for the States of Colorado, Utah, and Wyoming.

"(24) The judicial districts established for the States of New Mexico, Oklahoma, and Kansas.

"(25) The Southern District of California and the judicial districts established for the State of Hawaii, for Guam, and for the Commonwealth of the Northern Mariana Islands.

"(26) The judicial district established for the State of Arizona.

"(27) The Central District of California.

"(28) The Eastern District of California and the judicial district established for the State of Nevada.

"(29) The Northern District of California.

"(30) The judicial districts established for the States of Alaska, Idaho, Montana, Oregon, and Washington.

"(b) Each United States trustee shall be appointed for a term of four years. On the expiration of his term, a United States trustee shall continue to perform the duties of his office until a successor is appointed and qualifies.

"(c) Each United States trustee is subject to removal by the Attorney General.".

"SEC. 105. (a) Section 582 of title 28, United States Code, is amended—

"(a) in subsection (a), by striking out "district" and inserting in lieu thereof "region"; and

(b) in subsection (b), by striking out "for cause".

"SEC. 106. Section 584 of title 28, United States Code, is amended by striking out "districts" and inserting in lieu thereof "regions".

"SEC. 107. Section 585 of title 28, United States Code, is amended to read as follows:

"§ 585. Vacancies

"(a) The Attorney General may appoint an acting United States trustee for a region in which the office of the United States trustee is vacant. The individual so appointed may serve until the date on which the vacancy is filled by appointment under section 581 of this title or by designation under subsection (b) of this section.

"(b) The Attorney General may designate a United States trustee to serve in more than one region for such time as the public interest requires, and may authorize such United States trustee to remain at his original official station.".

"SEC. 108. Section 586 of title 28, United States Code, is amended to read as follows:

§ 586. Duties

"(a) Each United States trustee, within his region shall—

"(1) establish, maintain, and supervise a panel of private trustees that are eligible and available to serve as trustees in cases under chapter 7 of title 11;

"(2) supervise the administration of cases and trustees in cases under chapter 7, 11, or 13 of title 11;

"(3) deposit or invest under section 345 of title 11 money received as trustee in cases under title 11;

"(4) perform the duties prescribed for the United States trustee under titles 11 and 28 and such duties as may be prescribed by the Attorney General; and

"(5) make such reports as the Attorney General directs.

"(b) If the number of cases under chapter 13 of title 11 commenced in a particular region so warrants, the United States trustee for such region may, subject to the approval of the Attorney General, appoint one or more individuals to serve as standing trustee, or designate one or more assistant United States trustees to serve in cases under such chapter. The United States trustee for such region shall supervise any such individual appointed as standing trustee in the performance of the duties of standing trustee.

"(c) The Attorney General shall prescribe by rule qualifications for membership on the panels established by United States trustees under paragraph (a)(1) of this section, and qualifications for appointment under subsection (b) of this section to serve as standing trustee in cases under chapter 13 of title 11. The Attorney General may not require that an individual be an attorney in order to qualify for appointment under subsection (b) of this section to serve as standing trustee in cases under chapter 13 of title 11.

"(d)(1) The Attorney General, after consultation with a United States trustee that has appointed an individual under subsection (b) of this section to serve as standing trustee in cases under chapter 13 of title 11, shall fix—

"(A) a maximum annual compensation for such individual, not to exceed the annual rate of basic pay in effect for step 1 of grade GS-16 of the General Schedule prescribed under section 5332 of title 5: *Provided, however,* That the Attorney General may increase the maximum compensation of such individual to an annual rate not in excess of that for step 6 of GS-16 of the General Schedule prescribed under section 5332 of title 5 upon a determination that such individual has significantly decreased actual expenses resulting in a decrease of the percentage fee; and

"(B) a percentage fee, not to exceed 10 per centum, based on such maximum annual compensation and the actual, necessary expenses incurred by such individual as standing trustee.

"(2) Such individual shall collect such percentage fee from all payments received by such individual under plans in the cases under chapter 13 of title 11 for which such individual serves as standing trustee. Such individual shall pay to the United States trustee, and the United States trustee shall pay to proprietary receipts in the general fund of the Treasury—

"(A) any amount by which the actual compensation of such individual exceeds 5 per centum upon all payments received under plans in cases under chapter 13 of title 11 for which such individual serves as standing trustee; and

"(B) any amount by which the percentage for all such cases exceeds—

"(i) such individual's actual compensation for such cases, as adjusted under subparagraph (A) of paragraph (1); plus

"(ii) the actual, necessary expenses incurred by such individual as standing trustee in such cases: *Provided, however*, That, subject to the approval of the Attorney General, any or all of the interest earned from the deposit of payments under plans by such individual may be utilized to pay actual, necessary expenses without regard to the percentage limitation contained in subparagraph (d)(1)(B) of this section.".

"Sec. 109. Section 587 of title 28, United States Code, is amended to read as follows:

"§587. Salaries

"Subject to sections 5315 through 5317 of title 5, the Attorney General shall fix the annual salaries of United States trustees and assistant United States trustees at rates of compensation not in excess of the rate of basic compensation provided for Executive Level IV of the Executive Schedule set forth in section 5315 of title 5, United States Code.".

"Sec. 110. (a) The heading for chapter 39 of title 28, United States Code, as added by the Ethics in Government Act, is amended by striking out "CHAPTER 39" and inserting in lieu thereof "CHAPTER 40".

(b) The table of chapters for part II of title 28, United States Code, is amended by striking out the item relating to Independent Counsel and inserting in lieu thereof the following:

"40. Independent Counsel...................... 591."

(c) Section 49(f) of title 28, United States Code, is amended by striking out "chapter 39" each place it appears and inserting in lieu thereof "chapter 40".

"Sec. 111. Subsection (f) of section 604 of title 28, United States Code, as added by the Act of November 6, 1978 (Public Law 95-598, 92 Stat. 2549), is repealed.

"Sec. 112. Section 1930 of title 28, United States Code, is amended—

(1) in paragraph (a)(1) by striking out "$60" and inserting "$100, plus such additional amount as is specified in regulations issued by the Attorney General: *Provided*, That to convert, on a motion by the debtor, the case under one of these chapters to a case under chapter 11, the debtor shall pay an additional $400" in lieu thereof;

(2) in paragraph (a)(3), by striking out "[that does not concern a railroad, as defined in section 101 of title 11,] $200" and inserting ", $500, plus such additional amount as is specified in regulations issued by the Attorney General" immediately before the period;

(3) in paragraph (a)(4), by striking out "$500" and inserting in lieu thereof "$1,000";

(4) by adding at the end of subsection (a) the following: "The clerk of the court may collect only the fees authorized under this section. The clerk shall transmit to the Treasury of the United States for deposit into proprietary receipts in the general fund $40 from the filing fee prescribed under paragraph (a)(1) of this section, $300 from the filing fee prescribed under paragraph (a)(3) of this section, and the additional amounts prescribed in the regulations issued by the Attorney General under this section, including such amounts as may arise from conversion of a case under one chapter of title 11 to a case under a different chapter of title 11.";

(5) by striking out subsection (e); and

(6) by adding at the end thereof the following new subsections:

"(e)(1) In addition to the filing fee paid to the clerk, a monthly charge shall be paid to the United States trustee in each case under chapter 11 of title 11 as an administrative expense under section 503(b) of title 11, until a plan is confirmed or the case is converted or dismissed, whichever first occurs. The charge shall be $100 for each month in which disbursements total less than $20,000, $250 for each month in which disbursements total $20,000 or more but less than $100,000, $750 for each month in which disbursements total $100,000 or more but less than $1,000,000, and $1,000 for each month in which disbursements total $1,000,000 or more. The Attorney General may, by regulation, increase or decrease the amount of these charges: *Provided*, That, in a case in which the debtor is a farmer, as defined in section 101(17) of title 11, United States Code, the court, for cause, may modify the monthly charge.

"(e)(2) The United States trustee shall transmit to the Treasury of the United States for deposit into proprietary receipts in the general fund all the charges collected under this subsection.

"(f) Any regulations promulgated pursuant to this provision shall be based on the amount necessary to ensure repayment to the Treasury of the amounts appropriated for the United States system, but also shall take into account changes in the cost of living and other related factors.".

TITLE II—AMENDMENTS TO TITLE 11 OF THE UNITED STATES CODE

Sec. 201. Section 101 of title 11, United States Code, is amended—

(1) in paragraph (14) by striking out "and governmental unit" and inserting in lieu thereof "governmental unit, and United States trustee" before the semicolon at the end thereof; and

(2) in paragraph (24) by inserting "(but not a United States trustee while serving as trustee in a case under this title)" after "United States" the second place it appears.

Sec. 202. Section 102 of title 11, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (7) thereof;

(2) by striking the period at the end of paragraph (8) and inserting "; and" in lieu thereof; and

(3) by inserting a new paragraph (9) to read as follows:

"(9) 'United States trustee' includes a designee of the United States trustee.".

Sec. 203. Section 104 of title 11, United States Code, is amended by inserting "except as to those changes and portions of fees to be specified in regulations issued by the Attorney General and deposited in the general fund of the Treasury" immediately before the period at the end thereof.

Sec. 204. Section 303 of title 11, United States Code, is amended—

(1) at subsection (g), by inserting "order the United States trustee to" after "may", the first time it appears;

(2) at subsection (i), by adding "or" at the end of subparagraph (7)(A);

(3) at subsection (i), by striking out subparagraph (1)(C);

(4) at subsection (i), by striking out the period at the end of subparagraph (2)(B) and inserting in lieu thereof "; or"; and

(5) at subsection (i), by adding at the end therefore the following new paragraph:

"(3) against a party requesting the appointment of a trustee under subsection (g) of this section or section 1104 of this title, for any damages proximately caused by the taking of possession of the debtor's property by such a trustee.".

Sec. 205. Subchapter I of chapter 3 of title 11, United States Code, is amended by adding at the end thereof the following new section:

"§ 307. United States trustee

"The United States trustee may raise and may appear and be heard on any issue in any case or proceeding under this title but may not file a plan pursuant to section 1121(c) of this title.".

Sec. 206. The table of sections for subchapter I of chapter 3 of title 11, United States Code, is amended by adding at the end thereof:

"307. United States trustee.".

Sec. 207. Section 321 of title 11, United States Code, is amended by adding at the end thereof the following new subsection:

"(c) The United States trustee for the judicial district in which the case is pending is eligible to serve as trustee in the case.".

Sec. 208. Section 322 of title 11, United States Code, is amended—

(1) at subsection (a), by striking out "A person" and inserting in lieu thereof "Except as provided in subsection (b)(1), a person"; and

(2) by amending subsection (b) to read as follows:

"(b)(1) The United States trustee qualifies wherever such trustee serves as trustee in a case under this title.

"(2) The United States trustee shall determine—

"(A) the amount of a bond required to be filed under subsection (a) of this section; and

"(B) the sufficiency of the surety on such bond.".

Sec. 209. Section 324 of title 11, United States Code, is amended to read as follows:

"§ 324. Removal of trustee or examiner

"(a) The court, after notice and a hearing may remove a trustee, other than the United States trustee, or an examiner, for cause.

"(b) The United States trustee, after notice and a hearing and unless the court orders otherwise, may remove a trustee in a case under chapter 7, 11, or 13, or an examiner in a case under chapter 11 for cause.

"(c) Removal for cause under subsection (b) of this section in any case shall be deemed cause for removal in all cases in which such trustee or examiner is serving.".

Sec. 210. Section 326 of title 11, United States Code, is amended at subsection (b) by inserting "of the United States trustee or" after "expenses".

Sec. 211. Section 327(c) of title 11, United States Code, is amended by inserting "or the United States trustee" immediately after "another creditor".

Sec. 212. Section 330 of title 11, United States Code, is amended—

(1) at subsection (a) by inserting "to any parties in interest and to the United States trustee" after "notice"; and

(2) by inserting at the end thereof the following new subsection:

"(d) In a case in which the United States trustee serves as trustee, the compensation of the trustee under subsection (b) of this section shall be paid into proprietary receipts in the general fund of the Treasury.".

Sec. 213. Section 341 of title 11, United States Code, is amended—

(1) in subsection (a), by striking out "there shall be a meeting of creditors" and inserting "the United States trustee shall convene and preside at a meeting of creditors" in lieu thereof;

(2) in subsection (b), by striking out "court may order" and inserting "United States trustee may convene" in lieu thereof; and

(3) in subsection (b), by inserting "including any final meeting of creditors" before the period at the end thereof.

Sec. 214. Section 343 of title 11, United States Code, is amended to read as follows: "The debtor shall appear and submit to examination under oath at the meeting of creditors under section 341(a) of this title. Creditors, any indenture trustee, any trustee or examiner in the case, or the United States trustee may examine the debtor. The United States trustee may administer the oath required under this section."

Sec. 215. Section 345 of title 11, United States Code, is amended—

(1) by striking out "court" in subparagraph (b)(1)(B) and inserting in lieu thereof "United States trustee"; and

(2) by inserting a new subsection (d) to read as follows:

"(d) The United States trustee may aggregate money of estates for which such United States trustee serves as trustee for deposit or investment under this section, in order to increase the return on such money, taking into account the safety of such deposit or investment. The United States trustee shall maintain complete records identifying separately the money of each estate included in such an aggregation. Any return on any such deposit or investment shall be paid by the United States trustee into proprietary receipts of the general fund of the Treasury.".

Sec. 216. Section 701 of title 11, United States Code, is amended at subsection (a) to read as follows:

"(a)(1) Promptly after the order for relief under this chapter, the United States trustee shall appoint one disinterested person that is a member of the panel of private trustees established under section 586(a)(1) of title 28 or that was serving as trustee in the case immediately before the order for relief under this chapter to serve as interim trustee in the case.

"(2) If none of the members of such panel is willing to serve as interim trustee in the case, then the United States trustee may serve as interim trustee in the case.".

Sec. 217. Section 703 of title 11, United States Code, is amended by striking out subsections (b) and (c) and inserting in lieu thereof the following new subsections:

"(b) Pending election of a trustee under subsection (a) of this section, if necessary to preserve or prevent loss to the estate, the United States trustee may appoint an interim trustee in the manner specified in such subsection.

"(c) If creditors do not elect a successor trustee under subsection (a) of this section, or if a trustee is needed in a case reopened under section 350 of this title, then the United States may serve, or shall appoint one disinterested person that is a member of the panel of private trustees established under section 586(a)(1) of title 28 to serve, as trustee in the case.".

Sec. 218. Section 704 of title 11, United States Code, is amended—

(1) at paragraph (8), by inserting ", with the United States trustee," immediately after "court" the first time it appears;

(2) at paragraph (8) by inserting "the United States trustee or" immediately after "information as": and

(3) at paragraph (9) by inserting "and with the United States trustee" immediately before the period.

Sec. 219. Section 705 of title 11, United States Code, is amended—

(1) at subsection (b), by inserting "or the United States trustee" after "trustee" each place it appears; and

(2) at subsection (b), by inserting "or the United States trustee" immediately after "court".

Sec. 220. Section 707 of title 11, United States Code, is amended—

(1) at subsection (a), by striking out "or" at the end of paragraph (1);

(2) at subsection (a), by striking out the period at the end of paragraph (2) and inserting a semicolon in lieu thereof; and

(3) by adding to subsection (a) the following new paragraph at the end thereof;

"(3) failure of the debtor in a voluntary case to file, within fifteen days or such additional time as the court may allow after the filing of the petition commencing such case, the information required by paragraph (1) of section 521.".

Sec. 221. Section 726 of title 11, United States Code, is amended at subsection (b) by inserting ", except as to fees and charges under chapter 123 of title 28" immediately after "paragraph (1)".

Sec. 222. Section 727 of title 11, United States Code, is amended by striking out subsection (c), (d), and (e) and inserting in lieu thereof the following new subsections:

"(c)(1) The trustee, a creditor, or the United States trustee may object to the granting of a discharge under subsection (a) of this section.

"(2) On request of a party in interest, the court may order the trustee or the United States trustee to examine the acts and conduct of the debtor to determine whether a ground exists for denial of discharge.

"(d) On request of the trustee, a creditor, or the United States trustee, and after notice and a hearing, the court shall revoke a discharge granted under subsection (a) of this section if—

"(1) such discharge was obtained through the fraud of the debtor, and the requesting party did not know of such fraud until after the granting of such discharge;

"(2) the debtor acquired property that is property of the estate, or became entitled to acquire property that would be property of the estate, and knowingly and fraudulently failed to report the acquisition of or entitlement to such property, or to deliver or surrender such property to the trustee; or

"(3) the debtor committed an act specified in subsection (a)(6) of this section.

"(e) The trustee, a creditor, or the United States trustee may request a revocation of a discharge—

"(1) under subsection (d)(1) of this section within one year after such discharge is granted; or

"(2) under subsection (d)(2) or (d)(3) of this section before the later of—

"(A) one year after the granting of such discharge; and

"(B) the date the case is closed.".

Sec. 223. Section 1102 of title 11, United States Code, is amended—

(1) by amending subsection (a) to read as follows:

"(a)(1) As soon as practicable after the order for relief under chapter 11 of this title, the United States trustee shall appoint a committee of creditors holding unsecured claims and may appoint additional committees of creditors or of equity security holders as the United States trustee deems appropriate.

(2) On request of a party in interest, the court may order the appointment of additional committees of creditors or of equity security holders if necessary to assure adequate representation of creditors or of equity security holders. The United States trustee shall appoint any such committee."; and

(3) by striking out subsection (c).

Sec. 224. Section 1104 of title 11, United States Code, is amended—

(1) at subsection (a), by inserting "or the United States trustee" after "party in interest";

(2) at subsection (b), by inserting "or the United States trustee" after "party in interest";

(3) at subsection (c), by striking out "court" and inserting in lieu thereof "United States trustee, after consultation with parties in interest"; and

(4) at subsection (c), by striking out "one disinterested person" and inserting in lieu thereof ", subject to the court's approval, one disinterested person other than the United States trustee".

Sec. 225. Section 1105 of title 11, United States Code, is amended by inserting "or the United States trustee" immediately after "party in interest".

Sec. 226. Section 1112 of title 11, United States Code, is amended at subsection (b)—

(1) by inserting "or the United States trustee" immediately after "party in interest";

(2) by striking out "or" in paragraph (8);

(3) by striking out the period at the end of paragraph (9) and inserting a semicolon in lieu thereof; and

(4) by adding the following new paragraphs at the end thereof:

"(10) nonpayment of any fees or charges required under chapter 123 of title 28;

"(11) failure of the debtor in a voluntary case to file, within fifteen days after the filing of the petition commencing such case, the information required by paragraph (1) of section 521, including a list containing the names and addresses of the holders of the lesser of all unsecured claims or the 20 largest unsecured claims, and the dollar amounts of such claims; or

"(12) failure to timely file the information required by paragraph (2) of section 521.".

Sec. 227. Section 1163 of title 11, United States Code, is amended by adding the following new sentence at the end thereof; "The United States trustee shall appoint one of such persons to serve as trustee in the case.".

Sec. 228. Section 1302 of title 11, United States Code, is amended—

(1) by amending subsection (a) to read as follows:

"(a) If the United States trustee has appointed an individual under section 586(b) of title 28 to serve as standing trustee in cases under chapter 13 of this title and if such individual qualifies under section 322 of this title, then such individual shall serve as trustee in the case. The United States trustee may serve, or shall appoint one disinterested person to serve, as trustee in the case otherwise."; and

(2) by striking out subsections (d) and (e).

Sec. 229. Section 1307 of title 11, United States Code, is amended—

(1) in subsection (c) by inserting "or the United States trustee" immediately after "party in interest"; and

(2) in subsection (c) by striking out "or" at the end of paragraph (7) and inserting a semicolon in lieu thereof;

(3) in subsection (c) by adding the following new paragraphs at the end thereof:

"(9) failure of the debtor to file, within fifteen days or such additional time as the court may allow after the filing of the petition commencing such case, the information required by paragraph (1) of section 521; or

"(10) failure to timely file the information required by paragraph (2) of section 521."; and

(4) in subsection (d) by inserting "or the United States trustee" immediately after "party in interest".

Sec. 230. Section 1326(b) of title 11, United States Code, is amended to read as follows:

"(b) Before or at the time of each payment to creditors under the plan, there shall be paid—

"(1) any unpaid claim of the kind specified in section 507(a)(1) of this title; and

"(2) if a standing trustee appointed under section 586(b) of title 28 is serving in the case, the percentage fee fixed for such standing trustee under section 586(e)(1)(B) of title 28.".

TITLE III—TRANSITION AND REPEALER

Sec. 301. Section 408(c) of the Act of November 6, 1978 (Public Law 95-598, 92 Stat. 2549, 2686-87), is amended—

(1) by striking out "and chapter 39 of title 28 of the United States Code are repealed, and all references to the United States trustee contained in title 28 of the United States Code are deleted, as of September 30, 1986" and inserting "is repealed" in lieu thereof; and

(2) by striking out the last sentence thereof.

Sec. 302. The service of any United States trustee and of any assistant United States trustee appointed under the authority of the Act of November 6, 1978 (Public Law 95-598; 92 Stat. 2549), is terminated upon the earlier of the expiration of his term or March 31, 1987: *Provided*, That the Attorney General—

(1) may appoint any such United States trustee to serve for such period, not to exceed two years, as the Attorney General deems necessary to facilitate the transition from the Bankruptcy Administration Program established by that Act to the United States trustee system established by this Act; and

(2) may appoint any such assistant United States trustee under the provisions of section 582 of title 28, United States Code, as amended by this Act.

Sec. 303. Except as otherwise provided in this title, the amendments made by title I, III, IV and V of this Act shall become effective upon enactment of this Act. The amendment made by subsection 6 of section 111 of this Act shall become effective in a region thirty days after the certification of the Attorney General under section 306 of this Act as to cases in that region filed on or after the date of enactment of this Act. The remaining amendment made by section 111 of this Act shall become effective thirty days after the date of the enactment of this Act.

Sec. 304. (a) The amendments made by title II of this Act shall become effective two years from the date that the initial appropriation authorized under section 401 of this Act is enacted or thirty days after the Attorney General certifies the thirtieth region under section 306 of this Act, whichever first occurs.

(b) During the two-year period following the date of enactment of the initial appropriation authorized under section 401 of this Act, the amendments made by title II of this Act shall apply in each district in which a United States trustee was authorized by the Act of November 6, 1978 (Public Law 95-598; 92 Stat. 2549), and, thirty days after the Attorney General's certification under section 306 of this Act, in those remaining districts established pursuant to this Act: *Provided*, That, in any case commenced under chapter 7 of title 11, United States Code, prior to the date of enactment of this Act, the failure of a trustee to file the final report and account required by section 704 of title 11 prior to one year following certification of the district in which such trustee serves shall be deemed cause of removal under section 324 of title 11, as amended by section 209 of this Act, and in any case under chapter 11 in which a trustee was appointed prior to the date of enactment of this Act, the failure to obtain approval of a plan prior to one year after certification shall also be deemed cause for removal. In such cases, the United States trustee may remove the trustee by filing a notice of the appointment of a successor trustee.

Sec. 305. The United States trustee system herein established shall be phased-in over a two-year period from the date that the initial appropriation authorized under section 401 of this Act is enacted. The regions encompassing districts for which United States trustees were appointed pursuant to the Act of November 6, 1978 (Public Law 95-598; 92 Stat. 2549), shall be certified by the Attorney General pursuant to section 306 of this Act not later than two hundred and seventy days after the date of enactment of the initial appropriation authorized under section 401 of this Act.

Sec. 306. The Attorney General shall certify, to the appropriate Federal circuit courts of appeals, his intention to establish offices in a United States trustee region thirty days prior to the assumption of the responsibilities prescribed by this Act in that region. The courts promptly shall publish notice of this certification and of the implementation of section 111(6) of this Act in and for the districts within the region.

Sec. 307. (a) A case commenced under the Bankruptcy Act, and all matters and proceedings in or relating to any such case, shall be conducted and determined under such Act as if this Act had not been enacted, and the substantive rights of parties in connection with any such bankruptcy case, matter, or proceeding shall continue to be governed by the law applicable to such case, matter, or proceeding as if this Act had not been enacted: *Provided*, That, at the end of one calendar year following the certification of a district in which any case is still pending under the Bankruptcy Act, the district court shall withdraw the reference of any such case and, after notice and a hearing, determine the status of the case and remand it to the bankruptcy judge with such instructions as are necessary for the prompt closing of the case and with a requirement that a progress report on the case be provided by the bankruptcy judge after such interval as the district court deems appropriate.

(b) A case commenced under the Act of November 6, 1978 (Public Law 95-598; 92 Stat. 2549), and all matters and proceedings in or relating to any such case, shall be conducted and determined under the provisions of this Act: *Provided, however*, That the amendments made by titles I and II of this Act relating to the authority and responsibilities of the United States trustees, except in those districts for which United States trustees were appointed pursuant to the Act of November 6, 1978 (Public Law 95-598, 92 Stat. 2549), shall not apply to a case under chapter 7 or chapter 11 of title 11, United States Code, commenced prior to the date of enactment of this Act, until one year after the region encompassing the district in which such case has been filed has been certified under section 306 of this Act. Such provisions shall not apply to such cases thereafter, if—

(1) in a case under chapter 7 of title 11, United States Code, the case trustee has filed the final report and account of the administration of the estate required by section 704 of title 11, United States Code, prior to or within the year after certification; and

(2) in a case under chapter 11 of title 11, United States Code, a plan has been confirmed under section 1129 of title 11, United States Code, prior to or within the year after certification.

Sec. 308. The Attorney General and the Director of the Administrative Office of the United States Courts shall consult with a view to achieving optimal coordination and may enter into agreements under which the United States trustees may use the services, equipment, personnel, records, reports, and data compilations, in any form, and the facilities of the Federal judiciary, and the United States trustees may cooperate in the use by the Federal judiciary of services, equipment, personnel, records, reports, and data compilations, in any form, and the facilities of the United States trustees in order to prevent duplication during the phase-in period.

Sec. 309. The Director of the Administrative Office of the United States Courts shall make available to the United States trustees on a current basis all records, reports, and data compilations, in any form, relating to cases and proceedings under title 11, United States Code, or the United States trustees' duties under titles 11 and 28, United States Code, as prescribed by this Act, and shall instruct all clerks to cooperate in the orderly transfer of functions, documents, and data compilations, in any form, to the United States trustee system and no such transfer shall be made without the consent of the Attorney General: *Provided, however*, That the United States trustees shall not be required to give any notice provided for in cases under title 11, United States Code.

SEC 310. ESTABLISHMENT OF A DEMONSTRATION ELECTRONIC CASE MANAGEMENT SYSTEM

(a) The Executive Office for United States Trustees, in consultation with the Administrative Office of the United States Courts, shall, within twelve months of the date of enactment of an appropriation therefor under section 401 of this Act, take such steps as are necessary to establish an electronic case management demonstration project for not fewer than, nor more than, three judicial districts in the United States having a sufficient caseload to provide a meaningful test of such system. A contract for such case management demonstration project shall be awarded by the Director, Executive Office for United States Trustees, upon competitive bids by qualified private sector entities able to design an automated joint information system for use by the courts and the United States trustees, and to provide that level of expertise in the design and implementation of automated case management systems that is required for purposes of this demonstration project.

(b) The demonstration project required by subsection (a) of the section shall continue for a period of not less than two years after the date of its implementation, and one year after its implementation, Congress shall cause a study to be performed of the cost-effectiveness of such demonstration project in comparison to (1) judicial districts that do not have electronic case management systems in place, (2) judicial districts that participate in such electronic case management systems as are maintained by the Administrative Office of the United States Courts.

(c) The demonstration project required by subsection (a) of this section shall continue until such time as Congress shall evaluate the success of such project and act upon its continuance, its expansion to all judicial districts, or its termination.

(d) The electronic case management system required by subsection (a) of this section shall provide the clerk of court, in each district in which it may be operated, with a means of maintaining a complete electronic case file of all relevant information contained in the petitions and schedules filed by debtors and any amendments thereto including—

(1) a complete list of creditors in the case as listed by the debtor;

(2) a complete listing of all assets scheduled by the debtor, showing the manner in which each item is scheduled, the value thereof, and any action taken by the trustee or debtor in possession with regard to that item during the pendency of the case; and

(3) the debtor's statement of current expenses and income.

(e) The demonstration system shall provide the United States trustee in each district in which it may be completed with a means of maintaining a complete electronic case file which shall contain in addition to the information listed in subsection (d) of this section the following—

(1) a record of all motions, complaints, appointments, pleadings and responses; as well as a record of the responses by the United States Trustee Office to those motions, appointments and pleadings;

(2) automated generation of motions, complaints, appointments, pleadings and responses;

(3) automatic generation of standard management reports and letters on a exception basis;

(4) those accounting records, reports and information required to be maintained by debtors in possession and trustees in cases under title 11, United States Code, by the Executive Office for United States Trustees;

(5) an accurate record of bankruptcy case openings, case milestones, and case closings;

(6) the calculation of distribution to creditors, final applications and orders for distribution, final case closing reports, and all forms to insure prompt payment of statutory fees to trustees in asset and no asset cases;

(f) The demonstration system shall further provide the clerk of court with a means of electronically maintaining all calendars and dockets, and of producing all notices required to be sent in cases under title 11, United States Code.

(g) The demonstration system shall maintain the information specified in subsections (a) and (f) of this section in a format easily accessible by electronic means or otherwise to all entities within the district in which such system is maintained with an interest in a case pending under title 11, United States Code. *Provided, however,* that a charge of $5 shall be collected for each case access by such entity and that all such charges be paid to proprietary receipts in the general fund of the Treasury to help defray the cost of operating the demonstration system.

(h) Notwithstanding subsection (d) of this section, unlimited access to the information maintained in the demonstration system shall be provided at no charge to the following:

(1) Congress.

(2) The Executive Office for United States Trustees.

(3) The Administrative Office of the United States Courts.

(4) The clerks of the court in each judicial district in districts in which the demonstration system is operated.

(5) The judges of the bankruptcy and district courts in which the demonstration system is operated.

(6) Trustees in cases pending in those districts involved in operations of the demonstration system.

(i) Access as provided in subsection (e) of this section shall be subject to such security limitations as may be imposed by the officials in charge of each of the respective offices specified in paragraphs (1) through (5) of such subsection. Access to the information maintained in the electronic case management system by trustees, attorneys of record, and parties in interest in proceedings and attorneys admitted to practice before the courts of participating districts shall be limited to review of the information on file which constitutes information of public record as provided in section 107 of title 11, United States Code.

SEC. 311. If any provision of this Act or any amendment made by this Act, or the application thereof to any entity or circumstance is held invalid, the provisions of every other part, and their application shall not be affected thereby.

TITLE IV—AUTHORIZATION FOR APPROPRIATIONS FOR BANKRUPTCY ADMINISTRATION

SEC. 401. There hereby are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act: *Provided, however,* That such amounts as are collected pursuant to the amendments made by section 111 of this Act shall be utilized to reimburse the Treasury for such appropriations. Appropriations authorized under this section shall remain available for obligation until expended.

TITLE V—THE RULES OF BANKRUPTCY PROCEDURE

SEC. 501. Part X of the Rules of Bankruptcy Procedure applies in any district in which a United States trustee is serving until such Part is superseded by Rules of Bankruptcy Procedure promulgated under the authority of section 2075 of title 28, United States Code.

● **Mr. DECONCINI.** Mr. President, I am pleased to join with the distinguished chairman of the Committee on the Judiciary in introducing this bill to implement a nationwide U.S. Trustee System. This bill is needed to provide impartial, efficient, and effective administrative oversight of bankruptcy cases and to curb abuses and overreaching in some of those cases. The legislation we are introducing today is an extension and modification of a program that has been in place in 10 pilot programs for the past 6 years. The new System utilizes the knowledge we've gained from the pilot programs operations. The system will be completely self-supporting through small increases in the filing fees and modest monthly charges in chapter 11 cases reflecting the services provided by the system.

I also want to compliment the Attorney General and the Department of Justice for the constructive role they have played in the development of this legislation. Earlier this fall, it appeared that the Department might offer its own bill, that Judicial Conference might author a bill, and that I would also have a separate and distinct approach to bankruptcy administration. Since then, many thoughtful, productive meetings have occurred between the staff of the Department, the chairman's staff, and my staff. I believe the result is far better for their discussions than any of our individual products may have been, and I thank them for their efforts.

Active supervision of bankruptcy cases is essential due to the ever-present risk of fraud, self-dealing, and diversion of funds, and the huge number of people affected by bankruptcy proceedings, an estimated 8 million a year. Among the duties and responsibilities of the U.S. Trustees are overseeing the qualifications and appointments of private trustees in bankruptcy cases and supervising their performance, serving as trustees in certain cases, investigating misconduct or impropriety, monitoring the hiring of professionals and experts and the reasonableness of their fees and compensation, examining the debtor or presiding at meetings where the creditors examine the debtor, objecting in appropriate cases to the discharge of the debtor, reviewing the adequacy and completeness of financial statements submitted by the debtor, reviewing the final reports on estates that trustees have administered, forming representatives creditors' committees, and supervising creditors' committees to ensure that they perform their statutory duties.

The role of the U.S. Trustee is to eliminate favoritism, opportunities for fraud, and such improprieties as the operation of a company with no insurance during the pendency of a chapter 11 business reorganization proceeding, engendering administrative expenses (such as rent, utlities, and taxes) which cannot be paid, or failing to pay withholding taxes during the chapter 11 proceeding.

The sum of these duties led Congress to create the U.S. Trustee as an

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executive branch officer and, after thorough deliberations, to place the system in the Department of Justice in view of the U.S. Trustees' litigating and enforcement functions. That placement has worked extremely well. The Department has the prestige to attract high caliber personnel, the experience in supervising attorneys, and has other responsibilities in the area of bankruptcy, especially the prosecution of bankruptcy crimes. The placement has allowed needed cooperation between the U.S. Trustees and the U.S. Attorneys, and other components of the Department, as well as other agencies and departments of the Government. It has also enhanced the Department's detection and prosecution of white collar crimes related to bankruptcy and of organized crime figures involved in bankruptcy bustouts.

The pilot program has been exhaustively evaluated and has been highly effective in improving the quality and efficiency of bankruptcy case administration. An independent evaluation by ABT Associates, Inc., of Cambridge, MA, was very positive. Among other indicia of the success of the program, it found that there were twice as many successful business reorganizations in districts with a U.S. Trustee than in others. The statutorily mandated 1984 Report of the Attorney General was equally positive, focusing particularly on the effective discharge of the U.S. Trustees' watchdog function. This legislation is quite similar to the United States Trustees Act of 1985 introduced in the other body as H.R. 3664, but differs in the following important respects.

It establishes 30 rather than 24 regions to be headed by a U.S. Trustee by reducing the geographical areas to be covered and, as a result, making the U.S. Trustee more accessible. This change would have only a minimal effect on the cost of the system since the number of offices would not be increased.

It clarifies the U.S. Trustees' authority to remove trustees and examiners for cause, by providing that removal in one case is cause for removal in all other cases. It makes clear that the U.S. Trustees are not given standing to file plans in chapter 11 cases, and provides for active district court supervision over cases still pending under the former Bankruptcy Act of 1898, as amended.

An important difference is the addition of a demonstration project to be implemented by the Department of Justice to evaluate the effectiveness of an integrated computer system in increasing efficiency in both the U.S. Trustees' offices and the offices of the clerks of the courts. Despite a decade-long attempt, the Administrative Office of the United States Courts, has been unable to develop such a system.

This legislation will implement a cost saving and effective administrative system to protect the financial interests of millions by implementing a U.S. Trustee system nationwide without burdening the taxpayers of the country.●

● Mr. D'AMATO. Mr. President, I am happy to be an original cosponsor of the United States Trustees Act, legislation being introduced today to expand the bankruptcy trustee program. I have become very familiar with this program through its successful operation in the Southern District of New York.

The pilot United States Trustee Program was established in 1979 to combat embezzlement, fraud, and other white collar crimes, as well as administrative waste and abuse, in our Nation's bankruptcy system.

In 1984, approximately 150 criminal matters were referred to appropriate law enforcement agencies for investigation and prosecution.

One of the worst frauds the trustee program combats is the so-called bust-out, or planned bankruptcy. This typically involves the purchase or taking control of a company with as small an investment of funds as possible.

A good credit rating is first established by submitting false financial information, and by making small purchases of goods from suppliers and paying promptly. Large amounts of goods are then obtained on credit. The goods are sold below cost for cash to companies under the participants' control.

The original company is then "sold" to "new" owners, who are also participants in the scheme. The new owners disclaim responsibility for debts of the prior owners, while obtaining more goods on credit.

Finally, the original company is put into bankruptcy with large debts and as few assets as possible. A great quantity of goods has been obtained on credit and without payment. The goods have been sold at a price very advantageous to participants in the scheme, and the company's creditors have been defrauded. The participants in such schemes, frequently members of organized crime, execute many bust-outs over a period of time by using various companies under their control.

In 18 pilot districts, Congress has given the Justice Department primary responsibility for administration and case monitoring. The U.S. Trustees serve as "watchdogs" who supervise the administration of all cases filed pursuant to Chapters 7, 11, and 13 of Title 1 of the Bankruptcy Reform Act.

Although the Bankruptcy Reform Act originally provided for the program to expire on April 1, 1984, Congress first extended it until September 30, 1984, and last year extended it again until September 30, 1986. This program has been subjected to the strictest scrutiny, and has repeatedly proved itself to be a success. I refer my colleagues to the 1983 study conducted by Abt Associates entitled, "An Evaluation of the United States Trustee Pilot Program for Bankruptcy Administration" and to the 1984 "Report of the Attorney General on the United States Trustee Program".

In chapter 7 cases, the trustees oversee the complete liquidation of the debtor's nonexempt assets. Their review helps prevent unnecessary expenses being charged to a debtor's estate and to prevent overreaching by professionals.

In 1984, the Trustees filed 1,550 objections to fee requests by professionals. In only 200 of these cases were the fees granted as originally requested. This number does not include the many cases handled by negotiations prior to action by the court.

In chapter 11 cases, the trustees oversee financial reorganizations, usually of businesses. They prevent dissipation of assets, and have been especially successful in making certain that withholding taxes are paid. There are twice as many successful business reorganizations under chapter 11 in those judicial districts where the United States Trustee Program is in place.

In chapter 13 cases, the trustees work to ensure that debtors repay their creditors with regular monthly payments over a set period of time, usually 3 years. Trustees assist debtors in developing acceptable repayment plans, and handle disbursements to creditors.

Mr. President, I encourage my colleagues to give this bill their full support. The United States Trustees Act is a major contribution toward the development of a nationwide system that provides relief to deserving creditors, maximizes distributions to creditors, and preserves jobs by allowing failing businesses to reorganize.●

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 1963. A bill to direct the Secretary of the Interior to convey certain interests in lands in Socorro County, NM, to the New Mexico Institute of Mining and Technology; to the Committee on Energy and Natural Resources.

NEW MEXICO TECH LAND PURCHASE

● Mr. DOMENICI. Mr. President, today I introduce a bill that will convey 8,501 acres of Bureau of Land Management land to the New Mexico Institute of Mining and Technology, commonly called New Mexico Tech. This small, highly regarded institution is located at Socorro, NM.

New Mexico Tech has gained international prominence for the work it has completed in the areas of petroleum recovery research, explosive technology research, and military hardware research.

The land that will be conveyed in this bill is necessary so that valuable educational research and testing work can continue. The university's present field laboratory does not have enough usable space. If the university's present field laboratory is not expanded a very important component of our Nation's defense related research and testing capabilities will be put at jeopardy. Therefore, this legislation is not only very important for the university and for New Mexico, but for the Nation as well.

The research that would be conducted on the subject land would be undertaken by the terminal effects research and analysis [TERA] group which is a component of the Research and Development Division at New Mexico Tech.

TERA is known for its work in the fields of aircraft vulnerability, antiaircraft missile design, and warhead evaluation. TERA is also involved in the design and evaluation of missile warheads for antiship and antitank targets. The TERA group was involved in the pioneering design, testing and evaluation efforts for the Talos, Tartar, and Terrier warhead systems. In addition, TERA has more recently been involved in the Sea-Sparrow, Phoenix, Standard Missile-2, Amraam, Chaparral, and Roland missile systems projects.

All branches of the military are looking to TERA to assume more of the testing work which is required to fulfill their explosive testing obligations. This work, by its very nature, involves large explosive charges, rocket propellants, and long-range gun firings, all of which require large expanses of land for purposes of safety and security.

I have been informed by New Mexico Tech that current contract negotiations with the military include such project requests as a 5-kilometer (3-mile) gun range to test 120 mm ammunition for the M-1 Abrams tank, and an area for testing 10,000-pound explosive charges against blast barriers for U.S. embassies abroad, and a 5-kilometer range for a testbed electromagnetic rail gun. The present field laboratory with 37 test sites now in operation does not have usable space available to meet these current needs.

The land that would be conveyed to New Mexico Tech is admittedly a large acreage, but it is needed to meet both line-of-site and safety requirements. This land is contiguous to the present laboratory and thus well situated for security purposes. The land will allow for economies of operation that might otherwise not exist in a location removed from the existing facility.

TERA expertise centers on experimental development, evaluation, and analysis of defense system components intended for use by the U.S. Armed Forces. So far, the Department of Defense has been TERA's primary user, but increasingly the Departments of Energy and State as well as other Government agencies and private industry are turning to TERA for assistance.

TERA evolved from ordnance research projects during World War II and has been a part of New Mexico Tech since 1949. Over the years, TERA's combination of knowledge and experience, specialized test facilities, fast turnaround, and reasonable cost have served to make it a very important defense related research center. This bill will guarantee continued research for this vital institution.

I think it is very obvious that a lot of worthwhile activity is going on with the TERA group at New Mexico Tech. This university needs to have title to this land because they cannot lease it from BLM. BLM would be prohibited from issuing any permits and leases under the Federal Land Policy and Management Act of 1976 (FLPMA) because of the unique and special uses that the land would be used for. I have explained the merits of these special uses and the only way to insure that this special research can continue is if this bill is passed.

This legislation contains language which authorizes and directs the Secretary of the Interior to convey this land at fair market value. Preliminary estimates by the BLM show that this land is worth about $640,000. The university intends to get the State appropriation to purchase this land. So far their request has been approved by New Mexico's Board of Educational Finance and is supported by the Governor. This evidences the State's commitment to this project and is a good example of State and Federal Governments working together to accomplish an important goal.

This legislation reserves to the Federal Government any mineral rights associated with the land. Further, New Mexico Tech agrees to perform and provide the Secretary with a survey of the archeological resources of the area. The university will complete this survey in coordination with New Mexico's historic preservation office. This conveyance is subject to all valid and existing rights such as existing grazing permits, geothermal leases, or mining claims.

In summary, this bill will provide New Mexico Tech with the additional land to fulfull TERA's defense-related commitments. This land is contiguous to the present field laboratory and will meet the university's requirements for safety and security while providing for economies of operation.●

By Mr. MOYNIHAN:

S. 1964. A bill to extend the Revenue Sharing Program for local governments through fiscal year 1988; to the Committee on Finance.

GENERAL REVENUE SHARING EXTENSION

● Mr. **MOYNIHAN**. Mr. President, I rise today to introduce a bill extending through 1988 a program that has long been an important source of support for local and State governments—the General Revenue Sharing Program.

This is a matter which concerns the fundamental nature of our federalist system. During the 1960's we faced an elementary fact: the progressive arrangement of our income tax system caused those of the Federal Government to grow faster than the revenues of State and local governments. As money flowed to Washington, so did power.

Revenue sharing was established more than a decade ago when Congress passed the State and Local Fiscal Assistance Act of 1972. It was seen then as a way of halting, or even reversing, the trend toward ever-increasing concentrations of power in Washington, at the expense of State and local autonomy.

We extended the program in 1976, 1980, and 1983; since 1972, the program has provided more than $74 billion in assistance to State and local governments.

Mr. President, as in 1972, this program continues to embody the fundamental concept of maximizing local control over how funds are used. Since then, moreover, we have reformed the original program, to ensure that the funds could be sent to the governments which most truly need them. When first established, State governments as well as localities received revenue sharing funds. In 1980, we changed this arrangement to reflect the view that State governments were in better financial shape than the Federal Government.

Today, revenue sharing continues to provide needed funds to cities and towns throughout the country, on the basis of fiscal need and capacity. More than 39,000 units of government are eligible for the program, including 3,049 counties nationwide. Jurisdictions with populations of less than 10,000, most of which receive no other assistance from the Federal Government, account for more than 85 percent of the program's recipients. Revenue sharing is the only form of Federal assistance received by more than 30,000 local governments.

These communities do need revenue sharing. Sixty-two percent of all revenue sharing funds go to jurisdictions with per capita incomes below the national average. Fully 93 percent go to those with per capita incomes below 125 percent of the national average.

More than half of the funds are used for police, fire, schools, and hospitals. They are used as well to help maintain roads, highways, and bridges and to build jails and sewage and water treatment facilities. Funds also are used to provide services for poor and elderly Americans, such as Meals on Wheels, indigent health care, and nursing homes.

Less than 0.2 percent of the funds are used for administration costs, making the program one of the most efficient the Government has ever established.

Without revenue sharing, local governments will be faced with the choice of increasing taxes or cutting nonessential services. For many local governments, taxes would have to go up more than 30 percent to compensate for the loss of revenue sharing.

I have long been a proponent of revenue sharing, and in the executive branch helped craft the legislation that led to creation of the program in 1972. Since coming to the Senate in 1977, I have always strongly supported the program. As the current program expires at the end of this fiscal year, the time has come again to extend the program. I urge my colleagues to support this effort.●

By Mr. STAFFORD (for himself, Mr. Pell, Mr. Quayle, Mr. Kennedy, Mr. Weicker, Mr. Dodd, Mr. Wallop, Mr. Matsunaga, Mr. Simon, and Mr. Pressler):

S. 1965. A bill to reauthorize and revise the Higher Education Act of 1965, and for other purposes; to the Committee on Labor and Human Resources.

HIGHER EDUCATION AMENDMENTS

Mr. STAFFORD. Mr. President, today as chairman of the Senate Subcommittee on Education, Arts, and Humanities, I am introducing the reauthorization of the Higher Education Act of 1965 on behalf of myself and cosponsors Mr. Pell, Mr. Quayle, Mr. Kennedy, Mr. Weicker, Mr. Dodd, Mr. Wallop, Mr. Matsunaga, Mr. Simon, and Mr. Pressler.

The Higher Education Act provides the means for millions of Americans to achieve a higher education. Its wide-ranging impact on the skills and competence of our work force, as well as on the quality of life for our people is immeasurable. The majority of testimony heard by this Senator during 12 days of hearings in Washington and around the Nation convinced me that the Higher Education Act was basically successful in design and execution, and should be reauthorized with a minimum of disruption to current programs.

With this in mind, the subcommittee has considered and unanimously voted out a conservative bill. Programs which have been funded are continued with improvements. Finally, our student aid programs are given the priority and emphasis they deserve. Particularly the Pell Grant Program which, as the centerpiece of the Federal investment in higher education, has been strengthened and expanded.

The bill is divided into two parts. Title I contains all of the student aid provisions. Title II is made up of all remaining programs that provide institutional support. As chairman of the subcommittee, it was my goal throughout this reauthorization process, to produce a bill that was realistic in light of the deep concern about the federal deficit, yet at the same time enjoyed wide bipartisan support. The long list of cosponsors who join with me today is a tribute to the hard work on the part of all subcommittee members and staff to help reach that goal.

The bill I am introducing today is over $2 billion below current authorization levels, and approximately $750 million below the higher education bill recently passed by the House of Representatives for fiscal year 1987.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the Record immediately following the statements of Senators Pell and Simon.

There being no objection, the material was ordered to be printed in the Record, as follows:

● Mr. PELL. Mr. President, I am pleased to join the chairman of the Senate Subcommittee on Education, Arts, and Humanitaries [Mr. Stafford] in introducing the Higher Education Amendments of 1985. This legislation was approved by the subcommittee last Thursday, December 12, and represents strong bipartisan consensus on the part of the subcommittee members.

It is especially important to note that the total cost of this legislation is more than $2 billion below current authorizations for higher education. It is truly a bill that has been written in the spirit of prudent fiscal restraint.

I am particularly pleased that the major portions of this legislation focus upon student aid, which is by far our most important contribution to the cause of higher education. For some time, I have been very concerned by the decline of the actual dollar value of Pell grants, which is the cornerstone of our Federal student aid efforts. Over the past 4 years the value of that grant has declined by one-fifth. Further where a Pell grant in 1979 covered about 46 percent of average college attendance costs, it now covers less than a third.

Under the legislation approved by the subcommittee, the maximum Pell grant, now at $2,100, would increase to $2,400 for 1987, $2,600 for 1988, $2,800 for 1989, $3,000 for 1990, and $3,200 for 1991. In the first year of our proposal, this would mean an increase of almost 15 percent and that would do much to reverse the decline of the grant's value.

Generally the modest increases we have provided for undergraduate students through the Pell Grant Program and for graduate students through the Graduate and Professional Opportunities Program are truly investments in the future. Their cost will be repaid many times over in the contributions the men and women who receive these grants will make to our country.

There are, in addition, four proposals in which I have had a continuing interest that have been incorporated into this legislation. The first of these is the satisfactory progress provision, which stipulates that a student must maintain a "C" average in order to remain eligible for Federal student aid. I have long contended that we must make sure that student aid goes not only to those who truly need and deserve it but also only to those who are serious about their work, and who are completing and passing the courses in which they are enrolled.

Second, we have provided a modest $5 million authorization to assist college libraries. Unlike previous programs, however, this proposal would target assistance to those libraries which have the greatest demonstrated need. It is without question that the quality of a college education depends not only upon the quality of instruction but also upon the quality of a college library. Thus, what we do in this area in the very small program we are proposing can have a lasting impact upon student after student for years to come.

Third, under the bill approved by the subcommittee, campus-based aid to students would be targeted to students who demonstrate exceptional financial need. This change applies to both the Supplemental Education Opportunity Grant Program and the National Direct Student Loan Program. In a period of limited funds for student aid, it is particularly important that those funds reach students who need them most. The changes we have proposed will help accomplish that end.

Finally, our legislation includes the provision that child care be included in the cost of attendance and therefore an allowable expense to be considered in calculating student aid. This is especially important to students who are starting a college career or returning to college and must take care of small children at the same time. Including child care in the cost of attendance will help provide sufficient aid to cover those costs while the student is in school.

Mr. President, this is an excellent piece of legislation. It protects and improves student aid, provides important program assistance in such important areas as libraries, foreign language, and area studies, and cooperative education, and accomplishes all of that in a fiscally responsible manner. I am proud to have my name on this bill, and I look forward to considering it in the full Labor and Human Resources Committee and on the floor of the Senate during the second session of the 99th Congress.●

● Mr. SIMON. Mr. President, I am pleased to join the distinguished chairman of the Subcommittee on Education, Arts, and Humanities and its ranking Democratic member as cosponsors of S. 1965, the Higher Education Act Amendments of 1985. This bill, which was marked up in the subcommittee last Thursday, represents the bipartisan coalition that has traditionally supported higher education in the Congress of the United States. It is a fiscally responsible, as well as responsive to the needs of students, parents, and the higher education community.

Last year, while I served in the other body as chairman of the Education and Labor Committee's Subcommittee on Postsecondary Education, I urged the higher education community to begin the process of reauthorizing the Higher Education Act of 1965 early. Although the community could not come to an agreement with respect to some critical issues in the student aid area, I thought then, and believe now, that the Congress and the President could have constructed a more positive and beneficial bill to higher education then we will in the current budgetary climate. Under the present circumstances, we often ask how much does it costs before we determine what will best serve students and the Nation!

The bill being introduced today achieves several of the objectives I articulated last year:

Expand access, by dramatically increasing the Pell grant maximum, enlarging the maximum grant in the Supplemental Educational Opportunity Grant Program (SEOG), while retargeting SEOG's on the neediest students;

Simplify programs while improving efficiency, by providing a simple form for Federal student aid applicants who come from families with annual incomes of $15,000 or less, and permit student aid officers to correct errors on Pell grant application forms on the campus; and

Enhance quality, by strengthening the statutory "satisfactory academic progress" requirement and improving institutional facilities and endowments under title III.

I am especially pleased that the bill contains several provisions included in H.R. 5240 (98th Congress):

Each State will be required to establish an agency to serve as a lender of last resort;

The special allowance will be reduced by one-half of 1 percent to 3 percent (for lenders whose GSL loan volume exceeds $8 million);

A master calendar is established in law to ensure the timely delivery of student aid;

All students will have to undergo a needs test to determine eligibility for assistance, and the GSL needs test will be mandated in the law as a part of the needs analysis for the GSL and campus-based programs in section 482; and

The Pell grant family contribution schedule is written into law in order to ensure that these funds will be available for low- and middle-income students.

The bill also addresses the important issue of restoring a better balance between loans and grants in the financing of higher education. There have been major shifts over time in the overall proportions of aid awarded in the form of grants and loans. From 1970-71 to 1975-76, grant aid increased from 66 percent to 80 percent of total aid awarded, while loans decreased from 29 to 17 percent. This pattern reversed itself in the mid-1970's. In 1983-84, the proportions of total aid awarded as grants and loans are about equal at 48 percent each; work-study support provides the other 4 percent.

There is no more critical issue facing higher education than the continued expansion of educational opportunity to minority students, women, and those who historically have been left at higher education's doorstep. Monday's Washington Post included an article about the decline in the number of blacks pursuing graduate careers and entering the professoriate. The same is true for Hispanics and native Americans, and while the situation has improved for women, they still often find themselves untenured, underpaid, and uncertain about their futures. I expect to offer an amendment when the full committee marks up our bill to address the minority access problem. My amendment will provide for the use of the fifth year of Pell grant assistance by needy, qualified graduate students, and would authorize an early identification program—similar to the Trio Program—for juniors and seniors in college.

Although this bill is not everything I would like for it to be, it maintains the Nation's commitment to access and choice in higher education and attempts to address many of the concerns raised by parents, students, and college and university leaders.

Chairman STAFFORD and Senator PELL, who ably chaired the subcommittee for many years, have worked closely with all of the subcommittee members in fashioning a bill we can all support. I urge my colleagues on both sides of the aisle to join us in support of academic excellence, increased efficiency, and improved opportunities—cosponsor the Higher Education Act Amendments of 1986.●

S. 1965

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE; REFERENCES; TABLE OF CONTENTS

SECTION 1. (a) SHORT TITLE.—This Act may be cited as the "Higher Education Amendments of 1985".

(b) REFERENCES.—References in this Act to "the Act" are to the Higher Education Act of 1965.

(c) TABLE OF CONTENTS.—

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Sec. 301. Reauthorization.

EFFECTIVE DATE

SEC. 2. Except as otherwise provided in this Act, the amendments made by this Act shall take effect on October 1, 1986.

CONTRACTING AUTHORITY SUBJECT TO APPROPRIATIONS

SEC. 3. The authority to enter into contracts or other obligations under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

TITLE I—STUDENT ASSISTANCE

PART A—GRANTS TO STUDENTS

SUBPART 1—PELL GRANTS

EXTENSION OF PROGRAM; ELIGIBILITY

SEC. 101. (a) EXTENSION.—Section 411(a)(1)(A) of the Act is amended by striking out "1985" and inserting in lieu thereof "1991".

(b) ELIGIBILITY.—Section 411(a)(2)(B) of the Act is amended—

(1) by redesignating division (iii) as division (iv), and

(2) by inserting after division (ii) the following new division:

"(iii) No basic grant shall be awarded to a student under this subpart if the income of the family of such student is equal to or is greater than $30,000 after subtracting Federal and State income taxes.".

MAXIMUM GRANT

SEC. 102. (a) MAXIMUM AMOUNT.—Section 411(a)(2)(A)(i) of the Act is amended to read as follows:

"(i) The amount of the basic grant for a student eligible under this part shall be—

"(I) $2,400 for academic year 1987-1988,

"(II) $2,600 for academic year 1988-1989,

"(III) $2,800 for academic year 1989-1990,

"(IV) $3,000 for academic year 1990-1991, and

"(V) $3,200 for academic year 1991-1992,

less an amount equal to the amount determined under section 411A to be the expected family contribution with respect to that student for that year.".

(b) COST OF ATTENDANCE.—Section 411(a)(2)(B)(i) of the Act is amended to read as follows:

"(B)(i) The amount of a basic grant to which a student is entitled under this subpart for any academic year shall not exceed 60 per centum of the cost of attendance (in accordance with subsection (c) and section 411A) at the institution at which the student is in attendance for that year.".

(c) TECHNICAL AMENDMENT.—Section 411(a)(1)(B) of the Act is amended—

(1) by striking out "in academic year 1985-1986, 70 per centum" and inserting in lieu thereof "60 per centum"; and

(2) by striking out "not in excess of $3,700".

(d) REPEAL.—Paragraph (5) of section 411(b) of the Act is repealed.

COST OF ATTENDANCE RULES

SEC. 103. Section 411 of the Act is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

"(c) For the purpose of this subpart, the term 'cost of attendance' means—

"(1) the student's tuition and uniform compulsory fees at the institution at which the student is in attendance for any award year, plus

"(2)(A) an allowance for room and board costs, books, supplies, transportation, child care, and miscellaneous expenses incurred by the student which shall not be greater than $1,800 for a student without dependents residing at home with parents; and

"(B) an allowance for room and board costs, books, supplies, transportation, and miscellaneous expenses incurred by the student which shall not be greater than $2,400 for all other students;

except that, if the maximum award under such subpart is less than or greater than $2,400, then the dollar amounts specified in subclauses (A) and (B) of clause (2) of this subsection shall be increased or decreased by an amount equal to the amount by which such maximum award is greater than or less than $2,400, respectively.".

FAMILY CONTRIBUTION SCHEDULE FOR PELL GRANTS

SEC. 104. Subpart 1 of part A of title IV of the Act is amended by inserting after section 411 the following new section:

"FAMILY CONTRIBUTION SCHEDULE FOR PELL GRANTS

"SEC. 411A. (a) GENERAL RULE FOR DETERMINATION OF EXPECTED FAMILY CONTRIBUTION.—(1) The expected family contribution for a dependent student shall be determined in accordance with subsection (b), and the expected family contribution for an independent student shall be determined in accordance with subsection (c).

"(2) The following data elements are considered in determining the expected family contribution:

"(A) the effective income of (i) the student and the student's spouse; and (ii) the student's parents, in the case of a dependent student;

"(B) the number of family members in the household;

"(C) the number of family members in the household who are enrolled in, on at least a half-time basis a program of postsecondary education;

"(D) the assets of (i) the student and the student's spouse, and (ii) the student's parents, in the case of a dependent student;

"(E) the marital status of the student;

"(F) the unusual medical expenses of (i) the student's parents, in the case of a dependent student, or (ii) the student and the student's spouse, in the case of an independent student;

"(G) the additional expenses incurred (i) in the case of a dependent student, when both parents of the student are employed or when the family is headed by a single parent who is employed, or (ii) in the case of an independent student, when both the student and the student's spouse are employed or when the employed student qualifies as a surviving spouse or as a head of a household under section 2 of the Internal Revenue Code of 1954; and

"(H) the tuition paid (i) in the case of a dependent student, by the student's parents for dependent children, other than the student, who are enrolled in an elementary or secondary school, (ii) in the case of an independent student, by the student or the student's spouse for dependent children who are so enrolled.

"(b) RULES FOR DEPENDENT STUDENTS.—(1) For each dependent student the expected family contribution is equal to—

"(A) the sum of (i) the family income contribution amount determined under paragraph (2), (ii) the family asset contribution amount determined under paragraph (3), (iii) the student income contribution amount determined under paragraph (4), and (iv) the student asset contribution amount determined under paragraph (5); adjusted for—

"(B) the number of family members who will be attending, on at least a half-time basis, a program of postsecondary education during the award year for which Pell Grant assistance is requested in the following manner:

"Number of family members enrolled in programs of postsecondary education	Expected contribution per student from combined contributions
1	100 percent of the contribution determined in subparagraph (A).
2	70 percent of the contribution determined in subparagraph (A).
3	50 percent of the contribution determined in subparagraph (A).
4 or more	40 percent of the contribution determined in subparagraph (A).

"(2)(A) The family income contribution amount is determined by deducting from effective family income (i) a family size offset determined in accordance with subparagraph (B), (ii) an unusual expense offset determined in accordance with subparagraph (C), (iii) an employment expense offset determined in accordance with subparagraph (D), and (iv) an educational expense offset determined in accordance with subparagraph (E). If such discretionary income is a negative amount, the family income contribution amount is zero. If such discretionary income is a positive amount the family income contribution amount is determined in accordance with the following chart:

"Discretionary income	Expected contribution
$0 to $5,000	11% of discretionary income.
$5,001 to $10,000	$550, plus 13% of amount over $5,000.
$10,001 to $15,000	$1,200, plus 18% of amount over $10,000.
$15,001 and above	$2,100, plus 25% of amount over $15,000.

"(B)(i) The family size offset is equal to the amount specified in the following table:

"FAMILY SIZE OFFSETS

"Family members	Amount
2	$6,700
3	8,100
4	10,400
5	12,300
6	13,800
7 or more	13,800 plus $1,800 for each member over 6.

"(ii) In determining family size—

"(I) if the parents are not divorced or separated, family members include the student's parents, and the dependents of the student's parents;

"(II) if the parents are divorced or separated, family members include the parent whose income is included in computing the effective family income and that parent's dependents; and

"(III) if the parents are divorced and the parent whose income is so included is remarried, or if the parent was a widow or widower who has remarried, family members also include, in addition to those individuals referred to in subdivision (II) of this division, the new spouse and any dependents of the new spouse if that spouse's income is included in determining effective family income.

"(C) The unusual expense offset is equal to the amount by which the sum of unreimbursed medical and dental expenses exceeds 20 percent of the effective income of the parents. The expenses of both parents are included only if the income of both parents are included in determining effective family income. A stepparent's expenses are included only if the parent's income is included in determining effective family income.

"(D) The employment expense offset is determined as follows:

"(i) If both parents were employed in the year for which their income is reported and both have their incomes reported in determining the expected family contribution, such offset is equal to the lesser of $1,500 or 50 percent of the earned income (income earned by work) of the parent with the lesser earned income.

"(ii) If a parent qualifies as a head of household as defined in section 2 of the Internal Revenue Code of 1954, such offset is equal to the lesser of $1,500 or 50 percent of the parent's earned income.

"(E) The educational expense offset is equal to the tuition paid by the student's parents for dependent children, other than the student, enrolled in elementary or secondary school.

"(3)(A) The family asset contribution amount is equal to 5 percent of (i) the sum of the amounts computed under subparagraphs (B) and (C), reduced by (ii) the amount, if any, by which discretionary income as computed under paragraph (2)(A), is less than zero. If the result of such subtraction is a negative amount, the family asset contribution amount is zero.

"(B) If parental assets include assets other than a principal place of residence and other than farm and business assets, the amount determined under this subparagraph is the net value of such assets, minus $25,000. If such value minus such amount produces a negative number the amount determined under this subparagraph is zero.

"(C)(i) If parental assets include farm or business assets, or both, the amount determined under this subparagraph is the net value of such assets, minus $80,000. If such value minus such amount produces a negative number the amount determined under this subparagraph is zero.

"(ii) If the sum of the farm and business deduction and the deduction under subparagraph (B) exceeds $100,000, the farm and business deduction shall be reduced by the amount such sum exceeds $100,000.

"(D) If the student's parents are separated, or divorced, and not remarried, only the assets of the parent whose income is included in computing effective family income shall be included, for purposes of this paragraph. If that parent has remarried, or if the parent was a widow or widower who has remarried, and that parent's spouse's income is also included in computing effective family income, the assets of that parent's spouse shall also be included, for purposes of this paragraph.

"(E) In the computation of family contributions from effective family income and parental assets for any academic year beginning on or after July 1, 1986, the proceeds of a sale of farm or business assets of the family shall be excluded from family income if such sale results from a voluntary or involuntary foreclosure, forfeiture, liquidation, or bankruptcy.

"(4)(A) The student income contribution amount is equal to—

"(i) 75 percent of the student's discretionary income in the case of a single dependent student;

"(ii) 25 percent of the student's discretionary income in the case of a married dependent student; or

"(iii) zero if the student's discretionary income is a negative amount.

"(B) A student's discretionary income is equal to the effective student income of such student minus—

"(i) $3,500 in the case of a single student or $5,300 in the case of a married student, if the amount determined under paragraph (2)(A) for parental discretionary income is a positive amount; or

"(ii) if such parental discretionary income is a negative amount, the sum of (I) the amount allowed as an offset under clause (i), plus (II) the amount, if any, by which the result of the subtraction performed under paragraph (3)(A) is less than zero.

"(5) The student asset contribution amount is equal to—

"(A) 33 percent of net value of the student's assets, in the case of a single dependent student; or

"(B) in the case of a married dependent student and spouse, 5 percent of (i) the net asset value, minus (ii) $25,000.

If such value minus such amount (as computed under clause (B) (i) and (ii)) is a negative amount, the student asset contribution amount is zero.

"(c) RULES FOR INDEPENDENT STUDENTS.—(1) For each independent student the expected family contribution is equal to—

"(A) the sum of (i) the family income contribution amount determined under paragraph (2), and (ii) the family asset contribution amount determined under paragraph (3), adjusted for—

"(B) the number of family members who will be attending, on at least a half-time basis, a program of postsecondary education during the award year for which Pell Grant assistance is requested in the following manner:

"Number of family members enrolled in programs of postsecondary education	Expected contribution per student from combined contributions
1	100 percent of the contribution determined in subparagraph (A).
2	70 percent of the contribution determined in subparagraph (A).
3	50 percent of the contribution determined in subparagraph (A).

"(2)(A) The family income contribution amount is determined by deducting from effective family income (i) a family size offset determined in accordance with subparagraph (B), (ii) an unusual expense offset determined in accordance with subparagraph (C), (iii) an employment expense offset determined in accordance with subparagraph (D), and (iv) an educational expense offset determined in accordance with subparagraph (E). If such discretionary income is a negative amount, the family income contribution amount is zero. If such discretionary income is a positive amount the family income contribution amount is equal to—

"(i) 75 percent of such discretionary income in the case of a single independent student with no dependents or a married independent student without children, or

"(ii) 25 percent of such discretionary income in the case of an independent student with one or more dependents.

"(B)(i) The family size offset is equal to the amount specified in the following table:

"FAMILY SIZE OFFSETS

"Family members	Amount
1	$5,300
2	6,700
3	8,100
4	10,400
5	12,300
6	13,800
7 or more	13,800 plus $1,800 for each member over 6.

"(ii) In determining family size—

"(I) family members include the student, the student's spouse, and the student's dependents; and

"(II) if the student is divorced or separated, family members do not include the spouse (or ex-spouse) and the student's dependents.

"(C) The unusual expense offset is equal to the amount by which the sum of unreimbursed medical and dental expenses exceeds 20 percent of the effective family income. The expenses of both the student and the student's spouse are included only if the incomes of both are included in determining effective family income.

"(D) The employment expense offset is determined as follows:

"(i) If both the student and the student's spouse were employed in the year for which their income is reported and both have their incomes reported in determining the expected family contribution, such offset is equal to the lesser of $1,500 or 50 percent of the earned income (income earned by work) of the spouse with the lesser earned income.

"(ii) If a student qualifies as a head of household as defined in section 2 of the Internal Revenue Code of 1954, such offset is equal to the lesser of $1,500 or 50 percent of the student's earned income.

"(E) The educational expense offset is equal to the tuition paid by the student and spouse for dependent children enrolled in elementary or secondary school.

"(3)(A) The family asset contribution amount of an independent student with dependents is equal to 5 percent of (i) the sum of the amounts computed under subparagraphs (C) and (D), reduced by (ii) the amount, if any, by which discretionary income as computed under paragraph (2)(A), is less than zero. If the result of such subtraction is a negative amount, the family asset contribution amount is zero.

"(B) The family asset contribution amount of a single independent student is equal to 33 percent of such student's net asset value, reduced by the amount, if any, by which discretionary income as computed under paragraph (2)(A) is less than zero. If such value minus such amount is a negative amount, the family asset contribution amount is zero.

"(C) If the assets of an independent student with dependents include assets other than a principal place of residence and other than farm and business assets the amount determined under this subparagraph is the net value of such assets, minus $25,000. If such value minus such amount produces a negative number the amount determined under this subparagraph is zero.

"(D)(i) If the assets of an independent student with dependents include farm or business assets, or both, the amount determined under this subparagraph is the net value of such assets, minus $80,000. If such value minus such amount produces a negative number the amount determined under this subparagraph is zero.

"(ii) If the sum of the farm and business deduction and the deduction under subparagraph (B) exceeds $100,000, the farm and business deduction shall be reduced by the amount such sum exceeds $100,000.

"(E) In the computation of family contributions from effective family income and parental assets for any academic year beginning on or after July 1, 1986, the proceeds of a sale of farm or business assets of the family shall be excluded from family income if such sale results from a voluntary or involuntary foreclosure, forfeiture, liquidation, or bankruptcy.

"(d) REGULATION AUTHORITY LIMITATIONS.—The Secretary shall promulgate only such regulations as may be necessary to require the use of the most recent and relevant data in determining the expected family contribution under this section. Such regulations may also include procedures for computing family contributions when the student's family or an independent student have encountered extraordinary circumstances.

"(e) DEFINITIONS.—For the purpose of this section, the terms—

"(1) 'Annual adjusted family income' means the sum received in the year immediately preceding the award year, by the student, the student's spouse, and the student's parents, except excludable income under clause (6) of this subsection, from the following sources subject to the following rules:

"(A) Adjusted gross income, as defined in section 62 of the Internal Revenue Code of 1954.

"(B) Investment income upon which no Federal income tax is required to be paid, such as the interest on municipal bonds.

"(C) Other income, such as child support payments and welfare benefits, upon which no Federal income tax is paid except for—

"(i) veterans' benefits paid under chapters 34 and 35 of title 38 of the United States Code;

"(ii) Social Security educational benefits received by or on account of the student; and

"(iii) Social Security educational benefits paid to the student's parents for the student's siblings that would not be paid if those siblings were not students.

"(D) Income from one-half of any veteran's benefits to be paid to the student for the 1984-85 award year under chapters 34 and 35 of title 38 of the United States Code.

"(E) Income from Social Security educational benefits to be paid to the student, or to the student's parents for the student for the previous award year.

"(F) Income for a student whose parents are divorced or separated is determined under the following procedures:

"(i) Include only the income described in subsection (b) of this section, of the parent with whom the student resided for the greater portion of the 12-month period preceding the date of the application.

"(ii) If the preceding criterion does not apply, include only the income of the parent who provided the greater portion of the student's support for the 12-month period preceding the date of application.

"(iii) If neither of the preceding criteria apply, include only the income of the parent who provided the greater support during the most recent calendar year for which parental support was provided.

"(G) Income in the case of the death of any parent as follows:

"(i) If either of the parents have died, the student shall include only the income of the surviving parent.

"(ii) If both parents have died, the student shall not report any parental income.

"(H) Income in the case of a parent whose income is taken into account under clause (F) of this section, or a parent who is a widow or widower and whose income is taken into account under clause (E) of this section, has remarried, under the following rule: The income of that parent's spouse shall be included in determining the student's annual adjusted family income if, in the 2 previous award years, the student on July 1 of the award year concerned was not 23 years of age or older and—

"(i) has received or will receive financial assistance of more than $750 in either of such award years from that spouse;

"(ii) has lived or will live for more than 6 weeks in either of those years in the home of the parent and that spouse; and

"(iii) was claimed as a dependent by the parent or legal guardian of the student on the appropriate individual Federal income tax return.

"(2) 'Assets' means cash on hand, including amount in checking and savings accounts, time deposits, money market funds, trusts, stocks, bonds, other securities, mutual funds, tax shelters, real estate (except the student's or parent's single principal place of residence), income producing property, as well as business assets and farm assets.

"(3) 'Award year' is the period of time between July 1 of 1 year and June 30 of the following year.

"(4) 'Business assets' means property that is used in the operation of a trade or business, including real estate, inventories, buildings, machinery, and other equipment, patents, franchise rights, and copyrights.

"(5) Except as otherwise provided, 'dependent of the student' means the student, the student's spouse, any of the student's dependent children, dependent children of the student's parents, including those children who are deemed to be dependent students when applying for title IV aid; and other persons who live with and receive more than one-half of their support from the parents and will continue to receive more than half of their support from the parents during the award year.

"(6)(A) The term 'excludible income' means the income described in this clause which is excluded for the purpose of determining 'annual adjusted family income' under clause (1).

"(B) For a Native American student, the annual adjusted family income does not include the income received by the student, the student's spouse, or the student's parents under the Distribution of Judgment Funds Act (25 U.S.C. 1401, et seq.), the Alaska Native Claims Settlement Act (43 U.S.C. 1601, et seq.), or the Maine Indians Claims Settlement Act (25 U.S.C. 1721, et seq.).

"(C) In the case of a student who is divorced or separated, or whose spouse has died, the spouse's income shall not be considered in determining the effective family income.

"(D) The annual adjusted family income does not include any student financial assistance except veterans' or Social Security benefits set forth in clause (1) of this subsection.

"(7) 'Farm assets' means any property owned and used in the operation of a farm for profit, including real estate, livestock, livestock products, crops, farm machinery, and other equipment inventories. A farm is not considered to be operated for profit if crops or livestock are raised mainly for the use of the family, even if some income is derived from incidental sales.

"(8) 'Medical expenses' means unreimbursed medical and dental expenses, except premiums for medical insurance, that may be deducted under section 213 of the Internal Revenue Code of 1954 and that were paid in the taxable year immediately preceding the award year, unless the student files an application with the Secretary under the provisions of regulations promulgated by the Secretary. In that case, the expenses reported are expenses paid in the award year.

"(9) 'Net assets' means the current market value at the time of application of the assets included in the definition of 'assets' minus the outstanding liabilities (indebtedness) against the assets.

"(10) 'State income tax' means the tax on income paid to one or more of the 50 States of the United States or the District of Columbia.

"(11) 'Effective family income' is the annual adjusted family income minus the Federal and State taxes paid or payable for the year that adjusted gross income is used in the calculation of the student's Pell Grant.".

PROCEDURE WITH RESPECT TO AWARD ERRORS AND OVERPAYMENTS

SEC. 105. Section 411 of the Act (as amended by section 103(1)) is amended by adding at the end thereof the following new subsection:

"(e)(1) Each contractor processing applications for awards under this subpart shall, in a timely manner, furnish to the student financial aid administrator at each institution of higher education which a student awarded a basic grant under this subpart is attending an estimate of the amount of the award for each such student. Each such student financial aid administrator shall—

"(A) examine and verify the correctness of the estimated amount of the award furnished pursuant to this subsection; and

"(B) report the corrected amount of the award, if necessary, to such contractor for a confirmation of the correct computation of the amount of the award for each such student.

"(2) Whenever a student receives an award under this subpart that is in excess of the amount which the student is entitled to receive under this subpart, the institution of higher education which such student is attending shall pay to the Secretary the amount of such excess.

"(3) Each contractor processing applications for awards under this subpart shall for each academic year after academic year 1985-1986 prepare and submit a report to the Secretary on the correctness of the computations of awards under this subpart for the previous academic year for which the contractor is responsible. The Secretary shall transmit the report, together with the comments and recommendations of the Secretary, to the Committee on Appropriations and the Committee on Labor and Human Resources of the Senate and the Committee on Appropriations and the Committee on Education and Labor of the House of Representatives.".

SUBPART 2—SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS

AUTHORIZATION OF APPROPRIATIONS

SEC. 111. Section 413A(b) of the Act is amended to read as follows:

"(b) For the purpose of enabling the Secretary to make payments to institutions of higher education which have made agreements with the Secretary in accordance with section 487, for use by such institutions for payments to undergraduate students of a supplemental grant awarded to them under this subpart, there are authorized to be appropriated $433,125,000 for fiscal year 1987, $454,781,000 for fiscal year 1988, $477,520,000 for fiscal year 1989, $501,396,000 for fiscal year 1990, and $526,466,000 for fiscal year 1991.".

MAXIMUM AMOUNT OF GRANT

SEC. 112. Section 413B(a)(2)(A) of the Act is amended by striking out "$2,000" and inserting in lieu thereof "$3,000".

PRIORITY FOR NEEDY STUDENTS

SEC. 113. Section 413C(b) of the Act is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end thereof the following new paragraph:

"(2) In carrying out paragraph (1) of this subsection, each institution of higher education shall, in the agreement made under section 487, assure that the selection procedures—

"(A) will be designed to award supplemental grants under this subpart, first, to students with exceptional need, and

"(B) will give a priority for supplemental grants under this subpart to students who receive Pell Grants and meet the requirements of section 484.".

APPORTIONMENT

SEC. 114. (a) GENERAL RULE.—Section 413D of the Act is amended—

(1) by redesignating paragraph (3) of subsection (b) as subsection (c);

(2) by redesignating paragraph (4) of subsection (b) as subsection (d); and

(3) by amending subsection (a) and paragraphs (1) and (2) of subsection (b) to read as follows:

"(a)(1)(A) From the sums appropriated pursuant to section 413A(b)(1) for any fiscal year which are equal to or less than the amount appropriated for this subpart for fiscal year 1985, the Secretary shall apportion to each institution of higher education participating in the grant program under this subpart an amount equal to the amount so appropriated multiplied by the eligible institution's apportionment percentage.

"(B) For the purpose of subparagraph (A) of this paragraph, an eligible institution's apportionment percentage is the percentage which the amount the institution of higher education was eligible to receive from appropriations made in fiscal year 1985 under this subpart bears to the total amount available under this subpart for that year.

"(2)(A) In any fiscal year in which the amount appropriated for this subpart exceeds the amount appropriated for this subpart in fiscal year 1985, the Secretary shall apportion to each institution of higher education participating in the grant program under this subpart an amount which bears the same ratio to such excess as the number of eligible undergraduates who are enrolled full time and the full-time equivalent of the number of eligible undergraduates enrolled part time in the institution of higher education, bears to the total number of such undergraduates in all institutions of higher education.

"(B) For the purpose of subparagraph (A) of this paragraph, the term 'eligible' means undergraduates who were eligible to receive a supplemental grant under this subpart for the fiscal year preceding the fiscal year for which the determination is made.

"(b) If the Secretary determines that the sums apportioned to any institution of higher education under paragraph (2) for any fiscal year exceed the aggregate of the amounts that the Secretary determines to be required by that institution for that fiscal year, the Secretary shall reapportion such excess, from time to time, on such date or dates as the Secretary shall fix, to other institutions of higher education in such manner as the Secretary determines will best assist in achieving the purposes of this subpart.".

(b) CONFORMING AMENDMENT.—Subsection (c) of section 413D of the Act (as redesignated by subsection (a) of this section) is amended by striking out "from apportionments made to the State under subsection (a)(1) and under subsection (a)(2)".

SUBPART 3—STATE STUDENT INCENTIVE GRANTS

AUTHORIZATION OF APPROPRIATIONS

SEC. 121. Section 415A(b)(1) of the Act is amended to read as follows:

"(b)(1) There are authorized to be appropriated $76,000,000 for fiscal year 1987, and for each succeeding fiscal year ending prior to October 1, 1991, for payments to the

States for grants to eligible students under this subpart.".

FEDERAL SHARE LIMITATION

SEC. 122. Section 415C of the Act is amended by adding at the end thereof the following new subsection:

"(d) Each State shall pay the non-Federal share of the cost of the State student incentive grant program authorized by this subpart from State or other public sources.

SUBPART 4—STUDENT SUPPORT SERVICE PROGRAMS

AUTHORIZATION OF APPROPRIATIONS

SEC. 126. Section 417A(c) of the Act is amended to read as follows:

"(c) For the purpose of making grants and contracts under this subpart there are authorized to be appropriated $188,339,000 for fiscal year 1987, $197,756,000 for fiscal year 1988, $207,644,000 for fiscal year 1989, $218,026,000 for fiscal year 1990, and $228,927,000 for fiscal year 1991.".

STUDENT SUPPORT SERVICES; VETERANS

SEC. 127. (a) GENERAL RULE.—(1)(A) Section 417D(a) of the Act is amended by striking out "special services for disadvantaged students (hereinafter referred to as 'special services')" and insert in lieu thereof "student support services".

(B) Section 417D of the Act is amended by striking out "special services" each place it appears in subsections (b), (c), and (d) and inserting in lieu thereof "student support services" each such time.

(2) Section 417D(b) of the Act is amended—

(A) by striking out "and" at the end of clause (7);

(B) by striking out the period at the end of clause (8) and inserting in lieu thereof a semicolon and "and"; and

(C) by adding at the end thereof the following new clause:

"(9) specific counseling and support services designed to assist veterans, including each of the activities described in clauses (1) through (7) and the activities described in subsection (e).".

(3) Section 417D of the Act is amended by adding at the end thereof the following new subsection:

"(e) In approving applications for student support services projects for veterans under this subpart, the Secretary shall require an assurance that the institution which is the recipient of the grant or contract will make an adequate effort—

"(1) to maintain a full-time office of veterans' affairs which has responsibility for veterans' outreach, recruitment, and special education programs, including the provision of educational, vocational, and personal counseling for veterans;

"(2) to carry out programs designed to prepare educationally disadvantaged veterans for postsecondary education (A) under subchapter V of chapter 34 or title 38, United States Code, and (B) in the case of any institution located near a military installation, under subchapter VI of such chapter 34;

"(3) to carry out active outreach (with special emphasis on service-connected disabled veterans, other disabled or handicapped veterans, incarcerated veterans, and educationally disadvantaged veterans), recruiting, and counseling activities through the use of funds available under federally assisted work-study programs (with special emphasis on the veteran-student services program under section 1685 of such title 38);

"(4) to carry out an active tutorial assistance program (including dissemination of information regarding such program) in order to make maximum use of the benefits available under section 1692 of such title 38; and

"(5) to coordinate activities carried out under this part under section 612A of title 28, United States Code, and with the veterans employment and training initiatives authorized under the Job Training Partnership Act and under chapters 41 and 42 of title 38, United States Code, in order to assist in serving the readjustment, rehabilitation, personal counseling, and employment needs of veterans.".

(b) TECHNICAL AMENDMENT.—The heading of section 417D of the Act is amended to read as follows:

"STUDENT SUPPORT SERVICES".

(c) REPEALER.—Section 420A of the Act is repealed.

OUTREACH AND STAFF DEVELOPMENT

SEC. 128. Section 417F of the Act is amended to read as follows:

"OUTREACH AND STAFF DEVELOPMENT ACTIVITIES

"SEC. 417F. For the purposes of improving the operation of the special services programs and projects authorized by this subpart, and to expand the outreach of related activities which extend postsecondary educational opportunities to students from disadvantaged backgrounds, the Secretary is authorized to make grants to institutions of higher education and other public and private nonprofit institutions and organizations to provide training for staff and leadership personnel (including junior and high school counselors) employed in, or preparing for employment in, such programs and projects. Such training shall include—

"(1) conferences, internships, seminars, and workshops designed to improve the operation of programs and projects assisted under this subpart; and

"(2) training institutes to enable junior and senior high schools' counselors and teachers, personnel involved in programs and projects assisted under this subpart, college admissions personnel, and community agency staffs to counsel more effectively students and adults regarding postsecondary opportunity and financial aid eligibility. Training under this section shall be carried out in the various regions of the Nation in order to ensure that the training opportunities are appropriate to meet the needs in the local areas being served by such programs and projects. Grants made under this section shall be made only after consultation with regional and State professional associations of persons having special knowledge with respect to the needs and problems of such programs and projects.".

SUBPART 5—SPECIAL PROGRAMS FOR STUDENTS WHOSE FAMILIES ARE ENGAGED IN MIGRANT AND SEASONAL FARMWORK

AUTHORIZATION OF APPROPRIATIONS

SEC. 131. Section 418A(b) of the Act is amended to read as follows:

"(b) There are authorized to be appropriated $7,875,000 for fiscal year 1987, $8,269,000 for fiscal year 1988, $8,682,000 for fiscal year 1989, $9,116,000 for fiscal year 1990, and $9,572,000 for fiscal year 1991, to carry out the provisions of this subpart.".

PART B—GUARANTEED LOANS

EXTENSION OF PROGRAMS

SEC. 151. (a) Section 424(a) of the Act is amended—

(1) by striking out "1986" and inserting in lieu thereof "1992"; and

(2) by striking out "1990" and inserting in lieu thereof "1996".

(b) Section 428(a)(5) of the Act is amended—

(1) by striking out "1986" and inserting in lieu thereof "1992"; and

(2) by striking out "1990" and inserting in lieu thereof "1996".

NEEDS BASIS FOR THE GUARANTEED STUDENT LOAN PROGRAM

SEC. 152. (a) NEEDS BASIS REQUIRED.—Section 428(a)(2)(B) of the Act is amended to read as follows:

"(B) For the purpose of clause (ii) of subparagraph (A) a student shall qualify for a portion of an interest payment under paragraph (1) if the eligible institution has provided the lender with a statement evidencing a determination of need for a loan and the amount of such need.".

(b) INSTITUTIONAL RESPONSIBILITY FOR DETERMINATION OF NEED.—Section 428(a)(2)(F) of the Act is amended to read as follows:

"(F) An eligible institution may not, in carrying out the provisions of subparagraphs (A) and (B) of this paragraph, provide a statement which permits the student to receive any loan under this part in excess of the maximum amount applicable to such loan.".

INCREASING LOAN LIMITS

SEC. 153. (a) FEDERALLY INSURED LOANS.—(1) Section 425(a)(1) of the Act is amended by striking out "$2,500 in the case of a student who has not successfully completed a program of undergraduate education, or $5,000" and inserting in lieu thereof "$3,000 in the case of a student who has not successfully completed 2 years or its equivalent of a program of undergraduate education, $4,000 in the case of a student who has completed 2 years or its equivalent of a program of undergraduate education, but who has not completed such program, or $7,500".

(2)(A) Section 425(a)(1)(A) of the Act is amended by striking out "$2,500" and inserting in lieu thereof "$3,000".

(B) Section 425(b)(1)(B) of the Act is amended by striking out "$1,500" and inserting in lieu thereof "$2,000".

(3) Section 425(a)(2) of the Act is amended—

(A) by striking out "$12,500" and inserting in lieu thereof "$18,000"; and

(B) by striking out "$25,000" and inserting in lieu thereof "$55,500".

(b) GUARANTEED LOANS.—(1) Section 428(b)(1)(A) of the Act is amended by striking out "$2,500 in the case of a student who has not successfully completed a program of undergraduate education, or $5,000" and inserting in lieu thereof "$3,000 in the case of a student who has not successfully completed 2 years or its equivalent of a program of undergraduate education, $4,000 in the case of a student who has completed 2 years or its equivalent of a program of undergraduate education, but who has not completed such program, or $7,500".

(2)(A) Section 428(b)(1)(A)(i) of the Act is amended by striking out "$2,500" and inserting in lieu thereof "$3,000".

(B) Section 428(b)(1)(A)(ii) of the Act is amended by striking out "$1,500" and inserting in lieu thereof "$2,000".

(3) Section 428(b)(1)(B) of the Act is amended—

(A) by striking out "$12,500" and inserting in lieu thereof "$18,000"; and

(B) by striking out "$25,000" and inserting in lieu thereof "$55,500".

(c) LOANS UNDER SUPPLEMENTAL GUARANTY AGREEMENT.—(1)(A) Section 428A(a)(1)(A) of the Act is amended by striking out "$2,500 (in the case of a student who has not successfully completed a program of undergraduate education), or $5,000" and inserting in lieu thereof "$3,000 (in the case of a student who has not successfully completed 2 years or its equivalent of a program of undergraduate education), $4,000 (in the case of a student who has completed 2 years or its equivalent of a program of undergraduate education, but who has not completed such program), or $7,500".

(B) Section 428A(a)(1)(A) of the Act is further amended—

(i) by striking out "$12,500" and inserting in lieu thereof "$18,000"; and

(ii) by striking out "$25,000" and inserting in lieu thereof "$55,500".

(2) Section 428A(a)(2)(A) of the Act is amended by striking out "$2,500 (in the case of a student who has not successfully completed a program of undergraduate education), or $5,000" and inserting in lieu thereof "$3,000 (in the case of a student who has not successfully completed 2 years or its equivalent of a program of undergraduate education), $4,000 (in the case of a student who has completed 2 years or its equivalent of a program of undergraduate education, but who has not completed such program, or $7,500".

(3) Section 428A(a)(2)(A) of the Act is further amended—

(A) by striking out "$12,500" and inserting in lieu thereof "$18,000"; and

(B) by striking out "$25,000" and inserting in lieu thereof "$55,500".

INTEREST RATE INCREASED FOR NEW BORROWERS

SEC. 154. (a) NEW BORROWERS.—Section 427A of the Act is amended—

(1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and

(2) by adding after subsection (c) the following new subsection:

"(d) Notwithstanding subsections (a) and (b) of this section, with respect to any loan (other than a loan made pursuant to section 428B) to cover the cost of instruction for any period of enrollment beginning on or after July 1, 1986, to any borrower who, on the date of entering into the note or other written evidence of the loan, has no outstanding balance of principal or interest on any loan made, insured, or guaranteed under this part, the applicable rate of interest shall be 10 per centum on the unpaid principal or interest of the loan.".

(b) CONFORMING AMENDMENTS.—Section 427A is amended—

(1) by inserting after the subsection designation (a) the following: "RATES TO BE CONSISTENT WITH BORROWER'S ENTIRE DEBT.—";

(2) by inserting after the subsection designation (b) the following: "REDUCTION FOR CERTAIN BORROWERS AFTER DECLINE IN CERTAIN RATES.—";

(3) by inserting after the subsection designation (c) the following: "RATES FOR SUPPLEMENTAL AND PARENTAL LOANS.—";

(4) by inserting after the subsection designation (d) (as added by subsection (a) of this section) the following: "INTEREST RATES FOR NEW BORROWERS AFTER JULY 1, 1986.—";

(5) by inserting after the subsection designation (e) (as redesignated by subsection (a)) the following: "LESSER LOAN RATES PERMITTED.—"; and

(6) by inserting after the subsection designation (f) (as redesignated by subsection (a)) the following: "DEFINITIONS.—".

MAXIMUM INSURANCE PREMIUM

SEC. 155. Section 428(b)(1)(H) of the Act is amended to read as follows:

"(H) does not provide for collection of (i) an insurance premium in excess of 1 per centum per year on the unpaid principal amount of the loan (excluding interest added to principal) for the first year of the loan and (ii) an excessive insurance premium for other loans, and insures that the proceeds of the premium will not be used for incentive payments to lenders;".

STATE GUARANTY AGENCIES AS LENDER OF LAST RESORT

SEC. 156. Section 428(b)(1) of the Act is amended—

(1) by striking out "and" at the end of clause (O);

(2) by striking out the period at the end of clause (P) and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end thereof the following new clause:

"(Q) provides for a lender of last resort in the State for all eligible borrowers who are unable to obtain a loan under this part and who are legal residents of the State or are accepted for enrollment in or are attending an eligible institution in the State.".

DEFERMENT SPECIAL RULE

SEC. 157. Section 428(b) of the Act is amended by adding at the end thereof the following new paragraph:

"(3) For the purpose of paragraph (1)(M) of this subsection, the Secretary shall approve any course of study at a foreign university that is accepted for the completion of a recognized international fellowship program by the administrator of such a program.".

AUXILIARY LOAN LIMITS INCREASED

SEC. 158. Section 428B of the Act is amended—

(1) by striking out "$3,000" in subsection (b)(1) and inserting in lieu therof "$4,000";

(2) by striking out "15,000" in subsection (b)(2) and inserting in lieu thereof "20,000"; and

(3) by striking out "2,500" in subsection (c)(4)(B) and inserting in lieu thereof "4,500".

AUTHORITY OF THE SECRETARY TO IMPOSE AND ENFORCE LIMITATIONS, SUSPENSIONS, AND TERMINATIONS ON CERTAIN ELIGIBLE LENDERS

SEC. 159. (a) GENERAL RULE.—Section 432 of the Act is amended by adding at the end thereof the following new subsection:

"(f)(1) If the Secretary, after a reasonable notice and opportunity for hearing to an eligible lender, finds that the eligible lender—

"(A) has substantially failed—

"(i) to exercise reasonable care and diligence in the making and collecting of loans under the provisions of this part,

"(ii) to make the reports or statements under section 428(a)(4),

"(iii) to pay the required loan insurance premiums to any guaranty agency, or

"(B) has engaged in—

"(i) fraudulent or misleading advertising or in solicitations that have resulted in the making of loans insured or guaranteed under this part to borrowers who are ineligible; or

"(ii) the practice of making loans that violate the certification for eligibility provided in section 428,

the Secretary shall limit, suspend, or terminate that lender from participation in the insurance programs operated by guaranty agencies under this part. The Secretary shall not lift any such limitation, suspension, or termination until the Secretary is satisfied that the lender's failure under clause (A) of this paragraph or practice under clause (B) of this paragraph has ceased and finds that there are reasonable assurances that the lender will—

"(I) exercise the necessary care and diligence,

"(II) comply with the requirements described in clause (A), or

"(III) cease to engage in the practices described in clause (B),

as the case may be.

"(2)(A) The Secretary shall, in accordance with sections 556 and 557 of title 5, United States Code, review each limitation, suspension, or termination imposed by any guaranty agency pursuant to section 428A(a)(1)(F) within 60 days after receipt by the Secretary of a notice from the guaranty agency of the imposition of such limitation, suspension, or termination, unless the right to such review is waived in writing by the lender. The Secretary shall disqualify such lender from participation in the student loan insurance program of each guaranty agency under this part, and notify each such guaranty agency of such disqualification—

"(i) if such review is waived; or

"(ii) if such review is not waived, unless the Secretary determines that the limitation, suspension, or termination was not imposed in accordance with the requirements of such section.

"(B) The Secretary shall not lift any such disqualification until the Secretary is satisfied that the lender has corrected the failures or practices which led to the limitation, suspension, or termination, and finds that there are reasonable assurances that the lender will comply with the requirements of this part. The Secretary shall notify each guaranty agency of the lifting of any such disqualification.

"(3)(A) The Secretary shall, in accordance with sections 556 and 557 of title 5, United States Code, review each limitation, suspension, or termination imposed by any guaranty agency pursuant to section 428A(b)(1)(E) within 60 days after receipt by the Secretary of a notice from the guaranty agency of the imposition of such limitation, suspension, or termination, unless the right to such review is waived in writing by the institution. The Secretary shall disqualify such institution from participation in the student loan insurance program of each guaranty agency under this part, and notify each such guaranty agency of such disqualification—

"(i) if such review is waived; or

"(ii) if such review is not waived, unless the Secretary determines that the limitation, suspension, or termination was not imposed in accordance with the requirements of such section.

"(B) The Secretary shall not lift any such disqualification until the Secretary is satisfied that the institution has corrected the failures or practices which led to the limitation, suspension, or termination, and finds that there are reasonable assurances that the institution will comply with the requirements of this part. The Secretary shall notify each guaranty agency of the lifting of any such disqualification.".

(b) CONFORMING AMENDMENT.—(1) Section 428A(a)(1)(F) of the Act is amended to read as follows:

"(F) provides (i) for the eligibility of all lenders described in section 435(g)(1) under reasonable criteria, unless (I) that lender is eliminated as a lender under regulations for the limitation, suspension, or termination of lender under the Federal student loan insurance program or is eliminated as a lender pursuant to criteria issued under the student loan insurance program which are substantially the same as regulations with respect to such eligibility as a lender issued under the Federal student loan insurance program, or (II) there is a State constitutional prohibition affecting the eligibility of a lender, and (ii) assurances that the guaranty agency will report to the Secretary annually concerning such criteria, including any procedures in effect under such program to limit, suspend, or terminate lenders.".

(2) Section 428A(2)(F) of the Act is amended to read as follows:

"(F) provides (i) for the eligibility of all lenders described in section 435(d)(1) under reasonable criteria, unless (I) that lender is eliminated as a lender under regulations for the limitation, suspension, or termination of lender under the Federal student loan insurance program or is eliminated as a lender pursuant to criteria issued under the student loan insurance program which are substantially the same as regulations with respect to such eligibility as a lender issued under the Federal student loan insurance program, or (II) there is a State constitutional prohibition affecting the eligibility of a lender, and (ii) assurances that the guaranty agency will report to the Secretary annually concerning such criteria, including any procedures in effect under such program to limit, suspend, or terminate lenders.".

PROHIBITION OF CERTAIN INDUCEMENTS BY ELIGIBLE LENDERS

Sec. 160. Section 435(g) of the Act is amended—

(1) by striking out "Except" in paragraph (1) and inserting in lieu thereof "Subject to paragraph (5), except"; and

(2) by adding at the end thereof the following new paragraph:

"(5) An eligible lender under this part may not—

"(A) offer, directly or indirectly, points, premiums, payments, or other inducements to any educational institution or individual in order to secure applicants for loans under this part;

"(B) offer, directly or indirectly, loans under this part as an inducement to a prospective borrower to purchase a policy of insurance or other product; or

"(C) engage in fraudulent or misleading advertising.".

SPECIAL ALLOWANCE

Sec. 161. (a) General Rule.—Section 438(b)(2)(A) of the Act is amended by striking out "3.5 per centum" and inserting in lieu thereof "3.25 per centum".

(b) Special Rule for Holders Obtaining Loans From Tax Exempt Obligations.—The first sentence of section 438(b)(2)(B)(i) of the Act is amended by inserting before the period at the end thereof a comma and the following: "except that in setting the rate under this division the per centum prescribed in clause (iii) of subparagraph (A) shall be 3.5 per centum.".

(c) Effective Date.—The amendments made by subsections (a) and (b) of this section shall take effect with respect to loans made on or after July 1, 1986.

REPEAL OF DUPLICATIVE PROVISION

Sec. 162. Section 438 of the Act is amended—

(1) by striking out subsection (d); and

(2) by redesignating subsection (e) as subsection (d).

STUDENT LOAN MARKETING ASSOCIATION

Sec. 163. Section 439(d)(1) of the Act is amended—

(1) by inserting "and" at the end of clause (B);

(2) by striking out the semicolon and "and" at the end of clause (C) and inserting in lieu thereof a period; and

(3) by striking out clause (D).

Part C—Work Study Programs

AUTHORIZATION OF APPROPRIATIONS

Sec. 171. Section 441(b) of the Act is amended to read as follows:

"(b) There are authorized to be appropriated for carrying out this part $622,125,000 for fiscal year 1987, $653,231,000 for fiscal year 1988, $685,893,000 for fiscal year 1989, $720,187,000 for fiscal year 1990, and $756,197,000 for fiscal year 1991.".

APPORTIONMENT

Sec. 172. (a) General Rule.—Section 442 of the Act is amended to read as follows:

"APPORTIONMENT

"Sec. 442. (a)(1)(A) From the sums appropriated pursuant to section 441(b) for any fiscal year which are equal to or less than the amount appropriated for this part for fiscal year 1985, the Secretary shall apportion to each institution of higher education participating in the grant program under this part an amount equal to the amount so appropriated multiplied by the eligible institution's apportionment percentage.

"(B) For the purpose of subparagraph (A) of this paragraph, an eligible institution's apportionment percentage is the percentage which the amount the institution of higher education was eligible to receive from appropriations made in fiscal year 1985 under this part bears to the total amount available under this part for that year.

"(2)(A) In any fiscal year in which the amount appropriated for this part exceeds the amount appropriated for this part in fiscal year 1985, the Secretary shall apportion to each institution of higher education participating in the grant program under this part an amount which bears the same ratio to such excess as the number of eligible undergraduates who are enrolled full time and the full-time equivalent of the number of eligible undergraduates enrolled part time in the institution of higher education, bears to the total number of such undergraduates in all institutions of higher education.

"(B) For the purpose of subparagraph (A) of this paragraph, the term 'eligible' means undergraduates who were eligible for the work study program under this part for the fiscal year preceding the fiscal year for which the determination is made.

"(b) If the Secretary determines that the sums apportioned to any institution of higher education under subsection (a) for any fiscal year exceed the aggregate of the amounts that the Secretary determines to be required by that institution for that fiscal year, the Secretary shall reapportion such excess, from time to time, on such date or dates as the Secretary shall fix, to other institutions of higher education in such manner as the Secretary determines will best assist in achieving the purposes of this part.".

(b) Conforming Amendments.—(1) Section 446(a) of the Act is repealed.

(2) Section 446 of the Act is amended—

(A) by redesignating subsections (b) and (c) as subsections (a) and (b), respectively; and

(B) by striking out "in the same State" in subsection (a) (as redesignated by this clause).

(3) The heading of section 446 of the Act is amended to read as follows:

"AVAILABILITY OF ASSISTANCE".

WORK STUDY FOR COMMUNITY SERVICE-LEARNING ON BEHALF OF LOW-INCOME INDIVIDUALS AND FAMILIES

Sec. 173. (a) General Rule.—(1) Section 448(b)(1)(B) of the Act is amended to read as follows:

"(B) to the maximum extent practicable, provides participating students with work-learning opportunities which complement and reinforce their educational programs or vocational goals; and".

(2) Section 448(b)(2) of the Act is amended to read as follows:

"(2) 'community services' means services which are identified by an institution of higher education, through formal or informal consultation with local nonprofit, governmental, and community-based organizations, as designed to improve the quality of life for community residents, particularly low-income individuals, or to solve particular problems related to their needs including, but not limited to, such fields as health care, child care, literacy training, education, housing and neighborhood improvement, rural development, and community improvement.".

(3) Section 448(c)(3) of the Act is amended by inserting after "planning" a comma and the following: "development,".

(b) Federal Share.—(1) Section 443(b)(2) of the Act is amended by inserting after "except that" the following: "(A) an institution may use not to exceed 10 per centum of the funds granted to the institution in any fiscal year to carry out the work study program described in section 448 at the increased Federal share specified in clause (6)(B) of this subsection, and (B)".

(2) Section 443(b)(6) of the Act is amended—

(A) by inserting "(A)" after "except that"; and

(B) by adding before the semicolon at the end thereof a comma and the following: "and (B) the Federal share of the compensation of the students employed in the work study for community service-learning programs described in section 448 from funds available under clause (2)(A) in accordance with the agreement will not exceed 90 per centum of such compensation".

Part D—Direct Loans

AUTHORIZATION OF APPROPRIATIONS

Sec. 176. Section 461(b)(1) of the Act is amended to read as follows:

"(b)(1) For the purpose of enabling the Secretary to make contributions to student loan funds established under this part, there are authorized to be appropriated $228,356,000 for fiscal year 1987, $239,774,000 for fiscal year 1988, $251,763,000 for fiscal year 1989, $264,351,000 for fiscal year 1990, and $277,568,000 for fiscal year 1991, except that no funds are authorized to be appropriated for any fiscal year which begins after there has been a capital distribution under section 466(a).".

APPORTIONMENT

Sec. 177. (a) General Rule.—Section 462(a) of the Act is amended to read as follows:

"(a)(1)(A) From the sums appropriated pursuant to section 461(b) for any fiscal year which are equal to or less than the amount appropriated for this part for fiscal year 1985, the Secretary shall apportion to each institution of higher education participating in the loan program under this part an amount equal to the amount so appropriated multiplied by the eligible institution's apportionment percentage.

"(B) For the purpose of subparagraph (A) of this paragraph, an eligible institution's apportionment percentage is the percentage which the amount the institution of higher education was eligible to receive from appropriations made in fiscal year 1985 under this part bears to the total amount available under this part for that year.

"(2)(A) In any fiscal year in which the amount appropriated for this part exceeds the amount appropriated for this part in fiscal year 1985, the Secretary shall apportion to each institution of higher education participating in the loan program under this part an amount which bears the same ratio to such excess as the number of eligible undergraduates who are enrolled full time and the full-time equivalent of the number of eligible undergraduates enrolled part time in the institution of higher education, bears to the total number of such undergraduates in all institutions of higher education.

"(B) For the purpose of subparagraph (A) of this paragraph, the term 'eligible' means undergraduates who were eligible to receive a loan under this part for the fiscal year preceding the fiscal year for which the determination is made.

"(3) If the Secretary determines that the sums apportioned to any institution of higher education under paragraphs (1) and (2) for any fiscal year exceed the aggregate of the amounts that the Secretary determines to be required by that institution for that fiscal year, the Secretary shall reapportion such excess, from time to time, on such date or dates as the Secretary shall fix, to other institutions of higher education in such manner as the Secretary determines will best assist in achieving the purposes of this part.".

(b) CONFORMING AMENDMENTS.—(1)(A) Section 462(b)(1) of the Act is amended by striking out "from the apportionment of the State in which it is located".

(B) Section 462(b)(2) of the Act is amended by striking out "from the amount apportioned to the State in which it is located".

(2)(A) Section 462(c)(1)(A) of the Act is amended by striking out "from a State".

(B) Section 462(c)(1)(B) of the Act is amended by striking out "in a State".

(C) Section 462(c) of the Act is amended—

(i) by striking out "(A)";

(ii) by striking out paragraph (2); and

(iii) by redesignating subparagraph (B) as paragraph (2).

PRIORITY FOR NEEDY STUDENTS

SEC. 178. Section 463(a) of the Act is amended—

(1) by redesignating clause (9) as clause (10); and

(2) by inserting after clause (8) the following new clause:

"(9) provide that the institution of higher education will make loans first to students with exceptional need; and".

INTEREST RATE INCREASED

SEC. 179. Section 464(c)(1)(D) of the Act is amended by inserting after "October 1, 1981" a comma and the following: "or 7 per centum in the case of any loan made on or after July 1, 1986".

PART E—GENERAL STUDENT AID PROVISIONS

NEED ANALYSIS

SEC. 181. Section 482 of the Act is amended to read as follows:

"NEED ANALYSIS

"SEC. 482. (a) GENERAL AUTHORITY.—(1) The Secretary, in cooperation with the Advisory Committee on Student Financial Assistance established under section 491 of this title, shall prepare and publish a schedule of expected family contributions for programs under subpart 2 of part A, part B for loans for which an interest subsidy is paid pursuant to section 428, part C, and part E of this title in accordance with the master schedule established under section 482B.

"(2) In preparing the schedule of expected family contributions under this section, the Secretary shall, in evaluating the ability of the family to pay and the eligibility of the student for assistance under the program subject to the schedule, apply the following policies:

"(A) Parents of dependent students have a responsibility to finance their children's education to the extent that they are able to do so.

"(B) The ability of parents to pay derives from an evaluation of their financial resources at the time their dependent son or daughter applies for assistance.

"(C) Both income and assets of the parents and student are considered in arriving at an estimate of a family's ability to contribute to educational costs.

"(D) Basic and nondiscretionary expenses for food, shelter, and clothing and obligatory expenditures, such as taxes, are assumed not to be available to the family to pay for the children's educational costs. A portion of the remaining discretionary income is assumed to be available for postsecondary educational expenses.

"(E) Students who are dependent on their parents also are expected to contribute to their own educational expenses through their earnings, savings (including an $800 minimum contribution), or other resources that may be available directly to them, such as veterans' benefits.

"(F) Students are expected to contribute a greater proportion of their income and assets for education than their parents.

"(G) To qualify as self-supporting, students must meet age or other criteria established in this title and must demonstrate that they are not receiving any significant financial assistance from their parents.

"(H) Students determined to be self-supporting who have not accumulated sufficient personal resources should be able to receive financial assistance to pay for direct educational costs and minimum living costs for themselves and their dependents.

"(I) Through a combination of financial aid and personal resources, all self-supporting students and their families should be able to maintain a minimum living standard.

"(J) Students with no minor dependent children and their spouses who earn income should be expected to contribute most of that income toward direct and indirect educational expenses and be allowed to retain a portion of that income in order to improve their standard of living.

"(K) Self-supporting students with minor dependent children should be expected to contribute the same proportion of income and assets toward direct and indirect educational expenses as families of dependent students.

"(L) All self-supporting students and their spouses should be expected to contribute a minimum amount of resources toward their education.

"(b) BASIC CRITERIA.—The basic criteria to be followed in promulgating the expected family contribution are as follows:

"(1) The total income, including Adjusted Gross Income and other untaxed income, of the student and the student's spouse; or the student and the student's parents, in the case of a dependent student.

"(2) Allowances against income shall include:

"(A) United States income tax, Social Security taxes paid under sections 1401 and 3101 of the Internal Revenue Code of 1954, and a standard allowance for State income taxes.

"(B) A standard living allowance, based on consumption and other living costs for a family at a low standard of living as estimated by the Bureau of Labor Statistics.

"(C) Any unusual medical and dental expenses of the student and the student's spouse; or the student and the student's parents, in the case of a dependent student.

"(D) An allowance for unreimbursed tuition paid for dependent children other than the student enrolled in private elementary or secondary institutions.

"(E) An allowance for employment-related expenses in the case of a dependent student, when both parents of the student are employed or when the family is headed by a single parent who is employed.

"(3) The net assets of the student and the student's spouse; and the student and the student's parents, in the case of a dependent student, including—

"(A) the current balance of checking and savings accounts and cash on hand;

"(B) the equity in a principal place of residence;

"(C) the net value of investments and other real estate; and

"(D) the net worth of a business or farm.

"(4) An asset protection allowance based on the age of the older parent or the age of the student, in the case of the independent student.

"(5) An $800 mandatory expected minimum contribution for dependent students from savings, summer earnings, or academic year employment.

"(6) The number of dependents in the family of the student.

"(7) The number of dependents in the family of the student who are enrolled in, on at least a half-time basis, a program of postsecondary education.

"(8) In the case of an independent student, the marital status of the student and the number of minor dependents in the student's family.

"(9) In determining the expected family contribution under this section, a schedule of marginal taxation rates shall be applied to the amount of Adjusted Available Income. Separate taxation rates shall be developed for the parents of dependent undergraduate students, independent students with minor dependents, parents of dependent graduate students, and for independent students without minor dependents.

"(c) SEPARATE SCHEDULES.—Separate schedules of expected family contributions shall be developed for independent students and independent students with dependent minor children. Such separate schedules shall be consistent with the basic criteria set forth in subsection (b), except that such schedules shall—

"(1) provide that the portion of assets which shall be exempt from assessment for contribution for an independent student who has one or more dependent minor children shall be the same as the portion so exempt for the family of a dependent student;

"(2) provide that the rate of assessment for contribution on that portion of assets of such an independent student with minor dependents which is not exempt under subsection (b)(3) shall be the same as the rate applied to the comparable portion of assets of the family of a dependent student; and

"(3) in determining the family contribution for an independent student who has one or more dependent minor children, provide that the assessment rate which is to be applied to the student's available income shall be the same as the assessment rate applied to the available income of the family of a dependent student.

"(d) ASSESSMENT FROM ADJUSTED AVAILABLE INCOME.—The Adjusted Available Income is assessed according to the following table:

"Assessment From Adjusted Available Income (AAI)

If AAI is—	The Assessment is—
Less than $3,409	$750
$3,409-$7,600	22% of AAI
$7,601-$9,500	$1,672 + 25% of AAI over $7,600
$9,501-$11,400	$2,147 + 29% of AAI over $9,500
$11,401-$13,300	$2,698 + 34% of AAI over $11,400
$13,301-$15,200	$3,344 + 40% of AAI over $13,300
$15,201 or more	$4,104 + 47% of AAI over $15,200.

The Secretary shall prescribe modifications in the preceding assessments as necessary to carry out this section.

"(e) COST OF ATTENDANCE.—For purposes of this title, the term 'cost of attendance' means—

"(1) tuition and fees normally assessed a student carrying the same academic workload as determined by the institution of higher education, and including costs for rental or purchase of any equipment, materials, or supplies required of all students in the same course of study;

"(2) an allowance for books, supplies, transportation, and miscellaneous personal expenses for a student attending the institution on at least a half-time basis, as determined by the institution;

"(3) an allowance (as determined by the institution) for room and board costs incurred by the student which—

"(A) shall be an allowance of not less than $1,500 for a student without dependents residing at home with parents;

"(B) for students without dependents residing in institutionally owned or operated housing, shall be a standard allowance determined by the institution based on the amount assessed its residents for room and board; and

"(C) for all other students shall be an allowance based on the expenses reasonably incurred by such students for room and board, except that the amount may not be less than $2,500;

"(4) for a student engaged in a program of study by correspondence, only tuition and fees and, if required, books and supplies, travel, and room and board costs incurred specifically in fulfilling a required period of residential training;

"(5) for a student enrolled in an academic program which normally includes a formal program of study abroad, reasonable costs associated with such study;

"(6) an allowance based on actual expenses for child care for minor dependent children who require care, during the hours the student is in class or engaged in academic-related activities or in transit; and

"(7) for a handicapped student, an allowance for those expenses related to his handicap, including special services, transportation, equipment, and supplies that are reasonably incurred and not provided for by other assisting agencies.

"(f) INDEPENDENT STUDENT.—(1) For the purpose of this title, the term 'independent student' means a student who is determined, pursuant to regulations of the Secretary, to be independent of the parents or legal guardians of the students.

"(2) In carrying out paragraph (1) of this subsection, the Secretary shall apply the criteria specified in paragraph (3) for the relevant years described in paragraph (4).

"(3) A student qualifies as an independent student for an award year if the student—

"(A) does not, during any of the relevant years described in paragraph (4), live for more than 6 weeks in the home of the student's parent for whom income must be reported;

"(B) is not, for any of the relevant years described in paragraph (4), claimed as a dependent for Federal income tax purposes by such parent; and

"(C) does not, during any of the relevant years described in paragraph (4), receive financial assistance of more than $750 from such parent.

"(4) Except as provided in paragraph (5), to qualify as an independent student for any award year—

"(A) an unmarried student who has not attained 23 years of age must satisfy the criteria set forth in paragraph (3) for the first calendar year of an award year and the 2 preceding calendar years;

"(B) an unmarried student who has attained 23 years of age must satisfy the criteria set forth in paragraph (3) for the first calendar year of an award year and the preceding calendar year;

"(C) a married student must satisfy the criteria set forth in paragraph (3) for the first calendar year of the award year; and

"(D) an unmarried student with minor dependents (excluding a minor spouse) must satisfy the criteria set forth in paragraph (3) for the first calendar year of the award year.

"(5) Any student will qualify to be an independent student if, before the end of the award year—

"(A) the student's parents die; or

"(B) the student is declared a ward of a court.

"(g) ADDITIONAL TERMS.—For the purpose of this title, the term—

"(1) 'available income' is the difference between the parent's income and allowances against income;

"(2) 'Adjusted Available Income' is the sum of available income and a supplement from assets; and

"(3) 'family contribution' is the amount which the student and the family of the student may be reasonably expected to contribute toward the student's postsecondary education for the academic year for which the determination is made, as determined in accordance with the family contribution schedule required by this section.

"(h) SPECIAL RULE FOR FORECLOSURE, FORFEITURE, LIQUIDATION, OR BANKRUPTCY.—In the computation of family contributions for the programs under this title for any academic year beginning on or after July 1, 1986, the proceeds of a sale of farm or business assets of the family shall be excluded from family income if such sale results from a voluntary or involuntary foreclosure, forfeiture, liquidation, or bankruptcy.

"(i) LESSER RATES PERMITTED.—Nothing in this section shall prohibit an institution of higher education, in individual cases, from adjusting the determination of financial need for a student eligible for the purpose of eligibility for assistance under subpart 2 of part A, part C, or part E of this title if the basis for such adjustment is documented.".

SUBMISSION OF FAMILY CONTRIBUTION SCHEDULES

SEC. 182. Title IV of the Act is amended by inserting after section 482 the following new section:

"SUBMISSION OF EXPECTED FAMILY CONTRIBUTION SCHEDULES

"SEC. 482A. (a) SUBMISSION; JOINT RESOLUTION.—Each schedule of expected family contribution required under section 482 shall be submitted to the President of the Senate and to the Speaker of the House of Representatives not later than June 1 of each year. Before each such schedule shall become effective, both the Senate and the House of Representatives must adopt a joint resolution approving or modifying, in whole or in part, the proposed schedule.

"(b) DISAPPROVAL.—If any such schedule has not been approved by both the Senate and the House of Representatives pursuant to subsection (a) of this section, which has been signed by the President, not later than September 1 in the year in which the schedule was submitted, the Secretary shall—

"(1) publish the family contribution schedule for the previous academic year for Pell Grants under subpart 1 of part A modified to reflect the most recent and relevant data; and

"(2) publish the family contribution schedules for the previous academic year for the programs under subpart 2 of part A, part B for loans for which an interest subsidy is paid pursuant to section 428, part C, and part E modified to reflect the most recent and relevant data.".

SIMPLIFIED NEEDS TEST

SEC. 183. Section 482 of the Act (as amended by section 181) is amended by adding at the end thereof the following new subsection:

"(j)(1) The Secretary may use a simplified needs analysis based upon the elements set forth in paragraph (2) for the calculation of the expected family contribution for families with adjusted gross incomes which are equal to or less than $15,000 per year.

"(2) The five elements to be used for the simplified needs analysis are—

"(A) adjusted gross income,

"(B) Federal and State taxes paid,

"(C) untaxed income and benefits,

"(D) the number of family members, and

"(E) the number of family members in postsecondary education.".

CALENDAR FOR AWARDING FINANCIAL AID PRESCRIBED

SEC. 184. Title IV of the Act is amended by adding after section 482A the following new section:

"MASTER CALENDAR

"SEC. 482B. (a) SECRETARY REQUIRED TO COMPLY WITH SCHEDULE.—To assure adequate notification and timely delivery of student aid funds under this title, the Secretary shall adhere to the following calendar dates in the year preceding the award year:

"(1) Development and distribution of Federal and multiple data entry forms—

"(A) by February 1: first meeting of the Education Department's technical committee on forms design;

"(B) by March 1: Proposed family contribution schedule published in the Federal Register;

"(C) by June 1: final family contribution schedule;

"(D) by August 15: application for Federal student assistance and multiple data entry data elements and instructions approved;

"(E) by August 30: final approved forms delivered to servicers and printers;

"(F) by October 1: Federal and multiple data entry forms and instructions printed; and

"(G) by November 1: Federal and multiple data entry forms, instructions, and training materials distributed.

"(2) Allocations of campus-based and Pell Grant funds—

"(A) by August 1: distribution of institutional application for campus-based funds (FISAP) to institutions;

"(B) by October 1: final date for submission of FISAP by institutions to Department of Education;

"(C) by November 15: edited FISAP and computer printout received by institutions;

"(D) by December 1: appeals procedures received by institutions;

"(E) by December 15: edits returned by institutions to Department of Education;

"(F) by February 1: tentative award levels received by institutions and final Pell Grant payment schedule;

"(G) by February 15: closing date for receipt of institutional appeals by the Department of Education;

"(H) by March 1: appeals process completed;

"(I) by April 1: final award notifications sent to institutions;

"(J) by June 1: Pell Grant authorization levels sent to institutions.

"(b) Timing for Reallocations.—With respect to any funds reallocated under section 413D or 442, the Secretary shall reallocate such funds at any time during the course of the year that will best meet the purposes of the programs under subpart 2 of part A and part C, respectively. Such reallocation shall occur at least once each year, not later than September 30 of that year.

"(c) Delay of Effective Date of Late Publications.—Any additional regulatory changes initiated by the Secretary affecting the general administration of the programs pursuant to this title that have not been published in final form by December prior to the start of the award year shall not become effective until the beginning of the second award year after the December 1 date.

"(d) Notice to Congress.—The Secretary shall notify the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives when the items specified in the calendar have been completed and provide all relevant forms, rules and instructions with such notice. When a deadline included in the calendar is not met, the Secretary, within 7 days, shall submit to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives a written report, including proper documentation, as to why the deadline was not adhered to and a detailed plan for ensuring that subsequent dates are met. Nothing in this section shall be interpreted to penalize institutions or deny them the specified times allotted to enable them to return information to the Secretary based on the failure of the Secretary to adhere to the dates specified in this section.".

LESS THAN ONE-HALF TIME COURSE OF STUDY RULE

Sec. 185. (a) General Rule.—Section 484 of the Act is amended—

(1) by redesignating subsection (b) as subsection (c), and

(2) by inserting after subsection (a) the following new subsection:

"(b)(1) A student may be eligible for student assistance described in paragraph (2) if—

"(A) the student carries less than one-half the normal full-time workload for the course of study the student is pursuing, as determined by the institution of higher education, and

"(B) the institution of higher education has met the need for assistance under each such program described in paragraph (2) for students enrolled at the institution described in clause (2) of subsection (a).

"(2) The student assistance to which paragraph (1) of this subsection applies are—

(A) supplemental education opportunity grants under subpart 2 of part A of this title;

"(B) work-study programs under part C of this title; and

"(C) direct student loans under part E of this title.".

(b) Repeals.—(1) Section 413C(c) of the Act is repealed.

(2) Section 443(a)(3) of the Act is amended by striking out "except that each eligible institution may reserve and award not more than 10 per centum of the funds made available under this part for each fiscal year for less-than-half-time students who are determined by the institution to be in need of such grants and who meet the requirements of section 484, other than the requirement of clause (2) of section 484(a)".

SATISFACTORY PROGRESS

Sec. 186. (a) General Rule.—(1) Section 484(a)(3) of the Act is amended—

(A) by inserting after "progress" the following: "toward a degree or certificate"; and

(B) by striking out "according to the standards and practices of the institution at which the student is in attendance" and inserting in lieu thereof the following: "in accordance with the provisions of subsection (c) of this section".

(2) Section 484 of the Act is amended by adding at the end thereof the following new subsection:

"(c)(1) For the purpose of clause (3) of subsection (a) of this section, a student is maintaining satisfactory progress if—

"(A) the institution at which the student is in attendance, reviews the progress of the student at the end of each academic year, or its equivalent, as determined by the institution, and

"(B) the student has a cumulative C average, or its equivalent or academic standing consistent with the requirements for graduation, as determined by the institution, at the end of the second such academic year.

"(2) Whenever a student fails to meet the eligibility requirements of clause (3) of subsection (a) as a result of the application of this subsection and subsequent to that failure the student has a cumulative C average for any grading period, the student may, subject to this subsection, again be eligible under such clause (3) for a grant, loan, or work assistance under this title.

"(3) Any institution of higher education at which the student is in attendance may, for the purpose of clause (3), waive the provisions of paragraph (1) or paragraph (2) of this subsection for undue hardship based on—

"(A) the death of a relative of the student,

"(B) the personal injury or illness of the student, or

"(C) special circumstances as determined by the institution.".

(b) Effective Date.—The amendments made by this section shall take effect for the first academic year, or its equivalent, as determined by the Secretary of Education, beginning after the date of enactment of this Act.

FINANCIAL AND STUDENT SUPPORT SERVICES TRAINING

Sec. 187. Section 486(c) of the Act is amended by striking out "1985" and inserting in lieu thereof "1986".

ADVISORY COMMITTEE ON STUDENT FINANCIAL ASSISTANCE

Sec. 188. (a) Advisory Committee Authorized.—Section 491 of the Act is amended to read as follows:

"ADVISORY COMMITTEE ON STUDENT FINANCIAL ASSISTANCE

"Sec. 491. (a) Establishment and Purpose.—(1) There is established in the Department an independent Advisory Committee on Student Financial Assistance (hereafter in this section referred to as the 'Advisory Committee') which shall provide advice and counsel to the Congress and to the Secretary on student financial aid matters.

"(2) The purpose of the Advisory Committee is—

"(A) to provide extensive knowledge and understanding of the Federal, State, and institutional programs of postsecondary student assistance;

"(B) to provide technical expertise with regard to systems of needs analysis and application forms; and

"(C) to make recommendations that will result in the maintenance of access to postsecondary education for low- and middle-income students.

"(b) Independence of Advisory Committee.—In the exercise of its functions, powers, and duties, the Advisory Committee shall be independent of the Secretary and the other offices and officers of the Department.

"(c) Membership.—(1) The Advisory Committee shall have 11 members of which—

"(A) 3 members shall be appointed by the President pro tempore of the Senate,

"(B) 3 members shall be appointed by the Speaker of the House of Representatives, and

"(C) 5 members shall be appointed by the Secretary including, but not limited to representatives of States, institutions of higher education, secondary schools, credit institutions, students, and parents.

"(2) Not less than 7 members of the Advisory Committee shall be individuals who have been appointed on the basis of technical qualifications, professional standing and demonstrated knowledge in the fields of higher education and student aid administration, need analysis, financing postsecondary education, student aid delivery, and the operations and financing of student loan guarantee agencies.

"(d) Functions of the Committee.—The Advisory Committee shall—

"(1) develop, review, and comment upon the system of needs analysis established under section 482 of this title;

"(2) monitor, apprise, and evaluate the effectiveness of student aid delivery and recommend improvements;

"(3) recommend data collection needs and student information requirements which would improve access and choice for eligible students under this title and assist the Department of Education in improving the delivery of student aid and in assessing the impact of legislative and administrative policy proposals;

"(4) review and comment upon, prior to promulgation, all regulations affecting programs under this title, including proposed regulations;

"(5) recommend to the Congress and to the Secretary such studies, surveys, and analyses of student financial assistance programs, policies, and practices, including the special needs of low-income, disadvantaged, and nontraditional students, and the means by which the needs may be met;

"(6) review and comment upon standards by which financial need is measured in determining eligibility for Federal student assistance programs; and

"(7) appraise the adequacies and deficiencies of current student financial aid information resources and services and evaluate the effectiveness of current student aid information programs.

"(e) OPERATIONS OF THE COMMITTEE.—(1) Each member of the Advisory Committee shall be appointed for a term of 3 years, except that, of the members first appointed—

"(A) 4 shall be appointed for a term of 1 year;

"(B) 4 shall be appointed for a term of 2 years; and

"(C) 3 shall be appointed for a term of 3 years.

"(2) Any member appointed to fill a vacancy occurring prior to the expiration of the term of a predecessor shall be appointed only for the remainder of such term. A member of the Advisory Committee shall, upon request, continue to serve after the expiration of a term until a successor has been appointed. A member of the Advisory Committee may be reappointed to successive terms on the Advisory Committee.

"(3) The Advisory Committee shall elect a Chairman and a Vice Chairman from among its members.

"(4) Six members of the Advisory Committee shall constitute a quorum.

"(5) The Advisory Committee shall meet at the call of the Chairman or a majority of its members.

"(f) SUBMISSION TO DEPARTMENT FOR COMMENT.—The Advisory Committee shall submit any of its proposed studies or recommendations to the Department of Education for comment for a period not to exceed 30 days in each instance.

"(g) COMPENSATION AND EXPENSES.—(1) Members of the Advisory Committee who are officers or full-time employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States; but they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(2) Members of the Advisory Committee who are not officers or full-time employees of the United States may each receive reimbursement for travel expenses incident to attending Advisory Committee meetings, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(h) PERSONNEL AND RESOURCES.—(1) The Advisory Committee may appoint such personnel as may be necessary by the Chairman without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subtitle III of chapter 53 of such title relating to classification and General Schedule pay rates, but no individual so appointed shall be paid in excess of the rate authorized for GS-18 of the General Schedule.

"(2) In carrying out its duties under the Act, the Advisory Committee shall consult with other Federal agencies, representatives of State and local governments, and private organizations to the extent feasible.

"(3) The Advisory Committee is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality information, suggestions, estimates, and statistics for the purpose of this section and each such department, bureau, agency, board, commission, office, independent establishment, or instrumentality is authorized and directed to the extent permitted by law, to furnish such information, suggestions, estimates, and statistics directly to the Advisory Committee, upon request made by the Chairman.

"(4) The Advisory Committee is authorized to obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code.

"(5) The head of each Federal agency shall, to the extent not prohibited by law, cooperate with the Advisory Committee in carrying out this section.

"(6) The Advisory Committee is authorized to utilize, with their consent, the services, personnel, information, and facilities of other Federal, State, local, and private agencies with or without reimbursement.

"(i) AVAILABILITY OF FUNDS.—An amount, not to exceed $1,000,000 in any fiscal year, shall be available from the amount appropriated for each such fiscal year from salaries and expenses for the costs of carrying out the provisions of this section.".

(b) TERMINATION.—(1) The Advisory Committee shall cease to exist 1 year after the first meeting of the Advisory Committee.

(2) Effective 1 year after the first meeting of the Advisory Committee, section 491 of the Act is repealed.

TITLE II—INSTITUTIONAL AND PROGRAM ASSISTANCE

PART A—CONTINUING POSTSECONDARY EDUCATION PROGRAM AND PLANNING

REPEAL OF TITLE I

SEC. 201. Title I of the Act is repealed.

NATIONAL ADVISORY COUNCIL ON CONTINUING EDUCATION

SEC. 202. (a) COUNCIL ESTABLISHED.—Title II of the Department of Education Organization Act is amended by adding at the end thereof the following:

"NATIONAL ADVISORY COUNCIL ON CONTINUING EDUCATION

"SEC. 215. (a) The President shall appoint a National Advisory Council on Continuing Education consisting of eight representatives of Federal agencies having postsecondary continuing education and training responsibilities, including, but not limited to—

"(1) one representative each from—

"(A) the Department of Education,

"(B) the Department of Agriculture,

"(C) the Department of Defense,

"(D) the Department of Labor, and

"(E) the Veterans' Administration; and

"(2) twelve members, not full-time employees of the Federal Government, who are knowledgeable and experienced in the field of continuing education, including State and local government officials, representatives of business, labor, and community groups, and adults whose educational needs have been inadequately served.

The Advisory Council shall meet at the call of the Chairman but not less than twice a year.

"(b) The Advisory Council shall advise the Secretary in the preparation of general regulations and with respect to policies and procedures arising in the administration of the Higher Education Act of 1965 with respect to continuing education.

"(c) The Advisory Council shall examine all federally supported continuing education and training programs and make recommendations with regard to policies to eliminate duplication and to effectuate the coordination of programs under the Higher Education Act of 1965 with respect to continuing education and other federally funded continuing education and training programs and services.

"(d) The Advisory Council shall make annual reports to the President, the Congress, and the Secretary of its findings and recommendations, including recommendations for changes in the provisions of the Higher Education Act of 1965 with respect to continuing education and other Federal laws relating to continuing education and training activities. The President shall transmit each such report to the Congress with his comments and recommendations. The Advisory Council shall make such other reports or recommendations to the President, the Congress, the Secretary, or the head of any other Federal department or agency as may be appropriate.

"(e) The Advisory Council may utilize the services and facilities of any agency of the Federal Government as may be necessary. The Advisory Council may accept, employ, and dispose of gifts or bequests to carry out its responsibilities under this section.".

(b) CONFORMING AMENDMENT.—The table of contents of such Act is amended by adding after item "Sec. 214." the following new item:

"Sec. 215. National Advisory Council on Continuing Education.".

PART B—LIBRARIES

REAUTHORIZATION

SEC. 211. Section 201(b) of the Act is amended to read as follows:

"(b)(1) There are authorized to be appropriated to carry out part A $5,000,000 for fiscal year 1987, $5,250,000 for fiscal year 1988, $5,512,500 for fiscal year 1989, $5,788,125 for fiscal year 1990, and $6,077,530 for fiscal year 1991.

"(2) There are authorized to be appropriated to carry out part B $1,050,000 for fiscal year 1987, $1,103,000 for fiscal year 1988, $1,158,000 for fiscal year 1989, $1,216,000 for fiscal year 1990, and $1,277,000 for fiscal year 1991.

"(3) There are authorized to be appropriated to carry out part C $6,300,000 for fiscal year 1987, $6,615,000 for fiscal year 1988, $6,940,000 for fiscal year 1989, $7,280,000 for fiscal year 1990, and $7,650,000 for fiscal year 1991.".

COLLEGE LIBRARY RESOURCES

SEC. 212. (a) GRANT AMOUNT; NEED CRITERIA.—Section 211 of the Act is amended to read as follows:

"COLLEGE LIBRARY RESOURCES

"SEC. 211. (a) From the amount appropriated for this part, the Secretary shall make grants to eligible institutions of higher education or combinations thereof (and to branches of institutions which are located in different communities from that in which its parent institution is located). The amount of a grant under this part shall not be less than $2,000 nor more than $10,000 and shall reflect the number of full-time equivalent students enrolled at the recipient institution. If the funds are not sufficient to provide grants to all eligible institutions, grants shall be made to those institutions demonstrating the greatest need, based on the eligibility criteria in section 211(c).

"(b) A grant under this part may be made only if the application provides—

"(1) information about the institution and its library resources as prescribed by the Secretary in regulations;

"(2) satisfactory assurance that the applicant has expended for all library materials (exclusive of construction) during the institutional fiscal year preceding the year of application for which the grant is sought (hereafter in this section called the 'base year'), from funds other than funds received under this part, an amount not less than the average annual aggregate amount or the average amount per full-time equivalent student it expended for such purposes during the 2 years preceding the base year;

"(3) for such fiscal control and fund accounting procedures as are necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this part;

"(4) for making such reports as the Secretary may require, including a report on how such funds received under a grant were expended, and for keeping such records and for affording such access thereto as the Secretary deems necessary to assure the correctness and verification of such reports; and

"(5) a statement setting forth how the funds received under this part will be used to improve the quality of the institution's library services.

"(c) In order to be considered an eligible institution, an institution must provide the Secretary assurance that—

"(1) the expenditures of the institution per full-time equivalent student for library materials is less than the average of the expenditures for library materials per full-time equivalent student by other institutions of comparable size and program, as determined by the Secretary in accordance with definitions established by the National Center for Education; and

"(2) the number of volumes per full-time equivalent student is less than the average of such number of volumes held by institutions of comparable size and program, as determined by the Secretary in accordance with definitions established by the National Center for Education Statistics.

"(d) If the Secretary determines, in accordance with regulations, that there are very unusual circumstances which prevent the applicant from making the assurance required by subsection (b)(2), the requirement for such assurance may be waived. For purposes of this subsection, the term 'very unusual circumstances' means theft, vandalism, fire, flood, earthquake, or other occurrence which may temporarily reduce the level of expenditures for library materials, or which resulted in unusually high expenditures for library materials.

"(e) If the Secretary determines, in accordance with regulations, that there are very unusual circumstances which prevent an otherwise eligible institution from qualifying under subsection (c), the requirements of subsection (c) may be waived. The Secretary may not grant such waivers to more than 5 percent of the eligible institutions receiving grants under this part.

"(f) Grants under this part may be used only for books, periodicals, documents, magnetic tapes, phonographic records, audiovisual materials, and other related library materials (including necessary binding) and for the establishment and maintenance of networks for sharing library resources with other institutions of higher education.".

STUDY OF THE EFFECTIVENESS OF THE NEEDS CRITERIA FOR THE COLLEGE LIBRARY RESOURCE PROGRAM AUTHORIZED

SEC. 213. Title II of the Act is amended by inserting after section 211 the following new section:

"STUDY OF THE EFFECTIVENESS OF THE NEEDS CRITERIA FOR THE COLLEGE LIBRARY RESOURCE PROGRAM AUTHORIZED

"SEC. 212. (a) The National Commission on Libraries and Information Sciences shall conduct a study on the effectiveness in directing assistance to libraries with the greatest need of the needs criteria specified in section 211 under this part.

"(b) The National Commission on Libraries and Information Sciences shall prepare and submit a report to the Congress not later than 3 years after the conclusion of the first fiscal year in which appropriations are made for the College Library Resource Program authorized by section 211, as amended by section 212 of the Higher Education Amendments of 1985, together with such recommendations as the Commission on Libraries and Information Sciences deems appropriate.".

STRENGTHENING RESEARCH LIBRARY RESOURCES

SEC. 214. Section 231 of the Act is further amended by inserting at the end thereof the following new subsection:

"(c) In determining eligibility for assistance under this part, the Secretary shall permit institutions that do not otherwise qualify to provide additional information or documents to demonstrate the national or international significance for scholarly research of the particular collection described in the grant proposal.".

REPEAL OF PART D

SEC. 215. Part D of title II of the Act is repealed.

PART C—INSTITUTIONAL AID

INSTITUTIONAL AID REAUTHORIZED

SEC. 221. Title III of the Act is amended to read as follows:

"TITLE III—INSTITUTIONAL AID

"FINDINGS AND PURPOSES

"SEC. 301. (a) FINDINGS.—The Congress finds that—

"(1) many institutions of higher education in this era of declining enrollments and scarce resources face problems which threaten their ability to survive;

"(2) the problems relate to the management and fiscal operations of certain institutions of higher education, as well as to an inability to engage in long-range planning, recruitment activities, and development activities;

"(3) the title III program prior to 1985 did not always meet the specific development needs of historically black colleges and universities and other institutions with large concentrations of minority, low-income students;

"(4) the solution of the problems of these institutions would enable them to become viable, thriving institutions of higher education;

"(5) providing a minimum level of assistance to each category of eligible institutions will assure the continued participation of the institutions in the program established in title III and enhance their role in providing access to low-income and minority students; and

"(6) these institutions play an important role in the American system of higher education, and there is a strong national interest in assisting them in solving their problems and in stabilizing their management and fiscal operations.

"(b) PURPOSE.—It is the purpose of this title to assist such institutions through a program of Federal assistance.

"PART A—STRENGTHENING INSTITUTIONS

"PROGRAM PURPOSE

"SEC. 311. (a) GENERAL AUTHORIZATION.—The Secretary shall carry out a program, in accordance with this part, to improve the academic quality, institutional management, and fiscal stability of eligible institutions, in order to increase their self-sufficiency and strengthen their capacity to make a substantial contribution to the higher education resources of the Nation.

"(b) GRANTS AWARDED; SPECIAL CONSIDERATION.—From the sums available for this part under section 358(a)(1), the Secretary may award grants to any eligible institution with an application approved under section 351 in order to assist such an institution to plan, develop, or implement activities that promise to strengthen the institution. Special consideration shall be given to applications which propose, pursuant to the institution's plan, to engage in—

"(1) faculty development;

"(2) funds and administrative management;

"(3) development and improvement of academic programs;

"(4) acquisition of equipment for use in strengthening funds management and academic programs;

"(5) joint use of facilities such as libraries and laboratories; and

"(6) student services.

"DEFINITIONS

"SEC. 312. For purposes of this part:

"(1) The term 'educational and general expenditures' means the total amount expended by an institution of higher education for instruction, research, public service, academic support (including library expenditures), student services, institutional support, scholarships and fellowships, operation and maintenance expenditures for the physical plant, and any mandatory transfers which the institution is required to pay by law.

"(2) The term 'eligible institution' means—

"(A) an institution of higher education—

"(i)(I) which, in the case of an institution which awards a bachelor's degree, has an enrollment which includes a substantial percentage of students receiving need-based assistance under title IV of this Act (other than loans for which an interest subsidy is paid pursuant to section 428), the average amount of which assistance is high in comparison with the average amount of all assistance provided under such title to students at such institutions, unless this requirement is waived under section 352(a), and (II) which, in the case of junior or community colleges, has an enrollment which includes a substantial percentage of students receiving need-based assistance under title IV, the average amount of which assistance is high in comparison with the average amount of all assistance provided under such title to students at such institutions;

"(ii) except as provided in section 352(b), the average educational and general expenditures of which are low, per full-time equivalent undergraduate student, in comparison with the average educational and general expenditures per full-time equivalent undergraduate student of institutions that offer similar instruction;

"(iii)(I) is legally authorized to provide, and provides within the State, an educational program for which it awards a bachelor's degree, or (II) is a junior or community college;

"(iv) is accredited by a nationally recognized accrediting agency or association determined by the Secretary to be reliable authority as to the quality of training offered or is, according to such an agency or association, making reasonable progress toward accreditation;

"(v) except as provided in section 352(b) has, during the 5 academic years preceding the academic year for which it seeks assistance under this part—

"(I) met the requirement of either subclause (iii)(I) or (iii)(II), or of both such subclauses (simultaneously or consecutively); and

"(II) met the requirement of subclause (iv); and

"(vi) meets such other requirements as the Secretary may prescribe;

"(B) any branch of any institution of higher education described under clause (A) which by itself satisfies the requirements contained in subclauses (i) and (ii) of such clause;

"(C) any institution of higher education which has an enrollment of which at least 20 percent are Mexican American, Puerto Rican, Cuban, or other Hispanic students, or combination thereof, and which also satisfies the requirements of subclauses (i) and (ii) of such clause;

"(D) any institution of higher education which has an enrollment of at least 60 percent American Indian, Alaska Native or Aleut, or combination thereof, and which also satisfies the requirements of subclauses (i) and (ii) of such clause; and

"(E) any institution of higher education which has an enrollment of which at least 5 percent are Native Hawaiian, Asian American, American Samoan, Micronesian, Guamian (Chamorro), and Northern Marianian, or any combination thereof, and which also satisfies the requirements of subclauses (i) and (ii) of such clause.

For purposes of the determination of whether an institution is an eligible institution under this paragraph, the factor described under clause (A)(i) shall be given twice the weight of the factor described under clause (A)(ii).

"(3) The term 'full-time equivalent students' means the sum of the number of students enrolled full time at an institution, plus the full-time equivalent of the number of students enrolled part time (determined on the basis of the quotient of the sum of the credit hours of all part-time students divided by 12) at such institution.

"(4) The term 'junior or community college' means an institution of higher education—

"(A) that admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution;

"(B) that does not provide an educational program for which it awards a bachelor's degree (or an equivalent degree); and

"(C) that—

"(i) provides an educational program of not less than 2 years that is acceptable for full credit toward such a degree, or

"(ii) offers a 2-year program in engineering, mathematics, or the physical or biological sciences, designed to prepare a student to work as a technician or at the semiprofessional level in engineering, scientific, or other technological fields requiring the understanding and application of basic engineering, scientific, or mathematical principles of knowledge.

"DURATION OF GRANT

"SEC. 313. (a) GENERAL RULE.—The Secretary may award a grant to an eligible institution under this part for—

"(1) not to exceed 3 years, or

"(2) not less than 4 nor more than 7 years, subject for each fiscal year to the availability of appropriations therefor.

The Secretary shall not accept the application of an eligible institution for a grant under both clauses (1) and (2) for a fiscal year.

"(b) LIMITATION.—The Secretary shall not award a grant under this part to an eligible institution that has, for any prior fiscal year, exhausted its 7 years of eligibility under subsection (a)(2), except as provided in section 352(c).

"(c) EXCEPTION.—Notwithstanding subsection (a), the Secretary may award a grant to an eligible institution under this part for a period of 1 year for the purpose of assisting such institution in the preparation of plans and applications under this part.

"PART B—STRENGTHENING HISTORICALLY BLACK COLLEGES AND UNIVERSITIES

"FINDINGS AND PURPOSES

"SEC. 321. The Congress finds that—

"(1) the historically black colleges and universities have contributed significantly to the effort to attain equal opportunity through postsecondary education for black, low-income, and educationally disadvantaged Americans;

"(2) States and the Federal Government have discriminated in the allocation of land and financial resources to support black public institutions under the Morrill Act of 1862 and its progeny, and against public and private black colleges and universities in the award of Federal grants and contracts, and the distribution of Federal resources under this Act and other Federal programs which benefit institutions of higher education;

"(3) the current state of black colleges and universities is partly attributable to the discriminatory action of the States and the Federal Government and this discriminatory action requires the remedy of enhancement of black postsecondary institutions to ensure their continuation and participation in fulfilling the Federal mission of equality of educational opportunity; and

"(4) financial assistance to establish or strengthen the physical plants, financial management, academic resources, and endowments of the historically black colleges and universities are appropriate methods to enhance these institutions and facilitate a decrease in reliance on governmental financial support and to encourage reliance on endowments and private sources.

"DEFINITIONS

"SEC. 322. For the purposes of this part:

"(1) The term 'graduate' means an individual who has attended an institution for at least three semesters and fulfilled academic requirements for undergraduate studies in not more than 5 consecutive school years.

"(2) The term 'part B institution' means any historically black college or university that was established prior to 1964 and whose principal mission was, and is, the education of black Americans.

"(3) The term 'Pell Grant recipient' means a recipient of financial aid under title IV, part A, subpart 1 of this Act.

"(4) The term 'professional and academic areas in which blacks are underrepresented' shall be determined by the Administrator of the National Center for Education Statistics and the Commissioner of the Bureau of Labor Statistics, on the basis of the most recent available satisfactory data, as professional and academic areas in which the percentage of black Americans who have been educated, trained, and employed is less than the percentage of blacks in the general population.

"(5) The term 'school year' means the period of 12 months beginning July 1 of any calendar year and ending June 30 of the following calendar year.

"GRANTS TO INSTITUTIONS

"SEC. 323. (a) GENERAL AUTHORIZATION; USES OF FUNDS.—From amounts available under section 358(a)(2) in any fiscal year the Secretary shall make grants (under section 324) to institutions which have applications approved by the Secretary (under section 325) for any of the following uses:

"(1) Purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes.

"(2) Renovation and improvement in classroom, library, laboratory, and other instructional facilities.

"(3) Support of faculty exchanges and faculty fellowships to assist in attaining advanced degrees in their field of instruction.

"(4) Academic instruction in disciplines in which black Americans are underrepresented.

"(5) Purchase of library books, periodicals, microfilm, and other educational materials.

"(6) Tutoring, counseling, and student service programs designed to improve academic success.

"(b) LIMITATION.—No grant may be made under this Act for any educational program, activity, or service related to sectarian instruction or religious worship, or provided by a school or department of divinity. For purposes of this subsection, the term 'school or department of divinity' means an institution whose program is specifically for the education of students to prepare them to become ministers of religion or to enter upon some other religious vocation, or to prepare them to teach theological subjects.

"ALLOTMENTS TO INSTITUTIONS

"SEC. 324. (a) ALLOTMENT; PELL GRANT BASIS.—From the amounts appropriated to carry out this part for any fiscal year, the Secretary shall allot to each part B institution a sum which bears the same ratio to one-half that amount as the number of Pell Grant recipients in attendance and in good standing at such institution at the end of the school year preceding the beginning of that fiscal year bears to the total number of Pell Grant recipients at all part B institutions.

"(b) Allotment; Graduates Basis.—From the amounts appropriated to carry out this part for any fiscal year, the Secretary shall allot to each part B institution a sum which bears the same ratio to one-fourth that amount as the number of graduates for such school year at such institution bears to the total number of graduates for such school year at all part B institutions.

"(c) Allotment; Graduate and Professional Student Basis.—From the amounts appropriated to carry out this part for any fiscal year, the Secretary shall allot to each part B institution a sum which bears the same ratio to one-fourth that amount as the number of graduates, who are admitted to and in attendance at a graduate or professional school in a degree program in disciplines in which blacks are underrepresented, bears to the number of such graduates for all part B institutions.

"(d) Reallotment.—The amount of any part B institution's allotment under subsection (a), (b), or (c) for any fiscal year which the Secretary determines will not be required for such institution for the period such allotment is available shall be available for reallotment from time to time on such date during such period as the Secretary may determine to other part B institutions in proportion to the original allotment to such other institutions under this section for such fiscal year.

"(e) Special Rule.—In any fiscal year that the Secretary determines that Howard University or the University of the District of Columbia will receive an allotment under subsections (b) and (c) of this section which is not in excess of amounts received by Howard University under the Act of March 2, 1867 (14 Stat. 438; 20 U.S.C. 123), relating to annual authorization of appropriations for Howard University, or by the University of the District of Columbia under the District of Columbia Self-Government and Governmental Reorganization Act (87 Stat. 774) for such fiscal year, then Howard University and the University of the District of Columbia, as the case may be, shall be ineligible to receive an allotment under this section.

"APPLICATIONS

"Sec. 325. (a) Contents.—No part B institution shall be entitled to its allotment of Federal funds for any grant under section 324 for any period unless that institution meets the requirements of section 312(2)(A)(iii), (iv), and (v) and submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require. Each such application shall—

"(1) provide that the payments under this Act will be used for the purposes set forth in section 322; and

"(2) provide for making an annual report to the Secretary and for auditing the books and monitoring expenditures as may be reasonably required to carry out this Act.

"(b) Approval.—The Secretary shall approve any application which meets the requirements of subsection (a) and shall not disapprove any application submitted under this part, or any modification thereof, without first affording such institution reasonable notice and opportunity for a hearing.

"PROFESSIONAL OR GRADUATE INSTITUTIONS

"Sec. 326. (a) General Authorization.—(1) Subject to the availability of funds appropriated to carry out this section, the Secretary shall award program grants to each of the postgraduate institutions listed in subsection (e) that is determined by the Secretary to be making a substantial contribution to the legal, medical, dental, veterinary, or other graduate education opportunities for black Americans.

"(2) No grant in excess of $500,000 may be made under this section unless the postgraduate institution provides assurances that 50 per centum of the cost of the purposes for which the grant is made will be paid from non-Federal sources.

"(b) Duration.—Grants shall be made for a period not to exceed 5 years. No more than two 5-year grants (for a period of not more than 10 years) may be made to any one undergraduate or postgraduate institution.

"(c) Uses of Funds.—A grant under this section may be used for—

"(1) any of the purposes enumerated under section 323;

"(2) to establish or improve a development office to strengthen and increase contributions from alumni and the private sector; and

"(3) to assist in the establishment or maintenance of an institutional endowment to facilitate financial independence pursuant to section 333 of this title.

"(d) Application.—Any institution eligible for a grant under this section shall submit an application which—

"(1) demonstrates how the grant funds will be used to improve graduate educational opportunities for black and low-income students, and lead to greater financial independence; and

"(2) provides, in the case of applications for grants in excess of $500,000, the assurances required by subsection (a)(2) and specifies the manner in which the eligible institution is going to pay the non-Federal share of the cost of the application.

"(e) Eligible Professional or Graduate Institutions.—Independent professional or graduate institutions eligible for grants under subsection (a) include—

"(1) Morehouse School of Medicine;

"(2) Meharry Medical School;

"(3) Charles R. Drew Postgraduate Medical School;

"(4) Atlanta University; and

"(5) Tuskegee Institute School of Veterinary Medicine.

"REPORTING AND AUDIT REQUIREMENTS

"Sec. 327. (a) Recordkeeping.—Each recipient of a grant under this Act shall keep such records as the Secretary shall prescribe, including records which fully disclose—

"(1) the amount and disposition by such recipient of the proceeds of such assistance;

"(2) the cost of the project or undertaking in connection with which such assistance is given or used;

"(3) the amount of that portion of the cost of the project or undertaking supplied by other sources; and

"(4) such other records as will facilitate an effective audit.

"(b) Repayment of Unexpended Funds.—Any funds paid to an institution and not expended or used for the purposes for which the funds were paid within 10 years following the date of the initial grant awarded to an institution under part B of this title shall be repaid to the Treasury of the United States.

"PENALTIES

"Sec. 328. Whoever, being an officer, director, agent, or employee of, or connected in any capacity with, any recipient of Federal financial assistance or grant pursuant to this Act embezzles, willfully misapplies, steals, or obtains by fraud any of the funds which are the subject of such grant or assistance, shall be fined not more than $10,000 or imprisoned for not more than 2 years, or both.

"Part C—Challenge Grants for Institutions Eligible for Assistance Under Part A or Part B

"ESTABLISHMENT OF CHALLENGE GRANT PROGRAM

"Sec. 331. (a) General Authorization; Eligibility.—(1) From the sums available under section 358(a)(3) for each fiscal year, the Secretary may award a challenge grant to each institution—

"(A) which is an eligible institution under part A or would be considered to be such an institution if section 312(2)(A)(iii) referred to a postgraduate degree rather than a bachelor's degree; or

"(B) which is an institution under part B or would be considered to be such an institution if section 324 referred to a postgraduate degree rather than a baccalaureate degree.

"(2) The Secretary may waive the requirements set forth in subparagraphs (A) and (B) of paragraph (1) with respect to a postgraduate degree in the case of any institution otherwise eligible under such paragraph for a challenge grant upon determining that the institution makes a substantial contribution to medical education opportunities for minorities and the economically disadvantaged.

"(b) Uses of Funds.—A grant under this section may be used by an institution eligible for a grant under this section to assist the institution to achieve financial independence.

"APPLICATIONS FOR CHALLENGE GRANTS

"Sec. 332. (a) Contents.—Any institution eligible for a challenge grant under section 331(a) may apply for such a grant under section 351, except that the application for the purpose of this part shall—

"(1) provide assurances that funds will be available to the applicant within 1 year to match funds that the Secretary is requested to make available to the institution as a challenge grant;

"(2) in the case of an application by a public institution, contain the recommendations of an appropriate State agency responsible for higher education in the State, or provide evidence that the institution requested the State agency to comment but the State agency failed to comment; and

"(3) demonstrate how challenge grant funds will be used to achieve financial independence.

"(b) Notice of Approval.—Not later than April 1 of the fiscal year preceding the fiscal year in which any grant is to be made under section 331 of this part, the Secretary shall determine which institutions will receive challenge grants under such section and notify the institutions of the amount of the grant.

"(c) Preference.—In approving applications for such grants, preference shall be given to institutions which are receiving, or have received, grants under part A or part B.

"CHALLENGE GRANTS

"Sec. 333. (a) Purpose; Definitions.—(1) The purpose of this section is to establish a program to provide matching grants to eligible institutions of higher education in order to establish or increase endowment funds at such institutions, to provide additional incentives to promote fund raising activities by such institutions, and to foster increased independence and self-sufficiency at such institutions.

"(2) For purposes of this section:

"(A) The term 'endowment fund' means a fund established by State law, by an institution of higher education, or by a foundation which is exempt from taxation and is maintained for the purpose of generating income for the support of the institution, but which shall not include real estate.

"(B) The term 'endowment fund corpus' means an amount equal to the grant or grants awarded under this section plus an amount equal to such grant or grants provided by the institution.

"(C) The term 'endowment fund income' means an amount equal to the total value of the endowment fund established under this section minus the endowment fund corpus.

"(b) Grants Authorized.—(1) From sums available for this section under section 358, the Secretary is authorized to award challenge grants to eligible institutions of higher education to establish or increase an endowment fund at such institution. Such grants shall be made only to eligible institutions described in paragraph (4) whose applications have been approved pursuant to subsection (g).

"(2) No institution shall receive a grant under this section, unless such institution has deposited in its endowment fund established under this section an amount equal to the amount of such grant. The source of funds for this institutional match shall not include Federal funds or funds from an existing endowment fund.

"(3) The period of a grant under this section shall be not more than 20 years. During the grant period, an institution may not withdraw or expend any of the endowment fund corpus. After the termination of the grant period, an institution may use the endowment fund corpus plus any endowment fund income for any educational purpose.

"(4)(A) An institution of higher education is eligible to receive a grant under this section if it is an eligible institution as described in section 331(a)(1).

"(B) No institution shall be ineligible for a challenge grant under this section for a fiscal year by reason of the previous receipt of such a grant but no institution shall be eligible to receive such a grant for more than 2 fiscal years out of any period of 5 consecutive fiscal years.

"(5) A challenge grant under this section to an eligible institution year shall—

"(A) not be less than $50,000 for any fiscal year; and

"(B) not be more than (i) $250,000 for fiscal year 1987; or (ii) $500,000 for fiscal year 1988 or any succeeding fiscal year.

"(6)(A) An eligible institution may designate a foundation, which was established for the purpose of raising money for the institution, as the recipient of the grant awarded under this section.

"(B) The Secretary shall not award a grant to a foundation on behalf of an institution unless—

"(i) the institution assures the Secretary that the foundation is legally authorized to receive the endowment fund corpus and is legally authorized to administer the fund in accordance with this section and any implementing regulation;

"(ii) the foundation agrees to administer the fund in accordance with the requirements of this section and any implementing regulation; and

"(iii) the institution agrees to be liable for any violation by the foundation of the provisions of this section and any implementing regulation, including any monetary liability that may arise as a result of such violation.

"(c) Grant Agreement; Endowment Fund Provisions.—(1) An institution awarded a grant under this section shall enter into an agreement with the Secretary containing satisfactory assurances that it will (A) immediately comply with the matching requirements of subsection (b)(2), (B) establish an endowment fund independent of any other such fund of the institution, (C) invest the endowment fund corpus, and (D) meet the other requirements of this section.

"(2)(A) An institution shall invest the endowment fund corpus and endowment fund income in low-risk securities in which a regulated insurance company may invest under the law of the State in which the institution is located such as a federally insured bank savings account or comparable interest-bearing account, certificate of deposit, money market fund, mutual fund, or obligations of the United States.

"(B) The institution, in investing the endowment fund established under this section, shall exercise the judgment and care, under the circumstances then prevailing, which a person of prudence, discretion, and intelligence would exercise in the management of such person's own affairs.

"(3)(A) An institution may withdraw and expend the endowment fund income to defray any expenses necessary to the operation of such college, including expenses of operations and maintenance, administration, academic and support personnel, construction and renovation, community and student services programs, and technical assistance.

"(B)(i) Except as provided in clause (ii), an institution may not spend more than 50 percent of the total aggregate endowment fund income earned prior to the time of expenditure.

"(ii) The Secretary may permit an institution to spend more than 50 percent of the endowment fund income notwithstanding clause (i) if the institution demonstrates such an expenditure is necessary because of (I) a financial emergency, such as a pending insolvency or temporary liquidity problem; (II) a life-threatening situation occasioned by a natural disaster or arson; or (III) any other unusual occurrence or exigent circumstance.

"(d) Repayment Provisions.—(1) If at any time an institution withdraws part of the endowment fund corpus, the institution shall repay to the Secretary an amount equal to 50 percent of the withdrawn amount, which represents the Federal share, plus income earned thereon. The Secretary may use such repaid funds to make additional challenge grants, or to increase existing endowment grants, to other eligible institutions.

"(2) If an institution expends more of the endowment fund income than is permitted under subsection (c), the institution shall repay the Secretary an amount equal to 50 percent of the amount improperly expended (representing the Federal share thereof). The Secretary may use such repaid fund to make additional challenge grants, or to increase existing challenge grants, to other eligible institutions.

"(e) Audit Information.—An institution receiving a grant under this section shall provide to the Secretary (or a designee thereof) such information (or access thereto) as may be necessary to audit or examine expenditures made from the endowment fund corpus or income in order to determine compliance with this section.

"(f) Selection Criteria.—In selecting eligible institutions for grants under this section for any fiscal year, the Secretary shall—

"(1) give priority to an applicant which is a recipient of a grant made under part A or part B of this title during the academic year in which the applicant is applying for a grant under this section; and

"(2) give priority to an applicant with a greater need for such a grant, based on the current market value of the applicant's existing endowment in relation to the number of full-time equivalent students enrolled at such institution;

"(3) consider—

"(A) the effort made by the applicant to build or maintain its existing endowment fund; and

"(B) the degree to which an applicant proposes to match the grant with nongovernmental funds.

"(g) Application.—Any institution which is eligible for assistance under this section may submit to the Secretary a grant application at such time, in such form, and containing such information as the Secretary may prescribe. Subject to the availability of appropriations to carry out this section and consistent with the requirement of subsection (f), the Secretary may approve an application for a grant if an institution, in its application, provides adequate assurances that it will comply with the requirements of this section.

"(h) Termination and Recovery Provisions.—(1) After notice and an opportunity for a hearing, the Secretary may terminate and recover a grant awarded under this section if the grantee institution—

"(A) expends portions of the endowment fund corpus or expends more than the permissible amount of the endowment funds income as prescribed in subsection (c)(3);

"(B) fails to invest the endowment fund in accordance with the investment standards set forth in subsection (c)(2); or

"(C) fails to properly account to the Secretary concerning the investment and expenditures of the endowment funds.

"(2) If the Secretary terminates a grant under paragraph (1), the grantee shall return to the Secretary an amount equal to the sum of each original grant under this section plus income earned thereon. The Secretary may use such repaid funds to make additional endowment grants, or to increase existing challenge grants, to other eligible institutions under this part.

"PART D—RESERVATION FOR HISPANIC, NATIVE AMERICAN, ASIAN AMERICAN, AND PACIFIC BASIN INSTITUTIONS

"STATEMENT OF FINDINGS AND PURPOSE

"Sec. 341. (a) Findings.—The Congress finds that—

"(1) Hispanic students in the United States are overwhelmingly concentrated in public postsecondary institutions, especially in 2-year community colleges;

"(2) Hispanic and Native American, including Native American Pacific Islander, students rarely transfer to a 4-year institution of higher education, after receiving an associate degree, and often do not complete the requirements for a baccalaureate degree even when they enroll in a 4-year institution;

"(3) Native American students are the most grossly, underrepresented of all American minorities in higher education, constituting one-half of 1 percent of all students, and 0.3 percent of those receiving degrees; and Hispanics comprise 3 percent of all students in higher education, with less than 3 percent receiving bachelors, masters, and Ph.D. degrees;

"(4) Native Hawaiians represent less than 5 percent of the population of Hawaii who hold a college degree; less than 25 percent of the traditional college-age population actually attends college, although in some of the Pacific Basin territories fewer than 20 percent (Northern Mariana Islands) actually complete more than a high school education, a single community college may be the only form of postsecondary education available on the island, and many teachers possess an associate's degree or less; and literacy rates in both English and the native language ranks far below national averages; and

"(5) the special problems of providing higher education opportunities for Puerto Ricans in the Commonwealth of Puerto Rico require separate attention and different solutions than those which relate to Hispanics in the United States.

"(b) Purpose.—It is therefore the purpose of this Act to provide a set-aside to address the special needs of Hispanic, Native American, Asian American, and Pacific Basin students, when they constitute a significant portion of the institutional student population.

"RESERVATION FROM PART A APPROPRIATION

"Sec. 342. Of the sums appropriated under section 357(a)(1) for any fiscal year for part A, the Secretary shall make available for use for the purpose of such part—

"(1) not less than—

"(A) $7,350,000 for fiscal year 1987;

"(B) $7,717,500 for fiscal year 1988;

"(C) $8,103,375 for fiscal year 1989;

"(D) $8,508,544 for fiscal year 1990; and

"(E) $8,933,971 for fiscal year 1991;

for Hispanic institutions, as defined in section 312(2)(C);

"(2) not less than—

"(A) $3,150,000 for fiscal year 1987;

"(B) $3,307,500 for fiscal year 1988;

"(C) $3,472,875 for fiscal year 1989;

"(D) $3,646,519 for fiscal year 1990; and

"(E) $3,828,845 for fiscal year 1991;

for Native American, Alaskan Native, or Aleut institutions, as defined in section 312(2)(D); and

"(3) not less than—

"(A) $1,575,000 for fiscal year 1987;

"(B) $1,653,750 for fiscal year 1988;

"(C) $1,736,437 for fiscal year 1989;

"(D) $1,823,260 for fiscal year 1990; and

"(E) $1,914,422 for fiscal year 1991;

for institutions serving Native American Pacific Islanders, including Native Hawaiians, and serving Asian Americans residing in the Pacific Basin, including the State of Hawaii, as defined in section 312(2)(E).

"USES OF FUNDS

"Sec. 343. Funds made available under section 342 may be used for—

"(1) faculty development, including fellowship assistance to encourage qualified candidates to pursue masters and terminal degrees and return to the institution;

"(2) the acquisition of equipment and library resources which assist in instruction and research;

"(3) institutional partnerships which assist development and facilitate student transition to baccalaureate study, in the case of 2-year institutions;

"(4) student services, with special emphasis on retention and transition in the case of 2-year institutions;

"(5) management of institutional funds and funds authorized under title IV of this Act; and

"(6) any other activity, approved by the Secretary, which would assist the institution in carrying out the purposes of this part or assist the institution to achieve the objectives of its 5-year plan.

"Part E—General Provisions

"APPLICATIONS FOR ASSISTANCE

"Sec. 351. (a) Application Required; Approval.—Any institution which is eligible for assistance under this title shall submit to the Secretary an application for assistance at such time, in such form, and containing such information, as may be necessary to enable the Secretary to evaluate its need for assistance. Subject to the availability of appropriations to carry out this title, the Secretary may approve an application for a grant under this title if the application meets the requirements of subsection (b) and shows that the applicant is eligible for assistance in accordance with the part of this title under which the assistance is sought.

"(b) Contents.—An institution, in its application for a grant, shall—

"(1) set forth, or describe how it will develop, a comprehensive development plan to strengthen the institution's academic quality and institutional management, and otherwise provide for institutional self-sufficiency and growth (including measurable objectives for the institution and the Secretary to use in monitoring the effectiveness of activities under this title);

"(2) set forth policies and procedures to ensure that Federal funds made available under this title for any fiscal year will be used to supplement and, to the extent practical, increase the funds that would otherwise be made available for the purposes of section 311(b) or 323, and in no case supplant those funds;

"(3) set forth policies and procedures for evaluating the effectiveness in accomplishing the purpose of the activities for which a grant is sought under this title;

"(4) provide for such fiscal control and fund accounting procedures as may be necessary to ensure proper disbursement of and accounting for funds made available to the applicant under this title;

"(5) provide (A) for making such reports, in such form and containing such information, as the Secretary may require to carry out the functions under this title, including not less than one report annually setting forth the institution's progress toward achieving the objectives for which the funds were awarded, and (B) for keeping such records and affording such access thereto, as the Secretary may find necessary to assure the correctness and verification of such reports;

"(6) provide that the institution will comply with the limitations set forth in section 356;

"(7) describe in a comprehensive manner any proposed project for which funds are sought under the application and include—

"(A) a description of the various components of the proposed project, including the estimated time required to complete each such component;

"(B) in the case of any development project which consists of several components (as described by the applicant pursuant to subparagraph (A)), a statement identifying those components which, if separately funded, would be sound investments of Federal funds and those components which would be sound investments of Federal funds only if funded under this title in conjunction with other parts of the development project (as specified by the applicant);

"(C) an evaluation by the applicant of the priority given any proposed project for which funds are sought in relation to any other projects for which funds are sought by the applicant under this title, and a similar evaluation regarding priorities among the components of any single proposed project (as described by the applicant pursuant to subparagraph (A));

"(D) in the case of a request for an award for a period of more than 1 year, a statement of reasons explaining why funds are necessary for each year of such period and why a single year award would be inadequate;

"(E) information explaining the manner in which the proposed project will assist the applicant to prepare for the critical financial problems that all institutions of higher education will face during the subsequent decade as a result of declining enrollment, increased energy costs, and other problems;

"(F) a detailed budget showing the manner in which funds for any proposed project would be spent by the applicant; and

"(G) a detailed description of any activity which involves the expenditure of more than $25,000, as identified in the budget referred to in subparagraph (F); and

"(8) include such other information as the Secretary may prescribe.

"(c) Priority Criteria Publication Required.—The Secretary shall publish in the Federal Register, pursuant to chapter 5 of title 5, United States Code, all policies and procedures required to exercise the authority set forth in subsection (a). No other criteria, policies, or procedures shall apply.

"(d) Eligibility Data.—The Secretary shall use the most recent and relevant data concerning the number and percentage of students receiving need-based assistance under title IV of this Act in making eligibility determinations under section 312 and shall advance the base-year forward following each annual grant cycle.

"WAIVER AUTHORITY AND REPORTING REQUIREMENT

"Sec. 352. (a) Waiver Requirements; Need-Based Assistance Students.—The Secretary shall waive the requirements set forth in section 312(2)(A)(i)(I) in the case of an institution (1) which is extensively subsidized by the State in which it is located and charges low or no tuition; (2) which serves a substantial number of low- and middle-income students as a percentage of its total student population; (3) which is contributing substantially to increasing higher education opportunities for black Americans, Hispanic Americans, Native Americans, Alaskan Natives and Aleuts, and Native American Pacific Islanders, including Native Hawaiians, who are low-income individuals; or (4) which is substantially increasing higher educational opportunities for individuals in rural or other isolated areas which are unserved by postsecondary institutions.

"(b) Waiver Determinations; Expenditures.—(1) The Secretary may waive the requirements set forth in section 312(2)(A)(ii) if the Secretary determines, based on persuasive evidence submitted by the institution, that the institution's failure to meet that criterion is due to factors which, when used in the determination of compliance with such criterion, distort such determination, and that the institution's designation as an eligible institution under part A is oth-

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erwise consistent with the purposes of such parts.

"(2) The Secretary shall submit to the Congress each year a report concerning the institutions which, although not satisfying the criterion contained in section 312(2)(A)(ii), have been determined to be eligible institutions under part A or Hispanic, Native American, Asian American, or Pacific Basin institutions under part D, as the case may be. Such report shall—

"(A) identify the factors referred to in paragraph (1) which were considered by the Secretary as factors that distorted the determination of compliance with section 312(2)(A) (i) and (ii); and

"(B) contain a list of each institution determined to be an eligible institution under part A including a statement of the reasons for each such determination.

"(c) Waiver Determinations; Authority and Accreditation.—The Secretary may waive the requirement set forth in section 312(2)(v) in the case of an institution—

"(1) located on or near an Indian reservation or a substantial population of Indians, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of American Indians;

"(2) wherever located, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of Hispanic Americans, Native Americans, Asian Americans, or Pacific Islanders, including Native Hawaiians;

"(3) wherever located, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of individuals living in rural areas, whose needs are for the most part unserved by other postsecondary education institutions;

"(4) wherever located, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of low-income individuals; or

"(5) wherever located, if the Secretary determines that the institution has traditionally served substantial numbers of black students.

"APPLICATION REVIEW PROCESS

"Sec. 353. (a) Review Panel.—(1) All applications submitted under this title by institutions of higher education shall be read by a panel of readers composed of individuals selected by the Secretary. The Secretary shall assure that no individual assigned under this section to review any application has any conflict of interest with regard to the application which might impair the impartiality with which the individual conducts the review under this section.

"(2) The Secretary shall take care to assure that representatives of historically black colleges, Hispanic institutions, Native American institutions, and Native American Pacific Islanders, including Native Hawaiians are included as readers.

"(3) All readers selected by the Secretary shall receive thorough instruction from the Secretary regarding the evaluation process for applications submitted under this title and consistent with the provisions of this title, including—

"(A) explanations and examples of the types of activities referred to in section 311(b) that should receive special consideration for grants awarded under part A and of the types of activities referred to in section 323 that should receive special consideration for grants awarded under part B;

"(B) an enumeration of the factors to be used to determine the quality of applications submitted under this title; and

"(C) an enumeration of the factors to be used to determine whether a grant should be awarded for a project under this title, the amount of any such grant, and the duration of any such grant.

"(b) Recommendations of Panel.—In awarding grants under this title, the Secretary shall take into consideration the recommendations of the panel made under subsection (a).

"(c) Notification.—Not later than June 30 of each year, the Secretary shall notify each institution of higher education making an application under this title of—

"(1) the scores given the applicant by the panel pursuant to this section;

"(2) the recommendations of the panel with respect to such application; and

"(3) the reasons for the decision of the Secretary in awarding or refusing to award a grant under this title, and any modifications, if any, in the recommendations of the panel made by the Secretary.

"COOPERATIVE ARRANGEMENTS

"Sec. 354. (a) General Authority.—The Secretary may make grants to encourage cooperative arrangements—

"(1) with funds available to carry out part A, between institutions eligible for assistance under part A and between such institutions and institutions not receiving assistance under this title; or

"(2) with funds available to carry out part B, between institutions eligible for assistance under part B and institutions not receiving assistance under this title;

for the activities described in section 311(b) or section 323, as the case may be, so that the resources of the cooperating institutions might be combined and shared to achieve the purposes of such parts and avoid costly duplicative efforts and to enhance the development of part A and part B eligible institutions.

"(b) Priority.—The Secretary shall give priority to grants for the purposes described under subsection (a) whenever the Secretary determines that the cooperative arrangement is geographically and economically sound or will benefit the applicant institution.

"(c) Duration.—Grants to institutions having a cooperative arrangement may be made under this section for a period as determined under section 313.

"ASSISTANCE TO INSTITUTIONS UNDER OTHER PROGRAMS

"Sec. 355. (a) Assistance Eligibility.—Each institution which the Secretary determines to be an institution eligible under part A or an institution eligible under part B shall be eligible for waivers in accordance with subsection (b).

"(b) Waiver Applicability.—(1) Subject to, and in accordance with, regulations promulgated for the purpose of this section, in the case of any application by an institution referred to in subsection (a) for assistance under any programs specified in paragraph (2), the Secretary is authorized, if such application is otherwise approvable, to waive any requirement for a non-Federal share of the cost of the program or project, or, to the extent not inconsistent with other law, to give, or require to be given, priority consideration of the application in relation to applications from other institutions.

"(2) The provisions of this section shall apply to any program authorized by title II, IV, VII, or VIII of this Act.

"(c) Limitation.—The Secretary shall not waive, under subsection (b), the non-Federal share requirement for any program for applications which, if approved, would require the expenditure of more than 10 percent of the appropriations for the program for any fiscal year.

"LIMITATIONS

"Sec. 356. The funds appropriated under section 358 may not be used—

"(1) for a school or department of divinity or any religious worship or sectarian activity;

"(2) for an activity that is inconsistent with a State plan for desegregation of higher education applicable to such institution;

"(3) for an activity that is inconsistent with a State plan of higher education applicable to such institution; or

"(4) for purposes other than the purposes set forth in the approved application under which the funds were made available to the institution.

"CHALLENGE GRANT APPLICATION REQUIRED

"Sec. 357. The Secretary shall not make a Challenge Grant to any grantee institution under section 313(a)(2) or under part B which has not applied for funds under part C and compiled with section 332(a)(1) of part C after September 30, 1989.

"AUTHORIZATIONS OF APPROPRIATIONS

"Sec. 358. (a) Authorizations.—(1) There are authorized to be appropriated to carry out part A $85,000,000 for fiscal year 1987, $89,250,000 for fiscal year 1988, $93,710,000 for fiscal year 1989, $98,398,000 for fiscal year 1990, and $103,318,000 for fiscal year 1991.

"(2)(A) There are authorized to be appropriated to carry out part B (other than section 326) $55,000,000 for fiscal year 1987, $57,750,000 for fiscal year 1988, $60,637,000 for fiscal year 1989, $63,669,000 for fiscal year 1990, and $66,850,000 for fiscal year 1991.

"(B) There are authorized to be appropriated to carry out section 326 $5,000,000 for fiscal year 1987 and for each of the succeeding fiscal years ending prior to October 1, 1991.

"(3) There are authorized to be appropriated to carry out part C $20,000,000 for fiscal year 1987, $21,250,000 for fiscal year 1988, $22,560,000 for fiscal year 1989, $23,940,000 for fiscal year 1990, and $25,387,000 for fiscal year 1991.

"(b) Use of Multiple Year Awards.—In the event of a multiple year award to any institution under this title, the Secretary shall make funds available for such award from funds appropriated for this title for the fiscal year in which such funds are to be used by the recipient.

"(c) Reservation of Funds.—Of the sums appropriated under subsection (a)(1) for any fiscal year for part A, the Secretary shall make available to use for the purposes of each such part—

"(1) not less than 30 percent to institutions that are junior or community colleges;

"(2)(A) not less than—

"(i) $7,350,000 for fiscal year 1987;

"(ii) $7,717,500 for fiscal year 1988;

"(iii) $8,103,375 for fiscal year 1989;

"(iv) $8,508,544 for fiscal year 1990; and

"(v) $8,933,971 for fiscal year 1991;

for Hispanic institutions as defined in section 312(2)(C);

"(B) not less than—

"(i) $3,150,000 for fiscal year 1987;

"(ii) $3,307,500 for fiscal year 1988;

"(iii) $3,472,875 for fiscal year 1989;

"(iv) $3,646,519 for fiscal year 1990; and

"(v) $3,828,845 for fiscal year 1991;

for Native American, Alaskan Native, or Aleut institutions as defined in section 312(2)(D); and

"(C) not less than—

"(i) $1,575,000 for fiscal year 1987;

"(ii) $1,653,750 for fiscal year 1988;

"(iii) $1,736,437 for fiscal year 1989;

"(iv) $1,823,260 for fiscal year 1990; and

"(v) $1,914,422 for fiscal year 1991;

for Pacific Basin institutions and Asian American institutions as defined in section 312(2)(E); and

"(3) the remainder to institutions that plan to award a bachelor's degree during that year.".

Part D—Teacher Training and Development

Subpart 1—Teacher Training Programs for Higher Education Personnel

REPEAL OF PART B

Sec. 231. Part B of title V of the Act is repealed.

Subpart 2—Training for School Teachers To Teach Handicapped Children

REPEAL OF PART C

Sec. 232. Part C of title V of the Act is repealed.

Subpart 3—Coordination

REPEAL OF PART D

Sec. 233. Part D of title V of the Act is repealed.

Subpart 4—Carl D. Perkins Scholarship Program

EXTENSION OF AUTHORIZATION

Sec. 234. Section 561(b) of the Act is amended to read as follows:

"(b) There are authorized to be appropriated to carry out the provisions of this part $10,500,000 for fiscal year 1987, $11,050,000 for fiscal year 1988, $11,570,000 for fiscal year 1989, $12,150,000 for fiscal year 1990, and $12,760,000 for fiscal year 1991.".

Subpart 5—National Talented Teacher Fellowship Program

EXTENSION OF AUTHORIZATION

Sec. 235. (a) Authorization.—The first sentence of section 572 of the Act is amended to read as follows: "There are authorized to be appropriated to carry out the provisions of this part $5,250,000 for fiscal year 1987, $5,513,000 for fiscal year 1988, $5,788,000 for fiscal year 1989, $6,080,000 for fiscal year 1990, and $6,380,000 for fiscal year 1991.".

(b) Technical Amendment.—The heading of section 572 is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS".

Part E—International Education

FINDINGS AND PURPOSE; INTERNATIONAL EDUCATION

Sec. 241. Section 601 of the Act is amended to read as follows:

"FINDINGS AND PURPOSE

"Sec. 601. (a) The Congress finds that—

"(1) the well-being of the United States, its economy and long-range security, is dependent on the education and training of Americans in international and foreign language studies and on a strong research base in these areas;

"(2) knowledge of other countries and the ability to communicate in other languages is essential to the promotion of mutual understanding and cooperation among nations; and

"(3) present and future generations of Americans must be afforded the opportunity to develop to the fullest extent possible their intellectual capacities in all areas of knowledge.

"(b) It is the purpose of this part to assist in the development of knowledge, international study, resources, and trained personnel, to stimulate the attainment of foreign language acquisition and fluency, and to coordinate the programs of the Federal Government in the areas of foreign language and international studies and research.".

LANGUAGE AND AREA CENTERS

Sec. 242. (a) Graduate Centers.—(1) Section 602(a)(1) of the Act is amended—

(A) by striking out ", and enter into contracts with,";

(B) by striking out "and undergraduate"; and

(C) by inserting before "aspects" the following: "and foreign language"; and

(D) by inserting before the period at the end thereof a comma and the following: "or for instruction and research on issues in world affairs which concern one or more countries.".

(2) Section 602(a)(2) of the Act is amended by striking out "or contract".

(3) Section 602(a) of the Act is amended by adding at the end thereof the following new paragraphs:

"(4)(A) The Secretary is authorized to make grants to institutions of higher education or combinations of such institutions for the purpose of paying stipends to individuals undergoing advanced training under this subsection in any center or program approved by the Secretary under this part.

"(B) Stipend recipients must be individuals who are engaged in a program of competency-based language training in combination with area studies, international studies, or the international aspects of a professional studies program.

"(C) Stipends awarded to graduate level recipients may include allowances for dependents and for travel for research and study in the United States and abroad.

"(5)(A) The Secretary is also authorized to award, on the basis of a national competition, stipends to students beginning their third year of graduate training under this subsection.

"(B) Stipend recipients will be selected by a nationally recognized panel of scholars on the basis of exceptional performance (on a nationally referenced test, if available) in the specialty language and evidence of substantial multidisciplinary area training.

"(C) Stipends may be held for up to a maximum 4 years contingent on periodic demonstration of a high level of language proficiency.

"(D) Stipends are tenable for continuation of studies at the institution where the recipient is currently enrolled and for the conduct of research and advanced language study abroad.".

(b) Undergraduate Centers.—Section 602(b) of the Act is amended to read as follows:

"(b)(1) The Secretary is authorized to make grants to institutions of higher education, or combinations of such institutions, for the purpose of establishing, strengthening, and operating undergraduate centers and programs which will be national resources for the teaching of any modern foreign language, for instruction in fields needed to provide a full understanding of the areas, regions, or countries in which such language is commonly used, or for research and training in international studies and the international and foreign language aspects of professional and other fields of study, or for instruction and research on issues in world affairs which concern one or more countries.

"(2) Any such grant may be used to pay all or part of the cost of establishing or operating a center or program, including the cost of faculty and staff travel in foreign areas, regions, or countries, the cost of teaching and research materials, the cost of curriculum planning and development, the cost of bringing visiting scholars and faculty to the center to teach or to conduct research, and the cost of training and improvement of the staff, for the purpose of, and subject to such conditions as the Secretary finds necessary for carrying out the objectives of this section.

"(3) The Secretary may make grants to centers described in paragraph (1) having important library collections for the maintenance of such collections.".

FOREIGN LANGUAGE RESOURCE CENTERS

Sec. 243. Section 603 of the Act is amended to read as follows:

"LANGUAGE RESOURCE CENTERS

"Sec. 603. (a) The Secretary is authorized to make grants to institutions of higher education, or combinations of such institutions, for the purpose of establishing, strengthening, and operating centers, which shall serve as resources to improve the capacity to teach and learn foreign languages effectively. Activities carried out by such centers may include—

"(1) the conduct of research on new and improved teaching methods, including the use of advanced educational technology;

"(2) the development of new teaching materials reflecting the use of such research in effective teaching strategies;

"(3) the development and application of proficiency testing appropriate to an educational setting for use as a standard and comparable measurement of skill levels in all languages;

"(4) the training of teachers in the administration and interpretation of proficiency tests, the use of effective teaching strategies, and the use of new technologies;

"(5) the publication of instructional materials in the less commonly taught languages; and

"(6) the widespread dissemination of research results, teaching materials, and improved pedagogical strategies to others within the postsecondary education community.

"(b) Grants under this section shall be made on such conditions as the Secretary determines to be necessary to carry out the provisions of this section.".

INTERNATIONAL STUDIES AND FOREIGN LANGUAGE PROGRAMS

Sec. 244. (a) Clarifying Provision.—The matter preceding clause (1) of section 604 of the Act is amended by striking out "comprehensive" each time it appears.

(b) Type of Training.—Section 604(a)(7) of the Act is amended by inserting before "teacher" the following: "pre-service and in-service".

SUMMER INSTITUTES FOR FOREIGN LANGUAGES

Sec. 245. The Act is amended—

(1) by redesignating sections 605, 606, and 607 as sections 606, 607, and 608, respectively; and

(2) by inserting after section 604 the following new section:

"INTENSIVE SUMMER LANGUAGE INSTITUTES

"Sec. 605. (a)(1) The Secretary is authorized to make grants to institutions of higher education, or combinations of such institutions, for the purpose of establishing and conducting intensive summer language institutes.

"(2) Training authorized by this section shall be provided through—

"(A) institutes designed to meet the needs for intensive language training by advanced students; or

"(B) institutes designed to provide professional development and improve instruction through pre-service and in-service training for language teachers.

"(3) Grants made under this section may be used for—

"(A) intensive training in languages critical to the national economic and political future;

"(B) training in neglected languages; and

"(C) stipends for students and faculty attending the institutes authorized by this section.

"(4) Institutes supported under this section may provide instruction on a full-time or part-time basis to supplement instruction not fully available in centers supported under section 602.

"(b) Grants made under this section shall be awarded on the basis of recommendations made by peer review panels composed of broadly representative professionals.".

RESEARCH

Sec. 246. Section 606(a) of the Act (as redesignated by section 245 of this Act) is amended—

(1) by striking out "and part N of title III of the Elementary and Secondary Education Act of 1965";

(2) by striking out "and" at the end of clause (2);

(3) by redesignating clause (3) as clause (4); and

(4) by inserting after clause (2) the following new clause:

"(3) the application of proficiency tests and standards across all areas of instruction and classroom use; and".

DISTRIBUTION OF FUNDS

Sec. 247. Section 607 of the Act (as redesignated by section 245) is amended to read as follows:

"EQUITABLE DISTRIBUTION OF FUNDS

"Sec. 607. (a) The Secretary shall establish criteria based on excellence for the selection of grants awarded under section 602, employing separate but no less rigorous criteria for undergraduate and graduate programs.

"(b) The Secretary shall, to the extent practicable, award grants under this part in such manner as to achieve an equitable distribution of assistance throughout the Nation, based on the merit of a proposal with peer review by broadly representative professionals.".

REAUTHORIZATION OF PART A

Sec. 248. Section 608 of the Act (as redesignated by section 245) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"Sec. 608. There are authorized to be appropriated to carry out the provisions of this part $35,000,000 for fiscal year 1987, $36,750,000 for fiscal year 1988, $38,587,500 for fiscal year 1989, $40,576,875 for fiscal year 1990, and $42,775,312 for fiscal year 1991.".

REAUTHORIZATION OF PART B

Sec. 249. Section 613 of the Act is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"Sec. 613. There are authorized to be appropriated to carry out the provisions of this part $2,100,100 for fiscal year 1987, $2,205,000 for fiscal year 1988, $2,315,000 for fiscal year 1989, $2,430,750 for fiscal year 1990, and $2,551,750 for fiscal year 1991.".

ADVISORY BOARD RESTRUCTURED

Sec. 250. Section 621 of the Act is amended to read as follows:

"ADVISORY BOARD

"Sec. 621. (a) Not less than two times each year, the Secretary shall convene an advisory board on the conduct of programs under this title. The Advisory Board shall consist of—

"(1) five members selected by the Secretary from among members of the postsecondary educational community, at least two of whom shall be considered by their peers to be specialists in one or more fields of language, area or international studies;

"(2) two members selected by the Secretary from among members of the public; and

"(3) two members selected by the Secretary from among representatives of the business community.

"(b) The Secretary may consult with or include as ad hoc ex officio participants in Advisory Board meetings a representative from any appropriate executive agency.

"(c) The Advisory Board shall advise the Secretary on—

"(1) any geographic areas of special concern to the United States;

"(2) innovative approaches which may help to fulfill the purposes of this title;

"(3) changes which should be made in the operation of programs under this part to ensure that the attention of scholars is attracted to problems of critical concern to United Sates international relations;

"(4) emerging trends within various segments—pre-college, undergraduate, graduate, and postgraduate—of the international education community;

"(5) administrative and staffing requirements of international education programs in the Department; and

"(6) special needs with regard to the programs operated under part B.

"(d) The Advisory Board shall advise the Secretary and the Congress on adequate budget levels for part A and part B of this title.".

PART F—CONSTRUCTION AND RENOVATION (RESERVED)

PART G—COOPERATIVE EDUCATION

COOPERATIVE EDUCATION REAUTHORIZED

Sec. 261. Title VIII of the Act is amended to read as follows:

"TITLE VIII—COOPERATIVE EDUCATION

"APPROPRIATIONS AUTHORIZED; RESERVATIONS

"Sec. 801. (a) Appropriations Authorized.—There are authorized to be appropriated $15,120,000 for fiscal year 1987, $15,876,000 for fiscal year 1988, $16,670,000 for fiscal year 1989, $17,500,000 for fiscal year 1990, and $18,380,000 for fiscal year 1991 to carry out the cooperative education program authorized by this title.

"(b) Reservations.—Of the amounts appropriated in each fiscal year—

"(1) not less than 75 percent shall be available for carrying out grants to institutions of higher education and combinations of such institutions for cooperative education under section 802;

"(2) not to exceed 12 1/2 percent shall be available for demonstration projects under clause (1) of section 803(a);

"(3) not to exceed 10 percent shall be available for training and resource centers under clause (2) of section 803(a); and

"(4) not to exceed 2 1/2 percent shall be available for research under clause (3) of section 803(a).

"(c) Availability of Appropriations.—Appropriations under this title shall not be available for the payment of compensation of students for employment by employers under arrangements pursuant to this title.

"GRANTS FOR COOPERATIVE EDUCATION PROGRAMS

"Sec. 802. (a) Grants Authorized; Maximum Amount of Grant.—(1) The Secretary is authorized, from the amount available under section 801(b)(1) in each fiscal year and in accordance with the provisions of this title, to make grants to institutions of higher education, or to combinations of such institutions, to pay the Federal share of the cost of planning, establishing, expanding, or carrying out programs of cooperative education by such institutions or combinations of institutions.

"(2)(A) Cooperative education programs assisted under this section shall provide alternating or parallel periods of academic study and of public or private employment, giving work experience related to their academic or occupational objectives and the opportunity to earn the funds necessary for continuing and completing their education.

"(B) The amount of each grant shall not exceed $500,000 to any one institution of higher education in any fiscal year, and shall not exceed an amount equal to the product of $345,000 times the number of institutions participating in such combination, for any fiscal year.

"(b) Applications.—Each institution of higher education, or combination of institutions desiring to receive a grant under this title shall submit an application to the Secretary at such time and in such manner as the Secretary shall prescribe. Each such application shall—

"(1) set forth the program or activities for which a grant is authorized under this section;

"(2) specify each portion of such program or activities which will be performed by a nonprofit organization or institution other than the applicant and the compensation to be paid for such performance;

"(3) provide that the applicant will expend during such fiscal year for the purpose of such program or activities not less than the amount expended for such purpose during the previous fiscal year;

"(4) describe the plans which the applicant will carry out to assure that the applicant will continue the cooperative education program beyond the 5-year period of Federal assistance described in subsection (c)(1);

"(5) provide that, in the case of an institution of higher education that provides a 2-year program which is acceptable for full credit toward a bachelor's degree, the cooperative education program will be available to students who are certificate candidates and who carry at least one-half the normal full time academic workload;

"(6) provide that the applicant will—

"(A) make such reports as may be essential to insure that the applicant is complying with the provisions of this section, including in the reports for the second and each succeeding fiscal year for which the applicant receives a grant data with respect to the impact of the cooperative education program in the previous fiscal year, including—

"(i) the number of students enrolled in the cooperative education program,

"(ii) the number of employers involved in the program,

"(iii) the income of the students enrolled, and

"(iv) the increase or decrease of enrollment in the program in the second previous year compared to such previous fiscal year; and

"(B) keep such records as are essential to insure that the applicant is complying with the provisions of this title;

"(7) provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the applicant under this title; and

"(8) include such other information as is essential to carry out the provisions of this title.

"(c) Duration of Grants; Federal Share.—(1)(A) Except as provided in paragraph (3), no individual institution of higher education, and no individual participant in a combination of such institutions may receive grants under this section for more than 5 fiscal years.

"(B) The limitation contained in subparagraph (A) shall apply to each institution of higher education or participant in a combination of such institutions whether the grant was received before or after the date of enactment of the Cooperative Education Act of 1985.

"(2) The Federal share of a grant under this section may not exceed—

"(A) 90 percent of the cost of carrying out the application in the first year the applicant receives a grant under this section;

"(B) 80 percent of such cost in the second such year;

"(C) 70 percent of such cost in the third such year;

"(D) 60 percent of such cost in the fourth such year; and

"(E) 30 percent of such cost in the fifth such year.

"(3) Any institution of higher education, or participant in a combination of such institutions which—

"(A) has received a grant for 5 fiscal years under this section;

"(B) has conducted without Federal assistance a cooperative education program for at least 2 academic years subsequent to the end of the fifth such fiscal year;

"(C) has expended for the cooperative education program for each such subsequent academic year an amount at least equal to the total cost of the program in the fifth fiscal year in which the institution, or participant, received assistance under this section; and

"(D) provides statistics in the application required under subsection (b) on the number of students enrolled in the cooperative education program, the number of institutional personnel, including faculty advisers and cooperative education coordinators, and the income of the students enrolled, for each such year;

may apply under subsection (b) as an institution, or participant, to which clause (A) of paragraph (2) applies.

"(4) Any provision of law to the contrary notwithstanding, the Secretary shall not waive the provisions of this subsection.

"(d) Factors for Special Consideration of Applications.—In approving applications under this section, the Secretary shall give special consideration to applications from institutions of higher education for programs which show the greatest promise of success because of—

"(1) the extent to which programs in the academic discipline with respect to which the application is made have had a favorable reception by public and private sector employers,

"(2) the commitment of the institution of higher education to cooperative education has demonstrated by the plans which such institution has made to continue the program after the termination of Federal financial assistance,

"(3) the extent to which the institution is committed to extending cooperative education on an institution-wide basis for all students who can benefit, and

"(4) such other factors as are consistent with the purposes of this section.

"DEMONSTRATION AND INNOVATION PROJECTS; TRAINING AND RESOURCE CENTERS; AND RESEARCH

"Sec. 803. (a) Authorization.—The Secretary is authorized, in accordance with the provisions of this section, to make grants and enter into contracts for—

"(1) the conduct of demonstration projects designed to demonstrate or determine the feasibility or value of—

"(A) innovative methods of cooperative education, and

"(B) partnerships under which an institution carrying out a comprehensive cooperative education program joins with another institution of higher education in order to (i) assist the institution other than the comprehensive cooperative education institution to develop and expand an existing program of cooperative education or (ii) establish and improve or expand comprehensive cooperative education programs,

from the amounts available in each fiscal year under section 801(b)(2);

"(2) the conduct of training and resource centers designed to—

"(A) train personnel in the field of cooperative education;

"(B) improve materials used in cooperative education programs;

"(C) furnish technical assistance to institutions of higher education to increase the potential of the institution to continue to conduct a cooperative education program without Federal assistance; and

"(D) encourage model cooperative education programs which furnish education and training in occupations in which there is a national need,

from the amounts available in each fiscal year under section 801(b)(3); and

"(3) the conduct of research relating to cooperative education, from the amounts available in each fiscal year under section 801(b)(4).

"(b) Administrative Provision.—To carry out this section, the Secretary may—

"(1) make grants to or contracts with institutions of higher education, or combinations of such institutions, and

"(2) make grants to or contracts with other public or private nonprofit agencies or organizations, whenever such grants or contracts will make an especially significant contribution to attaining the objectives of this section.

"(c) Supplement Not Supplant.—A recipient of a grant or contract under this section may use the funds provided only so as to supplement and, to the extent possible, increase the level of funds that would, in the absence of such funds, be made available from non-Federal sources to carry out the activities supported by such grant or contract, and in no case to supplant such funds from non-Federal sources.".

Part H—Graduate and Professional Programs

Subpart 1—Grants to Institutions of Higher Education

REPEAL OF PART A

Sec. 271. Part A of title IX of the Act is repealed.

Subpart 2—Fellowships for Graduate and Professional Study

INSTITUTIONAL AND INDIVIDUAL GRANT AMOUNTS

Sec. 272. (a) Maximum Institutional Amount.—Section 922(b)(2) of the Act is amended by striking out "$75,000" and inserting in lieu thereof "$115,000".

(b) Minimum Institutional Payment.—Section 922(f) of the Act is amended by inserting at the end thereof the following new sentence: "The amount paid to an institution of higher education under this subsection for any such person may not be less than $4,200".

(c) Maximum Individual Award.—Section 923(a) of the Act is amended by striking out "$4,500" and inserting in lieu thereof "$7,000".

APPLICATION PROCEDURES

Sec. 273. Section 922(c) of the Act is amended by adding at the end thereof the following: "Each such application may be made on behalf of any professional school, academic department or similar organizational unit, or interdisciplinary or interdepartmental program within the institution of higher education meeting the requirements of this subsection.".

REAUTHORIZATION

Sec. 274. Section 924 of the Act is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"Sec. 924. There are authorized to be appropriated to carry out the provisions of this part $18,480,000 for fiscal year 1987, $19,404,000 for fiscal year 1988, $20,374,000 for fiscal year 1989, $21,393,000 for fiscal year 1990, and $22,463,000 for fiscal year 1991.".

Subpart 3—National Graduate Fellows Program

REAUTHORIZATION; DESIGNATION OF AWARDEES

Sec. 275. (a) Extension of Program.—Section 931(a) of the Act is amended by striking out "1985" and inserting in lieu thereof "1991".

(b) Designation of Fellows.—Section 931(a) of the Act is further amended by inserting "(1)" after the subsection designation and by adding at the end thereof the following new paragraph:

"(2) Students receiving awards under this part shall be known as 'Jacob J. Javits Fellows'.".

(c) Limitation on Appropriations.—Section 932(c) of the Act is amended by adding at the end thereof the following new sentence: "No sums are authorized to be appropriated to carry out the provisions of this part in excess of $2,625,000 for fiscal year 1987, $2,756,000 for fiscal year 1988, $2,894,000 for fiscal year 1989, $3,039,000 for fiscal year 1990, and $3,191,000 for fiscal year 1991.".

SUBPART 4—TRAINING IN THE LEGAL PROFESSION

REAUTHORIZATION

SEC. 276. Section 942 of the Act is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 942. There are authorized to be appropriated to carry out the provisions of this part $1,575,000 for fiscal year 1987, $1,653,750 for fiscal year 1988, $1,736,437 for fiscal year 1989, $1,823,259 for fiscal year 1990, and $1,874,421 for fiscal year 1991.".

SUBPART 5—LAW SCHOOL CLINICAL EXPERIENCE PROGRAMS

REAUTHORIZATION

SEC. 277. Section 953 of the Act is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 953. There are authorized to be appropriated to carry out the provisions of this part $1,575,000 for fiscal year 1987, $1,653,750 for fiscal year 1988, $1,736,437 for fiscal year 1989, $1,823,259 for fiscal year 1990, and $1,874,421 for fiscal year 1991.".

PART I—FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION

REAUTHORIZATION

SEC. 281. Section 1005 of the Act is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1005. There are authorized to be appropriated to carry out this title $13,350,000 for fiscal year 1987, $14,010,000 for fiscal year 1988, $14,710,000 for fiscal year 1989, $15,450,000 for fiscal year 1990, and $16,220,000 for fiscal year 1991.".

INNOVATIVE PROJECTS FOR COMMUNITY SERVICES AND STUDENT FINANCIAL INDEPENDENCE

SEC. 282. (a) INNOVATIVE PROJECTS AUTHORIZED.—Part B of title X of the Act is amended to read as follows:

"STATEMENT OF PURPOSE

"SEC. 1021. It is the purpose of this part to support innovative projects in order to determine the feasibility of encouraging student participation in community service projects in exchange for educational services or financial assistance and thereby reduce the debt acquired by students in the course of completing postsecondary educational programs.

"INNOVATIVE PROJECTS FOR COMMUNITY SERVICES AND STUDENT FINANCIAL INDEPENDENCE

"SEC. 1022. (a) GENERAL AUTHORITY.—The Secretary is authorized, in accordance with the provisions of this part, to make grants to and contracts with institutions of higher education (including combinations of such institutions) and with such other public agencies and nonprofit private organizations as the Secretary deems necessary for innovative projects designed to carry out the purpose of this part.

"(b) APPLICATIONS.—No grant may be made and no contract may be entered into under this section unless an application is made at such time, in such manner, and contained or accompanied by such information as the Director may require.

"(c) APPLICABLE PROCEDURES.—(1) No application may be approved under subsection (b) unless the National Board Fund for Improvement of Postsecondary Education, under procedures established by the Director, approves the application.

"(2) The provisions of section 1004(b) shall apply to grants made under this part.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1023. There are authorized to be appropriated to carry out this part, $3,800,000 for fiscal year 1987, $4,000,000 for fiscal year 1988, $4,200,000 for fiscal year 1989, $4,400,000 for fiscal year 1990, and $4,600,000 for fiscal year 1991.".

(b) CONFORMING AMENDMENT.—Section 205 of the Department of Education Organization Act is amended—

(1) by inserting "(a)" after the section designation; and

(2) by adding at the end thereof the following new subsection:

"(b)(1) There is established, in the Office of Postsecondary Education, a Community College Unit (hereafter in this section referred to as the 'Unit') which shall have the responsibility for coordinating all programs administered by the Secretary which affect, or can benefit, community colleges, including such programs assisted under this Act, and the Carl D. Perkins Vocational Educational Act.

"(2) The Unit shall be headed by a Director who shall be placed in grade 17 of the General Schedule under section 5332 of title 5, United States Code.".

MINORITY INSTITUTIONS SCIENCE IMPROVEMENT PROGRAM REAUTHORIZATION

SEC. 283. Title X of the Act is amended by adding at the end thereof the following new part:

"PART C—MINORITY INSTITUTIONS SCIENCE IMPROVEMENT PROGRAM

"PROGRAM AUTHORIZED

"SEC. 1031. There are authorized to be appropriated for the purpose of carrying out the Minority Institutions Science Improvement Program transferred to the Secretary from the National Science Foundation by section 304 of the Department of Education Organization Act, $3,000,000 for the fiscal year 1987, $3,150,000 for fiscal year 1988, $3,307,500 for fiscal year 1989, $3,472,875 for fiscal year 1990, and $3,646,519 for fiscal year 1991.".

PART J—URBAN UNIVERSITY PROGRAM

REPEAL OF TITLE XI

SEC. 286. Title XI of the Act is repealed.

TITLE III—REGIONAL EDUCATIONAL LABORATORIES AND RESEARCH AND DEVELOPMENT CENTERS

REAUTHORIZATION

SEC. 301. (a) AUTHORIZATION.—Section 405(f) of the General Education Provisions Act is amended by adding at the end thereof the following new paragraph:

"(4) There are authorized to be appropriated to carry out this subsection $30,000,000 for fiscal year 1987 and such sums as may be necessary for the fiscal year 1988 and for each succeeding fiscal year ending prior to October 1, 1991.".

(b) CONFORMING AMENDMENT.—(1) Section 400(c)(1) of the General Education Provisions Act is amended—

(A) by inserting after clause (D) the following new clause:

"(E) 'Department' means the Department of Education;

(B) by redesignating clauses (E) and (F) as clauses (F) and (G), respectively;

(C) by amending clause (G) (as redesignated by this paragraph) to read as follows:

"(G) 'Secretary' means the Secretary of Education.

(2) Section 405(f)(1) of the General Education Provisions Act is amended—

(A) by striking out "Institute" and inserting in lieu thereof "Department"; and

(B) by striking out "Director" and inserting in lieu thereof "Secretary".

(3) Section 405(f)(2) of the Act is amended—

(A) by striking out "Director" in clause (A) and inserting in lieu thereof "Secretary";

(B) by striking out "Director" in clause (B) and inserting in lieu thereof "Secretary";

(C) by striking out "Director" in clause (D) and inserting in lieu thereof "Secretary"; and

(D) by striking out "Institute" in clause (D) and inserting in lieu thereof "Department".

(4) Section 405(f)(3) of the General Education Provisions Act is amended by striking out "Institute" and inserting in lieu thereof "Department".

By Mrs. KASSEBAUM (for herself, Mr. DANFORTH, Mr. HOLLINGS, Mr. EXON, Mr. FORD, Mr. ROCKEFELLER, Mr. KASTEN, Mr. GOLDWATER, Mr. PROXMIRE, Mr. METZENBAUM, Mr. ABDNOR, Mr. NUNN, Mr. SIMON, Mr. BURDICK, Mr. LAUTENBERG, and Mr. DECONCINI):

S. 1966. A bill to provide for efficient and equitable use of operating rights at congested airports, and for other purposes; to the Committee on Commerce, Science, and Transportation.

USE OF OPERATING RIGHTS AT CONGESTED AIRPORTS

Mrs. KASSEBAUM. Mr. President, I am introducing legislation today that will prohibit the implementation of a regulation issued yesterday by the Department of Transportation. That rule would permit airlines to buy and sell valuable landing rights at the four busiest airports in this country. I believe this rule is the wrong policy at the wrong time—it should never get off the ground.

DOT's action yesterday came in the face of substantial congressional criticism. Members of both parties and both Houses had expressed serious concerns about the wisdom of transferring a Federal property license to private parties at no cost. Although I agree with DOT that something must be done to alleviate the problems at La Guardia, JFK, O'Hare, and Washington National, I cannot agree that our first try should include abandoning takeoff and landing privileges to the auction block.

These crowded airports face the problem of too little airport capacity and too much demand. This dilemma has been addressed in the past through airport scheduling committees made up of representatives of each airline using that particular airport. The scheduling committees, with explicit exemption from our antitrust laws, determine how takeoff and landing "slots" are allocated among airlines.

Unfortunately, for a variety of reasons including the potential issuance of a buy-sell rule, the scheduling committees have proven themselves unable to address effectively the allocation of slots to new airline entrants or the reallocation of slots among incumbent carriers. The committees have been unable to reach the required unanimous agreement on which airline gets to fly when. As a result, we have seen an underutilization of some slots which has denied the traveling public access to the full capacity of these airports.

In recognition of this limited Federal resource, airport takeoff and landing slots, the Department of Transportation has chosen to rely on marketplace forces to allocate the slots. I am convinced, however, that many questions about the impact of buy-sell on commercial air travel have yet to be answered. I am also convinced that a free market analogy is inappropriate when the Federal property right is given to some private entities at no cost while subsequent entrants into these limited markets will face costs of up to $750,000 per slot.

I do not advocate accepting the status quo. We should and must take steps to utilize completely the capacity at these airports. The legislation I am introducing today represents such a step. It offers us the opportunity to adopt a more reasonable approach to this thorny problem, without ending for all time the possibility of a buy-sell experiment.

My bill would require the Secretary of Transportation to issue two rules. The first would impose a "use-it-or-lose-it" requirement, meaning that if an airline is not using a slot a certain percentage of the time, the slot would be made available to an airline which would. This eliminates the incentive for a airline to "pocket" a slot in anticipation of future needs or a future right to sell the slot for profit.

The second rule would require DOT to develop a mechanism which would automatically reallocate slots where the scheduling committees are unable to reach agreement. This proposal provides each airline representative on a scheduling committee the incentive to accommodate the needs of new entrants and other competitors.

This legislation would also require the Secretary to repeal the rule issued yesterday.

I am convinced that sensible policy dictates that we try this two-step approach before, in the words of the Washington Post, "creating a significant cash asset for those airlines that already have won, at no cost, takeoff and landing rights." By taking these initial steps, DOT can provide air travelers access to the entire capacity of these crowded airports.

The solution to the deadlock at these airports does not lie in the creation of more serious problems. Among my concerns regarding buy-sell are these: It is good policy to allow private air carriers to obtain a public property right, such as an airport slot, at no cost? Is it equitable to provide such windfalls to incumbents exclusively, or almost exclusively? Assuming buy-sell is implemented, would not competition best be served by requiring that a significant number of existing slots—certainly more than the 5 percent maximum under the rule—be distributed initially to new entrants, or at least redistributed among incumbents, perhaps through a lottery or auction mechanism. How would buy-sell protect the legitimate rights of midsize communities to affordable air service? Wouldn't buy-sell, by putting a price on slots, a limited commodity, create a disincentive to produce additional airport capacity, because incumbents will be unwilling to see the value of their slots diluted? Doesn't converting slots into property rights invite controversy when the Federal Aviation Administration attempts to exercise reasonable control over slots?

I intend to explore these and other questions in a hearing in February. At that time, the Aviation Subcommittee can fully evaluate the potential impact of a buy-sell rule. My legislation provides the interim action necessary to protect the Federal interest in the fullest use of these airports.

I hope my colleagues will join me in this effort. The transformation of the federally provided privilege into a piece of private property will profoundly affect air travel. For those who doubt that statement, I offer the fact that, by the early 1990's, over 30 U.S. airports will require some type of slot allocation during the peak traffic periods. The course we set today will affect all of us, and it will affect us more directly each year.

Mr. President, what has been proposed is akin to holding the Oklahoma land rush but only telling a few people. The remaining homesteaders would then rely on the free market to allocate land for their homes, paying a high cost to the incumbent landholder who would receive an economic windfall. I urge my colleague to consider my legislation which will prohibit such inequity.

I ask unanimous consent that a copy of the bill be inserted in the RECORD following my statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1966

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Transportation and the Administrator of the Federal Aviation Administration shall—

(1) repeal any rule or regulation or rescind any order issued between December 1, 1985 and the date of enactment of this Act, and

(2) after the date of enactment of this Act, not promulgate any rule or regulation or issue any order, relating to High Density Traffic Airports designated as Subpart K of part 93 of title 14, Code of Federal Regulations (14 CFR 93.121 et seq.), that is inconsistent with the provisions of this Act.

SEC. 2. Consistent with aviation safety, the Administrator of the Federal Aviation Administration shall, not later than 120 days after the date of enactment of this Act, provide by rule or otherwise that any domestic air carrier or commuter air carrier operating right (departure or arrival) regulated at High Density Traffic Airports in accordance with Subpart K of part 93 of title 14, Code of Federal Regulations (14 CFR 93.121 et seq.), hereinafter referred to as a "slot", which is substantially unused shall be recalled by the Administrator of the Federal Aviation Administration for reallocation pursuant to section 3 of this Act.

SEC. 3. (a) Consistent with aviation safety, the Administrator of the Federal Aviation Administration shall, not later than 120 days after the date of enactment of this Act, provide by rule or otherwise for a mechanism for the allocation and reallocation of domestic slots in accordance with the provisions of this section.

(b) The allocation and reallocation of slots (other than on a lottery basis pursuant to subsection (d) of this section) shall be made by a separate air carrier or commuter air carrier Scheduling Committee established for each of such High Density Traffic Airports. Each such Scheduling Committee shall be composed of a representative of each air carrier or commuter air carrier operating from such Airport, and a representative of each air carrier or commuter air carrier that desires to commence air carrier operations from such Airport within six months after the date of application for membership on such Scheduling Committee.

(c) The Scheduling Committee shall allocate and reallocate slots semi-annually, unless the Scheduling Committee unanimously agrees on another allocation interval.

(d) If a Scheduling Committee is unable to reach unanimous agreement on the allocation of slots, the Secretary shall, on a lottery basis, allocate—

(1) all new slots, voluntarily-returned slots, and unused slots; and

(2) a reasonable percentage of slots currently in use at such Airport.

The mechanism for such reallocation shall be adequate to ensure the opportunity for new entry, shall maintain essential air transportation (as defined in section 419 of the Federal Aviation Act of 1958 (49 App. U.S.C. 1389)), and shall protect the access rights of commuter carriers. In addition, the Administration of the Federal Aviation Administration shall employ a method for the recall of slots currently in use that ensures that no air carrier incurs the loss of an undue proportion of its slots currently in use.

SEC. 4. The Secretary of Transportation or the Administrator of the Federal Aviation Administration shall not, by rulemaking or otherwise, provide or permit the transfer of slots for consideration or in a manner inconsistent with this Act. In addition, the Secretary shall declare null and void any transfer of slots which occurred between December 1, 1985 and the date of enactment of this Act, if such transfer was for consideration or occurred in a manner inconsistent with this Act.

Mr. HOLLINGS. Mr. President, what has gotten into the Secretary of

Transportation? I've had great respect for her abilities and her handling of Federal transportation policies. But lately she seems to have become possessed with the notion that virtually everything in her department is for sale and should be unloaded at bargain basement prices.

Her latest proposal to allow the buying and selling of airport landing rights is one of the worst ideas I've heard in a long time. Right to the point, it amounts to a giveaway of valuable Federal assets.

When Secretary Dole came forth with her proposal to sell Conrail to Norfolk Southern, I lined up right behind her with my full support. I still support it, because it's in the best interests of the public and the transportation industry. It's also in the best interests of the Federal Government, which will receive a $1.2 billion purchase price.

Then the Secretary called and asked me to support her plan to sell National and Dulles Airports to a local authority for the grand total of $47 million. Sell the airports, she said, and the local authority could issue bonds to finance the badly needed improvements at the airports. This time I hesitated. Forty-seven million dollars? Why, the Grace Commission has estimated the airports to be worth at least $300 million. In addition, having been a governor, I know what it costs to issue bonds. I got out the calculator and figured out that it would cost more than $700 million to finance $250 million in improvements. The Congressional Budget Office supports me on this.

What's more, we have a $7 billion trust fund which was created for the expressed purpose of airport improvement. It would be far more sensible to take $250 million out of that fund, make the improvements, and be done with it. But no, says our Secretary. "Sell the airports! Get rid of 'em! At whatever the price! And if the State of Maryland objects, give them $36 million to keep their mouths shut."

I didn't think Secretary Dole could top that one, but I believe she's done it with this new buy/sell rule. This isn't merely a fire-sale of Federal assets, it's an outright giveaway.

If allowed to go into effect as planned on April 1, 1986, this rulemaking will relinquish FAA ownership of airport landing rights—commonly known as "slots"—to the air carriers that now hold them at the four airports restricted by the High Density Rule (Chicago O'Hare, Washington National, and LaGuardia and JFK in New York). Thus, the airlines that now hold those landing rights at no cost would be allowed to sell them and retain all proceeds.

Well, ho, ho, ho! Merry Christmas! It seems that Santa Claus has been making a list and checking it twice, and now the stockings of some in the airline industry are going to end up mighty full.

These slots are estimated to be worth close to $1 million apiece. They are public property rights which are properly held by the Federal Government. And I'm not going to stand by and watch the Department Transportation cede those rights to a few airlines which are fortunate enough to be holding them now.

This rule has been completed in direct defiance of a letter I and six other members of the Commerce Committee sent 2 weeks ago to Secretary Dole. In that letter, we strongly urged the Secretary to withhold the issuance of the final buy/sell rule until the Committee would have a chance to review it early next year.

Apparently, however, there's no stopping Secretary Santa on Christmas Eve. Within hours after our letter was sent, the elves at DOT and OMB cranked into high gear and worked overtime to complete the buy/sell proposal and make it effective.

It's time to come back to reality and end the fantasy world at DOT.

Very simply, this legislation, which I am pleased to join Senator KASSEBAUM in sponsoring, would repeal any rule allowing the buying and selling of airport slots, as well as prohibit the future imposition of such a rule. It would direct the Secretary of Transportation to instead issue rules requiring carriers either to "use or lose" the operating rights they currently hold. This would end the hoarding of slots, a practice which has hampered the access of new entrants to these four airports. Finally, this legislation would direct the Secretary to impose a deadlock-breaking mechanism on the scheduling committees which currently allocate the slots among carriers at each of these airports.

If Congress doesn't act quickly to stop the buy/sell rule from going into effect, we will be allowing the administration to severely distort the aviation marketplace by allowing the "haves" to gain tens of millions of dollars in windfall profits, while the "have-nots" get nothing.

In addition, there is the question of what effect this rulemaking would have on air carrier service to the smaller and medium-sized markets. If a carrier had to pay for its access to National Airport, for example, what would keep it from flying only the most lucrative, long-haul, high density routes where the rate of return would be high enough to cover these new costs?

Finally, we must not forget the fact that while this rule currently would apply to only four high density airports, the potential of its ultimate impact is considerable. The FAA is currently considering plans that would expand the high density rule, thereby limiting access, to some 32 airports within the next 5 years. Thus, a buy/sell rule could significantly alter the service patterns at not only these airports, but at every other city in this country that has connecting airline service.

Secretary Dole and the administration have left us no choice but to introduce this legislation and work for its quick approval by the Congress. It is incumbent upon us to draw the line and prevent this ridiculous divestiture of public property from being implemented. For if we do not, who knows what else Santa has in her bag?

By Mr. DURENBERGER (for himself and Mr. BAUCUS):

S. 1967. A bill to amend the Toxic Substances Control Act to protect the environment and human health from adverse effects caused by the release of genetically engineered micro-organisms into the environment, to promote the safe use of genetically engineered micro-organisms, and for other purposes; to the Committee on Environment and Public Works.

BIOSAFETY ACT

● Mr. DURENBERGER. Mr. President, I am introducing today a bill to encourage the development of an environmentally safe genetic engineering industry. The proposal is straightforward—it would require a review and approval by the Administrator of the Environmental Protection Agency before a genetically engineered micro-organism can be released into the environment or used in a manufacturing process.

We need a viable genetic engineering industry in this country. There is no question in my mind that innovations in genetic engineering will bring enormous social benefits, and that we can achieve these benefits without suffering adverse health or environmental effects. However, in order to flourish, this fledgling industry needs an element of certainty in its future. Companies need the assurance of a reasonably stable regulatory regime, one that is based on a solid statutory framework with consistent requirements that are equitably applied. Facing a regulatory future clouded by uncertainty, companies will find it more difficult to attract capital, and innovation will be hindered.

Mr. President, if we want to develop a viable genetic engineering industry, we must develop a safe industry. We must assure that careless or irresponsible individuals do not jeopardize the industry by making mistakes at this critical stage. Frankly, Mr. President, loss of public confidence is one of the worst things that could happen to this industry. That is why a regulatory framework that will help assure safe development of the technology and provide regulatory consistency is so important.

Mr. President, I want to stress that this bill is not an expression of distrust of the industry or of the Environmental Protection Agency. By all accounts, both are proceeding responsibly. The Agency has announced its intention to regulate using its existing authorities, and the industry appears to be cooperating. However, for reasons that I will explain in a moment, I believe that existing statutory authorities, while they do exist, are inappropriate for this new industry. In the long run, it will be better, I believe, to go ahead and make the necessary statutory improvements. This bill proposes to do that, to strengthen statutory authority while according enough flexibility to adjust to a developing industry.

For the most part, this bill, which would add a new section to the Toxic Substances Control Act [TSCA] is intended to clarify and expand authorities that the Administrator already has under that act. The Administrator has asserted that the definition of "chemical substance" in TSCA is broad enough to include micro-organisms. Therefore, the Administrator can review genetically engineered micro-organisms under the premanufacture notification program designed for review of new chemicals. I agree with the Administrator that he has this authority. But that only raises the next question, which is just as important: Are the premanufacture notice provisions of TSCA, which were crafted with toxic chemicals in mind, adequate and appropriate for assessing the risk to health and the environment that might be caused by the release of genetically engineered micro-organisms? I believe there is room for improvement in this regard, and that is the purpose of this bill. It is intended to replace certain aspects of the TSCA premanufacture notification system with a separate system of review of genetically engineered micro-organisms under TSCA, with information requirements and decision criteria that are more appropriate for micro-organisms.

Mr. President, there is every indication that in the next few years we will see tremendous advances in the genetic engineering of micro-organisms. Genetic information from entirely different organisms will be combined to create in the laboratory micro-organisms with new physiological capabilities or combinations of capabilities. For example, research is underway on bacteria to degrade oil spills and residues of toxic chemicals, to leach minerals from the soil, to accelerate the decomposition of plant matter, and to alter fundamental soil nutrient cycling. A recent survey of genetic engineering research supported by the Department of Agriculture identified 87 projects that are expected to involve the release of genetically engineered organisms within the next 5 years. Of these, over 20 appear to involve micro-organisms, including an array of pathogenic bacteria and viruses.

Of course this survey did not cover the vast amount of research going on in the private sector and in many universities.

We can conclude, I believe, that there will be many releases of entirely novel bacteria, viruses, and other micro-organisms during the next few years. In the great majority of these cases, these micro-organisms will be highly beneficial to society while not causing any adverse effects on human health or ecological processes. But we should have learned from our experience with the organic chemicals industry that social progress can come with a high price tag. In some ways, risks from genetically engineered micro-organisms are more troubling than risks from chemicals, because organisms have the capacity to reproduce and, in many instances, to exchange genetic material with other organisms. Thus, if a mistake is made, the problem can grow bigger over time. Put another way, release of a small amount of a toxic chemical often will have a local and transient effect. Release of a dangerous micro-organism could lead to permanent and expanding damage to the environment.

The bill that I am introducing today represents a starting point for constructing a review system that will allow the use of genetically engineered micro-organisms that can be demonstrated to be safe, while restricting those that may be dangerous to man or the environment.

How serious is the risk from this new technology? No one knows for sure, precisely because it is so new. The closest analogy to the introduction of new micro-organisms from a laboratory is the introduction of new organisms from other countries. In both cases, the ecosystem into which the organisms is introduced must respond in some way. In most cases, the exotic species will be ill adapted to its new habitat and will die out. In some cases, however, the new habitat may be amenable, in which case the introduced organism will survive, reproduce, and perhaps spread to other areas. We have seen this phenomena occur with Dutch Elm disease, starlings, and many exotic weeds.

The bill that I am introducing today would require persons intending to release a genetically engineered micro-organism for experimental purposes to obtain a permit to do so. Similarly, a permit would be required before a person could distribute a genetically engineered micro-organism intended for release by other persons. In each case, the Administrator could establish permit conditions and restrictions to assure that adverse effects do not occur.

The bill describes base line information and assessments that must be submitted by permit applicants. These are modeled on the "points to consider" approach to assessment developed by the EPA and the Recombinant Advisory Committee of the National Institutes of Health. The information requirements are described in general terms to allow the flexibility necessary to accommodate this rapidly changing technology. The Administrator is authorized and expected to develop regulations to articulate further his information needs as more experience is gained.

The bill also requires a permit to use a genetically engineered micro-organism for manufacturing purposes. The purpose of this permit is to assure that use of such micro-organisms will not have an adverse effect on human health or the environment if released from the manufacturing equipment.

Mr. President, many ecologists who have examined the implications of this new technology are concerned. In hearings and published reports, they have pointed to possible adverse ecological consequences that could result from releasing genetically engineered micro-organisms into the environment. What is needed is a regulatory framework that is tailored to the specific information needs and assessments needs of this new kind of environmental manipulation. I believe this bill provides such a framework.

But this bill addresses only part of the problem. There are other issues that are not included here, but which should play a part in discussions of further legislative proposals. One is the issue of good laboratory practice and good manufacturing practice. Consideration should be given to requiring that individuals performing genetic engineering experiments comply with containment and safety guidelines like those developed by the National Institutes of Health. Consideration should be given to similar guidelines governing use of genetically engineered micro-organisms in manufacturing processes.

Another area for discussion is the development of international harmony of regulation in this area. Within a short while, the Organization for Economic Cooperation and Development will release its regulatory recommendations. This document will help assure that countries do not use regulatory regimes as nontariff trade barriers hindering international commerce. U.S. companies need assurance that their products will be treated fairly in international trade.

Mr. President, I believe this bill will help define an agenda for consideration of needed legislation. I do not expect that it is without flaws. I am sure it can be improved, and I invite comments from interested persons on how to do so.

I ask unanimous consent that a copy of the bill and a brief description of its contents be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 1967

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that the Toxic Substances Control Act, is amended by adding at the end thereof the following new section:

"SEC. 32. REGULATION OF GENETICALLY ENGINEERED MICROORGANISMS.

"(a) In general.—(1) Microorganisms subject to this section are not subject to the provisions of section 5(a)(1)(A) of this Act.

"(2) Except in compliance with a permit issued under this section, no person may—

"(A) intentionally release a genetically engineered micro-organism into the environment for experimental purposes;

"(B) distribute in commerce a genetically engineered micro-organism intended for release into the environment; or

"(C) use a genetically engineered micro-organism for manufacturing purposes.

"(3) The administrator is authorized to issue permits for the activities described in paragraph (1). The Administrator shall include in a permit issued under this section such conditions and restrictions as the Administrator deems necessary to protect human health and the environment. Such conditions and restriction may include, but are not limited to,

"(A) restrictions on the quantity of genetically engineered micro-organisms manufactured or released, the method of manufacture or release, and training or certification of persons who may come into contact with the genetically engineered micro-organisms;

"(B) requirements for labeling or restrictions or conditions on use, including designation of authorized uses, manner and method of applications, and geographic, temporal, or seasonal restriction on application or use;

"(C) requirements for containment or control of the genetically engineered micro-organisms or of other methods of limiting environmental movement or human exposure;

"(D) monitoring requirements; and

"(E) restrictions or conditions on disposal.

"(4) The Administrator shall not issue a permit to authorize the activities described in paragraph (2) if the Administrator determines, after review of an application submitted under subsection (b), (c) or (d) and such other information as is brought to the attention of the Administrator, that the activity authorized by permit may cause an adverse effect on human health or the environment. The applicant or permit holder shall at all times have the burden of demonstrating that the activity in question will not cause an adverse effect on human health or the environment.

"(5) The Administrator may revoke or modify a permit issued under this section at any time if the Administrator determines that activities undertaken pursuant to the permit may cause an adverse effect on human health or the environment.

"(6) The Administrator may waive the requirements of this subsection for classes and categories of micro-organisms or for classes and categories of activities described in paragraph (1) if the Administrator determines, on the basis of known lack of pathogenicity, inability to persist in the environment, or other factors related to potential effects on human health or the environment, that such waiver will not cause an adverse effect on human health or the environment.

"(b) Experimental release. Applications for permits to release a genetically engineered micro-organism for experimental purposes shall include the following information:

"(1) an identification of the organisms subject to the genetic manipulation and the micro-organisms created by such manipulation.

"(2) a description of the process or processes by which the genetically engineered micro-organism was created, including an identification, to the extent feasible, of the function and location of the manipulated genetic material in the genetically engineered micro-organism.

"(3) a description of the intended release experiment, including provisions for monitoring, containment, and control of the released micro-organism;

"(4) any information in the possession or control of, or reasonably ascertainable by, the manufacturer related to potential adverse human health or environmental effects that might be caused by micro-organisms; and

"(5) an assessment, based on submitted test results or other information available to or reasonably ascertainable by the applicant, of the potential adverse effects on human health or the environment at the location of the intended release or at other locations to which the genetically engineered micro-organisms might be transported. Such assessment shall take into account the potential for survival, growth, and reproduction of the genetically engineered micro-organism at the location of release, the potential for transport to other locations and the potential for transfer of genetic material from the released micro-organisms to other organisms.

"(c) Distribution in Commerce. (1) Applications for a permit to distribute in commerce a genetically engineered micro-organism for purposes of release into the environment shall be made by the manufacturer of such micro-organisms. The permit issued by the Administrator may authorize releases of such micro-organisms by other persons, including future purchasers of the micro-organisms, consistent with the terms and conditions of the permit.

"(2) Any person who purchases or otherwise acquires micro-organisms for which a permit has been issued under this subsection shall be subject to all permit conditions and restrictions.

"(3) Applications for a permit under this subsection shall include the following information:

"(A) an identification of the organisms subject to the genetic manipulation and the micro-organisms created by such manipulation.

"(B) a description of the process or processes by which the genetically engineered micro-organism was created, including an identification, to the extent feasible, of the function and location of the manipulated genetic material in the genetically engineered micro-organism.

"(C) a description of the uses for which the genetically engineered micro-organisms will be released, the geographical areas and extent of release, and instructions or guidance to users concerning uses or application of the micro-organisms;

"(D) any information in the possession or control of, or reasonably ascertainable by, the manufacturer related to potential adverse human health or environmental effects that might be caused by the micro-organisms; and

"(E) an assessment, based on submitted test results or other information available to or reasonably ascertainable by the applicant, of the potential adverse effects on human health or the environment at the locations of the intended release or at other locations to which the genetically engineered micro-organisms might be transported. Such assessment shall take into account the potential for survival, growth, and reproduction of the genetically engineered micro-organism at the locations of release, the potential for transport to other locations and the potential for survival, growth, and reproduction at such other locations, and the potential for transfer of genetic material from the released micro-organisms to other organisms.

"(d) Manufacturing Use.—(1) Applications for the use of genetically engineered micro-organisms for manufacturing purposes shall be made by the person intending to use such micro-organisms for such purposes.

"(2) Applications for a permit under this subsection shall include the following information:

"(A) an identification of the organisms subject to the genetic manipulation and the micro-organisms created by such manipulation;

"(B) a description of the process or processes by which the genetically engineered micro-organism was created including an identification, to the extent feasible, of the function and location of the manipulated genetic material in the genetically engineered micro-organisms.

"(C) a description of the manufacturing process in which the genetically engineered micro-organisms will be used, including circumstances of deliberate release and measures to prevent accidental human exposure to or environmental release of the genetically engineered micro-organisms;

"(D) any information in the possession or control of, or reasonably ascertainable by, the manufacturer related to potential adverse human health or environmental effects that might be caused by the micro-organisms; and

"(E) an assessment, based on submitted test results or other information available to or reasonably ascertainable by the applicant, or the potential adverse effects on human health or the environment at the location of the manufacturing facility or at other locations to which the genetically engineered micro-organisms might be transported. Such assessment shall take into account the potential for survival, growth, and reproduction of the genetically engineered micro-organism at the location of release, the potential for transport to other locations and the potential for survival, growth, and reproduction at such other locations and the potential for transfer of genetic material from the released micro-organisms to other organisms.

"(e) The Administrator is authorized to require—

"(1) such additional information or assessments to be included in an application submitted under this section as the Administrator deems necessary; and

"(2) the performance of specific tests either prior to or in conjunction with release or use permitted under this section that the Administrator determines, in the Administrator's discretion, are needed to provide information to support an assessment of the potential for adverse effects on human health or the environment.

"(f) Except as specifically provided in this section, nothing in this section is intended to restrict or otherwise affect the authorities of the Administrator under this Act.

"(g) The Administrator may, in the Administrator's discretion, regulate under this Act the release of a genetically engineered micro-organism subject to the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act. Releases thus regulated under this Act shall not be subject also to regulation under the Federal Insecticide, Fungicide, and Rodenticide Act.

"(h) The Administrator is authorized to publish regulations to implement the provisions of this section.

"(i) Definitions. As used in this section, the term "genetically engineered micro-organism" means a bacterium, virus, fungus, blue-green alga, or protist, the genetic material of which has deliberately been altered by human intervention.

"(j)(1) There is established a Biotechnology Science Coordinating Committee within the Federal Coordinating Council for Science, Engineering and Technology. The purposes of the Committee shall be:

"(A) to serve as a coordinating forum for addressing scientific problems, sharing information, and developing concensus related to methods for evaluating potential adverse effects on human health or the environment caused by genetically engineered organisms;

"(B) to promote consistence in the development of review procedures and assessments by Federal agencies.

"(C) to facilitate continuing cooperation among Federal agencies on emerging scientific issues; and

"(D) to identify gaps in scientific knowledge.

The Committee is not authorized to review the regulatory decisions of individual agencies for the purposes of approving or disapproving such decisions, nor may the activities of the Committee serve to delay regulatory decisions by the individual agencies.

"(2) Members of the Biotechnology Science Coordinating Committee shall include:

"(A) from the Department of Agriculture, the Assistant Secretary for Marketing and Inspections Services and Assistant Secretary for Science and Education;

"(B) from the Department of Health and Human Services, the Commissioner, Food and Drug Administration and the Director, National Institutes of Health;

"(C) from the Environmental Protection Agency, the Assistant Administrator for Pesticides and Toxic Substances and the Assistant Administrator for Research and Development; and

"(D) from the National Science Foundation, the Assistant Director for Biological, Behavioral and Social Sciences.

The President may appoint additional members.

"(3) Meetings of the Committee shall be announced at least one week in advance in the Federal Register.

"(4) Meetings of the Committee shall be open to the public, except that meetings or portions of meetings may be closed to the public in order to protect confidential business information. Summaries of the public portions of meetings shall be made available to the public.".

Description of Bill

The bill adds a new section 32 to the Toxic Substances Control Act for the purposes of regulating the release of genetically engineered micro-organisms.

Subsection (a) describes the relationship between the new section 32 and existing section 5 of the TSCA, which is the authority EPA now is relying upon to regulate the environmental release of genetically engineered micro-organisms. It also describes the activities for which a permit must be obtained and the authorities of the Administrator to issue permits and to waive permit requirements.

Paragraph (1) states that the release of these organisms would be regulated under section 32 rather than the premanufacture notification component of section 5.

Paragraph (2) defines the three activities for which a permit must be obtained. These are experimental release, distribution in commerce for purposes of release, and use for manufacturing purposes.

Paragraph (3) authorizes the Administrator to issue permits and gives the Administrator broad authority to include conditions and restrictions in a permit.

Paragraph (4) places the burden of proof on the applicant and prohibits the Administrator from issuing a permit if he determines that the activity authorized by permit may cause an adverse effect on human health or the environment.

Paragraph (5) authorizes permit revocation or modification.

Paragraph (6) authorizes the Administrator to waive the requirements of this section upon a determination that doing so will not cause an adverse effect on human health or the environment. The purpose of this paragraph is to provide a mechanism to avoid unnecessary review of safe micro-organisms and activities, thereby reducing the regulatory burden of both the industry and the EPA.

Subsections (b), (c), and (d) establish the information and assessment requirements for the three types of activities for which a permit is required.

For experimental releases, the applicant must describe the genetically engineered micro-organism, the organisms from which it was created, and the type of genetic engineering method used. The application also must describe the intended release experiment and submit the results of any tests that have been performed to evaluate the potential for environmental effects and genetic stability. Also, the application is to include an assessment of potential adverse effects.

The requirements in subsection (c) regarding permits for distribution in commerce are similar, but stress intended uses and the intended locations and manner of release. A similar assessment is required.

A permit under this section is obtained by the manufacturer of the micro-organism, but the permit conditions apply to purchasers and users as well. Therefore, the permit establishes the authorized conditions of use as needed to assure safety.

Subsection (d) defines the information and assessment requirements affecting the use of genetically engineered micro-organisms for manufacturing purposes. The application must contain information on the genetically engineered micro-organism and the organisms from which it was created, as well as a description of the manufacturing process including measures to prevent release. The assessment must consider the potential for adverse effects from intentional or accidental release from the manufacturing equipment.

Subsection (e) authorizes the Administrator to require applicants to submit additional information or perform specific tests when additional information is needed for an assessment.

Subsection (f) clarifies that the new section 32 is supplementary to the other provisions of TSCA and does not affect any TSCA authorities not specifically referred to.

Subsection (g) gives the Administrator the discretion to regulate under TSCA genetically engineered micro-organisms that otherwise could be regulated under the Federal Insecticide Fungicide and Rodenticide Act (FIFRA).

Subsection (h) provides general authority to promulgate regulations needed to implement this section.

Subsection (i) contains definitions for the purposes of this new section of TSCA.

Subsection (j) provides a statutory authorization for the recently created Biotechnology Science Coordinating Committee, the announcement of which appeared in the Federal Register on November 14 of this year. The bill follows the announced structure and function of the Committee, and is not intended to redirect the Committee from the function ascribed to it.●

ADDITIONAL COSPONSORS

S. 1220

At the request of Mr. Hatfield, the names of the Senator from New Mexico [Mr. Bingaman], the Senator from Wisconsin [Mr. Kasten], and the Senator from Delaware [Mr. Biden] were added as cosponsors of S. 1220, a bill entitled the "Renewable Energy and Conservation Transition Act of 1985."

S. 1250

At the request of Mr. Heinz, the names of the Senator from Michigan [Mr. Levin], the Senator from Iowa [Mr. Harkin], the Senator from Alabama [Mr. Denton], and the Senator from Ohio [Mr. Glenn] were added as cosponsors of S. 1250, a bill to amend the Internal Revenue Code of 1954 to extend the targeted jobs tax credit for 5 years, and for other purposes.

S. 1286

At the request of Mr. Domenici, the name of the Senator from Wisconsin [Mr. Proxmire] was added as a cosponsor of S. 1286, a bill to limit the amount of "junk" securities which may be held by federally insured institutions, and for other purposes.

S. 1640

At the request of Mr. Grassley, the names of the Senator from Florida [Mrs. Hawkins], the Senator from Maine [Mr. Mitchell], the Senator from New York [Mr. Moynihan], the Senator from Vermont [Mr. Stafford], and the Senator from Nebraska [Mr. Zorinsky] were added as cosponsors of S. 1640, a bill to amend title XVIII of the Social Security Act to provide for coverage under the Medicare Program of services performed by a physician assistant.

S. 1679

At the request of Mr. Grassley, the names of the Senator from Pennsylvania [Mr. Specter] and the Senator from Illinois [Mr. Simon] were added as cosponsors of S. 1679, a bill to strengthen provisions of the law that provide safeguards when imports threaten to impair the national security.

S. 1820

At the request of Mr. DeConcini, the names of the Senator from New York [Mr. D'Amato], the Senator from Arkansas [Mr. Bumpers], and the Senator from Ohio [Mr. Glenn] were added as cosponsors of S. 1820, a bill to provide financial assistance to State and local educational agencies for the development and expansion of demonstration chemical substance abuse prevention programs in the public elementary and secondary schools of such agencies, and for other purposes.

S. 1871

At the request of Mr. Grassley, the name of the Senator from South Carolina [Mr. Hollings] was added as a cosponsor of S. 1871, a bill to strengthen provisions of the Trade Expansion Act of 1962 that provide safeguards when imports threaten national security.

S. 1914

At the request of Mr. Gorton, the name of the Senator from New York [Mr. D'Amato] was added as a cosponsor of S. 1914, a bill to amend the Stevenson-Wydler Technology Innovation Act of 1980 to permit cooperative agreements between industry and laboratories owned and operated by the Federal Government, and for other purposes.

S. 1919

At the request of Mr. Andrews, the name of the Senator from Hawaii [Mr. Matsunaga] was added as a cosponsor of S. 1919, a bill to establish a task force to examine the issues associated with abuse of the elderly.

S. 1920

At the request of Mr. Lautenberg, the names of the Senator from Washington [Mr. Gorton], and the Senator from Massachusetts [Mr. Kerry] were added as cosponsors of S. 1920, a bill to extend the superfund taxes.

S. 1923

At the request of Mr. Thurmond, the name of the Senator from Illinois [Mr. Simon] was added as a cosponsor of S. 1923, a bill to provide for additional bankruptcy judges.

S. 1952

At the request of Mr. Garn, the name of the Senator from Ohio [Mr. Glenn] was added as a cosponsor of S. 1952, a bill to provide for the striking of medals to commemorate the Young Astronaut Program.

SENATE JOINT RESOLUTION 25

At the request of Mr. Packwood, the name of the Senator from Colorado [Mr. Armstrong] was added as a cosponsor of Senate Joint Resolution 25, a joint resolution to designate March 16, 1985, as "Freedom of Information Day."

SENATE JOINT RESOLUTION 74

At the request of Mr. Thurmond, the name of the Senator from Minnesota [Mr. Durenberger] was added as a cosponsor of Senate Joint Resolution 74, a joint resolution to provide for the designation of the month of February 1986, as "National Black (Afro-American) History Month."

SENATE JOINT RESOLUTION 220

At the request of Mr. Mattingly, the name of the Senator from South Dakota [Mr. Pressler] was added as a cosponsor of Senate Joint Resolution 220, a joint resolution to provide for the designation of September 19, 1986, as "National P.O.W./M.I.A. Recognition Day."

SENATE JOINT RESOLUTION 231

At the request of Mr. Riegle, the names of the Senator from Montana [Mr. Baucus], the Senator from South Carolina [Mr. Thurmond], the Senator from California [Mr. Wilson], the Senator from Oklahoma [Mr. Nickles], the Senator from Illinois [Mr. Simon], and the Senator from New York [Mr. Moynihan] were added as cosponsors of Senate Joint Resolution 231, a joint resolution to designate the period commencing January 1, 1986, and ending December 31, 1986, as the "Centennial Year of the Gasoline Powered Automobile."

SENATE JOINT RESOLUTION 244

At the request of Mr. DeConcini, the names of the Senator from Indiana [Mr. Lugar], and the Senator from Maryland [Mr. Sarbanes] were added as cosponsors of Senate Joint Resolution 244, a bill to designate October 8, 1986, as "National Fire Fighters Day."

SENATE CONCURRENT RESOLUTION 69

At the request of Mr. Danforth, the names of the Senator from Illinois [Mr. Simon] and the Senator from Virginia [Mr. Warner] were added as cosponsors of Senate Concurrent Resolution 69, a concurrent resolution to recognize the National Camp Fire Organization for 75 years of service.

SENATE CONCURRENT RESOLUTION 97—REQUESTING THE PRESIDENT TO NEGOTIATE A NORTH AMERICAN TREATY ON AIR POLLUTION

Mr. BAUCUS (for himself, Mr. Bentsen, Mr. Burdick, Mr. Chafee, Mr. Dodd, Mr. Durenberger, Mr. Hart, Mr. Humphrey, Mr. Kerry, Mr. Mitchell, Mr. Moynihan, Mr. Pell, Mr. Stafford, Mr. Lautenberg, Mr. Bingaman, and Mr. Leahy) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations.

S. Con. Res. 97

Whereas air pollution is a serious concern throughout all of North America, threatening public health, forest resources, manmade structures, and aquatic ecosystems;

Whereas air pollution emanating in Canada, Mexico, and the United States moves across borders and may affect areas great distances from the source of the emissions;

Whereas there is a need for an effective international institution to resolve conflicts concerning transboundary air pollution concerns;

Whereas the Boundary Waters Treaty has provided an effective institution to address transboundary water pollution concerns between Canada and the United States;

Whereas the United States, Canada, and Mexico have mutual environmental concerns regarding water quantity, water quality, and air quality;

Whereas there is a need for uniform monitoring standards and the establishment of an ongoing North American monitoring network;

Whereas there is a need for a sharing of research data and an exchange of ideas over how to protect air quality;

Whereas there is a need for uniform air quality standards to provide comparable protection and protocols to assure protection of North American air quality;

Whereas there is a need for increased understanding of health effects caused by air pollution in North America;

Whereas there is a need to apply equal standards to facilities and products which produce air pollution;

Whereas there is a need to protect existing air quality as well as to seek and implement ways to reduce existing levels of international air pollution; and

Whereas Canada and the United States, and Mexico and the United States, have entered into discussions over concerns about transboundary transport of air pollution: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that the President should institute negotiations with Canada and Mexico for the purpose of concluding a tripartite agreement—

(1) to reduce projected and existing levels of air pollution;

(2) to create an institutional framework to control sources of transboundary air pollution;

(3) to establish a North American air quality monitoring network;

(4) to encourage increased research and dissemination of information on air pollution control strategies; and

(5) to develop uniform minimum levels of protection for public health and the environment.

Mr. BAUCUS. Mr. President, today I am introducing a concurrent resolution calling for the negotiation of an Air Pollution Treaty to cover all of North America.

Evidence continues to grow that air pollution and, in particular, acid rain is causing a major problem throughout all of North America. Canada continues to press for greater action to address existing transboundary air pollution. Many throughout the United States have raised their voices in concern.

The President and the Prime Minister of Canada entered into historic talks on March 17, 1985, to study ways to address acid rain pollution. At this meeting, the Prime Minister for Canada, Mr. Mulroney, stated

> We have broken a 3-year deadlock by agreeing to our common and shared responsibility to preserve our common environment.

President Reagan stated:

> It is very significant that our two countries should work together on all matters of environment because entrusted to us is the care of a very unique continent and a very beautiful continent.

This meeting was a significant beginning. There is a need to build on this beginning.

While these discussions are to address problems caused by existing levels of air pollution, there are no institutions or agreements on how to address new air pollution sources.

At the same time Canada and the United States were beginning talks to consider pollution problems along our northern border, the United States was expressing concerns to Mexico over new air pollution sources south of the border.

Mexico is now preparing to open a new smelter with no pollution controls. The Nacozari smelter is expected to begin operation in the near future.

The Nacozari smelter will be the single largest source of sulfur dioxide pollution in North America. It is projected to emit 550,000 tons of SO_2 per year into the atmosphere. Pollution can be expected to fall out from the Mexican border all the way into Canada.

The United States requested that the Nacozari smelter not begin operation until permanent emission controls have been installed, but the Mexican Government rejected this plea. Without an air pollution agreement, there was little we could do.

There is a need for a formal mechanism to assure that public health and the environment is protected from transboundary air pollution. The United States should take the leadership and immediately call for the commencement of trilateral talks to establish a North American Treaty on Air Pollution.

The United States and Canada have a useful model in place to address transboundary water pollution. This model could provide a guide for how to address air pollution. Its scope could include all of North America.

The Boundary Waters Treaty has been an effective mechansim to address transboundary water pollution since the beginning of this century. It provides for a zero standard of pollution. It is a model of international cooperation.

The International Joint Commission under the Boundary Waters Treaty has proven itself to be a useful institutional mechanism. A similar institutional mechanism is needed for air.

The pending threat of air pollution from Mexico threatens all of the Western United States and highlights the critical need for a North American treaty.

We have had great difficulty coming to grips with existing levels of pollution. A formal mechanism addressing these problems can look for new and innovative ways to address existing levels of air pollution. It can insure that future air pollution problems are not inadvertently being created.

There is tremendous potential for development of additional coal-fired generation capacity in close proximity to borders. Long-range transport concerns continue to grow.

This week, Canada is embarking on a major acid rain control program. Emission levels from four major smelter and coal-fired electrical generation facilities will be reduced 94 percent by 1994.

The Inco smelter, the largest point source in North America with current emissions of 728,000 tons per year, will be reduced to 765,000 tons by 1994.

Canada is demonstrating a willingness to face up to its responsibility for existing air pollution problems. This action will reduce acid loading in the Adirondacks and the Northeastern United States by 5 to 10 percent.

This unilateral action on the part of Canada is a commendable first step to address the acid rain problem.

The United States needs to join with Canada and take similar steps.

But we can ill-afford to play a zero-sum game as other new sources come on line throughout North America.

The President needs to build upon the ongoing talks with Canada and Mexico.

The stage is set for action with Canada. An aggressive posture needs to be taken with Mexico.

The need, the opportunity, and the timing for the development of a North American Treaty on Air Pollution is right. The President needs to seize the initiative and move forward.

Action is needed now. Talks should be undertaken immediately and should involve the United States, Canada, and Mexico. These talks should lead to the establishment of an international treaty to reduce projected and existing levels of air pollution.

This treaty should provide an institutional framework in which to consider these types of disputes. Air quality monitoring, increased dissemination of research, and uniform minimum technologies and levels of protection for public health and the environment should be included in this agreement.

Mr. MITCHELL. I am pleased to join Senator BAUCUS and others in sponsoring this concurrent resolution calling for the negotiation of a North American treaty for the control of air pollution and acid rain.

Events of the past several days have highlighted the need for a commitment from the Reagan administration to bring about significant reductions in acid rain, both in this country and in Canada.

At a hearing in the Environment and Public Works Committee last week, EPA Administrator Lee Thomas indicated that at least 3 more years of research will be needed before the administration will consider supporting a program of controls over acid rain. While I do not oppose continued research, the information we have today confirms that acid rain is a serious environmental problem that places our lakes and forests at great risk.

At the same time that the Reagan administration is delaying needed action to control acid rain, the Canadian Government is moving aggressively to address the problem. Just today, the Province of Ontario announced a specific program to cut acid rain levels in half by 1994. This program is expected to be matched by other Canadian Provinces.

The Ontario acid rain control program will benefit Ontario, but it will also benefit the United States. As a direct result of the Ontario action, acid rain levels in my home State of Maine are expected to decline substantially. Pollutant reductions in other New England States and the Adirondacks are also expected.

While Ontario's program will bring about drastic reductions of acid rain related air pollutants, these steps will not be sufficient to protect the great majority of lakes throughout the Province. Half the acid rain in Ontario comes from emission sources inside the United States. Protection of aquatic and forest systems in Ontario and the rest of Canada will require significant reductions of emissions here in the United States.

In only the past few days, we have heard the Reagan administration refuse to develop even a modest program to deal with acid rain in this country and Canada. And, we have heard the Ontario government announce a dramatic new initiative to control air pollutants related to acid rain.

I cannot conceive of more convincing circumstances to support improved coordination of Canadian and United States air pollution control programs. We have an obligation to take prompt action to develop acid rain control programs to complement the Canadian initiative.

A North American Treaty on Air Pollution would build on the discussions which have occurred to date. And, a treaty would provide a forum for resolving disputes and assuring the on-going coordination of air quality monitoring, research, and control programs.

The exchange of acid rain related pollutants is our most serious international air pollution problem. But, the potential for development of utility and other facilities close to our northern and southern borders is substantial. Further, we now have a better understanding of the long range transport of pollutants. For these reasons, we need to include Mexico, and well as Canada, in a North American Air Pollution Treaty.

The importance of including Mexico in such a treaty is illustrated by the case of the Nacozari smelter, which is expected to begin operation shortly just south of the border. Despite U.S. objections, the smelter will have few pollution controls. Air pollution form the smelter is expected to fall in this country and as far north as Canada.

Mr. President, I urge my colleagues to join in support of this important resolution.

Mr. BURDICK. In the past, the Canadian Government has severely criticized United States efforts and achievements in reducing SO_2 emissions. However, since the election of Brian Mulroney as Prime Minister, there have been indications that Canada is adopting a new and more rational approach in its acid rain negotiations with the United States. In fact, in February of this year, Mr. Mulroney pointedly stated that Canada needs to "clean up its own act first" before expecting the United States to impose stronger American controls. He also stated that Canadians must stop blaming the United States exclusively "for a problem which is not insignificantly of our own creation and about which we have done very little."

Canada is moving in the direction of "cleaning up its own act." The new Government has adopted a major environmental control program to reduce emissions of SO_2 and NO_2, which are thought by many scientists to form acid rain. The Canadian Government wants to reduce SO_2 emissions in eastern Canada by 50 percent by 1994.

Major elements of the Canadian plan are:

First, to reduce SO_2 emissions east of the Saskatchewan/Manitoba border by 1994 to no more than 2.3 million tons.

Second, to require unleaded gas in all 1988 car models to reduce NO_2 emissions by 45 percent by the end of the century.

Third, to provide $150 million to assist the smelting industry in paying for pollution control devices.

Fourth, to promote research by providing $25 million for improved smelting technology and $70 million for clean coal technology.

Fifth, to monitor acid rain effects under an $18 million annual program.

Sixth, to continue its role in the international community by seeking cooperative agreements on acid rain control.

Under this new effort, Canada will now begin to match America's efforts made over the past 15 years. Passage of the Clean Air Act has resulted in reducing SO_2 and NO_2 emissions by 26 percent, and strict car emissions standards has dramatically reduced NO_2.

Success has been linked to a combination of several measures—increased use of fuel substitution, expanded clean coal technology, and installation and operation of 119 scrubbers at utility power generation plants across the country. The cost to American consumers, businesses, and industries of meeting the requirements of the Clean Air Act has been estimated to exceed $25 billion a year. Canada should consider adding to its acid rain program the implementation of scrubbers on its coal utility plants.

If Canada's new program succeeds, and coupled with the continued reductions in SO_2 and NO_2 emissions that will be achieved in the United States under the existing Clean Air Act, their program should achieve substantially reduced acid rain on our common border. In working together, both countries should see great improvement in the hazardous threat to environment by acid rain.

While the United States has made gains in curbing air pollution, it cannot halt its efforts. This administration needs to assess its policy of conducting more research on the causes of acid rain against the need to develop and implement a comprehensive national program. On December 11, the Senate Environment and Public Works Committee held an oversight hearing on the National Acid Precipitation Assessment Program. The taskforce has been working since 1980 to develop and implement a comprehensive national program. The administration should use the information gained from such research, monitoring, and assessment activities to develop a national program.

In order to continue to do our fair share, the United States needs a stronger approach on acid rain. A North American treaty would establish a process whereby the United States, Canada, and Mexico could combine their efforts to prevent further deterioration of North America's environment. I would encourage the administration to recommend a national program and approach the acid rain problem on a continental basis.

Mr. MOYNIHAN. Mr. President, I rise to join with my good friend and colleague from Montana to cosponsor this Senate Concurrent Resolution, which calls on the President to negotiate a North American Treaty on Air Pollution. Surely, there are few ideas that are more self-evidently good ones.

Mr. President, the only acid rain legislation we have got is the Acid Precipitation Act, which I introduced on September 14, 1979. My purpose was to establish some facts about this matter—facts that we were sorely lacking at that time. Even then, however, we knew enough to suspect that long-range transport of airborne pollutants meant no one country could solve the acid rain problem on its own. In enacting legislation that became Public Law 96-294, Congress found that "acid precipitation resulting from other than natural sources * * * could affect areas distant from sources and thus involve issues of national and international policy." And the comprehensive plan for the next decade's research was to include programs for "effecting cooperation in acid precipitation research and development programs * * * with other sovereign nations having a commonality of interest."

We have had cooperative research with Canada—although not enough. We have discussed our concerns with both Canada and Mexico—although without sufficient results. And most recently, we have named the most capable Mr. Drew Lewis as a special envoy to discuss our concerns at the highest level with a representative of the Government of Canada. But Mr. Lewis has yet to provide us with an indication that the United States and Canada will be able to resolve all of their concerns about transboundary air pollution in such discussions—and, with the opening of the new smelter in Nacozari, Mexico, our attention surely ought to be turned toward the south as well.

Mr. President, we know how difficult it is for each country to make reductions in sulfur dioxide emissions on its own. While our own emissions have declined since controls on the so-called criteria pollutants were required by the Clean Air Act, we have failed to take simple and direct action to reduce these emissions by promulgating strict regulations to control "tall stacks."

Canada is justly concerned by the sulfurous emissions we send northward, as now we are beginning to worry about emissions sent northward to us by Mexican smelters. It is long past time for all concerned to realize that a unified approach for the continent as a whole is the only option for a truly successful acid rain program. And it is long past time for us to begin pursuing one.

I commend Mr. Baucus for his resolution, and I support it wholeheartedly.

Mr. LAUTENBERG. Mr. President, I commend Senator Baucus for authoring this resolution requesting the President to negotiate a North American Treaty on Air Pollution. I am pleased to join many of my colleagues from the Senate Environment and Public Works Committee in cosponsoring this resolution, and look forward to taking up the issue of acid rain and other transboundary air pollution issues early next year.

I am also pleased to note that a number of members of the Senate Foreign Affairs Committee have joined as cosponsors of this resolution. Their role as shapers of U.S. policy regarding North American issues is of utmost importance in helping to resolve the stalemate that we find ourselves in with respect to transboundary air pollution.

Mr. President, there could not be a more appropriate time to call upon the President to negotiate a North American Air Pollution Treaty. It is almost 6 years now since President Carter entered into a Memorandum of Intent with Canada. The MOI set out a course of bilateral cooperation in research and in negotiating a treaty for controlling transboundary air pollution. The MOI also stated as a policy that the two countries should work to reduce their emissions of sulfur and nitrogen oxides while negotiating the treaty.

There are few words that can adequately express the exasperation that the Canadians, and those of us in Congress concerned with controlling these pollutants, have felt over the last several years. The research efforts under the MOI were thwarted by those in the administration that would like to argue that not enough is known about the causes and effects of acid rain to justify more stringent controls. The treaty negotiations fumbled when Canada offered to cut its emissions by 50 percent for a similar reduction in emissions generated in the United States. In the meantime, emissions have been on the rise in the United States and in Mexico, where a smelter, financed by the International Monetary Fund, will begin operation without pollution controls and assume the dubious distinction as the largest single emitter of sulfur dioxide in North America.

Mr. President, we have the opportunity to turn the debate around on controlling transboundary air pollution. We must join with our colleagues in Canada and Mexico to negotiate in earnest a North American Air Pollution Treaty. The first opportunity will come early next year, when the envoys appointed by the President and Prime Minister are expected to make a recommendation for action before the next bilateral summit with Canada. In the interim, we must show good faith in these negotiations by reducing harmful emissions of sulfur and nitrogen oxides.

Mr. President, we should follow Canada's impressive example. This week, Canada will announce the details of the final leg of their program to reduce sulfur dioxide by 50 percent. This is not an impossible goal for other industrial countries. Several European countries, including France and West Germany, have announced plans to reduce emissions by 50 percent. The USSR has joined the so-called 30 percent emissions reduction club, and pledged in a recent environmental summit with EPA Administrator Lee Thomas to work on solutions to the acid rain problem plaguing both our countries.

I urge my colleagues to cosponsor this important resolution, and join in the effort to reduce transboundary air pollution for the sake of all North America.

SENATE RESOLUTION 276—RELATING TO THE REHIRING OF AIR TRAFFIC CONTROLLERS

Mr. LAUTENBERG (for himself, Mr. Dixon, Mr. Simon, Mr. Bradley, Mr. Kerry, Mr. Dodd, and Mr. Moynihan) submitted the following resolution; which was referred to the Committee on Commerce, Science, and Transportation:

S. Res. 276

Whereas safe and efficient air transportation is essential to the economy of the nation;

Whereas the margin of safety in the skies is jeopardized by a serious experience drain in the air traffic control system;

Whereas the total number of air traffic controllers is significantly below the level employed in 1981; and

Whereas at a time of rising air travel, the air traffic controller system is at 59 percent of full performance level as of September 30, 1985 as contrasted to 82 percent in 1981 and is subject to further experience drain due to expected retirement: Now, Therefore, be it Resolved, That

(1) it is the sense of the Senate that the Executive Branch should employ the quickest and most cost efficient means to return the air traffic control system to pre-strike experience levels; and

(2) the Executive Branch should, to the extent required, rehire those experienced air traffic controllers fired from the Federal Aviation Administration in 1981, who meet standards for employment in the Federal civil service, necessary to fulfill this objective.

● Mr. LAUTENBERG. Mr. President, today I am submitting a sense of the Senate resolution regarding our Nation's air traffic control system. This resolution is cosponsored by Senators Dixon, Simon, Bradley, Kerry, Dodd, and Moynihan. The thrust of the resolution is that, in order to return this Nation's aviation safety program to the experience level which existed in 1981, the executive branch should immediately rehire, on a selective basis, those air traffic controllers fired in the aftermath of the PATCO strike.

In 1981, Mr. President, the FAA employed 16,250 air traffic controllers. When the PATCO union went on strike, President Reagan fired 11,700 of those controllers. Of the 16,250 controllers employed in 1981, 82 percent were full performance level controllers capable of performing a variety of tasks in air traffic control facilities around the country.

Administrator Donald Engen of the FAA testified before the Senate Appropriations Subcommittee on Transportation that the administration's goal for restoring the FAA to pre-strike levels was to have 14,306 controllers on duty by the end of fiscal year 1985. On September 30, 1985, the FAA was employing only 14,000 controllers, because the washout rate among new recruits was higher than anticipated.

Mr. President, the FAA claims that they can handle air traffic that is running 10 percent above 1981 levels with fewer air traffic controllers. In addition, air traffic controllers are being checked out in 2 years when it used to take 4 or 5 years to fully train a controller. Supervisors continue to control traffic at the expense of the supervisory duties.

Even if one believes that more traffic can be handled with fewer controllers or that controllers trained for 2 years are as capable as those trained for 4 or 5, one would still have to conclude that the FAA faces a critical experience shortfall.

In 1981, 82 percent of the controller work force was at full performance level. As of September 30, only 59 percent of current controllers were at that level. There are many controllers eligible for retirement in the near future. Because the workload and morale in the system has not, according to the FAA's own reports, improved since 1981, these controllers are expected to retire. These retirements can only make the experience drain worse.

Mr. President, the rehiring of air traffic controllers fired in 1981 would be an act of compassion. After all, it has been years since the strike and these people have paid dearly in terms of the disruption to their families, the loss of their income, and pension rights. But they are not the only ones who have suffered. The traveling public has suffered along with them in terms of an eroding margin of safety and inconvenient delays for business and pleasure travelers. It is time the former controllers and the traveling public got a little relief.

The sponsors of this resolution are not contending that the 1981 strike was legal or that the President was wrong to take the action he did. We are contending that whatever the validity of the action in 1981, it is time to bring these people back to work. The President has made his point. It is no longer a time to exercise power; it is time to exercise wisdom and compassion. It is time to exercise common sense.

Mr. President, the Nation invested heavily in the training of a valuable pool of talent that is badly needed at this time. The quickest and most cost-effective way to return the air traffic control system to full performance levels comparable to 1981 is the immediate rehiring of some of those fired on a selective basis.

Just prior to Thanksgiving, Mr. President, I met with a group of former and present air traffic controllers. I had been told that the present controllers did not want the strikers back. Administrator Engen told me that there would be chaos in the towers if rehiring occurred. But present controllers told me that there is chaos in the towers and the way to eliminate it is to get as many people back to work as soon as possible. My experience in meeting with controllers is confirmed by the Jones report, commissioned by the FAA, which found little opposition and some support for rehiring.

Mr. President, the cost of losing the margin of safety in our skies is not measured in man-hours or other bureaucratic measurements, it is measured in the loss of human lives; 1985 has been the worst year on record for commercial aviation worldwide. We have vitally important work to be done and an available pool of talent ready, willing, and able to do it. Let us put the past behind us and get this job done.●

Mr. SIMON. Mr. President, this morning, Senator LAUTENBERG, Senator DIXON, a few others, and I have introduced a resolution regarding the air safety situation. We do face a serious problem. It is still safer to fly by air in this country than it is to drive on the street, but it is not as safe as it should be. Air traffic is growing. Our air traffic management system is frankly not where it should be.

The Nation's air traffic control system is flirting with disaster. Air traffic is growing, our air traffic management system is not up to speed, and there is mounting evidence that the safety margin is suffering deep erosion.

That leaves us with three realistic options: First, increase the capacity of the air safety system; second, impose limits on air traffic; or third, risk the consequences of continued reduction in the margin of safety we all have taken for granted in American civil aviation. Obviously, I think the latter two are not realistic options. The sensible course is the first option: To boost the capacity of the system by raising staffing and experience levels in the control centers and in the airport towers to adequate levels, and to waste no time doing that.

To reach that goal, it is time to consider rehiring some of the best-qualified controllers among those fired during the air traffic controllers' strike of 1981.

I supported President Reagan's decision to fire the controllers on August 3, 1981, when their union implemented an illegal strike. While more could have been done to acknowledge and address the controllers' valid concerns about stressful working conditions, once the strike took place the President made the right decision to fire them. We cannot tolerate strikes against the Federal Government. But now 4 years have passed. Those who lost their jobs have lost much more in pay and retirement benefits than they would have paid in court fines for their missteps. If we rehire some of them, no one would get the idea that you can strike against the Federal Government and go unpunished.

Before the strike there were 13,000 fully qualified controllers. Today there are only 8,000 fully qualified controllers among the 14,300 who are on the job. Fewer fully qualified controllers and an experience level that is far lower—that is a formula for declining air safety.

In fact, Mr. President, that is just what we are reaping today. Near-misses are gaining in frequency. In 1984 the total reached 592, the highest in the history of the airline industry. For the first 7 months of this year, near-misses already were 40 percent ahead of last year's total.

Can we afford that narrowing margin of error? The answer should be obvious.

Rehiring some of the former controllers is no panacea, but it is one of several realistic steps we should consider. The FAA clearly has not been completely realistic in its assessment of the current air safety situation.

The agency has resisted acknowledging that there are too few controllers, too little experience, and too little supervision in the air control centers, and in some of our airport towers as well. But the pilots of the Nation know it, and their association has spoken our firmly of their concerns. In recent days a newspaper's opinion survey of airline pilots underscored this consensus.

FAA does not have any office solely responsible for collecting and analyzing—for safety purposes—the near-miss information the agency generates. The FAA this year was found to have underreported its near-miss figures. In what I fear is an increasing pattern, one controller in the Midwest has told my office of several unreported incidents at his facility.

The staffing and experience problem needs immediate attention. At the Chicago Center in Aurora, IL, for example, which handled 2 million flights last year in the Midwest, the number of controllers is down from 525 in 1981 to some 360 today, even though the center handles 6 percent more traffic daily than it did in 1981. Controllers at Aurora must rely on outdated equipment, much of it is so old it uses vacuum tubes instead of transistors.

Only in recent weeks has the agency begun to address that concern. And as at similar facilities, some of the most experienced professionals are moved from supervisory posts to controller posts because of staff shortages, and under that kind of arrangement, supervision suffers.

Recently the Aurora facility logged a record 5 controller errors in 18 hours, resulting in 10 planes flying too close to each other.

For much too long the FAA has not publicly acknowledged, let alone acted on, this serious staffing and experience problem. The traveling public should commend Transportation Secretary Elizabeth H. Dole for breaking this pattern through her recent announcement that FAA intends to phase in 960 new controllers over the 2 years.

That is a welcome change, but the air traffic control system desperately needs experience just as much as it needs more adequate staffing. Some refresher training would be needed for the older hands, but they would be fully on the job sooner, and the taxpayers would save some of the money that would be used to train fresh recruits. We would get some of that valuable experience back behind the radar screens.

Other experienced voices in the airline industry, including the Airline Pilots Association, the Air Transport Association, and recently the chairman and president of USAir, have called for increased air traffic controller staffing in the interest of public safety and improving the performance of our airtraffic control system. Edwin I. Colodny of USAir wrote in his airline's in-flight magazine for November, "* * * the airlines and Congress are concerned that the system is not up to the increasing demands being placed upon it. Safe operation of the system is the primary objective of the FAA, an objective we all share."

The FAA is not adequately addressing the question of air controller experience, nor is the continued use of supervisors "on the boards" easily explained. In October 1983, there were about 3,000 supervisors doing the work of controllers, and the FAA has not yet made a commitment to return them to full-time supervisory posts.

Mr. President, the Chicago Tribune recently carried an article by Lloyd Martinez titled, "A Fired Controller Talks Safety." I ask unanimous consent that this article, as well as an editorial titled, "Air Safety Demands FAA Act, Not React," from the Springfield, (IL) State Journal-Register, be printed in the Record at this point.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Chicago Tribune, Dec. 1, 1985]

A Fired Controller Talks Safety

(By Lloyd Martinez)

As a former air traffic controller, I have sat quietly by the sidelines for the last four years listening and reading what the "experts" have to say about solving the issues of staffing, equipment and, greatest of all, the safety in flying through the United States air traffic control system. I can no longer keep still.

Why should anyone believe an ex-air traffic controller? I worked 24 years in that profession, lost my retirement benefits and haven't any hope of ever going back. You will say the government doesn't lie and you've got to believe it.

Why did the Federal Aviation Administration in Washington report that there were 299 incidents when there were actually 600 reported and perhaps many more? The FAA was forced to admit there were more incidents that somehow got lost on the way to Washington.

The FAA detested the controllers union. Our union encouraged all controllers to report all incidents, and when the news media were notified, the FAA was forced to give detailed information. When the strike occurred in 1981, the FAA found a perfect solution; bust the union, fire all controllers and just maybe take back only the number that they needed.

However, the hireback couldn't be done, so to this day the agency remains gravely understaffed. Transportation Secretary Elizabeth Dole admitted as much last month when she announced the FAA was going to hire another 1,000 controllers to augment the 14,300 on the payroll.

The FAA, it seems, was trying to run the system with 25 percent fewer controllers. The Air Route Traffic Control Center in Aurora, the FAA said, was being operated with 60 percent of the staff it had in 1981. Aurora, of course, is one of the busiest centers in the nation.

But the FAA's claims don't match the figures. At one point recently there were 130 controllers, including supervisors, at Aurora but only about 30 of them were able to work one or two sectors and were lucky if they could do that.

Prior to August, 1981, there were about 300 journeymen controllers and an additional 30 controllers able to work at least one sector. Minimum staffing required that there be at least 14 controllers per area of specialization. Therefore, seven sectors needed 98 men for each of the two major shifts and another 17 on the midnight shift when traffic was lighter. Another 98 were needed to cover days off without considering vacations, sick leave and personnel detailed to other duties.

Excluding vacations, sick leave and detailed personnel, we had a grand total of 294 controllers needed to make the Aurora center operate successfully and safely.

I'll let you do the arithmetic on both sets of figures, but it sounds as if the FAA has pulled the wool over everyone's eyes. Is there any wonder there are so many delays nationwide even on clear days?

Let's face it, the real issue is outdated equipment, understaffed facilities, hundreds of control towers closed since 1981, too many chiefs in personnel offices that are statisticians, too many lawyers and an old bureaucracy that doesn't seem to care or know about the air traffic system.

The FAA first said it would rebuild the system in six months, then that was lengthened to one year, then two. It is now approaching four years and the end isn't in sight.

Someone should have told the FAA that it takes four to five years to make a controller and then only if there is adequate staffing to start with.

The public deserves, and should demand, the best technology and controllers that can be attracted. At the present time they are not receiving either.

[From the State Journal Register (Springfield, IL), Nov. 26, 1985]

Air Safety Demands FAA Act, Not React

Congress is justifiably concerned about air safety, given the unprecedented string of commercial airline accidents this year that have claimed more than 1,600 lives. The focal point of congressional scrutiny is the Federal Aviation Administration, which is responsible for the air-traffic controller system that guides planes through the skies and the inspectors who check their condition.

Although FAA Administrator Donald Engen insists that his agency is on top of the air-safety situation, recent evidence suggests otherwise.

Three months ago, a U.S. Department of Transportation task force scored the FAA for not implementing safety rules in a timely manner, citing delays of as much as eight years. Indeed, six years after 273 persons perished in the crash of an American Airlines DC-10 near Chicago—the worst commercial aircraft accident in U.S. history—the FAA has failed to implement most of the safety recommendations following that disaster.

The Transportation Department's findings came on the heels of a critical Government Accounting Office report that suggested the FAA is careless in inspecting commercial aircraft. According to that report, some U.S. passenger planes underwent few, if any, inspections between mid-1983 and mid-1984.

The FAA has since drafted tough new safety-inspection regulations and plans to add 500 new inspectors during the next two years. Nevertheless, nagging doubts persist about the agency's capacity to monitor airline safety effectively.

In 1979, the FAA had 2,000 inspectors who were responsible for monitoring the operations of 237 air carriers, commuter and air taxi operators. Last year, the number of inspectors had dwindled to slightly more than 1,300 while the number of operators had increased to 407.

FAA inspectors have simply been unable to keep pace with the proliferation of commercial carriers in the wake of airline deregulation. That proliferation has produced competitive pressures among carriers to pare costs, including such safety-related services as training and maintenance.

Another weak link in the safety system is the shortage of air-traffic controllers. Before the 1981 strike, there were 16,000 controllers. Of the 14,000 controllers currently on duty, only about 8,000 are fully qualified. This despite the fact that deregulation has increased the number of flights around hub cities and underscored the need for more controllers. Belatedly, the FAA plans to add another 1,000 controllers during the next two years. Meanwhile, stress, fatigue, and a lack of supervision have further compromised public confidence in air-traffic control.

Finally, there is the FAA's foot-dragging on the development of a Doppler radar system that could reduce, if not eliminate, the danger of wind sheer accidents. During the last 15 years, wind shear has been cited as the cause of 17 accidents, which have killed 440 persons.

Although the Federal Aviation Administration is not to blame for all of this year's airline catastrophes, the agency has failed to assume the leadership role that Congress intended for it. Instead of reacting to problems, the agency ought to be anticipating them and then acting to prevent potential disasters.

That exacting role demands scrupulous attention to safety procedures, which in turn will cost millions of dollars. But, the millions of persons who place their lives in the hands of commercial air carriers each year deserve nothing less.

Mr. SIMON. Mr. President, I recently joined five of my colleagues in signing a letter to Secretary Dole asking her to take those steps necessary to bring about the rehiring of the best qualified of those air traffic controllers fired in 1981. I have also urged renewed consideration of this issue in a letter to our colleague Senator John Danforth, the chairman of the Commerce Committee.

I am hopeful that, quietly and sensibly, Congress and the administration will take this and other steps that can restore an adequate margin of safety to our air travel.

I just add for my colleagues who are here that there is no question we have a problem.

In the first 7 months of this year we had 41 percent more near-misses than we did all of last year, and last year was a record year in terms of near-misses.

My hope is that we are not going to wait until we have more tragedies before we move on the problem. One of the things we clearly ought to do is to carefully select among the experienced air controllers, and rehire some of them. We have quietly rehired about 750. I am not saying the administration ought to make a big announcement. I happen to think the President did the right thing in firing the controllers. You cannot strike against the Federal Government.

But they have lost 4 years of pay, and 4 years of retirement benefits. The question now is air safety. That ought to be the prime question this administration has. There are those within the administration in high positions who believe it makes sense to carefully select and bring back more of these controllers.

I think it is important that those of us in the U.S. Senate do everything we can to encourage the administration to move in a responsible way on this.

SENATE RESOLUTION 277—REFERRING S. 1962 TO THE CHIEF JUDGE OF THE UNITED STATES CLAIMS COURT FOR A REPORT THEREON

Mr. INOUYE submitted the following resolution; which was referred to the Committee on the Judiciary:

S. Res. 277

Resolved That the bill (S. 1962) entitled "A bill for the relief of Walter Chang" now pending in the Senate, together with all the accompanying papers, is referred to the Chief Judge of the United States Claims Court. The Chief Judge shall proceed with the same in accordance with the provisions of sections 1492 and 2509 of title 28, United States Code, and report thereon to the Senate, at the earliest practicable date, giving such findings of fact and conclusions thereon as shall be sufficient to inform the Congress of the nature and character of the demand as a claim, legal or equitable, against the United States or a gratuity and the amount, if any, legally or equitably due the claimant from the United States.

AMENDMENTS SUBMITTED

RELIEF OF HAMILTON JORDAN OF LAWRENCEVILLE, GA

HATCH AMENDMENT NO. 1419

(Ordered to lie on the table.)

Mr. HATCH submitted an amendment intended to be proposed by him to the bill (S. 1475) for the relief of Hamilton Jordan of Lawrenceville, GA; as follows:

At the end of the bill, add the following new section:

Sec. .—(a) Sec. 706 of title 2, United States Code, is amended by inserting after the words "not to exceed $5,000." and before the words "No action" the following:

This civil penalty shall be the exclusive penalty for such knowing and willful violation of section 702 of this title, notwithstanding any other provision of the United States Code, including section 1001 of title 18. This section shall be deemed to be effective on the date of enactment of the Ethics in Government Act.

(b) Sec. 304 of title 28 App., United States Code, is amended by inserting after the words "not to exceed $5,000." the following:

This civil penalty shall be the exclusive penalty for such knowing and willful violation of section 302 of this title, notwithstanding any other provision of the United States Code, including section 1001 of title 18. This section shall be deemed to be effective on the date of enactment of the Ethics in Government Act.

(b) Sec. 204 of title 5 App., United States Code, is amended by inserting after the words "not to exceed $5,000." the following:

This civil penalty shall be the exclusive penalty for such knowing and willful violation of section 202 of this title, notwithstanding any other provision of the United States Code, including section 1001 of title 18. This section shall be deemed to be effective on the date of enactment of the Ethics in Government Act.

FARM CREDIT AMENDMENTS ACT

HELMS (AND ZORINSKY) AMENDMENT NO. 1420

Mr. HELMS (for himself and Mr. Zorinsky) proposed an amendment to the amendment of the House to the bill (S. 1884) to amend the Farm Credit Act of 1971, to restructure and reform the Farm Credit System, and for other purposes; as follows:

In the House engrossed amendment—

(1) On page 7, strike out line 24 and all that follows through line 25 on page 8 and insert in lieu thereof the following:

"Sec. 4.28c. Board of Directors of the Capital Corporation.—(a)(1) The Board of Directors of the Capital Corporation shall consist of five members, of which—

"(A)(i) three members shall be elected by the farm credit banks that own the voting stock in the Corporation, with—

"(I) one such member being elected from an institution and a district that, at the time of such election, is or is projected to be a net contributor of capital to the Corporation;

"(II) one such member being elected from an institution and a district that, at the time of such election, is or is projected to be a net recipient of capital (other than through the sale of loans or other assets at fair market value) from the Corporation; and

"(III) one such member being elected without regard to the restrictions in clauses (i) and (ii).

"(ii) Each such bank shall have the right to cast one vote to fill each such vacancy without regard to the number of voting shares owned by such bank.

"(B) two members shall be appointed by the Chairman of the Farm Credit Administration Board.

"(2) Members appointed by the Chairman under paragraph (1)(B) shall be selected from United States citizens—

"(A) who are not borrowers from, shareholders in, or employees or agents of any institution of the Farm Credit System; and

"(B) who are experienced in financial services and credit.

"(3) The Farm Credit Administration Board shall, in its sole discretion and for purposes of the election of directors to the Capital Corporation only, project whether—

"(A) institutions within a district are or will be a net contributor of capital to the Corporation, or

"(B) the institutions within a district are or are expected to become net recipients of capital from the Corporation.

"(4) The Farm Credit Administration Board shall issue regulations providing for fair and equitable representation of all public and private interests on the Board of Directors of the Capital Corporation. The bylaws of the Corporation shall prescribe the procedures, established pursuant to regulations issued by the Board, under which directors of the Corporation will be nominated and elected.

"(5)(a) Notwithstanding paragraph (1), in the event the Secretary of the Treasury purchases any obligation of the Farm Credit System Capital Corporation under section 4.28J, and for so long as such obligation remains outstanding, the Board of Directors of the Capital Corporation shall be expanded by two members, of which—

"(A) one member shall be appointed by the Secretary of Agriculture; and

"(B) one member shall be selected by the other members of the Board of the Capital Corporation, including the appointee of the Secretary of Agriculture, which member shall not be a—

"(i) borrower from, shareholder in, or employee or agent of any institution of the Farm Credit System; or

"(ii) a government employee.

"(b) Members of the Board of Directors shall serve two-year terms, except that, of the members first elected or appointed to the Board of Directors, one elected member and one appointed member shall serve initial terms of one year.

"(c) The Board of Directors shall elect, on an annual basis, a Chairman from among the members of the Board.

"(d)(1) Members of the Board may succeed themselves and may serve until their successors are duly seated.

"(2) Vacancies on the Board shall be filled in the same manner as the vacant position was previously filled.";

(2) On page 21, line 10, strike out "fective only" and insert in lieu thereof "fective for any fiscal year only";

(3) On page 22, between lines 17 and 18, insert a new section 4.28L as follows:

"Sec. 4.28L. Tax Status of Consolidated Obligations.—Consolidated notes, bonds, debentures, or other obligations, the issuance of which is joined in by the Capital Corporation pursuant to paragraph (13) of section 4.28G, shall have the same tax status as provided by this Act with respect to such obligations issued by the banks.";

(4) On page 33—

(A) in line 13, insert "and certificates of territory" after "charters";

(B) in line 21, after "territory", insert ", unless subsequently agreed to by the board of directors of such association or associations"; and

(C) after the period in line 25, insert "Such associations shall not be (i) charged any assessment under this Act at a rate higher than that charged other like associations in the district or (ii) discriminated against in the provision of any financial service and assistance (including, but not limited to, access to credit and rates of interest on loans and discounts) by a district Farm Credit bank to the association and its member-borrowers.";

(5) On page 35, line 12, insert "regulate" after "and";

(6) On page 37, between lines 5 and 6, insert the following new paragraph:

"(15) Except for associations, approve the salary scale for employees of the institutions of the System, and approve the compensation of the chief executive officer of such institutions: Provided, That no salary scale or rate of compensation shall be approved under this provision unless determined to be fair and reasonable.";

(7) On page 38, line 11, strike out "other" and all that follows through "banks" on line 12 and insert in lieu thereof "other than federally regulated financial institutions";

(8)(A) On page 76, line 24, strike out "System" and all that follows through "committee" in line 25 and insert in lieu thereof "System institution shall establish one or more credit reveiw committee(s), which shall include farmer board representation";

(B) On page 77, line 4, insert "When a loan applicant requests review of an adverse credit decision, a majority of persons serving on such reviews committee must be persons who were not involved in making the adverse decision." after "committee.";

(9) On page 79, between lines 2 and 3, insert a new section 307 as follows:

Sec. 307. Each local lending institution of the Farm Credit System established under the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) shall—

"(1) review each loan that has been placed in non-accrual status by such institution to determine whether such loan may be restructured based on changes in the circumstances of such institution as the result of this Act and the amendments made by this Act; and

(2) notify in writing the borrower of each such loan of the provisions of this section.";

(10) On page 80—

(A) in line 5, redesignate subsection (c) as subsection (d); and

(B) between lines 4 and 5, insert the following new subsection:

"(c) In carrying out the duties and functions specified in subsections (a) and (b), the Governor of the Farm Credit Administration shall serve at the pleasure of the President."; and

(11) On page 84, after line 14, insert the following new section:

"Sec. 607. Section 5.2 of the Farm Credit Act of 1971 (12 U.S.C. 2223) is amended—

(1) by striking out "; APPOINTMENT" in the caption;

(2) in subsection (a)—

(A) by designating the first and second sentences as paragraphs (1) and (2), respectively; and

(B) by amending paragraph (2) (as so designated) to read as follows:

"(2)(A) The seventh member shall be elected by the borrrowers at large in a district.

"(B) For purposes of this section, the term 'borrowers at large in a district' means—

"(i) a voting shareholder of a Federal land bank association and a direct borrower and a borrower through an agency, from a Federal land banks;

"(ii) a voting shareholder of a production credit association; and

"(iii) a voting shareholder or subscriber to the guaranty fund of a bank for cooperatives.";

(3) in the second sentence of subsection (b)—

(A) by striking out "and" before "in the case"; and

(B) by inserting before the period at the end thereof the following: "; and in the case of an election by the borrowers at large, such notice shall be sent to all borrowers at large in the district"; and

(4) by inserting after fifth sentence of subsection (c) the following new sentence: "Each borrower at large shall be entitled to cast one vote.".

(12) On page 14, line 10, strike out the following: "of the loss of the use of the accumulated net worth of their institution".

(13) On page 14, line 22, strike out the following: "taking into account the relative rates and terms available to them prior to investments in the Capital Corporation".

On page 20 of the House engrossed amendment, strike out lines 15 and 16, and insert in lieu thereof the following: "System institutions, (3) the salaries and benefits of the senior executive officers of System institutions (except associations) will be frozen, such freeze to remain in".

ADDITIONAL STATEMENTS

SENATOR BIDEN'S ADDRESS ON THE ROLE OF ADVICE AND CONSENT

● Mr. SIMON. Mr. President, I submit for the Record today a speech given by Senator Biden. This speech is an articulate and thoughtful response to the debate that is currently underway between the Attorney General and the Senate over appropriate advice and consent role. This speech raises many of the important issues currently facing the Judiciary Committee and the full Senate. I thought my colleagues would be interested in Senator Biden's thoughts in this area. His leadership on this issue has been both vigorous and thoughtful. I am pleased to insert his speech in the Record today. I commend it to every Member's attention.

The Role of Advice and Consent in Constitution Interpretation

(By Joseph R. Biden, Jr.)

(Quis custodiet ipsus custodes—A Latin Proverb)

When we undertake a critical approach to our basic institutions, we do well to remember the Latin caveat that translates its full impact, through our own language, in our own time, to our own institutions—"Who will keep the keepers?"

No one who aspires to be a member of our profession can ignore the controversy that has erupted recently over the proper role of the Supreme Court in interpreting the Constitution. Like lightning bolts hurled from on high, a thunderous exchange of epithets has taken place between the Attorney General and his friends of the Radical Right and the ordinarily more reticent Justices of the Supreme Court.

I enter an arena contested by such gladiators with some trepidation. But as the Democratic leader of the Senate Judiciary Committee, I have a special responsibility to speak to these matters of the Constitution and of its future as interpreted by the Supreme Court. First, our Committee is charged with oversight of both the Department of Justice and the Supreme Court, and second, through our Constitutional responsibility to advise and consent to Presidential nominations, we stand as gatekeepers to both the Department and the Court.

I want to begin tonight by briefly restating the controversy and summarizing my initial reactions to the arguments on both sides. I will then place the debate within the context of the major tendencies in American jurisprudence. Next, I will attempt to demonstrate how the Radical Right has historically reflected one extreme in American jurisprudence.

It is also my judgment that the Radical Right here is attempting to take one more step in its revisionist agenda, an agenda that it has pursued not only in the current Administration, but throughout the past hundred years. In addition, I believe that those who have rushed to the defense of the Constitution, the Bill of Rights and the Civil War Amendments have also been tempted to over-react.

Finally, I will argue that the proper approach to the delicate problem of interpreting the Constitution requires a middle road and that a similar approach is necessary when I exercise my responsibility as a Senator to advise and consent. I believe that a moderate approach on both questions is the best hope for thwarting the Radical Right and for preserving the independence of the judiciary and the integrity of the Constitutional process.

Let me begin by reviewing the controversy itself:

Attorney General Edwin Meese, in his address before the American Bar Association last summer, offered a public critique of the recent work of the Supreme Court. For the Attorney General, the Supreme Court is expected to resist political efforts to depart from the literal provisions of the Constitution. The text of the Constitution and the original intention of those who framed it should, he said, "be the judicial standard in giving effect to the Constitution."

Applying that standard, the Attorney General then found that the Court, as he put it, "continues to roam at large in a veritable Constitutional forest." To his mind, the "founding generation" would have viewed the Court's modern interpretation of the First Amendment as "bizarre," and as a remedy for such judicial extravagance, he called for a "Jurisprudence of Original Intention," arguing that, in his words, "a Constitution that is viewed as only what the judges say it is, is no longer a Constitution in the true sense."

Associate Justice William J. Brennan, in an address at this university last month, offered an apparent public response to the Attorney General. Justice Brennan's language is too finely textured to admit of easy summary. It must be read to be understood, but his points are powerful.

For Brennan:

"(The) phrasing (of the Constitution) is broad and the limitations of its provisions are not closely marked. Its majestic generalities and ennobling pronouncements are both luminous and obscure. This ambiguity, of course, calls forth interpretation . . ."

Nevertheless, he added, "when Justice interpret the Constitution, they speak for their community, not for themselves alone. Justices are not Platonic guardians, appointed to wield authority according to their personal moral predilections."

Justice Brennan specifically rejected a judicial philosophy that was rooted in a doctrinaire "intention of the Framers." It was, for him, "arrogance cloaked as humility," whose "political underpinnings . . . should not escape notice." It reflects, he said, "a blind eye to social progress" and a presumption against "the claims of the minority . . . against the majority." And he added that,

"We current Justices read the Constitution in the only way that we can: as Twentieth-Century Americans. We look to the history of the time of framing and to the intervening history of interpretation. But the ultimate question must be what do the words of the text mean in our time?

He then illustrated his theory of judging by articulating his continuing objection, under the Constitutional prohibition against cruel and unusual punishment, to capital punishment. He expressed his "hope to embody a community striving for human dignity for all, although perhaps not yet arrived."

From the perspective of a legislator, I offer another view, differing from those of both our Attorney General and the senior Associate Justice of the Supreme Court. Far from finding the Supreme Court's interpretation of the First Amendment as circumscribing the powers of the national and state governments "bizarre," I find bizarre itself the notion that the original intent of the Framers of 1789 could govern all specific applications of various provisions of the Bill of Rights.

Attorney General Meese's strictures, for example, were aimed at recent decisions of the Supreme Court dealing with the delicate question of religion and the public schools. No matter how one thinks those decisions should have come out, it ought to be clear beyond serious debate that the state of mind of the men of Philadelphia of 1787 can not be used to resolve the question, for the colonists who fought the War of Independence 200 years ago and were then struggling to make a new country had, at that time, no general public school system. Burke, whose conservative credentials are unimpeachable, put it well:

". . . nothing in progression can rest on its original plan. We may as well think of rocking a grown man in the cradle of an infant."

Wrongly, the Attorney General somehow appears to believe that the Founding Fathers intended that their specific ideas rather than their general words should govern the future.

But a large majority of the delegates to the Constitutional Convention were lawyers. Good lawyers then learned in apprenticeship training, as good lawyers now learn in the first semester of law school, that words are logical universals that necessarily apply beyond the specific state of mind of those who speak them. The Founding Fathers, in fact, intended that their children would be governed, not by their specific thoughts, but by the ideals that were embodied in their words—a thought that Marshall voiced by saying that "We must not forget that it is a Constitution that we are expounding." Holmes spoke to the same point:

"(W)hen we are dealing with words that also are a constituent act, like the Constitution of the United States, we must realize that they have called into life a being, the development of which could not have been foreseen completely by the most gifted of its begetters. It was enough for them to realize or to hope that they had created an organism; it has taken a century and has cost their successors much sweat and blood to prove that they created a nation. (The Constitution) must be considered in the light of our whole experience and not merely in that of what was said a hundred years ago."

Attorney General Meese purports to take issue with Holmes' position; and he asserts a Philosophy of Original Intentions. In fact, the Attorney General's real position, it seems clear to me, is a little-disguised social activism of the Right—in which a minority perspective is being imposed upon a majority. Far from being principled, it is an effort to re-write in his own image our most basic law.

If he thought his position through from his own perspective, would he really want to limit the law-enforcement powers of the FBI in its fight with illegal-drug traffickers by an 18-Century understanding of the administration of criminal justice? If the Attorney General really believed in a Philosophy of Original Intentions, he would be filing briefs in the Supreme Court, seeking to overturn Chief Justice Earl Warren's opinion in *Terry* v. *Ohio*, which upheld "stop and frisk" practices employed by modern urban police officers, practices which could not be justified if the Fourth Amendment's command that searches and seizures be reasonable were read in the light of 18th Century standards. In the 18th Century, no urban police force existed—policing was accomplished, if at all, by a constable system whose power to arrest was limited by probable-cause standards. The same could be said about federal organized-crime "Stings" and drug-enforcement "buy-bust" techniques—which are essential to modern law enforcement but were unknown in the 18th Century.

Assuming that the Attorney General is serious about a Philosophy of Original Intent, it is, in fact, the discredited philosophy of Chief Justice Roger Brooke Taney in the infamous *Dred Scott* decision. The Supreme Court never sank so low in the esteem of the American people as it did after Taney's *Dred Scott* decision, in which the Chief Justice offered his view that the Missouri Compromise of 1820 was unconstitutional. Since by the light of the original intent of the Framers, blacks held in slavery were property, Congress was without power to recognize their human dignity and to free them from bondage.

Taney was not himself a believer in slavery—he had, in fact, freed his own slaves—but he wrote blacks "had no rights which the white man was bound to respect." Listen to Taney in 1857 and reflect on what the Attorney General has said in 1985:

"(The Constitution) must be construed now as it was understood at the time of its adoption. It is not only the same in words, but the same in meaning . . . and as long as it continues to exist in its present form, it speaks not only in the same words, but with the same meaning and intent with which it spoke when it came from the hands of its Framers, and was voted on and adopted by the people of the United States."

That was wrong, tragically wrong, in 1857—it is both wrong and wrong-headed in 1985!

But I find that I also can not agree with Justice Brennan. His words reflect my thoughts, but his actions, at least in one area, betray another view. His choice of capital punishment to illustrate the application of his philosophy marks the crucial difference between us. Like Justice Brennan, I am opposed to capital punishment. I, too, value human life and esteem human dignity. The death of an innocent man wrongfully convicted is too high a price to pay in a free society.

As a legislator, I vote, therefore, against capital punishment—but also as a legislator, I submit my position, along with my other views, to the voters of Delaware for acceptance or rejection. If I were a judge, I would not substitute my personal judgment for that of the people's elected representatives. To do otherwise would make the Constitution, in Justice Holmes' words, "the partisan of a particular set of ethical . . . opinions . . ." In our society, capital punishment is a political, not a Constitutional question, my personal values notwithstanding. Putting aside its administration, nothing in the intent of the Framers, in the text of the Constitution, in its subsequent interpretation by the Supreme Court, or in contemporary social values warrants making the political issue of capital punishment per se a Constitutional question.

Attorney General Meese's position is clearly extreme and unacceptable. Justice Brennan's position is not extreme, but if exaggerated could represent the opposite pole. Taken together, these extremes represent two persistent tendencies in our jurisprudence. Either pole runs the risk of creating the conditions that preclude a viable constitutional law.

These two broad tendencies reflect two different philosophies of judging, which are, at their heart, philosophies of interpretation—of the Constitution, of statutes and of precedent. The first jurisprudential tendency has seen judicial interpretation as constrained by legal rules and institutional principles that compel an objectively correct reading of a legal text. The second has seen judicial interpretation as reflecting subjective value choices that may be freely poured into any legal text, whose open-textured words can always soak up the added content.

The first embodies a methodology consciously taken from a Newtonian view of natural science that makes the judicial process a matter of the deductive application of pre-existing rules within the context of fixed institutional constraints. It traces its heritage to John Austin, who sought to separate law, a positive science, from morals, which, to him, were rooted in individual preferences. Austin's view of jurisprudence helped give rise in this country, in the 19th and early 20th Centuries, to legal formalism. It found its highest judicial embodiment in such decisions by the Supreme Court as *Lockner* v. *New York*, in which the Court, on "liberty of contract" grounds, over the dissent of Mr. Justice Holmes, held that legislation that provided for a 10-hour day for bakers was prohibited by the Constitution. The legal formalism of the 19th Century, of course, is no longer openly defended. Today, the objective approach to legal interpretation is best exemplified in the less pretentious and more intellectually defensible writings of men like Professor Herbert Wechsler.

The second tendency in modern jurisprudence, which emphasizes subjective value choices and the indeterminate character of interpretation, is reflected in legal realism, which arose in reaction to legal formalism. The realists were skeptical about the process of finding and relying upon both rules and facts. For men like Karl Llewellyn, legal judgments were ultimately molded by extralegal grounds. The legal realists' Constitutional philosophy may best be summed up in the dictum of then-Governor of New York and later Chief Justice Charles Evans Hughes, although he was not a realist himself:

"We are under a Constitution, but the Constitution is what the judges say it is."

For me, the choice between the illusory objectivism of Attorney General Meese and the personal subjectivism that Justice Brennan reflects on capital punishment is a false dichotomy. Interpretation ought not to be wholly objective or wholly subjective—it must be both. Cardozo said that, try to be as objective as we please, we can never see "with any eyes except our own." But what we must see in the process of Constitutional interpretation is not our own values, but the values of our community, as expressed in its authoritative legal materials—its Constitution, its statutes and its precedents. The law must be a means of holding accountable, not only those who violate it, but also those who interpret it, not mechanically as it was mistakenly thought in the 19th Century, but through the honest process of men and women doing their best under difficult circumstances and trying times.

Justice Frankfurter, an academic liberal but a conservative judge, understood that:

"(Interpretation requires) allegiance to nothing except the effort, amid tangled words and limited insights, to find the path through precedent, through policy, through history, to the best judgment that fallible creatures can reach in the most difficult of all tasks: the achievement of justice between man and man, between man and state, through reason called law."

Attorney General Meese appears to be mesmerized by an illusion when he seeks security in an objective philosophy of judicial interpretation. Human justice will always remain the work of human hands. Greek mythology portrayed the goddess Themis with the sword of justice in her right hand and the scales of justice in her left. We have, however, no gods to wield our sword of justice or to weigh our scales of justice. That we must do ourselves. This nation's vision of freedom under law must not be perverted by false objectivism nor distorted by an unbounded subjectivism.

As Democratic leader of the Senate Judiciary committee, I have had to keep up with the Agenda of the Radical Right, for, unfortunately, they in large measure determine what comes before the Committee. I have concluded that Attorney General Meese's new initiative—which for want of a better term, I'll call radical judicial activism—is a part of the continuing evolution of the tactics of the Right.

Early in the first term of the present Administration, the Radical Right decided to change its legislative tactics. They were losing the battle on their social agenda, because they had run head-on into disciplined constituencies organized around those issues—the women's movement, the civil rights movement and mainline religious groups. So the Radical Right shifted tactics and turned instead to a "procedural" attack. Among other things, they set out to repeal the Incorporation Doctrine, Federal Question Jurisdiction and the Exclusionary Rule.

In pursuing this course, the Radical Right was acting on a shrewed political insight—it's a lot easier to win on civil liberties issues than on civil rights issues, mainly because little active public interest is reflected in these matters, but also because few constituencies—the ACLU excepted—have organized specifically to defend our basic civil liberties.

But probably the most important reason is that the Radical Right figured out that it might be a lot easier to win the fight in the judiciary. With their friend Attorney General Meese in the Justice Department—as the author of the Administration's position in the Supreme Court through the Solicitor General's office and as the key actor in filling vacancies on the Court—they could, in effect, judicially enact an agenda that they could not get through the Congress.

None of this should come as a surprise. Like other radical groups of every political complexion, the Radical Right has spent a generation building its constituency largely by spelling out, repeatedly and in detail, what it intended to do. Now, in the classic manner of all such groups when they achieve power, they are in relentless pursuit of that well-advertised agenda, recklessly persuaded that their ends justify the use of any means.

But abuses of the Court and the legal process have not been the sole province of the Radical Right. Some of my heroes on the Left were guilty of similar abuses. Thomas Jefferson ran for office on a platform of repeal of the infamous Alien and Sedition Act as a violation of freedom of speech—and then used the statute to jail his enemies once in office. Andrew Jackson exceeded his authority when he deliberately refused to enforce an order of the Supreme Court upholding the rights of native Americans. Abraham Lincoln suspended the writ of habeas corpus and jailed those who spoke out against the draft. Theodore Roosevelt advocated popular referendums on specific judicial decisions because they were thwarting his preferred policies. And his cousin, Franklin Delano Roosevelt, undertook his infamous court-packing plan to implement the New Deal.

As the Attorney General's position in the current controversy makes unmistakably clear, the Radical Right intends to implement its revolution by creating a new establishment here in Washington, by putting their people in the key positions, in all branches of government, to continue implementing their agenda long after their President is gone.

A key element of that agenda is repeal of the 60-year-old Incorporation Doctrine that provides for the application of the bill of rights to the states. But even turning the clock back to 1925 would not take the Radical Right nearly as far as they mean to go. Their ultimate goal is to reverse the moral outcome of the Civil War and and to overturn the post-Civil War Constitutional Amendments providing for such bothersome protections for human dignity as "equal protection" and "due process." What troubles the Radical Right in particular is that in enacting these Amendments, the people changed the basic character of their Constitution—for the first time, through that constitution, they explicitly restricted not only the power of the federal government but also the power of the states. The Radical Right means, in fact, to overturn the very Constitutional basis of the modern jurisprudence that protects our basic freedoms.

I fear that the Radical Right has about it the vacant stare of the zealot and the acrid odor of burning books!

Within such a context, the advice and consent function is for me the most difficult issue of all. As a politician deeply offended by the Radical Right's agenda, I am tempted to block its enactment by any means—especially where I am in the best position to exert influence—advising and consenting on nominations.

I am certainly sobered by the recognition that by the end of the President's second term, he will probably have appointed well over half of the lower federal judiciary, and I am even more concerned about the future of the Supreme Court. Next year, at the average age of 72, the members of the Supreme Court will have attained a collective longevity that will eclipse the previous record set during the era of Franklin Delano Roosevelt—who appointed seven new justices in four years. Even two new appointments in the next couple of years could dramatically alter the makeup of the Supreme Court.

But whatever happens in the President's last term, the term of the next president will surely be crucial to the future of the Supreme court. Clearly, this President—or the next—will have the opportunity to leave an enduring mark on the nation's highest court, for better or worse. To make sure it is for the better, we must recognize that Chief Justice Hughes was wrong to suggest that the "Constitution is what the judges say it is." It is not—it is what our Constitutional process makes of it.

Here we are obliged to answer that ages-old question, "Who will keep the keepers?"

I answer, "We will—as the Constitution directs."

Judges are nominated by the President. The President reflects in his nominations what he sees as the national interest. Along with the Vice President, only he stands for election before the whole people.

But the President must secure the advice and consent of the Senate. In doing its duty to advise and consent, the Senate has traditionally—and properly—asked three questions:

1. Does the nominee have the intellectual capacity, competence and temperament to be a Supreme Court Justice?

2. Is the nominee of good moral character and free of conflicts of interest?, and

3. Will the nominee faithfully uphold the Constitution of the United States?

The President's power to appoint is not made subject to the power of the Senate to advise and consent so that individual Senators might substitute their judgments for the President's, but so that we might check abuses of the Presidential power.

Some argue that the Senate as a whole reflects the entire nation over a longer period of time than one Presidential election, and that it, therefore, should exercise a power of appointment co-equal with the President. But the Senate does not vote as a whole—it votes Senator by Senator. My vote can only reflect who I am; it can not reflect who others are. I see with my own eyes; I vote with my own voice. I am, in fact, only one Senator—from Delaware, elected by one segment of the nation's population at one particular time. No Senator is the President of the United States, elected by the people of the United States, among other things, to nominate men and women to judicial office.

The President is entitled to reflect in his nominations his view of the national interest. But Congress must act to check any president from overstepping his electoral mandate. He is not, for example, entitled to assume that a mandate to strengthen our national defense justifies an American invasion of Nicaragua. He is not entitled to assume that a mandate to eliminate wasteful federal spending justifies the dismantling of essential federal services for the poor. And he is not entitled to assume that his power to nominate federal judges justifies the selection of candidates exclusively from the ranks of the Radical Right. In 1980 and in 1984, the American people knew they were electing a conservative President, but they did not vote for a new federal judiciary composed of a pack of ideologues obediently responding to the whip of the Radical Right.

The Constitution requires a President to select nominees to the federal judiciary from the mainstream of American jurisprudence. And just as we in the Senate would check military adventurism or neglect of the needy, our role in the process of judicial nominations is to check and balance the excesses of Presidents. Nor is the President entitled to extract from any nominee, either directly or indirectly, a pledge of a vote on a specific issue. No nominee who would give such a mortgage on his or her intellectual integrity is fit to sit on the Supreme Court. We are, therefore, entitled to inquire of each nominee if such a pledge has been given, but we are not entitled to extract such a pledge ourselves. If we begin to exercise such a power, there will be then no principled place where we can draw the line.

But I must add, in the same breath, that it would be, in my judgment, a misapplication of principle to apply these three questions too narrowly, and I do not do so. I would not, for example, give my consent to

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a dedicated Communist, who would read private property out of the Constitution. I would not give my consent to a racist or sexist who would read minority rights out of the Constitution. And I would not give my consent to a radical revisionist, who would read the Civil War Amendments and a century of progressive jurisprudence out of the Constitution. Such a nominee would not represent the mainstream of American thought.

But by the same token I am not going to apply a litmus test on specific contemporary issues to each nominee who comes before the Judiciary Committee—first, because I believe that Justice O'Connor was right in believing that to answer such questions would jeopardize her independence on the Court; second, because if we make every Supreme Court nominee a hostage to hotly contested political questions, we are going to shift the internecine warfare of the social agenda to the Supreme Court, where the first victim will be the judicial independence upon which the continued defense of the Constitution depends; and third, finally and perhaps most important of all, I have come to believe that taking a seat on the Supreme Court tends to be a transforming experience.

For I have such reverence for the Court that I believe that a new justice, donning those robes and walking behind that podium, must—like Thomas A. Beckett becoming Archbishop of Canterbury—discover that an old loyalty has been transformed into a newer allegiance—to the Constitution! Sitting on such a bench, joined by your fellow justices and in a line with such giants of our jurisprudence as Marshall, Holmes, Cardozo and Brandeis, can not but leave you touched and changed.

I believe that our Constitutional system ultimately relies on faith in people, checked by process. And I refuse to be part of any effort that would undermine that faith or abuse that process. I subscribe to Edmund Burke's observation that "the constituent parts of a state are obliged to hold their public faith with each other . . . otherwise, their competence and power would soon be confounded, and the law be left but the will of a previling force."

The late Alexander Bickel, who came himself to follow the teachings of Burke, reinforced that argument:

"(N)o society, certainly not a large and heterogeneous one, can fail in time to explode if it is deprived of the arts of compromise, if it knows no ways to muddle through. No good society can be unprincipled; and no viable society can be principle-ridden."

Pulled in two directions, we face the risk of destroying our Constitutional process in the effort to save it.

That we must never do.

Thank you.●

NATIONAL WOMAN'S PARTY

● Mr. DeCONCINI. Mr. President, in recent weeks we have become increasingly pressed for time to meet the demands of our congressional duties. In addition to these duties, we have become involved with the rush of the holiday season, hence, we sometimes overlook the great individuals who make remarkable contributions to our society. One such individual is suffragist Alice Paul.

Being a proponent of women's rights, I would like to take this opportunity to pay tribute to the founder of the National Woman's Party, Alice Paul. Alice Paul made a significant contribution to the women's movement in this country, and I would like to invite my distinguished colleagues to join in the National Woman's Party tribute by taking part in the activities planned for the celebration of her 101st birthday next month.

I ask that a statement on Alice Paul be printed in the Record.

The statement follows:

Tribute to Alice Paul

The National Woman's Party will celebrate the 101st birthday of its founder, suffragist Alice Paul, who wrote the Equal Rights Amendment in 1923, at the historic Sewall-Belmont House, headquarters of the National Woman's Party, on Friday, January 10, 1896, from 6 p.m. to 8 p.m.

Alice Paul was the catalyst in getting the 19th Amendment, which gave women the right to vote, signed into law in 1920. To commemorate the birthday and achievements of this great American historical figure who contributed so much to the cause of equality for women, the National Woman's Party will honor The Honorable Clare Boothe Luce, writer, publisher, Congresswoman, statesperson and former Ambassador, with the third "Alice Paul Pioneer Achiever Award" for her many and varied accomplishments.

Each year the National Woman's Party celebrates the life and achievements of Alice Paul as symbolizing the best of American and democratic values—her lifelong work and devotion as one of the pioneers in the cause of eliminating discrimination against women—as an affirmation of human rights and human dignity.

In 1985 the National Woman's Party honored Dr. Sally K. Ride and Associate Supreme Court Justice, Sandra Day O'Connor with the first and second "Alice Paul Pioneer Achiever Award" at separate ceremonies at the historic Sewall-Belmont House.

Alice Paul was born January 11, 1885 in Morristown, New Jersey, and died July 9, 1977.●

NOMINATION OF JOHN T. NOONAN TO THE NINTH CIRCUIT COURT OF APPEALS

● Mr. MATHIAS. Mr. President, the nomination of John T. Noonan to the ninth circuit court of appeals presents the important question of whether an advocate of a controversial issue can put aside his personal beliefs in order to apply the law and the Constitution fairly and equally to all who may appear before him. Because Professor Noonan's history of vigorous advocacy of one side of the abortion controversy raised this issue, I discussed this difficult question with him at his confirmation hearing on November 6, 1985.

I would like to share with my colleagues, a transcript of the portion of that hearing that contained our discussion.

The transcript follows:

Excerpt—Confirmation Hearing of John T. Noonan, Senate Judiciary Committee, November 6, 1985

Senator Mathias. As a student of Dr. Samuel Johnson, you will be familiar with the career of Edmund Burke. You may remember that Edmund Burke said that "A representative owes to his constituents his industry, his knowledge, his experience, his communication, his intercourse, but most of all he owes his judgment." And if he submits his judgment to theirs, then he is depriving his constituents of the thing which is most important that he owes them.

That's a rough paraphrase, but not too far from what Burke said.

We are in a little paradox here, because Senator Simon and I are exhorted by Burke to use our judgment, even as against the wishes of our constituents, whereas you are nominated for a judgeship in which in many matters we would expect that you would not be guided by your personal opinions and judgment but would be guided by the law, and would be applying the law as it is written and as it is understood by the superior courts.

And I am sure it is not new to you to have heard what Ms. Rogers just testified, the concern that you have very strong opinions, particularly in the field of population control, birth control, family planning, abortion, in which it would be difficult for you to apply the law, if the law were in fact contrary to strongly held personal views of your own.

How do you feel about that?

Mr. Noonan. Senator, I feel there is a very sharp difference between the role of advocate and the role of judge. I suppose Burke is as good an example as anyone of an advocate who was wholehearted and even passionate in his advocacy, and I would have felt as doing less than I could if I had been less than wholehearted in the causes in which I have been an advocate.

But when one takes off the garb of an advocate and puts on that of a judge, it's a very different role. And I would be surprised and ashamed if I became an advocate as a judge. I feel a strong constraint to follow the law, to follow the precedents—and that is something very different from my role as advocate.

Senator Mathias. If a case were before you—and I want to be careful about this, because I think it's unfair to ask a judicial nominee to prejudge what he or she would do in a given case—but if a case right on the point of Roe versus Wade were before you, do you feel that you could participate objectively in such a case, or do you feel that it would be better to recuse yourself in such a case?

Mr. Noonan. I feel, if the case was within the area of Roe against Wade, or one of the other Supreme Court precedents, of which now there are several in the abortion field, that I would not have any choice but to follow the precedent. And as someone who has spent a lot of time teaching legal ethics to students, I would feel absolutely delinquent if I couldn't follow the law.

I think that answers that question.

Senator Mathias. Of course, with courts, as with legislators, there is also the question of the perception of what you do as well as what you do. And there are cases in which Members of the Senate may recuse themselves from participating, even though they may be confident that they can render a conscientious decision on the subject, but because there is some perception of the interest on their part, that they would, under the Senate Rules, ask to be excused from voting on that subject.

Mr. Noonan. Well, I think that's absolutely correct, and, of course, I would take very seriously any representation that someone did not think that they could receive a fair hearing.

Now, I do think—and I've thought about this a good deal—that the American tradition is not trying to insulate judges from prior political experience or prior political stands. It's very different from the Italian tradition of the German tradition where judges make a career and are thereby pure of any partisan positions before they go on the bench.

But to think of someone from academe—and I am afraid I will have to use examples from the Supreme Court, because they are known to me and known to everyone, but I think of Felix Frankfurter who took a very strong stand on labor injunctions and criticized them very severely, and yet certainly didn't feel disqualified from deciding cases involving labor injunctions after he want on the bench. Or to take a person even more eminent in the realm of civil rights, I think of Thrugood Marshall. I do not believe that Justice Marshall felt that he was disqualifed from deciding cases involving the civil rights of minorities because he had been the whole-hearted and even passionate advocate of minorities before he went on the bench.

Senator Mathias. You almost stated a case for Dr. Johnson's famous observation: "Sir, a man is not upon oath in lapidary inscriptions." and I suppose "lapidary inscriptions" fall within the general rule of advocacy.

When should a judge recuse himself, as an academic matter?

Mr. Noonan. Well, it's very clear, of course, theat where he has a financial interest, where he has a personal interest and a relationship.

Sentor Mathias. Clearly. That was the rock on which Judge Haynesworth's ship foundered.

Mr. Noonan. Oh, yes. Then I think, after that, one has to look at it case by case. I do think there is a certain danger that we all realize in our common law tradition of making broad statements—and you wait till you see the case, the contours, the briefing, before you actually say, well, in this case someone is too involved to decide.

But I do believe that everyone is entitled to an impartial judge and to a judge who they feel to be impartial.

Senator Mathias. You have mentioned Thurgood Marshall. It is my understanding that he does in fact recuse himself in any case in which the NAACP Legal Defense Fund is a party. Is that your understanding?

Mr. Noonan. I have actually not searched his record, but I have certainly seen his votes on a number of cases involving the civil rights to minorities.

Senator Mathias. I think when the NAACP Legal Defense Fund is a party, he does not participate.

Mr. Noonan. I think that is certainly an excellent precedent which I would be quite prepared to follow.

Senator Mathias. Would you feel that you would follow that precedent in cases in which Americans United for Life were——

Mr. Noonan. Right, I think that would be a very fair way to look at it, because I have been a director for a number of years, and Americans United for Life has been the legal arm of this particular cause.

Senator Mathias. The statute, of course, requires disqualification in any case in which a judge has a substantial interest, has been of counsel, has been a material witness, or is so related to or connected with any party—so it does seem to me that that would be a reasonable rule.

Mr. Noonan. I think that's a good line, and I would be absolutely ready to follow it.

Senator Mathias. One of your seminar courses, I understand, is on being a judge, on judges.

Mr. Noonan. That's right, Senator.

Senator Mathias. And that one of the topics of discussion is what makes a great judge. And if you understand the answer to that question, I think we ought to trade places.

Mr. Noonan. Well, having looked at ten figures from English and American judicial history, nine of whom at least are generally rated as great, I have tried to form a composite image. But it's very difficult to——

Senator Mathias. What are the common qualities of a great judge?

Mr. Noonan. I think one is courage, another is power of expression and clarity of expression, another is willingness to be immersed in the facts, and another is caring about the law, caring about the result. Those are four major qualities.

Senator Mathias. Let me urge Senator Simon to join in this at any point at which he wishes to do so.

But let me ask you this question: Where would you place responsibility to younger members of the Bar? Is one of the qualities of a great judge to set an example, to be a model, a teacher, to the oncoming members of the Bar?

Mr. Noonan. Well, it's my conviction that a great judge is a teacher, that opinions are very much the way that people like Marshall and Brandeis, to name two absolutely preeminent ones, the way they have shaped both the law and lawyers.

And I suppose the written communication is very important, and then, of course, the way they have actually lived their lives—that's important.

Senator Mathias. Well, the style of life—in John Marshall's day, of course, when they were riding on circuit and the judges and the lawyers rode together, there was opportunity for a very direct impact on young lawyers. Circumstances of life are somewhat different today, and a little more difficult for a judge to have that kind of a personal relationship with young lawyers.

But I am encouraged to hear that you think that it's an important aspect of life.

Mr. Noonan. I think I do, Senator.

Mr. MATHIAS. I want this dialog to become a part of the Record so that those who are troubled by Professor Noonan's nomination will be aware of the important assurances that he made to the Senate Judiciary Committee. I am satisfied with Professor Noonan's responses and plan to support his confirmation. It is readily apparent that the nominee is a thoughtful and competent expert in jurisprudence who undoubtedly has the intellectual capabilities to hold a seat on the circuit court. He is, I believe, sensitive to the importance of treating fairly every litigant who will come before him, and to the need to step aside in that limited category of cases in which his participation would cloud the atmosphere of fairness.●

THE MILITARY MEDICAL SYSTEM

● Mr. SASSER. Mr. President, during this year I have expressed concern about the problems in the military medical system. At this time I will not recount all the details about problems with licensing and credentialing of physicians, shortages of critical specialists, interservice rivalry, and an overburdened system. All of these problems have led many servicemen and servicewomen to believe they and their families are treated as second-class citizens.

Fortunately, we have seen some progress in addressing the very real problems plaguing the military medical system. I have been particularly pleased with the efforts of the Assistant Secretary for Health Affairs, Dr. William Mayer. The steps he has proposed, if implemented, should help to alleviate the current crisis of confidence that exists in the system.

My primary concern however still remains the issue of accountability in the system. Too often the reports and anecdotal stories have revealed an organization where everyone is in charge but no one is. In my desire to bring greater accountability to the system, I introduced S. 489, a bill to amend the Feres doctrine to allow active duty military personnel to sue for medical malpractice. I am encouraged that the Department of Defense has begun to consider alternatives to address the issue of accountability. As I have stated before, I am open to serious alternatives that seek to bring greater accountability to the system as well as provide our service men and women the opportunity to have their case fully reviewed.

At this time, I would like to share with my colleagues two articles discussing the problems of military medical care.

The first, by Alan Parachini, appeared in the November 10, 1985 edition of the Los Angeles Times. This article about a former Navy dentist highlights the better feelings of neglect and inadequate review felt by military personnel because the Feres doctrine prohibits lawsuits for medical malpractice.

The second story appeared in the Atlanta Constitution on November 24 written by Jim Stewart. I think this article summarizes well the current problems existing in the system. Jim Stewart has covered the military medicine issue for over 4 years. He is a knowlegeable reporter in this area and his insights into the military medical system have been on target

I ask that these articles be printed in the Record.

The articles follow:

[From the Los Angeles Times, Nov. 10, 1985]

EX-NAVY DENTIST BLAMES SERVICE FOR HIS AILMENTS

(By Allan Parachini)

WASHINGTON.—Dr. Ed Lampitt, a Missouri dentist who is deaf in one ear, blind in one eye and partially paralyzed on one side of his body, blames the Navy health care system for his condition. On the face of it, it would seem he has a reasonably good case for a medical malpractice suit.

But in a form-letter notification, the U.S. Supreme Court has already told Lampitt's San Diego lawyer that the suit will never be tried because Lampitt was on active duty when catastrophe struck.

Last summer, the Supreme Court sent the curt notification to James Milliken, the lawyer representing Lampitt in his battle with the San Diego Naval Hospital, saying that it refused to hear an appeal of two lower court rulings that Lampitt could not sue the Navy over his care under terms of a 1950 high court ruling. That verdict, in a case called Feres vs. U.S., established the doctrine that stripped active duty service personnel of any right to take court action against military doctors.

Only four years before, U.S. citizens had been given the right to sue the government. In the Feres case, the high court was trying to resolve questions about how the new laws applied to military personnel. The plaintiff in Feres (pronounced "fairies") was the widow of an Army enlisted man who burned to death in a barracks fire. Two companion cases involved medical care. The collective decision established what has come to be called the Feres Doctrine.

WREAK HAVOC WITH THE SYSTEM

In essence, the doctrine holds that if service personnel had the right to sue, they could play havoc with the structured system of military discipline by filing court actions against their commanders whenever they were given orders they did not like.

Lampitt's ordeal began in 1970 when, as a pilot trainee, he was washed out of flight school because there was something apparently wrong with his hearing. A flight surgeon, Lampitt recalled, told him he should simply stop listening to rock music. "Therein lies the first inkling that something was wrong," Lampitt said.

Within a year, he left the Navy but rejoined when he started dental school and applied for a Navy scholarship. He was still having hearing problems but had learned to compensate. As time went on, he noticed he was having trouble with his balance, too, but in repeated visits to Navy physicians, Lampitt was assured that nothing was seriously wrong.

It was not until 1978—eight years after the initial examination—that Lampitt learned the truth. He had a slow-growing tumor—a rare, noncancerous variety called acoustic neuroma—between his right ear and his brain. Had it been discovered in 1970, Navy doctors would testify under oath later, Lampitt's tumor could have been easily removed. But the delay had allowed the tumor to grow so big that Lampitt's life was in danger.

By then, he was stationed aboard the San Diego-based repair ship Jason. When the diagnosis was finally made, Lampitt's case came under the purview of Dr. Lance Altenau, Lampitt's San Diego Naval Hospital neurosurgeon, who called in a civilian consultant, Dr. Jerald V. Robinson, the only acoustic neuroma specialist in the city.

Court and Navy records show Altenau and Robinson agreed two operations would be necessary. Both doctors participated in the first sugery, which went uneventfully in February, 1979, and when a second surgery was scheduled in mid-March, both Lampitt and Robinson said in sworn court documents, it was their understanding Robinson would be there. He wasn't. In an affidavit, Robinson said Altenau's office didn't call to notify him until the night before the operation was scheduled. He was already committed to other operations.

In a telephone interview from San Diego, where he is now in civilian practice, Altenau told a different story. He said he was told by his secretary that Robinson would attend and that, when Robinson was not there when it was time for the surgery to begin, he assumed Robinson was en route, began the case and then had to press on alone.

On the operating table, Lampitt's condition quickly deteriorated. The tumor had grown into his brain stem and, as the surgery continued, brain tissue affecting Lampitt's hearing, vision and movement was extensively damaged. It would require a court hearing to determine fault since some acoustic neuroma surgeries have poor outcomes—no matter what—and there are disagreements among doctors involved about whether Lampitt's problems were preventable or unavoidable.

It was months before Lampitt could propel himself even in a wheelchair and he was left permanently blind and deaf on the right side. His paralyzed right eye deteriorated, Lampitt said, because nurses and corpsmen failed to keep the cornea moist.

Eventually, the Navy permitted Lampitt to have a civilian operation in which a spring was implanted in his right eyelid so he could blink but the Navy refused to permit a cornea transplant—a decision that Lampitt's ophthalmologist, Dr. Robert Levine, said in a telephone interview he found mystifying. "It really is worth a shot," Levine said. "There (still) is a reasonable chance it would succeed." Lampitt said that when he told his superiors he wanted to pay for the cornea surgery himself, they told him they would court-martial him if he had the operation.

UTTER DISBELIEF

The final straw came when a Navy medical review board ruled that Lampitt was fit to return to active duty. The decision so enraged Rear Adm. J.J. Thomas Jr., head of the Navy Dental Corps regional office, that he filed a harsh memorandum saying he viewed it with "utter disbelief." After a second hearing, the Navy reversed itself and awarded Lampitt an 80% retirement disability pension. In 1981, 11 years after his tumor should have been recognized, a Navy medical consultant testified in the second hearing, Ed Lampitt got his disability discharge.

He filed suit, knowing he would almost certainly lose the fight under the Feres Doctrine because, he said, "I realized the situation I had been through, and I realized the travesty of justice of not allowing people to do anything about this. I am trying to prevent the next 18-year-old kid (who has a medical problem in the service) from ending up in the grave. I realize this is an ongoing problem, not an occasional one."

The Pentagon, defending Feres today, has argued repeatedly in the last six months that chaos would result from granting servicemen the right to sue if they are mistreated by doctors and that letting them take such claims to court would cause morale to drop. Pentagon top officials also contend that because a serviceman who is injured by military doctors can become eligible for a disability discharge that pays modest pension benefits for life, money compensation isn't necessary.

The Defense Department position angers Ed Lampitt, whose disabilities have made it impossible for him to obtain health insurance that could pay for the cornea transplant.

Slowly, he has recovered from the effects of the paralysis so he can earn a living practicing dentistry, but any further serious health problem could ruin him financially, he said. (His Navy pension is $1,758 a month.)

Lampitt's story is not unlike those of dozens of former service personnel who say they have been victimized by military medicine. An outpouring of such tales during the last several months has already prompted the House to pass a bill that would reverse the Feres Doctrine and grant servicemen the right to sue for malpractice under certain conditions.

Under the House measure, sponsored by U.S. Rep. Dan Glickman (D-Kan.), military personnel could sue if they had suffered provable physical injuries during medical treatment. That would prevent, Glickman said in an interview here, litigation resulting, for instance, from a physical examination in which a doctor ruled a prospective pilot unfit for flight training. Also prohibited would be any litigation related to wartime treatment. Only medical care rendered in the continental United States would be covered.

PASSED OVERWHELMINGLY

Glickman held a series of hearings on the House measure before it passed overwhelmingly last month. In the Senate, a similar bill sponsored by Sen. Jim Sasser (D-Tenn.) is bottled up in committee and, according to Sasser aides, is unlikely to emerge for floor debate this year. There has been speculation that, as the Senate races to adjournment between now and Christmas, an attempt may be made to attach the Sasser bill as a rider to one of the Defense Department appropriations measures that still must come up for final action.

Glickman and Sasser dismiss Pentagon arguments against the bill as unrealistic. In an interview, Glickman noted that the spouses and children of active duty personnel already are permitted to sue, as are retired military personnel and their immediate families who are allowed to use military health facilities for all of their health care.

Sen. Pete Wilson (R-Calif.), who has also held subcommittee hearings on the general problems of military medicine, and Glickman both said they are certain President Reagan would veto the bill if it passed the Senate. Defense Secretary Caspar Weinberger—as well as top medical officials of the Pentagon and all three services—have vocally opposed it. I71[From the Atlanta Constitution, Nov. 29, 1985]

[From the Atlanta Constitution, Nov. 29, 1985]

MILITARY MEDICINE EXPECTED TO DELIVER HEALING AMID WAR, KILLING

(By Jim Stewart)

WASHINGTON.—A smiling Army nurse in Wurzburg, West Germany, carried my eldest son from the delivery room 15 years ago wrapped in a soft white cloth laundry-marked "U.S." No finer care could have accompanied him into the world.

I later met the doctor who delivered him. He was a young man who, like myself, had been swept into the service by the Vietnam War. Like other drafted physicians I came to know, he was very unmilitary-like. He wore tennis shoes with his dress green uniform when it pleased him and frequently would neglect to pin on the silver bars that denoted his rank as a captain.

It was in Vietnam a year later that I had another close experience with Army doctors. After running out of my own hygienically sealed C-rations in the field with Vietnamese troops, I accepted an offer to share their food. My unappreciative gut was squeezing blood from itself by the time I was helicoptered to the DaNang Army Hospital a day later.

Such pain seemed inconsequential compared to the scene that greeted me in the Quonset hut that served as the emergency room. There, GI doctors were bustling over a group of grievously wounded Vietnamese civilians, some of them children. Still, I was seen to quickly and released three days later with good-humored care.

Like most people who have come under its wing, I have positive memories of military medicine. It birthed my eldest son and cared for me in distress. If the lines were long and the system impersonal, patience was rewarded with having no bill to pay in the end. It seems much the same today for most people in the armed forces with whom I have spoken.

But the current crisis of confidence in military medicine doubtless has some of its roots in patients who have not received good care. And the litany of anecdotal evidence has been depressing.

Like the stories surrounding an antiquated Army hospital in Georgia where a surgeon once looked up to discover a bird flying loose in the operating room.

Or the Air Force heart surgeon who mistakenly hooked up a patient to the heart-lung machine backward with predictable results. Or the Army doctor who gave a hemorrhaging patient in a room with no buzzer system, a bicycle horn to honk if she needed help. She was left alone and bled to death.

Discerning students of malpractice would recognize that the same things, or worse, could happen in a civilian setting. The problem is not how to come to grips with flashy headline horror stories. It goes substantially deeper than that.

Essentially three structural flaws have dangerously come of age for military medicine:

First, there are simply not enough medical specialists in the armed forces. The end of the draft has seen to that. Thanks to a generous scholarship program, there are more than enough general practitioners. But trained surgeons, anesthesiologists, radiologists and psychiatrists—to name a few—are not joining the services because they can make three times as much in civilian practice.

And the services have trouble training their own specialists because of a lack of senior experienced people. In short, who trains the trainees? At Bethesda Naval Hospital last year Navy heart surgeons were trained by a physician now ordered court-martialed for five surgical deaths. The Army surgeon borrowed to replace him quit, and Bethesda closed its heart program.

Second is inter-service hostility—not to be confused with good-spirited rivalry. Enough of these people genuinely disdain one-another to the point that health care suffers.

Few congressmen believed the technical excuses recently offered for why the Army and Air Force bickered over who would care for wounded Marines after the Beirut bombing, or why Navy ships would not allow Army helicopters to land with casualties during the Grenada invasion.

Each service's medical branch operates as if the others did not exist. Hospitals overlap and one service's personnel and equipment shortage is another's surplus. The only thing the services readily share is a distrust for civilian leaders in the Department of Defense—who once resorted to hand-delivering health-care directives because the services kept claiming they never received them.

At the height of the scandal over the surgical deaths at Bethesda Naval Hospital, one senior Army physician/administrator spoke with absolute candor when he told this reporter: "Those stiff-necked S.O.B.'s are finally getting theirs."

Third, the medical services have an almost impossible dual mission: first to be ready for war and second to care for a mixed bag of 10 million servicemen and women, their dependents and retirees. The range of cases runs from combat trauma among 19-year-olds to cancer surgery on the president of the United States.

The problem here is the same old story as elsewhere within the military: new construction, more personnel and gee-whiz machinery—those material goals that result in greater bureaucracy—have many champions. Readiness, the No. 1 priority, has virtually none.

For an example, look who the services until recently gave all responsibility for coordinating medical readiness in the European Theater: a colonel whose primary assignment was negotiating real estate contracts with local governments.

According to one former senior health official, the fundamental trouble with military medicine, and a great many other Pentagon programs, is that no one's in charge.

Assistant secretaries of defense for health usually stay around for less than two years and then leave for more money. The job pays only about $70,000.

"There's this great big body over there with no brain running it, no lasting nervous system. Those theoretically running it come and go too quickly," the official said. "The guns that can't shoot straight, the ideas that don't work; they all bide their time until there's a changing of the guard and then they're trotted out again."

At bottom it remains a system with an extraordinary mission expected to deliver compassion and healing within a machine designed for war and killing. The incongruity remains and so does the challenge to make it work properly.

WEEKLY BUDGET SCOREKEEPING REPORT

● **Mr. DOMENICI.** Mr. President, I hereby submit to the Senate the budget scorekeeping report for the week of December 9, 1985, prepared by the Congressional Budget Office in response to section 5 of the first budget resolution for fiscal year 1986. This report also serves as the scorekeeping report for the purposes of section 311 of the Congressional Budget Act.

This report replaces the report printed in the Record yesterday which was prepared prior to receipt of estimates for House Joint Resolution 187, the Compact of Free Association.

The report follows:

U.S. Congress,
Congressional Budget Office,
Washington, DC, December 17, 1985.
Hon. Pete V. Domenici,
Chairman, Committee on the Budget,
U.S. Senate, Washington, DC.

Dear Mr. Chairman: The attached report shows the effects of Congressional action on the budget for fiscal year 1986. The estimated totals of budget authority, outlays, and revenues are compared to the appropriate or recommended levels contained in the most recent budget resolution, S. Con. Res. 32. This report meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32 and is current through December 16, 1985. The report is submitted under Section 308(b) and in aid of Section 311(b) of the Congressional Budget Act.

Since my last report we have added estimates to the current level of budget authority, outlays and revenues for the Compact of Free Association, H.J. Res. 187.

With best wishes,

Sincerely,

Rudoplh G. Penner.

CBO Weekly Scorekeeping Report for the U.S. Senate, 99th Congress, 1st Session, as of December 6, 1985

[Fiscal year 1986—In billions of dollars]

	[illegible] authority	[illegible]	Revenues	Debt [illegible] to [illegible]
Current level [1]	1,067.5	983.7	792.9	1,899.0
Budget resolution, Senate Concurrent Resolution 32	1,069.7	967.6	795.7	[2] 2,078.7
Current level is				
Over resolution by		16.1		
Under resolution by	2.2		2.8	179.7

[1] The current level represents the estimated revenue and direct spending effects (budget authority and outlays) of all legislation that Congress has enacted in this or previous sessions or sent to the President for his approval. In addition, estimates are included of the direct spending effects for all entitlement or other programs requiring annual appropriations under current law even though the appropriations have not been made. The current level excludes the revenue and direct spending effects of legislation that is in earlier stages of completion, such as reported from a Senate Committee or passed by the Senate. Thus, savings from reconciliation action assumed in S. Con. Res. 32 will not be included until Congress sends the legislation to the President for his approval. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

[2] The current statutory debt limit is $2,078.7 billion.

FISCAL YEAR 1986, SUPPORTING DETAILS FOR CBO WEEKLY SCOREKEEPING REPORT, U.S. SENATE, 99TH CONGRESS, 1ST SESSION, AS OF DECEMBER 16, 1985

[In millions of dollars]

	[illegible] authority	Outlays	Revenues
I. Enacted in previous session:			
Revenues			792,800
Permanent appropriations and trust funds	717,617	631,009	
Other appropriations		185,348	
Offsetting receipts	−162,006	−162,006	
Total enacted in previous sessions	555,610	654,351	792,800
II. Enacted this session:			
Famine relief and recovery in Africa (Public Law 99-10)		421	
Federal supplemental compensation phaseout (Public Law 99-15)			10
Appropriations for the MX missile (Public Law 99-18)		368	
Contemporaneous recordkeeping repeal bill (Public Law 99-44)			13
United States-Israel Free Trade Act (Public Law 99-47)			−8

FISCAL YEAR 1986, SUPPORTING DETAILS FOR CBO WEEKLY SCOREKEEPING REPORT, U.S. SENATE, 99TH CONGRESS, 1ST SESSION, AS OF DECEMBER 16, 1985—Continued

[In millions of dollars]

	Budget authority	Outlays	Revenues
Statue of Liberty—Ellis Island Coin Act (Public Law 99-61)	−15	31	
International Security and Development Cooperation Act (Public Law 99-83)	−25	−25	
Supplemental appropriations bill (Public Law 99-88)	[illegible]	3,138	
State Department authorization (Public Law 99-93)			2
Emergency Extension Act of 1985 (Public Law 99-107)	−49	−230	210
Simplification of imputed interest rules (Public Law 99-121)		—31	
Health professions educational assistance (Public Law 99-129)		−8	
Amendments—Special Defense Acquisition Fund (Public Law 99-139)	100		
Energy and water appropriations, 1986 (Public Law 99-141)	15,252	8,245	
Department of Defense Authorization Act, 1986 (Public Law 99-145)	[illegible]	−5	
Legislative branch appropriations, 1986 (Public Law 99-151)	1,599	1,385	
Temporary debt limit increase (Public Law 99-155)	−34	−156	140
Agricultural extension, tobacco provision (Public Law 99-157)	−20	−20	
HUD-Independent Agencies appropriations, 1986 (Public Law 99-160)	[illegible]	36,247	
Offsetting receipts	−4,185	−4,185	
Military construction appropriations, 1986 (Public Law 99-167)	[illegible]	2,151	
NASA Authorization Act of 1986 (Public Law 99-170)		107	
Labor, HHS, Education appropriations, 1986 (Public Law 99-178)	94,862	811,406	
Offsetting receipts	−19,816	−19,816	
Commerce, State, Justice appropriations, 1986 (Public Law 99-180)	11,926	9,711	
Offsetting receipts	−118	−118	
Further temporary extension (Medicare) and tobacco excise tax provisions (Public Law 99-181)		−20	12
Total enacted this session	165,199	118,627	347
III Continuing resolution authority			
Continuing appropriations, 1986 (Public Law 99-179)	348,779	212,985	
Offsetting receipts	−4,449	−4,449	
Total continuing resolution authority	344,330	208,536	
IV Conference agreements ratified by both Houses			
Textile and Apparel Trade Enforcement Act, 1985 (H R 1562)			−200
Compact of Free Association (H J Res. 187)	87	71	−3
Total conference agreements	87	71	−203
V Entitlement authority and other mandatory items requiring further appropriation action			
Payment to the CIA retirement fund	10	10	
Claims, defense	7	3	
Payment to the foreign service retirement trust fund [1]	(1)	(1)	
Range improvements	1		
BLM: Miscellaneous trust fund	([2])		
Payment to air carriers, DOT	18	17	
Retired pay—Coast Guard	21	19	
Maritime, operating-differential subsidies		3	
BIA: Miscellaneous trust funds	([2])	([2])	
Retirement pay for PHS officers	3		
Medical facilities loan guarantee	2		
Payment to health care trust funds [1]	(907)	(907)	
Child nutrition programs	250	[illegible]	
Child support enforcement	[illegible]	3	
Advances to unemployment trust fund [1]	(51)	(51)	
Federal unemployment benefits and allowances	65	[illegible]	
Black lung disability trust fund	[illegible]	[illegible]	
Special benefits (disabled coal miners)	36	36	
Assistance payments	544	544	
Supplemental security income	52	52	
Veterans readjustments benefits	[illegible]	137	
[illegible]	10		
Payment to civil service retirement [1]	(214)	(214)	
National wildlife refuge fund	([2])	([2])	
Defense pay raise—military	925	897	
Compact of Free Association	92	92	
Total entitlements	2,267	2,154	
Total current level as of December 16, 1985	1,067,494	[illegible]	792,944
1986 budget resolution (S. Con Res 32)	1,069,700	[illegible]	795,700
Amount remaining			
Over budget resolution		16,138	
Under budget resolution	2,206		2,756

[1] Interfund transaction do not add to budget totals

[2] Less than $500 thousands

Note.—Numbers may not add due to rounding ●

RESTRICTIONS ON JEWISH CULTURE IN THE SOVIET UNION

● Mr. RIEGLE. Mr. President, the National Conference on Soviet Jewry's most recent leadership report focuses on the important issue of government-imposed restrictions on Jewish cultural activities in the Soviet Union.

The report notes that, while it is official Soviet policy to encourage the development of various national cultures within its borders, in practice, the long-range policy of that Government is to "throttle the growth or development of Jewish culture."

While not surprising, the revelations of the NCSJ report are all the more disturbing in light of the continuing low level of Soviet Jewish emigration.

Soviet violations of the rights of its 2½ million Jewish citizens, in defiance of its international commitments, must not go unnoticed. The National Conference on Soviet Jewry makes an important contribution to that effort by highlighting the ongoing abuses in its leadership report, which I commend to the attention of my colleagues. I ask that the text of the report be printed in the RECORD.

The text follows:

RESTRICTIONS ON JEWISH CULTURE

The Soviet Union is a multi-national state, with over 100 recognized nations and nationalities. It is Soviet policy to encourage the development of the various national cultures as stated in its own law. The 1977 Constitution grants equal rights to citizens of different nationalities including, specifically, "cultural life." Moreover, the "Violation of Equality of Rights of Nationalities and Races" is regarded as a special crime.

International obligations the USSR has assumed under the International Covenant on Civil and Political Rights also commit it to facilitate the maintenance and development of national cultures. The Covenant specifically requires signatories to ensure that "ethnic, religious or linguistic minorities" shall be permitted "to enjoy their own culture, to profess and practise their own religion, or to use their language."

The 1975 Helsinki Final Act reinforces obligations, not only by a general undertaking of the participating States in Principle VII to "fulfill their obligations as set forth in the international declarations and agreements in this field. . . ." (an undertaking subsequently incorporated into the USSR Constitution), but also by specific references to national minorities, and by declaring that the participating States "will afford them the full opportunity for the actual enjoyment of human rights and fundamental freedoms and will, in this manner, protect their legitimate interests in this sphere."

The Act also asks participating States to recognize "the contribution that national minorities or regional cultures can make to cooperation among them in various fields of culture, . . . (and) . . . when such minorities or cultures exist within the territory, to facilitate this contribution, taking into account the legitimate interest of their members."

The Jews are one of the recognized nationalities in the Soviet Union; in fact, they are a major one, ranking sixteenth in size among more than 100 Soviet nationalities. How far, then, are international obligations implemented in regard to Soviet Jewry? What is the state of the Jewish minority culture in the Soviet Union today?

There are still no Jewish schools in the USSR, not even in the so-called Jewish Autonomous *Oblast* (Region) of Birobidzhan. There exist only two press organs: The *Birobidzhaner Shtern*, a Yiddish newspaper of four pages which appears five times a week in Birobidzhan in 1,000 copies; and the monthly Yiddish literary journal *Sovetish Heymland*, published in Moscow in 7,000 copies, of which apparently half are sent abroad. Not a single one is permitted in the Russian language, spoken by 97.03% of Soviet Jews.

In the years 1977-1979 there was a slight improvement in the publication of Yiddish books. An average of six were published annually as against the annual average of three books during the preceding nine years. But this is still only a minuscule contribution to maintaining Jewish culture. It is worth comparing the average of six books published annually for two million Jews with the corresponding figures (for the year 1978) relating to some other Soviet nationalities: 46 books for 622,00 Maris, 70 for 542, 000 Ossetinians and 166 for 1,371,000 Bashkirs.

On the other hand, the number of Russian translations of Yiddish books (which would be more important since, according to the 1979 census, 80.41 percent of Soviet Jewry no longer speaks Yiddish) has radically declined: in the years 1959 to 1970 an annual average of 25 translated volumes were published (in no year less than 20); in 1971 to 1975 an annual average of 14; while in the years 1976, 1977 and 1978 their number was 7, 10 and 9 respectively. Similarly, translated items of Jewish literature and literary criticism are also gradually disappearing from non-Jewish Soviet journals; in 1959 to 1968 their annual average was 51, in 1969 to 1975 it was 50, but in the years 1976 to 1978 such items dropped to an average of 14 per annum.

In 1977 there was only one professional Jewish theater, the Moscow Jewish Dramatic Ensemble which, however, is a travelling company without a building of its own. In 1978 permission was given to form a Jewish Chamber Musical Theater. This was undoubtedly a concession a Jewish demands in the USSR and abroad, but approved under peculiar conditions: though the theater could travel within the country, it had to be legally based in remote Birobidzhan, where, according to the 1979 census, only 10,166 Jews (or half-a-percent) of Soviet Jewry live. Birobidzhan is also far from the traditional Jewish population centers of the Western regions in the USSR.

The sporadic performances by both theaters have been enthusiastically welcomed by Jews, but their activities are extremely restricted. For instance, the Moscow Ensemble could not perform in Moscow from the summer of 1974 until December 1978; no Jewish theatre could visit Minsk until 1978; and Leningrad, Kiev and Kharkov are still out-of-bounds.

There still does not exist any other Jewish cultural institution, lecture course, publishing house, artistic establishment, etc., with the sole exception of the Sholem Aleichem Library in Birobidyhan. In 1979, a memorial museum to Sholem Aleichem was established in his birthplace, Pereyaslav-Khmelnitsky.

Under these circumstances Soviet Jews, anxious to preserve a national cultural heritage, hope to obtain the necessary tools from abroad. Such efforts are legitimate and encouraged in the Helsinki Final Act, notably in Basket Three, which aims at facilitating "freer and wider dissemination of all kinds"; and in the section on Cooperation and Exchanges in the field of Culture, which seeks "to develop contacts and cooperation among persons active in the field of culture," "to encourage contact and communications among persons engaged in cultural activities," "to promote access by all to respective cultural achievements," etc. Moreover, the contribution of national minority cultures to cooperation in the cultural field is especially emphasized.

In spite of this, attempts to send Soviet Jews books or teaching manuals on subjects like Jewish religion, law or ethics, history, art, literature, the Holocaust, or belles-lettres, children's books, song books, dictionaries and language books for the teaching of Hebrew, have been thwarted by the authorities. Such books are either confiscated or simply disappear. Among the books barred were those of the Nobel laureates Isaac Bashevis Singer and Saul Bellow, the UNESCO publication *Social Life and Social Values of the Jewish People*, the Holocaust novel *Le Dernier des Justes* by Andre Schwarz-Bart, and studies on Jewish history by such distinguished historians as Shmuel Ettinger and Cecil Roth. The confiscation of materials and the disappearance of letters indicate interference with the privacy of mail and communication, which is guaranteed under international agreements and in the Soviet Constitution.

The long-range policy of the Soviet Union is, therefore, to throttle the growth or development of Jewish culture. This can only accelerate general assimilationist trends and, simultaneously, intensify the religious and cultural resistance of Jewish activitists. Either course will generate new tensions for Soviet Jews.●

RETAINING THE DEDUCTION FOR STATE AND LOCAL TAXES

● Mr. **BOSCHWITZ.** Mr. President, on December 3, 1985, the House Ways and Means Committee introduced H.R. 3838, "The Tax Reform Act of 1985," which would make comprehensive changes to our current tax law. The thrust of H.R. 3838 is to apply lower marginal rates to a greater amount of income. In considering what deductions, credits, and exclusions could be eliminated to allow rates to be lowered, the Ways and Means Committee considered eliminating the deduction for State and local taxes. The committee eventually decided to retain the full amount of the deduction.

Because the deductibility of State and local taxes may again be debated, I would like to bring attention to an article written by Dr. Martin Feldstein which appeared in the November 20, 1985, issue of the Wall Street Journal. Dr. Feldstein—a past chairman of the President's Council of Economic Advisers and a man known and respected by a great many people—suggests that eliminating the deduction for State and local taxes may lead to a decrease in tax revenues, not an increase in tax revenues. The reason is that if the deduction is eliminated, States and cities would increase their reliance on business taxes and fees, which are generally deducted more frequently and at higher rates than State and local taxes.

Dr. Feldstein's article, "A Tax-Reform Mirage," deserves careful study by each of us. In addition to questioning the presumption that eliminating the deduction for State and local taxes will raise revenue, the article illustrates a point I have been making for some time: changes in our Tax Code can cause unintended and unexpected consequences and thus should be made only after a careful and studied process. I ask that Dr. Feldstein's article be printed in the RECORD.

The article follows:

[From the Wall Street Journal, Nov. 20, 1985]

A TAX-REFORM MIRAGE

(By Martin Feldstein)

The administration's case for eliminating the deductibility of state and local taxes is based on a fiscal illusion. The Treasury claims that eliminating deductibility would yield a substantial increase in tax revenue that could be used to finance a reduction in personal tax rates. In fact, the likely increase would be far smaller that the Treasury predicts and could actually turn out to be a net loss of revenue.

How is this possible? The reason is quite simple. If the deductibility of personal income, sales and property taxes were eliminated, states and cities would increase their reliance on business taxes and on fees. Deductible personal taxes now account for less than two-thirds of the revenue raised by state and local governments. If deductibility were eliminated or substantially reduced, this share would decline in favor of more business taxes and fees.

A SHIFT TO BUSINESS LEVIES

Businesses must, of course, be allowed to include state and local taxes with the other costs that they deduct in calculating their federal tax liabilities. In addition, many of the fees collected by state and local governments are paid by corporations and are also deductible business expenses. The significance of this is that while all businesses deduct their payments to state and local governments, most individuals do not itemize their deductions. Moreover, even those individuals who do itemize their deductions have tax rates that are generally lower than the 46% tax rate at which corporations take their deductions.

The net effect of eliminating deductibility therefore would be to shift a portion of the finance of state and local governments from individuals—where each dollar of state and local tax payment has a relatively small impact on federal tax receipts—to corporations where those same state and local tax payments have a much larger impact on federal tax revenue. If eliminating deductibility causes a large enough shift from personal taxes to business levies, the Treasury actually would lose money by eliminating deductibility.

An example will indicate how this could occur. Consider a state that, together with local governments within that state, now collects $10 billion a year in taxes, of which $6 billion comes from personal income, sales and property taxes. The national experience indicates that about 50% of these potentially deductible state and local personal taxes do get deducted and that the marginal tax rates at which these deductions are taken average 27%. Applying these national averages to the $6 billion implies that $3 billion of taxes is deducted and that these deductions reduce federal income tax liabilities by $810 million.

Eliminating deductibility would make reliance on personal taxes less attractive to the state and local governments relative to business taxes and various fees. If the state and its local governments shift $1 billion of the $6 billion now paid by individuals to taxes and fees paid by business, their tax deductions would rise by $1 billion. Since businesses pay federal tax at a 46% rate, this would reduce federal tax collections by $460 million, offsetting more than half of the Treasury's gain from increased personal taxes. And if state and local governments were instead to shift $2 billion of the $6 billion now paid by individuals, business tax payments to the federal government would fall by $920 million and the Treasury would actually have less revenue than under the present system.

The prediction that a change in deductibility would cause state and local governments to increase their use of other revenue sources is not only common sense but is supported by statistical evidence. I recently completed a study at the National Bureau of Economic Research that indicates that the current differences among states in the proportion of taxpayers who itemize and in the average tax rate of itemizers has an important effect on the way that states and local governments finance their spending. The statistical estimates imply that eliminating deductibility would cause enough of a shift in the mix of state and local revenue sources to cut the Treasury's propective revenue gain by more than half. Although there are, of course, many complexities in interpreting the statistical evidence, the clear implication is that the federal revenue effect of eliminating the deductibility of state and local taxes is uncertain at best.

Eliminating deductibility of state and local personal taxes is critical to the administration's tax plan because the projected revenue gain from the elimination of deductibility is the largest single source of increased revenue in the administration's plan. The Treasury predicts this change in tax rules would raise amounts that increase from $33 billion in fiscal year 1987 to $40 billion in 1990. Indeed, in 1990 it accounts for more than 85% of all additional revenue raised from individuals by broadening the tax base. The Treasury projects that this increased revenue would finance 55% of the personal rate reductions, with most of the remainder financed by the increased taxes on corporations.

OTHER ISSUES INFLUENCE DECISION

There are, of course, other issues that must influence the decision about whether to change the current deductibility of state and local taxes. Some argue that the deduction should be retained to avoid double taxation of income. Others argue that it should be eliminated to avoid the distorting effect of deductibility on spending by state and local governments. But I suspect that the principal reason it is being considered is that it looks like the only way to raise substantial tax revenues with which to finance reductions in personal tax rates. Unfortunately, that is a fiscal illusion on which it would be reckless to rely.●

S. 1950—TOBACCO ADVERTISING

● Mr. BRADLEY. Mr. President, I introduced S. 1950, Disallowance of Deduction for Tobacco Advertising Expenses, on December 16, 1985. The bill was not included with my remarks in the Congressional Record at that time.

I ask that the text of my bill be printed in today's Record.

The text of the bill follows:

S. 1950

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DISALLOWANCE OF DEDUCTION FOR TOBACCO ADVERTISING EXPENSES.

(a) Deduction Disallowed.—Part IX of subchapter B of chapter 1 of subtitle A of the Internal Revenue Code of 1954 (relating to items not deductible) is amended by adding at the end thereof the following new section:

"SEC. 200H. DISALLOWANCE OF DEDUCTION FOR TOBACCO ADVERTISING EXPENSES.

"(a) In General.—No deduction otherwise allowable under this chapter shall be allowed for any amount paid or incurred to advertise any tobacco products.

"(b) Definitions.—For purposes of this section—

"(1) In general.—The term "tobacco products' means cigarettes, cigars, smokeless tobacco, pipe tobacco, or any similar tobacco products.

"(2) Smokeless tobacco.—

"(A) In general.—The term 'smokeless tobacco' means any snuff or chewing tobacco.

"(B) Snuff.—The term 'snuff' means any finely cut, ground, or powdered tobacco that is not intended to be smoked.

"(C) Chewing tobacco.—The term 'chewing tobacco' means any leaf tobacco that is not intended to be smoked.".

(b) Conforming Amendment.—The table of section for part IX is amended by adding after the item relating to section 280G the following new item:

"Sec. 280H. Disallowance of deduction for tobacco advertising expenses."

(c) Effective Date.—The amendments made by this section shall apply to amounts paid or incurred after December 31, 1986, for taxable years ending after such date.●

CONGRESSIONAL CALL TO CONSCIENCE

● Mr. GRAMM. Mr. President, I rise today once again to join my colleagues in speaking out against the increasingly brutal and inhumane treatment imposed on religious dissidents and refuseniks in the Soviet Union. I am happy to participate in the Congressional Call to Conscience for Soviet Jews and Christians organized so ably by my good friend and colleague from Minnesota, Rudy Boschwitz. It is ironic that Secretary Gorbachev, in responding to inquiries about the treatment of Jews and religious minorities in the Soviet Union, had the effrontery to claim that Jews are treated as well or better in the Soviet Union than anywhere else in the world. The facts speak differently. Sadly, we are hearing more and more accounts of harassment, intimidation, and brutality against those wanting to emigrate and those wanting only to practice their religion freely and without hindrance. Even though the Soviets have allowed Yelena Bonner to leave temporarily for medical treatment—and thus only barely meeting the minimum requirements demanded by humanity—their continuing maltreatment of Andrei Sakharov stands in clear contrast to this thinly veiled propaganda stunt.

Mr. President, we all know only too well the stories of Sakharov, Nudel, Bonner and other famous dissidents. I am here today to speak out once again on behalf of a family not so famous and not so well known to the West. It may be accurate to say that this family is more deserving of our attention because their story is not well known, because the Soviets don't have to face world opinion every day on their behalf, because they are not regularly called upon to answer for what is a regular policy of civil and human rights abuses in their country.

Mr. President, today I wish to speak about Alexander (Sasha) Wainer, his wife Marina, their daughter Yana, and Marina's parents. In what has become an almost stereotypical story, the Wainers applied for exit visas in January 1979; soon thereafter Sasha was fired from his job as a chemical engineer. A pattern of regular harassment followed. Sasha has not been able to gain employment in his profession, even though he is fluent in English and obviously of great value because of his technical expertise. Sasha has been forced to hold lesser jobs such as a night guard and elevator operator, and even these have been only on a temporary, occasional basis. Marina Wainer is a trained biologist and we can only guess what intimidation the Soviets have used against her. Typically, the Soviets have also refused on five or six separate occasions exit visas for Marina's parents. The Wainers have a daughter, Yana, born in 1981 and are expecting a second child soon. Should the Wainers not be allowed to exit in the next few years, what kind of life can they expect for their children, the children of refuseniks, the children of Jews? History does not bode well for them.

It is well known, Mr. President, that peak emigration over the past 20 years came in 1979, when some 51,000 Jews were allowed to leave the Soviet Union. That number was reduced by more than half the following year and reduced to fewer than 900 in 1984; this year looks no better. We have heard that Secretary Gorbachev is a different kind of leader, one who knows how to play to the Western press and how to make grandstand plays to benefit the Soviet Union. I say here today that no matter what propaganda ploys Mr. Gorbachev utilizes, this Senator and this body will never believe that he personally or the Soviet regime collectively is serious about peace and working constructively with the West until the treatment of Soviet Jews changes for the better, until emigration statistics increase and until human rights for all religious minorities—Christian and Jewish—are guaranteed and protected.

Mr. President, at this time of thanksgiving and celebration, it is difficult and perhaps unpleasant to think about people and circumstances halfway around the world. We are truly lucky to live in a country governed by democratic principles and protected by the rules of law, and for that reason I think it is valuable to focus on a part of the world where those simple freedoms are unheard of, where mockery is made of law, where something as ordinary as religious worship can be a crime. Jews, Pentecostals, Lutherans, Catholics—all are treated with equal contempt and disregard by the Soviet police state. We talk about the sovereignty of nations but that does not relieve us of the burden of responsibility of working for fundamental human rights in all countries. We are under the obligation of our founders to speak out on behalf of the oppressed and disenfranchised people of the world. Mr. President, I stand proudly today for all those in the world who cannot speak freely, pray freely or live free of constant repression, and I encourage my colleagues to join me in this worthy call to conscience.●

HERBERT LIEBENSON RETIRES AS PRESIDENT OF THE NATIONAL SMALL BUSINESS ASSOCIATION

● Mr. DIXON. Mr. President, as a member of the Senate Small Business Committee, I invite the attention of the Senate to the retirement of Herbert Liebenson as president of the National Small Business Association [NSB]. I am pleased to point out that Herb Liebenson is a native of Chicago, and was educated at two Illinois institutions: Roosevelt University and the University of Chicago. He came to Washington and worked for the United Mine Workers Union and the U.S. Chamber of Commerce before settling in at NSB, the first organization devoted exclusively to small business to establish a Washington office.

A long-time legislative mainstay at that association, and its president since 1980, Herb Liebenson has been a leading advocate of small business for 25 years. I know that he is widely respected personally for his ability and character. Further, the NSB, under his leadership, is broadly respected on the Hill for its consistently responsible and constructive positions in support of legislation serving the best interest of the small business community.

One example of this constructive role is the creation of the Small Business Legislative Council [SBLC] in 1976. This organization is a coalition which has now grown to nearly 90 national associations having predominately small business membership. Mr. Liebenson was instrumental in the founding of SBLC, and served as its executive director until September 1, 1985, when SBLC became an independent small business organization.

Because of his experience in labor relations, pensions, Social Security and small business matters, as well as his personal qualities, Mr. Liebenson has frequently been selected to serve on such bodies as the SBA Advisory Committee and the Advisory Committee to the Executive Director of the 1986 White House Conference on Small Business.

He will continue to be active as a consultant to NSB and will be chairman of "Technology for New Products and Jobs," a foundation formed to transfer technology to small and medium-sized enterprises.

We thank Herbert Liebenson for his many contributions to the legislative process, and regret that we will be working less with him in the future than in the past. However, his retirement has been richly earned. He leaves an organization which is financially strong, growing in membership and great in potential for the good of small business enterprise. We are also pleased to see that Jerry Gulan, who has long been NSB's able executive vice president, will be functioning as the association's chief executive officer.●

SOVIET ATTACKS UPON AFGHAN CHILDREN

● Mr. HUMPHREY. Mr. President, the brutal war in Afghanistan will be entering its seventh year on December 27. The most tragic victims of this war are the thousands of children who have been murdered, tortured, crippled, or driven into neighboring refugee camps. An entire generation of Afghan children is growing up in a land ravaged by human rights violations and continued violence. The Afghan children are not innocent bystanders in this war, accidentally harmed by the conflict around them. The Soviet Union has singled out children, by dropping boobytrap toys. This savage behavior has been thoroughly documented by the report of the special rapporteur to the United Nations.

An article in the New York Times, on December 10, 1985, entitled "Soviet Toys of Death" poignantly describes the ruthlessness with which the Soviet Union has conducted the war in Afghanistan. I ask that the full text of this article be printed in the RECORD.

The article follows:

[From the New York Times, Dec. 10, 1985]

SOVIET TOYS OF DEATH

A powerful antiwar poster that Americans saw everywhere in 1970 showed bodies heaped in the Vietnamese village of My Lai. The caption was terse, taken from an inquiry into the massacre perpetrated by Americans: "Q. And babies? A. And babies."

No such posters draw attention to the ghastly, deliberate crippling of children by Soviet invaders in Afghanistan. Indeed, having grown skeptical of Presidential anecdotes, some Americans may wonder if Ronald Reagan was talking through his evil empire hat when he accused Russians of sowing insurgent areas with bombs disguised as toys. The evidence isn't anecdotal. The evil is real.

It lies exposed in a report to the United Nations Commission on Human Rights. This inquiry, the first ever by the U.N. into abuses charged against a Communist state, seems to have been scrupulously conducted by an Austrian legal expert, Felix Ermacora. Barred from Afghanistan, he gathered incontrovertible testimony of the slaughter of civilians from Afghans who fled to Pakistan.

The report asserts: "The most horrible type of incident was that caused by the explosion of antipersonnel mines and especially of children's 'toys.' Many witnesses testified that children had been very seriously wounded, having their hands or feet blown off, either by handling booby-trap toys they had picked up along the roadway, or by stepping on them. . . .

"The types of booby-trap toys encountered include those resembling pens, harmonicas, radios or matchboxes, and little bombs shaped like a bird. This type of bomb, consisting of two wings, one flexible and the other rigid, in the shape and colors of a bird, explodes when the flexible wing is touched.

"The Special Rapporteur was also able to obtain a number of photographs, especially those of children between 8 and 15 years of age, with hands or legs blown off, either by handling boody-trap toys or during the explosion of mines."

The generalized horror of a war that has claimed 500,000 lives since 1979, there is thus added the special horror of toys of death. No wonder the Soviet bloc tries to defame the messenger. It contends that Mr. Ermacora is pro-Nazi because he served Hitler's army, as a private. Tellingly, the Soviet Union found nothing wrong with his credentials when he presented reports about human rights abuses in Chile and South Africa.

The issue isn't Mr. Ermacora, but the validity of his charges. If they are false or exaggerated, why not open Afghanistan to independent observers? As long as this dirty war is sealed from sight, someone should photograph those maimed youngsters and plaster posters everywhere, with the capton: "Q. And children? A. Yes especially children."●

YOUNG ASTRONAUT PROGRAM

● Mr. GLENN. Mr. President, I am extremely pleased to have introduced, along with my colleague from Utah [Mr. GARN], a bill which would provide for the striking of medals to commemorate the Young Astronaut Program. The bill was introduced earlier this year in the House and currently has over 88 cosponsors.

Many Senators know that the Young Astronaut Program was created as a National Education Program for elementary and junior high school students designed to promote the study of math and science to increase awareness about high technology and aerospace education. I am particularly pleased to be an honorary co-vice chairman with Senator GARN of this worthwhile program.

The Young Astronaut Program is a nonprofit, private sector initiative dependent on the sponsorship and support of individuals, associations, and corporations for financing. The striking of a medal would allow the Young Astronaut Council to sell the medals and use the income to sponsor extracurricular activities in schools throughout the United States and provide new curriculums for teachers to teach.

The striking of this medal will not be done at any expense to the U.S. Government. All costs incurred by the Secretary of the Treasury will be covered by the Young Astronauts Council.

I have had the pleasure of meeting with some "Young Astronauts." It was gratifying to listen to them speak so intelligently about space and other scientific matters. Their faces lit up when they told me about the various programs they had participated in because they were "Young Astronauts." These young people have been inspired to learn more about something that too many of us tend to take for granted—the opportunities that exist through utilization of space. The striking of this medal will help ensure that these types of experiences and opportunities for young people continue.

I am doubly pleased that my State of Ohio is leading the Nation in the number of chapters which have been established.

Mr. President, I understand this bill was entered in the Record yesterday, and I hope my colleagues consider cosponsoring it.●

SOVIET HUMAN RIGHTS

● Mr. BINGAMAN. Mr. President, yesterday Senator Mathias came to the floor to praise the courageous action by five rabbis who have accepted 15 days' imprisonment in a Federal penitentiary as a means of dramatizing the plight of Soviet Jews. I want to associate myself with those remarks.

The rabbis' action is serving as a powerful message to Soviet leaders of the depth of concern in this country for the mistreatment of those in the Soviet Union who merely want to practice their faith. People like Roald Zelichonok, a Leningrad refusenik, are suffering in Soviet labor camps for simply trying to preserve Hebrew culture and pass it on to the younger generation. The Soviet Government will neither grant these people the right to practice their religion without interference nor allow them to emigrate to a country which guarantees such rights.

By demonstrating at the Soviet Embassy, the rabbis carried out an act of civil disobedience consistent with an honored tradition in this country. Daily similar actions take place at the South African Embassy to protest apartheid in that country. Few, if any, of those demonstrators have faced prosecution, and I personally find it troubling that prosecution was as vigorously pursued and such a stiff punishment has been administered in this case. I, therefore, join Senator Mathias in urging the President to consider exercising his power to commute the sentences the rabbis are now serving. Such an act would show compassion, while still allowing such legal issues as selective prosecution to be adjudicated in the courts through appropriate appeals.

Let me conclude by expressing my deep respect for the decision which these rabbis have made to accept imprisonment in this instance. They have once again focused national attention on the need for improvement in Soviet human rights policy if our relations with that country are ever to take a marked turn for the better.●

ANTI-ARAB ATTACKS ARE DESPICABLE

● Mr. LEVIN. Mr. President, in recent months there has been a rising crescendo of violence directly or indirectly affecting officials and facilities of the American-Arab Anti-Discrimination Committee:

In August, a pipe bomb exploded in front of the committee's Boston regional office, and two police officers were injured.

In October, a wire bomb placed at the committee's regional office in Santa Ana, CA, was tripped by the office director when he came to work in the morning. It killed him and left his wife a widow and his three young children fatherless.

In November, fire erupted in a building here in Washington which housed the committee's national office, causing substantial damage.

In addition to these attacks, there have been over the past several months numerous verbal assaults on the committee by telegram, telephone, and letter.

Such attacks—especially those that destroy and injure life and property—are despicable. I have asked the FBI for a full and prompt investigation of the violence that has occurred. Our Government must make clear that it intends to root out such terrorism.

Mr. President, in addition to doing what we can in our official capacities to combat attacks against such organizations, it is important for us to reaffirm personally to our American-Arab friends and neighbors our revulsion at the attacks upon them, and our commitment to preserving their right to organize and speak out on their own behalf. This right belongs to every American, and when an effort is made to violently intimidate any of us into silence, the rest of us must rise up in protest.

At this season it is particularly appropriate—indeed urgent—for those of us who embrace the Biblical imperatives to pursue peace, and to demonstrate good will to all, to say to our fellow Americans of Arabic origin: We wish salaam aleikum. We will not tolerate violence against you.●

TOM McINTYRE'S BARGAIN HOUSES

● Mr. KENNEDY. Mr. President, I would like to share the story of an entrepeneurial Massachusetts resident with my colleagues in the Senate. Tom McIntyre's determination has turned an idea into a reality. I ask to have printed in the Congressional Record a copy of the article, "Bargain Houses—no speculators need apply", which appeared in the Boston Globe.

The article follows:

Bargain Houses—No Speculators Need Apply

(By David B. Wilson)

(South Boston. New, archtct-dsgn, brick-frnt, 2br town houses, pkng, off Xway 6 mins to Park Street, walk to beach, $68,900. Bricklayers & Laborers Non-Profit Housing Co. Inc.)

No such ad will appear in the Globe because, by spring, when the BLNPHC is ready to sell these 18, sunny, special places, the word will be around and they will all be taken.

And if you don't live in the neighborhood—that's the key word—of Andrew Square, forget it. Tom McIntyre didn't lay up all that brick for yuppie speculators. He did it for what he calls "the two-dollar bettors."

You do not mess with Tom McIntyre. He is international vice president of Local No. 3 of the Bricklayers Union. You do not get to be that and stay that by avoiding or losing fights. He is Mission Hill Irish, silver-haired, black-browed, tough, decisive, the kind of man other men will follow. He also is an idealist with a creative imagination, language to which he would no doubt object.

Like the wheel, great ideas are simple. McIntyre's was, is, this: Boston is desperately short of housing. Housing costs too much because land costs too much. People can't afford to live where they grew up, formed families. The city owns a lot of land, abandoned schools, burn-outs, tax-title takings, vacant lots strewn with rubble and broken glass, going to waste.

The way to produce housing that neighborhood people can afford is to build it on city land conveyed for $1 to a nonprofit developer. A bank that enjoyed the union's pension business ought to be interested in financing. Union craftsmen, paid scale, working for a unionbacked outfit, could do the work. And the buyers would get a double discount—the land cost and the developer's profit.

This is pretty radical stuff, you know. No federal funds. No limited partnerships. No sales commissions. No syndicated tax shelters. No complex gimmickry, publicity campaign, extended planning procedures, environmentalist tedium, hearings, seminars, workshops, committees, reviews. Just do it. But you need an architect.

Bill Rawn is an architect. Matter of fact, he is The Architect in Tracy Kidder's best seller, "House." Through Ed Lashman, a mutual friend, McIntyre found Rawn. One night last January they had dinner at Amrhein's on West Broadway and discovered that they liked each other's style and ideas.

It helped—a lot—that McIntyre had been with Ray Flynn early in the 1983 election. It helped that Arthur Cola and Pat Walsh of the Laborers Union were willing to get aboard. It helped that Billy Bulger had gone to the Andrew School. It helped that Dave Mirabassi was willing to take charge as general contractor and that attorney Valerie Swett was fascinated by the legal issues.

Bill Rawn delivered plans a month after the Amrhein's dinner. A month later, McIntyre had cost estimates from Mirabassi. In May, the city issued requests for proposals for the old Andrew School site. In June, to the surprise of almost no one, the BLNPHC was chosen. It took title in August and broke ground Sept. 9. In May, people will be living in the houses.

Boston is not supposed to work that way. In Boston, people love to fight, brood upon ancient wrongs, to chew over issues, to debate important principles, to punish and reward old foes and friends, to convene and consult and pick nits. Instead, Tom McIntyre, the Mission Hill Kid, and Bill Rawn, the post-modern 1st Yalie, Harvard Law Graduate and oncoming national celebrity, and their friends, went out and built 18 houses.

You can see them today, framed in and rough-plumbed, their bay windows shining out on Dorchester street, with the fine, clean smell of new lumber blending with the sour scent of mortar. It is the fragrance of progress and growth. Thousands of empty lots in this city could use a little of it.

Valerie Sweet has written deed restrictions designed to prevent speculation, and she thinks they will work. The houses, of course are worth on the open market two to three times their expected price.

Tom McIntyre may have discovered a no-lose game. The union gets work and jobs for apprentices and badly needed public relations. The neighborhood gets some protection against gentrification. A development model has been established. Ray Flynn looks great. The city gets taxes and neighborhood stability Bill Rawn gets an exciting commmission. Valerie Swett breaks new ground in her profession. And people get places to live. Each new unit, just about, creates a corresponding vacancy.

If it all does not work out exactly as planned, well, somebody tried. Right away. Now, Tom McIntyre's way.●

CANCER PATIENCE

● Mr. McCONNELL. Mr. President, I want to bring to the attention of my colleagues an editorial which appeared in the Wall Street Journal on December 16, 1985 entitled "Cancer Patience." It refers to the recent breakthrough in cancer treatment known as interleukin-2 and asks the question "What is wrong with letting dying or seriously ill patients gain physician-supervised access to promising therapies even before the very last "I" is dotted years hence by the Food and Drug Administration's official approvers?" It might be well for the Senate to consider such changes to benefit the terminally ill.

Mr. President, I ask that the text of the editorial be printed in the RECORD.

The editorial follows:

[From the Wall Street Journal, Dec. 16, 1985]

CANCER PATIENCE

In its Dec. 5 issue, The New England Journal of Medicine published an article officially confirming reports that a government researcher had achieved remarkable results treating patients with a new procedure involving the drug interleukin-2. What happend next was predictable. Thousands of calls poured into the National Cancer Institute from the usual, desperate people—cancer victims facing death. Very quickly they learned that would have to swallow a familiar, bitter pill: General availability of the procedure is probably five years away. Though made by 11 companies, IL-2 is available only to researchers. There is practically no way to get this treatment if you merely want to take a flyer on saving your life.

Dr. Steven Rosenberg's technique is called LAK-cell therapy. It involves extracting white "killer" cells from a patient's blood and mixing those cells with interleukin-2, a biological substance that stimulates one's disease-fighting immune system. This admixture creates lymphokine-activated killer (LAK) cells, which are then reinfused several times into the patient, along with yet more IL-2. Dr. Rosenberg's 25 terminally ill patients had advanced cancer that had spread and was no longer responding to radiation or chemotherapy. Tumors in 11 shrunk by at least 50%, and there was one complete regression. One director of cancer trials told us that by treating virtually hopeless cases, Dr. Rosenbert is "going after the hardest model imaginable. Eleven out of 25 responses is astonishing.You usually do 19 patients with these trials and if you get four, that's significant. . . . That's why NCI got so excited."

Accordingly, the Cancer Institute late last week convened representatives of cancer-research centers to discuss an expansion of Dr. Rosenberg's experiment. Most likely, the institute will have to reprogram some of its $1.3 billion budget to support this work. Dr. Rosenberg's approach is going to receive a fair test. Proponents of other promising techniques might argue that the Cancer Institute is using its muscle to reroute the flow of research funding on behalf of a favorite son, but that's how the federal-subsidy game gets played. Incidentally, the expansion of the Rosenberg protocol to other NCI-funded centers will bring it to more cancer patients.

But in this and other research protocols, the more interesting but less attractive game is, "Who gets treated?" If you want the most advanced treatment, the trick clearly is to get yourself into a research protocol.

People magazine, in an interview with Hamilton Jordan, Jimmy Carter's chief of staff, has just given us a glimpse of how this is often done. Mr. Jordan has just announced that he suffered from lymph cancer, presumably with a less serious case than those treated by Dr. Rosenberg, but that treatment at the National Cancer Institute has almost completely eliminated the tumor.

"I have a lot of doctor friends," Mr. Jordan said, "and in 24 hours I had called seven or eight major medical centers around the country. a majority of people I talked with said, 'If I had what you have, I'd go to the National Cancer Institute.' NCI has two protocols on my type of lymphoma that they are testing against each other. NCI said it would accept me in the program not because I used to be somebody important, but because I had the disease they were studying. I told them I would be there the next morning. They offered to have someone pick me up at the airport, but I declined. 'I just want to be treated like Joe Smith,' I told them."

Is there no humane alternative to this approval process? Almost without exception, the research community will say, no, that this is the tough but inavoidable dilemma of their system. One prominent dissenter is Dr. Robert Oldham, a former NCI official now trying to create a private-sector alternative for giving cancer patients access to sophisticated experimental therapies. By stepping outside the system, Dr. Oldham has made himself a fairly controversial figure in the research community. He says the research community should be "worrying less about the toxicity for patients who are faced with a few months of life, and placing more emphasis on the application of new technology to clinical problems. Already, there are reasonable approaches that could be instituted in the clinic to bring new technology more rapidly to the patient."

To this end, Dr. Oldham has founded a for-profit corporation, Biotherapeutics, in Franklin, Tenn. The idea is to bring experimental therapies to cancer patients, and have them foot the bill. Cancer patients themselves—not tax revenues for philanthropy or industry R&D—become both the funders and the direct, immediate recipients of whatever benefits such research may offer.

Through Cetus Corp., a supplier of Interleukin-2, Dr. Oldham has already succeeded in obtaining formal government approval to treat patients with essentially the same LAK-cell therapy used at the National Cancer Institute by Steven Rosenberg. If resources permit however Dr. Oldham should be able to expand the treatment availability beyond the traditional limits of a formal clinical trial, as well as tailor the treatment to a patient's particular requirements. Two have already started, and one more patient will be added this month, and Biotherapeutics hopes to take on two or three weekly next year. Treatment is administered by Biotherapeutics' physicians at Baptist Hospital in Memphis, and the cost of the patients' contract is $19,400.

Biotherapeutics will, of course, also have to reject many applicants, just as the federal or university research centers do, since all have finite resources. But, "If we see some responses of the order reported at NCI," says Dr. Oldham, "we'll do our level best to double capacity." In turn, expansion should bring cost economies.

"Whether the responses last or derive real clinical benefit," says Dr. Oldham, "will be seen over time." Clearly, the patients paying for treatment at Biotherapeutics are assuming a personal and financial risk; some cancers haven't responded at all to LAK-cell therapy. But surely there are informed cancer patients in this country who want nothing more than the chance to assume that risk.

We continue to wonder why the medical research and regulatory establishment is so adamantly opposed to serving this population of patients. What is wrong with letting dying or seriously ill patients gain physician-supervised access to promising therapies even before the very last "I" is dotted years hence by the Food and Drug Administration's official approvers? Our strong sense, from discussions and correspondence with defenders of the status quo, is that largely they don't want to invest the time and effort that would be required to change the protocols of a delivery system that in fact operates satisfactorily—for the researchers.

In the past 18 months, however, we have seen AIDS patients mount a revolt against that status quo, largely by bootlegging unapproved drugs into the country and bringing intense pressure on public officials, newspapers and local TV stations. The Food and Drug Administration is now proud of its fast-track system for giving "compassionate-use" permissions to experimental AIDS therapies. Would this have happened if the dying had kept quiet?

Cancer patients are not unique. Earlier this year, a multicenter test of a blood-clot dissolver (tissue-type plasminogen activator) was suspended after the evidence overwhelmingly demonstrated the drug's benefits. It is a drug that could be administered to heart-attack victims by rescue squads, thereby reducing the long-term damage done to the victim's heart. Blue Shield of California recently announced that the use of TTPA should be made acceptable medical practice. The potentially life-saving drug, however, is far from FDA approval. It isn't available, though in 1983 there were $676,000 hospital admissions for acute myocardial infarction. We asked one of the most prominent members of the U.S. medical establishment if he would want someone to inject him with TTPA if he fell down in his office with a heart atack that day. "Well, I guess I would" he replied.

The current, rapid pace of biomedical discovery suggests this issue is going to come up repeatedly over the near term. Monoclonal antibodies, tumor necrosis factor, colony-stimulating factor—there and other odd-sounding cancer therapies are now or soon going to be tested in humans. And while companies creating these products give unusual praise to the people running the FDA's biologics bureau, there is no reason to believe the approval system will accommodate the immediate needs of the nation's terminally ill cancer victims.

It remains to be seen whether the presumed beneficiaries of modern medical research will continue to sit still for this depressing status quo. Congress, under no pressure, shows no interest. But those thousands of calls that streamed into the National Cancer Institute within hours of Steven Rosenburg's good news suggest the existence of a real and well-motivated constituency. If the research and regulatory community doesn't consider some way of adapting itself to speed up patient-access to promising therapies, then cancer's curators shouldn't be surprised if sick people soon start assaulting a system that for all its achievements, prescribes little more than patience.●

1986: PROMISES DONE; PROGRAMS TO COME

● Mr. LEVIN. Mr. President, as we approach the end of the year, it's appropriate to take a look at a few of the issues that have dominated 1985 and are likely to remain major concerns in 1986.

First, there is our economic well-being, symbolized by the need to reduce Federal deficits. And second, there is our physical survival, symbolized by our need to achieve a mutual and verifiable agreement with the Soviet Union to reverse the nuclear arms race.

In 1985, we made progress in both areas. But that progress did not produce a product—it did not implement a policy. Instead, our progress took the form of a promise: 1985 produced a solemn pledge that specific action will be taken in 1986.

On the economic front, Members of Congress realized that they could no longer be content with giving speeches—or listening to the President give his speeches—denouncing the Federal deficit while watching that deficit grow year after year. Eveyone knows that a growing deficit threatens the economy. This year, Congress initiated action to deal with the threat. We created a system which promises that the deficit will be reduced. The balanced budget act we just adopted is a solemn, legally binding commitment; it guarantees that action will be taken to reduce the deficit and achieve a balanced budget by 1991. In a sense, it is the "Truth or Consequences Act of 1985"—we either face up to the truth that we can't go on endlessly borrowing against the future to pay for what we are buying now, and take decisive action to deal with that reality, or we will have to face up to the consequences of across-the-board spending cuts.

Most people have focused on those so-called automatic across the cuts. But those cuts are not really automatic. They only occur if the President and the Congress can't agree on a better way to reduce the deficit by the specified mandatory amounts. And there are better ways.

Although we're willing to have every program automatically cut across the board if the only alternative is a growing deficit, we would rather reduce spending by voluntarily and selectively cutting the budget, making cuts that will still preserve those defense programs we really need and still protect domestic programs that improve the quality of life in our society. And cutting spending isn't the only way to cut the deficit. I know that the President says he is against a tax increase—but we can raise more revenues without resorting to a general tax increase. Just one example: Why can't we strengthen the minimum tax on those profitable corporations and wealthy individuals who now aren't paying anything in taxes? That could raise about $10 billion a year, and that money could go toward balancing the budget.

Look at it this way: Deficits are a kind of Gordian knot tied around our economy. We have to escape that knot. We will cut it, if we have to, with automatic across-the-board reductions in spending. But we'd be better off if we could agree to untie it with a balanced plan that better protects our national interests and better preserves our national values. One way or the other though, deficits will be reduced. The promise has been made; only the specific program for achieving the promise has yet to be hammered out.

The same sort of "promise-done; program-to-come" situation exists when we look at the second major issue of 1985: putting the brakes on the ever-accelerating nuclear arms race.

Over the past few years, the Congress has done what it can to persuade the President to negotiate an arms control agreement. And this year, we made progress. The President finally sat down and talked with the Soviet leader, Mr. Gorbachev, and they are scheduled to meet again next year.

Their summit this year was promising; but it yielded no specific results—no agreements, no reduction in nuclear weapons. Next year, promising will not be good enough. Next year, we'll need specific action.

We will begin to find out what kind of action we will get in January, when the President must decide what to do about the SALT II Treaty. The President can declare the treaty null and void—pushing us toward the greatest void of all—or he can continue to observe the terms of the treaty. If he sticks with the SALT II Treaty, we will be well served. After all, it is that treaty—and its restriction on nuclear warheads—which keeps the Soviets from adding over 6,000 nuclear warheads to their existing missiles. With the SALT II Treaty in place, we can make progress in other efforts to curb the arms race. As the Congress has urged, the President should declare his strong support for the Anti-ballistic Missile (ABM) Treaty which has prevented a defensive arms race for almost 25 years. He should also resume negotiations for a Nuclear Test Ban Treaty, and initiate talks to ban the deployment of weapons that can destroy satellites in space.

These, then, were the two big issues of 1985; economic security at home, security from nuclear annihilation worldwide.

In 1985, the American people may have been satisfied with promises. In 1986, nothing less than performance will do.●

PATENT FEES FOR SMALL BUSINESS

● Mr. WEICKER. Mr. President, I would like to discuss briefly legislation that is of vital concern to small businesses, independent inventors, and nonprofit entities in this Nation.

Mr. President, Public Law 97-247, established at the Patent and Trademark Office in the Department of Commerce a two-tiered fee schedule to allow small businesses, independent inventors, and nonprofit entities to pay 50 percent, rather than 100 percent, of the cost of patent user fees. Under the law small firms pay $400 in filing and issuance fees and $1,200 in maintenance fees. The maintenance fees are paid 3½, 7½, and 11½ years into the life of the patent, thereby representing costs to the patent holder of $200, $400, and $600, respectively. This fee schedule is set forth by statute and requires one consumer price indexing adjustment every 3 years. Congress enacted the legislation, Mr. President, to ensure that the exhorbitant costs associated with the actual processing of patent applications would not preclude small businesses, independent inventors, and nonprofit organizations from applying for U.S. patents.

I have a particular reason for calling the Senate's attention to Public Law 97-247, Mr. President. The "small inventor subsidy," as it is commonly referred to, expired on September 30, 1985, and the measure that will reauthorize this two-tiered fee schedule for fiscal year 1986 has not come before the Senate. Because House Report No. 97-542 provides that funds made available by fiscal years 1983, 1984, and 1985 appropriations are to be used for the small entity fee reduction without fiscal year limitation, the Patent and Trademark Office [PTO] has been using unexpended appropriated funds to continue the 50-percent reduction in fees for small entities. While approximately $3.9 million were carried over from the previous year, these funds will be depleted by the December recess. Therefore, small businesses, independent inventors, and nonprofit entities will be required to pay the full costs of patent user fees in 1986, unless the small inventor subsidy is approved by the Senate.

Mr. President, there is a bill, H.R. 2434, the Patent and Trademark Office authorization bill, that was passed by the House of Representatives and referred to the Judiciary Committee's Subcommittee on Patents, Trademarks and Copyrights, which would reauthorize the small inventor subsidy for fiscal year 1986. H.R. 2434 specifically provides that funds made available under this act would be used to reduce by 50 percent the payment of fees under sections 41 (A) and (B) of the United States Code, by independent inventors and nonprofit organizations, as defined in regulations established by the Commissioner of Patents and Trademarks and by small business concerns in section 3 of the Small Business Act. This measure is still pending before the subcommittee because there are issues to be resolved regarding, both PTO expenditures and funding. These unresolved issues, Mr. President, do not involve the reauthorization of the small inventor subsidy.

Mr. President, the record is clear that small innovative firms and independent inventors cannot afford to pay the full costs of patent user fees without this subsidized fee schedule. Accordingly, it is imperative H.R. 2434, which would continue this two-tiered fee schedule, be reported out of committee. Therefore, I urge the Subcommittee on Patents, Trademarks and Copyright to act immediately on this measure so that the high costs associated with the actual processing of patent applications will not preclude small businesses, independent inventors, and nonprofit organizations from applying for U.S. patents.●

WALT DUNLEVY

● Mr. McCONNELL. Mr. President, earlier this week, one of northern Kentucky's favorite citizens, Walt Dunlevy, passed away. Hundreds of Kentuckians gathered today at St. Thomas' Catholic Church in Fort Thomas, KY, to eulogize Walt's life.

Mr. President, I cannot begin, in this context, to adequately communicate the loss this represents to the people of my State. Walt was the kind of person who had a positive influence on so many. His contribution to family, community, and State can only be described as remarkable.

For the past 14 years, Walt served the Northern Kentucky Chamber of Commerce as its president. Among the many innovative measures supported by Walt was the TANK blue ribbon committee which, from 1976 to 1977, worked for the passage of a local tax initiative. It was because of this effort that the Transit Authority of Northern Kentucky was able to remain fiscally sound.

Walt was also instrumental in forming the Northern Kentucky Port Authority and the Northern Kentucky Convention and Visitors Bureau. And it was largely because of Walt's leadership that the northern Kentucky chambers were consolidated.

You can also see Walt's innovative spirit in the establishment of the Eggs 'n Issues monthly breakfast and Threshold 21 Program. This latter program helped to fund much of the chamber's work.

Recently, Walt completed a 2-year term as a member of the U.S. Chamber of Commerce Committee and served as a member of the U.S. Department of Commerce District Export Council. He was also past president of the Kentucky Association of Chamber of Commerce Executives and a member of the national chamber's public affairs committee.

Mr. President, Walt's professional accomplishments are impressive but perhaps the following piece, which Walt wrote in 1975, tells us more about Walt Dunlevy as a person than any catalog of achievements:

AMERICA'S ANATOMY

AMERICA IS PEOPLE . . .

What we are not, what we say we are:

Not so much what we visualize, but what we acutalize;

Not only our willingness to acknowledge shortcomings, but a mature appreciation of our accomplishments;

Not what we are in public, but what we practice in the mirror of our most private forum:

The strength of the weak, because of their bond with the strong.

AMERICA IS FAITH . . .

Not what we profess to believe, but what we believe by profession;

Not the weakness of the poor, nor the strength of the rich, but the opportunity of each to reach higher;

Not so much for social and racial policies, but our tolerance, understanding, faith in God and in the dignity of man.

AMERICA IS ITS GOVERNMENT . . .

Not a government that shares its wealth with the common man, but a system of self government that guarantees individual freedom, and through incentive, holds out the "keys of economic opportunity" to every citizen;

Not just for what is right, but for wrongs that are righted.

AMERICA IS ITS SYSTEM OF ENTERPRISE . . .

Not simply its benchmark of productivity, but the products of that productivity shared in response to the challenges of our changing society;

Not only for our economic gains, but for the gifts of social benefit these have given us and the peoples of the world.

AMERICA'S FLAME OF FREEDOM . . .

Is not eternal, is not guaranteed. Its flame is lashed by the winds of intolerance, selfishness, and greed. Its light is dimmed by our misguided shame to be patriots.

We must know that freedom's greatest test is yet to come, and America's greatest horizon yet to be explored—Let us be proud to be called Americans; but let us cherish forever the rights we possess as free men.

Mr. President, the people of Kentucky will miss Walter Richard Dunlevy, but we will enjoy the benefits of his extraordinary life for decades.●

WALT DAVIS RETIRES: THE END OF AN ERA

● Mr. LAUTENBERG. Mr. President, this month Walter J. Davis will retire from AT&T after working for the company for close to half a century. Walt was the New Jersey manager for Government relations for AT&T.

Mr. President, the breakup of AT&T has wrought a great many changes. While there are promises of increased efficiency and increased innovation, the breakup has wrought a great deal of confusion. It was Walt's job to help explain the most complicated business transformation in American industrial history. It was Walt's job to convey to policymakers the interests of the company that gave the United States the best telecommunications service in the world. Walt did his job well. He was available and well informed. He was a loyal and staunch advocate for the company he represented.

Walt Davis started his career with the Bell System back in 1937, as a messenger for New Jersey Bell. He has been an installer, repairman, line foreman, and plant service supervisor. He knew the telephone company from the line to the office.

Except for service in the Navy during World War II, he spent his entire career with the Bell System and AT&T. Mr. President, that kind of loyalty to a company is something that AT&T promoted over the years and for which it was well-known. It is something that will be increasingly difficult to foster in this new era.

I do not think I betray any confidences by saying that Walt, like many Bell System employees, was no advocate of divestiture. Watching a company he knew and loved undergo such a momentous and painful transition, watching the people who made that company great experience even more profound changes and dislocations, was a difficult thing. But, throughout the transition, Walt continued to represent well the new AT&T.

Mr. President, Walt Davis combined his career with AT&T with a commitment to public service. He served as mayor of Bloomfield from 1966 to 1971. During that time, he served as first vice president of the New Jersey Council of Mayors. He has served as chairman of the Bloomfield Heart Fund, and general chairman of the United States Way of Bloomfield.

Walt Davis' retirement marks the end of an era. I wish him well in his future endeavors.●

RAILROAD REHABILITATION

● Mr. ABDNOR. Mr. President, I placed language in the Transportation appropriations earmarking $5.5 million under the 505 program for rail lines in South and North Dakota. I want to clarify that the directive in the conference report that $5.5 million in section 505 funds be spent in rehabilitating the lines from Pierre to Rapid City and from Aberdeen to Oakes is to be construed as permitted the Federal Railroad Administration flexibility to allow all or part of the $5.5 million to be expended on rehabilitating other portions of the larger rail system from Rapid City to Winona, including branch lines to Onida, Mansfield, and Watertown, SD, Oakes, ND, and Plainview, MN.

Mr. President, I thank you for allowing me this time to make my intent clear.●

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, let me first announce that there will be no more rollcall votes tonight.

I asked Senator THURMOND about a piece of legislation. But that cannot be cleared, as I understand it, until the distinguished minority leader has consulted with Senator NUNN.

It relates to the housing allowances to families of the servicemen who were killed in the tragic airplane crash in Gander, Newfoundland. Perhaps we can dispose of that legislation tomorrow.

I know of no other matter that we can do. We can do the wrapup tomorrow morning, if it is all right with the distinguished minority leader.

Mr. BYRD. Yes. Will the distinguished majority leader yield?

Mr. DOLE. I yield.

Mr. BYRD. I am confident that there will be no problem in clearing the subject matter to which the distinguished majority leader has addressed his remarks.

I support the resolution which Mr. THURMOND is pressing. I am sure there will be no objection from this side.

I feel, out of respect for the ranking member of the Armed Services Committee, that I should at least talk with him about it. So I think there will be no problem in the morning.

Mr. DOLE. Mr. President, I certainly understand the distinguished minority leader's concern. I think as long as we do it. I know Senator KENNEDY has an interest, Senator NUNN has an interest, and I am certain all Senators have an interest in this.

It is a question of working out whether it is 2 months, 3 months, or more.

ORDERS FOR WEDNESDAY

ORDER FOR RECESS UNTIL 10 A.M.

Mr. DOLE. Mr. President, I ask unanimous consent that once the Senate completes its business today it stand in recess until 10 a.m. on Wednesday, December 18, 1985.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. DOLE. Mr. President, following the two leaders under the standing order, I ask unanimous consent that there be a period for the transaction of routine morning business, not to extend beyond the hour of 10:30 a.m., with statements limited therein to 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DOLE. Mr. President, following routine morning business, the Senate can be expected to turn to any of the following items: The conference report to accompany the reconciliation bill, the conference report to accompany the farm bill, the conference report to accompany the continuing resolution, and, again, there are other resolutions pending which can be taken up if time agreements can be reached. The distinguished Senator from Missouri [Mr. DANFORTH] is trying to bring up a trade bill but I have indicated to him that without time agreements it would be most difficult.

Mr. President, I would expect one or two votes tomorrow and, as far as this Senator is concerned, I see no reason why we cannot complete our action and adjourn tomorrow evening sine die.

ANNOUNCEMENT OF INTENTION TO OFFER LEGISLATION RELATING TO GANDER AIR TRAGEDY

Mr. WILSON. Mr. President, will the Senator yield?

Mr. DOLE. I yield.

Mr. WILSON. Mr. President, I would like to signal my intention to offer legislation tomorrow which is very much in the spirit of that which the distinguished Senator from South Carolina has proposed, concerning the families of the crash victims at Gander.

Specifically, to take 1 moment, what Senator THURMOND is offering is legislation that will ease the difficulty of those families, the survivors of the crash victims, by affording them sufficient time to relocate, to determine what they are going to do with their lives and specifically where they are going to do it. The legislation that he is going to offer, and he has in fact introduced it with several cosponsors, cures a serious deficiency in law.

Mr. President, I believe what the law now provides is rather heartless. There should be no dislocation of those survivors if they are in military housing and they could continue to pay fair housing rental.

Mr. President, I think a grateful Nation needs to go further than that. What these young families need, in addition to the kind of housing assistance that Senator THURMOND's bill will provide, is the flexibility that can come only from having adequate cash on hand. These are not wealthy families, certainly not if they have been dependent upon the military income of the victim members of the armed services.

What I will be proposing, Mr. President, and what I would seek cosponsors for at this time prior to introduction, is a bill that will in fact increase the face value of the servicemen's group life insurance policy so as to provide not $35,000 in cash payment but $50,000.

It is also my intention, Mr. President, to seek to make that change in law retroactive so that it will extend back in time in a way as to provide a benefit not only to the families of the current Gander crash victims but all of the families who have suffered similar bereavement since the time of the tragic bombing in Beirut.

In other words, Mr. President, it is my purpose to include families who were bereaved by the loss of the marines killed in the Beirut bombing.

My purpose, Mr. President, in announcing that now is to invite as many colleagues as wish to do so to be cosponsors of that legislation. I would think, frankly, that both Senator THURMOND's measure and that which I will introduce will be measures that virtually every Member of this Senate will wish to embrace.

I thank the Chair. I thank the distinguished majority leader.

BILL HELD AT DESK—S. 1956

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DOLE. Mr. President, this has been cleared with the distinguished minority leader. I ask unanimous consent that S. 1956 be held at the desk until tomorrow. This is the military dependents proposal offered by Senator THURMOND and others.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 10 A.M. TOMORROW

Mr. DOLE. Mr. President, there being no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until the hour of 10 a.m. tomorrow morning.

The motion was agreed to and, at 7:24 p.m., the Senate recessed, in executive session, until tomorrow, Wednesday, December 18, 1985, at 10 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate December 17, 1985:

CONSUMER PRODUCT SAFETY COMMISSION

Anne Graham, of Virginia, to be a commissioner of the Consumer Product Safety Commission for a term of 7 years from October 27, 1984.

DEPARTMENT OF THE INTERIOR

J. Steven Griles, of Virginia, to be an Assistant Secretary of the Interior.

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

THE JUDICIARY

James L. Buckley, of Connecticut, to be U.S. circuit judge for the District of Columbia Circuit.

HOUSE OF REPRESENTATIVES—*Tuesday, December 17, 1985*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Make us aware, gracious God, of a vision of the way that life should be and the road that we should walk. We know our limitations and we become so involved in the things that must be done that we do not see as clearly what ought to be done. Grant us the wisdom to see the eternal from the transient and give us the spirit necessary to be the people you would have us be. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Saunders, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills and joint resolutions of the House of the following titles:

On December 5, 1985:

H.R. 1714. An act to authorize appropriations to the National Aeronautics and Space Administration for research and development, space flight, control and data communications, construction of facilities, and research and program management, and for other purposes.

On December 9, 1985:

H.R. 1806. An act to recognize the organization known as the Daughters of Union Veterans of the Civil War 1861-65; and

H.R. 3235. An act to authorize the Administrator of the National Aeronautics and Space Administration to accept title to the Mississippi Technology Transfer Center to be constructed by the State of Mississippi at the National Space Technologies Laboratories in Hancock County, MS.

On December 10, 1985:

H.R. 3327. An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1986, and for other purposes.

On December 11, 1985:

H.J. Res. 459, Joint resolution reaffirming the friendship of the people of the United States with the people of Colombia following the devastating volcanic eruption of November 13, 1985; and

H.J. Res. 473, Joint resolution waiving the printing on parchment of the enrollment of House Joint Resolution 372.

On December 12, 1985:

H.J. Res. 372, Joint resolution increasing the statutory limit on the public debt.

H.R. 3424. An act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1986, and for other purposes.

On December 13, 1985:

H.J. Res. 476. Joint resolution making further continuing appropriations for fiscal year 1986;

H.R. 2965. An act making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1986, and for other purposes;

H.R. 3918. An act to extend until December 18, 1985, the application of certain tobacco excise taxes, trade adjustment assistance, certain Medicare reimbursement provisions, and borrowing authority under the Railroad Unemployment Insurance Program; and

H.R. 3919. An act to extend temporarily the Dairy Price Support Program and Certain Food Stamp Program provisions, and for other purposes.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a joint resolution of the House of the following title:

H.J. Res. 436. To designate 1986 as "Save for the U.S.A. Year," and for other purposes.

PRIVATE CALENDAR

The SPEAKER. This is Private Calendar day. The Clerk will call the first individual bill on the Private Calendar.

STEVEN McKENNA

The Clerk called the bill (H.R. 1598) for the relief of Steven McKenna.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

HAMILTON JORDAN

The Clerk called the bill (H.R. 3363) for the relief of Hamilton Jordan.

There being no objection, the Clerk read the bill, as follows:

H.R. 3363

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REIMBURSEMENT FOR CERTAIN LEGAL FEES.

(a) Fees Incurred From Investigation by Independent Counsel.—The provisions of section 593(g) of title 28, United States Code, shall apply to an application filed pursuant to section 2(a) of this Act by Hamilton Jordan of Lawrenceville, Georgia, for reimbursement of legal fees incurred from an investigation conducted by independent counsel pursuant to chapter 39 of title 28, United States Code, during the period of November 29, 1979, through May 28, 1980.

(b) Fees Incurred From Preliminary Investigation by Attorney General.—(1) Hamilton Jordan may include in an application filed pursuant to section 2(a) of this Act a request for reimbursement of legal fees incurred from a preliminary investigation conducted by the United States Attorney General pursuant to chapter 39 of title 28, United States Code, during the period of August 24, 1979, through November 19, 1979.

(2) The United States Court of Appeals for the District of Columbia may, in its discretion, award reimbursement for all or part of the legal fees requested pursuant to paragraph (1).

SEC. 2. TIME LIMITATION AND COURT JURISDICTION.

(a) Time for Filing Application.—Hamilton Jordan may file, in the United States Court of Appeals for the District of Columbia, an application for the reimbursement of legal fees incurred as a result of the investigations described in section 1, if such application is filed within 60 days after the date of the enactment of this Act.

(b) Court Jurisdiction.—The United States Court of Appeals for the District of Columbia shall have jurisdiction to award reimbursement of legal fees, in accordance with this Act, pursuant to an application filed in accordance with subsection (a).

The bill was ordered to be engrossed and read a third time, and was read the third time.

Mr. SENSENBRENNER. Mr. Speaker, I request that the Speaker put the question on passage.

The SPEAKER. The question is on the passage of the bill.

The question was taken, and the Speaker announced that the ayes appeared to have it.

Mr. SENSENBRENNER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 347, nays 40, not voting 47, as follows:

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Boldface type indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

[Roll No. 462]

YEAS—347

Ackerman
Akaka
Alexander
Andrews
Annunzio
Anthony
Applegate
Armey
Atkins
Badham
Barnard
Barnes
Bartlett
Bateman
Bates
Bedell
Beilenson
Bentley
Bereuter
Berman
Bevill
Biaggi
Bliley
Boehlert
Boggs
Boland
Boner (TN)
Bonior (MI)
Bonker
Borski
Bosco
Boucher
Boulter
Boxer
Breaux
Brooks
Brown (CA)
Brown (CO)
Bryant
Burton (CA)
Burton (IN)
Bustamante
Callahan
Carney
Carper
Carr
Chandler
Chapman
Chappie
Cheney
Clay
Clinger
Coats
Cobey
Coelho
Coleman (TX)
Collins
Combest
Conte
Cooper
Coyne
Craig
Crockett
Daniel
Darden
Daschle
Daub
Dellums
Derrick
DeWine
Dicks
Dingell
DioGuardi
Donnelly
Dorgan (ND)
Dowdy
Downey
Duncan
Durbin
Dwyer
Early
Eckart (OH)
Eckert (NY)
Edgar
Edwards (CA)
Emerson
English
Erdreich
Evans (IL)
Fascell
Fawell
Fazio
Feighan
Fiedler
Fish
Flippo
Florio
Foglietta
Foley
Ford (TN)
Fowler
Frank
Franklin
Frenzel
Frost
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gilman
Glickman
Gonzalez
Goodling
Gordon
Gradison
Gray (PA)
Green
Gregg
Grotberg
Guarini
Hall (OH)
Hall, Ralph
Hamilton
Hammerschmidt
Hansen
Hatcher
Hawkins
Hayes
Hefner
Hendon
Henry
Hertel
Hiler
Holt
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jeffords
Jenkins
Johnson
Jones (NC)
Jones (OK)
Jones (TN)
Kanjorski
Kaptur
Kasich
Kastenmeier
Kemp
Kildee
Kindness
Kolbe
Kolter
Kostmayer
LaFalce
Lagomarsino
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
Lungren
MacKay
Manton
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mazzoli
McCain
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McKernan
McMillan
Meyers
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Monson
Montgomery
Moody
Moore
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Natcher
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Ortiz
Owens
Oxley
Packard
Panetta
Parris
Pashayan
Pease
Penny
Pepper
Perkins
Pickle
Porter
Quillen
Rangel
Ray
Regula
Reid
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Roemer
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Rudd
Russo
Sabo
Savage
Saxton
Scheuer
Schneider
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shelby
Shuster
Sikorski
Siljander
Sisisky
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Snowe
Snyder
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stenholm
Stokes
Strang
Stratton
Studds
Stump
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Udall
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weaver
Weiss
Wheat
Whitehurst
Whitley
Whittaker
Whitten
Williams
Wirth
Wise
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Zschau

NAYS—40

Anderson
Archer
Barton
Bennett
Bilirakis
Broyhill
Bruce
Coble
Coleman (MO)
Conyers
Coughlin
Courter
Crane
Dannemeyer
Dickinson
Dornan (CA)
Dreier
Fields
Hartnett
Hopkins
Jacobs
Kleczka
Kramer
Loeffler
Mack
McCandless
Moorhead
Petri
Rahall
Rogers
Schaefer
Schroeder
Shumway
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Stark
Vander Jagt
Weber
Young (FL)

NOT VOTING—47

Addabbo
Aspin
AuCoin
Broomfield
Byron
Campbell
Chappell
Davis
de la Garza
DeLay
Dixon
Dymally
Dyson
Edwards (OK)
Evans (IA)
Ford (MI)
Fuqua
Gibbons
Gingrich
Gray (IL)
Gunderson
Heftel
Hillis
Kennelly
Leland
Madigan
Markey
Mavroules
McKinney
Mikulski
Mitchell
Neal
Nelson
O'Brien
Olin
Price
Pursell
Rose
Roybal
Schuette
Seiberling
Tauke
Traxler
Valentine
Wilson
Young (AK)
Young (MO)

□ 1015

Messrs. DENNY SMITH, ANDERSON, BENNETT, and McCANDLESS changed their votes from "yea" to "nay."

Mr. KILDEE, Mrs. JOHNSON, and Messrs. BROWN of Colorado, BEREUTER, MONSON, and RINALDO changed their votes from "nay" to "yea."

Mr. MILLER of Washington changed his vote from "present" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

RETURN OF H.R. 3003 FOR THE PURPOSE OF MAKING NECESSARY TECHNICAL CORRECTIONS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States, which was read:

To the House of Representatives:

Pursuant to House Concurrent Resolution 247, I am hereby returning the enrolled bill H.R. 3003, "An Act to authorize the Secretary of the Interior to convey certain land located in the State of Maryland to the Maryland-National Capital Park and Planning Commission," to the House of Representatives for the purpose of making necessary technical corrections.

RONALD REAGAN.

THE WHITE HOUSE, *December 17, 1985.*

PERMISSION FOR COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS TO HAVE UNTIL 10 A.M., DECEMBER 27, 1985, TO FILE REPORTS ON H.R. 3498, THE STRATEGIC CAPITAL RESERVE ACT OF 1985, AND H.R. 3667, THE COMPETITIVE TIED AID FUND ACT

Mr. ST GERMAIN. Mr. Speaker, I ask unanimous consent that the Committee on Banking, Finance and Urban Affairs have until 10 a.m., December 27, 1985, to file reports on H.R. 3498, the Strategic Capital Reserve Act of 1985, and H.R. 3667, the Competitive Tied Aid Fund Act.

The gentleman from Ohio, Mr. CHALMERS WYLIE, the ranking minority member, concurs in this request.

The SPEAKER. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

PRESERVING AUTHORITY OF SUPREME COURT POLICE TO PROVIDE PROTECTIVE SERVICES FOR JUSTICES AND COURT PERSONNEL

Mr. GLICKMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3914) to preserve the authority of the Supreme Court Police to provide protective services for Justices and Court personnel, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert:

That the Act entitled "An Act relating to the policing of the building and grounds of the Supreme Court of the United States", as approved August 18, 1949 (40 U.S.C. 13f), section 9(c) of such Act as added by the Act of December 29, 1982 (Public Law 97-390; 96 Stat. 1958), is amended to read as follows:

"(c) The authority created under subsection (a)(2) shall expire one year after the date of enactment of this subsection. The Marshall of the Supreme Court shall report annually to the Congress on March 1 regarding the administrative cost of carrying out his duties under such subsection. Duties under subsection (a)(2)(A) of this section with respect to an official guest of the Supreme Court in any part of the United States (other than the District of Columbia, Maryland, and Virginia) shall be authorized in writing by the Chief Justice of the United States or an Associate Justice of the Supreme Court, if such duties require the carrying of firearms under subsection (a)(5) of this section.".

Mr. GLICKMAN (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Kansas?

Mr. KINDNESS. Mr. Speaker, reserving the right to object, I do so in order to yield to the gentleman from Kansas [Mr. GLICKMAN] to afford him the opportunity to explain the procedure that is being followed at this point regarding the bill.

Mr. GLICKMAN. Mr. Speaker, if the gentleman will yield, on December 12 we passed a bill which provided a 3-year extension on the authority of the Supreme Court Police to provide protective services to the Court. That bill was sent over to the Senate. They have amended it to take the 3 years and move it down to 1 year. They have sent it back here, and we have agreed to accept that amendment. It is just a 1-year extension of current law.

Mr. KINDNESS. Further reserving the right to object, Mr. Speaker, I would urge that there not be an objection and that the unanimous consent request of the gentleman be supported.

I think the 3-year period is perhaps a little long for the exercise of oversight which ought to occur in the following year, and then it may be possible to make it permanent.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Kansas?

There was no objection.

The SPEAKER. Is there objection to the initial request of the gentleman from Kansas?

There was no objection.

A motion to reconsider was laid on the table.

PROVIDING EQUITABLE WAIVER IN COMPROMISE AND COLLECTION OF FEDERAL CLAIMS

Mr. GLICKMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1890) to provide for an equitable waiver in the compromise and collection of Federal claims, with Senate amendments thereto, concur in Senate amendments numbered 1, 2, 4, 5, 6, 8, 9, and 11, and concur in Senate amendments numbered 3, 7, and 10 with amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments and the House amendments to the Senate amendments numbered 3, 7, and 10, as follows:

Page 1, strike out lines 7 and 8 and insert:

(1) in the section heading by striking out "other than" through the end of such heading and inserting in lieu thereof "and of travel, transportation and relocation expenses and allowances";

Page 2, lines 6 and 7, strike out "travel and transportation expenses or allowances or relocation expenses" and insert "travel, transportation or relocation expenses and allowances".

Page 2, line 8, strike out "January 1, 1985,";" and insert "the date of enactment of this section";".

Page 2, lines 17 and 18, strike out "travel and transportation expenses or allowances or relocation expenses," and insert "travel, transportation or relocation expenses and allowances,"

Page 2, line 25 strike out "and inserting in lieu thereof "including"." and insert "through the end of such item and inserting in lieu thereof "and of travel, transportation and relocation expenses and allowances".".

Page 3, line 6, strike out " "including";" and insert " "and";".

Page 3, line 14, strike out "January 1, 1985,";" and insert "the date of enactment of this section";."

Page 3, line 21, strike out " "including"." and insert " "and".".

Page 4, line 2, strike out " "including";" and insert " "and";".

Page 4, line 10, strike out "January 1, 1985,";" and insert "the date of enactment of this section";".

Page 4, line 17, strike out " "including"." and insert " "and".".

House amendments to Senate amendments numbered 3, 7, and 10:

In lieu of Senate amendment numbered 3, insert the following:

Page 2, line 8, of the House engrossed bill, strike out "made on or after January 1, 1985".

In lieu of Senate Amendment numbered 7, insert the following:

Page 3 of the House engrossed bill, beginning on line 13, strike out "made on or after January 1, 1985".

In lieu of Senate Amendment numbered 10, insert the following:

Page 4 of the House engrossed bill, beginning on line 9, strike out "made on or after January 1, 1985" and after line 17 on that page insert the following:

SEC. 4. EFFECTIVE DATE.

The amendments made by section 1 of this Act shall apply to any claim arising out of an erroneous payment of travel, transportation, or relocation expenses and allowances made on or after the date of the enactment of this Act. The amendments made by section 2 and 3 of this Act shall apply to any claim arising out of an erroneous payment of travel and transportation allowances made on or after the date of the enactment of this Act.

□ 1030

Mr. GLICKMAN (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments and the House amendments to the Senate amendments be considered as having been read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Kansas?

There was no objection.

The SPEAKER. Is there objection to the initial request of the gentleman from Kansas?

Mr. KINDNESS. Mr. Speaker, reserving the right to object, I do so for the purpose of again yielding to the gentleman from Kansas. I support the request, in fact.

Mr. GLICKMAN. I thank the gentleman.

Mr. Speaker, this bill was passed earlier, introduced by a former colleague, Sam Hall. It was recommended by the Comptroller General. It would extend the present statutory authority for equitable waiver to include overpayments of travel and transportation expenses and overpayments or relocation expenses.

The Senate has amended the bill to make the provisions of the bill effective as of the date of the enactment. Otherwise, any changes are procedural and nonsubstantive whatsoever. This bill should not be controversial at all, and I would urge its adoption.

Mr. KINDNESS. Mr. Speaker, further reserving the right to object, it might be pointed out that the bill would reduce the number of private bills that have to be dealt with in the Congress and appropriately so.

I support the gentleman's unanimous consent request and urge that it be approved.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kansas?

There was on objection.

A motion to reconsider was laid on the table.

CHEROKEE LEASING ACT

Mr. UDALL. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs, the Committee on Ways and Means, and the Committee on Post Office and Civil Service be discharged from further consideration of the Senate bill (S. 1728) to authorize the Cherokee Nation of Oklahoma to lease certain lands held in trust for up to 99 years, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Arizona?

Mr. CRAIG. Mr. Speaker, reserving the right to object, I do so to inquire of the gentleman what is involved in this legislation.

I yield to the gentleman from Arizona for his response.

Mr. UDALL. Mr. Speaker, S. 1728 would authorize the Cherokee Nation of Oklahoma to lease its lands held in trust for up to 99 years. Presently, the Cherokees are limited to a leasing authority for up to 25 years, which has prohibited them from leasing to the Muskogee Port Authority lands surrounding the Arkansas riverbed. The United States, by treaty in 1835, confirmed the Cherokee's land holdings of 14 million acres in what is now northeastern Oklahoma. This land included a stretch of the Arkansas River.

Under the bill's authority, the Cherokees would issue a lease to the Muskogee City's Port Authority on 3 acres of the Arkansas riverbed. This would resolve a dispute which still exists between the Cherokee Nation and the port authority, although in the Supreme Court ruling of Choctaw Nation versus United States it held "that the United States intended to, and did convey, title to the bed of the Arkansas riverbed * * *." The Court also held that the United States had navigational easement under the commerce clause of the Constitution.

The city of Muskogee has appealed a recent decision by the U.S. Court for the eastern district of Oklahoma, in Cherokee versus Muskogee City-County Port Authority, which was decided in the tribe's favor, regarding the port authority's unauthorized use of Cherokee property. Both the city and the tribe are in support of the legislative settlement as proposed in S. 1728 which would dismiss the port authority's appeal and permit them to sign a lease with the Cherokee's for a 50-year lease for $50,000, with an option for an additional 49 years for an additional $50,000.

S. 1728, as passed by the Senate, contains two nongermane provisions affecting certain civil service benefits of former Federal employees who are now employed by an Indian tribal government. The first provision under section 2 of the bill would amend section 105(e) of the Indian Self-Determination and Educational Assistance Act of 1975 (Public Law 93-638) by extending the timeframe under which Federal employees who choose, after 1985, to work for a tribal government under a "638" contract may retain their Federal benefits; that is contributions to the Federal retirement fund, health insurance, and so forth. This provision has provided an important incentive in encouraging Federal employees to seek employment with tribal governments, particularly where the tribe assumes, under contract, the operation of program services formerly operated by a Federal agency and where such employee may have the specific expertise from prior employment with the same program. The existing law, for purposes of this provision of providing for the civil service benefits option for former Federal employees, would expire on December 31, 1985. Section 2 of S. 1728 would simply extend that timeframe through to December 31, 1988.

Section 3 of S. 1728 would address the inequities of the former Federal employees who are now employed by a tribal government, and who had taken advantage of section 105(e) of Public Law 93-638. If these employees were to reenter the Federal service they would not be able to continue their contributions to the Federal retirement system, although they had been making contributions while employed by a tribal government. Section 3 would permit these employees to retain their Federal retirement benefits upon reemployment by the Federal Government rather than being forced to enter into the new Social Security retirement plan.

S. 1728 was referred not only to my Committee on Interior and Insular Affairs but also the Committees on Post Office and Civil Service, and Ways and Means after Senate referral to the House. Both committees have reviewed and approved for passage those provisions, sections 2 and 3, which also fall within their jurisdiction. Additionally, the administration is in support of this bill in its entirety.

Committee on Ways and Means,
Washington, DC, December 13, 1985.

Hon. Morris K. Udall,
Chairman, Committee on Interior and Insular Affairs, Longworth House Office Building, Washington, DC.

Dear Mr. Chairman: I am writing to advise you that although this is not a legislative procedure I like to follow, I will not object to immediate House consideration of S. 1728, the Cherokee Leasing Act.

In addition to the Committee on Interior and Insular Affairs, S. 1728 was referred to the Committee on Ways and Means. Section 3 of the bill amends the Social Security Act and the Internal Revenue Code to allow Federal employees who leave Federal employment and temporarily work with a tribal organization to retain their exemption from social security coverage upon return to Federal service. This provision parallels the treatment provided to Federal employees who temporarily perform military or reserve duty.

Section 3 of S. 1728 is clearly within the jurisdiction of the Committee on Ways and Means. Normally, both the Subcommittee on Social Security and the full Committee would consider and act upon this legislation before it would be taken up by the full House. I have no strong substantive objections to S. 1728, but I would point out that ordinarily this Committee would object strongly to consideration in the House of legislation that neither the Subcommittee nor the full Committee have had an opportunity to review. Nonetheless, in view of the substantive merits of the legislation, and given the press of time, I will yield to this procedure. However, this should not be construed as a precedent for similar action in the future.

With warm regards, I am
Sincerely yours,
Dan Rostenkowski,
Chairman.

Committee on Post Office
and Civil Service,
Washington, DC, December 13, 1985.

Hon. Thomas P. O'Neill, Jr.,
The Speaker, House of Representatives, Washington, DC.

Dear Mr. Speaker: Please be advised that the Committee on Post Office and Civil Service has no objection to the consideration in the House of the bill S. 1728, which was referred to this Committee as well as the Committees on Interior and Insular Affairs and Ways and Means on December 9, 1985.

Sincerely,
William D. Ford,
Chairman.

Mr. CRAIG. Mr. Speaker, I thank my colleague for that explanation, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1728

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Cherokee Leasing Act".

SEC. 2. AUTHORIZATION FOR 99-YEAR LEASE.

The second sentence of subsection (a) of the first section of the Act entitled "An Act to authorize the leasing of restricted Indian lands for public, religious, educational, recreational, residential, business, and other purposes requiring the grant of long-term leases" approved August 9, 1955 (25 U.S.C. 415), is amended by inserting ", lands held in trust for the Cherokee Nation of Oklahoma," after "the Twenty-nine Palms Band of Luiseno Mission Indians,".

SEC. 3. CERTAIN CIVIL SERVICE BENEFITS FOR FORMER FEDERAL EMPLOYEES WORKING FOR INDIAN TRIBES.

(a) Subsection (e) of section 105 of the Indian Self-Determination Act (25 U.S.C. 450(a)) is amended by striking out "1985" and inserting instead "1988".

(b) Section 210(a)(5)(B)(i) of the Social Security Act (42 U.S.C. 410(a)(5)(B)(i) and section 3121(b)(5)(B)(i) of the Internal Revenue Code of 1954 are each amended—

(1) by striking out "and" at the end of subclause (III),

(2) by striking out "; or" at the end of the subclause (IV) and inserting in lieu thereof ", and", and

(3) by adding after subclause (IV) the following:

"(V) if an individual performing service described in subparagraph (A) returns to the performance of such service after employment (by a tribal organization) to which section 105(e)(2) of the Indian Self-Determination Act applies, then the service performed for that tribal organization shall be considered service described in subparagraph (A); or".

(c) The amendments made by subsection (b) apply to any return to the performance of service in the employ of the United States, or of an instrumentality thereof, after 1983.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Arizona?

There was no objection.

MANY THANKS TO DR. FREEMAN CARY AND BETHESDA NAVAL HOSPITAL

(Mr. BROOKS asked and was given permission to address the House for 1 minute.)

Mr. BROOKS. Mr. Speaker, I want to tell the Members that about a week ago I had an excellent chance to bleed to death without knowing it, and I went and saw Dr. Cary, I struggled down there, and in 5 minutes, Freeman Cary, the physician for the Capitol, said, "You have three options: You can go to the hospital, you can go to the hospital, or you can go to the hospital."

I took one of his options and went out there to Bethesda and those people there did an outstanding job in the admissions. Dr. Bennett, internist, Dr. Edmunds, resident; and Commander Dons, staff, internal medicine; they are young men and it makes you proud of them; 26, 27 years old. They are professionals and they knew what they were doing. They found out what was wrong with me; fixed it, and as soon as I had about 6 pints of blood and said, "You are going to be all right," and sent me off to a ward. The corpsmen were courteous; the nurses were courteous, they shipped me home and I went on home. I am going to be all right; perfect.

I just want to tell the Members that we in this House are indeed fortunate to have somebody like Freeman Cary over there who has got enough sense to know what is wrong with you and enough guts to tell you to go to the hospital when you need to go. Admiral Cary is a doctor with assured competence tempered by broad experience.

I want to add one more thing: About that Bethesda operation, the captain in charge of it, Captain Amis, they all worked at it. I did not pay a lot of attention to names out there; I was not hustling any votes. Not likely.

Mr. Speaker, I want to say in closing, about that hospital, I am reminded of our dear, beloved Member, the late, Republican Member of Congress named Dewey Short. I remember Dewey, one night, back a long time ago when Members used to do those kinds of things, we were out drinking nectar, and he is holding that glass in his hand and he said, "I do not know what they charge for it, but it is worth every penny." Mr. Speaker, that is the way I feel about Bethesda. Thank you.

FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1986

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 344, and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. Res. 344

Resolved, That upon the adoption of this resolution it shall be in order, any rule of the House to the contrary notwithstanding, to consider the joint resolution (H.R. Res. 491) making further continuing appropriations for fiscal year 1986, and for other purposes, in the House, debate on the joint resolution shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations, and the previous question shall be considered as ordered on the joint resolution to final passage without intervening motion except one motion to recommit, and all points of order under clause 7 of Rule XVI are hereby waived against instructions contained in a motion to recommit, if offered by Representative Conte or his designee, containing only the following amendment:

"Effective with the date of enactment of this joint resolution, through twelve o'clock post meridian, eastern standard time, December 19, 1985, none of the funds appropriated by this or any other Act shall be used by the United States Synthetic Fuels Corporation for awards of financial assistance or payments with respect to projects or modules under the United States Synthetic Fuels Corporation Act of 1980."

The SPEAKER. The gentleman from California [Mr. Beilenson] is recognized for 1 hour.

Mr. BEILENSON. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Mississippi [Mr. Lott], for purposes of debate only, pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 344 provides for the consideration of House Joint Resolution 491 in the House. The 1 hour of debate is equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. All points of order against consideration of the joint resolution and against the joint resolution are waived. One motion to recommit is provided. The rule waives clause 7 of rule XVI against instructions printed in the rule if the instructions are offered by Representative Conte or his designee.

House Joint Resolution 491 provides the necessary funding for the continued operation of the Federal Government through Thursday, December 19, 1985. Yesterday, the House rejected the conference report on House Joint Resolution 465, making continuing appropriations for the remainder of fiscal year 1986. As Members are aware, it is imperative that the House proceed to the consideration of this joint resolution. As a result of yesterday's actions, those programs whose appropriations have not been enacted into law through the normal appropriations process are now without funding. The short-term continuing resolution made in order by this rule will allow the Government to function and afford the Appropriations Committee sufficient time to go back to conference with the other body and report out another conference report for the rest of fiscal year 1986.

Mr. Speaker, the rule that is before the Members provides for a motion to recommit. The rule waives points of order against instructions printed in the rule for failure to comply with the provisions of clause 7 of rule XVI. That rule prohibits the consideration of amendments that are not germane to the bill under consideration. This waiver is necessary to allow Mr. Conte, or his designee, the opportunity to offer a motion to recommit with instructions pertaining to the Synthetic Fuels Corporation. Specifically, the instructions printed in the rule prohibit the Synthetic Fuels Corporation from obligating funds and making awards or payments for projects or modules for the duration of this continuing resolution. The House has voted on this issue several times in recent years. This motion to recommit will allow the House to again express its position on the practices of the Synthetic Fuels Corporation. It is important to note that the prohibition contained in the instructions printed in the rule continue only for the duration of the continuing resolution—that is through Thursday, December 19, 1985.

Mr. Speaker, it is imperative that we move to the expeditious consideration of this joint resolution.

☐ 1040

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it's beginning to look a lot like Christmas. Unfortunately, "CR" does not stand for "Christmas recess."

I just have to wonder, whose bright idea it was last night to stay around here till the ridiculous hours that we stayed and think that we could get through a continuing resolution?

It was preordained that we would make a mess last night, and that is exactly what we did. How many times does history have to repeat itself on continuing resolutions? Every year we do this; over and over we go again. I mean, it is a part of the Christmas season.

So here we are back again with a short continuing resolution. I feel deja vu here. How many times are we going to have to do it?

This short stopgap continuing resolution would carry us through midnight Thursday, and it was necessitated by last night's overwhelming vote against the permanent continuing resolution. I commend the distinguished chairman of the Appropriations Committee for abandoning his earlier short term continuing resolution that would have carried us through Christmas Eve. We could all have been here Christmas Eve singing "Jingle Bells." I know it was not his intention to keep the House around that long, but Murphy's Law has a way of operating in this body. It tends to provide work to fill the allocated time. If we had till Christmas Eve, we would stay to Christmas Eve. So at least the chairman decided that it would be better if we just go till Thursday midnight.

I shudder to think of what we would do if we stayed around here through the rest of this week and right up until next Tuesday night.

Mr. Speaker, House Resolution 344 is a rule providing for the consideration of House Joint Resolution 491, providing for the continuing appropriations. It calls for consideration in the House instead of in the Committee of the Whole, with 1 hour of general debate divided between the chairman and the ranking member of the committee.

No amendments will be in order, since the previous question is ordered to final passage without intervening motion except one motion to recommit. The recommital motion may be a motion offered by the gentleman from Massachusetts which prevents the Synfuels Corporation from awarding financial assistance or payments between now and Friday. That will be subject to an additional 10 minutes of debate under the House rules.

Mr. Speaker, I urge the adoption of this short continuing resolution. I urge the conferees to get back together quickly and bring us back something that we can pass. But if we wait around here till 10 or 11 o'clock tonight, it could happen once again that we will not have a continuing resolution. I hope that our leadership will consult across the aisle and be sensitive to the Members' concerns on this continuing resolution and on the schedule that we have in the hopefully 1 remaining day or so.

While I am at it, I would just like to remind my colleagues, if any of them have children in school, if any of them would like to be with their families sometime or other: Take a look at next August's schedule. The House is scheduled now not to go out until August 15, according to our calendar, which means you would get about 1 week with your family.

I know we are all thinking about Christmas now and trying to complete our necessary work, but I would urge you right now, any of you in the family caucus who are young enough to have some children in school, you need to talk to your leadership or we are going to be sitting around here next August 15 and 17 and our kids will be back in school the next week.

With that, Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts [Mr. CONTE].

Mr. CONTE. Mr. Speaker, I rise in support of this rule for this short-term extension of the continuing resolution.

I want to thank Chairman PEPPER and the Rules Committee for making in order my motion to recommit with instructions to add a new section to the resolution. This new section simply places a moratorium on spending by the Synfuels Corporation until the Congress has a chance to resolve the issue on a final continuing resolution. The moratorium would extend until the expiration date of the continuing resolution—December 19, 1985. We have to act now before millions and millions are committed in the next few days.

I urge my colleagues to support this rule.

Mr. BEILENSON. Mr. Speaker, I have no further requests for time.

Mr. LOTT. Mr. Speaker, I yield back the balance of my time.

Mr. BEILENSON. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agree to.

A motion to reconsider was laid on the table.

Mr. WHITTEN. Mr. Speaker, pursuant to the rule just adopted, I call up the joint resolution (H.J. Res. 491) making further continuing appropriations for fiscal year 1986, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The text of the joint resolution is as follows:

H.J. RES. 491

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the joint resolution of December 13, 1985 (Public Law 99-179) is hereby amended by striking out "Six o'clock post meridian, eastern standard time, December 16, 1985" and inserting in lieu thereof "December 19, 1985".

The SPEAKER pro tempore (Mr. SCHEUER). Pursuant to the rule, the gentleman from Mississippi [Mr. WHITTEN] will be recognized for 30 minutes, and the gentleman from Massachusetts [Mr. CONTE] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. WHITTEN].

Mr. WHITTEN. Mr. Speaker, I yield myself such time as I may consume.

GENERAL LEAVE

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the consideration of the joint resolution (H.J. Res. 491) making further continuing appropriations for fiscal year 1986.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. WHITTEN. Mr. Speaker, in line with discussions last evening, we have before us House Joint Resolution 491. It provides for an extension of the last resolution which expired at 6 o'clock on Monday afternoon.

The resolution we have before us today reads as follows: "That the joint resolution of December 13, 1985 (Public Law 99-179) is hereby amended by striking out 'six o'clock post meridian, eastern standard time, December 16, 1985' and inserting in lieu thereof 'December 19, 1985'."

This is a straightforward resolution to hold the Government intact for 4 days while we complete a regular full year continuing resolution.

May I say to my colleagues that with about seven subcommittees involved, with all the issues that were before us, and with many, many legislative provisions that have not been reconciled or decided upon by the legislative committees, we in the Appropriations Committee did the very best we could to bring to you a reasonable bill.

As I pointed out, in about every direction we looked, we were $4 billion to $6 billion below the recommendations of the President and below this year's expenditures. We were below in every area.

But in considering the vote after the joint resolution failed, personally I saw many areas where there needs to be an adjustment. There are three States that are adversely affected because of the drinking age of drivers. These States wrote me, but in the hurly-burly of trying to handle so many things at one time, that was unintentionally ignored.

I find many other areas that I believe should be looked at. Many of our colleagues were afraid that something was being done having to do with salary increases. That is not true, but that did not keep our friends from thinking that was true.

So I expect to recommend to the Speaker that he appoint, in connection with the continuing resolution, the chairmen of the regular appropriation bills the senior members of the committee, as we have done heretofore, to reconsider what has already been recommended and go over each of these bills and see if we can relieve those places where pressure exists and where people are raising questions about them.

So what I am asking the Members to do is to go along with us here for 4

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days so we have time to do our regular resolution.

So I urge the Members to vote with us here. Let us hold the line for 4 days, and your Committee on Appropriations will make an effort to correct these places where there seems to be considerable opposition. I hope the Members will support us in this effort.

☐ 1050

Mr. CONTE. Mr. Speaker, by voting down the continuing resolution last night, we have gotten ourselves in a real pickle. That conference report was carefully balanced to accommodate the other body, and the administration. At the moment, it is not clear now how we are going to change that agreement so that it can pass this House at a reasonable time and retain the critical accommodations which we made with the administration and the other body. However, the current continuing resolution expired last night at 6 o'clock and it is clear that we need to pass an extension very quicky to avoid a shutdown of the Government and to give us time to determine whether we can still pass a continuing resolution for the balance of the year.

It is particularly important that we avoid a shutdown of the Government, which would mean furloughs and short paychecks for Government employees who then become innocent victims of our disagreement.

I hope that we will pass this extension after we have approved my motion to recommit to prevent some last-minute contracting boondoggles by the Synfuels Corporation. I understand that the other body would with maybe one exception accept this amendment and we will be back here early this afternoon.

I only want to point out that we enacted the Budget Act in 1974, and the first year under the Budget Act, fiscal 1977, we passed 13 appropriation bills before the start of the fiscal year. Not since that time have we passed all the appropriation bills on time.

I said on this floor more than one time that if I were not a member of the Appropriations Committee I would be leading a revolt in this House against this system where you take all these bills that are not passed, which is not the fault of the Appropriations Committee—I will go into that later—and lump them together in a continuing resolution and tell this House that you are either going to accept that continuing resolution or not and you are not going to have a say on how that continuing resolution is put together. That is wrong. That is wrong and every Member of this House should be down in that well fighting this system.

Now, what is wrong with the system? In 1974, we created the Budget Act and we set another layer up, another bureaucracy right in the House of Representatives.

Now, we cannot do anything on the Appropriations Committee until the Budget Committee passes the budget resolution. Only once have they passed a budget resolution on time.

Now to compound the problem, we passed Gramm-Rudman. You wait until we get back here in January and February. This House will be paralyzed. There will be chaos here in the House.

We have to come up with $11.7 billion on the 1986 bill. We cannot even come up with the figure that they gave us as a target in the budget resolution.

I ask you, I ask this House, where are we going to get another $11.7 billion, when we cannot even meet the target now?

Do you know what is going to happen? Biomedical research is going to get cut. AIDS research is going to get cut. The Coast Guard is going to get it right between the eyes. They already got it under the old Budget Act.

Program after program, UDAG, commerce, community development, housing, everything will go down the drain because this House panicked and passed Gramm-Rudman.

Now, you think things are paralyzed here today. You just wait and see when we get back.

I told you so.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. WHITTEN. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. Pursuant to House Resolution 344, the previous question is considered as ordered on the resolution.

The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. CONTE

Mr. CONTE. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the joint resolution?

Mr. CONTE. I am opposed to the joint resolution as it is presently written, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. CONTE moves to recommit House Joint Resolution 491 to the Committee on Appropriations, with instructions to that committee to report the resolution back to the House forthwith, with the following amendment:

SEC. 2. Effective with the date of enactment of this joint resolution, through twelve o'clock post meridian, eastern standard time, December 19, 1985, none of the funds appropriated by this or any other Act shall be used by the United States Synthetic Fuels Corporation for awards of financial assistance or payments with respect to projects or modules under the United States Synthetic Fuels Corporation Act of 1980.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. CONTE] is recognized for 5 minutes.

Mr. CONTE. Mr. Speaker, I yield to the gentleman from North Carolina [Mr. BROYHILL].

Mr. BROYHILL. Mr. Speaker, I thank the gentleman for yielding.

We really do not want to take all this time. I just want to make sure that the Members understand what this motion is.

This is a motion to recommit with instructions, that is, with an amendment that would prevent the U.S. Synthetic Fuels Corporation from signing any contracts until the expiration of this resolution on midnight, December 19.

What this motion is intended to do and the need for it is to assure that the SFC is not going to be expending hundreds of millions of dollars in the interim.

We have had a consensus reached on this and we can zero out the dollars that are in this resolution.

The staff of the Corporation has been working on projects that if they are approved in the interim, we could find that billions of dollars would be spent. The money would be gone and that would not be much of a Christmas present for the taxpayers of this country.

Mr. SHARP. Mr. Speaker, will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from Indiana.

Mr. SHARP. Mr. Speaker, I appreciate the gentleman yielding.

I rise in strong support of this motion of the gentleman from Massachusetts [Mr. CONTE] and the gentleman from North Carolina [Mr. BROYHILL]. They are absolutely correct. The Corporation will be killed under the regular continuing resolution and the risk is that they will commit us to hundreds of millions of dollars worth of expenditures in the next couple days.

Mr. BROYHILL. Mr. Speaker, I yield to the gentleman from Michigan [Mr. WOLPE] who has also worked very hard on this issue.

Mr. WOLPE. Mr. Speaker, I thank the gentleman for yielding.

I want to associate myself with the remarks of the gentleman from North Carolina.

I hope that the recommittal motion will enjoy overwhelming bipartisan support.

Mr. BROYHILL. Mr. Speaker, I yield to the gentleman from Ohio [Mr. OXLEY].

Mr. OXLEY. Mr. Speaker, I want to thank the gentleman for yielding. I want to echo his remarks.

We have a chance to save the taxpayers a billion dollars. It is not very often that we have that opportunity and we should support the Conte motion to recommit.

Mr. CONTE. Mr. Speaker, my motion to recommit with instructions would add a new section to this resolution that would simply prohibit the Synfuels Corporation from making any new obligations or commitments this week.

I realize this is an unusual procedure—attaching a rider to a short continuing resolution—but this is an unusual situation, one that is out of control, requiring emergency action by the Congress.

After 27 years in this House, I've finally seen the ultimate in bureaucratic arrogance. Despite an overwhelming House vote to abolish the SFC and despite tentative agreement to accept the House position in conference, the Corporation scheduled a meeting for today in order to commit millions more in subsidies before Congress has the chance to shut the doors on this wasteful agency. I don't know if the meeting will take place this week or not, but we can't afford to take the chance.

According to a recently released announcement, the corporation will consider and review several pending projects totaling almost a billion dollars in subsidies. That's millions and millions out the door despite the clear intent of Congress that this spending should stop immediately.

If we don't act now, on this resolution, these bandits on the Synfuels Board will award financial assistance to boondoggles like the Seep Ridge oil shale project in Utah. Under the current proposal, the project will receive $184 million in loan and price guarantees to subsidize production at $55 per barrel, more than twice the market rate. Moreover, the Energy Department claims that Seep Ridge will offer no technological advance for synfuels development—the technology is already developed.

The Corporation has other turkey projects warming up and ready to sever. The $900 million Union Oil disaster could be finalized, and the Northern Peat project is still waiting in the wings.

Mr. Speaker, this motion to recommit is designed to put things on hold for this week until the Congress can act on a final continuing resolution and let me emphasize to the House that the conferees on the recently defeated continuing resolution agreed to abolish the SFC, that was the original House position supported by a vote of 312 to 111.

This planned action by the Synfuels Corporation is an outrage. It's an insult to this Congress and to the American people. We can't afford to let those bandits raid the Treasury during this short window of vulnerability.

I urge my colleagues to join me in saving millions and millions of the taxpayers' money by adopting this motion to recommit.

Mr. Speaker, I also want to include for the Record two letters: one that I wrote to the Synfuels Board Chairman and one from the administration supporting the abolition of the Corporation.

Executive Office
of the President,
Office of Management and Budget,
Washington, DC, December 12, 1985.

Hon. Jamie L. Whitten,
House of Representatives,
Washington, DC.

Dear Jamie: The Administration has been requested to state its position on whether or not funding for the Synthetic Fuels Corporation should be continued.

When the Synthetic Fuels Corporation was created in 1980, oil prices were increasing rapidly and were projected to reach $75 to $125 per barrel by 1990. Experts were also predicting future oil shortages and the possibility of increased OPEC control over our energy future. Since oil prices peaked in 1981, the world energy outlook has improved substantially. Oil prices have declined by over 30 percent and because of world-wide overproduction oil prices may go down even further. In addition, our oil imports have declined by over 25 percent since 1980, and the Strategic Petroleum Reserve, now containing nearly 490 million barrels, provides over 300 days of protection if OPEC halted supplies, as opposed to 17 days in 1980.

The Administration believes these fundamental changes make it impossible for a commercial synthetic fuels industry to develop without enormous budget outlays that would not be offset by any economic benefits.

In addition, passage of the Gramm-Rudman-Hollings legislation and our need to reduce the Federal deficit requires us to reduce unnecessary government spending. Accordingly, the Administration no longer believes that continued funding of the Synthetic Fuels Corporation serves any useful purpose. Moreover, the Administration now supports efforts to rescind all funding available to the Corporation and opposes any efforts to use such monies to fund any other programs.

Sincerely yours,
James C. Miller III,
Director.

House of Representatives,
Committee on Appropriations,
Washington, DC, December 16, 1985.

Mr. Edward E. Noble,
Chairman of the Board, Synthetic Fuels Corporation, Washington, DC.

Dear Mr. Noble: As the senior House Republican conferee on H.J. Res. 465, the continuing resolution for fiscal year 1986, I wanted to advise you of the conferees' actions with regard to the Synthetic Fuels Corporation.

Although the conference report has not yet been ratified by the full House or Senate, the conferees have at least tentatively agreed that no further funds should be obligated by the Synthetic Fuels Corporation, effective immediately. In light of this agreement, I would request that the Corporation's consideration of an award of financial assistance for the Seep Ridge oil shale project, which is scheduled for consideration by the Board on December 17th, be postponed until further notice. Under the circumstances, consideration of this project would be inconsistent with Congressional intent with regard to the termination of the Synthetic Fuels Corporation's program.

I would appreciate your apprising me of your intentions with regard to consideration of this project.

With my thanks for your consideration, and my best wishes, I am

Cordially yours,
Silvio O. Conte,
Ranking Minority Member.

Mr. RUDD. Mr. Speaker, will the gentleman yield for a question?

Mr. CONTE. Sure.

Mr. RUDD. Mr. Speaker, I would ask the distinguished ranking member if there is not a possibility some way of saving the basic legislation to maintain a possibility of keeping Synfuels as an idea. Get rid of the Board, get rid of all the bad things that have taken place and all the things that they have done, but keep the legislation intact, because if those long gas lines ever start again, and the gentleman and I know they will, we will never get this bill through again because of all the trouble we had to get it through in the first place.

Mr. CONTE. Well, under the Interior bill that we reached an agreement on, we put in $10 million to terminate the Synfuels Corporation and there is $750 million, $400 million appropriated and $350 million put in reserve for clean coal technology.

Mr. RUDD. Mr. Speaker, I thank the gentleman.

Mr. WHITTEN. Mr. Speaker, I rise in opposition to the amendment and I yield to the gentleman from Colorado.

Mr. STRANGE. Mr. Speaker, I thank the gentleman from Mississippi.

I would like to take exception to a couple comments made by my friend, the gentleman from Massachusetts, regarding the use of oil shale synthetic fuel funds in Colorado.

I think it is important for the Members to know that not one single penny of Federal funds or taxpayers' dollars has been spent in the State of Colorado on synfuels in the last 15 years.

Mr. CONTE. Let us keep it that way.

Mr. STRANG. I would like to point out that the Union Oil Co. has spent nearly $1 billion of their own money in order to make it possible for this country to know that it can have a commercial process when the plug is pulled in 1993.

I think it is a shame to use this kind of number juggling, smoke screens and mirrors, to save moneys that are not going to be spent.

Mr. WHITTEN. Mr. Speaker, may I say, when this was raised the other day on the floor by my colleague, the gentleman from Massachusetts, there was no objection to his amendment at that time.

It was found, however, that if it were adopted, the leadership on the Republican side of the other body said they would not consider it. For that reason, we objected to it at that time.

Now, may I ask my colleague if he has an arrangement on the Senate side so that they will go along with this motion and the resolution?

I yield to the gentleman from Massachusetts.

Mr. CONTE. We are working with them right now, may I say to the Chairman. I hope we can resolve it real quickly. This only does what was in the old continuing resolution.

Mr. WHITTEN. Mr. Speaker, I want to call attention to the fact that we did not object the other day.

Mr. CONTE. Mr. Speaker, would the gentleman from Mississippi yield to me for 30 seconds?

Mr. WHITTEN. Yes; I yield to the gentleman from Massachusetts.

□ 1105

Mr. CONTE. This Union Oil deal in Colorado, they have a letter of intent out there for $900 million for Colorado, and that shale is going to produce oil at $72 a barrel. I just hope that Colorado keeps paying for it themselves.

Mr. WHITTEN. May I say to my colleague, our good friend, the gentleman from Texas, Jack Brooks, got us off to a good start today so let us keep in that frame of mind.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. RUSSO. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

Pursuant to the provisions of clause 5, rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of the passage of the joint resolution.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 392, nays 20, answered "present" 1, not voting 21, as follows:

[Roll No. 463]

YEAS—392

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Atkins
AuCoin
Badham
Barnard
Barnes
Bartlett
Barton
Bateman
Bates
Bedell
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Biaggi
Bilirakis
Bliley
Boehlert
Boggs
Boland
Boner (TN)
Bonior (MI)
Bonker
Borski
Bosco
Boucher
Boulter
Boxer
Breaux
Brooks
Broomfield
Brown (CA)
Broyhill
Bruce
Bryant
Burton (CA)
Burton (IN)
Bustamante
Byron
Callahan
Campbell
Carney
Carper
Carr
Chandler
Chapman
Chappell
Chappie
Cheney
Clay
Clinger
Coats
Cobey
Coble
Coelho
Coleman (MO)
Coleman (TX)
Combest
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Craig
Crane
Crockett
Daniel
Dannemeyer
Darden
Daschle
Daub
de la Garza
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Donnelly
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Duncan
Dwyer
Dyson
Early
Eckart (OH)
Eckert (NY)
Edgar
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Evans (IL)
Fascell
Fawell
Fazio
Feighan
Fiedler
Fields
Fish
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Fowler
Frank
Franklin
Frenzel
Frost
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gordon
Gradison
Gray (PA)
Green
Gregg
Grotberg
Guarini
Gunderson
Hall (OH)
Hall, Ralph
Hamilton
Hammerschmidt
Hartnett
Hatcher
Hawkins
Hayes
Hefner
Heftel
Hendon
Henry
Hertel
Hiler
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Johnson
Jones (NC)
Jones (OK)
Jones (TN)
Kanjorski
Kaptur
Kasich
Kastenmeier
Kemp
Kennelly
Kildee
Kindness
Kleczka
Kolbe
Kostmayer
LaFalce
Lagomarsino
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Loeffler
Long
Lowery (CA)
Lowry (WA)
Luken
Lungren
Mack
MacKay
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCain
McCandless
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McKernan
McMillan
Meyers
Mica
Mikulski
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mitchell
Moakley
Molinari
Montgomery
Moody
Moore
Moorhead
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Myers
Natcher
Neal
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens
Oxley
Packard
Panetta
Parris
Pashayan
Pease
Penny
Pepper
Petri
Pickle
Porter
Pursell
Rangel
Ray
Regula
Reid
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Roemer
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Rudd
Russo
Sabo
Savage
Saxton
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Seiberling
Sensenbrenner
Sharp
Shaw
Shelby
Shumway
Shuster
Sikorski
Siljander
Sisisky
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Snyder
Solarz
Solomon
Spence
Spratt
St Germain
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weaver
Weber
Weiss
Wheat
Whitehurst
Whitley
Whittaker
Whitten
Williams
Wolf
Wolpe
Wortley
Wright
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zschau

NAYS—20

Brown (CO)
Durbin
Hansen
Kolter
Kramer
Lujan
Lundine
Michel
Mollohan
Monson
Murtha
Nielson
Perkins
Rahall
Schaefer
Smith, Denny (OR)
Staggers
Strang
Wirth
Wise

ANSWERED "PRESENT"—1

Gonzalez

NOT VOTING—21

Addabbo
Aspin
Collins
Davis
Dixon
Dymally
Evans (IA)
Fuqua
Goodling
Gray (IL)
Hillis
Lott
Madigan
McKinney
Nelson
O'Brien
Price
Quillen
Wilson
Wyden
Young (MO)

□ 1115

Mr. MOLLOHAN changed his vote from "yea" to "nay."

Messrs. FIELDS, DAUB, and LEHMAN of Florida changed their votes from "nay" to "yea."

So the motion to recommit was agreed to.

The result of the vote was announced as above recorded.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves to report House Joint Resolution 491 back to the House with an amendment as follows: Amendment: At the end of the resolution, insert the following:

SEC. 2. Effective with the date of enactment of this joint resolution, through twelve o'clock post meridian, eastern standard time, December 19, 1985, none of the funds appropriated by this or any Act shall be used by the United States Synthetic Fuels Corporation for awards of financial assistance or payments with respect to projects or modules under the United States Synthetic Fuels Corporation Act of 1980.

The motion was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the joint resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DANNEMEYER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. The Chair will advise Members that this will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 334, nays 74, not voting 26, as follows:

[Roll No. 464]

YEAS—334

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Aspin
Atkins
AuCoin
Badham
Barnard
Barnes
Bartlett
Bateman
Bates
Beilenson
Bennett
Bereuter
Berman
Bevill
Biaggi
Bliley
Boehlert
Boggs
Boland
Boner (TN)
Bonior (MI)
Bonker
Borski
Bosco
Boucher
Boxer
Breaux
Brooks
Broomfield
Brown (CA)
Bryant
Burton (CA)
Bustamante
Byron
Callahan
Campbell
Carney
Carper
Carr
Chandler
Chapman
Chappell
Clay
Clinger
Coelho
Coleman (MO)
Coleman (TX)
Conyers
Cooper
Coughlin
Courter
Coyne
Crockett
Daniel
Darden
Daschle
Daub
de la Garza
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dowdy
Downey
Durbin
Dwyer
Dyson
Early
Eckart (OH)
Eckert (NY)
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Evans (IL)
Fascell
Fazio
Feighan
Fiedler
Fish
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Fowler
Frank
Frost
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Gordon
Gradison
Gray (PA)
Green
Grotberg
Guarini
Gunderson
Hall (OH)
Hamilton
Hammerschmidt
Hatcher
Hawkins
Hayes
Hefner
Heftel
Hendon
Hiler
Holt
Horton
Howard
Hoyer
Huckaby
Hughes
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Jones (NC)
Jones (OK)
Jones (TN)
Kanjorski
Kasich
Kastenmeier
Kemp
Kennelly
Kildee
Kindness
Kleczka
Kolbe
Kolter
Kostmayer
LaFalce
Lantos
Latta
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lipinski
Lloyd
Loeffler
Long
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
MacKay
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McKernan
McMillan
Meyers
Mica
Michel
Mikulski
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moore
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Natcher
Neal
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens
Oxley
Panetta
Parris
Pashayan
Pease
Penny
Pepper
Petri
Pickle
Pursell
Quillen
Rahall
Rangel
Ray
Regula
Reid
Richardson
Rinaldo
Rodino
Roe
Roemer
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Rudd
Sabo
Savage
Saxton
Scheuer
Schneider
Schuette
Schulze
Schumer
Seiberling
Sharp
Shaw
Shelby
Shuster
Sikorski
Sisisky
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Robert (OR)
Snowe
Snyder
Solarz
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stokes
Stratton
Studds
Sundquist
Sweeney
Swift
Synar
Tallon
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traxler
Udall
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weaver
Weiss
Wheat
Whitehurst
Whitley
Whittaker
Whitten
Williams
Wise
Wolf
Wolpe
Wortley
Wright
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zschau

NAYS—74

Armey
Barton
Bedell
Bentley
Bilirakis
Boulter
Brown (CO)
Bruce
Burton (IN)
Chappie
Cheney
Coats
Cobey
Coble
Combest
Craig
Crane
Dannemeyer
DeLay
Dornan (CA)
Dreier
Edgar
Fawell
Fields
Franklin
Frenzel
Gregg
Hall, Ralph
Hansen
Hartnett
Henry
Hertel
Hopkins
Hubbard
Hunter
Kramer
Lagomarsino
Leach (IA)
Lewis (FL)
Lightfoot
Lungren
Mack
Marlenee
Martin (IL)
McCain
McCandless
Monson
Moorhead
Nielson
Packard
Perkins
Porter
Ridge
Ritter
Roberts
Robinson
Russo
Schaefer
Sensenbrenner
Shumway
Siljander
Smith, Denny (OR)
Smith, Robert (NH)
Solomon
Stenholm
Strang
Stump
Swindall
Tauke
Traficant
Vucanovich
Walker
Weber
Wirth

NOT VOTING—26

Addabbo
Broyhill
Collins
Conte
Davis
Duncan
Dymally
Evans (IA)
Fuqua
Goodling
Gray (IL)
Hillis
Johnson
Kaptur
Livingston
Madigan
Martin (NY)
McKinney
Mitchell
Nelson
O'Brien
Price
Schroeder
Wilson
Wyden
Young (MO)

□ 1130

Mr. CONYERS changed his vote from "nay" to "yea."

So the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON HOUSE JOINT RESOLUTION 465, FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 1986

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the joint resolution (H.J. Res. 465) making further continuing appropriations for the fiscal year 1986, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and request a further conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi? The Chair hears none, and, without objection, appoints the following conferees: Messrs. WHITTEN, BOLAND, NATCHER, SMITH of Iowa, ADDABBO, YATES, OBEY, ROYBAL, BEVILL, CHAPPELL, LEHMAN of Florida, DIXON, FAZIO, HEFNER, CONTE, McDADE, MYERS of Indiana, COUGHLIN, KEMP, REGULA, Mrs. SMITH of Nebraska, and Mr. SKEEN.

There was no objection.

LAW ENFORCEMENT OFFICERS PROTECTION ACT OF 1985

Mr. HUGHES. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3132) to amend chapter 44, of title 18, United States Code, to regulate the manufacture, importation, and sale of armor piercing ammunition, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3132

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Law Enforcement Officers Protection Act of 1985".

SEC. 2. DEFINITION OF ARMOR PIERCING AMMUNITION.

Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

"(21) The term 'armor piercing ammunition' means—

"(A) ammunition containing a projectile or projectile core; or

"(B) a projectile or projectile core (for use in ammunition);

that is constructed entirely (excluding the presence of traces of other substances) from one or a combination of any of the following: tungsten alloys, steel, iron, brass, bronze, beryllium copper, or uranium. Such term does not include shotgun shot so constructed in order to comply with Federal or State law, frangible projectiles designed for target shooting, ammunition containing such frangible projectiles, or any ammunition, projectile, or projectile core which the Secretary determines is primarily intended to be used for sporting purposes.".

SEC. 3. PROHIBITION OF MANUFACTURING OR IMPORTING OF ARMOR PIERCING AMMUNITION.

Section 922(a) of title 18, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (5);

(2) by striking out the period at the end of paragraph (6) and inserting "; and" in lieu thereof; and

"(3) by adding at the end the following:

"(7) for any person to manufacture or import armor piercing ammunition, except that this paragraph shall not apply to—

"(A) the manufacture or importation of such ammunition for the use of the United States or any department or agency thereof or any State or any department, agency, or political subdivision thereof;

"(B) the manufacture of such ammunition for the purpose of exportation; and

"(C) any manufacture or importation for the purposes of testing or experimentation authorized by the Secretary.".

SEC. 4. LICENSE FEES.

(a) MANUFACTURER.—Subparagraph (A) of section 923(a)(1) of title 18 United States Code, is amended to read as follows:

"(A) of destructive devices, ammunition for destructive devices, or armor piercing ammunition, a fee of $1,000 per year;".

(b) CONFORMING AMENDMENT.—Subparagraph (C) of section 923(a)(1) of title 18, United States Code, is amended to read as follows:

"(C) of ammunition for firearms, other than ammunition for destructive devices or armor piercing ammunition, a fee of $10 per year.".

(c) IMPORTER.—Section 923(a)(2) of title 18, United States Code, is amended by striking out subparagraphs (A) through (B) and inserting in lieu thereof the following:

"(A) of destructive devices, ammunition for destructive devices, or armor piercing ammunition, a fee of $1,000 per year; or

"(B) of firearms other than destructive devices or ammunition for firearms other than destructive devices, other than armor piercing ammunition, a fee of $50 per year.".

SEC. 5. REVOCATION OF DEALER'S LICENSE IN CASES OF TRANSFERS OF ARMOR PIERCING AMMUNITION AFTER NOTICE FROM SECRETARY.

The first sentence of section 923(e) of title 18, United States Code, is amended by striking out "under this section" and all that follows through the end of the sentence and inserting in lieu thereof the following: "under this section, if the holder of such license—

"(1) being a licensed dealer, willfully transfers armor piercing ammunition in the course of business for any purpose (other than a purpose specified in subparagraph (A), (B), or (C) of section 922(a)(7) of this title) and before such transfer such dealer has notice from the Secretary adequately identifying such ammunition and specifying that such ammunition is armor piercing ammunition; or

"(2) violates any provision of this chapter or any rule or regulation prescribed by the Secretary under this chapter.".

SEC. 6. MARKING OF ARMOR PIERCING AMMUNITION.

Section 923 of title 18, United States Code, is amended by adding at the end the following:

"(k) Licensed importers and licensed manufacturers shall mark armor piercing ammunition and the packaging thereof in such such manner as the Secretary shall by regulations prescribe.".

SEC. 7. MANDATORY PENALTY AMENDMENTS.

Section 929 of title 18, United States Code, is amended—

(1) so that subsection (a) reads as follows:

"(a)(1) Whoever, during and in relation to the commission of a crime of violence which may be prosecuted in a court of the United States, including a crime of violence which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device and which may be prosecuted in a court of the United States—

"(A) uses or carries a firearm; and

"(B) is in possession of armor-piercing ammunition capable of being fired in that firearm;

shall, in addition to the punishment provided for the commission of such crime of violence, be imprisoned not less than five nor more than ten years.

"(2) Notwithstanding any other provision of law, the court shall not suspend the sentence of a person convicted of a violation of this subsection, nor place that person on probation, nor shall the term of imprisonment imposed under this subsection run concurrently with any other term or imprisonment. A person sentenced under this subsection shall not be eligible for parole during the term of imprisonment imposed under this subsection."; and

(2) in subsection (b)—

(A) by striking out "handgun" and inserting "firearm" in lieu thereof;

(B) by striking out the one-em dash and all that follows through "(1)";

(C) by striking out "; and" at the end of paragraph (1) and inserting a period in lieu thereof;

(D) by realigning the subsection as amended by subparagraphs (A), (B), and (C) so that such subsection is flush to the margin; and

(E) by striking out paragraph (2).

SEC. 8. EFFECTIVE DATES.

The amendments made by this Act shall take effect on the date of enactment of this Act, except that the amendments made by sections 3, 4, 5, and 6 of this Act shall take effect on the first day of the first calendar month which begins more than 90 days after the date of enactment of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. McCOLLUM. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The gentleman from New Jersey [Mr. HUGHES] will be recognized for 20 minutes and the gentleman from Florida [Mr. McCOLLUM] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, I yield myself such time as I may consume.

□ 1140

Mr. Speaker, the Committee on the Judiciary Favorably reports the bill, H.R. 3132, the Law Enforcement Officers Protection Act of 1985.

One of the new dangers that our Nation's police officers face as they patrol our streets and highways, and investigate the activities of racketeers and drug traffickers, is that the criminals are arming themselves with what are called cop-killer bullets—ammunition that is specially designed to penetrate their protective armor.

This bill reflects almost 4 years of work on this problem by the Subcommittee on Crime, the Committee on the Judiciary, and the administration. The result is a balanced, workable bill that will provide law enforcement officers with protection from armor-piercing ammunition and which in no way will interfere with sportsmen and hunters.

The ammunition covered by the bill is carefully and narrowly defined, and has no sporting purpose. The bill would prohibit the manufacture, importation, and sale of this ammunition except for limited purposes of Government use, testing and research, or for export.

While we don't know exactly how much armor-piercing ammunition is now available on dealers' shelves, the administration's experts have said that several million rounds could be available. It is this ammunition, now on dealers' shelves, which presents the greatest danger to our Nation's police officers.

Legitimate ammunition manufacturers who make this type of ammunition have voluntarily agreed to restrict sale only for law enforcement purposes. Although they are not legally bound by those agreements, as a practical matter, these manufacturers are not now a source of this ammunition for criminal use. This legislation would convert those voluntary agreements into a statutory ban.

The danger faced by police is from the armor-piercing ammunition already in circulation. This bill gives the Secretary of the Treasury the ability to prevent its sale to the general public after the Secretary sends a notice to licensed dealers which adequately identifies this ammunition.

This bill will give our Nation's police officers, and I might add, high Government officials, as well, an important added margin of safety.

At the suggestion of the gentleman from Texas [Mr. BROOKS] we have added a single word amendment to clarify the civil prohibition on sale of this ammunition that licensed dealers are subject to the civil sanctions under this act if they "willfully transfer" the armor-piercing ammunition.

The courts consistently urge Congress to state clearly what we mean when we use the term "willfully." Since this is an administrative provision, not a criminal provision, we are using the term "willfully" with the same meaning the Supreme Court found when it decided the civil case of United States versus Illinois Central Railroad Co., that a person acts willfully who "either intentionally disregards the statute or is plainly indifferent to its requirements" (303 United States Reports at page 243 (1938)).

I want to commend to the House the intrepid determination of the gentleman from New York [Mr. BIAGGI] who originally authored this legislation over 6 years ago. As the most decorated police officer in the history of the city of New York when he retired, wounded some 10 times in the line of duty, he, more than any Member of this House, fully comprehends the importance of this legislation. It has been a pleasure and an inspiration to work with him on this bill.

I want to thank the gentleman from Florida, BILL MCCOLLUM, the ranking Republican on the Crime Subcommittee, who offered several very important amendments to this bill in subcommittee which have further improved it.

I want to acknowledge our thanks to the distinguished chairman of the full committee, the gentleman from New Jersey [Mr. RODINO] for his support and leadership in expeditiously moving this legislation through committee and to the floor.

I also want to thank the distinguished gentleman from Texas [Mr. BROOKS] for his outstanding work on this legislation, his extensive testimony which was really most helpful to us, and for his contribution in resolving the prohibition on sale of armor-piercing bullets.

I also want to acknowledge the contribution of our former colleague from Michigan, Hal Sawyer, who was the ranking member of the Crime Subcommittee in the last two Congresses. He, too, deserves a great deal of credit for helping to fashion this legislation. Hal is quite an accomplished sportsman and hunter. His firsthand experience was an enormous aid to the subcommittee in the 97th and 98th Congresses in understanding these issues and developing this legislation.

This is a good, balanced bill. It is desperately needed by the Nation's law enforcement officers. I urge the House of Representatives to pass this important legislation today.

Mr. Speaker, I reserve the balance of my time.

Mr. McCOLLUM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am very pleased to support the armor- piercing bullet legislation before the House today. H.R. 3132 is a measure supported by police organizations across the country. By passing this legislation the House of Representatives will once again indicate its support for these public servants. Surely no one is more deserving of our help than those who risk their own personal safety to make our communities safer, more pleasant places to live. The law enforcement community must continue to receive not only our appreciation, but also our assistance.

H.R. 3132 will ban the production and importation of bullets that pierce solid armor. Thus, the most dangerous bullets will be stricken from the marketplace. Although this measure does not eliminate all bullets with a potential to pierce soft body armor, it offers protection to police from the bullets with the greatest penetration capability.

H.R. 3132 also stiffens the existing mandatory sentences for the use of these bullets in the commission of a violent Federal felony.

The one remaining controversy has been eliminated through discussions between Mr. BROOKS who is the sponsor of the administration supported bill, H.R. 13, and the sponsor of H.R. 3132, Mr. BIAGGI along with the chairman of the Crime Subcommittee, Mr. HUGHES. They are to be commended for this effort. That disagreement stemmed from the honest conflict of interest between the law enforcement concern for older armor-piercing bullets now in the inventory of dealers, and the unfairness of punishing dealers who are truly unable to distinguish the offensive bullets from ordinary bullets. The compromise will punish dealers only if they sell armor-piercing bullets willfully.

I am happy to support this compromise although I would have preferred to consider this bill under an open rule. I offered a similar proposal earlier in this Congress, but the time was not yet ripe for compromise. I am pleased to hear that this agreement was reached.

Mr. Speaker, I am also happy to be here for another reason. In this Congress, I have the privilege of being the ranking Republican on the Subcommittee on Crime and today marks the first time this year that the distinguished chairman, Mr. HUGHES, and I have brought a measure from our subcommittee to the House of Representatives. It is a pleasure to join him in this effort today, and I look forward to many return visits. As the chairman has noted many times, the fight against crime is a bipartisan one.

Mr. Speaker, I reserve the balance of my time.

Mr. HUGHES. Mr. Speaker, I yield 3 minutes to the distinguished chairman of the full Committee on the Judiciary, the gentleman from New Jersey [Mr. RODINO].

Mr. RODINO. Mr. Speaker, I am pleased to rise in strong support of the bill, H.R. 3132, the Law Enforcement Officers Protection Act of 1985.

This bill will help to protect the Nation's law enforcement officers from one of the most serious dangers that they face in the line of duty, the threat of armor-piercing ammunition.

Mr. Speaker, let's put this issue in perspective. Every day, over one-half million men and women in our Nation's law enforcement agencies put their lives in potential jeopardy as they patrol our neighborhoods to make sure that we, and our families, are safe. The danger that police face is part of the job, but already this year, 73 police officers have been killed in the line of duty. Not only is there the danger of death, of course, but hundreds of police officers are maimed or crippled each year by being shot in the line of duty. Living with this constant danger creates enormous health-threatening stress.

We must also understand that the fear that a police officer may be shot is also an extremely serious problem for the spouses, children, and parents of law enforcement officers. They suffer even if their loved ones are never shot or wounded.

Policemen and their families all suffer a great deal in order to protect us, and it is our obligation to do everything that is reasonable to protect them.

The greatest threat of death in the line of duty comes from criminals armed with handguns. Fifty-three of the police officers already killed this year were killed with handguns. In recent years, principally to protect against the threat of handguns, we have equipped law enforcement officers with lightweight garments that can resist penetration by many types of ammunition fired from a handgun. We have saved the lives of well over 400 law enforcement officers from the attacks of armed criminals. Unfortunately there is ammunition now available which is designed to penetrate these protective garments. Sale of this armor-piercing ammunition is now totally uncontrolled. In numerous instances, we have found that criminals have armed themselves with armor-piercing ammunition, known on the streets as cop-killer bullets.

H.R. 3132 would prohibit the manufacture, importation, and sale of this ammunition except for limited purposes of government use, testing and research, or for export. Armor-piercing ammunition is carefully and narrowly defined in this bill, and the term does not apply to any ammunition which has a sporting purpose. Therefore, nothing is taken away from sportsmen. But this bill will give everything to some of our Nation's police officers—the saving of their lives.

I urge the House to pass this long overdue legislation.

Mr. HUGHES. Mr. Speaker, how much time remains on this side?

The SPEAKER pro tempore. The gentleman from New Jersey [Mr. HUGHES] has 13 minutes remaining.

Mr. McCOLLUM. Mr. Speaker, I yield 4 minutes to the distinguished ranking member of the Committee on the Judiciary, the gentleman from New York [Mr. Fish].

Mr. FISH. Mr. Speaker, it is with great pleasure that I join my colleagues in supporting the legislation to ban the manufacture, importation and sale of armor-piercing ammunition. I first learned about this threat when, as a member of the Subcommittee on Crime during the 97th Congress, I heard testimony on this issue as it was presented to the Congress for the first time. It was clear then, as it is now, that a solution to this problem would not be simple or easy.

Armor-piercing ammunition, known as cop-killer bullets, poses a serious threat to the law enforcement community, and a timely solution became essential. These persons dedicate their lives to our communities, and their protection is of the highest priority. With this goal in mind, I introduced legislation in the 98th Congress to ban armor-piercing ammunition. Then, during the 2d session of the last Congress, the aministration came forward with an excellent bill, which I was proud to cosponsor. This measure was reintroduced as H.R. 13, by Congressman Brooks, and I again joined as a principal sponsor.

One major difference remains between H.R. 13 and the bill adopted by the Committee on the Judiciary, H.R. 3132. H.R. 3132 requires the Department of the Treasury to issue a list of prohibited armor-piercing bullets to licensed dealers. Then the bill would subject a licensed dealer to a loss of his license, and thus a loss of livelihood, if the dealer sells armor-piercing ammunition left in his inventory from prior to 1982, when these bullets were freely manufactured in an often indistinguishable manner. H.R. 13 does not impose this liability. Its companion, S. 104, in the other body imposes liability only on dealers who willfully sell armor-piercing ammunition.

I believe that the administration language is superior, and would have preferred that this important legislation be considered under an open rule so that we would have an opportunity to consider the text of H.R. 13 and its companion from the other body. However, it is my understanding that Mr. Brooks and the chairman of the Subcommittee on Crime have reached a compromise that addresses the one remaining issue of the liability of dealers regarding the unmarked armor-piercing ammunition in their current inventories. Under this compromise dealers will not be liable unless they willfully sell the banned ammunition, in the sense of intentionally disregarding the statute or are plainly indifferent to its requirements.

With this change, this legislation will protect our police officers in a manner that will not impose unfair punishment on innocent dealers. Thus I am proud to support this important measure, and I urge my colleagues to join me in voting for H.R. 3132.

Mr. HUGHES. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from New York [Mr. Biaggi].

☐ 1155

Mr. BIAGGI. Mr. Speaker, as author of this bill, H.R. 3132, I would like to thank the gentleman from New Jersey for yielding me this time, and also take this occasion to commend him for his leadership and for his complete support and integrity in the pursuit of this objective. Without the gentleman's assistance and leadership, we would not have come to this point. I would like to also thank the distinguished chairman of the Judiciary Committee, Mr. Rodino, as well as the ranking minority member of the Crime Subcommittee, Mr. McCollum, for their leadership and important contributions to this legislative effort.

Six years ago this issue was brought to my attention by the New York City Patrolmen's Benevolent Association. They informed me that the city of New York had become the "dumping ground" for the armor-piercing bullet, something that we were not aware of. Policemen's lives were jeopardized beyond the extent that we would ordinarily expect.

Many of these bullets were in existence before the bullet-proof vest. Conflict came with the development of the bullet-proof vest. And clearly something had to be done. We tested the armor-piercing bullet and their ability to penetrate the body armor that was being supplied by the taxpayers, by volunteer groups and by the police themselves.

I have a vest here that graphically and clearly indicates the awesome power of this type of bullet. This test has been repeated many times. The bullet went through the front panel, and equivalent of body substance, the rear panel, and then penetrated one and one-half telephone books of New York size, which is about 2 inches in depth. That test clearly demonstrates the awesome power of these projectiles.

I think we as members of the House, had an obligation to respond. I started on that effort some 6 years ago. We have some half million law enforcement personnel out there wearing these vests. They have a right to believe that they will be afforded the kind of protection that we would like them to have.

By passing this legislation which I have authored, we can assure them with greater certainty that that protection will be forthcoming.

Yes, I know some people will argue that no police officer was killed wearing a bullet-proof vest. That is correct. But the demonstrations indicate clearly that were they wearing bullet-proof vests, they would have been killed. There were 2 police officers killed in Florida with the use of armor-piercing bullets. Were they wearing vests—they were not in that case—clearly they would have been killed, in any event, given the demonstrations of penetrability we have had.

That is the moral obligation we have as Members of Congress, and as a society.

There are others who argue that we should not prohibit the total sale, only prohibit the future sale. We tell you that there are at least 2 million rounds of bullets out there. That is an estimate given by the Treausry Department. The police feel that this is an essential part of this legislative effort.

For the first time the police of our Nation have unified and taken the position of support that is so essential in this conflict.

I do not think it is necessary, Mr. Speaker, to make the point of the power of these bullets, but let me tell you there are 18 documented cases of criminal use of cop-killer bullets. James Huberty last year in the McDonald's restaurant in California fired 192 armor-piercing bullets. The Drug Enforcement Administration told Customs in a telegram, that notorious drug trafficking organizations have begun to arm its members with teflon-coated armor-piercing bullets.

I will sum up: The facts are there. We have told them to you. You have read them in the papers. There is editorial support across the Nation. Your own sense of morality tells you and mandates that the law enforcement official that you support in your mind and heart and admire and respect should be given this additional respect.

I made this plea to you. You can make a very substantial contribution to make certain that fewer policemen die, not simply be there at their funerals and give sympathy to the survivors. Save those lives, assure those police officers out there that we care in a real and substantive way. I urge that we pass this legislation. I know I have kept faith with those former colleagues in the police department who have given their lives and those who continue to serve us. Let us, as Members of Congress, not break faith with loyal members of the law enforcement family.

Mr. Speaker, as the proud author of H.R. 3132, the Law Enforcement Officers Protection Act, I implore my colleagues to follow the strong recommendation of the Judiciary Committee and support this legislation. Passage of H.R. 3132 would be the most important action Congress has taken on behalf of police since passage of the 1976 Public Safety Officers Death Benefits Act. I take special pride in sponsoring this legislation because of my own 23 year career with the New York City Police Department.

The issue is really quite simple. Armor-piercing ammunition is not used for any sporting or other legitimate purpose. However, it does pose a very serious threat to police lives because it can pierce the bullet resistant vests worn by more than half of our Nation's 570,000 law enforcement officers. These so-called "cop killer" bullets, which were originally made for police use, should not be available to the general public. Yet, they are—at local gun shops throughout the country.

H.R. 3132 would ban the manufacture, importation and sale of armor-piercing ammunition, except for police and military use, export, or testing and experimentation authorized by the Treasury Secretary. The bill defines armor-piercing ammunition as those bullets made of certain hard metals: Tungsten alloys, steel, iron, brass, bronze beryllium copper, or uranium.

This legislation was carefully crafted after more than 6 years of research and important contributions from many, including the law enforcement community and the Reagan administration. The bill has 113 cosponsors from both sides of the aisle and it was unanimously approved by the House Judiciary Committee.

Significantly, it has the full support of every major law enforcement group in our Nation. Those groups, who have worked long and hard for this bill's passage, include the Federal Law Enforcement Officers Association, the Fraternal Order of Police, the International Association of Chiefs of Police, the International Brotherhood of Police Officers, the International Union of Police Associations/AFL-CIO, the National Association of Police Organizations, the National Organization of Black Law Enforcement Executives, the National Sheriffs' Association, the National Troopers' Coalition, the Police Executive Research Forum, the Police foundation, and the United Federation of Police.

It should be noted, Mr. Speaker, that these police groups have strongly and consistently emphasized the need to ban the sale of existing armor-piercing bullets, as well as any new cop killer bullets. H.R. 3132 reflects this concern.

Let me reiterate that while this legislation will save police lives, it will not, I repeat, will not, infringe in any way on the rights of legitimate gun users—rights I fully support. In fact, the bill specifically states that any bullets "primarily intended to be used for sporting purposes" would not be banned.

Although national crime statistics do not show whether a bullet used in a crime is armor-piercing or otherwise, I have documented evidence of 18 cases between 1966 and 1984 where criminals have either used or possessed armor-piercing ammunition. These facts clearly support my contention that cop killer bullets benefits only one element of our society—the criminal element.

But we should not have to cite a rash of police shootings to justify the need for this legislation. We should be doing everything possible to prevent police deaths instead of waiting for them to happen.

In the strongest possible terms, I urge my colleagues to vote to save police lives—vote for H.R. 3132.

Mr. McCOLLUM. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. LUNGREN], a distinguished member of the subcommittee.

Mr. LUNGREN. Mr. Speaker, I would first like to take the opportunity to commend both the chairman of the subcommittee, the gentleman from New Jersey [Mr. HUGHES], and the ranking minority member, the gentleman from Florida [Mr. McCOLLUM], for their determination to address this threat posed to the law enforcement community by armor-piercing bullets. It is certainly an appropriate expression of our support for law enforcement to ensure that those who are charged with the responsibility of protecting our communities are not exposed to the enhanced danger posed by this ammunition.

At the same time, a certain sensitivity is required with respect to small retail ammunition dealers who might unwittingly sell this proscribed ordnance due to difficulties in identification. We have never intended to reach those without any degree of culpability.

The focus of the debate has heretofore involved an effort to accommodate these different but nonetheless legitimate policy interests. As reported by our committee, H.R. 3132 would have provided that before a merchant could be charged he must have notice from BATF adequately identifying that the ammunition in question is armor piercing. By contrast, companion legislation in the other body would only reach willful sales of such ammunition. The bill offered by our colleague from Texas, on behalf of the administration, would have regulated the manufacturer and importation of ammunition designed as armor piercing but not the sale of such ammunition.

In fact, as I understand it, for a number of years during the course of the development of this bill, the NRA was opposed to it because of the problem of the degree of culpability required. It is my understanding, however, that the principal sponsors have crafted a compromise that satisfies the concerns earlier expressed by the NRA and others and that this would still reach the importation, manufacture or sale of armor-piercing ammunition. Specifically with regard to retail transactions, there is a requirement that has been added that a willful violation is necessary before anyone could be proscribed by the legislation.

Mr. Speaker, this particular question came to my attention about 6 years ago in comments I received from my brother, who was then a member of the Los Angeles Police Department, describing the fear with which police officers saw this type of ammunition, this armor-piercing ammunition. They were extremely concerned about it. Initially, this was designed for use by police officers. Very few departments actually used this. Some have it available to them. They cannot control the danger of an errant shot because of the tremendous ability of this to do damage and, therefore, they generally do not use it. At the same time, they found themselves faced with the use by others.

Some people say you could use other types of bulletproof vests by police officers that would be stronger and could stop this type of ammunition from piercing the equipment. Unfortunately that is so cumbersome, so burdensome, that it is the type of bulletproof vest that officers would never use. The type they do use, the type that has been purchased for them not only by the funds made available by local entities but also by voluntary organizations, does not stop this from penetration.

It seems to me we have made a reasonable accommodation to the legitimate concerns earlier expressed, and I would hope we would give unanimous support for this particular bill. I urge my colleagues to support this very timely piece of legislation.

Mr. HUGHES. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. BROOKS].

Mr. McCOLLUM. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, I strongly support H.R. 3132—the Law Enforcement Officers Protection Act of 1985—and urge its passage. This bill is essentially the same as legislation I introduced in this and the last Congress. These bills offer protection to our law enforcement officers by banning ammunition which is armor piercing. Soft body armor is credited with saving the lives of many of our Nation's law enforcement officers. These bills seek to ensure the continued utility of lifesaving armor vests by deterring the availability and use of ammunition designed to penetrate armor, while at the same time not unreasonably impacting on the legitimate interests of America's sporting and hunting community.

My bill and the committee bill would regulate the manufacture and importation of ammunition which is designed as armor piercing. They would amend title 18 of the United States Code to prohibit the manufacture and importation of armor-piercing ammunition except for law enforcement, military, and export purposes. The manufacture or importation for these permissible uses is then regulated through the licensing and fee provisions of the Gun Control Act of 1965.

Further, both bills provide for a 5-year minimum prison sentence for the possession or use of armor-piercing ammunition during the commission of a violent felony. This will ensure a stiff punishment for any criminal who resorts to the use of armor-piercing ammunition.

I am pleased to note that this bill contains an intent standard in its sale provision. As reported from the Judiciary Committee, H.R. 3132 had no intent standard in its provisions penalizing the sale of armor-piercing ammunition. I along with 14 other members of the Judiciary Committee expressed our concerns with this deficiency in the bill, and requested the opportunity to secure amendments if necessary. This bill incorporates a willful standard and therefore corrects that problem.

I would like to acknowledge the efforts and hard work of all those involved with this important legislation. America's law enforcement and sporting and hunting communities have come together to develop a measure that is broadly supported. I look forward to its quick enactment into law.

Mr. McCOLLUM. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. SHAW], a member of the subcommittee.

Mr. SHAW. I thank the gentleman for yielding to me to speak on this most important bill.

Mr. Speaker, I will not stand here and describe the bill. It has been adequately described by the gentleman from Texas, immediately preceding me, it has been described by the chairman of the subcommittee, as well as the ranking minority member.

I think that the graphic display that the gentleman from New York [Mr. BIAGGI] gave to us and his personal experience with actually being on the line is all that the full House needs in order to pass this most important bill.

It is absolutely necessary that we just not give lipservice to the policemen, law enforcement officials, both at the Federal, State, and local level, but that we support them very visibly with legislation such as that which is before us.

The ammunition that we are attempting to take off of the shelves and out of the hands of the general public has absolutely no purpose, no lawful purpose, whatsoever for the general public. It is a danger to law enforcement officials. I would ask the House to pass this by an overwhelming margin.

Mr. HUGHES. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. WRIGHT], the distinguished majority leader.

Mr. WRIGHT. Mr. Speaker, on behalf of the House leadership I should like to commend the committee for having brought this bill to the House floor and commend the bill to the favorable consideration of all the membership.

This should be a major initiative of this Congress. We must deprive criminals the use and easy availability of the fiendishly deadly cop-killer bullets. If there is any one fear that gnaws at the minds of the American people, it is the fear that law and order no longer prevail. This bill will correct one of the terrible inadequacies in the protection we have afforded in the past for those who offer their very lives to protect the public order.

The time is overdue to outlaw the manufacture and sale of a terrible, deadly menace to our society—armor-piercing ammunition. Such ammunition has no place on the streets of our cities, in the hands of hoodlums or terrorists or dealers in drugs who seek by its use to thwart the best efforts of law enforcement.

Every major law enforcement organization in this country supports passage of this measure. Sportsmen do not oppose it. The National Rifle Association endorses it. Members of the House can and should support it.

We often distinguish America from totalitarian countries by saying that ours is a nation of laws, not of men. That is true, of course. But it is true also that our laws must be enforced and in a democracy it takes dedicated men and women to perform that all-important task.

Under the best of circumstances, law enforcement officials have a difficult enough time keeping the peace. Organized crime and random street crimes keep the average police department and the average police officer busy enough. The work is already dangerous enough. Now law enforcement faces this insidious new threat.

Armor-piercing bullets, increasingly used as the ammunition of choice by drug traffickers and other criminal elements, now threaten the very lives of police officers, even when they are equipped with state-of-the-art bulletproof vests. These bullets threaten to undermine further the confidence of the American people that the rule of law can and will be enforced in America.

Too many Americans, having watched crime rates soar, have become afflicted by a dread disease called fear—fear that someday they or someone they love will become a victim of violent crime. We must therefore, give police officers the tools they need to fight crime. They have been given the tough job of protecting us—our families and our communities. They, in turn, need the protection of society. That's what this bill will provide. It is in every sense a police protection bill. It protects the police and it helps the police to protect the wider community.

Passage of this bill will put cop-killers on notice: We will not allow law enforcement officers to be intimidated, maimed, or warntonly slain by members of the criminal underclass. Americans understand that law enforcement is what stands between them and the law of the jungle.

The facts speak for themselves. In the past year, 73 police officers have been killed in the line of duty, 53 of them cut down violently by a bullet fired from a handgun. Bulletproof vests are designed to protect against handguns, and armor-piercing bullets are designed to penetrate bullet proof vests. It's a vicious cycle of criminal one-upsmanship.

Outlawing this deadly ammunition is the best way we have to break that vicious cycle at a point that favors those who enforce the law against those who violate the law.

When I was a very small boy, my mother taught me: "The policeman is your friend." I grew up believing that, and I still believe it today. Passage of this bill today will send an important signal to policemen and police women across the country. It will say to them that we regard them as our friends—the friends of law and order—and that we will continue to give them the vital support they need in the war against crime. I urge my colleagues to give this important legislation our overwhelming support.

Mr. McCOLLUM. Mr. Speaker, I yield 3½ minutes to the distinguished gentleman from Idaho [Mr. CRAIG].

H.R. 3132

Mr. CRAIG. Mr. Speaker, no one grieves more than this member when a member of our law-enforcement community—a frontline fighter in the war against crime—is killed or injured while defending the rights of peaceful citizens.

Less than 1 month ago, Baltimore city policeman Vincent J. Adolpho was killed while wearing a Kevlar bullet-resistant vest. According to newspaper accounts, he was shot by a man with a long criminal record, a man free on parole at the time he is accused of murdering Officer Adolpho.

To the best of my knowledge, that was the first time an officer was killed by a bullet which penetrated his bullet-resistant vest.

It is to prevent such tragedies that this bill was drafted. But the bill before you would have had absolutely no effect upon Officer Adolpho's murder, for it does nothing to discourage the shooting of police officers.

It could. We could write a bill demanding a mandatory death sentence for the deliberate killing of any police officer in the rightful performance of his duty. But this bill doesn't do that.

Instead this bill bans the commercial manufacture and sale of a particular type of bullet—bullets with a hard metal core, bullets like the no-longer-made KTW bullet.

Such bullets are easily capable of penetrating kevlar vests.

But that wasn't the kind of bullet used to kill Officer Adolpho. According to the newspapers, he was killed with a 357 magnum pistol, with conventional ammunition which his vest was not designed to resist.

If he had been wearing a newer, type II vest, Officer Adolpho probably would have survived the attack with a 357 magnum.

But he would have died if the criminal had been armed with the more powerful 44 magnum—which the type II vest is not designed to stop.

That's the problem with this bill. It attempts to control criminal behavior by controlling little pieces of metal. That approach is what gun control is all about—and this bill, like all other forms of gun control will fail to achieve its stated objective.

While this body has been arguing about controlling inanimate objects, we have been successfully sidetracked from discussions of controlling criminals.

☐ 1210

Mr. BIAGGI. Mr. Speaker, will the gentleman yield?

Mr. CRAIG. I yield to the gentleman.

Mr. BIAGGI. The case the gentleman mentioned, the body armor that officer was wearing was 9 kevlar; it should have been at least 18 kevlar, which is being used in most cities.

It is unfortunate that that body armor was inadequate to begin with. I never for a moment said that this legislation will be the alpha and omega.

Mr. CRAIG. I know and I did not accuse you of that, sir. I appreciate the explanation. The bottom line was that a bullet did penetrate his chest, a 357 magnum bullet, and he was killed.

Mr. Speaker, further, by all the discussion of what type of bullet will penetrate what type of vest—discussions that have been played upon in newspapers and on television for the last 3 or 4 years—we have educated the criminals to the fact that police officers are wearing so-called bullet-proof vests.

And we have educated those criminals to the fact that the so-called Saturday Night Special low-powered handguns will not penetrate even the least-protected policeman.

So we have initiated an arms race between policemen and criminals. According to a Justice Department study released in October, professional criminals—like the one who murdered Officer Adolpho—are shunning the low-powered Saturday Night Special, once reported to be the favorite weapon of criminals, and are now using guns as powerful or more powerful than those carried by police.

The evidence of the accuracy of that study is the fact that Officer Adolpho was murdered with a 357 magnum.

Those who have educated the criminals about so-called cop-killer bullets share the blame for Officer Adolpho's murder.

But those advocates of ever-more gun control immediately began demanding the prohibition of private ownership of any gun or ammunition that will penetrate any policeman's vests.

No kevlar vest designed for continuous wear will reliably stop high-powered handgun bullets, and they will not stop any modern center-fire rifle bullet.

This bill would prohibit one type of bullet that will penetrate a kevlar vest, but it will do nothing about the many other bullets that will do the same thing.

If this bill were to pass, and if another Officer Adolpho were killed under the same circumstances, with exactly the same type of ammunition, would this body then attempt to ban a major portion of the guns and ammunition possessed by law-abiding citizens?

That's the logical next step of the useless bill before you.

Or is this body going to at that time begin addressing the real problem—the shooting of police officers?

You may think this bill does something, but it doesn't. It may make some law enforcement officers think they're safer, but they won't be.

All it does is postpone the time when you're going to have to do something about the killing of law enforcement officers—with any weapon.

Mr. HUGHES. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. I thank the gentleman for yielding me this time.

Mr. Speaker, as a former sheriff, I would like to respond to the last comment. There is an old saying, "An ounce of prevention is worth a pound of cure." I think that is what the police officers need. Meting out punishment in itself after the fact becomes more philosophical at that point, although I would favor those tough penalties.

I would like to commend Mr. BIAGGI, Chairman HUGHES, Chairman RODINO for the long fight. I would also like to say shame on Congress for taking 6 years in this area. This is not a complex issue. This saves policemen's lives and it deals with that issue in advance and attempts to prevent those from happening.

Mr. Speaker, one thing: When a criminal, under duress, attacks, they shoot at a mass, contrary to what the old western movies have as a scenario. They do not shoot people right between the eyes.

This particular measure offers some basic protection for policemen in carrying out and dispatching the duties of their particular office. I think that is very important for them. Finally, it would be a shame to see our President perhaps hurt like policemen, due to our inaction. We have a shot here today to really make an impact, and save lives!

Mr. Speaker, I rise in strong support of this much needed piece of legislation. At this point I would like to commend the gentleman from New York [Mr. BIAGGI] for his years of hard work and commitment to this important legislative initiative. The legislation we have before us today is the result of years of hard work and dedicated effort. While I am pleased to see this body finally consider this measure, I think it is tragic that this initiative has been stalled and put off for so many years. I was honored to be one of the bill's first cosponsors this Congress and to have been a part of the effort to get this bill passed.

As a former law enforcement officer, I am well aware of the everyday perils and dangers facing law enforcement officers. It is a demanding job, one in which you put your life on the line every day. Clearly, it is a tough job. I believe that we here in the Congress must do all we can to protect our law enforcement officers through tough and effective legislative measures. I strongly support stiff sentences for those who commit violent crimes and the death penalty for those who kill a law enforcement officer. Today we have before us a measure that will undoubtedly save police lives in the future by taking off the market awesome projectiles that pierce the protective armor worn by our Nation's law enforcement officers.

H.R. 3132, aptly called the Law Enforcement Officers Protection Act of 1985, would prohibit the manufacture, importation and sale of specially designed armor-piercing ammunition capable of penetrating bullet proof vests. Most importantly, H.R. 3132 represents years of hard work and struggle in order to ensure that only those bullets that pose a threat to our law enforcement community are affected. The bill clearly defines armor-piercing ammunition and it expands existing law so that any person who commits a crime of violence using a firearm and in the possession of armor-piercing ammunition would be subject to a mandatory-minimum, 5-year prison sentence.

H.R. 3132 is an essential piece of legislation. Over 235,000 law enforcement officers across the country wear bullet proof vests. Every day that armor-piercing ammunition remains on shelves of gun stores across America, these officers are threatened. Here is a unique opportunity for Congress to act to avert any future tragedies. My experience as a law enforcement officer taught me that the criminal community is becoming more and more "sophisticated" in their approach to crime. Many criminals now wear bullet proof vests when they commit violent acts. Because law enforcement officials do not use armor-piercing ammunition—because of the awesone power of these bullets they pose an unacceptable threat to the general public, that is, they can easily plow through walls and cars—a very possible scenario could pit

criminals and police in a shoot out—both wearing bullet proof vests—but with the criminals using armor-piercing ammunition.

That indeed is an ugly scenario—but failure to act today to pass H.R. 3132 could result in that scenario becoming a tragic reality. H.R. 3132 would effectively remove from the market these bullets and prevent criminals from having access to them. The issue here is clear cut and obvious: police protection. This bill has the support of every major law enforcement organization in the country. Police officers across the country have wanted this legislation passed for some time now. The time has come for Congress to finally act on this measure and make a firm statement that it is committed to doing everything in its power as a legislative body to protect America's brave corps of law enforcement officers.

I am proud to stand here today in support of this measure and I urge all of my colleagues to lend their support to H.R. 3132.

Mr. McCOLLUM. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. CRANE].

Mr. CRANE. I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in opposition to H.R. 3132, the Law Officers Protection Act of 1985. The very title of this legislation is a misnomer, since to the best of my knowledge, no police officer has been shot and killed by armor piercing ammunition that has penetrated soft body armor. Yet, the very aim of this bill is to make unavailable to the public ammunition capable of penetrating the soft body armor worn for protection by many police officers in the United States.

Due to the near impossibility of defining with any precision what types of ammunition should be banned, this legislation could subject a wide range of conventional ammo used for sporting purposes to a possible sales ban. The armor-piercing qualities depend upon the type of jacket, the shape of the bullet, the amount of propellant, barrel length, muzzle velocity, and a host of other factors. Clearly it would be extremely difficult and expensive to determine where to draw the armor-piercing line. This inconvenience and expense would be dumped on the lawful American gunowner.

It is also relevant to note that about 2 years ago, in response to the very concerns that initiated this legislation, the manufacturers of the most commonly accepted types of armor-piercing ammunition agreed to limit its distribution directly to police departments, the military, and foreign governments. If this ammunition isn't available to the public as a result of the self-imposed restrictions by the manufacturers, what then is the need for the legislation in question?

In 1984, the Department of Treasury testified in opposition to an almost identical piece of legislation to H.R. 3132, stating that: "This legislation contains a cumbersome, imprecise and costly regulatory process which would be extremely difficult to enforce and in the long run would have little or no impact on police officer safety." Past experience has shown that a determined criminal can and will obtain any type of ammunition through illegal means. Laws such as H.R. 3132 provide little deterrent to hardened criminals. A much more effective deterrent would be legislation to make it a Federal crime, with lengthy nonparoleable sentences, to use a firearms against law enforcement personnel who are in the performance of their duties.

Finally, if this legislation were to pass, then it would be very easy to find reasons to ban more and more categories of ammunition. One should not be misled by the title of this bill. Rather than a police officer protection bill, H.R. 3132 appears to be an attempt to infringe upon the rights of the lawful firearm owner and sportsman in America.

I urge my colleagues to support the constitutional rights of American gunowners and vote against H.R. 3132.

Mr. HUGHES. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. I thank the gentleman for yielding me this time.

Mr. Speaker, I would like to commend the gentleman from New Jersey [Mr. HUGHES] and the gentleman from New York [Mr. BIAGGI] for working with me and our dear friend, Mr. BROOKS on bringing this legislation to the House floor. I also wish to commend my good friend, Mr. BROOKS, for his outstanding leadership in this matter and his diligence in working out a compromise.

I will vote for this legislation and support it with reservations on the ground that the Senate bill possesses language which is far superior, both in terms of protecting police officers and also in terms of protecting the rights of sportsmen and hunters. Most sportsmen do not support enacting legislation to outlaw any type of firearms or projectiles. I, myself, join in that view.

I can inform my colleagues that the National Rifle Association has indicated that they will, although supporting the Senate language and hoping that it can be ultimately adopted, will not oppose this legislation. I submit the NRA's letter to me to this effect for the RECORD.

The gentleman from New Jersey has now agreed to include the word "willfully" in the sales provision of H.R. 3132. In effect this creates a willful intent standard as a threshhold requirement to create culpability for violating the prohibition against the sale of armor-piercing ammunition. This provision was put into the legislation at the request of Mr. BROOKS and myself with the clear intent that a dealer, to be in violation of this act, must know of the consequences of his actions and know that his actions are illegal.

This is not a perfect cure, by all means. But the addition of a willful intent standard will, at least, assure that licensed firearms dealers will not be held to be in violation of the sales prohibition for unwitting, unknowing, or mistaken sales of armor-piercing ammunition.

NATIONAL RIFLE
ASSOCIATION OF AMERICA,
Washington, D.C., December 16, 1985.

Hon. JOHN D. DINGELL,
Rayburn House Office Building,
Washington, DC.

DEAR CONGRESSMAN DINGELL: This week you will be considering H.R. 3132, the Law Enforcement Officers Protection Act of 1985. We commend Congressman Jack Brooks for his outstanding efforts on behalf of law-abiding gun owners in his insistence on the addition of a "willful" intent requirement. While this does not cure all the concerns we have with this legislation, the acceptance of the Brooks' Amendment constitutes a major improvement.

Accordingly, the National Rifle Association will not oppose passage of H.R. 3132, if the Brooks' "willful" intent Amendment is incorporated into the legislation. However, we will continue to seek, in conference, to further modify the legislation to conform with the provisions of S. 104, as unanimously reported by the Senate Judiciary Committee. We continue to believe that the Senate version of the bill provides additional protections needed to insure that the law-abiding citizen is not penalized.

Again, we commend Congressman Brooks for his strong support, and believe his Amendment greatly improves this legislation.

Sincerely,

J. WARREN CASSIDY,
Executive Director,
Institute for Legislative Action.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman.

Mr. VOLKMER. I thank the gentleman.

Mr. Speaker, I wish to join with the gentleman in his remarks with reference to the Senate bill. I thank the gentleman very much for his leadership in this matter.

Mr. BIAGGI. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. I would love to yield to my good friend. I just cannot, and I apologize to him.

☐ 1220

The SPEAKER pro tempore. The time of the gentleman from Michigan [Mr. DINGELL] has expired.

Mr. HUGHES. Mr. Speaker, I yield 30 additional seconds to the gentleman from Michigan [Mr. DINGELL] so I can respond on the question of "willful."

If the gentleman will yield, as the gentleman knows, we are talking about administrative procedure.

Mr. DINGELL. That is correct.

Mr. HUGHES. I indicated in my opening statement that it was the intent of the chairman to equate that with the civil case of the United States versus Illinois Central Railroad Co. defining "willfully" in the civil context as intentionally disregarding the statute where it is plainly indifferent to its requirements.

Mr. DINGELL. And knowledge of the existence of the statute?

Mr. HUGHES. Well, the law requires in the first place that the BATF in the Department of the Treasury provide the dealers with notice of the exact ammunition that is banned.

Mr. DINGELL. The case the gentleman cites, U.S. versus Illinois Central Railroad was decided in 1938 and involves a transportation statute totally unrelated to the section of the code we are dealing with. Although the willful intent standard articulated in the Illinois Central case is interesting, it provides only a partial explanation of willfulness. I believe more recently decided cases dealing with section 923 of title 18 of the code—the very section amended by this legislation—provides a more illuminating definition of this important standard. In *Rich* v. *United States* 383 F. Supp. 797 (1974), involving 18 U.S.C. 923, the court held that:

> The language of section 923(d)(1)(C) when read together with the word "willfully" * * * supports the conclusion that Congress was concerned with purposeful, intentional conduct to be punished by revocation of licenses rather than mere negligence on the part of the licensee.

In a more recent case, *Shyda* v. *Director, Bureau of Alcohol, Tobacco, and Firearms* 448 F. Supp. 409 (1979), the court held that in order to prove a "willful" violation of recordkeeping requirements of the Gun Control Act sufficient to support revocation of a license to sell firearms or ammunition, the Bureau of Alcohol, Tobacco, and Firearms must prove that the licensee knew of his legal obligation and purposely disregarded or was plainly indifferent to recordkeeping requirements.

Considering the fact that these cases provide a definition of "willfulness" in the context of section 923 of title 18, I respectfully submit that the word "willfully" as used in this legislation should be interpreted in a similar manner.

Mr. HUGHES. This is not a criminal statute.

Mr. DINGELL. Mr. Speaker, some Members have raised the question of whether this legislation would prohibit the use of ammunition by the Army's Civilian Marksmanship Program. This is a program set up by the Army which trains young people firearms safety and marksmanship. It is a program which sponsors target shooting and competitive firearms events. I am pleased to say that the bill allows the Secretary of the Treasury to exempt ammunition clearly intended for sporting purposes. This specifically covers instances involving ammunition the Army intends for civilian marksmanship use. Currently, the civilian marksmanship program uses .22 rim fire ammunition, .30 caliber ammunition, and 7.62 ammunition for its competition matches. This ammunition is not armor piercing and is used for sporting purposes. The Civilian Marksmanship Program, however, may be required to use other types of ammunition such as 5.56 millimeter, .223 caliber ammunition for its sporting events. Under the provisions of this legislation, the Secretary would have the authority to exempt this ammunition because it is used for sporting purposes. A letter I received today from the Treasury Department, which must carry out the provisions of this legislation, confirms this interpretation, and I submit the letter for the Record.

Department of the Treasury,
Washington, DC., December 17, 1985.

Hon. John D. Dingell,
House of Representatives,
Washington, DC.

Dear Mr. Dingell: This responds to your request for comment on the use of ammunition by the Department of the Army's Civilian Marksmanship Program.

H.R. 3132 would prohibit the importation and manufacture of armor piercing ammunition with certain narrow exceptions. It also provides for license revocation of a Federally licensed dealer who disposes of such ammunition. This bill does not address and therefore does not preclude the military from distributing armor piercing ammunition to those who use such ammunition in conjunction with the Civilian Marksmanship Program.

The statement that the Civilian Marksmanship Program would be adversely affected by the bill is completely erroneous and has no basis. Even so, Secretarial discretion as articulated in Section 2 of the bill would provide for its use.

In summary, the bill does not preclude the military distribution of armor piercing ammunition to those who use such ammunition as part of the Civilian Marksmanship Program.

Sincerely,

Edward T. Stevenson,
Deputy Assistant Secretary
(Operations).

The SPEAKER pro tempore. The time of the gentleman from Michigan [Mr. Dingell] has expired.

Mr. McCOLLUM. Mr. Speaker, might I inquire how much time each side has remaining?

The SPEAKER pro tempore. Each side has 3½ minutes remaining.

Mr. McCOLLUM. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. Lent].

Mr. LENT. Mr. Speaker, I rise in strong support of H.R. 3132, the Law Officers Protection Act of 1985, to outlaw the manufacture, importation, and sale of so-called cop-killer bullets. I would especially like to commend my friend and colleague, the gentleman from New York [Mr. Biaggi] for his many hours of hard work on this bill. As a most highly decorated former New York City law enforcement officer, wounded on several occasions, he knows better than anyone in this chamber the importance of what we do here today. This bill has been 6 years in the making. I am pleased that we are acting on it today and commend the members of the Judiciary Committee who perfected it and bring it to the House floor.

I would like to add that the bill has the strong support of law enforcement groups across the Nation, including all those in my Nassau County, Long Island, New York, district. The men and women who provide law enforcement and put their lives on the line every day deserve the protection this bill affords. There are enough dangerous weapons in the hands of criminals without also giving them access to the armor-piercing bullets this bill would outlaw. I would urge my colleagues to support this bill and send a message to the law enforcement community that the Congress supports their efforts and will do everything it can to protect them from dangerous armor-piercing bullets.

Mr. HUGHES. Mr Speaker, I yield 1 minute to the distinguished gentleman from New York [Mr. Rangel].

Mr. RANGEL. Mr. Speaker, I would like to join my colleagues in commending the Judiciary Committee for getting out this piece of legislation, and especially my colleague from New York, who has a lot of experience in this matter.

I recognize that this august body has a lot of knowledge about interesting subjects, and we would like to work our will on many people, but this is one sensitive area which concerns the protection of life where we find it so easy to turn this responsibility over to those dedicated people who risk their lives to protect life and property. It seems to me that when they can come together on an issue, after studying it not just in the academies and in the colleges throughout our Nation, but in seeing their brother officers being shot down by this type of dangerous bullet, that the least that we can do is come together and support this legislation which would take these 2 million rounds at least and put a liability on those people who would violate the law and risk the lives of these dedicated public servants.

I want to thank the committee for considering this bill.

Mr. McCOLLUM. Mr. Speaker, I yield 1½ minutes to the gentleman from Utah [Mr. Nielson].

Mr. NIELSON of Utah. Mr. Speaker, I would like to engage the gentleman from New Jersey [Mr. Hughes] in a colloquy.

I would like to inquire of the gentleman: A constituent of mine, who has an ammunition manufacturing plant, has expressed concern that H.R. 3132, the Law Officers Protection Act of 1985, will extend its definition of armor-piercing ammunition to include products he manufactures for big-game hunting. I would like to inquire if, as he understands the intent of the bill, ammunition used solely for sporting purposes would be exempt from the definition of "armor piercing" included in the bill.

Mr. HUGHES. Mr. Speaker, will the gentleman yield?

Mr. NIELSON of Utah. Yes; I am happy to yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Speaker, I call the gentleman's attention to page 3 of the bill, the language in section 2. It specifically provides that the Secretary shall determine whether or not it is "primarily intended to be used for sporting purposes."

In other words, exempted from the provisions of the bill was any "ammunition * * * which the Secretary determines is primarily intended to be used for sporting purposes."

Mr. NIELSON of Utah. Then might I inquire of the gentleman: It is my understanding that the legislation charges the Secretary of Treasury with the responsibility of making sure that ammunition intended purely for sporting purposes is not prohibited under this legislation. Is that correct?

Mr. HUGHES. That is correct.

Mr. NIELSON of Utah. Mr. Speaker, I thank the gentleman from New Jersey.

Mr. HUGHES. Mr. Speaker, I reserve the balance of my time.

Mr. McCOLLUM. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I would just like to point out to everyone in this debate that the armor-piercing bullets we are talking about now are very deadly. The gentleman from New York [Mr. BIAGGI] came forward several years ago—6, to be exact—and pointed this out to us, as have all law-enforcement officials since then.

We need to get rid of these bullets. They are not necessary, they are not used for sporting purposes, and the bill does not prohibit those that are. This is an absolutely vital thing that we can do for our law-enforcement officials.

The word, "willful," has been put into the bill to protect gun dealers so they are not going to be inadvertently hurt by some mistaken failure to see a bullet that might have otherwise been one that is prohibited. I think we need to pass this legislation.

Last but not least, I would like to point out that in its present form, the administration does not oppose the legislation. They might have preferred their own, but they have come down and we have come down on this compromise.

Mr. Speaker, I hope my colleagues on both sides of the aisle, recognizing the difficulty of getting the bill to this point on the floor of the House, will now pass this very important armor-piercing bullet ban in the form that we now have it and send it to a conference with the Senate so we can get the legislation that law-enforcement officers so richly deserve and for which the gentleman from New York [Mr. BIAGGI] is so heartily to be commended for bringing it to our attention.

Mr. HUGHES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just want to say that this legislation has become sort of a cause celebre. Some of my colleagues today have indicated that it does not provide for the death penalty, that it does not do this and it does not do that. It was never represented that this bill would provide the death penalty for those who use a handgun or a weapon in the commission of a violent offense.

I frankly support increasing penal sanctions against the criminal misuse of a weapon. In this particular legislation, there are provisions, as my colleagues well know, that would increase the penalty, making mandatory penalties for those who carry a handgun and this type of ammunition in the commission of a violent offense. So we do have sentence enhancement for those who would carry this kind of ammunition in the commission of a crime.

But make no mistake—we are talking about ammunition that has no sporting value. For the life of me, I do not understand why there has been so much concern over this legislation. Under this bill, the Bureau of Alcohol, Tobacco, and Firearms has to put dealers on notice, first of all, as to the specific ammunition that is banned. Now, unless the dealer willfully sells the ammunition, there are no sanctions attached to such a sale.

We have in the legislation provisions that came out of the subcommittee requiring the Secretary to exempt ammunition, the primary purpose of which is for sporting uses.

So, Mr. Speaker, I say to my colleagues, if you really want to support the police in their effort to protect themselves in this very small but important fashion—and I grant it is just one step forward; it is not a cure-all—then you will vote for the bill. If you do not want to protect our police, you will vote against it. It is as simple as that.

Mr. SCHEUER. Mr. Speaker, I rise in strong support of the Law Enforcement Officers Protection Act of 1985. As a cosponsor of this crucial legislation since it was first introduced in 1982, I join many other Members of the House in commending our distinguished colleagues MARIO BIAGGI and BILL HUGHES whose dedicated efforts are responsible for our consideration of this measure on the floor today.

The need for this legislation is clear. Over a quarter million of our Nation's law enforcement officers rely on bullet resistant vests every day to protect their lives as they wage our ongoing struggle against crime. Hundreds of police lives have been saved by these vests. However, these valuable, life-saving devices are rendered totally useless against a small class of handgun bullets that are designed for the specific purpose of piercing metal and are capable of penetrating four bullet-proof vests in a single shot.

These armor-piercing cop killer bullets are clearly of benefit only to one element of our society—the criminal element. Ironically, this ammunition was originally designed to help police, particularly when shooting at automobiles. However, most police departments have abandoned the use of this bullet because they have found its awesome penetrating power and greater ricochet capacity poses an unacceptable degree of risk. Nevertheless, these bullets continue to be manufactured and sold.

The Law Enforcement Officers Protection Act of 1985 would not only prohibit the manufacture and importation of specifically designed armor piercing ammunition capable of penetrating the lightweight protective armor worn by the Nation's police officers and high Government officials, but unlike some earlier proposals, would prohibit the sale of cop killer bullets as well. I believe that this controversial latter component is absolutely necessary in order to provide the law enforcement community with the most comprehensive protection against this ammunition.

For these reasons, I implore my colleagues to lend their fullest support to this measure's worthy and honorable objective—to save police lives—by joining me in voting in favor of H.R. 3132.

Mr. RUDD. Mr. Speaker, I rise in opposition to H.R. 3132 because its passage would adversely impact upon the law abiding gun dealers and the sportsmen throughout this country.

The bill will result in the ban of some types of hunting ammunition; it will result in the elimination of the Civilian Marksmanship Program, because within 2 years the only major source of surplus ammunition will be armor piercing; and, it could result in the prosecution of dealers who may be determined to be willful in their sale of this type of ammunition when in actuality they may be acting in good faith, having no malicious intent to break the law. The compromise language still does not adequately address with any certainty the culpability issue which would be faced by gun dealers.

We need to remember guns and ammunition do not kill people, people kill people, and we need legislation to address this anti-social behavior.

Mr. SMITH of Florida. Mr. Speaker, I rise in support of H.R. 3132, the Law Enforcement Officers Protection Act.

Armor-Piercing bullets have no legitimate use by the general public. They can be—and have been—used by criminals against law enforcement officials. Because of the danger that such bullets pose to law enforcement officials, we must eliminate the threat posed by the availability of these bullets.

That is why this legislation is supported by the International Association of Chiefs of Police, the Fraternal Order of Police, the National Sheriffs' Association, and every major law enforcement association in the Nation.

On September 10, the Judiciary Committee with my support approved H.R. 3132 by a voice vote. The bill bans the manufacture, importation, and sale of armor-piercing ammunition. The bill also would make the possession or use of such ammunition during the commission of a crime of violence a crime with a mandatory punishment of at least 5 but not more than 10 years in prison. Finally, the definition of armor-piercing ammunition does not include shotgun shot or any ammunition intended primarily for sporting purposes.

This is a good bill. This is much needed bill. I urge the House to pass H.R. 3132.

Mr. STARK. Mr. Speaker. why would anyone who upholds the law and opposes crime want to permit the sale of bullets specifically designed to pierce the protective vests of our law enforcement officers?

Why would anyone who has witnessed the attacks against our Presidents, candidates, and political leaders want to allow the public sale of armor-piercing ammunition?

Anyone wouldn't. But then American legislators aren't just anyone, are we?

Is the support of the NRA really worth the lives of young fathers and mothers who happen to wear police uniforms and strive to enforce the laws that we, the legislators, write.

Is the opposition of the NRA really more fearful than the sale of armor-piercing bullets to any assassin who decides they have a very special use for otherwise useless ammunition?

Have some guts. Do what's right. This time, just this time, tell the gun lobby they've gone too far and vote for the lives of people who have guts everyday of their lives: our police.

Mr. MRAZEK. Mr. Speaker, I wish to add my name in strong support of this legislation, introduced by Representative MARIO BIAGGI which will prohibit the manufacture and importation of armor-piercing ammunition except for Government use, testing, research, or export. Most significantly, it would restrict the sale of armor-piercing ammunition.

The need for this legislation is clear. Today, approximately 250,000 American law enforcement officers wear bullet-resistant vests on a daily basis. The Justice Department reports that some 400 police lives have been saved by these vests. However, these same vests are totally useless against a small class of bullets that are specifically made to pierce metal.

While the National Rifle Association contends that armor-piercing ammunition has "Never been a crime problem," there is much evidence that these cop killer bullets are not used for legitimate purposes. Probably the most prominent example is mass murderer James Huberty, who fired 192 rounds of imported armor-piercing ammunition when he killed 21 innocent people at a San Ysidro, CA. McDonald's last July.

This legislation has been endorsed by major national law enforcement groups including the Federal Law Enforcement Officers Association, the International Brotherhood of Police Officers, the National Association of Police Officers, the United Federation of Police, the International Association of Chiefs of Police and others.

Enactment of a Federal law banning cop killer bullets is a top priority of our Nation's police officers and I am proud to support its passage.

Mr. BORSKI. Mr. Speaker, I rise in strong support of H.R. 3132, the Law Enforcement Officers Protection Act of 1985. This very important legislation protects the courageous men and women who serve on our Nation's police forces from death or injury by armor-piercing bullets. Every day our police officers put their lives on the line. We have an obligation to help make their jobs safer by eliminating the danger posed by armor-piercing ammunition.

More and more police officers are wearing protective vests. Many who serve on my own city of Philadelphia's Police Force are wearing them on duty. While these vests protect against most types of ammunition, they are ineffective against a special class of handgun bullets which are designed to penetrate metal. Usually these bullets are made of steel and brass and travel at exceptionally high speeds. Tests show that the most powerful of these bullets can penetrate the equivalent of four bullet-proof vests in a single shot. The only purpose of these bullets is to kill!

This legislation prohibits the manufacture or importation of armor-piercing ammunition except for use by Federal, State or local governments, or for testing authorized by the Treasury Department. Violations are met with stiff penalties, including prison terms of up to 5 years and fines of up to $250,000.

I want to point out that H.R. 3132 does not restrict the activities of sportsmen or hunters. The bill specifically exempts any projectile which the Treasury Secretary finds is intended to be used primarily for sporting purposes. Armor-piercing bullets, however, have no legitimate purpose and they should be outlawed.

Mr. Speaker, the courageous men and women who patrol our streets, protect our families and safeguard our property deserve our help. Often underpaid and overworked, they take great personal risks to ensure that we live in peace and security. Outlawing armor-piercing bullets is the least we can do for them. I urge my colleagues to join me in supporting the Nation's police officers by voting to pass this important legislation.

Mr. MANTON. Mr. Speaker, as a cosponsor of H.R. 3132, the Law Officers Protection Act of 1985, I am pleased that this critically important legislation has come to the floor today. As a former police officer, I know firsthand how important a vote for this bill is to the law enforcement community. This bill gives our Nation's police officers the protection they need to do their job by reducing the threat of armor-piercing bullets which maim and kill public service officials every year.

The small class of armor-piercing ammunition which the bill bans is not used for any sporting or other civilian purpose. For this reason, gun dealers, manufacturers and sportsmen should have no hesitancy in supporting this measure. The bill also incorporates previous and similar proposals made in this and earlier Congresses. H.R. 3132 clarifies provisions relating to the packaging and labeling of armor-piercing ammunition as well as the notice the Secretary of the Treasury must give firearms dealers to help them identify armor-piercing ammunition. Together these changes have eliminated every reasonable objection made by opponents of this bill.

Mr. Speaker, there should be no doubt about the urgent need for this measure. Our Nation's law enforcement community has given this measure its top priority. Certainly their interests should be our top priority. I urge my colleagues to provide our Nation's police officers with the protection they need by voting in favor of this important bill.

Mr. GILMAN. Mr. Speaker, I rise in strong support of H.R. 3132, the Law Enforcement Officers Protection Act of 1985. As a cosponsor of this legislation during this and during previous Congresses, I am pleased that we have been able to bring this legislation before the full House for a full debate and a vote. I thank the gentleman from New York, my friend and colleague, himself a former police officer, Mr. BIAGGI, for introducing this bill. I would also like to extend my appreciation to the chairman and ranking minority member of the Committee on the Judiciary, Mr. RODINO, and Mr. FISH, as well as to the chairman and ranking minority member of the Subcommittee on Crime, Mr. HUGHES, and Mr. MCCOLLUM, for working so diligently to fashion a bill which enjoys the endorsement of both our police officers and the National Rifle Association.

H.R. 3132 prohibits the manufacture, importation, and willful sale of armor-piercing bullets. Since their introduction to the commercial market in 1968, armor-piercing bullets have posed an immediate threat to our law enforcement community. When fired from a handgun, these teflon-coated solid brass projectiles are capable of piercing metal armor. While these bullets were first developed and marketed strictly for law enforcement purposes, they now pose an imminent danger to police officers. Since the 1970's most police forces began outfitting their officers with lightweight soft body armor that can stop standard bullets, fired from large handguns, at high ve-

locities. This softbody armor cannot, however, stop armor-piercing bullets.

I am pleased that the Committee on the Judiciary has been able to address the legitimate concerns of sportsmen regarding the ability of certain ammunition used in rifles to penetrate body armor when loaded into handguns. The prohibitions in this bill are restricted to bullets designed to pierce armor. Because of this clarification, and the inclusion in this legislation of language specifying that the sale of armor-piercing bullets must be willful so that dealers operating in good faith will not be unjustly penalized, we are able to come to the floor with a bill supported by both our law enforcement and our sporting communities.

The Comprehensive Crime Control Act of 1984 created mandatory minimum penalties for the use of armor-piercing bullets in the commission of a Federal felony, ranging from 5 to 10 years. H.R. 3132 builds upon this premise by establishing a penalty for the illegal manufacture or importation of armor-piercing bullets, of 5 years in prison and/or a $250,000 fine. By adopting this legislation we will stop armor-piercing bullets at the source. Protecting our law enforcement officers should be a priorty of this Congress and this Nation. Accordingly, I urge adoption of this legislation which will be a significant contribution toward ensuring the safety of our brave officers.

The SPEAKER pro tempore. All time has expired.

The question is on the motion offered by the gentleman from New Jersey [Mr. HUGHES] that the House suspend the rules and pass the bill, H.R. 3132, as amended.

The question was taken.

Mr. HUGHES. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 400, nays 21, not voting 13, as follows:

[Roll No. 465]

YEAS—400

Ackerman
Addabbo
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Badham
Barnard
Barnes
Bartlett
Barton
Bateman
Bates
Bedell
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Biaggi
Bilirakis
Bliley
Boehlert
Boggs
Boland
Boner (TN)
Bonior (MI)
Bonker
Borski
Bosco
Boucher
Boulter
Boxer
Breaux
Brooks
Broomfield
Brown (CA)
Brown (CO)
Broyhill
Bruce
Bryant
Burton (CA)
Burton (IN)
Bustamante
Byron
Callahan
Campbell
Carney
Carper
Carr
Chandler
Chapman
Chappell
Chappie
Clay
Clinger
Coats
Cobey
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Crockett
Daniel
Dannemeyer
Darden
Daschle
Daub
Davis
de la Garza
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Duncan
Durbin
Dwyer
Dyson
Early
Eckart (OH)
Eckert (NY)
Edgar
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Evans (IA)
Evans (IL)
Fascell
Fawell
Fazio
Feighan
Fiedler
Fish
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Fowler
Frank
Franklin
Frenzel
Frost
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Gray (PA)
Green
Gregg
Grotberg
Guarini
Gunderson
Hall (OH)
Hall, Ralph
Hamilton
Hammerschmidt
Hatcher
Hawkins
Hayes
Hefner
Heftel
Hendon
Henry
Hertel
Hiler
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Johnson
Jones (NC)
Jones (OK)
Jones (TN)
Kanjorski
Kaptur
Kasich
Kastenmeier
Kemp
Kennelly
Kildee
Kindness
Kleczka
Kolter
Kostmayer
LaFalce
Lagomarsino
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Loeffler
Long
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
Lungren
Mack
MacKay
Madigan
Manton
Markey
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCain
McCandless
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McKernan
McMillan
Meyers
Michel
Mikulski
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mitchell
Moakley
Molinari
Mollohan
Monson
Montgomery
Moody
Moore
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Natcher
Neal
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens
Oxley
Packard
Panetta
Pashayan
Pease
Penny
Pepper
Petri
Pickle
Porter
Pursell
Rahall
Rangel
Ray
Regula
Reid
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Roemer
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Savage
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Seiberling
Sensenbrenner
Sharp
Shaw
Shelby
Shuster
Sikorski
Siljander
Sisisky
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Denny (OR)
Smith, Robert (NH)
Snowe
Snyder
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walgren
Walker
Watkins
Waxman
Weiss
Wheat
Whitehurst
Whitley
Whittaker
Whitten
Williams
Wirth
Wise
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zschau

NAYS—21

Cheney
Craig
Crane
Dreier
Fields
Hansen
Hartnett
Kolbe
Kramer
Lewis (CA)
Marlenee
Moorhead
Perkins
Quillen
Rudd
Shumway
Smith, Robert (OR)
Strang
Stump
Vucanovich
Weaver

NOT VOTING—13

Dymally
Fuqua
Gray (IL)
Hillis
McKinney
Mica
Nelson
O'Brien
Parris
Price
Weber
Wilson
Young (MO)

☐ 1245

Mr. KOLBE changed his vote from "yea" to "nay."

Mr. JONES of Tennessee changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HUGHES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on H.R. 3132, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection..

PANAMA CANAL COMMISSION AUTHORIZATION ACT, FISCAL YEAR 1986

Mr. LOWRY of Washington. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1784) to authorize appropriations for fiscal year 1986 for the operation and maintenance of the Panama Canal, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 6, strike out all after line 20 over to and including line 2 on page 7.

Page 7, after line 2, insert:

SEC. 8. EFFECTIVE DATE.

Section 5 and Section 6 of the Act shall be effective as of October 1, 1985.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. FIELDS. Mr. Speaker, reserving the right to object, and I will not object, I would like to compliment the distinguished chairman of the Subcommittee on Panama Canal/Outer Continental Shelf, the gentleman from Washington [Mr. LOWRY] for his leadership in moving H.R. 1784 through the legislative process.

This is an important and historic occasion. It represents the first time that both bodies of Congress have given final approval to an authorization bill for the Panama Canal Commission. This Federal agency, created in 1979, has the responsibility for the safe and efficient operation of the Panama Canal until the year 2000.

In the past 6 years, the Panama Canal Commission has done an outstanding job in meeting its obligation, and I would like to personally commend the tireless efforts of Mr. William Gianelli, the Chairman of the Panama Canal Commission's Board of Directors, Mr. Dannis P. McAuliffe, the Administrator of the Panama Canal Commission, and Mr. Mike Rhode, the secretary of the Panama Canal Commission. Each of these individuals have dedicated themselves to the vital task of ensuring that the Panama Canal remains a vibrant and efficient waterway. They have done an outstanding job in that regard.

In addition, I would be remiss if I did not compliment and recognize the many contributions of the more than 1,400 Americans who quietly represent this Nation with such distinction as employees of the Panama Canal Commission.

Mr. Speaker, this bill deserves our support and I am pleased that H.R. 1784 is about to clear its last legislative hurdle.

In closing, Mr. Speaker, I again compliment the gentleman from Washington [Mr. LOWRY], the author of this bill, for his vital role in this important and historic effort.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. FIELDS. I would be glad to yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

Mr. Speaker, could the gentleman detail for me where we are in spending in this bill relative to fiscal year 1985 spending?

Mr. FIELDS. I would be pleased to respond to the gentleman by stating that this bill, H.R. 1784, contains an authorization of $436.8 million, which is $15 million less than in fiscal year 1985.

☐ 1255

In addition, I would say to the gentleman that in appropriations level for the Panama Canal Commission, it is $3 million less this year than it was in fiscal year 1986 and about $20 million less than the budget resolution which passed both Houses of Congress.

In short, I am sure that the gentleman will be pleased to learn that we have done an even better job than the original freeze amendment offered by the distinguished gentleman from Pennsylvania.

Mr. WALKER. If the gentleman will yield further, it is my understanding that the authorization levels are down and that the actual spending levels are down and so, therefore, the intent of what I was attempting to achieve with the freeze amendment has more than been complied with in this legislation. Is that correct?

Mr. FIELDS. I would respond to the gentleman even better than what the gentleman was trying to attempt with his freeze amendment, which I compliment him for. We have even done a better job.

Mr. WALKER. That is my impression, that this bill, in fact, meets the targets that we were attempting to achieve by at least holding the line and this actually lowers the spending. So I would be pleased to support the legislation now before us, feeling that it has met the fiscal targets that we were attempting to achieve in the House.

I thank the gentleman for yielding.

Mr. LOWRY of Washington. Mr. Speaker, will the gentleman yield?

Mr. FIELDS. I am pleased to yield to the gentleman from Washington.

Mr. LOWRY of Washington. Mr. Speaker, I thank the gentleman for yielding and would like to compliment the ranking minority member on the subcommittee for his leadership and an outstanding job in moving this important piece of legislation. I would like to compliment the gentleman from Pennsylvania who just queried because this bill does truly come under a freeze level, and I compliment the gentleman for his work on that.

I would specifically like to also acknowledge the work done by the gentleman from California [Mr. SHUMWAY] on the vital U.S. employee amendments that are within this bill, which was really the Shumway package from last year, a very important item for the morale of our U.S. canal employees.

I would like to compliment again the gentleman from Texas [Mr. FIELDS] because his interest repayment legislation is in this bill and that bill has also passed this Congress. Also the gentleman from New York [Mr. CARNEY] made an important improvement in our law with his important work on changing the notification requirements on property exchanges.

Mr. Speaker, on March 28, 1985, I introduced H.R. 1784, which authorized appropriations for fiscal year 1986 for the operation and the maintenance of the Panama Canal. This bill was cosponsored by 13 other members of both parties of the Subcommittee on Panama Canal/Outer Continental Shelf. This authorizing legislation is required by section 1302 of the Panama Canal Act of 1979, which provides that no funds be obligated or expended unless specifically authorized by the law.

The subcommittee marked up H.R. 1784 on April 3, 1985, and unanimously supported the bill with three amendments. On April 16, 1985, the full Merchant Marine and Fisheries Committee unanimously approved H.R. 1784 with one amendment. The bill was reported (Rept. 99-59) on April 29, 1985, to the House and passed the House on May 14, 1985, with one amendment. The Senate Armed Services Committee reported H.R. 1784 with an amendment on December 3, 1985, and the Senate passed the same bill on December 12, 1985.

Briefly, the bill authorizes appropriations of $436,784,000 from the Panama Commission Fund, which consists of tolls and receipts of the canal, for the operation and maintenance of the canal. Out of the $436 million, no more than $26.5 million may be spent on capital outlays. Section 5 of H.R. 1784 provides for certain employee benefits to compensate for employees losses due to the treaty. These benefits include home leave, medical care, and education expenses. Section 6 allows compensation for non-government-paid Board Members of the Panama Canal Commission [PCC] when attending meetings. Section 7 deletes the 180-day waiting period of congressional notice before transferring housing from the PCC to the Panamanians. Section 8 was deleted by the Senate due to the provision's variance with the treaty.

Section 8 was a provision, similar to most other authorization bills this year passed by the House, in which the authorization level was frozen at the fiscal year 1985 authorization level—$429,846,000—although the provision was based on a sense of Congress, rather than a statutory requirement. Section 8 was deleted by the Senate due to its variance with the Panama Canal Treaty of 1977. Essentially any cuts made to the PCC appropriations level results in a payment to the Republic of Panama, rather than a savings to the United States. The treaty requires that any tolls or revenues, up to $10 million over the expenses of the PCC, must go to Panama. The Panama Canal Act of 1979 requires that all expenses of the canal must be equal to, as nearly as possible, the amount of the tolls and receipts collected by the PCC. Section 8 would have reduced the appropriations by $7 million, therefore, the expenses would be $7 million less than the income of the canal and a payment of at least $7 million would have been made to Panama. Section 8 would result in no savings to the General Treasury of the United States.

I concur with the Senate-passed version of H.R. 1784, as does our ranking minority member of the Panama Canal/Outer Continental Shelf Subcommittee, the Honorable JACK FIELDS. I, therefore, urge passage of the bill, H.R. 1784, sent by the Senate, as is.

Mr. LENT. Mr. Speaker, I rise in the support of H.R. 1784, the Panama Canal authorization bill for fiscal year 1986, and recommend the House accept the two changes made by the other body.

This legislation is $10 million below the budget request. In addition, it also provides some increased benefits to the remaining U.S. employees of the Panama Canal Commission replacing those privileges lost as a result of the provisions of the Panama Canal Treaty.

I congratulate all of the Members who had a hand in moving this legislation, and look forward to having the first Panama Canal authorization bill signed into law. Thank you, Mr. Speaker.

Mr. FIELDS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. LOWRY of Washington. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 3838, TAX REFORM ACT OF 1985

Mr. BONIOR of Michigan. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 343 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 343

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3838) to reform the internal revenue laws of the United States, and the first reading of the bill shall be dispensed with. All points of order against the bill and against its consideration are hereby waived. After general debate, which shall be confined to the bill and shall continue not to exceed three hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be considered as having been read for amendment under the five-minute rule. The following amendments to the bill shall be considered to have been adopted in the House and in the Committee of the Whole: (1) on page 840, strike out line 23 and all that follows through line 12 on page 841, and insert: "(2) Repeal of special rule for employees' annuities.—The amendments made by paragraph (1) of subsection (c) shall apply where the annuity starting date is after July 1, 1986."; and (2) an amendment to strike out subtitle C of title XV and the corresponding portion of the table of contents. No other amendment to the bill shall be in order in the House or in the Committee of the Whole except the following amendments, which shall not be subject to amendment, except as specified, or to a demand for a division of the question in the House or in the Committee of the Whole, which shall be considered as having been read, and which shall be in order any rule of the House to the contrary notwithstanding: (1) the amendment printed in the Congressional Record of December 10, 1985 by, and if offered by, Representative Udall of Arizona or his designee, and said amendment shall be debatable for not to exceed twenty minutes, to be equally divided and controlled by the proponent of the amendment and a Member opposed thereto; (2) the amendment printed in the Congressional Record of December 10, 1985 by, and if offered by, Representative McHugh of New York or his designee, and said amendment shall be debatable for not to exceed twenty minutes, to be equally divided and controlled by the proponent of the amendment and a Member opposed thereto; and (3) the amendment in the nature of a substitute printed in the Congressional Record of December 6, 1985 by, and if offered by, Representative Duncan of Tennessee or his designee, as modified by the amendment contained in section 3 of this resolution. Debate on the substitute shall continue not to exceed two hours, to be equally divided and controlled by the proponent of the amendment and a Member opposed thereto. It shall also be in order to consider amendments to the bill recommended by the Committee on Ways and Means, which shall not be subject to amendment. At the conclusion of the consideration of the bill for amendments, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

Sec. 2. After the passage of H.R. 3838, it shall be in order to consider the resolution (H. Res. 335) to express the sense of the House of Representatives with respect to the effective date of certain provisions of tax reform, in the House, if called up by Representative Michel of Illinois, debate on said resolution shall continue not to exceed one hour to be equally divided and controlled by Representative Michel and Representative Rostenkowski of Illinois, and the previous question shall be considered as ordered on the resolution and its preamble to final adoption without intervening motion.

Sec. 3. Amendment to the amendment designated numbered (3): In the table of contents—

(1) strike out "1-year" in the item relating to section 601 and insert in lieu thereof "2-year",

(2) strike out "2-year" in the item relating to subtitle I of title XI and insert in lieu thereof "3-year", and

(3) strike out "2-year" in the item relating to section 1181 and insert in lieu thereof "3-year".

In section 1 of the Internal Revenue Code of 1985 (as added by section 101 of the amendment in the nature of a substitute)—

(1) strike out the rate schedule set forth in subsection (a) and insert in lieu thereof the following:

"If taxable income is:	The tax is:
Not over $22,500	15% of the taxable income.
Over $22,500 but not over $53,500.	$3,375 plus 25% of the excess over $22,500.
Over $53,500 but not over $100,000.	$11,125 plus 35% of the excess over $53,500.
Over $100,000	$27,400 plus 37% (35% in the case of taxable years beginning after December 31, 1990) of the excess over $100,000.

(2) strike out the rate schedule set forth in subsection (b) and insert in lieu thereof the following:

"If taxable income is:	The tax is:
Not over $16,000	15% of the taxable income.
Over $16,000 but not over $48,875.	$2,400 plus 25% of the excess over $16,000.
Over $48,875 but not over $75,000.	$10,618.75 plus 35% of the excess over $48,875.
Over $75,000	$19,762.50 plus 37% (35% in the case of taxable years beginning after December 31, 1990) of the excess over $75,000.

(3) strike out the rate schedule set forth in subsection (c) and insert in lieu thereof the following:

"If taxable income is:	The tax is:
Not over $12,500	15% of the taxable income.
Over $12,500 but not over $42,250.	$1,875 plus 25% of the excess over $12,500.
Over $42,250 but not over $60,000.	$9,312.50 plus 35% of the excess over $42,250.
Over $60,000	$15,525 plus 37% (35% in the case of taxable years beginning after December 31, 1990) of the excess over $60,000.

(4) strike out the rate schedule set forth in subsection (d) and insert in lieu thereof the following:

"If taxable income is:	The tax is:
Not over $11,250	15% of the taxable income.
Over $11,250 but not over $26,750.	$1,687.50 plus 25% of the excess over $11,250.
Over $26,750 but not over $50,000.	$5,562.50 plus 35% of the excess over $26,750.
Over $50,000	$13,700 plus 37% (35% in the case of taxable years beginning after December 31, 1990) of the excess over $50,000.

Strike out subsections (a) and (b) of section 111 of the amendment in the nature of a substitute and insert in lieu thereof the following:

"(a) Increase in Amount of Credit.—Subsection (a) of section 32 (relating to earned income credit) is amended by striking out '11 percent' and inserting in lieu thereof '14 percent', and by striking out '$5,000' and inserting in lieu thereof '$7,143'.

"(b) Increase in Income Level at Which Phaseout Begins.—Subsection (b) of section 32 is amended to read as follows:

" '(b) Limitation.—The credit allowable to any taxpayer under subsection (a) for any taxable year shall be reduced by 12.5 percent of so much of the adjusted gross income (or, if greater, the earned income of the taxpayer for the taxable year) as exceeds $8,000.' ".

Amend subparagraph (A) of section 168(g)(4) of the Internal Revenue Code of 1985 (as amended by section 201 of the amendment in the nature of a substitute) to read as follows:

"(A) Taxable years beginning before 1987.—No inflation adjustment shall be allowed under this subsection for any taxable year beginning in a calendar year before 1987.".

Strike out "1-YEAR" in the heading of section 601 of the amendment in the nature of a substitute and insert in lieu thereof "2-YEAR".

In the heading of subtitle I of title XII of the amendment in the nature of a substitute, strike out "2-YEAR" and insert in lieu thereof "3-YEAR".

In the heading of section 1181 of the amendment in the nature of a substitute, strike out "2-YEAR" and insert in lieu thereof "3-YEAR".

In section 1121 of the amendment in the nature of a substitute—

(1) strike out subsection (a) (relating to repeal of special rules for employees' annuities),

(2) redesignate subsection (b) as subsection (a), and

(3) amend subsection (c) to read as follows:

"(b) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts distributed after December 31, 1986, in taxable years ending after such date.".

The SPEAKER pro tempore. The gentleman from Michigan [Mr. BONIOR] is recognized for 1 hour.

Mr. BONIOR of Michigan. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Ohio [Mr. LATTA], pending which I yield myself such time as I may consume.

Mr. BONIOR of Michigan. Mr. Speaker, House Resolution 343 is a modified closed rule providing for the consideration of H.R. 3838, the Tax Reform Act of 1985.

The rule waives all points of order against consideration of the bill and against the bill itself.

The rule provides for 3 hours of general debate to be equally divided and controlled between the Chairman of the Ways and Means Committee and the ranking minority member.

After general debate, the bill will be considered as having been read for amendment under the 5-minute rule.

The rule provides that two amendments to the bill will be considered to have been adopted in the House and in the Committee of the Whole. The first amendment deletes provisions of the bill which would exempt Members of Congress and their staffs from tax liabilities on Civil Service Retirement System annuities. The modification would provide that the distributions of pension benefits paid to Members and their staffs will be subject to the same tax treatment as the distributions of other retired public employees.

The second amendment would delete the provisions of subtitle C of title 15. This section makes technical corrections to the Retirement Equity Act of 1984. Because this subtitle deals with matters that are within the jurisdiction of both the Committees on Education and Labor and on Ways and Means, principals of the two committees have agreed that these proposed technical corrections should be considered in separate legislation.

This is a modified closed rule which provides that only the following amendments may be offered in the House or in the Committee of the Whole:

First, an amendment printed in the CONGRESSIONAL RECORD of December 10 to be offered by Representative UDALL. This amendment will be debatable for 20 minutes;

Second, an amendment printed in the CONGRESSIONAL RECORD of December 10, 1985, to be offered by Representative MCHUGH. This amendment will also be debatable for not more than 20 minutes;

And third, the amendment in the nature of a substitute printed in the CONGRESSIONAL RECORD of December 6, 1985, to be offered by Representative DUNCAN. This amendment is modified by the amendment printed in section 3 of the rule. The amendment in section 3 includes technical changes to the Duncan substitute. It would also give Federal and State employees the same treatment with regard to the taxation of pension benefits as they receive under current law. In order to make up for revenue losses resulting from this change, the amendment would lower the income level about which the 35-percent tax rate would be applied.

Debate on the substitute is limited to 2 hours, to be equally divided and controlled by the proponent of the substitute and a Member opposed thereto.

The rule waives all points of order against these amendments and provides that they will not be subject to a demand for a division of the question in the House or in the Committee of the Whole.

The rule provides that it will also be in order to consider amendments to the bill recommended by the Committee on Ways and Means. These committee amendments are not subject to amendment. In addition, the rule provides for one motion to recommit.

Finally, section 2 of the rule makes in order the consideration in the House of House Resolution 335. That resolution, introduced by the distinguished minority leader, Mr. MICHEL, expresses the sense of the House with respect to effective dates of certain provisions of tax reform legislation. The provision in the rule authorizes Mr. MICHEL to take up the resolution. Debate is limited to 1 hour, to be equally divided by Mr. MICHEL and Mr. ROSTENKOWSKI. No amendments to the resolution will be in order, and after 1 hour of debate, the previous question shall be considered as ordered and the House will proceed to vote on final adoption of the resolution.

Mr. Speaker, this rule will once again offer the House the opportunity to move forward on our bipartisan commitment to tax reform. It is a fair rule, which allows for the consideration of two major alternative approaches to revising our tax structure.

The bill reported by the Committee on Ways and Means, with strong bipartisan support, addresses the fundamental inequities of our tax system. It reverses the trend that has allowed corporations and wealthy individuals to shift an ever-increasing share of the tax burden to those who can least afford it—the middle class and working poor.

The Ways and Means Committee bill will provide genuine tax relief to America's middle class. Half the benefits of this measure will go to families with incomes between $20,000 and $70,000 a year. For those making between $20,000 and $50,000 a year, this will mean an 8-10 percent decrease in their taxes.

The Ways and Means Committee bill maintains deductions which benefit the middle class such as those on home mortgages, and for State and local taxes. It retains the exclusion for fringe benefits. In all, this measure is the most important piece of legislation we have considered in the past decade to provide tangible benefits to the mainstream of the American people.

The Republican substitute made in order under this rule is, on the other hand, a retreat from the basic commitment to genuine tax reform. In this substitute, tax relief will benefit the corporate sector at the expense of individuals and families. If it passes, individuals will pay $30 billion more in taxes over the next 5 years than they would pay in the Ways and Means or the President's original proposal. Corporations, in turn, will pay $30 billion less.

The Republican substitute asks the middle class to pay for the benefits of the corporate world. Every itemized deduction over $1,000—except for home mortgages and charitable contributions—is cut back by 30 percent in this substitute. This includes the deductions for State and local taxes. This will amount to a form of double taxation for every American taxpayer and will place an increasing strain on the resources available for State and local services.

The substitute will also repeal the excludability of employer-provided group-term life insurance. It thus places an additional tax burden on middle income people who depend on such insurance to guarantee the security of their families. Over a 5-year period, this will affect over $10 billion—the third largest of all fringe benefits.

Mr. Speaker, our decision to take up the President's challenge to enact meaningful tax reform involves many difficult choices along the way. Many Members of this body seem to wish to run from our responsibility at this moment. We know that the legislation reported by the Ways and Means Committee is not a perfect bill. Each of us could find some provision to use as a cover under which to hide.

But, I believe, we must seize this moment. The inequities that have eaten away at our tax base will continue to grow if we do not act now. The burden on middle class Americans will not subside unless we decide to provide relief.

In the end, our choice is that simple—will we act to restore the confidence of middle income Americans in our tax structure, in the fairness of our Government itself, or will we continue to let these inequities grow?

Mr. Speaker, I urge adoption of this rule and support for the bill reported by the Committee on Ways and Means.

□ 1310

Mr. LATTA. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, my opinion is I oppose the rule and that America needs a revenue-neutral tax bill like Japan needs greater access to United States trade markets.

I believe this Congress has failed to address the problems before us. It is time we face it, that spending reductions will not take care of the grave financial problems America has, and we are going to at some point have to raise revenue.

America had a shot here today, in this Congress, to in fact do that equitably and put that revenue raise where it really would benefit this country. My concern is, in this bill we deny the investment tax credits and accelerated cost recovery. It is like shutting the spigot off on American industry recapitalization, and then opening up the drain again, and continuing to let U.S. manufacturing dollars go overseas, and many times avoiding our tax structure.

I am going to vote for the bill if it gets to this floor because it is better than what we have, but it is a shame that it is not tailored to what America really needs. I am hoping this House defeats this rule; not because I am against tax reform, but tax reform should be equitable and it should address the problem.

Mr. LATTA. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. MARTIN].

Mr. MARTIN of New York. Mr. Speaker, very little if anything substantive has changed since last Thursday when we voted on the rule to take up H.R. 3838. I guess some people feel for whatever reason they are going to change their vote and support the rule today.

If you are considering voting for the rule or the bill, there is something I think we ought to keep in mind if the question of deduction of State and local taxes is important to you and your State and your constituents. We should note that Treasury I did not have a deduction for State and local taxes, nor did Treasury II. As a matter of fact, the substitute that will be offered today substantially reduced deduction for State and local taxes.

We are not the only people in Washington to pass on this bill. The other body will pass on it, too. Believe it or not, they are going to see this a slight bit differently from how we see it.

I want the Members to know that if they vote for the rule or if they vote for the bill, when it comes back in a conference report, we will not have total deduction of State and local taxes. That I can almost guarantee. For every dollar we have to find to accommodate the "legitimate interest" of people in the other body, they will have to invade State and local taxes; and what is worse, when it comes back, it will not require your vote in all probability to be passed here. Your constituents will not be able to deduct State and local taxes, and your name is going to be on the bill. Think about it.

I ask for a "no" vote on the rule.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, a few short days ago this House rejected the rule, and, in so doing, it told the Committee on Ways and Means and the world that it was unwilling to work under this rule on a bill that it considered to be unsatisfactory.

In my judgment, nothing has changed with the bill, and an insufficient amount has changed with the rule to warrant any change in the vote on this floor.

There has been a minor amendment made in order to the Republican substitute, which most people agree is not going to pass anyway. Therefore, that amendment makes no important change in the rule.

□ 1320

What the bill is going to do, if it is passed, to reduce economic growth in the United States of America. It will reduce it by nearly 3 percent of GNP by 1991. It will slash incentives for savings and investment in this country which already has the lowest rate of personal savings in the industrialized world.

This bill may deindustrialize America by making our manufacturing companies noncompetitive. In fact, it will make all of America noncompetitive not only abroad but in its own domestic markets where we are already under severe pressure from foreign manufacturers.

Now if this is what you want, that is, a noncompetitive, deindustrialized America, and if you want the growth taken out of our economy, and if you are looking for a recession, and if you would like 1.3 percent higher unemployment by 1991, and if you would like to increase the deficit by $16 billion next year and $26 billion by 1991, you should vote for this rule.

Otherwise, Mr. Speaker, I submit the House would do well to reaffirm what it did last week, that is, defeat this rule and send the Ways and Means Committee back to do a proper job of tax reform.

Mr. BONIOR of Michigan. Mr. Speaker, I yield 1 minute to the gentleman from Georgia [Mr. JENKINS].

Mr. JENKINS. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of the rule and in support of the bill. Once again we have the opportunity to actually debate whether or not we ought to have a tax reform bill. If we do not pass this rule, as it is now apparently satisfactory to a lot of other people so that they can get on with the 5 hours of debate, then we will never have that opportunity to debate whether or not it will hurt the economic posture of the Nation.

I urge every Member to vote for the rule so that we can at least discuss the issue. Then if you do not believe that it is an adequate bill, if you believe that it is defective, if you believe we should not pass a tax reform bill, at that time you can vote against the Republican substitute, you can vote against the committee bill, but at least we will have had the opportunity to discuss it.

I simply want to end by saying this: Throughout the many months of discussions with this bill, there has been a bipartisan effort, bipartisan votes, which I will point out later in the debate if the rule passes. This has not been a one-way street. I think that that is a misconception that ought to be clarified during the debate. It is not a perfect bill, but it deserves at least your consideration for debate.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia [Mr. PARRIS].

Mr. PARRIS. I thank the gentleman for yielding.

Mr. Speaker, one of our colleagues recently observed that if Congress stays in session after 11 o'clock at night it resembles a nursery without a nap.

We were in session until 1:30 last night. At about that time the Rules Committee got together, and it hassled, and it argued, and in hurried meeting it agreed to undertake a cosmetic change and bring this rule back this morning, which we are now debating.

Those of us in the D.C. area have a football team called the Redskins, and a famous offensive line called the Hogs. There are some truck drivers that go to the stadium and put on snouts and wigs and dresses. They are called the Hogettes. They are mildly amusing but not very attractive.

Even if you put a dress on a hog it is still an ugly hog. And that is characteristic of the rule we are considering right now.

I want to thank and congratulate Mr. Latta who has been very instrumental in having adoption of an amendment to the Republican substitute which corrects the inequities of the public sector pension benefits which is an important part of this bill. The substitute is clearly a better bill. It is much fairer in dealing with the tax liability of the typical suburban American middle class family.

There is no one in this town, however, that believes the Republican substitute will pass and there is no amendment permitted to the main Democratic bill. We just heard from the previous speaker that we are going to have 5 hours of debate on this bill. This bill is almost 1,400 pages long. If you spend an equal time on a proportionate segment of the bill, we will debate 276 pages of this bill every hour or 4½ pages of complicated tax language each minute. Do you really think we know what is in the bill when we finish with it and finally vote on it?

Nothing has really changed. The only thing that is different from last Wednesday of substance is the date. This rule authorizes House Resolution 335, which says we should make a public statement which will reduce the uncertainty of the effective date. Why do we not just legislate an effective date? Why do we willfully perpetuate the conclusion and create a significant period in which no taxpayer, personal or corporate, can make an intelligent investment decision? Think what impact that fact alone will mean to this Nation's economy.

This is a bad rule and a bad bill, we should vote it down.

Mr. BONIOR of Michigan. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. Lundine].

Mr. LUNDINE. Mr. Speaker, I rise in favor of the rule. To my friends on the minority side I would say, you have your version of this tax bill, and you have been allowed to amend that version of the tax bill. You ought not really, fairly, to prevent it from even being considered. Vote as you will and as your conscience and your vision for this country and your interests in your district would have you vote on the bill, but do not prevent us from a vote. To my friends on the majority side of the aisle I would say it is much like the old sage once said, he did not mind getting older when he thought about the alternative. I ask you: Think about the alternative of rejecting this rule and not even allowing a debate on tax reform by a party that has stood for tax reform at least since I have been in the Congress.

The last major tax revision bill was passed by this Congress in 1954, 30 years later it is time to pass this rule and take up this bill and fairly debate tax reform again.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia [Mr. Wolf].

Mr. WOLF. Mr. Speaker, let me just say several points. One, I am pleased at the Republican substitute, that there will be an opportunity to take care of Federal, State, and local police and firemen. But I want to say one other thing, and I am sorry that the chairman of the Committee on Ways and Means is not here, but I will tell him directly when I see him: There is a sense of frustration for those of us who serve in the minority and do not serve on the Ways and Means Committee. There is almost a degree of arrogance that this is the way it will be, and that is just the way it is going to be, and no matter what you do.

I think it would have been the fair and decent and appropriate thing to allow at least the body to work its will on this one issue. I think to change the rules on these people in the middle of the game is unfair. We are just forcing so many people in the Federal Government to just take another hit and another hit. What I am afraid of is that we are driving so many of the good people away that in 10 to 15 years from now the people that are attracted will not be the ones that we would want to be running the Government. So I am pleased that the Republican substitute has it. I wish it would be in order applicable to the Democratic substitute. I hope that the chairman and those that are on the conference make sure that this does not stay in should this bill ever pass, because it is wrong. It is not fair, the people do not want it, it is in there, and it ought to be out.

Mr. Speaker, I rise in support of the House Rules Committee rule, House Resolution 343 to consider H.R. 3838, Tax Reform Act of 1985. As my colleagues know, I opposed the rule last week to consider the tax bill. I did so because the Rules Committee did not make in order an amendment I offered to allow for a vote on a provision in both the committee bill and Republican substitute which I particularly oppose to eliminate the 3-year basis recovery rule governing tax exempt treatment of annuities where employee contributions to such pensions are mandatory.

Last night, I testified again before the House Rules Committee and asked that my amendment to repeal this portion of both tax reform packages under consideration be made in order so that this body could vote on the pension tax change issue. The rule before us today is a different rule and I am pleased that the House leadership allowed my amendment to be made in order to the Republican substitute. Although I am disappointed that the House Democrats did not make this amendment in order to the Ways and Means tax reform package, I believe the Republican substitute provides a clear signal that a revenue neutral bill can be reported by the Congress without a debilitating tax change for public employees. I believe consideration of the Republican substitute provides a solid framework on which the other body can develop a more suitable alternative to the Ways and Means Committee bill. I urge my colleagues to support the rule which allows consideration of the Republican substitute.

Mr. BONIOR of Michigan. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. Matsui].

Mr. MATSUI. I thank the gentleman for yielding.

Mr. Speaker, I would merely urge all my colleagues to support this rule. I just heard the previous speaker, the gentleman from Virginia, speak about the fact that there is frustration because we did not have a democratic process and allowed other Members involved in the legislation. I might say we went through 8 weeks of markups, 5 Republican Members of the 13 voted for the legislation that is now known as the Ways and Means Committee bill. I believe it is a good piece of legislation. We had over 500 witnesses during the hearing on the bill. All of you know we were in consultation with both Republican and Democratic Members. Now is the time for the American public to be able to have an opportunity to see where the Members are on this tax legislation. So it is my hope that we are going to be able to get a vote on the rule so we can take this bill and send it to the Senate committee and perhaps have tax reform in 1986.

Mr. LATTA. Mr. Speaker, I yield 1 minute to the gentleman from Louisiana [Mr. Roemer].

Mr. ROEMER. I thank the gentleman for yielding.

Mr. Speaker, I oppose the rule and the bill. Listening to the Republicans after their meeting with the President yesterday singing the old song, "I Saw the Light," I fully expect the rule on the bill to pass.

Frankly, there is no reason whatsoever for the rule vote of last week to change except politics.

The rule has been improved slightly, but only slightly. It is still a closed rule. It allows for only a few individual amendments. Unfortunately, it is a typical Ways and Means rule: tightly closed.

The rule reminds me of a Louisiana bullfrog—all mouth and no guts. This rule does not allow us to touch the guts of the bill.

The Constitution says that all revenue bills originate in the House. The Constitution does not require that we have to accept the bill blindly. The rule does that. The Constitution

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doesn't say that the Ways and Means Committee alone decides tax policy in America. The rule does that.

Don't fool yourself, this is a bad rule because its all mouth and no guts: While it allows the debate on tax policy to take place, it prohibits the debate from meaning anything.

What are you then left with?

First, a tax bill that adds to the complexity of the Tax Code rather than make it more clear. Anyone who tells you that this 1379-page bill is simple, is.

Second, the bill is antijobs and antigrowth. While the bill clearly hurts jobs in my district by imposing sharply higher taxes on the timber and oil and gas industries which are the two biggest job producers in Louisiana, it also targets job creation across the country. It raises the capital gains tax, it increases the penalty on depreciable assets; it eliminates the investment tax credit; it imposes an additional tax of $175 billion on capital. All of these items allow for jobs to be created.

Frankly, this bill asks us to accept fewer job opportunities in return for slightly lower marginal rates. It's a bad trade.

I am for tax reform and always have been. But I am more clear on what tax reform means than is the committee. To me tax reform means that the Code is made more simple and more clear, that job opportunities are expanded, not contracted, and that fairness is imposed so that everyone pays their fair share. In short, real tax reform demands the imposition of a corporate and wealthy minimum tax requiring everyone to pay, with the proceeds to go toward lowering the deficit, dropping interest rates, and increasing job opportunities. I've voted for that program this year and will vote for that kind of tax reform today. Unfortunately the rule doesn't allow our amendment. A reasonable minimum tax is coming; let's lead and not be led on this issue.

Vote against the rule, and then let's write a tax reform bill in the House, not in the Senate.

Mr. BONIOR of Michigan. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. Rangel].

Mr. RANGEL. Mr. Speaker, there has been lot of talk about defeating the rule and then defeating the bill. I hope that we will be able to shatter the myth that there is a bill that is before this body today to be considered. Some of you may not like the way the Democratic majority-controlled Ways and Means Committee tried to craft a bill to meet the needs of what we thought was that of most Americans; but if you do not like what we did, then we have the luxury of having served on the Ways and Means Committee some of the brightest minds involved in the writing of tax legislation and they do not sit on the Democratic side of the aisle, they sit on the Republican side of the aisle. So when all of the things that they would want to see done were not done there, they went and drafted their own bill which comes under the rule which we are debating this morning.

So check with Mr. Duncan, check with Mr. Frenzel, check with Mr. Archer, and check with Phil Crane, because they did get together and said there is a better way to do it.

Now if you are so partisan that you want to shoot down the Democratic bill, then, for crying out loud, give your party a chance to vote for tax reform today.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from Nebraska [Mr. Daub].

Mr. DAUB. I thank the gentleman from Ohio for the time.

My colleagues, this is an opportunity, by passing this rule, to modernize the Tax Code which I described as being like a Model T that is trying to survive out there on an interstate highway. We need to do that. We need to do that together. I want us to reach for our future, and I am proud of my party because I believe that my party has been in the vanguard of urging in an understandable way the reasons why this country needs tax reform. And I favor tax reform for three reasons. First, I want us to understand and appreciate why we cannot do anything about our structural deficit, we cannot reform how we spend if we do not at the same time reform how we tax.

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We have accomplished, painful though it may turn out to be, the spending reform with Gramm-Rudman. Now it is up to us today, now, to commence the process of reforming how we tax, to lower rates, to broaden the base. If our debt is going to go from $2 trillion to $3 trillion—and it will by 1991—if the demographics are clear from the baby boom-bust cycle that we are going to be labor short by 1992 or 1994, that is fewer taxpayers carrying the load that we have laid on them, and if in fact under current law the Tax Code means that if you raise our taxes and we itemize we will buy another condo and shelter down, or General Electric will buy another wide-bodied 747, buy some more ITC's and another company, and pay no tax, then I will say to you that that is not a fair Tax Code and we ought to change it. This is our opportunity. Given those three reasons, a debt that is going up, a Tax Code that is producing revenues and is going down, and the poor taxpayer stuck in the middle, fewer of them shouldering the load of food stamps and farmer's aid and foreign aid, we need to do the one right thing, modernize the Tax Code.

I urge my colleagues to support the rule and the bill on final passage.

Mr. BONIOR of Michigan. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. Pickle].

Mr. PICKLE. Mr. Speaker, earlier, one of the Members said that this bill was antibusiness, antigrowth, and did not do anything about the deficit. The truth of the matter is that this bill is supported by many of the small businesses, and by the largest small business organization in this country. It is supported by over 100 of Fortune 500 corporations of this land.

Many, many of the business organizations say that this bill is necessary and that we ought to move it forward.

Now, keep in mind the President made his recommendation in his State of the Union speech in 1984 that we should have tax reform. The Democrats agreed to cooperate. This bill is the result of that commitment. Now, it may not be the bill exactly as you want, it may not be the perfect bill. You do not have to agree with every provision of it. I do not agree with it in every respect, certainly I do not agree with the oil and gas provisions, but I think it generally is a good reform measure and should be advanced.

If you vote no, you are simply saying you are against tax reform, you do not want lower rates, you do not want to increase the personal exemptions. We could start over again by sending it back to the Ways and Means Committee; but, my friends, if we did, we would come back, if at all, a year or two later, with much the same kind of bill, and you would make no progress. This may be the best chance you have of advancing a tax reform bill, and I ask you to support the rule.

Mr. Speaker, I support the rule, and I support the bill.

In Janaury 1984, in his State of the Union Address, President Reagan committed himself to a major tax reform plan during his second term. The Treasury Department produced a comprehensive tax reform package and sent it to the Congress last May.

At that time, the Democrats in Congress said we were willing to work with the administration to produce a tax reform bill. The Democrats have kept their promise, and this bill is the result of that commitment. It may not be the perfect bill or exactly like the President's bill—it does parallel his bill. Individual interest groups and regions of the country may disagree with certain provisions in the bill. I certainly do on the oil and gas provisions. But if we were to start over tomorrow in the Ways and Means Committee to try to produce a different bill, we'd end up with a very similar bill. Some groups would favor it, some would oppose it.

The major allegations about this bill are that it's "Anti-Business," "Anti-Growth," and that it doesn't reduce the deficit. That charge is to be expected by the individuals

and businesses that are directly affected by the bill. But it is strongly supported by small business and a long list of corporations. And we could do nothing about the deficit because the President said he would veto any bill that raised revenue even to reduce the deficit.

The rule should be supported, however, if we want to move tax reform forward. A no vote on this bill will kill whatever chance Congress has to reform the current tax system. There are many doubts about this bill and that is understandable, but a no vote is a vote against tax reform.

So, vote to move the process forward.

Mr. LATTA. Mr. Speaker, I yield 5 minutes to the gentleman from New York [Mr. Kemp].

Mr. KEMP. Mr. Speaker, I thank my colleague from Ohio for yielding to me.

Last week, I helped lead the fight against the rule. Frankly, I am glad that that rule was defeated, for two reasons. No. 1, true tax reform was headed for a defeat, and had the vote come at that time on that bill, in my view, it would have gone down to a devastating defeat, not just for the President but for the hopes of the American people and our economy for true tax reform. Second, the House was not being given a chance to vote on anything which would have resulted in the kind of true tax reform that the vast majority of us on both sides of the aisle really want for the Nation.

Mr. Bradley, Mr. Gephardt, who helped start this cause, Mr. Kasten over in the Senate, myself, and others, together with the President and untold numbers of men and women in both political parties, have a big stake in getting the right kind of tax reform, the kind that can bring about a more productive economy and a tax system fairer, simpler, and move our country forward, not preserve the status quo.

One of the problems last week was that some of our colleagues in the Senate stated that there would be no changes from the original bill as it came out of the House. That caused, I must say to my colleagues on the left, serious problems with many of us on the minority side; we wanted to play a role not only in passing a bill but in helping shape that bill, as so many have stated on the floor today, some of whom are for this particular bill, such as my colleague from Nebraska, and some of whom are against it.

Has the Rostenkowski bill changed? The answer clearly is no. What has changed, I want to say to my colleagues, is that the President is now directly involved in shaping the substance of this process that he personally yesterday asked us to support.

Last week we were asked to support a process that was pretty much abstract. We did not have the assurance of our President, not only that was he going to be involved, but also that there were certain minimum criteria upon which he would base a final decision concerning whether or not he would sign or veto the bill.

I want to say to my friends in the Republican Party, many of whom have very strong reservations and indeed opposition to this bill, that I am going to vote for the rule and for final passage, because I think we now have the word of our President that he wants a bill that gives the $2,000 exemption to every family, regardless whether they itemize or not. I appreciate Mr. Rostenkowski and my colleagues from the Democratic side of the Ways and Means Committee who got a $2,000 exemption in there for some people. But I think it must be expanded. There are a number of us who feel very strongly about this profamily issue. We want that $2,000 exemption for both low-income and middle-income taxpayers, who really are at the heart of the constituency for fundamental tax reform.

The President has also assured us that he will veto a bill that does not bring down the rates on middle-income working men and women, or bring the top rate down at least to 35 percent. He has assured us that he will veto any bill that does not include basic tax incentives for capital formation and for the modernization of our plants and equipment and machinery in this country, to make us more competitive with other countries. In addition, the rule contains a provision to remove some of the doubts that many of us had, concerning the paralyzing uncertainty and ambiguity about the effective dates of tax reform. I will say to my good friend Mr. Rangel, from New York, there were many votes lost over here, not because we wanted to kill tax reform, but because of the fear that in the committee bill the rates would come down in July and preferences would come out in January, resulting in a tax increase. We have now been assured by our President that he will not let that happen.

The issue here is not the abstraction of tax reform. The issue is making our economy more productive and entrepreneurial, and to offer jobs, hope, and opportunity for the future of our Nation and our children.

I urge you, for the good of the country and the economy, to vote for the rule and for the final bill.

The SPEAKER. The time of the gentleman from New York [Mr. Kemp] has expired.

Mr. LAGOMARSINO. Mr. Speaker, will the gentleman yield?

Mr. LATTA. Mr. Speaker, I yield an additional 30 seconds to the gentleman from New York [Mr. Kemp].

Mr. KEMP. I yield to my colleague, the gentleman from California.

Mr. LAGOMARSINO. I thank the gentleman for yielding, and I want to commend the gentleman in the well for his statement. I think it was not an easy thing for him to do, after what happened last week. I want to also commend the gentleman for his leadership on this issue. Indeed, had it not been for him and the other gentlemen he mentioned in his statement, we would not be here at all, in my opinion. I think the gentleman has helped to lay the groundwork for something that is going to go forward. The bill before us today is not good but it can be made better and, hopefully, it will be.

Mr. KEMP. I appreciate the comments of my colleague from California and his friendship and leadership as well.

Mr. BONIOR of Michigan. Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia [Mr. Rowland].

Mr. ROWLAND of Georgia. Mr. Speaker, I rise in support of the rule to consider H.R. 3838, the Tax Reform Act of 1985.

I do so because I have been told by many folks at home that tax reform is needed. And while I have serious reservations regarding many of the provisions within the committee's tax reform proposal, I do feel that it should be debated.

My reservations regarding this bill include the effect that the bill would have with respect to major industry within my home State of Georgia. Under the bill, the timber and kaolin industries, which are a major source of revenue and employment within my district, are severely impacted. Aside from the immediate effects this may have upon these industries themselves, I am very concerned about the ramifications this could have upon the employment outlook for the workers in this industry, and as my district is primarily rural, loss of jobs would be devastating.

Additionally, I am opposed to the provision changing existing law with regard to the taxation of Federal employee annuities.

At any rate, I believe that we should take this opportunity to discuss this measure. The issue of tax reform has been placed before this body, and it needs to be given our attention. If we do not move forward with debate, we will simply put off an issue which the American people want debated and fully considered.

While I support bringing this measure to the floor, I believe that very serious questions have been raised as to whether this bill is worthy of passage. If this bill should fail to get through Congress, we should not let the issue of tax reform die. It would then be up to Congress to return to this issue in the future and try once again to devise a tax reform plan which is truly less complicated and more equitable for everyone.

Mr. BONIOR of Michigan. Mr. Speaker, I yield 1 minute to the gentleman from Maryland [Mr. Hoyer].

Mr. HOYER. I thank the gentleman for yielding.

Mr. Speaker, I spoke last week on this bill with some animation, I am told. I was not pleased with the rule.

This rule has made two essential changes. No. 1, the Republican substitute will include the protection for public employees that I sought from the Democratic side through the Rules Committee. No. 2, there is a timing question resolution that will follow on. Those changes, in my opinion, while good, are not substantive enough, not substantive enough because, as the gentleman from Minnesota has just indicated, the Republican substitute is not going to pass. I am not going to vote for the Republican substitute, notwithstanding that it protects the public employees, because I think the substance of the bill is not what it ought to be.

Mr. LATTA. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I only have 1 minute.

Mr. LATTA. I will yield the gentleman an additional 30 seconds.

Mr. HOYER. I would be glad to yield to the gentleman.

Mr. LATTA. Does not the gentleman think we would be sending a message to the other body and also to the conferees on the Republican substitute, with the amendment that we have made in order, covering the area that the gentleman and I are most concerned about?

Mr. HOYER. The answer, I would suggest, is yes. And for that I appreciate the efforts that have been made, because I think we have sent a message. The only amendment that is being made in order is the protection of the pension benefits of public and private sector employees who have a mandatory, contributary retirement plan.

Mr. Speaker, there are only two groups of employees who are now not subject to tax, Social Security recipients, 36 million, and approximately 16 to 19 million Americans who have mandatory, contributory systems: just like Social Security. We do not tax Social Security but we are going to tax public employees pension contributions under this proposal. That is indeed unfortunate.

Mr. LATTA. Mr. Speaker, I yield 1 minute to the gentleman from Indiana [Mr. COATS].

Mr. COATS. Mr. Speaker, I want to address specifically the issue of the fairness for families that are supposedly in each of the tax bills that are before us today.

Both the Ways and Means bill and the Republican bill deal with the key element that provides tax relief for families, the $2,000 exemption. But the Republican bill deals with it in a far more equitable way because the Democratic Ways and Means Committee bill only allows it for those who do not itemize.

The contention is that, well, not many people itemize.

The facts speak differently. While it is true that only 36 percent of all returns are itemized the statistics show that in the $25,000 to $30,000 income category, for those who file jointly, 62.5 percent itemize, and in the $30,000 to $40,000 category for those who file jointly, 78.4 percent itemize. For those families that have medical costs, for those families that give to charities, for those families who are buying a home, clearly they are better off under the Republican substitute. They are penalized under the Ways and Means Committee bill not because they are rich but simply because they have chosen to have children.

Mr. BONIOR of Michigan. Mr. Speaker, I yield 1 minute to the gentleman from Alabama [Mr. FLIPPO].

Mr. FLIPPO. Mr. Speaker, I believe this Ways and Means bill is worth doing, and I think it is worth doing now. It is a significant improvement over current law. The bill is worth doing for what it does for middle income America. It gives them a fair break. It says, "I understand your concerns about the fairness of the Tax Code, and this is a fair way to do it." It is worth doing for what it does for the poor and the working poor of this country. It says, "I know you have been brought onto the tax rolls through inflation, and we are going to make those adjustments now."

I think it is worth doing for what it does for small business in this country. Small business gets a better break, it has graduated rates, and for those who are concerned about growth under this bill, you need to remember that most of the jobs that have been created in this country have been created in the small business area. And if it is worth doing, when is the right time to do it, when is the time to say to them, "We want a fair break for most Americans." I think that time is now, and we need to support the bill and support the rule with a great deal of pride.

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Mr. LATTA. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I support this rule. We have had quite a bit of debate about it. Some people are saying it is no different than the one we had last week. It is different.

The effective date is going to be changed to December 31, 1986, by separate resolutions. This will be a significant change. Second, we have heard a lot of discussion about the 19 million Americans who would be double taxed under this legislation the way it has been brought to the floor. I have reference to all people who contribute voluntarily to an annuity for their retirement years and pay tax on that money when they put it in. Under the pending legislation they would also pay taxes on that same money when they drew it out at retirement.

Under the rule we now have before us, an amendment will be in order to the Republican substitute which leaves the present law as it is today. In other words, they will not be double taxed.

Certainly, as I pointed out here to the gentleman from Maryland, that notwithstanding the fact that it will be attached to a Republican substitute which may not pass, we will in any event be sending a message to the other body that we do not want double taxation for these 19 million people in the private and public sectors.

You talk to your teachers back home, you talk to your firemen, your policemen, your State and local public employees; you talk to people in private programs who have contributed voluntarily toward their retirement annuities, they have been led to believe by their Government that since they have paid taxes on this money once, they will not be taxed on it a second time when they draw it out. Ask these people and they will urge you to support a rule that will knock out the double taxation provision in the Democratic bill. This is a change in the rule we have before us today as opposed to a few days ago.

Let me say that there is something else. As the gentleman from New York has pointed out, the President now is personally involved in this thing. He is committed, he is committed to tax reform, and certainly he is not committed to the Democratic or the Republican bills as presently written. He is committed to the program he submitted to this Congress, and he is going to be working for it in the other body, and also in conference.

This is not the end of the road. It could be the end of the road if we vote down this rule or defeat the bill today. It could be the end of the road for tax reform. I do not like everything in the Ways and Means Committee bill. I have a laundry list of things that I dislike about the bill. But hopefully, hopefully, we will be able to correct those shortcomings in the other body and in conference. If we do not correct them, I will be down here leading the fight to kill the conference report.

So we will have another day. The Ways and Means Committee, the Finance Committee of the Senate, and the conferees still have work to do on this legislation. They certainly must pay heed to the complaints made about this bill here on the floor of this House and throughout the Nation, and if they close their ears and maintain they have written a perfect bill, it is ours or nothing, they are going to get nothing. They are going to get nothing. So we are giving the Ways and Means Committee another opportunity to write a bill we can support. We want them to come back from the Senate with a better product than we have before us today. I think they will. I think they have gotten the message and they will come back to this House from conference with a better bill. Hopefully, will give the President something he can sign and sign for the best interests of all Americans.

So I say to my colleagues, support the rule and give the House an oportunity to debate the bill, and then to vote on it. We all want tax reform and this is the only way to get it.

Mr. LUKEN. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman.

Mr. LUKEN. I would like to associate myself with the comments of the gentleman with reference to the amendment on retirement, especially affecting the pensions for public employees, especially affecting federal and State employees and teachers in States such as Ohio. I think it is an improvement that it was at least permitted to be put into the Republican substitute. I wish it were also available as an amendment on the Ways and Means bill.

Mr. LATTA. Let me say to my good friend that I wish likewise. We just did not have the votes in the Rules Committee to attach it to the Democratic proposal. I was one of those urging that, but we did not have the votes. We tried and we lost, but we will live to fight another day on this and on other important issues.

Mr. BONIOR of Michigan. Mr. Speaker, I yield 1 minute to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. I thank the gentleman for yielding to me.

Mr. Speaker, it is not always in this light that we have a chance to rectify a mistake. In fact, we always do not have an opportunity for a second chance. But in this Chamber today we have this opportunity. Last week we turned our backs on 6 million of America's working poor. We said to our middle-income Americans, "You are right about your cynicism about our Tax Code; you are right, we are not going to make very well off individuals pay their fair share. We are not going to make very profitable corporations pay their fair share."

Mr. Speaker, a previous speaker spoke about guts. We have the opportunity in this Chamber this afternoon to say we have the guts to say no to the sophisticated individuals in this town who have grown so close to the code. We have the opportunity to say yes to the people of America who started this whole process. To say yes to them, we are going to give you a fairer code.

I urge my colleagues to vote for this rule.

Mr. LATTA. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. ZSCHAU].

Mr. ZSCHAU. I thank the gentleman for yielding me this time.

Mr. Speaker, last week the House defeated the rule in the tax bill, not to derail tax reform, but to give us more time to understand what is in the bill, to analyze its impact on the economy, and to make improvements to it.

Now, many of my colleagues who voted against that rule are going to switch their votes. I am not. What is the rationale for those who are going to switch? They are going to get a letter from the President decribing why he would veto this bill as it is and what changes would be necessary to make it acceptable.

That's backward. Rather than voting for a bad bill because we get a letter describing why it is bad, we and the administration ought to be working together to formulate a new bill that achieves the promises of true tax reform—fairness, simplicity, more economic growth, and jobs.

Let's defeat this rule today. That won't kill tax reform. It will keep the process alive. It will give us the time we need to formulate a real tax reform bill that can be brought up early next year, with the support of a bipartisan majority of this House and our President. Let's take the time to produce a good product that we can be proud of for consideration by the other body.

Mr. BONIOR of Michigan. Mr. Speaker, I yield 1 minute to the gentleman from Arkansas [Mr. ANTHONY].

Mr. ANTHONY. I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of the rule and I rise in support of the Ways and Means Committee legislation. An imperfect legislative process does not produce perfect legislation. It is not the first imperfect bill we have been asked to debate on the House floor; it will not be the last.

I submit that the Ways and Means Committee bill is more profamily than the existing Tax Code, especially if you are a single head of household and you are a woman. Lower rates for individuals and for businesses will help put more money in individuals' and corporations' pockets so that they can do more for growth and stimulate the economy.

There is a strong minimum tax in the Ways and Means Committee bill so that the wealthy will pay their fair share. Tax shelters are tightened so that there will be more economic decisions and less tax consequences decisions. Full deductions for State and local taxes is contained in the committee bill, and no taxation of fringe benefits is also contained in the committee bill.

I submit that these are adequate reasons to vote for the rule so that we can adequately and fully debate the full implications of good tax reform.

Mr. BONIOR of Michigan. Mr. Speaker, I yield 1 minute to the gentlewoman from California [Mrs. BOXER].

Mrs. BOXER. I thank the gentleman for yielding me this time.

Mr. Speaker, let us vote "aye" on this rule for one main reason: The American people have the right to the debate on tax reform, and the only way they are going to get it is for us to vote "aye" on the rule and it is as simple as that.

We have a Democratic bill that for the first time insures that the many who should pay will pay. Now, that steps on a lot of toes, but let us not duck and cover behind a rule. Sure, it is controversial to even suggest that the biggest defense contractors in our country and the wealthiest in our midst pay their fair share. But let us not duck and cover; let us get to the merits. We all know that tax reform is long overdue.

Is this the perfect rule? The ultimate rule? Of course it is not. We will all take a little heat for it, but my friends, we know to move this critical issue forward it will take compromise. It takes putting aside our own personal agendas and we all have them for the good of the American people. Let us do it and vote "aye" on the rule.

□ 1400

Mr. BONIOR of Michigan. Mr. Speaker, I yield 1 minute to the gentleman from Minnesota [Mr. SABO].

Mr. SABO. Mr. Speaker, perfection is the enemy of the good, and the bill we have before us clearly is not perfect. Each of us would change it to be perfect in a different fashion, but it is a good bill, one that deserves to be passed.

It clearly is a substantial improvement over the existing Tax Code, and it is one that we can vote for with pride to know that we made the method by which we raise the revenue in our country more fair, more equitable, and to assure that everyone pays at least some of the burden of Government in this country.

And to the minority, you clearly have the option of presenting your alternative. It is your choice whether you offer the President's proposal as originally presented to the Congress, or the one that you actually present today. You have your choice to present the type of alternative that you choose to present.

Clearly the rule is fair, we should pass it, we should move on to have the debate on tax reform, and then we should pass the bill.

Mr. BONIOR of Michigan. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, for those who would suggest that we should defeat this rule, that is to suggest that nothing is better than this bill. Nothing is the current law.

Nothing is the current law that every Member of this House has condemned to pledge themselves in front of their constituents to change, because it is the Tax Code now that has lost credibility with the working people in this country. It is the Tax Code that is creating an underground economy. It is the Tax Code the people no longer feel that they should voluntarily comply with because it is unfair, it is inequitable.

This bill and this process starts to make that Tax Code yield to the needs of working people in this country, to the needs of low-income working people, and to those people who choose not to pay by abusing the Tax Code and utilizing the privilege of that code that is not available to others.

For the first time, through the work of the minimum tax, we will say that all Americans must participate in the Tax Code of this country for the privilege of living and working in this country. They must participate in the defense of this country and the maintenance of the social fabric by paying their fair share.

Mr. BONIOR of Michigan. Mr. Speaker, I yield 1 minute to the gentleman from North Carolina [Mr. Rose].

Mr. ROSE. Mr. Speaker, there are many good reasons why we should support the rules and the bill that the Ways and Means Committee will bring to us today.

This bill is good for the country. It is good for all the great reasons that our colleagues have enumerated one by one here today.

But I want to take a little different approach for a second and say that the Ways and Means Committee has worked long and labored hard to produce this product, and being a southerner who has a great stake in agriculture, especially in growing tobacco in the South, I want to say that nobody has done more for southern tobacco farmers and our problems than our friends on the Ways and Means Committee. Their bill deserves a chance today on the floor of this House.

If I could sing to you, I would say that our tobacco farmers have a great friend in Danny Rostenkowski, and we owe him a debt of gratitude. The least we can do as southerners who are interested in agriculture is to vote for this rule and support this process.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. Bonior] has 9 minutes remaining, and the gentleman from Ohio [Mr. Latta] has 6 minutes remaining.

Mr. BONIOR of Michigan. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. Schumer].

Mr. SCHUMER. Mr. Speaker, I say to my colleagues, and particularly to my colleagues of progressive viewpoint who are on my side of the aisle, that if someone came to you in 1979 or 1981 and said, "I'll hand you a tax bill that takes 6 million poor Americans off the tax rolls," you would love it. And if someone came to you and said, "I'll give you a tax bill that will reduce rates on the beleaguered middle class," you would jump at the chance to take it.

And most of all, if someone came to you and said, "We're going to make sure once and for all that those large corporations and multimillionaires who abuse the code and pay no taxes will now have to pay 25 percent—no ands, ifs, or buts," you would jump at the chance. I say to my colleagues on this side of the aisle it is time for us to jump at that chance.

We do not have a passable bill; we have a bill that makes us all proud to be Democrats. We ought to vote for this rule, vote for the bill, and go home this Christmas recess feeling good about our party and our country.

Mr. BONIOR of Michigan. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri [Mr. Gephardt].

Mr. GEPHARDT. Mr. Speaker, with all of the extraneous issues and charges and countercharges and various ideas that have been bandied about in the last few days, I think it is very important to concentrate on two simple things that are before us.

First, this vote today on this rule is a vote for whether or not you are for tax reform. If the rule goes down, tax reform is dead for 1985, 1986, and probably for a very long time. So your vote today is whether or not there is going to be tax reform probably in the next 5 or 10 years.

Second, as has been said here a number of times, what is going on with this bill is whether or not you are for giving the middle class in this country and the poorest people in this country, for the first time in a long time, a tax break. When we put the Social Security tax together with the income tax, most Americans did not get a tax cut in 1981; they got a tax increase. If you want to give a tax break to the average middle-income family of about $300 a year, you have got to vote for this rule and you have got to vote for this bill.

It is the $64,000 question. If you take a family of four and you figure that each one of them can get a $300 tax break per year for the next years of their life expectancy, this vote is about giving those family members $64,000 over their life expectancy ahead of them. So the question today is a $64,000 question.

Mr. Speaker, it is going to be tough to pass this rule. I want to give you a quote from Harry Truman. He said: "Men make history and not the other way around. In periods where there is no leadership, society stands still. Progress occurs when courageous, skillful leaders seize the opportunity to change things for the better."

Mr. Speaker, this bill changes things for the better. I ask the Members to support the rule.

Mr. GREEN. Mr. Speaker, as I did last Wednesday, I rise today in opposition to the rule providing for limited debate on the Tax Reform Act of 1985, the tax reform bill approved by the House Committee on Ways and Means (H.R. 3838). As was the case last week, the rule does not allow the House to discuss and vote on any meaningful alternatives to the Rostenkowski bill, except for the substitute proposed by the Republican leadership—a substitute which has for many of us as many problems as the Democratic bill.

Most important, the announcement by President Reagan yesterday that he will veto any tax bill that is antifamily and antigrowth, which seems to apply to any bill which does not include a top tax rate of 35 percent, a $2,000 personal exemption for all taxpayers, and postponement of the elimination of deductions until the new rates take effect, would force the Senate to raise additional revenue to restore those provisions. After meeting with the President yesterday and with Treasury Secretary Baker last week, I am convinced that the administration will ask the Senate to repeal the deductibility of State and local taxes in order to generate those necessary revenues. In other words, Mr. Speaker, constituents in States such as New York and Massachusetts can say goodbye to their State and local tax deductions if this bill is passed in a form that the President will sign.

Last night, like last week, the Committee on Rules decided not to allow the House to discuss a simple alternative to the Rostenkowski bill which I and two colleagues proposed—a very stringent alternative minimum tax for individuals and corporations which would ensure that everyone who makes an income above the poverty level would pay taxes, and which would help remove from the income tax rolls those below the poverty line, while leaving the rest of the Internal Revenue Code intact, including the deduction for State and local taxes.

Mr. Speaker, after talking with my constituents and from reading most national surveys, it seems clear that the type of tax reform that most people want is that type of legislation. We do not need a new Internal Revenue Code as envisioned by the House Ways and Means Committee, or by the U.S. Senate, which may very well eliminate the deduction for State and local taxes. The issue of fairness should be addressed by ensuring that everybody above the poverty line and every business that earns income pays taxes, and that those below the poverty line should not. The substitute amendment which I supported in my testimony last week and last night would use the revenue gained by the enactment of the strong alternative minimum tax provisions in the Ways and Means bill to help those below the poverty line get off the tax rolls. I would respectfully suggest that a majority of my colleagues agree with this approach, yet the Rules Committee has not made that amendment in order.

In addition, the fact of the matter is that the two so-called tax reform packages before us unnecessarily wreak economic havoc in the name of tax reform and constitute the antithesis of simplification. The number of brackets really has nothing to do with simplification. Assuming that one does not have a truly flat tax, it is just as easy to work from one tax table as another. In addition, any legislation which has 1,500 pages, weighs 5 pounds, and contains special provisions exempting the grandchildren of a California vintner and certain graveyard businesses in the South from various taxes—to name but a few of the many new special interest provisions this bill would add to the code—obviously is in no way nearer to simplicity and most definitely is further away from fairness.

With regard to positive economic reform, the Ways and Means bill is dubious at best. A few months ago, I asked the Congressional Research Service to detail the rates of personal savings and business investment during the current economic expansion. It is evident, Mr. Speaker, that not all of the objectives of the 1981 Economic Recovery Tax Act have been met. A major goal of ERTA was to promote individual savings and investment, but the decline in the individual savings rate since 1981 is evidence that consumers have not saved and invested their funds in order to finance economic expansion. On the other hand, business investment has been very strong; from 1981-85, real business investment has grown at an annual rate of 5.8 percent substantially above the 3.6 perent growth rate of the 1947-80 period. Therefore, while ERTA spurred business to invest in its future, individuals saved less money. Given that experience, it seems foolish to finance more personal tax cuts at the expense of what worked in 1981 and has continued to spur our current economic recovery—the business investment incentives.

Yet, that is what both the Ways and Means bill and the Republican alternative propose to do. This is not to say that parts of the Ways and Means bill are not more attractive than the current Tax Code. However, there are too many things wrong with Chairman ROSTENKOWSKI'S bill to justify voting for it, as the President has requested. Not only will a vote to approve the bill on the basis suggested by the administration send a message to the Senate to eliminate the deductibility of State and local taxes, but the Ways and Means bill, per se, actively discriminates against women. For example, the bill does not allow a spouse working in the home to set up an Individual Retirement Account. The bill also repeals the two-earner deduction which is so important to the working couples in America who are penalized because both spouses either want to hold full-time jobs or need to work to provide for their family. In addition, the bill severely cuts back on the amount of savings an individual can set aside for retirement plans such as 401(k) and 403(b) plans. The Republican alternative is more palatable with regard to the basic economics of the issue than the Ways and Means bill, but it is repugnant to me and to many of my colleagues because it permits only 70 percent deductibility of State and local tax payments. Overall, the major economic upheavals that the passage of either of these two bills would bring could only be counterproductive at this uncertain economic time.

In summary, Mr. Speaker, the amendment I proposed last night and last week would satisfy the major goal of making the tax system more fair. It would ensure that everyone above the poverty line who makes money pays taxes, and it would do so without the massive disruptions to our economy and to our Federal system caused by the other two bills. Because my amendment in the form of a substitute should have been debated on the House floor, Mr. Speaker, and for the reasons stated before, I cannot support the Rostenkowski bill, the alternative proposed by the Republican leadership, or the proposed rule.

Mr. BROYHILL. Mr. Speaker, I wish to state my strong opposition to the rule under discussion which would allow for the consideration of H.R. 3838, the Tax Reform Act of 1985.

I join my colleagues in support of an equitable and simplified system of taxation. I cannot, however, support the rule which is before this body today. I feel that this bill, which is over 1,300 pages in length, deserves careful scrutiny and that Members should be allowed to offer amendments to deal with substantive areas of concern.

No one will dispute the need for reforming our complicated and burdensome tax system. It is hard, however, to say that a bill which is over 1,300 pages in length is simple. Furthermore, I would wager that there is not one Member in this body who has read through this bill and knows exactly what is in it.

The Members of this body are expected to debate this complicated issue for 3 hours and in that amount of time determine the components of 1,379 pages. I for one feel that this issue deserves more attention than that. I urge my colleagues to defeat the rule and allow this issue the consideration it deserves.

CALL OF THE HOUSE

Mr. BONIOR of Michigan. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members answered to their names:

[Roll No. 466]

Ackerman
Addabbo
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Badham
Barnard
Bartlett
Barton
Bateman
Bates
Bedell
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Biaggi
Bilirakis
Bliley
Boehlert
Boggs
Boland
Boner (TN)
Bonior (MI)
Bonker
Borski
Bosco
Boucher
Boulter
Boxer
Breaux
Brooks
Broomfield
Brown (CA)
Brown (CO)
Broyhill
Bruce
Bryant
Burton (CA)
Burton (IN)
Bustamante
Byron
Callahan
Campbell
Carney
Carper
Carr
Chandler
Chapman
Chappell
Chappie
Cheney
Clay
Clinger
Coats
Cobey
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Cooper
Coughlin
Courter
Coyne
Craig
Crane
Crockett
Daniel
Dannemeyer
Darden
Daschle
Daub
Davis
de la Garza
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Durbin
Dwyer
Dyson
Early
Eckart (OH)
Eckert (NY)
Edgar
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Evans (IA)
Evans (IL)
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Fowler
Frank
Franklin
Frenzel
Frost
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Goodling
Gordon
Gradison
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall, Ralph
Hamilton
Hammerschmidt
Hansen
Hartnett
Hatcher
Hawkins
Hayes
Hefner
Heftel
Hendon
Henry
Hertel
Hiler
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Johnson
Jones (NC)
Jones (OK)
Jones (TN)
Kanjorski
Kaptur
Kasich
Kastenmeier
Kemp
Kennelly
Kildee
Kindness
Kleczka
Kolbe
Kolter
Kostmayer
Kramer
LaFalce
Lagomarsino
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Loeffler
Long
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
Lungren
Mack
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCain
McCandless
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McKernan
McMillan
Meyers
Mica
Michel
Mikulski
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mitchell
Moakley
Molinari
Mollohan
Monson
Montgomery
Moody
Moore
Moorhead
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Natcher
Neal
Nichols
Nielson
Nowak
O'Brien
Oakar
Oberstar
Obey
Olin
Ortiz
Owens
Oxley
Packard
Panetta
Parris
Pashayan
Pease
Penny
Pepper
Perkins
Petri
Pickle
Porter
Pursell
Quillen
Rahall
Rangel
Ray
Regula
Reid
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Roemer
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Rudd
Russo
Sabo
Savage
Saxton

Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Seiberling
Sensenbrenner
Sharp
Shaw
Shelby
Shumway
Sikorski
Siljander
Sisisky
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Snyder
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Strang
Stratton
Studds
Stump
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Weber
Weiss
Wheat
Whitehurst
Whitley
Whittaker
Whitten
Wilson
Wirth
Wise
Wolf
Wolpe
Wright
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zschau

□ 1425

The **SPEAKER** pro tempore. On this rollcall, 413 Members have recorded their presence by electronic device, a quorum.

Under the rule, further proceedings under the call were dispensed with.

PROVIDING FOR CONSIDERATION OF H.R. 3838, TAX REFORM ACT OF 1985

Mr. BONIOR of Michigan. Mr. Speaker, I yield 2 minutes to the distinguished chairman of the Committee on Ways and Means, the gentleman from Illinois [Mr. ROSTENKOWSKI].

Mr. ROSTENKOWSKI. I thank the gentleman for yielding this time to me.

Mr. Speaker, the simple truth is that we have to pass a rule if we are going to get on with tax reform. The worst defeat for this House is to go home and tell taxpayers that we did not have the courage even to debate tax reform on the floor of the House.

The question is whether we want to consider this tough issue or not. I am not happy to be once again debating the rule. The last rule we had, in my opinion, was fair. This rule is fair. Both sides have an equal chance to defend their own version.

From the outset, deliberations have been a bipartisan effort. The minority staff on the Committee on Ways and Means shared in drafting what was known as "the chairman's mark." The minority members shared in the task force decisions, most of which were adopted by the full committee, and they shared in the final vote. Five Republicans of 13 voted for reporting the bill, and they shared in drafting the rule which allowed a separate vote on a Republican alternative and the committee bill.

Had we passed last week's rule, I sincerely believe that tax reform would now be in the other body. This rule only differs slightly from the rule that we considered last week. It gives each camp a vote. The committee vote, in my opinion, is both fairer and more fiscally responsible than the minority substitute. It is the product of many hands, both Democrat and Republican, and is a vast improvement for both individuals and productive business over present law.

So, Mr. Speaker, I suggest that we stand up for the tough task ahead, that we pass the rule, get on with the debate, and give the American taxpayer fairness in the code.

The **SPEAKER** pro tempore. The gentleman from Michigan [Mr. BONIOR] has 4 minutes remaining, and the gentleman from Ohio [Mr. LATTA] has 6 minutes remaining.

Mr. LATTA. Mr. Speaker, I yield 5 minutes to the minority leader, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in support of the rule, and before giving my reasons for changing my position on the rule itself, I would like to make several pertinent observations.

Why do we oppose rules to consider a rule around here? No. 1, because of a serious problem with the rule. It is either closed, only selected amendments can be offered, time limitations, or whatever.

Another reason may be to slow down the process.

Then I think maybe a third reason is to kill a bill outright, without even debating its merits or its demerits.

We all have reasons in this House for taking the positions we do on a rule and a bill. Last week we voted down the rule on the so-called tax reform bill because of a combination of all three of the reasons that I have outlined. But today is a new day. We now have a different rule that gives us an opportunity to speak to the issues of effective dates if a tax bill is passed.

I am reminded earlier in this session, when I had a conversation with the distinguished chairman of the committee, not knowing how it would evolve, and I said, "Mr. ROSTENKOWSKI, I might vote for your tax bill whenever it comes out. Just give me one amendment."

He said, "What is that?"

I said, "Give me an amendment on the transition rules and effective dates."

I make mention of this exchange with the chairman because the effective date of any kind of tax reform is most important.

□ 1435

I have a resolution that I introduced earlier in the week, House Resolution 335, that addresses this issue of effective date. This rule makes in order consideration of this resolution immediately after a tax bill is passed. I will not go into the specific language of my resolution at this juncture in the interest of time. I should also say that the new rule does give the minority the opportunity to modify our substitute to the committee bill.

We would have preferred to offer a perfecting amendment to the committee bill that would have expressed our Republican point of view relative to the $2,000 personal deduction across the board for itemizers as well as nonitemizers.

As Republicans, we do want the opportunity to vote on our substitute, which tracks much more closely the President's view of real tax reform because in our substitute, we do have marginal rates for individuals that track closely with what the President originally recommended at 35 percent.

The $2,000 personal exemption for both itemizers and nonitemizers is in our substitute.

It also incorporates a real minimum tax on individuals and corporations. While there is 25 percent minimum in the committee bill, our minimum on corporations is at a rate of 20 percent, and 22 percent for individuals, but even with those provisions there are still some who can get off scot-free. What we do to avoid this is come around with a 2-percent swipe on those individuals and corporations who still might get out from underneath the basic minimums.

So from the standpoint of fairness, no entity, individual, or corporation making money is going to get off scot-free. I think that is a good provision in our substitute.

We also retain one-half of the investment tax credit, and have much better depreciation schedules for capital-intensive industries. I have to say quite frankly in my district where I represent capital-intensive industries, that is an imperative. There are others in this body who feel the same way, and strongly about that particular issue.

Then finally, we have a better distribution to middle-income taxpayers. That is what our substitute does as distinguished from the committee-passed bill.

We get an opportunity to vote on our substitute. Now, admittedly, we are 71 votes behind in the politics around here. But I would like to think there are some things in that bill that would also appeal to my friends over here on the Democratic side.

Now let me conclude with an appeal to my side particularly.

How many times have we argued that this is the people's House where the great issues of our time have to be discussed and debated?

How many times have we condemned the majority for denying us the opportunity to just debate the issue and then, let the chips fall where they may?

This, my friends, is one of those times, and particularly when our President has made a personal appeal to give him the chance to keep the process alive.

The President has also reaffirmed to us that he will be bearing down on the other body to pass a bill that can truly be called tax reform.

I am going to vote for the rule and give the President his chance to carry the day for the issue that he feels so strongly about. I hope you too will join me in at least permitting the debating process to move forward by voting for the rule.

The **SPEAKER** pro tempore. The gentleman from Ohio [Mr. LATTA] has 1 minute remaining.

Mr. **LATTA**. Mr. Speaker, I reserve the balance of my time.

The **SPEAKER** pro tempore. The gentleman from Michigan [Mr. BONIOR] has 4 minutes remaining.

Mr. **BONIOR** of Michigan. Mr. Speaker, I would prefer to use the 4 minutes to have the debate closed by the Speaker.

Mr. **LATTA**. Mr. Speaker, if the gentleman needs an extra minute, I will be glad to yield to the Speaker 1 minute.

Mr. **O'NEILL**. I accept, and I thank the gentleman.

Mr. **BONIOR** of Michigan. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Massachusetts [Mr. O'NEILL], the Speaker of the House, to close debate.

The **SPEAKER** pro tempore. The gentleman from Massachusetts [Mr. O'NEILL] is recognized for 5 minutes.

Mr. **O'NEILL**. Mr. Speaker, I stand here today with the knowledge that this is the farthest that any comprehensive tax reform bill has ever gone. I am just concluding 33 years. BOB MICHEL has been around here longer than I have. Before he was a Member of the House, he was an administrative assistant. I suppose there are about a dozen of us that have been here over 30 years.

Before I came to Congress, when I was actively interested in politics, I remember the Tax Department during the war coming up with a comprehensive tax reform bill. It was during the war, so it never saw the light of day.

People clamored for it and people said we needed it. Wilbur Mills, during the 1950's, you remember, BOB, held hearings. The hearings got nowhere.

My own beloved Jack Kennedy came forward with a tax bill, tax reform and a tax cut at the same time. The tax reform failed, but in order to stimulate the economy at that time, the Congress approved the tax cut but forgot about the tax reform.

Jimmy Carter, his heart and mind set on tax reform, did not get it. We came out with a tax cut.

That has been the history of tax reform for the last 40 years. We are closer to it now, than we have ever been before.

Over the last 4 years during the Presidency of Ronald Reagan, we have had three tax bills. Some things we raised, some thing we cut, some loopholes we closed, some loopholes we opened. That is about the only thing we have done.

The result of 40 years of only talking about reform is that the American people have lost confidence in the fairness and the integrity of our tax laws. Our country used to have the greatest voluntary tax system in the world. Americans paid their taxes with pride. But along the line, this voluntary tax system of ours has been threatened, threatened by a widespread perception that some segments of our society are not paying their fair share of the costs of this democracy.

When we talk about tax reform, what does the average person think of? He is upset at a neighbor that makes $90,000, or a person in a nicer area than he lives who makes $200,000 a year and pays no taxes. He thinks that is unfair. That is what he thinks about tax reform.

When he reads of 250 corporations in America, the giants of industry, who because of their shrewdness and their cleverness and their ability to interpret the law pay no taxes, it hurts him. He thinks that he has been taken in, and rightly so.

This legislation will create new opportunities, in my opinion, for 6 million working Americans of the edge of poverty. It will take them off the taxrolls. They already pay a tax plus the tax they pay as Social Security tax. What an opportunity we would be giving to them.

This legislation for the first time has a minimum tax in it. It will make corporations pay a tax. It will make those who take advantage of the loopholes, who earn $100,000 or $200,000 pay taxes. This is going to please your neighbor. This is going to please the average citizen of America, because what does he long for in this great democracy of ours? He longs for fairness.

This is the first chance I have seen in my 33 years in the Congress of the United States, a body that I love, that I see an opportunity for tax reform.

Now there are those who are complaining about this bill. This bill was written by the Ways and Means Committee, and DAN ROSTENKOWSKI has said that it has been a bipartisan product. I know that there was assistance from the White House, from Jim Baker. I know that the President acquiesced along the line.

This is not a Democratic tax bill. This is a bipartisan tax bill.

I represent an area in which there are 21 universities. You take away from them the IDB's. I had so many people in my area from those universities, the largest single employer in my district. I would like to think of the economy at all times, but I have to think of the national interest. We have to think of fairness. We have to think of what the people really want.

Is it right? Is it right that corporations of America should pay no taxes, that the wealthy of America should find loopholes? The answer is no.

This is a vote for a long overdue change in favor of fairness. It is a vote for the working people of America over the special interests. It is a vote for the individual taxpayer over the well-financed corporations. It is a vote to restore the confidence of our neighbor in our Tax Code.

I believe this process should go forward. There is inequity in every piece of legislation.

This body is controlled by my party. I am not talking today as a leader of my party, I am talking as one who loves this body, who understands the process.

If we pass this bill here today and we send it to the other body, they will act with Mr. Baker and they will act with the President of the United States, and he will acquiesce, and eventually you will get to a conference.

Let me just say this to you, Republicans on this side and Democrats on this side: All of us Americans, America, the people are crying for fairness in our Tax Code. It is a voluntary Tax Code that we have seen erode. In my 33 years in the Congress, we have never come this close.

I ask you to vote for the rule. I ask you to vote for the bill. I ask you to send it to the other body so that ultimately both parties can work out the final passage.

The **SPEAKER** pro tempore. All time has expired.

Mr. **BONIOR** of Michigan. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The **SPEAKER** pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. **FRENZEL**. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 258, noes 168, answered "present" 1. not voting 7, as follows:

[Roll No. 467]

AYES—258

Ackerman
Addabbo
Akaka
Alexander
Anderson
Annunzio
Anthony
Aspin
Atkins
Badham
Barnard
Bateman
Bates
Bedell
Beilenson
Bentley
Berman
Bevill
Biaggi
Bilirakis
Boggs

Boland
Bonior (MI)
Bonker
Borski
Bosco
Boucher
Boxer
Broomfield
Brown (CA)
Bruce
Burton (CA)
Byron
Callahan
Carney
Carper
Chappell
Clinger
Coats
Coelho
Coleman (TX)
Collins
Conte
Cooper
Courter
Coyne
Crockett
Daniel
Daschle
Daub
Davis
de la Garza
Dellums
Derrick
DeWine
Dingell
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Downey
Duncan
Durbin
Dwyer
Early
Eckart (OH)
Eckert (NY)
Edgar
Edwards (CA)
Erdreich
Evans (IA)
Evans (IL)
Fascell
Fawell
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Fowler
Frank
Fuqua
Garcia
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Goodling
Gordon
Gradison
Gray (PA)
Grotberg
Guarini
Gunderson
Hall (OH)
Hammerschmidt
Hansen
Hatcher
Hawkins
Hayes
Hefner
Heftel
Hendon
Henry
Hertel
Holt
Hopkins
Howard
Hyde
Ireland
Jenkins
Johnson
Jones (NC)
Jones (TN)
Kanjorski
Kastenmeier
Kemp
Kennelly
Kleczka
Kostmayer
LaFalce
Lagomarsino
Lantos
Latta
Leach (IA)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lipinski
Lloyd
Lowry (WA)
Lujan
Luken
Lundine
MacKay
Manton
Markey
Martinez
Matsui
Mavroules
McCloskey
McDade
McGrath
McHugh
McKernan
McMillan
Meyers
Mica
Michel
Miller (CA)
Miller (OH)
Mineta
Mitchell
Moakley
Mollohan
Montgomery
Moody
Morrison (CT)
Mrazek
Murtha
Natcher
Neal
Nichols
Nowak
O'Brien
Oberstar
Obey
Olin
Owens
Panetta
Pease
Penny
Pepper
Perkins
Petri
Pickle
Porter
Pursell
Quillen
Rahall
Rangel
Regula
Reid
Richardson
Ritter
Rodino
Rogers
Rose
Rostenkowski
Roukema
Rowland (CT)
Rowland (GA)
Russo
Sabo
Savage
Scheuer
Schneider
Schuette
Schumer
Seiberling
Sharp
Sikorski
Sisisky
Skeen
Slattery
Smith (FL)
Smith (IA)
Smith (NE)
Snowe
Snyder
Solarz
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stratton
Studds
Swift
Synar
Tallon
Taylor
Thomas (GA)
Torres
Torricelli
Towns
Traxler
Udall
Vander Jagt
Vento
Visclosky
Volkmer
Walgren
Waxman
Weaver
Weiss
Wheat
Whitehurst
Whitley
Whitten
Williams
Wirth
Wise
Wolf
Wolpe
Wright
Wylie
Yates
Yatron
Young (FL)

NOES—168

Andrews
Applegate
Archer
Armey
AuCoin
Barnes
Bartlett
Barton
Bennett
Bereuter
Bliley
Boehlert
Boner (TN)
Boulter
Breaux
Brooks
Brown (CO)
Broyhill
Bryant
Burton (IN)
Bustamante
Campbell
Carr
Chandler
Chapman
Chappie
Cheney
Clay
Cobey
Coble
Coleman (MO)
Combest
Conyers
Coughlin
Craig
Crane
Dannemeyer
Darden
DeLay
Dickinson
Dicks
DioGuardi
Dowdy
Dreier
Dyson
Edwards (OK)
Emerson
English
Fazio
Feighan
Fiedler
Fields
Fish
Franklin
Frenzel
Gallo
Gaydos
Gingrich
Green
Gregg
Hall, Ralph
Hamilton
Hartnett
Hiler
Horton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Jacobs
Jeffords
Jones (OK)
Kaptur
Kasich
Kildee
Kindness
Kolbe
Kolter
Kramer
Leath (TX)
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Loeffler
Long
Lott
Lowery (CA)
Lungren
Mack
Madigan
Marlenee
Martin (IL)
Martin (NY)
Mazzoli
McCain
McCandless
McCollum
McCurdy
McEwen
Mikulski
Miller (WA)
Molinari
Monson
Moore
Moorhead
Morrison (WA)
Murphy
Myers
Nielson
Oakar
Ortiz
Oxley
Packard
Parris
Pashayan
Ray
Ridge
Rinaldo
Roberts
Robinson
Roe
Roemer
Roth
Roybal
Rudd
Saxton
Schaefer
Schroeder
Schulze
Sensenbrenner
Shaw
Shelby
Shumway
Shuster
Siljander
Skelton
Slaughter
Smith (NJ)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Spence
Stenholm
Stokes
Strang
Stump
Sundquist
Sweeney
Swindall
Tauke
Tauzin
Thomas (CA)
Traficant
Valentine
Vucanovich
Walker
Watkins
Weber
Whittaker
Wilson
Wortley
Wyden
Young (AK)
Zschau

ANSWERED "PRESENT"—1

Frost

NOT VOTING—7

Dymally
Gray (IL)
Hillis
McKinney
Nelson
Price
Young (MO)

☐ 1500

The Clerk announced the following pair:

On this vote:

Mr. Nelson of Florida for, with Mr. Dymally against.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 2100, FOOD SECURITY ACT OF 1985

Mr. DE LA GARZA submitted the following conference report and statement on the bill (H.R. 2100) to extend and revise agricultural price support and related programs, to provide for agricultural export, resource conservation, farm credit, and agricultural research and related programs, to continue food assistance to low-income persons, to ensure consumers an abundance of food and fiber at reasonable prices, and other purposes.

CONFERENCE REPORT (H. Rept. 99-447)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill H.R. 2100) to extend and revise agricultural price support and related programs, to provide for agricultural export, resource conservation, farm credit, and agricultural research and related programs, to continue food assistance to low-income persons, to ensure consumers an abundance of food and fiber at reasonable prices, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Food Security Act of 1985".

TABLE OF CONTENTS

SEC. 2. The table of contents is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—DAIRY

Subtitle A—Milk Price Support and Producer-Supported Dairy Program

Sec. 101. Milk price support, price reduction, and milk production termination programs for calendar years 1986 through 1990.
Sec. 102. Administrative procedures.
Sec. 103. Application of support price for milk.
Sec. 104. Avoidance of adverse effect of milk production termination program on beef, pork, and lamb producers.
Sec. 105. Domestic casein industry.
Sec. 106. Study relating to casein.
Sec. 107. Circumvention of historical distribution of milk.
Sec. 108. Application of amendments.

Subtitle B—Dairy Research and Promotion

Sec. 121. National Dairy Research Endowment Institute.

Subtitle C—Milk Marketing Orders

Sec. 131. Minimum adjustments to prices for fluid milk under marketing orders.
Sec. 132. Adjustments for seasonal production; hearings on amendments; determination of milk prices.
Sec. 133. Marketwide service payments.
Sec. 134. Status of producer handlers.

Subtitle D—National Commission on Dairy Policy

Sec. 141. Findings and declaration of policy.
Sec. 142. Establishment of commission.
Sec. 143. Study and recommendations.
Sec. 144. Administration.
Sec. 145. Financial support.
Sec. 146. Termination of commission.

Subtitle E—Miscellaneous

Sec. 151. Transfer of dairy products to the military and veterans hospitals.
Sec. 152. Extension of the dairy indemnity program.
Sec. 153. Dairy export incentive program.

TITLE II—WOOL AND MOHAIR

Sec. 201. Extension of price support program.
Sec. 202. Foreign promotion programs.

TITLE III—WHEAT

Sec. 301. Wheat poll.
Sec. 302. Marketing quotas.
Sec. 303. Marketing quota apportionment factor.
Sec. 304. Farm marketing quotas.

Sec. 305. Marketing penalties.
Sec. 306. Referendum.
Sec. 307. Transfer of farm marketing quotas.
Sec. 308. Loan rates, target prices, disaster payments, acreage limitation and set-aside programs, and land diversion for the 1986 through 1990 crops of wheat.
Sec. 309. Nonapplicability of certificate requirements.
Sec. 310. Suspension of land use, wheat marketing allocation, and producer certificate provisions.
Sec. 311. Suspension of certain quota provisions.
Sec. 312. Nonapplicability of section 107 of the Agricultural Act of 1949 to the 1986 through 1990 crops of wheat.

TITLE IV—FEED GRAINS

Sec. 401. Loan rates, target prices, disaster payments, acreage limitation and set-aside programs, and land diversion for the 1986 through 1990 crops of feed grains.
Sec. 402. Nonapplicability of section 105 of the agricultural act of 1949 to the 1986 through 1990 crops of feed grains.
Sec. 403. Price support for corn silage.

TITLE V—COTTON

Sec. 501. Loan rates, target prices, disaster payments, acreage limitation program, and land diversion for the 1986 through 1990 crops of upland cotton.
Sec. 502. Suspension of base acreage allotments, marketing quotas, and related provisions.
Sec. 503. Commodity Credit Corporation sales price restrictions.
Sec. 504. Miscellaneous cotton provisions.
Sec. 505. Skiprow practices.
Sec. 506. Preliminary allotments for 1991 crop of upland cotton.
Sec. 507. Extra long staple cotton.

TITLE VI—RICE

Sec. 601. Loan rates, target prices, disaster payments, acreage limitation program, and land diversion for the 1986 through 1990 crops of rice.
Sec. 602. Marketing loan for the 1985 crop of rice.
Sec. 603. Marketing certificates.

TITLE VII—PEANUTS

Sec. 701. Suspension of marketing quotas and acreage allotments.
Sec. 702. National poundage quota and farm poundage quota.
Sec. 703. Sale, lease, or transfer of farm poundage quota.
Sec. 704. Marketing penalties; disposition of additional peanuts.
Sec. 705. Price support program.
Sec. 706. Reports and records.
Sec. 707. Suspension of certain price support provisions.

TITLE VIII—SOYBEANS

Sec. 801. Soybean price support.

TITLE IX—SUGAR

Sec. 901. Sugar price support.
Sec. 902. Prevention of sugar loan forfeitures.
Sec. 903. Protection of sugar producers.

TITLE X—GENERAL COMMODITY PROVISIONS

Subtitle A—Miscellaneous Commodity Provisions

Sec. 1001. Payment limitations.
Sec. 1002. Advance deficiency payments.
Sec. 1003. Advance recourse commodity loans.
Sec. 1004. Interest payment certificates.
Sec. 1005. Payments in commodities.
Sec. 1006. Wheat and feed grain export certificate programs.
Sec. 1007. Commodity Credit Corporation sales price restrictions.
Sec. 1008. Disaster payments for 1985 through 1990 crops of peanuts, soybeans, sugar beets, and sugarcane.
Sec. 1009. Cost reduction options.
Sec. 1010. Multiyear set-asides.
Sec. 1011. Supplemental set-aside and acreage limitation authority.
Sec. 1012. Producer reserve program for wheat and feed grains.
Sec. 1013. Extension of reserve.
Sec. 1014. Normally planted acreage.
Sec. 1015. Special grazing and hay program.
Sec. 1016. Advance announcement of programs.
Sec. 1017. Determinations of the Secretary.
Sec. 1018. Application of terms in the Agricultural Act of 1949.
Sec. 1019. Normal supply.
Sec. 1020. Marketing year for corn.
Sec. 1021 Federal Crop Insurance Corporation emergency funding authority.
Sec. 1022. Crop insurance study.
Sec. 1023. National Agricultural Cost of Production Standards Review Board.
Sec. 1024. Liquid fuels.

Subtitle B—Uniform Base Acreage and Yield Provisions

Sec. 1031. Acreage base and program yield system for the wheat, feed grain, upland cotton, and rice programs.

Subtitle C—Honey

Sec. 1041. Honey price support.

TITLE XI—TRADE

Subtitle A—Public Law 480 and Use of Surplus Commodities in International Programs

Sec. 1101. Title II of Public Law 480—funding levels.
Sec. 1102. Minimum quantity of agricultural commodities distributed under title II.
Sec. 1103. Title II of Public Law 480—minimum for fortified or processed food and nonprofit agency proposals.
Sec. 1104. Food assistance programs of voluntary agencies.
Sec. 1105. Extension of the Public Law 480 authorities.
Sec. 1106. Facilitation of exports.
Sec. 1107. Farmer-to-farmer program under Public Law 480.
Sec. 1108. Food for development program.
Sec. 1109. Use of surplus commodities in international programs.
Sec. 1110. Food for progress.
Sec. 1111. Sales for local currencies; private enterprise promotion.
Sec. 1112. Child immunization.
Sec. 1113. Special Assistant for Agricultural Trade and Food Aid.

Subtitle B—Maintenance and Development of Export Markets

Sec. 1121. Trade policy declaration.
Sec. 1122. Trade liberalization.
Sec. 1123. Agricultural trade consultations.
Sec. 1124. Targeted export assistance.
Sec. 1125. Short-term export credit.
Sec. 1126. Cooperator market development program.
Sec. 1127. Development and expansion of markets for United States agricultural commodities.
Sec. 1128. Poultry, beef and pork meats and meat-food products, equitable treatment.
Sec. 1129. Pilot barter program for exchange of agricultural commodities for strategic materials.
Sec. 1130. Agricultural export credit revolving fund.
Sec. 1131. Intermediate export credit.
Sec. 1132. Agricultural attache reports.
Sec. 1133. Contract sanctity and producer embargo protection.
Sec. 1134. Study to reduce foreign exchange risk.

Subtitle C—Export Transportation of Agricultural Commodities

Sec. 1141. Findings and declarations.
Sec. 1142. Exemption of certain agricultural exports from the requirements of the cargo preference laws.
Sec. 1143. Effect on other laws.

Subtitle D—Agricultural Imports

Sec. 1151. Trade consultations.
Sec. 1152. Apricot Study.
Sec. 1155. Study relating to Brazilian ethanol imports.
Sec. 1156. Study of oat imports.

Subtitle E—Trade Practices

Sec. 1161. Tobacco pesticide residues.
Sec. 1162. Assessment of export displacement.
Sec. 1163. Export sales of dairy products.
Sec. 1164. Unfair trade practices.
Sec. 1165. Thai rice
Sec. 1166. End users of imported tobacco.
Sec. 1167. Barter of agricultural commodities for strategic and critical materials.

TITLE XII—CONSERVATION

Subtitle A—Definitions

Sec. 1201. Definitions.

Subtitle B—Highly Erodible Land Conservation

Sec. 1211. Program ineligibility.
Sec. 1212. Exemptions.
Sec. 1213. Soil surveys.

Subtitle C—Wetland Conservation

Sec. 1221. Program ineligibility.
Sec. 1222. Exemptions.
Sec. 1223. Consultation with Secretary of the Interior.

Subtitle D—Conservation Acreage Reserve

Sec. 1231. Conservation acreage reserve.
Sec. 1232. Duties of owners and operators.
Sec. 1233. Duties of the Secretary.
Sec. 1234. Payments.
Sec. 1235. Contracts.
Sec. 1236. Base history.

Subtitle E—Administration

Sec. 1241. Use of Commodity Credit Corporation.
Sec. 1242. Use of other agencies.
Sec. 1243. Administration.
Sec. 1244. Regulations.
Sec. 1245. Authorization for appropriations.

Subtitle F—Other Conservation Provisions

Sec. 1251. Technical assistance for water resources.
Sec. 1252. Soil and water resources conservation.
Sec. 1253. Dry land farming.
Sec. 1254. Softwood timber.

TITLE XIII—CREDIT

Sec. 1301. Joint operations.
Sec. 1302. Eligibility for real estate and operating loans.
Sec. 1303. Family farm restriction.
Sec. 1304. Water and waste disposal facilities.
Sec. 1305. Mineral rights as collateral.
Sec. 1306. Farm recordkeeping training for limited resource borrowers.
Sec. 1307. Nonsupervised accounts.
Sec. 1308. Eligibility for emergency loans.
Sec. 1309. Settlement of claims.
Sec. 1310. Oil and gas royalties.
Sec. 1311. County committees.
Sec. 1312. Prompt approval of loans and loan guarantees.
Sec. 1313. Appeals.
Sec. 1314. Disposition and leasing of farmland.
Sec. 1315. Release of normal income security.
Sec. 1316. Loan summary statements.
Sec. 1317. Authorization of loan amounts.
Sec. 1318. Farm debt restructure and conservation set-aside conservation easements.
Sec. 1319. Administration of guaranteed farm loan programs.
Sec. 1320. Interest rate reduction program.
Sec. 1321. Homestead protection.
Sec. 1322. Extension of credit to all rural utilities that participate in the program administered by the rural electrification administration.
Sec. 1323. Nonprofit national rural development and finance corporations.
Sec. 1324. Protection for purchasers of farm products.
Sec. 1325. Prohibiting coordinated financial statement.
Sec. 1326. Regulatory restraint.
Sec. 1327. Study of farm credit system.
Sec. 1328. Continuation of small farmer training and technical assistance program.
Sec. 1329. Study of farm and home plan.

TITLE XIV—AGRICULTURAL RESEARCH, EXTENSION, AND TEACHING

Subtitle A—General Provisions

Sec. 1401. Short title.
Sec. 1402. Findings.
Sec. 1403. Definitions.
Sec. 1404. Responsibilities of the Secretary of Agriculture.
Sec. 1405. Joint Council on Food and Agricultural Sciences.
Sec. 1406. National Agricultural Research and Extension Users Advisory Board.
Sec. 1407. Federal-State partnership.
Sec. 1408. Report of the Secretary of Agriculture.
Sec. 1409. Competitive, special, and facilities research grants.
Sec. 1410. Grants for schools of veterinary medicine.
Sec. 1411. Research facilities.
Sec. 1412. Grants and fellowships for food and agricultural sciences education.
Sec. 1413. Food and human nutrition research and extension program.
Sec. 1414. Animal health and disease research.
Sec. 1415. Extension at 1890 land-grant colleges.
Sec. 1416. Grants to upgrade 1890 land-grant college extension facilities.
Sec. 1417. Research at 1890 land-grant colleges.
Sec. 1418. International agricultural research and extension.
Sec. 1419. International trade development centers.
Sec. 1420. Agricultural information exchange with Ireland.
Sec. 1421. Studies.
Sec. 1422. Authorization for appropriations for certain agricultural research programs.
Sec. 1423. Authorization for appropriations for extension education.
Sec. 1424. Contracts, grants, and cooperative agreements.
Sec. 1425. Indirect costs.
Sec. 1426. Cost-reimbursable agreements.
Sec. 1427. Technology development.
Sec. 1428. Supplemental and alternative crops.
Sec. 1429. Aquaculture.
Sec. 1430. Rangeland research.
Sec. 1431. Authorization for appropriations for Federal agricultural research facilities.
Sec. 1432. Dairy goat research.
Sec. 1433. Grants to upgrade 1890 land-grant college research facilities.
Sec. 1434. Soybean Research Advisory Institute.
Sec. 1435. Smith-Lever Act.
Sec. 1436. Market expansion research.
Sec. 1437. Pesticide resistance study.
Sec. 1438. Expansion of education study.
Sec. 1439. Critical agricultural materials.
Sec. 1440. Special grants for financially stressed farmers and dislocated farmers.
Sec. 1441. Annual report on family farms.
Sec. 1442. Conforming amendments to tables of contents.

Subtitle B—Human Nutrition Research

Sec. 1451. Findings.
Sec. 1452. Human nutrition research.
Sec. 1453. Dietary assessment and studies.

Subtitle C—Agricultural Productivity Research

Sec. 1461. Definitions.
Sec. 1462. Findings.
Sec. 1463. Purposes.
Sec. 1464. Information study.
Sec. 1465. Research projects.
Sec. 1466. Coordination.
Sec. 1467. Reports.
Sec. 1468. Agreements.
Sec. 1469. Dissemination of data.
Sec. 1470. Authorization for appropriations.
Sec. 1471. Effective date.

TITLE XV—FOOD STAMP AND RELATED PROVISIONS

Subtitle A—Food Stamp Provisions

Sec. 1501. Publicly operated community mental health centers.
Sec. 1502. Determination of food sales volume.
Sec. 1503. Thrifty food plan.
Sec. 1504. Definitions of the disabled.
Sec. 1505. State and local sales taxes.
Sec. 1506. Relation of food stamp and commodity distribution programs.
Sec. 1507. Categorical eligibility.
Sec. 1508. Third party payments.
Sec. 1509. Excluded income.
Sec. 1510. Child support payments.
Sec. 1511. Deductions from income.
Sec. 1512. Income from self-employment.
Sec. 1513. Retrospective budgeting and monthly reporting simplification.
Sec. 1514. Resources limitation.
Sec. 1515. Disaster task force.
Sec. 1516. Eligibility disqualifications.
Sec. 1517. Employment and training program.
Sec. 1518. Staggering of coupon issuance.
Sec. 1519. Alternative means of coupon issuance.
Sec. 1520. Simplified applications and standardized benefits.
Sec. 1521. Disclosure of information submitted by retail stores.
Sec. 1522. Credit unions.
Sec. 1523. Charges for redemption of coupons.
Sec. 1524. Hours of operation.
Sec. 1525. Certification of information.
Sec. 1526. Fraud detection.
Sec. 1527. Verification.
Sec. 1528. Photographic identification cards.
Sec. 1529. Eligibility of the homeless.
Sec. 1530. Expanded food and nutrition education program.
Sec. 1531. Food stamp program information and simplified application at social security administration offices.
Sec. 1532. Retail food stores and wholesale food concerns.
Sec. 1533. Liability for overissuance of coupons.
Sec. 1534. Collection of claims.
Sec. 1535. Food stamp intercept of unemployment benefits.
Sec. 1536. Administrative and judicial review.
Sec. 1537. State agency liability, quality control, and automatic data processing.
Sec. 1538. Quality control studies and penalty moratorium.
Sec. 1539. Geographical error-prone profiles.
Sec. 1540. Pilot projects.
Sec. 1541. Authorization ceiling; authority to reduce benefits.
Sec. 1542. Transfer of funds.
Sec. 1543. Puerto Rico block grant.

Subtitle B—Emergency Food Assistance and Commodity Distribution Provisions

Sec. 1561. Transfer of section 32 commodities.
Sec. 1562. Commodity distribution programs.
Sec. 1563. Emergency feeding organizations—definitions.
Sec. 1564. Temporary emergency food assistance program.
Sec. 1565. Repeal of provisions relating to the food security wheat reserve.
Sec. 1566. Report on commodity displacement.
Sec. 1567. Distribution of surplus commodities; processing agreements.
Sec. 1568. State cooperation.
Sec. 1569. Authorization for funding and related provisions.
Sec. 1570. Reauthorizations.
Sec. 1571. Report.

Subtitle C—Nutrition and Miscellaneous Provisions

Sec. 1581. School lunch pilot project.
Sec. 1582. Gleaning of fields.
Sec. 1583. Issuance of rules.
Sec. 1584. Nutrition education findings.
Sec. 1585. Purpose.
Sec. 1586. Program.
Sec. 1587. Administration.
Sec. 1588. Authorization of appropriations.
Sec. 1589. Nutrition monitoring.

TITLE XVI—MARKETING

Subtitle A—Beef Promotion and Research Act of 1985

Sec. 1601. Amendment to Beef Research and Information Act.

Subtitle B—Pork Promotion, Research, and Consumer Information

Sec. 1611. Short title.
Sec. 1612. Findings and declaration of purpose.
Sec. 1613. Definitions.
Sec. 1614. Pork and pork product orders.
Sec. 1615. Notice and hearing.
Sec. 1616. Findings and issuance of orders.
Sec. 1617. National Pork Producers Delegate Body.
Sec. 1618. Selection of delegate body.
Sec. 1619. National Pork Board.
Sec. 1620. Assessments.
Sec. 1621. Permissive provisions.
Sec. 1622. Referendum.
Sec. 1623. Suspension and termination of orders.
Sec. 1624. Refunds.
Sec. 1625. Petition and review.
Sec. 1626. Enforcement.
Sec. 1627. Investigations.
Sec. 1628. Preemption.
Sec. 1629. Administrative provision.
Sec. 1630. Authorization for appropriations.
Sec. 1631. Effective date.

Subtitle C—Watermelon Research and Promotion Act

Sec. 1641. Short title.
Sec. 1642. Findings and declaration of policy.
Sec. 1643. Definitions.
Sec. 1644. Issuance of plans.
Sec. 1645. Notice and hearings.
Sec. 1646. Regulations.
Sec. 1647. Required terms in plans.
Sec. 1648. Permissive terms in plans.
Sec. 1649. Assessment procedures.
Sec. 1650. Petition and review.
Sec. 1651. Enforcement.
Sec. 1652. Investigation and power to subpoena.
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TITLE I—DAIRY

Subtitle A—Milk Price Support and Producer-Supported Dairy Program

MILK PRICE SUPPORT, PRICE REDUCTION, AND MILK PRODUCTION TERMINATION PROGRAMS FOR CALENDAR YEARS 1986 THROUGH 1990

SEC. 101. (a) Section 201(d) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)) is amended by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1)(A) During the period beginning on January 1, 1986, and ending on December 31, 1990, the price of milk shall be supported as provided in this subsection.

"(B) During the period beginning on January 1, 1986, and ending on December 31, 1986, the price of milk shall be supported at a rate equal to $11.60 per hundredweight for milk containing 3.67 percent milkfat.

"(C)(i) During the period beginning on January 1, 1987, and ending on September 30, 1987, the price of milk shall be supported at a rate equal to $11.35 per hundredweight for milk containing 3.67 percent milkfat.

"(ii) Except as provided in subparagraph (D), during the period beginning on October 1, 1987, and ending on December 31, 1990, the price of milk shall be supported at a rate equal to $11.10 per hundredweight for milk containing 3.67 percent milkfat.

"(D)(i) Subject to clause (ii), if for any of the calendar years 1988, 1989, and 1990, the level of purchases of milk and the products of milk under this subsection (less sales under section 407 for unrestricted use), as estimated by the Secretary on January 1 of such calendar year, will exceed 5,000,000,000 pounds (milk equivalent), on January 1 of such calendar year, the Secretary shall reduce by 50 cents the rate of price support for milk as in effect on such date.

"(ii) The rate of price support for milk may not be reduced under clause (i) unless—

"(I) the milk production termination program under paragraph (3) achieved a reduction in the production of milk by participants in the program of at least 12,000,000,000 pounds during the 18 months of the program; or

"(II) the Secretary submits to Congress a certification, including a statement of facts in support of the certification of the Secretary, that reasonable contract offers were extended by the Secretary under such program but such offers were not accepted by a sufficient number of producers making reasonable bids for contracts to achieve such a reduction in production.

"(E) If for any of the calendar years 1988, 1989, and 1990, the level of purchases of milk and the products of milk under this subsection (less sales under section 407 for unrestricted use), as estimated by the Secretary on January 1 of such calendar year, will not exceed 2,500,000,000 pounds (milk equivalent), the Secretary shall increase by 50 cents the rate of price support for milk in effect on such date.

"(F) The price of milk shall be supported through the purchase of milk and the products of milk.

"(2)(A) During the period beginning on April 1, 1986, and ending on September 30, 1987, the Secretary shall provide for a reduction to be made in the price received by producers for all milk produced in the United States and marketed by producers for commercial use.

"(B) The amount of the reduction under subparagraph (A) in the price received by producers shall be—

"(i) the period beginning on April 1, 1986, and ending on December 31, 1986, 40 cents per hundredweight of milk marketed; and

"(ii) during the first 9 months of 1987, 25 cents per hundredweight of milk marketed.

"(C) The funds represented by the reduction in price, required under subparagraph (A) to be applied to the marketings of milk by a producer, shall be collected and remitted to the Commodity Credit Corporation, at such time and in such manner as prescribed by the Secretary, by each person making payment to a producer for milk purchased from such producer, except that in the case of a producer who markets milk of

the producer's own production directly to consumers, such funds shall be remitted directly to the Corporation by such producer.

"(D) The funds remitted to the Corporation under this paragraph shall be considered as included in the payments to a producer of milk for purposes of the minimum price provisions of the Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937.".

(b) Paragraph (3) of section 201(d) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)) is amended by—

(1) striking out subparagraphs (A) through (G), and inserting in lieu thereof the following:

"(A)(i) The Secretary shall establish and carry out under this paragraph a milk production termination program for the 18-month period beginning April 1, 1986.

"(ii) Under the milk production termination program required under this subparagraph, the Secretary, at the request of any producer of milk in the United States who submits to the Secretary a bid, may offer to enter into a contract with the producer for the purpose of terminating the production of milk by the producer in return for a payment to be made by the Secretary.

"(iii) For the 18-month period for which the milk production termination program under this subparagraph is in effect, the Secretary shall—

"(I) as soon as practicable, determine the total number of dairy cattle the Secretary estimates will be marketed for slaughter as a result of such program; and

"(II) by regulation specify marketing procedures to ensure that greater numbers of dairy cattle slaughtered as a result of the production termination program provided for in this section shall be slaughtered in each of the periods of April through August 1986, and March through August 1987 than for the other months of the program. Such procedures also shall ensure that such sales of dairy cattle for slaughter shall occur on a basis estimated by the Secretary that maintains historical seasonal marketing patterns. During such 18-month period, the Secretary shall limit the total number of dairy cattle marketed for slaughter under the program in excess of the historical dairy herd culling rate to no more than 7 percent of the national dairy herd per calendar year.

"(iv) Each contract made under this subparagraph shall provide that—

"(I) the producer shall sell for slaughter or for export all the dairy cattle in which such producer owns an interest;

"(II) during a period of 3, 4, or 5 years, as specified by the Secretary in each producer contract and beginning on the day the producer completes compliance with subclause (I), the producer neither shall acquire any interest in dairy cattle or in the production of milk nor acquire, or make available to any person, any milk production capacity of a facility that becomes available because of compliance by a producer with such subclause unless the Secretary shall by regulation otherwise permit; and

"(III) if the producer fails to comply with such contract, the producer shall repay to the Secretary the entire payment received under the contract, including simple interest payable at a rate prescribed by the Secretary, which shall, to the extent practicable, reflect the cost to the Corporation of its borrowings from the Treasury of the United States, commencing on the date payment is first received under such contract.

"(v) Any producer of milk who seeks to enter into a contract for payments under this paragraph shall provide the Secretary with (I) evidence of such producer's marketing history; (II) the size and composition of the producer's dairy herd during the period the marketing history is determined; and (III) the size and composition of the producer's dairy herd at the time the bid is submitted, as the Secretary deems necessary and appropriate.

"(vi) Except as provided in subparagraph (D), no producer who commenced marketing of milk in the 15-month period ending March 31, 1986, shall be eligible to enter into a contract for payments under this subparagraph.

"(vii) A contract entered into under this paragraph by a producer who by reason of death cannot perform or assign such contract may be performed or assigned by the estate of such producer.

"(B) The Secretary may establish and carry out a milk diversion or milk production termination program for any of the calendar years 1988, 1989, and 1990 as necessary to avoid the creation of burdensome excess supplies of milk or milk products.

"(C) In setting the terms and conditions of any milk diversion or milk production termination under this paragraph and of each contract made under this subparagraph, the Secretary shall take into account any adverse effect of such program or contracts on beef, pork, and poultry producers in the United States and shall take all feasible steps to minimize such effect.

"(D) A producer who commenced marketing milk after December 31, 1984, shall be eligible to enter into a contract for payments under this subparagraph if such producer's entire milk production facility and entire dairy herd were transferred to the producer by reason of a gift from, or the death of, a member or members of the family of the producer. The term 'member of the family of the producer' means (i) an ancestor of the producer, (ii) the spouse of the producer, (iii) a lineal descendant of the producer, or the producer's spouse, or a parent of the producer, or (iv) the spouse of any such lineal descendant.";

(2) striking out subparagraphs (H), (I), (J), (L), and (O); and

(3) redesignating subparagraph (K) as subparagraph (E).

(c) Paragraph (5)(B) of section 201(d) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)(5)(B)) is amended by—

(1) striking out "(i)";

(2) striking out ", (ii)" and inserting in lieu thereof "or";

(3) striking out ", or (iii)" and all that follows through "paragraph (3)";

(4) redesignating the text thereof as clause (i);

(5) adding at the end thereof the following:

"(ii) Each person who buys, from a producer with respect to whom there is in effect at the time of such sale a contract entered into under paragraph (3), one or more dairy cattle sold for slaughter or export, who knows that such cattle are sold for slaughter or export, and who fails to cause the slaughter or export of such cattle within a reasonable time after receiving such cattle shall be liable for a civil penalty of not more than $5,000 with respect to each of such cattle.

"(iii) Each person who retains or acquires an interest in dairy cattle or the production of milk in violation of a contract entered into under this paragraph shall be liable, in addition to any amount due under paragraph (3)(A)(iv), to a marketing penalty on the quantity of milk produced during the period in which such ownership is prohibited under the contract. Such penalty shall be computed at the rate or rates of the support price for milk in effect during the period in which the milk production occurred.

"(iv) Each person who makes a false statement in a bid submitted under paragraph (3) as to (I) the marketings of milk for commercial use by the producer, or (II) the size or composition of the dairy herd that produced such marketings, or (III) the size or composition of the dairy herd at the time the bid is submitted shall be subject, in addition to any amount due under paragraph (3)(A)(iv) or clause (iii) of this subparagraph, to a civil penalty of $5,000 for each head of cattle to which such statement applied.

"(v) Each person who makes a false statement as to the number of dairy cattle that was sold for slaughter or export under a contract under paragraph (3)(A) shall be subject, in addition to any amount due under paragraph (3)(A)(iv) or clause (iii) of this subparagraph, to a civil penalty of not more than $5,000 for each head of cattle to which such statement applied.".

(d) Section 201(c) of the Agricultural Act of 1949 (7 U.S.C. 1446(c)) is amended by striking out "The price" and inserting in lieu thereof "Except as provided in subsection (d), the price".

(e) Section 201(d) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)) is amended by adding at the end thereof the following:

"(7) The Secretary shall carry out this subsection through the Commodity Credit Corporation.".

(f) The provisions of this section shall become effective January 1, 1986.

ADMINISTRATIVE PROCEDURES

SEC. 102. Section 553 of title 5, United States Code, shall not apply with respect to the implementation of section 201(d) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)) by the Secretary of Agriculture, as amended by section 101, including determinations made regarding—

(1) the level of price support for milk;

(2) any reduction in the prices paid to producers of milk; and

(3) the milk production termination program.

APPLICATION OF SUPPORT PRICE FOR MILK

SEC. 103. For purposes of supporting the price of milk under section 201(d) of the Agricultural Act of 1949, the Secretary of Agriculture may not take into consideration any market value of whey.

AVOIDANCE OF ADVERSE EFFECT OF MILK PRODUCTION TERMINATION PROGRAM ON BEEF, PORK, AND LAMB PRODUCERS

SEC. 104. To minimize the adverse effect of the milk production termination program on beef, pork, and lamb producers in the United States during the 18-month period for which such program is in effect under section 201(d) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)), in such period—

(1) the Secretary of Agriculture shall use funds available for the purposes of clause (2) of section 32 of the Act entitled "An Act to amend the Agricultural Adjustment Act, and for other purposes" (7 U.S.C. 612c), approved August 14, 1935, including the contingency funds appropriated under such section 32, and other funds available to the Secretary under the commodity distribution and other nutrition programs of the Department of Agriculture, and including funds available through the Commodity Credit Corporation, to purchase and distribute 200,000,000 pounds of red meat in addition to those quantities normally purchased and

distributed by the Secretary. Such purchases by the Secretary shall not reduce purchases of any other agricultural commodities under section 32;

(2) the Secretary of Agriculture shall use funds available through the Commodity Credit Corporation to purchase 200,000,000 pounds of red meat, in addition to those quantities normally purchased and distributed by the Secretary, and to make such meat available—

(A) to the Secretary of Defense, on a nonreimbursable basis, for use in commissaries on military installations located outside of the United States; or

(B) for export under the authority of any law in effect on or after the date of the enactment of this Act;

(3) the Secretary of Defense and other Federal agencies, to the maximum extent practicable, shall use increased quantities of red meat to meet the food needs of the programs that they administer, and State agencies are encouraged to cooperate in such effort; and

(4) the Secretary of Agriculture shall encourage the consumption of red meat by the public.

DOMESTIC CASEIN INDUSTRY

SEC. 105. (a) The Commodity Credit Corporation shall provide surplus stocks of nonfat dry milk of not less than 1,000,000 pounds annually to individuals or entities on a bid basis.

(b) The Commodity Credit Corporation may accept bids at lower than the resale price otherwise required by law, in order to promote the strengthening of the domestic casein industry.

(c) The Commodity Credit Corporation shall take appropriate action to ensure that the nonfat dry milk sold by the Corporation under this section is used only for the manufacture of casein.

STUDY RELATING TO CASEIN

SEC. 106. The Secretary of Agriculture shall conduct a study to determine whether imports of casein tend to interfere with or render ineffective the milk price support program of the Department of Agriculture. Not later than 60 days after the date of the enactment of this Act, the Secretary shall report the results of such study to the Committee on Agriculture of the House of Representatives and to the Committee on Agriculture, Nutrition, and Forestry of the Senate.

CIRCUMVENTION OF HISTORICAL DISTRIBUTION OF MILK

SEC. 107. The Secretary of Agriculture shall—

(1) monitor the Commodity Credit Corporation purchases of the products of milk during 1986 and 1987; and

(2) report to Congress, on a quarterly basis, on disruptions of, or attempts by handlers or cooperative marketing associations to circumvent, the historical distribution of milk among processors during the milk production termination program.

APPLICATION OF AMENDMENTS

SEC. 108. The amendments made by this subtitle shall not affect any liability of any person under section 201 of the Agricultural Act of 1949 (7 U.S.C. 1446) as in effect before the date of the enactment of this Act.

Subtitle B—Dairy Research and Promotion

NATIONAL DAIRY RESEARCH ENDOWMENT INSTITUTE

SEC. 121. The Dairy Production Stabilization Act of 1983 (7 U.S.C. 1421 note, et seq.) is amended by adding at the end thereof the following:

"Subtitle C—Dairy Research Program

"DEFINITIONS

"SEC. 130. For purposes of this subtitle—

"(1) the term 'board' means the board of trustees of the Institute;

"(2) the term 'Department' means the Department of Agriculture;

"(3) the term 'dairy products' means manufactured products that are derived from the processing of milk, and includes fluid milk products;

"(4) the term 'fluid milk products' means those milk products normally consumed in liquid form as a beverage;

"(5) the term 'Fund' means the Dairy Research Trust Fund established by section 135;

"(6) the term 'Institute' means the National Dairy Research Endowment Institute established by section 131;

"(7) the term 'milk' means any class of cow's milk marketed in the United States;

"(8) the term 'person' means any individual, group of individuals, partnership, corporation, association, cooperative, or any other entity;

"(9) the term 'producer' means any person engaged in the production of milk for commercial use;

"(10) the term 'research' means studies testing the effectiveness of market development and promotion efforts, studies relating to the nutritional value of milk and dairy products, and other related efforts to expand demand for milk and dairy products;

"(11) the term 'Secretary' means the Secretary of Agriculture unless the context specifies otherwise; and

"(12) the term 'United States' means the several States and the territories and possessions of the United States, except that for purposes of sections 131, 133(a), and 136, and paragraph (7) of this section, such term means the forty-eight contiguous States in the continental United States.

"ESTABLISHMENT OF NATIONAL DAIRY RESEARCH ENDOWMENT INSTITUTE

"SEC. 131. The Secretary of Agriculture may establish in the Department of Agriculture a National Dairy Research Endowment Institute whose function shall be to aid the dairy industry through the implementation of the dairy products research order, which its board of trustees shall administer, and the use of monies made available to its board of trustees from the Dairy Research Trust Fund to implement the order. In implementing the order, the Institute shall provide a permanent system for funding scientific research activities designed to facilitate the expansion of markets for milk and dairy products marketed in the United States. The Institute shall be headed by a board of trustees composed of the members of the National Dairy Promotion and Research Board. The board may appoint from among its members an executive committee whose membership shall reflect equally each of the different regions in the United States in which milk is produced. The executive committee shall have such duties and powers as are delegated to it by the board. The members of the board shall serve without compensation. While away from their homes or regular places of business in the performance of services for the board, members of the board shall be allowed reasonable travel expenses, including a per diem allowance in lieu of subsistence, as recommended by the board and approved by the Secretary, except that there shall be no duplication of payment for such expenses.

"ISSUANCE OF ORDER

"SEC. 132. (a) After receipt of a proposed dairy products research order, the Secretary may publish such proposed order in the Federal Register and shall give notice and reasonable opportunity for public comment on such proposed order. Such proposed order may be submitted by an organization certified under section 114 or by any interested person affected by the provisions of subtitle B.

"(b) After the Secretary provides for such publication and a reasonable opportunity for a hearing under subsection (a), the Secretary may issue the dairy products research order. The order so issued shall become effective not later than 90 days after publication in the Federal Register of the order.

"(c) The Secretary may amend, from time to time, the dairy products research order issued under subsection (b).

"REQUIRED TERMS OF ORDER; AGREEMENTS UNDER ORDER; RECORDS

"SEC. 133. (a) The dairy products research order issued under section 132(b) shall—

"(1) provide for the establishment and administration, by the Institute, of appropriate scientific research activities designed to facilitate the expansion of markets for dairy products marketed in the United States;

"(2) specify the powers of the board, including the powers to—

"(A) receive and evaluate, or on its own initiative develop and budget for, research plans or projects designed to—

"(i) increase the knowledge of human nutritional needs and the relationship of milk and dairy products to these needs;

"(ii) improve dairy processing technologies, particularly those appropriate to small- and medium-sized family farms;

"(iii) develop new dairy products; and

"(iv) appraise the effect of such research on the marketing of dairy products;

"(B) make recommendations to the Secretary regarding such plans and projects;

"(C) administer the order in accordance with its terms and provisions;

"(D) make rules and regulations to effectuate the terms and provisions of the order;

"(E) receive, investigate, and report to the Secretary complaints of violations of the order;

"(F) recommend to the Secretary amendments to the order;

"(G) enter into agreements, with the approval of the Secretary, for the conduct of activities authorized under the order and for payment of the cost of such activities with any monies in the Fund other than monies appropriated or transferred by the Secretary to the Fund;

"(H) with the approval of the Secretary, establish advisory committees composed of individuals other than members of the board, and pay the necessary and reasonable expenses and fees of the members of such committees; and

"(I) with the approval of the Secretary, appoint or employ such persons, other than members of the board, as the board deems necessary and define the duties and determine the compensation of each;

"(3) specify the duties of the board, including the duties to—

"(A) develop, and submit to the Secretary for approval before implementation, any research plan or project to be carried out under this subtitle;

"(B) submit to the Secretary for approval, budgets, on a fiscal year basis, of the board's anticipated expenses and disbursements in the administration of the order, including projected costs of carrying out dairy products research plans and projects;

"(C) prepare and make public, at least annually, a report of the board's activities and an accounting for funds received and expended by the board;

"(D) maintain such books and records (which shall be available to the Secretary for inspection and audit) as the Secretary may prescribe;

"(E) prepare and submit to the Secretary, from time to time, such reports as the Secretary may prescribe; and

"(F) account for the receipt and disbursement of all funds entrusted to the board;

"(4) prohibit any monies received under this subtitle by the board to be used in any manner for the purpose of influencing governmental policy or actions, except as provided in paragraph (2)(F); and

"(5) require that each person receiving milk from producers for commercial use and any person marketing milk of that person's own production directly to consumers maintain and make available for inspection by the Secretary such books and records as may be required by the order and file with the Secretary reports at the time, in the manner, and having the content prescribed by the order.

"(b) Any agreement made under subsection (a)(2)(G) shall provide that—

"(1) the person with whom such agreement is made shall develop and submit to the board a research plan or project together with a budget that shows estimated costs to be incurred to carry out such plan or project;

"(2) such plan or project shall become effective on the approval of the Secretary; and

"(3) such person shall keep accurate records of all of its transactions, account for funds received and expended, make periodic reports to the board of activities conducted to carry out such plan or project, and submit such other reports as the Secretary or the board may require.

"(c)(1) Information, books, and records made available to, and reports filed with, the Secretary under subsection (a)(6) shall be kept confidential by all officers and employees of the Department, except that such information, books, records, and reports as the Secretary deems relevant may be disclosed by such officers and employees in any suit or administrative proceeding that is brought at the request of the Secretary or to which the Secretary or any officer of the United States is a party, and that involves the order issued under section 132(b).

"(2) Paragraph (1) shall not be construed to prohibit—

"(A) the issuance of general statements, based on such information, books, records, and reports, of the number of persons subject to the order or of statistical data collected from such persons if such statements do not specifically identify the data furnished by any one of such persons; or

"(B) the publication, at the direction of the Secretary, of the name of any person violating the order, together with a statement of the particular provisions of the order violated by the person.

"(3) No information obtained under the authority of this section may be made available to any agency, officer, or employee of the United States for any purpose other than the implementation of this subtitle and any investigatory or enforcement action necessary to implement this subtitle. Any person who violates this paragraph shall be subject to a fine of not more than $1,000, or to imprisonment for not more than one year, or both, and, if such person is employed by the board or the Department, shall be terminated from such employment.

"PETITION AND REVIEW; ENFORCEMENT; INVESTIGATIONS

"SEC. 134. The provisions of sections 118, 119, and 120 shall apply, except when inconsistent with this subtitle, to the Institute, the board, the persons subject to the order issued under section 132(b), the jurisdiction of district courts of the United States, and the authority of the Secretary under this subtitle in the same manner as such sections apply with respect to subtitle B.

"DAIRY RESEARCH TRUST FUND

"SEC. 135. (a) There may be established in the Treasury of the United States a trust fund to be known as the 'Dairy Research Trust Fund' if the Institute is established under section 131 and a dairy products research order issued under section 132 is effective during such fiscal year.

"(b)(1) There is authorized to be appropriated to the Fund or transferred from moneys available to the Commodity Credit Corporation for deposit in the Fund, $100,000,000.

"(2) Moneys deposited in the Fund under paragraph (1) shall be invested by the Secretary of the Treasury in obligations of the United States or any agency thereof, in general obligations of any State or any political subdivision thereof, in any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System, or in obligations fully guaranteed as to principal and interest by the United States. Interest, dividends, and other payments that accrue from such investments shall be deposited in the Fund and also shall be so invested, subject to subsection (c).

"(c) Moneys in the Fund, other than moneys appropriated or transferred under paragraph (1) of subsection (b), shall be available to the board, in such amounts, and for such activities authorized by this subtitle, as the Secretary may approve.

"TERMINATION OF ORDER, INSTITUTE, AND FUND

"SEC. 136. (a) The Secretary, whenever the Secretary finds that the order issued under this subtitle or any provision of such order obstructs or does not tend to facilitate the expansion of markets for milk and dairy products marketed in the United States, shall terminate or suspend the operation of the order or such provision.

"(b) If the Secretary terminates the order, the Institute shall be dissolved 180 days after the termination of the order.

"(c) If the Institute is dissolved for any reason, the moneys remaining in the Fund shall be disposed of as shall be agreed to by the board and the Secretary.

"ADDITIONAL AUTHORITY

"SEC. 137. (a) No provision of this subtitle shall be construed to preempt or supersede any other program relating to milk or dairy products research organized and operated under the laws of the United States or any State.

"(b) The provisions of this subtitle applicable to the order issued under section 132(b) shall be applicable to any amendment to the order.".

Subtitle C—Milk Marketing Orders

MINIMUM ADJUSTMENTS TO PRICES FOR FLUID MILK UNDER MARKETING ORDERS

SEC. 131. (a) Section 8c(5)(A) of the Agricultural Adjustment Act (7 U.S.C. 608c(5)(A)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by adding at the end the following: "Throughout the 2-year period beginning on the effective date of this sentence (and subsequent to such 2-year period unless modified by amendment to the order involved), the minimum aggregate amount of the adjustments, under clauses (1) and (2) of the preceding sentence, to prices for milk of the highest use classification under orders that are in effect under this section on the date of the enactment of the Food Security Act of 1985 shall be as follows:

"Marketing Area Subject to Order	Minimum Aggregate Dollar Amount of Such Adjustments Per Hundredweight of Milk Having 3.5 Percent Milkfat
New England	$3.24
New York-New Jersey	3.14
Middle Atlantic	3.03
Georgia	3.08
Alabama-West Florida	3.08
Upper Florida	3.58
Tampa Bay	3.88
Southeastern Florida	4.18
Michigan Upper Peninsula	1.35
Southern Michigan	1.75
Eastern Ohio-Western Pennsylvania	1.95
Ohio Valley	2.04
Indiana	2.00
Chicago Regional	1.40
Central Illinois	1.61
Southern Illinois	1.92
Louisville-Lexington-Evansville	2.11
Upper Midwest	1.20
Eastern South Dakota	1.50
Black Hills, South Dakota	2.05
Iowa	1.55
Nebraska-Western Iowa	1.75
Greater Kansas City	1.92
Tennessee Valley	2.77
Nashville, Tennessee	2.52
Paducah, Kentucky	2.39
Memphis, Tennessee	2.77
Central Arkansas	2.77
Fort Smith, Arkansas	2.77
Southwest Plains	2.77
Texas Panhandle	2.49
Lubbock-Plainview, Texas	2.49
Texas	3.28
Greater Louisiana	3.28
New Orleans-Mississippi	3.85
Eastern Colorado	2.73
Western Colorado	2.00
Southwestern Idaho-Eastern Oregon	1.50
Great Basin	1.90
Lake Mead	1.60
Central Arizona	2.52
Rio Grande Valley	2.35
Puget Sound-Inland	1.85
Oregon-Washington	1.95

Effective at the beginning of such two-year period, the minimum prices for milk of the highest use classification shall be adjusted for the locations at which delivery of such milk is made to such handlers.".

(b) The amendment made by this section shall take effect on the first day of the first month beginning more than 120 days after the date of the enactment of this Act.

ADJUSTMENTS FOR SEASONAL PRODUCTION; HEARINGS ON AMENDMENTS; DETERMINATION OF MILK PRICES

SEC. 132. Section 101(b) of the Agriculture and Food Act of 1981 (7 U.S.C. 608c note) is amended by striking out "1985" and inserting in lieu thereof "1990".

MARKETWIDE SERVICE PAYMENTS

SEC. 133. Effective January 1, 1986, section 8c(5) of the Agricultural Adjustment Act (7 U.S.C. 608c(5)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by adding at the end thereof the following:

"(J) Providing for the payment, from the total sums payable by all handlers for milk (irrespective of the use classification of such milk) and before computing uniform prices under paragraph (A) and making adjustments in payments under paragraph (C), to handlers that are cooperative marketing associations described in paragraph (F) and to handlers with respect to which adjustments in payments are made under paragraph (C), for services of marketwide benefit, including but not limited to—

"(i) providing facilities to furnish additional supplies of milk needed by handlers and to handle and dispose of milk supplies in excess of quantities needed by handlers;

"(ii) handling on specific days quantities of milk that exceed the quantities needed by handlers; and

"(iii) transporting milk from one location to another for the purpose of fulfilling requirements for milk of a higher use classification or for providing a market outlet for milk of any use classification.".

STATUS OF PRODUCER HANDLERS

SEC. 134. The legal status of producer handlers of milk under the Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, shall be the same after the amendments made by this title take effect as it was before the effective date of such amendments.

Subtitle D—National Commission on Dairy Policy

FINDINGS AND DECLARATION OF POLICY

SEC. 141. (a) Congress finds that—

(1) the Federal program established to support the price of milk marketed by producers in the United States was created to provide price and income protection for milk producers as well as to assure consumers of an adequate supply of milk and dairy products at reasonable prices;

(2) the milk production industry in the United States is composed primarily of small- and medium-sized family farm operations;

(3) consumers in the United States benefit financially from a milk price support program that prohibits large fluctuations in the price and supply of milk and dairy products;

(4) consumers in the United States also benefit financially from the current structure of the domestic milk production industry; and

(5) the Office of Technology Assessment, in its report entitled "Technology, Public Policy, and the Changing Structure of American Agriculture", found that larger milk production operations already enjoy a major advantage in the production of milk and that, under current Federal policy, the development and use of new technologies will permit a continued trend toward fewer and larger milk production operations throughout the country.

(b) It is hereby declared to be the policy of Congress to respond to the development of new technologies in the domestic milk production industry by reviewing the present milk price support program and its alternatives, and by adopting such policies as are needed to prevent significant surplus production in the future while ensuring that the current small- and medium-sized family farm structure of such industry will be preserved for new generations of producers and consumers alike.

ESTABLISHMENT OF COMMISSION

SEC. 142. (a) There is hereby established a National Commission on Dairy Policy, which shall study and make recommendations concerning the future operation of the Federal program established to support the price of milk marketed by producers in the United States.

(b) The Commission shall be composed of eighteen members who are engaged in the commercial production of milk in the United States, to be appointed by the Secretary of Agriculture. Not fewer than twelve members shall be appointed from nominations submitted to the Secretary by the following Members of Congress, after consultation with the other Members of Congress who sit on the specified committee of the respective House of Congress:

(1) The Chairman of the Committee on Agriculture of the House of Representatives.

(2) The ranking minority member of the Committee on Agriculture of the House of Representatives.

(3) The Chairman of the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(4) The ranking minority member of the Committee on Agriculture, Nutrition, and Forestry of the Senate.

Each such Member of Congress shall make not fewer than eighteen such nominations for appointment to the Commission, but not more than two such nominations for any particular vacancy on the Commission. The Secretary shall appoint not fewer than three individuals from among the nominations submitted by each such Member of Congress. Each member of the Commission shall represent a milk-producing region of the United States. A region may be made up of more than one State and may be represented by more than one member of the Commission. In making such appointments, the Secretary shall take into account, to the extent practicable, the geographical distribution of milk production volume throughout the United States. In determining geographical representation, whole States shall be considered as a unit.

(c) A vacancy on the Commission shall be filled in the manner in which the original appointment was made.

(d) The Commission shall elect a chairman from among the members of the Commission.

(e) The Commission shall meet at the call of the chairman or a majority of the members of the Commission.

STUDY AND RECOMMENDATIONS

SEC. 143. (a) The National Commission on Dairy Policy shall study—

(1) the current Federal price support program for milk;

(2) alternatives to such program;

(3) the future functioning of such program;

(4) new technologies that will become a part of the milk production industry before the end of this century;

(5) the effect that developing technologies will have on surplus milk production; and

(6) the future structure of the milk production industry.

In conducting such study, the Commission shall consider, among other things, how effective the current Federal price support program for milk will be in preventing significant surpluses of dairy products in the future, how well such program will respond to the challenges to the family farm structure of the milk production industry created by developing technologies, and whether or not a better response to those challenges could be achieved through modifications or revisions of current Federal policy.

(b) On the basis of its study, the Commission shall make findings and develop recommendations for consideration by the Secretary of Agriculture and Congress with respect to the future operation of the Federal price support program for milk.

(c) The Commission shall submit to the Secretary of Agriculture and Congress, not later than March 31, 1987, a report containing the results of its study and recommendations based on such results.

ADMINISTRATION

SEC. 144. (a) The heads of executive agencies, the General Accounting Office, the Office of Technology Assessment, and the Congressional Budget Office, to the extent permitted by law, shall provide to the National Commission on Dairy Policy such information as the Commission may require to carry out its duties and functions.

(b) Members of the Commission shall serve without compensation for work on the Commission. While away from their homes or regular places of business in the performance of duties of the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the Government service under section 5703 of title 5 of the United States Code.

(c) To the extent there are sufficient funds available to the Commission in advance under section [139], and subject to such rules as may be adopted by the Commission, the Commission, without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to the classification and General Schedule pay rates, may—

(1) appoint and fix the compensation of a director; and

(2) appoint and fix the compensation of such additional personnel as the Commission determines necessary to assist it to carry out its duties and functions.

(d) On the request of the Commission, the heads of executive agencies, the General Accounting Office, and the Office of Technology Assessment may furnish the Commission with such personnel and support services as the head of the agency, or office, and the chairman of the Commission agree are necessary to assist the Commission to carry out its duties and functions. The Commission shall not be required to pay or reimburse any agency or office for personnel and support services provided under this subsection.

(e) The Commission shall be exempt from sections 7(d), 10(e), 10(f), and 14 of the Federal Advisory Committee Act (5 U.S.C. App.).

(f) The Commission shall be exempt from the requirements of sections 4301 through 4305 of title 5 of the United States Code.

FINANCIAL SUPPORT

SEC. 145. (a) Following the appointment or designation of the members of the National Commission on Dairy Policy, notwithstanding the provisions of section 1342 of title 31 of the United States Code, the Secretary of Agriculture may receive on behalf of the Commission, from persons, groups, and entities within the United States, contributions of money and services to assist the Commission to carry out its duties and functions. Any money contributed under this section shall be made available to the Commission to carry out this subtitle. In no event may the Secretary accept an aggregate amount of contributions from any one person, group, or entity exceeding 10 percent of the budget of the Commission.

(b) If the contributions under subsection (a) are insufficient to carry out this subtitle, the Secretary of Agriculture may transfer to the Commission, from funds available to the Commodity Credit Corporation, an amount not to exceed $1,000,000 to carry out this subtitle.

TERMINATION OF COMMISSION

Sec. 146. The National Commission on Dairy Policy shall cease to exist thirty days following the submission of its report to the Secretary of Agriculture and Congress.

Subtitle E—Miscellaneous

TRANSFER OF DAIRY PRODUCTS TO THE MILITARY AND VETERANS HOSPITALS

Sec. 151. Subsections (a) and (b) of section 202 of the Agricultural Act of 1949 (7 U.S.C. 1446a) are each amended by striking out "1985" and inserting in lieu thereof "1990".

EXTENSION OF THE DAIRY INDEMNITY PROGRAM

Sec. 152. Section 3 of the Act entitled "An Act to provide indemnity payments to dairy farmers" (7 U.S.C. 450l), approved August 13, 1968, is amended by striking out "1985" and inserting in lieu thereof "1990".

DAIRY EXPORT INCENTIVE PROGRAM

Sec. 153. (a) During the period beginning 60 days after the date of enactment of this Act and ending on September 30, 1989, the Commodity Credit Corporation shall establish and operate an export incentive program as described in this section for dairy products under section 5 of the Commodity Credit Corporation Charter Act.

(b) The program established under subsection (a) shall provide for the Corporation to make payments, on a bid basis, to an entity that sells for export United States dairy products. The Secretary shall have discretion to accept or reject bids under such criteria as the Secretary deems appropriate.

(c) The program shall be operated under such rules and regulations issued by the Secretary as the Secretary deems necessary to ensure, among other things, that—

(1) payments may be made under the program only on the quantity of dairy products sold by an entity for export in any year that is in addition to, and not in place of, any export sales of dairy products that the entity would otherwise make in the absence of the program; and

(2) to the extent practicable, dairy products sold for export under the program will not displace commercial export sales of United States dairy products by other exporters.

(d)(1) The regulations issued by the Secretary may provide for payments under the program to be made in cash or in commodities of equal value that are available in Commodity Credit Corporation stock.

(2) If payments in commodities are authorized, such payments may be made through the issuance of certificates redeemable in commodities.

(3) If payments are authorized to be made in dairy products, the regulations issued by the Secretary shall ensure that such dairy products, or an equal amount of other dairy products, will be sold for export by the entity and that any such export sales by the entity will be in addition to, and not in place of, export sales of dairy products that the entity would otherwise make under program or in the absence of the program, and, to the extent practicable, will not displace commercial export sales of United States dairy products by other exporters.

(e)(1) The payments made under the program shall be made at a rate or rates established or approved by the Secretary, taking into consideration, among other things the type of product to be exported, the domestic price of dairy products, and world price of the dairy products.

(2) Any such rate established or approved by the Secretary shall be published in the Federal Register or publicly announced through other appropriate means, and shall be at a level or levels as will encourage the exportation of United States dairy products by entities.

TITLE II—WOOL AND MOHAIR

EXTENSION OF PRICE SUPPORT PROGRAM

Sec. 201. Section 703 of the National Wool Act of 1954 (7 U.S.C. 1782) is amended by—

(1) striking out "1985" in subsection (a) and inserting in lieu thereof "1990"; and

(2) striking out "1985" in subsection (b) and inserting in lieu thereof "1990".

FOREIGN PROMOTION PROGRAMS

Sec. 202. The second sentence of section 708 of the National Wool Act of 1954 (7 U.S.C. 1787) is amended by striking out "mohair or goats" and inserting in lieu thereof "wool, mohair, sheep, or goats".

TITLE III—WHEAT

WHEAT POLL

Sec. 301. (a) Not later than July 1, 1986, the Secretary of Agriculture shall conduct a poll, by mail ballot, of eligible producers of wheat to determine whether such producers favor the imposition of mandatory limits on the production of wheat that will result in wheat prices that are not lower than 125 percent of the cost of production (excluding land and residual returns to management) as determined by the Secretary.

(b) The Secretary shall conduct such poll in such a manner as will reflect the types and sizes of farm operations (including livestock), distinctions among types and classes of wheat produced, and such demographic and other information as the Secretary determines is necessary to reflect State, regional, and national responses.

(c) To be eligible to vote in such poll, a producer must have produced a crop of wheat during at least one of the 1981 through 1985 crop years for wheat on a farm with a wheat crop acreage base of at least 40 acres.

MARKETING QUOTAS

Sec. 302. Effective only for the 1987 through 1990 crops of wheat, section 332 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1332) is amended to read as follows:

"PROCLAMATION OF MARKETING QUOTAS

"Sec. 332. (a) As used in sections 332 through 338:

"(1) The term 'base period' means the 1981 through 1985 crop years for wheat.

"(2) The term 'marketing quota period' means the 1987 through 1990 marketing years for wheat.

"(b)(1) The Secretary may—

"(A) proclaim national marketing quotas for wheat for each marketing year of the marketing quota period not later than June 15, 1986; and

"(B) conduct, by mail ballot, a marketing quota referendum not later than August 1, 1986.

"(2) The quantity of the national marketing quota for wheat for any marketing year shall be a quantity of wheat that the Secretary estimates is required to meet anticipated needs during such marketing year, taking into consideration domestic requirements, export demand, emergency food aid needs, and adequate carryover stocks.

"(c) If, after the proclamation of a national marketing quota for wheat for any marketing year, the Secretary determines that the national marketing quota should be terminated or adjusted to meet a national emergency or a material change in the demand for wheat, the Secretary shall adjust or terminate the national marketing quota.".

MARKETING QUOTA APPORTIONMENT FACTOR

Sec. 303. Effective only for the 1987 through 1990 crops of wheat, section 333 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1333) is amended to read as follows:

"MARKETING QUOTA APPORTIONMENT FACTOR

"Sec. 333. (a) The Secretary shall establish a marketing quota apportionment factor for each crop of wheat for which a national marketing quota is proclaimed under section 332.0

"(b) The apportionment factor shall be determined by dividing—

"(1) the national marketing quota for such crop of wheat; by

"(2) the average number of bushels of wheat the Secretary determines was produced in the United States during the base period, adjusted to reflect the quantity of wheat that would have been produced during such years except for—

"(A) drought, flood, or other natural disaster, or other conditions beyond the control of producers; and

"(B) participation in any acreage reduction, set-aside, or diversion programs for wheat during such crop years,

as determined by the Secretary.".

FARM MARKETING QUOTAS

Sec. 304. Effective only for the 1987 through 1990 crops of wheat, section 334 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1334) is amended to read as follows:

"FARM MARKETING QUOTAS

"Sec. 334. (a) For each crop of wheat for which a national marketing quota has been proclaimed under section 332, the Secretary shall establish a farm marketing quota for each farm on which wheat was planted for harvest, or considered planted for harvest, during the base period.

"(b) The farm marketing quota shall be equal to the product obtained by multiplying—

"(1) the average number of acres of wheat planted for harvest, or considered planted for harvest, on the farm during the base period; by

"(2) the average yield of wheat planted for harvest, or considered planted for harvest, on the farm during such base period, as determined by the Secretary on such basis as the Secretary determines will provide a fair and equitable yield; by

"(3) the marketing quota apportionment factor.

"(c) For purposes of this section, wheat shall be considered to have been planted for harvest on the farm in any crop year to the extent that the Secretary determines that wheat was not planted for harvest on the farm because—

"(1) of drought, flood, or other natural disaster, or other condition beyond the control of the producer, as determined by the Secretary; or

"(2) the producer on the farm participated in any acreage reduction, set-aside, or diversion program for wheat during such crop years.

"(d) Farm marketing quotas shall be established by the Secretary under this section by June 1 of the calendar year preceding each marketing year for which a national marketing quota has been proclaimed under section 332.".

MARKETING PENALTIES

SEC. 305. Effective only for the 1987 through 1990 crops of wheat, section 335 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1335) is amended to read as follows:

"MARKETING PENALTIES

"SEC. 335. (a) The marketing of wheat produced on a farm in excess of a farm marketing quota shall be subject to a penalty at a rate per bushel equal to 75 percent of the national average market price for wheat during the immediately preceding marketing year.

"(b) The penalty provided for in subsection (a) shall be paid—

"(1) in the case of wheat marketed by sale to a person within the United States, by the person who acquired the wheat from the producer, except that an amount equivalent to the penalty may be deducted by the buyer from the price paid to the producer;

"(2) in the case of wheat marketed through a warehouseman or agent, by the warehouseman or agent, who may deduct an amount equivalent to the penalty from the price paid to the producer; or

"(3) in the case of wheat marketed directly to any person outside the United States, by the producer.

"(c) If any producer falsely identifies, or fails to certify, the acreage planted to wheat for harvest or fails to account for the disposition of any wheat produced on such planted acreage in accordance with regulations issued by the Secretary—

"(1) a quantity of wheat equal to the product obtained by multiplying—

"(A) the farm program payment yield, as determined by the Secretary under title V of the Agricultural Act of 1949; by

"(B) the planted acreage,

shall be deemed to have been marketed in excess of the farm marketing quota; and

"(2) the penalty provided for in subsection (a) on such quantity of wheat shall be paid by the producer.

"(d) Each producer having an interest in the crop of wheat on any farm for which a penalty is determined shall be jointly and severally liable for the entire amount of the penalty.

"(e) Wheat subject to a farm marketing quota may be carried over by the producer from one marketing year to the succeeding marketing year, and may be marketed without incurring a penalty under this section in the succeeding marketing year, to the extent that—

"(1) the total quantity of wheat available for marketing from the farm in the marketing year from which the wheat is carried over does not exceed the farm marketing quota; or

"(2) the total quantity of wheat available for marketing in the succeeding marketing year (including any quantity of wheat carried over) does not exceed the farm marketing quota for the succeeding marketing year.

"(f) Wheat produced in a calendar year in which marketing quotas are in effect for the marketing year beginning therein shall be subject to such quotas even though it is marketed prior to the date on which such marketing year begins.

"(g)(1) The Secretary shall require collection of the penalty provided for in this section on a proportion of each unit of wheat marketed from the farm equal to the proportion that the wheat available for marketing from the farm in excess of the farm marketing quota is of the total quantity of wheat available for marketing from the farm, if satisfactory proof is not furnished to the Secretary as to the disposition to be made of the excess wheat, in accordance with regulations issued by the Secretary, prior to the marketing of any wheat from the farm.

"(2) All funds collected under this section during a marketing year shall be deposited in a special account established in the Treasury of the United States until the end of the next succeeding marketing year. On certification of the Secretary, there shall be paid out of such special account to a person designated by the Secretary the amount by which the penalty collected exceeds that amount of penalty due on wheat marketed in excess of the farm marketing quota for a farm. Such special account shall be administered by the Secretary. The basis for, the amount of, and the person entitled to receive a payment from such account, when determined in accordance with regulations prescribed by the Secretary, shall be final and conclusive.

"(h) Until the amount of the penalty provided by this section is paid, a lien on—

"(1) the wheat with respect to which such penalty is incurred; and

"(2) any subsequent wheat subject to marketing quotas in which the person liable for the payment of such penalty has an interest,

shall be in effect in favor of the United States for the amount of the penalty.

"(i) A person liable for the payment or collection of a penalty on any quantity of wheat shall be liable also for interest thereon from the date the penalty becomes due until the date of payment of such penalty at a rate per annum equal to the rate of interest that was charged the Commodity Credit Corporation by the Treasurer of the United States on the date such penalty became due.

"(j)(1) If marketing quotas for wheat are not in effect for any marketing year, all previous marketing quotas applicable to wheat shall be terminated, effective as of the first day of such marketing year.

"(2) Such termination shall not—

"(A) abate any penalty previously incurred by a producer; or

"(B) relieve any buyer of the duty to remit penalties previously collected.".

REFERENDUM

SEC. 306. Effective only for the 1987 through 1990 crops of wheat, section 336 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1336) is amended to read as follows:

"REFERENDUM

"SEC. 336. (a) If a national marketing quota for wheat for the marketing quota period is proclaimed, not later than August 1, 1986, the Secretary shall conduct, by mail ballot, a referendum of eligible producers to determine whether they favor or oppose marketing quotas for such period.

"(b) Any producer who produced wheat on a farm during at least one of the crop years of the base period shall be eligible to vote in the referendum.

"(c) Not later than 30 days after the conduct of such referendum, the Secretary shall proclaim the results of such referendum.

"(d) If the Secretary determines that 60 percent or more of the producers voting in the referendum approve marketing quotas, the Secretary shall proclaim that marketing quotas will be in effect for the marketing quota period.".

TRANSFER OF FARM MARKETING QUOTAS

SEC. 307. Effective only for the 1987 through 1990 crops of wheat, section 338 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1338) is amended to read as follows:

"TRANSFER OF FARM MARKETING QUOTAS

"SEC. 338. (a) Except as provided in subsection (b), farm marketing quotas shall not be transferable.

"(b) In accordance with regulations prescribed by the Secretary for such purpose—

"(1) the farm marketing quota for a farm for any marketing year, or any portion thereof, may be voluntarily surrendered to the Secretary by the producer; and

"(2) the Secretary may reallocate any farm marketing quotas so surrendered to other farms having farm marketing quotas on such basis as the Secretary may determine.".

LOAN RATES, TARGET PRICES, DISASTER PAYMENTS, ACREAGE LIMITATION AND SET-ASIDE PROGRAMS, AND LAND DIVERSION FOR THE 1986 THROUGH 1990 CROPS OF WHEAT

SEC. 308. Effective only for the 1986 through 1990 crops of wheat, the Agricultural Act of 1949 is amended by inserting after section 107C (7 U.S.C. 1445b-2) the following new section:

"SEC. 107D. Notwithstanding any other provision of law:

"(a)(1) Except as provided in paragraphs (2) through (4), the Secretary shall make available to producers loans and purchases for each of the 1986 through 1990 crops of wheat at such level as the Secretary determines will maintain the competitive relationship of wheat to other grains in domestic and export markets after taking into consideration the cost of producing wheat, supply and demand conditions, and world prices for wheat.

"(2) For any crop of wheat for which marketing quotas are in effect, the loan and purchase level determined under paragraph (1) shall not be less than the higher of—

"(A) 75 percent of the national average cost of production per bushel of wheat, as determined by the Secretary, taking into consideration variable expenses, general farm overhead, taxes, insurance, interest, and capital replacement costs (but excluding residual returns for management and risk); or

"(B) $3.55 per bushel.

"(3) Except as provided in paragraph (4), for any crop of wheat for which marketing quotas are not in effect, the loan and purchase level determined under paragraph (1) shall—

"(A) in the case of the 1986 crop of wheat, not be less than $3.00 per bushel; and

"(B) in the case of each of the 1987 through 1990 crops of wheat, not be less than 75 percent, nor more than 85 percent, of the simple average price received by producers of wheat, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of wheat, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period, except that the loan and purchase level for a crop determined under this clause may not be reduced by more than 5 percent from the level determined for the preceding crop.

"(4)(A) Except as provided in subparagraph (B), for any crop of wheat for which marketing quotas are not in effect, if the Secretary determines that the average price received by producers for wheat in the previous marketing year was not more than 110 percent of the loan and purchase level for wheat for such marketing year or determines that such action is necessary to maintain a competitive market position for wheat, the Secretary—

"(i) in the case of the 1986 crop of wheat, shall reduce the loan and purchase level for *wheat for the marketing year by the amount the Secretary determines necessary to maintain domestic and export markets for grain but not less than 10 percent of the loan and purchase level for such crop; and*

"(ii) in the case of each of the 1987 through 1990 crops of wheat, may reduce the loan and purchase level for wheat for the marketing year by the amount the Secretary determines necessary to maintain domestic and export markets for grain.

"(B) The loan and purchase level may not be reduced under subparagraph (A) by more than 20 percent in any year.

"(C) Any reduction in the loan and purchase level for wheat under this paragraph shall not be considered in determining the loan and purchase level for wheat for subsequent years.

"(5)(A) The Secretary may permit a producer to repay a loan made under paragraph (1) for a crop at a level that is the lesser of—

"(i) the loan level determined for such crop; or

"(ii) the higher of—

"(I) 70 percent of such level;

"(II) if the loan level for a crop was reduced under paragraph (4), 70 percent of the loan level that would have been in effect but for the reduction under paragraph (4); or

"(III) the prevailing world market price for wheat, as determined by the Secretary.

"(B) If the Secretary permits a producer to repay a loan in accordance with subparagraph (A), the Secretary shall prescribe by regulation—

"(i) a formula to define the prevailing world market price for wheat; and

"(ii) a mechanism by which the Secretary shall announce periodically the prevailing world market price for wheat.

"(6) For purposes of this section, the simple average price received by producers for the immediately preceding marketing year shall be based on the latest information available to the Secretary at the time of the determination.

"(b)(1) The Secretary may, for each of the 1986 through 1990 crops of wheat, make payments available to producers who, although eligible to obtain a loan or purchase agreement under subsection (a), agree to forgo obtaining such loan or agreement in return for such payments.

"(2) A payment under this subsection shall be computed by multiplying—

"(A) the loan payment rate; by

"(B) the quantity of wheat the producer is eligible to place under loan.

"(3) For purposes of this subsection, the quantity of wheat eligible to be placed under loan may not exceed the product obtained by multiplying—

"(A) the individual farm program acreage for the crop; by

"(B) the farm program payment yield established for the farm.

"(4) For purposes of this subsection, the loan payment rate shall be the amount by which—

"(A) the loan level determined for such crop under subsection (a); exceeds

"(B) the level at which a loan may be repaid under subsection (a).

"(c)(1)(A) The Secretary shall make available to producers payments for each of the 1986 through 1990 crops of wheat in an amount computed by multiplying—

"(i) the payment rate; by

"(ii) the individual farm program acreage for the crop; by

"(iii) the farm program payment yield for the crop for the farm.

"(B) Payments for any such crop for which marketing quotas are in effect shall not exceed an amount equal to the payment rate multiplied by the farm marketing quota.

"(C)(i) If an acreage limitation program under subsection (f)(2) is in effect for a crop of wheat and the producers on a farm devote a portion of the permitted wheat acreage of the farm (as determined in accordance with subsection (f)(2)(A)) equal to more than 8 percent of the permitted wheat acreage of the farm for the crop to conservation uses or nonprogram crops—

"(I) such portion of the permitted wheat acreage of the farm in excess of 8 percent of such acreage devoted to conservation uses or nonprogram crops shall be considered to be planted to wheat for the purpose of determining the individual farm program acreage in accordance with subsection (f)(2)(E) and for the purpose of determining the acreage on the farm required to be devoted to conservation uses in accordance with subsection (f)(2)(D); and

"(II) the producers shall be eligible for payments under this paragraph on such acreage, subject to the compliance of the producers with clause (ii).

"(ii) To be eligible for payments under clause (i), except as provided in clauses (iii) and (vii), the producers on the farm must actually plant wheat for harvest on at least 50 percent of the permitted wheat acreage of the farm.

"(iii) If a State or local agency has imposed in an area of a State or county a quarantine on the planting of wheat for harvest on farms in such area, the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) may recommend to the Secretary that payments be made under this paragraph, without regard to the requirement imposed under clause (ii), to producers in such area who were required to forgo the planting of wheat for harvest on acreage to alleviate or eliminate the condition requiring such quarantine. If the Secretary determines that such condition exists, the Secretary may make payments under this paragraph to such producers. To be eligible for payments under this clause, such producers may not plant feed grains, cotton, rice, or soybeans on such acreage.

"(iv) The wheat crop acreage base and wheat farm program payment yield of the farm shall not be reduced due to the fact that such portion of the permitted acreage of the farm was devoted to conserving uses or nonprogram crops.

"(v) Other than as provided in clauses (i) through (iv), payments may not be made under this paragraph for any crop on a greater acreage than the acreage actually planted to wheat.

"(vi) Any acreage considered to be planted to wheat in accordance with clause (i) may not also be designated as conservation use acreage for the purpose of fulfilling any provisions under any acreage limitation, set-aside program, or land diversion program requiring that the producers devote a specified acreage to conservation uses.

"(vii) This subparagraph shall not apply if the established price for wheat is determined pursuant to subparagraph (H)(i).

"(D)(i) Except as provided in clause (ii), the payment rate for wheat shall be the amount by which the established price for the crop of wheat exceeds the higher of—

"(I) the national weighted average market price received by producers during the first 5 months of the marketing year for such crop, as determined by the Secretary; or

"(II) the loan level determined for such crop, prior to any adjustment made under subsection (a)(4) for the marketing year for such crop of wheat.

"(ii) If the national weighted average market price received by producers during the first 5 months of the marketing year for a crop, as determined by the Secretary, exceeds $2.55 per bushel for the 1986 crop, $2.65 per bushel for the 1987 crop, or $2.82 per bushel for the 1988 crop, at the option of the Secretary, the payment rate for such crop of wheat shall be the amount by which the established price for the crop of wheat exceeds the higher of—

"(I) $2.55 per bushel for the 1986 crop, $2.65 per bushel for the 1987 crop, and $2.82 per bushel for the 1988 crop; or

"(II) the loan level determined for such crop, prior to any adjustment made under subsection (a)(4) for the marketing year for such crop of wheat.

"(E)(i) Notwithstanding the foregoing provisions of this section, if the Secretary adjusts the level of loans and purchases for wheat under subsection (a)(4), the Secretary shall provide emergency compensation by increasing the established price payments for wheat by such amount as the Secretary determines necessary to provide the same total return to producers as if the adjustment in the level of loans and purchases had not been made, taking into consideration any payments made as the result of subparagraph (D)(ii).

"(ii) In determining the payment rate, per bushel, for established price payments for a crop of wheat under this subparagraph, the Secretary shall use the national weighted average market price, per bushel of wheat, received by producers during the marketing year for such crop, as determined by the Secretary.

"(F) For any crop of wheat for which marketing quotas are in effect, the established price shall not be less than the higher of—

"(i) the national average cost of production per bushel of wheat, as determined by the Secretary under subsection (a)(2); or

"(ii) $4.65 per bushel.

"(G) For any crop of wheat for which marketing quotas are not in effect, the established price for wheat shall not be less than $4.38 per bushel for each of the 1986 and 1987 crops, $4.29 per bushel for the 1988 crop, $4.16 per bushel for the 1989 crop, and $4.00 per bushel for the 1990 crop.

"(H) For any crop of wheat for which marketing quotas are not in effect, at the option of the Secretary and subject to subparagraph (G), the established price for wheat applicable to producers may be determined on the basis of—

"(i) the percentage by which the producers reduce the acreage planted to wheat on the farm for harvest from the crop acreage base for the farm in accordance with an acreage limitation program described in subsection (f)(2); or

"(ii) a graduated scale of production under which the amount of the payments made to the producers would vary for specified quantities of wheat produced by the producers and such payments would be targetted to commercial family farmers who have annual gross sales in excess of $20,000.

"(I) The total quantity on which payments would otherwise be payable to a producer on a farm for any crop under this paragraph shall be reduced by the quantity on which any disaster payment is made to the producer for the crop under paragraph (2).

"(J) The Secretary may pay not more than 5 percent of the total amount of a payment

made under this paragraph in the form of wheat. The use of wheat in making payments to producers shall be subject to a determination by the Secretary of the effect that such in-kind payments will have on market prices for any commodity. The Secretary shall report such determination to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

"(K) As used in this paragraph, the term 'nonprogram crop' means any agricultural commodity other than wheat, feed grains, upland cotton, extra long staple cotton, rice, or soybeans.

"(2)(A)(i) Except as provided in subparagraph (C), if the Secretary determines that the producers on a farm are prevented from planting any portion of the acreage intended for wheat to wheat or other nonconserving crops because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the Secretary shall make a prevented planting disaster payment to the producers in an amount equal to the product obtained by multiplying—

"(I) the number of acres so affected but not to exceed the acreage planted to wheat for harvest (including any acreage that the producers were prevented from planting to wheat or other nonconserving crops in lieu of wheat because of drought, flood, or other natural disaster, or other condition beyond the control of the producers) in the immediately preceding year; by

"(II) 75 percent of the farm program payment yield established by the Secretary; by

"(III) a payment rate equal to 33 1/3 percent of the average of the established prices for the crop.

"(ii) Payments made by the Secretary under this subparagraph may be made in the form of cash or from stocks of wheat held by the Commodity Credit Corporation.

"(B) Except as provided in subparagraph (C), if the Secretary determines that because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the total quantity of wheat that the producers are able to harvest on any farm is less than the result of multiplying 60 percent of the farm program payment yield established by the Secretary for such crop by the acreage planted for harvest for such crop, the Secretary shall make a reduced yield disaster payment to the producers at a rate equal to 50 percent of the established price for the crop for the deficiency in production below 60 percent for the crop.

"(C) Producers on a farm shall not be eligible for—

"(i) prevented planting disaster payments under subparagraph (A), if prevented planting crop insurance is available to the producers under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) with respect to the wheat acreage of the producers; or

"(ii) reduced yield disaster payments under subparagraph (B), if reduced yield crop insurance is available to the producers under such Act with respect to the wheat acreage of the producers.

"(D)(i) Notwithstanding subparagraph (C), the Secretary may make a disaster payment to producers on a farm under this paragraph if the Secretary determines that—

"(I) as the result of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the producers on a farm have suffered substantial losses of production either from being prevented from planting wheat or other nonconserving crops or from reduced yields;

"(II) such losses have created an economic emergency for the producers;

"(III) crop insurance indemnity payments under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) and other forms of assistance made available by the Federal Government to such producers for such losses are insufficient to alleviate such economic emergency; and

"(IV) additional assistance must be made available to such producers to alieviate such economic emergency.

"(ii) The Secretary may make such adjustments in the amount of payments made available under this subparagraph with respect to an individual farm so as to assure the equitable allotment of such payments among producers, taking into account other forms of Federal disaster assistance provided to the producers for the crop involved.

"(d)(1)(A) For any crop of wheat for which marketing quotas are not in effect and an acreage limitation program under subsection (f) is not in effect, the Secretary shall proclaim a national program acreage. The proclamation shall be made not later than June 1 of each calendar year for the crop harvested in the next succeeding calendar year, except that in the case of the 1986 crop, the proclamation shall be made as soon as practicable after the date of enactment of the Food Security Act of 1985.

"(B) The Secretary may revise the national program acreage first proclaimed for any crop year for the purpose of determining the allocation factor under paragraph (2) if the Secretary determines it necessary based on the latest information. The Secretary shall proclaim such revised national program acreage as soon as it is made.

"(C) The national program acreage for wheat shall be the number of harvested acres the Secretary determines (on the basis of the weighted national average of the farm program payment yields for the crop for which the determination is made) will produce the quantity (less imports) that the Secretary estimates will be utilized domestically and for export during the marketing year for such crop.

"(D) If the Secretary determines that carryover stocks of wheat are excessive or an increase in stocks is needed to assure desirable carryover, the Secretary may adjust the national program acreage by the quantity the Secretary determines will accomplish the desired increase or decrease in carryover stocks.

"(2) The Secretary shall determine a program allocation factor for each crop of wheat for which marketing quotas are not in effect. The allocation factor for wheat shall be determined by dividing the national program acreage for the crop by the number of acres that the Secretary estimates will be harvested for such crop, except that in no event shall the allocation factor for any crop of wheat be more than 100 percent nor less than 80 percent.

"(3)(A)(i) Except as provided in subsection (f)(2), the individual farm program acreage for each crop of wheat for which marketing quotas are not in effect shall be determined by multiplying the allocation factor by the acreage of wheat planted for harvest on the farms for which individual farm program acreages are required to be determined.

"(ii) The individual farm program acreage shall not be further reduced by application of the allocation factor if the producers reduce the acreage of wheat planted for harvest on the farm from the crop acreage base established for the farm under title V by at least the percentage recommended by the Secretary in the proclamation of the national program acreage.

"(iii) The Secretary shall provide fair and equitable treatment for producers on farms on which the acreage of wheat planted for harvest is less than the crop acreage base established for the farm under title V, but for which the reduction is insufficient to exempt the farm from the application of the allocation factor.

"(iv) In establishing the allocation factor for wheat, the Secretary may make such adjustment as the Secretary deems necessary to take into account the extent of exemption of farms under the foregoing provisions of this paragraph.

"(B) For any crop of wheat for which marketing quotas are in effect, the individual farm program acreage shall be the acreage on the farm that the Secretary determines is sufficient to produce the quantity of wheat equal to the farm marketing quota established for the farm under section 334 of the Agricultural Adjustment Act of 1938.

"(e) The farm program payment yields for farms for each crop of wheat shall be determined under title V.

"(f)(1)(A)(i) Notwithstanding any other provision of this Act, except as provided in subparagraphs (B) through (E), if the Secretary determines that the total supply of wheat, in the absence of an acreage limitation or set-aside program, will be excessive taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency, the Secretary may provide for any crop of wheat for which marketing quotas are not in effect either an acreage limitation program as described in paragraph (2) or a set-aside program as described in paragraph (3).

"(ii) In making a determination under clause (i), the Secretary shall take into consideration the number of acres placed in the conservation acreage reserve established under section 1231 of the Food Security Act of 1985.

"(iii) If the Secretary elects to put either of such programs into effect for any crop year, the Secretary shall announce such program not later than June 1 prior to the calendar year in which the crop is harvested, except that in the case of the 1986 crop, the Secretary shall announce such program as soon as practicable after the date of enactment of the Food Security Act of 1985.

"(iv) Not later than July 31 of the year previous to the year in which the crop is harvested, the Secretary may make adjustments in the program announced under clause (iii) if the Secretary determines that there has been a significant change in the total supply of wheat since the program was first announced.

"(B) In the case of the 1986 crop of wheat, if the Secretary estimates, as soon as practicable after the date of enactment of the Food Security Act of 1985, that the quantity of wheat on hand in the United States on the first day of the marketing year for that crop (not including any quantity of wheat of that crop) will be—

"(i) more than 1,000,000,000 bushels, the Secretary shall provide for—

"(I) an acreage limitation program (as described in paragraph (2)) under which the acreage planted to wheat for harvest on a farm would be limited to the wheat crop acreage base for the farm for the crop reduced by not less than 15 percent nor more than 22 1/2 percent; and

"(II) a land diversion program (as described in paragraph (5)(A)) with in-kind

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payments under which the acreage planted to wheat for harvest on a farm would be limited to the wheat crop acreage base for the farm for the crop reduced by 2 1/2 percent of the wheat crop acreage base, in addition to any reduction required under subclause (I); or

"(ii) 1,000,000,000 bushels or less, the Secretary may provide for—

"(I) an acreage limitation program (as described in paragraph (2)) under which the acreage planted to wheat for harvest on a farm would be limited to the wheat crop acreage base for the farm for the crop reduced by not more than 15 percent; and

"(II) a land diversion program as described in paragraph (5)(A).

"(C) In the case of the 1987 crop of wheat, if the Secretary estimates, not later than June 1 of the year previous to the year in which the crop is harvested, that the quantity of wheat on hand in the United States on the first day of the marketing year for that crop (not including any quantity of wheat of that crop) will be—

"(i) more than 1,000,000,000 bushels, the Secretary shall provide for an acreage limitation program (as described in paragraph (2)) under which the acreage planted to wheat for harvest on a farm would be limited to the wheat crop acreage base for the farm for the crop reduced by not less than 20 percent but not more than 27 1/2 percent; or

"(ii) 1,000,000,000 bushels or less, the Secretary may provide for such an acreage limitation program under which the acreage planted to wheat for harvest on a farm would be limited to the wheat crop acreage base for the farm for the crop reduced by not more than 20 percent.

"(D) In the case of each of the 1988 through 1990 crops of wheat, if the Secretary estimates, not later than June 1 of the year previous to the year in which the crop is harvested, that the quantity of wheat on hand in the United States on the first day of the marketing year for that crop (not including any quantity of wheat of that crop) will be—

"(i) more than 1,000,000,000 bushels, the Secretary shall provide for an acreage limitation program (as described in paragraph (2)) under which the acreage planted to wheat for harvest on a farm would be limited to the wheat crop acreage base for the farm for the crop reduced by not less than 20 percent nor more than 30 percent; or

"(ii) 1,000,000,000 bushels or less, the Secretary may provide for such an acreage limitation program under which the acreage planted to wheat for harvest on a farm would be limited to the wheat crop acreage base for the farm for the crop reduced by not more than 20 percent.

"(E) As a condition of eligibility for loans, purchases, and payments for any such crop of wheat, except as provided in subsection (g), the producers on a farm must comply with the terms and conditions of the acreage limitation program and, if applicable, the land diversion program as provided in paragraph (1)(B)(ii)(II).

"(2)(A)(i) If a wheat acreage limitation program is announced under paragraph (1), such limitation shall be achieved by applying a uniform percentage reduction to the wheat crop acreage base for the crop for each wheat-producing farm.

"(ii) If the Secretary elects to determine the established price for wheat applicable to producers as provided in subsection (c)(1)(H)(i), the limitation on the acreage planted to wheat shall be achieved by applying the percentage reductions selected by producers under subsection (c)(1)(H)(i) to the crop acreage base for each wheat-producing farm.

"(B) Except as provided in subsection (g), producers who knowingly produce wheat in excess of the permitted wheat acreage for the farm shall be ineligible for wheat loans, purchases, and payments with respect to that farm.

"(C) Wheat crop acreage bases for each crop of wheat shall be determined under title V.

"(D)(i) A number of acres on the farm shall be devoted to conservation uses, in accordance with regulations issued by the Secretary. Such number shall be determined by dividing—

"(I) the product obtained by multiplying the number of acres required to be withdrawn from the production of wheat times the number of acres planted to such commodity; by

"(II) the number of acres authorized to be planted to such commodity under the limitation established by the Secretary.

"(ii) The number of acres so determined is hereafter in this subsection referred to as 'reduced acreage'.

"(E) If an acreage limitation program is announced under paragraph (1) for a crop of wheat, subsection (d) shall not be applicable to such crop, including any prior announcement that may have been made under such subsection with respect to such crop. Except as otherwise provided in subsection (c)(1)(C), the individual farm program acreage shall be the acreage planted on the farm to wheat for harvest within the permitted wheat acreage for the farm as established under this paragraph.

"(3)(A) If a set-aside program is announced under paragraph (1), as a condition of eligibility for loans, purchases, and payments for wheat authorized by this Act (except as provided in subsection (g)), the producers on a farm must—

"(i) set aside and devote to conservation uses an acreage of cropland equal to a specified percentage, as determined by the Secretary, of the acreage of wheat planted for harvest for the crop for which the set-aside is in effect; and

"(ii) otherwise comply with the terms of such program.

"(B) The set-aside acreage shall be devoted to conservation uses, in accordance with regulations issued by the Secretary.

"(C) If a set-aside program is established, the Secretary may limit the acreage planted to wheat. Such limitation shall be applied on a uniform basis to all wheat-producing farms.

"(D) The Secretary may make such adjustments in individual set-aside acreages under this paragraph as the Secretary determines necessary—

"(i) to correct for abnormal factors affecting production; and

"(ii) to give due consideration to tillable acreage, crop-rotation practices, types of soil, soil and water conservation measures, topography, and such other factors as the Secretary determines necessary.

"(4)(A) The regulations issued by the Secretary under paragraphs (2) and (3) with respect to acreage required to be devoted to conservation uses shall assure protection of such acreage from weeds and wind and water erosion.

"(B) Subject to subparagraph (C), the Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of such acreage to be devoted to sweet sorghum, hay and grazing, or the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, rye, or other commodity, if the Secretary determines that such production is needed to provide an adequate supply of such commodities, is not likely to increase the cost of the price support program, and will not affect farm income adversely.

"(C)(i) Except as provided in clause (ii), the Secretary shall permit, at the request of the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) for a State and subject to such terms and conditions as the Secretary may prescribe, all or any part of such acreage diverted from production by participating producers in such State to be devoted to—

"(I) hay and grazing, in the case of the 1986 crop of wheat; and

"(II) grazing, in the case of each of the 1987 through 1990 crops of wheat.

"(ii) Haying and grazing shall not be permitted for any crop of wheat under clause (i) during any 5-consecutive-month period that is established for such crop for a State by the State committee established under section 8(b) of such Act.

"(D) In determining the quantity of land to be devoted to conservation uses under an acreage limitation or set-aside program with respect to land that has been farmed under summer fallow practices, as defined by the Secretary, the Secretary shall consider the effects of soil erosion and such other factors as the Secretary considers appropriate.

"(5)(A)(i) The Secretary may make land diversion payments to producers of wheat, whether or not an acreage limitation program, set-aside program, or marketing quotas for wheat are in effect, if the Secretary determines that such land diversion payments are necessary to assist in adjusting the total national acreage of wheat to desirable goals. Such land diversion payments shall be made to producers who, to the extent prescribed by the Secretary, devote to approved conservation uses an acreage of cropland on the farm in accordance with land diversion contracts entered into by the Secretary with such producers.

"(ii) The amounts payable to producers under land diversion contracts may be determined through the submission of bids for such contracts by producers in such manner as the Secretary may prescribe or through such other means as the Secretary determines appropriate. In determining the acceptability of contract offers, the Secretary shall take into consideration the extent of the diversion to be undertaken by the producers and the productivity of the acreage diverted.

"(iii) The Secretary shall limit the total acreage to be diverted under agreements in any county or local community so as not to affect adversely the economy of the county or local community.

"(B)(i) Notwithstanding the foregoing provisions of this paragraph, the Secretary shall implement a land diversion program for the 1986 crop of wheat for producers who plant the 1986 crop of wheat before the announcement by the Secretary of the wheat acreage limitation program for that crop under which the Secretary shall make crop retirement and conservation payments to any such producer of the 1986 crop of wheat who—

"(I) reduces the acreage on the farm planted to wheat for harvest so that it does not exceed the wheat crop acreage base for the farm less an amount equivalent to 10 per-

cent of the wheat crop acreage base (in addition to any reduction required under paragraph (2)); and

"(II) devotes to approved conservation uses an acreage of cropland equivalent to the reduction required from the wheat crop acreage base under this paragraph.

"(ii) Payments under clause (i) shall be made in an amount computed by multiplying—

"(I) the diversion payment rate; by

"(II) the acreage diverted under this paragraph; by

"(III) the farm program payment yield for the crop.

"(iii) The diversion payment rate shall be $2.00 per bushel.

"(6)(A) Any reduced acreage, set-aside acreage, and additional diverted acreage may be devoted to wildlife food plots or wildlife habitat in conformity with standards established by the Secretary in consultation with wildlife agencies.

"(B) The Secretary may pay an appropriate share of the cost of practices designed to carry out the purposes of subparagraph (A).

"(C) The Secretary may also pay an appropriate share of the cost of approved soil and water conservation practices (including practices that may be effective for a number of years) established by the producer on reduced acreage, set-aside acreage, or additional diverted acreage.

"(D) The Secretary may provide for an additional payment on such acreage in an amount determined by the Secretary to be appropriate in relation to the benefit to the general public if the producer agrees to permit, without other compensation, access to all or such portion of the farm, as the Secretary may prescribe, by the general public, for hunting, trapping, fishing, and hiking, subject to applicable State and Federal regulations.

"(7)(A) An operator of a farm desiring to participate in the program conducted under this subsection shall execute an agreement with the Secretary providing for such participation not later than such date as the Secretary may prescribe.

"(B) The Secretary may, by mutual agreement with producers on a farm, terminate or modify any such agreement if the Secretary determines such action necessary because of an emergency created by drought or other disaster or to prevent or alleviate a shortage in the supply of agricultural commodities.

"(8) Notwithstanding the foregoing provisions of this subsection, in carrying out the program conducted under this subsection, the Secretary may prescribe production targets for participating farms expressed in bushels of production so that all participating farms achieve the same pro rata reduction in production as prescribed by the national production targets.

"(g)(1) The Secretary may, for each of the 1986 through 1990 crops of wheat, make payments available to producers who meet the requirements of this subsection.

"(2) Such payments shall be—

"(A) made in the form of wheat owned by the Commodity Credit Corporation; and

"(B) subject to the availability of such wheat.

"(3)(A) Payments under this subsection shall be determined in the same manner as provided in subsection (b).

"(B) The quantity of wheat to be made available to a producer under this subsection shall be equal in value to the payments so determined under such subsection.

"(4) A producer shall be eligible to receive a payment under this subsection for a crop if the producer—

"(A) agrees to forgo obtaining a loan or purchase agreement under subsection (a);

"(B) agrees to forgo receiving payments under subsection (c);

"(C) does not plant wheat for harvest in excess of the crop acreage base reduced by one-half of any acreage required to be diverted from production under subsection (f); and

"(D) otherwise complies with this section.

"(h)(1) If the failure of a producer to comply fully with the terms and conditions of the program conducted under this section precludes the making of loans, purchases, and payments, the Secretary may, nevertheless, make such loans, purchases, and payments in such amounts as the Secretary determines are equitable in relation to the seriousness of the failure.

"(2) The Secretary may authorize the county and State committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) to waive or modify deadlines and other program requirements in cases in which lateness or failure to meet such other requirements does not affect adversely the operation of the program.

"(i) The Secretary may issue such regulations as the Secretary determines necessary to carry out this section.

"(j) The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

"(k) The provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(g)) (relating to assignment of payments) shall apply to payments under this section.

"(l) The Secretary shall provide for the sharing of payments made under this section for any farm among the producers on the farm on a fair and equitable basis.

"(m) The Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.

"(n)(1) Except as provided in paragraphs (2) and (3), compliance on a farm with the terms and conditions of any other commodity program may not be required as a condition of eligibility for loans, purchases, or payments under this section.

"(2) If an acreage limitation program is established for a crop of wheat under subsection (f)(2), producers who participate in the program may not plant acreage of another commodity for which there is an acreage limitation program in effect in excess of the crop acreage base for the crop for the farm.

"(3) If a set-aside program is established for a crop of wheat under subsection (f)(3), compliance on a farm with the terms and conditions of any other commodity program may be required as a condition of eligibility for loans, purchases, or payments under this section.".

NONAPPLICABILITY OF CERTIFICATE REQUIREMENTS

SEC. 309. Sections 379d, 379e, 379f, 379g, 379h, 379i, and 379j of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1379d–1379j) (relating to marketing certificate requirements for processors and exporters) shall not be applicable to wheat processors or exporters during the period June 1, 1986, through May 31, 1991.

SUSPENSION OF LAND USE, WHEAT MARKETING ALLOCATION, AND PRODUCER CERTIFICATE PROVISIONS

SEC. 310. (a) Sections 332, 333, 334, 335, 336, and 338 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1332–1336 and 1338) shall not be applicable to the 1986 crop of wheat.

(b) Sections 331, 339, 379b, and 379c of such Act (7 U.S.C. 1331, 1339, 1379b, and 1379c) shall not be applicable to the 1986 through 1990 crops of wheat.

SUSPENSION OF CERTAIN QUOTA PROVISIONS

SEC. 311. The joint resolution entitled "A joint resolution relating to corn and wheat marketing quotas under the Agricultural Adjustment Act of 1938, as amended", approved May 26, 1941 (7 U.S.C. 1330 and 1340), shall not be applicable to the crops of wheat planted for harvest in the calendar years 1986 through 1990.

NONAPPLICABILITY OF SECTION 107 OF THE AGRICULTURAL ACT OF 1949 TO THE 1986 THROUGH 1990 CROPS OF WHEAT

SEC. 312. Section 107 of the Agricultural Act of 1949 (7 U.S.C. 1445a) shall not be applicable to the 1986 through 1990 crops of wheat.

TITLE IV—FEED GRAINS

LOAN RATES, TARGET PRICES, DISASTER PAYMENTS, ACREAGE LIMITATION AND SET-ASIDE PROGRAMS, AND LAND DIVERSION FOR THE 1986 THROUGH 1990 CROPS OF FEED GRAINS

SEC. 401. Effective only for the 1986 through 1990 crops of feed grains, the Agricultural Act of 1949 is amended by adding after section 105B (7 U.S.C. 1444d) the following new section:

"SEC. 105C. Notwithstanding any other provision of law:

"(a)(1) Except as provided in paragraphs (2) through (4), the Secretary shall make available to producers loans and purchases for each of the 1986 through 1990 crops of corn at such level as the Secretary determines will encourage the exportation of feed grains and not result in excessive total stocks of feed grains after taking into consideration the cost of producing corn, supply and demand conditions, and world prices for corn.

"(2) Except as provided in paragraph (3), the loan and purchase level determined under paragraph (1) shall—

"(A) in the case of the 1986 crop of corn, not be less than $2.40 per bushel; and

"(B) in the case of each of the 1987 through 1990 crops of corn, not be less than 75 percent, nor more than 85 percent, of the simple average price received by producers of corn, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of corn, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period, except that the loan and purchase level for a crop determined under this clause may not be reduced by more than 5 percent from the level determined for the preceding crop.

"(3)(A) Except as provided in subparagraph (B), if the Secretary determines that the average price received by producers for corn in the previous marketing year was not more than 110 percent of the loan and purchase level for corn for such marketing year or determines that such action is necessary to maintain a competitive market position for feed grains, the Secretary—

"(i) in the case of the 1986 crop of corn, shall reduce the loan and purchase level for corn for the marketing year by the amount the Secretary determines necessary to maintain domestic and export markets for grain but not less than 10 percent of the loan and purchase level for such crop; and "(ii) in the case of each of the 1987 through 1990 crops of corn, may reduce the loan and purchase level for corn for the marketing year by the amount the Secretary determines necessary to maintain domestic and export markets for grain.

"(B) The loan and purchase level may not be reduced under subparagraph (A) by more than 20 percent in any year.

"(C) Any reduction in the loan and purchase level for corn under this paragraph shall not be considered in determining the loan and purchase level for corn for subsequent years.

"(4)(A) The Secretary may permit a producer to repay a loan made under paragraph (1) or (6) for a crop at a level that is the lesser of—

"(i) the loan level determined for such crop; or

"(ii) the higher of—

"(I) 70 percent of such level;

"(II) if the loan level for a crop was reduced under paragraph (3), 70 percent of the loan level that would have been in effect but for the reduction under paragraph (3); or

"(III) the prevailing world market price for feed grains, as determined by the Secretary.

"(B) If the Secretary permits a producer to repay a loan in accordance with subparagraph (A), the Secretary shall prescribe by regulation—

"(i) a formula to define the prevailing world market price for feed grains; and

"(ii) a mechanism by which the Secretary shall announce periodically the prevailing world market price for feed grains.

"(5) For purposes of this section, the simple average price received by producers for the immediately preceding marketing year shall be based on the latest information available to the Secretary at the time of the determination.

"(6) The Secretary shall make available to producers loans and purchases for each of the 1986 through 1990 crops of grain sorghums, barley, oats, and rye, respectively, at such level as the Secretary determines is fair and reasonable in relation to the level that loans and purchases are made available for corn, taking into consideration the feeding value of such commodity in relation to corn and other factors specified in section 401(b).

"(b)(1) The Secretary may, for each of the 1986 through 1990 crops of corn, grain sorghums, barley, oats, and rye, make payments available to producers who, although eligible to obtain a loan or purchase agreement under subsection (a), agree to forego obtaining such loan or agreement in return for such payments.

"(2) A payment under this subsection shall be computed by multiplying—

"(A) the loan payment rate; by

"(B) the quantity of such feed grains the producer is eligible to place under loan.

"(3) For purposes of this subsection, the quantity of feed grains eligible to be placed under loan may not exceed the product obtained by multiplying—

"(A) the individual farm program acreage for the crop; by

"(B) the farm program payment yield established for the farm.

"(4) For purposes of this subsection, the loan payment rate shall be the amount by which—

"(A) the loan level determined for such crop under subsection (a); exceeds

"(B) the level at which a loan may be repaid under subsection (a).

"(c)(1)(A) The Secretary shall make available to producers payments for each of the 1986 through 1990 crops of corn, grain sorghums, oats, and, if designated by the Secretary, barley, in an amount computed by multiplying—

"(i) the payment rate; by

"(ii) the individual farm program acreage for the crop; by

"(iii) the farm program payment yield for the crop for the farm.

"(B)(i) If an acreage limitation program under subsection (f)(2) is in effect for a crop of feed grains and the producers on a farm devote a portion of the permitted feed grain acreage of the farm (as determined in accordance with subsection (f)(2)(A)) equal to more than 8 percent of the permitted feed grain acreage of the farm for the crop to conservation uses or nonprogram crops—

"(I) such portion of the permitted feed grain acreage of the farm in excess of 8 percent of such acreage devoted to conservation uses or nonprogram crops shall be considered to be planted to feed grains for the purpose of determining the individual farm program acreage in accordance with subsection (f)(2)(E) and for the purpose of determining the acreage on the farm required to be devoted to conservation uses in accordance with subsection (f)(2)(D); and

"(II) the producers shall be eligible for payments under this paragraph on such acreage, subject to the compliance of the producers with clause (ii).

"(ii) To be eligible for payments under clause (i), except as provided in clause (iii), the producers on the farm must actually plant feed grains for harvest on at least 50 percent of the permitted feed grain acreage of the farm.

"(iii) If a State or local agency has imposed in an area of a State or county a quarantine on the planting of feed grains for harvest on farms in such area, the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) may recommend to the Secretary that payments be made under this paragraph, without regard to the requirement imposed under clause (ii), to producers in such area who were required to forgo the planting of feed grains for harvest on acreage to alleviate or eliminate the condition requiring such quarantine. If the Secretary determines that such condition exists, the Secretary may make payments under this paragraph to such producers. To be eligible for payments under this clause, such producers may not plant wheat, cotton, rice, or soybeans on such acreage.

"(iv) The feed grain crop acreage base and feed grain program payment yield of the farm shall not be reduced due to the fact that such portion of the permitted acreage of the farm was devoted to conserving uses or nonprogram crops.

"(v) Other than as provided in clauses (i) through (iv), payments may not be made under this paragraph for any crop on a greater acreage than the acreage actually planted to feed grains.

"(vi) Any acreage considered to be planted to feed grains in accordance with clause (i) may not also be designated as conservation use acreage for the purpose of fulfilling any provisions under any acreage limitation or land diversion program requiring that the producers devote a specified acreage to conservation uses.

"(C)(i) Except as provided in clause (ii), the payment rate for corn shall be the amount by which the established price for the crop of corn exceeds the higher of—

"(I) the national weighted average market price received by producers during the first 5 months of the marketing year for such crop, as determined by the Secretary; or

"(II) the loan level determined for such crop, prior to any adjustment made under subsection (a)(3) for the marketing year for such crop of corn.

"(ii) If the national weighted average market price received by producers during the first 5 months of the marketing year for a crop, as determined by the Secretary, exceeds $2.04 per bushel for the 1986 crop of corn, $2.19 per bushel for the 1987 crop, and $2.24 per bushel for the 1988 crop, at the option of the Secretary, the payment rate for such crop of corn shall be the amount by which the established price for the crop of corn exceeds the higher of—

"(I) $2.04 per bushel for the 1986 crop, $2.19 per bushel for the 1987 crop, and $2.24 per bushel for the 1988 crop; or

"(II) the loan level determined for such crop, prior to any adjustment made under subsection (a)(3) for the marketing year for such crop of corn.

"(D)(i) Notwithstanding the foregoing provisions of this section, if the Secretary adjusts the level of loans and purchases for feed grains under subsection (a)(4), the Secretary shall provide emergency compensation by increasing the established price payments for feed grains by such amount as the Secretary determines necessary to provide the same total return to producers as if the adjustment in the level of loans and purchases had not been made, taking into consideration any payments made as the result of subparagraph (C)(ii).

"(ii) In determining the payment rate, per bushel, for established price payments for a crop of feed grains under this subparagraph, the Secretary shall use the national weighted average market price, per bushel of wheat, received by producers during the marketing year for such crop, as determined by the Secretary.

"(E) The established price for corn shall not be less than $3.03 per bushel for each of the 1986 and 1987 crops, $2.97 per bushel for the 1988 crop, $2.88 per bushel for the 1989 crop, and $2.75 per bushel for the 1990 crop.

"(F) The payment rate for grain sorghums, oats, and, if designated by the Secretary, barley, shall be such rate as the Secretary determines is fair and reasonable in relation to the rate at which payments are made available for corn.

"(G) The total quantity on which payments would otherwise be payable to a producer on a farm for any crop under this paragraph shall be reduced by the quantity on which any disaster payment is made to the producer for the crop under paragraph (2).

"(H) The Secretary may pay not more than 5 percent of the total amount of a payment made under this paragraph in the form of feed grains. The use of feed grains in making payments to producers shall be subject to a determination by the Secretary of the effect that such in-kind payments will have on market prices for any commodity. The Secretary shall report such determination to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

"(I) As used in this paragraph, the term 'nonprogram crop' means any agricultural commodity other than wheat, feed grains, upland cotton, extra long staple cotton, rice, or soybeans.

"(2)(A)(i) Except as provided in subparagraph (C), if the Secretary determines that the producers on a farm are prevented from *planting any portion of the acreage intended for feed grains to feed grains or other nonconserving crops because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the Secretary shall make a prevented planting disaster payment to the producers in an amount equal to the product obtained by multiplying—*

"(I) the number of acres so affected but not to exceed the acreage planted to feed grains for harvest (including any acreage that the producers were prevented from planting to feed grains or other nonconserving crops in lieu of feed grains because of drought, flood, or other natural disaster, or other condition beyond the control of the producers) in the immediately preceding year; by

"(II) 75 percent of the farm program payment yield established by the Secretary; by

"(III) a payment rate equal to 33 1/3 percent of the established price for the crop.

"(ii) Payments made by the Secretary under this subparagraph may be made in the form of cash or from stocks of feed grains held by the Commodity Credit Corporation.

"(B) Except as provided in subparagraph (C), if the Secretary determines that because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the total quantity of feed grains that the producers are able to harvest on any farm is less than the result of multiplying 60 percent of the farm program payment yield established by the Secretary for such crop by the acreage planted for harvest for such crop, the Secretary shall make a reduced yield disaster payment to the producers at a rate equal to 50 percent of the established price for the crop for the deficiency in production below 60 percent for the crop.

"(C) Producers on a farm shall not be eligible for—

"(i) prevented planting disaster payments under subparagraph (A), if prevented planting crop insurance is available to the producers under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) with respect to the feed grain acreage of the producers; or

"(ii) reduced yield disaster payments under subparagraph (B), if reduced yield crop insurance is available to the producers under such Act with respect to the feed grain acreage of the producers.

"(D)(i) Notwithstanding subparagraph (C), the Secretary may make a disaster payment to the producers on a farm under this paragraph if the Secretary determines that—

"(I) as the result of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the producers on a farm have suffered substantial losses of production either from being prevented from planting feed grains or other nonconserving crops or from reduced yields;

"(II) such losses have created an economic emergency for the producers;

"(III) crop insurance indemnity payments under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) and other forms of assistance made available by the Federal Government to such producers for such losses are insufficient to alleviate such economic emergency; and

"(IV) additional assistance must be made available to such producers to alleviate such economic emergency.

"(ii) The Secretary may make such adjustments in the amount of payments made available under this subparagraph with respect to an individual farm so as to assure the equitable allotment of such payments among producers, taking into account other forms of Federal disaster assistance provided to the producers for the crop involved.

"(d)(1)(A) Except for a crop with respect to which there is an acreage limitation program in effect under subsection (f), the Secretary shall proclaim a national program acreage for each of the 1986 through 1990 crops of feed grains. The proclamation shall be made not later than September 30 of each calendar year for the crop harvested in the next succeeding calendar year, except that in the case of the 1986 crop, the proclamation shall be made as soon as practicable after the date of enactment of the Food Security Act of 1985.

"(B) The Secretary may revise the national program acreage first proclaimed for any crop year for the purpose of determining the allocation factor under paragraph (2) if the Secretary determines it necessary based on the latest information. The Secretary shall proclaim such revised national program acreage as soon as it is made.

"(C) The national program acreage for feed grains shall be the number of harvested acres the Secretary determines (on the basis of the weighted national average of the farm program payment yields for the crop for which the determination is made) will produce the quantity (less imports) that the Secretary estimates will be utilized domestically and for export during the marketing year for such crop.

"(D) If the Secretary determines that carryover stocks of feed grains are excessive or an increase in stocks is needed to assure desirable carryover, the Secretary may adjust the national program acreage by the quantity the Secretary determines will accomplish the desired increase or decrease in carryover stocks.

"(2) The Secretary shall determine a program allocation factor for each crop of feed grains. The allocation factor for feed grains shall be determined by dividing the national program acreage for the crop by the number of acres that the Secretary estimates will be harvested for such crop, except that in no event shall the allocation factor for any crop of feed grains be more than 100 percent nor less than 80 percent.

"(3)(A) Except as provided in subsection (f)(2), the individual farm program acreage for each crop of feed grains shall be determined by multiplying the allocation factor by the acreage of feed grains planted for harvest on the farms for which individual farm program acreages are required to be determined.

"(B) The individual farm program acreage shall not be further reduced by application of the allocation factor if the producers reduce the acreage of feed grains planted for harvest on the farm from the crop acreage base established for the farm under title V by at least the percentage recommended by the Secretary in the proclamation of the national program acreage.

"(C) The Secretary shall provide fair and equitable treatment for producers on farms on which the acreage of feed grains planted for harvest is less than the crop acreage base established for the farm under title V, but for which the reduction is insufficient to exempt the farm from the application of the allocation factor.

"(D) In establishing the allocation factor for feed grains, the Secretary may make such adjustment as the Secretary deems necessary to take into account the extent of exemption of farms under the foregoing provisions of this paragraph.

"(e) The farm program payment yields for farms for each crop of feed grains shall be determined under title V.

"(f)(1)(A)(i) Notwithstanding any other provision of this Act, except as provided in subparagraphs (B) through (D), if the Secretary determines that the total supply of feed grains, in the absence of an acreage limitation or set-aside program, will be excessive taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency, the Secretary may provide for any crop of feed grains either an acreage limitation program as described in paragraph (2) or a set-aside program as described in paragraph (3).

"(ii) In making a determination under clause (i), the Secretary shall take into consideration the number of acres placed in the conservation acreage reserve established under section 1231 of the Food Security Act of 1985.

"(iii) If the Secretary elects to put either of such programs into effect for any crop year, the Secretary shall announce any such program not later than September 30 prior to the calendar year in which the crop is harvested, except that in the case of the 1986 crop, the Secretary shall announce such program as soon as practicable after the date of enactment of the Food Security Act of 1985.

"(iv) Not later than November 15 of the year previous to the year in which the crop is harvested, the Secretary may make adjustments in an announcement made under clause (iii) if the Secretary determines that there has been a significant change in the total supply of feed grains since the program was first announced.

"(B) In the case of the 1986 crop of feed grains, if the Secretary estimates, as soon as practicable after the date of enactment of the Food Security Act of 1985, that the quantity of corn on hand in the United States on the first day of the marketing year for that crop (not including any quantity of corn of that crop) will be—

"(i) more than 2,000,000,000 bushels, the Secretary shall provide for—

"(I) an acreage limitation program (as described in paragraph (2)) under which the acreage planted to feed grains for harvest on a farm would be limited to the feed grain crop acreage base for the farm for the crop reduced by not less than 12 1/2 percent nor more than 17 1/2 percent; and

"(II) a land diversion program (as described in paragraph (5)) with in-kind payments under which the acreage planted to feed grains for harvest on a farm would be limited to the feed grain acreage crop base for the farm for the crop reduced by not less than an amount equivalent to 2 1/2 percent of the feed grain crop acreage base, in addition to any reduction required under subclause (I); or

"(ii) 2,000,000,000 bushels or less, the Secretary may provide for—

"(I) an acreage limitation program (as described in paragraph (2)) under which the acreage planted to feed grains for harvest on a farm would be limited to the feed grain crop acreage base for the farm for the crop reduced by not more than 12 1/2 percent; and

"(II) a land diversion program as described in paragraph (5).

"(C) In the case of each of the 1987 through 1990 crops of feed grains, if the Secretary estimates, not later than September 30 of the year previous to the year in which the crop is harvested, that the quantity of corn on hand in the United States on the

first day of the marketing year for that crop (not including any quantity of corn of that crop) will be—

"(i) more than 2,000,000,000 bushels, the Secretary shall provide for an acreage limitation program (as described in paragraph (2)) under which the acreage planted to feed grains for harvest on a farm would be limited to the feed grain crop acreage base for the farm for the crop reduced by not less than 12 1/2 percent nor more than 20 percent; or

"(ii) 2,000,000,000 bushels or less, the Secretary may provide for such an acreage limitation program under which the acreage planted to feed grains for harvest on a farm would be limited to the feed grain crop acreage base for the farm for the crop reduced by not more than 12 1/2 percent.

"(D) As a condition of eligibility for loans, purchases, and payments for any such crop of feed grains, except as provided in subsection (g), the producers on a farm must comply with the terms and conditions of the acreage limitation program and, if applicable, the land diversion program, as provided in paragraph (1)(B)(i)(I).

"(2)(A) If a feed grain acreage limitation program is announced under paragraph (1), such limitation shall be achieved by applying a uniform percentage reduction to the feed grain crop acreage base for the crop for each feed grain-producing farm.

"(B) Except as provided in subsection (g), producers who knowingly produce feed grains in excess of the permitted feed grain acreage for the farm shall be ineligible for feed grain loans, purchases, and payments with respect to that farm.

"(C) The Secretary may provide that no producer of malting barley shall be required as a condition of eligibility for feed grain loans, purchases, and payments to comply with any acreage limitation under this paragraph if such producer has previously produced a malting variety of barley for harvest, plants barley only of an acceptable malting variety for harvest, and meets such other conditions as the Secretary may prescribe.

"(D) Feed grain crop acreage bases for each crop of feed grains shall be determined under title V.

"(E)(i) A number of acres on the farm shall be devoted to conservation uses, in accordance with regulations issued by the Secretary. Such number shall be determined by dividing—

"(I) the product obtained by multiplying the number of acres required to be withdrawn from the production of feed grains times the number of acres planted to such commodity; by

"(II) the number of acres authorized to be planted to such commodity under the limitation established by the Secretary.

"(ii) The number of acres so determined is hereafter in this subsection referred to as 'reduced acreage'.

"(F) If an acreage limitation program is announced under paragraph (1) for a crop of feed grains, subsection (d) shall not be applicable to such crop, including any prior announcement that may have been made under such subsection with respect to such crop. Except as otherwise provided in subsection (c)(1)(B), the individual farm program acreage shall be the acreage planted on the farm to feed grains for harvest within the permitted feed grain acreage for the farm as established under this paragraph.

"(3)(A) If a set-aside program is announced under paragraph (1), as a condition of eligibility for loans, purchases, and payments for feed grains authorized by this Act (except as provided in subsection (g)), the producers on a farm must—

"(i) set aside and devote to conservation uses an acreage of cropland equal to a specified percentage, as determined by the Secretary, of the acreage of feed grains planted for harvest for the crop for which the set-aside is in effect; and

"(ii) otherwise comply with the terms of such program.

"(B) The set-aside acreage shall be devoted to conservation uses, in accordance with regulations issued by the Secretary.

"(C) If a set-aside program is established, the Secretary may limit the acreage planted to feed grains. Such limitation shall be applied on a uniform basis to all feed grain-producing farms.

"(D) The Secretary may make such adjustments in individual set-aside acreages under this section as the Secretary determines necessary—

"(i) to correct for abnormal factors affecting production; and

"(ii) to give due consideration to tillable acreage, crop-rotation practices, types of soil, soil and water conservation measures, topography, and such other factors as the Secretary determines necessary.

"(4)(A) The regulations issued by the Secretary under paragraphs (2) and (3) with respect to acreage required to be devoted to conservation uses shall assure protection of such acreage from weeds and wind and water erosion.

"(B) Subject to subparagraph (C), the Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of such acreage to be devoted to sweet sorghum, hay and grazing, or the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, rye, or other commodity, if the Secretary determines that such production is needed to provide an adequate supply of such commodities, is not likely to increase the cost of the price support program, and will not affect farm income adversely.

"(C)(i) Except as provided in clause (ii), the Secretary shall permit, at the request of the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) for a State and subject to such terms and conditions as the Secretary may prescribe, all or any part of such acreage diverted from production by participating producers in such State to be devoted to—

"(I) hay and grazing, in the case of the 1986 crop of feed grains; and

"(II) grazing, in the case of each of the 1987 through 1990 crops of feed grains.

"(ii) Haying and grazing shall not be permitted for any crop of feed grains under clause (i) during any 5-consecutive-month period that is established for such crop for a State by the State committee established under section 8(b) of such Act.

"(D) In determining the quantity of land to be devoted to conservation uses under an acreage limitation or set-aside program with respect to land that has been farmed under summer fallow practices, as defined by the Secretary, the Secretary shall consider the effects of soil erosion and such other factors as the Secretary considers appropriate.

"(5)(A) The Secretary may make land diversion payments to producers of feed grains, whether or not an acreage limitation or set-aside program for feed grains is in effect, if the Secretary determines that such land diversion payments are necessary to assist in adjusting the total national acreage of feed grains to desirable goals. Such land diversion payments shall be made to producers who, to the extent prescribed by the Secretary, devote to approved conservation uses an acreage of cropland on the farm in accordance with land diversion contracts entered into by the Secretary with such producers.

"(B) The amounts payable to producers under land diversion contracts may be determined through the submission of bids for such contracts by producers in such manner as the Secretary may prescribe or such other means as the Secretary determines appropriate. In determining the acceptability of contract offers, the Secretary shall take into consideration the extent of the diversion to be undertaken by the producers and the productivity of the acreage diverted.

"(C) The Secretary shall limit the total acreage to be diverted under agreements in any county or local community so as not to affect adversely the economy of the county or local community.

"(6)(A) Any reduced acreage, set-aside acreage, and additional diverted acreage may be devoted to wildlife food plots or wildlife habitat in conformity with standards established by the Secretary in consultation with wildlife agencies.

"(B) The Secretary may pay an appropriate share of the cost of practices designed to carry out the purposes of subparagraph (A).

"(C) The Secretary may also pay an appropriate share of the cost of approved soil and water conservation practices (including practices that may be effective for a number of years) established by the producer on reduced acreage, set-aside acreage, or additional diverted acreage.

"(D) The Secretary may provide for an additional payment on such acreage in an amount determined by the Secretary to be appropriate in relation to the benefit to the general public if the producer agrees to permit, without other compensation, access to all or such portion of the farm, as the Secretary may prescribe, by the general public, for hunting, trapping, fishing, and hiking, subject to applicable State and Federal regulations.

"(7)(A) An operator of a farm desiring to participate in the program conducted under this subsection shall execute an agreement with the Secretary providing for such participation not later than such date as the Secretary may prescribe.

"(B) The Secretary may, by mutual agreement with producers on a farm, terminate or modify any such agreement if the Secretary determines such action necessary because of an emergency created by drought or other disaster or to prevent or alleviate a shortage in the supply of agricultural commodities.

"(8) Notwithstanding the foregoing provisions of this subsection, in carrying out the program conducted under this subsection, the Secretary may prescribe production targets for participating farms expressed in bushels of production so that all participating farms achieve the same pro rata reduction in production as prescribed by the national production targets.

"(g)(1) The Secretary may, for each of the 1986 through 1990 crops of corn, grain sorghums, oats, and, if designated by the Secretary, barley, make payments available to producers who meet the requirements of this subsection.

"(2) Such payments shall be—

"(A) made in the form of such feed grains, respectively, owned by the Commodity Credit Corporation; and

"(B) subject to the availability of such feed grains.

"(3)(A) Payments under this subsection shall be determined in the same manner as provided in subsection (b).

"(B) The quantity of feed grains to be made available to a producer under this subsection shall be equal in value to the payments so determined under such subsection.

"(4) A producer shall be eligible to receive a payment under this subsection for a crop if the producer—

"(A) agrees to forgo obtaining a loan or purchase agreement under subsection (a);

"(B) agrees to forgo receiving payments under subsection (c);

"(C) does not plant feed grains for harvest in excess of the crop acreage base reduced by one-half of any acreage required to be diverted from production under subsection (f); and

"(D) otherwise complies with this section.

"(h)(1) If the failure of a producer to comply fully with the terms and conditions of the program conducted under this section precludes the making of loans, purchases, and payments, the Secretary may, nevertheless, make such loans, purchases, and payments in such amounts as the Secretary determines are equitable in relation to the seriousness of the failure.

"(2) The Secretary may authorize the county and State committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) to waive or modify deadlines and other program requirements in cases in which lateness or failure to meet such other requirements does not affect adversely the operation of the program.

"(i) The Secretary may issue such regulations as the Secretary determines necessary to carry out this section.

"(j) The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

"(k) The provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(g)) (relating to assignment of payments) shall apply to payments under this section.

"(l) The Secretary shall provide for the sharing of payments made under this section for any farm among the producers on the farm on a fair and equitable basis.

"(m) The Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.

"(n)(1) Except as provided in paragraphs (2) and (3), compliance on a farm with the terms and conditions of any other commodity program may not be required as a condition of eligibility for loans, purchases, or payments under this section.

"(2) If an acreage limitation program is established for a crop of feed grains under subsection (f)(2), producers who participate in the program may not plant acreage of another commodity for which there is an acreage limitation program in effect in excess of the crop acreage base for the crop for the farm.

"(3) If a set-aside program is established for a crop of feed grains under subsection (f)(3), compliance on a farm with the terms and conditions of any other commodity program may be required as a condition of eligibility for loans, purchases, or payments under this section.".

NONAPPLICABILITY OF SECTION 105 OF THE AGRICULTURAL ACT OF 1949 TO THE 1986 THROUGH 1990 CROPS OF FEED GRAINS

SEC. 402. Section 105 of the Agricultural Act of 1949 (7 U.S.C. 1444b) shall not be applicable to the 1986 through 1990 crops of feed grains.

PRICE SUPPORT FOR CORN SILAGE

SEC. 403. (a) Notwithstanding any other provision of law, effective only for each of the 1986 through 1990 crops of feed grains, the Secretary of Agriculture may make available loans and purchases, as provided in this section, to producers on a farm who—

(1) for silage—

(A) cut corn (including mutilated corn) that the producers have produced in such crop year; or

(B) purchase or exchange corn (including mutilated corn) that has been produced in such crop year by another producer (including a producer that is not participating in an acreage limitation or set-aside program for such crop established by the Secretary); and

(2) participate in an acreage limitation or set-aside program for such crop of corn established by the Secretary.

(b) Such loans and purchases may be made on a quantity of corn of the same crop, other than the corn obtained for silage, acquired by the producer equivalent to a quantity determined by multiplying—

(1) the acreage of corn obtained for silage;

by

(2) the lower of the farm program payment yield or the actual yield on a field, as determined by the Secretary, that is similar to the field from which such silage was obtained.

TITLE V—COTTON

LOAN RATES, TARGET PRICES, DISASTER PAYMENTS, ACREAGE LIMITATION PROGRAM, AND LAND DIVERSION FOR THE 1986 THROUGH 1990 CROPS OF UPLAND COTTON

SEC. 501. Effective only for the 1986 through 1990 crops of upland cotton, the Agricultural Act of 1949 is amended by inserting after section 103 (7 U.S.C. 1444) the following new section:

"SEC. 103A. Notwithstanding any other provision of law:

"(a)(1) Except as provided in paragraph (2), the Secretary shall, on presentation of warehouse receipts reflecting accrued storage charges of not more than 60 days, make available for the 1986 through 1990 crops of upland cotton to producers nonrecourse loans for a term of 10 months from the first day of the month in which the loan is made at such level, per pound, as will reflect for Strict Low Middling one and one-sixteenth inch upland cotton (micronaire 3.5 through 4.9) at average location in the United States at a level that is not less than—

"(A) in the case of the 1986 crop of upland cotton, 55 cents per pound; and

"(B) in the case of each of the 1987 through 1990 crops of upland cotton, the smaller of—

"(i) 85 percent of the average price (weighted by market and month) of such quality of cotton as quoted in the designated United States spot markets during 3 years of the 5-year period ending July 31 in the year in which the loan level is announced, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period; or

"(ii) 90 percent of the average, for the 15-week period beginning July 1 of the year in which the loan level is announced, of the 5 lowest-priced growths of the growths quoted for Middling one and three-thirty-seconds inch cotton C.I.F. northern Europe (adjusted downward by the average difference during the period April 15 through October 15 of the year in which the loan is announced between such average northern European price quotation of such quality of cotton and the market quotations in the designated United States spot markets for Strict Low Middling one and one-sixteenth inch cotton (micronaire 3.5 through 4.9)).

"(2)(A) The loan level for any crop determined under paragraph (1)(B) may not be reduced by more than 5 percent from the loan level determined for the preceding crop nor below 50 cents per pound.

"(B) If for any crop the average northern European price determined under paragraph (1)(B)(ii) is less than the average United States spot market price determined under paragraph (1)(B)(i), the Secretary may increase the loan level to such level as the Secretary may deem appropriate, not in excess of the average United States spot market price determined under paragraph (1)(B)(i).

"(3) The loan level for any crop of upland cotton shall be determined and announced by the Secretary not later than November 1 of the calendar year preceding the marketing year for which such loan is to be effective, except that in the case of the 1986 crop, such determination and announcement shall be made as soon as practicable after the date of enactment of the Food Security Act of 1985. Such level shall not thereafter be changed.

"(4)(A) Except as provided in subparagraph (B), nonrecourse loans provided for in this section shall, on request of the producer during the 10th month of the loan period for the cotton, be made available for an additional term of 8 months.

"(B) A request to extend the loan period shall not be approved in any month in which the average price of Strict Low Middling one and one-sixteenth inch cotton (micronaire 3.5 through 4.9) in the designated spot markets for the preceding month exceeded 130 percent of the average price of such quality of cotton in such markets for the preceding 36-month period.

"(5)(A) If the Secretary determines that the prevailing world market price for upland cotton (adjusted to United States quality and location) is below the loan level determined under the foregoing provisions of this subsection, in order to make United States upland cotton competitive in world markets, the Secretary shall implement the provisions of Plan A or Plan B in accordance with this paragraph.

"(B) If the Secretary elects to implement Plan A, the Secretary shall permit a producer to repay a loan made for any crop at a level determined and announced by the Secretary at the same time the Secretary announces the loan level for such crop as determined under paragraph (3). Such repayment level for loans on such crops shall not be less than 80 percent of the loan level determined for the crop. Such repayment level, once announced for the crop, shall not thereafter be changed.

"(C)(i) If the Secretary elects to implement Plan B, except as provided in clause (ii), the Secretary shall permit a producer to repay a loan made for any crop at a level that is the lesser of—

"(I) the loan level determined for such crop; or

"(II) the prevailing world market price for upland cotton (adjusted to United States quality and location), as determined by the Secretary.

"(ii) For each of the 1987 through 1990 crops of cotton, if the world market price for cotton (adjusted to United States quality and location) as determined by the Secre-

tary, is less than 80 percent of the loan level determined for such crop, the Secretary may permit a producer to repay a loan made under this subsection for a crop at such level (not in excess of 80 percent of the loan level determined for such crop) as the Secretary determines will—

"(I) minimize potential loan forfeitures;

"(II) minimize the accumulation of cotton stocks by the Federal Government;

"(III) minimize the cost incurred by the Federal Government in storing cotton; and

"(IV) allow cotton produced in the United States to be marketed freely and competitively, both domestically and internationally.

"(D)(i) Notwithstanding any other provision of law, during the period beginning August 1, 1986, and ending July 31, 1991, if a program carried out under Plan A or Plan B fails to make United States upland cotton fully competitive in world markets and the prevailing world market price of upland cotton (adjusted to United States quality and location), as determined by the Secretary, is below the current loan repayment rate for upland cotton determined under subparagraph (A), to make United States upland cotton competitive in world markets and to maintain and expand domestic consumption and exports of upland cotton produced in the United States, the Secretary shall provide for the issuance of negotiable marketing certificates in accordance with this subparagraph.

"(ii) The Commodity Credit Corporation, under such regulations as the Secretary may prescribe, shall make payments, through the issuance of negotiable marketing certificates, to first handlers of cotton (persons regularly engaged in buying or selling upland cotton) who have entered into an agreement with the Commodity Credit Corporation to participate in the program established under this subparagraph. Such payments shall be made in such monetary amounts and subject to such terms and conditions as the Secretary determines will make upland cotton produced in the United States available at competitive prices, consistent with the purposes of this subparagraph, including such payments as may be necessary to make raw cotton in inventory on August 1, 1986, available on the same basis.

"(iii) The value of each certificate issued under clause (ii) shall be based on the difference between—

"(I) the loan repayment rate for upland cotton under Plan A or Plan B, as the case may be; and

"(II) the prevailing world market price of upland cotton, as determined by the Secretary under a published formula submitted for public comment before its adoption.

"(iv) The Commodity Credit Corporation, under regulations prescribed by the Secretary, may assist any person receiving marketing certificates under this subparagraph in the redemption of certificates for cash, or marketing or exchange of such certificates for (I) upland cotton owned by the Commodity Credit Corporation or (II) (if the Secretary and the person agree) other agricultural commodities or the products thereof owned by the Commodity Credit Corporation, at such times, in such manner, and at such price levels as the Secretary determines will best effectuate the purposes of the program established under this subparagraph. Notwithstanding any other provision of law, any price restrictions that may otherwise apply to the disposition of agricultural commodities by the Commodity Credit Corporation shall not apply to the redemption of certificates under this subparagraph.

"(v) Insofar as practicable, the Secretary shall permit owners of certificates to designate the commodities and the products thereof, including storage sites thereof, such owners would prefer to receive in exchange for certificates. If any certificate is not presented for redemption, marketing, or exchange within a reasonable number of days after the issuance of such certificate (as determined by the Secretary), reasonable costs of storage and other carrying charges, as determined by the Secretary, shall be deducted from the value of the certificate for the period beginning after such reasonable number of days and ending with the date of the presentation of such certificate to the Commodity Credit Corporation.

"(vi) The Secretary shall take such measures as may be necessary to prevent the marketing or exchange of agricultural commodities and products for certificates under this section from adversely affecting the income of producers of such commodities or products.

"(vii) Under regulations prescribed by the Secretary, certificates issued to cotton handlers under this subparagraph may be transferred to other handlers and persons approved by the Secretary.

"(E)(i) The Secretary shall prescribe by regulation—

"(I) a formula to define the prevailing world market price for cotton; and

"(II) a mechanism by which the Secretary shall announce periodically the prevailing world market price for cotton.

"(ii) Not later than 90 days after the date of enactment of the Food Security Act of 1985, the Secretary shall—

"(I) publish in the Federal Register proposed regulations specifying such formula and mechanism; and

"(II) invite public comment on such proposal.

"(iii) The prevailing world market price established under this subparagraph shall be used for purposes of both Plan A and Plan B and marketing certificates under subparagraph (D).

"(b)(1) The Secretary may, for each of the 1986 through 1990 crops of upland cotton, make payments available to producers who, although eligible to obtain a loan under subsection (a), agree to forgo obtaining such loan in return for such payments.

"(2) A payment under this subsection shall be computed by multiplying—

"(A) the loan payment rate; by

"(B) the quantity of upland cotton the producer is eligible to place under loan.

"(3) For purposes of this subsection, the quantity of upland cotton eligible to be placed under loan may not exceed the product obtained by multiplying—

"(A) the individual farm program acreage for the crop; by

"(B) the farm program payment yield established for the farm.

"(4) For purposes of this subsection, the loan payment rate shall be the amount by which—

"(A) the loan level determined for such crop under subsection (a); exceeds

"(B) the level at which a loan may be repaid under subsection (a).

"(5) The Secretary may make up to one-half the amount of a payment under this subsection available in the form of negotiable marketing certificates, subject to the terms and conditions provided in subsection (a)(5)(D).

"(c)(1)(A) The Secretary shall make available to producers payments for each of the 1986 through 1990 crops of upland cotton in an amount computed by multiplying—

"(i) the payment rate; by

"(ii) the individual farm program acreage; by

"(iii) the farm program payment yield established for the crop for the farm.

"(B)(i) If an acreage limitation program under subsection (f)(2) is in effect for a crop of upland cotton and the producers on a farm devote a portion of the permitted upland cotton acreage of the farm (as determined in accordance with subsection (f)(2)(A)) equal to more than 8 percent of the permitted upland cotton acreage of the farm for the crop to conservation uses or nonprogram crops—

"(I) such portion of the permitted upland cotton acreage in excess of 8 percent of such acreage devoted to conservation uses or nonprogram crops shall be considered to be planted to upland cotton for the purpose of determining the individual farm program acreage in accordance with subsection (f)(2)(E) and for the purpose of determining the acreage on the farm required to be devoted to conservation uses in accordance with subsection (f)(2)(D); and

"(II) the producers shall be eligible for payments under this paragraph on such acreage, subject to the compliance of the producers with clause (ii).

"(ii) To be eligible for payments under clause (i), except as provided in clause (iii), the producers on the farm must actually plant upland cotton for harvest on at least 50 percent of the permitted upland cotton acreage of the farm.

"(iii) If a State or local agency has imposed in an area of a State or county a quarantine on the planting of upland cotton for harvest on farms in such area, the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) may recommend to the Secretary that payments be made under this paragraph, without regard to the requirement imposed under clause (ii), to producers in such area who were required to forgo the planting of upland cotton for harvest on acreage to alleviate or eliminate the condition requiring such quarantine. If the Secretary determines that such condition exists, the Secretary may make payments under this paragraph to such producers. To be eligible for payments under this clause, such producers may not plant wheat, feed grains, rice, cotton, or soybeans on such acreage.

"(iv) The upland cotton crop acreage base and upland cotton farm program payment yield of the farm shall not be reduced due to the fact that such portion of the permitted acreage of the farm was devoted to conserving uses or nonprogram crops.

"(v) Other than as provided in clauses (i) through (iv), payments may not be made under this subsection for any crop on a greater acreage than the acreage actually planted to upland cotton.

"(vi) Any acreage considered to be planted to upland cotton in accordance with clause (i) may not also be designated as conservation use acreage for the purpose of fulfilling any provisions under any acreage limitation or land diversion program requiring that the producers devote a specified acreage to conservation uses.

"(C) The payment rate for upland cotton shall be the amount by which the established price for the crop of upland cotton exceeds the higher of—

"(i) the national average market price received by producers during the calendar

year that includes the first 5 months of the marketing year for such crop, as determined by the Secretary; or

"(ii) the loan level determined for such crop.

"(D) The established price for upland cotton shall not be less than $0.81 per pound for the 1986 crop, $0.794 per pound for the 1987 crop, $0.77 per pound for the 1988 crop, $0.745 per pound for the 1989 crop, and $0.729 per pound for the 1990 crop.

"(E) The total quantity of upland cotton on which payments would otherwise be payable to a producer on a farm for any crop under this subsection shall be reduced by the quantity on which any disaster payment is made to the producer for the crop under paragraph (2).

"(F) The Secretary may pay not more than 5 percent of the total amount of a payment made under this paragraph in the form of upland cotton. The use of upland cotton in making payments to producers shall be subject to a determination by the Secretary of the effect that such in-kind payments will have on market prices for any commodity. The Secretary shall report such determination to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

"(G) As used in this subsection, the term 'nonprogram crop' means any agricultural commodity other than wheat, feed grains, upland cotton, extra long staple cotton, rice, or soybeans.

"(2)(A)(i) Except as provided in subparagraph (C), if the Secretary determines that the producers on a farm are prevented from planting any portion of the acreage intended for upland cotton to upland cotton or other nonconserving crops because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the Secretary shall make a prevented planting disaster payment to the producers in an amount equal to the product obtained by multiplying—

"(I) the number of acres so affected but not to exceed the acreage planted to upland cotton for harvest (including any acreage that the producers were prevented from planting to upland cotton or other nonconserving crops in lieu of upland cotton because of drought, flood, or other natural disaster, or other condition beyond the control of the producers) in the immediately preceding year; by

"(II) 75 percent of the farm program payment yield established for the farm by the Secretary; by

"(III) a payment rate equal to 33⅓ percent of the established price for the crop.

"(ii) Payments made by the Secretary under this subparagraph may be made in the form of cash or from stocks of upland cotton held by the Commodity Credit Corporation.

"(B) Except as provided in subparagraph (C), if the Secretary determines that because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the total quantity of upland cotton that the producers are able to harvest on any farm is less than the result of multiplying 75 percent of the farm program payment yield established for the farm for such crop by the acreage planted for harvest for such crop, the Secretary shall make a reduced yield disaster payment to the producers at a rate equal to 33⅓ percent of the established price for the crop for the deficiency in production below 75 percent for the crop.

"(C) Producers on a farm shall not be eligible for—

"(i) prevented planting disaster payments under subparagraph (A), if prevented planting crop insurance is available to the producers under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) with respect to the upland cotton acreage of the producers; or

"(ii) reduced yield disaster payments under subparagraph (B), if reduced yield crop insurance is available to the producers under such Act with respect to the upland cotton acreage of the producers.

"(D)(i) Notwithstanding subparagraph (C), the Secretary may make a disaster payment to producers on a farm under this subsection if the Secretary determines that—

"(I) as the result of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the producers have suffered substantial losses of production either from being prevented from planting upland cotton or other nonconserving crops or from reduced yields;

"(II) such losses have created an economic emergency for the producers;

"(III) crop insurance indemnity payments under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) and other forms of assistance made available by the Federal Government to such producers for such losses is insufficient to alleviate such economic emergency; and

"(IV) additional assistance must be made available to such producers to alleviate such economic emergency.

"(ii) The Secretary may make such adjustments in the amount of payments made available under this paragraph with respect to an individual farm so as to assure the equitable allotment of such payments among producers, taking into account other forms of Federal disaster assistance provided to the producers for the crop involved.

"(d)(1)(A) Except for a crop with respect to which there is an acreage limitation program in effect under subsection (f), the Secretary shall proclaim a national program acreage for each of the 1986 through 1990 crops of upland cotton. The proclamation shall be made not later than November 1 of the calendar year preceding the year for which such acreage is established, except that in the case of the 1986 crop, such announcement shall be made as soon as practicable after the enactment of the Food Security Act of 1985.

"(B) The Secretary may revise the national program acreage first proclaimed for any crop year for the purpose of determining the allocation factor under paragraph (2) if the Secretary determines it necessary based on the latest information. The Secretary shall proclaim such revised national program acreage as soon as it is made.

"(C) The national program acreage for upland cotton shall be the number of harvested acres the Secretary determines (on the basis of the weighted national average of the farm program payment yields for the crop for which the determination is made) will produce the quantity (less imports) that the Secretary estimates will be utilized domestically and for export during the marketing year for such crop.

"(D) The national program acreage shall be subject to such adjustment as the Secretary determines necessary, taking into consideration the estimated carryover supply, so as to provide for an adequate but not excessive total supply of upland cotton for the marketing year for the crop for which such national program acreage is established. In no event shall the national program acreage be less than 10 million acres.

"(2) The Secretary shall determine a program allocation factor for each crop of upland cotton. The allocation factor (not to exceed 100 percent) shall be determined by dividing the national program acreage for the crop by the number of acres that the Secretary estimates will be harvested for such crop.

"(3)(A) The individual farm program acreage for each crop of upland cotton shall be determined by multiplying the allocation factor by the acreage of upland cotton planted for harvest on the farms for which individual farm program acreages are required to be determined.

"(B) The individual farm program acreage may not be further reduced by application of the allocation factor if the producers reduce the acreage of upland cotton planted for harvest on the farm from the crop acreage base established for the farm under title V by at least the percentage recommended by the Secretary in the proclamation of the national program acreage.

"(C) The Secretary shall provide fair and equitable treatment for producers on farms on which the acreage of upland cotton planted for harvest is less than the crop acreage base established for the farm under title V, but for which the reduction is insufficient to exempt the farm from the application of the allocation factor.

"(D) In establishing the allocation factor for upland cotton, the Secretary may make such adjustment as the Secretary deems necessary to take into account the extent of exemption of farms under the forgoing provisions of this subsection.

"(e) The farm program payment yields for farms for each crop of upland cotton shall be determined under title V.

"(f)(1)(A) Notwithstanding any other provision of this Act, if the Secretary determines that the total supply of upland cotton, in the absence of an acreage limitation program, will be excessive taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency, the Secretary may provide for any crop of upland cotton an acreage limitation program as described in paragraph (2).

"(B) In making a determination under clause (i), the Secretary shall take into consideration the number of acres placed in the conservation acreage reserve established under section 1231 of the Food Security Act of 1985.

"(C) If the Secretary elects to put an acreage limitation program into effect for any crop year, the Secretary shall announce any such program not later than November 1 of the calendar year preceding the year in which the crop is harvested, except that in the case of the 1986 crop, such announcement shall be made as soon as practicable after the enactment of the Food Security Act of 1985.

"(D) The Secretary shall, to the maximum extent practicable, carry out an acreage limitation program described in paragraph (2) for a crop of upland cotton in a manner that will result in a carryover of 4 million bales of upland cotton.

"(2)(A) If a upland cotton acreage limitation program is announced under paragraph (1), such limitation shall be achieved by applying a uniform percentage reduction (not to exceed 25 percent) to the upland cotton crop acreage base for the crop for each upland cotton-producing farm.

"(B) Except as provided in subsection (g), producers who knowingly produce upland cotton in excess of the permitted upland

cotton acreage for the farm, as established in accordance with subparagraph (A), shall be ineligible for upland cotton loans and payments with respect to that farm.

"(C) Upland cotton crop acreage bases for each crop of upland cotton shall be determined under title V.

"(D)(i) A number of acres on the farm shall be devoted to conservation uses, in accordance with regulations issued by the Secretary. Such number shall be determined by dividing—

"(I) the product obtained by multiplying the number of acres required to be withdrawn from the production of upland cotton times the number of acres planted to such commodity; by

"(II) the number of acres authorized to be planted to such commodity under the limitation established by the Secretary.

"(ii) The number of acres determined under clause (i) is hereafter in this subsection referred to as 'reduced acreage'.

"(E) If an acreage limitation program is announced under paragraph (1) for a crop of upland cotton, subsection (d) shall not be applicable to such crop, including any prior announcement that may have been made under such subsection with respect to such crop. Except as provided in subsection (c)(1)(B), the individual farm program acreage shall be the acreage planted on the farm to upland cotton for harvest within the permitted upland cotton acreage for the farm as established under this paragraph.

"(3)(A) The regulations issued by the Secretary under paragraph (2) with respect to acreage required to be devoted to conservation uses shall assure protection of such acreage from weeds and wind and water erosion.

"(B) Subject to subparagraph (C), the Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of such acreage to be devoted to sweet sorghum, hay and grazing, or the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, rye, or other commodity, if the Secretary determines that such production is needed to provide an adequate supply of such commodities, is not likely to increase the cost of the price support program, and will not affect farm income adversely.

"(C)(i) Except as provided in clause (ii), the Secretary shall permit, at the request of the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) for a State and subject to such terms and conditions as the Secretary may prescribe, all or any part of such acreage diverted from production by participating producers in such State to be devoted to—

"(I) hay and grazing, in the case of the 1986 crop of upland cotton; and

"(II) grazing, in the case of each of the 1987 through 1990 crops of upland cotton.

"(ii) Haying and grazing shall not be permitted for any crop of upland cotton under clause (i) during any 5-consecutive-month period that is established for such crop for a State by the State committee established under section 8(b) of such Act.

"(4)(A) The Secretary may make land diversion payments to producers of upland cotton, whether or not an acreage limitation program for upland cotton is in effect, if the Secretary determines that such land diversion payments are necessary to assist in adjusting the total national acreage of upland cotton to desirable goals. Such land diversion payments shall be made to producers who, to the extent prescribed by the Secretary, devote to approved conservation uses an acreage of cropland on the farm in accordance with land diversion contracts entered into by the Secretary with such producers.

"(B) The amounts payable to producers under land diversion contracts may be determined through the submission of bids for such contracts by producers in such manner as the Secretary may prescribe or through such other means as the Secretary determines appropriate. In determining the acceptability of contract offers, the Secretary shall take into consideration the extent of the diversion to be undertaken by the producers and the productivity of the acreage diverted.

"(C) The Secretary shall limit the total acreage to be diverted under agreements in any county or local community so as not to affect adversely the economy of the county or local community.

"(5)(A) The reduced acreage and additional diverted acreage may be devoted to wildlife food plots or wildlife habitat in conformity with standards established by the Secretary in consultation with wildlife agencies.

"(B) The Secretary may pay an appropriate share of the cost of practices designed to carry out the purposes of subparagraph (A).

"(C) The Secretary may provide for an additional payment on such acreage in an amount determined by the Secretary to be appropriate in relation to the benefit to the general public if the producer agrees to permit, without other compensation, access to all or such portion of the farm, as the Secretary may prescribe, by the general public, for hunting, trapping, fishing, and hiking, subject to applicable State and Federal regulations.

"(7)(A) An operator of a farm desiring to participate in the program conducted under this subsection shall execute an agreement with the Secretary providing for such participation not later than such date as the Secretary may prescribe.

"(B) The Secretary may, by mutual agreement with producers on a farm, terminate or modify any such agreement if the Secretary determines such action necessary because of an emergency created by drought or other disaster or to prevent or alleviate a shortage in the supply of agricultural commodities.

"(g)(1) The Secretary may, for each of the 1986 through 1990 crops of upland cotton, make payments available to producers who meet the requirements of this subsection.

"(2) Such payments shall be—

"(A) made in the form of upland cotton owned by the Commodity Credit Corporation; and

"(B) subject to the availability of such upland cotton.

"(3)(A) Payments under this subsection shall be determined in the same manner as provided in subsection (b).

"(B) The quantity of upland cotton to be made available to a producer under this subsection shall be equal in value to the payments so determined under such subsection.

"(4) A producer shall be eligible to receive a payment under this subsection for a crop if the producer—

"(A) agrees to forgo obtaining a loan under subsection (a);

"(B) agrees to forgo receiving payments under subsection (c);

"(C) does not plant upland cotton for harvest in excess of the crop acreage base reduced by one-half of any acreage required to be diverted from production under subsection (f); and

"(D) otherwise complies with this section.

"(h)(1) If the failure of a producer to comply fully with the terms and conditions of the program formulated under this section precludes the making of loans and payments, the Secretary may, nevertheless, make such loans and payments in such amounts as the Secretary determines are equitable in relation to the seriousness of the failure.

"(2) The Secretary may authorize the county and State committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) to waive or modify deadlines and other program requirements in cases in which lateness or failure to meet such other requirements does not affect adversely the operation of the program.

"(i) The Secretary may issue such regulations as the Secretary determines necessary to carry out this section.

"(j) The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

"(k) The provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(g)) (relating to assignment of payments) shall apply to payments under this section.

"(l) The Secretary shall provide for the sharing of payments made under this section for any farm among the producers on the farm on a fair and equitable basis.

"(m) The Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.

"(n)(1) Notwithstanding any other provision of law, except as provided in paragraph (2), compliance on a farm with the terms and conditions of any other commodity program may not be required as a condition of eligibility for loans or payments under this section.

"(2) The Secretary may require that, as a condition of eligibility of producers on a farm for loans or payments under this section, the acreage planted for harvest on the farm to any other commodity for which an acreage limitation program is in effect shall not exceed the crop acreage base for that commodity.

"(3) The Secretary may not require producers on a farm, as a condition of eligibility for loans or payments under this section for such farm, to comply with the terms and conditions of the upland cotton program with respect to any other farm operated by such producers.

"(o)(1) Whenever the Secretary determines that the average price of Strict Low Middling one and one-sixteenth inch cotton (micronaire 3.5 through 4.9) in the designated spot markets for a month exceeded 130 percent of the average price of such quality of cotton in such markets for the preceding 36 months, notwithstanding any other provision of law, the President shall immediately establish and proclaim a special limited global import quota for upland cotton subject to the following conditions:

"(A) The quantity of the special quota shall be equal to 21 days of domestic mill consumption of upland cotton at the seasonally adjusted average rate of the most recent 3 months for which data are available.

"(B) If a special quota has been established under this subsection during the preceding 12 months, the quantity of the quota next established hereunder shall be the smaller of 21 days of domestic mill consumption calculated as set forth in subpara-

graph (A) or the quantity required to increase the supply to 130 percent of the demand.

"(C) As used in subparagraph (B):

"(i) The term 'supply' means, using the latest official data of the Bureau of the Census, the Department of Agriculture, and the Department of the Treasury—

"(I) the carryover of upland cotton at the beginning of the marketing year (adjusted to 480-pound bales) in which the special quota is established; plus

"(II) production of the current crop; plus

"(III) imports to the latest date available during the marketing year.

"(ii) The term 'demand' means—

"(I) the average seasonally adjusted annual rate of domestic mill consumption in the most recent 3 months for which data are available; plus

"(II) the larger of—

"(aa) average exports of upland cotton during the preceding 6 marketing years; or

"(bb) cumulative exports of upland cotton plus outstanding export sales for the marketing year in which the special quota is established.

"(D) When a special quota is established under this subsection, cotton may be entered under such quota during the 90-day period beginning on the effective date of the proclamation.

"(2) Notwithstanding paragraph (1), a special quota period may not be established that overlaps an existing quota period.".

SUSPENSION OF BASE ACREAGE ALLOTMENTS, MARKETING QUOTAS, AND RELATED PROVISIONS

Sec. 502. Sections 342, 343, 344, 345, 346, and 377 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1342–1346 and 1377) shall not be applicable to any of the 1986 through 1990 crops of upland cotton.

COMMODITY CREDIT CORPORATION SALES PRICE RESTRICTIONS

Sec. 503. Effective only with respect to the period beginning August 1, 1978, and ending July 31, 1991, the tenth sentence of section 407 of the Agricultural Act of 1949 (7 U.S.C. 1427) is amended by striking out all of that sentence through the words "110 per centum of the loan rate, and (2)" and inserting in lieu thereof the following: "Notwithstanding any other provision of law, (1) the Commodity Credit Corporation shall sell upland cotton for unrestricted use at the same prices as it sells upland cotton for export, in no event, however, at less than (A) 115 percent of the loan rate for Strict Low Middling one and one-sixteenth inch upland cotton (micronaire 3.5 through 4.9) adjusted for such current market differentials reflecting grade, quality, location, and other value factors as the Secretary determines appropriate plus reasonable carrying charges, or (B) if the Secretary permits the repayment of loans made for a crop of cotton at a rate that is less than the loan level determined for such crop, 115 percent of the average loan repayment rate that is determined for such crop during the period of such loans, and (2)".

MISCELLANEOUS COTTON PROVISIONS

Sec. 504. Sections 103(a) and 203 of the Agricultural Act of 1949 (7 U.S.C. 1444(a) and 1446d) shall not be applicable to the 1986 through 1990 crops.

SKIPROW PRACTICES

Sec. 505. Section 374(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1374(a)) is amended by striking out "1985" and inserting in lieu thereof "1990".

PRELIMINARY ALLOTMENTS FOR 1991 CROP OF UPLAND COTTON

Sec. 506. Notwithstanding any other provision of law, the permanent State, county, and farm base acreage allotments for the 1977 crop of upland cotton, adjusted for any underplantings in 1977 and reconstituted as provided in section 379 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1379), shall be the preliminary allotments for the 1991 crop.

EXTRA LONG STAPLE COTTON

Sec. 507. Section 103(h) of the Agricultural Act of 1949 (7 U.S.C. 1444(h)) is amended—

(1) in paragraph (2)—

(A) in the first sentence, by striking out "50 per centum in excess of the loan level established for each crop of Strict Low Middling one and one-sixteenth inch upland cotton (micronaire 3.5 through 4.9) at average location in the United States" and inserting in lieu thereof "85 percent of the simple average price received by producers of extra long staple cotton, as determined by the Secretary, during 3 years of the 5-year period ending July 31 in the year in which the loan level is announced, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period.";

(B) by striking out "November" in the last sentence and inserting in lieu thereof "December"; and

(C) by striking out in the last sentence ", or within 10 days after the loan level for the related crop of upland cotton is announced, whichever is later,"; and

(2) by adding at the end thereof the following new paragraph:

"(19) Notwithstanding any other provision of law, this subsection shall not be applicable to the 1991 and subsequent crops of extra long staple cotton.".

TITLE VI—RICE

LOAN RATES, TARGET PRICES, DISASTER PAYMENTS, ACREAGE LIMITATION PROGRAM, AND LAND DIVERSION FOR THE 1986 THROUGH 1990 CROPS OF RICE

Sec. 601. Effective only for the 1986 through 1990 crops of rice, the Agricultural Act of 1949 is amended by inserting after section 101 (7 U.S.C. 1441) the following new section:

"Sec. 101A. Notwithstanding any other provision of law:

"(a)(1) Except as provided in paragraph (2), the Secretary shall make available to producers loans and purchases for each of the 1986 through 1990 crops of rice at a level that is not less than—

"(A) in the case of the 1986 crop of rice, $7.20 per hundredweight; and

"(B) in the case of each of the 1987 through 1990 crops of rice, the higher of—

"(i) 85 percent of the simple average price received by producers, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of rice, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period; or

"(ii) $6.50 per hundredweight.

"(2) The loan level for a crop of rice determined under paragraph (1)(B) may not be reduced by more than 5 percent from the loan level determined for the preceding crop.

"(3) The loan and purchase level and the established price for each of the 1986 through 1990 crops of rice shall be announced not later than January 31 of each calendar year for the crop harvested in such calendar year.

"(4) A loan made under this section shall have a term of not more than 9 months beginning after the month in which the application for the loan is made.

"(5)(A) The Secretary shall permit a producer to repay a loan made under paragraph (1) for a crop at a level that is the lesser of—

"(i) the loan level determined for such crop; or

"(ii) the higher of—

"(I) the loan level determined for such crop multiplied by 50 percent for each of the 1986 and 1987 crops, 60 percent for the 1988 crop, and 70 percent for each of the 1989 and 1990 crops; or

"(II) the prevailing world market price for rice, as determined by the Secretary.

"(B) The Secretary shall prescribe by regulation—

"(i) a formula to define the prevailing world market price for rice; and

"(ii) a mechanism by which the Secretary shall announce periodically the prevailing world market price for rice.

"(C)(i) As a condition of permitting a producer to repay a loan as provided in subparagraph (A), the Secretary may require a producer to purchase marketing certificates equal in value to an amount that does not exceed one-half the difference, as determined by the Secretary, between the amount of the loan obtained by the producer and the amount of the loan repayment. Such certificates shall be negotiable.

"(ii) Such certificates shall be redeemable for rice owned by the Commodity Credit Corporation valued at the prevailing market price, as determined by the Secretary. If such rice is not available in the State in which the rice pledged as collateral for the loan was produced or at such other location outside of such State as may be approved by the owner of such certificate, such certificate shall be redeemable in cash.

"(iii) The Commodity Credit Corporation, under regulations prescribed by the Secretary, shall assist any person receiving marketing certificates under this subparagraph in the redemption or marketing of such certificates. Insofar as practicable, the Secretary shall permit an owner of a certificate to designate the storage facility at which such owner would prefer to receive rice in exchange for such certificate.

"(iv) If any such certificate is not presented for redemption or marketing within a reasonable number of days after issuance, as determined by the Secretary, reasonable costs of storage and other carrying charges, as determined by the Secretary, shall be deducted from the value of the certificate for the period beginning after such reasonable number of days and ending with the date of the presentation of such certificate to the Commodity Credit Corporation.

"(6) For purposes of this section, the simple average price received by producers for the immediately preceding marketing year shall be based on the latest information available to the Secretary at the time of the determination.

"(b)(1) The Secretary may, for each of the 1986 through 1990 crops of rice, make payments available to producers who, although eligible to obtain a loan or purchase agreement under subsection (a), agree to forgo obtaining such loan or agreement in return for such payments.

"(2) A payment under this subsection shall be computed by multiplying—

"(A) the loan payment rate; by

"(B) the quantity of rice the producer is eligible to place under loan.

"(3) For purposes of this subsection, the quantity of rice eligible to be placed under loan may not exceed the product obtained by multiplying—

"(A) the individual farm program acreage for the crop; by

"(B) the farm program payment yield established for the farm.

"(4) For purposes of this subsection, the loan payment rate shall be the amount by which—

"(A) the loan level determined for such crop under subsection (a); exceeds

"(B) the level at which a loan may be repaid under subsection (a).

"(5) The Secretary shall make up to one-half the amount of a payment under this subsection available in the form of negotiable marketing certificates, subject to the terms and conditions provided in subsection (a)(5)(C).

"(c)(1)(A) The Secretary shall make available to producers payments for each of the 1986 through 1990 crops of rice in an amount computed by multiplying—

"(i) the payment rate; by

"(ii) the individual farm program acreage; by

"(iii) the farm program payment yield established for the crop for the farm.

"(B)(i) If an acreage limitation program under subsection (f)(2) is in effect for a crop of rice and the producers on a farm devote a portion of the permitted rice acreage of the farm (as determined in accordance with subsection (f)(2)(A)) equal to more than 8 percent of the permitted rice acreage of the farm for the crop to conservation uses or nonprogram crops—

"(I) such portion of the permitted rice acreage in excess of 8 percent of such acreage devoted to conservation uses or nonprogram crops shall be considered to be planted to rice for the purpose of determining the individual farm program acreage in accordance with subsection (f)(2)(E) and for the purpose of determining the acreage on the farm required to be devoted to conservation uses in accordance with subsection (f)(2)(D); and

"(II) the producers shall be eligible for payments under this paragraph on such acreage, subject to the compliance of the producers with clause (ii).

"(ii) To be eligible for payments under clause (i), except as provided in clause (iii), the producers on the farm must actually plant rice for harvest on at least 50 percent of the permitted rice acreage of the farm.

"(iii) If a State or local agency has imposed in an area of a State or county a quarantine on the planting of rice for harvest on farms in such area, the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) may recommend to the Secretary that payments be made under this paragraph, without regard to the requirement imposed under clause (ii), to producers in such area who were required to forgo the planting of rice for harvest on acreage to alleviate or eliminate the condition requiring such quarantine. If the Secretary determines that such condition exists, the Secretary may make payments under this paragraph to such producers. To be eligible for payments under this clause, such producers may not plant wheat, feed grains, cotton, or soybeans on such acreage.

"(iv) The rice crop acreage base and rice farm program payment yield of the farm shall not be reduced due to the fact that such portion of the permitted acreage of the farm was devoted to conserving uses or nonprogram crops.

"(v) Other than as provided in clauses (i) through (iv), payments may not be made under this subsection for any crop on a greater acreage than the acreage actually planted to rice.

"(vi) Any acreage considered to be planted to rice in accordance with clause (i) may not also be designated as conservation use acreage for the purpose of fulfilling any provisions under any acreage limitation or land diversion program requiring that the producers devote a specified acreage to conservation uses.

"(C) The payment rate for rice shall be the amount by which the established price for the crop of rice exceeds the higher of—

"(i) the national average market price received by producers during the first 5 months of the marketing year for such crop, as determined by the Secretary; or

"(ii) the loan level determined for such crop.

"(D) The established price for rice shall not be less than $11.90 per hundredweight for the 1986 crop, $11.66 per hundredweight for the 1987 crop, $11.30 per hundredweight for the 1988 crop, $10.95 per hundredweight for the 1989 crop, and $10.71 per hundredweight for the 1990 crop.

"(E) The total quantity of rice on which payments would otherwise be payable to a producer on a farm for any crop under this subsection shall be reduced by the quantity on which any disaster payment is made to the producer for the crop under paragraph (2).

"(F) The Secretary may pay not more than 5 percent of the total amount of a payment made under this paragraph in the form of rice. The use of rice in making payments to producers shall be subject to a determination by the Secretary of the effect that such in-kind payments will have on market prices for any commodity. The Secretary shall report such determination to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

"(G) As used in this subsection, the term 'nonprogram crop' means any agricultural commodity other than wheat, feed grains, upland cotton, extra long staple cotton, rice, or soybeans.

"(2)(A)(i) Except as provided in subparagraph (C), if the Secretary determines that the producers on a farm are prevented from planting any portion of the acreage intended for rice to rice or other nonconserving crops because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the Secretary shall make a prevented planting disaster payment to the producers in an amount equal to the product obtained by multiplying—

"(I) the number of acres so affected but not to exceed the acreage planted to rice for harvest (including any acreage that the producers were prevented from planting to rice or other nonconserving crops in lieu of rice because of drought, flood, or other natural disaster, or other condition beyond the control of the producers) in the immediately preceding year; by

"(II) 75 percent of the farm program payment yield established for the farm by the Secretary; by

"(III) a payment rate equal to 33⅓ percent of the established price for the crop.

"(ii) Payments made by the Secretary under this subparagraph may be made in the form of cash or from stocks of rice held by the Commodity Credit Corporation.

"(B) Except as provided in subparagraph (C), if the Secretary determines that because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the total quantity of rice that the producers are able to harvest on any farm is less than the result of multiplying 75 percent of the farm program payment yield established for the farm for such crop by the acreage planted for harvest for such crop, the Secretary shall make a reduced yield disaster payment to the producers at a rate equal to 33⅓ percent of the established price for the crop for the deficiency in production below 75 percent for the crop.

"(C) Producers on a farm shall not be eligible for—

"(i) prevented planting disaster payments under subparagraph (A), if prevented planting crop insurance is available to the producers under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) with respect to the rice acreage of the producers; or

"(ii) reduced yield disaster payments under subparagraph (B), if reduced yield crop insurance is available to the producers under such Act with respect to the rice acreage of the producers.

"(D)(i) Notwithstanding subparagraph (C), the Secretary may make a disaster payment to producers on a farm under this subsection if the Secretary determines that—

"(I) as the result of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the producers have suffered substantial losses of production either from being prevented from planting rice or other nonconserving crops or from reduced yields;

"(II) such losses have created an economic emergency for the producers;

"(III) crop insurance indemnity payments under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) and other forms of assistance made available by the Federal Government to such producers for such losses is insufficient to alleviate such economic emergency; and

"(IV) additional assistance must be made available to such producers to alleviate such economic emergency.

"(ii) The Secretary may make such adjustments in the amount of payments made available under this paragraph with respect to an individual farm so as to assure the equitable allotment of such payments among producers, taking into account other forms of Federal disaster assistance provided to the producers for the crop involved.

"(d)(1)(A) Except for a crop with respect to which there is an acreage limitation program in effect under subsection (f), the Secretary shall proclaim a national program acreage for each of the 1986 through 1990 crops of rice. The proclamation shall be made not later than January 31 of each calendar year for the crop harvested in that calendar year.

"(B) The Secretary may revise the national program acreage first proclaimed for any crop year for the purpose of determining the allocation factor under paragraph (2) if the Secretary determines it necessary based on the latest information. The Secretary shall proclaim such revised national program acreage as soon as it is made.

"(C) The national program acreage for rice shall be the number of harvested acres the Secretary determines (on the basis of the weighted national average of the farm program payment yields for the crop for which the determination is made) will produce the quantity (less imports) that the Secretary estimates will be utilized domestically and for export during the marketing year for such crop.

"(D) If the Secretary determines that carryover stocks of rice are excessive or an increase in stocks is needed to assure desirable

carryover, the Secretary may adjust the national program acreage by the quantity the Secretary determines will accomplish the desired increase or decrease in carryover stocks.

"(2) The Secretary shall determine a program allocation factor for each crop of rice. The allocation factor for rice shall be determined by dividing the national program acreage for the crop by the number of acres that the Secretary estimates will be harvested for such crop. In no event may the allocation factor for any crop of rice be more than 100 percent nor less than 80 percent.

"(3)(A) The individual farm program acreage for each crop of rice shall be determined by multiplying the allocation factor by the acreage of rice planted for harvest on the farms for which individual farm program acreages are required to be determined.

"(B) The individual farm program acreage may not be further reduced by application of the allocation factor if the producers reduce the acreage of rice planted for harvest on the farm from the crop acreage base established for the farm under title V by at least the percentage recommended by the Secretary in the proclamation of the national program acreage.

"(C) The Secretary shall provide fair and equitable treatment for producers on farms on which the acreage of rice planted for harvest is less than the crop acreage base established for the farm under title V, but for which the reduction is insufficient to exempt the farm from the application of the allocation factor.

"(D) In establishing the allocation factor for rice, the Secretary may make such adjustment as the Secretary deems necessary to take into account the extent of exemption of farms under the foregoing provisions of this subsection.

"(e) The farm program payment yields for farms for each crop of rice shall be determined under title V.

"(f)(1)(A) Notwithstanding any other provision of this Act, if the Secretary determines that the total supply of rice, in the absence of an acreage limitation program, will be excessive taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency, the Secretary may provide for any crop of rice an acreage limitation program as described in paragraph (2).

"(B) In making a determination under clause (i), the Secretary shall take into consideration the number of acres placed in the conservation acreage reserve established under section 1231 of the Food Security Act of 1985.

"(C) If the Secretary elects to put an acreage limitation program into effect for any crop year, the Secretary shall announce any such program not later than January 31 of the calendar year in which the crop is harvested.

"(D) The Secretary shall, to the maximum extent practicable, carry out an acreage limitation program described in paragraph (2) for a crop of rice in a manner that will result in a carryover of 30 million hundredweight of rice.

"(2)(A) If a rice acreage limitation program is announced under paragraph (1), such limitation shall be achieved by applying a uniform percentage reduction (not to exceed 35 percent) to the rice crop acreage base for the crop for each rice-producing farm.

"(B) Except as provided in subsection (g), producers who knowingly produce rice in excess of the permitted rice acreage for the farm, as established in accordance with subparagraph (A), shall be ineligible for rice loans, purchases, and payments with respect to that farm.

"(C) Rice crop acreage bases for each crop of rice shall be determined under title V.

"(D)(i) A number of acres on the farm shall be devoted to conservation uses, in accordance with regulations issued by the Secretary. Such number shall be determined by dividing—

"(I) the product obtained by multiplying the number of acres required to be withdrawn from the production of rice times the number of acres planted to such commodity; by

"(II) the number of acres authorized to be planted to such commodity under the limitation established by the Secretary.

"(ii) The number of acres determined under clause (i) is hereafter in this subsection referred to as 'reduced acreage'.

"(E) If an acreage limitation program is announced under paragraph (1) for a crop of rice, subsection (d) shall not be applicable to such crop, including any prior announcement that may have been made under such subsection with respect to such crop. Except as provided in subsection (c)(1)(B), the individual farm program acreage shall be the acreage planted on the farm to rice for harvest within the permitted rice acreage for the farm as established under this paragraph.

"(3)(A) The regulations issued by the Secretary under paragraph (2) with respect to acreage required to be devoted to conservation uses shall assure protection of such acreage from weeds and wind and water erosion.

"(B) Subject to subparagraph (C), the Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of such acreage to be devoted to sweet sorghum, hay and grazing, or the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, rye, or other commodity, if the Secretary determines that such production is needed to provide an adequate supply of such commodities, is not likely to increase the cost of the price support program, and will not affect farm income adversely.

"(C)(i) Except as provided in clause (ii), the Secretary shall permit, at the request of the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) for a State and subject to such terms and conditions as the Secretary may prescribe, all or any part of such acreage diverted from production by participating producers in such State to be devoted to—

"(I) hay and grazing, in the case of the 1986 crop of rice; and

"(II) grazing, in the case of each of the 1987 through 1990 crops of rice.

"(ii) Haying and grazing shall not be permitted for any crop of rice under clause (i) during any 5-consecutive-month period that is established for such crop for a State by the State committee established under section 8(b) of such Act.

"(4)(A) The Secretary may make land diversion payments to producers of rice, whether or not an acreage limitation program for rice is in effect, if the Secretary determines that such land diversion payments are necessary to assist in adjusting the total national acreage of rice to desirable goals. Such land diversion payments shall be made to producers who, to the extent prescribed by the Secretary, devote to approved conservation uses an acreage of cropland on the farm in accordance with land diversion contracts entered into by the Secretary with such producers.

"(B) The amounts payable to producers under land diversion contracts may be determined through the submission of bids for such contracts by producers in such manner as the Secretary may prescribe or through such other means as the Secretary determines appropriate. In determining the acceptability of contract offers, the Secretary shall take into consideration the extent of the diversion to be undertaken by the producers and the productivity of the acreage diverted.

"(C) The Secretary shall limit the total acreage to be diverted under agreements in any county or local community so as not to affect adversely the economy of the county or local community.

"(5)(A) The reduced acreage and additional diverted acreage may be devoted to wildlife food plots or wildlife habitat in conformity with standards established by the Secretary in consultation with wildlife agencies.

"(B) The Secretary may pay an appropriate share of the cost of practices designed to carry out the purposes of subparagraph (A).

"(C) The Secretary may provide for an additional payment on such acreage in an amount determined by the Secretary to be appropriate in relation to the benefit to the general public if the producer agrees to permit, without other compensation, access to all or such portion of the farm, as the Secretary may prescribe, by the general public, for hunting, trapping, fishing, and hiking, subject to applicable State and Federal regulations.

"(7)(A) An operator of a farm desiring to participate in the program conducted under this subsection shall execute an agreement with the Secretary providing for such participation not later than such date as the Secretary may prescribe.

"(B) The Secretary may, by mutual agreement with producers on a farm, terminate or modify any such agreement if the Secretary determines such action necessary because of an emergency created by drought or other disaster or to prevent or alleviate a shortage in the supply of agricultural commodities.

"(g)(1) The Secretary may, for each of the 1986 through 1990 crops of rice, make payments available to producers who meet the requirements of this subsection.

"(2) Such payments shall be—

"(A) made in the form of rice owned by the Commodity Credit Corporation; and

"(B) subject to the availability of such rice.

"(3)(A) Payments under this subsection shall be determined in the same manner as provided in subsection (b).

"(B) The quantity of rice to be made available to a producer under this subsection shall be equal in value to the payments so determined under such subsection.

"(4) A producer shall be eligible to receive a payment under this subsection for a crop if the producer—

"(A) agrees to forgo obtaining a loan or purchase agreement under subsection (a);

"(B) agrees to forgo receiving payments under subsection (c);

"(C) does not plant rice for harvest in excess of the crop acreage base reduced by one-half of any acreage required to be diverted from production under subsection (f); and

"(D) otherwise complies with this section.

"(h)(1) If the failure of a producer to comply fully with the terms and conditions of the program formulated under this section precludes the making of loans, purchases, and payments, the Secretary may, nevertheless, make such loans, purchases, and payments in such amounts as the Secretary determines are equitable in relation to the seriousness of the failure.

"(2) The Secretary may authorize the county and State committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) to waive or modify deadlines and other program requirements in cases in which lateness or failure to meet such other requirements does not affect adversely the operation of the program.

"(i) The Secretary may issue such regulations as the Secretary determines necessary to carry out this section.

"(j) The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

"(k) The provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(g)) (relating to assignment of payments) shall apply to payments under this section.

"(l) The Secretary shall provide for the sharing of payments made under this section for any farm among the producers on the farm on a fair and equitable basis.

"(m) The Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.

"(n)(1) Notwithstanding any other provision of law, except as provided in paragraph (2), compliance on a farm with the terms and conditions of any other commodity program may not be required as a condition of eligibility for loans, purchases, or payments under this section.

"(2) The Secretary may require that, as a condition of eligibility of producers on a farm for loans, purchases, or payments under this section, the acreage planted for harvest on the farm to any other commodity for which an acreage limitation program is in effect shall not exceed the crop acreage base established for the farm for that commodity.

"(3) The Secretary may not require producers on a farm, as a condition of eligibility for loans, purchases, or payments under this section for such farm, to comply with the terms and conditions of the rice program with respect to any other farm operated by such producers.".

MARKETING LOAN FOR THE 1985 CROP OF RICE

Sec. 602. Effective for the 1985 crop of rice, section 101(i)(1) of the Agricultural Act of 1949 (7 U.S.C. 1441(i)(1)) is amended—

(1) by inserting "(A)" after the paragraph designation; and

(2) by adding at the end thereof the following new subparagraphs:

"(B)(i) Beginning April 15, 1986, the Secretary shall permit an eligible producer to repay a loan made under subparagraph (A) with respect to the 1985 crop at a level that is the lesser of—

"(I) the loan level determined for such crop; or

"(II) the prevailing world market price for rice, as determined by the Secretary.

"(ii) The Secretary shall prescribe by regulation—

"(I) a formula to define the prevailing world market price for rice; and

"(II) a mechanism by which the Secretary shall announce periodically the prevailing world market price for rice.

"(iii) To be eligible to repay a loan in accordance with clause (i), a producer must have a loan made under subparagraph (A) outstanding on April 15, 1986.

"(iv) A loan made under this subsection shall have a term of not more than 9 months beginning after the month in which the application for the loan is made. The Secretary may extend the maturity date of loans made for the 1985 crop of rice as necessary to permit the orderly marketing of such rice.

"(v) As a condition to permitting a producer to repay a loan as provided in this subparagraph, the Secretary may require a producer to purchase negotiable marketing certificates equal in value to an amount that does not exceed the difference, as determined by the Secretary, between the amount of the loan obtained by the producer and the amount of the loan repayment. Such certificates shall be negotiable.

"(vi) Such certificates shall be redeemable for rice owned by the Commodity Credit Corporation valued at the prevailing market price, as determined by the Secretary. If such rice is not available in the State in which the rice pledged as collateral for the loan was produced or at such other location outside of such State as may be approved by the owner of such certificate, such certificate shall be redeemable in cash.

"(vii) The Commodity Credit Corporation, under regulations prescribed by the Secretary, shall assist any person receiving marketing certificates under this subparagraph in the redemption or marketing of such certificates. Insofar as practicable, the Secretary shall permit an owner of a certificate to designate the storage facility at which such owner would prefer to receive rice in exchange for such certificate.

"(viii) If any such certificate is not presented for redemption or marketing within a reasonable number of days after issuance, as determined by the Secretary, reasonable costs of storage and other carrying charges, as determined by the Secretary, shall be deducted from the value of the certificate for the period beginning after such reasonable number of days and ending with the date of the presentation of such certificate to the Commodity Credit Corporation.

"(C)(i) Beginning April 15, 1986, the Secretary shall, for the 1985 crop of rice, make payments available to—

"(I) producers who have produced rice, and although eligible to obtain a loan or purchase agreement under this subsection did not obtain such loan or agreement, and have not sold or delivered such rice under a sales contract; and

"(II) producers who have produced rice that is not eligible to be placed under loan and have not sold or delivered such rice under a sales contract.

"(ii) A payment under this subparagraph shall be computed by multiplying—

"(I) the loan payment rate; by

"(II) the quantity of rice the producer has not sold or delivered under a sales contract.

"(iii) For purposes of this subparagraph, the loan payment rate shall be the amount by which—

"(I) the loan level determined for the 1985 crop; exceeds

"(II) the level at which a loan may be repaid under subparagraph (B).

"(iv) The Secretary may make all or part of a payment under this subparagraph in the form of negotiable marketing certificates, subject to the terms and conditions provided in subparagraph (B).

"(D) The payment limitation provided in section 1101 of the Agriculture and Food Act of 1981 (7 U.S.C. 1308) shall not apply to—

"(i) any gain realized by a producer from repaying a loan for the 1985 crop of rice at the rate permitted under subparagraph (B); or

"(ii) any payment received for a crop of rice under subparagraph (C).".

MARKETING CERTIFICATES

Sec. 603. (a) Notwithstanding any other provision of law, whenever, during the period beginning August 1, 1986, and ending July 31, 1991, the world price for a class of rice (adjusted to United States qualities and location), as determined by the Secretary of Agriculture, is below the current loan repayment rate for that class of rice, to make United States rice competitive in world markets and to maintain and expand exports of rice produced in the United States, the Commodity Credit Corporation, under such regulations as the Secretary may prescribe, shall make payments, through the issuance of negotiable marketing certificates, to persons who have entered into an agreement with the Commodity Credit Corporation to participate in the program established under this section. Such payments shall be made in such monetary amounts and subject to such terms and conditions as the Secretary determines will make rice produced in the United States available at competitive prices consistent with the purposes of this section, including such payments as may be necessary to make rice in inventory on August 1, 1986, available on the same basis.

(b) The value of each certificate issued under subsection (a) shall be based on the difference between—

(1) the loan repayment rate for the class of rice; and

(2) the prevailing world market price for the class of rice, as determined by the Secretary of Agriculture under a published formula submitted for public comment before its adoption.

(c) The Commodity Credit Corporation, under regulations prescribed by the Secretary of Agriculture, may assist any person receiving marketing certificates under this section in the redemption of certificates for cash, or marketing or exchange of such certificates for (1) rice owned by the Commodity Credit Corporation or (2) (if the Secretary and the person agree) other agricultural commodities or the products thereof owned by the Commodity Credit Corporation, at such times, in such manner, and at such price levels as the Secretary determines will best effectuate the purposes of the program established under this section. Notwithstanding any other provision of law, any price restrictions that may otherwise apply to the disposition of agricultural commodities by the Commodity Credit Corporation shall not apply to the redemption of certificates under this section.

(d) Insofar as practicable, the Secretary shall permit owners of certificates to designate the commodities and the products thereof, including storage sites thereof, such owners would prefer to receive in exchange for certificates. If any certificate is not presented for redemption, marketing, or exchange within a reasonable number of days after the issuance of such certificate (as determined by the Secretary), reasonable costs of storage and other carrying charges, as determined by the Secretary, shall be deducted from the value of the certificate for the period beginning after such reasonable number of days and ending with the date of the presentation of such certificate to the Commodity Credit Corporation.

(e) The Secretary of Agriculture shall take such measures as may be necessary to prevent the marketing or exchange of agricultural commodities and the products thereof for certificates under this section from adversely affecting the income of producers of such commodities or products.

(f) Under regulations prescribed by the Secretary of Agriculture, certificates issued to rice exporters under this section may be transferred to other exporters and persons approved by the Secretary.

TITLE VII—PEANUTS

SUSPENSION OF MARKETING QUOTAS AND ACREAGE ALLOTMENTS

SEC. 701. The following provisions of the Agricultural Adjustment Act of 1938 shall not be applicable to the 1986 through 1990 crops of peanuts:

(1) Subsections (a) through (j) of section 358 (7 U.S.C. 1358(a)-(j)).

(2) Subsections (a) through (h) of section 358a (7 U.S.C. 1358a(a)-(h)).

(3) Subsections (a), (b), (d), and (e) of section 359 (7 U.S.C. 1359(a), (b), (d), (e)).

(4) Part I of subtitle C of title III (7 U.S.C. 1361 et seq.).

(5) Section 371 (7 U.S.C. 1371).

NATIONAL POUNDAGE QUOTA AND FARM POUNDAGE QUOTA

SEC. 702. Effective only for the 1986 through 1990 crops of peanuts, section 358 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358) is amended by adding at the end thereof the following:

"(q)(1) The national poundage quota for peanuts for each of the 1986 through 1990 marketing years shall be established by the Secretary at a level that is equal to the quantity of peanuts (in tons) that the Secretary estimates will be devoted in each such marketing year to domestic edible, seed, and related uses, except that the national poundage quota for any such marketing year shall not be less than 1,100,000 tons.

"(2) The national poundage quota for a marketing year shall be announced by the Secretary not later than December 15 preceding such marketing year.

"(r) The national poundage quota established under subsection (q) shall be apportioned among the States so that the poundage quota allocated to each State shall be equal to the percentage of the national poundage quota allocated to farms in the State for 1985.

"(s)(1)(A) A farm poundage quota for each of the 1986 through 1990 marketing years shall be established—

"(i) for each farm that had a farm poundage quota for peanuts for the 1985 marketing year; and

"(ii) if the poundage quota apportioned to a State under subsection (r) for any such marketing year is larger than such quota for the immediately preceding marketing year, for each other farm on which peanuts were produced for marketing in at least 2 of the 3 immediately preceding crop years, as determined by the Secretary.

"(B) The farm poundage quota for each of the 1986 through 1990 marketing years for each farm described in subparagraph (A)(i) of the preceding sentence shall be the same as the farm poundage quota for such farm for the immediately preceding marketing year, as adjusted under paragraph (2), but not including—

"(i) any increases for undermarketings from previous years; or

"(ii) any increases resulting from the allocation of quotas voluntarily released for 1 year under paragraph (7).

The farm poundage quota, if any, for each of the 1986 through 1990 marketing years for each farm described in subparagraph (A)(ii) shall be equal to the quantity of peanuts allocated to such farm for such year under paragraph (2).

"(C) For purposes of this paragraph, if the farm poundage quota, or any part thereof, is permanently transferred in accordance with section 358a, the receiving farm shall be considered as possessing the farm poundage quotas (or portion thereof) of the transferring farm for all subsequent marketing years.

"(2)(A) If the poundage quota apportioned to a State under subsection (r) for any of the 1986 through 1990 marketing years is increased over the poundage quota apportioned to the State for the immediately preceding marketing year, such increase shall be allocated equally among—

"(i) all farms in the State for each of which a farm poundage quota was established for the marketing year immediately preceding the marketing year for which the allocation is being made; and

"(ii) all other farms in the State on each of which peanuts were produced in at least 2 of the 3 immediately preceding crop years, as determined by the Secretary.

"(B) If the poundage quota apportioned to a State under subsection (r) for any of the 1987 through 1990 marketing years is decreased from the poundage quota apportioned to the State under such subsection for the immediately preceding marketing year, such decrease shall be allocated among all the farms in the State for each of which a farm poundage quota was established for the marketing year immediately preceding the marketing year for which the allocation is being made.

"(3)(A) Insofar as practicable and on such fair and equitable basis as the Secretary may by regulation prescribe, the farm poundage quota established for a farm for any of the 1986 through 1990 marketing years shall be reduced to the extent that the Secretary determines that the farm poundage quota established for the farm for any 2 of the 3 marketing years preceding the marketing year for which the determination is being made was not produced, or considered produced, on the farm.

"(B) For the purposes of this paragraph, the farm poundage quota for any such preceding marketing year shall not include—

"(i) any increases for undermarketing of quota peanuts from previous years; or

"(ii) any increase resulting from the allocation of quotas voluntarily released for one year under paragraph (7).

"(4) For purposes of this subsection, the farm poundage quota shall be considered produced on a farm if—

"(A) the farm poundage quota was not produced on the farm because of drought, flood, or any other natural disaster, or any other condition beyond the control of the producer, as determined by the Secretary; or

"(B) the farm poundage quota for the farm was released voluntarily under paragraph (7) for only 1 of the 3 marketing years immediately preceding the marketing year for which the determination is being made.

"(5) Notwithstanding any other provision of law—

"(A) the farm poundage quota established for a farm under this subsection, or any part of such quota, may be permanently released by the owner of the farm, or the operator with the permission of the owner; and

"(B) the poundage quota for the farm for which such quota is released shall be adjusted downward to reflect the quota that is so released.

"(6)(A) Except as provided in subparagraph (B), the total amount of the farm poundage quotas reduced or voluntarily released from farms in a State for any marketing year under paragraphs (3) and (5) shall be allocated, as the Secretary may by regulation prescribe, to other farms in the State on which peanuts were produced in at least 2 of the 3 crop years immediately preceding the year for which such allocation is being made.

"(B) Not less than 25 percent of such total amount of farm poundage quota in the State shall be allocated to farms for which no farm poundage quota was established for the immediately preceding year's crop.

"(7)(A) The farm poundage quota, or any portion thereof, established for a farm for a marketing year may be voluntarily released to the Secretary to the extent that such quota, or any part thereof, will not be produced on the farm for the marketing year. Any farm poundage quota so released in a State shall be allocated to other farms in the State on such basis as the Secretary may by regulation prescribe.

"(B) Any adjustment in the farm poundage quota for a farm under subparagraph (A) shall be effective only for the marketing year for which it is made and shall not be taken into consideration in establishing a farm poundage quota for the farm from which such quota was released for any subsequent marketing year.

"(8)(A) Except as provided in subparagraph (B), the farm poundage quota for a farm for any marketing year shall be increased by the number of pounds by which the total marketings of quota peanuts from the farm during previous marketing years (excluding any marketing year before the marketing year for the 1984 crop) were less than the total amount of applicable farm poundage quotas (disregarding adjustments for undermarketings from previous marketing years) for such marketing years.

"(B) For purposes of subparagraph (A), no increase for undermarketings in previous marketing years shall be made to the poundage quota for any farm to the extent that the poundage quota for such farm for the marketing year was reduced under paragraph (3) for failure to produce.

"(C) Any increases in farm poundage quotas under this paragraph shall not be counted against the national poundage quota for the marketing year involved.

"(D) Any increase in the farm poundage quota for a farm for a marketing year under this paragraph may be used during the marketing year by the transfer of additional peanuts produced on the farm to the quota loan pool for pricing purposes on such basis as the Secretary shall by regulation prescribe.

"(9) Notwithstanding the foregoing provisions of this subsection, if the total of all increases in individual farm poundage quotas under paragraph (8) exceeds 10 percent of the national poundage quota for the marketing year in which such increases shall be applicable, the Secretary shall adjust such increases so that the total of all such increases does not exceed 10 percent of the national poundage quota.

"(t)(1) For each farm for which a farm poundage quota is established under subsection (s), and when necessary for purposes of this Act, a farm yield of peanuts shall be determined for each such farm.

"(2) Such yield shall be equal to the average of the actual yield per acre on the farm

for each of the 3 crop years in which yields were highest on the farm out of the 5 crop years 1973 through 1977.

"(3) If peanuts were not produced on the farm in at least 3 years during such 5-year period or there was a substantial change in the operation of the farm during such period (including, but not limited to, a change in operator, lessee who is an operator, or irrigation practices), the Secretary shall have a yield appraised for the farm. The appraised yield shall be that amount determined to be fair and reasonable on the basis of yields established for similar farms that are located in the area of the farm and on which peanuts were produced, taking into consideration land, labor, and equipment available for the production of peanuts, crop rotation practices, soil and water, and other relevant factors.

"(u)(1) Not later than December 15 of each calendar year, the Secretary shall conduct a referendum of producers engaged in the production of quota peanuts in the calendar year in which the referendum is held to determine whether such producers are in favor of or opposed to poundage quotas with respect to the crops of peanuts produced in the five calendar years immediately following the year in which the referendum is held, except that, if as many as two-thirds of the producers voting in any referendum vote in favor of poundage quotas, no referendum shall be held with respect to quotas for the second, third, fourth, and fifth years of the period.

"(2) The Secretary shall proclaim the result of the referendum within 30 days after the date on which it is held.

"(3) If more than one-third of the producers voting in the referendum vote against quotas, the Secretary also shall proclaim that poundage quotas will not be in effect with respect to the crop of peanuts produced in the calendar year immediately following the calendar year in which the referendum is held.

"(v) For the purposes of this part and title I of the Agricultural Act of 1949:

"(1) The term 'additional peanuts' means, for any marketing year—

"(A) any peanuts that are marketed from a farm for which a farm poundage quota has been established and that are in excess of the marketings of quota peanuts from such farm for such year; and

"(B) all peanuts marketed from a farm for which no farm poundage quota has been established in accordance with subsection (s).

"(2) The term 'crushing' means the processing of peanuts to extract oil for food uses and meal for feed uses, or the processing of peanuts by crushing or otherwise when authorized by the Secretary.

"(3) The term 'domestic edible use' means use for milling to produce domestic food peanuts (other than those described in paragraph (2)) and seed and use on a farm, except that the Secretary may exempt from this definition seeds of peanuts that are used to produce peanuts excluded under section 359(c), are unique strains, and are not commercially available.

"(4) The term 'quota peanuts' means, for any marketing year, any peanuts produced on a farm having a farm poundage quota, as determined in subsection (s), that—

"(A) are eligible for domestic edible use as determined by the Secretary;

"(B) are marketed or considered marketed from a farm; and

"(C) do not exceed the farm poundage quota of such farm for such year.".

SALE, LEASE, OR TRANSFER OF FARM POUNDAGE QUOTA

SEC. 703. Effective only for the 1986 through 1990 crops of peanuts, section 358a of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358a) is amended by adding at the end thereof the following:

"(k)(1) Subject to such terms, conditions, or limitations as the Secretary may prescribe, the owner, or the operator with permission of the owner, of any farm for which a farm poundage quota has been established under this Act may sell or lease all or any part of such poundage quota to any other owner or operator of a farm within the same county for transfer to such farm, except that any such lease of poundage quota may be entered into in the fall or after the normal planting season but only—

"(A) if the quota has been planted on the farm from which the quota is to be leased; and

"(B) under such terms and conditions as the Secretary may by regulation prescribe.

"(2) The owner or operator of a farm may transfer all or any part of the farm poundage quota for such farm to any other farm owned or controlled by such owner or operator that is in the same county or in a county contiguous to such county in the same State and that had a farm poundage quota for the preceding year's crop.

"(3) Notwithstanding paragraphs (1) and (2), in the case of any State for which the poundage quota allocated to the State was less than 10,000 tons for the preceding year's crop, all or any part of a farm poundage quota may be transferred by sale or lease or otherwise from a farm in one county to a farm in another county in the same State.

"(l) Transfers (including transfer by sale or lease) of farm poundage quotas under this section shall be subject to all of the following conditions:

"(1) No transfer of the farm poundage quota from a farm subject to a mortgage or other lien shall be permitted unless the transfer is agreed to by the lienholders.

"(2) No transfer of the farm poundage quota shall be permitted if the county committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act determines that the receiving farm does not have adequate tillable cropland to produce the farm poundage quota.

"(3) No transfer of the farm poundage quota shall be effective until a record thereof is filed with the county committee of the county to which such transfer is made and such committee determines that the transfer complies with this section.

"(4) Such other terms and conditions that the Secretary may by regulation prescribe.".

MARKETING PENALTIES; DISPOSITION OF ADDITIONAL PEANUTS

SEC. 704. Effective only for the 1986 through 1990 crops of peanuts, section 359 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359) is amended by adding at the end thereof the following:

"(m)(1)(A) The marketing of any peanuts for domestic edible use in excess of the farm poundage quota for the farm on which such peanuts are produced shall be subject to penalty at a rate equal to 140 percent of the support price for quota peanuts for the marketing year in which such marketing occurs.

"(B) For purposes of this section, the marketing year for peanuts shall be the 12-month period beginning August 1 and ending July 31.

"(C) The marketing of any additional peanuts from a farm shall be subject to the same penalty unless such peanuts, in accordance with regulations established by the Secretary, are—

"(i) placed under loan at the additional loan rate in effect for such peanuts under section 108B of the Agricultural Act of 1949 and not redeemed by the producers;

"(ii) marketed through an area marketing association designated pursuant to section 108B(3)(A) of the Agricultural Act of 1949; or

"(iii) marketed under contracts between handlers and producers pursuant to subsection (q).

"(2) Such penalty shall be paid by the person who buys or otherwise acquires the peanuts from the producer or, if the peanuts are marketed by the producer through an agent, the penalty shall be paid by such agent. Such person or agent may deduct an amount equivalent to the penalty from the price paid to the producer.

"(3) If the person required to collect the penalty fails to collect such penalty, such person and all persons entitled to share in the peanuts marketed from the farm or the proceeds thereof shall be jointly and severally liable for the amount of the penalty.

"(4) Peanuts produced in a calendar year in which farm poundage quotas are in effect for the marketing year beginning therein shall be subject to such quotas even though the peanuts are marketed prior to the date on which such marketing year begins.

"(5) If any producer falsely identifies or fails to certify planted acres or fails to account for the disposition of any peanuts produced on such planted acres, an amount of peanuts equal to the farm's average yield, as determined under section 358(t), times the planted acres, shall be deemed to have been marketed in violation of permissible uses of quota and additional peanuts. Any penalty payable under this paragraph shall be paid and remitted by the producer.

"(6) The Secretary shall authorize, under such regulations as the Secretary shall issue, the county committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act to waive or reduce marketing penalties provided for under this subsection in cases in which such committees determine that the violations that were the basis of the penalties were unintentional or without knowledge on the part of the parties concerned.

"(7) Errors in weight that do not exceed one-tenth of 1 percent in the case of any one marketing document shall not be considered to be marketing violations except in cases of fraud or conspiracy.

"(n)(1) Only quota peanuts may be retained for use as seed or for other uses on a farm. When so retained, quota peanuts shall be considered as marketings of quota peanuts, except that the Secretary may exempt from consideration as marketings of quota peanuts seeds of peanuts that are used to produce peanuts excluded under subsection (c), are unique strains, and are not commercially available.

"(2) Additional peanuts shall not be retained for use on a farm and shall not be marketed for domestic edible use, except as provided in subsection (r).

"(3) Seed for planting of any peanut acreage in the United States shall be obtained solely from quota peanuts marketed or considered marketed for domestic edible use.

"(o) On a finding by the Secretary that the peanuts marketed from any crop for domestic edible use by a handler are larger in quantity or higher in grade or quality than the peanuts that could reasonably be produced from the quantity of peanuts having the grade, kernel content, and quality of the quota peanuts acquired by such handler from such crop for such marketing, such handler shall be subject to a penalty equal to 140 percent of the loan level for quota peanuts on the quantity of peanuts that the Secretary determines are in excess of the quantity, grade, or quality of the peanuts that could reasonably have been produced from the peanuts so acquired.

"(p)(1) Except as provided in paragraph (2), the Secretary shall require that the handling and disposal of additional peanuts be supervised by agents of the Secretary or by area marketing associations designated pursuant to section 108B(3)(A) of the Agricultural Act of 1949.

"(2)(A) Supervision of the handling and disposal of additional peanuts by a handler shall not be required under paragraph (1) if the handler agrees in writing, prior to any handling or disposal of such peanuts, to comply with regulations that the Secretary shall issue.

"(B) The regulations issued by the Secretary under subparagraph (A) shall include, but need not be limited to, the following provisions:

"(i) Handlers of shelled or milled peanuts may export peanuts classified by type in all of the following quantities (less such reasonable allowance for shrinkage as the Secretary may prescribe):

"(I) Sound split kernel peanuts in an amount equal to twice the poundage of such peanuts purchased by the handler as additional peanuts.

"(II) Sound mature kernel peanuts in an amount equal to the poundage of such peanuts purchased by the handler as additional peanuts less the amount of sound split kernel peanuts purchased by the handler as additional peanuts.

"(III) The remaining quantity of total kernel content of peanuts purchased by the handler as additional peanuts and not crushed domestically.

"(ii) Handlers shall ensure that any additional peanuts exported are evidenced by onboard bills of lading, other appropriate documentation as may be required by the Secretary, or both.

"(iii) If a handler suffers a loss of peanuts as a result of fire, flood, or any other condition beyond the control of the handler, the portion of such loss allocated to contracted additional peanuts shall not be greater than the portion of the handler's total peanut purchases for the year attributable to contracted additional peanuts purchased for export by the handler during such year.

"(3) A handler shall submit to the Secretary adequate financial guarantees, as well as evidence of adequate facilities and assets, to ensure the handler's compliance with the obligation to export peanuts.

"(4) Quota and additional peanuts of like type and segregation or quality may, under regulations issued by the Secretary, be commingled and exchanged on a dollar value basis to facilitate warehousing, handling, and marketing.

"(5)(A) Except as provided in subparagraph (B), the failure by a handler to comply with regulations issued by the Secretary governing the disposition and handling of additional peanuts shall subject the handler to a penalty at a rate equal to 140 percent of the loan level for quota peanuts on the quantity of peanuts involved in the violation.

"(B) A handler shall not be subject to a penalty for failure to export additional peanuts if such peanuts were not delivered to the handler.

"(6) If any additional peanuts exported by a handler are reentered into the United States in commercial quantities as determined by the Secretary, the importer thereof shall be subject to a penalty at a rate equal to 140 percent of the loan level for quota peanuts on the quantity of peanuts reentered.

"(q)(1) Handlers may, under such regulations as the Secretary may issue, contract with producers for the purchase of additional peanuts for crushing, export, or both.

"(2) Any such contract shall be completed and submitted to the Secretary (or if designated by the Secretary, the area marketing association) for approval before August 1 of the year in which the crop is produced.

"(3) Each such contract shall contain the final price to be paid by the handler for the peanuts involved and a specific prohibition against the disposition of such peanuts for domestic edible or seed use.

"(r)(1) Subject to section 407 of the Agricultural Act of 1949, any peanuts owned or controlled by the Commodity Credit Corporation may be made available for domestic edible use, in accordance with regulations issued by the Secretary, so long as doing so does not result in substantially increased cost to the Commodity Credit Corporation. Additional peanuts received under loan shall be offered for sale for domestic edible use at prices not less than those required to cover all costs incurred with respect to such peanuts for such items as inspection, warehousing, shrinkage, and other expenses, plus—

"(A) not less than 100 percent of the loan value of quota peanuts if the additional peanuts are sold and paid for during the harvest season on delivery by and with the written consent of the producer;

"(B) not less than 105 percent of the loan value of quota peanuts if the additional peanuts are sold after delivery by the producer but not later than December 31 of the marketing year; or

"(C) not less than 107 percent of the loan value of quota peanuts if the additional peanuts are sold later than December 31 of the marketing year.

"(2)(A) Except as provided in subparagraph (B), for the period from the date additional peanuts are delivered for loan to March 1 of the calendar year following the year in which such additional peanuts were harvested, the area marketing association designated pursuant to section 108B(3)(A) of the Agricultural Act of 1949 shall have sole authority to accept or reject lot list bids when the sales price, as determined under this subsection, equals or exceeds the minimum price at which the Commodity Credit Corporation may sell its stocks of additional peanuts.

"(B) The area marketing association and the Commodity Credit Corporation may agree to modify the authority granted by subparagraph (A) to facilitate the orderly marketing of additional peanuts.

"(s)(1) The person liable for payment or collection of any penalty provided for in this section shall be liable also for interest thereon at a rate per annum equal to the rate per annum of interest that was charged the Commodity Credit Corporation by the Treasury of the United States on the date such penalty became due.

"(2) This section shall not apply to peanuts produced on any farm on which the acreage harvested for nuts is one acre or less if the producers who share in the peanuts produced on such farm do not share in the peanuts produced on any other farm.

"(3) Until the amount of the penalty provided by this section is paid, a lien on the crop of peanuts with respect to which such penalty is incurred, and on any subsequent crop of peanuts subject to farm poundage quotas in which the person liable for payment of the penalty has an interest, shall be in effect in favor of the United States.

"(4)(A) Notwithstanding any other provision of law, the liability for and the amount of any penalty assessed under this section shall be determined in accordance with such procedures as the Secretary by regulation may prescribe. The facts constituting the basis for determining the liability for or amount of any penalty assessed under this section, when officially determined in conformity with the applicable regulations prescribed by the Secretary, shall be final and conclusive and shall not be reviewable by any other officer or agency of the Government.

"(B) Nothing in this section shall be construed as prohibiting any court of competent jurisdiction from reviewing any determination made by the Secretary with respect to whether such determination was made in conformity with the applicable law and regulations.

"(C) All penalties imposed under this section shall for all purposes be considered civil penalties.

"(5)(A) Notwithstanding any other provision of law and except as provided in subparagraph (B), the Secretary may reduce the amount of any penalty assessed against handlers under this section if the Secretary finds that the violation on which the penalty is based was minor or inadvertent, and that the reduction of the penalty will not impair the operation of the peanut program.

"(B) The amount of any penalty imposed on a handler under this section that resulted from the failure to export contracted additional peanuts may not be reduced by the Secretary.".

PRICE SUPPORT PROGRAM

SEC. 705. Effective only for the 1986 through 1990 crops of peanuts, the Agricultural Act of 1949 is amended by adding after section 108A the following:

"PRICE SUPPORT FOR 1986 THROUGH 1990 CROPS OF PEANUTS

"SEC. 108B. Notwithstanding any other provision of law:

"(1)(A) The Secretary shall make price support available to producers through loans, purchases, and other operations on quota peanuts for each of the 1986 through 1990 crops.

"(B)(i) The national average quota support rate for the 1986 crop of quota peanuts shall be equal to the national average support rate established for the 1985 crop of quota peanuts, adjusted by the Secretary by a percentage equal to the percentage of any increase in the prices paid by producers for commodities and services, interest, taxes, and wage rates during the period beginning with calendar year 1981 and ending with calendar year 1985, as determined by the Secretary.

"(ii) The national average quota support rate for each of the 1987 through 1990 crops of quota peanuts shall be the national average quota support rate for the immediately preceding crop, adjusted to reflect any increase, during the calendar year immediately preceding the marketing year for the crop for which a level of support is being determined, in the national average cost of peanut production, excluding any change in the cost of land, except that in no event shall the national average quota support rate for any such crop exceed by more than 6 percent *the national average quota support rate for the preceding crop.*

"(C) The levels of support so announced shall not be reduced by any deductions for inspection, handling, or storage.

"(D) The Secretary may make adjustments for location of peanuts and such other factors as are authorized by section 403.

"(E) The Secretary shall announce the level of support for quota peanuts of each crop not later than February 15 preceding the marketing year for the crop for which the level of support is being determined.

"(2)(A) The Secretary shall make price support available to producers through loans, purchases, or other operations on additional peanuts for each of the 1986 through 1990 crops at such levels as the Secretary finds appropriate, taking into consideration the demand for peanut oil and peanut meal, expected prices of other vegetable oils and protein meals, and the demand for peanuts in foreign markets, except that the Secretary shall set the support rate on additional peanuts at a level estimated by the Secretary to ensure that there are no losses to the Commodity Credit Corporation on the sale or disposal of such peanuts.

"(B) The Secretary shall announce the level of support for additional peanuts of each crop not later than February 15 preceding the marketing year for the crop for which the level of support is being determined.

"(3)(A)(i) In carrying out paragraphs (1) and (2), the Secretary shall make warehouse storage loans available in each of the three producing areas (described in section 1446.60 of title 7 of the Code of Federal Regulations (January 1, 1985)) to a designated area marketing association of peanut producers that is selected and approved by the Secretary and that is operated primarily for the purpose of conducting such loan activities. The Secretary may not make warehouse storage loans available to any cooperative that is engaged in operations or activities concerning peanuts other than those operations and activities specified in this section and section 359 of the Agricultural Adjustment Act of 1938.

"(ii) Such area marketing associations shall be used in administrative and supervisory activities relating to price support and marketing activities under this section and section 359 of the Agricultural Adjustment Act of 1938.

"(iii) Loans made under this subparagraph shall include, in addition to the price support value of the peanuts, such costs as the area marketing association reasonably may incur in carrying out its responsibilities, operations, and activities under this section and section 359 of the Agricultural Adjustment Act of 1938.

"(B)(i) The Secretary shall require that each area marketing association establish pools and maintain complete and accurate records by area and segregation for quota peanuts handled under loan and for additional peanuts placed under loan, except that separate pools shall be established for Valencia peanuts produced in New Mexico. Bright hull and dark hull Valencia peanuts shall be considered as separate types for the purpose of establishing such pools.

"(ii) Net gains on peanuts in each pool, unless otherwise approved by the Secretary, shall be distributed only to producers who placed peanuts in the pool and shall be distributed in proportion to the value of the peanuts placed in the pool by each producer. Net gains for peanuts in each pool shall consist of the following:

"(I) For quota peanuts, the net gains over and above the loan indebtedness and other costs or losses incurred on peanuts placed in such pool plus an amount from the pool for additional peanuts, to the extent of the net gains from the sale for domestic food and related uses of additional peanuts in the pool for additional peanuts equal to any loss on disposition of all peanuts in the pool for quota peanuts.

"(II) For additional peanuts, the net gains over and above the loan indebtedness and other costs or losses incurred on peanuts placed in the pool for additional peanuts less any amount allocated to offset any loss on the pool for quota peanuts as provided in subclause (I).

"(4) Notwithstanding any other provision of this section:

"(A) Any distribution of net gains on additional peanuts shall be first reduced to the extent of any loss by the Commodity Credit Corporation on quota peanuts placed under loan.

"(B)(i) The proceeds due any producer from any pool shall be reduced by the amount of any loss that is incurred with respect to peanuts transferred from an additional loan pool to a quota loan pool under section 358(s)(8) of the Agricultural Adjustment Act of 1938.

"(ii) Losses in area quota pools, other than losses incurred as a result of transfers from additional loan pools to quota loan pools under section 358(s)(8) of the Agricultural Adjustment Act of 1938, shall be offset by any gains or profits from pools in other production areas (other than separate type pools established under paragraph (3)(B)(i) for Valencia peanuts produced in New Mexico) in such manner as the Secretary shall by regulation prescribe.

"(5) Notwithstanding any other provision of law, no price support may be made available by the Secretary for any crop of peanuts with respect to which poundage quotas have been disapproved by producers, as provided for in section 358(u) of the Agricultural Adjustment Act of 1938.".

REPORTS AND RECORDS

SEC. 706. Effective only for the 1986 through 1990 crops of peanuts, the first sentence of section 373(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1373(a)) is amended by inserting before "all brokers and dealers in peanuts" the following: "all producers engaged in the production of peanuts,".

SUSPENSION OF CERTAIN PRICE SUPPORT PROVISIONS

SEC. 707. Section 101 of the Agricultural Act of 1949 (7 U.S.C. 1441) shall not be applicable to the 1986 through 1990 crops of peanuts.

TITLE VIII—SOYBEANS

SOYBEAN PRICE SUPPORT

SEC. 801. Effective only for the 1986 through 1990 crops of soybeans, section 201 of the Agricultural Act of 1949 (7 U.S.C. 1446) is amended by—

(1) inserting "soybeans," after "tung nuts," in the first sentence; and

(2) adding at the end thereof the following new subsection:

"(i)(1)(A) The Secretary shall support the price of soybeans through loans and purchases in each of the 1986 through 1990 marketing years as provided in this subsection.

"(B) The support price for the 1986 and 1987 crops of soybeans shall be $5.02 per bushel.

"(C) The support price for each of the 1988 through 1990 crops of soybeans shall be established at a level equal to 75 percent of the simple average price received by producers for soybeans in the preceding 5 marketing years, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period, except that the level of price support may not be reduced by more than 5 percent in any year and in no event below $4.50 per bushel.

"(2) If the Secretary determines that the level of loans or purchases computed for a marketing year under paragraph (1) would discourage the exportation of soybeans and cause excessive stocks of soybeans in the United States, the Secretary may reduce the level of loans and purchases for soybeans for the marketing year by the amount the Secretary determines necessary to maintain domestic and export markets for soybeans, except that the level of loans and purchases may not be reduced by more than 5 percent in any year and in no event below $4.50 per bushel. Any reduction in the loan and purchase level for soybeans under this paragraph shall not be considered in determining the loan and purchase level for soybeans for subsequent years.

"(3)(A) If the Secretary determines that such action will assist in maintaining the competitive relationship of soybeans in domestic and export markets after taking into consideration the cost of producing soybeans, supply and demand conditions, and world prices for soybeans, the Secretary may permit a producer to repay a loan made under this subsection for a crop at a level that is the lesser of—

"(i) the loan level determined for such crop; or

"(ii) the prevailing world market price for soybeans, as determined by the Secretary.

"(B) If the Secretary makes the determination described in subparagraph (A), the Secretary shall prescribe by regulation—

"(i) a formula to define the prevailing world market price for soybeans; and

"(ii) a mechanism by which the Secretary shall periodically announce the prevailing world market price for soybeans.

"(4) For purposes of this subsection, the soybean marketing year is the 12-month period beginning on September 1 and ending on August 31.

"(5)(A) The Secretary shall make a preliminary announcement of the level of price support for soybeans for a marketing year not earlier than 30 days before the beginning of the marketing year. The announced level shall be based on the latest information and statistics available at the time of the announcement.

"(B) The Secretary shall make a final announcement of such level as soon as complete information and statistics are available on prices for the 5 years preceding the beginning of the marketing year. Such final level of support may not be announced later than October 1 of the marketing year with respect to which the announcement is made. The final level of support may not be less than the level of support provided for in the preliminary announcement.

"(6) Notwithstanding any other provision of law—

"(A) the Secretary shall not require participation in any production adjustment program for soybeans or any other commodity as a condition of eligibility for price support for soybeans;

"(B) the Secretary shall not permit the planting of soybeans for harvest on reduced acreage or acreage set aside or diverted from

production under any other Federal Government program;

"(C) the Secretary may not authorize payments to producers to cover the cost of storing soybeans; and

"(D) soybeans may not be considered an eligible commodity for any reserve program.".

TITLE IX—SUGAR

SUGAR PRICE SUPPORT

SEC. 901. Effective only for the 1986 through 1990 crops of sugar beets and sugarcane, section 201 of the Agricultural Act of 1949 (7 U.S.C. 1446) (as amended by section 801 of this Act) is further amended by—

(1) striking out "honey, and milk" in the first sentence and inserting in lieu thereof "honey, milk, sugar beets, and sugarcane"; and

(2) adding at the end thereof the following new subsection:

"(j)(1) The price of each of the 1986 through 1990 crops of sugar beets and sugarcane, respectively, shall be supported in accordance with this subsection.

"(2) The Secretary shall support the price of domestically grown sugarcane through nonrecourse loans at such level as the Secretary determines appropriate but not less than 18 cents per pound for raw cane sugar, except that such level may be increased under paragraph (4).

"(3) The Secretary shall support the price of domestically grown sugar beets through nonrecourse loans at such level as the Secretary determines is fair and reasonable in relation to the loan level for sugarcane.

"(4)(A) The Secretary may increase the support price for each of the 1986 through 1990 crops of domestically grown sugarcane and sugar beets from the price determined for the preceding crop based on such factors as the Secretary determines appropriate, including changes (during the 2 crop years immediately preceding the crop year for which the determination is made) in the cost of sugar products, the cost of domestic sugar production, and other circumstances that may adversely affect domestic sugar production.

"(B) If the Secretary makes a determination not to increase the support price under subparagraph (A), the Secretary shall submit a report containing the findings, decision, and supporting data for such determination to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

"(5) The Secretary shall announce the loan rate to be applicable during any fiscal year under this subsection as far in advance of the beginning of that fiscal year as is practicable consistent with the purposes of this subsection.

"(6) Loans under this subsection during any fiscal year shall be made available not earlier than the beginning of such fiscal year and shall mature before the end of such fiscal year.".

PREVENTION OF SUGAR LOAN FORFEITURES

SEC. 902. (a) Beginning with the quota year for sugar imports which begins after the 1985/1986 quota year, the President shall use all authorities available to the President as is necessary to enable the Secretary of Agriculture to operate the sugar program established under section 201 of the Agricultural Act of 1949 (7 U.S.C. 1446) at no cost to the Federal Government by preventing the accumulation of sugar acquired by the Commodity Credit Corporation.

(b) Effective only for the 1985/1986 quota year for sugar imports, the President shall—

(1) modify the 1985/1986 quota year for imports for sugar so that such quota year will end no earlier than December 31, 1986, and rearrange the shipping schedules so that shipments are divided equally throughout the quota year, as extended; or

(2) require that the sugar program be administered in such a manner as will result in the forfeiture of sugar held by the Commodity Credit Corporation as collateral for price support loans in a quantity no greater than the total quantity (determined by the Secretary of Agriculture) that would have been forfeited to the Commodity Credit Corporation had the 1985/1986 quota year been modified as prescribed in clause (1).

(c) Beginning with the quota year for sugar imports which begins after the 1985/1986 quota year, the President shall not allocate any of the sugar import quota under such provisions to any country that is a net importer of sugar derived from sugarcane or sugar beets unless the appropriate officials of that country verify to the President that that country does not import for reexport to the United States any sugar produced in Cuba.

PROTECTION OF SUGAR PRODUCERS

SEC. 903. (a) Section 401(e) of the Agricultural Act of 1949 (7 U.S.C. 1421(e)) is amended by—

(1) inserting "(1)" after the subsection designation; and

(2) adding at the end thereof the following new paragraph:

"(2)(A) If the assurances under paragraph (1) are not adequate to cause the producers of sugar beets and sugar cane, because of the bankruptcy or other insolvency of the processor, to receive maximum benefits from the price support program within 30 days after the final settlement date provided for in the contract between such producers and processor, the Secretary, on demand made by such producers and on such assurances as to nonpayment as the Secretary shall require, shall pay such producers such maximum benefits less benefits previously received by such producers.

"(B) On such payment, the Secretary shall—

"(i) be subrogated to all claims of such producers against the processor and other persons responsible for nonpayment; and

"(ii) have authority to pursue such claims as necessary to recover the benefits not paid to the producers.

"(C) The Secretary shall carry out this paragraph through the Commodity Credit Corporation.".

(b) The amendments made by this section shall apply to nonpayments occurring after January 1, 1985.

TITLE X—GENERAL COMMODITY PROVISIONS

SUBTITLE A—MISCELLANEOUS COMMODITY PROVISIONS

PAYMENT LIMITATIONS

SEC. 1001. Notwithstanding any other provision of law:

(1) For each of the 1986 through 1990 crops, the total amount of payments (excluding disaster payments) that a person shall be entitled to receive under one or more of the annual programs established under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) for wheat, feed grains, upland cotton, extra long staple cotton, and rice may not exceed $50,000.

(2) For each of the 1986 through 1990 crops, the total amount of disaster payments that a person shall be entitled to receive under one or more of the annual programs established under the Agricultural Act of 1949 for wheat, feed grains, upland cotton, and rice may not exceed $100,000.

(3) As used in this section, the term "payments" does not include—

(A) loans or purchases;

(B) any part of any payment that is determined by the Secretary of Agriculture to represent compensation for resource adjustment (excluding land diversion payments) or public access for recreation;

(C) any gain realized by a producer from repaying a loan for a crop of wheat, feed grains, upland cotton, or rice at the rate permitted under section 107D(a)(5), 105C(a)(4), 103A(a)(5), or 101A(a)(5), respectively, of the Agricultural Act of 1949;

(D) any deficiency payment received for a crop of wheat or feed grains under section 107D(c)(1) or 105C(c)(1), respectively, of such Act as the result of a reduction of the loan level for such crop under section 107D(a)(4) or 105C(a)(3) of such Act;

(E) any loan deficiency payment received for a crop of wheat, feed grains, upland cotton, or rice under section 107D(b), 105C(b), 103A(b), or 101A(b), respectively, of such Act;

(F) any inventory reduction payment received for a crop of wheat, feed grains, upland cotton, or rice under section 107D(g), 105C(g), 103A(g), or 101A(g), respectively, of such Act;

(G) any increased established price payments under section 105C(c)(1)(E) or 107D(c)(1)(E), respectively, of such Act; or

(H) any benefit received as a result of any cost reduction action by the Secretary under section 1009 of this Act.

(4) If the Secretary determines that the total amount of payments that will be earned by any person under the program in effect for any crop will be reduced under this section, any acreage requirement established under a set-aside or acreage limitation program for the farm or farms on which such person will be sharing in payments earned under such program shall be adjusted to such extent and in such manner as the Secretary determines will be fair and reasonable in relation to the amount of the payment reduction.

(5)(A) The Secretary shall issue regulations—

(i) defining the term "person"; and

(ii) prescribing such rules as the Secretary determines necessary to assure a fair and reasonable application of the limitation established under this section.

(B) The regulations issued by the Secretary on December 18, 1970, under section 101 of the Agricultural Act of 1970 (7 U.S.C. 1307) shall be used to establish the percentage ownership of a corporation by the stockholders of such corporation for the purpose of determining whether such corporation and stockholders are separate persons under this section.

(6) The provisions of this section that limit payments to any person shall not be applicable to lands owned by States, political subdivisions, or agencies thereof, so long as such lands are farmed primarily in the direct furtherance of a public function, as determined by the Secretary.

ADVANCE DEFICIENCY AND DIVERSION PAYMENTS

SEC. 1002. Effective only for the 1986 through 1990 crops of wheat, feed grains, upland cotton, and rice, section 107C of the Agricultural Act of 1949 (7 U.S.C. 1445b–2) is amended to read as follows:

"SEC. 107C. (a)(1) If the Secretary establishes an acreage limitation or set-aside pro-

gram for any of the 1986 through 1990 crops of wheat, feed grains, upland cotton, or rice under this Act and determines that deficiency payments will likely be made for such commodity for such crop, the Secretary—

"(A) shall make advance deficiency payments available to producres who agree to participate in such program for the 1986 crop; and

"(B) may make such payments available to such producers for each of the 1987 through 1990 crops.

"(2) Advance deficiency payments under paragraph (1) shall be made to the producer under the following terms and conditions:

"(A) Such payments may be made available in the form of—

"(i) cash;

"(ii) commodities owned by the Commodity Credit Corporation and negotiable certificates redeemable in a commodity owned by the Commodity Credit Corporation, except that not more than 50 percent of such payments may be made in commodities or such certificates in the case of any producer; or

"(iii) any combination of clauses (i) and (ii).

"(B) If payments are made available to producers as provided for under subparagraph (A)(ii), such producers may elect to receive such payments either in the form of—

"(i) such commodities; or

"(ii) such certificates.

"(C) Such a certificate shall be redeemable for a period not to exceed 3 years from the date such certificate is issued.

"(D) The Commodity Credit Corporation shall pay the cost of storing a commodity that may be received under such a certificate until such time as the certificate is redeemed.

"(E) Such payments shall be made available as soon as practicable after the producer enters into a contract with the Secretary to participate in such program.

"(F) Such payments shall be made available in such amounts as the Secretary determines appropriate to encourage adequate participation in such program, except that such amount may not exceed an amount determined by multiplying—

"(i) the estimated farm program acreage for the crop, by

"(ii) the farm program payment yield for the crop, by

"(iii) 50 percent of the projected payment rate,

as determined by the Secretary.

"(G) If the deficiency payment payable to a producer for a crop, as finally determined by the Secretary under this Act, is less than the amount paid to the producer as an advance deficiency payment for the crop under this subsection, the producer shall refund an amount equal to the difference between the amount advanced and the amount finallly determined by the Secretary to be payable to the producer as a deficiency payment for the crop concerned.

"(H) If the Secretary determines under this Act that deficiency payments will not be made available to producers on a crop with respect to which advance deficiency payments already have been made under this subsection, the producers who received such advance payments shall refund such payments.

"(I) Any refund required under subparagraph (G) or (H) shall be due at the end of the marketing year for the crop with respect to which such payments were made.

"(J) If a producer fails to comply with requirements established under the acreage limitations or set-aside program involved after obtaining an advance deficiency payment under this subsection, the producer shall repay immediately the amount of the advance, plus interest thereon in such amount as the Secretary shall prescribe by regulation.

"(3) The Secretary may issue such regulations as the Secretary determines necessary to carry out this section.

"(4) The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

"(5) The authority provided in this section shall be in addition to, and not in place of, any authority granted to the Secretary or the Commodity Credit Corporation under any other provisions of law.

"(b) If the Secretary makes land diversion payments under this Act to assist in adjusting the total national acreage of any of the 1986 through 1990 crops of wheat, feed grains, upland cotton, or rice to desirable levels, the Secretary may make at least 50 percent of such payments available to a producer as soon as possible after the producer agrees to undertake the diversion of land in return for such payments.".

ADVANCE RECOURSE COMMODITY LOANS

SEC. 1003. Effective for the 1986 through 1990 crops, the Agricultural Act of 1949 is amended by inserting after section 423 (7 U.S.C 1433b) the following new section:

"SEC. 424. Notwithstanding any other provision of this Act, the Secretary may make advance recourse loans available to producers of the commodities of the 1986 through 1990 crops for which nonrecourse loans are made available under this Act if the Secretary finds that such action is necessary to ensure that adequate operating credit is available to producers. Such recourse loans may be made available under such reasonable terms and conditions as the Secretary may prescribe, except that the Secretary shall require that a producer obtain crop insurance for the crop as a condition of eligibility for a loan.".

INTEREST PAYMENT CERTIFICATES

SEC. 1004. Effective only for the 1986 through 1990 crops, section 405 of the Agricultural Act of 1949 (7 U.S.C. 1425) is amended by—

(1) inserting "(a)" after section designation; and

(2) adding at the end thereof the following new subsection:

"(b)(1) Notwithstanding any other provision of law, the Secretary may provide a negotiable certificate to any producer who repays, together with interest, a price support loan made available to such producer under any of the annual programs, for wheat, feed grains, upland cotton, or rice established under this Act.

"(2) The amount of such certificates shall be equal to the amount of the interest paid by the producer on such loan.

"(3) Such certificate shall be redeemable in wheat, feed grains, upland cotton, or rice, as the case may be, owned by the Commodity Credit Corporation.

"(4) The issuance of such certificate shall be subject to the availability of commodities owned by the Corporation.".

PAYMENTS IN COMMODITIES

SEC. 1005. The Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) is amended by inserting after section 107D (as added by section 308 of this Act) the following new section:

"SEC. 107E. (a) In making in-kind payments under any of the annual programs for wheat, feed grains, upland cotton, or rice (other than negotiable marketing certificates for upland cotton or rice), the Secretary may—

"(1) acquire and use like commodities that have been pledged to the Commodity Credit Corporation as security for price support loans, including loans made to producers under section 110; and

"(2) use other like commodities owned by the Commodity Credit Corporation.

"(b) The Secretary may make in-kind payments—

"(1) by delivery of the commodity to the producer at a warehouse or other similar facility, as determined by the Secretary;

"(2) by the transfer of negotiable warehouse receipts;

"(3) by the issuance of negotiable certificates which the Commodity Credit Corporation shall redeem for a commodity in accordance with regulations prescribed by the Secretary; or

"(4) by such other methods as the Secretary determines appropriate to enable the producer to receive payments in an efficient, equitable, and expeditious manner so as to ensure that the producer receives the same total return as if the payments had been made in cash.".

WHEAT AND FEED GRAIN EXPORT CERTIFICATE PROGRAMS

SEC. 1006. Effective for the 1986 through 1990 crops of wheat and feed grains, the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) is amended by inserting after section 107F (as added by section 1005 of this Act), the following new section:

"SEC. 107F. (a)(1) The Secretary may establish a program, applicable to any of the 1986 through 1990 crops of wheat or feed grains, to provide incentives for the export of any of such crops of wheat and feed grains from private stocks. The program for any such crop established under this subsection by the Secretary shall include the following terms:

"(A) The Secretary shall issue wheat or feed grain export certificates to producers to whom the Secretary makes loans and payments under section 107D or 105C, respectively, for a crop if such producers comply with the terms and conditions of the program for such crop.

"(B) Each such certificate shall bear a monetary denomination and a designation specifying a quantity of the crop of the commodity involved, selected by the Secretary.

"(C) The aggregate quantity of wheat or feed grains specified in all export certificates distributable to eligible producers of the crop involved shall be equal to—

"(i) the aggregate amount of wheat or feed grains produced by producers participating in the program for the crop under section 107D or 105C, as determined by multiplying the acreage planted by each such producer for harvest times the farm program payment yield for the commodity, times

"(ii) an export production factor.

For purposes of this subparagraph, the export production factor for a crop shall be determined by the Secretary by dividing the quantity of such crop harvested domestically that the Secretary estimates will not be used domestically and will be available for export (excluding the portion of the crop expected to be added to carryover stocks) during the marketing year for such crop by the quantity of such crop that the Secretary estimates will be harvested domestically.

"(D) Wheat or feed grain export certificates shall be distributed among eligible producers in a manner that will ensure that each eligible producer receives certificates

having an aggregate face value that represents an equal rate of return per unit of wheat or feed grains produced by such producer for such crop. For purposes of determining such rate of return, the Secretary shall take into consideration regional variations in the costs incurred by producers to market the commodity (including transportation costs).

"(E) An export certificate issued under this subsection shall be redeemed by the Secretary for a cash amount equal to the monetary denomination on such certificate (or, at the option of the Secretary, a quantity of the commodity involved having a current fair market value equal to such amount) only on presentation by a holder who exports a quantity of the crop involved (including processed wheat or feed grains) equal to the quantity designated in the certificate and only if the Secretary has not redeemed previously an export certificate issued under this subsection presented in connection with the particular wheat or feed grains so exported.

"(2) The Secretary shall carry out this subsection through the Commodity Credit Corporation. If sufficient fund are available to the Corporation, there shall be expended to carry out this subsection with respect to the export of the crop of wheat or feed grains involved an amount not less than the product of multiplying—

"(A) 21 cents for wheat, 11 cents for corn, and such amounts for grain sorghums, oats, and, if designated by the Secretary, barley as the Secretary determines fair and reasonable in relation to the amount specified for corn, times

"(B) the aggregate of the wheat or feed grain acreage planted to the commodity for harvest by producers participating in the program for the crop with respect to which deficiency payments are available under section 107D or 105C, times

"(C) the average of the program yields for the crop.

"(3) Funds expended to carry out export certificate programs established under this subsection shall be in addition to, and not in place of, funds authorized by any other law to be expended to finance or encourage the export of wheat or feed grains.

"(4) For purposes of facilitating the transfer of export certificates under this subsection, the Commodity Credit Corporation may buy and sell certificates in accordance with regulations prescribed by the Secretary.

"(b)(1) Effective for each of the 1986 through 1990 crops of wheat of feed grains, the Secretary may issue to eligible producers (who, for purposes of this subsection, are producers of wheat or feed grains paticipating in the program under this Act for such crop who meet the requirements of paragraph (2)) export marketing certificates, denominated in bushels of wheat or feed grains, as applicable, for the crop, which shall be used, under such terms and conditions as the Secretary may prescribe consistent with the provisions of this subsection, as follows:

"(A) Not later than 3 months before the beginning of the marketing year for a crop of wheat or feed grains, the Secretary may issue to eligible producers that plant at least 50 percent of the farm's wheat or feed grain crop acreage base for such crop, export marketing certificates to be applicable to such marketing year that, in the aggregate, shall equal the quantity of the commodity the Secretary estimates will be exported during the marketing year. Each such eligible producer shall receive certificate for a quantity of the commodity that bears the same ratio to the quantity of estimated exports as the producer's crop acreage base for that crop of the commodity bears to the aggregate total of all such eligible producers' crop acreage bases for that crop, rounded upward to the nearest full bushel.

"(B) The denomination of export marketing certificates shall be 1 bushel (with no accompanying cash face value), except that the Secretary may issue certificates in multiples of such denomination, and any certificate in the multiple of such denomination, may be exchanged by the producer, at the county Agricultural Stabilization and Conservation Service office, for certifications representing an equivalent quantity of the commodity in different multiples, to facilitate the operation of the program under this subsection. Each export marketing certificate shall designate the producer by name and the crop involved.

"(C) If 7 months after the beginning of the marketing year for the crop, the Secretary determines that the amount of the commodity that will be exported during the marketing year for that crop will exceed the aggregate quantity of the commodity represented by all the export marketing certificates so issued, the Secretary may issue addtional export marketing certificates to producers that initially received certificates for the crop sufficient to cover the additional exports, such certificates to be apportioned among such producers so that producer receives the same portion of the additional certificates issued that the producer received of the export certificates initially issued for the crop, as provided in subparagraph (A), rounded upward to the nearest full bushel.

"(D) Producers may convey export marketing certificates issued under this subsection to purchasers of the commodity involved sold by the producers at any time prior to the end of the marketing year for the crop described in the certificate. If a producer has less wheat or feed grains to sell than the quantity represented by the export marketing certificates issued to the producer, because of the reduced production or other reason or because, in the case of additional certificates issued under subparagraph (C), the producer had disposed of the producer's wheat or feed grains prior to the issuance of such additional certificates, the producer, at any time prior to the end of the marketing year for the crop involved, may sell the extra export marketing certificates to any person for such price as agreed on by the producer and purchaser. Any certificate may be reconveyed without restriction.

"(2) To be eligible to receive export certificates under this subsection for a crop of wheat or feed grains, a producer of such commodity must participate in the program under this title for such crop, and—

"(A) if there is no acreage limitation or set-aside in effect for the crop, limit the acreage on the farm planted to the crop for harvest to the farm's wheat or feed grain crop acreage base, as applicable;

"(B) if an acreage limitation is in effect for the crop, limit the acreage on the farm planted to the crop acreage base, as applicable, reduced to the extent required under the acreage limitation program, and comply with any other terms of the acreage limitation program established by the Secretary; or

"(C) if a set-aside program is in effect for the crop, comply with the set-aside and other terms of the set-aside program established by the Secretary.

"(3) Whenever the Secretary issues certificates under this subsection for a crop of wheat or feed grains, no person may export wheat or feed grains or products thereof, from the United States during the marketing year for the crop without surrendering to the Secretary, at the time of export, export marketing certificates for such crop representing the quantity of the commodity being exported or, in the case of wheat or feed grain products, the equivalent quantity of the commodity contained in the products being exported. Persons that fail to comply with the requirements of the preceding sentence shall be subject, for each violation thereof, to a fine of not more than $25,000 or imprisonment for not to exceed 1 year, or both such fine and imprisonment. This paragraph shall not apply to exports of commodities or products owned by the Federal Government or any agency or instrumentality thereof, nor to commodities or products provided to the exporter by the Commodity Credit Corporation under an export development program.

"(4) Any person who falsely makes, issues, alters, forges, or counterfeits any export marketing certificate, or with fraudulent intent possesses, transfers, or uses any such falsely make, issued, altered, forced, or counterfeited export marketing certificate, shall be subject to a fine of not more than $10,000 or imprisonment of not more than 10 years, or both such fine and imprisonment.

"(5) For purposes of facilitating the transfer of export certificates under this subsection, the Commodity Credit Corporation may buy and sell certificates in accordance with regulations prescribed by the Secretary.".

COMMODITY CREDIT CORPORATION SALES PRICE RESTRICTIONS

SEC. 1007. Effective only for the marketing years for the 1986 through 1990 crops, section 407 of the Agricultural Act of 1949 (7 U.S.C. 1427) is amended by—

(1) in the third sentence, striking out the langauge following the third colon and inserting in lieu thereof the following: "Provided, That, notwithstanding any other provision of law, the Corporation may not sell any of its stocks of wheat, corn, grain sorghum, barley, oats, and rye, respectively, at less (A) 115 percent of the current national average loan rate for the commodity, adjusted for such current market differentials reflecting grade, quality, location, and other value factors as the Secretary determines appropriate plus reasonable carrying charges, or (B) if the Secretary permits the repayment of loans made for a crop of the commodity at a rate that is less than the loan level determined for such crop, 115 percent of the average loan repayment rate that is determined for such crop during the period of such loans.";

(2) in the fifth sentence, striking out "current basic county support rate including the value of any applicable price-support payment in kind (or a comparable price if there is no current basic county support rate)" and inserting in lieu thereof the following: "current basic county loan rate (or a comparable price if there is no current basic county loan rate)"; and

(3) in the seventh sentence, striking out ", but in no event shall the purchase price exceed the then current support price for such commodities" and inserting in lieu thereof: "or unduly affecting market prices, but in no event shall the purchase pricc exceed the Corporation's minimum sales price for such commodities for unrestricted use".

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DISASTER PAYMENTS FOR 1985 THROUGH 1990 CROPS OF PEANUTS, SOYBEANS, SUGAR BEETS, AND SUGARCANE

SEC. 1008. Effective only for the 1985 through 1990 crops of peanuts, soybeans, sugar beets, and sugarcane, section 201 of the Agricultural Act of 1949 (7 U.S.C. 1446) (as amended by section 901 of this Act) is further amended by adding at the end thereof the following new subsection:

"(k)(1) If the Secetary determines that the producers on a farm are prevented from planting any portion of the acreage on the farm intended for peanuts, soybeans, sugar beets, or sugarcane to peanuts, soybeans, sugar beets, sugarcane, or other nonconserving crops because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the Secretary may make a prevented planting disaster payment to the producers in an amount equal to the product obtained by multiplying—

"(A) the number of acres so affected but not to exceed the acreage planted to peanuts soybeans, sugar beets, or sugarcane for harvest (including any acreage that the producers were prevented from planting to such commodity or to other nonconserving crops in lieu of peanuts, soybeans, sugar beets, or sugarcane because of drought, flood or other natural disaster, or other condition beyond the control of the producers) in the immediately preceding year, by

"(B) 75 percent of the farm program payment yield established by the Secretary, by

"(C) a payment rate equal to 50 percent of the loan and purchase level for the crop.

"(2) If the secretary determines that because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the total quantity of peanuts, soybeans, sugar beets, or sugarcane that the producers are able to harvest on any farm is less than the result of multiplying 60 percent of the farm program payment yield established by the Secretary for such crop by the acreage planted for harvest for such crop, the Secretary may make a reduced yield disaster payment to the producers at a rate equal to 50 percent of the loan and purchase level for the crop for the deficiency in production below 60 percent for the crop.

"(3) The Secretary may make such adjustments in the amount of payments made available under this paragraph with respect to an individual farm so as to assure the equitable allotment of such payments among producers, taking into account other forms of Federal disaster assistance provided to the producers for the crop involved.".

COST REDUCTION OPTIONS

SEC. 1009. (a) Notwithstanding any other provision of law, whenever the Secretary of Agriculture determines that an acting authorized under subsection (c), (d), or (e) will reduce the total of the direct and indirect costs to the Federal Government of a commodity program administered by the Secretary without adversely affecting income to small- and medium-sized producers participating in such program, the Secretary shall take such action with respect to the commodity program involved.

(b) In the announcement of the specific provisions of any commodity program administered by the Secretary of Agriculture, the Secretary shall include a statement setting forth which, if any, of the actions are to be initially included in the program, and a statement that the Secretary reserves the right to initiate at a later date any action not previously included but authorized by this section, including the right to reopen and change a contract entered into by a producer under the program if the producer voluntarily agrees to the change.

(c) When a nonrecourse loan program is in effect for a crop of a commodity, the Secretary may enter the commercial market to purchase such commodity if the Secretary determines that the cost of such purchases plus appropriate carrying charges will probably be less than the comparable cost of later acquiring the commodity through defaults on nonrecourse loans under the program.

(d) When the domestic market price of a commodity for which a nonrecourse loan program is in effect is insufficient to cover the principal and accumulated interest on a loan made under such program, thereby encouraging default by a producer, the Secretary may provide for settlement of such loan and redemption by the producer of the commodity securing such loan for less than the total of the principal and all interest accumulated thereon if the Secretary determines that such reduction in the settlement price will yield savings to the Federal Government due to—

(1) receipt by the Federal Government of a portion rather than none of the accumulated interest;

(2) avoidance of default; or

(3) elimination of storage, handling, and carrying charges on the forfeited commodity,

but the Secretary may not reduce the settlement price to less than the principal due on the loan.

(e) When a production control or loan program is in effect for a crop of a major agricultural commodity, the Secretary may at any time prior to harvest reopen the program to participating producers for the purpose of accepting bids from producers for the conversion of acreage planted to such crop to diverted acres in return for payment in kind from Commodity Credit Corporation surplus stocks of the commodity to which the acreage was planted, if the Secretary determines that (1) changes in domestic or world supply or demand conditions have substantially changed after announcement of the program for that crop, and (2) without action to further adjust production, the Federal Government and producers will be faced with a burdensome and costly surplus. Such payments in kind shall not be included within the payment limitation of $50,000 per person established under section 1001 of this Act, but shall be limited to a total $20,000 per year per producer for any one commodity.

(f) The authority provided in this section shall be in addition to, and not in place of, any authority granted to the Secretary under any other provision of law.

MULTIYEAR SET-ASIDES

SEC. 1010. Notwithstanding any other provision of law:

(1) The Secretary of Agriculture may enter into multiyear set-aside contracts for a period not to extend beyond the 1990 crops. Such contracts may be entered into only as a part of the programs in effect for the 1986 through 1990 crops of wheat, feed grains, upland cotton, and rice, and only producers participating in one or more of such programs shall be eligible to contract with the Secretary under this section Producers agreeing to a multiyear set-aside agreement shall be required to devote the set-aside acreage to vegetative cover capable of maintaining itself through such period to provide soil protection, water quality enhancement, wildlife production, and natural beauty. Grazing of livestock under this section shall be prohibited, except in areas of a major disaster, as determined by the President, if the Secretary finds there is a need for such grazing as a result of such disaster. Producers entering into agreements under this section shall also agree to comply with all applicable State and local laws and regulations governing noxious weed control.

(2) The Secretary shall provide cost-sharing incentives to farm operators for the establishment of vegetative cover, whenever a multiyear set-aside contract is entered into under this section.

(3) The Secretary may issue such regulations as the Secretary determines necessary to carry out this section.

(4) The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

SUPPLEMENTAL SET-ASIDE AND ACREAGE LIMITATION AUTHORITY

SEC. 1011. Effective for the 1986 through 1990 crops of wheat and feed grains, section 113 of the Agricultural Act of 1949 (7 U.S.C. 1445h) is amended to read as follows:

"SUPPLEMENTAL SET-ASIDE AND ACREAGE LIMITATION AUTHORITY

"SEC. 113. Notwithstanding any other provision of law or prior announcement made by the Secretary to the contrary, the Secretary may announce and provide for a set-aside or acreage limitation program under section 105C or 107D for one or more of the 1986 through 1990 crops of wheat and feed grains if the Secretary determines that such action is in the public interest as a result of the imposition of restrictions on the export of any such commodity by the President or other member of the executive branch of the Federal Government. To carry out effectively a set-aside or acreage limitation program authorized under this section, the Secretary may make such modifications and adjustments in such program as the Secretary determines necessary because of any delay in instituting such program.".

PRODUCER RESERVE PROGRAM FOR WHEAT AND FEED GRAINS

SEC. 1012. (a) Except as provided by subsection (b), effective beginning with the 1986 crops, section 110 of the Agricultural Act of 1949 (7 U.S.C. 1445e) is amended by—

(1) in the first sentence of subsection (a)—

(A) striking out "and" after "supply" and inserting in lieu thereof a comma; and

(B) inserting before the period at the end thereof the following: ", and provide for adequate, but not excessive, carryover stocks to ensure a reliable supply of the commodities";

(2) in the third sentence of subsection (b)—

(A) in clause (1), striking out "nor more than five years" and inserting in lieu thereof ", with extensions as warranted by market conditions";

(B) in clause (4), striking out "before the market price for wheat or feed grains has reached" and inserting in lieu thereof "when the total amount of wheat or feed grains in storage under programs under this section is below the upper limits for such storage as set forth in clauses (A) and (B) of subsection (e)(2) and the market price for wheat or feed grains is below";

(C) in clause (5), striking out "a specified level, as determined by the Secretary" and inserting in lieu thereof "the higher of 140 percent of the nonrecourse loan rate for the commodity or the established price for such commodity, as determined under title I";

(3) adding at the end of subsection (b) the following:

"Whenever—

"(A)(i) the total quantity of wheat stored under storage programs established under this section is less than 17 percent of the estimated total domestic and export usage of wheat during the then current marketing year for wheat, as determined by the Secretary; or

"(ii) the total quantity of feed grains stored under storage programs established under this section is less than 7 percent of the estimated total domestic and export usage of feed grains during the then current marketing year for feed grains, as determined by the Secretary; and

"(B) the market price of the commodity, as determined by the Secretary, does not exceed 140 percent of the nonrecourse loan rate for the commodity;

the Secretary shall encourage participation in the programs authorized under this section by offering producers increased storage payments and loan levels, interest waivers, or such other incentives as the Secretary determines necessary to maintain the total amount of storage under the programs at the levels specified in clauses (A) and (B). The Secretary shall ensure that producers are afforded a fair and equitable opportunity to participate in each producer storage program, taking into account regional differences in the time of harvest."; and

(4) in subsection (e)—

(A) inserting "(1)" after the subsection designation;

(B) inserting before the period at the end of the second sentence the following: ", subject to the upper limits on total quantity of wheat and feed grains that may be stored under storage programs established under this section set out in paragraph (2)";

(C) striking out the third sentence; and

(D) adding at the end thereof the following new paragraph:

"(2) Prior to the harvest of each crop of wheat and feed grains, the Secretary shall determine and establish upper limits on the total quantity of wheat and feed grains that may be stored under storage programs established under this section to be effective during the marketing year for such crop, as follows:

"(A) The upper limit on the total quantity of wheat that may be stored under such programs shall not exceed 30 percent of the estimated total domestic and export usage of wheat during the marketing year for the crop of wheat, as determined by the Secretary.

"(B) The upper limit on the total quantity of feed grains that may be stored under such programs shall not exceed 15 percent of the estimated total domestic and export usage of feed grains during the marketing year for the crop, as determined by the Secretary.

"(C) Notwithstanding clauses (A) and (B), the Secretary may establish the upper limits at higher levels—not in excess of 110 percent of the levels determined under clauses (A) and (B)—if the Secretary determines that the higher limits are necessary to achieve the purposes of this section.".

(b) The amendment made by subsection (a)(2)(B) of this section shall take effect with respect to any loan made under section 110 of the Agricultural Act of 1949 (7 U.S.C. 1445e) the date for repayment of which occurs after the date of enactment of this Act.

EXTENSION OF THE RESERVE

"SEC. 1013. Section 302(i) of the Food Security Wheat Reserve Act of 1980 (7 U.S.C. 1736f-1(i)) is amended by striking out "1985" both places it appears and inserting in lieu thereof "1990".

NORMALLY PLANTED ACREAGE

SEC. 1014. Section 1001 of the Food and Agriculture Act of 1977 (7 U.S.C. 1309) is amended by—

(1) striking out "1985" each place it appears and inserting in lieu thereof "1990"; and

(2) adding at the end thereof the following new subsection:

"(c) Notwithstanding any other provision of law, whenever marketing quotas are in effect for any of the 1987 through 1990 crops of wheat, the Secretary of Agriculture may require, as a condition of eligibility for loans, purchases, and payments on any commodity under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.), that the acreage normally planted to crops designated by the Secretary, adjusted as considered necessary by the Secretary to be fair and equitable among producers, shall be reduced by a quantity equal to—

"(1) the acreage that the Secretary determines would normally be planted to wheat on a farm; minus

"(2) the individual farm program acreage for the farm under section 107D(d)(3)(A) of such Act.".

SPECIAL GRAZING AND HAY PROGRAM

SEC. 1015. (a) Section 109 of the Agricultural Act of 1949 (7 U.S.C. 1445d) is amended by striking out "1985" in the first sentence of subsection (a) and inserting in lieu thereof "1990".

ADVANCE ANNOUNCEMENT OF PROGRAMS

SEC. 1016. Section 406 of the Agricultural Act of 1949 (7 U.S.C. 1426) is amended by

(1) inserting "(a)" after the section designation; and

(2) adding at the end thereof the following new subsection:

"(b)(1) Notwithstanding any other provision of this Act, the Secretary of Agriculture may offer an option to producers of the 1987 through 1991 crops of wheat, feed grains, upland cotton and rice with respect to participation in commodity price support, production adjustment, and payment programs as provided in this subsection.

"(2) With respect to the 1987 through 1991 crops of wheat, feed grains, upland cotton, and rice, in any county in the United States, if the Secretary has not made final announcement of the terms of the commodity price support production adjustment, and payment program for wheat, feed grains, upland cotton, or rice on or before the later of—

"(A) 60 days prior to the normal planting date of such commodity in such county, as determined by the Secretary; or

"(B)(i) in the case of wheat, June 1 of the calendar year prior to the crop year for which such program is announced;

"(ii) in the case of feed grains, September 30 of the calendar year prior to the crop year for which such program is announced;

"(iii) in the case of upland cotton, November 1 of the calendar year prior to the crop year for which such program is announced; and

"(iv) in the case of rice, January 31 of the calendar year that is the same as the crop year for which such program is announced,

than the Secretary may permit producers of any such commodity in such county to elect to receive price support, payments, or other program benefits as provided in (I) the program announced for such commodity for the current crop year or (II) paragraph (3).

"(3)(A)(i) The Secretary may permit producer eligible to make the election provided by this subsection to participate in the program described in this paragraph or, at the discretion of the Secretary, the program announced for the commodity for the current crop year, by complying with the terms of the program announced for the preceding crop of the commodity.

"(B)(i) Except as provided in clause (ii), the Secretary may make available to producers of a commodity who exercise the election provided by this subsection and who comply fully with the terms and conditions of any acreage reduction program established for the preceding year's crop of the commodity—

"(I) loans and purchases at the level established for the crop for which the election is made;

"(II) deficiency payments calculated on the same basis as the deficiency payments which were calculated for the crop immediately preceding the crop with respect to which the election is made; and

"(III) payments equal to the difference between the level of loans and purchases for the crop with respect to which the election is made and the level of loans and purchases for the crop immediately preceding the crop with respect to which the election is made.

Payments authorized by subclause (III) of the preceding sentence shall be made in the form of cash or in-kind commodities.

"(ii) In the case of the 1991 crop, the Secretary shall make available to producers of a commodity who exercise the election provided by this section and who comply fully with the terms and conditions of any acreage reduction program established for the 1990 crop of the commodity—

"(I) loans and purchases at the level established for the 1991 crop under legislation enacted subsequent to the date of the enactment of the Food Security Act of 1985, except that if legislation is enacted subsequent to the enactment of such Act which provides that loans and purchases shall not be made with respect to the 1991 crop of a commodity, the Secretary may make available to producers of such commodity eligible for the election provided by this subsection loans and purchases at the level determined for the 1990 crop, or if legislation is not enacted subsequent to the enactment of such Act which provides that loans and purchases shall be made with respect to the 1991 crop of any such commodity, and if loans and purchases are available to producers of such commodity under laws previously enacted, none of the provisions of this section shall apply to the 1991 crop;

"(II) deficiency payments calculated on the basis of the established price for the commodity determined for the 1990 crop; and

"(III) payments equal to the difference between the level of loans and purchases that the producer is eligible to receive under subclause (I) for such commodity for the 1991 crop and the level of loans and purchases determined for such commodity for the 1990 crop.

Payments authorized by subclause (III) of the preceding sentence shall be made in cash or in the form of in-kind commodities.

"(C) The Secretary shall consider the crop acreage base and farm program payment yield for any farm with respect to which a producer exercises the election provided by this section to be equal to the crop acreage base and farm program payment yield that was established, or would have been established, for such farm for the year preceding the year for which the election is made.".

DETERMINATIONS OF THE SECRETARY

SEC. 1017. (a) The first sentence of section 385 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1385) is amended by inserting "extra long staple cotton," after "upland cotton,".

(b) The Secretary of Agriculture shall determine the rate of loans, payments, and purchases under a program established under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) for any of the 1986 through 1990 crops of a commodity without regard to the requirements for notice and public participation in rulemaking prescribed in section 553 of title 5, United States Code, or in any directive of the Secretary.

APPLICATION OF TERMS IN THE AGRICULTURAL ACT OF 1949

SEC. 1018. Effective only for the 1986 through 1990 crops of wheat, feed grains, upland cotton, and rice, subsection (k) of section 408 of the Agricultural Act of 1949 (7 U.S.C. 1428(k)) is amended to read as follows:

"(k)(1) Reference made in sections 402, 403, 406, 407, and 416 to the terms 'support price', 'level of support', and 'level of price support' shall be considered to apply as well to the loan and purchase level for wheat, feed grains, upland cotton, and rice under this Act.

"(2) References made to the terms 'price support', 'price support operations', and 'price support program' in such sections and in section 401(a) shall be considered as applying as well to loan and purchase operations for wheat, feed grains, upland cotton, and rice under this Act.".

NORMAL SUPPLY

SEC. 1019. Notwithstanding any other provision of law, if the Secretary of Agriculture determines that the supply of wheat, corn, upland cotton, or rice for the marketing year for any of the 1986 through 1990 crops of such commodity is not likely to be excessive and that program measures to reduce or control the planted acreage of the crop are not necessary, such a decision shall constitute a determination that the total supply of the commodity does not exceed the normal supply and no determination to the contrary shall be made by the Secretary with respect to such commodity for such marketing year.

MARKETING YEAR FOR CORN

SEC. 1020. Section 301(b)(7) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1301(b)(7)) is amended by striking out "Corn, October 1-September 30;" and inserting in lieu thereof "Corn, September 1-August 31;".

FEDERAL CROP INSURANCE CORPORATION EMERGENCY FUNDING AUTHORITY

SEC. 1021. Section 516(c)(1) of the Federal Crop Insurance Act (7 U.S.C. 1516(c)(1)) is amended by striking out the last sentence.

CROP INSURANCE STUDY

SEC. 1022. (a) The Secretary of Agriculture shall conduct a study—

(1) of the practice of offsetting the quantity of winter and spring wheat of a producer for the purpose of determining the amount of benefits due such producer under a policy insured under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.); and

(2) of the feasibility and desirability of including winterkill of winter wheat as a loss covered by crop insurance under such Act.

(b) Not later than 180 days after the date of enactment of this Act, the Secretary shall report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the results of the study conducted under subsection (a), together with any recommendations for any legislation or regulations necessary to rectify any inequities identified in such study.

NATIONAL AGRICULTURAL COST OF PRODUCTION STANDARDS REVIEW BOARD

SEC. 1023. (a) Subsection (c) of section 1006 of the Agriculture and Food Act of 1981 (7 U.S.C. 4102(c)) is amended to read as follows:

"(c) A person may serve as a member of the Board for one or more terms.".

"(b) Section 1014 of such Act (7 U.S.C. 4110) is amended by striking out "1985" and inserting in lieu thereof "1990".

LIQUID FUELS

SEC. 1024. Section 423(a) of the Agricultural Act of 1949 (7 U.S.C. 1433b) is amended by striking out all after "the Commodity Credit Corporation" and inserting in lieu thereof the following: "the Corporation may, under terms and conditions established by the Secretary, make its accumulated stocks of agricultural commodities available, at no cost or reduced cost, to encourage the purchase of such commodities for the production of liquid fuels and agricultural commodity byproducts. In carrying out the program established by this section, the Secretary shall ensure, insofar as possible, that any use of agricultural commodities made available be made in such manner as to encourage increased use and avoid displacing usual marketings of agricultural commodities.".

Subtitle B—Uniform Base Acreage and Yield Provisions

ACREAGE BASE AND PROGRAM YIELD SYSTEM FOR THE WHEAT, FEED GRAIN, UPLAND COTTON, AND RICE PROGRAMS

SEC. 1031. Effective for the 1986 through 1990 crops of wheat, feed grains, upland cotton, and rice, the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) is amended by inserting after title IV the following new title:

"TITLE V—ACREAGE BASE AND PROGRAM YIELD SYSTEM FOR THE WHEAT, FEED GRAIN, UPLAND COTTON, AND RICE PROGRAMS

"SEC. 501. The purpose of this title is to prescribe a system for establishing farm and crop acreage bases and program yields for the wheat, feed grain, upland cotton, and rice programs under this Act that is efficient, equitable, flexible, and predictable.

"SEC. 502. For purposes of this title—

"(1) the term 'program crop' means any crop of wheat, feed grains, upland cotton, or rice; and

"(2) the term 'county committee' means the county committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) for the county in which the farm is administratively located.

"SEC. 503. (a)(1) Except as provided in paragraph (2), the Secretary shall provide for the establishment and maintenance of farm acreage bases for the 1986 and subsequent crop years.

"(2) With respect to the 1986 crop year, the Secretary may forgo the establishment of farm acreage bases under this title.

"(b)(1) The county committee, in accordance with regulations prescribed by the Secretary, shall determine the farm acreage base for a farm for a crop year. Such farm acreage base shall include the number of acres equal to the sum of the crop acreage bases for the farm.

"(2) In the case of farm acreage bases established for the 1987 and subsequent crop years, the determination of the farm acreage base shall also include (in addition to the crop acreage bases for the farm) the sum of (A) the average of the acreage on the farm planted to soybeans in the 1986 and subsequent crop years, and (B) the average of the acreage on the farm devoted by the producer to a conserving use in the normal course of farming operations in the 1986 and subsequent crop years.

"SEC. 504. (a)(1) The Secretary shall provide for the establishment and maintenance of crop acreage bases for each program crop, including any program crop produced under an established practice of double cropping. The sum of the crop acreage bases for all program crops produced on any farm for any crop year shall not exceed the farm acreage base for such farm for such crop year, except to the extent that the excess is due to an established practice of double cropping.

"(2) The term 'double cropping' means a farming practice, as defined by the Secretary, which has been carried out on a farm in at least 3 of the 5 crop years immediately preceding the crop year for which the crop acreage base for the farm is established.

"(b)(1)(A) Except as provided in subparagraph (B), the crop acreage base for a program crop for any farm for the 1986 and subsequent crop years shall be the number of acres that is equal to the average of the acreage planted and considered planted to such program crop for harvest on the farm in each of the five crop years preceding such crop year.

"(B)(i) In the case of upland cotton and rice, except as provided in clause (ii), if no planted and considered planted acreage has been established for a farm for each of the five crop years preceding such crop year, the crop acreage base for such crop shall be equal to the average of the acreage planted and considered planted to such crop for harvest on the farm in each of the five crop years preceding such crop year, excluding all crop years in which planted and considered planted acreage was not established for the farm.

"(ii) Any crop acreage base established in accordance with paragraph (1)(A) and paragraph (1)(B)(i) shall not exceed a number of acres equal to the average of the acreage planted and considered planted to such crop for harvest on the farm in each of the two crop years preceding such crop year.

"(2) The acreage considered planted to a program crop shall include—

"(A) any reduced acreage, set-aside acreage, and diverted acreage on the farm;

"(B) any acreage on the farm that producers were prevented from planting to such crop because of drought, flood, or other natural disaster, or other condition beyond the control of the producers;

"(C) acreage in an amount equal to the difference between the permitted acreage for a program crop and the acreage planted to the crop, if the acreage considered to be planted is planted to a nonprogram crop, other than soybeans and extra long staple cotton; and

"(D) any acreage on the farm which the Secretary determines is necessary to be included in establishing a fair and equitable crop acreage base.

"(3) For the purpose of determining the crop acreage base for the 1986 and subsequent crop years for any farm, the county committee, in accordance with regulations prescribed by the Secretary, may construct a planting history for such crop if—

"(A) planting records for such crop for any of the five crop years preceding such crop year are incomplete or unavailable; or

"(B) during at least one but not more than four of the five crop years preceding such crop year, the program crop was not produced on the farm.

"(c) The Secretary may make adjustments to reflect crop rotation practices and to reflect such other factors as the Secretary determines should be considered in determining a fair and equitable crop acreage base.

"(d) If a county committee determines, in accordance with regulations prescribed by the Secretary, that the occurrence of a natural disaster or other similar condition beyond the control of the producer prevented the planting of a program crop on any farm within the county (or substantially destroyed any such program crop after it had been planted but before it had been harvested), the producer may plant any other crop, including any other program crop, on the acreage of such farm that, but for the occurrence of such disaster or other condition, would have been devoted to the production of a progam crop. For purposes of determining the farm acreage base or the crop acreage base, any acreage on the farm on which a substitute crop, including any program crop, is planted under this subsection shall be taken into account as if such acreage had been planted to the program crop for which the other crop was substituted.

"SEC. 505. (a) the Secretary may provide for an upward adjustment of any crop acreage base for any farm for any crop year. Except as provided in subsection (d), such adjustment may not exceed the number of acres that is equal to 10 percent of the farm acreage base for such farm for such crop year. Any upward adjustment in a crop acreage base must be offset by an equivalent downward adjustment in one or more other crop acreage bases established for the farm for such crop year.

"(b) the Secretary may suspend, on a nationwide basis, any limitation contained in subsection (a) with respect to the crop acreage base for any program crop if the Secretary determines that—

"(1) a short supply or other similar emergency situation exists with respect to the program crop; or

"(2) market factors exist that require the suspension of the limitation to achieve the purposes of the program.

"SEC. 506. (a) The Secretary shall provide for the establishment of a farm program payment yield for each farm for each program crop for each crop year.

"(b)(1) Except as provided in paragraph (2), the farm program payment yield for each of the 1986 and 1987 crop years shall be the average of the farm program payment yields for the farm for the 1981 through 1985 crop years, excluding the year in which such yield was the highest and the year in which such yield was the lowest.

"(2) If no crop of the commodity was produced on the farm or no farm program payment yield was established for the farm for any of the 1981 through 1985 crop years, the farm program payment yield shall be established on the basis of the average farm program payment yield for such crop years for similar farms in the area.

"(3) If the Secretary determines such action is necessary, the Secretary may establish national, State, or county program payment yields on the basis of—

"(A) historical yields, as adjusted by the Secretary to correct for abnormal factors affecting such yields in the historical period; or

"(B) the Secretary's estimate of actual yields for the crop year involved if historical yield data is not available.

"(4) If national, State, or country program payment yields are established, the farm program payment yields shall balance to the national, State, or county program payment yields.

"(c)(1) With respect to the 1988 and subsequent crop years, the Secretary may (A) establish the farm program payment yield as provided in subsection (b), or (B) establish a farm program payment yield for any program crop for any farm on the basis of the average of the yield per harvested acre for the crop for such farm for each of the five crop years immediately preceding such crop year, excluding the crop year with the highest yield per harvested acre, the crop year with the lowest yield per harvested acre, and any crop year in which such crop was not planted on the farm. For purposes of the preceding sentence, the farm program payment yield for the 1983 through 1986 crop years and the actual yield per harvested acre with respect to the 1987 and subsequent crop years shall be used in determining farm program payment yields.

"(2) The county committee, in accordance with regulations prescribed by the Secretary, may adjust any program yield for any program crop for any farm if the program yield for the crop on the farm does not accurately reflect the productive potential of the farm because of the occurrence of a natural disaster or other similar condition beyond the control of the producer.

"(d) In the case of any farm for which the actual yield per harvested acre for any program crop referred to in subsection (c)(1) for any crop year is not available, the county committee may assign the farm a yield for the crop for such crop year on the basis of actual yields for the crop for such crop year on similar farms in the area.

"SEC. 507. Effective for each of the 1986 and subsequent crop years, each county committee, in accordance with regulations prescribed by the Secretary, may require any producer who seeks to establish a farm acreage base, crop acreage base, or farm program payment yield for a farm for a crop year to provide planting and production history of such farm for each of the five crop years immediately preceding such crop year.

"SEC. 508. Each county committee may, in accordance with regulations prescribed by the Secretary, provide for the establishment of a farm acreage base, crop acreage base, and farm program payment yield with respect to any farm administratively located within the county if such farm acreage base, crop acreage base, or farm program payment yield cannot otherwise be established under this title. Such bases and farm program payment yields shall be established in a fair and equitable manner, but no such bases or farm program payment yields shall be established for a farm if the producer on such farm is subject to sanctions under any provision of Federal law for cultivating highly erodible land or converted wetland.

"SEC. 509. The Secretary shall establish an administrative appeal procedure which provides for an administrative review of determinations made with respect to farm acreage bases, crop acreage bases, and farm program payment yields.".

Subtitle C—Honey

HONEY PRICE SUPPORT

"SEC. 1041. Effective only for the 1986 through 1990 crops of honey, subsection (b) of section 201 of the Agricultural Act of 1949 (7 U.S.C. 1446) is amended to read as follows:

"(b)(1) For each of the 1986 through 1990 crops of honey, the price of honey shall be supported through loans, purchases, or other operations as follows:

"(A) For the 1986 crop, the loan and purchase level for honey shall be 64 cents per pound.

"(B) For the 1987 crop, the loan and purchase level for honey shall be 63 cents per pound.

"(C) For each of the 1988, 1989, and 1990 crops, the loan and purchase level for honey shall be the same as the level established for the preceding crop year reduced by 5 percent, except that such level may not be less than an amount equal to 75 percent of the simple average price received by producers of honey in the 5 preceding crop years, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period.

"(2) The Secretary may permit a producer to repay a loan made to the producer under this subsection for a crop at a level that is the lesser of—

"(A) the loan level determined for such crop; or

"(B) such level as the Secretary determines will—

"(i) minimize the number of loan forfeitures;

"(ii) not result in excessive total stocks of honey;

"(iii) reduce the costs incurred by the Federal Government in storing honey; and

"(iv) maintain the competitiveness of honey in domestic and export markets.

"(3)(A) If the Secretary determines that a person has knowingly pledged adulterated or imported honey as collateral to secure a loan made under this subsection, such person shall, in addition to any other penalties or sanctions prescribed by law, be ineligible for a loan, purchase, or payment under this subsection for the 3 crop years succeeding such determination.

"(B) For purposes of subparagraph (A), honey shall be considered adulterated if—

"(i) any substance has been substituted wholly or in part for such honey;

"(ii) such honey contains a poisonous or deleterious substance that may render such honey injurious to health, except that in any case in which such substance is not added to such honey, such honey shall not be considered adulterated if the quantity of such substance in or on such honey does not ordinarily render it injurious to health; or

"(iii) such honey is for any other reason unsound, unhealthy, unwholesome, or otherwise unfit for human consumption.".

TITLE XI—TRADE

Subtitle A—Public Law 480 and Use of Surplus Commodities in International Programs

TITLE II OF PUBLIC LAW 480—FUNDING LEVELS

SEC. 1101. Effective October 1, 1985, section 204 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1724) is amended by—

(1) striking out "calendar" both places it appears in the first sentence and inserting in lieu thereof "fiscal"; and

(2) inserting after the first sentence the following: "The President may waive the limitation in the preceding sentence if the President determines that such waiver is necessary to undertake programs of assistance to meet urgent humanitarian needs.".

MINIMUM QUANTITY OF AGRICULTURAL COMMODITIES DISTRIBUTED UNDER TITLE II

SEC. 1102. Section 201(b) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1721(b)) is amended to read as follows:

"(b) The minimum quantity of agricultural commodities distributed under this title for each of the fiscal years ending September 30, 1987, September 30, 1988, September 30, 1989, and September 30, 1990, shall be 1,900,000 metric tons, of which not less than 1,425,000 metric tons for nonemergency programs shall be distributed through nonprofit voluntary agencies, cooperatives, and the World Food Program; unless the President determines and reports to the Congress, together with his reasons, that such quantity cannot be used effectively to carry out the purposes of this title.".

TITLE II OF PUBLIC LAW 480—MINIMUM FOR FORTIFIED OR PROCESSED FOOD AND NONPROFIT AGENCY PROPOSALS

SEC. 1103. Section 201 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1721) is amended by adding at the end thereof the following new subsection:

"(c)(1) Except as provided in paragraph (2), in distributing agricultural commodities under this title, the President shall—

"(A) consider—

"(i) the nutritional assistance to recipients and benefits to the United States that would result from distributing such commodities in the form of processed and protein-fortified products, including processed milk, plant protein products, and fruit, nut, and vegetable products;

"(ii) the nutritional needs of the proposed recipients of the commodities;

"(iii) the cost effectiveness of providing such commodities, for purposes of selecting commodities for distribution under nonemergency programs; and

"(iv) the purposes of this title; and

"(B) ensure that at least 75 percent of the quantity of agricultural commodities required to be distributed each fiscal year under subsection (b) for nonemergency programs be in the form of processed or fortified products or bagged commodities.

"(2) The President may waive the requirement under paragraph (1)(B) or make available a smaller percentage of fortified or processed food than required under paragraph (1)(B) during any fiscal year in which the President determines that the requirements of the programs established under this title will not be best served by the distribution of fortified or processed food in the amounts required under paragraph (1)(B).".

FOOD ASSISTANCE PROGRAMS OF VOLUNTARY AGENCIES

SEC. 1104. (a) Title II of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1721 et seq.) is amended by adding at the end thereof the following:

"SEC. 207. (a) A nonprofit voluntary agency requesting a nonemergency food assistance agreement under this title shall include in such request a description of the intended uses of any foreign currency proceeds that would be generated with the commodities provided under the agreement.

"(b) Such agreements shall provide, in the aggregate for each fiscal year, for the use of foreign currency proceeds under this subsection in an amount that is not less than 5 percent of the aggregate value of the commodities distributed under nonemergency programs under this title for such fiscal year.".

(b) Section 207 of the Agricultural Trade Development and Assistance Act of 1954 (as added by subsection (a)) shall apply with respect to agreements entered into after December 31, 1985.

EXTENSION OF THE PUBLIC LAW 480 AUTHORITIES

SEC. 1105. Section 409 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736c) is amended by—

(1) striking out "1985" in the first sentence and inserting in lieu thereof "1990"; and

(2) in the second sentence—

(A) striking out "amendment" and inserting in lieu thereof "amendments"; and

(B) inserting "and the Food Security Act of 1985" after "Agriculture and Food Act of 1981".

FACILITATION OF EXPORTS

SEC. 1106. It is the sense of Congress that the President should work with the People's Republic of China to facilitate the export of agricultural commodities to the People's Republic of China.

FARMER-TO-FARMER PROGRAM UNDER PUBLIC LAW 480

SEC. 1107. (a) Notwithstanding any other provision of law, not less than one-tenth of 1 percent of the funds available for each of the fiscal years ending September 30, 1986, and September 30, 1987, to carry out the Agricultural Trade Development and Assistance Act of 1954 shall be used to carry out paragraphs (1) and (2) of section 406(a) of that Act. Any such funds used to carry out paragraph (2) of section 406(a) shall not constitute more than one-fourth of the funds used as provided by the first sentence of this subsection, shall be used for activities in direct support of the farmer-to-farmer program under paragraph (1) of section 406(a), and shall be administered whenever possible in conjunction with programs under sections 296 through 300 of the Foreign Assistance Act of 1961.

(b) Not later than 120 days after the date of enactment of this Act, the Administrator of the Agency for International Development, in conjunction with the Secretary of Agriculture, shall submit to Congress a report indicating the manner in which the Agency intends to implement the provisions of paragraphs (1) and (2) of section 406(a) of the Agricultural Trade Development and Assistance Act of 1954 with the funds made available under subsection (a).

FOOD FOR DEVELOPMENT PROGRAM

SEC. 1108. Section 302(c)(1)(C) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1727a(c)(1)(C)) is amended by striking out "15" and inserting in lieu thereof "10".

USE OF SURPLUS COMMODITIES IN INTERNATIONAL PROGRAMS

SEC. 1109. Section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431) is amended by—

(1) striking out the last two sentences of subsection (a); and

(2) amending subsection (b) to read as follows:

"(b)(1) The Secretary, subject to the requirements of paragraph (10), may furnish eligible commodities for carrying out programs of assistance in developing countries and friendly countries under title II of the Agricultural Trade Development and Assistance Act of 1954 and under the Food for Progress Act of 1985, as approved by the Secretary, and for such purposes as are approved by the Secretary. To ensure that the furnishing of commodities under this subsection is coordinated with and complements other United States foreign assistance, assistance under this subsection shall be coordinated through the mechanism designated by the President to coordinate assistance under the Agricultural Trade Development and Assistance Act of 1954.

"(2) As used in this subsection, the term 'eligible commodities' means—

"(A) dairy products, grains, and oilseeds acquired by the Commodity Credit Corporation through price support operations that the Secretary determines meet the criteria specified in subsection (a); and

"(B) such other edible agricultural commodities as may be acquired by the Secretary or the Commodity Credit Corporation in the normal course of operations and that are available for disposition under this subsection, except that no such commodities may be acquired for the purpose of their use under this subsection.

"(3)(A) Commodities may not be made available for disposition under this subsection in amounts that (i) will, in any way, reduce the amounts of commodities that traditionally are made available through donations to domestic feeding programs or agencies, or (ii) will prevent the Secretary from fulfilling any agreement entered into by the Secretary under a payment-in-kind program under this Act or other Acts administered by the Secretary.

"(B)(i) The requirements of section 401(b) of the Agricultural Trade Development and Assistance Act of 1954 shall apply with respect to commodities furnished under this subsection. Commodities may not be furnished for disposition to any country under this subsection except on determinations by the Secretary that—

"(I) the receiving country has the absorptive capacity to use the commodities efficiently and effectively; and

"(II) such disposition of the commodities will not interfere with usual marketings of the United States, nor disrupt world prices of agricultural commodities and normal patterns of commercial trade with developing countries.

"(ii) The requirement for safeguarding usual marketings of the United States shall not be used to prevent the furnishing under this subsection of any eligible commodity for use in countries that—

"(I) have not traditionally purchased the commodity from the United States; or

"(II) do not have adequate financial resources to acquire the commodity from the United States through commercial sources or through concessional sales arrangements.

"(C) The Secretary shall take reasonable precautions to ensure that—

"(i) commodities furnished under this subsection will not displace or interfere with sales that otherwise might be made; and

"(ii) sales or barter under paragraph (7) will not unduly disrupt world prices of agricultural commodities nor normal patterns of commercial trade with friendly countries.

"(4) Agreements may be entered into under this subsection to provide eligible commodities in installments over an extended period of time.

"(5)(A) Section 203 of the Agricultural Trade Development and Assistance Act of 1954 shall apply to the commodities furnished under this subsection.

"(B) The Commodity Credit Corporation may pay the processing and domestic handling costs incurred, as authorized under this subsection, in the form of eligible commodities, as defined in paragraph (2)(A), if the Secretary determines that such in-kind payment will not disrupt domestic markets.

"(6) The cost of commodities furnished under this subsection, and expenses incurred under section 203 of the Agricultural Trade Development and Assistance Act of 1954 in connection with those commodities, shall be in addition to the level of assistance programmed under that Act and shall not be considered expenditures for international affairs and finance.

"(7) Eligible commodities, and products thereof, furnished under this subsection may be sold or bartered only with the approval of the Secretary and solely as follows:

"(A) Sales and barter that are incidental to the donation of the commodities or products.

"(B) Sales and barter to finance the distribution, handling, and processing costs of the donated commodities or products in the importing country or in a country through which such commodities or products must be transshipped, or other activities in the importing country that are consistent with providing food assistance to needy people.

"(C) Sales and barter of commodities and products furnished to intergovernmental agencies or organizations, insofar as they are consistent with normal programming procedures in the distribution of commodities by those agencies or organizations.

"(D)(i) Sales of commodities and products furnished to nonprofit and voluntary agencies, or cooperatives, for food assistance under agreements that provide for the use, by the agency or cooperative, of foreign currency proceeds generated from such sale of commodities or products for the purposes established in clause (ii) of this subparagraph.

"(ii) Foreign currency proceeds generated from the sales of commodities and products under this subparagraph shall be used by nonprofit and voluntary agencies, or cooperatives, for activities carried out by the agency or cooperative that will enhance the effectiveness of transportation, distribution, and use of commodities and products donated under this subsection, including food for work programs and cooperative and agricultural projects.

"(iii) Except as otherwise provided in clause (v), such agreements, taken together for each fiscal year, shall provide for sales of commodities and products for foreign currency proceeds in amounts that are, in the aggregate, not less than 5 percent of the aggregate value of all commodities and products furnished for carrying out programs of assistance under this subsection in such fiscal year. The minimum allocation requirements of this clause apply with respect to commodities and products made available under this subsection for carrying out programs of assistance under title II of the Agricultural Trade Development and Assistance Act of 1954, and not with respect to commodities and products made available to carry out the Food for Progress Act of 1985.

"(iv) Foreign currency proceeds generated from the sale of commodities or products under this subparagraph shall be expended within the country of origin within one year of acquisition of such currency, except that the Secretary may permit the use of such proceeds (I) in countries other than the country of origin as necessary to expedite the transportation of commodities and products furnished under this subsection, and (II) after one year of acquisition as appropriate to achieve the purposes of clause (i).

"(v) The provisions of clause (iii) of this subparagraph establishing minimum annual allocations for sales and use of proceeds shall not apply to the extent that there have not been sufficient requests for such sales and use of proceeds nor to the extent required under paragraph (3).

"(E) Sales and barter to cover expenses incurred under paragraph (5)(a).

No portion of the proceeds or services realized from sales or barter under this paragraph may be used to meet operating and overhead expenses, except as otherwise provided in subparagraph (C) and except for personnel and administrative costs incurred by local cooperatives.

"(8)(A) To the maximum extent practicable, expedited procedures shall be used in the implementation of this subsection.

"(B) The Secretary shall be responsible for regulations governing sales and barter, and the use of foreign currency proceeds, under paragraph (7) of this subsection that will provide reasonable safeguards to prevent the occurrence of abuses in the conduct of activities provided for in paragraph (7).

"(9)(A) Each recipient of commodities and products approved for sale or barter under paragraph (7) shall report to the Secretary information with respect to the items required to be included in the Secretary's report pursuant to clauses (i) through (iv) of subparagraph (B). Reports pursuant to this subparagraph shall be submitted in accordance with regulations of the Secretary. Such regulations shall require at least one report annually, to be submitted not later than December 31 following the end of the fiscal year in which the commodities and products are received; except that a report shall not be required with respect to fiscal year 1985.

"(B) Not later than February 15, 1987, and annually thereafter, the Secretary shall report to the Congress on sales and barter, and use of foreign currency proceeds, under paragraph (7) during the preceding fiscal year. Such report shall include information on—

"(i) the quantity of commodities furnished for such sale or barter;

"(ii) the amount of funds (including dollar equivalents for foreign currencies) and value of services generated from such sales and barter in such fiscal year;

"(iii) how such funds and services were used;

"(iv) the amount of foreign currency proceeds that were used under agreements under subparagraph (D) of paragraph (7) in such fiscal year, and the percentage of the quantity of all commodities and products furnished under this subsection in such fiscal year such use represented;

"(v) the Secretary's best estimate of the amount of foreign currency proceeds that will be used, under agreements under subparagraph (D) of paragraph (7), in the then current fiscal year and the next following fiscal year (if all requests for such use are agreed to), and the percentage that such estimated use represents of the quantity of all commodities and products that the Secretary estimates will be furnished under this subsection in each such fiscal year;

"(vi) the effectiveness of such sales, barter, and use during such fiscal year in facilitating the distribution of commodities and products under this subsection;

"(vii) the extent to which sales, barter, or uses—

"(I) displace or interfere with commercial sales of United States agricultural commodities and products that otherwise would be made,

"(II) affect usual marketings of the United States,

"(III) disrupt world prices of agricultural commodities or normal patterns of trade with friendly countries, or

"(IV) discourage local production and marketing of agricultural commodities in the countries in which commodities and products are distributed under this subsection; and

"(viii) the Secretary's recommendations, if any, for changes to improve the conduct of sales, barter, or use activities under paragraph (7).

"(10)(A) Subject to the limitations established under paragraph (3), the Secretary shall make available for disposition under this subsection in each of the fiscal years 1986 through 1990 not less than the minimum quantities of eligible commodities specified in subparagraph (B).

"(B) The minimum quantity of eligible commodities that shall be made available for disposition under this subsection in each fiscal year shall be—

"(i) 500,000 metric tons of grains and oilseeds from the Corporation's uncommitted stocks, or an amount equal to 10 percent of the Corporation's uncommitted stocks of grains and oilseeds as of the end of such fiscal year (as estimated by the Secretary), whichever is less; and

"(ii) 10 percent of the Corporation's uncommitted stocks of dairy products, but not less than 150,000 metric tons of such products to the extent that uncommitted stocks are available.

The Secretary shall make such estimation of expected year-end levels of the Corporation's uncommitted stocks prior to the beginning of the fiscal year. The Secretary's determination as to the amount of the Corporation's stocks that shall be made available for disposition under this subsection for such fiscal year shall be published in the Federal Register, along with a breakdown by kind of commodity and the quantity of each kind of commodity that shall be made available, before the beginning of such fiscal year.

"(C) Of the aggregate amounts made available each fiscal year pursuant to both clauses (i) and (ii) of subparagraph (B), not less than 75,000 metric tons shall be made available to carry out the Food for Progress Act of 1985.

"(D)(i) The Secretary—

"(I) may waive the minimum quantity requirements of subparagraphs (A) and (B) for a fiscal year to the extent that the Secretary determines and reports to Congress that there are not sufficient requests for eligible commodities under this subsection for such fiscal year, except that the waiver authority of this subclause may not be used to waive the minimum quantity requirement of subparagraph (C);

"(II) may waive the minimum quantity requirement of subparagraph (C) in accordance with subsection (f)(2) of the Food for Progress Act of 1985; and

"(III) may waive the minimum quantity requirements of subparagraphs (A), (B), and (C) for a fiscal year, if the Secretary determines that the restrictions on the furnishing of commodities under paragraph (3) prevent the making available of commodities in such quantities.

"(ii) For any fiscal year in which the minimum levels of uncommitted Commodity Credit Corporation stocks specified in subparagraph (B) are not made available and during which any requests for commodities under this subsection are rejected, the Secretary shall provide a detailed, written explanation to Congress, at the end of such fiscal

year, of the reasons for the rejections of such requests.

"(11)(A) The Secretary may furnish eligible commodities under this subsection in connection with (i) concessional sales agreements entered into under title I of the Agricultural Trade Development and Assistance Act of 1954 or other statutes, or (ii) agricultural export bonus or promotion programs carried out under the Commodity Credit Corporation Charter Act or other statutes.

"(B) Eligible commodities may be furnished by the Secretary under this subsection in connection with agreements by recipient countries to acquire additional agricultural commodities from the United States through commercial arrangements.

"(C) The amount of any commodity furnished under subparagraphs (A) and (B) of this paragraph in any fiscal year shall not be considered for the purpose of determining whether the requirements of paragraph (10)(A) of this subsection have been met during such fiscal year.".

FOOD FOR PROGRESS

SEC. 1110. (a) This section may be cited as the "Food for Progress Act of 1985".

(b) In order to use the food resources of the United States more effectively in support of countries that have made commitments to introduce or expand free enterprise elements in their agricultural economies through changes in commodity pricing, marketing, input availability, distribution, and private sector involvement, the President is authorized to enter into agreements with developing countries to furnish commodities made available pursuant to subsections (e) and (f) of this section. Such agreements may provide for commodities to be furnished on a multiyear basis.

(c) As used in this section, the term "commodities" means agricultural commodities and the products thereof.

(d) In determining whether to enter into an agreement with countries under this section, the President shall consider whether a potential recipient country is committed to carry out, or is carrying out, policies that promote economic freedom, private, domestic production of food commodities for domestic consumption, and the creation and expansion of efficient domestic markets for the purchase and sale of such commodities. Such policies may provide for, among other things—

(1) access, on the part of farmers in the country, to private, competitive markets for their product;

(2) market pricing of commodities to foster adequate private sector incentives to individual farmers to produce food on a regular basis for the country's domestic needs;

(3) establishment of market-determined foreign exchange rates;

(4) timely availability of production inputs (such as seed, fertilizer, or pesticides) to farmers;

(5) access to technologies appropriate to the level of agricultural development in the country; and

(6) construction of facilities and distribution systems necessary to handle perishable products.

(e)(1) The Commodity Credit Corporation shall make available to the President such commodities determined to be available under section 401 of the Agricultural Trade Development and Assistance Act of 1954 as the President may request for purposes of furnishing commodities under this section.

(2) Notwithstanding any other provision of law, the Commodity Credit Corporation may use funds appropriated to carry out title I of the Agricultural Trade Development and Assistance Act of 1954 in carrying out this section with respect to commodities made available under that Act.

(3) The Commodity Credit Corporation may finance the sale and exportation of commodities, made available under the Agricultural Trade Development and Assistance Act of 1954, which are furnished to a developing country under this section. Payment by a developing country for commodities made available under that Act which are purchased on credit terms under this section shall be on the same basis as the terms provided in section 106 of that Act.

(4) In the case of commodities made available under the Agricultural Trade Development and Assistance Act of 1954 for purposes of this section, section 203 of that Act shall apply to commodities furnished on a grant basis to a developing country under this section and section 401(b) of that Act shall apply to all commodities furnished to a developing country under this section.

(f)(1) Commodities made available under section 416(b) of the Agricultural Act of 1949 for use in carrying out this section shall be provided to developing countries on a grant basis.

(2) Not less than 75,000 metric tons shall be made available pursuant to section 416(b)(10)(C) of the Agricultural Act of 1949 to carry out this section unless the President determines there are an insufficient number of eligible recipients.

(3) In carrying out section 416(b) of the Agricultural Act of 1949, the Commodity Credit Corporation may purchase commodities for use under this section if—

(A) the Commodity Credit Corporation does not hold stocks of such commodities; or

(B) Commodity Credit Corporation stocks are insufficient to satisfy commitments made in agreements entered into under this section and such commodities are needed to fulfill such commitments.

(4) No funds of the Commodity Credit Corporation in excess of $30,000,000 (exclusive of the cost of commodities) may be used to carry out this section with respect to commodities made available under section 416(b) of the Agricultural Act of 1949 unless authorized in advance in appropriation Acts.

(5) The cost of commodities made available under section 416(b) of the Agricultural Act of 1949 which are furnished under this section, and the expenses incurred in connection with furnishing such commodities, shall be in addition to the level of assistance programmed under the Agricultural Trade Development and Assistance Act of 1954 and may not be considered expenditures for international affairs and finance.

(g) Not more than 500,000 metric tons of commodities may be furnished under this section in each of the fiscal years 1986 through 1990.

(h) An agreement entered into under this section shall prohibit the resale or transshipment of the commodities provided under the agreement to other countries.

(i) In entering into agreements under this section, the President shall take reasonable steps to avoid displacement of any sales of United States commodities that would otherwise be made to such countries.

(j) Within 90 days after the end of each fiscal year in which an agreement entered into with a country under this section is in effect, the President shall report to the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the status of such agreement and the progress being made to implement private, free enterprise agricultural policies for long-term agricultural development in such country.

(k) This section shall be effective during the period beginning October 1, 1985, and ending September 30, 1990.

SALES FOR LOCAL CURRENCIES; PRIVATE ENTERPRISE PROMOTION

SEC. 1111. (a) The first sentence of section 2 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691) is amended by inserting "to use foreign currencies accruing under this Act to foster and encourage the development of private enterprise in developing countries; to enhance food security in developing countries through local food production;" after "agricultural production;".

(b) The Congress finds that additional steps should be taken to use the agricultural abundance produced by American farmers—

(1) to relieve hunger and promote long-term food security and economic development in developing countries in accordance with the development assistance policy established under section 102 of the Foreign Assistance Act of 1961 (22 U.S.C. 2151-1); and

(2) to promote United States agricultural trade interests.

(c) Section 101 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1701) is amended to read as follows:

"SEC. 101. (a) In order to carry out the policies and accomplish the objectives set forth in section 2 of this Act, the President is authorized to negotiate and carry out agreements with friendly countries to provide for the sale of agricultural commodities—

"(1) for dollars on credit terms;

"(2) to the extent that sales for dollars under the terms applicable to such sales are not possible, for foreign currencies on credit terms and on terms that permit conversion to dollars at the exchange rate applicable to the sales agreement; or

"(3) for foreign currencies for use under section 108 on terms that permit conversion to dollars.

"(b)(1) Except as provided in paragraph (2), for each of the fiscal years 1986 through 1990 sales for foreign currencies for use under section 108 under agreements entered into under this title shall be made at an annual level of not less than 10 percent of the aggregate value of all sales of agricultural commodities under this title.

"(2) The President may reduce the minimum level of sales for foreign currencies required under paragraph (1) during any fiscal year in which the President determines that the level of agricultural commodities furnished under this title will be significantly reduced as a result of compliance with the requirement under paragraph (1).

"(c) Agreements for sales for foreign currency in a developing country for use under section 108 may not be entered into to the extent that such agreements would generate currency in amounts that cannot be productively used and absorbed in the private sector of such country.

"(d) Sales for foreign currencies for use under section 108 under agreements entered into under this title shall be made on such terms and conditions as are specified in such agreements.".

(d) Section 103 of such Act (7 U.S.C. 1703) is amended—

(1) by inserting ", in section 108," after "section 104" in subsection (b);

(2) by striking out "for dollars on credit terms" in the last sentence of subsection (d);

(3) in subsection (m)—

(A) by inserting "except as provided in section 108," after "(m)";

(B) by striking out the semicolon and inserting in lieu thereof a period; and

(C) by adding at the end thereof the following: "In carrying out this subsection, the President shall require that foreign currencies to be used under section 108 that are acquired under an agreement for the sale of commodities be convertible to dollars during the period beginning 10 years after the date of the last delivery of such commodities and ending 30 years after the date of such delivery. Such agreement for sale shall establish a schedule for such conversion but need not specify the exchange rate for such conversion;";

(4) by striking out "for dollars on credit terms" and "for cash dollars" in subsection (n);

(5) by striking out "Take" in subsection (o) and inserting in lieu thereof "take";

(6) by striking out "Assure convertibility" in subsection (p) and inserting in lieu thereof "except as provided in section 108, assure convertibility"; and

(7) by striking out "Assure convertibility" in subsection (q) and inserting in lieu thereof "except as provided in section 108, assure convertibility".

(e) The first sentence of section 105 of such Act (7 U.S.C. 1705) is amended by striking out "section 104" and inserting in lieu thereof "sections 104 and 108".

(f) Section 106(a) of such Act (7 U.S.C. 1706(a)) is amended by adding at the end thereof the following new paragraph:

"(3) Payment for sales made for foreign currencies that are to be used under section 108 under an agreement entered into under this title shall be made on such terms as are specified in such agreement.".

(g) Section 106(b) of such Act is amended by adding at the end thereof the following new paragraph:

"(4)(A) Notwithstanding any other provision of this subsection, agreements under this title for the sale of agricultural commodities for dollars on credit terms may provide that proceeds from the sale of the commodities in the recipient country shall be used for such private sector development activities as are mutually agreed upon by the United States and the recipient government.

"(B) Proceeds used for private sector development activities pursuant to this paragraph shall be deposited in jointly programmed accounts to be loaned by the recipient government to one or more financial intermediaries operating within the country for use by those financial intermediaries for loans to private individuals, private and voluntary organizations, corporations, cooperatives, and other entities within such country. In the case of a cooperative or private and voluntary organization, proceeds may be granted to defray the startup costs of becoming a financial intermediary. Such proceeds shall not be used to promote the production of commodities or the products thereof that will compete, as determined by the President, in world markets with similar commodities or the products thereof produced in the United States.".

(h) Such Act is amended by inserting after section 107 (7 U.S.C. 1707) the following new section:

"Sec. 108. (a)(1) In order to foster and encourage the development of private enterprise institutions and infrastructure as the base for the expansion, promotion, and improvement of the production of food and other related goods and services within a developing country and pursuant to an agreement for the sale of agricultural commodities entered into under this title, the President may enter into an agreement with a financial intermediary located or operating in such country under which the President shall lend to such financial intermediary foreign currency that accrues as a result of commodity sales to such country under a sales agreement entered into under this title after the date of enactment of the Food Security Act of 1985. Procurement and other contracting requirements, normally applicable to appropriated funds, shall not apply to such foreign currency.

"(2) Prior to loaning the foreign currencies as provided in this section, the President shall take such steps as may be necessary to assure that the availability of such foreign currencies to financial intermediaries is adequately publicized within the purchasing country.

"(b) To be eligible to obtain foreign currency under this section, a financial intermediary must enter into an agreement with the President under which the intermediary agrees to use such currency to make loans to private individuals, cooperatives, corporations, or other entities within a developing country, at reasonable rates of interest, for the purpose of financing—

"(1) productive, private enterprise investment within such country, including such investment in projects carried out by cooperatives, nonprofit voluntary organizations, and other entities found to be qualified by the President;

"(2) private enterprise facilities for aiding the utilization and distribution, and increasing the consumption of and markets for, United States agricultural commodities and the products thereof; or

"(3) private enterprise support of self-help measures and projects.

"(c) An agreement entered into under this section shall specify the terms and conditions under which the foreign currency shall be used and subsequently repaid, including the following terms and conditions:

"(1) A financial intermediary shall, to the maximum extent feasible, give preference to the financing of agricultural related private enterprise with the funds provided under this section.

"(2)(A) A financial intermediary shall repay a loan made under this section, plus accrued interest, at such times and in such manner as will permit conversion of such foreign currency to dollars in accordance with the schedule for such conversion.

"(B) A financial intermediary may repay a loan made under this section prior to the repayment date specified in such agreement.

"(3) To be eligible to receive financing from a financial intermediary under this section, an entity or venture must—

"(A) be owned, directly or indirectly, by citizens of the developing country or any other country eligible to participate in a sales agreement entered into under this title, except that up to 49 percent of such ownership interest may be held by citizens of the United States; and

"(B) not be owned or controlled, in whole or in part, by the government or any governmental subdivision of the developing country.

"(4)(A) The rate of interest charged on funds loaned to a financial intermediary under this section shall be such rate as is determined by the President and the intermediary.

"(B) In the case of a cooperative or nonprofit voluntary agency that is acting as a financial intermediary, the President may charge a lower rate of interest on funds loaned to such intermediary under this section than is charged to other types of intermediaries or make a grant from currencies received from sales made under section 101(a)(3) of this Act to defray the startup costs of becoming a financial intermediary.

"(5) No currency made available under this section may be used to promote the production of agricultural commodities or the products thereof that will compete, as determined by the President, in world markets with similar agricultural commodities or the products thereof produced in the United States.

"(6) The President may not require a developing country to guarantee the repayment of a loan made to a financial intermediary under this section as a condition of receipt of such loan.

"(7) A financial intermediary shall take such steps as may be necessary to publicize in the developing country the availability of loan funds under this section.

"(d)(1) All currencies repaid by financial intermediaries under agreements entered into under this section shall be deposited and accounted for in accordance with section 105.

"(2) Currencies repaid by financial intermediaries shall, as determined by the President—

"(A) be used to finance additional productive, private enterprise investment under agreements with financial intermediaries entered into under this section;

"(B) be used for the development of new markets for United States agricultural commodities;

"(C) be used for the payment of United States obligations (including obligations entered into pursuant to other laws of the United States); or

"(D) be converted to dollars.

"(3) Section 1306 of title 31, United States Code, shall apply to currencies used for the purpose specified in paragraph (2)(C).

"(e)(1) Any agreement entered into under this section and section 106(b)(4) shall be subject to periodic audit to determine whether the terms and conditions of the agreement are being fulfilled.

"(2) Not later than 180 days after the end of each fiscal year, the President shall report to the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry and the Committee on Foreign Relations of the Senate on the activities carried out under this section and section 106(b)(4) during the preceding fiscal year, including an evaluation of the impact of investment under this section and section 106(b)(4) on the development of agricultural-related private enterprise in each participating country.

"(f) The President may provide agricultural technical assistance to further the purposes of this section, including the funding of market development activities. To the maximum extent practicable, the President shall use at least 5 percent of the foreign currencies obtained for use under this section from sales of agricultural commodities made under agreements entered into under this title after the date of enactment of the Food Security Act of 1985 to carry out such assistance.

"(g) For each of the fiscal years 1986 through 1990, and in accordance with the provisions of section 106(b)(4) and this section, the President is encouraged to channel

foreign currencies, in an amount equivalent to 25 percent of the value of sales agreements under this title, for loans for private enterprise investment provided there are appropriate proposals for such an amount of foreign currencies.

"(h) The provisions of this section apply notwithstanding any other provision of law.

"(i) As used in this section and in section 106(b)(4)—

"(1) the term 'developing country' means a country that is eligible to participate in a sales agreement entered into under this title; and

"(2) the term 'financial intermediary' means a bank, financial institution, cooperative, nonprofit voluntary agency, or other organization or entity, as determined by the President, that has the capability of making and servicing a loan in accordance with this section.".

CHILD IMMUNIZATION

SEC. 1112. (a) The Agricultural Trade Development and Assistance Act of 1954 is amended—

(1) in paragraph (11) of section 109 (7 U.S.C. 1709(11)) by inserting immediately before the period at the end thereof ", including the immunization of children";

(2) in the first sentence of section 206 (7 U.S.C. 1726) by striking out "or" before "(B)", and by inserting immediately before the period at the end thereof ", or (C) health programs and projects, including immunization of children"; and

(3) in the second sentence of section 301(b) (7 U.S.C. 1727(b)) by inserting "(including immunization of children)" immediately after "health services".

(b) In the implementation of health programs undertaken in relation to assistance provided under the Agricultural Trade Development and Assistance Act of 1954, it shall be the goal of the organizations and agencies involved to provide as many additional immunizations of children as possible. Such increased immunization activities should be taken in coordination with similar efforts of other organizations and in keeping with any national plans for expanded programs of immunization. The President shall include information concerning such immunization activities in the annual reports required by section 634 of the Foreign Assistance Act of 1961, including a report on the estimated number of immunizations provided each year pursuant to this subsection.

SPECIAL ASSISTANT FOR AGRICULTURAL TRADE AND FOOD AID

SEC. 1112. (a) The President shall appoint a Special Assistant to the President for Agricultural Trade and Food Aid (hereinafter in this section referred to as the "Special Assistant").

(b) The Special Assistant shall serve in the Executive Office of the President.

(c) The Special Assistant shall—

(1) assist and advise the President in order to improve and enhance food assistance programs carried out in the United States and foreign countries;

(2) be available to receive suggestions and complaints concerning the implementation of United States food aid and agricultural export programs anywhere in the United States Government and provide prompt responses thereto, including expediting the program implementation in any instances in which there is unreasonable delay;

(3) make recommendations to the President on means to coordinate and streamline the manner in which food assistance programs are carried out by the Department of Agriculture and the Agency for International Development, in order to improve their overall effectiveness;

(4) make recommendations to the President on measures to be taken to increase use of United States agricultural commodities and the products thereof through food assistance programs;

(5) advise the President on agricultural trade;

(6) advise the President on the Food for Progress Program and expedite its implementation;

(7) serve as a member of the Development Coordination Committee and the Food Aid Subcommittee of such Committee;

(8) advise departments and agencies of the Federal Government on their policy guidelines on basic issues of food assistance policy to the extent necessary to assure the coordination of food assistance programs, consistent with law, and with the advice of such Subcommittee; and

(9) submit a report to the President and Congress each year through 1990 containing—

(A) a global analysis of world food needs and production;

(B) an identification of at least 15 target countries which are most likely to emerge as growth markets for agricultural commodities in the next 5 to 10 years; and

(C) a detailed plan for using available export and food aid authorities to increase United States agricultural exports to those targeted countries.

(d) The Special Assistant shall also—

(1) solicit information and advice from private and governmental sources and recommend a plan to the President and Congress on measures that should be taken—

(A) to promote the export of United States agricultural commodities and the products thereof; and

(B) to expand export markets for United States agricultural commodities and the products thereof;

(2) develop and recommend to the President national agricultural polices to foster and promote the United States agricultural industry and to maintain and increase the strength of this vitally important sector of the United States economy; and

(3)(A) appraise the various programs and activities of the Federal Government, as they affect the United States agricultural industry, for the purpose of determining the extent to which such programs and activities are contributing or not contributing to such industry; and

(B) make recommendations to the President and Congress with respect to the effectiveness of such programs and activities in contributing to such industry.

(d) Section 5312 of title 5, United States Code, is amended by adding at the end thereof the following new item:

"Special Assistant for Agricultural Trade and Food Aid."

Subtitle B—Maintenance and Development of Export Markets

TRADE POLICY DECLARATION

SEC. 1121. (a) Congress finds that—

(1) the volume and value of United States agricultural exports have significantly declined in recent years as a result of unfair foreign competition and the high value of the dollar;

(2) this decline has been exacerbated by the lack of uniform and coherent objectives in United States agricultural trade policy and the absence of direction and coordination in trade policy formulation;

(3) agricultural interests have been underrepresented in councils of government responsible for determining economic policy that has contributed to a strengthening of the United States dollar;

(4) foreign policy objectives of the United States have been introduced into the trade policy process in a manner injurious to the goal of maximizing United States economic interests through trade; and

(5) the achievement of that goal is in the best interests of the United States.

(b) It is hereby declared to be the agricultural trade policy of the United States to—

(1) provide through all means possible agricultural commodities and their products for export at competitive prices, with full assurance of quality and reliability of supply;

(2) support the principle of free trade and the promotion of fairer trade in agricultural commodities and their products;

(3) cooperate fully in all efforts to negotiate with foreign countries reductions in current barriers to fair trade;

(4) counter aggressively unfair foreign trade practices using all available means, including export restitution, export bonus programs, and, if necessary, restrictions on United States imports of foreign agricultural commodities and their products, as a means to encourage fairer trade;

(5) remove foreign policy constraints to maximize United States economic interests through agricultural trade; and

(6) provide for consideration of United States agricultural trade interests in the design of national fiscal and monetary policy that may foster continued strength in the value of the dollar.

TRADE LIBERALIZATION

SEC. 1122. (a) Congress finds that—

(1) the present high level of agricultural protectionism contrasts sharply with the general trade liberalization that has been achieved since the inception of the General Agreement on Tariffs and Trade (hereinafter referred to as "GATT"); and

(2) GATT procedures should explicitly recognize the protective effect of domestic subsidies that alter trade indirectly by reducing the demand for imports and increasing the supply of exports.

(b) It is the sense of Congress that the President should negotiate with other parties to GATT to revise GATT rules and codes with the goal of reducing agricultural export subsidies, tariffs, and nontariff barriers to trade.

AGRICULTURAL TRADE CONSULTATIONS

SEC. 1123. (a) To improve the orderly marketing of United States agricultural commodities, to achieve higher income for United States producers of agricultural commodities, and to reduce the likelihood of an agricultural commodity price war and the need for export subsidy programs, the Secretary of Agriculture shall, in coordination with the United States Trade Representative, confer with representatives of other major agricultural producing countries and, at the earliest possible date, initiate and pursue agricultural trade consultations among major agricultural producing countries.

(b) It is the sense of Congress that the objectives of the consultations called for in subsection (a) should be to—

(1) increase the exchange of information on worldwide agricultural production, demand, and commodity supply levels;

(2) determine a more equitable sharing of responsibility for maintaining agricultural commodity reserves and managing supplies of agricultural commodities; and

(3) attain increased cooperation in restraining export subsidy programs.

(c) The Secretary of Agriculture shall report to Congress by July 1, 1986, and annually thereafter through fiscal year 1990, on the progress of efforts to initiate and pursue the consultations called for in subsection (a), including any agreements reached with respect to the objectives set forth in subsection (b).

TARGETED EXPORT ASSISTANCE

SEC. 1124. (a) For export activities authorized to be carried out by the Secretary of Agriculture or the Commodity Credit Corporation, the Secretary of Agriculture shall use under this section, in addition to any funds or commodities otherwise required under this Act to be used for such activities, for the fiscal year ending September 30, 1986, and each of the fiscal years thereafter through September 30, 1990, not less than $325,000,000 of funds of, or an equal value of commodities owned by, the Corporation.

(b)(1) Funds or commodities made available for use under this section shall be used by the Secretary only to counter or offset the adverse effect on the export of a United States agricultural commodity or the product thereof of a subsidy (as defined in paragraph (2)), import quotas, or other unfair trade practices of a foreign country.

(2) As used in paragraph (1), the term subsidy includes an export subsidy, tax rebate on exports, financial assistance on preferential terms, financial assistance for operating losses, assumption of costs or expenses of production, processing, or distribution, a differential export tax or duty exemption, a domestic consumption quota, or other method of furnishing or ensuring the availability of raw materials at artificially low prices.

(c) The Secretary shall provide export assistance under this section on a priority basis in the case of—

(1) agricultural commodities and the products thereof with respect to which there has been a favorable decision under section 301 of the Trade Act of 1974 (19 U.S.C. 2411); or

(2) agricultural commodities and the products thereof for which exports have been adversely affected, as defined by the Secretary, by retaliatory actions related to a favorable decision under section 301 of the Trade Act of 1974 (19 U.S.C. 2411).

SHORT-TERM EXPORT CREDIT

SEC. 1125. (a) In making available any guarantees of the repayment of credit extended on terms of up to 3 years in connection with the export sale of United States agricultural commodities or the products thereof, the Commodity Credit Corporation shall take into account—

(1) the credit needs of countries that are potential purchasers of United States agricultural exports;

(2) the creditworthiness of such countries; and

(3) whether the availability of Commodity Credit Corporation guarantees will improve the competitive position of United States agricultural exports in world markets.

(b) Effective for the fiscal year ending September 30, 1986 and each fiscal year thereafter through the fiscal year ending September 30, 1990, the Commodity Credit Corporation shall make available not less than $5,000,000,000 in credit guarantees under its export credit guarantee program for short-term credit extended to finance the export sales of United States agricultural commodities and the products thereof.

(c) Notwithstanding any other provision of law, the Secretary of Agriculture may not charge an origination fee with respect to any credit guarantee transaction under the Export Credit Guarantee Program (GSM-102) in excess of an amount equal to one percent of the credit extended under the transaction.

COOPERATOR MARKET DEVELOPMENT PROGRAM

SEC. 1126. (a) It is the sense of Congress that the cooperator market development program of the Foreign Agricultural Service should be continued to help develop new markets and expand and maintain existing markets for United States agricultural commodities, using nonprofit agricultural trade organizations to the maximum extent practicable.

(b) The cooperator market development program shall be exempt from the requirements of Circular A 110 issued by the Office of Management and Budget.

(c) Subclause (B) of section 1207(a)(5) of the Agriculture and Food Act of 1981 (7 U.S.C. 1736m(a)(5)(B)) is amended to read as follows: "(B) funding an export market development program for value-added farm products and processed foods at a higher funding level than that provided during the fiscal year ending September 30, 1985; and".

DEVELOPMENT AND EXPANSION OF MARKETS FOR UNITED STATES AGRICULTURAL COMMODITIES

SEC. 1127. (a)(1) Notwithstanding any other provision of law, the Secretary of Agriculture (hereafter in this section referred to as the "Secretary") shall formulate and carry out a program under which agricultural commodities and the products thereof acquired by the Commodity Credit Corporation are provided to United States exporters, users, and processors and foreign purchasers at no cost to encourage the development, maintenance, and expansion of export markets for United States agricultural commodities and the products thereof, including value-added or high-value agricultural products produced in the United States.

(2)(A) The term "agricultural commodities", as used in this section in referring to United States agricultural commodities, includes, but is not limited to—

(i) wheat, feed grains, upland cotton, rice, soybeans, and dairy products produced in the United States;

(ii) any other agricultural commodity produced in the United States that is determined by the Secretary of Agriculture to be in surplus supply and that can be purchased with funds available under section 32 of the Act entitled "An Act to amend the Agricultural Adjustment Act, and for other purposes", approved August 24, 1935; and

(iii) products of the commodities and products described in clauses (i) and (ii) that are processed in the United States.

(B) United States agricultural commodities, as described in clause (ii) of subparagraph (A), may not be purchased with funds available under section 32 of the Act entitled "An Act to amend the Agricultural Adjustment Act, and for other purposes", approved August 24, 1935, for the sole purpose of use under the program under this section; and such commodities, or products thereof, may not be furnished to a United States user, exporter, processor, or foreign purchaser under the program under this section except by mutual agreement of such user, exporter, processor, or purchaser and the Secretary.

(3) In carrying out paragraph (1), the Secretary may provide such commodities in order to make United States commodities more competitive and shall, to the extent necessary, provide such commodities and products—

(A) to counter or offset—

(i) the adverse effect on the export of a United States agricultural commodity or the product thereof of a subsidy (as defined in paragraph (4)) or other unfair trade practice of a foreign country that directly or indirectly benefits producers, processors, or exporters of agricultural commodities in such foreign country;

(ii) the adverse effects of United States agricultural price support levels that are temporarily above the export prices offered by overseas competitors in export markets; or

(iii) fluctuations in the exchange rate of the United States dollar against other major currencies; and

(B) in conjunction with an intermediate export credit program conducted by the Commodity Credit Corporation—

(i) for the export sale of breeding animals (including, but not limited to, cattle, swine, sheep, and poultry), including the cost of freight from the United States to designated points of entry in other nations; and

(ii) for the establishment of facilities in the importing nation to improve handling, marketing, processing, storage, or distribution of imported agricultural commodities (through the use of local currency generated from the import and sale of United States agricultural commodities or the products thereof to finance all or part of such facilities).

(4) As used in paragraph (3)(A)(i), the term "subsidy" includes an export subsidy, tax rebate on exports, financial assistance on preferential terms, financial assistance for operating losses, assumption of costs or expenses of production, processing, or distribution, a differential export tax or duty exemption, a domestic consumption quota, or other method of furnishing or ensuring the availability of raw materials at artificially low prices.

(b) In carrying out the program established by this section, the Secretary of Agriculture—

(1) shall take such action as may be necessary to ensure that the program provides equal treatment to domestic and foreign purchasers and users of United States agricultural commodities and the products thereof in any case in which the importation of a manufactured product made, in whole or in part, from a commodity or the product thereof made available for export under this section would place domestic users of the commodity or the product thereof at a competitive disadvantage;

(2) shall, to the extent that agricultural commodities and the products thereof are to be provided to foreign purchasers during any fiscal year, consider for participation all interested foreign purchasers, giving priority to those who have traditionally purchased United States agricultural commodities and the products thereof and who continue to purchase such commodities and the products thereof on an annual basis in quantities greater than the level of purchases in a previous representative period;

(3) shall encourage increased use and avoid displacing usual marketings of United States agricultural commodities and the products thereof;

(4) shall take reasonable precautions to prevent the resale or transshipment to other countries, or use for other than domestic use in the importing country, of agricultural commodities or the products thereof the export of which is assisted under this section; and

(5) may provide to a United States exporter, user, processor, or foreign purchaser, under the program, agricultural commod-

ities of a kind different than the agricultural commodity involved in the transaction for which assistance under this section is being provided.

(c)(1) If a country does not meet the financial qualifications for export credit or credit guarantees provided by the Commodity Credit Corporation, the Secretary may provide to such country agricultural commodities and the products thereof acquired by the Corporation to the extent necessary to reduce the cost to such country of purchasing United States agricultural commodities and to allow such country to meet such qualifications.

(2) The Secretary shall review and adjust annually the quantity of commodities provided to a country under paragraph (1) in order to encourage such country to place greater reliance on increased use of commercial trade to meet the qualifications referred to in paragraph (1).

(d)(1) In carrying out this section, the Secretary may make green dollar export certificates available to commercial exporters of United States agricultural commodities and the products thereof.

(2) The Secretary shall make such certificates available under such terms and conditions as the Secretary determines appropriate.

(3) The amount of such certificates to be made available to an exporter may be determined—

(A) on the basis of competitive bids submitted by exporters; or

(B) by announcement of the Secretary.

(4)(A) An exporter may redeem a green dollar export certificate for commodities owned by the Commodity Credit Corporation.

(B) For purposes of redeeming such certificates, the Secretary may establish values for such commodities that are different than the acquisition prices of such commodities.

(5) Such certificates—

(A) may be transferred among commercial exporters of United States agricultural commodities; and

(B) shall be redeemed within 6 months after the date of issuance.

(e) The Secretary of Agriculture shall carry out the program established by this section through the Commodity Credit Corporation.

(f) Any price restrictions that otherwise may be applicable to dispositions of agricultural commodities owned by the Commodity Credit Corporation shall not apply to agricultural commodities provided under this section.

(g) The program established under this section shall be in addition to, and not in place of, any authority granted to the Secretary of Agriculture or the Commodity Credit Corporation under any other provision of law.

(h) The authority provided under this section shall terminate on September 30, 1990.

(i) During the period beginning October 1, 1985, and ending September 30, 1988, the Secretary shall use agricultural commodities and the products thereof referred to in subsection (a) that are equal in value to not less than $2,000,000,000 to carry out this section. To the maximum extent practicable, such commodities shall be used in equal amounts during each of the years in such period.

POULTRY, BEEF AND PORK MEATS AND MEAT-FOOD PRODUCTS, EQUITABLE TREATMENT

SEC. 1128. In the case of any program operated by the Secretary of Agriculture during the years 1986 through 1989, for the purpose of encouraging or enhancing commercial sales in foreign export markets of agricultural products or commodities produced in the United States, which program includes the payment of a bonus or incentive (in cash, commodities, or other benefits) provided to the purchaser, the Secretary shall seek to expend annually at least 15 per centum of the total funds available (or 15 per centum of the value of any commodities employed to encourage such sales) for program activities to likewise encourage and enhance the export sales of poultry, beef or pork meat and meat products.

PILOT BARTER PROGRAM FOR EXCHANGE OF AGRICULTURAL COMMODITIES FOR STRATEGIC MATERIALS

SEC. 1129. Section 416 of the Agricultural Act of 1949 is amended by adding at the end thereof the following:

"(d)(1) The Secretary shall establish and carry out a pilot program under which strategic or other materials that the United States does not produce domestically in amounts sufficient for its requirements and for which national stockpile or reserve goals established by law are unmet shall be acquired in exchange for commodities meeting the criteria specified in subsection (a).

"(2) The program established under paragraph (1) shall be carried out through agreements with at least two countries.

"(3) In establishing the pilot program under paragraph (2), the Secretary shall give priority to—

"(A) the acquisition of materials that involve less risk of loss through deterioration and have lower storage costs than the agricultural commodities or products for which they are exchanged; and

"(B) nations with food and currency reserve shortages.

"(4) To the extent practical, the Secretary shall use private channels of commerce to consummate any exchange of commodities for materials under the program.

"(5) Any materials acquired under the programs shall be held by the Commodity Credit Corporation and may be transferred, on a reimbursable basis, to any Department or agency of the United States that has responsibility for any reserve or other need for the material. Any material acquired, in excess of any required reserve, may be sold by the Corporation to the extent authorized by the Secretary taking into consideration any effect that such sale may have on the commercial market of such material.

"(6) The program established by the Secretary shall be carried out during the fiscal years ending September 30, 1986, and September 30, 1987, and the Secretary shall submit a report to Congress, not later than 60 days after the end of each such fiscal year with respect to the operation of the program.".

AGRICULTURAL EXPORT CREDIT REVOLVING FUND

SEC. 1130. Section 4(d)(6) of the Food for Peace Act of 1966 (7 U.S.C. 1707a(d)(6)) is amended by striking out "1985" both places it appears and inserting in lieu thereof "1990".

INTERMEDIATE EXPORT CREDIT

SEC. 1131. Section 4(b) of the Food for Peace Act of 1966 (7 U.S.C. 1707a(b)) is amended—

(1) by adding at the end of paragraph (1) the following new sentence: "In addition, the Corporation may guarantee the repayment of loans made to finance such sales.";

(2) in paragraph (2)—

(A) by inserting ", and no loan may be guaranteed," after "financed";

(B) by striking out "or" at the end of clause (A);

(C) by striking out the period at the end of clause (B) and inserting in lieu thereof "; or"; and

(D) by inserting at the end thereof the following new clause:

"(C) otherwise promote the export of United States agricultural commodities.";

(3) by striking out paragraph (7);

(4) by redesignating paragraphs (3) through (6) as paragraphs (4) through (7), respectively;

(5) by inserting after paragraph (2) the following new paragraph:

"(3) The Secretary is encouraged, to the maximum extent practicable, to finance or guarantee the export sales of agricultural commodities under this subsection to purchasers from—

"(A) countries that are previous recipients of credit extended under title I of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1701 et seq.);

"(B) countries unable, as determined by the Secretary, to utilize other short-term export credit programs offered by the Secretary or the Commodity Credit Corporation; and

"(C) countries that are friendly countries, as defined in section 103(d) of such Act (7 U.S.C. 1703(d)).";

(6) in paragraph (4) (as redesignated by clause (4))—

(A) by inserting "or guarantees" after "financing";

(B) by striking out "and" at the end of subparagraph (C);

(C) by striking out "credit" in subparagraph (D);

(D) by striking out the period at the end of subparagraph (D) and inserting in lieu thereof a semicolon; and

(E) by adding at the end thereof the following new subparagraphs:

"(E) to finance the importation of agricultural commodities by developing nations for use in meeting their food and fiber needs; and

"(F) otherwise to promote the export sales of agricultural commodities.";

(7) in paragraph (5) (as redesignated by clause (4))—

(A) by inserting "or guarantees" after "financing"; and

(B) by striking out "to encourage credit competition, or";

(8) in paragraph (6) (as redesignated by clause (4))—

(A) by inserting "(A)" after the paragraph designation;

(B) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(C) by amending clause (i) (as redesignated) to read as follows:

"(i) Repayment shall be in dollars with interest at a rate determined by the Secretary."; and

(D) by adding at the end thereof the following new subparagraph:

"(B) Contracts of guarantee under this subsection shall contain such terms and conditions as the Commodity Credit Corporation shall determine.";

(9) by inserting "or guarantees" after "financing" in paragraph (7) (as redesignated by clause (4));

(10) by inserting "or guaranteed" after "financed" in paragraph (8); and

(11) by adding at the end thereof the following new paragraph:

"(10) For purposes of guaranteeing export sales under this subsection, the Commodity Credit Corporation shall make available—

"(A) for each of the fiscal years ending September 30, 1986, through September 30, 1988, not less than $500,000,000; and

"(B) for each of the fiscal years ending September 30, 1989, and September 30, 1990, not more than $1,000,000,000.".

AGRICULTURAL ATTACHE REPORTS

SEC. 1132. (a) The Secretary of Agriculture shall require appropriate officers and employees of the Department of Agriculture, including those stationed in foreign countries, to prepare and submit annually to the Secretary detailed reports that—

(1) document the nature and extent of—

(A) programs in such countries that provide direct or indirect government support for the export of agricultural commodities and the products thereof; and

(B) other trade practices that may impede the entry of United States agricultural commodities and the products thereof into such countries; and

(2) identify opportunities for the export of United States agricultural commodities and the products thereof to such countries.

(b) The Secretary shall annually compile the information contained in such reports and make such information available to Congress, the Agricultural Policy Advisory Committee, and the agricultural technical advisory committees established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155), and other interested parties.

(c) The United States Trade Representative shall—

(1) review the reports prepared under subsection (a) and any other information available to identify export subsidies or other export enhancing techniques (within the meaning of the agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade);

(2) identify markets (in order of priority) in which United States export subsidies can be used most efficiently and will have the greatest impact in offsetting the benefits of foreign export subsidies that—

(A) harm United States exports,

(B) are inconsistent with the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade,

(C) nullify or impair benefits accruing to the United States under international agreements, or

(D) cause serious prejudice to the interests of the United States; and

(3) submit to the Congress and to the Secretary of Agriculture an annual report on—

(A) the existence and status of export subsidies and other export enhancing techniques that are the subject of the investigation conducted under paragraph (1), and

(B) the identification and assignment of priority to markets under paragraph (2).

(d) The Secretary and the United States Trade Representative shall convene a meeting, at least once a year, of the Agricultural Policy Advisory Committee and the agricultural technical advisory committees to develop specific recommendations for actions to be taken by the Federal Government and private industry to—

(1) reduce or eliminate trade barriers or distortions identified in the annual reports required to be submitted under subsections (a) and (c); and

(2) expand United States agricultural export opportunities identified in such annual reports.

CONTRACT SANCTITY AND PRODUCER EMBARGO PROTECTION

SEC. 1133. (a) It is hereby declared to be the policy of the United States—

(1) to foster and encourage the export of agricultural commodities and the products of such commodities;

(2) not to restrict or limit the export of such commodities and products except under the most compelling circumstances;

(3) that any prohibition or limitation on the export of such commodities or products should be imposed only in time of a national emergency declared by the President under the Export Administration Act; and

(4) that contracts for the export of such commodities or products entered into before the imposition of any prohibition or limitation on the export of such commodities or products should not be abrogated.

(b) Section 1204 of the Agriculture and Food Act of 1981 (7 U.S.C. 1736j) is amended—

(1) in subsection (a), by striking out "involved by" and all that follows through the period and inserting in lieu thereof "involved by making payments available to such producers, as provided in subsection (b) of this section.";

(2) by striking out "clause (1) of" in subsection (b);

(3) by striking out subsection (d); and

(4) by redesignating subsections (e), (f), and (g) as subsections (d), (e), and (f), respectively.

STUDY TO REDUCE FOREIGN EXCHANGE RISK

SEC. 1134. (a) The Secretary of Agriculture shall conduct a study to determine the feasibility, practicability and cost of implementing a program to reduce the risk of foreign exchange fluctuations that is incurred by the purchasers of United States agricultural exports under United States export credit promotion programs. The purpose of the study is to examine whether the GSM-102 program and all other United States export credit initiatives relating to agricultural exports would be enhanced by the United States assuming the foreign exchange risk of the buyer which resulted from a rise in the value of the United States dollar compared to the trade-weighted index of the dollar. The index referred to is the "trade-weighted index" published by the Department of Commerce as a measurement of the relative buying power of the dollar compared to the currencies of nations trading with the United States. The elements of the program to be considered in this study would include the following:

(1) On the date a foreign buyer receives GSM-102 or other credit for purposes of purchasing United States agricultural products, the maximum loan repayment exchange rate would be tied to the trade-weighted value of the United States dollar on the same date.

(2) If in the future the United States dollar gains in strength (a higher trade-weighted index), the buyer would continue to repay the loan at the lower value fixed at the time the GSM-102 credit was extended.

(3) If the United States dollar falls in value during the term of the repayment period, the foreign buyer could calculate his repayment on the lower dollar value.

(b) Not later than six months after the enactment of this Act, the Secretary shall report the results of such study to the Committee on Agriculture of the House of Representatives and to the Committee on Agriculture, Nutrition, and Forestry of the Senate.

Subtitle C—Export Transportation of Agricultural Commodities

FINDINGS AND DECLARATIONS

SEC. 1141. (a) The Congress finds and declares—

(1) that a productive and healthy agricultural industry and a strong and active United States maritime industry are vitally important to the economic well-being and national security objectives of our Nation;

(2) that both industries must compete in international markets increasingly dominated by foreign trade barriers and the subsidization practices of foreign governments; and

(3) that increased agricultural exports and the utilization of United States merchant vessels contribute positively to the United States balance of trade and generate employment opportunities in the United States.

(b) It is therefore declared to be the purpose and policy of the Congress in this subtitle—

(1) to enable the Department of Agriculture to plan its export programs effectively, by clarifying the ocean transportation requirements applicable to such programs;

(2) to take immediate and positive steps to promote the growth of the cargo carrying capacity of the United States merchant marine;

(3) to expand international trade in United States agricultural commodities and products and to develop, maintain, and expand markets for United States agricultural exports;

(4) to improve the efficiency of administration of both the commodity purchasing and selling and the ocean transportation activities associated with export programs sponsored by the Department of Agriculture;

(5) to stimulate and promote both the agricultural and maritime industries of the United States and encourage cooperative efforts by both industries to address their common problems; and

(5) to provide in the Merchant Marine Act, 1936, for the appropriate disposition of these findings and purposes.

EXEMPTION OF CERTAIN AGRICULTURAL EXPORTS FROM THE REQUIREMENTS OF THE CARGO PREFERENCE LAWS

SEC. 1142. The Merchant Marine Act, 1936 (46 U.S.C. 1101 et seq.), is amended by inserting after section 901 the following:

"SEC. 901a. The requirements of section 901(b)(1) of this Act and the Joint Resolution of March 26, 1934 (46 U.S.C. App. 1241-1), shall not apply to any export activities of the Secretary of Agriculture or the Commodity Credit Corporation—

"(1) under which agricultural commodities or the products thereof acquired by the Commodity Credit Corporation are made available to United States exporters, users, processors, or foreign purchasers for the purpose of developing, maintaining, or expanding export markets for United States agricultural commodities or the products thereof at prevailing world market prices;

"(2) under which payments are made available to United States exporters, users, or processors or, except as provided in section 901b, cash grants are made available to foreign purchasers, for the purpose described in paragraph (1);

"(3) under which commercial credit guarantees are blended with direct credits from the Commodity Credit Corporation to reduce the effective rate of interest on export sales of United States agricultural commodities or the products thereof;

"(4) under which credit or credit guarantees for not to exceed 3 years are extended by the Commodity Credit Corporation to finance or guarantee export sales of United States agricultural commodities or the products thereof; or

"(5) under which agricultural commodities or the products thereof owned or con-

trolled by or under loan from the Commodity Credit Corporation are exchanged or bartered for materials, goods, equipment, or services, but only if such materials, goods, equipment, or services are of a value at least equivalent to the value of the agricultural commodities or products exchanged or bartered therefor (determined on the basis of prevailing world market prices at the time of the exchange or barter), but nothing in this subsection shall be construed to exempt from the cargo preference provisions referred to in section 901b any requirement otherwise applicable to the materials, goods, equipment, or services imported under any such transaction.

"SHIPMENT REQUIREMENTS FOR CERTAIN EXPORTS SPONSORED BY THE DEPARTMENT OF AGRICULTURE

"Sec. 901b. (a)(1) In addition to the requirement for United States-flag carriage of a percentage of gross tonnage imposed by section 901(b)(1) of this Act, 25 percent of the gross tonnage of agricultural commodities or the products thereof specified in subsection (b) shall be transported on United States-flag commercial vessels.

"(2) In order to achieve an orderly and efficient implementation of the requirement of paragraph (1)—

"(A) an additional quantity equal to 10 percent of the gross tonnage referred to in paragraph (1) shall be transported in United States-flag vessels in calendar year 1986;

"(B) an additional quantity equal to 20 percent of the gross tonnage shall be transported in such vessels in calendar year 1987; and

"(C) an additional quantity equal to 25 percent of the gross tonnage shall be transported in such vessels in calendar year 1988 and in each calendar year thereafter.

"(b) This section shall apply to any export activity of the Commodity Credit Corporation or the Secretary of Agriculture—

"(1) carried out under the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.);

"(2) carried out under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431);

"(3) carried out under the Food Security Wheat Reserve Act of 1980 (7 U.S.C. 1736f-1);

"(4) under which agricultural commodities or the products thereof are—

"(A) donated through foreign governments or agencies, private or public, including intergovernmental organizations; or

"(B) sold for foreign currencies or for dollars on credit terms of more than ten years;

"(5) under which agricultural commodities or the products thereof are made available for emergency food relief at less than prevailing world market prices;

"(6) under which a cash grant is made directly or through an intermediary to a foreign purchaser for the purpose of enabling the purchaser to obtain United States agricultural commodities or the products thereof in an amount greater than the difference between the prevailing world market price and the United States market price, free along side vessel at United States port; or

"(7) under which agricultural commodities owned or controlled by or under loan from the Commodity Credit Corporation are exchanged or bartered for materials, goods, equipment, or services produced in foreign countries, other than export activities described in section 901a(5).

"(c)(1) The requirement for United States-flag transportation imposed by subsection (a) shall be subject to the same terms and conditions as provided in section 901(b) of this Act.

"(2)(A) In order to provide for effective and equitable administration of the cargo preference laws the calendar year for the purpose of compliance with minimum percentage requirements shall be for 12 month periods commencing April 1, 1986.

"(B) In addition, the Secretary of Transportation, in administering this subsection and section 901(b), and consistent with these sections, shall take such steps as may be necessary and practicable without detriment to any port range to preserve during calendar years 1986, 1987, 1988, and 1989 the percentage share, or metric tonnage of bagged, processed, or fortified commodities, whichever is lower, experienced in calendar year 1984 as determined by the Secretary of Agriculture, of waterborne cargoes exported from Great Lake ports pursuant to title II of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1721 et seq.).

"(d) As used in subsection (b), the term 'export activity' does not include inspection or weighing activities, other activities carried out for health or safety purposes, or technical assistance provided in the handling of commercial transactions.

"(e)(1) The prevailing world market price as to agricultural commodities or the products thereof shall be determined under sections 901a through 901d in accordance with procedures established by the Secretary of Agriculture. The Secretary shall prescribe such procedures by regulation, with notice and opportunity for public comment, pursuant to section 553 of title 5, United States Code.

"(2) In the event that a determination of the prevailing world market price of any other type of materials, goods, equipment, or service is required in order to determine whether a barter or exchange transaction is subject to subsection (b)(6) or (b)(7), such determination shall be made by the Secretary of Agriculture in consultation with the heads of other appropriate Federal agencies.

"MINIMUM TONNAGE

"Sec. 901c. (a)(1) For fiscal year 1986 and each fiscal year thereafter, the minimum quantity of agricultural commodities to be exported under programs subject to section 901b shall be the average of the tonnage exported under such programs during the base period defined in subsection (b), discarding the high and low years.

"(2) The President may waive the minimum quantity for any fiscal year required under paragraph (1) if he determines and reports to the Congress, together with his reasons, that such quantity cannot be effectively used for the purposes of such programs or, based on a certification by the Secretary of Agriculture, that the commodities are not available for reasons which include the unavailability of funds.

"(b) The base period utilized for computing the minimum tonnage quantity referred to in subsection (a) for any fiscal year shall be the five fiscal years beginning with the sixth fiscal year preceding such fiscal year and ending with the second fiscal year preceding such fiscal year.

"FINANCING OF SHIPMENT OF AGRICULTURAL COMMODITIES IN UNITED STATES-FLAG VESSELS

"Sec. 901d. (a) The Secretary of Transportation shall finance any increased ocean freight charges incurred in any fiscal year which result from the application of section 901b.

"(b) If in any fiscal year the total cost of ocean freight and ocean freight differential for which obligations are incurred by the Department of Agriculture and the Commodity Credit Corporation on exports of agricultural commodities and products thereof under the agricultural export programs specified in section 901b(b) exceeds 20 percent of the value of such commodities and products and the cost of such ocean freight and ocean freight differential on which obligations are incurred by such Department and Corporation during such year, the Secretary of Transportation shall reimburse the Department of Agriculture and the Commodity Credit Corporation for the amount of such excess. For the purpose of this subsection, commodities shipped from the inventory of the Commodity Credit Corporation shall be valued as provided in section 403(b) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1733(b)).

"(c) For the purpose of meeting those expenses required to be assumed under subsections (a) and (b), the Secretary of Transportation shall issue to the Secretary of the Treasury such obligations in such forms and denominations, bearing such maturities and subject to such terms and conditions, as may be prescribed by the Secretary of Transportation with the approval of the Secretary of the Treasury. Such obligations shall be at a rate of interest as determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding marketable obligations of the United States with remaining periods of maturity comparable to the average maturities of such obligations during the month preceding the issuance of such obligations of the Secretary of Transportation. The Secretary of the Treasury shall purchase any obligations of the Secretary of Transportation issued under this subsection and, for the purpose of purchasing such obligations, the Secretary of the Treasury may use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code, after the date of the enactment of this Act and the purposes for which securities may be issued under such chapter are extended to include any purchases of the obligations of the Secretary of Transportation under this subsection. All redemptions and purchases by the Secretary of the Treasury of the obligations of the Secretary of Transportation shall be treated as public-debt transactions of the United States.

"(d) There is authorized to be appropriated annually for each fiscal year, commencing with the fiscal year beginning October 1, 1986, an amount sufficient to reimburse the Secretary of Transportation for the costs, including administrative expenses and the principal and interest due on the obligations to the Secretary of the Treasury incurred under this section. Reimbursement of any such costs shall be made with appropriated funds, as provided in this section, rather than through cancellation of notes.

"(e) Notwithstanding the provisions of this section, in the event that the Secretary of Transportation is unable to obtain the funds necessary to finance the increased ocean freight charges resulting from the requirements of subsections (a) and (b) and section 901b(a), the Secretary of Transportation shall so notify the Congress within 10 working days of the discovery of such insufficiency.

"AUTHORIZATION OF APPROPRIATIONS

"Sec. 901e. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of sections 901a through 901k.

"TERMINATION OF SECTIONS 901A THROUGH 901K

"SEC. 901f. The operation of sections 901a through 901k shall terminate 90 days after the date on which a notification is made pursuant to section 901d(e), except with respect to shipments of agricultural commodities and products subject to contracts entered into before the expiration of such 90-day period, unless within such 90-day period the Secretary of Transportation proclaims that funds are available to finance increased freight charges resulting from the requirements of sections 901b(a) and 901d (a) and (b). In the event of termination under this section, nothing in sections 901a through 901d shall be construed as exempting export activities from or subjecting export activities to the cargo preference laws except to the extent those activities are exempt under section 4(b) of Public Law 95-501 (7 U.S.C. 1707a(b). In the event of termination under this section, the 50-percent requirement in section 901(b) of the Merchant Marine Act, 1936 shall be in full effect.

"NATIONAL ADVISORY COMMISSION ON AGRICULTURAL EXPORT TRANSPORTATION POLICY

"SEC. 901g. (a) There is hereby established an advisory commission to be known as the National Advisory Commission on Agricultural Export Transportation Policy (hereafter in this section through section 901j referred to as the 'Commission').

"(b)(1) The Commission shall be composed of 16 members.

"(2) Eight members of the Commission shall be appointed by the President.

"(3) The chairman and ranking minority members of the Senate Committee on Agriculture, Nutrition, and Forestry, of the Subcommittee on Merchant Marine of the Senate Committee on Commerce, Science, and Transportation, of the House Committee on Agriculture, and of the House Committee on Merchant Marine and Fisheries shall serve as members of the Commission.

"(4)(A) Four of the members appointed by the President shall be representatives of agricultural producers, cooperatives, merchandisers, and processors of agricultural commodities.

"(B) The remaining four members appointed by the President shall be representatives of the United States-flag maritime industry, two of whom shall represent labor and two of whom shall represent management.

"(c)(1) The members of the Commission shall elect a Chairman from among its members.

"(2) Any vacancy in the Commission does not affect its powers but shall be filled in the same manner in which the original appointment was made.

"DUTIES OF THE COMMISSION

"SEC. 901h. (a) It shall be the duty of the Commission to conduct a comprehensive study and review of the ocean transportation of agricultural exports subject to the cargo preference laws referred to in section 901b and to make recommendations to the President and the Congress for improving the efficiency of such transportation on United States-flag vessels in order to reduce the costs incurred by the United States in connection with such transportation. In carrying out such study and review, the Commission shall consider the extent to which any unfair or discriminatory practices of foreign governments increase the cost to the United States of transporting agricultural commodities subject to such cargo preference laws.

"(b)(1) The Commission shall submit an interim report to the President and the Congress not later than one year after the date of the enactment of this subtitle and such other interim reports as the Commission considers advisable.

"(2) The Commission shall submit a final report containing its findings and recommendations to the President and the Congress not later than two years after the date of the enactment of this subtitle. The report shall include recommendations for any changes in the provisions of paragraph (1) that would help assure that the cost of ocean freight and ocean freight differential incurred by the Department of Agriculture and the Commodity Credit Corporation on the agricultural export programs specified in section 901b, is not increased above historical levels as a result of the extra demand for United States-flag vessels caused by section 901b.

"(3) Sixty days after the submission of the final report, the Commission shall cease to exist.

"(c) The Commission shall include in its reports submitted pursuant to subsection (b) recommendations concerning the feasibility and desirability of achieving the following goals with respect to the ocean transportation of agricultural commodities subject to the cargo preference laws referred to in section 901b:

"(1) Ensuring that the timing of commodity purchase agreements entered into by the United States in connection with the export of such commodities, and the methods of implementing such agreements, will minimize cost to the United States.

"(2) Ensuring that shipments of such commodities are made on the most modern and efficient United States-flag vessels available.

"(3) Ensuring that shipments of such commodities are made under the most advantageous terms available, including—

"(A) charters for full shiploads;

"(B) charters for intermediate or long term;

"(C) charters for consecutive voyages and contracts of affreightment; and

"(D) adjustment of rates in the event that vessels used for shipments of such commodities also carry cargoes on return voyages.

"(4) Reduction and elimination of impediments, including delays in port, to the efficient loading and operation of the vessels employed for shipment of such commodities.

"(5) Utilization of open and competitive bidding for the ocean transportation of such commodities.

"INFORMATION AND ASSISTANCE TO BE FURNISHED TO THE COMMISSION

"SEC. 901i. (a) Each department, agency, and instrumentality of the United States, including independent agencies, shall furnish to the Commission, upon request made by the Chairman, such statistical data, reports, and other information as the Commission considers necessary to carry out its functions.

"(b) The Secretary of Agriculture and the Secretary of Transportation shall make available to the Commission such staff, personnel, and administrative services as may reasonably be required to carry out the Commission's duties.

"COMPENSATION AND TRAVEL AND SUBSISTENCE EXPENSES OF COMMISSION MEMBERS

"SEC. 901j. Members of the Commission shall serve without compensation in addition to compensation they may otherwise be entitled to receive as employees of the United States or as Members of Congress, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of duties vested in the Commission.

"DEFINITION OF UNITED STATES-FLAG VESSEL ELIGIBLE TO CARRY CARGOES UNDER CERTAIN SECTIONS

"SEC. 901k. A United States-flag vessel eligible to carry cargoes under sections 901b through 901d means a vessel, as defined in section 3 of title 1, United States Code, that is necessary for national security purposes and, if more than 25 years old, is within five years of having been substantially rebuilt and certified by the Secretary of Transportation as having a useful life of at least five years after that rebuilding.".

EFFECT ON OTHER LAWS

SEC. 1143. This subtitle shall not be construed as modifying in any manner the provisions of section 4(b)(8) of the Food for Peace Act of 1966 (7 U.S.C. 1707a(b)(8)) or chapter 5 of title 5, United States Code.

Subtitle D—Agricultural Imports

TRADE CONSULTATIONS

SEC. 1151. (a) The Secretary of Agriculture shall require consultation between the Administrator of the Foreign Agricultural Service and the heads of other appropriate agencies and offices of the Department of Agriculture, including the Administrator of the Animal and Plant Health Inspection Service, before relaxing or removing any restriction on the importation of any agricultural commodity or a product thereof into the United States.

(b) The Secretary shall consult with the United States Trade Representative before relaxing or removing any restriction on the importation of any agricultural commodity or a product thereof into the United States.

APRICOT STUDY

SEC. 1152. (a) The Secretary of Agriculture, in conjunction with the United States Trade Representative, not later than 120 days after the date of enactment of this Act, shall complete a study to determine—

(1) the effect of apricot imports into the United States on the domestic apricot industry; and

(2) the extent and nature of apricot subsidies existing in the countries from which such apricot imports are derived.

(b) The Secretary shall report the results of the study conducted under subsection (a), as soon as the study is completed, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

STUDY RELATING TO BRAZILIAN ETHANOL IMPORTS

SEC. 1155. The Secretary of Agriculture shall conduct a study to determine the impact that the import of Brazilian ethanol has on the domestic price of corn and other grains and the domestic ethanol refining industry. The Secretary of Agriculture shall also, in consultation with the International Trade Commission and the United States Trade Representative, determine what relief should be granted because of the interference of subsidized Brazilian ethanol with the domestic ethanol industry. Not later than 60 days after the enactment of this Act, the Secretary shall report the results of such study to the Committee on Agriculture and the Committee on Ways and Means of the House of Representatives and to the Committee on Agriculture, Nutrition, and Forestry of the Senate.

STUDY OF OAT IMPORTS

SEC. 1156. (a) The Secretary of Agriculture shall conduct a study of the impact of domestic farm programs of the increased importation of oats into the United States.

(b) By no later than 1 year after the date of enactment of this Act, the Secretary of Agriculture shall submit to the Congress a report on the study conducted under subsection (a).

Subtitle E—Trade Practices

TOBACCO PESTICIDE RESIDUES

SEC. 1161. (a) Section 213 of the Dairy and Tobacco Adjustment Act of 1983 (7 U.S.C. 511r) is amended by adding at the end thereof the following new subsection:

"(e) Notwithstanding any other provision of law:

"(1)(A) All flue-cured or burley tobacco offered for importation into the United States shall be accompanied by a certification by the importer, in such form as the Secretary of Agriculture shall prescribe, that the tobacco does not contain any prohibited residue of any pesticide that has been canceled, suspended, revoked, or otherwise prohibited under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135 et seq.). Any flue-cured or burley tobacco that is not accompanied by such certification shall be inspected by the Secretary at the point of entry to determine whether that tobacco meets the pesticide residue requirements. Subsection (d) of this section shall apply with respect to fees and charges imposed to cover the costs of such inspection.

"(B) Any tobacco that is determined by the Secretary not to meet the pesticide residue requirements shall not be permitted entry into the United States.

"(C) The customs fraud provisions under section 592 of the Tariff Act of 1930, as amended (19 U.S.C. 1592), and criminal fraud provisions under section 1001 of title 18, United States Code, shall apply with respect to the certification requirement in subparagraph (A).

"(2) The Secretary shall by regulation provide for pesticide residue standards with respect to pesticides that are cancelled, suspended, revoked, or otherwise prohibited under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135 et seq.), that shall apply to flue-cured and burley tobacco, whether domestically produced or imported.

"(3) The Secretary, to such extent and at such times as the Secretary determines appropriate, shall sample and test flue-cured and burley tobacco offered for importation or for sale in the United States to determine whether it conforms with the pesticide residue requirements. The Secretary shall by regulation impose fees and charges for such inspections.

"(4) If the Secretary determines, as a result of tests conducted under paragraph (3), that certain flue-cured or burley tobacco offered for importation does not meet the requirements of this subsection, then such tobacco shall not be permitted entry into the United States.

"(5)(A) Subject to subparagraph (B), if the Secretary determines that domestically produced flue-cured or burley tobacco does not meet the requirements of this section, such tobacco may not be moved in commerce among the States and shall be destroyed by the Secretary.

"(B) This paragraph shall apply only to tobacco produced after the date of enactment of this provision that receives price support under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) or the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.).".

(b) The second sentence of section 213(d) of such Act is amended by inserting "and subsection (e)" after "subsection (a)(1)".

ASSESSMENT OF EXPORT DISPLACEMENT

SEC. 1162. (a) The Secretary of Agriculture shall assess each program, project, or activity administered by the Secretary or the Department of Agriculture that—

(1) provides assistance for establishing, expanding, or facilitating the production, marketing, or use of any agricultural commodity in a foreign country; and

(2) the Secretary determines is likely to have a detrimental impact on efforts to promote the export of United States agricultural commodities;

in order to determine if such program, project, or activity is likely to have such a detrimental impact.

(b) The Secretary shall provide the results of the assessment required under subsection (a)—

(1) in the case of current programs, projects, or activities, in a report made to the Congress not later than one year from the date of enactment of this section; and

(2) in the case of programs, projects, or activities undertaken after the date of enactment of this section, on a regular basis.

EXPORT SALES OF DAIRY PRODUCTS

SEC. 1163. (a) In each of the fiscal years ending September 30, 1986, September 30, 1987, and September 30, 1988, the Secretary of Agriculture shall sell for export, at such prices as the Secretary determines appropriate, not less than 150,000 metric tons of dairy products owned by the Commodity Credit Corporation, of which not less than 100,000 metric tons shall be butter and not less than 20,000 metric tons shall be cheese, if that disposition of such commodities will not interfere with the usual marketings of the United States nor disrupt world prices of agricultural commodities and normal patterns of commercial trade.

(b) Such sales shall be made through the Commodity Credit Corporation under existing authority available to the Secretary or the Commodity Credit Corporation.

(c) Through September 30, 1988, the Secretary shall report semiannually to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the volume of sales made under this section.

UNFAIR TRADE PRACTICES

SEC. 1164. The Congress finds that—

(1) United States producers and processors of citrus, wheat flour, poultry, canned fruits, and raisins have filed petitions under section 302 of the Trade Act of 1974 alleging that the subsidies and discriminatory tariffs of the European Communities are inconsistent with the principles and terms of the General Agreement on Tariffs and Trade (hereafter referred to in this section as the "GATT") and have placed United States exporters at a competitive disadvantage;

(2) throughout the past decade, the European Communities has repeatedly rebuffed extensive United States efforts to resolve these matters through bilateral consultations and multilateral negotiations, as well as through consultations under the provisions of the GATT;

(3) after many years of frustrated discussions, the United States had no choice but to invoke the dispute settlement procedures of the GATT as the only remaining means of seeking redress for American producers and processors;

(4) investigatory panels, established by the GATT to review United States complaints with respect to citrus, canned fruits, and raisins, concluded that European Communities subsidies and discriminatory tariffs had nullified and impaired rights of United States exporters and were in violation of the GATT and recommended that the European Communities take necessary steps to rectify the matters;

(5) the European Communities has effectively and repeatedly prevented adoption by the GATT of each of these reports, most recently, the favorable report involving the 15-year-old citrus complaint;

(6) on May 1, 1985, the President concluded that the GATT dispute settlement process with respect to the citrus complaint was terminated and, pursuant to section 301 of the Trade Act of 1974, the President had to consider a subsequent course of action to redress the injury to United States citrus exporters;

(7) on June 20, 1985, the President announced that a reasonable and appropriate course of action in response to the unwillingness of the European Communities to implement the unanimous finding of the GATT panel or to negotiate a mutually acceptable resolution of the citrus complaint is to withdraw an equivalent amount of concessions from imported European Communities pasta products and, in response, the European Communities notified the United States that the European Communities would retaliate by increasing the European Communities duties on United States lemon and walnut imports;

(8) on July 19, 1985, the United States and the European Communities agreed to suspend until October 31, 1985, the tariff increases, in order to provide the European Communities with additional time to resolve the citrus complaint; and

(9) despite this suspension, the European Communities has failed to present to the United States an acceptable proposal to resolve the citrus complaint, and effective November 1, 1985, the United States reinstated the pasta tariff increase, and in turn, the European Communities reinstated the lemon and walnut tariff increase.

(b) The President shall take all appropriate and feasible action within the power of the Presidency (including, but not limited to, the actions described in section 301 of the Trade Act of 1974 (19 U.S.C. 2411)) to—

(1) ensure a prompt and satisfactory resolution of all complaints regarding subsidies and discriminatory tariffs of the European Communities which—

(A) are set forth in petitions filed under section 302 of the Trade Act of 1974 by United States exporters of citrus, wheat flour, poultry, canned fruits, and raisins, and

(B) are pending before the GATT on the date of enactment of this Act; and

(2) balance the level of concessions in the trade between the United States and the European Communities.

THAI RICE

SEC. 1165. (a) Congress finds that—

(1) Rice ranks 9th among major domestic field crops in value of production;

(2) Rice accounts for about 5 percent of the value of major field crops produced in the United States;

(3) The value of domestic rice production annually is over $1,500,000,000;

(4) Ending stocks for rice have sharply increased since 1980;

(5) The projected 1985–1986 carryover of rice as a percentage of annual use is 62 percent;

(6) Between 1980 and 1983, rice stocks rose and prices fell, pushing rice program costs from less than one-tenth to over nine-tenths

of the value of United States rice production;

(7) Over the last several years, the percentage of world rice exports from the United States has fallen from a high of 25 percent to 18 percent in 1985;

(8) In the last several years, Thailand has become the largest rice exporter in the world, accounting for 30 percent of the world market;

(9) Thai rice imports into the United States have displaced normal sales of United States rice and have increased Government costs;

(10) In 1983, the United States imported 33.2 million pounds of rice from Thailand, in 1984 the United States imported 51.3 million pounds of rice (an increase of 53 percent), and in the first six months of 1985, rice imports from Thailand to the United States have already reached 58.3 million pounds; and

(11) A petition has been filed with the Department of Commerce asking that countervailing duties be imposed upon imports of Thai rice into the United States.

(b) Based upon these findings, it is the sense of Congress that—

(1) our domestic rice industry is of vital importance and must be protected from unfair foreign competition; and

(2) the Secretary of Commerce should give immediate consideration to the countervailing duty petition referred to in subsection (a)(11).

END USERS OF IMPORTED TOBACCO

SEC. 1166. Section 213 of the Dairy and Tobacco Adjustment Act of 1983 (7 U.S.C. 511r) is amended by adding after the subsection added by section 1161 of this Act the following:

"(f)(1) The certification required under subsection (e)(1) of this section shall also include the identification of any and all end users of such tobacco of which the importer has knowledge. Any flue-cured or burley tobacco permitted entry into the United States must be accompanied by a written identification of any and all end users of such tobacco. In cases in which the importer has no knowledge of the identity of an end user, the importer shall identify any and all purchasers to whom the importer expects to transfer such imported tobacco. The importer shall file with the Department of Agriculture an amended statement if, at any time after the time of entry of such tobacco imports, the importer has knowledge of any additional purchaser or end user. In those cases in which the importer has not identified all end users of such imported tobacco, the Secretary of Agriculture shall take all steps available to ascertain the identity of any and all such end users, including requesting such information from purchasers of such imported tobacco. Domestic purchasers of imported tobacco shall be required to supply any relevant information to the Department of Agriculture upon demand under this subsection.

"(2) The Secretary shall provide to the Senate Committee on Agriculture, Nutrition, and Forestry, and the House Committee on Agriculture, on or before April 1, 1986, a report on the implementation of this authority to identify each end user and purchaser of imported tobacco. Such report shall identify the end users and purchasers of imported tobacco and the quantity, in pounds, bought by such end user or purchaser, as well as all steps taken by the Department of Agriculture to ascertain such identities. The Secretary shall provide an additional report, beginning November 15, 1986, and annual reports thereafter, on the implementation of this authority.

"(3) As used in this subsection, the term 'end user of imported tobacco' means—

"(A) a domestic manufacturer of cigarettes or other tobacco products;

"(B) an entity that mixes, blends, processes, alters in any manner, or stores, imported tobacco for export; and

"(C) any other individual that the Secretary may identify as making use of imported tobacco for the production of tobacco products.".

BARTER OF AGRICULTURAL COMMODITIES FOR STRATEGIC AND CRITICAL MATERIALS

SEC. 1167. (a) Congress finds that—

(1) the Commodity Credit Corporation, the General Services Administration, and the Department of Agriculture have authority to barter or exchange agricultural commodities for strategic and critical materials for the national defense stockpile;

(2) from 1950 to 1973, the Department of Agriculture conducted a highly successful barter program using agricultural commodities to acquire strategic and critical materials;

(3) private commercial firms in the United States have entered into effective barter agreements with foreign governments or private parties in foreign countries to barter or exchange commodities and services to supplement customary commercial transactions in international markets;

(4) barter can be an effective secondary method of reducing excess supplies of agricultural commodities and adding needed strategic and critical materials to the national defense stockpile;

(5) barter can be used to help overcome certain currency exchange and balance-of-trade problems and to develop new markets for United States agricultural products;

(6) barter can be used to promote United States foreign policy interests; and

(7) several nations are potential partners in a revival of a coherent and well-managed government barter program.

(b) Section 4(h) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714b(h)) is amended—

(1) in the fourth sentence—

(A) by striking out "is authorized," and inserting in lieu thereof "shall, to the maximum extent practicable, in consultation with the Secretary of State, and"; and

(B) by striking out "to";

(2) in the fifth sentence, by striking out "normal commercial trade channels shall be utilized and priority shall be given" and inserting in lieu thereof "the Secretary shall: (1) use normal commercial trade channels; (2) take action to avoid displacing usual marketings of United States agricultural commodities and the products thereof; (3) take reasonable precautions to prevent the resale or transshipment to other countries, or use for other than domestic use in the importing country, of agricultural commodities used for such exchange; and (4) give priority";

(3) by inserting after the fifth sentence the following new sentence: "The Corporation may solicit bids from, and utilize, private trading firms to effect such exchange of goods.";

(4) in the eighth sentence (as amended by clause (3)), by striking out "when" and inserting in lieu thereof "in the same fiscal year such materials are"; and

(5) by inserting after the eighth sentence (as amended by clause (3)) the following new sentence: "If the volume of petroleum products (including crude oil) stored in the Strategic Petroleum Reserve is less than the level prescribed under section 154 of the Energy Policy and Conservation Act (42 U.S.C. 6234), the Corporation shall, to the maximum extent practicable and with the approval of the Secretary of Agriculture, make available annually to the Secretary of Energy, upon the request of the Secretary of Energy, a quantity of agricultural products owned by the Corporation with a market value at the time of such request of at least $300,000,000 for use by the Secretary of Energy in acquiring petroleum products (including crude oil) produced abroad for placement in the Strategic Petroleum Reserve through an exchange of such agricultural products. The terms and conditions of each such exchange, including provisions for full reimbursement to the Commodity Credit Corporation, shall be determined by the Secretary of Energy and the Secretary of Agriculture.".

(c) Section 310 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1727g) is amended by inserting after the second sentence the following new sentence: "To the maximum extent practicable, the Secretary shall solicit bids from, and utilize, private trading firms to arrange or make barters or exchanges for strategic or other materials under clause (a).".

(d)(1) The Secretary of Agriculture shall encourage United States exporters of agricultural commodities and the products thereof to barter such commodities and products for foreign products needed by such exporters.

(2) The Secretary shall provide technical advice and assistance relating to the barter of agricultural commodities and the products thereof to any United States exporter who requests such advice or assistance.

TITLE XII—CONSERVATION

SUBTITLE A—DEFINITIONS

DEFINITIONS

SEC. 1201. (a) For purposes of subtitles A through E:

(1) The term "agricultural commodity" means—

(A) any agricultural commodity planted and produced in a State by annual tilling of the soil, including tilling by one-trip planters; or

(B) sugarcane planted and produced in a State.

(2) The term "conservation district" means any district or unit of State or local government formed under State or territorial law for the express purpose of developing and carrying out a local soil and water conservation program. Such district or unit of government may be referred to as a "conservation district", "soil conservation district", "soil and water conservation district", "resource conservation district", "natural resource district", "land conservation committee", or a similar name.

(3) The term "cost sharing payment" means a payment made by the Secretary to an owner or operator of a farm or ranch containing highly erodible cropland under the provisions of section 1234(b) of this Act.

(4)(A) The term "converted wetland" means wetland that has been drained, dredged, filled, leveled, or otherwise manipulated (including any activity that results in impairing or reducing the flow, circulation, or reach of water) for the purpose or to have the effect of making the production of an agricultural commodity possible if—

(i) such production would not have been possible but for such action; and

(ii) before such action—

(I) such land was wetland; and

(II) such land was neither highly erodible land nor highly erodible cropland.

(B) Wetland shall not be considered converted wetland if production of an agricultural commodity on such land during a crop year—

(i) is possible as a result of a natural condition, such as drought; and

(ii) is not assisted by an action of the producer that destroys natural wetland characteristics.

(5) The term "field" means such term as is defined in section 718.2(b)(9) of title 7 of the Code of Federal Regulations (as of January 1, 1985), except that any highly erodible land on which an agricultural commodity is produced after the date of enactment of this Act and that is not exempt under section 1212 shall be considered as part of the field in which such land was included on such date, unless the Secretary permits modification of the boundaries of the field to carry out subtitles A through E.

(6) The term "highly erodible cropland" means highly erodible land that is in cropland use, as determined by the Secretary.

(7)(A) The term "highly erodible land" means land—

(i) that is classified by the Soil Conservation Service as class IV, VI, VII, or VIII land under the land capability classification system in effect on the date of the enactment of this Act; or

(ii) that has, or that if used to produce an agricultural commodity, would have an excessive average annual rate of erosion in relation to the soil loss tolerance level, as established by the Secretary, and as determined by the Secretary through application of factors from the universal soil loss equation and the wind erosion equation, including factors for climate, soil erodibility, and field slope.

(B) For purposes of this paragraph, the land capability class or rate of erosion for a field shall be that determined by the Secretary to be the predominant class or rate of erosion under regulations issued by the Secretary.

(8) The term "hydric soil" means soil that, in its undrained condition, is saturated, flooded, or ponded long enough during a growing season to develop an anaerobic condition that supports the growth and regeneration of hydrophytic vegetation.

(9) The term "hydrophytic vegetation" means a plant growing in—

(A) water; or

(B) a substrate that is at least periodically deficient in oxygen during a growing season as a result of excessive water content.

(10) The term "in-kind commodities" means commodities that are normally produced on land that is the subject of an agreement entered into under subtitle D.

(11) The term "rental payment" means a payment made by the Secretary to an owner or operator of a farm or ranch containing highly erodible cropland to compensate the owner or operator for retiring such land from crop production and placing such land in the conservation acreage reserve in accordance with subtitle D.

(12) The term "Secretary" means the Secretary of Agriculture.

(13) The term "shelterbelt" means a vegetative barrier with a linear configuration composed of trees, shrubs, and other approved perennial vegetation.

(14) The term "State" means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands of the United States, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

(15) The term "vegetative cover" means—

(A) perennial grasses, legumes, forbs, or shrubs with an expected life span of 5 or more years; or

(B) trees.

(16) The term "wetland", except when such term is part of the term "converted wetland", means land that has a predominance of hydric soils and that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions.

(b) The Secretary shall develop—

(1) criteria for the identification of hydric soils and hydrophytic vegetation; and

(2) lists of such soils and such vegetation.

SUBTITLE B—HIGHLY ERODIBLE LAND CONSERVATION

PROGRAM INELIGIBILITY

SEC. 1211. Except as provided in section 1212, and notwithstanding any other provision of law, following the date of enactment of this Act, any person who in any crop year produces an agricultural commodity on a field on which highly erodible land shall be ineligible for—

(1) as to any commodity produced during that crop year by such person—

(A) any type of price support or payment made available under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.), the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), or any other Act;

(B) a farm storage facility loan made under section 4(h) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714b(h));

(C) crop insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.);

(D) a disaster payment made under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.); or

(E) a loan made, insured, or guaranteed under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) or any other provision of law administered by the Farmers Home Administration, if the Secretary determines that the proceeds of such loan will be used for a purpose that will contribute to excessive erosion of highly erodible land; or

(2) a payment made under section 4 or 5 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714b or 714c) during such crop year for the storage of an agricultural commodity acquired by the Commodity Credit Corporation.

EXEMPTIONS

SEC. 1212. (a)(1) During the period beginning on the date of the enactment of this Act and ending on the later of January 1, 1990, or the date that is 2 years after the date land on which a crop of an agricultural commodity is produced was mapped by the Soil Conservation Service for purposes of classifying such land under the land capability classification system in effect on the date of enactment of this Act, except as provided in paragraph (2), no person shall become ineligible under section 1211 for program loans, payments, and benefits as the result of the production of a crop of an agricultural commodity on any land that was—

(A) cultivated to produce any of the 1981 through 1985 crops of an agricultural commodity; or

(B) set aside, diverted or otherwise not cultivated under a program administered by the Secretary for any such crops to reduce production of an agricultural commodity.

(2) If, as of January 1, 1990, or 2 years after the Soil Conservation Service has completed a soil survey for the farm, whichever is later, a person is actively applying a conservation plan based on the local Soil Conservation Service technical guide and approved by the local soil conservation district, in consultation with the Secretary, or by the Secretary, such person shall have until January 1, 1995, to comply with the plan without being subject to program ineligibility.

(b) No person shall become ineligible under section 1211 for program loans, payments, and benefits as the result of the production of a crop of an agricultural commodity—

(1) planted before the date of enactment of this Act;

(2) planted during any crop year beginning before the date of enactment of this Act;

(3) on highly erodible land in an area—

(A) within a conservation district, under a conservation system that has been approved by a conservation district after the district has determined that the conservation system is in conformity with technical standards set forth in the Soil Conservation Service technical guide for such district; or

(B) not within a conservation district, under a conservation system determined by the Secretary to be adequate for the production of such agricultural commodity on any highly erodible land subject to this title; or

(4) on highly erodible land that is planted in reliance on a determination by the Soil Conservation Service that such land was not highly erodible land, except that this paragraph shall not apply to any agricultural commodity that was planted on any land after the Soil Conservation Service determines that such land is highly erodible land.

(c) Section 1211 shall not apply to a loan described in section 1211 made before the date of enactment of this Act.

SOIL SURVEYS

SEC. 1213. The Secretary shall, as soon as is practicable after the date of enactment of this Act, complete soil surveys on those private lands that do not have a soil survey suitable for use in determining the land capability class for purposes of this subtitle. In carrying out this section, the Secretary shall, insofar as possible, concentrate on those localities where significant amounts of highly erodible land are being converted to the production of agricultural commodities.

SUBTITLE C—WETLAND CONSERVATION

PROGRAM INELIGIBILITY

SEC. 1221. Except as provided in section 1222, subject to subtitle E, and notwithstanding any other provision of law, following the date of enactment of this Act, any person who in any crop year produces an agricultural commodity on converted wetland shall be ineligible for—

(1) as to any commodity produced during that crop year by such person—

(A) any type of price support or payment made available under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.), the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), or any other Act;

(B) a farm storage facility loan made under section 4(h) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714b(h));

(C) crop insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.);

(D) a disaster payment made under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.); or

(E) a loan made, insured, or guaranteed under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) or any other provision of law administered by the Farmers Home Administration, if the Secretary determines that the proceeds of such loan will be used for a purpose that will contribute to conversion of wetlands (other than as provided in this subtitle) to produce an agricultural commodity; or

(2) a payment made under section 4 or 5 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714b or 714c) during such crop year for the storage of an agricultural commodity acquired by the Commodity Credit Corporation.

EXEMPTIONS

Sec. 1222. (a) No person shall become ineligible under section 1221 for program loans, payments, and benefits as the result of the production of a crop of an agricultural commodity on—

(1) converted wetland if the conversion of such wetland was commenced before the date of enactment of this Act;

(2) an artificial lake, pond, or wetland created by excavating or diking non-wetland to collect and retain water for purposes such as water for livestock, fish production, irrigation (including subsurface irrigation), a settling basin, cooling, rice production, or flood control;

(3) a wet area created by a water delivery system, irrigation, irrigation system, or application of water for irrigation; or

(4) wetland on which production of an agricultural commodity is possible as a result of a natural condition, such as drought, and without action by the producer that destroys a natural wetland characteristic.

(b) Section 1221 shall not apply to a loan described in section 1221 made before the date of enactment of this Act.

(c) The Secretary may exempt a person from section 1221 for any action associated with the production of an agricultural commodity on converted wetland if the effect of such action, individually and in connection with all other similar actions authorized by the Secretary in the area, on the hydrological and biological aspect of wetland is minimal.

CONSULTATION WITH SECRETARY OF THE INTERIOR

Sec. 1223. The Secretary shall consult with the Secretary of the Interior on such determinations and actions as are necessary to carry out this subtitle, including—

(1) the identification of wetland;

(2) the determination of exemptions under section 1222; and

(3) the issuance of regulations under section 1244 to carry out this subtitle.

SUBTITLE D—CONSERVATION RESERVE

CONSERVATION RESERVE

Sec. 1231. (a) During the 1986 through 1990 crop years, the Secretary shall formulate and carry out a conservation acreage reserve program, in accordance with this subtitle, through contracts to assist owners and operators of highly erodible cropland in conserving and improving the soil and water resources of their farms or ranches.

(b) The Secretary shall enter into contracts with owners and operators of farms and ranches containing highly erodible cropland to place in the conservation reserve—

(1) during the 1986 crop year, not less than 5, nor more than 45, million acres;

(2) during the 1986 through 1987 crop years, a total of not less than 15, nor more than 45, million acres;

(3) during the 1986 through 1988 crop years, a total of not less than 25, nor more than 45, million acres;

(4) during the 1986 through 1989 crop years, a total of not less than 35, nor more than 45, million acres; and

(5) during the 1986 through 1990 crop years, a total of not less than 40, nor more than 45, million acres.

(c)(1)(A) Notwithstanding subsection (b), effective for each of the fiscal years 1986 through 1989, the Secretary may reduce by up to 25 percent the number of acres of highly erodible land required to be placed under contract during each fiscal year if the Secretary determines that the rental payments to be made under section 1233(b) on such acres are likely to be significantly lower in the succeeding year.

(B) Paragraph (A) shall not affect the requirements of paragraph (5) of subsection (b).

(2) The Secretary may include in the program established under this subtitle lands that are not highly erodible lands but that pose an off-farm environmental threat or, if permitted to remain in production, pose a threat of continued degradation of productivity due to soil salinity.

(d) Under the program established under this subtitle, the Secretary shall not place under contract more than 25 percent of the cropland in any one county, except that the Secretary may exceed the limitation established by this subsection in a county to the extent that the Secretary determines that such action would not adversely affect the local economy of such county.

(e) For the purpose of carrying out this subtitle, the Secretary shall enter into contracts of not less than 10, nor more than 15, years.

DUTIES OF OWNERS AND OPERATORS

Sec. 1232. (a) Under the terms of a contract entered into under this subtitle, during the term of such contract, an owner or operator of a farm or ranch must agree—

(1) to implement a plan approved by the local conservation district (or in an area not located within a conservation district, a plan approved by the Secretary) for converting highly erodible cropland normally devoted to the production of an agricultural commodity on the farm or ranch to a less intensive use (as defined by the Secretary), such as pasture, permanent grass, legumes, forbs, shrubs, or trees, substantially in accordance with a schedule outlined in the plan;

(2) to place highly erodible cropland subject to the contract in the conservation acreage reserve established under this subtitle;

(3) not to use such land for agricultural purposes, except as permitted by the Secretary;

(4) to establish approved vegetative cover on such land;

(5) on the violation of a term or condition of the contract at any time the owner or operator has control of such land—

(A) to forfeit all rights to receive rental payments and cost sharing payments under the contract and to refund to the Secretary any rental payments and cost sharing payments received by the owner or operator under the contract, together with interest thereon as determined by the Secretary, if the Secretary, after considering the recommendations of the soil conservation district and the Soil Conservation Service, determines that such violation is of such nature as to warrant termination of the contract; or

(B) to refund to the Secretary, or accept adjustments to, the rental payments and cost sharing payments provided to the owner or operator, as the Secretary considers appropriate, if the Secretary determines that such violation does not warrant termination of the contract;

(6) on the transfer of the right and interest of the owner or operator in land subject to the contract—

(A) to forfeit all rights to rental payments and cost sharing payments under the contract; and

(B) to refund to the United States all rental payments and cost sharing payments received by the owner or operator, or accept such payment adjustments or make such refunds as the Secretary considers appropriate and consistent with the objectives of this subtitle,

unless the transferee of such land agrees with the Secretary to assume all obligations of the contract;

(7) not to conduct any harvesting or grazing, nor otherwise make commercial use of the forage, on land that is subject to the contract, nor adopt any similar practice specified in the contract by the Secretary as a practice that would tend to defeat the purposes of the contract, except that the Secretary may permit harvesting or grazing or other commercial use of the forage on land that is subject to the contract in response to a drought or other similar emergency;

(8) not to conduct any planting of trees on land that is subject to the contract unless the contract specifies that the harvesting and commercial sale of trees such as Christmas trees are prohibited, nor otherwise make commercial use of trees on land that is subject to the contract unless it is expressly permitted in the contract, nor adopt any similar practice specified in the contract by the Secretary as a practice that would tend to defeat the purposes of the contract, except that no contract shall prohibit activities consistent with customary forestry practice, such as pruning, thinning, or stand improvement of trees, on lands converted to forestry use;

(9) not to adopt any practice specified by the Secretary in the contract as a practice that would tend to defeat the purposes of this subtitle; and

(10) to comply with such additional provisions as the Secretary determines are desirable and are included in the contract to carry out this subtitle or to facilitate the practical administration thereof.

(b) The plan referred to in subsection (a)(1)—

(1) shall set forth—

(A) the conservation measures and practices to be carried out by the owner or operator during the term of the contract; and

(B) the commercial use, if any, to be permitted on the land during such term; and

(2) may provide for the permanent retirement of any existing cropland base and allotment history for the land.

(c) To the extent practicable, not less than one eighth of the number of acres of land that is placed in the conservation reserve under this subtitle in each of the 1986 through 1990 crop years shall be devoted to trees.

DUTIES OF THE SECRETARY

Sec. 1233. In return for a contract entered into by an owner or operator under section 1232, the Secretary shall—

(1) share the cost of carrying out the conservation measures and practices set forth in the contract for which the Secretary de-

termines that cost sharing is appropriate and in the public interest;

(2) for a period of years not in excess of the term of the contract, pay an annual rental payment in an amount necessary to compensate for—

(A) the conversion of highly erodible cropland normally devoted to the production of an agricultural commodity on a farm or ranch to a less intensive use; and

(B) the retirement of any cropland base and allotment history that the owner or operator agrees to retire permanently; and

(3) provide conservation technical assistance to assist the owner or operator in carrying out the contract.

PAYMENTS

SEC. 1234. (a) The Secretary shall provide payment for obligations incurred by the Secretary under a contract entered into under this subtitle—

(1) with respect to any cost-sharing payment obligation incurred by the Secretary, as soon as possible after the obligation is incurred; and

(2) with respect to any annual rental payment obligation incurred by the Secretary—

(A) as soon as practicable after October 1 of each calendar year; or

(B) at the discretion of the Secretary, at any time prior to such date during the year that the obligation is incurred.

(b) In making conservation payments to owners and operators under contracts entered into under this subtitle, the Secretary shall pay 50 percent of the cost of establishing conservation measures and practices set forth in such contracts for which the Secretary determines that cost-sharing is appropriate and in the public interest.

(c)(1) In determining the amount of annual rental payments to be paid to owners and operators for converting highly erodible cropland normally devoted to the production of an agricultural commodity to less intensive use, the Secretary may consider, among other things, the amount necessary to encourage owners or operators of highly erodible cropland to participate in the program established by this subtitle.

(2) The amounts payable to owners or operators in the form of rental payments under contracts entered into under this subtitle may be determined through—

(A) the submission of bids for such contracts by owners and operators in such manner as the Secretary may prescribe; or

(B) such other means as the Secretary determines are appropriate.

(3) In determining the acceptability of contract offers, the Secretary may—

(A) take into consideration the extent of erosion on the land that is the subject of the contract and the productivity of the acreage diverted;

(B) where appropriate, accept contract offers that provide for the establishment of—

(i) shelterbelts and windbreaks; or

(ii) permanently vegetated stream borders, filter strips of permanent grass, forbs, shrubs, and trees that will reduce sedimentation substantially;

(C) establish different criteria in various States and regions of the United States to determine the extent to which erosion may be abated; and

(D) give priority to offers made by owners and operators who are subject to the highest degree of economic stress, such as a general tightening of agricultural credit or an unfavorable relationship between production costs and prices received for agricultural commodities.

(d)(1) Except as otherwise provided in this section, payments under this subtitle—

(A) shall be made in cash or in commodities in such amount and on such time schedule as is agreed on and specified in the contract; and

(B) may be made in advance of determination of performance.

(2) If such payment is made with in-kind commodities, such payment shall be made by the Commodity Credit Corporation—

(A) by delivery of the commodity involved to the owner or operator at a warehouse or other similar facility located in the county in which the highly erodible cropland is located or at such other location as is agreed to by the Secretary and the owner or operator;

(B) by the transfer of negotiable warehouse receipts; or

(C) by such other method, including the sale of the commodity in commercial markets, as is determined by the Secretary to be appropriate to enable the owner or operator to receive efficient and expeditious possession of the commodity.

(3) If stocks of a commodity acquired by the Commodity Credit Corporation are not readily available to make full payment in kind to the owner or operator, the Secretary may substitute full or partial payment in cash for payment in kind.

(e) If an owner or operator who is entitled to a payment under a contract entered into under this subtitle dies, becomes incompetent, is otherwise unable to receive such payment, or is succeeded by another person who renders or completes the required performance, the Secretary shall make such payment, in accordance with regulations prescribed by the Secretary and without regard to any other provision of law, in such manner as the Secretary determines is fair and reasonable in light of all of the circumstances.

(f)(1) The total amount of rental payments, including rental payments made in the form of in-kind commodities, made to an owner or operator under this subtitle for any fiscal year may not exceed $50,000.

(2)(A) The Secretary shall issue regulations—

(i) defining the term "person" as used in this subsection; and

(ii) prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the limitation contained in this subsection.

(B) The regulations issued by the Secretary on December 18, 1970, under section 101 of the Agricultural Act of 1970 (7 U.S.C. 1307), shall be used to determine whether corporations and their stockholders may be considered as separate persons under this subsection.

(3) Rental payments received by an owner or operator shall be in addition to, and not affect, the total amount of payments that such owner or operator is otherwise eligible to receive under this Act or the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.).

CONTRACTS

SEC. 1235. (a)(1) No contract shall be entered into under this subtitle concerning land with respect to which the ownership has changed in the 3-year period preceding the first year of the contract period unless—

(A) the new ownership was acquired by will or succession as a result of the death of the previous owner;

(B) the new ownership was acquired before January 1, 1985; or

(C) the Secretary determines that the land was acquired under circumstances that give adequate assurance that such land was not acquired for the purpose of placing it in the program established by this subtitle.

(2) Paragraph (1) shall not—

(A) prohibit the continuation of an agreement by a new owner after an agreement has been entered into under this subtitle; or

(B) require a person to own the land as a condition of eligibility for entering into the contract if the person—

(i) has operated the land to be covered by a contract under this section for at least 3 years preceding the date of the contract or since January 1, 1985, whichever is later; and

(ii) controls the land for the contract period.

(b) If during the term of a contract entered into under this subtitle an owner or operator of land subject to such contract sells or otherwise transfers the ownership or right of occupancy of such land, the new owner or operator of such land may—

(1) continue such contract under the same terms or conditions;

(2) enter into a new contract in accordance with this subtitle; or

(3) elect not to participate in the program established by this subtitle.

(c)(1) The Secretary may modify a contract entered into with an owner or operator under this subtitle if—

(A) the owner or operator agrees to such modification; and

(B) the Secretary determines that such modification is desirable—

(i) to carry out this subtitle;

(ii) to facilitate the practical administration of this subtitle; or

(iii) to achieve such other goals as the Secretary determines are appropriate, consistent with this subtitle.

(2) The Secretary may modify or waive a term or condition of a contract entered into under this subtitle in order to permit all or part of the land subject to such contract to be devoted to the production of an agricultural commodity during a crop year, subject to such conditions as the Secretary determines are appropriate.

(d)(1) The Secretary may terminate a contract entered into with an owner or operator under this subtitle if—

(A) the owner or operator agrees to such termination; and

(B) the Secretary determines that such termination would be in the public interest.

(2) At least 90 days before taking any action to terminate under paragraph (1) all conservation reserve contracts entered into under this subtitle, the Secretary shall provide written notice of such action to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

BASE HISTORY

SEC. 1236. (a) A reduction, based on a ratio between the total cropland acreage on the farm and the acreage placed in the conservation reserve authorized by this subtitle, as determined by the Secretary, shall be made during the period of the contract, in the aggregate, in crop bases, quotas, and allotments on the farm with respect to crops for which there is a production adjustment program.

(b) Notwithstanding sections 1211 and 1221, the Secretary, by appropriate regulation, may provide for preservation of cropland base and allotment history applicable to acreage converted from the production of agricultural commodities under this section, for the purpose of any Federal program under which the history is used as a basis for participation in the program or for an

allotment or other limitation in the program, unless the owner and operator agree under the contract to retire permanently that cropland base and allotment history.

SUBTITLE E—ADMINISTRATION

USE OF COMMODITY CREDIT CORPORATION

SEC. 1241. (a)(1) During each of the fiscal years ending September 30, 1986, and September 30, 1987, the Secretary shall use the facilities, services, authorities, and funds of the Commodity Credit Corporation to carry out subtitle D.

(2) During the fiscal year ending September 30, 1988, and each fiscal year thereafter, the Secretary may use the facilities, services, authorities, and funds of the Commodity Credit Corporation to carry out subtitle D, except that the Secretary may not use funds of the Corporation for such purpose unless the Corporation has received funds to cover such expenditures from appropriations made to carry out this subtitle.

(b) The authority provided by subtitles (A) through (E) shall be in addition to, and not in place of, other authority granted to the Secretary and the Commodity Credit Corporation.

USE OF OTHER AGENCIES

SEC. 1242. (a) In carrying out subtitle B, C, and D the Secretary shall use the services of local, county, and State committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)).

(b)(1) In carrying out subtitle D, the Secretary may utilize the services of the Soil Conservation Service and the Forest Service, the Fish and Wildlife Service, State forestry agencies, State fish and game agencies, land-grant colleges, local, county, and State committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h), soil and water conservation districts, and other appropriate agencies.

(2) In carrying out subtitle D at the State and county levels, the Secretary shall consult with, to the extent practicable, the Fish and Wildlife Service, State forestry agencies, State fish and game agencies, land-grant colleges, soil-conservation districts, and other appropriate agencies.

ADMINISTRATION

SEC. 1243. (a) The Secretary shall establish, by regulation, an appeal procedure under which a person who is adversely affected by any determination made under subtitle (A) through (E) may seek review of such determination.

(b) Ineligibility under section 1211 or 1212 of a tenant or sharecropper for benefits shall not cause a landlord to be ineligible for benefits for which the landlord would otherwise be eligible with respect to commodities produced on lands other than those operated by the tenant or sharecropper.

(c) In carrying out subtitles B through E, the Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers, including provision for sharing, on a fair and equitable basis, in payments under the program established by subtitle D.

REGULATIONS

SEC. 1244. Not later than 180 days after the date of enactment of this Act, the Secretary shall issue such regulations as the Secretary determines are necessary to carry out subtitles (A) through (E), including regulations that—

(1) define the term "person";

(2) govern the determination of persons who shall be ineligible for program benefits under subtitle (B) and (C), so as to ensure a fair and reasonable determination of ineligibility; and

(3) protect the interests of landlords, tenants, and sharecroppers.

AUTHORIZATION FOR APPROPRIATIONS

SEC. 1245. There are authorized to be appropriated without fiscal year limitation such sums as may be necessary to carry out subtitles A through E.

SUBTITLE F—OTHER CONSERVATION PROVISIONS

TECHNICAL ASSISTANCE FOR WATER RESOURCES

SEC. 1251. (a) Notwithstanding any other provision of law, the Secretary of Agriculture may formulate plans and provide technical assistance to property owners and agencies of State and local governments and interstate river basin commissions, at their request, to—

(1) protect the quality and quantity of subsurface water, including water in the Nation's aquifers;

(2) enable property owners to reduce their vulnerability to flood hazards that also may affect water resources; and

(3) control the salinity in the Nation's agricultural water resources.

(b) The Secretary shall submit by February 15, 1987, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report evaluating the plans and technical assistance authorized in subsection (a). Such report shall include any recommendations as to whether the plan and assistance should be extended, how any plan and assistance could be improved, and any other relevant information and data relating to costs and other elements of the plan or assistance that would be helpful to such Committees.

SOIL AND WATER RESOURCES CONSERVATION

SEC. 1252. (a) Subsection (d) of section 5 of the Soil and Water Resources Conservation Act of 1977 (16 U.S.C. 2004(b)) is amended to read as follows:

"(d) The Secretary shall conduct four comprehensive appraisals under this section, to be completed by December 31, 1979, December 31, 1986, December 31, 1995, and December 31, 2005, respectively. The Secretary may make such additional interim appraisals as the Secretary considers appropriate.".

(b) Subsection (b) of section 6 of such Act (16 U.S.C. 2205(b)) is amended to read as follows:

"(b) The initial program shall be completed not later than December 31, 1979, and program updates shall be completed by December 31, 1987, December 31, 1997, and December 31, 2007, respectively.".

(c) Section 7 of such Act (16 U.S.C. 2006) is amended by—

(1) striking out subsection (a) and inserting in lieu thereof the following new subsection:

"(a)(1) At the time Congress convenes in 1980, 1987, 1996, and 2006, the President shall transmit to the Speaker of the House of Representatives and the President of the Senate the appraisal developed under section 5 and completed prior to the end of the previous year.

"(2) At the time Congress convenes in 1980, 1988, 1998, and 2008, the President shall transmit to the Speaker of the House of Representatives and the President of the Senate the initial program or updated program developed under section 6 and completed prior to the end of the previous year, together with a detailed statement of policy regarding soil and water conservation activities of the United States Department of Agriculture.";

(2) striking out subsection (b); and

(3) redesignating subsection (c) as subsection (b).

(d) Section 10 of such Act (16 U.S.C. 2009) is amended by striking out "1985" and inserting in lieu thereof "2008".

DRY LAND FARMING

SEC. 1253. The first sentence of section 7(a) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590g(a)) is amended by—

(1) striking out "and" at the end of clause (5); and

(2) inserting before the period the following:

", and (7) the promotion of energy and water conservation through dry land farming".

SOFTWOOD TIMBER

SEC. 1254. Section 608 of the Agricultural Programs Adjustment Act of 1984 (7 U.S.C. 1981 note) is amended to read as follows:

"SOFTWOOD TIMBER

"SEC. 608. (a)(1) Notwithstanding any other provision of law, the Secretary of Agriculture (hereinafter in this section referred to as the 'Secretary') may implement a program, pursuant to the recommendations contained in the study mandated by section 608 of the Agricultural Programs Adjustment Act of 1984 (7 U.S.C. 1421 note), under which a distressed loan (as determined by the Secretary) made or insured under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.), or a portion thereof, may be reamortized with the use of future revenue produced from the planting of softwood timber crops on marginal land (as determined by the Secretary) that—

"(A) was previously used to produce an agricultural commodity or as pasture; and

"(B) secures a loan made or insured under such Act.

"(2) Accrued interest on a loan reamortized under this section may be capitalized and interest charged on such interest.

"(3) All on a portion of the payments on such reamortized loan may be deferred until such softwood timber crop produces revenue or for a term of 45 years, whichever comes first.

"(4) Repayment of such reamortized loan shall be made not later than 50 years after the date of reamortization.

"(b) The interest rate on such reamortized loans shall be determined by the Secretary, but not in excess of the current average yield on outstanding marketable obligations of the United States with periods to maturity comparable to the average maturities of such loans, plus not to exceed 1 percent, as determined by the Secretary and adjusted to the nearest one-eighth of 1 percent.

"(c) To be eligible for such program—

"(1) the borrower of such reamortized loan must place not less than 50 acres of such land in softwood timber production;

"(2) such land (including timber) may not have any lien against such land other than a lien for—

"(A) a loan made or insured under the Consolidated Farm and Rural Development Act to secure such reamortized loan; or

"(B) a loan made under this section, at the time of reamortization or thereafter, that is subject to a lien on such land (including timber) in favor of the Secretary; and

"(3) the total amount of loans secured by such land (including timber) may not exceed $1,000 per acre.

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"(d)(1) To assist such borrowers to place such land in softwood timber production, the Secretary may take loans to such borrowers for such purpose in an aggregate amount not to exceed the actual cost of tree planting for land placed in the program.

"(2) Any such loan shall be secured by the land (including timber) on which the trees are planted.

"(3) Such loans shall be made on the same terms and conditions as are provided in this section for reamortized loans.

"(e) The Secretary shall issue such rules as are necessary to carry out this section, including rules prescribing terms and conditions for—

"(1) reamortizing and making loans under this section;

"(2) entering into security instruments and agreements under this section; and

"(3) management and harvesting practices of the timber crop.

"(f) There are authorized to be appropriated such sums as are necessary to carry out this section.

"(g) No more than 50,000 acres may be placed in such program.".

AMENDMENT TO FARMLAND PROTECTION POLICY ACT

SEC. 1255. (a) Section 1546 of the Farmland Protection Policy Act (7 U.S.C. 4207) is amended by striking out "Within one year after the enactment of this subtitle," and inserting in lieu thereof "On January 1, 1987, and at the beginning of each subsequent calendar year.".

(b) Section 1548 of such Act (7 U.S.C. 4209) is amended by striking out "any State, local unit of government, or" and inserting before the period ": Provided, That the Governor of an affected State where a State policy or program exists to protect farmland may bring an action in the Federal district court of the district where a Federal program is proposed to enforce the requirements of section 1541 of this subtitle and regulations issued pursuant thereto".

TITLE XIII—CREDIT

JOINT OPERATIONS

SEC. 1301. (a) Sections 302 and 311(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1922 and 1941(a), respectively) are each amended by—

(1) striking out "and partnerships" each place it appears after "corporations" and inserting ", partnerships, and joint operations" in lieu thereof;

(2) striking out ", and partnerships" each place it appears after "corporations" and inserting ", partnerships, and joint operations" in lieu thereof; and

(3) striking out "members, stockholders, or partners, as applicable," each place it appears and inserting "individuals" in lieu thereof.

(b) Section 343 of the Consolidated Farm and Rural Development Act .(7 U.S.C. 1991) is amended by—

(1) striking out "and" before "(6)"; and

(2) inserting before the period at the end thereof the following: ", and (7) the term 'joint operation' means a joint farming operation in which two or more farmers work together sharing equally or unequally land, labor, equipment, expenses, and income".

ELIGIBILITY FOR REAL ESTATE AND OPERATING LOANS

SEC. 1302. (a) Section 302 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1922) is amended by—

(1) inserting "(a)" after the section designation; and

(2) adding at the end thereof the following new subsection:

"(b) The Secretary may not restrict eligibility for loans made or insured under this subtitle for purposes set forth in section 303 solely to borrowers of loans that are outstanding on the date of enactment of the Food Security Act of 1985.".

(b) Section 311 of such Act (7 U.S.C. 1941) is amended by adding at the end thereof the following new subsection:

"(c) The Secretary may not restrict eligibility for loans made or insured under this subtitle for purposes set forth in section 312 solely to borrowers of loans that are outstanding on the date of enactment of the Food Security Act of 1985.".

FAMILY FARM RESTRICTION

SEC. 1303. Sections 302 and 311 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1922 and 1941) are each amended by adding, at the end of the parenthetical provision in clause (3) of the second sentence, the following: "or, in the case of holders of the entire interest who are related by blood or marriage and all of whom are or will become farm operators, the ownership interest of each such holder separately constitutes not larger than a family farm, even if their interests collectively constitute larger than a family farm, as defined by the Secretary".

WATER AND WASTE DISPOSAL FACILITIES

SEC. 1304. (a) Section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)) is amended by—

(1) adding at the end of paragraph (2) the following:

"The Secretary shall fix the grant rate for each project in conformity with regulations issued by the Secretary that shall provide for a graduated scale of grant rates establishing higher rates for projects in communities that have lower community population and income levels."; and

(2) adding at the end thereof the following:

"(16)(A) The Secretary may make grants to private nonprofit organizations for the purpose of enabling them to provide to associations described in paragraph (1) of this subsection technical assistance and training to—

"(i) identify, and evaluate alternative solutions to, problems relating to the obtaining, storage, treatment, purification, or distribution of water or the collection, treatment, or disposal of waste in rural areas;

"(ii) prepare applications to receive financial assistance for any purpose specified in paragraph (2) of this subsection from any public or private source; and

"(iii) improve the operation and maintenance practices at any existing works for the storage, treatment, purification, or distribution of water or the collection, treatment, or disposal of waste in rural areas.

"(B) In selecting recipients of grants to be made under subparagraph (A), the Secretary shall give priority to private nonprofit organizations that have experience in providing the technical assistance and training described in subparagraph (A) to associations serving rural areas in which residents have low income and in which water supply systems or waste facilities are unhealthful.

"(C) Not less than 1 nor more than 2 per centum of any funds provided in appropriations acts to carry out paragraph (2) of this subsection for any fiscal year shall be reserved for grants under subparagraph (A) unless the applications, qualifying for grants, received by the Secretary from eligible nonprofit organizations for the fiscal year total less than 1 per centum of those funds.

"(17) In the case of water and waste disposal facility projects serving more than one separate rural community, the Secretary shall use the median population level and the community income level of all the separate communities to be served in applying the standards specified in paragraph (2) of this subsection and section 307(a)(3)(A).

"(18) Grants under paragraph (2) of this subsection may be used to pay the local share requirements of another Federal grant-in-aid program to the extent permitted under the law providing for such grant-in-aid program.

"(19)(A) In the approval and administration of a loan made under paragraph (1) for a water or waste disposal facility, the Secretary shall consider fully any recommendation made by the loan applicant or borrower concerning the technical design and choice of materials to be used for such facility.

"(B) If the Secretary determines that a design or materials, other than those that were recommended, should be used in the water or waste disposal facility, the Secretary shall provide such applicant or borrower with a comprehensive justification for such determination.".

(b)(1) The Secretary of Agriculture shall—

(A) conduct a study of the practicality and cost effectiveness of making loans and grants under section 306 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926) for the construction of water and waste disposal facilities in rural areas at individual locations, rather than central or community locations; and

(B) in such study consider the feasibility of small multiuser drinking water facilities, the costs involved in connecting rural residents into the community water systems, improvements to small community water systems, and alternative rural drinking water systems.

(2) Not later than 120 days after the date of enactment of this Act, the Secretary shall submit a report on the results of the study required under paragraph (1) to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

MINERAL RIGHTS AS COLLATERAL

SEC. 1305. Section 307 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1927) is amended by adding at the end thereof the following:

"(d) With respect to a farm ownership loan made after the date of the enactment of this subsection, unless appraised values of the rights to oil, gas, or other minerals are specifically included as part of the appraised value of collateral securing the loan, the rights to oil, gas, or other minerals located under the property shall not be considered part of the collateral securing the loan. Nothing in this subsection shall prevent the inclusion of, as part of the collateral securing the loan, any payment or other compensation the borrower may receive for damages to the surface of the collateral real estate resulting from the exploration for or recovery of minerals.".

FARM RECORDKEEPING TRAINING FOR LIMITED RESOURCE BORROWERS

SEC. 1306. The first sentence of section 312(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1942(a)) is amended—

(1) by striking out "and" at the end of clause (10); and

(2) by inserting before the period at the end thereof the following new clause: ", and (12) training in maintaining records of farming and ranching operations for limit-

ed resource borrowers receiving loans under section 310D".

NONSUPERVISED ACCOUNTS

SEC. 1307. Section 312 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1942) is amended by adding at the end the following:

"(e) Notwithstanding any other provision of this title, the Secretary shall reserve not more than 10 percent of any loan made under this subtitle or $5,000 of such loan, whichever is less, to be placed in a nonsupervised bank account which may be used at the discretion of the borrower for necessary family living needs or purposes not inconsistent with previously agreed upon farming or ranching plans. If the borrower exhausts this reserve, the Secretary may review and adjust the farm plan with the borrower and consider rescheduling the loan, extending additional credit, the use of income proceeds to pay necessary farm and home and other expenses, or additional available loan servicing.".

ELIGIBILITY FOR EMERGENCY LOANS

SEC. 1308. (a) Section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)) is amended by—

(1) inserting after "United States" in clause (1) of the first sentence "and who are owner-operators (in the case of loans for a purpose under subtitle A) or operators (in the case of loans for a purpose under subtitle B) of not larger than family farms";

(2) in clause (2) of the first sentence, striking out "farm cooperatives or private domestic corporations or partnerships in which a majority interest is held by members, stockholders, or partners who are citizens of the United States if the cooperative, corporation, or partnership is engaged primarily in farming, ranching, or aquaculture," and inserting in lieu thereof the following: "farm cooperatives, private domestic corporations, partnerships, or joint operations (A) that are engaged primarily in farming, ranching, or aquaculture, and (B) in which a majority interest is held by individuals who are citizens of the United States and who are owner-operators (in the case of loans for a purpose under subtitle A) or operators (in the case of loans for a purpose under subtitle B) of not larger than family farms (or in the case of such cooperatives, corporations, partnerships, or joint operations in which a majority interest is held by individuals who are related by blood or marriage, as defined by the Secretary, such individuals must be either owners or operators of not larger than a family farm and at least one such individual must be an operator of not larger than a family farm),"; and

(3) inserting after the first sentence the following: "In addition to the foregoing requirements of this subsection, in the case of farm cooperatives, private domestic corporations, partnerships, and joint operations, the family farm requirement of the preceding sentence shall apply as well to all farms in which the entity has an ownership and operator interest (in the case of loans for a purpose under subtitle A) or an operator interest (in the case of loans for a purpose under subtitle B).".

(b)(1) Subsection (b) of section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(b)) is amended to read as follows:

"(b) An applicant shall be ineligible for financial assistance under this subtitle for crop losses if crop insurance was available to the applicant for such crop losses under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).".

(2) The amendment made by paragraph (1) shall not apply to a person whose eligibility for an emergency loan is the result of damage to an annual crop planted or harvested before the end of 1986.

(3) Section 324(b)(1) of such Act (7 U.S.C. 1964(b)(1)) is amended by striking out "but (A)" and all that follows through "Secretary" and inserting in lieu thereof "but not in excess of 8 percent per annum".

(c) Subsection (a) of section 324 of such Act (7 U.S.C. 1964(a)) is amended to read as follows:

"(a) No loan made or insured under this subtitle may exceed the amount of the actual loss caused by the disaster or $500,000, whichever is less, for each disaster.".

(d) Section 330 of such Act (7 U.S.C. 1971) is repealed.

SETTLEMENT OF CLAIMS

SEC. 1309. Subsection (d) of the second paragraph of section 331 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981(d)) is amended to read as follows:

"(d) compromise, adjust, reduce, or charge-off claims, and adjust, modify, subordinate, or release the terms of security instruments, leases, contracts, and agreements entered into or administered by the Farmers Home Administration under any of its programs, as circumstances may require, to carry out this title. The Secretary may release borrowers or others obligated on a debt incurred under this title from personal liability with or without payment of any consideration at the time of the compromise, adjustment, reduction, or charge-off of any claim, except that no compromise, adjustment, reduction, or charge-off of any claim may be made or carried out—

"(1) on terms more favorable than those recommended by the appropriate county committee utilized pursuant to section 332; or

"(2) after the claim has been referred to the Attorney General, unless the Attorney General approves;".

OIL AND GAS ROYALTIES

SEC. 1310. (a) Subtitle D of the Consolidated Farm and Rural Development Act is amended by inserting after section 331B the following new section:

"SEC. 331C. (a) The Secretary shall permit a borrower of a loan made or insured under this title to make a prospective payment on such loan with proceeds from—

"(1) the leasing of oil, gas, or other mineral rights to real property used to secure such loan; or

"(2) the sale of oil, gas, or other minerals removed from real property used to secure such loan, if the value of the rights to such oil, gas, or other minerals has not been used to secure such loan.

"(b) Subsection (a) shall not apply to a borrower of a loan made or insured under this title with respect to which a liquidation or foreclosure proceeding is pending on the date of enactment of the Food Security Act of 1985.".

(b) Section 204 of the Emergency Agricultural Credit Adjustment Act of 1978 (7 U.S.C. 1947 note) is amended by adding at the end thereof the following new subsection:

"(e)(1) The Secretary shall permit a borrower of a loan made or insured under this title to make a prospective payment on such loan with proceeds from—

"(A) the leasing of oil, gas, or other mineral rights to real property used to secure such loan; or

"(B) the sale of oil, gas, or other minerals removed from real property used to secure such loan if the value of the rights to such oil, gas, or other minerals has not been used to secure such loan.

"(2) Paragraph (1) shall not apply to a borrower of a loan made or insured under this title with respect to which a liquidation or foreclosure proceeding is pending on the date of enactment of the Food Security Act of 1985.".

COUNTY COMMITTEES

SEC. 1311. Section 332(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1982(a)) is amended to read as follows:

"(a) In each county or area in which activities are carried out under this title, there shall be a county committee composed of three members. Two members shall be elected, from among their number, by farmers deriving the principal part of their income from farming who reside within the county or area, and one member, who shall reside within the county or area, shall be appointed by the Secretary for a term of three years. At the first election of county committee members under this subsection, one member shall be elected for a term of one year and one member shall be elected for a term of two years. Thereafter, elected members of the county committee shall be elected for a term of three years. The Secretary, in selecting the appointed member of the county committee, shall ensure that, to the greatest extent practicable, the committee is fairly representative of the farmers in the county or area. The Secretary may appoint an alternate for each member of the county committee. Appointed and alternate members of the county committee shall be removable by the Secretary for cause. The Secretary shall issue such regulations as are necessary relating to the election and appointment of members and alternate members of the county committees.".

PROMPT APPROVAL OF LOANS AND LOAN GUARANTEES

SEC. 1312. (a) Subtitle D of the Consolidated Farm and Rural Development Act is amended by inserting after section 333 (7 U.S.C. 1983) the following new section:

"SEC. 333A. (a)(1) The Secretary shall approve or disapprove an application for a loan or loan guarantee made under this title, and notify the applicant of such action, not later than 60 days after the Secretary has received a complete application for such loan or loan guarantee.

"(2) If an application for a loan or loan guarantee under this title is incomplete, the Secretary shall inform the applicant of the reasons such application is incomplete not later than 20 days after the Secretary has received such application.

"(3) If an application for a loan or loan guarantee under this title is disapproved by the Secretary, the Secretary shall state the reasons for the disapproval in the notice required under paragraph (1).

"(b)(1) Except as provided in paragraph (2), if an application for an insured loan under this title is approved by the Secretary, the Secretary shall provide the loan proceeds to the applicant not later than 15 days (or such longer period as the applicant may approve) after the application for the loan is approved by the Secretary.

"(2) If the Secretary is unable to provide the loan proceeds to the applicant within such 15-day period because sufficient funds are not available to the Secretary for such purpose, the Secretary shall provide the loan proceeds to the applicant as soon as practicable (but in no event later than 15 days unless the applicant agrees to a longer period) after sufficient funds for such purpose become available to the Secretary.

"(c) In an application for a loan or loan guarantee under this title is disapproved by the Secretary, but such action is subsequently reversed or revised as the result of an appeal within the Department of Agriculture or to the courts of the United States and the application is returned to the Secretary for further consideration, the Secretary shall act on the application and provide the applicant with notice of the action within 15 days after return of the application to the Secretary.

"(d) In carrying out the approved lender program established by exhibit A to subpart B of part 1980 of title 7, Code of Federal Regulations, the Secretary shall ensure that each request of a lending institution for designation as an approved lender under such program is reviewed, and a decision made on the application, not later than 15 days after the Secretary has received a complete application for such designation.

"(e)(1) As soon as practicable after the date of enactment of the Food Security Act of 1985, the Secretary shall take such steps as are necessary to make personnel, including the payment of overtime for such personnel, and other resources of the Department of Agriculture available to the Farmers Home Administration as are sufficient to enable the Farmers Home Administration to expeditiously process loan applications that are submitted by farmers and ranchers.

"(2) In carrying out paragraph (1), the Secretary may use any authority of law provided to the Secretary, including—

"(A) the Agricultural Credit Insurance Fund established under section 309; and

"(B) the employment procedures used in connection with the emergency loan program established under subtitle C.".

(b) The amendment made by subsection (a) shall be effective with respect to applications for loans or loan guarantees under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) received by the Secretary of Agriculture after the date of enactment of this Act.

APPEALS

SEC. 1313. (a) Subtitle D of the Consolidated Farm and Rural Development Act is amended by inserting after section 333A (as added by section 1312) the following new section:

"SEC. 333B. (a) The Secretary shall provide an applicant for or borrower of a loan, or an applicant for or recipient of a loan guarantee, under this title who has been directly and adversely affected by a decision of the Secretary made under this title (hereafter in this section referred to as the 'appellant') with written notice of the decision, an opportunity for an informal meeting, and an opportunity for a hearing with respect to such decision, in accordance with regulations issued by the Secretary consistent with this section.

"(b)(1) Not later than 10 days after such adverse decision, the Secretary shall provide the appellant with written notice of the decision, an opportunity for an informal meeting, an opportunity for a hearing, and the procedure to appeal such decision (including any deadlines for filing appeals).

"(2) Upon the request of the appellant and in order to provide an opportunity to resolve differences and minimize formal appeals, the Secretary shall hold an informal meeting with the appellant prior to the initiation of any formal appeal of the decision of the Secretary.

"(c)(1) An appellant shall have the right to have—

"(A) access to the personal file of the appellant maintained by the Secretary, including a reasonable opportunity to inspect and reproduce the file at an office of the Farmers Home Administration located in the area of the appellant; and

"(B) representation by an attorney or nonattorney during the inspection and reproduction of files under subparagraph (A) and at any informal meeting or hearing.

"(2) The Secretary may charge an appellant for any reasonable costs incurred in reproducing files under paragraph (1)(A).".

(b)(1) The Secretary of Agriculture shall conduct a study of the administrative appeals procedure used in the farm loan programs of the Farmers Home Administration.

(2) In conducting such study, the Secretary shall examine—

(A) the number and type of appeals initiated by loan applicants and borrowers;

(B) the extent to which initial administrative actions are reversed on appeal;

(C) the reasons that administrative actions are reversed, modified, or sustained on appeal;

(D) the number and disposition of appeals in which the loan applicant or borrower is represented by legal counsel;

(E) the quantity of time required to complete action on appeals and the reasons for delays;

(F) the feasibility of the use of administrative law judges in the appeals process; and

(G) the desirability of electing members of county committees established under section 332 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1982).

(c) Not later than September 1, 1986, the Secretary shall submit a report describing the results of the study required under this section to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

DISPOSITION AND LEASING OF FARMLAND

SEC. 1314. (a) Section 335 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1985) is amended by—

(1) striking out "Real" in subsection (b) and inserting in lieu thereof "Except as provided in subsection (e), real";

(2) in subsection (c)—

(A) striking out "The" in the first sentence and inserting in lieu thereof "Except as provided in subsection (e), the"; and

(B) adding at the end thereof the following new sentence: "Notwithstanding the preceding sentence, the Secretary may for conservation purposes grant or sell an easement, restriction, development rights, or the equivalent thereof, to a unit of local or State government or a private nonprofit organization separately from the underlying fee or sum of all other rights possessed by the United States."; and

(3) by adding at the end thereof the following new subsection:

"(e)(1) The Secretary shall to the extent practicable sell or lease farmland administered under this title in the following order of priority:

"(A) Sale of such farmland to operators (as of the time immediately before such sale) of not larger than family-size farms.

"(B) Lease of such farmland to operators (as of the time immediately before such lease is entered into) of not larger than family-size farms.

"(2) The Secretary shall not offer for sale or sell any such farmland if the placing of such farmland on the market will have a detrimental effect on the value of farmland in the area.

"(3)(A) The Secretary shall consider granting, and may grant, to an operator of not larger than a family-size farm, in conjunction with paragraph (3), a lease with an option to purchase farmland administered under this title.

"(B) The Secretary shall issue regulations providing for leasing such land, or leasing such land with an option to purchase, on a fair and equitable basis.

"(C) In leasing such land, the Secretary shall give special consideration to a previous owner or operator of such land if such owner or operator has financial resources, and farm management skills and experience, that the Secretary determines are sufficient to assure a reasonable prospect of success in the proposed farming operation.

"(D) To the extent the Secretary may lease or operate real property under this subsection, the Secretary shall, if the Secretary determines to administer such property through management contracts, offer the contracts on a competitive bid basis, giving preference to persons who will live in, and own and operate qualified small businesses in, the area where the property is located.

"(4)(A)(i) The Secretary may sell farmland administered under this title through an installment sale or similar device that contains such terms as the Secretary considers necessary to protect the investment of the Federal Government in such land.

"(ii) The Secretary may subsequently sell any contract entered into to carry out clause (i).

"(B) The Secretary shall offer such land for sale to operators of not larger than family-size farms at a price that reflects the average annual income that may be reasonably anticipated to be generated from farming such land.

"(C) If two or more qualified operators of not larger than family-size farms desire to purchase, or lease with an option to purchase, such land, the appropriate county committee shall, by majority vote, select the operator who may purchase such land, on such basis as the Secretary may prescribe by regulation.

"(5)(A) If the Secretary determines that farmland administered under this title is not suitable for sale or lease to an operator of not larger than a family-size farm because such farmland is in a tract or tracts that the Secretary determines to be larger than that necessary for family-size farms, the Secretary shall subdivide such land into tracts suitable for such operator.

"(B) The Secretary shall dispose of such subdivided farmland in accordance with this subsection.

"(6) If suitable farmland is available for disposition under this subsection, the Secretary shall—

"(A) publish an announcement of the availability of such farmland in at least one newspaper that is widely circulated in the county in which the farmland is located; and

"(B) post an announcement of the availability of such farmland in a prominent place in the local office of the Farmers Home Administration that serves the county in which the farmland is located.

"(7) In the case of farmland administered under this title that is highly erodible land (as defined in section 1201 of the Food Security Act of 1985), the Secretary may require the use of specified conservation practices on such land as a condition of the sale or lease of such land.

"(8) Notwithstanding any other provisions of law, compliance by the Secretary with *this subsection shall not cause any acreage allotment, marketing quota, or acreage base assigned to such property to lapse, terminate, be reduced, or otherwise be adversely affected.".*

(b) The Secretary of Agriculture shall implement the amendments made by this section not later than 90 days after the date of enactment of this Act.

RELEASE OF NORMAL INCOME SECURITY

SEC. 1315. Section 335 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1985) (as amended by section 1314(3)) is further amended by adding at the end thereof the following new subsection:

"(f)(1) As used in this subsection, the term 'normal income security' has the same meaning given such term in section 1962.17(b) of title 7, Code of Federal Regulations (as of January 1, 1985).

"(2) Until such time as the Secretary accelerates a loan made or insured under this title, the Secretary shall release from the normal income security provided for such loan an amount sufficient to pay the essential household and farm operating expenses of the borrower, as determined by the Secretary.".

LOAN SUMMARY STATEMENTS

SEC. 1316. Section 337 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1987) is amended by—

(1) inserting "(a)" after the section designation; and

(2) adding at the end thereof the following new subsection:

"(b)(1) As used in this subsection, the term 'summary period' means—

"(A) the period beginning on the date of enactment of the Food Security Act of 1985 and ending on the date on which the first loan summary statement is issued after such date of enactment; or

"(B) the period beginning on the date of issuance of the preceding loan summary statement and ending on the date of issuance of the current loan summary statement.

"(2) On the request of a borrower of a loan made or insured (but not guaranteed) under this title, the Secretary shall issue to such borrower a loan summary statement that reflects the account activity during the summary period for each loan made or insured under this title to such borrower, including—

"(A) the outstanding amount of principal due on each such loan at the beginning of the summary period;

"(B) the interest rate charged on each such loan;

"(C) the amount of payments made on and their application to each such loan during the summary period and an explanation of the basis for the application of such payments;

"(D) the amount of principal and interest due on each such loan at the end of the summary period;

"(E) the total amount of unpaid principal and interest on all such loans at the end of the summary period;

"(F) any delinquency in the repayment of any such loan;

"(G) a schedule of the amount and date of payments due on each such loan; and

"(H) the procedure the borrower may use to obtain more information concerning the status of such loans.".

AUTHORIZATION OF LOAN AMOUNTS

SEC. 1317. (a) Subsection (b) of section 346 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1994(b)) is amended to read as follows:

"(b)(1)(A) For each of the fiscal years ending September 30, 1986, through September 30, 1988, real estate and operating loans may be insured, made to be sold and insured, or guaranteed in accordance with subtitles A and B, respectively, from the Agricultural Credit Insurance Fund established under section 309 in an amount equal to $4,000,000,000, of which not less than $520,000,000 shall be for farm ownership loans under subtitle A.

"(B) Subject to subparagraph (C), such amount shall be apportioned as follows:

"(i) For the fiscal year ending September 30, 1986—

"(I) $2,000,000,000 for insured loans, of which not less than $260,000,000 shall be for farm ownership loans; and

"(II) $2,000,000,000 for guaranteed loans, of which not less than $260,000,000 shall be for guarantees of farm ownership loans.

"(ii) For the fiscal year ending September 30, 1987—

"(I) $1,500,000,000 for insured loans, of which not less than $195,000,000 shall be for farm ownership loans; and

"(II) $2,500,000,000 for guaranteed loans, of which not less than $325,000,000 shall be for guarantees of farm ownership loans.

"(iii) For the fiscal year ending September 30, 1988—

"(I) $1,000,000,000 for insured loans, of which not less than $130,000,000 shall be for farm ownership loans; and

"(II) $3,000,000,000 for guaranteed loans, of which not less than $390,000,000 shall be for guarantees of farm ownership loans.

"(C) For each of the fiscal years referred to in subparagraph (A), the Secretary may transfer not more than 25 percent of the amounts authorized for guaranteed loans to amounts authorized for insured loans.

"(D)(i) For each of the fiscal years 1986, 1987, and 1988, emergency loans may be made or insured or guaranteed in accordance with subtitle C from the Agricultural Credit Insurance Fund as follows: $1,300,000,000 for fiscal year 1986, $700,000,000 for fiscal year 1987, and $600,000,000 for fiscal year 1988.

"(E) Loans for each of the fiscal years 1986, 1987, and 1988 are authorized to be insured, or made to be sold and insured, or guaranteed under the Rural Development Insurance Fund as follows:

"(i) Insured water and waste disposal facility loans, $340,000,000.

"(ii) Industrial development loans, $250,000,000.

"(iii) Insured community facility loans, $115,000,000.".

(b) Section 346(e)(1) of such Act is amended by—

(1) striking out "20" each place it appears and inserting in lieu thereof "25"; and

(2) striking out "fiscal year 1984" and inserting in lieu thereof "each fiscal year".

(c) Section 346 of such Act (as amended by subsection (b)) is amended—

(1) striking out subsection (d); and

(2) redesignating subsection (e) as subsection (d).

FARM DEBT RESTRUCTURE AND CONSERVATION SET-ASIDE

CONSERVATION EASEMENTS

SEC. 1318. (a) The Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 349. (a) For purposes of this section:

"(1) The term 'governmental entity' means any agency of the United States, a State, or a unit of local government of a State.

"(2) The terms 'highly erodible land' and 'wetland' have the meanings, respectively, that such terms are given in section 1201 of the Food Security Act of 1985.

"(3) The term 'wildlife' means fish or wildlife as defined in section 2(a) of the Lacey Act Amendments of 1981 (16 U.S.C. 3371(a)).

"(5) The term 'recreational purposes' includes hunting.

"(b) Subject to subsection (c), the Secretary may acquire and retain an easement in real property, for a term of not less than 50 years, for conservation, recreational, and wildlife purposes.

"(c) Such easement may be acquired or retained for real property if such property—

"(1) is wetland, upland, or highly erodible land;

"(2) is determined by the Secretary to be suitable for the purposes involved;

"(3)(A)(i) secures any loan made under any law administered by the Farmers Home Administration and held by the Secretary; and

"(ii) the borrower of such loan is unable, as determined by the Secretary, to repay such loan in a timely manner; or

"(B) is administered under this title by the Secretary; and

"(4) was (except in the case of wetland) row cropped each year of the 3-year period ending on the date of the enactment of the Food Security Act of 1985.

"(d) The terms and conditions specified in each such easement shall—

"(1) specify the purposes for which such real property may be used;

"(2) identify the conservation measures to be taken, and the recreational and wildlife uses to be allowed, with respect to such real property; and

"(3) require such owner to permit the Secretary, and any person or governmental entity designated by the Secretary, to have access to such real property for the purpose of monitoring compliance with such easement.

"(e) Any such easement acquired by the Secretary shall be purchased from the borrower involved by canceling that part of the aggregate amount of such outstanding loans of the borrower held by the Secretary under laws administered by the Farmers Home Administration that bears the same ratio to the aggregate amount of the outstanding loans of such borrower held by the Secretary under all such laws as the number of acres of the real property of such borrower that are subject to such easement bears to the aggregate number of acres securing such loans. In no case shall the amount so cancelled exceed the value of the land on which the easement is acquired.

"(f) If the Secretary elects to use the authority provided by this section, the Secretary shall consult with the Director of the Fish and Wildlife Service for purposes of—

"(1) selecting real property in which the Secretary may acquire easements under this section;

"(2) formulating the terms and conditions of such easements; and

"(3) enforcing such easements.

"(g) The Secretary, and any person or governmental entity designated by the Secretary, may enforce an easement acquired by the Secretary under this section.

"(h) This section shall not apply with respect to the cancellation of any part of any loan that was made after the date of enactment of the Food Security Act of 1985.".

(b)(1) The last sentence of section 335(c) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1985(c)) is amended by inserting ", other than easements acquired

under section 349" before the period at the end thereof.

(2) The second sentence of section 1001 of the Agricultural Act of 1970 (16 U.S.C. 1501) is amended—

(1) by striking out "perpetual"; and

(2) by inserting "for a term of not less than 50 years" after "easements".

ADMINISTRATION OF GUARANTEED FARM LOAN PROGRAMS

SEC. 1319. The Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) is amended by adding after the section added by section 1318 the following:

"SEC. 350. Notwithstanding any other provision of this title, the Secretary shall ensure that farm loan guarantee programs carried out under this title are designed so as to be responsive to borrower and lender needs and to include provisions under reasonable terms and conditions for advances, before completion of the liquidation process, of guarantee proceeds on loans in default.".

INTEREST RATE REDUCTION PROGRAM

SEC. 1320. Effective only for the period beginning on the date of enactment of this Act and ending September 30, 1988, the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) is amended by adding after the section added by section 1319 the following:

"SEC. 351. (a) The Secretary shall establish and carry out in accordance with this section an interest rate reduction program for loans guaranteed under this title.

"(b) Under such program, the Secretary shall enter into a contract with, and make payments to, a legally organized institution to reduce during the term of such contract the interest rate paid by a borrower on a guaranteed loan made by such institution if—

"(1) the borrower—

"(A) is unable to obtain sufficient credit elsewhere to finance the actual needs of the borrower at reasonable rates and terms, taking into consideration private and cooperative rates and terms for a loan for a similar purpose and period of time in the community in or near which the borrower resides;

"(B) is otherwise unable to make payments on such loan in a timely manner; and

"(C) has a total estimated cash income during the 12-month period beginning on the date such contract is entered into (including all farm and nonfarm income) that will equal or exceed the total estimated cash expenses to be incurred by the borrower during such period (including all farm and nonfarm expenses); and

"(2) the lender reduces during the term of such contract the annual rate of interest payable on such loan by a minimum percentage specified in such contract.

"(c) In return for a contract entered into by a lender under subsection (b) for the reduction of the interest rate paid on a loan, the Secretary shall make payments to the lender in an amount equal to not more than 50 percent of the cost of reducing the annual rate of interest payable on such loan, except that such payments may not exceed the cost of reducing such rate by more than 2 percent.

"(d) The term of a contract entered into under this section to reduce the interest rate on a guaranteed loan may not exceed the outstanding term of such loan, or 3 years, whichever is less.

"(e)(1) Notwithstanding any other provision of this title, the Agricultural Credit Insurance Fund established under section 309 may be used by the Secretary to carry out this section.

"(2) The total amount of funds used by the Secretary to carry out this section may not exceed $490,000,000.".

HOMESTEAD PROTECTION

SEC. 1321. The Consolidated Farm and Rural Development Act is amended by adding after the section added by section 1320 the following:

"SEC. 352. (a) As used in this section:

"(1) The term "Administrator" means the Administrator of the Small Business Administration.

"(2) The term "farm program loan" means any loan made by the Administrator under the Small Business Act (15 U.S.C. 631 et seq.) for any of the purposes authorized for loans under subtitles A or B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.).

"(3) The term "homestead property" means the principal residence and adjoining property possessed and occupied by a borrower specified in paragraph (2) of this subsection.

"(4) The term "Secretary" means the Secretary of Agriculture.

"(b)(1) If the Secretary forecloses a loan made or insured under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.), the Administrator forecloses a farm program loan made under the Small Business Act (15 U.S.C. 631 et seq.), or a borrower of a loan made or insured by either agency declares bankruptcy or goes into voluntary liquidation to avoid foreclosure or bankruptcy, the Secretary or Administrator may upon application by the borrower, permit the borrower to retain possession and occupancy of any principal residence of the borrower, and a reasonable amount of adjoining land for the purpose of family maintenance.

"(2) The value of the homestead property shall be determined insofar as possible by an independent appraisal made within six months from the date of the borrower's application to retain possession and occupancy of the homestead property.

"(3) The period of occupancy of homestead property under this subsection may not exceed five years, but in no case shall be the Secretary or the Administrator grant a period of occupancy less than three years, subject to compliance with the requirements of subsection (c).

"(c) To be eligible to occupy homestead property, a borrower of a loan made or insured by the Secretary or the Administrator must—

"(1) apply for such occupancy during the three-year period beginning on the date of the enactment of this Act;

"(2) have exhausted all other remedies for the extension or restructuring of such loan, including all remedies afforded under section 331(d);

"(3) have made gross annual farm sales of at least $40,000 in at least two calendar years during the five-year period beginning on January 1, 1981, and ending on December 31, 1985 (or the equivalent crop or fiscal years);

"(4) have received from farming operations at least 60 per centum of the gross annual income of the borrower and any spouse of the borrower during at least two years of such five-year period;

"(5) have occupied the homestead property, and engaged in farming or ranching operations on adjoining land, or other land controlled by said borrower, during such five-year period;

"(6) during the period of occupancy of the homestead property, pay a reasonable sum as rent for such property to the Secretary or the Administrator in an amount substantially equivalent to rents charged for similar residential properties in the area in which the homestead property is located, and failure to make rental payments in a timely fashion shall constitute cause for the termination of all rights of a borrower to possession and occupancy of the homestead property under this subsection;

"(7) during the period of occupancy of homestead property, maintain such property in good condition; and

"(8) agree to such other terms and conditions as are prescribed by the Secretary or the Administrator in order to facilitate the administration of this subsection.

"(d) At the end of the period of occupancy described in subsection (c), the Secretary or the Administrator shall grant to the borrower a first right of refusal to reacquire the homestead property on such terms and conditions (which may include payment of principal in installments) as the Secretary or the Administrator shall determine.

"(e) At the time any reacquisition agreement is entered into, the Secretary or the Administrator may not demand a total payment of principal that is in excess of the value of the homestead property as established under subsection (b)(2).".

EXTENSION OF CREDIT TO ALL RURAL UTILITIES THAT PARTICIPATE IN THE PROGRAM ADMINISTERED BY THE RURAL ELECTRIFICATION ADMINISTRATION

SEC. 1322. Section 3.8 of the Farm Credit Act of 1971 (12 U.S.C. 2129) is amended by—

(1) inserting "(1)" immediately before "Any association"; and

(2) adding at the end thereof a new subsection (2) as follows:

"(2) Notwithstanding any other provision of this title, cooperatives and other entities that have received a loan, loan commitment, or loan guarantee from the Rural Electrification Administration, or a loan or loan commitment from the Rural Telephone Bank, or that have been certified by the Administrator of the Rural Electrification Administration to be eligible for such a loan, loan commitment, or loan guarantee, and subsidiaries of such cooperatives or other entities, shall also be eligible to borrow from a bank for cooperatives.".

NONPROFIT NATIONAL RURAL DEVELOPMENT AND FINANCE CORPORATIONS

SEC. 1323. (a)(1) For the fiscal year ending September 30, 1986, the Secretary of Agriculture (hereafter in this section referred to as the "Secretary") shall guarantee loans made by public agencies or private organizations (including loans made by financial institutions such as insurance companies) to nonprofit national rural development and finance corporations that establish similar and affiliated statewide rural development and finance programs for the purpose of providing loans, guarantees, and other financial assistance to profit or nonprofit local businesses to improve business, industry, and employment opportunities in a rural area (as determined by the Secretary).

(2) To be eligible to obtain a loan guarantee under this subsection, a corporation must—

(A) demonstrate to the Secretary the ability of the corporation to administer a national revolving rural development loan program;

(B) be prepared to commit financial resources under the control of the corporation to the establishment of affiliated statewide *rural development and finance programs; and*

(C) have secured commitments of significant financial support from public agencies and private organizations for such affiliated statewide programs.

(3) A national rural development and finance corporation receiving a loan guarantee under this subsection shall base a determination to establish an affiliated statewide program in large part on the willingness of States and private organizations to sponsor and make funds available to such program.

(4) Notwithstanding any other provision of law, for the fiscal year ending September 30, 1986, of the amounts available to guarantee loans in accordance with section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932) from the Rural Development Insurance Fund, $20,000,000 shall be used by the Secretary to guarantee loans under the national rural development and finance program established under this subsection, to remain available until expended.

(b)(1) For the fiscal year ending September 30, 1986, the Secretary shall make grants, from funds transferred under paragraph (2), to national rural development and finance corporations for the purpose of establishing a rural development program to provide financial and technical assistance to compliment the loan guarantees made to such corporations under subsection (a).

(2) All funds authorized under the Rural Development Loan Fund, including those on deposit and available upon date of enactment, under sections 623 and 633 of the Community Economic Development Act of 1981 (42 U.S.C. 9801 et seq.) shall be transferred to the Secretary provided that—

(A) all funds on deposit and available on date of enactment shall be used for the purpose of making grants under paragraph (1) and shall remain available until expended; and

(B) notwithstanding any other provision of law, all loans to intermediary borrowers made prior to date of enactment, shall upon date of enactment, for the life of such loan, bear a rate of interest not to exceed that in effect upon the date of issuance of such loans.

PROTECTION FOR PURCHASERS OF FARM PRODUCTS

Sec. 1324. (a) Congress finds that—

(1) certain State laws permit a secured lender to enforce liens against a purchaser of farm products even if the purchaser does not know that the sale of the products violates the lender's security interest in the products, lacks any practical method for discovering the existence of the security interest, and has no reasonable means to ensure that the seller uses the sales proceeds to repay the lender;

(2) these laws subject the purchaser of farm products to double payment for the products, once at the time of purchase, and again when the seller fails to repay the lender;

(3) the exposure of purchasers of farm products to double payment inhibits free competition in the market for farm products; and

(4) this exposure constitutes a burden on and an obstruction to interstate commerce in farm products.

(b) The purpose of this section is to remove such burden on and obstruction to interstate commerce in farm products.

(c) For the purposes of this section—

(1) the term "buyer in the ordinary course of business" means a person who, in the ordinary course of business, buys farm products from a person engaged in farming operations who is in the business of selling farm products.

(2) the term "central filing system" means a system for filing effective financing statements or notice of such financing statements on a statewide basis and which has been certified by the Secretary of the United States Department of Agriculture; the Secretary shall certify such system if the system complies with the requirements of this section; specifically under such system—

(A) effective financing statements or notice of such financing statements are filed with the office of the Secretary of State of a State.

(B) the Secretary of State records the date and hour of the filing of such statements;

(C) the Secretary of State compiles all such statements into a master list—

(i) organized according to farm products;

(ii) arranged within each such product—

(I) in alphabetical order according to the last name of the individual debtors, or, in the case of debtors doing business other than as individuals, the first word in the name of such debtors; and

(II) in numerical order according to the social security number of the individual debtors or, in the case of debtors doing business other than as individuals, the Internal Revenue Service taxpayer identification number of such debtors; and

(III) geographically by county or parish; and

(IV) by crop year;

(iii) containing the information referred to in paragraph (4)(D);

(D) the Secretary of State maintains a list of all buyers of farm products, commission merchants, and selling agents who register with the Secretary of State, on a form indicating—

(i) the name and address of each buyer, commission merchant and selling agent;

(ii) the interest of each buyer, commission merchant, and selling agent in receiving the lists described in subparagraph (E); and

(iii) the farm products in which each buyer, commission merchant, and selling agent has an interest;

(E) the Secretary of State distributes regularly as prescribed by the State to each buyer, commission merchant, and selling agent on the list described in subparagraph (D) a copy in written or printed form of those portions of the master list described in paragraph (C) that cover the farm products in which such buyer, commission merchant, or selling agent has registered an interest;

(F) the Secretary of State furnishes to those who are not registered pursuant to (2)(D) of this section oral confirmation within 24 hours of any effective financing statement on request followed by written confirmation to any buyer of farm products buying from a debtor, or commission merchant or selling agent selling for a seller covered by such statement.

(3) The term "commission merchant" means any person engaged in the business of receiving any farm product for sale, on commission, or for or on behalf of another person.

(4) The term "effective financing statement" means a statement that—

(A) is an original or reproduced copy thereof;

(B) is signed and filed with the Secretary of State of a State by the secured party;

(C) is signed by the debtor;

(D) contains,

(i) the name and address of the secured party;

(ii) the name and address of the person indebted to the secured party;

(iii) the social security number of the debtor or, in the case of a debtor doing business other than as an individual, the Internal Revenue Service taxpayer identification number of such debtor;

(iv) a description of the farm products subject to the security interest created by the debtor, including the amount of such products where applicable; and a reasonable description of the property, including county or parish in which the property is located;

(E) must be amended in writing, within 3 months, similarly signed and filed, to reflect material changes;

(F) remains effective for a period of 5 years from the date of filing, subject to extensions for additional periods of 5 years each by refiling or filing a continuation statement within 6 months before the expiration of the initial 5 year period;

(G) lapses on either the expiration of the effective period of the statement or the filing of a notice signed by the secured party that the statement has lapsed, whichever occurs first;

(H) is accompanied by the requisite filing fee set by the Secretary of State; and

(I) substantially complies with the requirements of this subparagraph even though it contains minor errors that are not seriously misleading.

(5) The term "farm product" means an agricultural commodity such as wheat, corn, soybeans, or a species of livestock such as cattle, hogs, sheep, horses, or poultry used or produced in farming operations, or a product of such crop or livestock in its unmanufactured state (such as ginned cotton, woolclip, maple syrup, milk, and eggs), that is in the possession of a person engaged in farming operations.

(6) The term "knows" or "knowledge" means actual knowledge.

(7) The term "security interest" means an interest in farm products that secures payment or performance of an obligation.

(8) The term "selling agent" means any person, other than a commission merchant, who is engaged in the business of negotiating the sale and purchase of any farm product on behalf of a person engaged in farming operations.

(9) The term "State" means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands of the United States, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

(10) The term "person" means any individual, partnership, corporation, trust, or any other business entity.

(11) The term "Secretary of State" means the Secretary of State or the designee of the State.

(d) Except as provided in subsection (e) and notwithstanding any other provision of Federal, State, or local law, a buyer who in the ordinary course of business buys a farm product from a seller engaged in farming operations shall take free of a security interest created by the seller, even though the security interest is perfected; and the buyer knows of the existence of such interest.

(e) A buyer of farm products takes subject to a security interest created by the seller if—

(1)(A) within 1 year before the sale of the farm products, the buyer has received from the secured party or the seller written notice of the security interest organized according to farm products that—

(i) is an original or reproduced copy thereof;

(ii) contains,

(I) the name and address of the secured party;

(II) the name and address of the person indebted to the secured party;

(III) the social security number of the debtor or, in the case of a debtor doing business other than as an individual, the Internal Revenue Service taxpayer identification number of such debtor;

(IV) a description of the farm products subject to the security interest created by the debtor, including the amount of such products where applicable, crop year, county or parish, and a reasonable description of the property and

(iii) must be amended in writing, within 3 months, similarly signed and transmitted, to reflect material changes;

(iv) will lapse on either the expiration period of the statement or the transmission of a notice signed by the secured party that the statement has lapsed, whichever occurs first; and

(v) any payment obligations imposed on the buyer by the secured party as conditions for waiver or release of the security interest; and

(B) the buyer has failed to perform the payment obligations, or

(2) in the case of a farm product produced in a State that has established a central filing system—

(A) the buyer has failed to register with the Secretary of State of such State prior to the purchase of farm products; and

(B) the secured party has filed an effective financing statement or notice that covers the farm products being sold; or

(3) in the case of a farm product produced in a State that has established a central filing system, the buyer—

(A) receives from the Secretary of State of such State written notice as provided in subparagraph (c)(2)(E) or (c)(2)(F) that specifies both the seller and the farm product being sold by such seller as being subject to an effective financing statement or notice; and

(B) does not secure a waiver or release of the security interest specified in such effective financing statement or notice from the secured party by performing any payment obligation or otherwise; and

(f) What constitutes receipt, as used in this section, shall be determined by the law of the State in which the buyer resides.

(g)(1) Except as provided in paragraph (2) and notwithstanding any other provision of Federal, State, or local law, a commission merchant or selling agent who sells, in the ordinary course of business, a farm product for others, shall not be subject to a security interest created by the seller in such farm product even though the security interest is perfected and even though the commission merchant or selling agent knows of the existence of such interest.

(2) A commission merchant or selling agent who sells a farm product for others shall be subject to a security interest created by the seller in such farm product if—

(A) within 1 year before the sale of such farm product the commission merchant or selling agent has received from the secured party or the seller written notice of the security interest; organized according to farm products, that—

(i) is an original or reproduced copy thereof;

(ii) contains,

(I) the name and address of the secured party;

(II) the name and address of the person indebted to the secured party;

(III) the social security number of the debtor or, in the case of a debtor doing business other than as an individual, the Internal Revenue Service taxpayer identification number of such debtor;

(IV) a description of the farm products subject to the security interest created by the debtor, including the amount of such products, where applicable, crop year, county or parish, and a reasonable description of the property, etc.; and

(iii) must be amended in writing, within 3 months, similarly signed and transmitted, to reflect material changes;

(iv) will lapse on either the expiration period of the statement or the transmission of a notice signed by the secured party that the statement has lapsed, whichever occurs first; and

(v) any payment obligations imposed on the commission merchant or selling agent by the secured party as conditions for waiver or release of the security interest; and

(B) the commission merchant or selling agent has failed to perform the payment obligations;

(C) in the case of a farm product produced in a State that has established a central filing system—

(i) the commission merchant or selling agent has failed to register with the Secretary of State of such State prior to the purchase of farm products; and

(ii) the secured party has filed an effective financing statement or notice that covers the farm products being sold; or

(D) in the case of a farm product produced in a State that has established a central filing system, the commission merchant or selling agent—

(i) receives from the Secretary of State of such State written notice as provided in subsection (c)(2)(E) or (c)(2)(F) that specifies both the seller and the farm products being sold by such seller as being subject to an effective financing statement or notice; and

(ii) does not secure a waiver or release of the security interest specified in such effective financing statement or notice from the secured party by performing any payment obligation or otherwise.

(3) What constitutes receipt, as used in this section, shall be determined by the law of the State in which the buyer resides.

(h)(1) A security agreement in which a person engaged in farming operations creates a security interest in a farm product may require the person to furnish to the secured party a list of the buyers, commission merchants, and selling agents to or through whom the person engaged in farming operations may sell such farm product.

(2) If a security agreement contains a provision described in paragraph (1) and such person engaged in farming operations sells the farm product collateral to a buyer or through a commission merchant or selling agent not included on such list, the person engaged in farming operations shall be subject to paragraph (3) unless the person—

(A) has notified the secured party in writing of the identity of the buyer, commission merchant, or selling agent at least 7 days prior to such sale; or

(B) has accounted to the secured party for the proceeds of such sale not later than 10 days after such sale.

(3) A person violating paragraph (2) shall be fined $5,000 or 15 per centum of the value or benefit received for such farm product described in the security agreement, whichever is greater.

(i) The Secretary of Agriculture shall prescribe regulations not later than 90 days after the date of enactment of this Act to aid States in the implementation and management of a central filing system.

(j) This section shall become effective 12 months after the date of enactment of this Act.

PROHIBITING COORDINATED FINANCIAL STATEMENT

SEC. 1325. The Secretary of Agriculture shall not use or require the submission of the coordinated financial statement referred to in the proposed regulations of the Farmers Home Administration published in the Federal Register of November 8, 1983 (48 F.R. 51312-51317) in connection with an application submitted on or after the date of the enactment of this Act for any loan under any program of the Department of Agriculture carried out by the Farmers Home Administration.

REGULATORY RESTRAINT

SEC. 1326. (a) Congress finds and declares that—

(1) high production costs and low commodity prices have combined to reduce farm income to the lowest levels since the depths of the Depression in the 1930's, to subject many agricultural producers, through no fault of their own, to severe economic hardship, and in many cases temporarily but seriously to impair producers' ability to meet loan repayment schedules in a timely fashion; and

(2) a policy of adverse classification of agricultural loans by bank examiners under these circumstances will trigger a wave of foreclosures and similar actions on the part of banks, thereby depressing land values and prices for agricultural facilities and equipment and having a devastating effect on farmers and the banking industry, and upon rural areas of the United States in general.

(b) It is therefore the sense of Congress that the Federal bank regulatory agencies should ensure, in their examination procedures, that examiners exercise caution and restraint and give due consideration not only to the current cash flow of agricultural borrowers under financial stress, but to factors such as their loan collateral and ultimate ability to repay as well, for so long as the adverse economic effects of the cost-price squeeze of recent years continue to impair the ability of these borrowers to meet scheduled repayments on their loans.

STUDY OF FARM CREDIT SYSTEM

SEC. 1327. (a) The Farm Credit Administration shall conduct a study of the need for the establishment of a fund to be used—

(1) to insure institutions of the Farm Credit System against losses on loans made by such institutions; or

(2) for any other purpose that would—

(A) assist in stabilizing the financial condition of such System; and

(B) provide for the protection of the capital that borrowers of such loans have invested in such System.

(b) In conducting the study required under subsection (a), the Farm Credit Administration shall—

(1) consider the advisability of using the revolving funds provided for under section 4.1 of the Farm Credit Act of 1971 (12 U.S.C. 2152) to provide initial capital for the fund referred to in subsection (a); and

(2) estimate the amount and level of future assessments levied on institutions of the Farm Credit System that would be necessary to ensure the long-term liquidity of such fund.

(c) Not later than 180 days after the date of enactment of this Act, the Farm Credit Administration shall submit a report containing the results of the study required under subsection (a) to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

CONTINUATION OF SMALL FARMER TRAINING AND TECHNICAL ASSISTANCE PROGRAM

SEC. 1328. The Secretary of Agriculture shall, during the period beginning on the date of enactment of this Act and ending on September 30, 1988, maintain at substantially current levels the small farmer training and technical assistance program in the office of the Administrator of the Farmers Home Administration.

STUDY OF FARM AND HOME PLAN

SEC. 1329. (a) The Secretary of Agriculture shall conduct a study of the appropriateness of the Farm and Home Plan (Form FmHA 431-2) used by the Farmers Home Administration in connection with loans made or insured under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.).

(b) After carrying out such study, if the Secretary finds the plan is inappropriate, the Secretary shall—

(1) evaluate other alternative farm plan forms for use in connection with such loans;

(2) evaluate the need to develop a new farm plan form for such use; and

(3) specify the steps that should be taken to improve or replace the current form.

(c) Not later than 120 days after the date of enactment of this Act, the Secretary shall report the results of the study required under subsection (a) to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

TITLE XIV—AGRICULTURAL RESEARCH, EXTENSION, AND TEACHING

SUBTITLE A—GENERAL PROVISIONS

SHORT TITLE

SEC. 1401. This title may be cited as the "National Agricultural Research, Extension, and Teaching Policy Act Amendments of 1985".

FINDINGS

SEC. 1402. Section 1402 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3101) is amended by—

(1) in paragraph (8)—

(A) striking out "and" at the end of subparagraph (N);

(B) inserting "and" at the end of subparagraph (O); and

(C) adding at the end thereof the following new subparagraph:

"(P) research on new or improved food processing (such as food irradiation) or value-added food technologies;";

(2) in paragraph (10)—

(A) striking out "The research" and all that follows through the colon in the matter preceding the subparagraphs and inserting in lieu thereof the following: "The research, extension, and teaching programs must be maintained and constantly adjusted to meet ever-changing challenges. National support of cooperative research, extension, and teaching efforts must be reaffirmed and strengthened to meet major needs and challenges in the following areas:";

(B) redesignating subparagraphs (B), (C), (D), (E), (F), and (G) as subparagraphs (C), (D), (F), (G), (H), and (I), respectively;

(C) inserting after subparagraph (A) the following new subparagraph:

"(B) AGRICULTURAL POLICY.—The effects of technological, economic, sociological, and environmental developments on the agricultural structure of the United States are strong and continuous. It is critical that emerging agricultural-related technologies, economic changes, and sociological and environmental developments, both national and international, be analyzed on a continuing basis in an interdisciplinary fashion to determine the effect of those forces on the structure of agriculture and to improve agricultural policy decisionmaking.";

(D) inserting after subparagraph (D) (as redesignated by subparagraph (B)) the following new subparagraph:

"(E) COORDINATION OF BIOTECHNOLOGY RESPONSIBILITIES OF FEDERAL GOVERNMENT.—Biotechnology guidelines and regulations must be made consistent throughout the Federal Government so they may promote scientific development and protect the public. The biotechnology risk assessment processes used by various Federal agencies must be standardized.";

(E) striking out subparagraph (F) (as redesignated by subparagraph (B)) and inserting in lieu thereof the following new subparagraph:

"(F) NATURAL RESOURCES.—Improved management of soil, water, forest, and range resources is vital to maintain the resource base for food, fiber, and wood production. An expanded research program in the areas of soil and water conservation and forest and range production practices is needed to develop more economical and effective management systems. Key objectives of this research are—

"(i) incorporating water and soil-saving technologies into current and evolving production practices;

"(ii) developing more cost-effective and practical conservation technologies;

"(iii) managing water in stressed environments;

"(iv) protecting the quality of the surface water and groundwater resources of the United States;

"(v) establishing integrated multidisciplinary organic farming research projects, including research on alternative farming systems, that will identify options from which individual farmers may select the production components that are most appropriate for their individual situations;

"(vi) developing better targeted pest management systems; and

"(vii) improving forest and range management technologies that meet demands more efficiently, better protect multiresource options, and enhance quality of output.";

(F) in subparagraph (G) (as redesignated by subparagraph (B))—

(i) striking out "to" before "the economy"; and

(ii) striking out "owner-operated" before "family farms"; and

(G) striking out subparagraph (I) (as redesignated by subparagraph (B)) and inserting in lieu thereof the following new subparagraph:

"(I) INTERNATIONAL FOOD AND AGRICULTURE.—United States agricultural production has proven its ability to produce abundant quantities of food for an expanding world population. Despite rising expectation for improved diets in the world today, there are instances of drought, civil unrest, economic crisis, or other conditions that preclude the local production or distribution of food. There are instances where localized problems impede the ability of farmers to produce needed food products. It is also recognized that many nations have progressive and effective agricultural research programs that produce results of interest and applicability to United States agriculture. The exchange of knowledge and information between nations is essential to the well-being of all nations. A dedicated effort involving the Federal Government, the State cooperative institutions, and other colleges and universities is needed to expand international food and agricultural research, extension, and teaching programs. Improved cooperation and communication by the Department of Agriculture and the cooperators with international agricultural research centers, counterpart agencies, and universities in other nations are necessary to improve food and agricultural progress throughout the world.";

(3) striking out the period at the end of paragraph (11) and inserting in lieu thereof "; and"; and

(4) adding at the end thereof the following new paragraph:

"(12) the agricultural system of the United States—

"(A) is increasingly dependent on science and technology to maintain and improve productivity levels, manage the resource base, provide high quality products, and protect the environment; and

"(B) requires a constant source of food and agricultural scientific expertise to maintain this dynamic system.".

DEFINITIONS

SEC. 1403. Section 1404(8) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103(8)) is amended by—

(1) striking out "and" at the end of subparagraph (H);

(2) inserting "and" at the end of subparagraph (I); and

(3) adding at the end thereof the following new subparagraph:

"(J) international food and agricultural issues, such as agricultural development, development of institutions, germ plasm collection and preservation, information exchange and storage, and scientific exchanges;".

RESPONSIBILITIES OF THE SECRETARY OF AGRICULTURE

SEC. 1404. Section 1405 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3121) is amended by—

(1) striking out "and" at the end of paragraph (10); and

(2) striking out paragraph (11) and inserting in lieu thereof the following new paragraphs:

"(11) coordinate the efforts of States, State cooperative institutions, State extension services, the Joint Council, the Advisory Board, and other appropriate institutions in assessing the current status of, and developing a plan for, the effective transfer of new technologies, including biotechnology, to the farming community, with particular emphasis on addressing the unique problems of small- and medium-sized farms in gaining information about those technologies; and

"(12) establish appropriate controls with respect to the development and use of the application of biotechnology to agriculture.".

JOINT COUNCIL ON FOOD AND AGRICULTURAL SCIENCES

SEC. 1405. (a) Section 1407(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C.

3122(a)) is amended by striking out "1985" and inserting in lieu thereof "1990".

(b) Section 1407(b) of such Act is amended by inserting before the last sentence the following new sentence: "To ensure that the views of food technologists are considered by the Joint Council, one of the members of the Joint Council shall, as determined to be appropriate by the Secretary, be appointed by the Secretary from among distinguished persons who are food technologists from accredited or certified departments of food technology, as determined by the Secretary.".

(c) Section 1407(d)(2) of such Act is amended by—

(1) striking out "and" at the end of subparagraph (F);

(2) striking out the period at the end of subparagraph (G) and inserting in lieu thereof "; and"; and

(3) adding at the end thereof the following new subparagraph:

"(H) coordinate with the Secretary in assessing the current status of, and developing a plan for, the effective transfer of new technologies to the farming community.".

NATIONAL AGRICULTURAL RESEARCH AND EXTENSION USERS ADVISORY BOARD

SEC. 1406. (a) Section 1408(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3123(a)) is amended by striking out "1985" and inserting in lieu thereof "1990".

(b) Section 1408(f)(2) of such Act (7 U.S.C. 3123(f)(2)) is amended by—

(1) striking out "and" at the end of subparagraph (E);

(2) striking out the period at the end of subparagraph (F) and inserting in lieu thereof "; and"; and

(3) adding at the end thereof the following new subparagraph:

"(G) coordinating with the Secretary in assessing the current status of, and developing a plan for, the effective transfer of new technologies to the farming community.".

FEDERAL-STATE PARTNERSHIP

SEC. 1407. (a) The first sentence of section 1409A(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3124a(a)) is amended by—

(1) striking out "and" at the end of paragraph (2);

(2) striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(3) adding at the end thereof the following new paragraph:

"(4) international agricultural programs under title XII of the Foreign Assistance Act of 1961 (22 U.S.C. 2220a et seq.).".

(b) Section 1409A of such Act is amended by adding at the end thereof the following new subsections:

"(d)(1) To promote research for purposes of developing agricultural policy alternatives, the Secretary is encouraged—

"(A) to designate at least one State cooperative institution to conduct research in an interdisciplinary fashion; and

"(B) to report on a regular basis with respect to the effect of emerging technological, economic, sociological, and environmental developments on the structure of agriculture.

"(2) Support for this effort should include grants to examine the role of various food production, processing, and distribution systems that may primarily benefit small- and medium-sized family farms, such as diversified farm plans, energy, water, and soil conservation technologies, direct and cooperative marketing, production and processing cooperatives, and rural community resource management.

"(e) To address more effectively the critical need for reducing farm input costs, improving soil, water, and energy conservation on farms and in rural areas, using sustainable agricultural methods, adopting alternative processing and marketing systems, and encouraging rural resources management, the Secretary is encouraged to designate at least one State agricultural experiment station and one Agricultural Research Service facility to examine these issues in an integrated and comprehensive manner, while conducting ongoing pilot projects contributing additional research through the Federal-State partnership.".

REPORT OF THE SECRETARY OF AGRICULTURE

SEC. 1408. Section 1410 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3125) is amended by—

(1) inserting "and" at the end of paragraph (2);

(2) striking out "; and" at the end of paragraph (3) and inserting in lieu thereof a period; and

(3) striking out paragraph (4).

COMPETITIVE, SPECIAL, AND FACILITIES RESEARCH GRANTS

SEC. 1409. (a)(1) The third sentence of section 2(b) of the Act entitled "An Act to facilitate the work of the Department of Agriculture, and for other purposes", approved August 4, 1965 (7 U.S.C. 450i(b)), is amended by—

(A) inserting ", with emphasis on biotechnology," after "(2) research" in paragraph (2);

(B) striking out "and" at the end of paragraph (5);

(C) striking out the period at the end of paragraph (6) and inserting in lieu thereof a semicolon; and

(D) adding at the end thereof the following new paragraphs:

"(7) research to reduce farm input costs through the collection of national and international data and the transfer of appropriate technology relating to sustainable agricultural systems, soil, energy, and water conservation technologies, rural and farm resource management, and the diversification of farm product processing and marketing systems; and

"(8) research to develop new and alternative industrial uses for agricultural crops.".

(2) Section 2(b) of such Act is amended by inserting after the fourth sentence the following new sentence: "No grant may be made under this subsection for any purpose for which a grant may be made under subsection (d) or for the planning, repair, rehabilitation, acquisition, or construction of a building or a facility.".

(3) Effective October 1, 1985, section 2(b) of such Act is amended by striking out the last sentence and inserting in lieu thereof the following new sentences: "There are authorized to be appropriated, for the purpose of carrying out this subsection, $70,000,000 for each of the fiscal years ending September 30, 1986, through September 30, 1990. Four percent of the amount appropriated for each of such fiscal years to carry out this subsection may be retained by the Secretary to pay administrative costs incurred by the Secretary to carry out this subsection."

(b)(1) Section 2(c) of such Act is amended by inserting after the first sentence the following new sentence:

"No grant may be made under this subsection for any purpose for which a grant may be made under subsection (d) or for the planning, repair, rehabilitation, acquisition, or construction of a building or facility.".

(2) Effective October 1, 1985, section 2(c) of such Act is amended by adding at the end thereof the following new sentence: "Four percent of the amount appropriated for any fiscal year to carry out this subsection may be retained by the Secretary to pay administrative costs incurred by the Secretary to carry out this subsection.".

(c) Section 2 of such Act is amended by adding at the end thereof the following new subsection:

"(i) The Federal Advisory Committee Act (5 U.S.C. App. 2) and title XVIII of the Food and Agriculture Act of 1977 (7 U.S.C. 2281 et seq.) shall not apply to a panel or board created for the purpose of reviewing applications or proposals submitted under this section.".

GRANTS FOR SCHOOLS OF VETERINARY MEDICINE

SEC. 1410. Section 1415(c)(1) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3151(c)(1)) is amended by striking out "Four" and inserting in lieu thereof "Five".

RESEARCH FACILITIES

SEC. 1411. (a) The first section of the Act entitled "An Act to assist the States to provide additional facilities for research at the State agricultural experiment stations", approved July 22, 1963 (7 U.S.C. 390), is amended by—

(1) inserting "on a matching funds basis" after "funds";

(2) inserting "and equipment" after "facilities"; and

(3) striking out "an adequate research program" and inserting in lieu thereof "agricultural research and related academic programs".

(b) Section 2 of such Act (7 U.S.C. 390a) is amended by—

(1) striking out "which are to become a part of such buildings"; and

(2) inserting "matching" after "means of".

(c) Section 3 of such Act (7 U.S.C. 390b) is amended by—

(1) striking out paragraph (1) and inserting in lieu thereof the following new paragraph:

"(1) the term 'State' means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands of the United States;"; and

(2) in paragraph (2), inserting ", forestry, or veterinary medicine" after "to conduct agricultural".

(d)(1) Effective October 1, 1985, subsection (a) of section 4 of such Act (7 U.S.C. 390c(a)) is amended to read as follows:

"(a) There are authorized to be appropriated, for grants to eligible institutions under this Act to be used for the purpose set out in section 2, $20,000,000 for each of the fiscal years ending September 30, 1986, through September 30, 1990.".

(2) Subsection (b) of section 4 of such Act is amended to read as follows:

"(b) No grant may be made under section 2 for an amount exceeding a percentage determined by the Secretary of the cost of the project for which such grant is made. The remaining cost of such project shall be paid with funds from non-Federal sources.".

(e) The first sentence of section 5 of such Act (7 U.S.C. 390d) is amended by—

(1) striking out "apportioned"; and

(2) striking out ", which are to become part of such buildings".

(f) Section 6 of such Act (7 U.S.C. 390e) is repealed.

(g) Section 7 of such Act (7 U.S.C. 390f) is amended by—

(1) inserting "equipment and" after "multiple-purpose"; and

(2) inserting "and related programs, including forestry and veterinary medicine," after "research".

(h) Section 8 of such Act (7 U.S.C. 390g) is repealed.

(i)(1) The first sentence of section 9(a) of such Act (7 U.S.C. 390h(a)) is amended by—

(A) striking out "authorized to receive" and inserting in lieu thereof "that receives";

(B) striking out "section 4" and inserting in lieu thereof "section 2"; and

(C) striking out "section 4(b)" and inserting in lieu thereof "section 3(2)".

(2) Section 9(b) of such Act (7 U.S.C. 390h(b)) is amended by—

(A) striking out "allotted funds received" and inserting in lieu thereof "funds received under this Act"; and

(B) striking out "allocated or".

(j) Clause (3) of section 10 of such Act (7 U.S.C. 390i) is amended to read as follows: "(3) those eligible institutions, if any, that were prevented, because of failure to repay funds as required by section 7(b), from receiving any grant under this Act".

(k) Sections 7, 9, 10, and 11 of such Act (7 U.S.C. 390f, 390h, 390i, 390j) are redesignated as sections 6, 7, 8, and 9, respectively.

(l) Such Act (7 U.S.C. 390 et seq.) is amended by adding at the end thereof the following new section:

"Sec. 10. This Act may be cited as the 'Research Facilities Act'.".

GRANTS AND FELLOWSHIPS FOR FOOD AND AGRICULTURAL SCIENCES EDUCATION

Sec. 1412. (a) Section 1417(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3152(a)) is amended by—

(1) in the second sentence of paragraph (2), striking out "Such grants shall be made without regard to matching funds, but each" and inserting in lieu thereof "Each"; and

(2) striking out the last sentence of paragraph (3) and inserting in lieu thereof the following new sentence:

"Each recipient institution shall have a significant ongoing commitment to the food and agricultural sciences generally and to the specific subject area for which such grant is to be used.".

(b) Subsection (d) of section 1417 of such Act is amended to read as follows:

"(d) There are authorized to be appropriated for purposes of carrying out this section $50,000,000 for each of the fiscal years ending September 30, 1982, through September 30, 1990.".

(c) Section 1417 of such Act is amended by adding at the end thereof the following new subsection:

"(e) The Federal Advisory Committee Act (5 U.S.C. App 2.) and title XVIII of the Food and Agriculture Act of 1977 (7 U.S.C. 2281 et seq.) shall not apply to a panel or board created for the purpose of reviewing applications or proposals submitted under this section.".

FOOD AND HUMAN NUTRITION RESEARCH AND EXTENSION PROGRAM

Sec. 1413. Sections 1424 and 1427 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3174 and 3177) are repealed.

ANIMAL HEALTH AND DISEASE RESEARCH

Sec. 1414. (a) The first sentence of section 1432(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3194(a)) is amended by striking out "1985" and inserting in lieu thereof "1990".

(b) The first sentence of section 1433(a) of such Act (7 U.S.C. 3195(a)) is amended by striking out "1985" and inserting in lieu thereof "1990".

(c) Section 1434(a) of such Act (7 U.S.C. 3196(a)) is amended by striking out "1985" and inserting in lieu thereof "1990".

EXTENSION AT 1890 LAND-GRANT COLLEGES

Sec. 1415. The third sentence of section 1444(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3221(a)) is amended by—

(1) striking out ", through the fiscal year ending September 30, 1985,"; and

(2) inserting before the period at the end thereof the following: ", and related acts pertaining to cooperative extension work at the land-grant institutions identified in the Act of May 8, 1914 (38 Stat. 372, chapter 79; 7 U.S.C. 341 et seq.)".

GRANTS TO UPGRADE 1890 LAND-GRANT COLLEGE EXTENSION FACILITIES

Sec. 1416. (a) It is the intent of Congress to assist institutions eligible to receive funds under the Act of August 30, 1890 (26 Stat. 417, chapter 841; 7 U.S.C. 321 et seq.), including Tuskegee Institute (hereafter in this section referred to as "eligible institutions"), in the acquisition and improvement of extension facilities and equipment so that eligible institutions may participate fully with the State cooperative extension services in a balanced way in meeting the extension needs of the people of their respective States.

(b) There are authorized to be appropriated for the purpose of carrying out this section $10,000,000 for each of the fiscal years ending September 30, 1986, through September 30, 1990, such sums to remain available until expended.

(c) Four percent of the sums appropriated under this section shall be available to the Secretary of Agriculture for administration of the grants program under this section. The remaining funds shall be made available for grants to the eligible institutions for the purpose of assisting the institutions in the purchase of equipment and land, and the planning, construction, alteration, or renovation of buildings, to provide adequate facilities to conduct extension work in their respective States.

(d) Grants awarded under this section shall be made in such amounts and under such terms and conditions as the Secretary of Agriculture shall determine necessary for carrying out this section.

(e) Federal funds provided under this section may not be used for the payment of any overhead costs of the eligible institutions.

(f) The Secretary of Agriculture may promulgate such rules and regulations as the Secretary considers necessary to carry out this section.

RESEARCH AT 1890 LAND-GRANT COLLEGES

Sec. 1417. (a) Section 1445(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222(a)) is amended by adding at the end thereof the following new sentence: "No more than 5 percent of the funds received by an institution in any fiscal year, under this section, may be carried forward to the succeeding fiscal year.".

(b) Paragraph (2) of section 1445(g) is amended to read as follows:

"(2) If it appears to the Secretary from the annual statement of receipts and expenditures of funds by any eligible institution that an amount in excess of 5 percent of the preceding annual appropriation allotted to that institution under this section remains unexpended, such amount in excess of 5 percent of the preceding annual appropriation allotted to that institution shall be deducted from the next succeeding annual allotment to the institution.".

INTERNATIONAL AGRICULTURAL RESEARCH AND EXTENSION

Sec. 1418. Section 1458(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3291(a)) is amended by—

(1) in paragraph (3), striking out "the training of" and inserting in lieu thereof "providing technical assistance, training, and advice to"; and

(2) in paragraph (4), inserting "through the development of highly qualified scientists with specialization in international development" after "countries".

INTERNATIONAL TRADE DEVELOPMENT CENTERS

Sec. 1419. (a) Effective October 1, 1985, the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3101 et seq.) is amended by inserting, after section 1458, the following:

"GRANTS TO STATES FOR INTERNATIONAL TRADE DEVELOPMENT CENTERS

"Sec. 1458A. (a) The Secretary shall establish and carry out a program to make grants to States for the establishment and operation of international trade development centers, or the expansion of existing international trade development centers, in the United States to enhance the exportation of agricultural products and related products. Such grants shall be based on a matching formula of 50 per centum Federal and 50 per centum State funding (including funds received by the State from private sources and from units of local government).

"(b) In making grants under subsection (a), the Secretary shall give preference to States that intend to use, as sites for international trade development centers, land-grant colleges and universities (as defined in section 1404(10) of this Act) that—

"(1) operate agricultural programs;

"(2) have existing international trade programs that use an interdisciplinary approach and are operated jointly with State and Federal agencies to address international trade problems; and

"(3) have an effective and progressive communications system that might be linked on an international basis to conduct conferences or trade negotiations.

"(c) Such centers may—

"(1) through research, establish a permanent data base to address the problems faced by potential exporters, including language barriers, interaction with representatives of foreign governments, transportation of goods and products, insurance and financing within foreign countries, and collecting international marketing data;

"(2) be used to house permanent or temporary exhibits that will stimulate and educate trade delegations from foreign nations with respect to agricultural products and related products produced in the United States and be made available for use by State and regional entities for exhibits, trade seminars, and negotiations involving such products; and

"(3) carry out such other activities relating to the exportation of agricultural products and related products as the Secretary may approve.

"(d) There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this section.".

(b) Effective October 1, 1985, the table of contents of the Food and Agriculture Act of 1977 is amended by inserting a new item:

"Sec. 1458A. Grants to States for international trade development centers."

after the item

"Sec. 1458. International agricultural research and extension.".

AGRICULTURAL INFORMATION EXCHANGE WITH IRELAND

SEC. 1420. (a) The Secretary of Agriculture shall undertake discussions with representatives of the Government of Ireland that may lead to an agreement that will provide for the development of a program between the United States and Ireland whereby there will be—

(1) a greater exchange of—

(A) agricultural scientific and educational information, techniques, and data;

(B) agricultural marketing information, techniques, and data; and

(C) agricultural producer, student, teacher, agribusiness (private and cooperative) personnel; and

(2) the fostering of joint investment ventures, cooperative research, and the expansion of United States trade with Ireland.

(b) The Secretary shall periodically report to the Chairman of the Committee on Agriculture of the House of Representatives and the Chairman of the Committee on Agriculture, Nutrition, and Forestry of the Senate to keep such Committees apprised of the progress and accomplishments, and such other information as the Secretary considers appropriate, with regard to the development of such program.

STUDIES

SEC. 1421. Sections 1459, 1460, 1461, and 1462 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3301, 3302, 3303, and 3304) are repealed.

AUTHORIZATION FOR APPROPRIATIONS FOR CERTAIN AGRICULTURAL RESEARCH PROGRAMS

SEC. 1422. (a) Effective October 1, 1985, section 1463(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3311(a)) is amended by striking out "$505,000,000" and all that follows through "subsequent fiscal year" and inserting in lieu thereof "$600,000,000 for the fiscal year ending September 30, 1986, $610,000,000 for the fiscal year ending September 30, 1987, $620,000,000 for the fiscal year ending September 30, 1988, $630,000,000 for the fiscal year ending September 30, 1989, and $640,000,000 for the fiscal year ending September 30, 1990".

(b) Effective October 1, 1985, section 1463(b) of such Act (7 U.S.C. 3311(b)) is amended by striking out "$120,000,000" and all that follows through "subsequent fiscal year" and inserting in lieu thereof "$270,000,000 for the fiscal year ending September 30, 1986, $280,000,000 for the fiscal year ending September 30, 1987, $290,000,000 for the fiscal year ending September 30, 1988, $300,000,000 for the fiscal year ending September 30, 1989, and $310,000,000 for the fiscal year ending September 30, 1990".

AUTHORIZATION FOR APPROPRIATIONS FOR EXTENSION EDUCATION

SEC. 1423. Effective October 1, 1985, section 1464 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3312) is amended by striking out "$260,000,000" and all that follows through "subsequent fiscal year" and inserting in lieu thereof "$370,000,000 for the fiscal year ending September 30, 1986, $380,000,000 for the fiscal year ending September 30, 1987, $390,000,000 for the fiscal year ending September 30, 1988, $400,000,000 for the fiscal year ending September 30, 1989, and $420,000,000 for the fiscal year ending September 30, 1990".

CONTRACTS, GRANTS, AND COOPERATIVE AGREEMENTS

SEC. 1424. Section 1472 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3318) is amended by—

(1) redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively; and

(2) inserting after subsection (a) the following new subsection:

"(b)(1) Notwithstanding chapter 63 of title 31, United States Code, the Secretary may use a cooperative agreement as the legal instrument reflecting a relationship between the Secretary and a State cooperative institution, State department of agriculture, college, university, other research or educational institution or organization, Federal or private agency or organization, individual, or any other party, if the Secretary determines that—

"(A) the objectives of the agreement will serve a mutual interest of the parties to the agreement in agricultural research, extension, and teaching activities, including statistical reporting; and

"(B) all parties will contribute resources to the accomplishment of those objectives.

"(2) Notwithstanding any other provision of law, any Federal agency may participate in any such cooperative agreement by contributing funds through the appropriate agency of the Department of Agriculture or otherwise if it is mutually agreed that the objectives of the agreement will further the authorized programs of the contributing agency.".

INDIRECT COSTS

SEC. 1425. Section 1473 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3319) is amended by adding at the end thereof the following new sentences: "The prohibition on the use of such funds for the reimbursement of indirect costs shall not apply to funds for international agricultural programs conducted by a State cooperative institution and administered by the Secretary or to funds provided by a Federal agency for such cooperative program or project through a fund transfer, advance, or reimbursement. The Secretary shall limit the amount of such reimbursement to an amount necessary to carry out such program or agreement.".

COST-REIMBURSABLE AGREEMENTS

SEC. 1426. The National Agricultural Research, Extension, and Teaching Policy Act of 1977 is amended by inserting after section 1473 (7 U.S.C. 3319) the following new section:

"COST-REIMBURSABLE AGREEMENTS

"SEC. 1473A. Notwithstanding any other provision of law, the Secretary of Agriculture may enter into cost-reimbursable agreements with State cooperative institutions without regard to any requirement for competition, for the acquisition of goods or services, including personal services, to carry out agricultural research, extension, or teaching activities of mutual interest. Reimbursable costs under such agreements shall include the actual direct costs of performance, as mutually agreed on by the parties, and the indirect costs of performance, not exceeding 10 percent of the direct cost.".

TECHNOLOGY DEVELOPMENT

SEC. 1427. The National Agricultural Research, Extension, and Teaching Policy Act of 1977 (as amended by section 1425) is amended by inserting after section 1473A the following new sections:

"TECHNOLOGY DEVELOPMENT FOR SMALL- AND MEDIUM-SIZED FARMING OPERATIONS

"SEC. 1473B. It is the sense of Congress that the agricultural research, extension, and teaching activities conducted by the Secretary of Agriculture relating to the development, application, transfer, or delivery of agricultural technology, and, to the greatest extent practicable, any funding that is received by the Secretary of Agriculture for such activities, should be directed to technology that can be used effectively by small- and medium-sized farming operations.

"SPECIAL TECHNOLOGY DEVELOPMENT RESEARCH PROGRAM

"SEC. 1473C. (a) Notwithstanding chapter 63 of title 31, United States Code, the Secretary may enter into a cooperative agreement with a private agency, organization, or individual to share the cost of a research project, or to allow the use of a Federal facility or service on a cost-sharing or cost reimbursable basis, to develop new agricultural technology to further a research program of the Secretary.

"(b) For each of the fiscal years ending September 30, 1986, through September 30, 1990, not more than $3,000,000 of the funds appropriated to the Agricultural Research Service for such fiscal year may be used to carry out this section.

"(c)(1) To be eligible to receive a contribution under this section, matching funds in an amount equal to at least 50 percent of such contribution shall be provided from non-Federal sources by the recipient or recipients of such contribution.

"(2) Funds received by the Secretary under this section shall be deposited in a separate account or accounts, to be available until expended. Such funds may be used to pay directly the costs of such research projects and to repay or make advances to appropriations or funds that do or will initially bear all or part of such costs.

"(3) The amount of funds or in kind assistance that may be made available under this section by the Secretary for a particular research project may not exceed—

"(A) an amount of $50,000 in any fiscal year; or

"(B) a total amount of $150,000.".

SUPPLEMENTAL AND ALTERNATIVE CROPS

SEC. 1428. The National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3101 et seq.) (as amended by section 1426) is amended by inserting after section 1473C the following new section:

"SUPPLEMENTAL AND ALTERNATIVE CROPS

"SEC. 1473D. (a) Notwithstanding any other provision of law, during the period beginning October 1, 1986, and ending September 30, 1990, the Secretary shall develop and implement a research and pilot project program for the development of supplemental and alternative crops, using such funds as are appropriated to the Secretary each fiscal year under this title.

"(b) The development of supplemental and alternative crops is of critical importance to producers of agricultural commodities whose livelihood is threatened by the decline in demand experienced with respect to certain of their crops due to changes in consumption patterns or other related causes.

"(c)(1) The Secretary shall use such research funding, special or competitive grants, or other means, as the Secretary determines, to further the purposes of this section in the implementation of a comprehensive and integrated program.

"(2) The program developed and implemented by the Secretary shall include—

"(A) an examination of the adaptation of supplemental and alternative crops;

"(B) the establishment and extension of various methods of planting, cultivating, harvesting, and processing supplemental and alternative crops at pilot sites in areas adversely affected by declining demand for crops grown in the area;

"(C) the transfer of such applied research from pilot sites to on-farm practice as soon as practicable;

"(D) the establishment through grants, cooperative agreements, or other means of such processing, storage, and transportation facilities near such pilot sites for supplemental and alternative crops as the Secretary determines will facilitate the achievement of a successful pilot program; and

"(E) the application of such other resources and expertise as the Secretary considers appropriate to support the program.

"(3) The pilot program may include, but shall not be limited to, agreements, grants, and other arrangements—

"(A) to conduct comprehensive resource and infrastructure assessments;

"(B) to develop and introduce supplemental and alternative income-producing crops;

"(C) to develop and expand domestic and export markets for such crops; and

"(D) to provide technical assistance to farm owners and operators, marketing cooperatives, and others.

"(d) The Secretary shall use the expertise and resources of the Agricultural Research Service, the Cooperative State Research Service, the Extension Service, and the land-grant colleges and universities for the purpose of carrying out this section.".

AQUACULTURE

SEC. 1429. (a) Section 1475 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3322) is amended by—

(1) in the first sentence of subsection (b)—

(A) striking out "and" at the end of paragraph (2);

(B) inserting "and" after the semicolon at the end of paragraph (3); and

(C) inserting after paragraph (3) the following new paragraph:

"(4) nonprofit private research institutions;";

(2) in the last sentence of subsection (b), inserting "(of which amount an in-kind contribution may not exceed 50 percent)" after "matching grant";

(3) in the first sentence of subsection (d), striking out "State agencies" and all that follows through "universities," and inserting in lieu thereof "any of the non-Federal entities specified in subsection (b)";

(4) adding at the end of subsection (d) the following new sentence: "To the extent practicable, the aquaculture research, development, and demonstration centers established under this subsection shall be geographically located so that they are representative of the regional aquaculture opportunities in the United States."; and

(5) in the first sentence of subsection (e), inserting "the House Committee on Merchant Marine and Fisheries," after "House Committee on Agriculture,".

(b) Section 1476 of such Act (7 U.S.C. 3323) is repealed.

(c) Section 1477 of such Act (7 U.S.C. 3324) is amended to read as follows:

"AUTHORIZATION FOR APPROPRIATIONS

"SEC. 1477. There is authorized to be appropriated $7,500,000 for each fiscal year beginning after the effective date of this subtitle, and ending with the fiscal year ending September 30, 1990.".

RANGELAND RESEARCH

SEC. 1430. (a) The first sentence of section 1482(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3335(a)) is amended by striking out "1985" and inserting in lieu thereof "1990".

(b) Section 1483(a) of such Act (7 U.S.C. 3336(a)) is amended by striking out "1985" and all that follows through "subsequent fiscal year" and inserting in lieu thereof "1990".

AUTHORIZATION FOR APPROPRIATIONS FOR FEDERAL AGRICULTURAL RESEARCH FACILITIES

SEC. 1431. (a) There are authorized to be appropriated for each of the fiscal years ending September 30, 1988, through September 30, 1990, such sums as may be necessary for the planning, construction, acquisition, alteration, and repair of buildings and other public improvements, including the cost of acquiring or obtaining rights to use land, of or used by the Agricultural Research Service, except that—

(1) the cost of planning any one facility shall not exceed $500,000; and

(2) the total cost of any one facility shall not exceed $5,000,000.

(b) Not later than 60 days after the end of each of the fiscal years ending September 30, 1986, through September 30, 1990, the Secretary of Agriculture shall submit to the Committee on Agriculture of the House of Representatives and to the Committee on Agriculture, Nutrition, and Forestry of the Senate a report specifying—

(1) the location of each building, laboratory, research facility, and other public improvement of or to be used by the Agricultural Research Service that is planned, constructed, acquired, repaired, or remodeled, with funds appropriated under subsection (a), in the fiscal year involved; and

(2) with respect to each such building, laboratory, research facility, and improvement—

(A) the amount of such funds obligated in the fiscal year; and

(B) the amount of such funds expended in the fiscal year for such item.

DAIRY GOAT RESEARCH

SEC. 1432. Effective October 1, 1985, section 1432(b)(5) of the National Agricultural Research, Extension, and Teaching Policy Act Amendments of 1981 (7 U.S.C. 3222 note) is amended by striking out "September" the first place it appears and all that follows through "1985" and inserting in lieu thereof "September 30, 1986, through September 30, 1990".

GRANTS TO UPGRADE 1890 LAND-GRANT COLLEGE RESEARCH FACILITIES

SEC. 1433. (a) Section 1433(a) of the National Agricultural Research, Extension, and Teaching Policy Act Amendments of 1981 (7 U.S.C. 3223(a)) is amended by inserting ", including agricultural libraries," after "equipment".

(b) Section 1433(b) of such Act (7 U.S.C. 3223(b)) is amended by—

(1) striking out "and" after "1985,"; and

(2) inserting "and September 30, 1987," after "1986,".

SOYBEAN RESEARCH ADVISORY INSTITUTE

SEC. 1434. Section 1446 of the National Agricultural Research, Extension, and Teaching Policy Act Amendments of 1981 (7 U.S.C. 2281 note) is repealed.

SMITH-LEVER ACT

SEC. 1435. (a) Section 2 of the Act of May 8, 1914 (38 Stat. 372, chapter 79; 7 U.S.C. 342) (hereafter in this section referred to as the Smith-Lever Act) (7 U.S.C. 342) is amended by—

(1) inserting "development of practical applications of research knowledge and" after "consist of the"; and

(2) inserting "of existing or improved practices or technologies" after "practical demonstrations".

(b) Section 3 of the Smith-Lever Act (7 U.S.C. 343) is amended by adding at the end thereof the following:

"(f)(1) The Secretary of Agriculture may conduct educational, instructional, demonstration, and publication distribution programs through the Federal Extension Service and enter into cooperative agreements with private nonprofit and profit organizations and individuals to share the cost of such programs through contributions from private sources as provided in this subsection.

"(2) The Secretary may receive contributions under this subsection from private sources for the purposes described in paragraph (1) and provide matching funds in an amount not greater than 50 percent of such contributions.

(c)(1) The Secretary of Agriculture shall conduct a study to determine whether any funds that are—

(A) appropriated after the date of the enactment of this Act to carry out the Smith-Lever Act (7 U.S.C. 341 et seq.), other than section 8 of such Act (7 U.S.C. 347a); and

(B) in excess of the aggregate amount appropriated to carry out the Smith-Lever Act (other than section 8 of such Act) in the fiscal year ending September 30, 1985,

can be allocated more effectively among the States.

(2) Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report summarizing the results of such study and containing the recommendations of the Secretary regarding the allocation of such funds.

(d) This section and the amendments made by this section shall become effective on October 1, 1985.

MARKET EXPANSION RESEARCH

SEC. 1436. (a) The Secretary of Agriculture, using available funds, shall increase and intensify research programs conducted by or for the Department of Agriculture that are directed at developing technology to overcome barriers to expanded sales of United States agricultural commodities and the products thereof in domestic and foreign markets, including research programs for the development of procedures to meet plant quarantine requirements and improvement in the transportation and handling of perishable agricultural commodities.

(b)(1) The Secretary of Agriculture shall conduct a research and development program to formulate new uses for farm and forest products. Such program shall include, but not be limited to, research and development of industrial, new, and value-added products.

(2) To the extent practicable, the Secretary of Agriculture shall carry out the program authorized in this subsection with colleges and universities, private industry, and Fed-

eral and State entities through a combination of grants, cooperative agreements, contracts, and interagency agreements.

(3)(A) There are authorized to be appropriated such sums as are necessary to carry out the program authorized under this subsection.

(B) In addition, the Secretary may use funds appropriated or made available to the Secretary under provisions of law other than subparagraph (A) to carry out such program.

(C) To the extent requests are made for matching funds under such program, the total amount of funds used by the Secretary to carry out the program under this subsection may not be less than $10,000,000 for each of the fiscal years ending September 30, 1986, through September 30, 1990.

(4) Funds appropriated under subparagraph (A) or made available under subparagraph (B) may be transferred among appropriation accounts to carry out the purposes of the program authorized under this subsection.

(5) Notwithstanding any other provision of law, the Federal share of the cost of each research or development project funded under this subsection may not exceed 50 percent of the cost of such project.

PESTICIDE RESISTANCE STUDY

SEC. 1437. (a) The Secretary of Agriculture is encouraged to conduct a study on the detection and management of pesticide resistance and, within 1 year after the date of enactment of this Act, submit to the President and Congress a report on such study.

(b) The study shall include—

(1) a review of existing efforts to examine and identify the mechanisms, genetics, and ecological dynamics of target populations of insect and plant pests developing resistance to pesticides;

(2) a review of existing efforts to monitor current and historical patterns of pesticide resistance; and

(3) a strategy for the establishment of a national pesticide resistance monitoring program, involving Federal, State, and local agencies, as well as the private sector.

EXPANSION OF EDUCATION STUDY

SEC. 1438. (a) The Secretary of Agriculture and the Secretary of Education are authorized to take such joint action as may be necessary to expand the scope of the study, known as the Study of Agriculture Education on the Secondary Level, currently being conducted by the National Academy of Sciences and sponsored jointly by the Departments of Agriculture and Education to include—

(1) a study of the potential use of modern technology in the teaching of agriculture programs at the secondary school level; and

(2) recommendations of the National Academy of Sciences on how modern technology can be most effectively utilized in the teaching of agricultural programs at the secondary school level.

(b) Any increase in the cost of conducting such study as a result of expanding the scope of such study pursuant to subsection (a) shall be borne by the Secretary of Agriculture out of funds appropriated to the Department of Agriculture for research and education or from funds made available to the National Academy of Sciences from private sources to expand the scope of such study.

CRITICAL AGRICULTURAL MATERIALS

SEC. 1439. (a) Section 5(b)(9) of the Critical Agricultural Materials Act (7 U.S.C. 178c(b)(9)) is amended by inserting ", carrying out demonstration projects to promote the development or commercialization of such crops (including projects designed to expand domestic or foreign markets for such crops)," after "purposes,".

(b) Section 5 of such Act is amended by adding at the end thereof the following new subsection:

"(d) Notwithstanding any other provision of law, in carrying out a demonstration project referred to in subsection (b)(9), the Secretary may—

"(1) enter into a contract or cooperative agreement with, or provide a grant to, any person, or public or private agency or organization, to participate in, carry out, support, or stimulate such project;

"(2) make available for purposes of clause (1) agricultural commodities or the products thereof acquired by the Commodity Credit Corporation under price support operations conducted by the Corporation; or

"(3) use any funds appropriated pursuant to section 16(a), or any funds provided by any person, or public or private agency or organization, to carry out such project or reimburse the Commodity Credit Corporation for agricultural commodities or products that are utilized in connection with such project.".

SPECIAL GRANTS FOR FINANCIALLY STRESSED FARMERS AND DISLOCATED FARMERS

SEC. 1440. (a) Section 502 of the Rural Development Act of 1972 (7 U.S.C. 2662) is amended by inserting at the end thereof the following new subsection:

"(f) SPECIAL GRANTS FOR FINANCIALLY STRESSED FARMERS AND DISLOCATED FARMERS.—(1)(A) The Secretary shall provide special grants for programs to develop income alternatives for farmers who have been adversely affected by the current farm and rural economic crisis and those displaced from farming.

"(B) Such programs shall consist of educational and counseling services to farmers to—

"(i) assess human and nonhuman resources;

"(ii) assess income earning alternatives;

"(iii) identify resources and opportunities available to the farmer in the local community, county, and State;

"(iv) implement financial planning and management strategies; and

"(v) provide linkages to specific resources and opportunities that are available to the farmer, such as reentering agriculture, new business opportunities, other off-farm jobs, job search programs, and retraining skills.

"(C) The Secretary also may provide support to mental health officials in developing outreach programs in rural areas.

"(2) Grants may be made under paragraph (1) during the period beginning on the date of enactment of the Food Security Act of 1985 and ending 3 years after such date.".

(b) Section 503(c) of such Act (7 U.S.C. 2663(c)) is amended by inserting "and section 502(f)" after "section 502(e)" both times it appears.

ANNUAL REPORT ON FAMILY FARMS

SEC. 1441. Section 102(b) of the Food and Agriculture Act of 1977 (7 U.S.C. 2266(b)) is amended by—

(1) designating the first and second sentences as paragraphs (1) and (2), respectively; and

(2) amending paragraph (2) (as so designated) to read as follows:

"(2) The Secretary shall also include in each such report—

"(A) information on how existing agricultural and agriculture-related programs are being administered to enhance and strengthen the family farm system of agriculture in the United States;

"(B) an assessment of how tax, credit, and other current Federal income, excise, estate, and other tax laws, and proposed changes in such laws, may affect the structure and organization of, returns to, and investment opportunities by family and nonfamily farm owners and operators, both foreign and domestic;

"(C) identification and analysis of new food and agricultural production and processing technological developments, especially in the area of biotechnology, and evaluation of the potential effect of such developments on—

"(i) the economic structure of the family farm system;

"(ii) the competitive status of domestically-produced agricultural commodities and foods in foreign markets; and

"(iii) the achievement of Federal agricultural program objectives;

"(D) an assessment of the credit needs of family farms and the extent to which those needs are being met, and an analysis of the effects of the farm credit situation on the economic structure of the family farm system;

"(E) an assessment of how economic policies and trade policies of the United States affect the financial operation of, and prospects for, family farm operations;

"(F) an assessment of the effect of Federal farm programs and policies on family farms and non-family farms that—

"(i) derive the majority of their income from non-farm sources; and

"(ii) derive the majority of their income from farming operations; and

"(G) such other information as the Secretary considers appropriate or determines would aid Congress in protecting, preserving, and strengthening the family farm system of agriculture in the United States.".

CONFORMING AMENDMENTS TO TABLES OF CONTENTS

SEC. 1442. (a) The table of contents of the Food and Agriculture Act of 1977 (Public Law 95-113; 91 Stat. 913) (as amended by sections 1413, 1420, 1425, 1426, 1427, and 1428(b)) is amended by—

(1) striking out the items relating to sections 1424, 1427, 1459, 1460, 1461, 1462, 1476;

(2) inserting after the item relating to section 1473 the following new items:

"Sec. 1473A. Cost-reimbursable agreements.
"Sec. 1473B. Technology development for small and medium-sized farming operations.
"Sec. 1473C. Special technology development research program.
"Sec. 1473D. Supplemental and alternative crops."; and

(3) striking out the item relating to section 1477 and inserting in lieu thereof the following new item:

"Sec. 1477. Authorization for appropriations.".

(b) The table of contents of the Agriculture and Food Act of 1981 (Public Law 97-98; 95 Stat. 1213) (as amended by section 1433) is amended by striking out the item relating to section 1446.

SUBTITLE B—HUMAN NUTRITION RESEARCH

FINDINGS

SEC. 1451. Congress finds that—

(1) nutrition and health considerations are important to United States agricultural policy;

(2) section 1405 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3121) designates

the Department of Agriculture as the lead agency of the Federal Government for human nutrition research (except with respect to the biomedical aspects of human nutrition concerned with diagnosis or treatment of disease);

(3) section 1423 of such Act (7 U.S.C. 3173) requires the Secretary of Agriculture to establish research into food and human nutrition as a separate and distinct mission of the Department of Agriculture;

(4) the Secretary has established a nutrition education program; and

(5) nutrition research continues to be of great importance to those involved in agricultural production.

HUMAN NUTRITION RESEARCH

SEC. 1452. (a) Not later than 1 year after the date of enactment of this Act, the Secretary of Agriculture (hereafter in this subtitle referred to as the "Secretary") shall submit to the appropriate committees of Congress a comprehensive plan for implementing a national food and human nutrition research program, including recommendations relating to research directions, educational activities, and funding levels necessary to carry out such plan.

(b) Not later than 1 year after the date of the submission of the plan required under subsection (a), and each year thereafter, the Secretary shall submit to such committees an annual report on the human nutrition research activities conducted by the Secretary.

DIETARY ASSESSMENT AND STUDIES

SEC. 1453. (a) The Secretary of Agriculture and the Secretary of Health and Human Services shall jointly conduct an assessment of existing scientific literature and research relating to—

(1) the relationship between dietary cholesterol and blood cholesterol and human health and nutrition; and

(2) dietary calcium and its importance in human health and nutrition.

In conducting the assessments under this subsection, the Secretaries shall consult with agencies of the Federal Government involved in related research. On completion of such assessments, the Secretaries shall each recommend such further studies as the Secretaries consider useful.

(b) Not later than 1 year after the date of enactment of this Act, the Secretary of Agriculture and the Secretary of Health and Human Services shall each submit to the House Committees on Agriculture and Energy and Commerce and the Senate Committees on Agriculture, Nutrition, and Forestry and Labor and Human Resources a report that shall include the results of the assessments conducted under subsection (a) and recommendations made under such subsection, for more complete studies of the issues examined under such subsection, including a protocol, feasibility assessment, budget estimates and a timetable for such research as each Secretary shall consider appropriate.

SUBTITLE C—AGRICULTURAL PRODUCTIVITY RESEARCH

DEFINITIONS

SEC. 1461. For purposes of this subtitle:

(1) The term "extension" shall have the same meaning given to such term by section 1404(7) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103(7)).

(2) The term "Secretary" means the Secretary of Agriculture.

(3) The term "State" means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands of the United States, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

(4) The term "State agricultural experiment stations" shall have the meaning given to such term by section 1404(13) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3101(13)).

FINDINGS

SEC. 1462. Congress finds that—

(1) highly productive and efficient agricultural systems and sound conservation practices are essential to ensure the long-term agricultural viability and profitability of farms and ranches in the United States;

(2) agricultural research and technology transfer activities of the Secretary (including activities of the Extension Service, the Agricultural Research Service, and the Cooperative State Research Service), State cooperative extension services, land-grant and other colleges and universities, and State agricultural experiment stations—

(A) have contributed greatly to innovation in agriculture; and

(B) have a continuing role to play in improving agricultural productivity;

(3) the annual irretrievable loss of billions of tons of precious topsoil through wind and water erosion reduces agricultural productivity;

(4) many farmers and ranchers are highly dependent on machines and energy resources for agricultural production;

(5) public funding of a properly planned and balanced agricultural research program is essential to improving efficiency in agricultural production and conservation practices; and

(6) expanded agricultural research and extension efforts are needed to assist farmers and ranchers to—

(A) improve agricultural productivity; and

(B) implement soil, water, and energy conservation practices.

PURPOSES

SEC. 1463. It is the purpose of this subtitle to—

(1) facilitate and promote scientific investigation in order to—

(A) enhance agricultural productivity;

(B) maintain the productivity of land;

(C) reduce soil erosion and loss of water and plant nutrients; and

(D) conserve energy and natural resources; and

(2) facilitate the conduct of research projects in order to study agricultural production systems that—

(A) are located, to the extent practicable, in areas that possess various soil, climatic, and physical characteristics;

(B) have been, and will continue to be, managed using farm production practices that rely on—

(i) items purchased for the production of an agricultural commodity; and

(ii) a variety of conservation practices; and

(C) are subjected to a change from the practices described in subparagraph (B)(i) to the practices described in subparagraph (B)(ii).

INFORMATION STUDY

SEC. 1464. (a) Subject to section 1468, the Secretary shall inventory and classify by subject matter all studies, reports, and other materials developed by any person or governmental agency with the participation or financial assistance of the Secretary, that could be used to promote the purposes of this subtitle.

(b) In carrying out subsection (a), the Secretary shall—

(1) identify, assess, and classify existing information and research reports that will further the purposes of this subtitle, including information and research relating to legume-crop rotation, the use of green manure, animal manures, and municipal wastes in agricultural production, soil acidity, liming in relation to nutrient release, intercropping, the role of organic matter in soil productivity and erosion control, the effect of topsoil loss on soil productivity, and biological methods of weed, disease, and insect control;

(2) identify which of such reports provide useful information and make such useful reports available to farmers and ranchers; and

(3) identify gaps in such information and carry out a research program to fill such gaps.

RESEARCH PROJECTS

SEC. 1465. (a) Subject to section 1468, in cooperation with Federal and State research agencies and agricultural producers, the Secretary shall conduct such research projects as are needed to obtain data, draw conclusions, and demonstrate technologies necessary to promote the purposes of this subtitle.

(b) In carrying out subsection (a), the Secretary shall conduct projects and studies in areas that are broadly representative of United States agricultural production, including production on small farms.

(c) In carrying out subsection (a), the Secretary may conduct research projects involving crops, soils, production methods, and weed, insect, and disease pests on individual fields or other areas of land.

(d) In the case of a research project conducted under this section that involves the planting of a sequence of crops, the Secretary shall conduct such project for a term of—

(1) at least 5 years; and

(2) to the extent practicable, 12 to 15 years.

(e)(1) In coordination with the Extension Service and State cooperative extension services, the Secretary shall take such steps as are necessary to ensure that farmers and ranchers are aware of projects conducted under this section.

(2) The Secretary shall ensure that such projects are open for public observation at specified times.

(f)(1) Subject to paragraph (2), the Secretary may indemnify an operator of a project conducted under this section for damage incurred or undue losses sustained as a result of a rigid requirement of research or demonstration under such project that is not experienced in normal farming operations.

(2) An indemnity payment under paragraph (1) shall be subject to any agreement between a project grantee and operator entered into prior to the initiation of such project.

COORDINATION

SEC. 1466. The Secretary shall—

(1) establish a panel of experts consisting of representatives of the Agricultural Research Service, Cooperative State Research Service, Soil Conservation Service, Extension Service, State cooperative extension services, State agricultural experiment stations, and other specialists in agricultural research and technology transfer; and

(2) ensure that a research project under this subtitle is designed after taking into consideration the views of such panel.

REPORTS

Sec. 1467. The Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate—

(1) not later than 180 days after the effective date of this subtitle, a report describing the design of research projects established in accordance with sections 1465 and 1466;

(2) not later than 15 months after the effective date of this subtitle, a report describing the results of the program carried out under section 1464; and

(3) not later than April 1, 1987, and each April 1 thereafter, a report describing the progress of projects conducted under this subtitle, including—

(A) a summary and analysis of data collected under such projects; and

(B) recommendations based on such data for new basic or applied research.

AGREEMENTS

Sec. 1468. The Secretary may carry out sections 1464 and 1465 through agreements with land-grant colleges or universities, other universities, State agricultural experiment stations, nonprofit organizations, or Federal or State governmental entities, that have demonstrated appropriate expertise in agricultural research and technology transfer.

DISSEMINATION OF DATA

Sec. 1469. The Secretary shall—

(1) make available through the Extension Service and State cooperative extension services—

(A) the information and research reports identified under section 1464; and

(B) the information and conclusions resulting from any research project conducted under section 1465; and

(2) otherwise take such steps as are necessary to ensure that such material is made available to the public.

AUTHORIZATION FOR APPROPRIATIONS

Sec. 1470. There are authorized to be appropriated such sums as may be necessary to carry out this subtitle, to remain available until expended.

EFFECTIVE DATE

Sec. 1471. This subtitle shall become effective on October 1, 1985.

TITLE XV—FOOD STAMP AND RELATED PROVISIONS

Subtitle A—Food Stamp Provisions

PUBLICLY OPERATED COMMUNITY MENTAL HEALTH CENTERS

Sec. 1501. (a) Section 3 of the Food Stamp Act of 1977 (7 U.S.C. 2012) is amended by—

(1) in subsection (f), striking out "which" and all that follows through "providing" and inserting in lieu thereof ", or a publicly operated community mental health center, under part B of title XIX of the Public Health Service Act (42 U.S.C. 300x et seq.) to provide"; and

(2) inserting ", or a publicly operated community mental health center," after "private nonprofit institution" in the last sentence of subsection (i).

(b) Section 10 of such Act (7 U.S.C. 2019) is amended by inserting "publicly operated community mental health centers or" after "purchased, and".

DETERMINATION OF FOOD SALES VOLUME

Sec. 1502. Section 3(k) of the Food Stamp Act of 1977 (7 U.S.C. 2012(k)) is amended by inserting after "food sales volume" in clause (1) the following: ", as determined by visual inspection, sales records, purchase records, or other inventory or accounting recordkeeping methods that are customary or reasonable in the retail food industry,".

THRIFTY FOOD PLAN

Sec. 1503. The first sentence of section 3(o) of the Food Stamp Act of 1977 (7 U.S.C. 2012(o)) is amended by striking out "fifty-four" and inserting in lieu thereof "fifty".

DEFINITIONS OF THE DISABLED

Sec. 1504. Section 3(r) of the Food Stamp Act of 1977 (7 U.S.C. 2012(r)) is amended by—

(1) inserting before the semicolon at the end of paragraph (2) the following: ", federally or State administered supplemental benefits of the type described in section 1616(a) of the Social Security Act if the Secretary determines that such benefits are conditioned on meeting the disability or blindness criteria used under title XVI of the Social Security Act, or federally or State administered supplemental benefits of the type described in section 212(a) of Public Law 93-66 (42 U.S.C. 1382 note)";

(2) inserting before the semicolon at the end of paragraph (3) the following: "or receives disability retirement benefits from a governmental agency because of a disability considered permanent under section 221(i) of the Social Security Act (42 U.S.C. 421(i))";

(3) inserting "or non-service-connected" after "service-connected" in paragraph (4)(A);

(4) striking out "or" at the end of paragraph (5);

(5) striking out the period at the end of paragraph (6) and inserting in lieu thereof "; or"; and

(6) adding at the end thereof the following:

"(7) is an individual receiving an annuity under section 2(a)(1)(iv) or 2(a)(1)(v) of the Railroad Retirement Act of 1974 (45 U.S.C. 231a(a)(1)(iv) or 231a(a)(1)(v)), if the individual's service as an employee under the Railroad Retirement Act of 1974, after December 31, 1936, had been included in the term 'employment' as defined in the Social Security Act, and if an application for disability benefits had been filed.".

STATE AND LOCAL SALES TAXES

Sec. 1505. (a) Section 4(a) of the Food Stamp Act of 1977 (7 U.S.C. 2013(a)) is amended by inserting before the period at the end of the first sentence the following: ", except that a State may not participate in the food stamp program if the Secretary determines that State or local sales taxes are collected within that State on purchases of food made with coupons issued under this Act".

(b)(1) Except as provided in paragraph (2), the amendment made by subsection (a) shall take effect with respect to a State beginning on the first day of the fiscal year that commences in the calendar year during which the first regular session of the legislature of such State is convened following the date of enactment of this Act.

(2) Upon a showing by a State, to the satisfaction of the Secretary, that the application of paragraph (1), without regard to this paragraph, would have an adverse and disruptive effect on the administration of the food stamp program in such State or would provide inadequate time for retail stores to implement changes in sales tax policy required as a result of the amendment made by subsection (a), the Secretary may delay the effective date of subsection (a) with respect to such State to a date not later than October 1, 1987.

RELATION OF FOOD STAMP AND COMMODITY DISTRIBUTION PROGRAMS

Sec. 1506. Section 4(b) of the Food Stamp Act of 1977 (7 U.S.C. 2013(b)) is amended by—

(1) striking out the first sentence; and

(2) striking out "also" in the second sentence.

CATEGORICAL ELIGIBILITY

Sec. 1507. (a)(1) Section 5(a) of the Food Stamp Act of 1977 (7 U.S.C. 2014) is amended by inserting after the first sentence the following: "Notwithstanding any other provisions of this Act except sections 6(b), 6(d)(2), and 6(g) and the third sentence of section 3(i), and during the period beginning on the date of the enactment of the Food Security Act of 1985 and ending on September 30, 1989, households in which each member receives benefits under a State plan approved under part A of title IV of the Social Security Act, supplemental security income benefits under title XVI of the Social Security Act, or aid to the aged, blind, or disabled under title I, X, XIV, or XVI of the Social Security Act, shall be eligible to participate in the food stamp program.".

(2) During the period beginning on the date of the enactment of this Act and ending on September 30, 1989, section 5(j) of the Food Stamp Act of 1977 (7 U.S.C. 2014(j)) shall not apply.

(b) Section 11(i) of the Food Stamp Act of 1977 (7 U.S.C. 2020(i)) is amended by adding at the end thereof the following: "No household shall have its application to participate in the food stamp program denied nor its benefits under the food stamp program terminated solely on the basis that its application to participate has been denied or its benefits have been terminated under any of the programs carried out under the statutes specified in the second sentence of section 5(a) and without a separate determination by the State agency that the household fails to satisfy the eligibility requirements for participation in the food stamp program.".

(c) Not later than 2 years after the date of the enactment of this Act, the Secretary shall—

(1) evaluate the implementation of the second sentence of section 5(a) of the Food Stamp Act of 1977, as amended by subsection (a) of this section; and

(2) submit to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives a report summarizing the results of such evaluation.

THIRD PARTY PAYMENTS

Sec. 1508. Section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014) is amended by—

(1) inserting "except as provided in subsection (k)," after "household," in subsection (d)(1); and

(2) adding at the end thereof the following new subsection:

"(k)(1) For purposes of subsection (d)(1), except as provided in paragraph (2), assistance provided to a third party on behalf of a household by a State or local government shall be considered money payable directly to the household if the assistance is provided in lieu of—

"(A) a regular benefit payable to the household for living expenses under a State plan for aid to families with dependent children approved under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.); or

"(B) a benefit payable to the household for living expenses under—

"(i) a State or local general assistance program; or

"(ii) another basic assistance program comparable to general assistance (as determined by the Secretary).

"(2) Paragraph (1) shall not apply to—

"(A) medical assistance;

"(B) child care assistance;

"(C) energy assistance;

"(D) assistance provided by a State or local housing authority; or

"(E) emergency and special assistance, to the extent excluded in regulations prescribed by the Secretary.".

EXCLUDED INCOME

SEC. 1509. (a) Section 5(d) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)), as amended by section 1508, is amended by—

(1) inserting "and except as provided in subsection (k)," after the comma at the end of clause (1);

(2) in clause (3)—

(A) striking out "higher education" and inserting in lieu thereof "post-secondary education"; and

(B) adding at the end thereof "and to the extent loans include any origination fees and insurance premiums,";

(3) inserting "no portion of any non-Federal educational loan on which payment is deferred, grant, scholarship, fellowship, veterans' benefits, and the like that are provided for living expenses, and no portion of any Federal educational loan on which payment is deferred, grant, scholarship, fellowship, veterans' benefits, and the like to the extent it provides income assistance beyond that used for tuition and mandatory school fees," in the proviso to clause (5) after "child care expenses,";

(4) inserting ", but household income that otherwise is included under this subsection shall be reduced by the extent that the cost of producing self-employment income exceeds the income derived from self-employment as a farmer" before the comma in clause (9);

(5) inserting "except as otherwise provided in subsection (k) of this section" after "food stamp program" in clause (10).

(b) Section 5(k) of such Act, as added by section 1508, is amended by adding at the end thereof the following new paragraph:

"(3) For purposes of subsection (d)(1), educational loans on which payment is deferred, grants, scholarships, fellowships, veterans' educational benefits, and the like that are provided to a third party on behalf of a household for living expenses shall be treated as money payable directly to the household.".

(c) Section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014), as amended by section 1508, is amended by adding at the end thereof the following new subsection:

"(l) Notwithstanding section 142(b) of the Job Training Partnership Act (29 U.S.C. 1552(b)), earnings to individuals participating in on-the-job training programs under section 204(5) of the Job Training Partnership Act shall be considered earned income for purposes of the food stamp program, except for dependents less than 19 years of age.".

CHILD SUPPORT PAYMENTS

SEC. 1510. Section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014), as amended by sections 1508 and 1509—

(1) in subsection (d) by—

(A) striking out "and" at the end of clause (11); and

(B) inserting before the period at the end thereof the following: ", and (13) at the option of a State agency and subject to subsection (m), child support payments that are excluded under section 402(a)(8)(A)(vi) of the Social Security Act (42 U.S.C. 602(a)(8)(A)(vi))"; and

(2) adding at the end thereof the following new subsection:

"(m) If a State agency excludes payments from income for purposes of the food stamp program under subsection (d)(13), such State agency shall pay to the Federal Government, in a manner prescribed by the Secretary, the cost of any additional benefits provided to households in such State that arise under such program as the result of such exclusion.".

DEDUCTIONS FROM INCOME

SEC. 1511. Section 5(e) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)) is amended by—

(1) in the second sentence, striking out "homeownership component" and inserting in lieu thereof "homeowners' costs and maintenance and repair component";

(2) effective May 1, 1986, in the third sentence, striking out "18" and inserting in lieu thereof "20";

(3) effective May 1, 1986, amending the fourth sentence by—

(A) amending the proviso to clause (2) to read as follows: ": Provided, That the amount of such excess shelter expense deduction shall not exceed $147 a month in the forty-eight contiguous States and the District of Columbia, and shall not exceed, in Alaska, Hawaii, Guam, and the Virgin Islands of the United States, $256, $210, $179, and $109 a month, respectively, adjusted on October 1, 1986, and on each October 1 thereafter, to the nearest lower dollar increment to reflect changes in the shelter (exclusive of homeowners' costs and maintenance and repair component of shelter costs), fuel, and utilities components of housing costs in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics, as appropriately adjusted by the Bureau of Labor Statistics after consultation with the Secretary, for the twelve months ending the preceding June 30,";

(B) in clause (1), striking out "the same as" and all that follows through "clause (2) of this subsection", and inserting in lieu thereof "$160 a month";

(C) striking out ", or (2)" and inserting in lieu thereof "and (2)"; and

(D) striking out ", or (3)" and all that follows down to the period at the end thereof; and

(4) after the seventh sentence, inserting the following: "If a State agency elects to use a standard utility allowance that reflects heating or cooling costs, it shall be made available to households receiving a payment, or on behalf of which a payment is made, under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.) or other similar energy assistance program, provided that the household still incurs out-of-pocket heating or cooling expenses. A State agency may use a separate standard utility allowance for households on behalf of which such payment is made, but may not be required to do so. A State agency not electing to use a separate allowance, and making a single standard utility allowance available to households incurring heating or cooling expenses (other than households described in the sixth sentence of this subsection) may not be required to reduce such allowance due to the provision (direct or indirect) of assistance under the Low-Income Home Energy Assistance Act of 1981. For purposes of the food stamp program, assistance provided under the Low-Income Home Energy Assistance Act of 1981 shall be considered to be prorated over the entire heating or cooling season for which it was provided. A State agency shall allow a household to switch between any standard utility allowance and a deduction based on its actual utility costs at the end of any certification period and up to one additional time during each twelve-month period.".

INCOME FROM SELF-EMPLOYMENT

SEC. 1512. Section 5(f)(1)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2014(f)(1)(A)) is amended by adding at the end thereof the following: "Notwithstanding the preceding sentence, if the averaged amount does not accurately reflect the household's actual monthly circumstances because the household has experienced a substantial increase or decrease in business earnings, the State agency shall calculate the self-employment income based on anticipated earnings.".

RETROSPECTIVE BUDGETING AND MONTHLY REPORTING SIMPLIFICATION

SEC. 1513. (a) Section 5(f)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2014(f)(2)) is amended by—

(1) amending subparagraph (A) to read as follows:

"(A) Household income for—

"(i) migrant farmworker households, and

"(ii) households—

"(I) that have no earned income, and

"(II) in which all adult members are elderly or disabled members,

shall be calculated on a prospective basis, as provided in paragraph (3)(A).";

(2) in subparagraph (B)—

(A) striking out "(i)";

(B) inserting "the first sentence of" after "under" the first place it appears; and

(C) striking out "(ii)" and all that follows through "this Act,"; and

(3) striking out subparagraph (C) and inserting in lieu thereof the following:

"(C) Except as provided in subparagraphs (A) and (B), household income for households that have earned income and for households that include any member who has recent work history shall be calculated on a retrospective basis as provided in paragraph (3)(B).

"(D) Household income for all other households may be calculated, at the option of the State agency, on a prospective basis as provided in paragraph (3)(A) or on a retrospective basis as provided in paragraph (3)(B).".

(b) Section 6(c)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2015(c)(1)) is amended by—

(1) amending the first sentence to read as follows: "State agencies shall require households with respect to which household income is determined on a retrospective basis under section 5(f)(2)(C) of this Act to file periodic reports of household circumstances in accordance with standards prescribed by the Secretary, except that a State agency may, with the prior approval of the Secretary, select categories of households (including all such households) that may report at specified less frequent intervals on a showing by the State agency, which is satisfactory to the Secretary, that to require households in such categories to report monthly would result in unwarranted expenditures for administration of this subsection."; and

(2) inserting after the second sentence the following: "State agencies may require households, other than households with respect to which household income is required by section 5(f)(2)(A) to be calculated on a prospective basis, to file periodic reports of household circumstances in accordance with the standards prescribed by the Secretary under the preceding provisions of this paragraph.".

RESOURCES LIMITATION

SEC. 1514. Section 5(g) of the Food Stamp Act of 1977 (7 U.S.C. 2014(g)) is amended by—

(1) effective May 1, 1986, in the first sentence, striking out "$1,500, or, in the case of

a household consisting of two or more persons, one of whom is age 60 or over, if its resources exceed $3,000" and inserting in lieu thereof "$2,000, or, in the case of a household which consists of or includes a member who is 60 years of age or older, if its resources exceed $3,000";

(2) in the second sentence—

(A) inserting "and inaccessible resources" after "relating to licensed vehicles"; and

(B) after "physically disabled household member" inserting "and any other property, real or personal, to the extent that it is directly related to the maintenance or use of such vehicle"; and

(3) adding at the end thereof the following: "The Secretary shall exclude from financial resources the value of a burial plot for each member of a household.".

DISASTER TASK FORCE

SEC. 1515. Section 5(h)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2014(h)(2)) is amended to read as follows:

"(2) The Secretary shall—

"(A) establish a Food Stamp Disaster Task Force to assist States in implementing and operating the disaster program and the regular food stamp program in the disaster area; and

"(B) if the Secretary, in the Secretary's discretion, determines that it is cost-effective to send members of the Task Force to the disaster area, the Secretary shall send them to such area as soon as possible after the disaster occurs to provide direct assistance to State and local officials.".

ELIGIBILITY DISQUALIFICATIONS

SEC. 1516. Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015) is amended by—

(1) in the first sentence of subsection (d)(1)—

(A) striking out "no household shall be eligible for assistance under this Act if it includes a" and inserting in lieu thereof "(A) no person shall be eligible to participate in the food stamp program who is";

(B) by striking out "eighteen" in the matter preceding clause (i) of the first sentence and inserting in lieu thereof "sixteen";

(C) striking out all that follows "(iii)" through "days; or (iv)"; and

(D) inserting before the period at the end thereof the following: "; and (B) no household shall be eligible to participate in the food stamp program (i) if the head of the household is a physically and mentally fit person between the ages of sixteen and sixty and such individual refuses to do any of those acts described in clause (A) of this sentence, or (ii) if the head of the household voluntarily quits any job without good cause, but, in such case, the period of ineligibility shall be ninety days";

(2) adding at the end of subsection (d)(1) the following: "Any period of ineligibility for violations under this paragraph shall end when the household member who committed the violation complies with the requirement that has been violated. If the household member who committed the violation leaves the household during the period of ineligibility, such household shall no longer be subject to sanction for such violation and, if it is otherwise eligible, may resume participation in the food stamp program, but any other household of which such person thereafter becomes the head of the household shall be ineligible for the balance of the period of ineligibility.";

(3) in subsection (d)(2) by—

(A) striking out "or" at end of clause (D);

(B) inserting before the period at the end thereof the following: "; or (F) a person between the ages of sixteen and eighteen who is not a head of a household or who is attending school, or enrolled in an employment training program, on at least a half-time basis"; and

(4) inserting at the end of clause (2) of subsection (e) the following: "or is an individual who is not assigned to or placed in an institution of higher learning through a program under the Job Training Partnership Act,"; and

(5) in clause (2) of subsection (f)—

(A) striking out "section 203(a)(7)" and "(8 U.S.C. 1153(a)(7))" in subclause (D) and inserting in lieu thereof "sections 207 and 208" and "(8 U.S.C. 1157 and 1158)", respectively;

(B) striking out "because of persecution" and all that follows through "natural calamity" in subclause (D);

(C) striking out "because of the judgment of the Attorney General" and all that follows in subclause (F) through "political opinion".

EMPLOYMENT AND TRAINING PROGRAM

SEC. 1517. (a) Section 6(d) of the Food Stamp Act of 1977 (7 U.S.C.. 2015(d)) is amended by—

(1) amending clause (A)(ii) of paragraph (1) to read as follows:

"(ii) refuses without good cause to participate in an employment and training program under paragraph (4), to the extent required under paragraph (4), including any reasonable employment requirements as are prescribed by the State agency in accordance with paragraph (4), and the period of ineligibility shall be two months;"; and

(2) adding at the end thereof the following:

"(4)(A) Not later than April 1, 1987, each State agency shall implement an employment and training program designed by the State agency and approved by the Secretary for the purpose of assisting members of households participating in the food stamp program in gaining skills, training, or experience that will increase their ability to obtain regular employment.

"(B) For purposes of this Act, an 'employment and training program' means a program that contains one or more of the following components:

"(i) Job search programs with terms and conditions comparable to those prescribed in subparagraphs (A) and (B) of section 402(a)(35) of part A of title IV of the Social Security Act, except that the State agency shall have no obligation to incur costs exceeding $25 per participant per month, as provided in subparagraph (B)(vi), and the State agency shall retain the option to apply employment requirements prescribed under this clause to program applicants at the time of application.

"(ii) Job search training programs that include, to the extent determined appropriate by the State agency, reasonable job search training and support activities that may consist of jobs skills assessments, job finding clubs, training in techniques for employability, job placement services, or other direct training or support activities, including educational programs, determined by the State agency to expand the job search abilities or employability of those subject to the program.

"(iii) Workfare programs operated under section 20.

"(iv) Programs designed to improve the employability of household members through actual work experience or training, or both, and to enable individuals employed or trained under such programs to move promptly into regular public or private employment. An employment or training experience program established under this clause shall—

"(I) limit employment experience assignments to projects that serve a useful public purpose in fields such as health, social services, environmental protection, urban and rural development and redevelopment, welfare, recreation, public facilities, public safety, and day care;

"(II) to the extent possible, use the prior training, experience, and skills of the participating member in making appropriate employment or training experience assignments;

"(III) not provide any work that has the effect of replacing the employment of an individual not participating in the employment or training experience program; and

"(IV) provide the same benefits and working conditions that are provided at the job site to employees performing comparable work for comparable hours.

"(v) As approved by the Secretary, other programs, projects, and experiments, such as a supported work program, aimed an accomplishing the purpose of the employment and training program.

"(C) The State agency may provide that participation in an employment and training program may supplement or supplant other employment-related requirements imposed on those subject to the program.

"(D)(i) Each State agency may exempt from any requirement for participation in any program under this paragraph categories of household members to which the application of such participation requirement is impracticable as applied to such categories due to factors such as the availability of work opportunities and the cost-effectiveness of the employment requirements. In making such a determination, the State agency may designate a category consisting of all such household members residing in a specific area of the State. Each State may exempt, with the approval of the Secretary, members of households that have participated in the food stamp program 30 days or less.

"(ii) Each State agency may exempt from any requirement for participation individual household members not included in any category designated as exempt under clause (i) but with respect to whom such participation is impracticable because of personal circumstances such as lack of job readiness and employability, the remote location of work opportunities, and unavailability of child care.

"(iii) Any exemption of a category or individual under this subparagraph shall be periodically evaluated to determine whether, on the basis of the factors used to make a determination under clauses (i) or (ii), the exemption continues to be valid. Such evaluations shall occur no less often than at each certification or recertification in the case of exemptions under clause (ii).

"(E) Each State agency shall establish requirements for participation by individuals not exempt under subparagraph (D) in one or more employment and training programs under this paragraph, including the extent to which any individual is required to participate. Such requirements may vary among participants.

"(F)(i) The total hours of work in an employment and training program carried out under this paragraph required of members of a household, together with the hours of work of such members in any program carried out under section 20, in any month collectively may not exceed a number of hours equal to the household's allotment for such

month divided by the higher of the applicable State minimum wage or Federal minimum hourly rate under the Fair Labor Standards Act of 1938.

"(ii) The total hours of participation in such program required of any member of a household, individually, in any month, together with any hours worked in another program carried out under section 20 and any hours worked for compensation (in cash or in kind) in any other capacity, shall not exceed one hundred and twenty hours per month.

"(G)(i) The State agency may operate any program component under this paragraph in which individuals elect to participate.

"(ii) The State agency shall permit, to the extent it determines practicable, individuals not subject to requirements imposed under subparagraph (E) or who have complied, or are in the process of complying, with such requirements to participate in any program under this paragraph.

"(H) The State agency shall reimburse participants in programs carried out under this paragraph, including those participating under subparagraph (G), for the actual costs of transportation, and other actual costs, that are reasonably necessary and directly related to participation in the program, except that the State agency may limit such reimbursement to each participant to $25 per month.

"(I) The Secretary shall promulgate guidelines that (i) enable State agencies, to the maximum extent practicable, to design and operate an employment and training program that is compatible and consistent with similar programs operated within the State, and (ii) ensure, to the maximum extent practicable, that employment and training programs are provided for Indians on reservations.

"(J)(i) For any fiscal year, the Secretary shall establish performance standards for each State that, in the case of persons who are subject to employment requirements under this section and who are not exempt under subparagraph (D), designate the minimum percentages (not to exceed 50 percent through September 30, 1989) of such persons that State agencies shall place in programs under this paragraph. Such standards need not be uniform for all the States, but may vary among the several States. The Secretary shall consider the cost to the States in setting performance standards and the degree of participation in programs under this paragraph by exempt persons.

"(ii) In making any determination as to whether a State agency has met a performance standard under clause (i), the Secretary shall—

"(I) consider the extent to which persons have elected to participate in programs under this paragraph;

"(II) consider such factors as placement in unsubsidized employment, increases in earnings, and reduction in the number of persons participating in the food stamp program; and

"(III) consider other factors determined by the Secretary to be related to employment and training.

"(iii) The Secretary shall vary the performance standards established under clause (i) according to differences in the characteristics of persons required to participate and the type of program to which the standard is applied.

"(iv) The Secretary may delay establishing performance standards for up to 18 months after national implementation of the provisions of this paragraph, in order to base performance standards on State agency experience in implementing this paragraph.

"(K)(i) The Secretary shall ensure that State agencies comply with the requirements of this paragraph and section 11(e)(22).

"(ii) If the Secretary determines that a State agency has failed, without good cause, to comply with such a requirement, including any failure to meet a performance standard under subparagraph (J), the Secretary may withhold from such state, in accordance with section 16(a), (c), and (h), such funds as the Secretary determines to be appropriate, subject to administrative and judicial review under section 14.

"(L) The facilities of the State public employment offices and agencies operating programs under the Job Training Partnership Act may be used to find employment and training opportunities for household members under the programs under this paragraph.".

(b) Section 11(e) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)) is amended by—

(1) striking out "and" at the end of paragraph (20);

(2) striking out the period at the end of paragraph (21) and inserting in lieu thereof "; and"; and

(3) adding at the end thereof the following:

"(22) the plans of the State agency for carrying out employment and training programs under section 6(d)(4), including the nature and extent of such programs, the geographic areas and households to be covered under such program, and the basis, including any cost information, for exemptions of categories and individuals and for the choice of employment and training program components reflected in the plans."

(c) Section 16 of the Food Stamp Act of 1977 (7 U.S.C. 2025) is amended by adding at the end thereof the following:

"(h)(1) The Secretary shall allocate among the State agencies in each fiscal year, from funds appropriated for such fiscal year under section 18(a)(1), the amount of $40,000,000 for the fiscal year ending September 30, 1986, $50,000,000 for the fiscal year ending September 30, 1987, $60,000,000 for the fiscal year ending September 30, 1988, and $75,000,000 for each of the fiscal years ending September 30, 1989 and September 30, 1990, to carry out the employment and training program under section 6(d)(4), except as provided in paragraph (3), during such fiscal year.

"(2) If, in carrying out such program during such fiscal year, a State agency incurs costs that exceed the amount allocated to the State agency under paragraph (1), the Secretary shall pay such State agency an amount equal to 50 per centum of such additional costs, subject to the first limitation in paragraph (3).

"(3) The Secretary shall also reimburse each State agency in an amount equal to 50 per centum of the total amount of payments made or costs incurred by the State agency in connection with transportation costs and other expenses reasonably necessary and directly related to participation in an employment and training program under section 6(d)(4), except that such total amount shall not exceed an amount representing $25 per participant per month and such reimbursement shall not be made out of funds allocated under paragraph (1).

"(4) Funds provided to a State agency under this subsection may be used only for operating an employment and training program under section 6(d)(4), and may not be used for carrying out other provisions of the Act.

"(5)(A) The Secretary shall monitor the employment and training programs carried out by State agencies under section 6(d)(4) to measure their effectiveness in terms of the increase in the numbers of household members who obtain employment and the numbers of such members who retain such employment as a result of their participation in such employment and training programs.

"(B) The Secretary shall, not later than January 1, 1989, report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the effectiveness of such employment and training programs."

(d) Subsection (b) of section 20 of such Act (7 U.S.C. 2029(b)) is amended to read as follows:

"(b)(1) A household member shall be exempt from workfare requirements imposed under this section if such member is—

"(A) exempt from section 6(d)(1) as the result of clause (B), (C), (D), (E), or (F) of section 6(d)(2);

"(B) at the option of the operating agency, subject to and currently actively and satisfactorily participating at least 20 hours a week in a work training program required under title IV of the Social Security Act (42 U.S.C. 601 et seq.);

"(C) mentally or physically unfit;

"(D) under sixteen years of age;

"(E) sixty years of age or older; or

"(F) a parent or other caretaker of a child in a household in which another member is subject to the requirements of this section or is employed fulltime.

"(2)(A) Subject to subparagraphs (B) and (C), in the case of a household that is exempt from work requirements imposed under this Act as the result of participation in a community work experience program established under section 409 of the Social Security Act (42 U.S.C. 609), the maximum number of hours in a month for which all members of such household may be required to participate in such program shall equal the result obtained by dividing—

"(i) the amount of assistance paid to such household for such month under title IV of such Act, together with the value of the food stamp allotment of such household for such month; by

"(ii) the higher of the Federal or State minimum wage in effect for such month.

"(B) In no event may any such member be required to participate in such program more than 120 hours per month.

"(C) For the purpose of subparagraph (A)(i), the value of the food stamp allotment of a household for a month shall be determined in accordance with regulations governing the issuance of an allotment to a household that contains more members than the number of members in an assistance unit established under title IV of such Act.".

STAGGERING OF COUPON ISSUANCE

SEC. 1518. Section 7 of the Food Stamp Act of 1977 (7 U.S.C. 2016) is amended by adding at the end thereof the following:

"(h)(1) The State agency may implement a procedure for staggering the issuance of coupons to eligible households throughout the entire month: Provided, That the procedure ensures that, in the transition period from other issuance procedures, no eligible household experiences an interval between coupon issuances of more than 40 days, either through regular issuances by the State agency or through supplemental issuances.

"(2) For any eligible household that applies for participation in the food stamp

program during the last fifteen days of a month and is issued benefits within that period, coupons shall be issued for the first full month of participation by the eighth day of the first full month of participation.".

ALTERNATIVE MEANS OF COUPON ISSUANCE

SEC. 1519. Section 7(g)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2016(g)(1)) is amended by striking out "may" in the matter preceding clause (A) and inserting in lieu thereof "shall".

SIMPLIFIED APPLICATIONS AND STANDARDIZED BENEFITS

SEC. 1520. Section 8 of the Food Stamp Act of 1977 (7 U.S.C. 2017) is amended by adding at the end thereof the following new subsection:

"(e)(1) The Secretary may permit not more than five statewide projects (upon the request of a State) and not more than five projects in political subdivisions of States (upon the request of a State or political subdivision) to operate a program under which a household shall be considered to have satisfied the application requirements prescribed under section 5(a) and the income and resource requirements prescribed under subsections (d) through (g) of section 5 if such household—

"(A) includes one or more members who are recipients of—

"(i) aid to families with dependent children under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.);

"(ii) supplemental security income under title XVI of such Act (42 U.S.C. 1381 et seq.); or

"(iii) medical assistance under title XIX of such Act (42 U.S.C. 1396 et seq.); and

"(B) has an income that does not exceed the applicable income standard of eligibility described in section 5(c).

"(2) Except as provided in paragraph (3), a State or political subdivision that elects to operate a program under this subsection shall base the value of an allotment provided to a household under subsection (a) on—

"(A)(i) the size of the household; and

"(ii)(I) benefits paid to such household under a State plan for aid to families with dependent children approved under part A of title IV of the Social Security Act; or

"(II) the income standard of eligibility for medical assistance under title XIX of such Act; or

"(B) at the option of the State or political subdivision, the standard of need for such size household under the programs referred to in clause (A)(ii).

"(3) The Secretary shall adjust the value of allotments received by households under a program operated under this subsection to ensure that the average allotment by household size for households participating in such program and receiving such aid to families with dependent children, such supplemental security income, or such medical assistance, as the case may be, is not less than the average allotment that would have been provided under this Act but for the operation of this subsection, for each category of households, respectively, in a State or political subdivision, for any period during which such program is in operation.

"(4) The Secretary shall evaluate the impact of programs operated under this subsection on recipient households, administrative costs, and error rates.

"(5) The administrative costs of such programs shall be shared in accordance with section 16.

"(6) In implementing this section, the Secretary shall consult with the Secretary of Health and Human Services to ensure that to the extent practicable, in the case of households participating in such programs, the processing of applications for, and determinations of eligibility to receive, food stamp benefits are simplified and are unified with the processing of applications for, and determinations of eligibility to receive, benefits under such titles of the Social Security Act (42 U.S.C. 601 et seq.).".

DISCLOSURE OF INFORMATION SUBMITTED BY RETAIL STORES

SEC. 1521. Section 9(c) of the Food Stamp Act of 1977 (7 U.S.C. 2018(c)) is amended by inserting before the period at the end of the second sentence the following: ", except that such information may be disclosed to and used by State agencies that administer the special supplemental food program for women, infants and children, authorized under section 17 of the Child Nutrition Act of 1966, for purposes of administering the provisions of that Act and the regulations issued under that Act".

CREDIT UNIONS

SEC. 1522. Section 10 of the Food Stamp Act of 1977 (7 U.S.C. 2019), as amended by section 1501, is amended by—

(1) inserting ", or which are insured under the Federal Credit Union Act and have retail food stores or wholesale food concerns in their field of membership" after "Federal Savings and Loan Insurance Corporation" the first place it appears; and

(2) inserting "or the Federal Credit Union Act" after "Federal Savings and Loan Insurance Corporation" the second place it appears.

CHARGES FOR REDEMPTION OF COUPONS

SEC. 1523. (a) Section 10 of the Food Stamp Act of 1977 (7 U.S.C. 2019), as amended by sections 1501 and 1522, is amended by adding at the end thereof the following: "No financial institution may impose on or collect from a retail food store a fee or other charge for the redemption of coupons that are submitted to the financial institution in a manner consistent with the requirements, other than any requirements relating to cancellation of coupons, for the presentation of coupons by financial institutions to the Federal Reserve banks.".

(b) The Secretary of Agriculture, in consultation with the Board of Governors of the Federal Reserve System, shall issue regulations implementing the amendment made by subsection (a).

HOURS OF OPERATION

SEC. 1524. Section 16(b)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2025(b)(1)) is amended by inserting ", including standards for the periodic review of the hours that food stamp offices are open during the day, week, or month to ensure that employed individuals are adequately served by the food stamp program," after "States".

CERTIFICATION OF INFORMATION

SEC. 1525. Section 11(e)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(2)) is further amended by adding at the end thereof the following: "One adult member of a household that is applying for a coupon allotment shall be required to certify in writing, under penalty of perjury, the truth of the information contained in the application for the allotment;".

FRAUD DETECTION

SEC. 1526. Section 11(e) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)), as amended by section 1517 and 1525, is further amended by adding at the end thereof the following new paragraph:

"(23) in a project area in which 5,000 or more households participate in the food stamp program, for the establishment and operation of a unit for the detection of fraud in the food stamp program, including the investigation, and assistance in the prosecution, of such fraud; and".

VERIFICATION

SEC. 1527. Section 11(e)(3) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(3)) is amended by—

(1) striking out "only" after "verification";

(2) inserting ", household size (in any case such size is questionable)," after "Act)"; and

(3) striking out "any factors" and all that follows through "by the Secretary" and inserting in lieu thereof "such other eligibility factors as the State agency determines are necessary".

PHOTOGRAPHIC IDENTIFICATION CARDS

SEC. 1528. Section 11(e)(16) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(16)) is amended by—

(1) striking out "last sentence" and inserting in lieu thereof "fourth sentence";

(2) inserting "and would be cost effective" after "integrity";

(3) striking out the semicolon at the end thereof and inserting in lieu thereof a period; and

(4) adding at the end thereof the following: "The State agency may permit a member of a household to comply with this paragraph by presenting a photographic identification card used to receive assistance under a welfare or public assistance program;".

ELIGIBILITY OF THE HOMELESS

SEC. 1529. Section 11(e)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(2)), as amended by section 1525, is amended by—

(1) striking out the semicolon at the end thereof and inserting in lieu thereof a period; and

(2) adding at the end thereof the following: "The State agency shall provide a method of certifying and issuing coupons to eligible households that do not reside in permanent dwellings or who do not have fixed mailing addresses. In carrying out the preceding sentence, the State agency shall take such steps as are necessary to ensure that participation in the food stamp program is limited to eligible households.".

EXPANDED FOOD AND NUTRITION EDUCATION PROGRAM

SEC. 1530. Section 11(f) of the Food Stamp Act of 1977 (7 U.S.C. 2020(f)) is amended by adding at the end thereof the following: "State agencies shall encourage food stamp program participants to participate in the expanded food and nutrition education program conducted under section 3(d) of the Act of May 8, 1914 (7 U.S.C. 343(d)), commonly known as the Smith-Lever Act and any program established under sections 1584 through 1588 of the Food Security Act of 1985. At the request of personnel of such education program, State agencies, wherever practicable, shall allow personnel and information materials of such education program to be placed in food stamp offices.".

FOOD STAMP PROGRAM INFORMATION AND SIMPLIFIED APPLICATION AT SOCIAL SECURITY ADMINISTRATION OFFICES

SEC. 1531. (a) Effective October 1, 1986, clause (2) of the first sentence of section 11(i) of the Food Stamp Act of 1977 (7 U.S.C. 2020(i)), as amended by section 1531, is amended by—

(1) inserting "applicants for or" after "members are";

(2) striking out "permitted" and all that follows through "office", and inserting in

lieu thereof "informed of the availability of benefits under the food stamp program and be assisted in making a simple application to participate in such program at the social security office".

(b) Effective October 1, 1986, section 11(j) of the Food Stamp Act of 1977 (7 U.S.C. 2020(j)) is amended to read as follows:

"(j)(1) Any individual who is an applicant for or recipient of social security benefits (under regulations prescribed by the Secretary in conjunction with the Secretary of Health and Human Services) shall be informed of the availability of benefits under the food stamp program and informed of the availability of a simple application to participate in such program at the social security office.

"(2) The Secretary and the Secretary of Health and Human Services shall revise the memorandum of understanding in effect on the date of enactment of the Food Security Act of 1985, regarding services to be provided in social security offices under this subsection and subsection (i), in a manner to ensure that—

"(A) applicants for and recipients of social security benefits are adequately notified in social security offices that assistance may be available to them under this Act;

"(B) applications for assistance under this Act from households in which all members are applicants for or recipients of supplemental security income will be forwarded immediately to the State agency in an efficient and timely manner; and

"(C) the Secretary of Health and Human Services receives from the Secretary reimbursement for costs incurred to provide such services.".

(c) Not later than April 1, 1987, the Secretary of Agriculture shall submit a report, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, describing the nature and extent of the costs being incurred by the Secretary of Health and Human Services to comply with subsections (i) and (j) of section 11 of the Food Stamp Act of 1977, as amended by subsections (a) and (b).

RETAIL FOOD STORES AND WHOLESALE FOOD CONCERNS

SEC. 1532. (a) Section 12 of the Food Stamp Act of 1977 (7 U.S.C. 2021) is amended by adding at the end thereof the following:

"(e)(1) In the event any retail food store or wholesale food concern that has been disqualified under subsection (a) is sold or the ownership thereof is otherwise transferred to a purchaser or transferee, the person or persons who sell or otherwise transfer ownership of the retail food store or wholesale food concern shall be subjected to a civil money penalty in an amount established by the Secretary through regulations to reflect that portion of the disqualification period that has not yet expired. If the retail food store or wholesale food concern has been disqualified permanently, the civil money penalty shall be double the penalty for a ten-year disqualification period, as calculated under regulations issued by the Secretary. The disqualification period imposed under subsection (b) shall continue in effect as to the person or persons who sell or otherwise transfer ownership of the retail food store or wholesale food concern notwithstanding the imposition of a civil money penalty under this subsection.

"(2) At any time after a civil money penalty imposed under paragraph (1) has become final under the provisions of section 14(a), the Secretary may request the Attorney General to institute a civil action against the person or persons subject to the penalty in a district court of the United States for any district in which such person or persons are found, reside, or transact business to collect the penalty and such court shall have jurisdiction to hear and decide such action. In such action, the validity and amount of such penalty shall not be subject to review.".

(b) Section 9(b) of the Food Stamp Act of 1977 (7 U.S.C. 2018(b)) is amended by—

(1) inserting "(1)" after the subsection designation; and

(2) adding at the end thereof the following new paragraph:

"(2)(A) A buyer or transferee (other than a bona fide buyer or transferee) of a retail food store or wholesale food concern that has been disqualified under section 12(a) may not accept or redeem coupons until the Secretary receives full payment of any penalty imposed on such store or concern.

"(B) A buyer or transferee may not, as a result of the sale or transfer of such store or concern, be required to furnish a bond under section 12(d).".

LIABILITY FOR OVERISSUANCE OF COUPONS

SEC. 1533. Section 13(a) of the Food Stamp Act of 1977 (7 U.S.C. 2022(a)) is amended by—

(1) inserting "(1)" after the subsection designation; and

(2) adding at the end thereof the following new paragraph:

"(2) Each adult member of a household shall be jointly and severally liable for the value of any overissuance of coupons.".

COLLECTION OF CLAIMS

SEC. 1534. Section 13(b)(1)(B) of the Food Stamp Act of 1977 (7 U.S.C. 2022(b)(1)(B)) is amended by—

(1) striking out "may" and inserting in lieu thereof "shall"; and

(2) inserting ", unless the State agency demonstrates to the satisfaction of the Secretary that such other means are not cost effective" before the period at the end thereof.

FOOD STAMP INTERCEPT OF UNEMPLOYMENT BENEFITS

SEC. 1535. (a) Section 13 of the Food Stamp Act of 1977 (7 U.S.C. 2022) is amended by adding at the end thereof the following new subsection:

"(c)(1) As used in this subsection, the term 'uncollected overissuance' means the amount of an overissuance of coupons, as determined under subsection (b)(1), that has not been recovered pursuant to subsection (b)(1).

"(2) A State agency may determine on a periodic basis, from information supplied pursuant to section 3(b) of the Wagner-Peyser Act (29 U.S.C. 49b(b)), whether an individual receiving compensation under the State's unemployment compensation law (including amounts payable pursuant to an agreement under a Federal unemployment compensation law) owes an uncollected overissuance.

"(3) A State agency may recover an uncollected overissuance—

"(A) by—

"(i) entering into an agreement with an individual described in paragraph (2) under which specified amounts will be withheld from unemployment compensation otherwise payable to the individual; and

"(ii) furnishing a copy of the agreement to the State agency administering the unemployment compensation law; or

"(B) in the absence of an agreement, by obtaining a writ, order, summons, or other similar process in the nature of garnishment from a court of competent jurisdiction to require the withholding of amounts from the unemployment compensation.".

(b)(1) Section 11(e) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)), as amended by section 1526, is amended by adding at the end thereof the following new paragraph:

"(24) at the option of the State, for procedures necessary to obtain payment of uncollected overissuance of coupons from unemployment compensation pursuant to section 13(c).".

(2) Section 3(b) of the Wagner-Peyser Act (29 U.S.C. 49b(b)) is amended by—

(A) striking out "or" the second place it appears and inserting in lieu thereof a comma; and

(B) inserting after "such Act," the following: "or of a State agency charged with the administration of the food stamp program in a State under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.),".

(3) Section 303(d) of the Social Security Act (42 U.S.C. 503(d)) is amended by—

(A) redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(B) inserting after paragraph (1) the following new paragraph:

"(2)(A) For purposes of this paragraph, the term 'unemployment compensation' means any unemployment compensation payable under the State law (including amounts payable pursuant to an agreement under a Federal unemployment compensation law).

"(B) The State agency charged with the administration of the State law—

"(i) may require each new applicant for unemployment compensation to disclose whether the applicant owes an uncollected overissuance (as defined in section 13(c)(1) of the Food Stamp Act of 1977) of food stamp coupons,

"(ii) may notify the State food stamp agency to which the uncollected overissuance is owed that the applicant has been determined to be eligible for unemployment compensation if the applicant discloses under clause (i) that the applicant owes an uncollected overissuance and the applicant is determined to be so eligible,

"(iii) may deduct and withhold from any unemployment compensation otherwise payable to an individual—

"(I) the amount specified by the individual to the State agency to be deducted and withheld under this clause,

"(II) the amount (if any) determined pursuant to an agreement submitted to the State food stamp agency under section 13(c)(3)(A) of the Food Stamp Act of 1977, or

"(III) any amount otherwise required to be deducted and withheld from the unemployment compensation pursuant to section 13(c)(3)(B) of such Act, and

"(iv) shall pay any amount deducted and withheld under clause (iii) to the appropriate State food stamp agency.

"(C) Any amount deducted and withheld under subparagraph (B)(iii) shall for all purposes be treated as if it were paid to the individual as unemployment compensation and paid by the individual to the State food stamp agency to which the uncollected overissuance is owed as repayment of the individual's uncollected overissuance.

"(D) A State food stamp agency to which an uncollected overissuance is owed shall reimburse the State agency charged with the administration of the State unemployment compensation law for the administrative costs incurred by the State agency under this paragraph that are attributable to repayment of uncollected overissuance to the

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State food stamp agency to which the uncollected overissuance is owed.".

(c)(1) The proviso of the first sentence of section 16(a) of the Food Stamp Act of 1977 (7 U.S.C. 2025(a)) is amended by striking out "section 13(b)(1) of this Act" and inserting in lieu thereof "subsections (b)(1) and (c) of section 13".

(2) The first sentence of section 18(e) of such Act (7 U.S.C. 2027(e)) is amended by striking out "section 13(b) of this Act" and inserting in lieu thereof "subsections (b) and (c) of section 13".

ADMINISTRATIVE AND JUDICIAL REVIEW

SEC. 1536. The last sentence of section 14(a) of the Food Stamp Act of 1977 (7 U.S.C. 2023(a)) is amended by—

(1) striking out "an application" and inserting in lieu thereof "on application"; and

(2) striking out "showing of irreparable injury" and inserting in lieu thereof "consideration by the court of the applicant's likelihood of prevailing on the merits and of irreparable injury".

STATE AGENCY LIABILITY, QUALITY CONTROL, AND AUTOMATIC DATA PROCESSING

SEC. 1537. (a) Effective with respect to the fiscal year beginning October 1, 1985, and each fiscal year thereafter, section 16(d) of the Food Stamp Act of 1977 (7 U.S.C. 2025) is amended by—

(1) in paragraph (2)(A), inserting before the period at the end thereof the following: "less any amount payable as a result of the use by the State agency of correctly processed information received from an automatic information exchange system made available by any Federal department or agency"; and

(2) adding at the end thereof the following:

"(6) To facilitate the implementation of paragraphs (2) and (3), each State agency shall submit to the Secretary expeditiously data regarding its operations in each fiscal year sufficient for the Secretary to establish the payment error rate for the State agency for such fiscal year and determine the amount for which the State agency will be liable for such fiscal year under paragraphs (2) and (3). The Secretary shall make a determination for a fiscal year, and notify the State agency of such determination, within nine months following the end of each fiscal year. The Secretary shall initiate efforts to collect the amount owed by the State agency as a claim established under paragraphs (2) and (3) for a fiscal year, subject to the conclusion of any formal or informal appeal procedure and administrative or judicial review under section 14 (as provided for in paragraph (5)), before the end of the fiscal year following such fiscal year.".

(b) Section 11 of the Food Stamp Act of 1977 (7 U.S.C. 2020) is amended by adding at the end thereof the following new subsection:

"(o)(1) The Secretary shall develop, after consultation with, and with the assistance of, an advisory group of State agencies appointed by the Secretary without regard to the provisions of the Federal Advisory Committee Act, a model plan for the comprehensive automation of data processing and computerization of information systems under the food stamp program. The plan shall be developed and made available for public comment through publication of the proposed plan in the Federal Register not later than October 1, 1986. The Secretary shall complete the plan, taking into consideration public comments received, not later than February 1, 1987. The elements of the plan may include intake procedures, eligibility determinations and calculation of benefits, verification procedures, coordination with related Federal and State programs, the issuance of benefits, reconciliation procedures, the generation of notices, and program reporting. In developing the plan, the Secretary shall take into account automated data processing and information systems already in existence in States and shall provide for consistency with such systems.

"(2) Not later than October 1, 1987, each State agency shall develop and submit to the Secretary for approval a plan for the use of an automated data processing and information retrieval system to administer the food stamp program in such State. The State plan shall take into consideration the model plan developed by the Secretary under paragraph (1) and shall provide times frames for completion of various phases of the State plan. If a State agency already has a sufficient automated data processing and information retrieval system, the State plan may, subject to the Secretary's approval, reflect the existing State system.

"(3) Not later than April 1, 1988, the Secretary shall prepare and submit to Congress an evaluation of the degree and sufficiency of each State's automated data processing and computerized information systems for the administration of the food stamp program, including State plans submitted under paragraph (2). Such report shall include an analysis of additional steps needed for States to achieve effective and cost-efficient data processing and information systems. The Secretary, thereafter, shall periodically update such report.

"(4) Based on the Secretary's findings in such report submitted under paragraph (3), the Secretary may require a State agency, as necessary to rectify identified shortcomings in the administration of the food stamp program in the State, except where such direction would displace State initiatives already under way, to take specified steps to automate data processing systems or computerize information systems for the administration of the food stamp program in the State if the Secretary finds that, in the absence of such systems, there will be program accountability or integrity problems that will substantially affect the administration of the food stamp program in the State.

"(5)(A) Subject to subparagraph (B), in the case of a plan for an automated data processing and information retrieval system submitted by a State agency to the Secretary under paragraph (2), such State agency shall—

"(i) commence implementation of its plan not later than October 1, 1988; and

"(ii) meet the time frames set forth in the plan.

"(B) The Secretary shall extend a deadline imposed under subparagraph (A) to the extent the Secretary deems appropriate based on the Secretary's finding of a good faith effort of a State agency to implement its plan in accordance with subparagraph (A)."

(c) Section 11(g) of the Food Stamp Act of 1977 (7 U.S.C. 2020(g)) is amended by—

(1) inserting "the State plan for automated data processing submitted pursuant to subsection (o)(2) of this section," after "pursuant to subsection (d) of this section,", and

(2) striking out "16(a) and 16(c)" and inserting in lieu thereof "16(a), 16(c), and 16(g)".

QUALITY CONTROL STUDIES AND PENALTY MORATORIUM

SEC. 1538. (a)(1)(A) The Secretary of Agriculture (herein after referred to in this section as the "Secretary") shall conduct a study of the quality control system used for the food stamp program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.).

(B) The study shall—

(i) examine how best to operate such system in order to obtain information that will allow the State agencies to improve the quality of administration; and

(ii) provide reasonable data on the basis of which Federal funding may be withheld for State agencies with excessive levels of erroneous payments.

(2)(A) The Secretary shall also contract with the National Academy of Sciences to conduct a concurrent independent study for the purpose described in paragraph (1).

(B) For purposes of such study, the Secretary shall provide to the National Academy of Sciences any relevant data available to the Secretary at the onset of the study and on an ongoing basis.

(3) Not later than 1 year after the date of enactment of this Act, the Secretary and the National Academy of Sciences shall report the results of their respective studies to the Congress.

(b)(1) During the 6-month period beginning on the date of enactment of this Act (hereinafter in this section referred to as the "moratorium period"), the Secretary shall not impose any reductions in payments to State agencies pursuant to section 16 of the Food Stamp Act of 1977 (7 U.S.C. 2025).

(2) During the moratorium period, the Secretary and the State agencies shall continue to—

(A) operate the quality control systems in effect under the Food Stamp Act of 1977; and

(B) calculate error rates under section 16 of such Act.

(c)(1) Not later than 18 months after the date of enactment of this Act, the Secretary shall publish regulations that shall—

(A) restructure the quality control system used under the Food Stamp Act of 1977 to the extent the Secretary determines to be appropriate, taking into account the studies conducted under subsection (a); and

(B) establish, taking into account the studies conducted under subsection (a), criteria for adjusting the reductions that shall be made for quarters prior to the implementation of the restructured quality control system so as to eliminate reductions for those quarters that would not be required if the restructured quality control system had been in effect during those quarters.

(2) Beginning 2 years after the date of the enactment of this Act the Secretary shall—

(A) implement the restructured quality control system; and

(B) reduce payments to State agencies—

(i) for quarters after implementation of such system in accordance with the restructured quality control system; and

(ii) for quarters before implementation of such system, as provided under the regulations described in paragraph (1)(B)."

GEOGRAPHICAL ERROR-PRONE PROFILES

SEC. 1539. Section 16 of the Food Stamp Act of 1977 (7 U.S.C. 2025) is amended by adding at the end thereof the following new subsection:

"(i)(1) The Department of Agriculture may use quality control information made available under this section to determine which project areas have payment error rates (as defined in subsection (d)(1)) that impair the integrity of the food stamp program.

"(2) The Secretary may require a State agency to carry out new or modified proce-

dures for the certification of households in areas identified under paragraph (1) if the Secretary determines such procedures would improve the integrity of the food stamp program and be cost effective.

"(3) Not later than 12 months after the date of enactment of the Food Security Act of 1985, and each 12 months thereafter, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that lists project areas identified under paragraph (1) and describes any procedures required to be carried out under paragraph (2).".

PILOT PROJECTS

SEC. 1540. (a) Section 17(b)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2026(b)(1)) is amended by striking out "December 31, 1985" the last place it appears and inserting in lieu thereof "October 1, 1990".

(b) Section 17(d) of the Food Stamp Act of 1977 is repealed.

(c) Section 17 of the Food Stamp Act of 1977 (7 U.S.C. 2226) is amended by redesignating subsections (e) and (f) as subsections (d) and (e).

AUTHORIZATION CEILING; AUTHORITY TO REDUCE BENEFITS

SEC. 1541. Section 18 of the Food Stamp Act of 1977 (7 U.S.C. 2027) is amended by—

(1) inserting, after the first sentence of subsection (a)(1), the following:

"To carry out the provisions of this Act, there are hereby authorized to be appropriated not in excess of $13,037,000,000 for the fiscal year ending September 30, 1986; not in excess of $13,936,000,000 for the fiscal year ending September 30, 1987; not in excess of $14,741,000,000 for the fiscal year ending September 30, 1988; not in excess of $15,435,000,000 for the fiscal year ending September 30, 1989; and not in excess of $15,970,000,000 for the fiscal year ending September 30, 1990."; and

(2) in the second sentence of subsection (b), striking out "the limitation set herein," and inserting in lieu thereof "the appropriation amount authorized in subsection (a)(1),".

TRANSFER OF FUNDS

SEC. 1542. (a) Section 18 of the Food Stamp Act of 1977 (7 U.S.C. 2027) is amended by adding at the end thereof the following new subsection:

"(f) No funds appropriated to carry out this Act may be transferred to the Office of the Inspector General, or the Office of the General Counsel, of the Department of Agriculture.".

(b) The amendment made by this section shall become effective on October 1, 1986.

PUERTO RICO BLOCK GRANT

SEC. 1543. Section 19 of the Food Stamp Act of 1977 (7 U.S.C. 2028) is amended by—

(1) striking out "for each fiscal year" in subsection (a)(1)(A) and inserting in lieu thereof "for the fiscal year ending September 30, 1986, $852,750,000 for the fiscal year ending September 30, 1987, $879,750,000 for the fiscal year ending September 30, 1988, $908,250,000 for the fiscal year ending September 30, 1989, and $936,750,000 for the fiscal year ending September 30, 1990,";

(2) striking out "noncash" in subsection (a)(1)(A); and

(3) striking out "a single agency which shall be" in clause (i) of subsection (b)(1)(A) and inserting in lieu thereof "the agency or agencies directly."

Subtitle B—Commodity Distribution Provisions

TRANSFER OF SECTION 32 COMMODITIES

SEC. 1561. Section 32 of the Act entitled "An Act to amend the Agricultural Adjustment Act, and for other purposes", approved August 24, 1935 (7 U.S.C. 612c), is amended by adding at the end thereof the following new sentence: "A public or private nonprofit organization that receives agricultural commodities or the products thereof under clause (2) of the second sentence may transfer such commodities or products to another public or private nonprofit organization that agrees to use such commodities or products to provide, without cost or waste, nutrition assistance to individuals in low-income groups.".

COMMODITY DISTRIBUTION PROGRAMS

SEC. 1562. (a) Section 4 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note) is amended by—

(1) striking out "1982, 1983, 1984, and 1985" in the first sentence of subsection (a) and inserting in lieu thereof "1986, 1987, 1988, 1989, and 1990"; and

(2) in subsection (b), striking out "under 18 years of age" and inserting in lieu thereof "18 years of age and under".

(b) Section 5(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note) is amended by—

(1) striking out ", which projects shall operate no longer than two years, and" in clause (1) and inserting in lieu thereof a semicolon;

(2) striking out "1982 through 1985" in clause (2) and inserting in lieu thereof "1986 through 1990".

(c) Section 5 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note) is amended by adding at the end thereof the following new subsections:

"(f) The Secretary shall, in any fiscal year, approve applications of additional sites for the program in areas in which the program currently does not operate to the full extent that this can be done within the appropriations available for the program for the fiscal year and without reducing actual participation levels (including participation of elderly persons under subsection (g)) in areas in which the program is in effect.

"(g) If a local agency that administers the commodity supplemental food program determines that the amount of funds made available to the agency to carry out this section exceeds the amount of funds necessary to provide assistance under such program to women, infants, and children, the agency, with the approval of the Secretary, may permit low-income elderly persons (as defined by the Secretary) to participate in and be served by such program.".

(d) Notwithstanding any other provision of law, in implementing the commodity supplemental food program under section 4 of the Agriculture and Consumer Protection Act of 1973, the Secretary of Agriculture shall allow agencies distributing agricultural commodities to low-income elderly people under such programs on the date of enactment of this Act to continue such distribution at levels no lower than existing caseloads.

(e)(1) Section 209 of the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is repealed; and

(2) clause (2) of section 5(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note) is amended by striking out "amount appropriated for the provision of commodities to State agencies" and inserting in lieu thereof "sum of (A) the amount appropriated for the commodity supplemental food program and (B) the value of all additional commodities donated by the Secretary to State and local agencies that are provided without charge or credit for distribution to program participants".

EMERGENCY FEEDING ORGANIZATIONS—DEFINITIONS

SEC. 1563. Section 201A of the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is amended by inserting, before the semicolon at the end of paragraph (1), the following: "(including the activities and projects of charitable institutions, food banks, hunger centers, soup kitchens, and similar public or private nonprofit eligible recipient agencies) hereinafter in this title referred to as 'emergency feeding organizations' ".

TEMPORARY EMERGENCY FOOD ASSISTANCE PROGRAM

SEC. 1564. (a) Section 202 of the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is amended by adding at the end thereof the following new subsections:

"(c) In addition to any commodities described in subsection (a), in carrying out this Act, the Secretary may use agricultural commodities and the products thereof made available under clause (2) of the second sentence of section 32 of the Act entitled 'An Act to amend the Agricultural Adjustment Act, and for other purposes', approved August 24, 1935 (7 U.S.C. 612c).

"(d) Commodities made available under this Act shall include, but not be limited to, dairy products, wheat or the products thereof, rice, honey, and cornmeal.

"(e) Effective April 1, 1986, the Secretary shall submit semiannually to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the types and amounts of commodities made available for distribution under this Act.".

(b) Section 212 of the Temporary Emergency Food Assistance Act of 1973 is amended to read as follows:

"PROGRAM TERMINATION

"SEC. 212. Except for section 207, this Act shall terminate on September 30, 1987."

REPEAL OF PROVISIONS RELATING TO THE FOOD SECURITY WHEAT RESERVE

SEC. 1565. (a) Section 202 of the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is amended by—

(1) striking out the subsection designation for subsection (a); and

(2) striking out subsection (b).

(b) The second sentence of section 203A of the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is amended by striking out ", except that wheat from the Food Security Wheat Reserve may not be used to pay such costs".

REPORT ON COMMODITY DISPLACEMENT

SEC. 1566. Section 203C(a) of the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is amended by adding at the end thereof the following: "The Secretary shall submit to Congress each year a report as to whether and to what extent such displacements or substitutions are occurring.".

DISTRIBUTION OF SURPLUS COMMODITIES TO SPECIAL NUTRITION PROJECTS; PROCESSING AGREEMENTS

SEC. 1567. (a) Section 1114(a) of the Agriculture and Food Act of 1981 (7 U.S.C. 1431e) is amended by adding at the end thereof the following new sentence: "Commodities made available under this section shall include, but not be limited to, dairy products, wheat or the products thereof, rice, honey, and cornmeal.".

(b) Section 1114(a) of the Agriculture and Food Act of 1981 (7 U.S.C. 1431e) is amended by—

(1) inserting "(1)" after "(a)";

(2) adding, at the end thereof, the following:

"(2)(A) Effective through June 30, 1987, whenever a commodity is made available without charge or credit under any nutrition program administered by the Secretary of Agriculture, the Secretary shall encourage consumption of such commodity through agreements with private companies under which the commodity is reprocessed into end-food products for use by eligible recipient agencies. The expense of reprocessing shall be paid by such eligible recipient agencies.

"(B) To maintain eligibility to enter into, and to continue, any agreement with the Secretary of Agriculture under subparagraph (A), a private company shall annually settle all accounts with the Secretary and any appropriate State agency regarding commodities processed under such agreements.".

(c) Section 203 of the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is repealed.

STATE COOPERATION

SEC. 1568. (a) Section 203B(b) of the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is amended by adding at the end thereof the following new sentence: "Each State agency shall encourage distribution of such commodities in rural areas.".

(b) Section 203B of the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is amended by adding at the end thereof the following:

"(d) Each State agency receiving commodities under this title may—

"(1) enter into cooperative agreements with State agencies of other States for joint provision of such commodities to an emergency feeding organization that serves needy persons in a single geographical area part of which is situated in each of such States; or

"(2) transfer such commodities to any such emergency feeding organization in the other State under such agreement.".

AUTHORIZATION FOR FUNDING AND RELATED PROVISIONS

SEC. 1569. (a) Section 204 of the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is amended by—

(1) redesignating subsection (c) as subsection (d); and

(2) after subsection (b), inserting the following:

"(c)(1) There are authorized to be appropriated $50,000,000 for each of the fiscal years ending September 30, 1986, and September 30, 1987, for the Secretary to make available to the States for State and local payments for costs associated with the distribution of commodities by emergency feeding organizations under this title. Funds appropriated under this paragraph for any fiscal year shall be allocated to the States on an advance basis, dividing such funds among the States in the same proportions as the commodities distributed under this title for such fiscal year are divided among the States. If a State agency is unable to use all of the funds so allocated to it, the Secretary shall reallocate such unused funds among the other States.

"(2) Each State shall make available to emergency feeding organizations in the State not less than 20 per centum of the funds provided as authorized in paragraph (1) that it has been allocated for a fiscal year, as necessary to pay for, or provide advance payments to cover, the direct expenses of the emergency feeding organizations for distributing commodities to needy persons, but only to the extent such expenses are actually so incurred by such organizations. As used in this paragraph, the term 'direct expenses' includes costs of transporting, storing, handling, and distributing commodities incurred after they are received by the organization; costs associated with determinations of eligibility, verification, and documentation; costs involved in publishing announcements of times and locations of distribution; and costs of recordkeeping, auditing, and other administrative procedures required for participation in the program under this title. If a State makes a payment, using State funds, to cover direct expenses of emergency feeding organizations, the amount of such payment shall be counted toward the amount a State must make available for direct expenses of emergency feeding organizations under this paragraph.

"(3) States to which funds are allocated for a fiscal year under this subsection shall submit financial reports to the Secretary, on a regular basis, as to the use of such funds. No such funds may be used by States or emergency feeding organizations for costs other than those involved in covering the expenses related to the distribution of commodities by emergency feeding organizations.

"(4)(A) Except as provided in subparagraph (B), effective January 1, 1987, to be eligible to receive funds under this subsection, a State shall provide in cash or in kind (according to procedures approved by the Secretary for certifying these in-kind contributions) from non-Federal sources a contribution equal to the difference between—

"(i) the amount of such funds so received; and

"(ii) any part of the amount allocated to the State and paid by the State—

"(I) to emergency feeding organizations; or

"(II) for the direct expenses of such organizations;

for use in carrying out this title.

"(B)(i) Except as provided in clause (ii), subparagraph (A) shall apply to States beginning on January 1, 1987.

"(ii) If the legislature of a State does not convene in regular session before January 1, 1987, paragraph (1) shall apply to such State beginning on October 1, 1987.

"(C) Funds allocated to a State under this section may, upon State request, be allocated before States satisfy the matching requirement specified in subparagraph (A), based on the estimated contribution required. The Secretary shall periodically reconcile estimated and actual contributions and adjust allocations to the State to correct for overpayments and underpayments.

"(5) States may not charge for commodities made available to emergency feeding organizations, and may not pass on to such organizations the cost of any matching requirements, under this Act.".

REAUTHORIZATIONS

SEC. 1570. Section 210 of the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is amended by—

(1) in subsection (c)—

(A) striking out "the fiscal years ending September 30, 1984, and September 30, 1985" and inserting in lieu thereof "the period beginning October 1, 1983, and ending September 30, 1987";

(B) striking out "prior to the beginning of the fiscal year ending September 30, 1985" and inserting in lieu thereof "as early as feasible but not later than the beginning of the fiscal year ending September 30, 1987"; and

(C) striking out "second twelve months" and inserting in lieu thereof "such fiscal year"; and

(2) adding at the end thereof the following:

"(d) The regulations issued by the Secretary under this section shall include provisions that set standards with respect to liability for commodity losses under the program under this title in situations in which there is no evidence of negligence or fraud, and conditions for payment to cover such losses. Such provisions shall take into consideration the special needs and circumstances of emergency feeding organizations".

REPORT

SEC. 1571. Not later than April 1, 1987, the Secretary of Agriculture shall report to Congress on the activities of the program conducted under the Temporary Emergency Food Assistance Act of 1983. Such report shall include information on—

(1) the volume and types of commodities distributed under the program;

(2) the types of State and local agencies receiving commodities for distribution under the program;

(3) the populations served under the program and their characteristics;

(4) the Federal, State, and local costs of commodity distribution operations under the program (including transportation, storage, refrigeration, handling, distribution, and administrative costs); and

(5) the amount of Federal funds provided to cover State and local costs under the program.

Subtitle C—Nutrition and Miscellaneous Provisions

SCHOOL LUNCH PILOT PROJECT

SEC. 1581. (a) As used in this section, the term "eligible school district" means a school district that on the date of enactment of this Act, is participating in the pilot project study provided for under the last proviso of the paragraph under the heading "CHILD NUTRITION PROGRAMS" in title III of the Act entitled "An Act making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1981, and for other purposes", approved December 15, 1980 (Public Law 96-258; 94 Stat. 3113).

(b) Effective through the school year ending June 30, 1987, the Secretary shall permit an eligible school district to receive assistance to carry out the school lunch program operated in the district in the form of, in lieu of commodities, all cash assistance or all commodity letters of credit assistance.

(c) If an eligible school district elects to receive assistance in the form of all cash assistance or all commodity letters of credit assistance under subsection (a), the Secretary shall provide bonus commodities to the district only in the form of commodities, to the same extent as bonus commodities are provided to other school districts participating in the school lunch program.

GLEANING OF FIELDS

SEC. 1582. (a) Congress finds that—

(1) food banks, soup kitchens, and other emergency food providers help needy per-

sons seeking food assistance at no cost to the Government;

(2) gleaning is a partnership between food producers and nonprofit organizations through which food producers permit members of such organizations to collect grain, vegetables, and fruit which have not been harvested and distribute such items to programs which provide food to needy individuals;

(3) support of gleaning to supply food to the poor is part of the Judeo-Christian heritage as set out in the Book of Leviticus: "When you reap the harvests of your land, do not reap to the very edges of your field or gather the gleanings of your harvest. Do not go over your vineyard a second time or pick up the grapes that have fallen. Leave them for the poor and the alien.";

(4) a 1977 General Accounting Office analysis estimated that during the 1974 harvest 60,000,000 tons of grain, vegetables, and fruit, valued at $5,000,000,000, were unharvested;

(5) the diets of millions of people in the United States could have been supplemented with such lost grain, vegetables, and fruit;

(6) a number of State and local governments have enacted "Good Samaritan" laws which limit the liability of food donors and provide an incentive for food contributions; and

(7) numerous civil, religious, charitable, and other nonprofit organizations throughout the country have begun gleaning programs to harvest such food items and channel them to the needy in the United States.

(b) It is the sense of Congress that—

(1) food producers who permit gleaning of their fields and civic, religious, charitable, and other nonprofit organizations which glean fields and distribute the resulting harvest to help the needy should be commended for their efforts; and

(2) State and local governments should be encouraged to enact tax and other incentives designed to increase the number of food producers who permit gleaning of their fields and the number of shippers who donate, or charge reduced rates for, transportation of gleaned produce.

ISSUANCE OF RULES

SEC. 1583. Not later than April 1, 1987, the Secretary shall issue rules to carry out the amendments made by this title.

NUTRITION EDUCATION FINDINGS

SEC. 1584. Congress finds that individuals in households eligible to participate in programs under the Food Stamp Act of 1977 and other low-income individuals, including those residing in rural areas, should have greater access to nutrition and consumer education to enable them to use their food budgets, including food assistance, effectively and to select and prepare foods that satisfy their nutritional needs and improve their diets.

PURPOSE

SEC. 1585. The purpose of the program provided for under section 1584 through 1588 is to expand effective food, nutrition, and consumer education services to the greatest practicable number of low-income individuals, including those participating in or eligible to participate in the programs under the Food Stamp Act of 1977, to assist them to—

(1) increase their ability to manage their food budgets, including food stamps and other food assistance;

(2) increase their ability to buy food that satisfies nutritional needs and promotes good health; and

(3) improve their food preparation, storage, safety, preservation, and sanitation practices.

PROGRAM

SEC. 1586. The cooperative extension services of the States shall, with funds made available under this subtitle, carry out an expanded program of food, nutrition, and consumer education for low-income individuals in a manner designed to achieve the purpose set forth in section 1585. In operating the program, the cooperative extension services may use the expanded food and nutrition education program, and other food, nutrition, and consumer education activities of the cooperative extension services or similar activities carried out by them in collaboration with other public or private nonprofit agencies or organizations. In carrying out their responsibilities under the program, the cooperative extension services are encouraged to—

(1) provide effective and meaningful food, nutrition, and consumer education services to as many low-income individuals as possible;

(2) employ educational methodologies, including innovative approaches, that accomplish the purpose set forth in section 1585; and

(3) to the extent practicable, coordinate activities carried out under the program with the delivery to low-income individuals of benefits under food assistance programs.

ADMINISTRATION

SEC. 1587. (a) The program provided for under section 1586 shall be administered by the Secretary of Agriculture through the Extension Service, in consultation with the Food and Nutrition Service and the Human Nutrition Information Service. The Secretary shall ensure that the Extension Service coordinates activities carried out under this subtitle with the ongoing food, nutrition, and consumer education activities of other agencies of the Department of Agriculture.

(b) The Secretary of Agriculture, not later than April 1, 1989, shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report evaluating the effectiveness of the program provided for under section 1586.

AUTHORIZATION OF APPROPRIATIONS

SEC. 1588. (a) There are hereby authorized to be appropriated to to carry out sections 1584 through 1588 $5,000,000 for the fiscal year ending September 30, 1986; $6,000,000 for the fiscal year ending September 30, 1987; and $8,000,000 for each of the fiscal years ending September 30, 1988, September 30, 1989, and September 30, 1990.

(b) Any funds appropriated under this section for a fiscal year shall be allocated in the manner specified in subparagraphs (A) and (B) of section 1425(c)(2) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977.

(c) Any funds appropriated to carry out sections 1584 through 1588 shall supplement any other funds appropriated to the Department of Agriculture for use by the Department and the cooperative extension services of the States for food, nutrition, and consumer education for low-income households.

NUTRITION MONITORING

SEC. 1589. The Secretary of Agriculture shall—

(1) in conducting the Department of Agriculture's continuing survey of food intakes of individuals and any nationwide food consumption survey, include a sample that is representative of low-income individuals and, to the extent practicable, the collection of information on food purchases and other household expenditures by such individuals;

(2) to the extent practicable, continue to maintain the nutrient data base established by the Department of Agriculture; and

(3) encourage research by public and private entities relating to effective standards, methodologies, and technologies for accurate assessment of the nutritional and dietary status of individuals.

TITLE XVI—MARKETING

Subtitle A—Beef Promotion and Research Act of 1985

AMENDMENT TO BEEF RESEARCH AND INFORMATION ACT

SEC. 1601. (a) This section may be cited as the "Beef Promotion and Research Act of 1985".

(b) Sections 2 through 20 of the Beef Research and Information Act (7 U.S.C. 2901-2918) are amended to read as follows:

"CONGRESSIONAL FINDINGS AND DECLARATION OF POLICY

"SEC. 2. (a) Congress finds that—

"(1) beef and beef products are basic foods that are a valuable part of human diet;

"(2) the production of beef and beef products plays a significant role in the Nation's economy, beef and beef products are produced by thousands of beef producers and processed by numerous processing entities, and beef and beef products are consumed by millions of people throughout the United States and foreign countries;

"(3) beef and beef products should be readily available and marketed efficiently to ensure that the people of the United States receive adequate nourishment;

"(4) the maintenance and expansion of existing markets for beef and beef products are vital to the welfare of beef producers and those concerned with marketing, using, and producing beef products, as well as to the general economy of the Nation;

"(5) there exist established State and national organizations conducting beef promotion, research, and consumer education programs that are invaluable to the efforts of promoting the consumption of beef and beef products; and

"(6) beef and beef products move in interstate and foreign commerce, and beef and beef products that do not move in such channels of commerce directly burden or affect interstate commerce of beef and beef products.

"(b) It, therefore, is declared to be the policy of Congress that it is in the public interest to authorize the establishment, through the exercise of the powers provided herein, of an orderly procedure for financing (through assessments on all cattle sold in the United States and on cattle, beef, and beef products imported into the United States) and carrying out a coordinated program of promotion and research designed to strengthen the beef industry's position in the marketplace and to maintain and expand domestic and foreign markets and uses for beef and beef products. Nothing in this Act shall be construed to limit the right of individual producers to raise cattle.

"DEFINITIONS

"SEC. 3. For purposes of this Act—

"(1) the term 'beef' means flesh of cattle;

"(2) the term 'beef products' means edible products produced in whole or in part from beef, exclusive of milk and products made therefrom;

"(3) the term 'Board' means the Cattlemen's Beef Promotion and Research Board established under section 5(1);

"(4) the term 'cattle' means live domesticated bovine animals regardless of age;

"(5) the term 'Committee' means the Beef Promotion Operating Committee established under section 5(4);

"(6) the term 'consumer information' means nutritional data and other information that will assist consumers and other persons in making evaluations and decisions regarding the purchasing, preparing, and use of beef and beef products;

"(7) the term 'Department' means the Department of Agriculture.

"(8) the term 'importer' means any person who imports cattle, beef, or beef products from outside the United States;

"(9) the term 'industry information' means information and programs that will lead to the development of new markets, marketing strategies, increased efficiency, and activities to enhance the image of the cattle industry;

"(10) The term 'order' means a beef promotion and research order issued under section 4.

"(11) the term 'person' means any individual, group of individuals, partnership, corporation, association, cooperative, or any other entity;

"(12) the term 'producer' means any person who owns or acquires ownership of cattle, except that a person shall not be considered to be a producer if the person's only share in the proceeds of a sale of cattle or beef is a sales commission, handling fee, or other service fee;

"(13) the term 'promotion' means any action, including paid advertising, to advance the image and desirability of beef and beef products with the express intent of improving the competitive position and stimulating sales of beef and beef products in the marketplace;

"(14) the term 'qualified State beef council' means a beef promotion entity that is authorized by State statute or is organized and operating within a State, that receives voluntary contributions and conducts beef promotion, research, and consumer information programs, and that is recognized by the Board as the beef promotion entity within such State;

"(15) the term 'research' means studies testing the effectiveness of market development and promotion efforts, studies relating to the nutritional value of beef and beef products, other related food science research, and new product development;

"(16) the term 'Secretary' means the Secretary of Agriculture;

"(17) The term 'State' means each of the 50 States; and

"(18) the term 'United States' means the several States and the District of Columbia.

"ISSUANCE OF ORDERS

"SEC. 4. (a) During the period beginning on the effective date of this section and ending thirty days after receipt of a proposal for a beef promotion and research order, the Secretary shall publish such proposed order and give due notice and opportunity for public comment on such proposed order. Such proposal may be submitted by any organization meeting the requirements for certification under section 6 or any interested person, including the Secretary.

"(b) After notice and opportunity for public comment are given, as provided for in subsection (a), the Secretary shall issue a beef promotion and research order. The order shall become effective not later than one hundred and twenty days following publication of the proposed order.

"REQUIRED TERMS IN ORDERS

"SEC. 5. An order issued under section 4(b) shall contain the following terms and conditions:

"(1) The order shall provide for the establishment and selection of a Cattlemen's Beef Promotion and Research Board. Members of the Board shall be cattle producers and importers appointed by the Secretary from (A) nominations submitted by eligible State organizations certified under section 6 (or, if the Secretary determines that there is no eligible State organization in a State, the Secretary may provide for nominations from such State to be made in a different manner), and (B) nominations submitted by importers under such procedures as the Secretary determines appropriate. In determining geographic representation for cattle producers on the Board, whole States shall be considered as a unit. Each State that has a total cattle inventory greater than five hundred thousand head shall be entitled to at least one representative on the Board. A State that has a total inventory of fewer than 500,000 cattle shall be grouped, as far as practicable, with other States each of which has a combined total inventory of not less than 500,000 cattle, into geographically contiguous units in a manner prescribed in the order. A unit may be represented on the Board by more than one member. For each additional million head of cattle within a unit, such unit shall be entitled to an additional member on the Board. The Board may recommend a change in the level of inventory per unit necessary for representation on the Board and, on such recommendation, the Secretary may change the level necessary for representation on the Board. The number of members on the Board that represent importers shall be determined by the Secretary on a proportional basis, by converting the volume of imported beef and beef products into live animal equivalencies.

"(2) The order shall define the powers and duties of the Board, which shall be exercised at an annual meeting, and shall include only the following powers:

"(A) To administer the order in accordance with its terms and provisions.

"(B) To make rules and regulations to effectuate the terms and provisions of the order.

"(C) To elect members of the Board to serve on the Committee.

"(D) To approve or disapprove budgets submitted by the Committee.

"(E) To receive, investigate, and report to the Secretary complaints of violations of the order.

"(F) To recommend to the Secretary amendments to the order.

In addition, the order shall determine the circumstances under which special meetings of the Board may be held.

"(3) The order shall provide that the term of appointment to the Board shall be three years with no member serving more than two consecutive terms, except that initial appointments shall be proportionately for one-year, two-year, and three-year terms; and that Board members shall serve without compensation, but shall be reimbursed for their reasonable expenses incurred in performing their duties as members of the Board.

"(4)(A) The order shall provide that the Board shall elect from its membership ten members to serve on the Beef Promotion Operating Committee, which shall be composed of ten members of the Board and ten producers elected by a federation that includes as members the qualified State beef councils. The producers elected by the federation shall be certified by the Secretary as producers that are directors of a qualified State beef council. The Secretary also shall certify that such directors are duly elected by the federation as representatives to the Committee.

"(B) The Committee shall develop plans or projects of promotion and advertising, research, consumer information, and industry information, which shall be paid for with assessments collected by the Board. In developing plans or projects, the Committee shall—

"(i) to the extent practicable, take into account similarities and differences between certain beef, beef products, and veal; and

"(ii) ensure that segments of the beef industry that enjoy a unique consumer identity receive equitable and fair treatment under this Act.

"(C) The Committee shall be responsible for developing and submitting to the Board, for its approval, budgets on a fiscal year basis of its anticipated expenses and disbursements, including probable costs of advertising and promotion, research, consumer information, and industry information projects. The Board shall approve or disapprove such budgets and, if approved, shall submit such budget to the Secretary for the Secretary's approval.

"(D) The total costs of collection of assessments and administrative staff incurred by the Board during any fiscal year shall not exceed 5 per centum of the projected total assessments to be collected by the Board for such fiscal year. The Board shall use, to the extent possible, the resources, staffs, and facilities of existing organizations.

"(5) The order shall provide that terms of appointment to the Committee shall be one year, and that no person may serve on the Committee for more than six consecutive terms. Committee members shall serve without compensation, but shall be reimbursed for their reasonable expenses incurred in performing their duties as members of the Committee. The Committee may utilize the resources, staffs, and facilities of the Board and industry organizations. An employee of an industry organization may not receive compensation for work performed for the Committee, but shall be reimbursed from assessments collected by the Board for reasonable expenses incurred in performing such work.

"(6) The order shall provide that, to ensure coordination and efficient use of funds, the Committee shall enter into contracts or agreements for implementing and carrying out the activities authorized by this Act with established national nonprofit industry-governed organizations, including the federation referred to in paragraph (4), to implement programs of promotion, research, consumer information, and industry information. Any such contract or agreement shall provide that—

"(A) the person entering the contract or agreement shall develop and submit to the Committee a plan or project together with a budget or budgets that shows estimated costs to be incurred for the plan or project;

"(B) the plan or project shall become effective on the approval of the Secretary; and

"(C) the person entering the contract or agreement shall keep accurate records of all of its transactions, account for funds received and expended, and make periodic reports to the Committee of activities conducted, and such other reports as the Secre-

tary, the Board, or the Committee may require.

"(7) The order shall require the Board and the Committee to—

"(A) maintain such books and records, which shall be available to the Secretary for inspection and audit, as the Secretary may prescribe;

"(B) prepare and submit to the Secretary, from time to time, such reports as the Secretary may prescribe; and

"(C) account for the receipt and disbursement of all funds entrusted to them.

"(8)(A) The order shall provide that each person making payment to a producer for cattle purchased from the producer shall, in the manner prescribed by the order, collect an assessment and remit the assessment to the Board. The Board shall use qualified State beef councils to collect such assessments.

"(B) If an appropriate qualified State beef council does not exist to collect an assessment in accordance with paragraph (1), such assessment shall be collected by the Board.

"(C) The order also shall provide that each importer of cattle, beef, or beef products shall pay an assessment, in the manner prescribed by the order, to the Board. The assessments shall be used for payment of the costs of plans and projects, as provided for in paragraph (4), and expenses in administering the order, including more administrative costs incurred by the Secretary after the order has been promulgated under this Act, and to establish a reasonable reserve. The rate of assessment prescribed by the order shall be one dollar per head of cattle, or the equivalent thereof in the case of imported beef and beef products. A producer who can establish that the producer is participating in a program of an established qualified State beef council shall receive credit, in determining the assessment due from such producer, for contributions to such program of up to 50 cents per head of cattle or the equivalent thereof. There shall be only one qualified State beef council in each State. Any person marketing from beef from cattle of the person's own production shall remit the assessment to the Board in the manner prescribed by the order.

"(9) The order shall provide that the Board, with the approval of the Secretary, may invest, pending disbursement, funds collected through assessments only in obligations of the United States or any agency thereof, in general obligations of any State or any political subdivision thereof, in any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System, or in obligations fully guaranteed as to principal and interest by the United States.

"(10) The order shall prohibit any funds collected by the Board under the order from being used in any manner for the purpose of influencing governmental action or policy, with the exception of recommending amendments to the order.

"(11) The order shall require that each person making payment to a producer, any person marketing beef from cattle of the person's own production directly to consumers, and any importer of cattle, beef, or beef products maintain and make available for inspection such books and records as may be required by the order and file reports at the time, in the manner, and having the content prescribed by the order. Such information shall be made available to the Secretary as is appropriate to the administration or enforcement of this Act, the order, or any regulation issued under this Act. In addition, the Secretary shall authorize the use of information regarding persons paying producers that is accumulated under a law or regulation other than this Act or regulations under this Act.

"All information so obtained shall be kept confidential by all officers and employees of the Department, and only such information so obtained as the Secretary deems relevant may be disclosed by them and then only in a suit or administrative hearing brought at the request of the Secretary, or to which the Secretary or any officer of the United States is a party, and involving the order. Nothing in this paragraph may be deemed to prohibit—

"(A) the issuance of general statements, based on the reports, of the number of persons subject to the order or statistical data collected therefrom, which statements do not identify the information furnished by any person; or

"(B) the publication, by direction of the Secretary, of the name of any person violating the order, together with a statement of the particular provisions of the order violated by the person.

"No information obtained under the authority of this Act may be made available to any agency or officer of the United States for any purpose other than the implementation of this Act and any investigatory or enforcement act necessary for the implementation of this Act. Any person violating the provisions of this paragraph shall be subject to a fine of not more than $1,000, or to imprisonment for not more than one year, or both, and if an officer or employee of the Board or the Department, shall be removed from office.

"(12) The order shall contain terms and conditions, not inconsistent with the provisions of this Act, as necessary to effectuate the provisions of the order.

"CERTIFICATION OF ORGANIZATIONS TO NOMINATE

"SEC. 6. (a) The eligibility of any State organization to represent producers and to participate in the making of nominations under section 5(1) shall be certified by the Secretary. The Secretary shall certify any State organization that the Secretary determines meets the eligibility criteria established under subsection (b) and such determination as to eligibility shall be final.

"(b) A State cattle association or State general farm organization may be certified as described in subsection (a) if such association or organization meets all of the following eligibility criteria:

"(1) The association or organization's total paid membership is comprised of at least a majority of cattle producers or the association or organization's total paid membership represents at least a majority of the cattle producers in the State.

"(2) The association or organization represents a substantial number of producers that produce a substantial number of cattle in the State.

"(3) The association or organization has a history of stability and permanency.

"(4) A primary or overriding purpose of the association or organization is to promote the economic welfare of cattle producers.

"(c) Certification of State cattle associations and State general farm organizations shall be based on a factual report submitted by the association or organization involved.

"(d) If more than one State organization is certified in a State (or in a unit referred to in section 5(1)), such organizations may caucus to determine any of such State's (or such unit's) nominations under section 5(1).

"REQUIREMENT OF REFERENDUM

"SEC. 7. (a) For the purpose of determining whether the initial order shall be continued, not later than 22 months after the issuance of the order (or any earlier date recommended by the Board), the Secretary shall conduct a referendum among persons who have been producers or importers during a representative period, as determined by the Secretary. The order shall be continued only if the Secretary determines that it has been approved by not less than a majority of the producers voting in the referendum who, during a representative period as determined by the Secretary, have been engaged in the production of cattle. If continuation of the order is not approved by a majority of those voting in the referendum, the Secretary shall terminate collection of assessments under the order within six months after the Secretary determines that continuation of the order is not favored by a majority voting in the referendum and shall terminate the order in an orderly manner as soon as practicable after such determination.

"(b) After the initial referendum, the Secretary may conduct a referendum on the request of a representative group comprising 10 per centum or more of the number of cattle producers to determine whether cattle producers favor the termination or suspension of the order. The Secretary shall suspend or terminate collection of assessments under the order within six months after the Secretary determines that suspension or termination of the order is favored by a majority of the producers voting in the referendum who, during a representative period as determined by the Secretary, have been engaged in the production of cattle and shall terminate or suspend the order in an orderly manner as soon as practicable after such determination.

"(c) The Department shall be reimbursed from assessments collected by the Board for any expenses incurred by the Department in connection with conducting any referendum under this section, except for the salaries of Government employees. Any referendum conducted under this section shall be conducted on a date established by the Secretary, whereby producers shall certify that they were engaged in the production of cattle during the representative period and, on the same day, shall be provided an opportunity to vote in the referendum. Each referendum shall be conducted at county extension offices, and there shall be provision for an absentee mail ballot on request.

"REFUNDS

"SEC. 8. (a) During the period prior to the approval of the continuation of an order pursuant to the referendum required under section 7(a), subject to subsection (f), the Board shall—

"(1) establish an escrow account to be used for assessment refunds;

"(2) place funds in such account in accordance with subsection (b); and

"(3) refund assessments to persons in accordance with this section.

"(b) Subject to subsection (f), the Board shall place in such account, from assessments collected under section 7 during the period referred to in subsection (a), an amount equal to the product obtained by multiplying—

"(1) the total amount of assessments collected under section 7 during such period; by

"(2) the greater of—

"(A) the average rate of assessment refunds provided to producers under State beef promotion, research, and consumer information programs financed through producer assessments, as determined by the Board; or

"(B) 15 percent.

"(c) Subject to subsections (d), (e), and (f) and notwithstanding any other provision of this subtitle, any person shall have the right to demand and receive from the Board a one-time refund of all assessments collected under section 7 from such person during the period referred to in subsection (a) if such person—

"(1) is responsible for paying such assessment; and

"(2) does not support the program established under this Act.

"(d) Such demand shall be made in accordance with regulations, on a form, and within a time period prescribed by the Board.

"(e) Such refund shall be made on submission of proof satisfactory to the Board that the producer, person, or importer—

"(1) paid the assessment for which refund is sought; and

"(2) did not collect such assessment from another producer, person, or importer.

"(f)(1) If the amount in the escrow account required to be established by subsection (a) is not sufficient to refund the total amount of assessments demanded by all eligible persons under this section and the continuation of an order is approved pursuant to the referendum required under section 10(a), the Board shall—

"(A) continue to place in such account, from assessments collected under section 5, the amount required under subsection (b), until such time as the Board is able to comply with subparagraph (B); and

"(B) provide to all eligible persons the total amount of assessments demanded by all eligible producers.

"(2) If the amount in the escrow account required to be established by subsection (a) is not sufficient to refund the total amount of assessments demanded by all eligible persons under this section and the continuation of an order is not approved pursuant to the referendum required under section 7(a), the Board shall prorate the amount of such refunds among all eligible persons who demand such refund.

"ENFORCEMENT

"Sec. 9. (a) If the Secretary believes that the administration and enforcement of this Act or an order would be adequately served by such procedure, following an opportunity for an administrative hearing on the record, the Secretary may—

"(1) issue an order to restrain or prevent a person from violating an order; and

"(2) assess a civil penalty of not more than $5,000 for violation of such order.

"(b) The district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain a person from violating, an order or regulation made or issued under this Act.

"(c) A civil action authorized to be brought under this section shall be referred to the Attorney General for appropriate action.

"INVESTIGATIONS; POWER TO SUBPOENA AND TAKE OATHS AND AFFIRMATIONS; AID OF COURTS

"Sec. 10. The Secretary may make such investigations as the Secretary deems necessary for the effective administration of this Act or to determine whether any person subject to this Act has engaged or is about to engage in any act that constitutes or will constitute a violation of this Act, the order, or any rule or regulation issued under this Act. For the purpose of such investigation, the Secretary may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any records that are relevant to the inquiry. The attendance of witnesses and the production of records may be required from any place in the United States. In case of contumacy by, or refusal to obey a subpoena to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of the person and the production of records. The court may issue an order requiring such person to appear before the Secretary to produce records or to give testimony regarding the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof. Process in any such case may be served in the judicial district in which such person is an inhabitant or wherever such person may be found.

"ADMINISTRATIVE PROVISIONS

"Sec. 11. (a) Nothing in this Act may be construed to preempt or supersede any other program relating to beef promotion organized and operated under the laws of the United States or any State.

"(b) The provisions of this Act applicable to the order shall be applicable to amendments to the order.

"AUTHORIZATION OF APPROPRIATIONS

"Sec. 12. There are authorized to be appropriated such sums as may be necessary to carry out this Act. Sums appropriated to carry out this Act shall not be available for payment of the expenses or expenditures of the Board or the Committee in administering any provisions of the order issued under section 4(b) of this Act.".

(c) The amendments made by this section shall take effect on January 1, 1986.

Subtitle B—Pork Promotion, Research, and Consumer Information

SHORT TITLE

Sec.1611. This subtitle may be cited as the "Pork Promotion, Research, and Consumer Information Act of 1985".

FINDINGS AND DECLARATION OF PURPOSE

Sec. 1612. (a) Congress finds that—

(1) pork and pork products are basic foods that are a valuable and healthy part of the human diet;

(2) the production of pork and pork products plays a significant role in the economy of the United States because pork and pork products are—

(A) produced by thousands of producers, including many small- and medium-sized producers; and

(B) consumed by millions of people throughout the United States on a daily basis;

(3) pork and pork products must be available readily and marketed efficiently to ensure that the people of the United States receive adequate nourishment;

(4) the maintenance and expansion of existing markets, and development of new markets, for pork and pork products are vital to—

(A) the welfare of pork producers and persons concerned with producing and marketing of pork and pork products; and

(B) the general economy of the United States;

(5) pork and pork products move in interstate and foreign commerce;

(6) pork and pork products that do not move in such channels of commerce directly burden or affect interstate commerce in pork and pork products; and

(7) in recent years, increasing quantities of low-cost, imported pork and pork products have been brought into the United States and replaced domestic pork and pork products in normal channels of trade.

(b)(1) It is the purpose of this subtitle to authorize the establishment of an orderly procedure for financing, through adequate assessments, and carrying out an effective and coordinated program of promotion, research, and consumer information designed to—

(A) strengthen the position of the pork industry in the marketplace; and

(B) maintain, develop, and expand markets for pork and pork products.

(2) Such procedure shall be implemented, and such program shall be conducted, at no cost to the Federal Government.

(3) Nothing in this subtitle may be construed to—

(A) permit or require the imposition of quality standards for pork or pork products;

(B) provide for control of the production of pork or pork products; or

(C) otherwise limit the right of an individual pork producer to produce pork and pork products.

DEFINITIONS

Sec. 1613. For purposes of this subtitle:

(1) The term "Board" means the National Pork Board established under section 1619.

(2) The term "consumer information" means an activity intended to broaden the understanding of sound nutritional attributes of pork or pork products, including the role of pork or pork products in a balanced, healthy diet.

(3) The term "Delegate Body" means the National Pork Producers Delegate Body established under section 1617.

(4) The term "imported" means entered, or withdrawn from a warehouse for consumption, in the customs territory of the United States.

(5) The term "importer" means a person who imports porcine animals, pork, or pork products into the United States.

(6) The term "order" means a pork and pork products promotion, research, and consumer information order issued under section 1614.

(7) The term "person" means an individual, group of individuals, partnership, corporation, association, organization, cooperative, or other entity.

(8) The term "porcine animal" means a swine raised for—

(A) feeder pigs;

(B) seedstock; or

(C) slaughter.

(9) The term "pork" means the flesh of a porcine animal.

(10) The term "pork product" means a product produced or processed in whole or in part from pork.

(11) The term "producer" means a person who produces porcine animals in the United States for sale in commerce.

(12) The term "promotion" means an action, including paid advertising, taken to present a favorable image for porcine animals, pork, or pork products to the public with the intent of improving the competitive position and stimulating sales of porcine animals, pork, or pork products.

(13) The term "research" means—

(A) research designed to advance, expand, or improve the image, desirability, nutri-

tional value, usage, marketability, production, or quality of porcine animals, pork, or pork products; or

(B) dissemination to a person of the results of such research.

(14) The term "Secretary" means the Secretary of Agriculture.

(15) The term "State" means each of the 50 States.

(16) The term "State association" means—

(A) the single organization of pork producers in a State that is—

(i) organized under the laws of the State in which such association operates; and

(ii) recognized by the chief executive officer of such State as representing the pork producers of such State; or

(B) if such organization does not exist on the effective date of this subtitle, an organization that represents not fewer than 50 pork producers who market annually, in the aggregate, not less than 10 percent of the volume (measured in pounds) of porcine animals marketed in such State.

(17) The term "to market" means to sell or to otherwise dispose of a porcine animal, pork, or pork product in commerce.

PORK AND PORK PRODUCT ORDERS

SEC. 1614. (a) To carry out this subtitle, the Secretary shall, in accordance with this subtitle, issue and, from time to time, amend orders applicable to persons engaged in—

(1) the production and sale of porcine animals, pork, and pork products in the United States; and

(2) the importation of porcine animals, pork, or pork products into the United States.

(b) The Secretary may issue such regulations as are necessary to carry out this subtitle.

NOTICE AND HEARING

SEC. 1615. During the period beginning on the effective date of this subtitle and ending 30 days after receipt of a proposal for an initial order submitted by any person affected by this subtitle, the Secretary shall—

(1) publish such proposed order; and

(2) give due notice of and opportunity for public comment on such proposed order.

FINDINGS AND ISSUANCE OF ORDERS

SEC. 1616. (a) After notice and opportunity for public comment have been provided in accordance with section 1615, the Secretary shall issue and publish an order if the Secretary finds, and sets forth in such order, that the issuance of such order and all terms and conditions thereof will assist in carrying out this subtitle.

(b) Not more than one order may be in effect at a time.

(c) An order shall become effective on a date that is not more than 90 days following the publication of such order.

(d) An order shall contain such terms and conditions as are required in sections 1617 through 1620 and, except as provided in section 1621, no others.

NATIONAL PORK PRODUCERS DELEGATE BODY

SEC. 1617. (a) The order shall provide for the establishment and appointment by the Secretary, not later than 60 days after the effective date of such order, of a National Pork Producers Delegate Body.

(b)(1) The Delegate Body shall consist of—

(A) producers, as appointed by the Secretary in accordance with paragraph (2), from nominees submitted as follows:

(i) in the case of the initial Delegate Body appointed by each State in accordance with section 1618.

(ii) in the case of each succeeding Delegate Body, each State association shall submit nominations selected by such association pursuant to a selection process that—

(I) is approved by the Secretary;

(II) requires public notice of the process to be given at least one week in advance by publication in a newspaper or newspaper of general circulation in such State and in pork production and agriculture trade publications; and

(III) that provides complete and equal access to the nominating process to every producer who has paid all assessments due under section 1620 and not demanded a refund under section 1624,

or pursuant to an election of nominees conducted in accordance with section 1618.

(iii) In the case of a State that has a State association that does not submit nominations or that does not have a State association, such State shall submit nominations in a manner prescribed by the Secretary; and

(B) importers, as appointed by the Secretary in accordance with paragraph (3).

(2) The number of producer members appointed to the Delegate Body from each State shall equal at least two members, and additional members, allocated as follows:

(A) Shares shall be assigned to each State—

(i) for the 1986 calendar year, on the basis of one share for each $400,000 of farm market value of porcine animals marketed from such State (as determined by the Secretary based on the annual average of farm market value in the most recent 3 calendar years preceding such year), rounded to the nearest $400,000; and

(ii) for each calendar year thereafter, on the basis of one share for each $1,000 of the aggregate amount of assessments collected (minus refunds under section 1624) in such State from persons described in section 1620(a)(1) (A) and (B), rounded to the nearest $1,000.

(B) If during a calendar year the number of such shares of a State is—

(i) less than 301, the State shall receive a total of two producer members;

(ii) more than 300 but less than 601, the State shall receive a total of three producer members;

(iii) more than 600 but less than 1,001, the State shall receive a total of four producer members; and

(iv) more than 1,000, the State shall receive four producer members, plus one additional member for each 300 additional shares in excess of 1,000 shares, rounded to the nearest 300.

(3) The number of importer members appointed to the Delegate Body shall be determined as follows:

(A) Shares shall be assigned to importers—

(i) for the 1986 calendar year, on the basis of one share for each $575,000 of market value of marketed porcine animals, pork, or pork products (as determined by the Secretary based on the annual average of imports in the most recent 3 calendar years preceding such year), rounded to the nearest $575,000; and

(ii) for each calendar year thereafter, on the basis of one share for each $1,000 of the aggregate amount of assessments collected (minus refunds under section 1624) from importers, rounded to the nearest $1,000.

(B) The number of importer members appointed to the Delegate Body shall equal a total of—

(i) three members for the first 1,000 such shares; and

(ii) one additional member for each 300 additional shares in excess of 1,000 shares, rounded to the nearest 300.

(c)(1) A producer member of the Delegate Body may, in a vote conducted by the Delegate Body for which the member is present, cast a number of votes equal to—

(A) the number of shares attributable to the State of the member; divided by

(B) the number of producer members from such State.

(2) An importer member of the Delegate Body may, in a vote conducted by the Delegate Body for which the member is present, cast a number of votes equal to—

(A) the number of shares allocated to importers; divided by

(B) the number of importer members.

(3) Members entitled to cast a majority of the votes (including fractions thereof) on the Delegate Body shall constitute a quorum.

(4) A majority of the votes (including fractions thereof) cast at a meeting at which a quorum is present shall be decisive of a motion or election presented to the Delegate Body for a vote.

(d) A member of the Delegate Body shall serve for a term of 1 year, except that the term of a member of the Delegate Body shall continue until the successor of such member, if any, is appointed in accordance with subsection (b)(1).

(e)(1) At the first annual meeting, the Delegate Body shall select a Chairman by a majority vote.

(2) At each annual meeting thereafter, the President of the Board shall serve as the Chairman of the Delegate Body.

(f) A member of the Delegate Body shall serve without compensation, but may be reimbursed by the Board from assessments collected under section 1620 for transportation expenses incurred in performing duties as a member of the Delegate Body.

(g)(1) The Delegate Body shall—

(A) nominate—

(i) not less than 23 persons for appointment to the Board, for the first year for which nominations are made; and

(ii) not less than 1 1/2 persons (rounded up to the nearest person) for each vacancy in the Board that requires nominations thereafter; and

(B) submit such nominations to the Secretary.

(2) The Delegate Body shall meet annually to make such nominations.

(3) A majority of the Delegate Body shall vote in person in order to nominate members to the Board.

(h) The Delegate Body shall—

(1) recommend the rate of assessment prescribed by the initial order and any increase in such rate pursuant to section 1620(5); and

(2) determine the percentage of the aggregate amount of assessments collected in a State that each State association shall receive under section 1620(c)(1).

SELECTION OF DELEGATE BODY

SEC. 1618. (a)(1) Not later than 30 days after the effective date of the order, the Secretary shall call for the nomination within each State of candidates for appointment as producer members of the initial Delegate Body.

(2) Each State association may nominate producers who are residents of such State to serve as such candidates.

(3)(A) Additional producers who are residents of a State may be nominated as candidates of such State by written petition signed by 100 producers or 5 percent of the pork producers in such State, whichever is less.

The Secretary shall establish and publicize the procedures governing the time and place for filing petitions.

(b)(1) After the Secretary has received the nominations required under subsection (a) and not later than 45 days after the effective date of the order, the Secretary shall call for an election within each State of persons for appointment as producer members of the initial Delegate Body.

(2) To be eligible to vote in an election held in a State, a person must be a producer who is a resident of such State.

(3)(A) Notice of each such election shall be given by the Secretary—

(i) by publication in a newspaper or newspapers of general circulation in each State, and in pork production and agriculture trade publications, at least 1 week prior to the election; and

(ii) in any other reasonable manner determined by the Secretary.

(B) The notice shall set forth the period of time and places for voting and such other information as the Secretary considers necessary.

(4) Each State shall nominate to the Delegate Body the number of producer members required under section 1617(b)(2)(B).

(5) The producers who receive the highest number of votes in each State shall be nominated for appointment as members of the Delegate Body from such State.

(c)(1) Except as provided in paragraph (3), after the election of the producer members of the initial Delegate Body, the Board shall administer all subsequent nominations and elections of the producer members to be nominated for appointment as members of the Delegate Body, with the assistance of the Secretary and in accordance with subsections (a)(3) and (b).

(2) The Board shall determine the timing of an election referred to in paragraph (1).

(3) To be eligible to vote in such an election in a State, a person must—

(A) be a producer who is a resident of such State;

(B) have paid all assessments due under section 1620; and

(C) not demanded a refund of an assessment under section 1624.

(d)(1) Prior to the expiration of the term of any producer member of the Delegate Body, the Board shall appoint a nominating committee of producers who are residents of the State represented by such member.

(2) Such committee shall nominate producers of such State as candidates to fill the position for which an election is to be held.

(3) Additional producers who are residents of a State may be nominated to fill such positions in accordance with subsection (a)(3).

NATIONAL PORK BOARD

SEC. 1619. (a)(1) The order shall provide for the establishment and appointment by the Secretary of a 15-member National Pork Board.

(2) The Board shall consist of producers representing at least 12 States and importers appointed by the Secretary from nominations submitted under section 1617(g).

(2) The Board shall consist of producers or importers appointed by the Secretary from nominations submitted under section 1617(g).

(3) A member of the Board shall serve for a 3-year term, with no such member serving more than two consecutive 3-year terms, except that initial appointments to the Board shall be staggered with an equal number of members appointed, to the maximum extent possible, to 1-year, 2-year, and 3-year terms, except that the term of a member of the Board shall continue until the successor of such member, if any, is appointed in accordance with paragraph (2).

(4) The Board shall select its President by a majority vote.

(5)(A) A majority of the members of the Board shall constitute a quorum at a meeting of the Board.

(B) A majority of votes cast at a meeting at which a quorum is present shall determine a motion or election.

(6) A member of the Board shall serve without compensation, but shall be reimbursed by the Board from assessments collected under section 1620 for reasonable expenses incurred in performing duties as a member of the Board.

(b)(1) The Board shall—

(A) develop, at the initiative of the Board or other person, proposals for promotion, research, and consumer information plans and projects;

(B) submit such plans and projects to the Secretary for approval;

(C) administer the order, in accordance with the order and this subtitle;

(D) prescribe such rules as are necessary to carry out such order;

(E) receive, investigate, and report to the Secretary complaints of violations of such order;

(F) make recommendations to the Secretary with respect to amendments to such order; and

(G) employ a staff and conduct routine business.

(2) The Board shall prepare and submit to the Secretary, for the approval of the Secretary, a budget for each fiscal year of anticipated expenses and disbursements of the Board in the administration of the order, including the projected cost of—

(A) any promotion, research or consumer information plan or project to be conducted by the Board directly or by way of contract or agreement; and

(B) the budgets, plans, or projects for which State associations are to receive funds pursuant to section 1620(c)(1).

(3) No plan, project, or budget referred to in paragraph (1) or (2) may become effective unless approved by the Secretary.

(4)(A) The Board, with the approval of the Secretary, may enter into contracts or agreements with a person for—

(i) the development and conduct of activities authorized under an order; and

(ii) the payment of the cost thereof with funds collected through assessments under such order.

(B) Such contract or agreement shall require that—

(i) the contracting party develop and submit to the Board a plan or project, together with a budget or budgets that include the estimated cost to be incurred under such plan or project;

(ii) such plan or project become effective on the approval of the Secretary; and

(iii) the contracting party—

(I) keep accurate records of all relevant transactions of the party;

(II) make periodic reports to the Board of—

(aa) relevant activities the party has conducted; and

(bb) an accounting for funds received and expended under such contract; and

(III) make such other reports as the Secretary or Board may require.

ASSESSMENTS

SEC. 1620. (a)(1) The order shall provide that, not later than 30 days after the effective date of the order under section 1616(c) an assessment shall be paid, in the manner prescribed in the order. Upon the appointment of the Board, the assessments held in escrow shall be distributed to the Board. Except as provided in paragraph (3), assessments shall be payable by—

(A) each producer for each porcine animal described in subparagraph (A) or (C) of section 1613(8) produced in the United States that is sold or slaughtered for sale;

(B) each producer for each porcine animal described in subsection 1613(8)(B) that is sold; and

(C) each importer for each porcine animal, pork, or pork product that is imported into the United States.

(2) Such assessment shall be collected and remitted to the Board once it is appointed pursuant to section 1619, but, until that time, to the Secretary, who shall promptly proceed to distribute the funds received by him in accordance with the provisions of subsection (c), except that the Secretary shall retain the funds to be received by the Board until such time as the Board is appointed pursuant to section 1619, by—

(A) in the case of subparagraph (A) of paragraph (1), the purchaser of the porcine animal referred to in such subparagraph;

(B) in the case of subparagraph (B) of paragraph (1), the producer of the porcine animal referred to in such subparagraph; and

(C) in the case of subparagraph (C) of paragraph (1), the importer referred to in such subparagraph.

(3) A person is not required to pay an assessment for a porcine animal, pork, or pork product under paragraph (1) if such person proves to the Board that an assessment was paid previously under such paragraph by a person for such porcine animal (of the same category described in subparagraph (A), (B), or (C) of section 1613(8)), pork, or pork product.

(b)(1) Except as provided in paragraph (2), the rate of assessment prescribed by the initial order shall be the lesser of—

(A) 0.25 percent of the market value of the porcine animal, pork, or pork product sold or imported; or

(B) an amount established by the Secretary based on a recommendation of the Delegate Body.

(2) Except as provided in paragraph (3), the rate of assessment in the initial order may be increased by not more than 0.1 percent per year on recommendation of the Delegate Body.

(3) The rate of assessment may not exceed 0.50 percent of such market value unless—

(A) after the initial referendum required under section 1622(a), the Delegate Body recommends an increase in such rate above 0.50 percent; and

(B) such increase is approved in a referendum conducted under section 1622(b).

(4)(A) Pork or pork products imported into the United States shall be assessed based on the equivalent value of the live porcine animal from which such pork or pork products were produced, as determined by the Secretary.

(B) The Secretary may waive the collection of assessments on a type of such imported pork or pork products if the Secretary determines that such collection is not practicable.

(c) Funds collected by the Board from assessments collected under this section shall be distributed and used in the following manner:

(1)(A) Each State association, shall receive an amount of funds equal to the product obtained by multiplying—

(i) the aggregate amount of assessments attributable to porcine animals produced in such State by persons described in subsection (a)(1)(A) and (B) minus that State's share of refunds determined pursuant to paragraph (4) by such persons pursuant to section 1624; and

(ii) a percentage applicable to such State association determined by the Delegate Body, but in no event less than sixteen and one-half percent, or

(B) in the case of a State association that was conducting a pork promotion program in the period from July 1, 1984, to June 30, 1985, if greater than (A) an amount of funds equal to the amount of funds that would have been collected in such State pursuant to the pork promotion program in existence in such State from July 1, 1984, to June 30, 1985, had the porcine animals, subject to assessment and to which no refund was received in such State in each year following the enactment of this Act, been produced from July 1, 1984, to June 30, 1985, and been subject to the rates of assessments then in effect and the rate of return then in effect from each State to the Council described in paragraph (2)(A), and other national entities involved in pork promotion, research and consumer information.

(C) A State association shall use such funds and any proceeds from the investment of such funds for financing—

(i) promotion, research, and consumer information plans and projects, and

(ii) administrative expenses incurred in connection with such plans and projects.

(2)(A) The National Pork Producers Council, a nonprofit corporation of the type described in section 501(c)(3) of the Internal Revenue Code of 1954 and incorporated in the State of Iowa, shall receive an amount of funds equal to—

(i) 37½ percent of the aggregate amount of assessments collected under this section throughout the United States from the date assessment commences pursuant to subsection (a)(1) until the first day of the month following the month in which the Board is appointed pursuant to section 1619.

(ii) 35 percent thereafter until the referendum is conducted pursuant to section 1622,

(iii) 25 percent until twelve months after the referendum is conducted, and

(iv) no funds thereafter except in so far as it obtains such funds from the Board pursuant to sections 1619 or 1620, each of which amounts determined under (i), (ii), and (iii) shall be less the Council's share of refunds determined pursuant to paragraph (4).

(B) The Council shall use such funds and proceeds from the investment of such funds for financing—

(i) promotion, research, and consumer information plans and projects, and

(ii) administrative expenses of the Council.

(3)(A) The Board shall receive the amount of funds that remain after the distribution required under paragraphs (1) and (2).

(B) The Board shall use such funds and any proceeds from the investment of such funds pursuant to subsection (g) for—

(i) financing promotion, research, and consumer information plans and projects in accordance with this title;

(ii) such expenses for the administration, maintenance, and functioning of the Board as may be authorized by the Secretary;

(iii) accumulation of a reasonable reserve to permit an effective promotion, research, and consumer information program to continue in years when the amount of assessments may be reduced; and

(iv) administrative costs incurred by the Secretary to carry ou this title, including any expenses incurred for the conduct of a referendum under this title.

(4)(A) Each State's share of refunds shall be determined by multiplying the aggregate amount of refunds received by producers in such State by the percentage applicable to such State pursuant to paragraph (1)(A)(ii).

(B) The National Pork Producers's Council's share of refunds shall be determined by multiplying its applicable percent of the aggregate amount of assessments by the product of—

(i) subtracting from the aggregate amount of refunds received by all producers the aggregate amount of State share or refunds in every State determined pursuant to subparagraph (A), and

(ii) adding to that sum the aggregate amount of refunds received by importers.

(d) No promotion funded with assessments collected under this subtitle may make—

(1) a false or misleading claim on behalf of pork or a pork product; or

(2) a false or misleading statement with respect to an attribute or use of a competing product.

(e) No funds collected through assessments authorized by this section may, in any manner, be used for the purpose of influencing legislation, as defined in section 4911 (d) and (e)(2) of the Internal Revenue Code of 1954.

(f) The Board shall—

(1) maintain such books and records, and prepare and submit to the Secretary such reports from time to time, as may be required by the Secretary for appropriate accounting of the receipt and disbursement of funds entrusted to the Board or a State association, as the case may be; and

(2) cause a complete audit report to be submitted to the Secretary at the end of each fiscal year.

(g) The Board, with the approval of the Secretary, may invest funds collected through assessments authorized under this section, pending disbursement for a plan or project, only in—

(1) an obligation of the United States, or of a State or political subdivision thereof;

(2) an interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System; or

(3) an obligation fully guaranteed as to principal and interest by the United States.

PERMISSIVE PROVISIONS

Sec. 1621. (a) On the recommendation of the Board, and with the approval of the Secretary, an order may contain one or more of the following provisions:

(1) Each person purchasing a porcine animal from a producer for commercial use, and each importer, shall—

(A) maintain and make available for inspection such books and records as may be required by the order; and

(B) file reports at the time, in the manner, and having the content prescribed by the order,

including documentation of the State of origin of a purchased porcine animal or the place of origin of an imported porcine animal, pork, or pork product.

(2) A term or condition—

(A) incidental to, and not inconsistent with, the terms and conditions specified in this subtitle; and

(B) necessary to effectuate the other provisions of such order.

(b)(1) Information referred to in subsection (a)(1) shall be made available to the Secretary and the Board as is appropriate or necessary for the effectuation, administration, or enforcement of this subtitle or an order.

(2)(A) Except as provided in subparagraphs (B) and (C), information obtained under subsection (a)(1) shall be kept confidential by officers or employees of the Department of Agriculture or the Board.

(B) Such information may be disclosed only—

(i) in a suit or administrative hearing involving the order with respect to which the information was furnished or acquired—

(I) brought at the direction or on the request of the Secretary; or

(II) to which the Secretary or an officer of the United States is a party; and

(ii) if the Secretary considers such information to be relevant to such suit or hearing.

(C) Nothing in this section prohibits—

(i) the issuance of a general statement based on the reports of a number of persons subject to an order, or statistical data collected therefrom, if such statement or data does not identify the information furnished by any person; or

(ii) the publication, by direction of the Secretary, of the name of a person violating an order, together with a statement of the particular provisions of the order violated by such person.

(c) A person who willfully violates subsection (a)(1) or (b) shall, on conviction, be—

(1) subject to a fine of not more than $1,000 or imprisoned for not more than 1 year, or both; and

(2) if such person is an employee of the Department of Agriculture or the Board, removed from office.

REFERENDUM

Sec. 1622. (a) For the purpose of determining whether an order then effect shall be continued during the period beginning not earlier than 24 months after the issuance of the order and ending not later than 30 months after the issuance of the order, the Secretary shall conduct a referendum among persons who have been pork producers and importers during a representative period, as determined by the Secretary.

(b)(1) Such order shall be continued only if the Secretary determines that such order has been approved by not less than a majority of the producers and importers voting in the referendum.

(2) If the continuation of such order is not approved by a majority of the producers and importers voting in the referendum, the Secretary shall terminate—

(A) collection of assessments under the order not later than 6 months after the date of such determination; and

(B) the order in an orderly manner as soon as practicable after the date of such determination.

(c) The Secretary shall be reimbursed from assessments collected by the Board for any expenses incurred in connection with a referendum conducted under this section or section 1623.

(d) A referendum shall be conducted in such manner as prescribed by the Secretary.

(e) A referendum to amend the initial order shall be conducted pursuant to this section.

SUSPENSION AND TERMINATION OF ORDERS

Sec. 1623. (a) If after the initial referendum provided for in section 1622(a) the Secretary determines that an order, or a provi-

sion of the order, obstructs or does not tend to effectuate the declared policy of this subtitle, the Secretary shall terminate or suspend the operation of such order or provision.

(b)(1)(A) Except as provided in paragraph (2), after the initial referendum provided for in section 1622(a), on the request of a number of persons equal to at least 15 percent of persons who have been producers and importers during a representative period, as determined by the Secretary, the Secretary shall conduct a referendum to determine whether the producers and importers favor the termination or suspension of the order.

(B) The Secretary shall—

(i) suspend or terminate collection of assessments under the order not later than 6 months after the date the Secretary determines that suspension or termination of the order is favored by a majority of the producers and importers voting in the referendum; and

(ii) terminate the order in an orderly manner as soon as practicable after the date of such determination.

(2) Except with respect to a referendum required to be conducted under section 1622, the Secretary shall not be required by paragraph (1) to conduct more than one referendum under this subtitle in a 2-year period.

(c) The termination or suspension of an order, or a provision of an order, shall not be considered an order within the meaning of this subtitle.

REFUNDS

SEC. 1624. (a) Notwithstanding any other provision of this subtitle, prior to the approval of the continuation of an order pursuant to the referendum required under section 1622(a), any person shall have the right to demand and receive from the Board a refund of an assessment collected under section 1620 if such person—

(1) is responsible for paying such assessment; and

(2) does not support the program established under this subtitle.

(b) Such demand shall be made in accordance with regulations, on a form, and within a time period prescribed by the Board and approved by the Secretary, but not later than 30 days after the end of the month in which the assessment was paid.

(c) Such refund shall be made not later than 30 days after demand is received therefore on submission of proof satisfactory to the Board that the producer, person, or importer—

(1) paid the assessment for which refund is sought; and

(2) did not collect such assessment from another producer, person, or importer.

PETITION AND REVIEW

SEC. 1625. (a)(1) A person subject to an order may file with the Secretary a petition—

(A) stating that such order, a provision of such order, or an obligation imposed in connection with such order is not in accordance with law; and

(B) requesting a modification of such order or an exemption from such order.

(2) Such person shall be given an opportunity for a hearing on the petition, in accordance with regulations issued by the Secretary.

(3) After such hearing, the Secretary shall make a determination granting or denying such petition.

(b)(1) A district court of the United States in the district in which such person resides or does business shall have jurisdiction to review such determination if a complaint for such purpose is filed not later than 20 days after the date such person receives notice of such determination.

(2) Service of process in such proceeding may be made on the Secretary by delivering a copy of the complaint to the Secretary.

(3) If a court determines that such determination is not in accordance with law, the court shall remand such proceedings to the Secretary with directions to—

(A) make such ruling as the court shall determine to be in accordance with law; or

(B) take such further proceedings as, in the opinion of the court, the law requires.

ENFORCEMENT

SEC. 1626. (a)(1) A district court of the United States shall have jurisdiction specifically to enforce, and to prevent and restrain a person from violating an order, rule, or regulation issued under this subtitle.

(2) A civil action authorized to be brought under this subsection shall be referred to the Attorney General for appropriate action, except that the Secretary is not required to refer to the Attorney General a violation of this subtitle if the Secretary believes that the administration and enforcement of this subtitle would be adequately served by providing a suitable written notice or warning to a person who committed such violation or by administrative action under subsection (b).

(b)(1)(A) A person who willfully violates an order, rule, or regulation issued by the Secretary under this subtitle may be assessed—

(i) a civil penalty by the Secretary of not more than $1,000 for each such violation; and

(ii) in the case of a willful failure to pay, collect, or remit an assessment as required by an order, an additional penalty equal to the amount of such assessment.

(B) Each such violation shall be a separate offense.

(C) In addition to or in lieu of such civil penalty, the Secretary may issue an order requiring such person to cease and desist from violating such order, rule, or regulation.

(D) No penalty may be assessed or cease-and-desist order issued unless the Secretary gives such person notice and opportunity for a hearing on the record with respect to such violation.

(E) An order issued under this paragraph by the Secretary shall be final and conclusive unless such person files an appeal from such order with the appropriate United States court of appeals not later than 30 days after such person receives notice of such order.

(2)(A) A person against whom an order is issued under paragraph (1) may obtain review of such order in the court of appeals of the United States for the circuit in which such person resides or does business, or in the United States Court of Appeals for the District of Columbia Circuit, by—

(i) filing a notice of appeal in such court not later than 30 days after the date of such order; and

(ii) simultaneously sending a copy of such notice by certified mail to the Secretary.

(B) The Secretary shall file promptly in such court a certified copy of the record on which such violation was found.

(C) A finding of the Secretary shall be set aside only if the finding is found to be unsupported by substantial evidence.

(3)(A) A person who fails to obey a valid cease-and-desist order issued under paragraph (1) by the Secretary, after an opportunity for a hearing, shall be subject to a civil penalty assessed by the Secretary of not more than $500 for each offense.

(B) Each day during which such failure continues shall be considered a separate violation of such order.

(4)(A) If a person fails to pay a valid civil penalty imposed under this subsection by the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in an appropriate district court of the United States.

(B) In such action, the validity and appropriateness of the order imposing such civil penalty shall not be subject to review.

(c) The remedies provided in subsections (a) and (b) shall be in addition to, and not exclusive of, other remedies that may be available.

INVESTIGATIONS

SEC. 1627. (a) The Secretary may make such investigations as the Secretary considers necessary—

(1) for the effective administration of this subtitle; or

(2) to determine whether a person subject to this subtitle has engaged, or is about to engage, in an act that constitutes, or will constitute, a violation of this subtitle or an order, rule, or regulation issued under this subtitle.

(b)(1) For the purpose of such investigation, the Secretary may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any records that are relevant to the inquiry.

(2) Such attendance of witnesses and the production of such records may be required from any place in the United States.

(c)(1) In the case of contumacy, or refusal to obey a subpoena, by a person, the Secretary may invoke the aid of a court of the United States with jurisdiction over such investigation or proceeding, or where such person resides or does business, in requiring the attendance and testimony of such person and the production of such records.

(2) The court may issue an order requiring such person to appear before the Secretary to produce records or to give testimony touching the matter under investigation.

(3) A failure to obey an order issued under this section by the court may be punished by the court as a contempt thereof.

(4) Process in such case may be served in the judicial district in which such person is an inhabitant or wherever such person may be found.

PREEMPTION

SEC. 1628. (a) This subtitle is intended to occupy the field of—

(1) promotion and consumer education involving pork and pork products; and

(2) obtaining funds therefor from pork producers.

(b) The regulation of such activity (other than a regulation or requirement relating to a matter of public health or the provision of State or local funds for such activity) that is in addition to or different from this subtitle may not be imposed by a State.

(c) This section shall apply only during a period beginning on the date of the commencement of the collection of assessments under section 1620 and ending on the date of the termination of the collection of assessments under section 1622(a)(3) or 1622(b)(1)(B).

ADMINISTRATIVE PROVISION

SEC. 1629. The provisions of this subtitle applicable to orders shall be applicable to amendments to orders.

AUTHORIZATION FOR APPROPRIATIONS

Sec. 1630. (a) There are authorized to be appropriated such sums as may be necessary for the Secretary to carry out this subtitle, subject to reimbursement from the Board under section 1620(c)(3)(B)(iv).

(b) Sums appropriated to carry out this subtitle shall not be available for payment of an expense or expenditure incurred by the Board in administering an order.

EFFECTIVE DATE

Sec. 1631. This subtitle shall become effective on January 1, 1986.

Subtitle C—Watermelon Research and Promotion Act

SHORT TITLE

Sec. 1641. This subtitle may be cited as the "Watermelon Research and Promotion Act".

FINDINGS AND DECLARATION OF POLICY

Sec. 1642. (a) Congress finds that—

(1) the per capita consumption of watermelons in the United States has declined steadily in recent years;

(2) watermelons are an important cash crop to many farmers in the United States and are an economical, enjoyable, and healthful food for consumers;

(3) approximately 2,607,600,000 pounds of watermelons with a farm value of $158,923,000 were produced in 1981 in the United States;

(4) watermelons move in the channels of interstate commerce, and watermelons that do not move in such channels directly affect interstate commerce;

(5) the maintenance and expansion of existing markets and the establishment of new or improved markets and uses for watermelons are vital to the welfare of watermelon growers and those concerned with marketing, using, and handling watermelons, as well as the general economic welfare of the Nation; and

(6) the development and implementation of coordinated programs of research, development, advertising, and promotion are necessary to maintain and expand existing markets and establish new or improved markets and uses for watermelons.

(b) It is declared to be the policy of Congress that it is essential in the public interest, through the exercise of the powers provided herein, to authorize the establishment of an orderly procedure for the development, financing (through adequate assessments on watermelons harvested in the United States for commercial use), and carrying out of an effective, continuous, and coordinated program of research, development, advertising, and promotion designed to strengthen the watermelon's competitive position in the marketplace, and establish, maintain, and expand domestic and foreign markets for watermelons produced in the United States. The purpose of this subtitle is to so authorize the establishment of such procedure and the development, financing, and carrying out of such program. Nothing in this subtitle may be construed to dictate quality standards nor provide for the control of production or otherwise limit the right of individual watermelon producers to produce watermelons.

DEFINITIONS

Sec. 1643. As used in this subtitle—

(1) the term "Secretary" means the Secretary of Agriculture;

(2) the term "person" means any individual, group of individuals, partnership, corporation, association, cooperative, or other entity;

(3) the term "watermelon" means all varieties of watermelon grown by producers in the forty-eight contiguous States of the United States;

(4) the term "handler" means any person (except a common or contract carrier of watermelons owned by another person) who handles watermelons in a manner specified in a plan issued under this subtitle or in regulations promulgated thereunder;

(5) the term "producer" means any person engaged in the growing of five or more acres of watermelons;

(6) the term "promotion" means any action taken by the Board, under this subtitle, to present a favorable image for watermelons to the public with the express intent of improving the competitive position of watermelons in the marketplace and stimulating sales of watermelons, and shall include, but not be limited to, paid advertising; and

(7) the term "Board" means the National Watermelon Promotion Board provided for in section 1644.

ISSUANCE OF PLANS

Sec. 1644. To effectuate the declared policy of this subtitle, the Secretary shall, under the provisions of this subtitle, issue, and from time to time may amend, orders (applicable to producers and handlers of watermelons) authorizing the collection of assessments on watermelons under this subtitle and the use of such funds to cover the costs of research, development, advertising, and promotion with respect to watermelons under this subtitle. Any order issued by the Secretary under this subtitle shall hereinafter in this subtitle be referred to as a "plan". Any plan shall be applicable to watermelons produced in the forty-eight contiguous States of the United States.

NOTICE AND HEARINGS

Sec. 1645. (a) When sufficient evidence, as determined by the Secretary, is presented to the Secretary by watermelon producers and handlers, or whenever the Secretary has reason to believe that a plan will tend to effectuate the declared policy of this subtitle, the Secretary shall give due notice and opportunity for a hearing on a proposed plan. Such hearing may be requested by watermelon producers or handlers or by any other interested person, including the Secretary, when the request for such hearing is accompanied by a proposal for a plan.

(b) After notice and opportunity for hearing as provided in subsection (a) of this section, the Secretary shall issue a plan if the Secretary finds, and sets forth in such plan, on the evidence introduced at the hearing that the issuance of the plan and all the terms and conditions thereof will tend to effectuate the declared policy of this subtitle.

REGULATIONS

Sec. 1646. The Secretary may issue such regulations as may be necessary to carry out the provisions of this subtitle and the powers vested in the Secretary under this subtitle.

REQUIRED TERMS IN PLANS

Sec. 1647. (a) Any plan issued under this subtitle shall contain the terms and provisions described in this section.

(b) The plan shall provide for the establishment by the Secretary of the National Watermelon Promotion Board and for defining its powers and duties, which shall include the powers to—

(1) administer the plan in accordance with its terms and conditions;

(2) make rules and regulations to effectuate the terms and conditions of the plan;

(3) receive, investigate, and report to the Secretary complaints of violations of the plan; and

(4) recommend to the Secretary amendments to the plan.

(c) The plan shall provide that the Board shall be composed of representatives of producers and handlers, and one representative of the public, appointed by the Secretary from nominations submitted in accordance with this subsection. An equal number of representatives of producers and handlers shall be nominated by producers and handlers, and the representative of the public shall be nominated by the producer and handler members of the Board, in such manner as may be prescribed by the Secretary. If producers and handlers fail to select nominees for appointment to the Board, the Secretary may appoint persons on the basis of representation as provided for in the plan. If the Board fails to nominate a public representative, the Secretary shall choose such representative for appointment.

(d) The plan shall provide that all Board members shall serve without compensation, but shall be reimbursed for reasonable expenses incurred in performing their duties as members of the Board.

(e) The plan shall provide that the Board shall prepare and submit to the Secretary for the Secretary's approval a budget, on a fiscal period basis, of its anticipated expenses and disbursements in the administration of the plan, including probable costs of research, development, advertising, and promotion.

(f) The plan shall provide for the fixing by the Secretary of assessments to cover costs incurred under the budgets provided for in subsection (e), and under section 1648(f), based on the Board's recommendation as to the appropriate rate of assessment, and for the collection of the assessments by the Board.

(g) The plan shall provide that—

(1) funds collected by the Board shall be used for research, development, advertising, or promotion of watermelons and such other expenses for the administration, maintenance, and functioning of the Board as may be authorized by the Secretary, including any referendum and administrative costs incurred by the Department of Agriculture under this subtitle;

(2) no advertising or sales promotion program under this subtitle shall make any reference to private brand names nor use false or unwarranted claims in behalf of watermelons or their products or false or unwarranted statements with respect to attributes or use of any competing products;

(3) no funds collected by the Board shall in any manner be used for the purpose of influencing governmental policy or action, except as provided by subsections (b)(4) and (f); and

(4) assessments shall be made on watermelons produced by producers and watermelons handled by handlers, and the rate of such assessments shall be the same, on a per-unit basis, for producers and handlers. If a person performs both producing and handling functions, both assessments shall be paid by such person.

(h) The plan shall provide that, notwithstanding any other provisions of this subtitle, any watermelon producer or handler against whose watermelons an assessment is made and collected under this subtitle and who is not in favor of supporting the research, development, advertising, and promotion program provided for under this subtitle shall have the right to demand a refund of the assessment from the Board, under regulations, and on a form and within a time period (not less than 90 days),

prescribed by the Board and approved by the Secretary. A producer or handler who timely makes demand in accord with the regulations, on submission of proof satisfactory to the Board that the producer or handler paid the assessment for which the refund is sought, shall receive such refund within 60 days after demand therefor.

(i) The plan shall provide that the Board, subject to the provisions of subsections (e), (f), and (g), shall develop and submit to the Secretary, for the Secretary's approval, any research, development, advertising, or promotion program or project, and that a program or project must be approved by the Secretary before becoming effective.

(j) The plan shall provide the Board with authority to enter into contracts or agreements, with the approval of the Secretary, for the development and carrying out of research, development, advertising, or promotion programs or projects, and the payment of the cost thereof with funds collected under this subtitle.

(k) The plan shall provide that the Board shall (1) maintain books and records, (2) prepare and submit to the Secretary such reports from time to time as may be prescribed for appropriate accounting with respect to the receipt and disbursement of funds entrusted to it, and (3) cause a complete audit report to be submitted to the Secretary at the end of each fiscal period.

PERMISSIVE TERMS IN PLANS

SEC. 1648. (a) Any plan issued under this subtitle may contain one or more of the terms and provisions described in this section, but except as provided in section 1647 no others.

(b) The plan may provide for the exemption, from the provisions of the plan, of watermelons used for nonfood uses, and authority for the Board to establish satisfactory safeguards against improper use of such exemption.

(c) The plan may provide for the designation of different handler payment and reporting schedules with respect to assessments, as provided for in sections 1647 and 1649, to recognize differences in marketing practices and procedures used in different production areas.

(d) The plan may provide for the establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and other sales promotion of watermelons and for the disbursement of necessary funds for such purposes. Any such program or project shall be directed toward increasing the general demand for watermelons, and promotional activities shall comply with the provisions of section 1647(g).

(e) The plan may provide for establishing and carrying out research and development projects and studies to the end that the marketing and use of watermelons may be encouraged, expanded, improved, or made more efficient, and for the disbursement of necessary funds for such purposes.

(f) The plan may provide authority for the accumulation of reserve funds from assessments collected under this subtitle, to permit an effective and continuous coordinated program of research, development, advertising, and promotion in years when watermelon production and assessment income may be reduced, except that the total reserve fund may not exceed the amount budgeted for two years operation.

(g) The plan may provide for the use of funds from assessments collected under this subtitle, with the approval of the Secretary, for the development and expansion of sales of watermelons in foreign markets.

(h) The plan may contain terms and conditions incidental to and not inconsistent with the terms and conditions specified in this subtitle and necessary to effectuate the other provisions of the plan.

ASSESSMENT PROCEDURES

SEC. 1649. (a) Each handler required to pay assessments under a plan, as provided for under section 1647(f), shall be responsible for payment to the Board, as it may direct, of the assessments. A handler also shall collect from any producer, or shall deduct from the proceeds paid to any producer, on whose watermelons a producer assessment is made, the assessments required to be paid by the producer. The handler shall remit producer assessments to the Board as the Board directs. Such handler shall maintain a separate record with respect to each producer for whom watermelons were handled. Such records shall indicate the total quantity of watermelons handled by the handler, including those handled for producers and for the handler, the total quantity of watermelons handled by the handler that are included under the terms of the plan, as well as those that are exempt under the plan, and such other information as may be prescribed by the Board. To facilitate the collection and payment of assessments, the Board may designate different handlers or classes of handlers to recognize differences in marketing practices or procedures used in any State or area. The handler shall be assessed an equal amount as the producer. No more than one assessment on a producer nor more than one assessment on a handler shall be made on any watermelons.

(b) Handlers responsible for payment of assessments under subsection (a) shall maintain and make available for inspection by the Secretary such books and records as required by the plan and file reports at the times, in the manner, and having the content prescribed by the plan, to the end that information and data shall be made available to the Board and to the Secretary that is appropriate or necessary to the effectuation, administration, or enforcement of this subtitle or of any plan or regulation issued under this subtitle.

(c) All information obtained under subsections (a) and (b) shall be kept confidential by all officers and employees of the Department of Agriculture and of the Board, and only such information so furnished or acquired as the Secretary deems relevant shall be disclosed by them, and then only in a suit or administrative hearing brought at the direction, or on the request, of the Secretary, or to which the Secretary or any officer of the United States is a party, and involving the plan with reference to which the information to be disclosed was furnished or acquired. Nothing in this subsection shall be deemed to prohibit—

(1) the issuance of general statements based on the reports of a number of handlers subject to a plan if such statements do not identify the information furnished by any person; or

(2) the publication by direction of the Secretary of the name of any person violating any plan together with a statement of the particular provisions of the plan violated by such person.

Any such officer or employee violating the provisions of this subsection shall be subject to a fine of not more than $1,000 or imprisonment for not more than one year, or both, and shall be removed from office.

PETITION AND REVIEW

SEC. 1650. (a) Any person subject to a plan may file a written petition with the Secretary, stating that the plan or any provision of the plan, or any obligation imposed in connection therewith, is not in accordance with law and praying for a modification thereof or to be exempted therefrom. The person shall be given an opportunity for a hearing on the petition, in accordance with regulations prescribed by the Secretary. After the hearing, the Secretary shall make a ruling on the petition, which shall be final if in accordance with the law.

(b) The district courts of the United States in any district in which the person is an inhabitant, or in which the person's principal place of business is located, are hereby vested with jurisdiction to review such ruling, provided that a complaint for that purpose is filed within twenty days from the date of the entry of the ruling. Service of process in such proceedings may be had on the Secretary by delivering to the Secretary a copy of the complaint. If the court determines that the ruling is not in accordance with law, it shall remand the proceedings to the Secretary with directions either to (1) make such ruling as the court shall determine to be in accordance with law, or (2) take such further proceedings as, in its opinion, the law requires. The pendency of proceedings instituted under subsection (a) shall not impede or delay the United States or the Secretary from obtaining relief under section 1851(a).

ENFORCEMENT

SEC. 1651. (a) The several district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, any plan or regulation made or issued under this subtitle. The facts relating to any civil action that may be brought under this subsection shall be referred to the Attorney General for appropriate action, except that nothing in this subtitle shall be construed as requiring the Secretary to refer to the Attorney General violations of this subtitle whenever the Secretary believes that the administration and enforcement of the plan or regulation would be adequately served by administrative action under subsection (b) or suitable written notice or warning to any person committing the violations.

(b)(1) Any person who violates any provision of any plan or regulation issued by the Secretary under this subtitle, or who fails or refuses to pay, collect, or remit any assessment or fee required of the person thereunder, may be assessed a civil penalty by the Secretary of not less than $500 nor more than $5,000 for each violation. Each violation shall be a separate offense. In addition to or in lieu of such civil penalty, the Secretary may issue an order requiring the person to cease and desist from continuing the violation. No penalty shall be assessed nor cease and desist order issued unless the person is given notice and opportunity for a hearing before the Secretary with respect to the violation. The order of the Secretary assessing a penalty or imposing a cease and desist order shall be final and conclusive unless the person affected by the order files an appeal from the Secretary's order with the appropriate United States court of appeals.

(2) Any person against whom a violation is found and a civil penalty assessed or cease and desist order issued under paragraph (1) may obtain review in the court of appeals of the United States for the circuit in which such person resides or carries on business or in the United States Court of Appeals for the District of Columbia Circuit by

filing a notice of appeal in such court within thirty days after the date of the order and by simultaneously sending a copy of the notice by certified mail to the Secretary. The Secretary shall promptly file in such court a certified copy of the record on which the violation was found. The findings of the Secretary shall be set aside only if found to be unsupported by substantial evidence.

(3) Any person who fails to obey a cease and desist order after it has become final and unappealable, or after the appropriate court of appeals has entered a final judgment in favor of the Secretary, shall be subject to a civil penalty assessed by the Secretary, after opportunity for a hearing and for judicial review under the procedures specified in paragraphs (1) and (2), of not more than $500 for each offense. Each day during which the failure continues shall be deemed a separate offense.

(4) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court of appeals has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

INVESTIGATION AND POWER TO SUBPOENA

SEC. 1652. (a) The Secretary may make such investigations as the Secretary deems necessary to carry out effectively the Secretary's responsibilities under this subtitle or to determine whether a handler or any other person has engaged or is engaging in any acts or practices that constitute a violation of any provision of this subtitle, or of any plan or regulation issued under this subtitle. For the purpose of an investigation, the Secretary may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, and documents that are relevant to the inquiry. The attendance of witnesses and the production of records may be required from any place in the United States. In case of contumacy by, or refusal to obey a subpoena issued to, any person, including a handler, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, and documents; and such court may issue an order requiring the person to appear before the Secretary, there to produce records, if so ordered, or to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by the court as contempt thereof. All process in any such case may be served in the judicial district in which the person is an inhabitant or wherever the person may be found. The site of any hearing held under this subsection shall be within the judicial district in which the handler or other person is an inhabitant or in which the person's principal place of business is located.

(b) No person shall be excused from attending and testifying or from producing books, papers, and documents before the Secretary, or in obedience to the subpoena of the Secretary, or in any cause or proceeding, criminal or otherwise, based on, or growing out of, any alleged violation of this subtitle, or of any plan or regulation issued thereunder, on the grounds that the testimony or evidence, documentary or otherwise, required of the person may tend to incriminate the person or subject the person to a penalty or forfeiture. However, no person shall be prosecuted or subjected to any penalty or forfeiture on account of any transaction, matter, or thing concerning which the person is compelled, after having claimed the person's privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that any individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

REQUIREMENT OF REFERENDUM

SEC. 1653. The Secretary shall conduct a referendum among producers and handlers not exempt under sections 1643(5) and 1648(b) who, during a representative period determined by the Secretary, have been engaged in the production or handling of watermelons, for the purpose of ascertaining whether the issuance of a plan is approved or favored by producers and handlers. The referendum shall be conducted at the county extension offices. No plan issued under this subtitle shall be effective unless the Secretary determines that the issuance of the plan is approved or favored by not less than two-thirds of the producers and handlers voting in such referendum, or by the producers and handlers of not less than two-thirds of the watermelons produced and handled during the representative period by producers and handlers voting in such referendum, and by not less than a majority of the producers and a majority of the handlers voting in the referendum. The ballots and other information or reports that reveal or tend to reveal the vote of any producer or handler or the person's volume of watermelons produced or handled shall be held strictly confidential and shall not be disclosed. Any officer or employee of the Department of Agriculture violating the provisions hereof shall be subject to the penalties provided in section 1649(c) of this subtitle.

SUSPENSION OR TERMINATION OF PLANS

SEC. 1654. (a) Whenever the Secretary finds that a plan or any provision thereof obstructs or does not tend to effectuate the declared policy of this subtitle, the Secretary shall terminate or suspend the operation of the plan or provision.

(b) The Secretary may conduct a referendum at any time, and shall hold a referendum on request of the Board or 10 per centum or more of the watermelon producers and handlers eligible to vote in a referendum, to determine if watermelon producers and handlers favor the termination or suspension of the plan. The Secretary shall terminate or suspend the plan at the end of the marketing year whenever the Secretary determines that the termination or suspension is favored by a majority of those voting in the referendum, and who produce or handle more than 50 per centum of the volume of the watermelons produced by the producers or handled by the handlers voting in the referendum. Any such referendum shall be conducted at county extension offices.

AMENDMENT PROCEDURE

SEC. 1655. The provisions of this subtitle applicable to plans shall be applicable to amendments to plans.

SEPARABILITY

SEC. 1656. If any provision of this subtitle or the application thereof to any person or circumstances is held invalid, the validity of the remainder of this subtitle and the application of such provision to other persons and circumstances shall not be affected thereby.

AUTHORIZATION OF APPROPRIATIONS

SEC. 1657. There are authorized to be appropriated such sums as are necessary to carry out the provisions of this subtitle, except that the funds so appropriated shall not be available for the payment of any expenses or expenditures of the Board in administering any provision of any plan issued under authority of this subtitle.

Subtitle D—Marketing Orders

MAXIMUM PENALTY FOR ORDER VIOLATIONS

SEC. 1661. (a) Section 8c(14) of the Agricultural Adjustment Act (7 U.S.C. 608c(14)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by striking out "$500" and inserting in lieu thereof "$5,000".

(b) The amendment made by subsection (a) shall not apply with respect to any violation described in section 8c(14) of the Agricultural Adjustment Act occurring before the date of the enactment of this Act.

LIMITATION ON AUTHORITY TO TERMINATE MARKETING ORDERS

SEC. 1662. (a) Section 8c(16) of the Agricultural Adjustment Act (7 U.S.C. 608c(16)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by—

(1) in subparagraph (A)—

(A) striking out "The Secretary" and inserting in lieu thereof "(i) Except as provided in clause (ii), the Secretary"; and

(B) adding at the end thereof the following:

"(ii) The Secretary may not terminate any order issued under this section for a commodity for which there is no Federal program established to support the price of such commodity unless the Secretary gives notice of, and a statement of the reasons relied upon by the Secretary for, the proposed termination of such order to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives nct later than 60 days before the date such order will be terminated."; and

(2) in subparagraph (C), striking out "The termination" and inserting in lieu thereof "Except as otherwise provided in this subsection with respect to the termination of an order issued under this section, the termination".

(b) The Secretary of Agriculture may not terminate any marketing order under section 8c(16) of the of the Agricultural Adjustment Act (7 U.S.C. 608c(16)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, if such termination becomes effective before January 16, 1986.

CONFIDENTIALITY OF INFORMATION

SEC. 1663. Section 8d(2) of the Agricultural Adjustment Act (7 U.S.C. 608d(2)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by—

(1) inserting in the first sentence after "pursuant to this section" the following: ", as well as information for marketing order programs that is categorized as trade secrets and commercial or financial information exempt under section 552(b)(4) of title 5 of the United States Code from disclosure under section 552 of such title,"; and

(2) inserting after the first sentence the following:

"Notwithstanding the preceding sentence, any such information relating to a marketing agreement or order applicable to milk

may be released upon the authorization of any regulated milk handler to whom such information pertains. The Secretary shall notify the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives not later than 10 legislative days before the contemplated release under law, of the names and addresses of producers participating in such marketing agreements and orders, and shall include in such notice a statement of reasons relied upon by the Secretary in making the determination to release such names and addresses.".

Subtitle E—Grain Inspection

GRAIN STANDARDS

SEC. 1671. Section 4 of the United States Grain Standards Act (7 U.S.C. 76) is amended by adding at the end thereof the following:

"(c) If the Government of any country requests that moisture content remain a criterion in the official grade designations of grain, such criterion shall be included in determining the official grade designation of grain shipped to such country.".

NEW GRAIN CLASSIFICATIONS

SEC. 1672. (a) The Secretary of Agriculture shall direct the Federal Grain Inspection Service and the Agricultural Research Service to cooperate in developing new means of establishing grain classifications taking into account characteristics other than those visually evident.

(b) The Secretary shall report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, semiannually, with the first report due not later than December 31, 1985, on the status of cooperative efforts required under subsection (a), as such efforts relate to more accurately classifying types of wheat and other grains currently in use.

STUDY OF GRAIN STANDARDS

SEC. 1673. (a)(1) The Office of Technology Assessment shall conduct a study of United States grain export quality standards and grain handling practices.

(2) The Office of Technology Assessment shall conduct such study—

(A) in consultation with the Secretary of Agriculture; and

(B) in accordance with Section 3(d) of Technology Assessment Act of 1972 (2 U.S.C. 472(d)).

(b) In conducting such study, the Office of Technology Assessment shall—

(1) evaluate the competitive problems the United States faces in international grain markets that may be attributed to grain quality standards and handling practices rather than price;

(2) identify the extent to which United States grain export quality standards and handling practices have contributed toward the recent decline in United States grain exports; and

(3) perform a comparative analysis between—

(A) the grain quality standards and practices of the United States and the major grain export competitors of the United States;

(B) the grain handling technology of the United States and the major grain export competitors of the United States;

(4) evaluate the consequences on United States export grain sales, the cost of exporting grain, and the prices received by farmers should United States export grain elevators be subject, by law or regulation, to requirements that—

(A) no dockage or foreign material (including but not limited to dust or particles of whatever origin) once removed from grain shall be recombined with any grain if there is a possibility that the recombined product may be exported from the United States;

(B) no dockage or foreign material of any origin may be added to any grain that may be exported if the result will be to reduce the grade or quality of the grain or to reduce the ability of the grain to resist spoilage; and

(C) no blending of grain with a similar grain of different moisture content may be permitted if the difference between the moisture contents of the grains being blended is more than 1 percent; and

(5) evaluate the current method of establishing grain classification, the feasibility of utilizing new technology to correctly classify grains, and the impact of new seed varieties on exports and users of grain.

(c) Not later than December 1, 1986, the Office of Technology Assessment shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report containing the results of the study required under this section, together with such comments and recommendations for the improvement of United States grain export quality standards and handling practices as the Office of Technology Assessment considers appropriate.

TITLE XVII—RELATED AND MISCELLANEOUS MATTERS

Subtitle A—Processing, Inspection, and Labeling

POULTRY INSPECTION

SEC. 1701. (a) Section 17 of the Poultry Products Inspection Act (21 U.S.C. 466) is amended by adding at the end thereof the following new subsection:

"(d)(1) Notwithstanding any other provision of law, all poultry, or parts or products thereof, capable of use as human food offered for importation into the United States shall—

"(A) be subject to the same inspection, sanitary, quality, species verification, and residue standards applied to products produced in the United States; and

"(B) have been processed in facilities and under conditions that are the same as those under which similar products are processed in the United States.

"(2) Any such imported poultry article that does not meet such standards shall not be permitted entry into the United States.

"(3) The Secretary shall enforce this subsection through—

"(A) random inspections for such species verification and for residues; and

"(B) random sampling and testing of internal organs and fat of carcasses for residues at the point of slaughter by the exporting country, in accordance with methods approved by the Secretary.".

(b) The amendment made by this section shall become effective 6 months after the date of enactment of this Act.

INSPECTION AND OTHER STANDARDS FOR IMPORTED MEAT AND MEAT FOOD PRODUCTS

SEC. 1702. (a) Section 20(f) of the Federal Meat Inspection Act (21 U.S.C. 620(f)) is amended by striking out the last sentence and inserting in lieu thereof the following: "Each foreign country from which such meat articles are offered for importation into the United States shall obtain a certification issued by the Secretary stating that the country maintains a program using reliable analytical methods to ensure compliance with the United States standards for residues in such meat articles. No such meat article shall be permitted entry into the United States from a country for which the Secretary has not issued such certification. The Secretary shall periodically review such certifications and shall revoke any certification if the Secretary determines that the country involved is not maintaining a program that uses reliable analytical methods to ensure compliance with United States standards for residues in such meat articles. The consideration of any application for a certification under this subsection and the review of any such certification, by the Secretary, shall include the inspection of individual establishments to ensure that the inspection program of the foreign country involved is meeting such United States standards.".

(b) Section 20 of the Federal Meat Inspection Act (21 U.S.C. 620) is amended by adding at the end thereof the following:

"(g) The Secretary may prescribe terms and conditions under which cattle, sheep, swine, goats, horses, mules, and other equines that have been administered an animal drug or antibiotic banned for use in the United States may be imported for slaughter and human consumption. No person shall enter cattle, sheep, swine, goats, horses, mules, and other equines into the United States in violation of any order issued under this subsection by the Secretary.".

EXAMINATION AND REPORT OF LABELING AND SANITATION STANDARDS FOR IMPORTATION OF AGRICULTURAL COMMODITIES

SEC. 1703. (a)(1) The Comptroller General of the United States shall conduct a study of Department of Health and Human Services and Department of Agriculture product purity and inspection requirements and regulations currently in effect for imported food products and agricultural commodities. The study shall evaluate the effectiveness of Federal regulations and inspection procedures to detect prohibited chemical residues and foreign matter in or on food or raw agricultural commodities in processed or unprocessed form.

(2) The study shall include a review of Federal regulations and inspection procedures currently in effect to detect in imported live animals chemicals and chemical residues the use of which is prohibited in the production of domestic live animals.

(3) The study shall include recommendations regarding the feasibility of requiring that quality control reports relating to product purity and inspection procedures be submitted from processing plants certified by the Secretary of Agriculture as eligible to export meat and meat food products to the United States.

(4) The study shall include recommendations on the adequacy of the Department of Health and Human Services and the Department of Agriculture to prescribe and enforce food sanitation requirements and chemical and chemical residue standards for imported agricultural commodities and food products.

(b) The study also shall evaluate the feasibility of requiring all imported meat and meat food products, agricultural commodities, and products of such commodities to bear a label stating the country of origin of such commodities and products. The study shall include an evaluation of the feasibility of requiring any person owning or operating an eating establishment that serves any *meat or meat food product required to be marked or labeled under paragraph (1) or (2) of section 7(c) of the Federal Meat Inspection Act (21 U.S.C. 607(c)) to inform individuals purchasing food from such establishment that meat or meat food products served at the establishment may be imported articles—*

(1) by displaying a sign indicating that imported meat is served in such establishment; or

(2) by providing the information specified in paragraph (1) of such section 7(c) on the menus offered to such individuals.

(c) The Secretary shall submit the results of the study conducted under subsection (a) to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate not later than one year after the date of enactment of this Act.

POTATO INSPECTION

Sec. 1704. The Secretary of Agriculture shall perform random spot checks of potatoes entering through ports of entry in the northeastern United States. The Secretary of Agriculture shall report to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives the results of such spot checks.

Subtitle B—Agricultural Stabilization and Conservation Committees

LOCAL COMMITTEES

Sec. 1711. (a) The fifth paragraph of section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) is amended—

(1) by striking out the third sentence and inserting in lieu thereof the following: "There shall be 3 local administrative areas in each county, except that, in counties with less than one hundred and fifty farmers, the county committee selected as hereinafter provided may reduce the number of local administrative areas to one, and except that the Secretary may include more than one county or parts of different counties in a local administrative area when the Secretary determines that there are insufficient farmers in an area to establish a slate of candidates for a community committee and hold an election.

(2) by striking out "annually" in the fourth sentence (as it existed before the amendments made by this section);

(3) by inserting after the fourth sentence (as it existed before the amendments made by this section) the following new sentences: "Each member of a local committee shall be elected for a term of 3 years. Each local committee shall meet (A) once each year and shall receive compensation for such meeting by the Secretary at not less than the level in effect on December 31, 1985, and (B) at the direction of the county committee and with the approval of the State committee, such additional times during the year as may be necessary to carry out this section without compensation. The meetings of a local committee shall be held on different days of the year."; and

(4) by inserting after the eighth sentence (as it existed before the amendments made by this section) the following new sentences: "The local committees in each county shall (A) in a county in which there is more than one local committee, serve as advisors and consultants to the county committee; (B) periodically meet with the county committee and State committee to be informed on farm program issues; (C) communicate with producers within their communities on issues or concerns regarding farm programs; (D) report to the county committee, the State committee, and other interested persons on changes to, or modifications of, farm programs recommended by producers in their communities; and (E) perform such other functions as are required by law or as the Secretary may specify. The Secretary shall ensure that information concerning changes in Federal laws in effect with respect to agricultural programs and the administration of such laws are communicated in a timely manner to local committees in areas that contain agricultural producers who might be affected by such changes.".

(b)(1) The amendments made by this section shall become effective on January 1, 1986, except that the amendments made by clauses (2) and (3) of subsection (a) shall not apply with respect to the term of office of any member of a local committee elected before January 1, 1986.

(2) If the number of local administrative areas and local committees in a county increases as a result of a change in the number of local administrative areas in the county under section 8(b) of the Soil Conservation and Domestic Allotment Act (as amended by subsection (a)(1)), any member of a local committee in such county elected before January 1, 1986, shall serve the unexpired portion of any term commenced before the date of such increase as a member of the local committee for the administrative area in which such member resides.

COUNTY COMMITTEES

Sec. 1712. The first sentence of the fifth paragraph of section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) is amended—

(1) by inserting "and as otherwise directed by law with respect to other programs and functions," after "Alaska,"; and

(2) by inserting a semicolon and "and the Secretary may use the services of such committees in carrying out other programs and functions of the Department of Agriculture" before the period at the end thereof.

SALARY AND TRAVEL EXPENSES

Sec. 1713. (a) Section 388(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1388(b)) is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end thereof the following new paragraph:

"(2)(A) The Secretary shall provide compensation to members of such county committees (at not less than the level in effect on December 31, 1985 for county committees) for work actually performed by such persons in cooperating in carrying out the Acts in connection with which such committees are used.

"(B) The rate of compensation received by such persons for such work on the date of enactment of the Food Security Act of 1985 shall be increased at the discretion of the Secretary.".

(b) Section 388 of such Act is amended by adding at the end thereof the following new subsection:

"(c)(1) The Secretary shall make payments to members of local, county, and State committees to cover expenses for travel incurred by such persons (including, in the case of a member of a local or county committee, travel between the home of such member and the local county office of the Agricultural Stabilization and Conservation Service) in cooperating in carrying out the Acts in connection with which such Committees are used.

"(2) Such travel expenses shall be paid in the manner authorized under section 5703 of title 5, United States Code, for the payment of expenses and allowances for individuals employed intermittently in the Federal Government service.".

(c) The amendments made by this section shall become effective on January 1, 1986.

Subtitle C—National Agricultural Policy Commission Act of 1985

SHORT TITLE

Sec. 1721. This subtitle may be cited as the "National Agricultural Policy Commission Act of 1985".

DEFINITIONS

Sec. 1722. As used in this subtitle—

(1) the term "Commission" means the National Commission on Agricultural Policy established under section 1723;

(2) the term "Governor" means the chief executive officer of a State; and

(3) the term "State" means the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, or the Trust Territory of the Pacific Islands.

ESTABLISHMENT OF COMMISSION

Sec. 1723. (a) There is established a National Commission on Agricultural Policy to conduct a study of—

(A) the structure, procedures, and methods of formulating and administering agricultural policies, programs, and practices of the United States; and

(B) conditions in rural areas of the United States and the manner in which such conditions relate to the provision of public services by Federal, State, and local governments.

(b) In addition to the members specified in subsection (c), the Commission shall be composed of fifteen members appointed by the President and selected as follows:

(1) The President shall request Governors of States to nominate members representing individuals and industries directly affected by agricultural policies, including—

(A) producers of major agricultural commodities or the products thereof in the United States;

(B) processors or refiners of United States agricultural commodities or the products thereof;

(C) exporters, transporters, or shippers of United States agricultural commodities or the products thereof;

(D) suppliers of agricultural equipment or materials to United States farmers;

(E) providers of financing or credit for agricultural purposes; and

(F) consumers of United States agricultural commodities or the products thereof.

(2) The Governor of a State may submit to the President a list of not less than two, nor more than four, nominees to serve on the Commission who represent individuals and industries referred to in paragraph (1).

(3)(A) Except as provided in subparagraphs (B) and (C), the President shall appoint 15 individuals from a total of, to the extent practicable, not less than sixty individuals nominated by States under paragraph (2) to serve on the Commission.

(B) The President may appoint to the Commission not more than—

(i) one individual nominated by a particular State; and

(ii) seven individuals of the same political party.

(C) If the President determines that the individuals nominated by States under paragraph (2) are not broadly representative of the individuals and industries referred to in paragraph (1), the President may substitute

no more than three other individuals to serve on the Commission who represent such individuals and industries.

(c)(1) The chairmen and ranking minority members of the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate shall—

(A) serve as ex officio members of the Commission; and

(B) have the same voting rights as the members of the Commission selected and appointed under subsection (b).

(2) The chairmen and ranking minority members may designate other members of the respective committees to serve in their stead as members of the Commission.

(d) A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(e) The Commission shall elect a chairman from among the members of the Commission who are selected and appointed under the provisions of subsection (b).

(f) The Commission shall meet at the call of the chairman or a majority of the Commission.

CONDUCT OF STUDY

SEC. 1724. The Commission shall study—

(1) the structure, procedures, and methods of formulating and administering agricultural policies, programs, and practices of the United States, including—

(A) the effectiveness of existing agricultural programs in improving farm income;

(B) the manner in which the programs may be improved to retain a family-farm system of agricultural production;

(C) the effect of legislative and administrative changes in agricultural policy on planning and long-term profitability of farmers;

(D) the effect on farmers of the existing system and structure of formulating and implementing agriculture policy;

(E) the effect of national and international economic trends on United States agricultural production;

(F) the means of adjusting the agricultural policies, programs, and practices of the United States to meet changing economic conditions;

(G) potential areas of conflict and compatibility between the structure of making agricultural policy and long-term stability in policy and practices;

(H) changing demographic trends and the manner in which such trends affect agriculture and agricultural policy consistency; and

(I) the role of State and local governments in future agricultural policy; and

(2) conditions in rural areas of the United States and the manner in which such conditions relate to the provision of public services by Federal, State, and local governments, including an analysis of—

(A) conditions that reflect the declining rural economy, including economic and demographic trends, rural and agricultural income and debt, and other appropriate social and economic indicators of such conditions;

(B) trends and fiscal conditions of rural local governments;

(C) trends and patterns in the delivery of rural public services;

(D) the impact of the deregulation of transportation, telecommunications, and banking on the rural economy and delivery of public services; and

(E) trends and patterns of Federal, State, and local government financing, delivery, and regulation of public services in rural areas of the United States.

REPORTS

SEC. 1725. Not later than twelve months after the date of the enactment of this Act, and each twelve months thereafter during the existence of the Commission, the Commission shall submit an annual report to the President and Congress containing the findings and recommendations of the Commission with respect to the matters referred to in section 1724. The Commission may not comment on legislation pending before Congress unless specifically requested to do so by the Chairman of an appropriate committee.

ADMINISTRATION

SEC. 1726. (a) The heads of executive agencies, the General Accounting Office, the International Trade Commission, and the Congressional Budget Office, to the extent permitted by law, shall provide the Commission with such information as the Commission may require in carrying out the duties and functions of the Commission.

(b)(1) Except as provided in paragraph (2), members of the Commission shall serve without any additional compensation for work performed on the Commission.

(2) Such members who are private citizens of the United States may be allowed travel expenses, including a per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the Government service under sections 5701 through 5707 of title 5, United States Code.

(c) Subject to the availability of funds appropriated in advance and such rules as may be adopted by the Commission and without regard to the provisions of title 5, United States Code, governing appointments in the competitive service or the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to the classification and General Schedule pay rates, the Chairman of the Commission may appoint and fix the compensation of a director and such additional staff personnel as the Commission determines are necessary to carry out duties and functions of the Commission.

(d)(1) On the request of the Commission, the Secretary of Agriculture shall furnish the Commission with such personnel and support services as are necessary to assist the Commission in carrying out duties and functions of the Commission.

(2) On the request of the Commission, the heads of other executive agencies and the General Accounting Office may furnish the Commission with such personnel and support services as the head of the agency or Office and the Chairman of the Commission agree are necessary to assist the Commission in carrying out duties and functions of the Commission.

(3) The Commission shall not be required to pay or reimburse an agency or the Office for personnel and support services provided under this section.

(e)(1) In accordance with section 12 of the Federal Advisory Committee Act, the Secretary of Agriculture shall maintain records of—

(A) the disposition of any funds that may be at the disposal of the Commission; and

(B) the nature and extent of activities of the Commission.

(2) The Comptroller General of the United States shall have access to such records for the purpose of audit and examination.

(f) The Commission shall be exempt from sections 7(d), 10(e), 10(f), and 14 of the Federal Advisory Committees Act and sections 4301 through 4308 of title 5 of the United States Code.

AUTHORIZATION OF APPROPRIATIONS

SEC. 1727. (a) There are authorized to be appropriated such sums as are necessary to carry out this subtitle.

(b) To the maximum extent practicable, this subtitle shall be carried out using funds otherwise available to the Secretary of Agriculture for the expenses of advisory committees.

TERMINATION

SEC. 1728. This subtitle and the Commission shall terminate five years after the date of enactment of this Act.

Subtitle C—National Aquaculture Improvement Act of 1985

SHORT TITLE

SEC. 1731. This subtitle may be cited as the "National Aquaculture Improvement Act of 1985".

FINDINGS, PURPOSE, AND POLICY

SEC. 1732. Section 2 of the National Aquaculture Act of 1980 (16 U.S.C. 2801) is amended—

(1) by amending subsection (a)(3)—

(A) by striking out "10 per centum" and inserting in lieu thereof "13 percent", and

(B) by striking out "3 per centum" and inserting in lieu thereof "6 percent";

(2) by amending subsection (a)(7) by inserting "scientific," before "economic,", and by inserting "the lack of supportive Government policies," immediately after "management information,";

(3) by amending subsection (b)—

(A) by striking out "and" at the end of paragraph (2),

(B) by redesignating paragraph (3) as paragraph (4), and

(C) by inserting after paragraph (2) the following new paragraph:

"(3) establishing the Department of Agriculture as the lead Federal agency with respect to the coordination and dissemination of national aquaculture information by designating the Secretary of Agriculture as the permanent chairman of the coordinating group and by establishing a National Aquaculture Information Center within the Department of Agriculture; and"; and

(4) by amending subsection (c) by inserting "for reducing the United States trade deficit in fisheries products," immediately after "potential" in the first sentence.

DEFINITIONS

SEC. 1733. Section 3 of the National Aquaculture Act of 1980 (16 U.S.C. 2802) is amended—

(1) by redesignating paragraph (8) as paragraph (9); and

(2) by inserting after paragraph (7) the following new paragraph:

"(8) The term 'Secretary' means the Secretary of Agriculture.".

NATIONAL AQUACULTURE DEVELOPMENT PLAN

SEC. 1734. Section 4 of the National Aquaculture Act of 1980 (16 U.S.C. 2803) is amended as follows:

(1) Subsection (a) is amended—

(A) by striking out "Secretaries" each place it appears in paragraph (2) and inserting in lieu thereof "Secretary";

(B) by amending the first sentence of paragraph (2) by inserting "the Secretary of Commerce and the Secretary of the Interior," immediately after "shall consult with".

(C) by striking out paragraph (3).

(2) Subsection (b) is amended—

(A) by inserting "to" immediately after "determine" in paragraph (1);

(B) by striking out "Secretaries deem" in paragraph (6) and inserting in lieu thereof "Secretary deems"; and

(C) by striking out "Secretaries" in the matter following paragraph (6) and inserting in lieu thereof "Secretary".

(3) Subsection (c) is amended—

(A) by striking out "Secretaries determine" in paragraph (1) and inserting in lieu thereof "Secretary determines";

(B) by striking out "and" at the end of paragraph (2)(A);

(C) by striking out the period at the end of paragraph (2)(B) and inserting in lieu thereof "; and"; and

(D) by inserting immediately after paragraph (2)(B) the following new subparagraph:

"(C) the concurrence of the Secretaries.".

FUNCTIONS AND POWERS OF SECRETARIES

SEC. 1735. Section 5 of the National Aquaculture Act of 1980 (16 U.S.C. 2804) is amended as follows:

(1) Subsection (c) is amended to read as follows:

"(c) INFORMATION SERVICES.—(1) In addition to performing such other mandatory functions under this Act—

"(A) the Secretaries shall collect and analyze scientific, technical, legal, and economic information relating to aquaculture, including acreages, water use, production, marketing, culture techniques, and other relevant matters;

"(B) the Secretary shall—

"(i) establish, within the Department of Agriculture, a National Aquaculture Information Center that shall serve as a repository for the information generated under subparagraph (A) and other provisions of this Act and shall, on a request basis, make that information available to the public,

"(ii) arrange with foreign nations for the exchange of information relating to aquaculture and support a translation service, and

"(iii) conduct a study of the extent to which the United States aquaculture industry has access to relevant Federal programs which assist the agricultural sector and report to Congress on the findings of such study by December 31, 1986;

"(C) the Secretary of Commerce shall conduct a study, and report to Congress thereon by December 31, 1987, to determine whether existing capture fisheries could be adversely affected by competition from products produced by commercial aquacultural enterprises and include in such study an assessment of any adverse effect, by species and by geographical region, on such fisheries and recommend measures to ameliorate any such effect; and

"(D) the Secretary of the Interior, in consultation with the Secretary of Commerce, shall undertake a study, and report to Congress thereon by December 31, 1987, to identify exotic species introduced into the United States waters as a result of aquaculture activities, and to determine the potential benefits and impacts of the introduction of exotic species.

"(2) Any production information submitted to the Secretaries under paragraph (1)(A) shall be confidential and may only be disclosed if required under court order. The Secretaries shall preserve such confidentiality. The Secretaries may release or make public any information in any aggregate or summary form that does not directly or indirectly disclose the identity, business transactions, or trade secrets of any person who submits such information.".

(2) Subsection (d) is amended—

(A) by striking out "Secretaries" each place it appears and inserting in lieu thereof "Secretary";

(B) by inserting "and in consultation with the Secretary of Commerce and the Secretary of the Interior," immediately after "group" in the first sentence;

(C) in the second sentence by—

(i) striking out "Each such" and inserting in lieu thereof "Such"; and

(ii) striking out "under section 4(d)";

(D) by striking out "deem" in the second sentence and inserting in lieu thereof "deems"; and

(E) by striking out the last sentence and inserting in lieu thereof "The report required by this subsection shall be submitted to the Congress not later than February 1, 1988.".

COORDINATION OF NATIONAL ACTIVITIES REGARDING AQUACULTURE

SEC. 1736. Section 6 of the National Aquaculture Act of 1980 (16 U.S.C. 2805) is amended as follows:

(1) Subsection (a) is amended by inserting ", who shall be the permanent chairman of the coordinating group" immediately after "Agriculture" in paragraph (1).

(2) Subsection (c) is repealed.

(3) Subsections (d), (e), and (f) are redesignated as subsections (c), (d), and (e), respectively.

(4) Subsection (e), as redesignated by paragraph (3), is amended by striking out "subsection (d)" in the second sentence and inserting in lieu thereof "subsection (c)".

AUTHORIZATION OF APPROPRIATIONS

SEC. 1737. Section 10 of the National Aquaculture Act of 1980 (16 U.S.C. 2809) is amended by striking out "1985" in each of paragraphs (1), (2), and (3) and inserting in lieu thereof "1985, and $1,000,000 for each of fiscal years 1986, 1987, and 1988".

Subtitle E—Special Study and Pilot Projects on Futures Trading

FINDINGS AND DECLARATION OF POLICY

SEC. 1741. (a) Congress finds that there is a need for investigation and development of alternative price support programs carried out by the Department of Agriculture; that agricultural producers and others have insufficient knowledge concerning the nature and extent of price stabilization available in the private sector; and that more information is needed to accurately assess the Federal budgetary impact of producer participation in such private sector risk avoidance services.

(b) It is declared to be the policy of the United States that the Department of Agriculture conduct economic research to develop more information concerning the manner in which producers might utilize agricultural commodity futures markets and options markets in connection with their marketing of the agricultural commodities of their own production; and to determine the nature and effect widespread utilization of such markets by producers would have on the prices they receive for their agricultural commodities, and to determine the feasibility of interfacing traditional Federal price support programs with private sector risk avoidance services.

STUDY BY THE DEPARTMENT OF AGRICULTURE

SEC. 1742. The Secretary of Agriculture shall conduct a study utilizing the services of the various agencies of the United States, including, but not limited to, the United States Department of Agriculture and the Commodity Futures Trading Commission, to determine the manner in which agricultural commodity futures markets and agricultural commodity options markets might be used by producers of agricultural commodities traded on such markets to provide such producers with price stability and income protection; the extent of the price stability and income protection producers might reasonably expect to receive from such participation; and of the Federal budgetary impact of such participation compared with the cost of the applicable established price support programs for agricultural commodities. The Secretary shall report the results of such study to the Committee on Agriculture, Nutrition and Forestry of the Senate and to the Committee on Agriculture of the House of Representatives on or before December 31, 1988.

PILOT PROGRAM

SEC. 1743. In connection with the study to be undertaken by the Secretary as required by section 1742 of this subtitle, the Secretary shall conduct a pilot program with respect to the crops of wheat, feed grains, soybean, and cotton in at least 40 counties which actively produce reasonable quantities of such major agricultural commodities traded on the commodity futures markets and the commodity options markets. The Secretary shall, in cooperation with the futures and options industry and the chairman of the commodity futures trading commission, conduct an extensive educational program for producers in the counties selected for the pilot program. The program shall, among other things, provide that a reasonable number of producers, as determined by the Secretary, may at their election and in accordance with pilot program requirements developed by the Secretary, participate in the trading of designated agricultural commodities on a futures market or options market in a manner designed to protect and maximize the return on agricultural commodities of their own production marketed by them in accordance with program requirements. Participating producers shall be assured by the Secretary under the terms of the program, using funds of the Commodity Credit Corporation, that the net return received for the agricultural commodities that such producers allocate to the program in the manner specified by the Secretary is no less than the price support loan level for such agricultural commodity in the county where it is produced. In the formulation of the pilot program the Secretary shall utilize the services of an advisory panel selected by the Secretary consisting of producers, processors, exporters, and futures and options traders on organized futures exchanges.

Subtitle F—Animal Welfare

FINDINGS

SEC. 1751. For the purposes of this subtitle, the Congress finds that—

(1) the use of animals is instrumental in certain research and education for advancing knowledge of cures and treatment for diseases and injuries which afflict both humans and animals;

(2) methods of testing that do not use animals are being and continue to be developed which are faster, less expensive, and more accurate than traditional animal experiments for some purposes and further opportunities exist for the development of these methods of testing;

(3) measures which eliminate or minimize the unnecessary duplication of experiments on animals can result in more productive use of Federal funds; and

(4) measures which help meet the public concern for laboratory animal care and treatment are important in assuring that research will continue to progress.

STANDARDS AND CERTIFICATION PROCESS

SEC. 1752. (a) Section 13 of the Animal Welfare Act (7 U.S.C. 2143) is amended by—

(1) redesignating subsections (b) through (d) as subsections (f) through (h) respectively; and

(2) striking out the first two sentences of subsection (a) and inserting in lieu thereof the following new sentences: "(1) The Secretary shall promulgate standards to govern the humane handling, care, treatment, and transportation of animals by dealers, research facilities, and exhibitors.

"(2) The standards described in paragraph (1) shall include minimum requirements—

"(A) for handling, housing, feeding, watering, sanitation, ventilation, shelter from extremes of weather and temperatures, adequate veterinary care, and separation by species where the Secretary finds necessary for humane handling, care, or treatment of animals; and

"(B) for exercise of dogs, as determined by an attending veterinarian in accordance with general standards promulgated by the Secretary, and for a physical environment adequate to promote the psychological well-being of primates.

"(3) In addition to the requirements under paragraph (2), the standards described in paragraph (1) shall, with respect to animals in research facilities, include requirements—

"(A) for animal care, treatment, and practices in experimental procedures to ensure that animal pain and distress are minimized, including adequate veterinary care with the appropriate use of anesthetic, analgesic, tranquilizing drugs, or euthanasia;

"(B) that the principal investigator considers alternatives to any procedure likely to produce pain to or distress in an experimental animal;

"(C) in any practice which could cause pain to animals—

"(i) that a doctor of veterinary medicine is consulted in the planning of such procedures;

"(ii) for the use of tranquilizers, analgesics, and anesthetics;

"(iii) for pre-surgical and post-surgical care by laboratory workers, in accordance with established veterinary medical and nursing procedures;

"(iv) against the use of paralytics without anesthesia; and

"(v) that the withholding of tranquilizers, anesthesia, analgesia, or euthanasia when scientifically necessary shall continue for only the necessary period of time;

"(D) that no animal is used in more than one major operative experiment from which it is allowed to recover except in cases of—

"(i) scientific necessity; or

"(ii) other special circumstances as determined by the Secretary; and

"(E) that exceptions to such standards may be made only when specified by research protocol and that any such exception shall be detailed and explained in a report outlined under paragraph (7) and filed with the Institutional Animal Committee.".

(b) Section 13(a) of such Act is further amended—

(1) by designating the third and fourth sentences as paragraph (4);

(2) by designating the fifth sentence as paragraph (5); and

(3) by striking out the last sentence and inserting in lieu thereof the following:

"(6)(A) Nothing in this Act—

"(i) except as provided in paragraphs (7) of this subsection, shall be construed as authorizing the Secretary to promulgate rules, regulations, or orders with regard to the design, outlines, or guidelines of actual research or experimentation by a research facility as determined by such research facility;

"(ii) except as provided subparagraphs (A) and (C) (ii) through (v) of paragraph (3) and paragraph (7) of this subsection, shall be construed as authorizing the Secretary to promulgate rules, regulations, or orders with regard to the performance of actual research or experimentation by a research facility as determined by such research facility; and

"(iii) shall authorize the Secretary, during inspection, to interrupt the conduct of actual research or experimentation.

"(B) No rule, regulation, order, or part of this Act shall be construed to require a research facility to disclose publicly or to the Institutional Animal Committee during its inspection, trade secrets or commercial or financial information which is privileged or confidential.

"(7)(A) The Secretary shall require each research facility to show upon inspection, and to report at least annually, that the provisions of this Act are being followed and that professionally acceptable standards governing the care, treatment, and use of animals are being followed by the research facility during actual research or experimentation.

"(B) In complying with subparagraph (A), such research facilities shall provide—

"(i) information on procedures likely to produce pain or distress in any animal and assurances demonstrating that the principal investigator considered alternatives to those procedures;

"(ii) assurances satisfactory to the Secretary that such facility is adhering to the standards described in this section; and

"(iii) an explanation for any deviation from the standards promulgated under this section.

"(8) Paragraph (1) shall not prohibit any State (or a political subdivision of such State) from promulgating standards in addition to those standards promulgated by the Secretary under paragraph (1).".

(c) Section 13 of such Act is further amended by inserting after subsection (a) the following new subsections:

"(b)(1) The Secretary shall require that each research facility establish at least one Committee. Each Committee shall be appointed by the chief executive officer of each such research facility and shall be composed of not fewer than three members. Such members shall possess sufficient ability to assess animal care, treatment, and practices in experimental research as determined by the needs of the research facility and shall represent society's concerns regarding the welfare of animal subjects used at such facility. Of the members of the Committee—

"(A) at least one member shall be a doctor of veterinary medicine;

"(B) at least one member—

"(i) shall not be affiliated in any way with such facility other than as a member of the Committee;

"(ii) shall not be a member of the immediate family of a person who is affiliated with such facility; and

"(iii) is intended to provide representation for general community interests in the proper care and treatment of animals; and

"(C) in those cases where the Committee consists of more than three members, not more than three members shall be from the same administrative unit of such facility.

"(2) A quorum shall be required for all formal actions of the Committee, including inspections under paragraph (3).

"(3) The Committee shall inspect at least semiannually all animal study areas and animal facilities of such research facility and review as part of the inspection—

"(A) practices involving pain to animals, and

"(B) the condition of animals,

to ensure compliance with the provisions of this Act to minimize pain and distress to animals. Exceptions to the requirement of inspection of such study areas may be made by the Secretary if animals are studied in their natural environment and the study area is prohibitive to easy access.

"(4)(A) The Committee shall file an inspection certification report of each inspection at the research facility. Such report shall—

"(i) be signed by a majority of the Committee members involved in the inspection;

"(ii) include reports of any violation of the standards promulgated, or assurances required, by the Secretary, including any deficient conditions of animal care or treatment, any deviations of research practices from originally approved proposals that adversely affect animal welfare, any notification to the facility regarding such conditions, and any corrections made thereafter;

"(iii) include any minority views of the Committee; and

"(iv) include any other information pertinent to the activities of the Committee.

"(B) Such report shall remain on file for at least three years at the research facility and shall be available for inspection by the Animal and Plant Health Inspection Service and any funding Federal agency.

"(C) In order to give the research facility an opportunity to correct any deficiencies or deviations discovered by reason of paragraph (3), the Committee shall notify the administrative representative of the research facility of any deficiencies or deviations from the provisions of this Act. If, after notification and an opportunity for correction, such deficiencies or deviations remain uncorrected, the Committee shall notify (in writing) the Animal and Plant Health Inspection Service and the funding Federal agency of such deficiencies or deviations.

"(5) The inspection results shall be available to Department of Agriculture inspectors for review during inspections. Department of Agriculture inspectors shall forward any Committee inspection records which include reports of uncorrected deficiencies or deviations to the Animal and Plant Health Inspection Service and any funding Federal agency of the project with respect to which such uncorrected deficiencies and deviations occurred.

"(c) In the case of Federal research facilities, a Federal Committee shall be established and shall have the same composition and responsibilities provided in subsection (b), except that the Federal Committee shall report deficiencies or deviations to the head of the Federal agency conducting the research rather than to the Animal and Plant Health Inspection Service. The head of the Federal agency conducting the research shall be responsible for—

"(1) all corrective action to be taken at the facility; and

"(2) the granting of all exceptions to inspection protocol.

"(d) Each research facility shall provide for the training of scientists, animal technicians, and other personnel involved with animal care and treatment in such facility as required by the Secretary. Such training shall include instruction on—

"(1) the humane practice of animal maintenance and experimentation;

"(2) research or testing methods that minimize or eliminate the use of animals or limit animal pain or distress;

"(3) utilization of the information service at the National Agricultural Library, established under subsection (e); and

"(4) methods whereby deficiencies in animal care and treatment should be reported.

"(e) The Secretary shall establish an information service at the National Agricultural Library. Such service shall, in cooperation with the National Library of Medicine, provide information—

"(1) pertinent to employee training;

"(2) which could prevent unintended duplication of animal experimentation as determined by the needs of the research facility; and

"(3) on improved methods of animal experimentation, including methods which could—

"(A) reduce or replace animal use; and

"(B) minimize pain and distress to animals, such as anesthetic and analgesic procedures.

"(f) In any case in which a Federal agency funding a research project determines that conditions of animal care, treatment, or practice in a particular project have not been in compliance with standards promulgated under this Act, despite notification by the Secretary or such Federal agency to the research facility and an opportunity for correction, such agency shall suspend or revoke Federal support for the project. Any research facility losing Federal support as a result of actions taken under the preceding sentence shall have the right of appeal as provided in sections 701 through 706 of title 5, United States Code.".

INSPECTIONS

SEC. 1753. Section 16(a) of the Animal Welfare Act (7 U.S.C. 2146(a)) is amended by inserting after the first sentence the following: "The Secretary shall inspect each research facility at least once each year and, in the case of deficiencies or deviations from the standards promulgated under this Act, shall conduct such follow-up inspections as may be necessary until all deficiencies or deviations from such standards are corrected.".

PENALTY FOR RELEASE OF TRADE SECRETS

SEC. 1754. The Animal Welfare Act (7 U.S.C. 2131-2156) is amended by adding at the end thereof the following section:

"SEC. 27. (a) It shall be unlawful for any member of an Institutional Animal Committee to release any confidential information of the research facility including any information that concerns or relates to—

"(1) the trade secrets, processes, operations, style of work, or apparatus; or

"(2) the identity, confidential statistical data, amount or source of any income, profits, losses, or expenditures,

of the research facility.

"(b) It shall be unlawful for any member of such Committee—

"(1) to use or attempt to use to his advantages; or

"(2) to reveal to any other person,

any information which is entitled to protection as confidential information under subsection (a).

"(c) A violation of subsection (a) or (b) is punishable by—

"(1) removal from such Committee; and

"(2)(A) a fine of not more than $1,000 and imprisonment of not more than one year; or

"(B) if such violation is willful, a fine of not more than $10,000 and imprisonment of not more than three years.

"(d) Any person, including any research facility, injured in its business or property by reason of a violation of this section may recover all actual and consequential damages sustained by such person and the cost of the suit including a reasonable attorney's fee.

"(e) Nothing in this section shall be construed to affect any other rights of a person injured in its business or property by reason of a violation of this section. Subsection (d) shall not be construed to limit the exercise of any such rights arising out of or relating to a violation of subsections (a) and (b).".

INCREASED PENALTIES FOR VIOLATION OF THE ACT

SEC. 1755. (a) Subsection (b) of section 19 of the Animal Welfare Act (7 U.S.C. 2149(b)) is amended—

(1) in the first sentence by striking out "$1,000 for each such violation" and inserting in lieu thereof "$2,500 for each such violation"; and

(2) in the sixth sentence by striking out "$500 for each offense" and inserting in lieu thereof "$1,500 for each offense".

(b) Subsection (d) of such section is amended by striking out "$1,000" and inserting in lieu thereof "$2,500".

DEFINITIONS

SEC. 1756. (a) Section 2 of the Animal Welfare Act (7 U.S.C. 2132) is amended by—

(1) striking out "and" after the semicolon in subsection (i);

(2) striking out the period at the end of subsection (j) and inserting in lieu thereof a semicolon; and

(3) adding after subsection (j) the following new subsections:

"(k) The term 'Federal agency' means an Executive agency as such term is defined in section 105 of title 5, United States Code, and with respect to any research facility means the agency from which the research facility receives a Federal award for the conduct of research, experimentation, or testing, involving the use of animals;

"(l) The term 'Federal award for the conduct of research, experimentation, or testing, involving the use of animals' means any mechanism (including a grant, award, loan, contract, or cooperative agreement) under which Federal funds are provided to support the conduct of such research.

"(m) The term 'quorum' means a majority of the Committee members;

"(n) The term 'Committee' means the Institutional Animal Committee established under section 13(b); and

"(o) The term 'Federal research facility' means each department, agency, or instrumentality of the United States which uses live animals for research or experimentation.".

(b) For purposes of this Act, the term "animal" shall have the same meaning as defined in section 2(g) of the Animal Welfare Act (7 U.S.C. 2132(g)).

CONSULTATION WITH THE SECRETARY OF HEALTH AND HUMAN SERVICES

SEC. 1757. Section 15(a) of the Animal Welfare Act (7 U.S.C. 2145(a)) is amended by adding after the first sentence the following: "The Secretary shall consult with the Secretary of Health and Human Services prior to issuance of regulations.".

TECHNICAL AMENDMENT

SEC. 1758. Section 14 of the Animal Welfare Act (7 U.S.C. 2144) is amended by changing "section 13" to "sections 13 (a), (f), (g), and (h)" wherever it appears.

EFFECTIVE DATE

SEC. 1759. This subtitle shall take effect 1 year after the date of the enactment of this Act.

Subtitle G—Miscellaneous

COMMODITY CREDIT CORPORATION STORAGE CONTRACTS

SEC. 1761. Section 4(h) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714b(h)) is amended by inserting, after the colon at the end of the second proviso, the following: "And provided further, That any contract entered into by the Corporation for the use of a storage facility shall provide at least that (1) the rental rate charged for an extended term in excess of one year shall be at an annual rate less than that which is charged for a one-year contract, (2) any obligation of the Corporation to pay for the use of any space in a facility shall be relieved to the extent that the Corporation does not use the space and payment is made by another person for the use of such space, and (3) if the Corporation determines that it no longer needs the space reserved in the facility, the Corporation may be relieved, for the remaining term of the contract, of its obligations to an extent and in a manner that will provide significant savings to the Corporation while permitting the owner of the facility reasonable time to lease such space to another person:".

WEATHER AND CLIMATE INFORMATION IN AGRICULTURE

SEC. 1762. (a) Congress finds that—

(1) agricultural and silvicultural operations are vulnerable to damage from atmospheric conditions that accurate and timely reporting of weather information can help prevent;

(2) the maintenance of current weather and climate analysis and information dissemination systems, and Federal, State, and private efforts to improve these systems, is essential if agriculture and silviculture are to mitigate damage from atmospheric conditions;

(3) agricultural and silvicultural weather services at the Federal level should be maintained with joint planning between the National Oceanic and Atmospheric Administration and the Department of Agriculture; and

(4) efforts should be made, involving user groups, weather and climate information providers, and Federal and State governments, to expand the use of weather and climate information in agriculture and silviculture.

(b) It, therefore, is declared to be the policy of Congress that it is in the public interest to maintain an active Federal involvement in providing agricultural and silvicultural weather and climate information and that efforts should be made, among users of this information and among private providers of this information, to improve use of this information.

EMERGENCY FEED PROGRAM

SEC. 1763. (a) Paragraph (2) of section 1105(b) of the Food and Agriculture Act of 1977 (7 U.S.C. 2267(b)) is amended by striking out "feed for such person's livestock" and inserting in lieu thereof "feed that has adequate nutritive value and is suitable for each of such person's respective particular types of livestock".

(b) Section 407 of the Agricultural Act of 1949 (7 U.S.C. 1427) is amended by inserting after the fifth sentence the following new sentence: "Notwithstanding the foregoing provisions of this section relating to the authority of the Commodity Credit Corporation to make available to certain persons in certain areas during emergencies feed for livestock, the Commodity Credit Corporation (1) may make such feed available to

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such persons in areas in which feed grains are normally produced and normally available for feed purposes, but in which they are unavailable because of a catastrophe described in the fourth sentence of this section, (2) may make such feed available to such persons through feed dealers in the areas, (3) shall make such feed available at a price not less than the price prescribed in the fourth sentence of this section, and (4) shall bear any expenses incurred in connection with making such feed available to such persons under this sentence, including transportation and handling costs.".

CONTROLLED SUBSTANCES PRODUCTION CONTROL

SEC. 1764. (a) As used in this section:

(1) The term "controlled substance" has the same meaning given such term in section 102(6) of the Controlled Substances Act (21 U.S.C. 801(6)).

(2) The term "Secretary" means the Secretary of Agriculture.

(3) The term "State" means each of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands of the United States, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

(b) Notwithstanding any other provision of law, following the date of enactment of this Act, any person who is convicted under Federal or State law of planting, cultivation, growing, producing, harvesting, or storing a controlled substance in any crop year shall be ineligible for—

(1) as to any commodity produced during that crop year, and the four succeeding crop years, by such person—

(A) any price support or payment made available under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.), the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), or any other Act;

(B) a farm storage facility loan made under section 4(h) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714b(h));

(C) crop insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.);

(D) a disaster payment made under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.); or

(E) a loan made, insured or guaranteed under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) or any other provision of law administered by the Farmers Home Administration; or

(2) a payment made under section 4 or 5 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714b or 714c) for the storage of an agricultural commodity that is—

(A) produced during that crop year, or any of the four succeeding crop years, by such person; and

(B) acquired by the Commodity Credit Corporation.

(c) Not later than 180 days after the date of enactment of this Act, the Secretary shall issue such regulations as the Secretary determines are necessary to carry out this section, including regulations that—

(1) define the term "person";

(2) govern the determination of persons who shall be ineligible for program benefits under this section; and

(3) protect the interests of tenants and sharecroppers.

STUDY OF UNLEADED FUEL IN AGRICULTURAL MACHINERY

SEC. 1765. (a)(1) The Administrator of the Environmental Protection Agency and the Secretary of Agriculture shall jointly conduct a study of the use of fuel containing lead additives, and alternative lubricating additives, in gasoline engines that are—

(A) used in agricultural machinery; and

(B) designed to combust fuel containing such additives.

(2) The study shall analyze the potential for mechanical problems (including but not limited to valve recession) that may be associated with the use of other fuels in such engines.

(b)(1) For purposes of the study required under this section, the Administrator of the Environmental Protection Agency and the Secretary of Agriculture are authorized to enter into such contracts and other arrangements as may be appropriate to obtain the necessary technical information.

(2) The Secretary of Agriculture shall specify the types and items of agricultural machinery to be included in the study required under this section. Such types and items shall be representative of the types and items of agricultural machinery used on farms in the United States.

(3) All testing of engines carried out for purposes of such study shall reflect actual agricultural conditions to the extent practicable, including revolutions per minute and payloads.

(c) Not later than January 1, 1987—

(1) the Administrator of the Environmental Protection Agency and the Secretary of Agriculture shall publish the results of the study required under this section; and

(2) the Administrator shall publish in the Federal Register notice of the publication of such study and a summary thereof.

(d)(1) After notice and opportunity for hearing, but not later than 6 months after publication of the study, the Administrator shall—

(A) make findings and recommendations on the need for lead additives in gasoline to be used on a farm for farming purposes, including a determination of whether a modification of the regulations limiting lead content of gasoline would be appropriate in the case of gasoline used on a farm for farming purposes; and

(B) submit to the President and Congress a report containing—

(i) the study;

(ii) a summary of the comments received during the public hearing (including the comments of the Secretary); and

(iii) the findings and recommendations of the Administrator made in accordance with clause (1).

(2) The report shall be transmitted to—

(A) the Committee on Energy and Commerce of the House of Representatives;

(B) the Committee on Environment and Public Works of the Senate;

(C) the Committee on Agriculture of the House of Representatives; and

(D) the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(e)(1) Between January 1, 1986, and December 31, 1987, the Administrator shall monitor the actual lead content of leaded gasoline sold in the United States.

(2) The Administrator shall determine the average lead content of such gasoline for each 3-month period between January 1, 1986, and December 31, 1987.

(3) If the actual lead content falls below an average of 0.2 of a gram of lead per gallon in any such 3-month period, the Administrator shall—

(A) report to Congress; and

(B) publish a notice thereof in the Federal Register.

(f) Until January 1, 1988, no regulation of the Administrator issued under section 211 of the Clean Air Act (42 U.S.C. 7545) regarding the control or prohibition of lead additives in gasoline may require an average lead content per gallon that is less than 0.1 of a gram per gallon.

(g) To carry out this section, there is authorized to be appropriated $1,000,000, to be available without fiscal year limitation.

POTATO ADVISORY COMMISSION

SEC. 1767. It is the sense of Congress that—

(1) the Secretary of Agriculture should consider the recommendations of the potato advisory commission established by the Secretary on an ad hoc basis;

(2) such commission should address industry concerns including trade, quality inspections, and pesticide use, to the extent practicable;

(3) such commission should meet periodically; and

(4) the recommendations and actions of such committee should be reported to the Chairmen of the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives, and to the public.

VIRUSES, SERUMS, TOXINS, AND ANALOGOUS PRODUCTS

SEC. 1768. (a) The first sentence of the eighth paragraph of the matter under the heading "BUREAU OF ANIMAL INDUSTRY" of the Act entitled "An Act making appropriations for the Department of Agriculture for the fiscal year ending June thirtieth, nineteen hundred and fourteen", approved March 4, 1913 (21 U.S.C. 151), is amended by striking out "from one State or Territory or the District of Columbia to any other State or Territory or the District of Columbia" and inserting in lieu thereof "in or from the United States, the District of Columbia, any territory of the United States, or any place under the jurisdiction of the United States".

(b) The fourth sentence of such paragraph (21 U.S.C. 154) is amended by inserting "or otherwise to carry out this paragraph," after "animals," the first place it appears.

(c) Such paragraph is amended by inserting after the fourth sentence the following new sentences: "In order to meet an emergency condition, limited market or local situation, or other special circumstance (including production solely for intrastate use under a State-operated program), the Secretary may issue a special license under an expedited procedure on such conditions as are necessary to assure purity, safety, and a reasonable expectation of efficacy. The Secretary shall exempt by regulation from the requirement of preparation pursuant to an unsuspended and unrevoked license any virus, serum, toxin, or analogous product prepared by any person, firm, or corporation—

"(1) solely for administration to animals of such person, firm, or corporation;

"(2) solely for administration to animals under a veterinarian-client-patient relationship in the course of the State licensed professional practice of veterinary medicine by such person, firm, or corporation; or

"(3) solely for distribution within the State of production pursuant to a license granted by such State under a program determined by the Secretary to meet criteria under which the State—

"(A) may license virus, serum, toxin, and analogous products and establishments that produce such products;

"(B) may review the purity, safety, potency, and efficacy of such products prior to licensure;

"(C) may review product test results to assure compliance with applicable stand-

ards for purity, safety, and potency, prior to release to the market;

"(D) may deal effectively with violations of State law regulating virus, serum, toxin, and analogous products; and

"(E) exercises the authority referred to in subclauses (A) through (D) consistent with the intent of this paragraph of prohibiting the preparation, sale, barter, exchange, or shipment of worthless, contaminated, dangerous, or harmful virus, serum, toxin, or analogous products.".

(d) The seventh sentence of such paragraph (21 U.S.C. 157) (as it existed before the amendments made by this section) is amended by striking out "licensed under this Act".

(e) Such paragraph is amended by inserting after the eighth sentence (21 U.S.C. 158) (as it existed before the amendments made by this section) the following new sentences: "The procedures of sections 402, 403, and 404 of the Federal Meat Inspection Act (21 U.S.C. 672, 673, and 674) (relating to detentions, seizures and condemnations, and injunctions, respectively) shall apply to the enforcement of this paragraph with respect to any product prepared, sold, bartered, exchanged, or shipped in violation of this paragraph or a regulation promulgated under this paragraph. The provisions (including penalties) of section 405 of such Act (21 U.S.C. 675) shall apply to the performance of official duties under this paragraph. Congress finds that (i) the products and activities that are regulated under this paragraph are either in interstate or foreign commerce or substantially affect such commerce or the free flow thereof, and (ii) regulation of the products and activities as provided in this paragraph is necessary to prevent and eliminate burdens on such commerce and to effectively regulate such commerce.".

(f)(1) Except as provided in paragraph (2), the amendments made by this section shall become effective on the date of enactment of this Act.

(2)(A) Subject to subparagraphs (B) through (D), in the case of a person, firm, or corporation preparing, selling, bartering, exchanging, or shipping a virus, serum, toxin, or analogous product during the 12-month period ending on the date of enactment of this Act solely for intrastate commerce or for exportation, such product shall not after such date of enactment, as a result of its not having been licensed or produced in a licensed establishment, be considered in violation of the eighth paragraph of the matter under the heading "BUREAU OF ANIMAL INDUSTRY" of the Act entitled "An Act making appropriations for the Department of Agriculture for the fiscal year ending June thirtieth, nineteen hundred and fourteen", approved March 14, 1913 (as amended by this section), until the first day of the 49th month following the date of enactment of this Act.

(B) The exemption granted by subparagraph (A) may be extended by the Secretary of Agriculture for a period up to 12 months in an individual case on a showing by a person, firm, or corporation of good cause and a good faith effort to comply with such eighth paragraph with due diligence.

(C) The exemption granted by subparagraph (A) must be claimed by the person, firm, or corporation preparing such product by the first day of the 13th month following the date of enactment of this Act, in the form and manner prescribed by the Secretary, unless the Secretary grants an extension of the time to claim such exemption in an individual case for good cause shown.

(D) On the issuance by the Secretary of a license to such person, firm, or corporation for such product prior to the first day of the 49th month following the date of enactment of this Act, or the end of an extension of the exemption granted by the Secretary, the exemption granted by subparagraph (A) shall terminate with respect to such product.

AUTHORIZATION OF APPROPRIATIONS FOR FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT

SEC. 1768. Section 31 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136y) is amended to read as follows:

"SEC. 31. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated to carry out this Act for the period beginning October 1, 1985, and ending September 30, 1986, $68,604,200 of which not more than $11,993,100 shall be available for research under this Act.".

USER FEES FOR REPORTS, PUBLICATIONS, AND SOFTWARE

SEC. 1769. Section 1121 of the Agriculture and Food Act of 1981 (7 U.S.C. 2242a) is amended to read as follows:

"USER FEES FOR REPORTS, PUBLICATIONS, AND SOFTWARE

"SEC. 1121. (a) The Secretary of Agriculture may—

"(1) furnish, on request, copies of software programs, pamphlets, reports, or other publications, regardless of their form, including electronic publications, prepared in the Department of Agriculture in carrying out any of its missions or programs; and

"(2) charge such fees therefor as the Secretary determines are reasonable.

"(b) The imposition of such charges shall be consistent with section 9701 of title 31, United States Code.

"(c) All moneys received in payment for work or services performed, or for software programs, pamphlets, reports, or other publications provided, under this section—

"(1) shall be available until expended to pay directly the costs of such work, services, software programs, pamphlets, reports, or publications; and

"(2) may be credited to appropriations or funds that incur such costs.".

CONFIDENTIALITY OF INFORMATION

SEC. 1770. (a) In the case of information furnished under a provision of law referred to in subsection (d), neither the Secretary of Agriculture, any other officer or employee of the Department of Agriculture or agency thereof, nor any other person may—

(1) use such information for a purpose other than the development or reporting of aggregate data in a manner such that the identity of the person who supplied such information is not discernible and is not material to the intended uses of such information; or

(2) disclose such information to the public, unless such information has been transformed into a statistical or aggregate form that does not allow the identification of the person who supplied particular information.

(b)(1) In carrying out a provision of law referred to in subsection (d), no department, agency, officer, or employee of the Federal Government, other than the Secretary of Agriculture, shall require a person to furnish a copy of statistical information provided to the Department of Agriculture.

(2) A copy of such information—

(A) shall be immune from mandatory disclosure of any type, including legal process; and

(B) shall not, without the consent of such person, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceeding.

(c) Any person who shall publish, cause to be published, or otherwise publicly release information collected pursuant to a provision of law referred to in subsection (d), in any manner or for any purpose prohibited in section (a), shall be fined not more than $10,000 or imprisoned for not more than 1 year, or both.

(d) For purposes of this section, a provision of law referred to in this subsection means—

(1) the first section of the Act entitled "An Act authorizing the Secretary of Agriculture to collect and publish statistics of the grade and staple length of cotton", approved March 3, 1927 (7 U.S.C. 471) (commonly referred to as the "Cotton Statistics and Estimates Act");

(2) the first section of the Act entitled "An Act to provide for the collection and publication of statistics of tobacco by the Department of Agriculture", approved January 14, 1929 (7 U.S.C. 501);

(3) the first section of the Act entitled "An Act to provide for the collection and publication of statistics of peanuts by the Department of Agriculture", approved June 24, 1936 (7 U.S.C. 951);

(4) section 203(g) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1622(g));

(5) section 526(a) of the Revised Statutes (7 U.S.C. 2204(a));

(6) the Act entitled "An Act providing for the publication of statistics relating to spirits of turpentine and resin", approved August 15, 1935 (7 U.S.C. 2248);

(7) section 42 of title 13, United States Code;

(8) section 4 of the Act entitled "An Act to establish the Department of Commerce and Labor", approved February 14, 1903 (15 U.S.C. 1516); or

(9) section 2 of the joint resolution entitled "Joint resolution relating to the publication of economic and social statistics for Americans of Spanish origin or descent", approved June 16, 1976 (15 U.S.C. 1516a).

LAND CONVEYANCE TO IRWIN COUNTY, GEORGIA

SEC. 1771. The Secretary of Agriculture is authorized and directed to execute and deliver to the Board of Education of Irwin County, Georgia, its successors and assigns, a quitclaim deed conveying and releasing unto the said Board of Education of Irwin County, Georgia, its successors and assigns, all right, title, and interest of the United States of America in and to a tract of land, situate in said Irwin County, Georgia, containing 0.303 acres together with improvements in Land Lot Number 39 in the 3rd Land District of Irwin County, Georgia, being more particularly described in a deed dated July 13, 1946, from the United States conveying said land to Irwin County Board of Education, recorded in the land records of the office of the Clerk of Court for Irwin County, Georgia, in deed book 20, page 117.

NATIONAL TREE SEED LABORATORY

SEC. 1772. Notwithstanding any other provision of law, fees received by the National Tree Seed Laboratory, administered by the Forest Service, United States Department of Agriculture, for the provision of a tree seed testing service, shall be retained and deposited as a reimbursement to current appropriations used to cover the costs of providing such service.

CONTROL OF GRASSHOPPERS AND MORMON CRICKETS ON FEDERAL LANDS

SEC. 1773. (a) The Secretary of Agriculture shall carry out a program to control grass-

hoppers and Mormon Crickets on all Federal lands.

(b)(1) Subject to paragraph (2), the Secretary of Agriculture shall expend or transfer, and upon request, the Secretary of the Interior shall transfer to the Secretary of Agriculture, from any no-year appropriations, funds for the prevention, suppression, and control of actual or potential grasshopper and Mormon Cricket outbreaks on lands under the jurisdiction of the Federal Government.

(2)(A) Appropriated funds made available to the Secretary of the Interior shall be available for the payment of obligations incurred on Federal lands subject to the jurisdiction of the Secretary of the Interior.

(B) Funds transferred pursuant to this paragraph shall be requested as promptly as possible by the Secretary of Agriculture.

(C) Funds transferred pursuant to this section shall be replenished by supplemental or regular appropriations which shall be requested as promptly as possible.

(c)(1) Except as provided in paragraph (2), from any funds made available to the Department of the Interior until expended, moneys shall be made available for the transfer by the Secretary of the Interior to the Secretary of Agriculture for the prevention, suppression, and control of grasshoppers and Mormon Cricket outbreaks on Federal lands under the jurisdiction of the Secretary of the Interior.

(2) No funds shall be made available under this authority, until contingency funds specifically available to the Animal and Plant Health Inspection Service for grasshopper emergencies have been exhausted.

(d) On request of the administering agency or the Department of Agriculture of an affected State, the Secretary of Agriculture shall immediately treat Federal, State, or private lands that are infested by grasshoppers or Mormon crickets at levels of economic infestation, unless the Secretary determines that delaying treatment will optimize biological control and not cause greater economic damage to adjacent landowners.

(e) The Secretary of Agriculture shall—

(1) pay out of appropriated funds made available to the Secretary or transferred to the Secretary by the Secretary of the Interior—100 percent of the cost of grasshopper or Mormon cricket control on Federal lands;

(2) pay out of appropriated funds made available to the Secretary—

(A) 50 percent of the cost of such control on State lands; and

(B) 33.3 percent of the cost of such control on private rangelands; and

(3) participate in prevention, control, or suppression programs for grasshoppers and Mormon Crickets in conjunction with other Federal, State and private prevention, control or suppression efforts.

(f) From appropriated funds made available or transferred by the Secretary of the Interior to the Secretary of Agriculture for such purposes, the Secretary of Agriculture shall provide adequate funding for a program to train personnel to effectively accomplish the objective of this section.

STUDY OF A STRATEGIC ETHANOL RESERVE

SEC. 1778. (a) The Secretary of Agriculture shall conduct a study of the cost effectiveness, the economic benefits, and the feasibility of establishing, maintaining, and utilizing a Strategic Ethanol Reserve relative to the existing Strategic Petroleum Reserve.

(b) The study shall be completed within one year after the enactment of this section and shall include, among other considerations—

(1) the benefits and losses related to the U.S. economy, farm income, employment, government commodity programs, and the trade deficit of utilizing a Strategic Ethanol Reserve, as opposed to the Strategic Petroleum Reserve; and

(2) the savings from storing ethanol as opposed to storing the amount of CCC-held grain necessary to produce the ethanol.

(c) If the study shows that the Strategic Ethanol Reserve is cost effective, beneficial to the U.S. economy, and feasible in comparison with the Strategic Petroleum Reserve, the Secretary of Agriculture may establish, maintain, and utilize a Strategic Ethanol Reserve.

TITLE XVIII—GENERAL EFFECTIVE DATE

EFFECTIVE DATE

SEC. 1801. Except as otherwise provided in this Act, this Act and the amendments made by this Act shall become effective on the date of the enactment of this Act.

And the Senate agree to the same.

From the Committee on Agriculture:

E DE LA GARZA,
THOMAS S. FOLEY,
ED JONES,
CHARLES ROSE,
BERKLEY BEDELL
(on all matters except title VIII of the House bill and modifications thereof committed to conference),
LEON E. PANETTA,
JERRY HUCKABY,
CHARLES WHITLEY
(on all matters except subtitle A of title X, section 1022, section 1314, and subtitle C of title XVIII of the House bill and modifications thereof committed to conference, and section 1947 and title XX of the Senate amendment),
TONY COELHO,
EDWARD R. MADIGAN,
JAMES M. JEFFORDS,
E. THOMAS COLEMAN
(on all matters except titles II, IV, V, IX, XVI, and XVII, and section 1862 of the House bill and modifications thereof committed to conference),
RON MARLENEE,
LARRY J. HOPKINS,
ARLAN STANGELAND,
CHARLES HATCHER
(in lieu of Mr. BEDELL, solely for consideration of title VIII of the House bill and modifications thereof committed to conference),
CHARLES W. STENHOLM
(in lieu of Mr. WHITLEY, solely for consideration of subtitle A of title X of the House bill and section 1314 and modifications committed to conference; and additional conferee solely for consideration of subtitle D of title XI of the House bill and modifications committed to conference),
TERRY L. BRUCE
(in lieu of Mr. WHITLEY, solely for consideration of section 1022 of the House bill and modifications thereof committed to conference),
HAROLD L. VOLKMER
(in lieu of Mr. WHITLEY, solely for consideration of subtitle C of title XVIII of the House bill and modifications thereof committed to conference),
RICHARD H. STALLINGS
(in lieu of Mr. WHITLEY, solely for consideration of section 1947 of the Senate amendment),
GEORGE E. BROWN, JR.
(in lieu of Mr. WHITLEY, solely for consideration of title XX of the Senate amendment),
BILL EMERSON
(in lieu of Mr. COLEMAN of Missouri, solely for consideration of titles IX, XV, XVI, and XVII of the House bill and modifications thereof committed to conference),
STEVE GUNDERSON
(in lieu of Mr. COLEMAN of Missouri, solely for consideration of title II of the House bill and modifications thereof committed to conference),
SID MORRISON
(in lieu of Mr. COLEMAN of Missouri, solely for consideration of section 1862 of the House bill and modifications thereof committed to conference),
BOB SMITH
(in lieu of Mr. COLEMAN of Missouri, solely for consideration of titles IV and V of the House bill and modifications thereof committed to conference),

Pat Roberts
(additional conferee, solely for consideration of subtitle D of title XI of the House bill and modifications committed to conference),

From the Committee on Merchant Marine and Fisheries:

(Additional conferees, solely for consideration of subtitle D of title XI of the House bill and modifications committed to conference):

Walter B. Jones
(and additional conferee, solely for consideration of title XX, section 1434, and sections 1201-1203 of the House bill and modifications committed to conference),
Mario Biaggi,
Glenn M. Anderson,
James L. Oberstar,
William J. Hughes,
Mike Lowry,
Norman F. Lent
(and additional conferee, solely for consideration of title XX, section 1434, and sections 1201-1203 of the House bill and modifications committed to conference),
Gene Snyder,
Don Young
(and additional conferee, solely for consideration of title XX, section 1434, and sections 1201-1203 of the House bill and modifications committed to conference),
Robert W. Davis,

(Additional conferees, solely for consideration of title XX, section 1434, and sections 1201-1203 of the House bill and modifications committed to conference):

John Breaux,
Gerry E. Studds,
Jack Fields,

From the Committee on Foreign Affairs:

(Additional conferees, solely for consideration of title XI, sections 1025, 1421, 1423, and 1431 of the House bill, title I, sections 903, 1932, 1943, 1949, and 1952 of the Senate amendment, and modifications committed to conference)

Dante B. Fascell,
Lee H. Hamilton,
Don Bonker,
Sam Gejdenson,
Peter H. Kostmayer
(except subtitle D of title XI of the House bill and modifications committed to conference),
Buddy MacKay
(except subtitle D of title XI of the House bill and modifications committed to conference),
Wm. Broomfield,
Benjamin A. Gilman
(except subtitle D of title XI of the House bill and modifications committed to conference),
Toby Roth,
Doug Bereuter,

From the Committee on Ways and Means:

(Additional conferees, solely for the consideration of sections 107(d), 108(b), 113, 1002, 1929, 1952, 1953, and 1955 of the Senate amendment and modifications committed to conference):

Sam Gibbons,
Ed Jenkins,
Managers on the Part of the House.

Jesse Helms,
Robert Dole,
Richard G. Lugar,
Thad Cochran,
Rudy Boschwitz,
Edward Zorinsky,
Patrick J. Leahy,
John Melcher,
David Pryor,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2100) to extend and revise agricultural price support and related programs, to provide for agricultural export, resource conservation, farm credit, and agricultural research and related programs, to continue food assistance to low-income persons, to ensure consumers an abundance of food and fiber at reasonable prices, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the anacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

Title I—Dairy

(1) Short title

The House bill provides that title II may be cited as the "Dairy Unity Act of 1985". (Sec. 201.)

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

(2) Effective period

The House bill provides that the milk price support and milk diversion programs under the bill, and certain provisions in the bill relating to milk marketing orders, will be effective for five years, through the end of fiscal year 1990. (Secs. 201, 211-214, 232, 233, 251, and 252.)

The related provisions of the Senate amendment will be effective for four years, through the end of fiscal year 1989. (Secs. 201, 203, 204, and 205.)

The Conference substitute adopts the House provision relating to the overall length of the milk program under the bill. (Secs. 101, 104, 108, 132, 151, and 152.)

(3) Milk price support

The House bill provides that, efective on the date of the enactment of the bill, the price support levels for milk for the fiscal years 1986 through 1990 will be determined as follows:

On October 1 of each of the 1987 through 1990 fiscal years, and on the date of the enactment of the bill in the case of fiscal year 1986, the Secretary of Agriculture will establish the price support level for milk (per hundredweight) to be effective for that fiscal year (or the remaining portion of fiscal year 1986). Price support would be set by the Secretary at a level equal to the product of—

(a) the preliminary support price, and

(b) a percentage figure keyed to changes in the estimated amount of net Community Credit Corporation dairy product acquisitions.

The preliminary support price (per hundredweight) would be determined by multiplying $8.83 by the adjusted cost of production index for milk (which would be—

(a) the milk cost of production index, less

(b) the product of (i) the milk cost of production index and (ii) the milk productivity factor).

The milk cost of production index for a fiscal year would reflect the ratio between (a) the cost of producing milk during the one-year period ending the preceding June 30 and (b) the average annual cost of producing milk during the three-year period ending with 1978.

The milk productivity factor would be a figure that is the product of—

(a) the average per-cow milk production (measured in hundredweights) during the one-year period ending the preceding June 30 minus 111.01 hundredweights, and

(b) .002.

The cost of producing milk would be computed using the prices for input and other items and a proportional value for each item specified in a schedule contained in the bill.

The Secretary would be required to estimate the level of CCC purchases of milk and milk products (less sales for unrestricted use) that would occur for the fiscal year for which the price support level is being determined if the support level were equal to the preliminary support price. The actual support price would be a percentage—ranging from 92.2 percent at the minimum to 107.8 percent or higher—of the preliminary support price, arrived at by applying the projected net CCC acquisitions if the preliminary price were in effect to a schedule contained in the bill. If the net acquisitions would exceed seven billion pounds, the support level would be 92.2 percent of the preliminary level. As projected net acquisitions become smaller, the percentage would increase, so that if projected net acquisitions would be less than one billion pounds, the support level could not be less than 107.8 percent of the preliminary level. (Sec. 211.)

The Senate amendment provides that, effective October 1, 1985, the price of milk would be supported at $11.60 per hundredweight of milk, with the following exceptions:

(a) If the Secretary estimates that net price support purchases of milk for calendar year 1987 will exceed 5 billion pounds, the Secretary must reduce the support level 50 cents per hundredweight, effective January 1987;

(b) on January 1, 1988, and January 1, 1989, the Secretary will estimate the level of net price support purchases for the calendar year involved and depending on the amount estimated, adjust the support level per hundredweight (on January 1 of the year involved), as follows:

(i) net purchases of 10 billion pounds or more would require a reduction of $1.00 (except that the Secretary could lessen the amount of the reduction to reflect changes in a cost of production index established by the Secretary);

(ii) net purchases of 5 billion pounds or more but less than 10 billion pounds would require a reduction of 50 cents (with authority for lessening the reduction under the criteria described in clause (i));

(iii) if net purchases were 2 billion pounds or more but less than 5 billion pounds, no adjustment would be permitted; and

(iv) net purchases of less than 2 billion pounds would authorize a 50 cent increase (with further authority for enlarging the increase under the criteria described in clause (i)). (Sec. 203.)

The Conference substitute provides that the support price for milk in 1986 shall be $11.60 per hundredweight for milk containing 3.67 percent milkfat. The support price for the period January 1, 1987, through September 30, 1987, shall be $11.35 per hundredweight and for the period October 1, 1987, through September 30, 1990, shall be $11.10 per hundredweight, except as provided below.

On January 1 of each calendar year 1988, 1989, the Secretary is required to (1) increase the support price then in effect by $.50 per hundredweight if the Secretary projects that removals of milk through the Commodity Credit Corporation will be less than 2.5 billion pounds, milk equivalent, during the upcoming twelve month period; or (2) to reduce the support price then in effect by $.50 per hundredweight if the Secretary projects that removals will exeed 5 billion pounds, milk equivalent, during the upcoming twelve months.

The Conference substitute provides for a limitation on any such reduction that is keyed to the 18 month milk production termination program that will be operated during 1986 and 1987, as described in item (6). The Conference substitute will prohibit any such reduction unless the program achieved a reduction in milk production among participants of not less than 12 billion pounds during the life of the program; or the Secretary of Agriculture certifies to Congress that an insufficient number of reasonable bids from producers were offered to achieve such reduction. Determinations of the Secretary of Agriculture relating to the level of milk price supports, reductions in milk prices described in item (5) below, and the milk production termination program described in item (6) would not be subject to the provisions of 5 U.S.C. 553. (Sec. 101.)

(4) Market value of whey

The House bill provides that, for the purpose of supporting the price of milk, as described in item (3), the Secretary of Agriculture could not take into consideration the market value of whey. (Sec. 218.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision. (Sec. 103.)

(5) Reductions in the price of milk

The House bill will require the Secretary of Agriculture to provide for a reduction in the price of milk received by producers, applicable to all milk marketed for commercial use in the contiguous 48 States, during any period that a milk diversion program is in effect (as described in item (6)). The reduction (which the Secretary could adjust downward) would have to be sufficient to cover—

(a) the estimated cost of net CCC acquisitions, during each of the calendar years 1986 through 1989, in excess of five billion pounds (or three-fourths of such amount in the case of the first 9 months of 1990);

(b) the estimated cost of payments to producers under the diversion program; and

(c) in each of the calendar years 1986 and 1987, an additional $50 million.

The funds represented by the reduction in the price of milk would be collectd and remitted to the Commodity Credit Corporation by handlers that buy milk from producers. Producers that market their milk directly to consumers would remit the funds directly to the CCC. The $50 million remitted in 1986 and 1987, if there is a diversion program, would be transferred to the Dairy Research Trust Fund (see item (12)).

If the funds deducted from milk prices exceed the amount needed to cover the costs of (a) net CCC acquisitions in excess of five billion pounds (on an annual basis), (b) the milk diversion program, and (c) in 1986 and 1987, the special $50 million allocation to the Dairy Research Trust Fund, the CCC would be required to refund the excess (with interest) to producers on a pro rata basis. In addition, if the actual level of net CCC acquisitions during the period involved were less than the threshold level for that period, the Secretary would be required to refund, to producers, an amount equal to the difference between (i) the estimated cost of purchasing five billion pounds (on an annual basis) and (ii) the sum of the actual cost of purchases for the period and the amount deposited in the Trust Fund, with interest. (Sec. 211.)

The Senate amendment states the sense of the Senate that no charge or assessment intended to encourage reductions by producers in total milk production should be imposed on, or collected from, producers of milk. (Sec. 210.)

The Conference substitute requires the Secretary of Agriculture to provide for a reduction in the price of milk received by producers, applicable to all milk marketed for commercial use in the contiguous 48 States, to help offset the cost of the milk production termination program and mitigate dairy surpluses. A reduction of 40 cents per hundred pounds of milk marketed for commercial use will begin on April 1, 1986, and end on December 31, 1986. A reduction of 25 cents per hundred pounds of milk marketed for commercial use will begin on January 1, 1987, and end on September 30, 1987.

The funds represented by the reduction in the price of milk will be collected and remitted to the Commodity Credit Corporation by handlers that buy milk from producers. Producers who market their milk directly to consumers would remit the funds directly to the CCC. (Sec. 101.)

(6) Milk diversion program

(a) The *House* bill will provide for an extension, with revisions, of the provisions for a milk diversion progam contained in the Dairy Production Stabilization Act of 1983. Effective for each of the calendar years 1986 through 1989 (and the first 9 months of 1990), if the Secretary estimates that net Commodity Credit Corporation milk price support purchases will be more than five billion pounds, but not more than seven billion pounds, milk equivalent (on an annual basis), the Secretary of Agriculture could implement a milk diversion program for that period. If the Secretary's estimate is that net CCC purchases will exceed seven billion pounds, the Secretary would be required to implement a diversion program for the period involved.

A milk diversion program would have to be designed to ensure that the aggregate amount of the reduction in marketings of milk under the program will not be less than the difference between the estimated amount of net CCC purchases without the program and four billion pounds milk equivalent (annual basis).

In making his determinations as to levels of CCC purchases, the Secretary would adjust his estimates by deducting the net amount of reduction in the quantitative limits on dairy imports, established under section 22 of the Agricultural Adjustment Act, occurring since June 15, 1985.

Under milk diversion programs, the Secretary would enter into contracts with milk producers under which the producers would forgo producing a portion (or all) of their milk production base in return for a payment from the Secretary.

If the Secretary establishes a milk diversion program for calendar year 1986, the program would be two years in duration.

If a milk diversion program is in effect, the Secretary would be required to formulate—

(A) a reduced production program under which producers could enter contracts to reduce the amount of milk they market during the period involved; and, in addition,

(B) a production termination program under which the Secretary could accept a bid from a producer for terminating his milk production entirely in return for a payment by the Secretary. (Sec. 212.)

The *Senate* amendment contains no comparable provisions.

The *Conference* substitute provides for a mandatory milk production termination program to be carried out by the Secretary of Agriculture over an 18 month period. The program is to be implemented on April 1, 1986.

The program is to be formulated to achieve a reduction in milk production of 12 billion pounds during the period of operation. The program will provide for the termination of milk production by producers who agree, among other things (1) to sell for slaughter or export all dairy cattle in which the producer has an interest, and (2) during a period of three to five years after completition of such sale, not to acquire any interest in dairy cattle or the production of milk.

The Secretary of Agriculture will be required to promulgate regulations to ensure that greater numbers of diary cattle are slaughtered as a result of the production termination program in each of the periods, April through August 1986, and March through August 1987, than for the other months of the program. To encourage a higher slaughter of dairy cattle during the period of March through August, the *Conference* substitute directs the Secretary to limit the number of dairy cattle slaughtered under the herd reduction program to no more than seven percent of the national dairy herd in addition to the normal dairy herd culling rate per calendar year. USDA statistics include a breakdown of the relationship of dairy cows marketed to beef cows marketed. Through the evaluation of such statistics, the Secretary will implement the orderly and timely flow of cattle that are marketed due to the production-termination program to reduce the effect of such program on red meat markets.

A producer who commenced marketing of milk in the 15 month period ending on March 31, 1986, shall be ineligible to participate in the program, except in the case of intrafamily transfers.

During each of calendar years 1988 through 1990, the Secretary is authorized to carry out a milk diversion or milk production termination program.

The Secretary must also take all feasible steps to minimize any adverse effect of any program under this provision on beef, pork, and poultry production in the United States.

The *Conference* substitute provides marketing and civil penalties for violations of milk production termination contracts and false statements. (Sec. 101.)

(b) Under the *House* bill, a producer seeking to enter a reduced production milk diversion contract, prior to entering the contract, would have to submit, to the Secretary, a plan that shows how the producer will achieve the reduction in milk marketings specified in the contract, including the producer's estimate of the amount of the reduction to be achieved through slaughter of dairy cattle and the approximate number of cattle to be sold for slaughter each month.

In setting the terms and conditions of milk diversion contracts, the Secretary would be required to take into account the adverse effects of diversion contracts on beef, pork, and poultry producers and take all feasible steps to minimize such effects.

Before the beginning of a period in which a milk diversion program is to be in effect, the Secretary would be required to estimate the number of dairy cattle that will be marketed for slaughter as a result of the program. The Secretary also would be required to specify marketing procedures, under contracts under the program, to ensure that not more than 40 percent of the number of dairy cattle that he estimates will be marketed for slaughter (by producers participating in the program), in excess of the numer of dairy cattle they would market in the absence of the program, will be so marketed in January, February, September, October, November, and December of a full calendar year (or in January, February, and September of 1980). The procedures would have to ensure that the excess sales for slaughter occur on a basis that maintains historical marketing patterns. In addition, the Secretary would be required to limit the total dairy cattle slaughter rate under the program in excess of the historical dairy cow herd culling rate to no more than seven percent of the national dairy cow herd. (Sec. 212.)

The *Senate* amendment contains no comparable provisions.

The *Conference* substitute adopts provisions described in paragraph (a) above. (Sec. 101.)

(c) Under the *House* bill, the terms of reduced production milk diversion contracts would be similar to those in existing law in the 1984-1985 diversion program.

The contracts for production termination would provide that the producer must—

(A) sell for slaughter or export all the producer's dairy cattle;

(B) not acquire any interest in the production of milk during a period (from three to five years) specified by the Secretary, nor acquire (not make available to others) any milk production capacity that becomes available because of compliance by another producer under a production termination contract; and

(C) return the entire payment (with interest) if the producer fails to comply with the contract (Sec. 212.)

The Senate amendment contains no comparable provisions.

The Conference substitute adopts provisions described in paragraph (a) above. (Sec. 101.)

(d) Under the *House* bill, authority would be provided for the modification of reduced production milk diversion contracts, within the first month of the diversion period, if the Secretary determinates that the program would result in a reduction in the level of milk production below that required under the program or has caused a substantial hardship to beef, hog, or poultry producers. If a modification will be required to prevent an excessive reduction milk production, the Secretary could modify all contracts, on a uniform basis, to lessen the amount of reduction required under the contract. However, in acting to lessen the required reductions in milk marketings among all reduced production contracts, the Secretary could apportion, among contracts, changes in the reduction required so as to give preference to small or medium-sized producers who request that their reduction not be lessened. No modification to lessen required reductions could be apportioned on the basis of geographic region or area.

A producer who enters into a reduced production milk diversion contract could terminated the contract if the Secretary modifies the contract, as described above. (Sec. 212.)

The *Senate* amendment contains no comparable provisions.

The *Conference* substitute adopts provisions described in paragraph (a) above. (Sec. 101.)

(e) For purposes of a milk diversion program under the House bill, a producer's milk production base would be his marketings of milk for commercial use during the one-year period ending on September 1 prior to the start of the diversion. However, if the producer participated in a milk diversion program in effect for the prior calendar year, the producer's base would be the same base he had for the prior diversion program. If a diversion program is in effect for calendar years 1986 and 1987 and the producer participated in the diversion program in effect in fiscal years 1984 and 1985, the producer's base would be, at year 1982, increased by 2.2 percent, or (B) his average annual marketing during 1981 and 1982, increased by 2.2 percent.

Only producers who were marketing milk prior to fifteen months before the start of a milk diversion program would be eligible to receive a milk production base for purposes of the program. (Sec. 212.)

The Senate amendment contains no comparable provisions.

The Conference substitute adopts provisions described in paragraph (a) above. (Sec. 101.)

(f) Under the House bill, any person who (A) fails to make a reduction in the price of milk as required under the bill or fails to remit to the CCC the funds represented by a reduction, or (B) fails to reduce milk marketings as required under a reduced production milk diversion contract, would be liable for a marketing penalty. The penalty would be an amount equal to the then current support price for milk and be applied to the quantity of milk to which the failure applies. The Secretary could reduce any penalty if the violation is unintentional or without the knowledge of the person concerned.

A person who (A) buys dairy cattle for slaughter from a producer who has entered a milk diversion contract, knowing that the cattle are sold for slaughter, but (B) fails to have the cattle slaughtered within a reasonable time after receiving the cattle, would be subject to a civil penalty of not to exceed $5,000 per head.

All other knowing violations under the milk diversion program would be subject to a civil penalty of up to $1,000.

The Senate amendment contains no comparable provisions.

The Conference substitute adopts provisions described in paragraph (a) above. (Sec. 101.)

(g) Under the House bill, if a milk diversion program is to be in effect for calendar year 1986 and if the bill is enacted after November 1, 1985, then notwithstanding the provisions of the bill establishing deadlines for implementation of any such program, the Secretary would—

(A) establish the 1986 milk diversion program, and publish the information required under the program, not later than thirty days after the date of the enactment of the bill, and

(B) offer to enter into contracts under the program with producers until sixty days after the date of the enactment of the bill. (Sec. 212.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts an amendment as set forth in section (a) above. (Sec. 101.)

(7) Application of amendments

The House bill provides that the milk price support and milk diversion program provisions will not affect any liability of any person under the provisions of the Agricultural Act of 1949 relating to milk price support, reductions in minimum prices, and the dairy diversion program, as in effect before the date of the enactment of the bill. (Sec. 213.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with conforming amendments. (Sec. 108.)

(8) Avoidance of adverse effect of milk programs on beef, pork, and lamb producers

The *House* bill provides that, to minimize the adverse effect of a milk diversion program carried out during any year under the bill on beef, pork, and lamb producers in the United States, in such year—

(a) the Secretary of Agriculture must use section 32 funds, other funds available to the Department of Agriculture under the commodity distribution and other nutrition programs, and Commodity Credit Corporation funds to purchase and distribute 250 million pounds (or three-fourths of such amount in the case of the first 9 months of 1990) of red meat in addition to those quantities normally purchased and distributed by the Secretary;

(b) the Secretary of Defense and other Federal agencies, to the maximum extent practicable, must use increased quantities of red meat to meet the food needs of the programs that they administer, and State agencies would be encouraged to cooperate in such an effort; and

(c) the Secretary must act to encourage the consumption of red meat by the public. (Sec. 214.)

The Senate amendment will require the Secretary to (a) take into account any adverse effect of reductions in milk production, under the milk program, on U.S. beef and pork producers, and (b) take all feasible steps to prevent such adverse effect. (Sec. 209.)

The Conference substitute adopts the House provision with an amendment that provides that, to minimize the adverse effect of the milk production termination program on beef, pork, and lamb producers during the period for which the milk production termination program is in effect, the Secretary of Agriculture shall use funds available to purchase 400 million pounds of red meat in addition to those quantities normally purchased and distributed by the Secretary. The Secretary shall make such red meat purchases available for distribution in the quantity of 200 million pounds for domestic programs and 200 million pounds for use in export programs and military program consumption.

Such purchases cannot offset normal red meat purchases, and section 32 purchases cannot result in reducing purchases of other agricultural commodities by the Secretary through the section 32 program.

Purchases under these provisions should be made in recognition of the effect of the milk production termination program on the beef, pork, and lamb industries, as well as traditional domestic consumption patterns. (Sec. 104.)

The Conference substitute also includes a provision that requires the Commodity Credit Corporation to establish and operate an export incentive program for dairy products. The program shall provide for the Corporation to make payments, on a bid basis, to an entity that sells for export United States dairy products. The Secretary shall have the discretion to accept or reject bids under such criteria as the Secretary deems appropriate. (Sec. 153.)

(9) Availability of nonfat dry milk to the domestic casein industry

The House bill will require the Commodity Credit Corporation to provide, annually, at least one million pounds of nonfat dry milk to individuals or entities on a bid basis. The CCC would have to take appropriate action to ensure that the nonfat dry milk sold under the bill is used only for the manufacture of casein. The bill also provides that, to promote the stengthening of the domestic casein industry, the CCC could accept bids on nonfat dry milk at lower than resale price for milk required under the Agricultural Act of 1949. (Sec. 215.)

The Senate amendment contains no comparable provisions.

The Conference substitute adopts the House provision. (Sec. 105.)

(10) Casein study

The House bill will require the Secretary of Agriculture to conduct a study to determine whether casein imports tend to interfere with, or render ineffective, the milk price support program. The Secretary would be required to report to the agriculture committees of Congress on the results of the study not later than 60 days after the date of enactment of the bill. (Sec. 216.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision. (Sec. 106.)

(11) Congressional evaluation of the cost of production schedule

The *House* bill states that it is the sense of Congress that the agriculture committees of Congress, two years after enactment of the bill, should—

(a) determine the cost of each of the items specified in the milk cost of production schedule contained in the bill, and the contribution of each of such items to the milk cost of production index used to determine the milk price support level, to assess the effect of each item on the level of price support for milk; and

(b) assess the effect of the milk cost of production index on the operation of the milk diversion program provided for under the bill. (Sec 217.)

The Senate amendment contains no comparable provisions.

The Conference substitute provides that the Secretary shall monitor Commodity Credit Corporation purchases of dairy products during the milk production termination program. The Secretary is directed to report to Congress on a quarterly basis regarding any disruptions in or attempts by handlers or cooperative marketing associations to circumvent the historical distribution of milk among processors due to the implementation of the production termination program. (Sec. 107.)

It is the intent of the Conferees that the milk production termination program be appropriately implemented by the Secretary of Agriculture. The amendment is to prevent any weakening of the milk production termination program and to minimize attempts to circumvent the purpose of the program.

(12) Dairy Research Endowment Institute and dairy product research order

(a) The House bill will establish a National Dairy Research Endowment Institute within the Department of Agriculture; provide for the issuance of a dairy products research order to be administered through the Institute; and establish a $100,000,000 Dairy Research Trust Fund in the Treasury, and require importers of dairy products during fiscal years 1986 and 1987 to pay assessments into the Fund, to provide funds to the Institute for activities under the order.

The function of the Institute would be to aid the dairy industry through (A) implementation of the dairy products research order (which its board of trustees would administer), and (B) use of monies from the Dairy Research Trust Fund to implement the order. In implementing the order, the Institute would provide a permanent system for funding scientific research activities designed to facilitate the expansion of markets for milk and dairy products marketed in the 48 contiguous States. The Institute would be headed by a board of trustees composed of the members of the National Dairy Promotion and Research Board, and the board could appoint from among its members an executive committee whose membership, other than importers, would have to reflect equally each of the different regions in the 48 contiguous States in which milk is produced. (Sec. 221.)

The *Senate* amendment contains no comparable provisions.

The *Conference* substitute adopts the House provisions with an amendment that makes the establishment of the Institute discretionary with the Secretary of Agriculture. (Sec. 121.)

(b) Not later than 30 days after receipt of a proposed dairy products research order, the Secretary of Agriculture would publish the proposed order in the Federal Register and give notice and reasonable opportunity for public comment on the proposed order. A proposed order could be submitted by an organization certified as eligible to represent milk producers for the purposes of the dairy promotion program, or by any interested person affected by the dairy promotion program.

After the Secretary complies with the notice and comment requirements, he would issue a dairy products research order, to become effective not later than ninety days after publication in the Federal Register of the proposed order, as described above.

A dairy products research order would provide for the establishment and administration, by the Institute, of appropriate scientific research activities designed to facilitate the expansion of markets for dairy products.

The order would specify the powers of the board, including the powers to—

(A) recieve and evaluate, or on its own initiative develop and budget for, research plans or projects (including projects to improve dairy processing technologies, particularly those appropriate to small and medium-sized family farms);

(B) administer the order in accordance with its terms and provisions; and

(C) enter into agreements, with the approval of the Secretary, for the conduct of activities authorized under the order and for payment of the cost of such activities with any monies in the Fund other than monies deposited in the Fund by the Secretary.

The order would specify the duties of the Institute's board, including the duties to—

(A) develop, and to submit to the Secretary for approval before implementation, any research plan or project; and

(B) submit budgets (on a fiscal year basis) to the Secretary for approval. The budgets would cover the board's anticipated expenses and disbursements in the administration of the order, including projected costs of carrying out dairy products research plans and projects. (Sec. 221.)

The Senate amendment contains no comparable provisions.

The Conference substitute adopts the House provision. (Sec. 121.)

(c) The order would require, during calendar years 1986 and 1987, importers of dairy products to pay an assessment on dairy product imports at a rate, established by the Secretary, that is equal to the part of any reduction in the price of milk received by domestic producers that is deposited into the Dairy Research Trust Fund, under the milk price support program for those years under the bill.

The provisions of the Dairy Production Stabilization Act of 1983 allowing persons subject to a milk promotion order to petition for relief from the order, providing jurisdiction for the Federal district courts to enforce orders, providing penalties for violations of orders, and generally providing the Secretary with authority to conduct investigations necessary for effective administration of the milk promotion order program would be made applicable to the dairy products research order program. (Sec. 221.)

The Senate amendment contains no comparable provisions.

The *Conference* substitute adopts the House provision with an amendment which makes the issuance of the order discretionary with the Secretary. (Sec. 121.)

(d) The *House* amendment provides that the Dairy Research Trust Fund would be established in the U.S. Treasury, and $50 million of the amounts to be remitted to the CCC in each of the calendar years 1986 and 1987 (if there is a reduction in the price of milk triggered by the establishment of a milk diversion program for those years), as provided under the bill, along with assessments collected from importers, would be deposited in the Trust Fund. However, if $50 million is not available for either of those years under a reduction in the price of milk, the Secretary would transfer $50 million to the Trust Fund from the monies available to the Commodity Credit Corporation.

The monies transferred into the Trust Fund would be invested by the Secretary in interest-bearing accounts. The income from such investments will be available to pay for the costs of research activities under the order. (Sec. 121.)

The *Senate* amendment contains no comparable provisions.

The *Conference* substitute adopts the House provision with an amendment which makes the establishment of the Fund discretionary with the Secretary (Sec. 121.)

(e) The *House* amendment provides that after September 30, 1991, the Secretary would be required, whenever the Secretary finds that the dairy products research order or any provision of the order obstructs or does not tend to facilitate the expansion of markets for milk and dairy products, to terminate or suspend the operation of the order or provision. If the Secretary terminates the order, the Institute would be dissolved. 180 days after termination of the order. If the Institute is dissolved, the moneys remaining in the Trust Fund would be disposed of as agreed to by the Institute's board and the Secretary.

The *House* bill could not be construed to preempt or supersede any other program relating to dairy research organized and operated under the laws of the United States or any State. (Sec. 221.)

The *Senate* amendment contains no comparable provisions.

The *Conference* substitute adopts the House provision with an amendment deleting the reference to September 30, 1991. (Sec. 121.)

(13) Dairy promotion order program

The *House* bill will make several changes in the dairy promotion order program under the Dairy Production Stabilization Act of 1983 to—

(a) expand the scope of the order to include activities to maintain and expand markets for imported dairy products as well as fluid milk and dairy products produced domestically;

(b) require that the order contain a provision for the appointment of one or more importers of dairy products to the National Dairy Promotion Board, which administers the order. The number of importers appointed to the Board would be established on a proportional basis, taking into account the amount of dairy products imported into the United States, except that at least one importer would have to be appointed to the Board;

(c) require that the order contain a provision for the imposition of an assessment on each importer of dairy products based on the amount of dairy products imported by the importer, with the rate of assessment being 15 cents for each hundredweight of milk equivalent;

(d) require that the order contain provisions imposing, on importers of dairy products, the recordkeeping and reporting requirements currently applicable to milk handlers and producer-handlers under the order; and

(e) give importers of dairy products the right to vote in referendums on whether to terminate or suspend the order. (Sec. 222)

The *Senate* amendment contains no comparable provisons.

The *Conference* substitute deletes the *House* provision.

(14) Minimum price differentials

The *House* bill will amend section 8c(5)(A) of the Agricultural Adjustment Act, to revise the milk marketing order program. New provisions would be added to section 8c(5)(A), which now provides that milk marketing orders must contain terms and conditions for (a) classifying milk in accordance with the form in which, or the purpose for which, it is used, and (b) fixing, or providing a method for fixing, minimum prices for each use classification. Section 8c(5)(A) also now provides that minimum prices must be uniform as to all handlers, subject only to adjustments for (a) volume, market, and production differentials customarily applied by the handlers subject to the order, (b) grade or quality, and (c) the locations at which delivery is made.

The new added provisions under the *House* bill would specify the minimum aggregate amount of the adjustments (for (a) volume, market, and production differentials customarily applied and (b) grade or quality) to prices for milk of the highest use classification (the "Class I differential") for the 44 milk marketing orders. Each marketing area subject to an order is listed in the *House* bill, along with the minimum Class I differential, specified in dollars and cents, to be applicable to the area.

The minimum Class I differentials specified in the bill would be in effect for the two-year period starting with the first day of the first month beginning more than 120 days after the date the bill is enacted. Further, the specified differentials would continue in effect after the two-year period expires unless modified by amendment to the order involved.

The new provisions also provide that, at the beginning of the two-year effective period, the minimum prices for Class I milk would have to be adjusted for the location at which delivery of Class I milk is made to handlers. (See. 231.)

The *Senate* amendment contains two provisions addressing milk price differentials as follows:

(a) The Secretary would be required to conduct a study of the differentials used to adjust the minimum price for Class I milk, with particular emphasis on the differentials used for the locations at which milk is delivered to handlers. The results of the study, along with any legislative recommendations, would have to be submitted to the agriculture committees of Congress within one year after enactment of the bill. (Sec. 206.)

(b) The *Senate* amendment states the sense of the Senate that any adjustment, under section 8c(5)(A), to the price received for Class I milk produced under Federal milk marketing orders be made only through regulations issued by the Secretary. (Sec. 211.)

The *Conference* substitute adopts the *House* provision. (Sec. 131.)

(15) Cooperative association representation

The *House* bill will revise the provisions of section 8c(17) of the Agricultural Adjustment Act, which permit one-third or more of the producers supplying milk under a Federal milk marketing order to petition for a hearing on a proposed amendment to the order, to permit a cooperative to act for its members in the application for the hearing. (Sec. 233.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the *House* provision.

(16) Marketwide service payments

The *House* bill will provide for the inclusion of a new provision in milk marketing orders, relating to marketwide service payments. The new provision in orders would provide for the payment, from the total sums payable by all handlers for milk and before computing uniform prices and making adjustments in payments, to handlers who are cooperative marketing associations and to handlers with respect to whom adjustments in payments are made, for services of marketwide benefit including, but not limited to—

(a) providing facilities to furnish additional supplies of milk needed by handlers and to handle and dispose of milk supplies in excess of quantities needed by handlers;

(b) handling—on specific days—quantities of milk that exceed the quantities needed by handlers; and

(c) transporting milk from the one location to another for the purpose of fulfilling requirements for milk of a higher use classification or for providing a market outlet for milk of any use classification. (Sec. 234.)

The *Senate* amendment contains no comparable provisions.

The *Conference* substitute adopts the *House* provision. (Sec. 133.)

(17) National Commission on Dairy Policy

(a) The *House* bill states that it is to be the policy of Congress to respond to new technologies in the milk production industry by reviewing the present milk price support program and its alternatives, and by adopting policies that are needed to prevent significant surplus production in the future while ensuring that the current small and medium-sized family farm structure of the industry will be preserved. (Sec. 241.)

The *Senate* amendment contains no comparable provisions.

The *Conference* substitute adopts the *House* provision. (Sec. 141.)

(b) The *House* bill will establish a temporary National Commission on Diary Policy to study and make recommendations concerning the future operation of the Federal milk price support program. The Commission would be composed of eighteen members who are engaged in the commercial production of milk in the United States, to be appointed by the Secretary of Agriculture. Not fewer than twelve members would be appointed from nominations submitted to the Secretary by the Chairman and ranking minority member of the congressional agriculture committees. Each such Member of Congress would make at least eighteen nominations for appointment to the Commission, but not more than two nominations for any particular vacancy on the Commission. The Secretary would appoint at least three individuals from among the nominations submitted by each Member of Congress. Each member of the Commission would represent a milk-producing region of the United States. The Commission would elect a chairman from among the members of the Commission, and would meet at the call of the chairman or a majority of the members. (Sec. 242.)

The *Senate* amendment contains no comparable provisions.

The *Conference* substitute adopts the *House* provision. (Sec. 142.)

(c) The Commission will study—

(A) the current federal price support program for milk, alternatives to the program, and the future functioning of the program;

(B) new technologies that will become a part of the milk production industry before the end of this century;

(C) the effect that developing technologies will have on surplus milk production; and

(D) the future structure of the milk production industry.

On the basis of its study, the Commission would make findings and develop recommendations for consideration by the Secretary and Congress with respect to the future operation of the Federal price support program for milk. A report containing the results of the Commission's study, and recommendations based on such results, would be submitted to the Secretary and Congress by March 31, 1987. Thirty days after the submission of such report, the Commission will be dissolved. (Secs. 243 and 246.)

The *Senate* amendment contains no comparable provisions.

The *Conference* substitute adopts the *House* provision. (Sec. 143.)

(d) The heads of executive agencies, the General Accounting Office, the Office of Technology Assessment, and the Congressional Budget Office, to the extent permitted by law, would provide information that the Commission requires to carry out its duties and functions. To the extent there will be sufficient funds available to the Commission, it could hire a staff. On the request of the Commission, the heads of executive agencies, the General Accounting Office, and the Office of Technology Assessment could furnish the Commission with personnel and support services necessary to assist the Commission to carry out its duties and functions. The Commission would not be required to pay or reimburse an agency for personnel and support services so provided. The Commission would be exempt from provisions of the Federal Advisory Committee Act relating to pay scales, oversight by Federal officials, and termination of advisory committees, and the employee evaluation requirements of the United States Code. (Sec. 244.)

The *Senate* amendment contains no comparable provisions.

The *Conference* substitute adopts the *House* provision. (Sec. 144.)

(e) Following the appointment or designation of the members of the Commission, the Secretary could receive, on behalf of the Commission, from persons, groups, and entities within the United States, contributions to assist the Commission to carry out its duties and functions. In no event could the Secretary accept an aggregate amount of contributions from any one person, group, or entity exceeding 10 percent of the budget of the Commission. If the contributions were insufficient for the Commission's work, the Secretary could transfer to the Commission, from funds available to the Commodity Credit Corporation, an amount not to exceed $1,000,000. (Sec. 245.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the House provision. (Sec. 145.)

(18) Study of milk price support payment limitations

The *Senate* amendment will require the Secretary to conduct a study of the feasibility and desirability of limiting annual payments under the milk program to $50,000 per person. The Secretary would have to submit the results of the study, along with any recommendations for legislation or regulations, to the agriculture committees of Congress not later than one year after the bill is enacted. (Sec. 207.)

The *House* bill contains no comparable provision.

The *Conference* substitute deletes the Senate provision.

(19) Accurate ingredient disclosure on labels

The *Senate* amendment states the sense of the Senate that (a) the Secretary must promulgate standards requiring accurate disclosure, on the label of food products under the jurisdiction of the Department of Agriculture, of a description of each ingredient in the product, and (b) the Secretary must require prominent disclosure of the presence of imitation dairy products. (Sec. 208.)

The *House* bill contains no comparable provisions.

The *Conference* substitute deletes the *Senate* provision.

Title II—Wool and Mohair

(1) Effective period

The provisions of the *House* bill extending the wool and mohair price support programs will be effective for five years, until December 31, 1990. (Sec. 301.)

The provisions of the *Senate* amendment similarly extending the price support programs will be effective for four years, until December 31, 1989. (Sec. 301(1).)

The *Conference* substitute adopts the *House* provision.

(2) Payment limitation

The *Senate* amendment will impose a limitation on the amount of payments a person can receive under the wool and mohair programs for any marketing year. The annual limitation would be $50,000. The *Senate* amendment also specifically will require the Secretary of Agriculture to issue regulations (a) defining the term "person" for the purposes of the limitation, and (b) prescribing rules that will ensure a fair and reasonable application of the limitation. The regulations issued by the Secretary on December 18, 1970, would be used to determine whether a corporation and its stockholders are separate persons for the purpose of the limitation. (Sec. 301(2).)

The *House* bill contains no comparable provisions.

The *Conference* substitute deletes the *Senate* provision.

Title III—Wheat

(1) Wheat marketing quotas

(a) The *Senate* amendment requires the Secretary of Agriculture, not later than April 1, 1986, to conduct, by mail, a poll of producers who produced wheat in at least one of the 1981 through 1985 crops to determine whether such producers favor the proclamation of marketing quotas for wheat for the 1987 through 1989 marketing years and the conduct of a marketing quota referendum for such period.

If more than 50 percent of the eligible producers responding to the poll favor the proclamation of marketing quotas and the conduct of a referendum, the Secretary must (A) proclaim national marketing quotas for wheat for each of the 1987 through 1989 marketing years not later than June 15 of the calendar year preceding such period and (B) conduct, by mail ballot, a referendum not later than August 1 of the calendar year preceding such period.

The quantity of the national marketing quota for wheat for any marketing year would be a quantity of wheat that the Secretary estimates is required to meet anticipated needs during such marketing year, taking into consideration domestic requirements, export demand, emergency food aid needs, and adequate carryover stocks.

If, after the proclamation of a national marketing quota for wheat for any marketing year, the Secretary determines that the national marketing quota should be terminated or adjusted to meet a national emergency or a material change in the demand for wheat, the Secretary must adjust or terminate the national marketing quota. (Sec. 401.)

The *House* bill contains no comparable provision.

(Note: See item (3) under title X (General Commodity Provisions) for House provisions repealing the wheat marketing quota provisions of the Agricultural Adjustment Act of 1938.)

The *Conference* substitute adopts the *Senate* provision, except that the Secretary is authorized to carry out the provisions at his discretion.

In addition, the Secretary is required to conduct, by mail, not later than July 1, 1986, a poll of wheat producers who produced wheat in at least one of the 1981 through 1985 crops on a farm having a minimum crop base of 40 acres for each crop surveyed, to determine producer support for mandatory limits on production that would result in commodity prices no lower than 125 percent of the cost of production, excluding land and residual returns to management, as determined by the Secretary.

The poll shall be conducted in such manner as will reflect the type and size of farm operations, including livestock, distinctions among types and classes of grain produced, and such demographic and other information as the Secretary determines is necessary to reflect State, regional, and national responses.

(The conferees note that the Secretary may conduct a similar poll of producers who produce feed grains.)

(b) The *Senate* amendment requires the Secretary to establish a marketing quota apportionment factor for each crop of wheat for which a national marketing quota is proclaimed. The apportionment factor would be determined by dividing the national marketing quota for the crop of wheat by the average number of bushels of wheat the Secretary determines was produced in the United States during the 1981 through 1985 marketing years. The average bushels of wheat produced may be adjusted to reflect (A) drought, flood, or other natural disaster, or other conditions beyond the control of producers, and (B) participation in any acreage reduction, set-aside, or diversion programs for wheat during 1981 through 1985. (Sec. 402.)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision, except that the Secretary is authorized to carry out the provisions at his discretion.

(c) The *Senate* amendment requires the Secretary, if marketing quotas have been proclaimed for a crop, to establish, by July 15 of the calendar year preceding the crop year, a farm marketing quota for each farm on which wheat was planted for harvest, or considered planted for harvest, during 1981 through 1985.

The farm marketing quota would be equal to (A) the average number of acres of wheat planted for harvest, or considered planted for harvest, on the farm during 1981 through 1985, multiplied by (B) the average yield per acre of wheat planted for harvest, or considered planted for harvest, on the farm during such period, multiplied by (C) the marketing quota apportionment factor.

Wheat would be considered to have been planted for harvest on the farm in any crop year to the extent wheat was not planted for harvest (A) because of drought, flood, or other natural disaster, or other condition beyond the control of the producer, or (B) because the producer on the farm participated in any acreage reduction, set-aside, or diversion program for wheat during such crop year. (Sec. 403.)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision, except that the Secretary is authorized to carry out the provisions at his discretion.

(d) The *Senate* amendment provides that the marketing of wheat produced on a farm in excess of a farm marketing quota shall be subject to a penalty at a rate per bushel equal to 75 percent of the national average market price for wheat during the preceding marketing year. Provisions are contained relating to payment of the penalty, false certification of planted acreage, joint liability for the penalty, carryover of wheat subject to a marketing quota from one year to the next, collection of the penalty, deposit of penalties collected in the Treasury, refund of overpayments, liability for interest on penalties due. (Sec. 404.)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision, except that the Secretary is authorized to carry out the provisions at his discretion.

(e) The *Senate* amendment provides that, if a national marketing quota for wheat is proclaimed for the 1987 through 1989 crops, the Secretary must conduct, by mail ballot, a referendum of producers who produced wheat in at least one of the 1981 through 1985 crops to determine whether they favor or oppose marketing quotas for the 1987 through 1989 crops. If 60 percent or more of the producers voting in the referendum approve marketing quotas, the Secretary must proclaim that marketing quotas will be in effect for that period. (Sec. 405.)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision, except that the Secretary is authorized to carry out the provisions at his discretion.

(f) The *Senate* amendment provides that farm marketing quotas are not transferable, except that such quotas, or any portion of a quota, for a marketing year may be voluntarily surrendered to the Secretary by the producer. The Secretary may reallocate any quota so surrendered to other farms having a farm marketing quota on such basis as the Secretary determines. (Sec. 406.)

The *House* bill contains no comparable provisions.

The *Conference* substitute adopts the Senate provision, except that the Secretary is authorized to carry out the provisions at his discretion.

(2) Wheat loan rates

(a) The *Senate* amendment provides that for any crop of wheat for which marketing quotas are in effect the loan and purchase level shall not be less than the higher of (A) 75 percent of the national average cost of production per bushel of wheat, taking into consideration variable expenses, general farm overhead, taxes, insurance, interest, and capital replacement costs (excluding residual returns for management and risk), or (B) $3.55 per bushel. (Sec. 407.)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the Senate provision.

(b) The House bill requires the Secretary of Agriculture, unless the Secretary opts to make available recourse loans described in paragraph (c) below, to make available to producers loans and purchases for the marketing years for the 1986 through 1990 crops at a level not less than 75 percent nor more than 85 percent of the simple average price received by farmers during the 5 preceding marketing years, excluding the highest and lowest years, except that the loan and purchase level for any year may not be less than 95 percent of the level for the preceding year as determined prior to any reduction under the next sentence. If the Secretary determines that (A) the average price of wheat received by producers in the previous marketing year was not more than 105 percent of the loan and purchase level for wheat for such marketing year, or (B) the loan level computed under the foregoing provisions would discourage the exportation of wheat and cause excessive stocks of wheat in the United States, the Secretary may reduce the loan and purchase level as necessary to maintain domestic and export markets for grain, but not to a level that is less than 80 percent of the level determined under the preceding sentence. Nonrecourse loans under this provision could be made only on an amount of wheat produced on the farm equal to the acreage planted for harvest times the farm's program yield for the crop. (Sec. 401.)

The *Senate* amendment requires the Secretary, if marketing quotas are not in effect, to make available to producers loans and purchases for the 1986 crop of wheat at a level of not less than $3.00 per bushel and for the 1987 through 1989 crops at not less than 75 percent nor more than 85 percent of the simple average price received by farmers during the 5 preceding marketing years, excluding the highest and lowest years, except that the loan and purchase level for any of the 1987 through 1989 crops may not be reduced by more than 5 percent from the level for the preceding crop. If the Secretary determines that the average price of wheat received by producers in any marketing year is not more than 110 percent of the loan and purchase level for such marketing year, the Secretary may reduce the loan and purchase level for the next marketing year as necessary to maintain domestic and export markets for grain, but not by more than 20 percent in any year. Any reduction under the preceding sentence may not be considered in determining the loan and purchase level for subsequent years. (Sec. 407.)

The Conference substitute requires the Secretary, if marketing quotas are not in effect, to make available to producers loans and purchases for the 1986 crop of wheat at a level of not less than $3.00 per bushel and for the 1987 through 1990 crops at not less than 75 percent nor more than 85 percent of the simple average price received by farmers during the 5 preceding marketing years, excluding the highest and lowest years, except that the loan and purchase level for any of the 1987 through 1990 crops may not be reduced by more than 5 percent from the level for the preceding crop.

If the Secretary determines that (A) the average price of wheat received by producers in the previous marketing year was not more than 110 percent of the loan and purchase level for wheat for such marketing year, or (B) the loan level computed under the foregoing provisions would discourage the exportation of wheat and cause excessive stocks of wheat in the United States, the Secretary may reduce the loan and purchase level as necessary to maintain domestic and export markets for grain, but not by more than 20 percent in any one year. For the 1986 crop of wheat the Secretary is required to reduce the loan and purchase level by not less than 10 percent of the loan and purchase level for such crop. Any such reduction, including 1986, may not be considered in determining the loan and purchase level for subsequent years.

(c) The *House* bill authorizes the Secretary, if the Secretary does not make nonrecourse loans as described in paragraph (b) above, to make available recourse loans to producers for each of the marketing years for the 1986 through 1990 crops at a level not less than 75 percent nor more than 85 percent of the simple average price received by farmers during the 5 preceding marketing years, excluding the highest and lowest years, except that the loan and purchase level for any year may not be less than the 95 percent of the level for the preceding marketing year. The maximum term for a recourse loan under this provision would be 270 days. (Sec. 401.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the *House* provision.

(d) The *House* bill authorizes a producer to repay a recourse loan at a level, per bushel, that is the lesser of (A) the original loan level, or (B) at any time through the maturity date of the loan that the producer redeems the wheat under loan: (i) the then current State monthly weighted average market price for wheat, adjusted for each county, or (ii) the then current State weekly or daily weighted average market price for wheat, adjusted for each county, if the Secretary determines that it is administratively feasible and reduces the fluctuation in the repayment market price for producers. (Sec. 401.)

The *Senate* amendment requires the Secretary to permit repayment at (A) original loan level, or (B) the higher of (i) 70 percent of the original loan level, (ii) if the loan level is reduced because in the previous year the average producer price did not exceed 110 percent of the loan rate, 70 percent of the loan level that would have been in effect but for such a reduction, or (iii) the prevailing world market price. The Secretary is required to prescribe by regulation a formula to define the prevailing world market price for wheat and a mechanism for announcing periodically such world market price. (Sec. 407.)

The *Conference* substitute adopts the *Senate* provision, except that the Secretary is authorized to carry out the provisions at his discretion.

(e) Note: See item (6) of title X (General Commodity Provisions) relating to a nonrecourse loan limit for wheat.

(3) Loan deficiency payments

The *Senate* amendment authorizes the Secretary of Agriculture, for each of the 1986 through 1989 crops of wheat, to make payments available to producers who, although eligible to obtain a wheat loan or purchase agreement, agree to forgo obtaining such loan or agreement in return for such payments. Such a payment is computed by multiplying the loan payment rate by the quantity of wheat the producer is eligible to place under loan. For purposes of this provision, the quantity of wheat eligible to be placed under loan may not exceed the individual farm program acreage for the crop multiplied by the farm program payment yield established for the farm. The loan payment rate is the amount by which the loan level determined for the crop exceeds the level at which a loan may be repaid. (Sec. 407.)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the Senate provision except that the provision will apply to the 1986 through 1990 crops of wheat.

(4) Wheat target prices

(a) The *Senate* amendment provides that for any crop of wheat for which marketing quotas are in effect the established price shall not be less than the higher of (A) the national average cost of production per bushel of wheat using the same factors as for determining the loan rate if marketing quotas are in effect, or (B) $4.65 per bushel. (Sec. 407.)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the Senate provision.

(b) The *House* bill provides that the established price for the 1986 and 1987 crops of wheat shall be $4.38 per bushel. For each of the 1988 thorugh 1990 crops, the established price shall be a price determined by the Secretary of Agriculture that is not less than 110 percent nor more than 125 percent of the simple average price received by farmers during the marketing years for the 5 preceding crops, excluding the high and low years, except that (A) the established price may not be set at a level that is less than 95 percent of the established price for the preceding crop, and (B) the established price may not be set at a level that is less than the level for the preceding crop unless the Secretary certifies to Congress when the program is announced that the cost of production for such crop of wheat for all producers, as estimated by the Economic Research Service in consultation with the National Agricultural Cost of Production Standards Review Board, will be 5 percent below the cost of production for the preceding crop of wheat for all producers. (Sec. 401.)

The *Senate* amendment provides that for any of the 1986 through 1988 crops of wheat for which marketing quotas are not in effect, with the exceptions noted below, the established price applicable to producers shall be not less than an amount determined on the basis of the percentage by which the producers reduce the acreage planted to wheat on the farm for harvest from the acreage base for the farm under an acreage limitation program as provided in the following table:

Acreage percentage	Limitation 1986 crop	Minimum established price	
		1987 crop	1988 crop
10			$3.80.
15	$4.20	$3.95	3.95.
20	3.85 on the first 2,000 bushels. 4.65 on the next 18,000 bushels. 4.15 on more than 20,000 bushels.	3.66 on the first 2,000 bushels. 4.42 on the next 18,000 bushels. 3.94 on more than 20,000 bushels.	3.66 on the first 2,000 bushels. 4.42 on the next 18,000 bushels. 3.94 on more than 20,000 bushels.
25	4.60	4.35	4.35.
30	4.85	4.60	4.55.
35	5.15	4.85	
40	5.50	5.20	

In determining the established price applicable to a portion of a crop, the determination shall be made on the basis of the farm program acreage and the farm program payment yield.

In the case of producers who produce less than 2,000 bushels of wheat in such a crop year, who choose the 20 percent acreage reduction percentage, and who have gross annual sales of agricultural commodities of more than $20,000, the established price shall not be less than $4.65 per bushel for the 1986 crop and $4.42 per bushel for the 1987 and 1988 crops.

Also, in the case of producers who produce less than 2,000 bushels of wheat in such a crop year, who choose any of the acreage reduction percentages in the above table, and who have gross annual sales of agricultural commodities of less than $20,000, the established price shall not be less than $3.85 per bushel.

For the 1989 crop of wheat, if marketing quotas are not in effect, the established price shall be set at a level determined by the Secretary taking into consideration supply and demand for wheat, program costs, and other appropriate factors, except that the established price may not be less than 85 percent of the established price for the 1985 crop of wheat. (Sec. 407.)

The *Conference* substitute provides that when marketing quotas are not in effect the established price for the 1986 and 1987 crops of wheat shall be $4.38 per bushel. The established price for the 1988 crop may not be set at a level that is less than 98 percent of the established price for the 1986 and 1987 crops, and; the established price for the 1989 crop may not be set at a level that is less than 95 percent of the established price for the 1986 and 1987 crops, and; the established price for the 1990 crop may not be set at a level that is less than 90 percent of the established price for the 1986 and 1987 crops, or $4.00, whichever is higher.

The *Conference* substitute further provides that the Secretary is authorized, at his discretion, for any of the 1986 through 1988 crops of wheat for which marketing quotas are not in effect, to formulate flexible and optional programs with respect to the established price for a crop of wheat under which the established prices applicable to producers on a farm depends upon the percentages, as specified by the Secretary, by which the producers reduce the acreage planted to wheat on the farm for harvest from the acreage base for the farm. In addition, the Secretary may formulate a program by which the established price for wheat is determined in relation to the number of bushels produced on a farm.

(c) The *Senate* amendment requires the Secretary for the 1987 crop, if marketing quotas are not in effect, to make in-kind payments (in wheat) to producers in such amounts as will ensure that the effective established price for the 1987 crop for the acreage reduction percentage selected by the producers on a farm will not be less than the established price applicable to the same acreage reduction percentage for the 1986 crop. For the 1988 crop, the Secretary is required to make in-kind payments (in wheat), or cash payments to the extent wheat owned by the Commodity Credit Corporation is not available, in such amounts as will ensure that the effective established price for the 1988 crop for the acreage reduction percentage selected by the producers will not be less than the cash established price applicable to the equivalent acreage reduction percentage for the 1987 crop. If there is no equivalent acreage reduction percentage for the preceding crop, such payments would be made in amounts the Secretary determines fair and equitable in relation to the established price for the acreage reduction most equivalent to the acreage reduction selected by the producers. (Sec. 407.)

The *House* bill contains no comparable provision.

The *Conference* substitute provides that up to 5 percent of the total deficiency payment may be made in commodities at the discretion of the Secretary.

(d) The *House* bill provides that if the Secretary reduces the loan and purchase level based on low market prices or the world market and supply situation, the Secretary must provide emergency compensation by increasing the established price payments for wheat by such amount as necessary to provide the same total return to producers as if the reduction has not been made. The Secretary is to use the national weighted average market price, per bushel of wheat, received by farmers during the marketing year (instead of the average price received during the first 5 months of the marketing year) in determining the payment rate for such established price payments. Payments under this provision would not be subject to the payment limitation. (Sec. 401.)

The *Senate* amendment contains no comparable provision, but see item (f) below relating to the payment rate.

The *Conference* substitute adopts the House provision.

(e) The House bill provides that whenever an acreage limitation program is in effect for a crop of wheat, if producers on a farm devote a portion of the farm's permitted wheat acreage (base minus acreage reduction) equal to more than 5 percent of the farm's wheat crop acreage base for the crop to conservation uses or nonprogram crops, the portion of the wheat permitted acreage in excess of 5 percent of the base that is devoted to conservation uses or nonprogram crops would be considered as part of the farm's wheat program acreage and the producers would be eligible for target price payments on such acreage if the producers actually plant wheat for harvest on at least 50 percent of the farm's wheat crop acreage base. The farm's wheat crop acreage base and wheat program yield would not be reduced due to the fact that such portion of the farm's permtted acreage was devoted to conserving uses or nonprogram crops. Other than under this exception, target price payments would be made only on acreage actually planted to wheat for harvest. (Sec. 401.)

The *Senate* amendment provides that whenever the producer reduces the acreage of wheat planted for harvest from the acreage base by at least the percentage recommended by the Secretary in the announcement of the national program acreage, or an acreage limitation program is in effect, if the producer plants at least 50 percent of the acreage base (reduced by the percentage recommended by the Secretary) or the permitted wheat acreage, as the case may be, to wheat or a nonprogram crop, any portion of the acreage base (reduced by the percentage recommended by the Secretary) or the permitted wheat acreage, as the case may be, that is devoted to conserving uses or nonprogram crops would be considered as part of the individual farm program acreage, and the producer would be eligible for deficiency payments with respect to such acreage. Such acreage would also be considered to be planted to wheat. However, this provision would not apply to producers who reduce their wheat acreage by more than 20 percent under an acreage limitation program. For purposes of this provision, a "nonprogram" crop means any agricultural commodity other than wheat, feed grains, upland cotton, extra long staple cotton, rice, or soybeans. (Sec. 407.)

The *Conference* substitute adopts the *Senate* provision with a modification which provides that the producer woud be eligible for 92 percent of the deficiency payments otherwise applicable, if at least 50 percent of the permitted acres are planted to wheat. If the Secretary announces a flexible established prices and acreage limitation option, this provision would not apply.

(f) The *House* bill provides that the payment rate is the amount by which the established price for the crop (less 13 cents per bushel if the Secretary establishes a wheat export certificate program for the crop (see item (23) under title X)) exceeds the higher of—

(A) the national weighted average market price received by farmers during the first 5 months of the marketing year for the crop, or

(B) the loan level determined for the crop prior to any adjustment based on low market prices or the world market and supply situation. (Sec. 401.)

The *Senate* amendment provides that the payment rate is the amount by which the established price for the crop exceeds the higher of—

(A) the lower of—

(i) the national weighted average market price received by farmers during the marketing year for such crop, or

(ii) $2.55 per bushel in the case of the 1986 crop, $2.65 per bushel in the case of the 1987 crop, and $2.82 per bushel in the case of the 1988 crop, or

(B) the loan level determined for the crop. (Sec. 407.)

The *Conference* substitute adopts both the *House* and *Senate* provisions, except that the Secretary is authorized to carry out the *Senate* provision at his discretion.

(g) The *Senate* amendment provides that payments for any crop of wheat for which marketing quotas are in effect may not exceed an amount equal to the payment rate multiplied by the farm marketing quota. (Sec. 407.)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(5) Disaster payments

The *House* bill provides that prevented planting disaster payments for wheat may be made in the form of cash or from stocks of wheat held by the Commodity Credit Corporation. (Sec. 401.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(6) National program acreage

The *House* bill requires the Secretary of Agriculture to proclaim the national program acreage for each crop of wheat by May 1 of each calendar year for the crop harvested in the next succeeding calendar year. (Sec. 401.)

The *Senate* amendment requires this proclamation to be made by July 1. (Sec. 407.)

The *Conference* substitute adopts the *House* provision with a modification requiring the Secretary to make a preliminary announcement by June 1, with authorization to make adjustments in the announced program not later than July 31.

(7) Individual farm program acreage

The *Senate* amendment provides that for any crop of wheat for which marketing quotas are in effect the individual farm program acreage shall be the acreage on the farm that the Secretary of Agriculture determines is sufficient to produce the quantity of wheat equal to the marketing quota established for the farm. (Sec. 407).

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(8) Farm program yields

(See item (2)(f) relating to acreage base and program yield system under title X (General Commodity Provisions).)

(9) Wheat acreage limitation and set-aside program

(a) The *House* bill requires the Secretary of Agriculture to announce any wheat acreage limitation or set-aside program by May 1 prior to the calendar year in which the crop is harvested. (Sec. 401.)

The *Senate* amendment requires announcement of any acreage limitation program by July 1. (Sec. 407.)

The *Conference* substitute adopts the *House* provision with a modification requiring the Secretary to make a preliminary announcement by June 1, with authorization to make adjustments in the announced program not later than July 31.

(b) The *House* bill requires the Secretary to provide for an acreage limitation program for the 1986 crop of wheat under which the acreage on the farm planted to wheat for harvest would be limited to the wheat crop acreage base reduced by 30 percent. However, in the case of producers who plant the 1986 crop before the acreage limitation program announcement for that crop, the Secretary must provide for a combination of a 20-percent acreage limitation program and a 10-percent paid diversion program. Payments under the paid diversion program would be calculated by multiplying the diversion payment rate ($2.00 per bushel) by the diverted acreage by the farm's wheat program yield.

With respect to any of the 1987 through 1990 crops of wheat, if the Secretary estimates—not later than May 1 of the year prior to the calendar year for that crop will exceed 800 million bushels, the Secretary would be required to provide for a 20-percent acreage limitation program and could provide for a paid diversion program or an additional acreage limitation program for any reduction above 20 percent.

Any wheat acreage limitation would be achieved by applying a uniform percentage reduction to the wheat crop acreage base for the crop for each wheat-producing farm.

As a condition for eligibility for price support loans and target price payments for any crop for which a mandatory acreage reduction program applies, produces on a farm must comply with the terms and conditions of the acreage limitation program and, if applicable, the paid diversion program. (Sec. 401.)

The *Senate* amendment, in the case of each of the 1986 through 1988 crops of wheat for which marketing quotas are not in effect, requires the Secretary to provide for an acreage limitation program under which producers would select the percentage reduction to be applied to the wheat acreage base that is specified in the established price tables as follows:

Acreage limitation percentages		
1986 crop	1987 crop	[illegible] crop
....	....	10
15	15	15
20	20	20
25	25	25
[illegible]	30	[illegible]
35	35	....
40	40	....

(Note: See item (9) under title X (General Commodity Provisions) for a provision authorizing a 5 percent increase in the acreage limitation percentages if estimated wheat carryover would be more than 33 percent of annual wheat usage.)

In the case of the 1989 crop of wheat if marketing quotas are not in effect the Secretary is prohibited from providing for an acreage limitation program. (Sec. 407.)

The *Conference* substitute authorizes the Secretary to establish wheat acreage limitation, set-aside, and paid land diversion programs.

In crop year 1986 an acreage limitation program shall be in effect if triggered by projected carrying stocks greater than 1 billion bushels of wheat, and in such event shall be no less than 17.5 percent. In such instance, 2.5 percent of the acreage limitation must be paid with commodities. In addition, the Secretary is required to offer a 10 percent cash paid diversion progam at $2.00 per bushel to those wheat producers who planted wheat prior to the final announcement of the 1986 wheat program. In no instance shall the wheat acreage limitation program for 1986 be greater than 25 percent.

In crop year 1987 an acreage limitation program shall be in effect if triggered by projected carryin stocks greater than 1 billion bushels, and in such event shall be no less than 20 percent, and no greater than 27.5 percent.

In crop years 1988 through 1990 acreage limitation programs shall be in effect if triggered by projected carryin stocks greater than 1 billion bushels, and in such event shall be no less than 20 percent, and no greater than 30 percent.

In the event carryin stocks of 1 billion bushels of wheat are not attained, the acreage limitation may not be greater than 15 percent in 1986 and 20 percent in 1987 through 1990.

For crop years 1986 through 1990 the Secretary is authorized to offer at his discretion voluntary paid land diversion programs at such levels as he determines.

It is the intent of the conferees that, whenever the Secretary announces an acreage reduction program, he must send a report to the House and Senate agriculture committees. The report is to contain an economic analysis of the effect of the size of the acreage reduction program on the farm economy—including, in particular, the effect of the program on farm income. In addition to the effect of the program on farm income, the analysis is to take into account the effect of the size of the program on farm input and agricultural processing industries, livestock producers, consumers of agricultural products, agricultural trade, jobs, tax revenues, and farm production efficiencies. (For the purposes of the report and analysis, the term "acreage reduction program" includes any set-aside, paid diversion, payment-in-kind, or acreage limitation program of any kind (except conservation acreage reserve) administered by the Secretary.)

(c) (For differences concerning acreage bases see item (2)(e) relating to acreage base and program yield system under title X (General Commodity Provisions).)

(d) The *House* bill authorizes the Secretary to establish an acreage limitation or a set-aside program for any crop for which an acreage limitation program is not required as specified above. If a set-aside program is announced, then as a condition of eligibility for loans and target price payments for a crop of wheat, the producer must set aside and devote to conservation uses an acreage of cropland on the farm equal to a percentage (specified by the Secretary) of the acreage on the farm planted to wheat for harvest. If a set-aside is announced, the Secretary could also limit the acreage planted to wheat, such limitation to be applied on a uniform basis to all wheat-producing farms. The Secretary may make adjustments in individual set-aside acreages to correct for abnormal factors affecting production and to give due consideration to crop-rotation practices, types of soil, soil and water conservation measures, topography, and other factors the Secretary deems necessary. (Sec. 401.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(e) The *Senate* amendment requires the Secretary to permit, at the request of the State ASC committee for a State and subject to such terms and conditions as the Secretary may prescribe, acreage required to be diverted from production by participating producers in such State to be devoted to (A) haying and grazing for the 1986 crop, and (B) grazing for the 1987 through 1989 crops. Haying and grazing may not be permitted, however, for any crop of wheat during any 5-consecutive-month period that is established for such crop for a State by the State ASC committee. (Sec. 407.)

The *House* bill, in a provision applicable to wheat, feed grains, upland cotton, and rice, requires the Secretary to permit producers in any State who participate in any acreage limitation, set-aside, or land diversion program for such commodity to devote acreage diverted from production under such a program to haying and grazing during the 8 months of each year selected by the State ASC committee for such State, except that a producer may not sell any hay or other crop harvested from the acreage devoted to haying and grazing under this provision. (Sec. 1017.)

The *Conference* substitute adopts the *Senate* provision.

(f) The *House* bill authorizes the Secretary to pay an appropriate share of the cost of approved soil and water conservation practices (including practices that may be effective for a number of years) established by the producer on reduced acreage, set-aside acreage, or additional diverted acreage. (Sec. 401.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(g) The *House* bill authorizes the Secretary in carrying out any acreage limitation, set-aside, or paid diversion program to prescribe production targets for participating farms expressed in bushels of production so that all participating farms achieve the same pro rata reduction in production as prescribed by the national program targets. (Sec. 401.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(10) Inventory reduction payments

The *Senate* amendment authorizes the Secretary, for each of the 1986 through 1989 crops of wheat, to make payments available to producers who (A) agree to forgo obtaining a loan or purchase agreement for wheat, (B) agree to forgo receiving wheat deficiency payments, (C) do not plant wheat for harvest in excess of the farm acreage base reduced by one-half of any acreage required to be diverted from production under an acreage limitation program, and (D) otherwise comply with the wheat program. Such payments would be made in the form of wheat owned by the Commodity Credit Corporation and would be subject to the availability of such wheat. Payments would be determined in the same manner as for loan deficiency payments, that is by multiplying the quantity of wheat the producer is eligible to place under loan by the amount by which the loan level determined for the crop exceeds the level at which a loan may be repaid. (Sec. 407.)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision except that the provision will apply to the 1986 through 1990 crops of wheat.

(11) Cross compliance

The *House* bill provides that compliance on a farm with the terms and conditions of any other commodity program may not be required as a condition of eligibility for loans, purchases, or payments under the wheat program if an acreage limitation program is established, but may be required if a set-aside program is established. (Sec. 401.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute provides the Secretary with authority to require compliance on a farm with the terms and conditions of any other commodity program as a condition of eligibility for loans, purchases, or payments under the wheat program if an acreage limitation program or set-aside is established, but only to the extent that producers who participate in any acreage limitation program or set-aside may not expand acreage of another crop for which there is an acreage limitation or set-aside in effect.

(12) Safeguarding tenants and sharecroppers

The *Senate* amendment requires the Secretary to provide adequate safeguards to protect the interests of tenants and sharecroppers. (Sec. 407.)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the Senate provision.

(13) Loan and deficiency payment rate study

The *Senate* amendment requires the Secretary of Agriculture to conduct a study of the feasibility of establishing separate loan rates and deficiency payment rates for (A) hard red winter wheat, (B) soft red winter wheat, (C) hard red spring wheat, (D) white wheat, and (E) durum wheat, as defined in the official United States standards for wheat established under the United States Grain Standards Act. Within 18 months after the date of enactment of the bill, the Secretary would be required to report the results of the study, together with recommendations for legislation, to the House and Senate agriculture committees.

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the House provision.

(14) Targeting of wheat deficiency payments

The *Senate* amendment makes certain findings relating to family farms and states the sense of the Senate that the Senate conferees should work toward targeting, to the maximum extent practicable, the benefits of wheat deficiency payments to family farms that rely on agriculture for their primary source of income and should take into consideration producers whose wheat production may be minimal but who rely on agriculture for their primary source of income. (Sec. 413.)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the House provision.

TITLE IV—FEED GRAINS

(1) Feed grain loan rates

(a) The *House* bill requires the Secretary of Agriculture, unless the Secretary opts to make available recourse loans described in paragraph (b) below, to make available to producers loans and purchases for the marketing years for the 1986 through 1990 crops of corn at a level not less than 75 percent nor more than 85 percent of the simple average price received by farmers during the 5 preceding marketing years, excluding the highest and lowers years, except that the loan and purchase level for any year may not be less than 95 percent of the level for the preceding year as determined prior to any reduction under the next sentence. If the Secretary determines that (A) the average price of corn received by producers in the previous marketing year was not more than 105 percent of the loan and purchase level for corn for such marketing year, or (B) the loan level computed under the foregoing provisions would discourage the exportation of corn and cause excessive stocks of corn in the United States, the Secretary may reduce the loan and purchase level as necessary to maintain domestic and export markets for grain, but not to a level that is less than 80 percent of the level determined under the preceding sentence. Nonrecourse loans under this provision could be made only on an amount of corn produced on the farm equal to the acreage planted to corn for harvest times the farm's program yield for the crop. (Sec. 501.)

The *Senate* amendment requires the Secretary to make available to producers loans and purchases for the 1986 crop of corn at a level of not less than $2.40 per bushel and for the 1987 through 1989 crops at not less than 75 percent nor more than 85 percent of the simple average price received by farmers during the 5 preceding marketing years, excluding the highest and lowest years, except that the loan and purchase level for any of the 1987 through 1989 crops may not be reduced by more than 5 percent from the level for the preceding crop. If the Secretary determines that the average price of corn received by producers in any marketing year is not more than 110 percent of the loan and purchase level for such marketing year, the Secretary may reduce the loan and purchase level for the next marketing year as necessary to maintain domestic and export markets for grain, but not by more than 20 percent in any year. Any reduction under the preceding sentence may not be considered in determining the loan and purchase level for subsequent years. (Sec. 501.)

The *Conference* substitute requires the Secretary of Agriculutre to make available to producers loans and purchases for the 1986 crop of feed grains at a level of not less than $2.40 per bushel and for the 1987 through 1990 crops at not less than 75 percent nor more than 85 percent of the simple average price received by farmers during the 5 preceding marketing years, excluding the highest and lowest years, except that the loan and purchase level for any of the 1987 through 1990 crops may not be reduced by more than 5 percent from the level for the preceding crop.

If the Secretary determines that (A) the average price of feed grains received by producers in the previous marketing year was not more than 110 percent of the loan and purchase level for feed grains for such marketing year, or (B) the loan level computed under the foregoing provisions would discourage the exportation of feed grains and cause excessive stocks of feed grains in the United States, the Secretary may reduce the loan and purchase level as necessary to maintain domestic and export markets for grain, but not by more than 20 percent in any one year. For the 1986 crop of feed grains the Secretary is required to reduce the loan and purchase level by not less than 10 percent of the loan and purchase level for such crop. Any such reduction, including 1986, may not be considered in determining the loan and purchase level for subsequent years.

(b) The *House* bill authorizes the Secretary, if the Secretary does not make available nonrecourse loans as described in paragraph (a) above, to make available *recourse* loans to producers of corn for each of the marketing years for the 1986 through 1990 crops at a level not less than 75 percent nor more than 85 percent of the simple average price received by farmers during the 5 preceding marketing years, excluding the highest and lowest years, except that the loan and purchase level for corn for any year may not be less than 95 percent of the level for the preceding marketing year. The maximum term for a recourse loan under this provision would be 270 days.

The Secretary may also make available recourse loans for each of the 1986 through 1990 crops of grain sorghums, barley, oats, and rye at a level that is fair and reasonable in relation to the corn resources loan level, taking into consideration the feeding value of the commodity in relation to corn and other specified factors. (Sec. 501.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(c) The *House* bill authorizes a producer to repay a *recourse* loan at a level, per bushel, that is the lesser of (A) the original loan level, or (B) at any time through the maturity date of the loan that the producer redeems the feed grain under loan: (i) the then current State monthly weighted average market price for the feed grain, adjusted for each county, or (ii) the then current State weekly or daily weighted average market price for the feed grain, adjusted for each county, if the Secretary determines that it is administratively feasible and reduces the fluctuation in the repayment market price for producers. (Sec. 501.)

The *Senate* amendment requires the Secretary to permit a producer to repay a feed grain loan at a level that is the lesser of (A) the original loan level, or (B) the higher of (i) 70 percent of the original loan level, (ii) if the loan level is reduced because in the previous year the average producer price did not exceed 110 percent of the loan rate, 70 percent of the loan level that would have been in effect but for such a reduction, or (iii) the prevailing world market price for such feed grain. The Secretary is required to prescribe by regulation a formula to define the prevailing world market price for feed grains and a mechanism for announcing periodically such world market price. (Sec. 501.)

The Conference substitute adopts the Senate provision, except that the Secretary is authorized to carry out the provisions at his discretion.

(d) Note: See item (6) of title X (General Commodity Provisions) relating to nonrecourse loan limit for feed grains.

(2) Loan deficiency payments

The Senate amendment authorizes the Secretary of Agriculture, for each of the 1986 through 1989 crops of corn, grain sorghums, barley, oats, and rye, to make payments available to producers who, although eligible to obtain a loan or purchase agreement on such commodity, agree to forgo obtaining such loan or agreement in return for such payments. Such a payment is computed by multiplying the loan payment rate by the quantity of such feed grains the producer is eligible to place under loan. For purposes of this provision, the quantity of feed grains eligible to be placed under loan may not exceed the individual farm program acreage for the crop multiplied by the farm program payment yield established for the farm. The loan payment rate is the amount by which the loan level determined for the crop exceeds the level at which a loan may be repaid. (Sec. 501.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision except that the provision will apply to each of the 1986 through 1990 crops of feed grains.

(3) Corn target prices

(a) The House bill provides that the established price for the 1986 and 1987 crops of corn shall be $3.03 per bushel. For each of the 1988 through 1990 crops, the established price shall be a price determined by the Secretary of Agriculture that is not less than 110 percent nor more than 125 percent of the simple average price received by farmers during the marketing years for the 5 preceding crops, excluding the high and low years, except that (A) the established price may not be set at a level that is less than 95 percent of the established price for the preceding crop, and (B) the established price may not be set at a level that is less than the level for the preceding crop unless the Secretary certifies to Congress when the program is announced that the cost of production for such crop of corn for all producers, as estimated by the Economic Research Service in consultation with National Agricultural Cost of Production Standards Review Board, will be 5 percent below the cost of production for preceding crop of corn for all producers. (Sec 501.)

The Senate amendment provides that the established price for the 1986 crop of corn shall not be less than $3.03 per bushel. For each of the 1987 through 1989 corps of corn, the established price shall not be less than such level as the Secretary determines appropriate taking into consideration the supply and demand for corn, program costs, and other factors the Secretary determines appropriate, except that the established price may not be reduced by more than 5 percent from the level for the preceding crop. (Sec. 501.)

The Conference substitute provides that the established price for the 1986 and 1987 corps of corn shall be $3.03 per bushel. The established price for other feed grains will be set by the Secretary at such levels as the Secretary determines are fair and reasonable in relation to the established price for corn. The established price for the 1988 crop may not be set at a level that is less than 98 percent of the established price for the 1986 and 1987 crops, and; the established price for the 1989 crop may not be set at a level that is less than 95 percent of the established price for the 1986 and 1987 crops, and; the established price for the 1990 crop may not be set at a level that is less than 90 percent of the established price for the 1986 and 1987 crops, or $2.75 per bushel, whichever is higher.

(b) The *Senate* amendment provides that if the Secretary reduces the established price for the 1987 crop of corn, the Secretary must make in-kind payments (in corn) to producers in such amounts as will ensure that the effective established price for the 1987 crop will not be less than the established price for the 1986 crop. If the Secretary reduces the established price for the 1988 crop, the Secretary must make in-kind payments (in corn), or cash payments to the extent corn owned by the Commodity Credit Corporation is not available, in such amounts as will ensure that the effective established price for the 1988 crop will not be less than the cash established price for the 1987 crop. (Sec. 501.)

The *House* bill contains no comparable provision.

The *Conference* substitute provides that up to 5 percent of the total deficiency payment may be made in commodities at the discretion of the Secretary.

(c) The *House* bill provides that if the Secretary reduces the loan and purchase level for corn based on low market prices or the world market and supply situation, the Secretary must provide emergency compensation by increasing the established price payments for corn by such amount as necessary to provide the same total return to producers as if the reduction had not been made. The Secretary is to use the national weighted average market price, per bushel of corn, received by farmers during the marketing year (instead of the average price received during the first 5 months of the marketing year) in determining the payment rate for such established price payments. Payments under this provision would not be subject to the payment limitation. (Sec. 501.)

The *Senate* amendment contains no comparable provision, but see item (e) below relating to the payment rate.

The *Conference* substitute adopts the *House* provision.

(d) The *House* bill provides that whenever an acreage limitation program is in effect for a crop of feed grains, if producers on a farm devote a portion of the farm's permitted feed grain acreage (base minus acreage reduction) equal to more than 5 percent of the farm's feed grain crop acreage base for the crop to conservation uses of nonprogram crops, the portion of the feed grain permitted acreage in excess of 5 percent of the base that is devoted to conservation uses or nonprogram crops would be considered as part of the farm's feed grain program acreage and the producers would be eligible for target price payments on such acreage if the producers actually plant feed grains for harvest on at least 50 percent of the farm's feed grain crop acreage base. The farm's feed grain crop acreage base and feed grain program yield would not be reduced due to the fact that such portion of the farm's permitted acreage was devoted to conserving uses or nonprogram crops. Other than under this exception, target price payments would be made only on acreage actually planted to feed grains for harvest. (Sec. 501.)

The *Senate* amendment provides that whenever (A) the producers on a farm reduce the acreage of feed grains planted for harvest from the acreage base by at least the percentage recommended by the Secretary in the announcement of the national program acreage, (B) an acreage limitation program is in effect, or (C) a set-aside program is in effect and the Secretary has announced a limitation on the acreage planted to feed grains, if the producers plant at least 50 percent of the acreage base (reduced by the percentage recommended by the Secretary), 50 percent of the permitted feed grain acreage, or 50 percent of the limited farm acreage, as the case may be, to feed grains or a nonprogram crop, any portion of the acreage base (reduced by the percentage recommended by the Secretary), the permitted feed grain acreage, or the limited farm acreage, as the case may be, that is devoted to conserving uses or nonprogram crops would be considered as part of the individual farm program acreage, and the producer would be eligible for deficiency payments with respect to such acreage. Such acreage would also be considered to be planted to feed grains. For purposes of this provision, a "nonprogram" crop means any agricultural commodity other than wheat, feed grains, upland cotton, extra long staple cotton, rice, or soybeans. (Sec 501.)

The *Conference* substitute adopts the *Senate* provision with a modification which provides that the producer would be eligible for 92 percent of the deficiency payments otherwise applicable, if at least 50 percent of the permitted acres are planted to feed grains.

(e) The *House* bill provides that the payment rate for a crop of corn is the amount by which the established price for the crop (less 6 cents per bushel if the Secretary establishes a feed grain export certificate program for the crop (see item (23) under title X)) exceeds the higher of—

(A) the national weighted average market price received by farmers during the first 5 months of the marketing year for the crop, or

(B) the loan level determined for the crop prior to any adjustment based on low market prices or the world market and supply situation. (Sec. 501.)

The *Senate* amendment provides that the payment rate for corn is the amount by which the established price for the crop exceeds the higher of—

(A) the lower of—

(i) the national weighted average market price received by farmers during the marketing year for such crop, or

(ii) $2.04 per bushel in the case of the 1986 crop, $2.19 per bushel in the case of the 1987 crop, and $2.24 per bushel in the case of the 1988 crop, or

(B) the loan level determined for the crop. (Sec. 501.)

The *Conference* substitute adopts both the *House* and *Senate* provisions, except that the Secretary is authorized to carry out the *Senate* provision at his discretion.

(4) Disaster payments

The *House* bill provides that prevented planting disaster payments for feed grains may be made in the form of cash or from stocks of feed grains held by the Commodity Credit Corporation. (Sec. 501.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(5) National program acreage

The *House* bill requires the Secretary of Agriculture to proclaim the national program acreage for each crop of feed grains by September 30 of each calendar year for the crop harvested in the next succeeding calendar year. (Sec. 501.)

The *Senate* amendment requires this proclamation to be made by November 15. (Sec. 501).

The *Conference* substitute adopts the *House* provision with a modification requiring the Secretary to make a preliminary announcement by September 30, with authorization to make adjustments in the announced program not later than November 15.

(6) Farm program yields

(See item (2)(f) relating to acreage base and program yield system under title X (General Commodity Provisions).)

(7) Feed grain acreage limitation and set-aside program

(a) The *House* bill authorizes the Secretary of Agriculture to provide for any of the 1986 through 1990 crops of feed grains either for an acreage limitation program or a set-aside program. (Sec. 501.)

The *Senate* amendment authorizes the Secretary to provide for any of the 1986 through 1988 crops of feed grains either for an acreage limitation program or a set-aside program. For the 1989 crop, the Secretary is prohibited from providing for either of such programs. (Sec. 501.)

The *Conference* substitute adopts the *House* provision.

(b) The *Senate* amendment requires the Secretary, in making a determination of whether to provide for an acreage limitation of set-aside program, to take into consideration the number of acres placed in the conservation acreage reserve established under the bill. (Sec. 501.)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision, with a modification to cover wheat.

(c) The *House* bill requires the Secretary to announce any feed grain acreage limitation or set-aside program by September 30 prior to the calendar year in which the crop is harvested, except that the Secretary may make appropriate adjustments in such announcement by October 30 if there has been a significant change in the total supply of feed grains since the earlier announcement. (Sec. 501.)

The *Senate* amendment requires announcement of any acreage limitation program by November 15. (Sec. 501.)

The *Conference* substitute adopts the *House* provision, with a modification requiring the Secretary to make a preliminary announcement by September 30, with authorization to make adjustments in the announced program not later than November 15.

(d) The *House* bill requires the Secretary to provide for an acreage limitation program for the 1986 crop of feed grains under which the acreage on the farm planted to feed grains for harvest would be limited to the feed grain crop acreage base reduced by 20 percent. However, in the case of producers who plant the 1986 crop before the acreage limitation program announcement for that crop, the Secretary must provide for a combination of a 10-percent acreage limitation program and a 10-percent paid diversion program.

With respect to any of the 1987 through 1990 crops of feed grains, if the Secretary estimates—not later than September 30 of the years prior to the calendar year in which the crop is harvested—that the carryover of feed grains on hand on the first day of the marketing year for that crop will exceed 1.1 billion bushels, the Secretary would be required to provide for a 10-percent acreage limitation program and could provide for a paid diversion program or an additional acreage limitation program for any reduction above 10 percent.

As a condition of eligibility for price support loans and target price payments for any crop for which a mandatory acreage reduction program applies, producers on a farm must comply with the terms and conditions of the acreage limitation program and, if applicable, the paid diversion program. (Sec. 501.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute authorizes the Secretary to establish feed grain acreage limitation, set-aside and paid land diversion programs.

In crop year 1986, an acreage limitation program shall be in effect if triggered by projected carrying stocks greater than 2 billion bushels of corn, and in such event shall be no less than 15 percent. In such instance, 2.5 percent of the acreage limitation must be paid with commodities. In no instance shall the feed grain acreage limitation program for 1986 be greater than 20 percent.

In crop years 1987 through 1990 acreage limitation programs shall be in effect if triggered by projected carrying stocks greater than 2 billion bushels of corn, and in such event shall be no less than 12.5 percent, and no greater than 20 percent.

In the event carry in stocks of 2 billion bushels of corn are not attained, the acreage limitation may not be greater than 12.5 percent.

For crop years 1986 through 1990 the Secretary is authorized to offer at his discretion voluntary paid land diversion programs at such levels as he determines.

(e) The *Senate* amendment, in the case of each of the 1986 through 1988 crops of feed grains, limits the maximum percentage reduction under an acreage limitation program to 15 percent. (Sec. 501.)

(Note: See item (9) under title X (General Commodity Provisions) for a provision authorizing a 5 percent increase in the acreage limitations percentage if estimated feed grain carryover would be more than 33 percent of annual feed grain usage.)

The *House* bill contains no comparable provision, except as provided for the 1986 crop described in item (d) above.

The *Conference* substitute deletes the Senate provision.

(f) (For differences concerning acreage bases see item (2)(e) relating to acreage base and program yield system under title X (General Commodity Provisions).)

(g) The *Senate* amendment limits to 15 percent the percentage reduction of the acreage of feed grains planted for harvest under a set-aside program. (Sec. 501.)

The *House* bill contains no comparable provision.

The *Conference* substitute deletes the Senate provision.

(h) The *House* bill authorizes the Secretary to pay an appropriate share of the cost of approved soil and water conservation practices (including practices that may be effective for a number of years) established by the producer on reduced acreage, set-aside acreage, or additional diverted acreage. (Sec. 501.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the House provision.

(i) The *House* bill authorizes the Secretary in carrying out any acreage limitation, set-aside, or paid diversion program to prescribe production targets for participating farms expressed in bushels of production so that all participating farms achieve the same pro rata reduction in production as prescribed by the national program targets. (Sec. 501.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the House provision.

(8) Inventory reduction payments

The *Senate* amendment authorizes the Secretary of Agriculture, for each of the 1986 through 1989 crops of corn, grain sorghums, oats, and, if designated by the Secretary, barley, to make payments available to producers who (A) agree to forgo obtaining a loan or purchase agreement for feed grains, (B) agree to forgo receiving feed grain deficiency payments, (C) do not plant feed grains for harvest in excess of the farm acreage base reduced by one-half of any acreage required to be diverted from production under an acreage limitation program, and (D) otherwise comply with the feed grain program. Such payments would be made in the form of feed grains owned by the Commodity Credit Corporation and would be subject to the availability of such feed grains. Payments would be determined in the same manner as for loan deficiency payments, that is by multiplying the quantity of feed grains the producer is eligible to place under loan by the amount by which the loan level determined for the crop exceeds the level at which a loan may be repaid. (Sec. 501.)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the Senate provision except that the provision will apply to each of the 1986 through 1990 crops of feed grains.

(9) Cross compliance

The *House* bill provides that compliance on a farm with the terms and conditions of any other commodity program may not be required as a condition of eligibility for loans, purchases, or payments under the feed grain program if an acreage limitation program is established, but may be required if a set-aside program is established. (Sec. 501.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute provides the Secretary of Agriculture with authority to require compliance on a farm with the terms and conditions of any other commodity program as a condition of eligibility for loans, purchases, or payments under the feed grains program if an acreage limitation program or set-aside is established, but only to the extent that producers who participate in any acreage limitation program or set-aside may not expand acreage of another crop for which there is an acreage limitation or set-aside in effect.

(10) Safeguarding tenants and sharecroppers

The *Senate* amendment requires the Secretary of Agriculture to provide adequate safeguards to protect the interests of tenants and sharecroppers. (Sec. 501.)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the Senate provision.

(11) Price support for corn silage

The *Senate* amendment authorizes the Secretary of Agriculture, effective only for each of the 1986 through 1989 crops of feed grains, to make available loans and purchases to producers on a farm who (A) for silage, cut corn (including mutilated corn) that the producers have produced in the crop year, or purchase or exchange corn (including mutilated corn) that has been produced in the crop year by another producer (including a producer that is not participating in a set-aside program for the crop established by the Secretary), and (B) participate in a set-aside program for the crop.

The loans and purchases could be made on a quantity of corn of the same crop, other than the corn obtained for silage, acquired by the producer equilavent to a quantity determined by multiplying the acreage of corn obtained for silage by the lower of the farm program payment yield or the actual yield on a field, as determined by the Secretary, that is similar to the field from which the silage was obtained. (Sec. 1940.)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the Senate provision.

TITLE V—COTTON

(1) Upland cotton program loans

(a) The *House* bill will require the Secretary of Agriculture to make available to producers nonrecourse loans for each of the 1986 through 1990 crops of upland cotton. Such loans on a crop would be made available at a level that reflects for Strict Low Middling one-and-one-sixteenth-inch cotton at average location in the United States the smaller of (A) 85 percent of the average price of such cotton in designated United States spot markets during three years of the five-year period ending July 31 in the year in which the level is announced, excluding the years when the price was highest and lowest, or (B) 90 percent of the average, for the 15-week period beginning July 1 of the year in which the level is announced, of the five lowest priced growths quoted for Middling one-and-three-thirty-seconds-inch cotton, C.I.F. northern Europe (adjusted downward by the average difference between July 15 and October 15 of the year in which the loan is announced, between such average northern Europe price and the market quotations in the designated United States spot markets). If the average northern Europe price is less than the average United States spot market price, the Secretary could increase the loan level as he deems appropriate, but not in excess of the United States spot market price. In no event could the loan level for any crop so determined be less than 95 percent of the level for the preceding crop. However, if the Secretary determines that the world price for upland cotton is below such loan level, the Secretary would have to reduce the loan level to a level—not less than 80 percent of the level that otherwise would have applied—that the Secretary determines necessary to make upland cotton competitive in domestic and export markets. (Sec. 601.)

The Senate amendment will require the Secretary to make nonrecourse loans available for each of the 1986 through 1989 crops of upland cotton. Under the Senate amendment, loans on a crop would be made available at a level that is not less than—

(A) in the case of the 1986 crop, 55 cents per pound; and

(B) in the case of the 1987 through 1989 crops, the higher of—

(i) 85 percent of the average price for Strict Low Middling one-and-one-sixteenth-inch cotton (at average location in the United States) as quoted in the designated United States spot markets during three years of the five-year period ending July 31 in the year in which the loan level is announced, excluding the years in which the price was the highest and lowest, or

(ii) 50 cents per pound.

In no event could the loan level for any crop so determined be less than 95 percent of the level for the preceding crop. (Sec. 601.)

The *Conference* substitute adopts the Senate provision with an amendment that in the case of the 1987 through 1990 crops, the loan level will be the higher of (1) a level that reflects for Strict Low Middling one-and-one-sixteenth-inch cotton at average location in the United States the smaller of (A) 85 percent of the average price of such cotton in designated United States spot markets during three years of the five-year period ending July 31 in the year in which the level is announced, excluding the years when the price was highest and lowest, or (B) 90 percent of the average, for the 15-week period beginning July 1 of the year in which the level is announced, of the five lowest priced growths quoted for Middling one-and-three-thirty-seconds-inch cotton, C.I.F. northern Europe (adjusted downward by the average difference between July 15 and October 15 of the year in which the loan is announced, between such average northern Europe price and the market quotations in the designated United States spot markets). If the average northern Europe price is less than the average United States spot market price, the Secretary could increase the loan level as he deems appropriate, but not in excess of the United States spot market price, or (2) 50 cents a pound, but in no event less than 95 percent of the level for the preceding crop.

(b) The *Senate* amendment will require the Secretary to permit a producer to repay an upland cotton loan at a level that is the lesser of—

(A) the original loan level; or

(B) the prevailing world market price for cotton.

However, for each of the 1987 through 1989 crops, if the world price is less than 80 percent of the original loan level, the Secretary could permit a producer to repay a loan at a level—not more than 80 percent of the original loan level—that the Secretary determines will minimize forfeitures, accumulation of Government stocks, and Government storage costs, and allow free marketing of United States cotton in domestic and international markets. The Secretary will be required to prescribe, by regulation, a formula to define the prevailing world market price for cotton and a mechanism for announcing periodically such price. Within 60 days after enactment of the bill, the Secretary would have to publish in the Federal Register proposed regulations specifying the formula and mechanism and invite public comment on the proposal. (Sec. 601.)

The *House* bill contains no comparable provisions.

The *Conference* substitute adopts the Senate provision with an amendment that whenever U.S. upland cotton is not competitive in world markets, the Secretary shall implement either the Senate provision or Plan A. Plan A provides that the Secretary, in order to make U.S. upland cotton competitive in world markets, shall announce, on November 1, a one-time adjustment in the loan repayment level of up to 20 percent of the loan level.

(2) Loan deficiency payments

The *Senate* amendment will authorize the Secretary of Agriculture, for each of the 1986 through 1989 crops of upland cotton, to make payments available to producers who, although eligible to obtain a loan on such cotton, agree to forgo obtaining such loan in return for such payments. Such a payment would be computed by multiplying the loan payment rate by the quantity of upland cotton the producer is eligible to place under loan. For purposes of this provision, the quantity of upland cotton eligible to be placed under loan could not exceed the individual farm program acreage for the crop multiplied by the farm program payment yield established for the farm. The loan payment rate would be the amount by which the loan level determined for the crop exceeds the level at which a loan can be repaid. (Sec. 601.)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision except that the provision will apply to each of the 1986 through 1990 crops of upland cotton.

(3) Upland cotton target price payments

(a) The *House* bill provides that the established price for the 1986 and 1987 crops of upland cotton will be 81 cents per pound.

For each of the 1988 through 1990 crops, the established price will be not less than 90 percent of the United States average cost of production per pound for the three crops immediately preceding the most recent crop prior to the current crop. In no event could such established price be set at a level that is less than 95 percent of the established price for the preceding crop; nor could the Secretary of Agriculture set the established price at a level that is less than the level for the preceding crop unless the Secretary certifies to Congress when the program is announced that the cost of production for such crop of upland cotton for all producers, as estimated by the Economic Research Service in consultation with the National Agricultural Cost of Production Standards Review Board, will be 5 percent below the cost of production for the preceding crop of upland cotton for all producers. (Sec. 601.)

The *Senate* amendment provides that the established price for the 1986 crop of upland cotton will be not less than 81 cents per pound. For each of the 1987 through 1989 crops of upland cotton, the established price will be not less than such level as the Secretary determines appropriate taking into consideration the supply and demand for upland cotton, program costs, and other factors the Secretary determines appropriate, except that the established price could not be reduced by more than 5 percent from the level for the preceding crop. (Sec. 601.)

The *Conference* substitute provides that the established price of the 1986 crop of upland cotton shall be $0.81 per pound.

The established price for the 1987 crop may not be set at a level that is less than 98 percent of the established price for the 1986 crop; and, the established price for the 1988 crop may not be set at a level that is less than 95 percent of the established price for the 1986 crop; and, the established price for the 1989 crop may not be set at a level that is less than 92 percent of the established price for the 1986 crop; and, the established price for the 1990 crop may not be set at a level that is less than 90 percent of the established price for the 1986 crop.

(b) The *Senate* amendment provides that if the Secretary reduces the established price for the 1987 crop of upland cotton, the Secretary would have to make in-kind payments (in upland cotton) to producers in such amounts as will ensure that the effective established price for the 1987 crop will not be less than the established price for the 1986 crop. If the Secretary reduces the established price for the 1988 crop, the Secretary would have to make in-kind payments (in upland cotton), or cash payments to the extent upland cotton owned by the Commodity Credit Corporation is not available, in such amounts as will ensure that the effective established price for the 1988 crop will not be less than the cash established price for the 1987 crop. (Sec. 601.)

The *House* bill contains no comparable provisions.

The *Conference* substitute provides that up to 5 percent of the total deficiency payment may be made in commodities at the discretion of the Secretary.

(c) The *House* bill provides that, if (A) the Secretary reduces the loan level for upland cotton based on world prices, or (B) the loan level before such adjustment is below 55 cents per pound, the Secretary would have to provide emergency compensation by increasing the established price payments for upland cotton by such amount as necessary to provide the same total return to producers as if the reduction had not been made, or as if the reduction in the loan rate before the adjustment to a level below 55 cents per pound had not occurred. Payments under this provision would not be subject to the payment limitation. (Sec. 601.)

The *Senate* amendment contains no comparable provisions.

The *Conference* substitute deletes the *House* provision.

(d) The *Senate* amendment provides that whenever (A) the producers on a farm reduce the acreage of cotton planted for harvest from the acreage base by at least the percentage recommended by the Secretary in the announcement of the national program acreage, (B) an acreage limitation program is in effect, or (C) a set-aside program is in effect and the Secretary has announced a limitation on the acreage planted to upland cotton, if the producers plant at least 50 percent of the acreage base (reduced by the percentage recommended by the Secretary), 50 percent of the permitted upland cotton acreage, or 50 percent of the limited farm acreage, as the case may be, to upland cotton or a nonprogram crop, any portion of the acreage base (reduced by the percentage recommended by the Secretary), the permitted upland cotton acreage, or the limited farm acreage, as the case may be, that is devoted to conserving uses or nonprogram crops would be considered as part of the individual farm program acreage, and the producer would be eligible for deficiency payments with respect to such acreage. Such acreage also would be considered to be planted to upland cotton. For purposes of this provision, the term "nonprogram crop" includes any agricultural commodity other than wheat, feed grains, upland cotton, extra long staple cotton, rice, or soybeans. (Sec. 601.)

The *House* bill contains no comparable provisions, except that it provides that established price payments for a crop of upland cotton could not be made on a greater acreage than the acreage actually planted to upland cotton for harvest. (Sec. 601.)

The *Conference* substitute adopts the *Senate* provision with a modification which provides that the producer would be eligible for 92 percent of the deficiency payments otherwise applicable, if at least 50 percent of the permitted acres are planted to cotton.

(4) Upland cotton disaster payments

The *Senate* amendment will provide for the making of prevented planting and reduced yield disaster payments to producers for the 1986 through 1989 crops of upland cotton, and the quantity of cotton on which established price payments for any such crop are made would be reduced by the quantity on which disaster payments are made.

The Secretary of Agriculture would be required to make a prevented planting disaster payment to the producers on a farm if the Secretary determines that the producers are prevented from planting any portion of the acreage intended for cotton to cotton or other nonconserving crops because of drought, flood, or other natural disaster, or other condition beyond the control of the producers. The payment would be computed by multiplying (a) the number of acres so affected but not to exceed the acreage planted to cotton for harvest (including any acreage that the producers were prevented from planting because of drought, flood, or other natural disaster, or other condition beyond the control of the producers) in the immediately preceding year, by (b) 75 percent of the farm program payment yield for the crop established by the Secretary, by (c) a payment rate equal to 33⅓ percent of the established price for the crop.

The Secretary would be required to make a reduced yield disaster payment to the producers on a farm if the Secretary determines that because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the total quantity of cotton that the producers are able to harvest on a farm is less than the result of multiplying 75 percent of the farm program payment yield established by the Secretary for such crop by the acreage planted for harvest for such crop. Payments would be made at a rate equal to 33⅓ percent of the established price for the crop for the deficiency in production below 75 percent for the crop.

Producers on a farm would not be eligible for (a) prevented planting disaster payments if prevented planting crop insurance is available to them under the Federal Crop Insurance Act with respect to their cotton acreage, or (b) reduced yield disaster payments if reduced yield crop insurance is available to them under that Act with respect to their cotton acreage.

However, the Secretary could make a disaster payment to the producers on a farm if the Secretary determines that (a) as the result of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the producers on a farm have suffered substantial losses of production either from being prevented from planting cotton or other nonconserving crops or from reduced yields; (b) such losses have created an economic emergency for the producers; and (c) crop insurance indemnity payments under the Federal Crop Insurance Act and other forms of assistance made available by the Federal Government to such producers for such losses are insufficient to alleviate such economic emergency; and (d) additional assistance must be made available to such producers to alleviate such economic emergency. The Secretary could make adjustments in the amount of payments made available under this discretionary authority with respect to an individual farm to ensure the equitable allotment of such payments among producers, taking into account other forms of Federal disaster assistance provided to the producers for the crop involved. (Sec. 601.)

The *House* bill contains no comparable provisions.

The *Conference* substitute adopts the *Senate* provision.

(5) Upland cotton acreage reduction programs

The *House* bill, effective for each of the 1986 through 1990 crops of upland cotton, will direct the Secretary of Agriculture, if he estimates that, in the absence of an acreage reduction program, the quantity of upland cotton on hand in the United States on the last day of the marketing year for the crop will exceed one-third of the upland cotton the Secretary determines will be used domestically and for export during the marketing year, to establish (a) an acreage limitation program to ensure progress toward achieving the goal described below; and (b) if he determines that the acreage limitation program will not achieve the goal, a payment-in-kind diversion program. The goal referred to above would be that the quantity of upland cotton on hand on the last day of the marketing year for the crop involved not exceed one-third of the amount of the crop the Secretary estimates will be used domestically and for export during the marketing year. The acreage limitation for a crop would be limited to 25 percent of each farm's upland cotton acreage base, and the diversion program would be limited to an additional 25 percent of the base. Producers would have to comply with any such acreage limitation program and, as applicable diversion program to be eligible for loans and payments for the crop involved.

If a payment-in-kind diversion program is in effect for a crop, diversion payments would be made to producers who devote to conservation uses an acreage equivalent to the reduction, applied uniformly to all farms, required from the farm base in accordance with diversion contracts with the Secretary. Diversion payments would be made to producers from Commodity Credit Corporation upland cotton stocks and, if such stocks are insufficient, in cash on a uniform basis. Payments in kind (including cash substitutes) would not be subject to the general payment limitation, but would have a separate limitation of $50,000 per person per crop. (Sec. 601.)

The *Senate* amendment would authorize the Secretary to provide either an acreage limitaton program or a set-aside program for any of the 1986 through 1988 crops of upland cotton, if the Secretary determines that the total supply of upland cotton, in the absence of the program, would be excessive. For the 1989 crop, the Secretary would be prohibited from providing for either of such programs. In making a determination as to whether to provide for an acreage limitation or set-aside program, the Secretary would be required to take into consideration the number of acres placed in the conservation acreage reserve established under the bill. The maximum percentage reduction under an acreage limitation or set-aside program for a crop of cotton would be 20 percent.

(Note: See item (9) under title X (General Commodity Provisions) for a provision in the *Senate* amendment authorizing a 5 percent increase in the acreage limitation percentage if estimated upland cotton carryover would be more than 33 percent of annual upland cotton usage.)

The Secretary also would be authorized to make land diversion payments to producers of upland cotton, whether or not an acreage limitation or set-aside program for upland cotton is in effect, for any of the 1986 through 1989 crops, if land diversion payments are necessary to assist in adjusting the total national acreage of upland cotton to desirable goals. Land diversion payments would be made to producers who devote cropland to approved conservation uses in accordance with land diversion contracts entered into with the Secretary. Land diversion payments would be determined through the submission of bids or through other means. In determining the acceptability of contract offers, the Secretary would take into consideration the extent of the diversion to be undertaken and the productivity of the acreage diverted. The Secretary also would have to limit the total acreage to be diverted in any county or local community so as not to affect adversely the economy of the county or local community. (Sec. 601.)

The *Conference* substitute authorizes the Secretary to establish upland cotton acreage limitation and paid land diversion programs.

The acreage limitation that may be established for the 1986 through 1990 crops of rice may be no greater than 25 percent.

For crop years 1986 through 1990 the Secretary is authorized to offer, at his discretion, voluntary paid land diversion programs at such levels as he determines.

The Secretary is encouraged to operate acreage limitation and paid diversion programs so as to achieve carrying stocks of upland cotton no greater than 4 million bales.

(6) Acreage bases and yields

(For differences concerning upland cotton acreage bases and program yields, set item (2) under title X—General Commodity Provisions.)

(7) Inventory reduction payments

The *Senate* amendment would authorize the Secretary of Agriculture, for each of the 1986 through 1989 crops of upland cotton, to make payments available to producers who (a) agree to forgo obtaining a loan for upland cotton, (b) agree to forgo receiving upland cotton deficiency payments, (c) do not plant upland cotton for harvest in excess of the farm acreage base reduced by one-half of any acreage required to be diverted from production under an acreage limitation program, and (d) otherwise comply with the upland cotton program. Such payments would be made in the form of cotton owned by the Commodity Credit Corporation and would be subject to the availability of such cotton. Payments would be determined in the same manner as for loan deficiency payments, that is, by multiplying the quantity of upland cotton the producer is eligible to place under loan by the amount by which the loan level determined for the crop exceeds the level at which a loan may be repaid. (Sec. 601.)

The *House* bill contains no comparable provisions.

The *Conference* substitute adopts the Senate provision except that the provision will apply to each of the 1986 through 1990 crops of upland cotton.

(8) Cross-compliance and offsetting compliance

The *House* bill provides that compliance on a farm with the terms and conditions of any other commodity program may not be required as a condition of eligibility for loans or payments under the upland cotton program under the bill. Also, the Secretary of Agriculture could not require producers on a farm, as a condition of loan or payment eligibility for the farm, to comply with upland cotton program conditions with respect to any other farm operated by such producers. (Sec. 601.)

The *Senate* amendment contains no comparable provisions.

The *Conference* substitute adopts the *House* provision with an amendment that the Secretary may require that, in order for producers on a farm to be eligible for upland cotton program benefits, the acreage planted for harvest on the farm to any other program crop for which an acreage reduction program is in effect, shall not exceed the crop acreage base for that crop.

(9) Commodity Credit Corporation sales price restrictions

(a) The provisions in the *House* bill relating to Commodity Credit Corporation sales price restrictions applicable to upland cotton will be effective through July 31, 1991. (Sec. 602.)

The similar provisions in the *Senate amendment will be effective through July 31, 1990. (Sec. 603.)*

The *Conference* substitute adopts the *House* provision.

(b) The *Senate* amendment provides that, if the Secretary of Agriculture permits loan repayments with respect to a crop of upland cotton, at a rate less than the loan level for the crop, the CCC may not sell any of its stocks of upland cotton at less than 115 percent of the average loan repayment rate during the period of the loans. (Sec. 603.)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* amendment.

(10) Upland cotton marketing certificates

The *House* bill provides for an upland cotton marketing certificate program whenever, during the period beginning August 1, 1986, and ending July 31, 1991, the world price of upland cotton is below the current loan rate for upland cotton. To make United States upland cotton competitive in world markets and to maintain and expand domestic consumption and exports of United States cotton, the Commodity Credit Corporation would be required to make payments, through the issurance of payment-in-kind certificates, to first handlers of cotton (persons regularly engaged in buying or selling upland cotton) who have entered into an agreement with the CCC to participate in the program, in such monetary amounts and subject to such terms and conditions as the Secretary of Agriculture determines will make cotton available for domestic consumption or for export at competitive prices, including payments that may be necessary to make raw cotton in inventory on August 1, 1986, available on the same basis.

The value of each certificate issued would be based on the difference between the loan rate for upland cotton and the prevailing world market price of cotton. The CCC could assist the persons receiving certificates in the redemption of certificates for cash, or marketing or exchange of such certificates for (a) CCC cotton or (b) (if the Secretary and the person agree) other agricultural commodities or products owned by the CCC, at such time, in such manner, and at such price levels as the Secretary determines will best effectuate the purposes of the program.

The Secretary, insofar as possible, would have to permit owners of certificates to designate the commodities and products, including storage sites, they would prefer to receive in exchange for certificates. In the case of any certificate not presented for redemption, marketing, or exchange within a reasonable number of days after its issuance, reasonable carrying charges would be deducted from the value of the certificate.

The Secretary would take such measures as necessary to prevent the marketing or exchange of agricultural commodites and products for certificates from adversely affecting the income of producers of such commodites or products. Certificates issued to cotton handlers could be transferred to other handlers and persons approved by the Secretary.

With respect to any year or other period for which a payment-in-kind program under this provision is in effect, for purposes of calculating loan levels, the Secretary would be required to consider the average market prices for such year or period to be increased by the average rate of payment under the program if the average market prices are below the loan level. (Sec. 605.)

The *Senate* amendment contains no comparable provisions.

The *Conference* substitute adopts the House provision with an amendment to provide that the Secretary shall implement this certificate program whenever, during the specified period, the prevailing world price of upland cotton (adjusted to United States qualities and location) is below the current loan repayment rate rather than the current loan rate. Likewise, the value of each certificate shall be based on the difference between the loan repayment rate for upland cotton and the loan repayment rate.

(11) Extra long staple cotton

The *Senate* amendment would revise the provisions of law relating to the program for extra long staple cotton, as follows:

(a) the minimum loan rate for any crop of ELS cotton will be set at 85 percent of the average price received by producers for ELS cotton during three years of the preceding five-year period (excluding the years when the average price was the highest and the lowest);

(b) the date by which the loan level for a crop has to be announced by the Secretary of Agriculture would be established as December 1 of the year preceding the marketing year for which the loan level is to be effective; and

(c) the ELS cotton program under Section 103(b) of the Agricultural Act of 1949 would expire at the end of the program for the 1989 crop. (Sec. 1958.)

The *House* bill contains no comparable provisions.

The *Conference* substitute adopts the Senate amendment.

TITLE VI—RICE

(1) Rice program loans

(a) The *House* bill will require the Secretary of Agriculture to make available to producers loans and purchases for each of the 1986 through 1990 crops of rice. Such loans on a crop would be made available at a level, per hundredweight, not less than 85 percent of the average price for rice received by farmers during the marketing years for the three preceding crops of rice, except that the loan level for any crop so determined could not be less than 95 percent of the level for the preceding crop. However, if the Secretary determines that the world price for rice is below such loan level, the Secretary would have to reduce the loan level to a level—not less than 80 percent of the level that would otherwise have applied—that the Secretary determines necessary to make rice competitive in domestic and export markets. (Sec. 701.)

The *Senate* amendment will require the Secretary to make loans and purchases available for each of the 1986 through 1989 crops of rice. Under the *Senate* amendment, loans on a crop would be made available at a level that is not less than—

(A) in the case of the 1986 crop, $7.20 per hundredweight; and

(B) in the case of each of the 1987 through 1989 crops, the higher of—

(i) 85 percent of the simple average price received by producers during the 5 preceding marketing years, excluding the years in which the price was the highest and lowest, or

(ii) $6.50 per hundredweight.

In no event could the loan level for any crop so determined be less than 95 percent of the level for the preceding crop. (Sec. 701.)

The *Conference* substitute adopts the *Senate* provision.

(b) The *Senate* amendment will require the Secretary to permit a producer to repay a rice loan at a level that is the lesser of—

(A) the original loan level; or

(B) the higher of—

(i) the prevailing world market price for rice; or

(ii) for either of the 1986 or 1987 crops, 50 percent of the loan level; for the 1988 crop, 60 percent of the loan level; and for the 1989 crop, 70 percent of the loan level.

As a condition to permitting a producer to repay a loan at such level, the Secretary could require the producer to purchase payment-in-kind certificates equal in value to not to exceed one-half the difference between the original loan amount and the amount of the loan repayment. The certificates would be negotiable and redeemable in rice owned by the Commodity Credit Corporation valued at the prevailing market price. The certificates would be redeemable in cash if CCC rice is not available in the State in which the rice pledged as collateral for the loan was produced (or other location approved by the owner of the certificate). The CCC would assist persons receiving certificates in marketing or redeeming them, and the Secretary would have to permit, insofar as practicable, any certificate owner to designate the storage facility at which the owner would prefer to receive rice in exchange for the certificate. If a certificate is not redeemed within a reasonable period of time after issuance (as determined by the Secretary), carrying charges would be deducted from the value of the certificate for the period beginning at the expiration of the reasonable period of time and ending when the certificate is presented to the CCC. (Sec. 701.)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision. It is the intent of the conferees that the Secretary establish repayment prices for producers based on the prevailing world market price for the class of rice under loan.

(c) The *House* bill provides that rice loans will have a term of ten months beginning on the first day of the month in which the loan is made. (Sec. 701.)

The *Senate* amendment provides that rice loans will have a term of nine months beginning on the first day of the month after the month in which the application for the loan is made. (Sec. 710.)

The *Conference* substitute adopts the *Senate* provision with a modification that provides that loans will have a term of no longer than nine months, beginning on the first day of the month in which the application for the loan is made.

(d) The *House* bill will require that the loan and purchase level and the established price for each crop of rice be announced not later than January 31 of the year in which the crop is harvested. (Sec. 710.)

The *Senate* amendment provides that such announcements for a crop be made not later than March 1 of the year in which the crop is harvested. (Sec. 701.)

The *Conference* substitute adopts the *House* provision.

(2) Loan deficiency payments

The *Senate* amendment will authorize the Secretary of Agriculture, for each of the 1986 through 1989 crops of rice, to make payments available to producers who, although eligible to obtain a loan or purchase agreement on such rice, agree to forgo obtaining such loan or agreement in return for such payments. Such a payment would be computed by multiplying the loan payment rate by the quantity of rice the producer is eligible to place under loan. For purposes of this provision, the quantity of rice eligible to be placed under loan could not exceed the individual farm program acreage for the crop multiplied by the yield established for the farm for the crop. The loan payment rate would be the amount by which the loan level determined for the crop exceeds the level at which a loan can be repaid. The Secretary would be required to make as much as one-half the amount of each loan deficiency payment for rice in the form of negotiable payment-in-kind certificates, subject to the terms and conditions for certificates described in item (1)(b) above. (Sec. 701.)

The *House* bill contains no comparable provisions.

The *Conference* substitute adopts the *Senate* provision.

(3) Rice target price payments

(a) The *House* bill provides that the deficiency payment rate, per hundredweight, for each of the 1986 through 1990 crops of rice will be the amount by which the established price for the crop exceeds the higher of (A) the average market price received by farmers during the calendar year that includes the first 5 months of the marketing year for the crop, or (B) the loan level for the crop. (Sec. 701.)

The *Senate* amendment provides that the deficiency payment rate, per hundredweight, for each of the 1986 through 1989 crops of rice, will be the amount by which the established price exceeds the higher of (A) the average market price received by farmers during the marketing year for the crop, or (B) the loan level for the crop. (Sec. 701.)

The *Conference* substitute adopts the Senate provision except that the provision will apply to the 1986 through 1990 crops of rice.

(b) The *House* bill provides that the established price for the 1986 and 1987 crops of rice will be $11.90 per hundredweight.

For each of the 1988 through 1990 crops, the established price will be not less than 90 percent of the United States average cost of production per hundredweight for the three crops immediately preceding the most recent crop prior to the current crop. In no event could such established price be set at a level that is less than 95 percent of the established price for the preceding crop; nor could the Secretary set the established price at a level that is less than the level for the preceding crop unless the Secretary certifies to Congress when the program is announced that the cost of production for such crop of rice for all producers, as estimated by the Economic Research Service in consultation with the National Agricultural Cost of Production Standards Review Board, will be 5 percent below the cost of production for the preceding crop of rice for all producers. (Sec. 701.)

The *Senate* amendment provides that the established price for the 1986 crop of rice will be not less than $11.90 per hundredweight. For each of the 1987 through 1989 crops of rice, the established price will be not less than such level as the Secretary determines appropriate taking into consideration the supply and demand for rice, program costs, and other factors the Secretary determines appropriate, except that the established price could not be reduced by more than 5 percent from the level for the preceding crop. (Sec. 701.)

The *Conference* substitute provides that the established price of the 1986 crop of rice shall be $11.90 per hundredweight.

The established price for the 1987 crop may not be set at a level that is less than 98 percent of the established price for the 1986 crop, and; the established price for the 1988 crop may not be set at level that is less than 95 percent of the established price for the 1986 crop, and; the established price for the 1989 crop may not be set at a level that is less than 92 percent of the established price for the 1986 crop, and; the established price for the 1990 crop may not be set at a level that is less than 90 percent of the established price for the 1986 crop.

(c) The *Senate* amendment provides that if the Secretary reduces the established price for the 1987 crop of rice, the Secretary would have to make in-kind payments (in rice) to producers in such amounts as will ensure that the effective established price for the 1987 crop will not be less than the established price for the 1986 crop. If the Secretary reduces the established price for the 1988 crop, the Secretary would have to make in-kind payments (in rice), or cash payments to the extent rice owned by the Commodity Credit Corporation is not available, in such amounts as will ensure that the effective established price for the 1988 crop will not be less than the cash established price for the 1987 crop. (Sec. 701.)

The *House* bill contains no comparable provisions.

The *Conference* substitute provides that up to 5 percent of the total deficiency payment may be made in commodities at the discretion of the Secretary.

(d) The *House* bill provides that, if the Secretary reduces the loan level for rice based on world prices, the Secretary would have to provide emergency compensation by increasing the established price payments for rice by such amount as necessary to provide the same total return to producers as if the reduction had not been made. Payments under this provision would not be subject to the general payment limitation. (Sec. 701.)

The *Senate* amendment contains no comparable provisions.

The *Conference* substitute adopts the *House* provision.

(e) The *Senate* amendment provides that whenever (A) the producers on a farm reduce the acreage of rice planted for harvest from the acreage base by at least the percentage recommended by the Secretary in the announcement of the national program acreage, (B) an acreage limitation program is in effect, or (C) a set-aside program is in effect and the Secretary has announced a limitation on the acreage planted on rice, if the producers plant at least 50 percent of the acreage base (reduced by the percentage recommended by the Secretary), 50 percent of the permitted rice acreage, or 50 percent of the limited farm acreage, as the case may be, to rice or a nonprogram crop, any portion of the acreage base (reduced by the percentage recommended by the Secretary), the permitted rice acreage, or the limited farm acreage, as the case may be, that is devoted to conserving uses or nonprogram crops would be considered as part of the individual farm program acreage, and the producer would be eligible for deficiency payments with respect to such acreage. Such acreage also would be considered to be planted to rice. For purposes of this provision, the term "nonprogram crop" includes any agricultural commodity other than wheat, feed grains, upland cotton, extra long staple cotton, rice, or soybeans. (Sec. 701.)

The *House* bill contains no comparable provisions, except that it provides that established price payments for a crop of rice could not be made on a greater acreage than the acreage actually planted to rice. (Sec. 701.)

The *Conference* substitute adopts the *Senate* provision with a modification which provides that the producer would be eligible for 92 percent of the deficiency payments otherwise applicable, if at least 50 percent of the permitted acres are planted to rice.

(4) Rice disaster payments

The *Senate* amendment will provide for the making of prevented planting and reduced yield disaster payments to producers for the 1986 through 1989 crop of rice, and the quantity of rice on which established price payments for any such crop are made would be reduced by the quantity on which disaster payments are made.

The Secretary of Agriculture would be required to make a prevented planting disaster payment to the producers on a farm if the Secretary determines that the producers are prevented from planting any portion of the acreage intended for rice to rice or other nonconserving crops because of drought, flood, or other natural disaster, or other condition beyond the control of the producers. The payment would be computed by multiplying (a) the number of acres so affected but not to exceed the acreage planted to rice for harvest (including any acreage that the producers were prevented from planting because of drought, flood, or other natural disaster, or other condition beyond the control of the producers) in the immediately preceding year, by (b) 75 percent of the yield for the farm established by the Secretary, by (c) a payment rate equal to 33⅓ percent of the established price for the crop.

The Secretary would be required to make a reduced yield disaster payment to the producers on a farm if the Secretary determines that because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the total quantity of rice that the producers are able to harvest on a farm is less than result of the multiplying 75 percent of the yield established for the farm for such crop by the acreage planted for harvest for such crop. Payments would be made at a rate equal to 33⅓ percent of the established price for the crop for the deficiency in production below 75 percent for the crop.

Producers on a farm would not be eligible for (a) prevented planting disaster payments if prevented planting crop insurance is available to them under the Federal Crop Insurance Act with respect to their rice acreage, or (b) reduced yield disaster payments if reduced yield crop insurance is available to them under that Act with respect to their rice acreage.

However, the Secretary could make a disaster payment to the producers on a farm if the Secretary determines that (a) as the result of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the producers on a farm have suffered substantial losses of production either from being prevented from planting rice or other nonconserving crops or from reduced yields; (b) such losses have created an economic emergency for the producers; (c) crop insurance indemnity payments under the Federal Crop Insurance Act and other forms of assistance made available by the Federal Government to such producers for such losses are insufficient to alleviate such economic emergency; and (d) additional assistance must be made available to such producers to alleviate such economic emergency. The Secretary could make adjustments in the amount of payments made available under this discretionary authority with respect to an individual farm to ensure the equitable allotment of such payments among producers, taking into account other forms of Federal disaster assistance provided to the producers for the crop involved. (Sec. 701.)

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The *House* bill contains no comparable provisions.

The *Conference* substitute adopts the *Senate* provisions.

(5) Rice acreage reduction programs

The *House* bill, effective for each of the 1986 through 1990 crops of rice, will direct the Secretary of Agriculture, if he estimates that, in the absence of an acreage reduction program, the quantity of rice on hand in the United States on the last day of the marketing year for the crop will exceed one-fifth of the rice the Secretary determines will be used domestically and for export during the marketing year, to establish (a) an acreage limitation program to ensure progress toward achieving the goal described below; and (b) if he determines that the acreage limitation program will not achieve the goal, a payment-in-kind diversion program. The goal referred to above would be that the quantity of rice on hand on the last day of the marketing year for the crop involved not exceed one-fifth of the amount of the crop the Secretary estimates will be used domestically and for export during the marketing year. The acreage limitation for a crop would be limited to 25 percent of each farm's rice acreage base, and the diversion program would be limited to an additional 25 percent of the base. Producers would have to comply with any such acreage limitation program and, as applicable, diversion program to be eligible for rice loans and payments for the crop involved.

If a payment-in-kind diversion program is in effect for a crop, diversion payments would be made to producers who devote to conservation uses an acreage equivalent to the reduction, applied uniformly to all farms, required from the farm base in accordance with diversion contracts with the Secretary. Diversion payments would be made to producers from Commodity Credit Corporation rice stocks and, if such stocks are insufficient, in cash on a uniform basis. Payments in kind (including cash substitutes) would not be subject to the general payment limitation, but would have a separate limitation of $50,000 per person per crop. (Sec. 701.)

The *Senate* amendment would authorize the Secretary to provide either an acreage limitation program or a set-aside program for any of the 1986 through 1988 crops of rice if the Secretary determines that the total supply of rice, in the absence of the program would be excessive. For the 1989 crop, the Secretary would be prohibited from providing for either of such programs. In making a determination as to whether to provide for an acreage limitation or set-aside program, the Secretary would be required to take into consideration the number of acres placed in the conservation acreage reserve established under the bill. The maximum percentage reduction under an acreage limitation or set-aside program for a crop of rice would be 35 percent.

(Note: See item (9) under title X (General Commodity Provisions) for a provision in the *Senate* amendment authorizing a 5 percent increase in the acreage limitation percentage if estimated rice carryover would be more than 33 percent of annual rice usage.)

The Secretary also would be authorized to make land diversion payments to producers of rice, whether or not an acreage limitation or set-aside program for rice is in effect, for any of the 1986 through 1989 crops, if land diversion payments are necessary to assist in adjusting the total national acreage of rice to desirable goals. Land diversion payments would be made to producers who devote cropland to approved conservation uses in accordance with land diversion contracts entered into with the Secretary. Land diversion payments would be determined through the submission of bids or through other means. In determining the acceptability of contract offers, the Secretary would take into consideration the extent of the diversion to be undertaken and the productivity of the acreage diverted. The Secretary would also have to limit the total acreage to be diverted in any county or local community so as not to affect adversely the economy of the county or local community (Sec. 701.)

The Conference substitute authorizes the Secretary to establish rice acreage limitation and paid land diversion programs.

The acreage limitation that may be established for the 1986 through 1990 crops of rice may be no greater than 35 percent.

For crop years 1986 through 1990 the Secretary is authorized to offer, at his discretion, voluntary paid land diversion programs at such levels as he determines.

The Secretary is encouraged to operate acreage limitation and paid diversion programs so as to achieve carrying stocks of rice no greater than 30 million hundredweight.

(6) Acreage bases and yields.

(For differences concerning rice acreage bases and program yields, see item (2) under title X—General Commodity Provisions.)

(7) Inventory reduction payments

The Senate amendment would authorize the Secretary of Agriculture, for each of the 1986 through 1989 crops of rice, to make payments available to producers who (a) agree to forgo obtaining a loan or purchase agreement for rice, (b) agree to forgo receiving rice deficiency payments, (c) do not plant rice for harvest in excess of the farm acreage base reduced by one-half of any acreage required to be diverted from production under an acreage limitation program, and (d) otherwise comply with the rice program. Such payments would be made in the form of rice owned by the Commodity Credit Corporation and would be subject to the availability of such rice. Payments would be determined in the same manner as for loan deficiency payments, that is, by multiplying the quantity of rice the producer is eligible to place under loan by the amount by which the loan level determined for the crop exceeds the level at which a loan can be repaid. (Sec. 701.)

The House bill contains no comparable provisions.

The Conference substitute adopts the *Senate* provision except that the provision will apply to the 1986 through 1990 crops of rice.

(8) Cross-compliance and offsetting compliance

The House bill provides that compliance on a farm with the terms and conditions of any other commodity program may not be required as a condition of eligibility for loans, purchases, or payments under the rice program under the bill. Also, the Secretary of Agriculture could not require producers on a farm, as a condition of loan or payment eligibility for the farm, to comply with rice program conditions with respect to any other farm operated by such producers. (Sec. 701.)

The Senate amendment contains no comparable provisions.

The Conference substitute adopts the House provision with an amendment that the Secretary may require that, in order for producers on a farm to be eligible for upland cotton program benefits, the acreage planted for harvest on the farm to any other program crop for which an acreage reduction program is in effect, shall not exceed the crop acreage base for that crop.

(9) Marketing loans and deficiency payments for the 1985 crop of rice

(a) The Senate amendment would require the Secretary of Agriculture to permit producers to repay loans on the 1985 crop of rice at a level that is the lesser of—

(A) the original loan level, or

(B) the prevailing world market price for rice.

Loans under this provision would have to be repaid at the end of nine months after the month in which the application for the loan is made. As a condition to permitting a producer to repay a loan at such level, the Secretary could require the producer to purchase payment-in-kind certificates equal in value to not to exceed the difference between the amount of the loan and the amount of the loan repayment. The other terms and conditions of the certificate program under this provision would be the same as described in item (1)(b) above for 1986 through 1989 certificate programs. The current payment limitation under the Agriculture and Food Act of 1981 would not apply to any gain realized from repaying a loan at the rate permitted under this provision. (Sec. 702.)

The House bill contains no comparable provisions.

The Conference substitute adopts the Senate provision, with a modification that makes the 1985 rice crop marketing loan program effective beginning April 15, 1986 and requires the Secretary to offer loan deficiency payments on rice not eligible for loans and purchases and not sold or delivered under sales contracts. The Secretary is authorized to adjust the loan maturity deadline for 1985 crop rice to provide for orderly program administration.

(b) The Senate amendment also will authorize the Secretary, for the 1985 crop of rice, to make loan deficiency payments to producers subject to the same terms and conditions as described in item (2) above for the 1986 through 1989 crops, except that the Secretary could make all or part of the payment in the form of the payment-in-kind certificates described in paragraph (a) above. The current payment limitation under the Agriculture and Food Act of 1981 would not apply to any loan deficiency payment under this provision. (Sec. 702.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(10) Rice export marketing certificates

The House bill will require the establishment of a rice export marketing certificate program whenever, during the period beginning August 1, 1986, and ending July 31, 1991, the world price for rice is below the current loan rate for rice. To make United States rice competitive in world markets and to maintain and expand domestic consumption and exports of United States rice, the Commodity Credit Corporation would be required to make payments, through the issuance of payment-in-kind certificates, to exporters of rice who have entered into an agreement with the CCC to participate in the program, in such monetary amounts and subject to such terms and conditions as the Secretary determines will make United States rice available for export at competitive prices, including payments that may be necessary to make rice in inventory on August 1, 1986, available on the same basis.

The value of each certificate issued would be based on the difference between the loan rate for rice and the prevailing world market price of rice. The CCC could assist the persons receiving certificates in the redemption of certificates for cash, or marketing or exchange of such certificates for (a) CCC rice or (b) (if the Secretary of Agriculture and the person agree) other agricultural commodities or products owned by the CCC, at such times, in such manner, and a such price levels as the Secretary determines will best effectuate the purposes of the program.

The Secretary, insofar as possible, would have to permit owners of certificates to designate the commodities and products, including storage sites, they would prefer to receive in exchange for certificates. In the case of any certificate not presented for redemption, marketing, or exchange within a reasonable number of days after its issuance, reasonable carrying charges would the deducted from the value of the certificate.

The Secretary would take such measures as necessary to prevent the marketing or exchange of agricultural commodities and products for certificates from adversely affecting the income of producers of such commodities or products. Certificates issued to rice exporters could be transferred to other exporters and persons approved by the Secretary.

With respect to any year or other period for which a payment-in-kind program under this provision is in effect, for purposes of calculating loan levels, the Secretary would be required to consider the average market prices for such year or period to be increased by the average rate of payment under the program if the average market prices are below the loan level. (Sec. 703.)

The Senate amendment contains no comparable provisions.

The Conference substitute adopts the House provision with a modification requiring the Secretary of Agriculture to implement a rice marketing certificate program whenever the world price for a class of rice is below the loan repayment level for that class of rice.

Title VII—Peanuts

(1) National poundage quota

(a) The House bill requires the Secretary of Agriculture to establish a national poundage quota for each of the 1986 through 1990 crops of peanuts. (Sec. 802.)

The Senate amendment requires a national poundage quota to be established for each of the 1986 through 1989 crops of peanuts. (Sec. 801.)

The Conference substitute adopts the House provision. (Sec. 702.)

(b) The *Senate* amendment requires the Secretary in establishing the national poundage quota to take into consideration any estimated carryover of industry stocks and producer undermarketings. (Sec. 801.)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate amendment.

(c) The House bill establishes the minimum national poundage quota for peanuts for any marketing year at 1.1 million tons. (Sec. 802.)

The Senate amendment establishes the minimum national poundage quota for peanuts for any marketing year at 1.1 million tons, increased by a quantity that the Secretary estimates the domestic edible, seed, and related uses of peanuts in such year will exceed such quantity. (Sec. 801.)

The Conference substitute adopts the House provision. (Sec. 702.)

(2) Farm Poundage quota

(a) The House bill provides that a farm poundage quota would be established for each farm that did not have a farm poundage quota for the 1985 marketing year but on which peanuts were produced for marketing in at least 2 of the 3 immediately preceding crop years if the poundage quota apportioned to a State for a marketing year is larger than the quota for the immediately preceding marketing year. (Sec. 802.)

The Senate amendment provides that a farm poundage quota would be established for each farm that did not have a farm poundage quota for the 1985 crop but on which peanuts were produced in at least 2 of the 1983 through 1985 crop years. (Sec. 801.)

The Conference substitute adopts the House provision. (Sec. 702.)

(b) The Senate amendment provides that a farm poundage quota established for a farm as a result of an increase in the poundage quota apportioned to a State or as a result of the reduction or release of farm poundage quotas from farms in the State would be considered as being established for all subsequent marketing years unless reduced to the extent the Secretary determines that the farm poundage quota established for the farm for any 2 of the 3 marketing years immediately preceding the year for which the determination is made was not produced or considered produced on the farm, permanently released, or transferred. (Sec. 801.)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate amendment.

(c) The House bill provides that if the poundage quota apportioned to a State for any of the 1987 through 1990 marketing years is decreased from the poundage quota apportioned to the State for the immediately preceding marketing year, the decrease would be allocated equally to each farm in the State for which a farm poundage quota was established for the preceding marketing year. (Sec. 802.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision. (Sec. 702.)

(3) Referendum

The House bill provides that the referendum of farmers engaged in the production of quota peanuts would be to determine whether the farmers favor or oppose poundage quotas with respect to the crops of peanuts produced in the 5 calendar years immediately following the year in which the referendum is held. (Sec. 802.)

The Senate amendment is the same except the referendum would be held with respect to the crops of peanuts produced in the 4 calendar years immediately following the year in which the referendum is held. (Sec. 801.)

The Conference substitute adopts the House provision.

(4) Lease of farm poundage quota

The House bill provides that a lease of a poundage quota may be entered into in the fall only if the quota has been planted on the farm from which the quota is to be leased and only under such terms and conditions as the Secretary may prescribe by regulation. (Sec. 803.)

The Senate amendment provides that a lease of a poundage quota may be entered into after the normal planting season under the same conditions. (Sec. 802.)

The Conference substitute adopts the House provision with an amendment inserting after the reference to "fall" leases in the House bill, the reference in the Senate amendment to leases entered into "after the normal planting season". The inclusion of both House and Senate references conforms to the Department of Agriculture's identification of such leases in the Code of Federal Regulations. (Sec. 703.)

(5) Disposition of additional peanuts

(a) The House bill provides that the supervision of the handling and disposal of additional peanuts by a handler would not be required if the handler agrees in writing, prior to any handling or disposal of additional peanuts, to comply with regulations prescribed by the Secretary. (Sec. 804.)

The Senate amendment provides that the supervision of the handling and disposal of additional peanuts contracted by a handler would not be required if the handling and disposal of the additional peanuts is conducted in the manner prescribed in regulations issued by the Secretary. (Sec. 803.)

The Conference substitute adopts the House provision. (Sec. 704.)

(b) The House bill requires the Secretary to issue regulations which would permit a handler of shelled peanuts to export, without supervision, peanuts classified by type in specified quantities. (Sec. 804.)

The Senate amendment is similar except it applies to milled peanuts. (Sec. 803.)

The Conference substitute adopts the House provision with an amendment inserting after the reference to "shelled" peanuts in the House bill, the reference in the Senate amendment to "milled" peanuts; and including related language conditioning the regulatory authority of the Secretary of Agriculture with respect to additional peanuts owned or controlled by the Commodity Credit Corporation such that disposition of additional peanuts will be conducted in such a way that does not result in substantially increased cost to the Commodity Credit Corporation. (Sec. 704.)

The inclusion of the reference to milled peanuts broadens the definition to include peanuts processed in the shell as well as shelled peanuts.

The second part of the Conference substitute will prevent loss to the Commodity Credit Corporation by directing that regulations promulgated by the Secretary be written in a manner to prevent any substantial increased costs to the Commodity Credit Corporation that could result under the so-called "buy-back" practices. The Secretary of Agriculture will be required to operate the "buy-back" provisions in a manner that will not result in substantially increased cost to the Commodity Credit Corporation.

The practice known as "buy-back" is practically the only part of the peanut program to which Government cost is associated. The Conference substitute will correct abuses such as the dissolution of export or crushing contracts that result in those peanuts entering the domestic market through the "buy-back".

The Conference substitute in no way will interfere with the Secretary's authority to implement and administer the peanut price support program. It does, however, provide the Secretary with the authority to prohibit or curb all practices dealing with the storage or disposition of any peanuts owned or controlled by the Commodity Credit Corporation that result in substantially increased cost to the Government.

(6) Marketing penalties

The House bill provides that until a marketing penalty is paid, other than a penality on an importer for reentering in commercial quantities into the United States additional peanuts exported by a handler, a lien would be in effect in favor of the United States on the crop of peanuts with respect to which the penalty is incurred, and on any subsequent crop of peanuts subject to farm poundage quotas in which the person liable for payment of the penalty has an interest. (Sec. 804.)

The Senate amendment provides for a lien in favor of the United States for all unpaid marketing penalties for peanuts, including penalties on importers. (Sec. 803.)

The Conference substitute adopts the Senate amendment. (Sec. 704.)

(7) Price support

(a) The House bill requires the Secretary of Agriculture to make price support available for the 1986 through 1990 crops of peanuts. (Sec. 805.)

The Senate amendment requires the Secretary to make price support available for the 1986 through 1989 crops of peanuts. (Sec. 804.)

The Conference substitute adopts the House provision. (Sec. 705.)

(b) The *House* bill provides that the national average quota support rate for each of the 1987 through 1990 crops of quota peanuts would be the national average quota support rate for the immediately preceding crop, adjusted to reflect any increase in the national average cost of peanut production during the calendar year immediately preceding the marketing year for the crop for which a level of support is being determined. (Sec. 805.)

The *Senate* amendment provides that the national average quota support rate for each of the 1987 through 1989 crops of quota peanuts would be the national average quota support rate for quota peanuts for the preceding crop, adjusted to reflect any change in the national average cost of peanut production during the calendar year immediately preceding the marketing year for the crop for which a level of support is being determined and could not be less than the national average quota support rate for the 1985 crop of quota peanuts. (Sec. 804.)

The *Conference* substitute adopts the *House* provision. (Sec. 705.)

(8) Marketing pools.

(a) The *Senate* amendment requires each area marketing association to establish pools and maintain records by area and segregation for additional peanuts produced without a contract between a handler and a producer. (Sec. 804.)

The *House* bill contains no comparable provision.

The *Conference* substitute deletes the *Senate* amendment. The *Senate* amendment (as does current law) requires each area marketing association to establish pools and maintain records for "additional peanuts produced without a contract between a handler and a producer". Such pool has never been maintained and it is clear that the statutory provision in question is meaningless.

(b) The *House* bill provides that bright hull and dark hull Valencia peanuts would be considered as separate types for the purpose of establishing separate pools for Valencia peanuts produced in New Mexico. (Sec. 805.)

The *Senate* amendment requires separate pools to be established for bright hull and dark hull Valencia peanuts produced in New Mexico but does not consider such peanuts as separate types. (Sec. 804.)

The *Conference* substitute adopts the *House* provision. (Sec. 705.)

(c) The *House* bill excludes separate type pools established for Valencia peanuts produced in New Mexico from the requirement that losses in area quota pools other than losses incurred as a result of transfers from additional loan pools to quota loan pools be offset by any gain or profits from pools in other production areas. (Sec. 805.)

The *Senate* amendment contains no comparable provision. (Sec. 804.)

The *Conference* substitute adopts the *House* provision with a technical amendment clarifying the exclusion of Valencia peanuts produced in New Mexico from the area "offset" requirement. (Sec. 705.)

TITLE VIII—SOYBEANS

(1) Soybean price support

(a) The *House* bill requires that the price of soybeans be supported during each of the 1986 through 1990 marketing years. (Sec. 901.)

The *Senate* amendment requires that the price of soybeans be supported during each of the 1986 through 1989 marketing years. (Sec. 901.)

The *Conference* substitute adopts the *House* provision.

(b) The *House* bill provides that the minimum support price for soybeans will be $5.02 per bushel. (Sec. 901.)

The Senate amendment provides that the minumum support price for soybeans will be $4.25 per bushel. (Sec. 901.)

The *Conference* substitute adopts the *House* provision for the 1986 and 1987 crop years. For the 1988 through 1990 crop years, the Secretary of Agriculture would set the loan level at 75 percent of the average market price in the preceding 5 years, excluding the high and low years. The loan level, however, could not be reduced by more than 5 percent in any year and in no event could the loan level be less than $4.50 per bushel.

(c) The *House* bill provides that if the Secretary determines, with respect to the 1986 crop of soybeans, that the level of loans and purchases computed under the formula using the 5 year average market prices would discourage the exportation of soybeans and cause excessive stocks of soybeans in the United States, the Secretary may reduce the level of loans and purchases for the 1986 crop by the amount the Secretary determines necessary to maintain domestic and export markets, but not by more than 5 percent. (Sec. 901.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision with an amendment to authorize the additional 5 percent reduction in the loan level for each of the 1987 through 1990 crops in addition to the 1986 crop. Any reduction in the loan purchase level for soybeans under this paragraph shall not be considered in determining the loan and purchase level for soybeans for subsequent years.

(d) The *House* bill provides that the level of loans and purchases for soybeans may not be set below $4.50 per bushel under the authority of the Secretary to reduce the level of loans and purchases when the market price of soybeans in the previous marketing year is not more than 105 percent of the level of loans and purchases for such year. (Sec. 901.)

The *Senate* amendment sets this minimum at $4.25 per bushel. (Sec. 901.)

The *Conference* substitute adopts the *House* provision with an amendment to delete reference to the authority of the Secretary to reduce the loan level when the market price of soybeans in the previous marketing year is not more than 105 percent of the level of loans and purchases for such year.

(e) The *Senate* amendment provides that if the Secretary determines that such action will assist in maintaining the competitive relationship of soybeans in domestic and export markets after taking into consideration the cost of producing soybeans, supply and demand conditions, and world prices for soybeans, the Secretary shall permit a producer to repay a soybean loan for a crop at the lesser of (A) the loan level determined for such crop, or (B) the prevailing world market price for soybeans. If the Secretary exercises this authority, the Secretary is required to prescribe by regulation a formula to define the prevailing world market price for soybeans and a mechanism for announcing perodicially such world market price. Not later than 60 days after making the determination to exercise this authority, the Secretary must publish in the Federal Register proposed regulations specifying such formula and mechanism and invite public comment on the proposal. (Sec. 901.)

The *House* bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to authorize, instead of require, the Secretary to permit a producer to repay loans at less than the loan level.

(f) The *House* bill provides that the Secretary may not allow the planting of soybeans for harvest on acreage set aside or diverted from production under any other Government program. (Sec. 901.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the House provision.

(g) The *Senate* amendment provides that (A) soybeans may not be considered an eligible commodity for any reserve program, and (B) the Secretary may not authorize payments to producers to cover the cost of storing soybeans. (Sec. 901.)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(2) Soybean payments for the 1985 crop

(a) The *Senate* amendment provides that any producer who redeems, within 60 days after enactment of the bill, soybeans pledged as collateral for a 1985-crop loan will not be required to pay interest on the loan. (Sec. 902.)

The *House* bill contains no comparable provision.

The *Conference* substitute deletes the Senate provision.

(b) The *Senate* amendment requires the Secretary of Agriculture to make payments available to producers of the 1985 crop of soybeans (A) who have outstanding price support loans secured by 1985-crop soybeans on the date of enactment of the bill and who redeem such loan collateral, (B) who, although eligible to obtain a loan or purchase agreement, agree to forgo obtaining such loan or purchase agreement in return for such payments, or (C) who have marketed such crop before the enactment of the bill.

Payments would be made in an amount equal to the higher of—

(A) an amount determined by multiplying $35 by the number of acres of soybeans harvested for such crop, or

(B) an amount determined by multiplying—

(i) the actual yield per harvested acre of soybeans on the farm for the 1985 crop, by

(ii) the number of acres of soybeans harvested on the farm for such crop, by

(iii) $1.00 per bushel.

The actual yield of soybeans may be adjusted by the Secretary to correct for abnormal factors affecting such yield as a result of drought, other natural disaster, or other condition beyond the control of the producer and as may otherwise be adjusted by the Secretary to provide for a fair and equitable yield. If no actual yield can be established for the farm for the 1985 crop, the Secretary may determine such yield on such basis as the Secretary determines to be fair and equitable.

The Secretary of Agriculture may make up to 15 percent of the payments under this provision in soybeans. (Sec. 902.)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(3) Foreign soybeans

The Senate amendment requires the head of an agency (as defined in 5 U.S.C. 551(1)), before making a loan or grant to a major soybean producing country in competition with the United States for export markets, to certify to Congress that such loan or grant will not be used to enhance the capability of such country to export soybeans. (Sec. 903.)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(4) Cottonseed program

The Senate amendment requires the Secretary of Agriculture to implement a program providing for fair and equitable treatment for the cottonseed industry based on oilseed product value existing on November 1, 1985, if the price of the 1985 crop of cottonseed is adversely affected as a result of any change in the 1985 soybean program authorized by the bill. (Sec. 1317.)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(5) Sunflower payment program for the 1985 crop

The Senate amendment requires the Secretary of Agriculture to make available payments to producers of the 1985 crop of sunflowers. Payments would be made in an amount equal to the higher of—

(A) an amount determined by multiplying—

(i) the actual yield of sunflowers harvested for the 1985 crop, by

(ii) the number of acres harvested on the farm for such crop, by

(iii) $2.00 per hundredweight, or

(B) an amount determined by multiplying $35 by the number of acres of sunflowers harvested for the 1985 crop.

The actual yield of sunflowers may be adjusted by the Secretary to correct for abnormal factors affecting such yield as a result of drought, other natural disaster, or other condition beyond the control of the producer and to provide for a fair and equitable yield. If no actual yield can be established for the farm for the 1985 crop, the Secretary may determine the yield on such basis as is fair and equitable.

The Secretary is authorized to issue rules and regulations as necessary to carry out this provision, and the Secretary is to make payments under this provision through the Commodity Credit Corporation. (Sec. 1310.)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

TITLE IX—SUGAR

(1) Sugar price support (Sec. 901)

(a) The *House* bill requires the Secretary of Agriculture to support the price of the 1986 through 1990 crops of domestically grown sugarcane and sugar beets. (Sec. 101.)

The *Senate* amendment requires the same except for only the 1986 through the 1989 crops. (Sec. 1001.)

The *Conference* substitute adopts the *Senate* provision except that the language shall apply for the 1986 through 1990 crops. (Sec. 901.)

(b) The House bill requires the Secretary to consider making annual adjustments in the loan rate for each of the 1986 through 1990 crops of sugarcane and sugar beets based on changes in such factors as inflation, costs of production, and other circumstances that may adversely affect domestic sugar production. (Sec. 101.)

The *Senate* amendment authorizes the Secretary to increase the support price for each of the 1986 through 1989 crops of sugarcane and sugar beets based on such factors as the Secretary determines appropriate, including changes in the cost of sugar products, the cost of domestic sugar production, and other circumstances that may adversely affect domestic sugar production. (Sec. 1001.)

The *Conference* substitute adopts the *Senate* provision except that the language shall apply for the 1986 through 1990 crops. (Sec. 901.)

(c) The *House* bill provides that if the Secretary determines not to adjust the loan rate, the Secretary's findings, decision, and supporting data must be submitted to the House and Senate Agriculture Committees prior to any public announcement of the loan rate for the crop involved. (Sec. 101.)

The *Senate* amendment contains the same provision except submission of the material is not required prior to public announcement of the loan rate. (Sec. 1001.)

The *Conference* substitute adopts the Senate provision. (Sec. 901.)

(2) Prevention of sugar loan forfeitures (Sec. 902)

The *Senate* amendment requires the President to use all authorities available to the President, including section 22 of the Agricultural Adjustment Act of 1933 and headnote 2 of subpart A of part 10 of schedule 1 of the Tariff Schedules of the United States, as may be necessary to enable the Secretary of Agriculture to operate the sugar program at no cost to the Federal Government by preventing the accumulation of sugar acquired by the Commodity Credit Corporation. (Sec. 1002.)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with an amendment to (1) require that (a) the current quota year (December 1, 1985 through September 30, 1986) be extended by no less than 3 months, and the shipping schedules rearranged so that shipments are equally divided throughout the quota year, as extended, or (b) the sugar import program be administered in such a way as to result in at least the equivalent reduction in loan forfeitures; (2) defer the effective date of the no-net-cost requirement for the sugar program until the expiration of the current quota year; (3) delete references in the *Senate* bill to specific trade legislation and regulations; and (4) upon expiration of the current quota year, prohibit the allocation of a sugar import quota to any country that is a net importer of sugar unless officials of that country verify that it does not import for reexport to the United States any sugar produced in Cuba.

In administering the sugar program established under this Act, the President shall, before making any adjustments in a previously established sugar quota, use all available legal means to otherwise dispose of accumulated stocks of sugar through sale, tender, loan, or grant-in-aid.

The Conferees intend that the current quota period be extended for a minimum of 3 months and the shipping schedules be rearranged accordingly or that a reduction be made in the current quota so as to prevent an equivalent amount of forfeitures. However, upon expiration of the current quota year, the Conferees intend that the quota be adjusted to the level necessary to ensure that there are no forfeitures and thus no cost to the government.

Raw cane sugar must be refined before use for food for human consumption. Since the cane refiners play an important role in the domestic industry, the Conferees are concerned that cane sugar refining capacity should not be further impaired. To assure refineries of supplies to permit efficient operation, the Conferees encourage the Secretary to use authority contained in Section 22 to impose import fees and to continue a properly supervised import-reexport program for sugar. (Sec. 902.)

(3) Protection of sugar producers (Sec. 903)

The Senate amendment provides that if the bankruptcy or other insolvency of a processor has caused producers of sugar beets and sugarcane not to receive maximum benefits from the price support program within 30 days after the final settlement date provided for in the contract between such producers and processor, the Secretary of Agriculture, on demand of the producers and on such assurances as to nonpayment as the Secretary may require, shall pay such producers the maximum benefits from the price support program, less any benefits previously received by the producers. After making such payments, the Secretary would be subrogated to the claims of the producers against the processor and other persons responsible for nonpayment and would have authority to pursue such claims. The Secretary would be required to carry out this provision through the Commodity Credit Corporation. This provision will apply to nonpayments occurring after January 1, 1985. (Sec. 1314.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Sec. 903.)

TITLE X—MISCELLANEOUS COMMODITY PROVISIONS

SUBTITLE A

(1) Payment limitation

(a) The *House* bill will provide for payment limitations for each of the 1986 through 1990 crops of wheat, feed grains, upland cotton, extra long staple cotton, and rice. (Sec. 1011.)

The *Senate* amendment will apply to each of the 1986 through 1989 crops. (Sec. 1301.)

The *Conference* substitute adopts the *House* amendment. (Sec. 1001.)

(b) The $100,000 annual payment limitation applicable to disaster payments under the *House* bill will apply to wheat and feed grains. (Sec. 1011(2).)

The disaster payment limitation under the *Senate* amendment will apply to wheat, feed grains, upland cotton, and rice. (Sec. 1301(2).

The *Conference* substitute adopts the *Senate* amendment.

(c) The House bill will exclude, from the definition of payments, (A) cotton and rice diversion payments made under the House cotton and rice programs, and (B) payments made under certain cost reduction options given to the Secretary of Agriculture in the House bill (described in item (16) below). (Sec. 1011 (3).)

The *Senate* amendment contains no comparable provisions.

The *Conference* substitute adopts the House provision relating to cost reduction options, but deletes the House provision relating to cotton and rice diversion payments (Sec. 1001.)

(d) The *Senate* amendment will exclude, from the definition of payments, certain gains and payments as follows: (A) any gain realized from the repayment of loans for wheat, feed grains, upland cotton, or rice at a level less than the actual loan level; (B) any deficiency payment received for a crop of wheat or feed grains as a result of a loan level reduction; (C) any loan deficiency payment for a crop of wheat, feed grains, upland cotton, or rice received by agreeing to forgo crop loans; and (D) any inventory reduction payment received for a crop of wheat, feed grains, upland cotton, or rice. (Sec. 1301(3).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* amendment. (Sec. 1001.)

(e) The *House* bill provides that the personal payment limitation will not be applicable to lands owned by States, political subdivisions, or agencies thereof, so long as such lands are farmed primarily in the direct furtherance of a public function, as determined by the Secretary of Agriculture. (Sec. 1011(5).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the House amendment. (Sec. 1001.)

(f) The *House* bill provides that the rules for determining whether corporations and their stockholders can be considered as separate persons will have to be in accordance with regulations issued by the Secretary on December 18, 1970, (Sec. 1011(5).)

The *Senate* amendment provides that such regulations will be used to establish the percentage ownership of a corporation for the purpose of determining whether such corporation and stockholders are separate persons for purposes of the payment limitation. (Sec. 1301(5).)

The *Conference* substitute adopts the *Senate* amendment. (Sec. 1001.)

(g) The *Senate* amendment will require the Secretary to issue regulations under which subchapter S corporations will be treated as partnerships for purposes of the maximum payment limitation. (Sec. 1301(5).)

The *House* bill contains no comparable provision.

The *Conference* substitute deletes the *Senate* amendment.

(2) Nonrecourse loan limit

The *House* bill, effective with respect to each of the 1986 through 1990 crops of wheat, feed grains, soybeans, peanuts, and tobacco, will limit, to $250,000, the total amount of nonrecourse loans that a person may receive annually for all such crops. Any loans to a person in excess of that amount will be recourse in nature. (Sec. 1012.—

The *Senate* amendment contains no comparable provision.

The Conference substitute deletes the House amendment.

(3) Honey loan maximum

The *House* bill will authorize the Secretary of Agriculture to declare that the outstanding balance of nonrecourse loans a person may receive for honey in a crop year shall not exceed $250,000. Any loans to a person in excess of that amount will be recourse in nature. However, the Secretary could not make such a declaration if it would have an undue ill effect on the structure of the honey industry or on agricultural interests that depend on commercial bee colonies for pollination. (Sec. 1884.)

The *Senate* amendment contains no comparable provisions.

The *Conference* substitute deletes the House provision.

(4) Disaster payments for soybeans and sugar

The Senate amendment will authorize the Secretary of Agriculture to make prevented planting and reduced yield disaster payments available for each of the 1985 through 1989 crops of soybeans, sugar beets, and sugarcane.

If the Secretary determines that the producers on a farm are prevented from planting any portion of the acreage intended for soybeans, sugar beets, or sugarcane to such commodities or other nonconserving crops because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the Secretary could make prevented planting payments to the producers in an amount equal to the product obtained by multiplying (a) the number of acres affected (but not to exceed the acreage planted to the described commodities for harvest—including prevented planting acreage—in the preceding year), by (b) 75 percent of the farm program payment rate equal to 50 percent of the loan level for the crop.

If the Secretary determines that because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the total quantity of soybeans, sugar beets, or sugarcane that producers are able to harvest on any farm is less than the result of multiplying 60 percent of the farm program payment yield for the crop by the acreage planted for harvest, he could make a reduced yield disaster payment to producers. Such payment would be made at a rate equal to 50 percent of the loan level for the crop for the deficiency in production below 60 percent for the crop.

The Senate amendment provides the Secretary with authority to adjust payments made available for a farm so as to ensure the equitable allotment of payments among producers, taking into account other Federal disaster assistance provided to producers for the crop involved. (Sec. 1311.)

The House bill contains no comparable provisions.

The Conference substitute adopts the Senate amendmet with an amendment to include peanuts plus a conforming amendment to conform the provision to the life of the bill as annually provided in the House bill. (Sec. 1008.)

(5) Increase in acreage limitations

The Senate amendment will authorize the Secretary of Agriculture to increase the acreage limitation percentages for any of the 1986 through 1988 crops of wheat, feed grains, upland cotton, and rice by not to exceed 5 percent if the Secretary determines that the carryover stocks of the commodity involved at the end of the crop year will exceed 33 percent of the annual usage of such commodity. (Sec. 1312.)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate amendment.

(6) Cost of Production Board

The House bill will extend the National Agricultural Cost of Production Standards Review Board for five years. (Sec. 1013.)

The Senate amendment will extend the Board for four years. (Sec. 1430.)

The Conference substitute adopts the House provision. (Sec. 1022.)

(7) Commodity Credit Corporation sales price restrictions

(a) The provisions in the House bill relating to Commodity Credit Corporation sales price restrictions applicable to wheat and feed grains will be effective through the marketing years for the 1990 crops. (Sec. 1014.)

The similar provisions in the Senate amendment will be effective through the marketing years for the 1989 crops. (Sec. 1306.)

The Conference substitute adopt the House provision. (Sec. 1007.)

(b) The Senate amendment provides that, if the Secretary of Agriculture permits loan repayments with respect to a crop of wheat, corn, grain sorghum, barley, oats, or rye at a rate less than the loan level for the corp, the Corporation could not sell any of its stocks of the commodity at less than 115 percent of the average loan repayment rate during the period of the loans. (Sec. 1306(1).)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate amendment. (Sec. 1007.)

(8) Application of terms

The House bill provides that the application of certain terms (contained in title IV of the Agricultural Act of 1949) to wheat, feed grains, upland cotton, and rice under the bill will be effective through the 1990 crops of such commodities. (Sec. 1015.)

The similar provisions in the Senate amendment will be effective through the 1989 crops. (Sec. 1307.)

The *Conference* substitute adopts the House provision. (Sec. 1017.)

(9) Normal crop acreage

(a) The *House* bill will extend, through the 1990 crops, provisions of section 1001 of the Food and Agriculture Act of 1977 that authorize the Secretary of Agriculture to impose a normal crop acreage requirement as a condition of eligibility for participation in the wheat and feed grain programs when a set-aside program for the crop involved is in effect. (Sec. 1016.)

The *Senate* amendment will extend this authority through the 1989 crops and apply it to upland cotton and rice also. (Sec. 1302(1).)

The *Conference* substitute adopts the House provision. (Sec. 1012.)

(b) The *Senate* amendment will add a new subsection to section 1001 of the 1977 Act authorizing the Secretary to require, whenever marketing quotas are in effect for any of the 1987 through 1989 crops of wheat, that, as a condition of eligibility for loans, purchases, and payments on any commodity under the 1949 Act, the acreage on a farm normally planted to crops designated by the Secretary be reduced by a quantity equal to the acreage that normally would be planted to wheat on the farm minus the individual farm program acreage for wheat for the farm. (Sec. 1303(c).)

The *House* bill contains no comparable provision.

The *Confeience* substitute adopts the Senate amendment. With a continuing amendment making it effective through the 1990 crops. (Sec. 1012.)

(10) Determinations of the Secretary

(a) The *Senate* amendment will expand the provisions of the Agricultural Adjustment Act of 1938 relating to the finality of determinations of facts concerning payments and loans under commodity programs to make them applicable to extra long staple cotton, in addition to wheat, feed grains, upland cotton and rice.

The *House* bill contains no comparable provisions.

The *Conference* substitute adopts the Senate amendment. (Sec. 1016.)

(b) The *Senate* amendment will require the Secretary of Agriculture to determine rates of loans, payments, and purchases under the 1986 through 1989 commodity programs under the Agricultural Act of 1949 without regard to the requirements for notice and public participation in rulemaking prescribed under title 5 of the U.S. Code, or in any directive of the Secretary. (Sec. 1303.)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the Senate amendment with a conforming amendment making the provision effective through the 1990 crop. (Sec. 1016.)

(11) Multiple commodity planting

The *Senate* amendment will authorize the Secretary of Agriculture, effective for the 1986 through 1989 crops, if a producer historically has produced crops of two commodities on the same land in the same year and the producer has diverted acreage on the farm from the production of one of the commodities under an acreage reduction program, to permit the producer to plant a second crop of the other commodity on the diverted acreage. (Sec. 1304.)

The *House* bill contains no comparable provision.

The *Conference* substitute deletes the *Senate* amendment.

(12) Having and grazing

(a) The *House* bill will extend the special haying and grazing program under section 109 of the Agricultural Act of 1949 through the 1990 crops. (Sec. 1017(a).)

The *Senate* amendment will extend the program through the 1989 crop year. (Sec. 1309.)

The *Conference* substitute adopts the *House* amendment.

(b) The *House* bill will add to the Agricultural Act of 1949 a new section providing that, notwithstanding any other provisions of the Act, in carrying out any acreage limitation, set-aside, or land diversion program under the Act for wheat, feed grains, upland cotton, or rice, the Secretary of Agriculture must permit participating producers in any State to devote all or any part of the acreage diverted from production under the program to having and grazing during the eight months of each year selected by the State ASC committee. However, a producer could not sell any hay or other crop harvested from the acreage devoted to such haying and grazing. (Sec. 1017(b).)

The *Senate* amendment contains comparable provisons applicable only to wheat. See item 9(e) under title IV—Wheat.

The Conference adopts the Senate amendment and applies it to feed grains, upland cotton, and rice. (Sec. 308, 401, 501, and 601.)

(13) Supplemental set-aside and acreage limitation authority

The *House* bill will provide authority for the Secretary of Agriculture to announce and provide for a set-aside or acreage limitation program for one or more of the 1986 through 1990 crops of wheat and feed grains if the Secretary determines such action is in the public interest as a result of the imposition of restrictions on the export of any such commodity by the President or other member of the executive branch of government. (Sec. 1018.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision. (Sec. 1011.)

(14) Normal supply

The *House* bill provides that, if the Secretary of Agriculture determines that the supply of wheat, corn, upland cotton, or rice for any of the 1986 through 1990 marketing years is not likely to be excessive and that program measures to reduce or control the planted acreage are not necessary, such decision will constitute a determination that the total supply of the commodity does not exceed the normal supply and no determination can be made to the contrary. (Sec. 1019.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision. (Sec. 1018.)

(15) Multiyear set-asides

The *House* bill will authorize the Secretary of Agriculture to enter into multiyear set-aside contracts, for a period not to extend beyond the 1990 crops, with participants in the wheat, feed grains, upland cotton, and rice programs for 1986 receives certificates having an aggregate face value that represents a rate of return per unit of wheat or feed grains produced that is uniform among farmers.

(f) Certificates will be redeemed by the Secretary for a cash amount equal to the monetary denomination on the certificate (or, at the option of the Secretary, a quantity of the commodity involved having a current fair market value equal to such amount) on presentation by a holder who exports a quantity of the crop (including processed wheat or feed grains) involved equal to the quantity designated in the certificate.

The Secretary would expend to carry out the program, with respect to a crop of wheat or feed grains, in addition to other amounts provided by law to finance or encourage exports, an amount not less than the product of (a) 21 cents for wheat, 11 cents for corn, and such amounts for grain sorghums, oats, and, if designated by the Secretary, barley as he determines fair and reasonable in relation to the amount specified for corn times (b) the aggregate of the wheat or feed grain acreage planted to the commodity for harvest by producers participating in the program for the crop times (c) the average of the program yields for the crop.

Under the other export certificate program, involving noncash certificates, effective for each of the 1986 through 1990 crops of wheat and feed grains, the Secretary could issue, to producers of wheat or feed grains participating in the program for the crop who meet the requirements of the program, export marketing certificates denominated in bushels of wheat or feed grains. The program would be operated as follows:

(a) Not later than three months prior to the beginning of the marketing year for the crop, certificates would be issued to eligible producers that plant at least 50 percent of their farm's wheat or feed grain crop acreage base for the crop. The certificates would be applicable to the marketing year for the crop and, in the aggregate, would equal the quantity of the commodity the Secretary estimates will be exported during the marketing year. Each eligible producer would receive certificates for a quantity of the commodity that bears the same ratio to the quantity of estimated exports as the producer's crop acreage base for that crop of the commodity bears to the aggregate total of all eligible producers' crop acreage bases for that crop. Each certificate would designate the producer by name and crop involved.

(b) If seven months after the beginning of the marketing year, the Secretary determines that the amount of the commodity that will be exported during the marketing year will exceed the quantity of the commodity represented by the certificates so issued, the Secretary could issue additional certificates to producers that initially received certificates sufficient to cover the additional exports.

(c) Producers could convey certificates to purchasers of the commodity sold by the producers at any time prior to the end of the marketing year. If a producer has less wheat or feed grains to sell than the quantity represented by the certificates issued to him, the producer, at any time prior to the end of the marketing year, could sell the extra certificates to any person for such price as agreed on by the producer and purchaser. Any certificate could be reconveyed without restriction.

(d) To be eligible to receive certificates, a producer would have to participate in the price support program for the crop, and—

(A) if there is no acreage limitaton or set-aside in effect for the crop, limit the acreage on the farm planted to the crop for harvest to the farm's wheat or feed grain crop acreage base, or

(B) if an acreage limitation or set-aside program is in effect for the crop, comply with the terms of the program.

(e) Whenever the Secretary issued certificates, no person could export wheat or wheat products, or feed grains or feed grain products, from the United States during the marketing year for the crop without surrendering to the Secretary, at the time of export, export marketing certificates for the crop representing the quantity of the commodity being exported or, in the case of wheat or feed grain products, the equivalent quantity of the commodity contained in the products exported. Persons that fail to comply would be guilty of a misdemeanor and be subject to a fine of not more than $25,000 or imprisonment for not to exceed one year, or both. (Sec. 1024.)

The Senate amendment contains no comparable provisions.

The conference substitute adopts the House provision with an amendment providing that these programs be funded through the general funds of the Commodity Credit Corporation, rather than through a reduction in deficiency payments. (Sec. 1006.)

The conferees particularly encourage the Secretary to utilize the Export Certificate Program, inasmuch as it is producer-oriented with income enhancement going to those participating in the farm commodity programs designed to achieve national farm policy objectives contained in agricultural legislation such as the Food Security Act of 1985.

(20) Required disposition of surplus commodities

The *House* bill provides that, if the Secretary of Agriculture determines that food and feed stocks acquired by the Commodity Credit Corporation through nonrecourse loan programs cannot be disposed of in normal domestic trade channels without impairment of price support programs or sold abroad at competitive world prices, the CCC will have to dispose of such commodities for the purposes of emergency domestic food assistance, emergency humanitarian food needs in developing countries, market development, export enhancement, or other such appropriate uses. (Sec. 1025.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the House provision.

(21) Noncompliance based on excess idled acres

The *House* bill provides that a producer who removes land from production under an acreage limitation or set-aside program for a crop of wheat, feed grains, cotton or rice, and idles more land than required, will not have payments reduced, nor be subject to penalty, for failure to plant on the excess idled acres or for failure to accurately report acreage, unless the Secretary of Agriculture determines by the preponderance of evidence that the producer's acts were committed to obtain funds to which such producer was not entitled by law. (Sec. 1026.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the House provision.

(22) Advance recourse commodity loans

The *House* bill will authorize the Secretary of Agriculture to make advance recourse loans available to producers of commodities of the 1986 through 1990 crops for which nonrecourse loans are made available, if the Secretary finds such action is necessary to ensure that adequate operating credit is available to producers. Crop insurance would be required as a condition of eligibility for any such loan. (Sec. 1027.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the House provision. (Sec. 1003.)

(23) Corn marketing year

The *House* bill will redesignate the marketing year for corn from October 1–September 30 to September 1–August 31. (Sec. 1029.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the House provision. (Sec. 1020.)

(24) Crop diversion land eligibility

The *Senate* amendment states the sense of the Senate that the Secretary of Agriculture should revise Department of Agriculture regulations concerning land eligibility for crop diversion programs to prohibit farmers from placing the same cropland in any crop diversion program that may be in effect during consecutive years, except under uncontrollable circumstances such as heavy rains, drought, or other adverse weather conditions. (Sec. 1313.)

The *House* bill contains no comparable provision.

The *Conference* substitute deletes the Senate provision.

(25) Crop insurance coverage of winter and spring wheat

(a) The *Senate* amendment will revise the Federal crop insurance program to include winterkill of winter wheat as one of the insured perils covered by multiperil crop insurance sold under the program.

The *House* bill contains no comparable provision. (See paragraph (b) below.)

The *Conference* substitute deletes the Senate provision.

(b) The *Senate* amendment will require the Secretary of Agriculture to conduct a study of the practice of offsetting the quantity of winter and spring wheat producers to determine the benefits due under Federal crop insurance policies. The Secretary would have to report the results of the study, along with any recommendations for legislation or regulations, to the agriculture committees of Congress not later than 180 days after enactment of the bill. (Sec. 1315.)

The *House* bill contains no comparable provisions.

The *Conference* substitute adopts the *Senate* amendment with an amendment requiring the Secretary to study the feasibility and desirability of including winterkill of winter wheat as a loss covered by Federal crop insurance. (Sec. 1022.)

(26) Federal Crop Insurance Corporation funding

The *Senate* amendment will revise the mechanisms by which certain operations of the Federal Crop Insurance Corporation are funded, as follows:

(a) All capital stock in the Corporation currently issued and subscribed by the United States essentially will be cancelled. (Under existing law, the Corporation has an authorized capital stock of $500 million; under the bill, the authorized capital stock will be $1).

(b) The general powers of the Corporation described in the Federal Crop Insurance Act would be expanded to include the powers to—

(A) borrow money, as permitted under the Act; and

(B) use all funds and assets of the Corporation including capital, net earnings, allocated funds, and borrowed funds.

(c) Appropriations would be authorized to cover the redemption of obligations issued to the Corporation by the Secretary of the Treasury. However, such appropriations could be used only after all other sources of funds available to the Corporation (including premium income) is used to redeem the obligations.

(d) Whenever the Corporation earns a net realized gain for a year, the earnings will be held in an interest-bearing account in the Treasury, to be available to the Corporation without fiscal year limitation. The Corporation would have to use such earnings, as practicable, to repay Treasury obligations.

(e) The *Senate* amendment would repeal the provision in current law that the Corporation can borrow from the Treasury only to the extent or in the amounts provided in appropriation Acts. In place of that provision, a new provision would be added stating that not more than $1 billion can be borrowed and outstanding from the Treasury at any one time. (Sec. 1316.)

The *House* bills contains no comparable provision.

The *Conference* substitute replaces the language of the original *Senate* amendment with language authorizing the Federal Crop Insurance Corporation to borrow from the Commodity Credit Corporation at any time the moneys available to the Federal Crop Insurance Corporation are insufficient to pay the claims of farmers for insured crop losses. (Sec. 1021).

(27) Advance announcement

The *Senate* amendment will require the Secretary of Agriculture to offer an option to producers of the 1987 through 1990 crops of wheat, feed grains, upland cotton, and rice with respect to participation in the commodity price support, production adjustment, and payment programs, as follows: If, in any county, the Secretary has not made final announcement of the terms of the program for a crop on or before the later of—

(a) 60 days prior to the normal planting date for the commodity in the county, and

(b) in the case of—

(i) wheat, July 1 of the calendar year prior to the crop year for which such program is announced,

(ii) feed grains, November 15 of the calendar year prior to the crop year for which such program is announced,

(iii) upland cotton, November 1 of the calendar year prior to the crop year for which such program is announced, and

(iv) rice, January 31 of the year for which such program is announced,

then the Secretary would have to permit producers of such commodities to elect to receive price support payments and other program benefits as provided (A) in the program announced for the crop year or (B) in the alternate program described below, which would be based on the program for the crop immediately preceding the crop with respect to which the election is made.

Under the alternate program, the Secretary would permit eligible producers to participate in the program for the commodity involved by complying with the terms of the program announced for the preceding crop of the commodity. Further, the Secretary would have to make available to such producers, if they complied fully with the terms and conditions of any acreage reduction program as established for the preceding year's crop of the commodity—

(a) loans at the level established for the then current program for the commodity;

(b) deficiency payments calculated on the same basis as the deficiency payments were calculated for the preceding crop; and

(c) payments equal to the difference between the level of loans for the current crop and the level of loans for the preceding crop (in cash or in-kind commodities).

In the case of the 1990 crops, the Secretary would make available to such producers if they comply fully with the terms and conditions of any acreage reduction program established or the 1989 crops of the commodity—

(a) loans at the level established for the 1991 crop under future legislation;

(b) deficiency payments calculated on the basis of the established price for the 1989 crop; and

(c) payments equal to the difference between the level of loans that the producer is eligible to receive for the 1990 crop and the level of loans for such commodity for the 1989 crop (in cash or in-kind commodities).

If legislation is not enacted that provides for loans to be made with respect to the 1990 crop of a commodity, none of these provisions will apply to the 1990 crop.

The Secretary would consider the acreage base and yield for any farm with respect to which a producer exercises the option described herein to be equal to the acreage base and yield that was established, or would have been established, for such farm for the year preceding the year for which the election is made. (Sec. 1318.)

The *House* bill contains no comparable provisions.

The *Conference* substitute adopts the *Senate* amendment with an amendment that authorizes the Secretary to implement the advance announcement authority, rather than being required to. The amendment to the *Senate* provision would also change the years 1989 and 1990 to 1990 and 1991, respectively, wherever they appear in the *Senate* provision.

The conferees agree that the Secretary's discretionary authority is to include the ability to offer producers partial as well as total program options. The Secretary could offer producers the option of the previous year's bases and set asides, wheat grazing, and other appropriate provisions needed to allow farmers to make planting decisions, without providing the price support provisions of the current year's program.

This section is particularly intended to be used in a year, such as 1985, when the Secretary is concerned that he lacks statutory authority to announce next year's commodity programs. Under such circumstances, the Secretary is encouraged to provide the full program option so that producers can arrange financing as well as decide how many acres to plant or graze. (Sec. 1016.)

(28) Producer reserve program for wheat and feed grains

The *House* bill, effective beginning with the 1986 crops, will revise the provisions of the producer storage program for wheat and feed grains to—

(a) add, as a purpose of the program, providing for adequate, but not excessive, carryover stocks to ensure a reliable supply of the commodities;

(b) provide for repayment of loans in not less than three years, with extensions as warranted by market conditions;

(c) provide for recovery of storage payments, and the payment of additional interest or other charges, if producers repay loans when (A) the total amount of wheat or feed grains in storage under programs under the section is below the upper limits for such storage described in clause (f) below and (B) the market price for the commodity is under the release levels described in clause (d) below;

(d) provide for inducing producers to redeem and market the commodities when the market price has reached the higher of 140 percent of the nonrecourse loan rate for the commodity or the established price for the commodity;

(e) add a provision that whenever (A) the total amount of wheat stored under the storage program is less than 17 percent of the estimated total domestic and export usage of wheat during the then current marketing year for wheat, as determined by the Secretary of Agriculture, or the total amount of feed grains stored under the storage program is less than 7 percent of the estimated total domestic and export usage of feed grains during the then current marketing year, as determined by the Secretary, and (B) the market price of the commodity, as determined by the Secretary, does not exceed 140 percent of the nonrecourse loan rate for the commodity, the Secretary will be required to encourage participation in the program by offering producers increase storage payments and loan levels, interest waivers, or such other incentives as he determines necessary to maintain the total amount of storage under the program at the levels specified above. The Secretary also will be required to ensure that producers are afforded a fair and equitable opportunity to participate in each producer storage program, taking into account regional differences in the time of harvest; and

(f) substitute for provisions of current law (which provide that any upper limit on the amount of grain that can be placed in the reserve cannot be less than 700 million bushels for wheat and one billion bushels for feed grains) new provisions providing that—

(A) prior to the harvest of each crop of wheat and feed grains, the Secretary must determine and establish upper limits on the total amount of wheat and feed grains that can be stored under the storage program to be effective during the marketing years for such crops. The upper limit on the total amount of wheat could not exceed 30 percent of the estimated total domestic and export usage of wheat during the marketing year for the crop, as determined by the Secretary, and the upper limit on the total amount of feed grains could not exceed 15 percent of the estimated total domestic and export usage of feed grains during the marketing year, as determined by the Secretary; and

(B) the Secretary could establish the upper limits at higher levels—not in excess of 110 percent of the levels determined above—if he determines that the higher limits are necessary to achieve the purpose of the program (Sec. 1022.)

The *Senate* amendment contains no comparable provisions. The *Conference* substitute adopts the *House* provision (Sec. 1012.)

(29) Food assistance reserve

(a) The *Senate* amendment will require the Secretary of Agriculture to establish a food assistance reserve containing up to 500 million bushels of wheat and feed grains, including—

(i) not less than 200 million bushels of wheat, to be used to provide emergency food assistance, as described in paragraph (b)(i) below; and

(ii) and not less than 100 million bushels of wheat, to be used for carrying out the foreign donations program under section 416 of the Agricultural Act of 1949. (Secs. 1201-1203.)

The *House* bill contains no comparable provisions.

The *Conference* substitute deletes the *Senate* provision.

(b) Under the *Senate* amendment, stocks of the reserve could be made available by the Secretary to meet urgent humanitarian needs, subject to the following limits;

(i) except as provided in clause (ii)—below, stocks of wheat specified in paragraph (a)(i) could be released by the Secretary only to provide, on a donation or sale basis, emergency food assistance to developing countries, if the domestic supply of wheat is so limited that quantities of wheat cannot be made available for disposition under Public Law 480 except for urgent humanitarian purposes, under the Public Law 480 criteria relating to domestic supply situation.

(ii) Up to 300,000 metric tons of the wheat specified in paragraph (a)(i) could be released from the reserve in any fiscal year, without regard to the domestic supply situation, for use under title II of Public Law 480 in providing urgent humanitarian relief in any developing country suffering a major disaster, as determined by the President, if the wheat needed for relief cannot be programmed for such purpose in a timely manner under the normal means of obtaining commodities for food assistance due to circumstances of unanticipated and exceptional need.

(iii) Stocks of wheat specified in paragraph (a)(ii) could be released by the Secretary only for carrying out section 416 foreign donation programs.

In connection with the use of stocks in reserve, the Secretary could pay the cost of processing, reprocessing, packaging, transporting, handling, and other charges, including the cost of overseas delivery. (Sec. 1203.)

The *House* bill contains no comparable provisions.

The *Conference* substitute deletes the *Senate* provision.

(c) To establish the reserve or replenish the stocks of the reserve, the Secretary could—

(i) acquire wheat or feed grains for the reserve through purchases from producers or in the market, if the Secretary determines that such purchases will not unduly disrupt the market; and

(ii) designate stocks of wheat and feed grains otherwise acquired by the Commodity Credit Corporation as stocks of the reserve.

The Secretary could provide for the periodic rotation of stocks of the reserve to avoid spoilage and deterioration of such stocks. (Sec. 1204.)

The *House* bill contains no comparable provisions.

The *Conference* substitute deletes the *Senate* provision.

(d) the CCC would be reimbursed from funds made available for carrying out Public Law 480 for what released from the reserve that is made available under Public Law 480. The reimbursement would be made on the basis of the lower of—

(i) the actual costs incurred by the CCC with respect to such wheat; or

(ii) the export market price of wheat (as determined by the Secretary) as of the time the wheat is released from the reserve for such purpose.

Reimbursement would include the actual costs incurred by the CCC with respect to processing, reprocessing, packaging, transporting, handling, and other charges, including overseas delivery. The reimbursement could be made from funds appropriated for such purposes in subsequent years. (Sec. 1205.)

The *House* bill contains no comparable provisions.

The *Conference* substitute deletes the *Senate* provision.

(i) section 813 of the Agricultural Act of 1970, which provides for the establishment of a dissaster reserve;

(ii) the Food Security Wheat Reserve Act of 1980, which established a wheat reserve similar to the reserve to be created under the *Senate* amendment; and

(iii) section 203 of the Agricultural Act of 1980, which provides authority for the establishment of trade suspension reserves. (Sec. 1206.)

The *House* bill extends the Food Securtiy Wheat Reserve for five years, to September 30, 1990 (Sec. 1111).

The *Conference* substitute adopts the *House* provisions. (Sec. 1013.)

[illegible]

(1) Short title

The *House* bill provides that the provisions relating to bases and yields, and revisions to permanent law, for wheat, feed grains, upland cotton, and rice, can be cited as the "Agricultural Efficiency and Equity Act of 1985". (Sec. 31)

The *Senate* amendment contains no comparable provision.

The Conference substitute deletes the House provision.

(2) Bases and yields for producers of wheat, feed grains, upland cotton, and rice

(a) The *House* bill will establish a permanent system for determining wheat, feed grain, upland cotton, and rice crop acreage bases and program yields. (Sec. 1031.)

The Senate amendment will establish such bases and yields only for the 1986 through 1989 crops of those commodities. (Secs. 407, 501, 601, and 701.)

The *Conference* substitute establishes a system for determining farm acreage bases, crop acreage bases, and a farm program payment yields for the 1986 through 1990 crops of wheat, feed grain, upland cotton, and rice.

(b) The *House* bill defines the term "crop year" for the purposes of the base and yield provisions to mean the calendar year in which a crop normally is harvested, except that, in the case of a crop that is normally harvested in January, February, or March of any calendar year, the term "corp year" with respect to such crop would mean the calendar year in which such crop is planted and during which substantially all growth occurs. (Sec. 1031.)

The Senate amendment contains no comparable provision.

The *Conference* substitute deletes the House provision.

(c) *House* bill will require *the Secretary* of Agriculture to establish a *farm acreage base* for each wheat, feed grain, upland cotton, or rice-producing farm, as follows: The ASC county committee would determine the farm acreage bases for farms beginning with the 1986 crop year. The farm acreage base for a farm for a crop year would be—

(A) the number of acres equal to the average of the total acreage on the farm planted to wheat, feed grains, upland cotton, and rice for harvest (or considered planted) in each of the five crop years immediately preceding the crop year (with a special rule for the 1986 through 1988 crops of cotton and rice, the same as that described in paragraph (e) below for crop acreage bases); except that

(B) for each of the 1986 through 1988 crop years, such number of acres for any farm could not exceed the average acreage on the farm planted (or considered planted) to such crops during the two preceding crop years.

The county committee could construct a planting history for the farm for the 1986 crop year if (A) planting records for the farm for any of the five crop years preceding the 1986 crop year are incomplete or unavailable; or (B) during at least one but not more than four of the five crop years preceding the 1986 crop year, no program crop was produced on such a farm. The planting history is to be established in a fair and equitable manner in accordance with regulations that the Secretary must publish no later than sixty days after enactment of the bill. (Sec. 4123.)

The *Senate* amendment contains no comparable provision.

(C) The *Conference* substitute authorizes *the Secretary* to establish a farm acreage base for the 1986 crop equal to the sum of the wheat, feed grain, upland cotton, and rice crop acreage bases.

For crop years 1987 through 1990 *the Secretary* must establish such farm acreage bases. For the 1987 crop year, the farm acreage base shall include (1) the crop acreage base for such year, (2) the 1986 acreage which was planted to soybeans, and (3) the 1986 acreage which was devoted to conserving uses in the normal course of farming operations. For the 1988 through 1990 crop years, such farm acreage bases shall include (1) the crop acreage base for such year, (2) the sum of the average of the acreages which, beginning with the 1986 crop, were (A) planted to soybeans, and (B) the average of the acreages which, beginning with the 1986 crop, were devoted to conserving uses.

County ASC committees may, in accordance with regulations prescribed by the Secretary, consider special and unusual circumstances with respect to establishment of farm acreage bases.

(d) The *House* bill will require the Secretary to provide for the establishment and maintenance, for each crop year, of crop acreage bases for wheat, feed grains, upland cotton, and rice (including any such crop produced under an established practice of double cropping) produced on each farm. The sum of the crop acreage bases for commodities produced on any farm for any crop year could not exceed the farm acreage base for such farm for such crop year, except to the extent that such excess is due to an established practice of double cropping, as determined by the county committee and subject to such regulations as the Secretary might prescribe. To the extent that, because of the different procedures for calculating crop acreage bases for wheat and feed grains and for upland cotton and rice, the sum of crop acreage bases for the farm for a crop year would exceed the farm acreage base for the crop year, but for the operation of the provision described in the preceding sentence, the crop acreage bases for the farm would be adjusted by the county committee, in consultation with the farm operator, so that the sum of the crop acreage bases does not exceed the farm acreage base. (Sec. 1002.)

The *Senate* amendment provides that the total of all crop acreage bases for a farm can never exceed the total acreage of cropland on the farm. (Secs. 407, 501, 601, and 701.)

(d) The *Conference* substitute provides that the sum of the crop acreage bases for all program crops on a farm may not exceed the farm acreage base for such farm in such crop year except to the extent that the excess is due to an established practice of double cropping.

(e) The *House* bill will direct the ASC county committees to determine the crop acreage bases for commodities for each farm with respect to each crop year beginning with the 1986 crop year. Except as otherwise provided as described in the next sentence, the crop acreage base for any commodity for a farm would be—

(A) if the program commodity is wheat or feed grains, the number of acres equal to the average of the number of acres on the farm planted to the commodity for harvest (or considered as so planted) in each of the five crop years preceding the crop year involved; and

(B) if the program commodity is upland cotton or rice, (i) for each of the 1986 through 1988 crop years, the number of acres that is equal to the average of the number of acres on the farm planted to the commodity for harvest (or considered as so planted) in each of the preceding crop years beginning with the 1984 crop year; and (ii) for each of the 1989 and succeeding crop years, the number of acres equal to the average of the number of acres on the farm planted to the commodity for harvest (or considered as so planted) in each of the five crop years preceding the crop year involved.

The county committee could construct planting history for a farm if (A) planting records for the any of the five crop years preceding the 1986 crop year are incomplete or unavailable; or (B) during at least one but not more than four of the five crop years preceding the 1986 crop year, the program crop was not produced on the farm. The planting history is to be established in a fair and equitable manner in accordance with regulations that the Secretary would have to publish no later than sixty days after enactment.

A producer, by submitting notice to the county committee, could increase or decrease the crop acreage base for a commodity for the producer's farm for the crop year, subject to the following conditions:

(A) Any adjustment of a crop acreage base for a farm (or, in the case of an adjustment in the crop acreage bases for two or more commodities, the sum of the number of acres by which each such crop acreage base is increased or decreased) could not exceed—except in 1986—the number of acres equal to 10 percent of the farm acreage base for the farm for the crop year. The adjustment (or the sum of the number of acres by which crop acreage bases are increased or decreased when bases for two or more commodities are adjusted) for the 1986 crop year could not exceed the number of acres equal to 20 percent of the farm acreage base for the crop year.

(B) No adjustment will be construed to increase the farm acreage base for the farm for the crop year.

(C) The Secretary could suspend, on a nationwide basis, any limitation on adjustments described in clauses (A) and (B) if the Secretary determines that (i) a short supply or other similar emergency situation exists with respect to any commodity; or (ii) market factors exist that require the suspension of any limitation to achieve the purposes of the bases and yields program.

An adjustment notice would have to be submitted by the producer to the county committee before the first day of the sixty-day period ending on—

(A) the final date required by law for announcement by the Secretary of any acreage or supply control program with respect to the commodity for the crop year involved; or

(B) in the case of—

(i) wheat, May 1 of the year preceding the crop year;

(ii) feed grains, September 30 of the year preceding the crop year;

(iii) upland cotton, November 1 of the year preceding the crop year;

(iv) rice, January 1 of the crop year,

whichever date occurs first. (Sec. 1001.)

The Senate amendment provides for establishing acreage bases for purposes of determining any reduction under an acreage limitation program using essentially the same formula for determining such bases as the provisions of the House bill. However, the Senate amendment has no specific provisions, similar to those in the House bill, relating to producer adjustments of crop acreage bases, except that it will authorize the Secretary to make adjustments in acreage bases to reflect established crop rotation practices and to reflect other factors that the Secretary determines should be considered in determining fair and equitable bases. (Secs. 407, 501, 601, and 701.)

(e) The Conference substitute requires that the crop acreage bases are to be established by the Secretary of Agriculture, for the 1986 through 1990 crops of wheat, feed grains, upland cotton, and rice to be the average of acreage planted and considered planted (P&CP) in the 5 previous years. For cotton and rice, if the farm has no P&CP for each of the preceding 5 years, the crop acreage base shall be the average P&CP in each of the preceding 5 years excluding all but one year in which the farm had no P&CP. If the farm does not have P&CP in all 5 preceding years, the crop acreage base cannot exceed the average P&CP of the preceding 2 years.

Acreage considered planted to a crop includes (1) any reduced acreage, set-aside acreage, and divested acreage, (2) acreage prevented from planting due to a natural disaster or conditions beyond the control of the producer, (3) acreage in an amount equal to the difference between the permitted acreage for a program crop and the acreage planted to such crop, if such acreage is planted to a nonprogram not including soybeans and extra long staple cotton and (4) any acreage on the farm which the Secretary determines is necessary to establish a fair and equitable crop acreage base.

The Secretary may allow the producer, in any year, to adjust the individual crop acreage base by up to 10 percent of the farm acreage base. Any crop acreage base adjustment for wheat, feed grains, upland cotton, or rice within the farm acreage base must be offset by an equal decrease in the wheat, feed grains, upland cotton, or rice acreage base on the farm.

The Secretary may suspend the limitation on crop acreage base adjustment in special circumstances and county ASC committees may consider, in accordance with regulations prescribed by the Secretary, special and unusual circumstances with regard to establishment of crop acreage bases.

(f) The *House* bill will require the Secretary to provide for establishing program yields for wheat, feed grains, upland cotton, and rice for each crop year for each farm. Specifically—

(A) the ASC county committee would determine farms' program yields for commodities for any crop year beginning with the 1986 crop year. Subject to the rules described in clauses (B) and (C), and except as otherwise provided regarding assigned yields, a farm's program yield for a commodity for any crop year would be the average of the actual yield per harvested acre on the farm for the commodity for each of the five crop years immediately preceding the crop year involved, excluding the crop years with the highest and lowest yields per harvested acre, and any crop year in which the commodity was not planted on the farm;

(B) a farms's program yield for a commodity for any crop year could not be more than 150 percent nor, except as described in clause (C), less than 90 percent of the farms's program yield for the commodity for the immediately preceding crop year; and

(C) a farm's program yield for a commodity for the 1986 crop year could not be less than the yield established for the 1985 crop year.

The county committee could adjust the program yields for any farm within the county to the extent that the committee determines that (A) a significant change in any farming practice on the farm will materially and permanentaly affect the yields for the farm, or (B) because of the occurrence of a natural disaster or other similar condition beyond the control of the producer, the program yields for the farm do not accurately reflect the productive potential of the farm.

In the case of any farm for which the actual yield per harvested acre for any crop year is not available, the county committee could assign the farm a yield for the commodity involved for the crop year on the basis of actual yields on farms that the committee determines are similar to the farm with respect to size, location, and farming practices. (Sec. 1002.)

The *Senate* amendment provides that a farm's program payment yield for each of the 1986 through 1989 crops of wheat, feed, grains, upland cotton, or rice will be the average of the *farm program payment yields* for the farm for the 1981 through 1985 crops of the commodity involved, excluding the years in which the payment yields were the highest and the lowest.

If none of the commodity was produced on the farm, or no farm program payment yield was established for the farm, in any of the 1981 through 1985 crops, the farm program payment yield would be established at the request of the producers, on the basis of the average farm program payment yield for such year for similar farms in the county or the State in which the farm is located. If the Secretary determined it necessary, the Secretary could establish national, State, or county program payment yields for a commodity on the basis of—

(A) historical yields, as adjusted by the Secretary to correct for abnormal factors affecting such yields in the historical period; or

(B) if such data are not available, the Secretary's estimate of actual yields for the crop year involved.

If national, State or county program payment yields for a commodity are established, the total farm program payment yields for the commodity would have to balance to the national, State or county program payment yields. (Secs. 407, 5601, 601, and 701.)

(f) The *Conference* substitute requires the Secretary of Agriculture to establish farm program payment yields for wheat, feed grains, upland cotton, and rice for the 1986 through 1990 crop years. For the 1986 and 1987 crop years, such program payment yields are to be established based upon the average of farm program payment yields during the crop years 1981 through 1985, excluding the high and low years.

For the 1988 through 1990 crop years, the Secretary is authorized to continue to calculate yields based on the average of the farm program payment yields for the 1981 through 1985 crop years, excluding the high and low years. Or, at his discretion, the Secretary may begin to phase in actual yields for the most recent crop in a five-year average of program yields and actual yields.

If a farm program payment yield was not established in any crop year, the ASC County Committee, in accordance with regulations prescribed by the Secretary, may assign a farm program payment yield based upon farm program payment yields for similar farms in the area.

(g) The *House* bill would assign to the county ASC committees certain specific responsibilities under the bases and yields system under the bill. Effective for each of the 1986, and subsequent crop years, each county committee, at such time and in such manner as the Secretary prescribes by regulation, would ask any producer who seeks to be considered a cooperator, or otherwise participate in the commodity programs, under the Agricultural Act of 1949 with respect to a farm for a crop year to specify the total number of acres on the farm planted to wheat, feed grains, upland cotton, and rice for harvest in each of the five crop years immediately preceding such crop year, and the total number of acres on the farm planted to each such commodity in each crop year for harvest. Before the beginning of the crop year, the county committee would (A) establish or adjust the farm acreage base and each crop acreage base for the crop year for the farm on the basis of such information; and (B) notify each such producer of the farm acreage base and each crop acreage base that will apply to the farm for such crop year. Each county committee, in accordance with regulations prescribed by the Secretary, would maintain records of the farm acreage base for each farm operated by a producer within the county and the crop acreage base for each program crop produced on the farm. The records of the farm acreage bases and crop acreage bases for the 1986 crop would have to reflect the determinations made under the bill and include (A) any crop planting history for any farm submitted to the county committee by a producer; and (B) any construction of any planting history for any farm of the producer made by the county committee to the extent provided for in the bill.

With respect to yields, again effective for each of the 1986 and subsequent crop years, each county committee, at such time and in such manner as the secretary prescribes by regulation, would request any producer who seeks to be considered a cooperator, or otherwise participate in the commodity programs, under the Agricultural Act of 1949 for a crop year to supply information necessary for determining the program yield for any wheat, feed grains, upland cotton, or rice produced on any farm within the county by the producer for the crop year. Later, the county committee would notify each producer of yield determinations for each crop year. Each county committee, in accordance with regulations prescribed by the Secretary, would maintain records of the program yields for any crop year for any farm operated by a producer within the county. The records of program yields for a farm for any crop year would have to reflect the determinations made under the bill and include (A) any crop history for the five crop years immediatly preceding the 1986 crop year that is submitted to the county committee by the producer; (B) any constuction of crop yield history for the farm made by the county committee to the extent provided under the bill; (C) the actual yield per harvested acre for the farm for the 1986 and each subsequent crop year; and (D) any adjustment in the program yield made by the county committee under the bill. (Sec. 1031.)

The *Senate* amendment contains no comparable provisions.

(g) The *Conference* substitute provides that county ASC committees may require, in accordance with regulations prescribed by the Secretary, producers to provide evidence of planting and production history in order to establish such bases and yields.

(h) The *House* bill will authorize each ASC county committee, with respect to any farm located within the county for which the farm acreage base and crop acreage bases cannot be established under the general rules applicable for determining farm acreage bases and crop acreage bases (such as when a new farm is established), to provide for the establishment of such bases in a fair and equitable manner in accordance with regulations that the Secretary must publish no later than sixty days after enactment of the bill. However, no bases could be so established for a farm if the producer on the farm is subject to sanctions under any provision of Federal law for cultivating highly erodible land or converted wetland. (Sec. 1002.)

The *Senate* amendment contains no comparable provisions.

The *Conference* substitute adopts the House provision.

(i) The *House* bill provides that, for purposes of determining any *farm acreage base* or crop acreage base, the number of acres on a farm planted to wheat, feed grains, upland cotton, or rice in a crop year will include any acreage that, under any other provision of law, is reserved from production for the crop year because of the participation of the producers on the farm in an acreage or crop limitation program under such provisions of law (including acreage taken out of production of the program crop in excess of the acreage required to be reserved from production), except to the extent that such acreage is planted to soybeans. For purposes of determining any farm acreage base, the number of acres on a farm planted to wheat, feed grains, upland cotton, or rice in a crop year also will include any acreage that—

(A) is devoted by the producers on the farm to a conserving use during the crop year in the normal course of farming operations, as determined by the ASC county committee under the Secretary's regulations;

(B) the producers were unable to plant to the commodity (or if planted to the commodity, were unable to harvest) during the crop year because of the occurrence of a natural disaster or other similar condition beyond the control of the producers, as determined by the county committee;

(C) except as described in the next sentence, was planted to soybeans.

In any crop year that acreage on a farm planted and considered planted (as described above) to wheat, feed grains, upland cotton, and rice, combined, before the application of the rule described in this sentence, would exceed the farm acreage base for the farm for the crop year, and such determination would not occur but for the planting of soybeans, a number of acres equal to the difference between (A) the total of (i) the acreage on the farm devoted to wheat, feed grains, upland cotton, and rice, and (ii) the acreage on the farm planted to soybeans, and (B) the farm acreage base for the farm for the crop year, will not be considered as planted to program crops for the purposes of the preceding sentence.

If a county committee determines that the occurrence of a natural disaster or other similar condition beyond the control of the producer prevented the planting of wheat, feed grains, upland cotton, or rice on any farm within the county (or substantially destroyed any such commodity after it had been planted but before it had been harvested), under regulations prescribed by the Secretary, the producer could plant any other commodity, including wheat, feed grains, upland cotton, or rice, on the acreage of the farm that, but for the occurrence of such disaster or other condition, would have been devoted to the production of the commodity. For purposes of determining the farm acreage base, the crop acreage base, or the eligibility of the producer to be considered a cooperator, or otherwise participate in a commodity program, under the Agricultural Act of 1949, any acreage on the farm on which a substitute crop, including any program crop, is so planted would be taken into account as if such acreage had been planted to the commodity for which the other commodity was substituted. (Sec. 1002.)

The *Senate* amendment provides that, for the purposes of determining acreage bases, acreage planted to wheat, feed grains, upland cotton, or rice for harvest will include—

(A) any reduced acreage, diverted acreage, and (except for wheat) set-aside acreage; and

(B) any acreage that producers were prevented from planting to the commodity or other nonconserving crops in lieu of the commodity because of drought, flood, or other natural disaster, or other conditions beyond the control of the producers. Also, the Secretary could make adjustments in bases to reflect established crop rotation practices and other factors the Secretary determines should be considered in determining fair and equitable bases. (Secs. 407, 501, 601, and 701.)

(i) The *Conference* substitute provides that for purposes of determining farm acreage bases or crop acreage bases, acres planted for harvest of program crops, acres prevented from being planted due to natural disaster or conditions beyond the control of producers, acres diverted from production for purposes of compliance with an acreage limitation or set-aside program, conserving use acres, and acreage taken out of production of the program crop in excess of the acreage required to be reduced from production, and acres planted to soybeans may be considered in accordance with provisions for establishing farm acreage bases and crop acreage bases.

(j) The *House* bill specifically will direct the Secretary to establish, by regulation, an appeal procedure under which a person who is adversely affected by any bases or yields determination made under the bill can seek administrative review of the determination. (Sec. 1001.)

The *Senate* amendment contains no comparable provisions.

The *Conference* substitute provides that the Secretary shall establish an administrative review procedure which provides for administrative review of determinations made with respect to farm acreage bases, crop acreage bases and farm program payment yields.

(j) The House bill specifically will direct the Secretary to establish, by regulation, an appeal procedure under which a person who is adversely affected by any bases or yields determination made under the bill can seek administrative review of the determination. (Sec. —.)

The Senate amendment contains no comparable provision.

(3) Repeals and suspensions

The House bill, effective beginning with the 1986 crop of wheat, feed grains, upland cotton, and rice, will repeal or amend a number of provisions of permanent law. Some would be replaced by new permanent law provisions that are described in item (4) below. Specifically, provisions relating to (A) marketing quotas, acreage allotments, farm marketing quotas, and marketing certificates for wheat, and (B) cotton allotments and marketing quotas, would be repealed. (Secs. 1003 and 1005.)

The Senate amendment will suspend, for the life of the bill, the provisions of permanent law superseded by the bill's provisions relating to wheat and upland cotton. (Secs. 409–411, and 602.)

The Senate amendment also provides that the acreage allotments for the 1977 crop of upland cotton will be the preliminary allotments for the 1990 crop. (Sec. 606.)

The Conference did not include this section.

(4) Cooperator price support under permanent law

(a) The House bill, effective beginning with the 1986 crops, will amend the Agricultural Act of 1949 to limit the availability of price support under the permanent price support provisions of the 1949 Act to cooperators, and define the term "cooperator". Specifically, the House bill will amend the 1949 Act by—

(A) limiting, to tobacco and peanuts, the applicability of the permanent price support provisions of section 101 of the 1949 Act tied to marketing quotas;

(B) providing that the provisions of section 101 setting out permanent price support rules in cases in which producers have disapproved quotas is to apply only to peanuts;

(C) providing that the provisions of section 101 relating to the permanent level of price support to noncooperators shall not apply to wheat, corn, upland cotton, and rice;

(D) striking out, in the permanent provisions of section 103 of the 1949 Act relating to cotton, references to marketing quotas;

(E) in the permanent provisions of section 105 of the 1949 Act relating to price support levels for feed grains, substituting the term "cooperators" for "producers";

(F) in section 107 of the 1949 Act, striking out various provisions relating to permanent price support provisions for wheat; and

(G) redefining the term "cooperator" in section 408 of the 1949 Act to mean (i) with respect to wheat, feed grains, upland cotton, and rice, a "cooperator" as that term is defined in section 101(e) of the Act (described in paragraph (b) below, and (ii) with respect to any other basic agricultural commodity, producer on whose farm the acreage planted to the commodity does not exceed the farm acreage allotment for the commodity under title III of the Agricultural Adjustment Act of 1938. (Sec. 1004.) The *Senate* amendment contains no comparable provisions.

(b) The *House* bill will add to section 101 of the Agricultural Act of 1949 a new subsection (e) (relating to "cooperators") providing that—

(A) only a producer who is a cooperator for any crop for any farm will be eligible for any loan or purchase under any price support program carried out by the Secretary for rice, upland cotton, feed grains, or wheat for the crop under section 101, 103(a), 105, or 107 (so-called "permanent law" provisions) of the 1949 Act;

(B) a producer of any such commodity will be considered a cooperator for a crop with respect to a farm if the producer has established and maintained a farm acreage base for the crop year involved for the farm, and a crop acreage base for the crop year involved for each such commodity produced on the farm, and (i) the number of acres on the farm planted to all such commodities for harvest by the producer for the crop year does not exceed the farm acreage base for the farm for the crop year, except to the extent that such excess is due to an established practice of double cropping, and (ii) the number of acres on the farm planted to each such commodity for harvest by the producer for the crop yeasr does not exceed the crop acreage base for the commodity for the farm for such crop year;

(C) the Secretary of Agriculture could suspend, on a nationwide basis, any farm acreage base limitation or any crop acreage base limitation with respect to a crop of a commodity if the Secretary determines that (i) a short supply or other similar emergency situation exists with respect to any such commodity; or (ii) market factors exist that require the suspension of any limitation to achieve the purposes of the farm and crop acreage base and program yield system established under the bill (as described in item (2) above); and

(D) notwithstanding the provisions described in clause (B) above, the Secretary, on a nationwide basis, could consider a producer a cooperator on a crop-specific basis, regardless of overall plantings on the farm. For any crop of rice, upland cotton, feed grains, or wheat produced on a farm by the producer, the Secretary could consider the producer a cooperator if (i) the producer has established and maintained a farm acreage base and a crop acreage base.

The Conference did not include this section.

SUBTITLE B—HONEY

(1)b Honey price support

The Senate amendment requires the Secretary of Agriculture, for each of the 1986 through 1988 crops of honey, to support the price of honey through loans, purchases, or other operations at such level as the Secretary determines will maintain the competitive relationship of honey in domestic and export markets after taking into consideration the cost of producing honey, supply and demand conditions, and world prices for honey. Beginning with the 1989 crop of honey, the Senate amendment prohibits supporting the price of honey through loans, purchases, or other operations. (See 1101.)

The House bill contains no comparable provision.

(Note: Under current law, the price of honey must be supported through loans, purchases, or other operations at a level not in excess of 90 percent, nor less than 60 percent, or the parity price on honey.)

The Conference substitute adopts a substitute amendment which provides for a reduction in the loan level to 64¢ in 1986, 63¢ in 1987, and further reductions of five percent per year in each of 1988, 1989, and 1990. The section also gives the Secretary the authority to permit producers to repay their loans at a level that is the lesser of the loan level determined for the crop year, or such level as the Secretary determines will minimize the number of loan forfeitures, not result in excessive total stocks of honey, reduce the costs incurred by the government and maintain the competitiveness of the honey industry. The Secretary may also make payments available to producers who agree to forgo loans in return for such direct payments. (See 1041.)

(2) Penalties for pledging adulterated or imported honey

The Senate amendment provides that if the Secretary determines that a person has knowingly pledged adulterated or imported honey as collateral to secure a price support loan the person would, in addition to any other penalties or sanctions prescribed by law, be ineligible for a loan, purchase, or payment for honey for the 3 crop years succeeding the determination. For purposes of this provision, honey would be considered adulterated if any substance were substituted wholly or in part for such honey; the honey contains a poisonous or deleterious substance that may render the honey injurious to health, except that in any case in which such substance is not added to the honey, the honey would not be considered adulterated if the quantity of the substance in or on the honey does not ordinarily render it injurious to health; or the honey is for any other reason unsound, unhealthy, unwholesome, or otherwise unfit for human consumption. (See. 1101.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision regarding penalties for pledging adulterated or imported honey. (See 1041.)

TITLE XI—TRADE

(1) Public Law 480 Title II funding

(a) The House bill raises the existing $1 billion annual limitation on Title II programs to $1.2 billion. (Sec. 1101.)

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

(b) The House bill changes the Title II programs from the calendar year basis in existing law, to a fiscal year basis. (Sec. 1101)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(c) The House bill authorizes the President to waive the program authorization ceiling if the President determines that such waiver is necessary to undertake programs of assistance to meet urgent humanitarian needs. (Sec. 1101.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(1A) Public Law 480 Title II minimums

The Senate amendment provides that the minimum quantity of agricultural commodities distributed under Title II for each of the fiscal years 1986 through 1989 shall be 1,900,000 metric tons, of which not less than 1,425,000 metric tons for nonemergency programs shall be distributed through nonprofit voluntary agencies, cooperatives, and the World Food Program; unless the President determines and reports to the Congress together with his reasons, that such quantity cannot be used effectively to carry out the purposes of this title.

The House amendment contains no comparable provision.

The Conference substitute provides that the minimum quantity of commodities distributed under Title II for each of the fiscal years 1987 through 1990 shall be 1,900,000 metric tons, of which not less than 1,425,000 metric tons shall be for nonemergency programs distributed through nonprofit voluntary agencies, cooperatives, and the World Food Program.

(2) Public Law 480 Title II—fortified or processed foods and nonprofit agency proposals

(a) The House bill requires that no less than 75 percent of the agricultural commodities made available for distribution for nonemergency programs shall be fortified or processed food. (Sec. 1102.)

The Senate amendment requires the President to ensure that at least 75 percent of the quantity of such commodities for such programs be in the form of processed or fortified products or bagged commodities. (Sec. 123.)

The Conference substitute adopts the Senate amendment.

(b) The House bill authorizes the President to waive the requirement under paragraph (a) or make available a smaller percentage of fortified or processed food than required under paragraph (a) during any fiscal year in which the President determines that the requirements of such programs will not be best served by the distribution of fortified or processed food in the amounts required. (Sec. 1102.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(c) The House bill provides that, in making agricultural commodities available for distribution, the President shall consider the nutritional assistance to the recipients and benefits to the United States that would result from distributing such commodities in the form of processed milk and plant protein products, as well as fruit, nut, and vegetable products. (Sec. 1102.)

The Senate amendment provides that, in distributing agricultural commodities under this title, the President shall consider (A) the nutritional assistance to recipients and benefits to the United States that would result from distributing such commodities in the form of processed and protein-fortified products, including processed milk, plant protein products, and fruit, nut, and vegetable products; (B) the nutritional needs of the proposed recipients; and (C) the cost effectiveness of providing such commodities, for purposes of selecting commodities for distribution under nonemergency programs. (Sec. 123.)

The Conference substitute adopts the Senate amendment.

(d) The House bill requires that any request by a nonprofit or voluntary agency for agricultural commodities for a nonemergency food program under title II shall include—(1) a statement of the intended use of any foreign currency proceeds generated by such agency through the use of commodities made available for such program; and (2) a statement of any possible detrimental disruption of traditional cultural food consumption habits that might arise from the distribution of commodities under such program. (Sec. 1102.)

The Senate amendment requires a nonprofit voluntary agency requesting a nonemergency food assistance agreement to include in such request a description of the intended uses of any foreign currency proceeds that would be generated with the commodities provided under the agreement. This provision will apply with respect to assistance agreements entered into after December 31, 1985. (Sec. 124.)

The Conference substitute adopts the Senate amendment.

(e) The Senate amendment amends title II by adding certain new provisions regarding food assistance programs carried out by voluntary agencies:

(1) Such agreements must provide, in the aggregate for each fiscal year, for the use of foreign currencies in an amount not less than 5 percent of the aggregate value of the commodities distributed under the title II nonemergency programs for that fiscal year.

(4) The above provisions apply with respect to assistance agreements entered into after December 31, 1985. (Sec. 124.)

The House bill contains no comparable provisions.

The Conference substitute adopts the Senate amendment with regard to issue (1) and deletes the Senate amendment with regard to (2) and (3). With respect to issue (4) of the Senate amendment, the Conference substitute changes the effective date to December 31, 1985.

(f) The Senate amendment states that it is the sense of Congress that the President is encouraged to invite representatives of nonprofit voluntary agencies that participate in the programs carried out under title II of P.L. 480 and others to participate in a task force to study the means of providing food assistance under the Act to people with the greatest nutritional need in the recipient countries. If established the task force should report to Congress by February 15, 1986 on steps that could be taken to provide food to such people. (See 124.)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate amendment.

(3) P.L. 480 Extension

The House bill extends the P.L. 480 sales and assistance authorities from December 31, 1985, to December 31, 1990. (Sec. 1103.)

The Senate amendment extends these authorities to December 31, 1989. (Sec. 126.)

The Conference substitute adopts the House provision.

(4) Facilitation of exports

The House bill expresses the Sense of Congress that the President should work with the People's Republic of China to facilitate exports to China under P.L. 480 and Section 416 of the Agricultural Act of 1949, including dairy products and white wheat, with a view to increasing markets in China for those commodities; and that the President to the extent practicable should respond favorably to any request of the People's Republic of China for such commodities. (See 1104.)

The Senate amendment contains no comparable provision.

The Conference substitute expresses the Sense of Congress that the President should work with the People's Republic of China to facilitate agricultural exports to the People's Republic of China.

It is the intent of the conferees that the exports include dairy products and white wheat.

(5) P.L. 480 farmer-to-farmer program

The House bill provides that notwithstanding any other provision of law, not less than one-tenth of 1 percent of P.L. 480 funds for fiscal years 1986 and 1987 must be used for one farmer-to-farmer technical assistance program authorized under section 406 of P.L. 480. Not more than one fourth of these funds can be used for activities through universities for recruitment and training, and these activities must be in direct support of the farmer-to-farmer program. Such funds shall be administered whenever possible in conjunction with programs of foreign agricultural assistance carried out under sections 296 through 300 of the Foreign Assistance Act of 1985.

The House bill also requires a report by the AID Administrator in conjunction with the Secretary of Agriculture, within 120 days after the date of enactment indicating the manner in which the Agency intends to implement the farmer-to-farmer program. (Sec. 1105.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provisions.

(6) Food for development program

The Senate amendment amends section 302(c)(1)(C) of the Agricultural Trade Development and Assistance Act of 1954 to set the aggregate value of Food for Development agreements made in any fiscal year at 10 percent of the aggregate value of all title I agreements for that fiscal year. (Sec. 125.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate amendment.

(7) Use of surplus commodities in international programs (Section 416)

(a) The House bill applies the existing section 416 requirement for coordination of donations abroad through the mechanism established by the President under P.L. 480 to donations under the revised program. (Sec. 1106.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(b) The House bill specifies the commodities eligible for distribution under the section 416 program as follows—

(A) dairy products, grains and oilseeds acquired by the Commodity Credit Corporation through price support operations; and

(B) such other edible agricultural commodities as the Secretary of Agriculture or the CCC may acquire in the normal course of operations and are available for disposition under the program. (Sec. 1106.)

The Senate amendment specifies the commodities eligible for the section 416 program to include all agricultural commodities and products acquired by the CCC through price support operations that meet the criteria specified in subsection (a) section 416 (distribution to prevent waste). (Sec. 127.)

The Conference substitute adopts the House provision.

(c) The House bill prohibits the acquisition of commodities by the Secretary or the CCC for the purpose of using them under the section 416 program. (Sec. 1106.)

The Senate amendment contains no authority to purchase commodities under section 416(b) and specifies that if the quantity of eligible commodities available for distribution for a fiscal year is less than 400,000 metric tons, other provisions of the section do not require the Secretary to purchase additional commodities. (Sec. 127.)

The Conference substitute adopts the House provision.

(d) The House bill states that commodities may not be furnished for disposition to any country except on determinations by the Secretary that (1) the receiving country has the absorptive capacity to use the commodities efficiently and effectively; and (2) such disposition of the commodities will not interfere with usual marketings of the United States, nor disrupt world prices of agricultural commodities and normal patterns of commercial trade with developing countries.

The House bill also requires the Secretary to take reasonable precautions to ensure that—

(1) commodities furnished under this subsection will not displace or interfere with sales that otherwise might be made; and

(2) sales or barter will not unduly disrupt world prices of agricultural commodities nor normal patterns of commercial trade with friendly countries.

The House bill prohibits commodities from being made available that will prevent the Secretary from fulfilling any agreement entered into by the Secretary under a payment-in-kind program. (Sec. 1106.)

The Senate amendment provides that in furnishing commodities under section 416, the Secretary must take reasonable precautions to (1) safeguard usual marketings of the United States and (2) assure that donations under this section will not unduly disrupt world prices of agricultural commodities or normal patterns of commercial trade with friendly countries.

The Senate amendment limits the requirement for the safe guarding of usual marketings by specifying that this requirement may not be used to prevent the furnishing of an eligible commodity under section 416(b) for use in countries that—

(1) have not traditionally purchased the commodity from the United States; or

(2) do not have adequate financial resources to acquire the commodity from the United States through commercial sources or through concessional sales arrangements.

The Senate amendment allows the Secretary of Agriculture, in consultation with the Administrator of the Agency for International Development to waive, with respect to sales to generate foreign currencies (monetization), application of the requirement of section 103 that the President take reasonable precautions to safeguard usual marketings of the United States and to assure that such sales will not unduly disrupt world prices of agricultural commodities or normal patterns of commercial trade with friendly countries. (Sec. 127.)

The Conference substitute adopts the House provisions with an amendment limiting the requirement for the safeguarding of usual marketings by specifying that this requirement may not be used to prevent the furnishing of an eligible commodity under section 416(b) for use in countries that—

(1) have not traditionally purchased the commodity from the United States; or

(2) do not have adequate financial resources to acquire the commodity from the United States through commercial sources or through concessional sales arrangements.

(e) The House bill authorizes the Commodity Credit Corporation to pay in cash (under the provisions of section 203 of Public Law 480) or in the form of eligible commodities for the processing and domestic handling costs of donated commodities if the Secretary determines that such in-kind payments will not disrupt domestic markets. (Sec. 1106.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(f) The House bill provides that eligible commodities may be sold or bartered to finance the distribution, handling, and processing costs in a country through which such commodities or products must be transshipped. (Sec. 1106.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(g) The House bill authorizes the sale and barter of commodities furnished to nonprofit and voluntary agencies or cooperatives under agreements in which the foreign currency proceeds are used for activities that will directly supplement the transportation, distribution and use of the commodities and products donated. (Sec. 1106.)

The Senate amendment provides that if requested by a nonprofit voluntary agency or cooperative, an agreement for eligible commodities made available for use by the nonprofit voluntary agency or cooperative may provide for the use of foreign currency proceeds for activities that will enhance the effectiveness of the food assistance program being carried out pursuant to the commodity agreement. Under the Senate amendment, such activities may include food for work programs, local program management, local agricultural and cooperative development projects, and outreach projects designed to provide food to people with the greatest nutritional need, if such activities are directly related to the nonprofit voluntary agency's or cooperative's food assistance program. (Sec. 127.)

The Conference substitute adopts the House provision with an amendent deleting "directly supplement the transportation, distribution, and use of commodities and products donated under this subsection." and inserting in lieu thereof: "enhance the effectiveness of transportation, distribution, and use of commodities and products donated under this subsection, including food for work programs, and cooperative and agricultural projects."

(h) The House bill requires expenditure of such currencies within one year of the acquisition of the currencies, such expenditure to be within the country of origin, except as needed to expedite the transportation of commodities and directly supplement the transportation, distribution and use of commodities furnished in connection with such foreign sale agreements. (Sec. 1106.)

The Senate amendment requires that all foreign currencies generated pursuant to an agreement with a nonprofit voluntary agency or cooperative be expended within one year after the period of the agreement. (Sec. 127.)

The Conference substitute adopts the House provision.

(i) The House bill requires that 5 percent of the commodities provided under section 416 be provided for subsequent sale, except that such minimum does not apply to the extent there are insufficient requests for use of the local currency sales, or with respect to commodities made available in the new Food for Progress Program (item 8) below.

The *Senate* amendment requires, that to the extent practicable, that 5 percent of the aggregate value of commodities provided under section 416, be provided for subsequent sale. (Sec. 127.)

The Conference substitute adopts the House provision with an amendment to make the 5% applicable to the aggregate value of commodities.

(j) The House bill contains a prohibition against the use of proceeds from the sale or barter of section 416 commodities and products for operating and overhead expenses. (Sec. 1106.)

The Senate amendments prohibits the use of such proceeds (1) for personnel or administrative costs incurred by a U.S. or recipient agency, other than cooperative; (2) for costs of construction or maintenance of a church-owned or operated edifice; or (3) to replace of resources otherwise available to a nonprofit voluntary agency or cooperative. (Sec. 127.)

The Conference substitute adopts the House provision with an amendment allowing proceeds to be used for personnel or administrative costs of a local cooperative.

(k) The House bill requires the Secretary to issue regulations governing sale and barter and the use of foreign currency proceeds under the donation program that will provide reasonable safeguards to prevent abuses. The Secretary is required to report by April 1, 1987, and annually thereafter, on sales and barters and use of foreign currency proceeds. The report must contain information on the quantity of sales, the amount of funds generated, the use of the funds, and an appraisal of the effectiveness of the program. (Sec. 1106.)

The Senate amendment contains no comparable provisions.

The Conference substitute adopts the House provision with an amendment changing the reporting date to February 15 and requiring that the Secretary of Agriculture be responsible for regulations governing sale and barter and the use of foreign currency sales. The amendment further provides that recipients of this donation program report to the Secretary of Agriculture on December 31, 1986, and at least annually thereafter on the quantity of commodities received, the amount of funds (including dollar equivalents for foreign currencies) and value of services generated from such sales and barters, how such funds and services were used, and the amount of foreign currency proceeds that were used in the program.

(1) The House bill requires the Secretary to make available an annual minimum tonnage under section 416 (but not for the food for progress program) as follows: The minimum tonnage will be—

(i) 1.0 million tons in fiscal 1986 and 600,000 tons in fiscal 1987 of grains and oilseeds, or 10 percent of CCC uncommitted yearend stocks, whichever is less; and

(ii) at least 150 thousand tons of dairy products or 10 percent of CCC's uncommitted year-end stocks. (Sec. 1106.)

The House bill requires a detailed, written explanation by the Secretary for any year in which the above minimum levels are not made available and any requests for commodity use under this program are rejected. (Sec. 1106.)

The Senate amendment requires a minimum of 650,000 tons of annual disposals of commodities to private voluntary agencies and cooperatives under section 416(b), of which one half must be grains and cereals and of which not less than 150,000 tons must be distributed under the Food for Progress Program. (Sec. 127.)

The Conference substitute adopts the House provision with an amendment providing for 500,000 metric tons of grains and oilseeds or 10 percent of CCC uncommitted year-end stocks, whichever is less, and 10 percent of CCC uncommitted yearend daily stocks, but not less than 150,000 tons for fiscal years 1986 through 1990 for agreements with private voluntary organizations and cooperatives and in government-to-government programs and the World Food Program. The conferees encourage the Secretary to give priority to private voluntary organizations and cooperatives in entering into agreements for unused commodities under this program. Of this amount, 75,000 metric tons shall be distributed under the Food for Progress Program.

(8) Food for progress program

(a) The House bill amends title III of the Agricultural Trade Development Assistance Act of 1954 by adding a new section 311 to authorize the President to negotiate and carry out multiyear agreements with developing countries, that have made commitments to agricultural policy reforms, providing for the furnishing of agricultural commodities to such countries, on a credit or grant basis, to support reform and implementation of agricultural policy decisions based on free market principles. (Sec. 1107.)

The Senate amendment amends section 416 of the Agricultural Act of 1949 by adding a new subsection that provides, notwithstanding any other provision of law, in order to use the food resources of the United States more effectively in support of countries that have made commitments to introduce or expand free enterprise elements in their agricultural economies through changes in commodity pricing, marketing, input availability, distribution, and private sector involvement, commodities and the products thereof acquired by the Commodity Credit Corporation that the Secretary determines meet the specified in section 416(a) (prevention of waste), may be furnished by the Secretary to carry out certain agreements entered into by the President. The President may enter into agreements with developing countries to furnish commodities and the products thereof made available under the program to such countries to promote the implementation of private, free enterprise agricultural policies for long-term agricultural development. Such commodities shall be furnished on such terms and conditions as the President considers are in the public interest and will promote the objectives of the program. (Sec. 128.)

(b) The House bill requires that before entering into such agreements the President shall be satisfied that such country is committed to certain specified policies. (Sec. 1107.)

The Senate amendment requires the President to consider—(1) whether a potential recipient country is committed to the same policies listed in the House bill, with the additional policies that may provide for construction of facilities and distribution systems necessary to handle perishable products; and (2) the ability to use the quantity of commodities being considered for donation without disruption of the internal market of the country for domestically produced agricultural commodities and the products thereof. (Sec. 128.)

(c) The House bill provides that notwithstanding any other provision of law, the

Commodity Credit Corporation may use funds to carry out this program that have been appropriated to carry out title I of P.L. 480. The Commodity Credit Corportion may finance the sale and exportation of commodities furnished to a developing country under this section. The Commodity Credit Corportion shall make available to the President such agricultural commodities determined to be available under section 401 as the President may request for purposes of furnishing commodities on a grant basis under this section.

The House bill provides that any new spending authority provided shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts. (Sec. 1107.)

The Senate amendment provides that no funds of the Commodity Credit Corporation in excess of $30,000,000 (exclusive of the cost of commodities) any be used to carry out this subsection unless authorized in advance in appropriation Acts. (Sec. 128).

The Senate amendment authorizes the Commodity Credit Corporation to purchase agricultural commodities and the products thereof if (1) the Commodity Credit Corporation does not hold stocks of such commodities and the products thereof; or (2) Commodity Credit Corporation stocks are insufficient to satisfy commitments made in agreements entered into under this subsection and such commodities and the products thereof are needed to fulfill such commitments.

(d) The Senate amendment provides that—

(1) An agreement entered into under this program shall prohibit the resale or transhipment of the donated agricultural commodities to other countries.

(2) In entering into agreements with countries for the donation of agricultural commodities and the products thereof under this subsection, the President shall take reasonable precautions to avoid displacement of any sales of United States agricultural commodities and the products thereof that would otherwise be made to such countries.

(3) Section 203 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1723) shall apply to agricultural commodities furnished under this subsection.

(4) The cost of the commodites furnished under this subsection, and the expenses incurred in connection with furnishing such commodites, shall be in addition to the level of assistance programmed under the Agricultural Trade Development and Assistance Act of 1954 and may not be considered expenditures for internal affairs and finance.

(5) The President must carry out the duties imposed under this program through the National Security Advisor in the Executive Office of the President. The National Security Advisor, with the approval of the Secretary, may use personnel of the Department of Agriculture in carrying out this subsection.

(6) Within 120 days after the close of each fiscal year in which an agreement entered into with a country under this subsection is in effect, the President shall report to the House and Senate Agriculture Committees on the status of such agreement and the progress being made to implement private, free enterprise agricultural policies for long-term agricultural development.

(7) The program shall be effective during the period beginning October 1, 1985, and ending September 30, 1989. (Sec. 128.)

The House bill specifies that section 203 of the Act applies to commodities furnished on a grant basis to a developing country under this program. (Sec. 1107.)

(e) The Senate amendment specifies that a minimum of 150,000 tons and not more than 500,000 metrics tons of commodities may be furnished in each of the fiscal year ending September 30, 1986, September 30, 1987, September 30, 1988, and September 30, 1989. (Secs. 127, 128.)

The House bill contains no comparable provision.

(f) The House bill provides that payment by a developing country for commodities purchased on credit terms shall be on the same basis as the terms provided in section 106 of P.L. 480. (Sec. 1107.)

The Senate amendment gives the President discretion to set the terms and conditions under which the commodities will be furnished. (Sec. 128.)

(g) the Senate amendment requires that the President report to the oversight committees on the status of the program within 120 days after the close of each fiscal year. (See. 128.)

The House bill contains no comparable provision.

The Conference substitute combines the House and Senate provisions in a new, free-standing "Food for Progress Act of 1985".

The new act authorizes the President to enter into agreements to provide food to countries to promote the implementation of private, free enterprise agricultural policies for agricultural development. Commodities provided under this Act would be bonuses above and beyond any assistance a country normally receives from the United States, and may be provided through authorities under Title I of Public Law 480 or Section 416 of the Agriculture Act of 1949.

The President is authorized to enter into multi-year commitments. In determining whether to enter into a Food for Progress agreement, the President shall consider whether the recipient country is carrying out or is committed to carry out policies that promote economic freedom, private, domestic production of food commodities for domestic consumption, and the creation and expansion of efficient domestic markets for the purchase and sale of such commodities; and whether the country is able to use the commodities without disruption of the internal market of the country for domestically produced agricultural commodities.

The substitute provides that not less than 75,000 tons be provided annually through Section 416 authorities for use under this act, provided there are a sufficient number of qualified participants to utilize this quantity. No more than 500,000 tons of commodities could be provided under this program in any year. However, the President is encouraged to utilize the entire 500,000 tons, provided that there are a sufficient number of qualified participants.

In entering into Food for Progress agreements, the President would be required to take reasonable precautions to avoid displacement of any sales of U.S. agricultural commodities that would otherwise be made to such countries, and any agreement entered into would have to prohibit the resale or transhipment to other countries, of commodities furnished under this Act.

(9) Sales for foreign currencies and private enterprise promotion

(a) The House bill amends section 106(b) of the Agricultural Trade Development Assistance Act to provide for agreements for the sale of agricultural commodities for dollars on credit terms that may provide that proceeds from the sales of the commodities in the recipient country shall be used for such private sector development activities as are mutually agreed upon by the United States and the recipient government. Proceeds used for private sector development activities shall be loaned by the recipient government to one or more financial intermediaries operating within the country for use by those financial intermediaries for loans to private individuals, private and voluntary organizations, corporations, cooperatives, and other entities within such country. As used, the term "private sector development activities" means activities which foster and encourage the development of private enterprise institutions and infrastructure as the base for the expansion, promotion, and improvement of the production of goods and services within a recipient country; and the term "financial intermediaries" includes banks, cooperatives, private and voluntary organizations, and other financial institutions capable of making and servicing loans. (Sec. 1107.)

The Senate amendment amends section 101 of the Agricultural Trade Development and Assistance Act of 1954 by authorizing the President to enter into agreements with friendly countries for the sale of agricultural commodities to such countries for foreign currencies for use in the programs established by the Senate amendment as a new section 108 of the Act.

Sales for foreign currencies for fiscal year 1986, and each fiscal year thereafter, must be made at an annual level of not less than the higher of:

(1) 25 percent of the aggregate value of all sales made under title I of the Act; or

(2) 500,000 metric tons.

In no event, however, can such sales exceed 50 percent of the aggregate value of all sales made under title I of the Act during a fiscal year.

The minimum annual level of sales for foreign currencies may be reduced for fiscal years 1986, 1987, and 1988 if—

(A) there is an insufficient number of approved financial intermediaries that have entered into agreements with the Secretary of Agriculture to carry out the program;

(B) there are insufficient requests for loan funds by financial intermediaries to utilize the foreign currencies generated by such sales; or

(C) the President requires additional time to implement the program, except that, the minimum annual level of such sales for foreign currencies for fiscal year 1986 may not be reduced below 5 percent of all title I sales made during that fiscal year. The floor under the minimum sales for foreign currencies increases to 10 percent for fiscal year 1987 and 15 percent for fiscal year 1988.

Agreements for sales for foreign currency may not be entered into the extent that such agreements would generate currency that could not be productively used and absorbed in the private sector of the purchasing country. Agreements for sales of agricultural commodities for foreign currencies will be made on such terms and conditions as are specified in the sales agreements. (Sec. 128.)

(b) The Senate amendment amends section 103 of the Agricultural Trade Development and Assistance Act of 1954 (P.L. 480) to make conforming amendments. Specifically, section 103(b) is amended to permit any credit sale entered into under title I to include provision for payment in foreign currency for use in the program to be authorized as section 108. Sections 103(d) and 103(n) of P.L. 480 are also amended to delete specific references to sales agreements for dollars on credit terms, so that these sections will apply to all types of sales now authorized under title I. (Sec. 128.)

Sections 103(m), 103(p), and 103(q) of P.L. 480 are amended to clarify that the requirements in those sections pertaining to the convertibility of foreign currencies are not applicable to foreign currencies received for use in the new lending program.

Section 103(m) of P.L. 480 is also amended to require that foreign currency acquired for use under section 108 of the Act will be converted to dollars pursuant to a schedule for conversion established in the commodity sales agreement. The schedule must provide for conversion to dollars beginning no later than 10 years after the date of the last delivery of commodities under the sales agreement, and be completed no later than 30 years after the date of the last delivery.

Foreign currencies generated under these provisions can be used in the program authorized in section 108. The payment terms sales for foreign currencies may be on such terms as are agreed upon in the agreement.

The House bill contains no comparable provision.

(c) The new section 108, as proposed in the Senate amendment

(1) Gives authority to the President to enter into agreements with financial intermediaries, under which the President would lend to the financial intermediary located or operating in a developing country foreign currency earned from commodity sales to that country. The foreign currency available for lending is limited to currencies generated from sales agreements entered into after the date of enactment of the Agriculture, Food, Trade and Conservation Act of 1985. The purpose of such lending is to foster and encourage the development of private enterprise institutions and infrastructure as the base for increasing the production of food and related goods and services within the developing country.

(2) In order to obtain a foreign currency loan from the President, a financial intermediary must enter into an agreement in which it agrees to make loans to private individuals, cooperatives, corporations or other entities at reasonable rates of interest for the purpose of financing—

(A) Productive private enterprise investment within the country;

(B) Private enterprise facilities for aiding the utilization and distribution, and increasing the consumption of and markets for, United States agricultural commodities and products; or

(C) Private enterprise support of self-help measures and projects.

(3) An agreement between the President and a financial intermediary must specify the terms and conditions under which the foreign currency must be used and subsequently repaid, including the following:

(A) The financial intermediary must, to the maximum extent feasible, give preference to financing agriculturally related private enterprise;

(B) The financial intermediary must repay loans made, plus accrued interest, at such times as will permit conversion of the foreign currency in accordance with the conversion schedule agreed upon, but in no event later than the date specified in section 103(m) of the Act; and

(C) The financial intermediary may repay a loan prior to the repayment date specified in the loan agreement.

(D) An entity or venture receiving funds from a financial intermediary must—

(i) be owned, directly or indirectly, by citizens of the developing country, except that not more than 25 percent of such ownership may be held by citizens of the United States; and

(ii) may not be owned or controlled, in whole or in part, by the Government of the developing country or any governmental subdivision thereof.

(E) the rate of interest charged on loans made to financial intermediaries will be negotiated between the President and the intermediary. A cooperative or nonprofit voluntary agency acting as a financial intermediary may be charged a lower rate of interest than would otherwise be charged in order to defray the start-up costs of becoming a financial intermediary or a foreign currency grant could be made to defray the start-up costs of becoming a financial intermediary.

(F) no foreign currency may be made available to promote the production of agricultural commodities, that as determined by the President would compete in world markets with United States commodities or products.

(G) the President may not condition loan eligibility on a guarantee of repayment made by the developing country in which the borrowing intermediary is located or is operating.

(4) All currencies repaid by financial intermediaries will be deposited and accounted for under the provisions of section 105 of P.L. 480 and, when repaid, may be used to fund additional loans to financial intermediaries; agricultural market development activities; payment of United States obligations; or be converted to dollars.

(5) The loan agreements between the President and the financial intermediaries will be subject to periodic audit. Not later than 180 days after the close of each fiscal year, the President must report to the House and Senate Agriculture Committees on the activities carried out under section 108, including an evaluation of the impact of the lending activities carried out during the preceding year.

(6) The President may provide agricultural technical assistance to further the purposes of the program. The Secretary must, to the maximum extent practicable, use at least 5 percent of the foreign currencies initially obtained for use under section 108 to pay for this assistance. (Sec. 121.)

The House bill contains no comparable provisions.

(b) The Senate amendment amends section 2 of the Agricultural Trade Development and Assistance Act of 1954 (P.L. 480) by adding to the existing statement of policy the policies of using foreign currencies accruing under the Act to foster and encourage the development of private enterprise in developing countries, and the enhancing of food security in developing countries through local food production.

The Senate amendment also includes the Congressional finding that additional steps should be taken to use the agricultural abundance produced by American farmers to relieve hunger and promote long-term food security and economic development in developing countries, in accordance with development assistance policy established under section 102 of the Foreign Assistance Act of 1961, and to promote United States agricultural trade interests. (Sec. 120.)

The House bill contains no comparable provisions.

The Conference substitute combines the House and Senate provisions. It amends Title I of Public Law 480 to authorize the use of foreign currencies accruing from Title I concessional loans for promoting private enterprise in developing countries.

Under these authorities, foreign currencies would be loaned to financial intermediaries in countries purchasing Title I commodities for use in providing loans for private enterprise investment. Financial intermediaries may include banks, financial institutions, cooperatives, nonprofit voluntary agencies, or other organizations or entities, as determined by the President, that have the capability of making and servicing a loan in accordance with this section.

The loans would go to private individuals, cooperatives, corporations, or other nongovernmental entities for productive private enterprise projects.

Funds loaned by financial intermediaries could not be used to finance state-owned entities or ventures, or to produce commodities or products that would compete with U.S. commodities or products. In addition, upon signing Title I agreements making local currencies available for private investment, the President would be required to ensure that notice is placed in publications to make local private enterprise and financial intermediaries aware of the availability of these currencies.

Under authorities provided for in the House provision, the foreign currencies for this private enterprise promotion program would be provided by the host government in an amount equal to the value of the commodities received through Title I sales for dollars on credit terms. The host government-owned currencies would be applied from a jointly programmed account. The host government would continue to pay its P.L. 480 Title I dollar debt to the United States as under current law.

Under authorities provided for from the Senate provision, the President could enter into agreements with friendly countries for the sale of commodities for foreign currencies convertible to dollars for use in private enterprise development.

Included in the agreements would be a schedule permitting the conversion of these currencies to dollars 10 to 30 years following delivery of the commodities. Prior to conversion of these currencies, the President is authorized to loan the currencies to financial intermediaries in purchasing countries for use in private enterprise investment. These loans are to be made at reasonable interest rates consistent with business practices. However, preferential rates of interest or local currency grants may be provided to cooperatives and private voluntary organizations to help defray startup costs of becoming a financial intermediary.

Once the financial intermediaries begin to make repayments of their loans to the President, he may convert such currencies into dollars in accordance with the conversion schedule included in the original sales agreement, reloan the currencies to financial intermediaries to finance additional private investment, use the currencies for agricultural market development, or use the currencies to pay U.S. obligations within the recipient country.

For fiscal years 1986 through 1990, no less than 10 percent of the aggregate value of P.L. 480 Title I agreements are to be made for local currencies for use in this program, provided that this requirement may be waived in any year in which meeting the minimum would result in a significant reduction in the volume of commodities furnished under Title I.

To the maximum extent practicable, at least 5 percent of the foreign currencies generated under these sales agreements may be used to provide agricultural technical assistance, including the funding of market development activities.

In providing for this program utilizing U.S. owned foreign currencies, the managers recognize that some exchange rate risks are entailed in the program. In addition, auditing of this program may be done through certification procedures, distribution of these currencies does not entail restrictions placed on domestic distribution of Federal funds, and the program is not intended to affect currency use payments.

The authorities in the House provision provide for private enterprise promotion actitivies to be operated in conjunction with sales of agricultural commodities for dollars on credit terms. Proceeds from the sales of these commodities in the recipient countries—equal to the value of the commodities provided—shall be placed in jointly programmed, special accounts for use for private sector development activities as are mutually agreed upon by the United States and the recipient countries. These activities would require the loaning of the proceeds to financial intermediaries within the country for the purpose of providing loans to private entities.

For each of the years of the bill, the President is encouraged to channel foreign currencies, in an amount equivalent to 25 percent of the value of Title I sales agreements, for use in loans provided for under the authorities in the Conference substitute, to the extent that there are appropriate proposals for such use.

In providing for these new authorities, the Conferees recognize their consistency with the will of Congress to direct foreign assistance more toward the private sector. Furthermore, the managers intend to judge the performance of the administration of these authorities on the quality of investments made under the program, and not upon the volume of funds directed into financial intermediaries in any recipient country.

The Conferees further intend that the performance of these, and other programs with mandatory minimums or targets be examined thoroughly during the next reauthorization of P.L. 480.

(10) Child immunization programs

The House bill amends the Agricultural Trade Development Act of 1954 (P.L. 480) to include the immunization of children as one of the self-help measures that the President must consider before making an agreement for the sale of commodities to that country. The House bill also authorizes the use of funds make available under title II for the immunization of children. The bill sets a target for the immunization, by fiscal year 1987, of at least three million more children annually than received immunizations under such programs in fiscal year 1985. The increased immunization activity should be undertaken in coordination with similar efforts of other organizations and in keeping with any national plans for expanded programs of immunization. The President must include information concerning such immunization activities in the annual reports required by section 634 of the Foreign Assistance Act of 1961, including a report on the estimated number of immunizations provide each year pursuant to this subsection. (Sec. 1108.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment that deletes the numerical immunization target and substitutes a directive that those organizations and agencies implementing health programs increase the level of immunizations.

(11) Special Assistant for Agricultural Trade and Food Aid

The Senate amendment provides that the President must appoint, with the advise and consent of the Senate, a Special Assistant to the President for Agricultural Trade and Food Aid to serve in the Executive Office of the President.

The Special Assistant would be required to—

(1) assist the President to improve U.S. food assistance programs carried out in foreign countries,

(2) coordinate food assistance programs carried out by the Department of Agriculture and AID,

(3) make recommendations on ways to increase the use of U.S. agricultural commodities through food assistance programs,

(4) advise the President on agricultural trade,

(5) serve as a member of the Development Coordination Committee and as Chairman of the Food Aid Subcommittee, and

(6) issue policy guidelines on food assistance policy.

The Special Assistant would be authorized to—

(1) solicit information and advice from private and governmental sources and recommend a plan to the President and Congress on measures that could be taken—

(A) to promote the export of United States agricultural commodities and products; and

(2) develop and recommend to the President national agricultural policies to foster and promote the United States agricultural industry and to maintain and increase the strength of this sector of the United States economy; and

(3)(A) appraise the various programs and activities of the Federal Government, as they affect the United States agricultural industry, for purposes of determining the extent to which these programs and activities are contributing or not contributing to that industry; and

(B) make recommendations to the President and Congress with respect to the effectiveness of these programs and activities in contributing to the United States agricultural industry. (Sec. 129.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate amendment with an amendment providing for a Special Assistant to the President for Agricultural Trade and Food Aid who shall advise, assist, and make recommendations over the broad range of United States agricultural export and food aid matters, and expedite program implementation in any instances in which there is unreasonable delay. He shall serve in the Executive Office of the President, but not be in the lines of authority which exist in the Federal Government for the Secretary of Agriculture, the Administrator of the Agency for International Development, and other departmental and agency heads. The duties of the Special Assistant shall include:

Assisting and advising the President in order to improve United States food assistance abroad; receiving suggestions and complaints about the implementation of United States food aid and agricultural export programs of any Federal agency and providing prompt responses thereto, including expediting the implementation in any cases in which there is unreasonable delay;

Making recommendations to the President on means to coordinate the manner in which Federal food aid programs are carried out in order to improve their effectiveness; and making recommendations to the President on measures to be taken to increase use of United States agricultural commodities abroad through foreign food assistance programs;

Advising the President on agricultural trade;

Advising the President on the Food for Progress program and expediting its implementation;

Serving as a member of the Development Coordination Committee and its Food Aid Subcommittee, and advising Federal departments and agencies on their guidelines on food aid policy to the extent necessary to assure the coordination of food aid programs, consistent with law and the Subcommittee's advice;

Submitting an annual report to the President and Congress within one year after the enactment of this Act and annually thereafter through fiscal year 1990, containing a global analysis of world food needs and protection, identifying at least 15 countries which are most likely to emerge as growth markets for agricultural commodities over the next 5-10 years, and a detailed plan for using available export and food aid authorities to increase United States agricultural exports to these target countries.

The duties of the Special Assistant shall also include:

Soliciting information and advice from private as well as governmental sources and recommending to the President and Congress measures that should be taken to promote United States agricultural exports and expand United States agricultural markets abroad;

Recommending to the President national agricultural policies to promote the United States agricultural industry;

Appraising various Federal programs and activities affecting the United States agricultural industry to determine the extent to which they are contributing to the United States agricultural industry and making recommendations to the President and Congress on the effectiveness of such programs and activities.

(12) trade policy declaration

House bill includes Congressional findings regarding the significant decline in the volume and value of U.S. agricultural exports as a result of unfair foreign competition and the high value of the dollar. It further states that U.S. agricultural trade policy should be:

(1) To provide by all means possible for export of agricultural commodities and their products at competitive prices;

(2) To support the principle of free trade and the promotion of fairer trade;

(3) To cooperate in all efforts to negotiate reductions in barriers to fair trade;

(4) To counter aggressive unfair trade practices by all available means;

(5) To remove foreign policy constraints in order to maximize agricultural trade;

(6) To provide for consideration of U.S. agricultural trade interest in the design of national fiscal and monetary policy.

The House bill also declares Congressional findings to the effect that the present high level of agricultural protectionism contrasts with the general trade liberalization achieved under the General Agreement on Tariffs and Trade; the protective effect of domestic subsidies alters trade indirectly by reducing demand for imports and increasing the supply of exports; current GATT rules distinguish between primary and manufactured products; the rule permitting export subsidies on primary products has proven unworkable; and a unified treatment of tariffs and subsidies would clarify trading rules for market participants and simplify trade negotiations. (Secs. 1121, 1133.)

The Senate amendment provides findings regarding the need for open and fair trade, the adverse effects of unfair trade practices of many countries on exports of U.S. agricultural commodities, and the need for more effective rules governing international agricultural trade. It further states that it is the policy of the U.S. to (1) promote free and active world trade in agricultural goods through negotiations to reduce or eliminate restrictive trade practices, and (2) to reduce or eliminate U.S. restrictions on imports of agricultural goods as part of an international program of mutual opening of agricultural trade markets. (Sec. 107.)

The Conference substitute adopts the House provision with an amendment deleting Congressional findings regarding certain GATT rules.

(13) Agricultural trade consultation

(a) The House bill requires the Secretary of Agriculture, in coordination with the U.S. Trade Representative, to initiate and pursue multilateral agricultural trade consultations among major agricultural producing countries at the earliest possible date and to report to the Congress annually, beginning July 1, 1986, on the progress of these efforts and on any agreements reached.

The House bill declares the sense of Congress to the effect that the objectives of such consultations should be to increase the exchange of information on world-wide agricultural production, demand, and commodity supply levels; determine a more equitable sharing of responsibility for maintaining agricultural commodity reserves and managing supplies of agricultural commodities and attain increased cooperation in restraining export subsidy programs. (Sec. 1122.)

The Senate amendment declares it the sense of the Congress that the President should at the earliest practicable time after enactment of the bill convene an international conference of major agricultural nations to discuss trade and agricultural problems, and initiate a new round of multilateral trade negotiations with trading partners of the United States. (Sec. 107.)

The Conference substitute adopts the House provision but deletes the term "multilateral" and limits the annual reporting requirement through fical year 1990.

(b) The House bill expresses the sense of the Congress that the President should negotiate with other parties to GATT to revise GATT rules so that agricultural export subsidies would be treated the same as tariffs and primary products the same as manufactured products. (Sec. 1133.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment urging that the objectives of the GATT negotiations be to reduce agricultural export subsidies, tariffs, and non-tariff barriers to trade.

(14) Department of Agriculture export development programs

(a) The House bill authorizes the Secretary in fiscal year 1986 to use $325 million for direct export credit under the blended credit export sales program. (Sec. 1123.)

The Senate amendment requires the Secretary of agriculture in each of fiscal years 1986 through 1988 to use not less than $325 million Commodity Credit Corporation funds or an equal value of commodities owned by the CCC, for export activities. For each of fiscal years 1989 through 1991, the Secretary is authorized to use for export activities such funds of the CCC as the Secretary deems necessary, or an equal value of CCC commodites. The Secretary is instructed to use the funds or commodities only to counter the subsidies, import quotas, or unfair trade practices of a foreign country.

As used in the above provision, the term subsidy includes an export subsidy, tax rebate on exports, financial assistance on preferential terms or for operating losses, assumption of production and distribution costs, a differential export tax or duty exemption, a domestic consumption quota, or other method of furnishing or ensuring the availability of raw materials at artifically low prices. In addition, the Secretary is required to provide export assistance under this provision on a priority basis in the case of agricultural commodities that have been the subject of a favorable decision under section 301 of the Trade Act of 1974, or that have been adversely affected by retaliatory actions related to a favorable decision under section 301 of the Trade Act. (Sec. 104.)

The Conference substitute adopts the Senate amendment with an amendment extending the annual minimum funding level of $325 million through fiscal year 1990.

(b) The House bill requires the Secretary in fiscal year 1986 to make available not less that $5 billion in short-term credit guarantees under the Export Credit Guarantee Program (GSM-102); and prohibits the Secretary from charging an origination fee with respect to any GSM-102 credit guarantee in excess of an amount equal to one-third of one percent of the credit extended. (Sec. 1123.)

The Senate amendment requires the Commodity Credit Corporation to make available for each of fiscal years 1986 through 1989 not less than $5 billion in short-term credit guarantees and requires CCC, before extending the credit, to consider the credit needs and credit-worthiness of recipient countries, and whether provision of the guarantees will improve the competitive position of United States agricultural exports. (Sec. 102.)

The Conference substitute adopts the Senate amendment with an amendment extending the $5 billion annual loan guarantee authorization level through fiscal year 1990 and limiting to 1 percent the amount of any loan guarantee origination fee.

(15) Cooperator Market Development Program

The House bill expresses the sense of the Congress that the cooperator market development program of the Foreign Agricultural Service should be continued to help develop new markets and expand and maintain existing markets for United States agricultural commodities, using nonprofit agricultural trade organizations to the maximum extent practicable. The program is exempted from the requirements of Circular A 110 issued by the Office of Management and Budget. (Sec. 1124.)

The Senate amendment states the sense of the Congress that the market development activities of the Foreign Agricultural Service should be expanded with emphasis on funding an export market development program for value-added farm products and processed foods at a higher funding level than that provided during fiscal year 1985. (Sec. 107.)

The Conference substitute adopts both the House provision and the Senate amendment.

(16) Use of Commodity Credit Corporation commodities for export assistance

(a) The House bill requires the Secretary of Agriculture to implement during the marketing years 1985 through 1990 a program under which commodities acquired or purchased by the Commodity Credit Corporation would be provided at no cost or reduced cost to exporters, processors, or foreign purchasers to encourage the development and expansion of export markets for U.S. agricultural commodities. (Sec. 1125.)

The Senate amendment contains a similar provision but would authorize the program through September 30, 1989, and would use commodities and products acquired by the CCC. In addition, the Senate amendment would encourage the development, maintenance, and expansion of export markets for value-added or high value agricultural products produced in the United States. (Sec. 106.)

The Conference substitute adopts the Senate amendment with an amendment to extend the program through September 30, 1990.

(b) The House bill would define the term "agricultural commodities to include wheat, feed grains, upland cotton, rice, soybeans, and dairy products produced in the United States; any other agricultural commodity determined by the Secretary to be in surplus supply and that can be purchased with section 32 funds; and products of the forgoing commodities that are processed in the United States. (Sec. 1125.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with a conforming amendment to include "users" among those eligible to receive commodities.

(c) The House bill requires the Secretary to provide agricultural commodities, or cash, or both under the program to the extent necessary to counter or offset the adverse effect on U.S. exports of an agricultural commodity of subsidies or unfair trade practices of foreign countries and authorizes the Secretary to provide agricultural commodities under the program (A) to compensate for the high value of the U.S. dollar to increase the competitiveness of U.S. agricultural commodities in world markets; (B) to compensate overseas purchasers for any increases in the U.S. dollar while credit is outstanding; (C) to offset interest charges that accrue on credit purchases of U.S. agricultural commodities; (D) offset transportation charges in the export of U.S. agricultural commodities; (E) in barter or countertrade transactions; (F) for overseas sale to obtain foreign currencies to finance overseas trade offices; and (G) for any other comparable purpose to expand U.S. agricultural exports and ensure competitiveness for U.S. agricultural commodities. (Sec. 1125.)

The Senate amendment authorizes the Secretary to provide commodities and products to counter or offset (A) foreign subsidies or unfair trade practices that benefit foreign agricultural producers, processors or exporters; (B) adverse effects of U.S. agricultural price support levels that are temporarily above the export prices offered by overseas competitors; or (C) fluctuations in the exchange rate of the U.S. dollar. In addition, the Senate amendment would authorize the Secretary to provide commodities and products in conjunction with an intermediate export credit program for the export sale of breeding animals (including cattle, swine, sheep, and poultry) and the cost of freight from the United States to foreign countries; and for the establishment of facilities in the importing nation to improve handling, marketing, processing, storage, or distribution of imported agricultural commodities (through the use of local currency sales). (Sec. 106.)

The Conference substitute adopts the Senate amendment with an amendment (1) to require that the commodities and products shall be provided to the extent necessary for the program, and (2) that such commodities may provided for the additional purpose of making United States commodities more competitive.

(d) The House bill authorizes the Secretary in carrying out the program to provide different agricultural commodities than those involved in the transaction for which assistance under the program is being provided. (Sec. 1125.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment to provide that any price restrictions that otherwise may be applicable to dispositions of CCC-owned agricultural commodities would not apply to agricultural commodities provided under this program.

(e) The Senate amendment authorizes the Secretary to provide agricultural commodities to countries that do not meet the financial qualifications for export credit or credit guarantees provided by the Commodity Credit Corporation to reduce the cost to the country of purchasing U.S. agricultural commodities and allow the country to meet the qualifications. The Secretary must review and adjust annually the quantity of commodities provided to the country in order to encourage the country to place greater reliance on increased use of commercial trade to meet the financial qualifications. (Sec. 106.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate amendment.

(f) The Senate amendment authorizes the Secretary to make available to commercial exporters, under terms established by the Secretary, transferable export certificates, known as "green dollar export certificates". These certificates could be redeemed by the exporters within 6 months of issuance for commodities owned by the CCC. (Sec. 106.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate amendment.

(g) The Senate amendment provides that if a foreign purchaser sells agricultural commodities received under authority of the program and uses the receipts for the construction or rehabilitation of facilities in the importing country to improve the handling, marketing, storage, or distribution of U.S. agricultural commodities, the purchaser would be eligible for distributions of supplemental commodities. (Sec. 106).

The House bill contains no comparable provision.

The Conference substitute deletes the Senate amendment.

(h) The House bill would require the Secretary to report to Congress, not later than March 1 of the second calendar year following enactment, on the operation of the program, including an analysis of the current level of agricultural exports to each country in comparison with the level of exports to that country during the period 1979 through 1982. (Sec. 1125.)

The Senate amendment contains no comparable provisions.

The Conference substitute deletes the House provision.

(i) The Senate amendment requires the Secretary, during the period October 1, 1985 through September 30, 1988, to use not less than $2,000,000,000 of agricultural commodities and products to carry out the program. (Sec. 106.)

The House bill contains no comparable provisions.

The Conference substitute adopts the Senate amendment with an amendment requiring that, to the maximum extent practicable, commodities shall be used under the program in equal amounts throughout the three-year period fiscal years 1986 through 1988.

(j) The Senate amendment provides that in any program operated by the Secretary during the years 1986 through 1989, for the purpose of encouraging or enhancing commercial sales in foreign markets of agricultural products or commodities produced in the United States which include the payment of a bonus or incentive to the purchaser, the Secretary must expend annually at least 15 percent of the total funds available (or 15 percent of the value of any commodities used to encourage the sales) for program activities to encourage and enhance the export sales of poultry, beef or pork meat and meat products. (Sec. 1946.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate amendment with an amendment that the Secretary shall seek (rather than be required) to expend annually at least 15 percent of the funds or commodities to enhance the export sales of poultry, meat and meat products, through fiscal year 1990.

(17) Barter and countertrade transaction

The House bill authorizes the Secretary in carrying out barter and countertrade transaction, as authorized under the provisions of the bill, to acquire and hold strategic or other materials that the United States does not domestically produce in sufficient amounts and for which national stockpile or reserve goals established by law are unmet.

The House bill requires the Secretary to establish a pilot program to carry out, during fiscal year 1986, such barter and countertrade transactions. In establishing the pilot programs the Secretary would give priority to materials that entail less risk of loss through deterioration and have lower storage costs than the agricultural commodities they replace and to nations with food and currency reserve shortages. The Secretary must consider barter and countertrade opportunities with Zaire, Zimbabwe, Zambia, Malaysia, Brazil, and Nigeria for specified commodities. The Secretary must report to Congress not later than March 30, 1986, on progress in implementing the pilot programs.

The Secretary would also be authorized to store strategic materials acquired under barter or countertrade and to permit the use of such materials as collateral to secure loans to finance the export of U.S. agricultural commodities. (Sec. 1125.)

The Senate amendment provides for a similar pilot program using specified commodities under section 416 of the Agricultural Act of 1949. The pilot program would be carried out during fiscal years 1986 and 1987 through agreements with at least 2 countries. The Secretary must submit a report to Congress not later than 60 days after the end of each fiscal year concerning the operation of the program. (Sec. 1942.)

The Conference substitute adopts the Senate amendment.

(18) Export Advisory Council

The House bill establishes an Export Advisory Council to advise the Secretary of Agriculture and the United States Trade Representative on the operation of the export bonus program described under item (15). The Council is to be comprised of 14 members, including the Secretary of Agriculture, the United States Trade Representative, and 3 members named by each of the following: the Chairman and ranking minority member of the Committee on Agriculture of the House of Representatives and the Chairman and ranking minority member of the Committee on Agriculture, Nutrition, and Forestry of the Senate. (Sec. 1126.)

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

(19) Agricultural export credit revolving fund

The House bill reauthorizes the Agricultural Export Credit Revolving Fund through fiscal year 1990 and authorizes the Fund to extend credit on terms of up to ten years and to make loans to meet credit competition for export sales. The bill requires that all funds received by the Commodity Credit Corporation in repayment for direct export credit extended after September 30, 1985, be added to the fund, and deletes the requirement that new loans be made by the fund only to the extent provided in annual appropriations Acts. (Sec. 1127.)

The Senate amendment reauthorizes the fund through fiscal year 1989. (Sec. 103.)

The Conference substitute adopts the Senate amendment with an amendment authorizing the Fund through fiscal year 1990.

(20) Intermediate export credit

The House bill amends the Food for Peace Act of 1966 to clarify that intermediate export financing may be provided in the form of direct or guaranteed credit generally to promote United States agricultural exports. The bill authorizes up to 10 percent of direct credit repayments in the form of local currency which may be used to develop markets in a country in cooperation with the private sector. The Secretary is required to make available, through fiscal year 1990, not less than $500 million annually for intermediate export credit, of which not less than $150 million shall be for financing facilities to handle and distribute imported agricultural commodities, and not less than 25 percent shall be in the form of direct credit. (Sec. 1128.)

The Senate amendment similarly provides for direct and guaranteed intermediate export credit and deletes the current requirements that export sales agreements financed under the provision be subject to review by the National Council on International Monetary and Financial Policies and that sales agreements for the purpose of establishing reserve stocks not be made effective until the agreements have been transmitted to the House and Senate Agriculture Committees. The amendment encourages the Secretary to provide intermediate credit to purchasers from countries that were previous recipients of credit under title I of the Agricultural Trade Development and Assistance Act of 1954, are unable to utilize other short-term credit programs, and are friendly countries. The amendment also permits the intermediate export credit program to be used to finance the importation of agricultural commodities by developing nations for use in meeting their food and fiber needs. The amendment authorizes the Secretary to determine the rate of interest on direct credit loans, and requires the Commodity Credit Corporation to make available not less than $500 million in intermediate export credit guarantees for each fiscal year 1986 through 1988, and not more than $1 billion in intermediate export credit guarantees in fiscal year 1989. The amendment includes sense of the Senate language that the intermediate export credit program should be expanded to include guarantees in order to provide more export marketing flexibility and to improve the capability of importing countries to purchase United States agricultural commodities. (Sec. 101, 1934.)

The Conference substitute adopts the Senate amendment with an amendment deleting the sense-of-the-Senate language.

(21) Export subsidy reports

The House bill contains Congressional findings concerning the impact of aggressive trading practices and export subsidies of foreign governments on the sale of U.S. agricultural commodities abroad. The Secretary of Agriculture is directed to require detailed information annually from USDA employees stationed abroad on the export subsidies provided by the foreign governments, and identify in those countries opportunities for U.S. agricultural exports. The Secretary shall compile the information annually and make it available to Congress and other interested parties.

The House bill also contains a statement of Congressional findings concerning U.S. agriculture exports and obstacles by foreign nations to agricultural commerce, and directs the Secretary of Agriculture to submit an annual report to Congress and the President detailing foreign tariffs, subsidies, and other practices disadvantaging U.S. farm exports. (Secs. 1130, 1161, 1162.)

The Senate amendment directs the Secretary to require detailed reports from USDA employees stationed abroad on the agricultural export subsidies and other trade practices impeding U.S. agricultural exports where they are stationed, and identify opportunities for U.S. agricultural exports, with the Secretary to compile the information and make it available to Congress and interested parties including the Agricultural Policy Advisory Committee and the agricultural technical advisory committees established under section 135 of the Trade Act of 1974.

The Senate amendment (1) directs the U.S. Trade Representative to review the above reports, identify markets (in order of priority) in which offsetting U.S. export subsidies can be most efficiently, and submit to Congress and the Secretary an annual report on the foreign subsidy situation and identification potential of U.S. markets for offsetting subsidies; and (2) requires an annual meeting of the Agricultural Policy Advisory Committee and the technical committees to develop recommendations for U.S. actions to reduce the trade distortions identified in the annual reports and expand U.S. agricultural export opportunities identified in the report.

The Senate amendment encourages the President to commence negotiations with other countries to reduce trade barriers identified in the reports, and requires that he report periodically to Congress on the actions taken. (Sec. 109.)

The Conference substitute adopts the Senate amendment with an amendment deleting the requirement that the President commence negotiations with other countries to reduce trade barriers and clarifying that all appropriate USDA officers and employees, including those stationed abroad, shall be required to provide information on the nature of foreign export subsidies, unfair trade practices, and trade opportunities.

(22) Contract sanctity and producer embargo protection

The House bill declares it to be U.S. policy not to restrict or limit the export of U.S. agricultural commodities, or products except under the most compelling circumstances, that any such prohibition or limitation be imposed only in time of a national emergency under the terms of the Export Administration Act, and that contracts entered into before prohibitions or limitations are imposed should not be abrogated. (Sec. 1131.)

The Senate amendment amends section 1204 of the Agriculture and Food Act of 1981 to limit to direct payments the form of compensation that may be made to producers of agricultural commodities for which export controls have been imposed. Section 1204 of the Agriculture and Food Act provides for embargo protection in the form of direct payments or loans at 100 percent of parity or a combination of both to producers of agricultural commodities subject to certain export controls. (Sec. 111.)

The Conference substitute adopts both the House provisions and the Senate amendment.

(23) Study to reduce foreign exchange risk

The House bill mandates a study by the Secretary of Agriculture to determine the feasibility, practicability and cost of implementing a program to reduce the risk of foreign exchange fluctuations incurred by purchasers of U.S. agricultural exports under U.S. export credit promotion programs. The results of the study shall be reported to the House and Senate agriculture committee within six months. (Sec. 1132.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(24) Cargo preference

(a) The House bill states that nothing in this Act shall be construed as exempting export activities from the cargo preference laws except to the extent that they were exempt under the existing law (P.L. 95-501) before September 13, 1985. (Sec. 1141.)

The Senate amendment makes congressional findings that productive and healthy U.S. agriculture and maritime industries are vitally important to the U.S., that both industries must compete in international markets increasingly subject to foreign subsidies and trade barriers and that increased agricultural exports and utilization of U.S. merchant vessels help the U.S. trade balance and generate employment opportunities. It declares that it is the policy of Congress to clarify ocean transportation requirements in order to permit USDA to plan its exports effectively, to take immediate steps to promote the growth of U.S. cargo carrying capacity, to expand U.S. international agricultural trade, and to improve the administrative efficiency of both commodity transactions and ocean transport activities associated with USDA sponsored export programs, and to stimulate both the agricultural and maritime industries. (Sec. 131.)

The Senate amendment also provides that the cargo preference requirements of the Merchant Marine Act, 1936, and the Joint Resolution of March 26, 1934, do not apply to any USDA or CCC export activity—

(1) under which CCC-acquired commodities are made available for the purposes of developing, maintaining, or expanding export markets for U.S. agricultural commodities or products at previously world market prices;

(2) under which payments are made available to U.S. exporters, users, or processors (or grants are made available to importers, so long as the cash grant does not result in the grantee paying less than the prevailing world market price for the commodities purchased) for purposes of developing, maintaining, or expanding export markets for U.S. agricultural commodities at prevailing world market prices;

(3) under which commercial credit quarantees are blended with direct CCC credit to reduce effective interest rates on export sales of U.S. commodities;

(4) under which CCC short term credit or credit guarantees are extended to finance or guarantee export sales of U.S. commodities; and

(5) under which commodities or products that are owned, controlled, or under loan from the CCC are exchanged or bartered for materials, goods, equipment, or services at prevailing world market prices. (Sec. 132.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate amendment with an amendment, technical in nature, including the positioning of the amendment in the Merchant Marine Act, 1936.

(b) The Senate amendment requires that the percentage of agricultural cargoes that are subject to the cargo preference laws is, to offset cargoes declared exempt in the preceding section, to be increased from the present 50 percent of certain cargoes to 60 percent of the such cargoes in calendar year 1986, 70 percent in 1987, and 75 percent in 1988 and thereafter.

The agricultural commodities and products that will be subject to the new higher levels of cargo preferences are:

(1) those exported under P.L. 480;

(2) those exported under section 416 of the Agricultural Act of 1949 (section 416 donations) and the Food Security Wheat Reserve Act of 1980;

(3) those donated to foreign governments or sold on credit terms of more than 10 years;

(4) commodities being made available for emergency food relief at less than prevailing world market prices;

(5) those purchased through the use of cash grants, if the grants result in the purchasers paying less than the prevailing world market price for such commodities; and

(6) those owned, controlled or under loan from the CCC that are exchanged or bartered for materials, goods, equipment, or services at prices other than prevailing world market prices. The requirement for U.S. flag transportation is subject to the terms and conditions provided in section 901(b) of the Merchant Marine Act, 1936.

In implementing this cargo preference requirement, the Secretary of Transportation shall give due consideration to the availabil-

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ity of U.S.-flag vessels to transport the commodities. The Secretary of Transportation also shall administer the cargo preference provisions in a flexible manner, to the maximum extent practicable within the law, giving due consideration to historical trading patterns and to divisions in U.S. international shipping trades between bulk and liner service to particular georgraphic areas. The Secretary must administer the program in a manner which preserves to the greatest extent practicable the mean historical port range share of cargoes subject to cargo preference that are exported from the Atlantic, Gulf, Pacific, and Great Lakes port ranges.

In addition, the Secretary of Transportation must take whatever steps are necessary and practicable to preserve during calendar years 1986, 1987, 1988 and 1989, the percentage share, or metric tonnage, whichever is lower, of bagged, processed, or fortified commodities, exported under P.L. 480 title II in 1984 from Great Lakes ports.

The determination of prevailing world market prices for agricultural commodities shall be determined in accordance with procedures established by the Secretary of Agriculture. In event of a determination in the case of barter or exchange, the determination shall be made by the Secretary of Agriculture in consultation with the heads of other appropriate Federal agencies.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate amendment—

(1) deleting the requirement that the Secretary of Transportation give due consideration to the availability of U.S. flag vessels to transport the commodities and deleting the language dealing with flexible administration of the program as well as the reference to the division between bulk and liner services and the preservation of historical port range shares;

(2) changing the minimum percentage requirements from a calendar year to 12-month periods commencing on April 1, 1986;

(3) requiring the program to be operated without detriment to any other port facility range;

(4) clarifying cash transfer provisions.

(c) The Senate amendment will require that the minimum quantity of agricultural exports subject to the cargo preference laws for fiscal 1986 and annually thereafter shall be the average of the tonnage exported under the programs described above in paragraph (b) during the base period, discarding the high and low years. The base period for any fiscal year shall be the five fiscal years beginning with the sixth fiscal year preceding such fiscal year and ending with the second fiscal year preceding such fiscal year. The President may waive the minimum for any year in which he determines the quantity cannot be effectively used for the purposes of such programs or, based on a certification by the Secretary of Agriculture, that the commodities are not available for reasons including the unavailability of funds. (Sec. 134.)

The Senate amendment provides that the Secretary of Transportation shall finance any increased ocean freight charges resulting from the increased cargo preference mandated above. The Secretary of Transportation also shall reimburse USDA and the CCC for the amount which their ocean freight and ocean freight differential costs in any fiscal year exceed 20 percent of the total cost of the commodities shipped plus ocean freight and differential.

For meeting these expenses, the Secretary of Transportation shall issue interest-bearing notes which the Treasury shall purchase as public debt transactions. Authorization is granted for annual appropriations commencing in fiscal 1986 to reimburse the Secretary of Transportation for the costs, including administrative expenses and the principal and interest due to the Treasury. If the Transportation Secretary is unable to get the funds necessary to finance the increased cargo preference, he shall notify Congress within 10 working days. (Sec. 135.)

The House bill contains no comparable provisions.

The Conference substitute adopts the Senate amendment with an amendment, technical in nature.

(d) The Senate amendment also provides for a National Advisory Commission on Agricultural Export Transportation Policy to be established to conduct a comprehensive study of ocean transportation of agricultural exports subject to cargo preference laws and to make recommendations to the President and the Congress for improving the efficiency of such transportation on U.S. vessels in order to reduce the costs incurred by the U.S. The Commission shall be composed of 16 members including eight appointed by the President, four from the agricultural sector and four from the U.S. maritime industry (two representing labor, two management); and eight Congressional members consisting of the Chairman and ranking minority members of the House Agriculture Committee, Senate Agriculture, Nutrition, and Forestry Committee, and the House Merchant Marine and Fisheries and Senate Commerce, Science, and Transportation Committees. The Commission shall submit an interim report within one year and a final report within two years.

"Such sums as may be necessary" are authorized to be appropriated to carry out all the provisions of the Senate amendment (Subtitle C-Export Transportation of Agricultural Commodities).

The Senate amendment (Subtitle C) shall terminate 90 days after the Secretary of Transportation notifies the Congress of funding unavailability for the costs of increased cargo preference pursuant to the above notification requirement, unless within the 90 day period he proclaims the funds are available.

The 1936 Merchant Marine Act is amended to require that no U.S. commercial vessel shall be deemed to be available for the transportation of cargoes subject to the cargo preference unless such vessel has been certified by the Secretary of the Navy upon the recommendation of the Chief of Naval Operations as being necessary for the defense of the United States and its allies. (Sec. 136–139, 143.)

The House bill contains no comparable provisions.

The Conference substitute adopts the Senate amendment with amendments: (1) technical in nature; (2) clarifying that upon notification by the Secretary of Transportation that if funding is not available for the increased costs of cargo reference required in this subtitle, the subtitle terminates and the 50 percent requirement of all programs covered by section 901(b) of the Merchant Marine Act of 1936 shall be in full affect; and (3) certification by the Secretary of Transportation of vessles eligible to carry cargoes.

The conferees intend that the special preference given to cargo shipped from the Great Lakes should not cause a reduction in the cargo shipped from other port ranges throughout the nation. The conferees also intend that the 1984 baseline for shipment of bagged grain from Great lakes ports is a minimum.

(25) Consultations on import restrictions

The House bill requires that before any authority within the Department of Agriculture acts to relax or remove a restriction on the importation of an agricultural commodity, all appropriate authorities within the Department, including the Foreign Agricultural Service and the Animal and Plant Health Inspection Service, shall be consulted. (Sec. 1151.)

The Senate amendment requires similar consultations within the Department of Agriculture before an import restriction is relaxed or removed, and requires the Secretary of Agriculture to consult with the United States Trade Representative before such action is taken. The amendment requires Department of Agriculture personnel involved in agricultural trade negotiations with any country to consult with the Agricultural Policy Advisory Committee and the appropriate agricultural technical advisory committee established under section 135 of the trade Act of 1974 regarding agricultural practices and procedures before concluding any agricultural trade agreement. (Sec. 108.)

The Conference substitute adopts the Senate amendment with an amendment deleting the requirement that the Agricultural Policy Advisory Committee and certain advisory committees be consulted.

(26) Findings and export market development report

(a) The House bill proposes findings by Congress relative to the decline in U.S. agricultural exports, the resulting economic distress in rural America, the importance of exports to assuring a healthy farm economy, and the potential for increasing U.S. agricultural exports by utilizing existing authorities and programs to aid in the strengthening of developing countries so that they may one day become commercial customers for agricultural products of the United States. (Sec. 1153.)

The Senate amendment contains no comparable provision.

(b) The House bill requires the Secretary of Agriculture in conjunction with the Administrator of the Agency for International Development, and in consultation with the Secretary of State and the U.S. Trade Representative to submit a report to the President and Congress within one year. The report will contain (1) a global analysis of world food needs and production; (2) identify at least 15 target countries which are most likely to emerge as growth markets for agricultural commodities in the next 5 to 10 years; (3) and present a detailed plan for using available export and food aid authorities to increase U.S. agricultural exports to such target countries. Each year thereafter through fiscal 1990, the Secretary shall submit a revised report on progress in implementing the plan, and recommending any changes in legislative authorities that may be needed. (Sec. 1154.)

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

(27) Brazilian ethanol imports

The House bill requires the Secretary of Agriculture to conduct a study to determine the impact of Brazilian ethanol on the domestic price of grains and the domestic ethanol refining industry and, in consultation with the International Trade Commission and the United States Trade Representative, determine what relief should be granted to the domestic ethanol industry because of Brazilian ethanol imports. A report to the House and Senate agriculture committees would be required. (Sec. 1155.)

The Senate amendment requires the President, in order to prevent material interference with the price support program for feed grains, to limit the aggregate quantity of fuel ethanol that may be imported into the United States to 100 million gallons in 1986 and, for each succeeding year, to the amount by which the Secretary of Agriculture estimates that domestic demand for ethanol will exceed domestic production. (Sec. 1955.)

The Conference substitute adopts the House provision with an amendment requiring that the report also be submitted to the House Committee on Ways and Means and the Senate Committee on Finance.

(28) Import barrier study

The House bill requires the Secretary of Agriculture, using an interagency task force with representatives from the Departments of Agriculture, State, and Commerce, to study the economic impact on agricultural exports of any law or administrative action that imposes barriers on imports into the U.S. and to report the results of such study to Congress. (Sec. 1156.)

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

(29) Oat import study

The Senate amendment requires the Secretary to conduct a study of the impact of domestic farm programs of the increased importation of oats into the United States. The Secretary must submit a report to Congress on the study within 1 year after enactment of the bill. (Sec. 1957.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate amendment.

(30) Tobacco pesticides residues

The Senate amendment provides that any tobacco imported into the United States must be certified by the importer, in a form prescribed by the Secretary, that the tobacco was not produced or processed with the use of a pesticide that had not been registered under the Federal Insecticide, Fungicide, and Rodenticide Act. The Secretary must provide by regulation that domestically produced tobacco would be subject to substantially the same pesticide residue requirements. (Sec. 1929.)

The House bill contains no comparable provision.

The Conference substitute makes several changes to the Senate provision. First, the conference substitute changes the import requirement from a pesticide use standard to a nondiscriminatory, pesticide residue standard in order to conform the import restriction to international rules under the General Agreement on Tariffs and Trade. Second, the conference agreement limits application of this section to flue-cured and burley tobacco. Third, it imposes fees on a user fee basis for inspection of tobacco as an enforcement mechanism. Finally, the conference agreement makes certain technical changes to the Senate provision, for purposes of clarification and consistency with current law.

The purpose of this section of the conference agreement is to subject imported flue-cured and burley tobacco to the same pesticide residue requirements as already apply to domestic tobacco. The section does not apply to imports of cigar tobacco.

All flue-cured and burley tobacco offered for importation would have to be accompanied by a certificate that such tobacco does not contain prohibited pesticide residues. The residue standards to be applied are the same as those which apply to domestic tobacco, to ensure nondiscriminatory treatment.

Fraudulent certification by the importer under this section is subject both to civil penalties under the customs fraud provisions of section 592 of the Tariff Act of 1930, as amended, and to criminal penalties under 18 U.S.C. 1001.

If the tobacco to be imported is not accompanied by appropriate certification, then it shall be inspected by the Secretary to determine whether it complies with the pesticide residue standards. If it is determined to be in noncompliance, such tobacco shall be barred from entry into the United States.

Flue-cured and burley tobacco, both domestic and imported, shall be subject to periodic sampling and testing by the Secretary to determine whether such tobacco meets the pesticide residue requirements. The penalty for noncompliance of imported tobacco is prohibition from entry into the United States. The penalty for noncompliance of domestic tobacco is destruction of such tobacco.

(31) Export displacement

The House bill requires the Secretary of Agriculture to assess each program, project, or activity administered by the Secretary of Agriculture or the Department of Agriculture that provides assistance for agricultural production and marketing in a foreign country and the Secretary determines is likely to have a detrimental impact on efforts to promote U.S. agricultural exports. The Secretary shall report to Congress within one year on the results of the assessment in the case of current activities, and regularly thereafter on those undertaken following enactment of this provision. (Sec. 1163.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(32) Opposition to multilateral assistance for foreign surplus agricultural commodities

The Senate amendment directs the Secretary of the Treasury to instruct the U.S. Executive Directors of multilateral development assistance banks to oppose any assistance for production of any agricultural commodity for export if such commodity is surplus on world markets and the export would cause substantial injury to competing U.S. producers. To the extent that such assistance is provided by the banks, the U.S. contribution to their capital expansion or replenishment would be reduced. (Sec. 1932.)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate amendment.

(33) Prohibition on assistance for competing agricultural commodities

The Senate amendment prohibits the funds authorized to be appropriated to carry out chapter 1 of part 1 of the Foreign Assistance Act of 1961 to be available for any testing or breeding feasibility study, variety improvement or introduction, consultancy, publication, conference, or training in connection with the growth or production in a foreign country of an agricultural commodity for export if such export would compete in world markets with a similar commodity grown or produced in the United States. This section does not prohibit activities designed to increase regional food security in developing countries if such activities will have a negligible impact on efforts to promote agricultural commodities of the United States; nor does it prohibit research activities intended primarily to benefit American producers. (Sec. 1949.)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate amendment. However, the conferees acknowledge that this is an important issue and would point out that current law (P.L. 98-473, making continuing appropriations for fiscal year 1985) contains a provision which effectively prohibits any foreign assistance funding for the production or export of any commodity that would compete with U.S. agricultural commodities if that commodity is in world surplus, and that would cause substantial injury to U.S. producers. The conferees reaffirm this current limitation on foreign assistance funding.

(34) Export sales of dairy products

The Senate amendment requires the Secretary of Agriculture during each fiscal year 1986, 1987, and 1988, to sell for export at prices determined by the Secretary not less than 150,000 tons of dairy products owned by the Commodity Credit Corporation. Through fiscal year 1988, the Secretary is to report semiannually to the House and Senate agriculture committees on the volume of sales made under the section. (Sec. 105.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate amendment with an amendment to protect normal marketings and specifying the types of dairy products to be sold.

(35) European Community trade

The Senate amendment contains findings regarding the failure to negotiate a mutually acceptable resolution to date on complaints regarding subsidies and discriminatory tariffs of the European Community against U.S. citrus, wheat flour, poultry, canned fruits, and raisin exports, complaints on which have been filed under Sec. 302 of the Trade Act of 1974. The President is directed to take all appropriate and feasible action to ensure a prompt and satisfactory resolution of these complaints, to counter any EC retaliatory action by withdrawing additional trade concessions, and to balance the level of concessions in the trade between the U.S. and the EC. (Sec. 113.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate amendment with an amendment, technical in nature, and an amendment deleting reference to countering any retaliatory action of the European Communities.

(36) Thai Rice

The Senate amendment contains Congressional findings concerning the international rice trade situation pursuant to which the Rice Millers' Association has filed a petition with the Commerce Department seeking countervailing duties on imports of Thai rice into the United States. The amendment expresses the sense of Congress that the domestic U.S. rice industry is of vital importance and must be protected from unfair foreign competition, that the Thai Government is unfairly subsidizing the export of rice to the detriment of the U.S. rice industry, and that the Secretary of Commerce should give immediate consideration to the countervailing duty petition filed by the Rice Millers' Association. (Sec. 1952.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate amendment with an amendment deleting the specific references to the Rice Millers' Association and deleting the sense-of-the-Congress statement that the Thai Government is unfairly subsidizing the export of rice.

(37) South African tobacco imports

The Senate amendment, effective December 1, 1985, prohibits the import into the United States of tobacco produced in South Africa until the President determines that South Africa has repealed all legal limitations there restricting foreign newsmen's coverage of events relating to unrest in that country, and reports to Congress the basis for his determination. (Sec. 1953.)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate amendment with an amendment.

The amendment adopted by the conferees establishes a new requirement to track the uses of imported flue-cured and burley tobaccos. Such information will assist the Secretary of Agriculture and the Congress in determining, for example, what portion of imported tobacco is being used for re-export purposes, and what portion is being used for the domestic manufacture of tobacco products.

Upon the importation of flue-cured or burley tobacco, the importer must identify any and all end users of such tobacco, if such information is known to the importer. The conferees define an end user as either (1) a domestic manufacturer of cigarettes or other tobacco products, (2) an entity that mixes, blends, processes, alters in any manner, or stores imported tobacco for re-export, or (3) any other individual that the Secretary may identify as making use of imported tobacco for the production of tobacco products.

The conferees do not intend by this provision to place any unreasonable burden on importers of tobacco, or to create any barrier to imports. In cases in which the importer has no knowledge of the identity of the end user(s), the importer is required merely to identify those purchasers of the imported tobacco which are known to him or her. If at some future date, the importer gains knowledge of any additional purchaser or end user, the importer must submit such information to U.S.D.A.

In cases in which all end users of a particular imported shipment of flue-cured or burley tobacco have not been identified to U.S.D.A., then U.S.D.A. is required to take all steps available to identify such end users. Such steps shall include requesting from known purchasers of such imported tobacco any information relevant to the identification of the end user(s).

The amendment also requires the Secretary to report to the relevant committees of the Congress, by April 1, 1986, on the implemenation of this section.

Strategic stockpile sale or barter authority

The House bill provides that one half of the commodities in the Commodity Credit Corporation or otherwise under the Department of Agriculture stores, as of January 1, 1986, shall be available for sale or barter with the proceeds to be used to furnish materials for the Strategic Stockpile without further appropriations therefor. Such sales or barter can be made within the United States and other sovereign countries. To the extent that the assets of the Commodity Credit Corporation are reduced by this process, the full faith and credit of the United States shall be substituted therefor. The Commodity Credit Corporation shall take appropriate action to protect fully the assets of the Commodity Credit Corporation on the basis of the established value at the time of transfer of the assets for sale or barter. In such sales or barter the commodities need not be sold or bartered at a profit and no such sale or barter shall be effected which in the judgment of the Commodity Credit Corporation will seriously adversely affect production or prices in the United States or elsewhere. (Sec. 1879.)

The Senate amendment makes various findings of Congress related to barter and exchange of agricultural commodities for strategic and critical materials. Section 4(h) of the Commodity Credit Corporation Charter Act is amended to require the Commodity Credit Corporation, to the maximum extent practicable and in consultation with the Secretary of State, to accept strategic and critical materials produced abroad in exchange for CCC commodities.

The Secretary of Agriculture, in affecting the exchange of strategic and critical materials produced abroad for CCC commodities, must use normal commercial trade channels, avoid displacing usual marketing of U.S. agricultural commodities and products, and take reasonable precautions to prevent the resale or transhipment to other countries, or use for other than domestic use in the importing country of agricultural commodities used for the exchange. The CCC is also authorized to solicit bids from and to utilize private trading firms to effect the exchange of goods.

The CCC must be reimbursed for the CCC commodities exchanged for materials placed in the strategic and critical materials stockpile in the same fiscal year the materials are transferred to the stockpile.

If the volume of petroleum products stored in the Stragetic Petroleum Reserve is less than the prescribed levels the CCC must, to the maximum extent practicable, with the approval of the Secretary of Agriculture, make available annually to the Secretary of Energy, a quantity of agricultural products owned by the CCC with a market value at the time of the request of at least $300,000,000 for use by the Secretary of Energy in acquiring petroleum products (including crude oil) produced abroad for placement in the Strategic Petroleum Reserve through an exchange of the agricultural products.

The terms and conditions of each exchange would be determined by the Secretary of Energy in consultation with the Secretary of Agriculture. If the volume of agricultural products to be exchanged has a value in excess of the established market price of the petroleum products (including crude oil) acquired by the exchange, Secretary of Energy would require that the party or entity providing the petroleum products agree to purchase, within 6 months following the exchange, current-crop commodities or value-added food products from U.S. producers or processors in an amount equal to at least one-half of the difference between the value of the commodities received in the exchange and the market price of the petroleum products acquired for the Strategic Petroleum Reserve in the transaction.

The Agricultural Trade Development and Assistance Act of 1954 (P.L. 480) is amended to require the Secretary, to the maximum extent practicable, in connection with barter activity under the Act to solicit bids from and to utilize private trading firms to arrange or make barters or exchanges for strategic or other materials.

The Secretary must encourage U.S. exporters of agricultural commodities and products to barter such commodities and products for foreign products needed by the exporters. The Secretary is also required to provide technical assistance relating to the barter of agricultural commodities and products to U.S. exporters requesting such assistance. (Sec. 111.)

The Conference substitute adopts the Senate amendment with an amendment to (1) strengthen the requirement that the Commodity Credit Corporation be reimbursed for CCC commodities provided in barter transactions; (2) provide that the Secretaries of Agriculture and Energy jointly determine the terms of barter transactions involving petroleum products; and (34) delete the requirement that the recipients of bartered agricultural commodities agree in certain cases to purchase additional agricultural commodities.

Joint Explanatory Statement Language

It is the position to the conferees that the Secretary of Agriculture is not to object to the applications submitted as of December 12, 1985, to the U.S. Department of Commerce, Foreign Trade Zone Board, for establishment of a Foreign Trade Subzone, where such subzone would be used for the manufacture of products containing substances numbered 155.20 as defined by the tariff Schedules of the United States administered by the U.S. International Trade Commissioner and where such products would fall under U.S. import quotas.

It is the intent of the conferees that the Department utilize, on a priority basis, those export assistance programs that are more likely to directly enhance producer income.

Title XII—Resource Conservation

(1) Definitions (Sec. 1201)

(a) Agricultural commodity

The House bill defines "agricultural commodity" for the purposes of this title as any agricultural commodity planted and produced by annual tilling of the soil, or on an annual basis by one-trip planters. (Sec. 1201(1).)

The Senate amendment defines such term as any agricultural commodity planted and produced in a State by annual tilling of the soil, including tilling by one-trip planters; or sugarcane planted and produced in a State. (Sec. 1601(a)(1).)

The Conference substitute adopts the Senate amendment.

(b) Wetland

The House bill defines "wetlands", except when such term is part of the term "converted wetlands", as land that has a predominance of hydric soils and that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions. (Sec. 1201(3).)

The Senate amendment defines the term as an area, whether privately or publicly owned (including a swamp, marsh, bog, prairie pothole, or similar area) with the same characteristics as in the House bill except that with respect to hydrophytic vegetation the land must support the growth and regeneration of hydrophytic vegetation. (Sec. 1601(a)(19).)

The Conference substitute adopts the House provision.

(c) Converted wetland

The House bill defines the term "converted wetlands" to mean wetland that has been converted by certain activity making the production of agricultural commodities possible that would not have been possible but for such activity and that, before such activity was taken, was wetland and not highly erodible land nor highly erodible cropland with several exemptions listed. (Sec. 1201(4).)

The Senate amendment is comparable with respect to "converted wetlands" except that it does not apply to highly erodible cropland (Sec. 1601(a)(4)(A)), and though the exemptions are similar they are stated differently.

The Conference substitute adopts the House provision.

(d) Field

The House bill defines "field" the same as that term is defined in 7 CFR 718.2. Under section 718.2, a "field" is defined as a part of a farm that is separated from the balance of the farm by permanent boundaries such as fences, permanent waterways, woodlands, croplines (in cases where farming practices make it probable that such cropline is not subject to change), or other similar features. The House bill provides, however, that any highly erodible land and any converted wetland on which an agricultural commodity is produced after the date of enactment and that is not exempt under section 1203 (listing exemptions) shall be considered as part of the field in which such land was included on date of enactment, and the Secretary of Agriculture shall provide for modification of boundaries of fields to effectuate the purposes and facilitate the administration of the subtitle. (Sec. 1201(5).)

The Senate amendment uses the same CFR definition (as of January 1, 1985), except that any highly erodible land on which an agricultural commodity is produced after the date of enactment and that is not exempt under section 1612 (listing exemptions) shall be considered as part of the field in which such land was included on the date of enactment unless the Secretary permits modification of the boundaries of the field to carry out the subtitle. (Sec. 1601(a)(7).)

The Conference substitute adopts the Senate amendment.

(e) Highly erodible land

The House bill defines "highly erodible land" as land that is classified by the Soil Conservation Service of the Department of Agriculture as class IVe, VI, VII, or VIII land under the land capability classification system in effect on the date of the enactment of the bill; or that, if used to produce an agricultural commodity, would have an excessive average annual rate of erosion in relation to the soil loss tolerance level, as established by the Secretary, and as determined by the Secretary through application of factors from the universal soil loss equation and the wind erosion equation, including factors for climate, soil erodibility, and field slope. For purposes of this paragraph, the land capability class or rate of erosion for a field shall be that determined by the Secretary to be the predominant class or rate. (Sec. 1201(6).)

The Senate amendment defines "highly erodible land" in reference only to land classes and includes all land classes listed in the House bill as well as land classed as IIIe by the Soil Conservation Service. The Senate amendment also specifically includes publicly owned land. (Sec. 1601(a)(8).)

The Conference substitute adopts the House provision.

(f) Highly erodible cropland

The House bill defines "highly erodible cropland" as highly erodible land that is in cropland uses, as determined by the Secretary. (Sec. 1201(7).)

The Senate amendment contains no comparable provision. However, the term "eligible erosion-prone land" is the equivalent term for land eligible for the conservation reserve. (See paragraph (h) below.)

The Conference substitute adopts the House provision.

(g) Conservation payment

The Senate amendment defines "conservation payment" as a payment made by the Secretary to an owner or operator of a farm or ranch containing eligible erosion-prone land to reimburse such owner or operator for the cost of establishing vegetative cover on such land in accordance with conservation acreage reserve provisions of the bill. (Sec. 1601(a)(3).)

The House bill contains no comparable definition.

The Conference substitute amends the Senate amendment and inserts in lieu thereof a new definition for the term "cost sharing payment" as referenced in Section 1233(1).

(h) Eligible erosion-prone land

The Senate amendment defines "eligible erosion-prone land" to mean erosion-prone land that has been devoted, or has been considered to be devoted, to the production of an agricultural commodity during at least two of the last three consecutive crop years ending prior to January 1, 1986. (Sec. 1601(a)(5).)

The House bill contains no comparable provision. However, the term "highly erodible cropland" is the equivalent term for land eligible for the conservation reserve. (See paragraph (f) above.)

The Conference substitute deletes the Senate amendment.

(i) Erosion-prone land

The Senate amendment defines "erosion-prone land" similarly to the definition of "highly erodible land" in section 1201(6) of the House bill (see paragraph (e) above), except that the Senate amendment refers to an excessive rate of erosion and the House bill refers to an excessive average annual rate of erosion. (Sec. 1601(a)(6).)

The House bill contains no comparable definition.

The Conference substitute deletes the Senate amendment.

(j) Hydric soil

The Senate amendment defines "hydric soil" as soil that, in its undrained condition, is saturated, flooded, as ponded long enough during a growing season to develop an anerobic condition that supports the growth and regeneration of hydrophytic vegetation, (Sec. 1601(a)(9).)

The House bill contains no comparable definition.

The Conference substitute adopts the Senate amendment.

(k) Hydrophytic vegetation

The Senate amendment defines "hydrophytic vegetation" as a plant growing in water or in a substrate that is at least periodically deficient in oxygen during a growing season as a result of excessive water content. (Sec. 1601(a)(10).)

The House bill contains no comparable definition.

The Conference substitute adopts the Senate amendment.

(1) In-kind commodities

The Senate amendment defines the term "in-kind commodities" as commodities that are normally produced on land that is the subject of an agreement entered into under the conservation acreage reserve program. (Sec. 1601(a)(11).)

The House bill contains no comparable definition.

The Conference substitute adopts the Senate amendment.

(m) Rental payment

The Senate amendment defines "rental payment" to mean a payment made by the Secretary to an owner or operator of a farm or ranch containing eligible erosion-prone land to compensate the owner or operator for retiring such land from crop production and placing such land in the conservation acreage reserve. (Sec. 1601(a)(14).)

The House bill contains no comparable definition.

The Conference substitute adopts the Senate amendment with a modification substituting the term "highly erodible cropland" for the term "erosion-prone land."

(n) Shelterbelt

The Senate amendment defines the term "shelterbelt" as a vegetative barrier with a linear configuration composed of trees, shrubs, and other approved perennial vegetation. (Sec. 1601(a)(16).)

The House bill contains no comparable definition.

The Conference substitute adopts the Senate amendment.

(o) State

The Senate amendment defines "State" to mean each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands of the United States, American Samoa, the Commonwealth of Northern Mariana Islands, or the Trust Territory of the Pacific Islands. (Sec. 1601(a)(17).)

The House bill contains no comparable definition.

The Conference substitute adopts the Senate amendment.

(p) Vegetative cover

The Senate amendment defines "vegetative cover" as perennial grasses or legumes with an expected life span of 5 or more years or trees. (Sec. 1601(a)(18).)

The House bill contains no comparable definition.

The Conference substitute adopts the Senate amendment with an amendment adding "forbs" and "shrubs."

(2) Criteria for identification of (and lists of) hydric soils and hydrophytic vegetation (Sec. 1201)

The Senate amendment requires the Secretary of Agriculture to develop criteria for the identification of hydric soils and hydrophytic vegetation and lists of such soils and vegetation. (Sec. 1601(c).)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate amendment.

(3) Program ineligibility for production of commodities on highly erodible land or converted wetland (Sec. 1211)

(a) The House bill provides that any person who, after enactment, produces during any crop year an agricultural commodity on highly erodible land or on converted wetland shall be ineligible for certain agricultural program benefits on any commodity the person produced during that crop year.

The House bill also itemizes the program benefits to which the sanction described in the paragraph above would apply as follows: any type of price support or payments, farm storage facility loans, Federal crop insurance, disaster payments, and any Farmers Home Administration (FmHA) insured or guaranteed loan if the FmHA loan would be used for a purpose that would contribute to excessive erosion of highly erodible land, or conversion of wetlands (other than as provided in this item and item (4)) to produce agricultural commodities. (Sec. 1202(a).)

The Senate amendment contains comparable provisions except that it treats "highly erodible land" and "converted wetland" separately as respects program ineligibility. (Secs. 1611 and 1621.)

The Conference substitute adopts the House provision.

(b) The Senate amendment provides that a person who produces an agricultural commodity on highly erodible land or converted wetland shall be ineligible, as to any commodity produced during that crop year by such person, for a payment made under section 4 or 5 (general and specific authorities) of the Commodity Credit Corporation Charter Act during such crop year for the storage of an agricultural commodity acquired by the Commodity Credit Corporation. (Sec. 1621(b).)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate amendment.

(4) Landlord eligibility (Sec. 1243)

The House bill provides that the program ineligibility of a tenant or sharecropper for benefits shall not cause a landlord to be ineligible for benefits for which the landlord would otherwise be eligible with respect to commodities produced on lands other than those operated by the tenant or sharecropper. (Sec. 1202(b).)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(5) Exemptions with respect to highly erodible land (Sec. 1212)

The House bill exempts highly erodible land that was set aside, diverted, or otherwise not cultivated under provisions of a Department of Agriculture program for any of the 1981 through 1985 crops to reduce production of an agricultural commodity, except as otherwise provided under the conservation reserve provisions, from the program ineligibility provisions of section 1202. (Sec. 1203(2)(1).)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(6) Ineligibility of exempted highly erodible land (Sec. 1212)

The House bill provides that the exemption from the program ineligibility provisions of section 1202 (relating to highly erodible land) for lands cultivated, set aside, or diverted for any of the 1981 through 1985 crops of agricultural commodities ends on the later of January 1, 1990, or the date which is two years after the date such land on which such crop is produced was mapped by the Soil Conservation Service for the purposes of classifying such land under the land capability classification system. However, there is an exception providing that such program benefits shall not be denied to any person if as of January 1, 1990, or two years after the Soil Conservation Service has completed a soil survey for the farm, whichever is later, such person is actively applying a conservation plan based on the local Soil Conservation Service technical guide and approved by the local soil conservation district or the Secretary of Agriculture, in which event, such person shall have until January 1, 1995, to comply with the plan. (Sec. 1203(a)(1).)

The Senate amendment provides that the Secretary must require, as a condition of eligibility for any loan, purchase, or payment authorized for any agricultural commodity under any program carried out by the Secretary or the Commodity Credit Corporation, that any person who produces an agricultural commodity on highly erodible land must use a conservation system determined appropriate for such land by a conservation district, or the Secretary if no conservation district exists, beginning with the later of the 1988 crop year or the date that is 2 years after the date the Soil Conservation Service has mapped such land for the purpose of classifying such land under the land capability classification system. (Sec. 1613.)

The conference substitute adopts the House provision with an amendment requiring the local soil conservation district to consult with the county Agricultural Stabilization and Conservation Committee in approving the conservation plan to be applied by the person.

The Conferees note that historically, the SCS technical guides in some states have included the provision that for land to be considered adequately treated, soil losses had to be reduced to an arbitrary standard called the soil loss tolerance or "T" value. This value ranges from two (2) to five (5) tons per acre per year. In many cases soil losses on highly erodible lands can be reduced from levels ranging from as much as 20–30 tons per acre per year or more to less than 10 tons per acre with very cost effective measures such as conservation tillage, contour farming, or strip cropping. These measures can usually be installed with a minimum of capital investment and can reduce erosion as much as 80-90 percent. If a rigid standard of "T" value is mandated for an acceptable conservation plan, even if erosion had been reduced from say 30 tons per acre to 7–8 tons per acre through the application of cost effective conservation measures, the producer could be required to either install a very expensive additional practice such as terraces or convert the land to grass or trees from cropland in order to continue to be eligible for program benefits.

It is not the intent of the Conferees to cause undue hardship on producers to comply with these provisions. Therefore, the Secretary should apply standards of reasonable judgment of local professional soil conservationist and consider economic consequences in establishing requirements for measures to be included in conservation plans prepared under this provision.

(7) Exemption for wetland (Sec. 1222)

(a) The House bill exempts converted wetland from the program ineligibility provision of section 1202 if the land became converted wetland before the date of enactment of the bill. (Sec. 1203(a)(6).)

The Senate amendment exempts converted wetland if the conversion of the wetland was commenced before the date of enactment of the bill. (Sec. 1622(a)(1).)

The Conference substitute adopts the Senate amendment. The Conferees intend that conversion of wetland is considered to be "commenced" when a person has obligated funds or begun actual modification of the wetland.

(b) The House bill exempts from the program ineligibility provisions of section 1202 production of an agricultural commodity on converted wetland (A) within a conservation district, in accordance with a wetland conservation plan that has been approved by the conservation district under regulations prescribed by the Secretary of Agriculture in consultation with the Secretary of the Interior acting through the United States Fish and Wildlife Service; or (B) not within a conservation district, in accordance with a wetland conservation plan that has been approved by the Secretary under regulations prescribed by the Secretary in consultation with the Secretary of the Interior acting through the United States Fish and Wildlife Service. (Sec. 1203(a)(7).)

The Senate amendment contains no comparable provisions.

The Conference substitute deletes the House provision.

(c) The Senate amendment provides that the Secretary may exempt a person from the program ineligibility provision relating to wetland for any action associated with the production of an agricultural commodity on converted wetland if the effect of such action, individually and in connection with all other similar actions authorized by the Secretary in the area, on the hydrological and biological aspect of wetland, is minimal. (Sec. 1622(b).)

The House bill contains a similar provision in the "converted wetland" definition but refers to actions of the producer whose cumulative and individual effect on the hydrological and biological values of the wetlands is minimal. (Sec. 1201(4)(B)(iv).)

The Conference substitute adopts the Senate amendment.

(d) The House bill defines converted wetland to exclude artificial lakes and ponds, wetland created by irrigation and for fish production and other similar purposes. (Sec. 1201(4).)

The Senate amendment exempts from the ineligibility provisions of section 1621 relating to wetland any person who produces an agricultural commodity on land converted to artificial wetland as described in the House bill except that the reference in the Senate amendment to irrigation specifically includes subsurface irrigation. (Sec. 1622(a)(2).)

The Conference substitute adopts the Senate amendment.

(8) Appeal procedure (Sec. 1243)

The House bill requires the Secretary of Agriculture to establish by regulation an appeal procedure for adverse determinations made under the subtitle (including those under the conservation reserve). (Sec. 1206(c).)

The Senate amendment contains a comparable provision except that it does not apply to the conservation acreage reserve. However, it also requires the Secretary to establish, by regulations, an appeal procedure under which a person may seek review of a determination relating to classification of land or that the land is converted wetland. (Secs. 1616 and 1615(b)(1).)

The Conference substitute adopts the House provision.

The Conferees intend that the appeal procedure established by the Secretary be applicable to any adverse determinations made under all conservation programs established under this title.

(9) Consultation with Interior (Sec. 1223)

The House bill requires the Secretary of Agriculture to issue regulations, in consultation with the Secretary of the Interior, relating to determinations of minimal effect of producer actions on wetland and production of agricultural commodities on converted wetland in accordance with an approved wetland conservation plan. (Secs. 1201(4) and 1203(a)(7).)

The Senate amendment requires the Secretary to consult with the Secretary of the Interior on determinations and actions to carry out the wetland provisions, including the identification of wetland, determination of exemptions, and issuance of regulations. (Sec. 1623.)

The Conference substitute adopts the Senate amendment.

CONSERVATION RESERVE

(10) Eligible land (Sec. 1231)

(a) The House bill requires the Secretary of Agriculture to carry out a Conservation Reserve (CR) program with owners of "highly erodible land" that is in cropland uses. (Secs. 1205(a), 1201(a)(7).)

The Senate amendment uses the term "eligible erosion-prone land" for land eligible for inclusion in the CR program (CR). (Sec. 1631(a).)

The definitions of these two terms are similar, but the Senate amendment specifies the land must have been devoted, or considered devoted, to the production of an agricultural commodity during at least 2 of the last 3 consecutive crop years preceding January 1, 1986. (Secs. 1601(a)(5) and 1631(a).)

The Conference substitute adopts the House provision.

(b) The House bill provides that the Secretary shall consider for inclusion in the CR those lands not highly erodible that pose an off-farm environmental threat or, if permitted to remain in production, pose a threat of continued degradation of productivity due to soil salinity. (Sec. 1205(o).)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment to delete the word "shall" and insert in lieu the word "may."

(11) Contracting; Size of reserve (Sec. 1231)

(a) The House bill requires the Secretary of Agricultural to enter into CR contracts beginning October 1, 1985, and ending September 30, 1990, covering not in excess of 20 million acres. (Sec. 1205(b)(1).

The Senate amendment requires the Secretary to carry out the CR program during the 1986 through 1990 crop years and to place acreage in the CR as follows:

(1) during the 1986 crop year, not less than 5, nor more than 45, million acres;

(2) during the 1986 and 1987 crop years, a total of not less than 15, nor more than 45, million acres;

(3) during the 1988 through 1989 crop years, a total of not less than 25, nor more than 45, million acres;

(4) during the 1986 through 1989 crop years, a total of not less than 35, nor more than 45, million acres; and

(5) during the 1986 through 1990 crop years, a total of not less than 40, nor more than 45, million acres. (Sec. 1631(c).)

The Conference substitute adopts the Senate amendment with an amendment authorizing the Secretary to reduce the minimum conservation reserve acreage each year by no more than 25 percent if the Secretary determines that rental payments in the following year are likely to be significantly less. The amendment requires the Secretary to enter into the conservation reserve at least 40 million acres, but not more than 45 million acres, through fiscal year 1990.

(b) The House bill provides for an additional 5 million acres of cropland to be placed in the CR program with payment to be made in surplus agricultural commodities owned by the Commodity Credit Corporation except that payment under these contracts may be made in cash if sufficient commodities are not available or payment in commodities will have a depressing market effect. (Sec. 1205(b)(2).)

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

(c) The House bill limits the amount of acreage that may be placed in the CR to not more than 25 percent of the cropland in any country. (Sec. 1205(a).)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment to allow the Secretary to exceed the 25 percent per county limitation if he determines that higher levels would not adversely affect the local economy in that particular county.

(12) Duration of CR contracts (Sec. 1231)

The House bill provides that the CR contracts for 20 million acres shall not be less than 10 years in duration and contracts for 5 million additional acres shall be for periods up to 10 years. (Sec. 1205(b)(1) and (2).)

The Senate amendment provides that CR contracts shall be for not less than 7 nor more than 15 years in duration. (Sec. 1631(d).)

The Conference substitute adopts the Senate amendment with an amendment striking "7" and inserting "10."

(13) Duties of owners and operators under a CR contract (Sec. 1232)

The House bill requires the owner or operator to effectuate a plan approved by the appropriate State forestry agency if the owner or operator is to convert the acreage to trees. (Sec. 1205(b)(1)(A).)

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

(14) Violation of contract by owners or operators (Sec. 1232)

The House bill requires the Secretary of Agriculture to consider the recommendation of the Soil Conservation Service and the soil conservation district before determining that a violation of a contract is serious enough to warrant termination. (Sec. 1205(b)(1)(B).)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(15) Result of a transfer of land subject to a CR contract (Sec. 1232)

The House bill authorizes the Secretary of Agriculture to make adjustments in payments and refunds under the CR contract upon transfer of the land subject to the contract unless the transferee assumes all obligations under the contract. (Sec. 1205(b)(1)(C).)

The Senate amendment contains no authority to make adjustments in payments upon transfer of the land subject to the contract but does require interest to be paid on the amounts to be refunded unless the transferee assumes all obligations under the contract, or the new owner or operator enters into a new contract with the Secretary in accordance with section 1635(a). (Sec. 1632(a)(6).)

The Conference substitute adopts the House provision.

(16) Haying and grazing (Sec. 1232)

The House bill requires the owner or operator to agree not to conduct, during the term of the contract, any harvesting or grazing nor otherwise make commercial use of the forage on land that is subject to the contract, except that the Secretary of Agriculture may permit harvesting or grazing or other commercial use of the forage on land that is subject to the contract in response to a drought or other similar emergency. (Sec. 1205(b)(1)(D).)

The Senate amendment prohibits haying and grazing and harvesting or other commercial use of forage or trees on land subject to a CR contract unless expressly permitted in the contract or under section 1632(d). Section 1632(d) provides that the Secretary may designate a State, or part of a State, as an area in which an owner or operator holding a CR contract may be permitted, on an individual basis, to conduct haying and grazing, subject to such terms and conditions as the Secretary may prescribe, on land subject to such contract, except that such haying or grazing may be permitted only during the 6 principal nongrowing months of a year, and except that the Secretary may not designate a State, or part of a State, under this exception for more than 1 year at a time. (Sec. 1632.)

The Conference substitute adopts the House provision.

(17) Forestry practices (Sec. 1232)

(a) The House bill provides that no contract may prohibit customary forestry practices such as pruning, thinning (including thinning that results in commercial pulpwood and fence post harvesting), or stand improvement on land subject to a CR contract. (Sec. 1205(b)(1)(E).)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment striking "(including thinning that results in a commercial pulpwood and fence post harvesting)."

(b) The House bill provides that no contract may permit tree planting on CR land unless the contract specifies that the harvesting and commercial sale of such trees for Christmas trees is prohibited. (Sec. 1205(b)(1)(E).)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(c) The Senate amendment provides that no less than 5 million acres of land placed in the CR during the period 1986-1990 will be devoted to trees. (Sec. 1632(c).)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate amendment with an amendment deleting "5 million acres of land" and instead requiring that "not less than one-eighth of the number of acres of land placed in the conservation reserve each year under this subtitle during the 1986 through 1990 crop years, to the extent practicable, shall be devoted to trees."

(18) Acceptability of contract offers (Sec. 1234)

(a) The House bill provides that the Secretary of Agriculture, when considering contract offers, may accept those offers that provide for the establishment of shelterbelts and windbreaks, or permanently vegetated stream borders, filter strips of permanent grass, forbs, shrubs, and trees that will reduce sedimentation substantially. (Sec. 1205(f)(2).)

The Senate amendment directs the Secretary, when considering the acceptability of contract offers, to give priority to those offers that will result in the lowest cost to the Federal Government when calculated on the basis of all relevant factors, including the number of acres of eligible erosion-prone land removed from production each year, the amount of funds made available to carry out the program, the extent to which eligible erosion-prone land may contribute to off-site damages, and the potential benefits to wildlife. (Sec. 1634(c)(1).)

The Conference substitute adopts the House provision. The Conferees intend that the Conservation Reserve be administered, to the extent practicable, so as not to reward those who in recent years have converted highly erodible land to cropland uses.

(b) The Senate amendment provides that in determining the acceptability of contract offers the Secretary may (A) establish different criteria in various States and regions of the United States to determine the extent to which erosion be abated, and (B) give priority to offers made by owners and operators who are subject to the highest degree of economic stress. (Sec. 1634(c)(2) and (3).)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate amendment.

(19) Payment limitation (Sec. 1234)

(a) The House bill limits a person to payments of annual rental fees applicable to a farm or ranch to $50,000. The House bill also requires the Secretary of Agriculture to issue regulations defining the term "person" and provides that the regulations issued by the Secretary on December 18, 1970, under the Agricultural Act of 1970 shall be used to determine whether corporations and their stockholders will be considered separate persons. (Sec. 1205(d)(3).)

The Senate amendment provides that the total amount of rental payments, including rental payments made in the form of in-kind commodities, made to an owner or operator under a CR contract for any fiscal year may not exceed $50,000. (Sec. 1634(h)(1).)

The Conference substitute adopts the Senate amendment with an amendment incorporating that section of the House provision providing that the regulations issued by the Secretary on December 18, 1970, under the Agricultural Act of 1970 shall be used to determine whether corporations and their stockholders will be considered separate persons.

(b) The Senate amendment also provides that the rental payments under a CR contract shall be outside of other payment limits established under the bill or the Agricultural Act of 1949. (Sec. 1634(h)(2).)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate amendment.

(20) Payment of cost of installing and maintaining conservation measures (Sec. 1234)

The House bill directs the Secretary of Agriculture to pay 50 percent of the cost of installing and maintaining the specified conservation measures set forth in the CR contract. (Sec. 1205(e).)

The Senate amendment directs the Secretary to cost share no more than 50 percent of the cost of the conservation measures set forth in the contract. (Sec. 1633(1).)

The Conference substitute adopts the House provision with an amendment striking the words "installing and maintaining" and inserting instead the word "establishing."

(21) Change in ownership (Sec. 1235)

(a) The House bill places restrictions on the ability of the Secretary of Agriculture to enter into CR contracts covering land with respect to which the ownership has changed in the 3-year period preceding the first year of the contract period unless the new ownership was acquired by will or succession, the new ownership was acquired before Janaury 1, 1985, or the Secretary determines the land was not acquired to place it in the program. (Sec. 1205(i)(1).)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(b) The House bill permits the continuation of a CR contract by a new owner after a contract has been entered into, and does not require a person to own the land if such person has operated the land for at least three years preceding the date of the contract or since January 1, 1985, whichever is later, and controls the land for the contract period. (Sec. 1205(i)(2).)

The Senate amendment provides that if, during the term of the CR contract, land subject to the contract is transferred, the new owner may continue the contract, enter into a new contract, or elect not to participate in the CR program. (Sec. 1635(a).)

The Conference substitute adopts the House provision.

(22) Modification of contract by Secretary (Sec. 1235)

The Senate amendment allows the Secretary of Agriculture to modify or waive a term or condition of a CR contract in order to permit all or part of the land subject to such contract to be devoted to the production of an agricultural commodity during a crop year. (Sec. 1635(b)(2).)

The House bill provides authority for the Secretary to waive or modify requirements of a plan approved by the Secretary or the conservation district under the CR program. (Sec. 1205(b)(1)(A).)

The Conference substitute adopts the Senate amendment.

(23) Payment in cash or in-kind (Sec. 1234)

(a) The House bill provides that payment under CR contracts can be made in cash or commodities, except that in-kind payments described in item (11)(b) shall be made in cash if payment in-kind would have a depressing market effect, or stocks are unavailable. (Sec. 1205(g).)

The Senate amendment requires the Secretary of Agriculture to make the annual rental payment under a CR contract for the first year in cash and for subsequent years in the form of in-kind commodities in such amounts as are agreed upon in the contract. The Secretary may make in-kind payments only if the Secretary makes a finding that the use of such commodity will not displace to a significant degree the usual marketings of such commodity. (Sec. 1634(e)(1) and (2).)

The Conference substitute adopts the House provision.

(b) The Senate amendment provides that if payment is to be made with in-kind commodities, such payment shall be made by CCC (A) by delivery of the commodity involved to the owner at a warehouse in the county where the land under contract is located or at another agreed-on location, (B) by transfer of negotiable warehouse receipts; or (C) by such other method including the sale of the commodity in commercial markets as the Secretary deems appropriate. (Sec. 1634(e)(3).)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate amendment.

(c) The Senate amendment also provides that if CCC stocks are not readily available to make full payment in kind under a CR contract, the Secretary may substitute full or partial payment in cash. (Sec. 1634(e)(4).)

The House bill contains no comparable provision except as described in paragraph (a) above.

The Conference substitute adopts the Senate amendment.

(24) Program ineligibility of CR acreage

The House bill provides that upon the termination or expiration of a CR contract, the highly erodible cropland that was the subject of such contract shall be considered highly erodible land for the purposes of section 1202, the program ineligibility section. (Sec. 1205(m).)

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

The Conferees agreed that the Secretary should inform all persons entering contracts to place highly erodible cropland in the Conservation Reserve that upon expiration or termination of such contracts any highly erodible cropland will likely be subject to the program ineligibility section of this Act and therefore must be operated in accordance with an approved conservation plan would specify any land which could not be put into cultivation and any land which could be put in cultivation subject to installation of approved conservation practices. Such persons should be fully informed in advance, of the general scope of the requirements and obligations of the conservation plan.

(25) Termination of a CR contract (Sec. 1235)

The Senate amendment requires the Secretary of Agriculture to give written notice to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate at least 90 days before terminating all CR contracts. (Sec. 1635(c)(2).)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate amendment.

(26) Carry out program through the Commodity Credit Corporation (Sec. 1241)

(a) The House bill authorizes the use of Commodity Credit Corporation funds to carry out the CR program and authorizes appropriations to reimburse the CCC for any amounts expended by it under the CR program and not previously reimbursed. (Sec. 1205(n).)

The Senate amendment requires the use of CCC funds in carrying out the CR program in fiscal years 1986 and 1987 and authorizes such use of CCC funds in subsequent fiscal years only if CCC has received prior appropriated funds to cover such CCC expenditures under the CR program. (Sec. 1636(a).)

The Conference substitute adopts the Senate amendment.

(b) The House bill provides that the authority to enter into contracts under CR program, not within the authority of the CCC or the Secretary of Agriculture as of the date of enactment of the bill, shall be effective for any fiscal year to such extent or in such amount as provided in appropriation Act (Sec. 1206(e).)

The Senate amendment provides that the authority to conduct the CR is in addition to other authorities available to the Secretary and the CCC. (Sec. 1636(f).)

The Conference substitute adopts the Senate amendment.

(27) Utilize other agencies (Sec. 1242)

(a) The House bill requires the Secretary of Agriculture in carrying out the highly erodible land, wetland, and conservation reserve provisions to use ASC Committees and the technical services of the Soil Conservation Service, the Forest Service, State foresters, and conservation district. (Sec. 1206(b).)

The Senate amendment requires the Secretary to use ASC Committees in carrying out the highly erodible land provisions and authorizes the Secretary in carrying out the conservation reserve provisions to use the same entities as provided for in the House bill with the addition of the Fish and Wildlife Service, State Fish and game authorities, the land grant colleges, and other appropriate agencies. (Secs. 1615(a) and 1636(b).)

The Conference substitute adopts the Senate amendment.

(b) The Senate amendment requires the Secretary, to the extent practicable, in carrying out the CR program at the State and county levels, to consult with the Fish and Wildlife Service, State forestry and fish and game agencies, land grant colleges, conservation districts, and other appropriate agencies and groups. (Sec. 1636(c).)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate amendments with an amendment deleting the reference to "and groups."

(28) Base history (Secs. 1232 and 1236)

(a) The House bill explicitly provides that a conservation plan under the CR program may provide for the permanent retirement of any existing cropland base and allotment history for the land. (Sec. 1205(c).)

The Senate amendment contains no comparable explicit provision.

The Conference substitute adopts the House provision.

(b) The House bill also provides that a reduction, based on a ratio between the total cropland acreage on the farm and the acreage placed in the conservation reserve, as determined by the Secretary of Agriculture, shall be made, during the period of the contract, in crop bases, quotas, and allotments with respect to crops for which there is a production adjustment program. (Sec. 1205(d)(2).)

The House bill further provides that notwithstanding the program ineligibility provisions relating to highly erodible land, the Secretary, by appropriate regulation, may provide for preservation of cropland base and allotment history applicable to acreage converted from the production of agricultural commodities under the CR program, for the purpose of any Federal program under which the history is used as a basis for participation in the program or for an allotment or other limitation in the program, unless the owner and operator agree under the contract to retire permanently the cropland base and allotment history. (Sec. 1205(1).) (See also item (24) above.)

The Senate amendment provides that, if an owner or operator diverts acreage from production under a CR contract, any cropland base or allotment history with respect to such acreage shall be retired. However, a cropland base or allotment history may be reestablished on such acreage under law applicable upon the expiration of such contract. (Sec. 1636(e).)

The Conference substitute adopts the House provision with an amendment providing that a reduction, based on a ratio between the total cropland acreage on the farm and the acreage placed in the conservation reserve, as determined by the Secretary of Agriculture, shall be made, during the period of the contract, in the aggregate, in crop bases, quotas, and allotments on the farm with respect to crops for which there is a production adjustment program.

(29) Technical assistance for water resources (Sec. 1251)

The House bill provides that the Secretary of Agriculture may formulate plans and provide technical assistance to property owners and agencies of State and local governments and interstate river basin commissions to protect the quality and quantity of subsurface water, enable property owners to reduce their vulnerability to flood hazards, and control the salinity in the Nation's agricultural water resources. The Secretary is required to submit a report by February 15, 1987, and each February 15th thereafter, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate evaluating such plans and technical assistance. (Sec. 1211.)

The Senate amendment is the same except that it does not contain a provision rquiring a report. (Sec. 1954.)

The Conference substitute adopts the House provision with an amendment deleting the requirement for the Secretary to submit annual reports after the report due on February 15, 1987.

(30) Extension of the Soil and Water Resources Conservation Act of 1977 (Sec. 1252)

(a) The House bill extends the Soil and Water Resources Conservation Act of 1977 to December 3, 2008. (Sec. 1221.)

The Senate amendment extends the Act to December 31, 2005. (Sec. 1644.)

The Conference substitute adopts the House provision.

(b) The House bill amends the Act to require the Secretary of Agriculture to conduct four appraisals of the status of the soil, water, and related resources of the Nation to be completed by December 31, 1979, December 31, 1985, December 31, 1995, and December 31, 2005, respectively. (Sec. 1221.)

The Senate amendment requires the appraisals to be completed not later than December 31, 1979, December 31, 1984, December 31, 1994, and December 31, 2004. In the case of an appraisal due to be completed after December 31, 1984, the Secretary may supplement the preceding appraisal in lieu of preparing a new appraisal. (Sec. 1644.)

The Conference substitute adopts the House provision with an amemdment changing the required completion date for the second appraisal from December 31, 1985, to December 31, 1986.

(c) The House bill amends the Act to require national soil and water conservation program updates to be completed by December 31, 1987, December 31, 1997, and December 31, 2007. (Sec. 1221.)

The Senate amendment requires program plans to be completed not later than December 31, 1979, December 31, 1984, December 31, 1994, and December 31, 2004. In the case of any plan required to be completed after December 31, 1984, the Secretary may supplement the preceding plan in lieu of preparing a new plan. (Sec. 1644.)

The Conference substitute adopts the House provision.

(d) The Senate amendment requires the Secretary in developing the national soil and water conservation program to take into consideration the priorities (as well as responsibilities) of Federal, State, and local governments in conservation efforts. (Sec. 1644.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate amendment.

(e) The House bill requires the President to transmit to the Speaker of the House of Representatives and the President of the Senate (A) the appraisals developed under section 5 of the Act at the time Congress convenes in 1980, 1986, 1996, and 2006; and (B) the program and program updates developed under section 6 of the Act at the time Congress convenes in 1980, 1988, 1998, and 2008, together with a detailed statement of policy regarding soil and water conservation activities of the Department of Agriculture. (Sec. 1221.)

The Senate amendment requires the President to submit the program plans and appraisals to the Speaker of the House and the President of the Senate on the first day Congress convenes in 1980, 1984, 1994, and 2004. (Sec. 1644.)

The Conference substitute adopts the House provision with an amendment changing the deadline when the second appraisal must be submitted to the Congress from the time Congress convenes in 1986 to 1987.

(f) The House bill deletes section 7(b) of the Act, which requires the President to submit an annual report to Congress of program and policy achievement in relation to the budget. (Sec. 1222.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(31) Dry land farming (Sec. 1253)

The Senate amendment amends section 7(a) of the Soil Conservation and Domestic Allotment Act by adding the promotion of energy and water conservation through dry land farming as an additional policy and purpose of such Act. (Sec. 1642.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate amendment.

(32) Agricultural conservation program

The Senate amendment amends section 8(d) of the Soil Conservation and Domestic Allotment Act to require that, in order to be eligible to receive a payment or grant of aid made under the agricultural conservation program authorized by sections 7 through 15, 16(a), 16(f), and 17 of such Act and sections 1001 through 1008 and 1010 of the Agricultural Act of 1970, a producer must use such payment or grant in accordance with a conservation plan approved (A) by the soil and water conservation district or districts in which the land described in the plan is situated, or (B) in areas where such district or districts do not exist or fails to act on the approval of such plan, the Secretary of Agriculture. In order to receive such approval, the plan must ensure that soil loss levels on lands subject to such plan do not exceed the standards determined by the Secretary. The Secretary is required to provide technical assistance to producers to assist producers in preparing such plans. (Sec. 1643.)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate amendment.

(33) Soil Conservation Service

The Senate amendment, after making several findings concerning the Nation's soil and water resources, provides that it is the sense of Congress that (A) the vital work of the Soil Conservation Service be vigorously pursued to address the serious soil and water problems still confronting the United States; and (B) adequate support and funding be continued for the Soil Conservation Service and its necessary program. (Sec. 1645.)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate amendment. The Conferees endorse the Senate amendment for "Sense of the Congress" purposes.

(34) Softwood timber (Sec. 1254.)

The Senate amendment amends section 608 of the Agricultural Programs Adjustment Act of 1984 to require the Secretary of Agriculture to implement a program under which a delinquent loan made or insured under the Consolidated Farm and Rural Development Act, or portion of such loan, may be reamortized with the use of future revenue produced from the planting of softwood timber crops on land that was cultivated or in pasture and secures such a loan. Accrued interest on the outstanding loan may be capitalized. The Secretary is to set the interest rate on the new loan at a rate not more than the rate on comparable U.S. obligations, plus one percent. Payments on the reamortized loan may be deferred until the timber crop produces revenue or for a term of 45 years (whichever comes first) and must be repaid not later than 50 years after the date of reamortization. The borrower of the reamortized loan must place at least 50 acres of land in softwood timber production. The Secretary may make loans to such borrowers to assist in their placing their land in timber production. Such a loan may not exceed $100,000 per borrower and shall be secured by the land on which the trees are planted. (Sec. 1646.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate amendment with an amendment providing discretion for the Secretary to establish such a program pursuant to the recommendations contained in the study mandated by Section 608 of Public Law 98-258. The amendment limits the program to "distressed" rather than "delinquent" FmHA loans and to "marginal land as determined by the Secretary." It also limits the amount borrowers may obtain to assist them in placing such land in softwood timber production to "the actual costs of tree planting for land placed in the program." The amendment requires that if the program is implemented, the Secretary must issue rules prescribing the terms and conditions for "management and harvesting practices of the timber crop." The Conference substitute also limits the size of the program to not more than 50,000 acres.

(35) Farmland protection (Sec. 1255.)

The Senate amendment amends the Farmland Protection Policy Act to state that it is the policy of the United States that the expenditure of Federal program funds is not to contribute to the irreversible conversion of farmland to nonagricultural uses, unless it can be demonstrated that there is no feasible alternative to achieve the program objective. Provisions of current law requiring the Secretary of Agriculture to develop criteria for identifying effects of Federal programs on the conversion of farmland to nonagricultural uses would be deleted. (Sec. 1956(a).)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate amendment.

TITLE XIII—CREDIT

(1) Joint operations

The House bill amends sections 302 and 311(a) of the Consolidated Farm and Rural Development Act (the Act) to add joint operations to those entities eligible to receive farm ownership, soil and water conservation, recreation, and farm operating loans. It also amends section 343 of the Act to define the term "joint operation" to mean an operation in which two or more farmers work together sharing equally or unequally land, labor, equipment expenses, and income. (Sec. 1301.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(2) Eligibility for real estate and operating loans

The Senate amendment amends sections 302 and 311 of the Act to prohibit the Secretary of Agriculture from restricting eligibility for farm ownership, soil and water, recreation, and farm operating loans solely to borrowers who have loans outstanding as of the date of enactment of the bill. (Sec. 1701.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(3) Water and waste disposal facilities

(a) The House bill in section 306(a) of the Act will require the Secretary of Agriculture to establish a grant rate for each water or waste disposal contract for which a grant is made, and to set that rate in accordance with regulations providing for a graduated scale of grant rates with a higher rate for communities with lower level community populations and income levels. However, the grant rate will be the maximum permitted rate (75 percent) for any project in a community that has a population of 1,500 or fewer persons and a median household income not exceeding the higher of (1) the poverty line, or (2) 80 percent of the statewide nonmetropolitan median household income. (Sec. 1302(1).)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment deleting the requirement that the grant rate be the maximum permitted for communities that meet specific population and income criteria. The amendment requires a graduated scale of grant rates with targeting toward communities with low income and population.

(b) The House bill will require the Secretary to use a project selection system in deciding which water or waste disposal facility projects will be receiving grant assistance. The project selection system will provide for the objective and uniform comparison of requests for assistance (in the form of pre-applications) on the basis of relative need as reflected by factors determined by the Secretary, including (1) low community median income, (2) low population, and (3) severity of health hazards stemming from inadequate potable water or sewage disposal. The three factors described in the preceding sentence would be weighted equally and account for not less than 75 percent of the total rating points in the project selection system. (Sec. 1302(2).)

The Senate amendment contains no comparable provisions.

The Conference substitute deletes the House provision.

(c) The House bill will add a new provision to section 306(a) to authorize the Secretary to make grants to private nonprofit organizations to finance technical assistance and training to (1) identify and evaluate solutions to water and sewage disposal problems in rural areas, (2) prepare applications for water and waste disposal grants made under the Act, or (3) improve operations and maintenance at water and waste disposal facilities. Not less than 2 percent of any appropriation for grants under section 306(a)(2) must be reserved for such grants unless the applications qualifying for such grants for the fiscal year total less than 2 percent of such appropriations. (Sec. 1302(2).)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provisions with an amendment providing that not less than 1 percent or more than 2 percent of any appropriation for grants under section 306(a)(2) must be reserved for grants to provide technical assistance and training.

The conferees intend that the grant funds set aside to finance technical assistance and training not be used to recruit new applicants for the water and waste disposal program, but rather to be used to assist those communities that have already decided to make application for the FmHA water and waste disposal loan and grant program.

(d) The House bill will add a new provision to section 306(a) to require the Secretary to use median income and population figures of all the communities involved in cases in which water or waste disposal facility projects serve more than one community. The median figures would be used in (1) determining the grant rate described in paragraph (a) above, (2) applying the project selection system described in subsection (b), and (3) determining the interest rate under section 307 of the Act. (Sec. 1302(2).)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment deleting reference to the use of median income and population figures for a project selection system referred to in item 3(b).

(e) The House bill will authorize the Secretary to make grants, aggregating not more than $10 million in any fiscal year, to associations, nonprofit corporations, Indian tribes, and public and quasi-public agencies to test cost-effective methods of meeting basic needs or rural residents who do not have and cannot afford safe drinking water systems. Financing under such grants could be used to cover (1) individual or small, multiuser drinking water facilities, (2) costs involved in connecting rural residences into community water systems (3) improvements to small community water systems and (4) alternative rural drinking water systems. (Sec. 1302(2).)

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

(f) The House bill will add a new provision to section 306 that provides that water and waste disposal facility grants can be used to pay the local share requirements of other Federal grant-in-aid programs. (Sec. 1302(2).)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment which specifies that water and waste disposal facility grants may be used to pay the local share requirements of other Federal grant-in-aid programs if this use is authorized in the statute under which the Federal grant-in-aid program is carried out.

(g) The Senate amendment provides that the Secretary, in approving any water and waste disposal facility loan, must consider fully any recommendation made by the applicant or borrower concerning the technical design and choice of materials to be used for such facility. The Secretary must give the applicant or borrower a comprehensive justification if the Secretary determines that a different design or materials should be used. (Sec. 1702(a).)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(4) Interest rates—water and waste disposal facility and community facility loans

The House bill provides that the interest rate for water and waste disposal facility loans and community facility loans must be the lower of the rate in effect (1) at the time of loan approval or (2) at the time of loan closing. (Sec. 1303(3).)

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

(5) Effective date

The House bill provides that the water and waste disposal facility loan and grant provisions in section 1302 and the interest rate provisions on water and waste disposal and community facility loans in section 1303 will be effective October 1, 1985, and will apply to any loan or grant applicant, regardless of whether the loan or grant application was made before October 1, 1985. (Sec. 1304.)

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

(6) Water and waste disposal plant feasibility study

The Senate amendment requires that the Secretary of Agriculture study the practicality and cost-effectiveness of making loans and grants under section 306 of the Act for the construction of water and waste disposal facilities at individual locations in rural areas, rather than at central or community locations. The study must be submitted to the House and Senate agriculture committees within 120 days of the date of enactment of the bill. (Sec. 1702(c).)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment specifying that the study also focus on small multi-use drinking water facilities, costs involved in connecting rural residents into community water systems, improvements to small community water systems, and alternative rural drinking water systems.

(7) Mineral rights as collateral

The House bill amends section 307 of the Act to prohibit the consideration of oil, gas, or other mineral rights as part of the collateral for farm ownership loans made after the date of enactment of the bill, unless the appraised value of these rights is specifically included in the appraised value of the collateral securing the loan. However, any payment or compensation the borrower receives for damage to the surface of the real estate stemming from mineral exploration or recovery may be counted as part of the collateral securing the loan. (Sec. 1305.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(8) Use of proceeds from mineral sales or leases

The House bill provides that for loans made after the date of enactment of the bill, unless the appraised value of the oil, gas, or other mineral rights was included as part of the appraised value of the loan security, a farm loan borrower, having an outstanding farm ownership, operating, disaster, or economic emergency loan, be allowed to use the royalties or lease or sale proceeds generated from such mineral rights to make prospective scheduled payments on the loan. (Sec. 1309.)

The Senate amendment is similar in that it allows the making of prospective payments on such loans with proceeds (1) from the lease of oil, gas or other mineral rights to real property securing the loan or (2) from the sale of oil, gas, or minerals removed from such property if the value of the rights was not used to secure the loan and the loan security is otherwise adequate. However, this option does not apply if liquidation or foreclosure is pending on the property on the date of enactment of the bill. (Sec. 1709.)

The Conference substitute adopts the Senate provision with a technical amendment deleting language specifying that the security for the loan be otherwise adequate.

(9) Sale of notes and security

The Senate amendment amends sections 309(d) and 309A(e) of the Act to clarify the authority of the Secretary of Agriculture to sell to parties notes evidencing loans made from the agricultural credit and rural development insurance funds. The clarification specifies that sale may be made on a nonrecourse basis and that the Secretary and any purchaser of such notes will be relieved of any responsibilities that might have been imposed had the borrower remained indebted to the Secretary. Additionally, notes sold from the Agricultural Credit Insurance Fund on a nonrecourse basis must have been held in that fund for at least 4 years. (Sec. 1703.)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(10) Rural industrial assistance

(a) The House bill amends section 310B of the Act to limit the principle amount of a business and industry loan to $25,000,000. (Sec. 1306(1).)

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

(b) The House bill adds a new subsection to section 310B of the Act that effective October 1, 1986, authorizes the Secretary of Agriculture to make grants to public and private nonprofit institutions for the establishment and operation of rural technology development cents to promote the development and commercialization of (1) new products that can be manufactured in rural areas, and (2) new processes that can be used in such manufacturing. Grants will be made on a competitive basis, giving preference to applicants in areas that have, (1) a low level of industry and agribusiness, or (2) high unemployment, (3) low per capita income, and (4) high out-migration. the Secretary must issue regulations providing for monitoring and evaluating the rural technology development activities carried out by institutions that receive such grants. (Sec. 1306.)

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

(c) The Senate amendment modifies section 310B of the Act to authorize the Secretary to guarantee loans to finance the production and distribution of ethanol in rural areas. All other loan and grant authority under section 310B is repealed. (Sec. 1704.)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(d) The Senate amendment provides that, for fiscal year 1986 only, the Secretary must guarantee loans made by public agencies and private organizations to nonprofit national rural development and finance corporations that establish state-wide development and finance programs for purposes of providing loans, loan guarantees, and other financial assistance to improve business, industry, and employment opportunities in rural areas (as determined by the Secretary). To obtain a loan, a rural development and finance corporation must:

(1) demonstrate its ability to administer a national revolving rural development loan program;

(2) be prepared to commit corporate resources to establish affiliated statewide rural development and finance programs; and

(3) have secured commitments of significant financial support from public agencies and private organizations for such affiliated statewide programs.

A determination to establish a particular affiliated statewide program must be based in large part on the willingness of the State and private organizations to make funds available to such program. The Secretary must use $20 million of the $150 million authorized for the production and distribution of ethanol in rural areas to guarantee loans made to rural development and finance corporations, such funds to remain available until expended. (Sec. 1720(a).)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision.

(e) The Senate amendment provides that, for fiscal year 1986 only, the Secretary must make grants to national rural development and finance corporations for purposes of establishing a rural development program to provide financial and technical assistance to complement the loan guarantees required to be made in the provisions explained in paragraph (d).

All funds deposited in the Rural Development Loan Fund under sections 623(c)(1) and 633 of the Community Economic Development Act of 1981 that are available on the date of enactment of the bill must be transferred to the Secretary for the purpose of making such grants and must remain available until expended. (Sec. 1720(b).)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment requiring that any loans made prior to the date of enactment shall bear the rate of interest in effect on the date of issuance for the life of such loan.

(11) Farm recordkeeping training for limited resource borrowers

The Senate amendment amends section 312(a) of the Act to authorize the making of an operating loans to a limited resource borrower holding a real estate loan made under section 310D of the Act for purposes of paying for training in the maintenance of records of farming and ranching operations. (Sec. 1705.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(12) Emergency loans

(a) The House bill amends section 321 of the Act to require individual applicants for emergency loans to own and operate (for loans for farm real estate purposes) or operate (for loans for farm operating purposes) not larger than family farms. In the case of entities (farm cooperatives, private domestic corporations and partnerships—including joint operations) to be eligible for emergency loans, the majority interest of the entity must be held by citizens who own and operate (for real estate loans) or operate (for operating loans) not larger than family farms. In the case of such entities in which a majority interest is held by individuals who are related by blood or marriage, such individuals must be either owners or operators of not larger than a family farm and at least one such individual must be an operator of not larger than a family farm. The family farm requirement applicable to entities is to apply as well to all farms in which the entity has an ownership or operator interest. (Sec. 1307(a).)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(b) The Senate Amendment provides that no emergency loan may be made for production losses that could have been insured under the Federal Crop Insurance Act. The change made by this amendment does not affect those persons whose eligibility for a loan resulted from damage to an annual crop planted before the date of enactment of the bill. (Sec. 1706 (a) and (f).)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment providing that the ineligibility provision shall not apply to any annual crop planted or harvested before the end of 1986.

Further, the conferees intend that the Secretary of Agriculture not deny eligibility for Farmers Home Administration emergency disaster loans to producers who are prevented from planting a crop due to flood, drought, or natural disaster, notwithstanding the producer's eligibility for crop insurance under the Federal Crop Insurance Act.

Also, the conferees intend that the Secretary of Agriculture conduct a thorough review of the present method of establishing insurable crop yields under the Federal Crop Insurance Act. It is further the intent of the conferees that in counties which have been declared natural disaster areas in at least three of the past five years, the Secretary must offer producers at least one alternative method for computing crop yields—for crop insurance purposes—that may more accurately reflect the longer term historical productivity of that producer's crop land.

(c) The Senate amendment amends sections 321(b) and 324(b)(1) of the Act to repeal the authority of the Secretary of Agriculture to make emergency loans to applicants who are able to obtain credit elsewhere. (Secs. 1706 (a) and (c).)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(d) The Senate amendment deletes obsolete provisions from section 324 of the Act. (Sec. 1706(b).)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(e) The House bill amends section 329 of the Act to require that eligibility for emergency loans based on production losses be determined without regard to the Secretary's failure to designate a county or counties for emergency loan purposes. (Sec. 1307(b).)

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

(f) The Senate amendment amends section 329 of the Act to require the Secretary to make emergency loans based on production losses either (A) on the same criteria as under current law (that is that the applicant's operation has sustained at least a 30 percent loss of normal production or a lesser percent as determined by the Secretary) or (B) beginning with the 1985 crop of an agricultural commodity, if the applicant shows that a crop produced by the applicant under an established practice of double cropping has sustained at least a 50 percent loss of production (or a lesser percent as determined by the Secretary). (Sec. 1706(d).)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(g) The Senate amendment repeals the authority to make subsequent annual production emergency loans found in section 330 of the Act. (Sec. 1706(e).)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(13) Settlement of claims and homestead protection

(a) The Senate amendment revises section 331(d) of the Act to authorize the Secretary of Agriculture to compromise, adjust, reduce or charge-off claims, and adjust, modify, subordinate, or release the terms of security instruments, leases, contracts, and agreements made or administered by the Farmers Home Administration (FmHA) as circumstances may require to carry out the purposes of the Act. Borrowers or others obligated on a debt incurred under the Act may be released from personal liability with or without payment of consideration at the time of the claim settlement, subject to two limitations. The limitations are that no compromise or adjustment may be made (i) on terms more favorable than those recommended by the appropriate county committee, and (ii) after the claim has been referred to the Attorney General, unless the Attorney General approves. (Sec. 1707(a).)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(b) The Senate amendment requires that the Secretary or the Administrator of the Small Business Administration, as applicable, must permit a borrower having an outstanding farm loan under the Act or the Small Business Act, as the case may be, to retain possession and occupancy of the borrower's principal residence plus up to 10 adjoining acres (including any farm buildings on such acreage) upon application by the borrower if (1) the Secretary or Administrator forecloses on property securing the loan, or (2) if the borrower declares bankruptcy or voluntarily liquidates to avoid bankruptcy or foreclosure. The total value of the homestead property retained cannot exceed $250,000, as determined by an independent appraisal made within 6 months of the borrower's retention application. The period of occupancy granted must be at least 3 years but not over 5 years. To qualify for homestead retention, the borrower must (A) apply within 3 years after enactment of the bill, (B) have exhausted all other debt restructuring or extension remedies, (C) have made gross annual farm sales of at least $40,000 in at least 2 of the years 1981 through 1985, (D) have received at least 60 percent of the borrower's annual income (including income earned by a spouse, if any) from farming in at least 2 of such 5 years, (E) have occupied the property during such 5-year period, (F) pay reasonable rent during occupancy, and (G) maintain the property in good condition.

Failure to timely pay rent on the homestead would be grounds to terminate the borrower's possession and occupancy. At the end of the occupancy period, the borrower has a first right of refusal to reacquire the homestead property, and the Secretary or SBA Administrator cannot demand total payment of principal that exceeds the total value of the homestead property. (Sec. 1707(b).)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment which provides that the authority granted under this provision shall be discretionary with the Secretary. Further, the amount of adjoining land is modified to eliminate specifying ten acres and instead specifying that the borrower may retain a reasonable amount of land. The amendment removes authority to include farm buildings located on such property. The provision for the value of such residence and property to total $250,000 is deleted. The value of such property shall be determined by an independent appraisal.

(c) The Senate amendment provides that, if a loan made under the Consolidated Farm and Rural Development Act is secured by the borrower's principal residence, the borrower defaults on the repayment of the loan, and the borrower is required to forfeit the residence to the Secretary or pay an amount equal to the borrower's equity in the residence; the appropriate State director of the Farmers Home Administration is authorized to make a loan to the borrower in accordance with the following:

(1) the borrower must be able to repay the new loan (as determined by the Secretary) and otherwise meet the eligibility requirements for a Farmers Home Administration real estate loan;

(2) the loan amount of the new loan may not exceed the lesser of (A) the equity the borrower has in the residence, or (B) the outstanding amount of principal and interest owed by the borrower on the loan in default;

(3) the interest rate on the new loan will be set by the Secretary, but cannot exceed the cost of borrowing to the government for the same term as the new loan, plus not to exceed 1 percent; and

(4) the repayment period for the new loan cannot exceed 25 years.

If the borrower makes all payments due on the new loan, the borrower cannot be made subject to an action to force repayment of the new loan or the loan in default. (Sec. 1721.)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(14) Transfer of loan accounts

The Senate amendment requires the Secretary of Agriculture to permit an FmHA borrower to transfer, on a one-time basis and with the approval of the FmHA State Director, the borrower's loan accounts to a FmHA county office in an adjacent county. (Sec. 1708.)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

The conferees note that the Secretary may, under existing authorities, permit FmHA borrowers to transfer their loan accounts to adjacent counties. It is the intent of the conferees that the Secretary consider allowing borrowers, who so request, to transfer their loan accounts.

(15) County committees

The House bill provides that two members of the three member FmHA county committees must be elected, from their number, by farm operators living in the area and one member be appointed by the Secretary of Agriculture. In selecting the appointed members, the Secretary must ensure that, to the greatest extend practicable, the committee is fairly representative of farmers in the county or area. Elected and appointed members will serve 3-year terms (shorter terms are provided for the initially elected members). As provided for in current law, alternate members may be appointed and removed for cause. (Sec. 1308.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(16) Administration of farm real estate acquired by the Secretary

The House bill adds new provisions to the Act that override all other procedures in the act for the disposition of property acquired by the Secretary of Agriculture under the Act. The new provisions prohibit the Secretary from selling acquired farmland (1) if placing the farmland on the market would have a detrimental effect on the value of farmland in the area or (2) in any State or portion thereof that is identified by the Secretary as having suffered a substantial reduction in the average value of farmland since 1980, until the State or portion thereof experiences a period of 12 consecutive months in which farmland values don't decrease. The Secretary must also offer to sell such farmland, to the maximum extend practicable, in tracts of a size suitable for family farms and to give priority in the sale of such land to the previous owner and to beginning farmers. The Secretary may not lease and operate such farmland for the production of surplus agricultural commodities, but must devote it to conserving uses, and likewise devote any land that is highly erodible to conserving uses.

To the extent such property is leased, leases must be offered on a competitive bid basis, giving priority to the previous owner, family farmers, and beginning farmers. Leases to previous owners can be made without regard to the restrictions imposed by the House bill, with priority in leasing to the previous owner. If the property is to be administered under a management contract, the contract must be let under a competitive bid system, giving preference to small businessmen in the area. Acreage allotments, marketing quotas, or assigned acreage bases are not to be adversely affected by compliance with these provisions. (Sec. 1310.)

The Senate amendment also adds new provisions to the Act to establish specified priorities for the disposition of farmland acquired by the Secretary. It sets as first priority the selling, and then the leasing, of such land to operators of not larger than family-size farms.

A lease with an option to purchase may also be used as a vehicle for the disposition of land. In leasing land, special consideration will be given to a previous owner or operator, providing that such owner or operator has the finances, management skills, and experience to be successful in a farming operation.

The land may be sold under an installment sales basis or similar device, and such a contract can be later sold by the Secretary. The sale price to operators of not larger than family-size farms has to reflect the average annual income that can reasonable be anticipated to be generated from farming the land. The Farmers Home Administration county committee by majority vote, will select an operator to purchase, or lease with the option to purchase, the land if two or more qualified operators of not larger than family-size farms want to so purchase or lease the land. The Secretary may prescribe regulations governing the procedures. The land must be subdivided into suitable tracts if, due to its size, it is not suitable for sale or lease to an operator of not larger than a family-size farm.

Suitable farmland will be disposed of by advertising in at least one local newspaper and posting a notice at the local FmHA office. Specific conservation practices can be required on highly erodible farmland as a condition of its sale or lease. The provisions in the Senate amendment must be implemented within 90 days of enactment. (Sec. 1712.)

The Conference substitute adopts the Senate provision with an amendment specifying that if the farm real estate is to be administered under a management contract, the contract must be let under a competitive bid system, giving the preference to small businessmen in the area. Also, acreage allotments, marketing quotas, or assigned acreage bases are not to be adversely affected as a result of the operation of the provision. The amendment also specifics that the Secretary may not sell acquired farmland if putting such land on the market would have a detrimental effect on the value of farmland in the area.

(17) Farm debt restructure and conservation set-aside

(a) The House bill authorizes conservation, recreational, or wildlife easements to be acquired or retained by the Secretary of Agriculture for a period of not less than 50 years on land that is wetland, upland, highly erodible land, or marginal cropland, if the Secretary determined that such land is suitable for the easement involved. Such easements could be (i) retained by the Secretary on land in FmHA inventory or (ii) could be acquired on land securing a FmHA loan if the borrower involved is unable to repay the loan, and (iii) the land was row cropped in each of the 3 years preceding the date of enactment of the bill. Payment for an easement on land securing loans of the borrower would be through the cancellation of a portion of such loans. The portion of the loans to be cancelled is to the total amount of the outstanding loans as the number of acres subject to the easement is to the total number of acres of land securing such loans. (Sec. 1311.)

The Senate amendment is similar except (1) land securing FmHA loans must also be held by the Secretary and (2) lands on which easements may be acquired or retained are restricted to wetlands and highly erodible land. (Sec. 1641.)

The Conference substitute adopts the Senate provision with an amendment including "upland" in the provision and specificing that the rowcropping requirement of this provision does not apply to wetlands. The amendment further provides that the value of the debt cancelled shall not exceed the value of the land on which the easement is acquired.

(b) The House bill defines the term "highly erodible land" to mean land classified by the Soil Conservation Service as class IVe, VI, VII, or VIII land under the land capability classification system in effect on the effective date of the bill. (Sec. 1311(b).)

The Senate amendment is similar, except it includes class IIIe land. (Sec. 1641.)

The Conference substitute adopts the House provision with an amendment conforming the definitions of "highly erodible land" and "wetland" to the definitions adopted in the conservation title of the bill.

(c) The House bill provides that the term "recreational uses" includes hunting. (Sec. 1311(b).)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(d) The House bill provides that the term "wetlands" has the meaning given that term in section 3 of the Water Bank Act. The Water Bank Act defines wetlands to mean (1) the inland fresh areas described as types 1 through 7 in Circular 39, Wetlands of the United States, published by the Department of the Interior (or the inland fresh areas corresponding to such types in any successor wetland classification system), (2) artificially developed inland fresh areas that meet the description of the inland fresh areas described in clause (1), and (3) such other wetland types as the Secretary may designate. (Sec. 1311(b).)

The Senate amendment defines the term "wetland" by reference to section 1601(a)(19) of the Senate amendment. Under that definition, wetland is an area, whether publicly or privately owned (including a swamp, marsh, bog, prairie pothole, or similar area) having a predominance of hydric soils that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances supports, the growth and regeneration of hydrophytic vegetation. (Sec. 1641.).

The Conference subtitute adopts the Senate provision.

(e) The Senate amendment provides that any part of a loan cancelled under this provision shall not be included in income and shall not have any effect on any tax attributed to any taxpayer or property, for purposes of the Internal Revenue Code of 1954. (Sec. 1641(c).)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(f) The Senate amendment would authorize the Secretary, for conservation purposes, to grant or sell to local or State governmental units or private nonprofit organizations easements, restriction, and development rights on land in FmHA inventory separate from all other interests of the United States in the property. (Sec. 1712.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(18) Reauthorization

(a) House bill amends section 346 of the Act to provide authorization levels for fiscal years 1986, 1987, and 1988 as follows:

For farm real estate loans, $700,000,000 for FY 1986 ($650,000,000 for insured loans and $50,000,000 for guaranteed loans with authority to transfer 25 percent of these amounts between categories), and $700,000,000 for each of FY 1987 and 1988 (all for guaranteed loans);

For farm operating loans, $3,150,000,000 for each fiscal year ($2,500,000,000 for insured loans and $650,000,000 for guaranteed loans with authority to transfer 25 percent of these amounts between categories); and

For emergency loans, $1,300,000,000 in FY 1986, $700,000,000 in FY 1987, and $600,000,000 in FY 1988.

For fiscal years 1986, 1987, and 1988: $340,000,000 is authorized for insured water and waste disposal facility loans; $250,000,000 is authorized for industrial development loans; and $115,000,000 is authorized for insured community facility loans. (Sec. 1312.)

The Senate amendment provides that for each of fiscal years 1986, 1987, and 1988 farm real estate and farm operating loans are authorized in an aggregate amount of $4,000,000,000, of which at least $520,000,000 must be for farm ownership loans. The breakdown by fiscal year is as follows:

For FY 1986, $2,000,000,000 is authorized for insured loans and $2,000,000,000 is authorized for guaranteed loans, with not less than $260,000,000 of each amount reserved for farm ownership loans;

For FY 1987, $1,500,000,000 for insured loans, (of which not less than $195,000,000 is reserved for farm ownership loans) and $2,500,000,000 for guaranteed loans (of which not less than $325,000,000 for farm ownership loans); and

For FY 1988, $1,000,000,000 for insured loans (of which not less than $130,000,000 is reserved for farm ownership loans) and $3,000,000,000 for guaranteed loans (of which not less than $390,000,000 is reserved for farm ownership loans).

For each of these fiscal years the Secretary may transfer no more than 20 percent of the amount authorized for guaranteed loans to amounts authorized for insured loans.

Emergency loans are to be insured or guaranteed in such amounts as are necessary to meet needs resulting from natural disasters.

For each of the 3 fiscal years, the total amount authorized for guaranteed loans for ethanol production and distribution is established at $150,000,000.

For FY 1986, water and waste facility loans may be insured in the amount of $75,000,000. (Sec. 1715.)

The Conference substitute adopts the Senate provision with an amendment providing that authorization levels for the FmHA emergency disaster loan program shall be $1,300,000,000 for fiscal year 1986, $700,000 for fiscal year 1987, and $600,000,000 for fiscal year 1988. The amendment deletes the authorization levels for the Rural Development Insurance Fund contained in the Senate amendment and substitutes the House provision which provides that $340 million is authorized for the FmHA water and waste disposal loan program for fiscal years 1986, 1987, and 1988; $250,000,000 is authorized for industrial development loans for FY 86, 87, 88; and $115,000 is authorized for insured community facility loans for FY 86, 87, 88. Further, the amendment provides, in each fiscal year, that the Secretary may transfer up to 25 percent of the guaranteed loan account to the insured loan account.

(b) The House bill provides that, to the extent that there are sufficient applications from eligible farmers, not less than 25 percent of the funds (authorized in the bill) used for (1) insured farm ownership loans and (2) insured farm operating loans would be required to be made available to eligible low-income, limited resource borrowers. The Secretary would be required to inform in writing all farm ownership and operating loan applicants of the availability of these loans and the nature of the program.

The Senate amendment would permanently require that 25 percent of insured farm ownership and operating loans made in any fiscal year must be made to eligible low income, limited resource borrowers.

The Conference substitute adopts the Senate amendment.

(19) Limitation on insured real estate loans

The House bill provides that, effective for fiscal years 1987 and 1988, no FmHA insured loans may be made for farm ownership purposes under the Act. (Sec. 1312.)

The Senate amendment contains no comparable provisions.

The Conference substitute deletes the House provision.

(20) Administration of guaranteed farm loan programs

(a) The House bill requires that the FmHA guaranteed farm loan program under the Act be designed to be responsive to borrower and lender needs and to provide for partial loss claim payments prior to completion of the liquidation process. (Sec. 1313.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(21) Use of talents of older Americans

The House bill authorizes the Secretary of Agriculture to make grants to or enter into cooperative agreements with private nonprofit organizations designated by the Secretary of Labor under the Older Americans Act to use the talents of older Americans in FmHA programs authorized under the Act. The Secretary of Agriculture has to first certify that the grant or agreement will not displace current employees of the agency, or cause someone to be employed over someone laid off from the same or very similar job or affect existing service contracts. Grant awards or agreements cannot be made unless funding is provided in advance in an appropriations Act. (Sec. 1313.)

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

(22) Protection for purchasers of farm products

(a) The House bill provides that, notwithstanding any other provision of Federal, State, or local law, a buyer in the ordinary course of business who buys a farm product from a seller engaged in farming operations takes that product free of a security interest, even though the interest is perfected and the buyer knows of its existence, unless (1) the buyer, within the preceding year, has received written notice of the security interest and any payment obligation that is imposed on the buyer as a condition for waiver or release of the security interest and the buyer has failed to perform the payment obligation. Similar provisions also apply to commission merchants and selling agents who sell farm products for others. (Sec. 1314(d).)

The Senate amendment is essentially the same as the House provision, except that it exempts buyers of farm products produced in States having central systems for the recording of financial statements from the general provisions explained in paragraph (a). In States having a central filing system, the buyer purchases the farm product subject to a lender's security interest if (1) the buyer did not register with the Secretary of State as a potential buyer of the class of farm products involved and the lender has filed an effective financing statement covering the product being sold, or (2) the buyer (i) received written notice from the Secretary of State that specifies both the seller and the specific farm product that is subject to an effective security interest and (ii) did not obtain waiver or release of the security interest from the secured party. Similar provisions apply to commission merchants and selling agents who sell farm products for others. (Sec. 1950(b) through (d).

(b) The House bill provides that a security agreement may require a seller of farm products to furnish the secured party with a list of the persons to whom the producer may sell his products. If the seller is required to furnish such a list of potential product purchasers and sells the farm product collateral to a person not included on the list, the seller can be fined up to $5,000. (Sec. 1314(f) and (g).)

The Senate amendment is similar to the House provision, except it also applies to commission merchants and selling agents and provides for a fine of $5,000, or 15 percent of the value of the products, whichever is greater. (Sec. 1950(e)(3).)

(c) The House bill provides that the farm product purchaser provisions will be effective 30 days after date of enactment, but exempts from these provisions for a period of 1 year those security interests created before the effective date. (Sec. 1314(h).)

The Senate amendment provides that the farm product purchaser provisions will be effective 12 months after date of enactment; or as to any State in which the legislature does not meet during the 12-month period, within such State 60 days after a sine die adjournment of the next session of the legislature of that State. All security interests that attach prior to the effective date of these provisions will be exempt from the provision for 1 year.

(d) The House bill defines the term "buyer in the ordinary course of business" as a person who (1) in the ordinary course of business buys farm products from a person engaged in farming operations who is in the business of selling farm products; and (2) buys the products in good faith without knowledge of the sale is in violation of the ownership rights of security interest of a third party. (Sec. 1314(c)(1).)

The Senate amendment defines the term "buyer in the ordinary course of business" as a person who, in the ordinary course of business, buys farm products from a person engaged in farming operations. (Sec. 1950(a)(1).)

(e) The House bill defines the term "farm products" to mean crops or livestock used or produced in farming operations or products of crops or livestock in their unmanufactured state. (Sec. 1314(c)(2).)

The Senate amendment defines the term "farm product" to mean a specific agricultural commodity such as a type of crop or a species of livestock used or produced in farming operations, or a product of such crop or livestock in its unmanufactured state. (Sec. 1950(a)(5).)

(f) The Senate amendment defines the terms "commission merchants", "central filing system", "effective financing statement", "selling agent", "State", "person", and "Secretary of State". (Sec. 1950(a)(2); (a)(4); and (a)(8)–(a)(11).)

The House bill contains no comparable provision.

(g) The House bill contains congressional findings that—

(1) certain State laws permit a secured lender to enforce the lender's lien against a purchaser of farm products even though the purchaser (i) does not know that the sale violates the lender's security interest, (ii) lacks any practical method for discovering the existence of the security interest, and (iii) has no reasonable means to ensure that the seller uses the sale proceeds to repay the lender; and

(2) these State laws subject the purchaser of farm products to double payment for the products, thus inhibiting free competition in the market for farm products and burdening and obstructing interstate commerce in farm products.

The purpose of the House provision is to remove this burden on and obstruction to interstate commerce in farm products. (Sec. 1314 (a) and (b).)

The Senate amendment contains no comparable provision.

The Conference substitute deletes the text of the House and Senate provisions, and adopts the following new provision:

PROTECTION FOR PURCHASERS OF FARM PRODUCTS

SEC. 1324. (a) Congress finds that—

(1) certain State laws permit a secured lender to enforce liens against a purchaser of farm products even if the purchaser does not know that the sale of the products violates the lender's security interest in the products, lacks any practical method for discovering the existence of the security interest, and has no reasonable means to ensure that the seller uses the sales proceeds to repay the lender;

(2) these laws subject the purchaser of farm products to double payment for the products, once at the time of purchase, and again when the seller fails to repay the lender;

(3) the exposure of purchasers of farm products to double payment inhibits free competition in the market for farm products; and

(4) this exposure constitutes a burden on and an obstruction to interstate commerce in farm products.

(b) The purpose of this section is to remove such burden on and obstruction to interstate commerce in farm products.

(c) For the purposes of this section—

(1) the term "buyer in the ordinary course of business" means a person who, in the ordinary course of business, buys farm products from a person engaged in farming operations who is in the business of selling farm products.

(2) the term "central filing system" means a system for filing effective financing statements or notice of such financing statements on a statewide basis and which has been certified by the Secretary of the United States Department of Agriculture; the Secretary shall certify such system if the system complies with the requirements of this section; specifically under such system—

(A) effective financing statements or notice of such financing statements are filed with the office of the Secretary of a State.

(B) the Secretary of State records the date and hour of the filing of such statements;

(C) the Secretary of State compiles all such statements into a master list—

(i) organized according to farm products;

(ii) arranged within each such product—

(I) in alphabetical order according to the last name of the individual debtors, or, in the case of debtors doing business other than as individual, the first word in the name of such debtors; and

(II) in numerical order according to the social security number of the individual debtors or, in the case of debtors doing business other than as individuals, the Internal Revenue Service taxpayer identification number of such debtors; and

(III) geographically by county or parish; and

(IV) by crop year;

(iii) containing the information referred to in paragraph (4)(D);

(D) the Secretary of State maintains a list of all buyers of farm products, commission merchants, and selling agents who register with the Secretary of State, on a form indicating—

(i) the name and address of each buyer, commission merchant and selling agent;

(ii) the interest of each buyer, commission merchant, and selling agent in receiving the lists described in subparagraph (E); and

(iii) the farm products in which each buyer, commission merchant, and selling agent has an interest;

(E) the Secretary of State distribute regularly as prescribed by the State to each buyer, commission merchant, and selling agent on the list described in subparagraph (D) a copy in written or printed form of those portions of the master list described in paragraph (C) that cover the farm products in which such buyer, commission merchant, or selling agent has registered an interest;

(F) the Secretary of State furnishes to those who are not registered pursuant to (2)(D) of this section oral confirmation within 24 hours of any effective financing statement on request followed by written confirmation to any buyer of farm products buying from a debtor, or commission merchant or selling agent selling for a seller covered by such statement.

(3) The term "commission merchant" means any person engaged in the business of receiving any farm product for sale, on commission, or for or on behalf of another person.

(4) The term "effective financing statement" means a statement that—

(A) is an original or reproduced copy thereof;

(B) is signed and filed with the Secretary of State of a State by the secured party;

(C) is signed by the debtor;

(D) contains,

(i) the name and address of the secured party;

(ii) the name and address of the person indebted to the secured party;

(iii) the social security number of the debtor or, in the case of a debtor doing business other than as an individual, the Internal Revenue Service taxpayer identification number of such debtor;

(iv) a description of the farm products subject to the security interest created by the debtor, including the amount of such products where applicable; and a reasonable description of the property, including county or parish in which the property is located;

(E) must be amended in writing, within 3 months, similarly signed and filed, to reflect material changes;

(F) remains effective for a period of 5 years from the date of filing, subject to extensions for additional periods of 5 years each by refiling or filing a continuation statement within 6 months before the expiration of the initial 5 year period;

(G) lapses on either the expiration or the filing of a notice signed by the secured party that the statement has lapsed, whichever occurs first;

(H) is accompanied by the requisite filing fee set by the Secretary of State; and

(I) substantially complies with the requirements of this subparagraph even though it contains minor errors that are not seriously misleading.

(5) The term "farm product" means an agricultural commodity such as wheat, corn,

soybeans, or a species of livestock such as cattle, hogs, sheep, horses, or poultry used or produced in farming operations, or a product of such crop or livestock in its unmanufactured state (such as ginned cotton, wool-clip, maple syrup, milk, and eggs), that is in the possession of a person engaged in farming operations.

(6) The term "knows" or "knowledge" means actual knowledge.

(7) The term "security interest" means an interest in farm products that secures payment or performance of an obligation.

(8) The term "selling agent" means any person, other than a commission merchant, who is engaged in the business of negotiating the sale and purchase of any farm product on behalf of a person engaged in farming operations.

(9) The term "State" means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands of the United States, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

(1) The term "person" means any individual, partnership corporation, trust, or any other business entity.

(11) The term "Secretary of State" means the Secretary of State or the designee of the State.

(d) Except as provided in subsection (e) and notwithstanding any other provision of Federal, State, or local law, a buyer who in the ordinary course of business buys a farm product from a seller engaged in farming operations shall take free of a security interest created by the seller, even though the security interest is perfected; and the buyer knows of the existence of such interest.

(e) A buyer of farm products takes subject to a security interest created by the seller if—

(1)(A) within 1 year before the sale of the farm products, the buyer has received from the secured party or the seller written notice of the security interest organized according to farm products that—

(i) is an original or reproduced copy thereof;

(ii) contains,

(I) the name and address of the secured party;

(II) the name and address of the person indebted to the secured party;

(III) the social security number of the debtor or, in the case of a debtor doing business other than as an individual, the Internal Revenue Service taxpayer identification number of such debtor;

(IV) a description of the farm products subject to the security interest created by the debtor, including the amount of such products where applicable, crop year, county or parish, and a reasonable description of the property and

(iii) must be amended in writing, within 3 months, similarly signed and transmitted, to reflect material changes;

(iv) will lapse on either the expiration period of the statement or the transmission of a notice signed by the secured party that the statement has lapsed, whichever, occurs first; and

(v) any payment obligations imposed on the buyer by the secured party as conditions for waiver or release of the security interest; and

(B) the buyer has failed to perform the payment obligations, or

(2) in the case of a farm product produced in a State that has established a central filing system—

(A) the buyer has failed to register with the Secretary of State of such State prior to the purchase of farm products; and

(B) the secured party has filed an effective financing statement or notice that covers the farm products being sold; or

(3) in the case of a farm product produced in a State that has established a central filing system, the buyer—

(A) receives from the Secretary of State of such State written notice as provided in subparagraph (c)(2)(E) or (c)(2)(F) that specifies both the seller and the farm product being sold by such seller as being subject to an effective financing statement or notice; and

(B) does not secure a waiver or release of the security interest specified in such effective financing statement or notice from the secured party by performing any payment obligation or otherwise; and

(f) What constitutes receipt, as used in this section, shall be determined by the law of the State in which the buyer resides.

(g)(1) Except as provided in paragraph (2) and notwithstanding any other provision of Federal, State, or local law, a commission merchant or selling agent who sells, in the ordinary course of business, a farm product for others, shall not be subject to a security interest created by the seller in such farm product even though the security interest is perfected and even though the commission merchant or selling agent knows of the existence of such interest.

(2) A commission merchant or selling agent who sells a farm product for others shall be subject to a security interest created by the seller in such farm product if—

(A) within 1 year before the sale of such farm product the commission merchant or selling agent has received from the secured party or the seller written notice of the security interest; organized according to farm products, that—

(i) is an original or reproduced copy thereof;

(ii) contains,

(I) the name and address of the secured party;

(II) the name and address of the person indebted to the secured party;

(III) the social security number of the debtor or, in the case of a debtor doing business other than as an individual, the Internal Revenue service taxpayer identification number of such debtor;

(IV) a description of the farm products subject to the security interest created by the debtor, including the amount of such products, where applicable, crop year, county or parish, and a reasonable description of the property, etc.; and

(iii) must be amended in writing, within 3 months, similarly signed and transmitted, to reflect material changes;

(iv) will lapse on either the expiration period of the statement or the transmission of a notice signed by the secured party that the statement has lapsed, whichever occurs first; and

(v) any payment obligations imposed on the commission merchant or selling agent by the secured party as conditions for waiver or release of the security interest; and

(B) the commission merchant or selling agent has failed to perform the payment obligations;

(C) in the case of a farm product produced in a State that has established a central filing system—

(i) the commission merchant or selling agent has failed to register with the Secretary of State of such State prior to the purchase of farm products; and

(ii) the secured party has filed an effective financing statement or notice that covers the farm products being sold; or

(D) in the case of a farm product produced in a State that has established a central filing system, the commission merchant or selling agent—

(i) receives from the Secretary of State of such State written notice as provided in subsection (c)(2)(E) or (c)(2)(F) that specifies both the seller and the farm products being sold by such seller as being subject to an effective financing statement or notice; and

(ii) does not secure a waiver or release of the security interest specified in such effective financing statement or notice from the secured party by performing any payment obligation or otherwise.

(3) What constitutes receipt, as used in this section, shall be determined by the law of the State in which the buyer resides.

(h)(1) A security agreement in which a person engaged in farming operations creates a security interest in a farm product may require the person to furnish to the secured party a list of the buyers, commission merchants, and selling agents to or through whom the person engaged in farming operations may sell such farm product.

(2) If a security agreement contains a provision described in paragraph (1) and such person engaged in farming operations sells the farm product collateral to a buyer or through a commission merchant or selling agent not included on such list, the person engaged in farming operations shall be subject to paragraph (3) unless the person—

(A) has notified the secured party in writing of the identity of the buyer, commission merchant, or selling agent at least 7 days prior to such sale; or

(B) has accounted to the secured party for the proceeds of such sale not later than 10 days after such sale.

(3) A person violating paragraph (2) shall be fined $5,000 or 15 per centum of the value or benefit received for such farm product described in the security agreement, whichever is greater.

(i) The Secretary of Agriculture shall promulgate regulations not later than 90 days after the date of enactment of this Act, to aid states in the implementation and management of a central filing system.

(j) This section shall become effective 12 months after the date of enactment of this Act.

(23) Coordinated financial statements

The House bill prohibits Farmers Home Administration from using or requiring the submission of coordinated financial statements referred to in proposed regulations published on November 8, 1983, or requiring any substantially similar document in connection with any farm loan application. This provision would affect those loan applications submitted on or after the date of enactment. (Sec. 1315.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment that specifies that the prohibition against using a "coordinated financial statement" only applies to the document referred to in proposed regulations published on November 8, 1983.

(24) Regulatory restraint resolution

The House bill makes various findings that high production costs and low commodity prices have subjected many agricultural producers to severe economic hardship through no fault of their own, making them unable to meet loan repayment schedules in a timely fashion and that a policy of adverse classification of agricultural loans by bank examiners will trigger a wave of foreclosures and similar actions by banks and thus depress land and equipment values and have a devastating effect on farmers, banks, and rural areas.

The House bill also provides that it is the sense of Congress that bank examiners exercise caution and restraint and consider not only farmers' current flow but also their loan collateral and ultimate repayment ability in evaluating farmers' loans. This consideration should be given as long as the adverse cost-price squeeze impairs farm borrowers' abilities to make scheduled loan payments. (Sec. 1316.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(25) Farm Credit Report

The House bill directs the President to prepare and submit to Congress before November 1, 1985, the President's findings and recommendations concerning the continued sound and efficient operation of the Farm Credit System. (Sec. 1317.)

The Senate amendment requires that the Chairman of the Board of Governors of the Federal Reserve System, in consultation with the Secretary of Agriculture and the Governor of the Farm Credit Administration, conduct a study of methods to ensure the availability of adequate credit for farmers on reasonable terms. The study must evaluate (1) the financial circumstances of lenders and borrowers of farm credit and (2) the structure, performance, and conduct of the Farm Credit System. The Chairman of the Board of Governors of the Federal Reserve System must make a report to the House and Senate agriculture committees containing the results of the study, together with any comments and recommendations for providing a sound and reasonable credit program, not later than 180 days.

The Senate amendment also requires the Governor of the Farm Credit Administration to conduct a study into the need for an insurance fund to be used to insure Farm Credit System institutions against loan losses, and for any other purpose that would help stabilize the System's financial condition and provide for protection of borrower capital. In conducting the study, the Governor must consider the advisability of using the revolving fund provided in section 4.1 of the Farm Credit Act to provide startup capital for the insurance fund and estimate the amount and level of future assessments on System institutions that would be necessary to ensure such fund's long-term liquidity. A report of the results of the study must be submitted to the House and Senate agriculture committees within 180 days of the date of enactment of the bill. (Sec. 1718.)

The Conference substitute adopts the Senate provision with an amendment that deletes the requirement for the Chairman of the Board of Governors of the Federal Reserve System to conduct a study of agricultural credit. The amendment retains the Senate provision which requires the Farm Credit Administration to conduct a study into the need for an insurance fund to be used to insure Farm Credit System institutions against loan losses, and for any other purpose that would help stabilize the System's financial condition and provide for protection of borrower capital. In conducting the study, the FCA must consider the advisability of using the revolving fund provided in section 4.1 of the Farm Credit Act to provide startup capital for the insurance fund and estimate the amount and level of future assessments on System institutions that would be necessary to ensure such fund's long-term liquidity. A report of the results of the study must be submitted to the House and Senate agriculture committees within 180 days of the date of enactment of the bill.

(26) Continuation of small farmer training and technical assistance program

The House bill requires the Secretary of Agriculture to maintain the Farmers Home Administration small farmer training and technical assistance program at substantially current levels. (Sec. 1319.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment limiting the authorization for such program to fiscal years 1986, 1987, and 1988.

(27) Nonsupervised accounts

The House bill amends section 312 of the Act to require the Secretary of Agriculture to reserve at least 10 percent of the proceeds of any farm operating loan. Such proceeds are to be placed in a nonsupervised bank account for use at the borrower's discretion for necessary family living needs or for purposes not inconsistent with the previously agreed upon farm or ranch plans of operation. If this reserve is exhausted, the Secretary may review and adjust the plan with the borrower, and consider such action as loan rescheduling, extending more credit, using income proceeds to pay necessary farm, home and other expenses, or using additional available loan servicing. (Sec. 1320.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment restricting the amount of funds reserved to 10 percent of the amount of the loan or $5,000, whichever is less.

(28) Prompt application review and availability of loan proceeds

(a) The House bill adds a new section 333A to the Act to require the Secretary of Agriculture to: (1) approve or disapprove a completed application for a loan or loan guarantee under the Act and notify the applicant within 45 days after receipt of a completed application; and (2) inform the applicant who submits an incomplete application of the reasons why it is incomplete within 5 days after receipt of the application. The Secretary is required to provide the loan funds to an insured loan applicant within 5 days of approval of the application, unless the applicant approves a longer period, or, if such funds are not available for such purpose, as soon as practicable, but no later than 5 days after sufficient funds become available. (Sec. 1321.)

The Senate amendment contains comparable provisions, except that the time periods are different. Instead of 45 days for action after receipt of an application, the Senate amendment requires action within 90 days. Instead of 5 days for notification regarding an incomplete application, the Senate amendment provides for a 20-day period. Instead of 5 days for the provision of loan funds to the borrower, the Senate amendment provides for 15 days. (Sec. 1710.)

The Conference substitute adopts the Senate provision with an amendment changing the period for action on an FmHA loan application from 90 to 60 days.

(b) The House bill provides that, if an application is disapproved initially but the decision is reversed or revised because of an administrative appeal or judicial action, the Secretary must act on the application within 5 days. If the Secretary fails to comply with the time deadlines for approved loans or loans guaranteed that are specified in the preceding sentence and in paragraph (a) above, the Secretary must reduce the interest payments on an insured loan, and make payments on behalf of the borrower on a loan that has been guaranteed to cover the interest accruing during the time the Secretary is not in compliance. The Secretary is required to inform all loan applicants of the requirements of new section 333A when the Secretary receives the applications. (Sec. 1321.)

The Senate amendment contains no comparable provisions.

The Conference substitute adopts the House provision with an amendment changing the period for action after reversal of a decision from 5 to 15 days and deleting the provision that requires the Secretary to reduce interest payments on an insured loan and make payments on behalf of the borrower on a guaranteed loan if the Secretary fails to take action within the required 15 days.

(c) The Senate amendment requires the Secretary to ensure that a request for designation as an approved lender be reviewed and acted upon within 15 days of receipt of a lender's complete application for such status. (Sec. 1710.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(d) The Senate amendment directs the Secretary to use other Departmental personnel to aid FmHA in expeditiously processing applications, to have such personnel work overtime, if necessary, and to contract out for assistance (Secs. 1710 and 1948.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

The conferees urge the Secretary of Agriculture to give the highest priority to permit the continued use of temporary staff help in those local Farmers Home Administration offices where it is deemed necessary in order to deliver loan processing servicing, and other farm loan responsibilities on a timely basis to farmer-borrowers.

(29) Loan program appeals

(a) The House bill provides that the Secretary of Agriculture must provide FmHA borrowers and recipients of loan guarantees, and applicants for loans and guarantees, who have been directly and adversely affected by a decision of the Secretary under the Act with the right to (i) written notice, (ii) an opportunity for an informal meeting, and (iii) an opportunity for a hearing on the record with respect to the decision. (Sec. 1322.)

The Senate amendment contains a similar provision, except the amendment does not specify whether the hearing is on the record. (Sec. 1711.)

The Conference substitute adopts the Senate provision.

(b) The House bill requires the Secretary to establish procedures for informal meetings between appellants and FmHA officials to discuss adverse decisions under the Act.

The procedures must require that (1) such an informal meeting take place (unless waived) before the formal hearing may occur; (2) the informal meeting be completed within thirty days after the notice of the adverse decision; (3) the original decision maker be directly involved in the informal meeting; (4) waiver of the informal meeting if the appellant and official agree that it would not likely avoid a formal appeal; and (5) written notice to the appellant of any decision reached after the informal meeting and, if the decision is adverse, the reason therefor. Even if waiver of the informal meeting is agreed to, the appellant must be notified by the Secretary of the right to a formal hearing. The reconsidered decision by the Secretary becomes the record for purposes of appeal. (Sec. 1322.)

The Senate amendment requires that, if the appellant requests it, an informal meeting be held with the appellant prior to the start of any formal appeal, but the amendment does not specify any detailed procedure for such informal meetings. (Sec. 1711(a).)

The Conference substitute adopts the Senate provision.

(c) The House bill specifies a large number of particulars with regard to review by an administrative law judge, after the informal review process, of any decision adverse to the loan applicant or borrower, including procedures for holding hearings at FmHA offices, the scope of permissible evidence at the hearings, a requirement for tape recording of hearings, the scope of the administrative law judge's authority, requirements for the Secretary to publish the judge's decision, review of the decision on appeal, and abbreviated time periods for the issuance of opinions and the making of appeals. (Sec. 1322.)

The Senate amendment has no comparable provision.

The Conference substitute deletes the House provision.

(d) The Senate amendment provides that the Secretary must conduct a study of the administrative appeals procedure used in the FmHA farm loan programs. The Secretary must examine—

(1) the number and type of appeals initiated by loan applicants and borrowers;

(2) the extent to which initial administrative actions are reversed on appeal and the reasons that such actions are reversed, modified, or sustained on appeal;

(3) the number and disposition of appeals in which the loan applicant or borrower is represented by legal counsel;

(4) the quantity of time required to complete action on appeals and the reasons for delays;

(5) the feasibility of using administrative law judges in the appeals process; and

(6) the desirability of electing members of the Farmers Home Administration county committees.

The Secretary must submit a report of the results of this study to the House and Senate agriculture committees by September 1, 1986. (Sec. 1711(b).)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision.

(30) Family farm restriction

The House bill amends sections 302 and 311 of the Act to add specific language concerning the holders of the entire interest in an entity applying for a farm ownership or farm operating loan who are related by blood or marriage and who all are or will become farm operators. If each holder's ownership interest separately amounts to not larger than a family farm, then the entity qualified for a loan even if, taken together, the interests amount to larger than a family farm. (Sec. 1323.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(31) Release of normal income security

The Senate amendment provides that the Secretary of Agriculture must release from normal income security an amount of funds sufficient to pay a borrower's essential household and farm operating expenses. The Secretary need not release funds if the Secretary determines the loan should be accelerated. The amendment defines the term "normal income security" as it is defined in 7 CFR sec. 1962.17(b) (Jan. 1, 1985). (Note: 7 CFR sec. 1962.17(b) defines "normal income security" as all security not considered basic security, including crops, livestock, poultry, products, and other property that are sold in operating the farm. "Basic security" is defined by regulation as all equipment and foundation herds and flocks that serve as the basis for the farming operation.) (Sec. 1713.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(32) Loan summary statements

The Senate amendment amends section 337 of the Act to require, that, on the request of a borrower, the Secretary of Agriculture must furnish a loan summary statement to such borrower in connection with any loan insured under the Act that describes the status of each loan of the borrower during the summary period. The statement must set forth the details of each loan for the summary period, including the interest rate, outstanding principal due at the beginning of the period, amount of payments made during the period, amount due at the end of the period, allocation of payments (and the system used to make such allocation), total amount due on all loans at the end of the period, any delinquency, a schedule of payments due, and the manner in which the borrower can obtain more information on the status of each loan. (Sec. 1714.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(33) Interest rate reduction program

Effective for the period from date of enactment until September 30, 1988, the Senate amendment adds a new section 350 to the Act. The new section requires the Secretary of Agriculture to establish an interest rate reduction program for loans guaranteed under the Act and to enter into contracts to carry out the program. The interest rate a borrower pays to the lender will be reduced if the borrower cannot obtain credit elsewhere, cannot make timely loan payments, and has a total estimated cash income during the 12 months that begin on the date the contract is entered into that will equal or exceed the total estimated cash expenses during the same period. The lender will have to reduce the annual interest rate by a minimum percentage specified in the contract (but would be free to reduce the interest rate further). The Secretary will then pay the lender up to 50 percent of the cost of reducing the interest rate, so long as these payments do not exceed the cost to the government of reducing the rate by more than 2 percent. The term of the interest rate reduction contract may not exceed the remaining loan term, or 3 years, whichever is shorter. The Agricultural Credit Insurance Fund may be used to carry out this program, and the total amount of funds used by the Secretary to implement it cannot exceed $490,000,000. (Sec. 1716.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(34) Study of farm and home plan

The Senate amendment requires that a study be made of the appropriateness of the farm and home plan used by FmHA in connection with loans made or insured under the Act. If, as a result of the study, the Secretary of Agriculture finds the plan form to be inappropriate, the Secretary must evaluate other alternative forms, and need to develop a new form, and specify the steps that should be taken to improve or replace the current form. The Secretary must report the results of this study to both the House and Senate agriculture committees no later than 120 days after the date of enactment of the bill. (Sec. 1717.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(35) Security for loans

The Senate amendment provides that, notwithstanding any other provision of the Consolidated Farm and Rural Development Act, to be eligible for a loan under such Act, a borrower must—

(1) provide only such security as the Secretary of Agriculture determines is necessary to secure the loan during its term;

(2) dispose of all real property that the Secretary determines is not essential to the operation of the borrower's enterprise;

(3) in the case of an operating loan for annual production of crops or livestock, pledge such crops or livestock and any other property that the Secretary determines is necessary to secure the loan;

(4) in the case of a real estate loan, pledge real estate to secure such loan; and

(5) in the case of a loan secured by chattels whose loss would jeopardize the interests of the lender, insure such chattels against hazards customarily covered by insurance.

If the borrower provides security for a loan in the manner outlined in the preceding paragraph, the Secretary cannot require such borrower to pledge additional security as a condition of eligibility for the consolidation, rescheduling, reamortization or deferral of payment of such loan. (Sec. 1722.)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(36) Extension of Credit to all Rural Utilities

The Senate amendment amends the Farm Credit Act of 1971 to expand the category of rural utilities eligible to borrow from the banks for cooperatives. Current law provides that, in order to be eligible to borrow from the banks for cooperatives, 60 percent of the voting control of a rural utility cooperative must be held by farmers, producers or harvesters of aquatic products, or other eligible cooperatives. Under the provision in the Senate amendment, such eligibility would be expanded to include cooperatives and other entities that have (1) received a loan, loan commitment, or loan guarantee from the Rural Electrification Administration, (2) received a loan or commitment from the Rural Telephone Bank, or (3) been certified by the Administrator of REA to be eligible for such a loan, loan commitment, to loan guarantee. In addition, subsidiaries of such cooperatives or other entities will be eligible to borrow from the banks for cooperatives. (Sec. 1719.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

TITLE XIV—AGRICULTURAL RESEARCH, EXTENSION, AND TEACHING

(1) Short title

The House bill designates this title as the "National Agricultural Research, Extension, and Teaching Policy Act Amendments of 1985". (Sec. 1401)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(2) Findings

The House bill revises the congressional findings set out in section 1402 (congressional findings) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (hereinafter referred to as the "1977 Act") to revise the findings by adding statements that—(a) it is critical that emerging agricultural-related technologies, economic changes, and sociological and environmental developments be analyzed on a continuing basis in an interdisciplinary fashion with respect to their effect on agriculture; (b) biotechnology guidelines and regulations must be made consistent throughout the Federal government so that they promote scientific development and protect the public, and the biotechnology risk assessment provisions used by Federal agencies must be standardized; and (c) expanded research programs in the uses of conservation and forest and range production practices is needed to develop more economical and effective management systems, and such efforts should include incorporating water and soil-saving technologies into current and evolving production practices; developing more cost-effective and practical conservation technologies; managing water in stressed environments, protecting the quality of the Nation's surface water and groundwater resources; establishing integrated organic farming research projects; developing better targeted pest management systems; and improving forest and range management technologies. The House bill also revises the current description of the need for increased efforts in the area of international food and agriculture by stressing the need for greater exchange of agricultural knowledge and information to improve food and agricultural progress, and for a dedicated effort by the Federal government, the State cooperative institutions and other colleges and universities to expand international food and agricultural research, extension, and teaching programs. The House bill also makes technical changes to the text of section 1402. (Sec. 1402.)

The Senate amendment contains no comparable provisions.

The Conference substitute adopts the House provision.

(3) Responsibilities of the Secretary of Agriculture

(a) The House bill expands the responsibilities of the Secretary of agriculture with respect to agricultural research, to include the coordination of efforts by the States, State cooperative institutions, State extension services, the Joint Council, the Advisory Board, and other appropriate institutions, in assessing and developing a plan for the effective transfer of new technologies, including biotechnology, to the farming community, with particular emphasis on addressing the unique problems of small and medium-sized farms in gaining information about these technologies. (Sec. 1404.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(b) The Senate amendment deletes the existing requirement that the Secretary develop in conjunction with others a long-term needs assessment for food, fiber, and forest products and determine the research requirements necessary to meet such needs. (Sec. 1503.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(c) The Senate amendment makes it the responsibility of the Secretary to establish appropriate controls with respect to the development and use of the application of biotechnology to agriculture. (Sec. 1503.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(4) Joint Council on Food and Agricultural Sciences

(a) The House bill extends the term of the Joint Council on Food and Agricultural Sciences to September 30, 1990. (Sec. 1405(a).)

The Senate amendment extends the term to September 30, 1989. (Sec. 1504(a).)

The Conference substitute adopts the House provision.

(b) The House bill adds to the duties of the Joint Council responsibility for coordinating with the Secretary of Agriculture in assessing the current status of, and developing a plan for, the effective transfer of new technologies to the farming community. (Sec. 1405(b).)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(c) The Senate amendment provides that the Secretary shall appoint two of the members of the Joint Council from among distinguished persons who are food technologists from accredited or certified departments of food technology to ensure that the views of food technologists are considered by the Joint Council. (Sec. 1504(b).)

The House amendment contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to change the number of food technologists appointed to the Joint Council from 2 to 1.

(5) National Agricultural Research and Extension Users Advisory Board

(a) The House bill extends the term of the National Agricultural Research and Extension Users Advisory Board to September 30, 1990. (Sec. 1406(a).)

The Senate amendment extends the term of the Advisory Board to September 30, 1989. (Sec. 1505(a).)

The Conference substitute adopts the House provision.

(b) The Senate amendment increases the membership of the Advisory Board from 25 to 27 by adding members who are food technologists from accredited or certified departments of food technology, as determined by the Secretary of Agriculture. (Sec. 1505(b).)

The House amendment contains no comparable provision.

The Conference substitute deletes the Senate provision.

(c) The House bill adds to the duties of the Advisory Board responsibility for coordinating with the Secretary in asssessing the current status of, and developing a plan for, the effective transfer of new technologies to the farming community. (Sec. 1406(b).)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(d) The Senate amendment deletes the requirement that the Advisory Board submit a report, not later than February 20 of each year, to the President and the Senate and House agriculture and appropriations committee on the Advisory Board's appraisal of the President's proposed budget for the food and agricultrural sciences for the fiscal year beginning in such year, and provides that such appraisal of the proposed budget of the President be included in the Advisory Board's annual July 1 statement, to the Secretary, of recommendations on federally supported agricultural research and extension programs. Further, it requires the Secretary to furnish copies of the July 1 statement and appraisal to the Senate and House agriculture and appropriations committees. (Sec. 1505(c).)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(6) Project termination

The House bill requires that in the event a research project being conducted by the Agricultural Research Service is proposed to be terminated, written notice of such intended action must be given to the House and Senate agriculture committees at least 15 days prior to the date of the proposed termination of the project. (Sec. 1407.)

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

(7) Federal-State partnership

(a) The House bill adds a new subsection to section 1409A of the 1977 Act, which addresses the Federal-State research, extension, and teaching partnership. The new subsection provides that in order to promote research for purposes of developing agricultural policy alternatives, the Secretary of Agriculture must designate at least one State cooperative institution to conduct research in an interdisciplinary fashion and to report on a regular basis with respect to the effect of emerging technological, economic, sociological, and environmental developments on the structure of agriculture. The House bill also provides that support for this effort should include grants to examine the role of various food production, processing, and distribution systems that may primarily benefit small and medium-sized family farms, such as diversified farm plans, energy, water, and soil conservation technologies, direct and cooperative marketing, production and processing cooperatives, and rural community resource management. (Sec. 1408(2).)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment to encourage (instead of require) the Secretary to designate at least one State Cooperative institution.

(b) The House bill adds an additional new subsection to section 1409A that provides that in order to address more effectively the critical need for reducing farm input costs, improving soil, water, and energy conservation on farms and in rural areas, using sustainable agricultural methods, adopting alternative processing and marketing systems, and encouraging rural resources management, the Secretary must designate at least one State agricultural experiment station and one Agricultural Research Service facility to examine these issues in an integrated and comprehensive manner, while conducting ongoing pilot projects contributing additional research through the Federal-State partnership. (Sec. 1408(2).)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment to encourage (instead of require) the Secretary to designate at least one State agricultural experiment station and one agricultural research service facility.

(8) Competitive, special and facilities research grants

(a) The House bill broadens the definition of "high priority research" for purposes of awarding competitive research grants under section 2(b) of the Act of August 4, 1965, (A) to include research that emphasizes biotechnology in the development of new and innovative products, methods and technologies that increase agricultural and forest production, and (B) to include interdisciplinary agricultural research on the effect of emerging technologies, economic changes, and sociological and environmental developments on the structure of agriculture. (Sec. 1410(a)(1).)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment to delete purpose "(B)".

(b) The Senate amendment adds research to develop new and alternative industrial uses for agricultural crops to the definition of "high priority research". (Sec. 1508(a).)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(c) The House bill provides for a restriction prohibiting competitive research or special research grants from being made, (A) to renovate or refurbish research spaces in buildings or the acquisition of fixed equipment or (B) for the planning, repair, rehabilitation, acquisition, or construction of a building or a facility. (Sec. 1410(a)(2).)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(d) The House bill, effective October 1, 1985, extends the authorization for appropriations for competitive research grants under the Act in such sums as may be necessary for each of the fiscal years 1986 through 1990. (Sec. 1410(b)(3).)

The Senate amendment extends the authorization for appropriations for competitive research grants at a level of $70,000,000 for each of the fiscal years 1986 through 1989. (Sec. 1508(b).)

The Conference substitute adopts the Senate provision with an amendment to extend the authorization for appropriations at the stated level through fiscal year 1990.

(e) The House bill requires the Secretary of Agriculture to retain 4 percent of the amount appropriated each fiscal year for competitive grants to pay administrative costs incurred by the Secretary in carrying out the competitive research grants program. (Sec. 1410(b)(3).)

The Senate bill contains no comparable provision.

The Conference substitute adopts the House provision with an amendment to authorize (instead of require) the Secretary to retain 4 percent of the appropriated amounts.

(f) The House bill requires the Secretary to retain 4 percent of the amount appropriated each fiscal year for special research grants to pay administrative costs incurred by the Secretary in carrying out the special research grants program. (Sec. 1410(a)(5).)

The Senate amendment contains no comparable provision.

The Coference substitute adopts the House provision with an amendment to authorize (instead of require) the Secretary to retain 4 percent of appropriated amounts.

(9) Grants for schools of veterinary medicine

The Senate amendment increases from 4 to 5 percent the percentage of funds appropriated for grants to States to establish or expand schools of veterinary medicine that would be retained by the Secretary of Agriculture for administration, program assitance, and program coordination. (Sec. 1509.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(10) Research facilities

(a) The Senate amendment provides that grants under the Research Facilities Act be on a matching funds basis. (Sec. 1411(a).)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(b) The House bill, effective October 1, 1985, extends the authorization for appropriations for grants to eligible institutions under the Research Facilities Act at a level of $20,000,000 for each of the fiscal years 1986 through 1990. (Sec. 1411(d)(1).)

The Senate amendment extends the authorization for appropriations for grants to eligible institutions at a level of $31,000,000 for each of the fiscal years 1986 through 1989. (Sec. 1510(d).)

The Conference substitute adopts the House provision.

(c) The House bill amends section 4(b) of the Research Facilities Act to repeal the current allocation formula and to require 50 percent matching of grant funds under the research facilities program (Sec. 1411(d)(2).)

The Senate amendment deletes section 4(b), but adds to section 4(a) a provision that the amount of the non-Federal share required for a matching grant under the Facilities Act be determined by the Secretary. (Sec. 1510(d).)

The Conference substitute adopts the House provision with an amendment to delete reference to a specific 50 percent matching requirement. Matching would still be required but at a level determined by the Secretary.

(d) The Senate amendment also deletes reference in section 5 of the Research Facilities Act to the requirement that the Secretary provide for a coordinated research program among eligible institutions in each State having more than one eligible institution. (Sec. 1510(f).)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(e) The House bill repeals the provisions of section 8 of the Research Facilities Act concerning the allocation of funds. (Sec. 1411(h).)

The Senate amendment makes conforming amendments to section 8 of the Research Facilities Act by deleting references to the allocation of funds. (Sec. 1510(i).)

The Conference substitute adopts the House provision.

(f) The House bill amends section 10(3) of the Research Facilities Act to provide that the Secretary is required to report to Congress annually concerning those eligible institutions, if any, that were prevented, because of failure to repay funds as required under the Act, from receiving any grant under the Act. (Sec. 1411(j).)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(g) The House bill will statutorily designate the Act as the "Research Facilities Act." (Sec. 1410(1).)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(11) Grants and fellowships for food and agricultural sciences education

(a) The House bill, effective October 1, 1985, extend the authorization for appropriations for grants and fellowships for food and agricultural sciences education in such amounts as may be necessary for each of the fiscal years 1986 through 1990. (Sec. 1412(b).)

The Senate amendment extends the authorization for appropriations for the grants and fellowships at a level of $50,000,000 for each of the fiscal years 1986 through 1989. (Sec. 1511(b).)

The Conference substitute adopts the Senate provision with an amendment to extend the authorization for appropriations at the stated level through fiscal year 1990.

(b) The House bill exempts panels that review applications for grants, from the provisions of the Federal Advisory Committee Act and related provisions of the 1977 Act. (Sec. 1412(c)).

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(12) Animal health and disease research

(a) The House bill extends the term of the Animal Health Science Research Advisory Board to September 30, 1990. (Sec. 1415.)

The Senate amendment extends the term of the Advisory Board to September 30, 1989. (Sec. 1513(a).)

The Conference substitute adopts the House provision.

(b) The House bill extends the authorization for appropriations for continuing animal health and disease research programs at the current level of $25,000,000 annually for the years, 1986 through 1990. (Sec. 1416.)

The Senate amendment extends such annual authorization for years 1986 through 1989. (Sec. 1513(b).)

The Conference substitute adopts the House provision.

(c) The House bill extends the authorization for appropriations for research on national or regional animal health or disease problems at the current level of $35,000,000 annually through September 30, 1990. (Sec. 1417.)

The Senate amendment extends such annual authorization through September 30, 1989. (Sec. 1513(c).)

The Conference substitute adopts the House provision.

(13) Extension at 1890 Land-Grant Colleges, including Tuskegee Institution

The House bill amends section 1444 of the 1977 Act by extending indefinitely the requirement that an amount not less than 6 percent of the total appropriations for each year under the Smith-Lever Act be appropriated for extension at 1890 land-grant colleges, including the Tuskegee Institute. The House bill also requires that an amount not less than 6 percent of the total amounts appropriated under related acts pertaining to cooperative extension work at the land-grant institutions identified in the Act of May 8, 1914, be appropriated for extension at 1890 land-grant colleges, including the Tuskegee Institute. (Sec. 1418.)

The Senate amendment extends through fiscal year 1989 the requirement that an amount not less than 6 percent of the total appropriations for each year under the Smith-Lever Act be appropriated for extension at 1890 land-grant colleges, including the Tuskegee Institute. (Sec. 1514(a).)

The Conference substitute adopts the House provision.

(14) Grants to upgrade 1890 Land-Grant Colleges extension facilities

The House bill declares the intent of Congress to assist the 1890 land-grant colleges, including Tuskegee Institute, in the acquisition and improvement of extension facilities and equipment so that eligible institutions may participate fully with the State cooperative extension services in a balanced way in meeting the extension needs of the people of their respective States. The House bill authorizes to be appropriated, for the grant program under this provision, $10 million for each of the fiscal years 1986 through 1990, such sums to remain available until expended. Four percent of the sums appropriated would be available to the Secretary of Agriculture for administration of the grants program under this provision and the remainder would be available for grants to the eligible institutions for the purpose of assisting them in the purchase of equipment and land, and the planning, construction, alteration, or renovation of buildings, to provide adequate facilities to conduct extension work in their respective States. Grants would be made in such amounts and under such terrms as the Secretary determines necessary. Federal funds provided under this provision would not be used for the payment of any overhead costs of the eligible institution. (Sec. 1419.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(15) Research at 1890 Land-Grant Colleges, including Tuskegee Institute

The House bill amends section 1445(g)(2) of the 1977 Act, which authorizes appropriations to support agricultural research at 1890 land-grant colleges, including the Tuskegee Institute, to provide that whenever it appears to the Secretary of Agriculture, from the annual statement of receipts and expenditures of funds by any eligible institution, that an amount in excess of 5 percent of the preceding annual appropriation allotted to that institution under that section remains unexpended, such amount in excess of 5 percent of the preceding annual appropriation allotted to that institution would be deducted from the next succeeding annual allotment to the institution. (Sec. 1420(2).)

The Senate amendment provides that no more than 5 percent of the funds received by an institution under section 1445 of the 1977 Act in any fiscal year may be carried forward to the succeeding fiscal year. (Sec. 1514(b).)

The Conference substitute adopts the House provision.

(16) Agricultural information exchange with Ireland

The House bill requires the Secretary of Agriculture to undertake discussions with the Government of Ireland that may lead to an agreement that will provide for the development of a program between the United States and Ireland whereby there will be a greater exchange of agricultural scientific and educational information and personnel, the fostering of joint investment ventures, cooperative research, and the expansion of United States trade with Ireland. The House bill requires the Secretary to periodically report to the House and Senate committees on agriculture on the progress and accomplishments with regard to the development of the program. (Sec. 1423.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(17) Evaluation of the Extension Service and the Cooperative Extension Services

The House bill repeals section 1459 of the 1977 Act which required the Secretary of Agriculture to report to Congress not later than March 31, 1979, an evaluation of the Extension Service and the cooperative extension services. (Sec. 1424.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(18) Authorization of appropriations for certain agricultural research programs

(a) The House bill amends section 1463(a) of the 1977 Act to extend the authorization for appropriations for agricultural research programs, with certain exceptions, at the level of $600,000,000 for fiscal year 1986, $610,000,000 for fiscal year 1987, $620,000,000 for fiscal year 1988, $630,000,000 for fiscal year 1989, and $640,000,000 for fiscal year 1990. (Sec. 1428(a).)

The Senate amendment extends the authorization for appropriations at the level of $890,000,000 for each of the fiscal years 1986-1989 and provides that not less than $500,000 of such amounts would be made available each fiscal year for research to control or eradicate Africanized honey bees. (Sec. 1517(a).)

The Conference substitute adopts the House provision. The conferees encourage the Secretary of Agriculture to provide adequate funding each fiscal year for research to control or eradicate Africanized honey bees.

(b) The House bill amends section 1463(b) of the 1977 Act to extend the authorization for appropriations for agricultural research at State agricultural experiment stations at the level of $270,000,000 for fiscal year 1986, $280,000,000 for fiscal year 1987, $290,000,000 for fiscal year 1988, $300,000,000 for fiscal year 1989, and $310,000,000 for fiscal year 1990. (Sec. 1428(b).)

The Senate amendment extends the authorization for appropriations at the level of $300,000,000 for each of the fiscal years 1986 through 1989. (Sec. 1517(b).)

The Conference substitute adopts the House provision.

(19) Authorization for appropriations for extension education

The House bill amends section 1464 of the 1977 Act to extend the authorization for appropriations for certain agricultural extension programs at the level of $350,000,000 for fiscal year 1986, $360,000,000 for fiscal year 1987, $380,000,000 for fiscal year 1988, $400,000,000 for fiscal year 1989, and $420,000,000 for fiscal year 1990. (Sec. 1429.)

The Senate amendment amends section 1464 of the 1977 Act by consolidating all existing authorizations for appropriations for extension and related programs adminsitered or funded through the Extension Service and authorizing $380,000,000 for each of the fiscal years 1986 through 1989 for such programs. (Sec. 1518.)

The Conference substitute adopts the House provision with an amendment to change the program levels as follows: $370,000,000 for fiscal year 1986; $380,000,000 for fiscal year 1987; and $390,000,000 for fiscal year 1988. The levels of $400,000,000 for fiscal year 1989; and $420,000,000 for fiscal year 1990 would remain unchanged.

(20) Contracts, grants and cooperative agreements

The House bill provides that, with respect to the provision in the House bill and in the Senate amendment that any Federal agency may participate in any cooperative agreement relating to agricultural research, extension, or teaching by contributing funds through the appropriate agency of the Department of Agriculture, or otherwise when, such participation would be based on a mutual agreement that the objectives of the agreement will further the authorized programs of the contributing agency. (Sec. 1430.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(21) Restriction on treatment of indirect costs and tuition remission

The House bill amends section 1473 of the 1977 Act to permit the reimbursement of indirect costs in connection with cooperative agreements between the Secretary of Agriculture and State cooperative institutions when such agreements are funded under the provisions of the Foreign Assistance Act of 1961. The amount of indirect costs to be reimbursed would be negotiated on a case-by-case basis. (Sec. 1431.)

The Senate amendment amends section 1473 of the 1977 Act to provide that the prohibition on the use of funds for the reimbursement of indirect costs shall not apply

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to funds for international agricultural programs conducted by a State cooperative institution and administered by the Secretary, or to funds provided by a Federal agency for such purpose. The Secretary would limit the amount of the reimbursement to an amount necessary to carry out the program or agreement. (Sec. 1520.)

The Conference substitute adopts the Senate provision.

(22) Cost-reimbursement agreements

The Senate amendment authorizes the Secretary of Agriculture to enter into cost-reimbursable agreements with State cooperative institutions without regard to any requirement for competition, for the acquisition of goods or services, including personal services, to carry out agricultural research, extension, or teaching activities of mutual interest. Reimbursable costs under the agreements would include the actual direct costs of performance, as mutually agreed on by the parties, and the indirect costs of performance, not exceeding 10 percent of the direct cost. (Sec. 1520A.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(23) Technology development for small- and medium-sized farming operations

The House bill expresses the sense of Congress that the agricultural research, extension, and teaching activities conducted by the Department of Agriculture relating to the development, application, transfer, or delivery of agricultural technology, and, to the greatest extent practicable, any funding received by the Department of Agriculture for these activities, should be directed to technology that can be used effectively by small- and medium-sized farming operations. (Sec. 1432(a).)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(24) Special technology development research program

The Senate amendment contains certain funding provisions relating to the provisions in both the House bill (Sec. 1432) and Senate amendment (Sec. 1521) for cooperative agreements with private agencies, organizations and individuals to share the cost of research projects, or to allow the use of Federal facilities and services on a cost-sharing or cost-reimbursable basis, to develop new agricultural technology to further the research programs of the Department of Agriculture. The Senate amendment provides that beginning in fiscal year 1986 and extending through fiscal year 1989, not more than $3,000,000 of the funds appropriated to the Agricultural Research Service for each fiscal year may be used to carry out these agreements. The Senate amendment also requires cooperators under this provision to contribute matching funds from non-Federal sources in an amount equal to at least 50 percent of any Federal contribution; and limits the amount of funds or in kind assistance made available by the Secretary of Agriculture under this provision for a particular research project to $50,000 in any fiscal year or a total amount of $150,000.

The Conference substitute adopts the Senate provision.

(25) Supplemental and alternative crops

The House bill amends the 1977 Act to add a new section 1437C that requires the Secretary of Agriculture in fiscal years 1987 through 1989 to develop and implement a research and pilot project program for the development of supplemental and alternative crops, using such funds as are appropriated to the Secretary each fiscal year under the 1977 Act in order to assist producers of agricultural commodities whose livelihoods are threatened by the decline in demand of certain of their crops due to changes in consumption patterns or other related causes. The Secretary would use such research funding, special or competitive grants, or other means, as the Secretary determines, to further the purposes of this provision in the implementation of a comprehensive and integrated program.

The pilot program would include agreements, grants, and other arrangements to conduct comprehensive resource and infrastructure assessments, to develop and introduce supplemental and alternative income-producing crops, to develop and expand domestic and export markets for such crops, and to provide technical assistance to farm owners and operators, marketing cooperatives, and others. The Secretary would use the expertise and resources of the Agriculture Research Service, the Cooperative State Research Service, the Extension Service, and the land-grant colleges and universities for the purpose of carrying out this provision. (Sec. 1431.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(26) Aquaculture assistance programs

(a) The House bill amends section 1475 of the 1977 Act to include nonprofit private research institutions as eligible institutions to participate in aquaculture assistance programs under section 1475. The House bill also provides that with respect to State matching grants under section 1475(b), no more than 50 percent of the matching grant may be an in-kind contribution. In addition, the House bill expands the eligibility for aquaculture research, development, and demonstration centers under section 1475 to include State agricultural experiment stations, colleges and universities with aquacultural research capacity, and nonprofit private research institutions.

The Senate amendment contains no comparable provisions.

The Conference substitute adopts the House provision.

(b) The House bill provides that funds authorized under this section may be used for the acquisition or rehabilitation of existing buildings or facilities, or new construction to house aquaculture centers but limits the authorization for any one new building or facility to no more then $250,000.

The Senate amendment contains no comparable provision.

The Conference amendment deletes the House provision.

(c) The House bill provides that, to the extent practicable, aquaculture centers established under section 1475(b) would be geographically located so that they are representative of the regional aquaculture opportunities in the United States.

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(d) The House bill provides that the annual report of the Secretary on the aquaculture assistance programs would be submitted to the House Committee on Merchant Marine and Fisheries in addition to the President and certain other congressional committees. (Sec. 1434.)

The Senate amendment amends section 1475 of the 1977 Act to delete the requirement that the Secretary submit an annual report to the President and certain congressional committees on the aquaculture assistance programs. (Sec. 1522(a).)

The Conference substitute adopts the House provision.

(27) Aquaculture Advisory Board

The House bill amends section 1476(a) of the 1977 Act to extend the term of the Aquaculture Advisory Board through September 30, 1990. (Sec. 1435.)

The Senate amendment repeals section 1476 of the 1977 Act. (Sec. 1522(b).)

The Conference substitute adopts the Senate provision.

(28) Authorization of appropriations—aquaculture research

(a) The House bill extends the authorization for appropriations for aquaculture assistance programs at $7,500,000 for each of the fiscal years 1986 through 1990. (Sec. 1436(a).)

(a) The Senate amendment extends the authorization for appropriations at $7,500,000 for each of the fiscal years 1986 through 1989. (Sec. 1522(c).)

The Conference substitute adopts the House provision.

(b) The House bill amends section 1477(b) of the 1977 Act by deleting the requirement that funds so appropriated be allocated by the Secretary of Agriculture for work to be done as mutually agreed upon between the Secretary and the recipient institutions. (Sec. 1436(b).)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(c) The Senate amendment amends section 1477(b) of the 1977 Act by deleting the requirement that the Secretary consult with the Aquaculture Advisory Board in developing plans for the use of such funds. (Sec. 1522(c).)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(29) Rangeland Research Advisory Board

The House bill extends the term of the Rangeland Research Advisory Board to September 30, 1990. (Sec. 1437.)

The Senate amendment extends the term to September 30, 1989. (Sec. 1523(a).)

The Conference substitute adopts the House provision.

(30) Authorization of appropriations—rangeland research

The House bill extends the authorization for appropriations for rangeland research at the level of $10,000,000 annually through September 30, 1990. (Sec. 1438.)

The Senate amendment extends the authorization for appropriations at the level of $10,000,000 annually through September 30, 1989. (Sec. 1523.)

The Conference substitute adopts the House provision.

(31) Authorization of appropriations for Federal agricultural research facilities

The House bill authorizes appropriations for fiscal year 1988 and for each succeeding fiscal year in such sums as may be necessary for the planning, construction, acquisition, alteration, and repair of buildings and other public improvements, including the cost of acquiring or obtaining rights to use land of or used by the Agricultural Research Service, provided that the cost of planning any one facility may not exceed $500,000 and that the total cost of any one facility may not exceed $5 million. The House bill provides that not later than 60 days after the end of each of the fiscal years 1986 through 1990, the Secretary of Agriculture is required to report to the House and Senate agriculture committees on the location of each facility planned, constructed, acquired, repaired, or remodeled with funds appropriated under this provision in the fiscal year involved, and with respect to each building, laboratory, research facility and improvement, the amount of the funds obligated and expended in the fiscal year for each item. (Sec. 1439.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(32) Dairy goat research

The House bill amends section 1432(b)(5) of the National Agricultural Research, Extension, and Teaching Policy Act Amendments of 1981, effective October 1, 1985, to require the Secretary of Agriculture to make a grant of funds to an 1890 land-grant college, including the Tuskegee Institute, for dairy goat research for each of the fiscal years 1986 through 1990. (Sec. 1440.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(33) Grants to upgrade 1890 Land-Grant College research facilities

The House bill extends the authorization for appropriations for grants to upgrade 1890 land-grant college research facilities at the level of $10,000,000 for the fiscal year 1987. (Sec. 1441.)

The Senate amendment extends the authorization for appropriations at the level of $10,000,000 for each of the fiscal years 1986 through 1989. (Sec. 1524(b).)

The Conference substitute adopts the House provision.

(34) Smith-Lever Act

(a) The House bill amends section 2 of the Smith-Lever Act to provide that cooperative extension work would consist of the development of practical applications of research knowledge and the giving of instruction and practical demonstration of existing or improved practices or technologies in agriculture, the use of solar energy in agriculture, home economics, and rural energy. (Sec. 1443.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(b) The House bill amends section 3 of the Smith-Lever Act, to add a new provision to authorize the Secretary of Agriculture to conduct educational, instructional, demonstration, and publication distribution programs through the Extension Service, and to enter into cooperative agreements with private industry and individuals to share the cost, through private contributions, of funding such program. The House bill also provides that the Secretary may receive contributions from private sources for such purposes and may provide matching funds in an amount not greater than 50 percent of the contributions. No more than one-half of 1 percent of the funds appropriated to the Extension Service for each of the fiscal years 1986 through 1991 may be used to provide matching funds for this provision. The Secretary would be required to report to the House and Senate agriculture committees, within 1 year after enactment of the bill, on the progress of such programs and to make recommendations regarding how other similar private sector initiatives could be used by the Extension Service. (Sec. 1443.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment to delete (1) the requirement that no more than one-half of 1 percent of the funds appropriated to the Extension Service for each of the fiscal years 1986 through 1991 to be used to provide matching funds, and (2) the requirement that the Secretary report to the House and Senate Agriculture Committees.

(c) The House bill also requires the Secretary to conduct a study to determine if the funds appropriated after the date of enactment of the bill to carry out the Smith-Lever Act (except for the disadvantaged farmer program under section 8 of that Act) in excess of the aggregate amount so appropriated in fiscal year 1985 can be allocated more effectively among the States. The Secretary would be required to report to the House and Senate agriculture committees within one year after enactment of the bill on the results of the study and make recommendations regarding the allocation of these funds. (Sec. 1443.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(35) Market expansion research

(a) The House bill requires the Secretary of Agriculture, using available funds, to increase or intensify Department of Agriculture programs to develop technology to overcome barriers to expanded export sales of U.S. agricultural commodities and products. (Sec. 1129.)

The Senate amendment contains a comparable provision except that it does not contain the limitation regarding available funds. (Sec. 1526(a).)

The Conference substitute adopts the House provision.

(b) The Senate amendment requires the Secretary of Agriculture to carry out a research and development program to formulate new uses for farm or forest products, including industrial, new, and value-added products. The program would be carried out through grants, cooperative agreements, contracts, and interagency agreements. Appropriations to carry out the program would be authorized, and funds could be transferred from other accounts for use by the program. The Secretary of Agriculture would be required to use at least $10 million annually, in fiscal years 1986 through 1989, for the program. The Federal share of each project funded under this provision could not exceed 50 percent of the cost of the project. (Sec. 1526(b).)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to provide that not less than $10,000,000 of funds would be used by the Secretary to carry out the program provided sufficient matching fund requests were made.

(36) Pesticide resistence study

The House bill requires the Secretary of Agriculture to conduct a 1-year study on the detection and management of pesticide resistence and report on the study to the President and Congress. The study would include (a) a review of existing efforts to examine and identify the mechanisms, genetics, and ecological dynamics of target populations of insect and plant pests developing resistence to pesticides, and existing efforts to monitor current and historical patterns of pesticide resistence; and (b) a strategy for the establishment of a national pesticide resistence monitoring program involving Federal, State, and local agencies, as well as the private sector. (Sec. 1444.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment to encourage (instead of require) the Secretary to conduct the study.

(37) Expansion of education study

The Senate amendment requires the Secretary of Agriculture and the Secretary of Education to take such joint action as may be necessary to expand the scope of the Study of Agriculture Education on the Secondary Level, currently being conducted by the National Academy of Sciences and sponsored jointly by the Department of Agriculture and Education to include (A) a study of the potential use of modern technology in the teaching of agriculture programs at the secondary school level; and (B) recommendations of the National Academy of Sciences on how modern technology can be most effectively utilized in the teaching of agricultural programs at the secondary school level. Any increase in the cost of conducting the study as a result of expanding the scope of the study would be borne by the Secretary of Agriculture out of funds appropriated to the Department of Agriculture for research and education or from funds made available to the National Academy of Sciences from private sources. (Sec. 1527.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to authorize (instead of require) the Secretaries of Agriculture and Education to expand the education study.

(38) Critical agricultural materials

The Senate amendment amends section 5(b)(9) of the Critical Agriculture Materials Act to require the Secretary of Agriculture to carry out demonstration projects to promote the development or commercialization of native agricultural crops that would supply critical agricultural materials for strategic and industrial purposes (including projects designed to expand domestic or foreign markets for such crops). In carrying out the demonstration projects the Secretary would be authorized to (1) enter into a contract or cooperative agreement with, or provide a grant to, any person, or public or private agency or organization, to participate in, carry out, support, or stimulate the project; (2) make available for purposes of the contracts or agreements agricultural commodities or the products thereof acquired by the Commodity Credit Corporation under price support operations conducted by the corporation; or (3) use any funds appropriated under the Critical Agricultural Materials Act, or any funds provided by any person, or public or private agency or organization, to carry out the project or reimburse the Commodity Credit Corporation for agricultural commodities or products that are utilized in connection with such project.

The House bill contains no comparable provisions.

The Conference substitute adopts the Senate provision.

(39) Dietary assessment and studies

The House bill requires the Secretary of Agriculture and the Secretary of Health and Human Services to conduct and assessment of existing scientific literature and research concerning (A) the relationship between dietary cholesterol and blood cholesterol and human health and nutrition and (B) dietary calcium and its importance in human health and nutrition. The Secretaries must consult with Federal agencies involved in related research. Upon completion of the assessments, the Secretaries must each recommend such further studies as the Secretaries consider useful.

Not later than 1 year after the date of enactment of the bill, each Secretary must submit a report to the House Committee on Agriculture and Energy and Commerce and the Senate Committees on Agriculture, Nutrition and Forestry and Labor and Human Resources with the results of the assessments and recommendations for more complete studies including a protocol, feasibility assessment, budget estimates, and a timetable. (Sec. 1445.)

The Senate amendment contains similar provisions except that the dietary calcium study would include, at a minimum, a comprehensive investigation of skeletal integrity, and regulation of hypertension and in both studies the Secretaries would be required to request assistance from other agencies and private sector organizations as the Secretaries considered appropriate. (Sec. 1553, 1554.)

The Conference substitute adopts the House provision.

(40) Special grants for financially stressed farmers and dislocated farmers

The House bill amends section 502 of the Rural Development Act by adding a new subsection establishing a program during the period beginning on the date of enactment of this Act and ending 3 years thereafter which would provide special grants for education and counseling programs to develop income alternatives for farmers who have been adversely affected by the current farm and rural economic crisis and who have been displaced from farming. The Secretary would be authorized to provide support to mental health officials in developing outreach programs in rural areas. (Sec. 1447.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(41) Annual report on family farms

The House bill amends section 102(b) of the Food and Agriculture Act of 1977 to require the Secretary of Agriculture to include in the annual report to Congress on the status of the family farm the effect of current and proposed changes in tax laws on the family farm, new food and agricultural production and processing technological developments (especially in the area of biotechnology), the credit needs of familiy farms, an assessment of how U.S. economic and trade policies affect the financial operations of family farms, and an assessment of the affect of Federal farm programs on family farms. (Sec. 1448.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(42) Agricultural productivity research

The Senate amendment establishes a new program of agricultural productivity research. This program would:

provide for the definition of terms used in the program; (Sec. 1531.)

declare the findings of Congress that the long-term agricultural viability and profitability of the farms and ranches in the United States are dependant on highly productive and efficient agricultural systems; agricultural research and technology transfer activities of the Secretary of Agriculture, State cooperative extension services, land-grant and other colleges and universities, and State agricultural experiment stations have contributed to innovation in agriculture and have a continuing role to play in improving agricultural productivity; agricultural productivity is reduced by annual irretrievable loss of billions of tons of top soil through wind and water erosion; many farmers and ranchers are highly dependent on machines and energy resources for agricultural production; public funding of a properly planned and balanced agricultural research program is essential to improving efficiency in agricultural production and conservation practices; and expanded agricultural research and extension efforts are needed to improve agricultural productivity and implement soil, water, and energy conservation practices; (Sec. 1532.)

establish the purposes of the subtitle as being those of facilitating and promoting scientific investigation in order to enhance agricultural productivity, maintain the productivity of land, reduce soil erosion and loss of water and plant nutrients, and conserve energy and natural resources; and facilitating the conduct of research projects in order to study agricultural production systems located in areas possessing various soil, climatic and physical characteristics, and managed using farm production practices that rely on items purchased for the production of an agricultural commodity and a variety of conservation practices, and are subjected to change as the result of such practices; (Sec. 1533.)

require the Secretary to inventory and classify by subject all studies, reports and other materials developed by any person or governmental agency with the participation or financial assistance of the Secretary, that could be used to promote the purposes of the subtitle. In addition, the Secretary is required to identify, assess, and classify existing information and research reports that will further the purposes of the program; provide useful information and to make the reports available to farmers and ranchers, and identify gaps in such information and carry out a research program to fill such gaps; (Sec. 1534.)

require the Secretary, in cooperation with Federal and State research agencies and agricultural producers, to conduct such research projects as are necessary to promote the purposes of the subtitle. In carrying out these research projects the Secretary is required to conduct projects and studies in areas that are broadly representative of United States agricultural production. In addition, the Secretary is authorized to conduct such research projects involving crops, soils, production methods, and weed, insect and disease pests on individual fields or other areas of land. In the case of research projects involving the planting of a sequence of crops, the Secretary is required to conduct the projects for a term of at least five years and, to the extent practicable, twelve to fifteen years. The Secretary is also required to ensure that producers are aware of the research projects and to ensure that such projects are open for public observation. The Secretary is authority to indemnify an operator of a project for damages incurred or undue losses sustained as a result of a rigid requirement of research or demonstration under the project that is not experienced in normal farming operations. Any indemnity payment would be subject to any agreement between a project grantee and operator entered into prior to the initiation of such project; (Sec. 1535.)

require the Secretary to establish a panel of experts consisting of representatives of the Agricultural Research Service, Cooperative State Research Service, Soil Conservation Service, Extension Service, State cooperative extension services, State agricultural experiment stations, and other specialists in agricultural research and technology transfer; and to take into consideration the views of the panel before a project under this subtitle is designed; (Sec. 1536.)

require the Secretary to report to the House and Senate agriculture committees within 180 days after the effective date of this subtitle on the design of the research projects established under this subtitle, within 15 months after the effective date of the subtitle on the results of the information study, and not later than April 1, 1987, and annually thereafter on the progress of projects conducted under this subtitle; (Sec. 1537.)

authorize the Secretary to carry out the required information study through agreements with land-grant colleges or universities, other universities, nonprofit organizations, or Federal or State governmental entities, that have demonstrated appropriate expertise in agriculture research and technology transfer; (Sec. 1538.)

require the Secretary to make the information and research reports identified under the information study and the information and conclusions resulting from any research project conducted under the subtitle available to the public through the Extension Service, State cooperative extension services and otherwise as necessary; (Sec. 1539.)

authorize the appropriation of such sums as may be necessary to carry out the subtitle and provide that such sums are to remain available until expended (Sec. 1540.) and

establish the effective date of the subtitle as October 1, 1985. (Sec. 1541.)

The House bill contains no comparable provisions.

The Conference substitute adopts the Senate provision.

TITLE XV—FOOD STAMP AND RELATED PROVISIONS

(1) Publicly Operated Community Mental Health Centers

The Senate amendment establishes food stamp eligibility for residents of publicly operated community health centers conducting treatment programs under the Alcohol, Drug Abuse, and Mental Health Services Block Grant. (Sec. 1401.)

The Senate amendment also makes a technical revision to the existing Food Stamp Act by removing references to now-repealed laws dealing with food stamp eligibility for residents of private, nonprofit treatment programs and substituting a reference to the Alcohol, Drug Abuse, and Mental Health Services Block Grant. (Sec. 1401.)

(Note.—This amendment would conform provisions of the Food Stamp Act of those approved in P.L. 97-35, P.L. 98-107, and P.L. 99-88.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to limit applicability of the provision to publicly operated mental health centers.

(2) Eligibility of the Homeless

The House bill changes the definition of an eligible household specifically to include individuals who do not reside in permanent dwellings or who have no fixed address. (Sec. 1501(a).)

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

(Note.—Another provision was included in both bills which requires State agencies to provide a method for certifying the homeless.)

(3) Determination of Food Sales Volume

The House bill provides that retail food stores' food sales volume is to be determined by visual inspection, purchase or sales records, or other inventory or recordkeeping methods that are customary or reasonable in the retail food industry. (Sec. 1502.)

(Note.—Under existing law, a store must have more than 50 percent of its food sales volume in staple foods in order to be allowed to accept food stamps.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(4) Thrifty Food Plan

The House bill requires that food stamp benefit levels (based on the cost of the Thrifty Food Plan) effective in any fiscal year reflect food price changes through the September immediately preceding each annual October benefit adjustment—including actual food price changes through the preceding June, and the Secretary's best estimate of changes for the July–September period. The first adjustment under this rule would be effective Feb. 1, 1986, and would reflect food price changes in July–September 1985. Future adjustments would occur each October and reflect actual food price changes for the 12-month period immediately preceding the adjustment—actual changes for the period October through June—and estimated changes for the period July through September. (Sec. 1503.)

(Note.—Under existing law, each October's annual adjustment to benefits reflects actual food price changes for the 12-month period ending the immediately preceding June.)

The Senate amendment contains no comparable provisions.

The Conference substitute deletes the House provisions.

(5) Definitions of the Disabled

The House bill adds 4 categories of persons to the Food Stamp Act definition of "disabled":

those disabled who receive State-financed Supplemental Security Income (SSI) payments, but do not receive the basic Federal SSI benefit, as long as the benefits are determined to be conditioned on meeting social security disability criteria, or are benefits granted to those who qualified under pre-SSI programs for aid to the permanently and totally disabled and blind:

recipients of Federal, State, or local public disability retirement pensions who have a disability considered permanent under special social security rules;

veterans receiving pensions for non-service-connected disability; and

railroad retirement disability annuitants who must meet social security disability criteria in order to receive their annuity or qualify for Medicare. (Sec. 1504.)

(Note.—Those determined to be "disabled" for food stamp purposes receive special, more liberal treatment in determining eligibility and benefits.)

The Senate amendment replaces the existing Food Stamp Act definition of "disabled." The new definition would require the Secretary to establish, by regulation, the categories of persons to be considered disabled for food stamp purposes. These would be persons who receive benefits under a Federal law and:

whose benefit is based on a determination of blindness or disability that the Secretary judges to be based on the same, or substantially the same, criteria as social security disability determinations; or

for whom a determination of disability or blindness has been made that the Secretary judges is based on the same, or substantially the same, criteria as social security determinations. (Sec. 1403.)

(Note.—The Senate Committee report notes that it is not the intent of the new definition to reduce the scope of the existing categories of disabled persons (now spelled out in the Food Stamp Act). These are: (1) recipients of Social Security Disability or Federal SSI benefits (including similar benefits in the territories); (2) veterans receiving compensation for service-connected disability rated at 100 percent; and (3) veterans' survivors receiving veterans benefits and having a disability considered permanent under special social security rules. The Senate amendment would allow expansion of the categories of persons considered disabled to the extend they are Federal benefit recipients and meet a disability test that is the same as or substantially the same as social security disability criteria.)

The Conference substitute adopts the House provisions.

(6) State and Local Sales Taxes

(a) The House bill bars participation in the Food Stamp Program to States in which the Secretary determines that State or local sales taxes are collected on food stamp purchases. (Sec. 1505.)

The Senate amendment prohibits food stamp transaction from being treated as a "taxable event" for sales tax purposes. (Sec. 1418(a).)

The Conference substitute adopts the House provision.

(b) The House bill provision takes effect Oct. 1, 1987. (Sec. 1505.)

The Senate amendment provision takes effect with respect to a State on Oct. 1 of the calendar year in which the first session of the State legislature is convened following enactment of the bill. (Sec. 1418(b).)

The Conference substitute adopts the Senate provision with an amendment (1) providing that only regular sessions of State legislature trigger the effective date and (2) authorizing the Secretary to extend the implementation date as necessary, but to not later than October 1, 1987, for any State that shows, to the Secretary's satisfaction, that an earlier implementation date would have an adverse and disruptive effect on food stamp program administration or would provide inadequate lead time for retail stores to implement changes in sales tax policy.

The conferees expect the Secretary to provide timely and thorough notice to States and affected food stores as to the effect and timing of this provision.

(7) Relating of Food Stamp and Commodity Distribution Programs

(a) The House bill deletes the existing bar against operating a program distributing Federally donated commodities in areas operating a Food Stamp Program. (Sec. 1506.)

(Note.—The existing bar on dual operations is *not* now applicable: (1) where commodity distribution programs operate to meet disaster relief need; (2) in the case of the Commodity Supplemental Food Program; (3) in the case of Indian reservations; and (4) in the case of the Temporary Emergency Food Assistance Program—either under the terms of Food Stamp Act exemptions or other laws explicitly voiding the Food Stamp Act provisions.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(b) The Senate amendment requires that, as a condition of eligibility for certain commodity distribution programs, persons furnish their social security numbers, and that these numbers be used in the administration of the programs. The programs include commodity distribution: on Indian reservations; for supplemental feeding programs for women, infants, and children; to charitable institutions; in disaster areas; to summer camps for children; and in the Trust Territory of the Pacific Islands.

The Senate amendment also authorizes the Secretary and food stamp State agencies to match the social security account numbers of participants in the food stamp program against account numbers of applicants for assistance under the commodity distribution program. (Sec. 1404.)

The House bill contains no comparable provisions.

The Conference substitute deletes the Senate provisions.

(8) Categorical Eligibility

(a) The House bill requires that States grant automatic food stamp eligibility to households composed entirely of AFDC or SSI recipients. They would be eligible without regard to most provisions of the Food Stamp Act. However, certain provisions would continue to apply to them—provisions governing household composition and the ineligibility of institutional residents, penalties for fraud, exemptions from employment and training requirements, and the ineligibility of SSI recipients in certain States. (Sec. 1507(a).)

The Senate amendment permits States to grant automatic food stamp eligibility to households composed entirely of AFDC or SSI recipients, if their gross monthly income is below 130 percent of the Federal poverty levels. Their eligibility would be judged without regard to the income and asset eligibility standards of the Food Stamp Act (other than the gross income test noted above). However, all other provisions of the Act would continue to apply to them. (Sec. 1414(a).)

The Conference substitute adopts the House provision with an amendment to make the provision applicable through September 30, 1989. The Secretary is to report to the Congress on the effect of the new provision within 2 years after enactment, with particular reference to the provision's effect on program administration, error rates, eligibility levels, benefit costs, and such other factors as the Secretary deems appropriate.

(b) The House bill requires that no household have food stamp benefits denied or terminated solely on the basis of an AFDC or SSI eligibility determination. A separate determination that the household had failed to meet normal food stamp eligibility tests would be required. (See. 1507(b).)

The Senate amendment contains the same provision. (See. 1414(b).)

The Conference substitute adopts the House provision.

The conferees intend that the Secretary would have discretion to apply a rule of reason in developing rules governing categorical eligibility. In instances where a household has been disqualified from food stamps due to a violation of food stamp rules (relating to work requirements, fraud, or other similar requirements), it would not be able to gain reinstatement through categorical eligibility.

(9) Excluded Income

(a) The House bill provides that the portion of an educational grant, loan, or other educational assistance that goes toward tuition and mandatory fees at a post-secondary education institution would be excluded from income for food stamp purposes—effective Feb. 1, 1986. (Sec. 1508(a)(2)(A).)

(Note.—Existing law provides that such conditions apply with regard to institutions of higher education.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment to strike the Feb. 1, 1986, effective date.

This provision clarifies that the portion of an educational grant, loan, or other educational assistance that goes toward tuition and mandatory fees at a post-secondary education institution would be excluded from income even if that institution does not require a high school diploma as a condition for attendance.

(b) The House bill specifies that educational loan origination fees and insurance premiums are to be excluded from income for food stamp purposes—effective Feb. 1, 1986. (Sec. 1508(a)(2)(B).)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment to strike the Feb. 1, 1986, effective amendment.

(c) The House bill provides that no portion of any Federal educational grant, to the extent it provides income assistance beyond that used for tuition and mandatory fees, may be considered a reimbursement for expenses and thereby excluded from income for food stamp purposes—effective Feb. 1, 1986. (Sec. 1508(a)(3).)

The Senate amendment provides that no portion of any educational grant, loan on which payment is deferred, or other educational assistance may be considered a reimbursement for expenses and thereby excluded from income for food stamp purposes. (Sec. 1406(a).)

The Conference substitute adopts the Senate provision with an amendment limiting the application of the provision in the case of non-Federal grants, loans, or other education assistance to that portion of the assistance that is provided for living expenses. In the case of Federal assistance, no portion of any educational grant, to the extent it provides income assistance beyond that used for tuition and mandatory fees, may be considered a reimbursement for expenses and thereby excluded from income for food stamp purposes.

The conferees recognize that certain courses of study normally require special materials above and beyond books and routine supplies. For example, a cosmetology school may require all students to furnish their own scissors and combs. A chemistry course may require all students to provide their own gloves and smocks for use in the laboratory. The conferees intend for the Secretary to allow the portion of educational assistance which is used to pay for such required expenses to be excluded from gross income, because it is a mandatory fee. Current program regulations define a mandatory fee as one charged to all students or one charged to all students within a certain curriculum. Accordingly, a lab fee charged to all students in a science course is excluded from income. The conferees intend for this exclusion to be broadened to recognize that certain supplies are required of all students even though a separate fee is not imposed for these supplies.

(d) The House bill provides that income otherwise countable for food stamp purposes be reduced by the amount that the cost of producing self-employment income exceeds that income derived from self employment—effective Feb. 1, 1986. (Sec. 1508(a)(4).)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment (1) to limit the provision to self-employment income of farmers and (2) to strike the Feb. 1, 1986, effective date.

(e) The House bill provides that assistance for living expenses paid to a third party on behalf of a household be treated as income payable directly to the household, if paid by a State or local government under an AFDC or general assistance program (excluding medical, child care, energy, and emergency or special assistance)—effective Oct. 1, 1985. (Sec. 1508(b).)

The Senate amendment provides that assistance for living expenses paid to a third party on behalf of a household be treated as income payable directly to the household, if it is paid by a State or local government in lieu of a regular AFDC benefit, a general assistance benefit, or a benefit payable by another basic assistance program identified by the Secretary (excluding medical, child care, energy, and emergency or special assistance, and excluding aid provided by a State or local housing authority). (Sec. 1405.)

The Conference substitute adopts the Senate provision with an amendment to modify the reference to "another basic assistance program" by providing that only other basic assistance programs comparable to general assistance are included.

(f) The Senate amendment provides that any educational assistance paid to a third party on behalf of a household be treated as income payable directly to the household. This would not apply to tuition and mandatory fees. (Sec. 1406(b).)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment limiting the application of the provision to educational assistance paid for living expenses to a third party on behalf of a household.

(g) The House bill requires that earnings to individuals participating in on-the-job training programs under the Job Training Partnership Act be counted as earned income for food stamp purposes—effective Oct. 1, 1985. This would not apply in the case of individuals under age 21 during the first 6 months of participation. (Sec. 1508(b).)

The Senate amendment requires that all allowances, earnings, and payments (other than "needs-based allowances and payments") to individuals as a result of participation in programs under the Job Training Partnership Act be counted as income for food stamp purposes. (Sec. 1415.)

The Conference substitute adopts the House provision with an amendment (1) to strike the Oct. 1, 1985, effective date, (2) to change the application of the exception in the case of individuals under age 21 to dependents under age 19, and (3) to remove the limitation on the first 6 months of participation.

(10) Nonrecurring Lump-sum Payments.

The Senate amendment provides that food stamp benefits not be increased as the result of a reduction or termination of AFDC or SSI benefits due to the receipt of a nonrecurring lump-sum payment. (Sec. 1407.)

(Note.—AFDC and SSI benefits can be reduced or terminated as the result of the receipt of income in the form of a nonrecurring lump-sum payment (e.g., an income tax refund, insurance settlement). Under existing food stamp law, nonrecurring lump-sum payments are treated as assets and affect a household's eligibility and benefits only to the extent that they are large enough to increase to household's assets above the asset limit. Thus, when a food stamp household's AFDC of SSI benefit is reduced or terminated due to receipt of a nonrecurring lump-sum payment, food stamp benefits are increased to take into account the household's reduced income—unless the payment is large enough to put the household over the food stamp asset eligibility limit.)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(11) Child Support Payments

The Senate amendment allows States to exclude from income otherwise countable for food stamp purposes the first $50 a month of child support received by an AFDC recipient family—if the States reimburses the Federal Government for the estimated food stamp benefit cost of doing so. (Sec. 1408.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(12) Deductions from Income

(a) The House bill increases the proportion of earnings that is deducted from otherwise countable income for food stamp purposes, from 18 to 20 percent—effective Feb. 1, 1986. (Sec. 1509(a)(2).)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment to make the provision effective May 1, 1986.

(b) The House bill increases the limit on the amount of shelter and dependent care expenses that may be deducted from otherwise countable income for food stamp purposes—effective Feb. 1, 1986. In the 48 contiguous States and the District of Columbia, the limit would be increased from the current $139 a month to $155 a month. The separate limits applied in Alaska, Hawaii, the Virgin Islands, and Guam would be similarly increased. (Sec. 1509(a)(3).)

(Note.—Under existing law, this limit applies to any combination of shelter and dependent care expenses in the case of nonelderly, nondisabled households. For elderly and disabled households, the limit applies only to dependent care expense deductions. The limit is adjusted annually, each October, for changes in shelter costs as measured by the Consumer Price Index and would continue to be annually adjusted under the provisions of the House bill, using the new, increased limit as a base.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment to increase the excess shelter deduction to $147 and to make the provision effective May 1, 1986. The separate limits applied in Alaska, Hawaii, the Virgin Islands, and Guam would be similarly increased.

(c) The House bill establishes a separate limit on dependent care expense deductions—effective Oct. 1, 1986. This limit would be $160 a month, with no allowance for inflation adjustments or geographic variation. (Sec. 1509(a)(3).)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment to establish the separate deduction effective May 1, 1986.

(d) The House bill permits States to use one or more standard utility allowances for households on behalf of which a payment for utility expenses is made under the Low-Income Home Energy Assistance Act (LIHEAA), if the household incurs out-of-pocket heating or cooling expenses. (Sec. 1509(a)(4).).

(Note.—Under current rules, LIHEAA households having all or part of their utility expenses paid on their behalf under the LIHEAA (indirect, or vendor payments) may not claim a standard utility allowance—except in States where the rule has been overturned by court decision. Households in these States and those whose LIHEAA aide is in the form of a direct payment to them may claim a standard utility allowance.)

The Senate amendment permits States to use a standard utility allowance for households receiving LIHEAA assistance. It may be an allowance separate from that applied to other households. However, the amendment requires that any allowance applied to these households must reflect utility expenses in excess of the expenses paid, directly or indirectly, under the LIHEAA. (Sec. 1410.)

An additional Senate amendment terminates the revised provision (established by Sec. 1410) dealing with standard utility allowances applied to LIHEAA households and replaces it with a requirement that if a State uses a standard utility allowance, the State must use a combined allowance for all households—effective one day after enactment. (Sec. 1444.)

The Conference substitute provides that if a State agency elects to use a standard utility allowance that reflects heating or cooling costs, it shall be made available to households receiving direct or indirect LIHEAA payments (or similar energy assistance payments), provided that the households still incur out-of-pocket heating or cooling expenses. A State agency may use a separate standard utility allowance for households receiving indirect (or vendor) LIHEAA payments, but may not be required to do so. A State agency not electing to use a separate allowance, and making a single standard utility allowance available to households incurring heating or cooling expenses, may not be required to reduce such allowance due to the provision (direct or indirect) of assistance under LIHEAA. LIHEAA assistance shall be considered to be prorated over the entire heating or cooling season for which it was provided for purposes of use in the food stamp program.

This provision preserves the practice now in effect in most States regarding standard utility allowances. States would continue to be allowed to make use of a standard utility allowance that reflects heating or cooling costs (along with certain other costs) available to households that incur heating or cooling expenses, without regard to whether such households receive benefits, directly or paid to a vendor, under the Low-Income Home Energy Assistance program (or similar energy assistance programs). However, if such vendor payments (after being prorated over the heating or cooling season they are intended to cover) result in a household having no out-of-pocket heating or cooling costs during the certification period, the household would not be eligible for a standard allowance reflecting heating or cooling costs.

The provision also provides a new State option to use a separate standard utility allowance for households receiving energy assistance in vendor form. Establishing a separate standard allowance would not be required of States, since doing so may involve new administrative complexities. States not electing this option could continue to use a single standard allowance for households with out-of-pocket heating or cooling costs, and may not be required to reduce such an allowance due to the existence of energy assistance.

States could also provide a combined standard allowance for households not incurring out-of-pocket heating or cooling expenses, but this standard could not reflect heating or cooling costs.

Standard utility allowances are designed to encourage efficient administration of the food stamp program and should bear a relationship to utility costs in the State.

As reported from Committee, both the House and Senate food stamp amendments contained provisions designed to disallow the deduction of utility costs paid for by certain Low Income Home Energy Assistance Program (LIHEAP) benefits from the calculation of the excess shelter cost deduction. During floor consideration in both the House and Senate, these provisions were struck, leaving the bills silent on the deductibility of costs paid for by LIHEAP benefits and leaving stand court decisions dealing with this issue. The conferees do not intend to express a judgment on this matter.

The method of distribution of LIHEAP benefits varies greatly from state to state. As many states use a lump sum form of distribution for some or all of their LIHEAP payments, it is the intent of the conferees, as expressed in both House and Senate Agriculture Committee reports, that LIHEAP payments be considered for food stamp purposes as pro-rated on a monthly basis over the entire heating or cooling season.

(e) The Senate amendment provides that households may not claim as a shelter expense deduction any expense paid directly (as a cash payment to them) or indirectly (as a payment to a utility provider) under the LIHEAA. (Sec. 1410)

An additional Senate amendment also terminates the revised provision (established by Sec. 1410) dealing with the ability to claims shelter expense deductions for utility expenses paid under the LIHEAA—effective one day after enactment. (Sec. 1444.)

(Note.—Under current rules, LIHEAA households having utility * * * only their actual out-of-pocket expenses—except in States where the rule has been overturned by court decision. Households in these States and those who receive LIHEAA assistance in the form of a direct payment to them may claim all utility expenses as a shelter expense deduction, subject to other limitations that may apply.)

The House bill contains no comparable provisions.

The Conference substitute deletes the Senate provisions.

(f) The House bill requires that States allow households to switch between claiming a standard utility allowance and a deduction based on actual expenses at the beginning or end of any certification period and up to 2 additional times during any 12-month period. (Sec. 1509(a)(4).)

(Note.—Under current rules, households may switch between use of a standard utility allowance and actual expenses at the beginning or end of any certification period. However, in States using an annualized standard utility allowance, they may switch only once every 12 months.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment that limits household's ability to switch between a standard utility allowance and actual utility expenses to once a year and at the beginning or end of any certification period.

(g) The House bill permits households with elderly or disabled members to claim as a deduction medical expenses of an elderly or disabled member in excess of the lesser of: (1) $35 a month; or (2) 5 percent of gross monthly income—effective Feb. 1, 1986. (Sec. 1509(a)(5).)

(Note.—Under existing law, households with elderly or disabled members may claim medical expense deductions to the extent the expenses exceed $35 a month.)

The Senate amendment contains no comparable provisions.

The Conference substitute deletes the House provisions.

(13) Retrospective Budgeting and Monthly Reporting Simplification

(a) The House bill requires retrospective budgeting and monthly reporting for households with earned income or a member who has recent work history. The Secretary may grant waivers of this requirement, on State request, for categories of households (including all households) where a satisfactory showing has been made by the State that monthly reporting would result in unwarranted administrative expenditures. Migrant farmworker households and households in which all members are elderly or disabled and have no earned income would be exempt from the requirement, by law. (Sec. 1511.)

The Senate amendment contains the same provisions, except that it does not make explicit mention of the Secretary's authority to waive the requirement for all households with earned income or recent work history. (Sec. 1412.)

The Conference substitute adopts the House provisions.

The conferees intend that the Secretary can approve all or only certain categories or recipients proposed by states for exemption.

In considering whether the Secretary will grant cost-effectiveness waivers, the Secretary could consider such factors as the use of frequent recertification, effective wage matching or other efforts.

(b) The House bill also provides States the option of using retrospective budgeting or monthly reporting, or both, for all other types of households, except those exempt by law (migrant farmworkers and elderly and disabled households with no earned income). (Sec. 1511.)

(NOTE.—Under existing law, all categories of households—except those exempt under law as noted above—must fulfill retrospective budgeting and monthly reporting requirements, unless the requirement is waived, at State request, by the Secretary upon a finding that unwarranted administrative expenditures would result. Households not required to fulfill monthly reporting and retrospective budgeting requirements have their income calculated "prospectively" and must report any significant change in household circumstances when it occurs.)

The Senate amendment also provides States the option of using monthly reporting for all other types of households, except those exempt by law (migrant farmworkers and elderly and disabled households with no earned income). The Secretary may allow households not required to report monthly to have their income calculated on a prospective basis. (Sec. 1412).

The Conference substitute adopts the House provisions.

(14) Resources Limitations

(a) The House bill increases liquid asset limitations to:

$3,500 for households consisting of or including an elderly member; and

$2,250 for households without an elderly member.

These increases would be effective Oct. 1, 1986. (Sec. 1512.)

(NOTE.—Current liquid asset limits are: $3,000 for households of two or more with an elderly member; and $1,500 for all other households.)

The Senate amendment contains no comparable provisions.

The Conference substitute adopts the House provisions with an amendment to increase liquid asset limitations to:

$3,000 for households consisting of one elderly member (the $3,000 level would continue to apply for households of two or more with an elderly member); and

$2,000 for all other households.

The increases would be effective May 1, 1986.

(b) The House bill requires that the current $4,500 threshold amount, above which the fair market value of a car is counted as an asset for food stamp purposes, be adjusted to reflect changes in the used car component of the Consumer Price Index. The adjustments would occur beginning with Oct. 1, 1986, and continue each October thereafter until a threshold of $5,500 was reached. Each adjustment would be rounded to the nearest $100 increment and would reflect price changes for the 12-month period ending the immediately previous June. (Sec. 1512:)

The Senate amendment contains no comparable provisions.

The Conference substitute deletes the House provisions.

(c) The House bill allows the Secretary to revise current regulations defining what types of assets are determined "inaccessible" and, thus, not considered in judging eligibility.

(NOTE.—Under existing law, the Secretary may not change the food stamp asset regulations in effect on June 1, 1982, except for those relating to vehicles. The House Committee report notes that it is the intent of this amendment to allow the Secretary to specifically include assets on which a lien has been placed as "inaccessible" for food stamp purposes.)

The Senate amendment contains no comparable provisions.

The Conference substitute adopts the House provision.

It is the intent of the conferees to allow the Secretary to specifically include as "inaccessible" for food stamp purposes assets on which a lien has been placed.

(d) The House bill requires that real or personal property—to the extent that it is directly related to the maintenance or use of a vehicle used to produce income or to transport a physically disabled household member—be excluded as a countable asset for food stamp purposes. (Sec. 1512.)

(NOTE.—Under current rules, vehicles used to produce income or to transport a physically disabled household member are not included as countable assets for food stamp purposes.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

It is not the intention of the Conferees that this provision be applied, for example, to exclude the value of a 100-acre field if only one-quarter of an acre of that field is used for parking a truck and maintenance purposes; only the value of the one-quarter acre would be excluded under this provision.

(e) The Senate amendment requires that the value of one burial plot for each household member be excluded as a countable asset for food stamp purposes. (Sec. 1413.)

(NOTE.—Current regulations exclude one burial plot for each household member.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(15) Disaster Task Force

The House bill requires the Secretary to: (1) establish a disaster task force to assist States in implementing programs in disaster areas; and (2) send task force members to a disaster area as soon as possible after a disaster occurs to provide direct aid to State and local officials. (Sec. 1513.)

The Senate amendment contains no comparable provisions.

The Conference substitute adopts the House provision with an amendment to require the Secretary to send task force members to a disaster area when such actions would be cost effective.

The Conferees intend that the Secretary establish and maintain a disaster task force which should be composed of appropriate food stamp, disaster, and related program personnel at the National and regional office level to react to disaster situations as expeditiously as possible. Representatives of the task force would assist State and local officials in the disaster area in establishing an emergency program. The task force would coordinate policy matters and monitor emergency assistance efforts. Task force responsibilities should be confined to technical assistance efforts.

(16) Eligibility Disqualifications

(a) The House bill requires disqualification of the entire household if the head of the household fails to fulfill any food stamp work requirements. If another household member subject to the requirements fails to comply, that member alone would be disqualified. (Sec. 1514.)

(NOTE.—Under existing law, the entire household is disqualified if any member subject to work requirements fails to comply.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(b) The House bill establishes by statute a 2 month disqualification period for failure to comply with work requirements, and terminates any period of ineligibility for failure to comply with work requirements when the person who committed the violation complies with the requirement violated, or leaves the household. However, in the case of a departing individual, the ineligibility of the individual who committed the violation would continue, and any other household of which the departing member becomes head would be ineligible for the balance of the period of disqualification. (Sec. 1514 and 1515(a)(2).)

(NOTE.—Under existing regulations, household disqualification terminates when the person who has violated the requirement complies with it, leaves the household, or becomes exempt. In the case of a departing individual, the ineligibility of the individual continues and any other household the person joins is ineligible for the balance of the disqualification period. Barring compliance, departure, or exemption, the normal disqualification period established by regulation, is 2 months. However, in the case of a person who has voluntarily quit a job without good cause, the period is 3 months, and cannot be shortened on account of compliance.)

The Senate amendment contains the same provisions, except that any household of which the departing individual becomes a member would be ineligible for the balance of the disqualification period. (Sec. 1416(a)(1)(C).)

The Conference substitute adopts the House provision.

(c) The Senate amendment makes subject to the food stamp work requirements heads of households who are between age 16 and 18 and not attending school full-time. (Sec. 1416(a).)

(NOTE.—Under existing law, persons younger than 18 years of age are exempt from food stamp work requirements.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment limiting application of the Senate amendment to heads of households who are 16 or older and not attending school half-time or more or in an employment training program.

(d) The Senate amendment allows States the option of making subject to the food stamp work requirements parents or guardians of dependent children between ages 3 and 6 if adequate child care is available. (Sec. 1416(a)(2)(A).)

(NOTE.—Under existing law, parents or caretakers of children under age 6 are exempt from food stamp work requirements.)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(e) The House bill waives application of the Act's special rules governing the ineligibility of students at institutions of higher education in the case of persons assigned to those institutions for training under the programs of the Job Training Partnership Act. (Sec. 1514.)

(NOTE.—Under existing law, able-bodied students between 18 and 60 enrolled at least half-time in an institution of higher education must, in addition to meeting normal food stamp eligibility tests: (1) be employed at least 20 hours a week or be participating in a work-study program; (2) be a parent with responsibility for a dependent child under age 6; (3) be receiving AFDC benefits; or (4) have responsibility for the care of a dependent child between 6 and 12 for whom adequate child care is not available. Students enrolled as the result of a WIN program assignment are exempt from this additional test.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(f) The House bill removes the exemption from the Act's special student ineligibility rules now granted to students with responsibility for the care of children between ages 6 and 12 for whom adequate child care is not available. (Sec. 1514.)

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

(g) The Senate amendment requires that all income of an ineligible alien residing with a food stamp household be counted as available to the household. (Sec. 1417(b).)

(NOTE.—Under existing law, a portion of the income of ineligible alien residing with a food stamp household is counted as available to the household—namely, total income less a pro rata share.)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(17) Employment and Training Program

(a)-(w) The House bill replaces the current disqualification for refusing to comply with job search requirements prescribed by the Secretary with a disqualification for refusing, without good cause, to participate in an employment and training program designed by the State.

Each State would be required to implement an employment and training program, designed by the State for the purpose of assisting food stamp recipients in gaining skills, training, or experience that will increase their ability to obtain regular employment.

An employment and training program would be defined as one that contains, at State option, one or more of the following components:

Job search programs with terms and conditions comparable to those prescribed for AFDC job search (except that there would be no obligation for a State to incur costs above $25 per participant per month, and the State would have the option of requiring job search at application).

Job search training programs determined by the State to expand job search abilities or employability.

Programs designed to improve employability through actual work experience or training, or both. In these work experience/training programs, States:

may use State employment offices of Job Training Partnership Act agencies to find employment and training opportunities;

would have to limit assignments to projects serving a useful public purpose;

would have to use participants' prior training, experience, and skills, to the extent possible, in making appropriate assignments;

could not provide work that has the effect of replacing the employment of an individual not participating in the employment and training program; and

would have to provide the same benefits and working conditions that are provided at the job site to employees performing comparable work for comparable hours.

Other programs, as approved by the Secretary, aimed at accomplshing the purpose of the employment and training program.

States could allow participation in a food stamp employment and training program to supplement or supplant other requirements imposed on participants.

States would be required to exempt from participation in any employment and training program those categories of recipients for whom the State determines that participation is impracticable due to factors such as lack of work opportunities and the cost-effectiveness of requiring participation. States would be able to designate as an exempt category all recipients in a specified geographic area.

States would be required to exempt or suspend from employment and training participation requirements recipients (1) not included in an exempt category and (2) for whom the State determines that participation is impracticable due to personal circumstances such as lack of job readiness and employability, the remote location of work opportunities, and the lack of child care. States would be required to determine the extent to which any individual must fulfill employment and training requirements.

The number of hours of work that can be required each month in an employment and training program would be limited to a number equal to the household's monthly benefit divided by the Federal or State minimum wage (whichever is higher). If a household member is also required to work under a workfare program, the limit would apply to the aggregate number of hours worked in workfare and under an employment and training program. The number of hours of participation in an employment and training program by any individual would be limited to 120 hours a month, in combination with any hours worked under a workfare program or any hours worked for compensation (in cash or in kind).

States would be required to establish rules for participation in their employment and training program for non-exempt individuals, and the requirements could vary among participants.

States would be permitted to operate employment and training programs in which individuals elect to participate. States would be required to allow individuals not subject to employment and training requirements (or who have complied or are in the process of complying with the requirements) to participate in any employment and training programs.

The Secretary would be required to issue guidelines that, to the maximum extent practicable, enable a State agency to design and operate an employment and training program that is compatible and consistent with similar programs operated within a State.

States would be required to reimburse participants for transportation costs and other expenses incurred, except that the State could limit reimbursements to $25 per participant per month, and reimbursements would be limited to costs that are reasonably necessary and directly related to participation in job search and work/training experience components.

Each State's food stamp plan of operation would be required to include the manner in which it will carry out its employment and training program.

The Secretary would be required to allocate among the States, from funds appropriated under the Food Stamp Act, the following sums to carry out employment and training programs:

$40 million for FY 1986;
$50 million for FY 1987;
$60 million for FY 1988; and
$75 million for FYs 1989 and 1990.

If, in carrying out an employment and training program, a State incurs costs in excess of the amount allocated it from the above sums, the Secretary would be required to pay the State 50 percent of those additional costs. Nothwithstanding, the above-mentioned funding requirements, the Federal share of reimbursements to participants for costs incurred could not exceed 50 percent of an amount equal to $25 per participant per month.

The Secretary would be required to monitor States' employment and training programs to measure their effectiveness in terms of the increase in the number of participants who obtain employment and the number who retain employment as a result of their participation in employment and training program.

The Secretary would be required to report to the House and Senate Committees on the effectiveness of employment and training programs not later than January 1, 1989. (Sec. 1515.)

The Senate amendment contains the same provisions, with the following differences:

State employment and training programs would, explicitly, have to be designed "pursuant to guidelines established by the Secretary."

States would be required to place in their employment and training programs certain proportions of individuals who: (1) are subject to food stamp food stamp work requirements; and (2) have participated in the food stamp program for more than 30 consecutive days. By September 30, 1987, 25 percent of these persons would have to be placed. By September 30, 1988, 35 percent would have to be placed. By September 30, 1990, and thereafter, 45 percent would have to be placed. Exemption of a category of recipient could not affect the determination of whether a State has fulfilled the requirement to place certain proportions of recipients in employment and training programs.

State employment and training program components would have to meet criteria established by the Secretary.

There is no provision for a job search component in State employment and training programs.

Explicit provision is made for workfare programs as a component of State employment and training programs.

States would be permitted, rather than required, to exempt recipient categories for whom participation was determined impracticable, and would be required to do so in accordance with criteria established by the Secretary.

No provision is included requiring States to determine the extent to which any individual must fulfill employment and training requirements.

There is no reqirement for States to establish rules for participation in their employment and training programs.

States would be permitted to operate employment and training program components in addition to those selected for the set of programs to be approved by the Secretary to fulfill the requirement to operate an employment and training program.

Reimbursements to participants would be limited to costs that are "reasonably necessary and directly related to participation" in all employment and training program components.

The Secretary would be required to ensure that States comply with their plan of operation for employment and training programs, and, if the Secretary determines that a State has failed to comply, the Secretary would be permitted to withhold Federal funds available for general food stamp administration and those available for operation of employment and training programs—subject to administrative and judicial review.

The Secretary would be required to ensure that employment and training programs are required of Indians on reservations in proportion to their proportion of the number of recipients subject to food stamp work requirements who have participated at least 30 days—to the extent practicable and in cooperation with the Secretary of Labor.

State plans of operation for employment and training programs would have to include the nature and extent of the State's program and the geographic areas and households to be covered.

No Federal funding allocation for FY 1990 is included.

Federal funding for employment and training programs could be used only for those programs and not to carry out any other provision of the Food Stamp Act.

The Conference substitute establishes a new employment and training program requirement incorporating aspects of the House provisions and the Senate amendment.

The substitute replaces the current disqualification for refusing to comply with job search requirements prescribed by the Secretary with a disqualification for refusing, without good cause, to participate in an employment and training program.

By April 1, 1987, each State is required to implement an employment and training program designed by the State, and approved by the Secretary, for the purpose of assisting food stamp recipients in gaining skills, training, or experience that will increase their ability to obtain regular employment. The Conferees expect the Secretary to establish broad guidelines for for an employment and training program, giving maximum flexibility to the States rather than setting specific, detailed criteria concerning the various program components.

An employment and training program is defined as one that contains one or more of the following components:

Job search programs with terms and conditions comparable to those prescribed for AFDC job search (except that there is no obligation for a State to incur costs for participant expenses above $25 per participant per month, and the State has the option of requiring job search at application).

Job search training programs determined by the State to expand job search abilities or employability.

Workfare programs, under terms and conditions set out separately in the Food Stamp Act.

Programs designed to improve employability through work experience or training, or both, and to enable participants to move promptly into regular public or private employment. State work experience/training programs:

are required to limit work assignments to projects serving a useful public purpose;

are required to use participants' prior training, experience, and skills, to the extent possible, in making assignments;

cannot provide work that has the effect of replacing the employment of an individual not participating in the employment and training program; and

are required to provide the same benefits and working conditions that are provided to employees performing comparable work for comparable hours.

Other programs, as approved by the Secretary, aimed at accomplishing the purpose of the employment and training program.

States may allow participation in a food stamp employment and training program to supplement or supplant other employment-related requirements imposed on participants.

States are permitted to exempt from participation in any food stamp employment and training program those categories of recipients for whom a participation requirement is impracticable due to factors such as lack of work opportunities and the cost-effectiveness of requiring participation. States are permitted to exempt all recipients in a specified geographic area, and are also permitted to exempt recipients participating less than 30 days (subject to the Secretary's approval).

States are also permitted to exempt from participation in any employment and training program individual recipients (1) not included in an exempt category and (2) for whom participation is impracticable because of personal circumstances such as lack of job readiness and employability, the remote location of work opportunities, and the lack of child care.

Any exemption of a category of recipients or individual recipient is required to be evaluated periodically to determine whether the basis for the exemption continues to be valid. In the case of individual exemptions, evaluations are required no less often than at each certification or recertification for food stamp benefits.

States are required to establish employment and training program participation requirements, including the extent to which individuals are required to participate. The requirements may vary among participants.

The number of hours of work that can be required each month in an employment and training program are limited to a number of hours equal to the household's monthly benefit divided by the Federal or State minimum wage (whichever is higher). If a household member is also required to work under a workfare program, the limit applies to the aggregate number of hours worked in workfare and an employment and training program. The number of hours of participation in an employment and training program by any individual is limited to 120 hours a month, in combination with any hours worked under a workfare program or any hours worked for compensation (in cash or in kind).

States are permitted to operate employment and training programs in which individuals elect to participate. States are required to permit individuals not subject to employment and training participation requirements (or who have complied or are in the process of complying with the requirements) to participate in any employment and training program—to the extent the State determines it to be practicable.

States are required to reimburse participants, including those who elect to participate, for actual transportation costs and other actual costs that are reasonably necessary and directly related to participation in any employment and training program—except that the State may limit the reimbursement to $25 per participant per month.

The Secretary is required to issue guidelines (1) that enable a State to design and operate an employment and training program that is compatible and consistent with similar programs in the State and (2) to ensure that employment and training programs are provided to Indians on reservations.

The Secretary is required to establish performance standards that designate the minimum proportions of non-exempt persons subject to food stamp work requirements that States are required to place in employment and training program, except that the Secretary is permitted to delay setting performance standards for up to 18 months after implementation of the employment and training program requirement in order to base standards on State experience in implementing the employment and training programs. No standard may exceed 50 percent, through fiscal year 1989.

The Secretary is required to vary performance standards according to differences in the types of persons required to participate and the type of program to which the standard is applied. Performance standards may vary by State. In setting the performance standards, the Secretary also is required to consider the cost to the States and the extent of participation by persons exempt from employment and training requirements.

When determining whether a State has met a performance standard, the Secretary is required to consider voluntary participation in employment and training programs, other factors such as placement in unsubsidized employment, increases in earnings, and reduction in food stamp participation, along with any other factors considered to be related to employment and training.

States required to submit an employment and training program plan of operation for the Secretary's approval. The plans are required to include the nature and extent of the program, the geographic areas and households to be covered, and the basis for exemptions of categories and individuals and for the choice of program components.

The Secretary is required to ensure that States comply with employment and training program requirements and the provisions of their State plans. If the Secretary determines that a State has failed, without good cause, to comply with program requirements or provisions of the State plan (including failure to meet a performance standard), the Secretary is permitted to withhold Federal funds available for general food stamp administration and those available for operation of employment and training programs, as determined appropriate—subject to administrative and judicial reviews.

The Secretary is required to allocate among the States, from funds appropriated under the Food Stamp Act, the following sums for employment and training program costs of the States:

$40 million in FY 1986;

$50 million in FY 1987;
$60 million in FY 1988; and
$75 million in FYs 1989 and 1990.

If, in carrying out an employment and training program, a State incurs costs in excess of the amount allocated it from the above sums, the Secretary is required to pay the State 50 percent of those additional costs. In the case of payments made, or costs incurred, by the State in connection with transportation and other participant expenses required of the State, the Secretary is required to pay the State 50 percent. However, the Federal share of these participant expenses may not exceed 50 percent of an amount equal to $25 per participant per month, and must be paid separately from the State's allocation from the above-mentioned sums.

Funds provided to States for employment and training programs may be used only for these programs, and not to carry out any other provisions of the Food Stamp Act.

The Secretary is required to monitor employment and training programs carried out by States to measure their effectiveness in terms of the increase in the numbers of participants obtaining and retaining employment as the result of their participation in a program.

The Secretary is required to report to the House and Senate Committees on Agriculture, and Agriculture, Nutrition, and Forestry, on the effectiveness of employment and training programs, not later than January 1, 1989.

(17)(x) Workfare Compliance

The Senate amendment changes the categories of food stamp recipients who are not required to comply with any workfare program to:

parents or caretakers of dependent children under age 6, except that States would have the option to require compliance of parents or caretakers of children between ages 3 and 6 if adequate child care is available.

parents or caretakers of incapacitated persons;

otherwise eligible students enrolled at least half-time;

participants in drug addiction and alcoholic treatment programs;

those employed at least 30 hours a week (or the minimum-wage equivalent);

those under age 18, except that heads of household who are age 16 or older and not attending school full-time would not be exempt; and

at State option, those subject to and currently actively and satisfactorily participating at least 20 hours a week in an AFDC work training program.

The House bill contains no comparable provisions.

The Conference substitute adopts only that portion of the Senate amendment that requires workfare compliance of heads of household who are under age 18, but are age 16 or older, with an amendent exempting those attending school at least half-time or enrolled in any employment or training program.

(y) Workfare Hours

The Senate amendment provides that, in the case of households that are exempt from food stamp work requirements because they are participating in an AFDC community work experience program, the maximum number of hours of work required under the AFDC community work experience program must be a number of hours equal to the amount of AFDC assistance plus food stamp benefits divided by the higher of the Federal or State minimum wage. In determining the food stamp benefit to be used in this calculation, the food stamp benefit of non-AFDC household members would be included. No household member except from food stamp work requirements because of participation in the AFDC commmunity work experience program for more than 120 hours a month.

The House bill contains no comparable provisions.

The Conference substitute adopts the Senate amendment. The Conferees intend that these provisions provide the States with the option to increase the hours of workfare participation required of food stamp recipients in AFDC community work experience programs to reflect the receipt of food stamp benefits.

(18) Staggering of Coupon Issuance

(a) The House bill allows States to stagger issuance of food stamp benefits for its caseload throughout the entire month. The procedure used by a State would have to ensure that no household experiences an interval between issuances of more than 35 days. (Sec. 1516.)

The Senate amendment contains the same provisions, except that the staggered issuance procedure would have to ensure an interval of no more than 40 days. (Sec. 1426.)

The Conference substitute adopts the Senate provision.

(b) The House bill provides that the assurance of a maximum 35 day interval could be accomplished through special supplemental issuances. (Sec. 1516.)

The Senate amendment contains no comparable provisions.

The Conference substitute adopts the House provision with an amendment to change the 35 day interval to 40 days.

(c) The House bill requires that, in the case of households applying for and receiving benefits in the last 15 days of a month, benefits for the first full month of participation must be issued by the later of 5 working days after the beginning of the month or 5 working days after verification procedures have been completed. (Sec. 1516.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment requiring benefits for the first full month of participation to be issued no later than the eighth day of the month.

(19) Alternative Means of Coupon Issuance

The Senate amendment requires the Secretary to require States to issue benefits through specified alternative methods, if the Secretary determines, in consultation with the Inspector General of the Department, that it would improve the integrity of the food stamp program. (Sec. 1419.)

(NOTE.—Under existing law, the Secretary may require States to use alternative issuance methods upon his determination, in consultation with the Inspector General, that it would improve program integrity.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(20) Simplified Applications and Standardized Benefits

The House bill requires the Secretary to continue pilot projects for simplified applications and standardized benefits if it is determined that that project has a beneficial effect on program administrative costs and error rates and continuation will not result in undue added program costs. (Sec. 1526(b).)

(NOTE.—Under existing law, 2 pilot projects for simplified application and standardized benefits are authorized. For their terms and conditions, see the provisions of the Senate amendment.)

The Senate amendment repeals the current authorization for simplified application and standardization benefit pilot projects and allows the Secretary to permit States, on request, to operate a program under which:

households including members who are recipients of AFDC, SSI, or Medicaid benefits would be eligible for food stamps regardless of the Food Stamp Act's income and asset standards, as long as their gross monthly income did not exceed 130 percent of the Federal poverty levels; and

benefits to these households would be based on the size of the household and (1) the AFDC benefit, (2) the Medicaid income eligibility standard, or (3) at State option, the AFDC or Medicaid "needs standards".

The Secretary would be required to adjust the benefits received by these households to ensure that the average benefit by household size is not less than the average that would have been provided under regular food stamp benefit determination rules.

The Secretary would be required to evaluate the effect of these simplified application and standardized benefit programs on recipient households, administrative costs, and error rates.

Administrative costs would be shared according to regular food stamp rules.

The Secretary would be required to consult with the Secretary of Health and Human Services to ensure that application processing and eligibility determinations are simplified and unified with processing and determinations for benefits under the Social Security Act. (Sec. 1414(c) and Sec. 1420.)

The Conference substitute adopts the Senate provision with an amendment to limit the number of sites to five statewide and five local sites.

The conferees intend that, in operating these projects, the Secretary should insure that, to the extent that a redistribution of benefits occurs, it is not done at the expense of the poorest food stamp households. The conferees intend that the projects authorized under this provision will be the sole projects of this specific nature approved by the Secretary and implemented by states and localities.

(21) Special Supplemental Food Program

The Senate amendment requires that a retail food store or wholesale food concern that has been disqualified for food stamp redemption be ineligible, during the period of disqualification, to participate in the special supplemental food program for women, infants, and children (WIC). (Sec. 1429(a).)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(22) Credit Unions

The House bill allows financial institutions insured under the Federal Credit Union Act, and having retail food stores or wholesale food concerns in their field of membership, to accept food stamps for deposit from such retail food stores or wholesale food concerns. (Sec. 1518.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(23) Charges for Redemption of Coupons

(a) The House bill prohibits financial institutions from charging a fee to food concerns for redemption of food stamps if the food stamps are submitted in a manner consistent with requirements for presenting the stamps to Federal Reserve banks. Food concerns would not be required to cancel the stamps.

The Senate amendment contains the same provision. (Sec. 1421.)

The Conference substitute adopts the House provision.

(b) The House bill provides that the Secretary, in consultation with the Board of Governors of the Federal Reserve System, is to issue regulations implementing the prohibition on fees. (Sec. 1519.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(24) Public Information

The House bill provides 50-percent Federal funding for program information activities, implemented at the discretion of the State, for unemployed, disabled, or elderly persons who apply or may be eligible for participation in the food stamp program. (Sec. 1520.)

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

(25) Office Hours

The House bill requires States to assess, from time to time, the need for operating food stamp offices during evening and weekend hours. (Sec. 1521.)

The Senate amendment provides that the Secretary's standards for efficient and effective administration of the food stamp program must include standards for periodic review of the hours that food stamp offices are open to ensure that employed individuals are adequately served. (Sec. 1436.)

The Conference substitute adopts the Senate provision.

(26) Certification of Information

The Senate amendment requires that each adult member of an applicant household or a household required to file a periodic or other report must certify in writing the truth of the information contained in the application or report, under penalty of perjury. In the case of a household applying under expedited service procedures, only one adult from the household would be required to certify the truth of the information in the application. (Sec. 1423.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to require one adult member of all applicant households to certify in writing the truth of the information contained in the application, under penalty of perjury.

(27) Liability for Overissuance of Coupons

The Senate amendment requires that each adult member of a food stamp household be jointly and severally liable for the value of any overissuance of food stamps. (Sec. 1431.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(28) Verification

The Senate amendment requires verification of household size (where questionable) and allows States to require verification of any other eligibility factor. (Sec. 1424.)

(NOTE.—Under existing law, verification is required for household income and other eligibility factors as determined by the Secretary. States may also require verification of household size and eligibility factors indicated as significant by the State's quality control reviews.)

The House bill contains no comparable provisions.

The Conference substitute adopts the Senate provision.

(29) Photographic Identification Cards

The Senate amendment revises the basis for the Secretary's decision to require States to use photographic identification cards. The decision would be based on both the need to protect program integrity and the cost-effectiveness of requiring the cards.

The Senate amendment would also allow States to permit households to fulfill a requirement for a food stamp photographic identification card by presenting a card used to receive assistance under a welfare or public assistance program. (Sec. 1425.)

(NOTE.—Under existing law, the Secretary may require States to use photographic identification cards in project areas where it is determined that it would be useful to protect program integrity.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(30) Fraud Detection

The Senate amendment requires the establishment and operation of fraud detection administrative units in project areas with 5,000 or more participating households. Their activities would include detection, investigation, and assistance in prosecution. (Sec. 1427.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

The conferees intend that there need not be physically separate and distinct units and that those workers fulfilling this function need not work full-time in fraud detection nor work exclusively on the food stamp program. The fraud detection function could be performed by persons not employed by the food stamp agency.

(31) Expanded Food and Nutrition Education Program

The House bill requires States to encourage food stamp program participants to participate in the expanded food and nutrition education program (EFNEP). At the request of EFNEP personnel, State agencies, wherever practicable, are to allow EFNEP personnel and information materials to be placed in food stamp offices. (Sec. 1522.)

The Senate amendment contains no comparable provisions.

The Conference substitute adopts the House provisions.

(32) Food Stamp Program Information and Simplified Application at Social Security Administration Offices

The House bill requires that:

SSI applicants, as well as recipients, be informed of the availability of food stamp benefits, be assisted in making a simple application to participate at social security offices, and be certified for food stamp eligibility using information in social security files;

social security applicants and recipients be informed of the availability of food stamp benefits and provided with a simple food stamp application form at social security offices—under regulations prescribed by the Secretary in conjunction with the Secretary of Health and Human Services;

the Secretary and the Secretary of Health and Human Services revise the current memorandum of understanding regarding services in social security offices to ensure that social security applicants and recipients are adequately notified of food stamp assistance, that food stamp applications from SSI applicants or recipients will be forwarded to a food stamp agency in an efficient and timely manner, and that the Secretary of Health and Human Services receives reimbursement for costs incurred in providing food stamp services; and

not later than 180 days after enactment, the Secretary submit a report to the House and Senate committees describing the nature and extent of costs incurred by the Secretary of Health and Human Sevices in complying with requirements for food stamp services. (Sec. 1523.)

The Senate amendment contains the same provisions, except that: (1) SSI applicants and recipients are to be "informed of the availability of assistance in making a simple application" to participate in the food stamp program, rather than "be assisted"; and (2) social security applicants and recipients are to be "informed of the availability of a simple application" to participate in the food stamp program, rather than be "provided with a simple application". (Sec. 1428.)

The Conference substitute adopts the Senate provision with an amendment (1) to require that SSI applicants and recipients are to be assisted in making a simple application, (2) to make the provision effective Oct. 1, 1986, and (3) to require the Secretary to report by April 1, 1987.

(33) Retail Food Stores and Wholesale Food Concerns

(a) The House bill requires that, when a disqualified retail food store or wholesale food concern is sold (or otherwise transferred) to a bona fide purchaser (or transferee), the person or persons who sell or transfer ownership must be subjected to a civil money penalty established by the Secretary to reflect the portion of the disqualification period that has not expired. If the disqualification is permanent, the civil money penalty would be double the penalty established by the Secretary for a 10-year disqualification. (Sec. 1524.)

The Senate amendment contains the same provisions. However, there is no reference to "bona fide" purchasers (or transferees) and no reference to subjecting the "person or persons" selling or tranferring ownership to a civil money penalty. (Sec. 1430(a).)

The Conference substitute adopts the House provision with an amendment to strike "bona fide".

(b) The House bill requires that the disqualification of a retail food store or wholesale food concern that has been sold (or otherwise transferred) must continue in effect as to the seller (or transferor)—notwithstanding the imposition of a civil money penalty. (Sec. 1524.)

The Senate amendment contains the same provision. (Sec. 1430(a).)

The Conference substitute adopts the House provision.

(c) The House bill permits the Secretary to request the Attorney General to institute a civil action in Federal court against the person or persons subject to a civil money penalty on selling or transferring a disqualified store or concern, after the penalty has become final under the Act's administrative and judicial review procedures. In such an action, the validity and amount of the penalty are not to be subject to review. (Sec. 1524.)

The Senate amendment contains the same provision. (Sec. 1430(a).)

The Conference substitute adopts the House provision.

(d) The Senate amendment prohibits the buyer (or transferee) of a disqualified retail food store or wholesale food concern from accepting food stamps until the Secretary receives payment in full of any civil money penalty—if the buyer (or transferee) has actual or constructive notice of an outstanding penalty.

The Secretary would, to the extent permitted by law, be required to ensure that any civil money penalty encumbrance that has been imposed on a disqualified store or concern is recorded in an appropriate State or local public office.

The seller (or transferor) would be required to advise a buyer (or transferee) of the limitation on accepting food stamps (until a penalty is paid) imposed on buyers (and transferees), prior to the sale or transfer. (Sec. 1430(b).)

The House bill contains no comparable provisions.

The Conference substitute provides that any bona fide buyer (or transferee) of a disqualified retail food store or wholesale food concern can accept food stamps, if otherwise eligible. All other buyers would be ineligible to accept food stamps until the outstanding penalty is paid.

(e) The Senate amendment prohibits the Secretary from requiring, as the result of a sale or transfer of a disqualified store or concern, that the buyer (or transferee) furnish a bond to be authorized to accept food stamps. (Sec. 1430(b).)

(Note.—Under existing law, the Secretary may require a store or concern that has been disqualified to furnish a bond in order to re-enter the food stamp program.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(34) Interest on Claims Against States

The Senate amendment provides that a State shall be liable for interest on any claim assessed against it under the Food Stamp Act, from the date of a final administrative determination. (Sec. 1432.)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(35) Collection of Claims

(a) The Senate amendment requires States to pursue "other" methods of collecting overpaid benefits, in addition to seeking cash repayment and reducing any future food stamp benefits, in cases of intentional violation—unless the State demonstrates to the Secretary's satisfaction that other methods are not cost effective. (Sec. 1433(a).)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(b) The Senate amendment permits States to collect overpaid benefits caused by State agency error by reducing future food stamp benefits. Collection by this method would be limited to $10 a month or 10 percent of a household's benefit, whichever results in faster collection. (Sec. 1433(b).)

(Note.—Under existing law, States may not use reduction of future benefits as a means of collecting overpaid benefits caused by State agency error.)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(36) Food Stamp Intercept of Unemployment Benefits

The Senate amendment permits States to collect overpaid benefits in cases of intentional violation by having appropriate amounts withheld from any unemployment compensation due the individual.

Collection of these overissuances (if they have not been collected through reduction in the household's benefit allotment, repayment in cash, or other means) could be by agreement with the individual to have appropriate amounts withheld from any unemployment compensation due, or by court-ordered garnishment.

State food stamp agencies would reimburse unemployment compensation agencies for the cost of collection through the unemployment compensation system. As with other means of collection in cases of intentional violation, States would be authorized to retain 50 percent of any amounts collected through the unemployment compensation system. (Sec. 1434.)

(Note.—Social Security Act provisions dealing with unemployment compensation would be amended to allow for this method of collection and to allow the unemployment compensation agencies to require applicants for unemployment compensation to disclose whether they have received an overissuance of food stamps due to intentional violation of the Food Stamp Act or regulations and the overissuance has not been collected.)

The House bill contains no comparable provisions.

The Conference substitute adopts the Senate provisions.

(37) Administrative and Judicial Review

The Senate amendment revises the standard that States, retail food stores, and wholesale food concerns must meet in order to have a court temporarily stay an administrative action against them during the pendency of judicial review or any appeal. An applicant for a temporary stay would have to show a likelihood of prevailing on the merits of the case. (Sec. 1435.)

The Senate amendment also corrects a spelling error in the Act.

(Note.—Under existing law, an applicant must show irreparable injury in order to gain a temporary stay.)

The House bill contains no comparable provisions.

The Conference substitute adopts the Senate provision with an amendment to revise the standard of review to include consideration of irreparable harm and likelihood of prevailing on the merits of the case.

(38) State Agency Liability, Quality Control, and Automatic Data Processing

(a) The Senate amendment revises the method of calculating the fiscal sanction owed by States with rates of erroneous payment in excess of 5 percent. Effective for erroneous payments made in FY 1986 and following fiscal years, States would be liable for:

75 percent of the value of erroneous payments made in excess of the 5-percent threshold, as long as the State's error rate does not exceed 7 percent; and

the full value of erroneous payments made in excess of the 7-percent threshold, plus 75 percent of the value of erroneous payments between 5 and 7 percent.

The Secretary could collect the fiscal sanction by means of a payment by the State, by withholding amounts due the State as the Federal share of administrative costs, or by other means of collection authorized by law (chapter 37, title 31, U.S.C.). (Sec. 1437.)

(Note.—Under existing law, fiscal sanctions are based on, and collected by, withholding the Federal share of a State's administrative costs. Specifically, for each percentage point (or portion of a percentage point) by which the State's error rate exceeds 5 percent, the State loses 5 percent of its Federal share of administrative costs. In addition, if a State's error rate exceeds 8 percent, it loses 10 percent of its Federal share of administrative costs for each percentage point (or portion of a percentage point) by which its error rate exceeds 8 percent.)

The House bill contains no comparable provisions.

The Conference substitute deletes the Senate provision.

(b) The House bill reduces a State's fiscal sanction for erroneous payments by any amount due as the result of "errors" caused by a State's use of correctly processed information received from a Federally sponsored automatic information exchange system, effective for FY 1986 and following fiscal years. (Sec. 1525(a).)

The Senate bill contains no comparable provision.

The Conference substitute adopts the House provision.

(c) The Senate amendment reduces a State's fiscal sanction (as calculated under the new methodology) by 75 percent of value of improperly issued benefits recovered or collected by the State and remitted to the Federal government. (Sec. 1437.)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(d) The House bill requires the Secretary, at State request, to waive up to 15 percent of a State's fiscal sanction if the State shows it will devote the amount to be waived to (1) automatic data processing, computerized information, or related systems, or (2) other administrative efforts—as long as these activities are designed to reduce payument error rates and are approved by the Secretary. To obtain a waiver, a State must show to the Secretary's satisfaction that the proposed activities are in addition to those already in place or part of an existing State plan, and that they can be reasonably expected to improve program management, integrity, or efficiency.

An amount expended under this waiver provision could not be used to claim a Federal cost-share under other provisions of law.

If a proposed activity upon which a waiver claim is based is not implemented within 6 months after a target date agreed on by the Secretary and the State, the Secretary would be required to terminate the waiver—except for good cause shown, including food faith efforts made by the State—and the State would again become liable for the amount waived. This procedure for waivers would be effective for FY 1986 and following fiscal years. (Sec. 1525(a).)

The Senate amendment contains no comparable provisions.

The Conference substitute deletes the House provision.

(e) The Senate amendment requires the Secretary to conduct a study of the food stamp quality control system. The study would examine how best to operate the system to obtain information that would allow States to improve administration, and provide reasonable data on the basis of which Federal funding may be withheld for States with excessive levels of erroneous payments.

The Secretary would also be required to contract with the National Academy of Sciences for a concurrent independent study for the same purposes, and provide to the Academy any relevant information.

Both studies would be due to the Congress not later than 1 year after enactment. (Sec. 1445(a).)

The House bill contains no comparable provisions.

The Conference substitute adopts the Senate provision.

(f) The Senate amendment prohibits the Secretary from imposing any reduction in a payment to a State under the Act (i.e., the Federal share of administrative costs) for a 24-month period beginning with the first calendar quarter following enactment.

During this 24-month "moratorium period," the Secretary and States would be required to continue to operate quality control systems and calculate error rates. (Sec. 1445(b).)

The House bill contains no comparable provisions.

The Conference substitute adopts the Senate provision with an amendment to limit the moratorium to 6 months from the date of enactment.

(g) The Senate amendment requires the Secretary to publish regulations restructuring the food stamp quality control system not later than 18 months after enactment. In these regulations, the quality control system would be restructured to the extent the Secretary determines appropriate, taking into account the Secretary's study of the system, and the study to be conducted by the National Academy of Sciences (see item (d) above). The Secretary would be required to implement the restructured quality control system beginning with the first calendar quarter after the 24-month moratorium period.

The Senate amendment also requires that the Secretary publish regulations (not later than 18 months after enactment) establishing criteria for adjusting reductions in payments to States for quarters prior to implementation of the restructured quality control system. These criteria would take into account the studies of the quality control system and would be used as the basis for eliminating reductions in payments to States not required by the restructured quality control system.

The Senate amendment also requires that the Secretary reduce payments to States: (1) in accordance with the special criteria established by regulation for quarters during and prior to the 24-month moratorium period; and (2) in accordance with the restructured quality control system for quarters after the moratorium period. (Sec. 1445(c).)

Note.—Under the current quality control system, fiscal sanctions on States with excessive rates of erroneous payments are based on, and collected by reducing, Federal payments to States for administrative expenses. Under the Senate amendment, they are based on levels of erroneously paid benefits and may be collected by reducing (withholding) the Federal share of administrative costs, or by other means authorized by law.)

The House bill contains no comparable provisions.

The Conference substitute adopts the Senate provisions with an amendment (1) requiring the Secretary to implement the restructured quality control system beginning 24 months after enactment and (2) requiring the Secretary to adjust payments to States in accordance with the special criteria set by regulation for periods prior to implementation of the restructured quality control system and in accordance with the restructured quality control system for quarters after implementation of the restructured system.

(h) The House bill requires State to submit data sufficient for the Secretary to determine a payment error rate and the amount of a State's fiscal sanction expeditiously.

The Secretary would be required to make a determination of a State's fiscal sanction, and notify the State, within 9 months of the end of the fiscal year for which the sanction is levied.

The Secretary would be required to initiate efforts to collect fiscal sanctions before the end of the fiscal year following the year for which the sanction is levied—subject to the conclusion of any formal or informal appeal procedure and administrative and judicial review procedures provided for under the Act.

These provisions would be effective for FY 1986 and following fiscal years. (Sec. 1525(a).)

The Senate amendment contains no comparable provisions.

The Conference substitute adopts the House provisions.

(i) The House bill requires the Secretary to develop a model plan for the comprehensive automation of data processing and computerization of information systems under the food stamp program—after consultation with, and with the assistance of, a State advisory group appointed by the Secretary without regard to the provisions of the Federal Advisory Committee Act.

The elements of the plan would include, but not be limited to, intake procedures, eligibility and benefit determinations, verification procedures, coordination with related Federal and State programs, issuance of benefits, reconciliation procedures, the generation of program notices, program reporting, and security and privacy.

The model plan would have to be developed and made available for comment not later than October 1, 1986. The plan would have to be completed, taking into account comments, not later than December 1, 1986. (Sec. 1525(b).)

The Senate amendment requires each State to develop and submit a plan for the use of automated data processing and information retrieval systems to administer the food stamp program.

Each plan could have to provide for the automation of such administrative operations as the Secretary consider appropriate, and could provide for automation of intake procedures, eligibility determinations, calculation of benefits, verification procedures, coordination with related Federal and State programs, issuance of benefits, reconciliation procedures, the generation of program notices, program reporting, and other appropriate administrative operations.

State plans would have to be developed and submitted to the Secretary not later than October 1, 1986. (Sec. 1446(a).)

The Conference substitute establishes revised provisions governing automated data processing and information retrieval activities in the food stamp program, incorporation aspects of the House and Senate provisions.

Under the Conference substitute, the Secretary is required to develop a model plan for the comprehensive automation of data processing and computerization of information systems under the food stamp program—after consultation with, and with the assistance of, a State advisory group appointed by the Secretary without regard to the provisions of the Federal Advisory Committee Act. The model plan is required to be developed and made available for comments not later than October 1, 1986. The plan must be completed, taking into account comments, not later than February 1, 1987.

The Conference substitute further provides that the elements of the model plan may include intake procedures, eligibility and benefit determinations, verification procedures, coordination with related Federal and State programs, issuance of benefits, reconciliation procedures, the generation of program notices, and program reporting. In developing the model plan, the Secretary is required to take into account systems already in existence and provide for consistency with such systems.

The Conference substitute provides that each State is required to develop and submit a plan, which shall become a part of the State's overall plan of operations, for the use of automated data processing and information retrieval systems in their administration of the food stamp program, taking into account the Secretary's model plan. The State plans must also provide timeframes for completion of the phases of the State plan. If a State has a sufficient automated data processing and retrieval system, the State plan may reflect its existing system, subject to the Secretary's approval. State plans are required to be developed and submitted not later than October 1, 1987.

(j) The House bill authorizes the Secretary to pay 90 percent of the planning, design, development, and installation costs of automatic data processing and information retrieval systems that:

the Secretary determines will asset in meeting the requirements of the Food Stamp Act;

meet conditions prescribed by the Secretary;

are likely to provide more efficient and effective administration;

will be compatible with AFDC systems; and

satisfy the elements of the Secretary's model automation and computerization plan.

The 90-percent cost-sharing authorization would be effective for FY 1986 and following fiscal years. (Sec. 1525(a).)

Note.—Under existing law, the Secretary is authorized to pay 75 percent of the above-noted automation and computerization costs for systems meeting the first 4 of the above-noted criteria. This would be retained under the House bill.)

The Senate amendment contains no comparable provisions.

The Conference substitute deletes the House provisions.

(k) The House bill requires the Secretary to prepare and submit to Congress an evaluation of the degree and sufficiently of each

State's automated data processing and computerized information systems not later than April 1, 1987.

The evaluation would have to include, for each State, an analysis of additional steps needed to achieve effective, cost-efficient, and secure data processing and information systems.

The evaluation would have to be periodically updated. (Sec. 1525(b).)

The Senate amendment contains the same provision except that the Secretary is required to prepare and submit to the House and Senate Committee's an evaluation of the sufficiency of each State's plan for use of automated data processing and information retrieval systems, and the evaluation does not include a reference to system security. (Sec. 1446(a).)

The Conference substitute requires the Secretary to submit to Congress an evaluation of the degree and sufficiency of each State's automated data processing and computerized information systems, and each State's plan for use of automated data processing and information retrieval systems, not later than April 1, 1988. The evaluation report is required to include an analysis of any additional steps needed for States to achieve effective and cost-efficient systems, and is required to be periodically updated.

(1) The House bill permits the Secretary to require a State agency to take specified steps to automate data processing systems or computerized information systems—based on the Secretary's findings in any of his periodic reports evaluating State's implementation of these systems, and if the Secretary finds that, in the absence of these systems, there will be program accountability or integrity problems that will substantially affect program administration.

The House bill also provides that failure to comply with a requirement to automate systems would subject a State to the Act's provisions for injunctive relief and withholding of Federal funds. (Sec. 1525(b) and (c).)

The Senate amendment contains no comparable provisions.

The Conference substitute permits the Secretary to require a State to take specified steps to automate data processing systems or computerize information systems as necessary to rectify administrative shortcomings (except where the steps would displace State computer initiative already under way), based on the findings of the periodic evaluation reports and if the Secretary finds that, in the absence of these systems, there will be program accountability or integrity problems that will substantially affect program administration.

(m) The Senate amendment requires States to commence implementation of their plans for use of automated data processing and information retrieval systems not later than October 1, 1987, and complete implementation not later than October 1, 1989.

If a State fails to complete implementation by October 1, 1989, the Secretary would be required to reduce the Federal share of computerization costs by 5 percent for each 6-month period that a State fails to meet the October 1, 1989 deadline.

The Secretary would be permitted to extend the October 1 deadlines. The Secretary would also be permitted to waive or reduce the amount of any required reduction in Federal cost-sharing payments on the basis of a good faith effort by a State to implement its plan. (Sec. 1446(b).)

The House bill contains no comparable provisions.

The Conference substitute requires States to commence implementation of their plans for automated data processing and information retrieval submitted to the Secretary not later than October 1, 1988, and meet the time-frames set forth in their plans. The Secretary is permitted to extend deadlines for commencement of implementation and meeting plan time-frames to the extent deemed appropriate, based on a finding of a good faith effort to implement a State plan.

The Conference substitute further provides that the Secretary is permitted to withhold the Federal share of general administrative costs (and the Federal share of computerization costs), and seek other means of compliance authorized under the Food Stamp Act, if a State does not comply with requirements for submission and implementation of a State plan for computerization.

(39) Geographical Error-Prone Profiles

The Senate amendment allows the Inspector General to use quality control information to determine which project areas have payment error rates that impair the integrity of the food stamp program.

The Secretary would be permitted to require a State to carry out new or modified procedures for household certification in project areas identified by the Inspector General, if the Secretary determines that the procedures would improve the integrity of the program and be cost effective.

Not later than 12 months after enactment, and each 12 months thereafter, the Secretary would be required to submit a report that lists project areas identified by the Inspector General and any procedures the Secretary has required to be carried out in these areas to the House and Senate Committees. (Sec. 1438.)

The House bill contains no comparable provisions.

The Conference substitute adopts the Senate provision with an amendment to substitute the Secretary for all references to the Inspector General.

(40) Pilot Projects

(a) The House bill requires the continuation, on State request, of any existing pilot proejct involving the payment of food stamp benefits in cash to households composed entirely of persons age 65 or over or entitled to SSI benefits—through FY 1990. (Sec. 1526(a).)

(Note.—Under P.L. 99-157, these pilot projects have been continued until Dec. 31, 1985.)

The Senate amendment requires the continuation of these pilot projects, on State request, through FY 1989. (Sec. 1439.)

The Conference substitute adopts the House provision.

(b) The Senate amendment authorizes the Secretary to conduct a pilot project to test the effects of requiring food stamp households to pay cash for the amount of any food stamp purchase between 1 and 99 cents. (Sec. 1440.)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(41) Authorization Ceiling; Authority to Reduce Benefits

(a) The House bill authorized the following appropriations for programs under the Food Stamp Act:

for FY 1986, $13,584,000,000;
for FY 1987, $14,369,000,000;
for FY 1988, $15,276,000,000;
for FY 1989, $16,142,000,000; and
for FY 1990, $16,985,000,000.
(Sec. 1527.)

The Senate amendment authorizes the following appropriations levels:

for FY 1986, $12,984,000,000;
for FY 1987, $13,572,000,000;
for FY 1988, $14,154,000,000; and
for FY 1989, $14,695,000,000.
(Sec. 1441.)

The Conference substitute adopts the Senate provision with an amendment to establish authorization ceilings as follows: $13,037,000,000 for FY 1986; $13,936,000,000 for FY 1987; $14,741,000,000 for FY 1988; $15,435,000,000 for FY 1989; and $15,970,000,000 for FY 1990. These levels were determined by: (1) using as a base the Congressional Budget Office estimate of the costs of the basic food stamp program in each of those years, taking into account the effect of this Act; and (2) adding to the base 3 percent in FY 1986, 5 percent in FY 1987, 6 percent in FY 1988, and 7 percent in FY 1989 and FY 1990, and (3) adding in the amounts provided for the Puerto Rico block grant.

(b) The House bill revises the criteria to be used by the Secretary in deciding if the Secretary will direct benefit reductions. The Secretary would be required to direct benefit reductions if, in any fiscal year, the Secretary finds that benefit requirements will exceed the authorized appropriations level. (Sec. 1527.)

(Note.—Under existing law, the Secretary is to direct benefit reductions if the Secretary finds that benefit requirements will exceed the appropriation provided.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(42) Transfer of Funds

The Senate amendment prohibits the transfer of funds appropriated to carry out the Food Stamp Act to the Agriculture Department's Office of the Inspector General or Office of the General Counsel—effective for FY 1987 and following fiscal years. (Sec. 1442.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(43) Puerto Rico Block Grant

(a) The House bill requires the allocation of the following amounts for Puerto Rico's nutrition assistance block grant:

for FY 1986, $825,000,000;
for FY 1987, $862,000,000;
for FY 1988, $898,000,000;
for FY 1989, $936,000,000; and
for FY 1990, $974,000,000.
(Sec. 1528.)

(Note.—Under existing law, the annual allocation for Puerto Rico is $825,000,000.)

The Senate bill continues the authorization for Puerto Rico's nutrition assistance block grant at $825 million through fiscal year 1989.

The Conference substitute adopts the House provision with an amendment to provide for Puerto Rico's nutrition assistance block grant as follows:

for FY 1986, $825,000,000;
for FY 1987, $852,750,000;
for FY 1988, $879,750,000;
for FY 1989, $908,250,000; and
for FY 1990, $936,750,000.

(b) The House bill removes the requirement that Puerto Rico pay 50 percent of any administrative expenses for which its block grant is used. (Sec. 1528.)

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

(c) The Senate amendment changes the date by which Puerto Rico must submit its annual plan of operation—from July 1 to April 1 of the year preceding the year it is submitting its plan for. (Sec. 1443.)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(44) Feasibility Study

The House bill requires the Secretary to conduct a study to determine the feasibility of extending the food stamp program to American Samoa—to be prepared and submitted to the House and Senate Committees not later than April 1, 1986.

The feasibility study would determine the various economic and demographic circumstances of the people of American Samoa and analyze features of the food stamp program that would have to be revised to ensure an effective and efficient program in light of circumstances peculiar to American Samoa. (Sec. 1529.)

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

(45) Commodity Distribution

(a) The House bill extends through FY 1990 the authority of the Secretary to purchase and distribute commodities with funds appropriated from the general funds of the Treasury to maintain the traditional level of assistance distribution to institutions, supplemental feeding programs, summer camps, the Pacific Islands Trust Territory, Indian reservation, and in the case of disasters. (Sec. 1530(a)(1).)

The Senate amendment extends this authority through FY 1989. (Sec. 1451(a).)

The Conference substitute adopts the House provision.

(b) The Senate amendment allows public or private, nonprofit organizations receiving commodities under section 32 of the Act of August 24, 1935 to transfer such commodities or products to other public or private nonprofit organizations that can use them without cost or waste to provide nutrition assistance to low-income persons. (Sec. 1450.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(46) Commodity Supplemental Food Program

(a) The House bill extends the authority for the two low-income elderly pilot projects authorized in current law as well as an additional existing project—effective Oct. 1, 1985.

The House bill also requires that, as of the date of enactment, any CSFP project serving the elderly be allowed to continue commodity distribution to low-income elderly people under such programs on the date of enactment to continue such distribution at levels no lower than existing caseloads. (Secs. 1530(b)(1) and 1530(c).)

(NOTE.—Section 5 of the Agriculture and Consumer Protection Act of 1973 specifically authorizes two pilot projects for low-income elderly. However, based on appropriations Acts, three such pilot projects have been operated under this authority.)

The Senate amendment revises current law to specify authorization of three, instead of two, pilot projects for low-income elderly—through September 30, 1989. (Sec. 1452(a)(1) (A) and (B).)

The Conference substitute adopts the House provision.

(b) The House bill extends through FY 1990 the authorization for administrative funds for required and bonus commodities distributed under the CSFP. (Sec. 1530(b)(2).)

The Senate amendment extends this authority through FY 1989. (Sec. 1452(a)(2).)

The Conference substitute adopts the House provision.

(c) The House bill provides that funds for the administrative costs of bonus commodities be available in an amount equal to 15 percent of (1) the appropriation for CSFP, and (2) the value of all additional (i.e., "bonus") commodities distributed to CSFP participants. (Sec. 1530(d).)

(NOTE.—Current law sets this amount at 15 percent of the value of only the bonus commodities included in the CSFP food package. USDA does not count bonus commodities as part of the CSFP food package, and consequently administrative funds for bonus commodities distributed to CSFP participants are not eligible for administrative funds.)

The Senate amendment contains no comparable provision, thus maintaining current law.

The Conference substitute adopts the House provision.

(d) The House bill permits local agencies administering CSFP projects to provide commodities to low-income elderly persons, under terms and conditions set by the Secretary to ensure that (1) such assistance does not serve to restrict or reduce assistance to eligible women, infants, and children; and (2) local agencies do not terminate or reduce assistance to women, infants, and children in order to provide assistance to the elderly. (Sec. 1530(b)(4).)

The Senate amendment permits local agencies, with the approval of the Secretary, to provide commodities to low-income elderly if the local agencies determine that the funds they receive are in excess of what is necessary to serve eligible, women, infants, and children. The Secretary would set the terms and conditions for such participation by low-income elderly. (Sec. 1452(b).)

The Conference substitute adopts the Senate provision with an amendment that provides the Secretary with authority to define low-income elderly persons, but deletes the authority for the Secretary to establish other terms and conditions as to the participation of low-income elderly persons.

The Secretary's approval of a local site's request to serve elderly persons would be based only upon a determination (1) that the local site has adequate funding to serve elderly persons without disadvantaging women and children; and (2) that the local site has properly defined what low-income elderly persons they will serve.

(e) The House bill requires the Secretary to approve, in any fiscal year, applications for additional CSFP sites in areas where the program does not operate—to the extent that (1) appropriations are available and (2) such approval does not reduce existing levels of participation by women, infants, children, and low-income elderly. (Sec. 1530(b)(4).)

The Senate amendment requires approval of additional applications for eligible CSFP projects if the Secretary determines that the amount of funds appropriated for the program exceeds the needs of existing sites. In making such determinations, the Secretary would be required to consider the funding needs of existing sites for both the current and succeeding fiscal years. (Sec. 1452(b).)

The Conference substitute adopts the House provision.

(f) The House bill requires the Secretary to provide information on the CSFP and its application procedures to agencies that could operate the program in areas covered by neither the CSFP nor the WIC programs. (Sec. 1530(b)(4).)

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

SUBTITLE B—COMMODITY DISTRIBUTION PROVISIONS

(47) Emergency Feeding Organizations-Definitions

The House bill incorporates into the law the current regulatory term "emergency feeding organizations" used to define the types of organizations eligible for priority receipt of commodities and Federal funding assistance for distribution costs.

These would be included in the statute as follows: including the activities and projects of charitable institutions, food banks, hunger centers, soup kitchens, and similar public or private nonprofit eligible recipient agencies. (Sec. 1601.)

The Senate bill contains no comparable provision.

The Conference substitute adopts the House provision.

(48) Availability of Commodities

(a) The Senate amendment authorizes the Secretary to make section 32 surplus commodities available to TEFAP agencies. (Sec. 1453(a).)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(b) The Senate amendment specifies that commodities made available include, but not be limited to dairy products, wheat, or wheat products, rice, honey, and cornmeal. (Sec. 1453(a).)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(c) The Senate amendment requires that beginning January 1, 1986, the Secretary submit a semiannual report on the types and amounts of commodities made available for distribution under the program. These reports are to be submitted to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry. (Sec. 1453(a).)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to delay reporting requirements to April 1, 1986.

(49) Repeal of Provisions Relating to the Food Security Wheat Reserve

The House bill repeals the current law provisions relating to use of wheat from the food security wheat reserve for TEFAP distribution. (Sec. 1602.)

(NOTE.—Use of wheat from the reserve is conditional upon its being replaced by no later than October 1, 1985. Thus, the current law provision does not allow for the use of wheat from the reserve after that date.)

The Senate amendment contains no provision, thus maintaining the current law provisions relating to use of the food security wheat reserve.

The Conference substitute adopts the House provision.

(50) Distribution of Surplus Commodities

(a) The House bill specifies cheese, nonfat dry milk, and wheat as being among those commodities made available to domestic food assistance programs at no charge or credit when available in CCC inventories. (Sec. 1611.)

The Senate amendment specifies the inclusion of dairy products, wheat or wheat products, rice, honey and cornmeal as being among the CCC commodities made available at no charge or credit to food assistance programs. (Sec. 1454.)

The Conference substitute adopts the Senate provision.

(b) The House bill extends through September 30, 1987 the requirement for the Secretary to enter into processing agreements with private companies for reprocessing bonus commodities into end-use products. (Sec. 1611.)

(NOTE.—The House bill repeals all references to processing agreements in the TEFAP Act and includes all provisions for such agreements under sec. 1411(a) of the Agriculture and Food Act of 1981.)

The Senate amendment extends this requirement through June 30, 1987. (Sec. 1453(f).)

The Conference substitute adopts the Senate provision.

Since this Act extends the National Commodity Processing program for two years, it is not necessary for the Department of Agriculture to mandate by regulation that States establish their own bonus commodity processing program. The Secretary of Agriculture should continue efforts to improve the accountability in processing activities and encourage expansion of the commodity processing of all USDA donated foods.

(c) The House bill requires private companies participating in processing agreements to annually settle all accounts with the Secretary and appropriate State agencies regarding commodities processed under such agreements. (Sec. 1611.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(51) State Cooperation

(a) The House bill permits State agencies receiving TEFAP commodities to enter into cooperative agreements with each other to provide for either joint provision or transfer of commodities to an emergency feeding organization when such organization serves needy persons in a single geographical area that is situated in each of such States. (Sec. 1604.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(b) The Senate amendment requires each State agency to encourage distribution of TEFAP commodities in rural areas. (Sec. 1453(b).)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(52) Authorization for Funding and Related Provisions

(a) The House bill authorizes $50 million for each of fiscal years 1986 and 1987 for the Secretary to make available to the States for State and local costs of TEFAP commodity distribution by emergency feeding organizations. (Sec. 1606.)

The Senate amendment contains the same provision. (Sec. 1453(d).)

The Conference substitute adopts the House provision.

(b) The House bill provides that it is the sense of Congress that any Federal funds appropriated in excess of the $50 million authorized for commodity distribution costs be available to a State only to the extent that such State and local governments therein provide an equivalent amount of funds and/or value of in-kind contributions and services. (Sec. 1606.)

The Senate amendment requires that beginning January 1, 1987, in order to be eligible for Federal funds for storage and distribution costs, States match each dollar of such Federal funds made available to them.

(NOTE.—Committee report language specifies that this matching requirement does not have to consist of State appropriated funds, but may be made up from other State or local funds. The report explicitly prohibits the use of in-kind contributions to meet this matching requirement.)

The Conference substitute adopts the Senate provision with an amendment to (1) require State matching on a dollar for dollar basis effective January 1, 1987, except for States that have no regular session of their State legislature by that time, the deadline would be October 1, 1987; (2) limit the matching requirement to those funds that a State retains at the State level and devotes to State-level activities. To the extent the State pays for the direct expenses of local distribution (as provided in item 52(d)), the matching requirement would not apply. (3) In determining whether the State match has been met, in-kind contributions by the State would be counted according to procedures by the Secretary for certifying these contributions; and (4) Federal funding would be provided in advance based upon the State's matching contribution or, if necessary, an reconciliation of the actual amount due the State to occur by the end of the fiscal year; and (5) prohibits States from passing on the costs of the State matching requirement to emergency feeding organizations or charging for the commodities.

(c) The House bill requires that appropriated funds be allocated to the States on an advance basis in the same proportions as commodities distributed under the Act are allocated to them. It also requires reallocation of unused State funds in the same manner as funds were originally allocated. (Sec. 1606.)

The Senate amendment contains no comparable provision.

(NOTE.—In effect, the Senate amendment maintains the current law provision which does not specify how the Secretary is to allocate funds. By current regulation, such funds are distributed to States primarily on a reimbursement basis, and under the same allocation formula as that used for the allocation of commodities (i.e. 60 percent based on State proportion of all persons in poverty and 40% based on State proportion of all unemployed persons.)

The Conference substitute adopts the House provision with an amendment requiring that funds be provided in proportions that approximate commodity distribution. The amendment would also require reallocation of unused State funds but deletes the requirement that they be reallocated in the same manner as funds were originally allocated.

(d) The House bill requires that no less than 20 percent of the funds allocated to a State be made available to emergency feeding organizations to pay for, or provide advance payments to cover the direct expenses of such agencies in distributing commodities to needy persons. The amount of any payment made by the State from its own funds to cover the direct expenses of an emergency feeding organization is counted toward meeting the 20 percent requirement, and direct costs are defined to include costs of transporting, storing, handling and distributing commodities after they have reached the organization, costs associated with determinations of eligibility, verification and documentation, costs of recordkeeping, auditing and other required administrative procedures. (Sec. 1606.)

The Senate amendment contains no comparable provision.

(NOTE.—In effect, the Senate amendment maintains current law, which requires that no less that 20 percent of the funds appropriated be made available for paying or providing advance payments to cover the actual costs of emergency feeding organizations.)

The Conference substitute adopts the House provision with an amendment to specify that emergency feeding organizations receive 20 percent of the funds allocated to a State only if their actual expenses equal that amount, as approved by the State.

(e) The House bill prohibits the use of Federal funds for costs other than those involved in covering expenses related to the distribution of commodities by emergency feeding organizations. It also requires States to submit financial reports on the use of such funds to the Secretary on a regular basis. (Sec. 1606.)

The Senate amendment contains no comparable provision.

(NOTE.—In effect, the Senate amendment extends the current law which establishes a priority for receipt of TEFAP commodities by emergency feeding organizations. The limited amount of TEFAP commodities and high demand by emergency feeding organizations has effectively precluded other agencies from receiving such commodities, and hence administrative funding for their distribution. Federal regulations also prohibit the use of such funds for commodity distribution by other agencies. These are based on the intent of the Congress as expressed during the debate on the TEFAP Act of 1983. Current law also includes a provision prohibiting local agencies from receiving more than 5 percent of the value of the commodities that are received.)

The Conference substitute deletes the House provision.

(53) Reauthorizations

(a) The House bill requires that as early as feasible, but no later than the beginning of each of fiscal years 1986 and 1987, the Secretary publish in the Federal Register an estimate of the types and amount of commodities that the Secretary anticipates will be made available during each such fiscal year. (Sec. 1607.)

The Senate amendment contains a comparable provision. (Sec. 1453(a).)

The Conference substitute adopts the House provision with an amendment to require publication in the Federal Register no later than the beginning of fiscal year 1987.

(b) The House bill requires the Secretary to establish regulations setting liability standards for loss of program commodities in cases where there is no evidence of negligence or fraud and conditions for payment to cover such loss. The regulations are to take into consideration the special needs and circumstances of emergency feeding organizations, including use of volunteers, limited financial resources and the effect that sanctions might have on such organizations ability to meet the food needs of low-income populations. (Sec. 1607.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment to delete reference to the types of special circumstances and needs of emergency feeding organizations the Secretary may consider if the Secretary issues regulations to set standards for liability for commodity losses.

(54) Program Termination

The House bill provides that the program terminate on September 30, 1987. (Sec. 1608.)

(Note.—The House bill reauthorizes commodity processing contracts and administrative funding for CSFP under other Acts.)

The Senate amendment contains the same provision. (Sec. 1453(f).)

The Conference substitute adopts the House provision.

(55) TEFAP Report

The House bill requires that not later than April 1, 1987, the Secretary report to Congress on the activities of the TEFAP program. The report is to include information on the volume and types of commodities distributed; the types of State and local agencies receiving commodities; the populations served by the program and their characteristics; the Federal, State and local costs of commodity distribution operations; and the amount of Federal funds provided to cover State and local costs. (Sec. 1609.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(56) Donations by Military Commissaries

The Senate amendment allows a commissary store of the Department of Defense to donate surplus, unmarketable food to a local food bank. (Sec. 1455.)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

SUBTITLE—NUTRITION AND MISCELLANEOUS PROVISIONS

(57) Cash-in-Lieu of Commodities and Commodity Letters of Credit

The Senate amendment allows school districts which participated in the pilot project study of cash in lieu of commodities and commodity letters of credit to continue receiving this alternative form of assistance through June 30, 1987. Also requires that such school districts be provided bonus commodities to the same extent as other school districts, and that such bonus commodities be made available in the form of their cash value, or through a letter of credit for school districts eligible for these forms of assistance. (Sec. 1456.)

The House bill contains no comparable provision.

(Note.—H.R. 7, as passed by the House, includes a provision that would extend the eligibility of pilot project schools to receive commodity assistance in the form of cash or commodity letters of credit through June 30, 1987. However, it specifies that bonus commodities be provided in the same form as bonus commodities made available to other schools. This provision also requires the Secretary of Agriculture to provide cash compensation to a school district participating in the pilot project study for losses it sustained as a result of the alteration of methodology used to conduct the study during the 1982-1983 school year. This change in methodology was related to the issue of receipt of bonus commodities.)

The Conference substitute adopts the Senate provision with an amendment that cash-in-lieu schools can receive bonus commodities to the same extent as other school districts, but only in the form of commodities (no cash or letter of credit).

(58) Gleaning of Fields

The Senate amendment contains findings that.

emergency food providers help needy persons at no Government cost;

gleaning is a partnership through which food producers permit nonprofit organizations to collect food that has not been harvested for distribution to the needy.

support for gleaning is found in the Judeo-Christian heritage;

a 1977 General Accounting Office estimated substantial amounts of food remained unharvested and that the diets of millions of persons could have been supplemented with this unharvested food;

a number of States and local governments have enacted laws limiting the liability of food donors as an incentive for food contributions; and

numerous organizations have begun gleaning programs;

The Senate amendment also expresses the sense of Congress that (1) food producers who permit gleaning and organizations that glean fields for distribution to the needy should be commended for their efforts, and (2) State and local governments should be encouraged to enact tax and other incentives to increase the number of producers permitting gleaning and the number of shippers who donate, or charge reduced rates for, transportation of gleaned produce. (Sec. 1457.)

The House bill contains no comparable provisions.

(Note.—The House committee report (page 180) includes a similar commendation for producers and organizations, and a similar encouragement for tax and other incentives for gleaning activities.)

The Conference substitute adopts the Senate provision.

(59) Effective and Implementation Dates

(a) The Senate amendment makes all amendments provided for in title XIV (relating food stamps and commodity distribution) effective on enactment, except as otherwise provided. (Sec. 1460(a).)

(Note.—Separate effective dates, as previously described, are provided for:

the amendment relating to sales taxes on food stamp purchases (effective, as to any State, on October 1 of the year during which the first session of the State legislature is convened following enactment):

the amendment relating to repeal of certain provisions dealing with Low-Income Home Energy Assistance Act recipients and the amendment relating to use of a "combined" standard utility allowance (effective one day after enactment);

the amendment requiring semiannual reports dealing with the types and amounts of commodities made available for distribution under the Temporary Emergency Food Assistance Program (effective January 1, 1986); and

the amendment requiring State matching of Federal funds for distribution costs under the Temporary Food Assistance Program (effective January 1, 1987).)

The House bill contains no comparable overall effective-date provision.

(Note.—Separate effective dates as previously described, are provided for:

the amendment relating to sales taxes on food stamp purchases (effective October 1, 1987);

the amendments relating to certain excluded income—educational and self-employment income (effective February 1, 1986);

the amendments relating to assistance provided to a third party as part of an AFDC or general assistance program and earned income under the Job Training Partnership Act (effective October 1, 1985);

the amendment relating to an increase in the earned income deduction (effective February 1, 1986);

the amendment relating to an increase in the ceiling on shelter and dependent-care expense deductions (effective February 1, 1986);

the amendment establishing a separate dependent-care expense deduction ceiling (effective October 1, 1986);

the amendment relating to a change in the threshold above which medical expenses may be deducted (effective February 1, 1986);

the amendment increasing the limits on liquid assets (effective October 1, 1986);

the amendments relating to reductions in fiscal sanctions based on use of automatic information exchange systems and funds (up to 15 percent of any sanction) used to improve administration (effective for FY 1986 and fiscal years thereafter);

the amendment relating to extension of authority to distribute commodities (effective October 1, 1985);

the amendments relating to the commodity supplemental food program (effective October 1, 1985);

the amendments relating to required distribution of certain commodities under the Temporary Emergency Food Assistance Program and commodity processing agreements (effective October 1, 1985).

The Conference substitute adopts the Senate provision with regard to making provisions effective upon enactment unless otherwise specified.

(b) The Senate amendment requires the Secretary to prescribe interim regulations ensuring that the provisions dealings with food stamps and commodity distribution are implemented as soon as practicable after enactment, but in no event later than March 1, 1986—notwithstanding any provisions of the Food Stamp Act of 1977 or the administrative procedure requirements to title V of the United States Code. Any change in the interim regulations made in final regulations would be effective on the date(s) prescribed by the Secretary. (Sec. 1406(b).)

The House bill contains no comparable provisions.

The Conference substitute provides that final regulations for all provisions must be issued by April 1, 1987.

The conferees intend to allow the Secretary to implement the law consistent with orderly implementation.

(60) Food, Nutrition, and Consumer Education

(a) The House bill contains findings that individuals in households eligible to participate in programs under the Food Stamp Act of 1977 and other low-income individuals, including those residing in rural areas, should have greater access to nutrition and consumer education to enable them to use their food budgets, including food assistance, effectively and to select and prepare foods that satisfy their nutritional needs and improve their diets.

The Senate amendment contains no comparable provisions.

The Conference substitute adopts the House provisions.

(b) The House bill requires the cooperative extension services of the States to carry out an expanded program of food, nutrition, and consumer education for low-income individuals. (Sec. 1703.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(c) The House bill provides that the purpose of the expanded program would be to extend food, nutrition, and consumer education services to the greatest practicable number of low-income individuals, in order to assist them to:

increase their ability to manage their food budgets, including any food assistance;

increase their ability to buy food that satisfies nutritional needs and promotes good health; and

improve their food preparation, storage, safety, preservation, and sanitation practices. (Sec. 1702.)

The Senate amendment contains no comparable provisions.

The Conference substitute adopts the House provisions.

(d) In operating the expanded program, the cooperative extension services could use the existing Expanded Food and Nutrition Education Program (EFNEP), other activities of the extension services, and similar activities carried out in collaboration with public or private nonprofit agencies. The cooperative out in collaboration with public or private nonprofit agencies. The cooperative extension services would be encouraged to provide services to as many low-income individuals as possible, to employ educational methodologies and innovative approaches that accomplish the above-noted purposes of the expanded program, and to coordinate activities with the delivery of food assistance to the greatest extent practicable. (Sec. 1703.)

The Senate amendment contains no comparable provisions.

The Conference substitute adopts the House provision.

(e) The expanded program would be administered through the Agriculture Department's Extension Service, in consultation with the Food and Nutrition Service and the Human Nutrition Information Service, and the Secretary would be required to ensure that the Extension Service coordinates its activities with other Agriculture Department food, nutrition, and consumer education activities. (Sec. 1704(a).)

The Senate amendment contains no comparable provisions.

The Conference substitute adopts the House provisions.

(f) The Secretary would be required to report to the House and Senate Committees, not later than April 1, 1989, an evaluation of the effectiveness of the expanded food, nutrition, and consumer education program. (Sec. 1704(b).)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(g) Appropriations for the expanded program are authorized at the following levels, as a supplement to any other funds appropriated for State cooperative extension services' food, nutrition, and consumer education activities:

for FY 1986, $5,000,000;

for FY 1987, $6,000,000;

for FYs 1988, 1989, and 1990, $8,000,000 a year. (Sec. 1705(a).)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(h) funds appropriated for the expanded program of food, nutrition, and consumer education would be allocated among the State cooperative extension services in the manner required by existing law for allocating EFNEP funds in excess of the FY 1981 appropriation level—i.e., (1) 4 percent to be available to the Secretary for administration and technical support; (2) 10 percent to be allocated equally among all States; and (3) the remainder to be allocated based on each State's share of the population with incomes below 125 percent of the Federal poverty levels. (Sec. 1705(b) and (c).)

The Senate amendment contains no comparable provisions.

The Conference substitute adopts the House provisions.

(61) Nutrition Monitoring

The House bill directs the Secretary to:

include a sample that is representative of low-income individuals and, to the extent practicable, collect information on food purchases and other household expenditures by low-income individuals—in conducting the Department's continuing survey of individual food intake and any nationwide food consumption survey;

continue to maintain the Department's nutrient data base, to the extent practicable; and

encourage research by public and private entities relating to effective standards, methodologies, and technologies for accurate assessment of nutritional and dietary status. (Sec. 1711.)

The Senate amendment contains no comparable provisions.

The Conference substitute adopts the House provisions.

Title XVI—Marketing

SUBTITLE A—BEEF PROMOTION AND RESEARCH ACT OF 1985

(1) Beef Promotion and Research Act of 1985

(a) Definitions

(1) The House bill defines the term "beef products" to mean edible products produced in whole or in part from beef, exclusive of milk products. (Sec. 1811(b).)

The Senate amendment defines the term "beef products" to mean a product produced in whole or in part from beef, other than milk or milk products. (Sec. 1830.)

The Conference substitute adopts the House provision.

(2) The House bill defines "producer" to mean any person who owns or acquires ownership of cattle. (Sec. 1811(b).)

The Senate amendment defines the term "producer" to mean a person who owns cattle. (Sec. 1830.)

The Conference substitute adopts the House provision.

(3) The House bill defines the term "importer" to mean any person who imports cattle, beef, or beef products from outside the United States. (Sec. 1811(b).)

The Senate amendment defines the term "importer" to mean a person who imports cattle, beef, or edible beef products into the United States. (Sec. 1830.)

The Conference substitute adopts the House provision.

(4) The House bill defines the term "Department" to mean the Department of Agriculture. (Sec. 1811(b).)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(5) The Senate amendment defines the term "order" to mean a beef promotion and research order. (Sec. 1830.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(6) The Senate amendment defines the term "State" to mean each of the 50 States. (Sec. 1830.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(b) Cattlemen's Beef Promotion and Research Board

(1) The House bill provides that States (considered under the House bill as units) that do not have total cattle inventories equal to or greater than 500,000 head, would be combined and provided collective representation on the Board. (1811(b).)

The Senate amendment provides that States that have a total inventory of less than 500,000 cattle per State would be grouped, as far as practicable, into geographically contiguous units each of which has a combined total inventory of not less than 500,000 cattle. (Sec. 1830.)

The Conference substitute adopts the Senate provision.

(2) The House bill provides that the Board would use, to the extent possible, the resources, staffs, and facilities of existing organizations. (Sec. 1811(b).)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(c) Beef Promotion Operating Committee

(1) The House bill requires the Beef Promotion Operating Committee to use staff and facilities of the Board and of industry organizations to prevent duplication and inefficient use of funds. (Sec. 1811(b).)

The Senate amendment authorizes the Committee to utilize the resources, staffs, and facilities of the Board and industry organizations. (Sec. 1830.)

The Conference substitute adopts the Senate provision.

(2) The Senate amendment requires the Committee in developing plans or projects, to the extent practicable, to take into account similarities and differences between certain beef, beef products, and veal; and ensure that segments of the beef industry that enjoy a unique consumer identity receive equitable and fair treatment under this Act. (Sec. 1830.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(3) The House bill provides that a budget developed by the Committee for expenses and disbursements under the Act would be submitted to the Secretary for approval. (Sec. 1811(b).)

The Senate amendment provides that no such budget would become effective unless approved by the Secretary. (Sec. 1830.)

The Conference substitute adopts the Senate provision.

(d) Assessments

The Senate amendment provides that if an appropriate qualified State beef council does not exist to collect an assessment, the assessment would be collected by the Board. (Sec. 1830.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(e) Referendum

The House bill provides that a referendum would be held no later than 24 months following implementation of the order among cattle producers to ascertain whether the order would be continued. (Sec. 1811(b).)

The Senate amendment provides that a referendum would be held on later than 18 months after the issuance of the order among persons who have been producers or importers to determine whether the initial order should be continued. (Sec. 1830.)

The Conference substitute adopts the Senate amendment with an amendment to hold the referendum not later than 22 months after the issuance of the order.

(f) Refunds

The Senate amendment provides that during the period prior to the referendum, the Board must establish and fund an escrow account to be used for assessment refunds.

The amount of funds placed in the escrow account by the Board would equal the product of (1) the total amount of assessments collected during the period by (2) the greater of (A) the average rate of assessment refunds provided to producers under State beef promotion, research, and consumer information programs financed through producer assessments, as determined by the Board; or (B) 20 percent.

Any person would have the right to demand and receive from the Board a one-time refund of the assessment collected from that person during the period prior to the referendum if the person is responsible for paying the assessment and does not support the program established.

The demand for a refund would be made in accordance with regulations, on a form, and within a time period prescribed by the Board. The refund would be made on submission of proof satisfactory to the Board that the producer, person, or importer paid the assessment for which refund is sought and did not collect the assessment from another producer, person, or importer.

If the amount in the escrow account required to be established is not sufficient to refund the total amount of assessments demanded by all eligible persons and the continuation of an order is approved pursuant to the referendum, the Board would be required to continue to place funds in the account from assessments collected until the Board was able to comply with the refund request and to provide to all eligible persons the total amount of assessments demanded.

If the amount in the escrow account is not sufficient to refund the total amount of assessments demanded and the continuation of an order is not approved pursuant to the referendum, the Board must prorate the amount of the refunds among all eligible persons who demand a refund. (Sec. 12.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to reduce the escrow amount specified to 15 percent.

(g) Enforcement

The House bill provides for a civil penalty of not more than $1,000 for violation of the order. (Sec. 1811(b).)

The Senate amendment provides for a civil penalty of not more than $5,000 for violation of the order. (Sec. 1830.)

The Conference substitute adopts the Senate provision.

(h) Effective date

The House bill provides that the effective date is October 1, 1985. (Sec. 1811(c).)

The Senate amendment provides that the effective date is January 1, 1986. (Sec. 1831.)

The Conference substitute adopts the Senate provision.

SUBTITLE C—PORK PROMOTION, RESEARCH, AND CONSUMER INFORMATION ACT OF 1985

(2) Pork Promotion, Research, and Consumer Information Act of 1985

(a) Short title

The House bill designates this subtitle as the "Pork Promotion, Research, and Consumer Information Act of 1985". (Sec. 1821.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

The Senate amendment contains no comparable provision.

(b) Findings and declaration of purpose

The House bill provides that producers who are organized in a federation by county, State, and national associations produce pork and pork products. (Sec. 1822(2).)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(c) Definitions

(1) The House bill defines the term "Board" to mean the National Pork Producers Board of Directors. (Sec. 1823(13).)

The Senate amendment defines the term "Board" to mean the National Pork Board. (Sec. 1802.)

The Conference substitute adopts the Senate provision.

(2) The House bill defines the term "Committee" to mean the National Pork Producers Executive Committee. (Sec. 1823(14).)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(3) The House bill defines the term "gross amount of checkoff" to mean the total amount of assessment collected throughout the United States in any applicable time period. (Sec. 1823(18).)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(4) The Senate amendment defines the term "imported" to mean entered, or withdrawn from a warehouse for consumption, in the customs territory of the United States. (Sec. 1802(4).)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(5) The House bill defines the term "marketing" to mean the sale or other disposition in commerce of pork or pork products. (Sec 1823(11).)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(6) The House bill defines the term "porcine animals" to include swine raised for seedstock. (Sec. 1823(1).)

The Senate amendment defines the term "porcine animal" to include a swine raised for breeding purposes. (Sec. 1802(8).)

The Conference substitute adopts the House provision.

(7) The Senate amendment defines the term "State association" to include, if a State association does not exist on the effective date of this subtitle, an organization that represents not fewer than 50 pork producers who market annually, in the agregate, not less than 10 percent of the volume (measured in pounds) of porcine animals marketed in the State. (Sec. 1802(16).)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(8) The Senate amendment defines the term "to market" to mean to sell or to otherwise dispose of a porcine animal, pork, or pork product in commerce. (Sec. 1802(17).)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(9) The Senate amendment defines the term "United States" to include the District of Columbia. (Sec 1802(18).)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(d) Pork and pork product orders

(1) The Senate amendment provides that an order issued and amended by the Secretary of Agriculture under this subtitle would be applicable to persons engaged in the importation of porcine animals, pork, or pork products into the United States. (Sec. 1803(2).)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(2) The Senate amendment provides that the Secretary is authorized to issue such regulations as are necessary to carry out this subtitle. (Sec. 1803(b).)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(e) Notice and hearing

(1) The House bill provides that any person who might be affected by this subtitle may submit a proposal for an order. (Sec. 1825.)

The Senate amendment provides that the National Pork Board or a person affected by the subtitle may submit a proposal for an initial order. (Sec. 1804.)

The Conference substitute adopts the House provision.

(2) The House bill provides that the Secretary is required to give due notice of and opportunity for a hearing on the proposed order. (Sec. 1825.)

The Senate amendment provides that the Secretary is required to give due notice of and opportunity for public comment on the proposed order. (Sec. 1804(2).)

The Conference substitute adopts the Senate provision.

(f) Findings and issuance of orders

The House bill provides that the issuance of an order would be based on a hearing and the evidence introduced at the hearing. (Sec. 1826.)

The Senate amendment provides that the issuance of an order would be based on public comment. (Sec. 1805(a).)

The Conference substitute adopts the Senate provision.

(g) National Pork Producers Delegate Body

(1) The House bill provides that within 30 days of the effective date of the order, a National Pork Producers Delegate Body would be established and appointed by the Secretary. (Sec. 1827(b)(1).)

The Senate amendment provides that the National Pork Producers Delegate Body would be established and appointed by the Secretary within 45 days of the effective date of the order. (Sec. 1806(a).)

The Conference substitute adopts the Senate provision.

(2) The House bill provides that the Delegate Body would consist of one or more members from each State. (Sec. 1827(b)(1).)

The Senate amendment provides that at least 2 producer members would be appointed to the Delegate Body from each State. Additional members to the Delegate Body would be allocated as follows: Shares would be assigned to each State for the 1986 calendar year, on the basis of one share for each $400,000 of farm market value of porcine animals marketed from the State (as determined by the Secretary based on the annual average of farm market value in the most recent 3 calendar years preceding the year), rounded to the nearest $400,000; and for each calendar year thereafter, on the basis of one share for each $1,000 of the aggregate amount of assessments collected (minus refunds) in the State from producers, rounded to the nearest $1,000.

If during a calendar year the number of shares of a State is: less than 301, the State would receive a total of two producer members; more than 300 but less than 601, the State would receive a total of three producer members; more than 600 but less than 1,001, the State would receive a total of four producer members; and more than 1,000, the State would receive four producer members, plus one additional member for each 300 additional shares in excess of 1,000 shares, rounded to the nearest 300. (Sec. 1806(b)(2).)

The Conference substitute adopts the Senate provision.

(3) The Senate amendment provides that the Delegate Body would include importers appointed by the Secretary. (Sec. 1806(b)(1).)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(4) The Senate amendment provides that the number of importer members appointed to the Delegate Body would be determined as follows: Shares would be assigned to importers for the 1986 calendar year, on the basis of one share for each $575,000 of market value of marketed porcine animals, pork, or pork products (as determined by the Secretary based on the annual average of imports in the most recent 3 calendar years preceding such year), rounded to the nearest $575,000; and for each calendar year thereafter, on the basis of one share for each $1,000 of the aggregate amount of assessments collected (minus refunds from importers), rounded to the nearest $1,000.

The number of importer members appointed to the Delegate Body would equal a total of three members for the first 1,000 shares; and one additional member for each 300 additional shares in excess of 1,000 shares, rounded to the nearest 300. (Sec. 1806(b)(2).)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(5) The House bill provides that nominations of members of the Delegate Body would be submitted by each State association. (Sec. 1827(b).)

The Senate amendment provides that not later than 30 days after the effective date of the order, the Secretary would call for the nomination within each State of candidates for appointment as producer members of the initial Delegate Body. Each State association would nominate producers who are residents of the State to serve as candidates. Additional producers who are residents of a State could be nominated as candidates of the State by written petition signed by 100 producers or 5 percent of the pork producers in the State, whichever is less. The Secretary would establish and publicize the procedures governing the time and place for filing petitions. After the Secretary had received the nominations, and not later than 45 days after the effective date of the order, the Secretary would call for an election within each State of persons for appointment as producer members of the initial Delegate Body. To be eligible to vote in an election held in a State, a person must be a producer who is a resident of the State.

Notice of each election would be given by the Secretary by publication in a newspaper or newspapers of general circulation in each State, and in pork production and agriculture trade publications at least one week prior to the election; and in any other reasonable manner determined by the Secretary. The notice would set forth the period of time and place for voting and any other information the Secretary considered necessary.

Each State would nominate to the Delegate Body the number of producer members authorized for that State. The producers who received the highest number of votes in each State would be nominated for appointment as members of the Delegate Body from the State.

After the election of the producer members of the initial Delegate Body, the National Pork Board would administer all subsequent nominations and elections of the producer members to be nominated for appointment as members of the Delegate Body, with the assistance of the Secretary. The National Pork Board would determine the timing of an election.

To be eligible to vote in an election in a State, a person must be a producer who is a resident of the State, have paid all assessments due and not have demanded a refund of an assessment.

Prior to the expiration of the term of any producer member of the Delegate Body, the National Pork Board would appoint a nominating committee of producers who are residents of the State represented by the member. The committee would nominate producers of the State as candidates to fill the position for which an election is to be held. Additional producers who are residents of a State could be nominated to fill such positions. (Sec. 1807.)

The Conference substitute adopts the House provision with an amendment to provide that the order will provide for the establishment and appointment by the Secretary, not later than 60 days after the effective date of the order, of a National Pork Producers Delegate Body. The Delegate Body will consist of—

(A) producers as appointed by the Secretary in accordance with the Act, from nominees submitted by—

(i) in the case of the initial Delegate Body, each State in accordance with the Act, and

(ii) in the case of each succeeding Delegate Body after the initial one, each State association based upon either selection of nominees by such association pursuant to a selection process approved by the Secretary that requires public notice of the process to be given at least one week in advance by publication in a newspaper or newspapers of general circulation in such State and in pork production and agriculture trade publications that provides complete and equal access to the nominating process to every producer who has paid all assessments due under the Act and not demanded a refund under the Act, or an election of nominees conducted in accordance with the Act, or

(iii) in the case of a State that has a State association that does not submit nominations or that does not have a State association, such State in a manner prescribed by the Secretary, and

(B) importers, as appointed by the Secretary in accordance with the Act.

(6) The House bill provides that each State entitled to only one Delegate Body member could nominate an alternate who may attend Delegate Body meetings but who would serve only when the member is absent from meeting. (Sec. 1827(b)(1).)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the Senate provision.

(7) The Senate amendment provides that a producer member of the Delegate Body may, in a vote conducted by the Delegate Body for which the member is present, cast a number of votes equal to the number of shares attributable to the State of the member divided by the number of producer members from the State. (Sec. 1806(c)(1).)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(8) The Senate amendment provides that an importer member of the Delegate Body may, in a vote conducted by the Delegate Body for which the member is present, cast a number of votes equal to the number of shares allocated to importers; divided by the number of importer members. (Sec. 1806(c)(2).)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(9) The Senate amendment provides that members entitled to cast a majority of the votes (including fractions thereof) on the Delegate Body would constitute a quorum. A majority of the votes (including fractions thereof) cast at a meeting at which a quorum is present would be decisive of a motion or election presented to the Delegate Body for a vote. (Sec. 1806(c) (2), (3).)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(10) The Senate amendment provides that the term of a member of the Delegate Body would continue until the successor of the member, if any, is appointed. (Sec. 1806(d).)

The House bill contains no comparable provision.

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The Conference substitute adopts the Senate provision.

(11) The House bill provides that at every meeting, the President of the National Pork Producers Executive Committee would serve as the Chairman of the Delegate Body. (Sec. 1827(b)(3).)

The Senate amendment provides that the President of the National Pork Board would serve as the Chairman of the Delegate Body at each annual meeting of the Delegate Body. (Sec. 1806(e)(2).)

The Conference substitute adopts the Senate provision.

(12) The House bill provides that the members of the Delegate Body would be reimbursed for their reasonable expenses incurred in performing their duties as members of the Delegate Body. (Sec. 1827(b)(4).)

The Senate amendment provides that a member of the Delegate Body may be reimbursed by the National Pork Board from assessments collected for transportation expenses incurred in performing duties as a member of the Delegate Body. (Sec. 1806(f).)

The Conference substitute adopts the Senate provision.

(13) The House bill provides that the Delegate Body would nominate eleven pork producer members for appointment to a National Pork Producers Executive Committee from among the members of the National Pork Producers Board of Directors. A majority of the Delegates Body would vote in person to nominate members to the Executive Committee. (Sec. 1827(b)(5).)

The Senate amendment provides that the Delegate Body would nominate not less than 23 persons for appointment to a National Pork Board for the first year for which nominations are made, and not less than one and one-half persons (rounded up to the nearest person) for each vacancy on the National Pork Board that requires nominations thereafter. A majority of the Delegate Body would vote in person in order to nominate members to the National Pork Board. (Sec. 1806(g).)

The Conference substitute adopted the Senate provision.

(h) National Pork Producers Board of Directors

The House bill provides for the establishment and appointment by the Secretary, within 30 days after the effective date of the order, of a National Pork Producers Board of Directors whose primary function would be to serve as liaison between the State associations and the Executive Committee and to counsel with and advise the Executive Committee on policy matters.

The Board of Directors would consist of one member from each State who is also a member of the Delegate Body and who is appointed from nominations submitted by each State association or, if a State association does not submit nominations or if there is no association in a State, from nominations submitted in a manner provided by the Secretary.

Members of the Board of Directors would serve for 3-year terms, with no member serving more than two consecutive 3-year terms, except that initial appointments to the Board of Directors would be staggered with an equal number of members appointed, to the maximum extent possible, to 1-year, 2-year, and 3-year terms.

The Chairman of the Board of Directors would be the President of the Executive Committee.

Members of the Board of Directors would serve without compensation, but would be reimbursed for their reasonable expenses incurred in performing their duties as members of the Board of Directors. (Sec. 1827(c).)

The Senate bill contains no comparable provision.

The Conference substitute deletes the House provision.

(i) National Pork Producers Executive Committee/National Pork Board

(1) The House bill provides for the establishment and appointment by the Secretary of an 11-member National Pork Producers Executive Committee. (Sec. 1827(d)(1).)

The Senate amendment provides for the establishment and appointment by the Secretary of a 15-member National Pork Board representing at least 12 States. (Sec. 1808(a)(1).)

The Conference substitute adopts the Senate provision.

(2) The House bill provides that the Executive Committee would consist of pork producers from among the members of the National Pork Producers Board of Directors from nominations submitted to the Secretary by the Delegate Body. (Sec. 1827(d)(1).)

The Senate amendment provides that the National Pork Board would consist of producers or importers appointed by the Secretary from nominations submitted by the Delegate Body. (Sec. 1808(a)(2).)

(3) The Senate amendment provides that the term of a member of the National Pork Board would continue until the successor of the member, if any, is appointed. (Sec. 1808(a)(3).)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(4) The House bill provides that members of the Executive Committee would be reimbursed for their reasonable expenses incurred in performing their duties as members of the Executive Committee. (Sec. 1827(d)(5).)

The Senate amendment provides that the National Pork Board would reimburse a member of the National Pork Board for reasonable expense incurred in performing duties as a member of the National Pork Board. (Sec. 1803(a)(6).)

The Conference substitute adopts the Senate provision.

(5) The House bill provides that the Executive Committee would prepare and submit budgets of anticipated expenses to the Secretary, for the Secretaray's approval. (Sec. 1827(e).)

The Senate amendment provides that no budget of anticipated expenses and disbursements of the National Pork Board would become effective unless approved by the Secretary. (Sec. 1808(e)(3).)

The Conference substitute adopts the Senate provision.

(j) Assessments

(1) The House bill provides that an assessment would be paid to the Executive Committee in the manner prescribed by the order. (Sec. 1827(g).)

The Senate amendment provides that an assessment would be paid not later than 30 days after the effective date of the order or at such time as the initial National Pork Board is appointed, whichever occurs later. (Sec. 1809(a)(1).)

The Conference substitute adopts the Senate provision with an amendment to provide that the order will provide that, not later than 30 days after the effective date of the order such assessment shall be collected and remitted to the Board once it is appointed, but, until that time, to the Secretary, who shall promptly proceeed to distribute the funds received by him in accordance with the provisions of the Act, except that the Secretary shall retain the funds to be received by the Board until such time as the Board is appointed pursuant to the Act.

(2) The House bill provides that each person who makes payment to a pork producer for porcine animals, pork, or pork products produced in the United States and each importer with respect to imported porcine animals, pork, and pork products would pay an assessment to the Executive Committee. (Sec. 1827(g).)

The Senate amendment provides that an assessment would be paid by (1) each producer for each porcine animal for feeder pigs or slaughter produced in the United States that is sold or slaughtered for sale; (2) each producer for each porcine animal for breeding purposes that is sold; and (3) each importer for each porcine animal, pork, or pork product that is imported into the United States.

The assessment would be collected and remitted to the National Pork Board by (1) the purchaser of a porcine animal purchased for feeder pigs or for slaughter that was produced in the United States; (2) the producer of a porcine animal sold for breeding purposes; and (3) each importer for each porcine animal, pork, or pork product that is imported into the United States. (Sec. 1809(a).)

The Conference substitute adopts the Senate provision.

(3) The House bill provides that an assessment would not be paid if the person or importer proves that the assessment was previously paid by any person with respect to such porcine animals, pork, or pork products. (Sec. 1827(g).)

The Senate amendment provides that an assessment would not be paid if it is proved to the National Pork Board that an assessment was paid previously by a person for such animal in the same category (i.e., for feeder pigs, breeding purposes, or slaughter), pork, or pork products. (Sec. 1809(a)(3).)

The Conference substitute adopts the Senate provision.

(4) The House bill provides that the initial rate of assessment would be 0.3 percent of the market value of the porcine animals, pork or pork products involved in the sale or of the imported porcine animals, pork, or pork products. (Sec. 1827(g).)

The Senate amendment provides that the initial rate of assessment would be the lesser of 0.25 percent of the market value of the porcine animal, pork, or pork product sold or imported or an amount established by the Secretary based on a recommendation of the Delegate Body. Pork or pork products imported into the United States would be assessed based on the equivalent value of the live porcine animal from which the pork or pork products were produced, as determined by the Secretary. The Secretary would be authorized to waive the collection of assessments on imported pork or pork products if the Secretary determined that the collection would not be practicable. (Sec. 1809(b)(1)(4).)

The Conference substitute adopts the Senate provision.

(5) The House bill provides that the National Pork Producers Council, a non-profit corporation of the type described in section 501(c)(3) of the Internal Revenue Code of 1954 and incorporated in the State of Iowa,

would receive an amount equal to 60 percent of the gross amount of the checkoff to use of financing promotion, research, and consumer information plans or projects and for the administrative expenses of that organization. (Sec. 1827(h)(2).)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment explained below.

(6) The House bill requires the Executive Committee to retain funds remaining after the distribution of funds to the State associations and the National Pork Producers Council for use in financing promotion, research, and consumer information plans or projects and for administrative expenses. (Sec. 1827(h)(3).)

The Senate amendment requires the National Pork Board to receive funds that remain after distribution to the State associations and to use the funds, and any proceeds from the investment of such funds for financing promotion, research, and consumer information plans and projects and for administrative expenses. (Sec. 1809(c)(2).)

The Conference substitute adopts the House provision with an amendment explained below.

(k) Minimum funding of State associations

The Senate amendment provides that in no event may the percentage of assessments distributed to a State association in the case of a State in which there existed a State pork promotion program as of June 30, 1985, be less than that which is necessary to provide the State association of the State with an amount of funds equal to the amount that would have been collected from production in the State pursuant to the State pork promotion program which existed on June 30, 1985, less the amount of any refunds made to producers in the State and less an amount equal to the sums contributed by the State to national programs in the 12-month period preceding June 30, 1985. No State would receive an amount less than 16½ percent of the sum of the assessments collected from production of the State under the Act (Sec. 1809(a).)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment.

The amendment agreed to by the Conferees, as noted in items (j)(5), (j)(6), and (k) above, provides that funds collected by the Board from assessments collected under the Act will be distributed and used in the following manner:

Each State association will receive an amount of funds equal to the greater of the product obtained by multiplying the aggregate amount of assessments attributable to porcine animals produced in a State less that State's share of refunds, by a percentage determined by the Delegate Body, but in no event less than 16½ percent or, in the case of a State association that was conducting a pork promotion program in the period from July 1, 1984 to June 30, 1985, an amount of funds equal to the amount of funds that would have been collected in the State, had the porcine animals, subject to assessment and as to which no refund was received, been produced from July 1, 1984 to June 30, 1985, and been subject to the rates of assessment then in effect and the rate of return then in effect from such State to the Council described in the Act and other national entities involved in pork promotion, research and consumer information.

A State association shall use such funds and any proceeds form the investment of such funds for financing—

(i) promotion, research, and consumer information plans and projects and

(ii) administrative expenses incurred in connection with such plans and projects.

The National Pork Producers Council will receive an amount of funds equal to—

(i) 37½ percent of the aggregate amount of assessments collected under this section throughout the United States from the date assessment commences pursuant to the Act until the first day of the month following the month in which the Board is appointed pursuant to the Act,

(ii) 35 percent thereafter until the referendum is conducted pursuant to the Act,

(iii) 25 percent until 12 months after the referendum is conducted, and

(iv) no funds thereafter except in so far as it obtains such funds from the Board pursuant to the Act. Each of the amounts determined under clauses (i), (ii), and (iii) would be less the Council's share of refunds.

The Council shall use such funds and proceeds from the investment of such funds for financing—

(i) promotion, research, and consumer information plans and projects, and

(ii) administrative expenses of the Council.

The Board shall receive the amount of funds that remain after the distribution to the State association and the Council.

Each State's share of refunds shall be determined by multiplying the aggregate amount of refunds received by producers in the State by the percentage applicable.

The Council's share of refunds shall be determined by multiplying its applicable percentage of the aggregate amount of assessments by the product of—

(i) an amount determined by subtracting from the aggregate amount of refunds received by all producers the aggregate amount of State share of refunds in every State, and

(ii) the aggregate amount of refunds received by importers.

(l) Permissive provisions

The House bill provides that on the recommendation of the Delegate Body or the Executive Committee, an order may contain one or more permissive provisions. (Sec. 1828(a).)

The Senate amendment provides that the National Pork Board would be authorized to make a recommendation that an order contain one or more permissive provisions. (Sec. 1810(a).)

The Conference substitute adopts the Senate provisions.

(m) Referendum

(1) The House bill requires the Secretary to conduct a referendum not earlier than 2 years, and not later than 3 years, after the date of enactment of the Act among pork producers who have marketed the equivalent of at least 50 porcine animals a year during a representative period as determined by the Secretary to ascertain whether an order should be continued. An order would be continued only if the order was approved by not less than a majority of the pork producers voting in the referendum. (Sec. 1829(a).)

The Senate amendment requires the Secretary to conduct a referendum not earlier than 1 year and not later than 2 years after the issuance of the order among persons who have been producers or importers during a representative period, as determined by the Secretary. An order would be continued only if a majority of producers and importers voting in the referendum approved continuation of the order. (Sec. 1811(a) (1), (2), (3).)

The Conference substitute adopts the House provision with an amendment to provide that for the purpose of determining whether an order then in effect will be continued during the period beginning not earlier than 24 months after the issuance of the order and ending not later than 30 months after the issuance of the order, the Secretary shall conduct a referendum among persons who have been pork producers and importers during a representative period, as determined by the Secretary.

Except as provided in the Act, after the initial referendum, on the request of a number of persons equal to at least 15 percent of persons who have been pork producers or importers during a representative period, as determined by the Secretary, the Secretary must conduct a referendum to determine whether such producers or importers favor the termination or suspension of the order.

(2) The House bill requires the Secretary to be reimbursed by the Executive Committee from assessments collected for any expenses (other than compensation payable to officers and employees of the United States) in connection with conducting the referendum. (Sec. 1829(b).)

The Senate amendment requires the Secretary to be reimbursed by the National Pork Board for any expenses in connection with conducting the referendum. (Sec. 1811(b).)

The Conference substitute adopts the Senate provision.

(3) The Senate amendment requires the referendum and amendments to the referendum to be conducted in the manner prescribed by the Secretary. (Sec. 1811 (c), (d).)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(n) Suspension and termination of orders

(1) The House bill requires the Secretary, on the request of pork producers who have marketed the equivalent of at least 50 porcine animals and comprise at least 15 percent of the pork producer subject to the order, to conduct a referendum to determine whether the producers favor the termination or suspension of the order. (Sec. 1830(b).)

The Senate amendment requires the referendum to be held on the request of at least 15 percent of persons who have been producers and importers during a representative period, as determined by the Secretary. (Sec. 1812(b)(1).)

The Conference substitute adopts the Senate provision.

(2) The Senate amendment provides that except with respect to a referendum conducted in connection with an increase in the rate of assessment, the Secretary would not be required to conduct more than one referendum in a 2-year period. (Sec. 1812(b)(2).)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(o) Refunds

The Senate amendment provides that prior to the approval of the continuation of an order pursuant to a referendum any person would have the right to demand and receive from the National Pork Board a refund of an assessment collected if the person is responsible for paying the assessment and does not support the program established under this subtitle. The demand would be made in accordance with regulations, on a form, and within a time period prescribed by the National Pork Board and approved by the Secretary, but not later than 30 days after the end of the month in which the assessment was paid. The refund would be made not later than 30 days after the demand is received on submission of proof satisfactory to the National Pork Board that the producer, person, or importer paid the assessment for which refund is sought and did not collect the assessment from another producer, person, or importer. (Sec. 1813.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(p) Enforcement

The House bill provides that any person who fails to obey a valid cease and desist order issued by the Secretary would be subject to a civil penalty, after opportunity for a hearing on the record, of not more than $5,000 for each offense. (Sec. 1832(b)(3).)

The Senate amendment provides that a person who fails to obey a valid cease and desist order issued by the Secretary would be subject to a civil penalty, after an opportunity for a hearing, of not more than $500 for each offense. (Sec. 18156(b)(3).)

The Conference substitute adopts the Senate provision.

(q) Administrative provisions

The House bill provides that the provisions of this subtitle applicable to an order would be applicable to amendments to orders. (Sec. 1834.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(r) Peemption

(1) The House bill provides that this subtitle is intended to occupy the field of promotion, research, and consumer education involving pork and pork products and that any regulation of activities or requirements wiht respect to the promotion, research, and consumer education involving pork that is in addition to or different from those made under this subtitle may not be imposed by any State. (Sec. 1836.)

The Senate amendment provides that this subtitle occupies the field of promotion and consumer education involving pork and pork products and that any regulation of activity (other than the provision of State or local funds for that activity) that is in addition to or different from this subtitle may not be imposed by a State. (Sec. 1817 (a), (b).)

The Conference substitute adopts the Senate provision.

(2) The Senate amendment provides that preemption would apply only during a period beginning on the date of the commencement of the collection of assessments and ending on the date of the termination of the collection of assessments. (Sec. 1817(c).)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provisions.

(s) Effective date

The Senate amendment provides that this subtitle would become effective on January 1, 1986. (Sec. 1819.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(3) Watermelon research and promotion

The House bill provides for the establishment of an orderly procedure for the development, financing and carrying out of an effective, continuous and coordinated program of research, development, advertising, and promotion, designed to strengthen the watermelon's competitive position in the marketplace, and establish, maintain, and expand domestic markets for watermelons. The program would include provisions for—

(A) the issuance and amendment of orders implementing the program;

(B) the establishment by the Secretary of the National Watermelon Promotion Board;

(C) payments of assessments by watermelon producers and handlers;

(D) conducting a referendum among watermelon producers and handlers with respect to whether a plan issued under the program is approved by at least two-thirds of the producers and handlers voting in the referendum, or by the producers and handlers of not less than two-thirds of the watermelons produced and handled during the representative period, and by not less than a majority of the producers and handlers voting in the referendum;

(E) petition, review and enforcement of plans issued under the program; and

(F) authorizing appropriations as may be necessary to carry out the program. (Sec. 1841-1857.)

The Senate amendment contains no comparable provisions.

The Conference substitute adopts the House provision.

SUBTITLE D—MARKETING ORDERS

(4) Limitation on authority to terminate marketing orders

The House bill, with respect to the termination of any marketing order issued under section 8c of the Agricultural Adjustment Act and in effect on or after July 10, 1985, amends section 8c(16) of the Agricultural Adjustment Act, as reenacted, by adding a provision that the Secretary may not terminate an order for a commodity for which there is no Federal price support unless the Secretary finds that termination is favored by a majority of the producers involved. (Sec. 1862.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment to prohibit the Secretary from terminating any marketing order agreement for which termination takes effect prior to January 15, 1986. At least 60 legislative days prior to proposed public notice of the intent to terminate the order or provision, the Secretary shall provide notice of the contemplated action, together with the basis for it, to the House and Senate agriculture committees.

It is the intent of the Conferees that the Hops Marketing Order shall not be terminated as announced by USDA on July 1, 1985.

It is the further intent of the Conferees that the Secretary of Agriculture shall be required to notify the House and Senate Agriculture Committees at such time as he is contemplating the feasibliity of termination of any marketing order or provision thereof in accordance with the statutory requirements of 7 USC 608(c)(16)(A). The Secretary shall notify the Committees of the Congress of any potential termination action contemplated, and prior to a final determination and with due notice, shall take into consideration the views of the Committees in fact-finding and review of the pending recommendations.

The Conferees intend that such notification and consultation precede any formal decision making on the part of the Secretary to terminate any Federal marketing order or provision thereof.

(5) Confidentiality of certain marketing order information

The House bill amends section 8d(2) of the Agricultural Adjustment Act, as reenacted, to prohibit the disclosure of any specific item of information furnished to the Secretary by any person or the revealing of the identity of the person. (Sec. 1863.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the *House* provision with an amendment to prohibit the disclosure of any information for marketing order programs that is categorized as trade secrets and commercial or financial information that comes within the exemption contained in the Freedom of Information Act; Except that this information may be released on the authorization of any regulated milk handler to whom such information pertains.

The Conference substitute also provides that the Secretary must notify the House and Senate Agriculture Committees at least 10 legislative days prior to the contemplated release, under law, of names and address of producers participating in marketing orders and agreements along with the basis for making the decision.

The Conferees believe that it is inappropriate for the Department of Agriculture to provide a mailing service, as it has done in the past, to send out private materials utilizing lists of names and addresses of growers gathered under the agricultural Marketing Agreement Act of 1937 and amendments thereto.

It is the Conferees' intent that information such as price data, acreage, production, specific sales data, identity of commodity suppliers specific to each handler, and similar types of information submitted by persons subject to marketing order programs would be kept confidential regardless of the authority utilized by the Secretary or his agents to collect it. In the case of milk market orders, such information may be released on the authorization of any regulated milk handler to whom such information pertains.

SUBTITLE E—GRAIN INSPECTION

(6) Grain standards

(a) The House bill requires the Secretary of Agriculture to direct the Federal Grain Inspection Service (FGIS) and the Agricultural Research Service to cooperate in developing new means of establishing grain classifications and to report on the status of these cooperative efforts to the agriculture committees of the House and Senate not later than December 31, 1985. (Sec. 1867.)

The Senate amendment contains a similar provision but requires such reports semi-annually, with the first report due not later than December 31, 1985. (Sec. 1931.)

The Conference substitute adopts the Senate provision.

(b) The House bill adds to section 6 of the United States Grain Standards Act new subsections providing that, to protect the quality of grain exported from the United States, no dockage or foreign material (including but not limited to dust or particles of whatever origin) once removed from grain may be recombined with any grain when there is a possibility that the recombined product may be exported from the United States, and that no dockage or foreign material of any origin may be added to any grain that may be exported when the result will be to reduce the grade or quality of the grain or to reduce its ability to resist spoilage. Under the bill, the above prohibitions shall not be construed to prohibit (A) the treatment of grain to suppress, destroy, or prevent insects and fungi injurious to stored grain; (B) the export of dockage or foreign material removed from grain when the dockage or foreign material is pelletized or a part of a processed ration for livestock, poultry, or fish and is exported separately and uncombined with any whole grain; (C) the blending of grain with similar grain of a different grade to adjust the quality of the resulting mixture; (D) the addition to grain of confetti, or any other material that serves the same purpose, in an amount necessary to facilitate identification of ownership or origin of a particular lot of grain; and (E) the addition of any other foreign material that may be determined by the Secretary to be in the interest of grain producers and to be neutral or constructive in achieving the goal of protecting the quality of grain exported from the United States.

Adjustment of the moisture content of grain that may be exported is permitted by the blending of such grain with a similar grain of different moisture content if the difference between the moisture contents of the grains being blended does not exceed 4 percent, but the addition of water to grain that may be exported is prohibited except by aeration of the grain with natural air. (Sec. 1866.)

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

(c) The House bill adds to section 4 of the United States Grain Standards Act a provision requiring that if the government of any country requests that moisture content remain a criterion in the official grade designations of grain, such criterion shall be included in determining the official grade designation of grain shipped to such country, and that the Administrator of the FGIS shall issue regulations establishing a new grade for each type of grain that exceeds the standards in effect on September 30, 1985, for United States No. 1 grade of such grain. (Sec. 1865.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment to delete the requirement that the Administrator of the Federal Grain Inspection Service issue regulations establishing new grades for each type of grain that exceeds the standards in effect on September 30, 1985, for United States No. 1 grade of the grain.

(d) The Senate amendment directs the Office of Technology Assessment to conduct a study of United States grain export quality standards and grain handling practices. Such study is to be conducted in consultation with the Secretary of Agriculture, and in accordance with section 3(d) of the Technology Assessment Act of 1972. The Office of Technology Assessment shall—

(1) evaluate the competitive problems the United States faces in international grain markets that may be attributed to grain quality standards and handling rather than price;

(2) identify the extent to which United States grain export quality standards and handling practices have contributed toward the recent decline in United States grain exports;

(3) perform a comparative analysis between (i) the grain quality standards and practices of the United States and the major grain export competitors of the United States; and (ii) the grain handling technology of the United States and the major grain export competitors of the United States; and

(4) evaluate the consequences on United States export grain sales, the cost of exporting grain, and the prices received by farmers should United States export grain elevators be subject, by law or regulation to requirements that:

(i) no dockage or foreign material (including but not limited to dust or particles of whatever origin) once removed from grain shall be recombined with any grain if there is a possibility that the recombined product may be exported from the United States;

(ii) no dockage or foreign material of any origin may be added to any grain that may be exported if the result will be to reduce the grade or quality of the grain or to reduce the ability of the grain to resist spoilage; and

(iii) no blending of grain with a similar grain of different moisture content may be permitted if the difference between the moisture contents of the grains being blended is more than 1 percent.

The Senate amendment requires, not later than December 1, 1986, the Office of Technology Assessment to submit to the Agriculture Committees of the House and Senate a report containing the results of the study, together with such comments and recommendations for the improvement of United States grain export quality standards and handling practices as appropriate. (Sec. 1944.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to provide that the study would also evaluate the current method of establishing grain classifications, the feasibility of utilizing new technology to correctly classify grains and the impact of new seed varieties on exports and users of grain.

TITLE XVII—RELATED AND MISCELLANEOUS MATTERS

SUBTITLE A—PROCESSING, INSPECTION, AND LABELING

(1) Poultry inspection

Both the House bill and the Senate amendment require that poultry and poultry products offered for importation into the United States be subject to certain standards applied to products produced in the United States.

The Senate amendment requires that poultry and poultry products offered for importation into the United States must have been processed in facilities and under conditions that are the same as those under which similar products are processed in the United States. (Sec. 1924.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to provide that all poultry, or parts or products, capable of use as human food offered for importation into the United States would be subject to the same inspection, sanitary, quality, species verification, and residue standards applied to products produced in the United States.

(2) Inspection and other standards for imported meat and meat food products.

(a) The House bill amends the Federal Meat Inspection Act to require that each foreign country from which meat articles from cattle, sheep, swine, goats, horses, mules, or other equines are offered for importation into the United States shall obtain a certification issued by the Secretary of Agriculture stating that the country maintains a program using reliable analytical methods to ensure compliance with the United States standards for residues in such meat articles. Meat articles shall not be permitted entry into the United States from a country without such certification. The Secretary shall revoke any certification if the Secretary determines that the country involved is not maintaining a program that uses reliable analytical methods to ensure compliance with United States residue standards. The consideration of any application for a certification and the review of any such certification must include the inspection of individual establishments. (Sec. 1802.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provider.

(b) The House bill authorizes the Secretary to prescribe terms and conditions under which cattle, sheep, swine, goats, horses, mules, and other equines that may have been administered an animal drug or antibiotic not approved for use in the United States may be imported for slaughter and human consumption. If the Secretary determines that the use of an animal drug or antibiotic in any of such livestock is harmful to the health of man and that it is impossible to determine the livestock being imported do not harbor any residue of such animal drug or antibiotic, the Secretary may issue an order forbidding the entry into the United States of such kind of livestock from any country that allows the use of such animal drug or antibiotic in the production of such livestock in such country. (Sec. 1802.)

The Senate amendment authorizes the Secretary to prohibit the importation into the United States of any livestock, or any carcass, meat, or meat products of any livestock, if the Secretary determines that such livestock may have been administered any drug (including any antibiotic drug) which has been banned for use in livestock in the United States if (A) the Secretary determines that residues of that particular drug (including any antibiotic drug) threaten the health and safety of United States consumers; and (B) the use of that particular drug (including any antibiotic drug) gives foreign producers of livestock an unfair competitive advantage over United State producers. (Sec. 1927.)

The Conference substitute adopts the House provision with an amendment to specify that the Secretary may forbid the entry of livestock which has been administered animal drugs or antibiotics banned in the United States.

(3) Potato inspection

The House bill requires the Secretary of Agriculture, in order to achieve a significant reduction in the volume of substandard imported Canadian potatoes entering through ports of entry in the northeastern United States, to perform random spot checks on a significant portion of potatoes entering through those ports of entry. The Secretary of Agriculture shall periodically report to the public and to the House and Senate Agriculture Committees the results of such spot checks and increase their frequency or take other actions as necessary to achieve and maintain the significant reduction of such substandard imported potatoes. (Sec. 1804.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment to require the Secretary of Agriculture to perform random spot checks on potatoes entering through ports of entry in the northeastern United States and to require one report to the House and Senate agriculture committees on the results of the spot checks.

SUBTITLE B—AGRICULTURAL STABILIZATION AND CONSERVATION COMMITTEES

Agricultural Stabilization and Conservation Committees

(a) The House bill requires the Secretary of Agriculture, in carrying out the provisions of section 8(b) of the Soil Conservation and Domestic Allotment Act, to use the services of local and State Agricultural Stabilization and Conservation Committees. (Sec. 1871.)

The Senate amendment is the same except that it also directs that such committees be used as otherwise directed by law with respect to other programs and functions and authorizes the Secretary to use the services of such committees in carrying out other programs and functions of the Department of Agriculture. (Sec. 1911.)

The Conference substitute adopts the Senate provision.

(b) The House bill requires the Secretary to designate three local administrative areas in each county, except that the number of local areas may be reduced by the ASC county committee to one in counties with less than 150 farmers, and the Secretary may include more than one county or parts of different counties in a local area where there are insufficient farmers to establish a slate of candidates for a local committee. (Sec. 1871.)

The Senate amendment authorizes the ASC county committee for a county, by majority vote, to petition the Secretary to change the number of local areas in the county. On such a petition, the Secretary must change the number of such areas except that it may not result in the number of local areas in a county exceeding the number of such areas in the county on December 31, 1980. (Sec. 19109.)

The Conference substitute adopts the House provision.

(c) The House bill provides that each local administrative area shall have one community committee consisting of at least three members elected to 3-year terms, except that there may be more than one committee per area in counties that, on date of enactment of this bill, have more that three community committees. Only one local administrative areas could hold an election in any year in each county. Only farmers within a local area who are producers who participate or cooperate in programs administrated within their area are eligible for election to the community committee and to vote in the area election. (Sec. 1871.)

The Senate amendment deletes the existing requirement that elections for local committees be held annually and provides that members of local committees shall be elected for a term of 3 years. (Sec. 1910.)

The Conference substitute adopts the Senate provision.

(d) The House bill provides that ASC community committees must meet at least twice annually. (Sec. 1871.)

The Senate amendment requires each local committee to meet once each year and, at the direction of the county committee and with the approval of the State committee, such additional times during the year as may be necessary to carry out section 8(b) of the Soil Conservation and Domestic Allotment Act. The Secretary may not provide compensation or payments to a member of a local committee for work performed at, or travel expenses incurred in attending, more than four meetings of such committee in any year. The meetings of the a local committee must be held on different days of the year. (Sec. 1910.)

The Conference substitute adopts the Senate provisions with an amendment providing for one paid meeting per year by the local (community) committees.

(e) The Senate amendment specifies the duties of the local committees in each county. Such committees shall (i) in a county in which there is more than one local committee, serve as advisors and consultants to the county committee; (ii) periodically meet with the county committee and State committee to be informed on farm program issues; (iii) communicate with producers within their communities on issues or concerns regarding farm programs, (iv) report to the county committee, the State committee, and other interested persons on changes to, or modifications of, farm programs recommended by producers in their communities; and (v) perform such other functions as are required by law or as the Secretary may specify. The Secretary is required to ensure that information concerning changes in Federal law with respect to agricultural programs and the administration of such laws are communicated in a timely manner to local committees. (Sec. 1910.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(f) The House bill provides that community committee members shall serve without pay, but that the Secretary, by regulation, may set levels of, and provide, pay for county committees. (Sec. 1871.)

The Senate amendment requires the Secretary to provide compensation to members of local and county committees for work actually performed by such persons in cooperating in carrying out the Acts in connection with which such committees are used. The rate of compensation received by such persons for such work on the date of enactment of the bill would be required to be increased by 10 percent.

The Secretary must make payments to members of local, county, and State committees to cover expenses for travel incurred by such persons (including, in the case of a member or a local or county committee, travel between the home of such member and the local county office of the Agricultural Stabilization and Conservation Service) in cooperating in carrying out the Acts in connection with which such committees are used. Such travel expenses would be paid in the manner authorized under section 5703 of title 5, United States Code, for the payment of expenses and allowances for individuals employed intermittently in the Federal Government Service. (Sec. 1912.)

The Conference substitute adopts the Senate program with an amendment to increase the county committee member compensation in the discretion of the Secretary.

(g) The House bill provides that each county shall have a county committee consisting of three members to be elected on a rotating basis—one each year from within one of the three administrative areas in the county and the community committee candidate receiving the greatest number of votes (and who agrees to serve) is automatically to be the county committee member to serve a 3-year term. In counties with only one community and in administrative areas containing more than one county or parts of different counties, community and county committee members would be elected for 3-year terms in accordance with regulations issued by the Secretary. (Sec. 1971.)

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

(h) The House bill requires the Secretary to authorize local and county committee members elected on or before the date of enactment of the bill to serve out their unexpired terms. (Sec. 1871.)

The Senate amendment provides that the changes with respect to local committees are to become effective January 1, 1986, except that the changes with respect to election of local committees will not apply with respect to the term of office of any member of a local committee elected before January 1, 1986. Also, if the number of local administrative areas and local committees in a county increases as a result of a change in the numbers of local administrative areas in the county, any member of a local committee in such county elected before January 1, 1986, would serve the unexpired portion of any term commenced before the date of such increase as a member of the local committee for the administrative area in which such matter resides. (Sec. 1910.)

The Conference substitute adopts the Senate program.

SUBTITLE C—NATIONAL AGRICULTURAL POLICY COMMISSION ACT OF 1985

(1) Establishment of Commission

(a) The House bill provides that the President is required to request Governors of States to nominate members for possible appointment to the National Commission on Agricultural Policy representing individuals and industries directly affected by agricultural policies including producers of major agricultural commodities in the United States; processors or refiners of U.S. agricultural commodities; exporters, transporters, or shippers of U.S. agricultural commodities; suppliers of production equipment or materials to U.S. farmers; and consumers of U.S. agricultural commodities. (Sec. 1903(b).)

The Senate amendment adds reference to the products of U.S. agricultural commodities in the list of producers, processors, refiners, exporters, transporters, shippers, and consumers of U.S. agricultural commodities. (Sec. 1902(b).)

The Conference substitute adopts the Senate provision with an amendment to require the Commission to study and report on conditions in rural areas of the United States.

(b) The House bill provides that the President may appoint to the Commission not more than 8 individuals of the same political party. (Sec. 1903(b).)

The Senate amendment limits to 7 the number of individuals that may be appointed from the same political party. (Sec. 1902(b).)

The Conference substitute adopts the Senate provision.

(2) Authorization of Appropriations

The House bill provides that, to the maximum extent practicable, expenses of the Commission would be carried out using funds available to the Secretary of Agriculture. (Sec. 1907(b).)

The Senate amendment provides that, to the maximum extent practicable, this provision would be carried out using funds otherwise available to the Secretary for the expenses of advisory committees. (Sec. 1906(b).)

The Conference substitute adopts the Senate provision.

(3) Termination

The House bill provides that the Commission would terminate 5 years after the date of enactment of the bill (Sec. 1908.)

The Senate amendment provides that the Commission would terminate 4 years after the date of enactment of the bill. (Sec. 1907.)

The Conference substitute adopts the Senate provision.

SUBTITLE D—NATIONAL AQUACULTURE IMPROVEMENT ACT OF 1985

(1) Short title

The House bill provides that title XX may be cited as the "National Aquaculture Improvement Act of 1985." (Sec. 2001.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(2) Findings, purpose, and policy

(a) The House bill amends section 2(a)(3) of the National Aquaculture Act of 1980 ("the Act") to update the congressional finding to indicate that approximately 13 percent of all world seafood production is provided by aquaculture. Congressional findings are also modified to indicate that 6 percent of United States seafood production results from aquaculture. (Sec. 2002.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(b) The House bill amends section 2(a)(7) of the Act to state that, in addition to the currently identified constraints to the development of aquaculture in the United States, other impediments to such development includes both the lack of supportive Government policies and scientific factors. (Sec. 2002.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(c) The House bill amends subsection 2(b) of the Act by adding as a purpose of the Act the establishment of the Department of Agriculture as the lead Federal agency in coordination and dissemination of national aquaculture information by designating the Secretary of Agriculture as the permanent Chairman of the coordinating group and by establishing a National Aquaculture Information Center within the Department of Agriculture. (Sec. 2002.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(d) The House bill amends subsection 2(c) of the Act to declare that aquaculture has the potential for reducing the United States trade deficit in fisheries products. (Sec. 2002.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(3) Definitions

The House bill amends section 3 of the National Aquaculture Act of 1980 to define "the Secretary" as the Secretary of Agriculture. (Sec. 2003.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(4) National Aquaculture Development Plan

(a) The House bill amends subsection 4(a) of the Act to charge the Secretary of Agriculture with the lead responsibility for coordinating the revision of the National Aquaculture Development Plan. In making such revision the Secretary must consult with the Secretaries of Commerce and Interior. The House bill also strikes provisions in the Act authorizing establishment of an advisory board to assist in the development of the Plan. (Sec. 2004.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(b) The House bill amends subsection 4(b) of the Act to provide that the National Aquaculture Development Plan is to include such research, assistance, and training programs as the Secretary of Agriculutre deems necessary to carry out the Plan. In formulating the Plan the Secretary is to take into account actions of other agencies and persons. (Sec. 2004.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(c) The House bill amends subsection 4(c) of the Act to reflect the new responsibility of the Secretary of Agriculture for taking the lead in coordinating Plan implementation. The allocation of responsibilities for carrying out the Plan, among other requirements, shall be made with the concurrence of the Secretaries of Commerce and of Interior. (Sec. 2004.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(5) Functions and powers of the Secretaries

(a) The House bill amends subsection 5(c) of the Act to require that, in addition to performing such other mandatory functions under the Act, the Secretaries of Agricultrue, Commerce, and the Interior must collect and analyze scientific, technical, legal, and economic information relating to aquaculture, including acreages, water use, production, marketing, culture techniques, and other relevant matters. The Secretary of Agriculture shall establish, within the Department of Agriculture, a National Aquaculture Information Center that will serve as a repository for the information generated under the Act, and on a request basis make that information available to the public. The Secretary is also required to (i) arrange with foreign nations for the exchange of information relating to aquaculture and support a translation service, and (ii) conduct a study, and report to Congress by December 31, 1986, on the extent to which the United States aquaculture industry has access to existing Federal agriculture assistance programs. (Sec. 2005.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(b) The House bill requires the Secretary of Commerce to conduct a study, and report to Congress thereon by December 31, 1987, to determine whether existing capture fisheries could be adversely affected by competition from products produced by commercial aquacultural enterprises and include in such study an assessment of any adverse effect, by species and by geographical region, on such fisheries and recommend measures to ameliorate any such effect. (Sec. 2005.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(c) The House bill requires the Secretary of the Interior, in consultation with the Secretary of Commerce, to undertake a study, and report to Congress thereon by December 31, 1987, to identify exotic species introduced into the United States waters as a result of aquaculture activities, and to determine the potential benefits and impacts of the introduction of the exotic species. (Sec. 2005.)

The Senate amendment contains no comparable provisions.

The Conference substitute adopts the House provision.

(d) The House bill amends subsection 5(c) of the Act to require that any information submitted to the Secretaries of Agriculture, Commerce, and the Interior under the authority to collect information shall be confidential and may only be disclosed if required by court order. The Secretaries shall preserve such confidentiality. The Secretaries may release or make public any information in any aggregate or summary form that does not directly or indirectly disclose the identity, business transactions, or trade secrets of any person who submits such information. (Sec. 2005.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(e) The House bill would also amend section 5(d) of the Act to require that the Secretary of Agriculture, in consultation with the Secretaries of Commerce and the Interior, prepare the biennial report to Congress required by the Act on the status of aquaculture in the United States and on the implementation of, and any revision to, the Plan during the reporting period. The first report would be required by February 1, 1987, and subsequent reports on February 1 of every other year thereafter. (Sec. 2005.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment to require a single report, due February 1, 1988.

(6) Coordination of national activities regarding aquaculture

The House bill amends subsection 6 of the Act to designate the Secretary of Agriculture as the permanent Chairman of the interagency aquaculture coordinating group. The House bill also repeals subsection 6(c) of the Act, which provides for the rotation of the Secretaries of Agriculture, Commerce, and the Interior as the Chairmen of the coordinating group. (Sec. 2006.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(7) Authorization of appropriations

The House bill amends section 10 of the Act to authorize appropriations to carry out the Act for each of the fiscal years 1986, 1987, and 1988 at levels of $1 million for the Department of Agriculture, $1 million for the Department of Commerce, and $1 for the Department of the Interior. (Sec. 2007.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

SUBTITLE E—SPECIAL STUDY AND PILOT PROJECTS ON FUTURES TRADING

(1) Findings and declarations of policy

The Senate amendment declares the findings of Congress to the effect that there is a need for alternative agricultural price support programs, that agricultural producers are not sufficiently knowledgeable concerning private sector price stabilization, and that more information is needed to assess the impact on the Federal budget of producer participation in private sector risk avoidance services.

The Senate amendment also declares the policy of the United States to be that the Department of Agriculture should develop more information concerning possible uses of commodities futures and options markets by agricultural producers in marketing their commodities, the impact that uses of these markets would have on commodity prices received by participating producers, and the feasibility of relating such private sector risk avoidance services with Federal price support programs. (Sec. 1991)

(2) Study by the Department of Agriculture

The Senate amendment requires the Secretary of Agriculture to conduct a study to determine how agricultural producers might use commodities futures and options markets to provide commodity price stability and income protection, the extent of the price stability and income protection producers might reasonably expect to receive from participation in these markets, and the impact on the Federal budget of producer participation in these markets compared with the cost of established agricultural price support programs.

The Secretary is required to report the results of the study to the Senate and House agricultural committees no later than December 31, 1988. (Sec. 1992.)

(3) Pilot program

The Senate amendment requires the Secretary of Agriculture to conduct a pilot program in connection with wheat, feed grains, soybean and cotton in at least 40 counties producing reasonable quantities of these commodities traded on the futures and options markets. The Secretary, in cooperation with the futures and options industry and the Chairman of the Commodity Futures Trading Commission, is required to conduct an extensive educational program for producers in the counties selected for the pilot program. Under the pilot program producers could elect to participate in the trading of designated agricultural commodities on a futures or options market in a manner designed to protect and maximize the return on their marketed agricultural commodities. Commodity Credit Corporation funds would be used to assure producers participating in the pilot program a net return for any commodity allocated to the program at no less than the price support loan level for that commodity in the county where it is produced. The Secretary would be required to select an advisory panel of producers, processors, exporters, and futures and options traders on organized futures exchanges to assist in formulation of the pilot program. (Sec. 1993.)

The House bill contains no comparable provisions.

The Conference substitute adopts the Senate provision

SUBTITLE F—ANIMAL WELFARE

Amendments to Animal Welfare Act

(a) Short title

The Senate amendment designates this title as the "Improved Standards for Laboratory Animals Act". (Sec. 2001.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate amendment.

(b) Findings

The Senate amendment declares the findings of Congress to the effect that the use of animals is instrumental in certain research and education or for advancing knowledge of cures and treatments for diseases and injuries which afflict both humans and animals; methods of testing that do not use animals are being and continue to be developed which are faster, less expensive, and more accurate than traditional animal experiments for some purposes and further opportunities exist for the development of these methods of testing; measures which eliminate or minimize the unnecessary duplication of experiments on animals can result in more productive use of Federal funds; and measures which help meet the public concern for laboratory animal care and treatment are important in assuring that research will continue to progress. (Sec. 2002.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

The Conference intends that the adequacy of efforts to develop techniques that reduce or eliminate the use of animals be a matter of continuing concern and attention.

(c) Standards and certification process

The Senate amendment revises the standards, required to be promulgated by the Secretary of Agriculture, which govern the humane handling, care, treatment, and transportation of animals by dealers, research facilities, and exhibitors.

The Senate amendment provides that these standards would include minimum requirements for handling, housing, feeding, watering, sanitation, ventilation, shelter from extremes of weather and temperatures, adequate veterinary care, and separation by species for humane handling, care, or treatment of animals; and for the exercise of dogs and for a physical environment adequate to promote the psychological well-being of primates.

With respect to animals in research facilities these standards would include requirements (A) for animal care, treatment, and practices in experimental procedures to ensure that animal pain and distress are minimized, including adequate veterinary care with the appropriate use of anesthetic, analgesic, tranquilizing drugs, or euthanasia; (B) that the principal investigator considers alternatives to any procedure likely to produce pain to or distress in an experimental animal; (C) in any practice which would cause pain to animals (i) that a doctor of veterinary medicine is consulted in the planning of such procedures; (ii) for the use of tranquilizers, analgesics, and anesthetics; (iii) for pre-surgical and post-surgical care by laboratory workers, in accordance with established veterinary medical and nursing procedures; (iv) against the use of paralytics without anesthesia; and (V) that the withholding of tranquilizers, anesthesia, analgesia, or euthanasia when scientifically necessary would continue for only the necessary period of time; (D) that no animal is used in more than one major operative experiment from which it is allowed to recover except in cases of (i) scientific necessity; or (ii) other special circumstances as determined by the Secretary; and (E) that exceptions to such standards may be made only when specified by research protocol and that any exception would be detailed and justified in a report filed with the Institutional Animal Committee (established under the provisions of the bill).

Nothing in the bill would be construed as authorizing the Secretary to promulgate rules, regulations, or orders with regard to the design, outlines, or guidelines of actual research or experimentation by a research facility or Federal research facility. However, the Secretary would require every research facility to show that professionally acceptable standards governing the care, treatment, and practices on animals were being followed by the research facility during research and experimentation. No rule, regulation, order, or part of this bill would require a research facility to disclose publicly or to the Institutional Animal Committee during its inspection, trade secrets or commercial or financial information which is privileged or confidential.

The Secretary would require, at least annually, that every research facility and Federal research facility report that the provisions of the bill were being followed.

These research facilities would provide (A) information on procedures which were likely to produce pain or distress in any animal and assurances demonstrating that the principal investigator considered alternatives to those procedures; (B) assurances satisfactory to the Secretary that the facility was adhering to the standards described in this bill; and (C) an explanation for any deviation from the standards promulgated under this bill.

No State would be prohibited from promulgating standards in addition to those standards promulgated by the Secretary under the bill. (Sec. 2003)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to provide that an attending veterinarian would be responsible for ensuring that dogs receive a reasonable amount of exercise according to general standards promulgated by the Secretary of Agriculture.

The Conferees intend the standards for exercise for dogs to offer a variety of possibilities to allow the animal motion. It could consist of regularly letting the dog out of its cage for a period of time, the use of dog runs, or allowing ample room in animal housing.

The intent of standards with regard to promoting the psychological well-being of primates is to provide adequate space equipped with devices for exercise consistent with the primate's natural instincts and habits.

The Conference substitute also amends the Senate provision to—

(1) except as provided in the Act, prohibit the Secretary from promulgating rules and regulations with regard to designs, outlines, or guidelines of actual research or representations by a research facility as determined by such research facility;

(2) except as provided in the Act, prohibit the Secretary from promulgating rules and regulations or orders with regard to the performance of actual research or experimentation by a research facility as determined by such a research facility;

(3) prohibit the Secretary, during any inspection, to interrupt the conduct of research or experimentation; and

(4) require every research facility and Federal research facility to show upon inspection and to report at least annually that the provisions of this Act are being followed.

While the main purpose of the amendments to the Animal Welfare Act is to improve the authority of the Secretary of Agriculture to insure the proper care and treatment of animals used in research, the conferees are also concerned that responsible research not be interfered with inappropriately. Thus, the conference substitute includes a provision prohibiting federal inspectors from interrupting the conduct of actual research or experimentation. The language establishes the general areas in which the Secretary may promulgate regulations with regard to the conduct of actual research. These circumstances were made clear so that essential research not be impeded. As in the past, the Committee intends that the research facility show that professionally acceptable standards are being followed during the actual research or experimentation.

The Conferees intend that the Secretary of Agriculture will consult with the Secretary of Health and Human Services to avoid duplicative reporting requirements where possible.

The Conferees also intend to allow private research facilities to protect their intellectual property rights from disclosure. If such rights, in the opinion of the owner, may reasonably be compromised or subject to disclosure during an inspection of an institutional Animal Committee, the owner may exclude the committee from inspecting the limited area within the facility during such proprietary activity.

(d) Institutional Animal Committee

The Senate amendment would require the Secretary to require that each research facility establish at least one Institutional Animal Committee. Each Institutional Animal Committee would be appointed by the chief executive officer of each research facility and would be composed of not fewer than three members. These members would possess sufficient ability to assess animal care, treatment, and practices in experimental research, as determined by the needs of the research facility, and would represent society's concerns regarding the welfare of animal subjects used at the facility.

The Institutional Animal Committee would inspect at least semiannually all animal study areas and animal facilities of the research facility and review as part of the inspection practices involving pain to animals, and the condition of animals, in order to ensure compliance with the provisions of this bill and that pain and distress to animals is minimized. Exceptions to the requirement of inspection of study areas could be made by the Secretary if animals were studied in their natural environment and the study area is prohibitive to easy access.

The Institutional Animal Committee must file an inspection certification report of each inspection at the research facility.

In the case of Federal research facilities, a Federal Institutional Animal Committee would be established and would have the same composition and responsibilities. (Sec. 2003.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to delete all references to "Institutional Animal" after the first referral to the Institutional Animal Committee.

(e) Research facility training

Each research facility would provide for annual training for scientists, animal technicians, and other personnel involved with animal care and treatment in the facility. This training would include instruction on the humane practice of animal maintenance and experimentation; research or testing methods that minimize or eliminate the use of animals or limit animals pain or distress; utilization of the information service at the National Agricultural Library, (established under the provisions of the bill); and include methods whereby deficiencies in animal care and treatment should be reported. (Sec. 2003.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to retain training requirements, but delete references to any "annual" training. The Conference substitute also clarifies that such training procedures would be subject to the requirements issued by the Secretary of Agriculture.

The Conferees intend that instruction of research facility employees covered the basic needs of each species appropriate to the conditions of the animals and provide appropriate instructions for scientists as specified in the Act.

All personnel are intended to be acquainted with the provisions of this Act and instructed to report deficiencies promptly to ensure that the institution is in compliance at all times. No employee shall be discriminated against for reporting violations.

(f) Information service

The Secretary would establish an information service at the National Agricultural Library. This service would provide information (A) pertinent to employee training; (B) which could prevent unintended duplication of animal experimentation as determined by the needs of the research facility; and (C) on improved methods of animal experimentation, including methods which could reduce or replace animal use, and minimize pain and distress to animals, such a anesthetic and analgesic procedures. (Sec. 2003.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

The conferee intend that all investigators be provided ready access to methods of research and testing involving fewer or no animals, or reduced pain or distress through the National Agriculture Library in cooperation with the National Library of Medicine. The conferees further intend that the National Agriculture Library maintains a data base of instructional materials to be available to research facilities to enhance uniformity of training.

(g) Loss of Federal funding

In any case in which a Federal agency funding a research project determines that conditions of animal care, treatment, or practice in a particular project have not been in compliance with standards promulgated under this bill, despite notification by the Secretary or the Federal agency to the research facility and an opportunity for correction, the agency must suspend or revoke Federal support. Any research facility losing Federal support would have the right to appeal such loss. (Sec. 2003.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(h) Inspections

The Senate amendment requires the Secretary to inspect each research facility at lease once each year and, in the case of deficiencies or deviations from the standards promulgated under the bill, to conduct such follow-up inspections as may be necessary until all deficiencies or deviations from the standards are corrected. (Sec. 2004.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(i) Penalty for release of trade secrets

The Senate amendment prohibits the release by any member of the Institutional Animal Committee of any confidential information of the research facility including any information that concerns or relates to the trade secrets, processes, operations, style or work, or apparatus, or the identity, confidential statistical data, amount or source of any income, profits, losses, or expenditures of the research facility. Members of the Committee would also be prohibited from using or attempting to use to a member's advantage, or to reveal to any other person, any information which is entitled to protection as confidential information under these provisions.

A violation of the confidentiality provisions would be punishable by removal from the Committee, and either a fine of not more than $1,000 and imprisonment of not more than one year, or if the violation is willful, a fine of not more than $10,000 and imprisonment of not more than three years.

Any person, including any research facility, injured in its business or property by reason of a violation of the confidentiality provisions could recover all actual and consequential damages sustained. (Sec. 2005.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

The penalities in this Act are directed toward members of the Institutional Animal Committee which attempt to use facility intellectual property to their own benefit. It is not meant to interfere with standard reporting procedures outlined in this Act, or as determined by the Secretary.

(j) Civil penalties

The Senate amendment increases the amount of civil penalties authorized under the Animal Welfare Act from $1,000 to $2,500 and from $500 to $1,500 for failure to obey a cease and desist order. The criminal penalty is increased from $1,000 to $2,500. (Sec. 2006).

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(k) Definitions

The Senate amendment defines (A) the term "Federal agency" to mean an Executive agency, and with respect to any research facility, it means the agency from which the research facility receives a Federal award for the conduct of research, experimentation, or testing, involving the use of animals; (B) the term "quorum" to mean a majority of the Committee members; and (C) the "Federal research facility" to mean each department, agency, or instrumentality of the United States which uses live animals for research or experimentation.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to define the term "Federal Award" as any mechanism under which Federal funds are used to support the conduct of research.

The Conferees expect the Secretary of Agriculture to have full responsibility for enforcement of the Animal Welfare Act. However, the Conferees also recognize that a portion of the nation's reseach facilities fall under regulation from more than one agency. While the legislative mandate of each agency is different, and they may regulate different aspects of animal care, it is hoped that the agencies continue an open communications to avoid conflicting regulations wherever possible or practice.

(l) Effective date

The Senate amendment provides that these provisions in the bill would take effect 1 year after enactment of the bill.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

The Conferees are aware that zoological institutions already comply with humane care, handling, and transportation regulations promulgated pursuant to the Endangered Species Act, the Marine Mammal Protection Act, and the Migratory Bird Treaty Act. The permitting system established under these statutes are not considered to be Federal awards by this Act. The conferees do not intend for this Act to alter the Secretary's determination in regard to the classification of zoological institutions as research facilities.

The conferees intend for the definition of pain to be pain other than slight or momentary, such as that caused by injections or other minor procedures.

The conferees recognize past difficulties in supplying Animal and Plant Health Inspection Service inspectors with adequate training. It is intended by the conferees that additional training will be provided.

SUBTITLE G—MISCELLANEOUS

(1) Commodity Credit Corporation storage contracts

The House bill amends the Commodity Credit Corporation Charter Act to require that any contract entered into by the Corporation for the use of a storage facility provide (i) that the rental rate charged for an extended term in excess of one year shall be at an annual rate less than that which is charged for a one-year contract; (ii) that any obligation of the Corporation to pay for the use of any space in a facility shall be relieved to the extent that the Corporation does not use the space and payment is made by another person for the use of such space; and (iii) if the Corporation determines that it no longer needs the space reserved in the facility, the Corporation may be relieved, for the remaining term of the contract, of its obligations to an extent and in a manner that will provide significant savings to the Corporation while permitting the owner of the facility reasonable time to lease such space to another person. (Sec. 1875.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(2) Emergency feed program

The House bill amends the Food and Agriculture Act of 1977 to expand eligibility, under the Emergency Feed Program to include a person that does not have sufficient feed that has adequate nutritive value and is suitable for each person's particular types of livestock, rather than, as under current law, if the person does not have feed sufficient for such person's livestock. (Sec. 1877.)

The Senate amendment amends section 407 of the Agricultural Act of 1949 to provide that the Commodity Credit Corporation (i) may make feed for livestock available to persons unable to obtain feed without undue financial hardship in areas in which feed grains are normally produced and normally available for feed purposes, but in which they are unavailable because of a catastrophe described in the section; (ii) may make such feed available to such persons through feed dealers in the areas; (iii) shall make such feed available at a price not less than 75 percent of the basic county loan rate; and (iv) shall bear any expenses incurred in connection with making such feed available to such persons under this provision, including transportation and handling costs. (Sec. 1951.)

The Conference substitute adopts both the House provision and the Senate paragraph.

(3) Controlled substances production control

The House bill provides that, notwithstanding any other provision of law, any person, corporation, or other legal entity convicted under Federal or State law of planting, growing, cultivating, producing, storing, or harvesting cannabis (marijuana) or other prohibited drug-producing plant on any part of the lands owned or controlled by such person or entity, or of permitting any such activity on lands owned or controlled by the person or entity, shall be ineligible for the year (or years) in which the illegal activity occurs to receive any benefits under any loan, purchase, payment, indemnity, land diversion, conservation, or other program administered by the Department of Agriculture for the benefit of agricultural producers. (Sec. 1878.)

The Senate amendment defines the term "controlled substance" as having the same meaning given such term in section 102(6) of the Controlled Substances Act; the term "Secretary" to mean the Secretary of Agriculture; and the term "State" to mean each of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands of the United States, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

The Senate amendment provides that, notwithstanding any other provision of law, following the date of enactment of the bill, any person who is convicted under Federal or State law of planting, cultivation, growing, or harvesting of a controlled substance in any crop year shall be ineligible for—

(1) as to any commodity produced during that crop year, and the four succeeding crop years, by such person—(A) any price support or payment made available under the Agricultural Act of 1949, the Commodity Credit Corporation Charter Act, or any other Act; (B) a farm storage facility loan made under the Commodity Credit Corporation Charter Act; (C) crop insurance under the Federal Crop Insurance Act; (D) a disaster payment made under the Agricultural Act of 1949; or (E) a loan made, insured or guaranteed under the Consolidated Farm and Rural Development Act or any other provision of law administered by the Farmers Home Administration; or

(2) a payment made under the Commodity Credit Corporation Charter Act for the storage of an agricultural commodity that is—(A) produced during that crop year, or any of the four succeeding crop years, by such person; and (B) acquired by the Commodity Credit Corporation.

The Senate amendment provides that not later than 180 days after the date of enactment of the bill, the Secretary shall issue such regulations as the Secretary determines are necessary to carry out this provision, including regulations that (1) define the term "person"; (2) govern the determination of persons who shall be ineligible for program benefits under this section; and (3) protect the interests of tenants and sharecroppers. (Sec. 1936.)

The Conference Substitute adopts the Senate provision with an amendment to add storing and producing of a controlled substance to the list of actions which would trigger the penalty.

(4) Lead additives in farm fuel

(a) The House bill requires the President, acting through the Secretary of Agriculture, and the Administrator of the Environmental Protection Agency to promptly initiate a study of the use of fuel containing lead additives in certain gasoline engines. (Sec. 1881.)

The Senate amendment contains a similar provision but requires the Administrator of the Environmental Protection Agency and the Secretary of Agriculture to jointly study the use of fuel containing alternative lubricating additives, in addition to lead additives, in certain gasoline engines. (Sec. 1935.)

The Conference substitute adopts the Senate provision.

(b) The House bill provides that for purposes of the study, the appropriate lead agency designated by the President is authorized to enter into such contracts under applicable law and other arrangements as may be appropriate to obtain the necessary technical and other information. (Sec. 1881.)

The Senate amendment contains a similar provision but authorizes both the Administrator of the Environmental Protection Agency and the Secretary of Agriculture to enter into such contracts and arrangements. (Sec. 1935.)

The Conference substitute adopts the Senate provision.

(c) The House bill provides that the results of the study would be published in the Federal Register not later than January 1, 1987 for written comments, and would be submitted to Congress within 90 days after such publication. The report would contain the results of the study, together with a summary of any public comments received, and recommendations on the need for lead additives in gasoline to be used by agricultural machinery. The report would be submitted only while both Houses of Congress are in session. (Sec. 1881.)

The Senate amendment provides that not later than January 1, 1987 (A) the Administrator of the Environmental Protection Agency and the Secretary of Agriculture must publish the results of the study; and (B) the Administrator must publish in the Federal Register notice of the publication of the study and a summary. After notice and opportunity for hearing, but not later than 6 months after publication of the study, the Administrator must make findings and recommendations on the need for lead additives in gasoline to be used on a farm for farming purposes including a determination of whether a modification of the regulations limiting lead content of gasoline would be appropriate in the case of gasoline used on a farm for farming purposes. The Administrator must submit to the President and Congress a report containing (A) the study; (B) a summary of the comments received during the public hearing (including the comments of the Secretary); and (C) the findings and recommendations of the Administrator. (Sec. 1935.)

The Conference substitute adopts the Senate provision.

(d) The House bill requires that any regulation issued under any provision of law before or after the date of enactment of this provision regarding the control or prohibition of lead additives in gasoline would be amended to provide that the average lead content per gallon of gasoline distributed and sold for use on a farm for farming purposes would not be less than 0.5 gram per gallon. The House bill states that the purpose of the amendment is to ensure that adequate supplies of gasoline containing sufficient lead additives to protect and maintain farm machinery will be available in all States for use on farms for farming purposes. Nothing in these provisions would affect the control of lead or lead additives in gasoline distributed and sold for other uses.

The House bill defines the term "gasoline used on a farm for farming purposes" to be the same meaning as when used in section 6420 of the Internal Revenue Code of 1954. (Sec. 1881.)

The Senate amendment provides that until January 1, 1988, no regulation of the Administrator of the Environmental Protection Agency issued under section 211 of the Clean Air Act regarding the control or prohibition of lead additives in gasoline may require an average lead content per gallon that is less than 0.1 of a gram per gallon. (Sec. 1935.)

The Conference substitute adopts the Senate provision.

(e) The House bill provides that, effective not earlier than 4 months after the date on which the report is submitted to Congress the regulations which, beginning on January 1, 1986, are generally applicable to control the level of lead additives in gasoline, would apply to gasoline used on farms for farming purposes whenever the Administrator of the Environmental Protection Agency publishes a notice thereof unless it is determined by the Administrator on the basis of the study conducted that a level of 0.5 grams per gallon (or some other level) is appropriate in the case of gasoline used on a farm for farming purposes to protect and maintain agricultural machinery specified by the Secretary of Agriculture. (Sec. 1881.)

The Senate amendment contains no comparable provision.

The Conference substitute deletes the Senate provision.

(f) The Senate amendment requires that—

(1) between January 1, 1986, and December 31, 1987, the Administrator must monitor the actual lead content of leaded gasoline sold in the United States;

(2) the Administrator must determine the average lead content of such gasoline for each 3-month period between January 1, 1986, and December 31, 1987;

(3) if the actual lead content falls below an average of 0.2 of a gram of lead per gallon in any such 3-month period, the Administrator must (A) report to Congress; and (B) publish a notice thereof in the Federal Register. (Sec. 1935.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(g) The House bill authorizes to be appropriated such sums as may be necessary to carry out the required study and provides that such sums would remain available for such purposes until expended. In order not to delay the study, the Department of Agriculture and the Environmental Protection Agency should take immediate action with available funds to initiate the study. (Sec. 1881.)

The Senate amendment authorizes to be appropriated $1,000,000, to be available without fiscal year limitation. (Sec. 1935.)

The Conference substitute adopts the Senate provision.

(5) Potato Advisory Commission

The House bill provids that it is the sense of Congress that (A) the Secretary of Agriculture should take actions based on the recommendations of the potato advisory committee established by the Secretary on an ad hoc basis; (b) such actions should address industry concerns including trade, quality inspections, and pesticide use; (C) such committee should meet biannually; and (D) the recommendations and actions of such committee should be reported to the Chairmen of the House and Senate agriculture committees, and to the public. (Sec. 1883.)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment declaring the sense of Congress that the Secretary should consider the recommendations of the potato advisory panel established by the Secretary on an ad hoc basis; that the advisory panel should address industry concerns, to the extent practicable, including trade, quality inspections, and pesticide use; the panel should meet periodically; and the recommendations of the panel may be reported, to the Chairman of the Senate and House agriculture committees, and to the public.

(6) Viruses, serums, toxins, and analogous products

(a) The Senate amendment amends the Virus-Serum-Toxin Act to make it unlawful for any person, firm, or corporation to ship or deliver for shipment in intrastate, as well as interstate, commerce any worthless, contaminated, dangerous, or harmful virus, serum, toxin, or analogous product intended for use in the treatment of domestic animals. The Senate amendment also expands the authority of the Secretary of Agriculture to make and promulgate rules and regulations to carry out this Act. (Sec. 1121.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(b) The Senate amendment provides the Secretary authority, in order to meet an emergency condition, limited market or local situation, or other special circumstance (including production solely for intrastate use under a State-operated program) to issue a special license (to prepare a virus, serum, toxin analogous product) under expedited procedures on such conditions as are necessary to assure purity, safety, and a reasonable expectation of efficacy. The Secretary must exempt by regulation from the requirement of preparation pursuant to an unsuspended and unrevoked license any virus, serum, toxin, or analogous product prepared by any person, firm, or corporation (1) solely for administration to animals of such person, firm, or corporation; (2) solely for administration to animals under a veterinarian-client-patient relationship in the course of the State licensed professional practice of veterinary medicine by such person, firm, or corporation; or (3) solely for distribution within the State of production pursuant to a license granted by such State under a program determined by the Secretary to meet criteria under which the State (A) may license virus, serum, toxin, and analogous products and establishments that produce such products; (B) may review the purity, safety, potency, and efficacy of such products prior to licensure; (C) may review product test results to assure compliance with applicable standards or purity, safety, and potency, prior to release to the market; (D) may deal effectively with violations of State law regulating virus, serum, toxin, and analogous products; and (E) exercises the authority referred to in clauses (A) through (D) consistent with the intent of the Virus, Serum, Toxin Act of prohibiting the preparation, sale, barter, exchange, or shipment of worthless, contaminated, dangerous, or harmful virus, serum, toxin, or analogous products. (Sec. 1923.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(c) The Senate amendment authorizes employees of the Department of Agriculture to enter and inspect any establishment where any virus, serum, toxin, or analogous product is prepared (instead of only licensed establishments as under the Act).

The procedures of sections 402, 403, and 404 of the Federal Meat Inspection Act (relating to detentions, seizures, and injunctions) would apply to the enforcement of the Virus, Serum, Toxin Act with respect to any product, prepared, sold, bartered, exchanged, or shipped in violation of such Act or a regulation promulgated under such Act. The provisions (including penalties) of section 405 of the Federal Meat Inspection Act (relating to assaulting or interfering with officials carrying out the Act) would also apply to the performance of official duties under the Virus, Serum, Toxin Act. (Sec. 1923.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(d) The Senate amendment includes findings of Congress to the effect that the products and activities that are regulated under the Virus, Serum, Toxin Act are either in interstate or foreign commerce or substantially affect such commerce or the free flow thereof and regulation of the products and activities as provided in such Act is necessary to prevent and eliminate burdens on such commerce and to effectively regulate such commerce. (Sec. 1923.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(e) The Senate amendment provides that subject to the provisions outlined below, the case of person, firm, or corporation preparing, selling, bartering, exchanging, or shipping a virus, serum, toxin or analogous product during the 12-month period ending on the date of enactment of the bill solely for intrastate commerce, or for exportation, such product would not after the date of enactment, as a result of its not having been licensed or produced in a licensed establishment, be considered in violation of the Virus-Serum-Toxin Act until the first day of the 49th month following the date of enactment.

The exemption granted above may be extended by the Secretary for a period up to 12 months in an individual case on a showing by a person, firm, or corporation of good cause and a good faith effort to comply with the Act with due diligence.

However, the exemption granted in this paragraph must be claimed by the person, firm, or corporation preparing such product by the first day of the 13th month following the date of enactment, in the form and manner prescribed by the Secretary, unless the Secretary grants an extension of the time to claim such exemption in and individual case for good cause shown.

On the issuance by the Secretary of a license to such person, firm, or corporation for such product prior to the first day of the 49th month following the date of enactment of the bill, or the end of an extension of the exemption granted by the Secretary, the exemption granted in this paragraph would terminate with respect to such product. (Sec. 1923.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate Provisions. The conference expects the Department of Agriculture to exercise its authority under these amendments to assure the continued availability of veterinary biologics manufactured in the United States and sold exclusively to foreign countries in which they are approved for use in the treatment or prevention of animal diseases.

In order to assist existing intrastate producers in making the transition to Federal licensing, and to offer new companies ready opportunities for Federal licensing, the Conferees expect the Department of Agriculture to establish a program under which companies can be licensed as an establishment and to produce autogenous bacterins without the necessity of previously obtaining a license for some other product.

(7) Authorization for appropriations for Federal Insecticide, Fungicide and Rodenticide Act

The Senate amendment amends the Federal Insecticide, Fungicide, and Rodenticide Act to authorize appropriations of $57,067,300 to carry out such Act for the period beginning October 1, 1985, and ending September 30, 1986. (Sec. 1920.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate Provision with an amendment to authorize appropriations of $68,604,200 of which not more than $11,993,100 would be for research.

(8) User fees for reports, publications and software

The Senate amendment amends section 1121 of the Agriculture and Food Act of 1981 to authorize the Secretary of Agriculture to furnish, on request, copies of software programs, pamphlets, reports, or other publications, regardless of their form, including electronic publications, prepared in the Department of Argiculture in carrying out any of its missions or programs, and to charge such fees therefor as the Secretary determines are reasonable. The imposition of such charges must be consistent with section 9701 of title 31, United States Code. All moneys received in payment for work or services performed, or for software programs, pamphlets, reports, or other publications provided, would be available until expended to pay directly the costs of such work, services, software programs, pamphlets, reports, or publications, and may be credited to appropriations or funds that incur such costs. (Sec. 1922.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate amendment.

(9) Confidentiality of information

Both the House bill and the Senate amendment provide for maintaining the confidentiality of information submitted under certain statutes. The House bill includes among the specified statutes section 2 of the joint resolution entitled "Joint resolution relating to the publication of economic and social statistics for Americans of Spanish origin or descent", approved June 16, 1976 (15 U.S.C. 1516a). (Sec. 1030.)

The Senate amendment includes among the specified statutes (1) the first section of the Act entitled "An Act to provide for the collection and publication of statistics of peanuts by the Department of Agriculture", approved June 24, 1936 (7 U.S.C. 951); and (2) section 4 of the Act entitled "An Act to establish the Department of Commerce and Labor", approved February 14, 1903 (15 U.S.C. 1516). (Sec. 1925.)

The House bill contains no comparable provisions.

The Conference substitute adopts the Senate provision with an amendment to include the statute (contained in the House provision) entitled "Joint resolution relating to the publication of economic and social statistics for Americans of Spanish origin or descent", approved June 16, 1976.

(10) Land conveyance to Irwin County, Georgia

The Senate amendment authorizes and directs the Secretary of Agriculture to execute and deliver to the Board of Education of Irwin County, Georgia a quitclaim deed conveying and releasing all right, title, and interest of the United States of America in and to a 0.303 acre tract of land, together with improvements, located in Irwin County, Georgia. (Sec. 1937.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(11) National Tree Seed Laboratory

The Senate amendment provides that fees received by the National Tree Seed Laboratory, administered by the Forest Service, for tree seed testing services would be retained and used as a reimbursement to current appropriations to cover the costs of providing such services. (Sec. 1938).

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(12) Control of grasshoppers and Mormon Crickets on public lands

The Senate amendment requires the Secretary of Agriculture to carry out a program to control grasshoppers and Mormon Crickets on all Federal lands. Under the program, the Secretary of Agriculture would expend or transfer, and the Secretary of the Interior would also transfer to the Secretary of Agriculture, funds for the prevention, suppression, control, or eradication of actual or potential grasshopper and Mormon Cricket outbreaks on lands under the jurisdiction of the Federal Government.

The Secretary of Agriculture would pay out of appropriated funds made available to the Secretary of Agriculture or transferred to the Secretary of Agriculture by the Secretary of the Interior, (A) 100 percent of the cost of grasshopper or Mormon Cricket control on Federal lands; (B) 50 percent of the cost of such control on State lands; and (C) 33.3 percent of the cost of such control on private lands. (Sec. 1947.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to (1) delete reference to the eradication of grasshopper and Mormon Cricket outbreaks; (2) delete reference to the number of grasshoppers per square yard in connection with infestation levels; and (3) limits the use of funds transferred from the Department of the Interior solely to public lands under the jurisdiction of the Department of the Interior.

(13) Ethanol and Strategic Ethanol Reserve

The House bill requires the Secretary of Agriculture to establish, maintain, and utilize a Strategic Ethanol Reserve. Within 180 days after the date of enactment of this provision, the Secretary must prepare and transmit to the Congress a Strategic Ethanol Reserve Plan which details the Department of Agriculture's proposal for designing, constructing, filling, maintaining, and operating the storage and related facilities of the Reserve. The Secretary shall design the Plan to assure, to the maximum extent practicable, that the Reserve will provide the Federal Government with immediate access to ethanol in any case in which the President declares that it is needed to assist in meeting the energy needs of the Nation.

Under the House bill the Plan shall include (A) a comprehensive environmental assessment; (B) a description of the type and proposed location of each storage facility proposed to be included in the Reserve; (C) an estimate of the volumes of ethanol proposed to be stored in such storage facility; (D) a program schedule for overall development and completion of the Reserve (taking into account all relevant factors, including cost effectiveness, the need to construct related facilities, and the ability to obtain sufficient quantities of ethanol to fill the storage facilities to the proposed storage levels); (E) an estimate of the direct cost of the Reserve, including certain specified costs; (F) a distribution plan setting forth the method and manner of drawdown and distribution to be utilized with respect to the Reserve.

To the extent necessary or appropriate to implement the Plan, the Secretary is required by the House bill to prescribe regulations and subject to the availability of funding in the account (A) acquire by purchase, condemnation, or otherwise, land and interests in land, and improvements thereon for the location of storage and related facilities; (B) construct, purchase, lease, or otherwise acquire storage and related facilities; (C) use, lease, maintain, sell, or otherwise dispose of storage and related facilities acquired pursuant to this provision; (D) acquire by purchase, exchange, or otherwise, ethanol for storage in the Reserve; (E) execute any contracts necessary to carry out the provisions of such Plan; (F) maintain, operate, test, protect, and conserve the Reserve; and (G) bring an action, whenever the Secretary deems it necessary to implement the Plan to acquire by condemnation any real or personal property, including facilities, temporary use of facilities or other interests in land, together with any personal property located thereon or used therewith.

Before any condemnation proceedings are instituted, a reasonable effort shall be made to acquire the property involved by negotiation. The Secretary shall, for purposes of implementing the Plan, obtain, store, and transport only ethanol which is produced in the United States from grain grown in the United States.

The Secretary shall, to the extent funds or Commodity Credit Corporation stocks are available, fill the Reserve at certain minimum required fill rates in fiscal years 1986, 1987, 1988, and at least 10,000,000 barrels in each succeeding fiscal year until the barrels in the Reserve equal at least 10 percent of the number of barrels of petroleum product stored in the Strategic Petroleum Reserve.

In the fiscal year 1986, the Secretary, without additional appropriations, shall operate and fill the Reserve using the accumulated stock held by the Commodity Credit Corporation as payment-in-kind for the purchase of ethanol. Depending on the level of funds in the Strategic Ethanol Reserve Account and the amount of accumulated stocks held by the Commodity Credit Corporation, the Secretary may use a payment-in-kind program to fill the ethanol reserve for all years after fiscal year 1986. If a payment-in-kind program is used, no ethanol for that fiscal year shall be purchased from funds in the Strategic Ethanol Reserve Account.

The Secretary may withdraw and distribute ethanol from the Reserve only as a result of a declaration made by the President to meet U.S. energy needs or for periodic testing of the storage and distribution system; except that no such drawdown and distribution may be conducted until all ethanol withdrawn from the Reserve in the most recent test drawdown has been replaced. The Secretary may (A) restrict the use, exchange, or resale of ethanol withdrawn from the Reserve; (B) require the prompt processing, refining, or delivery of the ethanol or products derived from such ethanol; and (C) require the allocation of products refined from ethanol withdrawn from the Reserve. Ethanol in the Reserve may not be sold, exchanged, or otherwise disposed of for a price less than market value.

The House bill establishes an account designated as the "Strategic Ethanol Reserve Account". Revenues from the sale or other disposal of ethanol from the Reserve and such sums as may be appropriated would be credited to the account. Funds credited to such account shall as provided for in appropriations be utilized by the Secretary for (A) the procurement of ethanol for the Reserve; (B) the construction and operation of facilities associated with the Reserve; (C) the drawdown and distribution of the Reserve; and (D) the maintenance and operation of the Reserve.

The House bill provides that the Secretary shall, beginning not later than Janaury 1, 1987, transmit an annual report to the Congress with a detailed accounting of the activities carried out under this provision including certain specified items. (Sec. 1885.)

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision with an amendment requiring the Secretary of Agriculture to conduct a study of the cost effectiveness, the economic benefits, and the feasibility of establishing, maintaining, and utilizing a Strategic Ethanol Reserve relative to the existing Strategic Petroleum Reserve.

The study will be completed within one year after the enactment of the bill and will include, among other considerations—(1) the benefits and losses related to the U.S. economy, farm income, employment, government commodity programs, and the trade deficit of utilizing a Strategic Ethanol Reserve, as opposed to the Stretegic Petroleum Reserve; and (2) the savings from storing ethanol as opposed to storing the amount of CCC-held grain necessary to produce the ethanol.

If the study shows that the Strategic Ethanol Reserve is cost effective, beneficial to the U.S. economy, and feasible in comparison with the Strategic Petroleum Reserve, the Secretary of Agriculture may establish, maintain, and utilize a Strategic Ethanol Reserve.

(14) Department of Defense land

The House bill requires that, notwithstanding any other provision of law, land owned by or under control of the Department of Defense or any agency thereof, that is leased for the production of agricultural commodities, shall not be eligible for participation in any program administered by the Department of Agriculture. (Sec. 1880.)

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision. The conferees expect that the Department of Agriculture will not, directly or indirectly, make payments, or extend loans, to lessees of land leased from the Department of Defense (DOD) for the production of agricultural commodities. The conferees expect that the Secretary of Agriculture will work with the Secretary of Defense to terminate at an early date the eligibility of property under the ownership or control of Department of Defense for participation in farm commodity programs administered by the Secretary of Agriculture and to submit a report to Congress as soon as practicable addressing the matter.

(15) Control of agricultural losses caused by depredating animals

The Senate amendment provides that the authority of the Secretary of Agriculture to control agricultural losses from depredating animals would not be limited by Reorganization Plan II of 1939, nor by any other executive action taken pursuant to the Reorganization Act of 1939 (or any successor statute to the Act of 1939). (Sec. 1939.)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(16) Transfer of agricultural products stored in warehouses

The Senate amendment provides that if a warehouseman lacks sufficient space to store the agricultural products of all depositors in a licensed warehouse, the warehouseman may, in accordance with regulations issued by the Secretary of Agriculture, and subject to such terms and conditions as the Secretary may prescribe, transfer stored agricultural products for which receipts have not been issued out of the warehouse to another licensed warehouse for continued storage.

The warehouseman of a licensed warehouse to which agricultural products have been transferred would deliver to the rightful owner of products, on request, at the licensed warehouse where first deposited, the products in the amount, and of the kind, quality, and grade, called for by the receipts or other evidence of storage of such owner. (Sec. 1928.)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(17) Exclusion of liquidation proceeds from family contribution computation

The Senate amendment requires the Secretary of Education, within 30 days after the date of enactment of the bill, to promulgate special regulations to permit, in the computation of family contributions in connection with determining a student's need for financial assistance for any academic year beginning on or after July 1, 1985, the exclusion from family income of any proceeds of a sale of farm or business assets of that family if the sale results from a voluntary or involuntary foreclosure, forfeiture, or bankruptcy. (Sec. 1933.)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(18) National Advisory Commission on Rural America

(a) Findings and purposes

The Senate amendment declares the findings of Congress to the effect that the farm crisis, including the decline in farm income, farm property values, and available credit, is having serious adverse effects on rural enterprises dependent on the farm industry; rural enterprises and the farm industry are the mainstay of the rural tax base; the farm crisis foreshadows a crisis of governance in rural America; rural communities throughout the United States dependent on a single form of economic activity—agriculture, forestry, mining, manufacturing or tourism—are part of this emerging crisis of governance which, if unabated, will undermine the fiscal capacity of rural government and the ability to provide basic public services including education, health, housing, police, and other emergency services; the relationship between the declining rural economy and the provision of basic public services in rural communities is not well understood or documented; and an independent analysis of the relationship is necessary to determine the appropriate roles and responsibilities of all levels of government in responding to this emerging problem.

The purpose of this subtitle is to create a National Advisory Commission on Rural America to conduct a study and report to the President and Congress on conditions in rural America and relate those trends and problems to the provision of public services by Federal, State, and local governments. (Sec. 1971.)

(b) Establishment of Commission

The Senate amendment would establish a National Advisory Commission on Rural America composed of twenty-one members to study conditions in rural areas of the United States. Fifteen members would be appointed by the President, three by the President pro tempore of the Senate, and three by the Speaker of the House of Representatives as follows: The President would be required to appoint three Federal officials and twelve private citizens or elected officials or employees of State of local governments. All of the persons appointed by the President would be required to possess expertise in conditions in rural areas of the United States. The three Federal officials appointed would include the Secretary of Agriculture, the Assistant to the President for Intergovernmentals Affairs, and one other individual representing a Federal entity. Economic, agricultural, small business, and employee interests would be represented by one member each. Rural service delivery interests, State governments, local and regional governments, and a State-recognized consortia of local governments would be represented by two members each. The President pro tempore of the Senate and Speaker of the House of Representatives would be required to appoint three members each from the Senate and the House of Representatives, respectively, who are members of committees with jurisdiction over, or special concern for, conditions in rural areas of the United States and intergovernmental relations. No more than two appointees to the Commission from either by could be members of the same political party. Vacancies on the Commission would be filled in the same manner as the original appointment. The Commission would elect a Chairman from among its members, and would meet at the call of the Chairman or of a majority of the members of the Commission. (Sec. 1972.)

(c) Study

The Senate amendment requires the Commission to study conditions in rural areas of the United States and the relationship of such conditions to the provision of public services by Federal, State, and local governments. The study would be required to include an analysis of—

(1) social and economic indicators which reflect the declining rural economy, including economic and demographic trends and rural and agricultural income and debt;

(2) trends and fiscal conditions of rural local governments;

(3) trends and patterns in the delivery or rural public services;

(4) the impact on the rural economy and delivery of public services in rural areas of deregulation of transportation, telecommunications, and banking; and

(5) trends and patterns of Federal, State, and local government financing, delivery, and regulation of public services in rural areas of the United States. (Sec. 1973.)

(d) Administration

The Senate amendment authorizes the Commission to hold hearings, administer oaths, issue subpoenas, and receive testimony and other evidence. Members of the Commission would serve without compensation except that members on the Commission who are private citizens would be allowed travel expenses, including per diem. Subject to advance appropriation of funds and Commission rules, but without regard to federal classification or pay restrictions, the Chairman of the Commission could appoint a director and such additional staff as the Commission deems necessary. The Secretary of Agriculture would be required, and other executive agencies and the General Accounting Office would be authorized, to furnish personnel and support services without reimbursement by the Commission. The Commission would be required to keep records of its activities and disposition of funds for audit by the Comptroller General. The Commission would be exempt from Federal performance appraisal requirements and from provisions of the Federal Advisory Committee Act which govern the duration of such committees and impose upon advisory committees staff salary guidelines promulgated by the General Services Administration, and the requirement that such committees meet only with advance approval, and in the presence, of a designated Federal official who has authority to adjourn any meeting. (Sec. 1974.)

(e) Report

The Senate amendment requires the Commission, not later than one year after its establishment, to submit to the President and Congress its findings and recommendations including:

(1) how changes in the rural economy affect rural local governments;

(2) measures of rural distress resulting from changes in the rural economy;

(3) the extent to which distress in rural communities affects their ability to raise revenues, sustain employment, maintain infrastructure, and deliver adequate public services;

(4) a description of the programs and policy instruments available to Federal, State, and local governments to address distress in rural communities;

(5) the development of a framework within which to analyze such policy instruments;

(6) a comparative analysis of each of the instruments using this framework;

(7) how Federal and State governments can mitigate the decline in economic conditions in rural America; and

(8) the appropriate role of Federal, State, and local governments in assuring continued provision of basic public services, including education, health, housing, police, and other emergency service.

The Commission would be prohibited from commenting on legislation pending before Congress except upon request of a Committee Chairman. (Sec. 1975.)

(f) Authorization of appropriations

The Senate amendment authorizes appropriations of $800,000 to carry out this subtitle. To the maximum extent practicable, the subtitle would be carried out using funds otherwise available to the Secretary of Agriculture for the expenses of advisory committees. (Sec. 1976.)

(g) Termination

The Senate amendment provides that the authority under this subtitle and the Commission would terminate 60 days after the submission of the Commission's report. (Sec. 1977.)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

From the Committee on Agriculture:

E de la Garza,
Thomas S. Foley,
Ed Jones,
Charles Rose,
Berkley Bedell
(on all matters except title VIII of the House bill and modifications thereof committed to conference),
Leon E. Panetta,
Jerry Huckaby,
Charles Whitley
(on all matters except subtitle A of title X, section 1022, section 1314, and subtitle C of title XVIII of the House bill and modifications thereof committed to conference, and section 1947 and title XX of the Senate amendment),
Tony Coelho,
Edward R. Madigan,
James M. Jeffords,
E. Thomas Coleman
(on all matters except titles II, IV, V, IX, XVI, and XVII, and section 1862 of the House bill and modifications thereof committed to conference),
Ron Marlenee,
Larry J. Hopkins,
Arlan Stangeland,
Charles Hatcher
(in lieu of Mr. Bedell, solely for consideration of title VIII of the House bill and modifications thereof committed to conference),
Charles W. Stenholm
(in lieu of Mr. Whitley, solely for consideration of subtitle A of title X of the House bill and section 1314 and modifications committed to conference; and additional conferee solely for consideration of subtitle D of title XI of the House bill and modifications committed to conference),
Terry L. Bruce
(in lieu of Mr. Whitley, solely for consideration of section 1022 of the House bill and modifications thereof committed to conference),
Harold L. Volkmer
(in lieu of Mr. Whitley, solely for consideration of subtitle C of title XVIII of the House bill and modifications

thereof committed to conference),

Richard H. Stallings

(in lieu of Mr. Whitley, solely for consideration of section 1947 of the Senate amendment),

George E. Brown, Jr.

(in lieu of Mr. Whitley, solely for consideration of title XX of the Senate amendment),

Bill Emerson

(in lieu of Mr. Coleman of Missouri, solely for consideration of titles IX, XV, XVI, and XVII of the House bill and modifications thereof committed to conference),

Steve Gunderson

(in lieu of Mr. Coleman of Missouri, solely for consideration of title II of the House bill and modifications thereof committed to conference),

Sid Morrison

(in lieu of Mr. Coleman of Missouri, solely for consideration of section 1862 of the House bill and modifications thereof committed to conference),

Bob Smith

(in lieu of Mr. Coleman of Missouri, solely for consideration of titles IV and V of the House bill and modifications thereof committed to conference),

Pat Roberts

(additional conferee, solely for consideration of subtitle D of title XI of the House bill and modifications committed to conference),

From the Committee on Merchant Marine and Fisheries:

(Additional conferees, solely for consideration of subtitle D of title XI of the House bill and modifications committed to conference):

Walter B. Jones

(and additional conferee, solely for consideration of title XX, section 1434, and sections 1201-1203 of the House bill and modifications committed to conference),

Mario Biaggi,
Glenn M. Anderson,
James L. Oberstar,
William J. Hughes,
Mike Lowry,
Norman F. Lent

(and additional conferee, solely for consideration of title XX, section 1434, and sections 1201-1203 of the House bill and modifications committed to conference),

Gene Snyder,
Don Young

(and additional conferee, solely for consideration of title XX, section 1434, and sections 1201-1203 of the House bill and modifications committed to conference),

Robert W. Davis,

(Additional conferees, solely for consideration of title XX, section 1434, and sections 1201-1203 of the House bill and modifications committed to conference):

John Breaux,
Gerry E. Studds,
Jack Fields,

From the Committee on Foreign Affairs:

(Additional conferees, solely for consideration of title XI, sections 1025, 1421, 1423, and 1431 of the House bill, title I, sections 903, 1932, 1943, 1949, and 1952 of the Senate amendment, and modifications committed to conference):

Dante B. Fascell,
Lee H. Hamilton,
Don Bonker,
Sam Gejdenson,
Peter H. Kostmayer

(except subtitle D of title XI of the House bill and modifications committed to conference),

Buddy MacKay

(except subtitle D of title XI of the House bill and modifications committed to conference),

Wm. Broomfield,
Benjamin A. Gilman

(except subtitle D of title XI of the House bill and modifications committed to conference),

Toby Roth,
Doug Bereuter,

From the Committee on Ways and Means:

(Additional conferees, solely for the consideration of sections 107(d), 108(b), 113, 1002, 1929, 1952, 1953, and 1955 of the Senate amendment and modifications committed to conference):

Sam Gibbons,
Ed Jenkins,
Managers on the Part of the House.

Jesse Helms,
Robert Dole,
Richard G. Lugar,
Thad Cochran,
Rudy Boschwitz,
Edward Zorinsky,
Patrick J. Leahy,
John Melcher,
David Pryor,
Managers on the Part of the Senate.

TAX REFORM ACT OF 1985

The **SPEAKER**. Pursuant to House Resolution 343 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3838.

☐ 1507

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3838) to reform the Internal Revenue laws of the United States. with Mr. Natcher in the chair.

The Clerk read the title of the bill.

The **CHAIRMAN**. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Illinois [Mr. Rostenkowski] will be recognized for 1 hour and 30 minutes and the gentleman from Tennessee [Mr. Duncan] will be recognized for 1 hour and 30 minutes.

The Chair now recognizes the gentleman from Illinois [Mr. Rostenkowski].

Mr. **ROSTENKOWSKI**. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Committee on Ways and Means brings to the floor H.R. 3838, the "Tax Reform Act of 1985."

The bill we present today sets forth the most far-reaching range of amendments to the Tax Code ever written. It is the most complex bill we have ever written. And it is the most hard-won bill we have ever written.

Our work began when the Treasury announced its first proposal just over a year ago. Like any campaign of such intensity and duration, the writing of tax reform has had times of great optimism and progress—and times of doubt and delay. I know of no other issue that so divides this Nation, and this Congress—by local and regional interests, by economic philosophy and by sheer political misgivings—than taxation. Other than war, it is the one issue that most touches the fortunes of every American family—and every American business. The quest for tax fairness, afterall, was the spark that touched off the flight for our independence.

In the end, tax reform belongs to neither party. It belongs to both. From the very beginning I have tried to make the committee bill a bipartisan bill. There is much in these 1,379 pages shaped by the committee's minority. And in the end, 5 of our 13 Republicans voted for it.

It is the President's chief domestic initiative. After a stunning personal setback last week he came battling back—and last night delivered a list of 50 Republicans committed to voting both for the rule and for final passage.

Though he and I have differed on the shape of reform, we have never differed on the goals. His "lines in the sand" have not been blurred by our bill. Our two proposals track one another almost perfectly—with maximum tax rates lowered dramatically in each. And the President has openly saluted the committee bill—and urged each Member to move tax reform to the Senate.

Far and away the truest measure of reform in this, or any other tax bill, is against present law. To measure reform against academic purity ignores the grinding wheels of compromise on which legislation rolls forward. As Secretary Baker said when the President's proposal was unveiled, "we live in a real world and we should compare this to current law."

But the real world is not necessarily a hostile world. While the pressures from special interests were at times brutal, the committee rarely lost sight of its mark. In the end, we knew our work would be vigorously assessed. And, by a solid vote of 28 to 8, we stand behind the committee bill.

Let me run through some of the bill's highlights for individual taxpayers:

First, it exempts more than 6 million poor and working poor from paying taxes by increasing the standard deduction, the earned income credit, and the personal exemption.

Second, the bill brings the maximum tax rate for individuals from 50 percent to 38 percent—the lowest personal rate since 1931.

Third, it raises the personal exemption from about $1,000 to $2,000 for the vast majority of this country who don't itemize—and to $1,500 for those who do.

Fourth, the bill maintains the most traditional deductions for middle-income families, including the home mortgage interest, State and local taxes and fringe benefits.

Fifth, it eliminates or severely cuts back loopholes and shelters that have permitted thousands of the Nation's wealthy to dodge taxes.

An analysis by the highly respected center on budget and policy priorities reveals that the residual effect of the bill is the equivalent of a $30 billion grant to taxpayers below $20,000 and a 60-percent tax reduction for a poverty-level family. The report concludes that, if enacted, the bill would be "the most beneficial piece of legislation for low- and moderate-income families in more than a decade."

By far the largest proportion of the individual tax cuts go to working middle-income families. More than half goes to those with income between $20,000 and $75,000.

On the corporate side:

First, it reduces the corporate tax from 46 percent to 36 percent—a 24 percent cut—the lowest rate since 1941.

Second, the bill reduces graduated tax rates on the first $75,000 in taxable income—a great help to small business.

Third, it cuts through to some of the structural abuses—like percentage depletion allowance, bad debt reserves, and accounting methods—that have given a number of our largest and most profitable corporations the means to greatly limit—or completely escape—all tax liability.

Fourth, to that end, the bill imposes a stiff minimum tax on both individuals and corporations that virtually assures that the wealthiest and most influential in this country will be forced to pay an income tax.

And finally, the bill halts a trend of declining corporate tax payments—at the expense of increasing individual payments. Over the next 5 years, $140 billion will shift from the individual side of the ledger over to the corporate side.

Mr. Chairman, the demands of our society and economy are constantly shifting. And no document better chronicles our changing priorities than the Internal Revenue Code—from energy self-sufficiency to environmental concerns to changing family structure to shoring up heavy industry. We have piled one tax incentive on top of another—each backed with good intention. And, in the doing, have created a tax system without social direction or economic fairness.

The bill I present today does not untangle all the contradictions and distortions in the code. It does not establish total equality between income groups or between competing industrial sectors. It is not unmarked by special interests. It is not exactly the bill anyone of us would write in a sanctuary.

That said, I will declare that H.R. 3838, the Tax Reform Act of 1985, is as full of promise and vitality as any tax bill reported out of the committee for decades. It amounts to a virtual rewriting of the Internal Revenue Code of 1954. It is truly a historic document shaped by many hammers over many months.

In the very end, it is an act of fairness to the millions of Americans for whom taxes have long been the measure of faith in our way of life.

For the benefit of Members who have had insufficient time to review the components of the bill I ask that a complete summary of the bill's provisions follow.

In addition I would add to the Record a range of editorial opinion from the Nation's press—reflecting not only the visibility of this issue, but also its popularity.

I would also attatch a list of businesses, both large and small, that have vocally supported the committee bill.

A Stunning Win, or Loss, for the Poor

Silently, while hundreds of lobbyists have clamored for this loophole or that special interest, an immense victory for millions of poor people has been germinating in the House Ways and Means Committee. Any minute now—assuming the President corrals enough Republican votes to undo yesterday's parliamentary setback—the House will vote on the committee's tax bill. While there are many reasons to vote yes, here is the best one:

This bill would do more to relieve poverty than any social welfare measure in 15 years.

Republicans should favor it. Not only does their President want it; the bill squares with their approach to social welfare. Democrats—especially those who represent impacted urban districts—should favor it because in the next five years it would funnel $30 billion in tax relief to American families who earn less, many much less, than $20,000.

Instead of continuing to tax people into poverty, this bill would, shrewdly, untax poor people out of it.

When Lyndon Johnson declared war on poverty in 1965, and when Richard Nixon declared war on hunger in 1969, both pursued a strategy of providing services to meet needs. Then the Nixon Administration, with Daniel Patrick Moynihan teaching it that what poor people lack most is money, pressed instead for an income strategy, some form of guaranteed annual income.

But the proposed Family Assistance Plan failed, and, looking back that was probably a good thing because America found it easy to let financial assistance to the poor be vastly eroded by the soaring inflation of the Ford and Carter years.

The Reagan Administration brought more woe. It purposely slashed social programs. Every bit as bad, it passively accepted the inflation erosion, which has especially hurt people who earn only poverty wages in full-time jobs. Instead of a services strategy or an income strategy, the Government has gradually twisted into a perverse position. Instead of shifting tax dollars to the poor, it has been taking more tax dollars from the poor.

Consider these findings, from the Center on Budget and Policy Priorities, a private research group in Washington:

Between 1979 and 1983, the number of households below the official poverty line (now about $11,000) who had to pay Federal tax tripled.

The taxes of middle- and upper-income Americans have declined since 1981. Meanwhile, however, poor people's taxes as a percentage of income have increased fivefold.

Under current law, a single parent with three children who earns the poverty-level wage must pay $1,424 in Federal taxes. A couple with two children must pay Federal tax even though their income only brings them to a level 20 percent below the poverty line.

Hard as it may be for middle-class citizens to believe, America is now taxing people into poverty, by the millions.

All the recent tax reform proposals would address this perversity. But by far the best remedy is offered by the bill that Representative Dan Rostenkowski of Illinois has coaxed through the House Ways and Means Committee. In a stroke it would regain all the ground lost to inflation in recent years. The bill would eliminate Federal taxes for 6.5 million poor households and reduce taxes for millions more, including the blue-collar working poor.

No magic is required to accomplish this miracle; only a sense of fairness. The Rostenkowski bill would restore what inflation has stolen away from three ribs of the tax structure.

One, carefully focused on working poor families with children, is the Earned Income Tax Credit, which has hardly been adjusted for the cost of living since it was instituted in 1975.

The second is the standard deduction, taken by people who don't itemize—which is to say, virtually all low-income Americans. The Rostenkowski bill would increase it by about $1,000 (to $3,840 for a married couple filing jointly) to compensate for past inflation, and would index it to protect against future inflation.

Third, the personal exemption would be increased from $1,130 to $2,000 (but only to $1,500 for people who itemize deductions, to avoid a costly windfall for the affluent).

Taken together, these changes would dramatically reduce the tax burden on people struggling to survive: poor, working poor and near-poor. That is, people like that hypothetical woman who is trying to raise three kids by herself on wages that just meet the official poverty level.

Recall that, under current law, she'd owe Federal taxes of $1,424 in 1987. Under the Rostenkowski bill, she'd have to pay only $399. That's family assistance for a working mother, in the form of a tax reduction worth $1,025.

All by itself, such a prospect makes the Rostenkowski bill worth embracing. Any member who claims to represent or care about poverty in America and votes against this tax bill will have a lot of explaining to do to millions like that woman. Her tax saving would be about $85 a month. To her, and her children, that's a fortune.

[From the New York Times, Dec. 15, 1985]

CAN CONGRESS WALK AND CHEW GUM?

No way, people wise to the ways of Washington said last January. Congress can't possibly cope with the budget deficit and tax reform in the same year. They were right. As Shaw once said, to be cynical may be a sin but it is rarely mistaken.

With only a few days left in the Congressional session, the deficit problem has been buried, alive, in a hollow promise. As for tax revision, a good bill may die before the House even votes on it. The cynics were righter than they knew. Congress, unable to cope with two big economic issues at once, is having a hard time dealing with even one.

Remarkably, the deficit wasn't even an issue for President Reagan a year ago. Flush with his landslide victory, he offered an optimistic forecast of shrinking deficits and pronounced tax reform as his "number one priority." Things certainly didn't work out that way, and a good thing, too, as the stubborn deficit quickly made clear.

Reducing the Deficit: Mr. Reagan wants to be known as the President who balanced the books; for years, he's championed a constitutional amendment to that effect. That's what he says. History will record that he ran up more debt than all previous Presidents combined.

That left any meaningful moves to Congress. But it refused to cut popular middle-class social programs again and only dented soaring defense spending. Neither was it about to pay for all the spending with new taxes—not with an anti-tax President waving so menacing a veto. Congressional leaders did have the courage to try limiting Social Security cost-of-living increases, to which the President agreed—then reneged.

Despairing, Congress turned to magic. For months, it toyed with a law to balance the budget—automatically!—by forcing spending cuts across the board if Congress and the President couldn't agree on any other way. Last week, in the name of fiscal responsibility, Congress passed it and President Reagan signed it into law, sheepishly, without the customary Oval Office ceremony.

THE TAX BILL

The House should rescue and pass the tax bill to force the Senate to deal with the subject next year. No one can endorse the bill unreservedly. It is too big for that, and has gone through too many hands. But on balance it would make ours a fairer system.

1. The measure's most powerful provisions would move the tax thresholds back above the poverty line, so the poor would no longer owe income taxes. The generally didn't in the 1970s, but have begun to since. About 6 million families and individuals with very little income would be taken off the rolls by this step. Many are working poor who pay rising Social Security taxes and were perhaps the biggest losers in the first-term Reagan spending cuts, which intended to lower eligibility lids for social programs. The second-term tax bill is an important offset to the first-term fairness issue.

2. These tax cuts for the poor were proposed by the president. He also proposed large tax cuts for the very rich. The Ways and Means Committees tapered these down. Its bill would reaffirm the traditional progressively of the income tax, the principle that rates should rise with income. The committee also strengthened the minimum taxes for both individuals and corporations. Some tax reformers see this as a weakness, a confession that the committee could not accomplish all it should have in wiping preferences from the code. But not all preferences are bad; the logic of a minimum tax is simply that there must be a limit to anyone's use of these tax-reducing devices in any one year. The new provisions would achieve that. You have here the most basic fairness issue in taxation: those with income ought to pay.

Making Taxes Fairer: The latest round of concern over the complexity and unfairness of the tax system began as an evasion, as a way for the President to sidestep the tax issue in the 1984 campaign. He told the Treasury to present a plan for fundamental reform after Election Day.

The Treasury produced a package that delighted reformers by cutting tax rates sharply and taking away hundreds of tax favors for well-to-do taxpayers and corporations. Politicians, however, were horrified, and the White House quickly reformed the reforms. The White House plan restored many of the unwarranted special advantages in current law, but even so there was fierce opposition from every injured interest group.

Despite the furor, Dan Rostenkowski, the House Ways and Means chairman, drove through a compromise that, with Administration support, might narrowly pass the House. But the President gave it only cool, and belated, endorsement. Last week, a vote was blocked by Democrats who still didn't like it and Republicans furious at being left out of the preparation. The week ended with Congress unable even to recess.

There will be a few more days to try salvaging some scraps from a whole year's work. The Rostenkowski bill is no more ideally fair, simple and efficient than the President's proposals. But it would greatly relieve the tax burden on most individuals, especially the poor, while equitably spreading more of the load to corporate and other favored taxpayers.

To the cynics who say Congress cannot walk and chew gum at the same time, for the House now to pass the tax bill at least would say: Wrong, we can walk, and maybe even run.

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3. There are certain industries—defense, banking, real estate—whose effective tax rate over the years have been egregiously low. They have become symbols for discontent with the tax code. The bill would deal decisively with several of these. Defense contractors would lose the so-called completed contract provision by which many have all but avoided taxes in the past. Banks would lose deductions for excess bad-debt reserves. Depreciation periods would be stretched out on the estate. There are other examples, good things long overdue.

4. Many in and out of Congress believe that next year there will be a tax increase—that while the president still will not hear of it, there must be. This bill would be an imposing vehicle. It is "revenue-neutral" now; what it raises by narrowing preferences it returns by cutting rates. It would not be hard to adjust these combinations to increase revenues, and the increase would be the fairer for the reforms that would accompany it. It was the president's idea; it is the Democrats' bill. Both parties should vote aye today.

[From the Washington Post, Dec. 12, 1985]

(By David S. Broader)

A GOOD START

Last May, when President Reagan's tax proposal was brand-new, I applauded his initiative and suggested four criteria by which the product of congressional tax revision could be judged. As the House prepares to vote on the tax bill that came out of the Ways and Means Committee, substantially revised from the Reagan proposal, let's see how it stacks up against those standards: the Four P's of Poverty, Progressivity, Principle and Productivity.

Poverty: Under the existing tax code, a family of four at the poverty level pays 10.5 percent of its income in federal taxes—2½ times as much as it did in 1978. The Reagan proposal aimed at taking the poor entirely off the tax rolls, and the Ways and Means bill does an even better job of ensuring that will be done.

Some 6 million low-income households would be relieved of federal taxes, making the bill the biggest federal antipoverty program in years and the best news for the working poor. Give it an A grade.

Progressivity: The income tax is based on the idea that taxes should increase with the ability to pay, but tax shelters and loopholes have seriously eroded that principle. The Reagan proposal shut down some of the tax-dodging devices in the present code, but provided a bonanza ot the very rich, who would get the main benefits of his proposed marginal rate reductions.

The Ways and Means bill still allows some big loopholes, but shifts the benefits significantly to the middleincome taxpayers. It cuts by 47 percent the aggregate tax break. Reagan proposed for the few who earn more than $20,000. It increases the gains for the $20,000-$75,000 group by 48 percent. It also includes a minimum-tax payment provision for corporations and the wealthy that is tougher than Reagan proposed. Grade for progressivity; A-minus.

Principle: Neither the original Reagan proposal nor the Ways and Means bill avoided compromises aimed at garnering votes in Congress and/or defusing the opposition of potent lobbies. But both repair some of the more outrageous distortions of the existing code.

On many issues, including mortgage interest and business entertainment deductions, Reagan's approach appears more principled than the committee's. But the Democrats—albeit for political reasons—are more respectful of the principle of federalism than was the president. The bill before the House rejects Reagan's effort to end the deductibility of state and local taxes, and thereby preserves a principle that has been a cornerstone of the fiscal compact between Washington and the states.

Mark the report card: B

Productivity: Given the realities of international competition, the effects of any tax law changes on the productivity of American business must be given great weight. The Reagan proposal shifted the tax burden significantly from individuals to corporations, and the Ways and Means bill goes even further. But even the latter would do no more than bring the corporate share of overall revenues back to the level of 1980.

Selfishly, some business lobbies are urging Congress to abandon the effort to improve the tax code. Many profitable businesses have managed to avoid paying any taxes since the extravagantly generous 1981 tax cut; now they are trying to protect that privileged position.

But Republicans in the House make a valid point when they argue that the individual tax cuts in the Ways and Means bill may go too far in encouraging consumption, while some of the corporate tax hikes significantly increase the cost of investment. That is especially true for some of the capital-intensive heavy industries, such as steel that are belatedly trying to modernize their plants to meet foreign competition. Although the bill is better than the present code for many small, emerging businesses and for the rapidly growing service sector that is the source of most new jobs, a grade of C seems about as high as it deserves on this criterion.

Overall, the Ways and Means bill—like the original Reagan proposal—is a clear improvement on Poverty, Progressivity, and Principle. The potential effects on Productivity are its main drawback.

But the House Republicans, in their alternative bill, show plausibly how to mitigate that problem. Their bill is unlikely to prevail in the House, but its concepts will surely resurface in the Republican-controlled Senate. Industry has many friends on the Senate Finance Committee; and members of that committee are acutely conscious of the competition facing U.S. businesses in foreign trade.

The president is right in saying that the House should send its bill on to the Senate. House Democrats can feel justifiable pride that the Ways and Means Committee has made a good start toward a significant overall improvement in the tax code.

House Republicans should remember that if they vote to kill the bill when their own substitute fails, they will be gutting the principal policy initiative—and only potential landmark domestic achievement—of Reagan's second term. That would be a sorry legacy for last year' landslide and a cynical send-off for the 1986 campaign.

[From the New York Times, Dec. 12, 1985]

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Taken together, these changes would dramatically reduce the tax burden on people struggling to survive: poor, working poor and near-poor. That is, people like that hypothetical woman who is trying to raise three kids by herself on wages that just meet the official poverty level.

Recall that, under current law, she'd owe Federal taxes of $1,424 in 1987. Under the Rostenkowski bill, she'd have to pay only $399. That's family assistance for a working mother, in the form of a tax reduction with $1,025.

All by itself, such a prospect makes the Rostenkowski bill worth embracing. Any member who claims to represent or care about poverty in America and votes against this tax bill will have a lot of explaining to do to millions like that woman. Her tax saving would be about $85 a month. To her, and her children, that's a fortune.

[From the Washington Post, Dec. 8, 1985]

Excuses, Excuses: This Is Real Progress

(By Bill Bradley)

The House Ways and Means Committee and just become the first tax-writing committee in history to report a tax reform bill that dramatically cuts tax rates and closes loopholes. Its fate on the House floor hangs in the balance. The president has so far given only modest support. Some Democrats and many Republicans are undecided about embracing it.

They offer several excuses for holding back. Some say that we need deficit reduction, not rate reduction. By all means, they say, close the loopholes, but use the revenues to balance the budget, not to reduce taxes for working Americans.

The main problem with this argument is that so long as the president promises to veto a tax increase, all talk of closing loopholes to raise revenues is simply blowing smoke. Besides, Americans deserve lower rates so they can keep more of the money they earn.

Another argument I've been hearing is that the Ways and Means bill doesn't do enough for savings and investment. It has been said that repealing the incentives in the existing law would turn America into a fast-food wasteland.

The flaw here is that the tax incentives we now have simply haven't worked. Savings provisions have proliferated since 1981, but the national savings rate is an all-time low. Business investment hasn't picked up either. Four years after we enacted massive corporate tax breaks, investment in new plant and equipment is no higher than it was in 1979. What this tells me is that opponents of reform care more about their own tax savings than about the nation's savings.

A third excuse is that the Ways and Means Committee bill is not real reform. But it is. For one thing, the Rostenkowski legislation represents real progress in easing the burden on most taxpayers. For families making $20,000 to $30,000, taxes would be lowered by almost 10 percent. For those earning $30,000 to $40,000, the reduction would be about 9 percent, while taxpayers with $40,000 to $50,000 would get an 8½ percent cut. Furthermore, the reduction in rates and the number of brackets (four instead of 14) tells families that they wouldn't have to pay a higher tax rate with every raise they got. That's a reassuring message to millions of beleaguered taxpayers who already are having trouble making ends meet.

Not only would the Rostenkowski bill help middle-income families, it also holds out hope to 6 million impoverished people by taking them off the income tax rolls. This would be a good deal for all of us, because it would be a powerful incentive for poor people to choose work over welfare, dignity over despair.

The Ways and Means bill also would trim the tax cut the president proposed for the most prosperous Americans. Instead of the 15 percent cut in the president's measure, almost double what he proposed for middle-income Americans, the Rostenkowski reform scales back the reduction for the rich to below 6 percent and gives greater tax relief to the average taxpayer.

On the business side, the Ways and Means Committee has curtailed loopholes that have allowed some big corporations to pay no taxes at all and has reduced rates on innovative firms and small businesses that now pay more than they should. These changes mean that some huge defense contractors and other large companies, which for years have owed no taxes on billions of dollars of profits, will finally start paying their way. The committee also has restored a measure or rationality to the depreciation system that is currently distoring investment decisions, squandering scarce capital in tax shelters and hamstringing America's competitiveness in the world marketplace.

In the face of these achievements, the charge that Ways and Means has not produced real reform just doesn't hold water.

That's not to say the bill is perfect. Far from it. And Ways and Means Chairman Dan Rostenkowski has been the first to concede its shortcomings. But it is an important step toward lowering tax rates and closing loopholes, so we must make sure that it passes the House. To kill the bill now would be a big win for the special interests, and it would be a major setback for the economic security of working Americans who pay for these loopholes (which have increased from $37 billion in 1967 to over $400 billion today) through unfairly high tax rates. Imagine how low these rates could have been if we had resisted these subsidies to the politically powerful.

The American people won't be impressed by naysayers. They want tax reform. Every recent poll shows strong public support—even from those who believe they'll end up paying more. This past September, pollster Lou Harris found that 86 percent of Americans are disgruntled with the current system because they believe that while most middle-income people pay their full taxes, the rich hire high-priced lawyers and accountants to help them avoid paying their proper share. And you know something? They're right. In August, the Treasury Department documented that in 1983, nearly 30,000 taxpayers making more than $250,000 paid less than 5 percent in taxes. No wonder people are outraged.

Moreover, the Ways and Means Committee bill is only the first word on tax reform, not the last. I hope the Senate will get rates even lower and close even more of the exotic loopholes that remain in the code. By the time a bill gets out of conference, we could have a tax system in which everyone has the lowest possible rates, equal incomes pay equal taxes and people invest money to make money not to lose it for spurious tax reasons.

Finally, tax reform is not just about dollars. Restoring fairness to the tax code would bolster people's sense of security, of being in control over their own lives while at the same time having a government that is sensitive to their needs.

So tax reform is also about dignity and hope. That is why politicians cannot dismiss it without simultaneously diminishing their claims to virtue—not to mention their prospects for reelection. Tax reform is a decision about the kind of country we want to be. Enacting reform will restore confidence in government's integrity and its courage to resist special pleaders in favor of the general interest. It will show commitment to a tax system that facilitates change and responds to demonstrated need, not one that enshrines the status quo, subsidizes the politically powerful and shortchanges our potential for growth.

That's why I hope and expect the House and the president will rally round Rostenkowski to launch the Internal Revenue Code of 1986 and help make tax reform a reality.

Supporters of H.R. 3838, the Committee on Ways and Means Tax Bill

TRADE ASSOCIATIONS

Air Conditioning & Refrigeration Wholesalers, American Apparel Manufacturers Association, American Association of Advertising Agencies, American Bakers Association, American Council of Life Insurance.

American Dental Trade Association, American Electronics Association, American Federation of Small Business, American Frozen Food Institute, American Jewelry Distributors Association.

American Movers Conference, American Society for Training and Development, American Traffic Safety Services Association, American Trucking Association, American Veterinary Distributors Association.

Associated Wire Rope Fabricators, Association of Footwear Distributors, Aviation Distributors & Manufacturers Association, Bearing Specialists Association, Beauty & Barber Supply Institute.

Bicycle Wholesale Distributors Association, Biscuit & Cracker Distributors Association, Ceramic Arts Federation International, Ceramic Tile Distributors of America, Coalition to Reduce High Effective Tax Rates.

Computer & Business Equipment Manufacturers Association, Council for Periodical Distributors Association, Door & Hardware Institute, Electrical-Electronics Materials Distributors Association, Employee Stock Ownership Association.

Explosive Distributors Association, Federation of American Hospitals, Flat Glass Marketing Association, Fluid Power Distributors Association, Food Industries Suppliers Association.

Food Marketing Institute, Foodservice and Lodging Institute, General Merchandise Distributors Council, Grocery Manufacturers of America, Health Industry Distributors Association.

Health Insurance Association of America, Hobby Industry Association of America, Independent Medical Distributors Association, Institutional & Service Textile Distributors Association, Inc., Internatonal Sanitary Supply Association.

Irrigation Association, Jewelry Industry Distributors Association, Mid-west Truckers Association, Monument Builders of North America—Wholesale Division, National American Wholesale Grocers Association.

National Appliance Parts Suppliers Association, National Association for Hose & Accessories Distributors, National Association of Container Distributors, National Association of Convenience Stores, National Association of Decorative Fabric Distributors.

National Association of Electrical Distributors, National Association of Fire Equipment Distributors, National Association of Floor Covering Distributors, National Association of Marine Services, National Association of Meat Purveyors.

National Association of Plastics Distributors, National Association of Plumbing-Heating-Cooling Contractors, National Association of Retail Druggists, National Association of Service Merchandising, National Association of Solar Contractors.

National Association of Sporting Goods Wholesalers, National Association of Textile & Apparel Distributors, National Association of Tobacco Distributors, National Association of Writing Instrument Distributors, National Association of Wholesaler-Distributors.

National Association of Federal Credit Unions, National Automotive Radiator Service Association, National Beer Wholesalers Association, National Building Material Distributors Association, National Business Forms Association.

National Commercial Refrigeration Sales Association, National Electronic Distributors Association, National Fastener Distributors Association, National Federation of Independent Business, National Food Brokers Association.

National Food Distributors Association, National Food Processors Association, National Frozen Food Association, National Industrial Belting Association, National Industrial Distributors Association.

National Industrial Glove Distributors Association, National Lawn & Garden Distributors Association, National Locksmith Suppliers Association, National Marine Distributors Association, National Mass Retailing Institute.

National Paper Trade Association, National Plastercraft Association, National Retail Merchants Association, National Sash & Door Jobbers Association, National School Supply & Equipment Association.

National Screw Machine Products Association, National Spa & Pool Institute, National Tire Dealers and Retreaders Association, National Truck Equipment Association, National Venture Capital Association.

National Wheel & Rim Association, National Wholesale Druggists' Association, National Wholesale Furniture Association, National Wholesale Hardware Association.

National Venture Capital Association, National Welding Supply Association, North American Heating & Airconditioning Wholesalers, Optical Laboratories Association, Outdoor Power Equipment Distributors Association.

Pet Industry Distributors Association, Power Transmission Distributors Associations, Safety Equipment Distributors Association, Scaffold Industry Association, Scientific Apparatus Manufacturers Association.

Shoe Service Institute of America, Solar Energy Industries Association, Southern Industrial Distributors Association, Spring Service Association, Tax Reform Action Coalition.

Textile Care Allied Trades Association, Toy Wholesalers' Association of America, Wine & Spirits Wholesalers of America, Wood Heating Alliance.

BUSINESS SUPPORT

Air Delivery Service, Air Van North American, Allied-Signal, American Can Corp., American Home Products Corp., American Motors Corp., Amfac, Amway Corp., Arkansas Freightways, Atkinson Transfer.

Bass Transportation Co., Beatrice, Beneficial Management Corporation of America, B.F. Fields Moving & Storage, C.W. Transporting, Cadillac Fairview U.S., Inc., Campbell Soup, Cargo Express Co., Carlton Trucking Co., Carolina Freight Corp., Carr Truck Service, Inc.

Chilton, Columbia Motor Express, Contractural Carriers Inc., Craig Transportation Co., Crawford Fitting Co., Criber Truck Leasing, Inc., Crouse Cartage Co., C.I.C. Enterprise, Clorox, Consolidated Freightways, Cyclops Corp.

D.L. Merchant Transport, Dart Trucking Co., Inc., Dart & Kraft, Dayton Hudson, De Fazio Express, Digital Equipment, Dobson Mover, Dominion Resources, Edmac Trucking, Elmer Buchta Trucking.

Emerson Electric, Federated Department Stores, Friedl Fuel & Cartage, General Delivery, General Mills, General Motors, Hallmark, Griffin Distributing, Hartford Dispatch & Warehousing, Hershey Foods.

Hewlett-Packard, Hospital Corporation of America, IBM, K-mart, Kemp Furniture Industries, King Transfer, King Van & Storage, Krenn Truck Lines, Lacy's Express, Land Trucking.

Larmore, Inc., Levi Strauss, Libbey-Owens-Ford Co., Loctite, M/A-Com, Inc., Materials Research Corp., Matterson Associates, McCourt Cable Systems, McLauren Trucking Co., McRae's Inc., Merrill Lynch.

Metal Purchasing, Moore & Son, Odisco Transportation, Pace Maker Express, Pepsi Co., Priority Freight System, Philip Morris, Pillsbury, Preston Trucking, Procter & Gamble, Quaker Oats, R.J. Reynolds Industries, Ralston Purina.

Red Star Truck Lines, Safeway Stores, Sara Lee, Shared Medical Systems, South Hills Movers, The Maxwell Corp., Tomahawk Services, 3 M, U.S. Tobacco, Unifi Inc., W.H. Fitzgerald.

Wales Transportation, Walgreen Co., Wallack Freight Lines, Ward Transport, Ward Trucking, Warren Trucking, Wheeler Transport Service, Wilcox Trucking, Winn-Dixie, Zayre, Zenith.

LABOR SUPPORT

AFL–CIO, AFSCME, Airline Pilots, Amalgamated Transit Union, American Federation of Teachers, AFL–CIO, Bricklayers, Carpenters, Clothing and Textile Workers, Communications Workers of America, Firefighters.

Flight Attendants, Food and Commercial Workers, Graphic Communications, Hotel Employees and Restaurant Employees International Union, International Brotherhood of Electrical Workers, International Longshoremen's and Warehousemen's Union, Laborers, Ladies Garment Workers Union, Machinists, Oil, Chemical and Atomic Workers.

Operating Engineers, Public Employee Department, AFL–CIO, Railway Clerks, Retail and Wholesale Department Store Union, Seafarers, Service Employees International Union, AFL–CIO, Sheetmetal Workers Union, United Association of Journeymen and Apprentices of the Plumbing, and Pipefitting Industry of the United States and Canada.

United Auto Workers, United Brotherhood of Teamsters, United Mine Workers, United Steel Workers, United Transportation.

PUBLIC INTEREST GROUPS

AARP, ACORN, Bread for the World, CARE, Center for Community Change, Center on Budget and Policy Priorities, Children's Defense Fund, Citizen Action, Citizens for Tax justice, Citizens Organized to Restore an Effective Corporate Tax, Coalition on Block Grants and Human Needs (over 100 national groups), Common Cause, Consumer Federation of America.

Environmental Action, Friends of the Earth, Interfaith Action for Economic Justice, League of Women Voters, National Senior Citizens Law Center, National Urban League, Office for Church in Society, PTA, Public Citizen, United Cerebral Palsy Associations, United Church of Christ, Women's Equity Action League.

COMMON CAUSE,
Washington, DC, December 9, 1985.

DEAR REPRESENTATIVE: We are writing to urge you to vote for the tax bill reported by the House Ways and Means Committee. We believe this comprehensive legislation represents a serious and meaningful effort at improving our ailing and inequitable federal income tax system. While the legislation is not as far-reaching as we would have liked and reflects a number of special interest victories, we believe the Committee bill is a substantial and important improvement over current law and should be enacted.

Among the most important positive features of the bill, in our view, are the following:

The elimination or reduction of the income tax liability of low-income individuals and families.

Tax relief for low-income individuals and families is extremely important because this group has benefited the least from recent tax cuts and its tax burden has risen substantially over the past decade. By increasing the standard deduction, personal exemption, and earned income tax credit, the Committee's bill would exempt all families below the poverty level from federal income taxation. As a result, an estimated six million poor individuals and families would be removed from the federal income tax rolls. In addition, the bill would grant the largest percentage tax cuts to low- and middle-income taxpayers and smaller cuts to upper-income taxpayers.

A significant increase in the corporate share of the tax burden.

The amount of income taxes paid by corporations has dropped from about 25 percent of all federal revenues in the 1950s and 1960s to well under 10 percent in each of the last three years. Like President Reagan's proposal, the Committee bill would begin to reverse this long-term decline in the corporate share of the tax burden. The bill raises taxes on corporations by some $141 billion over five years, an increase that would be borne most heavily by profitable corporations that are paying low effective rates under the current system. Some other corporations would have their tax burdens reduced as a result of the reduction in corporate tax rates. The net impact of these changes would help to lessen the degree to which effective tax rates vary among different industries.

The creation of a tough minimum tax to limit the use of tax breaks by wealthy individuals and profitable corporations to escape paying their fair share of taxes.

Currently, many wealthy individuals and large profitable corporations pay little or no federal income taxes. For example, in 1983, according to the Treasury Department, nearly 30,000 individuals with incomes greater than $250,000, including 3,000 millionaires, paid less than 5 percent of their income in taxes. Moreover, a recent study by Citizens for Tax Justice found that 50 large profitable corporations reportedly paid no federal income tax over the four-year period 1981-1984, even though they earned net profits of more than $56 billion. Assuring that such individuals and corporations are on the tax rolls and paying their share of taxes is essential if we are to restore public confidence in the tax system.

A broadening of the tax base by eliminating a number of special tax breaks, most notably the investment tax credit, and reducing many others.

Tax preferences that are reduced by the Committee bill include accelerated depreciation allowances, 401(k) pension plans, percentage depletion for oil and gas wells, bad debt reserves for commercial banks, and the completed-contract method of accounting, which is one of the major ways that defense contractors have avoided paying taxes. By eliminating the investment tax credit and reducing accelerated depreciation allowances, the Committee bill would mitigate the distortions in economic decisions that have been created by these preferences.

At the same time, a number of tax preferences that were reduced in the Committee bill, such as oil and gas depletion, had been originally proposed for greater reductions. Other tax preferences that had been proposed for cutbacks were left entirely intact, such as the tax-free status of fringe benefits, inside buildup of life insurance, and the deduction for interests on second home mortgages. Moreover, a number of narrow exceptions and technical provisions designed to protect special interests were placed in the transition rules. It is in these areas—areas where the committee responded to the influence of special interest groups and wealthy individuals—that the Committee bill is most seriously flawed.

In addition, the provision buried in the bill that provides special pension treatment for the benefit of Members of Congress and their staffs is outrageous and totally unjustified. This self-serving provision is very damaging to the bill's public credibility and the Committee should make clear immediately that it will be dropped.

We find it unfortunate that both President Reagan's proposal and the Committee bill abandoned any real effort at simplifying the tax code. We also believe that insufficient information has been provided to determine what the long-term revenue impact of the Committee's bill will be, an issue of particular importance given the state of the federal budget. We urge the Committee to provide further data on this as soon as possible.

Despite the flaws in the Committee bill, we believe it represents a substantial and important improvement over current law. Most of the problems with the bill involve steps that have not been taken, tax preferences that have not been eliminated or sufficiently curbed. On the other hand, the bill's benefits include critical tax relief for low-income taxpayers, a greater share of the tax burden for corporations, a tough minimum tax for wealthy individuals and profitable corporations, and the elimination or reduction of a number of special interest tax breaks.

The Committee bill would create a fairer tax system for American taxpayers than the current system. We believe that in passing this bill the House must be prepared to stand firm and not back down on any of its key aspects, given the problems that lie ahead for the legislation in the Senate. We also believe it is essential for everyone to recognize that, given the present budget deficits and the potential impact of the Gramm-Rudman proposal, Congress will have to face up to the issue of raising revenues in the near future.

We urge you to support the Ways and Means Committee bill.

Sincerely,

FRED WERTHEIMER,
President.

NATIONAL FEDERATION
OF INDEPENDENT BUSINESS,
Washington, DC, December 5, 1985.

Hon. DAN ROSTENKOWSKI,
U.S. House of Representatives, Washington, DC.

DEAR CONGRESSMAN ROSTENKOWSKI: On behalf of the 500,000 small business owners who belong to NFIB, I am writing to urge your support for H.R. 3838, the Ways and Means tax reform bill.

The key feature of H.R. 3838 is significant reductions in marginal individual and corporate tax rates. Rate cuts, particularly for individuals, is the number one priority for most small business owners as they depend heavily on retained earnings for capital. NFIB supports the Ways and Means bill for the same reasons we supported the President's 1981 tax cuts—the significant reduction in rates.

The attached paper details other key small business features of the bill. These include the simplified inventory accounting provisions for small retailers and wholesalers, and special consideration for small banks, construction and timber firms.

NFIB supports H.R. 3838 because of its treatment of the small business community, but we are concerned about its impact on the nation's smallest capital intensive corporations. Those below $25,000 in income receive no rate cut and with the loss of capital investment incentives could see a tax increase. We will work to correct this inequity in the Senate.

Overall, NFIB believes the Ways and Means bill treats small business better than the current tax code and is a major step toward significant reform of our tax laws. We urge you to support its passage in order to move the process of tax reform ahead. Passage of H.R. 3838 will be one of NFIB's Key Small Business Votes for the 99th Congress.

Sincerely,

JOHN J. MOTLEY III,
Director of Federal Legislation.

CITIZENS FOR TAX JUSTICE,
Washington, DC, December 5, 1985.

DEAR REPRESENTATIVE: We are writing to express our strong, enthusiastic support for the tax reform bill reported by the Ways and Means and to urge you to vote for the bill when it reaches the House floor.

Enactment of the Ways and Means tax reform program will be a major victory for average American taxpayers and the most momentous reform of the federal income tax ever. Its passage will mean that, for the first time in years, General Electric and Boeing will be paying as much in taxes as the people who work their assembly lines, wax their floors, and type their letters. Upper-income individuals no longer will be able to use tax shelters to circumvent their tax responsibilities. And there will be significant, real tax relief for the vast majority of hardworking Americans.

In addition, the Ways and Means bill is an important step toward renewed growth and more jobs in American industry. It goes a long way toward restoring a "level playing field" to our economy, so that companies can go back to investing in things because they make economic sense—not because the tax code turns losses into profits.

The Ways and Means bill builds on the framework presented to the Congress by President Reagan last May. But it represents a huge improvement over the administration's actual program, providing significantly larger tax relief to middle and low income families and avoiding the large long-term revenue shortfalls that the administration's program entailed. The Ways and Means program is also far superior to the alternative program presented by some members of the minority. That alternative would shift close to $40 billion in taxes back onto individuals, keep many key tax shelter preferences, and produce unacceptable revenue losses after 1990.

In fashioning a new Internal Revenue Code, the Ways and Means Committee has listened to the voices of the American people, who are crying out for tax justice. We hope that you too will hear those voices. We strongly recommend that you support the Ways and Means bill.

Enclosed are some background materials on the bill and alternative proposals. Please let us know if we can be of any further assistance to you.

Sincerely,

ROBERT S. MCINTYRE,
Director, Federal Tax Policy.

CHILDREN'S DEFENSE FUND,
Washington, DC, December 4, 1985.

STATEMENT BY MARY BOURDETTE, DIRECTOR, GOVERNMENT AFFAIRS

The Children's Defense Fund applauds the work of the House Ways and Means Committee and its chairman, Dan Rostenkowski, in developing tax reform legislation that is fair and equitable for America's working families with children. Most important, the House Ways and Means bill would, if enacted, bring desperately needed tax relief to millions of American families struggling to support their children on poverty level wages. These low income families, working hard to maintain their independence and their self-sufficiency, have been devastated by our federal tax system in recent years. The House Ways and Means Committee recognized the economic hardship imposed on these families by our tax system and has proposed tax relief remedies for them that are cost-effective and efficient. We urge the House of Representatives to pass the tax reform legislation as soon as possible in order to expedite tax relief for the working poor.

COALITION ON WOMEN AND TAXES SUPPORTS WAYS AND MEANS COMMITTEE TAX OVERHAUL BILL

WASHINGTON, DC.—The Coalition on Women and Taxes, a diverse group of more than thirty women's, children's religious, aging, consumer, and civil rights groups, today announced its support for the tax reform bill approved by the House of Representatives Ways and Means Committee. Applauding the Ways and Means Committee for developing a bill responsive to women's concerns, the Coalition noted that women will gain under the Committee bill, because, the tax burden is spread more fairly, the the tax burden on persons living in poverty is eliminated, and taxation is better equated with ability to pay than under current law. According to the Coalition, provisions of the Ways and Means Committee bill that are especially important to women and their families include:

Significant tax cuts for taxpayers at all income levels, with the largest tax cuts going to low and moderate income taxpayers, so many of whom are women;

A tax threshold which is above the poverty level for single heads of household, married couples, and elderly taxpayers, resulting from a higher personal exemption, increased standard deductions, and an improved Earned Income Tax Credit for low-income workers with children;

A significantly higher standard deduction for single heads of household, which brings it close to the standard deduction for married couples; this reduces the serious inequity between the taxes paid by heads of household (the overwhelming majority of whom are women) and married couples with the same income and family size;

Retention of the dependent care tax credit targeted to low and moderate income taxpayers, and exemption from taxation of up to $5,000 of employer-provided dependent care assistance.

While the Committee bill goes a long way toward meeting the needs of women and their families, the Coalition noted that it will work for improvement of several provisions in the Senate. The bill provides greater tax relief to one-earner than to two-earner married couples, because the two-earner deduction under current law is eliminated, and more relief to married couples than to single taxpayers, whose tax entry point remains below the proverty level. The Coalition also noted the need to index the dependent care and elderly and disabled tax credits and to provide one-earner couples the opportunity to have individual retirement accounts equal to those for two-earner couples.

Women and their children comprise three-fourths of the nation's poor and women are 70 percent of the elderly poor; sixty percent of married women with children are in the workforce and the majority of families are maintained by single parents and two-earner married couples.

BEST COPY AVAILABLE

AMERICAN ASSOCIATION OF
RETIRED PERSONS,
Washington, DC, December 9, 1985.
Hon. DAN ROSTENKOWSKI,
U.S. House of Representatives,
Washington, DC.

DEAR CONGRESSMAN ROSTENKOWSKI: The American Association of Retired Persons, the nation's largest aging organization with over 20 million members, supports the Ways & Means tax reform package.

By raising the standard deduction amounts for all taxpayers, as well as raising the personal exemption for non-itemizers to $2,000, the Ways & Means plan succeeds in raising the tax thresholds for all low income taxpayers, including older Americans. While the extra exemption for those age 65 and older is eliminated, the additional $600 to the standard deduction for non-itemizing 65 and older taxpayers will enable low income older taxpayers to share in the benefits of tax reform.

By maintaining the deductibility of state and local taxes, the bill benefits individual taxpayers and helps preserve the vitally important role of state and local governments in meeting the needs of their citizens.

The Association believes that the Ways & Means plan takes important steps towards reforming the corporate tax structure. Elimination of the inefficient investment tax credit, as originally proposed by the President, adjustments to the depreciation schedules, along with other needed reforms that require corporations to pay their share of taxes, will restore a more equitable balance of tax burdens and a greater sense of fairness for all taxpayers.

The Ways & Means plan will also reform the tax treatment of individuals. Restrictions on many loopholes, plus a strengthened minimum tax, will help prevent higher income taxpayers from avoiding tax payments.

While the Ways & Means tax bill is not a pure or comprehensive tax reform plan, it succeeds, on balance, in its attempt to improve current tax law. Although not every older American will benefit, the Association believes this bill is a prudent step toward restoring the faith of the American public in the effectiveness and fairness of the federal tax code. As such, it merits adoption by the House.

Sincerely,
CYRIL F. BRICKFIELD,
Executive Director.

STATEMENT OF DOROTHY S. RIDINGS, PRESIDENT, LEAGUE OF WOMEN VOTERS OF THE UNITED STATES

The only sure things in life are death and taxes. If the President doesn't support the Ways and Means Committee's bill, it will be the death of tax reform. We call on the President to join us in supporting the major domestic initiative of his second term.

Some industries have been squawking about the Ways and Means Committee bill. They are dead wrong. This tax reform bill is good for America. And it is good for business—it treats all industries fairly rather than giving preference to some. It promotes a level playing field.

This tax reform bill will foster economic efficiency. It will cut taxes for working people and increase demand. It will close loopholes, open opportunities and end special interest subsidies.

For women, especially single heads of households, this bill is a key to economic opportunity.

To date, the debate over the tax reform bill has focused on concerns expressed by some businesses. But the debate has ignored the very progessive reforms made by the Ways and Means Committee on behalf of individuals—real people.

The Ways and Means Committee bill removes 6.5 million working poor—those under or near the poverty line—from the tax rolls. And, compared to the President's original proposal, it gives proportionately larger tax cuts to middle-income taxpayers than to wealthy individuals.

The Ways and Means tax reform bill follows the outline set by the President. It is basically the President's legislation, with modifications that make it more fair and more equitable.

The League of Women Voters endorses the Ways and Means Committee tax reform bill. It is fairer for individual taxpayers and it is fair across industries.

AFL-CIO,
Washington, DC, December 9, 1985.

DEAR REPRESENTATIVE: The Committee on Ways and Means has placed before the House a tax revision bill which takes a long step in returning fairness to the U.S. tax code. The AFL-CIO, therefore, urges you to support this bill.

The cornerstone of our federal income tax system should be the ability of individuals and corporations to pay their fair share and should raise sufficient funds to meet the needs of our society. In recent years, however, this has not been the case. Many profitable corporations and wealthy individuals pay little or no tax while working people contribute more then their share. The Ways and Means Committee bill rightfully edges the tax burden back toward corporations and the wealthy—those who have been the chief beneficiaries of past unwise and unfair Administration tax legislation. this shift, we believe, is important to ensure tax fairness and begins to repair the damage done by the 1981 tax legislation.

During the months of the tax debate the AFL-CIO recommended a series of modifications designed to bring an overall level of fairness that does not exist in the Administration's proposal. Many of these provisions have been incorporated into the Committee bill.

Specifically, we urged retention of the current tax treatment of employer-provided benefits. The AFL-CIO is particularly pleased that the Committee repudiated the Administration's attempt to levy a tax on working people's health care, life insurance, death benefits, legal services, education and disability compensation. Unfortunately, the present partial tax on unemployment compensation will be made total. We are pleased that the Committee retained the existing deduction for state and local taxes and thereby protects the citizens of those localities which have assumed the responsibility for high-quality education and other public programs.

In addition, the Committee took a number of important steps toward tax fairness, including:

Removal of 6 million lower-paid individuals from the tax rolls;

Increasing the effective tax rate on capital gains;

Instituting a meaningful minimum tax on individuals and corporations, and

More fairly distributing the individual tax reductions provided by the legislation.

It is unfortunate, however, that the Committee remained locked within the Administration's demand for revenue neutrality. The tax bill ignores the spectre of a massive federal debt created, in great part, by the revenue giveaways to corporations and wealthy individuals in the 1981 tax law. The sizable rate cuts to the wealthy in the current bill do nothing to ameliorate the problem.

The AFL-CIO supports the Committee bill for the same reasons that we urge you to reject the Republican alternative. Among other things, the alternative: fails to retain the existing exclusion for employer-provided life insurance; severely restricts the current deduction for state and local taxes; shifts much less of the tax burden from individuals to corporations, and fails to increase the effective tax rate on capital gains. We therefore urge you to vote against this alternative.

Finally, we must object strongly to the provisions of the Committee bill wherein public employees would be required to pay taxes up front on their retirement income while members of House and the Senate, as well as their staffs, are exempted. Clearly, this is an inequity that the principle of tax fairness cannot tolerate.

The AFL-CIO believes that the Ways and Means Committee bill does much to restore fairness to the federal tax code and will benefit low- and middle-income Americans. We urge you to support its passage.

Sincerely,
RAY DENISON,
Director, Department of Legislation.

TAX BILL PROVIDES NEARLY $30 BILLION TO TAXPAYERS BELOW $20,000, CUTS TAX BURDENS FOR A POVERTY LEVEL FAMILY BY 69 PERCENT

The House Ways and Means Committee tax reform bill would provide nearly $30 billion in tax relief over the next five years to taxpayers with incomes of less than $20,000 and would cut federal tax burdens for four-person families at the poverty line by 69 percent, according to a new analysis issued today by the Center on Budget and Policy Priorities.

As a result, the bill would, if enacted, be "the most beneficial piece of legislation for low and moderate income families in more than a decade," the analysis finds.

The analysis, based on data from the Ways and Means Committee, the Joint Tax Committee of the Congress, and the Internal Revenue Service, finds that a married family of four with income at the poverty line would have its combined federal income and payroll tax cut for 1987 from $1,271 to $399 under the bill.

This represents a tax cut of $870—or a reduction of 69 percent in this family's income and payroll tax burden, the analysis states.

In addition, the analysis notes that the amount of money a family of four could earn before having to pay income tax would be raised by more than $4,700—from over $2,200 below the poverty line to nearly $2,500 above the poverty line.

Married families of four would begin paying income tax when their earnings reached $14,475 (in 1987), under the bill.

"This increase in the income tax threshold is especially significant," Center director Robert Greenstein noted. "Since 1979, the number of households living in poverty who have to pay income tax has more than tripled—as the income tax threshold has fallen farther below the poverty line than at any time since 1966. The new tax bill resolves this problem and removes 6.5 million poor and near-poor taxpayers from the income tax rolls."

The analysis also compares the new legislation to the Reagan Administration tax proposal, and finds that the Ways and Means bill provides far more tax relief to low and moderate income families.

The tax relief provided to taxpayers under $20,000 a year is nearly 60 percent greater under the Ways and Means bill than under the Administration plan, the Center finds. Substantially more poor and near-poor families would have their income tax liability eliminated under the Committee's bill, while most of those who would still owe income tax would receive a larger tax reduction.

MIDDLE CLASS ALSO AIDED

In addition to being more beneficial to lower income families than the Reagan plan, the bill is also considerably more favorable for middle income families, the analysis finds.

"Under the Administration plan, nearly half of all individual tax cuts would have gone to households with incomes over $75,000 a year, even though they constitute just 5% of all taxpayers," the analysis reports. "And over 30% of all individual tax cuts would have gone to the wealthiest 1% of all households, those with incomes over $200,000 a year."

The Ways and Means bill scales back these tax reductions for the wealthy by about half and transfers much of this money to middle income taxpayers instead. Taxpayers in the broad middle category ranging from $20,000 to $75,000 would receive over half of the individual tax cuts under the Committee bill (compared to less than 37% of the cuts in the Reagan plan) and would receive nearly $70 billion in total tax relief in the next five years—about $25 billion more than under the Reagan plan.

Under the Administration plan, for example, the average taxpayer in the over-$200,000 bracket would have his or her taxes cut by twice as large a percentage as average taxpayers between $30,000 and 75,000. Under the Ways and Means bill this is changed—and middle income taxpayers receive the larger percentage cuts.

For example, the average taxpayer in the $30,000 to $40,000 range would receive a tax cut 36% larger than under the Reagan proposal, the analysis notes.

CORPORATE TAXES RETURNED TO 1980 LEVELS

Finally, the analysis notes that although there would be an overall corporate tax increase, the corporate tax burden would only be returned to 1980 levels.

The analysis states that under the bill, corporate taxes would constitute an estimated 13% of federal tax revenues in 1990—roughly the same level as in 1980, when corporate taxes comprised 12.5% of federal revenues. In the aftermath of large corporate tax cuts since 1980, corporate taxes fell to just 8.5% of federal revenues last year.

The analysis states that the corporate tax burden would remain well below the levels of the 1950's and 1960's (when corporate taxes made up a fifth of all federal revenues) and the 1970's (when corporations paid 15% of federal taxes).

I. SUMMARY OF H.R. 3838

Title I. Individual Income Tax Provisions

A. Basic Rate Structure

1. Rate reductions

The bill provides a new 4-bracket tax rate schedule based on taxable income, which will become effective on July 1, 1986. The Secretary of the Treasury is instructed to prepare blended tax schedules for 1986 tax returns which will incorporate half of the present law structure (as indexed for inflation) and half of the new tax rate structure. The new tax rate structure, which will be fully effective on January 1, 1987, is shown below.

Tax rates (%)	Taxable income			
	Married couples & surviving spouses	Heads of households	Unmarried individuals	Married individuals filing separately
15	Not over $22,500	Not over $16,000	Not over $12,500	Not over $11,250
25	22,500–43,000	16,000–34,000	12,500–30,000	11,250–21,500
35	43,000–100,000	34,000–75,000	30,000–60,000	21,500–50,000
38	Over 100,000	Over 75,000	Over 60,000	Over 50,000

The taxable income amounts in the rate schedules is indexed for inflation beginning in 1987.

2. Increase in standard deduction

The standard deduction replaces the zero bracket amount. Effective in 1987, the standard deduction amounts are $4,800 for joint returns of married couples and for surviving spouses, $4,200 for heads of households, $2,950 for unmarried individuals, and $2,400 for married individuals filing separate returns. These amounts are indexed for inflation beginning in 1988.

An additional standard deduction amount of $600 is allowed for an elderly or blind individual. For these taxpayers only, the new standard deduction amount and the additional $600 standard deduction amount are effective on January 1, 1986.

For all individual taxpayers other than elderly or blind individuals, the standard deduction amounts for 1986 are $3,670 for joint returns, $2,480 for heads of households and single persons, and $1,835 for married individuals filing separately.

Individuals who itemize deductions will reduce their total itemized deductions by $500 times the number of personal exemptions claimed.

3. Increase in personal exemption

The personal exemption is raised to $2,000 for each individual, individual's spouse, and dependent, effective January 1, 1986. (The additional exemption under present law for a blind or elderly individual is replealed.) The personal exemption amount is indexed for inflation beginning in 1987.

4. Two-earner deduction

The deduction for two-earner married couples is repealed after December 31, 1985. Adjustments made in the standard deduction for married couples filing joint returns and in the relationship of the rate schedules for unmarried individuals and married couples filing joints returns compensate for the repeal of this provision.

B. Individual Tax Credits

1. Earned income credit

Currently, an eligible individual is allowed a refundable income tax credit equal to 11 percent of the first $5,000 of earned income, for a maximum credit of $550. The maximum allowable credit is phased down, however, as adjusted gross income (or, if greater, earned income) rises above $6,500. Also, the credit is not allowed for taxpayers with adjusted gross income (AGI) or, if greater, earned income over $10,000. Currently, the credit is not adjusted for inflation.

The bill increases the maximum allowable credit to 14 percent of the first $5,000 of earned income (for a maximum credit of $700), for taxable years beginning on or after January 1, 1986. The phaseout levels for 1986 are adjusted so that the credit phases out between $6,500 and $13,500 of AGI. For taxable years beginning on or after January 1, 1987, the phaseout of the credit begins at $9,000 of AGI; it is totally phased out at $16,000 of AGI. Also, the maximum amount of the credit and the phaseout income levels are adjusted for inflation.

2. Repeal of political contributions credit

The tax credit allowed to individuals under present law for one-half the amount of contributions to political candidates and certain political campaign organizations, up to a maximum of $50 ($100 on a joint return), is repealed. The repeal is effective for taxable years beginning after December 31, 1985.

C. Provisions Related to Exclusions

1. Limit on exclusion for child care assistance

The bill limits the exclusion for employer-provided child care assistance to $5,000 a year ($2,500 in the case of a married individual filing separately), effective for taxable years beginning after December 31, 1985.

2. Unemployment compensation benefits

Under present law, a portion of unemployment compensation benefits is includible in gross income if the sum of the recipient's benefits and adjusted gross income exceeds specified amounts. The bill provides that all unemployment compensation benefits are uncludible in gross income, for taxable years beginning after December 31, 1985.

3. Scholarships and fellowships

The bill limits the exclusion for degree candidates to the amount of a scholarship or fellowship grant required to be used for tuition and fees, books, supplies, and equipment required for courses. The bill repeals the exclusion for grants received by nondegree candidates, but does not affect whether their unreimbursed educational expenses may be deductible as trade or business expenses. The bill also provides that the exclusion does not apply to any portion of amounts received as a scholarship or a tuition reduction which represents payment for teaching, research, or other services required as a condition of receiving the grant. The bill repeals the present-law exclusion for certain Federal grants where the recipient is required to perform future services as a Federal employee. The provision is effective for scholarships and fellowships granted after September 25, 1985.

4. Exclusion for prizes and awards

The exclusion for certain prizes and awards is repealed, except where the winner assigns the award to charity (see also the description above of the scholarship exclusion). Awards by employers to employees are includible in income unless qualifying for the present-law exclusion for de minimis items (such as certain traditional retirement gifts). The provision applies to taxable years beginning after December 31, 1985.

D. Individual Deductions

1. Employee expenses and miscellaneous itemized deductions

A one-percent floor is placed under itemized deductions for miscellaneous employee, investment, and certain other expenses, and nonreimbursed employee travel and other expenses that presently are deductible "above-the-line" are included in the miscellaneous itemized deduction. The provision is effective for taxable years beginning after December 31, 1985.

2. Charitable contribution deduction for nonitemizers

The bill makes permanent the deduction for charitable contributions made by individuals who do not itemize deductions. The bill modifies the deduction by providing that for taxable years beginning after 1985, the deduction is subject to a $100 floor.

3. Adoption expenses

Currently, an individual is allowed an itemized deduction for up to $1,500 of expenses incurred in the adoption of certain handicapped ("special needs") children. The bill repeals this deduction for taxable years after December 31, 1986, and modifies the Adoption Assistance Program of Title IV-E of the Social Security Act to provide assistance through that program for such adoption expenses (see also Title XIV, item 7.)

E. Other Provisions

1. Income averaging

The income averaging provision is repealed, effective for taxable years beginning after December 31, 1985.

2. Travel and entertainment expenses

The bill provides that 80 percent of meal and other entertainment expenses, to the extent otherwise allowable, can be deducted. Certain legal and substantiation requirements are added for business meal deductions. Deductions for tickets are limited to face value, and luxury "skybox" deductions are restricted. No deductions are allowed for travel as a form of education, charitable travel that serves vacation purposes, or expenses for attending investment seminars. Deductions for luxury water travel are limited. The provision applies to taxable years beginning after December 31, 1985.

3. Changes in treatment of hobby losses

Under present law, an activity other than horse breeding, training, showing, or racing is presumed not to be a hobby if it is profitable in 2 out of 5 consecutive years. Under the bill, the presumption is changed so that an activity (other than one involving horses) is presumed not to be a hobby if it is profitable in 3 out of 5 consecutive years. The provision is effective for taxable years beginning after December 31, 1985.

4. Deduction for business use of home

The bill makes several changes regarding limitations on deductions for business use of one's home. First, no deduction arises for costs associated with business use of the home (except for items allowable without reference to such use, e.g., home mortgage interest) in the case of an employee who rents a portion of the home to the employer. Second, home office costs are deductible only to the extent of net income from the business activity (rather than certain gross income, as under present law). Third, deductions disallowed because in excess of such net income can be carried forward.

The provision is effective for taxable years beginning after December 31, 1985.

5. Housing allowances for ministers and military personnel and deductions for property taxes and mortgage interest

The bill provides that the receipt of tax-free housing allowances by ministers or military personnel does not result in loss of deductions for interest or real property tax on the individual's home, effective for past and future years.

Title II. Capital Income Provisions

A. Cost Recovery Provisions

1. Depreciation

Incentive depreciation.—The Accelerated Cost Recovery System is replaced by the Incentive Depreciation System (IDS), effective generally for property placed in service after December 31, 1985, except for property covered by transition rules.

IDS groups assets into ten classes, generally according to their present class life (or "ADR midpoint life"). Assets in the same IDS class are depreciated over a common period, ranging from 3 to 30 years. The 200-percent declining balance method, switching to the straight-line method, is used for classes 1-9; the straight-line method is used for class 10, which includes primarily real property other than low-income housing.

Inflation adjustments.—IDS deductions are subject to increases for inflation adjustments, beginning in 1988. In general, the adjustments are for half the inflation rate in excess of 5 percent in applicable years.

Nonincentive depreciation.—A nonincentive depreciation system applies for assets used abroad or by tax-exempt entities, for minimum tax purposes, and for certain other purposes. Depreciation under this system is generally straight-line over an asset's present class life (40 years for real property).

Expensing.—The current $5,000 limit on the amount of personal property that may be expensed annually is raised to $10,000, and expensing is available only to taxpayers whose qualified expenditures do not exceed $200,000 for the taxable years.

2. Regular investment tax credit

Repeal.—The regular investment tax credit is repealed, effective generally for property placed in service after December 31, 1985.

Transition rules.—The credit is available for eligible property to which transition rules apply for depreciation purposes. Such credits are generally allowed ratably over a 5-year period, and a full adjustment in depreciable basis for the entire credit is required when property is placed in service.

3. Finance leasing

Finance leasing is repealed, effective for property placed in service after December 31, 1985, subject to transition rules.

B. Limitation on General Business Credit

The limitation on the amount of income tax liability (in excess of $25,000) of an individual or corporate taxpayer that may be offset by the general business credit is reduced from 85 percent to 75 percent.

C. Rapid Amortization Provisions

The bill repeals rapid amortization elections for certain costs relating to trademarks and trade names, certified pollution control facilities, and qualified railroad grading and tunnel bores, generally effective for expenditures paid or incurred after December 31, 1985. Transitional rules are provided with respect to certain binding contracts.

The bill retains and makes permanent the present law election to amortize over 60 months certain qualifying costs for rehabilitation of low-income housing. The bill replaces the present law limit of $20,000 per dwelling unit ($40,000 in some cases) with a single $30,000 per dwelling unit limit. The bill also extends for two years the present law election to expense qualified expenditures to remove architectural and transportation barriers to the handicapped and elderly.

The bill provides for a two-year extension (through 1987) of the present-law provision that allows the expensing of costs attributable to the removal of architectural and transportation barriers to the hadicapped and elderly.

D. Other Capital-Related Costs

1. Incremental research credit

The bill extends the credit for increasing research activities for an additional three years, i.e., for qualified research expenditures paid or incurred through December 31, 1988. In addition, the bill modifies the credit as follows, effective for taxable years beginning after 1985:

(a) The credit rate is reduced from 25 percent to 20 percent.

(b) Rental and similar payments for the use of personal property are not eligible for the credit, except for certain payments for computer time.

(c) The committee report modifies the definition of qualified research for purposes of the extended credit.

(d) Increased tax incentives are provided for corporate cash expenditures in excess of certain floors for basic research at universities and certain other organizations.

(e) The general limitation on use of business credits (under the bill, 75 percent of tax liability over $25,000) applies to the research credit.

2. Donations of scientific equipment

The present-law rule allowing an augmented charitable deduction for donations of newly manufactured scientific equipment to universities for research use is extended to such donations made to certain tax-exempt scientific research organizations, effective for taxable years beginning after 1985.

3. Tax credit for rehabilitation expenditures

The bill replaces the existing three-tier rehabilitation credit with a two-tier credit for qualified rehabilitation expenditures. The credit percentage is 20 percent for expenditures incurred in rehabilitation of certified historic structures and 10 percent for rehabilitation of buildings (other than certified historic structures) built before 1936. In general, the bill retains the structure of the existing rehabilitation credit, except the external walls requirement is tightened in the case of non-historic buildings and relaxed in the case of certified historic structures. In addition, the bill requires a basis adjustment for the full amount of the rehabilitation credit in the case of both historic and non-historic buildings.

The modifications to the rehabilitation credit are generally applicable to property placed in service after December 31, 1985.

4. Merchant Marine Capital Construction Fund

The Merchant Marine Act of 1936, as amended, provides Federal income tax incentives for U.S. taxpayers who own or lease vessels operated in the foreign or domestic commerce of the United States or in U.S. fisheries. The bill coordinates the application of the Internal Revenue Code of 1985 with the capital construction fund program of the Merchant Marine Act of 1936, as amended. In addition, new requirements are imposed, relating to (1) the tax treatment of nonqualified withdrawals, (2) certain reports to be made by the Secretaries of Transportation and Commerce to the Secretary of the Treasury, and (3) a time limit on the amount of time monies can remain in a fund without being withdrawn for a qualified purpose.

These rules are effective for taxable years beginning after 1985.

E. Capital Gains and Losses

1. Individual long-term gains

The bill provides a deduction for 50 percent of long-term capital gain for taxable years beginning in 1986 and 42 percent for taxable years beginning after 1986. In conjunction with the changes in the top regular individual rates, this produces a maximum long-term capital gain tax rate of 22 percent for taxable years beginning in 1986 (50 percent of 44 percent) and 22.04 percent thereafter (58 percent of 38 percent).

These provisions apply to capital gain reportable under the taxpayer's method of accounting in taxable years beginning after 1985, regardless of whether the sale or other transaction giving rise to the gain occurred in a prior year.

2. Royalty income from coal and domestic iron ore

The bill phases out the special capital gain rules for coal and domestic iron ore royalties over a three year period, beginning January 1, 1986. The provision applies to royalties taken into account after 1985.

3. Recapture of certain amounts previously reducing taxable income

The bill expands the amount of gain that must be treated as ordinary income on the disposition of oil, gas or geothermal property to include the amount of depletion deductions that have previously reduced basis, in addition to the excess intangible drilling costs which are recaptured under present law. The bill applies similar rules for mining exploration and development costs. The new provisions generally apply to property placed in service by the taxpayer after 1985.

F. Oil, Gas and Geothermal Properties

1. Intangible drilling and development costs

Under present law, intangible drilling and development costs (IDCs) generally may be expensed or capitalized at the election of the operator of an oil, gas or geothermal property. IDCs qualify for this treatment whether incurred in the United States or in a foreign country. In the case of integrated producers, 80 percent of IDCs may be expensed and the remaining 20 percent must be amortized over a 36-month period. Costs with respect to a nonproductive well ("dry hole") may be deducted by any taxpayer in the year the dry hole is completed.

Under the bill, domestic IDCs that are incurred prior to the beginning of the installation of production casing may be expensed as under present law. (For integrated producers, 80 percent of these IDCs may be expensed and the remaining 20 percent must be amortized over a 36-month period). IDCs associated with the installation of production casing, or that are incurred after the commencement of such installation, are to be amortized over a 26-month period, beginning with the month in which the costs are paid or incurred. (This rule does not apply below the lowest production level.) Unamortized IDCs associated with dry holes may be expensed in the year in which the dry hole is completed. These rules apply to oil, gas and geothermal properties.

IDCs incurred outside the United States are to be recovered (i) using 10-year, straight-line amortization, or (ii) at the taxpayer's election, as part of the basis for cost depletion.

These provisions are effective for costs paid or incurred after 1985.

2. Percentage depletion

Present law allows percentage depletion for up to 1,000 barrels of daily crude oil production (or the equivalent amount of natural gas) by an independent producer or royalty owner. The percentage depletion rate for oil and gas is equal to 15 percent of the taxpayer's gross income from the property, not to exceed (1) 50 percent of net income from the property, or (2) 65 percent of the taxpayer's overall taxable income. Percentage depletion is also allowed at a 15 percent rate for geothermal properties.

The bill generally phases out percentage depletion for oil, gas and geothermal properties over a three-year period. Taxpayers will thereafter be required to use the cost depletion method. Percentage depletion is retained at a 15 percent rate for stripper well oil (as defined for purposes of the crude oil windfall profit tax) and gas (as defined under the Natural Gas Policy Act of 1978). No percentage depletion is allowed for lease bonuses, advance royalties, or any other amounts payable without regard to the actual production from an oil, gas or geothermal property.

The phaseout of percentage depletion applies to production after December 31, 1985 (in the case of geothermal properties, in taxable years beginning after that date). The denial of percentage depletion for lease bonuses and advance royalties is effective on January 1, 1986.

3. Windfall profit tax exemption for certain exchanges of crude oil

The bill provides that certain crude oil is exempt from the crude oil windfall profit tax if it is exchanged for an equal amount of residual fuel oil which is be used on the property in enhanced recovery processes. This exception is limited to production attributable to an operating mineral interest. No depletion deduction (including cost or percentage depletion) is available with respect to oil qualifying for this exception. The exception is applicable to residual fuel used, and crude oil removed, after the date of enactment.

G. Hard Minerals

1. Depletion

Under present law, acquisition and related costs of mineral deposits must be recovered in any taxable year through cost or percentage depletion, whichever results in a larger deduction for that year. Depletion rates range from 5 to 22 percent of gross income. The depletion deduction for any property may not exceed 50-percent of net income from the property.

For most minerals, the bill ratably phases down the depletion rate to 5 percent over 3 years. In the case of minerals that have a 5-percent depletion rate under present law, the bill ratably phases down the depletion rate to zero over 3 years. Present law depletion rates are retained for dimension stone and minerals used in the production of fertilizer or animal feed. The 50 percent income limitation ratably is phased down to 25 percent over 3 years.

The phase down of depletion rates is effective for production after December 31, 1985. The phase down of the income limitation is effective for tax years beginning after 1985.

2. Exploration and development costs

Under present law, hard mineral exploration and development costs may be expensed by individual taxpayers. In the case of corporations, 80 percent of these costs may be expensed, and the remaining 20 percent is recovered in the same manner as 5-year depreciable property. At the taxpayer's election, once a mine begins production, expensed exploration (but not development) costs either (1) reduce depletion deductions, or (2) are recaptured in income and then recovered through depletion deductions.

Under the bill, the treatment of development costs generally is conformed to the treatment of exploration costs under present law. For domestic mines, development costs that are expensed would be recaptured when the mine reaches the producing stage. Recaptured amounts (and development costs incurred after production commences) would be recovered in the same manner as depreciable property in class 1 (3-year recover period). (Alternatively, these amounts could be applied to reduce depletion deductions.) The 20 percent of corporate exploration and development costs that are not expensed would be recovered in the same manner as class 2 property (5-year recovery period), beginning in the year the costs are paid or incurred.

In the case of foreign mines, exploration and development costs are recovered by (1) 10-year straight-line amortization or (2) at the election of the taxpayer, as part of the basis for cost depletion.

These provisions are effective for costs paid or incurred after December 31, 1985.

H. Energy and Fuels Tax Provisions

1. Residential tax credits.—The solar energy tax credit is extended for three years at reduced credit rates—30 percent in 1986 and 20 percent in 1987 and 1988. Expenditures for solar hot water property are limited to $5,000. The credit may not be used to create a sun room, greenhouse, or similar structure. The insulation, energy conservation, and wind energy tax credits are allowed to expire at the end of 1985.

2. Business tax credits.—Business solar and geothermal energy tax credits are extended for three years at reduced credit rates; solar credits will be 15 percent in 1986, 12 percent in 1987, and 8 percent in 1988; geothermal credits will be 15 percent in 1986 and 10 percent in 1987 and 1988. The other business energy tax credits are allowed to expire as scheduled in present law; these credits covered wind energy, ocean thermal energy and biomass properties, intercity buses, and small-scale hydroelectric projects.

3. Tax credit for fuels from nonconventional sources.—Production credits for fuels from nonconventional energy sources are repealed after 1985, except for fuels produced from wells drilled or facilities placed in service before January 1, 1986, and sold before January 1, 1990. An exception is made for methane gas produced from wood in facilities placed in service before January 1, 1990, and sold before January 1, 2001.

4. *Alcohol fuels.*—The 9-cents-per-gallon exemption from the gasoline and motor fuels excise taxes for neat alcohol and methanol fuels is reduced to 6 cents per gallon. The 60-cents-per-gallon nonrefundable income tax credit for blending alcohol with gasoline is repealed after December 31, 1985. The 6-cents-per-gallon excise tax exemption for gasohol is unchanged from present law.

5. *Taxicab fuel tax exemption.*—The 4-cents-per-gallon exemption from the excise taxes on gasoline and motor fuels for qualified taxicabs is reinstated as of October 1, 1985 for three years, through September 30, 1988.

I. Extension of Certain Tax Credits

1. Extension and modification of targeted jobs tax credit

Under present law, the targeted jobs credit is available with respect to individuals who begin work for the employer before 1986. The credit generally is equal to 50 percent of the first $6,000 of qualified first-year wages and 25 percent of the first $6,000 of qualified second-year wages paid to a member of a targeted group. A credit equal to 85 percent of the first $3,000 of qualified first-year wages of any disadvantaged summer youth employee is also allowed.

The bill extends the targeted jobs credit for two more years with several modifications. The bill eliminates the credit for second-year wages, reduces the first-year credit to 40 percent of the first $6,000 of qualified first-year wages (except in the case of disadvantaged summer youth employees), eliminates the credit for wages paid to an individual who works for the employer for fewer than 14 days, and extends the authorization for appropriations for administrative and publicity expenses through fiscal year 1987. Under the bill, the credit is available for wages paid to individuals who begin work for an employer before 1988. The amendments to the targeted jobs credit rules apply to taxable years beginning after 1985.

2. Orphan drug tax credit

The income tax credit for clinical testing of orphan drugs is extended for one additional year through December 31, 1988.

Title III. Corporate Taxation

A. Corporate Tax Rates

The bill provides a 3-bracket graduated corporate rate structure as follows:

Taxable income:	*Tax rate (percent)*
$50,000	15
Over $50,000 but not over $75,000	25
Over $75,000	36

This structure reduces from 5 to 3 the number of corporate income tax brackets, and lowers from 46 to 36 the tax rate applicable to large corporations. The benefit of graduated rates is phased out for corporations with more than $365,000 of taxable income (compared to $1,405,000 under present law).

The 28-percent alternative tax rate for net capital gains of corporations is increased to 36 percent—the regular tax rate applicable to large corporations.

The graduated income tax rates are effective for tax years beginning on or after July 1, 1986. The rate schedule for taxable years including July 1, 1986 will reflect blended rates.

The increase in the alternative tax rate on corporate capital gain's generally is effective for tax years ending after December 31, 1985. Under a transition rule, the present maximum 28-percent rate will apply to net capital gain recognized before January 1, 1986 or pursuant to a binding contract in effect on September 25, 1985.

B. Dividends Paid Deduction

The bill generally gives corporations a deduction for 10 percent of dividends paid out of corporate earnings that have been subject to tax. The deduction is not available for RICs, REITs, S corporations, cooperatives, and DISCs or FSCs, which are otherwise subject to special tax regimes. Compensatory shareholder-level taxes are imposed in certain circumstances on foreign shareholders and on tax-exempt shareholders holding 5 percent or more of the payor's stock.

The deduction is available for taxable years beginning after January 1, 1987 and is phased in over a ten-year period.

C. Dividends Received Deduction

The 85 percent dividends received deduction under present law is reduced to 80 percent for dividends received after December 31, 1985. In addition, the dividends received deduction is adjusted to reflect the phase in of the dividends paid deduction. Thus, for example, the 80 percent dividends received deduction is reduced to 79 percent in the first year that the dividends paid deduction is available, and to 70 percent after the 10 year phase in.

D. Dividend Exclusion for Individuals

The $100 dividends exclusion for individuals ($200 for a joint return) is repealed, effective for taxable years beginning after December 31, 1985.

E. Clarification of Nondeductibility of Stock Redemption expenses

The bill clarifies present law by providing that no amount paid or incurred by a corporation in connection with a redemption of its stock is deductible or amortizable. This would preclude, for example, deduction of so-called "greenmail" payments made to stockholders to avert a hostile takeover.

F. Special Limitations on Net Operating Loss and Other Carryforwards

The bill alters the character of the special limitations on the use of net operating loss (NOL) and other carryforwards. After a change in ownership of more than 50 percent of the value of stock in a loss corporation, however effected, the taxable income available for offset by pre-acquisition NOLs is limited to the long-term tax-exempt rate times the value of the loss corporation's equity. In addition, NOLs are disallowed unless the loss corporation satisfies the continuity-of-business-enterprise rule that applies to tax-free reorganizations for the 2-year period following an ownership change, regardless of the type of transaction that results in the change of control. The bill also expands the scope of the special limitations to include built-in losses and takes into account built-in gains. The bill includes a number of rules designed to ensure the limitations accomplish their intended objectives and makes other changes to present law, of a more technical nature, including rules relating to the measurement of beneficial ownership. The bill applies similar rules to carryforwards other than NOLs, such as net capital losses and excess foreign tax credits.

Effective dates.—In general, the bill applies to changes in ownership that occur after December 31, 1985 (unless pursuant to plans of tax-free reorganization adopted before January 1, 1986).

G. Recognition of Gain and Loss on Liquidating Distributions and Sales of Property (Repeal of the General Utilities Rule)

The bill provides that, in general, gain or loss is recognized to a corporation on a distribution of its property in complete liquidation, as if it had sold the property at fair market value. This repeals the so-called *General Utilities* rule. An exception is provided for distributions to certain controlling corporate shareholders. An exception is also provided for distributions to certain noncorporate, long-term shareholders, under rules similar to those applicable to nonliquidating distributions under present law. Under either exception, nonrecognition is available only to the extent of the qualifying shareholders' percentage interest in the liquidating corporation. The amount subject to nonrecognition is generally this percentage of gain or loss on each asset distributed, without regard to the status of the actual distributee.

Under the bill, nonrecognition is also allowed on certain liquidating sales of property to the same extent nonrecognition would have been available had the property been distributed.

Effective dates.—In general, the bill applies to distributions and sales and exchanges occurring on and or after November 20, 1985. An exception is provided in the case of certain distributions and sales made pursuant to a plan of liquidation adopted before that date. Special rules apply for purposes of determining whether a plan of liquidation has been adopted for this purpose.

Title IV. Tax Shelters

A. At-Risk Rules

The at-risk rules limit the net losses which individuals and certain corporate taxpayers may deduct with respect to an activity. Present law provides an exception from the rules for the activity of holding real estate. The bill repeals this real estate exception. However, a taxpayer will be at risk for certain unrelated third-party nonrecourse debt incurred with respect to real estate. The provision is effective for losses attributable to property acquired after December 31, 1985.

B. Investment Interest Limitation

1. *General limitation.*—The deduction for nonbusiness interest expense of noncorporate taxpayers, in excess of their net investment income, is the sum of (a) interest on debt secured by the taxpayer's principal residence, as well as a second residence, to the extent of their fair market value, plus (b) $10,000 ($20,000 for a joint return).

2. *Interest subject to limitation.*—Nonbusiness interest subject to the limitation means all interest (including consumer interest) not incurred in a trade or business, including the taxpayer's share of interest expense attributable to certain passive investments.

3. *Investment income defined.*—Net investment income includes dividends, interest, rents, royalties, and similar items, the taxpayer's share of income attributable to certain passive investments and the taxable portion of capital gains. Investment expenses, which are netted against this income to determine net investment income,

include expenses and depreciation and depletion actually deducted.

4. Net leases.—Property subject to a net lease is considered an investment, unless the business deductions exceed 15 percent of the rental income. If the taxpayer performs personal services with respect to certain leased property, the value of his services may be included with his business deductions, in calculating 15 percent of rental income.

Effective date.—Subject to a phase-in rule, the limitation will be effective for interest paid or incurred in taxable years beginning on or after January 1, 1986, regardless of when the obligation was incurred. Interest not disallowed under present law, but which would disallowed under the bill, would become subject to disallowance ratably (10 percent per year) over 10 years commencing with taxable years beginning in 1986. Thus, the provision will be fully effective in 1995.

Title V. Individual and Corporate Minimum Taxes

A. Individual Minimum Tax

The present law individual alternative minimum tax is retained with the following modifications. The rate is increased to 25 percent; incentive depreciation on all property placed in service after 1985 is a preference; certain timing preferences (such as depreciation) are measured for post-1985 property on an aggregated basis, instead of measuring them item-by-item without netting; the maximum rate on capital gains is 22 percent and certain transfers by insolvent farmers are excluded; the net income offset to the intangible drilling cost preference is reduced to 65 percent; and the following new preferences are added: interest on newly issued nonessential function bonds, excludable income earned abroad by U.S. citizens, the benefit of the completed contract method of accounting, excludable income of foreign sales corporations (FSCs), losses in excess of twice the cash basis in passive farming activities, net losses in excess of certain cash basis in passive investment activities (with a $50,000 limit for losses from tax shelters), and charitable contributions of appreciated property (to the extent of the taxpayer's other preferences). In addition, a credit is allowed against the regular tax for prior years' minimum tax liability attributable to timing preferences. The provision applies to taxable years beginning after December 31, 1985.

B. Corporate Minimum Tax

An alternative minimum tax, similar to the individual minimum tax, replaces the present law add-on tax. The rate is 25 percent, and a $40,000 exemption is allowed. The items of tax preference include the corporate preferences under present law, incentive depreciation on all property placed in service after 1985 (with taxpayers being required instead to use the nonincentive rules for minimum tax purposes), intangible drilling costs (with the same 65 percent net income offset applying to individuals), tax-exempt interest on nongovernmental obligations, excludable FSC income, the benefit of the completed contract method of accounting, and charitable contributions of appreciated property (to the extent of the taxpayer's other preferences). Rules similar to those under the alternative minimum tax on individuals apply to incentive credits, the foreign tax credit, and net operating losses. A credit for the minimum tax paid in earlier year is allowed against the regular tax. Estimated tax payments are required with respect to corporate minimum tax liability. The provision applies to taxable years beginning after December 31, 1985.

Title VI. Foreign Tax Provisions

A. Foreign Tax Credit

1. Foreign tax credit limitation.—The overall foreign tax credit limitation of present law is retained. The separate limitation for interest income is replaced with separate limitations for passive income, shipping income, foreign currency translation gain, and banking and insurance income. Passive income includes certain categories of income subject to current taxation under the anti-tax haven rules.

These rules are effective for taxable years beginning after 1985.

2. Creditability of gross withholding taxes on interest.—Foreign gross withholding taxes on interest paid to financial institutions are treated as creditable taxes only up to the amount of the U.S. tax on the interest income.

This provision is generally effective for taxes paid in taxable years beginning after 1985, but certain transition relief is provided.

3. Deemed-paid credit.—(a) The deemed paid credit for a U.S. corporation's share of foreign taxes paid by a foreign corporation is determined with respect to the foreign corporation's multi-year pool of accumulated earnings and profits; and (b) earnings and profits generally are computed in the same manner for actual distributions as they are now for tax-haven income inclusions.

These rules are generally effective for earnings and profits accumulated in taxable years beginning after 1985.

4. Effect of losses on foreign tax credit.—Present law is generally retained with a clarification that foreign source losses reduce all types of foreign source income before reducing U.S. source income.

This provision applies to losses incurred in taxable years beginning after 1985.

B. Source Rules

1. Income derived from purchase and sale of inventory-type property.—Source is generally determined by the country of residence of the seller (the place-of-title-passage source rule of present law is repealed). When a seller has a fixed place of business outside his residence country that participates materially in a sale to an unrelated party, the sales income generally is sourced in the country in which that fixed place of business is located.

2. Income from manufacture and sale of inventory-type property.—At least 50 percent of such income must be allocated to manufacturing activity, which is sourced where the manufacturing occurs. The portion of such income allocated to sales activity is sourced under the rules for sales income described immediately above.

3. Income from intangible property.—With respect to royalty income, the bill retains the place-of-use source rule of present law. With respect to sales income, the bill generally follows the rule, described above, for income from the purchase and sale of inventory-type property, which generally depends upon the residence of the seller.

4. Income derived from sale of other personal property.—Under the bill, recapture income derived from sales of personal property used by the seller in a business is sourced where deductions with respect to such property previously offset income. Income in excess of those deductions is sourced like income from sales of inventory-type property. Income derived from sales of other personal property, including passive investment property, is sourced in the country of residence of the seller.

5. Transportation income.—The bill sources transportation income from United States-foreign routes as 50-percent U.S. source income and 50-percent foreign source income. (Present law generally treats most transportation income earned on such routes as foreign source income.) The special U.S. sourcing rule for income and expenses associated with vessels or aircraft constructed in the United States and leased to U.S. persons is repealed. The bill also repeals a similar rule for transportation income earned in leasing certain aircraft used on United States-U.S. possessions routes. The repeal of both special rules is subject to a grandfather rule for currently leased assets.

Under the bill, the reciprocal tax exemption for foreign persons' shipping and aircraft income is available only if a foreign person's country of residence gives U.S. persons an equivalent foreign tax exemption; in addition, a four-percent gross basis tax is imposed on U.S. source shipping income of foreign persons.

6. Other offshore income and income earned in space.—The bill sources other offshore income and income earned in space in the recipient's country of residence.

7. Dividend and interest income.—For withholding tax purposes, the bill generally treats interest paid to unrelated parties by a U.S. corporation that earns more than 80 percent of its income from foreign sources (an "80/20" company) as foreign source to the extent that the company's income is derived from foreign sources in the active conduct of a trade or business outside the United States. Dividend and other interest payments to foreigners by an 80/20 company are generally subject to U.S. withholding tax. For foreign tax credit purposes, the bill treats 80/20 companies' dividends as U.S. source, and their interest payments as U.S. source unless they are connected with an active financing business of an unrelated U.S. payee conducted outside the United States. The bill also restructures certain interest income exemptions.

8. Allocation of interest and other expenses.—The bill generally requires corporate members of affiliated groups to allocate all expenses between U.S. and foreign income on a consolidated group basis. Certain corporations that cannot join in filing consolidated returns can continue to allocate expenses on a separate company basis, as can some financial and similar companies, if their borrowing and lending activities are independent from their affiliates' other operations. The asset method of allocating interest expense is modified and the optional gross income method is eliminated. Tax-exempt income and assets are not taken into account for purposes of allocating expenses. The new interest allocation rules will be phased in over three years in the case of interest paid on preexisting debt amounts. Other transitional relief is provided.

9. Allocation of R&D expenses.—For two years, taxpayers are to allocate half the expenses for U.S.-performed R&D to U.S. source income, and the other half on the basis of sales or gross income. After two years, starting with taxable years beginning after August 1, 1987, a suspended Treasury Regulation generally requiring allocation on the basis of sales or gross income will take effect.

Effective date.—The rules governing the source of income are generally effective for taxable years beginning after 1985, although the bill provides certain transitional relief.

C. U.S. Taxation of Income Earned Through Foreign Corporations

1. Tax haven income generally.—Interest, dividends, and gains received by banks and insurance companies, insurance income, income earned in space or outside any country, base company rents and royalties, and gains from transactions in commodities, foreign currency, and certain other property generally are taxed currently if earned by controlled foreign corporations. Certain exceptions to the Code's rules that currently tax certain "tax-haven" income of foreign subsidiaries of U.S. companies are repealed, including the exclusion for reinvested shipping income. The subjective tax-avoidance safe-harbor rule is replaced with an objective test.

2. Determination of U.S. control of foreign corporations.—The U.S. ownership requirement for imposition of the anti-tax haven rules is amended. For the anti-tax haven rules to apply to a foreign corporation, 50 percent or more (rather than more than 50 percent) of the vote or value (not merely vote) of that corporation must belong to 10-percent U.S. shareholders. Similarly, for the foreign personal holding company rules to apply, 50 percent or more of the vote or value of a foreign corporation must be owned by five or fewer U.S. individuals. Transitional relief is provided.

3. De minimis tax haven income rule.—Present law is amended to apply the de minimis and 70-percent rules for foreign base company income on the basis of earnings and profits instead of gross income.

4. Foreign investment companies (FICs).—Present law is amended to require either current recognition of income earned by U.S. investors through passive FICs or payment of an interest charge on eventual recognition, and to apply FIC rules to U.S. investors irrespective of the degree of aggregate U.S. ownership. Transitional relief is provided.

5. Possessions-chartered corporations.—The exception to the anti-tax haven rules for possessions-chartered corporations is repealed, with appropriate transition rules provided.

Effective date.—The bill's rules applicable to income earned through foreign corporations are generally effective for taxable years beginning after 1985.

D. Special Tax Provisions for U.S. Persons

1. Possession tax credit and income from intangibles

a. Possession tax credit.—The bill retains the existing possession tax credit with certain modifications. The optional cost sharing method of allocating intangible income is changed to require that the cost sharing payment be determined as the greater of (1) 110 percent of the payment determined under present law and (2) an arm's-length royalty. The bill also requires an increase in the cost-sharing payment (20 percent above the present law payment) for purposes of the 50/50 profit split method. The active income test for possession corporation status is increased from 65 to 75 percent over 2 years. Certain passive income derived from loans made by the Government Development Bank of Puerto Rico in qualifying Caribbean Basin countries are tax-exempt in the hands of companies operating in the possessions. Identical rules apply to U.S. operations in the U.S. Virgin Islands.

b. Income from intangibles.—The payment for intangibles received from foreign corporations by related U.S. persons must be commensurate with the actual income attributable to the intangible.

Effective date.—These rules generally apply to taxable years beginning after 1985. However, the rule that looks to actual income attributable to an intangible applies to intangibles transferred after November 16, 1985.

2. Other rules with respect to U.S. possessions

a. U.S. Virgin Islands.—The Virgin Islands will continue to use the mirror code. The Virgin Islands inhabitant rule is repealed. To be exempt from U.S. withholding tax, 65 percent of a Virgin Islands corporation's income must be effectively connected with a trade or business in a possession or in the United States. Anti-abuse rules are provided.

b. Guam, the Commonwealth of the Northern Mariana Islands (CNMI), and American Samoa.—After 1985, full authority will be granted to Guam and the CNMI to determine their own income tax laws (as American Samoa currently does). To avoid U.S. withholding tax, 65 percent of a possession corporation's income must be effectively connected with a trade or business in a possession or in the United States. Anti-abuse rules are provided.

Effective date.—The bill's rules coordinating United States and possessions taxation generally apply to taxable years beginning after 1985, or as soon as the applicable possession agrees to cooperate with the United States in tax matters.

3. Taxation of U.S. employees of Panama Canal Commission

The bill clarifies that the Panama Canal Treaty and its implementing agreements do not exempt U.S. taxpayers from U.S. tax. The bill provides that Commission employees are entitled to certain tax-free allowances like those available for State Department employees.

The bill's clarification of the effect of the Panama Canal treaty is effective for all taxable years. The rule concerning taxation of employees' allowances applies for taxable years beginning after 1985.

4. Foreign Sales Corporations (FSCs)

The bill changes the reduction in taxable income for FSC shareholders from 16 percent to 14 percent of export income (from 15 percent to 13 percent for corporate shareholders). Corresponding changes are made to DISC rules. This provision is effective for taxable years beginning after 1985.

5. Private sector earnings of Americans abroad

The bill reduces the maximum annual exclusion for foreign earned income of Americans working abroad, from the present $80,000 to $75,000. The provision is effective for taxable years beginning after 1985.

E. Foreign Taxpayers

1. Branch-level tax.—The branch-level tax proposed by the President as a substitute for the present dividend and interest withholding taxes is generally adopted. The bill retains present law when a treaty allows present law to apply but would not allow a branch-level tax to apply. The bill provides anti-treaty shopping rules. These rules are effective for taxable years beginning after 1985.

2. Retain character of effectively connected income.—The bill treats income or gain as effectively connected with a U.S. trade or business if it is attributable to a different taxable year and would have been so treated if it had been taken into account in the other year. This rule applies to taxable years beginning after 1985.

3. Application of accumulated earnings tax (AET) and personal holding company (PHC) tax to foreign corporations.—Present law is amended to allow foreign corporations a net capital gain deduction for purposes of calculating the AET or PHC tax only if the gains are taxed by the United States at the corporate level. This provision applies to transactions occurring after November 15, 1985.

4. Tax-free exchanges by expatriates.—The tax-avoidance expatriate rules under present law are applied to gains on the sale of property the basis of which was determined by reference to U.S. property. This rule applies to sales or exchanges of property received in exchanges after September 25, 1985.

5. Excise tax on insurance premiums paid to foreign insurers.—The bill makes the excise tax on casualty reinsurance premiums paid to foreign insurers for U.S. risk coverage equal to that on similar casualty insurance premiums (4 percent), makes the foreign insurer liable for the tax, and requires the U.S. insured or broker obligated to transmit the premiums to withhold the tax. This rule applies to premiums paid after 1985.

F. Foreign Currency Exchange Gain or Loss

The tax treatment of exchange gain or loss, including character, source, and timing, is clarified. Generally, exchange gain or loss arises if the exchange rate fluctuates between the date an item is taken into account for tax purposes and the date it is paid. In general, exchange gain or loss is ordinary in nature. To the extent provided by regulations, a special rule will require a taxpayer to recognize gain or loss currently with respect to an item that is "hedged" by an offsetting position (e.g., a foreign currency futures contract). All business entities that account for foreign operations in a foreign currency are generally required to use a profit and loss translation method. For purposes of the foreign tax credit, a foreign tax is translated at the exchange rate in effect on the payment date. The indirect foreign tax credit is calculated on the basis of the exchange rate in effect on the date the tax was paid or accrued by the subsidiary, and the exchange gain or loss on the distributed earnings is treated as separate basket foreign source income or loss.

Effective date.—These rules are effective for taxable years beginning after 1985.

Title VII. Tax-Exempt Bonds

A. Tax-Exempt Bond Provisions

1. General restrictions on tax-exemption

Interest on State and local government bonds used to finance traditional government operations is tax-exempt. Interest on bonds to provide conduit financing for nongovernmental persons is taxable unless a specific exception is provided in the Code. A bond generally is viewed as for nongovernmental conduit financing if (a) more than 25 percent of the proceeds are used in a trade or business of a nongovernmental person (and a security interest test is satisfied), or (b) an amount equal to 5 percent or more of the bond proceeds is used to finance loans to such a person.

The bill provides that bonds are for nongovernmental conduit financing if either (a) an amount equal to or exceeding the lesser of 10 percent or $10 million of bond proceeds is used in a trade or business of a nongovernmental person or (b) an amount equal to or exceeding the lesser of 5 percent or $5 million of bond proceeds is used to finance loans to such a person. Bonds for governmental activities are referred to collectively as *essential function bonds* under the bill.

2. Exceptions for certain nonessential function bonds

Present law includes several exceptions permitting tax-exemption for interest on bonds for nongovernmental conduit financing. These exceptions are for (a) industrial development bonds (IDBs); (b) student loan bonds issued in connection with certain Department of Education guarantees; (c) qualified mortgage bonds and qualified veterans' mortgage bonds; (d) bonds for section 501(c)(3) organizations; and (e) certain bonds issued under non-Code statutes enacted before 1984, if the bonds satisfy all Code requirements for bonds the proceeds of which are used for a comparable activity.

The bill continues many of the exceptions permitting tax-exempt financing for activities of nongovernmental persons. Bonds for these activities are referred to collectively as *nonessential function bonds*. Activities for which nonessential function bonds may be issued are (a) exempt-facility bonds (bonds for airports, docks and wharves, mass commuting facilities, certain water furnishing facilities, sewage and solid waste disposal facilities, and qualified multifamily residential rental projects); (b) qualified mortgage bonds and qualified veterans' mortgage bonds; (c) qualified small-issue bonds; (d) section 501(c)(3) organization bonds; (e) qualified student loan bonds (expanded to include certain bonds not issued in connection with Department of Education guarantees); and (f) qualified redevelopment bonds. Additionally, the bill retains the option for States and local governments to elect to exchange qualified mortgage bond authority and issue mortgage credit certificates.

3. Unified State volume limitation

Present law provides three separate State volume limitations for (a) IDBs and student loan bonds, (b) qualified mortgage bonds, and (c) qualified veterans' mortgage bonds. Certain types of IDBs and bonds for secton 501(c)(3) organizations are not subject to State volume limitations.

The bill provides a unified State volume limitation for all nonessential function bonds and the nongovernmental portion (in excess of $1 million) of essential function bonds. States (and local issuers therein) may issue an aggregate annual amount of such bonds not exceeding the greater of $175 per resident of the State or $200 million.

An amount equal to $25 per capita ($30 million in the case of a State having a $200 million volume limitation) is permanently set-aside for section 501(c)(3) organization bonds. Additional set-asides are provided for bonds to finance housing and for qualified redevelopment bonds; these additional set-asides may be overridden by State legislation. Bonds for certain airport, dock, and wharf facilities are not subject to this volume limitation. In general, the new unified volume limitation is administered in a manner similar to the present-law volume limitations on IDBs and student loan bonds and on qualified mortgage bonds.

4. Arbitrage restrictions

Interest on arbitrage bonds is taxable under present law. Arbitrage bonds are bonds more than a minor portion of the proceeds of which are invested in materially higher yielding obligations. IDBs and qualified mortgage bonds are subject to additional arbitrage restrictions that require rebates to the Federal Government of arbitrage profits on obligations unrelated to the purpose of the borrowing and restrict the amount of bond proceeds that may be invested in such obligations.

The bill makes numerous technical amendments to the general arbitrage restrictions presently applicable to all tax-exempt bonds; extends to all such bonds both a requirement that certain arbitrage profits be rebated to the Federal Government and a limitation on the amount of bond proceeds that may be invested in nonpurpose obligations; restricts or prohibits advance refundings of all tax-exempt bonds; and restricts the early issuance of tax-exempt bonds; and provide that the purchase of annuity contracts with bond proceeds to fund pension plans will be subject to arbitrage restrictions in the same manner as if bond proceeds were used directly to fund such plans.

5. Modification and extension of miscellaneous restrictions

The bill extends to all nonessential function bonds present law requirements applicable to certain types of such bonds that require (a) that all net proceeds of the bonds be used for the exempt purpose of the borrowing; (b) that the maturity date of the bonds not exceed 120 percent of the economic life of any bond-financed property; (c) that substantial users of bond-financed facilities not own the bonds used in the financing; and (d) that certain public approvals occur before issuance of the bonds.

6. Changes in use of bond-finance facilities

The bill provides that in addition to loss of tax-exemption on bond interest where provided under present law, certain amounts paid in connection with bond-financed property that ceases to be used in a use qualifying for tax-exempt financing many not be deducted for Federal income tax purposes. In general, the nondeductible amount is the interest (or the equivalent thereof) paid on bond-financed loans.

7. Ownership and cost recovery deductions for bond-financed property

The bill requires certain facilities financed with tax-exempt bonds to be owned by or on behalf of a governmental unit. Exceptions are provided for sewage and solid waste disposal facilities, for qualified multifamily residential rental projects, for bond-financed owner-occupied residences, and for property financed with qualified redevelopment bonds and small-issue bonds. Additionally, facilities financed with section 501(c)(3) organization bonds may be owned either by a section 501(c)(3) organization or a governmental unit. The determination of ownership is made using general Federal income tax concepts.

Cost recovery deductions for bond-financed property generally are determined using the straight-line method and the recovery period for property in the next higher class of property under the new depreciation system included in the bill. Costs of real property are recovered over a 40-year period. Special recovery periods and methods are provided for qualified multifamily residential rental property.

8. Information reporting requirements

The bill extends to all tax-exempt bonds information reporting requirements similar to the requirements that presently apply to IDBs, student loan bonds, bonds for section 501(c)(3) organizations, and tax-exempt mortgage subsidy bonds.

9. Effective dates

The provisions of the bill generally apply to all bonds issued after December 31, 1985. Transitional exceptions are provided for certain of the amendments included in the bill.

B. General Stock Ownership Corporations (GSOCs)

The bill eliminates the Code provisions relating to General Stock Ownership Corporations as deadwood, effective upon enactment.

Title VIII. Financial Institutions

A. Reserve for Bad Debts

1. Commercial banks.—Commercial banks may continue to compute their deductions for losses on bad debts under present law, except in the case of "large banks." "Large banks" must use the specific charge off method to compute the deduction for bad debts. A bank is considered to be a "large bank" if, for any taxable year beginning after 1985, the sum of the average adjusted bases of the assets of the bank (or of the assets of any controlled group to which the bank belongs) exceeds $500 million. Large banks required to change their method of accounting for bad debts are required to recapture the balance in reserve for bad debts over a period not to exceed five years, or are required to account for bad debts on existing loans under a "cutoff" method.

2. Thrift institutions.—Thrift institutions that use the reserve method to compute their deductions for losses on bad debts may do so using either the experience method allowed to small banks or the percentage of taxable income method with the percentage reduced to 5 percent from 40 percent as under present law. In order to be eligible for the special treatment of bad debt reserves, at least 60 percent of the assets of the financial institution must be invested in qualifying assets.

The excess of the bad debt deduction of thrift institutions computed under the percentage of taxable income method over the deduction computed under the experience method is treated as a tax preference for alternative minimum tax purposes. The excess will not, however, constitute a preference item for purposes of the 20% reduction of present law for corporate tax preferences.

Effective date.—These provisions apply to taxable years beginning on or after January 1, 1986.

B. Interest on Debt to Purchase or Carry Tax-exempt Bonds

The bill disallows 100 percent (as opposed to 20 percent under present law) of deductions for interest expense allocable to tax-exempt obligations acquired after December 31, 1985. The 20-percent disallowance rule of present law continues to apply with respect to tax-exempt obligations acquired from 1983 to 1985. Transitional rules are provided for obligations acquired pursuant to a written commitment to purchase entered into before September 25, 1985 and for certain general purpose governmental bonds issued by a governmental unit in 1986, 1987, and 1988 in amounts not exceeding $10 million a year.

C. Special Rules for Net Operating Loss Carryovers of Depository Institutions

The provision of present law allowing a carryback period of 10 years and a carryforward period of 5 years for the net operating losses of depository institutions is repealed effective for losses incurred in taxable yers beginning after December 31, 1985. Losses incurred in taxable years beginning after 1985 are required to be carried back 3 years and carried forward 15 years in accordance with the general rules for net operating losses.

D. Repeal of Special Rules for Reorganizations of Financially Troubled Thrift Institutions

The bill repeals rules enacted in 1981 that provide special relief to financially troubled thrift institutions. These rules, which were designed to facilitate tax-free mergers of thrift institutions, provide that the continuity of interest requirement is met if the depositors of a financially troubled thrift are depositors of the surviving corporation; allow the carryover of net operating losses of a financially troubled thrift where its depositors continue as depositors of the acquiring corporation; and exempt certain payments from the Federal Savings and Loan Insurance Corporation to financially troubled thrift institutions from income and the general basis reduction requirements of the Code.

The repeal of the rules providing relief under the reorganization and net operating loss carryover provisions is effective for acquisitions or mergers occurring after December 31, 1985. The repeal of the exclusion for certain FSLIC payments is effective for payments received in taxable years beginning on or after January 1, 1986, except for payments made pursuant to an agreement entered into before that date.

E. Depositor Deductions in Cases of Troubled Financial Institutions

Individuals are given an election to deduct losses on deposits in qualified financial institutions as a casualty loss at the time the loss can be reasonably estimated. The election applies only where the loss arises as a result of the bankruptcy or insolvency of the financial institution and is not available to any one-percent shareholder, officer, or relative or related party of a one-percent shareholder or officer of the institution. The provision is effective for losses incurred in taxable years beginning after December 31, 1982.

Title IX. Accounting Provisions

A. General Provisions

1. Simplified dollar-value LIFO method for certain small businesses

The bill provides an election to use a simplified method of computing LIFO inventory values for taxpayers with average annual gross receipts of $5 million or less, effective for taxable years beginning after December 31, 1985. The method uses inventory pools established in accordance with general categories of inventory items published by the Bureau of Labor Statistics.

2. Limitations on the use of the cash method of accounting

The bill prohibits, with certain exceptions, the use of the cash method of accounting to any C corporation, partnership that has a C corporation as a partner, or tax-exempt trust with unrelated business income. Excepted entities, that can continue to use the cash method, are farming businesses, qualified personal service corporations, and entities with average annual gross receipts of $5 million or less. In the case of services, the time of accrual of income by the provider and deduction by the recipient generally is the time of billing. The provision is effective for taxable years beginning after December 31, 1985.

3. Pledges of installment obligations

The bill provides that the proceeds of a loan for which an installment obligation is pledged as collateral generally is treated as a payment on the obligation, resulting in the recognition of a proportionate part of the deferred gain. Exceptions are provided for the pledge of all of the assets of an active trade or business pursuant to a general lien in favor of a financial institution and for certain other situations. The provisions of the bill apply to pledges after December 31, 1985, and pledges before that date of installment obligations arising after September 25, 1985. Certain transitional rules are provided.

4. Accounting for production costs and long-term contracts

a. Uniform capitalization rules.—The bill provides that, in general, uniform rules for determining costs that must be capitalized apply to all producers of tangible property, including inventory, noninventory property held for sale to customers, and assets constructed for self-use. These comprehensive capitalization rules are based on the rules of present law applicable to extended period long-term contracts. The rules generally are effective for costs paid or incurred after December 31, 1985. In the case of inventories, the rules apply to the taxpayer's first taxable year beginning after December 31, 1985.

b. Interest.—Interest is subject to a special rule requiring capitalization only if the property is long-lived or requires more than two years (one year if the cost of the item is greater than $1 million) to produce. This rule applies to interest incurred after December 31, 1985.

c. Farming and ranching costs.—The uniform capitalization rules generally apply to costs (including interest) incurred in producing crops and livestock (other than animals held for slaughter) having a preproductive period of more than two years. An exception is provided for certain farmers, who may elect to expense preproductive period costs. Electing taxpayers must use nonincentive depreciation for all farm property, and the deducted amounts are recaptured (i.e., gain will be ordinary to the extent of the deductions) upon disposition of the property. The provision is effective for costs paid or incurred after December 31, 1985.

d. Long-term contracts.—The completed contract method of accounting is repealed except for certain contracts involving real estate construction. Contracts taking more than 1 year to complete must be reported on the percentage of completion method. Interest must be paid by (or to) the taxpayer if the reported profit on a contract each year is more (or less) than a portion of the actual profit on that contract allocable to that year. This provision is effective for long-term contracts entered into after December 31, 1985.

e. Timber.—The uniform capitalization rules generally apply to all costs (including interest) of producing timber. An exception is provided for certain small timber producers, who may elect to amortize costs otherwise subject to capitalization over a period of 5 years. An electing producer must use nonincentive depreciation for all assets used in the timber business. This provision is effective for production costs, including interest, incurred after December 31, 1985, except that costs attributable to timber planted before January 1, 1986, are subject to a special 5 year phase-in.

5. Reserves for bad debts

The bill generally repeals the reserve method of computing deductions for bad debts. Under the bill, taxpayers, other than certain financial institutions, are allowed a deduction for bad debts when the debt becomes wholly or partially worthless. Wholly worthless debts must be treated as worthless on a taxpayer's books in order to be allowed as a deduction for Federal income tax purposes, as is the case under present law for partially worthless debts. The balance of any reserve for bad debts or guarantees is taken into income ratably over a period of 5 years. The provision is effective for taxable years beginning after December 31, 1985.

6. Accrued vacation pay

The bill limits the deduction for additions to a reserve for vacation pay to amounts that are paid within the taxable year and 8½ months after the close of the taxable year. The provision is effective for taxable years beginning after December 31, 1985.

7. Contributions in aid of construction

The bill provides that utilities must include in gross income the value of any property, including money, that it receives to encourage it to provide services to, or for the benefit of, the person transferring the property. The provision of present law that allows certain utilities to treat these amounts as contributions to capital is repealed effective for taxable years beginning after December 31, 1985.

B. Timber Provisions

1. Capital gains treatment for timber

The bill provides that, in the case of dispositions after December 31, 1988, capital gains treatment is available only for natural persons, estates, and trusts, all of the beneficiaries of which are natural persons or estates. A modified corporate alternative capital gains rate is provided for dispositions of timber by corporate taxpayers prior to that date. Dispositions of timber grown on Federal lands do not qualify for capital gains treatment after December 31, 1985.

2. Reforestation expenditures

The bill repeals the provisions of present law allowing an election for 7-year amortization and an investment tax credit with regard to certain reforestation expenditures, effective for expenditures made after December 31, 1985.

C. Provisions Relating to Agriculture

1. Special expensing and amortization provisions affecting agriculture

The bill amends the provision allowing current deductions for certain soil and water conservation expenditures to limit current deductions to costs of improvements consistent with a soil or water conservation plan adopted by the U.S. Department of Agriculture, or in the absence of such, by a comparable State agency. The bill also repeals the provisions permitting current deductions for land clearing expenses and for certain soil conditioning activities. These provisions apply to expenditures incurred after December 31, 1985.

2. Dispositions of converted wetlands and erodible croplands

The bill provides that gain from the disposition of highly erodible land that is converted to agricultural use (other than livestock grazing) is not eligible for capital gain treatment, effective for dispositions after December 31, 1985.

3. Netting for cooperatives

Cooperatives (including tax-exempt farmers' cooperatives) are permitted to offset patronage earnings and losses in computing net earnings for the purpose of paying patronage dividends. Cooperatives that do so are required to notify affected members. The provision relating to netting is effective for taxable years beginning after December 31, 1962. The provision relating to the notice requirement is effective for taxable years beginning after the date of enactment of the bill.

4. Treatment of certain plant variety protection certificates as patents

The bill provides that plant protection certificates issued under the Plant Variety Protection Act of 1970 are treated as patents for determining the character of gain on their disposition, effective for dispositions after December 31, 1985.

Title X. Insurance Products and Companies

A. Insurance Policyholders

1. Interest on installment payments of life insurance proceeds.—The bill repeals the provision of present law under which the income on the proceeds of life insurance that are paid to a surviving spouse in periodic payments are includible in gross income only to the extent that the amount of income paid during any taxable year exceeds $1,000. The provision is effective for amounts received with respect to deaths occurring after December 31, 1985.

2. Deduction for nonbusiness casualty losses.—Under the bill, in the case of a loss covered (wholly or partially) by insurance, a taxpayer is permitted to deduct a casualty loss for damages to property not used in a trade or business or in a transaction entered into for profit only to the extent of losses not covered by insurance and only if the taxpayer files a timely insurance claim with respect to damage to that property. The provision applies to losses sustained in taxable years beginning after December 31, 1985.

3. Exclusion from income for structured settlements limited to cases involving physical injury.—The bill limits the exclusion from income for qualified assigments under structured settlement agreements to those assignments requiring the payment of damages on account of a claim for personal injuries or sickness involving physical injury or sickness (including death). The provision is effective for assignments entered into after December 31, 1985.

B. Life Insurance Companies

1. Special life insurance company deduction.—Under the bill, the special life insurance company deduction equal to 20 percent of tentative life insurance company taxable income (LICTI) is repealed, effective for taxable years beginning after December 31, 1985.

2. Status for certain organizations providing commercial-type insurance.—The bill provides, for taxable years beginning after December 31, 1985, that certain organizations (described in sec. 501(c)(3) or (4)) are entitled to tax exemption only if no substantial part of their activities is providing commercial-type insurance (including the issuance of annuity contracts). In addition, the commercial-type insurance activities of an otherwise tax-exempt organization are treated as an unrelated trade or business which is subject to tax under subchapter L.

Commercial-type insurance does not include insurance provided at substantially below cost to a class of charitable recipients, incidental health insurance provided by a health maintenance organization of a kind customarily provided by such organizations, or property and casualty insurance (such as fire insurance) provided directly or through a wholly-owned corporation by a church or convention or association of churches.

In the case of Blue Cross and Blue Shield organizations, the bill authorizes the issuance of regulations to provide special treatment in the case of insurance provided to high risk individuals and small groups. This special treatment is not available to the extent that applicable State law requires the provision of insurance to such individuals or groups.

Further, the bill requires the Department of the Treasury to conduct a study of fraternal beneficiary associations (sec. 501(c)(8)) that received gross annual insurance premiums in excess of $25 million in 1984.

Transition rules are provided for certain organizations with respect to their pension businesses.

3. Operations loss deduction of insolvent companies.—The bill permits a life insurance company to apply unused net operating loss carryovers against the increase in its taxable income attributable to the amount deemed to be distributed from its policyholders surplus account. This provision only applies if (1) the company was insolvent on November 15, 1985, (2) the company is liquidated pursuant to a court order, and (3) as a result of the liquidation, the company's tax liability would be increased by policyholder surplus account distributions. This provision is effective for liquidations occurring after on or November 15, 1985.

C. Property and Casualty Insurance Companies

1. Inclusion in income of 20 percent of unearned premium reserve.—Under the bill, a property and casualty insurance company is required to reduce its deduction for unearned premium reserves by 20 percent. This provision is phased in over a 5 year period commencing with taxable years beginning after December 31, 1985. For the 5 taxable years beginning after that date, a total of 20 percent (4 percent each year) of a company's unearned premium reserve for its most recent taxable year beginning before January 1, 1986, is included in income. For all taxable years beginning after December 31, 1985, a company also takes into account only 80 percent of the difference in the reserve for unearned premiums at the end of the preceding year and at the end of the current year.

2. Treatment of certain dividends and tax-exempt interest.—For taxable years beginning after December 31, 1985, a property and casualty insurance company's deduction for losses incurred is reduced by a portion of the company's tax-exempt income and the deductible portion of dividends received (with special rules for dividends from affiliates). The portion taken into account is 10 percent of tax-exempt income and the deductible portion of dividends received from investments made after November 14, 1985 (increasing to 15 percent in taxable years beginning after December 31, 1987).

3. Taxable income must bear certain relationship to net gain from operation.—For taxable years beginning after December 31, 1987, the regular taxable income of a property and casualty insurance company shall not be less than 20/36 of its adjusted net gain from operations, and its regular taxable loss shall not be greater than 20/36 of its adjusted net loss from operations. Adjusted net gain or loss from operations means the net gain or loss from operations required to be set forth on the company's annual statement approved by the National Association of Insurance Commissioners, determined with regard to policyholder dividends but without regard to Federal and foreign income taxes, adjusted to exclude certain tax-exempt income and the deductible portion of certain dividends received attributable to investments made before November 15, 1985.

4. Study of treatment of loss reserves.—The Treasury Department is required to conduct a study of the tax treatment of loss reserves of property and casualty insurance companies, to be submitted no later than January 1, 1987.

5. Repeal of protection against loss account.—Effective for taxable years beginning after December 31, 1985, the deduction for contributions to the protection against loss account for mutual property and casualty companies is repealed. Balances in the account are includable in income no less rapidly than ratably over the first five years beginning after December 31, 1985, or, if more rapidly as such amounts would have been included over the five years had the PAL account provision not been repealed.

6. Revision of special treatment for small companies.—Under the bill, property and casualty companies (whether stock or mutual) with net written premiums or direct written premiums (whichever is greater) which do not exceed $500,000 for the taxable year are exempt from tax. Property and casualty companies (whether stock or mutual) with net written premiums or direct written premiums (whichever is greater) that exceed $500,000 but do not exceed $2,000,000 may elect to be taxed only on taxable investment income. In the case of a controlled group, these amounts are determined on a group basis. The provisions are effective for taxable years beginning after December 31, 1985.

7. Study of treatment of policyholder dividends by mutual property and casualty insurance companies.—Under the bill, the Treasury Department is required to conduct a study of the treatment of policyholder dividends of mutual property and casualty insurance companies, to be submitted no later than January 1, 1987.

Title XI. Pensions and Deferred Compensation; Fringe Benefits; ESOPs

Pension and Deferred Compensation Provisions

A. Limitations on Tax-Deferred Savings

1. Individual retirement accounts.—The bill provides that an individual's IRA deduction limit is reduced, dollar for dollar, by the amount of the individual's elective deferrals under a qualified cash or deferred arrangement or tax-sheltered annuity.

In addition, the bill provides special rules to ensure that electing spouses with some earned income are not precluded from receiving spousal IRA contributions.

2. Qualified cash or deferred arrangements

a. *Limit on elective deferrals.*—The bill limits the annual elective deferrals made by or on behalf of any employee under all qualified cash or deferred arrangements and tax-sheltered annuities to $7,000 and coordinates that limit with the IRA deduction limit.

b. *Nondiscrimination rules.*—In addition, the bill modifies the special nondiscrimination tests by redefining the group of highly compensated employees and modifying the percentage tests. Under the bill, the actual deferral percentage for an employer's highly compensated employees may not exceed 125 percent of the actual deferral percentage of eligible nonhighly compensated employees. Alternatively, the deferral percentage of an employer's highly compensated employees could not exceed the lesser of 200 percent of the actual deferral percentage of the nonhighly compensated employees, or the actual deferral percentage of the nonhighly compensated employees plus two percentage points.

The bill generally provides that an employee will be treated as highly compensated for a plan year if, during the current plan year, or either of the two preceding plan years he or she was:

(1) a five-percent owner of the employer;

(2) an employee earning more than $50,000; or

(3) one of the top 10 percent of employees by pay, excluding (i) employees who earn less than $20,000, and (ii) employees who earn less than $35,000 and are not among the top five percent by compensation.

The bill provides special rules for determining those employees who are to be considered highly compensated in the current plan year because they have more than $50,000 of compensation, or are in the top 10 percent of employees by compensation. A special rule also is provided for family members of five-percent owners and the top 10 employees by compensation.

c. *Withdrawal and other restrictions.*—The bill also (1) permits a qualified cash or deferred arrangement to make total distributions upon plan termination, (2) limits amounts that may be withdrawn on account of hardship to the total amounts of elective deferrals; (3) precludes a qualified cash or deferred arrangement from requiring, as a condition of eligibility, that an employee complete more than one year of service; (4) provides that no employer may (a) condition, directly or indirectly, contributions under any plan upon the employee's elective deferrals, or (b) take elective deferrals under a qualified cash or deferred arrangement into account in determining whether any other plan satisfies the general coverage or nondiscrimination rules; (5) imposes an excise tax on excess contributions to a qualified cash or deferred arrangement if the excess is not distributed in a timely manner; and (6) permits employer contributions that satisfy the vesting and distribution restrictions applicable to elective deferrals to be made whether or not the employer has current or accumulated profits.

d. *Employees of tax-exempt and public employers.*—The bill makes it clear that tax-exempt and public employers may not maintain qualified cash or deferred arrangements. However, the bill grandfathers any such plan that had been adopted before November 6, 1985, provided the sponsoring employer had requested a favorable determination letter before that date. Elective deferrals under grandfathered plans are coordinated with elective deferrals under 403(b) tax-sheltered annuities and section 457 plans.

3. Employer matching contributions and employee contributions.—The bill provides that employee contributions and qualifying employer matching contributions, as a percentage of compensation for highly compensated employees, may not exceed 125 percent of the average of such contributions as a percent of compensation for the nonhighly compensated employees. Alternatively, the average percentage for the highly compensated employees may not exceed 200 percent of the average percentage for the nonhighly compensated employees, or the average percentage for the nonhighly compensated employees plus two percentage points, if less.

The average of nonqualifying employer matching contributions as a percent of compensation for the employer's highly compensated employees may not exceed 110 percent of the average of nonqualifying employer contributions as a percent of compensation for the nonhighly compensated employees. Alternatively, the average percentage for the highly compensated employees may not exceed the lesser of 150 percent of the average percentage of the nonhighly noncompensated employees, or the average percentage of the nonhighly compensated employees plus one percentage point.

Excess contributions generally are subject to a 10-percent excise tax, unless the excess, plus earnings, are distributed (or, if nonvested, forfeited) in a timely manner.

4. Unfunded deferred compensation arrangements of State and local governments and tax-exempt employers.—The bill applies the rules governing eligible unfunded deferred compensation plans of State and local governments to unfunded deferred compensation plans for employees of tax-exempt employers.

In addition, the bill modifies the distribution requirements applicable to pre-death and post-death distributions from an eligible deferred compensation plan. Under the bill, distributions commencing during a participant's lifetime must satisfy a payout schedule under which benefits projected to be paid to the participant during life are at least two-thirds of the total benefits payable with respect to the participant. If the entire interest has not been distributed before the participant's death, the remainder must be distributed no more slowly than under the lifetime schedule in effect on the date of death. Distributions commencing after death generally must commence within a year of death and be paid over a period not to exceed 15 years, or over the life expectancy of a surviving spouse who is a beneficiary. If any benefits are payable over a period longer than one year, they must be paid on a substantially nonincreasing basis, not less frequently than annually.

5. *Deferred annuity contracts.*—Effective for amounts invested in deferred annuity contracts after September 25, 1985, the bill provides that a nonindividual owner of a deferred annuity contract must include in income any increase in the cash surrender value of the deferred annuity contract over the contract's basis during the taxable year. The owner of a deferred variable annuity contract is treated as owning a pro rata share of the assets and income of any separate account underlying the variable contract. As a result, the owner is not taxed on the unrealized appreciation of assets underlying a variable contract.

The bill also conforms the additional income tax on amounts withdrawn from deferred annuity contracts before age 59-1/2 to the 15-percent tax on early withdrawals from IRAs and other tax-favored retirement arrangements.

These provisions generally apply for years beginning after December 31, 1985. However, with respect to a plan maintained on November 22, 1985, pursuant to one or more collective bargaining agreements, these provisions will apply for years beginning after the earlier of (a) the date on which the last of the collective bargaining agreements terminates, or (b) December 31, 1990. In addition, a special effective date is provided for certain plans maintained by state and local governments.

B. Nondiscrimination Requirements

1. Coverage and nondiscrimination requirements for qualified plans and tax-sheltered annuities

a. *Qualified plans.*—The bill requires the Secretary of the Treasury to conduct a study of the effect of the present-law coverage tests, and to make recommendations on the manner in which the coverage rules might be changed. The study and recommendations must be submitted to Congress no later than July 1, 1986.

b. *Tax-sheltered annuities.*—Generally effective for years beginning after December 31, 1985 (November 21, 1987, in the case of certain programs maintained by State and local governments), the bill extends certain nondiscrimination rules to tax-sheltered annuity programs other than those maintained by churches. With respect to employer (i.e., nonelective) contributions to tax-sheltered annuity programs, the bill applies the general coverage and nondiscrimination tests of present law applicable to qualified pension plans, taking into account the special circumstances of tax-exempt organizations (including the compressed salary ranges of employees).

With respect to elective contributions to tax-sheltered annuity programs (other than programs maintained by churches), the bill requires that any entity offering the opportunity to make elective deferrals available to any employee must make the election to all employees without a minimum contribution requirement.

2. Certain social security benefits earned with prior employers.—The bill revises the manner in which a pension plan may be integrated with social security, effectively precluding an employer from taking into account benefits attributable to OASDI contributions of former employers of an employee. Pursuant to regulations to be issued by the Secretary of the Treasury, the maximum amount of social security benefits that may be taken into account by any employer may not exceed 1/40 of the total social security benefits permitted to be taken into account multiplied by the number of years of service with that employer.

3. *Top-heavy plans.*—The bill provides that a uniform benefit accrual rule must be applied in testing whether a defined benefit plan is top heavy. Solely for the purpose of determining whether a plan is top heavy or super top heavy, benefits will be considered to accrue no more rapidly than permitted under the fractional benefit accrual rule.

4. Modification of rules for benefit forfeitures effective for years beginning after December 31, 1985.—The bill creates uniform rules for forfeitures under any defined contribution plan. The bill permits, but does not require, forfeitures to be reallocated to other participants in a money purchase pension plan.

These provisions generally apply for years beginning after December 31, 1985. However, with respect to a plan maintained on November 22, 1985, pursuant to one or more collective bargaining agreements, these provisions will apply for years beginning after the earlier of (a) the date on which the last of the collective bargaining agreements terminates, or (b) December 31, 1990.

C. Withdrawal of Benefits

1. Uniform minimum distribution rules.—The bill establishes a uniform commencement date for benefits under all qualified plans, IRAs, tax-sheltered annuities and custodial accounts. Under the bill, distributions under a qualified retirement plan must commence no later than April 1 of the calendar year following the calendar year in which the participant or owner attains age 70-1/2, without regard to the actual date of retirement.

In addition, the bill establishes a new sanction in the form of an excise tax for failure to satisfy the minimum distribution rules.

2. Withdrawal restrictions.—The bill provides that no withdrawals may be made under any tax-sheltered annuity prior to the time an employee attains age 59-1/2, dies, becomes disabled, or separates from service. However, the bill does permit hardship withdrawals of elective contributions.

3. Additional income tax on early withdrawals.—The bill applies a 15-percent additional income tax to withdrawals from a qualified plan, qualified annuity, tax-sheltered annuity, or IRA, made before death, disability, or attainment of age 59-1/2. An exception to this rule is provided for any distribution that is part of a scheduled series of level payments under an annuity for the life of the participant (or the joint lives of the owner and the owner's beneficiary).

A transitional rule makes this tax inapplicable to distributions made to certain participants whose benefits were in pay status on November 6, 1985.

4. Taxation of distributions.—The bill (a) repeals the rule that owners of tax-sheltered annuities are subject to tax when amounts under the annuities become available, (b) repeals the present-law pre-1974 capital gains provisions; (c) replaces the present-law 10-year forward averaging with a new provision permitting one election after age 59-1/2 to claim five-year forward averaging, (d) reorders the present-law basis recovery rules for amounts withdrawn prior to a participant's annuity starting date; (e) eliminates the special three-year basis recovery rule of present law effective for participants whose annuity starting date is after July 1, 1986; and (f) modifies the general basis recovery rules for amounts paid as an annuity.

Special transition rules applicable to individuals who will have attained age 50 on or before January 1, 1986, (1) permit such individuals to make one additional election to claim five-year forward averaging treatment before attainment of age 59-1/2 and (2), solely with respect to such individuals, separately phase out over six years the pre-1974 capital gains provisions.

5. Loans.—Generally effective for loans made after December 31, 1985, the bill (a) reduces the present-law $50,000 limit on loans not treated as distributions by the highest outstanding loan balance of the prior 12 months; (b) provides an exception to the five-year repayment rule only for loans applied to the purchase of the participant's principal residence; and (c) requires level amortization of a loan over the permissible repayment period.

In addition, also effective for loans made after December 31, 1985, the bill provides a deferral of the deduction for interest paid by employees on loans secured by elective deferrals from a 401(k) plan or tax-sheltered annuity (403(b) plan), and also by key employees on loans from any qualified plan. Under the bill, the deferral would be accomplished by denying a deduction for interest, and increasing the participant's basis under the plan by the amount of nondeductible interest paid.

Except as otherwise noted, these provisions apply for years beginning after December 31, 1985.

D. Limits on Tax Deferral

1. Adjustments to limitations on contributions and benefits under qualified plans.—The bill makes several changes to the overall limits on contributions and benefits under qualified plans, tax-sheltered annuity programs, and SEPs of private and public employers. The dollar limit on annual additions under defined contribution plans is decreased from $30,000 to the greater of $25,000, or 25 percent of the defined benefit plan dollar limit. In applying this limit, the bill provides that all employee contributions are treated as annual additions.

The bill also reduces the dollar limit on the annual benefit payable under defined benefit plans from $90,000 to $77,000. If the retirement benefit under a defined benefit plan begins before age 62, the $77,000 limitation generally is reduced so that it is the actuarial equivalent of an annual benefit of $77,000 beginning at age 62. Special rules are provided for commercial airline pilots, police and firefighters under transitional rules provided by the bill, benefits already accrued by a plan participant under an existing plan are not affected by the reductions.

In addition, the bill (1) permits contributions to a qualified cost-of-living arrangement, (2) provides a limit on compensation that may be taken into account under any qualified plan (an amount equal to seven times the defined contribution plan limit), and (3) adds a new 15-percent excise tax on certain excess retirement distributions.

2. Limits on employer deductions.—The bill makes several changes to the limits on employer deductions for contributions to qualified plans. The bill (1) repeals the limit carryforward applicable to profit-sharing and stock bonus plans; (2) extends the combined plan deduction limit to any combination of a defined benefit pension plan and a money purchase pension plan; (3) requires that certain social security taxes be taken into account in applying the 15 percent and 25 percent of compensation deduction limits; and (4) imposes a 10-percent excise tax on excess contributions to qualified plans.

3. Excise tax on reversion of qualified plan assets.—The bill imposes a 10-percent nondeductible excise tax on a reversion from a qualified plan. The tax is imposed on the person who receives the reversion. Under the bill, the tax applies to amounts received as a reversion pursuant to the termination of a plan occurring after December 31, 1985.

These provisions generally apply for years beginning after December 31, 1985. However, with respect to a plan maintained on November 22, 1985, pursuant to one or more collective bargaining agreements, these provisions will apply for years beginning after the earlier of (a) the date on which the last of the collective bargaining agreements terminates, or (b) December 31, 1990.

E. Miscellaneous Provisions Affecting Qualified Plans

1. Plan amendments.—Under the bill, the provisions affecting qualified plans generally apply as of the separately stated effective date (generally years beginning after December 31, 1985). However, a plan will not fail to be a qualified plan for any year beginning before January 1, 1988, provided

(a) the plan complies, in operation, with the changes as of the separately stated effective date;

(b) the plan is amended to comply with the changes no later than the last day of the first plan year beginning after December 31, 1987; and

(c) the amendment applies retroactively to the first day of the first plan year beginning on the separately stated effective date.

Special rules are provided for collectively bargained plans.

2. Penalty for overstatement of pension liabilities.—Effective for returns filed after December 31, 1985, the bill provides a new penalty in the form of a graduated addition to tax applicable to certain income tax overstatements of deductions for pension liabilities. As an addition to tax, this penalty will be assessed, collected, and paid in the same manner as a tax. This addition to tax applies only to the extent of any income tax underpayment that is attributable to such an overstatement. The penalty is similar to the present-law penalty for overvaluations of liabilities.

F. Fringe Benefits

1. Nondiscrimination rules for statutory fringe benefit plans.—Generally effective for years beginning after December 31, 1985, the bill establishes comprehensive nondiscrimination rules as to coverage and benefits for statutory fringe benefit plans. Statutory fringe benefit plans include employer-maintained group-term life insurance plans, health benefit plans (whether self-insured or funded through an insurance company), qualified group legal services plans, educational assistance programs, and dependent care assistance programs. In the case of accident or health plans, the provisions apply for years beginning after December 31, 1986.

2. Nondiscrimination rules for welfare benefit funds and cafeteria plans.—Generally effective December 31, 1985, the bill extends to welfare benefit plans and cafeteria plans nondiscrimination rules similar to those applicable to statutory fringe benefit plans. The bill also modifies the rules governing the year in which benefits under a discriminatory cafeteria plan must be included in income by highly compensated and key employees.

3. Study.—The bill requires that Treasury conduct a study of abuses of the health insurance provisions and make recommendations for changes in the nondiscrimination rules. No later than July 1, 1986, Treasury is required to report the results of the study, together with any recommendations it deems advisable, to the Committee on Ways and Means, the Committee on Finance and the Joint Committee on Taxation.

4. Reporting requirements.—Generally effective for years beginning after December 31, 1985, the bill imposes new reporting requirements with respect to certain fringe benefits paid as wages.

5. Exclusions for 2-year extension of educational assistance and group legal service benefits.—The bill extends for two years the present law exclusions from income for benefits provided under certain employer-maintained educational assistance programs and group legal service plans. The exclusions were scheduled to expire for taxable years beginning after December 31, 1985. Under the bill, exclusions expire for taxable years beginning after December 31, 1987.

G. Changes Relating to Employee Stock Ownership Plans

1. Repeal of employee stock ownership credit.—The bill repeals the special ESOP tax credit for years after 1985. Thus, under the bill, no tax credit is provided for compensation paid or accrued after December 31, 1985.

In addition, effective for terminations after December 31, 1984, the bill amends the tax credit ESOP distribution provisions to permit total distributions upon plan termination.

2. Termination of certain additional tax benefits.—Generally effective for taxable years beginning after December 31, 1988, the bill repeals (a) the special deduction for dividends paid on employer securities allocated to participants' accounts under an ESOP; (b) the provision permitting deferred recognition of gain on certain sales to an ESOP or eligible worker-owned cooperative, and (c) the provision permitting an ESOP or eligible worker-owned cooperative to assume estate tax liability.

In addition, effective for loans made after December 31, 1988, the bill repeals the 50-percent interest exclusion for interest earned in certain securities acquisition loans.

3. Changes in qualification requirements.—Under the bill, additional qualification requirements are provided for ESOPs. These additional qualification requirements (a) require more rapid (ten-year graded) vesting; (b) modify the ESOP nondiscrimination rules to limit the annual amount of employer contributions that may be allocated to employees who are officers, shareholders, or highly compensated; (c) expand the pass-through voting requirements applicable to employer securities held by an ESOP; (d) permit an eligible plan participant to direct the ESOP trustee to diversify a portion of the participant's ESOP account balance; and (e) modify the distribution and put option requirements, including the timing of the employer's payment of the put option price.

These provisions generally apply to ESOPs adopted after December 31, 1985 and, for ESOPs in existence on that date, to amounts contributed after that date.

Title XII. Unearned Income of Minor Children; Trusts and Estates; Generation-Skipping Transfers

A. Unearned Income of Certain Children

The bill provides special rules for calculating the tax liability of children who are under 14 years of age and whose parent or parents are still alive. The bill taxes the unearned income of a child derived from property transferred from the parents (parental-source unearned income) in excess of the child's personal exemption at the parents' marginal tax rate. Earned income and unearned income that is not parental source unearned income is taxed to the child at the child's marginal tax rate. Unearned income is not treated as parental source unearned income if the income is derived from a qualified segregated asset. A qualified segregated asset generally includes earned income, money, or property received from someone other than a parent, and property received by reason of the death of a parent. These provisions are effective for taxable years beginning after December 31, 1985.

B. Income Taxation of Trusts and Estates

Under the bill, the income of most nongrantor trusts is taxed during the lifetime of the grantor at the marginal tax rate of the grantor without a deduction for distributions to beneficiaries. After the death of the grantor, the income of all trusts created by the grantor and the grantor's estate is taxed without a distribution deduction and by allocating one set of tax brackets among the grantor's estate and all trusts created by the grantor.

If one beneficiary is entitled to all distributions from a trust and all undistributed amounts are ultimately subject to the control of the beneficiary (called a "qualified beneficiary trust"), the income of that trust is taxed at the marginal tax rate of the beneficiary.

If all beneficiaries of the trust are children of a grantor (called a "qualified children's trust"), the income of the trust may be taxed at the marginal rate of any child for any year that the child is minor.

A grantor of a trust is treated as the owner of the trust if the grantor retains a power to revoke the trust, if the grantor (or grantor's spouse) retains the right to receive the trust income or the power to use the trust income, and if the grantor retains certain administrative powers over the trust.

The provisions of the bill are effective for trusts created, and trust contributions made, on or after September 25, 1985. In the case of estates, the provisions are effective for decedents dying on or after September 25, 1985.

C. Generation-skipping Transfer Tax

The bill amends the present generation-skipping transfer tax to impose a flat-rate tax both on transfers involving a sharing in benefits in more than one generation and direct transfers that skip generations. A $1 million per transferor specific exemption is provided, with transfers in excess of that amount being subject to tax at a rate equal to the maximum gift and estate tax rate.

Title XIII. Compliance and Tax Administration

A. Penalties

1. Penalty for failure to file information returns or statements.—The bill consolidates the present-law penalty for failure to file an information return with the IRS and the present-law penalty for failure to supply a copy of the information return to the taxpayer. The bill also provides a new penalty for failure to include correct information on an information return. This applies to information returns the due date for which is after December 31, 1985.

2. Increase in penalty for failure to pay tax.—The bill increases the penalty for failure to pay taxes from one-half of one percent under present law to one percent after the IRS notifies the taxpayer that the IRS will levy upon the assets of the taxpayer. This applies to amounts assessed after December 31, 1985.

3. Negligence and fraud penalties.—The bill expands the scope of the negligence penalty by making it applicable to all taxes under the Code. The bill also provides that failure to report on a tax return any amount reported on an information return is considered negligence in the absence of clear and convincing evidence to the contrary. The bill modifies the fraud penalty by increasing the rate to 75 percent but applying the penalty only to the amount of the underpayment attributable to fraud. This is effective for returns the due date of which is after December 31, 1985.

B. Estimated Tax Payments by Individuals

The bill increases from 80 to 90 percent the proportion of the current year's tax liability that taxpayers must make as estimated tax payments in order to avoid the estimated tax penalty, effective for taxable years beginning after December 31, 1985.

C. Attorney's Fees and Exhaustion of Administrative Remedies

1. Attorney's fees.—The bill extends through the end of 1989 the provision of present law authorizing awards of attorney's fees in tax cases where the Government's position was unreasonable. The bill also provides that all or a portion of that award may be assessed against an IRS employee if the court determines that that employee's arbitrary or capricious act caused the lawsuit to occur. This applies generally to proceedings commenced after December 31, 1985.

2. Exhaustion of administrative remedies.—If a taxpayer does not use reasonable efforts in good faith to resolve a dispute through administrative proceedings (such as, for example, meeting with the Appeals Division of the IRS), the Tax Court may award damages of $120 to the United States. This applies to any action or proceeding in the Tax Court commenced after December 31, 1986.

D. Tax Administration Provisions

1. Authority to rescind notice of deficiency.—The bill gives the IRS authority, if the taxpayer consents, to rescind a statutory notice of deficiency.

2. Authority to abate interest.—The bill gives the IRS the authority to abate interest attributable to error or delay by an IRS employee in performing a ministerial act.

3. Suspension of compounding when underlying interest is suspended.—The bill suspends the compounding of interest in circumstances in which the underlying interest on the deficiency is also suspended.

4. Additional exemption from levy.—The bill exempts from IRS levy military service disability benefits.

5. Modification of amounts subject to administrative forfeiture.—The bill increases the value of property subject to administrative forfeiture because it has been used in violating Internal Revenue laws to the level applicable to similar Customs offenses.

6. Certain recordkeeping requirements.—The bill provides that IRS special agents are subject to the same income inclusion and recordkeeping rules that other law enforcement officers are with respect to use of an automobile.

E. Interest Provisions

1. Differential interest rate.—The bill provides that the Government pays interest to taxpayers at the three-month Treasury bill rate plus 2 percentage points, and that taxpayers pay interest to the Government at the three-month Treasury bill rate plus 3 percentage points. These rates are adjusted quarterly, and apply to interest for periods after December 31, 1985.

2. Interest on accumulated earnings tax.—The bill provides that interest is imposed on underpayments of the accumulated earnings tax from the due date of the tax return with respect to which that tax is imposed. This applies to returns the due date for which (determined without regard to extensions) is after December 31, 1985.

F. Modification of Withholding Schedules

The bill instructs the Treasury to modify withholding schedules to better approximate actual tax liability under the amendments made by the bill.

G. Information Reporting Provisions

1. Real estate transactions.—The bill provides that the settlement attorney or other stakeholder must provide an information report on real estate transactions. This is effective on January 1, 1986.

2. Information reporting on persons receiving Federal contracts.—The bill requires Federal executive agencies to provide information reports on contracts that they enter. Reporting is required beginning on January 1, 1986.

3. Information reporting on State and local taxes.—The bill (sec. 145) requires that State and local governments provide information reports on income taxes, real property taxes, or personal property taxes they collect, effective with respect to payments received after December 31, 1986.

4. Tax-exempt interest.—The bill requires every person who files an income tax return to report on that return the amount of tax-exempt interest received or accrued during the taxable year. This applies to taxable years beginning after December 31, 1985.

H. Report on Return-Free System

The bill requires the Treasury to report to Congress on the potential for implementing a return-free system for individuals. The report is due not later than six months after the bill's enactment.

I. Collection of Diesel Fuel Excise Tax

The bill provides that the diesel fuel excise tax may be imposed on the wholesaler (rather than the retailer) of the fuel. This applies to sales after the first calendar quarter beginning more than 60 days after the date of enactment.

Title XIV. Miscellaneous Provisions

1. Foster Care Payments

Currently, a foster parent may exclude from gross income reimbursements for expenses of caring for a foster child. The bill modifies the exclusion to apply to foster care payments, rather than expense reimbursements, so that detailed recordkeeping by the foster parents will not be necessary. This provision is effective for tax years beginning after December 31, 1985.

2. Reinstatement of Rules for Spouses of Vietnam MIA's

Under the bill, certain tax relief provisions applicable with respect to Vietnam MIA's (and their spouses) that expired after 1982 are retroactively reinstated and made permanent.

3. Olympic Trust Fund and Excise Tax on U.S. Television and Radio Olympic Broadcast Rights

a. Excise tax.—The bill imposes a new 10-percent excise tax on amounts paid for U.S. television and radio Olympic broadcast rights, effective for amounts paid after November 22, 1985, for such rights other than pursuant to binding contracts in effect on November 22, 1985. The excise tax is to apply notwithstanding any U.S. treaty provision entered into before, on, or after the date of enactment.

b. Olympic Trust Fund.—The bill establishes a new United States Olympic Trust Fund, to receive amounts from the new excise tax. Trust Fund monies are to be available, less related Treasury administrative expenses, to be paid to the U.S. Olympic Committee for training facilities, coaches, and other Olympic-related development expenditure purposes.

4. Exemption From UBIT for Certain Activities

The bill provides exemptions from the unrelated business income tax (UBIT), in the case of certain tax-exempt organizations eligible to receive charitable contributions, for income from (a) exchanges or rentals of mailing lists with or to other such organizations, and (b) certain distributions of low cost articles incidental to soliciting charitable contributions, effective on the date of enactment.

5. Allocation of Cooperative Housing Corporations

Cooperative housing corporations that charge tenant-stockholders with a portion of the cooperative's interest and taxes in a manner that reasonably reflects the cost to the cooperative of the interest and taxes allocable to each tenant-stockholder's dwelling unit, may elect to have such tenant-stockholders deduct the separately allocated amounts for income tax purposes (rather than amounts based on proportionate ownership of the shares of the cooperative). The provision is effective for taxable years beginning after December 31, 1985.

6. Personal Holding Companies

An exception from the definition of personal holding company income is provided for computer software royalties that are received by certain corporations that are actively engaged in the business of developing computer software. Another exception is provided from the definition of personal holding company income for interest on securities held in the inventory of a dealer in securities. In addition, a dealer in securities may deduct interest on "offsetting loans" in computing its interest income. The provisions are effective for royalties and interest received after December 31, 1985.

7. Adoption Assistance Program of the Social Security Act

The bill modifies the Adoption Assistance Program under Title IV-E of the Social Security Act to provide assistance for certain expenses incurred in adopting a child with special needs. These are the same expenses as qualify for the present-law itemized deduction which is repealed in Title I of the bill.

Title XV. Technical Corrections

This title contains technical, clerical, conforming and clarifying amendments to provisions enacted by the Tax Reform Act of 1984, the Retirement Equity Act of 1984, and other recently enacted tax legislation, as well as similar amendments to nontax provisions of the Deficit Reduction Act of 1984.

II.—Summary of Estimated Revenue Effects of Tax Provisions of H.R. 3838, as Reported by the Committee on Ways and Means, Fiscal Years 1986–1990

[Millions of dollars]

Title and provision	1986	1987	1988	1989	1990	1986–90
I. Individual Income Tax Provisions						
Individual	−15,076	−39,894	−53,555	−57,640	−63,523	−229,688
Corporate	668	1,070	1,117	1,246	1,346	5,447
Total	−14,408	−38,824	−52,438	−56,394	−62,177	−224,241
II. Capital Income Provisions						
Individual	1,295	3,818	5,740	8,275	12,264	31,392
Corporate	9,064	17,179	23,531	29,842	39,798	119,415
Excise	−2	−3	−3	−1		−9
Total	10,357	20,994	29,268	38,116	52,062	150,797
III. Corporate Provisions						
Individual	227	618	593	539	539	2,515
Corporate	−5,531	−15,958	−20,988	−21,662	−21,999	−86,138
Total	−5,304	−15,340	−20,395	−21,123	−21,460	−83,622
IV. Tax Shelters						
Individual	28	129	234	363	460	1,214
Corporate	−26	−65	−140	−212	−311	−754
Total	2	64	94	151	149	460
V. Minimum Tax Provisions						
Individual	800	4,255	5,170	4,679	4,235	19,139
Corporate	1,171	1,551	909	920	1,247	5,798
Total	1,971	5,806	6,079	5,599	5,482	24,937
VI. Foreign Tax Provisions						
Individual	22	38	42	49	52	203
Corporate	979	1,647	2,222	2,899	3,376	11,123
Excise	23	39	44	49	55	210
Total	1,024	1,724	2,308	2,997	3,483	11,536

II.—Summary of Estimated Revenue Effects of Tax Provisions of H.R. 3838, as Reported by the Committee on Ways and Means, Fiscal Years 1986–1990—Continued

[Millions of dollars]

Title and provision	1986	1987	1988	1989	1990	1986–90
VII. Tax-Exempt Bonds						
Individual	118	461	799	1,025	1,269	3,672
Corporate	14	−66	−162	−194	−169	−577
Total	132	395	637	831	1,100	3,095
VIII. Financial Institutions						
Individual	−43	−192	−406	−619	−836	−2,096
Corporate	944	1,476	1,389	1,484	1,803	7,096
Total	901	1,284	983	865	967	5,000
IX. Accounting Provisions						
Individual	602	1,639	1,401	1,696	1,503	6,841
Corporate	6,147	11,864	15,399	14,265	12,288	59,963
Total	6,749	13,503	16,800	15,961	13,791	66,804
X. Insurance Products and Companies						
Individual	2	5	5	5	5	22
Corporate	979	1,891	2,193	2,547	2,855	10,465
Total	981	1,896	2,198	2,552	2,860	10,487
XI. Pensions and Deferred Compensation; Fringe Benefits; ESOPs						
Individual	851	2,262	3,662	4,851	5,594	17,220
Corporate	1,065	2,132	1,405	740	595	5,937
Excise	20	56	58	60	62	256
Total	1,936	4,450	5,125	5,651	6,251	23,413
XII. Minor Children; Trusts and Estates; GST						
Individual	194	817	634	703	789	2,937
Estate and gift		−3	−7	−7	−8	−25
Total	194	814	627	696	781	2,912
XIII. Compliance and Tax Administration						
Individual	2,840	847	1,014	1,091	1,263	7,055
Corporate	110	239	270	187	392	1,198
Excise	13	8	8	8	8	45
Estate and gift	12	12	12	12	12	60
Total	2,975	1,106	1,304	1,298	1,675	8,358
XIV. Miscellaneous Provisions						
Individual	(*)	(*)	(*)	(*)	(*)	(*)
Corporate	−8	−17	−18	−19	−21	−83
Excise				10	15	25
Total	−8	−17	−18	−9	−6	−58
XV. Technical Corrections						
Individual	−182	−18	−17	−14	−13	−244
Corporate	−2	(*)	−22	−24	(*)	−48
Excise	10	5	5	5	5	30
Total	−174	−13	−34	−33	−8	−262
Totals						
Individual	−8,322	−25,415	−34,684	−34,997	−36,400	−139,818
Corporate	15,574	22,943	27,106	32,039	41,201	138,862
Excise	64	105	112	131	145	557
Estate and gift	12	9	5	5	4	35
Grand total	7,328	−2,358	−7,462	−2,822	4,950	−364

*Loss of less than $5 million.

NOTE.—Detail does not add to total due to rounding.

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Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. ROSTENKOWSKI. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, I offer my support today to the Ways and Means Committee's tax bill. This is not a perfect tax bill. There are some provisions I do not agree with and if I had had the opportunity to write the bill myself, I would have written some provisons differently. But this bill does generally reduce the individual tax burden, so I support it.

But, Mr. Chairman, it is unfortunate that we will not be allowed to amend this legislation today to correct a significant problem. A provision in this legislation eliminates the current exemption for pensions which reflect the employee's contribution to his or her retirement system.

Existing law provides an assumption that an employee's contribution to a pension fund which has been previously taxed for the year in which it was contributed, would be the first proceeds paid out at retirement. They thus would not be subject to any double taxation of the employee's pension contribution.

The legislation we are considering today, though, immediately imposes a tax consequence and eliminates the presumption that the retiree would draw upon their own money first.

Many workers in this country have made transitional plans for their retirement and have counted heavily on the present tax policy during the initial phase of their retirement. This committee provision deflates those plans.

I will support today this legislation and I commend the committee and its chairman for the long and arduous commitment devoted to the cause of tax reform. But I will also support legislation in the future to return to the books the assumption that pensions will not be subject to double taxation.

Mr. DUNCAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of the substitute, which we shall discuss later, but also in opposition to the Ways and Means Committee or the Rostenkowski legislation.

It is not pleasant to oppose my fine Chairman, DAN ROSTENKOWSKI, who I consider the best committee chairman on the Hill, and a man for whom I have the greatest respect and admiration. In fact, during our many years together, first he as the chairman of the Health Subcommittee and I as the ranking Republican, then later on Select Revenue he was the chairman and I was the ranking Republican, and now he is my Chairman on the Ways and Means Committee. I think this is the first time we have had a major difference, and I pray that our friendship will continue.

And, likewise, Mr. Chairman, it is difficult to oppose my President, who I consider to be the best President of my lifetime. I think, however, there comes a time in each of our political careers when subservience to political party and pressure from political leaders must be transcended by what we consider in the best interests of America. When we reach the place where political loyalty transcends what is best for our country, then it will no longer be a privilege or an honor to serve in this body.

Today we are being asked to vote on a concept, the Ways and Means concept, and later the Republican concept. It is a concept that the President himself does not like. However, he supports the Republican alternative and also the Democratic proposal as merely a vehicle to move the process within the view that the Senate will clean it up. If anyone believes the Senate will clean it up, it certainly is not this Member. I have been in the House 21 years, and I have never seen the Senate clean up our dirty kitchen, and I do not think they are going to be our saviors in this tax bill. In fact, just yesterday, Senator PACKWOOD, the chairman of the Senate Finance Committee, said, "It is likely that the bill you send over will be pretty much the same one that will come back," and before that he said, "We are not going to be your saviors in the Senate."

When President Reagan gave us his tax reform concept, he used three terms to describe the goals he intended to achieve: Fairness, simplicity and economic growth.

Since then, these goals have been adopted by many others, including Members of this body, who feel our Internal Revenue Code should be restructured. They have now become widely accepted as the leading hallmarks of what is perceived to be good tax reform.

Today we have before us, as I say, two different approaches, or pathways, to these goals. I feel fortunate that I am sponsoring the approach which points us much more clearly in the direction of fairness, simplicity and economic growth. This approach, which has taken shape as the Republican alternative to the bill reported by the Committee on Ways and Means, was not developed overnight, and neither was it in the works when the President sent his tax reform plan to the Congress in May.

Mr. Chairman, as the committee began preparing for the markup to deal with tax reform, we, Republican members of Ways and Means, drew up a statement of principles, or guidelines, which we believed should be followed in the markup. That statement, signed by all committee Republicans, all 13, was made public in August. It was based on the President's stated goals of fairness, simplicity, and economic growth, and it called for special attention to more specific matters as marginal rate reduction, foreign competitiveness, capital formation, national security, and retirement savings.

What we have now from the Ways and Means Committee, Mr. Chairman, is not tax reform. It is a long way from tax reform. It is a tax redistribution from our own committee.

When the committee began its deliberations, we Republicans wanted to mark up from the President's proposal, and we offered a motion to that effect, but we were defeated on a rollcall vote. Nevertheless, we rolled up our sleeves and began working with the markup document that the majority wanted. As time went on, however, we learned that major decisions on the composition of the bill were being made, and we were not a part of that decision. When we realized that legislation was taking place and taking a form we simply could not accept, we began developing our own program. We firmly believe it is closer to the original tax reform concepts and that it, therefore, represents a more realistic vehicle to reach the three great goals of fairness, simplicity, and economic growth.

Let us just take one item, if we may. The first is fairness. And I believe that the fundamental burden of distribution tables shows vividly that the Republican alternative is indeed a great deal more fair than the committee bill.

In just about every situation, at just about every income level, our alternative shows up better. This is especially true of taxpayers with families. For example, the committee's bill reduces a taxpayer's itemized deduction by $500 per dependent. I repeat: The committee's bill reduces a taxpayer's itemized deductions by $500 per dependent. This means that a family of 5 loses $2,500. Our Republican alternative moves in the opposite direction. It does not penalize families. It further provides a full $2,000 personal exemption for each taxpayer and each dependent up through the first two brackets. This accounts for all but 10 percent, the richest, of the taxpayers.

Some observers, particularly those from high tax States, have adversely criticized our Republican alternative because it reduces certain itemized deductions by 30 percent above a $1,000 floor. They suggest that the committee bill has an edge because it ostensibly allows full deductibility of State and local taxes. But they ignore—I hope they do not intend to mislead—the fact that taxpayers who itemize their deductions must, under the committee bill, reduce those deductions by $500 for each personal exemption they claim.

Now, I ask you: What is fair about that?

Mr. Chairman, I would recommend strongly that the Members take a close look at the comparisons of H.R. 3838, the committee bill, and our alternative with respect to itemizers.

These comparative analyses have been prepared by the accounting firms of Arthur Andersen and Ernst & Whinney, and have been confirmed by the Congressional Research Service. Copies of the analyses are available here on the floor. They show that our alternative allows larger itemized deduction totals and produces lower taxable incomes for virtually all taxpayers who have less than $75,000 in income. But that is not the income group we felt it most important to protect in designing the Republican alternative. Our alternative also provides a lower maximum tax rate for all individuals. It does so right away, not starting the first of the year, as the committee bill does.

The committee bill does not implement its tax rate changes until next July and will, as result, actually trigger a tax increase, not decrease, for some taxpayers in 1986.

But perhaps even more importantly, Mr. Chairman, from a public perception standpoint, the Republican alternative would make sure that everyone pays a tax if there is enough income to qualify.

□ 1530

I am sure that each of us has heard constituents complain about some big corporations and individuals reportedly earning a profit but not paying any taxes. Well, this still could happen under the committee bill, but it could not happen under our alternative. We have got a "Super-minimum tax" which guarantees that all taxpayers will pay at least some tax for any year in which they earn income.

As far as I am concerned, that is a real and very understandable test of fairness. The committee bill would flunk the test; the Republican alternative would pass with flying colors.

As for simplicity, our alternative wins over the committee bill hands down. All you have to do is look at the two of them, H.R. 3838 and H.R. 3879. Even better, just pick them up. It will not be hard to tell which is simpler. H.R. 3838 includes many unnecessary complications of tax law in the area of pensions and other benefits, and especially tax-exempt bonds. Our alternative avoids adding these complexities. It certainly is not as simple as I would like it to be, but it is certainly a great deal less complicated than its competition.

Although our Republican alternative shows up well in terms of fairness and simplicity, it shines even brighter in terms of growth. Our alternative favors jobs very heavily, and if people do not have jobs, they certainly are not going to have much money to spend, much less to pay taxes.

Every economist that I have talked to says the Ways and Means bill would dampen economic growth and the creation of new jobs by crippling investment and spending for new plants and equipment. The President's Chief of Economic Advisers told us recently at the White House that this bill would slow down the economy in the short fall. I later asked him what he meant by the short fall, and he said, "Two or three years." Are you willing to sit back and see our economy that we are enjoying so much slow down?

We do not live in this world alone, and the Ways and Means bill certainly would impair our ability to compete internationally. Almost every witness at the Ways and Means Committee, at the hearings, and we had good and fair hearings, almost every witness said that it would impair their ability to compete in international markets. Our bill would keep alive our country's industrial base on which we have depended for so many generations for fundamental financial well-being.

For one, I am not about to support any tax proposal which clearly threatens to undermine that base and jeopardize our economy self-sufficiency. Our alternative retains a vital part of the Investment Tax Credit. Five percent for industrial equipment purchased in the United States, not abroad. It has a better depreciation system than the committee bill in large part because it would permit full indexing of depreciation starting next year.

I have been given strong and believable evidence that cutting back radically on depreciation and erasing the Investment Tax Credit would invite a serious recession. As for me, I am simply not willing to run that risk. I do not believe that our economy is robust enough to withstand a major shock. It is clear to me that the Republican alternative not only has a definite advantage in terms of fairness, simplicity, and growth, it also is a much more balanced package than its competition. It generally would change law where there is a good reason for change, and leave alone those provisions which do not need change or should be considered for adjustment in another context.

Take, for example, the tax treatment of pensions and retirement systems. The Republican alternative improves pension law by adding spousal IRA's and protecting 401k plans. We give, in our bill, the full $2,000 deduction for IRA's to the spouse. What does the Ways and Means Committee give the spouse? Nothing but the little, piddingly $250 that she has always received although she works just as hard as her spouse who works away from home.

As I have indicated, it does not see revisions in other areas where alterations were made relatively recently and where congressional committees and subcommittees are now conducting broad-scale reviews.

Finally, Mr. Chairman, I would note that the alternative phases in minimum marginal tax rates of 37 percent for individuals by 1991 and 33 percent for corporations. Both levels much lower than the committee bill. It also will attain revenue neutrality and protect home mortgage deductions as mandated by the President and dramatically cut tax burdens on virtually all low and middle income taxpayers. As indicated earlier, it will provide a full $2,000 personal exemption for all taxpayers.

Under the new rule granted for debate yesterday, my substitute has been modified with respect to basic recovery rules of qualified pension plans, and this is one matter that was brought up I think by, and with more concern, by more Democrats than by Republicans.

By way of background, current law provides that taxpayers who contribute to a retirement plan and elect to receive benefits from that plan in the form of an annuity are subject to special tax rules. Under these rules, the portion of each annuity payment generally is excluded from income. This excluded portion represents the taxpayer's contribution to the plan. An exception for this rule allows the taxpayer to receive contributions, tax free, over a 3-year period. After this period, all amounts are included in income.

The committee bill before us today would also repeal the 3-year tax-free recovery rule. Thus, amounts received during this period no longer would be totally excluded from income. Generally effective for those who retire after July 1, 1986. My substitute, pursuant to the rule, would retain current law and thus continue the 3-year recovery rule.

In closing, Mr. Chairman, may I say I think the Republican alternative has much to offer and a wide range of interests to our society. It is not perfect legislation; it is not perfect tax reform. Just as the chairman says, there are a lot of things less than desirable in all of our proposals.

I appreciate the chairman telling you that special interests did help write the tax bill that we have before us today. Not this bill, but the other one. Special interest giveaways are on every page, almost throughout at a cost of billions and billions of dollars. Ours is a better bill, and it is a better tax reform than H.R. 3838. If you really think carefully about it, I believe the Members will agree that the alternative is the one that you will want to send to the other body. As far as I am concerned, it is the easiest choice I have ever made, and I urge the Members to make the same choice. I feel sure you are going to be mighty glad that you did.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 5 minutes to the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. I thank the gentleman for yielding me this time.

Mr. Chairman, before I came to the House of Represenatives, I was an elected State tax official in North Dakota. I probably have seen more tax returns than anyone serving in the House of Representatives. I have seen hundreds of tax returns over the years when I served in the capacity, and I can tell you that all of the stories that you read and hear about who pays taxes and who does not pay their fair share of taxes—they are right.

In fact, the Tax Code is worse than you read in the newspapers. The Tax Code is a feedlot for the rich; a straitjacket for the rest. If you are on a W-2 form, you do not have flexibility. You earn money; you pay taxes. But some interests in this country earn billions and millions and pay nothing. Now, change it? It is easy to say "change it." People have been saying that for years.

□ 1540

How do we change it? Well, we start with some proposals, with a proposed tax reform bill. And then the entire structure of American interest groups comes to Washington, DC, and they say, "On that proposal you have, this tax reform, we support you, we are with you, we are behind you, but just don't change our special deal. We want to keep that."

And so it goes. Well, we changed it anyway. We had months of a markup. We finally came out with a bill. It is kind of like back in my home area when the hogs get in the corncrib and you try to get them out. Those who squeal the loudest are always the ones who are fed the longest. The fact is that those who are upset with what is in this bill are those who were getting too much from the Tax Code.

This is good tax reform. It closes tax loopholes, it broadens the base, it lowers the rates, and it provides a good, strong, certain minimum tax.

There are those who are charging that this bill will cause a recession. To those I say, "You are wrong; it is not going to cause a recession."

Why would it cause a recession to ask people who are not paying taxes who should be paying taxes to start paying taxes to our Government? It is not going to cause a recession.

I heard last night on television a Member of this House say that the Chairman of the President's Council of Economic Advisers predicts that this bill will cause a recession. I called the Chairman of the President's Council of Economic Advisers this morning, and I said, "I have heard this individual and I have heard other individuals say several times that you have said this will cause a recession. Is that so?"

"It's absolutely not true; it isn't going to cause a recession. I've never said it's going to cause a recession."

Now, when someone comes to the floor of the House during this debate, if they plan to say that the Chairman of the President's Council of Economic Advisers has said this bill will cause a recession, I want to be here and ask them, "Have you called the President's adviser? I talked to him this morning, and he said, 'that's a bunch of baloney, I've never said it.'"

This bill will preside over economic growth. This bill will close tax loopholes. This bill will be good for this country.

Mr. ROSTENKOWSKI. Mr. Chairman, will the gentleman yield?

Mr. DORGAN of North Dakota. I am happy to yield to the gentleman from Illinois.

Mr. ROSTENKOWSKI. When did the gentleman talk to the Chairman of the Council of Economic Advisers for the President?

Mr. DORGAN of North Dakota. I talked to Dr. Sprinkel about 11:30 this morning.

Mr. ROSTENKOWSKI. Well, would you be kind enough to repeat what he said?

Mr. DORGAN of North Dakota. Absolutely; and the reason I called him is that I have heard, not just once but a half-dozen times, Members charge that if this bill is passed, the Chairman of the President's Council of Economic Advisers predicts that this will cause a recession.

I thought, "Well, that can't be the case. Why on Earth would the President come to this Hill asking for passage of a bill that his major economic adviser says will cause a recession?" So I called him. He said, "That's absolutly wrong; I didn't suggest that at all." He said, "I did say that Treasury 2 will probably provide better growth than the Ways and Means Committee bill, but," he said, "there's going to be a period of adjusment. There may even be a slowdown in growth, but there will be growth. There will not be a recession."

That is the word from the Chairman of the President's Council of Economic Advisers. I think that is important for this body to understand.

Mr. ROSTENKOWSKI. Will the gentleman yield further?

Mr. DORGAN of North Dakota. I am happy to yield to the gentleman from Illinois.

Mr. ROSTENKOWSKI. I agree with what the Chairman of the President's Council of Economic Advisers said. He also said this in the Cabinet room last week before a joint leadership meeting, and said exactly what the gentleman from North Dakota is pointing out. I am glad that the gentleman has pointed this out.

Mr. Chairman, I yield an additional 2 minutes to the gentleman from North Dakota [Mr. Dorgan].

Mr. DORGAN of North Dakota. Mr. Chairman, I thank the chairman of the committee.

I simply wanted to point out that in this debate we will likely hear again some Member come to the floor and say that it is estimated by the Chairman of the Council of Economic Advisers that this will cause a recession, and I am saying that is not what the Chairman says. He said he did not say it, he would not say it, and this will not cause a recession.

There are some who say that this will interfere with our ability to compete internationally. That is not so. We treat capital more generously than all the Western European nations do in their tax codes.

Some say, "Well, but the Japanese treat capital more generously than we do." I do not know the answer to that. I think it is kind of a close call. But let me tell you what the Japanese do to their corporations. Japan, with only one-third of our gross national product, collects more dollars from their corporations in income taxes than we do. Think of that. They have only one-third of our economy, but they collect more corporate income taxes than we do, plus the fact that the effective corporate tax rate in Japan is twice the effective corporate tax rate in America.

So, you are wrong when you say that this will affect international competition in an adverse way for the capital-intensive industries in America.

Some say this is bad for agricultural. I say they are wrong. The gentleman from Nebraska [Mr. Daub] and I put together an agriculture package that is in this bill. He will explain, I am sure, and let me explain that I think this bill is good for farmers for a half a dozen reasons. I do not want to elaborate, but we preserved cash accounting, we preserved preproduction expenses, and we did a number of things that are good for family farmers. But at the time we tried to take a slice out of that stream of income that allows lawyers and doctors from the big cities of America to want to tax-loss farm. We do not want that, we do not think that is proper, and we did something in the Tax Code that moves in the right direction in that area.

Finally, we have a minimum tax, and it is a strong minimum tax and one we can be proud of.

Mr. Chairman, let me say in conclusion that almost every politician I know has made a living saying that we would like to reform the Tax Code, but no politician has kept that promise.

What will this cause? Will it cause a recession or international competitive problems? No, it will cause those who have been freeloaders in this American tax system to have to pay some taxes. That will not cause anything but a big pleasant surprise for the middle-income Americans who have had to bear the burden of the Tax Code in this country for so many years.

Mr. Chairman, I ask the Members to pass this bill because it is the best reform we have had in this century.

Mr. DUNCAN. Mr. Chairman, I yield 10 minutes to the gentleman from New Hampshire [Mr. Gregg].

Mr. GREGG. Mr. Chairman, let me say to the gentleman from Illinois [Mr. Rostenkowski] and the gentleman from Tennessee [Mr. Duncan] that I do not rise today to say that the Rostenkowski bill as proposed by this House is a fundamentally bad bill. But it is not a bill which is going to accomplish the goals we desire if we are seeking tax reform.

Earlier today the Speaker of the House spoke, and I thought it was one of his better speeches since I have been in the House, granted that that has only been 5 years. But he talked about the fact that we have a voluntary tax system which is threatened today by an erosion in the confidence of the American people as to whether or not it is a fair tax system, one in which there is equal treatment of people within the tax system. So I guess the question for us as a Congress has to be whether or not the bill that is being brought to us by the Committee on Ways and Means addresses the fundamental questions which tax reform forces on us.

Those questions which we agreed to at the beginning of this process and which the Speaker of the House alluded to include: First, that we have a fair tax—and by that we mean that people in generally the same income tax bracket pay generally the same amount of taxes; second, that we have a tax system which significantly cuts rates; third, that we have simplification; fourth, because it is forced on us for political reasons, that we have revenue neutrality; fifth, that we have a tax system which as little as possible interferes with the investment decisions of the marketplace, and that instead of the present tax system which drives the marketplace through tax policy, we have a tax system which steps back to the marketplace and says capital will flow where it can best be invested; and sixth, that we have a basically profamily-oriented tax system.

Those are the standards which we should apply to the question of whether or not we have a legitimate tax reform bill on the floor of the House today in the form of the Ways and Means Committee proposal. In my opinion, the Ways and Means Committee proposal, although it is a hard effort and one which I admire the chairman of the committee for having made, does not accomplish those goals.

Is it tax reform, is it fairness to say to a family in the $30,000 bracket, where 60 percent of the families in this country itemize, that if they have a child, their child is worth $500 less than the child of the family that does not itemize? Is that fairness? Is that equality across the board? Is that equal tax treatment within the same income brackets? Of course, it is not.

Is it simplification to produce a bill which has 1,370 pages and stratifies the tax law into two degrees so that now you have not only a basic tax law of 1,300 pages but you have a tax law which has a tax law on top of it called the alternative minimum tax which jumps from a $2 billion tax to a $34 billion tax? In fact, I would simply ask, if we had accomplished tax reform, would we even have an alternative minimum tax? Of course, we would not because we would have closed the loopholes which the tax reform law was directed at.

Is it investment neutrality to include in the new tax law a whole series of deductions which are presently in our present tax law and which are included not because they make tax-policy sense, but because they make sense because the vote was gained by including them in our tax law?

□ 1550

And I would take as the biggest violator of that principle the issue of State and local taxes.

Why should the whole issue of tax reform have turned on the issue of whether or not State and local taxes is deductible? Because that is what it did, Mr. Chairman. That one item of over $160 billion over 5 years controlled all the major decision processes, not only on the individual side, but also on the corporate side of what type of deductions would be included and what type of deductions would not be included in this tax bill.

And what we have said by saying that State and local taxes will be fully deductible is that the low-tax States in this country will continue to subsidize the high-tax States, that the nonitemizer in this country who does not get the benefit of State and local deduction, whether he is in a low-tax State or a high-tax State, will continue to subsidize the itemizer. And let us remember that when you get over $100,000 of income, 99 percent of the people in this country itemize, and so you are essentially saying the low income will subsidize the high income.

Is that tax reform? Of course it is not tax reform.

Is this bill profamily? I seriously doubt that you can argue that it is profamily when it puts off the standard deduction for an entire year in the first year of the bill. It is saying to the family that does not itemize, you are going to pay a tax on the standard deduction as it is presently structured in 1986, you are going to lose all your tax benefits in 1986, and then in 1987 we will give you the higher standard deduction.

Is it fair? Is it tax reform when you do not institute the tax rate break until July of 1986? Is it tax reform when you do not institute the standard deduction, as I mentioned, until January of 1987? Is it tax reform when you set the break points so that, yes, you have three or four rates and they look very attractive, but you actually have a break point—that is the point at which people start to pay taxes—where a person will be in a tax bracket that is a higher tax bracket than under present law? So if you happen to be in the 25 percent tax bracket under present at $26,000 today, under the proposed committee proposal, you will be in that 25 percent tax bracket at $22,500 under the new bill. Is that tax reform? Of course it is not tax reform.

What we have here, Mr. Chairman—and it is unfortunate because it was a hard effort, and I genuinely admire the perseverance of our Chairman—but what we have here essentially is a bill which was purchased, a bill which arose out of the political process. It is tax reform or a ship of tax reform without a rudder. It is a tax reform that is set on a course but lost its direction. It is driven not by tax reform philosophy, but by political expedience.

We have, if we pass this bill, unfortunately, a situation where we would be creating a pause in the economy as people try to relocate and reset their sails under the new tax law, because we have not closed enough loopholes or exemptions to cause people to make investment decisions independent of tax law. We have simply said to them you must reorient your investment decisions.

Thus, if we pass this bill today, we will essentially be forcing upon the economic investment community in our country a pause, and inevitably there will be a slowdown, whether the Chairman of the Joint Chiefs of Advisers to the President acknowledges it or not, whatever his name may be.

The fact is that on the face of it we are going to have to have a slowdown if we have this sort of economic reorientation.

And what your bottom-line question has to be is, did we go far enough down the road of tax reform to justify that economic slowdown? Is this bill good enough to justify that sort of a gamble with our economy? And I think the answere has to be no.

The President has said that were this bill to come to his desk today in its present form, he would veto it. How can he ask us, as a House, to pass such a bill? Is it to be our fate that we moved the process along in order to move a bad bill, or is it to be our epitaph that we were willing to stop the process right here and say let us put together a bill which represents real tax reform rather than pass a bill simply to keep the process moving?

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. GONZALEZ].

Mr. GONZALEZ. Mr. Chairman, I thank the distinguished Chairman. I rise to ask a couple questions.

One has to do with the main reason why I am tending to support this and voted for the rule this week and last week and that is that my district has the highest number of families with the lowest per-capita family income in the State of Texas. As I understand it, that would be part of the 6½ million poorer working families that would derive benefit from this bill. That proviso is still in the bill, as I understand it.

Mr. ROSTENKOWSKI. Mr. Chairman, if the gentleman will yield, absolutely. I should imagine that if the gentleman from Texas [Mr. GONZALEZ] has those working poor, his people would be taken off the tax rolls.

Mr. GONZALEZ. Second, what about the earned income tax credits? My understanding is this would be indexed.

Mr. ROSTENKOWSKI. Actually, I say to the gentleman from Texas [Mr. GONZALEZ], they are substantially liberalized, but of course they are indexed.

Mr. GONZALEZ. One final question. Since my vote last week and possibly after today, I have been receiving some telegrams from Texas oil and gas people. Certainly it is not my intention to impoverish any of them, but the telegrams tell me that if I vote for this tax bill and if it becomes law, they will be forced to go out of business. Now, we cannot have that happen to Texas. The oil and gas business is depressed right now, but I do not want to run them out.

Mr. ROSTENKOWSKI. Well, it is certainly not the intention of those of us who wrote the bill. Actually, I could make the observation to the gentleman from Texas [Mr. GONZALEZ] that

85 percent of what the energy people wanted is in the bill. What we tried to do is avoid the shelters and the incentive for avoiding paying taxes and I think we have accomplished that.

Mr. GONZALEZ. In other words, their spokesmen did not get what they consider 100 percent of their request, they just got a measly 85?

Mr. ROSTENKOWSKI. I guess the best measure by which we could judge the oil and gas industry is that the members on the committee did support the requests of the administration.

Mr. GONZALEZ. Mr. Chairman, I thank the distinguished Chairman.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. GARCIA].

Mr. GARCIA. Mr. Speaker, I rise in very strong support of this bill. As a Congressman who represents the poorest congressional district in the United States, the 18th Congressional District of the State of New York, I must say to all my colleagues here that what the Committee on Ways and Means was able to do in terms of the threshold of eliminating the taxes for a family of four earning between $10,000 and $15,000 is a small miracle.

I wish that those of you who are with us today would be able to understand the pressure that has been coming from throughout this great country from big business. I do not know what they have against the poor, but I can tell you that without hesitation this legislation is the most far-reaching legislation that the poor of America have ever had. Those industrial States which have a high tax base, the State and local deductibility, if that had been taken out, we would have been crippled. Our infrastructure, our school system, all that has been maintained in the bill.

Mr. Speaker, I ask all my colleagues in this body to vote for the bill. this is a bill that truly supports 6 million Americans who will come off the tax rolls, those people who are earning $15,000 or less, a family of four. I do not have to tell you how difficult life is today for them, but I can assure you that if we pass this bill, that we can go forward and help those people who really do not have a voice in these corridors, who do not have the lobbyists to come and talk to us, who do not represent financial institutions or the oil industry. These are poor people, but I would like everyone to know that this bill is extremely significant.

Mr. DUNCAN. Mr. Chairman, I yield 30 seconds to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Chairman, I rise today in strong support of the Republican tax reform alternative. We started this long journey toward reforming our Tax Code many months ago when the President sent up to Congress his proposal for fairness, growth, and simplicity. Then, as well as now, I feel that tax reform needs to accomplish a number of economic and social goals.

First, I believe that we need to significantly lower marginal tax rates for both individuals and business. The Republican alternative would lower the top individual rate to 37 percent and the top corporate rate to 33 percent and would make them effective without delay on January 1. Later the top individual rate would go to 35 percent. This would result in significant relief for all taxpayers but especially lower income taxpayers who would get a 98-percent tax reduction under the Republican alternative versus 76 percent under the committee bill. The Republican alternative would also be profamily by providing a full $2,000 personal exemption per dependent while imposing no restrictions on itemized deductions.

Second, I believe that we need to encourage retirement savings. People are living longer and the "baby boom" generation will begin retiring shortly after the turn of the century, adding even greater numbers to the ranks of the retired. We must prepare for these developments through strong private sector initiatives. The Republican alternative would address this issue, and promote savings, by providing for a full $2,000 spousal IRA and an alternative would not exempt Members of Congress and their staffs from being taxed on their pension benefits.

Third, I believe that we need to assure a competitive progrowth capital formation program for American business. This is especially important in light of the fact that the Nation is experiencing a growing Federal trade deficit. Promoting strong economic growth is in the broad national interest. We need to be careful and not encourage the flight of manufacturing overseas. Consequently, the Republican alternative to address these concerns would retain a 5-percent investment tax credit on domestically produced manufacturing equipment, sets the corporate alternative minimum tax rate at 20 percent so as to avoid penalizing marginally profitable capital intensive businesses and retains the current capital gains tax rate of 20 percent.

Mr. Chairman, although this is a good start I believe that we need to keep the process going in order to further eliminate loopholes, reduce marginal rates, encourage exploration and development of our national energy resources and provide relief to both individuals and business. I urge my colleagues to support the Republican alternative.

However, should it not be enacted, I will vote for the committee bill, H.R. 3838.

Mr. DUNCAN. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. SILJANDER].

Mr. SILJANDER. Mr. Chairman, I thank the gentleman for yielding.

This issue comes down to one of integrity. I listened very intently to the President of the United States and his pleas for votes for this bill. I want to support the President. I want to do all I can to keep the so-called process alive, but frankly I think that if my constituency in the Fourth District of Michigan were to be able to read the 1,379 pages of what is called tax simplification they would demand I vote No! Because in it they would find special provisions for stadiums, for metro systems, for certain Congressmen and other pork barrels besides. ITC and ACRS has been eliminated, that helped create over 8 million new jobs in the recovery of 1981, 1982, 1983, 1984, and 1985, and that the profamily $2,000 exemption is not in the bill and that according to a study sponsored by the chamber of commerce, 9 million less cars could be produced in Michigan if this tax bill were to pass; how can one with integrity and character vote for something they know personally is wrong and the President himself said that if the bill in its present form were to arrive on his desk, he would veto it? How could I vote for something now in hopes that maybe the Senate will change some of these horrible, terrible provisions?

My constituency elected me to vote on issues in the House the day that I vote on them, not what the issue might develop into later.

Yes, the process should be kept alive. There was nothing so exciting in the Washington, DC, area in the media in terms of tax reform until Ronald Reagan made it an issue. Now it is an issue, and to suggest that somehow Ronald Reagan could not keep the process alive is nonsense. Ronald Reagan can make out of this process whatever he wishes.

Mr. JENKINS. Mr. Chairman, I yield 5 minutes to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, we have all heard a lot about tax reform over the last year. We have all talked a lot about reform. We want a fairer system, a system where everyone pays their share of taxes according to their profits and income, a system where tax incentives and preferences make sense to meet our common goals—rather than to reward special interests.

Well, it is easier to talk about reform than it is to carry it out. Ways and Means members may appreciate that best. You can't make the Tax Code fair for average Americans with taking something away from other interests.

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Amid the howls of those who will no longer have the benefits of special tax breaks, my colleagues must understand that this bill makes significant progress toward the goals of tax reform, particularly in providing needed tax relief for millions of hardworking American families. This bill, the Ways and Means bill is pro family—it helps all American families, not just a special type of family.

We have increased the standard deduction and personal exemption substantially, so that under the bill, no married couple with two children would pay Federal income taxes on their first $13,160 of income in 1987; this is just about $5,000 more money tax free than under the current law. That's $5,000 of tax-free money helping all of these married-couple families of four, not just the upper income ones who can afford a tax shelter. Likewise, all single-parent families of four will enjoy their first $12,560 in wages tax free, in 1987, $5,460 more than under current law.

We have reduced inequities in current law which hurt the poor and single-parent families. We have greatly expanded the Earned Income Tax Credit which assists low-income workers with children work their way off public assistance. Six million low-income individuals and families will be removed from the tax rolls. In addition, the standard deduction for single heads of households has been set much closer to that of married couples, thereby reducing the higher tax burden of single-parent families compared to married couples with the same income and family size.

We have not meddled with provisions of the Tax Code which benefit middle-income workers: We keep dependent care tax credit as it is under current law and we preserve tax-free employee benefits such as group health insurance and life insurance.

Some Members of this body have critized the Ways and Means Committee bill not for taxing employee benefits as the Treasury or the President would have done. Yet tax advantages for group health and group life insurance have worked to ensure that there is basic economic security for nearly all American workers and their families.

We have also made sure that State and local property taxes continue to be deductible. This recognizes a fundamental principle of federalism, but it also helps middle-class families, who need this provision as much as their mortgage deduction in order to afford decent homes.

This combination of lower rates, fewer brackets, the increased standard deduction and increased personal exemption, along with the preservation of some key provisions of the code, means this bill is not just good for low- and middle-income families—but extremely good. And it is good for all of these families, not neglecting some families or trying to fit everyone into one kind of family mold.

We are talking real money for average Americans with this bill—not trickle down.

Price Waterhouse has prepared information for me on the 1987 tax liabilities of many typical American families. Some of the numbers are startling:

A single parent with one child and income at $13,960, which is 200 percent of poverty, would see her taxes cut 31 percent assuming no child care expenses. Her taxes would be cut 88 percent assuming $2,000 in child care expenses—approximately a $580 tax break.

A one-earner married couple with two children and $20,000 in income would see their taxes cut 25 percent from current law, a $340 tax break.

A two-earner married couple with two children and $40,000 in income and $10,000 in itemized deductions would see their taxes reduced by 12.7 percent, a $464 reduction from current law.

The President's tax plan would only reduce this family's tax burden by an 8.6 percent cut or $317. In fact, for all income groups under $75,000, the Ways and Means bill provides more tax relief than the President's proposal. This bill is real tax reform and real tax relief. I urge my colleagues to vote for it.

Mr. Chairman, we took the President at his word. We made the Ways and Means bill good for American families. The traditional family, the two-earner family, the single head of household.

□ 1605

Mr. DUNCAN. Mr. Chairman, I yield 9 minutes to the gentleman from Ohio [Mr. GRADISON], a member of the committee.

Mr. GRADISON. I thank the gentleman for yielding this time to me.

Mr. Chairman, every version of tax legislation has items which can and should be criticized. This is true of Treasury I, White House I, White House II, Rostenkowski I, the Republican Alternative, which I support and helped write, and it is true of the Ways and Means Committee bill. It is also true of present law. If any of my colleagues are looking for reasons to vote no on final passage, they are easy to find. For any tax bill has something in it to hate. We found that out in the first vote on the rule.

I also want to acknowledge the resentment of those on my side of the aisle with the process. Republican critics are entirely correct in objecting to Ways and Means Republicans being left out in the final, key committee decisions on the big-ticket controversial items, and I say this as one of five Ways and Means Republicans to vote in favor of the bill in committee and one of two Republican cosponsors of H.R. 3838.

But I ask my colleagues to focus on the substance of the committee bill compared with present law, since that is the basic choice before us.

The committee bill would lower marginal rates far below those in present law: From 50 to 38 percent for individuals, and from 46 percent to 36 percent for corporations; 93 percent of taxpayers would be in brackets of 25 percent or less compared with 76 percent under present law; 66 percent of all taxpayers would be in the 15-percent bracket compared with 32 percent under current law.

There is plenty of room for disagreement about the importance of lowering marginal rates. This Member considers it the key to economic growth and the best feature of the entire process of tax reform that we have been through over the last year. Every version of the tax reform would cut marginal rates and cut them substantially. Details aside, in this respect, the President has set the agenda and won the battle. Today, economic growth is the driving force behind tax reform, not the politics of envy, which has sometimes been the overriding goal in the past. And lower rates on individuals and businesses are the key to economic growth.

But that is not all the committee bill does. It raises exemptions, excludes the poor, broadens the tax base, and requires tax payments from individuals and businesses who can zero out today.

Are there drawbacks in the committee bill? Of course there are. Are they serious enough to vote no and shelve any chance of tax reform for years to come? No, they are not.

What are the complaints we have been hearing about?

First are the special deals for some regions or industries. Have my colleagues taken a look at recent public works bills or appropriations bills? Have you looked at the present Tax Code? It has so many special deals that most major industries have their own tax rules. The committee bill may not level the playing field, but it does pound out a lot of the bumps. It moves in the right direction.

I am perplexed by the claims of my colleagues that this bill is antigrowth. My analysis of the bill, as a businessman as well as a legislator, leads me to just the opposite conclusion. With declining interest rates, strong corporate profits, and inflation under control, total investment may even increase. I would remind my colleagues that we had investment and a lot of it in this country even when there was no investment tax credit or accelerated depreciation.

Most importantly, by leveling out many current investment disparities, this bill will almost certainly result in an increase in the quality of investment by allowing investment decisions to be made less on tax and more on economic criteria. This is functionally equivalent to increasing the country's capital stock.

Investment depends on much besides tax law. Investment depends on profitability, cost of capital, and inflation rates. It depends on consumer confidence and international capital flows. All of these factors are encouraging capital investment today. The historical evidence is that tax law is a player, but is hardly the only player, or the major player, in determining overall investment.

In short, I have a lot more confidence in my own judgment as a businessman than I do in the computers of the U.S. Chamber of Commerce which is hard at work to kill this bill. To the extent a tax bill can influence investment policy very much, this bill is progrowth compared with current law.

Can it be improved? Of course it can. In its present form, will it undermine the recovery and cause a recession? Don't you believe it!

Let me conclude by stressing the importance of keeping alive the chance for tax reform. Defeat of this bill would doom serious comprehensive reform for years to come. Some argue that the general discussion of comprehensive tax reform which has been going on since the Treasury brought forth Treasury I in November 1984 has created uncertainty for American businesses. It has. But the uncertainty will be even greater if a bill does not pass. If a tax bill fails to pass the House, the issues raised during its consideration will not go away. Rather, they will remain on the table for possible incorporation in future, less comprehensive, tax legislation. Only action will end uncertainty.

The Ways and Means tax bill is a giant step in the right direction toward a fairer income tax system. It incorporates much of what the President originally requested, and is actually more beneficial to the poor and middle-class than the President's proposal. We are not voting on final passage; we simply are deciding whether we should send this legislation on to the Senate for consideration. I think we should; comprehensive tax reform is too important for us to let it die before the whole Congress has had a chance to review it and vote on it.

I will support the Republican substitute. Should it fail, and I hope it will pass, I will vote "aye" on final passage. I urge my colleagues to join me.

□ 1615

Mrs. KENNELLY. Mr. Chairman, I yield 6 minutes to the gentleman from Georgia [Mr. JENKINS].

Mr. JENKINS. Mr. Chairman, I have always marveled at this institution in that when the hard decisions finally have to be made, we generally face up to those hard decisions. I believe that this institution today will not lose the opportunity to truly do something about our Tax Code and the inequities and unfairnesses that we find.

Let me say in the very beginning that as you hear from your constituents, they will be primarily business constituents. Normally I have always been, and continue to be, probusiness because I believe it is vital that we have a strong private sector. But the fact remains that the people that you hear from today that are in opposition to this particular bill will be those who have very, very low effective tax rates. You will hear from some companies that are for this bill, and today, they are paying at a very high effective tax rate. They do not believe that it is fair for them to be paying taxes at a 46-percent rate when their business acquaintances across the street are paying at 2 percent, 3 percent, or 4 percent.

This committee, after many months of deliberations, has attempted to level that playing field. I think we have done a commendable job.

I want to talk about some of the bipartisanship that has resulted in this bill because there has been a great deal of distortion, a great deal of exaggeration about the lack of bipartisanship in the development of this bill. Let me go down the list from what we received from the President and what we have accomplished in a bipartisan way, with Republican votes on almost every one of these issues.

Real estate. Not all of the real estate industry is opposed to this bill, but when we commenced this endeavor in real estate, we heard that recapture, which was in the President's bill, that is full recapture over straight-line depreciation, that we needed to change that provision, and with the help of Republican votes, in a bipartisan way, we eliminated that section.

There were problems with the at-risk provision as recommended by the President. With the help of Republicans on the committee, we changed those provisions.

Interest deductability. That is all we heard from the real estate industry and I agreed with them. With the help of the Republicans on the committee, we changed those provisions that eliminated the deductability of interest.

Small business. Why is it that NFIB is supporting this bill today? Because for the first time, we have made some real inroads in reducing the tax burden of small business.

LIFO accounting. With the help of Republicans on the committee, this Ways and Means Committee took action to establish LIFO accounting for small business.

Cash accounting. Anyone, any business that has $5 million or less in gross receipts can continue on cash accounting. Farmers can do the same, regardless of size. We made an impact from both sides of the aisle in improving the tax burden of small business.

The effective dates for this bill were not changed. That was in the President's bill. We retained it. It is not a mark on the Democrats on the committee that we maintained the dates as set by the President.

Let me talk about the $2,000 personal exemption that we hear so much about. Today, the personal exemption rate is $1,040. Whatever we can increase that by and maintain a revenue-neutral bill will be to our benefit, whether it be $1,500, $2,000, $3,000, whatever we can afford. We did a credible job in increasing that personal exemption.

When the President eliminated all of the 401(k) retirement plans in his proposal and the 403(b) plans for public employees, this committee, with bipartisan help, replaced the 401(k) so that now everyone can still defer income up to $7,000 a year, and not many people can afford to do that when they are in the $20,000, $25,000, $30,000 and $35,000 tax bracket. That was a bipartisan effort.

Inside buildup on insurance. If you have an insurance policy, the President's bill would have taxed in every year the increase in the value of that insurance policy. With bipartisan help, we eliminated that provision.

Deductability of business meals and entertainment. I know that many people are not fully satisfied with this, but they can continue to deduct up to 80 percent. The administration came in with much less, and we corrected it with bipartisan help.

Deductability of local taxes. This was not eliminated by Democrats alone. This was eliminated with bipartisan help.

Depletion of hard minerals. You have heard about this special interest. Let me tell you that this was retained with bipartisan help. Ag minerals for instance, that are so critical to the Midwest, retained with bipartisan help.

Capital gains with bipartisan help, we retained low capital gain rates.

Timber. Timber under the President's proposal would have been totally taxed at ordinary tax rates. We saved for the individual property owner that owns 50,000 acres or less, the capital gains treatment and other benefits.

My friends, I simply say this: You will not get another chance to pass a tax reform bill. I urge you to support this bill. It deserves your help.

Mr. DUNCAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Washington [Mr. CHANDLER].

Mr. CHANDLER. Mr. Chairman, it is with considerable disappointment that I rise in opposition to H.R. 3838. I respect and admire those of our colleagues who serve on the Ways and Means Committee for undertaking such a monumental task. But I have grave reservations about the impact that the committee's work would have on the health of our economy and the future for American workers.

I agree that the American people are frustrated by our Tax Code. I agree that many have avoided paying their fair share of the tax burden and that their failure to do so has undermined respect for our tax system. But I do not agree that this bill is the only way to address the problem.

Mr. Chairman, at 1,379 pages—I haven't bothered to weigh it—this proposal does not simplify the Code, it complicates it. But I think our constituents are willing to accept that, because their interest in simplification is really rooted in an interest in fairness.

The American people were told by the previous administration that the Tax Code is so loophole-ridden that it is a "disgrace to the human race." They were told by the current administration that it is a "ridiculous administrative burden." But it seems to me that the horror stories about "three-martini lunches," not a consensus about the need for three or four brackets, lie at the heart of support for tax reform.

People are concerned about complexity to the extent that it facilitates evasion.

Unfortunately, the committee's work has been driven more by a desire to establish those three or four brackets and reduce marginal rates than by any determination as to where tax reform should take us as a country. This proposal was revenue-driven, not policy-driven.

Tax policy clearly has social and economic implications and tax reform should have social and economic objectives as well.

Tax policy should promote the competitiveness of American enterprise in the international marketplace.

Tax policy should encourage savings, investment and retirement planning, rather than borrowing and consumption.

Tax policy should strengthen the family as the most basic building block in our society.

Tax policy should not promote a misallocation of resources.

Tax policy should reflect the need for certainty in the tax climate. Changes should be few and infrequent.

How does the committee's work measure up?

Well, it is unfair to women. It fails to allow spouses who work in the home to make IRA contributions on par with their counterparts in the work force.

It is unfair to married taxpayers. It restores the marriage penalty by repealing the two-earner deduction.

It is devastating to farmers. It repeals income averaging.

It is unfair to working Americans who are still required to subsidize deductions for business meals and entertainment.

And, most importantly, Mr. Chairman, the committee's bill is a blueprint for a recession.

It continues to reward borrowing and discourage saving.

It discourages the availability of venture capital by taxing corporate capital gains as ordinary income and by taxing a greater portion of individual capital gains income.

It drastically reduces contributions to 401(k) plans, reducing the availability of capital.

It repeals the investment tax credit, in a time when our manufacturers are struggling to keep pace with foreign competitors.

It lengthens the period of time over which investments can be depreciated.

It repeals the dividend income exclusion, removing an important incentive for investment.

It removes an import incentive for charitable giving by establishing a $100 "floor" for the charitable contributions deduction available to non-itemizers.

Mr. Chairman, the process itself is destabilizing and may very well bring the economy to a standstill as businesses and investors await the outcome of a protracted debate here on the Hill.

The bill might make sense if the American economy were more competitive. It might make sense if the American people were saving and investing in record numbers. It might make sense if the American people were teeming with confidence in our Tax Code. Mr. Chairman, this is the wrong bill for the wrong time.

It is my hope that the House will reject this bill, and that in its place we will send to the other body a simple measure to strengthen the individual and corporate minimum tax. The revenue could be used to increase the individual exemption—that would make the package revenue neutral—or we could use it to whittle away at that $200 billion deficit.

The gentleman from Iowa [Mr. TAUKE] and the gentleman from New York [Mr. GREEN] and I had hoped to offer such a proposal in the House today. But our proposal was not made in order under the rule.

Mr. Chairman, we can't afford this bill. It isn't revenue neutral; you can't maintain revenue in a recession. The human cost of this bill is even greater. All the simplicity and base broadening and rate reduction in the world is meaningless to a worker who no longer has income to tax.

We can do better than that.

Mr. DUNCAN. Mr. Chairman, I yield 2 minutes to the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Chairman, months ago when we began the laborious process of considering tax legislation, I suggested there were three standards by which the outcome should be judged: simplicity, fairness, and growth. Does it simplify the current Tax Code and make it easier for the average American to file a tax return? Does it provide a measure of fairness for the taxpayer so that credibility and confidence in the tax system can be restored? And does it promote economic growth, jobs for the millions of Americans who need those jobs now and who are going to need them in the decade ahead?

When we began this process, I hoped, like all of my colleagues, that the end product would be a bill that we could all support. Tax reform is badly needed in America. Confidence in the process and those who serve it has been eroded.

True reform could stimulate an explosion of economic activity that could assure prosperity for America into the year 2000 and beyond.

The result, unfortunately, has been much less than that. In fact, it is worse than the current law for most taxpayers. H.R. 3838 does not simplify the Tax Code. What many initially saw as a movement toward a flat tax with two or three simple exemptions has ended up with a 1,379-page monster that no one understands and no one even knows what it contains. How can we call that simplification?

Nor is it fair: H.R. 3838 has been praised for taking millions of people off the tax roles. But, what they forget to tell you is that the middle class in this country—not the rich—will be paying more in taxes because of bracket crunch. When this movement started, taxpayers were promised tax reform that would increase their disposable income. Instead, with this bill their personal exemptions would be decreased and many taxpayers will suffer in a higher tax bracket.

Civil service employees will also suffer from this legislation. Contributions to their retirement funds are taxed upon entrance to the fund. They receive their contributions first after retirement and—quite logically—those are not taxed a second time. Only after their contributions have been used do they pay taxes on the remainder of their benefits. The Ways and Means bill would require the taxation of all benefits, which in effect means double taxation. How double taxation conforms with fairness is beyond me.

Every Member's district is different and everyone's mail differs too. In my district the biggest issue was not oil or timber, it was 401(k) retirement savings plans. Through these plans individuals can provide for their retirement and remain self-sufficient long after their retirement. One of the purposes of tax reform should be to promote savings, not discourage it. The House Ways and Means bill does exactly the opposite. Reducing the cap on elective contributions by $23,000 a year and tying IRA contributions to your 401(k) plan will decrease the ability of individuals to save for retirement. The Ways and Means bill effectively limits an individual to saving a total of $7,000 a year. Because the IRA and 401(k) are tied together an individual an contribute only $5,000 to a 401(k) plan and $2,000 to an IRA. We should encourage people to save, and this proposal doesn't even come close to achieving that goal.

The proponents of the bill have said that those who oppose it do so only because it is antibusiness. Well, it is antibusiness and antigrowth.

It undoes all the tax changes this body made in 1981 and which unleashed the greatest economic recovery since World War II. It will hamper capital formation and further diminish our ability to compete abroad, and I believe it will produce a recession next year. Who will suffer from all of this? The working man and woman will suffer. Do we really want to induce yet another recession? What good does it do to have lower tax rates if there are no jobs? Do we really want the people we represent to lose their jobs and lose income? Those fortunate enough not to lose their jobs will find the Government digging even deeper into their pockets.

Not only are there philosophical problems with the Rostenkowski bill. There are practical problems as well. How can business be expected to invest when they don't know what the new code will be and when it will become effective? They won't know if the investment tax credit will be repealed, if capital gains and depreciation schedules will be changed. The tax system has long and successfully been used to promote economic and social policies. The economic frameworks of many industries have developed in response to the Tax Code. Changes in the Tax Code will have an economic effect on our Nation. The seriousness of these effects will largely be dependent on the degree of the changes. For more than 70 years, through most of our industrial history, the economy and the tax system have grown together. The economic effects of separating the two may be traumatic. In order for industry to be able to invest they need to know what to expect and prepare and adjust to the changes. This doesn't mean that corporations shouldn't pay their fair share of taxes. But, like individuals they need to be able to plan for the future. Individuals and business alike can accept a red light or a green light, but neither can cope with a flashing yellow light.

Many of my colleagues will vote for H.R. 3838 because they feel it will keep the tax reform process alive. They don't like the bill, but believe we should send it over to the Senate so they can "fix" it. Not only is there no guarantee the Senate will make substantial improvements, but the chairman of the tax writing committee in that body is flatly on record that there won't be substantial changes. Why should they do our work for us? If we are unhappy with the bill then lets change it. The sentiment for tax reform will not disappear; not will the effects of a hastily passed and imperfect bill. There needs to be an opportunity for amendments to be made on the floor and these amendments need to address the crucial areas of tax reform.

The McHugh amendment does nothing but make a mockery of the entire tax reform effort. While there are many questions of enormous substance a tax bill of 1379 pages in length, one, and only the nontechnical amendment is permitted under this rule: the doubling of the tax credit for political contributions. How can this body tolerate such a politically motivated and self-serving amendment to be considered? The purpose of this bill is to benefit the people of America, not add to the financial benefits of contributing to our political campaigns.

Realistic tax reform cannot be driven by political deals that become the basis for deciding what exemptions remain and who will bear the burden of making up for the lost revenue. Refusing to repeal the exemption for State and local taxes because it was politically unfeasible made inevitable the decision that taxing capital formation would make up the difference. Many projects, those built with tax exempt bonds, and corporate mergers were given exempt status in return for assistance in pushing the bill through committee. Now instead of having a fair, simple, and progrowth tax bill we have a bill that has been written to please special interests, regardless of the effect it has on other sectors of the economy.

Successful tax reform requires a consensus of the American people. Without it, we will continue to be plagued by a lack of confidence in the tax system, and an unending succession of changes in the Tax Code, which like this one, seek to correct past errors, but do not achieve tax reform and are neither fair nor simple.

Mrs. KENNELLY. Mr. Chairman, I yield 5 minutes to the gentlewoman from California [Mrs. BOXER].

Mrs. BOXER. Mr. Chairman, I rise in strong support of this landmark tax bill, landmark legislation because it makes some major important changes that will lead to a fairer Tax Code.

My colleagues, there are so many good things in this bill. We have saved the deduction for State and local taxes. We have helped families. We have saved fringe benefits. We have lowered rates. There are many good things.

But in the 3 minutes or 2½ minutes I have left, I really want to concentrate on one important provision of this bill, a provision that by itself is of such major importance that it should bring overwhelming support for this bill. I refer to the section that changes the tax law by repealing the so-called completed contract method of accounting for businesses with long-term contracts.

This section, while accounting for only 5 pages in this 1,300-page bill, is a significant step forward toward forcing fiscal responsibility on defense contractors, some of whom have been using this little accounting trick for years at the expense of other taxpayers.

Mr. Chairman, let us take a look at this chart that I have put up here from the Wall Street Journal. It shows defense contractors who have paid little or no taxes.

McDonnell Douglas, the No. 1 ranking defense contractor, had an effective tax rate in 1981 to 1983 of 1.5 percent while families pay and pay.

Let us take a look at General Dynamics. They have been on the front pages for some things that have not been so good. What did they pay in taxes, a minus 7.6-percent effective tax rate, a tax refund, and it goes on.

General Electric. General Electric, who had so much to pay to purchase RCA, they paid no taxes. They got a refund. Boeing Co., Grumman Corp., Lockheed Corp., and Martin-Marietta Corp. in addition all computed a zero tax liability for themselves between 1981 and 1983. Some even received a negative tax liability.

The prime culprit for this was the completed contract method of accounting.

Mr. Chairman, we must close this outrageous loophole, and we have a chance not to do it tomorrow, my friends, but to do it right now.

In plain language, business no longer will be able to defer their taxes by delaying the reporting of income until their long-term contracts are completed. Instead, they will have to pay taxes on their income as they earn it.

The closing of this loophole represents an effort to ensure that defense contractors with cadres of accountants at their disposal no longer escape their fair share of the tax burden.

My friends, what is tax reform if not ensuring that this part of our economic community, the defense contractors, many of whom make 90 cents of every dollar from the taxpayers, who have become notorious for taking advantage of a system which is often too ponderous to oversee them, and which has fought us every step of the way as we seek procurement reform, what is tax reform if it turns its back on this incredible completed contract loophole?

The Rostenkowski tax reform bill takes this loophole and shuts it down.

So I ask my colleagues to vote yes on this tax reform bill and tell your constituents proudly that you voted to stop these defense contractors from getting away with tax murder.

□ 1630

Mr. STARK. Will the gentlewoman yield?

Mrs. BOXER. I yield to the gentleman.

Mr. STARK. Mr. Chairman, I have been listening to the gentlewoman's speech here with wonder and awe, and I wonder if the gentlewoman is aware that the tax law which allowed, for instance General Electric Corp. to have a negative tax rate and indeed over the years since 1981, avoid—not avoid, but not have to pay $4.5 billion in taxes, and therefore many of the rest of us have to raise our taxes to account for that.

I wonder if the gentlewoman is aware of why we had that in the law to begin with, when there was a great national purpose, it seems to me, in allowing General Electric to sequester, let us call it, the $4.5 billion.

Is the gentlewoman aware of what the purpose was in 1981 of allowing General Electric to do that?

Mrs. BOXER. I know that the gentleman is very, very aware of that reason; I would ask that he tell us.

Mr. STARK. Well, I think as you will recall, it was to have them create new jobs through reinvesting that money to make America more productive; and I think we were all, the whole American public was made aware of just how these corporations have done that; when last week General Electric announced that they were going to take their $4.5 billion, and in order to increase competitiveness and create new jobs, they were going to add another $1.7 billion to it and buy RCA. Which not only now gives them RCA, but when we get up in the morning, we can listen to the NBC morning news and know that we have purchased that with our tax dollars.

So I want to remind the gentlewoman that General Electric is a lot more than just light bulbs, and it is very important for us to consider that we have been hoodwinked, really; we created these investment tax credits in 1981, hoping to get more productive, and we did not.

Mr. Speaker, I urge my colleagues to vote for H.R. 3838 because it will end the growth of tax shelters in our country.

Tax shelters, are, for the most part, a legal means of tax avoidance. There are the bread-and-butter types of shelters that we all are familiar with such as real estate and oil drilling. Then there are the more exotic types like kiwi fruit and jojoba beans and the windmill farms that cover the hills of my district.

These tax shelters do not promote economic activity. They are merely a paper shuffle to shelter income from taxes. The combination of, first tax credits and depreciation and other tax preferences and second, the interest deduction allowed for leveraged deals and third, the ability to convert income that would be taxed at the ordinary rates into income that is taxed at the capital gains rates and fourth, the ability to pass through losses to investors, all provide the juice for tax shelters.

The problem that arises is the tax subsidy has created a proliferation of investments marketed for the sole purpose of avoiding taxes.

The growth of tax shelters corresponds with the numbers of wealthy Americans who have avoided paying any Federal income tax. In 1967, 155 taxpayers with incomes over $200,000 paid absolutely no income taxes. By 1982, 10,617 people with incomes over $50,000 paid no taxes.

The money involved is no small change. By a conservative estimate Treasury subsidized approximately $24 billion in tax shelters in 1983.

This results in a major misallocation of resources: Investors put their money where the tax "writeoff" is the greatest. Tax losses which are passed through to an investor are preferred over a profitable investment. Some of you may recall the old Mel Brooks movie, "The Producers." In this film, the investors conjured up the most dreadful film they could think of—a musical about Hitler—and then were despondent when the film actually became a hit. That film was supposed to be a tax shelter that lost money. The movie was comic. The tax law that encourages such foolishness is tragic.

How does the tax bill change all of this?

H.R. 3833 eliminates or cuts back certain preferences, such as tax credits for windmills, and deductions for preproductive expenses for jojobas.

The tax reform bill limits the amount of interest an investor can deduct in leveraged deals.

The tax reform bill, for the first time, applies "at-risk" rules to certain real estate investments so that a taxpayer cannot write off more in tax breaks than the amount of his own money that he has invested.

The tax bill limits the amount of losses that investors can claim so that "paper losses" cannot be used to avoid the minimum tax.

A vote for tax reform shows the American taxpayers that Congress is serious about closing loopholes so that every American taxpayers will pay their fair share—no more and no less.

Mr. DUNCAN. Mr. Chairman, I yield 2 minutes to the gentleman from Indiana [Mr. Coats].

Mr. COATS. Mr. Speaker, in the limited time that I have, I would like to focus my remarks on just one aspect of the tax reform that is before us.

Members today have the choice between two bills. As to the profamily aspect of those two bills, let me inform the 71 cosponsors of the Tax Fairness for Family Act, which I introduced in the House this year, and other Members that are interested in the profamily aspects, what happened to that $2,000 exemption along the way of tax reform.

Both the Republican and the Democrat tax reform packages have increased the personal exemption, but the Republican alternative offers a much better break for families. In fact, a $20 billion better break for families, because the Democrat Ways and Means package has actually taken $500 away from every taxpayer, every spouse, every child, every dependent in the family for all those families who choose to itemize their tax returns.

Now, some say, "Well, not very many itemize." The facts speak otherwise. The facts indicate that 62½ percent of all tax returns of married filing jointly in the $25,000 to $30,000 range itemize their tax returns. The facts indicate that 78.4 percent of all married filing jointly families in the $30,000 to $40,000 range itemize the tax returns. They do so because they are buying a home, they are giving to charity, they are contributing to church, they have medical expenses, they incur expenses in raising children and raising a family.

The Ways and Means bill is devastating in comparison to the Republican alternative to those who are profamily and those who want to provide a break for those in the income categories of $15,000 to $40,000. Those are middle-income taxpayers, two parents struggling to raise a family and pay the bills. They need tax relief. That relief is not there in the Ways and Means bill, and it is in the Republican bill.

I urge a vote for the Republican alternative.

Mrs. KENNELLY. Mr. Chairman, I yield 5 minutes to the gentleman from Texas [Mr. Pickle].

Mr. PICKLE. Mr. Chairman, I support and will vote for the Tax Reform Act of 1985. As with nearly everyone else who will vote for this bill, I have genuine reservations and concerns.

This is not a perfect tax reform bill. There are provisions in it that I attempted, unsuccessfully, to amend in committee and there are provisions that I hope will be modified as this bill progresses.

As with any bill that reaches this floor for a vote, this bill is the product of a series of compromises and that is a process that leaves many people and many interests less than completely happy. No one got everything they wanted in this bill.

But there are many reasons to support it.

This new Tax Code is more fair than our current Tax Code. How many of you in this Chamber can defend our current Tax Code? How many of your constituents write and call you praising our current system of taxing income? Not many, I believe.

Can we defend a Tax Code that currently allows 3,000 people who earn more than $1 million a year to pay little or no taxes? Who can defend a Tax Code that currently allows a corporation to earn over $6 billion in profits over 3 years and not only avoid paying a single penny in taxes but get a refund check for $283 million dollars? These facts were revealed by our Ways and Means Subcommittee on Oversight.

The average, middle-income family of four is paying more tax than tousands of millionaires. How much longer must they wait for a fair and equitable system of taxation?

You cannot remove such inequities from our Tax Code without slaying a whole pasture full of sacred cows. And for the past 6 months we have been hearing the anguished howls of those who have exploited the numerous loopholes in current law at the expense of the average taxpaying American citizen.

The committee bill contains the toughest minimum tax ever proposed. This bill is the worst thing that has ever happened to the nontaxpaying millionaires and profitable corporations that have been getting a free ride on an unfair Tax Code.

At the same time, this bill will reduce taxes for most Americans and it gives more tax relief to middle income families than the proposal sent to us by President Reagan. The committee bill is not "antifamily" as some critics have claimed. It is supported by the National PTA. It is profamily.

It provides economic incentive by reducing marginal tax rates and reducing the number of tax brackets. Our current tax rate structure discourages many people because they know that with each additional dollar they earn they will be kicked into a higher tax bracket and the Government will take a bigger bite. This bill goes a long way toward reducing that disincentive.

I am aware that some of my colleagues from Texas do not share my view of this bill. And I can understand their concerns about the way the oil and gas industry would be affected if certain provisions in the committee's bill would become law. I am familiar with those provisions because no one in this body worked harder than I did to amend those sections of the bill. And we were successful in reducing the major adverse impacts from the original committee proposal.

Contrary to what some of our friends from other States may believe, the petroleum industry is already paying its fair share of taxes. In 1983, the petroleum industry paid an effective tax rate of 21 percent while the average for all industries was only 16 percent. The Windfall Profits Tax has already collected $38 billion from the oil industry and last week this House voted to increase the Superfund tax on crude oil 15 fold. I sure hope this last act can be changed.

I must admit that I could not vote to send this bill with its oil and gas provisions to the President for his signature. But I can vote to send it to the Senate for its consideration.

I can vote for it confident that the other body will improve on our work in this area and not put our independent drillers out of business. I can vote for this bill because I know there are other provisions in it that will benefit the citizens of my State.

The bill would continue the tax credit for research and development and it would create a new credit for university research to encourage companies to work with our universities on their research programs. The current research and development tax credit expires at the end of this year and it must be extended.

The research and development tax credit is vital to our Nation. It ensures that American industry will continue to develop new technologies and new products to compete in an increasingly sophisticated world market.

And this research and development credit is vital to the future of my own State. The economy of Texas is no longer strictly limited to agriculture and oil. We have to look to the future and the future economic prosperity of my State will be in science, technology, research, electronics, and computer hardware and software. So I point out to my colleagues that this bill is endorsed by the American Electronics Association, the Computer and Business Equipment Manufacturers Association and the Solar Energy Industries Association.

The economic future of Texas will, as it always has, depend on the skill and determination of our independent entrepreneurs. Small business is the backbone of our economy and I want to point out that this bill is supported by the National Federation of Independent Businesses, the American Federation of Small Business, the National Retail Merchants Association and the National Venture Capital Association.

Texas veterans will benefit from this bill because it allows our Texas Veterans Land Program to continue as it has for the past 38 years, providing low interest loans so that veterans can have a chance to buy a piece of land. Under current Federal law, that program will be terminated in 1987. This is our opportunity to remove that 1987 sunset provision. A vote for this bill is a vote for the veterans of Texas.

If you want to find a reason to vote against the bill, you can do that. Numerous special interests have had their pet tax provisions cut back in this bill.

But if you want to look for reasons to support it, you will find that this bill is a good deal for the average, hard-working, tax paying, middle income American—the kind of people who wouldn't know a tax loophole if they fell into one—the people who can't afford a $200 per hour tax lawyer to lobby for them.

I urge my colleagues to cast a vote for the people, to pass this bill, move it on to the Senate and keep tax reform alive.

The CHAIRMAN. The Chair would like to state that the gentlewoman from Connecticut [Mrs. Kennelly] has 47 minutes remaining, and the gentleman from Tennessee [Mr. Duncan] has 50½ minutes remaining.

Mr. DUNCAN. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. Zschau].

□ 1640

Mr. ZSCHAU. Mr. Chairman, and colleagues, we all know that the United States is facing a burgeoning trade deficit that is costing us jobs and undermining our economic future. Protectionism has been proposed, but that is not the answer. Instead we must become more competitive so we can export more into in foreign markets and sell more there at home.

The report of the President's Commission on Industrial Competitiveness, which was released earlier this year, recommends that our tax system be restructured in several specific ways in order to improve U.S. competitiveness.

I'd like to quote the Commission's tax reform recommendation.

> The Tax Code should be restructured so that capital can be put to work more effectively, its costs reduced, and productive investments stimulated. Such restructuring should include the following:
>
> (a) The present bias against savings and investment must be reduced through greater reliance on taxation of consumption (but keeping progressivity to ensure fairness) and through elimination of the double taxation on corporate profits when received as either dividends or capital gains;
>
> (b) The variation in effective tax rates on different industries should be reduced. This variation results from different industries receiving varying credits and depreciation allowances on different kinds of assets;
>
> (c) Inflation adjustments for capital income and capital expense or loss items, similar to existing income tax indexing;
>
> (d) Reducing disincentives to venture and other risk capital investments, for example, by allowing individuals to claim fuller deductions for capital losses; and
>
> (e) Broadening the tax base by including more income items and reducing the number of tax deductions and exclusions, provided this does not increase current disincentives for savings and investment.

These are the criteria that the experts on industrial competitiveness have suggested. Against this backdrop let us analyze the Ways and Means Committee bill.

The committee bill taxes corporations more. It would increase corporate taxes by $140 billion over 5 years. It puts enormous additional burdens on the very entities we want to be more competitive. In particular it taxes more those corporations that invest in plant and equipment to modernize so that they can become more competitive. Schedules for depreciation for plant and equipment are lengthened from current law. This plus the elimination of the investment tax credit would raise the cost of capital, slow growth and investment, and reduce American competitiveness.

Let's compare the committee corporate investment incentives to the foreign competition. I am submitting for the RECORD a table showing a comparison of nominal cost recovery allowances for manufacturing equipment as a percent of cost for the United States and 15 competitor nations. Today, with the accelerated cost recovery system and the investment tax credit, the United States ranks sixth in the list of 16 nations in the 1-year and 3-year catagories and third in the 5-year catagories. Under the committee bill, the United States falls to last place in all catagories. We can't afford to let this happen if American companies are to meet the challenge of global competition.

The committee bill reduces the research and development tax credit at a time when we need more research, innovation, and increased productivity. While the committee is to be commended for including a 3-year extension of the research and development tax credit in its proposal, the credit is scaled back from 25 percent to only 20 percent. Compared to current law, this amounts to a reduction in incentives for risk taking for American companies in spite of the important positive effects of the credit. For instance, in the 4 years since the credit has been enacted, industrial R&D as a fraction of GNP has been 23 percent higher than during the 4 years prior to the credit's enactment. Today, the United States ranks far behind Japan and West Germany in the amount of civilian R&D money spent as a fraction of GNP. If anything, we should be strengthening the R&D credit, not paring it back.

The committee bill increases the capital gains tax at a time when we need more incentives for risk capital investment so that young innovative companies can get started and grow. The tax rate on capital gains is raised from 20 percent to 22 percent, the exclusion on capital gains is decreased from 60 percent to 42 percent, the lowest in recent years, and the corporate capital gains differential is eliminated. This Nation's experience with cuts in the capital gains rate in 1978 and 1981 should indicate that we need additional reductions rather than increases. According to a Treasury Department study released in September 1985, the 1978 and 1981 cuts actually increased tax revenues as a result of the lower rates.

How does the capital gains tax in United States compare to other countries? Nine international competitors in Western Europe and the Pacific Rim—including Japan—have no capital gains taxes on income from stock investments. That's one reason why U.S. industries face such a fierce competitive challenge.

Finally, the committee bill taxes foreign source income more at a time when we should be trying to encourage increases foreign operations and exports.

Mr. Chairman, when these features are compared to the criteria set for the President's Commission on Industrial Competitiveness, it is clear that the bill will not help to improve U.S. competitiveness.

Ironically, if we pass this bill we would be destroying incentives for international competitiveness at the very time that the Japanese diet is considering accelerating depreciation schedules because the accelerated cost recovery system has worked so well here. In addition, Japan is considering the implementation of a value-added tax to subsidize its exports and tax its imports in a GATT-legal way so it can become more competitive in world markets.

Let's not be blind to the new fundamental or international competition: we have to be competitive in foreign markets if we're to remain competitive here at home.

Let's defeat the Ways and Means Committee bill. It's not simple—that's for sure. It's not fair—there's nothing fair about causing economic slowdown and higher unemployment. Above all, it's anticompetitive, antitrade, and antijobs.

If you care about reducing the trade deficit and increasing jobs, vote down the Ways and Means Committee bill.

COMPARISON OF NOMINAL COST RECOVERY ALLOWANCES FOR MANUFACTURING EQUIPMENT AS A PERCENT OF COST FOR THE UNITED STATES AND OTHER COUNTRIES [1]

Country	Amount	Rank
1 YEAR		
Luxembourg	89.7	1
Hong Kong	68.5	2
Spain	55.4	3
Belgium	54.6	4
Canada	42.7	5
U.S.–ACRS/ITC	32.4	....
Sweden	30.0	6
Denmark	25.0	7
Italy	25.0	7
United Kingdom	25.0	7
Japan [2]	20.6	10
France	20.0	11
Switzerland	15.0	12
West Germany	15.0	12
South Korea	13.6	14
Taiwan	10.3	15
U.S.–W&M	10.0	....

COMPARISON OF NOMINAL COST RECOVERY ALLOWANCES FOR MANUFACTURING EQUIPMENT AS A PERCENT OF COST FOR THE UNITED STATES AND OTHER COUNTRIES [1]—Continued

Country	Amount	Rank
3 YEARS		
Luxembourg	133.7	1
Canada	112.5	2
Belgium	103.7	3
Spain	93.7	4
Hong Kong	84.6	5
U.S.–ACRS/ITC	75.4	....
Italy	75.0	6
France	71.2	7
Sweden	71.0	8
Denmark	66.8	9
Switzerland	58.4	10
West Germany	58.4	10
United Kingdom	57.8	12
South Korea	54.1	13
Japan [2]	49.9	14
Taiwan	43.4	15
U.S.–W&M	42.4	....
5 YEARS		
Luxembourg	149.6	1
Belgium	125.9	2
U.S.–ACRS/ITC	117.4	....
Spain	115.2	3
Canada	112.5	4
Sweden	[illegible]	5
Italy	95.0	6
France	94.2	7
Hong Kong	92.4	8
Denmark	[illegible]	9
West Germany	80.8	[illegible]
Switzerland	79.6	11
United Kingdom	76.3	12
South Korea	75.6	13
Japan [2]	[illegible]	14
Taiwan	64.3	15
U.S.–W&M	63.1	....

[1] Class four of the Ways and Means Committee (US–W&M) staff tax reform option incentive depreciation system includes, for example: mining equipment, rail cars and assets used in manufacture of pulp and paper, glass products, primary nonferrous metals and foundry and steel mill products. Calculations for the comparison were made with respect to light manufacturing textile equipment. Class four equipment is subject to double declining balance depreciation over a ten year recovery period, switching to straight line at the optimal point.

[2] Although Japan's capital cost system is inferior to that of the U.S., research by Dr. John B. Shoven, Stanford University, suggests that when all factors affecting the cost of capital are considered, Japanese investors enjoy a substantial advantage over their U.S. competitors. Japan's advantage over the U.S. stems from: (1) much lower taxes on capital income at the individual level; (2) individual's almost unlimited ability to deduct savings from taxable income; (3) reduced corporate tax rates on income paid out as dividends; and (4) much higher debt/equity ratios than in the U.S.

NOTE.—Rank shown for all foreign countries assumes current law for the United States (ACRS/ITC).

Source: Arthur Andersen & Co.

Mrs. KENNELLY. Mr. Chairman, I yield 5 minutes to the gentleman from Massachusetts [Mr. DONNELLY].

Mr. DONNELLY. Mr. Chairman, I rise in strong support of the tax reform legislation reported by the Committee on Ways and Means, and to urge its adoption.

This legislation, the product of many months of arduous consideration in committee achieves the goal originally espoused by the President, that of restoring fairness to the Federal Tax Code.

But a "no" vote on this tax reform bill must be recognized for what it truly is: A vote against a bill that comes as close to true tax reform as anything we are likely to have the opportunity to consider for a long, long time. The Tax Code is riddled with inequities, and every taxpayer knows it. This bill restores balance to the tax system, correcting the inequities that have resulted in lower- and middle-income taxpayers subsidizing wealthy taxpayers who pay little or no tax.

There were probably not very many of our constituents standing outside Ways and Means in pin-striped suits for the last 4 months, but the people's interests predominate in this bill. This is an opportunity to restore their faith in the tax system.

Taxpayers know that they lose too much of their hard-earned money to the Treasury, and that this bill allows them to keep more of their money. Every taxpayer, both individual and corporate, will pay tax at a lower rate. The bill lowers the average income tax burden of households with incomes between $20,000 and $30,000 by 10 percent the average income tax burden of households with incomes between $30,000 and $40,000 by 9 percent; 50 percent of the tax reductions in this bill go to taxpayers with incomes between $20,000 and $75,000. It increases the standard deduction, the personal exemption, and the earned income credit. Plus maintains the deductions of most importance to moderate- and middle-income taxpayers: deductibility of State and local taxes, excludibility of employer provided fringe benefits, and deductibility of home mortgage interest.

The working poor know that under current law they bear an unfairly high tax burden, and that the committee removes more than 6 million low-income individuals and families from the Federal tax rolls. No married couple with two children would pay taxes on income of less than $14,475 in 1987.

Those who pay their fair share of taxes are angry and frustrated that in the last 4 years 129 of the 275 most profitable corporations paid no taxes at all, that over 300 individuals with incomes over 300 individuals with incomes over $200,000 paid no taxes at all that the effective average tax rate in the banking industry is 6 percent, that defense contractors and property-casualty insurance companies pay little or no tax because of special code provisions. The Ways and Means bill closes industry-specific loopholes and imposes an expanded and strengthened minimum tax to ensure that no individual or corporation will escape paying a fair rate of tax through the use of tax loopholes on tax preferences.

Small businesses and emerging service industries know that the Tax Code treats them unfairly because they are taxed at relatively high rates when compared with other industries. By providing lower phased-in rates for small businesses, and eliminating special preferences, the Ways and Means bill "levels the playing field" of corporate taxation.

Those who cannot afford decent housing will benefit from the bill's incentives for targeted low-income housing. More generous depreciation and use of tax-exempt financing for low-income housing will ensure that, in the absence of a coherent national housing policy, the supply of low-income housing will at least remain stable.

Taxpayers know it is unfair that some corporations are able to create zero or negative tax rates by combining accelerated depreciation and the investment tax credit. The tax reform bill imposes a less accelerated, economic depreciation system. Critics contend that repealing the ITC and ACRS will have a negative effect on capital formation. These are the same experts who told Congress 4 years ago that enactment of these tax breaks would result in a dramatic increase in investment in plant and equipment and in personal saving rates. Since 1980, however, investment in plant and equipment has remained, basically stable and personal savings declined. Too many business decisions have been made with tax shelter in mind, rather than profit in mind. The only dramatic result of the present system has been the dramatic reduction in some companies' tax liability. The reduction in the top rate, moreover, from 50 percent to 38 percent, will provide investors with more disposable income to invest in capital. In all, the bill shifts $141 billion of tax revenues from individual to corporate taxpayers.

Senator DOLE once told a group of lobbyists outside the Finance Committee, "you ought to try paying taxes some time. You might like it." Our constituents know that this bill will bring those individuals, and the organizations they represent, closer to that day of reckoning. They may not like paying taxes, but those who have been doing so all their lives will gladly welcome them to the fold.

Mr. DUNCAN. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. DREIER].

Mr. DREIER of California. I thank the gentleman for yielding.

Mr. Chairman, the only thing about this 1,379-page bill that's tax reform is the title. You know, the greatest measure that we had before us which stimulated the economy, brought us to this 36th month of economic recovery that we are now enjoying, was the 1981 Economic Recovery Tax Act. It put into place accelerated cost recovery, investment tax credits, it expanded individual retirement accounts. Those kinds of provisions which are jeopardized in this bill are very important to maintain; we must do that.

That bill, incidentally, was half the size of this year's reform bill. We are ostensibly seeking fairness, simplicity, and economic growth.

What we are being asked to vote on is not the kind of tax reform the American people have been led to believe it is: It is not fair, simple, or growth oriented. It is a reflection of the so-called tax reform measures enacted by Congress in recent years which have added layers upon layers of complex provisions to the current Tax Code that only well-trained accountants can understand.

Entitled the "Tax Reform Act" of 1985, this legislation is similar in more ways than just the name of last year's tax increase bill, also entitled the "Tax Reform Act" of 1984. Like that tax bill, and those preceding it in 1983 and 1982, this year's tax bill is merely one more attempt to completely dismantle the economic reforms put in place by the President and Congress in 1981. These reforms are responsible for the highest rate of economic growth in recent memory.

The Economic Recovery Tax Act of 1981 was as close to true tax reform as this Congress will ever get. It lowered the cost of capital and accelerated the depreciation schedules to give fledging industries needed capital resources to invest in modern plant and equipment. It also lowered corporate and personal taxes by 25 percent, and created incentives for personal savings and investment. The result has been 3 straight years of sustained economic growth which is expected to continue well into the 1990's.

But now we are being asked to abandon these economic reforms and go back to the days of economic instability and uncertainty. Just look at what the Ways and Means Committee bill does. It adds 1,379 pages to an already complex and technical Tax Code. It discourages savings and investment at a time when the national savings rate is at a 35-year low. It decimates capital formation, and imposes extensive new complexities on American companies doing business abroad at a time when the U.S. trade deficit is at an all time high.

The Ways and Means Committee bill is so bad that even the President's own Council on Economic Advisers warned of the possibility of recession if this legislation is enacted. Nobody wins with a stagnant economy. And when you talk about the lower marginal tax rates contained in the committee bill, I find it hard to understand what benefit there is to a tax cut when you're an umemployed worker. And how will a bankrupt small business benefit from lower marginal tax rates? This is the type of economic policy I'm not willing to support.

American taxpayers were led to believe that they will get genuine tax reform, with dramatically lower rates, a code simple to understand, and a program that will unleash the pent-up productive capacity that has been repressed by a complex and burdensome Tax Code. The Ways and Means bill fails on all three fronts.

Last year, I introduced a flat rate tax proposal which would lower marginal tax rates for individuals to 14 percent. It was a comprehensive approach to tax reform which responded to public outrage over publicized abuses in the Tax Code, as well as the complexities of the current system. It was also a reflection of what many people felt, and still believe, is genuine tax

reform. The committee bill actually adds lines to IRS reporting forms.

It is my hope that we will reject the Ways and Means Committee proposal, and focus on a comprehensive plan that drastically reduces marginal rates below even those proposed by the President, encourages savings and investment to sustain economic growth, and promotes capital formation so we can regain our competitive edge in the international markets.

We don't need change simply for the sake of changes. What we do need is a simple, fair, and growth-oriented Tax Code that restores the confidence of taxpaying Americans. I strongly urge my colleagues to vote no on this dangerous reshuffling of our tax laws.

Mrs. KENNELLY. Mr. Chairman, I yield 3 minutes to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Chairman, this is the most important vote of the year. Will this body today cast its vote for the average taxpayer, or will it cast its lot with big business and special interests, all of which have produce over a thousand excuses why this bill is not good? This is a bipartisan bill. It is supported by the President of the United States, by most House Democrats, by over 250,000 small businesses, one out of the Fortune 500. Most importantly, however, it is a bill with a Democratic Party stamp.

It gives me great pride as a Democrat to say that the party is reverting to its old form, to helping the middle class, to helping the average taxpayer. All this talk about new ideas is good talk, but, most importantly, the party is back to its roots. Mr. Chairman, when you talk to the average guy he will tell you the following: First, the present tax system is a disgrace; second, that the middle class pays most of the Nation's taxes; and, third, that the rich and big corporations do not pay their fair share.

This bill does several positive steps in the right direction. It cuts the top tax rate paid by all taxpayers. For those in the upper brackets the cut will be 24 percent. This means that the top rate will have been cut nearly in half since 1980. For those between $20,000 and $70,000 a year, an average tax cut of 10 percent. It eliminates over 6 million American working poor from the tax rolls.

It requires corporate America to pay more so that individual taxpayers will pay less of the total tax burden. Accounting changes and a new tough minimum tax guarantee that multibillion-dollar corporations will pay tax when they make a profit. Important middle class deductions are kept; State and local taxes, home mortgage interest, and the marriage penalty are also retained.

Mr. Chairman, this tax bill today is a tax bill for America. Let this House go ahead and support the average person today.

Mr. DUNCAN. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. GREEN].

Mr. GREEN. I thank the distinguished ranking minority member of the Committee on Ways and Means for yielding this time to me.

Mr. Chairman, I rise to deal with the question of the deductibility of State and local taxes. Now it is true that in this bill the deductibility of State and local taxes is preserved, except for the discrimination as to the personal exemptions against those taxpayers who itemize. However, I think that those who are concerned about the deductibility of State and local taxes ought nonetheless to vote against this bill, because that is their only way of being sure that this Congress is not going to terminate that deductibility.

The fact of the matter is that this bill is on this floor at this hour because the President of the United States made a pledge and 56 Members on this side of the aisle changed their votes on the basis of that pledge. And what was that pledge? That pledge was that he would veto the bill if he viewed it as "antigrowth" or "antifamily." What does it appear he thinks has to be done with this bill to make it progrowth and profamily? He appears to believe that we have to go back to three brackets with a top rate of 35 percent starting at an income level no lower than $70,000, that the full $2,000 personal exemption has to be made available to those who itemize, and that the effective date of those provisions which raise taxes cannot be earlier than the effective date of those provisions which cut them, in order to prevent a recession.

Now, anyone who knows anything about those provisions knows that to do what the President seems to think has to be done in order to make this bill one he can sign costs tens of billions of dollars a year. There is only one place that you are going to be able to go to get those tens of billions of dollars a year when this bill gets over to the other body, and that is the very place that Secretary of the Treasury Baker told us he was going to go last week when he visited various Republicans trying to get us to change our votes on the rule: The State and local tax deductions.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from North Carolina [Mr. JONES].

Mr. JONES of North Carolina. Mr. Chairman, I thank the gentleman for yielding to me for this brief colloquy. I would like first to express my admiration and gratitude to the chairman and the members of the Ways and Means Committee for the work they have done in bringing this tax bill before us, with provisions addressing concerns of the Committee on Merchant Marine and Fisheries.

I would like specifically to state my appreciation for your understanding expressed in the exchange of letters that appears in Committee Report 99-426 on this bill. I would like to reiterate that when bills dealing with capital construction fund are jointly referred to the Committees on Ways and Means and Merchant Marine and Fisheries that we will endeavor to handle expeditiously our committee's consideration so as not to interfere with the other committee's responsibilities in applying its expertise to the matters contained in whatever bill is thus jointly referred.

I would just ask the gentleman from Illinois if he agrees with these conclusions, and before I yield, I once again thank him for his courtesies.

□ 1655

Mr. ROSTENKOWSKI. Mr. Chairman, if the gentleman will yield, I do, and I agree with the gentleman implicitly.

Mr. JONES of Tennessee. Mr. Chairman, I once again want to thank the gentleman for his courtesies and for his cooperation.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. MATSUI].

Mr. MATSUI. I thank the gentleman for yielding time to me.

Mr. Chairman, I understand that many State and local government officials have been concerned about a statement in the committee report which has been interpreted as requiring so-called flexible bonds issued before 1986 to be subject to new arbitrage rules. Could you clarify this situation for us?

Mr. ROSTENKOWSKI. Mr. Chairman, will the gentleman yield?

Mr. MATSUI. I yield to the chairman of the committee.

Mr. ROSTENKOWSKI. Mr. Chairman, I want to clarify for the record a point in the committee report regarding the applicability of certain new arbitrage restrictions to so-called flexible bonds. Flexible bonds are bonds that contain provisions permitting various types of changes in the bond terms, either at the discretion of the issuer, a remarketing agent, or the bondholder. The committee report points out that, in some cases, a change in the terms of these flexible bonds may under present law result in a bond having been reissued; that is, refunded, as a matter of substance.

The statement in the committee report is not intended to establish rules for determining when bonds are issued or refunded. That determination will continue to be made as under present law. As with other types of bonds, the new arbitrage restrictions will not apply to flexible bonds, unless the bonds are issued or refunded after 1985.

Mr. MATSUI. I thank the chairman of the committee for that clarification.

Mr. DUNCAN. Mr. Chairman, I yield 3 minutes to the gentleman from New Jersey [Mr. Gallo].

Mr. GALLO. I thank the gentleman from Tennessee for yielding, and I also would like to acknowledge that the chairman of the Ways and Means Committee obviously went through a great deal of work. I feel very strongly, though, the committee missed its mark as far as tax reform. When we talk about tax reform, we talk about three ingredients, and you have heard it today. First we talk about simplification. When you talk about simplification, you do not talk about 1,379 pages of reform. When you talk about fairness—I think the family issue was brought up and made very clear—there is no fairness when you handle individuals who are itemizing their taxes, differently from those who do not itemize their taxes.

And let me go back to 1980, when I served in a different House. I served in the New Jersey Assembly. At that time we had a recession. We had unemployment that was running rampant, we had no growth, and this administration brought about a policy, which was implemented by this House and, yes, it was tax incentive. And what have tax incentives done not only for the State of New Jersey but for this country? It has brought this country back.

When I look at the situation we faced, unemployment over 9 percent, owing the Federal Government over $600 million, for loans of unemployment compensation insurance today, with those incentives, with the job-creation ability of those incentives, we paid back our loan, we do not owe the Federal Government any money. But with this bill, you take away the accelerated depreciation or stretch it out so far it loses its impact; investment tax credit is gone; tax exempt bonds in the private sector is gone. Those are the areas that we classified as EDA, Economic Development Agency, where we created in the State of New Jersey thousands upon thousands of jobs.

It is fine to talk about tax reform and talk about lowering rates for individuals, but I do not think there can be anything more disturbing to a person in elective office than to get that call from a constituent saying, "I lost my job, I don't have a job." You cannot pay taxes if you do not have a job. This bill is anti-growth, something that I do not think this Nation can stand. That is why I am strongly opposed to this bill.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 4 minutes to the gentleman from Ohio [Mr. Pease].

Mr. PEASE. Mr. Chairman, we decided that a major goal of the Ways and Means tax bill should be to reduce the interference of the tax system in the efficient allocation of resources in the economy. I think the bill would result in a significant reduction of this interference. Our guiding principle in fashioning the capital provisions of the bill was that investment decisions should be guided to the greatest extent possible by pure market considerations and not by tax motivations.

Much has been said about the elimination of the investment tax credit and the changes in the depreciation system in the Ways and Means tax bill. But I think we need to adjust our frame of reference as we look into these vital issues. I think it's worth pausing for a moment to consider just how fundamentally the Ways and Means tax bill changes the corporate income tax. The bill gives the President exactly what he asked for—a broad-based, low-rate corporate tax. Investment incentives have to be looked at differently in this new context. They will not have the same impact in this market-oriented system.

It seemed to us on the Ways and Means Committee that the best thing a tax system can do for capital formation is to get out of the way and allow businessmen to make investment decisions based on free market economic principles and not on the basis of the tax consequences. The Ways and Means bill, which reduces the top corporate tax rate by nearly 22 percent while eliminating special investment incentives, moves us in that direction.

Conventional wisdom is that the Government can boost investment by tinkering with the tax laws. Our experience, particularly since 1981, has shown pretty conclusively that this theory doesn't hold water. In the past 4 years, incentives for investment have increased significantly, but investment hasn't. Despite the generous combination of ACRS and the investment tax credit [ITC] during the past 4 years, new capital investment has been lower than anticipated.

Let's face the facts. ACRS overcompensated on cost recovery. This is not news. Congress has acknowledged that fact in every tax bill since ERTA by cutting back on the generosity of that system. It was clearly time to go back to the drawing board, and that's exactly what the committee did. The committee bill does provide a generous depreciation scheme that generally uses faster depreciation than companies use to calculate income which they report to their shareholders, but it is not overly accelerated, nor does it lend itself—in conjunction with an ITC—to encouraging inefficient investment.

The best capital investment comes when a company thinks it can make a profit on that investment and keep most of the profit it makes. That's what lies behind the reduction in the corporate tax rates from 46 to 36 percent in the Ways and Means tax reform bill.

A primary objective of the Ways and Means Committee was to eliminate the provisions that have enabled both individuals and corporations to turn uneconomic investment projects into desirable tax shelter opportunities. The current law incentives have interacted in counterproductive ways that have directed investment funds to inefficient uses. The increased investment in equipment that has occurred since 1981 has been almost entirely in such assets as autos and computers, areas that did not benefit from the 1981 act. In fact, investment resources have been wasted by the tax-motivated construction of office buildings and hotels in areas where vacancy rates are already alarmingly high.

Many of the largest corporations in America—including General Motors, General Mills, 3M, and IBM—have concluded that they will grow better with the Ways and Means tax plan. So has the National Federation of Independent Business on behalf of thousands of small businessmen. I believe that they are correct. Their growth will create the new jobs that America needs.

In the past, we have used the tax system to encourage certain kinds of economic activities in preference to others. These kinds of provisions in the Tax Code were all made for reasons that were considered sufficient at the time the provisions were adopted. But what we have seen too often is investors looking to the Tax Code first to analyze their profit potential, instead of to the market. I don't think that's how system should work.

We depend on productive work and entrepeneurial initiative to make our economy grow. If the Tax Code is going to encourage anything, it should encourage getting the profits from such activities into the hands of those who create them.

As a result of studies I have commissioned in recent years to look at the effective tax rates corporations pay, I am well aware that the contribution of the corporate sector to our revenue pool has been steadily dwindling over the past 35 years. In 1950, corporate taxes represented 26.5 percent of total Federal receipts. By 1983, it was down to a meager 6.2 percent.

The Ways and Means tax bill would redress this imbalance to some degree, pushing the corporate share of the tax burden up to the levels of the mid-1970's.

What is more important is that the bill spreads this burden much more evenly than is currently the case. As with individuals, corporations do not resent paying their fair share as long as others are also doing so. Look at the business backing we have gotten already. What they realize is what my studies have shown for some time—namely, that different industries pay very different effective rates of tax. Is it fair that one industry enjoys an effective rate of minus 1 percent, while another in the same year pays almost 40 percent? I think reform in this area is long overdue.

Many argue that the investment tax credit is vital to the continued investment in manufactured equipment, and consider the bill's treatment of the issue a fatal flaw. No one who comes from my part of the country can ignore the importance of a healthy investment climate to the kinds of capital intensive industries that have traditionally been the backbone of the northeastern and midwestern economy.

But again, we need to look at the larger picture. By lowering rates and closing loopholes both for individuals and corporations, we would be fostering an environment in which investment decisions could be based on the investor's assessment of the real economic profit. Today, too much of our investment capital is wasted in unproductive ways because the Tax Code interfers with the market's allocation of resources. To argue that this Tax Code interference is necessary for our industries to prosper is to argue that our fee enterprise system is just plain inadequate.

People talk of investment capital drying up as a result of this bill. This is nonsense. We will continue to have a need for investment, a need to invest, and a pool of capital to satisfy these needs. The bill would allow this capital to flow to where it can do the most good for both the investor and the economy as a whole.

Companies that have what it takes to be successful have no reason to fear this bill. They will be the natural and logical recipients of the attentions and the capital of perceptive investors. They will no longer have to compete with the tax shelter promoters. Many businesses, both large and small, realize this fact, and therefore, support what we are trying to accomplish here today.

Mr. DUNCAN. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. I thank my colleague from Tennessee for yielding.

Mr. Chairman, there are lots of ironic twists in the development of this bill. Yesterday, in a caucus of our party, the Republican Party, we had the President ask us to support the committee bill, a bill he acknowledges to be not a good bill, a bill he says he would veto in its present form. But support it, we were urged, because the Senate will clean it up.

Let me suggest to all of my colleagues in the House that once this measure is passed and goes to the other body, we will all be witnesses to the beginning of the end of the deductibility of State and local taxes.

There are few matters of real principle in this bill. In most instances we are arguing over percentages. But on the matter of the full deductibility of State and local taxes, we are arguing on a matter of principle imbued in our system since the first tax in the Civil War. It is not just a New York issue or an issue for a few States that out of necessity have to raise more revenue to meet their needs. It is a national issue, it is an issue involving the future of public education in America. It is a very serious issue.

And why do I say that the other body is going to start eating away at the deductibility of State and local taxes? It is no secret. The President has said the present bill is unacceptable. He is going to demand of the other body that they clean it up, that they incorporate some more benefits for the business community in their bill. Those benefits are going to cost money.

We have also heard it insisted that this bill must be revenue neutral. Well, where is the additional money going to come from? You have got the answer, we all know what it is. Unfortunately, it is going to be State and local tax deductibility. We are told it will only be a little bit, not very much, just like in the flawed Republican alternative, just a little bit. When in your memory do you ever remember the Government saying just a little bit and having that stand?

I urge that we defeat this measure.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 4 minutes to the gentleman from California [Mr. MATSUI].

Mr. MATSUI. I thank the gentleman for yielding.

Mr. Chairman, first, I would like to commend the chairman and the ranking minority member of the Committee on Ways and Means for the 12-month process of getting this bill out of committee and to the floor of the House. I think the cooperation and effort by all 36 members, including the chairman and ranking minority member, was basically responsible for this bill getting as far as it has gotten.

I would like, if I may, very briefly, to address a few of the salient issues of this legislation.

First, with respect to individuals—and this has been said before, but I would like to reemphasize it—we maintain the deductibility of State and local taxes, and the gentleman from New York expressed concern that through the legislative process we may lose the full deductibility of the State and local taxes.

I think it is pretty obvious that a majority of the Members of the House, Republicans and Democrats, on any conference report will insist that full deductibility of State and local taxes remain. So, I think that fear is unwarranted.

I might also say that the Republican substitute is an example of why the process that resulted in our bill was so difficult to deal with. The ranking minority member and his staff had the opportunity to look at our bill and, at the same time, try to come up with a package that was revenue neutral and maintain the principles that the Republican Party some months ago said were important to them.

Obviously, those principles clashed with one another under the principle of revenue neutrality, and that is why the Republican substitute now only maintains 70 percent of the deductibility of State and local taxes because of the give-backs. And we have to make sure, through the legislative process, State and local taxes are protected.

I would also say that in terms of what this does to individuals, we have a 9-percent rate reduction for individuals across the board. Those who are in the lower income groups, that is, $20,000 and below, will experience a tax cut of anywhere from 35 percent to 70 percent under our Ways and Means bill. And this is warranted because these people did not experience a tax reduction in the 1981 bill, whereas all other economic groups did. Those between $20,000 and $65,000 will see a 9-percent reduction in their taxes as a result of our bill. And those who are at $100,000 to $200,000 will also receive a reduction, but that reduction will be in the range of 5 percent, 5½ percent.

Basically, what we are saying is that this bill helps middle America, this bill helps individuals and it levels the playing field for individuals.

Now, let me speak about the whole issue of the corporate situation and the fact that some have said that this may hurt corporate America and America's ability to invest and manufacture and market its products.

I think that everybody would say that what tax reform is all about is to get the rates as low as possible, and by doing that, what you end up doing is making sure that when a business person makes a decision, that decision will be made only on the basis of sound economic principles and not on the basis of sheltering other corporations or sheltering their income.

As a result of that, what you will see, if this legislation passes, is more and more people and more and more individuals invest in the stock market because that would be the best investment. They will not go out and overbuild commercial property so that communities will have a 20-percent overbuilding of vacancy spots. What they will do is, they will put the money in the stock market, and that will create a pool of capital for business and industry to go out and get lower interest rates. This, in turn, will increase capital formation in the United States.

I urge support of the committee bill.

□ 1710

Mr. DUNCAN. Mr. Chairman, I yield 6 minutes to the gentleman from New York [Mr. McGrath].

Mr. McGRATH. I thank the gentleman for yielding me this time.

Mr. Chairman, I wonder whether at this point I could enter into a colloquy with the chairman of the Ways and Means Committee on the Olympic trust fund amendment that I passed the last night of the markup.

Mr. Chairman, the committee understands that as of November 22, 1985, the National Broadcasting Co. has received an award of the domestic television rights for the 1988 summer Olympics. The committee also recognizes that other material terms have not yet been agreed to.

One major unresolved issue relates to insurance protection. Under these circumstances, it is my understanding that the committee intended to exclude the NBC award from the new Olympic trust fund tax.

Mr. ROSTENKOWSKI. If the gentleman will yield, yes, the Committee on Ways and Means clearly intended under these circumstances to exempt absolutely from this excise tax provision the agreements of ABC and NBC to purchase the television rights of the 1988 winter and summer games, respectively.

In other words, these awards would be exempt under the committee bill even though some of the terms deemed material by the contracting parties may not be agreed to until a date subsequent to November 22, 1985.

Mr. McGRATH. I thank the chairman.

Mr. Chairman, I rise in support of the committee bill and in opposition to the Republican alternative. I oppose the Republican alternative for three major reasons. One is the phasing in of the corporate and individual rates. We do not reach the reduced rates for about 3 or 4 or 5 years in some cases.

The second reason is the repeal of the sales tax provision of the State and local tax deduction. Third is that the deductibility of the State and local taxes will only be 70 percent for property tax and the income tax.

Mr. Chairman, I rise in strong support of the committee tax reform bill. I have asked myself over the many months that we have addressed this bill why I should support this bill and I have come to the conclusion that it does a number of things.

One, it is a substantial rate reduction and I do not want to vote against a rate reduction for individuals. No. 2, it is a substantial rate reduction for corporations and for all of the reasons associated with competitiveness and growth, I do not want to vote against a rate reduction for corporations.

Then I asked myself about all of the complaints I had received from my constituents about Treasury I and Treasury II and the Rostenkowski I proposal. I asked myself, "Where are all of these problems that came from my constituents and not from some special interest or some lobby?" I asked whether or not these were treated or satisfied in the Ways and Means package. Mr. Chairman, I probably got 7,000 letters from my constituents on State and local taxes. I find I can tell them that yes, the State and local tax deduction has been preserved in its entirety in the committee bill.

Then I probably got 3,000 or 4,000 or 5,000 letters on the taxation of fringe benefits, and I am happy to report that in the Rostenkowski proposal, the Ways and Means package, that there will be no taxes on the fringe benefits of employees in this country.

I probably got another 5,000 letters on the inside buildup of life insurance policies. I am happy to report that we do not tax the inside buildup of life insurance in this package. I got an awful lot of mail on the elimination of the 401K pension plans that was in the Treasury II package, and I am happy to say that in the Ways and Means package the 401K pension plans have been extended.

Let me say that I got an awful lot of mail on the taxation of the revenues from life insurance policies issued by Knights of Columbus and the Lutherans and the Woodmen of America. I am happy to say that in the Ways and Means package we will not be taxing those life insurance packages.

Section 1012(b) requires a study of the eight fraternal societies whose premiums on insurance and annuity plans exceeded $25 million in 1984. It does not require an audit of each of these organizations since an audit would unnecessarily deflect IRS resources from our goal to gather information about the workings of the fraternal benefit system. IRS should cooperate with the affected organizations to develop a common questionnaire focusing on how each lodge system functions and the extent to which premium revenues are expended for claim payments, required and optional reserves, administration costs, fraternal services, charitable projects and gifts to outside entities. Additionally, IRS should determine the extent to which a society's lodge system and investment program supports its charitable purposes.

Let me say this, too. When I went back to Rockaway Avenue in Valley Stream and I asked people about what they considered to be tax reform, they said, "Make those people who do not pay any taxes, and those corporations who do away with their tax liability, make them pay their fair share."

Mr. Chairman, I am happy to say that in this package there is an extensive minimum tax. It may even be too harsh of a minimum tax imposed on individuals and corporations in this country. All of the complaints that came from my constituents have been satisfied. I have heard complaints now that it is antibusiness, that it is antigrowth. I would say those waters have been muddied to a large extent. The NFIB has come out in strong support for this bill. One hundred of the Fortune 500 support the bill, and I understand that the U.S. Chamber of Commerce has come out in opposition to this bill. But in my district, the Long Island Association of Commerce and Industry, that organization which represents business on Long Island, came out in strong support of this bill.

Mr. Chairman, this bill should pass. I urge my colleagues to vote for the Ways and Means package.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. Scheuer].

Mr. SCHEUER. I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in support of this bill. It is a good bill, and it is a first step toward tax equity. I congratulate the chairman of the committee and the ranking member and all the members of the committee who have worked so hard on the bill, lobbying various Members who had doubts, myself included.

The bill, in addition, maintains the deductibility of State and local taxes, and I am relying on the strength and the bona fides of our leader, the chairman of the committee, to maintain that deductibility of State and local taxes.

The bill is a good bill; it is a good step forward. I look at this bill as part of a process, as the first of two or three bills, perhaps the first stage of a two- or three-stage rocket that, as a whole, will be a comprehensive package of tax reform.

I have to say that we can do better than continue to rely on what I consider a rather strange principle at a time when we have a $2 trillion budget deficit. Mr. Chairman, we should labor hard and come forth with a bill that targets our massive deficit. We do not really need a comprehensive tax program that is revenue neutral. We need a comprehensive tax reform program that as a totality, be it one bill, two bills or three bills, faces up to the fact that we have this deficit. It is not a God-given deficit; it is a man-given deficit, Mr. Chairman.

In 1981 our President opted to do two things at one time: Enormous military budget increases and substantial tax reductions on the principle that supply-side economics would stimulate the economy.

That did not work.

The American people know that our deficits are out of control.

They know we're making the wrong decisions, irresponsible decisions, to borrow funds to finance our exploding budget deficits.

The American people know that we are forced to borrow every dollar around the world that is not nailed down.

The American people know that these fiscal practices add up to an overvalued dollar which in turn makes it very difficult for U.S. industries to compete effectively in world markets.

As the House version of the Tax Reform Act stands, we are reshuffling tax rates, loopholes and exemptions but we are not raising 1 additional cent to reduce the deficit.

Whether we pass this bill or not in the next 48 hours before we adjourn, we still will have major unfinished business in the 2d session of the 99th Congress and in the 100th Congress.

Our immediate challenge is to revamp our Tax Code to make a meaningful dent in our deficit in a fair and equitable manner.

The recent passage of the Gramm-Rudman amendment, over my strenuous objections, has made the reality of a tax increase all the more inevitable, indeed essential.

While those who voted for Gramm-Rudman believe that this misguided measure will force Congress to address the deficit, it is inconceivable that Congress will be able to meet the Gramm-Rudman deficit targets by budget cutting alone without jeopardizing the integrity of our defense and dismantling the surviving elements of our social safety net.

Despite our aberrational action on Gramm-Rudman, which I am convinced we will regret, the American people are looking to Congress to seize the initiative and raise the revenues necessary to make meaningful inroads on our horrendous deficit, and meet head-on the multiplicity of problems that are produced which it will inevitably produce.

I do not want to denigrate either the tax bill itself or the herculean effort of the Ways and Means Committee.

Indeed, Chairman ROSTENKOWSKI and members of the committee showed tremendous leadership in bringing a tax reform bill to the floor.

The Ways and Means tax bill is clearly a step forward in the right direction.

We simply need to do more, much more.

We must alter our thinking about taxes and give specific incentives to those segments of our economy that face fierce foreign competition and where we desperately need capital investment rather than favoring nonproductive sectors that are sheltered from foreign competition.

We must redirect the tax incentives in our Tax Code toward the manufacturing and industrial sector of our economy.

Our Tax Code historically has favored the real estate sector—providing lush tax incentives for the construction of hotels, shopping centers, luxury apartment buildings, office buildings, and other concerns sheltered from foreign competition.

Our current Tax Code is skewed toward real estate at the expense of the industrial sector, which needs new investment capital for research and development and for modernization of plants and equipment.

These incentives have spawned in recent years one of our Nation's hottest growth industries—the packaging of real estate tax shelters for wealthy investors.

These tax shelter packages, which encourage wealthy individuals to use legal means to avoid taxes, direct capital investment toward a segment of our economy where new investment and new construction is not a particularly urgent national priority.

The Ways and Means tax bill would cut down on these shelters somewhat by extending the time frame for depreciation from 19 years to 30 years, and by reducing the highest tax rate—which in turn reduces their value.

But we should go much further and wipe out the outrageously advantageous tax incentives for investment in real estate and redirect capital investment into research and development and into the modernization of plant and equipment in the industrial and manufacturing sectors.

Such a move would not have serious effects on middle-income taxpayers, but it would recover billions of dollars in additional tax revenues and target needed investment capital to enable our ailing industrial sector compete more effectively in international commerce.

The Ways and Means bill has gained the support of General Motors and IBM, presumably because it takes some action in this direction.

Taking serious steps to reduce our massive budget deficits would reduce drastically the need to borrow enormous sums from abroad.

This would in turn reduce interest rates and encourage the return of the dollar from its present overvalued state to a far more realistic level.

By thus improving the climate for capital investment and by directing it toward the industrial sector, we will be in a far better position to compete with our trading partners.

Only then could we finally end our unacceptable practice of sitting idly by and watching jobs in our manufacturing sector evaporate at the rate of 3,000 jobs per day—a tragic 1 million jobs a year exported overseas.

Mr. Speaker, tax reform is needed to ensure that we eliminate the loopholes that allowed nearly 30,000 taxpayers making more than $250,000 annually to pay virtually no taxes in 1983.

We must change our laws to ensure that the 1,500 millionaires who paid less taxes in 1983 than the average middle-income family of four will no longer have that luxury.

We must alter the law to ensure that 50 of the largest American corporations, which made combined profits of more than $56 billion between 1981 and 1984 but paid no taxes, will shoulder their fair share of the tax burden.

Above all, we must correct the mistakes made in the President's tax cut bill of 1981—tax reductions of massive proportions which left us with the horrendous deficit we face today with its tragic, inevitable consequences.

It took 189 years, 29 Presidents from George Washington to Jimmy Carter, 5 major wars and a catastrophic depression to reach the first trillion dollars in national debt in 1980.

But it has taken only 5 years—since President Reagan took office in 1981—for our 1981 debt of $1 trillion to double to $2 trillion.

Virtually every economist worthy of his salt predicted the massive deficit we face today when the 1981 tax cut bill moved through Congress, but their warnings went unheeded.

I hope this body will stay the course on tax reform and deficit management.

Perhaps no single bill can solve all of the problems inherent in our Tax Code in one fell swoop.

But we must start the process.

This is our immediate challenge and I urge my colleagues to make it a top priority in early 1986.

The American people will respect us for meeting this challenge head-on.

Conversely, they will hold us in contempt if we waffle and fail to act decisively as economics and our responsibilities dictate.

□ 1720

The CHAIRMAN. The Chair would like to state that the chairman of the committee, the gentleman from Illinois [Mr. ROSTENKOWSKI], has 28 minutes remaining, and the gentleman from Tennessee [Mr. DUNCAN] has 35½ minutes remaining.

Mr. DUNCAN. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia [Mr. WOLF].

Mr. WOLF. Mr. Chairman, when the issue of tax reform first surfaced as a priority over 1 year ago, it captured the imagination of millions of Americans by promising to produce a Tax Code which was simple and fair. I rise in opposition to H.R. 3838 because the bill we are considering today does not accomplish these goals and will instead result in a Tax Code which is more complex, unfair, and will adversely affect many sectors of our society, including government.

In the broad picture, I have become extremely concerned in the past few days by studies which have been conducted by many business groups, including the U.S. Chamber of Commerce, which suggest that the tax changes proposed in this bill would greatly reduce the capital investment necessary for continued economic growth and would severely impact our ability to compete abroad. I fear that this combination will halt our current period of economic expansion and result in the loss of millions of jobs. I would ask the committee, what good is a reduction in the marginal tax rate to an individual who is unemployed or whose growth potential has been curtailed because the economy slows down?

Separate from the threat of an economic rescission, I have heard it said that the vast majority of individual taxpayers in this country will benefit from enactment of this legislation. After reviewing the contents of H.R. 3838, however, I have great concern over the impact it will have on many responsible individuals within my district. I believe the committee's decision to cap the maximum amount an individual may contribute to a 401K plan while also tying 401K contributions to IRA accounts, effectively forcing an individual to choose between the two, is unwise.

On numerous occasions, this House has recognized that savings in this country lag far behind that of any other industrialized nation and has supported efforts to encourage Americans to save. The 401K and IRA programs have largely accomplished this goal by encouraging tens of millions of Americans to save for their own retirement. I believe that turning back on our commitment to encourage saving in this country to make up for revenue lost in other sections of the bill is a serious mistake.

Many individuals who have large families would not fare so well as under this proposal either. I had hoped that the committee would recognize that all families in this country need help to offset the cost of raising children. Take, for example, a family with four children who own their own home with a combined income of $40,000. More than likely, this family would itemize their taxes. If such a family lived within my congressional district, they would be hard pressed to meet the basic expenses associated with raising a family of this size. The extra $500 per exemption would be individual to a family of this type and could possibly make the difference between sending a child to college or not. I believe the portion of the President's proposal which raised the personal exemption to $2,000 for all families was the cornerstone to restoring fairness to the Tax Code for families.

On another issue, I am concerned that a provision which would repeal the current 3-year recovery rule on employee-contributed annuities, will precipitate a serious crisis in the Federal Government. As written H.R. 3838 would repeal the recovery period on July 1, 1986, and give many senior officials in the Government the choice of remaining in service, where their country needs them, and accepting in service, where their country needs them, and accepting an increased tax liability of over $10,000 or retire before this provision goes into effect.

It is important to note that these people are not faceless employees hidden deep within the labyrinth of government. They are teachers, policemen, firefighters, and FBI agents. They are 42.4 percent of NASA's corps of engineers and scientists who are responsible for keeping our space program ahead of the Soviets and 15 percent of NIH's senior scientists who are at this minute seeking a cure for cancer. All totaled, 210,000 of the brightest and best this Government has to offer will be forced to make this decision by July 1.

Mr. Chairman, I do not believe that any Member of Congress expected that a serious revision of the Tax Code would be totally painless. I was prepared to accept a package which I did not agree with totally but which accomplished the fundamental of simplicity and fairness. H.R. 3838 does not meet these two basic tests. I believe the question we must ask ourselves today is if we are prepared to pay the price of a crisis of leadership in the Federal Government and a potential economic recession to keep the concept of tax reform alive. I think not, and urge my colleages to vote against final passage of H.R. 3838.

Factsheet—Current Treatment

Taxpayers who contribute to a retirement plan and elect to receive their retirement plan benefits in the form of an annuity currently are subject to special tax rules. Under these rules, a portion of each annuity payment generally is excluded from income. The excluded portion represents the taxpayer's contributions to the plan. An exception to this general rule allows the taxpayer to receive contributions tax-free over a 3-year period. After this period all amounts are included in income.

HOUSE WAYS AND MEANS REFORM BILL

The Tax Reform bill recently passed by the Committee on Ways and Means would repeal the 3-year tax-free recovery rule. Thus, amounts received during this period no longer would be totally excluded from income but would be spread out actuarily over the life of the pension. The amendment is generally effective for people who retire after July 1, 1986.

WHO ARE AFFECTED?

Employees at all levels of government.

State, local and federal governments from teachers, firefighters and police to FBI agents, cancer researchers at NIH and Air Traffic Controllers.

Two-hundred ten thousand federal workers are eligible to retire next year. That is 10 percent of the federal workforce at the highest levels of management.

42.4 percent of NASA's corps of Scientists and Engineers are eligible to retire.

16.5 percent of the government's air traffic specialists are eligible to retire now.

Six percent of all FBI agents in the highest positions of investigation could retire.

16.7 percent of the Air Force's Inventory Management program overseeing purchase of spare parts could retire.

Fifteen percent of NIH's senior scientists with doctorates could retire from government service.

Fifty percent of all federal Senior Executives are eligible to retire in 1986.

THE TAX CHANGE EFFECT

If enacted, the Ways and Means Committee provision could affect a career of financial plans for retirement. It would eliminate the "window" for cashing out IRA's, Keoghs, and savings bonds.

Recruiting in the federal government was severely impacted by proposals earlier this year to cut federal pay. With recruitment of qualified individuals at an all time low, the federal government depends on its current experienced workforce to provide the services expected by the American people. This tax proposal could exacerbate an already serious recruitment and retention problem in the federal government.

The tax reform plan is cited as revenue neutral. This provision could result in a real cost increase to the federal budget when it is considered that for every person who retires, a decision must be made on a replacement at generally the same salary as the departing employee plus an annuity must be paid to the separating individual. The income to the Treasury derived from the tax exclusion rule change could be insignificant when compared to the cost to the government of paying a salary and an annuity.

Mr. DUNCAN. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina [Mr. Hendon].

Mr. HENDON. Mr. Chairman, the earlier remarks of the Speaker during the debate on the rule were moving and to the point. The American people want fairness in their Tax Code, they want equity, they want the corporations and the wealthy who now avoid taxes to pay their fair share. In short, the people of America want the loopholes closed and the Tax Code simplified, and I am with them all the way.

But every day in this body and in town halls and in school board meetings all over America, reasonable people look at the same facts and come away with different conclusions—and with different votes.

The Speaker and I will do just that today. We both want tax reform and all the good things it brings, but to achieve that, he wants Rostenkowski, and I want Duncan.

I want Mr. Duncan's alternative for one reason—jobs: jobs for the people of the region that I represent in western North Carolina and jobs for America.

The Rostenkowski bill could cost my people their jobs. That is what the experts are telling us, and that is why I strongly urge my colleagues to vote yes on Duncan, and no on Rostenkowski.

I thank my colleague, the gentleman from Tennessee [Mr. Duncan], for yielding this time and for the fine alternative he has presented.

Mr. RUSSO. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. Mr. Chairman, I want to advise my colleagues of my concern about the provision of the bill that subjects single and multifamily housing bonds to the volume limitation applicable to all tax-exempt industrial development bonds.

Under the bill, a volume cap of the greater of $200 million or $175 per capita per State is imposed on the single and multifamily housing bonds, small issues, sewage treatment and solid waste, mass commuting facilities, student loan bonds, and bonds issued by 501(c)(3) hospital and educational facilities.

The impact of the volume cap on housing bonds will be devastating in growth areas such as Dade and Broward Counties, FL, which I represent.

Broward County currently has a shortage of 40,000 rental units. Although Broward's population has grown by more than 100,000 since 1979, there actually are fewer rental units now than there were 6 years ago. Today, virtually no rental housing units are being built without tax-exempt bond financing, because incomes in the area cannot sustain the market, given high construction, land, and financing costs. The stretchout of depreciation will also be a disincentive for new construction.

To respond to the tremendous need for single and multifamily housing, in 1985, the authority will have issued a total of $355 million in these bonds. Under H.R. 3838's volume cap, however, its 1986 allocation would be $41.3 million—only 12 percent of its total 1985 activity and 12 percent of its projected issue absent a volume cap.

In my estimation, housing needs should determine whether and how many housing bonds are issued. An allocation system that fails to take into account housing needs simply is not equitable.

I, therefore, urge my colleagues on the Ways and Means Committee to seek modification of this cap on housing bonds as the bill proceeds through the legislative process. Housing bonds should be exempted from a volume cap.

Mr. DUNCAN. Mr. Chairman, I yield 8 minutes to the gentleman from Nebraska [Mr. DAUB], a member of the committee.

Mr. DAUB. Mr. Chairman, I thank my ranking member for that time.

Mr. Chairman, I rise to offer my wholehearted support for the process of tax reform. Indeed I support that process as it is currently embodied in both proposals now before this body, H.R. 3838 and the Duncan amendment.

It has been at times fun, and it has been at times trying. As a member of "Baker's Dozen," those 13 Republicans on the Ways and Means Committee, I might say that sometimes we felt we had lost our "Baker" in the process of trying to forge our imprint for the objectives of tax reform that all of us share today. And what made the effort more difficult, I say to my colleagues, was that our loyal staff of some 20 to the gentleman from Tennessee [Mr. DUNCAN] was compared to the majority staff of some 80. So our folks were out there working 4 to 1 in a way in the effort of cranking out all the detail of broad-based comprehensive tax reform.

But having given them that compliment, I should not let it go unsaid that the staff of the majority and the staff of Joint Tax worked very hard as well to try to be helpful to all of us in moving this process forward.

Mr. Chairman, it seems strange to me that many of my colleagues are having doubts about the process of tax reform at this time. The bulk of what is contained in these bills is the basis of the tax reform platform which has been advanced by conservatives and liberals alike for several years now. Notwithstanding the individual provisions in either bill, these tax initiatives contain some basic tax policy choices which have been the cornerstone of Kemp/Kasten, Bradley/Gephardt, and the Treasury proposals. These policy choices simply put are:

Lower marginal tax rates in return for fewer tax breaks; a broader tax base; a fairer distribution of the tax burden; a minimum tax provision designed to make sure that each taxpayer pays a fair share of taxes; and a market-oriented tax system which eliminates special preferences designed to permit Congress, rather than the market to dictate investment and business choices.

The problem with these bills seems to be that tax reform is not a perfect process. As each of us who have actively participated in the process can attest to, there is no way to protect and insulate each and every special interest in our district from the effects of Tax Code changes. Very simply, there are winners and losers.

I have no doubt that some of those who pay low effective rates of tax have visited with each Member about the horrible effects that tax reform would have on their own special interest. But let me tell you about three very important winners in this tax bill:

AGRICULTURE

For those of us concerned about the family farmer, both bills now before this body provide some sensible tax policy choices designed to help bring profitability back to the family farmer and to conserve our natural resources, provisions which are contained within the bills include:

The retention of important accounting methods, the cash method of accounting and the expensing of preproduction costs, for family farmers.

Important sodbuster/swampbuster provisions designed to curb the development of highly erodible land for agricultural purposes.

Relief from the alternative minimum tax for insolvent farmers attempting to wind up their affairs.

The rolling back of depreciation on single purpose structures to 13 years to curb tax shelter abuse in livestock confinement tax shelters.

Tough minimum tax provisions which limit farm deductions for doctors and lawyers engaged in tax shelter farming to 2:1 ratios on cash invested.

Lower tax rates for both corporate and individual farmers.

SMALL BUSINESS

For those of us concerned about small business, where over 50 percent of our economic growth will be during the next decade, the tax bills provide some new opportunities for many of these businesses which pay more taxes than the giants of industry. Provisions included in the bills include:

Lower marginal tax rates for businesses with $100,000 or less of taxable income.

Approximately 40 percent of the small business community will be able to utilize a new simplified LIFO inventory method similar to that currently used by larger businesses who can afford the accounting and recordkeeping changes.

An expanded expense election to $10,000.

INDIVIDUAL WAGE EARNERS

Without a doubt, the biggest winner in tax reform is the individual wage earner who does not enjoy the same opportunities to take advantage of the Tax Code that are provided our Nation's affluent. Let me offer you the following data as such relates to H.R. 3838:

Middle-class taxpayers earning between $20,000 and $75,000 would receive more than 50 percent of the tax relief provided in the bill.

The average American family would get a 9-percent tax cut.

Employee fringe benefits would not be taxed.

Six million low-income taxpayers would be taken off the tax rolls.

Home mortgage interest and State and local taxes would continue to be deductible.

While I would urge Members to vote for both bills, I recognize that some Members have unique constituent or political problems with certain portions of H.R. 3838. If you cannot vote in favor of the committee bill, then I would certainly urge you to take a serious look at the Duncan amendment which I feel provides the better alternative between the two.

Specific improvements in the Duncan amendment over the committee bill include:

A $2,000 personal exemption for all taxpayers in the first two brackets.

Lower marginal rates for individuals and corporations.

A full $2,000 spousal IRA.

An increased 401(k) limit of $12,000.

Retention of the 20-percent capital gains rate.

A 5-percent investment tax credit.

Depreciation which is indexed to inflation.

Fewer changes in the pension rules.

And a larger itemized deduction for American families. An analysis prepared by minority staff and reviewed by a Big Eight accounting firm suggests that most middle- and low-income families will receive a much larger itemized deduction amount under the Duncan amendment. Members who are concerned about the itemized State and local tax deduction will have to take a hard look at these figures.

Life insurance contracts are not taxed.

The personal exemption is increased to $2,000 for nonitemizers and $1,500 for itemizers.

If there is any one taxpayer who deserves some real tax reform, it is the low-income and the middle-class wage earner who all too often bears the cost of each new tax break and loophole that Congress sees fit to put in the Tax Code. In many respects, the votes today are a reflection of who really does run Congress, the special interest or Joe Lunchbucket. Let me read you a portion of a letter I received from just such a constituent this week:

> DEAR CONGRESSMAN DAUB: I would like to take the opportunity to thank you for your role in the recently completed tax reform proposal reported out of the House Ways and Means Committee.
>
> By voting to report out the measure and keep the legislative process going, you have demonstrated to me, at least, that the welfare of the common man is something you consider. While not perfect, the tax reform proposal you and fellow committee members constructed goes a long way toward restoring tax equity in this country.
>
> I realize that interest, business and labor, conservative and liberal, rural and urban, made this tax reform effort especially harrying and all involved. But it was refreshing to see that the outcome reflected the interests of those least able to have their opinions heard.
>
> Again, thank you for standing with those who elected you, not those who fill your coffers.

In the final analysis, it is vital that each of use today vote for the tax reform process for the right reasons and not stop this important first step for all the wrong rhetoric, whether you vote for the Duncan amendment, the committee bill, or hopefuly both if necessary, the President and the Nation could use your help in making a stand for fundamental tax reform. I hope that we will be up to the task.

□ 1730

Mr. ROSTENKOWSKI. Mr. Chairman, I yield one minute to the gentleman from Florida [Mr. BENNETT].

Mr. VALENTINE. Mr. Chairman, will the gentleman yield?

Mr. BENNETT. I yield to the gentleman from North Carolina.

Mr. VALENTINE. Mr. Chairman, I rise in support of this legislation.

Mr. Chairman, I rise to commend the chairman and members of the Ways and Means Committee for their efforts during the past several months to craft the landmark legislation we are considering today.

As we all know, the committee has had to address problems that sometimes seemed insurmountable. No one is totally satisfied with every individual aspect of this bill, but Chairman ROSTENKOWSKI and the committee deserve our congratulations for their objective consideration of all points of view and their determination to bring forth a meaningful tax reform measure despite considerable obstacles.

Like most Members, I find several provisions in this bill that are difficult for me to support. The changes affecting the timber industry, for example, are likely to have a devastating impact on many corporations and timber workers.

Specifically, the provisions on timber capital gains taxation, timber management expenses, and reforestation incentives do not represent fairness, do not simplify the Tax Code and do not promote economic growth. My concerns, as well as those of my colleagues from other timber-producing States, have already been conveyed in a letter to Chairman ROSTENKOWSKI. If these portions of the bill are not modified before final passage and enactment, this bill will deal a crippling blow to the timber industry and to timber-producing States.

In addition, several provisions in the bill, including those relating to the treatment of pension plans and annuities, gifts of appreciated property, and access to tax-exempt financing, will have an adverse effect on institutions of higher education.

I will not detail all of the proposals that would damage private colleges and universities. These institutions, which have contributed so much to our scientific and technological leadership, to our economic growth and standard of living, and to our cultural life, will be dealt a heavy blow by this bill. Our colleges and universities, both public and private, are too valuable a resource to injure in this manner.

Last week, and again earlier today, I voted against the rule governing House consideration of this measure. I did so largely because the rule permits consideration of the amendment on campaign contributions. In my view, to deny Members the opportunity to amend other sections of the bill while providing for consideration of a proposal that would benefit only House and Senate candidates is to place the entire debate on tax reform in the wrong context. It is vital that this debate focus on the relative overall merits of the tax reform bill rather than on the issue of benefits for Members of Congress.

Mr. Chairman, I hope that the problems I have mentioned can be corrected if the Senate passes a tax reform measure and a conference committee is convened. I will certainly be taking a careful look at the conference report with these concerns in mind. But despite the sections of the bill that I find objectionable, I find much to commend in this legislation.

The tax reform bill reduces marginal tax rates; it consolidates tax brackets; it broadens the tax base; it increases the standard deduction and the personal exemption; it provides tax relief for the working poor; and it retains certain widely used tax provisions, including the deduction for State and local taxes and the tax-free status of health benefits. This bill will help American families.

This bill is far from perfect. It does not eliminate all so-called tax loopholes. It does not eliminate all complexity from the Tax Code. But it is a large step in the right direction. For that reason, despite my reservations and my hopes for an improved conference report, I intend to support this bill. I hope my colleagues will join me in keeping the tax reform process alive.

Mr. BENNETT. Mr. Chairman, I am delighted to congratulate Chairman ROSTENKOWSKI and his committee on their fine work. They made a great improvement on the original bill. They showed intellect, they showed courage, they showed character, they showed teamwork, and they deserve a lot of credit.

I voted against the rule twice on this bill simply because of the fact that I wanted to get a minimum tax that was substantial to bring in some income, about $25 billion annually. I thought that was the way to go. But I was not allowed to do that so I voted against the rule, because that is the only way in which we can attempt to amend it when the Rules Committee does not allow us to have the opportunity to amend the bill.

There are many things in this bill I do not particularly like, and I hope they can be corrected in the conference between the House and the Senate.

But I think on the whole it is a very constructive piece of legislation.

Mr. Chairman, I congratulate the committee and I congratulate Congress on this step forward.

Mr. DUNCAN. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. ARMEY].

Mr. ARMEY. Mr. Chairman, I wish the Ways and Means Committee tax proposal we'll be voting on today met the guidelines we asked for when we entered into the process of tax reform. That is, I wish it was simple, fair, and growth oriented.

Unfortunately, though, after examining this voluminous 1,379-page document, I'm forced to conclude it doesn't simplify our present code. Furthermore, its numerous inequities and inconsistencies make it difficult to claim it's fair, especially for everyone. But the biggest problem I have with the committee proposal is that it doesn't meet the goal of promoting economic growth.

Lengthening depreciation periods, eliminating the investment tax credit, and raising the capital gains tax will have an immediate negative effect on our ability to sustain economic growth. These proposed changes will inhibit capital formation and discourage the necessary capital investment in machinery and equipment to keep Americans working and productivity increasing.

I also believe the committee bill would make the United States less competitive internationally. By eliminating the foreign tax credit and raising the cost of capital for manufacturers we would further exacerbate our trade picture by reducing the ability of American firms to compete abroad.

These concerns are borne out by a recent econometric study conducted for the U.S. Chamber of Commerce. The study shows lower real GNP and declining capital investment if the committee version of tax reform is enacted into law.

It's a cruel hoax to offer lower rates at the expense of undermining our economy's ability to maintain and perpetuate employment for American workers. I'm all for lowering marginal rates—in fact I think they should come down further—but it's naive to think we can keep our economy growing if we undermine the mechanisms which create jobs and opportunities for all Americans.

Mr. Chairman, I'm disappointed the committee version of tax reform does not meet the goals we set when we started the tax reform process. I hope, if this proposal passes the House, we'll be able to work out a version which not only lowers marginal rates further, but which will allow our economy to create and perpetuate economic opportunity.

Mr. Chairman, I certainly want to pay my regards to the members of the Ways and Means Committee on both sides. I know it has been a difficult job. Certainly they have shown a tremendous amount of patience and tenacity and a great deal of sincerity.

We started this process looking for simplicity, fairness, and growth. I am afraid that I cannot agree that we have found any of the three, but I would like to talk for a moment about growth. You know, a great many people I have talked to liken this to the tax changes we made in 1981, but in order to do that you really have to look at the context. In 1981 we were coming off the days of national malaise, the days of stagflation, of high interest rates and we had at that time a frustrated, pent-up investment demand in this country. Investors were ready to get about the business of capital formation.

In order to mobilize that capital formation, we had in 1981 tax legislation that did two things: lowered the rates to spur consumption and also provide the incentives to spur investment. It was investment and consumption working together that brought us to the point where we have created 8 million new jobs since that tax bill was passed; but this is a different time, and I am afraid the consequences of this bill will be different.

At this point in time we have frustrated investors. We have nervous investors. We have investors who are afraid that they will not receive earnings on their investments and they are couching themselves to refrain from investment.

And what do we offer them? Yes, we offer them a reduction in rates, nominal as it is. It should give some spur to consumption, but at the same time we destroy the incentives to investment. We have created here in this bill a sensational juxtaposition of consumption trying to pull the economy up while investment, which gives it that essential start, is pulling it down.

We have really set up a contest in this bill. Will investment or consumption have a greater impact?

I am afraid, Mr. Chairman, that investment will lose and we will lose. We are risking here the most unfair tax consequences of all. I am afraid we may have to come back and tell our American workers that although we reduced your rates, we lost your jobs.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 4 minutes to the gentleman from Illinois [Mr. ANNUNZIO].

Mr. ANNUNZIO. Mr. Chairman, I yield to the gentlewoman from Illinois [Mrs. COLLINS].

Mrs. COLLINS. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in support of this legislation.

Mr. ANNUNZIO. Mr. Chairman, when the time comes to vote on the Tax Reform Act of 1985, it will be one of the easiest decisions for me to make in the 21 years that I have served in the House of Representatives. In actuality I will cast only my vote for the legislation but in my mind I will be casting more than 10,000 votes in favor of the legislation as reported from the Ways and Means Committee.

Earlier this year I sent a questionnaire to my constituents in the 11th District of Illinois asking for their opinions on proposed tax reform legislation. More than 10,000 of the questionnaires were returned to me and the results of the questionnaires not only reinforced my favorable vote on the pending legislation but I truly believe those 10,000 residents of my district helped write the bill before this body today. The results of the questionnaire were not only published in the CONGRESSIONAL RECORD but a copy of the results were made available to the chairman of the Ways and Means Committee and all the committee members.

I am proud that the Tax Reform Act of 1985 is written along the lines of the likes and dislikes of those 10,000 plus 11th District residents.

From talking to other Members of the House and reviewing media accounts of the tax feelings of residents of other areas of the country, for the most part the views of my constituents are the views of a majority of Americans.

I do not want to take up too much time to go over all of the results of my tax survey but I think it is interesting to compare the bill reported from the Ways and Means Committee with the major finding in the survey.

Three out of every four people in the survey were against removing the deduction for State and local income and property taxes. The Tax Reform Act of 1985, H.R. 3838, retains those deductions. A rival bill, being pushed by the administration, would remove those deductions, thus raising the tax bills of millions of Americans across the country.

Some 70 percent of the survey respondents were not in favor of taxing employer-paid health insurance. H.R. 3838, unlike the administration bill, does not tax such insurance.

The largest margin of concern in the tax survey dealt with tax breaks for the oil and gas industry. Nearly 9,000 of the 10,000 respondents felt the tax advantages enjoyed by the oil and gas industry should be eliminated. H.R. 3838 eliminates many of the tax privileges in that industry but does retain enough tax incentives so that new sources of oil and gas can be developed so that we will not have to be so dependent on foreign suppliers.

Only slightly less clear than the mandate for eliminating the oil and gas tax breaks was the feeling that everyone, both businesses and individuals should pay a fair share of the tax burden. Some 89 percent of the survey answers supported such a move. Those feelings are clearly carried out in H.R. 3838. In 1982, nearly 300 individuals in this country, with incomes in excess of $200,000 each, paid no Federal income taxes. And a Treasury Department study found 3,000 millionaires were paying virtually no taxes at all and some 5,400 were paying taxes on only 10 percent of their income. H.R. 3838 raises $19 billion in tax money through a strengthened individual minimum tax that insures that all individuals pay taxes on income.

Not only does the bill require individuals to pay their fair share of taxes but it also places the same requirement on business, an area where the U.S. Government has lost billions of dollars in revenue. A recent private study found that 129 of 275 profitable corporations, that's nearly 50 percent, paid no taxes at all, or actually got money back from the Government in at least one of the past 4 years. H.R. 3838 makes certain that no corporation can escape paying its fair tax share.

The bill goes even further by closing an accounting loophole which allowed some defense contractors to eliminate all of their taxes. This loophole closing provision will raise $14 billion in tax revenue. The bill does not restrict capital formation as some have charged. The legislation provides a graduated schedule of corporate rates for small businesses and a simplified accounting method for small businesses. And since a vast majority of businesses in this country are classified as small businesses, these changes will help expand our economy.

Mr. Chairman, nearly half of all the respondents to the survey fall in the middle-class area, with incomes ranging from $20,000 to $40,000. This is the economic group that is the backbone of our country. It is also the group that in the past has shouldered the heaviest tax burden. Too often tax bills were written that helped the very rich and the very poor but did little or nothing for middle-class America. This legislation is different. It is of special benefit to middle-income families. the bill increases standard deductions and personal exemptions and lowers tax rates across the board. The Tax Reform Act of 1985 lowers the average income tax burden of households with incomes between $20,000 and $30,000 by 10 percent and average income tax burdens of households with incomes between $30,000 and $40,000 by 9 percent.

The administration's tax bill would have continued to make middle-class families carry the load for the rich. That bill would reduce the tax bill of households with incomes in excess of $200,000 by 15 percent, while allowing only a 7-percent reduction for households with incomes from $30,000 to $40,000. That would provide the rich with a tax benefit more than 100 times greater than those who are the main breadwinners in this country.

I want to commend and thank those residents of my district who took time to answer the tax survey. This legislation shows that the input of constiuent views is not ignored and that everyone can help write legislation.

Mr. Chairman, I wish it were possible to list the names of the 10,000 constituents who responded to my survey as cosponsors of H.R. 3838 for I feel they played a great part in writing the bill. But since that is not possible, I want them to know that my vote today in favor of H.R. 3838 is not one vote but 10,000.

Mr. DUNCAN. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, a short while ago I voted against the rule and I'm deeply disappointed that, at the very least, the Rules Committee failed to make "in order" for the Ways and Means tax bill the Wolf-Hoyer amendment to protect Federal employee annuities from taxation for an initial period after retirement.

Like many Members, Mr. Chairman, I strongly favor simplification of our Tax Code. I support making the way we tax Americans more equitable and fair. But, on this important issue of revamping the entire Tax Code of the United States, the Rules Committee has given us too little opportunity to work our will on individual provisions. I believe the House leadership has done Members a disservice when we aren't even given an opportunity to vote on important provisions in the legislation. For example, I object to the provision in the bill which would prevent Federal employees from recouping their individual payments tax free for the first 3 years of retirement. Tens of thousands of employees have planned their retirement based on this promise. The Government should not renege on its pledge.

Mr. Chairman, there are several aspects of H.R. 3838 that I support—full deductibility for State and local taxes and deep reductions in the tax rates for individuals across the board. This bill will result in an average drop in taxes of some 9 percent for all middle-income wage earners over a 5-year period. The working poor—those struggling just above the poverty line—will be completely dropped from the Federal income tax rolls. This will affect more than 6 million Americans and is, in my view compassionate and significantly more fair for the poor than current law. Some provisions, however, must be eliminated. Regrettably, the rule offered us no real opportunity to amend H.R. 3838. So that will have to wait until another day.

Just let me say that I was encouraged yesterday, Mr. Chairman, when the President, in a meeting with our conference, promised to veto any tax overhaul bill that did not encourage growth or which failed to include the $2,000 exemption for all taxpayers. I believe the President's word is good and many—hopefully all—of the objectionable features of H.R. 3838 can be stripped from the bill when it gets to the House-Senate conference.

I urge support for the Ways and Means bill.

□ 1745

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Oklahoma [Mr. JONES] .

Mr. JONES of Oklahoma. I thank the gentleman for yielding this time to me.

Mr. Chairman, I regret having to oppose this tax bill, but I must because it is not good for our national economy and it will certainly hurt the economy of my State of Oklahoma.

Let me commend, at the outset, the leadership and fairness of Chairman DAN ROSTENKOWSKI. Given the parameters imposed on him by the President, I doubt that anyone could have come out with a much better bill, and certainly the chairman's bill is an improvement on the administration's Treasury I proposal.

My dispute is with the guidelines imposed on the committee. From the beginning, this bill has been driven by politics not by economics. The politics are promises of tax cuts for individuals. Since we can no longer tolerate paying for such tax cuts by Federal borrowing as we did to finance the 1981 tax program, this tax cut will be paid for by increasing taxes on business and capital investment by $140 billion.

In essence that is a tax increase on jobs.

Virtually every economist who testified before our committee agreed that in the next 2 or 3 years, this tax reform will depress capital investment. That means that fewer jobs will be created. That means that our capital intensive industries will be less competitive with foreign manufacturers at a time when our Nation has become a net debtor country.

So whatever the merits of this tax package in the long run, it will certainly not help our economy in the short run next few years.

And frankly I don't think our economy is so sound that it can withstand another jolt to growth and job development.

Second, this tax package is not simplification. This tax reform is thicker than today's maligned Tax Code. Simplification was dropped from this tax title a long time ago. Rather than reform and simplification, it is a reshuffling of today's Tax Code.

Mr. Chairman, I fear that we are about to repeat similar mistakes to those of 1981 which resulted in the deepest recession our Nation experienced since the Great Depression. At that time, President Reagan promised the American people that we could double military spending, cut taxes by $750 billion and still balance the budget by 1983.

You will recall that I called that an Alice-in-wonderland pipedream and that simple arithmetic dictated that you couldn't balance the budget by cutting revenues three times greater than you cut spending.

My dissent in 1981 was not popular. It certainly was not heeded. But my predictions of $200 billion deficits has proved true.

Now we are paying the price for those mistakes.

My fear is that the uncertainty and the tax increase on investment resulting from this tax reform will seriously depress capital investment over the next few years and that there won't be enough new jobs created for those entering the job market.

Tax reform for most Americans means that everyone, both corporations and wealthy individuals alike, pay a fair share of our Nation's tax burdens. That argues for a stiff minimum tax.

Sound economics for most Americans means reducing these awful Federal deficits not more politics of tax cuts.

Regretably this tax package does not meet the test of simplification nor good economics and for that reason I shall oppose it.

Mr. DUNCAN. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. Martin].

Mr. MARTIN of New York. I thank the gentleman for yielding this time to me.

Mr. Chairman, I would like to associate myself with the remarks of the gentleman from New York [Mr. Green] concerning the deductibility of State and local taxes.

I want to take this opportunity to salute the chairman of the Committee on Ways and Means and the ranking member, and all the members, indeed, for all the hard work they have put in over the past year here in Washington. While the Committee has been working its will, others of us have had the opportunity in some instances to discuss these things with our constituents rather than going through the ponderous task, which it is indeed, of trying to draft such a piece of legislation.

I think we have given up on trying to convince anyone that this 1,379 page document simplifies anything. But as I listen to more and more of the debate and the talk concerning special interests, as though they are some kind of a bad group, there is something I want to share with my colleagues.

I take 3 or 4 days in each year, as I am sure some of my colleagues do, to speak with the schoolchildren around the district. On one particular occasion early this summer, I had the opportunity to discuss this with a small group in a small town in my district. One of the children asked me, "What are you doing here in town?"

I pointed out that I was there to speak to them, but also was going to speak to local industry in town, as they wanted to speak to me. That is one of our special interest groups. I asked them how many people there had fathers and mothers who worked at this particular plant, a plant, I would suggest, that is threatened by this bill because they did the wrong thing, I guess. They did just exactly what we asked them to do in 1981 as far as making investments and creating jobs.

Fully 75 percent of the hands of those little kids in that school went up. I would suggest that, in some people's minds, is a special interest group. I want to point out we are talking about one small county, and I want to point out this is the county that the Governor of the State of New York referred to on nationwide, and I guess I would say a worldwide hookup, during the Democrat Convention as being the situs of abject poverty. They are not a special-interest group. They are children who want their parents to have jobs so they can eat, so they can be clothed, and so they can have a roof over their head. They are a group that we have to look at. They are a group that we have to do the right thing by.

So before we become precipitous, and pass a bill the impact of which we cannot fathom, I would ask that we look at its provisions very closely and vote against it and give it the funeral that it deserves.

Mr. RUSSO. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. Lundine].

Mr. LUNDINE. I thank the gentleman for yielding this time to me.

Mr. Chairman, since coming to Congress, I have been an advocate of comprehensive tax reform. The current tax system is widely perceived to be unfair. I suspect that this widespread assumption that the Tax Code is unfair to hardworking taxpayers has led to more cheating. Tax reform is essential if we are to ensure the continued integrity of our voluntary system of tax compliance and end the growing incidence of tax evasion.

The current system gives special benefits to a few people at the expense of most taxpayers. Tax reform is needed to distribute the burden of taxation more equitably among those able to pay.

Finally, the current Tax Code encourages too many nonproductive investments. Tax reform is needed to encourage economic efficiency and growth.

In 1979, I began an effort to draft a comprehensive tax reform proposal which would eliminate virtually all deductions, credits, loopholes, and preferences and establish a graduated rate structure with far fewer brackets. This proposal was admittedly too ambitious and subsequently laid aside. Later, as a cosponsor of the Bradley-Gephardt "Fair Tax Act," I have continued to express my strong support for the comprehensive overhaul of our tax code.

As measured against these proposals, the Ways and Means Committee bill is not perfect. However, it is superior to the current system and warrants our support for the following reasons:

First, by curtailing and eliminating a number of preferences, deductions, and exclusions, the Ways and Means proposal will encourage economic growth. I really believe that a freer market devoid of tax loopholes—what advocates call incentives—will make the economy more efficient.

I am not alone in this belief. There is broad-based support in the business community for this tax reform proposal. Even some companies that would pay more in taxes under the proposal favor it because they believe that the tax overhaul would stimulate the economy and their own sales. In my view, those businesses which oppose tax reform are the ones that are not paying their fair share of taxes.

Many of these companies have taken advantage of the Investment Tax Credit and the Accelerated Cost Recovery System. However, some of these benefits such as leasing of tax credits are not widely available even to companies with $10 million in volume.

Small business will especially benefit under this bill with the reduction of individual and corporate tax rates and other provisions designed to help small businesses. These include the simplified inventory accounting provisions for small retailers and wholesalers, and special consideration for small banks, construction and timber firms.

Second, the Ways and Means bill provides tax justice for working families in this country. While the President's tax reform proposal was a good starting point for the debate, his proposal preserved too many loopholes and gave a far bigger tax cut to the rich, people earning over $200,000 a year, than he offered to middle income Americans.

The Ways and Means Committee bill is especially beneficial to low- and middle-income taxpayers. It provides needed relief to the vast majority of middle-income families and reduces the number of tax brackets from 14 to

4. It removes more than 6 million low-income individuals and families from the Federal income tax rolls, families who currently are living below the poverty level.

In addition to these changes, the bill retains the deduction of State and local taxes, the most widely used of all deductions by working families and the key to a balanced system of federalism. It keeps the current exemption for fringe benefits, such as employer-paid health insurance, thereby preserving the integrity of longstanding agreements about compensation between workers and employers. It preserves the deduction of home mortgage interest.

Finally, the committee bill would scale back abusive tax shelters and impose a tough 25 percent minimum tax on individuals and corporations. It would reverse a long trend of eroding corporate taxes by shifting approximately $100 billion in taxes from individuals to large corporations over the next 5 years.

While this proposal is a step in the right direction, I have three major concerns. First, it is not simple. By compromising on many of the provisions, the committee was not able to make progress toward a more simple tax code. While greater simplicity was achieved for individuals, transition rules and compromise provisions will continue to provide business for tax attorneys and accountants.

Second, I am concerned that this proposal has not been adequately measured in terms of its impact on U.S. competitiveness. We are the only Nation in the world that would consider a major change in tax policy without first weighing its impact on competitiveness. While the proposal may well improve the position of U.S. industry, this is not something we should leave to chance.

Finally, the measure fails to correct the current bias toward consumption and away from savings. The current system inhibits growth by allowing a deduction for interest paid on borrowing while taxing income from savings. I believe this is largely responsible for a national savings rate that lags far behind that of our major competitors. The United States has a national savings rate of about 6 percent as compared to approximately 12 percent in Germany and 22 percent in Japan. No wonder Germany and Japan have capital for investment.

While this measure is no worse than the present code in these regards, it does not go far enough in making savings as attractive as consuming, simplifying the Tax Code, or improving American industrial competitiveness.

There are those who have advocated that the revenue generated from the broadening of the tax base be used to reduce the budget deficit. I understand the concerns of these Members. However, we are currently in a stalemate between the President who wants to sustain a huge military increase without raising taxes and the Congress which feels we have already cut domestic programs more than is desirable. Given the likelihood that the stalemate will continue in the next year, I believe it is preferable to begin by broadening the base, thus laying the groundwork for consideration of revenue raising measures in the future.

We now have a historic opportunity to move tax reform a step closer to enactment. I am very pleased that the President has decided to endorse the Ways and Means Committee effort and agree that moving this proposal forward is an essential first step. With the President's support and the leadership of Chairman ROSTENKOWSKI and the Ways and Means Committee, tax reform is within our reach. It is my sincere hope that we will not let this unusual opportunity slip away for lack of courage, from giving in to special interests, or because we refuse to compromise.

The CHAIRMAN. The Chair will state that the gentleman from Illinois [Mr. RUSSO] has 17 minutes remaining and the gentleman from Tennessee [Mr. DUNCAN] has 17½ minutes remaining.

Mr. DUNCAN. Mr. Chairman, I yield 1 minute to the gentleman from Arizona [Mr. RUDD].

□ 1755

Mr. RUDD. Mr. Chairman, I rise to express my reservations over H.R. 3838, the Tax Reform Act of 1985, as released by the House Ways and Means Committee.

While I support the concept of tax reform, I feel that this bill is seriously flawed.

Eleven months ago, the President outlined his criteria for drafting a tax reform bill. Specifically there were: Simplicity, fairness, and the promotion of economic growth.

H.R. 3838 accomplishes none of these objectives.

This tax reform bill does not meet the President's original expectations, and I cannot justify my support of harmful legislation.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 4 minutes to the gentleman from Illinois [Mr. RUSSO].

Mr. RUSSO. Mr. Chairman, I rise in support of H.R. 3838, the bill that would not die. It would not die because it is what the American people want: true tax reform.

As the chairman of the Task Force on the Minimum Tax, I would like to discuss that section of the legislation at this particular time.

As the debate over tax reform proceeds, Mr. Chairman, we must not forget why there is so much public dissatisfaction with the present Tax Code. The public knows, and we know, that many extremely wealthy individuals and profitable corporations have used existing law to dramatically reduce their tax liability. Study after study, whether carried out by a private organization or by the Department of Treasury, documents this dismal fact. What specifically have these studies told us?

Nearly 300 individuals in 1982 with incomes above $200,000 paid no Federal incomes taxes.

In 1980, for all industries combined, the average effective tax rate was just 16.7 percent, down from 21.8 percent in 1980.

One recent study found that 129 companies paid nothing in Federal income taxes in at least 1 of the 4 years from 1981 to 1984. Moreover, 50 of these firms not only paid no corporate income taxes from 1981 through 1984, but actually received $2.4 billion in net tax refunds despite earning nearly $57 billion in pre-tax profits during that time period.

Mr. Chairman, facts like these can be rationalized, but they cannot be justified. Middle-income families should not have higher effective tax rates than those who are far more affluent. The Tax Code was never meant to be an instrument for the avoidance of tax liability. If we fail to act to correct circumstances such as the ones I've described, we invite contempt for the political process. It is an honor to live in this society and we all have an obligation to fairly contribute to its continued vitality.

We have a minimum tax now, but it has clearly failed. It covers too few tax preferences, and thus raises very little revenue. The facts I have referred to, amply testify to its weakness. It is a sieve, not a solution.

Earlier this year, many of us joined in supporting a far stronger individual and corporate minimum tax, H.R. 2424, introduced by myself and my colleague from New York, CHUCK SCHUMER. It is commonly known throughout the free world as the Schumer-Russo fair share minimum tax bill.

By increasing the minimum tax rate and expanding the number of covered preferences, current law would have been significantly strengthened. The tax reform bill approved by the Ways and Means Committee contains minimum tax provisions that will also accomplish this goal. We raise the minimum tax rate to 25 percent. We broaden the range of preferences. The net effect of these actions is to sharply reduce the ability of wealthy citizens and profitable corporations to use the Tax Code to avoid paying their fair share of taxes.

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Mr. Chairman, our attempt to reform the Tax Code will have failed if the system is not made more fair, and a strong minimum tax is an essential element of any such effort. The Ways and Means Committee bill contains such a tax, and it deserves our support. I strongly urge my colleagues to support this proposal.

Mr. DUNCAN. Mr. Chairman, I yield 1 minute to the gentlewoman from New Jersey [Mrs. Roukema.]

Mrs. ROUKEMA. Mr. Chairman, I support the legislation before us today, not because I embrace its provisions with open arms, but rather because I see it as another important step in the tax reform process. Much has been said about the effect of this bill on the Nation's economic growth. I say a vote against tax reform today is an endorsement of the status quo—a tax system rife with inequity.

The package before us is a substantial improvement over current law. Individual and corporate tax rates are reduced significantly with the top individual rate reduced to its lowest level since 1931. The personal exemption and standard deduction are increased markedly targeted to low- and middle-income earners and millions of working poor families are removed from the tax rolls altogether. Tax shelters are reduced, special interest preferences are stricken or curtailed and an effective minimum tax on wealthy individuals and profitable corporations is imposed.

I must confess that, as the issue of "tax reform" began to occupy the headlines last year, I never thought we would see the day when such a comprehensive tax bill would reach the floor of this body for debate. In those early days, everyone fully supported the concept of "tax reform" in the abstract but not as a concrete proposition. The consensus quickly broke down as the debate moved beyond the concept and to specifics. After all, one person's loophole is another person's economic necessity.

However, one concept has been universally endorsed by my constituents: The concept that we must restore basic fairness to our national system of voluntary taxation. In 1982, nearly 300 individuals with incomes in excess of $200,000 paid no Federal income taxes, through a variety of devices. Despite earning profits in the billions of dollars. A number of this Nation's largest corporations continue to pay no taxes.

The fact that wealthy individuals and profitable corporations can use loopholes in the current Tax Code to avoid paying any taxes at all is a national scandal that must be stopped. Quite frankly, the enactment of a simple effective minimum tax on both individuals and corporations would go a long way toward correcting the inequities in the present Tax Code.

The legislation before us today also helps individual taxpayers and benefits the vitally important role of State and local governments in meeting the needs of their citizens by maintaining the deductibility of State and local taxes. This is of the utmost importance to New Jersey and I have so informed President Reagan and Treasury Secretary James Baker.

Of equal importance are the protections of employer-provided employee benefits maintained in this bill.

Like any tax bill, this legislation is extremely complicated and anyone who looks hard enough is bound to find portions to criticize. I, too, find room for improvement. For example, I have very real concerns about the effect of this bill on capital investment. But, are concerns such as these great enough to force me to oppose this legislation and join those who would derail the entire tax reform effort? The answer is an emphatic "No!"

I have never been one who is of the mind to allow the other body to legislate for this body. However, the capital investment provisions, among others, can be improved by the Senate. Indeed, my vote on final passage of the conference report on this legislation depends upon it.

But, by far, this is a bill that deserves support. Congress should not let anything stand in the way of a good reform that guarantees that all Americans pay only their fair share. I repeat, the scandal of wealthy individuals and profitable corporations using loopholes to avoid paying any taxes at all must be stopped.

Mr. RUSSO. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. Schumer].

Mr. SCHUMER. Mr. Chairman, I thank my friend and colleague from Illinois, a member of the committee, for yielding me this time. Before I get into the substance of my remarks, Mr. Chairman, I think every one of us, whether we are for or against this bill, owes the Ways and Means Committee, and particularly the chairman, a great deal of thanks because, as our Speaker said, for 33 years no one could get a tax bill as far as he has gotten it. And when the wind was blowing the other way, and lots of people, this gentleman at the well included, said to the chairman, "You can't get it done," he stuck with it. At one point, there may have been 5 percent of the people in this Chamber who thought we could have a tax reform bill and who were with the chairman, but he believed in something, he stuck with it, and he has my respect for it, and I think he deserves the respect of every Member in this Chamber.

The thing I would like to say about this, Mr. Chairman, is I think we have to look at where our tax system is evolving. In Italy, Sophia Loren became a national heroine when she was arrested for not paying her taxes. Hundreds of Italians gathered as she was brought into jail and applauded her because evading the tax system has not only become the national sport in Italy, it has become the thing to do, the thing to be applauded.

Why is that? Because the Italian people have no faith in the fairness of their system, and to a lesser extent, many of the tax systems throughout the nations of Europe are quite the same.

In America, we do not have that. Thank the Lord we do not have that. But we are evolving toward it.

Every time one of our citizens hears that General Electric pays no taxes, or that his uncle, a multimillionaire, just got back from a meeting with his accountant and is saying, "Well, I am only paying $10,000 in taxes this year even though my income was $1 million," the American system slides toward that Italian system.

If it does, not only will we not be able to collect even the amount of taxes we collect today, but respect for authority, respect for America, respect for the flag will decline in a way that will unalterably hurt this country in every way.

Today, ladies and gentlemen, we have a window. It is not something that we have everyday or every week. We have a unique opportunity to show and tell the American people that we will not slide into a system that exists in Italy and in Europe, that we are not callous, that if you will, this great empire is not declining the way the Roman Empire declined as all respect for fairness and law was lost.

We have a chance, ladies and gentlemen of this Chamber, to say that we are going to make the system fair. Are we going to make it the fairest system any one of us could envision? No; we do not have a consensus on that. But we can make the system more fair.

By voting for this bill, we will have taken a long step forward in that direction.

Mr. ROSTENKOWSKI. Mr. Chairman, I ask unanimous consent that 3 minutes of the time of the gentleman from Tennessee [Mr. Duncan] and 3 minutes of my own time be reserved for debate immediately after the vote on the substitute to be offered by the gentleman from Tennessee [Mr. Duncan].

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. DUNCAN. Mr. Chairman, I yield 1 minute to the gentleman from Montana [Mr. Marlenee].

Mr. MARLENEE. Mr. Chairman, is that a dilly—devil of devils—king of all tax bills! Tax bill after tax bill has been pushed on this Congress and the people of the United States. "Trust me this time," we have heard. "I'm going to give you reform!" They plead!

I remember the last time I got a call from the President on a tax bill, saying, "We've got to have this bill to close loopholes." Well, we got reform alright, now a hamburger waitress has to hire an accountant to be sure she won't be hauled in by an IRS agent for evasion of paperwork. $100 of accounting for a two-bit tax on a tip!

Close the loopholes. Sure! I'll bet! Stick it to the guy that's using his business vehicle to go after a quart of milk. Remember the mileage log? Remember that we had to declare war to get it changed!

And who wrote the tip tax and mileage log laws? You guessed it, the same folks who are now giving you 1,300 pages of tax reform and simplification.

And talking about reform, how about a little reform school for abusive Internal Revenue Service tactics. The IRS goes right on down the road harassment after harassment. Every one of you have letters in your files on IRS abuse. But does this bill do anything about it? Practically nothing.

This bill may very well drive the final nails in the coffin for Montana's economy. Because Montana has tied itself to Federal rates, this bill raises taxes an additional $100 for every man, woman, and child in Montana. And that's on top of whatever Federal impact they will experience.

Let me read the headlines that have been appearing in my papers back home: "Tax bill would stem Montana mining industry,"—"Montana losing its competitive advantage,"—"State economy seen as slipping,"—"Gloomy future in oil and gas forecast for State."

If the House bill becomes law, more Montana industries will close down, and Montana's business climate will continue to decay. Let's not fool ourselves. Tax reform will create more Government, more regulations, and more paperwork for small business.

This bill will radically change America, and may throw us into a recession. The bill raises the maximum tax rate on long-term capital gains, which will especially hurt Montana timber and cattle businesses. The bill reduces incentives for savers, and would decimate rural housing programs.

The best economic analyses predict an economic downturn if this bill becomes law. GNP will drop, unemployment will go up, and $100 billion will be added to the deficit between 1986 and 1991.

I know my vote will incur the wrath of hundreds of Washington lobbyists who wrote this bill; so be it. But I serve only one special interest—the people of Montana.

It'll be a cold day in this Chamber when I will cast my vote for a bill with the potential to wreak so much havoc on a system that has generated business, jobs, and wealth.

One final thought. As you force people out of work with this bill you are also giving them this bonus—their unemployment and many retirement benefits will now be fully taxable. What kind of a Merry Christmas America is that? Let the tax reform crew in Washington accept the blame. I want no part of it!

Mr. DUNCAN. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. LOEFFLER].

Mr. LOEFFLER. Mr. Chairman, let us not play games and kid ourselves that this bill satisfies any of the major requirements that the people of this country want with respect to tax reform. It most certainly is not simple. How can simplicity be placed in a document that is more than 1,300 pages long? In fact, what we are doing is making the Tax Code even more complex.

Then the test of fairness. Fairness is in the eye of the beholder, and what is fair to one person may seem patently unfair to another. In my judgment, this bill is ambiguous at best with respect to the fairness test.

The test this bill flunks most emphatically is the test of economic growth. Without economic growth, any promises of tax reform are merely that. They are promises without substance. It is a pipe dream and it is a cruel hoax to play on the American people.

Mr. Chairman, it is a fact that this bill will reduce economic growth, that this bill will retard capital investment by business, that this bill will impair our ability to compete abroad, and that this bill will increase U.S. unemployment.

So, Mr. Chairman, it is certainly no prescription for prosperity or fairness to the American worker.

One must reflect for just a moment. What this bill does over a 5-year period is to create an increase in taxes to American business by $140 billion. And yes, there is a reduction with respect to individual tax liability. But let us not play games again, Mr. Chairman, because we all know that as consumers, we are going to pay that added tax that is placed onto business. It will come back to us in the price of the goods and services that we will be purchasing.

You know, the Rostenkowski tax bill promises them a slightly larger take-home pay for those working men and women, but that promise will not mean a doggone thing when the tax bill puts them out of a job and there is no paycheck even to take home. Actually what this bill offers most Americans is a tax cut on the one hand, and a hidden tax increase on the other hand.

□ 1810

The most cruel hoax, as I have said, will be the business slowdown, and even outright recession, which may very well be triggered by the antisavings and investment provisions of this bill.

What we want is a tax code that is truly simple, fair, and provides economic growth; that gives us an opportunity for an even better way of life. This is a train wreck, Mr. Chairman, in the process of happening.

Yes; I come from a State that is the major producer of oil and gas, and many people would say to this gentleman and to my colleagues from the State of Texas and the producing States that the oil and gas industry is ripping off the American consumer. Nothing could be further from the truth.

What we had best recognize is that our Nation's oil and gas industry is facing very difficult times—perhaps the worst ever in our history. We are not increasing reserves now; we are only depleting our reserves.

What that means, Mr. Chairman, is that we are in the process of creating the wheel again, of having an energy crisis like in the decade of the seventies. We cannot afford that.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from Georgia [Mr. FOWLER].

Mr. FOWLER. Mr. Chairman. I rise for the purpose of engaging the gentleman from Illinois in a colloquy to clarify an important provision in the bill.

Mr. Chairman, the bill provides that certain pension plans of rural electric cooperatives may incorporate 401(k) arrangements. Most rural electric cooperatives have adopted pension plans through participation in a master pension plan sponsored and maintained by their national association. This bill permits the incorporation of a 401(k) arrangement into that existing master pension plan.

I understand that a master plan with a 401(k) arrangement would not presently be accepted for an opinion letter ruling by the Internal Revenue Service. Because of the structure of master pension plans, such a ruling is necessary before a 401(k) arrangement is made available to rural electric cooperatives on a national basis through a master pension plan.

My question of the gentleman is, what is the appropriate action the Internal Revenue Service should take concerning this matter, once this legislation is enacted?

Mr. ROSTENKOWSKI. Mr. Chairman, if the gentleman will yield, it is expected that a master pension plan sponsored or maintained by a rural electric organization will be accepted by the Internal Revenue Service for opinion letters after the enactment of this bill.

Mr. FOWLER. I thank the gentleman for clarifying this matter.

Mr. DUNCAN. Mr. Chairman, I yield 6 minutes to the gentleman from Minnesota [Mr. Frenzel], a member of the Committee on Ways and Means.

Mr. FRENZEL. Mr. Chairman, I think we will all concede that the committee worked hard. I think that we will all concede that the chairman, and those who supported him, did an outstanding job in putting together a very difficult bill, and maneuvering it through the legislative process.

Unfortunately around here, the rewards are not supposed to be for man-hours spent or beads of sweat produced. The payoff is supposed to be on the product. In this case, the final product fell way short of the mark.

This bill is antigrowth. That is its main flaw. We can tolerate a fair amount of mischief in the name of tax reform, but no industrial democracy should have to tolerate a recession in the name of tax reform.

This bill would retard our growth; the chamber of commerce says by as much as 2.7 percent by 1991. Add 1.3 percent additional unemployment by 1991. That is a million and a half people.

The promised tax cut is not going to do you much good if you are one of those 1½ million extra people, employed today, who are put out of work because of this bill.

The second greatest flaw in this bill is it reduces incentives for saving and investment. The United States has, unfortunately, the lowest rate of personal savings in the industrialized world. We have to borrow abroad, with adverse results which are well-known, to finance our economy. This bill, in reducing personal savings incentives farther, and in reducing corporate capital cost recovery systems, is going to cause us to have to borrow more abroad with more of those adverse circumstances that we all know so well.

The bill reduces the savings of 401(k) plans by about 75 percent, at least at the maximum, rejects the President's spousal IRA, reduces qualified pension plans, increases capital gains tax, stretches depreciation, and repeals abruptly the investment tax credit.

The substantial and abrupt changes in capital recovery systems will have serious, harmful effects on our economy.

This bill also reduces incentives for American companies and American individuals to sell abroad. Every foreign tax incentive in the Tax Code is reduced. Foreign tax credits, tax deferrals, foreign international sales cooperation preferences, and section 911 are all reduced, and FISC and 911 is reduced a second time in the committee bill.

We do this at a time when our trade deficit is at an all-time high. It seems as this bill is structured to make it difficult for Americans to trade abroad. Not only do we lose our foreign tax incentive, we also lose our manufacturing tax incentive.

The bill violates the President's standards for maximum rates, both corporate and individual; fails to deliver the $2,000 personal exemption, and it, of course, does not create the President's $2,000 spousal IRA.

This bill offers a maze of new complexity. It has been pointed out before, Mr. Chairman, that in these two tomes, the committee report and the bill, we have got nearly 1,500 pages, 1,455 to be exact. They are as hard to lift as they are to read, and I would drop them on the table for emphasis but I am afraid that the furniture would be damaged by their sheer weight. Certainly, our economy and the lives of millions of Americans are going to be damaged by their weight should that bill ever become law.

The Republicans are going to offer the substitute that is less than half as complicated and more than twice as good. It is less difficult and less harsh on our economy.

Mr. Chairman, whenever a committee misses the mark as broadly, as widely as this one has, it ought to begin again. The public has not been moved by the claims of truth and beauty for tax reform, particularly this tax reform. In fact, it is wholly unmoved.

Let us pass the Republic substitute, or beat the bill, so the process can be put back on track. The President is going to be around for 3 years, we may even still have a Congress at that time. There is plenty of time to move on tax reform. This is not the end of the line.

When a process has gone sour, there is no reason to keep the process moving. We should start it over again and do tax reform as the people of the United States expect of us. That is, we should do something that does not derail our economy and which does reduce the taxes of our middle-income Americans, and which takes the poor off the tax roles and causes corporations who do not now pay taxes to pay taxes.

All these things can be done in slightly less than 1,479 pages. In fact, in my judgment, it can be done in a couple of hundred pages. Let us do it right. Let us beat this bill or pass the Republican substitute.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. Coyne].

Mr. LEHMAN of California. Mr. Chairman will the gentleman yield?

Mr. COYNE. I yield to the gentleman from California.

Mr. LEHMAN of California. Mr. Chairman, I rise in support of the Ways and Means tax bill.

Mr. Chairman, I guess any Member of this House could find a reason to oppose this bill if one were to look at only one or two issues, or if one wants to protect the tax agenda of one particular interest.

However, we should look at the totality of the proposal. On balance, this is a vast improvement over existing law. There are fewer brackets. There are lower rates. The poor are taken off the tax roles all together and giant corporations are made to pay at least something. Many loopholes are closed, or tightened.

Lowering tax rates will put more spendable income into the peoples' pockets and provide a stimulus for economic growth.

I don't like some of the Housing nor the Leasing provisions but remember it's hard to ask someone to pay more, and there will be other opportunities to improve this product.

Let's not kill a good idea now. Let's give tax reform a chance.

Mr. COYNE. Mr. Chairman, I rise in strong support of H.R. 3838 and want to commend the Chairman and staff for giving us an opportunity to vote on tax reform.

On May 30, 1985, Secretary of the Treasury, James Baker, was the first witness to appear before the Ways and Means Committee to lead off the lengthy hearings in support of the President's tax proposal. On December 3, 1985, after months of hearings and 26 days of actual markup, the Ways and Means Committee reported out H.R. 3838, the Tax Reform Act of 1985.

This bill is a great improvement over the President's original proposal. The committee has increased the personal exemptions to $2,000 for nonitemizers, and $1,500 for itemizers from the current $1,080; replaced the zero bracket amount with new standard deductions: $2,950 for single returns; $4,800 for joint returns; and, $4,200 for heads of households. The committee has also increased the earned income credit from $550 under present law to $700.

At the other end of the economic spectrum the committee has reduced the average income tax burdens of households with income between $20,000 and $30,000 by 10 percent and the average income tax burden of households making between $30,000 and $40,000 by 9 percent. The administration would have reduced the income tax of those making in excess of $200,000 by 15 percent. The committee has more than halved this benefit reducing the tax for these individuals by 6 percent.

The Children's Defense Fund states that:

> Millions of low income working families will greatly benefit from the provisions of H.R. 3838, providing them assistance critical for the adequate support of their children.

The fund's study shows that under current law a two-parent family of four at the poverty level, about $12,000, would pay 11 pecent of their income taxes (Social Security and income tax combined). Under H.R. 3838 such a family would have its taxes reduced to 3 percent of its income.

Under H.R. 3838, according to the fund, a two-parent family of three at the poverty line ($9,960) would see the percentage of their income for Social Security and income tax reduced from 9 percent of their income to 1 percent.

According to the committee report no married couple with two children would pay income taxes on income of less than $14,475. The report to accompany H.R. 3838 states the objectives of the committee in this area:

> An overriding goal of the committee was to relieve those with the lowest income from Federal income tax liability. The committee realized that by increasing the amounts of both the personal exemption and the standard deduction, as well as the earned income credit, the income level at which individuals began to have tax liability (tax threshold) will be raised sufficiently to free millions of poverty-level individuals from Federal income tax liability. This will restore to the tax system an essential element of fairness which has been eroded since the last increase in the personal exemption in 1978.

It is estimated that as a result of the committee's action 6.5 million taxpayers will be relieved of any tax liability.

It should be noted that individuals with less than $75,000 of income will receive 72 percent of the tax reductions for individuals and that this group constitutes 95 percent of income tax filers.

The committee has also been concerned with the fact that some individuals are not paying his or her fair share. As a result the committee has recommended a strong individual minimum tax which will raise $19 billion in additional revenue through 1990.

The committee has also taken action which I think will be beneficial to the Commonwealth of Pennsylvania and other areas in the Northeast. Earlier this year the mayors of the two largest cities in Pennsylvania identified three areas in the President's proposal which, if enacted, would have proven injurious to their respective cities. Those sections were the President's proposal to eliminate the deduction for State and local taxes. The committee eliminated this section of the President's proposal. Another area of concern was the President's proposal to change the requirements for certain nongovernmental activities. The committee voted to keep this important economic development tool.

The third area of concern to the mayors was the President's proposal to eliminate the 25-percent deduction for the renovation of historical buildings so certified by the Department of the Interior. This provision has created over 2,000 jobs in the commonwealth and has provided a much needed incentive to increase economic activity in our older urban areas. The committee voted to retain this provision but at a lower rate.

In another area of concern the President proposed to tax the first $10 of health benefits for single coverage and the first $25 for family coverage. The committee voted not to tax these benefits for purposes of income. As one witness pointed out during the hearings that absent some type of national health insurance it was simply unfair to tax individuals in this manner.

The President's proposal would have terminated the charitable contribution deduction for nonitemizers. H.R. 3838 makes permanent the charitable contribution for nonitemizers in excess of $100. The committee was aware of the fact that this administration has reduced Federal expenditures in many areas and it was thought that this administration, which has encouraged greater private sector participation, should be consistent in its policies.

The committee has also expressed its concern in the retirement area, the administration would have eliminated the 401(k) provision. The committee wants to encourage individual retirement savings but at the same time expressed concern that too large a share of the cost of retirement was being shifted to the employees.

Under the bill the maximum amount that an individual can elect to defer in any taxable year under all cash or deferral arrangements is limited to $7,000. This is to be coordinated with other Federal deferrals and IRA contributions.

The targeted jobs tax credit enacted in the Revenue Act of 1978, and extended by the Economic Recovery Tax Act of 1981, the Tax Equity and Fiscal Responsibility Act of 1982 and the Deficit Reduction Act of 1984 would have expired under the administration's proposal. The committee has extended the credit for 2 additional years. This credit is available on an elective basis for hiring individuals from one of nine groups. The targeted groups are: First, vocational rehabilitation referrals; second, economically disadvantaged youth (ages 18-24); third, economically disadvantaged Vietnam-era veterans; fourth, SSI recipients; fifth, general assistance recipients; sixth, economically disadvantaged former convicts; seventh, AFDC and WIN registrants; and eight, economically disadvantaged summer youth employees (ages 16-17).

It seems to me, Mr. Chairman, that we must do what we can to encourage the hiring of individuals in these categories. Although some may question whether this is good tax policy, absent any convincing evidence to the contrary, we must use this credit to encourage the hiring of these individuals.

Further, the bill extends the research tax credit for 3 additional years. When this was enacted in 1981 Congress was concerned about the decline in research in the United States. Innovation in the business sector is essential if U.S. businesses are to compete successfully. And continued research is a sine qua non for that innovation.

In conclusion, the committee has reacted to the Presidential proposal to reduce marginal rates and to eliminate from the Tax Code those provisions which constituted an inefficient subsidy. The committee has modified the President's proposal and, given the constraints that the committee was under, we have produced a bill which has to some extent achieved these objectives.

While on this issue I want to state that I do think that the Tax Code should be used to encourage social and economic objectives. I think that there is a need in the code for provisions which encourage economic growth. At the present time certain areas of the country and certain sectors of society need assistance that can only be provided by the Federal Government. This administration has gone to great lengths to reduce Federal expenditures. Therefore, I think that it is important to offset some of the adverse consequences of these policies by promoting growth in areas which are experiencing economic reversal.

The committee has been concerned about equity. As the report points out, between 1950 and 1985, the corporate income tax has declined as a percentage of total receipts from 27 to 8 percent. Over the same period corporate income tax as a percentage of total income tax has declined from 40 percent to only 16 percent. The committee in an effort to restore the traditional balance between corporate and individual income tax has adopted a broad based alternative minimum tax directed at a wide range of preferences to be applied at a rate of 25 percent.

The committee adopted this provision because it believed that no taxpayer with a substantial economic income should be able to avoid the payment of taxes because of a combination of deductions and credits.

Mr. Chairman, I urge the adoption of this bill.

Mr. DUNCAN. Mr. Chairman, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON. Mr. Chairman, I rise to commend the committee chairman and the ranking member for the tremendous work that they have done. At the end of our debate, whatever the outcome, the American people will be a giant step forward. Individual rates will be cut; low-income families will be relieved of tax liability, corporate rates will be cut, small businesses will be aided, and a tough minimum tax, a minimum corporate and a minimum individual tax, will be solidly in place, which will immeasurably increase the fairness of the system.

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However, there are two serious problems with the committee bill that I call to your attention because they are addressed in large measure in the Duncan substitute. First of all, the committee bill hits heavily middle-income families in America by shoving people into the 35-percent bracket who earn $43,000. Ladies and gentlemen, that is a schoolteacher and a policeman being shoved into the 35 percent bracket! I do not think that is right. I do not think it is healthy. The Duncan substitute adopts a break point of $57,000, thus protecting middle-income families and making them to experience a tax reduction under this bill.

Not only is the Duncan substitute profamily for middle-income families but it is profamily for low income families as well. It allows a higher standard deduction and a higher earned income tax credit and thereby reduces the taxes of low-income families so that a total of 6½ million families are exempted from taxes under the Duncan bill whereas only 6 million are exempted under the committee bill. Furthermore, the Duncan substitute is very much more proeducation. I point that out to you because at a time when we talk about excellence in education, we should not be pulling the rug out from under our educational institutions. The Duncan substitute allows a contribution of assets to educational institutions and to hospitals, which are terribly important to their future, and retains the right of educational institutions to have access to tax-exempt bonds. It also allows the professors throughout America to use 401(k)'s as a savings instrument. Frankly, that is very important in their lives and enables many to continue to teach.

So look at the details of these bills, examine the Duncan substitute, and you will see that it is more profamily, it is much stronger for education in America, it encourages savings, it encourages investments, and it helps to address the serious disadvantage that the committee bill puts American manufacturing at in a very hotly competitive global economy.

I thank the Chairman.

Mr. COLEMAN of Texas. Mr. Chairman, I regretfully rise in opposition to H.R. 3838, the Tax Reform Act of 1985.

I say regretfully because I realize the hard work of the Committee on Ways and Means and its chairman, Mr. ROSTENKOWSKI, and I commend them for their efforts. However, as this bill is drafted, I cannot support its passage.

The goal of tax reform throughout this year has been the simplification of the present system for the middle and lower middle class taxpayers of this Nation. While this bill attempts to achieve simplification, I believe it falls short, and if it were to become law, it would hurt many of those we are trying to help. Furthermore, while I agree with the argument that our present tax structure is not economically efficient, this bill does not necessarily remedy that problem. In a perfect world, textbook economics would apply taxes in accordance with the behavior of consumption and investment, yet this bill would artifically shift the tax burden onto capital investment and subsidize consumption at the expense of such investment and savings. If we pass this bill, new consumer demand would likely be met by foreign producers with greater capacity than our domestic producers who will be unable to obtain funds to increase production capacity. This would weaken the state of American industry, thereby creating a bonanza for America's competitors and more ammunition for protectionists. In short, if this bill were to become law I fear we would experience at best a short-term recession resulting in unemployment above the present high rate and a reduction of investment further reducing our competitive edge in the world marketplace.

As this bill is drafted, tax rates would be reduced for a great majority of Americans. However, many of those same Americans would find themselves paying higher taxes on pensions. In particular, public employees would be subject to double taxation on the first 3 years of pension payments. Those payments are funds which were already taxed before being contributed to their pension plan. This bill would tax those funds a second time.

This bill also places strict limitations on qualified pension plans, primarily known as 401(k) and 403(b). These employer-employee sponsored plans have been established to create independent retirement security for millions of Americans, mostly in the middle and lower middle income range. One group hit the hardest by these limitations would be teachers. In my home State of Texas, there is no teacher's pension plan per se, but rather an established use of tax sheltered qualified plans. The system has worked well and I fear that severely limiting it, as this bill proposes, would further erode the confidence of our educators in our tax system. It further expands the gap between public and private sector compensation which as we all know creates problems for government at all levels.

The bill also limits individual retirement accounts, rejecting fair and equitable contributions for nonworking spouses. Mr. Chairman, I think every Member here would agree that the term "nonworking spouse" is really a misnomer. It is unfair for this House to consider a tax reform bill which does not recognize the economic value inherent in the home.

Mr. Chairman, this legislation also contains provisions which would be detrimental to my State and my community. In terms of capital investment, this bill is extreme. Yes, I agree that the 1981 tax bill went too far in trying to stimulate investment and resulted in the biggest tax giveaway in the history of this Nation. But the bill before us today goes too far in the other direction. In light of our decreasing competitive position in the world marketplace, the provisions contained in this bill to strictly limit investment preferences could easily result in a continued downturn in our manufacturing base. It could impair the international competitiveness of American companies, and create a loss of more manufacturing jobs. The almost complete elimination of investment provisions for the exploration of oil and gas would further hinder that industry which has suffered from a flat market for the last 4 years. Just last week, the OPEC price war signaled a further drop in the price of oil with increased production. While lower prices are favorable, unstable price drops are deflationary to specific industries, resulting in increased unemployment, and a net reduction in national income. Furthermore, the elimination of preferences for oil and gas exploration would cut domestic production by 1.6 million barrels a day and further erode our quest for energy independence.

A reduction in the industrial capacity of the oil and gas industry would come on the heels of the devastating Mexican peso devaluations of 1982 and 1983, and most recently, the summer of 1985. As the peso continues to depreciate, the United States-Mexico border economies continue to suffer economically. Passage of this bill would only further exacerbate the situation resulting in increased business failures and greater unemployment. My constituents cannot sustain such an event, and I cannot support a measure which could bring it about.

I do not stand before this House today and attempt to protect the preferences in the existing code for the sake of the industries which benefit from them, but rather to make the point that we cannot swing from one side of the pendulum to the other without gave consequences. This bill would shift the tax burden from individuals to corporations by approximately $141 billion. I agree that corporations should pay their fair share, and I think the provisions contained in this bill for a minimum tax rate for both corporations and individuals accomplishes that goal. I agree that we should curtail some preferences which have proven to be inefficient. But we should not curtail preferences or broaden the base in an inefficient manner which will be detrimental to the economy and the American people. If we lower tax rates and eliminate the giveaways, that is good policy. But if at the same time we also put more people on the unemployment rolls, we have accomplished, at best nothing, and at worst a crisis.

Mr. Chairman, I want tax reform as much as the President and the chairman of the Committee on Ways and Means. But it wants tax reform that will not destroy industrial capacity, and in doing so, put people out of work. I do not want tax reform that is unfair to one sector of our society, as this bill would be for public employees. I do not want tax reform which will treat our educators unfairly, and jeopardize the quality of our education system. Mine will not be a vote against tax reform. It is a vote, however, to indicate my desire for real tax reform which is fair to everyone. Unfortunately this bill did not meet that standard, but I believe that if we will take the best econometric studies that have already been completed and fully consider them next to every provision we write we can tailor a bill that will meet that goal.

Mr. FORD of Michigan. Mr. Chairman, I rise in support of H.R. 3838, the Tax Reform Act of 1985. I want to commend Chairman ROSTENKOWSKI and the members of the Committee on Ways and Means for their perseverance in reporting a tax bill to the House.

While this bill is by no means perfect, it is a vast improvement over both the current Internal Revenue Code and the tax proposal submitted by the President last May. By broadening the overall tax base, shifting a larger proportion of the overall tax burden to corporations, and reducing individual marginal tax rates, this bill will provide real tax relief for families and individuals.

H.R. 3838 is a significant improvement over the President's tax proposal in its treatment of middle-income taxpayers. By a combination of increases in the standard deduction and the personal exemption, across-the-board reductions in tax rates and retention of several deductions of importance to the middle class, the Ways and Means plan lowers the average income tax of households with incomes between $30,000 and $40,000 by 9 percent. In comparison, the President's bill would have reduced taxes for this group by only 7 percent.

In addition, the Ways and Means bill does not provide the disproportionately large tax cuts that the President's tax plan would have granted to wealthy taxpayers. While H.R. 3838 would reduce the tax bill of households with incomes over $200,000 by 6 percent, the President's plan would have reduced this group's taxes by 15 percent. This is the very group that received a windfall from the President's 1981 tax bill.

H.R. 3838 also removes more than 6 million low income working taxpayers from the Federal tax rolls. There is simply no justification for the current system that taxes working individuals into poverty and forces them to rely on Government support. Under this bill, no married couple with two children would pay income taxes on income of less than $14,475 in 1987. Under current law, the same family would begin to pay taxes when income reached $9,739 in 1987.

The Committee on Ways and Means also rejected two of the President's proposals that were of particular concern both to me and to my constituents—the elimination of the deductibility of State and local taxes and the partial taxation of employer-provided health insurance benefits. H.R. 3838 retains deductibility and the tax-exempt status of these fringes. One of the primary reasons that the President's plan would have increased taxes for many middle-income taxpayers was the President's proposal to eliminate the deduction for State and local taxes. This provision of the President's plan would add to the tax burden of those families in Michigan who are homeowners and cost each Michigan itemizer an average of $908 in additional Federal taxes.

The President's tax plan would have also partially taxed employer-provided health insurance benefits. I feel that it is crucial that the Tax Code continues to encourage the provision of such benefits for workers and their families. Under the committee bill, these benefits will remain exempt from taxation. H.R. 3838 also retains the current exclusion for the cost of up to $50,000 of group-term life insurance and up to $5,000 of death benefits. The bill extends for 2 years the exclusions from taxation of employer-paid educational expenses and prepaid legal services, which are currently scheduled to expire at the end of this year.

Mr. Chairman, H.R. 3838 goes a long way toward reforming the current tax system by ensuring that wealthy individuals and corporations pay their fair share of the Federal tax burden. In 1982 nearly 300 individuals with incomes in excess of $200,000 legally paid no Federal income tax by using various loopholes and preferences in the current Tax Code. In addition, 129 profitable corporations paid no Federal income tax in at least 1 of the 4 years between 1981 and 1984. Even more outrageous is the fact that 50 of these companies received $2.4 billion in tax refunds despite earning $56.9 billion in pretax profits.

This bill attacks this problem on two fronts. First, it eliminates many of the preferences and loopholes in current law that enable many companies and wealthy individuals to avoid the payment of taxes. Second, it imposes a tough minimum tax to ensure that these corporations and individuals pay their share of taxes.

I am unconvinced of opponents' claims that this bill is antibusiness. H.R. 3838 simply reverses a long trend of eroding corporate taxes by shifting the tax burden from individuals back to the corporate side over the next 5 years. After enactment of the President's 1981 tax bill, the decline in the corporate share of taxes has accelerated. Between 1980 and 1982, corporate tax receipts fell from 12.4 percent to less than 8 percent of all Federal tax receipts.

Only the largest corporations are able to take advantage of the current preferences in the Tax Code and pay no taxes. Small businesses are generally unable to take advantage of these provisions and often pay a higher percentage of their income in taxes than large corporations. A very important feature of this bill and a reason that it is supported by small business groups, even though it is opposed by the chamber of commerce, is the graduated schedule of corporate rates for small businesses. The committee bill also dramatically reduces the corporate tax from 46 percent to 36 percent. These two provisions, combined with a simplified accounting method available to small companies, should substantially benefit small businesses.

I remain concerned about the changes in the tax treatment of retirement benefits of public employees contained in H.R. 3838. These changes in the basis recovery rules will unfairly increase the tax burden on Federal workers and other public employees who retire after July 1, 1986. Such changes will result in a mass exodus of these workers from public service and decimate the ranks of public employees. I appreciate the commitment that Chairman ROSTENKOWSKI made during our colloquy last week to examine the impact of the basis recovery rules early next year and I look forward to working with the Senate to eliminate these burdensome provisions.

While it may not make much sense to provide a tax cut when the budget deficit is $200 billion and the revenue could be used for deficit reduction, the Congress is working under the restraint of revenue neutrality imposed by the President. Given this parameter and the long overdue need for tax reform, I encourage my colleagues to support this bill.

Mr. LEVINE of California. Mr. Chairman, I rise in support of H.R. 3838, the Tax Reform Act of 1985. The Ways and Means Committee has drafted a tax simplification measure which, although not perfect, provides for greater tax equity than the present system or the tax plan recommended by the President. In passing H.R. 3838, Congress will lower tax rates for all Americans, broaden the tax base, and ensure that even the most affluent individuals and corporations pay their fair share of taxes.

The American public is legitimately fed up with our inequitable tax system. Few individuals can decipher the Tax Code, and even fewer understand it well enough to take advantage of it. There is simply no economic sense nor justice to the fact that 129 of our Nation's most profitable companies paid no taxes at all (or actually received tax rebates from the Federal Government) in at least one of the past 4 years.

Lower and middle-income earners have seen their tax bills rise continuously, while according to the Treasury Department, 3,000 of our Nation's millionaires pay no taxes at all. By eliminating extraneous deductions and providing tax relief to lower- and middle-income Americans, H.R. 3838 will restore the progressivity and basic fairness in our Tax Code, and instill greater confidence in our tax system.

I am pleased that H.R. 3838 reduces tax rates and consolidates the present 14 brackets into four rates of 15 percent, 25 percent, 35 percent, and 38 percent. This bill increases the personal exemption for all taxpayers, increasing it to $2,000 for nonitemizers. Basic deductions which are widely used by most taxpayers are also retained. Unlike the President's tax proposal, H.R. 3838 retains the deduction for State and local taxes and the tax-free status of health benefits. Additionally, the committee bill retains tax deductions for mortgage interest deductions, charitable and IRA contributions, and child care expenses.

Unlike the Reagan tax cut of 1981, which provided disproportionate tax relief to upper income taxpayers, the Rostenkowski proposal provides the majority of tax assistance to taxpayers earning between $20,000 and $75,000. Had the administration's latest tax reform measure been enacted, 28 percent of those earning between $30,000 and $50,000 would have had their taxes raised.

I am particularly pleased that the committee has targeted tax assistance to low-income working people. H.R. 3838 would remove more than 6 million low-income households from the tax rolls. It would also provide 60 percent more in tax relief than the President had recommended to families earning less than $20,000.

Overall, this tax bill reduces the tax burden of individuals by $139 billion and increases the taxes of corporations by the same amount. Additional revenues are raised largely by the imposition of a minimum tax on individuals and corporations who have avoided paying any taxes under the present system.

Tax reform should not impose a severe hardship on corporations, which would result in a decline of business investment and expansion. However, this tax bill reduces the corporate rate from 46 percent to 36 percent and provides substantial tax relief to those companies that are presently paying their fair share of taxes. In scaling back to a number of business deductions, H.R. 3838 encourages businesses to make investment decisions based on their economic impact and not on tax consequences. Nevertheless, we must be sensitive to this bill's effect on capital formation. I hope that Congress will consider transition rules which do retroactively tax legitimate business investment.

I am also concerned about this bill's impact on community development, particularly in blighted areas. The proposed limits and cap on the use of tax-exempt bonds will slow the construction of low-income housing and inhibit public/private joint development projects. As the Federal Government has reduced its support for public housing projects and intends to phase out revenue-sharing support, our cities are being forced to reduce local community services in the face of increased poverty nationwide. Therefore, as this bill makes its way through the Senate and a conference committee, I urge my colleagues to consider alternative tax provisions for supporting bond-financed public purpose development.

Finally, I am disturbed that this tax bill does not raise additional revenues. As the House and Senate have passed legislation which provides for a balanced budget in 5 years, we cannot realistically expect to eliminate the deficit without raising revenues. The committee should have done more to scale back overall generous business writeoffs and limit tax benefits for upper income earners. If we are serious about reducing the deficit, we must do more than simply enact a revenue neutral tax bill.

H.R. 3838 is the necessary first step in providing vital tax reform and relief for the nation. As the President himself has noted: "To fail to advance a bill now would mean maintaining the status quo—a tax system with all its inequities, complexities, and tendencies to discourage efficient economic growth." Today, we move forward in promoting greater tax equity and reducing possibilities for tax evasion. Therefore, I once again urge a vote in favor of H.R. 3838.

Mr. RAHALL. Mr. Chairman, after a great deal of deliberation on the complex tax legislation reported by the Committee on Ways and Means, I find that, in the interests of my constituents, I must vote for H.R. 3838.

H.R. 3838 will provide significant relief to the majority of taxpayers in West Virginia and the Nation as a whole due to its revision of the Tax Code as it relates to individuals. This is the major reason why I am voting for this legislation, despite my deep concern with many other provisions of the bill which I find to be detrimental to the ability of our basic industries to generate the necessary capital to continue on the road to economic recovery.

Few can argue that this legislation will greatly assist the backbone of America—the middle class—and those who are less fortunate. Both lower- and middle-income households have been suffering under an overly burdensome tax structure and the provisions of this bill will bring about important changes to a tax system which is riddled with loopholes and is unnecessarily complicated.

The single most positive feature of the bill is that the tax burden faced by lower- and middle-income individuals and families would be reduced. Moreover, more than 6 million low-income individuals and families would be removed from the Federal income tax rolls altogether.

Under the legislation, four income tax brackets would be established to replace the 14 brackets under current law. These brackets would be 15 percent, 25 percent, 35 percent, and 38 percent. This top rate of 38 percent is significantly lower than that of 50 percent under current law, and, through increases in the personal exemption allowance and the earned income tax credit, the tax burden on low-income taxpayers would be substantially reduced.

In my home State of West Virginia, over one-half of those filing income tax returns in 1979 had an adjusted gross income of under $15,000. Roughly 11 percent of West Virginia's population is below the poverty level. With this in mind, it is clear that the benefits which will accrue to low- and middle-income taxpayers under the tax bill will provide substantial and much needed relief to many of my fellow West Virginians.

There are other important features in this legislation which would provide further relief to the individual taxpayer. A tax credit for child care found under current law would be maintained, helping low- and average-income families. Low-income working families would also see significant reductions in their average tax burden as a result of modifications to the earned income tax credit. Large families will benefit from reductions in income tax rates as well.

It should also be noted that the bill would maintain the tax-exempt status of black lung and workers' compensation benefits. This is a crucial issue for all workers, and serves to retain important benefits on which so many individuals depend. Other provisions of current law that would be maintained include the deductibility of State and local taxes and the beneficial tax treatment of employee benefits. These provisions provide important support to many taxpayers for whom tax relief has been a long-awaited goal.

I would now like to note my deep concern regarding provisions of H.R. 3838 which, in my view, are detrimental to our basic industries. I am committed to continue working toward the modification of these provisions.

Specifically, the bill would repeal the investment tax credit, modify current accelerated cost-recovery provisions, penalize companies competing in international commerce, reduce the percentage depletion allowance, and eliminate capital gains treatment of coal royalty income.

The repeal of the investment tax credit, combined with the modified accelerated cost recovery system, would have the effect of drastically undermining the ability of capital-intensive industries to obtain financing. Without the ability to attract much-needed capital, these industries would be unable to maintain existing operations, let alone engage in expansion projects, or develop new facilities.

A critical tax feature for the coal industry is the percentage depletion allowance—currently at 10 percent, with a 15 percent discount. The bill would reduce the allowance for coal to an effective rate of only 4.25 percent. Coupled with the elimination of the investment tax credit, as well as the elimination of capital gains treatment of coal royalty income, and the accelerated cost recovery provisions, the additional tax burdens imposed on the coal industry by H.R. 3838 greatly concern me. I submit that the U.S. coal industry, currently faced with weak market conditions and extremely low or nonexistent profit margins, cannot withstand the increase in Federal tax liability which this tax bill would impose on the industry. I am extremely disappointed in the committee's decision to target the coal industry with especially large tax increases and again emphasize my commitment to continue with my efforts to modify these provisions as congressional deliberations continue on the tax reform effort.

Mr. Chairman, because of my strong distaste for the provisions of H.R. 3838 which will do harm to capital-intensive industries, my decision to vote for this legislation did not come easily and represents my strong support of the concept of tax reform as it relates to individual tax rates. As such, my vote today is for continuing the process of tax reform. I reserve judgment on what my position will be on the final version of the bill.

Mr. BLAZ. Mr. Chairman, I offer these brief comments in support of passage of H.R. 3838 and to acknowledge the extraordinary efforts undertaken by the chairman of the Ways and Means Committee, Mr. ROSTENKOWKSI, the minority member, Mr. DUNCAN, the chairman of the Interior and Insular Affairs Committee, Mr. UDALL, Mr. YOUNG, and Mr. LAGOMARSINO, in accommodating, within this measure, the very special and unique needs of our territories.

I suggest we recall an occasion 210 years ago when a band of renegades, displeased with, among other things, an unfair and unjust system of taxation, founded a new nation. That we today can affect legislation ensuring the territories bear both the obligations and the fruits accruing from responsible administration of their respective tax codes marks a significant step toward that day when I can stand before this body, and before my people, and state we have finally terminated a system of territorial taxation without voting representation.

Mr. DORGAN of North Dakota. Mr. Chairman, today we are going to decide whether or not there will be tax reform. It has taken us a long time to get to this point. During the past year or so, the President and the Department of the Treasury have submitted two comprehensive proposals to overhaul the Internal Revenue Code and the Ways and Means Committee has produced a bill, H.R. 3838, based on the administration's efforts.

I support H.R. 3838 and I think it deserves the support of all Members who believes as I do that those living in poverty should be taken off the tax rolls, that the tax burden on middle-income families should be reduced, and that high-income individuals and profitable corporations should pay their fair share of income taxes.

H.R. 3838 would remove more than 6 million low-income individuals and families from the Federal income tax rolls by increasing the standard deduction and the personal exemption, and by increasing the earned income credit over its current-law levels. Under the bill, virtually no family in poverty would pay Federal income taxes.

For the middle-income families, the Ways and Means bill is of special benefit. As mentioned above, the bill increases the standard deduction and personal exemption, and lowers tax rates across the board, and at the same time retains the deductions of most importance to moderate income working families, such as the excludability of employer-provided health benefits and other fringe benefits, and the deductibility of State and local taxes and home mortgage interest. The bill lowers the average income tax burden of households with incomes between $20,000 and $30,000 by 10 percent, and the average income tax burden of households with incomes between $30,000 and $40,000 by 9 percent.

The high-income individuals who now legally pay little or no income tax under current law, will lose the ability to shelter all of their income from taxes. This bill raises about $19 billion through a strengthened individual minimum tax and will make sure that all individuals pay tax on their economic income.

The bill retains the tax-exempt status of employer provided fringe benefits. Thus, there would be no change in the current treatment of employer provided health insurance and life insurance.

The bill also reforms corporate/business income taxation. Under present law, many large corporations pay no Federal income taxes despite earning large profits. The bill raises $9 billion through an expanded corporate minimum tax that ensures that no corporation can escape paying its fair share of taxes.

With respect to small businesses, the bill provides a graduated schedule of corporate rates. Furthermore, the bill provides a simplified accounting method which is only available to small businesses.

In addition, I believe the Ways and Means bill will help the family farmer. The bill retains the rules, such as the expensing of preproduction period expenses and the cash method of accounting, that family farmers have found to be most important. And, the bill sharply curtails the benefits of agricultural tax shelters for nonfarmers.

Mr. Speaker, as I have already stated, I believe the time for tax reform has come. I think that passage of H.R. 3838, the Ways and Means Committee's bill, will result in true tax reform and, therefore, I support the committee's bill.

Mr. WOLPE. Mr. Chairman, I strongly support the tax reform bill reported by the Ways and Means Committee, but I would also like to express some concerns that I have about the bill's impact upon the use of tax-exempt bonds to finance housing for low and moderate income people in my State of Michigan. It is my hope that the Ways and Means Committee bill can be improved in this regard as it moves through the legislative process. My concerns fall into the following three areas:

First. Single family targeting—The Housing Finance Agency in my State [MSHDA] has operated under State imposed income limits for a number of years and the restrictions contained in the bill on the floor will not negatively impact its financing program for existing homes. However, the restrictions proposed in the bill could effectively kill the authority's new construction home financing program in many areas of Michigan where home builders are working with a thin margin of eligible buyers.

Second. Single family sunset—The twin terrors of the construction industry, high interest rates and rising costs have combined to remove the American dream of homeownership from the reach of thousands of Michigan families. MSHDA's financing program is designed to serve the gap in the housing market that conventional mortgage lending institutions are unable to serve. Further, MSHDA's current new home income limit excludes persons making more than $30,000 from participating in its home Mortgage Finance Program. To me, the public purpose for continuing a program for people in this income range is clear and should be institutionalized as a permanent part of the Tax Code. Should this program be terminated, many potential housing programs patterned after the successful Nehemiah Program in New York may no longer be feasible. In my opinion, resources that are used by HFA's like MSHDA in recurring efforts to fight sunsets would better be spent providing interest rate buy downs and other programs to encourage homeownership in central cities for low-income families.

Third. Effective date.—The current effective date of December 31, 1985, has already begun to cause problems in the equity and revenue markets. When coupled with the concerns raised by placing housing under the volume cap, many housing units in Michigan may not be built because the bond issues necessary to sell them can not be sold at reasonable interest rates. In short, it is patently unfair to the entire Michigan economy to enact a proposal that retrospectively restricts economic activity. The effective date of the bill should be the date of enactment.

In conclusion, tax-exempt bonds have been used by the Housing Finance Agency in my State in a responsible, public spirited manner. Since its creation in 1966, the Michigan State Housing Development Authority has invested over $210 million in 8,569 housing units in my district. MSHDA financing has materially improved the standard of living for over 70,000 households in Michigan. The lives of countless renters have been uplifted and the American dream of owning a home has come true for many of Michigan's young people—90 percent of the single family homes financed by MSHDA are purchased by first time homebuyers. My fear is that the bill, as presently structured, may cause disruption in a housing production system that has worked so well for so many years.

Mr. JEFFORDS. Mr. Chairman, the Tax Reform Act of 1985 represents the most comprehensive overhaul of our tax laws in over 30 years. There are many positive aspects of this bill. It would remove from the tax rolls some 6 million of the Nation's working poor. It would result in the lowest tax rates for individuals and corporations since World War II. Its minimum tax provisions would go far to assure that corporations and individuals with savvy accountants or tax lawyers cannot manipulate the tax laws so as to avoid payment of any tax whatsoever.

Although the bill is not perfect, and although it is in no way tax simplification, in may respects Vermont taxpayers, both individual and corporate, would fare better under this legislation than under either current law or Treasury II. The bill preserves the full deduction for State and local taxes. Vermont is a relatively high tax rate State, and the deduction for State and local taxes represents a sort of Federal cost-sharing of the services financed by these taxes including, of course, education. Many tax incentives of crucial importance to Vermont businesses have also been retained. Retention of the deduction for interest paid on mortgages for two homes was vital to my State's vacation homes industry. The depletion allowance for granite and marble has not been reduced. The bill also preserves the credit for renovation of historic and pre-1935 structures—a credit that has gone far in encouraging the revitalization of deteriorating downtown areas. For dairy farmers, the bill retains the election to currently deduct preproductive expenses. In addition, the bill would remove some of the tax favoritism that has encouraged tax shelter syndicates to engage in farming. The bill does not provide for taxation of the inside build-up of life insurance policies or the taxation of policyholder loans. Finally, Vermont's high tech industries will find the new Tax Code reduces favoritism among industries.

Having praised these aspects of the bill, I feel obliged to set forth my reasons for voting against the rule which would permit debate of the bill by the House. Since the very beginning, the Ways and Means Committee has acted under the constraint of "revenue neutrality." That is, one of the fundamental underlying assumptions was that any bill voted upon by the committee could raise no more revenue than that resulting from current law. "Revenue neutrality" was in the words of the Secretary of the Treasury, "one of the lines drawn in the sand"—a line which could not be overstepped if the committee's bill were to have support from the administration.

Our budget deficit now approaches $190 billion. The Gramm-Rudman deficit reduction legislation will require us to make far-reaching cuts in many important Federal programs in order to achieve a balanced budget by 1991. Unless we experience fantastic growth, we will be forced to accept deep and perhaps devastating cuts in domestic and defense spending. I suspect that in a couple of years, having observed the full impact on useful, effective Federal programs of the Gramm-Rudman automatic cutbacks, we may choose to achieve the Gramm-Rudman targets by raising revenues.

Passage of this bill, I fear, will rule out the income tax, including a tough minimum tax, as a future source of revenue. It is simply unrealistic to expect Congress to enact substantial individual rate reductions 1 year and then turn around the next year and pass a significant tax increase. Moreover, this bill's increase in the share of taxes borne by corporations will rule out a future rate increase for the business sector.

The two most often discussed alternative sources of revenue—an oil import fee and a value added tax—could have disastrous consequences for my Vermont constituents. Vermont's climate renders its citizens heavily dependent on imported oil. In the past, Vermont has had an ally in the Speaker's chair—a fellow New Englander who understands the disportionate burden that would be borne by citizens in the Frost Belt if an oil import fee were enacted. Next year, however, the Speaker's chair may be occupied by a gentleman from Texas, whose State faces increasing competition from cheap foreign oil imports, and an oil import fee increasingly looms as a possible alternative. The second alternative, a value-added tax, is a type of hidden sales tax, a tax which is essentially regressive in nature and which disproportionately burdens low income taxpayers. As Vermont ranks 38th in per capita income, I am especially concerned about the implications of such a tax.

In summary, I will vote for this effort to make our tax laws more fair, and I welcome the rate reductions in H.R. 3838. I am concerned, however, that we may have foreclosed the opportunity to raise revenue by way of the income tax laws. I am afraid that our search for additional revenues could well result in increases in other types of taxes that more than offset the income tax savings that will accrue upon passage of the tax reform bill. Good as the bill may be, this is no time to adopt a measure which will effectively restrict our deficit reduction options. But this also is no time to turn our backs on a good effort at making our current tax laws fairer. And that is what this bill does.

Mr. GUARINI. Mr. Chairman, I come to the well to urge my colleagues to support the Ways and Means Committee bill.

Like many of my colleagues, I was skeptical that substantial tax reform was doable.

I, for one, must admit that I was surprised that the Ways and Means Committee could craft a tax reform bill which is superior by far to the Internal Revenue Code as it now stands.

As New Jersey's only representative on the tax-writing Ways and Means Committee in Congress, my time during the last several months has been committed almost wholly to briefings, lengthy hearings, and long days in committee drafting a tax reform plan. The resulting bill is not pure tax reform, but the product of many political compromises over the months. Nonetheless, it is the closest thing to a complete overhaul of the tax system that could be achieved.

The bill approved by the committee measures up to the goals of fairness and economic balance, although it does not substantially simplify the Tax Code. It lowers rates for nearly everyone and maintains benefits claimed most frequently by middle-income families. Continued deductions for home mortgage interest on primary and secondary homes, employer-provided fringe benefits, charitable contributions and child care costs will make a real difference in their share of the tax burden.

The bill eliminates many of the abuses and loopholes in the existing Tax Code, especially as they apply to corporations and wealthy individuals. Special attention was given to establishing a strong minimum tax for corporations and individuals. Those who haven't met their fair share of the tax burden in the past won't be able to dodge their tax responsibilities in the future, and the annual injustice of major corporations paying no taxes will no longer occur. The bill we crafted is fairer by far than the Tax Code we have now.

In my opinion, the deductibility of State and local taxes was one of the most important issues the committee considered. The majority of Americans want to retain their ability to deduct State and local income taxes, property taxes and sales taxes on their Federal tax returns. We were successful in keeping this important deduction without compromise.

If this provision had been repealed, middle-income taxpayers would have been hardest hit. Over half the households that take the State and local deduction have incomes below $30,000, and 87 percent have income below $50,000. In New Jersey, the average amount deducted from Federal returns for State and local taxes was well over $1,000.

Every State and local agency and every public service—especially public safety departments—would have been adversely affected by elimination of the deduction. It would have drastically reduced financial support for one of our vital public services—education. The predictable losers would have been our schoolchildren.

The deduction for State and local taxes is the oldest in the Federal tax system; it was included in the legislation establishing the modern income tax in 1913. All along, I have said that tax reform to provide greater fairness and simplification could be achieved without elimination of State and local tax deductibility. For the sake of the hard-working, decent, tax-paying citizen, I'm pleased that the Ways and Means Committee agreed.

In another area, we were completely successful in retaining the tax-free status of fringe benefits. Under the committee bill, up to $5,000 of employer-provided death benefits will still be tax free, up to $50,000 of group term life insurance and all health insurance will still be tax free. Workers' compensation will still be tax-free. The bill includes a 2-year extension of the exclusion for employer-provided educational assistance benefits and prepaid legal assistance. For most American workers, keeping these earned benefits tax-free makes a real difference in their share of the tax burden.

All in all, the tax package approved by the committee gives the hard-working, tax-paying citizen a fair shake. It eliminates tax shelters, loopholes, excesses and abuses that large corporations and the wealthy have traditionally benefited from. We can all take great pride in reducing individual taxes to their lowest level since 1931 and in reducing corporate rates to their lowest since 1941.

I strongly urge your support for the bill.

Mr. FUQUA. Mr. Chairman, I rise in support of H.R. 3838. Even the most ardent supporters of the act recognize it is not perfect and indeed there are provisions I oppose. I am most concerned with investment tax credit provisions and the tax treatment of timber. I believe that, if this was the bill going to the President, I would be compelled to oppose it.

It is, however, a strong starting point and I deeply believe in the process of tax reform.

This act reduces the number of brackets, a step long overdue, and insures that corporations pay taxes that, up until now, they have been escaping. These steps enable us to reduce taxes for individuals and this should help our economy.

I believe the members of the Ways and Means Committee deserve praise for their efforts. They labored long and hard to produce sound legislation and I applaud their dedicated effort.

I am hopeful the other body will be able to modify our efforts in this House in a way to produce the best possible tax reform legislation for the American people. We have made the start and I shall continue my efforts on behalf of tax reform.

Mr. SHUMWAY. Mr. Chairman, there was great hope and excitement when President Reagan announced his proposal to reform the confusing and often complicated Tax Code and make it into one that is clear, simple and fair for all. The guiding principles of tax reform were to (1) simplify the tax system in order to reduce the time and resources spent on preparing tax returns, (2) make the system fair so that all taxpayers and industries and treated equally, and (3) raise the same amount of revenue as under current law. Tax reform was also intended to relieve the tax burden of families, and provide incentives for growth while eliminating the many special tax preferences and loopholes.

I embraced these goals of tax reform and was hopeful that they would be realized in the final tax bill. Unfortunately, the special interests and personal political incentives produced a bill that failed to meet the goals of true tax reform. The Ways and Means Committee took a good idea and produced a bad bill.

Somewhere along the line the goal of simplification was forgotten. The final tax bill comprises almost 1,400 pages of new tax rules published in a volume which is 2¼ inches thick. Is this simplification? The special interest groups were able to have man of their special tax breaks maintained, and the changes that were adopted were often more complex than current law. Because of the many changes contained in the bill there is all the more reason to believe that the average American taxpayer will continue to need professional help to fill out his tax returns.

A good example of antisimplification and antifairness in this tax bill is the provision affecting the personal exemption. In order to reduce the tax burden on families the President proposed increasing the personal exemption for all families to $2,000 for each dependent. The Ways and Means bill increases this exemption to $2,000 but only for families who do not itemize. If a family chooses to itemize, which the majority of families do, then they are penalized $500 for each dependent. Instead of one simple exemption amount for all taxpayers there would be two exemption amounts imposed on two categories of families. Is this simplification? Now two families with identical gross incomes living next door to one another, may have to pay substantially different taxes because one family happens to itemize and the other family doesn't. Is this fairness?

I am unable to support a tax reform bill that dramatically reduces the incentive for capital formation. In 1981 Congress overwhelmingly passed a tax bill supported by President Reagan that provided for the first major tax cut in a decade and granted incentives to business for economic growth, investment, and expansion. The economy responded with vigor and the Nation has enjoyed a continuous positive real economic growth. This bill would dismantle the very incentives that brought about this recent growth.

Raising the cost of capital to American business, especially in comparison to our major international competitors, will substantially weaken U.S. producers' competitiveness in world markets and also result in more imports. This will prove injurious to our economy by weakening a major source of its health—American industry. In reforming the Tax Code, Congress must not destroy any incentives for continued economic expansion.

The Ways and Means tax bill also has an antisavings bias. Not only does the bill do nothing to correct the lack of incentive for savings under current law, but it severely restricts several currently popular savings plans. This is incomprehensible, considering the fact that Americans are currently saving at the lowest rate in 35 years, and compare very unfavorably with other industrialized nations.

I support the fundamental concept and goals of tax reform: to simplify the Tax Code, increase fairness for all taxpayers and provide incentives for growth and expansion. These goals have not been met by the current proposals to reform the Tax Code and therefore I cannot support the Ways and Means tax bill, nor can I support the Republican substitute which is modeled after it. I am hopeful that Congress will someday enact true tax reform that meets these goals without dilution or compromise.

Mr. WEISS. Mr. Chairman, I rise in support of H.R. 3838, the Tax Reform Act of 1985.

I do so with hesitation. The bill as reported by the Committee on Ways and Means is far from perfect. It does not take advantage of the opportunity to use revenues from closing unfair tax loopholes for the urgent task of reducing the Federal budget deficit. It restricts some legitimate tax benefits that are used by middle-class Americans. And most importantly, the President has already promised that he will demand unacceptable changes in this bill before he signs it into law.

The President's own party has demonstrated its reluctance to embrace substantive tax reform by overwhelmingly voting against the rule under which the bill was to have been considered last week. Many Republican Members have now accommodated the President by voting to consider the bill. However, I remain very concerned that the same party that was highly reluctant to debate this bill in the House will later alter it in the other body to appease special interests at the expense of the American people.

If the bill reported by the Ways and Means Committee is given a chance to work, it will produce real reform of our Tax Code. It will shift a large part of the tax burden from working men and women to big business and the wealthiest individuals in our Nation, who have not have paying their fair share in recent years. The overall bill will reduce the tax payments of individuals by roughly $140 billion over the next 5 years. The Ways and Means bill is a significant and far-reaching improvement over the present Tax Code.

Tax reform is long overdue. Our Nation's Tax Code has become a labyrinth of deductions, exemptions, and preferences for big money interests. Many profitable corporations pay no taxes at all and instead receive refund checks. And many individuals avoid paying their fair share by exploiting elaborate tax shelters.

The statistics on these abuses are truly damning. A recent report found that 50 major U.S. corporations paid no tax at all during President Reagan's first term, while making $56.9 billion in profits. Instead, those corporations actually received $2.4 billion in net tax refunds during that period.

Twenty years ago, corporations supplied one-fourth of all Government revenues. Today, that figure is about 6 percent. The demise of the corporate tax began many years ago, but it received its greatest boost in 1981, when President Reagan pushed his massive tax giveaways through Congress.

A recent congressional report shows that nearly 30,000 individuals and couples who earned more than $250,000—including 3,000 who earned more than $1 million—paid little or no Federal taxes in 1983.

Meanwhile, average Americans have become increasingly burdened with more and more tax payments. The result has been a growing national consensus for reforms that will simplify the Code and reestablish fairness. Democratic Members of Congress were the first to introduce comprehensive reform legislation, and President Reagan followed with a plan of his own.

There is no one who is against tax reform—if it is really reform that we get. However, the President's plan for tax reform retained many tax preferences for special interests, disproportionately benefited the most wealthy taxpayers, and eliminated important middle-class deductions. The Ways and Means Committee deserves a great deal of credit for transforming the President's proposal—which was totally unacceptable—into a bill that will accomplish significant reforms.

Under the Ways and Means bill, the tax liability of most Americans will be substantially reduced. Unlike the President's plan, which targeted the largest tax cuts to the wealthiest group of taxpayers, the Ways and Means plan offers a larger percentage reduction to lower and middle income taxpayers than to the very wealthy.

Moreover, a significant number of taxpayers would have faced higher taxes under the President's plan, not because they deserve to pay more, but because they make heavy use of legitimate middle-class deductions. By retaining many tax benefits targeted for elimination by the President, the Ways and Means plan avoids this gross inequity.

I joined other Members of Congress in waging a battle to retain the deduction for State and local taxes. I did so because elimination of this deduction would harm individual taxpayers, burden States and localities around the Nation, and seriously undermine our Federal system of government.

Since the Federal income tax was instituted, local governments have relied on the fact that income, once taxed by the States and localities, would not then be doubly taxed by the Federal Government. Elimination of the State and local deduction would particularly harm taxpayers in New York State, where the average deduction per itemizing household amounts to $2,399, the highest in the entire Nation. However, New York State is but one of many States and localities that would face such a dilemma. Local governments would be under enormous pressure to reduce taxes and to cut services. Many businesses might be prompted to relocate in areas with lower taxes. Further, while major cities already subsidize much of the care of the Nation's poor, they would be forced to finance even more of that care, which is a national responsibility.

I also joined many of my colleagues in opposing new taxes on essential life support systems for working men and women. The President and other proponents of taxing fringe benefits argue that the tax-free status of such benefits gives workers who receive fringes an unfair advantage over workers who don't. However, this is a backwards way of looking at the problem. It is very unfortunate that some workers do not have the benefits of an adequate medical program, pension protection, or life insurance. But the bill before us today recognizes that we should address this inequity with policy changes that will ensure that all workers are covered, not by increasing costs to employees and curtailing benefits.

Among the most attractive features of the Ways and Means plan are the proposals to reduce taxes on our Nation's working poor. By raising the standard deduction, personal exemption, and earned income tax credit, more than 6 million low-income individuals who are now required to pay tax would be removed from the rolls.

While elderly taxpayers will lose the extra personal exemption to which they are currently entitled, the effect of this change will be moderated by the rise in the standard deduction and personal exemption afforded by all taxpayers. Further, nonitemizing taxpayers who are 65 and older will be offered an additional $600 standard deduction to compensate for this loss. The tax burden on most older Americans will still be lower than before.

The bill contains a number of significant changes in corporate taxation that deserve strong support. The committee followed President Reagan's recommendation in calling for the repeal of the Investment Tax Credit [ITC]. This monstrous corporate giveaway will result in a loss of $38 billion to the Treasury this year alone. Furthre, the bill completely revises the rules for depresiation allowances, replacing the current Accelerated Cost Recovery System [ACRS] with a less generous system that more closely reflects the rate at which plants and equipment actually wear out.

In addition, the bill would repeal the special low rate at which corporations are taxed for capital gains. And it takes important steps to restrict or eliminate inequitable tax preferences for a variety of American industries, including the preferences exploited most by the oil and gas industry.

The bill's provisions on tax-exempt bonds are also to be commended. I had been very concerned about the President's proposals to eliminate outright the tax-free status of almost all new nongovernmental or "private purpose" bonds issued by State and local governments. While it is true that private purpose bonds have been subject to many abuses, such a sweeping restriction would have ruled out many worthwhile projects that are pursued by private entities acting in the public interest.

Under the Ways and Means bill, most private purpose bonds will remain tax exempt. However, the Ways and Means bill does place new restrictions on the volume of tax-exempt bonds which may be issued. A certain portion of the allowable bond issues would be reserved for the use of tax-exempt organizations—such as hospitals and private educational institutions—that might otherwise have to forego needed improvements that benefit the community.

I am also enthusiastic about a series of tax changes that will curb the use of tax shelters by high-income individuals. These changes, including the imposition of a stiff minimum tax, will help ensure that all taxpayers are required to pay their fair share.

For many of my constituents, the President's proposed elimination of the charitable deduction for nonitemizers has been a major concern. Commendably, today's bill will retain this deduction, although it will be limited to amounts in excess of $100.

However, while many of the provisions of the Ways and Means tax bill offer substantive reforms that warrant our strong support, some provisions of the current bill will harm individual groups of taxpayers and should not have been included in this or any comprehensive tax reform bill.

I oppose the provisions of the committee bill that will prohibit Federal retirees from collecting their pensions tax free in their early years of retirement. This change will disrupt the carefully laid retirement plans of millions of Federal workers. I joined other Members of Congress in urging the Rules Committee to make in order an amendment that would strike this provision of the bill. While the Rules Committee did not allow such an amendment, the rule that was eventually adopted did remove from the bill an outrageous provision that would have exempted Members of Congress and their staffs from having their retirement pensions similarly taxed.

I am also concerned by the provision of the bill that would eliminate the marriage penalty deduction. While advocates of this elimination claim that other changes in the bill's rates and standard deductions will compensate for this change, I am not convinced that this will be true in every instance.

Further, the President and the Ways and Means Committee claim that the reduction of tax brackets from 14 to 4 will eliminate the need for income averaging, which allows persons with large fluctuations in their income to avoid paying taxes at high marginal rates when their income fluctuates greatly from year to year. While the consolidation of brackets will make large fluctuations in tax liability somewhat less likely, it will not by any means do away with this problem. The elimination of income averaging will severely harm many taxpayers who do not have the comfort of a reliable or consistent paycheck.

I am greatly disturbed by the committee's decision to limit the use of both section 401(k) retirement plans and section 403(b) tax-deferred annuities. These pension plans, named for their sections in the Internal Revenue Code, have been extremely popular because they help workers accumulate funds for retirement and encourage savings and investment throughout the economy. I do not believe that it is proper to limit these incentives for savings, especially when many unfair loopholes in the Tax Code have escaped scrutiny. However, it is worth noting that the tax treatment of these plans under the Ways and Means bill represents a great improvement over the President's more extreme proposals.

I am also opposed to the committee's decision to make all unemployment benefits taxable. Currently, these benefits are not taxable for taxpayers whose adjusted gross income—plus unemployment benefits—is less than $12,000. The proposed change amounts to an additional slap in the face to America's unemployed workers, who have suffered in recent years under an administration that is ignorant and unsympathetic about their plight.

While I favor the retention of graduated corporate tax rates that will benefit small businesses, I am disturbed that this bill will significantly lower the highest corporate tax bracket from 46 to 36 percent. Despite the limitations imposed on many tax preferences for big business, I do not believe that this is the proper direction in which to be moving at a time when corporate taxes have consistently lagged behind their historic levels.

Moreover, I am concerned by the new limitations that will be imposed on tax advantages for investments in low income housing projects. This will only serve to worsen a serious shortage of affordable housing for low-income Americans, which has reached epidemic levels in New York City and elsewhere.

The tax credits for rehabilitation of older buildings, which have been used extensively to help rebuild parts of New York City, were targeted for elimination by the President. While the Ways and Means Committee voted to retain these credits, they will also be curtailed.

In recent decades, the American people have progressively lost confidence in the fairness of our tax code. Throughout this period, numerous proposals for comprehensive tax reform have been raised. All of these proposals have failed. Now, for the first time, the House of Representatives has offered a bill that provides a serious opportunity to reform the Tax Code in a manner that will benefit low- and middle-income citizens and restore confidence in the Tax Code.

The Ways and Means bill, though flawed, does provide for real reform. It is my strongest hope that the other body will not expand and add to the negative provisions of the House bill. The President has expressed his intention to support such a process. If this effort is successful, the fragile compromises that went into creating a bill that provides for real reform will be upset, and the bill will no longer warrant our support.

If the President, who has named tax reform his No. 1 domestic priority was really serious about reform of the Tax Code, he would not seek to depart from the fundamendal premises of the Ways and Means bill. Rather, he and members of his party would embrace it and nurture it. But given their current attitude and inclinations, those of us in the House who support tax reform in the name of fairness find ourselves preparing for further battles to defend this basic concept. We must commit ourselves here and now to opposing any bill presented to us by the other body which compromises this goal.

Mr. WRIGHT. Mr. Chairman, I oppose this bill at this time because it does not respond to the primary needs of our Nation. It may make them worse.

Surely the critical imperative at this moment in our history is to stop the $200 billion annual deficits which have doubled our national debt in the past 5 years.

To waste our energies at such a time on a revenue-neutral bill of this complexity while ignoring the deficit could be a modern equivalent of Nero's folly.

If our Nation has four overriding domestic priorities, I think they would be these:

Reduce the budget deficit; reverse the trade deficit; promote jobs and economic growth in the United States; restore this country to energy self-sufficiency.

In my view the bill presently before us does not serve any of those objectives.

Advertised as revenue-neutral, it utilizes the most obvious sources of new revenue and dispenses them out in tax cuts. This will make it more difficult to raise the revenues needed for budget balancing when the President and Congress jointly come to our senses and recognize the stern reality of that need.

Approximately $25 billion of the new tax cuts in this bill go to the most affluent people who pay in the top tax bracket.

The top bracket was reduced in 1981 from 70 percent down to the present 50 percent. This bill would further lower the rate at the top to 38 percent, or by approximately one-fourth. It will be cut almost in half from five years ago.

In my opinion the most affluent Americans, and most Americans for that matter, do not expect a tax cut at a time when our government is not able to pay its bills.

The American people, in fact, may be more cognizant of the relative importance of things than the President and Congress give them credit for being. Numerous opinion polls which I have seen reflect the fact that most Americans place a substantially higher priority on national debt reduction than they do on tax reform.

So far as that is concerned, the kind of tax reform most Americans would heartily approve would be simply to write a binding minimum tax upon the Nation's most profitable corporations and most affluent individuals, and then to devote the proceeds of that tax to debt reduction.

Probably the second most important need of this country is to improve our productivity, modernize our industry and revive America's competitive capacity so as to reclaim our position in world commerce.

This bill, unfortunately, destroys the most valuable tool for those who would modernize and update our aging machines of production—the investment tax credit.

This legislation will make it more difficult, not easier, for our machine tool industry, our steel industry and even segments of our emerging high technology industry to stay abreast of foreign competition.

The result could be the further erosion of our industrial base and the loss of still more American jobs.

The Chairman of the President's Council of Economic Advisers, Dr. Beryl Sprinkle, told a group of us at the White House last week in the presence of Mr. Reagan that the effect of this bill in the first 2 or 3 years would be to slow the rate of economic growth at a time when housing starts are down to their lowest level in four years, when small business failures and bank failures are at their highest level since the Great Depression. Anything that slows economic growth would seem to be exactly the wrong medicine.

Wrong too, is the effect this bill would have on the domestic oil industry. By making it harder for independent oilmen to finance the drilling of exploratory wells in the U.S., it could hasten the day of another Arab oil embargo, make us ever more dependent upon foreign sources, and needlessly prolong the time when our country can be energy independent.

I voted for the rule to permit this bill to be debated by the House. I oppose the substitute because it is simply another complex rearrangement of a revenue-neutral proposal. I will vote for recommittal because in my opinion the bill is flawed and I have no great confidence that the Senate will improve it. For all the reasons I have stated, I must vote against the bill.

Mrs. LLOYD. Mr. Chairman, I support tax simplification, I support tax reform. This bill is not simplification and it isn't good for our Nation overall. It adds, not replaces but adds, another 1,300 pages to the 3,900-page Tax Code. There are portions of the bill I strongly support and have worked to bring before the House. I am on record in support of profamily provisions. American families need the $2,000 exemption. They deserve a tax code that rewards hard work and savings. They demand and deserve tax fairness. No one, no business should be able to escape paying their share. Voluntary compliance is down and I suspect it will continue to drop as long as the code is unfair. For tax reform to be that it must eliminate those mechanisms by which large corporations in particular have succeeded in avoiding paying their share. Toward that end, I have called for a corporate minimum tax to ensure that the middle-income American doesn't pay a larger proportionate tax than a large corporation.

I've been a part of this body for awhile and I've had to analyze quite a few tax bills. I don't need to remind my colleagues of what has happened when we've passed irresponsible tax bills. It wasn't too long ago we had to repeal the withholding tax on interest. Earlier this year, we had to address the burden of recordkeeping which was included in the 1984 bill. I've been told that one paragraph of that bill alone has resulted in over 120 pages of IRS interpretations. Imagine what the IRS can do with this 1,300-page bill? The House can, and should, pass a good tax bill. It cannot do so in an atmosphere of pressure. We will regret it and will be back here to face the music as surely as we have had to in past years.

The difference between this bill and those previous ones is that this bill poses a serious threat to American jobs. It's possible to repeal withholding, it may not be possible to rebuild the American economy. Many economists have stated the bill will, at best, be growth neutral and, more likely, be growth negative. This bill affects investment in plants and equipment, research and development and investments. Further, it reduces incentives for American business to sell abroad. The constituents of my district have spoken out against this bill by an overwhelming margin. Those who are saving for their retirement oppose it because of the provisions on 401(k) plans, and spousal IRA's. We are changing the pension code for the third time in 3 years. How can individuals and their employers be expected to comply when the rules keep changing. Small business people worry that the antisavings and repeal of the investment tax credit will seriously impair their ability to grow. Those committed to the American tradition of charity oppose its provisions for charitable contributions deductions. Farmers are deeply concerned over the changes to capital gains. This is not big business speaking out in opposition to this bill, but the men and women of the Third District of Tennessee who work and want to see economic opportunity for their children.

Mr. Chairman, let's close the loopholes which make our Tax Code unfair and get a bill that is profamily, prosavings, and projobs. It can be done.

Mr. BORSKI. Mr. Chairman, I rise in strong support of the Tax Reform Act of 1985. Congress and the President have talked about tax reform for more than a year, but the Ways and Means Committee put together a bill which will restore a measure of fairness to the Tax Code and provide tax relief for millions of ordinary taxpayers. It deserves the full support of the House of Representatives.

The need for tax reform cannot be overstated. Today, there is a widespread perception that everyone is not paying their fair share of taxes. Middle-income, working Americans have read story after story about wealthy individuals and profitable corporations who use hundreds of loopholes to avoid paying taxes.

Last year, about 3,000 millionaires paid no income tax. And, half of the most profitable corporations in this country paid no taxes in at least one of the last 4 years, some even received refunds. Understandably, middle America is fed up with the current Tax Code, which has asked them to shoulder a larger and larger share of the tax burden.

We now have an historic opportunity to vote for the working people of this country, to vote for greater fairness and equity. The Tax Reform Act would eliminate many of the loopholes in our present Tax Code and impose a tough, new minimum tax on wealthy individuals and profitable corporations. Big business and rich individuals—the chief beneficiaries of the 1981 Reagan tax cut—would be forced to pay the same kind of taxes that working people have been paying for a long time.

Under the plan, a majority of Americans would pay about 9 percent less in taxes, a larger tax reduction than that proposed by President Reagan. The savings for individuals would be achieved by shifting a greater share of the tax burden to corporations. Even though the top tax rate paid by corporations would drop from 46 to 36 percent, total revenues collected from corporations would increase by an incredible $138 billion over the next 5 years.

While the Ways and Means proposal generally follows the plan submitted by the President last May, it makes a number of significant changes. It retains the current deduction of State and local income, sales and property taxes. This deduction is particularly important to taxpayers in Philadelphia, who pay a larger share of State and local taxes than residents of most other American cities. The plan also preserves another important provision the President wanted to eliminate: The tax-free status of health benefits, the life support system of millions of workers and their families.

This tax plan also contains a number of benefits for small business, the backbone of our economy. A graduated schedule of corporate rates for small business and a simplified accounting method will encourage growth and development in this essential sector of the American economy. Certain Industrial development bonds utilized by family-owned and family-operated businesses would also be preserved. These bonds help local companies like Philadelphia's Penn-Maid Corp. expand production, create new jobs, and contribute to a more stable and prosperous economy.

I am also encouraged that the bill provides reasonable and just transitional relief for the Frankford Arsenal Business Center in Philadelphia. Developers of the project will be able to continue rehabilitating this former Defense Department ammunition factory which will employ 3,000 workers when completed.

The bill we are debating is a giant step towards a fairer, more equitable tax system. It represents genuine tax reform for all American taxpayers and its time has come.

Mr. DIXON. Mr. Chairman, I rise in support of the Ways and Means Committee's bill, H.R. 3838. While there is broad agreement on the necessity for reform, it is difficult to put together a similar consensus on the blueprint for such reform, much less the elements which such a package should include.

In this regard, I have high regard for the committee's work in greatly improving upon the tax reform proposal which President Reagan submitted to Congress earlier this year.

H.R. 3838 takes a major step toward tax equity, since its benefits certainly accrue to low- and moderate-income families, whereas recent tax cuts have largely favored those at the highest income levels. Corporations that have avoided taxation would be required to pay their fair share. Yet the committee's plan is in no way antibusiness. In fact, several corporations and business groups, such as Levi Strauss, General Motors, Philip Morris, IBM, the National Federation of Independent Businesses, and the American Trucking Association have endorsed the bill before us.

In response to some of the concerns raised by my constituents, I am pleased that H.R. 3838 maintains deductibility of State and local taxes, tax free status of fringe benefits, tax exempt status of Credit unions, and continues important employee benefit programs such as 401(k) and 403(b) plans. Still, this legislation is not perfect, and I am disappointed that its provisions could subject Federal pensioners to double taxation. It is my hope that this last provision will be modified as this legislation proceeds in its consideration.

In my view, this bill represents a positive effort toward tax equity. In fact, my most serious reservation is that in an effort to garner Republican votes for this measure, the President, his advisers, and leaders in the other body have made statements that make me question whether the bill we consider today will in any way resemble the bill which will be sent to the White House.

The President clearly said that he would veto the bill we are now considering. In the President's view, for this bill to become acceptable, it would have to move in a regressive direction as it relates to limiting tax reductions for low- and moderate-income families, increasing the percentage of benefits which would accrue to those with incomes over $200,000 a year, and reducing the requirements that corporations pay their fair share.

Let me state that while I am committed to the principles embodied in H.R. 3838, this measure represents the bare minimum standard of tax equity which can justify my support. If, in the coming months, the movement toward tax reform strays from these principles of equity and fairness then I will strongly oppose final enactment of any legislation that continues the unfair elements of the Reagan tax changes of the past 5 years.

I must also express concern that the rush to judgement by the House of Representatives on tax reform is ill-advised at a time when we have not yet faced the difficult decisions which will be necessitated by the recently enacted Gramm-Rudman budget deficit act. Our views of tax reform may change drastically in the coming months, but with these reservations expressed I will support H.R. 3838 as positive attempt to promote meaningful tax reform for the American people.

Ms. SNOWE. Mr. Chairman, I would like to express my support for H.R. 3838, the Tax Reform Act of 1985. While I have reservations about this measure, I support its passage since I believe it is important to move the process of tax reform forward and to allow its full consideration by the Congress.

This legislation has many sound provisions, such as reducing tax rates for individuals and corporations and removing from the tax rolls many of those currently below the poverty line. It also preserves many of the basic deductions which are important to low- and middle-income taxpayers. I was pleased to see that the full deductibility of State and local taxes was maintained. This bill embodies the concept that everyone must pay their fair share of taxes by incorporating a strong minimum tax.

I do not, however, embrace the entirety of this legislation. Specifically, I am concerned about the provisions affecting the timber industry. For example, eliminating the investment tax credit and replacing the accelerated cost recovery system with a lengthened depreciation system will decrease the incentives for capital investment available to the forest products industry. The timber industry is very capital intensive and will suffer from reduced cash-flow and increased capital costs if these provisions are enacted.

Further, the capitalization of timber maintenance costs will greatly discourage reforestation and proper forest management since it will significantly increase the costs of these activities. The timber capital gains provisions could significantly reduce the return on timber investments, resulting in little willingness for continued investment in such long-term, high-risk assets. I strongly believe that proper incentives are needed, in order to allow the timber industry to remain viable and to compete successfully in domestic and international markets.

In addition, I have concerns about the efforts that the Tax Reform Act will have on low-income housing development. While tax-exempt financing of industrial development bonds and mortgage revenue bonds would be retained, the restrictions placed on these bonds would make it very difficult to provide affordable housing for low-income individuals. In my own State of Maine, the benefits derived due to tax-exempt financing cannot be overstated. Literally thousands of Maine people will be denied the benefit of safe, decent, and affordable housing made possible by tax-exempt bonds. As such, I hope that these concerns will be addressed before Congress considers final passage of this legislation.

Finally, I strongly believe that the potential uncertainty requires that the effective date of this bill must be delayed until January 1, 1987. Businesses and individuals must be able to make economic decisions in 1986 without the uncertainty of possible changes in important tax provisions. While I have reservations about this bill, I have received a commitment from President Reagan and Treasury Secretary Baker that they will work to modify the legislation, particularly as it relates to capital intensive industries, as well as delaying the effective date until 1987. These assurances allow my initial support for H.R. 3838.

Mrs. COLLINS. Mr. Chairman, I rise in support of the Ways and Means tax bill before us. The members of the Ways and Means Committee and most notably my good friend, Chairman ROSTENKOWSKI, are to be commended for their hard work, tenacity, and courage in taking the President's original tax proposal and creating a fair and equitable package. Although by no means perfect, the measure under consideration today represents a substantial improvement over the current law and gives the most relief to middle- and low-income Americans.

Perhaps the most striking feature of the Ways and Means tax reform package is that it retains the full deductibility of State and local taxes. Repeal or partial restriction of this deduction, as proposed in the alternative tax reform measure offered by the Republican leadership would effectively cripple the ability of State and local governments to meet critical and vital programs and services: educating our children, fighting crime, cleaning the environment, repairing roads, and assisting the poor and elderly.

The retention of the State and local tax deduction is especially necessary to preserve the fiscal health of State and local governments at a time when they are being forced to assume greater and greater responsibility in providing basic services to those who reside in communities across the country.

The Ways and Means tax reform package makes a number of improvements in the area of corporate taxation. The proposal before us repeals the investment tax credit, imposes a minimum tax on individuals and corporations, and reforms depreciation schedules. A positive feature of this provision is that it ensures that everyone pay their fair share of the Federal tax burden.

Mr. Chairman, at the request of the Caucus for Women's Issues, the Women's Research and Education Institute [WREI] recently released an analysis of the impact this measure would have on nine families. Compared to present law, five of the nine families would do better under H.R. 3838; of the other four, three would see no significant difference, and one would have a large increase. The lowest income families, both of which would be subject to income tax in 1987 under present law, would receive refunds under this proposal.

Interestingly, every one of the nine families would do better under the Ways and Means proposal than under the President's package.

In closing, let me again congratulate my colleagues on the Ways and Means Committee for having the patience to stick with this and the courage to actually report out a reform package. You have done a commendable job in the face of numerous obstacles.

I urge my colleagues to vote for this fair and equitable package.

Mr. LEVINE of California. Mr. Chairman, while I support simplifying the Tax Code and promoting greater equity in our tax system, I am very concerned about the sudden economic consequences of tax reform. Should both Houses of Congress eventually agree upon a tax simplification measure, they must do so without creating unnecessary confusion and uncertainty. We must be particularly careful to assure investors and wage-earners that what the House has passed today does not take effect tomorrow. Unanticipated alteration of our tax laws inhibits sound investment planning and will have a chilling effect on individual and business investment opportunities.

Given that the Senate will not complete action on a tax reform bill for several months, we must assure the American public that provisions in the House passed bill will not be applied retroactively. For example, we must alert investors in housing and community development projects that the effective date of various bond and depreciation provisions in H.R. 3838 are not tied to the date of passage of the House bill. Should the House and Senate eventually agree on a tax reform measure, its provisions should be applied prospectively.

Therefore, I am pleased that the House has agreed to attach a resolution to H.R. 3838 which provides that before the end of this year, the chairman and ranking members of the House and Senate tax committees and the Secretary of the Treasury will agree upon effective dates of enactment for various provisions in the tax bill. This resolution makes certain that Congress will notify all Americans about its full intent in passing a tax reform bill and the direct impact of any changes in our tax laws.

Mr. BONKER. Mr. Chairman, today's vote poses difficult questions for all of us. Personally, I consider this one of the five or six most difficult choices I have faced in my 12 years in Congress. While every Member has to make up his or her own mind, and different factors will color every Member's decision, I wanted to offer my own thoughts on this critical choices we face today.

As many have noted, I have twice supported and voted for the rule to bring this bill to the floor. This does not necessarily mean that I support or will vote for the final package. In light of the tremendous time and effort Chairman ROSTENKOWSKI devoted to this landmark legislation, however, I believe he deserved nothing less. Whatever concerns I or any other Member have about this legislation, I strongly feel that tax reform deserves its day in court.

On the bill itself, like many other Members I have very mixed feelings. Chairman ROSTENKOWSKI has crafted a bill that would make numerous positive changes to enhance the equity of our Tax Code and to ensure that all segments of our Nation pay their fair share. To that end, he deserves our gratitude.

Yet I remain deeply troubled about the impact this legislation could have upon the Federal budget deficit, U.S. economic competitiveness, and savings and investment. I am also concerned that this legislation, if enacted in its current form, could have a devastating effect upon certain industries, particularly the timber industry.

There's an old phrase, "if somebody gives you a lemon, make lemonade." In my view, Chairman ROSTENKOWSKI has taken the flawed tax reform package advanced by the White House earlier this year and greatly improved the measure. The bill still has a sour taste, and it's certainly a bitter pill for the timber industry, but overall it's far more palatable than any of us expected given the President's original proposal.

Fairness is a strong argument in favor of the Rostenkowski tax package. Our present Tax Code is a maze of loopholes, exclusions, and deductions, many of which are used by wealthy individuals and large corporations to avoid paying their fair share of taxes. A recent study by the Treasury Department found 3,000 millionaires paying no taxes at all, and 5,400 paying less than 10 percent. Another study by Citizens for Tax Justice looked at 275 profitmaking corporations and found that nearly half paid no taxes in the past 4 years; according to the study, several firms even received lucrative tax rebates from the Federal Government. By curtailing overgenerous tax breaks, this bill will make corporations base their investment decisions on economic viability and need, rather than the lure of available tax subsidies.

The Ways and Means bill provides significant tax relief to lower income taxpayers, as well as middle-income individuals who currently shoulder the bulk of our tax burden. Approximately 75 percent of the benefits will accrue to families earning less than $50,000 each year. The Rostenkowski plan also retains most of the major deductions important to working class taxpayers—such as the State and local tax deduction, the tax-free status of health benefits, and the mortgage interest deduction—while curtailing many unproductive loopholes used primarily by the wealthy.

Finally, the committee bill would shift some of the tax burden off of individuals and back onto corporations, reversing a trend which has seen business' share of our tax load fall from 37 percent in the 1950's to less than 10 percent today. Correction of this imbalance is long overdue.

While I strongly support the bill's effort to restore the basic fairness of our Tax Code, I confess I am deeply concerned over the potentially negative macroeconomic impact of this measure. Every month, our Government announces major indicators on the health of our economy. As you look across the economic landscape of our Nation, several facts are clear—consumer spending is very strong, but U.S. manufacturing, savings, and investment continue to lag. The bulk of our increased consumer spending is being absorbed by imports, resulting in our staggering $150 billion trade deficit.

Simply stated, the bill before us today could well increase consumer spending without providing adequate incentives for personal savings, business investment, and capital formation. This emphasis in the bill could further erode our competitive position in today's global economy and merits additional study.

I am also troubled by the implications that this bill holds for our efforts to reduce the Federal budget deficit. While I am relieved to see that the bill is at least deficit-neutral according to economic projections, I believe that such a massive tax overhaul should go further and help bring down our $200 billion deficit. The bill generates significant new revenues by closing off unproductive loopholes and deductions, but instead of reducing the deficit, the bill uses these revenues to provide tax cuts during a time of relative economic health.

Already, certain Senators are talking about a tax increase next year to help control the deficit explosion. Today's bill could severely restrict our options if such revenue steps are necessary. If we use all of the money generated by closing loopholes and eliminating deductions to reduce marginal tax rates, where will we turn for new revenues when we need to cut the deficit?

Finally, enactment of this bill without significant changes, could virtually destroy the timber and wood products industries of our Nation. President Reagan's tax proposal earlier this year would have completely wiped out the three major tax provisions affecting the forest industry—capital gains treatment of timber, expensing of forest management costs, and the reforestation tax credit.

While the Rostenkowski bill does not go as far as the administration's proposal, the bill would have a devastating and discriminatory impact upon our wood products industry. Capital gains treatment for timber would be limited solely to individuals; corporations and all Federal timber holders would no longer qualify for capital gains treatment. Expensing would continue for timber growers with less than 50,000 acres, but deductions would be spread over 5 years instead of the year costs are incurred. Larger landowners would be forced to capitalize some or all of their management costs with no tax return or deferral until the trees are cut. Finally, the $10,000 per year reforestation tax credit would be eliminated.

I am deeply concerned that without these tax provisions, timber growing will cease to be a viable economic activity in the United States. It takes 30 to 60 years to grow a mature stand of timber, and unless tax policy recognizes the unique needs of the forest industry, no firm will be able to devote resources to such long-term investments.

Whatever the merits of these tax proposals on the timber industry, it is reasonably assumed that they have been included in the administration's and Ways and Means Committee's bill to be bargaining chips in negotiations with the Senate Finance Committee. While I understand the political motivation, I am in no way reassured. Our Nation's timber resources and wood products industry are too important to become a pawn in the legislative process.

So, as the House takes up these measures before us we must also be mindful of the final product when it comes back from a Senate-House conference. Unless the discriminatory provisions applying to the timber industry are modified and I am assured that there will not be a revenue shortfall, I will have no choice but to vote against the proposal.

Mr. BIAGGI. Mr. Chairman, I rise in support of H.R. 3838, Tax Reform Act of 1985. I commend the chairman of the Committee on Ways and Means, the gentleman from Illinois [Mr. ROSTENKOWSKI] for his diligence, perseverence, leadership, and political sagacity in shepherding this measure through the long, arduous hearing process to floor consideration today.

In particular, I wish to thank the gentleman and his fine staff for providing the Committee on Merchant Marine and Fisheries the opportunity to appear before his committee, and incorporating many of our comments and recommendations in the reported bill and committee report by the Committee on Ways and Means.

This bill, if enacted in its present form, goes a long way toward reconciling tax and maritime policy in the United States for the first time since World War II. This is an extraordinary achievement and one easily overlooked in a measure of such overall complexity and magnitude.

Specifically, the measure:

First, determines the scope of permissible tax-exempt financing by State and local entities of port development projects, including channel dredging, and marine terminal facility construction for operation by port authorities or lease to private terminal operators.

Second, it reaffirms and improves the Capital Construction Fund Program of the Merchant Marine Act, 1936, which provides tax-deferred financing of vessels constructed or reconstructed in domestic shipyards for acquisition by purchase of lease, and operation under U.S. registry. To this end the bill, as reported, incorporates conforming changes to the Merchant Marine Act emanating from oversight hearings before the Subcommittee on Merchant Marine. Those provisions are enacted in parallel for the first time in the Internal Revenue Code of 1985.

Third, it reaffirms the deductability of business travel expenses on board U.S.-flag cruise vessels as an incentive for the development of a domestic cruise industry in the United States.

Finally, and perhaps most importantly, the measure removes incentives buried in the Tax Code to document vessels under Flag of convenience registry. It also subjects ocean shipping services under all flags operating in U.S foreign trade to domestic taxation for the first time. In so doing it goes a long way toward creating a level playing field for U.S.-flag operators engaged in direct competition with government owned or subsidized foreign carriers.

Mr. Chairman, once again I commend the distinguished chairman of the Committee on Ways and Means, and the gentleman from Massachusetts [Mr. DONNELLY] for their considerable efforts on behalf of the beleaguered maritime industry in the United States.

Mr. DURBIN. Mr. Chairman, I rise today to offer my support for the Tax Reform Act of 1985.

Enactment of this tax package would represent a historic first step toward fashioning a fairer Tax Code for all Americans. It will provide genuine tax relief for low- and middle-income people who have shouldered too large a share of the tax burden. The Ways and Means bill removes more than 6 million low-income individuals and families from the tax rolls, eliminating one of the greatest inequitites of our current tax system. It also provides middle-income families with 50 percent of the tax reduction benefits, as opposed to the 37 percent that the President's plan would have offered.

The Ways and Means plan will require that upper income earners pay their share of the tax burden. Legalized tax avoidance, unfortunately, occurs far too often under our current Tax Code. A recent Treasury Department study found 3,000 millionaires paying virtually no taxes at all and 5,400 paying less than 10 percent.

The Ways and Means proposal sharply reduces the tax relief that the President's plan would have provided to upper income Americans. The President's tax proposal would have given those earning over $200,000 close to a third of the tax breaks resulting from tax reform. The Ways and Means plan, however, would grant them only 14 percent of the benefits. It also imposes a stiff minimum tax that would raise an additional $19 billion in revenues and guarantees that no one will be able to evade paying his or her taxes.

The committee's proposal promotes greater equity in the Tax Code by preserving most of the basic deductions and exclusions which are widely used by middle-income families. It preserves the tax-free status of employee health benefits and allows taxpayers to continue to deduct their State and local taxes. Both of these issues have caused a great deal of concern among my constituents, and I am pleased that the final package is satisfactory on both counts.

My one source of concern about the bill is its potential impact on American business. Both the President's and the Ways and Means proposals would shift the tax burden significantly from individuals to corporations. This reverses a trend initiated by the 1981 tax cut which offered substantial tax breaks to corporations.

It is clear that Congress was excessive in 1981 in reducing corporations' tax liability by allowing them to take much greater advantage of loopholes and preferences. A recent Citizens for Tax Justice study found that 129 of our Nation's largest 275 profitable corporations paid no taxes at all or actually got money back from the Government in at least 1 of the past 4 years. The Ways and Means bill reverses this trend by bringing the corporate share of revenues back to the 1980 level.

In making these changes, we must take care that we do not go too far in the opposite direction. This is particularly true for those capital-intensive heavy industries that are still reeling from the 1982 recession and that are already facing significant problems competing in the international marketplace. They will have serious problems if their costs of investment grow too sharply

Despite that one caveat, I do not agree with the contention that the bill is antibusiness. I have talked with many owners of small and medium sized businesses across my district about the Ways and Means tax reform proposal. I found that there was overwhelming support for the measure among these business leaders. Many said that even if the bill meant some initial loss of income for them, they still wanted our tax system overhauled and made fairer. Their viewpoints helped solidify my support for the bill.

Mr. RINALDO. Mr. Chairman, while I have some concerns about specific provisions in the bill, on the whole I think it would be a significant improvement over our present income tax system.

We must not lose sight of what has been accomplished during the work on tax reform which began a little over a year ago with the Treasury's tax reform proposal. Our original mandate was to simplify the Tax Code, eliminate loopholes, reduce rates, and ensure that all individuals and corporations pay their fair share of taxes.

With some exceptions, the legislation drafted by the Ways and Means Committee carries out these principles. Tax rates for most individuals will be lowered. In addition, the personal exemption for all taxpayers, will be increased above the present $1,040. Those who itemize will gain a personal exemption of $1,500 and those who take the standard deduction, and who tend to have lower incomes, will have a personal exemption of $2,000.

There is also a stronger minimum tax to ensure that no individuals or corporations are able to avoid paying taxes. The most unfair aspect of our present income tax system is that hardworking individuals are subject to tax withholding from their salaries while some corporations with profits in the hundreds of millions of dollars are able to obtain huge tax refunds. Time after time I have heard from my constituents that they resent having to pay more in taxes than individuals or corporations with substantially higher incomes, who are better able to pay.

The deductions for State and local taxes, charitable contributions, and mortgage interest are preserved, and employee fringe benefits will remain free from taxation. I had notified both Chairman ROSTENKOWSKI and the administration that I would not accept any tax legislation that removed these tax benefits for individuals. In my view, the deduction for State and local taxes is essential both to prevent double taxation of individuals and to avoid penalizing States which have reduced their reliance on Federal funding of education and social services. I also feel that it would be most inequitable to tax individuals on employment benefits such as health and life insurance, which serve essential economic and social purposes. If these benefits were made subject to taxation, many employers would no longer offer group insurance plans, and families would then be faced with a choice between paying for much more expensive individual policies or going without adequate insurance.

The bill is not perfect, and there were changes I would like to have had considered. In my view, the thresholds for the application of the bill's higher tax rates were set too low, and I feel that they should be increased to ensure that middle-income families will not pay more than they do under the present system. As the ranking Republican member of the House Select Committee on Aging, I would have favored less severe restrictions on contributions to pension, annuity, and retirement savings plans, since I feel that we should encourage more retirement planning. Taxpayers who take advantage of the personal deductions that are preserved under this bill should not be penalized, and I therefore favor the full $2,000 personal exemption for all taxpayers, whether or not they itemize their deductions. In addition, more generous provisions should be made for business investment, in order to prevent an economic slowdown and the loss of jobs. I am hopeful that these changes will be considered as work on tax reform continues to the Senate.

Nevertheless, we cannot fail to take advantage of this historic opportunity to inject more fairness into our tax system. I therefore support the Ways and Means Committee's bill with the hope and expectation that it will be further improved in the Senate.

Mr. KOSTMAYER. Mr. Chairman, I rise today in support of H.R. 3838, the Tax Reform Act of 1985, as reported by the House Ways and Means Committee. This legislation, the result of several months of active and intense deliberation, reduces individual and corporate tax rates, broadens the tax base, and eliminates the more egregious loopholes and shelters in the present Tax Code. It is the most sweeping tax-overhaul bill in 40 years, and a major victory for the average American taxpayer.

I support H.R. 3838 for several reasons.

First, the committee bill provides substantial tax relief for middle-income American families. It lowers the average income tax burden of households with incomes between $20,000 and $30,000 by 10 percent, and the average income tax burden of households with incomes between $30,000 and $40,000 by about 9 percent. By contrast, the administration's tax reform plan would reduce the tax bill of households in the $30,000 to $40,000 income range by only 6.6 percent.

The committee bill also retains the exclusions that are most important to middle-income families. It retains the tax-exempt status of employer-provided fringe benefits, rejecting the administration's proposed taxing of the first $300 per family of employer-provided health benefits. It retains, in contrast to the administration's tax plan, the deductability of State and local taxes. And it retains, again in contrast to the administration's plan, the tax-deferred status of 401K retirement plans; 401K plans are preserved, although with some modifications in the contribution limits.

Second, the committee bill provides substantial tax relief to the working poor. By increasing and indexing for inflation the standard deduction, the personal exemption, and the earned income tax credit [EITC], Federal income taxes would be eliminated for about 6.5 million working families near the projected poverty line of $12,000 for a family of 4 in 1987. As a result, under the committee bill, no married couple with two children would pay income taxes on income under $14,475 in 1987. Under current law, this family would begin to pay taxes when their income reached $9,739 in 1987.

This reform has been urgently needed because of the dramatic rise in the tax burden of the working poor since 1979. Census Bureau data show that in the 4 years from 1979 to 1983—the latest year for which census has issued this data—the aggregate amount of Federal income taxes paid by households below the poverty line tripled, even after adjusting for inflation. The Census Bureau data also show that during the 1979 to 1983 period, the number of households below the poverty line who had to pay Federal income taxes more than tripled. It makes little sense for the Federal Government to tax away an increasing share of income from those working poor families who, by the Government's own definition, do not have enough income with which to live.

Third, under the committee bill, wealthy individuals will no longer be able to use tax shelters to circumvent their tax responsibilities. The committee bill does cut the top rate from 50 to 38 percent for married couples filing jointly with taxable incomes greater than $100,000. But, the bill's crackdown on tax shelters, including a tough 25-percent minimum tax on upper-income shelter users, will put those upper-income individuals who have been able to avoid paying taxes back on the tax rolls, where they belong.

The committee bill also would greatly reduce the enormous tax breaks the administration's tax plan would provide for households making more than $200,000 a year. Under the administration's plan, nearly one-third—31.4 percent—of all individual tax cuts would go to those with incomes over $200,000, even though these households constitute fewer than 1 percent of all taxpayers. The committee's bill cuts in half this tax break to the over $200,000 group.

Finally, the committee bill would shift some of the tax burden back from individuals to corporations. The bill would reverse the dramatic decline in corporate tax payments that occurred during President Reagan's first term, increasing the corporate share of Federal revenues from 8.5 percent in 1985 to an estimated 13 percent in 1990. Twenty years ago, in 1965, the corporate share was nearly 25 percent. Also, by instituting a 25-percent minimum tax, along with other changes, the committee's bill ensures that large profitable corporations will be paying taxes. Too many profitable corporations have been able to escape any tax liability under our current system.

The committee tax reform bill, Mr. Chairman, is not perfect. I am disappointed that the provision which eliminates the current tax exemption for the initial portion of Federal employee pensions which reflects the employee's contribution to his or her retirement fund was not stricken from the committee's bill. I believe this provision is unfair to Federal retirees, and undermines the ability of the Federal Government to attract and retain qualified personnel. I am also concerned that the committee bill's provision which eliminates the investment tax credit may adversely affect capital-intensive industries, such as steel and coal. But, overall, the committee's bill is much fairer and equitable than current tax law. I hope these two issues will be dealt with by the Senate. To some degree they are offset by lower rates both for corporations and individuals.

Much has been made of the American taxpayers lack of interest in the various tax reform proposals that reduce individual tax rates. I believe this misses the basis of popular support for tax reform. Resentment does not arise from the idea of paying taxes: The American people have always demonstrated a willingness to pay their fair share of taxes in the national interest. Instead, resentment arises from the awareness that while they pay their income taxes, many high-income families and large profitable corporations pay little or no income tax at all. The committee bill is an important step toward a system in which all taxpayers pay their fair share.

Still Mr. Chairman, the Congress must do a great deal more in the area of tax reform. When the 2d session of the 99th Congress convenes, we will be in the midst of determining the spending cuts and/or revenue increases which may be mandated by Gramm-Rudman. In the 1984 elections, I opposed increasing individual income taxes—and I continue to be opposed. However, billions of dollars still escape Federal taxation because of the many unjustifiable loopholes which persist. The closing of those loopholes could bring in additional revenues, thus reducing substantially the spending cuts and revenue increases that Congress must inevitably consider.

I urge my colleagues to support the committee tax reform bill

Mr. DUNCAN. Mr. Chairman, I reserve the balance of my time.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 5 minutes to the gentleman from Missouri [Mr. GEPHARDT] to close debate.

Mr. GEPHARDT. Mr. Chairman, this is a day that I have personally waited for for about 3 years now. It was about 3 years ago that Senator BILL BRADLEY and I put together and offered our Fair-Tax Act. But I must say that the work that the committee has done over the last 9 months was a lot harder than writing one simple tax reform bill. I would like to commend the chairman of the committee and members of the committee for the work that has been done over the past 9 months and especially the last 6 weeks in putting together this piece of legislation.

I cannot remember a time in my 9 years of service on the Committee on Ways and Means that the committee has worked as hard as it worked to put this piece of legislation together. I think it is a worthy product. Some have said that it is not perfect, that it is not the very best tax reform that we have ever seen.

Clearly it is not, but I do not think we should let the perfect be the enemy of the good. I feel that this tax reform bill is very good. One of the speakers a moment ago said we do not need to rush into judgment, we can wait until next year, the year after that, or maybe 3 years from now to do a tax reform.

That is what we have been saying in the Congress for the last 40 years. The Speaker this morning said that John Kennedy tried to do tax reform and was not quite able to do it because people believed we ought to put it off. Other Presidents have tried to do tax reform, Richard Nixon, Jimmy Carter, probably every President has made an attempt to do tax reform.

Every time there has been good reason not to do it. Let me tell you what the reason is: The reason is that there are powerful interests in the country that have figured out that it is easier to spend through the Tax Code than it is to spend directly.

Twenty years ago we had 36 billion dollars' worth of tax preferences in the code. Today we have 360 billion dollars' worth. The biggest program in the Federal Government is not defense, it is not Social Security, it is a program called tax breaks. Half the income in the country is not subject to income tax because of tax breaks, all for legitimate and good reasons that we put in the code through the years. And as a result of all those tax breaks, most of them coming in the last 20 years, we now have a code that is patently unfair. And that is what I would really like to focus on in these few minutes.

Put aside all of the other issues, all of the messages that are being sent to you by interests today, all of the phone calls, all of the worries, all of the other issues, there is really only one major issue that was presented in this bill today. That is whether or not you want a Tax Code that is fair to the people that you and I represent in this country. This bill means, clear all the other issues away, this bill means middle income and poor families in the country will get a tax cut per year of around $300; not because we cut the amount of revenue coming in to the Government but because we are taking money from people who today are not paying any taxes and we are giving it to people who have ever carried the greatest burden of paying taxes in this country.

Let me just cite some facts, and please listen to those facts: 30,000 taxpayers in 1983 making more than $250,000 paid virtually no tax; nearly 17,000 of those making over $250,000 paid less tax, less tax than a typical 4-person family with $45,000 of income. On top of this, 1,500 taxpayers making over $1 million in earned income owed less tax, owed less tax, than the middle-income family that I have been talking about.

I think it is time to do a tax reform. I do not want to put it off until next year or the year after that or the year after that because it is simply another way of saying we really do not want to reform the code, we really are not interested in basic fairness, and, importantly, we are not interested in representing the silent people of this country who have been done in by the way we have done the code over the last 20 years.

I have not seen middle-income families marching the halls lobbying over the last 6 weeks or 9 months to reform the code. I have seen lobbyists for corporations that do not pay any tax and people who do not pay any tax.

Let us not lose the opportunity to have tax reform this year.

Mr. DUNCAN. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the provisions of House Resolution 343, the bill is considered as having been read for amendment under the 5-minute rule.

The following amendments are considered as having been adopted:

(1) An amendment to strike line 23 on page 840 through line 12 on page 841 and insert in lieu thereof the following: "(2) Repeal of special rule for employees' annuities.—The amendments made by paragraph (1) of subsection (c) shall apply where the annuity starting date is after July 1, 1986."; and (2) an amendment to strike out subtitle C of title XV and the corresponding portion of the Table of Contents.

No other amendments are in order except the following amendments, which shall not be subject to amendment except as specified, shall be considered as having been read, and shall not be subject to demand for a division of the question:

First, the amendment printed in the Congressional Record of December 10, 1985 by, and if offered by, Representative Udall, or his designee, which shall be debatable for 20 minutes, to be equally divided and controlled by the proponent of the amendment and a Member opposed thereto;

Second, the amendment printed in the Congressional Record of December 10, 1985 by, and if offered by, Representative McHugh, or his designee, which shall be debatable for 20 minutes, to be equally divided and controlled by the proponent of the amendment and a Member opposed thereto;

Third, the amendment in the nature of a substitute printed in the Congressional Record of December 6, 1985 by, and if offered by, Representative Duncan, or his designee, as modified by the amendment contained in section 3 of House Resolution 343, which shall be debatable for 2 hours, to be equally divided and controlled by the proponent of the amendment and a Member opposed thereto; and

Fourth, amendments recommended by the Committee on Ways and Means, which shall not be subject to amendment and shall not be considered as having been read.

The text of H.R. 3838 is as follows:

H.R. 3838

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the "Tax Reform Act of 1985".

(b) Table of Contents.—

Sec. 1. Short title.
Sec. 2. Internal Revenue Code of 1985 enacted.
Sec. 3. Amendment of 1985 Code; coordination with section 15.

TITLE I—INDIVIDUAL INCOME TAX PROVISIONS

Subtitle A—Rate Reductions; Increase in Standard Deductions and Personal Exemptions

Sec. 101. Rate reductions.
Sec. 102. Increase in standard deduction.
Sec. 103. Increase in personal exemptions.
Sec. 104. Technical amendments.

Subtitle B—Provisions Related to Tax Credits

Sec. 111. Increase in earned income credit.
Sec. 112. Repeal of credit for contributions to candidates for public office.

Subtitle C—Provisions Related to Exclusions

Sec. 121. $5,000 limit on dependent care assistance exclusion.
Sec. 122. Taxation of unemployment compensation.
Sec. 123. Scholarships, etc.

Subtitle D—Provisions Related to Deductions

Sec. 131. Repeal of deduction for 2-earner married couples.
Sec. 132. 1-percent floor on miscellaneous itemized deductions.
Sec. 133. Charitable deduction for individuals who do not itemize made permanent.
Sec. 134. Repeal of deduction for adoption expenses.

Subtitle E—Miscellaneous Provisions

Sec. 141. Repeal of income averaging.
Sec. 142. Limitations on deductions for meals, travel, and entertainment.
Sec. 143. Changes in treatment of hobby loss, etc.
Sec. 144. Deduction for mortgage interest and real property taxes allowable where parsonage allowance or military housing allowance received.
Sec. 145. Information reporting of income taxes and real and personal property taxes.

Subtitle F—Effective Dates

Sec. 151. Effective dates.

TITLE II—CAPITAL INCOME PROVISIONS

Subtitle A—Depreciation Provisions

Sec. 201. Repeal of accelerated cost recovery system.
Sec. 202. Recapture provisions for section 1250 property.
Sec. 203. Effective dates.

Subtitle B—Repeal of Regular Investment Tax Credit

Sec. 211. Repeal of regular investment tax credit.

Subtitle C—Changes in Certain Rapid Amortization Provisions

Sec. 221. Repeal of 5-year amortization of trademark and trade name expenditures.
Sec. 222. Repeal of 5-year amortization of pollution control facilities.
Sec. 223. Changes relating to depreciation of expenditures to rehabilitate low-income rental housing.
Sec. 224. Repeal of amortization of railroad grading and tunnel bores.
Sec. 225. 2-year extension of expense treatment for removal of architectural barriers to the handicapped and elderly.

Subtitle D—Other Capital Related Costs

Sec. 231. Amendments relating to credit for increasing research activities.
Sec. 232. Modification of investment tax credit for rehabilitation expenditures.
Sec. 233. Provisions relating to merchant marine capital construction funds.

Subtitle E—Capital Gains and Losses

Sec. 241. Reduction in deduction for capital gains.
Sec. 242. Repeal of section 631(c).
Sec. 243. Gain from disposition of interest in oil, gas, or geothermal property.

Subtitle F—Provisions Relating to Oil and Gas

Sec. 251. Amortization of certain intangible drilling and development costs.
Sec. 252. Phase-out of percentage depletion for oil and gas wells.
Sec. 253. Percentage depletion not allowed for lease bonuses, etc.
Sec. 254. Percentage depletion for geothermal deposits.
Sec. 255. Exemption from windfall profit tax for certain crude oil exchanged for residual fuel oil.

Subtitle G—Treatment of Hard Minerals

Sec. 261. Reduction of percentage depletion for certain hard minerals.
Sec. 262. Treatment of development and mining exploration expenditures.

Subtitle H—Provisions Relating to Energy Credits

Sec. 271. Extention of residential energy credits for solar renewable energy source expenditures.
Sec. 272. Extension of energy investment credit for solar property.
Sec. 273. Termination of credit for producing fuel from a nonconventional source.
Sec. 274. Repeal of alcohol fuels credit.
Sec. 275. Provisions relating to excise tax on fuels.

Subtitle I—Extension of Other Credits

Sec. 282. Extension and modification of targeted jobs credit.
Sec. 283. Extension of credit for clinical testing expenses for certain drugs.

TITLE III—CORPORATE PROVISIONS

Subtitle A—Corporate Rate Reductions

Sec. 301. Corporate rate reductions.
Sec. 302. Repeal of corporate capital gains treatment.
Sec. 303. Reduction in dividends received deduction.

Subtitle B—Dividend Paid Deduction; Etc.

Sec. 311. 10-percent dividend paid deduction.
Sec. 312. Reduction in dividend received deduction.
Sec. 313. Repeal of partial exclusion of dividends received by individuals.
Sec. 314. Clarification of nondeductibility of stock redemption expenses.

Subtitle C—Limitation on Net Operating Loss Carryforwards and Excess Credit Carryforwards

Sec. 321. Limitation on net operating loss carryforwards.

Subtitle D—Recognition of Gain and Loss on Distributions of Property in Liquidation

Sec. 331. Amendment to section 336
Sec. 332. Amendment to section 337.
Sec. 333. Amendment to section 338.
Sec. 334. Technical amendments.

Sec. 335. Effective date.

TITLE IV—TAX SHELTERS

Sec. 401. Extension of at risk limitations to real property.
Sec. 402. Limitation on deduction for nonbusiness interest.

TITLE V—ALTERNATIVE MINIMUM TAX

Sec. 501. Alternative minimum tax for individuals and corporations.

TITLE VI—FOREIGN TAX PROVISIONS

Subtitle A—Foreign Tax Credit Modifications

Sec. 601. Separate application of section 904 with respect to certain categories of income.
Sec. 602. Treatment of certain withholding taxes and subsidies.
Sec. 603. Clarification of treatment of separate limitation losses.
Sec. 604. Deemed paid credit under sections 902 and 960 determined on accumulated basis.

Subtitle B—Source Rules

Sec. 611. Determination of source in case of sales of personal property.
Sec. 612. Limitations on special treatment of 80-20 corporations.
Sec. 613. Special rules for transportation income.
Sec. 614. Rules for allocating interest, etc., to foreign source income.
Sec. 615. Source rule for space and certain ocean activities.
Sec. 616. 2-year modification in regulations providing for allocation of research and experimental expenditures.

Subtitle C—Taxation of Income Earned Through Foreign Corporations

Sec. 621. Income subject to current taxation.
Sec. 622. Testing controlled foreign corporations and foreign personal holding companies by value and voting power.
Sec. 623. Subpart F de minimis rule and 70-percent rule based on earnings and profits.
Sec. 624. Repeal of special treatment of possessions corporations.
Sec. 625. Treatment of foreign investment company stock.
Sec. 626. Only effectively connected capital gains and losses of foreign corporations taken into account for purposes of accumulated earnings tax and personal holding company provisions.

Subtitle D—Special Tax Provisions for United States Persons

Sec. 641. Modifications to section 936.
Sec. 642. Treatment of certain employees of the Panama Canal Commission.
Sec. 643. Modifications of FSC and DISC provisions.
Sec. 644. Reduction in limitation on section 911 exclusion.
Sec. 645. Treatment of interest on obligations of the United States received by banks organized in Guam.

Subtitle E—Treatment of Foreign Taxpayers

Sec. 651. Second level branch tax.
Sec. 652. Treatment of deferred payments arising out of business conducted within the United States.
Sec. 653. Treatment under section 877 of property received in tax-free exchanges, etc.
Sec. 654. Provisions relating to amount and withholding of excise taxes on policies issued by foreign insurers.

Subtitle F—Foreign Currency Transactions

Sec. 661. Treatment of foreign currency transactions.

Subtitle G—Tax Treatment of Possessions

Part I—Treatment of Guam, American Samoa, and the Northern Mariana Islands

Sec. 671. Authority of Guam, American Samoa, and the Northern Mariana Islands to enact revenue laws.
Sec. 672. Exclusion of possession source income from the gross income of certain individuals.
Sec. 673. Treatment of corporations organized in Guam, American Samoa, or the Northern Mariana Islands.

Part II—Treatment of the Virgin Islands

Sec. 674. Coordination of United States and Virgin Islands individual income taxes.
Sec. 675. Virgin Islands corporations allowed possession tax credit.

Part III—Cover Over of Income Taxes

Sec. 676. Cover over of income taxes.

Part IV—Effective Date

Sec. 677. Effective date.

TITLE VII—TAX-EXEMPT BONDS

Sec. 701. State and local bonds.
Sec. 702. Repeal of provisions relating to general stock ownership corporations.
Sec. 703. Effective dates.

TITLE VIII—FINANCIAL INSTITUTIONS

Sec. 801. Limitations on bad debt reserves.
Sec. 802. Interest incurred to carry tax-exempt bonds.
Sec. 803. Termination of special 10-year carryback rules for certain financial institutions.
Sec. 804. Repeal of special reorganization rules for financial institutions.
Sec. 805. Treatment of losses on deposits or accounts in insolvent financial institutions.

TITLE IX—ACCOUNTING PROVISIONS

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Sec. 901. Simplified dollar-value LIFO method for certain small businesses.
Sec. 902. Limitation on use of cash method of accounting.
Sec. 903. Recognition of gain on pledges of installment obligations.
Sec. 904. Repeal of completed contract method of accounting.
Sec. 905. Capitalization of certain expenses where taxpayer produces property.
Sec. 906. Repeal of reserve for bad debts of taxpayers other than financial institutions.
Sec. 907. Limitation on accrual of vacation pay.
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Subtitle B—Provisions Relating to Timber

Sec. 911. 5-year amortization of certain timber preproductive expenditures.
Sec. 912. Capital gains treatment for timber not available to corporations.

Subtitle C—Special Provisions Relating to Agriculture

Sec. 921. Repeal of special treatment of expenditures for fertilizer and clearing land.
Sec. 922. Limitation on expensing of soil and water conservation expenditures.
Sec. 923. Treatment of dispositions of converted wetlands or highly erodible croplands.
Sec. 924. Treatment of the netting of gains and losses by cooperatives.
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TITLE X—INSURANCE PRODUCTS AND COMPANIES

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Sec. 1001. Repeal of exclusion for interest on installment payments of life insurance proceeds.
Sec. 1002. Deduction for nonbusiness casualty losses covered by insurance allowable only if claim filed.
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Sec. 1011. Repeal of special life insurance company deduction.
Sec. 1012. Repeal of tax-exempt status for certain organizations providing commercial-type insurance.
Sec. 1013. Operations loss deduction of insolvent companies may offset distributions from policyholders surplus account.

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Sec. 1022. Treatment of certain dividends and tax-exempt interest.
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Sec. 1024. Repeal of protection against loss account.
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Sec. 1114. Social security benefits earned with prior employer not taken into account in determining whether plan is discriminatory.
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Sec. 1131. Adjustments to section 404 limitations.
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Sec. 1151. Nondiscrimination rules for coverage and benefits under certain statutory fringe benefit plans.

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Sec. 1161. 2-year extension of exclusions for educational assistance programs and group legal plans.
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Sec. 1171. Repeal of employee stock ownership credit.
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TITLE XII—UNEARNED INCOME OF CERTAIN DEPENDENT CHILDREN; TRUSTS AND ESTATES

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Sec. 1201. Unearned income of certain minor children.

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Sec. 1221. Taxation of trusts and estates and their beneficiaries.

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Sec. 1221. New tax on generation-skipping transfers.
Sec. 1222. Related amendments.
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TITLE XIII—COMPLIANCE AND TAX ADMINISTRATION

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Sec. 1301. Penalty for failure to file information returns or statements.
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Sec. 1321. Authority to rescind notice of deficiency with taxpayer's consent.
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Sec. 1331. Differential interest rate.
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PART VI—MODIFICATION OF WITHHOLDING ALLOWANCES

Sec. 1335. Withholding allowances to reflect new rate schedules.

PART VII—INFORMATION REPORTING PROVISIONS

Sec. 1341. Requirement of reporting for real estate transactions.
Sec. 1342. Information reporting on persons receiving contracts from certain Federal agencies.
Sec. 1343. Tax-exempt interest required to be shown on return.

PART VIII—REPORT ON RETURN-FREE SYSTEM

Sec. 1345. Report.

PART IX—CERTAIN DIESEL FUEL TAXES MAY BE IMPOSED ON SALES TO RETAILERS

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Sec. 1401. Exclusion for certain foster care payments.
Sec. 1402. Extension of rules for spouses of individuals missing in action.
Sec. 1403. Imposition of excise tax on amounts paid for United States television and radio broadcast rights for Olympic events; transfer of funds to Trust Fund.
Sec. 1404. Certain distributions of low cost articles and exchanges and rentals of member lists by certain organizations not to be treated as unrelated trade or business.
Sec. 1405. Changes in deduction of taxes and interest by tenant-stockholders of cooperative housing corporations.
Sec. 1406. Treatment of computer software royalties and interest of securities dealers for purposes of personal holding company tax.
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TITLE XV—TECHNICAL CORRECTIONS

Sec. 1500. Coordination with other titles.

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Sec. 1501. Amendments related to deferral of certain tax reductions.
Sec. 1502. Amendments related to tax-exempt entity leasing provisions.
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Sec. 1507. Amendments related to accounting changes.
Sec. 1508. Amendments related to tax straddle provisions.
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Sec. 1521. Amendments related to section 211 of the Act.
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Sec. 1527. Amendments related to section 223 of the Act.
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Sec. 1531. Amendment related to section 301 of the Act.
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Sec. 1543. Amendments related to section 422 of the Act.
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Sec. 1546. Amendment related to section 461 of the Act.
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Sec. 1551. Amendments related to welfare benefit plan provisions.
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Sec. 1561. Amendments related to section 611 of the Act.
Sec. 1562. Amendment related to section 612 of the Act.
Sec. 1563. Amendment related to section 613 of the Act.
Sec. 1564. Amendments related to section 621 of the Act.
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Sec. 1575. Amendments related to title VII of the Act.
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CHAPTER 8—EFFECTIVE DATE

Sec. 1581. Effective date.

Subtitle B—Related to Other Programs Affected by the Deficit Reduction Act of 1984

CHAPTER 1—AMENDMENTS RELATED TO SOCIAL SECURITY ACT PROGRAMS

Sec. 1585. Amendments related to coverage of church employees (section 2603 of the Deficit Reduction Act).
Sec. 1586. Corrections relating to enrollment and premium penalty under the medicare working aged provision.
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CHAPTER 2—AMENDMENTS RELATED TO UNEMPLOYMENT COMPENSATION PROGRAM

Sec. 1590. Technical corrections in Federal Unemployment Tax Act.

CHAPTER 3—AMENDMENTS RELATED TO TRADE AND TARIFF PROGRAMS

Sec. 1591. Amendments to the tariff schedules.
Sec. 1592. Technical corrections to countervailing and antidumping duty provisions.
Sec. 1593. Amendments to the Trade Act of 1974.
Sec. 1594. Amendments to the Tariff Act of 1930.
Sec. 1595. Amendments to the Trade and Tariff Act of 1984.
Sec. 1596. Amendments to the Caribbean Basin Economic Recovery Act.
Sec. 1597. Conforming amendments regarding customs brokers.
Sec. 1598. Special effective date provisions for certain articles given duty-free treatment under the Trade and Tariff Act of 1984.

SEC. 2. INTERNAL REVENUE CODE OF 1985 ENACTED.

(a) ENACTMENT.—The provisions designated in subsection (b) are hereby enacted into law and may be cited as the "Internal Revenue Code of 1985".

(b) PROVISIONS ENACTED.—The provisions designated in this subsection are as follows:

(1) the Internal Revenue Code of 1954 as in effect immediately before the enactment of this Act,

(2) the amendments to such Code made by title XV of this Act (relating to technical corrections), and

(3) the amendments made by the other titles of this Act.

(c) REFERENCES IN OTHER LAWS TO THE INTERNAL REVENUE CODE.—Any reference in any other law of the United States or in any Executive order to any provision of the Internal Revenue Code of 1954 shall, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, be deemed also to refer to the corresponding provision of the Internal Revenue Code of 1985.

(d) SAVINGS PROVISIONS.—

(1) IN GENERAL.—Subchapter B of chapter 80 (relating to effective date and related provisions) is amended by adding at the end thereof the following new section:

"SEC. 7853. TRANSITION TO THE INTERNAL REVENUE CODE OF 1985.

"Any provision of section 7851 or 7852 relating to the transition from the Internal Revenue Code of 1939 to the Internal Revenue Code of 1954 is hereby extended to and made applicable to the transition from the Internal Revenue Code of 1954 to the Internal Revenue Code of 1985, whenever such extension and application is necessary or appropriate."

(2) CONFORMING AMENDMENTS.—

(A) The table of sections for subchapter B of chapter 80 is amended by adding at the end thereof the following new item:

"7853. Transition to the Internal Revenue Code of 1985."

(B) Subsection (d) of section 7852 is amended—

(i) by striking out "this title shall" and inserting in lieu thereof "this title in effect on August 16, 1954, shall", and

(ii) by striking out "on the date of enactment of this title" and inserting in lieu thereof "such date".

SEC. 3. AMENDMENT OF 1985 CODE; COORDINATION WITH SECTION 15.

(a) AMENDMENT OF 1985 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of those provisions embodied in paragraphs (1) and (2) of section 2(b), as amended by amendments and repeals made by this Act and appearing in this Act before the amendment or repeal concerned.

(b) COORDINATION WITH SECTION 15.—

(1) IN GENERAL.—Except as provided in paragraph (2), for purposes of section 15 of the Internal Revenue Code of 1985, no amendment or repeal made by this Act shall be treated as a change in the rate of a tax imposed by chapter 1 of such Code.

(2) EXCEPTION.—Paragraph (1) shall not apply to the amendment made by section 301 (relating to corporate rate reductions).

TITLE I—INDIVIDUAL INCOME TAX PROVISIONS

Subtitle A—Rate Reductions; Increase in Standard Deduction and Personal Exemptions

SEC. 101. RATE REDUCTIONS.

(a) GENERAL RULE.—Section 1 (relating to tax imposed on individuals) is amended to read as follows:

"SECTION 1. TAX IMPOSED.

"(a) MARRIED INDIVIDUALS FILING JOINT RETURNS AND SURVIVING SPOUSES.—There is hereby imposed on the taxable income of—

"(1) every married individual (as defined in section 143) who makes a single return jointly with his spouse under section 6013, and

"(2) every surviving spouse (as defined in section 2(a)),

a tax determined in accordance with the following table:

"If taxable income is	The tax is:
Not over $22,500	15% of taxable income.
Over $22,500 but not over $43,000.	$3,375, plus 25% of the excess over $22,500.
Over $43,000 but not over $100,000.	$8,500, plus 35% of the excess over $43,000.
Over $100,000	$28,450, plus 38% of the excess over $100,000.

"(b) HEADS OF HOUSEHOLDS.—There is hereby imposed on the taxable income of every head of a household (as defined in section 2(b)) a tax determined in accordance with the following table:

"If taxable income is	The tax is:
Not over $16,000	15% of taxable income.
Over $16,000 but not over $34,000.	$2,400, plus 25% of the excess over $16,000.
Over $34,000 but not over $75,000.	$6,900, plus 35% of the excess over $34,000.
Over $75,000	$21,250, plus 38% of the excess over $75,000.

"(c) UNMARRIED INDIVIDUALS (OTHER THAN SURVIVING SPOUSES AND HEADS OF HOUSEHOLDS).—There is hereby imposed on the taxable income of every individual (other than a surviving spouse as defined in section 2(a) or the head of a household as defined in section 2(b)) who is not a married individual (as defined in section 143) a tax determined in accordance with the following table:

“If taxable income is	The tax is:
Not over $12,500	15% of taxable income.
Over $12,500 but not over $30,000.	$1,875, plus 25% of the excess over $12,500.
Over $30,000 but not over $60,000.	$6,250, plus 35% of the excess over $30,000.
Over $60,000	$16,750, plus 38% of the excess over $60,000.

“(d) Married Individuals Filing Separate Returns; Estates and Trusts.—There is hereby imposed on the taxable income of—

“(1) every married individual (as defined in section 143) who does not make a single return jointly with his spouse under section 6013, and

“(2) every estate and trust,

a tax determined in accordance with the following table:

“If taxable income is	The tax is:
Not over $11,250	15% of taxable income.
Over $11,250 but not over $21,500.	$1,687.50, plus 25% of the excess over $11,250.
Over $21,500 but not over $50,000.	$4,250, plus 35% of the excess over $21,500.
Over $50,000	$14,225, plus 38% of the excess over $50,000.

“(e) Adjustments in Tax Tables so That Inflation Will Not Result in Tax Increases.—

“(1) In general.—Not later than December 15 of 1986, and each subsequent calendar year, the Secretary shall prescribe tables which shall apply in lieu of the tables contained in subsections (a), (b), (c), and (d) with respect to taxable years beginning in the succeeding calendar year.

“(2) Method of prescribing tables.—The table which under paragraph (1) is to apply in lieu of the table contained in subsection (a), (b), (c), or (d), as the case may be, with respect to taxable years beginning in any calendar year shall be prescribed—

“(A) by increasing the minimum and maximum dollar amounts for each rate bracket for which a tax is imposed under such table by the cost-of-living adjustment for such calendar year,

“(B) by not changing the rate applicable to any rate bracket as adjusted under subparagraph (A), and

“(C) by adjusting the amounts setting forth the tax to the extent necessary to reflect the adjustments in the rate brackets.

“(3) Cost-of-living adjustment.—For purposes of paragraph (2), the cost-of-living adjustment for any calendar year is the percentage (if any) by which—

“(A) the CPI for the preceding calendar year, exceeds

“(B) the CPI for the calendar year 1985.

“(4) CPI for any calendar year.—For purposes of paragraph (3), the CPI for any calendar year is the average of the Consumer Price Index as of the close of the 12-month period ending on August 31 of such calendar year.

“(5) Consumer price index.—For purposes of paragraph (4), the term ‘Consumer Price Index’ means the last Consumer Price Index for all-urban consumers published by the Department of Labor.

“(6) Rounding.—

“(A) In general.—If any increase determined under paragraph (2)(A) or under section 63(c)(4) is not a multiple of $10, such increase shall be rounded to the nearest multiple of $10 (or if such increase is a multiple of $5, such increase shall be increased to the next higher multiple of $10).

“(B) Table for married individuals filing separately, etc.—In the case of the table contained in subsection (d) and the standard deduction applicable to a married individual filing a separate return, subparagraph (A) shall be applied by substituting ‘$5’ for ‘$10’ each place it appears and by substituting ‘$2.50’ for ‘$5’.”

(b) Amendment of Section 15.—Subsection (d) of section 15 (relating to effect of changes in rates during a taxable year) is amended to read as follows:

“(d) Section Not to Apply to Inflation Adjustments.—This section shall not apply to any change in rates under subsection (e) of section 1 (relating to adjustments in tax tables so that inflation will not result in tax increases).”

(c) Rate Schedules for 1986.—

(1) In general.—The tax imposed by section 1 of the Internal Revenue Code of 1985 for taxable years beginning in calendar year 1986 shall be determined under tables prescribed by the Secretary of the Treasury or his delegate under paragraph (2).

(2) Method of prescribing tables.—The tables prescribed for purposes of paragraph (1) shall be constructed so that the tax imposed by section 1 of such Code for each taxable income level is substantially equivalent to the tax which would have been imposed for a calendar year 1986 taxpayer if—

(A) the change of rates provided by subsection (a) took effect on July 1, 1986, and

(B) section 15 of such Code applied to such change of rates on the basis of monthly proration in lieu of daily proration.

SEC. 102. INCREASE IN STANDARD DEDUCTION.

(a) General Rule.—Section 63 (defining taxable income) is amended to read as follows:

“SEC. 63. TAXABLE INCOME DEFINED.

“(a) In General.—Except as provided in subsection (b), for purposes of this subtitle, the term ‘taxable income’ means gross income minus the deductions allowed by this chapter (other than the standard deduction).

“(b) Individuals Who Do Not Itemize Their Deductions.—In the case of an individual who does not elect to itemize his deductions for the taxable year, for purposes of this subtitle, the term ‘taxable income’ means adjusted gross income, minus—

“(1) the standard deduction,

“(2) the deduction for personal exemptions provided in section 151, and

“(3) the direct charitable deduction.

“(c) Standard Deduction.—For purposes of this subtitle—

“(1) In general.—Except as otherwise provided in this subsection, the term ‘standard deduction’ means the sum of—

“(A) the basic standard deduction, and

“(B) the additional standard deduction.

“(2) Basic standard deduction.—For purposes of paragraph (1), the basic standard deduction is—

“(A) $4,800 in the case of—

“(i) a joint return, or

“(ii) a surviving spouse (as defined in section 2(a)),

“(B) $4,200 in the case of a head of household (as defined in section 2(b)),

“(C) $2,950 in the case of an individual who is not married and who is not a surviving spouse or head of household, or

“(D) $2,400 in the case of a married individual filing a separate return.

“(3) Additional standard deduction for aged and blind.—For purposes of paragraph (1), the additional standard deduction is the sum of each additional amount to which the taxpayer is entitled under subsection (f).

“(4) Adjustments for inflation.—In the case of any taxable year beginning in a calendar year after 1987, each dollar amount contained in paragraph (2) or subsection (f) shall be increased by an amount equal to—

“(A) such dollar amount, multiplied by

“(B) the cost-of-living adjustment determined under section 1(e)(3), for the calendar year in which the taxable year begins, by substituting ‘calendar year 1986’ for ‘calendar year 1985’ in subparagraph (B) thereof.

“(5) Limitation on standard deduction in the case of certain dependents.—In the case of an individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which the individual’s taxable year begins, the standard deduction applicable to such individual for such individual’s taxable year shall not exceed such individual’s earned income.

“(6) Certain individuals, etc., not eligible for standard deduction.—In the case of—

“(A) a married individual filing a separate return where either spouse itemizes deductions,

“(B) a nonresident alien individual,

“(C) a citizen of the United States entitled to the benefits of section 931 (relating to income from sources within possessions of the United States),

“(D) an individual making a return under section 443(a)(1) for a period of less than 12 months on account of a change in his annual accounting period, or

“(E) an estate or trust, common trust fund, or partnership,

the standard deduction shall be zero.

“(d) Itemized Deductions.—For purposes of this subtitle, the term ‘itemized deductions’ means the deductions allowable by this chapter other than—

“(1) the deductions allowable in arriving at adjusted gross income,

“(2) the deductions for personal exemptions provided by section 151, and

“(3) the direct charitable deduction.

“(e) Election to Itemize.—

“(1) In general.—Unless an individual makes an election under this subsection for the taxable year, no itemized deduction shall be allowed for the taxable year. For purposes of this subtitle, the determination of whether a deduction is allowable under this chapter shall be made without regard to the preceding sentence.

“(2) Time and manner of election.—Any election under this subsection shall be made on the taxpayer’s return, and the Secretary shall prescribe the manner of signifying such election on the return.

“(3) Change of election.—Under regulations prescribed by the Secretary, a change of election with respect to itemized deductions for any taxable year may be made after the filing of the return for such year. If the spouse of the taxpayer filed a separate return for any taxable year corresponding to the taxable year of the taxpayer, the change shall not be allowed unless, in accordance with such regulations—

“(A) the spouse makes a change of election with respect to itemized deductions, for the taxable year covered in such separate return, consistent with the change of treatment sought by the taxpayer, and

“(B) the taxpayer and his spouse consent in writing to the assessment, within such period as may be agreed on with the Secretary, of any deficiency, to the extent attributable to such change of election, even though at the time of the filing of such consent the assessment of such deficiency would otherwise be prevented by the operation of any law or rule of law.

This paragraph shall not apply if the tax liability of the taxpayer's spouse, for the taxable year corresponding to the taxable year of the taxpayer, has been compromised under section 7122.

"(4) Floor on itemized deductions.—If an individual elects to itemize deductions for the taxable year, the amount of itemized deductions which may be allowed for such year shall not exceed the excess of—

"(A) the amount of itemized deductions for the taxable year, over

"(B) the product of $500 and the number of personal exemptions to which the taxpayer is entitled under section 151.

The $500 amount contained in subparagraph (B) shall be adjusted for inflation in the manner provided by section 151 for adjusting the amount of the personal exemptions.

"(f) Aged or Blind Additional Amounts.—

"(1) Additional amounts for the aged.—The taxpayer shall be entitled to an additional amount of $600—

"(A) for himself if he has attained age 65 before the close of his taxable year, and

"(B) for the spouse of the taxpayer if the spouse has attained age 65 before the close of the taxable year and an additional exemption is allowable to the taxpayer for such spouse under section 151(b).

"(2) Additional amount for blind.—The taxpayer shall be entitled to an additional amount of $600—

"(A) for himself if he is blind at the close of the taxable year, and

"(B) for the spouse of the taxpayer if the spouse is blind as of the close of the taxable year and an additional exemption is allowable to the taxpayer for such spouse under section 151(b).

For purposes of subparagraph (B), if the spouse dies during the taxable year the determination of whether such spouse is blind shall be made as of the time of such death.

"(3) Blindness defined.—For purposes of this subsection, an individual is blind only if his central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or if his visual acuity is greater than 20/200 but is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

"(g) Marital Status.—For purposes of this section, marital status shall be determined under section 143.

"(h) Direct Charitable Deduction.—For purposes of this section, the term 'direct charitable deduction' means that portion of the amount allowable under section 170(a) which is taken as a direct charitable deduction for the taxable year under section 170(i).

"(i) Transitional Rule for Taxable Years Beginning in 1986.—In the case of any taxable year beginning in 1986, paragraph (2) of subsection (c) shall be applied—

"(1) by substituting '$3,670' for '$4,800',

"(2) by substituting '$2,480' for '$4,200' and for '$2,950', and

"(3) by substituting '$1,835' for '$2,400'.

The preceding sentence shall not apply if the taxpayer is entitled to an additional amount determined under subsection (f) (relating to additional amount for aged and blind) for the taxable year."

(b) Optional Tax Tables.—Section 3 (relating to tax tables for individuals) is amended by striking out subsection (a) and inserting in lieu thereof the following:

"(a) Imposition of Tax Table Tax.—

"(1) In general.—In lieu of the tax imposed by section 1, there is hereby imposed for each taxable year on the taxable income of every individual—

"(A) who does not itemize his deductions for the taxable year, and

"(B) whose taxable income for such taxable year does not exceed the ceiling amount,

a tax determined under tables, applicable to such taxable year, which shall be prescribed by the Secretary and which shall be in such form as he determines appropriate. In the table so prescribed, the amounts of the tax shall be computed on the basis of the rates prescribed by section 1.

"(2) Ceiling amount defined.—For purposes of paragraph (1), the term 'ceiling amount' means, with respect to any taxpayer, the amount (not less than $20,000) determined by the Secretary for the tax rate category in which such taxpayer falls.

"(3) Certain taxpayers with large number of exemptions.—The Secretary may exclude from the application of this section taxpayers in any tax rate category having more than the number of exemptions for that category determined by the Secretary.

"(4) Authority to prescribe tables for taxpayers who itemize deductions.—The Secretary may provide that this section shall apply also for any taxable year to individuals who itemize their deductions. Any tables prescribed under the preceding sentence shall be on the basis of taxable income."

SEC. 103. INCREASE IN PERSONAL EXEMPTIONS.

(a) General Rule.—Subsection (f) of section 151 (defining exemption amount) is amended to read as follows:

"(f) Exemption Amount.—For purposes of this section—

"(1) In general.—Except as provided in paragraph (2), the term 'exemption amount' means $2,000.

"(2) Limitation on exemption amount in the case of certain dependents.—In the case of an individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which the individual's taxable year begins, the exemption amount applicable to such individual for such individual's taxable year shall not exceed the sum of—

"(A) $1,000, and

"(B) the excess (but not more than $1,000) of—

"(i) the amount of such individual's earned income for the taxable year, over

"(ii) the standard deduction applicable to such individual for such year (determined with regard to section 63(c)(5)).

"(3) Inflation adjustment for years after 1986.—In the case of any taxable year beginning in a calendar year after 1986, each dollar amount contained in paragraph (1) or (2) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment (as defined in section 1(e)(3)) for the calendar year in which the taxable year begins.

If the increase determined under the preceding sentence is not a multiple of $10, such increase shall be rounded to the nearest multiple of $10 (or if such increase is a multiple of $5, such increase shall be increased to the next higher multiple of $10)."

(b) Repeal of Additional Exemptions for Taxpayers Over Age 65 or Blind.—Section 151 is amended by striking out subsections (c) and (d) and by redesignating subsections (e) and (f) as subsections (c) and (d), respectively.

SEC. 104. TECHNICAL AMENDMENTS.

(a) Filing Requirements.—

(1) Section 6012.—

(A) Paragraph (1) of section 6012(a) (relating to persons required to make returns of income) is amended to read as follows:

"(1)(A) Every individual having for the taxable year gross income which equals or exceeds the exemption amount, except that a return shall not be required of an individual (other than an individual described in subparagraph (C))—

"(i) who is not married (determined by applying section 143), is not a surviving spouse (as defined in section 2(a)), is not a head of a household (as defined in section 2(b)), and for the taxable year has gross income of less than the sum of the exemption amount plus the basic standard deduction applicable to such an individual,

"(ii) who is a head of a household (as so defined) and for the taxable year has gross income of less than the sum of the exemption amount plus the basic standard deduction applicable to such an individual,

"(iii) who is a surviving spouse (as so defined) and for the taxable year has gross income of less than the sum of the exemption amount plus the basic standard deduction applicable to such an individual, or

"(iv) who is entitled to make a joint return and whose gross income, when combined with the gross income of his spouse, is, for the taxable year, less than the sum of twice the exemption amount plus the basic standard deduction applicable to a joint return, but only if such individual and his spouse, at the close of the taxable year, had the same household as their home.

Clause (iv) shall not apply if for the taxable year such spouse makes a separate return or any other taxpayer is entitled to an exemption for such spouse under section 151(c).

"(B) The amount specified in clause (i), (ii) or (iii) of subparagraph (A) shall be increased by the amount of 1 additional standard deduction in the case of an individual entitled to such deduction by reason of section 63(f)(1)(A) (relating to individuals age 65 or more), and the amount specified in clause (iv) of subparagraph (A) shall be increased by the amount of the additional standard deduction for each additional standard deduction to which the individual or his spouse is entitled by reason of section 63(f)(1).

"(C) The exception under subparagraph (A) shall not apply to any individual—

"(i) described in section 63(c)(5) whose income (other than earned income) is at least equal to the exemption amount applicable under section 151(d)(2), or

"(ii) for whom the standard deduction is zero under section 63(c)(6).

"(D) For purposes of this subsection—

"(i) The terms 'standard deduction', 'basic standard deduction' and 'additional standard deduction' have the meanings given such terms by section 63(c).

"(ii) The term 'exemption amount' has the meaning given such term by section 151(d)."

(B) Paragraph (9) of section 6012(a) is amended by striking out "$2,700 or more" and inserting in lieu thereof "not less than the sum of the exemption amount plus the basic standard deduction under section 63(c)(2)(D)".

(2) Section 6013.—Subparagraph (A) of section 6013(b)(3) (relating to when return deemed filed) is amended—

(A) by striking out "(twice the exemption amount in case such spouse was 65 or over)" each place it appears,

(B) by striking out "section 151(f)" and inserting in lieu thereof "section 151(d)", and

(C) by adding at the end thereof the following new sentence: "For purposes of clauses (ii) and (iii), if the spouse whose gross income is being compared to the exemption amount is 65 or over, such clauses shall be applied by substituting 'the sum of the exemption amount and the additional standard deduction under section 63(c)(2) by reason of section 63(f)(1)(A)' for 'the exemption amount'."

(b) Other Amendments.—

(1) Section 21, etc.—

(A) Sections 21(b)(1)(A), 21(e)(6)(A), and 129(c)(1) are each amended by striking out "section 151(e)" and inserting in lieu thereof "section 151(c)".

(B) Sections 21(e)(6)(B), 32(c)(1)(A)(i), 129(c)(2), 152(e)(1)(A), and 7703(b)(1) are each amended by striking out "section 151(e)(3)" and inserting in lieu thereof "section 151(c)(3)".

(2) Section 152, etc.—Sections 152(d)(2) and 2032A(c)(7)(D) are each amended by striking out "section 151(e)(4)" and inserting in lieu thereof "section 151(c)(4)".

(3) Section 172.—Subsection (d) of section 172 (relating to modifications) is amended by striking out paragraph (7).

(4) Section 402.—Subparagraph (B) of section 402(e)(1), as amended by section 1122(b) of this Act, is amended by striking out "the zero bracket amount applicable to such individual for the taxable year plus".

(5) Section 441.—Clause (iii) of section 441(f)(2)(B) (relating to change in accounting period) is amended by striking out "and by adding the zero bracket amount,".

(6) Section 443.—

(A) Paragraph (1) of section 443(b) (relating to computation of tax on change of annual accounting period) is amended by striking out ", and adding the zero bracket amount".

(B) Clause (ii) of section 443(b)(2)(A) (relating to computation based on 12-month period) is amended to read as follows:

"(ii) the tax computed on the modified taxable income for the short period."

(7) Section 511.—Sections 511(b)(1) and 10641(a) (relating to tax on charitable, etc., trusts) are each amended by striking out "section 1(e)" and inserting in lieu thereof "section 1(d)".

(8) Section 613A.—Paragraph (1) of section 613A(d) (relating to limitation on percentage depletion based on taxable income) is amended by striking out "(reduced in the case of an individual by the zero bracket amount)".

(9) Section 667.—Paragraph (2) of section 10667(b) (relating to tax on amount deemed distributed by trust in preceding years) is amended to read as follows:

"(2) Treatment of loss years.—For purposes of paragraph (1), the taxable income of the beneficiary for any taxable year shall be deemed to be not less than zero."

(10) Section 861.—Subsection (b) of section 861 (relating to taxable income from sources within the United States) is amended by striking out "the zero bracket amount" and inserting in lieu thereof "the standard deduction".

(11) Section 862.—Subsection (b) of section 862 (relating to taxable income from sources without the United States) is amended by striking out "the zero bracket amount" and inserting in lieu thereof "the standard deduction".

(12) Section 904.—Subsection (a) of section 904 (relating to limitation on foreign tax credit) is amended by striking out the last sentence.

(13) Section 1211.—Subparagraph (A) of section 1211(b)(1) (relating to limitation on capital losses) is amended by striking out "reduced (but not below zero) by the zero bracket amount".

(14) Section 1398.—Subsection (c) of section 1398 (relating to computation and payment of tax; zero bracket amount) is amended—

(A) by striking out "Zero Bracket Amount" in the subsection heading and inserting in lieu thereof "Basic Standard Deduction", and

(B) by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) Basic standard deduction.—In the case of an estate which does not itemize deductions, the basic standard deduction for the estate for the taxable year shall be the same as for a married individual filing a separate return for such year."

(15) Section 3402.—

(A) Paragraph (1) of section 3402(f) (relating to withholding exemptions) is amended by striking out subparagraphs (B) and (C) and by redesignating subparagraphs (D), (E), (F), and (G) as subparagraphs (B), (C), (D), and (E), respectively.

(B) Subparagraph (B) of section 3402(f)(1), as redesignated by subparagraph (A), is amended by striking out "subparagraph (A), (B), (C), or (F)" and inserting in lieu thereof "subparagraph (A) or (D)".

(C) Subparagraph (C) of section 3402(f)(1), as redesignated by subparagraph (A), is amended by striking out "section 151(e)" and inserting in lieu thereof "section 151(c)".

(D) Subparagraph (E) of section 3402(f)(1), as redesignated by subparagraph (A), is amended by striking out "zero bracket" and inserting in lieu thereof "standard deduction".

(E) The last sentence of paragraph (1) of section 3402(f) is amended—

(i) by striking out "subparagraph (G)" and inserting in lieu thereof "subparagraph (E)", and

(ii) by striking out "zero bracket" and inserting in lieu thereof "standard deduction".

(F) Paragraph (3) of section 3402(m) is amended by inserting "(including the additional standard deduction under section 63(c)(3) for the aged and blind)" after "deductions".

(16) Section 6014.—

(A) Subsection (a) of section 6014 (relating to income tax return—tax not computed by taxpayer) is amended by striking out "who does not have an unused zero bracket amount (determined under section 63(e))" and inserting in lieu thereof "who is not described in section 6012(a)(1)(C)(i)".

(B) Paragraph (4) of section 6014(b) is amended to read as follows:

"(4) to cases where the taxpayer itemizes his deductions or where the taxpayer claims a reduced standard deduction by reason of section 63(c)(5)."

(17) Section 6212.—Subparagraph (A) of section 6212(c)(2) (relating to cross references) is amended to read as follows:

"(A) Deficiency attributable to change of treatment with respect to itemized deductions, see section 63(e)(3)."

(18) Section 6504.—Paragraph (2) of section 6504 (relating to cross references) is amended to read as follows:

"(2) Change of treatment with respect to itemized deductions where taxpayer and his spouse make separate returns, see section 63(e)(3)."

Subtitle B—Provisions Related to Tax Credits

SEC. 111. INCREASE IN EARNED INCOME CREDIT.

(a) Increase in Amount of Credit.—Subsection (a) of section 32 (relating to earned income credit) is amended by striking out "11 percent" and inserting in lieu thereof "14 percent".

(b) Increase in Income Level at Which Phaseout Begins.—Subsection (b) of section 32 is amended to read as follows:

"(b) Limitation.—

"(1) In general.—The credit allowable to any taxpayer under subsection (a) for any taxable year shall be reduced by 10 percent of so much of the adjusted gross income (or, if greater, the earned income of the taxpayer for the taxable year) as exceeds $9,000.

"(2) Transitional rule for 1986.—In the case of any taxable year beginning in 1986, paragraph (1) shall be applied by substituting '$6,500' for '$9,000'."

(c) Inflation Adjustments.—Section 32 is amended by adding at the end thereof the following new subsection:

"(i) Inflation Adjustments.—

"(1) Inflation adjustment to amount of credit for years after 1985.—In the case of any taxable year beginning in a calendar year after 1985, the $5,000 amount contained in subsection (a) shall be increased by an amount equal to—

"(A) $5,000, multiplied by

"(B) the cost-of-living adjustment determined under section 1(e)(3), for the calendar year in which the taxable year begins, by substituting 'calendar year 1984' for 'calendar year 1985' in subparagraph (B) thereof.

A similar increase shall be made in the $6,500 amount contained in subsection (b)(2).

"(2) Inflation adjustment in phaseout for years after 1987.—In the case of any taxable year beginning in a calendar year after 1987, the $9,000 figure contained in subsection (b)(1) shall be increased by an amount equal to—

"(A) $9,000, multiplied by

"(B) the cost-of-living adjustment determined under section 1(e)(3), for the calendar year in which the taxable year begins, by substituting 'calendar year 1986' for 'calendar year 1985' in subparagraph (B) thereof.

"(3) Rounding.—If any increase determined under paragraph (1) or (2) is not a multiple of $10, such increase shall be rounded to the nearest multiple of $10 (or, if such increase is a multiple of $5, such increase shall be increased to the next higher multiple of $10)."

(d) Conforming Amendments.—

(1) Paragraph (2) of section 32(f) (relating to amount of credit to be determined under tables) is amended by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(A) for earned income between $0 and the amount of earned income at which the credit is phased out under subsection (b), and

"(B) for adjusted gross income between the dollar amount at which the phaseout begins under subsection (b) and the amount of adjusted gross income at which the credit is phased out under subsection (b)."

(2) Subparagraph (B) of section 3507(c)(2) (relating to earned income advance amount) is amended by striking out clauses (i) and (ii) and inserting in lieu thereof the following:

"(i) of not more than 14 percent of the first earned income (but not in excess of the amount of earned income taken into account under section 32(a)), which

"(ii) phases out between the amount of earned income at which the phaseout begins under subsection (b) of section 32 and the amount of earned income at which the credit under section 32 is phased out under such subsection, or".

(3) Subparagraph (C) of section 3507(c)(2) is amended by striking out clauses (i) and (ii) and inserting in lieu thereof the following:

"(i) of not more than 14 percent of the first earned income (but not in excess of ½ of the amount of earned income taken into account under section 32(a)), which

"(ii) phases out between amounts of earned income which are ½ of the amounts of earned income described in subparagraph (B)(ii)."

SEC. 112. REPEAL OF CREDIT FOR CONTRIBUTIONS TO CANDIDATES FOR PUBLIC OFFICE.

(a) GENERAL RULE.—Section 24 (relating to contributions to candidates for public office) is hereby repealed.

(b) TECHNICAL AMENDMENTS.—

(1) Subsection (g) of section 527 (relating to treatment of newsletter funds) is amended—

(A) by striking out "section 24(c)(2)" in paragraph (1) and inserting in lieu thereof "paragraph (3)", and

(B) by adding at the end thereof the following new paragraph:

"(3) CANDIDATE.—For purposes of paragraph (1), the term 'candidate' means, with respect to any Federal, State, or local elective public office, an individual who—

"(A) publicly announces that he is a candidate for nomination or election to such office, and

"(B) meets the qualifications prescribed by law to hold such office."

(2) Subsection (a) of section 10642 (relating to credits against tax for estates and trusts) is amended to read as follows:

"(a) FOREIGN TAX CREDIT ALLOWED.—An estate or trust shall be allowed the credit against tax for taxes imposed by foreign countries and possessions of the United States, to the extent allowed by section 901, only in respect of so much of the taxes described in such section as is not properly allocable under such section to the beneficiaries."

(3) Paragraph (6) of section 7871(a) (relating to Indian tribal governments treated as States for certain purposes) is amended by striking out subparagraph (A) and by redesignating subparagraphs (B), (C), (D), (E), and (F) as subparagraphs (A), (B), (C), (D), and (E), respectively.

(4) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by striking out the item relating to section 24.

Subtitle C—Provisions Related to Exclusions

SEC. 121. $5,000 LIMIT ON DEPENDENT CARE ASSISTANCE EXCLUSION.

(a) GENERAL RULE.—Subsection (a) of section 129 (relating to dependent care assistance programs) is amended to read as follows:

"(a) EXCLUSION.—

"(1) IN GENERAL.—Gross income of an employee does not include amounts paid or incurred by the employer for dependent care assistance provided to such employee if the assistance is furnished pursuant to a program which is described in subsection (d).

"(2) LIMITATION OF EXCLUSION.—The aggregate amount excluded from the gross income of the taxpayer under this section for any taxable year shall not exceed $5,000 ($2,500 in the case of a separate return by a married individual).

For purposes of the preceding sentence, marital status shall be determined under the rules of paragraphs (3) and (4) of section 21(e)."

(b) TREATMENT OF ONSITE FACILITIES.—Subsection (e) of section 129 is amended by adding at the end thereof the following new paragraph:

"(8) TREATMENT OF ONSITE FACILITIES.—In the case of an onsite facility, except to the extent provided in regulations, the amount excluded with respect to any dependent shall be based on—

"(A) utilization, and

"(B) the value of the services provided."

(c) REPORTING REQUIREMENT.—

(1) Paragraph (1) of section 6039D(d) (defining specified fringe benefit plan) is amended by striking out "and" at the end of subparagraph (B), by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "and", and by adding at the end thereof the following new subparagraph:

"(D) any dependent care assistance program (within the meaning of section 129)."

(2) Paragraph (2) of section 6039D(d) (as so amended) is amended by striking out "and" at the end of subparagraph (B), by striking out the period at the end of subparagraph (C) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(D) section 129, in the case of a dependent care assistance program."

SEC. 122. TAXATION OF UNEMPLOYMENT COMPENSATION.

Section 85 (relating to unemployment compensation) is amended to read as follows:

"SEC. 85. UNEMPLOYMENT COMPENSATION.

"(a) GENERAL RULE.—In the case of an individual, gross income includes unemployment compensation.

"(b) UNEMPLOYMENT COMPENSATION DEFINED.—For purposes of this section, the term 'unemployment compensation' means any amount received under a law of the United States or of a State which is in the nature of unemployment compensation."

SEC. 123. SCHOLARSHIPS, ETC.

(a) SCHOLARSHIPS.—

(1) IN GENERAL.—Section 117 (relating to scholarship and fellowship grants) is amended to read as follows:

"SEC. 117. QUALIFIED SCHOLARSHIPS.

"(a) GENERAL RULE.—Gross income does not include any amount received as a qualified scholarship grant by an individual who is a candidate for a degree at an educational organization described in section 170(b)(1)(A)(ii).

"(b) QUALIFIED SCHOLARSHIP GRANT.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified scholarship' means any amount received by an individual as a scholarship or fellowship grant to the extent the individual establishes that, in accordance with the conditions of the grant, such amount was required to be used (and was used) for qualified tuition and related expenses.

"(2) QUALIFIED TUITION AND RELATED EXPENSES.—For purposes of paragraph (1), the term 'qualified tuition and related expenses' means—

"(A) tuition and fees required for the enrollment or attendance of a student at an educational organization described in section 170(b)(1)(A)(ii), and

"(B) fees, books, supplies, and equipment required for courses of instruction at such an educational organization.

"(c) LIMITATION.—Subsections (a) and (d) shall not apply to that portion of any amount received which represents payment for teaching, research, or other services by the student required as a condition for receiving the qualified scholarship or qualified tuition reduction.

"(d) QUALIFIED TUITION REDUCTIONS.—

"(1) IN GENERAL.—Gross income shall not include any qualified tuition reduction.

"(2) QUALIFIED TUITION REDUCTION.—For purposes of this subsection, the term 'qualified tuition reduction' means the amount of any reduction in tuition provided to an employee of an organization described in section 170(b)(1)(A)(ii) for the education (below the graduate level) at such organization (or another organization described in section 170(b)(1)(A)(ii)) of—

"(A) such employee, or

"(B) any person treated as an employee (or whose use is treated as an employee use) under the rules of section 132(f).

"(3) REDUCTION MUST NOT DISCRIMINATE IN FAVOR OF HIGHLY COMPENSATED, ETC.—Paragraph (1) shall apply with respect to any qualified tuition reduction provided with respect to any officer, owner, or highly compensated employee only if such reduction is available on substantially the same terms to each member of a group of employees which is defined under a reasonable classification set up by the employer which does not discriminate in favor of officers, owners, or highly compensated employees."

(2) TECHNICAL AMENDMENTS.—

(A) Subsection (a) of secton 74 is amended by striking out "(relating to scholarship and fellowship grants)" and inserting in lieu thereof "(relating to qualified scholarships)".

(B) The second sentence of section 1441(b) (relating to income items) is amended to read as follows: "The items of income referred to in subsection (a) from which tax shall be deducted and withheld at the rate of 14 percent are amounts which are received by a nonresident alien individual who is temporarily present in the United States as a nonimmigrant under subparagraph (F) or (J) of section 101(a)(15) of the Immigration and Nationality Act and which are incident to a qualified scholarship to which section 117(a) applies, but only to the extent such amounts are includible in gross income."

(C) Paragraph (6) of section 7871(a) (relating to Indian tribal governments treated as States for certain purposes) (as amended by section 112) is amended by striking out subparagraph (B) and by redesignating subparagraphs (C), (D), and (E) as subparagraphs (B), (C), and (D), respectively.

(D) The table of sections for part III of subchapter B of chapter 1 is amended by striking out the item relating to section 117 and inserting in lieu thereof the following new item:

"Sec. 117. Qualified scholarships."

(b) PRIZES AND AWARDS.—Subsection (b) of section 74 is amended by striking out "and" at the end of paragraph (1), by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and", and by adding after paragraph (2) the following new paragraph:

"(3) the prize or award is transferred by the payor to a governmental unit or organization described in paragraph (1) or (2) of section 170(c) pursuant to a designation made by the recipient."

(c) Treatment of Employee Gifts.—

(1) Amounts transferred by employer not excludable as gifts.—Section 102 (relating to gifts and inheritances) is amended by adding at the end thereof the following new subsection:

"(c) Employee Gifts.—

"(1) In general.—Subsection (a) shall not exclude from gross income any amount transferred by or for an employer to, or for the benefit of, an employee.

"(2) Cross reference.—

"For provisions excluding de minimis gifts from gross income, see section 132."

(2) Section 274(b) limitation not to apply to employee gifts.—

(A) Paragraph (1) of section 274(b) (relating to gifts) is amended by inserting "or" at the end of subparagraph (A), by striking out ", or" at the end of subparagraph (B) and inserting in lieu thereof a period, and by striking out subparagraph (C).

(B) Subsection (b) of section 274 is amended by striking out paragraph (3).

Subtitle D—Provisions Related to Deductions

SEC. 131. REPEAL OF DEDUCTION FOR 2-EARNER MARRIED COUPLES.

(a) General Rule.—Section 221 (relating to deduction for 2-earner married couples) is hereby repealed.

(b) Conforming Amendments.—

(1) Section 62 is amended by striking out paragraph (16).

(2) Subparagraph (A) of section 86(b)(2) is amended by striking out "sections 221," and inserting in lieu thereof "sections".

(3) The table of sections for part VII of subchapter B of chapter 1 is amended by striking out the item relating to section 221.

SEC. 132. 1-PERCENT FLOOR ON MISCELLANEOUS ITEMIZED DEDUCTIONS.

(a) General Rule.—Part I of subchapter B of chapter 1 (defining gross income, adjusted gross income, etc.) is amended by adding at the end thereof the following new section:

"SEC. 67. 1-PERCENT FLOOR ON MISCELLANEOUS ITEMIZED DEDUCTIONS.

"(a) General Rule.—In the case of an individual, the miscellaneous itemized deductions for any taxable year shall be allowed only to the extent that the aggregate of such deductions exceeds 1 percent of adjusted gross income.

"(b) Miscellaneous Itemized Deductions.—For purpose of this section, the term 'miscellaneous itemized deductions' means the itemized deductions other than—

"(1) the deduction under section 163 (relating to interest),

"(2) the deduction under section 164 (relating to taxes),

"(3) the deduction under section 165(a) for losses described in subsection (c)(3) or (d) of section 165,

"(4) the deduction under section 170 (relating to charitable deductions),

"(5) the deduction under section 213 (relating to medical deduction), and

"(6) the deduction under section 691(c) (relating to deduction for estate tax in the case of income in respect of a decedent).

"(c) Determination of Adjusted Gross Income in Case of Estates and Trusts.—For purposes of this section, the adjusted gross income of an estate or trust shall be computed in the same manner as in the case of an individual, except that the deductions for costs paid or incurred in connection with the administration of the estate or trust shall be treated as allowable in arriving at adjusted gross income."

(b) Nonreimbursed Business Expenses of Employees Made Subject to 1 Percent Floor.—Paragraph (2) of section 62 (defining adjusted gross income) is amended to read as follows:

"(2) Reimbursed expenses of employees.—The deductions allowed by part VI (section 161 and following) which consist of expenses paid or incurred by the taxpayer, in connection with the performance by him of services as an employee, under a reimbursement or other expense allowance arrangement with his employer."

(c) Clerical Amendment.—The table of sections for part I of subchapter B of chapter 1 is amended by adding at the end thereof of the following new item:

"Sec. 67. 1-percent floor on miscellaneous itemized deductions."

SEC. 133. CHARITABLE DEDUCTION FOR INDIVIDUALS WHO DO NOT ITEMIZE MADE PERMANENT.

Subsection (i) of section 170 (relating to rule for nonitemization of deductions) is amended to read as follows:

"(i) Rule for Nonitemization of Deductions.—In the case of an individual who does not itemize his deductions for the taxable year, the excess of—

"(1) the amount allowable under subsection (a) for the taxable year, over

"(2) $100,

shall be taken into account as a direct charitable deduction under section 63."

SEC. 134. REPEAL OF DEDUCTION FOR ADOPTION EXPENSES.

(a) General Rule.—Section 222 (relating to deduction for adoption, etc.) is hereby repealed.

(b) Conforming Amendments.—

(1) Section 223 is redesignated as section 220.

(2) The table of sections for part VII of subchapter B of chapter 1 is amended by striking out the items relating to sections 222 and 223 and inserting in lieu thereof the following:

"Sec. 220. Cross references."

Subtitle E—Miscellaneous Provisions

SEC. 141. REPEAL OF INCOME AVERAGING.

(a) General Rule.—Part I of subchapter Q of chapter 1 (relating to income averaging) is hereby repealed.

(b) Technical Amendments.—

(1) Subsection (b) of section 3 (relating to section inapplicable to certain individuals) is amended by striking out paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(2) Subsection (b) of section 5 (relating to cross references relating to tax on individuals) is amended by striking out paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(3) Subparagraph (B) of section 6511(d)(2) (relating to special rules applicable to income taxes) is amended to read as follows:

"(B) Applicable rules.—

"(i) In general.—If the allowance of a credit or refund of an overpayment of tax attributable to a net operating loss carryback or a capital loss carryback is otherwise prevented by the operation of any law or rule of law other than section 7122 (relating to compromises), such credit or refund may be allowed or made, if claim therefor is filed within the period provided in subparagraph (A) of this paragraph.

"(ii) Tentative carryback adjustments.—If the allowance of an application, credit, or refund of a decrease in tax determined under section 6411(b) is otherwise prevented by the operation of any law or rule of law other than section 7122, such application, credit, or refund may be allowed or made if application for a tentative carryback adjustment is made within the period provided in section 6411(a).

"(iii) Determinations by courts to be conclusive.—In the case of any such claim for credit or refund or any such application for a tentative carryback adjustment, the determination by any court, including the Tax Court, in any proceeding in which the decision of the court has become final, shall be conclusive except with respect to the net operating loss deduction, and the effect of such deduction, or with respect to the determination of a short-term capital loss, and the effect of such short-term capital loss, to the extent that such deduction or short-term capital loss is affected by a carryback which was not an issue in such proceeding."

(c) Clerical Amendment.—The table of parts for subchapter Q of chapter 1 is amended by striking out the item relating to part I.

SEC. 142. LIMITATIONS ON DEDUCTIONS FOR MEALS, TRAVEL, AND ENTERTAINMENT.

(a) All Business Meals Must Have Clear Business Purpose.—

(1) In general.—Section 162 (relating to trade or business expenses) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) All Business Meals Must Have Clear Business Purpose.—No deduction shall be allowed under this chapter for the expense of any food or beverages unless—

"(1) the furnishing of such food or beverages has a clear business purpose presently related to the active conduct of a trade or business,

"(2) such expense is not lavish or extravagant under the circumstances, and

"(3) the taxpayer (or an employee of the taxpayer) is present at the furnishing of such food or beverages."

(2) Technical amendments.—

(A) Subsection (e) of section 274 (relating to specific exceptions to application of subsection (a)) is amended by striking out paragraph (1) and by redesignating paragraphs (2) through (10) as paragraphs (1) through (9), respectively.

(B) Paragraph (3) of section 274(e), as redesignated by subparagraph (A), is amended by striking out "paragraph (3)" and inserting in lieu thereof "paragraph (2)".

(b) Additional Restrictions on Expenses for Meals, Travel, and Entertainment.—Section 274 (relating to disallowance of certain entertainment, etc. expenses) is amended by redesignating subsection (j) as subsection (m) and by inserting after subsection (i) the following new subsections:

"(j) Additional Limitations on Entertainment Expenses.—

"(1) Entertainment tickets.—

"(A) In general.—In determining the amount allowable as a deduction under this chapter for any ticket for any activity or facility described in subsection (d)(2), the amount taken into account shall not exceed the face value of such ticket.

"(B) Exception for certain charitable sports events.—Subparagraph (A) shall not apply to any ticket for any sports event—

"(i) which is organized for the primary purpose of benefiting an organization which is described in section 501(c)(3) and exempt from tax under section 501(a), "(ii) all of the net proceeds of which are contributed to such organization, and

"(iii) which utilizes volunteers for substantially all of the work performed in carrying out such event.

"(2) Skyboxes, etc.—In the case of a skybox or other private luxury box leased for more than 1 event, the amount allowable as a deduction under this chapter with respect to such events shall not exceed the sum of the face values of non-luxury box seat tickets for the seats in such box covered by the lease. For purposes of the preceding sentence, 2 or more related leases shall be treated as 1 lease."

"(k) Additional Limitations on Travel Expenses.—

"(1) Luxury water transportation.—

"(A) In general.—No deduction shall be allowed under this chapter for expenses incurred for transportation by water to the extent such expenses exceed twice the aggregate per diem amounts for days of such transportation. For purposes of the preceding sentence, the term 'per diem amounts' means the highest amount generally allowable with respect to a day to employees of the executive branch of the Federal Government for per diem while away from home but serving in the United States.

"(B) Exception for expenses allowed under subsection (h)(2).—Subparagraph (A) shall not apply to any expense allocable to a convention, seminar, or other meeting which is held on any cruise ship.

"(2) Travel as form of education.—No deduction shall be allowed under this chapter for expenses for travel as a form of education.

"(l) Only 80 Percent of Meal and Entertainment Expenses Allowed as Deduction.—

"(1) In general.—The amount allowable as a deduction under this chapter for—

"(A) any expense for food or beverages, and

"(B) any item with respect to an activity which is of a type generally considered to constitute entertainment, amusement, or recreation, or with respect to a facility used in connection with such activity,

shall not exceed 80 percent of the amount of such expense or item which would (but for this paragraph) be allowable as a deduction under this chapter.

"(2) Exceptions.—Paragraph (1) shall not apply to any expense if—

"(A) subsection (a) does not apply to such expense by reason of paragraph (2), (3), (4), (7), (8), or (9) of subsection (e),

"(B) in the case of an expense for food or beverages, such expense is excludable from the gross income of the recipient under section 132 by reason of subsection (e) thereof (relating to de minimis fringes), or

"(C) such expense is covered by a ticket described in subsection (j)(1)(B)."

(c) No Deduction Allowed for Seminars, Etc., for Section 212 Purposes.—

(1) In general.—Subsection (h) of section 274 (relating to attendance at conventions, etc.) is amended by adding at the end thereof the following new paragraph:

"(3) Seminars, etc. for section 212 purposes.—No deduction shall be allowed under section 212 for expenses allocable to a convention, seminar, or similar meeting."

(2) Technical Amendments.—Paragraphs (1) and (2) of section 274(h) are each amended—

(A) by striking out "or 212" each place it appears, and

(B) by striking out "or to an activity described in section 212 and" each place it appears.

(d) Additional Penalty for Overstated Meal Deductions.—Section 6653 (relating to additions to tax for failure to pay tax) is amended by adding at the end thereof the following new subsection:

"(h) Special Rules for Overstated Meal Deductions.—In any case in which any part of an underpayment is due to an erroneous deduction for any expense for food or beverages—

"(1) if such error is due to negligence or disregard of rules and regulations, the addition to tax under subsection (a) shall not be less than 50 percent of the portion of such underpayment attributable to such error, or

"(2) if such error is due to fraud, with respect to the portion of the underpayment which is attributable to such error, subsection (b) shall be applied by substituting '100 percent' for '75 percent'.

(e) Denial of Charitable Contribution for Certain Travel Expenses.—Section 170 (relating to charitable, etc., contributions and gifts) is amended by redesignating subsections (k) and (l) as subsections (l) and (m), respectively, and by inserting after subsection (j) the following new subsection:

"(k) Denial of Deduction for Certain Travel Expenses.—No deduction shall be allowed under this section for traveling expenses (including amounts expended for meals and lodging) while away from home, whether paid directly or by reimbursement, unless there is no significant element of personal pleasure, recreation, or vacation in such travel."

SEC. 143. CHANGES IN TREATMENT OF HOBBY LOSS, ETC.

(a) Hobby Loss.—Subsection (d) of section 183 (relating to presumption) is amended—

(1) by striking out "2 or more of the taxable years in the period of 5 consecutive taxable years" and inserting in lieu thereof "3 or more of the taxable years in the period of 5 consecutive taxable years", and

(2) by striking out the last sentence and inserting in lieu thereof the following: "In the case of an activity which consists in major part of the breeding, training, showing, or racing of horses, the preceding sentence shall be applied by substituting "2 or more of the taxable years in the period of 7 consecutive taxable years" for "3 or more of the taxable years in the period of 5 consecutive taxable years."

(b) Treatment of Rental to Employer Under Section 280A.—Subparagraph (C) of section 280A (relating to exceptions for certain business or rental use; limitation on deductions for such use) is amended by adding at the end thereof the following new paragraph:

"(6) Treatment of rental to employer.—Paragraphs (1) and (3) shall not apply to any item which is attributable to the rental of the dwelling unit (or any portion thereof) by the taxpayer to his employer during any period in which the taxpayer uses the dwelling unit (or portion) in performing services as an employee of the employer."

(c) Revision of Limitation on Deduction for Business Use of Home.—Paragraph (5) of section 280A(c) (relating to exceptions for certain business or rental use; limitation on deductions for such use) is amended by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) the sum of—

"(i) the deductions allocable to such use which are allowable under this chapter for the taxable year whether or not such unit (or portion thereof) was so used, and

"(ii) the deductions allocable to the trade or business in which such use occurs (but which are not allocable to such use) for such taxable year.

Any amount not allowable as a deduction under this chapter by reason of the preceding sentence shall be taken into account as a deduction (allocable to such use) under this chapter for the succeeding taxable year."

SEC. 144. DEDUCTION FOR MORTGAGE INTEREST AND REAL PROPERTY TAXES ALLOWABLE WHERE PARSONAGE ALLOWANCE OR MILITARY HOUSING ALLOWANCE RECEIVED.

Section 265 is amended by adding at the end thereof the following new paragraph:

"(6) Section not to apply with respect to parsonage and military housing allowances.—No deduction shall be denied under this section for interest on a mortgage on, or real property taxes on, the home of the taxpayer by reason of the receipt of an amount as—

"(A) a military housing allowance, or

"(B) a parsonage allowance excludable from gross income under section 107."

SEC. 145. INFORMATION REPORTING OF INCOME TAXES AND REAL AND PERSONAL PROPERTY TAXES.

(a) In General.—Subsection (a) of section 6050E (relating to State and local income tax refunds) is amended to read as follows:

"(a) Requirement of Reporting.—Every person who, with respect to any individual, during any calendar year—

"(1) makes payments of refunds of State or local income taxes (or allows credits or offsets with respect to such taxes) aggregating $10 or more, or

"(2) receives payments of State or local income taxes or real or personal property taxes aggregating $10 or more,

shall make a return according to forms or regulations prescribed by the Secretary setting forth the amount of such payments, credits, or offsets, and the name and address of the individual with respect to whom a payment described in paragraph (1), credit, or offset was made or from whom a payment described in paragraph (2) was received."

(b) Technical Amendments.—

(1) Subsection (b) of section 6050E (as amended by title XIII of this Act) is amended—

(A) by inserting "and of payments received from the individual" before the period at the end of paragraph (2), and

(B) by inserting "or, in the case of payments described in paragraph (2), will not claim itemized deductions under chapter 1 for the taxable year during which such payments are paid or incurred by the individual" before the period at the end of such subsection.

(2) Subsection (c) of section 6050E is amended to read as follows:

"(c) Person.—For purposes of this section, the term 'person' means—

"(1) the officer or employee—

"(A) having control of the payments of the refunds (or the allowance of the credits or offsets), or

"(B) receiving the payments described in subsection (a)(2), or

"(2) the person or persons appropriately designated for purposes of this section."

(c) Clerical Amendments.—

(1) The section heading for section 6050E is amended to read as follows:

"SEC. 6050E. CERTAIN STATE AND LOCAL TAX PAYMENTS AND REFUNDS."

(2) The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by striking out the item relating to section 6050E and inserting in lieu thereof the following:

"Sec. 6050E. Certain State and local tax payments and refunds."

Subtitle F—Effective Dates

SEC. 151. EFFECTIVE DATES.

(a) General Rule.—Except as otherwise provided in this section, the amendments made by this title shall apply to taxable years beginning after December 31, 1985.

(b) Unemployment Compensation.—The amendment made by section 122 shall apply to amounts received after December 31, 1986, in taxable years ending after such date.

(c) Scholarship Provisions.—The amendment made by section 123(a) shall apply to scholarships and fellowships granted after September 25, 1985, in taxable years ending after such date.

(d) Repeal of Deduction for Adoption Expenses.—The amendments made by section 134 shall apply to expenses paid or incurred after December 31, 1986, in taxable years ending after such date; except that such amendments shall not apply to expenses paid or incurred during calendar year 1987 in connection with an adoption with respect to which the taxpayer paid or incurred expenses during calendar year 1986 which were allowable as a deduction under section 222 of the Internal Revenue Code of 1954.

(e) Parsonage and Military Housing Allowances.—The amendment made by subsection 144 shall apply to taxable years beginning before, on, or after, December 31, 1985.

(f) Payments of Income, Real, and Personal Property Taxes.—The amendments made by section 145 shall apply to payments received after December 31, 1986.

TITLE II—CAPITAL INCOME PROVISIONS

Subtitle A—Depreciation Provisions

SEC. 201. REPEAL OF ACCELERATED COST RECOVERY SYSTEM.

(a) General Rule.—Section 168 (relating to accelerated cost recovery system) is amended to read as follows:

"SEC. 168. INCENTIVE DEPRECIATION SYSTEM FOR TANGIBLE PROPERTY.

"(a) General Rule.—Except as otherwise provided in this section, the depreciation deduction provided by section 167(a) for any tangible property shall be determined by using—

"(1) the applicable depreciation method,

"(2) the applicable recovery period, and

"(3) the applicable convention.

"(b) Applicable Depreciation Method.—For purposes of this section—

"(1) In general.—Except as provided in paragraph (2), the applicable depreciation method is—

"(A) the 200 percent declining balance method,

"(B) switching to the straight line method for the first taxable year for which using the straight line method with respect to the adjusted basis as of the beginning of such year will yield a larger allowance.

"(2) Class 10 property.—In the case of class 10 property, the applicable depreciation method is the straight line method.

"(3) Salvage value treated as zero.—Salvage value shall be treated as zero.

"(c) Applicable Recovery Period Under the Incentive System.—For purposes of this section, the applicable recovery period under the incentive system shall be determined in accordance with the following table:

"In the case of property in:	The applicable recovery period is:
Class 1	3 years
Class 2	5 years
Class 3	7 years
Class 4	10 years
Class 5	13 years
Class 6	16 years
Class 7	20 years
Class 8	25 years
Class 9	30 years
Class 10	30 years.

"(d) Applicable Convention.—For purposes of this section—

"(1) In general.—Except as otherwise provided in this subsection, the applicable convention is the half-year convention.

"(2) Class 10 property and low-income housing.—In the case of—

"(A) any class 10 property, and

"(B) any low-income housing,

the applicable convention is the mid-month convention.

"(3) Special rule where substantial property placed in service during last quarter of taxable year.—

"(A) In general.—Except as provided in regulations prescribed by the Secretary, if during any taxable year—

"(i) the aggregate bases of property to which this section applies and which are placed in service during the last quarter of the taxable year, exceeds

"(ii) 40 percent of the aggregate bases of all such property placed in service during such taxable year,

the applicable convention for all such property placed in service during such taxable year shall be the mid-month convention.

"(B) Class 10 property and low-income housing not taken into account.—For purposes of subparagraph (A), class 10 property and low-income housing shall not be taken into account.

"(4) Definitions.—

"(A) Half-year convention.—The half-year convention is a convention which treats all property placed in service during any taxable year (or disposed of during any taxable year) as placed in service (or disposed of) on the mid-point of such taxable year.

"(B) Mid-month convention.—The mid-month convention is a convention which treats all property placed in service during any month (or disposed of during any month) as placed in service (or disposed of) on the mid-point of such month.

"(e) Classification of Property.—For purposes of this section—

"(1) In general.—Except as otherwise provided in this subsection, property shall be classified under the following table:

"Property shall be placed in:	If such property has a class life of: At least:	But less than:
Class 1		5 years
Class 2	5 years	7 years
Class 3	7 years	10 years
Class 4	10 years	13 years
Class 5	13 years	16 years
Class 6	16 years	20 years
Class 7	20 years	25 years
Class 8	25 years	30 years
Class 9	30 years	36 years
Class 10	36 years	

"(2) Classification of certain property.—

"(A) Low-income housing.—Any low-income housing—

"(i) if it is very low-income housing meeting the requirements of subsection (j)(3)(B), shall be in class 7, or

"(ii) if it does not meet such requirements, shall be in class 9.

"(B) 30-year real property.—Any 30-year real property shall be in class 10.

"(C) Certain vehicles.—Any car or any light general purpose truck shall be in class 2.

"(D) Qualified technological equipment.—Any qualified technological equipment shall be in class 2.

"(E) Computer based telephone switching equipment.—Any computer based telephone switching equipment shall be in class 2.

"(F) Clothing held for rental.—Any clothing held for rental shall be in class 1.

"(G) Single purpose agricultural or horticultural structure.—Any single purpose agricultural or horticultural structure (as defined in section 48(p)) shall be in class 5.

"(H) Horses.—

"(i) Race horses.—Any race horse shall be in class 2.

"(ii) Other horses.—Any horse other than a race horse shall be in class 4.

"(I) Telephone distribution plant, etc.—Any telephone distribution plant and comparable equipment used by other transmitters of information shall be in class 8.

"(3) Property with no class life.—Any property—

"(A) which does not have a class life, and

"(B) which is not classified under paragraph (2),

shall be in class 4.

"(f) Property To Which Section Does Not Apply.—This section shall not apply to—

"(1) Rehabilitation expenses for low-income rental housing.—The portion of the basis of any property to which section 167(k) applies.

"(2) Certain methods of depreciation.—Any property if—

"(A) the taxpayer elects to exclude such property from the application of this section, and

"(B) for the 1st taxable year for which a depreciation deduction would be allowable with respect to such property in the hands of the taxpayer, the property is properly depreciated under the unit-of-production method or any method of depreciation not expressed in a term of years (other than the retirement-replacement-betterment method or similar method).

"(3) Certain public utility property.—Any public utility property (within the meaning of section 167(l)(3)(A)) if the taxpayer does not use a normalization method of accounting.

"(4) Films and video tape.—Any motion picture film or video tape.

"(5) Sound recordings.—Any sound recording described in section 280(c)(2).

"(g) Inflation Adjustments—

"(1) In general.—The depreciation deduction determined under this section for any taxable year with respect to any property to which this subsection applies shall be the product of—

"(A) the amount of such deduction (determined without regard to this subsection), multiplied by

"(B) the product of the inflation adjustments for the taxable year and each prior taxable year for which a depreciation deduction was allowable during the holding period of the taxpayer with respect to such property and for which an inflation adjustment was allowed under this subsection.

"(2) PROPERTY TO WHICH INFLATION ADJUSTMENT APPLIES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), this subsection applies to any tangible property to which this section applies and which is placed in service after the date of the enactment of this Act.

"(B) EXCEPTION FOR PROPERTY DEPRECIATED UNDER NONINCENTIVE DEPRECIATION SYSTEM.—This subsection shall not apply to any property to which subsection (h) applies (other than by reason of an election under paragraph (7) thereof).

"(3) INFLATION ADJUSTMENT.—For purposes of this subsection—

"(A) IN GENERAL.—Except as otherwise provided in this subsection, an inflation adjustment shall be allowed under this subsection for any taxable year if—

"(i) the inflation for the calendar year in which such taxable year begins, exceeds

"(ii) 5 percent.

"(B) AMOUNT OF ADJUSTMENT.—The inflation adjustment for any taxable year shall be 1.0 plus ½ of the excess described in subparagraph (A) (when expressed in decimal terms).

"(C) INFLATION FOR ANY CALENDAR YEAR.—For purposes of subparagraph (A), the inflation for any calendar year shall be the percentage (if any) by which—

"(i) the CPI for such calendar year (as defined in section 1(e)(4)), exceeds

"(ii) the CPI for the preceding calendar year.

"(4) INFLATION ADJUSTMENT NOT ALLOWED FOR CERTAIN TAXABLE YEARS.—

"(A) TAXABLE YEARS BEGINNING BEFORE 1988.—No inflation adjustment shall be allowed under this subsection for any taxable year beginning in a calendar year before 1988.

"(B) YEAR IN WHICH PLACED IN SERVICE OR DISPOSED OF.—An inflation adjustment shall not be allowed under this subsection with respect to any property for the taxable year in which such property is placed in service or disposed of.

"(5) NOT TREATED AS DEPRECIATION DEDUCTION FOR CERTAIN PURPOSES.—Any increase in the deduction determined under this section with respect to any property by reason of this subsection shall not be treated as a depreciation deduction for purposes of—

"(A) determining the adjusted basis of such property,

"(B) determining the amount (or character) of gain or loss on any disposition of such property, and

"(C) determining the earnings and profits.

In the case of any property used in an activity to which section 465 applies, no adjustment shall be allowed under this subsection with respect to any depreciation deduction not allowed by reason of the limitation of such section until such depreciation deduction is allowed under such limitation, and any such adjustment when allowed shall not reduce the at risk amount under section 465(b).

"(h) NONINCENTIVE DEPRECIATION SYSTEM FOR CERTAIN PROPERTY.—

"(1) IN GENERAL.—In the case of—

"(A) any tangible property which during the taxable year is used predominantly outside the United States,

"(B) any tax-exempt use property,

"(C) any tax-exempt bond financed property,

"(D) any imported property covered by an Executive order under paragraph (6), and

"(E) any property to which an election under paragraph (7) applies,

the depreciation deduction provided by section 167(a) shall be determined under the nonincentive depreciation system.

"(2) NONINCENTIVE DEPRECIATION SYSTEM.—For purposes of paragraph (1), the nonincentive depreciation system is depreciation determined by using—

"(A) the straight-line method (without regard to salvage value),

"(B) the applicable convention determined under subsection (d), and

"(C) a recovery period determined under the following table:

"In the case of:	The recovery period shall be:
(i) Property not described in clause (ii) or (iii)	The class life.
(ii) Personal property with no class life	12 years.
(iii) 30-year real property	40 years.

"(3) SPECIAL RULES FOR DETERMINING CLASS LIFE.—

"(A) CLASSIFIED PROPERTY.—If any property (other than 30-year real property) is classified under paragraph (2) of subsection (e) in any class, the recovery period applicable to such property under the incentive system shall be treated as such property's class life for purposes of paragraph (2).

"(B) TAX-EXEMPT USE PROPERTY SUBJECT TO LEASE.—In the case of any tax-exempt use property subject to a lease, the recovery period used for purposes of paragraph (2) shall in no event be less than 125 percent of the lease term. The preceding sentence shall not apply to any qualified technological equipment not described in subsection (i)(3)(B).

"(C) TAX-EXEMPT BOND FINANCED PROPERTY.—In the case of any tax-exempt bond financed property, the recovery period used for purposes of paragraph (2) shall be equal to the recovery period determined under subsection (c) for the next higher numbered class to the class of such property (or in the case of property in class 9 or 10 shall not be less than 40 years).

"(4) PROPERTY USED PREDOMINANTLY OUTSIDE THE UNITED STATES.—For purposes of this subsection, under regulations prescribed by the Secretary, rules similar to the rules under section 48(a)(2) (including the exceptions contained in subparagraph (B) thereof) shall apply in determining whether property is used predominantly outside the United States. In addition to the exceptions contained in such subparagraph (B), there shall be excepted any satellite or other spacecraft (or any interest therein) held by a United States person if such satellite or spacecraft was launched from within the United States.

"(5) TAX-EXEMPT BOND FINANCED PROPERTY.—For purposes of this subsection—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'tax-exempt bond financed property' means any property if part or all of such property is financed (directly or indirectly) by an obligation the interest on which is exempt from tax under section 103(a).

"(B) ALLOCATION OF BOND PROCEEDS.—For purposes of subparagraph (A), the proceeds of any obligation shall be treated as used to finance property acquired in connection with the issuance of such obligation in the order in which such property was acquired.

"(C) EXEMPTION FOR LOW-INCOME HOUSING.—The term 'tax-exempt bond finance property' shall not include any low-income housing.

"(6) IMPORTED PROPERTY.—

"(A) COUNTRIES MAINTAINING TRADE RESTRICTIONS OR ENGAGING IN DISCRIMINATORY ACTS.—If the President determines that a foreign country—

"(i) maintains nontariff trade restrictions, including variable import fees, which substantially burden United States commerce in a manner inconsistent with provisions of trade agreements, or

"(ii) engages in discriminatory or other acts (including tolerance of international cartels) or policies unjustifiably restricting United States commerce,

he may by executive order provide for the application of paragraph (1)(D) to any article or class of articles manufactured or produced in such foreign country for such period as may be provided by such Executive order.

"(B) IMPORTED PROPERTY.—For purposes of this subsection, the term 'imported property' means any property if—

"(i) such property was completed outside the United States, or

"(ii) less than 50 percent of the basis of such property is attributable to value added within the United States.

For purposes of this subparagraph, the term 'United States' includes the Commonwealth of Puerto Rico and the possessions of the United States.

"(7) ELECTION TO USE NONINCENTIVE DEPRECIATION SYSTEM.—

"(A) IN GENERAL.—If the taxpayer makes an election under this paragraph with respect to any class of property for any taxable year, the nonincentive depreciation system shall apply to all property in such class placed in service during such taxable year. Notwithstanding the preceding sentence, in the case of a certified historic structure (as defined in section 48(g)(3)), such election may be made separately with respect to such structure.

"(B) ELECTION IRREVOCABLE.—An election under subparagraph (A), once made with respect to any class of property for any taxable year, shall be irrevocable.

"(i) TAX-EXEMPT USE PROPERTY.—

"(1) IN GENERAL.—For purposes of this section—

"(A) PROPERTY OTHER THAN 30-YEAR REAL PROPERTY.—Except as otherwise provided in this subsection, the term 'tax-exempt use property' means that portion of any tangible property (other than 30-year real property) leased to a tax-exempt entity.

"(B) 30-YEAR REAL PROPERTY.—

"(i) IN GENERAL.—In the case of 30-year real property, the term 'tax-exempt use property' means that portion of the property leased to a tax-exempt entity in a disqualified lease.

"(ii) DISQUALIFIED LEASE.—For purposes of this subparagraph, the term 'disqualified lease' means any lease of the property to a tax-exempt entity, but only if—

"(I) part or all of the property was financed (directly or indirectly) by an obligation the interest on which is exempt from tax under section 103 and such entity (or a related entity) participated in such financing,

"(II) under such lease there is a fixed or determinable price purchase or sale option which involves such entity (or a related entity) or there is the equivalent of such an option, "(III) such lease has a lease term in excess of 20 years, or

"(IV) such lease occurs after a sale (or other transfer) of the property by, or lease of the property from, such entity (or a related entity) and such property has been used by such entity (or a related entity) before such sale (or other transfer) or lease.

"(iii) 35-percent threshold test.—Clause (i) shall apply to any property only if the portion of such property leased to tax-exempt entities in disqualified leases is more than 35 percent of the property.

"(iv) Treatment of improvements.—For purposes of this subparagraph, improvements to a property (other than land) shall not be treated as a separate property.

"(v) Leasebacks during 1st 3 months of use not taken into account.—Subclause (IV) of clause (ii) shall not apply to any property which is leased within 3 months after the date such property is first used by the tax-exempt entity (or a related entity).

"(C) Exception for short-term leases.—

"(i) In general.—Property shall not be treated as tax-exempt use property merely by reason of a short-term lease.

"(ii) Short-term lease.—For purposes of clause (i), the term 'short-term lease' means any lease the term of which is—

"(I) less than 3 years, and

"(II) less than the greater of 1 year or 30 percent of the property's present class life.

If the case of 30-year real property and property with no present class life, subclause (II) shall not apply.

"(D) Exception where property used in unrelated trade or business.—The term 'tax-exempt use property' shall not include any portion of a property if such portion is predominantly used by the tax-exempt entity (directly or through a partnership of which such entity is a partner) in an unrelated trade or business the income of which is subject to tax under section 511. For purposes of subparagraph (B)(iii), any portion of a property so used shall not be treated as leased to a tax-exempt entity in a disqualified lease.

"(E) 30-year real property to include low-income housing.—For purposes of this paragraph, the term '30-year real property' includes low-income housing.

"(2) Tax-exempt entity.—

"(A) In general.—For purposes of this subsection, the term 'tax-exempt entity' means—

"(i) the United States, any State or political subdivision thereof, any possession of the United States, or any agency or instrumentality of any of the foregoing,

"(ii) an organization (other than a cooperative described in section 521) which is exempt from tax imposed by this chapter, and

"(iii) any foreign person or entity.

"(B) Exceptions for certain property subject to United States tax and used by foreign person or entity.—Clause (iii) of subparagraph (A) shall not apply with respect to any property if more than 50 percent of the gross income for the taxable year derived by the foreign person or entity from the use of such property is—

"(i) subject to tax under this chapter, or

"(ii) included under section 951 in the gross income of a United States shareholder for the taxable year with or within which ends the taxable year of the controlled foreign corporation in which such income was derived.

For purposes of the preceding sentence, any exclusion or exemption shall not apply for purposes of determining the amount of the gross income so derived, but shall apply for purposes of determining the portion of such gross income subject to tax under this chapter.

"(C) Foreign person or entity.—For purposes of this paragraph, the term 'foreign person or entity' means—

"(i) any foreign government, any international organization, or any agency or instrumentality of any of the foregoing, and

"(ii) any person who is not a United States person.

Such term does not include any foreign partnership or other foreign pass-thru entity.

"(D) Treatment of certain taxable instrumentalities.—For purposes of this subsection, a corporation shall not be treated as an instrumentality of the United States or of any State or political subdivision thereof if—

"(i) all of the activities of such corporation are subject to tax under this chapter, and

"(ii) a majority of the board of directors of such corporation is not selected by the United States or any State or political subdivision thereof.

"(E) Certain previously tax-exempt organizations.—

"(i) In general.—For purposes of this subsection, an organization shall be treated as an organization described in subparagraph (A)(ii) with respect to any property (other than property held by such organization) if such organization was an organization (other than a cooperative described in section 521) exempt from tax imposed by this chapter at any time during the 5-year period ending on the date such property was first used by such organization. The preceding sentence and subparagraph (D)(ii) shall not apply to the Federal Home Loan Mortgage Corporation.

"(ii) Election not to have clause (i) apply.—

"(I) In general.—In the case of an organization formerly exempt from tax under section 501(a) as an organization described in section 501(c)(12), clause (i) shall not apply to such organization with respect to any property if such organization elects not to be exempt from tax under section 501(a) during the tax-exempt use period with respect to such property.

"(II) Tax-exempt use period.—For purposes of subclause (I), the term 'tax-exempt use period' means the period beginning with the taxable year in which the property described in subclause (I) is first used by the organization and ending with the close of the 15th taxable year following the last taxable year of the applicable recovery period of such property.

"(III) Election.—Any election under subclause (I), once made, shall be irrevocable.

"(iii) Treatment of successor organizations.—Any organization which is engaged in activities substantially similar to those engaged in by a predecessor organization shall succeed to the treatment under this subparagraph of such predecessor organization.

"(iv) First used.—For purposes of this subparagraph, property shall be treated as first used by the organization—

"(I) when the property is first placed in service under a lease to such organization, or

"(II) in the case of property leased to (or held by) a partnership (or other pass-thru entity) in which the organization is a member, the later of when such property is first used by such partnership or pass-thru entity or when such organization is first a member of such partnership or pass-thru entity.

"(3) Special rules for certain high technology equipment.—

"(A) Exemption where lease term is 5 years or less.—For purposes of this section, the term 'tax-exempt use property' shall not include any qualified technological equipment if the lease to the tax-exempt entity has a lease term of 5 years or less.

"(B) Exception for certain property.—

"(i) In general.—For purposes of subparagraph (A), the term 'qualified technological equipment' shall not include any property leased to a tax-exempt entity if—

"(I) part or all of the property was financed (directly or indirectly) by an obligation the interest on which is exempt from tax under section 103,

"(II) such lease occurs after a sale (or other transfer) of the property by, or lease of such property from, such entity (or related entity) and such property has been used by such entity (or a related entity) before such sale (or other transfer) or lease, or

"(III) such tax-exempt entity is the United States or any agency or instrumentality of the United States.

"(ii) Leasebacks during 1st 3 months of use not taken into account.—Subclause (II) of clause (i) shall not apply to any property which is leased within 3 months after the date such property is first used by the tax-exempt entity (or a related entity).

"(4) Related entities.—For purposes of this subsection—

"(A)(i) Each governmental unit and each agency or instrumentality of a governmental unit is related to each other such unit, agency, or instrumentality which directly or indirectly derives its powers, rights, and duties in whole or in part from the same sovereign authority.

"(ii) For purposes of clause (i), the United States, each State, and each possession of the United States shall be treated as a separate sovereign authority.

"(B) Any entity not described in subparagraph (A)(i) is related to any other entity if the 2 entities have—

"(i) significant common purposes and substantial common membership, or

"(ii) directly or indirectly substantial common direction or control.

"(C)(i) An entity is related to another entity if either entity owns (directly or through 1 or more entities) a 50 percent or greater interest in the capital or profits of the other entity.

"(ii) For purposes of clause (i), entities treated as related under subparagraph (A) or (B) shall be treated as 1 entity.

"(D) An entity is related to another entity with respect to a transaction if such transaction is part of an attempt by such entities to avoid the application of this subsection.

"(5) Tax-exempt use of property leased to partnerships, etc., determined at partner level.—For purposes of this subsection—

"(A) In general.—In the case of any property which is leased to a partnership, the determination of whether any portion of such property is tax-exempt use property shall be made by treating each tax-exempt entity partner's proportionate share (determined under paragraph (6)(C)) of such property as being leased to such partner.

"(B) Other pass-thru entities; tiered entities.—Rules similar to the rules of subparagraph (A) shall also apply in the case of any pass-thru entity other than a partnership and in the case of tiered partnerships and other entities.

"(C) Presumption with respect to foreign entities.—Unless it is otherwise established to the satisfaction of the Secretary, it shall be presumed that the partners of a foreign partnership (and the beneficiaries of any other foreign pass-thru entity) are persons who are not United States persons.

"(6) Treatment of property owned by partnerships, etc.—

"(A) In general.—For purposes of this subsection, if—

"(i) any property which (but for this subparagraph) is not tax-exempt use property is owned by a partnership which has both a tax-exempt entity and a person who is not a tax-exempt entity as partners, and

"(ii) any allocation to the tax-exempt entity of partnership items is not a qualified allocation,

an amount equal to such tax-exempt entity's proportionate share of such property shall (except as provided in paragraph (1)(D)) be treated as tax-exempt use property.

"(B) Qualified allocation.—For purposes of subparagraph (A), the term 'qualified allocation' means any allocation to a tax-exempt entity which—

"(i) is consistent with such entity's being allocated the same distributive share item of income, gain, loss, deduction, credit, and basis and such share remains the same during the entire period the entity is a partner in the partnership, and

"(ii) has substantial economic effect within the meaning of section 704(b)(2).

For purposes of this subparagraph, items allocated under section 704(c) shall not be taken into account.

"(C) Determination of proportionate share.—

"(i) In general.—For purposes of subparagraph (A), a tax-exempt entity's proportionate share of any property owned by a partnership shall be determined on the basis of such entity's share of partnership items of income or gain (excluding gain allocated under section 704(c)), whichever results in the largest proportionate share.

"(ii) Determination where allocations vary.—For purposes of clause (i), if a tax-exempt entity's share of partnership items of income or gain (excluding gain allocated under section 704(c)) may vary during the period such entity is a partner in the partnership, such share shall be the highest share such entity may receive.

"(D) Determination of whether property used in unrelated trade or business.—For purposes of this subsection, in the case of any property which is owned by a partnership which has both a tax-exempt entity and a person who is not a tax-exempt entity as partners, the determination of whether such property is used in an unrelated trade or business of such an entity shall be made without regard to section 514.

"(E) Other pass-thru entities; tiered entities.—Rules similar to the rules of subparagraphs (A), (B), (C), and (D) shall also apply in the case of any pass-thru entity other than a partnership and in the case of tiered partnerships and other entities.

"(F) Treatment of certain taxable entities.—

"(i) In general.—For purposes of this paragraph and paragraph (5), except as otherwise provided in this subparagraph, any tax-exempt controlled entity shall be treated as a tax-exempt entity.

"(ii) Election.—If a tax-exempt controlled entity makes an election under this clause—

"(I) such entity shall not be treated as a tax-exempt entity for purposes of this paragraph and paragraph (5), and

"(II) any gain recognized by a tax-exempt entity on any disposition of an interest in such entity (and any dividend or interest received or accrued by a tax-exempt entity from such tax-exempt controlled entity) shall be treated as unrelated business taxable income for purposes of section 511.

Any such election shall be irrevocable and shall bind all tax-exempt entities holding interests in such tax-exempt controlled entity.

"(iii) Tax-exempt controlled entity.—The term 'tax-exempt controlled entity' means any corporation (which is not a tax-exempt entity determined without regard to this subparagraph and paragraph (2)(E)) if 50 percent or more (in value) of the stock in such corporation is held (directly or through the application of section 318) by 1 or more tax-exempt entities.

"(G) Regulations.—For purposes of determining whether there is a qualified allocation under subparagraph (B), the regulations prescribed under paragraph (8) for purposes of this paragraph—

"(i) shall set forth the proper treatment for partnership guaranteed payments, and

"(ii) may provide for the exclusion or segregation of items.

"(7) Lease.—For purposes of this subsection, the term 'lease' includes any grant of a right to use property.

"(8) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.

"(j) Definitions and Special Rules.—For purposes of this section—

"(1) Class life.—

"(A) In general.—Except as provided in subparagraph (B), the term 'class life' means the class life (if any) which would be applicable with respect to any property as of January 1, 1985, under subsection (m) of section 167 (determined without regard to paragraph (4) thereof and as if the taxpayer had made an election under such subsection).

"(B) Secretarial authority.—The Secretary, through an office established in the Treasury—

"(i) shall monitor and analyze actual experience with respect to all depreciable assets,

"(ii) may prescribe a new class life for any property or class of property, and

"(iii) may prescribe a class life for any property which does not have a class life within the meaning of subparagraph (A).

Any class life prescribed under the preceding sentence shall reasonably reflect the anticipated useful life, and the anticipated decline in value over time, of the property to the industry or other group.

"(C) New class life to override classification under subsection (e)(2).—If the Secretary prescribes a class life under subparagraph (B) with respect to any property (other than 30-year real property or low-income housing), such class life shall be used in determining the class of such property without regard to any classification under subsection (e)(2).

"(2) 30-year real property.—The term '30-year real property' means any real property which—

"(A) does not have a class life, and

"(B) is not low-income housing.

"(3) Low-income housing.—

"(A) In general.—The term 'low-income housing' means any real property which is part of a residential rental project if such project meets the requirements of clause (i) or (ii), whichever is elected by the taxpayer at the time the property is placed in service:

"(i) The project meets the requirements of this clause if 20 percent or more of the units in such project are occupied by individuals whose income is 70 percent or less of median gross income.

"(ii) The project meets the requirements of this clause if 25 percent or more of the units in such project are occupied by individuals whose income is 80 percent or less of median gross income.

For purposes of the preceding sentence, property shall not be treated as failing to be residential rental property merely because part of the building in which such property is located is used for purposes other than residential rental purposes.

"(B) Very low-income housing.—Real property which is part of a project shall be treated as very low-income housing meeting the requirements of this subparagraph if such project meets the requirements of subparagraph (A)(i) determined by substituting '40 percent' for '20 percent' and '60 percent' for '70 percent'.

"(C) Certain requirements made applicable.—Rules similar to the rules of paragraphs (2), (3), and (4) of section 142(c) shall apply for purposes of determining whether any property is low-income housing or very low-income housing for purposes of this section.

"(4) Qualified technological equipment.—

"(A) In general.—The term 'qualified technological equipment' means—

"(i) any computer or peripheral equipment,

"(ii) any high technology telephone station equipment installed on the customer's premises, and

"(iii) any high technology medical equipment.

"(B) Computer or peripheral equipment defined.—For purposes of this paragraph—

"(i) In general.—The term 'computer or peripheral equipment' means—

"(I) any computer, and

"(II) any related peripheral equipment.

"(ii) Computer.—The term 'computer' means a programmable electronically activated device which—

"(I) is capable of accepting information, applying prescribed processes to the information, and supplying the results of these processes with or without human intervention, and

"(II) consists of a central processing unit containing extensive storage, logic, arithmetic, and control capabilities.

"(iii) Related peripheral equipment.—The term 'related peripheral equipment' means any auxiliary machine (whether on-line or off-line) which is designed to be placed under the control of the central processing unit of a computer.

"(iv) Exceptions.—The term 'computer or peripheral equipment' shall not include—

"(I) any equipment which is an integral part of other property which is not a computer,

"(II) typewriters, calculators, adding and accounting machines, copiers, duplicating equipment, and similar equipment, and

"(III) equipment of a kind used primarily for amusement or entertainment of the user.

"(C) High technology medical equipment.—For purposes of this paragraph, the term 'high technology medical equipment' means any electronic, electromechanical, or computer-based high technology equipment used in the screening, monitoring, observation, diagnosis, or treatment of patients in a laboratory, medical, or hospital environment.

"(5) Lease term.—

"(A) In general.—In determining a lease term—

"(i) there shall be taken into account options to renew, and

"(ii) 2 or more successive leases which are part of the same transaction (or a series of related transactions) with respect to the same or substantially similar property shall be treated as 1 lease.

"(B) Special rule for fair rental options on 30-year real property or low-income housing.—For purposes of clause (i) of subparagraph (A), in the case of 30-year real property or low-income housing, there shall not be taken into account any option to renew at fair market value, determined at the time of renewal.

"(6) Mass asset accounts.—Under regulations prescribed by the Secretary, a taxpayer may maintain one or more mass asset accounts for any property to which this section applies. Except as provided in regulations, all proceeds realized on any disposition of property in a mass asset account shall be included in income as ordinary income.

"(7) Changes in use.—

"(A) In general.—The Secretary shall, by regulations, provide for the method of determining the deduction allowable under section 167(a) with respect to any tangible property for any taxable year (and the succeeding taxable years) during which such property changes status under this section but continues to be held by the same person.

"(B) Special rule for low-income housing.—In the case of any property which was low-income housing before the change in status referred to in subparagraph (A)—

"(i) the gross income of the holder of such property shall be increased by the prior excess depreciation deductions,

"(ii) the adjusted basis of such property shall be increased by the amount included in gross income under clause (i), and

"(iii) such adjusted basis shall be depreciated over the remaining recovery period which would have applied to such property had it not been low-income housing when placed in service.

For purposes of the preceding sentence, the term 'excess depreciation deductions' means the excess of the depreciation deductions previously allowable with respect to any property which was low-income housing over the depreciation deductions which would have been allowable if such property had been treated as 30-year real property when placed in service.

"(8) Treatments of additions or improvements to property.—The applicable recovery period for any addition to (or improvement of) property shall begin on the later of—

"(A) the date on which such addition (or improvement) is placed in service, or

"(B) the date on which the property with respect to which such addition (or improvement) was made is placed in service.

"(9) Treatment of certain transferees.—

"(A) In general.—In the case of any property transferred in a transaction described in subparagraph (B), the transferee shall be treated as the transferor for purposes of computing the depreciation deduction determined under this section with respect to so much of the basis in the hands of the transferee as does not exceed the adjusted basis in the hands of the transferor.

"(B) Transactions covered.—The transactions described in this subparagraph are any transaction described in section 332, 351, 361, 371(a), 374(a), 721, or 731. Subparagraph (A) shall not apply in the case of a termination of a partnership under section 708(b)(1)(A).

"(10) Treatment of leasehold improvements.—In the case of any building erected (or improvements made) on leased property, if such building or improvement is property to which this section applies, section 178 shall not apply (and the depreciation deduction shall be determined under the provisions of this section).

"(11) Normalization rules.—

"(A) In general.—In order to use a normalization method of accounting with respect to any public utility property for purposes of subsection (f)(3)—

"(i) the taxpayer must, in computing its tax expense for purposes of establishing its cost of service for ratemaking purposes and reflecting operating results in its regulated books of account, use a method of depreciation with respect to such property that is the same as, and a depreciation period for such property that is no shorter than, the method and period used to compute its depreciation expense for such purposes; and

"(ii) if the amount allowable as a deduction under this section with respect to such property differs from the amount that would be allowable as a deduction under section 167 (determined without regard to section 167(l)) using the method (including the period, first and last year convention, and salvage value) used to compute regulated tax expense under clause (i), the taxpayer must make adjustments to a reserve to reflect the deferral of taxes resulting from such difference.

Adjustments similar to the adjustment provided in clauses (i) and (ii) shall be made in the case of any increase in the depreciation deduction determined under this section with respect to any property by reason of subsection (g).

"(B) Use of inconsistent estimates and projections, etc.—

"(i) In general.—One way in which the requirements of subparagraph (A) are not met is if the taxpayer, for ratemaking purposes, uses a procedure or adjustment which is inconsistent with the requirements of subparagraph (A).

"(ii) Use of inconsistent estimates and projections.—The procedures and adjustments which are to be treated as inconsistent for purposes of clause (i) shall include any procedure or adjustment for ratemaking purposes which uses an estimate or projection of the taxpayer's tax expense, depreciation expense, or reserve for deferred taxes under subparagraph (A)(ii) unless such estimate or projection is also used, for ratemaking purposes, with respect to the other 2 such items and with respect to the rate base.

"(iii) Regulatory authority.—The Secretary may by regulations prescribe procedures and adjustments (in addition to those specified in clause (ii)) which are to be treated as inconsistent for purposes of clause (i).

"(C) Public utility property which does not meet normalization rules.—In the case of any public utility property to which this section does not apply by reason of subsection (f)(3), the allowance for depreciation under section 167(a) shall be an amount computed using the method and period referred to in subparagraph (A)(i)."

(b) Limitation on Election to Expense Certain Depreciable Assets.—Subsection (b) of section 179 (relating to election to expense certain depreciable assets) is amended to read as follows:

"(b) Limitations.—

"(1) Dollar limitation.—The aggregate cost which may be taken into account under subsection (a) for any taxable year shall not exceed $10,000.

"(2) Certain taxpayers not eligible for election.—Subsection (a) shall not apply to any taxpayer for any taxable year if the cost of section 179 property placed in service during such taxable year exceeds $200,000.

"(3) Married individuals filing separately.—In the case of a husband and wife filing separate returns for the taxable year—

"(A) paragraph (1) shall be applied by substituting "$5,000" for "$10,000", and

"(B) such individuals shall be treated as one taxpayer for purposes of determining whether the requirements of paragraph (2) are met."

(c) System Used for Purposes of Earnings and Profits.—Paragraph (3) of section 312(k) is amended to read as follows:

"(3) Exception for tangible property.—

"(A) In general.—Except as provided in subparagraph (B), in the case of tangible property to which section 168 applies, the adjustment to earnings and profits for depreciation for any taxable year shall be determined under the nonincentive depreciation system within the meaning of section 168(h)(2).

"(B) Treatment of amounts deductible under section 179.—For purposes of computing the earnings and profits of a corporation, any amount deductible under section 179 shall be allowed as a deduction ratably over the period of 5 taxable years (beginning with the taxable year for which such amount is deductible under section 179)."

(d) Continuation of Rules Relating to Motor Vehicle Operating Leases.—Section 7701 is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) Motor Vehicle Operating Leases.—

"(1) In general.—For purposes of this title, in the case of a qualified motor vehicle operating agreement which contains a terminal rental adjustment clause—

"(A) such agreement shall be treated as a lease if (but for such terminal rental adjustment clause) such agreement would be treated as a lease under this title, and

"(B) the lessee shall not be treated as the owner of the property subject to an agreement during any period such agreement is in effect.

"(2) Qualified motor vehicle operating agreement defined.—For purposes of this subsection—

"(A) In general.—The term 'qualified motor vehicle operating agreement' means any agreement with respect to a motor vehicle (including a trailer) which meets the requirements of subparagraphs (B), (C), and (D) of this paragraph.

"(B) Minimum liability of lessor.—An agreement meets the requirements of this subparagraph if under such agreement the sum of—

"(i) the amount the lessor is personally liable to repay, and

"(ii) the net fair market value of the lessor's interest in any property pledged as security for property subject to the agreement, equals or exceeds all amounts borrowed to finance the acquisition of property subject to the agreement. There shall not be taken into account under clause (ii) any property pledged which is property subject to the agreement or property directly or indirectly financed by indebtedness secured by property subject to the agreement.

"(C) Certification by lessee; notice of tax ownership.—An agreement meets the requirements of this subparagraph if such agreement contains a separate written statement separately signed by the lessee—

"(i) under which the lessee certifies, under penalty of perjury, that it intends that more than 50 percent of the use of the property subject to such agreement is to be in a trade or business of the lessee, and

"(ii) which clearly and legibly states that the lessee has been advised that it will not be treated as the owner of the property subject to the agreement for Federal income tax purposes.

"(D) Lessor must have no knowledge that certification is false.—An agreement meets the requirements of this subparagraph if the lessor does not know that the certification described in subparagraph (C)(i) is false.

"(3) Terminal rental adjustment clause defined.—

"(A) In general.—For purposes of this subsection, the term 'terminal rental adjustment clause' means a provision of an agreement which permits or requires the rental price to be adjusted upward or downward by reference to the amount realized by the lessor under the agreement upon sale or other disposition of such property.

"(B) Special rule for lessee dealers.—The term 'terminal rental adjustment clause' also includes a provision of an agreement which requires a lessee who is a dealer in motor vehicles to purchase the motor vehicle for a predetermined price and then resell such vehicle where such provision achieves substantially the same results as a provision described in subparagraph (A)."

(e) Technical and Conforming Amendments.—

(1) Section 167.—Paragraph (4) of section 167(m) (relating to termination of class lives) is amended to read as follows:

"(4) Termination.—This subsection shall not apply with respect to any property to which section 168 applies."

(2) Section 178.—Section 178 is amended by adding at the end thereof the following new subsection:

"(d) Cross Reference.—

"For provision providing that this section does not apply to certain property, see section 168(j)(10)."

(3) Section 179.—Paragraph (8) of section 179(d) is amended to read as follows:

"(8) Treatment of partnerships and S corporations.—In the case of a partnership, the limitations of subsection (b) shall apply with respect to the partnership and with respect to each partner. A similar rule shall apply in the case of an S corporation and its shareholders."

(4) Section 280F.—

(A) Paragraph (2) of section 280F(b) (relating to depreciation) is amended by striking out "the straight line method over the earnings and profits life for such property" and inserting in lieu thereof "section 168(h) (relating to nonincentive depreciation system)".

(B) Subparagraph (A) of section 280F(b)(3) (relating to recapture) is amended by striking out "the straight line method over the earnings and profits life" and inserting in lieu thereof "section 168(h) (relating to nonincentive depreciation system)".

(C) Paragraph (4) of section 280F(b) (relating to definitions) is amended to read as follows:

"(4) Property predominantly used in qualified business use.—For purposes of this subsection, property shall be treated as predominantly used in a qualified business use for any taxable year if the business use percentage for such taxable year exceeds 50 percent."

(D) Paragraph (4) of section 280F(c) is amended by striking out "section 168(j)(6)(B)" and inserting in lieu thereof "section 168(j)(5)(A)".

(E) Paragraph (1) of section 280F(d) is amended by striking out "recovery deduction" and inserting in lieu thereof "depreciation deduction".

(F) Paragraph (2) of section 280F(d) is amended—

(i) by striking out "recovery deduction" and inserting in lieu thereof "depreciation deduction", and

(ii) by striking out "use described in section 168(c)(1) (defining recovery property)" and inserting in lieu thereof "use in a trade or business (including the holding for the production of income)".

(G) Clause (iv) of section 280F(d)(4)(A) is amended by striking out "section 168(j)(5)(D)" and inserting in lieu thereof "section 168(j)(4)(B)".

(H) Paragraph (8) of section 280F(d) (defining unrecovered basis) is amended to read as follows:

"(8) Unrecovered basis.—For purposes of subsection (a)(1), the term 'unrecovered basis' means the adjusted basis of the passenger automobile determined after the application of subsection (a) and as if all use during the recovery period were use in a trade or business."

(I) Paragraph (10) of section 280F(d) is amended by striking out ", notwithstanding any regulations prescribed under section 168(f)(7),".

(5) Section 312.—Paragraph (4) of section 312(k) is amended by striking out the last sentence.

(6) Section 461.—

(A) Subclause (I) of section 461(i)(2)(C)(ii) (defining cash basis) is amended by striking out "section 168(e)(4)" and inserting in lieu thereof "paragraph (6)".

(B) Subsection (i) of section 461 is amended by adding at the end thereof the following new paragraph:

"(6) Related person.—For purposes of this subsection, a person (hereinafter in this paragraph referred to as the 'related person') is related to any person if—

"(A) the related person bears a relationship to such person specified in section 267(b) or section 707(b)(1), or

"(B) the related person and such person are engaged in trades or business under common control (within the meaning of subsections (a) and (b) of section 52).

For purposes of subparagraph (A), in applying section 267(b) or (f) or 707(b)(1), '10 percent' shall be substituted for '50 percent'."

(7) Section 465.—Subparagraph (C) of section 465(b)(3) is amended by striking out "section 168(e)(4)" and inserting in lieu thereof "section 461(i)(6)".

(8) Section 467.—

(A) Paragraph (3) of section 467(e) is amended to read as follows:

"(3) Statutory recovery period.—

"(A) In general.—

"In the case of property in:	The statutory recovery period is:
Class 1	3 years
Class 2	5 years
Class 3	7 years
Class 4	10 years
Class 5	13 years
Class 6	16 years
Class 7	20 years
Class 8	25 years
Class 9	30 years
Class 10	30 years.

"(B) Special rule for property not depreciable under section 168.—In the case of property to which section 168 does not apply, subparagraph (A) shall be applied as if section 168 applies to such property."

(B) Paragraph (5) of section 467(e) (defining related person) is amended by striking out "section 168(e)(4)(D)" and inserting in lieu thereof "section 461(i)".

(9) Section 514.—Subclause (II) of section 514(c)(9)(B)(vi) (relating to real property acquired by a qualified organization) is amended by striking out "section 168(j)(9)" and inserting in lieu thereof "section 168(i)(6)".

(10) Section 751.—Subsection (c) of section 751 (defining unrealized receivables) is amended by striking out "section 1245 recovery property (as defined in section 1245(a)(5)),".

(11) Section 1245.—

(A) Paragraph (1) of section 1245(a) (relating to gain from dispositions of certain depreciable property) is amended by striking out "beginning after December 31, 1962, or section 1245 recovery property is disposed of after December 31, 1980,".

(B) Paragraph (2) of section 1245(a) (defining recomputed basis) is amended to read as follows:

"(2) Recomputed basis.—For purposes of this section—

"(A) In general.—The term 'recomputed basis' means, with respect to any property, its adjusted basis recomputed by adding thereto all adjustments reflected in such adjusted basis on account of deductions (whether in respect of the same or other property) allowed or allowable to the taxpayer or to any other person for depreciation or amortization.

"(B) Taxpayer may establish amount allowed.—For purposes of subparagraph (A), if the taxpayer can establish by adequate records or other sufficient evidence that the amount allowed for depreciation or amortization for any period was less than the amount allowable, the amount added for such period shall be the amount allowed.

"(C) Certain deductions treated as amortization.—Any deduction allowable under section 179, 190, or 193 shall be treated as if it were a deduction allowable for depreciation."

(C) Paragraph (3) of section 1245(a) (defining section 1245 property) is amended by adding at the end thereof the following new sentence:

"Such term includes any tangible property to which section 168 applied and which is not 30-year real property (as defined in section 168) or low-income housing (as defined in section 168)."

(D) Subsection (a) of section 1245 is amended by striking out paragraphs (5) and (6).

(12) Section 4162.—Paragraph (3) of section 4162(c) (defining related person) is amended by striking out "section 168(e)(4)(D)" and inserting in lieu thereof "section 461(i)(6)".

(13) SECTION 6111.—Clause (ii) of section 6111(c)(3)(B) (relating to certain borrowed amounts excluded) is amended by striking out "section 168(e)(4)" and inserting in lieu thereof "section 461(i)(6)".

(14) SECTION 7701.—

(A) Subparagraph (A) of section 7701(e)(4) is amended by striking out "section 168(j)" and inserting in lieu thereof "section 168(h)".

(B) Paragraph (5) of section 7701(e) (relating to exception for certain low-income housing) is amended by striking out "section 168(c)(2)(F)" and inserting in lieu thereof "section 168(j)(3)".

(15) CLERICAL AMENDMENT.—The item relating to section 168 in the table of sections for part VI of subchapter B of chapter 1 is amended to read as follows:

"Sec. 168. Incentive depreciation system for tangible property."

SEC. 202. RECAPTURE PROVISIONS FOR SECTION 1250 PROPERTY.

(a) GENERAL RULE.—Subsection (a) of section 1250 (relating to gain from dispositions of certain depreciable realty) is amended by redesignating paragraphs (1), (2), (3), and (4) as paragraphs (2), (3), (4), and (5), respectively, and by inserting before paragraph (2) the following new paragraph:

"(1) ADDITIONAL DEPRECIATION FOR CERTAIN PROPERTY PLACED IN SERVICE AFTER DECEMBER 31, 1985.—

"(A) IN GENERAL.—If any section 1250 property placed in service after December 31, 1985, is disposed of, then the lower of—

"(i) the additional depreciation (as defined in subsection (b)(1) or (4)) in respect of such property, or

"(ii) the excess of the amount realized (in the case of a sale, exchange, or inventory conversion), or the fair market value of such property (in the case of any other disposition), over the adjusted basis of such property,

shall be treated as gain which is ordinary income. Such gain shall be recognized notwithstanding any other provision of this subtitle.

"(B) APPLICATION OF THIS PARAGRAPH.—This paragraph shall not apply to any property described in section 203(b) of the Tax Reform Act of 1985 (relating to transitional rules).

"(C) COORDINATION WITH PARAGRAPH (2).—Paragraph (2) of this subsection shall not apply to any property to which this paragraph applies."

(b) DETERMINATION OF ADDITIONAL DEPRECIATION.—Paragraph (5) of section 1250(b) (relating to method of computing straight line adjustments) is amended by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(A) in the case of—

"(i) property to which section 168 (as amended by the Tax Reform Act of 1985) applies, by determining the adjustments which would have resulted for such year if such adjustments had been made under the straight-line method for such year using the recovery period applicable to such property, or

"(ii) recovery property to which section 168 (as in effect on the day before the date of the enactment of the Tax Reform Act of 1985) applies, by determining the adjustments which would have resulted for such year if the taxpayer had elected the straight-line method for such year using the recovery period applicable to such property, and

"(B) in the case of property not described in subparagraph (A), if a useful life (or salvage value) was used in determining the amount allowable as a deduction for any taxable year, by using such life (or value).

In the case of any property described in subparagraph (A)(i) which is low-income housing (as defined in section 168(i)(3)) which is sold by the taxpayer and leased back by the taxpayer, the Secretary may by regulations prescribe that the recovery period applicable to 30-year real property shall be used for purposes of this paragraph if such property is not to be used as low-income housing after such leaseback."

SEC. 203. EFFECTIVE DATES.

(a) GENERAL RULE.—Except as otherwise provided in this section, the amendments made by section 201 shall apply to property placed in service after December 31, 1985, in taxable years ending after such date.

(b) GENERAL TRANSITIONAL RULE.—

(1) IN GENERAL.—The amendments made by section 201 shall not apply to—

(A) any property which is constructed, reconstructed, or acquired pursuant to a written contract which was binding on September 25, 1985,

(B) property which is constructed or reconstructed by the taxpayer if—

(i) the lesser of (I) $1,000,000, or (II) 5 percent of the cost of such property has been incurred or committed by September 25, 1985, and

(ii) the construction or reconstruction of such property began by such date, or

(C) an equipped building or plant facility if construction has commenced as of September 25, 1985, pursuant to a written specific plan and more than one-half of the cost of such equipped building or facility has been incurred or committed by such date.

(2) REQUIREMENT THAT PROPERTY BE PLACED IN SERVICE BEFORE CERTAIN DATE.—Paragraph (1) and subsection (d) (other than paragraph (9) thereof) shall not apply to any property unless such property is placed in service before the applicable date determined under the following table:

In the case of property in class:	The applicable date is:
1	July 1, 1986
2	January 1, 1987
3	January 1, 1989
4	January 1, 1989
5	January 1, 1989
6	January 1, 1989
7	January 1, 1991
8	January 1, 1991
9	January 1, 1991
10	January 1, 1991.

For purposes of the preceding sentence, property referred to in section 168(e)(2)(C) (relating to cars and light general purpose trucks) shall be treated as being property in class 1, and all property described in subsection (d)(5)(A) shall be treated as being property in class 7.

(3) PROPERTY QUALIFIES IF SOLD IN LEASEBACK IN 90 DAYS.—Property shall be treated as meeting the requirements of paragraphs (1) and (2) with respect to any taxpayer if such property is acquired by the taxpayer from a person in whose hands such property met the requirements of paragraphs (1) and (2) and such property is leased back by the taxpayer to such person not later than the earlier of the applicable date under paragraph (2) or the day 90 days after such property was originally placed in service.

(c) PROPERTY FINANCED WITH TAX-EXEMPT BONDS.—

(1) IN GENERAL.—Subparagraph (C) of section 168(h)(3) of the Internal Revenue Code of 1954 (as added by this section) shall apply to property placed in service after December 31, 1985, in taxable years ending after such date, to the extent such property is financed by the proceeds of an obligation (including a refunding obligation) issued after September 25, 1985.

(2) EXCEPTIONS.—

(A) CONSTRUCTION OR BINDING AGREEMENTS.—Subparagraph (C) of section 168(h)(3) of such Code (as so added) shall not apply to obligations with respect to a facility—

(i)(I) the original use of which commences with the taxpayer, and the construction, reconstruction, or rehabilitation of which began before September 26, 1985, and was completed on or after such date,

(II) with respect to which a binding contract to incur significant expenditures for construction, reconstruction, or rehabilitation was entered into before September 26, 1985, and some of such expenditures are incurred on or after such date, or

(III) acquired on or after September 26, 1985, pursuant to a binding contract entered into before such date, and

(ii) described in an inducement resolution or other comparable preliminary approval adopted by the issuing authority (or by a voter referendum) before September 26, 1985.

(B) REFUNDING.—

(i) IN GENERAL.—Except as provided in clause (ii), in the case of property placed in service after December 31, 1985, which is financed by the proceeds of an obligation which is issued solely to refund another obligation which was issued before September 26, 1985, subparagraph (C) of section 168(h)(3) of such Code (as so added) shall apply only with respect to an amount equal to the basis in such property which has not been recovered before the date such refunded obligation is issued.

(ii) SIGNIFICANT EXPENDITURES.—In the case of facilities the original use of which commences with the taxpayer and with respect to which significant expenditures are made before January 1, 1985, subparagraph (C) of section 168(h)(3) of such Code (as so added) shall not apply with respect to such facilities to the extent such facilities are financed by the proceeds of an obligation issued solely to refund another obligation which was issued before September 26, 1985.

(C) FACILITIES.—In the case of an inducement resolution or other comparable preliminary approval adopted by an issuing authority before September 26, 1985, for purposes of subparagraphs (A) and (B)(ii) with respect to obligations described in such resolution, the term "facilities" means the facilities described in such resolution.

(D) SIGNIFICANT EXPENDITURES.—For purposes of this paragraph, the term "significant expenditures" means expenditures greater than 10 percent of the reasonably anticipated cost of the construction, reconstruction, or rehabilitation of the facility involved.

(d) OTHER TRANSITIONAL RULES.—

(1) URBAN RENOVATION PROJECTS.—

(A) IN GENERAL.—The amendments made by section 201 shall not apply to any property which is an integral part of any qualified urban renovation project.

(B) QUALIFIED URBAN RENOVATION PROJECT.—For purposes of subparagraph (A), the term 'qualified urban renovation project' means any project—

(i) which before September 25, 1985, was publicly announced by a political subdivision of a State for a renovation of an urban area within its jurisdiction,

(ii) which before September 25, 1986, was identified as a single unitary project in the internal financing plans of the primary developer of the project,

(iii) which is described in subparagraph (C) or (D), and

(iv) which is not substantially modified on or after such date.

(C) PROJECT WHERE AGREEMENT ON DECEMBER 19, 1984.—A project is described in this subparagraph if—

(i) a political subdivision granted on July 11, 1985, development rights to the primary developer-purchaser of such project, and

(ii) such project was the subject of a development agreement between a political subdivision and a bridge authority on December 19, 1984.

(D) CERTAIN ADDITIONAL PROJECTS.—A project is described in this subparagraph if it is described in any of the following clauses of this subparagraph and the primary developer of all such projects is the same person:

(i) A project is described in this clause if the development agreement with respect thereto was entered into during April 1984 and the estimated cost of the project is approximately $191,000,000.

(ii) A project is described in this clause if the development agreement with respect thereto was entered into during May 1984 and the estimated cost of the project is approximately $177,000,000.

(iii) A project is described in this clause if the development agreement with respect thereto was entered into during September 1983 and the estimated cost of the project is approximately $107,000,000.

(iv) A project is described in this clause if the project has an estimated cost of approximately $92,000,000 and at least $7,000,000 was spent before September 26, 1985, with respect to such project.

(v) A project is described in this clause if the estimated project cost is approximately $40,000,000 and at least $2,000,000 of construction cost for such project were incurred before September 26, 1985.

(vi) A project is described in this clause if the development agreement with respect thereto was entered into before September 26, 1985, and the estimated cost of the project is approximately $120,000,000.

(2) CERTAIN PROJECTS GRANTED FERC LICENSES, ETC.—The amendments made by section 201 shall not apply to any property which is part of a project—

(A) which is certified before September 26, 1985, as a qualified facility for purposes of the Public Utilities Regulatory Policies Act of 1978, or

(B) which was granted before September 26, 1985, a hydroelectric license for such project by the Federal Energy Regulatory Commission.

(3) SUPPLIER SERVICE CONTRACTS.—The amendments made by section 201 shall not apply to any property which is readily identifiable with and necessary to carry out a written supply or service contract, or agreement to lease, which was binding on September 25, 1985.

(4) PROPERTY TREATED UNDER PRIOR TAX ACTS.—The amendments made by section 201 shall not apply to property described in section 12(c)(2) or 31(g)(5) of the Tax Reform Act of 1984 and to property described in section 209(d)(1)(B) of the Tax Equity and Fiscal Responsibility Act of 1982.

(5) SPECIAL RULES FOR PROPERTY INCLUDED IN MASTER PLANS OF INTEGRATED PROJECTS.—The amendments made by section 201 shall not apply to any property placed in service pursuant to a master plan which is clearly identifiable as of September 25, 1985, for any project described in any of the following subparagraphs of this paragraph:

(A) A project is described in this subparagraph if—

(i) the project involves production platforms for offshore drilling, oil and gas pipeline to shore, process and storage facilities, and a marine terminal, and

(ii) at least $900,000,000 of the costs of such project were incurred before September 26, 1985.

(B) A project is described in this subparagraph if—

(i) such project is a dragline acquired in connection with a 3 stage program which began in 1980 to increase production from a coal mine,

(ii) at least $35,000,000 was spent before September 26, 1985, on the 1st 2 stages of the program, and

(iii) at least $4,000,000 was spent to prepare the mine site for the dragline.

(C) A project is described in this subparagraph if—

(i) such project involves a fiber optic network of at least 20,000 miles, and

(ii) before September 26, 1985, construction commenced pursuant to the master plan and at least $85,000,000 was spent on construction.

(D) A project is described in this subparagraph if—

(i) such project involves an intercity communication link (including multiple repeater sites and junction stations for microwave transmissions and amplifiers for fiber optics), and

(ii) at least 5 percent of the total project cost has been expended before September 26, 1985.

(E) A project is described in this subparagraph if—

(i) such project is part of a flat rolled product modernization plan which was initially presented to the Board of Directors of the taxpayer on July 8, 1983,

(ii) such program will be carried out at 3 locations, and

(iii) such project will involve a total estimated minimum capital cost of at least $250,000,000.

(F) A project is described in this subparagraph if the project is being carried out by a corporation engaged in the production of paint and glass, and if—

(i) the project involves a paint filling line (at least $1,000,000 of the cost of which was incurred before September 26, 1985),

(ii) the project is a turbogenerator which was approved by the president of such corporation and at least $1,000,000 of the cost of which was incurred before such date,

(iii) the project is a waste-to-energy disposal system which was approved by the management committee of the corporation on March 29, 1982,

(iv) the project includes an applications building, service facility, conference center, and refinishing school and the construction of which was approved by the management committee of the corporation on September 11, 1985, or

(v) the project is a facility to consolidate the silica production of such corporation at Lake Charles project.

(G) A project is described in this subparagraph if—

(i) such project involves a port terminal and oil pipeline extending generally from the area of Los Angeles, California, to the area of Midland, Texas, and

(ii) before September 26, 1985, there is a binding contract for dredging and channeling with respect thereto and a management contract with a construction manager for such project.

(H) A project is described in this subparagraph if—

(i) the project is a newspaper printing and distribution plant project with respect to which a contract for the purchase of 8 printing press units and related equipment to be installed in a single press line was entered into on January 8, 1985, and

(ii) the contract price for such units and equipment represents at least 50 percent of the total cost of such project.

(I) A project is described in this subparagraph if—

(i) a letter of intent with respect to such project was executed on June 4, 1985, and

(ii) a 5 percent downpayment was made in connection with such project for 2 10-unit press lines and related equipment.

(J) A project is described in this subparagraph if it is the second phase of a project involving direct current transmission lines spanning approximately 190 miles from the United States-Canadian border to Ayer, Massachusetts, alternating current transmission lines in Massachusetts from Ayer to Millbury to West Medway, DC-AC converter terminals in Monroe, New Hampshire, and Ayer, Massachusetts, and other related equipment and facilities.

(7) NATURAL GAS PIPELINE.—The amendments made by section 201 shall not apply to any interstate natural gas pipeline (and related equipment) if—

(A) 3 applications for the construction of such pipeline were filed with the Federal Energy Regulatory Commission before November 22, 1985 (and 2 of which were filed before September 26, 1985), and

(B) such pipeline is between 350 and 400 miles long and 1 of its terminal points is near Bakersfield, California.

(8) CERTAIN LEASEHOLD IMPROVEMENTS.—The amendments made by section 201 shall not apply to any reasonable leasehold improvements, equipment, and furnishings placed in service by a lessee if—

(A) the lessee is the original occupant of each building in which such property is to be used,

(B) such lessee is obligated to lease the building under a lease entered into before September 26, 1985, and to provide such property for such building, and

(C) such buildings are to serve as world headquarters of the lessee.

(9) SOLID WASTE DISPOSAL FACILITIES.—The amendments made by section 201, and subsection (c) of this section, shall not apply to any qualified solid waste disposal facility (as defined in section 7701(e)(3)(B) of the Internal Revenue Code of 1954) if before January 1, 1986—

(A) there is a binding written contract between the service recipient and the service provider with respect to the operation of such facility to pay for the services to be provided by such facility,

(B) a service recipient or governmental unit (or any entity related to such recipient or unit) made a financial commitment of at least $200,000 for the financing or construction of such facility, or

(C) such facility is the Tri-Cities Solid Waste Recovery Project involving Fremont, Newark, and Union, California, and has received an authority to construct from the Environmental Protection Agency or from a State or local agency authorized by the Environmental Protection Agency to issue air quality permits under the Clean Water Act.

(10) Certain multi-family housing.—The amendments made by section 201 shall not apply to any property which is part of the multi-family housing at the Columbia Point Project in Boston, Massachusetts.

(11) Certain submersible drilling units.—In the case of a binding contract entered into on October 20, 1984, for the purchase of 6 semi-submersible drilling units at a cost of $425,000,000, such units shall be treated as having an applicable date under subsection (b)(2) of January 1, 1991.

(12) Cogeneration facility.—The amendments made by section 201 shall not apply to any property which is part of a cogeneration facility if—

(A) an inducement resolution for such facility was adopted on September 10, 1985,

(B) a development authority was given an inducement date of September 10, 1985, for a loan not to exceed $80,000,000 with respect to such facility, and

(C) such facility is expected to have a capacity of approximately 30 megawatts of electric power and 70,000 pounds of steam per hour.

(13) Sewage treatment facility.—The amendments made by section 201 shall not apply to any property which is part of a sewage treatment facility if—

(A) a city-parish advertised in September 1985, for bids for construction of secondary treatment improvements for such facility,

(B) in May 1985, the city-parish received statements from 16 firms interested in privatizing the waste water treatment facilities, and

(C) the metropolitan council selected a privatizer at its meeting on November 20, 1985, and adopted a resolution authorizing the Mayor to enter into contractual negotiation with the selected privatizer.

(e) Normalization Requirements.—

(1) In general.—A normalization method of accounting shall not be treated as being used with respect to any public utility property for purposes of section 167 or 168 of the Internal Revenue Code of 1954 if the taxpayer, in computing its cost of service for ratemaking purposes and reflecting operating results in its regulated books of account, reduces the excess tax reserve more rapidly or to a greater extent than such reserve would be reduced under the average rate assumption method.

(2) Definitions.—For purposes of this subsection—

(A) Excess tax reserve.—The term "excess tax reserve" means the excess of—

(i) the reserve for deferred taxes (as described in section 167(l)(3)(G)(ii) or 168(e)(3)(B)(ii) of the Internal Revenue Code of 1954 as in effect on the day before the date of the enactment of this Act), over

(ii) the amount which would be the balance in such reserve if the amount of such reserve were determined by assuming that the corporate rate reductions provided in this Act were in effect for all prior periods.

(B) Average rate assumption method.—The average rate assumption method is the method under which the excess in the reserve for deferred taxes is reduced over the remaining lives of the property as used in its regulated books of account which gave rise to the reserve for deferred taxes. Under such method, if timing differences for the property reverse, the amount of the adjustment to the reserve for the deferred taxes is calculated by multiplying—

(i) the ratio of the aggregate deferred taxes for the property to the aggregate timing differences for the property as of the beginning of the period in question, by

(ii) the amount of the timing differences which reverse during such period.

(f) Special Rule for Finance Lease Provisions.— The provisions of section 168(f)(8) of the Internal Revenue Code of 1954 (as amended by section 209 of the Tax Equity and Fiscal Responsibility Act of 1982) shall continue to apply to any transaction permitted by reason of section 12(c)(2) of the Tax Reform Act of 1984 or section 209(d)(1)(B) of the Tax Equity and Fiscal Responsibility Act of 1982.

Subtitle B—Repeal of Regular Investment Tax Credit

SEC. 211. REPEAL OF REGULAR INVESTMENT TAX CREDIT.

(a) General Rule.—Subpart E of part IV of subchapter A of chapter 1 (relating to investment tax credit) is amended by adding at the end thereof the following new section:

"SEC. 49. TERMINATION OF REGULAR PERCENTAGE.

"(a) General Rule.—Except as otherwise provided in this section, for purposes of determining the amount of the investment tax credit determined under section 46, the regular percentage shall not apply to any property placed in service after December 31, 1985.

"(b) Exception for Qualified Progress Expenditures for Periods Before January 1, 1986.—In the case of any taxpayer who has made an election under section 46(d)(6), subsection (a) shall not apply to the portion of the adjusted basis of any progress expenditure property attributable to qualified progress expenditures for periods before January 1, 1986.

"(c) Exception for transition property.—

"(1) In general.—Subsection (a) shall not apply to transition property.

"(2) Credit for transition property earned ratably over 5 years.—The amount of the qualified investment for any taxable year with respect to transition property (determined without regard to this paragraph) shall be taken into account ratably over the 5-taxable-year period beginning with the taxable year for which such qualified investment would have been taken into account but for this paragraph.

"(3) Full basis adjustment.—In the case of transition property, section 48(q) (relating to basis adjustment to section 38 property) shall be applied—

"(A) by substituting '100 percent' for '50 percent' in paragraph (1), and

"(B) by applying section 48(q) as if it did not contain paragraph (4) thereof (relating to election of reduced credit in lieu of basis adjustment).

"(4) Transition property.—The term 'transition property' means any property placed in service after December 31, 1985, and to which the amendments made by section 201 of the Tax Reform Act of 1985 do not apply. For purposes of paragraphs (2) and (3), such term shall not include any property described in section 203(d)(4) and 211(c)(3) of the Tax Reform Act of 1985.

(4) Treatment of progress expenditures.—No progress expenditures for periods after December 31, 1985, with respect to any property shall be taken into account for purposes of applying the regular percentage unless it is reasonable to expect that such property will be transition property when placed in service. If any progress expenditures are taken into account by reason of the preceding sentence and subsequently there is not a reasonable expectation that such property would be transition property when placed in service, the credits attributable to progress expenditures with respect to such property shall be recaptured under section 47."

(b) Normalization Rules.—If the requirements of paragraph (1) or (2) of section 46(f) of the Internal Revenue Code of 1954 is not met with respect to public utility property to which the regular percentage applied for purposes of determining the amount of the investment tax credit—

(1) all credits for open taxable years as of the time of the final determination referred to in section 46(f)(4)(A) of such Code shall be disallowed, and

(2) if the amount in the taxpayer's unamortized credits (or the credits not previously restored to rate base) with respect to such property (whether or not for open years) exceeds the amount referred to in paragraph (1), the taxpayer's tax for the taxable year shall be increased by the amount of such excess.

If any portion of the excess described in paragraph (2) is attributable to a credit which is allowable as a carryover to a taxable year beginning after December 31, 1985, in lieu of applying paragraph (2) with respect to such portion, the amount of such carryover shall be reduced by the amount of such portion. Rules similar to the rules of this subsection shall apply in the case of any property with respect to which the requirements of section 46(f)(9) of such Code are met.

(c) Effective Date.—

(1) In general.—The amendments made by this section shall apply to property placed in service after December 31, 1985, in taxable years ending after such date.

(2) Exceptions for certain films.—For purposes of determining whether any property is transition property within the meaning of section 49(b) of such Code—

(A) in the case of any motion picture or television film, construction shall be treated as including production for purposes of section 203(b)(1) of this Act, and written contemporary evidence of an agreement (in accordance with industry practice) shall be treated as a written binding contract for such purposes,

(B) in the case of any television film, a license agreement between a television network and a producer shall be treated as a binding contract for purposes of section 203(b)(1)(A) of this Act, and

(C) a motion picture film shall be treated as described in section 203(b)(1)(A) of this Act if—

(i) funds were raised pursuant to a public offering before September 26, 1985, for the production of such film,

(ii) 40 percent of the funds raised pursuant to such public offering are being spent on films the production of which commenced before such date, and

(iii) all of the films funded by such public offering are required to be distributed pursuant to distribution agreements entered into before September 26, 1985.

(3) Additional exception.—Paragraph (2) of section 49(c) of the Internal Revenue Code of 1954 shall not apply to any continuous caster facility for slabs and blooms which is subject to a finance lease and which is part of a project the second phase of which is a continuous slab caster which will be placed in service before December 31, 1985.

Subtitle C—Changes in Certain Rapid Amortization Provisions

SEC. 221. REPEAL OF 5-YEAR AMORTIZATION OF TRADEMARK AND TRADE NAME EXPENDITURES.

(a) In General.—Section 177 (relating to trademark and trade name expenditures) is hereby repealed.

(b) Technical and Conforming Amendments.—

(1) Paragraph (3) of section 312(n) is amended by striking out ", 177,".

(2) Subsection (a) of section 1016 (relating to adjustments to basis) is amended by striking out paragraph (16) and by redesignating paragraphs (17) through (27) as paragraphs (16) through (26), respectively.

(3) The table of sections for part VI of subchapter B of chapter 1 is amended by striking out the item relating to section 177.

(c) Effective Date.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to expenditures paid or incurred after December 31, 1985.

(2) Transitional rule.—The amendments made by this section shall not apply to any expenditure incurred—

(A) pursuant to a binding contract entered into before September 26, 1985, or

(B) with respect to the development, protection, expansion, registration, or defense of a trademark or trade name commenced before September 26, 1985, but only if not less than the lesser of $1,000,000 or 5 percent of the aggregate cost of such development, protection, expansion, registration, or defense has been incurred or committed before such date.

The preceding sentence shall not apply to any expenditure with respect to a trademark or trade name placed in service after December 31, 1987.

SEC. 222. REPEAL OF 5-YEAR AMORTIZATION OF POLLUTION CONTROL FACILITIES.

(a) In General.—Section 169 (relating to amortization of pollution control facilities) is hereby repealed.

(b) Technical and Conforming Amendments.—

(1) Paragraph (5) of section 46(c) is hereby repealed.

(2) Paragraph (5) of section 291(a) is hereby repealed.

(3) Sections 1082(a)(2)(B) and 10642(f) are each amended by striking out "169,".

(4) Paragraph (3) of section 1250(b) (defining additional depreciation) is amended by inserting "(as in effect before its repeal by the Tax Reform Act of 1985)" after "169".

(5) The table of sections for part VI of subchapter B of chapter 1 is amended by striking out the item relating to section 169.

(c) Effective Date.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to that portion of the amortizable basis of any facility which is attributable to expenditures paid or incurred after December 31, 1985.

(2) Transitional rule.—The amendments made by this section shall not apply to any expenditure incurred—

(A) pursuant to a binding contract entered into before September 26, 1985, or

(B) with respect to any facility the construction of which commenced before September 26, 1985, but only if not less than the lesser of $1,000,000 or 5 percent of the aggregate cost of such construction has been incurred or committed before such date.

The preceding sentence shall not apply to any expenditure with respect to a facility placed in service after December 31, 1987.

SEC. 223. CHANGES RELATING TO DEPRECIATION OF EXPENDITURES TO REHABILITATE LOW-INCOME RENTAL HOUSING.

(a) Amortization Made Permanent.—Paragraph (1) of section 167(k) is amended by striking out "and before January 1, 1987,".

(b) Increase in Expenditures Permitted To Be Taken Into Account.—Paragraph (2) of section 167(k) (relating to depreciation of expenditures to rehabilitate low-income rental housing) is amended—

(1) by striking out "$20,000" in subparagraph (A) and inserting in lieu thereof "$30,000",

(2) by striking out subparagraph (B), and

(3) by redesignating subparagraph (C) as subparagraph (B).

(c) Technical Amendment.—Paragraph (3) of section 167(k) is amended by striking out subparagraph (D) thereof.

(d) Effective Date.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to expenditures paid or incurred after December 31, 1985.

(2) Transitional rule.—The repeal of subparagraph (B) of section 167(k)(2) of such Code made by subsection (b) shall not apply to any expenditure incurred—

(A) pursuant to a binding contract entered into before September 26, 1985, or

(B) with respect to a rehabilitation which commenced before September 26, 1985, but only if not less than 5 percent of the aggregate cost of such rehabilitation has been incurred or committed before such date.

The preceding sentence shall not apply to any expenditure with respect to property (or additions or improvements thereto) placed in service after December 31, 1987.

(3) Additional transitional rule.—The repeal of subparagraph (B) of section 167(k)(2) of such Code made by subsection (b) shall not apply to any expenditure incurred with respect to units located in neighborhood strategy areas within the community development block grant program of the city of Fort Wayne, Indiana. The number of units to which the preceding sentence applies shall not exceed 150.

SEC. 224. REPEAL OF AMORTIZATION OF RAILROAD GRADING AND TUNNEL BORES.

(a) In General.—Section 185 (relating to amortization of railroad grading and tunnel bores) is hereby repealed.

(b) Technical and Conforming Amendments.—

(1) Subparagraph (B) of section 1082(a)(2) is amended by striking out ", 185,".

(2) Paragraph (3) of section 1250(b) (defining additional depreciation) is amended by inserting "(as in effect before its repeal by the Tax Reform Act of 1985)" after "185".

(3) The table of sections for part VI of subchapter B of chapter 1 is amended by striking out the item relating to section 185.

(c) Effective Date.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to that portion of the basis of any property which is attributable to expenditures paid or incurred after December 31, 1985.

(2) Transitional rule.—The amendments made by this section shall not apply to any expenditure incurred—

(A) pursuant to a binding contract entered into before September 26, 1985, or

(B) with respect to any improvement commenced before September 26, 1985, but only if not less than the lesser of $1,000,000 or 5 percent of the aggregate cost of such improvement has been incurred or committed before such date.

The preceding sentence shall not apply to any expenditure with respect to an improvement placed in service after December 31, 1987.

(3) Additional transitional rule.—

(A) In the case of expenditures for railroad grading and tunnel bores which were incurred by a common carrier by railroad to replace property destroyed in a disaster occurring on or about April 17, 1983, near Thistle, Utah, such expenditures, to the extent not in excess of $15,000,000, shall be treated as recovery property which is in the 5-year class under section 168 of the Internal Revenue Code of 1954 (as in effect before the amendments made by this Act) and which is placed in service at the time such expenditures were incurred.

(B) Business interruption proceeds received for loss of use, revenues, or profits in connection with the disaster described in subparagraph (A) and devoted by the taxpayer described in subparagraph (A) to the construction of replacement track and related grading and tunnel bore expenditures shall be treated as constituting an amount received from the involuntary conversion of property under section 1033(a)(2) of such Code.

(C) This paragraph shall apply to taxable years ending after April 17, 1983.

SEC. 225. 2-YEAR EXTENSION OF EXPENSE TREATMENT FOR REMOVAL OF ARCHITECTURAL BARRIERS TO THE HANDICAPPED AND ELDERLY.

Paragraph (2) of section 190(d) (relating to expenditures to remove architectural and transportation barriers to the handicapped and elderly) is amended by striking out "1986" and inserting in lieu thereof "1988".

Subtitle D—Other Capital Related Costs

SEC. 231. AMENDMENTS RELATING TO CREDIT FOR INCREASING RESEARCH ACTIVITIES.

(a) 3-Year Extension of the Research Credit.—

(1) In general.—Section 30 (relating to credit for increasing research activities) is amended by adding at the end thereof the following new subsection:

"(h) Termination.—

"(1) In general.—This section shall not apply to any amount paid or incurred after December 31, 1988.

"(2) Computation of base period expenses.—In the case of any taxable year which begins before January 1, 1989, and ends after December 31, 1988, any amount for any base period with respect to such taxable year shall be the amount which bears the same ratio to such amount for such base period as the number of days in such taxable year before January 1, 1989, bears to the total number of days in such taxable year."

(2) Conforming amendment.—Subsection (d) of section 221 of the Economic Recovery Tax Act of 1981 is amended—

(A) by striking out ", and before January 1, 1986" in paragraph (1), and

(B) by striking out the last sentence of paragraph (2)(A).

(b) Reduction in Rate From 25 Percent to 20 Percent; Credit for Basic Research Payments to Qualified Organizations.—Subsection (a) of section 30 is amended to read as follows:

"(a) General Rule.—For purposes of section 38, the research credit determined under this section for the taxable year shall be an amount equal to the sum of—

"(1) 20 percent of the excess (if any) of—

"(A) the qualified research expenses for the taxable year, over

"(B) the base period research expenses, and

"(2) 20 percent of the basic research payments determined under subsection (e)(1)(A)."

(c) Definitions and Special Rules Relating to Payments for Basic Research.—Subsection (e) of section 30 (relating to credit available with respect to certain basic research by colleges, universities, and certain research organizations) is amended to read as follows:

"(e) Credit Allowable With Respect to Certain Payments to Qualified Organizations for Basic Research.—For purposes of this section—

"(1) In general.—In the case of any taxpayer who makes basic research payments for any taxable year—

"(A) the amount of basic research payments taken into account under subsection (a)(2) shall be equal to the excess of—

"(i) such basic research payments, over

"(ii) the qualified organization base period amount, and

"(B) that portion of such basic research payments which does not exceed the qualified organization base period amount shall be treated as contract research expenses for purposes of subsection (a)(1).

"(2) Basic research payments defined.—For purposes of this subsection—

"(A) In general.—The term 'basic research payment' means, with respect to any taxable year, any amount paid during such taxable year by a corporation to any qualified organization for basic research but only if—

"(i) such payment is pursuant to a written agreement between such corporation and such qualified organization, and

"(ii) such basic research is to be performed by such qualified organization.

"(B) Exception to requirement that research be performed by the organization.—In the case of a qualified organization described in subparagraph (C) or (D) of paragraph (6), clause (ii) of subparagraph (A) shall not apply.

"(3) Qualified organization base period amount.—For purposes of this subsection, the term 'qualified organization base period amount' means an amount equal to the sum of—

"(A) the minimum basic research amount, plus

"(B) the maintenance-of-effort amount.

"(4) Minimum basic research amount.—For purposes of this subsection—

"(A) In general.—The term 'minimum basic research amount' means an amount equal to the greater of—

"(i) 1 percent of the average of the sum of amounts paid or incurred during the base period for—

"(I) any in-house research expenses, and

"(II) any contract research expenses, or

"(ii) the amounts treated as contract research expenses during the base period by reason of this subsection (as in effect during the base period).

"(B) Floor amount.—The minimum basic research amount for any base period shall not be less than 50 percent of the basic research payments for the taxable year for which a determination is being made under this subsection.

"(5) Maintenance-of-effort amount.—For purposes of this subsection—

"(A) In general.—The term 'maintenance-of-effort amount' means, with respect to any taxable year, an amount equal to the excess (if any) of—

"(i) an amount equal to—

"(I) the average of the nondesignated university contributions paid by the taxpayer during the base period, multiplied by

"(II) the cost-of-living adjustment for the calendar year in which such taxable year begins, over

"(ii) the amount of nondesignated university contributions paid by the taxpayer during such taxable year.

"(B) Nondesignated university contributions.—For purposes of this paragraph, the term 'nondesignated university contribution' means any amount paid by a taxpayer to any qualified organization described in paragraph (6)(A)—

"(i) for which a deduction was allowable under section 170, and

"(ii) which was not taken into account—

"(I) in computing the amount of the credit under this section (as in effect during the base period) during any taxable year in the base period, or

"(II) as a basic research payment for purposes of this section.

"(C) Cost-of-living adjustment defined.—

"(i) In general.—The cost-of-living adjustment for any calendar year is the cost-of-living adjustment for such calendar year determined under section 1(e)(3).

"(ii) Special rule where base period ends in a calendar year other than 1983 or 1984.—If the base period of any taxpayer does not end in 1983 or 1984, section 1(e)(3)(B) shall, for purposes of this paragraph, be applied by substituting the calendar year in which such base period ends for 1983.

"(6) Qualified organization.—For purposes of this subsection, the term 'qualified organization' means any of the following organizations:

"(A) Educational institutions.—Any educational organization which—

"(i) is an institution of higher education (within the meaning of section 3304(f)), and

"(ii) is described in section 170(b)(1)(A)(ii).

"(B) Certain scientific research organizations.—Any organization not described in subparagraph (A) which—

"(i) is described in section 501(c)(3) and is exempt from tax under section 501(a),

"(ii) is organized and operated primarily to conduct scientific research, and

"(iii) is not a private foundation.

"(C) Scientific tax-exempt organizations.—Any organization which—

"(i) is described in—

"(I) section 501(c)(3) (other than a private foundation), or

"(II) section 501(c)(6),

"(ii) is exempt from tax under section 501(a),

"(iii) is organized and operated primarily to promote scientific research by qualified organizations described in subparagraph (A) pursuant to written research agreements, and

"(iv) currently expends—

"(I) substantially all of its funds, or

"(II) substantially all of the basic research payments received by it,

for grants to, or contracts for basic research with, an organization described in subparagraph (A).

"(D) Certain grant organizations.—Any organization not described in subparagraph (B) or (C) which—

"(i) is described in section 501(c)(3) and is exempt from tax under section 501(a) (other than a private foundation),

"(ii) is established and maintained by an organization established before July 10, 1981, which meets the requirements of clause (i),

"(iii) is organized and operated exclusively for the purpose of making grants to organizations described in subparagraph (A) pursuant to written research agreements for purposes of basic research, and

"(iv) makes an election, revocable only with the consent of the Secretary, to be treated as a private foundation for purposes of this title (other than section 4940, relating to excise tax based on investment income).

"(7) Definitions and special rules.—For purposes of this subsection—

"(A) Basic research.—The term 'basic research' means any original investigation for the advancement of scientific knowledge not having a specific commercial objective, except that such term shall not include—

"(i) basic research conducted outside of the United States, and

"(ii) basic research in the social sciences or humanities.

"(B) Base period.—The term 'base period' means the 3-taxable year period ending with the taxable year immediately preceding the 1st taxable year of the taxpayer beginning after December 31, 1983.

"(C) Exclusion from incremental credit calculation.—For purposes of determining the amount of credit allowable under subsection (a)(1) for any taxable year, the amount of the basic research payments taken into account under subsection (a)(2) shall not—

"(i) be treated as qualified research expenses under subsection (a)(1)(A), and

"(ii) be included in the computation of base period research expenses under subsection (a)(1)(B).

"(D) Trade or business qualification.—Any basic research payments shall be treated as an amount paid in carrying on a trade or business of the taxpayer in the taxable year in which it is paid (without regard to the provisions of subsection (b)(3)(B)).

"(E) Certain corporations not eligible.—The term 'corporation' shall not include—

"(i) an S corporation,

"(ii) a personal holding company (as defined in section 542), and

"(iii) a service organization (as defined in section 414(m)(3))."

(d) Denial of Credit With Respect to Amounts for Certain Leased Personal Property.—Clause (iii) of section 30(b)(2)(A) (defining in-house research expenses) is amended to read as follows:

"(iii) under regulations prescribed by the Secretary, any amount paid or incurred to another person for the right to use computers in the conduct of qualified research."

(e) Research Credit Treated as Other Business Credits.—

(1) In general.—Subsection (b) of section 38 (relating to current year business credit), as amended by this Act, is amended by striking out "plus" at the end of paragraph (2), by redesignating paragraph (3) as paragraph (4), and by adding after paragraph (2) the following new paragraph:

"(3) the research credit determined under section 40(a)."

(2) Transfer of research credit to subpart relating to business credits.—Section 30 (relating to credit for increasing research activities) is hereby transferred to subpart D of part IV of subchapter A of chapter 1 of

the Internal Revenue Code of 1954 (as amended by this Act), inserted before section 41 of such Code, and redesignated as section 40 of such Code.

(3) Technical and conforming amendments.—

(A)(i) Subsections (b) and (c) of section 28 are each amended by striking out "section 30" each place it appears and inserting in lieu thereof "section 40".

(ii) Paragraph (2) of section 28(c) is amended by striking out "section 30(b)" and inserting in lieu thereof "section 40(b)".

(iii) Paragraph (4) of section 28(d) is amended by striking out "section 30(f)" and inserting in lieu thereof "section 40(f)".

(B) Subsection (d) of section 38, as amended by this Act, is amended by inserting "40(a)," before "41(a),".

(C)(i) Subsection (d) of section 39 (relating to carryback and carry forward of unused credits) is amended by adding at the end thereof the following new paragraph:

"(3) Similar rules for research credit.—Rules similar to the rules of paragraphs (1) and (2) shall apply to the credit allowable under section 30 (as in effect before the date of the enactment of the Tax Reform Act of 1985) except that—

"(A) 'December 31, 1985' shall be substituted for 'December 31, 1983' each place it appears, and

"(B) 'January 1, 1986' shall be substituted for 'January 1, 1984'."

(ii) Subsection (g) of section 40 (relating to limitation based on amount of tax), as redesignated by this section, is amended to read as follows:

"(g) Special Rule for Pass-Thru of Credit.—In the case of an individual who—

"(1) owns an interest in an unincorporated trade or business,

"(2) is a partner in a partnership,

"(3) is a beneficiary of an estate or trust, or

"(4) is a shareholder in an S corporation, the amount determined under subsection (a) for any taxable year shall not exceed an amount (separately computed with respect to such person's interest in such trade or business or entity) equal to the amount of tax attributable to that portion of a person's taxable income which is allocable or apportionable to the person's interest in such trade or business or entity."

(D) Subparagraph (B) of section 108(b)(2) (relating to reduction of tax attributes in title 11 case or insolvency) is amended by striking out all that precedes the second sentence and inserting in lieu thereof the following:

"(B) General business credit.—Any carryover to or from the taxable year of a discharge of an amount for purposes for determining the amount allowable as a credit under section 38 (relating to general business credit)."

(E)(i) Paragraph (3) of section 280C(b) is amended—

(I) by striking out "section 30(f)(5)" and inserting in lieu thereof "section 40(f)(5)",

(II) by striking out "section 30(f)(1)(B)" and inserting in lieu thereof "section 40(f)(1)(B)", and

(III) by striking out "section 30(f)(1)" and inserting in lieu thereof "section 40(f)(1)".

(ii) Subsection (c) of section 280C, as amended by this section, is amended—

(I) by striking out "section 30(b)" in paragraph (1) and inserting in lieu thereof "section 40(b)",

(II) by striking out "section 30(a)" in paragraph (1) and inserting in lieu thereof "section 40(a)", and

(III) by striking out "section 30" in paragraph (2) and inserting in lieu thereof "section 40".

(F) Subsection (c) of section 381 is amended by striking out paragraph (25) and by redesignating paragraph (26) as paragraph (25).

(G) Section 936(h)(5)(C)(i)(I)(a) (defining product area research) is amended by striking out "section 30(b)" and inserting in lieu thereof "section 40(b)".

(H) Section 6411 (relating to tentative carryback and refund adjustments) is amended—

(i) by striking out "by a research credit carryback provided in section 30(g)(2)" in subsection (a),

(ii) by striking out "a research credit carryback or" in subsection (a),

(iii) by striking out "(or, with respect to any portion of a business credit carryback attributable to a research credit carryback from a subsequent taxable year within a period of 12 months from the end of such subsequent taxable year)" in subsection (a), and

(iv) by striking out "unused research credit," each place it appears in subsections (a) and (b).

(I) Subparagraph (C) of section 6511(d)(6) (defining credit carryback) is amended by striking out "and any research credit carryback under section 30(g)(2)".

(J) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by striking out the item relating to section 30.

(K) The table of sections for subpart D of such part is amended by inserting before the item relating to section 41 the following new item:

"Sec. 40. Credit for increasing research activities."

(f) Deduction for Certain Contributions of Scientific Research Property.—Clause (i) of section 170(e)(4)(B) (relating to special rule for contributions of scientific property used for research) is amended to read as follows:

"(i) the contribution is to an organization described in subparagraph (A) or subparagraph (B) of section 40(e)(6),".

(g) Effective Date.—The amendments made by this section shall apply to taxable years beginning after Decem- ber 31, 1985.

SEC. 222. MODIFICATION OF INVESTMENT TAX CREDIT FOR REHABILITATION EXPENDITURES.

(a) Reduction in Percentage.—Paragraph (4) of section 46(b) (relating to rehabilitation percentage) is amended to read as follows:

"(4) Rehabilitation percentage.—

"(A) In general.—The term 'rehabilitation percentage' means—

"(i) 10 percent in the case of qualified rehabilitation expenditures with respect to a qualified rehabilitated building other than a certified historic structure, and

"(ii) 20 percent in the case of such expenditure with respect to a certified historic structure.

"(B) Regular and energy percentages not to apply.—The regular percentages and the energy percentages shall not apply to that portion of the basis of any property which is attributable to qualified rehabilitation expenditures."

(b) Special Rules for Qualified Rehabilitated Buildings.—Subsection (g) of section 48 (relating to special rules for qualified rehabilitated buildings) is amended to read as follows:

"(g) Special Rules for Qualified Rehabilitated Buildings.—For purposes of this subpart—

"(1) Qualified rehabilitated building.—For purposes of this subsection—

"(A) In general.—The term 'qualified rehabilitated building' means any building (and its structural components) if—

"(i) such building has been substantially rehabilitated,

"(ii) such building was placed in service before the beginning of the rehabilitation, and

"(iii) in the case of any building other than a certified historic structure, in the rehabilitation process—

"(I) 50 percent or more of the existing external walls of such building are retained in place as external walls,

"(II) 75 percent or more of the existing external walls of such building are retained in place as internal or external walls, and

"(III) 75 percent or more of the existing internal structural framework of such building is retained in place.

"(B) Building must be first placed in service before 1936.—In the case of a building other than a certified historic structure, a building shall not be a qualified rehabilitated building unless the building was first placed in service before 1936.

"(C) Substantially rehabilitated defined.—

"(i) In general.—For purposes of subparagraph (A)(i), a building shall be treated as having been substantially rehabilitated only if the qualified rehabilitation expenditures during the 24-month period selected by the taxpayer (at the time and in the manner prescribed by regulations) and ending with or within the taxable year exceed the greater of—

"(I) the adjusted basis of such building (and its structural components), or

"(II) $5,000.

The adjusted basis of the building (and its structural components) shall be determined as of the beginning of the 1st day of such 24-month period, or of the holding period of the building, whichever is later. For purposes of the preceding sentence, the determination of the beginning of the holding period shall be made without regard to any reconstruction by the taxpayer in connection with the rehabilitation.

"(ii) Special rule for phased rehabilitation.—In the case of any rehabilitation which may reasonably be expected to be completed in phases set forth in architectural plans and specifications completed before the rehabilitation begins, clause (i) shall be applied by substituting '60-month period' for '24-month period'.

"(iii) Lessees.—The Secretary shall prescribe by regulation rules for applying this subparagraph to lessees.

"(D) Reconstruction.—Rehabilitation includes reconstruction.

"(2) Qualified rehabilitation expenditure defined.—For purposes of this section—

"(A) In general.—The term 'qualified rehabilitation expenditure' means any amount properly chargeable to capital account—

"(i) for property for which depreciation is allowable under section 168 and which is—

"(I) 30-year real property,

"(II) low-income housing,

"(III) real property which has a class life of more than 12.5 years, or

"(IV) an addition or improvement to property or housing described in subclause (I), (II), or (III), and

"(ii) in connection with the rehabilitation of a qualified rehabilitated building.

"(B) Certain expenditures not included.—The term 'qualified rehabilitation expenditure' does not include—

"(i) Incentive method of depreciation may not be used.—Any expenditure with respect to which an election has not been made under section 168(h)(7) (relating to election to use nonincentive depreciation system). The preceding sentence shall not apply to any expenditure to the extent the nonincentive depreciation system of section 168(h) applies to such expenditure by reason of subparagraphs (B) and (C) of section 168(h)(1).

"(ii) Cost of acquisition.—The cost of acquiring any building or interest therein.

"(iii) Enlargements.—Any expenditure attributable to the enlargement of an existing building.

"(iv) Certified historic structure, etc.—Any expenditure attributable to the rehabilitation of a certified historic structure or a building in a registered historic district, unless the rehabilitation is a certified rehabilitation (within the meaning of subparagraph (C)). The preceding sentence shall not apply to a building in a registered historic district if—

"(I) such building was not a certified historic structure,

"(II) the Secretary of the Interior certified to the Secretary that such building is not of historic significance to the district, and

"(III) if the certification referred to in subclause (II) occurs after the beginning of the rehabilitation of such building, the taxpayer certifies to the Secretary that, at the beginning of such rehabilitation, he in good faith was not aware of the requirements of subclause (II).

"(v) Tax-exempt use property.—

"(I) In general.—Any expenditure in connection with the rehabilitation of a building which is allocable to that portion of such building which is (or may reasonably be expected to be) tax-exempt use property (within the meaning of section 168(h)).

"(II) Clause not to apply for purposes of paragraph (1)(C).—This clause shall not apply for purposes of determining under paragraph (1)(C) whether a building has been substantially rehabilitated.

"(vi) Expenditures of lessee.—Any expenditure of a lessee of a building if, on the date the rehabilitation is completed, the remaining term of the lease (determined without regard to any renewal periods) is less than the recovery period determined under section 168(c).

"(C) Certified rehabilitation.—For purposes of subparagraph (B), the term 'certified rehabilitation' means any rehabilitation of a certified historic structure which the Secretary of the Interior has certified to the Secretary as being consistent with the historic character of such property or the district in which such property is located.

"(D) 30-year real property; low-income housing; class life.—For purposes of subparagraph (A), the terms '30-year real property', 'low-income housing', and 'class life' have the respective meanings given such terms by section 168(i).

"(3) Certified historic structure defined.—For purposes of this subsection—

"(A) In general.—The term 'certified historic structure' means any building (and its structural components) which—

"(i) is listed in the National Register, or

"(ii) is located in a registered historic district and is certified by the Secretary of the Interior to the Secretary as being of historic significance to the district.

"(B) Registered historic district.—The term 'registered historic district' means—

"(i) any district listed in the National Register, and

"(ii) any district—

"(I) which is designated under a statute of the appropriate State or local government, if such statute is certified by the Secretary of the Interior to the Secretary as containing criteria which will substantially achieve the purpose of preserving and rehabilitating buildings of historic significance to the district, and

"(II) which is certified by the Secretary of the Interior to the Secretary as meeting substantially all of the requirements for the listing of districts in the National Register.

"(4) Property treated as new section 38 property.—Property which is treated as section 38 property by reason of subsection (a)(1)(E) shall be treated as new section 38 property.".

(c) Basis Adjustment for Certified Historic Structures.—Paragraph (3) of section 48(q) (relating to special rule for qualified rehabilitated buildings) is amended by striking out "other than a certified historic structure".

(d) Effective Date.—

(1) In general.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to property placed in service after December 31, 1985, in taxable years ending after such date.

(2) General transitional rule.—The amendments made by this section shall not apply to any property placed in service before January 1, 1994, if such property is placed in service as part of—

(A) a rehabilitation which was completed pursuant to a written contract which was binding on September 25, 1985, or

(B) a rehabilitation incurred in connection with property (including any leasehold interest) acquired before September 26, 1985, or acquired on or after such date pursuant to a written contract that was binding on September 25, 1985, if—

(i) the rehabilitation was completed pursuant to a written contract that was binding on November 22, 1985,

(ii) parts 1 and 2 of the Historic Preservation Certification Application were filed with the Department of the Interior (or its designee) before November 23, 1985, or

(iii) the lesser of $1,000,000 or 5 percent of the cost of the rehabilitation is incurred before November 23, 1985, or is required to be incurred pursuant to a written contract which was binding on November 22, 1985.

(3) Rehabilitation where UDAG contract involved.—The amendments made by this section shall not apply to any property placed in service as part of a rehabilitation if—

(A) an urban development action grant was first approved on September 30, 1983, with respect to such rehabilitation,

(B) such grant was further amended and approved by the Department of Housing and Urban Development on December 14, 1984, and

(C) there was a binding contract with a municipality as of February 15, 1985.

(4) Certain additional rehabilitations.—The amendments made by this section shall not apply to—

(A) the rehabilitation of 8 bathhouses within the Hot Springs National Park or of buildings in the Central Avenue Historic District at such Park,

(B) any rehabilitation conducted pursuant to Public Law 97-125, and

(C) any rehabilitation of Union Station in Indianapolis, Indiana.

(5) Upper Pontalba building.—The rehabilitation of the Upper Pontalba Building in New Orleans, Louisiana.

(6) Reduction in credit for property under transitional rules.—In the case of property placed in service after December 31, 1985, and to which the amendments made by this section do not apply—

(A) subparagraph (A) of section 46(b)(4) of the Internal Revenue Code of 1954 (as in effect before the enactment of this Act) shall be applied—

(i) by substituting "10 percent" for "15 percent",

(ii) by substituting "13 percent" for "20 percent", and

(iii) by substituting "20 percent" for "25 percent", and

(B) paragraph (3) of section 48(q) of such Code (as so in effect) shall be applied without regard to the phrase "other than a certified historic structure".

SEC. [illegible]. PROVISIONS RELATING TO MERCHANT MARINE CAPITAL CONSTRUCTION FUNDS.

(a) Purpose.—The purpose of this section is to coordinate the application of the Internal Revenue Code of 1985 with the capital construction program under the Merchant Marine Act, 1936.

(b) Amendment of 1985 Code.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new section:

"SEC. 7518. TAX INCENTIVES RELATING TO MERCHANT MARINE CAPITAL CONSTRUCTION FUNDS.

"(a) Ceiling on Deposits.—

"(1) In general.—The amount deposited in a fund established under section 607 of the Merchant Marine Act, 1936 (hereinafter in this section referred to as a 'capital construction fund') shall not exceed for any taxable year the sum of:

"(A) that portion of the taxable income of the owner or lessee for such year (computed as provided in chapter 1 but without regard to the carryback of any net operating loss or net capital loss and without regard to this section) which is attributable to the operation of the agreement vessels in the foreign or domestic commerce of the United States or in the fisheries of the United States,

"(B) the amount allowable as a deduction under section 167 for such year with respect to the agreement vessels,

"(C) if the transaction is not taken into account for purposes of subparagraph (A), the net proceeds (as defined in joint regulations) from—

"(i) the sale or other disposition of any agreement vessel, or

"(ii) insurance or indemnity attributable to any agreement vessel, and

"(D) the receipts from the investment or reinvestment of amounts held in such fund.

"(2) Limitations on deposits by lessees.—In the case of a lessee, the maximum amount which may be deposited with respect to an agreement vessel by reason of paragraph (1)(B) for any period shall be reduced by any amount which, under an agreement entered into under section 607 of the Merchant Marine Act, 1936, the owner is required or permitted to deposit for such period with respect to such vessel by reason of paragraph (1)(B).

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"(3) Certain barges and containers included.—For purposes of paragraph (1), the term 'agreement vessel' includes barges and containers which are part of the complement of such vessel and which are provided for in the agreement.

"(b) Requirements as to Investments.—

"(1) In general.—Amounts in any capital construction fund shall be kept in the depository or depositories specified in the agreement and shall be subject to such trustee and other fiduciary requirements as may be specified by the Secretary.

"(2) Limitation on fund investments.—Amounts in any capital construction fund may be invested only in interest-bearing securities approved by the Secretary; except that, if such Secretary consents thereto, an agreed percentage (not in excess of 60 percent) of the assets of the fund may be invested in the stock of domestic corporations. Such stock must be currently fully listed and registered on an exchange registered with the Securities and Exchange Commission as a national securities exchange, and must be stock which would be acquired by prudent men of discretion and intelligence in such matters who are seeking a reasonable income and the preservation of their capital. If at any time the fair market value of the stock in the fund is more than the agreed percentage of the assets in the fund, any subsequent investment of amounts deposited in the fund, and any subsequent withdrawal from the fund, shall be made in such a way as to tend to restore the fund to a situation in which the fair market value of the stock does not exceed such agreed percentage.

"(3) Investment in certain preferred stock permitted.—For purposes of this subsection, if the common stock of a corporation meets the requirements of this subsection and if the preferred stock of such corporation would meet such requirements but for the fact that it cannot be listed and registered as required because it is nonvoting stock, such preferred stock shall be treated as meeting the requirements of this subsection.

"(c) Nontaxability for Deposits.—

"(1) In general.—For purposes of this title—

"(A) taxable income (determined without regard to this section and section 607 of the Merchant Marine Act, 1936) for the taxable year shall be reduced by an amount equal to the amount deposited for the taxable year out of amounts referred to in subsection (a)(1)(A),

"(B) gain from a transaction referred to in subsection (a)(1)(C) shall not be taken into account if an amount equal to the net proceeds (as defined in joint regulations) from such transaction is deposited in the fund,

"(C) the earnings (including gains and losses) from the investment and reinvestment of amounts held in the fund shall not be taken into account,

"(D) the earnings and profits (within the meaning of section 316) of any corporation shall be determined without regard to this section and section 607 of the Merchant Marine Act, 1936, and

"(E) in applying the tax imposed by section 531 (relating to the accumulated earnings tax), amounts while held in the fund shall not be taken into account.

"(2) Only qualified deposits eligible for treatment.—Paragraph (1) shall apply with respect to any amount only if such amount is deposited in the fund pursuant to the agreement and not later than the time provided in joint regulations.

"(d) Establishment of Accounts.—For purposes of this section—

"(1) In general.—Within a capital construction fund 3 accounts shall be maintained:

"(A) the capital account,

"(B) the capital gain account, and

"(C) the ordinary income account.

"(2) Capital account.—The capital account shall consist of—

"(A) amounts referred to in subsection (a)(1)(B),

"(B) amounts referred to in subsection (a)(1)(C) other than that portion thereof which represents gain not taken into account by reason of subsection (c)(1)(B),

"(C) the percentage applicable under section 243(a)(1)(A) of any dividend received by the fund with respect to which the person maintaining the fund would (but for subsection (c)(1)(C)) be allowed a deduction under section 243, and

"(D) interest income exempt from taxation under section 103.

"(3) Capital gain account.—The capital gain account shall consist of—

"(A) amounts representing capital gains on assets held for more than 6 months and referred to in subsection (a)(1)(C) or (a)(1)(D), reduced by

"(B) amounts representing capital losses on assets held in the fund for more than 6 months.

"(4) Ordinary income account.—The ordinary income account shall consist of—

"(A) amounts referred to in subsection (a)(1)(A),

"(B)(i) amounts representing capital gains on assets held for 6 months or less and referred to in subsection (a)(1)(C) or (a)(1)(D), reduced by

"(ii) amounts representing capital losses on assets held in the fund for 6 months or less,

"(C) interest (not including any tax-exempt interest referred to in paragraph (2)(D)) and other ordinary income (not including any dividend referred to in subparagraph (E)) received on assets held in the fund,

"(D) ordinary income from a transaction described in subsection (a)(1)(C), and

"(E) the portion of any dividend referred to in paragraph (2)(C) not taken into account under such paragraph.

"(5) Capital losses only allowed to offset certain gains.—Except on termination of a capital construction fund, capital losses referred to in paragraph (3)(B) or in paragraph (4)(B)(ii) shall be allowed only as an offset to gains referred to in paragraph (3)(A) or (4)(B)(i), respectively.

"(e) Purposes of Qualified Withdrawals.—

"(1) In general.—A qualified withdrawal from the fund is one made in accordance with the terms of the agreement but only if it is for:

"(A) the acquisition, construction, or reconstruction of a qualified vessel,

"(B) the acquisition, construction, or reconstruction of barges and containers which are part of the complement of a qualified vessel, or

"(C) the payment of the principal on indebtedness incurred in connection with the acquisition, construction, or reconstruction of a qualified vessel or a barge or container which is part of the complement of a qualified vessel.

Except to the extent provided in regulations prescribed by the Secretary, subparagraph (B), and so much of subparagraph (C) as relates only to barges and containers, shall apply only with respect to barges and containers constructed in the United States.

"(2) Penalty for failing to fulfill any substantial obligation.—Under joint regulations, if the Secretary determines that any substantial obligation under any agreement is not being fulfilled, he may, after notice and opportunity for hearing to the person maintaining the fund, treat the entire fund or any portion thereof as an amount withdrawn from the fund in a nonqualified withdrawal.

"(f) Tax Treatment of Qualified Withdrawals.—

"(1) Ordering rule.—Any qualified withdrawal from a fund shall be treated—

"(A) first as made out of the capital account,

"(B) second as made out of the capital gain account, and

"(C) third as made out of the ordinary income account.

"(2) Adjustment to basis of vessel, etc., where withdrawal from ordinary income account.—If any portion of a qualified withdrawal for a vessel, barge, or container is made out of the ordinary income account, the basis of such vessel, barge, or container shall be reduced by an amount equal to such portion.

"(3) Adjustment to basis of vessel, etc., where withdrawal from capital gain account.—

"(A) In general.—If any portion of a qualified withdrawal for a vessel, barge, or container is made out of the capital gain account, the basis of such vessel, barge, or container shall be reduced by an amount equal to the capital gain percentage of such portion.

"(B) Capital gain percentage.—For purposes of subparagraph (A), the term 'capital gain percentage' means—

"(i) the rate of tax imposed by section 1201(a), in the case of a taxpayer to which such section applies, and

"(ii) the percentage equal to 100 percent minus the percentage of net capital gain allowed as a deduction under section 1202, in the case of any other person.

"(4) Adjustment to basis of vessels, etc., where withdrawals pay principal on debt.—If any portion of a qualified withdrawal to pay the principal on any indebtedness is made out of the ordinary income account or the capital gain account, then an amount equal to the aggregate reduction which would be required by paragraphs (2) and (3) if this were a qualified withdrawal for a purpose described in such paragraphs shall be applied, in the order provided in joint regulations, to reduce the basis of vessels, barges, and containers owned by the person maintaining the fund. Any amount of a withdrawal remaining after the application of the preceding sentence shall be treated as a nonqualified withdrawal.

"(5) Ordinary income recapture of basis reduction.—If any property the basis of which was reduced under paragraph (2), (3), or (4) is disposed of, any gain realized on such disposition, to the extent it does not exceed the aggregate reduction in the basis of such property under such paragraphs, shall be treated as an amount referred to in subsection (g)(3)(A) which was withdrawn on the date of such disposition. Subject to such conditions and requirements as may be provided in joint regulations, the preceding sentence shall not apply to a disposition where there is a redeposit in an amount determined under joint regulations which will, insofar as practicable, restore the fund to the position it was in before the withdrawal.

"(g) Tax Treatment of Nonqualified Withdrawals.—

"(1) In general.—Except as provided in subsection (h), any withdrawal from a capital construction fund which is not a qualified withdrawal shall be treated as a nonqualified withdrawal.

"(2) Ordering rule.—Any nonqualified withdrawal from a fund shall be treated—

"(A) first as made out of the ordinary income account,

"(B) second as made out of the capital gain account, and

"(C) third as made out of the capital account.

For purposes of this section, items withdrawn from any account shall be treated as withdrawn on a first-in-first-out basis; except that (i) any nonqualified withdrawal for research, development, and design expenses incident to new and advanced ship design, machinery and equipment, and (ii) any amount treated as a nonqualified withdrawal under the second sentence of subsection (f)(4), shall be treated as withdrawn on a last-in-first-out basis.

"(3) Operating rules.—For purposes of this title—

"(A) any amount referred to in paragraph (2)(A) shall be included in income as an item of ordinary income for the taxable year in which the withdrawal is made,

"(B) any amount referred to in paragraph (2)(B) shall be included in income for the taxable year in which the withdrawal is made as an item of gain realized during such year from the disposition of an asset held for more than 6 months, and

"(C) for the period on or before the last date prescribed for payment of tax for the taxable year in which this withdrawal is made—

"(i) no interest shall be payable under section 6601 and no addition to the tax shall be payable under section 6651,

"(ii) interest on the amount of the additional tax attributable to any item referred to in subparagraph (A) or (B) shall be paid at the applicable rate (as defined in paragraph (4)) from the last date prescribed for payment of the tax for the taxable year for which such item was deposited in the fund, and

"(iii) no interest shall be payable on amounts referred to in clauses (i) and (ii) of paragraph (2) or in the case of any nonqualified withdrawal arising from the application of the recapture provision of section 606(5) of the Merchant Marine Act of 1936 as in effect on December 31, 1969.

"(4) Interest rate.—For purposes of paragraph (3)(C)(ii), the applicable rate of interest for any nonqualified withdrawal—

"(A) made in a taxable year beginning in 1970 or 1971 is 8 percent, or

"(B) made in a taxable year beginning after 1971, shall be determined and published jointly by the Secretary of the Treasury or his delegate and the applicable Secretary and shall bear a relationship to 8 percent which the Secretaries determine under joint regulations to be comparable to the relationship which the money rates and investment yields for the calendar year immediately preceding the beginning of the taxable year bear to the money rates and investment yields for the calendar year 1970.

"(5) Amount not withdrawn from fund after 10 years from deposit taxed as nonqualified withdrawal.—

"(A) In general.—The applicable percentage of any amount which remains in a capital construction fund at the close of the 11th, 12th, 13th, 14th, or 15th taxable year following the taxable year for which such amount was deposited shall be treated as a nonqualified withdrawal in accordance with the following table:

If the amount remains in the fund at the close of the—	The applicable percentage is—
11th taxable year..........	20 percent
12th taxable year..........	40 percent
13th taxable year..........	60 percent
14th taxable year..........	80 percent
15th taxable year..........	100 percent.

"(B) Earnings treated as deposits.—The earnings of any capital construction fund for any taxable year (other than net gains) shall be treated for purposes of this paragraph as an amount deposited for such taxable year.

"(C) Amounts committed treated as withdrawn.—For purposes of subparagraph (A), an amount shall not be treated as remaining in a capital construction fund at the close of any taxable year to the extent there is a binding contract at the close of such year for a qualified withdrawal of such amount with respect to an identified item for which such withdrawal may be made.

"(D) Authority to treat excess funds as withdrawn.—If the Secretary determines that the balance in any capital construction fund exceeds the amount which is appropriate to meet the vessel construction program objectives of the person who established such fund, the amount of such excess shall be treated as a nonqualified withdrawal under subparagraph (A) unless such person develops appropriate program objectives within 3 years to dissipate such excess.

"(E) Amounts in fund on January 1, 1986.—For purposes of this paragraph, all amounts in a capital construction fund on January 1, 1986, shall be treated as deposited in such fund on such date.

"(6) Nonqualified withdrawals taxed at highest marginal rate.—

"(A) In general.—In the case of any taxable year for which there is a nonqualified withdrawal (including any amount so treated under paragraph (5)), the tax imposed by chapter 1 shall be increased by an amount equal to the excess (if any) of the sum of—

"(i) the tax imposed by chapter 1 for the taxable year determined without regard to this section,

"(ii) the product of the capital gains percentage (as defined in subsection (f)(3)(B)) and the portion of nonqualified withdrawals made out of the capital gain account, plus

"(iii) the product of the highest rate specified in—

"(I) section 11, in the case of a corporation, or

"(II) section 1, in the case of any other person,

and the portion of nonqualified withdrawals made out of the ordinary income account.

"(B) Tax benefit rule.—If any portion of a nonqualified withdrawal is properly attributable to deposits (other than earnings on deposits) made by the taxpayer in any taxable year which did not reduce the taxpayer's liability for tax under chapter 1 for any taxable year preceding the taxable year in which such withdrawal occurs—

"(i) such portion shall not be taken into account under subparagraph (A), and

"(ii) an amount equal to such portion shall be treated as allowed as a deduction under section 172 for the taxable year in which such withdrawal occurs.

"(h) Certain Corporate Reorganizations and Changes in Partnerships.—Under joint regulations—

"(1) a transfer of a fund from one person to another person in a transaction to which section 381 applies may be treated as if such transaction did not constitute a nonqualified withdrawal, and

"(2) a similar rule shall be applied in the case of a continuation of a partnership.

"(i) Definitions.—For purposes of this section, any term defined in section 607(k) of the Merchant Marine Act, 1936 which is also used in this section (including the definition of 'Secretary') shall have the meaning given such term by such section 607(k) as in effect on the date of the enactment of this section.".

(c) Departmental Reports and Certification.—Section 607 of the Merchant Marine Act, 1936, is amended by adding at the end thereof the following new subsection:

"(m) Departmental Reports and Certification.—

"(1) In general.—For each calendar year, the Secretaries shall each provide the Secretary of the Treasury, within 120 days after the close of such calendar year, a written report with respect to those capital construction funds that are under their jurisdiction.

"(2) Contents of reports.—Each report shall set forth the name and taxpayer identification number of each person—

"(A) establishing a capital construction fund during such calendar year;

"(B) maintaining a capital construction fund as of the last day of such calendar year;

"(C) terminating a capital construction fund during such calendar year;

"(D) making any withdrawal from or deposit into (and the amounts thereof) a capital construction fund during such calendar year; or

"(E) with respect to which a determination has been made during such calendar year that such person has failed to fulfill a substantial obligation under any capital construction fund agreement to which such person is a party.".

(d) Conforming Amendments.—

(1) Subparagraph (A) of section 607(d)(1) of the Merchant Marine Act, 1936 is amended by inserting "and section 7518 of such Code" after "this section".

(2) Subparagraph (D) of section 607(d)(1) of such Act is amended by inserting "and section 7518 of such Code" after "this section".

(3) Subparagraph (C) of Section 607(e)(2) of such Act is amended by striking out "85 percent" and inserting in lieu thereof "the percentage applicable under section 243(a)(1)(A) of the Internal Revenue Code of 1954".

(4) Subparagraph (E) of section 607(e)(4) of such Act is amended to read as follows:

"(E) the portion of any dividend referred to in paragraph (2)(C) not taken into account under such paragraph."

(3) Paragraph (3) of section 607(g) of such Act is amended to read as follows:

"(3)(A) If any portion of a qualified withdrawal for a vessel, barge, or container is made out of the capital gain account, the basis of such vessel, barge, or container shall be reduced by an amount equal to the capital gain percentage of such portion.

"(B) For purposes of subparagraph (A), the term 'capital gain percentage' means—

"(i) the rate of tax imposed by section 1201(a) of the Internal Revenue Code of 1954, in the case of a taxpayer to which such section applies, or

"(ii) the percentage equal to 100 percent minus the percentage of net capital gain allowed as a deduction under section 1202 of such Code, in the case of any other person.

(5) Subsection (h) of section 607 of such Act is amended by adding at the end thereof the following new paragraphs:

"(5) Amount not withdrawn from fund after 10 years from deposit taxed as nonqualified withdrawal.—

"(A) In general.—The applicable percentage of any amount which remains in a capital construction fund at the close of the 11th, 12th, 13th, 14th, or 15th taxable year following the taxable year for which such amount was deposited shall be treated as a nonqualified withdrawal in accordance with the following table:

If the amount remains in the fund at the close of the—	The applicable percentage is—
11th taxable year	20 percent
12th taxable year	40 percent
13th taxable year	60 percent
14th taxable year	80 percent
15th taxable year	100 percent.

"(B) Earnings treated as deposits.—The earnings of any capital construction fund for any taxable year (other than net gains) shall be treated for purposes of this paragraph as an amount deposited for such taxable year.

"(C) Amounts committed treated as withdrawn.—For purposes of subparagraph (A), an amount shall not be treated as remaining in a capital construction fund at the close of any taxable year to the extent there is a binding contract at the close of such year for a qualified withdrawal of such amount with respect to an identified item for which such withdrawal may be made.

"(D) Authority to treat excess funds as withdrawn.—If the Secretary determines that the balance in any capital construction fund exceeds the amount which is appropriate to meet the vessel construction program objectives of the person who established such fund, the amount of such excess shall be treated as a nonqualified withdrawal under subparagraph (A) unless such person develops appropriate program objectives within 3 years to dissipate such excess.

"(E) Amounts in fund on January 1, 1986.—For purposes of this paragraph, all amounts in a capital construction fund on January 1, 1986, shall be treated as deposited in such fund on such date.

"(6) Nonqualified withdrawals taxed at highest marginal rate.—

"(A) In general.—In the case of any taxable year for which there is a nonqualified withdrawal (including any amount so treated under paragraph (5)), the tax imposed by chapter 1 of the Internal Revenue Code of 1954 shall be increased by an amount equal to the excess (if any) of the sum of—

"(i) the tax imposed by chapter 1 of such Code for the taxable year determined without regard to this section,

"(ii) the product of the capital gains percentage (as defined in subsection (f)(3)(B)) and the portion of nonqualified withdrawals made out of the capital gain account, plus

"(iii) the product of the highest rate specified in—

"(I) section 11 of such Code, in the case of a corporation, or

"(II) section 1 of such Code, in the case of any other person,

and the portion of nonqualified withdrawals made out of the ordinary income account.

"(B) Tax benefit rule.—If any portion of a nonqualified withdrawal is properly attributable to deposits (other than earnings on deposits) made by the taxpayer in any taxable year which did not reduce the taxpayer's liability for tax under chapter 1 for any taxable year preceding the taxable year in which such withdrawal occurs—

"(i) such portion shall not be taken into account under subparagraph (A), and

"(ii) an amount equal to such portion shall be treated as allowed as a deduction under section 172 of such Code for the taxable year in which such withdrawal occurs.".

(e) Clerical Amendment.—The table of sections for chapter 77 is amended by adding at the end thereof the following new item:

"Sec. 7518. Tax incentives relating to merchant marine capital construction funds.".

(f) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1985.

Subtitle E—Capital Gains and Losses

SEC. 241. REDUCTION IN DEDUCTION FOR CAPITAL GAINS.

(a) In General.—Subsection (a) of section 1202 (relating to deduction for capital gains) is amended by striking out "60 percent" and inserting in lieu thereof "42 percent (50 percent in the case of taxable years beginning in 1986)".

(b) Conforming Amendments.—

(1) Section 170(e)(1) (relating to certain contributions of ordinary income and capital gain property) is amended—

(A) by striking out "40 percent" and inserting in lieu thereof "58 percent", and

(B) by adding at the end thereof the following new sentence: "In the case of any taxable year beginning in 1986, this paragraph shall be applied by substituting '50 percent' for '58 percent'."

(2) Section 1202 is amended by striking out subsection (c).

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1985.

SEC. 242. REPEAL OF SECTION 631(c).

(a) In General.—Section 631(c) (relating to disposal of coal or domestic iron ore with a retained economic interest) is hereby repealed.

(b) Conforming Amendments.—

(1)(A) Section 272 (relating to disposal of coal or domestic iron ore) is hereby repealed.

(B) The table of sections for part IX of subchapter B of chapter 1 is amended by striking out the item relating to section 272.

(2) Each of the following sections is amended by striking out "631(b) or (c)" and inserting in lieu thereof "631(b)":

(A) Subparagraph (A) of section 871(d)(1).

(B) Paragraph (2) of section 881(a).

(C) Subparagraph (A) of section 882(d)(1).

(D) Section 1441(b).

(E) Paragraph (5) of section 1441(c).

(3) Paragraph (2) of section 1231(b) is amended—

(A) by striking out ", coal, and iron ore", and

(B) by striking out ", COAL OR DOMESTIC IRON ORE" in the heading thereof.

(4)(A) The heading for section 631 is amended by striking out ", coal, or domestic iron ore".

(B) The table of sections for part III of subchapter I of chapter 1 is amended by striking out ", coal, or domestic iron ore" in the item relating to section 631.

(c) Effective Dates.—

(1) In general.—The amendments made by this section shall apply to sales after December 31, 1985, in taxable years ending after such date.

(2) Transitional rules.—

(A) Corporations.—In the case of any corporation, the amendments made by this section shall not apply to amounts properly taken into account before January 1, 1989.

(B) Taxpayers other than corporations.—In the case of any taxpayer other than a corporation, the amendments made by this section shall not apply to—

(i) 60 percent of the amounts properly taken into account during 1986,

(ii) $^{20}/_{42}$ of the amounts properly taken into account during 1987, and

(iii) $^{10}/_{42}$ of the amounts properly taken into account during 1988.

SEC. 243. GAIN FROM DISPOSITION OF INTEREST IN OIL, GAS, OR GEOTHERMAL PROPERTY.

(a) Recapture To Include Depletion.—Paragraph (1) of section 1254(a) (relating to ordinary income) is amended to read as follows:

"(1) Ordinary income.—If oil, gas, or geothermal property is disposed of, the lesser of—

"(A) the aggregate amount of—

"(i) expenditures which have been deducted by the taxpayer or any person as intangible drilling and development costs under section 263(c) with respect to such property and which, but for such deduction, would have been included in the adjusted basis of such property, and

"(ii) the deductions for depletion under section 611 which reduced the adjusted basis of such property, or

"(B) the excess of—

"(i) in the case of—

"(I) a sale, exchange, or involuntary conversion, the amount realized, or

"(II) in the case of any other disposition, the fair market value of such property, over

"(ii) the adjusted basis of such property,

shall be treated as gain which is ordinary income. Such gain shall be recognized notwithstanding any other provision of this subtitle.".

(b) Conforming Amendment—Section 1254(a) is amended by striking out paragraph (4).

(c) Effective Dates—

(1) In general.—The amendments made by this section shall apply to any disposition of property which is placed in service by the taxpayer after December 31, 1985.

(2) Exception for binding contracts.—The amendments made by this section shall not apply to any disposition of property placed in service after December 31, 1985, if such property was acquired pursuant to a written contract which was entered into before September 26, 1985, and which was binding at all times thereafter.

Subtitle F—Provisions Relating to Oil and Gas

SEC. 251. AMORTIZATION OF CERTAIN INTANGIBLE DRILLING AND DEVELOPMENT COSTS.

(a) In General.—Section 263 (relating to capital expenditures) is amended by adding at the end thereof the following new subsection:

"(i) Special Rules for Intangible Drilling and Development Costs.—

"(1) Costs incurred after start of installation of production casing.—

"(A) In general.—Subsection (c) shall not apply to any intangible drilling and development costs with respect to any well which are incurred after the commencement of the installation of the production casing for such well. The preceding sentence shall not apply below the lowest production level.

"(B) Costs not expensed amortized over 26 months.—The amount not allowable as a deduction under subsection (c) by reason of subparagraph (A) shall be allowable as a deduction ratably over the 26-month period beginning with the month in which the costs are paid or incurred.

"(2) Foreign intangible drilling and development costs.—In the case of intangible drilling and development costs incurred outside of the United States—

"(A) subsection (c) and paragraph (1) shall not apply, and

"(B) such costs shall—

"(i) at the election of the taxpayer, be included in the adjusted basis of the taxpayer for purposes of computing the amount of any deduction allowable under section 611 (determined without regard to section 613), or

"(ii) if clause (i) does not apply, be allowed as a deduction ratably over the 10-taxable year period beginning with the taxable year in which such costs were paid or incurred.

"(3) Coordination with section 1254.—For purposes of section 1254, any amount allowable as a deduction by reason of this paragraph shall be treated as a deduction allowable under subsection (c) of this section."

(b) Conforming Amendments.—

(1) Section 263(c) is amended by inserting "and except as provided in subsection (i)," after "subsection (a),".

(2) Section 312(n)(2) is amended by striking out "section 263(c)" and inserting in lieu thereof "subsection (c) or (i)(1) of section 263 or section 291(b)(2)(A)".

(c) Effective Date.—The amendments made by this section shall apply to costs paid or incurred after December 31, 1985, in taxable years ending after such date.

SEC. 252. PHASE-OUT OF PERCENTAGE DEPLETION FOR OIL AND GAS WELLS.

(a) In General.—Paragraph (5) of section 613A(c) (defining applicable percentage) is amended to read as follows:

"(5) Applicable percentage.—For purposes of paragraph (1)—

"(A) In general.—The applicable percentage shall be determined in accordance with the following table:

"In the case of production during calendar year:	The applicable percentage is:
1986	10
1987	5
1988 and thereafter	0.

"(B) Special rule for stripper wells.—In the case of any stripper well oil or gas produced during any calendar year after 1985, the applicable percentage shall be 15 percent.

"(C) Ordering rule for depletable oil or gas quantity.—A taxpayer's depletable oil quantity under paragraph (3) or depletable natural gas quantity under paragraph (4) for production during calendar years 1986 and 1987 shall be allocated first to stripper well oil or gas.

"(D) Stripper well oil or gas.—For purposes of this paragraph, the term 'stripper well oil or gas' means—

"(i) domestic crude oil from a stripper well property within the meaning of the June 1979 energy regulations (as defined in section 4996(b)(8)(C)), or

"(ii) domestic natural gas which is stripper well gas within the meaning of section 108(b) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3318(b))."

(b) Effective Date.—The amendments made by this section shall apply to production after December 31, 1985, in taxable years ending after such date.

SEC. 253. PERCENTAGE DEPLETION NOT ALLOWED FOR LEASE BONUSES, ETC.

(a) In General.—Subsection (d) of section 613A (relating to limitations on application of subsection (c)) is amended by adding at the end thereof the following new paragraph:

"(5) Percentage depletion not allowed for lease bonuses, etc.—In the case of any oil or gas property to which subsection (c) applies, for purposes of section 613, the term 'gross income from the property' shall not include any lease bonus, advance royalty, or other amount payable without regard to production from the property."

(b) Effective Date.—The amendment made by subsection (a) shall take effect on January 1, 1986.

SEC. 254. PERCENTAGE DEPLETION FOR GEOTHERMAL DEPOSITS.

(a) Phase-Out of Percentage Depletion.—Paragraph (2) of section 613(e) (relating to percentage depletion for geothermal deposits) is amended to read as follows:

"(2) Applicable percentage.—For purposes of paragraph (1)—

"In the case of production during calendar year:	The applicable percentage is:
1986	10
1987	5
1988 and thereafter	0."

(b) Percentage Depletion Not Allowed for Lease Bonuses, Etc.—Section 613(e) is amended by adding at the end thereof the following new paragraph:

"(4) Percentage depletion not to include lease bonuses, etc.—In the case of any geothermal deposit, the term 'gross income from the property' shall, for purposes of this section, not include any amount described in section 613A(d)(5)."

(c) Effective Dates.—

(1) Reduction in percentage.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1985.

(2) Lease bonuses, etc.—The amendment made by subsection (b) shall take effect on January 1, 1986.

SEC. 255. EXEMPTION FROM WINDFALL PROFIT TAX FOR CERTAIN CRUDE OIL EXCHANGED FOR RESIDUAL FUEL OIL.

(a) In General.—Subsection (b) of section 4991 (defining exempt oil) is amended by striking out "and" at the end of paragraph (5), by striking out the period at the end of paragraph (6) and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:

"(7) any exempt production oil."

(b) Exempt Production Oil Defined.—Section 4994 (relating to definitions and special rules relating to exemptions) is amended by adding at the end thereof the following new subsection:

"(h) Exempt Production Oil.—For purposes of section 4991(b)—

"(1) In general.—The term 'exempt production oil' means, with respect to any person, the number of barrels of domestic crude oil—

"(A) of which such person is the producer,

"(B) which is removed from a property during the calendar quarter,

"(C) which would (but for section 4991(b)(7)) be taxable crude oil,

"(D) which is attributable to such person's operating mineral interest (as defined in section 614(d)) in the property, and

"(E) which is exchanged solely for an equal number of barrels of residual fuel oil used by such person with respect to such property during such quarter or the next succeeding quarter in enhanced recovery processes.

"(2) Determination of fuel oil used.—

"(A) In general.—For purposes of paragraph (1), a person shall be treated as using residual fuel oil with respect to any property during a calendar quarter in an amount which bears the same ratio to—

"(i) the aggregate residual fuel oil used during such quarter in enhanced recovery processes with respect to crude oil from such property, as

"(ii)(I) the amount of such person's share for such quarter of the production of crude oil from such property, bears to

"(II) the amount of such production.

"(B) Application to nonoperating interests.—

"(i) Residual fuel oil not treated as used by nonoperating interests.—Subparagraph (A) shall apply only to shares of production which are attributable to operating mineral interests (as defined in section 614(d)).

"(ii) Unallocated residual fuel oil treated as used by operating interests.—For purposes of subparagraph (A)(ii)(II), the amount of production of crude oil from a property for a quarter shall be reduced by the amount of such production which is not attributable to operating mineral interests (as so defined).

"(3) Allocation of exempt production oil among tiers.—Under regulations prescribed by the Secretary, exempt production oil shall be allocated—

"(A)(i) in any case where the crude oil produced from a property falls within 1 tier, to such tier of oil, or

"(ii) in any case where the crude oil produced from a property falls within more than 1 tier, among the tiers in proportion to the production from such property for such quarter of domestic crude oil in each such tier, and

"(B) within any tier of taxable crude oil, on the basis of the removal prices for such person's domestic crude oil (produced from such property) in such tier removed during such quarter, beginning with the highest of such prices.

For purposes of this paragraph, crude oil which is not taxable crude oil (without regard to this section) shall be treated as a tier of oil and newly discovered oil shall be treated as a separate tier of oil and not included in tier 3 oil.

"(4) Residual fuel oil defined.—For purposes of this subsection, the term 'residual fuel oil' means—

"(A) any fuel oil commonly known as—

"(i) No. 4, No. 5, or No. 6 fuel oil,

"(ii) Bunker C, or

"(iii) Navy Special Fuel Oil, and

"(B) any fuel oil not described in subparagraph (A) which has a 50 percent boiling point over 700 degrees Fahrenheit in the ASTM D-86 standard distillation test.

"(5) Enhanced recovery process.—

"(A) In general.—For purposes of this subsection, the term 'enhanced recovery process' means any process—

"(i) for increasing the ultimate total recovery of oil from a reservoir which is designed to modify any property of any fluid in the reservoir or the reservoir rock, or

"(ii) for displacing or controlling the flow rate or flow pattern in the reservoir.

"(B) Exclusion of processes applied solely to aid lifting.—Such term does not include any process the sole purpose of which is to aid in the lifting of fluids in the well bore."

(c) Depletion Deduction Disallowed.—Section 611 of such Code (relating to the allowance of a deduction for depletion) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) Exempt Production Oil.—No deduction for depletion shall be allowed under this subchapter with respect to crude oil which is exempt from the tax imposed by section 4896 solely by reason of section 4991(b)(7)."

(d) Effective Date.—The amendments made by this section shall apply to residual fuel oil used, and crude oil removed, after the date of the enactment of this Act.

Subtitle G—Treatment of Hard Minerals

SEC. 261. REDUCTION OF PERCENTAGE DEPLETION FOR CERTAIN HARD MINERALS.

(a) In General.—Section 613 (relating to percentage depletion) is amended by adding at the end thereof the following new subsection:

"(f) Applicable Percentage Defined.—

"(1) In general.—Except as otherwise provided in this subsection, the applicable percentage shall be 5 percent.

"(2) No depletion in certain cases.—In the case of any mine, well, or natural deposit—

"(A) described in paragraph (6) of subsection (b), or

"(B) any noncompetitive bid mineral,

the applicable percentage shall be zero.

"(3) Special rules for certain stone and minerals used in production of animal feed or fertilizer.—

"(A) Dimension or ornamental stone.—In the case of any stone described in subsection (b)(7) used or sold for use by the mine owner or operator as dimension stone or ornamental stone, the applicable percentage shall, with respect to the gross income from the property properly allocable to such stone, be 14 percent.

"(B) Fertilizer and animal feed.—In the case of any qualified fertilizer or animal feed substance, the applicable percentage shall, with respect to the gross income from the property properly allocable to such substance, be the percentage in effect under subsection (b) on the day before the date of the enactment of this subsection.

"(C) Qualified fertilizer or animal feed substance.—For purposes of subparagraph (B), the term 'qualified fertilizer or animal feed substance' means any substance—

"(i) used by taxpayer in the manufacture or production of fertilizer or animal feed, or

"(ii) sold by the taxpayer for—

"(I) use by the purchaser, or

"(II) resale by the purchaser for use, or resale for ultimate use,

in the manufacture or production of fertilizer or animal feed.

"(4) Transitional rules for 1986 and 1987.—In the case of any mine, well, or natural deposit to which paragraph (1) or (2) applies, the applicable percentage shall, for production during calendar years 1986 and 1987, be determined in accordance with the following table:

"If the item is described in the following paragraph of subsection (b):	The applicable percentage is:	
	1986	1987
(1)	16⅓	10⅔
(2)	11⅔	8⅓
(3) or (7)	11	8
(4)	8⅓	6⅔
(5)	6⅔	5⅚
(6)	3⅓	1⅔

For purposes of this paragraph, any item described in paragraph (2)(B), shall be treated as described in subsection (b)(6).

"(5) Noncompetitive bid mineral.—For purposes of paragraph (2)(B), the term 'noncompetitive bid mineral' means any mineral described in subsection (b)(7) which—

"(A) is used, or sold for use, by the taxpayer as rip rap, ballast, road material, rubble, concrete aggregates, or similar purposes,

"(B) is not sold by the taxpayer on bid in direct competition with a bona fide bid to sell a mineral described in subsection (b)(3), and

"(C) is not slate to which subsection (b)(5) applies."

(b) Reduction of Taxable Income Which May be Offset From 50 Percent to 25 Percent.—Section 613(a) (relating to percentage depletion) is amended—

(1) by striking out "50 percent" and inserting in lieu thereof "25 percent", and

(2) by adding at the end thereof the following new sentence: "This paragraph shall be applied—

"(1) except as provided in paragraph (2), in the case of taxable years beginning during 1986 and 1987, by substituting '41⅔ percent' and '33⅓ percent', respectively, for '25 percent', and

"(2) in the case of any oil or gas well or geothermal deposit for any taxable year beginning after December 31, 1985, by substituting '50 percent' for '25 percent'."

(c) Conforming Amendments.—

(1) Section 613(a) is amended by striking out "percentage, specified in subsection (b)," and inserting in lieu thereof "applicable percentage determined under subsection (f)".

(2) Subsection (b) of section 613 is amended—

(A) by striking out ", and the percentages," in the matter preceding paragraph (1),

(B) by striking out "22 percent—" in paragraph (1) and inserting in lieu thereof "Any—"

(C) by striking out "15 percent—" in paragraph (2),

(D) by striking out "14 percent—" in paragraph (3) and inserting in lieu thereof "Any—",

(E) by striking out "10 percent—" in paragraph (4) and inserting in lieu thereof "Any—",

(F) by striking out "7½ percent—" in paragraph (5) and inserting in lieu thereof "Any—",

(G) by striking out "5 percent—" in paragraph (6) and inserting in lieu thereof "Any—", and

(H) by striking out "14 percent—all" in paragraph (7) and inserting in lieu thereof "All".

(3) The first sentence of section 613(b)(7) is amended by striking out ", except" and all that follows and inserting in lieu thereof a period.

(4) The heading for section 613(b) is amended to read as follows:

"(b) Property to Which Section Applies.—"

(5) Each of the following provisions of section 613A are amended by striking out "deemed to be specified in subsection (b) of section 613" and inserting in lieu thereof "the applicable percentage under section 613(f)":

(A) Subsection (b)(2).

(B) Subsection (c)(1).

(C) Subsection (c)(6)(A).

(6) Section 614(d) is amended by striking out "the 50 percent limitation" and inserting in lieu thereof "the taxable income limitation".

(d) Effective Dates.—

(1) Reduction in rates.—The amendments made by subsection (a) and (c) shall apply to production in calendar years beginning after December 31, 1985.

(2) Reduction in taxable income.—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 1985.

SEC. 262. TREATMENT OF DEVELOPMENT AND MINING EXPLORATION EXPENDITURES.

(a) In General.—Section 616 (relating to development expenditures) is amended to read as follows:

"SEC. 616. DEVELOPMENT AND MINING EXPLORATION EXPENDITURES.

"(a) Allowance of Deduction.—A taxpayer may elect to treat any qualified development or mining exploration expenditures which are paid or incurred during the preproductive period with respect to any mine as expenses which are not chargeable to capital account. Any expenditures so treated shall be allowed as a deduction in the taxable year in which paid or incurred.

"(b) Recapture Upon Commencement of the Production Stage.—

"(1) Inclusion in income.—In the case of any taxable year in which the taxpayer reaches the production stage with respect to any mine, the taxpayer shall include in gross income the amount of the adjusted development or mining exploration expenditures with respect to such mine.

"(2) Amount recaptured treated as investment in class 1 property.—In any case to which paragraph (1) applies, the taxpayer shall, for purposes of this subtitle, be treated as having placed in service class 1 property (within the meaning of section 168(e)) with an adjusted basis equal to the amount included in gross income under paragraph (1).

"(3) Time when placed in service.—For purposes of paragraph (2), the class 1 property shall be treated as having been placed in service in the month in which the production stage was reached.

"(4) Election not to have subsection apply.—

"(A) In general.—A taxpayer may elect not to have this subsection apply to all mines reaching the production stage during a taxable year.

"(B) Effect of election.—If an election under subparagraph (A) applies to any mine, no deduction for depletion shall be allowed under section 611 with respect to such mine until the amount of such deduction equals the adjusted development or mining exploration expenditures with respect to such mine.

"(C) Time of election.—Any election under subparagraph (A) for any taxable year may be made or revoked on or before the due date for filling the return (including extensions) for such taxable year.

"(c) Gain From Dispositions of Certain Mining Property.—

"(1) General rule.—Except as otherwise provided in this subsection, if mining property is disposed of, the lesser of—

"(A) the sum of—

"(i) the adjusted development or mining exploration expenditures with respect to such property, and "(ii) the aggregate amount of deductions under section 611 which reduced the basis of such property, or

"(B) the excess of—

"(i) in the case of—

"(I) any sale, exchange, or involuntary conversion, the amount realized, or

"(II) in the case of any other disposition, the fair market value over

"(ii) the adjusted basis of such property,

shall be treated as ordinary income. Such gain shall be recognized notwithstanding any other provision of this subtitle.

"(2) Disposition of portion of property.—For purposes of paragraph (1)—

"(A) In general.—In the case of the disposition of a portion of a mining property (other than an undivided interest), the amount described in paragraph (1)(A) with respect to such property shall be treated as attributable to such portion to the extent of the amount of the gain to which paragraph (1) applies.

"(B) Undivided interests.—In the case of the disposition of an undivided interest in a mining property (or a portion thereof), a proportionate part of the amount described in paragraph (1)(A) with respect to such property shall be treated as attributable to such undivided interest to the extent of the amount of the gain to which paragraph (1) applies.

"(C) Exception.—This paragraph shall not apply to any amount described in paragraph (1)(A) to the extent that the taxpayer establishes to the satisfaction of the Secretary that such expenditure does not relate to—

"(i) the portion (or interest therein) disposed of, or

"(ii) any mine which is part of the mining property held by the taxpayer before the disposition and which has reached the producing stage.

"(3) Exceptions and limitations.—Paragraphs (1), (2), and (3) of section 1245(b) (relating to exceptions and limitations with respect to gain from disposition of certain depreciable property) shall apply in respect of this subsection in the same manner and with the same effect as if references in section 1245(b) to section 1245 or any provision thereof were references to this subsection or the corresponding provisions of this subsection and as if references to section 1245 property were references to mining property.

"(4) Application of subsection.—This subsection shall apply notwithstanding any other provision of this subtitle.

"(d) Adjusted Development or Mining Exploration Expenditures.—For purposes of this section—

"(1) In general.—The term 'adjusted development or mining exploration expenditures' means, with respect to any mine, the amount of the deduction allowable to any person under subsection (a) for the taxable year in which the production stage is reached and any preceding taxable year which—

"(A) are properly chargeable to such mine, and

"(B) which, but for subsection (a), would be reflected in the adjusted basis of such mine.

"(2) Adjustments for gain recognized.—The adjusted development or mining exploration expenditures determined under paragraph (1) shall be properly adjusted to reflect any amount included in gross income under subsection (b)(1), (c), or (g)(4) with respect to any mine.

"(3) Special rules relating to partnership property.—

"(A) Property distributed to partner.—In the case of any property received by a taxpayer in a distribution with respect to part or all of the taxpayer's interest in a partnership, the adjusted development or mining exploration expenditures with respect to such property shall include the excess of—

"(i) the adjusted development or mining exploration expenditures immediately before such distribution which have not otherwise been included in gross income under subsection (b)(1), over

"(ii) the amount of gain to which section 751(b) applied and which was realized by the partnership (as constituted after the distribution) on the distribution of such property.

"(B) Property retained by partnership.—In the case of any property held by a partnership after a distribution to a partner to which section 751(b) applied, the adjusted development or mining exploration expenditures with respect to such property shall, under regulations, be reduced by the amount of gain to which section 751(b) applied and which was realized by such partner with respect to such distribution on account of such property.

"(e) Special Rules for Foreign Development and Mining Exploration Costs.—In the case of any qualified development or mining exploration expenditures paid or incurred during the preproductive period with respect to any mine located outside of the United States—

"(1) subsections (a) and (b) shall not apply, and

"(2) such expenditures shall—

"(A) at the election of the taxpayer, be included in the adjusted basis of the taxpayer for purposes of computing the amount of any deduction allowable under section 611 (without regard to section 613), or

"(B) if subparagraph (A) does not apply, be allowed as a deduction ratably over the 10-taxable year period beginning with the taxable year in which such expenditures were paid or incurred.

"(f) Qualified Development or Mining Exploration Expenditures.—For purposes of this section—

"(1) In general.—The term 'qualified development or mining exploration expenditures' means any expenditures which, but for this section, would not be allowable as a deduction for the taxable year and which are paid or incurred—

"(A) for the development of a mine or other natural deposit (other than an oil or gas well), or

"(B) for the purpose of ascertaining the existence, location, extent, or quality of any deposit of ore or other mineral.

"(2) Certain expenditures not included.—The term 'qualified development or mining exploration expenditures' shall not include any expenditures—

"(A) with respect to any deposit of oil or gas or of any mineral with respect to which a deduction for percentage depletion is not allowable under section 613 (as in effect before the Tax Reform Act of 1985), or

"(B) for the acquisition or improvement of property of a character which is subject to the allowance for depreciation under section 167.

"(g) Other Definitions and Special Rules.—For purposes of this section—

"(1) Preproductive period.—The term 'preproductive period' means—

"(A) in the case of qualified mining exploration expenditures, any expenditures paid or incurred before the beginning of the development stage of any property, and

"(B) in the case of any qualified development expenditures, any expenditures paid or incurred after the existence of ores or minerals in commercially marketable quantities has been disclosed.

"(2) Mining property.—The term 'mining property' means any property (within the meaning of section 614 after the application of subsections (c) and (e) thereof) with respect to which any qualified development or mining exploration expenditures are properly chargeable.

"(3) Mine.—The term 'mine' includes any natural deposit.

"(4) Adjustments to basis.—The basis of any property shall not be reduced by the amount of any deduction for depletion which, but for the application of this section, would be allowable.

"(5) Recapture in case of bonus or royalty.—If—

"(A) an election under subsection (a) has been made with respect to any mining property, and

"(B) the taxpayer receives or accrues a bonus or royalty with respect to such property,

then the deduction under section 611 with respect to the bonus or royalty shall be disallowed until the amount of such deduction which, but for this paragraph, would be allowable equals the amount of the adjusted development or exploration expenditures with respect to such property.

"(6) Time for making election.—

"(A) In general.—Any election under subsection (a) for any taxable year may be made at any time before the expiration of the time for filing a claim for credit or refund of the tax imposed by this chapter for such taxable year.

"(B) Revocation of election.—An election under subsection (a), once made, may be revoked only with the consent of the Secretary.

"(C) Period for assessing deficiencies.—Notwithstanding any provision of law or rule of law, the statutory period for the assessment of any deficiency for any taxable year which is attributable to an election or revocation of election under subsection (a) shall not expire before the last day of the 2-year period beginning on the day after the date on which such election or revocation is made."

(b) Corporate Preference Items.—Subparagraph (B) of section 291(b)(2) (relating to mineral exploration and development costs) is amended to read as follows:

"(B) Mineral exploration and development costs.—In the case of any amount not allowable as a deduction under section 616(a) for any taxable year by reason of paragraph (1), the taxpayer shall be treated as having placed in service on the first day of such taxable year class 2 property (within the meaning of section 168(e)) with an adjusted basis equal to such amount."

(c) Conforming Amendments.—

(1) Section 170(e)(1) is amended by striking out "617(d)(1)" and inserting in lieu thereof "616(c)(1)".

(2) Section 243(b)(2)(C) is amended by inserting "and" at the end of clause (i), by striking out clause (ii), and by redesignating clause (iii) as clause (ii).

(3) Subparagraph (A) of section 263(a)(1) is amended to read as follows:

"(A) qualified development or mining exploration expenditures deductible under section 616(a)".

(4)(A) Subparagraph (B) of section 291(b)(1) is amended by striking out "or 617".

(B) Section 291(b) is amended by striking out paragraph (3) and redesignating paragraphs (4), (5), and (6) as paragraphs (3), (4), and (5), respectively.

(5) Subparagraph (B) of section 312(n)(2) is amended by striking out "or 617".

(6) Paragraph (12) of section 341(e) is amended by striking out "617(d)(1)" and inserting in lieu thereof "616(c)(1)".

(7) Section 381(c) is amended by striking out paragraph (10).

(8) Paragraph (2) of section 453B(d) is amended by striking out "617(d)(1)" and inserting in lieu thereof "616(c)(1)".

(9)(A) Section 617 is hereby repealed.

(B) The table of sections for part I of subchapter I of chapter 1 is amended by striking out the item relating to section 617.

(10) Paragraph (4) of section 703(b) is amended to read as follows:

"(4) section 616(a) (relating to deduction of certain development and mining exploration expenditures), or".

(11) Section 751(c) is amended by striking out "617(d)(1)" and inserting in lieu thereof "616(c)(1)".

(12) Section 1016(a) is amended by striking out paragraph (9).

(13) Subparagraph (B) of section 1362(c)(2) is amended to read as follows:

"(B) section 616(a) (relating to deduction and recapture of certain development and mining exploration expenditures), and".

(d) Effective Dates.—

(1) In general.—The amendments made by this section shall apply to costs paid or incurred after December 31, 1985, in taxable years ending after such date.

(2) Special rules for recapture provisions.—

(A) In general.—Section 616(c) of the Internal Revenue Code of 1985, as added by this section, shall apply to any disposition of property placed in service by the taxpayer after December 31, 1985.

(B) Exception for binding contracts.—Section 616(c) of such Code, as so added, shall not apply to property placed in service after December 31, 1985, if such property was acquired pursuant to a written contract which was entered into before September 26, 1985, and which was binding at all times thereafter.

(C) Section 617(d).—Section 617(d) of such Code, as in effect before the amendments made by this Act, shall apply to property to which it applied before such amendments and to which section 616(c) of such Code, as so added, does not apply.

Subtitle H—Provisions Relating to Energy Credits

SEC. 271. EXTENSION OF RESIDENTIAL ENERGY CREDITS FOR SOLAR RENEWABLE ENERGY SOURCE EXPENDITURES.

(a) In General.—Section 23(b) (relating to qualified expenditures) is amended by adding at the end thereof the following new paragraph:

"(6) Special rules for expenditures after December 31, 1985, and before January 1, 1989, for solar property.—

"(A) In general.—In the case of renewable energy source expenditures for solar property made after December 31, 1985, and before January 1, 1989—

"(i) paragraph (2) shall be applied by substituting the applicable percentage for '40 percent',

"(ii) paragraph (5)(B) shall be applied by substituting '1990' for '1987', and

"(iii) the aggregate amount of such expenditures for solar property used to provide hot water for use in a dwelling unit which may be taken into account under this section for all taxable years shall not exceed $5,000.

"(B) Applicable percentage defined.—For purposes of this paragraph, the applicable percentage means the percentage determined in accordance with the following table:

"For expenditures made in:	The percentage is:
1986	30
1987	20
1988	20

"(C) Definition of solar property.—For purposes of this paragraph—

"(i) In general.—The term 'solar property' means renewable energy source property which, when installed in connection with a dwelling, transmits or uses solar energy for the purpose of heating or cooling such dwelling or providing hot water or electricity for use within such dwelling.

"(ii) Exceptions for greenhouses, etc.—The term 'solar energy property' shall not include any greenhouse, sunroom, or similar addition to a principal residence."

(b) Conforming Amendment.—Subsection (f) of section 23 (relating to termination) is amended to read as follows:

"(f) Termination.—

"(1) In general.—Except as provided in paragraph (2), this section shall not apply to expenditures made after December 31, 1985.

"(2) Solar property.—In the case of solar property (as defined in subsection (b)(6)(C)), this section shall not apply to expenditures made after December 31, 1988."

(c) Effective Date.—The amendments made by this section shall apply to expenditures made after December 31, 1985, in taxable years ending after such date.

SEC. 272. EXTENSION OF ENERGY INVESTMENT CREDIT FOR SOLAR PROPERTY.

(a) In General.—The table contained in subparagraph (A) of section 46(b)(2) (relating to energy percentage) is amended by adding at the end thereof the following new items:

"(viii) Solar Energy Property.—Property described in section 48(l)(4) (other than wind energy property).	A. 15 percent	Jan. 1, 1986	Dec. 31, 1986.
	B. 12 percent	Jan. 1, 1987	Dec. 31, 1987.
	C. 8 percent	Jan. 1, 1988	Dec. 31, 1988.
"(ix) Geothermal Property.—Solar energy property described in section 48(l)(3)(A)(viii).	A. 15 percent	Jan. 1, 1986	Dec. 31, 1986.
	B. 10 percent	Jan. 1, 1987	Dec. 31, 1988."

(b) Treatment of Certain Transitional Rule Property.—Paragraph (2) of section 46(b) is amended by adding at the end thereof the following new subparagraph:

"(E) Certain rules made applicable.—Rules similar to the rules of paragraphs (2) and (3) of section 49(b) shall apply to any credit allowable by reason of subparagraph (C) or (D)."

(c) Effective Date.—The amendments made by this section shall apply to periods beginning after December 31, 1985, under rules similar to rules under section 48(m) of such Code.

SEC. 273. TERMINATION OF CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.

Subsection (f) of section 29 (relating to application of credit for producing fuel from a nonconventional source) is amended to read as follows:

"(f) Application of Section.—

"(1) In general.—Except as provided in paragraph (2), this section shall apply with respect to qualified fuels—

"(A) which are—

"(i) produced from a well drilled after December 31, 1979, and before January 1, 1986, or

"(ii) produced in a facility placed in service after December 31, 1979, and before January 1, 1986, and

"(B) which are sold after December 31, 1979, and before January 1, 1990.

"(2) Special rule for synthetic gaseous fuel produced from wood.—In the case of any qualified fuel which is a synthetic gaseous fuel produced from wood, paragraph (1) shall be applied by substituting—

"(A) '1989' for '1986' each place it appears, and

"(B) '2001' for '1990'."

SEC. 274. REPEAL OF ALCOHOL FUELS CREDIT.

(a) Repeal of Alcohol Fuels Credit.—Section 40 (relating to credit for alcohol used as a fuel) is hereby repealed.

(b) Conforming Amendments.—

(1) Section 38(b) is amended by inserting "plus" at the end of paragraph (2), by striking out paragraph (3), and by redesignating paragraph (4) as paragraph (3).

(2) Section 38(d) is amended by striking out "40(a),".

(3)(A) Section 87 is hereby repealed.

(B) The table of sections for part II of subchapter B of chapter 1 is amended by striking out the item relating to section 87.

(4) Section 196(c) is amended by inserting "and" at the end of paragraph (1), by striking out ", and" at the end of paragraph (2) and inserting in lieu thereof a period, and by striking out paragraph (3).

(c) Effective Date.—

(1) In general.—The amendments made by this section shall apply to taxable years beginning after December 31, 1985.

(2) No carryovers after 1987.—No amount may be carried under section 39 of the Internal Revenue Code of 1954 by reason of any credit allowed by reason of section 40 of such Code (as in effect before the amendments made by this section) to any taxable year beginning after December 31, 1987. For purposes of the preceding sentence, the credit allowed by such section 40 shall be treated as the first amount allowed by subpart D of part IV of subchapter A of chapter 1 of such Code.

SEC. 275. PROVISIONS RELATING TO EXCISE TAX ON FUELS.

(a) Reduction in Excise Tax Exemption for Qualified Methanol and Ethanol Fuels.—

(1) In general.—Subparagraph (A) of section 4041(b)(2) (relating to exemption for qualified ethanol and methanol fuels) is amended to read as follows:

"(A) In general.—In the case of any qualified methanol or ethanol fuel, subsection (a)(2) shall be applied by substituting '3 cents' for '9 cents'."

(2) Conforming amendment.—The heading for section 4041(b) is amended by striking out "Exemption" the second place it appears and inserting in lieu thereof "Reduction in Tax".

(3) Effective date.—The amendments made by this subsection shall take effect on January 1, 1986.

(b) Extension of Reduction in Tax for Fuel Used by Taxicabs.—Paragraph (3) of section 6427(e) (relating to termination in use for certain taxicabs) is amended by striking out "September 30, 1985" and inserting in lieu thereof "September 30, 1988".

Subtitle I—Extension of Other Credits

SEC. 282. EXTENSION AND MODIFICATION OF TARGETED JOBS CREDIT.

(a) 2-Year Extension.—Paragraph (3) of section 51(c) (relating to termination) is amended by striking out "December 31, 1985" and inserting in lieu thereof "December 31, 1987".

(b) Credit for First Year Wages Only.—

(1) In general.—Section 51(a) (relating to determination of amount of credit) is amended to read as follows:

"(a) Determination of Amount.—For purposes of section 38, the amount of the targeted jobs credit determined under this section for the taxable year shall be equal to 40 percent of the qualified first-year wages for such year."

(2) Conforming amendments.—

(A) Subsection (b) of section 51 (defining qualified wages) is amended—

(i) by striking out paragraph (3) and by redesignating paragraph (4) as paragraph (3), and

(ii) by striking out ", and the amount of the qualified second-year wages," in paragraph (3) (as redesignated by subparagraph (A)).

(B) Subparagraph (B) of section 51(d)(12) (relating to qualified summer youth employee) is amended—

(i) by striking out "50 percent" in clause (i) thereof and inserting in lieu thereof "40 percent",

(ii) by striking out clause (ii) and redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively, and

(iii) by striking out "subsection (b)(4)" and inserting in lieu thereof "subsection (b)(3)" in clause (iii) (as redesignated by paragraph (1)).

(c) Eligible Individuals Must Be Employed for at Least 14 Days.—Subsection (i) of section 51 (relating to certain individuals ineligible) is amended by adding at the end thereof the following new paragraph:

"(3) Individuals employed less than 14 days.—No wages shall be taken into account under subsection (a) with respect to any individual if such individual is employed by the employer for less than 14 days."

(d) Extension of Authorization.—Paragraph (2) of section 261(f) of the Economic Recovery Tax Act of 1981 is amended by striking out "fiscal years 1983, 1984, and 1985" and inserting in lieu thereof "fiscal years 1983, 1984, 1985, and 1986".

(e) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1985

SEC. 283. EXTENSION OF CREDIT FOR CLINICAL TESTING EXPENSES FOR CERTAIN DRUGS.

Subsection (e) of section 28 (relating to termination) is amended by striking out "1987" and inserting in lieu thereof "1988".

TITLE III—CORPORATE PROVISIONS

Subtitle A—Corporate Rate Reductions

SEC. 301. CORPORATE RATE REDUCTIONS.

(a) General Rule.—Subsection (b) of section 11 is amended to read as follows:

"(b) Amount of Tax.—The amount of the tax imposed by subsection (a) shall be the sum of—

"(1) 15 percent of so much of the taxable income as does not exceed $50,000,

"(2) 25 percent of so much of the taxable income as exceeds $50,000 but does not exceed $75,000, and

"(3) 36 percent of so much of the taxable income as exceeds $75,000.

In the case of a corporation which has taxable income in excess of $100,000 for any taxable year, the amount of tax determined under the preceding sentence for such taxable year shall be increased by the lesser of (A) 5 percent of such excess, or (B) $13,250."

(b) Effective Date.—

(1) In general.—The amendment made by subsection (a) shall apply to taxable years beginning after July 1, 1986.

(2) Cross reference.—

For treatment of taxable years which include July 1, 1986, see section 15 of the Internal Revenue Code of 1954.

SEC. 302. REPEAL OF CORPORATE CAPITAL GAINS TREATMENT.

(a) General Rule.—Section 1201 (relating to alternative tax for corporations) is amended to read as follows:

"SEC. 1201. ALTERNATIVE TAX FOR CORPORATIONS.

"(a) General Rule.—If for any taxable year a corporation has a net capital gain, then, in lieu of the tax imposed by sections 11, 511, 821(a) or (c), and 831(a), there is hereby imposed a tax (if such tax is less than the tax imposed by such sections) which shall consist of the sum of—

"(1) a tax computed on the taxable income reduced by the amount of the net capital gain, at the rates and in the manner as if this subsection had not been enacted, plus

"(2) the sum of—

"(A) 28 percent of the pre-1986 net capital gain,

"(B) the applicable percentage of the timber, iron, or coal capital gain, plus

"(C) 36 percent of the net capital gain to the extent not taken into account under subparagraph (A) or (B).

"(b) Pre-1986 Net Capital Gain.—For purposes of this section, the term 'pre-1986 net capital gain' means the lesser of—

"(1) the net capital gain for the taxable year, or

"(2) the net capital gain determined by taking into account only gain or loss which—

"(A) is attributable to any sale or exchange made on or before September 25, 1985 (or pursuant to a written binding contract in effect on such date), or

"(B) which is properly taken into account for the portion of the taxable year before January 1, 1986.

"(c) Timber, Iron, or Coal Capital Gain.—For purposes of this section—

"(1) In general.—The term 'timber, iron, or coal capital gain' means the lesser of—

"(A) the net capital gain for the taxable year reduced by the amount (if any) of the pre-1986 net capital gain, or

"(B) the net capital gain for the taxable year determined by taking into account only gain or loss attributable to timber, coal, or iron ore with respect to which section 631 applies.

In applying subparagraph (B), gains and losses described in subsection (b)(2), and gains and losses for periods after December 31, 1988, shall not be taken into account.

"(2) Applicable percentage.—The term 'applicable percentage' means—

"In the case of taxable years:	The applicable percentage is:
Beginning or ending in 1986	30
Beginning in 1987	31
Beginning in 1988	32

"(d) Cross References.—

"For computation of the alternative tax—

"(1) in the case of life insurance companies, see section 801(a)(2),

"(2) in the case of regulated investment companies and their shareholders, see section 852(b)(3)(A) and (D), and

"(3) in the case of real estate investment trusts, see section 857(b)(3)(A)."

(b) Technical Amendments.—

(1) Paragraph (1) of section 170(e) (relating to certain contributions of ordinary income in capital gain property) is amended by striking out "(28/46 in the case of a corporation)" and inserting in lieu thereof "(100 percent in the case of a corporation)".

(2) Clause (iii) of section 852(b)(3)(D) is amended by striking out "72 percent" and inserting in lieu thereof "64 percent".

(c) Effective Date.—The amendment made by subsection (a) shall apply to taxable years ending after December 31, 1985.

SEC. 303. REDUCTION IN DIVIDENDS RECEIVED DEDUCTION.

(a) General Rule.—The following provisions are each amended by striking out "85 percent" and inserting in lieu thereof "80 percent":

(1) Section 243(a)(1) (relating to dividends received by corporations).

(2) Sections 244(a)(3) and (b)(2) (relating to dividends received on certain preferred stock).

(3) Section 246(b) (relating to limitation on aggregate amount of deductions).

(4) Section 246A(a)(1) (relating to dividends received deduction reduced where portfolio stock is debt financed).

(b) Effective Dates.—

(1) In general.—The amendments made by subsection (a) shall apply to dividends received or accrued after December 31, 1985, in taxable years ending after such date.

(2) Amendment relating to limitation on deductions.—The amendment made by subsection (a) to section 246(b) of the Internal Revenue Code of 1954 shall apply to taxable years beginning after December 31, 1985.

Subtitle B—Dividend Paid Deduction; Etc.

SEC. 311. 10-PERCENT DIVIDEND PAID DEDUCTION.

(a) General Rule.—Part VIII of subchapter B of chapter 1 (relating to special deductions for corporations) is amended by striking out the table of sections and section 241 and inserting in lieu thereof the following:

"Subpart A. Dividend paid deduction.
"Subpart B. Dividend received deduction.
"Subpart C. Miscellaneous corporate deductions.

"SEC. 230. ALLOWANCE OF SPECIAL DEDUCTIONS.

"In addition to the deductions provided in part VI (section 161 and following), there shall be allowed as deductions in computing taxable income the items specified in this part.

"Subpart A—Dividend Paid Deduction

"Sec. 231. 10-percent dividend paid deduction.
"Sec. 232. Qualified dividend account.
"Sec. 233. Ineligible corporations.

"Sec. 234. Special rules.

"SEC. 231. 10-PERCENT DIVIDEND PAID DEDUCTION.

"(a) Allowance of Deduction.—In the case of a corporation, there shall be allowed as a deduction an amount equal to 10 percent of the dividends paid by such corporation during the taxable year.

"(b) Phase-in.—In the case of dividends paid by a corporation during a taxable year of such corporation beginning on or before January 1, 1996, the phase-in percentage determined under the following table shall be substituted for '10 percent' in subsection (a):

"In the case of a dividend paid in a taxable year which begins:		The phase-in percentage is:
After January 1 of:	And on or before January 1 of:	
1987	1988	1
1988	1989	2
1989	1990	3
1990	1991	4
1991	1992	5
1992	1993	6
1993	1994	7
1994	1995	8
1995	1996	9.

"(c) Limitation Based on Amount in Qualified Dividend Account.—The amount of the dividends paid during any taxable year which may be taken into account under subsection (a) shall not exceed the amount in the corporation's qualified dividend account as of the close of such taxable year determined after the application of section 232(b)(1) for the taxable year but before the application of section 232(b)(2) for such taxable year.

"SEC. 232. QUALIFIED DIVIDEND ACCOUNT.

"(a) Establishment of Account.—Each corporation shall establish a qualified dividend account. The opening balance of such account shall be zero.

"(b) Adjustments to Account.—As of the close of each taxable year beginning after January 1, 1987, the qualified dividend account—

"(1) shall be increased by the adjusted taxable income of the corporation for the taxable year, and

"(2) shall be reduced by the amount of the dividends paid by the corporation during the taxable year to the extent the amount so paid does not exceed the limitation of section 231(c).

"(c) Adjusted Taxable Income.—For purposes of this section—

"(1) In general.—The term 'adjusted taxable income' means taxable income adjusted as provided in this subsection.

"(2) Adjustment for certain qualifying dividends.—Taxable income shall be increased by the deduction allowed under section 243 with respect to that portion of any qualifying dividend (as defined in section 243(b)(1)) for which such deduction is determined at a rate of less than 100 percent. Similar rules shall apply in the case of dividends for which deductions are allowable under section 245(b).

"(3) Adjustment for tax credits.—

"(A) In general.—Taxable income shall be reduced by the deduction equivalent of the tentative nonrefundable credits for the taxable year.

"(B) Deduction equivalent. For purposes of subparagraph (A), the deduction equivalent of the tentative nonrefundable credits for any taxable year is the amount which (if allowed as a deduction for the taxable year) would reduce the tax liability (as defined in section 26(b)) for the taxable year by an amount equal to the tentative nonrefundable credits.

"(C) Tentative nonrefundable credits.—For purposes of this paragraph, the term 'tentative nonrefundable credits' means the amount of the credits which would have been allowable under part IV of subchapter A of this chapter for the taxable year (other than the credit allowable under section 34) if no deduction were allowable under section 231.

"(3) Adjustment for corporate minimum tax.—If tax is imposed by section 55 on the corporation for any taxable year, taxable income for the succeeding taxable year shall be increased by an amount equal to 100/36 of the amount of tax so imposed.

"(4) Dividend paid deduction not taken into account.—Taxable income shall be determined without regard to the deduction allowed under section 231.

"SEC. 233. INELIGIBLE CORPORATIONS.

"(a) General Rule.—No deduction shall be allowed under section 231 with respect to any dividend paid by—

"(1) a regulated investment company,

"(2) a real estate investment trust,

"(3) an S corporation,

"(4) any organization taxable under subchapter T of this chapter (relating to cooperative organizations), or

"(5) a FSC or a DISC.

"(b) Foreign Corporations.—In the case of a foreign corporation—

"(1) no deduction shall be allowed under section 231 for dividends paid by such corporation during any taxable year unless the corporation meets the requirements of section 245(a) for such taxable year,

"(2) only adjusted taxable income effectively connected with the conduct of a trade or business in the United States and attributable to the uninterrupted period referred to in section 245(a) shall be added to the qualified dividend account, and

"(3) any distribution shall be treated as made ratably out of income effectively connected with the conduct of a trade or business in the United States and other income.

"SEC. 234. SPECIAL RULES.

"(a) Certain Distributions Not Treated as Dividends.—For purposes of this subpart, the term 'dividend' does not include—

"(1) any distribution in redemption of stock, in liquidation, or in a reorganization (whether or not such distribution is treated as a distribution to which section 301 applies), and

"(2) any dividend described in section 244 (relating to dividends received on certain preferred stock).

"(b) Deduction Not Taken Into Account for Purposes of Certain Limitations Based on Taxable Income.—For purposes of sections 246(c), 613, 613A, and 593, taxable income shall be determined without regard to the deduction allowed under section 231.

"(c) Treatment of Dividends Received by 5-Percent Tax-Exempt Shareholders.—

"(1) In general.—For purposes of part III of subchapter F (relating to taxation of unrelated business income of certain exempt organizations), any dividend received by a tax-exempt organization from a corporation in which such organization is a 5-percent shareholder shall be treated as unrelated business taxable income to the extent of the amount of the deduction allowable under section 231 to such corporation with respect to such dividend. Except as provided in regulations, the amount of such deduction shall be determined on the basis of the return filed by the corporation for the taxable year.

"(2) Definitions.—For purposes of this subsection—

"(A) 5-percent shareholder.—The term '5-percent shareholder' means any tax-exempt organization which owns (or is considered as owning within the meaning of section 318)—

"(i) 5 percent or more (by value) of the outstanding stock of the corporation, or

"(ii) stock possessing 5 percent or more of the total combined voting power of all stock of the corporation.

"(B) Tax-exempt organization.—The term 'tax-exempt organization' means any organization which is exempt from the tax imposed by this chapter.

"(C) Related entities.—A tax-exempt organization and 1 or more other tax-exempt organizations which have—

"(i) significant common purposes and substantial common membership, or

"(ii) directly or indirectly substantial common direction or control,

shall be treated as 1 tax-exempt organization for purposes of this paragraph.

"(d) Treatment of Subsequent Adjustments.—If there is any adjustment which affects the amount of the adjusted taxable income of a corporation for any taxable year (whether by reason of any carryback to such taxable year or otherwise) for purposes of this subpart and subpart B, the amount of such adjustment shall be treated as made as of the close of such taxable year.

"(e) Allocation of Qualified Dividend Account in Corporate Separations, Reorganizations, and Redemptions.—Adjustments similar to the adjustments provided in subsection (h) or (n)(7) of section 312 shall be made to the qualified dividend account in the case of a transaction described in either of such subsections.

"(f) Mutual Life Insurance Companies.—

"(1) General rule.—In the case of a mutual life insurance company, for purposes of this subpart, 80 percent of the differential earnings amount (as defined in section 809(a)(3)) shall be treated as a dividend paid to a shareholder.

"(2) Regulations.—The Secretary may prescribe regulations applying rules consistent with this subpart to mutual life insurance companies. Such regulations may include rules treating an appropriate portion of the recomputed differential earnings amount (as defined in section 809(f)(3)) as an adjustment to the amount described in paragraph (1).

"Subpart B—Dividend Received Deduction

"Sec. 243. Dividends received by corporations.
"Sec. 244. Dividends received on certain preferred stock.
"Sec. 245. Dividends received from certain foreign corporations.
"Sec. 246. Rules applying to deductions for dividends received.
"Sec. 246A. Dividends received deduction reduced where portfolio stock is debt financed.
"Sec. 247. Dividends paid on certain preferred stock of public utilities."

(b) Compensatory Withholding Tax on Dividends Paid to Nonresident Aliens or Foreign Corporations.—

(1) General rule.—Subpart C of part II of subchapter N of chapter 1 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new section:

"SEC. 898. ADDITIONAL TAX ON DIVIDENDS TO REFLECT DIVIDEND PAID DEDUCTION.

"(a) GENERAL RULE.—In addition to any tax imposed by section 871 or 881, there is hereby imposed a tax equal to the applicable percentage of the dividends received from sources within the United States by a nonresident alien individual or foreign corporation.

"(b) APPLICABLE PERCENTAGE.—For purposes of subsection (a)—

"(1) IN GENERAL.—Except as provided in paragraph (2), the applicable percentage is 3.6.

"(2) PHASE-IN.—In the case of any dividend paid in a taxable year of the payor beginning on or before January 1, 1996, the applicable percentage shall be $^{36}/_{100}$ of the phase-in percentage applicable to such taxable year under section 231(b).

"(c) TAX NOT TO APPLY TO SHAREHOLDER'S EFFECTIVELY CONNECTED ITEMS.—The tax imposed by this section shall not apply to any dividend to the extent such dividend is effectively connected with the conduct of a trade or business by the shareholder within the United States.

"(d) CORRESPONDING INCREASE IN WITHHOLDING TAX.—In the case of any dividend subject to tax under subsection (a), the tax imposed by section 1441 or 1442 (as the case may be) shall be increased by an amount equal to the applicable percentage of such dividend.

"(e) EXCEPTION FOR CERTAIN TREATY COUNTRIES.—The tax imposed by subsection (a) shall not apply to any dividend paid to a resident or corporation of a foreign country during any period—

"(1) in which an income tax treaty between such country and the United States is in effect, and

"(2) during which there is in effect a certification by the Secretary that—

"(A) such income tax treaty has adequate provisions to prevent treaty shopping, and

"(B) if such foreign country imposes an income tax comparable to the tax imposed by this subtitle and grants relief from such tax to its residents, such country grants relief equivalent to that provided in section 231 with respect to dividends paid to United States persons.

The requirements of paragraph (2) shall not apply to dividends paid before January 1, 1989."

(2) CLERICAL AMENDMENT.—The table of sections for subpart C of part II of subchapter N of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 898. Additional tax on dividends to reflect dividend paid deduction."

(c) SECTION 381 TO APPLY TO QUALIFIED DIVIDEND ACCOUNT.—Subsection (c) of section 381 (relating to items of the distributor or transferor corporation) is amended by adding at the end thereof the following new paragraph:

"(27) QUALIFIED DIVIDEND ACCOUNT.—Under regulations prescribed by the Secretary, the acquiring corporation shall take into account (to the extent proper to carry out the purposes of this section and subpart A of part VIII of subchapter B of this chapter) the qualified dividend account of the distributor or transferor corporation."

(d) CLERICAL AMENDMENT.—Part VIII of subchapter B of chapter 1 is amended by inserting after section 247 the following:

"Subpart C—Miscellaneous Provisions

"Sec. 248. Organizational expenditures.
"Sec. 249. Limitation on deduction of bond premium on repurchase.
"Sec. 250. Certain payments to the National Railroad Passenger Corporation."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to dividends paid during taxable years of payor corporations beginning after January 1, 1987.

SEC. 312. REDUCTION IN DIVIDEND RECEIVED DEDUCTION.

(a) GENERAL RULE.—Subsection (a) of section 243 (relating to dividends received by corporations) is amended to read as follows:

"(a) GENERAL RULE.—

"(1) ALLOWANCE OF DEDUCTION.—In the case of a corporation, there shall be allowed as a deduction an amount equal to the following percentages of the amount received as dividends from a domestic corporation which is subject to taxation under this chapter:

"(A) 70 percent, in the case of dividends other than dividends described in subparagraph (B) or (C),

"(B) 90 percent, in the case of dividends received by a small business investment company operating under the Small Business Investment Act of 1958 (15 U.S.C. 661 and following), and

"(C) 90 percent, in the case of qualifying dividends (as defined in subsection (b)(1)).

"(2) PHASE-IN OF LOWER DEDUCTION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), in the case of any dividend paid by a corporation in a calendar year before 1997, the applicable percentage under paragraph (1) shall be increased by the excess of 10 percent over the phase-in percentage which would be applicable to such dividend under section 231(b) if the corporation paying the dividend had a calendar year as its taxable year.

"(B) SPECIAL RULE FOR QUALIFYING DIVIDENDS.—In the case of any qualifying dividend paid by a corporation in a taxable year of such corporation beginning on or before January 1, 1996, the applicable percentage under paragraph (1) shall be increased by the excess of 10 percent over the phase-in percentage applicable to such dividend under section 231(b).

"(3) TREATMENT OF NONDEDUCTIBLE QUALIFYING DIVIDENDS.—

"(A) IN GENERAL.—In the case of any qualifying dividend not paid out of the qualified dividend account of the payor corporation, the applicable percentage for purposes of paragraph (1) shall be 100 percent.

"(B) DETERMINATION OF PORTION OF DIVIDEND NOT PAID OUT OF QUALIFIED DIVIDEND ACCOUNT.—For purposes of subparagraph (A), a qualifying dividend shall be treated as not paid out of the qualified dividend account in an amount which bears the same ratio to the excess described in subparagraph (C) as the amount of such dividend bears to the total amount of the dividends paid by the payor corporation during its taxable year in which the dividend was paid.

"(C) EXCESS.—For purposes of subparagraph (B), the excess described in this subparagraph is the excess (if any) of—

"(i) the amount of the dividends paid by the payor corporation during its taxable year, over

"(ii) the amount in the qualified dividend account of such corporation as of the close of such taxable year (computed without reduction by reason of dividends paid during such taxable year)."

(b) TREATMENT OF DIVIDENDS PAID BY CERTAIN WHOLLY OWNED FOREIGN SUBSIDIARIES.—

(1) Paragraph (1) of section 245(b) (relating to certain dividends received from wholly owned foreign subsidiaries) is amended by striking out "100 percent" and inserting in lieu thereof "90 percent".

(2) Subsection (b) of section 245 is amended by adding at the end thereof the following new paragraph:

"(4) PHASE-IN OF LOWER DEDUCTION; TREATMENT OF NONDEDUCTIBLE DIVIDENDS.—For purposes of paragraph (1), the rules of paragraphs (2) and (3) of section 243(a) shall apply to dividends described in paragraph (2) in the same manner as if such dividends were qualifying dividends (within the meaning of section 243(b)(1))."

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to dividends paid by corporations during taxable years of such corporations beginning on or after January 1, 1987.

SEC. 313. REPEAL OF PARTIAL EXCLUSION OF DIVIDENDS RECEIVED BY INDIVIDUALS.

(a) GENERAL RULE.—Section 116 (relating to partial exclusion of dividends received by individuals) is hereby repealed.

(b) TECHNICAL AMENDMENTS.—

(1) Subsection (g) of section 301 is amended by striking out paragraph (4).

(2)(A) Subsection (c) of section 584 is amended to read as follows:

"(c) INCOME OF PARTICIPANTS IN FUND.—Each participant in the common trust fund in computing its taxable income shall include, whether or not distributed and whether or not distributable—

"(1) as part of its gains and losses from sales or exchanges of capital assets held for not more than 6 months, its proportionate share of the gains and losses of the common trust fund from sales or exchanges of capital assets held for not more than 6 months,

"(2) as part of its gains and losses from sales or exchanges of capital assets held for more than 6 months, its proportionate share of the gains and losses of the common trust fund from sales or exchanges of capital assets held for more than 6 months,

"(3) its proportionate share of the ordinary taxable income or the ordinary net loss of the common trust fund, computed as provided in subsection (d)."

(B) If the amendments made by section 1001 of the Tax Reform Act of 1984 cease to apply, effective with respect to property to which such amendments do not apply, subsection (c) of section 584 is amended by striking out "6 months" each place it appears and inserting in lieu thereof "1 year".

(3) Section 642 is amended by striking out subsection (j).

(4) Paragraph (7) of section 643(a) is hereby repealed.

(5) Paragraph (5) of section 702(a) is amended by striking out "or interest with respect to which there is an exclusion under section 116 or 128".

(6) Section 854 is amended—

(A) by striking out "section 116 (relating to an exclusion for dividends received by individuals), and" in subsection (a),

(B) in subsection (b)—

(i) by striking out subparagraph (B) of paragraph (1) and redesignating subparagraph (C) as subparagraph (B),

(ii) by striking out "or (B)" in subparagraph (B) (as so redesignated),

(iii) by striking out "the exclusion under section 116 and" in paragraph (2), and

(iv) by amending subparagraph (B) of paragraph (3) to read as follows:

"(B)(i) The term 'aggregate dividends received' includes only dividends received from domestic corporations.

"(ii) For purposes of clause (i), the term 'dividend' shall not include any distribution from—

"(I) a corporation which, for the taxable year of the corporation in which the distribution is made, or for the next preceding taxable year of the corporation, is a corporation exempt from tax under section 501 (relating to certain charitable, etc., organizations) or section 521 (relating to farmers' cooperative associations), or

"(II) a real estate investment trust which, for the taxable year of the trust in which the dividend is paid, qualifies under part II of subchapter M (section 856 and following).

"(iii) In determining the amount of any dividend for purposes of this subparagraph, a dividend received from a regulated investment company shall be subject to the limitations prescribed in this section."

(7) Subsection (c) of section 857 is amended by striking out "section 116 (relating to an exclusion for dividends received by individuals), and".

(8) The table of sections for part III of subchapter B of chapter 1 is amended by striking out the item relating to section 116.

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1985.

SEC. 314. CLARIFICATION OF NONDEDUCTIBILITY OF STOCK REDEMPTION EXPENSES.

Section 162 (relating to trade or business expenses) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) Stock Redemption Expenses.—No deduction shall be allowed under this chapter for any amount paid or incurred by a corporation in connection with the redemption of its stock."

Subtitle C—Limitation on Net Operating Loss Carryforwards and Excess Credit Carryforwards

SEC. 321. LIMITATION ON NET OPERATING LOSS CARRYFORWARDS.

(a) General Rule.—Section 382 (relating to special limitation on net operating loss carryovers) is amended to read as follows:

"SEC. 382. LIMITATION ON NET OPERATING LOSS CARRYFORWARDS.

"(a) General Rule.—The amount of the taxable income of any corporation for any post-trigger year which may be offset by pre-trigger losses shall not exceed the trigger amount for such year.

"(b) Trigger Amount.—For purposes of this section—

"(1) In general.—Except as otherwise provided in this section, the trigger amount for any taxable year is an amount equal to—

"(A) the trigger value of the old loss corporation, multiplied by

"(B) the long-term tax-exempt rate.

"(2) Carryover of unused limitation.—

"(A) In general.—If the trigger amount for any post-trigger year exceeds the taxable income of the corporation for such year, the trigger amount for the next taxable year shall be increased by the amount of such excess.

"(B) Cross reference.—

"For ordering rule for purposes of subparagraph (A), see subsection (n)(9).

"(3) Special rule for post-trigger year which includes the trigger day.—In the case of the post-trigger year which includes the trigger day—

"(A) Limitation does not apply to taxable income before trigger.—Subsection (a) shall not apply to the portion of the taxable income for such year which is allocable (determined on a daily pro rata basis) to the period in such year before the trigger day.

"(B) Limitation for period on or after trigger day.—For purposes of applying the limitation of subsection (a) to the remainder of the taxable income for such year, the trigger amount shall be an amount which bears the same ratio to such amount (determined without regard to this paragraph) as—

"(i) the number of days in such year on or after the trigger day, bears to

"(ii) the total number of days in such year.

"(c) Carryforwards Disallowed if Continuity of Business Requirements Not Met.—In the case of any trigger, the trigger amount for any post-trigger year shall be zero if the continuity of business enterprise requirements applicable under section 368 are not met with respect to the new loss corporation during the 2-year period beginning on the date of the trigger.

"(d) Definition of Pre-Trigger Loss and Post-Trigger Year.—For purposes of this section—

"(1) Pre-trigger loss.—The term 'pre-trigger loss' means—

"(A) any such net operating loss of the old loss corporation for any taxable year preceding the taxable year in which the trigger occurs, and

"(B) the net operating loss of the old loss corporation for the taxable year in which the trigger occurs which is allocable (determined on a daily pro rata basis) to the period in such year before the trigger day.

"(2) Post-trigger year.—The term 'post-trigger year' means any taxable year ending after the trigger day.

"(e) Trigger Value.—For purposes of this section—

"(1) In general.—Except as otherwise provided in this subsection, the trigger value of the old loss corporation is the value of the equity of such corporation immediately before the trigger.

"(2) Equity defined.—The term 'equity' means—

"(A) stock,

"(B) warrants or other options (issued by the corporation) to acquire an interest in the equity of the corporation,

"(C) the conversion feature of convertible debt interests, and

"(D) any other interest in the equity of the corporation.

"(3) Special rule in the case of redemption.—If the last component event of the trigger is a redemption, the trigger value under paragraph (1) shall be determined immediately after the trigger.

"(4) Special rule for insolvency transactions.—In the case of a reorganization described in subparagraph (G) of section 368(a)(1) or any exchange of debt for stock in a title 11 or similar proceeding, the trigger value shall be the value of the equity of the new loss corporation immediately after the trigger.

"(f) Long-Term Tax-Exempt Rate.—For purposes of this section, the long-term tax-exempt rate shall be the Federal long-term rate (determined under section 1274 as of the trigger) properly adjusted, under regulations prescribed by the Secretary, for differences between rates on taxable and tax-exempt obligations.

"(g) Trigger.—For purposes of this section—

"(1) In general.—There is a trigger if—

"(A) Owner shift.—There is a more than 50-percent owner shift, or

"(B) Equity structure change.—There is a more than 50-percent equity structure change.

"(2) 50-percent owner shift.—There is a more than 50-percent owner shift if the total value of the stock of the corporation held at the close of the testing period by 5-percent shareholders has increased by more than 50 percentage points over such holdings by such shareholders at the beginning of the testing period.

"(3) 50-percent equity structure change.—There is a more than 50-percent equity structure change if, as the result of an equity structure change, the continuing interest of the shareholders of the old loss corporation in the new loss corporation is less than 50 percent.

"(4) Owner shift defined.—

"(A) In general.—Except as provided in subparagraph (B), the term 'owner shift' means any change in the respective holdings in the stock of a corporation.

"(B) Exclusion of equity structure change.—An equity structure change shall not be treated as an owner shift.

"(5) Equity structure change defined.—The term 'equity structure change' means any reorganization (within the meaning of section 368). Such term shall not include any reorganization described in subparagraph (D) or (G) of section 368(a)(1) unless the requirements of subparagraphs (A) and (B) of section 354(b)(1) are met.

"(h) Special Rules for Built-In Gains and Losses.—

"(1) In general.—For purposes of this section—

"(A) Net unrealized built-in gain.—

"(i) In general.—If the old loss corporation has a net unrealized built-in gain, the trigger amount for any taxable year ending in the recognition period shall be increased by the recognized built-in gains for such year.

"(ii) Limitation.—The increase under clause (i) for any taxable year ending in the recognition period shall not exceed—

"(I) the net unrealized built-in gain, reduced by

"(II) the recognized built-in gains for prior years ending in the recognition period.

"(B) Net unrealized built-in loss.—

"(i) In general.—If the old loss corporation has a net unrealized built-in loss, the recognized built-in loss for any taxable year ending in the recognition period shall be subject to limitation under this section in the same manner as if such loss were a pre-trigger loss.

"(ii) Limitation.—Clause (i) shall apply to recognized built-in losses for any taxable year in the recognition period only to the extent such losses do not exceed—

"(I) the net unrealized built-in loss, reduced by

"(II) recognized built-in losses for prior taxable years ending in the recognition period.

"(2) Recognized built-in gains and losses.—For purposes of this subsection—

"(A) Recognized built-in gain.—The term 'recognized built-in gain' means any gain recognized during the recognition period on the disposition of any asset to the extent such gain does not exceed the excess of—

"(i) the fair market value of such asset as of the trigger day, over

"(ii) its adjusted basis as of such day.

"(B) Recognized built-in loss.—The term 'recognized built-in loss' means—

"(i) any loss recognized in the recognition period on the disposition of any asset to the extent such loss does not exceed the excess of—

"(I) the adjusted basis of such asset as of the trigger day, over

"(II) its fair market value as of such day, and

"(ii) any amount allowable for depreciation, amortization, or depletion for the taxable year attributable to the excess described in clause (i).

"(3) Net unrealized built-in gain and loss defined.—For purposes of this subsection—

"(A) Net unrealized built-in gain and loss.—The terms 'net unrealized built-in gain' and 'net unrealized built-in loss' mean, with respect to any old loss corporation, the amount by which—

"(i) the fair market value of the assets of such corporation as of the trigger day, is more or less, respectively, than

"(ii) the aggregate adjusted bases of such assets as of such day.

If the last component of the trigger is a redemption, determinations under the preceding sentence shall be made as of the time immediately after the trigger.

"(B) Threshold requirement.—

"(i) In general.—If the amount of the net unrealized built-in gain or loss (as the case may be) of any old loss corporation is not greater than 15 percent of the amount determined under clause (i) of subparagraph (A) (as modified by clause (ii) of this subparagraph), the net unrealized built-in gain or loss shall be treated as zero.

"(ii) Cash and cash items not taken into account.—For purposes of clause (i), there shall not be taken into account—

"(I) any cash or cash item, or

"(II) any marketable security which has not declined or appreciated substantially in value (as determined under regulations).

"(C) Secretary may treat certain deductions as built-in losses.—The Secretary may by regulation treat amounts which accrue before the trigger day but which are allowable as a deduction on or after such day as unrealized built-in losses.

"(4) Recognition period.—For purposes of this subsection, the term 'recognition period' means the period beginning on the trigger day and ending at the close of the 10th post-trigger year.

"(5) Determination of fair market value in certain cases.—If 80 percent or more in value of the stock of a corporation is acquired in 1 transaction (or in a series of related transactions) during any 12-month period, for purposes of determining the net unrealized loss, the fair market value of the assets of such corporation shall not exceed the grossed up amount paid for such stock properly adjusted for indebtedness of the corporation and other relevant items.

"(6) Tax-free exchanges or transfers.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection where property held on the trigger is transferred in a transaction where gain or loss is not recognized (in whole or in part).

"(i) 5-Percent Shareholders.—For purposes of this section—

"(1) 5-percent shareholder defined.—The term '5-percent shareholder' means any person holding 5 percent or more in value of the stock of the corporation at any time during the testing period.

"(2) Treatment of increases in holdings of non-5-percent shareholders.—If—

"(A) the percentage of the total value of the stock of the corporation held by persons who are not 5-percent shareholders, exceeds

"(B) the percentage of the total value of the stock of the corporation held at the beginning of the testing period by persons who would not have been 5-percent shareholders if the determination had been made at such time,

the percentage points representing such increase shall be taken into account as if it were an increase in the percentage holdings of a 5-percent shareholder.

"(j) Continuing Interest Where There Is Equity Structure Change.—For purposes of this section—

"(1) In general.—The continuing interest of the shareholders of the old loss corporation as the result of an equity structure change is the percentage of the value of the stock of the new loss corporation owned (immediately after the change) by the shareholders (immediately before the change) of the loss corporation, as the result of owning stock of the loss corporation.

"(2) 5-percent shareholder rules taken into account.—

"(A) In general.—If there has been an increase in the holdings of the 5-percent shareholders of the loss corporation during the testing period, the continuing interest percentage determined under paragraph (1) shall be adjusted by multiplying it by the percentage equal to 100 percent minus the percentage point increases in such holdings.

"(B) Rule for applying subparagraph (A).—In applying subparagraph (A) the testing period shall close immediately before the equity structure change.

"(3) Adjustments where stock of corporation other than acquiring corporation is used.—Appropriate adjustments shall be made in the application of this section in case of a reorganization where the stock exchanged for the stock or securities of the controlled corporation is stock of a corporation other than the acquiring corporation.

"(k) Testing period.—For purposes of this section—

"(1) 3-year period.—Except as otherwise provided in this section, the testing period is the 3-year period ending on the day of any owner shift or equity structure change.

"(2) Shorter period where there has been recent trigger.—If there has been a trigger under this section affecting any carryforward of a loss or of an excess credit, the testing period for determining whether a 2d trigger has occurred with respect to such carryforward shall not begin before the trigger day of such earlier trigger.

"(l) Trigger Day.—For purposes of this section, the trigger day is—

"(1) in the case of a more than 50-percent owner shift, the 1st day as of which there is such a shift, or

"(2) in the case of a more than 50-percent equity structure change, the date of the transfer of the stock or property.

"(m) Definitions and Special Rules.—For purposes of this section—

"(1) Loss corporation.—The term 'loss corporation' means a corporation entitled to use a net operating loss carryforward. Except to the extent provided in regulations, such term includes any corporation with a net unrealized built-in loss.

"(2) Old loss corporation.—The term 'old loss corporation' means the corporation which (before the trigger) was a loss corporation.

"(3) New loss corporation.—The term 'new loss corporation' means a corporation which (after the trigger) is a loss corporation. Nothing in this section shall be treated as implying that the same corporation may not be both the old loss corporation and the new loss corporation.

"(4) Taxable income.—Taxable income shall be computed with the modifications set forth in section 172(d).

"(5) Value.—The term 'value' means fair market value.

"(6) Rules relating to stock.—

"(A) Stock not to include certain preferred stock.—The term 'stock' means stock other than stock described in section 1504(a)(4).

"(B) Determinations on basis of value.—Determinations of the percentage of stock of any corporation held by any person (or group of persons) shall be made on the basis of value.

"(n) Certain Additional Operating Rules.—For purposes of this section—

"(1) Treatment of capital contributions during testing period.—

"(A) In general.—For purposes of this section—

"(i) the trigger value of any old loss corporation shall be reduced by an amount equal to the aggregate capital contributions received by such corporation during the testing period, and

"'(ii) such contributions shall not be taken into account for purposes of applying subsection (h)(3)(B), and, if identifiable as of the trigger, shall not be taken into account for purposes of applying the remainder of subsection (h).

"(B) Capital contribution defined.—

"(i) In general.—Except as otherwise provided in this subparagraph, the term 'capital contribution' means any amount received by the corporation—

"(I) for stock in the corporation, or

"(II) as a contribution to capital.

"(ii) Employee stock options and stock reinvestment plans excluded.—The term 'capital contribution' does not include any amount received by the corporation pursuant to an employee stock option plan or a dividend reinvestment plan which meets the standards prescribed by the Secretary for purposes of this subparagraph.

"(C) De minimis exception.—The Secretary may by regulations provide a de minimis exception to the provisions of subparagraph (A).

"(2) Coordination with section 172(b) carryover rules.—In the case of any pre-trigger loss for any taxable year (hereinafter in this paragraph referred to as the 'loss year') subject to limitation under this section, for purposes of determining under the second sentence of section 172(b)(2) the amount of such loss which may be carried to any taxable year, taxable income for any taxable year shall be treated as not greater than—

"(A) the trigger amount for such taxable year, reduced by

"(B) the pre-trigger losses for taxable years preceding the loss year.

Similar rules shall apply in the case of any credit or loss subject to limitation under section 383.

"(3) Constructive ownership.—Section 318 (relating to constructive ownership of stock) shall apply in determining ownership of stock, except that—

"(A) paragraph (1) of section 318(a) shall be applied by assuming that the family status as of the close of the testing period was the same as the family status as of the beginning of the testing period,

"(B) paragraph (2)(C) of section 318(a) shall be applied without the 50-percent limitation contained therein, "(C) paragraph (3)(C) of section 318(a) shall be applied—

"(i) without the 50-percent limitation contained therein, and

"(ii) by considering a corporation as owning the stock (other than stock in such corporation) owned by or for any shareholder of such corporation in that proportion which the value of the stock which such shareholder owns in such corporation bears to the value of all stock in such corporation, and

"(D) to the extent provided in regulations, paragraph (4) of section 318(a) shall not apply.

Stock in any corporation which is treated as owned by such corporation by reason of paragraph (2) of section 318(a) shall be treated as stock which is not outstanding.

"(4) Waiver of back attribution in certain cases.—Under regulations prescribed by the Secretary, paragraph (3) of section 318(a) shall not apply to the extent that the application of such paragraph is not necessary to carry out the purposes of this section.

"(5) Prevention of double counting.—The regulations prescribed under this section shall include regulations under which—

"(A) section 318 shall be applied so that only 1 person will be treated as owning any share of stock, and

"(B) such person shall be the person which results in the largest percentage increase or the smallest continuing interest, whichever is applicable.

"(6) Stock acquired by reason of death.—If—

"(A) the basis of any stock in the hands of any person is determined under section 1014 (relating to property acquired from a decedent), or

"(B) stock is received by any person in satisfaction of a right to receive a pecuniary bequest,

such person shall be treated as owning such stock during the period such stock was owned by the decedent. The preceding sentence shall apply only in the case of the estate of the decedent or a person who is a member of the decedent's family (within the meaning of section 318(a)(1)(A)).

"(7) Certain changes in percentage ownership which are attributable to fluctuations in value not taken into account.—Under regulations prescribed by the Secretary, any change in proportionate ownership which is attributable solely to fluctuations in the relative fair market values of different classes or amounts of stock shall not be taken into account.

"(8) Reduction in trigger value where substantial nonbusiness assets.—

"(A) In general.—If, immediately after the trigger, the old loss corporation has substantial nonbusiness assets, the trigger value of such corporation shall be reduced by the excess (if any) of—

"(i) the fair market value of the nonbusiness assets of such corporation, over

"(ii) the nonbusiness asset share of indebtedness for which such corporation is liable.

"(B) Corporation having substantial nonbusiness assets.—For purposes of subparagraph (A), the old loss corporation shall be treated as having substantial nonbusiness assets if at least ⅓ of the value of the total assets of such corporation consists of nonbusiness assets.

"(C) Nonbusiness assets.—For purposes of this paragraph, the term 'nonbusiness assets' means—

"(i) cash,

"(ii) marketable stocks or securities, and

"(iii) any other asset which is—

"(I) not held for active use in a trade or business, or

"(II) disposed of (other than in the ordinary course of the old loss corporation's trade or business) pursuant to a plan or arrangement in existence before the trigger day.

"(D) Nonbusiness asset share.—For purposes of this paragraph, the nonbusiness asset share of the indebtedness of the corporation is an amount which bears the same ratio to such indebtedness as—

"(i) the fair market value of the nonbusiness assets of the corporation, bears to

"(ii) the fair market value of all assets of such corporation.

"(E) Treatment of subsidiaries.—For purposes of this paragraph, stock and securities in any subsidiary corporation shall be disregarded and the parent corporation shall be deemed to own its ratable share of the subsidiary's assets. For purposes of the preceding sentence, a corporation shall be treated as a subsidiary if the parent owns 50 percent or more of the combined voting power of all classes of stock entitled to vote, or 50 percent or more of the total value of shares of all classes of stock.

"(9) Ordering rule.—In any case in which—

"(A) a pre-trigger loss of a loss corporation for any taxable year is subject to the limitation of this section, and

"(B) a net operating loss of such corporation from such taxable year is not subject to such limitation,

taxable income shall, for purposes of this chapter, be treated as having been offset first by the loss subject to such limitation.

"(o) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section and section 383, including (but not limited to) regulations—

"(1) providing for the application of this section and section 383 where a trigger with respect to the old loss corporation is followed by a trigger with respect to the new loss corporation,

"(2) which treat warrants, obligations convertible into stock, and other similar interests as stock,

"(3) which treat options to acquire or sell stock as having been exercised, and

"(4) which provides such adjustments to the application of this section and section 383—

"(A) where 1 corporation owns stock in a 2nd corporation which owns stock in the 1st corporation,

"(B) where 1 corporation owns stock in a 2nd corporation which is extinguished by the merger of the 2nd corporation into the 1st corporation,

"(C) where the same persons own stock in 2 corporations,

"(D) where it is necessary to follow the ownership of old loss shareholders in the new loss corporation, or

"(E) in any other case where the foregoing rules of this section do not carry out the purpose of this section and section 383."

(b) Amendment of Section 383.—Section 383 (relating to special limitations on unused investment credits, etc.) is amended to read as follows:

"SEC. 383. SPECIAL LIMITATIONS ON CERTAIN EXCESS CREDITS, ETC.

"(a) Excess Credits.—

"(1) In general.—Under regulations prescribed by the Secretary, if a trigger occurs with respect to a corporation, the amount of any excess credit for any taxable year before the 1st post-trigger year which may be used in any post-trigger year shall be limited to an amount determined on the basis of the tax liability which is attributable to so much of the taxable income as does not exceed the trigger amount for such post-trigger year to the extent available after the application of section 382 and subsections (b) and (c) of this section.

"(2) Excess credit.—For purposes of paragraph (1), the term 'excess credit' means—

"(A) any unused general business credit of the corporation under section 39, and

"(B) any unused minimum tax credit of the corporation under section 53.

"(b) Limitation on Net Capital Loss.—If a trigger occurs with respect to a corporation, the amount of any net capital loss under section 1212 for any taxable year before the 1st post-trigger year which may be used in any post-trigger year shall be limited under regulations prescribed by the Secretary which shall be based on the principles applicable under section 382. Such regulations shall provide that any such net capital loss used in a post-trigger year shall reduce the amount of any pre-trigger net operating loss which may be used under section 382 in a subsequent post-trigger year.

"(c) Foreign Tax Credits.—If a trigger occurs with respect to a corporation, the amount of any excess foreign taxes under section 904(c) for any taxable year before the 1st post-trigger taxable year shall be limited under regulations prescribed by the Secretary which shall be consistent with purposes of this section and section 382.

"(d) Pro Ration Rules for Year Which Includes Trigger.—For purposes of this section, rules similar to the rules of subsections (b)(3) and (d)(1)(B) of section 382 shall apply.

"(e) Definitions.—Terms used in this section shall have the same respective meanings as when used in section 382, except that appropriate adjustments shall be made to take into account that the limitations of this section apply to credits and net capital losses."

(c) Conforming Amendment to Section 318(b).—Paragraph (5) of section 318(b) is amended by striking out "section 382(a)(3)" and inserting in lieu thereof "section 382".

(d) Repeal of Changes Made by Tax Reform Act of 1976.—

(1) Subsections (e) and (f) of section 806 of the Tax Reform Act of 1976 are hereby repealed.

(2) Subsection (g) of such section 806 is amended by striking out paragraphs (2) and (3).

(3) The repeals made by paragraph (1) and the amendment made by paragraph (2) shall not affect the amendment to section 383 of the Internal Revenue Code of 1954 made by subsection (f) of such section 806.

(e) Effective Dates.—

(1) In general.—

(A) The amendments made by subsections (a), (b), and (c) shall apply to—

(i) equity structure changes (as defined in section 382(g)(5) of the Internal Revenue Code of 1985 as amended by this section) pursuant to plans of reorganization adopted after December 31, 1985, and

(ii) 50-percent owner shifts (as defined in section 382(g)(2) of such Code as so amended) where the trigger day (as defined in section 382 of such Code as so amended) occurs after December 31, 1985.

(B) For purposes of determining whether there is a more than 50-percent owner shift after December 31, 1985, the testing period shall not begin before October 28, 1985.

(2) For amendments to tax reform act of 1976.—The repeals made by subsection (d)(1) and the amendment made by subsection (d)(2) shall take effect on the date of the enactment of the Tax Reform Act of 1976 except that such amendment shall not apply in any case to which the amendments repealed by subsection (d)(1) apply by reason of an election under section 368(b) of the Revenue Act of 1978.

(3) Bankruptcy proceedings.—In the case of a reorganization described in subparagrah (G) of section 368(a)(1) of such Code or an exchange of debt for stock in a title 11 or similar case, as defined in section 368(a)(3) of such Code, the amendments made by subsections (a), (b), and (c) shall not apply to any 50-percent equity structure change or 50-percent owner shift resulting from such a reorganization or proceeding if—

(A) a plan of reorganization was filed with the court before September 26, 1985, or

(B) the reorganization occurs before January 1, 1989.

In any case to which subparagraph (B) applies, only the amount of claims held by persons which were creditors as of September 25, 1985, or which become creditors under written contracts which are binding on September 25, 1985, and who receive stock in the reorganization shall be taken into account.

(4) Certain plans.—The amendments made by subsections (a), (b), and (c) shall not apply to any 50-percent owner shift or 50-percent equity structure change with respect to—

(A) a corporation the stock of which is acquired pursuant to a plan of divestiture which identified such corporation and its assets, and was agreed to by the board of directors of such corporation's parent corporation on May 17, 1985,

(B) a merger which occurs pursuant to a merger agreement (entered into before September 24, 1985) and an application for approval by the Federal Home Loan Bank Board was filed on October 4, 1985,

(C) a reorganization involving a party to a reorganization of a group of corporations engaged in enhanced oil recovery operations in California, merged in furtherance of a plan of reorganization adopted by a board of directors vote on September 24, 1985, and a Delaware corporation whose principal oil and gas producing fields are located in California, or

(D) the conversion of a mutual savings and loan association holding a Federal charter dated March 22, 1985, to a stock savings and loan association pursuant to the rules and regulations of the Federal Home Loan Bank Board.

Subtitle D—Recognition of Gain and Loss on Distributions of Property in Liquidation

SEC. 231. AMENDMENT TO SECTION 336.

(a) General Rule.—Section 336 (relating to distributions of property in liquidation) is amended to read as follows:

"SEC. 336. DISTRIBUTIONS OF PROPERTY IN LIQUIDATION.

"(a) General Rule.—Except as otherwise provided in this section, gain or loss shall be recognized to a corporation on the distribution of property in complete liquidation as if such property were sold to the distributee at its fair market value.

"(b) Nonrecognition in Certain Corporate Liquidations.—

"(1) In general.—In the case of any liquidation to which section 332 applies where there is not a minority shareholder, no gain or loss shall be recognized to the liquidating corporation on the distribution of property in complete liquidation.

"(2) Partial recognition where minority shareholder.—In the case of any liquidation to which section 332 applies where there is a minority shareholder, the 80-percent distributee's share of each gain or loss which (but for this paragraph) would be recognized under subsection (a) shall not be recognized.

"(3) Determination of 80-percent distributee's share.—For purposes of this subsection—

"(A) In general.—Except as provided in subparagraph (B), the 80-percent distributee's share of any gain or loss is the percentage (in value) of the stock of the liquidating corporation which is held by the 80-percent distributee on the date of the adoption of the plan of complete liquidation.

"(B) Increase for certain shares acquired from minority shareholders.—The percentage determined under subparagraph (A) shall be increased by an amount determined by treating—

"(i) any stock acquired (after the adoption of the plan) by the 80-percent distributee from a minority shareholder for cash, and

"(ii) any stock of a minority shareholder with respect to which the liquidating distribution consists of cash,

as held by the 80-percent distributee on the day on which the plan of liquidation was adopted. This subparagraph shall not apply in the case of any liquidation which is a qualified section 332 liquidation (as defined in section 337(b)(2)).

"(4) Other definitions.—For purposes of this subsection—

"(A) 80-percent distributee.—The term '80-percent distributee' means any shareholder that meets the 80-percent stock ownership requirement specified in section 332(b).

"(B) Minority shareholder.—The term 'minority shareholder' means any shareholder in the liquidating corporation other than the 80-percent distributee.

"(c) Exception for Qualified Stock Held in Certain Active Business Corporations.—

"(1) In general.—In the case of any liquidation of an active business corporation where 1 or more shareholders hold qualified stock, the applicable percentage of each gain or loss which (but for this paragraph) would be recognized under subsection (a) shall not be recognized.

"(2) Paragraph (1) not to apply to certain items.—Paragraph (1) shall not apply to—

"(A) any gain or loss which is an ordinary gain or loss,

"(B) any gain or loss on a capital asset held for not more than 6 months, and

"(C) any gain to the extent section 453B applies.

"(3) Applicable percentage.—The term 'applicable percentage' means the percentage (by value) of the stock of the corporation which is qualified stock (determined as of the date of the adoption of the plan of complete liquidation).

"(4) Qualified stock.—For purposes of this subsection—

"(A) In general.—The term 'qualified stock' has the meaning given to such term by section 311(e)(1).

"(B) Rules for pass-thru entities.—Rules similar to the rules of section 311(e)(1)(C) shall apply.

"(5) Qualified active business corporation.—For purposes of this subsection—

"(A) In general.—The term 'active business corporation' means any corporation if—

"(i) substantially all of the assets of such corporation consists of the assets of 1 or more qualified businesses, and

"(ii) no substantial part of such corporation's nonbusiness assets were acquired in a transaction to which section 351 applied, or as a contribution to capital, within the 5-year period ending on the date of the completion of the liquidation.

"(B) Qualified business, etc.—The terms 'qualified business' and 'nonbusiness asset' have the respective meanings given to such terms by section 311(e)(2)(B).

"(C) Treatment of subsidiaries.—In determining whether any liquidating corporation is a qualified active business corporation, such corporation shall be treated as owning its proportionate share of the assets of all other corporations in which it owns 50 percent or more in value of the outstanding stock.

"(6) Coordination with subsection (b).—In the case of any liquidation described in subsection (b) where 1 or more shareholders own qualified stock, the nonrecognition under this subsection shall be in addition to the nonrecognition under subsection (b).

"(d) Exception for Certain Liquidations to Which Part III Applies.—This section (and section 337) shall not apply with respect to any exchange or distribution of property to the extent there is nonrecognition of gain or loss with respect to such property to the receipient under part III.

"(e) Special Rule Where Liabilities Exceed Basis.—

"(1) In general.—For purposes of this section, if any property distributed in the liquidation is subject to a liability, or the shareholder assumes a liability of the liquidating corporation in connection with the distribution, the fair market value of such property shall be treated as not less than the amount of such liability.

"(2) Special rule where property distributed with respect to qualified stock.—If—

"(A) the liability referred to in paragraph (1) exceeds the adjusted basis of the property in the hands of the liquidating corporation, and

"(B) such property is distributed with respect to qualified stock,

subsection (b) shall not apply to any gain on such property."

(b) Definition of Qualified Stock.—Paragraph (1) of section 311(e) (defining qualified stock) is amended by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(A) In general.—The term 'qualified stock' means stock held by any person (other than a corporation) if—

"(i) such person held such stock for at least 5 years (or, if lesser, the period during which the liquidating corporation (or predecessor corporation) was in existence), and

"(ii) at all times during such period, such person held at least 10 percent in value of the outstanding stock of the distributing corporation (or predecessor corporation).

"(B) Determination of period for which stock held.—Section 318 shall apply in determining ownership of stock under subparagraph (A); except that, in applying section 318(a)(1), the term 'family' includes any individual described in section 267(c)(4) and any spouse of any such individual. Any person who acquires any stock by reason of the death of an individual shall be treated as owning such stock for all periods during which such stock was held by the decedent."

SEC. 332. AMENDMENT TO SECTION 337.

Section 337 (relating to gain or loss on sales or exchanges in connection with certain liquidations) is amended to read as follows:

"SEC. 337. GAIN OR LOSS ON SALES OR EXCHANGES IN CONNECTION WITH CERTAIN LIQUIDATIONS.

"(a) General Rule.—In the case of any liquidation to which this section applies, gain or loss shall not be recognized to the liquidating corporation from the sale or exchange by it of property within the 12-month period referred to in subsection (b)(1) to the extent gain or loss would not be recognized under section 336 if such property were distributed to the shareholders of the liquidating corporation.

"(b) Liquidations to Which This Section Applies.—

"(1) In general.—Except as otherwise provided in this subsection, this section shall apply to any liquidation of a corporation—

"(A) if within the 12-month period beginning on the date on which the corporation adopts a plan of complete liquidation, all of the assets of the corporation are distributed in complete liquidation (less assets retained to meet claims), and

"(B) if—

"(i) such liquidation is a qualified section 332 liquidation, or

"(ii) the liquidating corporation is an active business corporation and 1 or more shareholders in the liquidating corporation hold qualified stock.

For purposes of this subsection, the terms 'qualified stock' and 'active business corporation' have the respective meanings given to such terms by section 336.

"(2) Qualified section 332 liquidation.—

"(A) In general.—For purposes of paragraph (1), the term 'qualified section 332 liquidation' means any liquidation to which section 332 applies if—

"(i) within the 12-month period beginning on the date of the adoption of a plan of liquidation by the liquidating corporation, such corporation and each distributee corporation is completely liquidated, and

"(ii) none of the complete liquidations referred to in clause (i) is a liquidation to which section 333 applies.

"(B) Distributee corporation.—For purposes of subparagraph (A), the term 'distributee corporation' means any corporation which receives a distribution to which section 332 applies in a complete liquidation of the liquidating corporation. Such term also includes any other corporation which receives a distribution to which section 332 applies in a complete liquidation of a corporation which is a distributee corporation under the preceding sentence or prior application of this sentence.

"(C) Treatment of certain section 332 liquidations of active business corporations.—In the case of a liquidation to which section 332 applies of an active business corporation with 1 or more shareholders who hold qualified stock, unless such liquidation is a qualified section 332 liquidation, the exceptions contained in section 336(b) shall not apply for purposes of determining the amount of gain or loss recognized under subsection (a).

"(3) Collapsible corporations and liquidations to which section 333 applies.—This section shall not apply to any sale or exchange—

"(A) made by a collapsible corporation (as defined in section 341(b)), or

"(B) following the adoption of a plan of complete liquidation, if section 333 applies with respect to such liquidation.

"(c) Definitions and Special Rules.—

"(1) Property defined.—For purposes of subsection (a), the term 'property' does not include—

"(A) stock in trade of the corporation, or other property of a kind which would properly be included in the inventory of the corporation if on hand at the close of the taxable year, and property held by the corporation primarily for sale to customers in the ordinary course of its trade or business,

"(B) installment obligations acquired in respect of the sale or exchange (without regard to whether such sale or exchange occurred before, on, or after the date of the adoption of the plan referred to in subsection (a)) of stock in trade or other property described in subparagraph (A) of this paragraph, and

"(C) installment obligations acquired in respect of property (other than property described in subparagraph (A)) sold or exchanged before the date of the adoption of such plan of liquidation.

"(2) Section to apply to certain transaction before adoption of plan of liquidation.—Subsection (a) shall also apply to any loss on the sale or exchange (other than in the ordinary course of the liquidating corporation's trade or business) of property during the 1-year period ending on the adoption of the plan of complete liquidation or at any time after the adoption of the plan of liquidation.

"(3) Special rule for involuntary conversions.—If—

'(A) there is an involuntary conversion (within the meaning of section 1033) of property of a distributing corporation and there is a complete liquidation of such corporation which qualifies under subsection (b),

"(B) the disposition of the converted property (within the meaning of clause (ii) of section 1033(a)(2)(E)) occurs during the 60-day period which ends on the day before the 1st day of the 12-month period, and

"(C) such corporation elects the application of this paragraph at such time and in such manner as the Secretary may by regulations prescribe,

then for the purposes of this section such disposition shall be treated as a sale or exchange occurring within the 12-month period."

SEC. 333. AMENDMENT TO SECTION 338.

(a) Recognition of Gain in Case of Elections Under Section 338.—Paragraph (1) of section 338(a) (relating to certain stock purchases treated as asset acquisitions) is amended by striking out "to which section 337 applies".

(b) Exception for Qualified Stock.—Subsection (c) of section 338 is amended to read as follows:

"(c) Exception for Qualified Stock in Active Business Corporations.—

"(1) In general.—If—

"(A) the target corporation is an active business corporation, and

"(B) as of the day on which the 1st stock purchase included in the qualified stock purchase was made, 1 or more shareholders held qualified stock in such corporation,

the amount of gain or loss recognized under subsection (a) shall be determined under section 336 (without regard to subsection (b) thereof) as if the target corporation distributed all of its assets in liquidation on the acquisition date.

"(2) Determination of applicable percentage.—For purposes of determining the amount of gain or loss recognized under subsection (a) of this section, the applicable percentage used for purposes of section 336(c) shall be determined as of the 1st day on which there was a purchase of stock included in the qualified stock purchase.

"(3) Active business corporation, etc.—For purposes of this subsection, the terms 'active business corporation' and 'qualified stock' have the respective meanings given to such terms by section 336."

SEC. 334. TECHNICAL AMENDMENT.

Subsection (d) of section 1362 (relating to termination) is amended by adding at the end thereof the following new paragraph:

"(4) Termination in the case of certain liquidations.—

"(A) In general.—If

"(i) a corporation elects on or after November 20, 1985, to be an S corporation for any taxable year,

"(ii) such corporation (or predecessor) was a C corporation for any prior taxable year, and

"(iii) such corporation liquidates before the close of the 3-year period beginning on the 1st day of the 1st taxable year for which such election was effective,

such election shall be terminated as of such 1st day.

"(B) Statute of limitations.—If any election is terminated under subparagraph (A)—

"(i) the period for the assessment of any deficiency of the liquidating corporation (or any shareholder thereof) attributable to such termination shall not expire before the expiration of the date 1 year after the date of the liquidation, and

"(ii) the period for filing a claim for credit or refund of any overpayment attributable to such termination shall not expire before the expiration of the date 1 year from the date of the liquidation.

Such deficiency may be assessed before the expiration of such 1-year period, and any credit or refund of such overpayment may be allowed or made if claim therefor is filed during such 1-year period, notwithstanding the provisions of any law or rule of law which would otherwise prevent such assessment (or the allowance or making of such refund)."

SEC. 335. EFFECTIVE DATE.

(a) General Rule.—Except as otherwise provided in this section, the amendments made by this subtitle shall apply to distributions or sales and exchanges on or after November 20, 1985 and to any transaction described in section 338 of the Internal Revenue Code of 1954 for which the acquisition date occurs on or after November 20, 1985.

(b) Exception for Plans of Liquidation Adopted Before November 20, 1985.—

(1) In general.—The amendments made by this subtitle shall not apply to distributions or sales and exchanges made pursuant to a plan of liquidation adopted before November 20, 1985.

(2) Special rules for determining when plan adopted.—For purposes of paragraph (1), transactions shall be treated as made pursuant to a plan of liquidation adopted before November 20, 1985—

(A) if before November 20, 1985—

(i) the board of directors of the liquidating corporation adopted a resolution to solicit shareholder approval for a transaction of a kind described in section 336 or 337, or

(ii) the shareholders or board of directors have approved such a transaction, but only if a plan of complete liquidation is adopted before January 1, 1988, and at least 1 sale or distribution pursuant to such plan is made before such date,

(B) if before November 20, 1985—

(i) there has been an offer to purchase a majority of the voting stock of the liquidating corporation, or

(ii) the board of directors of the liquidating corporation has adopted a resolution approving an acquisition or recommending the approval of an acquisition to the shareholders,

but only if the sale or distribution is pursuant to or was contemplated by the terms of the offer or resolution, a plan of complete liquidation is adopted before January 1, 1988, and there is at least 1 sale or distribution pursuant to such plan of liquidation before January 1, 1988, or

(C) a ruling request was submitted to the Secretary of the Treasury or his delegate with respect to a transaction of a kind described in section 336 or 337 and (pursuant to the transaction described in the ruling request) a plan of complete liquidation is adopted, and at least 1 sale or distribution pursuant to such plan occurs, before the later of January 1, 1988, or 90 days after the date on which the Secretary of the Treasury or his delegate issues a ruling with respect to such transaction.

For purposes of the preceding sentence, any election under section 338 shall be treated as an adoption of a plan of complete liquidation, and such liquidation shall be treated as occurring on the acquisition date.

(3) SPECIAL RULE FOR ACTION BY PARENT.—For purposes of paragraph (2), any action taken by the board of directors or shareholders of a corporation with respect to any subsidiary of such corporation shall be treated as taken by the board of directors or shareholders of such subsidiary.

TITLE IV—TAX SHELTERS

SEC. 401. EXTENSION OF AT RISK LIMITATIONS TO REAL PROPERTY.

(a) IN GENERAL.—Paragraph (3) of section 465(c) (relating to activities to which section applies) is amended by striking out subparagraph (D) and by redesignating subparagraph (E) as subparagraph (D).

(b) QUALIFIED NONRECOURSE FINANCING TREATED AS AN AMOUNT AT RISK.—Section 465(b) (relating to amounts considered at risk) is amended by adding at the end thereof the following new paragraph:

"(6) QUALIFIED NONRECOURSE FINANCING TREATED AS AMOUNT AT RISK.—For purposes of this section—

"(A) IN GENERAL.—Notwithstanding any other provision of this subsection, in the case of an activity of holding real property, a taxpayer shall be considered at risk with respect to any qualified nonrecourse financing which is secured by real property used in such activity.

"(B) QUALIFIED NONRECOURSE FINANCING.—For purposes of this paragraph, the term 'qualified nonrecourse financing' means any financing—

"(i) which is borrowed by the taxpayer with respect to the activity of holding real property,

"(ii) which is borrowed by the taxpayer from a qualified person or represents a loan from any Federal, State, or local government or instrumentality thereof, or is guaranteed by any Federal, State, or local government or instrumentality thereof,

"(iii) which is not used by the taxpayer to acquire an interest in property from a person who is a related person (within the meaning of paragraph (3)(C)),

"(iv) except to the extent provided in regulations, with respect to which no person is personally liable for repayment, and

"(v) which is not convertible debt.

"(C) SPECIAL RULE FOR PARTNERSHIPS.—In the case of a partnership, a partner's share of any qualified nonrecourse financing of such partnership shall be determined on the basis of the partner's share of liabilities of such partnership (within the meaning of section 752).

"(D) QUALIFIED PERSON DEFINED.—For purposes of this paragraph, the term 'qualified person' has the same meaning given such term by section 46(c)(8)(D)(iv).

"(E) ACTIVITY OF HOLDING REAL PROPERTY.—For purposes of this paragraph, the activity of holding real property shall—

"(i) include personal property and services which are incidental to making real property available as living accommodations, and

"(ii) not include the holding of mineral property."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to losses incurred after December 31, 1985, with respect to property acquired by the taxpayer after December 31, 1985.

SEC. 402. LIMITATION ON DEDUCTION FOR NONBUSINESS INTEREST.

(a) GENERAL RULE.—Subsection (d) of section 163 (relating to limitation on interest on investment indebtedness) is amended to read as follows:

"(d) LIMITATION ON NONBUSINESS INTEREST.—

"(1) IN GENERAL.—In the case of a taxpayer other than a corporation, the amount allowed as a deduction under this chapter for nonbusiness interest for any taxable year shall not exceed the sum of—

"(A) $10,000 ($20,000, in the case of a joint return), plus

"(B) the net investment income for the taxable year.

In the case of a trust, the amount specified in subparagraph (A) shall be zero.

"(2) CARRYOVER OF DISALLOWED INTEREST.—The amount not allowed as a deduction for any taxable year by reason of paragraph (1) shall be treated as nonbusiness interest paid or accrued by the taxpayer in the succeeding taxable year.

"(3) NONBUSINESS INTEREST.—For purposes of this subsection, the term 'nonbusiness interest' means any interest allowable as a deduction under this chapter (determined without regard to paragraph (1)); except that such term shall not include—

"(A) any qualified residence interest, and

"(B) any interest which is allowable as a deduction in computing adjusted gross income and which is not attributable to a limited business interest.

For purposes of the preceding sentence, the term 'interest' includes any amount allowable as a deduction in connection with personal property used in a short sale.

"(4) QUALIFIED RESIDENCE INTEREST.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified residence interest' means interest which is paid or accrued during the taxable year on indebtedness which is secured by any property which (at the time such interest is paid or accrued) is a qualified residence of the taxpayer.

"(B) EXCEPTION FOR INTEREST ON INDEBTEDNESS IN EXCESS OF THE FAIR MARKET VALUE OF THE QUALIFIED RESIDENCE.—

"(i) IN GENERAL.—The term 'qualified residence interest' shall not include any interest paid or accrued on indebtedness secured by any qualified residence which is allocable to that portion of the principal amount of such indebtedness which, when added to the outstanding aggregate principal amount of all other indebtedness previously incurred and secured by such qualified residence, exceeds the fair market value of such qualified residence.

"(ii) TIME FOR DETERMINATION.—The determination under clause (i) shall be made as of the time the indebtedness is incurred.

"(C) QUALIFIED RESIDENCE.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'qualified residence' means—

"(I) a principal residence (within the meaning of section 1034) of the taxpayer, and

"(II) 1 other residence (whether or not a principal residence) of the taxpayer which is selected by the taxpayer for purposes of this subsection for the taxable year.

"(ii) MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—If a married couple does not file a joint return for any taxable year—

"(I) such couple shall be treated as 1 taxpayer for purposes of clause (i), and

"(II) each individual shall be entitled to take into account a residence unless both individuals consent in writing to 1 individual taking into account a principal residence and 1 other residence.

"(D) SPECIAL RULE FOR COOPERATIVE HOUSING CORPORATIONS.—For purposes of this paragraph, any indebtedness secured by stock held by the taxpayer as a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as so defined) shall be treated as secured by the house or apartment which the taxpayer is entitled to occupy as such a tenant-stockholder.

"(E) SPECIAL RULE FOR RESIDENTIAL LOTS.—For purposes of this paragraph—

"(i) IN GENERAL.—A residential lot shall be treated as a residence.

"(ii) EXCEPTION FOR DIVIDED LOTS.—Clause (i) shall not apply to any lot which is divided by the taxpayer and sold.

"(F) SPECIAL RULE FOR TIME-SHARING.—For purposes of this paragraph, up to 6 weeks of time-sharing of a residential property may be treated as 1 residence.

"(5) NET INVESTMENT INCOME.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'net investment income' means the excess of—

"(i) investment income, over

"(ii) investment expenses.

"(B) INVESTMENT INCOME.—The term 'investment income' means the sum of—

"(i) the gross income from interest, dividends, rents, and royalties,

"(ii) any amount treated under section 1245, 1250, or 1254 as ordinary income, and

"(iii) any capital gain net income (reduced by the amount of any deduction under section 1202(a) allocable to such gain) attributable to the disposition of property held for investment,

but only to the extent such amounts are not derived from the conduct of a trade or business.

"(C) INVESTMENT EXPENSES.—The term 'investment expenses' means the deductions allowable under this chapter (other than for interest) which are directly connected with the production of investment income.

"(D) SPECIAL RULE FOR CERTAIN AMOUNTS ATTRIBUTABLE TO NET LEASES.—The net investment income of a taxpayer for any taxable year shall be increased by an amount equal to the excess (if any) of—

"(i) the deductions allowable for such taxable year under this section (determined without regard to this subsection) and sections 162, 164(a) (1) or (2), or 212 attributable to a net lease, over

"(ii) the income for such taxable year attributable to such property.

"(E) Income and losses from limited business interests taken into account.—Any income or loss derived from a limited business interest shall be taken into account in computing net investment income.

"(6) Limited business interest.—For purposes of this subsection—

"(A) In general.—The term 'limited business interest' means—

"(i)(I) any interest as a limited partner in a partnership, and

"(II) any other interest as a partner in a partnership if the taxpayer does not actively participate in the management of such partnership,

"(ii) any interest as a shareholder in an S corporation if the taxpayer does not actively participate in the management of such corporation,

"(iii) any interest of a lessor in property subject to a lease if—

"(I) for the taxable year the sum of the deductions of the lessor with respect to such property which are allowable solely by reason of section 162 (other than rentals and reimbursed amounts with respect to such property) is less than 15 percent of the rental income produced by such property, or

"(II) the lessor is either guaranteed a specific rental or is guaranteed in whole or in part against loss of income, and

"(iv) any interest as a limited entrepreneur (within the meaning of section 464(e)(2)).

"(B) Exception for certain low-income housing.—A limited business interest shall not include an interest in—

"(i) any project described in section 168(j)(3)(B),

"(ii) a qualified residential rental project described in section 142(c)—

"(I) section 142(c)(1)(A), or

"(II) section 142(c)(1)(B),

but only if such project is financed from the proceeds of tax-exempt obligations, or

"(iii) any low-income rental housing described in section 167(k).

Net investment income shall be computed without regard to any such interest.

"(C) Special rules for subparagraph (A) (iii).—For purposes of determining whether an interest is a net lease under subparagraph (A)(iii)—

"(i) Certain personal services taken into account.—In the case of—

"(I) an individual, or

"(II) a partnership (other than a partnership in which an interest is held by a limited partner),

which manages property held by such individual or partnership, deductions under section 162 with respect to such property shall be treated as including the fair market value of management or repair services performed by such individual or a partner in such partnership with respect to such property.

"(ii) Real property leases.—

"(I) 2 or more leases.—If a parcel of real property of the taxpayer is leased under 2 or more leases, subparagraph (A)(iii) shall, at the election of the taxpayer, be applied by treating all leased portions of such property as subject to a single lease.

"(II) Property held for more than 5 years.—At the election of the taxpayer, subparagraph (A)(iii) shall not apply with respect to real property of the taxpayer which has been in use by the taxpayer for more than 5 years.

"(7) Coordination with section 280A.—

"(A) Application of section 280A.—Section 280A shall be applied without regard to the limitations of this subsection.

"(B) Application of interest limitation.—For purposes of this subsection—

"(i) the determination of whether any interest is allocable to a section 280A use shall be made in the same manner as for purposes of section 280A, and

"(ii) any interest allocable to a section 280A use shall be treated as nonbusiness interest to the extent such interest is greater than the excess (if any) of—

"(I) the gross income derived from such use for the taxable year, over

"(II) the deductions referred to in section 280A(c)(5)(B) (other than for interest).

For purposes of the preceding sentence, the term 'section 280A use' means any use referred to in section 280A(c)(5).

"(8) Net lease.—For purposes of this subsection, the term 'net lease' means a limited business interest described in clause (iii) of paragraph (6)(A).

"(9) Phase-in of amounts treated as nonbusiness interest and investment income.—In the case of any taxable year beginning in calendar years 1986 through 1994—

"(A) In general.—The amount of interest disallowed under this subsection for any such taxable year shall not exceed the sum of—

"(i) the amount of interest which would have been disallowed under this subsection (as in effect on the day before the date of the enactment of the Tax Reform Act of 1985) for the taxable year, plus

"(ii) the applicable percentage of the excess of the amount which (but for this paragraph) would have been disallowed under this subsection for the taxable year over the amount described in clause (i).

"(B) Applicable percentage.—For purposes of this paragraph, the term 'applicable percentage' means, with respect to any calendar year, 10 percent, multiplied by 1 plus the number of years between such calendar year and 1985."

(b) Short Taxable Year.—Paragraph (3) of section 443(b) (defining modified taxable income) is amended by adding at the end thereof the following new sentence: "In the case of a short period, for purposes of this subsection, the applicable dollar amount specified in section 163(d)(1)(A) shall be reduced to the amount which bears the same ratio to such applicable amount as the number of days in the short period bears to 365."

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1985.

TITLE V—ALTERNATIVE MINIMUM TAX

SEC. 501. ALTERNATIVE MINIMUM TAX FOR INDIVIDUALS AND CORPORATIONS.

(a) General Rule.—Part VI of subchapter A of chapter 1 (relating to minimum tax for tax preferences) is amended to read as follows:

"PART VI—ALTERNATIVE MINIMUM TAX

"Sec. 55. Alternative minimum tax imposed.
"Sec. 56. Treatment of certain tax preferences.
"Sec. 57. Other items of tax preference.
"Sec. 58. Denial of certain losses.
"Sec. 59. Other definitions and special rules.

"SEC. 55. ALTERNATIVE MINIMUM TAX IMPOSED.

"(a) General Rule.—There is hereby imposed (in addition to any other tax imposed by this subtitle) a tax equal to the excess (if any) of—

"(1) tentative minimum tax for the taxable year, over

"(2) the regular tax for the taxable year.

"(b) Tentative Minimum Tax.—For purposes of this part—

"(1) In general.—The tentative minimum tax for the taxable year is—

"(A) 25 percent of so much of the alternative minimum taxable income for the taxable year as exceeds the exemption amount, reduced by

"(B) the alternative minimum tax foreign tax credit for the taxable year.

"(2) Alternative minimum taxable income.—The term 'alternative minimum taxable income' means the taxable income of the taxpayer for the taxable year—

"(A) determined with the adjustments provided in section 56 and section 58, and

"(B) increased by the amount of the items of tax preferences described in section 57.

"(c) Regular Tax.—

"(1) In general.—For purposes of this section, the term 'regular tax' means the regular tax liability for the taxable year (as defined in section 26(b)) reduced by the foreign tax credit allowable under section 27(a). Such term shall not include any increase in tax under section 47.

"(2) Cross references.—

"For provisions providing that certain credits are not allowable against the tax imposed by this section, see sections 26(a), 28(d)(2), 29(b)(5), and 38(c).

"(d) Exemption Amount.—For purposes of this section—

"(1) Exemption amount for taxpayers other than corporations.—In the case of a taxpayer other than a corporation, the term 'exemption amount' means—

"(A) $40,000 in the case of—

"(i) a joint return, or

"(ii) a surviving spouse,

"(B) $30,000 in the case of an individual who—

"(i) is not a married individual, and

"(ii) is not a surviving spouse, and

"(C) $20,000 in the case of—

"(i) a married individual (as so defined) who files a separate return, or

"(ii) an estate trust to which subchapter A of chapter 99 applies.

For purposes of this paragraph, the term 'surviving spouse' has the meaning given to such term by section 2(a), and marital status shall be determined under section 7703.

"(2) Corporations.—In the case of a corporation, the term 'exemption amount' means $40,000.

"(3) Cross reference.—

"For exemption amount in case of certain estates and trusts, see section 665.

"SEC. 56. TREATMENT OF CERTAIN TAX PREFERENCES.

"(a) Adjustments Applicable to All Taxpayers.—In determining the amount of the alternative minimum taxable income for any taxable year the following treatment shall apply (in lieu of the treatment applicable for purposes of computing the regular tax):

"(1) Depreciation.—

"(A) In general.—The depreciation deduction allowable under section 167 with respect to any tangible property placed in service after December 31, 1985, shall be determined under the nonincentive system of section 168(h) (without any inflation adjustments under section 168(g)).

"(B) Exception for certain property.—This paragraph shall not apply to property described in paragraph (2), (3), (4), or (5) of section 168(f).

"(C) Special rule for rehabilitation expenditures of low-income housing.—In the case of rehabilitation expenditures to which section 167(k) applies, the recovery period used for purposes of subparagraph (A) shall be 15 years.

"(2) Mining exploration and development costs.—

"(A) In general.—With respect to each mine or other natural deposit (other than an oil, gas, or geothermal well) of the taxpayer, the amount allowable as a deduction under section 616(a) in computing the regular tax for costs paid or incurred after December 31, 1985, shall be capitalized and amortized ratably over the 10-year period beginning with the taxable year in which the expenditures were made.

"(B) Loss allowed.—If a loss is sustained with respect to any property described in subparagraph (A), a deduction shall be allowed for the expenditures described in subparagraph (A) for the taxable year in which such loss is sustained an amount equal to the lesser of—

"(i) the amount allowable under section 165(a) for the expenditures if they had remained capitalized, or

"(ii) the amount of such expenditures which have not previously been amortized under subparagraph (A).

"(3) Treatment of certain long-term contracts.—

"(A) In general.—The taxable income from any long-term contract to which this paragraph applies shall be determined under the percentage of completion method of accounting.

"(B) Long-term contracts to which paragraph applies.—This paragraph shall apply to any long-term contract entered into by the taxpayer after September 25, 1985, if the taxpayer is not required to use the percentage of completion method with respect to such contract by reason of section 904(d) of the Tax Reform Act of 1985.

"(4) Alternative tax net operating loss deduction.—The alternative tax net operating loss deduction shall be allowed in lieu of the net operating loss deduction allowed under section 172.

"(5) Adjusted basis.—The adjusted basis of any property to which paragraph (1) applies (or with to which there are any expenditures to which paragraph (2) or subsection (b)(3) applies) shall be determined on the basis of the treatment prescribed in paragraph (1) or (2) or subsection (b)(2), whichever is applicable.

"(6) Shareholders of foreign sales corporations and domestic international sales corporations.—

"(A) Foreign sales corporations.—

"(i) In general.—Each shareholder of a FSC shall take into account such shareholder's pro rata share of—

"(I) the gross income of such FSC,

"(II) any deductions of such FSC, and

"(III) any tax paid by such FSC under this chapter.

Such amounts shall be taken into account for the taxable year of the shareholder in which the taxable year of the FSC ends.

"(ii) Treatment of amounts.—Amounts taken into account under clause (i) shall be treated as effectively connected with the conduct of a trade or business in the United States and from sources within the United States.

"(iii) Treatment of FSC.—Except as provided in clause (i), this part shall not apply to a FSC.

"(B) Domestic international sales corporations.—The amount treated as distributed to a shareholder of a DISC under section 995(b)(1)(F) shall be the excess of the taxable income of the DISC for the taxable year (before reduction for distributions during such year) over the amounts deemed distributed for such taxable year under subparagraphs (A), (B), (C), (D), and (E) of section 995(b)(1).

"(b) Adjustments Applicable to Individuals.—In determining the amount of the alternative taxable income of any taxpayer (other than a corporation) the following treatment shall apply (in lieu of the treatment applicable for purposes of computing the regular tax):

"(1) Limitation on itemized deduction.—Any deduction not allowable in computing adjusted gross income shall not be allowed unless such deduction is an alternative tax itemized deduction.

"(2) Circulation and research and experimental expenditures.—

"(A) In general.—The amount allowable as a deduction under section 173 or 174(a) in computing the regular tax for amounts paid or incurred after December 31, 1985, shall be capitalized and—

"(i) in the case of circulation expenditures described in section 173, shall be amortized ratably over the 3-year period beginning with the taxable year in which the expenditures were made, or

"(ii) in the case of research and experimental expenditures described in section 174(a), shall be amortized ratably over the 10-year period beginning with the taxable year in which the expenditures were made.

"(B) Loss allowed.—If a loss is sustained with respect to any property described in subparagraph (A), a deduction shall be allowed for the expenditures described in subparagraph (A) for the taxable year in which such loss is sustained an amount equal to the lesser of—

"(i) the amount allowable under section 165(a) for the expenditures if they had remained capitalized, or

"(ii) the amount of such expenditures which have not previously been amortized under subparagraph (A).

"(C) Special rule for personal holding companies.—In the case of circulation expenditures described in section 173, the adjustments provided in this paragraph shall apply to a personal holding company (as defined in section 542).

"(c) Alternative Tax Net Operating Loss Deduction Defined.—

"(1) In general.—For purposes of subsection (a)(4), the term 'alternative tax net operating loss deduction' means the net operating loss deduction allowable for the taxable year under section 172, except that in determining the amount of such deduction—

"(A) the net operating loss (within the meaning of section 172(c)) for any loss year shall be adjusted as provided in paragraph (2), and

"(B) in the case of taxable years beginning after December 31, 1985, section 172(b)(2) shall be applied by substituting 'alternative minimum taxable income' for 'taxable income' each place it appears.

"(2) Adjustments to net operating loss computation.—

"(A) Post-1985 loss years.—In the case of a loss year beginning after December 31, 1985, the net operating loss for such year under section 172(c) shall—

"(i) be determined with the adjustments provided in this section and section 58,

"(ii) be reduced by the items of tax preference determined under section 57 for such year which are taken into account in computing the net operating loss, and

"(iii) be computed by taking into account only itemized deductions which are alternative tax itemized deductions and which are otherwise described in section 172(c).

"(B) Pre-1986 years.—In the case of loss years beginning before January 1, 1986, the amount of the net operating loss which may be carried over to taxable years beginning after December 31, 1985, for purposes of paragraph (2), shall be equal to the amount which may be carried from the loss year to the first taxable year of the taxpayer beginning after December 31, 1985.

"(d) Alternative Tax Itemized Deductions.—For purposes of this part—

"(1) In general.—The term 'alternative tax itemized deductions' means any amount allowable as a deduction for the taxable year (other than a deduction allowable in computing adjusted gross income) under—

"(A) section 165(a) for losses described in subsection (c)(3) or (d) of section 165,

"(B) section 170 (relating to charitable deductions),

"(C) section 213 (relating to medical deductions),

"(D) this chapter for qualified interest, or

"(E) section 691(c) (relating to deduction for estate tax).

The amount determined under the preceding sentence shall be reduced by the amount of the reduction determined under section 63(e)(4) (relating to reduction in itemized deductions for portion of personal exemption).

"(2) Amounts which may be carried over.—No amount shall be taken into account under paragraph (1) to the extent such amount may be carried to another taxable year for purposes of the regular tax.

"(3) Qualified interest.—The term 'qualified interest' means the sum of—

"(A) any qualified housing interest, and

"(B) any amount allowed as a deduction for interest (other than qualified housing interest) to the extent such amount does not exceed the qualified net investment income of the taxpayer for the taxable year.

"(4) Qualified housing interest.—

"(A) In general.—The term 'qualified housing interest' means interest which is paid or accrued during the taxable year on indebtedness which is incurred in acquiring, constructing, or substantially rehabilitating any property which—

"(i) is the principal residence (within the meaning of section 1034) of the taxpayer at the time such interest accrues or is paid, or

"(ii) is a qualified dwelling used by the taxpayer (or any member of his family within the meaning of section 267(c)(4)) during the taxable year.

"(B) Qualified dwelling.—The term 'qualified dwelling' means any—

"(i) house,

"(ii) apartment,

"(iii) condominium, or

"(iv) mobile home not used on a transient basis (within the meaning of section 7701(a)(19)(C)(v)),

including all structures or other property appurtenant thereto.

"(C) Special rule for indebtedness incurred before July 1, 1982.—The term 'qualified housing interest' includes interest paid or accrued on indebtedness which—

"(i) was incurred by the taxpayer before July 1, 1982, and

"(ii) is secured by property which, at the time such indebtedness was incurred, was—

"(I) the principal residence (within the meaning of section 1034) of the taxpayer, or

"(II) a qualified dwelling used by the taxpayer (or any member of his family (within the meaning of section 267(c)(4))).

"(5) QUALIFIED NET INVESTMENT INCOME.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified net investment income' means the excess of—

"(i) qualified investment income, over

"(ii) qualified investment expenses.

"(B) QUALIFIED INVESTMENT INCOME.—The term 'qualified investment income' means the sum of—

"(i) investment income (within the meaning of section 163(d)(3)(B) other than clause (ii) thereof), and

"(ii) any capital gain net income attributable to the disposition of property held for investment.

"(C) QUALIFIED INVESTMENT EXPENSES.—The term 'qualified investment expenses' means the deductions (determined with the adjustments provided in section 56) directly connected with the production of qualified investment income to the extent that—

"(i) such deductions are allowable in computing adjusted gross income, and

"(ii) such deductions are not items of tax preference.

"(6) SPECIAL RULES FOR ESTATES AND TRUSTS.—

"(A) IN GENERAL.—In the case of an estate or trust, the alternative tax itemized deductions for any taxable year includes the deductions allowable under section 643(b) or sections 10642(c), 10651(a), and 10661(a).

"(B) DETERMINATION OF ADJUSTED GROSS INCOME.—The adjusted gross income of an estate or trust shall be computed in the same manner as in the case of an individual, except that the deductions for costs paid or incurred in connection with the administration of the estate or trust shall be treated as allowable in arriving at adjusted gross income.

"(7) LIMITATION ON MEDICAL DEDUCTION.—In applying subparagraph (C) of paragraph (1), the amount allowable as a deduction under section 213 shall be determined by substituting '10 percent' for '5 percent' in section 213(a).

"(8) TREATMENT OF INTERESTS IN LIMITED PARTNERSHIPS AND SUBCHAPTER S CORPORATIONS.—

"(A) CERTAIN INTEREST TREATED AS NOT ALLOWABLE IN COMPUTING ADJUSTED GROSS INCOME.—Any amount allowable as a deduction for interest on indebtedness incurred or continued to purchase or carry a limited business interest shall be treated as not allowable in computing adjusted gross income.

"(B) INCOME AND LOSSES TAKEN INTO ACCOUNT IN COMPUTING QUALIFIED NET INVESTMENT INCOME.—Any income or loss derived from a limited business interest shall be taken into account in computing qualified net investment income.

"(C) LIMITED BUSINESS INTEREST.—The term 'limited business interest' means an interest—

"(i) as a limited partner in a partnership, or

"(ii) as a shareholder in an S corporation if the taxpayer does not actively participate in the management of such corporation.

"SEC. 57. OTHER ITEMS OF TAX PREFERENCE.

"(a) GENERAL RULE.—For purposes of this part, the items of tax preference determined under this section are—

"(1) CAPITAL GAINS OF TAXPAYERS OTHER THAN CORPORATIONS.—

"(A) IN GENERAL.—In the case of a taxpayer other than a corporation, an amount equal to the excess of—

"(i) the net capital gain deduction for the taxable year determined under section 1202, over

"(ii) $\frac{9}{42}$ of the amount of the net capital gain for the taxable year.

"(B) PRINCIPAL RESIDENCE.—For purposes of subparagraph (A), gain from the sale or exchange of a principal residence (within the meaning of section 1034) shall not be taken into account.

"(C) SALES OF FARM LAND BY INSOLVENT FARMERS.—For purposes of this paragraph, gain from a qualified farm sale (as defined in section 59(c)) shall not be taken into account.

"(2) APPRECIATED PROPERTY CHARITABLE DEDUCTION.—The amount of the appreciated property charitable deduction determined under subsection (b).

"(3) DEPLETION.—With respect to each property (as defined in section 614), the excess of the deduction for depletion allowable under section 611 for the taxable year over the adjusted basis of the property at the end of the taxable year (determined without regard to the depletion deduction for the taxable year).

"(4) INTANGIBLE DRILLING COSTS.—

"(A) IN GENERAL.—With respect to all oil, gas, and geothermal properties of the taxpayer, the amount (if any) by which the amount of the excess intangible drilling costs arising in the taxable year is greater than 65 percent of the net income of the taxpayer from oil, gas, and geothermal properties for the taxable year.

"(B) EXCESS INTANGIBLE DRILLING COSTS.—For purposes of subparagraph (A), the amount of the excess intangible drilling costs arising in the taxable year is the excess of—

"(i) the intangible drilling and development costs paid or incurred in connection with oil, gas, and geothermal wells (other than costs incurred in drilling a nonproductive well) allowable under section 263(c), 263(i), or 291(b) for the taxable year, over

"(ii) the amount which would have been allowable for the taxable year if such costs had been capitalized and straight line recovery of intangibles (as defined in subsection (c)) had been used with respect to such costs.

"(C) NET INCOME FROM OIL, GAS, AND GEOTHERMAL PROPERTIES.—For purposes of subparagraph (A), the amount of the net income of the taxpayer from oil, gas, and geothermal properties for the taxable year is the excess of—

"(i) the aggregate amount of gross income (within the meaning of section 613(a)) from all oil, gas, and geothermal properties of the taxpayer received or accrued by the taxpayer during the taxable year, over

"(ii) the amount of any deductions allocable to such properties reduced by the excess described in subparagraph (B) for such taxable year.

"(D) PARAGRAPH APPLIED SEPARATELY WITH RESPECT TO GEOTHERMAL PROPERTIES AND OIL AND GAS PROPERTIES.—This paragraph shall be applied separately with respect to—

"(i) all oil and gas properties which are not described in clause (ii), and

"(ii) all properties which are geothermal deposits (as defined in section 613(e)(3)).

"(5) INCENTIVE STOCK OPTIONS.—With respect to the transfer of a share of stock pursuant to the exercise of an incentive stock option (as defined in section 422A), the amount by which the fair market value of the share at the time of exercise exceeds the option price. For purposes of this paragraph, the fair market value of a share of stock shall be determined without regard to any restriction other than a restriction which, by its terms, will never lapse.

"(6) TAX-EXEMPT INTEREST.—

"(A) IN GENERAL.—Interest on nonessential function bonds (as defined in section 142) which are issued after December 31, 1985, and the interest on which is exempt from tax under section 103 reduced by the amount of any deduction disallowed under section 265 by reason of the receipt of such interest.

"(B) EXCEPTION FOR REFUNDINGS OF PRE-1986 BONDS.—Subparagraph (A) shall not apply to interest on any obligation issued after December 31, 1985, to refund an obligation issued before January 1, 1986.

"(7) SECTION 911 EXCLUSION FOR FOREIGN-EARNED INCOME.—The amount excluded from gross income of the taxpayer for the taxable year under section 911(a)(1) reduced by the amount of any deduction disallowed under section 911(d)(6).

"(8) RESERVES FOR LOSSES ON BAD DEBTS OF FINANCIAL INSTITUTIONS.—In the case of a financial institution to which section 585 or 593 applies, the amount by which the deduction allowable for the taxable year for a reasonable addition to a reserve for bad debts exceeds the amount that would have been allowable had the institution maintained its bad debt reserve for all taxable years on the basis of actual experience.

"(9) ACCELERATED DEPRECIATION OR AMORTIZATION ON CERTAIN PROPERTY PLACED IN SERVICE BEFORE JANUARY 1, 1986.—The amounts which would be treated as items of tax preference with respect to the taxpayer under paragraphs (2), (3), (4), and (12) of this subsection (as in effect on the date before the date of the enactment of the Tax Reform Act of 1985). The preceding sentence shall not apply to any property to which section 56(a)(1) applies.

"(b) APPRECIATED PROPERTY CHARITABLE DEDUCTION.—

"(1) IN GENERAL.—For purposes of subsection (a)(2), the term 'appreciated property charitable deduction' means the lesser of—

"(A) the amount by which the deduction allowable under section 170 would be reduced if all capital gain property were taken into account at its adjusted basis, or

"(B) the excess (if any) of—

"(i) the alternative minimum taxable income for the taxable year (determined without regard to this paragraph), over

"(ii) the taxable income for the taxable year (determined without regard to the deduction for personal exemptions provided by section 151 or the standard deduction).

"(2) CAPITAL GAIN PROPERTY.—For purposes of this subsection, the term 'capital gain property' has the meaning given to such term by section 170(b)(1)(C)(iv). Such term shall not include any property to which an election under section 170(b)(1)(C)(iii) applies.

"(c) STRAIGHT LINE RECOVERY OF INTANGIBLES DEFINED.—For purposes of paragraph (4) of subsection (a)—

"(1) IN GENERAL.—The term 'straight line recovery of intangibles' when used with respect to intangible drilling and development costs for any well, means (except in the case of an election under paragraph (2) ratable amortization of such costs over the 120-month period beginning with the month in which production from such well begins.

"(2) Election.—If the taxpayer elects, at such time and in such manner as the Secretary may by regulations prescribe, with respect to the intangible drilling and development costs for any well, the term 'straight line recovery of intangibles' means any method which would be permitted for purposes of determining cost depletion with respect to such well and which is selected by the taxpayer for purposes of subsection (a)(4).

"SEC. 58. DENIAL OF CERTAIN LOSSES.

"(a) Denial of Excess Farm Loss.—

"(1) In general.—For purposes of computing the amount of the alternative minimum taxable income for any taxable year—

"(A) Disallowance of excess farm loss.—The excess farm loss of the taxpayer for such taxable year shall not be allowed.

"(B) Deduction in succeeding taxable year.—Any loss from a tax shelter farm activity disallowed under subparagraph (A) shall be treated as a deduction allocable to such activity in the 1st succeeding taxable year.

"(2) Excess farm loss.—For purposes of this section, the term 'excess farm loss' means the amount by which the loss for the taxable year from any tax shelter farm activity exceeds twice the taxpayer's cash basis in such activity as of the close of the taxable year.

"(3) Tax shelter farm activity.—For purposes of this subsection, the term 'tax shelter farm activity' means—

"(A) any farming syndicate as defined in section 464(c) (as modified by section 461(i)(4)(A)), and

"(B) any other activity consisting of farming unless the taxpayer materially participates in the operation of such activity or is a member of the family (within the meaning of section 2032A(e)(2)) of an individual who so participates.

The determination of whether any individual materially participates in the operation of any activity shall be made in the manner similar to the manner in which such determination is made under section 2032A (including modifications under paragraphs (4) and (5) of section 2032A(b)); except that an individual shall not be treated materially participating in the operation of any activity if such individual is a limited partner with respect to such activity.

"(4) Treatment of separate activities.—A taxpayer's activity with respect to each farm of which the taxpayer is the proprietor shall be treated as a separate activity.

"(b) Disallowance of Excess Passive Activity Loss.—

"(1) In general.—For purposes of determining the amount of the alternative minimum taxable income for any taxable year—

"(A) Disallowance on loss.—The excess passive activity loss of the taxpayer for the taxable year shall not be allowed.

"(B) Deduction in succeeding taxable year.—Any loss from an activity disallowed under subparagraph (A) shall be treated as a deduction allowable to such activity in the 1st succeeding taxable year.

"(2) Excess passive activity loss.—For purposes of this subsection, the term 'excess passive activity loss' means the amount by which—

"(A) the aggregate losses from all passive activities reduced by the aggregate income from such activities exceed

"(B) the sum of—

"(i) the taxpayer's cash basis in passive activities which are not tax shelters, and

"(ii) the lesser of—

"(I) the taxpayer's cash basis in passive activities which are tax shelters, or

"(II) $50,000.

For purposes of the preceding sentence, the term 'tax shelter' has the meaning given to such term by section 461(i)(3).

"(3) Passive activity.—For purposes of paragraph (1)—

"(A) In general.—The term 'passive activity' means any activity if a substantial portion of the income from such activity is from a trade or business. For purposes of the preceding sentence, all rents and royalties shall be treated as income from a trade or business.

"(B) Activities in which taxpayer materially participates, etc., excluded.—An activity shall not be treated as a passive activity under subparagraph (A) if the taxpayer (or the spouse of the taxpayer)—

"(i) materially participates in the activity, or

"(ii) provides substantial personal services for the activity.

"(C) Treatment of limited partners.—A limited partner shall not be treated as meeting the requirements of clause (i) or (ii) of subparagraph (B) with respect to an activity.

"(D) Treatment of certain retired individuals.—A taxpayer shall be treated as materially participating in the operation of any farm activity if such individual meets the requirements of paragraph (4) or (5) of section 2032A(b) with respect to such activity.

"(4) Coordination with subsection (a).—Loss from a farm activity to the extent it is disallowed under subsection (a) shall not be taken into account under this subsection.

"(c) Definitions and Special Rules.—For purposes of this section—

"(1) Cash basis.—The term 'cash basis' means—

"(A) in the case of an interest in a partnership, the adjusted basis of the taxpayer's interest in such partnership, determined without regard to—

"(i) any liability of the partnership, and

"(ii) any amount borrowed by the partner with respect to such partnership which—

"(I) was arranged by the partnership or by any person who participated in the organization, sale, or management of the partnership (or any person related to such person within the meaning of section 461(i)), or

"(II) was secured by any assets of the partnership, and

"(B) in the case of any other interest in an activity, the adjusted basis of such interest determined under the principles of subparagraph (A).

"(2) Definition of loss.—The loss from any activity shall be determined under the principles of section 465(d); except that—

"(A) the adjustments of section 56 shall apply, and

"(B) any deduction to the extent such deduction is an item of tax preference under section 57(a) shall not be taken into account, and

"(C) any loss resulting from the disposition of part or all of any interest in such activity shall not be taken into account.

"(3) Certain rules made applicable.—For purposes of this subsection, rules similar to the rules of subsections (b)(5) and (e) of section 465 shall apply.

"(4) Loss allowed for year of disposition.—If the taxpayer disposes of his entire interest in any farm shelter activity or passive activity during any taxable year, the amount of the loss attributable to such activity (determined after carryovers under subsections (a)(1)(B) and (b)(1)(B)) shall be allowed for such taxable year in computing alternative minimum taxable income and not treated as a loss from a tax shelter farm activity or passive activity.

"SEC. 59. OTHER DEFINITIONS AND SPECIAL RULES.

"(a) Alternative Minimum Tax Foreign Tax Credit.—For purposes of this part, the alternative minimum tax foreign tax credit for any taxable year shall be the credit which would be determined under section 27(a) for such taxable year if—

"(1) the amount determined under section 55(b)(1)(A) were the tax against which such credit was taken for purposes of section 904 for the taxable year and all prior taxable years beginning after December 31, 1985,

"(2) section 904 were applied on the basis of alternative minimum taxable income instead of taxable income, and

"(3) section 911(d)(6) did not apply for taxable years beginning after December 31, 1985.

"(b) Minimum Tax Not To Apply to 936 Corporations.—The tax imposed by this part shall not apply to any corporation for which a credit is allowable for the taxable year under section 936.

"(c) Qualified Farm Sale.—

"(1) In general.—For purposes of subsection (a)(9)(E), the term 'qualified farm sale' means any sale or exchange before January 1, 1989, to an unrelated person of farmland during any taxable year if—

"(A) 50 percent or more of the average annual gross income of the taxpayer for the 3 preceding taxable years is attributable to the trade or business of farming,

"(B) such taxpayer is insolvent (within the meaning of section 108(d)(3)) as of the time of the sale or exchange,

"(C) substantially all of the proceeds from the sale or exchange are applied in satisfaction of indebtedness of the taxpayer, and

"(D) 90 percent or more of the fair market value of the farmland held by the taxpayer as of the beginning of such taxable year is sold or exchanged during such taxable year in qualified farm sales (determined without regard to this subparagraph).

"(2) Definitions.—For purposes of this subsection—

"(A) Farmland.—The term 'farmland' means any land used or held for use in the trade or business of farming.

"(B) Unrelated person.—The term 'unrelated person' means any person other than a related person (as defined in section 453(f)(1)).

"(d) Special Rules for Treatment of Certain Entities.—

"(1) Estates and trusts.—In the case of an estate or trust, the differently treated items for any taxable year shall be apportioned between the estate or trust and the beneficiaries in accordance with regulations prescribed by the Secretary.

"(2) Participants in a Common Trust Fund.—The differently treated items of a common trust fund (as defined in section 584(a)) for each taxable year of the fund shall be treated as items of the participants of such fund and shall be apportioned pro rata among such participants. For purposes of this subsection, this part shall be treated as applying to such fund.

"(3) Regulated Investment Companies and Real Estate Investment Trusts.—In the case of a regulated investment company to which part I of subchapter M applies or a real estate investment company to which part II of subchapter M applies, the differently treated items of such company or

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trust for the taxable year shall be apportioned between the company or trust and shareholders and holders of beneficial interests in such company or trust in accordance with regulations prescribed by the Secretary.

"(4) Differently treated items.—For purposes of this subsection, the term 'differently treated item' means any item of tax preference or any other item which is treated differently for purposes of this part than for purposes of computing the regular tax.

"(e) Optional 10-Year Writeoff of Certain Tax Preferences.—

"(1) In general.—For purposes of this title, any qualified expenditure to which an election under this paragraph applies shall be allowed as a deduction ratably over the 10-year period (3-year period in the case of circulation expenditures described in section 173) beginning with the taxable year in which such expenditure was made.

"(2) Qualified expenditure.—For purposes of this subsection, the term 'qualified expenditure' means any amount which, but for an election under this subsection, would have been allowable as a deduction for the taxable year in which paid or incurred under—

"(A) section 173 (relating to circulation expenditures),

"(B) section 174(a) (relating to research and experimental expenditures),

"(C) section 263(c) (relating to intangible drilling and development expenditures), or

"(D) section 616(a) (relating to mining exploration and development expenditures).

"(3) Other sections not applicable.—Except as provided in this subsection, no deduction shall be allowed under any other section for any qualified expenditure to which an election under this subsection applies.

"(4) Election.—

"(A) In general.—An election may be made under this subsection with respect to any portion of any qualified expenditure.

"(B) Revocable only with consent.—Any election under this subsection may be revoked only with the consent of the Secretary.

"(C) Time and manner.—An election under this subsection shall be made at such time and in such manner as the Secretary shall by regulations prescribe.

"(D) Partners and shareholders of s corporations.—In the case of a partnership, any election under this subsection shall be made separately by each partner with respect to the partner's allocable share of any qualified expenditure. A similar rule shall apply in the case of an S corporation and its shareholders.

"(5) Dispositions.—

"(A) Oil, gas, and geothermal property.—In the case of any disposition of any oil, gas, or geothermal property to which section 1254 applies (determined without regard to this section) any deduction under paragraph (1) with respect to costs which are allocable to such property shall, for purposes of section 1254, be treated as a deduction allowable under section 263(c).

"(B) Application of section 616(c).—In the case of any disposition of mining property to which section 616(c) applies (determined without regard to this subsection), any amount allowable as a deduction under paragraph (1) which is allocable to such property shall, for purposes of section 616(c), be treated as a deduction allowable under section 616(a).

"(6) Amounts to which election apply not treated as tax preference.—Any qualified expenditure to which an election under paragraph (1) or (4) applies shall not be treated as an item of tax preference under section 57(a) and section 56 shall not apply to such expenditure.

"(f) Coordination With Section 291.—Section 291 shall apply before the application of this part."

"(g) Tax Benefit Rule.—The Secretary shall prescribe regulations under which differently treated items shall be properly adjusted where the tax treatment giving rise to such items will not result in the reduction of the taxpayer's regular tax for any taxable year."

(b) Credit Against Regular Tax for Prior Year Minimum Tax Liability.—Part IV of subchapter A of chapter 1 (relating to credits allowable) is amended by adding at the end thereof the following new subpart:

"Subpart G—Credit Against Regular Tax For Prior Year Minimum Tax Liability

"Sec. 53. Credit for prior year minimum tax liability.

"SEC. 53. CREDIT FOR PRIOR YEAR MINIMUM TAX LIABILITY.

"(a) Allowance of Credit.—There shall be allowed as a credit against the tax imposed by this chapter for any taxable year an amount equal to the minimum tax credit for such taxable year.

"(b) Minimum Tax Credit.—For purposes of subsection (a), the minimum tax credit for any taxable year is the excess (if any) of—

"(1) the net minimum tax imposed for all prior taxable years beginning after 1985, over

"(2) the amount allowable as a credit under subsection (a) for such prior taxable years.

"(c) Limitation.—The credit allowable under subsection (a) for any taxable year shall not exceed the lesser of—

"(1) the regular tax liability of the taxpayer for such taxable year reduced by the sum of the credits allowable under subparts A, B, D, E, and F of this part, or

"(2) the excess (if any) of the amount determined under paragraph (1) over the tentative minimum tax for the taxable year.

"(d) Definitions.—For purposes of this section—

"(1) Net minimum tax.—

"(A) In general.—The term 'net minimum tax' means the tax imposed by section 55.

"(B) Exclusion preferences of individuals not taken into account.—In the case of a taxpayer other than a corporation, the amount of the net minimum tax for any taxable year shall be reduced by the amount which would have been the net minimum tax for such year if sections 56 (other than subsection (b)(1) thereof) and 58 did not apply and the only items of tax preference taken into account were the items described in paragraphs (1), (2), (3), (6), and (7) of section 57(a).

"(2) Tentative minimum tax.—The term 'tentative minimum tax' has the meaning given to such term by section 55(b)."

(c) Credits Not Allowable Against Minimum Tax.—

(1) Personal credits.—

(A) Subsection (a) of section 26 (relating to limitation based on amount of tax) is amended to read as follows:

"(a) Limitation Based on Amount of Tax.—The aggregate amount of credits allowed by this subpart for the taxable year shall not exceed the excess (if any) of—

"(1) the taxpayer's regular tax liability for the taxable year, over

"(2) the tentative minimum tax for the taxable year (determined without regard to the alternative minimum tax foreign tax credit)."

(B) Regular tax liability.—Subsection (b) of section 26 is amended—

(i) by striking out "tax liability" in paragraph (1) and inserting in lieu thereof "regular tax liability",

(ii) by striking out subparagraph (A) of paragraph (2) and inserting in lieu thereof the following:

"(A) section 55 (relating to minimum tax),", and

(iii) by striking out "Tax Liability" in the subsection heading and inserting in lieu thereof "Regular Tax Liability".

(c) Gross minimum tax.—Subsection (c) of section 26 is amended to read as follows:

"(c) Tentative Minimum Tax.—For purposes of this part, the term 'tentative minimum tax' means the amount determined under section 55(b)(1)."

(2) Credit for clinical testing expenses.—Paragraph (2) of section 28(d) is amended to read as follows:

"(2) Limitation based on amount of tax.—The credit allowed by this section for any taxable year shall not exceed the excess (if any) of—

"(A) the regular tax (reduced by the sum of the credits allowable under subpart A and section 27), over

"(B) the tentative minimum tax for the taxable year."

(3) Credit for production of fuel from nonconventional sources.—Paragraph (5) of section 29(b) is amended to read as follows:

"(5) Application with other credits.—The credit allowed by subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(A) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A of sections 27 and 28, over

"(B) the tentative minimum tax for the taxable year."

(4) General business credit.—Subsection (c) of section 38 (relating to limitation based on amount of tax) is amended by redesignating paragraph (3) as paragraph (4), and by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) In general.—The credit allowed under subsection (a) for any taxable year shall not exceed the lesser of—

"(A) the allowable portion of the taxpayer's net regular tax liability for the taxable year, or

"(B) the excess (if any) of the taxpayer's net regular liability for the taxable year over the tentative minimum tax for the taxable year.

"(2) Allowable portion of regular tax liability.—For purposes of paragraph (1), the allowable portion of the taxpayer's net regular tax liability for the taxable year is the sum of—

"(A) so much of the taxpayer's net regular tax liability for the taxable year as does not exceed $25,000, plus

"(B) 75 percent of so much of the taxpayer's net regular tax liability for the taxable year as exceeds $25,000.

For purposes of the preceding sentence, the term 'net regular tax liability' means the regular tax liability reduced by the sum of the credits allowable under subparts A and B of this part.

"(3) Unused credits from years before 1986 may offset 75 percent of minimum tax where corporation has net operating losses before 1986.—In the case of any taxpayer—

"(A) which is a C corporation, and

"(B) which has net operating losses in at least 2 of its last 3 taxable years ending before January 1, 1986,

in the case of unused business credits from taxable years beginning before January 1, 1986, the limitation of paragraph (1) shall not be less than 75 percent of the tentative minimum tax for the taxable year."

(c) Estimated Tax Provisions To Apply to Corporate Minimum Tax.—

(1) Paragraph (1) of section 6154(c) is amended to read as follows:

"(1) The amount which the corporation estimates as the sum of—

"(A) the income tax imposed by section 11 or 1201(a), or subchapter L of chapter 1, whichever is applicable, and

"(B) the minimum tax imposed by section 55, over".

(2) Subparagraph (A) of section 6425(c)(1) is amended to read as follows:

"(A) The sum of—

"(i) the tax imposed by section 11 or 1201(a), or subchapter L of chapter 1, whichever is applicable, plus

"(ii) the tax imposed by section 55, over".

(3) Paragraph (1) of section 6655(f) is amended to read as follows:

"(A) The sum of—

"(i) the tax imposed by section 11 or 1201(a), or subchapter L of chapter 1, whichever is applicable, plus

"(ii) the tax imposed by section 55, over".

(d) Technical Amendments.—

(1) Coordination of section 265 with minimum tax.—Section 265 (relating to expenses and interest relating to tax-exempt interest) is amended by adding at the end thereof the following new paragraph:

"(6) Special rule for interest treated as tax preference.—Interest shall not fail to be treated as wholly exempt from taxes imposed by this subtitle solely by reason of being an item of tax preference under section 57."

(2) Application of section 381.—Subsection (c) of section 381 is amended by adding at the end thereof the following new paragraph:

"(27) Credit under section 53.—The acquiring corporation shall take into account (to the extent proper to carry out the purposes of this section and section 53, and under such regulations as may be prescribed by the Secretary) the items required to be taken into account for purposes of section 53 in respect of the distributor or transferor corporation."

(3) Limitation in case of controlled corporations.—Subsection (a) of section 1561 (relating to limitations on certain multiple tax benefits in the case of certain controlled corporations) is amended—

(A) by striking out "and" at the end of paragraph (1), by striking out the period at the end of paragraph (2) and inserting in lieu thereof ", and" and by inserting after paragraph (2) the following new paragraph:

"(3) one $40,000 exemption amount for purposes of computing the amount of the minimum tax.", and

(B) by striking out "amounts specified in paragraph (1)" and inserting in lieu thereof "amounts specified in paragraph (1) (and the amount specified in paragraph (3))".

(4) Treatment of short taxable years.—Subsection (d) of section 443 (relating to adjustment in computing minimum tax for tax preference) is amended to read as follows:

"(d) Adjustment in Computing Minimum Tax and Tax Preferences.—If a return is made for a short period by reason of subsection (a)—

"(1) the alternative minimum taxable income for the short period shall be placed on an annual basis by multiplying such amount by 12 and dividing the result by the number of months in the short period, and

"(2) the amount computed under paragraph (1) of section 55 shall bear the same relation of the tax computed on the annual basis as the number of months in the short period bears to 12."

(e) Effective Dates.—

(1) In general.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 1985.

(2) Adjustment of net operating loss.—

(A) Individuals.—In the case of a net operating loss of an individual for a taxable year beginning after December 31, 1982, and before January 1, 1986, for purposes of determining the amount of such loss which may be carried to a taxable year beginning after December 31, 1985, for purposes of the minimum tax, such loss shall be adjusted in the manner provided in section 55(d)(2) of the Internal Revenue Code of 1954 as in effect on the day before the date of the enactment of this Act.

(B) Corporations.—If the minimum tax of the corporation was deferred under section 56(b) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act) for any taxable year beginning before January 1, 1986, and the amount of such tax has not been paid for any taxable year beginning before January 1, 1986, the amount of the net operating loss carryovers of such corporation which may be carried to taxable years beginning after December 31, 1985, for purposes of the minimum tax shall be reduced by the amount of tax preferences a tax on which was so deferred.

(3) Transitional rule for loss disallowance rules.—For purposes of section 58 of the Internal Revenue Code of 1954—

(A) the cash invested in any activity as of the beginning of any taxable year beginning in 1986 shall be treated as not less than zero, and

(B) in applying the principles of section 465 of such Code for purposes of such section 58, there shall be no recapture of any loss from a taxable year beginning before January 1, 1986.

(4) Farm sale.—For purposes of applying section 57(a)(9) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act) for taxable years beginning after December 31, 1984, the amount of the net capital gain of any individual shall be determined without taking into account any gain from a qualified farm sale (as defined in section 59(c) of such Code) is amended by this Act.

(5) Certain public utility property.—If, on September 25, 1985, a regulated electric utility owned an undivided interest, within the range of 1,111 and 1,149, in the "maximum dependable capacity, net, megawatts electric" of an electric generating unit for which a binding written contract was in effect on December 31, 1980—

(A) the amendments made by this section shall not apply with respect to depreciation deductions allowable with respect to such unit, and

(B) any investment tax credit with respect to such unit shall be treated in the manner provided in section 38(c)(3) (without regard to the requirements that the credits be from years before January 1, 1986, and without regard to the net operating loss requirement).

A disposition after December 31, 1985, of a portion of the electric utility's undivided interest in the generating unit will not affect such utility's treatment of depreciation deductions and investment tax credits with respect to any interest retained in the generating unit.

TITLE VI—FOREIGN TAX PROVISIONS

Subtitle A—Foreign Tax Credit Modifications

SEC. 601. SEPARATE APPLICATION OF SECTION 904 WITH RESPECT TO CERTAIN CATEGORIES OF INCOME.

(a) General Rule.—Paragraph (1) of section 904(d) (relating to separate application of section 904 with respect to certain income) is amended by striking out subparagraph (A), by redesignating subparagraphs (B), (C), (D), and (E) as subparagraphs (D), (E), (F), and (G), respectively, and by inserting before subparagraph (D) (as so redesignated) the following new subparagraphs:

"(A) passive income,

"(B) banking or insurance income,

"(C) shipping income,".

(b) Categories Defined.—Subsection (d) of section 904 is amended by striking out paragraphs (2) and (3) and inserting in lieu thereof the following:

"(2) Definitions.—For purposes of this subsection—

"(A) Passive income.—

"(i) In general.—Except as otherwise provided in this subparagraph, the term 'passive income' means any income received or accrued by any person which is of a kind which would be foreign personal holding company income (as defined in section 954(c), as modified by section 954(b)(6)).

"(ii) Certain amounts included.—

"(I) The term 'passive income' includes any amount includible in gross income under section 551 or by reason of section 1246A.

"(II) The last sentence of section 954(c)(1)(D) (relating to exception for certain foreign currency dealings) shall not apply with respect to a taxpayer which uses the dollar as its functional currency.

"(iii) Exceptions.—The term 'passive income'—

"(I) shall not include any banking or insurance income,

"(II) shall not include any high-taxed income,

"(III) shall not include any foreign oil and gas extraction income (as defined in section 907(c)), and

"(IV) shall not include any rents and royalties which are derived in the active conduct of a trade or business and which are received from a person other than a related person (as defined in section 954(d)(3)).

"(B) Banking or insurance income.—The term 'banking or insurance income' means income received or accrued by any person—

"(i) which is derived in the conduct of a banking, financing, or similar business, or derived from the investment by an insurance company of its unearned premiums or reserves ordinary and necessary for the proper conduct of its insurance business, and

"(ii) any income which is of a kind which would be insurance income as defined in section 953(a); except that subparagraphs (A) and (B) of paragraph (1) of such section (limiting insurance income to income from countries other than the country in which the corporation was created or organized) shall not apply.

"(C) Shipping income.—The term 'shipping income' means income received or accrued by any person which is of a kind which would be foreign base company shipping income (as defined in section 954(f)).

"(D) High-taxed income.—The term 'high-taxed income' means any income which (but for this subparagraph) would be passive income if the sum of—

"(i) the foreign income taxes paid or accrued by the taxpayer with respect to such income, and

"(ii) the foreign income taxes treated as paid by the taxpayer with respect to such income under section 902 or 960,

exceeds the highest rate of tax specified in section 11 multiplied by the amount of such income (determined with regard to section 78). For purposes of the preceding sentence, the term 'foreign income taxes' means any income, war profits, or excess profits tax imposed by any foreign country or possession of the United States.

"(3) Look-through in case of dividends, etc., from 10-percent owned foreign corporations.—

"(A) In general.—Except as otherwise provided in this paragraph, dividends, interest, and royalties received or accrued from a 10-percent owned foreign corporation shall not be taken into account under paragraph (2).

"(B) Subpart F inclusions.—Any amount included in gross income under section 951(a) shall be treated as passive income, banking or insurance income, or shipping income (as the case may be) to the extent the amount so included is attributable to such type of income.

"(C) Interest and royalties.—Any interest or royalty which is received or accrued from a 10-percent owned foreign corporation shall be treated as passive income, banking or insurance income, or shipping income (as the case may be) to the extent it is properly allocable (under regulations prescribed by the Secretary) to such type of income of the 10-percent owned foreign corporation. Under regulations, the preceding sentence shall apply to foreign entities (other than corporations) in which the taxpayer has a 10 percent or greater interest.

"(D) Dividends.—Any dividend paid out of the earnings and profits of any 10-percent owned foreign corporation shall be treated as passive income, banking or insurance income, or shipping income (as the case may be) in proportion to the ratio of—

"(i) the portion of the earnings and profits attributable to such type of income, to

"(ii) the total amount of earnings and profits.

"(E) 10-percent owned foreign corporation.—The term '10-percent owned foreign corporation' means any foreign corporation in which the taxpayer owns directly or indirectly at least 10 percent of the voting stock.

"(4) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate for the purposes of this subsection, including regulations for the application of paragraph (3) in the case of income paid through 1 or more entities or between 2 or more chains of entities."

(b) Technical Amendments.—

(1) The subsection heading of section 904(d) is amended to read as follows:

"(d) Separate Application of Section With Respect to Certain Categories of Income.—".

(2) Subparagraph (G) of section 904(d)(1) (as redesignated by subsection (a)) is amended by striking out "in subparagraph (A), (B), (C), or (D)" and inserting in lieu thereof "in any of the preceding subparagraphs".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1985.

SEC. 602. TREATMENT OF CERTAIN WITHHOLDING TAXES AND SUBSIDIES.

(a) Treatment of Withholding Taxes on Certain Interest Income.—Section 901 (relating to credit for foreign taxes) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) Treatment of Certain Withholding Taxes and Subsidies.—

"(1) Withholding taxes on certain interest.—No credit shall be allowed under this section for any withholding tax (or other tax determined on a gross basis) imposed on interest income (or its equivalent) received or accrued by a bank, insurance company, or other financial institution or by any related person to the extent the tax so imposed exceeds the tax imposed by this chapter which is attributable to such interest income. For purposes of the preceding sentence, the term 'related person' has the meaning given such term by section 954(d)(3), except that section 954(d)(3) shall be applied by substituting 'the taxpayer' for 'controlled foreign corporation' each place it appears.

"(2) Treatment of subsidies.—Any income, war profits, or excess profits tax shall not be treated as a tax for purposes of this title to the extent—

"(A) the amount of such tax is used (directly or indirectly) by the country imposing such tax to provide a subsidy by any means to the taxpayer, a related person (within the meaning of section 482), or any party to the transaction, and

"(B) such subsidy is determined (directly or indirectly) by reference to the amount of such tax, or the base used to compute the amount of such tax."

(b) Effective Dates.—

(1) In general.—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to foreign taxes paid or accrued in taxable years beginning after December 31, 1985.

(2) Existing loans to borrowers in certain countries.—

(A) In general.—In the case of a qualified loan, section 901(i)(1) (as amended by this section) shall not apply to any foreign tax imposed on interest for periods before January 1, 1989.

(B) Limitation on creditable tax.—Subparagraph (A) shall not apply to any tax referred to in such subparagraph to the extent such tax exceeds the amount which would have been imposed on the basis of—

(i) the rate of foreign tax applicable to such loan on November 16, 1985,

(ii) the rate of interest on such loan on November 16, 1985, and

(iii) the principal amount of such loan on November 16, 1985, increased by—

(I) 3 percent of such amount in the case of interest paid or accrued during calendar year 1986,

(II) 3 percent of such amount (as increased by subclause (I)) in the case of interest paid or accrued during calendar year 1987, and

(III) 3 percent of such amount (as increased by subclauses (I) and (II)) in the case of interest paid or accrued during calendar year 1988.

(C) Qualified loan.—For purposes of this paragraph, the term 'qualified loan' means any loan made by the taxpayer which was outstanding on November 16, 1985, and which was made to a borrower in any of the following countries:

(i) Argentina,
(ii) Bolivia,
(iii) Brazil,
(iv) Chile,
(v) Colombia,
(vi) Ecuador,
(vii) Ivory Coast,
(viii) Mexico,
(ix) Morocco,
(x) Nigeria,
(xi) Peru,
(xii) Philippines,
(xiii) Uruguay,
(xiv) Venezuela,
(xv) Yugoslavia

(D) Treatment of restructurings.—For purposes of this paragraph, any loan resulting from the rollover, rescheduling, or restructuring of a qualified loan (within the meaning of subparagraph (C)), and any increase in the principal amount of indebtedness to the taxpayer by any obligor of any qualified loan made by the taxpayer, shall be treated as a qualified loan subject to the limitations of subparagraph (B).

SEC. 603. CLARIFICATION OF TREATMENT OF SEPARATE LIMITATION LOSSES.

(a) General Rule.—Subsection (f) of section 904 (relating to recapture of overall foreign loss) is amended by adding at the end thereof the following new paragraph:

"(5) Clarification of treatment of separate limitation losses.—

"(A) In general.—The amount of the separate limitation losses for any taxable year shall reduce income from sources within the United States for such taxable year only to the extent the aggregate amount of such losses exceeds the aggregate amount of the separate limitation incomes for such taxable year.

"(B) Allocation of losses.—The separate limitation losses for any taxable year (to the extent such losses do not exceed the separate limitation incomes for such year) shall be allocated among (and operate to reduce) such incomes on a proportionate basis.

"(C) Recharacterization of subsequent income.—If—

"(i) a separate limitation loss from any income category (hereinafter in this subparagraph referred to as a 'loss category') was allocated to income from any other category under subparagraph (B), and

"(ii) the loss category has income for a subsequent taxable year,

such income (to the extent it does not exceed the aggregate separate limitation losses from the loss category not previously recharacterized under this subparagraph) shall be recharacterized as income from such other category in proportion to the prior reductions under subparagraph (B) in such categories not previously taken into account under this subparagraph.

"(D) Definitions.—For purposes of this paragraph—

"(i) Income category.—The term 'income category' means each separate category of income described in subsection (d)(1).

"(ii) Separate limitation income.—The term 'separate limitation income' means, with respect to any income category, the taxable income from sources without the United States, separately computed for such category.

"(iii) Separate limitation loss.—The term 'separate limitation loss' means, with respect to any income category, the loss from such category determined under the principles of section 907(c)(4)(B)."

(b) Effective Date.—The amendment made by subsection (a) shall apply to losses incurred in taxable years beginning after December 31, 1985.

SEC. 604. DEEMED PAID CREDIT UNDER SECTIONS 902 AND 960 DETERMINED ON ACCUMULATED BASIS.

(a) General Rule.—Section 902 (relating to credit for corporate stockholder in foreign corporation) is amended to read as follows:

"SEC. 902. DEEMED PAID CREDIT WHERE DOMESTIC CORPORATION OWNS 10 PERCENT OR MORE OF VOTING STOCK OF FOREIGN CORPORATION.

"(a) Taxes Paid by Foreign Corporation Treated as Paid by Domestic Corporation.—For purposes of this subpart, a domestic corporation which owns 10 percent or more of the voting stock of a foreign corporation from which it receives dividends in any taxable year shall be deemed to have paid the same proportion of such foreign corporation's post-1985 foreign income taxes as—

"(1) the amount of such dividends (determined without regard to section 78), bears to

"(2) such foreign corporation's post-1985 undistributed earnings.

"(b) Deemed Taxes Increased in Case of Certain 2nd and 3rd Tier Foreign Corporations.—

"(1) 2nd tier.—If the foreign corporation described in subsection (a) (hereinafter in this section referred to as the '1st tier corporation') owns 10 percent or more of the voting stock of a 2nd foreign corporation from which it receives dividends in any taxable year, the 1st tier corporation shall be deemed to have paid the same proportion of such 2nd foreign corporation's post-1985 foreign income taxes as would be determined under subsection (a) if such 1st tier corporation were a domestic corporation.

"(2) 3rd tier.—If such 1st tier corporation owns 10 percent or more of the voting stock of a 2nd foreign corporation which, in turn, owns 10 percent or more of the voting stock of a 3rd foreign corporation, such 2nd foreign corporation shall be deemed to have paid the same proportion of such 3rd foreign corporation's post-1985 foreign income taxes as would be determined under subsection (a) if such 2nd foreign corporation were a domestic corporation.

"(3) 5 percent stock requirement.—For purposes of this subpart—

"(A) For 2nd tier.—Paragraph (1) shall not apply unless the percentage of voting stock owned by the domestic corporation in the 1st tier corporation and the percentage of voting stock owned by the 1st tier corporation in the 2nd foreign corporation when multiplied together equal at least 5 percent.

"(B) For 3rd tier.—Paragraph (2) shall not apply unless the percentage arrived at for purposes of applying paragraph (1) when multiplied by the percentage of voting stock owned by the 2nd foreign corporation in the 3rd foreign corporation is equal to at least 5 percent.

"(c) Definitions.—For purposes of this section—

"(1) Post-1985 undistributed earnings.—The term 'post-1985 undistributed earnings' means the amount of the accumulated earnings and profits of the foreign corporation for taxable years beginning after December 31, 1985, computed in accordance with section 964—

"(A) as of the close of the taxable year of the foreign corporation in which the dividend is distributed, and

"(B) without diminution by reason of dividends distributed during such taxable year.

"(2) Post-1985 foreign income taxes.—The term 'post-1985 foreign income taxes' means the sum of—

"(A) the foreign income taxes with respect to the taxable year of the foreign corporation in which the dividend is distributed, and

"(B) the foreign income taxes with respect to prior taxable years beginning after December 31, 1985, to the extent such foreign taxes were not deemed paid with respect to dividends distributed by the foreign corporation in prior taxable years.

"(3) Special rule where domestic corporation acquires 10 percent of foreign corporation after December 31, 1985.—

"(A) In general.—If the first day on which the ownership requirements of subparagraph (B) are met with respect to any foreign corporation is in a taxable year of such corporation beginning after December 31, 1985, the post-1985 undistributed earnings and the post-1985 foreign income taxes of such foreign corporation shall be determined by only taking into account periods beginning on and after the first day of the first taxable year in which such ownership requirements are met.

"(B) Ownership requirements.—The ownership requirements of this subparagraph are met with respect to any foreign corporation if—

"(i) 10 percent or more of the voting stock of such foreign corporation is owned by a domestic corporation,

"(ii) 10 percent or more of the voting stock of such foreign corporation is held by another foreign corporation meeting the requirements of clause (i) and the requirements of subsection (b)(3)(A) are met with respect to such corporation, or

"(iii) 10 percent or more of the voting stock of such corporation is owned by another foreign corporation described in clause (ii) and the requirements of subsection (b)(3)(B) are met with respect to such foreign corporation.

"(4) Foreign income taxes.—

"(A) In general.—The term 'foreign income taxes' means any income, war profits, or excess profits taxes paid by the foreign corporation to any foreign country or possession of the United States.

"(B) Treatment of deemed taxes.—Except for purposes of determining the amount of the post-1985 foreign income taxes of a 3rd foreign corporation referred to in subsection (b)(2), the term 'foreign income taxes' includes any such taxes deemed to be paid by the foreign corporation under this section.

"(5) Accounting periods.—In the case of a foreign corporation the income, war profits, and excess profits taxes of which are determined on the basis of an accounting period of less than 1 year, the word 'year' as used in this subsection shall be construed to mean such accounting period.

"(6) Treatment of distributions from earnings before 1986.—

"(A) In general.—In the case of any dividend paid by a foreign corporation out of accumulated profits (as defined in this section as in effect on the day before the date of the enactment of the Tax Reform Act of 1985) for taxable years beginning before the first taxable year taken into account in determining the post-1985 undistributed earnings of such corporation—

"(i) this section (as amended by the Tax Reform Act of 1985) shall not apply, but

"(ii) this section (as in effect on the day before the date of the enactment of such Act) shall apply.

"(B) Dividends paid first out of post-1985 earnings.—Any dividend in a taxable year beginning after December 31, 1985, shall be treated as made out of post-1985 undistributed earnings to the extent thereof.

"(7) Regulations.—The Secretary shall provide such regulations as may be necessary or appropriate to carry out the provisions of this subsection.

"(d) Cross References.—

"(1) For inclusion in gross income of an amount equal to taxes deemed paid under subsection (a), see section 78.

"(2) For application of subsections (a) and (b) with respect to taxes deemed paid in a prior taxable year by a United States shareholder with respect to a controlled foreign corporation, see section 960.

"(3) For reduction of credit with respect to dividends paid out of accumulated profits for years for which certain information is not furnished, see section 6038."

(b) Section 960 Credit Determined on Accumulated Basis.—The first sentence of section 960(a)(1) (relating to taxes paid by a foreign corporation) is amended by striking out "then" and all that follows down through the period at the end thereof and inserting in lieu thereof the following:

"then, under regulations prescribed by the Secretary, such domestic corporation shall be deemed to have paid a portion of such foreign corporation's post-1985 foreign income taxes determined under section 902 in the same manner as if the amount so included were a dividend paid by such foreign corporation."

(c) Clerical Amendment.—The table of sections for subpart A of part III of subchapter N of chapter 1 is amended by striking out the item relating to section 902 and inserting in lieu thereof the following:

"Sec. 902. Deemed paid credit where domestic corporation owns 10 percent or more of voting stock of foreign corporation."

(d) Effective Date.—The amendments made by this section shall apply to distributions by foreign corporations out of, and to inclusions under section 951(a) of the Internal Revenue Code of 1954 attributable to, earnings and profits for taxable years beginning after December 31, 1985.

Subtitle B—Source Rules

SEC. 611. DETERMINATION OF SOURCE IN CASE OF SALES OF PERSONAL PROPERTY.

(a) Personal Property Source Rules.—Part I of subchapter N of chapter 1 (relating to determination of source of income) is amended by adding at the end thereof the following new section:

"SEC. 865. SOURCE RULES FOR PERSONAL PROPERTY SALES.

"(a) General Rule.—Except as otherwise provided in this section, income from the sale of personal property—

"(1) by a United States resident shall be sourced in the United States, or

"(2) by a nonresident shall be sourced outside the United States.

"(b) Inventory Property.—

"(1) Income attributable to production activity.—In the case of income from the sale of inventory property produced (in whole or in part) by the taxpayer—

"(A) a portion (determined under regulations) of such income shall be allocated to production activity (and sourced in the United States or outside the United States depending on where such activity occurs), and

"(B) the remaining portion of such income shall be sourced under the other provisions of this section.

The regulations prescribed under subparagraph (A) shall provide that at least 50 percent of such income shall be allocated to production activities.

"(2) Sales income.—

"(A) United states residents.—Income from the sale of inventory property by a United States resident shall be sourced outside the United States if—

"(i) the property is sold for use, consumption, or disposition outside the United States and an office or other fixed place of business of the taxpayer outside the United States participated materially in the sale, and

"(ii) such sale is not (directly or indirectly) to an affiliate of the taxpayer.

"(B) Nonresident.—Income from the sale of inventory property by a nonresident shall be sourced in the United States if—

"(i) the taxpayer has an office or other fixed place of business in the United States, and

"(ii) such sale is through such office or other fixed place of business.

This subparagraph shall not apply if the requirements of clauses (i) and (ii) of subparagraph (A) are met with respect to such sale.

"(3) Coordination with treaties.—For purposes of paragraph (2)(A)(i), a United States resident shall not be treated as having an office or fixed place of business in a foreign country if a treaty prevents such country from imposing an income tax on the income.

"(c) Depreciable Personal Property.—

"(1) In general.—Gain (not in excess of the depreciation adjustments) from the sale of depreciable personal property shall be allocated between sources in the United States and sources outside the United States—

"(A) by treating the same proportion of such gain as sourced in the United States as the United States depreciation adjustments with respect to such property bear to the total depreciation adjustments, and

"(B) by treating the remaining portion of such gain as sourced outside the United States.

"(2) United states depreciation adjustments.—For purposes of this subsection—

"(A) In general.—The term 'United States depreciation adjustments' means the portion of the depreciation adjustments to the adjusted basis of the property which are attributable to the depreciation deductions allowable in computing taxable income from sources in the United States.

"(B) Special rule for certain property.—Except in the case of property of a kind described in section 48(a)(2)(B), if, for any taxable year—

"(i) such property is used predominantly in the United States, or

"(ii) such property is used predominantly outside the United States,

all of the depreciation deductions allowable for such year shall be treated as having been allocated to income from sources in the United States (or, where clause (ii) applies, from sources outside the United States).

"(3) Other definitions.—For purposes of this subsection—

"(A) Depreciable personal property.—The term 'depreciable personal property' means any personal property if the adjusted basis of such property includes depreciation adjustments.

"(B) Depreciation adjustments.—The term 'depreciation adjustments' means adjustments reflected in the adjusted basis of any property on account of depreciation deductions (whether allowed with respect to such property or other property and whether allowed to the taxpayer or to any other person).

"(C) Depreciation deductions.—The term 'depreciation deductions' means any deductions for depreciation or amortization or any other deduction allowable under any provision of this chapter which treats an otherwise capital expenditure as a deductible expense.

"(d) United States Resident; Nonresident.—For purposes of this section—

"(1) In general.—Except as otherwise provided in this subsection—

"(A) United states resident.—The term 'United States resident' means—

"(i) any individual who has a tax home (as defined in section 911(d)(3)) in the United States, and

"(ii) any corporation, partnership, trust, or estate which is a United States person (as defined in section 7701(a)(30)).

"(B) Nonresident.—The term 'nonresident' means any person other than a United States resident.

"(2) Effectively connected items.—

"(A) United states businesses.—In the case of any item effectively connected with the conduct by a nonresident of a trade or business in the United States, such nonresident shall be treated as a United States resident for purposes of determining the source of any such item.

"(B) Foreign businesses.—Except as provided in regulations, in the case of any item effectively connected with the conduct of a trade or business by a United States resident in a foreign country, such United States resident shall be treated as a nonresident for purposes of determining the source of such item. The preceding sentence shall not apply to any inventory property produced in whole or in part in the United States.

"(3) Special rules for united states citizens and residents.—For purposes of this section, a citizen of the United States or resident of the United States (within the meaning of section 7701(b)) shall not be treated as a resident of another country with respect to any sale of personal property unless an income tax is actually paid to such foreign country with respect to any gain from the sale.

"(e) Exception for Intangibles.—

"(1) In general.—In the case of any sale of an intangible—

"(A) this section shall apply only to the extent the payments in consideration of such sale are not contingent on the productivity, use, or disposition of the intangible, and

"(B) to the extent such payments are so contingent, the source of such payments shall be determined under sections 861 and 863 in the same manner as if such payments were royalties.

"(2) Intangible.—For purposes of paragraph (1), the term 'intangible' means any patent, copyright, secret process or formula, goodwill, trademark, trade brand, or other like property.

"(3) Special rule in the case of goodwill.—To the extent this section applies to the sale of goodwill, payments in consideration of such sale shall be treated as from sources in the country in which such goodwill was generated.

"(f) Other Definitions.—For purposes of this section—

"(1) Inventory property.—The term 'inventory property' means personal property described in paragraph (1) of section 1221.

"(2) Affiliate.—The term 'affiliate' means any person bearing a relationship to the taxpayer described in section 482.

"(3) United states effectively connected principles to apply.—The determination of whether any item is effectively connected with the conduct of trade or business in any foreign country shall be made under the principles applicable to the determination of whether any item is effectively connected with the conduct of a trade or business in the United States.

"(4) Sale includes exchange.—The term 'sale' includes an exchange or any other disposition.

"(5) Treatment of possessions.—Any possession of the United States shall be treated as a foreign country.

"(g) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purpose of this section."

(b) Conforming Amendments.—

(1) Subsection (b) of section 863 is amended by striking out the second sentence and inserting in lieu thereof the following: "Gains, profits, and income from services rendered partly in and partly outside the United States shall be treated as sourced partly in the United States and partly outside the United States."

(2) Paragraph (6) of section 861(a) (relating to sale or exchange of personal property) is amended to read as follows:

"(6) Sale or exchange of personal property.—

"For provisions relating to source of gain from sale or exchange of personal property, see section 865."

(3) Paragraph (6) of section 862(a) is amended to read as follows:

"(6) income from the sale or exchange of personal property to the extent treated as from sources outside the United States under section 865;".

(4) Paragraph (3) of section 904(b) is amended by striking out subparagraphs (C) and (D) and redesignating subparagraphs (E) and (F) as subparagraphs (C) and (D), respectively.

(5) Subparagraph (D) of section 871(a)(1) is amended by striking out "or from payments which are treated as being so contingent under subsection (e)".

(6) Subsection (e) of section 871 is hereby repealed.

(7) Paragraph (4) of section 881(a) is amended by striking out "or from payments which are treated as being so contingent under section 871(e),".

(c) Effective Dates.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1985.

(2) Transitional rule.—The amendments made by this section shall not apply to any sale or exchange during calendar year 1986 to a person other than a related person (as defined in section 901(i)(1) of the Internal Revenue Code of 1985) if such sale or exchange is pursuant to a written binding contract in effect on December 31, 1985.

SEC. 612. LIMITATIONS ON SPECIAL TREATMENT OF 80-20 CORPORATIONS.

(a) General Rule.—

(1) Subparagraph (B) of section 861(a)(1) (relating to interest paid by domestic corpo-

rations, etc., with less than 20 percent U.S. source income) is amended to read as follows:

"(B) interest meeting the requirements of section 871(i)(2)(B) received by a financial institution described in section 581 or 591 or by a similar foreign financial institution from an unrelated person but only if such interest is (with respect to such financial institution) effectively connected with the conduct of a trade or business of such financial institution in a foreign country,".

(2) Subparagraph (A) of section 861(a)(2) is amended to read as follows:

"(A) from a domestic corporation other than a corporation which has an election in effect under section 936, or".

(b) **Withholding Tax Not To Apply to Certain Interest.**—

(1) **Nonresident aliens.**—Section 871 (relating to tax on nonresident aliens) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) **Tax Not To Apply to Certain Interest.**—

"(1) **In general.**—No tax shall be imposed under paragraph (1)(A) or (1)(C) of subsection (a) on any amount described in paragraph (2).

"(2) **Amounts to which paragraph (1) applies.**—The amounts described in this paragraph are as follows:

"(A) Interest on deposits, etc., if such interest is not effectively connected with the conduct of a trade or business within the United States.

"(B) Interest paid by a domestic corporation meeting the requirements of paragraph (4) but only to the extent such interest is attributable to the active conduct of a trade or business in a foreign country by such corporation or by a subsidiary or chain of subsidiaries of such corporation.

"(C) Income derived by a foreign central bank of issue from bankers' acceptances.

"(3) **Deposits, etc.**—For purposes of paragraph (2), the term 'deposits, etc.' means amounts which are—

"(A) deposits with persons carrying on the banking business,

"(B) deposits or withdrawable accounts with savings institutions chartered and supervised as savings and loan or similar associations under Federal or State law, but only to the extent that amounts paid or credited on such deposits or account are deductible under section 591 (determined without regard to sections 265 and 291) in computing the taxable income of such institutions, and

"(C) amounts held by an insurance company under an agreement to pay interest thereon.

"(4) **Requirements for domestic corporation.**—For purposes of paragraph (2), a domestic corporation meets the requirements of this paragraph if it is shown to the satisfaction of the Secretary that less than 20 percent of the gross income from all sources of such corporation has been derived from sources within the United States (as determined under the provisions of this part) for the 3-year period ending with the close of the taxable year of such corporation preceding the payment of such interest (or for such part of such period as may be applicable). If such corporation has no gross income for such 3-year period (or part thereof), the preceding sentence shall be applied with respect to the taxable year in which the interest is paid.

"(5) **Special rule for certain interest paid to related person.**—Paragraph (2)(B) shall not apply to any interest paid by a domestic corporation to a related person (within the meaning of section 901(i)(1)) unless at all times during the taxable year, not more than 50 percent of the total combined voting power of all classes of stock of such corporation entitled to vote, and of the total value of the stock of such corporation, is owned (within the meaning of section 958(a), other than paragraph (4)) or is considered as owned (by applying rules similar to the ownership rules of section 958(b)), by persons other than United States persons."

(2) **Foreign corporations.**—Section 881 (relating to tax on foreign corporations) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) **Tax Not To Apply to Certain Interest.**—No tax shall be imposed under paragraph (1) or (3) of subsection (a) on any amount described in section 871(i)(2)."

(3) **Withholding tax.**—Subsection (c) of section 1441 (relating to exceptions) is amended by adding at the end thereof the following new paragraph:

"(10) **Exception for certain interest.**—No tax shall be required to be deducted and withheld under subsection (a) from any amount described in section 871(i)(2)."

(4) **Conforming amendments.**—

(A) Paragraph (1) of section 861(a) is amended by striking out subparagraphs (A) and (E) and by redesignating subparagraphs (B), (C), (D), (F), (G), and (H) as subparagraphs (A), (B), (C), (D), (E), and (F), respectively.

(B) Section 861 is amended by striking out subsection (c).

(C) Subsection (d) of section 861 is amended—

(i) by striking out "(1)(B), (1)(C), (1)(D), and (2)(B)" each place it appears (including in the subsection heading) and inserting in lieu thereof "(1)(B), (1)(C), and (2)(B)", and

(ii) by striking out "(1)(C), (1)(D), and (2)(B)" in paragraph (2) and inserting in lieu thereof "(1)(B), (1)(C), and (2)(B)".

(c) **Effective Dates.**—

(1) **In general.**—The amendments made by this section shall apply to taxable years beginning after December 31, 1985.

(2) **Treatment of certain interest.**—

(A) **In general.**—The amendments made by this section shall not apply to any interest paid or accrued on any obligation held on December 31, 1985. The preceding sentence shall not apply to any interest paid pursuant to any extension or renewal of such an obligation agreed to after December 31, 1985.

(B) **Special rule for related payee.**—If the payee of any interest to which subparagraph (A) applies is related (within the meaning of section 901(i)(1) of the Internal Revenue Code of 1985) to the payor, such interest shall be treated for purposes of section 904 of such Code as if the payor were a controlled foreign corporation (within the meaning of section 957(a) of such Code).

(3) **Certain dividends.**—

(A) **In general.**—The amendments made by this section shall not apply to any dividend paid before January 1, 1991, by a qualified corporation with respect to stock which was outstanding on May 31, 1985.

(B) **Qualified corporation.**—For purposes of subparagraph (A), the term 'qualified corporation' means any business systems corporation which—

(i) was incorporated in Delaware in February, 1979,

(ii) is headquartered in Garden City, New York, and

(iii) the parent corporation of which is a resident of Sweden.

SEC. 613. SPECIAL RULES FOR TRANSPORTATION INCOME.

(a) **General Rule.**—Paragraph (2) of section 863(c) (relating to special rule for certain transportation income) is amended to read as follows:

"(2) **Other transportation having United States connection.**—50 percent of all transportation income attributable to transportation which—

"(A) is not described in paragraph (1), and

"(B) begins or ends in the United States,

shall be treated as from sources in the United States."

(b) **4 Percent Tax on Gross Transportation Income.**—

(1) **In general.**—Part II of subchapter N of chapter 1 (relating to nonresident alien individuals and foreign corporations) is amended by redesignating subpart C as subpart D and by inserting after subpart B the following new subpart:

"Subpart C—Tax on Gross Transportation Income

"Sec. 886. Imposition of tax on gross transportation income of nonresident aliens and foreign corporations.

"Sec. 887. Collection of tax.

"SEC. 886. IMPOSITION OF TAX ON GROSS TRANSPORTATION INCOME OF NONRESIDENT ALIENS AND FOREIGN CORPORATIONS.

"(a) **Imposition of Tax.**—In the case of any nonresident alien individual or foreign corporation, there is hereby imposed for each taxable year a tax equal to 4 percent of such individual's or corporation's United States source gross transportation income for such taxable year.

"(b) **United States Source Gross Transportation Income.**—

"(1) **In general.**—Except as provided in paragraph (2), the term 'United States source gross transportation income' means any gross income which is transportation income (as defined in section 863(c)(3)) to the extent such income is treated as from sources in the United States under section 863(c).

"(2) **Exception for income effectively connected with business in the United States.**—The term 'United States source gross transportation income' shall not include any income taxable under section 871(b) or 882.

"(3) **Clarification of definition of effectively connected income.**—For purposes of this chapter, transportation income of any taxpayer shall not be treated as effectively connected with the conduct of a trade or business within the United States unless—

"(A) the taxpayer has a fixed place of business in the United States involved in the earning of transportation income, and

"(B) substantially all of the United States source gross transportation income (determined without regard to paragraph (2)) of the taxpayer is attributable to regularly scheduled transportation.

"(c) **Exception Where Prior Tax Paid.**—No tax shall be imposed under this section with respect to any income to the extent the taxpayer establishes (under such terms and conditions as the Secretary may require) that a prior tax was paid with respect to such income under this section.

"SEC. 887. COLLECTION OF TAX.

"(a) **Withholding of Tax.**—

"(1) **In general.**—Except as otherwise provided in paragraph (2), any person, of whatever capacity, acting, having control, receipt, custody, disposal, or payment of any item of United States source gross transportation income of a foreign person shall deduct and withhold from such item a tax equal to 4 percent thereof.

"(2) **Exemption.**—Subject to such terms and conditions as may be provided by regulations prescribed by the Secretary, subsection (a) shall not apply if the Secretary determines that the requirements of subsection (a) impose an undue administrative burden and that the collection of the tax imposed by section 886 will not be jeopardized by the exemption.

"(3) **Certain provisions made applicable.**—The provisions of section 33 and subchapter B of chapter 3 shall apply to any tax deducted and withheld under paragraph (1) in the same manner as in the case of tax deducted and withheld under subchapter A of chapter 3.

"(b) **Authority To Require Bond.**—The Secretary may require a nonresident alien individual or a foreign corporation which has United States source gross transportation income to give a bond, with sureties satisfactory to and approved by the Secretary. Such bond shall be in such amount as the Secretary may require and may contain such other conditions as the Secretary may require."

(2) **Clerical amendment.**—The table of subparts for part II of subchapter N is amended by striking out the item relating to subpart C and inserting in lieu thereof the following:

"Subpart C. Tax on gross transportation income.

"Subpart D. Miscellaneous provision."

(c) **Limitation on Exclusion of Transportation Income.**—

(1) Subsection (b) of section 872 (relating to exclusions) is amended by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) **Ships operated by certain nonresidents.**—Gross income derived by an individual resident of a foreign country from the operation of a ship or ships if such foreign country grants an equivalent exemption of citizens of the United States and to corporations organized in the United States.

"(2) **Aircraft operated by certain nonresidents.**—Gross income derived by an individual resident of a foreign country from the operation of aircraft if such foreign country grants an equivalent exemption to citizens of the United States and to corporations organized in the United States."

(2) Subsection (a) of section 883 (relating to exclusions from gross income) is amended by striking out paragraphs (1) and (2) and by inserting in lieu thereof the following:

"(1) **Ships operated by certain foreign corporations.**—Gross income derived by a corporation organized in a foreign country from the operation of a ship or ships if such foreign country grants an equivalent exemption to citizens in the United States and to corporations organized in the United States.

"(2) **Aircraft operated by certain foreign corporations.**—Gross income derived by a corporation organized in a foreign country from the operation of aircraft if such foreign country grants an equivalent exemption to citizens of the United States and to corporations organized in the United States."

(3) Section 883 is amended by adding at the end thereof the following new subsection:

"(c) **Treatment of Certain Foreign Corporations.**—

"(1) **In general.**—Paragraphs (1) and (2) of subsection (a) shall not apply to any foreign corporation if 25 percent or more of the value of the stock of such corporation is owned (within the meaning of section 958(a)) or is considered as owned (under the principles of section 958(b)) by persons who are not residents of such foreign country or another foreign country meeting the requirements of such paragraphs (1) and (2).

"(2) **Treatment of United States shareholders of controlled foreign corporations.**—For purposes of paragraph (1), in the case of a foreign corporation which is a controlled corporation (as defined in section 957(a)), United States shareholders (as defined in section 951(b)) of such corporation shall be treated as residents of the foreign country in which such corporation is organized.

"(3) **Exception for publicly traded corporations.**—Paragraph (1) shall not apply to any foreign corporation the stock of which is primarily and regularly traded on an established securities market in the foreign country in which such corporation is organized."

(d) **Repeal of Special Treatment for Leased Aircraft, Etc.**—Section 861 is amended by striking out subsection (e) and by redesignating subsection (f) as subsection (e).

(e) **Effective Dates.**—

(1) **In general.**—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1985.

(2) **Special rule for certain leased property.**—The amendments made by subsections (a) and (d) shall not apply to any income attributable to property held by the taxpayer on January 1, 1986, if such property was first leased by the taxpayer before January 1, 1986, in a lease to which section 863(c) or 861(e) of the Internal Revenue Code of 1985 (as in effect on the day before the date of the enactment of this Act) applied.

SEC. 614. RULES FOR ALLOCATING INTEREST, ETC., TO FOREIGN SOURCE INCOME.

(a) **General Rule.**—Section 864 (relating to definitions) is amended by adding at the end thereof the following new subsection:

"(e) **Rules for Allocating Interest, Etc.**—

"(1) **Treatment of affiliated groups.**—For purposes of section 904, the taxable income of each member of an affiliated group from sources outside the United States shall be determined by allocating and apportioning interest expense of each member as if all members of such group were a single corporation. Except to the extent provided in regulations, a similar rule shall apply in the case of all other expenses.

"(2) **Gross income method may not be used for interest.**—All allocations and apportionments of interest expense shall be made on the basis of assets rather than gross income.

"(3) **Tax-exempt assets not taken into account.**—For purposes of allocating and apportioning any deductible expense, any tax-exempt asset (and any income from such an asset) shall not be taken into account. A similar rule shall apply in the case of any dividend (other than a qualifying dividend as defined in section 243(b)) for which a deduction is allowable under section 243 or 245(a) and any stock the dividends on which would be so deductible and would not be qualifying dividends (as so defined).

"(4) **Basis of stock in certain foreign corporations adjusted for earnings and profits changes.**—For purposes of allocating and apportioning expenses on the basis of assets, the adjusted basis of any asset which is stock in a foreign corporation with respect to which the requirements of section 1248(a)(2) are met shall be—

"(A) increased by the amount of the earnings and profits of such foreign corporation attributable to such stock and accumulated during the period the taxpayer held such stock, or

"(B) reduced (but not below zero) by any deficit in earnings and profits of such foreign corporation attributable to such stock for such period.

"(5) **Special rule for certain financial institutions.**—The first sentence of paragraph (1) shall not apply to any financial institution described in section 581 or 591 if—

"(A) the business of such financial institution is predominantly with persons other than related persons or their customers, and

"(B) such financial institution is required by State or Federal law to be operated separately from any other entity which is not such an institution.

Such financial institution shall not be treated as a member of the group for purposes of applying such first sentence to other members of such group.

"(6) **Regulations.**—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section including regulations providing for the resourcing of income of any member of an affiliated group or modifications to the consolidated return regulations to the extent such resourcing or modification is necessary to carry out the purposes of this section."

(b) **Clerical Amendments.**—

(1) The section heading for section 864 is amended to read as follows:

"SEC. 864. DEFINITIONS AND SPECIAL RULES."

(2) The table of sections for part I of subchapter N of chapter 1 is amended by striking out the item relating to section 864 and inserting in lieu thereof the following:

"Sec. 864. Definitions and special rules."

(c) **Effective Dates.**—

(1) **In general.**—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 1985.

(2) **Transitional rules.**—

(A) **General phase-in.**—Except as provided in subparagraph (B), in the case of the 1st 3 taxable years of the taxpayer beginning after December 31, 1985, the amendments made by this section shall apply only to the applicable percentage (determined under the following table) of the interest expenses paid or accrued by the taxpayer during the taxable year with respect to an aggregate amount of indebtedness which does not exceed the aggregate amount of indebtedness outstanding on November 16, 1985:

In the case of the:	The applicable percentage is:
1st taxable year	25
2nd taxable year	50
3rd taxable year	75.

(B) **Consolidation rule not to apply to certain interest.**—

"(i) **Interest attributable to increase in indebtedness from January 1, 1984, through May 29, 1985.**—In the case of the first 5 taxable years of the taxpayer beginning after December 31, 1985, with respect to interest expenses attributable to the excess of—

(I) the amount of the outstanding debt of the taxpayer on May 29, 1985, over

(II) the amount of the outstanding debt of the taxpayer on December 31, 1983,

paragraph (1) of section 864(e) of the Internal Revenue Code of 1954 (as added by this section) shall apply only to the applicable percentage (determined under the following table) of the interest expenses paid or accrued by the taxpayer during the taxable year:

In the case of the:	The applicable percentage is:
1st taxable year	16⅔
2nd taxable year	33⅓
3rd taxable year	50
4th taxable year	66⅔
5th taxable year	83⅓.

"(ii) Interest attributable to increase in indebtedness from January 1, 1983, through December 31, 1984.—
In the case of the first 4 taxable years of the taxpayer beginning after December 31, 1985, with respect to interest expenses attributable to the excess of—

(I) the amount of the outstanding debt of the taxpayer on January 1, 1984, over

(II) the amount of the outstanding debt of the taxpayer on December 31, 1982,
paragraph (1) of section 864(e) of the Internal Revenue Code of 1954 (as added by this section) shall apply only to the applicable percentage (determined under the following table) of the interest expenses paid or accrued by the taxpayer during the taxable year:

In the case of the:	The applicable percentage is:
1st taxable year	20
2nd taxable year	40
3rd taxable year	60
4th taxable year	80.

(iii) Ordering rule.—For purposes of this subparagraph, indebtedness outstanding on December 31, 1985, shall be treated as attributable first to any excess described in clause (i), then to any excess described in clause (ii), and then to other indebtedness.

(3) Special rule.—

(A) In general.—In the case of a qualified corporation, the amendments made by this section shall not apply to interest expenses allocable to any indebtedness to the extent such indebtedness does not exceed $500,000,000 if—

(i) the indebtedness was incurred to develop or improve existing property that is owned by the taxpayer on November 16, 1985, and was acquired with the intent to develop or improve the property,

(ii) the loan agreement with respect to the indebtedness provides that the funds are to be utilized for purposes of developing or improving the above property, and

(iii) the debt to equity ratio of the companies that join in the filing of the consolidated return is less than 15 percent.

(B) Qualified corporation.—For purposes of subparagraph (A), the term "qualified corporation" means a corporation—

(i) which was incorporated in Delaware on June 29, 1964,

(ii) the principal subsidiary of which is a resident of Arkansas, and

(iii) which is a member of an affiliated group the average daily United States production of oil of which is less than 50,000 barrels and the average daily United States refining of which is less than 150,000 barrels.

SEC. 615. SOURCE RULE FOR SPACE AND CERTAIN OCEAN ACTIVITIES.

(a) General Rule.—Section 863 (relating to items not specified in section 861 or 862) is amended by adding at the end thereof the following new subsection:

"(d) Source Rules for Space and Certain Ocean Activities.—

"(1) In general.—Any income derived from a space or ocean activity—

"(A) if derived by a United States resident, shall be sourced in the United States, and

"(B) if derived by a nonresident, shall be sourced outside the United States.

"(2) Space or ocean activity.—For purposes of paragraph (1)—

"(A) In general.—The term 'space or ocean activity' means—

"(i) the use (or hiring or leasing for use) of a spacecraft, and

"(ii) any activity conducted on or under water not within the jurisdiction (as recognized by the United States) of a foreign country, possession of the United States, or the United States.

Such term includes any activity conducted in Antarctica.

"(B) Exception for transportation and oil and gas activities.—The term 'space or ocean activity' shall not include—

"(i) any activity giving rise to transportation income (as defined in section 863(c)), and

"(ii) any activity with respect to mines, oil and gas wells, or other natural deposits to the extent within the United States or any foreign country or possession of the United States (as defined in section 638).

For purposes of applying section 638, the jurisdiction of any foreign country shall not include any jurisdiction not recognized by the United States.

"(3) Exception for certain United States-owned foreign corporations.—For purposes of paragraph (1), a foreign corporation shall be treated as a United States resident if 50 percent or more (in value) of the stock of such corporation is owned (within the meaning of section 958(a)) or considered as owned under the principles of section 958(b) by United States persons."

(b) Effective Date.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1985.

SEC. 616. 2-YEAR MODIFICATION IN REGULATIONS PROVIDING FOR ALLOCATION OF RESEARCH AND EXPERIMENTAL EXPENDITURES.

(a) General Rule.—For purposes of section 861(b), section 862(b), and section 863(b) of the Internal Revenue Code of 1985, notwithstanding section 864(e) of such Code—

(1) 50 percent of all amounts allowable as a deduction for qualified research and experimental expenditures shall be apportioned to income from sources within the United States and deducted from such income in determining the amount of taxable income from sources within the United States, and

(2) the remaining portion of such amounts shall be apportioned on the basis of gross sales or gross income.

The preceding sentence shall not apply to any expenditures described in section 1.861-8(e)(3)(i)(B) of the Income Tax Regulations.

(b) Qualified Research and Experimental Expenditures.—For purposes of this section—

(1) In general.—The term "qualified research and experimental expenditures" means amounts—

(A) which are research and experimental expenditures within the meaning of section 174 of such Code, and

(B) which are attributable to activities conducted in the United States.

(2) Treatment of depreciation, etc.—Rules similar to the rules of section 174(c) of such Code shall apply.

(c) Effective Date.—

(1) In general.—This section shall apply to taxable years beginning after August 1, 1985, and on or before August 1, 1987.

(2) Special rule.—If section 126 of the Tax Reform Act of 1984 applied to the taxpayer's 3rd taxable year beginning after August 13, 1981, by reason of subsection (c)(2) of such section, this section shall apply to the first 2 taxable years of the taxpayer following such 3rd taxable year.

Subtitle C—Taxation of Income Earned Through Foreign Corporations

SEC. 621. INCOME SUBJECT TO CURRENT TAXATION.

(a) Definition of Foreign Personal Holding Company Income.—Subsection (c) of section 954 (defining foreign personal holding company income) is amended to read as follows:

"(c) Foreign Personal Holding Company Income.—

"(1) In general.—For purposes of subsection (a)(1), the term 'foreign personal holding company income' means the portion of the gross income which consists of:

"(A) Dividends, etc.—Dividends, interest, royalties, rents, and annuities.

"(B) Certain property transactions.—Gain from the sale or exchange of property of a kind giving rise to income covered by subparagraph (A) after application of paragraphs (2) and (3). This subparagraph shall not apply to gain from the sale or exchange of any property by a regular dealer in such property.

"(C) Commodities transactions.—Gain from any transaction (including a futures transaction) in any commodity. This subparagraph shall not apply to gains which—

"(i) arise out of bona fide hedging transactions reasonably necessary to the conduct of any business by a producer, processor, merchant, or handler of a commodity in the manner in which such business is customarily and usually conducted by others, or

"(ii) are active business gains from the sale of commodities, but only if substantially all of the taxpayer's business is as an active producer, processor, merchant, or handler of commodities.

"(D) Foreign currency gains.—Gain attributable to any transaction (including a futures transaction) in a currency other than the taxpayer's functional currency. This subparagraph shall not apply in the case of any transaction directly related to the business needs of the taxpayer.

"(2) Exception for rents and royalties derived in active business.—

"(A) In general.—Foreign personal holding company income shall not include same country rents and royalties which are derived in the active conduct of a trade or business and which are received from a person other than a related person (within the meaning of subsection (d)(3)), and

"(B) Same country rents and royalties.—For purposes of subparagraph (A), a rent or royalty shall be treated as a same country rent or royalty if—

"(i) such rent or royalty is not attributable to property developed or produced by, or acquired (directly or indirectly) from, a related person outside the country under the laws of which the controlled foreign corporation is created or organized, or

"(ii) such rent or royalty is received by the controlled foreign corporation for the use of, or the privilege of using, such property within the country under the laws of which the controlled foreign corporation is created or organized.

"(3) Certain income received from related persons.—

"(A) In general.—Except as provided in subparagraph (B), the term 'foreign personal holding company income' does not include—

"(i) dividends and interest received from a related person which (I) is created or organized under the laws of the same foreign country under the laws of which the controlled foreign corporation is created or organized, and (II) has a substantial part of its assets used in its trade or business located in such same foreign country, and

"(ii) rents and royalties received from a related person for the use of, or the privilege of using, property within the country under the laws of which the controlled foreign corporation is created or organized.

"(B) Exception not to apply to items which reduce subpart F income.—Subparagraph (A) shall not apply in the case of any interest, rent, or royalty to the extent such interest, rent, or royalty reduces the payor's subpart F income."

(b) Definition of Insurance Income.—

(1) In general.—Subsection (a) of section 953 (defining income derived from the insurance of United States risks) is amended to read as follows:

"(a) General Rule.—For purposes of section 952(a)(1), the term 'insurance income' means any income which—

"(1) is attributable to the issuing (or reinsuring) of any insurance or annuity contract—

"(A) in connection with property in, liability arising out of activity in, or with the lives or health of residents of, a country other than the country under the laws of which the controlled foreign corporation is created or organized, or

"(B) in connection with risks not described in subparagraph (A) as the result of any arrangement whereby another corporation receives a substantially equal amount of premiums or other consideration in respect of issuing (or reinsuring) a contract described in subparagraph (A), and

"(2) would (subject to the modifications provided by paragraphs (1) and (2) of subsection (b)) be taxed under subchapter L of this chapter if such income were the income of a domestic insurance company."

(2) Conforming amendments.—

(A) Paragraph (1) of section 952(a) (defining subpart F income) is amended to read as follows:

"(1) insurance income (as defined under section 953),".

(B) Subsection (e) of section 954 is amended by striking out the last sentence.

(C) Subsection (b) of section 957 is amended by striking out "income derived from insurance of United States risks" and inserting in lieu thereof "insurance income".

(D) The section heading for section 953 is amended to read as follows:

"SEC. 953. INSURANCE INCOME."

(E) The table of sections for subpart F of part III of subchapter N of chapter 1 is amended by striking out the item relating to section 953 and inserting in lieu thereof the following:

"Sec. 953. Insurance income."

(c) Repeal of Exclusion for Reinvested Shipping Income.—

(1) In general.—Paragraph (2) of section 954(b) (relating to exclusion for reinvested shipping income) is hereby repealed.

(2) Space and certain ocean activities included.—Subsection (f) of section 954 (defining foreign base company shipping income) is amended by adding at the end thereof the following new sentence: "Such term includes any income derived from a space or ocean activity (as defined in section 863(d)(2))."

(3) Conforming amendments.—

(A) Section 954 is amended by striking out subsection (g).

(B) Subparagraph (A) of section 955(a)(1) is amended by striking out "all prior taxable years" and inserting in lieu thereof "all prior taxable years beginning before 1986".

(C) Subparagraph (A) of section 955(a)(2) is amended by striking out "at the close of the preceding taxable year" and inserting in lieu thereof "as of the close of the last taxable year beginning before 1986".

(d) Exception Where Foreign Corporation Not Availed of To Reduce Tax.—Paragraph (4) of section 954(b) (relating to exception for foreign corporations not availed of to reduce taxes) is amended to read as follows:

"(4) Exception for certain income subject to high foreign taxes.—For purposes of subsection (a), foreign base company income and insurance income (not attributable to United States risks) shall not include any item of income received by a controlled foreign corporation if the taxpayer establishes to the satisfaction of the Secretary that such income was subject to an effective rate of income tax imposed by a foreign country greater than 90 percent of the maximum rate of tax specified in section 11. The preceding sentence shall not apply to foreign base company oil-related income described in subsection (a)(5)."

(e) Definition of Related Person.—

(1) Paragraph (3) of section 954(d) (defining related person) is amended by striking out subparagraphs (A), (B), and (C), and inserting in lieu thereof the following:

"(A) such person is an individual, corporation, partnership, trust, or estate which controls, or is controlled by, the controlled foreign corporation, or

"(B) such person is a corporation, partnership, trust, or estate which is controlled by the same person or persons which control the controlled foreign corporation."

(2) Paragraph (3) of section 954(d) is amended by striking out the last 2 sentences and inserting in lieu thereof the following: "For purposes of the preceding sentence, control means, with respect to a corporation, the ownership, directly or indirectly, of stock possessing 50 percent or more of the total voting power of all classes of stock entitled to vote. In the case of a partnership, trust, or estate, control means the ownership, directly or indirectly, of 50 percent or more (by value) of the beneficial interests in such partnership, trust, or estate. For purposes of this paragraph, rules similar to the rules of section 958 shall apply."

(f) Effective Date.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 1985.

SEC. 622. TESTING CONTROLLED FOREIGN CORPORATIONS AND FOREIGN PERSONAL HOLDING COMPANIES BY VALUE AND VOTING POWER.

(a) Definition of Controlled Foreign Corporation.—Subsection (a) of section 957 (defining controlled foreign corporation) is amended to read as follows:

"(a) General Rule.—For purposes of this subpart, the term 'controlled foreign corporation' means any foreign corporation if 50 percent or more of—

"(1) the total combined voting power of all classes of stock of such corporation entitled to vote, or

"(2) the total value of the stock of such corporation,

is owned (within the meaning of section 958(a)), or is considered as owned by applying the rules of ownership of section 958(b), by United States shareholders on any day during the taxable year of such foreign corporation."

(b) Definition of Foreign Personal Holding Company.—Paragraph (2) of section 552(a) (defining foreign personal holding company) is amended to read as follows:

"(2) Stock ownership requirement.—At any time during the taxable year 50 percent or more of—

"(A) the total combined voting power of all classes of stock of such corporation entitled to vote, or

"(B) the total value of the stock of such corporation,

is owned (directly or indirectly) by or for not more than 5 individuals who are citizens or residents of the United States (hereinafter in this part referred to as the 'United States group')."

(c) Effective Date.—

(1) In general.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 1985.

(2) Transitional rule.—In the case of any taxable year of a foreign corporation beginning during 1986, section 957(a) of the Internal Revenue Code of 1985 (as amended by subsection (a)) and section 552(a)(2) of such Code (as amended by subsection (b)) shall each be applied by substituting "more than 50 percent" for "50 percent or more".

SEC. 623. SUBPART F DE MINIMIS RULE AND 70-PERCENT RULE BASED ON EARNINGS AND PROFITS.

(a) General Rule.—Paragraph (3) of section 954(b) (relating to special rule where foreign base company income is less than 10 percent or more than 70 percent of gross income) is amended to read as follows:

"(3) Special rule where foreign base company income is less than 10 percent or more than 70 percent of earnings and profits.—For purposes of subsection (a)—

"(A) De minimis.—If the foreign base company income for the taxable year is less than 10 percent of the earnings and profits for such taxable year, no part of the gross income for the taxable year shall be treated as foreign base company income.

"(B) 70-percent rule.—If the foreign base company income for the taxable year exceeds 70 percent of the earnings and profits for such taxable year, the entire gross income for the taxable year shall, subject to the provisions of paragraphs (4) and (5), be treated as foreign base company income.

For purposes of this paragraph, foreign base company income shall be determined with regard to paragraph (5)."

(b) Effective Date.—The amendment made by subsection (a) shall apply to taxable years of foreign corporations beginning after December 31, 1985.

SEC. 624. REPEAL OF SPECIAL TREATMENT OF POSSESSIONS CORPORATIONS.

(a) General Rule.—Section 957 (defining controlled foreign corporations; United States persons) is amended by striking out subsection (c) and by redesignating subsection (d) as subsection (c).

(b) Effective Dates.—

(1) In general.—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to taxable years of foreign corporations beginning after December 31, 1985.

(2) Transitional rule.—In the case of any corporation treated as a controlled foreign corporation by reason of the amendment made by subsection (a)—

(A) only deficits in earnings and profits for taxable years beginning after December 31, 1985, shall be taken into account under section 952(c) of the Internal Revenue Code of 1985, and

(B) property acquired before December 31, 1985, shall not be taken into account under section 956(b) of such Code.

SEC. 625. TREATMENT OF FOREIGN INVESTMENT COMPANY STOCK.

(a) Repeal of 50-Percent United States Ownership Requirement.—Subsection (b) of section 1246 is amended—

(1) by striking out the comma at the end of paragraph (2)(C) and inserting in lieu thereof a period, and

(2) by striking out the material following paragraph (2)(C).

(b) Treatment of Certain Passive Foreign Investment Companies.—

(1) In general.—Part IV of subpart P of chapter 1 is amended by inserting after section 1246 the following new section:

"SEC. 1246A. TREATMENT OF CERTAIN PASSIVE FOREIGN INVESTMENT COMPANIES.

"(a) General Rule.—Except as provided in subsection (b)—

"(1) a passive foreign investment company shall be treated as a controlled foreign corporation for purposes of subpart F of subchapter N of this chapter, and

"(2) each United States person who owns (within the meaning of section 958(a)) stock in a passive foreign investment company shall be treated as a United States shareholder of such controlled foreign corporation for purposes of such subpart F.

"(b) Election to Defer Tax.—

"(1) In general.—Any United States person may elect to have subsection (a) not apply to any stock held by such person in a passive foreign investment company. The preceding sentence shall not apply if, without regard to this section—

"(A) such company is a controlled foreign corporation, and

"(B) the taxpayer is a United States shareholder in such corporation.

"(2) Time for making election.—Any election under paragraph (1) with respect to any passive foreign investment company shall be made by the taxpayer on the return of the tax imposed by this chapter for the first taxable year beginning after December 31, 1985, in which such taxpayer held stock in such foreign investment company. Such an election may be revoked only with the consent of the Secretary.

"(3) Interest payable on deferred amounts.—

"(A) In general.—The taxpayer shall pay interest (determined in the manner provided under subparagraph (B)) on the amount of the tax imposed by this chapter for any taxable year to the extent attributable to deferred income received by the taxpayer during such taxable year. Such interest shall be paid on or before the due date for such taxable year.

"(B) Determination of interest.—The amount of interest referred to in subparagraph (A) shall be determined for the period—

"(i) beginning on the due date for the taxable year in which the deferred income arose, and

"(ii) ending on the due date for the taxable year in which the deferred income was received,

by using the rates applicable under section 6621 for underpayments of tax for such period.

"(C) Deferred income.—The term 'deferred income' means any income attributable to stock in a passive investment company to the extent such income does not exceed the excess of—

"(i) the amounts which would have been included in gross income with respect to stock for prior taxable years but for an election under this subsection, over

"(ii) the amount actually included in gross income with respect to such stock for prior taxable years.

Any deferred amount shall be treated as attributable to amounts described in clause (i) in the order of the taxable years in which such amount arose.

"(D) Treatment of disposition.—In the case of any disposition of stock in a passive foreign investment company, the entire amount of the deferred income attributable to such stock shall be included in gross income for the taxable year in which such disposition occurs. For purposes of the preceding sentence, if the taxpayer uses any stock as security for a loan, the taxpayer shall be treated as disposing of such stock.

"(E) Due date.—For purposes of this subsection, the term 'due date' means the date prescribed by law (determined without regard to extensions) for filing the return of the tax imposed by this chapter for the taxable year.

"(c) Passive Foreign Investment Company Defined.—For purposes of this section, the term 'passive foreign investment company' means any foreign investment company if, for any taxable year beginning after December 31, 1985—

"(1) 75 percent or more of the gross income of such company is passive income (within the meaning of section 904(d)), or

"(2) 50 percent or more of its assets (by value) produces passive income or are held for the production of such income."

(2) Clerical amendment.—The table of sections for part IV of subchapter P of chapter 1 is amended by inserting after the item relating to section 1246 the following new item:

"1246A. Treatment of certain passive foreign investment companies."

(c) Coordination With Section 1248.—Section 1246 is amended by adding at the end thereof the following new subsection:

"(f) Coordination With Section 1248.—This section shall not apply to any gain to the extent such gain is treated as ordinary income under section 1248 (determined without regard to section 1248(g)(3))."

(d) Effective Dates.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 1985.

(2) Transitional rule.—If a foreign corporation was not a foreign investment company for any taxable year beginning before December 31, 1985, but is a foreign investment company for its 1st taxable year beginning after December 31, 1985, by reason of the amendments made by this section, earnings and profits attributable to taxable years of such foreign corporation beginning before December 31, 1985, shall not be taken into account under section 1246(a) of the Internal Revenue Code of 1985.

SEC. 626. ONLY EFFECTIVELY CONNECTED CAPITAL GAINS AND LOSSES OF FOREIGN CORPORATIONS TAKEN INTO ACCOUNT FOR PURPOSES OF ACCUMULATED EARNINGS TAX AND PERSONAL HOLDING COMPANY PROVISIONS.

(a) Accumulated Earnings Tax.—Subsection (b) of section 535 (relating to adjustments to taxable income) is amended by adding at the end thereof the following new paragraph:

"(9) Special rule for capital gains and losses of foreign corporations.—In the case of a foreign corporation, paragraph (6) shall be applied by taking into account only net capital gains which are effectively connected with the conduct of a trade or business within the United States and are not exempt from tax under treaty."

(b) Personal Holding Company Provisions.—Subsection (b) of section 545 (relating to adjustments to taxable income) is amended by adding at the end thereof the following new paragraph:

"(7) Special rule for capital gains and losses of foreign corporations.—In the case of a foreign corporation, paragraph (5) shall be applied by taking into account only net capital gains which are effectively connected with the conduct of a trade or business within the United States and are not exempt from tax under treaty."

(c) Effective Date.—The amendments made by this section shall apply to gains and losses realized on or after November 16, 1985.

Subtitle D—Special Tax Provisions for United States Persons

SEC. 641. MODIFICATIONS TO SECTION 936.

(a) Treatment of Intangibles.—

(1) Cost sharing method.—Section 936(h)(5)(C)(i)(I) is amended—

(A) by striking out "the same proportion of the cost" and inserting in lieu thereof "the same proportion of 110 percent of the cost", and

(B) by adding at the end thereof the following new sentence: "In the case of intangible property described in subsection (h)(3)(B)(i) which the electing corporation is treated as owning under subclause (II), in no event shall the payment required under this subclause be less than the royalty payment which would be required under section 367(d)(2)(A)(ii) and section 482 if the electing corporation were a foreign corporation."

(2) Profit split method.—Section 936(h)(5)(C)(ii)(II) is amended by striking out "the third sentence thereof)" and inserting in lieu thereof "the third and fourth sentences thereof, but substituting '120 percent' for '110 percent' in the second sentence thereof)".

(b) Repeal of Requirement That Amounts Be Received in the United States.—Subsection (b) of section 936 is hereby repealed.

(c) Treatment of Certain Investment Income as Qualified Possession Source Investment Income.—Subsection (d) of section 936 is amended by adding at the end thereof the following new paragraph:

"(4) Investment in qualified Caribbean Basin countries.—

"(A) In general.—For purposes of paragraph (2)(B), an investment in a financial institution shall be treated as for use in Puerto Rico to the extent used by the Government Development Bank of Puerto Rico for investment in active business assets in a qualified Caribbean Basin country. A similar rule shall apply in the case of a direct investment in the Government Development Bank of Puerto Rico.

"(B) Qualified Caribbean Basin country.—For purposes of this subsection, the term 'qualified Caribbean Basin country' means any beneficiary country (within the meaning of section 212(a)(1)(A) of the Caribbean Basin Economic Recovery Act) which meets the requirements of clauses (i) and (ii) of section 274(h)(6)(A).

"(C) Additional requirements.—Subparagraph (A) shall not apply to any investment made by the Government Development Bank of Puerto Rico unless—

"(i) the person in whose trade or business such investment is made and such Bank certify to the Secretary that the proceeds of the loan will be promptly used to acquire active business assets, and

"(ii) the Government Development Bank of Puerto Rico agrees to permit the Secretary to examine such of its books and records as may be necessary to ensure that the requirements of this paragraph are met.".

(d) Increase in Amount of Gross Income Which Must Be From Trade or Business.—

(1) In general.—Subparagraph (B) of section 936(a)(2) is amended by striking out "65 percent" and inserting in lieu thereof "75 percent".

(2) Transitions.—Subparagraph (C) of section 936(a)(2) is amended to read as follows:

"(C) Transitional rule.—In applying subparagraph (B) with respect to taxable years beginning during calendar year 1986, '70 percent' shall be substituted for '75 percent'."

(e) Treatment of Certain Royalty Payments.—Subparagraph (A) of section 367(d)(2) (relating to transfers of intangibles treated as transfer pursuant to sale for contingent payments) is amended by adding at the end thereof the following new sentences:

"The amounts taken into account under clause (ii) shall be commensurate with the income attributable to the intangible. In the case of any transfer not described in paragraph (1) to a foreign corporation or other foreign entity, rules similar to rules of this subparagraph shall apply for purposes of section 482."

(f) Effective Dates.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1985.

(2) Special rule for transfer of intangibles.—The amendments made by subsection (e) shall apply to transfers after November 16, 1985, in taxable years ending after such date; except that, for purposes of section 936(h)(5)(C) of the Internal Revenue Code of 1985, such amendments shall apply to taxable years beginning after December 31, 1985, without regard to when the transfer (if any) was made.

SEC. 642. TREATMENT OF CERTAIN EMPLOYEES OF THE PANAMA CANAL COMMISSION.

(a) General Rule.—Nothing in the Panama Canal Treaty (or in any agreement implementing such Treaty) shall be construed as exempting any citizen or resident of the United States from tax under chapter 1 of the Internal Revenue Code of 1954 and 1985 on amounts received from the Panama Canal Commission. The preceding sentence shall apply to all taxable years whether beginning before, on, or after the date of the enactment of this Act.

(b) Treatment of Employees of Panama Canal Commission for Purposes of Section 912.—Employees of the Panama Canal Commission stationed in Panama may exclude from gross income allowances which are comparable to the allowances excludable under section 912(1) of the Internal Revenue Code of 1985 by employees of the State Department of the United States stationed in Panama. The preceding sentence shall apply to taxable years beginning after December 31, 1985.

SEC. 643. MODIFICATIONS OF FSC AND DISC PROVISIONS.

(a) FSC Provisions.—

(1) In general.—Subsection (a) of section 923 (relating to exempt foreign trade income) is amended—

(A) by striking out "32 percent" in paragraph (2) and inserting in lieu thereof "28 percent", and

(B) by striking out "$^{16}/_{23}$" in paragraphs (2) and (4)(A) and inserting in lieu thereof "$^{18}/_{23}$".

(2) Conforming amendment to section 291.—Paragraph (4) of section 291(a) (relating to certain deferred FSC income) is amended by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(A) '26 percent' for '28 percent' in paragraph (2), and

"(B) '$^{17}/_{23}$' for '$^{18}/_{23}$' in paragraph (3)."

(b) DISC Provisions.—Subparagraph (F) of section 995(b)(1) is amended by striking out clauses (i) and (ii) and inserting in lieu thereof the following:

"(i) $^{8}/_{17}$ ($^{9}/_{17}$ in the case of a shareholder other than a C corporation) of the taxable income of the DISC for the taxable year (before reduction for any distributions during the year) over the sum of the amount deemed distributed for the taxable year under subparagrahs (A), (B), (C), (D), and (E),

"(ii) an amount equal to $^{16}/_{17}$ ($^{15}/_{17}$ in the case of a C corporation) of the excess referred to in clause (i), multiplied by the international boycott factor under section 999, and".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1985.

SEC. 644. REDUCTION IN LIMITATION ON SECTION 911 EXCLUSION.

(a) General Rule.—Subparagraph (A) of section 911(b)(2) (relating to limitation on foreign earned income) is amended to read as follows:

"(A) In general.—The foreign earned income of an individual which may be excluded under subsection (a)(1) for any taxable year shall not exceed the amount of foreign earned income computed on a daily basis at an annual rate of $75,000."

(b) Effective Date.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1985.

SEC. 645. TREATMENT OF INTEREST ON OBLIGATIONS OF THE UNITED STATES RECEIVED BY BANKS ORGANIZED IN GUAM.

(a) In General.—Subsection (e) of section 882 (relating to interest on United States obligations received by banks organized in possessions) is amended by adding at the end thereof the following sentence:

"The preceding sentence shall not apply to any Guam corporation which is treated as not being a foreign corporation by section 881(b)(1) for the taxable year."

(b) Effective Date.—The amendment made by subsection (a) shall apply to taxable years beginning after November 16, 1985.

Subtitle E—Treatment of Foreign Taxpayers

SEC. 651. SECOND LEVEL BRANCH TAX.

(a) General Rule.—Subpart B of part II of subchapter N of chapter 1 (relating to foreign corporations) is amended by redesignating sections 883 and 884 as sections 884 and 885, respectively, and by inserting after section 882 the following new section:

"SEC. 883. SECOND LEVEL BRANCH TAX.

"(a) Imposition of Tax.—In addition to the tax imposed by section 882 for any taxable year, there is hereby imposed a tax on any foreign corporation engaged in a trade or business within the United States during the taxable year equal to 30 percent of the sum of—

"(1) the dividend equivalent amount, and

"(2) the allocable interest.

"(b) Dividend Equivalent Amount.—For purposes of subsection (a), the term 'dividend equivalent amount' means the foreign corporation's effectively connected taxable income for the taxable year adjusted as provided in this subsection:

"(1) Reduction for tax imposed by section 882.—The effectively connected taxable income for the taxable year shall be reduced by the amount of the tax imposed by section 882 for the taxable year (reduced by any credits allowable against such tax).

"(2) Reduction for increase in U.S. net equity.—If—

"(A) the U.S. net equity of the foreign corporation as of the close of the taxable year, exceeds

"(B) the U.S. net equity of the foreign corporation as of the close of the preceding taxable year,

the effectively connected taxable income for the taxable year shall be reduced by the amount of such excess.

"(3) Increase for decrease in net equity.—If—

"(A) the U.S. net equity of the foreign corporation as of the close of the preceding taxable year, exceeds

"(B) the U.S. net equity of the foreign corporation as of the close of the taxable year,

the effectively connected taxable income for the taxable year shall be increased by the amount of such excess (to the extent such excess does not exceed the aggregate reductions under paragraph (2) for prior taxable years to the extent not previously taken into account under this paragraph).

"(c) Allocable Interest.—For purposes of this section, the term 'allocable interest' means the amount of interest paid or accrued by the foreign corporation during the taxable year to the extent—

"(1) such interest is allowable as a deduction in computing the amount of taxable income which is effectively connected with the conduct of a trade or business within the United States, and

"(2) such interest would be subject to the withholding under section 1441 or 1442 if the foreign corporation were a domestic corporation (other than a domestic corporation described in section 871(i)(4)).

"(d) U.S. Net Equity.—For purposes of this section—

"(1) In general.—The term 'U.S. net equity' means—

"(A) U.S. assets, reduced (including below zero) by

"(B) U.S. liabilities.

"(2) U.S. assets and U.S. liabilities.—For purposes of paragraph (1)—

'(A) U.S. assets.—The term 'U.S. assets' means the aggregate adjusted bases of property of the foreign corporation treated as connected with the conduct of a trade or business in the United States under regulations prescribed by the Secretary.

"(B) U.S. liabilities.—The term 'U.S. liabilities' means the liabilities of the foreign corporation treated as connected with the conduct of a trade or business in the United States under regulations prescribed by the Secretary.

"(C) Regulations to be consistent with allocation of interest expense.—The regulations prescribed under subparagraphs (A) and (B) shall be based on principles consistent with the principles used in allocating interest deductions under section 882(c)(1).

"(e) Effectively Connected Taxable Income.—The term 'effectively connected taxable income' means taxable income which is effectively connected with the conduct of a trade or business within the United States.

"(f) Treatment of Certain United States Shareholders.—If a domestic corporation receives a dividend from any foreign corporation with respect to which it meets the requirements of section 902(a), or an amount is included in the gross income of such domestic corporation by reason of being a United States shareholder of such foreign corporation—

"(1) such domestic corporation shall be allowed a credit against the tax imposed by this chapter for the portion of any tax paid by such foreign corporation attributable to tax paid under this section attributable to the dividend equivalent amount, and

"(2) the amount included in gross income for such dividend (or the amount of such inclusion under section 951) shall be increased by the amount of the credit determined under paragraph (1).

"(g) Regulations.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section, including regulations providing for adjustments in the determination of the dividend equivalent amount to the extent such adjustments are necessary to carry out the purposes of this section."

(b) Repeal of Certain Sourcing Rules.—

(1) Paragraph (1) of section 861(a) is amended by striking out subparagraphs (C) and (D).

(2) Paragraph (2) of section 861(a) is amended by striking out subparagraph (B).

(c) Clerical Amendment.—The table of sections for subpart B of part II of subchapter N of chapter 1 is amended by striking out the item relating to sections 883 and 884 and inserting in lieu thereof the following:

"Sec. 883. Second level branch tax.
"Sec. 884. Exclusions from gross income.
"Sec. 885. Cross references."

(d) Effective Date.—

(1) In general.—The amendments made by this section shall apply to taxable years beginning after December 31, 1985.

(2) Special rule for certain treaties.—

(A) In general.—If a taxpayer claims the benefits of any treaty and such treaty permits a withholding tax on interest described in section 861(a)(1)(C) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act) but does not permit a branch tax on allocable interest, the amendments made by this section shall not apply to amounts described in such section 861(a)(1)(C) paid to such taxpayer. A similar rule shall apply in the case of amounts described in section 861(a)(2)(B) of such Code as so in effect.

(B) Prevention of treaty shopping.—If—

(i) a foreign corporation claims the benefits of any treaty which prevents both the United States withholding tax on amounts described in section 861(a)(1)(C) of such Code (as so in effect) and a branch tax on allocable interest, and

(ii) more than 50 percent (by value) of the stock of such foreign corporation is beneficially owned (within the meaning of section 958(a) of the Internal Revenue Code of 1985) or is considered as owned (under the principles of section 958(b) of such Code), by persons who are not residents of the foreign country party to such treaty,

the amendments made by this section shall apply to allocable interest notwithstanding such treaty obligation to the contrary (whether entered into on, before, or after the date of the enactment of this Act). A similar rule shall apply in the case of amounts described in section 861(a)(2)(B) of such Code as so in effect.

(C) Exception for publicly traded corporations.—Subparagraph (B) shall not apply to any foreign corporation which is primarily and regularly traded on an established securities market in the country of which it is a resident.

SEC. 652. TREATMENT OF DEFERRED PAYMENTS ARISING OUT OF BUSINESS CONDUCTED WITHIN THE UNITED STATES.

(a) General Rule.—Subsection (c) of section 864 (defining effectively connected income) is amended by adding at the end thereof the following new paragraph:

"(6) Treatment of certain deferred payments, etc.—For purposes of this title, any income or gain of a nonresident alien individual or a foreign corporation for any taxable year which is attributable to a sale or exchange of property or the performance of service (or any other transaction) in any other taxable year shall be treated as effectively connected with the conduct of a trade or business within the United States if it would have been so treated if such income or gain were taken into account in such other taxable year."

(b) Conforming Amendments.—Paragraph (1) of section 864(c) is amended—

(1) by striking out "and (4)" in subparagraph (A) and inserting in lieu thereof "(4), and (6)", and

(2) by striking out "as provided in" in subparagraph (B) and inserting in lieu thereof "as provided in paragraph (6) or in".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1985.

SEC. 653. TREATMENT UNDER SECTION 877 OF PROPERTY RECEIVED IN TAX-FREE EXCHANGES, ETC.

(a) General Rule.—Subsection (c) of section 877 (relating to expatriation to avoid tax) is amended by adding at the end thereof the following new sentence: "For purposes of this section, gain on the sale or exchange of property which has a basis determined in whole or in part by reference to property described in paragraph (1) or (2) shall be treated as gain described in paragraph (1) or (2)."

(b) Effective Date.—The amendment made by subsection (a) shall apply to sales or exchanges of property received in exchanges after September 25, 1985.

SEC. 654. PROVISIONS RELATING TO AMOUNT AND WITHHOLDING OF EXCISE TAXES ON POLICIES ISSUED BY FOREIGN INSURERS.

(a) Uniform Rate of Tax on Insurance and Reinsurance Policies.—Section 4371 (relating to excise tax on policies issued by foreign insurers) is amended to read as follows:

"SEC. 4371. IMPOSITION OF TAX.

"(a) In General.—If any foreign insurer or reinsurer issues a policy of insurance, indemnity bond, annuity contract, or policy of reinsurance, there is hereby imposed on such policy, bond, contract, or policy of reinsurance a tax equal to—

"(1) in the case of—

"(A) a policy of casualty insurance or an indemnity bond which is issued to or for, or in the name of, an insured (within the meaning of section 4372(d)), or

"(B) a policy of reinsurance covering any such contract or bond,

4 percent of the amount of the premium retained by the foreign insurer or reinsurer on such policy, or bond, or on such policy of reinsurance; and

"(2) in the case of—

"(A) a policy of life, sickness, or accident insurance or an annuity contract, or

"(B) a policy of reinsurance covering any such policy or contract,

1 percent of the amount of the premium retained by the foreign insurer or reinsurer on such policy or contract, or on such policy of reinsurance.

No tax shall be imposed under paragraph (2) on any policy or contract with respect to which the insurer is subject to tax under section 819.

"(b) Amount of Premium Retained.—For purposes of subsection (a), the term 'amount of the premium retained' means, with respect to any policy, bond, or contract described in subsection (a), the excess of—

"(1) the gross premium (and other consideration) received by a foreign insurer, over

"(2) the premiums (and other consideration) paid by such insurer with respect to reinsurance ceded with respect to such policy, bond, or contract."

(b) Liability for Tax.—Section 4374 (relating to liability for tax) is amended—

(1) by striking out "or for whose use or benefit the same are made, signed, issued, or sold", and

(2) by striking out the last sentence.

(c) Withholding of Excise Tax on Foreign Insurers.—

(1) In general.—Chapter 34 (relating to policies issued by foreign insurers) is amended by adding at the end thereof the following new section:

"SEC. 4375. WITHHOLDING OF EXCISE TAX ON FOREIGN INSURERS.

"(a) In General.—In any case in which—

"(1) a foreign insurer issues a contract to which this section applies, or

"(2) a foreign reinsurer issues a policy of reinsurance covering any contract to which this section applies,

the insured or any withholding agent shall deduct and withhold from the gross premium (and other consideration) paid an amount equal to the amount determined under subsection (b).

"(b) Amount To Be Withheld.—The amount to be deducted and withheld under subsection (a) shall be equal to—

"(1) in the case of any contract described in subsection (d)(1)(A) or any policy of reinsurance subsequently issued with respect to the risks covered by such contract, 4 percent of the gross premium (and other consideration) paid,

"(2) in the case of any contract described in subsection (d)(1)(B) or any policy of reinsurance subsequently issued with respect to the risks covered by such contract, 1 percent of the gross premium (and other consideration) paid.

"(c) Exceptions.—Subsection (a) shall not apply to any contract or policy of reinsurance—

"(1) the premium on which is exempt from tax under section 4373, or

"(2) with respect to which the Secretary by regulations provides for an exemption from the requirement to deduct and withhold under subsection (a).

"(d) Definitions and Special Rules.—For purposes of this section—

"(1) Contract to which this section applies.—This section shall apply to any contract which—

"(A) is a policy of casualty insurance or an indemnity bond with respect to an insured, or

"(B) any policy of life, sickness, or accident insurance or an annuity contract (within the meaning of section 4372(e)) with respect to which the issuer is not subject to tax under section 819.

"(2) Insured.—The term 'insured' has the meaning given such term by section 4372(d).

"(3) Withholding agent.—Except as provided in regulations prescribed by the Secretary, the term 'withholding agent' means, with respect to any premium paid to a foreign insurer or reinsurer (or to any nonresident agent, solicitor, or broker), the person who controls, receives, has custody of, disposes of, or pays such premium.

"(4) Procedural rules.—Under regulations prescribed by the Secretary, rules similar to the rules of subchapter C of chapter 3 shall apply to any amount required to be deducted and withheld under this subsection."

(2) Conforming amendment.—The table of sections for chapter 34 is amended by adding at the end thereof the following new item:

"Sec. 4375. Withholding on excise tax on foreign insurers."

(d) Effective Date.—The amendments made by this section shall apply to premiums paid after December 31, 1985.

Subtitle F—Foreign Currency Transactions

SEC. 641. TREATMENT OF FOREIGN CURRENCY TRANSACTIONS.

(a) General Rule.—Part III of subchapter N of chapter 1 is amended by adding at the end thereof the following new subpart:

"Subpart J—Foreign Currency Transactions

"Sec. 985. Functional currency.
"Sec. 986. Determination of foreign corporation's earnings and profits and foreign taxes.
"Sec. 987. Branch transactions booked other than in the dollar.
"Sec. 988. Treatment of certain foreign currency transactions.
"Sec. 989. Other definitions and special rules.

"SEC. 985. FUNCTIONAL CURRENCY.

"(a) In General.—All determinations under this subtitle shall be made in the taxpayer's functional currency.

"(b) Functional Currency.—

"(1) In general.—For purposes of this subpart, the term 'functional currency' means—

"(A) except as provided in subparagraph (B), the dollar, or

"(B) in the case of a qualified business unit, the currency which is used by such unit in keeping its books and records and in which a significant part of its business activities are conducted.

"(2) Functional currency where activities primarily conducted in dollars.—The functional currency of any qualified business unit shall be the dollar if activities of such unit are primarily conducted in dollars.

"(3) Election.—The taxpayer may elect to use the dollar as the functional currency for any qualified business unit if such unit keeps its books and records in dollars. Any such election shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.

"(4) Change in functional currency treated as a change in method of accounting.—Any change in the functional currency shall be treated as a change in the taxpayer's method of accounting for purposes of section 481.

"SEC. 986. DETERMINATION OF FOREIGN CORPORATION'S EARNINGS AND PROFITS AND FOREIGN TAXES.

"(a) Earnings and Profits and Distributions.—For purposes of determining the tax under this subtitle—

"(1) of any shareholder of any foreign corporation, the earnings and profits of such corporation shall be determined in the corporation's functional currency, and

"(2) in the case of any domestic corporation which owns, directly or indirectly, at least 10 percent of the voting stock of any foreign corporation—

"(A) the earnings and profits determined under paragraph (1) (when distributed, deemed distributed, or otherwise taken into account under this subtitle) shall be translated into dollars using the appropriate exchange rates for the years in which earned, and

"(B) the amount by which—

"(i) the amount determined under subparagraph (A) is more or less than

"(ii) the amount determined by translating such amount into dollars using the appropriate exchange rate for the year in which taken into account under this subtitle,

shall be treated as ordinary income or loss (as the case may be).

"(b) Foreign Taxes.—

"(1) In general.—In determining the amount of foreign taxes deemed paid under section 902 or 960—

"(A) any foreign income taxes paid by a foreign corporation shall be translated into dollars using the exchange rates as of the time of payment, and

"(B) any adjustment to the amount of foreign income taxes paid by a foreign corporation shall be translated into dollars using—

"(i) except as provided in clause (ii), the appropriate exchange rates as of when such adjustment is made, and

"(ii) in the case of any refund of foreign taxes, using the exchange rate as of the time of payment.

"(2) Foreign income taxes.—For purposes of paragraph (1), 'foreign income taxes' means any income, war profits, or excess profits taxes paid to any foreign country or to any possession of the United States. Such term includes any tax treated as an income, war profits, or excess profits tax under section 903.

"SEC. 987. BRANCH TRANSACTIONS BOOKED OTHER THAN IN THE DOLLAR.

"In the case of any taxpayer having 1 or more qualified business units with a functional currency other than the dollar, taxable income of such taxpayer shall be determined—

"(1) by computing the taxable income or loss separately for each such unit in its functional currency,

"(2) by translating the income or loss separately computed under paragraph (1) at the appropriate exchange rate determined in accordance with regulations,

"(3) by making proper adjustments (as prescribed by the Secretary) for currency transfers between segments of the taxpayer having different functional currencies, including—

"(A) treating post-1985 remittances as made on a pro rata basis out of post-1985 accumulated earnings, and

"(B) treating gain or loss determined under subparagraph (A) as ordinary income or loss, respectively, and

"(4) by translating foreign income taxes paid by the taxpayer in the same manner as provided under section 986(b).

"SEC. 988. TREATMENT OF CERTAIN FOREIGN CURRENCY TRANSACTIONS.

"(a) General Rule.—

"(1) Treatment as ordinary income or loss.—Except as otherwise provided in this section, any foreign currency gain or loss attributable to a section 988 transaction shall be treated as ordinary income or loss (as the case may be). Such gain or loss shall be recognized notwithstanding any other provision of this subtitle.

"(2) Gain or loss treated as interest for certain purposes.—Except for purposes of sections 871(a), 881, 1441, 1442, and 6049 and part I of subchapter N (and such other provisions as may be specified in regulations), any amount treated as ordinary income or loss under paragraph (1) shall be treated as interest income or expense (as the case may be) for purposes of this title.

"(3) Source.—

"(A) In general.—Except as provided in subparagraphs (B) and (C), the source of any amount treated as ordinary income or loss under paragraph (1) shall be determined in the same manner as interest income or expense, as the case may be.

"(B) Gain by payor.—In the case of the payor, any amount treated as ordinary income under paragraph (1) shall be sourced in the same manner as interest expense of the payor with respect to the transaction.

"(C) Loss by payee.—In the case of the payee, any amount treated as ordinary loss under paragraph (1) shall be sourced in the same manner as interest income of the payee with respect to the transaction.

"(b) Foreign currency gain or loss.—For purposes of this section—

"(1) Foreign currency gain.—The term 'foreign currency gain' means any gain realized by reason of changes in exchange rates on or after the booking date and before the payment.

"(2) Foreign currency loss.—The term 'foreign currency loss' means any loss realized by reason of changes in exchange rates on or after the booking date and before the payment.

"(c) Other Definitions.—For purposes of this section—

"(1) Section 988 transaction.—

"(A) In general.—The term 'section 988 transaction' means any transaction described in subparagraph (B) if the amount which the taxpayer is entitled to receive (or is required to pay) by reason of such transaction—

"(i) is denominated in terms of a nonfunctional currency, or "(ii) is determined by reference to the value of 1 or more nonfunctional currencies.

"(B) Description of transactions.—For purposes of subparagraph (A), the following transactions are described in this subparagraph:

"(i) the acquisition of a debt instrument or becoming the obligor under a debt instrument;

"(ii) accruing (or otherwise taking into account) for purposes of this title any item of expense or income which is to be paid or received after the date on which so accrued or taken into account.

The Secretary shall prescribe regulations excluding from the application of clause (ii) any class of items the taking into account of which is not necessary to carry out the purposes of this section by reason of the small amounts or short periods involved, the regularity with which these items occur, or otherwise.

"(C) Special rules for disposition of foreign currency.—

"(i) In general.—In the case of any disposition of any foreign currency—

"(I) such disposition shall be treated as a section 988 transaction, and

"(II) for purposes of determining the foreign currency gain or loss from such transaction, paragraphs (1) and (2) of subsection (b) shall be applied by substituting 'acquisition date' for 'booking date' and 'disposition' for 'payment'.

"(ii) Foreign currency.—For purposes of this subparagraph, the term 'foreign currency' shall not include any section 1256 contract (within the meaning of section 1256(b)) which is not part of a hedging transaction (within the meaning of subsection (d)(2)).

"(2) Booking date.—The term 'booking date' means—

"(A) in the case of a transaction described in paragraph (1)(B)(i), the date of acquisition or on which the taxpayer becomes the obligor, or

"(B) in the case of a transaction described in paragraph (1)(B)(ii), the date on which accrued or otherwise taken into account.

"(3) Debt instrument.—The term 'debt instrument' means a bond, debenture, note, or certificate or other evidence of indebtedness. To the extent provided in regulations, such term shall include preferred stock.

"(d) Treatment of Hedging Transactions.—

"(1) In general.—To the extent provided in regulations, if any section 988 transaction is part of a hedging transaction to reduce the risk of currency fluctuations, all transactions which are part of such hedging transaction shall be integrated and treated as a single transaction for purposes of this section.

"(2) Hedging transaction.—For purposes of paragraph (1), the term 'hedging transaction' means any transaction which meets the requirements of subparagraphs (A) and (B) of section 1256(e)(2) and which is identified by the Secretary or the taxpayer as being a hedging transaction.

"SEC. 989. OTHER DEFINITIONS AND SPECIAL RULES.

"(a) Qualified Business Unit.—For purposes of this subpart, the term 'qualified business unit' means any separate and clearly identified unit of an active trade or business of a taxpayer which maintains separate books and records and keeps such books and records in a functional currency.

"(b) Regulations.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subpart."

(b) Separate Application of Section 904 With Respect to Foreign Currency Translation Income.—Paragraph (1) of section 904(d) (relating to separate application of section 904 with respect to certain income) as amended by section 601 of this Act, is amended by striking out "and" at the end of subparagraph (F), by redesignating subparagraph (G) as subparagraph (H), and by inserting after subparagraph (F) the following new subparagraph:

"(G) any gain from foreign currency translation described in section 986(a)(2)(B) or 987(a)(3)(B) (determined by applying rules similar to the rules of paragraphs (3) and (4)), and".

(c) Repeal of Special Treatment of Banks for Hedging Exception.—Subsection (e) of section 1256 (relating to mark to market not to apply to hedging transactions) is amended by striking out paragraph (4) and by redesignating paragraph (5) as paragraph (4).

(d) Clerical Amendment.—The table of subparts for part III of subchapter N of chapter 1 is amended by adding at the end thereof the following new item:

"Subpart J. Foreign currency transactions."

(e) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1985.

Subtitle G—Tax Treatment of Possessions

PART I—TREATMENT OF GUAM, AMERICAN SAMOA, AND THE NORTHERN MARIANA ISLANDS

SEC. 671. AUTHORITY OF GUAM, AMERICAN SAMOA, AND THE NORTHERN MARIANA ISLANDS TO ENACT REVENUE LAWS.

(a) In General.—Except as provided in subsection (b), nothing in the laws of the United States shall prevent Guam, American Samoa, or the Northern Mariana Islands from enacting tax laws with respect to income—

(1) from sources within, or effectively connected with the conduct of a trade or business within, any such possession, or

(2) received or accrued by any resident of such possession.

(b) Agreements to Alleviate Certain Problems Relating to Tax Administration.—Subsection (a) shall apply to Guam, American Samoa, or the Northern Mariana Islands only if (and so long as) an implementing agreement is in effect between the United States and such possession with respect to—

(1) the elimination of double taxation involving taxation by such possession and taxation by the United States,

(2) the establishment of rules under which the evasion or avoidance of United States income tax shall not be permitted or facilitated by such possession,

(3) the nondiscriminatory treatment of citizens and residents of the United States and any possession,

(4) the exchange of information between such possession and the United States for purposes of tax administration, and

(5) the resolution of other problems arising in connection with the administration of the tax laws of such possession or the United States.

Any such implementing agreement shall be executed on behalf of the United States by the Secretary of the Treasury.

SEC. 672. EXCLUSION OF POSSESSION SOURCE INCOME FROM THE GROSS INCOME OF CERTAIN INDIVIDUALS.

(a) In General.—Section 931 (relating to income from sources within possessions of the United States) is amended to read as follows:

"SEC. 931. INCOME FROM SOURCES WITHIN GUAM, AMERICAN SAMOA, OR THE NORTHERN MARIANA ISLANDS.

"(a) General Rule.—In the case of an individual who is a bona fide resident of a specified possession during the entire taxable year, gross income shall not include—

"(1) income derived from sources within any specified possession, and

"(2) income effectively connected with the conduct of a trade or business by such individual within any specified possession.

"(b) Deductions, Etc. Allocable to Excluded Amounts Not Allowable.—An individual shall not be allowed—

"(1) as a deduction from gross income any deductions (other than the deduction under section 151, relating to personal exemptions), or

"(2) any credit,

properly allocable or chargeable against amounts excluded from gross income under this section.

"(c) Specified Possession.—For purposes of this section, the term 'specified possession' means Guam, American Samoa, and the Northern Mariana Islands.

"(d) Special Rules.—For purposes of this section—

"(1) Employees of the United States.—Amounts paid for services performed as an employee of the United States (or any agency thereof) shall be treated as not described in paragraph (1) or (2) of subsection (a).

"(2) Determination of source, etc.—The determination as to whether income is described in paragraph (1) or (2) of subsection (a) shall be made under regulations prescribed by the Secretary.

"(3) Determination of residency.—For purposes of this section and section 876, the determination of whether an individual is a bona fide resident of Guam, American Samoa, or the Northern Mariana Islands shall be made under regulations prescribed by the Secretary."

(b) Exemption From Withholding Tax; Tax Imposed by Section 1.—Section 876 (relating to alien residents of Puerto Rico) is amended to read as follows:

"SEC. 876. ALIEN RESIDENTS OF PUERTO RICO, GUAM, AMERICAN SAMOA, OR THE NORTHERN MARIANA ISLANDS.

"(a) General Rule.—This subpart shall not apply to any alien individual who is a bona fide resident of Puerto Rico, Guam, American Samoa, or the Northern Mariana Islands during the entire taxable year and such alien shall be subject to the tax imposed by section 1.

"(b) Cross References.—

"For exclusion from gross income of income derived from sources within—

2 "(1) Guam, American Samoa, and the Northern Mariana Islands, see section 931, and

"(2) Puerto Rico, see section 933."

(c) Technical and Conforming Amendments.—

(1) Section 932 (relating to citizens of possessions of the United States) is hereby repealed.

(2) Section 935 (relating to coordination of United States and Guam individual income taxes) is hereby repealed.

(3) Paragraph (1) and (2) of section 933 are each amended by inserting ", or any credit," before "properly".

(4) Subparagraph (C) of section 32(c)(1) is amended to read as follows:

"(C) Individual who claims benefits of section 911 not eligible individual.—The term 'eligible individual' does not include an individual who, for the taxable year, claims the benefits of section 911 (relating to citizens or residents of the United States living abroad)."

(5) Clause (vii) of section 48(a)(2)(B) is amended by striking out "932,".

(6) Paragraph (6) of section 63(c) (relating to certain individuals, etc., not eligible for standard deduction), as amended by title I of this Act, is amended by striking out subparagraph (C) and by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively.

(7) Section 153 is amended by striking out paragraph (4) and by redesignating paragraph (5) as paragraph (4).

(8) Paragraph (8) of section 1402(a) is amended by striking out "and section 931 (relating to income from sources within possessions of the United States)" and by inserting "and" after "of the employer),".

(9) Paragraph (9) of section 1402(a) is amended to read as follows:

"(9) the exclusion from gross income provided by section 931 shall not apply;".

(10) Clause (iii) of section 6091(b)(1)(B) is amended by striking out "possessions of the United States" and inserting in lieu thereof "Guam, American Samoa, or the Northern Mariana Islands".

(11) Subsection (b) of section 7655 is amended by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively, and by inserting before paragraph (2), as so redesignated, the following new paragraph:

"(1) Section 931, relating to income tax on residents of Guam, American Samoa, or the Northern Mariana Islands;".

(12) The table of sections for subpart D of part III of subchapter N of chapter 1 is amended by striking out the items relating to sections 932 and 935 and by striking out the item relating to section 931 and inserting in lieu thereof the following:

"Sec. 931. Income from sources within Guam, American Samoa, or the Northern Mariana Islands."

(13) The table of sections for subpart A of part II of subchapter N of chapter 1 is amended by striking out the item relating to section 876 and inserting in lieu thereof the following:

"Sec. 876. Alien residents of Puerto Rico, Guam, American Samoa, or the Northern Mariana Islands."

SEC. 673. TREATMENT OF CORPORATIONS ORGANIZED IN GUAM, AMERICAN SAMOA, OR THE NORTHERN MARIANA ISLANDS.

(a) Treatment Under Subpart F.—Subsection (d) of section 957 (relating to controlled foreign corporations; United States persons) is amended by adding "and" at the end of paragraph (1) and by striking out paragraphs (2) and (3) and inserting in lieu thereof the following new paragraph:

"(2) with respect to a corporation organized under the laws of Guam, American Samoa, or the Northern Mariana Islands—

"(A) 80 percent or more of the gross income of which for the 3-year period ending at the close of the taxable year (or for such part of such period as such corporation or any predecessor has been in existence) was derived from sources within such a possession or was effectively connected with the conduct of a trade or business in such a possession, and

"(B) 50 percent or more of the gross income of which for such period (or part) was derived from the conduct of an active trade or business within such a possession,

such term does not include an individual who is a bona fide resident of Guam, American Samoa, or the Northern Mariana Islands.

For purposes of subparagraphs (A) and (B) of paragraph (2), the determination as to whether income was derived from sources within a possession, was effectively connected with the conduct of a trade or business within a possession, or derived from the active conduct of a trade or business within a possession shall be made under regulations prescribed by the Secretary."

(b) Exemption From Withholding.—

(1) In general.—Subsection (b) of section 881 (relating to exception for certain Guam and Virgin Islands corporations) is amended by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) In general.—For purposes of this section, a corporation created or organized in Guam, American Samoa, the Northern Mariana Islands, or the Virgin Islands or under the law of any such possession shall not be treated as a foreign corporation for any taxable year if—

"(A) at all times during such taxable year less than 25 percent in value of the stock of such corporation is beneficially owned (directly or indirectly) by foreign persons,

"(B) at least 65 percent of the gross income of such corporation is shown to the satisfaction of the Secretary to be effectively connected with the conduct of a trade or business in such a possession or the United States for the 3-year period ending with the close of the taxable year of such corporation (or for such part of such period as the corporation or any predecessor has been in existence), and

"(C) no substantial part of the income of such corporation is used (directly or indirectly) to satisfy obligations to persons who are not bona fide residents of such a possession or the United States."

(2) Technical amendments.—

(A) Subsection (b) of section 881 is amended by redesignating paragraph (3) as paragraph (2) and by striking out paragraph (4).

(B) Subsection (c) of section 1442 is amended to read as follows:

"(c) Exception for Certain Possessions Corporations.—For purposes of this section, the term 'foreign corporation' does not include a corporation created or organized in Guam, American Samoa, the Northern Mariana Islands, or the Virgin Islands or under the law of any such possession if the requirements of subparagraphs (A), (B), and (C) of section 881(b)(1) are met with respect to such corporation."

PART II—TREATMENT OF THE VIRGIN ISLANDS

SEC. 674. COORDINATION OF UNITED STATES AND VIRGIN ISLANDS INDIVIDUAL INCOME TAXES.

(a) In General.—Subpart D of part III of subchapter N of chapter 1 is amended by inserting after section 931 the following new section:

"SEC. 932. COORDINATION OF UNITED STATES AND VIRGIN ISLANDS INDIVIDUAL INCOME TAXES.

"(a) Treatment of United States Residents.—

"(1) Application of subsection.—This subsection shall apply to an individual for the taxable year if—

"(A) such individual—

"(i) is a citizen or resident of the United States (other than a bona fide resident of the Virgin Islands at the close of the taxable year), and

"(ii) has income derived from sources within the Virgin Islands, or effectively connected with the conduct of a trade or business within such possession, for the taxable year, or

"(B) such individual files a joint return for the taxable year with an individual described in subparagraph (A).

"(2) Filing requirement.—Each individual to whom this subsection applies for the taxable year shall file his income tax return for the taxable year with both United States and the Virgin Islands.

"(3) Extent of income tax liability.—In the case of an individual to whom this subsection applies in a taxable year for purposes of so much of this title (other than this section and section 7654) as relates to the taxes imposed by this chapter, the United States shall be treated as including the Virgin Islands.

"(b) Portion of United States Tax Liability Payable to the Virgin Islands.—

"(1) In general.—Each individual to whom this subsection applies for the taxable year shall pay the applicable percentage of the taxes imposed by this chapter for such taxable year (determined without regard to paragraph (3)) to the Virgin Islands.

"(2) Applicable percentage.—

"(A) In general.—For purposes of paragraph (1), the term 'applicable percentage' means the percentage which Virgin Islands adjusted gross income bears to adjusted gross income.

"(B) Virgin islands adjusted gross income.—For purposes of subparagraph (A), the term 'Virgin Islands adjusted gross income' means adjusted gross income determined by taking into account only income derived from sources within the Virgin Islands and deductions properly apportioned or allocable thereto.

"(3) Amounts paid allowed as credit.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the taxes required to be paid to the Virgin Islands under paragraph (1) which are so paid.

"(c) Residents of the Virgin Islands.—In the case of an individual who is a bona fide resident of the Virgin Islands at the close of the taxable year and who, on his return of income tax to the Virgin Islands, identifies the source of each item shown on such return, gross income shall not include any amount included in gross income on such return.

"(d) Special Rule for Joint Returns.—In the case of a joint return, this section shall be applied on the basis of the residence of the spouse who has the greater adjusted gross income (determined without regard to community property laws) for the taxable year.

"(e) Section Not To Apply to Tax Imposed in Virgin Islands.—This section shall not apply for purposes of determining income tax liability incurred to the Virgin Islands."

(b) Authority To Impose Nondiscriminatory Local Income Taxes.—Nothing in any provision of Federal law shall prevent the Virgin Islands from imposing on any person nondiscriminatory local income taxes. Any taxes so imposed shall be treated in the same manner as State and local income taxes under section 164 of the Internal Revenue Code of 1985 and shall not be treated as taxes to which section 901 of such Code applies.

(c) REGULATIONS ON APPLICATION OF MIRROR SYSTEM.—The Secretary of the Treasury or his delegate shall prescribe such regulations as may be necessary or appropriate for applying this title for purposes of determining tax liability incurred to the Virgin Islands.

(d) CLERICAL AMENDMENT.—The table of sections for such subpart D is amended by inserting after the item relating to section 931 the following new item:

"Sec. 932. Coordination of United States and Virgin Islands individual income taxes."

SEC. 675. VIRGIN ISLANDS CORPORATIONS ALLOWED POSSESSION TAX CREDIT.

(a) POSSESSION TAX CREDIT ALLOWED.—Paragraph (1) of section 936(d) (defining possession) is amended by striking out ", but does not include the Virgin Islands of the United States" and inserting in lieu thereof "and the Virgin Islands".

(b) CLARIFICATION OF TREATMENT OF VIRGIN ISLANDS CORPORATIONS.—Subparagraph (B) of section 7651(5) (relating to the Virgin Islands) is amended to read as follows:

"(B) For purposes of this title, section 28(a) of the Revised Organic Act of the Virgin Islands shall be effective as if such section 28(a) had been enacted before the enactment of this title and such section 28(a) shall have no effect on the amount of income tax liability required to be paid by any person to the United States."

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subsection 934 is amended by striking out subsections (b), (c), (d), (e), and (f), and by redesignating subsection (g) as subsection (c).

(2)(A) Subsection (a) of section 934 is amended by striking out "or (c) or in section 934A".

(B) Section 934, as amended by paragraph (1), is amended by inserting after subsection (a) the following new subsection:

"(b) REDUCTIONS PERMITTED WITH RESPECT TO VIRGIN ISLANDS SOURCE INCOME, ETC.—

"(1) IN GENERAL.—Except as provided in paragraph (2), subsection (a) shall not apply with respect to so much of the tax liability referred to in subsection (a) as is attributable to income derived from sources within the Virgin Islands or income effectively connected with the conduct of a trade or business within the Virgin Islands.

"(2) EXCEPTION FOR LIABILITY PAID BY CITIZENS OR RESIDENTS OF THE UNITED STATES.—Paragraph (1) shall not apply to any liability payable to the Virgin Islands under section 932(b).

"(3) DETERMINATION OF INCOME SOURCE, ETC.—The determination as to whether income is derived from sources within the Virgin Islands or is effectively connected with the conduct of a trade or business within the Virgin Islands shall be made under regulations prescribed by the Secretary."

(3) Section 934A (relating to income tax rates on Virgin Islands source income) is hereby repealed.

(4) Subparagraph (B) of section 28(d)(3) is amended to read as follows:

"(B) SPECIAL LIMITATION FOR CORPORATIONS TO WHICH SECTION 936 APPLIES.—No credit shall be allowed under this section with respect to any clinical testing conducted by a corporation to which an election under section 936 applies."

(5) Clause (vii) of section 48(a)(2)(B) is amended by striking out "or which is entitled to the benefits of section 934(b)" and by striking out ", 933, or 934(c)" and inserting in lieu thereof "or 933".

(6) Subsection (e) of section 246 is amended by striking out "or 934(e)(3)".

(7) Clause (i) of section 338(h)(6)(B) is amended by striking out "a corporation described in section 934(b),".

(8) Subparagraph (B) of section 864(d)(5) is amended to read as follows:

"(B) SPECIAL RULES FOR POSSESSIONS.—An amount treated as interest under paragraph (1) shall not be treated as income described in subparagraph (A) or (B) of section 936(a)(1) unless such amount is from sources within a possession of the United States (determined after the application of paragraph (1))."

(9) The table of sections for subpart D of part III of subchapter N of chapter 1 is amended by striking out the item relating to section 934A.

PART III—COVER OVER OF INCOME TAXES

SEC. 676. COVER OVER OF INCOME TAXES.

(a) IN GENERAL.—Section 7654 (relating to coordination of United States and Guam individual income taxes) is amended to read as follows:

"SEC. 7654. COORDINATION OF UNITED STATES AND CERTAIN POSSESSION INDIVIDUAL INCOME TAXES.

"(a) GENERAL RULE.—The net collection of taxes imposed by chapter 1 for each taxable year with respect to an individual to which section 931 or 932(c) applies shall be covered into the Treasury of the specified possession of which such individual is a bona fide resident.

"(b) DEFINITION AND SPECIAL RULE.—For purposes of this section—

"(1) NET COLLECTIONS.—In determining net collections for a taxable year, an appropriate adjustment shall be made for credits allowed against the tax liability and refunds made of income taxes for the taxable year.

"(2) SPECIFIED POSSESSION.—The term 'specified possession' means Guam, American Samoa, the Northern Mariana Islands, and the Virgin Islands.

"(c) TRANSFERS.—The transfers of funds between the United States and any specified possession required by this section shall be made not less frequently than annually.

"(d) MILITARY PERSONNEL.—In addition to the amount determined under subsection (a), the United States shall pay to each specified possession at such times and in such manner as determined by the Secretary—

"(1) the amount of the taxes deducted and withheld by the United States under chapter 24 with respect to compensation paid to members of the Armed Forces who are stationed in such possession but who have no income tax liability to such possession with respect to such compensation by reason of the Soldiers' and Sailors' Civil Relief Act (50 App. U.S.C. 501 et seq.), and

"(2) the amount of the taxes paid under chapter I which are attributable to amounts paid for services performed as an employee of the United States (or any agency thereof) with respect to an individual to which section 931 or 932(c) applies.

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section and sections 931 and 932, including regulations prescribing the information which the individuals to whom such sections may apply shall furnish to the Secretary."

(b) CLERICAL AMENDMENT.—The table of sections for subchapter D of chapter 78 is amended by striking out the item relating to section 7654 and inserting in lieu thereof the following:

"Sec. 7654. Coordination of United States and certain possession individual income taxes."

PART IV—EFFECTIVE DATE

SEC. 677. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsections (b) and (c), the amendments made by this subtitle shall apply to taxable years beginning after December 31, 1985.

(b) SPECIAL RULE FOR GUAM, AMERICAN SAMOA, AND THE NORTHERN MARIANA ISLANDS.—The amendments made by this subtitle shall apply with respect to Guam, American Samoa, or the Northern Mariana Islands (and to residents thereof and corporations created or organized therein) only if (and so long as) an implementing agreement under section 671 is in effect between the United States and such possession.

(c) SPECIAL RULE FOR THE VIRGIN ISLANDS.—The amendments made by section 675(c) shall apply with respect to the Virgin Islands (and residents thereof and corporations created or organized therein) only if (and so long as) an implementing agreement is in effect between the United States and the Virgin Islands with respect to the establishment of rules under which the evasion or avoidance of United States income tax shall not be permitted or facilitated by such possession. Any such implementing agreement shall be executed on behalf of the United States by the Secretary of the Treasury.

TITLE VII—TAX-EXEMPT BONDS

SEC. 701. STATE AND LOCAL BONDS.

(a) EXCLUSION FOR INTEREST ON BONDS WHICH MEET CERTAIN REQUIREMENTS.—Section 103 (relating to interest on certain governmental obligations) is amended to read as follows:

"SEC. 103. INTEREST ON STATE AND LOCAL BONDS.

"(a) EXCLUSION.—Except as provided in subsection (b), gross income does not include interest on any State or local bond.

"(b) EXCEPTIONS.—Subsection (a) shall not apply to—

"(1) NONESSENTIAL FUNCTION BOND WHICH IS NOT A QUALIFIED BOND.—Any nonessential function bond which is not a qualified bond (within the meaning of section 141).

"(2) ARBITRAGE BOND.—Any arbitrage bond (within the meaning of section 147).

"(3) BOND NOT IN REGISTERED FORM.—Any registration-required bond (as defined in section 148) unless such bond is in registered form.

"(c) DEFINITIONS.—For purposes of this section and part IV—

"(1) STATE OR LOCAL BOND.—The term 'State or local bond' means an obligation of a State or political subdivision thereof.

"(2) STATE.—The term 'State' includes the District of Columbia and any possession of the United States.

"(d) CROSS REFERENCE.—

"For additional requirements, see section 149."

(b) TAX EXEMPTION REQUIREMENTS FOR STATE AND LOCAL BONDS.—Part IV of subchapter B of chapter 1 (relating to determination of marital status) is amended to read as follows:

"PART IV—TAX EXEMPTION REQUIREMENTS FOR STATE AND LOCAL BONDS

"Subpart A. Nonessential function bonds.
"Subpart B. Requirements applicable to all State and local bonds.
"Subpart C. Definitions and special rules.

"SUBPART A—NONESSENTIAL FUNCTION BONDS

"Sec. 141. Nonessential function bond; qualified bond.
"Sec. 142. Exempt facility bond.
"Sec. 143. Qualified mortgage bond; qualified veterans' mortgage bond.
"Sec. 144. Qualified small issue bond; qualified 501(c)(3) bond; qualified student loan bond; qualified redevelopment bond.
"Sec. 145. Volume cap.
"Sec. 146. Other requirements.

"SEC. 141. NONESSENTIAL FUNCTION BOND; QUALIFIED BOND.

"(a) Nonessential Function Bond.—

"(1) In general.—For purposes of this title, the term 'nonessential function bond' means any bond issued as part of an issue if—

"(A) 5 percent (or, if lesser, the amount determined under paragraph (2)) or more of the gross proceeds of such issue are to be used (directly or indirectly) to make or finance loans (other than loans described in paragraph (5)) to persons (other than governmental units), or

"(B) 10 percent (or, if lesser, the amount determined under paragraph (2)) or more of the gross proceeds of such issue are to be used (directly or indirectly) in any trade or business carried on by any person other than a governmental unit.

For purposes of subparagraph (B), use as a member of the general public shall not be taken into account.

"(2) Amount determined.—The amount determined under this paragraph is $5,000,000 ($10,000,000 for purposes of paragraph (1)(B)).

"(3) Issues with more than $1,000,000 of nonqualified use.—

"(A) In general.—If the amount of the gross proceeds of an issue which are to be used as described in subparagraph (A) or (B) of paragraph (1)—

"(i) exceeds $1,000,000, but

"(ii) does not exceed the amount which would cause an obligation which is part of such issue to be treated as a nonessential function bond without regard to this paragraph,

such obligation shall nonetheless be treated as a nonessential function bond unless the issuer elects to allocate a portion of its unused volume cap to such issue in an amount equal to the excess of the use so described over $1,000,000.

"(B) Unused volume cap.—For purposes of subparagraph (A), the term 'unused volume cap' means the amount which the issuer is authorized to issue under section 145 but which the issuer elects not to issue and allocates under subparagraph (A).

"(4) Clarification of trade or business test.—For purposes of paragraph (1), any activity carried on by a person other than a natural person shall be treated as a trade or business.

"(5) Exception for tax assessment, etc., loans.—For purposes of paragraph (1)(A), a loan is described in this paragraph if such loan—

"(A) enables the borrower to finance any governmental tax or assessment of general application for an essential governmental function, or

"(B) is used to acquire or carry nonpurpose investments (within the meaning of section 147(e)(6)(A)).

"(b) Qualified Bond.—For purposes of this part, the term 'qualified bond' means any nonessential function bond if—

"(1) Use requirements.—Such bond is—

"(A) an exempt facility bond,

"(B) a qualified mortgage bond,

"(C) a qualified veterans' mortgage bond,

"(D) a qualified small issue bond,

"(E) a qualified 501(c)(3) bond,

"(F) a qualified student loan bond, or

"(G) a qualified redevelopment bond.

"(2) Volume cap.—Such bond is issued as part of an issue which meets the requirements of section 145, and

"(3) Other requirements.—Such bond is issued as part of an issue which meets the requirements of each subsection of section 146.

"SEC. 142. EXEMPT FACILITY BOND.

"(a) General Rule.—For purposes of this part, the term 'exempt facility bond' means any bond issued as part of an issue all the net proceeds of which are to be used to provide—

"(1) airports,

"(2) docks and wharves,

"(3) mass commuting facilities,

"(4) facilities for the furnishing of water if—

"(A) the water is or will be made available to members of the general public (including electric utility, industrial, agricultural, or commercial users) but not for the purpose of irrigation, and

"(B) either the facilities are operated by a governmental unit or the rates for the furnishing or sale of the water have been established or approved by a State or political subdivision thereof, by an agency or instrumentality of the United States, or by a public service or public utility commission or other similar body of any State or political subdivision thereof,

"(5) sewage facilities,

"(6) solid waste disposal facilities, or

"(7) qualified residential rental projects.

"(b) Special Exempt Facility Bond Rules.—For purposes of subsection (a)—

"(1) Facility must be governmentally owned.—A facility shall qualify under subsection (a) (other than paragraphs (5), (6), or (7) thereof) only if it is owned by or on behalf of a governmental unit.

"(2) Airport.—

"(A) In general.—The term 'airport' includes any ground facility directly related and essential to the transportation by air of passengers and cargo.

"(B) Exception for certain privately operated facilities.—The term 'airport' does not include any privately operated—

"(i) lodging facility,

"(ii) food or drink preparation, distribution, or sales facility,

"(iii) store, or

"(iv) similar facility.

For purposes of the preceding sentence, a facility or store is privately operated if it is leased to or managed by a person other than a governmental unit or issuing authority.

"(3) Docks and wharves.—The term 'docks and wharves' includes any facility directly related and essential to the transportation by water of cargo and passengers. Such term does not include any storage facility other than a facility used in the immediate transportation of cargo.

"(c) Qualified Residential Rental Project.—For purposes of this section—

"(1) In general.—The term 'qualified residential rental project' means any project for residential rental property if, at all times during the qualified project period, such project meets the requirements of subparagraph (A) or (B), whichever is elected by the issuer at the time of the issuance of the issue with respect to such project:

"(A) The project meets the requirements of this subparagraph if 20 percent or more of the residential units in such project are occupied by individuals whose income is 70 percent or less of median gross income.

"(B) The project meets the requirements of this subparagraph if 25 percent or more of the residential units in such project are occupied by individuals whose income is 80 percent or less of median gross income.

For purposes of this paragraph, any property shall not be treated as failing to be residential rental property merely because part of the building in which such property is located is used for purposes other than residential rental purposes.

"(2) Definitions and special rules.—For purposes of this subsection—

"(A) Qualified project period.—The term 'qualified project period' means the period beginning on the first day on which 10 percent of the units in the project are occupied and ending on the latest of—

"(i) the date which is 15 years after the date on which 50 percent of the units in the project are occupied;

"(ii) the 1st day on which no tax-exempt bond issued with respect to the project is outstanding, or

"(iii) the date on which any assistance provided with respect to the project under section 8 of the United States Housing Act of 1937 terminates.

"(B) Income of individuals; median gross income.—The income of individuals and median gross income shall be determined by the Secretary in a manner consistent with determinations of lower income families and median gross income under section 8 of the United States Housing Act of 1937 (or, if such program is terminated, under such program as in effect immediately before such termination). Determinations under the preceding sentence shall include adjustments for family size.

"(3) Current income determinations.—

"(A) In general.—The determination of whether a resident meets the income requirements of subparagraph (A) or (B) of paragraph (1) (whichever applies to the project) shall be made at least annually on the basis of the current income of the resident.

"(B) Continuing resident's income may increase to 120 percent of applicable ceiling.—A resident of a project whose income met the requirement of subparagraph (A) or (B) of paragraph (1) (whichever applies to such project) as of the beginning of such resident's occupancy of a unit in such project shall cease to be treated as meeting such requirement if such resident's income exceeds 120 percent of such requirement, and after such event any vacant unit in the project is rented to a new occupant whose income does not meet the applicable requirement of such subparagraph (A) or (B).

"(4) Certification to secretary.—The operator of any qualified residential rental project shall submit to the Secretary (at such time and in such manner as the Secretary shall prescribe) an annual certification that such project continues to meet the requirements of paragraph (1). Any failure to comply with the provisions of the preceding sentence shall not affect the tax-exempt status of any bond but shall subject the operator to penalty, as provided in section 6652(k).

"SEC. 143. QUALIFIED MORTGAGE BOND; QUALIFIED VETERANS' MORTGAGE BOND.

"(a) Qualified Mortgage Bond.—

"(1) Qualified mortgage bond defined.—

"(A) In general.—For purposes of this title, the term 'qualified mortgage bond' means a bond which is issued as part of a qualified mortgage issue.

"(B) Termination on December 31, 1987.—No bond issued after December 31, 1987, may be treated as a qualified mortgage bond.

"(2) Qualified mortgage issue defined.—

"(A) Definition.—For purposes of this title, the term 'qualified mortgage issue' means an issue by a State or political subdivision thereof of 1 or more bonds, but only if—

"(i) all the net proceeds of such issue are used to finance owner-occupied residences, and

"(ii) such issue meets the requirements of subsections (c), (d), (e), (f), (g), (h), and (i).

"(B) Good faith effort to comply with mortgage eligibility requirements.—An issue which fails to meet 1 or more of the requirements of subsections (c), (d), (e), (f), and (i) shall be treated as meeting such requirements if—

"(i) the issuer in good faith attempted to meet all such requirements before the mortgages were executed,

"(ii) 95 percent or more of the proceeds devoted to owner-financing was devoted to residences with respect to which (at the time the mortgages were executed) all such requirements were met, and

"(iii) any failure to meet the requirements of such subsections is corrected within a reasonable period after such failure is first discovered.

"(C) Good faith effort to comply with other requirements.—An issue which fails to meet 1 or more of the requirements of subsections (g) and (h) shall be treated as meeting such requirements if—

"(i) the issuer in good faith attempted to meet all such requirements, and

"(ii) any failure to meet such requirements is due to inadvertent error after taking reasonable steps to comply with such requirements.

"(b) Qualified Veterans' Mortgage Bond Defined.—For purposes of this part, the term 'qualified veterans' mortgage bond' means any bond—

"(1) which is issued as part of an issue all the net proceeds of which are used to provide residences for veterans,

"(2) the payment of the principal and interest on which is secured by the general obligation of a State, and

"(3) which is part of an issue which meets the requirements of subsections (c), (g), (i)(1), and (l)(1) and (2).

"(c) Residence Requirements.—

"(1) For a residence.—A residence meets the requirements of this subsection only if—

"(A) it is a single-family residence which can reasonably be expected to become the principal residence of the mortgagor within a reasonable time after the financing is provided, and

"(B) it is located within the jurisdiction of the authority issuing the obligation.

"(2) For an issue.—An issue meets the requirements of this subsection only if all of the residences for which owner-financing is provided under the issue meet the requirements of paragraph (1).

"(d) 3-Year Requirement.—

"(1) In general.—An issue meets the requirements of this subsection only if all the net proceeds of such issue are used to finance the residences of mortgagors who had no present ownership interest in their principal residences at any time during the 3-year period ending on the date their mortgage is executed.

"(2) Exceptions.—For purposes of paragraph (1)—

"(A) 50 percent of the proceeds of an issue which are used to provide financing with respect to targeted area residences, and

"(B) the proceeds of an issue which are used to provide qualified home improvement loans and qualified rehabilitation loans,

shall not be taken into account.

"(3) Mortgagor's interest in residence being financed.—For purposes of paragraph (1), a mortgagor's interest in the residence with respect to which the financing is being provided shall not be taken into account.

"(e) Purchase Price Requirement.—

"(1) In general.—An issue meets the requirements of this subsection only if the acquisition cost of each residence the owner-financing of which is to be provided under the issue does not exceed 90 percent of the average area purchase price applicable to such residence.

"(2) Average area purchase price.—For purposes of paragraph (1), the term 'average area purchase price' means, with respect to any residence, the average purchase price of single family residences (in the statistical area in which the residence is located) which were purchased during the most recent 12-month period for which sufficient statistical information is available. The determination under the preceding sentence shall be made as of the date on which the commitment to provide the financing is made (or, if earlier, the date of the purchase of the residence).

"(3) Separate application to new residences and old residences.—For purposes of this subsection, the determination of average area purchase price shall be made separately with respect to—

"(A) residences which have not been previously occupied, and

"(B) residences which have been previously occupied.

"(4) Special rule for 2 to 4 family residences.—For purposes of this subsection, to the extent provided in regulations, the average area purchase price shall be made separately with respect to 1 family, 2 family, 3 family, and 4 family residences.

"(5) Special rule for targeted area residences.—In the case of a targeted area residence, paragraph (1) shall be applied by substituting '110 percent' for '90 percent'.

"(6) Exception for qualified home improvement loans.—Paragraph (1) shall not apply with respect to any qualified home improvement loan.

"(f) Income Requirements.—

"(1) In general.—An issue meets the requirements of this subsection only if—

"(A) at least 50 percent of the owner-financing provided under the issue is provided for mortgagors whose family income is 90 percent or less of the applicable median family income, and

"(B) all owner-financing provided under the issue is provided for mortgagors whose family income is 115 percent or less of the applicable median family income.

"(2) Determination of family income.—For purposes of this subsection, the family income of mortgagors, and median family income, shall be determined under regulations prescribed by the Secretary after taking into account the regulations prescribed under section 8 of the United States Housing Act of 1937 (or, if such program is terminated, under such program as in effect immediately before such termination).

"(3) Special rule for applying paragraph (1)(B) in the case of targeted area residences.—In the case of any financing provided under any issue for targeted area residences—

"(A) the mortgages for one-third of the targeted area residences may be provided without regard to paragraph (1)(B), and

"(B) paragraph (1)(B) shall be treated as satisfied with respect to the remainder of the targeted area residences if the family income of the mortgagor is 140 percent or less of the applicable median family income.

"(4) Applicable median family income.—The term 'applicable median family income' means whichever of the following is the greater:

"(A) the median family income for the statistical area in which such residence is located, or

"(B) the statewide median family income for the State in which such residence is located.

"(g) Requirements Related to Arbitrage.—

"(1) In general.—An issue meets the requirements of this subsection only if such issue meets the requirements of paragraphs (2) and (3) of this subsection. Such requirements shall be in addition to the requirements of section 147 (other than subsection (e) thereof).

"(2) Effective rate of mortgage interest cannot exceed bond yield by more than 1.125 percentage points.—

"(A) In general.—An issue shall be treated as meeting the requirements of this paragraph only if the excess of—

"(i) the effective rate of interest on the mortgages provided under the issue, over

"(ii) the yield on the issue,

is not greater than 1.125 percentage points.

"(B) Effective rate of mortgage interest.—

"(i) In general.—In determining the effective rate of interest on any mortgage for purposes of this paragraph, there shall be taken into account all fees, charges, and other amounts borne by the mortgagor which are attributable to the mortgage or to the bond issue.

"(ii) Specification of some of the amounts to be treated as borne by the mortgagor.—For purposes of clause (i), the following items (among others) shall be treated as borne by the mortgagor:

"(I) all points or similar charges paid by the seller of the property, and

"(II) the excess of the amounts received from any person other than the mortgagor by any person in connection with the acquisition of the mortgagor's interest in the property over the usual and reasonable acquisition costs of a person acquiring like property where owner-financing is not provided through the use of qualified mortgage bonds or qualified veterans' mortgage bonds.

"(iii) Specification of some of the amounts to be treated as not borne by the mortgagor.—For purposes of clause (i), the following items shall not be taken into account:

"(I) any expected rebate of arbitrage profits, and

"(II) any application fee, survey fee, credit report fee, insurance charge, or similar amount to the extent such amount does not exceed amounts charged in such area in cases where owner-financing is not provided through the use of qualified mortgage bonds.

Subclause (II) shall not apply to origination fees, points, or similar amounts.

"(iv) Prepayment assumptions.—In determining the effective rate of interest—

"(I) it shall be assumed that the mortgage prepayment rate will be the rate set forth in the most recent applicable mortgage maturity experience table published by the Federal Housing Administration, and

"(II) prepayments of principal shall be treated as received on the last day of the month in which the issuer reasonably expects to receive such prepayments.

"(C) Yield on the issue.—For purposes of this subsection, the yield on the issue shall be determined on the basis of—

"(i) the issue price (within the meaning of sections 1273(b) and 1274), and

"(ii) an expected maturity for the bonds which is consistent with the assumption required under subparagraph (B)(iv).

"(3) Arbitrage and investment gains to be used to reduce costs of owner-financing.—

"(A) In general.—An issue shall be treated as meeting the requirements of this paragraph only if an amount equal to the sum of—

"(i) the excess of—

"(I) the amount earned on all non-mortgage investments (other than investments attributable to an excess described in this clause), over

"(II) the amount which would have been earned if the investments were invested at a rate equal to the yield on the issue, plus

"(ii) any income attributable to the excess described in clause (i),

shall be paid or credited to the mortgagors as rapidly as may be practicable.

"(B) Investment gains and losses.—For purposes of subparagraph (A), in determining the amount earned on all non-mortgage investments, any gain or loss on the disposition of such investments shall be taken into account.

"(C) Reduction where issuer does not use full 1.125 percentage points under paragraph (2).—

"(i) In general.—The amount required to be paid or credited to mortgagors under subparagraph (A) (determined under this paragraph without regard to this subparagraph) shall be reduced by the unused paragraph (2) amount.

"(ii) Unused paragraph (2) amount.—For purposes of clause (i), the unused paragraph (2) amount is the amount which (if it were treated as an interest payment made by mortgagors) would result in the excess referred to in paragraph (2)(A) being equal to 1.125 percentage points. Such amount shall be fixed and determined as of the yield determination date.

"(D) Election to pay United States.—Subparagraph (A) shall be satisfied with respect to any issue if the issuer elects before issuing the obligations to pay over to the United States—

"(i) not less frequently than once each 5 years after the date of issue, an amount equal to 90 percent of the aggregate amount which would be required to be paid or credited to mortgagors under subparagraph (A) (and not theretofore paid to the United States), and

"(ii) not later than 30 days after the redemption of the last obligation, 100 percent of such aggregate amount not theretofore paid to the United States.

"(E) Simplified accounting.—The Secretary shall permit any simplified system of accounting for purposes of this paragraph which the issuer establishes to the satisfaction of the Secretary will assure that the purposes of this paragraph are carried out.

"(h) Portion of Loans Required To Be Placed in Targeted Areas.—

"(1) In general.—An issue meets the requirements of this subsection only if at least 20 percent of the proceeds of the issue which are devoted to providing owner-financing is made available (with reasonable diligence) for owner-financing of targeted area residences for at least 1 year after the date on which owner-financing is first made available with respect to targeted area residences.

"(2) Limitation.—Nothing in paragraph (1) shall be treated as requiring the making available of an amount which exceeds 40 percent of the average annual aggregate principal amount of mortgages executed during the immediately preceding 3 calendar years for single-family, owner-occupied residences located in targeted areas within the jurisdiction of the issuing authority.

"(i) Other Requirements.—

"(1) Mortgages must be new mortgages.—

"(A) In general.—An issue meets the requirements of this subsection only if no part of the proceeds of such issue is used to acquire or replace existing mortgages.

"(B) Exceptions.—Under regulations prescribed by the Secretary, the replacement of—

"(i) construction period loans,

"(ii) bridge loans or similar temporary initial financing, and

"(iii) in the case of a qualified rehabilitation, an existing mortgage,

shall not be treated as the acquisition or replacement of an existing mortgage for purposes of subparagraph (A).

"(2) Certain requirements must be met where mortgage is assumed.—An issue meets the requirements of this subsection only if a mortgage with respect to which owner-financing has been provided under such issue may be assumed only if the requirements of subsections (c), (d), (e), and (f)(1)(B) are met with respect to such assumption.

"(j) Targeted Area Residences.—

"(1) In general.—For purposes of this section, the term 'targeted area residence' means a residence in an area which is either—

"(A) a qualified census tract, or

"(B) an area of chronic economic distress.

"(2) Qualified census tract.—

"(A) In general.—For purposes of paragraph (1), the term 'qualified census tract' means a census tract in which 70 percent or more of the families have income which is 80 percent or less of the statewide median family income.

"(B) Data used.—The determination under subparagraph (A) shall be made on the basis of the most recent decennial census for which data are available.

"(3) Area of chronic economic distress.—

"(A) In general.—For purposes of paragraph (1), the term 'area of chronic economic distress' means an area of chronic economic distress—

"(i) designated by the State as meeting the standards established by the State for purposes of this subsection, and

"(ii) the designation of which has been approved by the Secretary and the Secretary of Housing and Urban Development.

"(B) Criteria to be used in approving state designations.—The criteria used by the Secretary and the Secretary of Housing and Urban Development in evaluating any proposed designation of an area for purposes of this subsection shall be—

"(i) the condition of the housing stock, including the age of the housing and the number of abandoned and substandard residential units,

"(ii) the need of area residents for owner-financing under this section, as indicated by low per capita income, a high percentage of families in poverty, a high number of welfare recipients, and high unemployment rates,

"(iii) the potential for use of owner-financing under this section to improve housing conditions in the area, and

"(iv) the existence of a housing assistance plan which provides a displacement program and a public improvements and services program.

"(k) Other Definitions and Special Rules.—For purposes of this section—

"(1) Mortgage.—The term 'mortgage' includes any other owner-financing.

"(2) Statistical area.—

"(A) In general.—The term 'statistical area' means—

"(i) a metropolitan statistical area, and

"(ii) any county (or the portion thereof) which is not within a metropolitan statistical area.

"(B) Metropolitan statistical area.—The term 'metropolitan statistical area' means the area defined as such by the Secretary of Commerce.

"(C) Designation where adequate statistical information not available.—For purposes of this paragraph, if there is insufficient recent statistical information with respect to a county (or portion thereof) described in subparagraph (A)(ii), the Secretary may substitute for such county (or portion thereof) another area for which there is sufficient recent statistical information.

"(D) Designation where no county.—In the case of any portion of a State which is not within a county, subparagraphs (A)(ii) and (C) shall be applied by substituting for 'county' an area designated by the Secretary which is the equivalent of a county.

"(3) Acquisition cost.—

"(A) In general.—The term 'acquisition cost' means the cost of acquiring the residence as a completed residential unit.

"(B) Exceptions.—The term 'acquisition cost' does not include—

"(i) usual and reasonable settlement or financing costs,

"(ii) the value of services performed by the mortgagor or members of his family in completing the residence, and

"(iii) the cost of land which has been owned by the mortgagor for at least 2 years before the date on which construction of the residence begins.

"(C) Special rule for qualified rehabilitation loans.—In the case of a qualified rehabilitation loan, for purposes of subsection (e), the term 'acquisition cost' includes the cost of the rehabilitation.

"(4) Qualified home improvement loan.—The term 'qualified home improvement loan' means the financing (in an amount which does not exceed $15,000)—

"(A) of alterations, repairs, and improvements on or in connection with an existing residence by the owner thereof, but

"(B) only of such items as substantially protect or improve the basic livability or energy efficiency of the property.

"(5) Qualified rehabilitation loan.—

"(A) In general.—The term 'qualified rehabilitation loan' means any owner-financing provided in connection with—

"(i) a qualified rehabilitation, or

"(ii) the acquisition of a residence with respect to which there has been a qualified rehabilitation,

but only if the mortgagor to whom such financing is provided is the first resident of the residence after the completion of the rehabilitation.

"(B) Qualified rehabilitation.—For purposes of subparagraph (A), the term 'qualified rehabilitation' means any rehabilitation of a building if—

"(i) there is a period of at least 20 years between the date on which the building was first used and the date on which the physical work on such rehabilitation begins,

"(ii) in the case of any building other than a certified historic structure, in the rehabilitation process—

"(I) 50 percent or more of the existing external walls of such building are retained in place as external walls,

"(II) 75 percent or more of the existing external walls of such building are retained in place as internal or external walls, and

"(III) 75 percent or more of the existing internal structural framework of such building is retained in place, and

"(iii) the expenditures for such rehabilitation are 25 percent or more of the mortgagor's adjusted basis in the residence.

For purposes of clause (iii), the mortgagor's adjusted basis shall be determined as of the completion of the rehabilitation or, if later, the date on which the mortgagor acquires the residence.

"(6) Determinations on actuarial basis.—All determinations of yield, effective interest rates, and amounts required to be paid or credited to mortgagors or paid to the United States under subsection (g) shall be made on an actuarial basis taking into account the present value of money.

"(7) Single-family and owner-occupied residences include certain residences with 2 to 4 units.—Except for purposes of subsection (h)(2), the terms 'single-family' and 'owner-occupied', when used with respect to residences, include 2, 3, or 4 family residences—

"(A) one unit of which is occupied by the owner of the units, and

"(B) which were first occupied at least 5 years before the mortgage is executed.

"(8) Cooperative housing corporations.—

"(A) In general.—In the case of any cooperative housing corporation—

"(i) each dwelling unit shall be treated as if it were actually owned by the person entitled to occupy such dwelling unit by reason of his ownership of stock in the corporation, and

"(ii) any indebtedness of the corporation allocable to the dwelling unit shall be treated as if it were indebtedness of the shareholder entitled to occupy the dwelling unit.

"(B) Adjustment to targeted area requirement.—In the case of any issue to provide financing to a cooperative housing corporation with respect to cooperative housing not located in a targeted area, to the extent provided in regulations, such issue may be combined with 1 or more other issues for purposes of determining whether the requirements of subsection (h) are met.

"(C) Cooperative housing corporation.—The term 'cooperative housing corporation' has the meaning given to such term by section 216(b)(1).

"(l) Additional Requirements for Qualified Veterans' Mortgage Bonds.—

"(1) Veterans' to whom financing may be provided.—A bond meets the requirements of this paragraph only if each mortgagor to whom financing is provided under the issue is a qualified veteran.

"(2) Requirement that State program be in effect before June 22, 1984.—An issue meets the requirements of this paragraph only if it is a general obligation of a State which issued qualified veterans' mortgage bonds before June 22, 1984.

"(3) Qualified veteran.—For purposes of this subsection, the term 'qualified veteran' means any veteran—

"(A) who served on active duty at some time before January 1, 1977, and

"(B) who applied for the financing before the later of—

"(i) the date 30 years after the last date on which such veteran left active service, or

"(ii) January 31, 1985.

"(4) Good faith effort rules made applicable.—Rules similar to the rules of subparagraphs (B) and (C) of subsection (a)(2) shall apply to the requirements of this subsection.

"SEC. 144. QUALIFIED SMALL ISSUE BOND; QUALIFIED 501(c)(3) BOND; QUALIFIED STUDENT LOAN BOND; QUALIFIED REDEVELOPMENT BOND.

"(a) Qualified Small Issue Bond.—

"(1) In general.—For purposes of this part, the term 'qualified small issue bond' means any bond issued as part of an issue the aggregate authorized face amount of which is $1,000,000 or less and all of the net proceeds of which are to be used—

"(A) for the acquisition, construction, reconstruction, or improvement of land or property of a character subject to the allowance for depreciation, or

"(B) to redeem part or all of a prior issue which was issued for purposes described in subparagraph (A) or this subparagraph.

"(2) Certain prior issues taken into account.—If—

"(A) the proceeds of 2 or more issues of bonds (whether or not the issuer of each such issue is the same) are or will be used primarily with respect to facilities located in the same incorporated municipality or located in the same county (but not in any incorporated municipality),

"(B) the principal user of such facilities is or will be the same person or 2 or more related persons, and

"(C) but for this paragraph, paragraph (1) would apply to each such issue,

then, for purposes of paragraph (1), in determining the aggregate face amount of any later issue there shall be taken into account the face amount of bonds issued under all prior such issues and outstanding at the time such later issue (not including as outstanding any bond which is to be redeemed from the proceeds of the later issue).

"(3) Related persons.—For purposes of this subsection, a person is a related person to another person if—

"(A) the relationship between such persons would result in a disallowance of losses under section 267 or 707(b), or

"(B) such persons are members of the same controlled group of corporations (as defined in section 1563(a), except that 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears therein).

"(4) $10,000,000 limit in certain cases.—

"(A) In general.—At the election of the issuer, made at such time and in such manner as the Secretary shall by regulations prescribe, with respect to any issue this subsection shall be applied—

"(i) by substituting '$10,000,000' for '$1,000,000' in paragraph (1), and

"(ii) in determining the aggregate face amount of such issue, by taking into account not only the amount described in paragraph (2), but also the aggregate amount of capital expenditures with respect to facilities described in subparagraph (B) paid or incurred during the 6-year period beginning 3 years before the date of such issue and ending 3 years after such date (and financed otherwise than out of the proceeds of outstanding issues to which paragraph (1) applied), as if the aggregate amount of such capital expenditures constituted the face amount of a prior outstanding issue described in paragraph (2).

"(B) Facilities taken into account.—For purposes of subparagraph (A)(ii), the facilities described in this subparagraph are facilities—

"(i) located in the same incorporated municipality or located in the same county (but not in any incorporated municipality), and

"(ii) the principal user of which is or will be the same person or 2 or more related persons.

For purposes of clause (i), the determination of whether or not facilities are located in the same governmental unit shall be made as of the date of issue of the issue in question.

"(C) Certain capital expenditures not taken into account.—For purposes of subparagraph (A)(ii), any capital expenditure—

"(i) to replace property destroyed or damaged by fire, storm, or other casualty, to the extent of the fair market value of the property replaced,

"(ii) required by a change made after the date of issue of the issue in question in a Federal or State law or local ordinance of general application or required by a change made after such date in rules and regulations of general application issued under such a law or ordinance,

"(iii) required by circumstances which could not be reasonably foreseen on such date of issue or arising out of a mistake of law or fact (but the aggregate amount of expenditures not taken into account under this clause with respect to any issue shall not exceed $1,000,000), or

"(iv) described in clause (i) or (ii) of section 30(b)(2)(A) for which a deduction was allowed under section 174(a),

shall not be taken into account.

"(D) Limitation on loss of tax exemption.—In applying subparagraph (A)(ii) with respect to capital expenditures made after the date of any issue, no bond issued as a part of such issue shall cease to be treated as a qualified small issue bond by reason of any such expenditure for any period before the date on which such expenditure is paid or incurred.

"(E) Certain refinancing issues.—In the case of any issue described in paragraph (1)(B), an election may be made under subparagraph (A) of this paragraph only if all of the prior issues being redeemed are issues to which paragraph (1) applies. In applying subparagraph (A)(ii) with respect to such a refinancing issue, capital expenditures shall be taken into account only for purposes of determining whether the prior issues being redeemed qualified (and would have continued to qualify) under paragraph (1).

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"(F) Aggregate amount of capital expenditures where there is urban development action grant.—In the case of any issue substantially all of the proceeds of which are to be used to provide facilities with respect to which an urban development action grant has been made under section 119 of the Housing and Community Development Act of 1974, capital expenditures of not to exceed $10,000,000 shall not be taken into account for purposes of applying subparagraph (A)(ii).

"(5) Issues for residential purposes.—This subsection shall not apply to any bond which is issued as part of an issue any of the net proceeds of which are to be used directly or indirectly to provide residential real property for family units.

"(6) Limitations on treatment of bonds as part of the same issue.—

"(A) In general.—For purposes of this subsection, separate lots of bonds which (but for this subparagraph) would be treated as part of the same issue shall be treated as separate issues unless the proceeds of such lots are to be used with respect to 2 or more facilities—

"(i) which are located in more than 1 State, or

"(ii) which have, or will have, as the same principal user the same person or related persons.

"(B) Franchises.—For purposes of subparagraph (A), a person (other than a governmental unit) shall be considered a principal user of a facility if such person (or a group of related persons which includes such person)—

"(i) guarantees, arranges, participates in, or assists with the issuance (or pays any portion of the cost of issuance) of any bond the proceeds of which are to be used to finance or refinance such facility, and

"(ii) provides any property, or any franchise, trademark, or trade name (within the meaning of section 1253), which is to be used in connection with such facility.

"(7) Subsection not to apply if bonds issued with certain other tax-exempt bonds.—This subsection shall not apply to any bond which is issued as part of an issue (other than an issue to which paragraph (4) applies) if the interest on any other bond which is part of such issue is excluded from gross income under any provision of law other than this subsection.

"(8) Restrictions on financing certain facilities.—This subsection shall not apply to an issue if—

"(A) more than 25 percent of the proceeds of the issue are used to provide a facility the primary purpose of which is one of the following: retail food and beverage services, automobile sales or service, or the provision of recreation or entertainment; or

"(B) any portion of the proceeds of the issue is to be used to provide the following: any private or commercial golf course, country club, massage parlor, tennis club, skating facility (including roller skating, skateboard, and ice skating), racquet sports facility (including any handball or racquetball court), hot tub facility, suntan facility, or racetrack.

"(9) Aggregation of issues with respect to single project.—For purposes of this subsection, 2 or more issues part or all of which are to be used with respect to a single building, an enclosed shopping mall, or a strip of offices, stores, or warehouses using substantial common facilities shall be treated as 1 issue (and any person who is a principal user with respect to any of such issues shall be treated as a principal user with respect to the aggregated issue).

"(10) Aggregate limit per taxpayer.—

"(A) In general.—This subsection shall not apply to any issue if the aggregate authorized face amount of such issue allocated to any test-period beneficiary (when increased by the outstanding tax-exempt facility-related bonds of such beneficiary) exceeds $40,000,000.

"(B) Outstanding tax-exempt facility-related bonds.—For purposes of applying subparagraph (A) with respect to any issue, the outstanding tax-exempt facility-related bonds of any person who is a test-period beneficiary with respect to such issue is the aggregate amount of exempt facility bonds, and qualified small issue bonds, the interest on which is exempt from tax under section 103—

"(i) which are allocated to such beneficiary, and

"(ii) which are outstanding at the time of such later issue (not including as outstanding any obligation which is to be redeemed from the proceeds of the later issue).

"(C) Allocation of face amount of issue.—

"(i) In general.—Except as otherwise provided in regulations, the portion of the face amount of an issue allocated to any test-period beneficiary of a facility financed by the proceeds of such issue (other than an owner of such facility) is an amount which bears the same relationship to the entire face amount of such issue as the portion of such facility used by such beneficiary bears to the entire facility.

"(ii) Owners.—Except as otherwise provided in regulations, the portion of the face amount of an issue allocated to any test-period beneficiary who is an owner of a facility financed by the proceeds of such issue is an amount which bears the same relationship to the entire face amount of such issue as the portion of such facility owned by such beneficiary bears to the entire facility.

"(D) Test-period beneficiary.—For purposes of this paragraph, except as provided in regulations, the term 'test-period beneficiary' means any person who was an owner or a principal user of facilities being financed by the issue at any time during the 3-year period beginning on the later of—

"(i) the date such facilities were placed in service, or

"(ii) the date of the issue.

"(E) Treatment of related persons.—For purposes of this paragraph, all persons who are related (within the meaning of paragraph (3)) to each other shall be treated as one person.

"(b) Qualified 501(c)(3) Bond.—For purposes of this part—

"(1) In general.—Except as provided in paragraph (2), the term 'qualified 501(c)(3) bond' means—

"(A) any qualified hospital bond, and

"(B) any bond which meets the requirements of paragraph (4).

"(2) Exception where other private use.—The term 'qualified 501(c)(3) bond' shall not include any nonessential function bond if such bond would continue to be treated as a nonessential function bond if 501(c)(3) organizations were treated as governmental units with respect to their activities which do not constitute unrelated trades or businesses, determined by applying section 513(a). For purposes of the preceding sentence, a bond shall not be treated as continuing to be a nonessential function bond if any of the net proceeds of the issue of which such bond is a part is used as described in subparagraph (A) or (B) of section 141(a)(1).

"(3) Qualified hospital bond.—For purposes of this subsection, the term 'qualified hospital bond' means any bond issued as part of an issue all the net proceeds of which are to be used to provide a hospital if such hospital is—

"(A) owned by or on behalf of a governmental unit or by a 501(c)(3) organization, and

"(B) operated by a 501(c)(3) organization.

"(4) $150,000,000 exception for other obligations.—

"(A) In general.—For purposes of this subsection, a bond issued as part of an issue meets the requirements of this paragraph if—

"(i) all the net proceeds of such issue are used by a 501(c)(3) organization, and

"(ii) the aggregate authorized face amount of such issue (when increased by the outstanding tax-exempt qualified 501(c)(3) bonds, other than hospital bonds, of which the organization is a test-period beneficiary) does not exceed $150,000,000.

For purposes of clause (ii), any obligation which is to be redeemed with the proceeds of such issue shall not be taken into account.

"(B) Aggregation rule.—For purposes of subparagraph (A), 2 or more organizations under common management or control shall be treated as 1 organization.

"(C) Allocation of face amount of issue.—Rules similar to the rules of subsection (a)(10)(C) shall apply for purposes of subparagraph (A).

"(D) Property must be owned by governmental unit, etc.—A bond issued as part of an issue shall not be treated as meeting the requirements of this paragraph if any portion of the proceeds of such issue are to be used to provide property unless such property is owned by or on behalf of a governmental unit or by a 501(c)(3) organization.

"(c) Qualified Student Loan Bonds.—For purposes of this part, the term 'qualified student loan bond' means any bond which is issued as part of an issue all of the net proceeds of which are reasonably expected to be used directly or indirectly to make or finance student loans under—

"(1) a program of general application to which the Higher Education Act of 1965 applies if—

"(A) limitations are imposed under the program on—

"(i) the maximum amount of loans outstanding to any student, and

"(ii) the maximum rate of interest payable on any loan,

"(B) the loans are directly or indirectly guaranteed by the Federal Government,

"(C) the financing of loans under the program is not limited by Federal law to the proceeds of bonds the interest on which is exempt from taxation under this title, and

"(D) special allowance payments under section 438 of the Higher Education Act of 1965—

"(i) are authorized to be paid with respect to loans made under the program, or

"(ii) would be authorized to be made with respect to loans under the program if such loans were not financed with the proceeds of bonds the interest on which is exempt from taxation under this title, or

"(2) a program of general application approved by the State to which part B of title IV of the Higher Education Act of 1965 (relating to guaranteed student loans) does not apply if no loan under such program exceeds the difference between the total cost of attendance and other forms of student assistance (not including loans pursuant to section 428B(a)(1) of such Act (relating to parent loans) or subpart I of part C of title VII of the Public Health Service Act (relating to student assistance)) for which the student borrower may be eligible.

A program shall not be treated as described in paragraph (1) if such program discriminates on the basis of the location (in the United States) at which the educational institution is located.

"(d) Qualified Redevelopment Bonds.—For purposes of this part—

"(1) In general.—The term 'qualified redevelopment bond' means any bond which is issued as part of an issue if—

"(A) all of the net proceeds of the issue which are to be used for 1 or more redevelopment purposes in a designated blighted area,

"(B) any increase in real property tax revenues by reason of the carrying out of such purposes in such area is reserved exclusively for debt service on such issue to the extent necessary for such debt service, and

"(C) such issue is issued pursuant to—

"(i) a State law which authorizes the issuance of such bonds for such purposes in blighted areas, and

"(ii) a redevelopment plan which is adopted before such issuance by the governing body described in paragraph (3)(A) with respect to such area.

"(2) Redevelopment purposes.—For purposes of paragraph (1), the term 'redevelopment purposes' means, with respect to any designated blighted area—

"(A) the acquisition (pursuant to the power of eminent domain or the threat thereof) of real property located in such area,

"(B) the clearing and preparation of land in such area for redevelopment and the transfer of interests in real property located in such area to nongovernmental persons for fair market value,

"(C) the rehabilitation of real property in such area acquired as provided in subparagraph (A), and

"(D) the relocation of occupants of such real property so acquired.

"(3) Designated blighted area.—

"(A) In general.—The term 'designated blighted area' means any blighted area designated by the governing body of a local general purpose governmental unit in the jurisdiction of which such area is located.

"(B) Blighted area.—The following characteristics shall be taken into account by the governmental unit in determining whether an area is a blighted area: excessive vacant land on which structures were previously located, abandoned or vacant buildings, old buildings, excessive vacancies, substandard structures, and delinquency in payment of real property taxes.

"(C) Limitation on amount of area which may be treated as blighted.—An area may be designated by a governmental unit for purposes of this subsection only if the assessed value of real property located in such area, when increased by the assessed value of real property located in all designated blighted areas within the jurisdiction of such governmental unit, does not exceed 10 percent of the total assessed value of all real property located within such jurisdiction.

"(D) Designated area may not be smaller than ¼ square mile.—An area shall not be treated as a designated blighted area for purposes of this subsection unless such area exceeds a contiguous ¼ square mile.

"(4) Restrictions.—The term 'qualified redevelopment bond' shall not include any bond issued with respect to any designated blighted area if, during the period the bond is outstanding, the requirements of subparagraph (A), (B), (C), or (D) are not met.

"(A) Property subject to additional charges.—The requirements of this subparagraph are not met if—

"(i) any owner or user of property in the designated blighted area of which such area is a part is subject to a charge or fee which similarly situated owners or users of property (of the same type as such property) located outside such designated blighted area are not subject, or

"(ii) the assessment method or rate of real property taxes with respect to property located in such designated blighted area differs from the assessment method or rate of real property taxes with respect to property (of the same type as such property) located outside such designated blighted area.

"(B) Single family housing.—The requirements of this subparagraph are not met if—

"(i) the first purchaser of any owner-occupied residence located in such area (and constructed or rehabilitated after the date of issuance of the bond) does not intend to occupy such residence as his principal residence, or

"(ii) the purchase price of such residence to such purchaser exceeds the limitation which applies to residences in such area under section 143(e) which are financed by qualified mortgage bonds.

"(C) Residential rental property.—The requirements of this subparagraph are not met with respect to such area (and constructed or rehabilitated after the date of issuance of the bond) if any residential rental property located in such area is not a qualified residential rental project (as defined in section 142(c)) during the qualified project period (as defined in such section).

"(D) Other property.—The requirements of this subparagraph are not met if any property described in section 144(a)(8) or section 146(e) is located in such area.

"(5) Restriction on acquisition of land not to apply.—Section 146(c) shall not apply to any qualified redevelopment bond.

"SEC. 145. VOLUME CAP.

"(a) General Rule.—A nonessential function bond issued as part of an issue meets the requirements of this section if the aggregate amount of the nonessential function bonds issued pursuant to such issue, when added to the aggregate amount of qualified bonds previously issued by the issuing authority during the calendar year, does not exceed such authority's volume cap for such calendar year.

"(b) Volume Cap for State Agencies.—

"(1) In general.—The volume cap for any agency of the State authorized to issue nonessential function bonds for any calendar year shall be 50 percent of the State ceiling for such calendar year.

"(2) Special rule where State has more than 1 agency.—If more than 1 agency of the State is authorized to issue nonessential function bonds, all such agencies shall be treated as a single agency.

"(c) Volume Cap for Other Issuers.—

"(1) In general.—The volume cap for any issuing authority (other than a State agency) for any calendar year shall be an amount which bears the same ratio to 50 percent of the State ceiling for such calendar year as—

"(A) the population of the jurisdiction of such issuing authority, bears to

"(B) the population of the entire State.

"(2) Overlapping jurisdictions.—For purposes of paragraph (1)(A), if an area is within the jurisdiction of 2 or more governmental units, such area shall be treated as only within the jurisdiction of the unit having jurisdiction over the smallest geographical area unless such unit agrees to surrender all or part of such jurisdiction for such calendar year to the unit with overlapping jurisdiction which has the next smallest geographical area.

"(d) State Ceiling.—For purposes of this section—

"(1) In general.—The State ceiling applicable to any State for any calendar year shall be the greater of—

"(A) an amount equal to $175 multiplied by the State population, or

"(B) $200,000,000.

"(2) Adjustment in ceiling to reflect termination of qualified mortgage bonds.—In the case of calendar years after 1987, paragraph (1) shall apply by substituting '$125' for '$175'.

"(3) Special rule for States with constitutional home rule cities.—For purposes of this subsection—

"(A) In general.—The volume cap for any constitutional home rule city for any calendar year shall be determined under paragraph (1) of subsection (c) by substituting '100 percent' for '50 percent'.

"(B) Coordination with other allocations.—In the case of any State which contains 1 or more constitutional home rule cities, for purposes of applying subsections (b) and (c) with respect to issuing authorities in such State other than constitutional home rule cities, the State ceiling for any calendar year shall be reduced by the aggregate volume caps determined for such year for all constitutional home rule cities in such State.

"(C) Constitutional home rule city.—For purposes of this subsection, the term 'constitutional home rule city' means, with respect to any calendar year, any political subdivision of a State which, under a State constitution which was adopted in 1970 and effective on July 1, 1971, had home rule powers on the first day of the calendar year.

"(e) State May Provide for Different Allocation.—

"(1) In general.—Except as provided in paragraph (3), a State may, by law provide a different formula for allocating the State ceiling among the governmental units (or other authorities) in such State having authority to issue nonessential function bonds.

"(2) Interim authority for Governor.—

"(A) In general.—Except as otherwise provided in paragraph (3), the Governor of any State may proclaim a different formula for allocating the State ceiling among the governmental units (or other authorities) in such State having authority to issue nonessential function bonds.

"(B) Termination of authority.—The authority provided in subparagraph (A) shall not apply to bonds issued after the earlier of—

"(i) the 1st day of the 1st calendar year beginning after the 1st calendar year after 1985 during which the legislature of the State met in regular session, or

"(ii) the effective date of any State legislation with respect to the allocation of the State ceiling.

"(3) State may not alter allocation to constitutional home rule cities.—Except as otherwise provided in a State constitutional amendment (or law changing the home rule provision adopted in the manner provided by the State constitution), the authority provided in this subsection shall not apply to that portion of the State ceiling which is allocated to any constitutional home rule city in the State unless such city agrees to such different allocation.

"(f) Elective Carryforward of Unused Limitation for Specified Project.—

"(1) In general.—If—

"(A) an issuing authority's volume cap for any calendar year after 1985, exceeds

"(B) the aggregate amount of nonessential function bonds issued during such calendar year by such authority,

such authority may elect to treat all (or any portion) of such excess as a carryforward for 1 or more carryforward projects.

"(2) Election must identify project.—In any election under paragraph (1), the issuing authority shall—

"(A) identify (with reasonable specificity) the project or projects for which the carryforward is elected, and

"(B) specify the portion of the excess described in subparagraph (A) which is to be a carryforward for each such project.

"(3) Use of carryforward.—

"(A) In general.—If any issuing authority elects a carryforward under paragraph (1) with respect to any carryforward project, any nonessential function bonds issued by such authority with respect to such project during the 3 calendar years following the calendar year in which the carryforward arose shall not be taken into account under subsection (a) to the extent the amount of such bonds does not exceed the amount of the carryforward elected for such project.

"(B) Order in which carryforward used.—Carryforwards elected with respect to any project shall be used in the order of the calendar years in which they arose.

"(4) Election.—Any election under this paragraph (and any identification or specification contained therein), once made, shall be irrevocable.

"(5) Carryforward project.—The term 'carryforward project' means—

"(A) a project for which a bond referred to in subparagraph (A) or (E) of section 141(b)(1) may be issued,

"(B) The purpose of issuing qualified mortgage bonds, qualified veterans' bonds, or mortgage credit certificates, and

"(C) the purpose of issuing qualified student loan bonds.

"(g) Portion of State Ceiling Reserved for Qualified 501(c)(3) Bonds.—

"(1) In general.—The provisions of this section shall be applied separately with respect to qualified 501(c)(3) bonds and other nonessential function bonds.

"(2) State ceiling for 501(c)(3) bonds.—For purposes of applying this section with respect to qualified 501(c)(3) bonds, the State ceiling applicable to any State for any calendar year shall be the greater of—

"(A) an amount equal to $25 multiplied by the State's population, or

"(B) $30,000,000.

"(3) Coordination with allocation of remaining state ceiling with respect to other nonessential function bonds.—For purposes of applying this section with respect to nonessential function bonds other than qualified 501(c)(3) bonds, the State ceiling applicable to any State for any calendar year shall be the State ceiling for such year under subsection (d) reduced by the State ceiling under paragraph (2) of this subsection.

"(h) Specified Percentage of Any Allocation Set-Aside for Housing Related Bonds.—

"(1) In general.—Not more than 50 percent of the volume cap of any issuing authority for any calendar year shall be used for bonds other than—

"(A) exempt facility bonds for qualified residential rental projects,

"(B) qualified mortgage bonds, or

"(C) qualified veterans' mortgage bonds.

"(2) Allocation of set-aside between qualified residential rental projects and other housing.—Of the volume cap of any issuing authority in any State which is required under paragraph (1) to be reserved for purposes referred to in subparagraph (A), (B), or (C) thereof—

"(A) not less than ½ shall be reserved for the purpose referred to in paragraph (1)(A), and

"(B) not less than ½ shall be reserved for the purposes referred to in subparagraphs (B) and (C) of paragraph (1).

"(3) State legislation may override.—The requirements of paragraphs (1) and (2) may be changed by any State law (or, in the case of a constitutional home rule city, any city ordinance). In exercising his authority under subsection (e)(2), the Governor of any State may override the provisions of paragraphs (1) and (2) so long as the formula prescribed under subsection (e)(2) ensures that, in the aggregate, at least 50 percent of the volume cap of the State for any calendar year will be reserved for purposes referred to in subparagraph (A), (B), or (C) of paragraph (1).

"(4) Reduction in set-aside for housing to reflect termination of qualified mortgage bonds.—In the case of calendar years after 1987, paragraph (1) shall be applied by substituting '75 percent' for '50 percent' and paragraph (2) shall not apply.

"(i) Specified Portion Set Aside for Qualified Redevelopment Bonds in Certain States.—

"(1) In General.—Not less than the applicable percentage of the volume cap of any issuing authority, in any eligible State for any calendar year shall be set aside for qualified redevelopment bonds.

"(2) Applicable percentage.—

"(A) In general.—For purposes of paragraph (1), the term 'applicable percentage' means that the percentage which the amount determined under subparagraph (B) bears to the State ceiling applicable to the State for the calendar year.

"(B) Determination of amount.—The amount determined under this subparagraph for any calendar year is the greater of—

"(i) an amount equal to $8 multiplied by the State's population, or

"(ii) $8,000,000.

"(3) Eligible state.—For purposes of paragraph (1), the term 'eligible State' means any State which issued more than $25,000,000 of tax-increment financing obligations described in section 1569(a)(5) of the Tax Reform Act of 1985 between July 18, 1984, and November 21, 1985.

"(4) Coordination with housing set-aside.—The amount required to be set-aside under subsection (h) shall be reduced by ½ of the amount set aside under this subsection.

"(5) State legislation may override.—The requirements of this subsection may be changed by any State law (or in the case of constitutional home rule city, any city ordinance).

"(j) Exception for Airports and Docks and Wharves.—

"(1) In general.—Only for purposes of this section, the term 'nonessential function bond' shall not include the qualified portion of any exempt facility bond described in paragraph (1) or (2) of section 142(a).

"(2) Qualified portion.—For purposes of this subsection—

"(A) Airports.—In the case of an exempt facility bond described in paragraph (1) of section 142(a), the qualified portion of such bond is the amount allocable to any airport (within the meaning of section 142) other than cargo handling facilities.

"(B) Docks and wharves.—The qualified portion of any exempt facility bond described in paragraph (2) of section 142(a) is the portion of such bond allocable to docks and wharves (within the meaning of section 142) other than any storage facility used in the immediate transportation of cargo.

"(k) Treatment of Refunding Issues.—For purposes of the volume cap imposed by this section—

"(1) In general.—The term 'nonessential function bond' shall not include any bond which is issued to refund another bond to the extent that the amount of such bond does not exceed the amount of the refunded bond.

"(2) Special rules for student loan bonds, etc.—In the case of any qualified student loan bond or the portion of any bond which is unused volume cap under section 141(a)(3), paragraph (1) shall apply only if the maturity date of the refunding bond is not later than the later of—

"(A) the maturity of the bond to be refunded, or

"(B) the date 17 years after the date on which the refunded bond was issued (or in the case of a series of refundings, the date on which the original bond was issued).

"(3) Special rules for qualified mortgage bonds and qualified veterans' mortgage bonds.—In the case of any qualified mortgage bond or qualified veterans' mortgage bond, paragraph (1) shall apply only if the maturity date of the refunding bond is not later than the later of—

"(A) the maturity of the bond to be refunded, or

"(B) the date 32 years after the date on which the refunded bond was issued (or in the case of a series of refundings, the date on which the original bond was issued).

"(l) Population.—For purposes of this section, determinations of the population of any State (or issuing authority) shall be made with respect to any calendar year on the basis of the most recent census estimate of the resident population of such State (or issuing authority) released by the Bureau of Census before the beginning of such calendar year.

"(m) Facility Must Be Located Within State.—

"(1) In general.—Except as provided in paragraph (2), no portion of the State ceiling applicable to any State for any calendar year may be used with respect to financing for a facility located outside such State.

"(2) Exception for certain facilities where state will get proportionate share of benefits.—Paragraph (1) shall not apply to any exempt facility bond described in paragraph (4), (5), or (6) of section 142(a) if the issuer establishes that the State's share of the use of the facility (or its output) will equal or exceed the State's share of the nonessential function bond issued to finance the facility.

"(n) Issuer of Qualified Scholarship Funding Bonds.—In the case of a qualified scholarship funding bond, such bond shall be treated for purposes of this section as issued by a State or local issuing authority (whichever is appropriate).

"(o) Treatment of Certain Advance Refunding.—If any amount of the unused volume cap of an issuer was allocated to an issue under section 141(a)(3) (or would have been allocated to such issue if issued after 1985), any advance refunding of any part of such issue shall be taken into account under this section to the extent of the amount of unused volume cap so allocated.

"(p) Reduction for Mortgage Credit Certificates, Etc.—The volume cap of any issuing authority for any calendar year shall be reduced by the sum of—

"(1) the amount of qualified mortgage bonds which such authority elects not to issue under section 25(c)(2)(A)(ii) during such year,

"(2) the amount of any reduction in such ceiling under section 25(f) applicable to such authority for such year, plus

"(3) the amount of any volume cap allocated under section 142(a)(3).

"SEC. 146. OTHER REQUIREMENTS.

"(a) Substantial User Requirement.—

"(1) In general.—Except as provided in subsection (g), a nonessential function bond shall not be a qualified bond for any period during which it is held by a person who is a substantial user of the facilities or by a related person of such a substantial user.

"(2) Related person.—For purposes of paragraph (1), the following shall be treated as related persons—

"(A) 2 or more persons if the relationship between such persons would result in a disallowance of losses under section 267 or 707(b),

"(B) 2 or more persons which are members of the same controlled group of corporations (as defined in section 1563(a), except that 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears therein),

"(C) a partnership and each of its partners (and their spouses and minor children), and

"(D) an S corporation and each of its shareholders (and their spouses and minor children).

"(b) Maturity May Not Exceed 120 Percent of Economic Life.—

"(1) General rule.—Except as provided in subsection (g), a nonessential function bond shall not be a qualified bond if it is issued as part of an issue and—

"(A) the average maturity of the obligations which are part of such issue, exceeds

"(B) 120 percent of the average reasonably expected economic life of the facilities being financed with the proceeds of such issue.

"(2) Determination of averages.—For purposes of paragraph (1)—

"(A) the average maturity of any issue shall be determined by taking into account the respective issue prices of the obligations which are issued as part of such issue, and

"(B) the average reasonably expected economic life of the facilities being financed with any issue shall be determined by taking into account the respective cost of such facilities.

"(3) Special rules.—

"(A) Determination of economic life.—For purposes of this paragraph, the reasonably expected economic life of any facility shall be determined as of the later of—

"(i) the date on which the obligations are issued, or

"(ii) the date on which the facility is placed in service (or expected to be placed in service).

"(B) Treatment of land.—

"(i) Land not taken into account.—Except as provided in clause (ii), land shall not be taken into account under paragraph (1)(B).

"(ii) Issues where 25 percent or more of proceeds used to finance land.—If 25 percent or more of the net proceeds of any issue is used to finance land, such land shall be taken into account under paragraph (1)(B) and shall be treated as having an economic life of 50 years.

"(c) Limitation on Use for Land Acquisition.—

"(1) In general.—Except as provided in subsection (g), a nonessential function bond shall not be a qualified bond if—

"(A) it is issued as part of an issue and 25 percent or more of the net proceeds of such issue are used (directly or indirectly) for the acquisition of land (or an interest therein), or

"(B) any portion of the proceeds of such issue are to be used (directly or indirectly) for the acquisition of land (or an interest therein) to be used for farming purposes.

"(2) Exception for first-time farmers.—

"(A) In general.—If the requirements of subparagraph (B) are met with respect to any land, paragraph (1) shall not apply to such land, and subsection (d) shall not apply to property located thereon or to property to be acquired within 1 year to be used in farming, but only to the extent of expenditures (financed with the proceeds of the issue) not in excess of $250,000.

"(B) Acquisition by first-time farmers.—The requirements of the subparagraph are met with respect to any land if—

"(i) such land is to be used for farming purposes, and

"(ii) such land is to be acquired by an individual who is a first-time farmer, who will be the principal user of such land, and who will materially and substantially participate on the farm of which such land is a part in the operation of such farm.

"(C) First-time farmer.—For purposes of this paragraph, the term 'first-time farmer' means any individual if such individual has not at any time had any direct or indirect ownership interest in substantial farmland in the operation of which such individual materially participated. For purposes of this paragraph, any ownership or material participation by an individual's spouse or minor child shall be treated as ownership and material participation by the individual.

"(D) Farm.—For purposes of this paragraph, the term 'farm' has the meaning given such term by section 6420(c)(2).

"(E) Substantial farmland.—The term 'substantial farmland' means any parcel of land unless—

"(i) such parcel is smaller than 15 percent of the median size of a farm in the county in which such parcel is located, and

"(ii) the fair market value of the land does not at any time while held by the individual exceed $125,000.

"(3) Exception for certain land acquired for environmental purposes.—Any land acquired by a governmental unit (or issuing authority) in connection with an airport, mass commuting facility, dock, or wharf shall not be taken into account under paragraph (1) if—

"(A) such land is acquired for noise abatement or wetland preservation, or for future use as an airport, mass commuting facility, dock, or wharf, and

"(B) there is not other significant use of such land.

"(d) Acquisition of Existing Property Not Permitted.—

"(1) In general.—Except as provided in subsection (g), a nonessential function bond shall not be a qualified bond if issued as part of an issue and any portion of the proceeds of such issue is used for the acquisition of any property (or an interest therein) unless the 1st use of such property is pursuant to such acquisition.

"(2) Exception for certain rehabilitations.—Paragraph (1) shall not apply with respect to any building (and the equipment therefor) if—

"(A) the rehabilitation expenditures with respect to such building, equals or exceeds

"(B) 15 percent of the portion of the cost of acquiring such building (and equipment) financed with the proceeds of the issue.

A rule similar to the rule of the preceding sentence shall apply in the case of structures other than a building except that subparagraph (B) shall be applied by substituting '100 percent' for '15 percent'.

"(3) Rehabilitation expenditures.—For purposes of this paragraph—

"(A) In general.—Except as provided in this paragraph, the term 'rehabilitation expenditures' means any amount properly chargeable to capital account which is incurred by the person acquiring the building for property (or additions or improvements to property) in connection with the rehabilitation of a building. In the case of an integrated operation contained in a building before its acquisition, such term includes rehabilitating existing equipment in such building or replacing it with equipment having substantially the same function. For purposes of this paragraph, any amount incurred by a successor to the person acquiring the building or by the seller under a sales contract with such person shall be treated as incurred by such person.

"(B) Certain expenditures not included.—The term 'rehabilitation expenditures' does not include any expenditure described in section 48(g)(2)(B).

"(C) Period during which expenditures must be incurred.—The term 'rehabilitation expenditures' shall not include any amount which is incurred after the date 2 years after the later of—

"(i) the date on which the building was acquired, or

"(ii) the date on which the obligation was issued.

"(4) Special rule for certain projects.—In the case of a project involving 2 or more buildings, this paragraph shall be applied on a project basis.

"(e) No Portion of Bonds May Be Issued for Skyboxes, Airplanes, Gambling Establishments, Etc.—A nonessential function bond shall not be treated as a qualified bond if issued as part of an issue and any portion of the proceeds of such issue is to be used to provide any airplane, skybox or other private luxury box, health club facility, facility primarily used for gambling, or store the principal business of which is the sale of alcoholic beverages for consumption off premises.

"(f) Public Approval Required for Nonessential Function Bonds.—

"(1) In general.—A nonessential function bond shall not be a qualified bond unless such bond satisfies the requirements of paragraph (2).

"(2) Public approval requirement.—

"(A) In general.—A bond shall satisfy the requirements of this paragraph if such bond is issued as a part of an issue which has been approved by—

"(i) the governmental unit—

"(I) which issued such obligation, or

"(II) on behalf of which such obligation was issued, and

"(ii) each governmental unit having jurisdiction over the area in which any facility, with respect to which financing is to be provided from the proceeds of such issue, is located (except that if more than 1 governmental unit within a State has jurisdiction over the entire area within such State in which such facility is located, only 1 such unit need approve such issue).

"(B) Approval by a governmental unit.—For purposes of subparagraph (A), an issue shall be treated as having been approved by any governmental unit if such issue is approved—

"(i) by the applicable elected representative of such governmental unit after a public hearing following reasonable public notice, or

"(ii) by voter referendum of such governmental unit.

"(C) Special rules for approval of facility.—If there has been public approval under subparagraph (A) of the plan for financing a facility, such approval shall constitute approval under subparagraph (A) for any issue—

"(i) which is issued pursuant to such plan within 3 years after the date of the 1st issue pursuant to the approval, and

"(ii) all or substantially all of the proceeds of which are to be used to finance such facility or to refund previous financing under such plan.

"(D) Refunding obligations.—No approval under subparagraph (A) shall be necessary with respect to any bond which is issued to refund a bond approved under subparagraph (A) (or treated as approved under subparagraph (C)) unless the maturity date of such bond is later than the maturity date of the bond to be refunded.

"(E) Applicable elected representative.—For purposes of this paragraph—

"(i) In general.—The term 'applicable elected representative' means with respect to any governmental unit—

"(I) an elected legislative body of such unit, or

"(II) the chief elected executive officer, the chief elected State legal officer of the executive branch, or any other elected official of such unit designated for purposes of this paragraph by such chief elected executive officer or by State law.

"(ii) No applicable elected representative.—If (but for this clause) a governmental unit has no applicable elected representative, the applicable elected representative for purposes of clause (i) shall be the applicable elected representative of the governmental unit—

"(I) which is the next higher governmental unit with such a representative, and

"(II) from which the authority of the governmental unit with no such representative is derived.

"(g) Subsections (a), (b), (c), and (d) Not To Apply To Mortgage Bonds and Qualified Student Loan Bonds.—Subsections (a), (b), (c), and (d) shall not apply to any qualified mortgage bond, qualified veterans' mortgage bond, or qualified student loan bond.

"Subpart B—Requirements Applicable to All State and Local Bonds

"Sec. 147. Arbitrage.

"Sec. 148. Bonds must be registered to be tax exempt.

"Sec. 149. Other requirements.

"SEC. 147. ARBITRAGE.

"(a) Arbitrage Bonds Defined.—For purposes of this part, the term 'arbitrage bond' means any State or local bond issued as part of an issue any portion of the proceeds of which are reasonably expected to be used (or are used other than inadvertently) directly or indirectly—

"(1) to acquire higher yielding investments, or

"(2) to replace funds which were used directly or indirectly to acquire higher yielding investments.

"(b) Higher Yielding Investments.—

"(1) In general.—For purposes of this section, the term 'higher yielding investments' means any investment property which can reasonably be expected, at the time of issuance of the bond, to produce a yield over the term of the issue which is materially higher (taking into account any discount or premium) than the yield on the bond of such issue.

"(2) Investment property.—For purposes of this section, the term 'investment property' means—

"(A) any security (within the meaning of section 165(g)(2)(A) or (B)),

"(B) any obligation,

"(C) any annuity contract, or

"(D) any investment-type property.

Such term shall not include any tax-exempt bond.

"(c) Temporary Period Exception.—

"(1) In general.—For purposes of subsection (a), a bond shall not be treated as an arbitrage bond solely by reason of the fact that the proceeds of the issue of which such bond is a part may be invested for a reasonable temporary period until such proceeds are needed for the purpose for which such issue was issued.

"(2) Limitation on temporary period.—In the case of any issue—

"(A) to the extent the proceeds of such issue are used in connection with the acquisition of tangible property, the temporary period referred to in paragraph (1) shall not exceed 30 days, and

"(B) to the extent the proceeds of such issue are used for construction expenditures, the temporary period referred to in paragraph (1) shall terminate not later than whichever of the following occurs first:

"(i) such construction is substantially completed or abandoned,

"(ii) an amount equal to the bond proceeds has been expended on the project, or

"(iii) the day which is 3 years after the earlier of—

"(I) the date of issue of the bonds, or

"(II) the date construction begins.

For purposes of subparagraph (B), the term 'construction' includes reconstruction and rehabilitation.

"(d) Special Rules for Reasonably Required Reserve or Replacement Fund.—

"(1) In general.—For purposes of subsection (a), a bond shall not be treated as an arbitrage bond solely by reason of the fact that an amount of the proceeds of the issue of which such bond is a part may be invested in higher yielding investments which are part of a reasonably required reserve or replacement fund.

"(2) Limitations on amount of fund.—A bond shall be treated as an arbitrage bond if the amount of the fund described in paragraph (1) invested in higher yielding investments exceeds 15 percent of the proceeds of the issue unless the issuer establishes that a higher amount is necessary.

"(3) Limitation on investment in nonpurpose obligations.—

"(A) In general.—A bond which is part of an issue which does not meet the requirements of subparagraph (B) shall be treated as an arbitrage bond.

"(B) Requirements.—An issue meets the requirements of this subparagraph only if—

"(i) at no time during any bond year may the amount invested in nonpurpose obligations with a yield higher than the yield on the issue exceed 150 percent of the debt service on the issue for the bond year, and

"(ii) the aggregate amount invested as provided in clause (i) is promptly and appropriately reduced as the amount of outstanding obligations of the issue is reduced or, in the qualified mortgage bond or a qualified veterans' mortgage bond, as the mortgages are repaid.

"(C) Exceptions for temporary periods.—Subparagraph (B) shall not apply to—

"(i) proceeds of the issue invested for an initial temporary period until such proceeds are needed for the governmental purpose of the issue, and

"(ii) temporary investment periods related to debt service.

"(D) Debt service defined.—For purposes of this paragraph, the debt service on the issue for any bond year is the scheduled amount of interest and amortization of principal payable for such year with respect to such issue. For purposes of the preceding sentence, there shall not be taken into account amounts scheduled with respect to any bond which has been redeemed before the beginning of the bond year.

"(E) No disposition in case of loss.—This paragraph shall not require the sale or disposition of any investment if such sale or disposition would result in a loss which exceeds the amount which, but for such sale or disposition, would at the time of such sale or disposition—

"(i) be paid to the United States, or,

"(ii) in the case of a qualified mortgage bond or a qualified veterans' mortgage bond, be paid or credited mortgagors under section 143(g)(3)(A).

"(e) Required Rebate to the United States.—

"(1) In general.—A bond which is part of an issue shall be treated as an arbitrage bond if the requirements of paragraphs (2) and (3) are not met with respect to such issue. The preceding sentence shall not apply to any qualified mortgage bond or qualified veterans' mortgage bond.

"(2) Rebate to united states.—An issue shall be treated as meeting the requirements of this paragraph only if an amount equal to the sum of—

"(A) the excess of—

"(i) the aggregate amount earned on all nonpurpose investments (other than investments attributable to an excess described in this subparagraph), over

"(ii) the amount which would have been earned if all nonpurpose investments were invested at a rate equal to the yield on the issue, plus

"(B) any income attributable to the excess described in subparagraph (A),

is paid to the United States by the issuer in accordance with the requirements of paragraph (3).

"(3) Due date of payments under paragraph (2).—The amount which is required to be paid to the United States by the issuer shall be paid in installments which are made at least once every 5 years. Each installment shall be in an amount which ensures that 90 percent of the amount described in paragraph (2) with respect to the issue at the time payment of such installment is required will have been paid to the United States. The last installment shall be made no later than 30 days after the day on which the last bond of the issue is redeemed and shall be in an amount sufficient to pay the remaining balance of the amount described in paragraph (2) with respect to such issue.

"(4) Special rules for applying paragraph (2).—

"(A) In general.—In determining the aggregate amount earned on nonpurpose investments for purposes of paragraph (2)—

"(i) any gain or loss on the disposition of a nonpurpose investment shall be taken into account, and

"(ii) unless the issuer otherwise elects, any amount earned on a bona fide debt service fund shall not be taken into account if the gross earnings on such fund for the bond year is less than $100,000.

"(B) Temporary investments.—Under regulations prescribed by the Secretary, an issue shall, for purposes of this subsection, be treated as meeting the requirements of paragraph (2) if the gross proceeds of such issue are expended for the governmental purpose for which the bond was issued by no later than the day which is 6 months after the date of issuance of such issue. Gross proceeds which are held in a bona fide debt service fund shall not be considered gross proceeds for purposes of this subparagraph only.

"(5) Exemption from gross income of sum rebated.—Gross income shall not include the sum described in paragraph (2). Notwithstanding any other provision of this title, no deduction shall be allowed for any amount paid to the United States under paragraph (2).

"(6) Definitions.—For purposes of this subsection—

"(A) Nonpurpose investment.—The term 'nonpurpose investment' means any investment property which—

"(i) is acquired with the gross proceeds of an issue, and

"(ii) is not acquired in order to carry out the governmental purpose of the issue.

"(B) Gross proceeds.—The gross proceeds of an issue include—

"(i) amounts received (including repayments of principal) as a result of investing the original proceeds of the issue, and

"(ii) amounts used to pay debt service on the issue.

"(f) Student Loan Incentive Payments.—

"(1) In general.—Payments made by the Commissioner of Education pursuant to section 438 of the Higher Education Act of 1965 are not to be taken into account, for purposes of subsection (a)(1), in determining yields on student loan notes.

"(2) Regulations.—

"(A) In general.—The Secretary shall prescribe regulations which specify the circumstances under which a qualified student loan bond shall be treated as an arbitrage bond. Such regulations may provide that paragraph (1) and subsections (c) and (d) shall not apply to qualified student loan bonds.

"(B) Effective date of regulations.—

"(i) In general.—Except as otherwise provided in this subparagraph, any regulations prescribed by the Secretary under subparagraph (A) shall apply to obligations issued after the qualified date.

"(ii) Qualified date.—For purposes of this subparagraph, the term 'qualified date' means the earlier of—

"(I) the date on which the Higher Education Act of 1965 expires, or

"(II) the date, after July 18, 1984, on which the Higher Education Act of 1965 is reauthorized.

Notwithstanding the preceding sentence, the qualified date shall not be a date which is before the date that is 6 months after the date on which the regulations prescribed under subparagraph (A) are published in the Federal Register.

"(iii) Refunding obligations.—Regulations prescribed by the Secretary under subparagraph (A) shall not apply to any bond (or series of refunding bonds) issued exclusively to refund any qualified student loan bond which was issued before the qualified date, except that—

"(I) the amount of the refunding bonds may not exceed 101 percent of the aggregate face amount of the refunded bonds, and

"(II) the maturity date of any refunding bond may not be later than the date which is 17 years after the date on which the refunded bond was issued (or, in the case of a series of refundings, the date on which the original bond was issued).

"(iv) Fulfillment of commitments.—Regulations prescribed by the Secretary under subparagraph (A) shall not apply to any bonds which are needed to fulfill written commitments to acquire or finance student loans which are originated after June 30, 1984, and before the qualified date, but only if—

"(I) such commitments are binding on the qualified date, and

"(II) the amount of such commitments is consistent with practices of the issuer which were in effect on March 15, 1984, with respect to establishing secondary markets for student loans.

"(g) Determinations of Yield.—For purposes of this section, the yield on any issue shall be determined on the basis of the issue price (within the meaning of section 1273 or 1274).

"(h) Regulations.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section.

"SEC. 148. BONDS MUST BE REGISTERED TO BE TAX EXEMPT.

"(a) General Rule.—Nothing in section 103(a) or in any other provision of law shall be construed to provide an exemption from Federal income tax for interest on any registration-required obligation unless such obligation is in registered form.

"(b) Registration-Required Bond.—For purposes of subsection (a), the term 'registration-required bond' means any bond other than a bond which—

"(1) is not of a type offered to the public,

"(2) has a maturity (at issue) of not more than 1 year, or

"(3) is described in section 163(f)(2)(B).

"(c) Special Rules.—

"(1) Book entries permitted.—For purposes of subsection (a), a book entry bond shall be treated as in registered form if the right to the principal of, and stated interest on, such bond may be transferred only through a book entry consistent with regulations prescribed by the Secretary.

"(2) Nominees.—The Secretary shall prescribe such regulations as may be necessary to carry out the purpose of subsection (a) where there is a nominee or chain of nominees.

"SEC. 149. OTHER REQUIREMENTS.

"(a) Federally Guaranteed Bond Is Not Tax Exempt.—

"(1) In general.—Section 103(a) shall not apply to any State or local bond if such bond is federally guaranteed.

"(2) Federally guaranteed defined.—For purposes of paragraph (1), a bond is federally guaranteed if—

"(A) the payment of principal or interest with respect to such bond is guaranteed (in whole or in part) by the United States (or any agency or instrumentality thereof),

"(B) such bond is issued as part of an issue and 5 percent or more of the proceeds of such issue is to be—

"(i) used in making loans the payment of principal or interest with respect to which are to be guaranteed (in whole or in part) by the United States (or any agency or instrumentality thereof), or

"(ii) invested (directly or indirectly) in federally insured deposits or accounts, or

"(C) the payment of principal or interest on such bond is otherwise indirectly guaranteed (in whole or in part) by the United States (or an agency or instrumentality thereof).

"(3) Exceptions.—

"(A) Certain insurance programs.—A bond shall not be treated as federally guaranteed by reason of—

"(i) any guarantee by the Federal Housing Administration, the Veterans' Administration, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or the Government National Mortgage Association,

"(ii) any guarantee of student loans and any guarantee by the Student Loan Marketing Association to finance student loans, or

"(iii) any guarantee by the Bonneville Power Authority pursuant to the Northwest Power Act (16 U.S.C. 839d) as in effect on the date of the enactment of the Tax Reform Act of 1984 with respect to any obligation issued before July 1, 1989.

"(B) Debt service, etc.—Paragraph (1) shall not apply to—

"(i) proceeds of the issue invested for an initial temporary period until such proceeds are needed for the purpose for which such issue was issued,

"(ii) investments of a bona fide debt service fund,

"(iii) investments of a reserve which meet the requirements of section 147(d),

"(iv) investments in bonds issued by the United States Treasury, or

"(v) other investments permitted under regulations.

"(C) Exception for housing programs.—

"(i) In general.—Except as provided in clause (ii), paragraph (1) shall not apply to—

"(I) a nonessential function bond for a qualified residential rental project or a housing program obligation under section 11(b) of the United States Housing Act of 1937,

"(II) a qualified mortgage bond, or

"(III) a qualified veterans' mortgage bond.

"(ii) Exception not to apply where bond invested in federally insured deposits or accounts.—Clause (i) shall not apply to any bond which is federally guaranteed within the meaning of paragraph (2)(B)(ii).

"(D) Loans to, or guarantees by, financial institutions.—Except as provided in paragraph (2)(B)(ii), a bond which is issued as part of an issue shall not be treated as federally guaranteed merely by reason of the fact that the proceeds of such issue are used in making loans to a financial institution or there is a guarantee by a financial institution unless such guarantee constitutes a federally insured deposit or account.

"(4) Definitions.—For purposes of this subsection—

"(A) Treatment of certain entities with authority to borrow from United States.—To the extent provided in regulations prescribed by the Secretary, any entity with statutory authority to borrow from the United States shall be treated as an instrumentality of the United States. Except in the case of an exempt facility bond, a qualified small issue bond, and a qualified student loan bond, nothing in the preceding sentence shall be construed as treating the District of Columbia or any possession of the United States as an instrumentality of the United States.

"(B) Federally insured deposit or account.—The term 'federally insured deposit or account' means any deposit or account in a financial institution to the extent such deposit or account is insured under Federal law by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, the National Credit Union Administration, or any similar federally chartered corporation.

"(b) Tax Exemption Must Be Derived From This Title.—

"(1) General rule.—Except as provided in paragraph (2), no interest on any obligation shall be exempt from taxation under this title unless such interest is exempt from tax under this title without regard to any provision of law which is not contained in this title and which is not contained in a revenue Act.

"(2) Certain prior exemptions.—

"(A) Prior exemptions continued.—For purposes of this title, notwithstanding any provision of this part, any obligation the interest on which is exempt from taxation under this title by reason of any provision of law (other than a provision of this title) which is in effect on January 6, 1983, shall be treated as an obligation described in section 103(a).

"(B) Additional requirements for obligations issued after 1983.—Subparagraph (A) shall not apply to an obligation (not described in subparagraph (C)) issued after 1983 if the appropriate requirements of this part (or the corresponding provisions of prior law) are not met with respect to such obligation. For purposes of applying such requirements, a possession of the United States shall be treated as a State; except that subparagraph (B) of section 145(d)(1) and subparagraph (B) of section 145(h)(1) shall not apply.

"(C) Description of obligation.—An obligation is described in this subparagraph if—

"(i) such obligation is issued pursuant to the Northwest Power Act (16 U.S.C. 839d), as in effect on July 18, 1984;

"(ii) such obligation is issued pursuant to section 608(6)(A) of Public Law 97-468;

"(iii) such obligation is issued before June 19, 1984 under section 11(b) of the United States Housing Act of 1937.

"(c) Bonds Issued Early Are Not Tax Exempt.—Section 103(a) shall not apply to a State or local bond issued as part of an issue unless—

"(1) 5 percent or more of the net proceeds of the issue is spent within 30 days after the date of issue to carry out the governmental purpose of the issue, and

"(2) all bond net proceeds are spent within 3 years of the date of issue of the bonds.

The Secretary may extend the period referred to in paragraph (2) where the issuer establishes that a longer period is necessary because of unforeseeable circumstances and that undue hardship would otherwise result.

"(d) Advance Refundings.—

"(1) No advance refundings of nonessential function bonds.—Section 103(a) shall not apply to any State or local bond issued to advance refund of a nonessential function bond.

"(2) Essential function bonds.—Section 103(a) shall not apply to any State or local bond (hereinafter in this paragraph referred to as the 'refunding bond') issued to refund a bond other than a nonessential function bond unless—

"(A) the refunding bond is only the first or second refunding of the original bond,

"(B) the aggregate amount of the refunding bonds with respect to any original bond does not exceed an amount equal to 250 percent of the amount of such original bond,

"(C) the refunded bond is required to be redeemed not later than the earliest date on which such bond could be redeemed at par or at a premium of 3 percent or less, and

"(D) the temporary period under section 147(c) ends—

"(i) with respect to the refunding bond not later than 30 days after the date of issue of such bond, and

"(ii) with respect to the refunded bond on the date of issue of the refunding bond.

Subparagraph (B) shall not apply if the present value of interest savings by reason of issuance of the refunding bonds exceeds the costs of issuance of such bonds.

"(3) Advance refunding.—For purposes of this part, an obligation shall be treated as issued to advance refund another obligation if it is issued more than 30 days before the redemption of the refunded obligation.

"(e) Information Reporting.—

"(1) In general.—Section 103(a) shall not apply to any State or local bond unless such bond satisfies the requirements of paragraph (2).

"(2) Information reporting requirements.—A bond satisfies the requirements of this paragraph if the issuer submits to the Secretary, not later than the 15th day of the 2d calendar month after the close of the calendar quarter in which the bond is issued (or such later time as the Secretary may prescribe with respect to any portion of the statement), a statement concerning the issue of which the bond is a part which contains—

"(A) the name and address of the issuer,

"(B) the date of issue, the amount of net proceeds of the issue, the stated interest rate, term, and face amount of each bond which is part of the issue, and the costs of issuance and amount of reserves of the issue,

"(C) where required, the name of the applicable elected representative who approved the issue, or a description of the voter referendum by which the issue was approved,

"(D) the name, address, and employer identification number of—

"(i) each initial principal user of any facility provided with the proceeds of the issue,

"(ii) the common parent of any affiliated group of corporations (within the meaning of section 1504(a)) of which such initial principal user is a member, and

"(iii) if the issue is treated as a separate issue under section 144(a)(6)(A), any person treated as a principal user under section 144(a)(6)(B),

"(E) a description of any property to be financed from the proceeds of the issue,

"(F) in the case of a qualified mortgage bond or qualified veterans' mortgage bond, such information as the Secretary requires in order to determine whether such bond met the requirements of section 143 and the extent to which proceeds of such bond have been made available to low-income individuals,

"(G) a certification by a State official designated by State law (or, where there is no such official, the Governor) that the bond meets the requirements of section 145 (relating to cap on nonessential function bonds), and

"(H) such other information as the Secretary may by regulations require.

Subparagraphs (C), (D), (E), (F), and (G) shall not apply to any bond which is not a nonessential function bond.

"(3) Extension of time.—The Secretary may grant an extension of time for the filing of any statement required under paragraph (2) if there is reasonable cause for the failure to file such statement in a timely fashion.

"Subpart C—Definitions and Special Rules

"Sec. 150. Definitions and special rules.

"SEC. 150. DEFINITIONS AND SPECIAL RULES.

"(a) General Rule.—For purposes of this part—

"(1) Bond.—The term 'bond' includes any obligation.

"(2) Governmental unit not to include Federal government.—The term 'governmental unit' does not include the United States or any agency or instrumentality thereof.

"(3) Net proceeds.—The term 'net proceeds' means the proceeds of the issue reduced by issuance costs and a reasonably required reserve and replacement fund.

"(4) 501(c)(3) organization.—The term '501(c)(3) organization' means any organization described in section 501(c)(3) and exempt from tax under section 501(a).

"(b) Change in Use of Facilities Financed With Tax-Exempt Bonds.—

"(1) Qualified mortgage bonds and qualified veterans' mortgage bonds.—

"(A) In general.—In the case of any residence with respect to which financing is provided from the proceeds of a qualified mortgage bond or qualified veterans' mortgage bond, if there is a continuous period of at least 1 year in which such residence is not the principal residence of 1 of the mortgagors with respect to such residence, then no deduction shall be allowed under this chapter for interest on such financing which accrues on or after the date such period began.

"(B) Exception.—Subparagraph (A) shall not apply to the extent the Secretary determines that its application would violate equity and good conscience.

"(2) Qualified residential rental projects.—In the case of any project for residential rental property which does not meet the requirements of section 142(c), no deduction shall be allowed under this chapter for interest on such financing which accrues during the period beginning on the first day of the taxable year in which the cessation occurred and ending on the date such project meets the requirements of section 142(c)(1).

"(3) Qualified 501(c)(3) bonds.—In the case of any facility with respect to which financing is provided from the proceeds of any qualified 501(c)(3) bond, if—

"(A) any portion of such facility—

"(i) ceases to be used by a 501(c)(3) organization, or

"(ii) in the case of a qualified hospital bond, ceases to be operated by a 501(c)(3) organization, and

"(B) such portion continues to be owned by such an organization,

then the 501(c)(3) organization which owns such portion shall be treated for purposes of this title as engaged in an unrelated trade or business with respect to such portion and the amount of income attributable to such portion for any period shall not be less than the fair rental value of such portion for such period.

"(4) Other nonessential function bonds.—

"(A) In general.—In the case of any facility with respect to which financing is provided from the proceeds of any nonessential function bond to which this paragraph applies, if such facility ceases to be used for a purpose for which a tax-exempt nonessential function bond could be issued on the date of such issue, no deduction shall be allowed under this chapter for interest on such financing which accrues on or after the date of such cessation.

"(B) Bonds to which paragraph applies.—This paragraph applies to any nonessential function bond other than a qualified mortgage bond, a qualified veterans' mortgage bond, a qualified 501(c)(3) bond, or any exempt facility bond with respect to a qualified residential rental project.

"(c) Tax Treatment Where Facilities Required To Be Owned by Governmental Units or 501(c)(3) Organizations Cease To Be So Owned.—

"(1) In general.—If—

"(A) financing is provided with respect to any facility from the proceeds of any bond which is exempt from tax under section 103,

"(B) such facility is required to be owned by or on behalf of a governmental unit or a 501(c)(3) organization as a condition of such tax exemption, and

"(C) such facility ceases to be so owned,

then no deduction shall be allowed under this chapter for any amount paid or incurred for the use of such facility to the extent such amount does not exceed the interest accrued on such financing on or after the date of such cessation.

"(2) Interest taken into account.—For purposes of paragraph (1), interest paid or incurred on the financing provided from the proceeds of any bond shall be treated as paid or incurred for use of the facility.

"(3) Use of portion of facility.—In the case of any person which uses only a portion of the facility, only the interest accruing on the portion of the financing allocable to such portion of the facility shall be taken into account by such person.

"(4) Cessation of ownership of only portion of facility.—Rules similar to the rules of paragraphs (1), (2), and (3) shall apply where part but not all of a facility ceases to be owned by or on behalf of a governmental unit or a 501(c)(3) organization.

"(d) Qualified Scholarship Funding Bonds.—For purposes of this part and section 103—

"(1) Treatment as state or local bond.—A qualified scholarship funding bond shall be treated as a State or local bond.

"(2) Qualified scholarship funding bond defined.—The term 'qualified scholarship funding bond' means a bond issued by a corporation which—

"(A) is a corporation not for profit established and operated exclusively for the purpose of acquiring student loan notes incurred under the Higher Education Act of 1965, and

"(B) is organized at the request of the State or 1 or more political subdivisions thereof or is requested to exercise such power by 1 or more political subdivisions and required by its corporate charter and bylaws, or required by State law, to devote any income (after payment of expenses, debt service, and the creation of reserves for the same) to the purchase of additional student loan notes or to pay over any income to the State or a political subdivision thereof."

(c) Amendment to Arbitrage Regulations.—Not later than 60 days after the date of the enactment of this Act, the Secretary of the Treasury or his delegate shall amend the regulations relating to the arbitrage requirements to eliminate the provision which permits a higher yield on purpose obligations if the issuer elects to waive the benefits of the temporary period provisions. If such provision is not eliminated before January 1, 1986, it shall cease to apply to obligations issued on or after such date.

(d) Amendments Relating to Mortgage Credit Certificate Program.—

(1) Clause (ii) of section 25(b)(2)(A) (defining certificate indebtedness amount) is amended by striking out "section 103A(l)(6)" and inserting in lieu thereof "section 143(k)(4)".

(2) Clause (iii) of section 25(b)(2)(A) is amended by striking out "section 103A(l)(7)" and inserting in lieu thereof "section 143(k)(5)".

(3)(A) Subparagraphs (A)(iii) and (B) of section 25(c)(2) are each amended by striking out "section 103A" each place it appears and inserting in lieu thereof "section 143".

(B) Clause (ii) of section 25(c)(2)(A) is amended by striking out "section 103A" and inserting in lieu thereof "section 103".

(4) Clause (iii) of section 25(c)(2)(A) (defining qualified mortgage credit certificate program) is amended by striking out all the subclauses thereof and inserting in lieu thereof the following:

"(I) subsection (c) (relating to residence requirements),

"(II) subsection (d) (relating to 3-year requirement),

"(III) subsection (e) (relating to purchase price requirement),

"(IV) subsection (f) (relating to income requirements),

"(V) subsection (h) (relating to portion of loans required to be placed in targeted areas), and

"(VI) paragraph (1) of subsection (i) (relating to other requirements),".

(5) The last sentence of subparagraph (A) of section 25(c)(2) is amended by striking out "section 103A(c)(2)" and inserting in lieu thereof "section 143(a)(2)".

(6) Subparagraph (B) of section 25(c)(2) is amended—

(A) by striking out "subclauses (II) and (IV)" and inserting in lieu thereof "subclauses (IV) and (V)", and

(B) by striking out all that follows clause (ii) and by striking out ", and" at the end of clause (ii) and inserting in lieu thereof a period.

(7) Subsection (d) of section 25 (relating to determination of certificate credit rate) is amended by striking out paragraph (3).

(8) Paragraph (2) of section 25(e) (relating to indebtedness not treated as certified where certain requirements in fact not met) is amended by striking out "subsection (d)(1), (e), (f), and (j) of section 103A" and inserting in lieu thereof "subsections (c)(1), (d), (e), (f), and (i) of section 143".

(9) Paragraph (6) of section 25(e) is amended by striking out "section 103(b)(6)(C)(i)" and inserting in lieu thereof "section 144(a)(3)(A)".

(10) Subparagraph (A) of section 25(e)(8) is amended by striking out "section 103A(l)(7)(B)" and inserting in lieu thereof "section 143(k)(5)(B)".

(11) Subparagraph (B) of section 25(e)(8) is amended by striking out "section 103A(l)(6)" and inserting in lieu thereof "section 143(k)(4)".

(12) Paragraph (9) of section 25(e) is amended by striking out "section 103A(c)(1)" and inserting in lieu thereof "section 143(a)(1)".

(13) Paragraph (10) of section 25(e) is amended by striking out "section 103A" and inserting in lieu thereof "section 143".

(14) Paragraph (1) of section 25(f) is amended—

(A) by striking out "paragraph (4) of section 103A(g)" and inserting in lieu thereof "subsection (d) of section 145 (determined after the application of subsection (h) thereof)", and

(B) by adding at the end thereof the following new sentence: "For purposes of determining whether the requirements of subsection (g) of section 145 are met in a calendar year in which there is such a reduction, such subsection shall be applied as if there were no reduction in such State ceiling under this paragraph."

(15) Paragraph (3) of section 25(f) is amended by striking out "section 103A(g)(5)(C)" and inserting in lieu thereof "section 145(d)(3)(C)".

(e) Penalty for Failure to File Report on Compliance With Qualified Residential Rental Project Rules.—Section 6652 (relating to failure to file certain information returns, registration statements, etc.), as amended by title XIII of this this Act, is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) Failure to File Certification With Respect to Certain Residential Rental Projects.—In the case of each failure to provide a certification as required by section 142(c)(4) at the time prescribed therefor, unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid, on notice and demand of the Secretary and in the same manner as tax, by the person failing to provide such certification, an amount equal to $100 for each such failure."

(f) Technical and Conforming Amendments.—

(1) Repeal of section 103A.—Section 103A is hereby repealed.

(2) Section 143 redesignated as section 7703.—

(A) In general.—Chapter 79 (relating to definitions) is amended by adding at the end thereof the following new section:

"SEC. 7703. DETERMINATION OF MARITAL STATUS.

"(a) General Rule.—For purposes of part V of subchapter B of chapter 1 and those provisions of this title which refer to this subsection—

"(1) the determination of whether an individual is married shall be made as of the close of his taxable year; except that if his spouse dies during his taxable year such determination shall be made as of the time of such death; and

"(2) an individual legally separated from his spouse under a decree of divorce or of separate maintenance shall not be considered as married.

"(b) Certain Married Individuals Living Apart.—For purposes of those provisions of this title which refer to this subsection, if—

"(1) an individual who is married (within the meaning of subsection (a)) and who files a separate return maintains as his home a household which constitutes for more than one-half of the taxable year the principal place of abode of a child (within the meaning of section 151(e)(3)) with respect to whom such individual is entitled to a deduction for the taxable year under section 151 (or would be so entitled but for paragraph (2) or (4) of section 152(e)),

"(2) such individual furnishes over one-half of the cost of maintaining such household during the taxable year, and

"(3) during the last 6 months of the taxable year, such individual's spouse is not a member of such household,

such individual shall not be considered as married."

(B) CLERICAL AMENDMENT.—The table of sections for chapter 79 is amended by adding at the end thereof the following new item:

"Sec. 7703. Determination of marital status."

(3) Paragraph (3) of section 163(f) (relating to denial of deductions for interest on certain obligations not in registered form) is amended by striking out "section 103(j)(3)" and inserting in lieu thereof "section 148(c)".

(4) Sections 269A(b)(3), 414(m)(5), 414(n)(6), and 4988(c)(2) (defining related person) are each amended by striking out "section 103(b)(6)(C)" and inserting in lieu thereof "section 144(a)(3)".

(5) Paragraph (1) of section 4701(b) (defining registration-required obligation) is amended by striking out "section 103(j)" and inserting in lieu thereof "section 148".

(6) Sections 4940(c)(5), 4942(f)(2)(A), and 7871(a)(4) are each amended by striking out "(relating to interest on certain governmental obligations)" and inserting in lieu thereof "(relating to State and local bonds)".

(7) Paragraph (2) of section 7871(c) (relating to no exemption for certain private activity bonds) is amended to read as follows:

"(2) NO EXEMPTION FOR NONESSENTIAL FUNCTION BONDS.—Subsection (a) of section 103 shall not apply to any nonessential function bond (as defined in section 141(a)) other than a qualified 501(c)(3) bond (as defined in section 144(b)) issued by an Indian tribal government (or subdivision thereof)."

(8) Sections 1 (as amended by this Act), 22(e)(2), 32(c) and (d), 63(g) (as amended by this Act), 86(c)(3), 152(a)((9), 153(5), 194(b)(1), 1398(d)(2), 3402(f), 6012(a)(1) (amended by this Act), and 6362(f)(5) are each amended by striking out "section 143" each place it appears and inserting in lieu thereof "section 7703".

(9) Section 879(c)(3) is amended by striking out "section 143(a)" and inserting in lieu thereof "section 7703(a)".

(10) Section 2(c) is amended by striking out "section 143(b)" and inserting in lieu thereof "section 7703(b)".

SEC. 702. REPEAL OF PROVISIONS RELATING TO GENERAL STOCK OWNERSHIP CORPORATIONS.

(a) IN GENERAL.—Subchapter U of chapter 1 (relating to general stock ownership corporation) is hereby repealed.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 172(b) (relating to net operating loss carrybacks and carryovers) is amended by striking out subparagraph (J) and by redesignating subparagraph (K) as subparagraph (J).

(2) Paragraphs (2) and (4) of section 172(k) are each amended by striking out "subsection (b)(1)(K)" and inserting in lieu thereof "subsection (b)(1)(J)".

(3) Subsection (a) of section 1016 (relating to adjustments to basis) is amended by striking out paragraph (22) and by redesignating paragraphs (23) through (27) as paragraphs (22) through (26), respectively.

(4) Subsection (r) of section 3402 (relating to extension of withholding to GSOC distribution) is hereby repealed.

(5) Section 6039B (relating to return of general stock ownership corporation) is hereby repealed.

(c) CLERICAL AMENDMENTS.—

(1) The table of subchapters for chapter 1 is amended by striking out the item relating to subchapter U.

(2) The table of sections for subpart A of part III of subchapter A of chapter 61 is amended by striking out the item relating to section 6039B.

SEC. 703. EFFECTIVE DATES.

(a) IN GENERAL.—

(1) SECTION 701.—

(A) IN GENERAL.—Except as otherwise provided in this title, the amendments made by section 701 shall apply to obligations issued after December 31, 1985.

(B) SECTION 701(C).—Section 701(c) shall take effect on the date of the enactment of this Act.

(2) SECTION 702.—The amendments made by section 702 shall take effect on the date of the enactment of this Act.

(b) EXCEPTION FOR CONSTRUCTION OR BINDING AGREEMENTS.—

(1) IN GENERAL.—The amendments made by section 701 shall not apply to obligations with respect to a facility—

(A)(i) the original use of which commences with the taxpayer, and the construction, reconstruction, or rehabilitation of which began before September 26, 1985, and was completed on or after such date,

(ii) with respect to which a binding contract to incur significant expenditures for construction, reconstruction, or rehabilitation was entered into before September 26, 1985, and some of such expenditures are incurred on or after such date, or

(iii) acquired on or after September 26, 1985, pursuant to a binding contract entered into before such date, and

(B) described in an inducement resolution or other comparable preliminary approval adopted by the issuing authority (or by a voter referendum) before September 26, 1985.

(2) SIGNIFICANT EXPENDITURES.—For purposes of paragraph (1)(A), the term "significant expenditures" means expenditures greater than 10 percent of the reasonably anticipated cost of the construction, reconstruction, or rehabilitation of the facility involved.

(c) CERTAIN AMENDMENTS TO APPLY TO OBLIGATIONS UNDER SUBSECTION (b) TRANSITIONAL RULE.—In the case of an obligation issued after December 31, 1985, and to which subsection (b) of this section applies, the requirements of the following provisions shall be treated as included in section 103 and section 103A (as appropriate) of the Internal Revenue Code of 1954 as in effect before the date of the enactment of this Act:

(1) The requirement that all net proceeds of an issue be used for a purpose described in section 103(b)(4) or (5) of such Code in order for section 103(b)(1) of such Code not to apply.

(2) The requirement that all of the net proceeds of an issue be used for a purpose described in section 103(b)(6)(A) of such Code in order for section 103(b)(1) of such Code not to apply.

(3) The definitions of qualified mortgage bond and qualified veterans' mortgage bond under section 143 of such Code.

(4) The requirements of section 146(b) of such Code (relating to maturity may not exceed 120 percent of economic life).

(5) The requirements of section 146(e) of such Code (relating to public approval required for nonessential function bonds).

(6) The requirements of section 147 of such Code (relating to arbitrage).

(7) The requirements of section 149(d) of such Code (relating to bonds issued early are not tax exempt).

(8) The requirements of section 149(e) of such Code (relating to advance refundings).

(9) The requirements of section 149(f) of such Code (relating to information reporting).

For purposes of this subsection, any reference to section 143, 146, 147, or 149 of such Code shall be treated as a reference to such section as added by section 701.

(d) REFUNDING ISSUES.—

(1) IN GENERAL.—Except as provided in paragraph (3), the amendments made by section 701 shall not apply to any obligation the proceeds of which are used exclusively to refund a qualified obligation (or an obligation which is part of a series of refundings of a qualified obligation) if—

(A) the amount of the refunding obligation does not exceed the amount of the refunded obligation, and

(B)(i) except as provided in clause (ii), the refunding obligation has a maturity date not later than the later of—

(I) the last day of the period equal to 120 percent of the average reasonably expected economic life of the facilities (as of the date such facilities were placed in service) financed with the proceeds of the qualified obligation, or

(II) the date which is 17 years after the date on which the qualified obligation was issued, or

(ii) in the case of a qualified obligation which was (when issued) a qualified mortgage bond or a qualified veterans' mortgage bond, the refunding obligation has a maturity date not later than the date which is 32 years after the date on which the qualified obligation was issued.

For purposes of subparagraph (B)(i), the average reasonably expected economic life of a facility shall be determined under section 146(b) of the Internal Revenue Code of 1954 (as added by section 701) as of the date the facility was placed in service.

(2) QUALIFIED OBLIGATION.—For purposes of paragraph (1), the term "qualified obligation" means any obligation (other than a refunding obligation) issued before January 1, 1986, if the interest on such obligation is exempt from tax under section 103 of such Code, but only if, were such obligation issued after December 31, 1985, the interest on such obligation would not be exempt from tax under such section.

(3) AMENDMENTS WHICH APPLY TO REFUNDING ISSUES.—The requirements of the following provisions of the Internal Revenue Code of 1954, as amended by section 701, shall be treated as included in section 103 and section 103A (as appropriate) of such Code (as in effect before the enactment of this Act) and shall apply to obligations described in paragraph (1):

(A) Section 145 (relating to volume cap).

(B) Section 146(e) (relating to public approval required for nonessential function bonds).

(C) Section 147 (relating to arbitrage).

(D) Subsections (c) and (d) of section 149 (relating to other requirements).

(e) Certain Bonds for Carryforward Projects Outside of Volume Cap.—Obligations issued pursuant to an election under section 103(n)(10) of such Code (relating to elective carryforward of unused limitation for specified project) made before November 1, 1985, shall not be taken into account under section 145 of such Code, as added by section 701, if the carryforward project is a facility to which the amendments made by section 701 do not apply by reason of subsection (b).

(f) Changes in Use, Etc., of Facilities Financed With Tax-Exempt Bonds.—

(1) Changes in use.—Subsection (b) of section 150 of the Internal Revenue Code of 1954 (as added by section 701) shall apply to changes in use after December 31, 1985, but only if the financing with respect to the facility involved is provided after such date.

(2) Changes in ownership.—Subsection (c) of such section 150 shall apply to cessations of ownership after December 31, 1985, but only if the financing with respect to the facility involved is provided after such date.

(g) Treatment of Current Refundings of Certain Exempt Facility and 501(c)(3) Bonds.—

(1) $40,000,000 limit.—

(A) In general.—Paragraph (10) of section 144(a) of the Internal Revenue Code of 1954 (as added by section 701) shall not apply to any obligation issued to refund another tax-exempt facility-related bond to which such paragraph (and the corresponding provision of prior law) does not apply if—

(i) the refunding obligation has a maturity date not later than the maturity date of the refunded obligation,

(ii) the amount of the refunding obligation does not exceed the amount of the refunded obligation,

(iii) the interest rate on the refunding obligation is lower than the interest rate on the refunded issue, and

(iv) the proceeds of the refunding obligation are used to redeem the refunded obligation not later than 30 days after the date of the issuance of the refunding obligation.

(B) Tax-exempt facility-related bond.—For purposes of paragraph (A), the term "tax-exempt facility-related bond" means—

(i) any exempt facility bond (as defined in section 142 of such Code),

(ii) any qualified small issue bond (as defined in section 144(a)), and

(iii) any industrial development bond (as defined in section 103(b) of such Code as in effect before the date of the enactment of this Act),

the interest on which is exempt from tax under section 103 of such Code.

(2) 501(c)(3) bonds.—

(A) In general.—Subparagraph (A) of section 144(b)(4) (relating to $150,000,000 exception for other obligations) shall not apply to any obligation issued to refund another qualified 501(c)(3) bond if—

(i) the refunding obligation has a maturity date not later than the later of—

(I) the last day of the period equal to 120 percent of the average reasonably expected economic life of the facilities (as of the date such facilities were placed in service) financed with the proceeds of the qualified obligation, or

(II) the date which is 17 years after the date on which the qualified obligation was issued, and

(ii) the requirements of clauses (ii), (iii), and (iv) of paragraph (1)(A) are met with respect to the refunding obligation.

(B) Qualified 501(c)(3) bond.—For purposes of subparagraph (A), the term "qualified 501(c)(3) bond" means—

(i) any obligation which is a qualified 501(c)(3) bond (as defined in section 144(b)(4) of such Code) the interest on which is exempt from tax under section 103 of such Code, and

(ii) an obligation which would be an industrial development bond but for the fact that the exempt person with respect to such issue is a person described in section 103(b)(3) of such Code, as in effect before the enactment of this Act,

the interest on which is exempt from tax under section 103 of such Code.

(h) Arbitrage Restriction on Investments in Annuities.—In the case of obligations issued after September 25, 1985, section 103(c) of the Internal Revenue Code of 1954 (as in effect before the date of the enactment of this Act) shall be applied by treating the reference to securities in paragraph (2) thereof as including a reference to any annuity contract.

(i) Exception for Established Programs.—

(1) In general.—Except as provided in paragraph (2), the amendments made by section 701 shall not apply to any obligation substantially all of the proceeds of which are used to carry out a program established under State law to provide loans to veterans for the purchase of land and which has been in effect in substantially the same form during the 30-year period ending on July 18, 1984, but only if such proceeds are used to make loans or to fund similar obligations—

(A) in the same manner in which,

(B) in the same (or lesser) amount or multiple of acres per participant, and

(C) for the same purposes for which,

such program was operated on March 15, 1984.

(2) Application of volume cap, etc.—Paragraph (1) shall apply to any obligation only if such obligation is treated as a nonessential function bond for purposes of section 145 of the Internal Revenue Code of 1954 (as added by section 701) and any such obligation shall be treated as a nonessential function bond for purposes of part VI of subchapter A of chapter 1 of such Code.

(3) Special rule.—Any obligation to which paragraph (1) applies shall be treated as an obligation not described in subparagraph (A), (B), or (C) of section 145(g)(1) of such Code.

(j) Special Rule for Certain Short-Term Obligations.—In the case of any obligation which has a term of 1 year or less, which is authorized to be issued under O.R.S. 407.435 (as in effect on the date of the enactment of this subsection) to provide financing for property taxes, and which is redeemed at the end of such term, the amount taken into account under section 145 of the Internal Revenue Code of 1954 (as added by section 701) with respect to such obligation shall be 1/15 of its principal amount. Any obligation described in the preceding sentence shall be treated as an obligation described in subparagraph (C) of section 145(g)(1) of such Code.

(k) Study of Compliance With Qualified Residential Rental Project Rules.—The Secretary of the Treasury or his delegate shall prepare a report on the qualitative and quantitative impact of subsection (c) of section 142 of the Internal Revenue Code of 1954 (as added by section 701) and on compliance with such subsection. Such a report shall be prepared at least annually and submitted to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

(l) Volume Cap Not To Apply With Respect to Certain Solid Waste Disposal Facilities.—Section 145 of such Code (as added by section 701) shall not apply to any obligation which is an exempt facility bond with respect to any solid waste disposal facility if—

(1)(A) section 103(n) of such Code (relating to limitation on aggregate amount of private activity bonds issued during any calendar year), as in effect before the date of the enactment of this Act, would not have applied to such obligation were such obligation issued during 1985, or

(B) section 145 of such Code (as so added) would not apply to such obligation if "January 1, 1986" were substituted for "November 1, 1985" in subsection (e) of this section, or

(2) the amendments made by section 201 of this Act (relating to depreciation) do not apply to such facility by reason of section 203(d)(9) of this Act (or, in the case of a facility which is governmentally owned, would not apply to such facility were it owned by a nongovernmental person).

(m) Additional Transitional Rules.—

(1) Except as otherwise expressly provided in this subsection—

(A) any reference in this subsection to section 103 or 103A shall be deemed to be a reference to such section of the Internal Revenue Code of 1954 as in effect before the date of the enactment of this Act, and

(B) any reference to section 141 through section 150 shall be deemed to be a reference to such sections of the Internal Revenue Code of 1985 as amended by this title.

(2) An obligation which is issued as part of an issue substantially all of the proceeds of which are to be used to provide any dock or wharf (within the meaning of section 103(b)(4)(D)) shall be treated as an exempt facility bond for purposes of section 142 if such dock or wharf is described in subparagraph (A) or (B):

(A) A dock or wharf is described in this subparagraph if—

(i) the issue to finance such dock or wharf was approved by official city action on September 3, 1985, and by voters on November 5, 1985, and

(ii) such dock or wharf is for a slack water harbor with respect to which a Corps of Engineers grant of approximately $2,000,000 has been made under section 107 of the Rivers and Harbors Act.

The aggregate face amount of obligations to which this subparagraph applies shall not exceed $2,500,000.

(B) A dock or wharf is described in this subparagraph if—

(i) inducement resolutions were adopted on May 23, 1985, September 10, 1985, and September 24, 1985, for the issuance of the obligations to finance such dock or wharf,

(ii) a harbor dredging contract with respect thereto was entered into on August 2, 1985, and

(iii) a construction management and joint venture agreement with respect thereto was entered into on October 1, 1984.

The aggregate face amount of obligations to which this subparagraph applies shall not exceed $625,000,000.

(3) Any obligation which is issued as part of an issue substantially all of the proceeds of which are to be used to provide air or water pollution control facilities (within the meaning of section 103(b)(4)(C)) shall be treated as an exempt facility bond for purposes of section 142 if such facility is described in subparagraph (A) or (B):

(A) A facility is described in this subparagraph if—

(i) inducement resolutions with respect to such facility were adopted on September 23, 1974, and on April 5, 1985,

(ii) a bond resolution for such facility was adopted on September 6, 1985, and

(iii) the issuance of the bonds to finance such facility was delayed by action of the Securities and Exchange Commission (file number 70-7127).

The aggregate face amount of obligations to which this subparagraph applies shall not exceed $120,000,000.

(B) A facility is described in this subparagraph if—

(i) there was an inducement resolution for such facility on November 19, 1985, and

(ii) design and engineering studies for such facility were completed in March of 1985.

The aggregate face amount of obligations to which this subparagraph applies shall not exceed $25,000,000.

(4) An obligation which is issued as part of an issue substantially all of the proceeds of which are to be used to provide sports facilities (within the meaning of section 103(b)(4)(B)) shall be treated as an exempt facility bond (as defined in section 142(a)) if such facilities are described in any of the following subparagraphs of this paragraph:

(A) A facility is described in this subparagraph if it is a domed stadium—

(i) which was the subject of a city ordinance passed on September 23, 1985,

(ii) for which a loan of approximately $4,000,000 for land acquisition was approved on October 28, 1985, by the State Controlling Board, and

(iii) a stadium operating corporation with respect to which was incorporated on March 20, 1985.

The aggregate face amount of obligations to which this subparagraph applies shall not exceed $200,000,000.

(B) A facility is described in this subparagraph if—

(i) it is a stadium with respect to which a lease agreement for the ground on which the stadium is to be built was entered into between a county and the stadium corporation for such stadium on July 3, 1984,

(ii) there was a resolution approved on November 14, 1984, by an industrial development authority setting forth the terms under which the bonds to be issued to finance such stadium would be issued, and

(iii) there was an agreement for consultant and engineering services for such stadium entered into on September 28, 1984.

The aggregate face amount of obligations to which this subparagraph applies shall not exceed $90,000,000.

(C) A facility is described in this subparagraph if it is a stadium to be used by an American League baseball team currently using a stadium in a city having a population in excess of 2,500,000 and described in section 145(d)(3) and the obligations to be used to provide financing for such stadium are issued pursuant to an inducement resolution adopted by a State agency on November 20, 1985 (whether or not the beneficiary of such issue is the beneficiary (if any) specified in such resolution). The aggregate face amount of obligations to which this subparagraph applies shall not exceed $250,000,000. In the case of a carryforward of volume cap for a stadium described in the first sentence of this subparagraph, such carryforward shall be permitted whether or not there is a change in the beneficiary of the project.

(D) A facility is described in this subparagraph if—

(i) such facility is a stadium or sports arena for Memphis, Tennessee,

(ii) there was an inducement resolution adopted on November 12, 1985, for the issuance of obligations to expand or renovate an existing stadium and sports arena and/or to construct a new arena, and

(iii) the city council for such city adopted a resolution on April 19, 1983, to include funds in the capital budget of the city for such facility or facilities.

The aggregate face amount of obligations to which this subparagraph applies shall not exceed $35,000,000.

(E) A facility is described in this subparagraph if such facility is a baseball stadium located in Hudson County, New Jersey with respect to which governmental action occurred on November 7, 1985.

The aggregate face amount of obligations to which this subparagraph applies shall not exceed $150,000,000.

(5) The amendments made by section 701 shall not apply to any obligation which would not have been an industrial development bond (as defined in section 103(b)(2)) by reason of the proceeds of such obligation being used by an exempt person which is a university if such obligation is described in subparagraph (A), (B), (C), or (D):

(A) An obligation is described in this subparagraph if—

(i) it is issued on behalf of a university founded in 1789,

(ii) it is issued pursuant to an application filed on August 5, 1983, or April 30, 1985, with the governing body of the issuing jurisdiction, and

(iii) requests to issue such obligation was transmitted to Congress on November 7, 1985.

The aggregate face amount of obligations to which this subparagraph applies shall not exceed $200,000,000.

(B) An obligation is described in this subparagraph if—

(i) it is issued on behalf of a university established on April 21, 1831, for a project approved by the trustees thereof on September 23, 1985, and

(ii) the purposes for which such obligation is to be issued were approved by the appropriate State authority on September 26, 1985.

The aggregate face amount of obligations to which this subparagraph applies shall not exceed $150,000,000.

(C) An obligation is described in this subparagraph if it is issued on behalf of a university established on August 6, 1872, for a project approved by the trustees thereof on November 11, 1985. The aggregate face amount of obligations to which this subparagraph applies shall not exceed $100,000,000.

(D) An obligation is described in this subparagraph if—

(i) it is issued on behalf of a university for which the founding grant was signed on November 11, 1885, and

(ii) such obligation is issued for the purpose of providing a Near West Campus Redevelopment Project and a Graduate Student Housing Project.

The aggregate face amount of obligations to which this subparagraph applies shall not exceed $105,000,000.

(E) In the case of obligations to which this paragraph applies, the requirements of sections 147 and 149(c) and (d) shall be treated as included in section 103 and shall apply to such obligations.

(6) The amendments made by section 701 shall not apply to any obligation which is issued as part of an issue substantially all of the proceeds of which are to be used to provide any airport (within the meaning of section 103(b)(4)(D)) if such airport is a midfield airport terminal and accompanying facilities at a major air carrier airport which during April 1980 opened a new precision instrument approach runway 10R28L. The aggregate face amount of obligations to which this paragraph applies shall not exceed $425,000,000.

(7) The amendments made by section 701 shall not apply to any obligation which is issued as part of an issue substantially all of the proceeds of which are to be used to provide a project for 1 of 5 areas and such project is described in subparagraph (A), (B), (C), (D), or (E):

(A) A project is described in this subparagraph if it was the subject of a city ordinance numbered 82-115 and adopted on December 2, 1982, or numbered 9590 and adopted on April 6, 1983. The aggregate face amount of obligations to which this subparagraph applies shall not exceed $9,000,000.

(B) A project is described in this subparagraph if it is a redevelopment project for an area in a city described in paragraph (4)(C) which was designated as commercially blighted on November 14, 1975, by the city council and the redevelopment plan for which will be approved by the city council before July 1, 1986. The aggregate face amount of obligations to which this subparagraph applies shall not exceed $20,000,000.

(C) A project is described in this subparagraph if it is a redevelopment project for an area in a city described in paragraph (4)(C) which was designated as commercially blighted on May 25, 1976, by the city council and the redevelopment plan for which will be approved by the city council before July 1, 1986. The aggregate face amount of obligations to which this subparagraph applies shall not exceed $20,000,000.

(D) A project is described in this subparagraph if it is a redevelopment project for an area in a city described in paragraph (4)(C) which was designated as commercially blighted on March 28, 1979, by the city council and the redevelopment plan for which was approved by the city council on June 20, 1984. The aggregate face amount of obligations to which this subparagraph applies shall not exceed $100,000,000.

(E) A project is described in this subparagraph if it is a redevelopment project for an area in a city described in paragraph (4)(C) which was designated as commercially blighted on September 7, 1985, by the city council and the redevelopment plan for which will be approved by the city council before July 1, 1986. The aggregate face amount of obligations to which this subparagraph applies shall not exceed $20,000,000.

(F) In the case of obligations to which this paragraph applies, the requirements of sections 147 and 149(c) and (d) shall be treated as included in section 103 and shall apply to such obligations.

(8) A convention facility (within the meaning of section 103(b)(4)(C)) shall be treated as a facility specified in a paragraph of section 142(a) if such facility is described in 1 of the following subparagraphs:

(A) A convention facility is described in this subparagraph if—

(i) a feasibility consultant and a design consultant were hired on April 3, 1985, with respect to such facility, and

(ii) a draft feasibility report with respect to such facility was presented on November 3, 1985, to the Mayor of the city in which such facility is to be located.

The aggregate face amount of obligations to which this subparagraph applies shall not exceed $190,000,000. For purposes of this subparagraph, not more than $20,000,000 of obligations issued to advance refund existing convention facility bonds sold on May 12, 1978, shall be treated as obligations described in this subparagraph.

(B) A convention facility is described in this subparagraph if—

(i) an application for a State loan for such facility was approved by the city council on March 4, 1985, and

(ii) the city council of the city in which such facility is to be located approved on March 20, 1985, an application for an urban development action grant.

The aggregate face amount of obligations to which this subparagraph applies shall not exceed $10,000,000.

(C) A convention facility is described in this subparagraph if—

(i) on November 1, 1983, a convention development tax took effect and was dedicated to financing such facility,

(ii) the State supreme court of the State in which the facility is to be located validated such tax on February 8, 1985, and

(iii) an agreement was entered into on November 14, 1985, between the city and county in which such facility is to be located on the terms of the obligations to be issued with respect to such facility.

The aggregate face amount of obligations to which this subparagraph applies shall not exceed $66,000,000.

(D) A convention facility is described in this subparagraph if such facility was initially approved in 1983 and is for San Jose, California. The aggregate face amount of obligations to which this subparagraph applies shall not exceed $100,000,000.

(E) A convention facility is described in this subparagraph if—

(i) such facility is meeting rooms for a convention center, and

(ii) resolutions and ordinances were adopted with respect to such meeting rooms on January 17, 1983, July 11, 1983, December 17, 1984, and September 23, 1985.

The aggregate face amount of obligations to which this subparagraph applies shall not exceed $75,000,000.

(F) A convention facility is described in this subparagraph if—

(i) a resolution expressing intent to issue bonds for such facility was adopted on September 27, 1985,

(ii) a resolution designating the site for such facility was adopted on August 9, 1985, and

(iii) an agreement for concession services with respect to such facility was entered into on July 16, 1983.

The aggregate face amount of obligations to which this subparagraph applies shall not exceed $140,000,000.

(9) Section 149(d)(2) shall not apply to any obligation issued by a State admitted to the Union on November 16, 1907, for the refunding of not more than $186,000,000 State turnpike refunding obligations.

(10) The amendments made by section 701 shall not apply to any obligation issued by a State dormitory authority on behalf of one or more universities described in section 501(c)(3) of such Code and the application by the university for the issuance of such obligation was made before October 27, 1985. The aggregate face amount of obligations to which this paragraph applies shall not exceed $300,000,000. In the case of obligations to which this paragraph applies, the requirements of sections 147 and 149 (c) and (d) shall be treated as included in section 103 and shall apply to such obligations.

(11) The following qualified hospital bonds (within the meaning of section 144(b)) shall not be taken into account under section 145:

(A) Any obligation authorized on May 25, 1984, by the legislature of a noncontiguous State for use by a hospital described in section 501(c)(3) of such Code which was incorporated on April 24, 1925, and opened on May 9, 1927. The aggregate face amount of obligations to which this subparagraph applies shall not exceed $43,000,000.

(B) Any obligation authorized in connection with the merger of 2 hospitals if—

(i) a contract was entered into before December 1, 1985, to sell property of 1 of such hospitals to provide equity funds for such merger, and

(ii) a certificate of need was applied for with the State health commissioner with respect to such hospitals during September of 1983.

The aggregate face amount of obligations to which this subparagraph applies shall not exceed $150,000,000. For purposes of this subparagraph, any obligation for the advance refunding of any prior obligation issued with respect to either of such hospitals shall be treated as an obligation described in the first sentence of this subparagraph.

(C) Any obligation authorized in connection with a project to increase tertiary care facilities if—

(i) the hospital for which such facilities are being financed has been designated as the primary tertiary care provider in the region,

(ii) such hospital has expended $2,000,000 of its budget for feasibility studies and architectural and engineering services, and

(iii) the facilities are designed in four phases, including a seven floor patient tower.

The aggregate face amount of obligations to which this subparagraph applies shall not exceed $150,000,000.

(12) An obligation which is issued as part of an issue substantially all of the proceeds of which are used to provide any dock or wharf (within the meaning of section 103(b)(4)(D)) shall be treated as an exempt facility bond if—

(A) the legislature first authorized on June 29, 1981, the State agency issuing the obligation to issue at least $30,000,000 of obligations,

(B) the developer of the facility was selected on April 26, 1985, and

(C) an inducement resolution for the issuance of such issue was adopted on October 9, 1985.

The aggregate face amount of obligations to which this paragraph applies shall not exceed $200,000,000.

(13) An obligation which is issued as part of an issue substantially all of the proceeds of which are used to provide any dock or wharf (within the meaning of section 103(b)(4)(D)) shall be treated as an exempt facility bond if—

(A) an inducement resolution was adopted on October 17, 1985, for such issue, and

(B) the city council for the city in which the facility is to be located approved on July 30, 1985, an application for an urban development action grant with respect to such facility.

The aggregate face amount of obligations to which this paragraph applies shall not exceed $36,500,000.

(14) A local district heating or cooling facility (within the meaning of section 103(b)(10)) shall be treated as described in a paragraph of section 142(a) if—

(A) the feasibility and design work for such facility was completed on October 10, 1985,

(B) a preliminary inducement resolution was adopted on November 6, 1985, for the issuance of obligations with respect to such facility, and

(C) the authority to enter into long-term electric purchase agreements was granted with respect to such facility on September 13, 1985.

The aggregate face amount of obligations to which this paragraph applies shall not exceed $38,000,000.

(15) A local district heating or cooling facility (within the meaning of section 103(b)(10)) shall be treated as described in a paragraph of section 142(a) if—

(A) requests for proposals with respect to such facility was made before April 13, 1984,

(B) such facility was approved by a county legislature before December 5, 1985, and

(C) excess electric energy generated at such facility is to be sold to a local utility described in section 644(a) of the Tax Reform Act of 1984.

The aggregate face amount of obligations to which this paragraph applies shall not exceed $7,000,000.

(16) A parking facility shall be treated as described in a paragraph of section 142(a) if—

(A) there was an inducement resolution on March 9, 1984, for the issuance of obligations with respect to such facility, and

(B) an application was submitted on January 31, 1984, for an urban development action grant with respect to such facility.

The aggregate face amount of obligations to which this paragraph applies shall not exceed $6,000,000.

(17) A parking facility shall be treated as described in a paragraph of section 142(a) if—

(A) such facility is for a university medical school,

(B) the last parcel of land necessary for such facility was purchased on February 4, 1985, and

(C) the amount of obligations to be issued with respect to such facility was increased by the State legislature of the State in which the facility is to be located as part of its 1983–1984 general appropriations act.

The aggregate face amount of obligations to which this paragraph applies shall not exceed $9,000,000.

(18) Obligations issued with respect to a sewage facility shall not be taken into account under section 145 if—

(A) such facility serves Los Onos, California, and

(B) such facility would be described in subsection (l) were it a solid waste disposal facility.

The aggregate face amount of obligations to which this paragraph applies shall not exceed $35,000,000.

(19) Subsections (d)(3) and (e) of section 147 shall not apply to any obligation or series of obligations the proceeds of which are used exclusively to refund qualified scholarship funding bonds (as defined in section 150) issued before January 1, 1986, if—

(A) the amount of the refunding obligations does not exceed the aggregate face amount of the refunded obligations,

(B) the maturity date of such refunding obligation is not later than later of—

(i) the maturity date of the obligation to be refunded, or

(ii) the date which is 15 years after the date on which the refunded obligation was issued (or, in the case of a series of refundings, the date on which the original obligation was issued),

(C) the obligations to be refunded were issued by the California Student Loan Finance Corporation, and

(D) the face amount of the refunding bonds does not exceed $155,000,000.

(20) The amendments made by section 701 shall not apply to any project for residential rental property if—

(A) an urban development action grant application with respect to such project was submitted on September 13, 1984,

(B) a zoning commission map amendment was granted on July 17, 1985, and

(C) the number assigned to such project by the Federal Housing Administration is 023-36602.

The aggregate face amount of obligations to which this paragraph applies shall not exceed $122,000,000. In the case of obligations to which this paragraph applies, the requirements of sections 147 and 149(c) and (d) shall be treated as included in section 103 and shall apply to such obligations.

(21) The amendments made by section 701 shall not apply to any qualified student loan bonds (as defined in section 144) issued by the Volunteer State Student Assistance Corporation. The aggregate face amount of obligations to which this paragraph applies shall not exceed $90,000,000. In the case of obligations to which this paragraph applies, the requirements of sections 147 and 149(c) and (d) shall be treated as included in section 103 and shall apply to such obligations.

(22) Subsection (a) of section 141 shall be applied by substituting '25 percent' for '10 percent' in paragraph (1)(B) and without regard to paragraph (2) in the case of an issue the proceeds of which are to be used to purchase electric capacity on an intertie line if—

(A) the authority purchasing such capacity was formed on May 19, 1985, and was granted the authority to purchase such capacity on October 22, 1985, and

(B) the amount of capacity to be purchased is approximately 33 megawatts.

The aggregate face amount of obligations to which this paragraph applies shall not exceed $50,000,000.

(23)(A) The treatment of annuity contracts as investment property under section 147(b)(2) shall not apply to any obligation issued by a city located in a noncontiguous State if—

(i) the authority to acquire such a contract was approved on September 24, 1985, by city ordinance A085-176, and

(ii) formal bid requests for such contracts were mailed to insurance companies on September 6, 1985.

The aggregate face amount of obligations to which this paragraph applies shall not exceed $57,000,000.

(B) The treatment of annuity contracts as investment property under section 147(b)(2) shall not apply to any obligation issued by a city to purchase an annuity contract to fund a police and fire pension fund of which there are 157 beneficiaries if—

(i) formal bid requests for contracts for such an annuity were issued on August 5, 1985, and

(ii) the fund is closed to new members.

The aggregate face amount of obligations to which this subparagraph applies shall not exceed $40,000,000.

(C) The treatment of annuity contracts as investment property under section 147(b)(2) of such Code shall not apply to any obligation approved by the City Council of Santa Ana, California, on September 24, 1985. The aggregate face amount of obligation to which this subparagraph applies shall not exceed $50,000,000.

(D) The treatment of annuity contracts as investment property under section 147(b)(2) of such Code shall not apply to any obligation issued by the South Dakota Building Authority if on September 17, 1985, such authority approved requests for proposals from insurance companies. The aggregate face amount of obligations to which this subparagraph applies shall not exceed $175,000,000.

(24) The amendments made by section 701 shall not apply to any solid waste disposal facility which meets the requirements of subsection (l) if—

(A) construction of such facility was approved by State law I.C. 36-9-31,

(B) there was an inducement resolution on November 19, 1984, for the obligations with respect to such facility, and

(C) a carryforward election of unused 1984 volume cap was made for such project on February 25, 1985.

The aggregate face amount of obligations to which this paragraph applies shall not exceed $120,000,000. In the case of obligations to which this paragraph applies, the requirements of sections 147 and 149(c) and (d) shall be treated as included in section 103 and shall apply to such obligations.

(25) There shall not be taken into account under section 145 any refunding of bond anticipation notes—

(A) issued in December of 1984 by the Rhode Island Housing and Mortgage Finance Corporation,

(B) which mature in December of 1986,

(C) which is not an advance refunding within the meaning of section 149(c)(3) (determined by substituting "180 days" for "30 days" therein), and

(D) the aggregate face amount of the refunding obligations does not exceed $25,500,000.

(26) The amendments made by section 701 shall not apply to any project for residential rental property if—

(A) an inducement resolution with respect to such project was adopted by the State housing development authority on January 18, 1985, and

(B) such project was the subject of law suits filed on June 22, 1984, and November 21, 1985.

The aggregate face amount of obligations to which this paragraph applies shall not exceed $64,000,000. In the case of obligations to which this paragraph applies, the requirements of sections 147 and 149 (c) and (d) shall not be treated as included in section 103 and shall apply to such obligations.

(27) This subsection shall not apply to any obligation issued after December 31, 1987.

(n) Certain Bonds Not Taken Into Account Under Volume Cap.—An obligation described in subsection (l) or (m) shall not be taken into account under section 145 of the Internal Revenue Code of 1954 (relating to volume cap), as added by section 701, if—

(1) section 103(n) of such Code (relating to limitation on aggregate amount of private activity bonds issued during any calendar year), as in effect before the date of the enactment of this Act, would not have applied to such obligation were such obligation issued during 1985, or

(2) section 145 of such Code (as so added) would not apply to such obligation if "January 1, 1986" were substituted for "November 1, 1985" in subsection (e) of this section.

(o) Treatment of Certain Refundings.—

(1) Section 149(d)(1) of such Code shall not apply to any obligation issued for the advance refunding of any obligation which would be an industrial development bond but for the fact that the exempt person with respect to such issue is a person described in section 103(b)(3) of such Code, as in effect before the enactment of this Act, if—

(A) the refunded obligation is issued before January 1, 1986,

(B) such refunding occurs solely to delete a covenant which is in conflict with an amendment to Federal law or administrative implementation thereof,

(C) the issuer certifies to the Secretary the Federal law creating such conflict, and

(D) such refunding meets the requirements of section 149(d)(2) of such Code.

(2)(A) Section 149(d)(1) of such Code shall not apply to any obligation issued for the advance refunding of any obligation which when issued was not described in paragraph (B) if—

(i) the refunded obligation is issued before January 1, 1986, and

(ii) such refunding meets the requirements of section 149(d)(2) of such Code.

(B) An obligation is described in this subparagraph if such obligation is an industrial development bond, a qualified mortgage bond, a qualified veterans' mortgage bond, a private loan bond, a bond described in paragraph (1), or any obligation described in section 103(m) of such Code (including paragraph (3) thereof), as in effect before the enactment of this Act, if the use of the proceeds of the refunded bond was comparable to the use of proceeds of any other bond described in this subparagraph.

(3) Any obligation to which section 149(d)(1) of such Code does not apply by reason of this subsection shall be treated as a nonessential function bond for purposes of section 145 of such Code (to the extent of the nongovernmental use of the proceeds thereof).

(p) Treatment of Obligations Subject to Transitional Rules Under Tax Reform Act of 1984.—

(1) Section 145 of such Code (as added by section 701) shall not apply to any qualified veterans' mortgage bond described in section 611(d)(3)(C) of the Tax Reform Act of 1984.

(2) Subsections (d)(3) and (e) of section 147 of such Code (as added by section 701)

shall not apply to any obligation described in section 624(c)(2) of the Tax Reform Act of 1984.

(3) The amendments made by section 701 shall not apply to any obligation to which section 629(a)(1) of the Tax Reform Act of 1984 applies but such obligations shall be treated as nonessential function bonds for purposes of section 145 of such Code.

(4)(A) There shall not be taken into account under section 145 of such Code (as added by section 701) any obligation described in the paragraph (3) of section 631(a) of the Tax Reform Act of 1984 relating to exception for certain bonds for a convention center and resource recovery project.

(B) If an obligation which is issued as part of an issue substantially all of the proceeds of which are used to provide the convention center to which such paragraph (3) applies, such obligation shall be treated as an exempt facility bond as defined in section 142(a) of such Code (as added by section 701).

(C) If an obligation which is issued as part of an issue substantially all of the proceeds of which are used to provide the resource recovery project to which paragraph (3) applies, such obligation shall be treated as an exempt facility bond as defined in section 142(a) of such Code (as added by section 701).

(5) The amendments made by section 701 shall not apply to obligations issued to finance any property described in section 631(d)(4) of the Tax Reform Act of 1984.

(6) The amendments made by section 701 shall not apply to any obligation issued to finance property described in section 631(d)(5) of the Tax Reform Act of 1984. In the case of obligations to which this paragraph applies, the requirements of sections 147 and 149(c) and (d) shall be treated as included in section 103 (as in effect before the enactment of this Act) and shall apply to such obligations.

(7) Sections 147 and 149 (other than subsections (b) and (c) thereof) of such Code (as added by section 701) shall not apply to any obligation described in paragraph (2), (3), (4), (5), (6), or (7) of section 632(a), or section 632(b), of the Tax Reform Act of 1984 and issued before January 1, 1987.

(8) In the case of an obligation described in section 632(c)—

(A) section 141(a) of such Code (as added by section 701) shall be applied without regard to paragraphs (1)(A) and (2) thereof and by substituting "25 percent" for "10 percent" in paragraph (1)(B) thereof, and

(B) section 149(a) of such Code (as so added) shall not apply.

(9) The amendments made by section 701 shall not apply to any obligation to which section 632(g)(2) of the Tax Reform Act of 1984 applies. In the case of obligations to which this paragraph applies, the requirements of sections 147 and 149(c) and (d) shall be treated as included in section 103 of such Code (as in effect before the enactment of this Act) and shall apply to such obligations.

(10) The preceding provisions of this subsection shall not apply to any obligation issued after December 31, 1987.

(11) The amendments made by section 701 shall not apply to any mortgage subsidy bond to which the amendments made by section 1102 of the Mortgage Subsidy Bond Tax Act of 1980 do not apply.

(q) Transition Rule for Refunding Certain Housing Bonds.—Sections 145 and 149(d) of the Internal Revenue Code of 1985 shall not apply to the refunding of any obligation issued under section 11(b) of the Housing Act of 1937 before December 31, 1983, if—

(1) the obligation has an original term to maturity of at least 40 years,

(2) the maturity date of the refunding obligations does not exceed the maturity date of the refunded obligations,

(3) the amount of the refunding obligations does not exceed the outstanding amount of the refunded obligations,

(4) the interest rate on the refunding obligations is lower than the interest rate of the refunded obligations, and

(5) the refunded bond is required to be redeemed not later than the earliest date on which such bond could be redeemed at par.

TITLE VIII—FINANCIAL INSTITUTIONS

SEC. 801. LIMITATIONS ON BAD DEBT RESERVES.

(a) Large Banks Not Eligible for Bad Debt Reserves.—

(1) In general.—Subsection (a) of section 585 (relating to reserves for losses on loans of banks) is amended to read as follows:

"(a) Reserve for Bad Debts.—

"(1) In general.—Except as provided in subsection (c), a bank shall be allowed a deduction for a reasonable addition to a reserve for bad debts. Such deduction shall be in lieu of any deduction under section 166(a).

"(2) Bank.—For purposes of this section—

"(A) In general.—The term 'bank' means any bank (as defined in section 581) other than an organization to which section 593 applies.

"(B) Banking business of United States branch of foreign corporation.—The term 'bank' also includes any corporation to which subparagraph (A) would apply except for the fact that it is a foreign corporation. In the case of any such foreign corporation, this section shall apply only with respect to loans outstanding the interest on which is effectively connected with the conduct of a banking business within the United States."

(2) Reserve deduction not available for large banks.—Section 585 is amended by adding at the end thereof the following new subsection:

"(c) Section Not To Apply to Large Banks.—

"(1) In general.—In the case of a large bank, this section shall not apply (and no deduction shall be allowed under any other provision of this subtitle for any addition to a reserve for bad debts).

"(2) Large banks.—For purposes of this subsection, a bank is a large bank if, for the taxable year (or for any preceding taxable year beginning after December 31, 1985)—

"(A) the average adjusted bases of all assets of such bank exceeded $500,000,000, or

"(B) such bank was a member of a parent-subsidiary controlled group and the average adjusted bases of all assets of such group exceeded $500,000,000.

"(3) 5-year spread of adjustments.—Except as provided in paragraph (4), in the case of any bank which for its last taxable year before the disqualification year maintained a reserve for bad debts—

"(A) the provisions of this subsection shall be treated as a change in the method of accounting of such bank for the disqualification year,

"(B) such change shall be treated as having been made with the consent of the Secretary, and

"(C) the net amount of adjustments required by section 481(a) to be taken into account by the taxpayer shall be taken into account in each of the 5 taxable years beginning with the disqualification year with—

"(i) the amount taken into account for the 1st of such taxable years being the greater of ⅕ of such net amount or such greater amount as the taxpayer may designate, and

"(ii) the amount taken into account in each of the 4 succeeding taxable years being equal to ¼ of the portion of such net amount not taken into account under clause (i).

"(4) Elective cut-off method.—If a bank makes an election under this paragraph for the disqualification year—

"(A) the provisions of this subsection shall not be treated as a change in the method of accounting of the taxpayer for purposes of section 481,

"(B) the taxpayer shall continue to maintain its reserve for loans held by the bank as of the 1st day of the disqualification year, and

"(C) no deduction shall be allowed under this section (or any other provision of this subtitle) for any addition to such reserve for the disqualification year or any subsequent taxable year.

"(5) Definitions.—For purposes of this subsection—

"(A) Parent-subsidiary controlled group.—The term 'parent-subsidiary controlled group' means any controlled group of corporations described in section 1563(a)(1). In determining the average adjusted bases of assets held by such a group, interests held by one member of such group in another member of such group shall be disregarded.

"(B) Disqualification year.—The term 'disqualification year' means, with respect to any bank, the 1st taxable year beginning after December 31, 1985, for which such bank was a large bank if such bank maintained a reserve for bad debts for the preceding taxable year."

(b) Reserves of Domestic Building and Loan Associations, Mutual Savings Banks, and Cooperative Banks.—

(1) In general.—Subsection (a) of section 593 (relating to reserves for losses on loans) is amended to read as follows:

"(a) Reserve for Bad Debts.—

"(1) In general.—Except as provided in paragraph (2), in the case of—

"(A) any domestic building and loan association,

"(B) any mutual savings bank, or

"(C) any cooperative bank without capital stock organized and operated for mutual purposes and without profit,

there shall be allowed a deduction for a reasonable addition to a reserve for bad debts. Such deduction shall be in lieu of any deduction under section 166(a).

"(2) Organization must meet 60-percent asset test of section 7701(a)(19).—This section shall apply to an association or bank referred to in paragraph (1) only if it meets the requirements of section 7701(a)(19)(C)."

(2) Limitation on percentage of taxable income method.—Paragraph (2) of section 593(b) (relating to percentage of taxable income method) is amended—

(A) by striking out subparagraphs (A), (B), and (C) and inserting in lieu thereof the following:

"(A) In general.—Subject to subparagraphs (B) and (C), the amount determined under this paragraph for the taxable year shall be an amount equal to 5 percent of the taxable income for such year.

"(B) Reduction for amounts referred to in paragraph (1)(A).—The amount determined under subparagraph (A) shall be reduced (but not below 0) by the amount determined under paragraph (1)(A).", and

(B) by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively.

(3) Repeal of percentage method of computing reserves for bad debts.—Subsection (b) of section 593 (relating to addition to reserves for bad debts) is amended by striking out paragraphs (3) and (5) and by redesignating paragraph (4) as paragraph (3).

(4) Section 593 reserves not treated as preference for purposes of section 291.—Subparagraph (A) of section 291(e)(1) (defining financial institution preference item) is amended by striking out "or 593".

(c) Repeal of Section 586.—Section 586 (relating to reserves for losses on loans of small business investment companies, etc.) is hereby repealed.

(d) Conforming Amendments.—

(1) Amendment to section 585.—Paragraph (1) of section 585(b) is amended by striking out "section 166(c)" and inserting in lieu thereof "subsection (a)".

(2) Amendments to section 593.—

(A) Paragraph (1) of section 593(b) is amended by striking out "section 166(c)" and inserting in lieu thereof "subsection (a)".

(B) Subparagraph (B) of section 593(b)(1) is amended—

(i) by striking out "paragraph (2), (3), or (4)" and inserting in lieu thereof "paragraph (2) or (3)", and

(ii) by striking out "paragraph (4)" in clause (i) and inserting in lieu thereof "paragraph (3)".

(C) Subparagraph (B) of section 593(e)(1) is amended by striking out "subsection (b)(4)" and inserting in lieu thereof "subsection (b)(3)".

(3) Bonds, etc., losses and gains of financial institutions.—

(A) Paragraph (1) of section 582(c) (relating to bonds, etc., losses and gains of financial institutions) is amended by striking out "a financial institution to which section 585, 586, or 593 applies" and inserting in lieu thereof "a financial institution referred to in paragraph (5)".

(B) Subsection (c) of section 582 is amended by adding at the end thereof the following new paragraph:

"(5) Financial institutions to which paragraph (1) applies.—

"(A) In general.—For purposes of paragraph (1), the financial institutions referred to in this paragraph are—

"(i) any bank (and any corporation which would be a bank except for the fact it is a foreign corporation),

"(ii) any financial institution referred to in section 591,

"(iii) any small business investment company operating under the Small Business Investment Act of 1958, and

"(iv) any business development corporation.

"(B) Business development corporation.—For purposes of subparagraph (A), the term 'business development corporation' means a corporation which was created by or pursuant to an act of a State legislature for purposes of promoting, maintaining, and assisting the economy and industry within such State on a regional or statewide basis by making loans to be used in trades and businesses which would generally not be made by banks within such region or State in the ordinary course of their business (except on the basis of a partial participation), and which is operated primarily for such purposes.

"(C) Limitations on foreign banks.—In the case of a foreign corporation referred to in subparagraph (A)(i), paragraph (1) shall only apply to gains and losses which are effectively connected with the conduct of a banking business in the United States."

(e) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1985.

SEC. 902. INTEREST INCURRED TO CARRY TAX-EXEMPT BONDS.

(a) General Rule.—Section 265 (relating to expenses and interest relating to tax-exempt income) is amended by adding at the end thereof the following new subsection:

"(b) Pro Rata Allocation of Interest Expense of Financial Institutions to Tax-Exempt Interest.—

"(1) In general.—In the case of a financial institution, no deduction shall be allowed for that portion of the taxpayer's interest expense which is allocable to tax-exempt interest.

"(2) Allocation.—For purposes of paragraph (1), the portion of the taxpayer's interest expense which is allocable to tax-exempt interest is an amount which bears the same ratio to such interest expense as—

"(A) the taxpayer's average adjusted bases (within the meaning of section 1016) of tax-exempt obligations acquired after December 31, 1985, bears to

"(B) such average adjusted bases for all assets of the taxpayer.

"(3) Definitions.—For purposes of this subsection—

"(A) Interest expense.—The term 'interest expense' means the aggregate amount allowable to the taxpayer as a deduction for interest for the taxable year (determined without regard to this subsection and section 291). For purposes of the preceding sentence, the term 'interest' includes amounts (whether or not designated as interest) paid in respect of deposits, investment certificates, or withdrawable or repurchasable shares.

"(B) Tax-exempt obligation.—The term 'tax-exempt obligation' means any obligation the interest on which is wholly exempt from taxes imposed by this subtitle. Such term includes shares of stock of a regulated investment company which during the taxable year of the holder thereof distributes exempt-interest dividends.

"(4) Financial institution.—For purposes of this subsection, the term 'financial institution' means any person who—

"(A) accepts deposits from the public in the ordinary course of such person's trade or business, and is subject to Federal or State supervision as a financial institution, or

"(B) is a corporation described in section 585(a)(2).

"(5) Special rules.—

"(A) Coordination with subsection (a).—If interest on any indebtedness is disallowed under subsection (a) with respect to any tax-exempt obligation—

"(i) such disallowed interest shall not be taken into account for purposes of applying this subsection, and

"(ii) for purposes of applying paragraph (2), the adjusted basis of such tax-exempt obligation shall be reduced (but not below zero) by the amount of such indebtedness.

"(B) Coordination with section 263A.—This section shall be applied before the application of section 263A (relating to capitalization of certain expenses where taxpayer produces property)."

(b) Repeal of Special Treatment for Certain Financial Institutions.—Paragraph (2) of section 265 (as in effect on the day before the date of the enactment of this Act) is amended by striking out the second sentence.

(c) Termination of Reduction in Deduction for Interest Allocable to Tax-Exempt Obligations Under Section 291.—

(1) In general.—Clause (i) of section 291(e)(1)(B) (relating to interest on debt to carry tax-exempt obligations acquired after December 31, 1982) is amended by striking out "after December 31, 1982" and inserting in lieu thereof "after December 31, 1982, and before January 1, 1986".

(2) Technical amendments.—Subparagraph (B) of section 291(e)(1) is amended—

(A) by striking out "(but for this paragraph)" in clause (i) and inserting in lieu thereof "(but for this paragraph or section 265(b))",

(B) by striking out "without regard to this section" in clause (ii) and inserting in lieu thereof "without regard to this section and section 265(b)", and

(C) by striking out "AFTER DECEMBER 31, 1982" in the subparagraph heading and inserting in lieu thereof "AFTER DECEMBER 31, 1982, AND BEFORE JANUARY 1, 1986".

(d) Clerical Amendment.—Section 265 is amended by striking out "No deduction shall be allowed for—" and inserting in lieu thereof the following:

"(a) General Rule.—No deduction shall be allowed for—".

(e) Effective Date.—

(1) In general.—Except as provided in this subsection, the amendments made by this section shall apply to obligations acquired after December 31, 1985, in taxable years ending after such date.

(2) Obligations acquired pursuant to certain commitments.—For purposes of paragraph (1), any tax-exempt obligation which is acquired after December 31, 1985, pursuant to a direct or indirect written commitment—

(A) to purchase or repurchase such obligation, and

(B) entered into before September 25, 1985,

shall be treated as an obligation acquired before January 1, 1986.

(3) Exception for certain tax-exempt obligations.—

(A) In general.—In the case of any qualified tax-exempt obligation acquired by the taxpayer after December 31, 1985, and before January 1, 1989, for purposes of sections 265(b) and 291(e)(1)(B) of the Internal Revenue Code of 1954 (as amended by this section), such obligation shall be treated as if it were acquired by the taxpayer before January 1, 1986.

(B) Qualified tax-exempt obligation.—For purposes of subparagraph (A), the term 'qualified tax-exempt obligation' means a tax-exempt obligation which—

(i) is issued during calendar year 1986, 1987, or 1988,

(ii) is not a nonessential function bond (as defined in section 141),

(iii) is acquired by a person authorized by State law to do business as a financial institution in the State of the issuer, and

(iv) is a qualified tax anticipation note or qualified project bond and is designated by the issuer for purposes of this paragraph.

For purposes of the preceding sentence, a qualified 501(c)(3) bond (as defined in section 143) shall not be treated as a nonessential function bond.

(C) Limitation on issuer.—An obligation issued by an issuer during any calendar year shall not be treated as a qualified tax-exempt obligation unless—

(i) such issuer is a political subdivision in existence on October 23, 1985, and

(ii) the reasonably anticipated amount of qualified tax-exempt obligations which will be issued by such issuer during such calendar year does not exceed $10,000,000.

(D) Qualified tax anticipation note.—For purposes of this paragraph, the term 'qualified tax anticipation note' means any tax anticipation note which has a term not in excess of 12 months.

(E) Qualified project bond.—The term 'qualified project bond' means any obligation issued to provide project financing and part of an issue not exceeding $3,000,000. In determining the amount of an issue for the purpose of the preceding sentence, all issues with a common purpose shall be aggregated.

(F) Overall $10,000,000 limitation.—Not more than $10,000,000 of obligations issued by an issuer during any calendar year may be designated by such issuer for purposes of this paragraph.

SEC. 803. TERMINATION OF SPECIAL 10-YEAR CARRYBACK RULES FOR CERTAIN FINANCIAL INSTITUTIONS.

(a) General Rule.—

(1) Subparagraph (F) of section 172(b)(1) (relating to years to which loss may be carried) is amended by striking out "after December 31, 1975," and inserting in lieu thereof "after December 31, 1975, and before January 1, 1986,".

(2) Subparagraph (G) of section 172(b)(1) is amended by striking out "after December 31, 1969," and inserting in lieu thereof "after December 31, 1969, and before January 1, 1986,".

(3) Subparagraph (H) of section 172(b)(1) is amended—

(A) by striking out "after December 31, 1981," and inserting in lieu thereof "after December 31, 1981, and before January 1, 1986,", and

(B) by striking out "after December 31, 1984," and inserting in lieu thereof "after December 31, 1984, and before January 1, 1986,".

(b) Effective Date.—The amendments made by subsection (a) shall apply to losses incurred in taxable years beginning after December 31, 1985.

SEC. 804. REPEAL OF SPECIAL REORGANIZATION RULES FOR FINANCIAL INSTITUTIONS.

(a) General Rule.—Subparagraph (D) of section 368(a)(3) (relating to agency receivership proceedings which involve financial institutions) is amended to read as follows:

"(D) Agency receivership proceedings which involve financial institutions.—For purposes of subparagraphs (A) and (B), in the case of a receivership, foreclosure, or similar proceeding before a Federal or State agency involving a financial institution referred to in section 581 or 591, the agency shall be treated as a court."

(b) Repeal of Special Treatment for FSLIC Financial Assistance.—

(1) Section 597 (relating to FSLIC financial assistance) is hereby repealed.

(2) The table of sections for part II of subchapter H of chapter 1 is amended by striking out the item relating to section 597.

(c) Effective Dates.—

(1) Subsection (a).—The amendments made by subsection (a) shall apply to acquisitions after December 31, 1985, in taxable years ending after such date.

(2) Subsection (b).—

(A) In general.—The amendments made by subsection (b) shall apply to transfers after December 31, 1985, in taxable years ending after such date; except that such amendments shall not apply to transfers after such date pursuant to a written binding contract entered into on or before September 26, 1985.

(B) Clarification of treatment of amounts excluded under section 597.—Section 265(a)(1) of the Internal Revenue Code of 1985 (as amended by this title) shall not deny any deduction by reason of such deduction being allocable to amounts excluded from gross income under section 597 of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act).

SEC. 805. TREATMENT OF LOSSES ON DEPOSITS OR ACCOUNTS IN INSOLVENT FINANCIAL INSTITUTIONS.

(a) In General.—Section 165 (relating to losses) is amended by redesignating subsection (l) as subsection (m) and by inserting after subsection (k) the following new subsection:

"(l) Treatment of Certain Losses in Insolvent Financial Institutions.—

"(1) In general.—If

"(A) as of the close of the taxable year, it can reasonably be estimated that there is a loss on a qualified individual's deposit in a qualified financial institution, and

"(B) such loss is on account of the bankruptcy or insolvency of such institution,

then the taxpayer may elect to treat the amount so estimated as a loss described in subsection (c)(3) incurred during the taxable year.

"(2) Qualified individual defined.—For purposes of this subsection, the term 'qualified individual' means any individual, except an individual—

"(A) who owns at least 1 percent in value of the outstanding stock of the qualified financial institution,

"(B) who is an officer of the qualified financial institution,

"(C) who is a sibling (whether by the whole or half blood), spouse, aunt, uncle, nephew, niece, ancestor, or lineal descendant of an individual described in subparagraph (A) or (B), or

"(D) who otherwise is a related person (as defined in section 267(b)) with respect to an individual described in subparagraph (A) or (B).

"(3) Qualified financial institution.—For purposes of this subsection, the term 'qualified financial institution' means—

"(A) any bank (as defined in section 581),

"(B) any institution described in section 591,

"(C) any credit union the deposits or accounts in which are insured under Federal or State law or are protected or guaranteed under State law, or

"(D) any similar institution chartered and supervised under Federal or State law.

"(4) Deposit.—For purposes of this subsection, the term 'deposit' means any deposit, withdrawable account, or withdrawable or repurchasable share.

"(5) Election.—Any election by the taxpayer under this subsection may be revoked only with the consent of the Secretary and shall apply to all losses of the taxpayer on deposits in the institution with respect to which such election was made.

"(6) Coordination with section 166.—Section 166 shall not apply to any loss to which an election under this subsection applies.".

(b) Effective Date.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1982.

TITLE IX—ACCOUNTING PROVISIONS

Subtitle A—General Provisions

SEC. 901. SIMPLIFIED DOLLAR-VALUE LIFO METHOD FOR CERTAIN SMALL BUSINESSES.

(a) General Rule.—Section 474 (relating to election by certain small businesses to use one inventory pool) is amended to read as follows:

"SEC. 474. SIMPLIFIED DOLLAR-VALUE LIFO METHOD FOR CERTAIN SMALL BUSINESSES.

"(a) General Rule.—An eligible small business may elect to use the simplified dollar-value method of pricing inventories for purposes of the LIFO method.

"(b) Simplified Dollar-Value Method of Pricing Inventories.—For purposes of this section—

"(1) In general.—The simplified dollar-value method of pricing inventories is a dollar-value method of pricing inventories under which—

"(A) the taxpayer maintains a separate inventory pool for items in each major category in the applicable Government price index, and

"(B) the adjustment for each such separate pool is based on the change from the preceding taxable year in the component of such index for the major category.

"(2) Applicable government price index.—The term 'applicable Government price index' means—

"(A) except as provided in subparagraph (B), the Producer Price Index published by the Bureau of Labor Statistics, or

"(B) in the case of a retailer using the retail method, the Consumer Price Index published by the Bureau of Labor Statistics.

"(3) Major category.—The term 'major category' means—

"(A) in the case of the Producer Price Index, any of the 2-digit standard industrial classifications in the Producer Prices Data Report, or

"(B) in the case of the Consumer Price Index, any of the general expenditure categories in the Consumer Price Index Detailed Report.

"(c) Eligible Small Business.—For purposes of this section, a taxpayer is an eligible small business for any taxable year if the average annual gross receipts of the taxpayer for the 3 preceding taxable years do not exceed $5,000,000. For purposes of the preceding sentence, rules similar to the rules of section 448(c)(3) shall apply.

"(d) Special Rules.—For purposes of this section—

"(1) Controlled groups.—

"(A) In general.—In the case of a taxpayer which is a member of a controlled group, all persons which are component members of such group shall be treated as 1 taxpayer for purposes of determining the gross receipts of the taxpayer.

"(B) Controlled group defined.—For purposes of subparagraph (A), persons shall be treated as being component members of a controlled group if such persons would be treated as a single employer under the regulations prescribed under section 52(b).

"(2) Election.—

"(A) In general.—The election under this section may be made without the consent of the Secretary.

"(B) Period to which election applies.—The election under this section shall apply—

"(i) to the taxable year for which it is made, and

"(ii) to all subsequent taxable years for which the taxpayer is an eligible small business,

unless the taxpayer secures the consent of the Secretary to the revocation of such election.

"(3) LIFO method.—The term 'LIFO method' means the method provided by section 472(b).

"(4) Transitional rules.—

"(A) In general.—In the case of a year of change under this section—

"(i) the inventory pools shall—

"(I) in the case of the 1st taxable year to which such an election applies, be established in accordance with the major categories in the applicable Government price index, or

"(II) in the case of the 1st taxable year after such election ceases to apply, be established in the manner provided by regulations under section 472;

"(ii) the aggregate dollar amount of the taxpayer's inventory as of the beginning of the year of change shall be the same as the aggregate dollar value as of the close of the taxable year preceding the year of change, and

"(iii) the year of change shall be treated as a new base year in accordance with procedures provided by regulations under section 472.

"(B) Year of change.—For purposes of this paragraph, the year of change under this section is—

"(i) the 1st taxable year to which an election under this section applies, or

"(ii) in the case of a cessation of such an election, the 1st taxable year after such election ceases to apply."

(b) Clerical Amendment.—The table of sections for subpart D of part II of subchapter E of chapter 1 is amended by striking out the item relating to section 474 and inserting in lieu thereof the following:

"Sec. 474. Simplified dollar-value LIFO method for certain small businesses."

(c) Effective Dates.—

(1) In general.—The amendments made by this section shall apply to taxable years beginning after December 31, 1985.

(2) Treatment of taxpayers who made elections under existing section 474.—The amendments made by this section shall not apply to any taxpayer who made an election under section 474 of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act) for any period during which such election is in effect. Notwithstanding any provision of such section 474 (as so in effect), an election under such section may be revoked without the consent of the Secretary.

SEC. 902. LIMITATION ON USE OF CASH METHOD OF ACCOUNTING.

(a) General Rule.—Subpart A of part II of subchapter E of chapter 1 (relating to methods of accounting) is amended by adding at the end thereof the following new section:

"SEC. 448. LIMITATION ON USE OF CASH METHOD OF ACCOUNTING.

"(a) General Rule.—Except as otherwise provided in this section, in the case of a—

"(1) C corporation, or

"(2) partnership which has a C corporation as a partner,

taxable income shall not be computed under the cash receipts and disbursements method of accounting.

"(b) Exceptions.—

"(1) Farming business.—Subsection (a) shall not apply to any farming business.

"(2) Qualified personal service corporations.—Subsection (a) shall not apply to a qualified personal service corporation, and such a corporation shall be treated as an individual for purposes of determining whether subsection (a) applies to any partnership.

"(3) Entities with gross receipts of not more than $5,000,000.—Subsection (a) shall not apply to any corporation or partnership for any taxable year if, for all prior taxable years, such entity (or any predecessor) did not meet the $5,000,000 gross receipts test of subsection (c).

"(c) $5,000,000 Gross Receipts Test.—For purposes of this section—

"(1) In general.—A corporation or partnership meets the $5,000,000 gross receipts test of this subsection for any prior taxable year if the average annual gross receipts of such entity for the 3-taxable-year period ending with such taxable year exceeds $5,000,000.

"(2) Aggregation rules.—All persons treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (o) of section 414 shall be treated as one person for purposes of paragraph (1).

"(3) Special rules.—For purposes of this subsection—

"(A) Not in existence for entire 3-year period.—If the entity was not in existence for the entire 3-year period referred to in paragraph (1), such paragraph shall be applied on the basis of the period during which such entity (or trade or business) was in existence.

"(B) Short taxable years.—Gross receipts for any taxable year of less than 12 months shall be annualized by multiplying the gross receipts for the short period by 12 and dividing the result by the number of months in the short period.

"(C) Gross receipts.—Gross receipts for any taxable year shall be reduced by returns and allowances made during such year.

"(d) Definitions and Special Rules.—

"(1) Farming business.—For purposes of this section, the term 'farming business' has the meaning given to such term by section 263A(d)(4).

"(2) Qualified personal service corporation.—For purposes of this section, the term 'qualified personal service corporation' means any corporation—

"(A) if substantially all of the activities of the corporation involve the performance of services in the fields of health, law, engineering, architecture, accounting, actuarial science, performing arts, or consulting, and

"(B) substantially all of the stock of such corporation is held by—

"(i) employees performing services for such corporation in a field referred to in subparagraph (A),

"(ii) retired employees who had performed such services for such corporation,

"(iii) the estate of any individual described in clause (i) or (ii), or

"(iv) any other person who acquired such stock by reason of the death of an individual described in clause (i) or (ii) (but only for the 2-year period beginning on the date of the death of such individual).

The preceding sentence shall be applied without regard to community property laws.

"(3) Special rules for services.—

"(A) In general.—In the case of any person using an accrual method of accounting with respect to amounts to be received for the performance of services by such person—

"(i) such person shall not be required to accrue such amounts earlier than when billed, and

"(ii) such person shall not be required to accrue any portion of such amounts which (on the basis of experience) will not be collected.

Clause (ii) shall not apply to any amount if interest is required to be paid on such amount or there is any penalty for failure to timely pay such amount.

"(B) Exceptions for financial institutions and utilities.—In the case of—

"(i) a financial institution described in section 581 or 593(a), clauses (i) and (ii) of subparagraph (A) shall not apply, and

"(ii) a utility, clause (i) of subparagraph (A) shall not apply.

"(4) Treatment of certain trusts subject to tax on unrelated business income.—For purposes of this section, a trust subject to tax under section 511(b) shall be treated as a C corporation with respect to its activities constituting an unrelated trade or business.

"(5) Coordination with section 481.—In the case of any taxpayer required by this section to change its method of accounting for any taxable year—

"(A) such change shall be treated as initiated by the taxpayer,

"(B) such change shall be treated as made with the consent of the Secretary, and

"(C) the period for taking into account the adjustments under section 481 by reason of such change shall not exceed 5 years (10 years in the case of a hospital described in section 144(b)(3))."

(b) Amendment to Economic Performance Rules.—Clause (i) of section 461(h)(2)(A) (relating to services provided to the taxpayer) is amended to read as follows:

"(i) the providing of services to the taxpayer by another person—

"(I) economic performance occurs as such person performs such services if such person is an employee of the taxpayer, and

"(II) in any other case, economic performance occurs as of the later of when such services are performed or the taxpayer is billed for such services,".

(c) Clerical Amendment.—The table of sections for subpart A of part II of subchapter E of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 448. Limitation on use of cash method of accounting."

(d) Effective Date.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1985.

(2) Election to retain cash method for certain transactions.—A taxpayer may elect not to have the amendments made by this section apply to any loan or lease, or any transaction with a related party, entered into before September 25, 1985. Any election under the preceding sentence may be made separately with respect to each transaction.

SEC. 903. RECOGNITION OF GAIN ON PLEDGES OF INSTALLMENT OBLIGATIONS.

(a) General Rule.—Subpart B of part II of subchapter E of chapter 1 (relating to taxable year for which item of gross income included) is amended by inserting after section 453B the following new section:

"SEC. 453C. PLEDGES, ETC., OF INSTALLMENT OBLIGATIONS.

"(a) General Rule.—For purposes of sections 453 and 453A, if any indebtedness (hereinafter in this section referred to as 'secured indebtedness') is secured by an installment obligation, the ratable portion of the net proceeds of the secured indebtedness shall be treated as a payment received on such installment obligation at the time the indebtedness becomes secured indebtedness.

"(b) Exception for Certain Sales of Capital Assets.—

"(1) In general.—Subsection (a) shall not apply with respect to an installment obligation received for the sale or exchange of tangible property if such property was a capital asset at all times during the taxpayer's holding period for such property.

"(2) Exception for tax shelters.—Paragraph (1) shall not apply to any sale or exchange by a tax shelter (as defined in section 461(i)(3)).

"(c) Limitation Based on Total Contract Price.—The amount treated as received under subsection (a) by reason of any secured indebtedness shall not exceed the excess (if any) of—

"(1) the total contract price, over

"(2) any portion of the total contract price received under the contract before such secured indebtedness was incurred (including amounts so treated under subsection (a) but not including amounts not taken into account by reason of subsection (d)).

"(d) Later Payments Treated As Receipt of Tax Paid Amounts.—If any amount is treated as received under subsection (a) with respect to any installment obligation, subsequent payments received on such obligation shall not be taken into account for purposes of sections 453 and 453A to the extent that the aggregate of such subsequent payments does not exceed the aggregate amount treated as received under subsection (a).

"(e) Ratable Portion of Net Proceeds; Exception for Short-Term Indebtedness.—For purposes of this section—

"(1) Ratable portion of net proceeds.—

"(A) In general.—The term 'ratable portion of net proceeds' means the net proceeds of any secured indebtedness multiplied by a fraction—

"(i) the numerator of which is the portion of the total contract price which is required to be paid under the installment obligation after the 9-month period beginning on the date the obligation arose, and

"(ii) the denominator of which is the total contract price.

"(B) Treatment of revolving credit plans.—In the case of an installment obligation arising under a revolving credit plan, the amount reasonably expected to be paid on such obligation after the 9-month period beginning on the date it arose (determined under regulations on a statistical basis by treating payments as being made on obligations in the order in which incurred) shall be treated as if it were a required payment for purposes of subparagraph (A).

"(2) Short-term indebtedness.—Subsection (a) shall not apply to any secured indebtedness if such indebtedness is for a term of 90 days or less and such indebtedness is not extended or refinanced (or otherwise replaced) during the 45-day period beginning on the day such indebtedness is repaid.

"(f) Secured Indebtedness.—For purposes of this section—

"(1) In general.—Indebtedness is secured by an installment obligation to the extent that payment of principal or interest on such indebtedness is secured (under the terms of the indebtedness or any underlying arrangement) by any interest (other than a qualified general security interest) in such installment obligation.

"(2) Indirectly secured indebtedness.—For purposes of paragraph (1), indebtedness shall be treated as secured by an installment obligation if it is reasonable to expect that the lender took into account payments on the installment obligation as a source for any portion of the payments required on the indebtedness.

"(3) Qualified general security interest.—

"(A) In general.—The term 'qualified general security interest' means a security interest held by an unrelated financial institution in all of the assets of the taxpayer but only if more than 50 percent (in value) of the taxpayer's assets are assets used in the active conduct of a trade or business. For purposes of the preceding sentence, the value of any asset shall be reduced by the amount of any indebtedness to which the property is subject or which is secured by an interest in such property.

"(B) Limitation on amount.—The amount of any qualified general security interest shall not exceed the fair market value of the assets in which the security interest is held and which are used in the active conduct of a trade or business of the taxpayer."

(b) Clerical Amendment.—The table of sections for subpart B of part II of subchapter E of chapter I is amended by inserting after the item relating to section 453B the following new item:

"453C. Pledges, etc., of installment obligations."

(c) Effective Dates.—

(1) In general.—The amendments made by this section shall apply to any indebtedness—

(A) becoming secured indebtedness after December 31, 1985, or

(B) with respect to which security is renewed after such date,

without regard to when the installment obligation arose.

(2) Certain indebtedness secured before January 1, 1986.—The amendments made by this section shall apply also to any indebtedness which on January 1, 1986, is secured indebtedness by reason of an installment obligation arising after September 25, 1985. Any such indebtedness shall be treated as becoming secured indebtedness on January 1, 1986.

(3) Special rule for certain secured indebtedness.—

(A) In general.—In the case of any qualified indebtedness which—

(i) becomes secured indebtedness in 1986, such indebtedness shall, for purposes of applying the amendments made by this section, be taken into account ratably over the 3 taxable years beginning with the taxable year in which such indebtedness becomes secured indebtedness, and

(ii) becomes secured indebtedness in 1987, such indebtedness shall, for purposes of applying such amendments, be taken into account ratably over the 2 taxable years beginning with the taxable year in which such indebtedness becomes secured indebtedness.

(B) Qualified indebtedness.—For purposes of this paragraph, the term "qualified indebtedness" means indebtedness arising out of the sale of property by the taxpayer which is inventory or primarily held for sale to customers in the ordinary course of the trade or business of the taxpayer.

(4) Special rule for residential condominium project.—The amendments made by this section shall not apply to secured indebtedness arising in connection with sales from a residential condominium project—

(A) for which a contract to purchase land for the project was entered into at least 5 years before the date of the enactment of this Act,

(B) with respect to which land for the project was purchased before September 26, 1985,

(C) with respect to which building permits for the project were obtained, and construction commenced, before September 26, 1985,

(D) with respect to which not less than 80 units must be dedicated at all times for low-income housing and deeded to a tax-exempt organization designated by a local government, and

(E) with respect to which at least $1,000,000 of expenses were incurred before September 26, 1985.

(5) Secured indebtedness.—For purposes of this subsection, the term "secured indebtedness" means any indebtedness which is secured by an installment obligation (within the meaning of section 453C(f) of the Internal Revenue Code of 1954 as added by subsection (a)).

SEC. 904. REPEAL OF COMPLETED CONTRACT METHOD OF ACCOUNTING.

(a) In General.—Subpart B of part II of subchapter E of chapter 1 is amended by adding at the end thereof the following new section:

"SEC. 459. SPECIAL RULES FOR LONG-TERM CONTRACTS.

"(a) General Rule.—In the case of a long-term contract—

"(1) the amount includible in gross income for any taxable year with respect to the contract shall be determined under the percentage of completion method, with the percentage of completion being determined by comparing costs incurred during the taxable year with respect to the contract with the estimated total contract costs, and

"(2) on completion of the contract, the taxpayer shall pay (or shall be entitled to receive) interest computed under the look-back method of subsection (b).

"(b) Look-Back Method.—The interest computed under the look-back method of this subsection shall be determined by—

"(1) first allocating income under the contract among taxable years before the year in which the contract is completed on the basis of the actual contract price and costs instead of the estimated contract price and costs,

"(2) second, determining (solely for purposes of computing such interest) the overpayment or underpayment of tax for each taxable year referred to in paragraph (1) which would result solely from the application of paragraph (1), and

"(3) then using the overpayment rate established by section 6621, compounded daily, on the overpayment or underpayment determined under paragraph (1).

"(c) Long-Term Contract.—For purposes of this section—

"(1) In general.—The term "long-term contract" means any contract for the production, manufacture, building, installation, or construction of tangible property if such contract is not completed before the date 1 year after the contract commencement date.

"(2) Aggregation, etc.—For purposes of paragraph (1)—

"(A) 2 or more contracts which are interdependent (by reason of pricing or otherwise) shall be treated as 1 contract, and

"(B) a contract which is properly treated as an aggregation of separate contracts shall be so treated.

"(d) Exception for Certain Construction Contracts.—

"(1) In general.—This section shall not apply to any construction contract entered into by a taxpayer—

"(A) who estimates (at the time such contract is entered into) that such contract will be completed within the 2-year period beginning on the contract commencement date of such contract, and

"(B) whose average annual gross receipts over the 3 taxable years preceding the taxable year in which such contract is entered into do not exceed $10,000,000.

"(2) Determination of taxpayer's gross receipts.—For purposes of paragraph (1), the gross receipts of—

"(A) all trades or businesses (whether or not incorporated) which are under common control with the taxpayer (within the meaning of section 52(b)), and

"(B) all members of any controlled group of corporations of which the taxpayer is a member, for the 3 taxable years of such persons preceding the taxable year in which the contract described in paragraph (1) is entered into shall be included in the gross receipts of the taxpayer for the period described in paragraph (1)(B). The Secretary shall prescribe regulations which provide attribution rules that take into account, in addition to the persons and entities described in the preceding sentence, taxpayers who engage in construction contracts through partnerships, joint ventures, and corporations.

"(3) Controlled group of corporations.—For purposes of this subsection, the term 'controlled group of corporations' has the meaning given to such term by section 1563(a), except that—

"(A) 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in section 1563(a)(1), and

"(B) the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563.

"(4) Construction contract.—For purposes of this subsection, the term 'construction contract' means any contract for the building, construction, reconstruction, or rehabilitation of, or the installation of any integral component to, or improvements of, real property.

"(e) Contract Commencement Date.—For purposes of this section, the term 'contract commencement date' means, with respect to any contract, the first date on which any costs (other than costs such as bidding expenses or expenses incurred in connection with negotiating the contract) allocable to such contract are incurred."

(b) Change in Regulations.—The Secretary of the Treasury or his delegate shall modify the income tax regulations relating to accounting for long-term contracts to carry out the provisions of this section.

(c) Conforming Amendment.—The table of sections for subpart B of part II of subchapter E of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 459. Special rules for long-term contracts."

(d) Effective Date.—The amendments made by this section shall apply to any contract entered into after September 24, 1985.

SEC. 906. CAPITALIZATION OF CERTAIN EXPENSES WHERE TAXPAYER PRODUCES PROPERTY.

(a) General Rule.—Part IX of subchapter B of chapter 1 (relating to items not deductible) is amended by inserting after section 263 the following new section:

"SEC. 263A. CAPITALIZATION OF CERTAIN EXPENSES WHERE TAXPAYER PRODUCES PROPERTY.

"(a) General Rule.—In the case of any taxpayer who produces real or tangible personal property, the following costs shall be capitalized:

"(1) the direct costs of such production, and

"(2) such production's proper share of those indirect costs (including taxes) part or all of which are assignable to such production.

"(b) General Exceptions.—

"(1) Personal use property.—Subsection (a) shall not apply to any property produced by the taxpayer for use by the taxpayer other than in a trade or business or an activity conducted for profit.

"(2) Research and experimental expenditures.—Subsection (a) shall not apply to any amount allowable as a deduction under section 174.

"(3) Certain development and other costs of oil and gas wells or other mineral property.—Subsection (a) shall not apply to any cost allowable as a deduction under section 263(c) or 616(a).

"(4) Coordination with long-term contract rules.—Subsection (a) shall not apply to any property produced by the taxpayer pursuant to a contract if a long-term contract method of accounting is required to be used with respect to such contract.

"(c) Exception for Farming Businesses.—

"(1) Subsection (a) to apply only if preproductive period is more than 2 years.—

"(A) In general.—Subsection (a) shall not apply to any plant or animal which is produced by the taxpayer in a farming business and which has a preproductive period of 2 years or less.

"(B) Exception for taxpayers required to use accrual method.—Subparagraph (A) shall not apply to any corporation or partnership required to use an accrual method of accounting under section 447.

"(2) Treatment of certain plants lost by reason of casualty.—If plants bearing a crop for human consumption were lost or damaged (while in the hands of the taxpayer) by reason of freezing temperatures, disease, drought, pests, or casualty, subsection (a) shall not apply to any costs of the taxpayer of replanting plants bearing the same type of crop (whether on the same parcel of land on which such lost or damaged plants were located or any other parcel of land of the same acreage in the United States).

"(3) Election to have subsection (a) not apply.—

"(A) In general.—If a taxpayer makes an election under this paragraph, subsection (a) shall not apply to any tangible personal property produced in any farming business carried on by such taxpayer.

"(B) Certain persons not eligible.—No election may be made under this paragraph—

"(i) by a corporation or partnership, if such corporation or partnership is required to use an accrual method of accounting under section 447,

"(ii) by any farming syndicate (as defined in section 464(c)) or tax shelter within the meaning of section 6161(b)(2)(C)(ii), or

"(iii) with respect to the planting, cultivation, maintenance, or development of pistachio trees.

"(C) Special rule for citrus and almond growers.—An election under this paragraph shall not apply with respect to any item which is attributable to the planting, cultivation, maintenance, or development of any citrus or almond grove (or part thereof) and which is incurred before the close of the 4th taxable year beginning with the taxable year in which the trees were planted. For purposes of the preceding sentence, the portion of a citrus or almond grove planted in 1 taxable year shall be treated separately from the portion of such grove planted in another taxable year.

"(D) Election.—Unless the Secretary otherwise consents, an election under this paragraph may be made only for the taxpayer's 1st taxable year which begins after December 31, 1985, and during which the taxpayer engages in a farming business. Any such election, once made, may be revoked only with the consent of the Secretary.

"(d) Definitions and Special Rules for Purposes of Subsection (c).—

"(1) Recapture of expensed amounts on disposition.—

"(A) In general.—In the case of any plant or animal with respect to which amounts would have been capitalized under subsection (a) but for an election under subsection (c)(3)—

"(i) such plant or animal (if not otherwise section 1245 property) shall be treated as section 1245 property, and

"(ii) for purposes of section 1245, the recapture amount shall be treated as a deduction allowed for depreciation with respect to such property.

"(B) Recapture amount.—For purposes of subparagraph (A), the term 'recapture amount' means any amount allowable as a deduction to the taxpayer which, but for an election under subsection (c)(3), would have been capitalized with respect to the plant or animal.

"(2) Effects of election on depreciation.—

"(A) In general.—If the taxpayer (or any related person) makes an election under this paragraph, the provisions of section 168(h)(2) (relating to straight line depreciation) shall apply to all property of the taxpayer used predominantly in the farming business and placed in service in any taxable year during which any such election is in effect.

"(B) Related person.—For purposes of subparagraph (A), the term 'related person' means—

"(i) the taxpayer and members of the taxpayer's family,

"(ii) any corporation (including an S corporation) if 50 percent or more (in value) of the stock of such corporation is owned (directly or through the application of section 318) by the taxpayer or members of the taxpayer's family,

"(iii) a corporation and any other corporation which is a member of the same controlled group described in section 1563(a)(1), and

"(iv) any partnership if 50 percent or more (in value) of the interests in such partnership is owned directly or indirectly by the taxpayer or members of the taxpayer's family.

"(C) Members of family.—For purposes of this paragraph, the term 'family' means the parents and any of their children who have not attained age 18 before the close of the taxable year.

"(3) Preproductive period.—

"(A) In general.—For purposes of this section, the term 'preproductive period' means—

"(i) in the case of a plant or animal which will have more than 1 crop or yield, the period before the 1st marketable crop or yield from such plant or animal, or "(ii) in the case of any other plant or animal, the period before such plant or animal is reasonably expected to be disposed of.

For purposes of this subparagraph, use by the taxpayer in a farming business of any supply produced in such business shall be treated as a disposition.

"(B) Rule for determining period.—In the case of a plant grown in commercial quantities in the United States, the preproductive period for such plant if grown in the United States shall be based on the nationwide weighted average preproductive period for such plant.

"(4) Farming business.—For purposes of this section, the term 'farming business' means the trade or business of farming. Such term shall include the trade or business of operating a nursery or sod farm or the raising or harvesting of trees bearing fruit, nuts, or other crops, or ornamental trees.

"(5) Certain inventory valuation methods permitted.—The Secretary shall by regulations permit the taxpayer to use reasonable inventory valuation methods to compute the amount required to be capitalized under subsection (a) in the case of any plant or animal.

"(e) Special Rules for Interest.—

"(1) Interest capitalized only in certain cases.—Subsection (a) shall apply to interest costs only in the case of property which has—

"(A) a long useful life,

"(B) a production period exceeding 2 years, or

"(C) a production period exceeding 1 year and a cost exceeding $1,000,000.

"(2) Allocation rules.—In determining the amount of interest required to be capitalized under subsection (a) with respect to any property, under regulations prescribed by the Secretary—

"(A) interest on any indebtedness directly attributable to production expenditures with respect to such property shall be assigned to such property, and

"(B) interest on any other indebtedness shall be assigned to such property to the extent that the taxpayer's interest costs could have been reduced if production expenditures (not attributable to indebtedness described in subparagraph (A)) had not been incurred.

"(3) Definitions.—For purposes of this subsection—

"(A) Long useful life.—Property has a long useful life if such property is real property or classified in class 7, 8, 9, or 10 under section 168.

"(B) Production period.—The term 'production period' means, when used with respect to any property, the period—

"(i) beginning on the date on which production of the property begins, and

"(ii) ending on the date on which the property is ready to be placed in service or is ready to be held for sale.

In the case of a plant or animal, such term means the preproductive period as defined in subsection (c)(3).

"(C) Production expenditures.—The term 'production expenditures' means the costs required to be capitalized under subsection (a) with respect to the property.

"(f) Production.—For purposes of this section—

"(1) In general.—The term 'produce' includes construct, manufacture, develop, improve, raise, or grow.

"(2) Treatment of property produced under contract for the taxpayer.—The taxpayer shall be treated as producing any property produced for the taxpayer under a contract with the taxpayer; except that only costs paid or incurred by the taxpayer (whether under such contract or otherwise) shall be taken into account in applying subsection (a) to the taxpayer.

"(g) Cross Reference.—

"For provision permitting amortization of amounts required to be capitalized under this section in the case of small timber producers, see section 194."

(b) Technical Amendments.—

(1) Section 278 is hereby repealed.

(2) Section 189 is hereby repealed.

(3) Subsection (b) of section 447 is amended to read as follows:

"(b) Preproductive period expenses.—

"For rules requiring capitalization of certain preproductive period expenses, see section 263A."

(4) Subsection (a) of section 447 is amended by striking out "and with the capitalization of preproductive period expenses described in subsection (b)".

(5) Section 471 (relating to general rule for inventories) is amended—

(A) by striking out "Whenever" and inserting in lieu thereof "(a) General Rule.—Whenever", and

(B) by adding at the end thereof the following new subsection:

"(b) Cross Reference.—

"For rules relating to capitalization of direct and indirect costs where taxpayer produces property, see section 263A."

(c) Clerical Amendments.—

(1) The table of sections for part IX of subchapter B of chapter 1 is amended by striking out the item relating to section 278 and by inserting after the item relating to section 263 the following:

"Sec. 263A. Capitalization of certain expenses where taxpayer produces property."

(2) The table of sections for part VI of subchapter B of chapter 1 is amended by striking out the item relating to section 189.

(d) Effective Date.—

(1) In general.—Except as provided in this subsection, the amendments made by this section shall apply to costs incurred after December 31, 1985, in taxable years ending after such date.

(2) Special rule for timber.—

(A) In general.—In the case of any costs in connection with trees planted before January 1, 1986, which, but for the amendments made by this section would not have to be charged to capital account, only the applicable percentage of such costs incurred after December 31, 1985, and before January 1, 1991, shall be taken into account for purposes of applying such amendments.

(B) Applicable percentage.—For purposes of subparagraph (A), the term "applicable percentage" means the percentage determined in accordance with the following table:

For costs incurred in calendar year:	The percentage is:
1986	20
1987	40
1988	60
1989	80
1990 and thereafter	100.

(3) Special rule for urban renovation project.—The amendments made by this section shall not apply to an urban renovation project described in section 203(d)(1)(D)(vi) of this Act.

(4) Special rule for inventory property.—In the case of any inventory property (other than farm or timber inventory property), the amendments made by this section shall apply to taxable years beginning after December 31, 1985, and—

(A) the amendments made by this section shall be treated as a change initiated by the taxpayer in the method of accounting of the taxpayer,

(B) such change shall be treated as having been made with the consent of the Secretary, and

(C) the net amount of adjustments required by section 481 of the Internal Revenue Code of 1954 to be taken into account by the taxpayer shall be taken into account in not more than the 1st 5 taxable years beginning after December 31, 1985.

SEC. 906. REPEAL OF RESERVE FOR BAD DEBTS OF TAXPAYERS OTHER THAN FINANCIAL INSTITUTIONS.

(a) General Rule.—Subsection (c) of section 166 (relating to reserve for bad debts) is hereby repealed.

(b) Computation of wholly worthless debts.—Paragraph (1) of section 166(a) (relating to wholly worthless debts) is amended by inserting "in an amount not in excess of the part charged off within such taxable year" after "taxable year".

(c) Effective Date.—

(1) In general.—The amendments made by this section shall apply to taxable years beginning after December 31, 1985.

(2) 5-year spread of adjustments.—In the case of any taxpayer who maintained a reserve for bad debts for such taxpayer's last taxable year beginning before January 1, 1986—

(A) the amendment made by subsection (a) shall be treated as a change in the method of accounting of the taxpayer,

(B) such change shall be treated as having been made with the consent of the Secretary,

(C) the net amount of adjustments required by section 481 of the Internal Revenue Code of 1954 to be taken into account by the taxpayer shall be taken into account ratably in each of the first 5 taxable years beginning after December 31, 1985.

SEC. 907. LIMITATION ON ACCRUAL OF VACATION PAY.

(a) General Rule.—Paragraph (1) of section 463(a) (relating to accrual of vacation pay) is amended by striking out "and expected to be paid during the taxable year or within 12 months following the close of the taxable year" and inserting in lieu thereof "and paid during the taxable year or within 8½ months following the close of the taxable year".

(b) Effective Date.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1985.

SEC. 908. INCLUSION IN GROSS INCOME OF CONTRIBUTIONS IN AID OF CONSTRUCTION.

(a) General Rule.—Section 118 (relating to contributions to the capital of a corporation) is amended by striking out subsections (b) and (c), by redesignating subsection (d) as subsection (c), and by inserting after subsection (a) the following new subsection:

"(b) Contributions in Aid of Construction, Etc.—For purposes of subsection (a), the term 'contribution to the capital of the taxpayer' does not include any contribution in aid of construction or any other contribution as a customer or potential customer."

(b) Technical Amendment.—Subsection (c) of section 362 (relating to special rules for certain contributions to capital) is amended by striking out paragraph (3).

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(c) Effective Date.—The amendments made by this section shall apply to amounts received after December 31, 1985, in taxable years ending after such date.

Subtitle B—Provisions Relating to Timber

SEC. 911. 5-YEAR AMORTIZATION OF CERTAIN TIMBER PREPRODUCTIVE EXPENDITURES.

(a) General Rule.—Section 194 (relating to amortization of reforestation expenditures) is amended to read as follows:

"SEC. 194. AMORTIZATION OF CERTAIN TIMBER PREPRODUCTIVE EXPENDITURES.

"(a) Allowance of Deduction.—In the case of any qualified small timber producer to whom an election under this section applies, the timber preproductive period expense paid or incurred during any taxable year shall be allowed as a deduction ratably over the 60-month period beginning with the 1st month of such taxable year.

"(b) Qualified Timber Preproductive Expenses.—The term 'qualified timber preproductive period expenses' means any amount paid or incurred—

"(1) which is attributable to the planting, cultivating, and caring for trees for sale or use in the commercial production of timber products,

"(2) which is attributable to the period before the timber is cut or disposed of, and

"(3) which would have been allowable as a deduction for the taxable year in which so paid or incurred if section 263A had not been enacted.

Such term does not include any expenses with respect to any trees bearing fruit, nuts, or other crops or ornamental trees.

"(c) Qualified Small Timber Producer.—For purposes of this section—

"(1) In general.—The term 'qualified small timber producer' means any taxpayer engaged in the trade or business of planting, cultivating, caring for, or cutting of trees for sale or use in the commercial production of timber products (hereinafter in this section referred to as the 'timber business') if the timberland of the taxpayer does not exceed 75,000 acres.

"(2) Phaseout between 50,000 and 75,000 acres.—If the timberland of the taxpayer exceeds 50,000 acres, the amount of the qualified timber preproductive period expenses for any taxable year which may be taken into account under subsection (a) shall be reduced by 4 percent for each 1,000 acres (or fraction thereof) by which such acreage exceeds 50,000.

"(3) Timberland.—The term 'timberland' means the amount of land owned by, or leased to, the taxpayer for use in the timber business. If the amount of such land changes during the taxable year, the largest acreage of such land at any time during the taxable year shall be taken into account.

"(4) Treatment of related persons.—For purposes of this subsection all persons related to each other (within the meaning of section 263A(d)(2)(B)) shall be treated as 1 taxpayer.

"(5) Partnerships and S corporations.—In the case of a partnership, the limitations of paragraphs (1) and (2) shall apply with respect to the partnership and with respect to each partner. A similar rule shall apply in the case of an S corporation and its shareholders.

"(d) Effects of Election on Depreciation.—

"(1) In general.—If the taxpayer (or any related person) makes an election under this section, the provisions of section 168(h)(2) (relating to straight line depreciation) shall apply to all property used predominantly in the timber business and placed in service during any taxable year during which any such election is in effect.

"(2) Related person.—The term 'related person' has the meaning given to such term by section 263A(d)(2).

"(e) Election.—Any election under this section shall apply to amounts paid or incurred in—

"(1) the taxable year for which made, and

"(2) all subsequent taxable years during which a taxpayer is a qualified small timber producer, unless revoked with the consent of the Secretary."

(b) Section 1245 Recapture Not To Apply.—Paragraphs (2) and (3) of section 1245(a) are each amended by striking out "194" each place it appears and inserting in lieu thereof "194 (as in effect on the day before the date of the enactment of the Tax Reform Act of 1985)".

(c) Technical Amendment.—Section 62 is amended by striking out paragraph (14).

(d) Clerical Amendment.—The table of sections for part VI of subchapter V of chapter 1 is amended by striking out the item relating to section 194 and inserting in lieu thereof the following:

"Sec. 194. Amortization of certain timber preproductive expenditures."

(e) Effective Date.—The amendments made by this section shall apply to costs incurred after December 31, 1985, in taxable years ending after such date.

SEC. 912. CAPITAL GAINS TREATMENT FOR TIMBER NOT AVAILABLE TO CORPORATIONS.

(a) General Rule.—Section 631 (relating to gain or loss in the case of timber, oil, or domestic iron ore) is amended by adding at the end thereof the following new subsection:

"(d) Limitation on Subsections (a) and (b).—

"(1) Persons eligible.—Subsections (a) and (b) shall apply only in the case of—

"(A) a natural person,

"(B) an estate, or

"(C) a trust, all the beneficiaries of which are natural persons or estates.

"(2) Timber on federal lands.—Subsections (a) and (b) shall not apply in the case of timber on any land owned by the United States or any agency or instrumentality thereof.

"(3) Fruit, nut, and ornamental trees.—Subsections (a) and (b) shall not apply to any tree bearing fruit, nuts, or other crops or any ornamental tree."

(b) Conforming Amendment.—Subsection (a) of section 631 is amended by striking out the last sentence.

(c) Effective Dates.—

(1) Timber on federal lands.—Paragraphs (2) and (3) of section 631(d) of the Internal Revenue Code of 1985 (as added by subsection (a)) shall take effect on January 1, 1986.

(2) Corporations.—

(A) Paragraph (1) of section 631(d) of the Internal Revenue Code of 1985 (as added by subsection (a)) shall apply to amounts properly taken into account for periods after December 31, 1988.

(B) For rate of tax for gains of corporations for periods during 1986, 1987, and 1988, see the amendments made by section 301 of this Act.

Subtitle C—Special Provisions Relating to Agriculture

SEC. 921. REPEAL OF SPECIAL TREATMENT OF EXPENDITURES FOR FERTILIZER AND CLEARING LAND.

(a) General Rule.—The following provisions are hereby repealed:

(1) Section 180 (relating to expenditures by farmers for fertilizers, etc.).

(2) Section 182 (relating to expenditures by farmers for clearing land).

(b) Technical Amendments.—

(1) Paragraph (1) of section 263(a) (relating to capital expenditures) is amended by striking out subparagraphs (D) and (E) and by redesignating subparagraphs (F), (G), and (H) as subparagraphs (D), (E), and (F), respectively.

(2) Subparagraph (A) of section 1252(a)(1) (relating to gain from disposition of farm land) is amended by striking out "(relating to expenditures by farmers for clearing land)" and inserting in lieu thereof "(as in effect on the day before the date of the enactment of the Tax Reform Act of 1985)".

(3) The table of sections for part VI of subchapter B of chapter 1 is amended by striking out the items relating to sections 180 and 182.

(c) Effective Date.—The amendments made by this section shall apply to amounts paid or incurred after December 31, 1985, in taxable years ending after such date.

SEC. 922. LIMITATION ON EXPENSING OF SOIL AND WATER CONSERVATION EXPENDITURES.

(a) General Rule.—Subsection (c) of section 175 (relating to soil and water conservation expenditures) is amended by adding at the end thereof the following new paragraph:

"(3) Additional limitations.—

"(A) Expenditures must be consistent with soil conservation plan.—Notwithstanding any other provision of this section, subsection (a) shall not apply to any expenditures unless such expenditures are consistent with—

"(i) the plan (if any) approved by the Soil Conservation Service of the Department of Agriculture for the area in which the land is located, and

"(ii) any soil conservation plan of a comparable State agency.

"(B) Certain activities not qualified.—Subsection (a) shall not apply to any expenditures in connection with the draining or filling of wetlands or land preparation for center pivot irrigation systems."

(b) Effective Date.—The amendment made by subsection (a) shall apply to amounts paid or incurred after December 31, 1985, in taxable years ending after such date.

SEC. 923. TREATMENT OF DISPOSITIONS OF CONVERTED WETLANDS OR HIGHLY ERODIBLE CROPLANDS.

(a) General Rule.—Part IV of subchapter P of chapter 1 (relating to special rules for determining capital gains and losses) is amended by adding at the end thereof the following new section:

"SEC. 1257. DISPOSITION OF CONVERTED WETLANDS OR HIGHLY ERODIBLE CROPLANDS.

"(a) Gain Treated as Ordinary Income.—Any gain on the disposition of converted wetland or highly erodible cropland shall be treated as ordinary income. Such gain shall be recognized notwithstanding any other provision of this subtitle, except that this section shall not apply to the extent such gain is recognized as ordinary income under any other provision of this part.

"(b) Loss Treated as Long-Term Capital Loss.—Any loss recognized on the disposition of converted wetland or highly erodible cropland shall be treated as a long-term capital loss.

"(c) Definitions.—For purposes of this section—

"(1) CONVERTED WETLAND.—The term 'converted wetland' means any converted wetland (as defined in section 1201(2) of H.R. 2100 of the 99th Congress, as passed by the House of Representatives) held—

"(A) by the person whose activities resulted in such land being converted wetland, or

"(B) by any other person who at any time used such land for farming purposes.

"(2) HIGHLY ERODIBLE CROPLAND.—The term 'highly erodible cropland' means any highly erodible cropland (as defined in section 1201(6) of H.R. 2100 of the 99th Congress, as passed by the House of Representatives) if at any time the taxpayer used such land for farming purposes (other than the grazing of animals).

"(3) TREATMENT OF SUCCESSORS.—If any land is converted wetland or highly erodible cropland in the hands of any person, such land shall be treated as converted wetland or highly erodible cropland in the hands of any other person whose adjusted basis in such land is determined (in whole or in part) by reference to the adjusted basis of such land in the hands of such person.

"(d) SPECIAL RULES.—Under regulations prescribed by the Secretary, rules similar to the rules applicable under section 1245 shall apply for purposes of subsection (a). For purposes of sections 163(d), 170(e), 341(e)(12), 453B(d)(2), and 751(c), amounts treated as ordinary income under subsection (a) shall be treated in the same manner as amounts treated as ordinary income under section 1245."

(b) CLERICAL AMENDMENT.—The table of sections for part IV of subchapter P of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 1257. Disposition of converted wetlands or highly erodible croplands."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to dispositions after December 31, 1985, in taxable years ending after such date.

SEC. 924. TREATMENT OF THE NETTING OF GAINS AND LOSSES BY COOPERATIVES.

(a) IN GENERAL.—Section 1388 (relating to definitions and special rules applicable to cooperatives) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) SPECIAL RULES FOR THE NETTING OF GAINS AND LOSSES BY COOPERATIVES.—For purposes of this subchapter, in the case of any organization to which part I of this subchapter applies—

"(1) OPTIONAL NETTING OF PATRONAGE GAINS AND LOSSES PERMITTED.—The net earnings of such organization may, at its option, be determined by offsetting patronage losses (including any patronage loss carried to such year) which are attributable to 1 or more allocation units (whether such units are functional, divisional, departmental, geographic, or otherwise) against patronage earnings of 1 or more other such allocation units.

"(2) CERTAIN NETTING PERMITTED AFTER SECTION 381 TRANSACTIONS.—If such an organization acquires the assets of another such organization in a transaction described in section 381(a), the acquiring organization may, in computing its net earnings for taxable years ending after the date of acquisition, offset losses of 1 or more allocation units of the acquiring or acquired organization against earnings of the acquired or acquiring organization, respectively, but only to the extent—

"(A) such earnings are properly allocable to periods after the date of acquisition, and

"(B) such earnings could have been offset by such losses if such earnings and losses had been derived from allocation units of the same organization.

"(3) NOTICE REQUIREMENTS.—

"(A) IN GENERAL.—In the case of any organization which exercises its option under paragraph (1) for any taxable year, such organization shall, on or before the 15th day of the 9th month following the close of such taxable year, provide to its patrons a written notice which—

"(i) states that the organization has offset earnings and losses from 1 or more of its allocation units and that such offset may have affected the amount which is being distributed to its patrons,

"(ii) states generally the identity of the offsetting allocation units, and

"(iii) states briefly what rights, if any, its patrons may have to additional financial information of such organization under terms of its charter, articles of incorporation, or bylaws, or under any provision of law.

"(B) CERTAIN INFORMATION NEED NOT BE PROVIDED.—An organization may exclude from the information required to be provided under clause (ii) of subparagraph (A) any detailed or specific data regarding earnings or losses of such units which such organization determines would disclose commercially sensitive information which—

"(i) could result in a competitive disadvantage to such organization, or

"(ii) could create a competitive advantage to the benefit of a competitor of such organization.

"(C) FAILURE TO PROVIDE SUFFICIENT NOTICE.—If the Secretary determines that an organization failed to provide sufficient notice under this paragraph—

"(i) the Secretary shall notify such organization, and

"(ii) such organization shall, upon receipt of such notification, provide to its patrons a revised notice meeting the requirements of this paragraph.

Any such failure shall not affect the treatment of the organization under any provision of this subchapter or section 521.

"(4) PATRONAGE EARNINGS OR LOSSES DEFINED.—For purposes of this subsection, the terms 'patronage earnings' and 'patronage losses' means earnings and losses, respectively, which are derived from business done with or for patrons of the organization."

(b) TAX-EXEMPT STATUS NOT AFFECTED BY NETTING.—Section 521(b) (relating to applicable rules) is amended by adding at the end thereof the following new paragraph:

"(6) NETTING OF LOSSES.—Exemption shall not be denied any such association because such association computes its net earnings for purposes of determining any amount available for distribution to patrons in the manner described in paragraph (1) of section 1388(j)."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1962.

(2) NOTIFICATION REQUIREMENT.—The provisions of section 1388(j)(3) of the Internal Revenue Code of 1954 (as added by subsection (a)) shall apply to taxable years beginning on or after the date of the enactment of this Act.

(3) NO INFERENCE.—Nothing in the amendments made by this section shall be construed to infer that a change in law is intended as to whether any patronage earnings may or not be offset by nonpatronage losses, and any determination of such issue shall be made as if such amendments had not been enacted.

SEC. 925. TREATMENT OF CERTAIN PLANT VARIETY PROTECTION CERTIFICATES AS PATENTS.

(a) IN GENERAL.—Section 1235 (relating to sale or exchange of patents) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) CERTAIN PLANT CERTIFICATES TREATED AS PATENTS.—For purposes of this section, the term 'patent' includes a certificate of plant variety protection issued under section 81 of the Plant Variety Protection Act (7 U.S.C. 2481)."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to transfers after December 31, 1985, in taxable years ending after such date.

TITLE X—INSURANCE PRODUCTS AND COMPANIES

PART I—POLICYHOLDER ISSUES

SEC. 1001. REPEAL OF EXCLUSION FOR INTEREST ON INSTALLMENT PAYMENTS OF LIFE INSURANCE PROCEEDS.

(a) IN GENERAL.—The second sentence of paragraph (1) of section 101(d) (relating to payment of life insurance proceeds at a date later than death) is amended to read as follows: "There shall be excluded from the gross income of such beneficiary in the taxable year received any amount determined by such proration."

(b) TECHNICAL AMENDMENT.—Subsection (d) of section 101 is amended by striking out paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received with respect to deaths occurring after December 31, 1985, in taxable years ending after such date.

SEC. 1002. DEDUCTION FOR NONBUSINESS CASUALTY LOSSES COVERED BY INSURANCE ALLOWABLE ONLY IF CLAIM FILED.

(a) IN GENERAL.—Paragraph (4) of section 165(h) (relating to treatment of casualty gains and losses) is amended by adding at the end thereof the following new subparagraph:

"(E) CLAIM REQUIRED TO BE FILED IN CERTAIN CASES.—Any loss of an individual described in subsection (c)(3) which is covered in whole or in part by insurance shall be taken into account under this section only if the individual files a timely insurance claim with respect to such loss."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to losses sustained in taxable years beginning after December 31, 1985.

SEC. 1003. EXCLUSION FROM INCOME WITH RESPECT TO STRUCTURED SETTLEMENTS LIMITED TO CASES INVOLVING PHYSICAL INJURY.

(a) IN GENERAL.—Subsection (c) of section 130 (relating to certain personal insurance liability assignments) is amended by inserting "(in a case involving physical injury or physical sickness)" after "personal injury or sickness".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to assignments entered into after December 31, 1985, in taxable years ending after such date.

PART II—LIFE INSURANCE COMPANIES

SEC. 1011. REPEAL OF SPECIAL LIFE INSURANCE COMPANY DEDUCTION.

(a) IN GENERAL.—Section 806 is amended by striking out subsection (a) and by redesignating subsections (b), (c), and (d), as subsections (a), (b), and (c), respectively.

(b) Technical and Conforming Amendments.—

(1) Sections 453B(e)(2)(B) and 465(c)(7)(D)(v) are each amended by striking out "section 806(c)(3)" and inserting in lieu thereof "section 806(b)(3)".

(2) Section 804 is amended by adding "and" at the end of paragraph (1) and by striking out paragraphs (2) and (3) and inserting in lieu thereof the following:

"(2) the small life insurance company deduction (if any) determined under section 806(a)."

(3) Paragraph (1) of section 806(b), as redesignated by subsection (a), is amended by striking out "without regard to—" and all that follows and inserting in lieu thereof "without regard to the small life insurance company deduction."

(4) Paragraph (1) of section 806(c), as redesignated by subsection (a), is amended by striking out "subsections (a) and (b)" and inserting in lieu thereof "subsection (a)" and by striking out "any special life insurance company deduction and".

(5) Paragraph (4) of section 813(b) is amended by striking out "section 806(b)(3)(C)" and inserting in lieu thereof "section 806(a)(3)(C)".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1985.

SEC. 1012. REPEAL OF TAX-EXEMPT STATUS FOR CERTAIN ORGANIZATIONS PROVIDING COMMERCIAL-TYPE INSURANCE.

(a) In General.—Section 501 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) Certain Organizations Providing Commercial-Type Insurance Not Exempt From Tax.—

"(1) Denial of tax exemption where providing commercial-type insurance is substantial part of activities.—An organization described in paragraph (3) or (4) of subsection (c) shall be exempt from tax under subsection (a) only if no substantial part of its activities consists of providing commercial-type insurance.

"(2) Other organizations taxed as insurance companies on insurance business.—In the case of an organization described in paragraph (3) or (4) of subsection (c) which is exempt from tax under subsection (a) after the application of paragraph (1) of this subsection—

"(A) the activity of providing commercial-type insurance shall be treated as an unrelated trade or business (as defined in section 513), and

"(B) in lieu of the tax imposed by section 511 with respect to such activity, such organization shall be treated as an insurance company for purposes of applying subchapter L with respect to such activity.

"(3) Commercial-type insurance.—For purposes of this subsection, the term 'commercial-type insurance' shall not include—

"(A) insurance provided at substantially below cost to a class of charitable recipients,

"(B) incidental health insurance provided by a health maintenance organization of a kind customarily provided by such organizations, and

"(C) property or casualty insurance provided (directly or through a wholly owned corporation) by a church or convention or association of churches for such church or convention or association of churches.

"(4) Insurance includes annuities.—For purposes of this subsection, the issuance of annuity contracts shall be treated as providing insurance.

"(5) Exception for activities attributable to high-risk individuals and small groups.—

"(A) In general.—The Secretary may prescribe regulations which provide, for Blue Cross and Blue Shield and their affiliates, special treatment for activities with respect to high-risk individuals and small groups.

"(B) Exception.—The regulations prescribed under subparagraph (A) shall not provide special treatment for any activity to the extent the activity is required by applicable law."

(b) Effective Date.—

(1) In general.—The amendments made by this section shall apply to taxable years beginning after December 31, 1985.

(2) Study of fraternal beneficiary associations.—The Secretary of the Treasury or his delegate shall conduct a study of organizations described in section 501(c)(8) of the Internal Revenue Code of 1954 and which received gross annual insurance premiums in excess of $25,000,000 for the taxable years of such organizations which ended during 1984. Not later than January 1, 1988, the Secretary of the Treasury shall submit to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Joint Committee on Taxation the results of such study, together with such recommendations as he determines to be appropriate. The Secretary of the Treasury shall have authority to require the furnishing of such information as may be necessary to carry out the purposes of this paragraph.

(3) Special rules.—

(A) The amendments made by this section shall not apply with respect to that portion of the business of Mutual of America which is attributable to pension business.

(B) In the case of the Teachers Insurance Annuity Association-College Retirement Equities Fund, the amendments made by this section shall not apply to taxable years beginning before January 1, 1988, with respect to that portion of its business which is attributable to pension business.

(C) For purposes of this paragraph, the term "pension business" means the administration of any plan described in section 401(a) of the Internal Revenue Code of 1954 which includes a trust exempt from tax under section 501(a), any plan under which amounts are contributed by an individual's employer for an annuity contract described in section 403(b) of such Code, any individual retirement plan described in section 408 of such Code, and any eligible deferred compensation plan to which section 457(a) of such Code applies.

SEC. 1013. OPERATIONS LOSS DEDUCTION OF INSOLVENT COMPANIES MAY OFFSET DISTRIBUTIONS FROM POLICYHOLDERS SURPLUS ACCOUNT.

(a) In General.—If—

(1) on November 15, 1985, a life insurance company was insolvent,

(2) pursuant to the order of any court of competent jurisdiction in a title 11 or similar case (as defined in section 368(a)(3) of the Internal Revenue Code of 1954), such company is liquidated, and

(3) as a result of such liquidation, the tax imposed by section 801 of such Code for any taxable year (hereinafter in this subsection referred to as the 'liquidation year') would (but for this subsection) be increased under section 815(a) of such Code.

then the amount described in section 815(a)(2) of such Code shall be reduced by the loss from operations (if any) for the liquidation year, and the unused operations loss carryovers (if any) to the liquidation year (determined after the application of section 810 of such Code for such year). No carryover of any loss from operations of such company arising during the liquidation year (or any prior taxable year) shall be allowable for any taxable year succeeding the liquidation year.

(b) Definitions.—For purposes of subsection (a)—

(1) Insolvent.—The term "insolvent" means the excess of liabilities over the fair market value of assets.

(2) Loss from operations.—The term "loss from operations" has the meaning given such term by section 810(c) of such Code.

(c) Effective Date.—This section shall apply to liquidations on or after November 15, 1985, in taxable years ending after such date.

PART III—PROPERTY AND CASUALTY INSURANCE COMPANIES

SEC. 1021. INCLUSION IN INCOME OF 20 PERCENT OF UNEARNED PREMIUM RESERVE.

(a) In General.—Paragraph (4) of section 832(b) (defining premiums earned) is amended by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) To the result so obtained, add 80 percent of the unearned premiums on outstanding business at the end of the preceding taxable year and deduct 80 percent of the unearned premiums on outstanding business at the end of the taxable year.

"(C) To the result so obtained, in the case of a taxable year beginning after December 31, 1985, and before January 1, 1991, add an amount equal to 4 percent of unearned premiums on outstanding business at the end of the most recent taxable year beginning before January 1, 1986."

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 1985.

SEC. 1022. TREATMENT OF CERTAIN DIVIDENDS AND TAX-EXEMPT INTEREST.

(a) In General.—Paragraph (5) of section 832(b) (defining losses incurred) is amended to read as follows:

"(5) Losses incurred.—

"(A) In general.—The term 'losses incurred' means losses incurred during the taxable year on insurance contracts, computed as follows:

"(i) To losses paid during the taxable year, add salvage and reinsurance recoverable outstanding at the end of the preceding taxable year and deduct salvage and reinsurance recoverable outstanding at the end of the taxable year.

"(ii) To the result so obtained, add all unpaid losses outstanding at the end of the taxable year and deduct unpaid losses outstanding at the end of the preceding taxable year.

"(B) Reduction of deduction.—The amount which would (but for this subparagraph) be taken into account under subparagraph (A) shall be reduced by an amount equal to the applicable percentage of the sum of—

"(i) tax-exempt interest received or accrued during such taxable year, and

"(ii) the aggregate amount of deductions provided by sections 243, 244, and 245 for—

"(I) dividends (other than 100 percent dividends) received during the taxable year, and

"(II) 100 percent dividends received during the taxable year to the extent attributable to prorated amounts.

In the case of a 100 percent dividend paid by an insurance company, the portion attributable to prorated amounts shall be determined under subparagraph (E)(ii).

"(C) Exception for investments made before November 15, 1985.—

"(i) In general.—Except as provided in clause (ii), subparagraph (B) shall not apply to any dividend or interest received or accrued on any stock or obligation acquired before November 15, 1985.

"(ii) Special rule for 100 percent dividends.—For purposes of clause (i), the portion of any 100 percent dividend which is attributable to prorated amounts shall be treated as received with respect to stock acquired on the later of—

"(I) the date the payor acquired the stock or obligation to which the prorated amounts are attributable, or

"(II) the first day on which the payor and payee were members of the same affiliated group (as defined in section 243(b)(5)).

"(D) Definitions.—For purposes of this paragraph—

"(i) Applicable percentage.—The term 'applicable percentage' means—

"(I) 10 percent for taxable years beginning before January 1, 1988, and

"(II) 15 percent for taxable years beginning after December 31, 1987.

"(ii) Prorated amounts.—The term 'prorated amounts' means tax-exempt interest and dividends other than 100 percent dividends.

"(iii) 100 percent dividend.—

"(I) In general.—The term '100 percent dividend' means any dividend if the percentage used for purposes of determining the deduction allowable under section 243 or 244 is 100 percent.

"(II) Certain dividends received by foreign corporations.—A dividend received by a foreign corporation from a domestic corporation which would be a 100 percent dividend if section 1504(b)(3) did not apply for purposes of applying section 243(b)(5) shall be treated as a 100 percent dividend.

"(E) Special rules for dividends subject to proration at subsidiary level.—

"(i) In general.—In the case of any 100 percent dividend paid to an insurance company to which this part or part II applies by any insurance company, the amount of increase in the taxable income of the payee company by reason of the portion of such dividend attributable to prorated amounts shall be reduced (but not below zero) by the amount of increase in the taxable income of the payor company attributable to the application of this section or section 805(a)(4)(A) to such amounts.

"(ii) Portion of dividend attributable to prorated amounts.—For purposes of this subparagraph, in determining the portion of any dividend attributable to prorated amounts—

"(I) any dividend by the paying corporation shall be treated as paid first out of current (and then most recently accumulated) earnings and profits attributable to prorated amounts (to the extent thereof), and

"(II) by determining the portion of earnings and profits so attributable without any reduction for the tax imposed by this chapter."

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 1985.

SEC. 1023. TAXABLE INCOME FOR TAXABLE YEARS BEGINNING AFTER 1987 MAY NOT BE LESS THAN 20/36 OF NET GAIN FROM OPERATIONS.

(a) In General.—Part IV of subchapter L of chapter 1 (relating to provisions of general application) is amended by adding at the end thereof the following new section:

"SEC. 846. TAXABLE INCOME OF COMPANIES UNDER PART II OR III MUST BEAR CERTAIN RELATIONSHIP TO NET GAIN FROM OPERATIONS.

"(a) In General.—In the case of an insurance company to which part II or III applies for any taxable year beginning after December 31, 1987—

"(1) if there is an adjusted net gain from operations for such company for the taxable year, the amount of the applicable taxable income for such taxable year shall not be less than the amount which is 20/36 of such adjusted net gain, and

"(2) if there is an adjusted net loss from operations for such company for such taxable year, the amount of the applicable net operating loss of such company for such taxable year shall not be greater than the amount which is 20/36 of such adjusted net loss.

"(b) Applicable Taxable Income, Etc.—For purposes of this section—

"(1) Applicable taxable income.—The term 'applicable taxable income' means—

"(A) mutual insurance company taxable income (as defined in section 821(b)) in the case of a company subject to tax under part II, and

"(B) taxable income (as defined in section 832) in the case of a company subject to tax under part III.

"(2) Applicable net operating loss.—The term 'applicable net operating loss' means—

"(A) unused loss (as defined in section 824(b)) in the case of a company subject to tax under part II, and

"(B) net operating loss in the case of a company subject to tax under part III.

"(c) Adjusted Net Gain or Loss From Operations.—For purposes of this section—

"(1) Adjusted net gain or loss from operations.—The amount of the adjusted net gain or loss from operations is the net gain or loss from operations reduced by the sum of—

"(A) the amount of the deduction allowable for dividends received, and

"(B) tax-exempt interest,

to the extent such dividends and interest are not taken into account under subparagraph (B) of section 832(b)(5) by reason of subparagraph (C) thereof.

"(2) Net gain or loss from operations.—The amount of net gain or loss from operations for any company for the taxable year shall be the amount of net income or loss required to be set forth in the annual statement approved by the National Association of Insurance Commissioners, determined with regard to policyholder dividends but without regard to Federal and foreign income taxes.

"(d) Treatment of Applicable Net Operating Losses Determined Under This Section.—The applicable taxable income taken into account under subsection (a) shall be determined—

"(1) after the application of carryovers of applicable net operating losses arising in taxable years beginning before January 1, 1988, and

"(2) before the application of carryovers of applicable net operating losses arising in taxable years beginning after December 31, 1987.

"(e) Treatment of Consolidated Annual Statements by Property and Casualty Insurance Companies.—In the case of insurance companies to which part II or III applies which file a consolidated annual statement—

"(1) if such companies file a consolidated return, this section shall be applied on the basis of consolidated taxable income or loss of such companies, and

"(2) if such companies do not file a consolidated return, the amount of the adjusted net gain or loss from operations taken into account with respect to such a company shall be an amount which bears the same ratio to the amount of such adjusted net gain or loss as the taxable income or loss of such company bears to the consolidated taxable income or loss of such companies."

(b) Clerical Amendment.—The table of sections for such part IV is amended by adding at the end thereof the following new item:

"Sec. 846. Taxable income of companies under part II or III must bear certain relationship to net gain from operations."

(c) Effective Date.—

(1) In general.—The amendments made by this section shall apply to taxable years beginning after December 31, 1987.

(2) Transitional rule.—In the case of any taxable year beginning before January 1, 1990, the amount of tax imposed by chapter 1 of the Internal Revenue Code of 1954 shall be reduced by 20 percent of the excess of—

(A) the tax imposed by such chapter for the taxable year (without regard to this paragraph), over

(B) the tax which would be imposed by such chapter for such taxable year (without regard to the amendments made by this section).

SEC. 1024. REPEAL OF PROTECTION AGAINST LOSS ACCOUNT.

(a) In General.—Part II of subchapter L of chapter 1 (relating to mutual insurance companies, etc.) is amended by striking out section 824 and by redesignating sections 825 and 826 as sections 824 and 825, respectively.

(b) Amounts in Account Includible Not Less Rapidly Than Ratably Over 5-Year Period.—

(1) In general.—There shall be included in gross income for each of the first 5 taxable years beginning after December 31, 1985 (and subtracted from the protection against loss account) an amount equal to the greater of—

(A) the amount which would be required to be subtracted from such account if subsection (a) had never been enacted and there were no additions to the account after the close of the last taxable year of the taxpayer beginning before January 1, 1986, or

(B) an amount equal to the required percentage of the amount in such account as of the close of the preceding taxable year determined in accordance with the following table:

If the taxable year begins during:	The required percentage is
1986	20
1987	40
1988	60
1989	80
1990	100.

(2) Treatment of amounts included in income.—Any amount included in income

under paragraph (1) shall be treated under part II of subchapter L of chapter 1 of the Internal Revenue Code of 1954 in the same manner as such amount would have been treated under such part if this section had never been enacted.

(c) Technical and Conforming Amendments.—

(1)(A) Paragraph (1) of section 821(b) (defining mutual insurance company taxable income) is amended by striking out subparagraph (C), by adding "and" at the end of subparagraph (A), and by striking out "and" at the end of subparagraph (B) and inserting in lieu thereof "exceeds".

(B) Subparagraph (C) of section 821(b)(2) is amended by striking out "section 825(a)" and inserting in lieu thereof "section 824(a)".

(2) Subparagraph (B) of section 823(a)(1) (defining statutory underwriting income) is amended by striking out "the deductions provided in subsection (c) and section 824(a)" and inserting in lieu thereof "the deduction provided in subsection (c)".

(3) Paragraph (2) of section 824(b) (defining unused loss), as redesignated by subsection (a), is amended by striking out subparagraph (C), by adding "and" at the end of subparagraph (A), and by striking out ", and" at the end of subparagraph (B) and inserting in lieu thereof a period.

(4) Subsection (f) of section 824 (defining offset), as redesignated by subsection (a), is amended to read as follows:

"(f) Offset Defined.—For purposes of subsection (e), the term 'offset' means, with respect to any taxable year (hereinafter referred to as the 'offset year'), the mutual insurance company taxable income for the offset year. For purposes of the preceding sentence, the mutual insurance company taxable income for the offset year shall be determined without regard to any unused loss carryback or carryover from the loss year or any taxable year thereafter."

(5)(A) Section 825, as redesignated by subsection (a), is amended by striking out subsection (d) and by redesignating subsections (e), (f), and (g) as subsections (d), (e), and (f), respectively.

(B) Subsection (f) of section 825 (as redesignated by this section) is amended by striking out "subsection (e)" and inserting in lieu thereof "subsection (d)".

(6) Section 844 (relating to special loss carryover rules) is amended—

(A) by striking out "section 825" in subsection (a) and inserting in lieu thereof "section 824", and

(B) by striking out "section 825(a)" in subsections (a) and (b) and inserting in lieu thereof "section 824(a)".

(7) The table of sections for part II of subchapter L of chapter 1 is amended by striking out the item relating to section 824 and by redesignating the items relating to sections 825 and 826 as items relating to sections 824 and 825, respectively.

(d) Effective Date.—The amendments made by this section and subsection (b) shall apply to taxable years beginning after December 31, 1985.

SEC. 1025. REVISION OF SPECIAL TREATMENT FOR SMALL COMPANIES.

(a) Revision of Exemption From Tax.—

(1) In general.—Paragraph (15) of section 501(c) (relating to list of exempt organizations) is amended to read as follows:

"(15)(A) Insurance companies or associations other than life or marine (including interinsurers and reciprocal underwriters) if the net written premiums (or, if greater, direct written premiums) for the taxable year do not exceed $500,000.

"(B) For purposes of subparagraph (A), in determining whether any company or association is described in subparagraph (A), such company or association shall be treated as receiving during the taxable year amounts described in subparagraph (A) which are received during such year by all other companies or associations which are members of the same controlled group as the insurance company or association for which the determination is being made.

"(C) For purposes of subparagraph (B), the term 'controlled group' means any controlled group of corporations (as defined in section 1563(a)); except that subsections (a)(4) and (b)(2)(D) of section 1563 shall not apply."

(2) Technical amendment.—Paragraph (1) of section 821(f) is amended by striking out "mutual".

(b) Repeal of Cap on Tax in Certain Cases.—Subsection (a) of section 821 (relating to tax on mutual insurance companies to which part II applies) is amended to read as follows:

"(a) Imposition of Tax.—A tax is hereby imposed for each taxable year on the mutual insurance company taxable income of every mutual insurance company (other than a life insurance company and other than a fire, flood, or marine insurance company subject to the tax imposed by section 831). Such tax shall be computed by multiplying the mutual insurance company taxable income by the rates provided in section 11(b)."

(c) Revision of Alternative Tax for Certain Small Companies.—

(1) In general.—Part IV of subchapter L of chapter 1 is amended by adding at the end thereof the following new section:

"SEC. 847. ALTERNATIVE TAX FOR CERTAIN SMALL COMPANIES SUBJECT TO TAX UNDER PART II OR III.

"(a) Imposition of Tax.—There is hereby imposed for each taxable year on the income of every insurance company to which this section applies a tax computed by multiplying the taxable investment income of such company for such taxable year by the rates provided in section 11(b).

"(b) Companies To Which This Section Applies.—

"(1) In general.—This section shall apply to every insurance company or association other than life or marine (including interinsurers and reciprocal underwriters) if—

"(A) the net written premiums (or, if greater, direct written premiums) for the taxable year exceed $500,000 but do not exceed $2,000,000, and

"(B) such company or association elects the application of this section for such taxable year.

"(2) Controlled group rules.—

"(A) In general.—For purposes of paragraph (1), in determining whether any company or association is described in paragraph (1)(A), such company or association shall be treated as receiving during the taxable year amounts described in subparagraph (A) of paragraph (1) which are received during such year by all other companies or associations which are members of the same controlled group as the insurance company or association for which the determination is being made.

"(B) Controlled group.—For purposes of subparagraph (B), the term 'controlled group' means any controlled group of corporations (as defined in section 1563(a)); except that subsections (a)(4) and (b)(2)(D) of section 1563 shall not apply."

"(c) Tax in Lieu of Otherwise Applicable Tax.—The tax imposed by this section shall be in lieu of any tax otherwise applicable under section 821(a) or 831(a)."

(2) Technical and conforming amendments.—Section 821 is amended by striking out subsections (c) and (d) and by redesignating subsections (e) and (f) as subsections (c) and (d), respectively.

(3) Clerical amendment.—The table of sections for such part IV is amended by adding at the end thereof the following new item:

"Sec. 847. Alternative tax for certain small companies subject to tax under part II or III."

(d) Repeal of Special Small Company Deduction.—Subsection (c) of section 823 (relating to special deduction for small companies having gross amount of less than $1,100,000) is hereby repealed.

(e) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1985.

SEC. 1026. STUDY OF TREATMENT OF POLICYHOLDER DIVIDENDS BY MUTUAL PROPERTY AND CASUALTY INSURANCE COMPANIES.

The Secretary of the Treasury or his delegate shall conduct a study of the treatment of policyholder dividends by mutual property and casualty insurance companies. Not later than January 1, 1987, such Secretary shall submit to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Joint Committee on Taxation, the results of such study, together with such recommendations as he determines to be appropriate. The Secretary of the Treasury shall have authority to require the furnishing of such information as may be necessary to carry out the purposes of this section.

SEC. 1027. STUDY OF TREATMENT OF LOSS RESERVES OF PROPERTY AND CASUALTY INSURANCE COMPANIES.

The Secretary of the Treasury or his delegate shall (in consultation with the Joint Committee on Taxation) conduct a study of the treatment of loss reserves of property and casualty insurance companies. Not later than January 1, 1987, such Secretary shall submit to the Committee on Ways and Means of the House of Representatives, and the Committee on Finance, of the Senate the results of such study, together with such recommendations as he determines to be appropriate. The Secretary of the Treasury shall have authority to require the furnishing of such information as may be necessary to carry out the purposes of this section.

TITLE XI—PENSIONS AND DEFERRED COMPENSATION; FRINGE BENEFITS

Subtitle A—Pensions and Deferred Compensation

PART I—LIMITATIONS ON TAX-DEFERRED SAVINGS

SEC. 1101. COORDINATION OF IRA DEDUCTION WITH OTHER ELECTIVE DEFERRALS.

(a) General Rule.—Subsection (d) of section 219 (relating to other limitations and restrictions) is amended by adding at the end thereof the following new paragraph:

"(5) Coordination with certain other elective deferrals.—

"(A) In general.—The $2,000 amount set forth in subsection (b)(1) shall be reduced (but not below zero) by the amount of the individual's elective 401(k) or 403(b) deferrals (if any) for the taxable year.

"(B) Spousal deduction.—The $2,250 amount set forth in subsection (c)(2)(A)(i) shall be reduced (but not below zero) by the sum of—

"(i) the amount (if any) of the individual's elective 401(k) or 403(b) deferrals for the taxable year to the extent such deferrals do not exceed $2,000, and

"(ii) the amount (if any) of the spouse's elective 401(k) or 403(b) deferrals for the taxable year.

"(C) Elective 401(k) or 403(b) deferrals.—For purposes of this paragraph, the term 'elective 401(k) or 403(b) deferrals' has the meaning given to such term by section 402(g)(3)."

(b) Spousal Deduction Allowed Where Spouse Has Small Amount of Earned Income.—Subparagraph (B) of section 219(c)(1) (relating to special rules for certain married individuals) is amended to read as follows:

"(B)(i) whose spouse has no compensation (determined without regard to section 911) for the taxable year, or (ii) whose spouse elects to be treated for purposes of subsection (b)(1)(B) as having no compensation for the taxable year,".

(c) Effective Date.—

(1) In general.—The amendments made by this section shall apply to taxable years beginning after December 31, 1985.

(2) Deferrals under collective bargaining agreements.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers which are ratified before November 22, 1985, the amendment made by subsection (a) shall not apply to contributions made pursuant to such an agreement for taxable years beginning before the earlier of—

(A) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after November 21, 1985), or

(B) January 1, 1991.

SEC. 1102. $7,000 LIMITATION ON ELECTIVE 401(k) AND 403(b) DEFERRALS.

(a) General Rule.—Section 402 (relating to taxability of beneficiary of employees' trust) is amended by adding at the end thereof the following new subsection:

"(g) Limitation on Exclusion for Elective 401(k) and 403(b) Deferrals.—

"(1) In general.—Notwithstanding subsection (a)(8) of this section and section 403(b), the elective 401(k) or 403(b) deferrals of any individual for any taxable year shall be included in such individual's gross income to the extent the amount of such deferrals for the taxable year exceeds $7,000.

"(2) Required distribution of excess deferrals.—

"(A) In general.—If any amount (hereinafter in this paragraph referred to as 'excess deferrals') is included in the gross income of an individual under paragraph (1) for any taxable year—

"(i) not later than the 1st March 1 following the close of the taxable year, the individual shall allocate the amount of such excess deferrals among the plans under which the deferrals were made and shall notify each such plan of the portion allocated to it, and

"(ii) not later than the 1st April 15 following the close of the taxable year, each such plan shall distribute to the individual the amount allocated to it under clause (i) (and any income attributable to such amount).

The distribution required under clause (ii) may be made notwithstanding any other provision of law.

"(B) Treatment of distribution under section 401(k).—Any portion of an excess deferral distributed from a plan under subparagraph (A)(ii) shall be treated as if it had not been contributed under the plan for purposes of applying section 401(k)(3)(A)(ii).

"(C) Taxation of distribution.—In the case of a distribution under subparagraph (A)—

"(i) such distribution shall not be included in gross income except to the extent attributable to the income on the excess deferral, and

"(ii) no tax shall be imposed under section 72(t).

In the case of such a distribution, for purposes of section 61, any income described in clause (i) shall be deemed to have been earned and received in the taxable year in which such excess deferral is made.

"(3) Elective 401(k) or 403(b) deferrals.—For purposes of this paragraph, the term 'elective 401(k) or 403(b) deferrals' means, with respect to any taxable year, the sum of—

"(A) any employer contribution under a qualified cash or deferred arrangement (as defined in section 401(k)) to the extent not includible in gross income for the taxable year under subsection (a)(8) (determined without regard to this subsection), and

"(B) any employer contribution made by reason of a salary reduction agreement (whether evidenced by a written instrument or otherwise) to an annuity contract described in section 403(b) to the extent not includible in gross income for the taxable year under section 403(b) (determined without regard to this subsection).

"(4) Disregard of community property laws.—This subsection shall be applied without regard to community property laws.

"(5) Coordination with section 72.—This subsection shall not affect the employee's investment in the contract for purposes of applying section 72.

"(6) Special rule for certain organizations.—

"(A) In general.—In the case of a qualified employee of a qualified organization, with respect to employer contributions described in paragraph (3)(B) made by such organization, the limitation of paragraph (1) for any taxable year shall be increased by whichever of the following is the least:

"(i) $3,000,

"(ii) $15,000 reduced by amounts not included in gross income for prior taxable years by reason of this paragraph, or

"(iii) the excess of $5,000 multiplied by the number of years of service of the employee with the qualified organization over the employer contributions described in paragraph (3)(B) made by the organization on behalf of such employee for prior taxable years.

"(B) Qualified organization.—For purposes of this paragraph, the term 'qualified organization' means any educational organization, hospital, home health service agency, church, or convention or association of churches. Such term includes any organization described in section 414(e)(3)(B)(ii). Terms used in this subparagraph shall have the same meaning as when used in section 415(c)(4).

"(C) Qualified employee.—For purposes of this paragraph, the term 'qualified employee' means any employee who has completed 15 years of service with the qualified organization."

(b) Effective Date.—

(1) In general.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1985.

(2) Deferrals under collective bargaining agreements.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before November 21, 1985, the amendments made by this section shall not apply to contributions made pursuant to such an agreement for taxable years beginning before the earlier of—

(A) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after November 21, 1985), or

(B) January 1, 1991.

Such contributions shall be taken into account for purposes of applying the amendments made by this section to other plans.

SEC. 1103. ADJUSTMENTS TO LIMITATIONS ON CONTRIBUTIONS AND BENEFITS UNDER QUALIFIED PLANS.

(a) Reduction of Annual Limits.—

(1) Defined benefit plans.—Subparagraph (A) of section 415(b)(1) (relating to limitation for defined benefit plans) is amended by striking out "$90,000" and inserting in lieu thereof "$77,000".

(2) Defined contribution plans.—Subparagraph (A) of section 415(c)(1) (relating to limitation for defined contribution plans) is amended to read as follows:

"(A) $25,000 (or, if greater, ¼ of the dollar limitation in effect under subsection (b)(1)(A)), or".

(b) Early Retirement Adjustments.—

(1) Where benefit begins before age 62.—Subparagraph (C) of section 415(b)(2) (relating to adjustment to $90,000 limit where benefit begins before age 62) is amended—

(A) by striking out "$90,000" each place it appears and inserting in lieu thereof "$77,000", and

(B) by striking out "$75,000" each place it appears and inserting in lieu thereof "$65,000".

(2) Special rule for police or firefighters' pension plans.—Paragraph (2) of section 415(b) (relating to annual benefit) is amended by adding at the end thereof the following new subparagraphs:

"(F) Special limitation for qualified police or firefighters' pension plans.—In the case of a participant in a qualified police or firefighters' plan, subparagraph (C) shall not reduce the limitation of paragraph (1)(A) to an amount less than $50,000.

"(G) Qualified police or firefighters' plan defined.—For purposes of subparagraph (F), the term 'qualified police or firefighters' plan' means a defined benefit plan—

"(i) which is maintained by a State, or political subdivision thereof, for the benefit of all full-time employees of any police department or fire department which is organized and operated by such State or political subdivision to provide police protection, firefighting services, or emergency medical services for any area within the jurisdiction of such State or political subdivision,

"(ii) under which the period of service taken into account in determining the amount of the benefit only includes service of the employee in—

"(I) such a police or fire department, or

"(II) the Armed Forces of the United States, and

"(iii) which requires, as a condition of eligibility for a retirement benefit, that the sum of—

"(I) the number of years such employee was employed on a full-time basis by such

State or a political subdivision of such State in such a police or fire department, plus

"(II) the number of years such employee served in the Armed Forces of the United States (to the extent such years are taken into account under the plan),

equals or exceeds 20 years."

(3) Treatment of airline pilots.—Subsection (b) of section 415 (relating to limitation for defined benefit plans) is amended by adding at the end thereof the following new paragraph:

"(8) Special rule for commercial airline pilots.—In the case of any participant who is a commercial airline pilot, if—

"(A) the payment of the benefit begins at or after age 60, and

"(B) as of the time such payment begins, regulations prescribed by the Federal Aviation Administration do not permit an individual to serve as a commercial airline pilot after attaining age 60,

paragraph (2)(C) shall be applied by substituting 'age 60' for 'age 62' each place it appears."

(c) Contributions to Cost-of-Living Arrangements Under Defined Benefit Plans.—

(1) In general.—Section 415(k) (relating to special rules for limitations on benefits and contributions under qualified plans) is amended by adding at the end thereof the following new paragraph:

"(2) Contributions to provide cost-of-living protection under defined benefit plans.—

"(A) In general.—In the case of a defined benefit plan which maintains a qualified cost-of-living arrangement—

"(i) any contribution made directly by an employee under such arrangement shall—

"(I) not be treated as an employee contribution for purposes of subsection (c), but

"(II) be so treated for purposes of subsection (e), and

"(ii) any benefit under such arrangement which is allocable to an employer contribution which was transferred from a defined contribution plan and to which the requirements of subsection (c) were applied shall, for purposes of subsection (b), be treated as a benefit derived from an employee contribution (and subsections (c) and (e) shall not again apply to such contribution by reason of such transfer).

"(B) Qualified cost-of-living arrangement defined.—For purposes of this paragraph, the term 'qualified cost-of-living arrangement' means an arrangement under a defined benefit plan which—

"(i) provides a cost-of-living adjustment to a benefit provided under such plan or a separate plan subject to the requirements of section 412, and

"(ii) meets the requirements of subparagraphs (C), (D), (E), and (F) and such other requirements as the Secretary may prescribe by regulations.

"(C) Determination of amount of benefit.—An arrangement meets the requirement of this subparagraph only if the cost-of-living adjustment of participants is based—

"(i) on increases in the cost-of-living after the annuity starting date, and

"(ii) on average cost-of-living increases determined by reference to 1 or more indexes prescribed by the Secretary, except that the arrangement may provide that the increase for any year will not be less than 3 percent of the primary retirement benefit.

"(D) Arrangement elective; time for election.—An arrangement meets the requirements of this subparagraph only if it is elective, is available under the same terms to all participants, and it provides that such election may be made in—

"(i) the year in which the participant—

"(I) attains the earliest retirement age under the defined benefit plan, or

"(II) separates from service, or

"(ii) both such years.

"(E) Nondiscrimination requirements.—An arrangement shall not meet the requirements of this subparagraph if the Secretary finds that a pattern of abuse exists with respect to participation.

"(F) Special rules for key employees.—An arrangement shall not meet the requirements of this paragraph if—

"(i) in the case of an arrangement under a top-heavy plan (within the meaning of section 416(g)), any key employee is eligible to participate, or

"(ii) in the case of an arrangement under any other plan, any key employee other than an officer described in section 416(i)(1)(A)(i) is eligible to participate.

For purposes of this subparagraph, the term 'key employee' has the meaning given such term by section 416(i)(1)."

(2) Certain transfers to defined benefit plans not taken into account for purposes of lump-sum distribution.—Section 402(e)(4) (relating to special rules for lump-sum distributions) is amended by adding at the end thereof the following new subparagraph:

"(N) Transfers to cost-of-living arrangement not treated as distribution.—For purposes of this subsection, the balance to the credit of an employee shall not include any amount transferred from a defined contribution plan to a qualified cost-of-living arrangement (within the meaning of section 415(k)(2)) under a defined benefit plan."

(3) Contributions not deductible.—Paragraph (2) of section 219(e) (defining qualified voluntary employee contribution) is amended by adding at the end thereof the following new subparagraph:

"(D) Contributions to qualified cost-of-living arrangements.—The term 'qualified voluntary employee contribution' shall not include any contribution by an employee to a qualified cost-of-living arrangement (within the meaning of section 415(k)(2)(B))."

(d) Limitation on Amount of Annual Compensation Which May Be Taken Into Account.—

(1) In general.—Subsection (a) section 401 (relating to qualified pension, profit-sharing, and stock bonus plan) is amended by inserting after paragraph (16) the following new paragraph:

"(17) A trust shall not constitute a qualified trust under this section unless, under the plan of which such trust is a part, the annual compensation of each employee taken into account under the plan does not exceed 7 times the dollar limitation in effect under section 415(c)(1)(A)."

(2) Conforming amendments.—

(A) Subsection (a) of section 416 is amended by inserting "and" at the end of paragraph (1), striking out ", and" at the end of paragraph (2) and inserting in lieu thereof a period, and by striking out paragraph (3).

(B) Subsection (d) of section 416 is hereby repealed.

(e) Treatment of Employee Contributions for Purposes of Determining Annual Addition.—Subparagraph (B) of section 415(c)(2) (defining annual addition) is amended to read as follows:

"(B) the employee contributions, and".

(f) Phase-in of Limitation for Defined Benefit Plans Based on Years of Participation.—Paragraph (5) of section 415(b) (relating to reduction for service less than 10 years) is amended to read as follows:

"(5) Reduction for participation of less than 10 years.—In the case of an employee who has less than 10 years of participation in a defined benefit plan, the limitation referred to in paragraph (1)(A) shall be the limitation determined under such paragraph (without regard to this paragraph) multiplied by a fraction—

"(A) the numerator of which is the number of years (or part thereof) of participation in the defined benefit plan of the employer, and

"(B) the denominator of which is 10.

In no event shall the preceding sentence reduce the limitation referred to in paragraph (1)(A) to an amount less than 1/10 of such limitation (determined without regard to this paragraph). Except to the extent provided in regulations, this paragraph shall be applied separately with respect to each change in the benefit structure."

(g) Conforming Amendments.—

(1) Subparagraph (D) of section 415(b)(2) is amended by striking out "$90,000" each place it appears and inserting in lieu thereof "$77,000".

(2) The last sentence of paragraph (7) of section 415(b) is amended by striking out "$90,000" and inserting in lieu thereof "$77,000".

(3) Paragraph (1) of section 415(d) is amended—

(A) by striking out "$90,000" and inserting in lieu thereof "$77,000", and

(B) by inserting "and" at the end of subparagraph (A), by striking out subparagraph (B), and by redesignating subparagraph (C) as paragraph (B).

(4) Paragraph (2) of section 415(d) is amended—

(A) by striking out "subparagraphs (A) and (B)" and inserting in lieu thereof "subparagraph (A)", and

(B) by striking out "subparagraph (C)" and inserting in lieu thereof "subparagraph (B)".

(5) Paragraph (3) of section 415(d) is amended by striking out "subparagraph (A) or (B)" and inserting in lieu thereof "subparagraph (A)".

(h) Effective Dates.—

(1) In general.—The amendments made by this section shall apply to years beginning after December 31, 1985.

(2) Collective bargaining agreements.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before November 22, 1985, the amendments made by this section shall not apply to years beginning before the earlier of—

(A) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after November 21, 1985), or

(B) January 1, 1991.

(3) Right to higher accrued defined benefit preserved.—

(A) In general.—In the case of an individual who is a participant (as of the 1st day of the 1st year to which the amendments made by this section apply) in a defined benefit plan which is in existence on November 6, 1985, and with respect to which the requirements of section 415 of the Internal Revenue Code of 1954 have been met for all plan years, if such individual's current accrued benefit under the plan exceeds the limitation of subsection (b) of section 415 of such Code (as amended by this section), then (in the case of such plan), for purposes of subsections (b) and (e) of such section, the limitation of such subsection (b)(1)(A) with respect to such individual shall be equal to such current accrued benefit.

(B) Current accrued benefit defined.—

(i) In general.—For purposes of this paragraph, the term "current accrued benefit" means the individual's accrued benefit (at the close of the last plan year to which the amendments made by this section do not apply) when expressed as an annual benefit within the meaning of section 415(b)(2) of such Code.

(ii) Special rule.—For purposes of determining the amount of any individual's current accrued benefit—

(I) no change in the terms and conditions of the plan after November 5, 1985, and

(II) no cost-of-living adjustment occurring after November 5, 1985,

shall be taken into account. For purposes of subclause (I), any change in the terms and conditions of the plan pursuant to a collective bargaining agreement ratified before November 6, 1985, shall be treated as a change made before November 6, 1985.

(4) Special rule for amendment made by subsection (e).—The amendment made by subsection (e) shall not require the recomputation, for purposes of section 415(e) of the Internal Revenue Code of 1954, of the annual addition for any year beginning before 1986.

SEC. 1104. SECTION 457 MADE APPLICABLE TO DEFERRED COMPENSATION PLANS OF TAX-EXEMPT ORGANIZATIONS.

(a) General Rule.—Section 457 (relating to deferred compensation plans with respect to service for State and local governments) is amended to read as follows:

"SEC. 457. DEFERRED COMPENSATION PLANS OF STATE AND LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANIZATIONS.

"(a) Year of Inclusion in Gross Income.—In the case of a participant in an eligible deferred compensation plan, any amount of compensation deferred under the plan, and any income attributable to the amounts so deferred, shall be includible in gross income only for the taxable year in which such compensation or other income is paid or otherwise made available to the participant or other beneficiary.

"(b) Eligible Deferred Compensation Plan Defined.—For purposes of this section, the term 'eligible deferred compensation plan' means a plan established and maintained by an eligible employer—

"(1) in which only individuals who perform service for the employer may be participants,

"(2) which provides that (except as provided in paragraph (3)) the maximum that may be deferred under the plan for the taxable year shall not exceed the lesser of—

"(A) $7,500, or

"(B) 33⅓ percent of the participant's includible compensation,

"(3) which may provide that, for 1 or more of the participant's last 3 taxable years ending before he attains normal retirement age under the plan, the ceiling set forth in paragraph (2) shall be the lesser of—

"(A) $15,000, or

"(B) the sum of—

"(i) the plan ceiling established for purposes of paragraph (2) for the taxable year (determined without regard to this paragraph), plus

"(ii) so much of the plan ceiling established for purposes of paragraph (2) for taxable years before the taxable year as has not theretofore been used under paragraph (2) or this paragraph,

"(4) which provides that compensation will be deferred for any calendar month only if an agreement providing for such deferral has been entered into before the beginning of such month,

"(5) which meets the distribution requirements of subsection (d), and

"(6) which provides that—

"(A) all amounts of compensation deferred under the plan,

"(B) all property and rights purchased with such amounts, and

"(C) all income attributable to such amounts, property, or rights,

shall remain (until made available to the participant or other beneficiary) solely the property and rights of the employer (without being restricted to the provision of benefits under the plan) subject only to the claims of the employer's general creditors.

A plan which is administered in a manner which is inconsistent with the requirements of any of the preceding paragraphs shall be treated as not meeting the requirements of such paragraph as of the 1st plan year beginning more than 180 days after the date of notification by the Secretary of the inconsistency unless the employer corrects the inconsistency before the 1st day of such plan year.

"(c) Individuals Who Are Participants in More Than 1 Plan.—

"(1) In general.—The maximum amount of the compensation of any one individual which may be deferred under subsection (a) during any taxable year shall not exceed $7,500 (as modified by any adjustment provided under subsection (b)(3)).

"(2) Coordination with certain other deferrals.—In applying paragraph (1) of this subsection and paragraphs (2) and (3) of subsection (b)—

"(A) any amount excluded from gross income under section 403(b) for the taxable year, and

"(B) any amount excluded from gross income under section 402(a)(8) for the taxable year,

shall be treated as an amount deferred under subsection (a). In applying clause (ii) of section 403(b)(2)(A), an amount deferred under subsection (a) for any year of service shall be taken into account as if described in such clause. Subparagraph (B) shall not apply in the case of a participant in a rural electric cooperative plan (as defined in section 401(k)(7)).

"(d) Distribution Requirements.—

"(1) In general.—For purposes of subsection (b)(5), a plan meets the distribution requirements of this subsection if—

"(A) the plan provides that amounts payable under the plan will be made available to participants or other beneficiaries not earlier than when the participant is separated from service with the employer or is faced with an unforseeable emergency (determined in the manner prescribed by the Secretary by regulation), and

"(B) such plan meets the minimum distribution requirements of paragraph (2).

"(2) Minimum distribution requirements.—A plan meets the minimum distribution requirements of this paragraph if such plan meets the requirements of subparagraphs (A), (B), and (C):

"(A) Commencement date.—A plan meets the requirements of this subparagraph if the distributions of the amounts payable with respect to the employee begin not later than 60 days after the close of the later of—

"(i) the year in which the employee attains normal retirement age under the plan, or

"(ii) the year in which the employee separates from service.

If the employee dies before the commencement of the distributions, distributions shall commence not later than 60 days after the close of the year in which the employee dies.

"(B) Distribution requirements.—A plan meets the requirements of this subparagraph if—

"(i) in the case of a distribution beginning before the death of the employee, such distribution will be made in a form under which—

"(I) at least ⅔ of the total amount payable with respect to the employee will be paid during the life expectancy of such employee (determined as of the commencement of the distribution), and

"(II) any amount not distributed to the employee during his life will be distributed after the death of the employee at least as rapidly as under the method of distributions being used as of the date of his death, or

"(ii) in the case of a distribution which does not commence before the death of the employee, the entire amount payable with respect to the employee will be paid during a period not to exceed 15 years (or, if greater, the life expectancy of the surviving spouse if such spouse is the beneficiary).

"(C) Nonincreasing benefits.—A plan meets the requirements of this subparagraph if any distribution payable over a period of more than 1 year can only be made in substantially nonincreasing amounts (paid not less frequently than annually).

"(e) Other Definitions and Special Rules.—For purposes of this section—

"(1) Qualified employer.—The term 'qualified employer' means—

"(A) a State, political subdivision of a State, and any agency or instrumentality of a State or political subdivision of a State, and

"(B) any other organization (other than a governmental unit) exempt from tax under this subtitle.

"(2) Performance of service.—The performance of service includes performance of service as an independent contractor and the person (or governmental unit) for whom such services are performed shall be treated as the employer.

"(3) Participant.—The term 'participant' means an individual who is eligible to defer compensation under the plan.

"(4) Beneficiary.—The term 'beneficiary' means a beneficiary of the participant, his estate, or any other person whose interest in the plan is derived from the participant.

"(5) Includible compensation.—The term 'includible compensation' means compensation for service performed for the employer which (taking into account the provisions of this section and other provisions of this chapter) is currently includible in gross income.

"(6) Compensation taken into account at present value.—Compensation shall be taken into account at its present value.

"(7) Community property laws.—The amount of includible compensation shall be determined without regard to any community property laws.

"(8) Income attributable.—Gains from the disposition of property shall be treated as income attributable to such property.

"(9) Benefits not treated as made available by reason of certain elections.—If—

"(A) the total amount payable to an employee under the plan does not exceed $3,500, and

"(B) no additional amounts may be deferred under the plan with respect to the employee,

the amount payable to the employee under the plan shall not be treated as made available merely because such employee has an election to receive a lump sum payable within 60 days of the election.

"(10) Rollover amount.—If—

"(A) the entire amount payable to an employee is distributed to such employee in 1 taxable year, and

"(B) any portion of the amount so distributed is transferred by such employee to another eligible deferred compensation plan before the 60th day after the date of the receipt of the distribution,

then such distribution to the extent so transferred shall not be included in the gross income of the employee.

"(f) Tax Treatment of Participants Where Plan or Arrangement of Employer Is Not Eligible.—

"(1) In general.—In the case of a plan of an eligible employer providing for a deferral of compensation, if such plan is not an eligible deferred compensation plan, then—

"(A) the compensation shall be included in the gross income of the participant or beneficiary for the 1st taxable year in which there is no substantial risk of forfeiture of the rights to such compensation, and

"(B) the tax treatment of any amount made available under the plan to a participant or beneficiary shall be determined under section 72 (relating to annuities, etc.).

"(2) Exceptions.—Paragraph (1) shall not apply to—

"(A) a plan described in section 401(a) which includes a trust exempt from tax under section 501(a),

"(B) an annuity plan or contract described in section 403,

"(C) that portion of any plan which consists of a transfer of property described in section 83, and

"(D) that portion of any plan which consists of a trust to which section 402(b) applies.

"(3) Definitions.—For purposes of this subsection—

"(A) Plan includes arrangements, etc.—The term 'plan' includes any agreement or arrangement.

"(B) Substantial risk of forfeiture.—The rights of a person to compensation are subject to a substantial risk of forfeiture if such person's rights to such compensation are conditioned upon the future performance of substantial services by any individual."

(b) Clerical Amendment.—The table of sections for subpart B of part II of subchapter E of chapter 1 is amended by striking out the item relating to section 457 and inserting in lieu thereof the following:

"Sec. 457. Deferred compensation plans of
State and local governments
and tax-exempt organizations."

(c) Effective Date.—

(1) In general.—The amendments made by this section shall apply to taxable years beginning after December 31, 1985.

(2) Deferred compensation plans for state judges.—The amendments made by this section shall not apply to any qualified State judicial plan (as defined in section 131(c)(3)(B) of the Revenue Act of 1978 as amended by section 252 of the Tax Equity and Fiscal Responsibility Act of 1982).

PART II—NONDISCRIMINATION REQUIREMENTS

SEC. 1111. CASH OR DEFERRED ARRANGEMENTS.

(a) General Rule.—Subparagraph (A) of section 401(k)(3) (relating to application of participation and discrimination standards) is amended—

(1) by striking out "1.5" in clause (ii)(I) and inserting in lieu thereof "1.25",

(2) by striking out "3 percentage points" in clause (ii)(II) and inserting in lieu thereof "2 percentage points", and

(3) by striking out "2.5" in clause (ii)(II) and inserting in lieu thereof "2".

(b) Withdrawal and Other Restrictions.—

(1) Withdrawals.—Paragraph (2) of section 401(k) (defining qualified cash or deferred arrangement) is amended—

(A) by striking out "or separation from service (or in the case of a profit-sharing or stock bonus plan, hardship or the attainment of age 59½)" and inserting in lieu thereof "separation from service, termination of the plan without establishment of a successor plan (or in the case of a profit-sharing or stock bonus plan, the attainment of age 59½)", and

(B) by adding at the end thereof the following new sentence:

"In the case of a profit-sharing or stock bonus plan, notwithstanding subparagraph (B), distribution of employer contributions described in subparagraph (B) (but not income attributable thereto) may be made in the case of hardship."

(2) Not more than 1 year of service may be required.—Paragraph (2) of section 401(k) is amended by striking out "and" at the end of subparagraph (B), by striking out the period at the end of subparagraph (C) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(D) which does not require, as a condition of participation in the arrangement, that an employee complete a period of service with the employer (or employers) maintaining the plan extending beyond the period permitted under section 410(a)(1) (determined without regard to subparagraph (B)(i) thereof)."

(3) Other requirements.—Subsection (k) of section 401 is amended by redesignating paragraphs (4), (5), and (6) as paragraphs (6), (7), and (8), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) Other requirements.—

"(A) Benefits (other than matching contributions) must not be contingent on election to defer.—A cash or deferred arrangement of any employer shall not be treated as a qualified cash or deferred arrangement if any benefit provided by such employer is conditioned (directly or indirectly) on the employee electing to have the employer make contributions under the arrangement in lieu of receiving cash. The preceding sentence shall not apply to any matching contribution (under the plan of which the arrangement is a part) made by reason of such an election.

"(B) Governments and tax exempt organizations not eligible.—A cash or deferred arrangement shall not be treated as a qualified cash or deferred arrangement if it is part of a plan maintained by a Federal, State, or local government, or by any organization exempt from tax under this subtitle. The preceding sentence shall not apply to any rural electric cooperative plan or to any plan maintained by the Tennessee Valley Authority.

"(C) Coordination with other plans.—Any employer contribution made by reason of an employee's election under a qualified cash or deferred arrangement shall not be taken into account for purposes of determining whether any other plan meets the requirements of section 401(a)."

(4) Profits not required.—Subsection (a) of section 401 is amended by inserting after paragraph (25) the following new paragraph:

"(26) In the case of employer contributions meeting the requirements of subparagraphs (B) and (C) of subsection (k)(2), the determination of whether the plan under which such contributions are made is a profit-sharing plan shall be made without regard to current or accumulated profits of the employer."

(5) Aggregation rule.—The last sentence of subparagraph (A) of section 401(k)(3) (relating to application of participation and discrimination standards) is amended by striking out "any employee" and inserting in lieu thereof "any highly compensated employee".

(c) Highly Compensated Employee Defined.—Paragraph (5) of section 401(k) (as redesignated by subsection (b)(3)) is amended to read as follows:

"(5) Highly compensated employee.—For purposes of this subsection—

"(A) In general.—The term 'highly compensated employee' means any employee who, at any time during the year or any of the 2 preceding years—

"(i) was a 5 percent owner,

"(ii) received compensation from the employer in excess of $50,000, or

"(iii) was in the top-paid group of employees.

"(B) Special rule for current year.—With respect to the year for which the determination under paragraph (3)(A) is being made, an employee (not described in clause (ii) or (iii) for any of the 2 preceding plan years) shall not be treated as described in clause (ii) or (iii) of subparagraph (A) unless such employee is a member of the group consisting of the 100 employees paid the greatest compensation during such year.

"(C) 5-percent owner.—An employee shall be treated as a 5-percent owner for any year if at any time during such year such employee was a 5-percent owner (as defined in section 416(i)(1)) of the employer.

"(D) Top-paid group.—

"(i) In general.—Except as provided in clause (ii), an employee is in the top-paid group of employees for any year if—

"(I) such employee is in the group consisting of the top 10 percent of the employees when ranked on the basis of compensation paid during such year, and

"(II) such employee was paid compensation during such year in excess of $20,000.

"(ii) Exception for certain employees who are paid less than $35,000 and are not in top 5 percent.—An employee who was paid compensation of less than $35,000 during any year shall not be treated as in the top-paid group of employees for such year if he would not have been so treated if clause (i) were applied by substituting '5 percent' for '10 percent'.

"(E) Treatment of certain family members.—

"(i) In general.—If any individual—

"(I) benefits under the plan, and

"(II) is a member of the family of a 5-percent owner or of a highly compensated employee in the group consisting of the 10 highly compensated employees paid the greatest compensation during the year,

for purposes of paragraph (3), any compensation paid to such individual (and any employer contribution on behalf of such individual) shall be treated as if it were paid to (or on behalf of) the 5-percent owner or highly compensated employee.

"(ii) Family.—For purposes of clause (i), the term 'family' means, with respect to any employee, such employee's spouse, parent, and lineal ascendants or descendants and the spouses of such lineal ascendants or descendants.

"(F) Compensation.—For purposes of this subsection, the term 'compensation' means compensation within the meaning of section 415(c)(3) (determined without regard to sections 125 and 401(k), and without regard to section 403(b) in the case of employer contributions made pursuant to a salary reduction agreement).

"(G) Excluded employees.—Except to the extent provided in regulations, employees who may be excluded for purposes of section 410(b)(1)(A) shall be excluded for purposes of determining highly compensated employees.

"(H) Election not to determine top-paid group.—The Secretary may by regulations permit an employer to determine highly compensated employees by reducing the dollar amount contained in clause (ii) of subparagraph (A) and having such determination made without regard to clause (iii) of subparagraph (A)."

(d) Plan Not Disqualified if Excess Contributions Distributed Before the End of Following Plan Year.—

(1) In general.—Subsection (k) of section 401 is amended by adding at the end thereof the following new paragraph:

"(8) Arrangement not disqualified if excess contributions distributed.—

"(A) In general.—A cash or deferred arrangement shall not be treated as failing to meet the requirements of clause (ii) of paragraph (3)(A) for any plan year if the amount of the excess contributions for such plan year (and any income attributable to such contributions) is distributed before the close of the following plan year. Distribution of such excess contributions (and income) may be made without regard to any other provision of law.

"(B) Excess contributions.—For purposes of subparagraph (A), the term 'excess contributions' means, with respect to any plan year, the excess of—

"(i) the aggregate amount of employer contributions actually paid over to the trust on behalf of highly compensated employees for such plan year, over

"(ii) the maximum amount of such contributions permitted under the limitations of clause (ii) of paragraph (3)(A) (determined by reducing contributions made on behalf of highly compensated employees in order of the actual deferral percentages beginning with the highest of such percentages).

"(C) Method of distributing excess contributions.—Any distribution of the excess contributions for any plan year shall be made to highly compensated employees on the basis of the respective portions of the excess contributions attributable to each of such employees.

"(D) Additional tax under section 72(t) not to apply.—No tax shall be imposed under section 72(t) on any amount required to be distributed under this paragraph.

"(E) Cross reference.—

"For excise tax on certain excess contributions, see section 4979."

(2) Technical amendment.—Clause (ii) of section 401(k)(3)(A) is amended by striking out "paragraph (4)" and inserting in lieu thereof "paragraph (5)".

(e) Effective Dates.—

(1) In general.—Except as provided in this subsection, the amendments made by this section shall apply to years beginning after December 31, 1985.

(2) Withdrawals on terminations permitted after 1984.—The amendment made by subparagraph (A) of subsection (b)(1) (to the extent it permits withdrawals on terminations of the plan) shall apply to terminations after December 31, 1984.

(3) Collective bargaining agreements.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before November 22, 1985, the amendments made by this section shall not apply to years beginning before the earlier of—

(A) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after November 21, 1985), or

(B) January 1, 1991.

(4) Transitional rule for determining highly compensated employees.—For purposes of determining whether an employee is a highly compensated employee for the first or second year to which the amendments made by this section apply, unless the employer otherwise elects with respect to all plans, clause (iii) of section 401(k)(5)(A) of the Internal Revenue Code of 1954 (as amended by subsection (c)) shall not apply with respect to any year beginning before the first year to which the amendments made by this section apply.

(5) Transitional rule for certain governmental, etc. plans.—Subparagraph (B) of section 401(k)(4) (relating to governments and tax-exempt organizations not eligible for cash or deferred arrangements), as added by this section, shall not apply to any cash or deferred arrangement adopted before November 6, 1985, by the employer if before such date a determination letter request was submitted by the employer to the Secretary of the Treasury or his delegate for a determination that such arrangement is a qualified cash or deferred arrangement. In the case of such an arrangement, the amendments made by this section (other than subparagraph (B)) shall apply to years beginning after November 21, 1987.

(6) Special rule for qualified offset arrangements.—

(A) In general.—A cash or deferred arrangement shall not be treated as failing to meet the requirements of section 401(k)(4) of the Internal Revenue Code of 1954 (as added by this section) for any plan year beginning before January 1, 1991, merely by reason of being a part of a qualified offset arrangement.

(B) Qualified offset arrangement.—For purposes of subparagraph (A), a cash or deferred arrangement is part of a qualified offset arrangement with a defined benefit plan if each of the following conditions is satisfied on November 6, 1985, and at all times thereafter before the close of the last plan year of the cash or deferred arrangement beginning before January 1, 1991:

(i) The benefit under the defined benefit plan is directly and uniformly conditioned on elective deferrals under the 401(k) plan (up to the lesser of 4 percent of compensation or the percentage used under the plan on November 6, 1985).

(ii) The benefit provided under the defined benefit plan (before the 401(k) offset) is at least 60 percent of an employee's elective 401(k) deferrals (up to the lesser of 4 percent of compensation or the percentage used under the plan on November 6, 1985).

(iii) An employee's benefit under the defined benefit plan is reduced on the basis of the employee's elective deferrals under the 401(k) plan (up to the lesser of 4 percent of compensation or the percentage used under the plan on November 6, 1985) and the income attributable thereto.

In addition, an offset arrangement will not be treated as a qualified offset arrangement unless, for plan years beginning after December 31, 1985, the interest rate used to calculate the annuity value of the 401(k) benefit for offset purposes does not exceed the greater of the PBGC rate or the interest rate applicable under section 411(c)(2)(C)(iii), taking into account section 411(c)(2)(D).

SEC. 1112. NONDISCRIMINATION REQUIREMENTS FOR EMPLOYER MATCHING CONTRIBUTIONS AND EMPLOYEE CONTRIBUTIONS.

(a) General Rule.—Section 401 (relating to qualified pension, profit-sharing, and stock bonus plans) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) Additional Nondiscrimination Test for Employer Matching Contributions and Employee Contributions.—

"(1) In general.—A defined contribution plan shall be treated as meeting the requirements of subsection (a)(4) for any plan year only if—

"(A) the employer matching contribution requirements of paragraph (2)(A) of this subsection are met for such plan year, and

"(B) the employee contribution requirements of paragraph (2)(B) of this subsection are met for such plan year.

"(2) Requirements.—

"(A) Employer matching contribution requirements.—A plan meets the employer matching contribution requirements of this paragraph for any plan year only if—

"(i) the matching contribution percentage for qualified matching contributions for highly compensated employees does not exceed the greater of—

"(I) 125 percent of such percentage for all other eligible employees, or

"(II) the lesser of 200 percent of such percentage for all other eligible employees, or such percentage for all other eligible employees plus 2 percentage points, and

"(ii) the matching contribution percentage for matching contributions (other than qualified matching contributions) for highly compensated employees meets the requirements of clause (i) determined by substituting—

"(I) '110 percent' for '125 percent',

"(II) '150 percent' for '200 percent', and

"(III) '1 percentage point' for '2 percentage points'.

"(B) Employee contribution requirements.—A plan meets the employee contribution requirements of this subparagraph for any plan year only if the employee contribution percentage for highly compensated employees does not exceed the greater of—

"(i) 125 percent of such percentage for all other eligible employees, or "(ii) the lesser of 200 percent of such percentage for all other eligible employees, or such percentage for all other eligible employees plus 2 percentage points.

"(C) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of the last 2 sentences of section 401(k)(3)(A) shall apply for purposes of this paragraph.

"(3) MATCHING CONTRIBUTION PERCENTAGE.—For purposes of paragraph (2)(A), the matching contribution percentage for a specified group of employees for a plan year shall be the average of the ratios (calculated separately for each employee in such group) of—

"(A) the amount of the qualified employer matching contributions or other matching contributions, as the case may be, actually paid over to the trust on behalf of each such employee for such plan year, to

"(B) the employee's compensation for such plan year (determined under the last sentence of section 401(k)(3)(B)).

"(4) EMPLOYEE CONTRIBUTION PERCENTAGE.—For purposes of paragraph (2)(B), the employee contribution percentage for a specified group of employees for a plan year shall be determined under the principles of paragraph (3).

"(5) QUALIFIED EMPLOYER MATCHING CONTRIBUTIONS.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified employer matching contribution' means any employer matching contribution if—

"(i) the employee's right to his accrued benefit derived from such contribution is nonforfeitable,

"(ii) amounts held under the plan which are attributable to such contribution may be distributed to participants or other beneficiaries not earlier than upon retirement, death, disability, separation from service, attainment of age 59½, or termination of the plan without establishment of a successor plan, and

"(iii) the amount of such contribution does not exceed 100 percent of the employee contribution (or the employer contributions described in subparagraph (B)(ii)) on account of which such matching contribution was made.

"(B) MATCHING CONTRIBUTION.—The term 'matching contribution' means—

"(i) any employer contribution made on behalf of an employee on account of an employee contribution made by such employee, and

"(ii) any employer contribution made on behalf of an employee on account of an employee's elective deferral under a qualified cash or deferred arrangement.

"(6) EMPLOYEE CONTRIBUTIONS.—The term 'employee contribution' means any employee contribution other than a deductible employee contribution (as defined in section 72(o)(5)(A)).

"(7) TREATMENT OF CERTAIN EMPLOYEES WHO ARE NOT PARTICIPANTS.—If an employee contribution is required as a condition of participation in the plan, any employee who would be a participant in the plan if such employee made such a contribution shall be treated as a participant in the plan on behalf of whom no employer contributions are made.

"(8) PLAN NOT DISQUALIFIED IF EXCESS CONTRIBUTIONS DISTRIBUTED BEFORE END OF FOLLOWING PLAN YEAR.—

"(A) IN GENERAL.—A plan shall not be treated as failing to meet the requirements of paragraph (1) for any plan year if the amount of the excess matching contributions and excess employee contributions for such plan year (and any income attributable to such contributions) is distributed (or, when forfeitable, is forfeited) before the close of the following plan year. Such contributions (and income) may be distributed without regard to any other provision of law.

"(B) EXCESS MATCHING CONTRIBUTIONS.—For purposes of subparagraph (A), the term 'excess matching contributions' means, with respect to any plan year, the excess of—

"(i) the aggregate amount of qualified employer matching contributions or other matching contributions, as the case may be, actually paid under the plan on behalf of highly compensated employees for such plan year, over

"(ii) the maximum amount of such contributions permitted under the limitations of paragraph (2)(A) (determined by reducing contributions made on behalf of highly compensated employees in order of the matching contribution percentages beginning with the highest of such percentages).

"(C) EXCESS EMPLOYEE CONTRIBUTIONS.—For purposes of subparagraph (A), the amount of excess employee contributions shall be determined under the principles of subparagraph (B).

"(D) METHOD OF DISTRIBUTING EXCESS CONTRIBUTIONS.—Any distribution of the excess matching contributions or excess employee contributions for any plan year shall be made to highly compensated employees on the basis of the respective portions of such amounts attributable to each of such employees.

"(9) TREATMENT OF DISTRIBUTIONS.—

"(A) ADDITIONAL TAX ON SECTION 72(t) NOT APPLICABLE.—No tax shall be imposed on section 72(t) on any amount required to be distributed under paragraph (8).

"(B) EXCLUSION OF EMPLOYEE CONTRIBUTIONS.—Any distribution of excess employee contributions shall not be included in gross income except to the extent attributable to income on such contributions.

"(10) HIGHLY COMPENSATED EMPLOYEE.—For purposes of this subsection, the term 'highly compensated employee' has the meaning given to such term by section 401(k)(5).

"(11) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection including—

"(A) such regulations as may be necessary to prevent the multiple use of the alternative limitation with respect to any highly compensated employee, and

"(B) regulations permitting appropriate aggregation of plans and contributions for purposes of this subsection and subsection (k).

For purposes of the preceding sentence, the term 'alternative limitation' means the limitation of section 401(k)(3)(A)(ii)(II) and the limitation of paragraph (2)(A)(i)(II) of this subsection.

"(12) CROSS REFERENCE.—

"For excise tax on certain excess contributions, see section 4979."

(b) EXCISE TAX ON EXCESS CONTRIBUTIONS.—

(1) IN GENERAL.—Chapter 43 (relating to qualified pension, etc. plans) is amended by adding at the end thereof the following new section:

"SEC. 4979. TAX ON CERTAIN EXCESS CONTRIBUTIONS.

"(a) GENERAL RULE.—In the case of any plan, there is hereby imposed a tax for the taxable year equal to 10 percent of the sum of—

"(1) any excess contributions under a cash or deferred arrangement which is part of such plan for the plan year ending in such taxable year,

"(2) any excess matching contributions under the plan for the plan year ending in such taxable year, and

"(3) excess employee contributions under the plan for the plan year ending in such taxable year.

"(b) LIABILITY FOR TAX.—The tax imposed by subsection (a) shall be paid by the employer.

"(c) EXCESS CONTRIBUTIONS.—For purposes of this section, the term 'excess contributions' has the meaning given such term by section 401(k)(8)(B).

"(d) EXCESS MATCHING CONTRIBUTIONS.—For purposes of this section, the term 'excess matching contribution' has the meaning given to such term by section 401(m)(8)(B).

"(e) EXCESS EMPLOYEE CONTRIBUTIONS.—For purposes of this section, the term 'excess employee contributions' has the meaning given to such term by section 401(m)(8)(C).

"(f) NO TAX WHERE EXCESS DISTRIBUTED WITHIN 2½ MONTHS OF CLOSE OF YEAR.—

"(1) IN GENERAL.—No tax shall be imposed under this section on any excess contribution, excess matching contribution, or excess employee contribution, as the case may be, to the extent such contribution (together with any income attributable thereto) is distributed (or, where forfeitable, is forfeited) before the close of the first 2½ months of the following plan year.

"(2) INCLUDED IN PRIOR YEAR.—Any amount distributed as provided in paragraph (1) shall be treated as received and earned by the recipient in his taxable year in which such contribution deferral was made."

(2) CLERICAL AMENDMENT.—The table of sections for chapter 43 is amended by adding at the end thereof the following new item:

"Sec. 4979. Tax on certain excess contributions."

(c) TECHNICAL AMENDMENT.—Paragraph (2) of section 414(k) (relating to certain plans) is amended by striking out "and 415 (relating to limitations on benefits and contributions under qualified plans)" and inserting in lieu thereof ", 415 (relating to limitations on benefits and contributions under qualified plans), 401(m) (relating to additional nondiscrimination tests for employee matching requirements and employee contributions)".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to plan years beginning after December 31, 1985.

(2) COLLECTIVE BARGAINING AGREEMENTS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before November 22, 1985, the amendments made by this section shall not apply to plan years beginning before the earlier of—

(A) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after November 22, 1985), or

(B) January 1, 1991.

(3) SPECIAL RULE FOR STATE AND LOCAL PLANS.—In the case of a plan maintained by a State or local government, the amendments made by this section shall apply to years beginning after November 21, 1987.

SEC. 1113. NONDISCRIMINATION REQUIREMENTS FOR TAX-SHELTERED ANNUITIES.

(a) General Rule.—Paragraph (1) of section 403(b) is amended by striking out "and" at the end of subparagraph (B), by inserting "and" at the end of subparagraph (C), and by inserting after subparagraph (C) the following new subparagraph:

"(D) except in the case of a contract purchased by a church, such contract is purchased under a plan which meets the nondiscrimination requirements of paragraph (10),".

(b) Nondiscrimination Requirements.—Subsection (b) of section 403 is amended by adding at the end thereof the following new paragraph:

"(10) Nondiscrimination requirements.—

"(A) In general.—For purposes of paragraph (1)(D), a plan meets the nondiscrimination requirements of this paragraph if—

"(i) with respect to contributions not made pursuant to a salary reduction agreement, such plan meets the requirements of section 401(a) (4) and (5) and section 410(b) in the same manner as if such plan were described in section 401(a), and

"(ii) any employee of the organization may elect to have the organization make contributions for such contracts pursuant to a salary reduction agreement, all employees of the organization may elect to have the employer make contributions under such agreement if such employee meets a de minimis requirement.

For purposes of clause (ii), there may be excluded any employee who is a participant in an eligible deferred compensation plan or a qualified cash or deferred arrangement of the organization. Any nonresident alien described in section 410(b)(2)(C) may also be excluded.

"(B) Church.—For purposes of paragraph (1)(D), the term 'church' has the meaning given to such term by section 3121(w)(3)(A). Such term shall include any qualified church-controlled organization (as defined in section 3121(w)(3)(B))."

(c) Effective Date.—

(1) In general.—The amendments made by this section shall apply to years beginning after December 31, 1985.

(2) Special rule for state and local plans.—In the case of a plan maintained by a State or local government, the amendments made by this section shall apply to years beginning after November 21, 1987.

SEC. 1114. SOCIAL SECURITY BENEFITS EARNED WITH PRIOR EMPLOYER NOT TAKEN INTO ACCOUNT IN DETERMINING WHETHER PLAN IS DISCRIMINATORY.

(a) General Rule.—Paragraph (5) of section 401(a) is amended by striking out "(5)" and inserting in lieu thereof "(5)(A)", and by adding at the end thereof the following new subparagraph:

"(B) In determining whether benefits provided under a defined benefit plan meet the requirements of paragraph (4), adjustments for retirement benefits created under State or Federal law shall (in addition to other required adjustments) be based on a fraction—

"(i) the numerator of which is the number of full years of service with the employer, and

"(ii) the denominator of which is 40."

(b) Effective Date.—The amendment made by subsection (a) shall apply to plan years beginning after December 31, 1986.

SEC. 1115. BENEFITS TREATED AS ACCRUING RATABLY FOR PURPOSES OF DETERMINING WHETHER PLAN IS TOP-HEAVY.

(a) General Rule.—Paragraph (4) of section 416(g) (defining top-heavy plan) is amended by adding at the end thereof the following new subparagraph:

"(F) Accrued benefits treated as accruing ratably.—The accrued benefit of any employee (other than a key employee) shall be determined as if such benefit accrued not more rapidly than permitted under section 411(b)(1)(C)."

(b) Effective Date.—The amendment made by subsection (a) shall apply to plan years beginning after December 31, 1985.

SEC. 1116. MODIFICATION OF RULES FOR BENEFIT FORFEITURES.

(a) General Rule.—Paragraph (8) of section 401(a) (relating to qualified pension, profit-sharing, and stock bonus plans) is amended by striking out "pension plan" and inserting in lieu thereof "defined benefit plan".

(b) Effective Date.—The amendment made by subsection (a) shall apply to plan years beginning after December 31, 1985.

PART III—TREATMENT OF DISTRIBUTIONS

SEC. 1121. MINIMUM DISTRIBUTION REQUIREMENTS.

(a) Excise Tax on Failure To Distribute.—

(1) In general.—Section 4974 is amended to read as follows:

"SEC. 4974. EXCISE TAX ON CERTAIN ACCUMULATIONS IN QUALIFIED RETIREMENT PLANS.

"(a) General Rule.—If the amount distributed during the taxable year of the payee under any qualified retirement plan is less than the minimum required distribution for such taxable year, there is hereby imposed a tax equal to 50 percent of the amount by which such minimum required distribution exceeds the actual amount distributed during the taxable year. The tax imposed by this section shall be paid by the payee.

"(b) Minimum Required Distribution.—For purposes of this section, the term 'minimum required distribution' means the minimum amount required to be distributed during a taxable year under section 401(a)(9), 403(b)(1)(E), 408(a)(6), or 408(b)(3), as the case may be, as determined under regulations prescribed by the Secretary.

"(c) Qualified Retirement Plan.—For purposes of this section the term 'qualified retirement plan' means—

"(1) a plan described in section 401(a) which includes a trust exempt from tax under section 501(a),

"(2) an annuity plan described in section 403(a),

"(3) an annuity contract described in section 403(b),

"(4) an individual retirement account described in section 408(a), or

"(5) an individual retirement annuity described in section 408(b).

Such term includes any plan, contract, account, or annuity which, at any time, has been determined by the Secretary to be such a plan, contract, account, or annuity.

"(d) Waiver of Tax in Certain Cases.—If the taxpayer establishes to the satisfaction of the Secretary that—

"(1) the shortfall described in subsection (a) in the amount distributed during any taxable year was due to reasonable error, and

"(2) reasonable steps are being taken to remedy the shortfall,

the Secretary may waive the tax imposed by subsection (a) for the taxable year."

(2) Clerical amendment.—The table of sections for chapter 43 is amended by striking out the item relating to section 4974 and inserting in lieu thereof the following:

"Sec. 4974. Excise tax on certain accumulations in qualified retirement plans."

(b) Uniform Required Beginning Date.—Subparagraph (C) of section 401(a)(9) (defining required beginning date) is amended to read as follows:

"(C) Required beginning date.—For purposes of this paragraph, the term 'required beginning date' means April 1 of the calendar year following the calendar year in which the employee attains age 70½."

(c) Technical Amendments.—

(1) Subparagraph (F) of section 402(a)(5) is amended to read as follows:

"(F) Transfer treated as rollover contribution under section 408.—For purposes of this title, a transfer described in subparagraph (A) to an eligible retirement plan described in subclause (I) or (II) of subparagraph (E)(iv) shall be treated as a rollover contribution described in section 408(d)(3)."

(2) Subparagraph (A) of section 408(d)(3) is amended by inserting "or" at the end of clause (i), by striking out clause (ii), and by redesignating clause (iii) as clause (ii).

(d) Effective Date.—

(1) In general.—The amendments made by this section shall apply to distributions made after December 31, 1985.

(2) Transitional rule.—The amendment made by subsection (b) shall not apply in the case of any individual (other than a 5-percent owner as defined in section 416(i) of the Internal Revenue Code of 1954) who has attained age 70½ before January 1, 1988.

SEC. 1122. TAXATION OF DISTRIBUTIONS.

(a) Limitations on Special Averaging Provisions.—

(1) Averaging provisions limited to 1 lump-sum distribution after age 59½.—Subparagraph (B) of section 402(e)(4) (relating to election of lump-sum treatment) is amended to read as follows:

"(B) Averaging to apply to 1 lump sum distribution after age 59½.—Paragraph (1) shall apply to a lump sum distribution under subparagraph (A) only if—

"(i) such amount is received in a taxable year ending after the employee has attained age 59½, and

"(ii) the taxpayer elects for the taxable year to have all such amounts received during such taxable year so treated at the time and in the manner provided under regulations prescribed by the Secretary.

Not more than 1 election may be made under this subparagraph with respect to any employee. No election may be made under this subparagraph by any taxpayer other than an individual, an estate, or a trust. In the case of a lump sum distribution made with respect to an employee to 2 or more trusts, the election under this subparagraph shall be made by the personal representative of the employee."

(2) 5-year averaging in lieu of 10-year averaging.—Subparagraph (C) of section 402(e)(1) (relating to initial separate tax) is amended—

(A) by striking out "10 times" and inserting in lieu thereof "5 times", and

(B) by striking out "one-tenth" and inserting in lieu thereof "⅕".

(b) Repeal of Capital Gain Treatment.—

(1) In general.—The following provisions are hereby repealed:

(A) Paragraph (2) of section 402(a) (relating to capital gains treatment for portion of lump-sum distribution).

(B) Paragraph (2) of section 403(a) (relating to capital gains treatment for certain distributions).

(2) TECHNICAL AMENDMENTS.—

(A) Paragraph (1) of section 402(e) is amended—

(i) by striking out subparagraph (B) and by redesignating subparagraphs (C), (D), and (E) as subparagraphs (B), (C), and (D), respectively, and

(ii) by striking out "The initial separate tax" in subparagraph (B) (as so redesignated) and inserting in lieu thereof "The amount of tax imposed by subparagraph (A)", and

(iii) by striking out "INITIAL SEPARATE" in the heading of subparagraph (B) (as so redesignated) and inserting in lieu thereof "AMOUNT OF TAX".

(B) Paragraph (3) of section 402(e) is amended by striking out "the ordinary income portion" and inserting in lieu thereof "total taxable amount".

(C) Paragraph (4) of section 402(e) is amended by striking out subparagraphs (E), (F), and (L).

(D) Subparagraph (H) of section 402(e)(4) is amended by striking out "(but not for purposes of subsection (a)(2) or section 403(a)(2)(A))".

(c) AMENDMENTS TO SECTION 72.—

(1) REPEAL OF SPECIAL RULE FOR EMPLOYEES' ANNUITIES.—Subsection (d) of section 72 (relating to employee's annuities where employee's contributions recoverable in 3 years) is hereby repealed.

(2) AMOUNT EXCLUDED UNDER EXCLUSION RATIO LIMITED TO EMPLOYEE'S INVESTMENT IN THE CONTRACT.—Subsection (b) of section 72 (relating to exclusion ratio) is amended to read as follows:

"(b) EXCLUSION RATIO.—

"(1) IN GENERAL.—Gross income does not include that part of any amount received as an annuity under an annuity, endowment, or life insurance contract which bears the same ratio to such amount as the investment in the contract (as of the annuity starting date) bears to the expected return under the contract (as of such date).

"(2) EXCLUSION LIMITED TO INVESTMENT.—The portion of any amount received as an annuity which is excluded from gross income under paragraph (1) shall not exceed the unrecovered investment in the contract immediately before the receipt of such amount.

"(3) DEDUCTION WHERE ANNUITY PAYMENTS CEASE BEFORE ENTIRE INVESTMENT RECOVERED.—If—

"(A) after the annuity starting date, payments as an annuity under the contract cease by reason of the death of an annuitant, and

"(B) as of the date of such cessation, there is unrecovered investment in the contract,

the amount of such unrecovered investment (in excess of any amount specified in subsection (e)(5) not included in gross income) shall be allowed as a deduction to the annuitant for his last taxable year (or where the contract provides for payments meeting the requirements of subparagraphs (B) and (C) of subsection (c)(2), to the person entitled to such payments). For purposes of section 172, a deduction allowed under the preceding sentence shall be treated as if it were attributable to a trade or business of the taxpayer.

"(4) UNRECOVERED INVESTMENT.—For purposes of this subsection, the unrecovered investment in the contract as of any date is—

"(A) the investment in the contract as of the annuity starting date, reduced by

"(B) the aggregate amount received under the contract on or after such annuity starting date and before the date as of which the determination is being made, to the extent such amount was excludable from gross income under this subtitle."

(3) AMOUNTS NOT RECEIVED AS ANNUITIES ALLOCATED FIRST TO INCOME.—

(A) IN GENERAL.—Subsection (e) of section 72 is amended by adding at the end thereof the following new paragraph:

"(8) EXTENSION OF PARAGRAPH (2)(B) TO QUALIFIED PLANS.—Notwithstanding paragraph (5)(D), paragraph (2)(B) shall apply to any amount received from a trust or contract described in clause (i) or (ii) of paragraph (5)(D) to the extent that the amount of such payment (when increased by the amounts previously received under the contract after December 31, 1985) exceeds the investment in the contract as of December 31, 1985. In the case of any trust or contract referred to in the preceding sentence, amounts to which the employee does not have a nonforfeitable right shall not be treated as income on the trust or contract."

(B) CONFORMING AMENDMENT.—Subparagraph (D) of section 72(e)(5) is amended by striking out "paragraph (7)" and inserting in lieu thereof "paragraphs (7) and (8)".

(d) BENEFICIARY OF QUALIFIED ANNUITIES TAXED ONLY WHEN AMOUNTS ACTUALLY RECEIVED.—

(1) Paragraph (1) of section 403(a) (relating to taxability of beneficiary under a qualified annuity plan) is amended to read as follows:

"(1) DISTRIBUTEE TAXABLE UNDER SECTION 72.—If an annuity contract is purchased by an employer for an employee under a plan which meets the requirements of section 404(a)(2) (whether or not the employer deducts the amounts paid for the contract under such section), the amount actually distributed to any distributee under the contract shall be taxable to the distributee (in the year in which so distributed) under section 72 (relating to annuities)."

(2) The second sentence of section 403(b)(1) (relating to taxability of beneficiary under annuity purchased by section 501(c)(3) organization or public school) is amended to read as follows: "The amount actually distributed to any distributee under such contract shall be taxable to the distributee (in the year in which so distributed) under section 72 (relating to annuities)."

(3) The last sentence of section 403(c) (relating to taxability of beneficiary under nonqualified annuities or under annuities purchased by exempt organizations) is amended to read as follows: "Except in the case of a contract to which subsection (a) or (b) applies, the amount actually paid or made available to any beneficiary under such contract shall be taxable to the beneficiary (in the year in which so paid or made available) under section 72 (relating to annuities)."

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to amounts distributed after Decem- ber 31, 1985, in taxable years ending after such date.

(2) REPEAL OF SPECIAL RULE FOR EMPLOYEES' ANNUITIES. The amendments made by paragraph (1) of subsection (c) shall apply where the annuity starting date is after July 1, 1986.

(3) SPECIAL RULE FOR INDIVIDUALS WHO ATTAIN AGE 50 BEFORE JANUARY 1, 1986.

(A) IN GENERAL. In the case of a lump sum distribution to which this paragraph applies—

(i) the existing capital gain provisions shall continue to apply, and

(ii) the requirement of subparagraph (B) of section 402(e)(4) of the Internal Revenue Code of 1985 (as amended by subsection (a)) that the distribution be received after attaining age 59½ shall not apply (and appropriate adjustments shall be made in the application of such section 402(e)(4) to take into account the retention of the existing capital gain provisions under clause (i)).

(B) LUMP SUM DISTRIBUTIONS TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to any lump sum distribution if—

(i) such lump sum distribution is received by an individual who has attained age 50 before January 1, 1986, and

(ii) the taxpayer makes an election under this paragraph.

Not more than 1 election may be made under this paragraph with respect to any lump sum distribution payable with respect to an employee.

(C) EXISTING CAPITAL GAIN PROVISIONS.—For purposes of this paragraph, the term 'existing capital gain provisions' means the provisions of paragraph (2) of section 402(a) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act) and paragraph (3) of section 403(a) of such Code (as so in effect).

(D) 5-YEAR PHASEOUT OF CAPITAL GAIN TREATMENT.—

(i) The amount treated as a long-term capital gain under the existing capital gain provisions by reason of this paragraph shall be the phaseout percentage of the amount which would have been so treated without regard to this clause.

(ii) For purposes of this subparagraph—

In the case of distributions during the calendar year:	The phaseout percentage is:
1987	95
1988	75
1989	50
1990	25
1991 and thereafter	0

(4) ELECTION FOR INDIVIDUALS RETIRING IN DECEMBER OF 1985.—If an employee separates from service during December 1985, and receives a lump sum distribution in January or February of 1986 on account of such separation from service, such employee may elect to treat such lump sum distribution as if it were received when he separated from service.

SEC. 1123. UNIFORM ADDITIONAL TAX ON EARLY DISTRIBUTIONS FROM QUALIFIED RETIREMENT PLANS.

(a) IN GENERAL.—Section 72 (relating to annuities; certain proceeds of endowment and life insurance contracts) is amended by adding by redesignating subsection (t) as subsection (u) and by inserting after subsection (s) the following new subsection:

"(t) 15-PERCENT ADDITIONAL TAX ON EARLY DISTRIBUTIONS FROM QUALIFIED RETIREMENT PLANS.—

"(1) IMPOSITION OF ADDITIONAL TAX.—If any taxpayer receives any amount under a qualified retirement plan (as defined in section 4974(c)), the taxpayer's tax under this chapter for the taxable year in which such amount is received shall be increased by an amount equal to 15 percent of the portion of such amount which is includible in gross income.

"(2) SUBSECTION NOT TO APPLY TO CERTAIN DISTRIBUTIONS.—This subsection shall not apply to any distribution—

"(A) made on or after the date on which the employee attains age 59½,

"(B) made to a beneficiary (or to the estate of the employee) on or after the death of the employee,

"(C) attributable to the employee's being disabled within the meaning of subsection (m)(7), or

"(D) which is a part of a series of substantially equal periodic payments (not less frequently than annually) made for the life of the employee (or the life of such employee and his beneficiary).

"(3) Employee.—For purposes of this subsection, the term 'employee' means, in the case of an individual retirement account or annuity, the individual for whose benefit such account or annuity was established."

(b) Conforming Changes to Tax on Premature Distributions From Annuity Contracts.—

(1) Paragraph (1) of section 72(q) is amended by striking out "5 percent" and inserting in lieu thereof "15 percent".

(2) Subparagraph (D) of section 72(q)(2) is amended to read as follows:

"(D) which is a part of a series of substantially equal periodic payments (not less frequently than annually) made for the life of the employee (or the life of such employee and his beneficiary)."

(c) Amendments to Section 403(b).—

(1) In general.—Subsection (b) of section 403 (relating to taxability of beneficiary under annuity purchased by section 501(c)(3) organization or public school) is amended by adding at the end thereof the following new paragraph:

"(10) Requirement that distributions not begin before age 59½, separation from service, death, or disability.—This subsection shall not apply to any annuity contract (or to any custodial account described in paragraph (7)) unless under such contract (or custodial account) no amount may be paid before the employee attains age 59½, separates from service, dies, or becomes disabled (within the meaning of section 72(m)(7)). Notwithstanding the preceding sentence, any distribution of contributions made pursuant to a salary reduction agreement (but not the income attributable thereto) may be made in the case of hardship."

(2) Conforming amendments.—Subparagraph (A) of section 403(b)(7) is amended to read as follows:

"(A) Amounts paid treated as contributions.—For purposes of this title, amounts paid by an employer described in paragraph (1)(A) to a custodial account which satisfies the requirements of section 401(f)(2) shall be treated as amounts contributed by the employer for an annuity contract for the employee if such amounts are to be invested in regulated investment company stock to be held in such custodial account."

(d) Technical Amendments.—

(1) Subparagraph (A) of section 72(m)(5) is amended to read as follows:

"(A) This paragraph applies to amounts which are received from a qualified trust described in section 401(a) or under a plan described in section 403(a) at any time by an individual who is, or has been, a 5-percent owner, or by a successor of such an individual, but only to the extent such amounts are determined, under regulations prescribed by the Secretary, to exceed the benefits provided for such individual under the plan formula."

(2) Subsection (f) of section 408 is hereby repealed.

(e) Effective Date.—

(1) In general.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 1985.

(2) Treatment of section 403(b) annuities.—Except as provided in paragraph (3), the amendments made by this section (other than subsection (a)) shall apply with respect to distributions from contracts described in section 403(b) of the Internal Revenue Code of 1954 to the extent attributable to amounts contributed after December 31, 1985.

(3) Exception where distribution commences.—The amendments made by this section shall not apply to distributions to any employee from a plan maintained by any employer if—

(A) before November 6, 1985, the employee separated from service with the employer,

(B) as of November 6, 1985, the accrued benefit of the employee was in pay status pursuant to a written election providing for the distribution of the entire accrued benefit of the employee, and

(C) such distribution is made pursuant to such written election.

PART IV—MISCELLANEOUS PROVISIONS

SEC. 1131. ADJUSTMENTS TO SECTION 404 LIMITATIONS.

(a) Elimination of Limit Carryforward of Section 404(a)(3)(A).—Subparagraph (A) of section 404(a)(3) (relating to limits on deductible contributions to stock bonus and profit-sharing trusts) is amended to read as follows:

"(A) Limits on deductible contributions.—

"(i) In general.—In the taxable year when paid, if the contributions are paid into a stock bonus or profit-sharing trust, and if such taxable year ends within or with a taxable year of the trust with respect to which the trust is exempt under section 501(a), in an amount not in excess of 15 percent of the compensation otherwise paid or accrued during the taxable year to the beneficiaries under the stock bonus or profit-sharing plan.

"(ii) Carryover of excess contributions.—Any amount paid into the trust in any taxable year in excess of the limitation of clause (i) (or the corresponding provision of prior law) shall be deductible in the succeeding taxable years in order of time, but the amount so deductible under this clause in any 1 such succeeding taxable year together with the amount allowable under clause (i) shall not exceed 15 percent of the compensation otherwise paid or accrued during such taxable year to the beneficiaries under the plan.

"(iii) Certain retirement plans excluded.—For purposes of this subparagraph, the term 'stock bonus or profit-sharing trust' shall not include any trust designed to provide benefits upon retirement and covering a period of years, if under the plan the amounts to be contributed by the employer can be determined actuarially as provided in paragraph (1).

"(iv) 2 or more trusts treated as 1 trust.—If the contributions are made to 2 or more stock bonus or profit-sharing trusts, such trusts shall be considered a single trust for purposes of applying the limitations in this subparagraph.

"(v) Pre-86 limitation carryforwards.—

"(I) In general. The limitation of clause (i) for any taxable year shall be increased by the unused pre-86 limitation carryforwards (but not in excess of 25 percent of the compensation described in clause (i)).

"(II) Unused pre-86 limitation carryforwards.—For purposes of subclause (I), the term 'unused pre-86 limitation carryforwards' means the amount by which the limitation of the first sentence of this subparagraph (as in effect on the day before the date of the enactment of the Tax Reform Act of 1985) for any taxable year beginning before January 1, 1986, exceeded the amount paid to the trust for such taxable year (to the extent such excess was not taken into account in prior taxable years)."

(b) Combined Limit To Apply to Combinations of Defined Contribution Plans and Defined Benefit Plans.—Paragraph (7) of section 404(a) is amended to read as follows:

"(7) Limitation on deductions where combination of defined contribution plan and defined benefit plan.—

"(A) In general.—If amounts are deductible under the foregoing provisions of this subsection (other than paragraph (5)) in connection with 1 or more defined contribution plans and 1 or more defined benefit plans, the total amount deductible in a taxable year under such plans shall not exceed the greater of—

"(i) 25 percent of the compensation otherwise paid or accrued during the taxable year to the beneficiaries under such plans, or

"(ii) the amount of contributions made to or under the defined benefit plans to the extent such contributions do not exceed the amount of employer contributions necessary to satisfy the minimum funding standard provided by section 412 with respect to any such defined benefit plans for the plan year which ends with or within such taxable year (or for any prior plan year).

A defined contribution plan which is a pension plan shall not be treated as failing to provide definitely determinable benefits merely by limiting employer contributions to amounts deductible under this section.

"(B) Carryover of excess contributions.—Any amount paid under the plans in any taxable year in excess of the limitation of subparagraph (A) shall be deductible in the succeeding taxable year in order of time, but the amount so deductible under this subparagraph in any 1 such succeeding taxable year together with the amount allowable under subparagraph (A) shall not exceed 25 percent of the compensation otherwise paid or accrued during such taxable year to the beneficiaries under the plans.

"(C) Paragraph not to apply in certain cases.—This paragraph shall not have the effect of reducing the amount otherwise deductible under paragraphs (1), (2), and (3), if no employee is a beneficiary under more than 1 trust or under a trust and an annuity plan."

(c) Limitation Reduced by Amount of Social Security Contributions Taken Into Account Under Section 401(a)(4).—Section 404 is amended by adding at the end thereof the following new subsection:

"(l) Treatment of Certain Social Security Contributions.—To the extent that any OASDI contributions (as defined in section 401(l)(2)(A)) are taken into account for any plan year for purposes of determining whether a defined contribution plan meets the requirements of section 401(a)(4) or 410(b), the limitations of paragraphs (3)(A) and (7) of subsection (a) and subsection (k)(1)(C) (whichever are applicable) for the taxable year in which such plan year ends shall be reduced by the amount so taken into account."

(d) Excise Tax on Excess Contributions to Qualified Employer Plans.—

(1) IN GENERAL.—Chapter 43 (relating to qualified pension, etc., plans) is amended by inserting after section 4971 the following new section:

"SEC. 4972. TAX ON EXCESS CONTRIBUTIONS TO QUALIFIED EMPLOYER PLANS.

"(a) TAX IMPOSED.—In the case of any qualified employer plan, there is hereby imposed a tax equal to 10 percent of the excess contributions under the plan (determined as of the close of the taxable year of the employer).

"(b) EMPLOYER LIABLE FOR TAX.—The tax imposed by this section shall be paid by the employer making the contributions.

"(c) EXCESS CONTRIBUTIONS.—For purposes of this section, the term 'excess contributions' means, with respect to any qualified employer plan, the sum of—

"(1) the excess (if any) of—

"(A) the amount contributed for the taxable year by the employer to or under such plan, over

"(B) the amount allowable as a deduction under section 404 for such contributions, and

"(2) the amount determined under this subsection for the preceding taxable year reduced by the sum of—

"(A) the portion of the amount so determined returned to the employer during the taxable year, and

"(B) the portion of the amount so determined deductible under section 404 for the taxable year.

"(d) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED EMPLOYER PLAN.—The term 'qualified employer plan' means—

"(A) any plan meeting the requirements of section 401(a) which includes a trust exempt from the tax under section 501(a), and

"(B) an annuity plan described in section 403(a).

"(2) EMPLOYER.—In the case of a plan which provides contributions or benefits for employees some or all of whom are self-employed individuals within the meaning of section 401(c)(1), the term 'employer' means the person treated as the employer under section 401(c)(4)."

(2) CLERICAL AMENDMENT.—The table of sections for chapter 43 is amended by inserting after the item relating to section 4971 the following item:

"Sec. 4972. Tax on excess contributions to qualified employer plans."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1985.

SEC. 1132. EXCISE TAX ON REVERSION OF QUALIFIED PLAN ASSETS TO EMPLOYER.

(a) GENERAL RULE.—Chapter 43 (relating to qualified pension, etc., plans) is amended by adding at the end thereof the following new section:

"SEC. 4980. TAX ON REVERSION OF QUALIFIED PLAN ASSETS TO EMPLOYER.

"(a) IMPOSITION OF TAX.—There is hereby imposed a tax of 10 percent of the amount of any employer reversion on the termination of a qualified plan.

"(b) LIABILITY FOR TAX.—The tax imposed by subsection (a) shall be paid by the person receiving the reversion.

"(c) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED PLAN.—The term 'qualified plan' means any plan meeting the requirements of section 401(a). Such term shall include any plan which, at any time, has been determined by the Secretary to be such a plan.

"(2) EMPLOYER REVERSION.—The term 'employer reversion' means the amount of cash and the fair market value of other property distributed upon the termination of the qualified plan. Such term shall not include any amount distributed to or on behalf of any employee (or his beneficiaries) if such amount could have been so distributed before the termination without violating any provision of section 401."

(b) CLERICAL AMENDMENT.—The table of sections for chapter 43 is amended by adding at the end thereof the following new item:

"Sec. 4980. Tax on reversion of qualified plan assets to employer."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply in the case of plan terminations where the termination date is after December 31, 1985.

(2) TERMINATION DATE.—For purposes of paragraph (1), the term "termination date" is the date of the termination of the plan.

SEC. 1133. TAX ON EXCESS DISTRIBUTIONS.

(a) GENERAL RULE.—Chapter 43 (relating to tax on pension, etc., plans) is amended by adding at the end thereof the following new section:

"SEC. 4981. TAX ON EXCESS DISTRIBUTIONS FROM QUALIFIED RETIREMENT PLANS.

"(a) GENERAL RULE.—There is hereby imposed a tax equal to 15 percent of the excess distributions with respect to any individual during any calendar year.

"(b) LIABILITY FOR TAX.—The individual with respect to whom the excess distributions are made shall be liable for the tax imposed by subsection (a). The amount of the tax imposed by subsection (a) shall be reduced by the amount (if any) of the tax imposed by section 72(t) to the extent attributable to such excess distributions.

"(c) EXCESS DISTRIBUTIONS.—For purposes of this section—

"(1) IN GENERAL.—The term 'excess distributions' means the aggregate amount of the retirement distributions with respect to any individual during any calendar year to the extent such amount exceeds the greater of—

"(A) $112,500, or

"(B) 125 percent of the limitation in effect under section 415(b)(1)(A).

"(2) EXCLUSION OF CERTAIN DISTRIBUTIONS.—The following distributions shall not be taken into account under paragraph (1):

"(A) Any retirement distribution with respect to an individual made after the death of such individual.

"(B) Any retirement distribution with respect to an individual payable to another person under a qualified domestic relations order if includible in income of the person to whom paid.

Any distribution described in subparagraph (B) shall be treated as a retirement distribution to the person to whom paid for purposes of this section.

"(3) AGGREGATION OF PAYMENTS.—If retirement distributions with respect to any individual during any calendar year are received by the individual and 1 or more other persons, all such distributions shall be aggregated for purposes of determining the amount of the excess distributions for the calendar year.

"(4) SPECIAL RULE WHERE TAXPAYER ELECTS INCOME AVERAGING.—If the retirement distributions with respect to any individual during any calendar year include a lump sum distribution to which an election under section 402(e)(4)(B) applies, the amount set forth in subparagraph (A) or (B) of paragraph (1) (whichever is applicable) shall be increased by the amount of such lump sum distribution; except that the amount as so increased shall not exceed 5 times the amount which would have been applicable but for this paragraph.

"(d) INCREASE IN ESTATE TAX IF INDIVIDUAL DIES WITH EXCESS ACCUMULATION.—

"(1) IN GENERAL.—The tax imposed by chapter 11 with respect to the estate of any individual shall be increased by an amount equal to 15 percent of the individual's excess retirement accumulation.

"(2) EXCESS RETIREMENT ACCUMULATION.—For purposes of paragraph (1), the term 'excess retirement accumulation' means the excess (if any) of—

"(A) the value of the individual's interests in qualified employer plans and individual retirement plans as of the date of the decedent's death (or, in the case of an election under section 2032, the applicable valuation date prescribed by such section), over

"(B) the present value (as of the valuation date prescribed in subparagraph (A)) of an annuity for a term certain—

"(i) with annual payments equal to the limitation of subsection (c)(1), and

"(ii) payable for a period equal to the life expectancy of the individual immediately before his death.

"(e) RETIREMENT DISTRIBUTIONS.—For purposes of this section—

"(1) IN GENERAL.—The term 'retirement distribution' means, with respect to any individual, the amount distributed during the taxable year under—

"(A) any qualified employer plan with respect to which such individual is the employee, and

"(B) any individual retirement plan established by such individual.

"(2) QUALIFIED EMPLOYER PLAN.—The term 'qualified employer plan' means—

"(A) any plan described in section 401(a) which includes a trust exempt from tax under section 501(a),

"(B) an annuity plan described in section 403(a), or

"(C) an annuity contract described in section 403(b).

Such term includes any plan or contract which, at any time, has been determined by the Secretary to be such a plan or contract."

(b) CLERICAL AMENDMENT.—The table of sections for chapter 43 is amended by adding at the end thereof the following new item:

"Sec. 4981. Tax on excess distributions from qualified retirement plans."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to distributions made after December 31, 1985.

(2) PLAN TERMINATIONS BEFORE 1986.—The amendments made by this section shall not apply to distributions made on account of the termination of a plan if such termination occurred before January 1, 1986.

SEC. 1134. TREATMENT OF LOANS.

(a) $50,000 LIMITATION REDUCED BY BALANCE OF CERTAIN PRECEDING LOANS.—Clause (i) of section 72(p)(2)(A) (relating to exceptions for certain loans) is amended to read as follows:

"(i) $50,000 reduced by the highest outstanding balance of loans from the plan during the 1-year period ending on the day before the date on which such loan was made, or"

(b) LEVEL AMORTIZATION OF LOAN REQUIRED.—Paragraph (2) of section 72(p) is amended by redesignating subparagraph (C) as subparagraph (D) and inserting after subparagraph (B) the following new subparagraph:

"(C) REQUIREMENT OF LEVEL AMORTIZATION.—This paragraph shall not apply to any loan unless substantially level amortization of such loan with payments not less frequently than quarterly is required over the term of the loan."

(c) DEFERRAL OF INTEREST DEDUCTION IN CERTAIN CASES.—Subsection (p) of section 72 is amended by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively and by inserting after paragraph (2) the following new paragraph:

"(3) DEFERRAL OF INTEREST DEDUCTIONS IN CERTAIN CASES.—

"(A) IN GENERAL.—In the case of a loan described in subparagraph (B)—

"(i) no deduction shall be allowed under this chapter for any interest paid or accrued on such loan, and

"(ii) the amount of the interest disallowed under clause (i) shall be treated as a nondeductible employee contribution to the plan for purposes of section 72.

"(B) LOANS TO WHICH SUBPARAGRAPH (A) APPLIES.—For purposes of subparagraph (A), a loan is described in this subparagraph—

"(i) if paragraph (1) does not apply to such loan by reason of paragraph (2), and

"(ii) if—

"(I) such loan is made to a key employee (as defined in section 416(i)), or

"(II) such loan is secured by amounts attributable to elective 401(k) or 403(b) deferrals (as defined in section 402(g)(3))."

(d) EXCEPTION FOR HOME LOANS LIMITED TO ACQUISITION OF PRINCIPAL RESIDENCE.—Clause (ii) of section 72(p)(2)(B) is amended to read as follows:

"(ii) EXCEPTION FOR HOME LOANS.—Clause (i) shall not apply to any loan used to acquire any dwelling unit which within a reasonable time is to be used (determined at the time the loan is made) as a principal residence of the participant."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to loans made, renewed, renegotiated, or extended after December 31, 1985.

SEC. 1135. DEFERRED ANNUITIES AVAILABLE ONLY TO NATURAL PERSONS.

(a) GENERAL RULE.—Section 72 is amended by redesignating subsection (u) as subsection (v) and by inserting after subsection (t) the following new subsection:

"(u) TREATMENT OF ANNUITY CONTRACTS NOT HELD BY NATURAL PERSONS.—

"(1) IN GENERAL.—If any annuity contract is held by a person who is not a natural person—

"(A) such contract shall not be treated as an annuity contract for purposes of this subtitle, and

"(B) the income on the contract for any taxable year of the policy holder shall be treated as ordinary income received or accrued by the owner during such taxable year.

For purposes of this paragraph, holding by a trust or other entity as an agent for a natural person shall not be taken into account.

"(2) INCOME ON THE CONTRACT.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'income on the contract' means, with respect to any taxable year of the policy holder, the excess of—

"(i) the sum of the net surrender value of the contract as of the close of the taxable year plus all distributions under the contract received during the taxable year or any prior taxable year, reduced by

"(ii) the sum of the amount of net premiums under the contract for the taxable year and prior taxable years and amounts includible in gross income for prior taxable years with respect to such contract under this subsection.

Where necessary to prevent the avoidance of this subsection, the Secretary may substitute 'fair market value of the contract' for 'net surrender value of the contract' each place it appears in the preceding sentence.

"(B) NET PREMIUMS.—For purposes of this paragraph, the term 'net premiums' means the amount of premiums paid under the contract reduced by any policyholder dividends.

"(3) EXCEPTIONS.—This subsection shall not apply to any annuity contract which—

"(A) is acquired by the estate of a decedent by reason of the death of the decedent,

"(B) is held under a plan described in section 401(a) or 403(a) or under an individual retirement plan, or

"(C) is a qualified funding asset (as defined in section 130(d))."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to contributions to annuity contracts after December 31, 1985.

SEC. 1136. STUDY OF ELIGIBILITY REQUIREMENTS.

(a) STUDY.—The Secretary of the Treasury or his delegate shall conduct a study on the effect of the existing coverage requirements for qualified plans and changes which should be made in such requirements. Not later than July 1, 1986, the Secretary shall submit to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Joint Committee on Taxation a full and complete report on the study conducted under this section (together with such recommendations as he may deem advisable).

(b) SECRETARY MAY REQUIRE INFORMATION.—The Secretary of the Treasury or his delegate may require any person to furnish such information as the Secretary determines to be necessary to carry out the study under subsection (a).

SEC. 1137. PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1988.

If any amendment made by this subchapter requires an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after January 1, 1988, if—

(1) during the period after such amendment takes effect and before such first plan year, the plan is operated in accordance with the requirements of such amendment, and

(2) such plan amendment applies retroactively to the period after such amendment takes effect and such first plan year.

SEC. 1138. REQUIREMENT THAT COLLECTIVE BARGAINING AGREEMENTS BE BONA FIDE.

Paragraph (46) of section 7701(a) (relating to determination of whether there is a collective bargaining agreement) is amended by adding at the end thereof the following new sentence: "An agreement shall not be treated as a collective bargaining agreement unless it is a bona fide agreement between bona fide employee representatives and 1 or more employees.

SEC. 1139. PENALTY ON UNDERPAYMENTS ATTRIBUTABLE TO OVERSTATEMENT OF PENSION LIABILITIES.

(a) GENERAL RULE.—Subchapter A of chapter 68 (relating to additions to tax) is amended by inserting after section 6659 the following new section:

"SEC. 6659A. ADDITION TO TAX IN CASE OF OVERSTATEMENTS OF PENSION LIABILITIES.

"(a) ADDITION TO TAX.—In the case of an underpayment of the tax imposed by chapter 1 for the taxable year which is attributable to an overstatement of pension liabilities, there shall be added to the tax an amount equal to the applicable percentage of the underpayment so attributable.

"(b) APPLICABLE PERCENTAGE DEFINED.—For purposes of subsection (a), the applicable percentage shall be determined under the following table:

"If the valuation claimed is the following percent of the correct valuation—	The applicable percentage is:
150 percent or more but not more than 200 percent................	10
More than 200 percent but not more than 250 percent................	20
More than 250 percent....................	30.

"(c) OVERSTATEMENT OF PENSION LIABILITIES.—For purposes of this section, there is an overstatement of pension liabilities if the actuarial determination of the liabilities taken into account for purposes of computing the deduction under paragraph (1) or (2) of section 404(a) exceeds the amount determined to be the correct amount of such liability.

"(d) UNDERPAYMENT MUST BE AT LEAST $1,000.—This section shall not apply if the underpayment for the taxable year attributable to valuation overstatements is less than $1,000.

"(e) AUTHORITY TO WAIVE.—The Secretary may waive all or any part of the addition to the tax provided by this section on a showing by the taxpayer that there was a reasonable basis for the valuation claimed on the return and that such claim was made in good faith."

(b) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 68 is amended by inserting after the item relating to section 6659 the following new item:

"Sec. 6659A. Addition to tax in case of overstatements of pension liabilities."

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1985.

Subtitle B—Fringe Benefit Provisions

PART I—NONDISCRIMINATION RULES FOR CERTAIN STATUTORY FRINGE BENEFIT PLANS

SEC. 1151. NONDISCRIMINATION RULES FOR COVERAGE AND BENEFITS UNDER CERTAIN STATUTORY FRINGE BENEFIT PLANS.

(a) GENERAL RULE.—Part II of subchapter B of chapter 1 (relating to items specifically included in gross income) is amended by adding at the end thereof the following new section:

"SEC. 89. BENEFITS PROVIDED TO HIGHLY COMPENSATED EMPLOYEES UNDER CERTAIN DISCRIMINATORY FRINGE BENEFIT PLANS, ETC.

"(a) INCOME INCLUSION.—Notwithstanding any provision of part III of this subchapter—

"(1) DISCRIMINATORY PLANS.—Gross income for any taxable year of a highly compensated employee who is a participant in a discriminatory fringe benefit plan shall include an amount equal to such employee's employer-provided benefit under such plan for such year.

"(2) Requirement that plan be in writing, etc.—Gross income of an employee shall include an amount equal to such employee's employer-provided benefit under a statutory fringe benefit plan unless—

"(A) such plan is in writing,

"(B) the employees' rights under such plan are legally enforceable, and

"(C) such plan was established with the intention of being maintained for an indefinite period of time.

"(b) Employer-Provided Benefit.—For purposes of this section, an employee's employer-provided benefit under any statutory fringe benefit plan is—

"(1) in the case of an insurance-type plan, the value of the coverage provided during the taxable year to or on behalf of such employee, to the extent attributable to contributions made by the employer, or

"(2) in the case of any other plan, the value of the benefits provided during the taxable year to or on behalf of such employee, to the extent attributable to contributions made by the employer.

"(c) Discriminatory Fringe Benefit Plan.—For purposes of this section, the term 'discriminatory fringe benefit plan' means any statutory fringe benefit plan unless such plan meets—

"(1) the nondiscriminatory eligibility requirements of subsection (d), and

"(2) the nondiscriminatory benefit requirements of subsection (e).

"(d) Nondiscriminatory Eligibility Requirements.—

"(1) In general.—A plan meets the nondiscriminatory eligibility requirements of this subsection for any plan year if—

"(A) the plan does not contain any provision relating to eligibility to participate which (by its terms or otherwise) discriminates in favor of highly compensated employees, and

"(B) at least 90 percent of all employees are eligible to participate in the plan.

"(2) Line of business exception.—

"(A) In general.—Except as otherwise provided in this paragraph, if the employer for bona fide business reasons operates separate lines of business or separate operating units, the employer may apply the requirements of paragraph (1) separately with respect to employees in each separate line of business or operating unit.

"(B) Line of business must have 100 employees.—A line of business or operating unit shall not be treated as separate under subparagraph (A) unless such line of business or operating unit has at least 100 employees who are not excluded under paragraph (3).

"(C) Additional requirements.—Subparagraph (A) shall not apply with respect to any line of business or operating unit of the employer if more than 25 percent (or less than 5 percent) of the employees of such line of business or operating unit are highly compensated employees.

"(D) Aggregation.—If employees of more than 1 line of business or operating unit are eligible to participate in a plan, such lines of business or operating units shall be treated as 1 line of business or operating unit for purposes of this paragraph.

"(3) Exclusions.—

"(A) In general.—Any of the following employees shall be excluded from consideration under this subsection:

"(i) Employees who have not completed at least 180 days (or such shorter period of service as may be specified in the plan).

"(ii) Employees who normally work less than 20 hours per week (or such smaller amount as may be specified in the plan).

"(iii) Employees who normally work less than 1,000 hours during any year (or such smaller amount as may be specified in the plan).

"(iv) Employees who are included in a unit of employees covered by an agreement which the Secretary finds to be a collective bargaining agreement between employee representatives and 1 or more employers if there is evidence that the type of benefits provided under the plan was the subject of good faith bargaining between the employee representatives and such employer or employers.

"(v) Employees who have not attained age 21 (or such earlier age as may be specified in the plan).

"(vi) Employees who are nonresident aliens and who receive no earned income (within the meaning of section 911(d)(2)) from the employer which constitutes income from sources within the United States (within the meaning of section 861(a)(3)).

"(B) Certain exclusions not to apply if excluded employees covered.—Except to the extent provided in regulations, employees shall not be excluded from consideration under clause (i), (ii), (iii), (iv), or (v) of subparagraph (A), as the case may be, unless no employee described in such clause benefits under the plan.

"(C) Exclusion must be applicable to all plans.—An exclusion shall be applicable under any clause of subparagraph (A) (other than clause (iv) thereof) only if the exclusion applies to all fringe benefit plans of the employer providing similar benefits.

"(e) Nondiscriminatory Benefits.—

"(1) Insurance-type plans.—

"(A) In general.—An insurance-type plan meets the nondiscriminatory benefit requirements of this subsection if the insurance-type coverage (and its terms and conditions) provided under the plan are the same for all employees covered by such plan.

"(B) Additional requirements where 25 percent of participants are highly compensated employees.—A plan shall not be treated as meeting the requirements of subparagraph (A) if—

"(i) 25 percent or more of the employees benefiting under the plan are highly compensated employees, and

"(ii) less than 75 percent of the employees eligible to participate in the plan actually benefit under the plan.

Clause (i) shall only apply to an accident or health plan.

"(C) Comparable accident or health plans may be aggregated.—

"(i) In general.—If an accident or health plan would fail to meet the requirements of subparagraph (B) but for this clause, such plan may be combined for purposes of subparagraph (B) with 1 or more accident or health plans providing the same type of benefits if the average employer cost per covered employee in such other plan or plans is at least 80 percent of the average employer cost per covered employee in the plan which but for this clause would fail to meet the requirements of subparagraph (B).

"(ii) Treatment of combined plans.—Any plans which are combined under clause (i) shall be treated as 1 plan for purposes of this section other than subparagraph (A).

"(D) Coordination with medicare, etc.—A plan shall not fail to meet the requirements of subparagraph (A) with respect to health benefits merely because the amount of such benefits provided to any employee or family member of any employee are coordinated (in a manner which does not discriminate in favor of highly compensated employees) with health benefits provided under any Federal, State, or foreign law or under any other health plan covering the employee or family member of the employee.

"(E) Life insurance benefits.—A plan shall not fail to meet the requirements of subparagraph (A) with respect to group-term life insurance benefits merely because the amount of life insurance on behalf of the employees under the plan bears a uniform relationship to the total compensation or the basic or regular rate of compensation of such employees.

"(F) Disability benefits.—A plan shall not fail to meet the requirements of subparagraph (A) with respect to disability benefits merely because—

"(i) the amount of disability benefits on behalf of the employees under the plan bears a uniform relationship to the total compensation or the basic or regular rate of compensation of such employees, or

"(ii) the amount of such benefits provided to an employee are coordinated (in a manner which does not discriminate in favor of highly compensated employees) with benefits provided under any Federal, State, or foreign law or under any other accident plan covering the employee.

"(G) Special rule for accident or health plan.—An accident or health plan shall not fail to meet the requirements of subparagraph (A) merely because the employer-provided benefit is proportionately reduced for employees who normally work less than 30 hours per week.

"(2) Other plans.—

"(A) In general.—In the case of any plan which is not an insurance-type plan, such plan meets the nondiscriminatory benefit requirements of this subsection if—

"(i) all benefits available under the plan to any highly compensated employee are available on the same terms and conditions to all other employees eligible to participate in the plan, and

"(ii) the average benefit provided to or on behalf of employees (other than highly compensated employees) equals or exceeds 80 percent of the average benefit provided to or on behalf of highly compensated employees.

"(B) Determination of average benefit.—For purposes of subparagraph (A), the average benefit provided to employees other than highly compensated employees is an amount equal to—

"(i) the aggregate value of the benefits provided during the plan year to or on behalf of employees other than highly compensated employees, divided by

"(ii) the number of employees other than highly compensated employees eligible to participate under the plan during the plan year.

The average benefit provided to highly compensated employees shall be determined in accordance with the principles of the preceding sentence.

"(f) Separate Application in the Case of Options.—

"(1) In general.—For purposes of this section, each option or different benefit shall be treated as a separate plan.

"(2) Special rule for family coverage.—For purposes of determining whether the requirements of subsection (e)(1)(B) are met with respect to any separate family coverage under an accident or health plan, the employer may elect—

"(A) to only take into account employees with spouses or dependents, or

"(B) to apply subsection (e)(1)(B) by substituting '35 percent' for '25 percent'.

"(g) Statutory Fringe Benefit Plan.—For purposes of this section, the term 'statutory fringe benefit plan' means—

"(1) any plan of an employer for providing group-term life insurance (within the meaning of section 79),

"(2) an accident or health plan (within the meaning of section 105(e)),

"(3) a qualified group legal services plan (within the meaning of section 120(b)),

"(4) an educational assistance program (within the meaning of section 127(b)), and

"(5) a dependent care assistance program (within the meaning of section 129(d)).

"(h) Other Definitions and Special Rules.—For purposes of this section—

"(1) Highly compensated employee.—

"(A) In general.—Except as otherwise provided in this paragraph, 'highly compensated employee' has the meaning given to such term by section 401(k)(5).

"(B) Excluded employees.—Except to the extent provided in regulations, in determining whether an employee is a highly compensated employee, the exclusions provided in subsection (d)(3) shall be taken into account.

"(C) Treatment of family members.—

"(i) Insurance-type plans.—In the case of an insurance-type plan, any member of the family (as defined in section 401(k)(5)(E)(ii)) of a highly compensated employee shall be treated as a highly compensated employee if such family member is covered under the plan.

"(ii) Other plans.—In the case of a plan other than an insurance-type plan, rules similar to the rules of subparagraph (E) of section 401(k)(5) shall apply.

"(2) Treatment of former employees.—Except to the extent provided in regulations, this section shall be applied separately to former employees under requirements similar to the requirements that apply to employees, except that a former employee shall be treated as a highly compensated employee if—

"(A) such employee was a highly compensated employee when such employee separated from service, or

"(B) such employee was a highly compensated employee at any time after attaining age 55.

"(3) Insurance-type plan.—The term 'insurance-type plan' means any statutory fringe benefit plan described in paragraph (1), (2), or (3) of subsection (g).

"(4) Treatment of self-employed individuals.—In the case of a statutory fringe benefit plan described in paragraph (3), (4), or (5) of subsection (g)—

"(A) Treatment as employee, etc.—The term 'employee' includes any self-employed individual (as defined in section 401(c)(1)), and the term 'compensation' includes such individual's earned income (as defined in section 401(c)(2)).

"(B) Employer.—An individual who owns the entire interest in an unincorporated trade or business shall be treated as his own employer. A partnership shall be treated as the employer of each partner who is treated as an employee under subparagraph (A).

"(5) Certain controlled groups, etc.—All employees who are treated as employed by a single employer under subsection (b), (c), or (m) of section 414 shall be treated as employed by a single employer for purposes of this section. The provisions of subsections (n) (other than paragraph (5) thereof) and (o) of section 414 shall apply with respect to the requirements of this section.

"(6) Aggregation rules.—

"(A) Mandatory aggregation.—If a highly compensated employee benefits under 2 or more statutory fringe benefit plans which are not insurance-type plans and which are referred to in the same paragraph of subsection (g), all such plans under which such employee benefits shall be treated as 1 plan.

"(B) Permissive aggregation.—The employer may elect to treat any group of statutory fringe benefit plans which are not insurance-type plans and which are referred to in the same paragraph of subsection (g) as 1 plan.

"(C) Nonaggregation for determining amount not to be included.—The aggregation referred to in subparagraphs (A) and (B) shall not apply for purposes of determining the amount included in income under subsection (a).

"(i) Regulations.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section."

(b) Repeal of Existing Discrimination Rules for Cafeteria Plans.—

(1) In general.—Subsection (b) of section 125 is amended to read as follows:

"(b) Exception for Highly Compensated Employees and Key Employees in Discriminatory Plans.—

"(1) Highly compensated employees.—

"(A) In general.—In the case of a highly compensated employee, subsection (a) shall not apply to any benefits attributable to a plan year unless—

"(i) such plan meets the nondiscriminatory eligibility requirements of section 89(d), and

"(ii) all benefits available under the plan to any highly compensated employee are available on the same terms and conditions to all other employees eligible to participate in the plan.

"(B) Highly compensated employee.—For purposes of subparagraph (A), the term 'highly compensated employee' has the meaning given such term by section 401(k)(5).

"(2) Key employees.—In the case of a key employee (within the meaning of section 416(i)(1)), subsection (a) shall not apply to any benefit attributable to a plan year for which the qualified benefits provided to key employees exceed 25 percent of the aggregate of such benefits provided for all employees under the plan. For purposes of the preceding sentence, qualified benefits shall be determined without regard to the last sentence of subsection (d)."

(2) Conforming amendments.—Section 125 is amended—

(A) by striking out subsections (c), (e), and (g), and

(B) by redesignating subsections (d), (f), and (i) as subsections (c), (d), and (e), respectively.

(c) Repeal of Nondiscrimination Requirements for Voluntary Employees' Beneficiary Associations.—Subsection (b) of section 505 (relating to nondiscrimination requirements) is amended to read as follows:

"(b) Nondiscrimination Requirements.—

"(1) In general.—Except as provided in paragraph (2), a plan meets requirements of this subsection only if such plan meets requirements similar to the requirements which would apply under section 89 if such plan were a statutory fringe benefit plan.

"(2) Treatment of life insurance, etc.—A life insurance, disability, severance pay, or supplemental unemployment compensation benefit shall not be considered to fail to meet the requirements of paragraph (1) merely because the benefits available bear a uniform relationship to the total compensation, or the basic or regular rate of compensation of employees covered by the plan.

"(3) Application of subsection where other nondiscrimination rules provided.—In the case of any benefit for which a provision of this chapter other than this subsection provides nondiscrimination rules, paragraph (1) shall not apply but the requirements of this subsection shall be met only if the nondiscrimination rules so provided are satisfied with respect to such benefit."

(d) Reporting Requirements.—

(1) Amounts includible under section 89.—

(A) In general.—Section 6052 (relating to returns regarding payment of wages in the form of group-term life insurance) is amended to read as follows:

"SEC. 6052. RETURNS REGARDING CERTAIN TAXABLE FRINGE BENEFITS.

"(a) Requirement of Reporting.—Every employer who during any calendar year provides any specified taxable fringe benefit shall make a return according to the forms and regulations prescribed by the Secretary setting forth the amount of such benefit and the name and address of the employee in whose gross income such benefit is includible.

"(b) Statements To Be Furnished to Employees.—Every employer making a return under subsection (a) shall furnish to each employee whose name is set forth in such return a written statement showing the amount of the specified taxable fringe benefits includible in the gross income of such employee.

"(c) Specified Taxable Fringe Benefit.—For purposes of this section—

"(1) In general.—The term 'specified taxable fringe benefit' means any amount includible in the gross income of an employee under section 79, 89, or 125(b).

"(2) Special rule for purposes of section 79.—For purposes of paragraph (1), the determination of whether the cost of group-term life insurance is includible in the gross income of the employee under section 79 shall be determined as if the employer were the only employer paying such employee remuneration in the form of such insurance."

(B) Technical amendment.—Clause (iii) of section 6652(a)(1)(B) is amended by striking out "(relating to reporting payment of wages in the form of group term life insurance)" and inserting in lieu thereof "(relating to returns regarding certain taxable fringe benefits)".

(C) Clerical amendment.—The table of sections for subpart C of part III of subchapter A of chapter 61 is amended by striking out the item relating to section 6052 and inserting in lieu thereof the following:

"Sec. 6052. Returns regarding certain taxable fringe benefits."

(2) Returns and records with respect to statutory fringe benefit plans.—

(A) In general.—Subsection (d) of section 6039D of such Code (as added by section 1 of Public Law 98-611) is amended to read as follows:

"(d) Specified Fringe Benefit Plan.—For purposes of this section, the term 'specified fringe benefit plan' means—

"(1) any statutory fringe benefit plan (as defined in section 89(g)), and

"(2) a cafeteria plan (as defined in section 125(d))."

(B) Recordkeeping requirement.—Subsection (b) of section 6039D (as so added) is amended by striking out "determining whether the requirements of the applicable exclusion are met" and inserting in lieu thereof "determining whether any benefit provided under such plan to or on behalf of any individual is includible in the gross income of such individual".

(C) Conforming amendment.—The section 6039D added by section 1 of Public Law 98-612 is hereby repealed.

(e) Repeal of Certain Existing Antidiscrimination Rules.—

(1) Discriminatory group-term life insurance plans.—Subsection (d) of section 79 is amended to read as follows:

"(d) Nondiscrimination Requirements.—

"(1) In general.—In the case of any group-life insurance plan which is a discriminatory fringe benefit plan (as defined in section 89(c))—

"(A) subsection (a)(1) shall not apply with respect to any highly compensated employee (within the meaning of section 89), and

"(B) the cost of group-term life insurance on the life of any highly compensated employee shall be the greater of—

"(i) such cost determined without regard to subsection (c), or

"(ii) such cost determined with regard to subsection (c).

"(2) Coordination with section 89.—The provisions of this subsection shall be in lieu of any inclusion in income under section 89(a)(1)."

(2) Discriminatory self-insured medical expense reimbursement plans.—Subsection (h) of section 105 (relating to amount paid to highly compensated individuals under a discriminatory self-insured medical expense reimbursement plan) is hereby repealed.

(3) Group legal service plans.—

(A) Subsection (c) of section 120 (relating to requirements for qualified group legal service plans) is amended—

(i) by striking out paragraphs (1) and (2), and

(ii) by redesignating paragraphs (3), (4), and (5) as paragraphs (1), (2), and (3), respectively.

(B) Paragraph (1) of section 120(d) is amended to read as follows:

"(1) Employee.—The term 'employee' includes, for any year, an individual who is an employee within the meaning of section 401(c)(1) (relating to self-employed individuals)."

(C) Paragraph (7) of section 120(d) is amended by striking out "subsection (c)(4)" and inserting in lieu thereof "subsection (c)(2)".

(4) Educational assistance programs.—

(A) Subsection (b) of section 127 (defining educational assistance programs) is amended by striking out paragraph (2) and by redesignating paragraphs (3), (4), (5), and (6) as paragraphs (2), (3), (4), and (5), respectively.

(B) Paragraph (1) of section 127(b) of such Code is amended by striking out "paragraphs (2) through (6)" and inserting in lieu thereof "paragraphs (2) through (5)".

(5) Dependent care assistance programs.—

(A) Subsection (d) of section 129 (defining dependent care assistance programs) is amended by striking out paragraphs (2) and (3) and by redesignating paragraphs (4), (5), (6), and (7) as paragraphs (2), (3), (4), and (5), respectively.

(B) Paragraph (1) of section 129(d) is amended by striking out "paragraphs (2) through (6)" and inserting in lieu thereof "paragraphs (2) through (5)".

(f) Effective Date.—The amendments made by this section shall apply to years beginning after December 31, 1986.

PART II—OTHER PROVISIONS

SEC. 1161. 2-YEAR EXTENSION OF EXCLUSIONS FOR EDUCATIONAL ASSISTANCE PROGRAMS AND GROUP LEGAL PLANS.

(a) Educational Assistance Programs.—Subsection (d) of section 127 (relating to termination) is amended by striking out "December 31, 1985" and inserting in lieu thereof "December 31, 1987".

(b) Group Legal Plans.—Subsection (e) of section 120 (relating to amounts received under qualified group legal services plans) is amended by striking out "December 31, 1985" and inserting in lieu thereof "December 31, 1987".

SEC. 1162. TREATMENT OF CERTAIN FULL-TIME LIFE INSURANCE SALESMEN.

(a) General Rule.—Paragraph (20) of section 7701(a) (defining employee) is amended by striking out "and 106" and inserting in lieu thereof "106, and 125".

(b) Effective Date.—The amendment made by subsection (a) shall apply to years beginning after December 31, 1985.

SEC. 1163. STUDY.

(a) General Rule.—The Secretary of the Treasury or his delegate shall conduct a study of abuses in health insurance provisions and make recommendations for changes in the discrimination rules. Not later than July 1, 1986, the Secretary of the Treasury or his delegate shall submit a report to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Joint Committee on Taxation on the study conducted under this subsection (together with such recommendations as he may deem advisable).

(b) Authority to Gather Information.—The Secretary of the Treasury or his delegate may require any person to submit such information as he determines to be necessary to carry out the study required under subsection (a).

Subtitle C—Changes Relating to Employee Stock Ownership Plans.

SEC. 1171. REPEAL OF EMPLOYEE STOCK OWNERSHIP CREDIT.

(a) In General.—Section 41 (relating to employee stock ownership credit) is hereby repealed.

(b) Technical and Conforming Amendments.—

(1) Subsection (b) of section 38 is amended by striking out paragraph (4), by striking out ", plus" at the end of paragraph (3) and inserting in lieu thereof a period, and by inserting "plus" at the end of paragraph (2).

(2) Subsection (d) of section 38 is amended—

(A) by striking out "196(a), and 404(i)" and inserting in lieu thereof "and 196(a)", and

(B) by striking out "41(a),".

(3) Subsection (c) of section 56 is amended by striking out the last sentence.

(4) Subparagraph (B) of section 108(b)(2) is amended by striking out the last sentence.

(5) Paragraph (21) of section 401(a) is hereby repealed.

(6) Subsection (i) of section 404 (relating to deductibility of unused portions of employee stock ownership credit) is hereby repealed.

(7)(A) Section 6699 (relating to assessable penalties relating to tax credit employee stock ownership plan) is hereby repealed.

(B) The table of sections for subchapter B of chapter 68 is amended by striking out the item relating to section 6699.

(c) Effective Date.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to compensation paid or accrued after December 31, 1985, in taxable years ending after such date.

(2) Section 404(i) to continue to apply to pre-1986 credits.—The provisions of section 404(i) of the Internal Revenue Code of 1985 shall continue to apply with respect to credits under section 41 of such Code attributable to compensation paid or accrued before January 1, 1986.

SEC. 1172. TERMINATION OF CERTAIN ADDITIONAL TAX BENEFITS RELATING TO EMPLOYEE STOCK OWNERSHIP PLANS.

(a) Termination of Exclusion for Interest on Loans Used to Acquire Employer Securities.—Section 133 (relating to interest on certain loans used to acquire employer securities) is amended by adding at the end thereof the following new subsection:

"(d) Termination.—This section shall not apply to securities acquisition loans made after December 31, 1988."

(b) Termination of Dividends Paid Deduction.—Subsection (k) of section 404 (relating to dividends paid deductions) is amended by adding at the end thereof the following new sentence:

"This subsection shall not apply to any dividend paid after December 31, 1988, in taxable years ending after such date."

(c) Termination of Nonrecognition of Gain on Sales of Stock to ESOP's, Etc.—Section 1042 (relating to sales of stock to stock ownership plans or certain cooperatives) is amended by adding at the end thereof the following new subsection:

"(g) Termination.—This section shall not apply to any sale after December 31, 1988, in taxable years ending after such date."

(d) Termination of Transfer of Certain Estate Tax Liability to ESOP's, Etc.—Section 2210 (relating to liability for payment in case of transfer of employer securities to an employee stock ownership plan or a worker-owned cooperative) is amended by adding at the end thereof the following new subsection:

"(h) Termination.—This section shall not apply to estates of decedents dying after December 31, 1988."

SEC. 1173. CHANGES IN REQUIREMENTS RELATING TO EMPLOYEE STOCK OWNERSHIP PLANS.

(a) Additional Qualification Requirements for Employee Stock Ownership Plans.—Subsection (a) of section 401 (relating to qualified pension, profit-sharing, and stock bonus plans) is amended by inserting after paragraph (25) the following new paragraph:

"(27) Additional requirements relating to employee stock ownership plans.—

"(A) In general.—In the case of a trust which is part of an employee stock ownership plan, such trust shall not constitute a qualified trust under this section unless such plan meets the requirements of subparagraphs (B), (C), (D), (E), and (F).

"(B) Additional nondiscrimination test.—

"(i) In general.—A plan meets the requirements of this subparagraph if not more than ⅓ of the employer contributions for a year are allocated to the group of employees consisting of—

"(I) officers,

"(II) shareholders owning more than 10 percent of the employer's stock, or

"(III) employees whose compensation for such year exceeds an amount equal to twice the amount in effect under section 415(c)(1)(A) for such year (determined without regard to section 415(c)(6)(A)).

"(ii) Attribution of ownership.—For purposes of clause (i)(II), an individual shall be considered to own more than 10 percent of the employer's stock if, without regard to stock held under the employee stock ownership plan, he owns (after application of section 1563(e)) more than 10 percent of the total combined voting power of all classes of stock entitled to vote or more than 10 percent of the total value of shares of all classes of stock.

"(C) Vesting.—

"(i) In general.—A plan meets the requirements of this subparagraph if an employee has a nonforfeitable right to a percentage of his accrued benefit derived from employer contributions determined under the following table:

"Years of service	The nonforfeitable percentage is:
6	20
7	40
8	60
9	80
10 or more	100.

"(ii) Certain rules made applicable.—Except to the extent inconsistent with the provisions of this subparagraph, the rules of section 411 shall apply for purposes of this subparagraph.

"(D) Diversification of investments.—

"(i) In general.—A plan meets the requirements of this subparagraph if each qualified participant in the plan may elect within 90 days after the close of each plan year in the qualified election period to direct the plan as to the investment of at least 25 percent of the participant's account in the plan (to the extent such portion exceeds the amount to which a prior election under this subparagraph applies). In the case of the election year in which the employee can make his last election, the preceding sentence shall be applied by substituting '50 percent' for '25 percent'.

"(ii) Method of meeting requirements.—A plan shall be treated as meeting the requirements of clause (i) if—

"(I) the portion of the employee's account covered by the election under clause (i) is distributed within 90 days after the period during which the election may be made, or

"(II) the plan offers at least 3 investment options (not inconsistent with regulations prescribed by the Secretary) to each participant making an election under clause (i).

"(iii) Qualified employee.—For purposes of this subparagraph, the term 'qualified employee' means any employee who has completed at least 10 years of service with the employer and has attained age 55.

"(iv) Qualified election period.—For purposes of this subparagraph, the term 'qualified election period' means the period consisting of the plan year in which the qualified employee attains age 55 and ending with the 5th succeeding plan year. If a qualified employee does not have a qualified election period under the preceding sentence, the plan year in which the individual first becomes a qualified employee shall be treated as such individual's election.

"(E) Use of independent appraiser.—A plan meets the requirements of the subparagraph if all valuations of employer securities with respect to activities carried on by the plan are by an independent appraiser. For purposes of the preceding sentence, the term 'independent appraiser' means any appraiser meeting requirements similar to the requirements of the regulations prescribed under section 170(a)(1).

"(F) Distribution requirement.—

"(i) In general.—A plan meets the requirements of this subparagraph if it provides that, unless the participant otherwise elects, the distribution of the participant's entire account in the plan will be made not later than 60 days after the close of the plan year following the plan year in which the participant separates from service.

"(ii) Exception for certain financed securities.—To the extent that the account of any employee in the plan is attributable to securities with respect to which there is acquisition indebtedness, the requirements of clause (i) shall be treated as met if the distribution of such portion is made before 60 days after the close of the plan year in which such loan is repaid.

"(G) Employee stock ownership plan.—For purposes of this paragraph, the term 'employee stock ownership plan' has the meaning given such term by section 4975(e)(7)."

(b) Pass-Thru of Voting Rights.—Paragraph (3) of section 409(e) (relating to voting rights) is amended to read as follows:

"(3) Requirement for other employers.—If the employer does not have a registration-type class of securities, the plan meets the requirements of this paragraph only if—

"(A) each participant having at least 10 years of participation in the plan is entitled to direct the plan as to the manner in which employer securities which are entitled to vote and are allocated to the account of such participant are to be voted, and

"(B) each participant in the plan having less than 10 years of service (as so defined) is entitled to direct the plan as to the manner in which voting rights under employer securities which are allocated to the account of such participant are to be exercised with respect to a corporate matter which (by law or charter) must be decided by more than a majority vote of outstanding common shares voted."

(c) Put Option Requirements.—Subsection (h) of section 409 (relating to right to demand employers securities; put option) is amended by adding at the end thereof the following new paragraph:

"(5) Payment requirement.—

"(A) In general.—Except as provided in subparagraph (B), if the employee requires the employer to repurchase employer securities, the requirements of paragraph (1)(B) shall not be treated as met unless the employer pays the employee for such securities within 90 days after the election.

"(B) Exception for certain installment payments.—Subparagraph (A) shall not apply if—

"(i) the securities to be purchased are part of a lump sum distribution,

"(ii) the amount to be paid for the employer securities is paid in substantially equal periodic payments (not less frequently than annually) over a period not exceeding 5 years, and

"(iii) there is adequate security and adequate interest rate on the amounts referred to in clause (i)."

(d) Effective Date.—The amendments made by this section shall apply to the portion of any participant's account balance which is attributable to amounts allocated in plan years beginning after December 31, 1985.

SEC. 1174. DISTRIBUTIONS ON TERMINATION PERMITTED.

(a) General Rule.—Paragraph (1) of section 409(d) (relating to employer securities must stay in the plan) is amended by striking out "or separation from service" and inserting in lieu thereof "separation from service, or termination of the plan without the establishment of a successor plan".

(b) Effective Date.—The amendment made by subsection (a) shall apply to plan terminations after December 31, 1984.

SEC. 1175. SPECIAL RULE FOR ELIGIBLE WORKER-OWNED COOPERATIVES.

(a) General Rule.—Subsection (c) of section 1042 is amended by adding at the end thereof the following new paragraph:

"(7) Special rule for eligible worker-owned cooperatives.—In the case of any cooperative organization where each patron has only 1 voting share, for purposes of this section and section 2210, any security shall not fail to be treated as employer securities merely because such securities are nonvoting so long as each participant in the plan has at least 1 voting share."

(b) Effective Date.—The amendment made by subsection (a) shall take effect on January 1, 1986.

SEC. 1176. TRANSITION RULES.

(a) Section 1171.—The amendments made by section 1171 shall not apply in the case of a tax credit employee stock ownership plan if—

(1) such plan was favorably approved on September 23, 1983, by employees, and

(2) not later than January 11, 1984, the employer of such employees was 100 percent owned by such plan.

(b) Subtitle Not To Apply to Certain Newspaper.—The amendments made by this subtitle shall not apply to any daily newspaper—

(1) which was first published on December 17, 1855, and which began publication under its current name in 1954, and

(2) which is published in a constitutional home rule city (within the meaning of section 143(d)(3)(C) of the Internal Revenue Code of 1985) which has a population of less than 2,500,000.

TITLE XII—UNEARNED INCOME OF CERTAIN DEPENDENT CHILDREN; TRUSTS AND ESTATES

Subtitle A—Unearned Income of Certain Minor Children

SEC. 1201. UNEARNED INCOME OF CERTAIN MINOR CHILDREN.

(a) General Rule.—Section 1 is amended by adding at the end thereof the following new subsection:

"(g) Unearned Income of Minor Children Attributable to Parental Sources Taxed at Marginal Rate of Parent.—

"(1) In general.—In the case of any child to whom this subsection applies, the tax imposed by this section shall not be less than the sum of—

"(A) the tax which would be imposed by this section if the taxable income of such individual for the taxable year were reduced by the net parental source unearned income, and

"(B) a tax on the net parental source unearned income determined at the parent's marginal rate.

"(2) Child to whom subsection applies.—This subsection shall apply to any child for any taxable year if—

"(A) such child has not attained age 14 before the close of the taxable year,

"(B) either parent of such child is alive at the close of the taxable year, and

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"(C) such child has net parental source unearned income for such taxable year.

"(3) Net parental source unearned income.—For purposes of this subsection—

"(A) In general.—The term 'net parental source unearned income' means net unearned income for the taxable year to the extent not attributable to a qualified segregated asset.

"(B) Net unearned income.—The term 'net unearned income' means the excess of—

"(i) the portion of the gross income for the taxable year which is not earned income (as defined in section 911(d)(2)), over

"(ii) the deductions allowed by this chapter for the taxable year which are directly connected with the production of such portion.

In no event shall the amount of the net parental source unearned income for any taxable year exceed the individual's taxable income for such taxable year.

"(4) Qualified segregated asset.—For purposes of this subsection—

"(A) In general.—The term 'qualified segregated asset' means any asset—

"(i) if the entire amount of such asset is attributable to nonparental sources or income from assets meeting the requirements of this clause, and

"(ii) if such asset is identified as a qualified segregated asset before the later of—

"(I) the due date (with extensions) for filing the return of the child's tax imposed by this chapter for the taxable year in which such asset was acquired, or

"(II) the due date (with extensions) for filing the return of the child's tax imposed by this chapter for the child's first taxable year which begins after December 31, 1985, and for which such a return was required.

"(B) Nonparental sources.—The term 'nonparental sources' means any amount other than an amount received (directly or indirectly) by the child from any parent or stepparent of the child. Such term also includes any property received by reason of the death of a parent or stepparent.

"(5) Parent's marginal rate.—For purposes of this subsection, the term 'parent's marginal rate' means—

"(A) with respect to so much of the net unearned income as does not exceed the amount of any rate bracket amount allocated to the individual under section 646, the rate applicable to the bracket with respect to which the allocation is made; or

"(B) 38 percent with respect to taxable income not taken into account under subparagraph (A)."

(b) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1985.

Subtitle B—Taxation of Estates and Trusts and Their Beneficiaries

SEC. 1211. TAXATION OF TRUSTS AND ESTATES AND THEIR BENEFICIARIES.

(a) General Rule.—Part I of subchapter J of chapter 1 (relating to estates, trusts, and beneficiaries) is amended to read as follows:

"Part I—Trusts, Estates, and Beneficiaries

"Subpart A—General rules for taxation of trusts and estates and their beneficiaries.
"Subpart B—Grantors and beneficiaries treated as owners.
"Subpart C—Miscellaneous provisions.

"Subpart A—General Rules for Taxation of Trusts and Estates and Their Beneficiaries

"Sec. 641. Imposition of tax.
"Sec. 642. Computation of tax.
"Sec. 643. Special rules for credits and deductions.
"Sec. 644. Taxation of beneficiaries.
"Sec. 645. Special rules.
"Sec. 646. Allocation of rate bracket amounts.

"SEC. 641. IMPOSITION OF TAX.

"(a) General Rule.—A tax (computed as provided in section 642) is hereby imposed on the taxable income of every trust or estate.

"(b) Determination of Taxable Income.—Except as otherwise provided in this part, the taxable income of a trust or estate shall be determined in the same manner as in the case of an individual.

"(c) Fiduciary Liable for Tax.—The tax imposed by this section shall be paid by the fiduciary.

"(d) Cross Reference.—

"For provision excluding from provisions of this subpart trusts treated as owned by grantor or beneficiary, see section 651.

"SEC. 642. COMPUTATION OF TAX.

"(a) Before Death of Grantor.—The tax imposed by section 641 on the taxable income of any trust (other than a qualified beneficiary trust or qualified children's trust) for any taxable year beginning before the date of the grantor's death shall be computed by using the grantor's marginal rate (as determined under subsection (e)(1)).

"(b) Estates and Trusts After Death of Grantor.—

"(1) In general.—The tax imposed by section 641 on the taxable income of—

"(A) any estate, and

"(B) any trust (other than a qualified beneficiary trust or qualified children's trust) for a taxable year beginning on or after the death of the grantor,

shall be computed by using the rate schedule set forth in section 1(d) (relating to married individuals filing a separate return).

"(2) Limitation on graduated rates.—

"(A) In general.—The estate of a decedent and trusts (taxable under paragraph (1)) with respect to which the decedent was the grantor shall be limited to amounts in each taxable income bracket in the rate schedule referred to in paragraph (1) which do not aggregate more than the maximum amount in such bracket to which an individual is entitled.

"(B) Allocation.—The amounts referred to in the preceding sentence shall be allocated among such trusts—

"(i) as provided in the decedent's will,

"(ii) if there is no such provision and no agreement described in clause (iii), in equal amounts among—

"(I) the estate, and

"(II) all such trusts which notify the executor of their existence before the date 9 months after the date of the decedent's death, or

"(iii) if the estate and trusts so notifying the executor enter into an agreement before the date 1 year after the date of the decedent's death, in accordance with such agreement.

"(c) Rate for Trust for Benefit of Single Beneficiary.—

"(1) In general.—In the case of any qualified beneficiary trust, the tax imposed by section 641 for any taxable year shall be computed by using the beneficiary's marginal rate (as determined under subsection (e)(1)).

"(2) Qualified beneficiary trust defined.—For purposes of this section—

"(A) In general.—The term 'qualified beneficiary trust' means any trust if, at all times on or after the 1st day of the taxable year, all of the property in such trust and any income therefrom—

"(i) may only be distributed to, or for the benefit of, a single designated beneficiary, and

"(ii) to the extent not so distributed during the life of such beneficiary, will be distributed to the estate of such beneficiary or as such beneficiary may appoint under a general power of appointment (as defined in section 2514(c)).

"(B) Includes QTIP trust.—The term 'qualified beneficiary trust' includes any trust which qualifies as qualified terminable interest property under section 2056(b)(7) or 2523(f), as the case may be. The preceding sentence shall cease to apply after the termination of the spouse's interest in the trust.

"(C) Beneficiary treated as grantor.—The beneficiary of any qualified beneficiary trust shall be treated as the grantor of any portion of the trust disposed of by reason of the death of the beneficiary or otherwise.

"(d) Rate for Qualified Children's Trust.—

"(1) In general.—In the case of a qualified children's trust, the tax imposed by section 641 for any taxable year shall be computed by using the qualified child's rate (as determined under subsection (e)(2)).

"(2) Qualified children's trust.—For purposes of this section, the term 'qualified children's trust' means any trust if, at all times on or after the 1st day of the taxable year—

"(A) all of the property in such trust and any income therefrom—

"(i) may only be distributed to, or for the benefit of, children of the grantor, and

"(ii) to the extent not so distributed during the term of the trust, will be distributed to one or more of such children, to the estates of one or more of such children, or as one or more of such children may appoint under a general power of appointment (as defined in section 2514(c)),

"(B) except as provided in subparagraph (A)(ii), no person holds a power with respect to the beneficial enjoyment of the property in the trust (or income therefrom) which does not meet the requirements of such section 10674(c) (relating to certain powers of independent trustees), and

"(C) such trust is not a qualified beneficiary trust.

If any child of the grantor dies before the termination of the trust, any descendant of such child who is a beneficiary in the trust by reason of such death shall be treated as a child of the grantor.

"(e) Determination of Marginal Rates.—

"(1) Grantors or beneficiaries.—For purposes of this section, the marginal rate of the grantor or the beneficiary is—

"(A) with respect to so much of the taxable income of the trust as does not exceed the amount of any rate bracket amount allocated to the trust under section 646, the rate applicable to the bracket from which the allocation is made, and

"(B) 38 percent with respect to taxable income not taken into account under subparagraph (A).

"(2) Qualified child's rate.—For purposes of this section, the qualified child's rate with respect to any qualified children's trust—

"(A) with respect to so much of the taxable income of the trust as does not exceed the amount of any rate bracket amount allocated to the trust by the grantor or by any qualified minor beneficiary, the rate applicable to the bracket from which the allocation is made, and

"(B) 38 percent with respect to taxable income not taken into account under subparagraph (A).

"(3) Qualified minor beneficiary defined.—For purposes of this subpart, the term 'qualified minor beneficiary' means any child of the grantor who is a beneficiary of the trust and who has not attained age 21 before the close of the taxable year.

"(4) Cross reference.—

"For provisions providing that certain children may not make allocations to trusts, see section 646(b).

"SEC. 643. SPECIAL RULES FOR CREDITS AND DEDUCTIONS.

"(a) Deduction for Personal Exemptions.—

"(1) Trusts.—A trust shall be allowed a deduction of $100.

"(2) Estate.—An estate shall be allowed a deduction of $600.

"(3) Deductions in lieu of personal exemptions.—The deductions allowed by this subsection shall be in lieu of the deductions allowed under section 151 (relating to deduction for personal exemptions).

"(b) Deduction for Amounts Paid for a Charitable Purpose.—

"(1) General rule.—In the case of an estate or trust, there shall be allowed as a deduction in computing its taxable income (in lieu of the deduction allowed by section 170(a), relating to deduction for charitable, etc., contributions and gifts) any amount of the gross income (without limitation) which pursuant to the terms of the governing instrument is, during the taxable year, paid for a purpose specified in section 170(c) (determined without regard to section 170(c)(2)(A)). If a charitable contribution is paid after the close of such taxable year and on or before the last day of the year following the close of such taxable year, then the trustee or administrator may elect to treat such contribution as paid during such taxable year. The election shall be made at such time and in such manner as the Secretary prescribes by regulations.

"(2) Adjustments.—To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain from the sale or exchange of capital assets held for more than 6 months, proper adjustment shall be made for any deduction allowable to the estate or trust under section 1202 (relating to deduction for excess of capital gains over capital losses.) In the case of a trust, the deduction allowed by this subsection shall be subject to section 662 (relating to unrelated business income).

"(3) Taxable private foundations.—In the case of a private foundation which is not exempt from taxation under section 501(a) for the taxable year, the provisions of this subsection shall not apply and the provisions of section 170 shall apply.

"(4) Coordination with section 170(b).—If it is more likely than not that any portion of the corpus of a trust will revert to the grantor, the grantor's spouse, or a related person (within the meaning of section 1239), then—

"(A) the provisions of this subsection shall not apply and the provisions of section 170 shall apply, and

"(B) for purposes of applying the limitations of section 170(b), the trust shall have the same status as that of the grantor.

"(c) Net Operating Loss Deduction.—The benefit of the deduction for net operating losses provided by section 172 shall be allowed to estates and trusts under regulations prescribed by the Secretary.

"(d) Disallowance of Double Deductions.—Amounts allowable under section 2053 or 2054 as a deduction in computing the taxable estate of a decedent shall not be allowed as a deduction (or as an offset against the sales price of property in determining gain or loss) in computing the taxable income of the estate or of any other person, unless there is filed, within the time and in the manner and form prescribed by the Secretary, a statement that the amounts have not been allowed as deductions under section 2053 or 2054 and a waiver of the right to have such amounts allowed at any time as deductions under section 2053 or 2054. This subsection shall not apply with respect to deductions allowed under part II (relating to income in respect of decedents).

"(e) Unused Loss Carryovers and Excess Deductions on Termination Available to Beneficiaries.—If on the termination of an estate or trust, the estate or trust has—

"(1) a net operating loss carryover under section 172 or a capital loss carryover under section 1212, or

"(2) for the last taxable year of the estate or trust deductions (other than the deductions allowed under subsection (a) or (b)) in excess of gross income for such year,

then such carryover or such excess shall be allowed as a deduction, in accordance with regulations prescribed by the Secretary, to the beneficiaries succeeding to the property of the estate or trust.

"SEC. 644. TAXATION OF BENEFICIARIES.

"(a) General Rule.—Except as provided in subpart B, no amount shall be included in the gross income of any beneficiary by reason of the income of any trust or estate, or by reason of any distribution from a trust or estate.

"(b) Basis of Property Distributed in Kind.—The basis of any property received by a beneficiary in a distribution from a trust or estate shall be—

"(1) the adjusted basis of such property in the hands of the trust or estate immediately before the distribution, adjusted for

"(2) any gain or loss recognized to the trust or estate on the distribution.

"SEC. 645. SPECIAL RULES.

"(a) Status of Certain Income Clarified.—The income to which the tax imposed by section 641 applies shall include—

"(1) income accumulated in trust for the benefit of unborn or unascertained persons or persons with contingent interests, and income accumulated or held for future distribution under the terms of the will or trust;

"(2) income which is to be distributed currently by the fiduciary to the beneficiaries, and income collected by a guardian of an infant which is to be held or distributed as the court may direct;

"(3) income received by estates of deceased persons during the period of administration or settlement of the estate; and

"(4) income which, in the discretion of the fiduciary, may be either distributed to the beneficiaries or accumulated.

"(b) Treatment of Multiple Grantors.—For purposes of this part—

"(1) In general.—Except as provided in paragraph (2), if 2 or more persons are grantors with respect to any trust, the portions of such trust attributable to transfers from each of such persons shall be treated as separate trusts.

"(2) Election for married individuals.—With respect to transfers made by a husband or wife to a trust while married, they may elect to treat 1 of them as the grantor for purposes of this part. Such an election shall be made on the return of the trust for its 1st taxable year.

"(c) Treatment of Trusts Irrevocable on September 25, 1985, and Certain Other Trusts.—In the case of—

"(1) a trust which was irrevocable on September 25, 1985,

"(2) the estate of a decedent dying before September 25, 1985,

"(3) a foreign trust,

"(4) a pooled income fund (as defined in section 10642(c)(5)), or

"(5) a charitable remainder trust (as defined in section 10664),

the provisions of subchapter A of chapter 99 shall apply in lieu of this part. Paragraph (1) shall not apply to the portion of any trust which is attributable to contributions to corpus on or after September 25, 1985.

"SEC. 646. ALLOCATION OF RATE BRACKET AMOUNTS.

"(a) General Rule.—Except as provided in subsection (b), an individual may allocate any portion of such individual's unused rate bracket amount for any taxable year among—

"(1) trusts (other than qualified beneficiary trusts) with respect to which such individual is the grantor,

"(2) qualified beneficiary trusts with respect to which such individual is the beneficiary,

"(3) qualified children's trusts with respect to which such individual is a qualified minor beneficiary, and

"(4) any child of the individual if such child has not attained age 14 before the close of the taxable year.

Such allocation shall be made on or before the due date (with extensions) for filing the return of the tax imposed by this chapter for such taxable year. Such allocation, once made for any taxable year, shall be irrevocable.

"(b) Special Rules for Children Under Age 14.—

"(1) No allocation by child.—An individual who has not attained age 14 before the close of the taxable year may not make any allocation under subsection (a) of such individual's unused rate bracket amount. The preceding sentence shall not apply if, at the close of the taxable year, both parents of the individual are deceased.

"(2) Grantor may make allocation to certain qualified beneficiary trusts.—If the beneficiary of a qualified beneficiary trust has not attained age 14 before the close of such beneficiary's taxable year, the grantor of such trust may make an allocation under subsection (a) with respect to his taxable year corresponding to the taxable year of the beneficiary.

"(c) Effect of Allocation.—If a person makes an allocation under subsection (a) of an unused rate bracket amount for any taxable year, for purposes of determining the tax imposed by section 1 on the income of such person for such taxable year—

"(1) the amount in the rate bracket from which the allocation is made shall be reduced by the amount so allocated, and

"(2) the income level at which each higher rate bracket takes effect shall be reduced by the amount so allocated.

"(d) Year to Which Allocation Applies.—Any allocation under subsection (a) to a trust or child shall apply to the taxable year of the trust or child beginning in the taxable year from which the allocation is made.

"(e) Unused Rate Bracket Amount.—For purposes of this section, the term 'unused rate bracket amount' means the amount in any rate bracket in the applicable rate schedule to the extent such amount applies to taxable income in excess of the taxable income of the person making the allocation as shown on the return for the taxable year.

"Subpart B—Grantors and Beneficiaries Treated as Owners

"Sec. 651. Trust income, deductions, and credits attributable to grantors and beneficiaries as owners.
"Sec. 652. Grantor treated as owner.
"Sec. 653. Beneficiary treated as owner.

"SEC. 651. TRUST INCOME, DEDUCTIONS, AND CREDITS ATTRIBUTABLE TO GRANTORS AND BENEFICIARIES AS OWNERS.

"Where it is specified in this subpart that the grantor or another person shall be treated as the owner of any portion of a trust, such person shall be treated as the owner of such portion for all purposes of this subtitle and—

"(1) there shall be included in computing the taxable income and credits of the grantor or other person those items of income, deductions, and credits against tax of the trust which are attributable to such portion of the trust to the extent such items would be taken into account under this chapter in computing taxable income or credits against tax of an individual, and

"(2) subpart A shall not apply to such portion of the trust.

Any remaining portion of the trust shall be subject to subpart A.

"SEC. 652. GRANTOR TREATED AS OWNER.

"(a) General Rule.—The grantor shall be treated as the owner of any portion of a trust in respect of which there is—

"(1) a prohibited administrative power described in subsection (b),

"(2) a power to revoke described in subsection (c), or

"(3) a power to control the income described in subsection (d).

"(b) Prohibited Administrative Power.—For purposes of subsection (a), the term 'prohibited administrative power' means any of the following:

"(1) Power to deal for less than adequate and full consideration.—A power which enables the grantor (or the grantor's spouse) to purchase, exchange, or otherwise deal with or dispose of the corpus or income therefrom for less than an adequate consideration in money or money's worth.

"(2) Power to borrow without adequate interest or security.—A power which enables the grantor (or the grantor's spouse) to borrow the corpus or income (directly or indirectly) without adequate interest or without adequate security.

"(3) Borrowing of the trust funds.—The grantor (or the grantor's spouse) has (directly or indirectly) borrowed the corpus or income and has not completely repaid the loan (including all interest) before the beginning of the taxable year.

"(c) Power To Revoke.—For purposes of subsection (a), the power to revoke described in this subsection is a current power which enables the grantor (or the grantor's spouse) to revest in the grantor (or vest in the grantor's spouse) title to a portion of the trust.

"(d) Power To Control Income.—

"(1) In general.—For purposes of subsection (a), there is a power to control income if the income of any portion of the trust is required to be, or may, in the discretion of the grantor (or grantor's spouse), be—

"(A) distributed to the grantor or the grantor's spouse,

"(B) held or accumulated for future distributions to the grantor or the grantor's spouse, or

"(C) applied to the payment of premiums on policies of insurance on the life of the grantor or the grantor's spouse (except policies of insurance irrevocably payable for a purpose specified in section 170(c) (defining charitable contributions)).

"(2) Obligations of support.—Income of a trust shall not be considered taxable to the grantor under subsection (a) or any other provision of this chapter merely because such income in the discretion of another person, the trustee, or the grantor acting as trustee or co-trustee, may be applied or distributed for the support or maintenance of a beneficiary (other than the grantor's spouse) whom the grantor is legally obligated to support or maintain, except to the extent that such income is so applied or distributed. In cases where the amounts so applied or distributed are paid out of income for the taxable year, such amounts shall reduce the income of the trust taxable under subpart A and shall be included in the income of the grantor.

"SEC. 653. BENEFICIARY TREATED AS OWNER.

"(a) General Rule.—A person shall be treated as the owner of any portion of a trust with respect to which—

"(1) such person has a power exercisable solely by himself to vest the corpus or income therefrom in himself, or

"(2) such person has previously partially released or otherwise modified such power and after such release or modification retains such control as would, under the principles of section 652, subject a grantor of a trust to treatment as the owner thereof.

"(b) Exceptions Where Grantor is Taxable.—Subsection (a) shall not apply with respect to any portion of the trust if the grantor of the trust is treated as the owner of such portion under section 652.

"Subpart C—Miscellaneous Provisions

"Sec. 661. Election to have taxable year of decedent continue after death.
"Sec. 662. Limitation on charitable deduction.
"Sec. 663. Income of an estate or trust in case of divorce, etc.
"Sec. 664. Use of trust as an exchange fund.
"Sec. 665. Exemption amount for minimum tax.
"Sec. 666. Taxation of beneficiaries of foreign trusts.

"SEC. 661. ELECTION TO HAVE TAXABLE YEAR OF DECEDENT CONTINUE AFTER DEATH.

"(a) Election To Continue Taxable Year of Decedent.—

"(1) In general.—The executor of any decedent may elect to treat the taxable year of the decedent in which he died as continuing to what would have been the close of such year but for such death.

"(2) Effect of election.—If an election is made under paragraph (1), all items of income, deduction, and credits which would have been taken into account by the estate for the portion of the taxable year referred to in paragraph (1) after the death of the decedent shall be taken into account on the decedent's return for such taxable year.

"(3) Surviving spouse must consent.—If the decedent has a surviving spouse, no election may be made under paragraph (1) unless such spouse consents to such election.

"(4) Coordination with section 642.—If the taxable year of any decedent is continued under paragraph (1), for purposes of subsections (a) and (b) of section 642, the close of the taxable year as so continued shall be treated as the date of the decedent's death.

"(b) Estate permitted 1 change of accounting period without approval.—Notwithstanding section 442, the estate of a decedent may change its annual accounting period 1 time without the approval of the Secretary.

"SEC. 662. LIMITATION ON CHARITABLE DEDUCTION.

"(a) Trade or Business Income.—In computing the deduction allowable under section 643(b) to a trust, no amount otherwise allowable under section 643(b) as a deduction shall be allowed as a deduction with respect to income of the taxable year which is allocable to its unrelated business income for such year. For purposes of the preceding sentence, the term 'unrelated business income' means an amount equal to the amount which, if such trust were exempt from tax under section 501(a) by reason of section 501(c)(3), would be computed as its unrelated business taxable income under section 512 (relating to income derived from certain business activities and from certain property acquired with borrowed funds).

"(b) Cross Reference.—

"For disallowance of certain charitable, etc., deductions otherwise allowable under section 643(b), see sections 508(d) and 4948(c)(4).

"SEC. 663. INCOME OF AN ESTATE OR TRUST IN CASE OF DIVORCE, ETC.

"(a) General Rule.—In the case of a wife who is divorced or legally separated under a decree of divorce or separate maintenance (or who is separated from her husband under a written separation agreement)—

"(1) any amount required to be paid by the trust pursuant to such decree or agreement shall be allowed as a deduction to the trust, and

"(2) such amount shall be included in the gross income of the wife under section 71.

"(b) Subsection Inapplicable to Support for Minor Children.—This section shall not apply to that part of any such income of the trust which the terms of the decree, written separation agreement, or trust instrument fix, in terms of an amount of money or a portion of such income, as a sum which is payable for the support of minor children of such husband. In case such income is less than the amount specified in the decree, agreement, or instrument, for the purpose of applying the preceding sentence, such income, to the extent of such sum payable for such support, shall be considered a payment for such support.

"(c) Cross Reference.—

"For definitions of 'husband' and 'wife', as used in this section, see section 7701(a)(17).

"SEC. 664. USE OF TRUST AS AN EXCHANGE FUND.

"(a) General Rule.—Except as provided in subsection (b), if property is transferred to a trust in exchange for an interest in other trust property and if the trust would be an investment company (within the meaning of section 351) if it were a corporation, then gain shall be recognized to the transferor.

"(b) Exception for Pooled Income Funds.—Subsection (a) shall not apply to any transfer to a pooled income fund (within the meaning of section 10642(c)).

"SEC. 665. EXEMPTION AMOUNT FOR MINIMUM TAX.

"(a) ESTATES AND CERTAIN TRUSTS AFTER DEATH OF GRANTOR.—The estate of a decedent and trusts taxable under section 641(b) with respect to which a decedent is the grantor shall be limited to one $20,000 exemption for purposes of section 55. Such amount shall be allocated among such trusts in the same manner as rate bracket amounts are allocated under section 642(b)(2).

"(b) OTHER TRUSTS.—

"(1) IN GENERAL.—In the case of—

"(A) a trust taxable under section 642(a) (relating to certain trusts before death of grantor),

"(B) a trust taxable under section 642(c) (relating to trusts for benefit of single beneficiary, or

"(C) a trust taxable under section 642(d) (relating to qualified children's trust),

the exemption amount for purposes of section 55 shall be the sum of the exemption amounts (if any) allocated to the trust under this subsection.

"(2) ALLOCATIONS.—

"(A) IN GENERAL.—Any individual who may make an allocation of an unused rate bracket amount to a trust under section 646 may also allocate a portion of such individual's exemption amount to such trust.

"(B) DEEMED ALLOCATION WHERE ALLOCATION OF RATE BRACKET AMOUNT.—An allocation of an unused rate bracket amount to a trust under section 646 shall be treated as including an allocation to such trust of a portion of such individual's exemption amount which bears the same ratio to such exemption amount as—

"(i) the unused rate bracket amount so allocated, bears to

"(ii) the amount of taxable income in the applicable rate schedule under section 1 subject to a rate of less than 38 percent.

"(3) EFFECT OF ALLOCATION.—If there is an allocation under this subsection of any portion of an individual's exemption amount for any taxable year, for purposes of determining the tax imposed by section 55 on such individual for such taxable year, the amount of the individual's exemption amount shall be reduced by the amount so allocated.

"(4) YEAR TO WHICH ALLOCATION APPLIES.—Any allocation under this subsection to a trust shall apply to the taxable year of the trust beginning in the taxable year from which the allocation is made.

"(5) ALLOCATION IRREVOCABLE.—Any allocation under this subsection, once made, shall be irrevocable.

"SEC. 666. TAXATION OF BENEFICIARIES OF FOREIGN TRUSTS.

"(a) GENERAL RULE.—In the case of any amount includible in gross income received from a foreign trust—

"(1) the tax imposed by section 1 (or any tax in lieu of the tax imposed by section 1) shall be 38 percent of such amount, and

"(2) for purposes of sections 10667 and 10668, the partial tax shall be computed by using a rate of 38 percent.

"(b) ELECTION TO BE TREATED AS DOMESTIC TRUST.—Subsection (a) shall not apply to any trust if such trust elects to be treated as a domestic trust for purposes of this subtitle and such trust provides such security as the Secretary may require to insure that the tax imposed by this subtitle on such trust is paid.

"(c) EXCEPTION FOR EXISTING IRREVOCABLE TRUSTS.—This subsection shall not apply to any trust which was irrevocable on September 25, 1985. The preceding sentence shall not apply to any portion of such trusts which is attributable to contributions to corpus on or after such date."

(b) TRANSFER OF EXISTING LAW PROVISIONS.—

(1) The Internal Revenue Code of 1954 is amended by adding at the end thereof the following new chapter 99:

"CHAPTER 99—APPENDIX

"Subchapter A—Pre-1986 Provisions Continued for Certain Estates and Trusts

"Part I. General rules for taxation of estates and trusts.
"Part II. Trusts which distribute current income only.
"Part III. Estates and trusts which may accumulate income or which distribute corpus.
"Part IV. Treatment of excess distributions by trusts.
"Part V. Grantors and others treated as substantial owners.
"Part VI. Miscellaneous.

"SEC. 10640. TRUSTS AND ESTATES TO WHICH SUBCHAPTER APPLIES.

"This subchapter shall apply only to trusts and estates as provided in section 645(c)."

(2) Subparts A, B, C, D, E, and F of part I of subchapter J (as in effect on the day before the date of the enactment of this Act) are hereby—

(A) redesignated as parts I, II, III, IV, V, and VI, respectively,

(B) amended by redesignating each section contained therein by increasing its number designation by 10,000 (and changing any reference to such a section accordingly), and

(C) transferred to subchapter A of chapter 99.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on September 25, 1985.

(2) CROSS REFERENCE.—

For exemption of trusts irrevocable on September 25, 1985, and certain other trusts, see section 645(c) of the Internal Revenue Code of 1985 (as amended by this section).

Subtitle C—Generation Skipping Transfers

SEC. 1221. NEW TAX ON GENERATION-SKIPPING TRANSFERS.

(a) GENERAL RULE.—Chapter 13 (relating to tax on certain generation-skipping transfers) is amended to read as follows:

"CHAPTER 13—TAX ON GENERATION-SKIPPING TRANSFERS

"SUBCHAPTER A. Tax imposed.
"SUBCHAPTER B. Generation-skipping transfers.
"SUBCHAPTER C. Taxable amount.
"SUBCHAPTER D. GST exemption.
"SUBCHAPTER E. Applicable rate; inclusion ratio.
"SUBCHAPTER F. Other definitions and special rules.
"SUBCHAPTER G. Administration.

"Subchapter A—Tax Imposed

"Sec. 2601. Tax imposed.
"Sec. 2602. Amount of tax.
"Sec. 2603. Liability for tax.
"Sec. 2604. Credit for certain State taxes.

"SEC. 2601. TAX IMPOSED.

"A tax is hereby imposed on every generation-skipping transfer (within the meaning of subchapter B).

"SEC. 2602. AMOUNT OF TAX.

"The amount of the tax imposed by section 2601 is—

"(1) the taxable amount (determined under subchapter C), multiplied by

"(2) the applicable rate (determined under subchapter E).

"SEC. 2603. LIABILITY FOR TAX.

"(a) PERSONAL LIABILITY.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the tax imposed by section 2601 shall be paid by the transferee.

"(2) TAXABLE TERMINATION.—In the case of a taxable termination or a direct skip from a trust, the tax shall be paid by the trustee.

"(3) DIRECT SKIP.—In the case of a direct skip (other than a direct skip from a trust), the tax shall be paid by the transferor.

"(b) SOURCE OF TAX.—Unless otherwise directed pursuant to the governing instrument by specific reference to the tax imposed by this chapter, the tax imposed by this chapter on a generation-skipping transfer from a trust shall be charged to the property constituting such transfer.

"(c) CROSS REFERENCE.—

"For provisions making estate and gift tax provisions with respect to transferee liability, liens, and related matters applicable to the tax imposed by section 2601, see section 2661.

"SEC. 2604. CREDIT FOR CERTAIN STATE TAXES.

"(a) GENERAL RULE.—If a generation-skipping transfer occurs at the same time as and as a result of the death of an individual, a credit against the tax imposed by section 2601 shall be allowed in an amount equal to the generation-skipping transfer tax actually paid to any State in respect to any property included in the generation-skipping transfer.

"(b) LIMITATION.—The aggregate amount allowed as a credit under this section with respect to any transfer shall not exceed 5 percent of the amount of the tax imposed by section 2601 on such transfer.

"Subchapter B—Generation-Skipping Transfers

"Sec. 2611. Generation skipping transfer defined.
"Sec. 2612. Taxable termination; taxable distribution; direct skip.
"Sec. 2613. Skip person and non-skip person defined.

"SEC. 2611. GENERATION-SKIPPING TRANSFER DEFINED.

"(a) IN GENERAL.—For purposes of this chapter, the term 'generation-skipping transfers' mean—

"(1) a taxable distribution,

"(2) a taxable termination, and

"(3) a direct skip.

"(b) CERTAIN TRANSFERS EXCLUDED.—The term 'generation-skipping transfer' does not include—

"(1) any transfer (other than a direct skip) from a trust, to the extent such transfer is subject to a tax imposed by chapter 11 or 12 with respect to a person in the first generation below that of the grantor, and

"(2) any transfer which, if made inter vivos by an individual, would not be treated as a taxable gift by reason of section 2503(e) (relating to exclusion of certain transfers for educational or medical expenses).

"SEC. 2612. TAXABLE TERMINATION: TAXABLE DISTRIBUTION: DIRECT SKIP.

"(a) TAXABLE TERMINATION.—

"(1) GENERAL RULE.—For purposes of this chapter, the term 'taxable termination' means the termination (by death, lapse of time, release of power, or otherwise) of an interest in property held in a trust unless—

"(A) immediately after such termination, a non-skip person has an interest in such property, or

"(B) at no time after such termination may a distribution (including distributions on termination) be made from such trust to a skip person.

"(2) CERTAIN PARTIAL TERMINATIONS TREATED AS TAXABLE.—If, upon the termination of an interest in property held in a trust, a specified portion of the trust assets are distributed to skip persons who are lineal descendants of the holder of such interest (or to 1 or more trusts for the exclusive benefit of such persons), such termination shall constitute a taxable termination with respect to such portion of the trust property.

"(b) TAXABLE DISTRIBUTION.—For purposes of this chapter, the term 'taxable distribution' means any distribution from a trust to a skip person (other than a taxable termination).

"(c) DIRECT SKIP.—For purposes of this chapter—

"(1) IN GENERAL.—The term 'direct skip' means a transfer subject to a tax imposed by chapter 11 or 12 of an interest in property to a skip person.

"(2) SPECIAL RULE FOR TRANSFERS TO GRANDCHILDREN.—For purposes of determining whether any transfer is a direct skip, if—

"(A) an individual is a grandchild of the transferor (or the transferor's spouse), and

"(B) as of the time of the transfer, the parent of such individual who is a lineal descendant of the transferor (or the transferor's spouse) is dead,

such individual shall be treated as if such individual were a child of the transferor and all of that grandchild's children shall be treated as if they were grandchildren of the transferor. In the case of lineal descendants below a grandchild, the preceding sentence may be reapplied.

"(3) $2,000,000 SPECIAL EXEMPTION.—The term 'direct skip' shall not include any transfer from a transferor to a grandchild of the transferor to the extent that the aggregate transfers from such transferor to such grandchild do not exceed $2,000,000.

"SEC. 2613. SKIP PERSON AND NON-SKIP PERSON DEFINED.

"(a) SKIP PERSON.—For purposes of this chapter, the term 'skip person' means—

"(1) a person assigned to a generation which is 2 or more generations below the generation assignment of the transferor, or

"(2) a trust—

"(A) if all interests in such trust are held by skip persons, or

"(B) if—

"(i) there is no person holding an interest in such trust, and

"(ii) at no time after such transfer may a distribution (including distributions on termination) be made from such trust to a nonskip person.

"(b) NON-SKIP PERSON.—For purposes of this chapter, the term 'non-skip person' means any person who is not a skip person.

"Subchapter C—Taxable Amount

"Sec. 2621. Taxable amount in case of taxable distribution.
"Sec. 2622. Taxable amount in case of taxable termination.
"Sec. 2623. Taxable amount in case of direct skip.
"Sec. 2624. Valuation.

"SEC. 2621. TAXABLE AMOUNT IN CASE OF TAXABLE DISTRIBUTION.

"(a) IN GENERAL.—For purposes of this chapter, the taxable amount in the case of any taxable distribution shall be—

"(1) the value of the property received by the transferee, reduced by

"(2) any expense incurred by the transferee in connection with the determination, collection, or refund of the tax imposed by this chapter with respect to such distribution.

"(b) PAYMENT OF GST TAX TREATED AS TAXABLE DISTRIBUTION.—For purposes of this chapter, if any of the tax imposed by this chapter with respect to any taxable distribution is paid out of the trust, an amount equal to the portion so paid shall be treated as a taxable distribution.

"SEC. 2622. TAXABLE AMOUNT IN CASE OF TAXABLE TERMINATION.

"(a) IN GENERAL.—For purposes of this chapter, the taxable amount in the case of a taxable termination shall be—

"(1) the value of all property with respect to which the taxable termination has occurred, reduced by

"(2) any deduction allowed under subsection (b).

"(b) DEDUCTION FOR CERTAIN EXPENSES.—For purposes of subsection (a), there shall be allowed a deduction similar to the deduction allowed by section 2053 (relating to expenses, indebtedness, and taxes) for amounts attributable to the property with respect to which the taxable termination has occurred.

"SEC. 2623. TAXABLE AMOUNT IN CASE OF DIRECT SKIP.

"For purposes of this chapter, the taxable amount in the case of a direct skip shall be the value of the property received by the transferee.

"SEC. 2624. VALUATION.

"(a) GENERAL RULE.—Except as otherwise provided in this chapter, property shall be valued as of the time of the generation-skipping transfer.

"(b) ALTERNATE VALUATION AND SPECIAL USE VALUATION ELECTIONS APPLY TO CERTAIN DIRECT SKIPS.—In the case of any direct skip of property which is included in the transferor's gross estate, the value of such property for purposes of this chapter shall be the same as its value for purposes of chapter 11 (determined with regard to sections 2032 and 2032A).

"(c) ALTERNATE VALUATION ELECTION PERMITTED IN THE CASE OF TAXABLE DISTRIBUTIONS OR TERMINATIONS OCCURRING AT DEATH.—If 1 or more taxable terminations with respect to the same trust occur at the same time as and as a result of the death of an individual, an election may be made to value all of the property included in such terminations or distributions in accordance with section 2032.

"(d) REDUCTION FOR CONSIDERATION PROVIDED BY TRANSFEREE.—For purposes of this chapter, the value of the property transferred shall be reduced by the amount of any consideration provided by the transferee.

"Subchapter D—GST Exemption

"Sec. 2631. GST exemption.
"Sec. 2632. Special rules for allocation of GST exemption.

"SEC. 2631. GST EXEMPTION.

"(a) GENERAL RULE.—For purposes of determining the inclusion ratio, every individual shall be allowed a GST exemption of $1,000,000 which may be allocated by such individual (or his executor) to property transferred at any time by such individual.

"(b) ALLOCATIONS IRREVOCABLE.—Any allocation under subsection (a), once made, shall be irrevocable.

"SEC. 2632. SPECIAL RULES FOR ALLOCATION OF GST EXEMPTION.

"(a) TIME AND MANNER OF ALLOCATION OR TRANSFER.—

"(1) TIME.—Any allocation by an individual of his GST exemption under section 2631(a) may be made at any time on or before the date prescribed for filing the estate tax return for such individual's estate (determined with regard to extensions), regardless of whether such a return is required to be filed.

"(2) MANNER.—The Secretary shall prescribe by regulations the manner in which any allocation or transfer referred to in paragraph (1) is to be made.

"(b) DEEMED ALLOCATION TO CERTAIN LIFETIME DIRECT SKIPS.—

"(1) IN GENERAL.—If any individual makes a direct skip during his lifetime, any unused portion of such individual's GST exemption shall be allocated to the property transferred to the extent necessary to make the inclusion ratio for such property zero. If the amount of the direct skip exceeds such unused portion, the entire unused portion shall be allocated to the property transferred.

"(2) UNUSED PORTION.—For purposes of paragraph (1), the unused portion of an individual's GST exemption is that portion of such exemption which has not previously been allocated by such individual.

"(3) SUBSECTION NOT TO APPLY IN CERTAIN CASES.—An individual may elect to have this subsection not apply to a transfer.

"(c) ALLOCATION OF UNUSED GST EXEMPTION.—

"(1) IN GENERAL.—Any portion of an individual's GST exemption which has not been allocated within the time prescribed by subsection (a) shall be deemed to be allocated as follows—

"(A) first, to property which is the subject of a direct skip occurring at such individual's death, and

"(B) second, to trusts with respect to which such individual is the transferor and from which a taxable distribution or a taxable termination might occur at or after such individual's death.

"(2) ALLOCATION WITHIN CATEGORIES.—

"(A) IN GENERAL.—The allocation under paragraph (1) shall be made among the properties described in subparagraph (A) thereof and the trusts described in subparagraph (B) thereof, as the case may be, in proportion to the respective amounts (at the time of allocation) of the nonexempt portions of such properties or trusts.

"(B) NONEXEMPT PORTION.—For purposes of subparagraph (A), the term 'nonexempt portion' means the value (at the time of allocation) of the property or trust, multiplied by the inclusion ratio with respect to such property or trust.

"Subchapter E—Applicable Rate; Inclusion Ratio

"Sec. 2641. Applicable rate.
"Sec. 2642. Inclusion ratio.

"SEC. 2641. APPLICABLE RATE.

"(a) GENERAL RULE.—For purposes of this chapter, the term 'applicable rate' means, with respect to any generation-skipping transfer, the product of—

"(1) the maximum Federal estate tax rate, and

"(2) the inclusion ratio with respect to the transfer.

"(b) MAXIMUM FEDERAL ESTATE TAX RATE.—For purposes of subsection (a), the term 'maximum Federal estate tax rate' means the maximum rate imposed by section 2001 on the estates of decedents dying at the time of the taxable distribution, taxable termination, or direct skip, as the case may be.

"SEC. 2642. INCLUSION RATIO.

"(a) Inclusion Ratio Defined.—For purposes of this chapter—

"(1) In general.—Except as otherwise provided in this section, the inclusion ratio with respect to any property transferred in a generation-skipping transfer shall be the excess (if any) of 1 over—

"(A) except as provided in subparagraph (B), the applicable fraction determined for the trust from which such transfer is made, or

"(B) in the case of a direct skip, the applicable fraction determined for such skip.

"(2) Applicable fraction.—For purposes of paragraph (1), the applicable fraction is a fraction—

"(A) the numerator of which is the amount of the GST exemption allocated to the trust (or in the case of a direct skip, allocated to the property transferred in such skip), and

"(B) the denominator of which is—

"(i) the value of the property transferred to the trust (or involved in the direct skip), reduced by

"(ii) the sum of—

"(I) any Federal estate tax or State death tax actually recovered from the trust attributable to such property, and

"(II) any charitable deduction allowed under section 2055 or 2522 with respect to such property.

Except as provided in paragraphs (3) and (4) of subsection (b), the value determined under subparagraph (B)(i) shall be of the property as of the time of the transfer to the trust (or the direct skip).

"(b) Valuation Rules, Etc.—

"(1) Gifts for which gift tax return filed or deemed allocation made.—If the allocation of the GST exemption to any property is made on a timely filed gift tax return required by section 6019 or is deemed to be made under section 2632(b)(1)—

"(A) the value of such property for purposes of subsection (a) shall be its value for purposes of chapter 12, and

"(B) such allocation shall be effective on and after the date of such transfer.

"(2) Transfers and allocations at or after death.—

"(A) Transfers at death.—If property is transferred as a result of the death of the transferor, the value of such property for purposes of subsection (a) shall be its value for purposes of chapter 11.

"(B) Allocations at or after death of transferor.—Any allocation at or after the death of the transferor shall be effective on and after the date of the death of the transferor.

"(3) Inter vivos allocations not made on timely filed gift tax return.—If any allocation of the GST exemption to any property is made during the life of the transferor but is not made on a timely filed gift tax return required by section 6019 and is not deemed to be made under section 2632(b)(1)—

"(A) the value of such property for purposes of subsection (a) shall be determined as of the time such allocation is filed with the Secretary, and

"(B) such allocation shall be effective on and after the date on which such allocation is filed with the Secretary.

"(4) QTIP trusts.—If the value of property is included in the estate of a surviving spouse by virtue of section 2044, and if such spouse is treated as the transferor of such property under section 2652(a), the value of such property for purposes of subsection (a) shall be its value for purposes of chapter 11 in the estate of such spouse.

"(c) Treatment of Certain Nontaxable Gifts.—

"(1) Direct skips.—In the case of any direct skip which is a nontaxable gift, the inclusion ratio shall be zero.

"(2) Treatment of nontaxable gifts made to trusts.—

"(A) In general.—Except as provided in subparagraph (B), any nontaxable gift which is not a direct skip and which is made to a trust shall not be taken into account under subsection (a)(2)(B).

"(B) Determination of 1st transfer to trust.—In the case of any nontaxable gift referred to in subparagraph (A) which is the 1st transfer to the trust, the inclusion ratio for such trust shall be zero.

"(3) Nontaxable gift.—For purposes of this subsection, the term 'nontaxable gift' means any transfer of property to the extent such transfer is not treated as a taxable gift by reason of—

"(A) section 2503(b) (taking into account the application of section 2513), or

"(B) section 2503(e).

"(d) Special Rules Where More Than 1 Transfer Made To Trust.—

"(1) In general.—If a transfer of property (other than a nontaxable gift) is made to a trust in existence before such transfer, the applicable fraction for such trust shall be recomputed as of the time of such transfer in the manner provided in paragraph (2).

"(2) Applicable fraction.—In the case of any such transfer, the recomputed applicable fraction is a fraction—

"(A) the numerator of which is the sum of—

"(i) the amount of the GST exemption allocated to property involved in such transfer, plus

"(ii) the nontax portion of such trust immediately before such transfer, and

"(B) the denominator of which is the sum of—

"(i) the value of the property involved in such transfer, reduced by any charitable deduction allowed under section 2055 or 2522 with respect to such property, and

"(ii) the value of all of the property in the trust (immediately before such transfer).

"(3) Nontax portion.—For purposes of paragraph (2), the term 'nontax portion' means the product of—

"(A) the value of all of the property in the trust, and

"(B) the applicable fraction in effect for such trust.

"(4) Similar recomputation in case of certain late allocations.—If—

"(A) any allocation of the GST exemption to property transferred to a trust is not made on a timely filed gift tax return required by section 6019, and

"(B) there was a previous allocation with respect to property transferred to such trust,

the applicable fraction for such trust shall be recomputed as of the time of such allocation under rules similar to the rules of paragraph (2).

"Subchapter F—Other Definitions and Special Rules

"Sec. 2651. Generation assignment.
"Sec. 2652. Other definitions.
"Sec. 2653. Taxation of multiple skips.
"Sec. 2654. Special rules.

"SEC. 2651. GENERATION ASSIGNMENT.

"(a) In General.—For purposes of this chapter, the generation to which any person (other than the transferor) belongs shall be determined in accordance with the rules set forth in this section.

"(b) Lineal Descendants.—

"(1) In general.—An individual who is a lineal descendant of a grandparent of the transferor shall be assigned to that generation which results from comparing the number of generations between the grandparent and such individual with the number of generations between the grandparent and the transferor.

"(2) On spouse's side.—An individual who is a lineal descendant of a grandparent of a spouse of the transferor (other than such spouse) shall be assigned to that generation which results from comparing the number of generations between such grandparent and such individual with the number of generations between such grandparent and such spouse.

"(3) Treatment of legal adoptions, etc.—For purposes of this subsection—

"(A) Legal adoptions.—A relationship by legal adoption shall be treated as a relationship by blood.

"(B) Relationships by half-blood.—A relationship by the half-blood shall be treated as a relationship of the whole-blood.

"(c) Marital Relationship.—

"(1) Marriage to transferor.—An individual who has been married at any time to the transferor shall be assigned to the transferor's generation.

"(2) Marriage to other lineal descendants.—An individual who has been married at any time to an individual described in subsection (b) shall be assigned to the generation of the individual so described.

"(d) Persons Who Are Not Lineal Descendants.—An individual who is not assigned to a generation by reason of the foregoing provisions of this section shall be assigned to a generation on the basis of the date of such individual's birth with—

"(1) an individual born not more than 12½ years after the date of the birth of the transferor assigned to the transferor's generation,

"(2) an individual born more than 12½ years but not more than 37½ years after the date of the birth of the transferor assigned to the 1st generation younger than the transferor, and

"(3) similar rules for a new generation every 25 years.

"(e) Other Special Rules.—

"(1) Individuals assigned to more than 1 generation.—Except as provided in regulations, an individual who, but for this subsection, would be assigned to more than 1 generation shall be assigned to the youngest such generation.

"(2) Interests through entities.—Except as provided in paragraph (3), if an estate, trust, partnership, corporation, or other entity has an interest in property, each individual having a beneficial interest in such entity shall be treated as having an interest in such property and shall be assigned to a generation under the foregoing provisions of this subsection.

"(3) Treatment of certain charitable organizations.—Any organization described in section 511(a)(2) and any charitable trust described in section 511(b)(2) shall be assigned to the transferor's generation.

"SEC. 2652. OTHER DEFINITIONS.

"(a) Transferor.—For purposes of this chapter—

"(1) In general.—Except as provided in this subsection, the term 'transferor' means—

"(A) in the case of a transfer of a kind subject to the tax imposed by chapter 11, the decedent, and

"(B) in the case of a transfer of a kind subject to the tax imposed by chapter 12, the donor.

"(2) Gift-splitting by married couples.—If, under section 2513, one-half of a gift is treated as made by an individual and one-half of such gift is treated as made by the spouse of such individual, such gift shall be so treated for purposes of this chapter.

"(3) Special election for qualified terminable interest property.—In the case of—

"(A) any property with respect to which a deduction is allowed to the decedent under section 2056 by reason of subsection (b)(7) thereof, and

"(B) any property with respect to which a deduction to the donor spouse is allowed under section 2523 by reason of subsection (f) thereof,

the estate of the decedent or the donor spouse, as the case may be, may elect to treat such property for purposes of this chapter as if the election to be treated as qualified terminable interest property had not been made.

"(b) Trust and Trustee.—

"(1) Trust.—The term 'trust' includes any arrangement (other than an estate) which, although not a trust, has substantially the same effect as a trust.

"(2) Trustee.—In the case of an arrangement which is not a trust but which is treated as a trust under this subsection, the term 'trustee' shall mean the person in actual or constructive possession of the property subject to such arrangement.

"(3) Examples.—Arrangements to which this subsection applies include arrangements involving life estates and remainders, estates for years, and insurance and annuity contracts.

"(c) Interest.—

"(1) In general.—A person has an interest in property held in trust if (at the time the determination is made) such person—

"(A) has a right (other than a future right) to receive income or corpus from the trust,

"(B) is a permissible current recipient of income or corpus from the trust and is not described in section 2055(a), or

"(C) is described in section 2055(a) and the trust is—

"(i) a charitable remainder annuity trust,

"(ii) a charitable remainder unitrust within the meaning of section 664, or

"(iii) a pooled income fund within the meaning of section 642(c)(5).

"(2) Certain nominal interests disregarded.—For purposes of paragraph (1), an interest which is used primarily to postpone or avoid the tax imposed by this chapter shall be disregarded.

"SEC. 2653. TAXATION OF MULTIPLE SKIPS.

"(a) General Rule.—For purposes of this chapter, if—

"(1) there is a generation-skipping transfer of any property, and

"(2) immediately after such transfer such property is held in trust,

for purposes of applying this chapter (other than section 2651) to subsequent transfers from the portion of such trust attributable to such property, the trust will be treated as if the transferor of such property were assigned to the 1st generation below that of the individual who was the transferor immediately before the transfer.

"(b) Trust Retains Inclusion Ratio.—

"(1) In general.—Except as provided in paragraph (2), the provisions of subsection (a) shall not affect the inclusion ratio determined with respect to any trust.

"(2) Special rule for pour-over trust.—

"(A) In general.—If the generation-skipping transfer referred to in subsection (a) involves the transfer of property from 1 trust to another trust (hereinafter in this paragraph referred to as the 'pour-over trust'), the inclusion ratio for the pour-over trust shall be determined by treating the nontax portion of such distribution as if it were a part of a GST exemption allocated to such trust.

"(B) Nontax portion.—For purposes of subparagraph (A), the nontax portion of any distribution is the amount of such distribution multiplied by the applicable fraction which applies to such distribution.

"SEC. 2654. SPECIAL RULES.

"(a) Basis Adjustment.—

"(1) In general.—Except as provided in paragraph (2), if property is transferred in a generation-skipping transfer, the basis of such property in the hands of the transferee shall be increased (but not above the fair market value of such property) by an amount equal to that portion of the tax imposed by section 2601 (computed without regard to section 2604) with respect to the transfer which is attributable to the excess of the fair market value of such property over its adjusted basis immediately before the transfer.

"(2) Certain transfers at death.—If property is transferred in a taxable termination which occurs at the same time as and as a result of the death of an individual, the basis of such property shall be adjusted in a manner similar to the manner provided under section 1014(a); except that, if the inclusion ratio with respect to such property is less than 1, any increase in basis shall be limited by multiplying such increase by the inclusion ratio.

"(b) Separate Shares Treated as Separate Trusts.—Substantially separate and independent shares of different beneficiaries in a trust shall be treated as separate trusts.

"(c) Disclaimers.—

"For provisions relating to the effect of a qualified disclaimer for purposes of this chapter, see section 2518.

"(d) Limitation on Personal Liability of Trustee.—A trustee shall not be personally liable for any increase in the tax imposed by section 2601 which is attributable to the fact that—

"(1) section 2642(c) (relating to exemption of certain nontaxable gifts) does not apply to a transfer to the trust which was made during the life of the transferor and for which a gift tax return was not filed, or

"(2) the inclusion ratio with respect to the trust is greater than the amount of such ratio as computed on the basis of the return on which was made (or was deemed made) an allocation of the GST exemption to property transferred to such trust.

The preceding sentence shall not apply if the trustee has knowledge of facts sufficient reasonably to conclude that a gift tax return was required to be filed or that the inclusion ratio was erroneous.

"Subchapter G—Administration

"Sec. 2661. Administration.
"Sec. 2662. Return requirements.
"Sec. 2663. Regulations.

"SEC. 2661. ADMINISTRATION

"Insofar as applicable and not inconsistent with the provisions of this chapter

"(1) except as provided in paragraph (2), all provisions of subtitle F (including penalties) applicable to the gift tax, to chapter 12, or to section 2501, are hereby made applicable in respect of the generation-skipping transfer tax, this chapter, or section 2601, as the case may be, and

"(2) in the case of a generation-skipping transfer occurring at the same time as and as a result of the death of an individual, all provisions of subtitle F (including penalties) applicable to the estate tax, to chapter 11, or to section 2001 are hereby made applicable in respect of the generation-skipping transfer tax, this chapter, or section 2601 (as the case may be).

"SEC. 2662. RETURN REQUIREMENTS.

"(a) In General.—The Secretary shall prescribe by regulations the person who is required to make the return with respect to the tax imposed by this chapter and the time by which any such return must be filed. To the extent practicable, such regulations shall provide that—

"(1) the person who is required to make such return shall be the person liable under section 2603(a) for payment of such tax, and

"(2) the return shall be filed—

"(A) in the case of a direct skip, on or before the date on which an estate or gift tax return is required to be filed with respect to the transfer, and

"(B) in all other cases, on or before the 15th day of the 4th month after the close of the taxable year of the person required to make such return in which such transfer occurs.

"(b) Information Returns.—The Secretary may by regulations require a return to be filed containing such information as he determines to be necessary for purposes of this chapter.

"SEC. 2663. REGULATIONS.

"The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this chapter, including—

"(1) such regulations as may be necessary to coordinate the provisions of this chapter with the recapture tax imposed under section 2032A(c), and

"(2) regulations (consistent with the principles of chapters 11 and 12) providing for the application of this chapter in the case of transferors who are nonresidents not citizens of the United States."

(b) Clerical Amendment.—The table of chapters for subtitle B is amended by striking out the item relating to chapter 13 and inserting in lieu thereof the following:

"Chapter 13. Tax on generation-skipping transfers."

SEC. 1222. RELATED AMENDMENTS.

(a) Income Tax Deduction for Generation-Skipping Transfer Tax.—

(1) In general.—Subsection (a) of section 164 (relating to deduction for certain taxes) is amended by inserting after paragraph (5) the following new paragraph:

"(6) the GST tax imposed on income distributions."

(2) Definitions.—Subsection (b) of section 164 is amended by adding at the end thereof the following new paragraph:

"(6) Special rules for GST tax.—

"(A) In general.—The GST tax imposed on income distributions is—

"(i) the tax imposed by section 2601, and

"(ii) any State tax described in section 2604,

but only to the extent such tax is imposed on a transfer which is included in the gross income of the distributee and to which section 666 does not apply.

"(B) Special rule for tax paid before due date.—Any tax referred to in subparagraph (A) imposed with respect to a transfer occurring during the taxable year of the distributee (or, in the case of a taxable termination, the trust) which is paid not later than the time prescribed by law (including extensions) for filing the return with respect to such transfer shall be treated as having been paid on the last day of the taxable year in which the transfer was made."

(3) Deduction for tax in case of taxable terminations.—Paragraph (3) of section 691(c) (relating to deduction for estate tax) is amended to read as follows:

"(3) Special rule for generation-skipping transfers.—In the case of any tax imposed by chapter 13 on a taxable termination or a direct skip occurring as a result of the death of the transferor, there shall be allowed a deduction (under principles similar to the principles of this subsection) for the portion of such tax attributable to items of gross income of the trust which were not properly includible in the gross income of the trust for periods before the date of such termination."

(b) Distributions in Redemption of Stock To Pay Generation-Skipping Transfer Taxes.—Subsection (d) of section 303 is amended to read as follows:

"(d) Special Rules for Generation-Skipping Transfers.—Where stock in a corporation is the subject of a generation-skipping transfer (within the meaning of section 2611(a)), occurring at the same time as and as a result of the death of an individual—

"(1) the stock shall be deemed to be included in the gross estate of such individual;

"(2) taxes of the kind referred to in subsection (a)(1) which are imposed because of the generation-skipping transfer shall be treated as imposed because of such individual's death (and for this purpose the tax imposed by section 2601 shall be treated as an estate tax);

"(3) the period of distribution shall be measured from the date of the generation-skipping transfer; and

"(4) the relationship of stock to the decedent's estate shall be measured with reference solely to the amount of the generation-skipping transfer."

(c) Availability of Alternate Valuation Election.—

(1) In general.—Paragraph (2) of section 2032(c) (relating to election must decrease gross estate and estate tax) is amended to read as follows:

"(2) the sum of the tax imposed by this chapter and the tax imposed by chapter 13 with respect to property includible in the decedent's gross estate (reduced by credits allowable against such taxes)."

(2) Conforming amendment.—Subsection (g) of section 2013 is hereby repealed.

(d) Generation-Skipping Tax Treated as Taxable Gift.—

(1) In general.—Subchapter B of chapter 12 is amended by inserting after section 2514 the following new section:

"SEC. 2515. TREATMENT OF GENERATION-SKIPPING TRANSFER TAX.

"In the case of any taxable gift which is a direct skip (within the meaning of chapter 13), the amount of such gift shall be increased by the amount of any tax imposed on the transferor under chapter 13 with respect to such gift."

(2) Clerical amendment.—The table of sections for subchapter B of chapter 12 is amended by inserting after the item relating to section 2514 the following new item:

"Sec. 2515. Treatment of generation-skipping transfer tax."

(e) Extension of Time for Payment of Tax on Certain Direct Skips.—Section 6166 is amended by redesignating subsections (i) and (j) as subsections (j) and (k), respectively, and by inserting after subsection (h) the following new subsection:

"(i) Special Rule for Certain Direct Skips.—To the extent that an interest in a closely held business is the subject of a direct skip (within the meaning of section 2612(c)) occurring at the same time as and as a result of the decedent's death, then for purposes of this section any tax imposed by section 2601 on the transfer of such interest shall be treated as if it were additional tax imposed by section 2001."

SEC. 1223. EFFECTIVE DATES.

(a) General Rule.—Except as provided in subsection (b), the amendments made by this part shall apply to any generation-skipping transfer (within the meaning of section 2611 of the Internal Revenue Code of 1985) made after the date of the enactment of this Act.

(b) Special Rules.—

(1) Treatment of certain inter vivos transfers made after September 25, 1985.—For purposes of subsection (a) (and chapter 13 of the Internal Revenue Code of 1985 as amended by this part), any inter vivos transfer after September 25, 1985, and on or before the date of the enactment of this Act shall be treated as if it were made on the first day after the date of enactment of this Act.

(2) Exceptions.—The amendments made by this part shall not apply to—

(A) any generation-skipping transfer under a trust which was irrevocable on September 25, 1985, but only to the extent that such transfer is not made out of corpus added to the trust after September 25, 1985; and

(B) any generation-skipping transfer—

(i) under a trust to the extent such trust consists of property included in the gross estate of a decedent (other than property transferred by the decedent during his life after the date of the enactment of this Act), or reinvestments thereof, or

(ii) which is a direct skip which occurs by reason of the death of any decedent;

but only if such decedent was, on the date of the enactment of this Act, under a mental disability to change the disposition of his property and did not regain his competence to dispose of such property before the date of his death.

(c) Repeal of Existing Tax on Generation-Skipping Transfers.—

(1) In general.—In the case of any tax imposed by chapter 13 of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act), such tax (including interest, additions to tax, and additional amounts) shall not be assessed and if assessed, the assessment shall be abated, and if collected, shall be credited or refunded (with interest) as an overpayment.

(2) Waiver of statute of limitations.—If on the date of the enactment of this Act (or at any time within 1 year after such date of enactment) refund or credit of any overpayment of tax resulting from the application of paragraph (1) is barred by any law or rule of law, refund or credit of such overpayment shall, nevertheless, be made or allowed if claim therefore is filed before the date 1 year after the date of the enactment of this Act.

TITLE XIII—COMPLIANCE AND TAX ADMINISTRATION

PART I—REVISION OF CERTAIN PENALTIES, ETC.

SEC. 1301. PENALTY FOR FAILURE TO FILE INFORMATION RETURNS OR STATEMENTS.

(a) General Rule.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new part:

"PART II—FAILURE TO FILE CERTAIN INFORMATION RETURNS OR STATEMENTS

"Sec. 6721. Failure to file certain information returns.
"Sec. 6722. Failure to furnish certain payee etc., statements.
"Sec. 6723. Failure to include correct information.
"Sec. 6724. Waiver; definitions and special rules.

"SEC. 6721. FAILURE TO FILE CERTAIN INFORMATION RETURNS.

"(a) General Rule.—In the case of each failure to file an information return with the Secretary on the date prescribed therefor (determined with regard to any extension of time for filing), the person failing to so file such return shall pay $50 for each such failure, but the total amount imposed on such person for all such failures during any calendar year shall not exceed $100,000.

"(b) Penalty in Case of Intentional Disregard.—If 1 or more failures to which subsection (a) applies are due to intentional disregard of the filing requirement, then, with respect to each such failure—

"(1) the penalty imposed under subsection (a) shall be $100, or, if greater—

"(A) in the case of a return other than a return required under section 6045(a), 6041A(b), 6050H, 6050J, 6050K, or 6050L, 10 percent of the aggregate amount of the items required to be reported, or

"(B) in the case of a return required to be filed by section 6045(a), 6050K, or 6050L, 5 percent of the aggregate amount of the items required to be reported, and

"(2) the $100,000 limitation under subsection (a) shall be increased by the amount of the penalties determined under paragraph (1).

"SEC. 6722. FAILURE TO FURNISH CERTAIN PAYEE ETC., STATEMENTS.

"(a) General Rule.—In the case of each failure to furnish a payee etc. statement on the date prescribed therefor to the person to whom such statement is required to be furnished, the person failing to so furnish such statement shall pay $50 for each such failure, but the total amount imposed on such person for all such failures during any calendar year shall not exceed $100,000.

"(b) Failure to Notify Partnership of Exchange of Partnership Interest.—In the case of any person who fails to furnish the notice required by section 6050K(c)(1) on the date prescribed therefor, such person shall pay a penalty of $50 for each such failure.

"SEC. 6723. FAILURE TO INCLUDE CORRECT INFORMATION.

"(a) General Rule.—If—

"(1) any person files an information return or furnishes a payee etc. statement, and

"(2) such person does not include all of the information required to be shown on such return or statement or includes incorrect information, such person shall pay $5 for each return or statement with respect to which such failure occurs, but the total amount imposed on such person for all such failures during any calendar year shall not exceed $20,000.

"(b) Coordination With Section 6676.—No penalty shall be imposed under subsection (a) with respect to any return or statement if a penalty is imposed under section 6676 (relating to failure to supply identifying number) with respect to such return or statement.

"SEC. 6724. WAIVER; DEFINITIONS AND SPECIAL RULES.

"(a) Reasonable Cause Waiver.—No penalty shall be imposed under this part with respect to any failure if it is shown that such failure is due to reasonable cause and not to willful neglect.

"(b) Payment of Penalty.—Any penalty imposed by this part shall be paid on notice and demand by the Secretary and in the same manner as tax.

"(c) Special Rules for Failure to File Interest and Dividend Returns or Statements.—

"(1) Higher standards for waiver.—In the case of any interest or dividend return or statement—

"(A) subsection (a) shall not apply, but

"(B) no penalty shall be imposed under this part if it is shown that the person otherwise liable for such penalty exercised due diligence in attempting to satisfy the requirement with respect to such return or statement.

"(2) Limitations not to apply.—In the case of any interest or dividend returns or statements—

"(A) the $100,000 limitations of section 6721(a) and 6722(a) and the $20,000 limitation of section 6723(a) shall not apply, and

"(B) penalties imposed with respect to such returns or statements shall not be taken into account for purposes of applying such limitations with respect to other returns or statements.

"(3) Self assessment.—Any penalty imposed under this part on any person with respect to an interest or dividend return or statement—

"(A) shall be assessed and collected in the same manner as an excise tax imposed by subtitle D, and

"(B) shall be due and payable on April 1 of the calendar year following the calendar year for which such return or statement is required.

"(4) Deficiency procedures not to apply.—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed under this part with respect to an interest or dividend return or statement.

"(5) Interest or dividend return or statement.—For purposes of this subsection, the term 'interest or dividend return or statement' means—

"(A) any return required by section 6042(a)(1), 6044(a)(1), or 6049(a), and

"(B) any statement required under section 6042(c), 6044(e), or 6049(c).

"(d) Definitions.—For purposes of this part—

"(1) Information return.—The term 'information return' means—

"(A) any statement of the amount of payments to another person required by—

"(i) section 6041 (a) or (b) (relating to certain information at source),

"(ii) section 6042(a)(1) (relating to payments of dividends),

"(iii) section 6044(a)(1) (relating to payments of patronage dividends),

"(iv) section 6049(a) (relating to payments of interest),

"(v) section 6050A(a) (relating to reporting requirements of certain fishing boat operators), or

"(vi) section 6051(d) (relating to information returns with respect to income tax withheld), and

"(B) any return required by—

"(i) section 4997(a) (relating to information with respect to windfall profit tax on crude oil),

"(ii) subsection (a) or (b) of section 6041A (relating to returns of direct sellers),

"(iii) section 6045 (a) or (d) (relating to returns of brokers),

"(iv) section 6050H(a) (relating to mortgage interest received in trade or business from individuals),

"(v) section 6050I(a) (relating to cash received in trade or business),

"(vi) section 6050J(a) (relating to foreclosures and abandonments of security),

"(vii) section 6050K(a) (relating to exchanges of certain partnership interests),

"(viii) section 6050L(a) (relating to returns relating to certain dispositions of donated property),

"(ix) section 6052(a) (relating to reporting payment of wages in the form of group term life insurance), or

"(x) section 6053(c)(1) (relating to reporting with respect to certain tips).

"(2) Payee etc. statement.—The term 'payee etc. statement' means any statement required to be furnished under—

"(A) section 4997(a) (relating to records and information; regulations),

"(B) section 6031(b), 6034A, or 6037(b) (relating to statements furnished by certain passthru entities),

"(C) section 6039(a) (relating to information required in connection with certain options),

"(D) section 6041(d) (relating to information at source),

"(E) section 6041A(e) (relating to returns regarding payments of remuneration for services and direct sales),

"(F) section 6042(c) (relating to returns regarding payments of dividends and corporate earnings and profits),

"(G) section 6044(e) (relating to returns regarding payments of patronage dividends),

"(H) section 6045(b) or (d) (relating to returns of brokers),

"(I) section 6049(c) (relating to returns regarding payments of interest),

"(J) section 6050A(b) (relating to reporting requirements of certain fishing boat operators),

"(K) section 6050C (relating to information regarding windfall profit tax on domestic crude oil),

"(L) section 6050H(d) (relating to returns relating to mortgage interest received in trade or business from individuals),

"(M) section 6050I(e) (relating to returns relating to cash received in trade or business),

"(N) section 6050J(e) (relating to returns relating to foreclosures and abandonments of security),

"(O) section 6050K(b) (relating to returns relating to exchanges of certain partnership interests),

"(P) section 6050L(c) (relating to returns relating to certain dispositions of donated property),

"(Q) section 6051 (relating to receipts for employees),

"(R) section 6052(b) (relating to returns regarding payment of wages in the form of group-term life insurance), or

"(S) subsection (b) or (c) of section 6053 (relating to reports of tips)."

(b) Increase in Maximum Penalty for Failure To Supply Identifying Numbers.—Subsection (a) of section 6676 (relating to failure to supply identifying numbers) is amended by striking out "$50,000" and inserting in lieu thereof "$100,000".

(c) Clarification of Penalty for Failure To Furnish Payee Statements.—

(1) Subsection (d) of section 6041 is amended to read as follows:

"(d) Statements To Be Furnished to Persons With Respect to Whom Information Is Required.—Every person required to make a return under subsection (a) shall furnish to each person with respect to whom such a return is required a written statement showing—

"(1) the name and address of the person required to make such return, and

"(2) the aggregate amount of payments to the person required to be shown on the return.

The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made. To the extent provided in regulations prescribed by the Secretary, this subsection shall also apply to persons required to make returns under subsection (b)."

(2) Subsection (c) of section 6042 is amended to read as follows:

"(c) Statements To Be Furnished to Persons With Respect to Whom Information Is Required.—Every person required to make a return under subsection (a) shall furnish to each person whose name is required to be set forth in such return a written statement showing—

"(1) the name and address of the person required to make such return, and

"(2) the aggregate amount of payments to the person required to be shown on the return.

The written statement required under the preceding sentence shall be furnished (either in person or in a separate mailing by first-class mail) to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made, and shall be in such form as the Secretary may prescribe by regulations."

(3) Subsection (e) of section 6044 is amended to read as follows:

"(e) Statements To Be Furnished to Persons With Respect to Whom Information Is Required.—Every cooperative required to make a return under subsection (a) shall furnish to each person whose name is required to be set forth in such return a written statement showing—

"(1) the name and address of the cooperative required to make such return, and

"(2) the aggregate amount of payments to the person required to be shown on the return.

The written statement required under the preceding sentence shall be furnished (either in person or in a separate mailing by first-class mail) to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made, and shall be in such form as the Secretary may prescribe by regulation."

(4) Subsection (b) of section 6045 is amended to read as follows:

"(b) Statements To Be Furnished to Customers.—Every person required to make a return under subsection (a) shall furnish to each customer whose name is required to be set forth in such return a written statement showing—

"(1) the name and address of the person required to make such return, and

"(2) the information required to be shown on such return with respect to such customer.

The written statement required under the preceding sentence shall be furnished to the customer on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made."

(5) Subsection (c) of section 6049 is amended to read as follows:

"(c) Statements To Be Furnished to Persons With Respect to Whom Information Is Required.—

"(1) In general.—Every person required to make a return under subsection (a) shall furnish to each person whose name is required to be set forth in such return a written statement showing—

"(A) the name and address of the person required to make such return, and

"(B) the aggregate amount of payments to, or the aggregate amount includible in the gross income of, the person required to be shown on the return.

"(2) Time and form of statement.—The written statement under paragraph (1)—

"(A) shall be furnished (either in person or in a separate mailing by first-class mail) to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made, and

"(B) shall be in such form as the Secretary may prescribe by regulations."

(6) Subsection (b) of section 6050A is amended to read as follows:

"(b) Written Statement.—Every person required to make a return under subsection (a) shall furnish to each person whose name is required to be set forth in such return a written statement showing the information relating to such person required to be contained in such return. The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made."

(7) Subsection (b) of section 6050B is amended to read as follows:

"(b) Statements To Be Furnished to Individuals With Respect to Whom Information Is Required.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

"(1) the name and address of the person required to make such return, and

"(2) the aggregate amount of payments to the individual required to be shown on such return and of payments received from the individual.

The written statement required under the preceding sentence shall be furnished to the individual on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made. No statement shall be required under this subsection with respect to any individual if it is determined (in the manner provided by regulations) that such individual did not claim itemized deductions under chapter 1 for the taxable year giving rise to the refund, credit, or offset or, in the case of payments described in paragraph (2), will not claim itemized deductions under chapter 1 for the taxable year during which such payments are paid or incurred by the individual."

(8) Subsection (b) of section 6050E is amended to read as follows:

"(b) Statements To Be Furnished to Individuals With Respect to Whom Information Is Required.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

"(1) the name of the State or political subdivision thereof, and

"(2) the information required to be shown on the return with respect to refunds, credits, and offsets to the individual.

The written statement required under the preceding sentence shall be furnished to the individual during January of the calendar year following the calendar year for which the return under subsection (a) was required to be made. No statement shall be required under this subsection with respect to any individual if it is determined (in the manner provided by regulations) that such individual did not claim itemized deductions under chapter 1 for the taxable year giving rise to the refund, credit, or offset."

(9) Subsection (b) of section 6050F is amended to read as follows:

"(b) Statements To Be Furnished to Persons With Respect to Whom Information Is Required.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

"(1) the name of the agency making the payments, and

"(2) the aggregate amount of payments, of repayments, and of reductions, with respect to the individual required to be shown on such return.

The written statement required under the preceding sentence shall be furnished to the individual on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made."

(10) Subsection (b) of section 6050G is amended to read as follows:

"(b) Statements To Be Furnished to Persons With Respect to Whom Information Is Required.—The Railroad Retirement Board shall furnish to each individual whose name is required to be set forth in the return under subsection (a) a written statement showing—

"(1) the aggregate amount of payments to such individual, and of employee contributions with respect thereto, required to be shown on the return, and

"(2) such other information as the Secretary may require.

The written statement required under the preceding sentence shall be furnished to the individual on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made."

(11) Subsection (d) of section 6050H is amended to read as follows:

"(d) Statements To Be Furnished to Individuals With Respect to Whom Information Is Required.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

"(1) the name and address of the person required to make such return, and

"(2) the aggregate amount of interest described in subsection (a)(2) received by the person required to make such return from the individual to whom the statement is required to be furnished.

The written statement required under the preceding sentence shall be furnished on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made."

(12) Subsection (e) of section 6050I is amended to read as follows:

"(e) Statements To Be Furnished to Persons With Respect to Whom Information Is Required.—Every person required to make a return under subsection (a) shall furnish to each person whose name is required to be set forth in such return a written statement showing—

"(1) the name and address of the person required to make such return, and

"(2) the aggregate amount of cash described in subsection (a) received by the person required to make such return.

The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made."

(13) Subsection (b) of section 6050K is amended to read as follows:

"(b) Statements To Be Furnished to Transferor and Transferee.—Every partnership required to make a return under subsection (a) shall furnish to each person whose name is required to be set forth in such return a written statement showing—

"(1) the name and address of the partnership required to make such return, and

"(2) the information required to be shown on the return with respect to such person.

The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made."

(14) Subsection (b) of section 6052 is amended to read as follows:

"(b) Statements To Be Furnished to Employees With Respect to Whom Information Is Required.—Every employer required to make a return under subsection (a) shall furnish to each employee whose name is required to be set forth in such return a written statement showing the cost of the group-term life insurance shown on such return. The written statement required under the preceding sentence shall be furnished to the employee on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made."

(d) Conforming Amendments.—

(1)(A) Section 6652 is amended—

(i) by striking out subsection (a) and by redesignating subsections (b) through (k) as subsections (a) through (j), respectively, and

(ii) by striking out "Other Returns" in the heading of subsection (a) (as so redesignated) and inserting in lieu thereof "Returns With Respect to Certain Payments Aggregating Less Than $10".

(B) Subsection (g) of section 219 is amended by striking out "section 6652(h)" and inserting in lieu thereof "section 6652(g)".

(C) Sections 6033(e), 6034(c), and 6043(c) are each amended by striking out "section 6652(d)" and inserting in lieu thereof "section 6652(c)".

(D) Section 6047(e)(1) and 6058(f) are each amended by striking out "section 6652(f)" and inserting in lieu thereof "section 6652(e)".

(E) Paragraph (1) of section 6050C(d) is amended by striking out "section 6652(b)" and inserting in lieu thereof "section 6722".

(F) Subsection (g) of section 6057 is amended by striking out "section 6652(e)" and inserting in lieu thereof "section 6652(d)".

(2) Section 6678 is hereby repealed.

(3) Subchapter B of chapter 68 is amended by inserting after the subchapter heading the following:

"Part I. General provisions.
"Part II. Failure to file certain information returns or statements.

"PART I—GENERAL PROVISIONS".

(4) The table of sections for subchapter B of chapter 68 (as in effect before the amendment made by paragraph (3)) is amended by striking out the item relating to section 6678.

(e) Effective Date.—The amendments made by this section shall apply to returns the due date for which (determined without regard to extensions) is after December 31, 1985.

SEC. 1302. INCREASE IN PENALTY FOR FAILURE TO PAY TAX.

(a) General Rule.—Section 6651 (relating to failure to file tax return or to pay tax) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) Increase in Penalty for Failure to Pay Tax In Certain Cases.—

"(1) In general.—In determining the amount of addition to tax under paragraph (2) or (3) of subsection (a) with respect to each month (or fraction thereof) beginning after the day described in paragraph (2) of this subsection, paragraph (2) or (3) (as the case may be) of subsection (a) shall be applied by substituting '1 percent' for '0.5 percent' each place it appears.

"(2) Description.—For purposes of paragraph (1), the day described in this paragraph is the earlier of—

"(A) the day 10 days after the date on which notice is given under section 6331(d), or

"(B) the day on which notice and demand for immediate payment is given under the last sentence of section 6331(a)."

(b) Repeal of Certain Reduction in Failure To Pay Penalty.—Paragraph (1) of section 6651(c) is amended to read as follows:

"(1) Additions under more than one paragraph.—With respect to any return, the amount of the addition under paragraph (1) of subsection (a) shall be reduced by the amount of the addition under paragraph (2) of subsection (a) for any month (or fraction thereof) to which an addition to tax applies under both paragraphs (1) and (2). In any case described in the last sentence of subsection (a), the amount of the addition under paragraph (1) of subsection (a) shall not be reduced under the preceding sentence below the amount provided in such last sentence."

(c) Effective Date.—The amendments made by this section shall apply to amounts assessed after December 31, 1985, with respect to failures to pay which begin before, on, or after such date.

SEC. 1303. AMENDMENTS TO PENALTY FOR NEGLIGENCE AND FRAUD.

(a) General Rule.—Section 6653 (relating to failure to pay tax) is amended by striking out subsections (a) and (b) and inserting in lieu thereof the following:

"(a) Negligence.—

"(1) In general.—If any part of any underpayment (as defined in subsection (c)) is due to negligence or disregard of rules or regulations, there shall be added to the tax an amount equal to the sum of—

"(A) 5 percent of the underpayment, and

"(B) an amount equal to 50 percent of the interest payable under section 6601 with respect to the portion of the underpayment which is attributable to such negligence or disregard for the period beginning on the last date prescribed by law for payment of such underpayment (determined without regard to any extension) and ending on the date of the assessment of the tax (or, if earlier, the date of the payment of the tax).

"(2) Underpayment taken into account reduced by portion attributable to fraud.—There shall not be taken into account under this subsection any portion of an underpayment attributable to fraud with respect to which a penalty is imposed under subsection (b).

"(3) Negligence.—For purposes of this subsection, the term 'negligence' includes any failure to make a reasonable attempt to comply with the provisions of this title, and the term 'disregard' includes any careless, reckless, or intentional disregard.

"(b) Fraud.—

"(1) In general.—If any part of any underpayment (as defined in subsection (c)) of tax required to be shown on a return is due to fraud, there shall be added to the tax an amount equal to the sum of—

"(A) 75 percent of the portion of the underpayment which is attributable to fraud, and

"(B) an amount equal to 50 percent of the interest payable under section 6601 with respect to such portion for the period beginning on the last day prescribed by law for payment of such underpayment (determined without regard to any extension) and ending on the date of the assessment of the tax or, if earlier, the date of the payment of the tax.

"(2) Determination of portion attributable to fraud.—If the Secretary establishes that any portion of an underpayment is attributable to fraud, the entire underpayment shall be treated as attributable to fraud, except to the extent the taxpayer establishes that a portion of such underpayment is not attributable to fraud.

"(3) Special rule for joint returns.—In the case of a joint return, this subsection shall not apply with respect to a spouse unless some part of the underpayment is due to the fraud of such spouse."

(b) Special Rule for Interest or Dividend Payments Extended to Other Amounts Shown on Information Returns.—Subsection (g) of section 6653 (relating to special rule in the case of interest or dividend payments) is amended to read as follows:

"(g) Special Rule for Amounts Shown on Information Returns.—

"(1) In general.—If—

"(A) any amount is shown on an information return (as defined in section 6724(d)(1)), and

"(B) the payee (or other person with respect to whom such return is made) fails to properly show such amount on his return,

any portion of an underpayment attributable to such failure shall be treated, for purposes of subsection (a), as due to negligence in the absence of clear and convincing evidence to the contrary.

"(2) Penalty to apply only to portion of underpayment due to failure to include amount.—If any penalty is imposed under subsection (a) by reason of paragraph (1), the amount of the penalty imposed by subparagraph (A) of subsection (a)(1) shall be 5 percent of the portion of the underpayment which is attributable to the failure described in paragraph (1)."

(c) Conforming Amendments.—

(1) Subsection (d) of section 6222 is amended by striking out "intentional or negligent".

(2) Subsection (f) of section 6653 is amended by striking out "or intentional disregard of rules and regulations (but without intent to defraud)".

(d) Change in Section Heading.—

(1) The heading for section 6653 (relating to failure to pay tax) is amended to read as follows:

"SEC. 6653. ADDITIONS TO TAX FOR NEGLIGENCE AND FRAUD."

(2) The item relating to section 6653 in the table of sections for subpart A of chapter 68 is amended to read as follows:

"Sec. 6653. Additions to tax for negligence and fraud."

(e) Effective Date.—The amendments made by this section shall apply to returns the due date for which (determined without regard to extensions) is after December 31, 1985.

PART II—ESTIMATED TAX PAYMENTS BY INDIVIDUALS

SEC. 1311. CURRENT YEAR LIABILITY TEST INCREASED FROM 80 TO 90 PERCENT.

(a) In General.—Clause (i) of section 6654(d)(1)(B) (defining required annual payment) is amended by striking out "80 percent" each place it appears and inserting in lieu thereof "90 percent".

(b) Technical Amendments.—

(1) The table contained in clause (ii) of section 6654(d)(2)(C) (defining applicable percentage) is amended—

(A) by striking out "20" and inserting in lieu thereof "22.5",

(B) by striking out "40" and inserting in lieu thereof "45",

(C) by striking out "60" and inserting in lieu thereof "67.5", and

(D) by striking out "80" and inserting in lieu thereof "90".

(2) Subparagraph (C) of section 6654(i)(1) (relating to special rules for farmers and fishermen) is amended by striking out "80 percent" and inserting in lieu thereof "90 percent".

(3) The table contained in subparagraph (B) of section 6654(j)(3) (relating to special rules for nonresident aliens) is amended—

(A) by striking out "40" and inserting in lieu thereof "45",

(B) by striking out "60" and inserting in lieu thereof "67.5", and

(C) by striking out "80" and inserting in lieu thereof "90".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1985.

PART III—PROVISIONS RELATING TO ATTORNEYS' FEES AND EXHAUSTION OF ADMINISTRATIVE REMEDIES

SEC. 1315. EXTENSION OF PROVISION PERMITTING PAYMENT OF ATTORNEYS' FEES, ETC.

(a) General Rule.—Subsection (f) of section 7430 (relating to termination) is amended by striking out "December 31, 1985" and inserting in lieu thereof "December 31, 1989".

(b) Internal Revenue Service Employees Personally Liable for Court Costs, Etc. in Certain Cases.—Section 7430 is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new section:

"(f) Personal Liability of Internal Revenue Service Employees in Certain Cases.—In any proceeding in which the prevailing party is awarded a judgment for reasonable litigation costs under this section, the court may assess a portion of such costs against any Internal Revenue Service employee (and such employee shall not be reimbursed by the United States for the costs so assessed) if the court determines that such proceeding resulted from any arbitrary or capricious act of such employee."

(c) Technical Amendment.—Subsection (a) of section 7430 is amended by inserting "(payable in the case of the Tax Court in same manner as such an award by a district court)" after "a judgment".

(d) Report.—Within 90 days after the close of each calendar year beginning after 1985 and before 1990, the Secretary of the Treasury or his delegate shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report setting forth—

(1) the number of awards made under section 7430 of the Internal Revenue Code of 1954 during such calendar year,

(2) the number of proceedings in which claims for such awards were made by substantially prevailing parties during such calendar year, and

(3) the aggregate amount payable by the United States pursuant to the awards so made during such calendar year.

(e) Effective Dates.—

(1) Subsections (a) and (b).—The amendment made by subsections (a) and (b) shall apply to proceedings commenced after December 31, 1985.

(2) Subsection (c).—The amendment made by subsection (c) shall take effect as if included in the amendments made by section 292 of the Tax Equity and Fiscal Responsibility Act of 1982.

SEC. 1316. INCREASE IN COURT COSTS FOR TAX COURT WHERE TAXPAYER FAILS TO EXHAUST ADMINISTRATIVE REMEDIES.

(a) In General.—Subpart B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

"SEC. 6710. INCREASE IN COURT COSTS FOR TAX COURT WHERE TAXPAYER FAILS TO EXHAUST ADMINISTRATIVE REMEDIES.

"Whenever it appears to the Tax Court that the taxpayer in any proceeding did not use reasonable efforts in good faith to resolve the matter in administrative proceedings with the Secretary, damages in an amount equal to $120 shall be awarded to the United States by the Tax Court in its decision. Damages so awarded shall be assessed at the time of such award and shall be paid upon notice and demand from the Secretary and shall be collected as tax."

(b) Clerical Amendment.—The table of sections for subchapter B of chapter 68 is amended by adding at the end thereof the following new item:

"Sec. 6710. Increase in court costs for Tax Court where taxpayer fails to exhaust administrative remedies."

(c) Effective Date.—The amendments made by this section shall apply to any action or proceeding in the Tax Court commenced after December 31, 1986.

(d) Report.—The Secretary of the Treasury or his delegate and the Tax Court shall jointly prepare a report annually beginning after 1985 on the inventory of cases in the Tax Court and the measures taken to close cases more efficiently. Such report shall be submitted to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

PART IV—TAX ADMINISTRATION PROVISIONS

SEC. 1321. AUTHORITY TO RESCIND NOTICE OF DEFICIENCY WITH TAXPAYER'S CONSENT.

(a) In General.—Section 6212 (relating to notice of deficiency) is amended by adding at the end thereof the following new subsection:

"(d) Authority To Rescind Notice of Deficiency With Taxpayer's Consent.—The Secretary may, with the consent of the taxpayer, rescind any notice of deficiency mailed to the taxpayer. Any notice so rescinded shall not be treated as a notice of deficiency for purposes of subsection (c)(1) (relating to further deficiency letters restricted), section 6213(a) (relating to restrictions applicable to deficiencies; petition to Tax Court), and section 6512(a) (relating to limitations in case of petition to Tax Court), and the taxpayer shall have no right to file a petition with the Tax Court based on such notice."

(b) Effective Date.—The amendment made by subsection (a) shall take effect on January 1, 1986.

SEC. 1322. AUTHORITY TO ABATE INTEREST DUE TO ERRORS OR DELAYS BY THE INTERNAL REVENUE SERVICE.

(a) In General.—Section 6404 (relating to abatements) is amended by adding at the end thereof the following new subsection:

"(e) Assessments of Interest Attributable to Errors and Delays by Internal Revenue Service.—In the case of any assessment of interest on—

"(1) any deficiency attributable in whole or in part to any error or delay by an officer or employee of the Internal Revenue Service (acting in his official capacity) in performing a ministerial act, or

"(2) any payment of tax described in section 6212(a) to the extent that any delay in such payment is attributable to such an officer or employee being dilatory in performing a ministerial act,

the Secretary may abate the assessment of all or any part of such interest for any period. For purposes of the preceding sentence, a delay shall be taken into account only after the Internal Revenue Service and the taxpayer involved have been in contact with respect to such deficiency or payment."

(b) Effective Date.—The amendment made by subsection (a) shall apply to interest accruing with respect to deficiencies or payments for taxable years beginning after December 31, 1981.

SEC. 1323. SUSPENSION OF COMPOUNDING WHERE INTEREST ON DEFICIENCY SUSPENDED.

(a) In General.—Subsection (c) of section 6601 (relating to suspension of interest in certain income, estate, gift, and certain excise taxes cases) is amended by inserting before the period at the end thereof "and interest shall not be imposed during such period on any interest with respect to such deficiency for any prior period".

(b) Effective Date.—The amendment made by subsection (a) shall apply to periods after December 31, 1985.

SEC. 1324. CERTAIN SERVICE-CONNECTED DISABILITY PAYMENTS EXEMPT FROM LEVY.

(a) Exemption From Levy.—Subsection (a) of section 6334 (relating to the enumeration of property exempt from levy) is amended by adding at the end thereof the following new paragraph:

"(10) Certain service-connected disability payments.—Any amount payable to an individual as a service-connected (within the meaning of section 101(16) of title 38, United States Code) disability benefit under—

"(A) subchapter II, IV, or VI of chapter 11 of such title 38,

"(B) subchapter I, II, or III of chapter 19 of such title 38, or

"(C) chapter 21, 31, 32, 34, 35, 37, or 39 of such title 38."

(b) Effective Date.—The amendment made by subsection (a) shall apply to amounts payable after December 31, 1985.

SEC. 1325. INCREASE IN VALUE OF PERSONAL PROPERTY SUBJECT TO CERTAIN LISTING AND NOTICE PROCEDURES.

(a) In General.—Section 7325 (relating to personal property valued at $2,500 or less) is amended by striking out "$2,500" each place it appears (including the section heading) and inserting in lieu thereof "$100,000".

(b) Increase in Amount of Bond by Claimant.—Paragraph (3) of section 7325 is amended by striking out "$250" and inserting in lieu thereof "$2,500".

(c) Technical Amendment.—Paragraph (4) of section 7103(b) is amended by striking out "$1,000" and inserting in lieu thereof "$100,000".

(d) Clerical Amendment.—The item relating to section 7325 in the table of sections for part II of subchapter C of chapter 75 is amended by striking out "$2,500" and inserting in lieu thereof "$100,000".

(e) Effective Date.—The amendments made by this section shall take effect on January 1, 1986.

SEC. 1326. CERTAIN RECORDKEEPING REQUIREMENTS.

For purposes of sections 132 and 274 of the Internal Revenue Code of 1954, use of a automobile by a special agent of the Internal Revenue Service shall be treated in the same manner as use of an automobile by an officer of any other law enforcement agency.

PART V—INTEREST PROVISIONS

SEC. 1331. DIFFERENTIAL INTEREST RATE.

(a) General Rule.—Section 6621 (relating to determination of rate of interest) is amended by striking out subsections (a), (b), and (c) and inserting in lieu thereof the following:

"(a) General Rule.—

"(1) Overpayment rate.—The overpayment rate established under this section shall be the sum of—

"(A) the short-term Federal rate determined under subsection (b), plus

"(B) 2 percentage points.

"(2) Underpayment rate.—The underpayment rate established under this section shall be the sum of—

"(A) the short-term Federal rate determined under subsection (b), plus

"(B) 3 percentage points.

"(b) Short-Term Federal Rate.—For purposes of this section—

"(1) General rule.—The Secretary shall determine the short-term Federal rate for the first month in each calendar quarter.

"(2) Period during which rate applies.—The Federal short-term rate determined under paragraph (1) for any month shall apply during the first calendar quarter beginning after such month.

"(3) Federal short-term rate.—The Federal short-term rate for any month shall be the rate determined by the Secretary based on the average market yield (during such month) on outstanding 91-day Treasury bills. Any such rate shall be rounded to the nearest full percent (or, if a multiple of ½ of 1 percent, such rate shall be increased to the next highest full percent)."

(b) Technical Amendments.—

(1) Section 6621 is amended—

(A) by redesignating subsection (d) as subsection (c), and

(B) by striking out "the adjusted rate established under subsection (b)" in subsection (c)(1) (as so redesignated) and inserting in lieu thereof "the underpayment rate established under this section".

(2) Subparagraph (G) of section 47(d)(3) is amended by striking out "determined under section 6621" and inserting in lieu thereof "determined at the underpayment rate established under section 6621".

(3) The last sentence of section 48(d)(6)(C)(ii) (defining at risk percentage) is amended by striking out "the rate" and inserting in lieu thereof "the underpayment rate".

(4) Subparagraph (B) of section 167(q)(2) is amended by striking out "at the rate determined under section 6621" and inserting in lieu thereof "at the underpayment rate established under section 6621".

(5) Subparagraph (B) of section 644(a)(2) (as in effect before the amendments made by title VII of this Act) is amended by striking out "the annual rate established under section 6621" and inserting in lieu thereof "the underpayment rate established under section 6621".

(6) Subparagraph (A) of section 852(e)(3) is amended by striking out "the annual rate established under section 6621" and inserting in lieu thereof "the underpayment rate established under section 6621".

(7) Paragraph (2) of section 4497(c) is amended by striking out "at rates determined under section 6621" and inserting in lieu thereof "at the underpayment rate established under section 6621".

(8) Subsection (e) of section 6214 is amended by striking out "section 6621(d)(4)" and inserting in lieu thereof "section 6621(c)(4)".

(9) Paragraph (1) of section 6332(c) is amended by striking out "an annual rate established under section 6621" and inserting in lieu thereof "the underpayment rate established under section 6621".

(10) Subsection (c) of section 6343 is amended by striking out "an annual rate established under section 6621" and inserting in lieu thereof "the overpayment rate established under section 6621".

(11) Subsection (a) of section 6601 is amended by striking out "an annual rate established under section 6621" and inserting in lieu thereof 'the underpayment rate established under section 6621".

(12) Section 6602 is amended by striking out "an annual rate established under section 6621" and inserting in lieu thereof "the underpayment rate established under section 6621".

(13) Subsection (a) of section 6611 is amended by striking out "an annual rate established under section 6621" and inserting in lieu thereof "the overpayment rate established under section 6621".

(14) Paragraph (1) of section 6654(a) is amended by striking out "the applicable annual rate established under section 6621" and inserting in lieu thereof "the underpayment rate established under section 6621".

(15) Paragraph (1) of section 6655(a) is amended by striking out "the rate established under section 6621" and inserting in lieu thereof "the underpayment rate established under section 6621".

(16) Subsection (g) of section 7426 is amended by striking out "an annual rate established under section 6621" and inserting in lieu thereof "the overpayment rate established under section 6621".

(17) Section 1961(c)(1) of title 28, United States Code, is amended by striking out "a rate established under section 6621" and inserting in lieu thereof "the underpayment rate or overpayment rate (whichever is appropriate) established under section 6621".

(18) Section 2411 of title 28, United States Code, is amended by striking out "an annual rate established under section 6621" and inserting in lieu thereof "the overpayment rate established under section 6621".

(c) Effective Date.—The amendments made by this section shall apply for purposes of determining interest for periods after December 31, 1985.

SEC. 1332. INTEREST ON ACCUMULATED EARNINGS TAX TO ACCRUE BEGINNING ON DATE RETURN IS DUE.

(a) In General.—Subsection (b) of section 6601 (relating to last date prescribed for payment) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) Accumulated earnings tax.—In the case of the tax imposed by section 531 for any taxable year, the last date prescribed for payment shall be deemed to be the due date (without regard to extensions) for the return of tax imposed by subtitle A for such taxable year."

(b) Effective Date.—The amendments made by this section shall apply to returns the due date for which (determined without regard to extensions) is after December 31, 1985.

PART VI—MODIFICATION OF WITHHOLDING ALLOWANCES

SEC. 1335. WITHHOLDING ALLOWANCES TO REFLECT NEW RATE SCHEDULES.

(a) In General.—The Secretary of the Treasury or his delegate shall modify the withholding schedules under section 3402 of the Internal Revenue Code of 1954 to better approximate actual tax liability under the amendments made by this Act.

(b) Certain Decreases in Withholding Not Permitted.—Subsection (i) of section 3402 is amended by striking out "or decreases".

(c) Effective Date.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1985.

PART VII—INFORMATION REPORTING PROVISIONS

SEC. 1341. REQUIREMENT OF REPORTING FOR REAL ESTATE TRANSACTIONS.

(a) General Rule.—Subsection (c) of section 6045 (relating to returns of brokers) is amended by adding at the end thereof the following new paragraph:

"(5) Real estate transactions.—In the case of any real estate transaction, the term 'broker' means the settlement attorney or other stakeholder (or if there is no such stakeholder, the person designated in regulations prescribed by the Secretary). Any person treated as a broker under the preceding sentence shall be treated as doing business as a broker for purposes of subsection (a)."

(b) Effective Date.—The amendment made by subsection (a) shall take effect on January 1, 1986, and shall apply without regard to whether the Secretary of the Treasury requires a return under section 6045(a) of the Internal Revenue Code of 1954.

SEC. 1342. INFORMATION REPORTING ON PERSONS RECEIVING CONTRACTS FROM CERTAIN FEDERAL AGENCIES.

(a) In General.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by adding at the end thereof the following new section:

"SEC. 6050M. RETURNS RELATING TO PERSONS RECEIVING CONTRACTS FROM FEDERAL EXECUTIVE AGENCIES.

"(a) Requirement of Reporting.—The head of every Federal executive agency which enters into any contract shall make a return (at such time and in such form as the Secretary may by regulations prescribe) setting forth—

"(1) the name, address, and TIN of each person with which such agency entered into a contract during the calendar year, and

"(2) such other information as the Secretary may require.

"(b) Federal Executive Agency.—For purposes of this section, the term 'Federal executive agency' means—

"(1) any Executive agency (as defined in section 105 of title 5, United States Code) other than the General Accounting Office,

"(2) any military department (as defined in section 102 of such title), and

"(3) the United States Postal Service and the Postal Rate Commission.

"(c) Authority to Extend Reporting to Licenses and Subcontracts.—To the extent provided in regulations prescribed by the Secretary, this section also shall apply to—

"(1) licenses granted by Federal executive agencies, and

"(2) subcontracts under contracts to which subsection (a) applies.

"(d) Authority To Prescribe Minimum Amounts.—This section shall not apply to contracts or licenses in any class which are below a minimum amount or value which may be prescribed by the Secretary by regulations for such class."

(b) Clerical Amendment.—The table of sections for such subpart B is amended by adding at the end thereof the following new item:

"Sec. 6050M. Returns relating to persons receiving contracts from Federal executive agencies."

(c) Effective Date.—The amendments made by this section shall take effect on January 1, 1986.

SEC. 1343. TAX-EXEMPT INTEREST REQUIRED TO BE SHOWN ON RETURN.

(a) In General.—Section 6012 (relating to persons required to make returns of income) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the new subsection:

"(d) Tax-Exempt Interest Required To Be Shown on Return.—Every person required to file a return under this section for the taxable year shall include on such return the amount of interest received or accrued during the taxable year which is exempt from the tax imposed by chapter 1."

(b) Effective Date.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1985.

PART VIII—REPORT ON RETURN-FREE SYSTEM

SEC. 1345. REPORT.

(a) Report.—The Secretary of the Treasury or his delegate shall prepare a report on a return-free system for the Federal income tax of individuals. Such report shall include—

(1) the identification of classes of individuals who would be permitted to use a return-free system,

(2) how such a system would be phased in,

(3) what additional resources the Internal Revenue Service would need to carry out such a system, and

(4) the types of changes to the Internal Revenue Code of 1954 which would inhibit or enhance the use of such a system.

(b) Due Date.—The report under subsection (a) shall be submitted, not later than 6 months after the date of the enactment of this Act, to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

PART IX—CERTAIN DIESEL FUEL TAXES MAY BE IMPOSED ON SALES TO RETAILERS

SEC. 1351. TAX ON SALES TO RETAILER.

(a) In General.—Section 4041 (relating to imposition of tax on special fuels) is amended by adding at the end thereof the following new subsection:

"(n) Tax on Diesel Fuel for Highway Vehicle Use May Be Imposed on Sale to Retailer.—Under regulations prescribed by the Secretary—

"(1) In general.—The tax imposed by subsection (a)(1)—

"(A) shall apply to the sale of diesel fuel to a qualified retailer (and such sale shall be treated as described in subsection (a)(1)(A)), and

"(B) shall not apply to the sale of diesel fuel by such retailer if tax was imposed on such fuel under subparagraph (A).

"(2) Definitions.—For purposes of this subsection—

"(A) Qualified retailer.—The term 'qualified retailer' means any retailer—

"(i) who elects (under such terms and conditions as may be prescribed by the Secretary) to have paragraph (1) apply to all sales of diesel fuel to such retailer, and

"(ii) who agrees to provide a written notice to each person who sells diesel fuel to such retailer that paragraph (1) applies to all sales of diesel fuel by such person to such retailer.

Such election and notice shall be effective for such period or periods as may be prescribed by the Secretary.

"(B) Retailer.—The term 'retailer' means any person who sells diesel fuel for use as a fuel in a diesel-powered highway vehicle. Such term does not include any person who sells diesel fuel primarily for resale.

"(C) Diesel fuel.—

"(i) In general.—The term 'diesel fuel' means any liquid on which tax would be imposed by subsection (a)(1) if sold to a person, and for a use, described in subsection (a)(1)(A).

"(ii) Exception.—A liquid shall not be treated as diesel fuel for purposes of this subsection if the retailer certifies in writing to the seller of such liquid that such liquid will not be sold for use as a fuel in a diesel-powered highway vehicle.

"(3) Failure to notify seller.—

"(A) In general.—If a qualified retailer fails to provide the notice described in paragraph (2)(A)(ii) to any seller of diesel fuel to such retailer—

"(i) paragraph (1) shall not apply to sales of diesel fuel by such seller to such retailer during the period for which such failure continues, and

"(ii) any diesel fuel sold by such seller to such retailer during such period shall be treated as sold by such retailer (in a sale described in subsection (a)(1)(A)) on the date such fuel was sold to such retailer.

"(B) Penalty.—For penalty for failing to notify seller, see section 6652(j).

"(4) Exemptions not to apply.—

"(A) In general.—No exemption from the tax imposed by subsection (a)(1) shall apply to a sale to which paragraph (1) or (3)(A) of this subsection applies.

"(B) Cross reference.—

"For provisions allowing a credit or refund for certain sales and uses of fuel, see sections 6416 and 6427."

(b) Penalty.—Section 6652 (relating to failure to file certain information returns, registration statements, etc.), as amended by section 1301, is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) Failure To Give Written Notice to Certain Sellers of Diesel Fuel.—

"(1) In general.—If any qualified retailer fails to provide the notice described in section 4041(n)(2)(A)(ii) to any seller of diesel fuel to such retailer, unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid, on notice and demand of the Secretary and in the same manner as tax, by such retailer with respect to each sale of diesel fuel to such retailer by such seller to which section 4041(n)(3) applies an amount equal to 5 percent of the tax which would have been imposed by section 4041(a)(1) on such sale had section 4041(n)(1) applied to such sale.

"(2) Definitions.—For purposes of paragraph (1), the terms 'qualified retailer' and 'diesel fuel' have the respective meanings given such terms by section 4041(n)."

(c) Effective Date.—The amendments made by this section shall apply to sales after the first calendar quarter beginning more than 60 days after the date of the enactment of this Act.

TITLE XIV—MISCELLANEOUS PROVISIONS

SEC. 1401. EXCLUSION FOR CERTAIN FOSTER CARE PAYMENTS.

(a) In General.—Clause (i) of section 131(b)(1)(B) (defining qualified foster care payment) is amended to read as follows:

"(i) paid to the foster parent for caring for a qualified foster child in the foster parent's home, or".

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 1985.

SEC. 1402. EXTENSION OF RULES FOR SPOUSES OF INDIVIDUALS MISSING IN ACTION.

(a) Extension of Provisions.—

(1) Definition of surviving spouse.—Subparagraph (B) of section 2(a)(3) (relating to special rule where deceased spouse was in missing status) is amended to read as follows:

"(B) except in the case of the combat zone designated for purposes of the Vietnam conflict, the date which is 2 years after the date designated under section 112 is the date of termination of combatant activities in that zone."

(2) Income taxes of members of armed forces on death.—The last sentence of section 692(b) (relating to individuals in missing status) is amended to read as follows: "Except in the case of the combat zone designated for purposes of the Vietnam conflict, the preceding sentence shall not cause subsection (a)(1) to apply for any taxable year beginning more than 2 years after the date designated under section 112 as the date of termination of combatant activities in a combat zone."

(3) Joint returns.—The last sentence of section 6013(f)(1) (relating to joint returns where an individual is in missing status) is amended by striking out "no such election may be made for any taxable year beginning after December 31, 1982" and inserting in lieu thereof "such election may be made for any taxable year while an individual is in missing status".

(4) Postponement of time for performing certain acts.—The last sentence of section 7508(b) (relating to application to spouse) is amended to read as follows: "Except in the case of the combat zone designated for purposes of the Vietnam conflict, the preceding sentence shall not cause this section to apply for any spouse for any taxable year beginning more than 2 years after the date designated under section 112 as the date of termination of combatant activities in a combat zone."

(b) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1982.

SEC. 1403. IMPOSITION OF EXCISE TAX ON AMOUNTS PAID FOR UNITED STATES TELEVISION AND RADIO BROADCAST RIGHTS FOR OLYMPIC EVENTS; TRANSFER OF FUNDS TO TRUST FUND.

(a) Imposition of Excise Tax.—

(1) In General.—Chapter 36 (relating to certain other excise taxes) is amended by inserting before subchapter D the following new subchapter:

"Subchapter C—Tax on Amounts Paid for United States Television and Radio Broadcast Rights for Olympic Events

"Sec. 4471. Imposition of tax.
"Sec. 4472. Definitions and special rules.

"SEC. 4471. IMPOSITION OF TAX.

"(a) Imposition of Tax.—A tax is hereby imposed on the amount paid to any person or government for the United States broadcast rights for Olympic events.

"(b) Amount of Tax.—The amount of the tax imposed by subsection (a) shall be 10 percent of the amount so paid.

"(c) Liability for Tax.—

"(1) In general.—The person or government receiving the payment to which the tax under this subchapter applies shall be liable for such tax.

"(2) Withholding.—The payor of any amount which is subject to tax under subsection (a) shall withhold such tax from such amount. Such payor shall be liable for the payment of the tax required to be withheld under the preceding sentence and shall not be liable to any person for the amount of any such payment.

"(3) Recipient treated as having paid withheld amount.—The person or government receiving any payment to which the tax under this subchapter applies shall be treated as having paid any amount withheld under this subsection with respect to such payment.

"SEC. 4472. DEFINITIONS AND SPECIAL RULES.

"(a) United States Broadcast Rights.—For purposes of this subchapter, the term 'United States broadcast rights' means any right (whether or not exclusive) to the original broadcast on television or radio in the United States of any Olympic event.

"(b) Olympic Event.—For purposes of this subchapter, the term 'Olympic event' means any event of the summer or winter Olympic games.

"(c) Excise Tax To Apply Notwithstanding Treaties.—The tax imposed by this subchapter shall apply notwithstanding any treaty obligation of the United States, whether entered into before, on, or after the date of the enactment of this section."

(2) Excise tax to be deductible against income tax.—Subsection (a) of section 164 (relating to deduction for taxes) is amended by adding at the end thereof the following new paragraph:

"(6) The tax imposed by section 4471 (relating to tax on amounts paid for United States broadcast rights for Olympic events)."

(3) Clerical amendment.—The table of subchapters for chapter 36 is amended by inserting before the item relating to subchapter D the following new item:

"Subchapter C. Tax on amounts paid for United States television and radio broadcast rights for Olympic events."

(4) Effective dates.—

(A) In general.—Except as provided in subparagraph (B), the amendments made by this subsection shall apply to amounts paid after November 22, 1985.

(B) Special rule for binding contracts.—The amendments made by this subsection shall not apply to amounts paid after November 22, 1985, pursuant to a binding contract in effect on November 22, 1985, and at all times thereafter.

(b) Establishment of United States Olympic Trust Fund.

(1) In general.—Subchapter A of chapter 98 (relating to trust fund code) is amended by adding at the end thereof the following new section:

"SEC. 9505. UNITED STATES OLYMPIC TRUST FUND.

"(a) Creation of Trust Fund.—There is established in the Treasury of the United States a trust fund to be known as the 'United States Olympic Trust Fund', consisting of such amounts as may be appropriated or credited to the United States Olympic Trust Fund as provided in this section or section 9602(b).

"(b) Transfer to United States Olympic Trust Fund of Amounts Equivalent to Certain Taxes.—There is hereby appropriated to the United States Olympic Trust Fund amounts equivalent to the amounts received in the Treasury under section 4471 (relating to tax on amounts paid for United States broadcast rights for Olympic events).

"(c) Expenditures From Trust Fund.—

"(1) In general.—The Secretary shall pay, not less often than quarterly, to the United States Olympic Committee from the United States Olympic Trust Fund an amount equal to the amount in such Fund as of the time of such payment less any administrative expenses which may be paid under paragraph (2).

"(2) Administrative expenses.—Amounts in the United States Olympic Trust Fund shall be available to pay the administrative expenses incurred by the Department of the Treasury in administering subchapter C of chapter 36 and in carrying out its responsibilities with respect to the United States Olympic Trust Fund.".

(2) Clerical amendment.—The table of sections for such subchapter A is amended by adding at the end thereof the following new item:

"Sec. 9505. United States Olympic Trust Fund.".

SEC. 1404. CERTAIN DISTRIBUTIONS OF LOW COST ARTICLES AND EXCHANGES AND RENTALS OF MEMBER LISTS BY CERTAIN ORGANIZATIONS NOT TO BE TREATED AS UNRELATED TRADE OR BUSINESS.

(a) In General.—Section 513 (defining unrelated trade or business) is amended by adding at the end thereof the following new subsection:

"(h) Certain Distributions of Low Cost Articles Without Obligation to Purchase.—

"(1) In general.—In the case of an organization which is described in section 501 and contributions to which are deductible under paragraph (2) or (3) of section 170(c), the term 'unrelated trade or business' does not include—

"(A) activities relating to the distribution of low cost articles if the distribution of such articles is incidental to the solicitation of charitable contributions, or

"(B) any trade or business which consists of—

"(i) exchanging with another such organization names and addresses of donors to (or members of) such organization, or

"(ii) renting such names and addresses to another such organization.

"(2) Low cost article defined.—For purposes of this subsection—

"(A) In general.—The term 'low cost article' means any article which has a cost not in excess of $5 to the organization which distributes such item (or on whose behalf such item is distributed).

"(B) Article may include more than 1 item.—If more than 1 item is distributed by or on behalf of an organization to a single distributee in any calendar year, the aggregate of the items so distributed in such calendar year to such distributee shall be treated as 1 article for purposes of subparagraph (A).

"(C) Indexation of $5 amount.—In the case of any calendar year beginning after December 31, 1986, there shall be substituted for the $5 amount in paragraph (1) an amount equal to $5 multiplied by the cost-of-living adjustment (as defined in section 1(e)(3)) for taxable years beginning in such calendar year.

"(3) Distribution which is incidental to the solicitation of charitable contributions described.—For purposes of this subsection, any distribution of low cost articles by an organization shall be treated as a distribution incidental to the solicitation of charitable contributions only if—

"(A) such distribution is not made at the request of the distributee,

"(B) such distribution is made without the express consent of the distributee, and

"(C) the articles so distributed are accompanied by—

"(i) a request for a charitable contribution (as defined in section 170(c)) by the distributee to such organization, and

"(ii) a statement that the distributee may retain the low cost article regardless of whether such distributee makes a charitable contribution to such organization.".

(b) Effective Date.—The amendment made by subsection (a) shall apply to distributions of low cost articles and exchanges and rentals of membership lists after the date of the enactment of this Act.

SEC. 1405. CHANGES IN DEDUCTION OF TAXES AND INTEREST BY TENANT-STOCKHOLDERS OF COOPERATIVE HOUSING CORPORATIONS.

(a) In General.—Paragraph (3) of section 216(b) (defining tenant-stockholder's proportionate share) is amended to read as follows:

"(3) Tenant-stockholder's proportionate share.—

"(A) In general.—Except as provided in subparagraph (B), the term 'tenant-stockholder's proportionate share' means that proportion which the stock of the cooperative housing corporation owned by the tenant-stockholder is of the total outstanding stock of the corporation (including any stock held by the corporation).

"(B) Special rule where allocation of taxes and interest reflect cost to corporation of stockholder's unit.—

"(i) In general.—If, for any taxable year—

"(I) each dwelling unit owned or leased by a cooperative housing corporation is separately allocated a share of such corporation's real estate taxes described in subsection (a)(1) and a share of such corporation's interest described in subsection (a)(2), and

"(II) such allocations reasonably reflect the cost to such corporation of such taxes, and of such interest, attributable to the tenant-stockholder's dwelling unit (and such unit's share of the common areas),

then the term 'tenant-stockholder's proportionate share' means the shares determined in accordance with the allocations described in subclause (II).

"(ii) Election by corporation required.—Clause (i) shall apply with respect to any cooperative housing corporation only if such corporation elects its application. Such an election, once made, may be revoked only with the consent of the Secretary."

(b) Effective Date.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1985.

SEC. 1406. TREATMENT OF COMPUTER SOFTWARE ROYALTIES AND INTEREST OF SECURITIES DEALERS FOR PURPOSES OF PERSONAL HOLDING COMPANY TAX.

(a) In General.—Paragraph (1) of section 543(a) (defining personal holding company income) is amended—

(1) by striking out "and" at the end of subparagraph (A),

(2) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof ", and", and

(3) by adding at the end thereof the following new subparagraphs:

"(C) active business computer software royalties (within the meaning of subsection (d)).

"(D) any qualified securities dealer interest (within the meaning of subsection (e)(1)).".

(b) Active Business Computer Software Royalties and Qualified Securities Dealers Interest Defined.—Section 543 is amended by adding at the end thereof the following new subsections:

"(d) Active Business Computer Software Royalties.—

"(1) In general.—For purposes of this section, the term 'active business computer software royalties' means any royalties—

"(A) received by any corporation during the taxable year in connection with the licensing of computer software, and

"(B) with respect to which the requirements of paragraphs (2), (3), (4), and (5) are met.

"(2) Royalties must be received by corporation actively engaged in computer software business.—The requirements of this paragraph are met if the royalties described in paragraph (1)—

"(A) are received by a corporation engaged in the active conduct of the trade or business of developing, manufacturing, or producing computer software, and

"(B) are attributable to computer software which—

"(i) is developed, manufactured, or produced by such corporation (or its predecessor) in connection with the trade or business described in subparagraph (A), or

"(ii) is directly related to such trade or business.

"(3) ROYALTIES MUST CONSTITUTE AT LEAST 50 PERCENT OF INCOME.—The requirements of this paragraph are met if the royalties described in paragraph (1) constitute at least 50 percent of the ordinary gross income of the corporation for the taxable year.

"(4) DEDUCTIONS UNDER SECTIONS 162 AND 174 RELATING TO ROYALTIES MUST EQUAL OR EXCEED 25 PERCENT OF ORDINARY GROSS INCOME.—

"(A) IN GENERAL.—The requirements of this paragraph are met if—

"(i) the sum of the deductions allowable to the corporation under sections 162, 174, and 195 for the taxable year which are properly allocable to the trade or business described in paragraph (2) equals or exceeds 25 percent of the ordinary gross income of such corporation for such taxable year, or

"(ii) the average of such deductions for the 5-taxable year period ending with such taxable year equals or exceeds 25 percent of the average ordinary gross income of such corporation for such period.

If a corporation has not been in existence during the 5-taxable year period described in clause (ii), then the period of existence of such corporation shall be substituted for such 5-taxable year period.

"(B) DEDUCTIONS ALLOWABLE UNDER SECTION 162.—For purposes of subparagraph (A), a deduction shall not be treated as allowable under section 162 if it is specifically allowable under another section.

"(C) LIMITATION ON ALLOWABLE DEDUCTIONS.—For purposes of subparagraph (A), no deduction shall be taken into account with respect to compensation for personal services rendered by the five individual shareholders holding the largest percentage (by value) of the outstanding stock of the corporation. For purposes of the preceding sentence—

"(i) individuals holding less than 5 percent (by value) of the stock of such corporation shall not be taken into account, and

"(ii) stock deemed to be owned by a shareholder solely by attribution from a partner under section 544(a)(2) shall be disregarded.

"(5) DIVIDENDS MUST EQUAL OR EXCEED EXCESS OF PERSONAL HOLDING COMPANY INCOME OVER 10 PERCENT OF ORDINARY GROSS INCOME.—

"(A) IN GENERAL.—The requirements of this paragraph are met if the sum of—

"(i) the dividends paid during the taxable year (determined under section 562),

"(ii) the dividends considered as paid on the last day of the taxable year under section 563(c) (as limited by the second sentence of section 563(b)), and

"(iii) the consent dividends for the taxable year (determined under section 565),

equals or exceeds the amount, if any, by which the personal holding company income for the taxable year exceeds 10 percent of the ordinary gross income of such corporation for such taxable year.

"(B) COMPUTATION OF PERSONAL HOLDING COMPANY INCOME.—For purposes of this paragraph, personal holding company income shall be computed—

"(i) without regard to amounts described in subsection (a)(1)(C),

"(ii) without regard to interest income during any taxable year—

"(I) which is in the 5-taxable year period beginning with the later of the 1st taxable year of the such corporation or the 1st taxable year in which such corporation conducted the trade or business described in paragraph (2)(A), and

"(II) during which the corporation meets the requirements of paragraphs (2), (3), and (4), and

"(iii) by including adjusted income from rents and adjusted income from mineral, oil, and gas royalties (within the meaning of paragraphs (2) and (3) of subsection (a)).

"(6) SPECIAL RULES FOR AFFILIATED GROUP MEMBERS.—

"(A) IN GENERAL.—In any case in which—

"(i) the taxpayer receives royalties in connection with the licensing of computer software, and

"(ii) another corporation which is a member of the same affiliated group as the taxpayer meets the requirements of paragraphs (2), (3), and (4) with respect to such computer software,

the taxpayer shall be treated as having met such requirements.

"(B) AFFILIATED GROUP.—For purposes of this paragraph, the term 'affiliated group' has the meaning given such term by section 1504(a).

"(e) SPECIAL RULES FOR INTEREST OF DEALERS IN SECURITIES.—

"(1) QUALIFIED SECURITIES DEALER INTEREST.—For purposes of subparagraph (D) of subsection (a)(1)—

"(A) IN GENERAL.—The term 'qualified securities dealer interest' means any interest of a dealer in securities from securities or money market instruments held as inventory, but only if the requirements of subparagraphs (B), (C), and (D) are met.

"(B) ADJUSTED ORDINARY GROSS INCOME REQUIREMENT.—The requirements of this subparagraph are met if the sum of—

"(i) the income of the dealer in securities from the trade or business of dealing in securities (other than personal holding company income determined without regard to subsection (a)(1)(D)), plus

"(ii) the interest of such dealer from securities or money market instruments held as inventory,

equals or exceeds 50 percent of the ordinary gross income of such dealer.

"(C) DIVIDEND REQUIREMENT.—The requirements of this subparagraph are met if the sum of—

"(i) the dividends paid during the taxable year (determined under section 562),

"(ii) the dividends considered as paid on the last day of the taxable year under section 563(c) (as limited by the second sentence of section 563(b)), and

"(iii) the consent dividends for the taxable year (determined under section 565),

equals or exceeds the amount, if any, by which the personal holding company income for the taxable year (determined without regard to income described in subsection (a)(1)(D)) exceeds 10 percent of the ordinary gross income of such corporation for such taxable year.

"(D) DEDUCTION REQUIREMENT.—The requirements of this subparagraph are met if the sum of the deductions which are allowable under section 162 other than—

"(i) deductions for compensation for personal services rendered by the shareholders, and

"(ii) deductions which are specifically allowable under sections other than section 162,

equals or exceeds 15 percent of the adjusted ordinary gross income.

"(2) CERTAIN INTEREST INCOME OFFSET WHERE OFFSETTING LOAN.—For purposes of this part—

"(A) IN GENERAL.—In the case of a dealer in securities who regularly derives income from loans which are offset by other loans, the interest income from any such loan shall be reduced by any interest paid or accrued by such dealer on the offsetting loan.

"(B) OFFSETTING LOANS.—For purposes of this paragraph, any loan made by a dealer in securities shall be treated as offset by another loan if such other loan—

"(i) is made at the same time as such loan and has the same maturity as such loan, is in substantially the same amount as such loan, and is secured by the same property as such loan, and

"(ii) is designated, in such manner as the Secretary may prescribe, by such dealer as an offsetting loan.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) DEALER IN SECURITIES.—The term 'dealer in securities' has the meaning given such term by section 1236.

"(B) INVENTORY.—The term 'inventory' means property described in section 1221(1).".

(c) CONFORMING AMENDMENTS.—

(1) Section 543(a)(4) (relating to copyright royalties) is amended by adding at the end thereof the following new sentence: "This paragraph shall not apply to active business computer software royalties.".

(2) Section 543(b)(3) (relating to adjusted income from rents) is amended—

(A) by striking out "or" at the end of subparagraph (C),

(B) by striking out the period at the end of subparagraph (D) and inserting in lieu thereof ", or", and

(C) by adding at the end thereof the following new subparagraph:

"(E) active business computer software royalties (as defined in subsection (d)).".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to royalties and interest received after December 31, 1985, in taxable years ending after such date.

SEC. 1407. ADOPTION ASSISTANCE AGREEMENTS UNDER ADOPTION ASSISTANCE PROGRAM; PAYMENT OF NONRECURRING EXPENSES RELATED TO ADOPTIONS OF CHILDREN WITH SPECIAL NEEDS.

(a) IN GENERAL.—Section 473(a) of the Social Security Act is amended—

(1) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively; and

(2) by striking out all of paragraph (1) down through "adopt a child who—" and inserting in lieu thereof the following:

"(1)(A) Each State having a plan approved under this part shall enter into adoption assistance agreements (as defined in section 475(3)) with the adoptive parents of children with special needs.

"(B) Under any adoption assistance agreement entered into by a State with parents who adopt a child with special needs, the State—

"(i) shall make payments of nonrecurring adoption expenses incurred by or on behalf of such parents in connection with the adoption of such child, directly through the State agency or through another public or private nonprofit private agency, in amounts determined under paragraph (3), and

"(ii) in any case where the child meets the requirements of paragraph (2), shall make adoption assistance payments to such parents, directly through the State agency or through another public or nonprofit private agency, in amounts so determined.

"(2) For purposes of paragraph (1)(B)(ii), a child meets the requirements of this paragraph if such child—".

(b) Definition and Payment of Nonrecurring Adoption Expenses.—Section 473(a) of such Act (as amended by subsection (a) of this section) is further amended by adding at the end thereof the following new paragraph:

"(6)(A) For purposes of paragraph (1)(B)(i), the term 'nonrecurring adoption expenses' means reasonable and necessary adoption fees, court costs, attorney fees, and other expenses which are directly related to the legal adoption of a child with special needs and which are not incurred in violation of State or Federal law.

"(B) A State's payment of nonrecurring adoption expenses under an adoption assistance agreement shall be treated as an expenditure made for the proper and efficient administration of the State plan for purposes of section 474(a)(3)(B).".

(c) Technical and Conforming Amendments.—(1) The first sentence of section 470 of such Act is amended by striking out "foster care" and all that follows down through "title XVI)" and inserting in lieu thereof the following: "foster care for children who otherwise would be eligible for assistance under the State's plan approved under part A and adoption assistance for children with special needs".

(2) Paragraphs (1) and (11) of section 471(a) of such Act are each amended by striking out "adoption assistance payments" and inserting in lieu thereof "adoption assistance".

(3) Section 473(a,(3) of such Act (as redesignated by subsection (a)(1) of this section) is amended—

(A) by striking out "the adoption assistance payments" in the first sentence and inserting in lieu thereof "the payments to be made in any case under clauses (i) and (ii) of paragraph (1)(B)"; and

(B) by inserting after "the adoption assistance payment" where it first appears in the second sentence the following: "made under clause (ii) of paragraph (1)(B)".

(4) Section 473(a)(5) of such Act (as so redesignated) is amended by striking out ", pursuant to an interlocutory decree, shall be eligible for adoption assistance payments under this subsection," and inserting in lieu thereof "in accordance with applicable State and local law shall be eligible for such payments,".

(5) Section 475(3) of such Act is amended by striking out clause (A) and inserting in lieu thereof the following: "(A) specifies the nature and amount of any payments, services, and assistance to be provided under such agreement, and".

(d) Effective Date.—

(1) In general.—The amendments made by this section shall apply only with respect to expenditures made after December 31, 1985.

(2) Tax treatment of certain nonrecurring adoption expense payments.—In any case where an individual receives after December 31, 1985, a payment of nonrecurring adoption expenses (as defined in section 473(a)(6)(A) of the Social Security Act), no deduction shall be allowable for such expenses under section 222 of the Internal Revenue Code of 1954.

TITLE XV—TECHNICAL CORRECTIONS

SEC. 1500. COORDINATION WITH OTHER TITLES.

For purposes of applying the amendments made by any title of this Act other than this title, the provisions of this title shall be treated as having been enacted immediately before the provisions of such other titles.

Subtitle A—Related to the Tax Reform Act of 1984

CHAPTER 1—AMENDMENTS RELATED TO TITLE I OF THE ACT

SEC. 1501. AMENDMENTS RELATED TO DEFERRAL OF CERTAIN TAX REDUCTIONS.

(a) Amendment Related to Section 12 of the Act.—Paragraph (1) of section 12(c) of the Tax Reform Act of 1984 (relating to finance lease provisions) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply to any property with respect to which an election is made under this sentence at such time after the date of the enactment of the Tax Reform Act of 1985 as the Secretary of the Treasury or his delegate may prescribe.".

(b) Amendment Related to Section 26 of the Act.—Paragraph (2) of section 4251(b) (relating to rate of tax on communications services) is amended by inserting "1985," after "1984," in the table contained in such section.

(c) Amendments Related to Section 27 of the Act.—

(1) Subsection (e) of section 5061 (relating to payment by electronic fund transfer of alcohol taxes) is amended by adding at the end thereof the following new paragraph:

"(3) Controlled groups.—

"(A) In general.—In the case of a controlled group of corporations, all corporations which are component members of such group shall be treated as 1 taxpayer. For purposes of the preceding sentence, the term 'controlled group of corporations' has the meaning given to such term by subsection (a) of section 1563, except that 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in such subsection.

"(B) Controlled groups which include nonincorporated persons.—Under regulations prescribed by the Secretary, principles similar to the principles of subparagraph (A) shall apply to a group of persons under common control where 1 or more of such persons is not a corporation.".

(2) Paragraph (3) of section 5703(b) (relating to payment by electronic fund transfer of tobacco taxes) is amended by adding at the end thereof the following: "Rules similar to the rules of section 5061(e)(3) shall apply to the $5,000,000 amount specified in the preceding sentence.".

SEC. 1502. AMENDMENTS RELATED TO TAX-EXEMPT ENTITY LEASING PROVISIONS.

(a) Amendments Relating to Section 31 of the Act.—

(1) Treatment of use in unrelated trade or business.—Subparagraph (D) of section 168(j)(3) (relating to exception where property used in unrelated trade or business) is amended by adding at the end thereof the following new sentence: "For purposes of subparagraph (B)(iii), any portion of a property so used shall not be treated as leased to a tax-exempt entity in a disqualified lease."

(2) Treatment of certain previously tax-exempt organizations.—

(A) Clause (i) of section 168(j)(4)(E) (relating to treatment of certain previously tax-exempt organizations) is amended—

(i) by striking out "any property of which such organization is the lessee" and inserting in lieu thereof "any property (other than property held by such organization)", and

(ii) by striking out "first leased to" and inserting in lieu thereof "first used by".

(B) Subclause (I) of section 168(j)(4)(E)(ii) is amended by striking out "of which such organization is the lessee".

(C) Subclause (II) of section 168 (j)(4)(E)(ii) is amended by striking out "is placed in service under the lease" and inserting in lieu thereof "is first used by the organization".

(D) Subparagraph (E) of section 168(j)(4) is amended by adding at the end thereof the following new clause:

"(iv) First used.—For purposes of this subparagraph, property shall be treated as first used by the organization—

"(I) when the property is first placed in service under a lease to such organization, or

"(II) in the case of property leased to (or held by) a partnership (or other pass-thru entity) in which the organization is a member, the later of when such property is first used by such partnership or pass-thru entity or when such organization is first a member of such partnership or pass-thru entity.".

(E)(i) Paragraph (9) of section 168(j) is amended by redesignating subparagraph (E) as subparagraph (F) and by inserting after subparagraph (D) the following new subparagraph:

"(E) Treatment of certain taxable entities.—

"(i) In general.—For purposes of this paragraph, except as otherwise provided in this subparagraph, any tax-exempt controlled entity shall be treated as a tax-exempt entity.

"(ii) Election.—If a tax-exempt controlled entity makes an election under this clause—

"(I) such entity shall not be treated as a tax-exempt entity for purposes of this paragraph, and

"(II) any gain recognized by a tax-exempt entity on any disposition of an interest in such entity (and any dividend or interest received or accrued by a tax-exempt entity from such tax-exempt controlled entity) shall be treated as unrelated business taxable income for purposes of section 511.

Any such election shall be irrevocable and shall bind all tax-exempt entities holding interests in such tax-exempt controlled entity.

"(iii) Tax-exempt controlled entity.—The term 'tax-exempt controlled entity' means any corporation (which is not a tax-exempt entity determined without regard to this subparagraph and paragraph (4)(E)) if 50 percent or more (by value) of the stock in such corporation is held (directly or through the application of section 318 determined without regard to the 50-percent limitation contained in subsection (a)(2)(C) thereof) by 1 or more tax-exempt entities.".

(ii)(I) Except as otherwise provided in this clause, the amendment made by clause (i) shall apply to property placed in service after September 27, 1985; except that such amendment shall not apply to any property acquired pursuant to a binding written contract in effect on such date (and at all times thereafter).

(II) If an election under this subclause is made with respect to any property, the amendment made by clause (i) shall apply to such property whether or not placed in service on or before September 27, 1985.

(F) Clause (i)(I) of section 31(g)(16)(C) of the Tax Reform Act of 1984 (defining exempt arbitrage profits) is amended by striking out "section 168(j)(4)(E)(i)(I)" and inserting in lieu thereof "section 168(j)(4)(E)(i)".

(G) Clause (i) of section 168(j)(4)(E) is amended by striking out "preceding sentence" and inserting in lieu thereof "preceding sentence and subparagraph (D)(ii)".

(3) Repeal of overlapping secretarial authority.—Clause (iv) of section 168(j)(5)(C) (relating to property not subject to rapid obsolescence may be excluded) is hereby repealed.

(4) Partnership rules.—

(A) Paragraph (8) of section 168(j) (relating to tax-exempt use of property leased to partnerships, etc., determined at partner level) is amended by striking out "and paragraphs (4) and (5) of section 48(a)" in the matter preceding subparagraph (A).

(B) Paragraph (9) of section 168(j) (relating to treatment of property owned by partnerships, etc.) is amended—

(i) by striking out "and paragraphs (4) and (5) of section 48(a)" in subparagraph (A), and

(ii) by striking out "loss deduction" in subparagraph (B)(i) and inserting in lieu thereof "loss, deduction".

(C) Paragraph (5) of section 48(a) (relating to property used by governmental units or foreign persons or entities) is amended by redesignating subparagraph (D) as subparagraph (E) and by inserting after subparagraph (C) the following new subparagraph:

"(D) Special rules for partnerships, etc.—For purposes of this paragraph and paragraph (4), rules similar to the rules of paragraphs (8) and (9) of section 168(j) shall apply.".

(5) Treatment of certain aircraft leased to foreign persons.—

(A) Subsection (a) of section 47 (relating to certain dispositions, etc., of section 38 property) is amended by adding at the end thereof the following new paragraph:

"(9) Aircraft leased to foreign persons or entities.—

"(A) In general.—Any aircraft which was new section 38 property for the taxable year in which it was placed in service and which is used by any foreign person or entity (as defined in section 168(j)(4)(C)) under a qualified lease (as defined in paragraph (7)(C)) entered into before January 1, 1990, shall not be treated as ceasing to be section 38 property by reason of such use until such aircraft has been so used for a period or periods exceeding 3 years in total.

"(B) Recapture period extended.—For purposes of paragraphs (1) and (5)(B) of this subsection, any period during which there was use described in subparagraph (A) of an aircraft shall be disregarded.".

(B) Clause (iii) of section 48(a)(5)(B) is hereby repealed.

(6) Treatment of certain partnerships having section 593 organization as member.—Paragraph (4) of section 46(e) is amended by adding at the end thereof the following new subparagraph:

"(D) Special rules for partnerships, etc.—For purposes of paragraph (1)(A), rules similar to the rules of paragraphs (8) and (9) of section 168(j) shall apply.".

(7) Treatment of certain property held by partnerships.—

(A) Paragraph (9) of section 168(j) (relating to treatment of property owned by partnerships, etc.) is amended by redesignating subparagraphs (D), (E), and (F) as subparagraphs (E), (F), and (G), respectively, and by inserting after subparagraph (C) the following new subparagraph:

"(D) Determination of whether property used in unrelated trade or business.—For purposes of this subsection, in the case of any property which is owned by a partnership which has both a tax-exempt entity and a person who is not a tax-exempt entity as partners, the determination of whether such property is used in an unrelated trade or business of such an entity shall be made without regard to section 514.".

(B) Subparagraph (E) of section 168(j)(9) (as redesignated by subparagraph (A)) is amended by striking out "and (C)" and inserting in lieu thereof "(C), and (D)".

(8) Exception for qualified rehabilitated buildings leased to section 593 organizations.—Paragraph (4) of section 46(e) (relating to special rules where section 593 organization is lessee) is amended by adding at the end thereof the following new subparagraph:

"(E) Exception for qualified rehabilitated buildings leased to section 593 organizations.—Subparagraph (A) shall not apply to qualified investment attributable to qualified rehabilitation expenditures for any portion of a building if such portion of the building would not be tax-exempt use property (as defined in section 168(j)) if the section 593 organization were a tax-exempt entity (as defined in section 168(j)(4))."

(9) Clerical amendments.—

(A) Paragraph (4) of section 48(a) is amended—

(i) by striking out "514(c)" and inserting in lieu thereof "514(b)", and

(ii) by striking out "514(b)" and inserting in lieu thereof "514(a)".

(B) Subclause (I) of section 48(g)(2)(B)(vi) is amended by striking out "section 168(j)(3)" and inserting in lieu thereof "section 168(j)".

(C) Subparagraph (A) of section 7701(e)(4) is amended by adding at the end thereof the following new sentence: "For purposes of this paragraph, the term 'related entity' has the same meaning as when used in section 168(j).".

(10) Effective date provisions.—

(A) Subparagraph (B) of section 31(g)(3) of the Tax Reform Act of 1984 is amended by striking out "The amendments made by this section" and inserting in lieu thereof "Paragraph (9) of section 168(j) of the Internal Revenue Code of 1954 (as added by this section)".

(B) Effective with respect to property placed in service by the taxpayer after July 18, 1984, clause (ii) of section 31(g)(15)(D) of the Tax Reform Act of 1984 (relating to certain aircraft) is amended to read as follows:

"(ii) such aircraft is originally placed in service by such foreign person or entity (or its successor in interest under the contract) after May 23, 1983, and before January 1, 1986."

(C) Paragraph (4) of section 31(g) of the Tax Reform Act of 1984 is amended by adding at the end thereof the following new subparagraph:

"(C) Special rule for credit unions.—In the case of any property leased to a credit union pursuant to a written binding contract with an expiration date of December 31, 1984, which was entered into by such organization on August 23, 1984—

"(i) such credit union shall not be treated as an agency or instrumentality of the United States; and

"(ii) clause (ii) of subparagraph (A) shall be applied by substituting 'January 1, 1987' for 'January 1, 1985'.".

(D)(i) Clause (ii) of section 31(g)(20)(B) of the Tax Reform Act of 1984 (defining substantial improvement) is amended by striking out subclauses (I) and (II) and inserting in lieu thereof the following:

"(I) by substituting 'property' for 'building' each place it appears therein,

"(II) by substituting '20 percent' for '25 percent' in clause (ii) thereof, and

"(III) without regard to clause (iii) thereof."

(ii) The amendment made by clause (i) shall not apply to any property if—

(I) on or before March 28, 1985, the taxpayer (or a predecessor in interest under the contract) or the tax-exempt entity entered into a written binding contract to acquire, construct, or rehabilitate the property, or

(II) the taxpayer or the tax-exempt entity began the construction, reconstruction, or rehabilitation of the property on or before March 28, 1985.

(E) Paragraph (4) of section 31(g) of the Tax Reform Act of 1984 is amended by adding at the end thereof the following new subparagraphs:

"(D) Special rule for Greenville Auditorium Board.—For purposes of this paragraph, significant official governmental action taken by the Greenville County Auditorium Board of Greenville, South Carolina, before May 23, 1983, shall be treated as significant official governmental action with respect to the coliseum facility subject to a binding contract to lease which was in effect on January 1, 1985.

"(E) Treatment of certain historic structures.—If—

"(i) On June 16, 1982, the legislative body of the local governmental unit adopted a bond ordinance to provide funds to renovate elevators in a deteriorating building owned by the local governmental unit and listed in the National Register, and

"(ii) the chief executive officer of the local governmental unit, in connection with the renovation of such building, made an application on June 1, 1983, to a State agency for a Federal historic preservation grant and made an application on June 17, 1983, to the Economic Development Administration of the United States Department of Commerce for a grant,

the requirements of clauses (i) and (ii) of subparagraph (A) shall be treated as met.".

(F) Subparagraph (H) of section 31(g)(17) of the Tax Reform Act of 1984 is amended by adding at the end thereof the following new sentence: "In the case of Clemson University, the preceding sentence applies only to the Continuing Education Center and the component housing project.".

(b) Amendments Related to Section 32 of the Act.—

(1) Subsection (f) of section 168 (relating to special rules) is amended—

(A) by redesignating the paragraph (13) relating to motor vehicle operating leases as paragraph (14), and

(B) by redesignating paragraph (14) as paragraph (15).

(2) Subsection (c) of section 32 of the Tax Reform Act of 1984 is amended by striking out "section 168(f)(13)" and inserting in lieu thereof "section 168(f)(14)".

SEC. 1503. AMENDMENTS RELATED TO TREATMENT OF BONDS AND OTHER DEBT INSTRUMENTS.

(a) Amendments Related to Section 41 of the Act.—

(1) Treatment of short-term nongovernment obligations.—

(A) Subsection (a) of section 1271 (relating to treatment of amounts received on retirement or sale or exchange of debt instruments) is amended by adding at the end thereof the following new paragraph:

"(4) CERTAIN SHORT-TERM NONGOVERNMENT OBLIGATIONS.—

"(A) IN GENERAL.—On the sale or exchange of any short-term nongovernment obligation, any gain realized which does not exceed an amount equal to the ratable share of the original issue discount shall be treated as ordinary income.

"(B) SHORT-TERM NONGOVERNMENT OBLIGATION.—For purposes of this paragraph, the term 'short-term nongovernment obligation' means any obligation which—

"(i) has a fixed maturity date not more than 1 year from the date of the issue, and

"(ii) is not a short-term Government obligation (as defined in paragraph (3)(B) without regard to the last sentence thereof).

"(C) RATABLE SHARE.—For purposes of this paragraph, except as provided in subparagraph (D), the ratable share of the original issue discount is an amount which bears the same ratio to such discount as—

"(i) the number of days which the taxpayer held the obligation, bears to

"(ii) the number of days after the date of original issue and up to (and including) the date of its maturity.

"(D) ELECTION OF ACCRUAL ON BASIS OF CONSTANT INTEREST RATE.—At the election of the taxpayer with respect to any obligation, the ratable share of the original issue discount is the portion of the original issue discount accruing while the taxpayer held the obligation determined (under regulations prescribed by the Secretary) on the basis of—

"(i) the yield to maturity based on the issue price of the obligation, and

"(ii) compounding daily.

Any election under this subparagraph, once made with respect to any obligation, shall be irrevocable.".

(B) Paragraph (3) of section 1283(d) is amended by striking out "section 1271(a)(3)" and inserting in lieu thereof "paragraphs (3) and (4) of section 1271(a)".

(2) ELECTION OF ACCRUAL ON BASIS OF CONSTANT INTEREST RATE FOR SHORT-TERM GOVERNMENT OBLIGATIONS.—

(A) IN GENERAL.—Paragraph (3) of section 1271(a) (relating to certain short-term Government obligations) is amended by adding at the end thereof the following new subparagraph:

"(E) ELECTION OF ACCRUAL ON BASIS OF CONSTANT INTEREST RATE.—At the election of the taxpayer with respect to any obligation, the ratable share of the acquisition discount is the portion of the acquisition discount accruing while the taxpayer held the obligation determined (under regulations prescribed by the Secretary) on the basis of—

"(i) the taxpayer's yield to maturity based on the taxpayer's cost of acquiring the obligation, and

"(ii) compounding daily.

An election under this subparagraph, once made with respect to any obligation, shall be irrevocable.".

(B) TECHNICAL AMENDMENT.—Subparagraph (D) of section 1271(a)(3) is amended by striking out "this paragraph" and inserting in lieu thereof "this paragraph, except as provided in subparagraph (E)".

(3) DEFINITION OF SHORT-TERM GOVERNMENT OBLIGATION.—Subparagraph (B) of section 1271(a)(3) (defining short-term Government obligation) is amended to read as follows:

"(B) SHORT-TERM GOVERNMENT OBLIGATION.—For purposes of this paragraph, the term 'short-term Government obligation' means any obligation of the United States or any of its possessions, or of a State or any political subdivision thereof, or of the District of Columbia, which has a fixed maturity date not more than 1 year from the date of issue. Such term does not include any tax-exempt obligation.".

(4) DEDUCTION OF ORIGINAL ISSUE DISCOUNT ON SHORT-TERM OBLIGATIONS.—Paragraph (2) of section 163(e) (relating to original issue discount) is amended by adding at the end thereof the following new subparagraph:

"(C) SHORT-TERM OBLIGATIONS.—In the case of an obligor of a short-term obligation (as defined in section 1283(a)(1)(A)) who uses the cash receipts and disbursements method of accounting, the original issue discount (and any other interest payable) on such obligation shall be deductible only when paid.".

(5) TREATMENT OF CERTAIN TRANSFERS OF MARKET DISCOUNT BONDS.—Paragraph (1) of section 1276(d) (relating to special rules) is amended by striking out "and" at the end of subparagraph (A) and by inserting after subparagraph (B) the following new subparagraph:

"(C) paragraph (3) of section 1245(b) shall be applied as if it did not contain a reference to section 351, and".

(6) TREATMENT OF BONDS ACQUIRED AT ORIGINAL ISSUE FOR PURPOSES OF MARKET DISCOUNT RULES.—Paragraph (1) of section 1278(a) (defining market discount bond) is amended by adding at the end thereof the following new subparagraph:

"(C) TREATMENT OF BONDS ACQUIRED ON ORIGINAL ISSUE.—

"(i) IN GENERAL.—Except as otherwise provided in this subparagraph or in regulations, the term 'market discount bond' shall not include any bond acquired by the taxpayer at its original issue.

"(ii) TREATMENT OF BONDS ACQUIRED FOR LESS THAN ISSUE PRICE.—Clause (i) shall not apply to any bond if—

"(I) the basis of the taxpayer in such bond is determined under section 1012, and

"(II) such basis is less than the issue price of such bond determined under subpart A of this part.

"(iii) BONDS ACQUIRED IN CERTAIN REORGANIZATIONS.—Clause (i) shall not apply to any bond issued pursuant to a plan of reorganization (within the meaning of section 368(a)(1)) in exchange for another bond having market discount. Solely for purposes of section 1276, the preceding sentence shall not apply if such other bond was issued on or before July 18, 1984 (the date of the enactment of section 1276) and if the bond issued pursuant to such plan of reorganization has the same term and the same interest rate as such other bond had.

"(iv) TREATMENT OF CERTAIN TRANSFERRED BASIS PROPERTY.—For purposes of clause (i), if the adjusted basis of any bond in the hands of the taxpayer is determined by reference to the adjusted basis of such bond in the hands of a person who acquired such bond at its original issue, such bond shall be treated as acquired by the taxpayer at its original issue."

(7) TREATMENT OF CERTAIN STRIPPED BONDS OR STRIPPED COUPONS.—Paragraph (1) of section 1281(b) (relating to short-term obligations to which section applies) is amended by striking out "or" at the end of subparagraph (D), by striking out the period at the end of subparagraph (E) and inserting in lieu thereof ", or", and by adding at the end thereof the following new subparagraph:

"(F) is a stripped bond or stripped coupon held by the person who stripped the bond or coupon (or by any other person whose basis is determined by reference to the basis in the hands of such person).".

(8) ACCRUAL OF INTEREST PAYMENTS ON CERTAIN SHORT-TERM OBLIGATIONS.—

(A) Effective with respect to obligations acquired after September 27, 1985, subsection (a) of section 1281 (relating to current inclusion in income of discount on certain short-term obligations) is amended to read as follows:

"(a) GENERAL RULE.—In the case of any short-term obligation to which this section applies, for purposes of this title—

"(1) there shall be included in the gross income of the holder an amount equal to the sum of the daily portions of the acquisition discount for each day during the taxable year on which such holder held such obligation, and

"(2) any interest payable on the obligation (other than interest taken into account in determining the amount of the acquisition discount) shall be included in gross income as it accrues.".

(B) Subsection (a) of section 1282 (relating to deferral of interest deduction allocable to accrued discount) is amended to read as follows:

"(a) GENERAL RULE.—Except as otherwise provided in this section, the net direct interest expense with respect to any short-term obligation shall be allowed as a deduction for the taxable year only to the extent such expense exceeds the sum of—

"(1) the daily portions of the acquisition discount for each day during the taxable year on which the taxpayer held such obligation, and

"(2) the amount of any interest payable on the obligation (other than interest taken into account in determining the amount of the acquisition discount) which accrues during the taxable year while the taxpayer held such obligation (and is not included in the gross income of the taxpayer for such taxable year by reason of the taxpayer's method of accounting).".

(9) TREATMENT OF TRANSFERS OF LAND BETWEEN RELATED PARTIES.—In the case of any sale or exchange before July 1, 1985, to which section 483(f) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of Public Law 99-121) applies, such section shall be treated as providing that the discount rate to be used for purposes of section 483(c)(1) of such Code shall be 6 percent, compounded semiannually.

(10) CLARIFICATION OF TREATMENT OF DEBT INSTRUMENTS ISSUED FOR PUBLICLY TRADED PROPERTY.—Subparagraph (B) of section 1273(b)(3) (relating to debt instruments issued for property where there is public trading) is amended to read as follows:

"(B)(i) is issued for stock or securities which are traded on an established securities market, or

"(ii) to the extent provided in regulations, is issued for property (other than stock or securities) of a kind regularly traded on an established market.".

(11) BOND PREMIUMS AMORTIZED AT CONSTANT RATE, ETC.—

(A) IN GENERAL.—Paragraph (3) of section 171(b) (relating to amortizable bond premiums) is amended to read as follows:

"(3) METHOD OF DETERMINATION.—Except as provided in regulations prescribed by the Secretary, the determinations required under paragraphs (1) and (2) shall be made on the basis of the taxpayer's yield to maturity determined by—

"(A) using the taxpayer's basis (for purposes of determining loss on sale or exchange) of the obligation, and

"(B) compounding at the close of each accrual period (as defined in section 1272(a)(5)).".

(B) AMORTIZABLE BOND PREMIUM RULES TO APPLY TO OBLIGATIONS ISSUED BY INDIVIDUALS, ETC.—Subsection (d) of section 171 (defining bond) is amended by striking out "issued by any corporation and bearing interest (including any like obligation issued by a government or political subdivision thereof),".

(C) EFFECTIVE DATE.—

(i) The amendments made by this paragraph shall apply to obligations issued after September 27, 1985.

(ii) In the case of a taxpayer with respect to whom an election is in effect on the date of the enactment of this Act under section 171(c) of the Internal Revenue Code of 1954, such election shall apply to obligations issued after September 27, 1985, only if the taxpayer chooses (at such time and in such manner as may be prescribed by the Secretary of the Treasury or his delegate) to have such election apply with respect to such obligations.

(12) CLERICAL AMENDMENTS.—

(A) Subparagraph (A) of section 1274(c)(4) is amended by striking out "FOR LESS THAN $1,000,000" in the subparagraph heading and inserting in lieu thereof "FOR $1,000,000 OR LESS".

(B) Paragraph (1) of section 483(d) is amended by striking out "any debt instrument to which section 1272 applies" and inserting in lieu thereof "any debt instrument for which an issue price is determined under section 1273(b) (other than paragraph (4) thereof) or section 1274".

(C) Clause (iii) of section 6049(b)(5)(B) is amended by striking out "section 1232(b)(1)" and inserting in lieu thereof "section 1273(a)".

(b) AMENDMENTS RELATED TO SECTION 44 OF THE ACT.—

(1) CLARIFICATION OF TRANSITIONAL RULE FOR PURPOSES OF IMPUTED INTEREST RULES.—Paragraph (4) of section 44(b) of the Tax Reform Act of 1984 (relating to special rules for sales before July 1, 1985), as added by section 2 of Public Law 98-612, is amended—

(A) by striking out "before July 1, 1985" in subparagraph (A) and inserting in lieu thereof "after December 31, 1984, and before July 1, 1985",

(B) by striking out "BEFORE JULY 1, 1985" in the paragraph heading and inserting in lieu thereof "AFTER DECEMBER 31, 1984, AND BEFORE JULY 1, 1985", and

(C) by adding at the end thereof the following new subparagraph:

"(G) CLARIFICATION OF APPLICATION OF THIS PARAGRAPH, ETC.—This paragraph and paragraphs (5), (6), and (7) shall apply only in the case of sales or exchanges to which section 1274 or 483 of the Internal Revenue Code of 1954 (as amended by section 41) applies.".

(2) CLARIFICATION OF INTEREST ACCRUAL, ETC.—Subparagraph (A) of section 44(b)(3) of the Tax Reform Act of 1984 is amended by striking out "and before January 1, 1985," each place it appears.

(3) EXCEPTION FOR BINDING CONTRACTS.—Subparagraph (B) of section 44(b)(3) of the Tax Reform Act of 1984 is amended to read as follows:

"(B) EXCEPTION FOR BINDING CONTRACTS.—

"(i) Subparagraph (A)(i)(I) shall not apply to any sale or exchange pursuant to a written contract which was binding on March 1, 1984, and at all times thereafter before the sale or exchange.

"(ii) Subparagraph (A)(i)(II) shall not apply to any sale or exchange pursuant to a written contract which was binding on June 8, 1984, and at all times thereafter before the sale or exchange.".

(4) CLERICAL AMENDMENT.—Clause (ii) of section 44(b)(6)(B) of the Tax Reform Act of 1984 (as added by section 2 of Public Law 98-612) is amended by striking out "greater than" and inserting in lieu thereof "not greater than".

(5) CLARIFICATION OF EFFECTIVE DATE FOR REPEAL OF CAPITAL ASSET REQUIREMENT.—Subsection (g) of section 44 of the Tax Reform Act of 1984 is amended by striking out "before December 31, 1984" and inserting in lieu thereof "on or before December 31, 1984".

SEC. 1504. AMENDMENTS RELATED TO CORPORATE PROVISIONS.

(a) AMENDMENT RELATED TO SECTION 51 OF THE ACT.—Subsection (a) of section 246A (relating to dividends received deduction reduced where portfolio stock is debt financed) is amended—

(1) by striking out "or 245" and inserting in lieu thereof "or 245(a)", and

(2) by adding at the end thereof the following new sentence: "The preceding sentence shall be applied before any determination of a ratio under paragraph (1) or (2) of section 245(a).".

(b) AMENDMENTS RELATED TO SECTION 53 OF THE ACT.—

(1) AMENDMENTS OF SECTION 246.—

(A) Subparagraph (A) of section 246(c)(1) (relating to exclusion of certain dividends) is amended to read as follows:

"(A) which is held by the taxpayer for 45 days or less, or".

(B) Paragraph (4) of section 246(c) (relating to holding period reduced for periods where risk of loss diminished) is amended by striking out "determined under paragraph (3)" and inserting in lieu thereof "determined for purposes of this subsection".

(C) The amendments made by this paragraph shall apply to stock acquired after the date of the enactment of this Act in taxable years ending after such date.

(2) EFFECTIVE DATE FOR RELATED PERSON PROVISIONS.—Paragraph (3) of section 53(e) of the Tax Reform Act of 1984 (relating to effective date for related person provisions) is amended to read as follows:

"(3) RELATED PERSON PROVISIONS.—

"(A) IN GENERAL.—Except as otherwise provided in subparagraph (B), the amendment made by subsection (c) shall take effect on July 18, 1984.

"(B) SPECIAL RULE FOR PURPOSES OF SECTION 265(2).—The amendment made by subsection (c) insofar as it relates to section 265(2) of the Internal Revenue Code of 1954 shall apply to—

"(i) term loans made after July 18, 1984, and

"(ii) demand loans outstanding after July 18, 1984 (other than any loan outstanding on July 18, 1984, and repaid before September 18, 1984).

"(C) TREATMENT OF RENEGOTIATIONS, ETC.—For purposes of this paragraph, any loan renegotiated, extended, or revised after July 18, 1984, shall be treated as a loan made after such date.

"(D) DEFINITION OF TERM AND DEMAND LOANS.—For purposes of this paragraph, the terms 'demand loan' and 'term loan' have the respective meanings given such terms by paragraphs (5) and (6) of section 7872(f) of the Internal Revenue Code of 1954, except that the second sentence of such paragraph (5) shall not apply."

(c) AMENDMENTS RELATED TO SECTION 55 OF THE ACT.—

(1) Clause (ii) of section 852(b)(4)(B) (relating to losses attributable to exempt-interest dividend) is amended by striking out "for less than 31 days" and inserting in lieu thereof "for 6 months or less".

(2) Subparagraph (C) of section 852(b)(4) (relating to determination of holding periods) is amended to read as follows:

"(C) DETERMINATION OF HOLDING PERIODS.—For purposes of this paragraph, the rules of paragraphs (3) and (4) of section 246(c) shall apply in determining the period for which the taxpayer has held any share of stock; except that '6 months' shall be substituted for each number of days specified in subparagraph (B) of section 246(c)(3)."

(3) Subparagraph (D) of section 852(b)(4) (relating to losses incurred under a periodic liquidation plan) is amended by striking out "subparagraph (A)" and inserting in lieu thereof "subparagraphs (A) and (B)".

(4) Paragraph (4) of section 852(b) is amended by adding at the end thereof the following new subparagraph:

"(E) AUTHORITY TO SHORTEN REQUIRED HOLDING PERIOD.—In the case of a regulated investment company which regularly distributes at least 90 percent of its net tax-exempt interest, the Secretary may by regulations prescribe that subparagraph (B) (and subparagraph (C) to the extent it relates to subparagraph (B)) shall be applied on the basis of a holding period requirement shorter than 6 months; except that such shorter holding period requirement shall not be shorter than the greater of 31 days or the period between regular distributions of exempt-interest dividends.".

(5) The paragraph heading for paragraph (4) of section 852(b) is amended by striking out "LESS THAN 31 DAYS" and inserting in lieu thereof "6 MONTHS OR LESS".

(6) The amendments made by this subsection shall apply to stock with respect to which the taxpayer's holding period begins after March 28, 1985.

(d) AMENDMENT RELATED TO SECTION 58 OF THE ACT.—

(1) IN GENERAL.—Paragraph (1) of section 562(b) (relating to distributions in liquidation) is amended by adding at the end thereof the following new sentence:

"Except to the extent provided in regulations, the preceding sentence shall not apply in the case of any mere holding or investment company which is not a regulated investment company.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to distributions after September 27, 1985.

(e) AMENDMENTS RELATED TO SECTION 60 OF THE ACT.—

(1) TREATMENT OF CERTAIN REDEMPTION AND LIQUIDATION RIGHTS.—Subparagraph (C) of section 1504(a)(4) (relating to certain preferred stock not treated as stock) is amended to read as follows:

"(C) has redemption and liquidation rights which do not exceed the issue price of such stock (except for a reasonable redemption or liquidation premium), and".

(2) TREATMENT OF CERTAIN CORPORATIONS AFFILIATED ON JUNE 22, 1984.—Paragraph (2) of section 60(b) of the Tax Reform Act of 1984 (relating to special rule for corporations affiliated on June 22, 1984) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall cease to apply as of the first day after June 22, 1984, on which such corporation does not qualify as a member of such group

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under section 1504(a) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act)."

(3) Treatment of certain sell-downs after June 22, 1984.—Paragraph (3) of section 60(b) of the Tax Reform Act of 1984 (relating to special rule not to apply to certain sell-downs after June 22, 1984) is amended to read as follows:

"(3) Special rule not to apply to certain sell-downs after June 22, 1984.—If—

"(A) the requirements of paragraph (2) are satisfied with respect to a corporation,

"(B) more than a de minimis amount of the stock of such corporation—

"(i) is sold or exchanged (including in a redemption), or

"(ii) is issued,

after June 22, 1984 (other than in the ordinary course of business), and

"(C) the requirements of the amendment made by subsection (a) are not satisfied after such sale, exchange, or issuance,

then the amendment made by subsection (a) shall apply for purposes of determining whether such corporation continues to be a member of the group. The preceding sentence shall not apply to any transaction if such transaction does not reduce the percentage of the fair market value of the stock of the corporation referred to in the preceding sentence held by members of the group determined without regard to this paragraph.".

(4) Treatment of certain corporations affiliated on June 22, 1984, etc.—Subsection (b) of section 60 of the Tax Reform Act of 1984 is amended by adding at the end thereof the following new paragraphs:

"(6) Treatment of certain corporations affiliated on June 22, 1984.—In the case of an affiliated group which—

"(A) has as its common parent a Minnesota corporation incorporated on April 23, 1940, and

"(B) has a member which is a New York corporation incorporated on November 13, 1969,

for purposes of determining whether such New York corporation continues to be a member of such group, paragraph (2) shall be applied by substituting for 'January 1, 1988,' the earlier of January 1, 1994, or the date on which the voting power of the preferred stock in such New York corporation terminates.

"(7) Election to have amendments apply for years beginning after 1983.—If the common parent of any group makes an election under this paragraph, notwithstanding any other provision of this subsection, the amendments made by subsection (a) shall apply to such group for taxable years beginning after December 31, 1983. Any such election, once made, shall be irrevocable.

"(8) Treatment of certain affiliated groups.—If—

"(A) a corporation (hereinafter in this paragraph referred to as the 'parent') was incorporated in 1969 and filed consolidated returns as the parent of an affiliated group for each of its taxable years ending after 1969 and before 1985,

"(B) another corporation (hereinafter in this paragraph referred to as the 'subsidiary') became a member of the parent's affiliated group in 1978 by reason of a recapitalization pursuant to which the parent increased its voting interest in the subsidiary from 56 percent to 85 percent, and

"(C) such subsidiary is engaged in manufacturing and distributing a broad line of business systems and related supplies for binding, laminating, shredding, graphics, and providing secure identification,

then, for purposes of determining whether such subsidiary corporation is a member of the parent's affiliated group under section 1504(a) of the Internal Revenue Code of 1954 (as amended by subsection (a)), paragraph (2) of such section 1504(a) shall be applied by substituting '55 percent' for '80 percent'.".

(5) Treatment of certain sell-downs.—Paragraph (4) of section 60(b) of the Tax Reform Act of 1984 (relating to exception for certain sell-downs) is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, if there is a letter of intent between a corporation and a securities underwriter entered into on or before June 22, 1984, and the subsequent issuance or sale is effected pursuant to a registration statement filed with the Securities and Exchange Commission, such stock shall be treated as issued or sold pursuant to a registration statement filed with the Securities and Exchange Commission on or before June 22, 1984.".

(6) Amendment of section 332.—

(A) In general.—Paragraph (1) of section 332(b) (relating to liquidations to which section applies) is amended to read as follows:

"(1) the corporation receiving such property was, on the date of the adoption of the plan of liquidation, and has continued to be at all times until the receipt of the property, the owner of stock (in such other corporation) meeting the requirements of section 1504(a)(2); and either".

(B) Effective date.—

(i) In general.—Except as provided in clause (iii), the amendment made by subparagraph (A) shall apply with respect to plans of complete liquidation adopted after March 28, 1985.

(ii) Certain distributions made after December 31, 1984.—Except as provided in clause (iii), the amendment made by subparagraph (A) shall also apply with respect to plans of complete liquidations adopted on or before March 28, 1985, pursuant to which any distribution is made in a taxable year beginning after December 31, 1984 (December 31, 1983, in the case of an affiliated group to which an election under section 60(b)(7) of the Tax Reform Act of 1984 applies), but only if the liquidating corporation and any corporation which receives a distribution in complete liquidation of such corporation are members of an affiliated group of corporations filing a consolidated return for the taxable year which includes the date of the distribution.

(iii) Transitional rule for affiliated groups.—The amendment made by subparagraph (A) shall not apply with respect to plans of complete liquidation if the liquidating corporation is a member of an affiliated group of corporations under section 60(b)(2), (5), (6), or (8) of the Tax Reform Act of 1984, for all taxable years which include the date of any distribution pursuant to such plan.

(7) Amendment of section 337.—

(A) In general.—Subparagraph (B) of section 337(c)(3) (defining distributee corporation) is amended to read as follows:

"(B) Distributee corporation.—For purposes of subparagraph (A), the term 'distributee corporation' means any corporation which receives a distribution to which section 332 applies in a complete liquidation of the selling corporation. Such term also includes any other corporation which receives a distribution to which section 332 applies in a complete liquidation of a corporation which is a distributee corporation under the preceding sentence or prior application of this sentence.".

(B) Effective date.—The amendment made by subparagraph (A) shall apply in the case of plans of complete liquidation pursuant to which any distribution is made in a taxable year beginning after December 31, 1984 (December 31, 1983, in the case of an affiliated group to which an election under section 60(b)(7) of the Tax Reform Act of 1984 applies).

(8) Amendment of section 338.—

(A) In general.—Paragraph (3) of section 338(d) (defining qualified stock purchase) is amended to read as follows:

"(3) Qualified stock purchase.—The term 'qualified stock purchase' means any transaction or series of transactions in which stock (meeting the requirements of section 1504(a)(2)) of 1 corporation is acquired by another corporation by purchase during the 12-month acquisition period.".

(B) Effective date.—The amendment made by subparagraph (A) shall apply in cases where the 12-month acquisition period (as defined in section 338(h)(1) of the Internal Revenue Code of 1954) begins after September 27, 1985.

(9) Treatment of former DISC's.—Paragraph (7) of section 1504(b) (defining includible corporation) is amended to read as follows:

"(7) A DISC (as defined in section 992(a)(1)), or any other corporation which has accumulated DISC income which is derived after December 31, 1984.".

(f) Amendments Related to Section 61 of the Act.—

(1) Treatment of distributions of appreciated property.—

(A) Subsection (b) of section 312 (relating to effect on earnings and profits) is amended to read as follows:

"(b) Distributions of Appreciated Property.—On the distribution by a corporation, with respect to its stock, of any property the fair market value of which exceeds the adjusted basis thereof, the earnings and profits of the corporation—

"(1) shall be increased by the amount of such excess, and

"(2) shall be decreased by whichever of the following is the lesser:

"(A) the fair market value of the property distributed, or

"(B) the earnings and profits (as increased under paragraph (1)).".

(B) Subsection (c) of section 312 is amended by inserting "and" at the end of paragraph (1), by striking out ", and" at the end of paragraph (2) and inserting in lieu thereof a period, and by striking out paragraph (3).

(C) The subsection heading for subsection (c) of section 312 is amended by striking out ", Etc.".

(D) Subsection (n) of section 312 is amended by striking out paragraph (4) and by redesignating paragraphs (5), (6), (7), (8), and (9) as paragraphs (4), (5), (6), (7), and (8), respectively.

(E) Paragraph (8) of section 312(n) (as redesignated by subparagraph (C)) is amended by striking out "paragraphs (5), (6), and (7)" and inserting in lieu thereof "paragraphs (4), (5), and (6)".

(F) Any reference in subsection (e) of section 61 of the Tax Reform Act of 1984 to a paragraph of section 312(n) of the Internal Revenue Code of 1954 shall be treated as a reference to such paragraph as in effect before its redesignation by subparagraph (D).

(2) Clerical amendments.—

(A) Subsection (a) of section 1275 is amended—

(i) by redesignating the paragraph added by section 61 of the Tax Reform Act of 1984 as paragraph (5), and

(ii) by striking out "to corporations" in the heading of such paragraph and inserting in lieu thereof "by corporations".

(B) Paragraph (3) of section 301(f) is amended by striking out "this section" and inserting in lieu thereof "this subsection".

(3) Effective date for treatment of redemptions.—Paragraph (7) of section 312(n) of the Internal Revenue Code of 1954 (as redesignated by paragraph (1)(D) of this subsection), and the amendments made by section 61(a)(2) of the Tax Reform Act of 1984, shall apply to distributions in taxable years beginning after September 30, 1984.

(4) Effective date for treatment of foreign corporations.—Paragraph (8) of section 312(n) (relating to special rule for certain foreign corporations), as redesignated by paragraph (1)(D) of this subsection, is amended by striking out "December 31, 1985" and inserting in lieu thereof "June 30, 1986".

(g) Amendments Related to Section 63 of the Act.—

(1) In general.—Section 361 (relating to nonrecognition of gain or loss to corporations) is amended to read as follows:

"SEC. 361. NONRECOGNITION OF GAIN OR LOSS TO TRANSFEROR CORPORATION: OTHER TREATMENT OF TRANSFEROR CORPORATION.

"(a) General Rule.—No gain or loss shall be recognized to a transferor corporation which is a party to a reorganization on any exchange of property pursuant to the plan of reorganization.

"(b) Other Treatment of Transferor Corporation.—In the case of a transferor corporation which is a party to a reorganization—

"(1) sections 336 and 337 shall not apply with respect to any liquidation of such corporation pursuant to the plan of reorganization, and

"(2) no gain or loss shall be recognized by such corporation on any disposition of stock or securities which were received pursuant to the plan of reorganization and which are in another corporation which is a party to such reorganization.".

(2) Conforming amendment.—The table of sections for subpart C of part III of subchapter C of chapter 1 is amended by striking out the item relating to section 361 and inserting in lieu thereof the following:

"Sec. 361. Nonrecognition of gain or loss to transferor corporation; other treatment of transferor corporation."

(h) Amendments Related to Section 64 of the Act.—

(1) Subsection (c) of section 368 (defining control) is amended to read as follows:

"(c) Control Defined.—For purposes of part I (other than section 304), part II, this part, and part V, the term 'control' means the ownership of stock possessing at least 80 percent of the total combined voting power of all classes of stock entitled to vote and at least 80 percent of the total number of shares of all other classes of stock of the corporation."

(2) Paragraph (2) of section 368(a) is amended by adding at the end thereof the following new subparagraph:

"(H) Special rule for determining whether certain transactions are described in paragraph (1)(D).—In the case of any transaction with respect to which the requirements of subparagraphs (A) and (B) of section 354(b)(1) are met, for purposes of determining whether such transaction is described in subparagraph (D) of paragraph (1), the term 'control' has the meaning given to such term by section 304(c)."

(i) Amendments Related to Section 65 of the Act.—

(1) In general.—Subsection (a) of section 341 (relating to collapsible corporations) is amended by striking out "held for more than 6 months".

(2) Effective date.—The amendment made by paragraph (1) shall apply with respect to sales, exchanges, and distributions after September 27, 1985.

(j) Amendments Related to Section 67 of the Act.—

(1) Exemption for small business corporations, etc.—Subsection (b) of section 280G (defining excess parachute payment) is amended by adding at the end thereof the following new paragraph:

"(5) Exemption for small business corporations, etc.—

"(A) In general.—Notwithstanding paragraph (2), the term 'parachute payment' does not include—

"(i) any payment to a disqualified individual with respect to a corporation which (immediately before the change described in paragraph (2)(A)(i)) was a small business corporation (as defined in section 1361(b)), and

"(ii) any payment to a disqualified individual with respect to a corporation (other than a corporation described in clause (i)) if—

"(I) immediately before the change described in paragraph (2)(A)(i), no stock in such corporation was readily tradable on an established securities market or otherwise, and

"(II) the shareholder approval requirements of subparagraph (B) are met with respect to such payment.

The Secretary may, by regulations, prescribe that the requirements of subclause (I) of clause (ii) are not met where a substantial portion of the assets of any entity consists (directly or indirectly) of stock in such corporation and interests in such other entity are readily tradeable on an established securities market, or otherwise.

"(B) Shareholder approval requirements.—The shareholder approval requirements of this subparagraph are met with respect to any payment if—

"(i) such payment was approved by a vote of the persons who owned, immediately before the change described in paragraph (2)(A)(i); more than 75 percent of the voting power of all outstanding stock of the corporation, and

"(ii) there was adequate disclosure to shareholders of all material facts concerning all payments which (but for this paragraph) would be parachute payments with respect to the individual."

(2) Treatment of reasonable compensation.—Paragraph (4) of section 280G(b) (relating to excess parachute payments reduced to extent taxpayer establishes reasonable compensation) is amended to read as follows:

"(4) Treatment of amounts which taxpayer establishes as reasonable compensation.—In the case of any payment described in paragraph (2)(A)—

"(A) the amount treated as a parachute payment shall not include the portion of such payment which the taxpayer establishes by clear and convincing evidence is reasonable compensation for personal services to be rendered on or after the date of the change described in paragraph (2)(A)(i), and

"(B) the amount treated as an excess parachute payment shall be reduced by the portion of such payment which the taxpayer establishes by clear and convincing evidence is reasonable compensation for personal services actually rendered before the date of the change described in paragraph (2)(A)(i).

For purposes of subparagraph (B), reasonable compensation for services performed before the date of the change described in paragraph (2)(A(i) shall be first offset against the base amount."

(3) Exemption for payment under qualified plans.—Subsection (b) of section 280G (defining excess parachute payment) is amended by adding at the end thereof the following new paragraph:

"(6) Exemption for payments under qualified plans.—Notwithstanding paragraph (2), the term 'parachute payment' shall not include any payment to or from—

"(A) a plan described in section 401(a) which includes a trust exempt from tax under section 501(a),

"(B) an annuity plan described in section 403(a), or

"(C) a simplified employee pension (as defined in section 408(k))."

(4) Treatment of affiliated groups.—Subsection (d) of section 280G is amended by adding at the end thereof the following new paragraph:

"(5) Treatment of affiliated groups.—Except as otherwise provided in regulations, all members of the same affiliated group (as defined in section 1504, determined without regard to section 1504(b)) shall be treated as 1 corporation for purposes of this section. Any person who is an officer or highly compensated individual with respect to any member of such group shall be treated as an officer or highly compensated individual of such 1 corporation."

(5) Limitation on number of employees treated as highly-compensated.—Subsection (c) of section 280G (defining disqualified individual) is amended by adding at the end thereof the following new sentence: "For purposes of paragraph (2), the term 'highly-compensated individual' only includes an individual who is a member of the group consisting of the highest paid 1 percent of the individuals performing personal services for the corporation."

(6) Excluded amounts not taken into account in determining whether threshold amount is met.—Subparagraph (A) of section 280G(b)(2) (defining parachute payment) is amended by adding at the end thereof the following new sentence:

"For purposes of clause (ii), payments not treated as parachute payments under paragraph (4), (5), or (6) shall not be taken into account."

(7) Clerical amendment.—Paragraph (2) of section 280G(d) (defining base period) is amended by striking out "was an employee of the corporation" and inserting in lieu thereof "performed personal services for the corporation".

(k) Amendments Relating to Section 68 of the Act.—

(1) No DISC preference reduction for S corporations.—Effective with respect to taxable years beginning after December 31, 1982, paragraph (4) of section 291(a) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1984) is

amended by striking out "a corporation" and inserting in lieu thereof "a C corporation".

(2) Clarification of effective dates.—

(A) Paragraph (2) of section 68(e) of the Tax Reform Act of 1984 (relating to section 1250 gain) is amended by striking out "of the Internal Revenue Code of 1954" and inserting in lieu thereof "of the Internal Revenue Code of 1954, and the amendment made by subsection (c)(2) of this section,".

(B) Paragraph (3) of section 68(e) of the Tax Reform Act of 1984 (relating to pollution control facilities) is amended by striking out "of such Code" and inserting in lieu thereof "of such Code, and so much of the amendment made by subsection (c)(1) of this section as relates to pollution control facilities,".

(3) Clerical amendments.—

(A) The subsection heading of section 291(a) is amended by striking out "20-Percent".

(B) Paragraph (2) of section 68(c) of the Tax Reform Act of 1984 is amended by striking out "section 57(h)" and inserting in lieu thereof "section 57(b)".

(C) Subparagraph (B) of section 57(b)(1) is amended to read as follows:

"(B) Iron ore and coal.—In the case of any item of tax preference of a corporation described in paragraph (8) of subsection (a) (but only to the extent such item is allocable to a deduction for depletion for iron ore and coal, including lignite), only 71.6 percent of the amount of such item of tax preference (determined without regard to this subsection) shall be taken into account as an item of tax preference."

(D) Paragraph (2) of section 57(b) is amended by striking out "85 percent" and inserting in lieu thereof "80 percent".

SEC. 1506. AMENDMENTS RELATED TO PARTNERSHIP PROVISIONS.

(a) Amendments Related to Section 72 of the Act.—

(1) Clarification that change need not occur during taxable year of payment.—

(A) Clause (i) of section 706(d)(2)(A) is amended by striking out "each such item" and inserting in lieu thereof "such item".

(B) Subparagraph (B) of section 706(d)(2) is amended by striking out "which are described in paragraph (1) and".

(2) Clerical amendment.—Clause (i) of section 706(d)(2)(C) (relating to items attributable to periods not within taxable year) is amended by striking out "the first day of such taxable year" and inserting in lieu thereof "the first day of the taxable year".

(b) Amendment Related to Section 73 of the Act.—Clause (iii) of section 707(a)(2)(B) (relating to treatment of certain property transfers) is amended by striking out "sale of property" and inserting in lieu thereof "sale or exchange of property".

(c) Amendments Related to Section 75 of the Act.—

(1) Limitation on amount of gain.—Section 386 (relating to transfers of partnership and trust interests by a corporation) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) Limitation on Amount of Gain Recognized in Case of Non-Liquidating Distributions.—In the case of any distribution by a corporation to which section 311 applies, the amount of any gain recognized by reason of subsection (a) shall not exceed the amount of the gain which would have been recognized if the partnership interest had been sold. The Secretary may oy regulations provide that the amount of sucl, gain shall be computed without regard to any loss attributable to property contributed to the partnership for the principal purpose of recognizing such loss on the distribution."

(2) Clarification of section 761(e).—Subsection (e) of section 761 (relating to distributions treated as exchanges) is amended—

(A) by striking out "For purposes of" and inserting in lieu thereof "Except as otherwise provided in regulations, for purposes of",

(B) by striking out "any distribution (not otherwise treated as an exchange)" and inserting in lieu thereof "any distribution of an interest in a partnership (not otherwise treated as an exchange)", and

(C) by striking out "Distributions" in the subsection heading and inserting in lieu thereof "Distributions of Partnership Interests".

(d) Amendment Related to Section 77 of the Act.—Subparagraph (A) of section 1031(a)(3) (relating to requirement that property be identified) is amended by striking out "before the day" and inserting in lieu thereof "on or before the day".

SEC. 1506. AMENDMENTS RELATED TO TRUST PROVISIONS.

(a) Treatment of Multiple Trusts.—Subsection (b) of section 82 of the Tax Reform Act of 1984 (relating to treatment of multiple trusts) is amended by inserting before the period at the end thereof the following: "; except that, in the case of a trust which was irrevocable on March 1, 1984, such amendment shall so apply only to that portion of the trust which is attributable to contributions to corpus after March 1, 1984".

(b) Clerical Amendments.—Section 643 (relating to definitions applicable to subparts A, B, C, and D) is amended—

(1) by redesignating the subsection added by section 81 of the Tax Reform Act of 1984 as subsection (e), and

(2) by redesignating the subsection added by section 82 of such Act as subsection (f).

SEC. 1507. AMENDMENTS RELATED TO ACCOUNTING CHANGES.

(a) Amendments Related to Section 91 of the Act.—

(1) Clarification of cash basis exception to tax shelter rule.—

(A) Subparagraph (A) of section 461(i)(2) is amended by striking out "within 90 days after the close of the taxable year" and inserting in lieu thereof "before the close of the 90th day after the close of the taxable year".

(B) The heading for paragraph (2) of section 461(i) is amended by striking out "within 90 days" and inserting in lieu thereof "on or before the 90th day".

(2) Clarification of coordination with section 464.—Subparagraph (A) of section 461(i)(4) (relating to special rules for farming) is amended to read as follows:

"(A) any tax shelter described in paragraph (3)(C) shall be treated as a farming syndicate for purposes of section 464; except that this subparagraph shall not apply for purposes of determining the income of an individual meeting the requirements of section 464(c)(2),".

(3) Treatment of mining and solid waste reclamation and closing costs.—

(A) Reserve increased by amount deducted.—Paragraph (2) of section 468(a) (relating to establishment of reserves for reclamation and closing costs) is amended by adding at the end thereof the following new subparagraph:

"(D) Reserve increased by amount deducted.—A reserve shall be increased each taxable year by the amount allowable as a deduction under paragraph (1) for such taxable year which is allocable to such reserve."

(B) Effective date.—Subsection (g) of section 91 of the Tax Reform Act of 1984 (relating to effective dates) is amended by adding at the end thereof the following new paragraph:

"(4) Effective date for treatment of mining and solid waste reclamation and closing costs.—Except as otherwise provided in subsection (h), the amendments made by subsection (b) shall take effect on the date of the enactment of this Act with respect to taxable years ending after such date."

(C) Clerical amendment.—Paragraph (1) of section 468(a) is amended by striking out "this subsection" and inserting in lieu thereof "this section".

(4) Treatment of decommissioning of nuclear powerplant.—

(A) Time when payments deemed made.—

(i) In general.—Section 468A is amended by adding at the end thereof the following new subsection:

"(g) Time When Payments Deemed Made.—For purposes of this section, a taxpayer shall be deemed to have made a payment to the Fund on the last day of a taxable year if such payment is made on account of such taxable year and is made within 2½ months after the close of such taxable year."

(ii) Transitional rule.—To the extent provided in regulations prescribed by the Secretary of the Treasury or his delegate, subsection (g) of section 468A of the Internal Revenue Code of 1954 (as added by clause (i)) shall be applied with respect to any payment on account of a taxable year beginning before January 1, 1986, as if it did not contain the requirement that the payment be made within 2½ months after the close of the taxable year. Such regulations may provide that, to the extent such payment to the Fund is made more than 2½ months after the close of the taxable year, any adjustment to the tax attributable to such payment shall not affect the amount of interest payable with respect to periods before the payment is made. Such regulations may provide appropriate adjustments to the deduction allowed under such section 468A for any such taxable year to take into account the fact that the payment to the Fund is made more than 2½ months after the close of the taxable year.

(B) Treatment of amounts distributed.—Subparagraph (A) of section 468A(c)(1) (relating to inclusion of amount distributed) is amended by striking out "subsection (e)(2)(B)" and inserting in lieu thereof "subsection (e)(4)(B)".

(C) Clarification of taxation of fund.—Paragraph (2) of section 468A(e) (relating to taxation of Fund) is amended to read as follows:

"(2) Taxation of fund.—

"(A) In general.—There is hereby imposed on the gross income of the Fund for any taxable year a tax at a equal to the highest rate of tax specified in section 11(b), except that—

"(i) there shall not be included in the gross income of the Fund any payment to the Fund with respect to which a deduction is allowable under subsection (a), and

"(ii) there shall be allowed as a deduction to the Fund any amount paid by the Fund which is described in paragraph (4)(B) (other than an amount paid to the taxpayer) and which would be deductible under this chapter for purposes of determining the taxable income of a corporation.

"(B) Tax in lieu of other taxation.—The tax imposed by subparagraph (A) shall be in lieu of any other taxation under this subtitle of the income from assets in the Fund.

"(C) Fund treated as corporation.—For purposes of subtitle F—

"(i) the Fund shall be treated as if it were a corporation, and

"(ii) any tax imposed by this paragraph shall be treated as a tax imposed by section 11."

(D) Limitation on investments.—Paragraph (4) of section 468A(e) is amended by striking out "and" at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(C) to the extent that a portion of the Fund is not currently needed for purposes described in subparagraph (A) or (B), making investments described in section 501(c)(21)(B)(ii)."

(E) Clerical amendments.—

(i) Subsection (a) of section 468A is amended by striking out "this subsection" and inserting in lieu thereof "this section".

(ii) Subsection (d) of section 468A is amended by striking out "this subsection" in the material preceding paragraph (1) and inserting in lieu thereof "this section".

(iii) The subsection heading for subsection (e) of section 468A is amended by striking out "Trust Fund" and inserting in lieu thereof "Reserve Fund".

(iv) Paragraph (1) of section 468A(e) is amended—

(I) by striking out "this subsection" and inserting in lieu thereof "this section", and

(II) by striking out "Trust Fund" and inserting in lieu thereof "Reserve Fund".

(v) Paragraph (6) of section 468A(e) is amended—

(I) by striking out "this subsection" each place it appears and inserting in lieu thereof "this section", and

(II) by striking out "this subparagraph" and inserting in lieu thereof "this paragraph".

(vi) Subsection (f) of section 468A is amended by striking out "The term" and inserting in lieu thereof "For purposes of this section, the term".

(vii) Section 88 is amended by striking out "of ratemaking purposes" and inserting in lieu thereof "for ratemaking purposes".

(F) Effective date.—Subsection (g) of section 91 of the Tax Reform Act of 1984 is amended by adding at the end thereof the following new paragraph:

"(5) Rules for nuclear decommissioning costs.—The amendments made by subsections (c) and (f) shall take effect on the date of the enactment of this Act with respect to taxable years ending after such date."

(5) Effective date for net operating loss provisions.—Subsection (g) of section 91 of the Tax Reform Act of 1984 is amended by adding at the end thereof the following new paragraph:

"(6) Modification of net operating loss carryback period.—The amendments made by subsection (d) shall apply to losses for taxable years beginning after December 31, 1983."

(6) Clarification of election for earlier effective date.—Subparagraph (A) of section 91(g)(2) of the Tax Reform Act of 1984 (relating to taxpayer may elect earlier application) is amended—

(A) by striking out "incurred before" and inserting in lieu thereof "incurred on or before",

(B) by striking out "incurred on or after" and inserting in lieu thereof "incurred after", and

(C) by adding at the end thereof the following new sentence:

"The Secretary of the Treasury or his delegate may by regulations provide that (in lieu of an election under the preceding sentence) a taxpayer may (subject to such conditions as such regulations may provide) elect to have subsection (h) of section 461 of such Code apply to the taxpayer's entire taxable year in which occurs July 19, 1984."

(7) Transitional rule for certain amounts.—For purposes of section 461(h) of the Internal Revenue Code of 1954, economic performance shall be treated as occurring on the date of a payment to an insurance company if—

(A) such payment was made before November 23, 1985, for indemnification against a tort liability relating to personal injury or death caused by inhalation or ingestion of dust from asbestos-containing insulation products,

(B) such insurance company is unrelated to the taxpayer,

(C) such payment is not refundable, and

(D) the taxpayer is not engaged in the mining of asbestos nor is any member of any affiliated group which includes the taxpayer so engaged.

(b) Amendments Related to Section 92 of the Act.—

(1) Treatment of services.—Subsection (g) of section 467 (relating to comparable rules for services) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply to any amount to which section 404 or 404A (or any other provision specified in regulations) applies."

(2) Clerical amendments.—

(A) Subparagraph (A) of section 467(b)(4) is amended by striking out "statutory recover period" and inserting in lieu thereof "statutory recovery period".

(B) Paragraph (4) of section 467(c) is amended by striking out "subsection (b)(3)(A)" and inserting in lieu thereof "subsection (b)(4)(A)".

(C) The last sentence of section 467(d)(2) is amended by striking out "section 1274(c)(2)(C)" and inserting in lieu thereof "section 1274(c)(4)(C)".

(D) Paragraph (5) of section 467(e) is amended by striking out "section 168(d)(4)(D)" and inserting in lieu thereof "section 168(e)(4)(D)".

SEC. 1508. AMENDMENTS RELATED TO TAX STRADDLE PROVISIONS.

(a) Treatment of Subchapter S Corporations.—

(1) Section 102 of the Tax Reform Act of 1984 (relating to section 1256 extended to certain options) is amended by adding at the end thereof the following new subsection:

"(j) Coordination of Election Under Subsection (d)(3) With Elections Under Subsections (g) and (h).—The Secretary of the Treasury or his delegate shall prescribe such regulations as may be necessary to coordinate the election provided by subsection (d)(3) with the elections provided by subsections (g) and (h)."

(2) Paragraph (3) of section 102(d) of the Tax Reform Act of 1984 (relating to subchapter S election) is amended by striking out "(as so defined)" and inserting in lieu thereof "(as so defined) or such other day as may be permitted under regulations".

(b) Treatment of Amounts Received for Loaning Securities.—Subparagraph (B) of section 263(g)(2) (defining interest and carrying charges) is amended by striking out "and" at the end of clause (ii), by striking out the period at the end of clause (iii) and inserting in lieu thereof ", and", and by inserting after clause (iii) the following new clause:

"(iv) any amount which is a payment with respect to a security loan (within the meaning of section 512(a)(5)) includible in gross income with respect to such property for the taxable year."

(c) Treatment of Option Straddles.—Subparagraph (A) of section 1092(d)(3) (relating to special rules for stocks) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply to any interest in stock."

(d) Section 108.—Section 108 of the Tax Reform Act of 1984 is amended—

(1) by striking out "if such position is part of a transaction entered into for profit" and inserting in lieu thereof "if such loss is incurred in a trade or business, or if such loss is incurred in a transaction entered into for profit though not connected with a trade or business",

(2) by striking out subsection (b) and inserting in lieu thereof the following:

"(b) Loss Incurred in a Trade or Business.—For purposes of subsection (a), any loss incurred by a commodities dealer in the trading of commodities shall be treated as a loss incurred in a trade or business.",

(3) by striking out the heading for subsection (c) and inserting in lieu thereof the following:

"(c) Net Loss Allowed.—",

(4) by striking out subsection (f) and inserting in lieu thereof the following:

"(f) Commodities Dealer.—For purposes of this section, the term 'commodities dealer' means any taxpayer who—

"(1) at any time before January 1, 1982, was an individual described in section 1402(i)(2)(B) of the Internal Revenue Code of 1954 (as added by this subtitle), or

"(2) was a member of the family (within the meaning of 704(e)(3) of such Code) of an individual described in paragraph (1) to the extent such member engaged in commodities trading through an organization the members of which consisted solely of—

"(A) 1 or more individuals described in paragraph (1), and

"(B) 1 or more members of the families (as so defined) of such individuals.", and

(4) by striking out subsection (h) and inserting in lieu thereof the following:

"(h) Syndicates.—For purposes of this section, any loss incurred by a person (other than a commodities dealer) with respect to an interest in a syndicate (within the meaning of section 1256(e)(3)(B) of the Internal Revenue Code of 1954) shall not be considered to be a loss incurred in a trade or business."

SEC. 1509. AMENDMENTS RELATED TO DEPRECIATION PROVISIONS.

(a) Amendments Related to Section 111 of the Act.—

(1) 15-year straight-line election for low-income housing.—The table contained in subparagraph (A) of section 168(b)(3) (relating to election of different recovery percentage) is amended—

(A) by striking out "and low-income housing" in the last item, and

(B) by adding at the end thereof the following new item:

"Low-income housing.............................. 15, 35, or 45 years."

(2) Use of conventions.—

(A) Mid-month convention for 19-year real property.—

(i) Paragraph (2) of section 168(b) (relating to 19-year real property) is amended—

(I) by striking out the last sentence of subparagraph (A), and

(II) by amending subparagraph (B) to read as follows:

"(B) Mid-month convention for 19-year real property.—In the case of 19-year real property, the amount of the deduction determined under any provision of this section (or for purposes of section 57(a)(12)(B) or 312(k)) for any taxable year shall be determined on the basis of the number of months (using a mid-month convention) in which the property is in service."

(ii) Subparagraph (B) of section 168(f)(2) (relating to recovery property used predominantly outside the United States) is amended to read as follows:

"(B) Real property.—Except as provided in subparagraph (C), in the case of 19-year real property or low-income housing which, during the taxable year, is predominantly used outside the United States, the recovery deduction for the taxable year shall be, in lieu of the amount determined under subsection (b), the amount determined by applying to the unadjusted basis of such property the applicable percentage determined under tables prescribed by the Secretary. For purposes of the preceding sentence, in prescribing such tables, the Secretary shall—

"(i) assign to the property described in this subparagraph a 35-year recovery period, and

"(ii) assign percentages determined in accordance with the use of the method of depreciation described in section 167(j)(1)(B), switching to the method described in section 167(b)(1) at a time to maximize the deduction allowable under subsection (a)."

(B) Monthly convention for low-income housing.—Subparagraph (B) of section 168(b)(4) (relating to low-income housing) is amended to read as follows:

"(B) Monthly convention.—In the case of low-income housing, the amount of the deduction determined under any provision of this section (or for purposes of section 57(a)(12)(B) or 312(k)) for any taxable year shall be determined on the basis of the number of months (treating all property placed in service or disposed of during any month as placed in service or disposed of on the first day of such month) in which the property is in service."

(C) Conforming amendments.—

(i) Effective on and after the date of the enactment of this Act, clause (ii) of section 168(j)(2)(B) (relating to conventions) is amended to read as follows:

"(ii) Cross reference.—

"For other applicable conventions, see paragraphs (2)(B) and (4)(B) of subsection (b)."

(ii) Subparagraph (A) of section 312(k)(3) is amended by striking out ", and rules similar to the rules under the next to the last sentence of section 168(b)(2)(A) and section 168(b)(2)(B) shall apply".

(3) Minimum tax treatment.—Subparagraph (B) of section 57(a)(12) (relating to 19-year real property and low-income housing) is amended by striking out so much of such subparagraph as precedes clause (i) thereof and inserting in lieu thereof the following:

"(B) 19-year real property and low-income housing.—With respect to each recovery property which is 19-year real property or low-income housing, the amount (if any) by which the deduction allowed under section 168(a) (or, in the case of property described in section 167(k), under section 167) for the taxable year exceeds the deduction which would have been allowable for the taxable year had the property been depreciated using a straight-line method (without regard to salvage value) over a recovery period of —".

(4) Treatment of property financed with tax-exempt bonds.—

(A) Clause (ii) of section 168(f)(12)(B) (relating to recovery method) is amended to read as follows:

"(ii) 19-year real property.—In the case of 19-year real property, the amount of the deduction allowed shall be determined by using the straight-line method (without regard to salvage value) and a recovery period of 19 years."

(B) Subparagraph (C) of section 168(f)(12) (relating to exception for projects for residential rental property) is amended to read as follows:

"(C) Exception for low- and moderate-income housing.—Subparagraph (A) shall not apply to—

"(i) any low-income housing, and

"(ii) any other recovery property which is placed in service in connection with projects for residential rental property financed by the proceeds of obligations described in section 103(b)(4)(A)."

(C) Any property described in paragraph (3) of section 631(d) of the Tax Reform Act of 1984 shall be treated as property described in clause (ii) of section 168(f)(12)(C) of the Internal Revenue Code of 1954 as amended by subparagraph (B).

(5) Coordination with imputed interest changes.—In the case of any property placed in service before May 8, 1985 (or treated as placed in service before such date by section 105(b)(3) of Public Law 99-121)—

(A) any reference in any amendment made by this subsection to 19-year real property shall be treated as a reference to 18-year real property, and

(B) section 168(f)(12)(B)(ii) of the Internal Revenue Code of 1954 (as amended by paragraph (4)(A)) shall be applied by substituting "18 years" for "19 years".

(b) Treatment of Transferee in Certain Transactions.—

(1) In general.—Subparagraph (A) of section 168(f)(10) (relating to transferee bound by transferor's period and method in certain cases) is amended to read as follows:

"(A) In general.—In the case of recovery property transferred in a transaction described in subparagraph (B), for purposes of computing the deduction allowable under subsection (a) with respect to so much of the basis in the hands of the transferee as does not exceed the adjusted basis in the hands of the transferor—

"(i) if the transaction is described in subparagraph (B)(i), the transferee shall be treated in the same manner as the transferor, or

"(ii) if the transaction is described in clause (ii) or (iii) of subparagraph (B) and the transferor made an election with respect to such property under subsection (b)(3) or (f)(2)(C), the transferee shall be treated as having made the same election (or its equivalent)."

(2) Treatment of terminations of partnerships.—Subparagraph (B) of section 168(f)(10) is amended by adding at the end thereof the following new sentence:

"Clause (i) shall not apply in the case of the termination of a partnership under section 708(b)(1)(B)."

(3) Effective date.—

(A) In general.—The amendments made by this subsection shall apply to property placed in service by the transferee after September 27, 1985, in taxable years ending after such date.

(B) Exception.—Subparagraph (A) shall be applied by substituting "December 15, 1985" for "September 27, 1985" in the case of a cogeneration facility located in Midland, Texas, which is placed in service after a sale and leaseback before December 15, 1985.

(c) Amendments Related to Section 113 of the Act.—

(1) Treatment of films, video tapes, and sound recordings.—Except with respect to property placed in service by the taxpayer on or before March 28, 1985, subsection (c) of section 167 (relating to limitations on use of certain methods and rates) is amended by adding at the end thereof the following new sentence:

"Paragraphs (2), (3), and (4) of subsection (L) shall not apply to any motion picture film, video tape, or sound recording."

(2) Clerical amendment.—Subsection (q) of section 48 is amended by redesignating the paragraph relating to special rule for qualified films as paragraph (7).

(d) Amendments Related to Section 114 of the Act.—

(1) Paragraph (1) of section 48(b) (defining new section 38 property) is amended by adding at the end thereof the following new sentence: "Such term includes any section 38 property the reconstruction of which is completed by the taxpayer, but only with respect to that portion of the basis which is properly attributable to such reconstruction."

(2) Paragraph (2) of section 48(b) (relating to special rule for sale-leasebacks) is amended—

(A) by striking out "paragraph (1)" and inserting in lieu thereof "the first sentence of paragraph (1)",

(B) by striking out "used under the lease" and inserting in lieu thereof "used under the leaseback (or lease) referred to in subparagraph (B)",

(C) by adding at the end thereof the following new sentence: "The preceding sentence shall not apply to any property if the lessee and lessor of such property make an election under this sentence. Such an election, once made, may be revoked only with the consent of the Secretary.", and

(D) by striking out "3 months of" in subparagraph (B) and inserting in lieu thereof "3 months after".

SEC. 1510. AMENDMENTS RELATED TO FOREIGN PROVISIONS.

(a) Amendments Related to Section 121 of the Act.—

(1) Treatment of certain domestic corporations.—

(A) In general.—Subsection (g) of section 904 (relating to source rules in the case of United States-owned foreign corporations) is amended by redesignating paragraph (9) as paragraph (10), and by inserting after paragraph (8) the following new paragraph:

"(9) Treatment of certain domestic corporations.—For purposes of this subsection—

"(A) in the case of interest treated as not from sources within the United States under section 861(a)(1)(B), the corporation paying such interest shall be treated as a

United States-owned foreign corporation, and

"(B) in the case of any dividend treated as not from sources within the United States under section 861(a)(2)(A), the corporation paying such dividend shall be treated as a United States-owned foreign corporation."

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall take effect on March 28, 1985. In the case of any taxable year ending after such date of any corporation treated as a United States-owned foreign corporation by reason of the amendment made by subparagraph (A)—

(i) only income received or accrued by such corporation after such date shall be taken into account under section 904(g) of the Internal Revenue Code of 1954; except that

(ii) paragraph (5) of such section 904(g) shall be applied by taking into account all income received or accrued by such corporation during such taxable year.

(2) TREATMENT OF CERTAIN FOREIGN CORPORATIONS ENGAGED IN TRADE OR BUSINESSES WITHIN UNITED STATES.—Subparagraph (E) of section 121(b)(2) of the Tax Reform Act of 1984 (relating to special rules for applicable CFC) is amended by adding at the end thereof the following new clause:

"(iii) TREATMENT OF CERTAIN FOREIGN CORPORATIONS ENGAGED IN BUSINESS IN UNITED STATES.—For purposes of clause (ii), a foreign corporation shall be treated as a United States person with respect to any interest payment made by such corporation if—

"(I) at least 50 percent of the gross income from all sources of such corporation for the 3-year period ending with the close of its last taxable year ending on or before March 31, 1984, was effectively connected with the conduct of a trade or business within the United States, and

"(II) at least 50 percent of the gross income from all sources of such corporation for the 3-year period ending with the close of its taxable year preceding the payment of such interest was effectively connected with the conduct of a trade or business within the United States."

(3) TREATMENT OF CERTAIN SHORT-TERM BORROWING.—Clause (ii) of section 121(b)(2)(D) of the Tax Reform Act of 1984 (defining applicable CFC) is amended by striking out "or the holding of short-term obligations" and all that follows and inserting in lieu thereof "(or short-term borrowing from nonaffiliated persons) and lending the proceeds of such obligations (or such borrowing) to affiliates."

(4) COORDINATION WITH TREATY OBLIGATIONS.—Section 904(g) of the Internal Revenue Code of 1954 shall apply notwithstanding any treaty obligation of the United States to the contrary (whether entered into on, before, or after the date of the enactment of this Act) unless (in the case of a treaty entered into after the date of the enactment of this Act) such treaty by specific reference to such section 904(g) clearly expresses the intent to override the provisions of such section.

(b) AMENDMENTS RELATED TO SECTION 122 OF THE ACT.—

(1) TREATMENT OF SUBPART F AND FOREIGN PERSONAL HOLDING COMPANY INCLUSIONS.—Subparagraph (C) of section 904(d)(3) (relating to exception where designated corporation has small amount of separate limitation interest) is amended by adding at the end thereof the following new sentence:

"The preceding sentence shall not apply to any amount includible in gross income under section 551 or 951."

(2) TREATMENT OF INTEREST AND DIVIDENDS FROM MEMBERS OF SAME AFFILIATED GROUP.—Paragraph (3) of section 904(d) (relating to certain amounts attributable to United States-owned foreign corporations, etc., treated as interest) is amended by striking out subparagraph (J), by redesignating subparagrah (I) as subparagraph (J), and by inserting after subparagraph (H) the following new subparagraph:

"(I) INTEREST AND DIVIDENDS FROM MEMBERS OF SAME AFFILIATED GROUP.—For purposes of this paragraph, dividends and interest received or accrued by the designated payor corporation from another member of the same affiliated group (determined under section 1504 without regard to subsection (b)(3) thereof) shall be treated as separate limitation interest if (and only if) such amounts are attributable (directly or indirectly) to separate limitation interest of any other member of such group."

(3) DEFINITION OF DESIGNATED PAYOR CORPORATION.—

(A) IN GENERAL.—Subparagraph (E) of section 904(d)(3) (defining designated payor corporation) is amended by striking out "and" at the end of clause (ii), by striking out the period at the end of clause (iii) and inserting in lieu thereof ", and", and by adding at the end thereof the following:

"(iv) any other corporation formed or availed of for purposes of avoiding the provisions of this paragraph.

For purposes of this paragraph, the rules of paragraph (9) of subsection (g) shall apply."

(B) EFFECTIVE DATES.—

(i) The amendment made by subparagraph (A) insofar as it adds the last sentence to subparagraph (E) of section 905(d)(3) shall take effect on March 28, 1985. In the case of any taxable year ending after such date of any corporation treated as a designated payor corporation by reason of the amendment made by subparagraph (A)—

(I) only income received or accrued by such corporation after such date shall be taken into account under section 904(d)(3) of the Internal Revenue Code of 1954; except that

(II) subparagraph (C) of such section 904(d)(3) shall be applied by taking into account all income received or accrued by such corporation during such taxable year.

(ii) The amendment made by subparagraph (A) insofar as it adds clause (iv) to subparagraph (E) of section 904(d)(3) shall take effect on December 31, 1985. For purposes of such amendment, the rule of the second sentence of clause (i) shall be applied by taking into account December 31, 1985, in lieu of March 28, 1985.

(c) AMENDMENTS RELATED TO SECTION 123 OF THE ACT.—

(1) Subparagraph (A) of section 956(b)(3) (relating to certain trade or service receivables acquired from related United States persons) is amended by striking out "paragraph (2)" and inserting in lieu thereof "paragraph (2) (other than subparagraph (H) thereof)".

(2) Subsection (d) of section 864 (relating to treatment of related person factoring income) is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

"(7) EXCEPTION FOR CERTAIN RELATED PERSONS DOING BUSINESS IN SAME FOREIGN COUNTRY.—Paragraph (1) shall not apply to any trade or service receivable acquired by any person from a related person if—

"(A) the person acquiring such receivable and such related person are created or organized under the laws of the same foreign country and such related person has a substantial part of its assets used in its trade or business located in such same foreign country, and

"(B) such related person would not have derived any foreign base company income (as defined in section 954(a), determined without regard to section 954(b)(3)(A)), or any income effectively connected with the conduct of a trade or business within the United States, from such receivable if it had been collected by such related person."

(3) Clause (i) of section 864(d)(5)(A) (relating to certain provisions not to apply) is amended by inserting before the period at the end thereof the following: "and subparagraph (J) of section 904(d)(3) (relating to interest from members of same affiliated group)".

(d) AMENDMENTS RELATED TO SECTION 127 OF THE ACT.—

(1) DEFINITION OF PORTFOLIO INTEREST.—

(A) Paragraph (2) of section 871(h) (defining portfolio interest) is amended by striking out "which is described in" in the matter preceding subparagraph (A) and inserting in lieu thereof "which would be subject to tax under subsection (a) but for this subsection and which is described in".

(B) Paragraph (2) of section 881(c) (defining portfolio interest) is amended by striking out "which is described in" in the matter preceding subparagraph (A) and inserting in lieu thereof "which would be subject to tax under subsection (a) but for this subsection and which is described in".

(2) ATTRIBUTION OF SHAREHOLDER STOCK TO CORPORATION.—Subparagraph (C) of section 871(h)(3) (relating to portfolio interest not to include interest received by 10-percent shareholders) is amended by striking out "and" at the end of clause (i), by redesignating clause (ii) as clause (iii), and by inserting after clause (i) the following new clause:

"(ii) section 318(a)(3)(C) shall be applied—

"(I) without regard to the 50-percent limitation therein; and

"(II) in any case where such section would not apply but for subclause (I), by considering a corporation as owning the stock (other than stock in such corporation) which is owned by or for any shareholder of such corporation in that proportion which the value of the stock which such shareholder owns in such corporation bears to the value of all stock in such corporation, and".

(3) CLERICAL AMENDMENTS.—

(A) Paragraph (1) of section 871(a) is amended by striking out "provided in subsection (i)" in the matter preceding subparagraph (A), and inserting in lieu thereof "provided in subsection (h)".

(B) Clause (ii) of section 871(h)(2)(B) is amended by striking out "has received" and inserting in lieu thereof "receives".

(C) Clause (ii) of section 881(c)(2)(B) is amended by striking out "has received" and inserting in lieu thereof "receives".

(D) Paragraph (9) of section 1441(c) is amended by striking out "871(h)(2)" and inserting in lieu thereof "section 871(h)".

(E) Subsection (a) of section 1442 is amended—

(i) by striking out "sections 871(h)(2)" and inserting in lieu thereof "sections 871(h)",

(ii) by striking out "sections 881(c)(2)" and inserting in lieu thereof "sections 881(c)", and

(iii) by striking out "section 1449(c)(9)" and inserting in lieu thereof "section 1441(c)(9)".

(e) Amendments Related to Section 128 of the Act.—

(1) Deduction for original issue discount.—

(A) Subparagraph (A) of section 163(e)(3) (relating to special rule for original issue discount on obligation held by related foreign person) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply to the extent that the original issue discount is effectively connected with the conduct by such foreign related person of a trade or business within the United States unless such original issue discount is exempt from taxation (or is subject to a reduced rate of tax) pursuant to a treaty obligation of the United States."

(B) Subsection (e) of section 163 is amended by redesignating the paragraph relating to cross references as paragraph (5).

(2) Taxation of original issue discount.—

(A) Subparagraph (C) of section 871(a)(1) (relating to income not connected with United States business) is amended to read as follows:

"(C) in the case of—

"(i) a sale or exchange of an original issue discount obligation, the amount of the original issue discount accruing while such obligation was held by the nonresident alien individual (to the extent such discount was not theretofore taken into account under clause (ii)), and

"(ii) a payment on an original issue discount obligation, an amount equal to the original issue discount accruing while such obligation was held by the nonresident alien individual (except that such original issue discount shall be taken into account under this clause only to the extent such discount was not theretofore taken into account under this clause and only to the extent that the tax thereon does not exceed the payment less the tax imposed by subparagraph (A) thereon), and".

(B) Paragraph (3) of section 881 (relating to tax on income of foreign corporations not connected with United States business) is amended to read as follows:

"(3) in the case of—

"(A) a sale or exchange of an original issue discount obligation, the amount of the original issue discount accruing while such obligation was held by the foreign corporation (to the extent such discount was not theretofore taken into account under subparagraph (B)), and

"(B) a payment on an original issue discount obligation, an amount equal to the original issue discount accruing while such obligation was held by the foreign corporation (except that such original issue discount shall be taken into account under this subparagraph only to the extent such discount was not theretofore taken into account under this subparagraph and only to the extent that the tax thereon does not exceed the payment less the tax imposed by paragraph (1) thereon), and".

(f) Amendments Related to Section 129 of the Act.—

(1) Treatment of elections under section 897(i).—

(A) Paragraph (1) of section 897(i) (relating to election by foreign corporation to be treated as domestic corporation) is amended by striking out "and section 6039C" and inserting in lieu thereof ", section 1445, and section 6039C".

(B) Paragraph (4) of section 897(i) is amended by striking out "this section and section 6039C" and inserting in lieu thereof "this section, section 1445, and section 6039C".

(2) Exemption for interests in certain corporations.—Paragraph (3) of section 1445(b) (relating to nonpublicly traded domestic corporation furnishing affidavit that it is not a United States real property holding corporation) is amended to read as follows:

"(3) Nonpublicly traded domestic corporation furnishes affidavit that interests in corporation not United States real property interests.—Except as provided in paragraph (7), this paragraph applies in the case of a disposition of any interest in any domestic corporation if the domestic corporation furnishes to the transferee an affidavit by the domestic corporation stating, under penalty of perjury, that—

"(A) the domestic corporation is not and has not been a United States real property holding corporation (as defined in section 897(c)(2)) during the applicable period specified in section 897(c)(1)(A)(ii), or

"(B) as of the date of the disposition, interests in such corporation are not United States real property interests by reason of section 897(c)(1)(B)."

(3) Notice of false affidavit.—

(A) Clause (i) of section 1445(d)(1)(B) (relating to notice of false affidavit; foreign corporations) is amended to read as follows:

"(i) any transferor's agent—

"(I) such agent has actual knowledge that such affidavit is false, or

"(II) in the case of an affidavit described in subsection (b)(2) furnished by a corporation, such corporation is a foreign corporation, or".

(B) Paragraph (1) of section 1445(d) is amended by striking out "described in paragraph (2)(A)" and inserting in lieu thereof "described in paragraph (2)".

(4) Treatment of certain domestic partnerships, trusts, and estates.—

(A) In general.—Paragraph (1) of section 1445(e) (relating to certain domestic partnerships, trusts, and estates) is amended to read as follows:

"(1) Certain domestic partnerships, trusts, and estates.—In the case of any disposition of a United States real property interest as defined in section 897(c) (other than a disposition described in paragraph (4) or (5)) by a domestic partnership, domestic trust, or domestic estate, such partnership, the trustee of such trust, or the executor of such estate (as the case may be) shall be required to deduct and withhold under subsection (a) a tax equal to 28 percent of the gain realized to the extent such gain—

"(A) is allocable to a foreign person who is a partner or beneficiary of such partnership, trust, or estate, or

"(B) is allocable to a portion of the trust treated as owned by a foreign person under subpart E of part I of subchapter J."

(B) Effective date.—The amendment made by subparagraph (A) shall apply to dispositions after the day 30 days after the date of the enactment of this Act.

(5) Distributions by domestic corporations to foreign shareholder.—Paragraph (3) of section 1445(e) (relating to distributions by certain domestic corporations to foreign shareholders) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply if, as of the date of the distribution, interests in such corporation are not United States real property interests by reason of section 897(c)(1)(B)."

(6) Certain taxable distributions.—Paragraph (4) of section 1445(e) (relating to taxable distributions by domestic or foreign partnerships, trusts, or estates) is amended by striking out "section 897(g)" and inserting in lieu thereof "section 897".

(7) Payment of tax.—Subsection (d) of section 6039C (relating to special rule for United States interests and Virgin Islands interests) is amended by striking out "subject to tax under section 897(a)" and inserting in lieu thereof "subject to tax under section 897(a) (and any person required to withhold tax under section 1445)".

(8) Payments through 1 or more entities.—Paragraph (6) of section 1445(e) (relating to regulations) is amended by inserting before the period at the end thereof the following: "and regulations for the application of this subsection in the case of payments through 1 or more entities".

(9) Conforming amendments to section 6652(g).—

(A) Paragraph (1) of section 6652(g) (relating to returns, etc., required under section 6039C) is amended to read as follows:

"(1) In general.—In the case of each failure to make a return required by section 6039C which contains the information required by such section on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause and not to willful neglect, the amount determined under paragraph (2) shall be paid (upon notice and demand by the Secretary and in the same manner as tax) by the person failing to make such return."

(B) Paragraph (3) of section 6652(g) is amended to read as follows:

"(3) Limitation.—The amount determined under paragraph (2) with respect to any person for failing to meet the requirements of section 6039C for any calendar year shall not exceed the lesser of—

"(A) $25,000, or

"(B) 5 percent of the aggregate of the fair market value of the United States real property interests owned by such person at any time during such year.

For purposes of the preceding sentence, fair market value shall be determined as of the end of the calendar year (or, in the case of any property disposed of during the calendar year, as of the date of such disposition)."

(C) The subsection heading for subsection (g) of section 6652 is amended by striking out ", Etc.,".

(g) Amendments Related to Section 131 of the Act.—

(1) Subsection (f) of section 367 (relating to transitional rule) is hereby repealed.

(2) Paragraph (1) of section 7482(b) (relating to venue) is amended by striking out "section 7428, 7476, or 7477" and inserting in lieu thereof "section 7428 or 7476".

(3) Paragraph (8) of section 6501(c) (relating to failure to notify the Secretary under section 6038B) is amended—

(A) by striking out "subsection (a) or (d)" and inserting in lieu thereof "subsection (a), (d), or (e)", and

(B) by striking out "exchange" each place it appears and inserting in lieu thereof "exchange or distribution".

(4)(A) Subsection (a)(1) of section 367 (relating to foreign corporations) is amended by striking out "355,".

(B) Subsection (e) of section 367 (relating to treatment of liquidations under section 336) is amended—

(i) by striking out "described in section 336" and inserting in lieu thereof "described in section 336 or 355 (or so much of section 356 as relates to section 355)", and

(ii) by striking out "Liquidations Under Section 366" in the subsection heading and inserting in lieu thereof "Distributions Described in Section 336 or 355".

(h) Amendments Related to Section 132 of the Act.—

(1) Subsection (c) of section 552 (relating to certain dividends and interest not taken into account) is amended by adding at the end thereof the following new sentence:

"For purposes of the preceding sentence, the term 'related person' has the meaning given such term by section 954(d)(3) (determined by substituting 'foreign personal holding company' for 'controlled foreign corporation' each place it appears)."

(2) Paragraph (1) of section 551(f) (relating to stock held through foreign entity) is amended by striking out "United States shareholder" and inserting in lieu thereof "United States shareholder or an estate or trust which is a foreign estate or trust".

(i) Amendments Related to Section 133 of the Act.—

(1) Subparagraph (B) of section 1248(i)(1) (relating to treatment of certain indirect transfers) is amended by striking out "in redemption of his stock" and inserting in lieu thereof "in redemption or liquidation (whichever is appropriate)".

(2) Clause (iii) of section 133(d)(3)(B) of the Tax Reform Act of 1984 (relating to amendments related to section 1248) is amended by striking out "180 days after the date of the enactment of this Act" and inserting in lieu thereof "the date which is 1 year after the date of the enactment of the Tax Reform Act of 1985".

(j) Amendments Related to Section 136 of the Act.—

(1) Collection of tax.—Subsection (b) of section 269B (relating to stapled entities) is amended by inserting before the period at the end thereof the following: "and regulations providing that any tax imposed on the foreign corporation referred to in subsection (a)(1) may, if not paid by such corporation, be collected from the domestic corporation referred to in such subsection or the shareholders of such foreign corporation".

(2) Exception where corporations owned by foreign persons.—Section 269B is amended by adding at the end thereof the following new subsection:

"(e) Subsection (a)(1) Not To Apply in Certain Cases.—

"(1) In general.—Subsection (a)(1) shall not apply if it is established to the satisfaction of the Secretary that the domestic corporation and the foreign corporation referred to in such subsection are foreign owned.

"(2) Foreign owned.—For purposes of paragraph (1), a corporation is foreign owned if less than 50 percent of—

"(A) the total combined voting power of all classes of stock of such corporation entitled to vote, and

"(B) the total value of the stock of the corporation,

is held directly (or indirectly through applying paragraphs (2) and (3) of section 958(a) and paragraph (4) of section 318(a)) by United States persons (as defined in section 7701(a)(30))."

(k) Amendment Related to Section 137 of the Act.—Subsection (e) of section 954 (defining foreign base company services income) is amended to read as follows:

"(e) Foreign Base Company Services Income.—

"(1) In general.—For purposes of subsection (a)(3), the term 'foreign base company services income' means income (whether in the form of compensation, commissions, fees, or otherwise) derived in connection with the performance of technical, managerial, engineering, architectural, scientific, skilled, industrial, commercial, or like services which—

"(A) are performed for or on behalf of any related person (within the meaning of subsection (d)(3)), and

"(B) are performed outside the country under the laws of which the controlled foreign corporation is created or organized.

"(2) Exception.—Paragraph (1) shall not apply to income derived in connection with the performance of services which are directly related to—

"(A) the sale or exchange by the controlled foreign corporation of property manufactured, produced, grown, or extracted by it and which are performed before the time of the sale or exchange, or

"(B) an offer or effort to sell or exchange such property.

"(3) Treatment of certain insurance contracts.—For purposes of paragraph (1), in the case of any services performed with respect to any policy of insurance or reinsurance with respect to which the primary insured is a related person (within the meaning of section 864(d)(4))—

"(A) such primary insured shall be treated as a related person for purposes of paragraph (1)(A) (whether or not the requirements of subsection (d)(3) are met),

"(B) such services shall be treated as performed in the country within which the insured hazards, risks, losses, or liabilities occur, and

"(C) except as otherwise provided in regulations by the Secretary, rules similar to the rules of section 953(b) shall be applied in determining the income from such services."

(l) Amendment Related to Section 138 of the Act.—Clause (i) of section 7701(b)(4)(E) (relating to limitation of teachers and trainees) is amended by adding at the end thereof the following new sentence: "In the case of an individual all of whose compensation is described in section 872(b)(3), the preceding sentence shall be applied by substituting '4 calendar years' for '2 calendar years'."

SEC. 1511. AMENDMENTS RELATED TO REPORTING, PENALTY, AND OTHER PROVISIONS.

(a) Amendments Related to Section 145 of the Act.—

(1) Section 6050H (relating to returns relating to mortgage interest received in trade or business from individuals) is amended by adding at the end thereof the following new subsection:

"(g) Special Rules for Cooperative Housing Corporations.—For purposes of subsection (a), an amount received by a cooperative housing corporation from a tenant-stockholder shall be deemed to be interest received on a mortgage in the course of a trade or business engaged in by such corporation, to the extent of the tenant-stockholder's proportionate share of interest described in section 216(a)(2). Terms used in the preceding sentence shall have the same meanings as when used in section 216."

(2) Paragraph (2) of section 145(d) of the Tax Reform Act of 1984 is amended by striking out "section 6652" and inserting in lieu thereof "section 6676".

(b) Amendment Related to Section 149 of the Act.—Paragraph (2) of section 6050K(c) (relating to requirement that transferor notify partnership) is amended by striking out "this subsection" and inserting in lieu thereof "this section".

(c) Amendments Related to Section 150 of the Act.—

(1) Paragraph (3) of section 6678(a) (relating to failure to furnish certain statements) is amended by striking out "or" at the end of subparagraph (E), by adding "or" at the end of subparagraph (F), and by inserting after subparagraph (F) the following new subparagraph:

"(G) section 6045(d) (relating to statements required in the case of certain substitute payments),".

(2) Clause (ii) of section 6652(a)(3)(A) (relating to penalty in the case of intentional disregard) is amended by inserting "(other than by subsection (d) of such section)" after "section 6045".

(d) Amendment Related to Section 155 of the Act.—Section 6660 (relating to addition of tax in the case of valuation understatement for purposes of estate or gift taxes) is amended by adding at the end thereof the following new subsection:

"(f) Underpayment Defined.—For purposes of this section, the term 'underpayment' has the meaning given to such term by section 6653(c)(1)."

(e) Amendment Related to Section 157 of the Act.—Paragraph (3) of section 7502(e) is amended by striking out "the tax" and inserting in lieu thereof "any tax".

SEC. 1512. AMENDMENTS RELATED TO MISCELLANEOUS PROVISIONS.

(a) Amendments Related to Section 171 of the Act.—

(1) Subsection (a) of section 111 (relating to recovery of tax benefit items) is amended by striking out "did not reduce income subject to tax" and inserting in lieu thereof "did not reduce the amount of tax imposed by this chapter".

(2) Subsection (c) of section 111 (relating to treatment of carryovers) is amended by striking out "reducing income subject to tax or reducing tax imposed by this chapter, as the case may be" and inserting in lieu thereof "reducing tax imposed by this chapter".

(3) Paragraph (12) of section 381(c) (relating to recovery of bad debts, prior taxes, or delinquency amounts) is amended to read as follows:

"(12) Recovery of tax benefit items.—If the acquiring corporation is entitled to the recovery of any amounts previously deducted by (or allowable as credits to) the distributor or transferor corporation, the acquiring corporation shall succeed to the treatment under section 111 which would apply to such amounts in the hands of the distributor or transferor corporation."

(4) Paragraph (2) of section 1351(d) is amended by striking out "relating to recovery of bad debts, etc." and inserting in lieu thereof "relating to recovery of tax benefit items".

(5) Paragraph (3) of section 1398(g) is amended to read as follows:

"(3) Recovery of tax benefit items.—Any amount to which section 111 (relating to recovery of tax benefit items) applies."

(b) Amendments Related to Section 172 of the Act.—

(1) Coordination of section 7872 with taxes on private foundations.—Subparagraph (B) of section 4941(d)(2) (defining self-dealing) is amended by striking out "without interest or other charge" and inserting in lieu thereof "without interest or other charge (determined without regard to section 7872)".

(2) COORDINATION WITH WITHHOLDING.—Paragraph (9) of section 7872(f) (relating to no withholding) is amended to read as follows:

"(9) NO WITHHOLDING.—No amount shall be withheld under chapter 24 with respect to—

"(A) any amount treated as transferred or retransferred under subsection (a), and

"(B) any amount treated as received under subsection (b)."

(3) DEFINITION OF DEMAND LOAN.—Paragraph (5) of section 7872(f) (defining demand loan) is amended to read as follows:

"(5) DEMAND LOAN.—The term 'demand loan' means any loan which is payable in full at any time on the demand of the lender. Such term also includes (for purposes other than determining the applicable Federal rate under paragraph (2)) any loan if the benefits of the interest arrangements of such loan are not transferable and are conditioned on the future performance of substantial services by an individual. To the extent provided in regulations, such term also includes any loan with an indefinite maturity."

(4) CLARIFICATION OF APPLICABLE FEDERAL RATE.—Subparagraph (B) of section 7872(f)(2) (defining applicable Federal rate) is amended by inserting ", compounded semiannually" immediately before the period at the end thereof.

(5) CERTAIN ISRAEL BONDS NOT SUBJECT TO RULES RELATING TO BELOW-MARKET LOANS.—

(A) IN GENERAL.—Section 7872 of the Internal Revenue Code of 1954 (relating to treatment of loans with below-market interest rates) shall not apply to any obligation issued by Israel if—

(i) all of the proceeds of the obligation are to be used for essential governmental purposes,

(ii) the obligation is payable in United States dollars,

(iii) interest is payable on the obligation at an annual rate of not less than 4 percent and not less frequently than annually, and

(iv) such obligation is part of an issue marketed primarily on grounds of supporting Israel rather than for investment.

(B) EFFECTIVE DATE.—Subparagraph (A) shall apply to all obligations issued (or treated by paragraph (5) of section 172(c) of the Tax Reform Act of 1984 as issued) after June 6, 1985.

(c) AMENDMENTS RELATED TO SECTION 174 OF THE ACT.—

(1) TREATMENT OF FOREIGN PERSONS.—Subsection (a) of section 267 is amended by adding at the end thereof the following new paragraph:

"(3) PAYMENTS TO FOREIGN PERSONS.—The Secretary shall by regulations apply the matching principle of paragraph (2) in cases in which the person to whom the payment is to be made is not a United States person."

(2) TREATMENT OF CERTAIN SALES OF INVENTORY EXPANDED.—Subparagraph (B) of section 267(f)(3) (relating to loss deferral rules not to apply in certain cases) is amended by inserting "(or persons described in subsection (b)(10))" after "same controlled group".

(3) TREATMENT OF CERTAIN RELATED PARTNERSHIPS.—

(A) Effective with respect to sales or exchanges after September 27, 1985, paragraphs (1)(A) and (2)(A) of section 707(b) (relating to certain sales or exchanges of property with respect to controlled partnerships) are each amended by striking out "a partner" and inserting in lieu thereof "a person".

(B) Paragraph (1) of section 707(b) is amended by adding at the end thereof the following new sentence: "For purposes of section 267(a)(2), partnerships described in subparagraph (B) of this paragraph shall be treated as persons specified in section 267(b)."

(C) Subsection (e) of section 267 is amended by adding at the end thereof the following new paragraph:

"(6) CROSS REFERENCE.—

"For additional rules relating to partnerships, see section 707(b)."

(4) CLERICAL AMENDMENTS.—

(A) Paragraph (12) of section 267(b) (defining related persons) is amended by striking out "same persons owns" and inserting in lieu thereof "same persons own".

(B) Subparagraph (B) of section 178(b)(2) (defining related persons) is amended by inserting before the period "and subsection (f)(1)(A) of such section shall not apply".

(C) Clause (ii) of section 936(h)(3)(D) (defining related person) is amended to read as follows:

"(ii) SPECIAL RULE.—For purposes of clause (i), section 267(b) and section 707(b)(1) shall be applied by substituting '10 percent' for '50 percent'."

(5) EXCEPTION FOR CERTAIN INDEBTEDNESS.—Clause (i) of section 174(c)(3)(A) of the Tax Reform Act of 1984 shall be applied by substituting "December 31, 1983" for "September 29, 1983" in the case of indebtedness which matures on January 1, 1999, the payments on which from January 1989 through November 1993 equal U/L plus $77,600, the payments on which from December 1993 to maturity equal U/L plus $50,100, and which accrued interest at 13.75 percent through December 31, 1989.

(d) AMENDMENTS RELATED TO SECTION 177 OF THE ACT.—

(1) CLARIFICATION OF TREATMENT OF DIVIDENDS PAID BY FEDERAL HOME LOAN BANKS.—

(A) Subparagraph (B) of section 246(a)(2) (relating to certain dividends of Federal home loan banks) is amended—

(i) by striking out "For purposes of subparagraph (A), in" and inserting in lieu thereof "In", and

(ii) by striking out subclause (II) of clause (i) and inserting in lieu thereof the following:

"(II) which were not previously treated as distributed under subparagraph (A) or this subparagraph, bears to".

(B) Paragraph (2) of section 246(a) (relating to subsection not to apply to certain dividends of Federal Home Loan Banks) is amended by redesignating subparagraph (C) as subparagraph (D) and by inserting after subparagraph (B) the following new subparagraph:

"(C) COORDINATION WITH SECTION 243.—To the extent that paragraph (1) does not apply to any dividend by reason of subparagraph (A) or (B) of this paragraph, the requirement contained in section 243(a) that the corporation paying the dividend be subject to taxation under this chapter shall not apply."

(2) CLARIFICATION OF EFFECTIVE DATE.—Paragraph (4) of section 177(d) of the Tax Reform Act of 1984 (relating to effective dates) is amended to read as follows:

"(4) CLARIFICATION OF EARNINGS AND PROFITS OF FEDERAL HOME LOAN MORTGAGE CORPORATION.—

"(A) TREATMENT OF DISTRIBUTION OF PREFERRED STOCK, ETC.—For purposes of the Internal Revenue Code of 1954, the distribution of preferred stock by the Federal Home Loan Mortgage Corporation during December of 1984, and the other distributions of such stock by Federal Home Loan Banks during January of 1985, shall be treated as if they were distributions of money equal to the fair market value of the stock on the date of the distribution by the Federal Home Loan Banks (and such stock shall be treated as if it were purchased with the money treated as so distributed). No deduction shall be allowed under section 243 of the Internal Revenue Code of 1954 with respect to any dividend paid by the Federal Home Loan Mortgage Corporation out of earnings and profits accumulated before January 1, 1985.

"(B) SECTION 246(a) NOT TO APPLY TO DISTRIBUTIONS OUT OF EARNINGS AND PROFITS ACCUMULATED DURING 1985.—Subsection (a) of section 246 of the Internal Revenue Code of 1954 shall not apply to any dividend paid by the Federal Home Loan Mortgage Corporation during 1985 out of earnings and profits accumulated after December 31, 1984."

(e) AMENDMENTS RELATED TO SECTION 179 OF THE ACT.—

(1) CLARIFICATION OF DEFINITION OF PASSENGER AUTOMOBILE.—

(A) SECTION 280F.—Clause (ii) of section 280F(d)(5)(A) (defining passenger automobile) is amended by striking out "gross vehicle weight" and inserting in lieu thereof "unloaded gross vehicle weight".

(B) GAS GUZZLER TAX.—

(i) Clause (ii) of section 4064(b)(1)(A) (defining passenger automobile) is amended by striking out "gross vehicle weight" and inserting in lieu thereof "unloaded gross vehicle weight".

(ii) The amendment made by clause (i) shall take effect as if included in the amendments made by section 201(a) of Public Law 95-618; except that such amendment shall not apply to any station wagon if—

(I) such station wagon is originally equipped with more than 6 seat belts,

(II) such station wagon was manufactured before November 1, 1985, and

(III) such station wagon is of the 1985 or 1986 model year.

(2) DEDUCTIONS OF EMPLOYEE FOR USE OF LISTED PROPERTY.—Subparagraph (A) of section 280F(d)(3) (relating to deductions of employee) is amended by striking out "recovery deduction allowable to the employee" and inserting in lieu thereof "recovery deduction allowable to the employee (or the amount of any deduction allowable to the employee for rentals or other payments under a lease of listed property)".

(3) TREATMENT OF CERTAIN COMPUTERS.—Subparagraph (B) of section 280F(d)(4) (relating to exception for certain computers) is amended by striking out "at a regular business establishment" and inserting in lieu thereof "at a regular business establishment and owned or leased by the person operating such establishment".

(4) EXCEPTION FOR PROPERTY USED IN BUSINESS OF TRANSPORTING PERSONS OR PROPERTY.—Paragraph (4) of section 280F(d) (defining listed property) is amended by adding at the end thereof the following new subparagraph:

"(C) EXCEPTION FOR PROPERTY USED IN BUSINESS OF TRANSPORTING PERSONS OR PROPERTY.—Except to the extent provided in regulations, clause (ii) of subparagraph (A) shall not apply to any property substantially all of the use of which is in a trade or business of providing to unrelated persons services consisting of the transportation of persons or property for compensation or hire."

(5) CLERICAL AMENDMENT.—Paragraph (2) of section 280F(d) (relating to subsequent depreciation deductions reduced for deduc-

tions allocable to personal use) is amended by striking out "is not use described in" and inserting in lieu thereof "is use described in".

CHAPTER 2—AMENDMENTS RELATED TO TITLE II OF THE ACT

SEC. 1521. AMENDMENTS RELATED TO SECTION 211 OF THE ACT.

(a) Certain Amounts Not Less Than Surrender Value of Contract.—Subsection (c) of section 807 (relating to rules for certain reserves) is amended by adding at the end thereof the following new sentence: "In no case shall the amount determined under paragraph (3) for any contract be less than the net surrender value of such contract."

(b) Clarification of Definition of Excess Interest.—Subparagraph (B) of section 808(d)(1) (defining excess interest) is amended to read as follows:

"(B) in excess of interest determined at the prevailing State assumed rate for such contract."

(c) Coordination of 1984 Fresh-Start Adjustment With Certain Accelerations of Policyholder Dividends Deductions.—Section 808 (relating to policyholder dividends deduction) is amended by adding at the end thereof the following new subsection:

"(f) Coordination of 1984 Fresh-Start Adjustment With Acceleration of Policyholder Dividends Deduction Through Change in Business Practice.—

"(1) In general.—The amount determined under paragraph (1) of subsection (c) for the year of change shall (before any reduction under paragraph (2) of subsection (c)) be reduced by so much of the accelerated policyholder dividends deduction for such year as does not exceed the 1984 fresh-start adjustment for policyholder dividends (to the extent such adjustment was not previously taken into account under this subsection).

"(2) Year of change.—For purposes of this subsection, the term 'year of change' means the taxable year in which the change in business practices which results in the accelerated policyholder dividends deduction takes effect.

"(3) Accelerated policyholder dividends deduction defined.—For purposes of this subsection, the term 'accelerated policyholder dividends deduction' means the amount which (but for this subsection) would be determined for the taxable year under paragraph (1) of subsection (c) but which would have been determined (under such paragraph) for a later taxable year under the business practices of the taxpayer as in effect at the close of the preceding taxable year.

"(4) 1984 fresh-start adjustment for policyholder dividends.—For purposes of this subsection, the term '1984 fresh-start adjustment for policyholder dividends' means the amounts held as of December 31, 1983, by the taxpayer as reserves for dividends to policyholders under section 811(b) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1984) other than for dividends which accrued before January 1, 1984. Such amounts shall be properly reduced to reflect the amount of previously nondeductible policyholder dividends (as determined under section 809(f) as in effect on the day before the date of the enactment of the Tax Reform Act of 1984).

"(5) Separate application with respect to lines of business.—This subsection shall be applied separately with respect to each line of business of the taxpayer.

"(6) Subsection not to apply to mere change in dividend amount.—This subsection shall not apply to a mere change in the amount of policyholder dividends.

"(7) Subsection not to apply to policies issued after December 31, 1983.—

"(A) In general.—This subsection shall not apply to any policyholder dividend paid or accrued with respect to a policy issued after December 31, 1983.

"(B) Exchanges of substantially similar policies.—For purposes of subparagraph (A), any policy issued after December 31, 1983, in exchange for a substantially similar policy issued on or before such date shall be treated as issued before January 1, 1984. A similar rule shall apply in the case of a series of exchanges."

(d) Clarification of Equity Base.—Paragraph (2) of section 809(b) (defining equity base) is amended by adding at the end thereof the following new sentence:

"No item shall be taken into account more than once in determining equity base."

(e) Definition of 50 Largest Stock Companies.—Subparagraph (C) of section 809(d)(4) (defining 50 largest stock companies) is amended by striking out the last sentence and inserting in lieu thereof the following:

"The Secretary may by regulations exclude from the group determined under the preceding sentence—

"(i) any company which has a negative equity base, and

"(ii) any other company which otherwise would have been included in such group if the inclusion of the excluded company or companies would, by reason of the small equity base of such company, seriously distort the stock earnings rate,

no company may be excluded under clause (ii) if 2 or more companies are excluded under clause (i); if 1 company is excluded under clause (i), only 1 company may be excluded under clause (ii); and if no company is excluded under clause (i), only 2 companies may be excluded under clause (ii)."

(f) Clarification of Statement Gain or Loss From Operations.—Paragraph (1) of section 809(g) (defining statement gain or loss from operations) is amended by striking out so much of such paragraph as precedes subparagraph (B) and inserting in lieu thereof the following:

"(1) Statement gain or loss from operations.—The term 'statement gain or loss from operations' means the net gain or loss from operations required to be set forth in the annual statement, determined without regard to Federal income taxes and—

"(A) determined by substituting for the amount shown for policyholder dividends the amount of deduction for policyholder dividends determined under section 808 (without regard to section 808(c)(2)),".

(g) Most Recent Differential Earnings Rate May Be Used for Purposes of Estimated Tax Payments.—Subsection (c) of section 809 (defining differential earnings rate) is amended by adding at the end thereof the following new paragraph:

"(3) Coordination with estimated tax payments.—

"(A) In general.—If, with respect to any installment of estimated tax—

"(i) the most recent published differential earnings rate, is less than

"(ii) the differential earnings rate applicable under paragraph (1) to the taxable year for which the installment is paid,

for purposes of applying section 6655 with respect to such installment, the amount of tax shall be determined by using the most recent published differential earnings rate.

"(B) Most recent published differential earnings rate.—For purposes of subparagraph (A), the term 'most recent published differential earnings rate' means the most recent differential earnings rate published by the Secretary (determined as of the day 30 days before the date prescribed for payment of the installment of estimated tax)."

(h) Recomputation of Differential Earnings Amount Not Taken Into Account for Purposes of Estimated Tax.—Subsection (f) of section 809 (relating to recomputation in subsequent year) is amended by adding at the end thereof the following new paragraph:

"(5) Subsection not to apply for purposes of estimated tax.—Section 6655 shall be applied to any taxable year without regard to any adjustments under this subsection for such year."

(i) Amendments Related to Proration Formulas.—

(1) Paragraph (2) of section 812(b) is amended—

(A) by striking out "the prevailing State assumed rate" in subparagraph (A) and inserting in lieu thereof "the prevailing State assumed rate or, where such rate is not used, another appropriate rate",

(B) by striking out "and" at the end of subparagraph (B),

(C) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof ", and", and

(D) by adding at the end thereof the following new subparagraph:

"(D) interest on amounts left on deposit with the company."

(2) Subparagraph (B) of section 812(b)(3) (relating to gross investment income's proportionate share of policyholder dividends) is amended—

(A) by striking out "(including tax-exempt interest)" in clause (ii), and

(B) by adding at the end thereof the following new sentence:

"For purposes of subparagraph (B)(ii), life insurance gross income shall be determined by including tax-exempt interest and by applying section 807(a)(2)(B) as if it did not contain clause (i) thereof."

(3) Subsection (c) of section 812 (defining net investment income) is amended to read as follows:

"(c) Net Investment Income.—For purposes of this section, the term 'net investment income' means—

"(1) except as provided in paragraph (2), 90 percent of gross investment income; or

"(2) in the case of gross investment income attributable to assets held in segregated asset accounts under variable contracts, 95 percent of gross investment income."

(4) Section 812 is amended by adding at the end thereof the following new subsection:

"(g) Treatment of Interest Partially Tax-Exempt Under Section 133.—For purposes of this section and subsections (a) and (b) of section 807, the terms 'gross investment income' and 'tax-exempt interest' shall not include any interest received with respect to a securities acquisition loan (as defined in section 133(b)). Such interest shall not be included in life insurance gross income for purposes of subsection (b)(3)."

(j) Treatment of Foreign Life Insurance Companies.—Paragraph (1) of section 813(a) (relating to adjustment where surplus held in United States is less than specified minimum) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall be applied before computing the amount of the special life insurance company deduction and the small life insurance company deduction, and any increase under the preceding sentence shall be treated as gross investment income."

(k) Treatment of Certain Distributions to Shareholders From Pre-1984 Policyholders Surplus Account.—

(1) Subsection (f) of section 815 (relating to other rules applicable to policyholders surplus account continued) is amended by striking out "sections 6501(c)(6)" and inserting in lieu thereof "sections 819(b), 6501(c)(6)".

(2) Subsection (a) of section 815 is amended by adding at the end thereof the following new sentence:

"For purposes of the preceding sentence, the term 'indirect distribution' shall not include any bona fide loan with arms-length terms and conditions or any purchase of stock by a life insurance company which is preferred as to dividends and mandatorily redeemable by the issuer."

(3) In the case of any loan made before September 27, 1985 (other than a loan which is renegotiated, extended, renewed, or revised after September 26, 1985), which does not meet the requirements of the last sentence of section 815(a) of the Internal Revenue Code of 1954 (as added by paragraph (2)), the amount of the indirect distribution for purposes of such section 815(a) shall be the foregone interest on the loan (determined by using the lowest rate which would have met the arms-length requirements of such sentence for such a loan).

(l) Treatment of Deficiency Reserves.—Section 816 (defining life insurance company) is amended by adding at the end thereof the following new subsection:

"(h) Treatment of Deficiency Reserves.—For purposes of this section and section 813(a)(4)(B), the terms 'life insurance reserves' and 'total reserves' shall not include deficiency reserves."

(m) Treatment of Certain Nondiversified Contracts.—

(1) Subsection (h) of section 817 (relating to treatment of certain nondiversified contracts) is amended by striking out paragraphs (3) and (4) and inserting in lieu thereof the following:

"(3) Special rule for investments in United States obligations.—To the extent that any segregated asset account with respect to a variable life insurance contract is invested in securities issued by the United States Treasury, the investments made by such account shall be treated as adequately diversified for purposes of paragraph (1).

"(4) Look-through in certain cases.—For purposes of this subsection, if all of the beneficial interests in a regulated investment company or in a trust are held by 1 or more—

"(A) insurance companies (or affiliated companies) in their general account or in segregated asset accounts, or

"(B) fund managers (or affiliated companies) in connection with the creation or management of the regulated investment company or trust,

the diversification requirements of paragraph (1) shall be applied by taking into account the assets held by such regulated investment company or trust.

"(5) Independent investment advisors permitted.—Nothing in this subsection shall be construed as prohibiting the use of independent investment advisors."

(2) Paragraph (1) of section 817(h) is amended by striking out the last sentence.

(n) Treatment of Certain Deferred Compensation Plans.—Subparagraph (A) of section 818(a)(6) (defining pension plan contract) is amended to read as follows:

"(A) a governmental plan (within the meaning of section 414(d)) or an eligible State deferred compensation plan (within the meaning of section 457(b)), or".

(o) Dividends Within Affiliated Group.—Subsection (e) of section 818 (relating to special rule for consolidated returns) is amended to read as follows:

"(e) Special Rules for Consolidated Returns.—

"(1) Items of companies other than life insurance companies.—If an election under section 1504(c)(2) is in effect with respect to an affiliated group for the taxable year, all items of the members of such group which are not life insurance companies shall not be taken into account in determining the amount of the tentative LICTI of members of such group which are life insurance companies.

"(2) Dividends within group.—In the case of a life insurance company filing or required to file a consolidated return under section 1501 with respect to any affiliated group for any taxable year, any determination under this part with respect to any dividend paid by one member of such group to another member of such group shall be made as if such group was not filing a consolidated return."

(p) Treatment of Dividends From Subsidiaries, Etc.—Paragraph (4) of section 805(a) (relating to dividends received by company) is amended by redesignating subparagraph (D) as subparagraph (E) and by striking out subparagraph (C) and inserting in lieu thereof the following new subparagraphs:

"(C) 100 percent dividend.—For purposes of subparagraph (A)--

"(i) In general.—Except as provided in clause (ii), the term '100 percent dividend' means any dividend if the percentage used for purposes of determining the deduction allowable under section 243 or 244 is 100 percent.

"(ii) Treatment of dividends from nonlife insurance companies.—The term '100 percent dividend' does not include any distribution by a corporation which is not a life insurance company to the extent such distribution is out of tax-exempt interest or out of dividends which are not 100 percent dividends (determined with the application of this clause as if it applies to distributions by all corporations including life insurance companies).

"(D) Special rules for certain dividends from life insurance companies.—

"(i) In general.—In the case of any 100 percent dividend paid to any life insurance company out of the earnings and profits for any taxable year beginning after December 31, 1983, of another life insurance company if—

"(I) the paying company's share determined under section 812 for such taxable year, exceeds

"(II) the receiving company's share determined under section 812 for its taxable year in which the dividend is received or accrued,

the deduction allowed under section 243 or 245 (as the case may be) shall be reduced as provided in clause (ii).

"(ii) Amount of reduction.—The reduction under this clause for a dividend is an amount equal to—

"(I) the portion of such dividend attributable to prorated amounts, multiplied by

"(II) the percentage obtained by subtracting the share described in subclause (II) of clause (i) from the share described in subclause (I) of such clause.

"(iii) Prorated amounts.—For purposes of this subparagraph, the term 'prorated amounts' means tax-exempt interest and dividends other than 100 percent dividends.

"(iv) Portion of dividend attributable to prorated amounts.—For purposes of this subparagraph, in determining the portion of any dividend attributable to prorated amounts—

"(I) any dividend by the paying corporation shall be treated as paid first out of earnings and profits for taxable years beginning after December 31, 1983, attributable to prorated amounts (to the extent thereof), and

"(II) by determining the portion of earnings and profits so attributable without any reduction for the tax imposed by this chapter."

(q) Special Rule for Application of High Surplus Mutual Rules.—In the case of any mutual life insurance company—

(1) which acquired a stock subsidiary during 1982, and

(2) whose excess equity base under section 809(i)(2)(D) of the Internal Revenue Code of 1954 is no more than 46 percent of such excess equity base (determined with regard to this provision),

the amount of such company's excess equity base for purposes of section 809(i) of such Code shall, notwithstanding the last sentence of section 809(i)(2)(D), equal $122,000,000.

(r) Clerical Amendment.—Paragraph (3) of section 809(f) is amended by striking out "subsection (c)(2)" and inserting in lieu thereof "subsection (c)(1)(B)".

SEC. 1522. AMENDMENTS RELATED TO SECTION 216 OF THE ACT.

(a) Clarification of Application of 10-year Spread.—Subparagraph (C) of section 216(b)(3) of the Tax Reform Act of 1984 (relating to 10-year spread inapplicable where no 10-year spread under prior law) is amended by striking out "was required to have been taken into account" and inserting in lieu thereof "would have been required to be taken into account".

(b) Treatment of Certain Elections Under Section 818(c).—Subparagraph (B) of section 216(b)(4) of the Tax Reform Act of 1984 (relating to the elections under section 818(c) after September 27, 1983, not taken into account) is amended by striking out "Subparagraph (A)" and inserting in lieu thereof "Paragraph (3) and subparagraph (A) of this paragraph".

(c) Election Not To Have Reserves Recomputed.—

(1) Clause (ii) of section 216(c)(2)(A) of the Tax Reform Act of 1934 (relating to election with respect to contracts issued after 1983 and before 1989) is amended by striking out "$3,000,000" and inserting in lieu thereof "$3,000,000 (determined with regard to this paragraph)".

(2) Subparagraph (A) of section 216(c)(2) of the Tax Reform Act of 1984 is amended by striking out "be equal to" and all that follows down through the period at the end thereof and inserting in lieu thereof the following: "be equal to the greater of the statutory reserve for such contract (adjusted as provided in subparagraph (B)) or the net surrender value of such contract (as defined

in section 807(e)(1) of the Internal Revenue Code of 1954)."

(3) Subparagraph (B) of section 216(c)(2) of the Tax Reform Act of 1984 is amended—

(A) by striking out "statutory reserves" and inserting in lieu thereof "opening and closing statutory reserves", and

(B) by striking out "under section 805(c)(1) of such Code" and inserting in lieu thereof "under the principles of section 805(c)(1) of such Code".

(d) Special Rule Where Reinsurer Not Using Calendar Year as Taxable Year.—Subparagraph (A) of section 216(b)(3) of the Tax Reform Act of 1984 is amended by adding at the end thereof the following: "For purposes of this subparagraph, if the reinsurer's taxable year is not a calendar year, the first day of the reinsurer's first taxable year beginning after December 31, 1983, shall be substituted for 'January 1, 1984' each place it appears."

(e) Clarification of Effect of Fresh Start on Earnings and Profits.—Paragraph (1) of section 216(b) of the Tax Reform Act of 1984 is amended by adding at the end thereof the following new sentence: "The preceding sentence shall apply for purposes of computing the earnings and profits of any insurance company for, at the election of the taxpayer, either of the taxable years beginning in 1985 and 1986."

SEC. 1523. AMENDMENT RELATED TO SECTION 217 OF THE ACT.

Subsection (n) of section 217 of the Tax Reform Act of 1984 (relating to special rule for companies using net level reserve method for noncancellable accident and health insurance contracts) is amended to read as follows:

"(n) Special Rule for Companies Using Net Level Reserve Method for Noncancellable Accident and Health Insurance Contracts.—A company shall be treated as meeting the requirements of section 807(d)(3)(A)(iii) of the Internal Revenue Code of 1954, as amended by this Act, with respect to any directly-written noncancellable accident and health insurance contract (whether under existing or new plans of insurance) for any taxable year if—

"(1) such company—

"(A) was using the net level reserve method to compute at least 99 percent of its statutory reserves on such contracts as of December 31, 1982, and

"(B) received more than half its total direct premiums in 1982 from directly-written noncancellable accident and health insurance,

"(2) after December 31, 1983, and through such taxable year, such company has continuously used the net level reserve method for computing at least 99 percent of its tax and statutory reserves on such contracts, and

"(3) for any such contract for which the company does not use the net level reserve method, such company uses the same method for computing tax reserves as such company uses for computing its statutory reserves."

SEC. 1524. AMENDMENT RELATED TO SECTION 218 OF THE ACT.

Section 218 of the Tax Reform Act of 1984 is hereby repealed.

SEC. 1525. AMENDMENTS RELATED TO SECTION 221 OF THE ACT.

(a) Computational Rules.—

(1) Paragraph (1) of section 7702(e) (relating to computational rules) is amended—

(A) by striking out "shall be no earlier than" in subparagraph (B) and inserting in lieu thereof "shall be deemed to be no earlier than",

(B) by striking out "and" at the end of subparagraph (B),

(C) by redesignating subparagraph (C) as subparagraph (D) and inserting after subparagraph (B) the following new subparagraph:

"(C) the death benefits shall be deemed to be provided until the maturity date determined by taking into account subparagraph (B), and", and

(D) by striking out "the maturity date described in subparagraph (B)" in subparagraph (D) (as so redesignated) and inserting in lieu thereof "the maturity date determined by taking into account subparagraph (B)".

(2) Subparagraph (C) of section 7702(b)(2) is amended by striking out "subparagraphs (A) and (C)" and inserting in lieu thereof "subparagraphs (A) and (D)".

(b) Clarification of Section 7702(f)(7).—

(1) Paragraph (7) of section 7702(f) (relating to adjustments) is amended to read as follows:

"(7) Adjustments.—

"(A) In general.—If there is a change in the benefits under (or in other terms of) the contract which was not reflected in any previous determination or adjustment made under this section, there shall be proper adjustments in future determinations made under this section.

"(B) Rule for certain changes during first 15 years.—If—

"(i) a change described in subparagraph (A) reduces benefits under the contract,

"(ii) the change occurs during the 15-year period beginning on the issue date of the contract, and

"(iii) a cash distribution is made to the policyholder as a result of such change,

section 72 (other than subsection (e)(5) thereof) shall apply to such cash distribution to the extent it does not exceed the recapture ceiling determined under subparagraph (C) or (D) (whichever applies).

"(C) Recapture ceiling where change occurs during first 5 years.—If the change referred to in subparagraph (B)(ii) occurs during the 5-year period beginning on the issue date of the contract, the recapture ceiling is—

"(i) in the case of a contract to which subsection (a)(1) applies, the excess of—

"(I) the cash surrender value of the contract, immediately before the reduction, over

"(II) the net single premium (determined under subsection (b)), immediately after the reduction, or

"(ii) in the case of a contract to which subsection (a)(2) applies, the greater of—

"(I) the excess of the aggregate premiums paid under the contract, immediately before the reduction, over the guideline premium limitation for the contract (determined under subsection (c)(2), taking into account the adjustment described in subparagraph (A)), or

"(II) the excess of the cash surrender value of the contract, immediately before the reduction, over the cash value corridor of subsection (d) (determined immediately after the reduction).

"(D) Recapture ceiling where change occurs after 5th year and before 16th year.—If the change referred to in subparagraph (B) occurs after the 5-year period referred to under subparagraph (C), the recapture ceiling is the excess of the cash surrender value of the contract, immediately before the reduction, over the cash value corridor of subsection (d) (determined immediately after the reduction and whether or not subsection (d) applies to the contract).

"(E) Treatment of certain distributions made in anticipation of benefit reductions.—Under regulations prescribed by the Secretary, subparagraph (B) shall apply also to any distribution made in anticipation of a reduction in benefits under the contract. For purposes of the preceding sentence, appropriate adjustments shall be made in the provisions of subparagraphs (C) and (D); and any distribution which reduces the cash surrender value of a contract and which is made within 2 years before a reduction in benefits under the contract shall be treated as made in anticipation of such reduction."

(2) Subparagraph (A) of section 7702(f)(1) (defining premiums paid) is amended by striking out "less any other amounts received" and inserting in lieu thereof "less any excess premiums with respect to which there is a distribution described in subparagraph (B) or (F) of paragraph (7) and any other amounts received".

(c) Clarification of Treatment of Contracts Which Do Not Meet Test.—Clause (ii) of section 7702(g)(1)(B) (defining income on the contract) is amended to read as follows:

"(ii) the premiums paid (as defined in subsection (f)(1)) under the contract during the taxable year."

(d) Treatment of Flexible Premium Contracts Issued During 1984 Which Meet New Requirements.—Subsection (b) of section 221 of the Tax Reform Act of 1984 (relating to 1-year extension of flexible premium contract provisions) is amended by adding at the end thereof the following new paragraph:

"(3) Transitional rule.—Any flexible premium contract issued during 1984 which meets the requirements of section 7702 of the Internal Revenue Code of 1954 (as added by this section) shall be treated as meeting the requirements of section 101(f) of such Code."

(e) Treatment of Certain Contracts Issued Before October 1, 1984.—Clause (i) of section 221(d)(2)(C) of the Tax Reform Act of 1984 (relating to certain contracts issued before October 1, 1984) is amended—

(1) by striking out "in clause (i) thereof" in the material preceding subclause (I), and

(2) by striking out "any mortality charges" in subclause (I) and inserting in lieu thereof "any mortality charges and any initial excess interest guarantees".

SEC. 1526. AMENDMENTS RELATED TO SECTION 222 OF THE ACT.

(a) Exception For Annuity Contracts Which Are Part of Qualified Plans.—Subsection (s) of section 72 (relating to required distributions where holder dies before entire interest is distributed) is amended by adding at the end thereof the following new paragraph:

"(5) Exception for annuity contracts which are part of qualified plans.—This subsection shall not apply to any annuity contract—

"(A) which is provided—

"(i) under a plan described in section 401(a) which includes a trust exempt from tax under section 501, or

"(ii) under a plan described in section 403(a),

"(B) which is described in section 403(b), or

"(C) which is an individual retirement annuity or provided under an individual retirement account or annuity."

(b) SPECIAL RULES WHERE HOLDER IS NOT INDIVIDUAL, ETC.—

(1) Subsection (s) of section 72 (relating to required distributions where holder dies before entire interest is distributed) is amended by adding at the end thereof the following new paragraphs:

"(6) SPECIAL RULE WHERE HOLDER IS CORPORATION OR OTHER NONINDIVIDUAL.—

"(A) IN GENERAL.—For purposes of this subsection, if the holder of the contract is not an individual, the primary annuitant shall be treated as the holder of the contract.

"(B) PRIMARY ANNUITANT.—For purposes of subparagraph (A), the term 'primary annuitant' means the individual, the events in the life of whom are of primary importance in affecting the timing or amount of the payout under the contract.

"(7) TREATMENT OF CERTAIN TRANSFERS.—

"(A) IN GENERAL.—For purposes of this subsection, if—

"(i) an individual who holds an annuity contract transfers it by gift, or

"(ii) in the case of a holder which is not an individual, there is any change in a primary annuitant (as defined in paragraph (6)(B)),

then such transfer or change shall be treated as the death of the holder.

"(B) EXCEPTION FOR CERTAIN TRANSFERS BETWEEN SPOUSES OR FORMER SPOUSES.—Subparagraph (A) shall not apply to any transfer to which section 1041(a) (relating to transfers of property between spouses or incident to divorce) applies."

(2) Paragraph (1) of section 72(s) is amended by striking out "the holder of such contract" each place it appears and inserting in lieu thereof "any holder of such contract".

(3) The amendments made by this subsection shall apply to contracts issued after the date which is 6 months after the date of the enactment of this Act in taxable years ending after such date.

(c) CLARIFICATION OF EXCEPTION FOR DISTRIBUTION AFTER DEATH.—Subparagraph (B) of section 72(q)(2) (relating to 5-percent penalty for premature distributions from annuity contracts) is amended to read as follows:

"(B) made on or after the death of the holder (or, where the holder is not an individual, the death of the primary annuitant (as defined in subsection (s)(6)(B))),".

(d) EXCEPTION FOR ANNUITIES WHICH ARE QUALIFIED FUNDING ASSETS.—Paragraph (2) of section 72(q) (relating to 5-percent penalty for premature distributions from annuity contracts) is amended by striking out "or" at the end of subparagraph (E), by striking out the period at the end of subparagraph (F) and inserting in lieu thereof ", or", and by adding at the end thereof the following new subparagraph:

"(G) any annuity contract which is a qualified funding asset (as defined in section 130(d))."

SEC. 1527. AMENDMENTS RELATED TO SECTION 223 OF THE ACT.

(a) DETERMINATION OF COSTS IN THE CASE OF DISCRIMINATORY PLANS.—

(1) IN GENERAL.—Subparagraph (B) of section 79(d)(1) (relating to nondiscrimination requirements) is amended to read as follows:

"(B) the cost of group-term life insurance on the life of any key employee shall be the greater of—

"(i) such cost determined without regard to subsection (c), or

"(ii) such cost determined with regard to subsection (c)."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years ending after the date of the enactment of this Act.

(b) CLARIFICATION OF EFFECTIVE DATE.—

(1) Subparagraph (A) of section 223(d)(2) of the Tax Reform Act of 1984 (relating to treatment of former employees in case of existing group-term insurance plans) is amended by striking out the material following clause (ii) and inserting in lieu thereof the following:

"but only with respect to an individual who attained age 55 on or before January 1, 1984, and was employed by such employer (or a predecessor employer) at any time during 1983. Such amendments also shall not apply to any employee who retired from employment on or before January 1, 1984, and who, when he retired, was covered by the plan (or a predecessor plan)."

(2) Subparagraph (C) of section 223(d)(2) of the Tax Reform Act of 1984 is amended by striking out "after December 31, 1986,".

(c) DEFINITION OF KEY EMPLOYEE.—Paragraph (6) of section 79(d) (defining key employee) is amended—

(1) by striking out all that follows "section 416(i)" and inserting in lieu thereof a period, and

(2) by adding at the end thereof the following new sentence: "Such term also includes any retired employee if such employee when he retired was a key employee."

(d) SEPARATE TREATMENT OF FORMER EMPLOYEES.—Subsection (d) of section 79 (relating to nondiscrimination requirements) is amended by adding at the end thereof the following new paragraph:

"(8) TREATMENT OF FORMER EMPLOYEES.—To the extent provided in regulations, this subsection shall be applied separately with respect to former employees."

(e) COORDINATION WITH SECTION 83.—Paragraph (5) of section 83(e) is amended by striking out "the cost of".

SEC. 1528. AMENDMENT RELATED TO SECTION 224 OF THE ACT.

Paragraph (1) of section 1035(b) (defining endowment contract) is amended by striking out "subject to tax under subchapter L".

SEC. 1529. WAIVER OF INTEREST ON CERTAIN UNDERPAYMENTS OF TAX.

No interest shall be payable for any period before July 19, 1984, on any underpayment of a tax imposed by the Internal Revenue Code of 1954, to the extent such underpayment was created or increased by any provision of subtitle A of title II of the Tax Reform Act of 1984 (relating to taxation of life insurance companies).

CHAPTER 3—AMENDMENTS RELATED TO TITLE III OF THE ACT

SEC. 1531. AMENDMENT RELATED TO SECTION 301 OF THE ACT.

Clause (iv) of section 170(b)(1)(C) (defining capital gain property) is amended by striking out "this subparagraph" and inserting in lieu thereof "this paragraph".

SEC. 1532. AMENDMENT RELATED TO SECTION 303 OF THE ACT.

Paragraph (2) of section 4940(e) (relating to requirements) is amended by striking out subparagraph (B) and the material following such subparagraph and inserting in lieu thereof the following:

"(B) such private foundation was not liable for tax under section 4942 with respect to any year in the base period."

SEC. 1533. AMENDMENT RELATED TO SECTION 311 OF THE ACT.

Subparagraph (A) of section 311(a)(3) of the Tax Reform Act of 1984 is amended by striking out "a State law" and inserting in lieu thereof "a State law (originally enacted on April 22, 1977)".

CHAPTER 4—AMENDMENTS RELATED TO TITLE IV OF THE ACT

SEC. 1541. AMENDMENT RELATED TO SECTION 411 OF THE ACT.

Section 6654 (relating to failure by individual to pay estimated income tax) is amended by redesignating subsections (j), (k), and (l) as subsections (k), (l), and (m), respectively, and by inserting after subsection (i) the following new subsection:

"(j) SPECIAL RULES FOR NONRESIDENT ALIENS.—In the case of a nonresident alien described in section 6072(c):

"(1) PAYABLE IN 3 INSTALLMENTS.—There shall be 3 required installments for the taxable year.

"(2) TIME FOR PAYMENT OF INSTALLMENTS.—The due dates for required installments under this subsection shall be determined under the following table:

"In the case of the following required Installments:	the due date is:
1st	June 15
2nd	September 15
3rd	January 15 of the following taxable year.

"(3) AMOUNT OF REQUIRED INSTALLMENTS.—

"(A) FIRST REQUIRED INSTALLMENT.—In the case of the first required installment, subsection (d) shall be applied by substituting '50 percent' for '25 percent' in subsection (d)(1)(A).

"(B) DETERMINATION OF APPLICABLE PERCENTAGE.—The applicable percentage for purposes of subsection (d)(2) shall be determined under the following table:

"In the case of the following required Installments:	The applicable percentage is:
1st	40
2nd	60
3rd	80."

SEC. 1542. AMENDMENTS RELATED TO SECTION 421 OF THE ACT.

(a) COORDINATION WITH SECTION 1041.—Section 267 (relating to losses, expenses, and interest with respect to transactions between related taxpayers) is amended by adding at the end thereof the following new subsection:

"(g) COORDINATION WITH SECTION 1041.—Subsection (a)(1) shall not apply to any transfer described in section 1041(a) (relating to transfers of property between spouses or incident to divorce)."

(b) TREATMENT OF TRANSFERS IN TRUST WHERE LIABILITY EXCEEDS BASIS.—Section 1041 (relating to transfers of property between spouses or incident to divorce) is amended by adding at the end thereof the following new subsection:

"(e) TRANSFERS IN TRUST WHERE LIABILITY EXCEEDS BASIS.—Subsection (a) shall not apply to the transfer of property in trust to the extent that—

"(1) the sum of the amount of the liabilities assumed, plus the amount of the liabilities to which the property is subject, exceeds

"(2) the total of the adjusted basis of the property transferred.

Proper adjustment shall be made under subsection (b) in the basis of the transferee in such property to take into account gain recognized by reason of the preceding sentence."

(c) Treatment of Certain Transfers in Trust.—Subsection (g) of section 453B (relating to transfers between spouse, or incident to divorce) is amended by striking out "section 1041" and inserting in lieu thereof "section 1041 (other than a transfer in trust)".

(d) Clerical Amendment.—Paragraph (17) of section 7701(a) (defining husband and wife as including former husband and wife) is amended by striking out "and 682" and inserting in lieu thereof ", 682, and 2516".

SEC. 1543. AMENDMENTS RELATED TO SECTION 422 OF THE ACT.

(a) Cross Reference.—Section 71 (relating to alimony and separate maintenance payments) is amended by adding at the end thereof the following new subsection:

"(g) Cross References.—

"(1) For deduction of alimony or separate maintenance payments, see section 215.

"(2) For taxable status of income of an estate or trust in the case of divorce, etc., see section 682."

(b) Temporary Support Orders Not Required To Specify Absence of Liability To Make Payments After Death.—Subparagraph (D) of section 71(b)(1) (defining alimony or separate maintenance payments) is amended by striking out "(and" and inserting in lieu thereof "(and, except in the case of a decree described in paragraph (2)(C),".

(c) Clerical Amendment.—Subparagraph (B) of section 71(c)(2) (relating to treatment of certain reductions related to contingency involving child) is amended by striking out "specified in paragraph (1)" and inserting in lieu thereof "specified in subparagraph (A)".

SEC. 1544. AMENDMENTS RELATED TO SECTION 431 OF THE ACT.

(a) Definition of Related Person.—Clause (v) of section 46(c)(8)(D) is amended by striking out "clause (i)" and inserting in lieu thereof "this subparagraph".

(b) Clarification of Recapture.—

(1) Paragraph (1) of section 47(d) (relating to increases in nonqualified nonrecourse financing) is amended—

(A) by striking out "reducing the qualified investment" and inserting in lieu thereof "reducing the credit base (as defined in section 48(c)(8)(C))", and

(B) by adding at the end thereof the following new sentence: "For purposes of determining the amount of credit subject to the early disposition or cessation rules of subsection (a), the net increase in the amount of the nonqualified nonresource financing with respect to the property shall be treated as reducing the property's credit base (and correspondingly reducing the qualified investment in the property) in the year in which the property was first placed in service."

(2) Subparagraph (F) of section 47(d)(3) is hereby repealed.

(3) Subparagraph (A) of section 46(c)(9) (relating to subsequent decreases in nonqualified nonrecourse financing with respect to property) is amended by striking out "additional qualified investment in" and inserting in lieu thereof "an increase in the credit base for".

(4) Clause (i) of section 47(d)(3)(E) is amended by inserting before the semicolon at the end thereof the following: "reduced by the sum of the credit recapture amounts with respect to such property for all preceding taxable years".

(5) Clause (i) of section 46(c)(9)(C) is amended by striking out "any increase in a taxpayer's qualified investment" and all that follows down through the period at the end thereof and inserting in lieu thereof the following: "any increase in a taxpayer's credit base for any property by reason of this paragraph shall be taken into account as if it were property placed in service by the taxpayer in the taxable year in which the property referred to in subparagraph (A) was first placed in service."

SEC. 1545. AMENDMENT RELATED TO SECTION 452 OF THE ACT.

Section 456 of the Tax Reform Act of 1984 is amended by adding at the end thereof the following new subsection:

"(d) Section 452.—The amendment made by section 452 shall apply to products manufactured or produced after October 31, 1984."

SEC. 1546. AMENDMENT RELATED TO SECTION 461 OF THE ACT.

(a) In General.—Section 7463 (relating to disputes involving $10,000 or less) is amended by adding at the end thereof the following new subsection:

"(g) Representation of Taxpayer.—In any case in which the proceedings are conducted under this section, any person who is—

"(1) a certified public accountant, or

"(2) an enrolled agent authorized to practice before the Internal Revenue Service,

shall be allowed to represent the taxpayer. Nothing in this subsection shall prevent the Tax Court from extending its rules of practice relating to suspension or disqualification to persons referred to in paragraph (1) or (2)."

(b) Effective Date.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 1547. AMENDMENTS RELATED TO SECTION 473 OF THE ACT.

Subsection (d) of section 39 (relating to transitional rules) is amended—

(1) by striking out "or 44G" in paragraph (1)(A) and inserting in lieu thereof "or 44G (as in effect before the enactment of the Tax Reform Act of 1984)", and

(2) by striking out "as so defined in section 25(b)" in paragraph (2)(B) and inserting in lieu thereof "as defined in section 26(b)".

SEC. 1548. AMENDMENTS RELATED TO SECTION 474 OF THE ACT.

(a) Minimum Tax Amendments.—

(1) Subparagraph (A) of section 55(c)(3) (relating to carryover and carryback of certain credits) is amended by striking out "of such limitation" and inserting in lieu thereof "of such credit allowable".

(2) Effective with respect to taxable years beginning after December 31, 1982, clause (i) of section 55(c)(2)(E) (relating to special rule for applying section 904(c)) is amended to read as follows:

"(i) the limitation of section 904(a) shall be deemed to be the amount of foreign tax credit allowable under section 27(a) in computing the regular tax for the taxable year increased by the amount of the limitation determined under subparagraph (C), and".

(b) Clerical Amendments.—

(1) The clause heading for clause (iii) of section 30(b)(2)(D) is amended by striking out "NEW JOBS OR WIN CREDIT" and inserting in lieu thereof "TARGETED JOBS CREDIT".

(2) Paragraph (1) of section 86(f) is amended by striking out "section 37(c)(3)(A)" and inserting in lieu thereof "section 22(c)(3)(A)".

(3) Subparagraph (C) of section 151(e)(5) is amended by striking out "section 37(e)" and inserting in lieu thereof "section 22(e)".

(4) Clause (i) of section 415(c)(3)(C) is amended by striking out "section 37(e)(3)" and inserting in lieu thereof "section 22(e)(3)".

(5) Paragraph (9) of section 422A(c) is amended by striking out "section 37(e)(3)" and inserting in lieu thereof "section 22(e)(3)".

(6) Paragraph (5) of section 48(l) is amended—

(A) by striking out "section 44C(c)" and inserting in lieu thereof "section 23(c)", and

(B) by striking out "section 44C(c)(4)(A)(viii)" and inserting in lieu thereof "section 23(c)(4)(A)(viii)".

(7) Subparagraph (E) of section 108(b)(2) is amended by striking out "section 33" and inserting in lieu thereof "section 27".

(8) Subsection (b) of section 280C is amended—

(A) by striking out "section 29" each place it appears and inserting in lieu thereof "section 28", and

(B) by striking out "section 29(b)" and inserting in lieu thereof "section 28(b)".

(9) Section 6699 is amended—

(A) by striking out "section 44G" each place it appears in subsections (a) and (c)(2)(B) and inserting in lieu thereof "section 41", and

(B) by striking out "section 44G(c)(1)(B)" in subsection (a)(4) and inserting in lieu thereof "section 41(c)(1)(B)".

(10) Subsection (a) of section 6411 is amended by striking out "or unused business credit" in the second sentence thereof and inserting in lieu thereof "unused research credit, or unused business credit".

(11) Subparagraph (A) of section 46(b)(2) is amended by striking out "48(l)(3)(A)(vii)" in the table contained in such subparagraph and inserting in lieu thereof "48(l)(3)(A)(viii)".

(12) Paragraph (1) of section 163(b) of the Tax Reform Act of 1984 is amended by inserting "(as amended by sections 211, 314, and 474 of this Act)" after "Section 6501".

(13) Section 6501 is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

"(n) Deficiencies Attributable to Election of Certain Credits.—The period for assessing a deficiency attributable to any election under section 40(f) or 51(j) (or any revocation thereof) shall not expire before the date 1 year after the date on which the Secretary is notified of such election (or revocation)."

(14) Subsection (k) of section 6501 is amended by striking out "an investment credit carryback, or a work incentive program carryback, or a new employee credit carryback" and inserting in lieu thereof "or a credit carryback (as defined in section 6511(d)(4)(C))".

(15) Subsection (h) of section 6511 (relating to limitations on credit or refund) is amended—

(A) by striking out "section 6501(q)(1)(B)" in paragraph (1) and inserting in lieu thereof "section 6501(m)(1)(B)", and

(B) by striking out "section 6501(q)(2)(B)" in paragraph (2) and inserting in lieu thereof "section 6501(m)(2)(B)".

(16) Paragraph (1) of section 665(d) is amended by striking out "subpart A of part IV" and inserting in lieu thereof "part IV".

SEC. 1549. AMENDMENTS RELATED TO SECTION 491 OF THE ACT.

(a) Paragraph (9) of section 46(f) (relating to special rule for additional credit) is hereby repealed.

(b) Subparagraph (A) of section 401(c)(2) (defining earned income) is amended by striking out "sections 404 and 405(c)" and inserting in lieu thereof "section 404".

(c) Subparagraph (D) of section 404(a)(8) is amended by striking out "the deductions allowed by this section and section 405(c)" and inserting in lieu thereof "the deduction allowed by this section".

(d) The second sentence of section 2039(e) is amended by striking out "or a bond described in paragraph (3)".

(e)(1) Section 6704 is amended—

(A) by striking out "section 6047(e)" each place it appears in subsection (a) and inserting in lieu thereof "section 6047(d)", and

(B) by striking out "SECTION 6047(e)" in the section heading and inserting in lieu thereof "SECTION 6047(d)".

(2) Subsection (e) of section 6047 is amended by adding at the end thereof the following new paragraph:

"(3) For provisions relating to penalty for failure to comply with the provisions of subsection (d), see section 6704."

(3) The table of sections for subchapter B of chapter 68 is amended by striking out "section 6047(e)" in the item relating to section 6704 and inserting in lieu thereof "section 6047(d)".

(f) Subsection (b) of section 4973 (defining excess contributions) is amended—

(1) by striking out ", individual retirement annuities, or bonds" in the material preceding paragraph (1) and inserting in lieu thereof "or individual retirement annuities",

(2) by striking out "or bonds" in paragraph (1)(A) thereof, and

(3) by striking out "or bonds" in paragraph (2)(C) thereof.

CHAPTER 5—AMENDMENTS RELATED TO TITLE V OF THE ACT

SEC. 1551. AMENDMENTS RELATED TO WELFARE BENEFIT PLAN PROVISIONS.

(a) AMENDMENTS RELATED TO SECTION 511 OF THE ACT.—

(1) TREATMENT OF PLANS FOR INDEPENDENT CONTRACTORS.—Paragraph (1) of section 419(g) (relating to extension to plans for independent contractors) is amended by striking out "such a plan" and inserting in lieu thereof "such a relationship".

(2) AMENDMENTS TO SECTION 419A(d).—

(A) COORDINATION WITH SECTION 415.—Paragraph (2) of section 419A(d) (relating to coordination with section 415) is amended by adding at the end thereof the following new sentence: "Subparagraph (B) of section 415(c)(1) shall not apply to any amount treated as an annual addition under the preceding sentence."

(B) SEPARATE ACCOUNT REQUIREMENTS APPLY ONLY WHERE THERE IS PRE-FUNDING.—Paragraph (1) of section 419A(d) is amended by adding at the end thereof the following new sentence:

"The requirements of this paragraph shall apply to the first taxable year for which a reserve is taken into account under subsection (c)(2) and to all subsequent taxable years."

(3) CLARIFICATION OF SECTION 419A(e).—

(A) Subsection (e) of section 419A is amended to read as follows:

"(e) SPECIAL LIMITATIONS ON RESERVES FOR MEDICAL BENEFITS OR LIFE INSURANCE BENEFITS PROVIDED TO RETIRED EMPLOYEES.—

"(1) RESERVE MUST BE NONDISCRIMINATORY.—No reserve may be taken into account under subsection (c)(2) for post-retirement medical benefits or life insurance benefits to be provided to covered employees unless the plan meets the requirements of section 505(b) with respect to such benefits (whether or not such requirements apply to such plan). The preceding sentence shall not apply to any plan maintained pursuant to an agreement between employee representatives and 1 or more employers if the Secretary finds that such agreement is a collective bargaining agreement and that post-retirement medical benefits or life insurance benefits were the subject of good faith bargaining between such employee representatives and such employer or employers.

"(2) LIMITATION ON AMOUNT OF LIFE INSURANCE BENEFITS.—Life insurance benefits shall not be taken into account under subsection (c)(2) to the extent the aggregate amount of such benefits to be provided with respect to the employee exceeds $50,000."

(B) Subsection (e) of section 419A of the Internal Revenue Code of 1954 (as amended by subparagraph (A)) shall not apply to any group-term life insurance to the extent that the amendments made by section 223(a) of the Tax Reform Act of 1984 do not apply to such insurance by reason of paragraph (2) of section 223(d) of such Act.

(4) TREATMENT OF COLLECTIVELY BARGAINED PLANS.—Paragraph (5) of section 419A(f) (relating to higher limit in case of collectively bargained plans) is amended by striking out "welfare benefit fund established under" and inserting in lieu thereof "welfare benefit fund maintained pursuant to".

(5) CLARIFICATION OF ACTUARIAL CERTIFICATION REQUIREMENT.—Subparagraph (A) of section 419A(c)(5) (relating to special limitation where no actuarial certification) is amended by striking out "under paragraph (1)" and inserting in lieu thereof "under this subsection".

(6) AGGREGATION RULES.—Paragraph (1) of section 419A(h) (relating to aggregation rules) is amended to read as follows:

"(1) AGGREGATION OF FUNDS.—

"(A) MANDATORY AGGREGATION.—For purposes of subsections (c)(4), (d)(2), and (e)(2), all welfare benefit funds of an employer shall be treated as 1 fund.

"(B) PERMISSIVE AGGREGATION FOR PURPOSES NOT SPECIFIED IN SUBPARAGRAPH (A).—For purposes of this section (other than the provisions specified in subparagraph (A)), at the election of the employer, 2 or more welfare benefit funds of such employer may be treated as 1 fund."

(7) CLARIFICATION OF ADJUSTMENTS FOR EXISTING RESERVES.—Paragraph (7) of section 419A(f) (relating to adjustments for existing excess reserves) is amended by striking out subparagraph (C) and inserting in lieu thereof the following new subparagraphs:

"(C) EXISTING EXCESS RESERVE.—For purposes of computing the increase under subparagraph (A) for any taxable year, the term 'existing excess reserve' means the excess (if any) of—

"(i) the amount of assets set aside at the close of the first taxable year ending after July 18, 1984, for purposes described in subsection (a), over

"(ii) the account limit determined under this section (without regard to this paragraph) for the taxable year for which such increase is being computed.

"(D) FUNDS TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply only to a welfare benefit fund which, as of July 18, 1984, had assets set aside for purposes described in subsection (a)."

(8) CLARIFICATION OF FUND.—Subsection (e) of section 419 (defining welfare benefit funds) is amended by adding at the end thereof the following new paragraph:

"(4) TREATMENT OF AMOUNTS HELD PURSUANT TO CERTAIN INSURANCE CONTRACTS.—

"(A) IN GENERAL.—Notwithstanding paragraph (3)(C), the term 'fund' shall not include amounts held by an insurance company pursuant to an insurance contract if—

"(i) such contract is a life insurance contract described in section 264(a)(1), or

"(ii) such contract is a qualified nonguaranteed contract.

"(B) QUALIFIED NONGUARANTEED CONTRACT.—

"(i) IN GENERAL.—For purposes of this paragraph, the term 'qualified nonguaranteed contract' means any insurance contract if—

"(I) there is no guarantee of a renewal of such contract, and

"(II) other than insurance protection, the only payments to which the employer or employees are entitled are experience rated refunds or policy dividends which are not guaranteed and which are determined by factors other than the amount of welfare benefits paid to (or on behalf of) the employees of the employer or their beneficiaries.

"(ii) LIMITATION.—In the case of any qualified nonguaranteed contract, subparagraph (A) shall not apply unless the amount of any experience rated refund or policy dividend payable to an employer with respect to a policy year is treated by the employer as received or accured in the taxable year in which the policy year ends."

(9) CLARIFICATION OF TAXES PAID BY EMPLOYER ON INCOME OF CERTAIN WELFARE BENEFIT FUNDS.—Subsection (g) of section 419A (relating to employer taxed on income of welfare benefit funds in certain cases) is amended by adding at the end thereof the following new paragraph:

"(3) COORDINATION WITH SECTION 419.—If any amount is included in the gross income of an employer for any taxable year under paragraph (1) with respect to any welfare benefit fund—

"(A) the amount of the tax imposed by this chapter which is attributable to the amount so included shall be treated as a contribution paid to such welfare benefit fund on the last day of such taxable year, and

"(B) the tax so attributable shall be treated as imposed on the fund for purposes of section 419(c)(4)(A)."

(10) AMENDMENTS TO TAX ON UNRELATED BUSINESS INCOME.—

(A) Clause (i) of section 512(a)(3)(E) is amended by striking out "determined under section 419A(c)" and inserting in lieu thereof "determined under section 419A (without regard to subsection (f)(6) thereof)".

(B) Subparagraph (E) of section 512(a)(3) is amended by striking out clause (ii) and by redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively.

(C) Clause (ii) of section 512(a)(3)(E) (as redesignated by subparagraph (B)) is amended—

(i) by striking out "a existing reserve" in subclause (I) and inserting in lieu thereof "an existing reserve",

(ii) by striking out "reserve or postretirement medical or life insurance benefit" in subclause (II) and inserting in lieu thereof "reserve for post-retirement medical or life insurance benefits", and

(iii) by striking out "as of the close of the last plan year ending before the date of the enactment of the Tax Reform Act of 1984" in subclause (II) and insert in lieu thereof "on July 18, 1984,".

(D) Clause (iii) of section 512(a)(3)(E) (as redesignated by subparagraph (B)) is amended by striking out "paragraph shall not" and inserting in lieu thereof "subparagraph shall not".

(11) AMENDMENTS RELATED TO TAX ON CERTAIN FUNDED WELFARE BENEFIT PLANS.—Subsection (b) of section 4976 (defining disqualified benefit) is amended to read as follows:

"(b) DISQUALIFIED BENEFIT.—For purposes of subsection (a)—

"(1) IN GENERAL.—The term 'disqualified benefit' means—

"(A) any post-retirement medical benefit or life insurance benefit provided with respect to a key employee if a separate account is required to be established for such employee under section 419A(d) and such payment is not from such account,

"(B) any post-retirement medical benefit or life insurance benefit provided with respect to an individual in whose favor discrimination is prohibited unless the plan meets the requirements of section 505(b) with respect to such benefit (whether or not such requirements apply to such plan), and

"(C) any portion of a welfare benefit fund reverting to the benefit of the employer.

"(2) EXCEPTION FOR COLLECTIVE BARGAINING PLANS.—Paragraph (1)(B) shall not apply to any plan maintained pursuant to an agreement between employee representatives and 1 or more employers if the Secretary finds that such agreement is a collective bargaining agreement and that the benefits referred to in paragraph (1)(B) were the subject of good faith bargaining between such employee representatives and such employer or employers.

"(3) EXCEPTION FOR NONDEDUCTIBLE CONTRIBUTIONS.—Paragraph (1)(C) shall not apply to any amount attributable to a contribution to the fund which is not allowable as a deduction under section 419 for the taxable year or any prior taxable year (and such contribution shall not be included in any carryover under section 419(d)).

"(4) EXCEPTION FOR CERTAIN AMOUNTS CHARGED AGAINST EXISTING RESERVE.—Subparagraphs (A) and (B) of paragraph (1) shall not apply to post-retirement benefits charged against an existing reserve for post-retirement medical or life insurance benefits (as defined in section 512(a)(3)(E))."

(12) CLARIFICATION OF EFFECTIVE DATE.—Subsection (e) of section 511 of the Tax Reform Act of 1984 is amended by adding at the end thereof the following new paragraphs:

"(6) AMENDMENTS RELATED TO TAX ON UNRELATED BUSINESS INCOME.—The amendments made by subsection (b) shall apply with respect to taxable years ending after December 31, 1985. For purposes of section 15 of the Internal Revenue Code of 1954, such amendments shall be treated as a change in the rate of a tax imposed by chapter 1 of such Code.

"(7) AMENDMENTS RELATED TO EXCISE TAXES ON CERTAIN WELFARE BENEFIT PLANS.—The amendments made by subsection (c) shall apply to benefits provided after December 31, 1985."

(13) CLERICAL AMENDMENT.—Paragraph (2) of section 511(e) of the Tax Reform Act of 1984 is amended by striking out "and section 514".

(b) AMENDMENTS RELATED TO SECTION 512 OF THE ACT.—

(1) TRANSITIONAL RULE FOR CERTAIN TAXPAYERS WITH FULLY VESTED VACATION PAY PLANS.—

(A) IN GENERAL.—In the case of any taxpayer—

(i) who maintained a fully vested vacation pay plan where payments are required within 1 year after the accrual of the vacation pay, and

(ii) who makes an election under section 463 of the Internal Revenue Code of 1954 for such taxpayer's 1st taxable year ending after the date of the enactment of the Tax Reform Act of 1984,

in lieu of establishing a suspense account under such section 463, such election shall be treated as a change in the taxpayer's method of accounting and the adjustments required as a result of such change shall be taken into account under section 481 of such Code.

(B) EXTENSION OF TIME FOR MAKING ELECTION.—In the case of any taxpayer who meets the requirements of subparagraph (A)(i), the time for making an election under section 463 of such Code for such taxpayer's 1st taxable year ending after the date of the enactment of the Tax Reform Act of 1984 shall not expire before the date 6 months after the date of the enactment of this Act.

(2) CLERICAL AMENDMENTS.—

(A) Clause (ii) of section 404(b)(2)(B) (relating to exceptions for certain benefits) is amended by striking out "to any benefit" and inserting in lieu thereof "any benefit".

(B) Subsection (b) of section 404 is amended—

(i) by striking out "UNFUNDED" in the subsection heading and inserting in lieu thereof "CERTAIN", and

(ii) by striking out "UNFUNDED" in the heading of paragraph (2) and inserting in lieu thereof "CERTAIN".

(c) AMENDMENTS RELATED TO SECTION 513 OF THE ACT.—

(1) Paragraph (1) of section 505(a) (relating to certain requirements must be met in case of organizations described in paragraph (9) or (20) of section 501(c)) is amended by striking out "of an employer".

(2) Paragraph (1) of section 505(b) (relating to nondiscrimination requirements) is amended by striking out "as provided in paragraph (2)" and inserting in lieu thereof "as otherwise provided in this subsection".

(3) Subparagraph (B) of section 505(b)(1) is amended by striking out "highly compensated employees" and inserting in lieu thereof "highly compensated individuals".

(4) Paragraph (2) of section 505(a) (relating to exception for collective bargaining agreements) is amended to read as follows:

"(2) EXCEPTION FOR COLLECTIVE BARGAINING AGREEMENTS.—Paragraph (1) shall not apply to any organization which is part of a plan maintained pursuant to an agreement between employee representatives and 1 or more employers if the Secretary finds that such agreement is a collective bargaining agreement and that such plan was the subject of good faith bargaining between such employee representatives and such employer or employers."

SEC. 1552. AMENDMENTS RELATED TO PENSION PLAN PROVISIONS.

(a) AMENDMENTS RELATED TO SECTION 521 OF THE ACT.—

(1) CLARIFICATION THAT DISTRIBUTION FROM INDIVIDUAL RETIREMENT ACCOUNTS OR ANNUITIES MUST BEGIN AT 70½.—

(A) Paragraph (6) of section 408(a) (defining individual retirement account) is amended by striking out "(relating to required distributions)" and inserting in lieu thereof "(without regard to subparagraph (C)(ii) thereof) and the incidental death benefit requirements of section 401(a)".

(B) Paragraph (3) of section 408(b) (defining individual retirement annuity) is amended by striking out "(relating to required distributions)" and inserting in lieu thereof "(without regard to subparagraph (C)(ii) thereof) and the incidental death benefit requirements of section 401(a)".

(2) EXEMPTION OF PRE-1985 ACCUMULATIONS FROM PENALTY ON PREMATURE DISTRIBUTIONS.—

(A) Subparagraph (A) of section 72(m)(5) (relating to penalties applicable to certain amounts received by 5-percent owners) is amended to read as follows:

"(A) This subparagraph shall apply—

"(i) to amounts which—

"(I) are received from a qualified trust described in section 401(a) or under a plan described in section 403(a), and

"(II) are received by a 5-percent owner before such owner attains the age of 59½ years, for any reason other than such owner becoming disabled (within the meaning of paragraph (7) of this section), and

"(ii) to amounts which are received from a qualified trust described in section 401(a) or under a plan described in section 403(a) at any time by a 5-percent owner, or by the successor of such owner, but only to the extent that such amounts are determined (under regulations prescribed by the Secretary) to exceed the benefits provided for such individual under the plan formula.

Clause (i) shall not apply to any amount received by an individual in his capacity as a policyholder of an annuity, endowment, or life insurance contract which is in the nature of a dividend or similar distribution and clause (i) shall not apply to amounts attributable to contributions paid before January 1, 1985."

(B) Subparagraph (C) of section 72(m)(5) is amended to read as follows:

"(C) For purposes of this paragraph, the term '5-percent owner' means any individual who, at any time during the 5 plan years preceding the plan year ending in the taxable year in which the amount is received, is a 5-percent owner (as defined in section 416(i)(1)(B))."

(C) Paragraph (5) of section 72(m) is amended by striking out "OWNER-EMPLOYEES" in the paragraph heading and inserting in lieu thereof "5-PERCENT OWNERS".

(3) EXTENSION OF DISTRIBUTION REQUIREMENTS TO SECTION 403(b) ANNUITIES.—

(A) Subsection (b) of section 403 (relating to taxability of beneficiary under annuity purchased by section 501(c)(3) organization or public school) is amended by adding at the end thereof the following new paragraph:

"(10) DISTRIBUTION REQUIREMENTS.—Under regulations prescribed by the Secretary, this subsection shall not apply to any annuity contract (or to any custodial account described in paragraph (7) or retirement income account described in paragraph (9)) unless requirements similar to the requirements of section 401(a)(9) are met (and requirements similar to the incidental death benefit requirements of section 401(a) are met) with respect to such annuity contract (or custodial account or retirement income account)."

(B) Paragraph (7) of section 403(b) is amended by striking out subparagraph (D).

(C) The amendments made by this paragraph shall apply to benefits accruing after

December 31, 1985, in taxable years ending after such date.

(4) Clarification of required beginning date.—

(A) Subparagraph (C) of section 401(a)(9) (defining required beginning date) is amended by striking out the last sentence and inserting in lieu thereof the following:

"Clause (ii) shall not apply in the case of an employee who is a 5-percent owner (as defined in section 416(i)(1)(B)) at any time during the 5-plan-year period ending in the calendar year in which the employee attains age 70½. If the employee becomes a 5-percent owner during any subsequent plan year, the required beginning date shall be April 1 of the calendar year following the calendar year in which such subsequent plan year ends."

(B) Subsection (d) of section 409 (relating to employer securities must stay in the plan) is amended by adding at the end thereof the following new sentence:

"This subsection shall not apply to any distribution required under section 401(a)(9)."

(5) Required distributions not eligible for rollover treatment.—

(A) Paragraph (5) of section 402(a) (relating to rollover amounts) is amended by adding at the end thereof the following new subparagraph:

"(G) Required distributions not eligible for rollover treatment.—Subparagraph (A) shall not apply to any distribution to the extent such distribution is required under section 401(a)(9)."

(B)(i) Subparagraph (B) of section 403(a)(4) is amended by striking out "through (F)" and inserting in lieu thereof "through (G)".

(ii) Paragraph (8) of section 403(b) is amended by adding at the end thereof the following new subparagraph:

"(D) Required distributions not eligible for rollover treatment.—Subparagraph (A) shall not apply to any distribution to the extent such distribution is required under paragraph (10)."

(C) Paragraph (3) of section 408(d) (relating to rollover contributions) is amended by adding at the end thereof the following new subparagraph:

"(E) Denial of rollover treatment for required distributions.—This subparagraph shall not apply to any amount to the extent such amount is required to be distributed under subsection (a)(6) or (b)(3)."

(6) Treatment of distributions required under incidental death benefit rules.—Paragraph (9) of section 401(a) (relating to required distributions) is amended by adding at the end thereof the following new subparagraph:

"(G) Treatment of incidental death benefit distributions.—For purposes of this title, any distribution required under the incidental death benefit requirements of this subsection shall be treated as a distribution required under this paragraph."

(7) Clerical amendments.—

(A) Paragraph (1) of section 408(c) is amended by striking out "paragraphs (1) through (7)" and inserting in lieu thereof "paragraphs (1) through (6)".

(B) Subsection (a) of section 4974 (relating to excise tax on certain accumulations in individual retirement accounts or annuities) is amended by striking out "section 408(a) (6) or (7), or 408(b) (3) or (4)" and inserting in lieu thereof "section 408(a)(6) or 408(b)(3)".

(C) Subsection (b) of section 4974 is amended by striking out "section 408(a) (6) or (7) or 408(b) (3) or (4)" and inserting in lieu thereof "section 408(a)(6) or 408(b)(3)".

(b) Amendments Related to Section 522 of the Act.—

(1) Clause (v) of section 402(a)(5)(E) (defining partial distribution) is amended by striking out "of any portion of" and inserting in lieu thereof "of all or any portion of".

(2) Clause (i) of section 402(a)(5)(D) (relating to special rules for partial distributions) is amended by adding at the end thereof the following new sentence:

"For purposes of subclause (I), the balance to the credit of the employee shall not include any accumulated deductible employee contributions (within the meaning of section 72(o)(5))."

(3)(A) Section 402 is amended by adding at the end thereof the following new subsection:

"(g) Treatment of Self-Employed Individuals.—For purposes of this section, except as otherwise provided in subparagraph (A) of subsection (e)(4), the term 'employee' includes a self-employed individual (as defined in section 401(c)(1)(B)) and the employer of such individual shall be the person treated as his employer under section 401(c)(4)."

(B) Paragraph (4) of section 402(e) is amended by striking out subparagraph (F).

(4) Paragraph (7) of section 402(a) (relating to rollover where spouse received distributions after death of employee) is amended by striking out "the spouse were the employee" and inserting in lieu thereof "the spouse were the employee; except that a trust or plan described in subclause (III) or (IV) of paragraph (5)(E)(iv) shall not be treated as an eligible retirement plan with respect to such distribution".

(5) Clause (ii) of section 402(a)(5)(D) is amended by striking out "a plan described in subclause (IV) or (V)" and inserting in lieu thereof "a trust or plan described in subclause (III) or (IV)".

(6) Clause (i) of section 402(a)(5)(F) is amended by striking out "a transfer described in subparagraph (A)" and inserting in lieu thereof "a transfer resulting in any portion of a distribution being excluded from gross income under subparagraph (A)".

(7) Clause (v) of section 402(a)(6)(D) is amended by striking out "(7)(B)" and inserting in lieu thereof "(7)".

(8) Paragraph (20) of section 401(a) is amended by striking out "qualifying rollover distribution (determined as if section 402(a)(5)(D)(i) did not contain subclause (II) thereof) described in section 402(a)(5)(A)(i) or 403(a)(4)(A)(i)" and inserting in lieu thereof "qualified total distribution described in section 402(a)(5)(E)(i)(I)".

(9) Subsection (e) of section 522 of the Tax Reform Act of 1984 is amended by striking out "the date of the amendment" and inserting in lieu thereof "the date of the enactment".

(10) Subparagraph (C) of section 403(b)(8) is amended by striking out "(F)(i)" and inserting in lieu thereof "and (F)(i)".

(c) Amendments Related to Section 523 of the Act.—

(1) Subparagraph (B) of section 72(e)(7) (relating to plans substantially all the contributions of which are employee contributions) is amended—

(A) by striking out "any trust or contract" and inserting in lieu thereof "any plan or contract",

(B) by striking out "85 percent of" and inserting in lieu thereof "85 percent or more of", and

(C) by adding at the end thereof the following new sentence:

"For purposes of clause (ii), deductible employee contributions (as defined in subsection (o)(5)(A)) shall not be taken into account."

(2) Subparagraph (E) of section 72(q)(2) (relating to 5-percent penalty for premature distributions from annuity contracts) is amended by striking out "subsection (e)(5)(D)" and inserting in lieu thereof "subsection (e)(5)(D) (determined without regard to subsection (e)(7))".

(3) Subsection (f) of section 72 is amended—

(A) by striking out "subsection (d)(1)" and inserting in lieu thereof "subsections (d)(1) and (e)(7)", and

(B) by striking out "subsection (e)(1)(B)" and inserting in lieu thereof "subsection (e)(6)".

(4) Paragraph (2) of section 72(m) is amended—

(A) by striking out "3 years)" in subparagraph (B) and inserting in lieu thereof "3 years) and subsection (e)(7) (relating to plans where substantially all contributions are employee contributions)", and

(B) by striking out "subsection (e)(1)(B)" in subparagraph (C) and inserting in lieu thereof "subsection (e)(6)".

(5) Subsection (b) of section 402 is amended by striking out "section 72(e)(1)" and inserting in lieu thereof "section 72(e)(5)".

(d) Amendments Related to Section 524 of the Act.—

(1) Subparagraph (A) of section 416(i)(1) (defining key employee) is amended by adding at the end thereof the following new sentence: "Such term shall not include any officer or employee of an entity referred to in section 414(d) (relating to governmental plans)."

(2) Subparagraph (E) of section 416(g)(4) (relating to benefits not taken into account if employee not employed for last 5 years) is amended to read as follows:

"(E) Benefits not taken into account if employee not employed for last 5 years.—If any individual has not performed services for the employer maintaining the plan at any time during the 5-year period ending on the determination date, any accrued benefit for such individual (and the account of such individual) shall not be taken into account."

(e) Amendments Related to Section 525 of the Act.—

(1)(A) Subsection (c) of section 2039 (relating to exception of certain annuity interests created by community property laws) is hereby repealed.

(B) The amendment made by subparagraph (A) shall apply to estates of decedents dying after the date of the enactment of this Act.

(2)(A) Section 2517 (relating to certain annuities under qualified plans) is hereby repealed.

(B) The table of sections for subchapter B of chapter 12 is amended by striking out the item relating to section 2517.

(C) Subsection (e) of section 406 is amended by striking out paragraph (5).

(D) Subsection (e) of section 407 is amended by striking out paragraph (5).

(E) The amendments made by this paragraph shall apply to transfers after the date of the enactment of this Act.

(f) Amendment Related to Section 526 of the Act.—Paragraph (2) of section 526(d) of the Tax Reform Act of 1984 is amended by striking out "paragraph (6)" and inserting in lieu thereof "paragraph (7)".

(g) Amendments Related to Section 527 of the Act.—

(1) Paragraph (3) of section 401(k) (relating to application of participation and discrimination standards) is amended by adding at the end thereof the following new subparagraph:

"(C) A cash or deferred arrangement shall be treated as meeting the requirements of subsection (a)(4) with respect to contributions if the requirements of subparagraph (A)(ii) are met."

(2) Subparagraph (A) of section 401(k)(3) is amended by striking out the last sentence and inserting in lieu thereof the following: "If an employee is a participant under 2 or more cash or deferred arrangements of the employer, for purposes of determining the deferral percentage with respect to such employee, all such cash or deferred arrangements shall be treated as 1 cash or deferred arrangement."

(3) Subparagraph (C) of section 401(k)(2) is amended by striking out "are nonforfeitable" and inserting in lieu thereof "is nonforfeitable".

(h) Amendments Related to Section 528 of the Act.—

(1) Subsection (h) of section 401 (relating to medical, etc., benefits for retired employees and their spouses and dependents) is amended—

(A) by striking out "5-percent owner" each place it appears in paragraph (6) and inserting in lieu thereof "key employee", and

(B) by striking out the last sentence and inserting in lieu thereof the following:

"For purposes of paragraph (6), the term 'key employee' means any employee, who at any time during the plan year or any preceding plan year during which contributions were made on behalf of such employee, is or was a key employee as defined in section 416(i)."

(2) Paragraph (1) of section 415(l) (relating to treatment of certain medical benefits) is amended by adding at the end thereof the following new sentence: "Subparagraph (B) of subsection (c)(1) shall not apply to any amount treated as an annual addition under the preceding sentence."

(3) Subsection (l) of section 415 is amended by striking out "a defined benefit plan" each place it appears and inserting in lieu thereof "a pension or annuity plan".

SEC. 1553. AMENDMENTS RELATED TO FRINGE BENEFIT PROVISIONS.

(a) Amendments to Section 132.—

(1) Clause (ii) of section 132(f)(2)(B) (defining dependent children) is amended by striking out "are deceased" and inserting in lieu thereof "are deceased and who has not attained age 25".

(2) Subparagraph (A) of section 132(c)(3) (defining employee discount) is amended by striking out "are provided to the employee by the employer" and inserting in lieu thereof "are provided by the employer to an employee for use by such employee".

(3) Subsection (i) of section 132 (relating to customers not to include employees) is amended by striking out "subsection (c)(2)(B)" and inserting in lieu thereof "subsection (c)(2)".

(b) Amendments to Section 125.—

(1) Clarification of benefits which may be provided under cafeteria plans.—

(A) Subsections (c) and (d)(1)(B) of section 125 are each amended by striking out "statutory nontaxable benefits" each place it appears and inserting in lieu thereof "qualified benefits".

(B) Subsection (f) of section 125 is amended to read as follows:

"(f) Qualified Benefits Defined.—For purposes of this section, the term 'qualified benefit' means any benefit which, with the application of subsection (a), is not includible in the gross income of the employee by reason of an express provision of this chapter (other than section 117, 124, 127, or 132). Such term includes any group term life insurance which is includible in gross income only because it exceeds the dollar limitation of section 79 and such term includes any other benefit permitted under regulatons."

(2) Transitional rule.—Paragraph (5) of section 531(b) of the Tax Reform Act of 1984 (relating to exception for certain cafeteria plans and benefits) is amended by adding at the end thereof the following new subparagraph:

"(D) Collective bargaining agreements.—In the case of any cafeteria plan in existence on February 10, 1984, and maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers, the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof agreed to after July 18, 1984) shall be substituted for 'January 1, 1985' in subparagraph (A) and for 'July 1, 1985' in subparagraph (B). For purposes of the preceding sentence, any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section (or any requirement in the regulations under section 125 of the Internal Revenue Code of 1954 proposed on May 6, 1984) shall not be treated as a termination of such collective bargaining agreement."

(3) Special rule where contributions or reimbursements suspended.—Paragraph (5) of section 531(b) of the Tax Reform Act of 1984 is amended by adding at the end thereof the following new subparagraph:

"(E) Special rule where contributions or reimbursements suspended.—For purposes of subparagraphs (A) and (B), a plan shall not be treated as not continuing to fail to satisfy the rules referred to in such subparagraphs with respect to any benefit provided in the form of a flexible spending arrangement merely because contributions or reimbursements (or both) with respect to such plan were suspended before January 1, 1985."

(c) Amendments to Section 4977.—

(1) Paragraph (2) of section 4977(c) is amended to read as follows:

"(2) at all times on or after January 1, 1984, and before the close of the calendar year involved, substantially all of the employees of the employer were entitled to employee discounts on goods or services provided by the employer in 1 line of business,".

(2) Section 4977 (relating to tax on certain fringe benefits provided by an employer) is amended by adding at the end thereof the following new subsection:

"(f) Section To Apply Only to Employment Within the United States.—Except as otherwise provided in regulations, this section shall apply only with respect to employment within the United States."

(d) Treatment of Telephone Concession Service for Certain Retirees.—Section 559 of the Tax Reform Act of 1984 is amended by adding at the end thereof the following subsection:

"(e) Telephone Service for Pre-Divestiture Retirees.—In the case of an employee who, by reason of retirement or disability, separated before January 1, 1984, from the service of an entity subject to the modified final judgment—

"(1) all entities subject to the modified final judgment shall be treated as a single employer in the same line of business for purposes of determining whether telephone service provided to the employee is a no-additional-cost service as defined in section 132 of the Internal Revenue Code of 1954; and

"(2) payment by an entity subject to the modified final judgment of all or part of the cost of local telephone service provided to the employee by a person other than an entity subject to the modified final judgment (including rebate of the amount paid by the employee for the service and payment to the person providing the service) shall be treated as telephone service provided to the employee by such single employer for purposes of determining whether the telephone service is a no-additional-cost service as defined in section 132 of the Internal Revenue Code of 1954.

For purposes of this subsection, the term 'employee' has the meaning given to such term by section 132(f) of the Internal Revenue Code of 1954."

(e) Treatment of Certain Leased Operations of Department Stores.—For purposes of section 132(h)(2)(B) of the Internal Revenue Code of 1954, a leased section of a department store which, in connection with the offering of beautician services, makes substantial sales of beauty aids shall be treated as engaged in over-the-counter sales of property.

(f) Special Rules for Services Related to Providing Air Transportation.—Section 531 of the Tax Reform Act of 1984 is amended by redesignating subsections (g) and (h) as subsections (h) and (i), respectively, and by inserting after subsection (f) the following new subsection:

"(g) Special Rules for Certain Services Related to Air Transportation.—

"(1) If—

"(A) as of September 12, 1984, an individual was an employee (within the meaning of section 132 of the Internal Revenue Code of 1954, including subsection (f) thereof) of Pan Am World Services and was eligible for no-additional-cost services in the form of air transportation provided by Pan American Airways, and

"(B) such individual is providing services directly related to the air and space transportation services of Pan Am World Services,

then, for purposes of applying paragraph (1) of section 132(a) of the Internal Revenue Code of 1954 with respect to no-additional-cost services furnished to such individual, Pan Am World Services shall be treated as engaged in the same line of business as Pan American Airways.

"(2)(A) If—

"(i) an individual performed services for a qualified air transportation organization, and

"(ii) such services are performed primarily for persons engaged in providing air transportation and are of the kind which (if performed on September 12, 1984) would qualify such individual for no-additional-cost services in the form of air transportation,

then, with respect to such individual, such qualified air transportation organization shall be treated as engaged in the line of business of providing air transportation.

"(B) For purposes of subparagraph (A), the term 'qualified air transportation organization' means any organization—

"(i) if such organization was in existence on September 12, 1984, "(ii) if—

"(I) such organization is described in section 501(c)(6) of the Internal Revenue Code of 1954 and the membership of such organization is limited to entities engaged in the transportation by air of individuals or property for compensation or hire, or

"(II) such organization is a corporation all the stock of which is owned entirely by entities referred to in subclause (I), and

"(iii) if such organization is operated in furtherance of the activities of its members or owners."

(g) Transitional Rules for Treatment of Certain Reductions in Tuition.—

(1) In the case of a tuition reduction plan of Oberlin College the eligibility to participate in which closed before July 18, 1984, such plan shall be treated as meeting the requirements of section 117(d)(3) of the Internal Revenue Code of 1954 if—

(A) such plan met the requirements of such section on the day on which eligibility to participate in the plan was closed,

(B) at all times thereafter, the tuition reductions available under such plan are available on substantially the same terms to all employees eligible to participate in such plan, and

(C) with respect to all tuition reduction plans of Oberlin College, such plans meet the requirements of section 117(d)(3) (after application of this provision) when employees not included in the plan (who are included in a unit of employees covered by an agreement that the Secretary of the Treasury finds to be a collective bargaining agreement between employee representatives and one or more employers, if there is evidence that such benefits were the subject of good faith bargaining) are excluded from consideration.

(2) Any reduction in tuition provided with respect to a full-time course of education furnished at the graduate level before July 1, 1988, shall not be included in gross income if—

(A) such reduction would not be included in gross income under the Internal Revenue Service regulations in effect on the date of the enactment of the Tax Reform Act of 1984, and

(B) such reduction is provided with respect to a student who was accepted for admission to such course of education before July 1, 1984, and began such course of education before June 30, 1985.

SEC. 1554. AMENDMENTS RELATED TO EMPLOYEE STOCK OWNERSHIP PLANS.

(a) Amendments Related to Section 541.—

(1) Section 1042(a) (relating to nonrecognition of gain) is amended by striking out "gain (if any) on such sale" and inserting in lieu thereof "gain (if any) on such sale which would be recognized as long-term capital gain".

(2) Section 1042(b)(2) (relating to requirement that employees must own 30 percent of stock after sale) is amended by striking out "the employer securities (within the meaning of section 409(1))" and inserting in lieu thereof "all stock (other than preferred stock described in section 1504(a)(4)) of the corporation which issued the qualified securities".

(3) Paragraph (3) of section 1042(b) (relating to requirement that plan be maintained for benefit of employees) is amended to read as follows:

"(3) Plan maintained for benefit of employees.—No portion of the assets of the plan or cooperative attributable to qualified securities with respect to which an election under subsection (a)(1) was made may accrue directly or indirectly or may be allocated directly or indirectly by such cooperative, for the benefit of—

"(A) the taxpayer,

"(B) any person who bears a relationship to the taxpayer described in section 267(b), or

"(C) any other person who owns (after application of section 318(a)) more than 25 percent (by value) of—

"(i) any class of stock of the corporation which issued such qualified securities, or

"(ii) any class of the stock of any other corporation which is a member of the same controlled group of corporations (within the meaning of section 409(l)(4)) as such corporation."

(4) Section 1042(c)(1) (defining qualified securities) is amended—

(A) by striking out "securities" in subparagraph (A) and inserting in lieu thereof "stock",

(B) by inserting "and" at the end of subparagraph (A), and

(C) by striking out subparagraph (B) and redesignating subparagraph (C) as subparagraph (B).

(5)(A) Paragraph (4) of section 1042(c) (defining qualified replacement property) is amended to read as follows:

"(4) Qualified replacement property.—

"(A) In general.—The term 'qualified replacement property' means any security issued by a domestic operating corporation which—

"(i) did not, for the taxable year preceding the taxable year in which such security was purchased, have passive investment income (as defined in section 1362(d)(3)(D)) in excess of 25 percent of the gross receipts of such corporation for such preceding taxable year, and

"(ii) is not the corporation which issued the qualified securities which such security is replacing.

"(B) Operating corporation.—For purposes of this paragraph, the term 'operating corporation' means a corporation substantially all the assets of which were, at the time the security was purchased, used in the active conduct of a trade or business.

"(C) Controlling and controlled corporations treated as 1 corporation.—

"(i) In general.—For purposes of applying this paragraph, if—

"(I) the corporation issuing the security owns stock representing control of 1 or more other corporations,

"(II) 1 or more other corporations own stock representing control of the corporation issuing the security, or

"(III) both,

then all such corporations shall be treated as 1 corporation.

"(ii) Control.—For purposes of clause (i), the term 'control' has the meaning given such term by section 304(c).

"(D) Security defined.—For purposes of this paragraph, the term 'security' has the meaning given such term by section 165(g)(2), except that such term shall not include any security issued by a government or political subdivision thereof."

(B) If—

(i) before September 27, 1985, the taxpayer acquired any security (as defined in section 165(g)(2) of the Internal Revenue Code of 1954) issued by a domestic corporation or by any State or political subdivision thereof,

(ii) the taxpayer treated such security as qualified replacement property for purposes of section 1042 of such Code, and

(iii) such property does not meet the requirements of section 1042(c)(4) of such Code (as amended by subparagraph (A)),

then, with respect to so much of any gain which the taxpayer treated as not recognized under section 1042(a) by reason of the acquisition of such property, the replacement period for purposes of such section shall not expire before September 27, 1986.

(6)(A) Section 1042(c) (relating to definitions and special rules) is amended by adding at the end thereof the following new paragraph:

"(7) Section not to apply to gain of C corporation.—Subsection (a) shall not apply to any gain on the sale of any qualified securities which is includible in the gross income of any C corporation."

(B) The amendment made by subparagraph (A) shall apply to sales after March 28, 1985, except that such amendment shall not apply to sales made before July 1, 1985, if made pursuant to a binding contract in effect on March 28, 1985, and at all times thereafter.

(7) Section 1042(d) (relating to basis of qualified replacement property) is amended by adding at the end thereof the following new flush sentence:

"Any reduction in basis under this subsection shall not be taken into account for purposes of section 1278(a)(2)(A)(ii) (relating to definition of market discount)."

(8)(A) Section 1042 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) Recapture of Gain on Disposition of Qualified Replacement Property.—

"(1) In general.—If a taxpayer disposes of any qualified replacement property, then, notwithstanding any other provision of this title, gain (if any) shall be recognized to the extent of the gain which was not recognized under subsection (a) by reason of the acquisition by such taxpayer of such qualified replacement property.

"(2) Special rule for corporations controlled by the taxpayer.—If—

"(A) a corporation issuing qualified replacement property disposes of a substantial portion of its assets other than in the ordinary course of its trade or business, and

"(B) any taxpayer owning stock representing control (within the meaning of section 304(c)) of such corporation at the time of such disposition holds any qualified replacement property of such corporation at such time,

then the taxpayer shall be treated as having disposed of such qualified replacement property at such time."

(B) The amendment made by subparagraph (A) shall apply to dispositions after the date of the enactment of this Act, in taxable years ending after such date.

(9) Subsection (e) of section 1042 (relating to statute of limitations) is amended—

(A) by striking out "and" at the end of paragraph (1),

(B) by redesignating paragraph (2) as paragraph (3), and

(C) by inserting after paragraph (1) the following new paragraph:

"(2) in the case of a failure to meet the requirements of subsection (b)(3), the statutory period for the assessment of any such deficiency shall not expire before the later of the expiration of the 3-year period described in paragraph (1) or the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the

Secretary may prescribe) of such failure, and".

(10)(A) Chapter 43 (relating to qualified pension, etc. plans) is amended by adding at the end thereof the following new section:

"SEC. 4979. TAX ON CERTAIN PROHIBITED ALLOCATIONS OF QUALIFIED SECURITIES.

"(a) Imposition of Tax.—If there is a prohibited allocation of qualified securities by any employee stock ownership plan or eligible worker-owned cooperative, there is hereby imposed a tax on such allocation equal to 50 percent of the amount involved.

"(b) Prohibited Allocation.—For purposes of this section, the term 'prohibited allocation' means—

"(1) any location of qualified securities acquired in a sale to which section 1042 applies which violates the provisions of section 1042(b)(3), and

"(2) any benefit which accrues to any person in violation of the provisions of such section.

"(c) Liability for Tax.—The tax imposed by this section shall be paid by—

"(1) the employer, or

"(2) the eligible worker-owned cooperative,

which made the written statement described in section 1042(b)(4)(B).

"(d) Definitions.—Terms used in this section have the same respective meaning as when used in section 4978."

(B) Subparagraph (B) of section 1042(b)(4) is amended by striking out "section 4978(a)" and inserting in lieu thereof "sections 4978 and 4979".

(C) The table of sections for chapter 43 is amended by adding at the end thereof the following new item:

"Sec. 4979. Tax on certain prohibited allocations of qualified securities."

(11) Paragraph (5) of section 1042(c) (relating to securities acquired by underwriter) is amended—

(A) by striking out "acquisition" and inserting in lieu thereof "sale",

(B) by inserting "to an employee stock ownership plan or eligible worker-owned cooperative" before "in", and

(C) by striking out "ACQUIRED" in the heading thereof and inserting in lieu thereof "SOLD".

(12) The heading for section 1042 is amended by inserting "employee" before "stock".

(13) The table of sections for part III of subchapter O of chapter 1 is amended by striking out the item relating to section 1042 and inserting in lieu thereof the following new item:

"Sec. 1042. Sales of stock to employee stock ownership plans or certain cooperatives."

(b) Amendments Related to Section 542.—

(1) Paragraph (5) of section 72(e) is amended by adding at the end of subparagraph (D) the following new flush sentence:

"Clause (i) shall not apply to any dividend described in section 404(k) which is received by a participant."

(2) Paragraph (1) of section 404(k) (relating to dividends paid deduction) is amended by inserting ", and allocated to a participant's account," before "on the record date".

(3) Section 404(k) is amended—

(A) by adding at the end thereof the following new flush sentence:

"Any deduction under this subsection shall be allowed in the taxable year of the corporation in which the dividend is paid or distributed to the participant under paragraph (2).", and

(B) by striking out "during the taxable year" in the matter preceding paragraph (1).

(4) Section 404(k), as amended by paragraph (3), is amended by adding at the end thereof the following new sentence: "A plan to which this subsection applies shall not be treated as violating the requirements of section 401, 409, or 4975(e)(7) merely by reason of any distribution described in paragraph (2)."

(5) Subsection (k) of section 404 is amended by adding at the end thereof the following new sentence:

"The Secretary may disallow the deduction under this subsection for any dividend if the Secretary determines that such dividend is in substance the payment of unreasonable compensation."

(6) Paragraph (2) of section 404(k) is amended by striking out "participants in the plan" each place it appears and inserting in lieu thereof "participants in the plan or their beneficiaries".

(7) The amendments made by paragraphs (1) and (3) shall apply to dividends paid after the date of the enactment of this Act, in taxable years ending after such date.

(c) Amendments Related to Section 543.—

(1) Subparagraph (B) of section 291(e)(1) (defining financial institution preference item) is amended by adding at the end thereof the following new clause:

"(iv) Special rules for obligations to which section 133 applies.—In the case of an obligation to which section 133 applies—

"(I) interest on such obligations shall not be treated as exempt from taxes for purposes of this subparagraph, and

"(II) such obligation shall not be taken into account under clause (ii)(II)."

(2) Section 133 (relating to exemption for interest on certain loans used to acquire employer securities) is amended by adding at the end thereof the following new subsection:

"(d) Application With Section 483 and Original Issue Discount Rules.—In applying section 483 and subpart A of part V of subchapter P to any obligation to which this section applies, appropriate adjustments shall be made to the applicable Federal rate to take into account the exclusion under subsection (a)."

(d) Amendments Related to Section 544.—

(1)(A) Section 2210(a) (relating to liability for payment of estate tax in case of transfer of employer securities to an ESOP or worker cooperative) is amended by striking out "and" at the end of paragraph (1), by redesignating paragraph (2) as paragraph (3), and by inserting after paragraph (1) the following new paragraph:

"(2) the executor of the estate of the decedent may (without regard to this section) make an election under section 6166 with respect to that portion of the tax imposed by section 2001 which is attributable to employer securities, and".

(B) The amendment made by subparagraph (A) shall apply to the estates of decedents dying after September 27, 1985.

(2) Section 2210(c) (relating to installment payments) is amended by adding at the end thereof the following new paragraph:

"(3) Special rules for application of section 6166(g).—In the case of any transfer of employer securities to an employee stock ownership plan or eligible worker-owner cooperative to which this section applies—

"(A) Transfer does not trigger acceleration.—Such transfer shall not be treated as a disposition or withdrawal to which section 6166(g) applies.

"(B) Separate application to estate and plan interests.—Section 6166(g) shall be applied separately to the interests held after such transfer by the estate and such plan or cooperative.

"(C) Required distribution not taken into account.—In the case of any distribution of such securities by such plan which is described in section 4978(d)(1)—

"(i) such distribution shall not be treated as a disposition or withdrawal for purposes of section 6166(g), and

"(ii) such securities shall not be taken into account in applying section 6166(g) to any subsequent disposition or withdrawal."

(3) Section 2210(g) (relating to definitions) is amended by adding at the end thereof the following new paragraph:

"(5) Tax imposed by section 2001.—The term 'tax imposed by section 2001' includes any interest, penalty, addition to tax, or additional amount relating to any tax imposed by section 2001."

(4) Section 2210(c)(1) is amended by inserting "any authorized officer of" before "the cooperative" in the matter following subparagraph (B).

(5) Section 2210(d) (relating to guarantee of payments) is amended—

(A) by inserting "and any eligible worker-owned cooperative" before "shall guarantee" in the matter following paragraph (2),

(B) by striking out "such plan" and inserting in lieu thereof "such plan or cooperative, respectively,", and

(C) by striking out ", including any interest payable under section 6601 which is attributable to such amount".

(6) Section 2210(g)(3) is amended by striking out "section 1041(b)(2)" and inserting in lieu thereof "section 1042(b)(2)".

(e) Amendments Related to Section 545.—

(1) Section 4978(a)(1) (relating to tax on disposition of securities to which section 1042 applies before close of minimum holding period) is amended by striking out "then" and inserting in lieu thereof "than".

(2) Section 4978(b)(1) is amended by striking out "paragraph (1)" and inserting in lieu thereof "subsection (a)".

(3) Section 4978(c) is amended by striking out "section 1042(a)(2)(B)" and inserting in lieu thereof "section 1042(b)(4)".

(4) Section 4978(d)(1)(C) is amended by striking out "section 72(m)(5)" and inserting in lieu thereof "section 72(m)(7)".

(5) Section 4978(e)(2) is amended by striking out "section 1042(b)(1)" and inserting in lieu thereof "section 1042(c)(1)".

(6) Section 4978(e)(3) is amended by striking out "section 1042(b)(1)" and inserting in lieu thereof "section 1042(c)(2)".

(7) Section 4978(d) (relating to dispositions to which section does not apply) is amended by adding at the end thereof the following new paragraph:

"(3) Liquidation of corporation into cooperative.—In the case of any exchange of qualified securities pursuant to the liquidation of the corporation issuing qualified securities into the eligible worker-owned cooperative in a transaction which meets the requirements of section 332 (determined by substituting '100 percent' for '80 percent' each place it appears in section 332(b)(1)), such exchange shall not be treated as a disposition for purposes of this section."

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SEC. 1555. AMENDMENT RELATED TO MISCELLANEOUS EMPLOYEE BENEFIT PROVISIONS.

(a) In general.—Subsection (c) of section 555 of the Tax Reform Act of 1984 (relating to technical amendments to the incentive stock option provisions) is amended—

(1) by striking out "subsection (a)" in paragraph (1) and inserting in lieu thereof "subsection (a)(1)",

(2) by striking out "subsection (b)" in paragraph (2) and inserting in lieu thereof "subsection (a)(2)",

(3) by striking out "after March 20, 1984," in paragraph (2), and

(4) by striking out "subsection (c)" in paragraph (3) and inserting in lieu thereof "subsection (b)".

(b) Section 556 of the Tax Reform Act of 1984 is amended by striking out so much of such section as precedes paragraph (1) thereof and inserting in lieu thereof the following:

"SEC. 556. TIME FOR MAKING CERTAIN SECTION 83(b) ELECTIONS.

"In the case of any transfer of property in connection with the performance of services on or before November 18, 1982, the election permitted by section 83(b) of the Internal Revenue Code of 1954 may be made, notwithstanding paragraph (2) of such section 83(b), with the income tax return for any taxable year ending after July 18, 1984, and beginning before the date of the enactment of the Tax Reform Act of 1985 if—".

CHAPTER 6—AMENDMENTS RELATED TO TITLE VI OF THE ACT

SEC. 1561. AMENDMENTS RELATED TO SECTION 611 OF THE ACT.

(a) Extension of Time for Submitting Policy Statement.—Paragraph (5) of section 103A(j) is amended by adding at the end thereof the following new subparagraph:

"(C) Extension of time.—The Secretary may grant an extension of time for the publishing of a report described in subparagraph (B) or the submittal of such report to the Secretary if there is reasonable cause for the failure to publish or submit such report in a timely fashion."

(b) Definition of Qualified Veteran.—Subparagraph (B) of section 103A(o)(4) (defining qualified veteran) is amended by striking out "January 1, 1985" and inserting in lieu thereof "January 31, 1985".

(c) Clarification of Good Faith Effort Provisions.—

(1) Subparagraph (B) of section 103A(c)(2) (defining qualified mortgage issue) is amended by striking out "and (j)" and inserting in lieu thereof "and (j)(1) and (2)".

(2) Subparagraph (C) of section 103A(c)(2) is amended by striking out "and (i)" and inserting in lieu thereof "(i), and (j) (3), (4), and (5)".

SEC. 1562. AMENDMENT RELATED TO SECTION 612 OF THE ACT.

(a) Requirements for Qualified Mortgage Credit Certificate Program.—Subclause (V) of section 25(c)(2)(A)(iii) (defining qualified mortgage credit certificate program) is amended by striking out "paragraph (1) of subsection (j)" and inserting in lieu thereof "subsection (j), other than paragraph (2) thereof".

(b) Good Faith Effort Rules Made Applicable.—Subparagraph (A) of section 25(c)(2) (defining qualified mortgage credit certificate program) is amended by adding at the end thereof the following new sentence:

"Under regulations, rules similar to the rules of subparagraphs (B) and (C) of section 103A(c)(2) shall apply to the requirements of this subparagraph."

(c) Carryforward of Excess Credit.—Subparagraph (B) of section 25(e)(1) (relating to carryforward of unused credit) is amended to read as follows:

"(B) Limitation.—The amount of the unused credit which may be taken into account under subparagraph (A) for any taxable year shall not exceed the amount (if any) by which the applicable tax limit for such taxable year exceeds the sum of—

"(i) the credit allowable under subsection (a) for such taxable year determined without regard to this paragraph, and

"(ii) the amounts which, by reason of this paragraph, are carried to such taxable year and are attributable to taxable years before the unused credit year."

(d) Clerical Amendments.—

(1) Subparagraph (B) of section 25(a)(1) is amended by striking out "paid or incurred" and inserting in lieu thereof "paid or accrued".

(2) Subchapter B of chapter 68 is amended by redesignating the section 6708 which relates to penalties with respect to mortgage credit certificates as section 6709.

(3) The table of sections for subchapter B of chapter 68 is amended by striking out the item relating to the section 6708 which relates to penalties with respect to mortgage credit certificates and inserting in lieu thereof the following:

"Sec. 6709. Penalties with respect to mortgage credit certificates."

SEC. 1563. AMENDMENT RELATED TO SECTION 613 OF THE ACT.

(a) General Rule.—Section 613 of the Tax Reform Act of 1984 (relating to authority to borrow from Federal Financing Bank) is amended to read as follows:

"SEC. 613. ADVANCE REFUNDING OF CERTAIN VETERANS' MORTGAGE BONDS PERMITTED.

"(a) In General.—Notwithstanding section 103A(n) of the Internal Revenue Code of 1954, an issuer of applicable mortgage bonds may issue advance refunding bonds with respect to such applicable mortgage bonds.

"(b) Limitation on Amount of Advanced Refunding.—

"(1) In general.—The amount of advanced refunding bonds which may be issued under subsection (a) shall not exceed the lesser of—

"(A) $300,000,000, or

"(B) the excess of—

"(i) the projected aggregate payments of principal on the applicable mortgage bonds during the 15-fiscal year period beginning with fiscal year 1984, over

"(ii) the projected aggregate payments during such period of principal on mortgages financed by the applicable mortgage bonds.

"(2) Assumptions used in making projection.—The computation under paragraph (1)(B) shall be made by using the following percentages of the prepayment experience of the Federal Housing Administration in the State or region in which the issuer of the advance refunding bonds is located:

"Fiscal Year:	Percentage:
1984	15
1985	20
1986	25
1987 and thereafter	30.

"(c) Definitions.—For purposes of this section.—

"(1) Applicable mortgage bonds.—The term 'applicable mortgage bonds' means any qualified veterans' mortgage bonds issued as part of an issue—

"(A) which was outstanding on December 5, 1980,

"(B) with respect to which the excess determined under subsection (b)(1)(B) exceeds 12 percent of the aggregate principal amount of such bonds outstanding on July 1, 1983,

"(C) with respect to which the amount of the average annual prepayments during fiscal years 1981, 1982, and 1983 was less than 2 percent of the average of the loan balances as of the beginning of each of such fiscal years, and

"(D) which, for fiscal year 1983, had a prepayment experience rate that did not exceed 20 percent of the prepayment experience rate of the Federal Housing Administration in the State or region in which the issuer is located.

"(2) Qualified veterans' mortgage bonds.—The term 'qualified veterans' mortgage bonds' has the meaning given to such term by section 103A(c)(3) of the Internal Revenue Code of 1954.

"(3) Fiscal year.—The term 'fiscal year' means the fiscal year of the State.

"(d) Authority To Allocate Unused 1985 Volume Cap.—The issuer of applicable mortgage bonds may elect to apply the volume cap under section 103A(o) of such Code for 1985 in lieu of the volume cap for 1986 to any amount of obligations issued under this section which such issuer specifies before January 1, 1986, for purposes of this sentence."

(b) Effective Date.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act; except that such amendment shall not apply with respect to any loan made by the Federal Financing Bank to the State of Oregon pursuant to a credit agreement entered into on April 16, 1985 (as such agreement was in effect on such date). The Secretary of the Treasury shall guarantee any loan made by the Federal Financing Bank to the State of Oregon pursuant to such agreement.

SEC. 1564. AMENDMENTS RELATED TO SECTION 621 OF THE ACT.

(a) Special Rule for Facilities Located Outside the State.—

(1) In general.—Subsection (n) of section 103 (relating to limitation on aggregate amount of private activity bonds issued during any calendar year) is amended by adding at the end thereof the following new paragraph:

"(13) Facility must be located within State.—

"(A) In general.—Except as provided in subparagraph (B), no portion of the State ceiling applicable to any State for any calendar year may be used with respect to financing for a facility located outside such State.

"(B) Exception for certain facilities where State will get proportionate share of benefits.—Subparagraph (A) shall not apply to any issue described in subparagraph (E), (G), or (H) of subsection (b)(4) if the issuer establishes that the State's share of the use of the facility (or its output) will equal or exceed the State's share of the private activity bonds issued to finance the facility."

(2) Effective date.—

(A) Except as provided in subparagraph (B), the amendment made by paragraph (1) shall apply to obligations issued after the date of the enactment of this Act in taxable years ending after such date.

(B) At the election of the issuer (made at such time and in such manner as the Secretary of the Treasury or his delegate shall prescribe), the amendment made by paragraph (1) shall apply to any obligation issued on or before the date of the enactment of this Act.

(b) Clarification of Authority for Different Allocation.—Subparagraphs (A) and (B)(i) of section 103(n)(6) (relating to State may provide for different allocation) are each amended by striking out "governmental units" and inserting in lieu thereof "governmental units or other authorities".

(c) Clarification of Exception for Certain Facilities.—Clause (i) of section 103(n)(7)(C) (relating to exception for certain facilities described in section 103(b)(4)(C) or (D)) is amended by striking out "the property described in such subparagraph" and inserting in lieu thereof "all of the property to be financed by the obligation".

(d) Information Reporting on Allocation of Private Activity Bond Limit.—Paragraph (2) of section 103(l) (relating to information reporting requirements for certain bonds) is amended by striking out "and" at the end of subparagraph (D), by striking out the period at the end of subparagraph (E) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(F) if such obligation is a private activity bond (as defined in subsection (n)(7)), such information as the Secretary may require for purposes of determining whether the requirements of subsection (n) are met with respect to such obligation."

(e) Clarification of Carryforward of Unused Bond Authority.—

(1) Subparagraph (B) of section 103(n)(10) (relating to election must specify project) is amended—

(A) by striking out "specify the project" in clause (i) and inserting in lieu thereof "identify (with reasonable specificity) the project", and

(B) by striking out "specify project" in the subparagraph heading and insert in lieu thereof "identify project".

(2) Subparagraph (D) of section 107(n)(10) is amended by striking out "any specification" and inserting in lieu thereof "any identification or specification".

SEC. 1565. AMENDMENT RELATED TO SECTION 622 OF THE ACT.

(a) Clerical Amendment.—Subparagraph (A) of section 103(h)(5) (relating to certain obligations subsidized under energy program) is amended by striking out "the United States,".

(b) Treatment of Certain Guarantees by Farmers Home Administration.—An obligation shall not be treated as federally guaranteed for purposes of section 103(h) of the Internal Revenue Code of 1954 by reason of a guarantee by the Farmers Home Administration if—

(1) such guarantee is pursuant to a commitment made by the Farmers Home Administration before July 1, 1984, and

(2) such obligation is issued to finance a convention center project in Carbondale, Illinois.

(c) Treatment of Certain Obligations Used to Finance Solid Waste Disposal Facility.—

(1) In general.—Any obligation which is part of an issue a substantial portion of the proceeds of which is to be used to finance a solid waste disposal facility described in paragraph (2) shall not, for purposes of section 103(h) of the Internal Revenue Code of 1954, be treated as an obligation which is federally guaranteed by reason of the sale of fuel, steam, electricity, or other forms of usable energy to the Federal Government or any agency or instrumentality thereof.

(2) Solid waste disposal facility.—A solid waste disposal facility is described in this paragraph if such facility is described in section 103(b)(4)(E) of such Code and—

(A) if—

(i) a public State authority created pursuant to State legislation which took effect on July 1, 1980, took formal action before October 19, 1983, to commit development funds for such facility,

(ii) such authority issues obligations for such facility before January 1, 1988, and

(iii) expenditures have been made for the development of such facility before October 19, 1983,

(B) if—

(i) such facility is operated by the South Eastern Public Service Authority of Virginia, and

(ii) on December 20, 1984, the Internal Revenue Service issued a ruling concluding that a portion of the obligations with respect to such facility would not be treated as federally guaranteed under section 103(h) of such Code by reason of the transitional rule contained in section 631(c)(3)(A)(i) of the Tax Reform Act of 1984, or

(C) if—

(i) a political subdivision of a State took formal action on April 1, 1980, to commit development funds for such facility,

(ii) such facility has a contract to sell steam to a naval base,

(iii) such political subdivision issues obligations for such facility before January 1, 1988, and

(iv) expenditures have been made for the development of such facility before October 19, 1983.

(3) Limitations.—

(A) In the case of a solid waste disposal facility described in paragraph (2)(A), the aggregate face amount of obligations to which paragraph (1) applies shall not exceed $65,000,000.

(B) In the case of a solid waste disposal facility described in paragraph (2)(B), the aggregate face amount of obligations to which paragraph (1) applies shall not exceed $20,000,000. Such amount shall be in addition to the amount permitted under the Internal Revenue Service ruling referred to in paragraph (2)(B)(ii).

(C) In the case of a solid waste disposal facility described in paragraph (2)(C), the aggregate face amount of obligations to which paragraph (1) applies shall not exceed $75,000,000.

SEC. 1566. TRANSITIONAL RULE FOR LIMIT ON SMALL ISSUE EXCEPTION.

The amendment made by section 623 of the Tax Reform Act of 1984 shall not apply to any obligation issued to refund another tax-exempt IDB to which the amendment made by such section 623 did not apply if—

(1) the refunding obligation has a maturity date not later than the maturity date of the refunded obligation,

(2) the amount of the refunding obligation does not exceed the amount of the refunded obligation,

(3) the interest rate on the refunding obligation is lower than the interest rate on the refunded issue, and

(4) the proceeds of the refunding obligation are used to redeem the refunded obligation not later than 30 days after the date of the issuance of the refunding obligation.

For purposes of the preceding sentence, the term "tax-exempt IDB" means any industrial development bond (as defined in section 103(b) of the Internal Revenue Code of 1954) the interest on which is exempt from tax under section 103(a) of such Code.

SEC. 1567. AMENDMENT RELATED TO SECTION 624 OF THE ACT.

Paragraph (2) of section 624(c) of the Tax Reform Act of 1984 (relating to effective date for limitations on arbitrage on nonpurpose obligations) is amended by striking out "by the Essex County Port Authority of New York and New Jersey as part of an issue approved" and inserting in lieu thereof "for the Essex County New Jersey Resource Recovery Project authorized by the Port Authority of New York and New Jersey on November 10, 1983, as part of an agreement approved".

SEC. 1568. AMENDMENT RELATED TO SECTION 625 OF THE ACT.

Subparagraph (C) of section 625(a)(3) of the Tax Reform Act of 1984 (relating to arbitrage regulations) is amended by striking out "obligation issued exclusively" and inserting in lieu thereof "obligation (or series of refunding obligations) issued exclusively".

SEC. 1569. AMENDMENTS RELATED TO SECTION 626 OF THE ACT.

(a) Change in Defined Term.—Subsection (o) of section 103 (relating to denial of tax exemption for consumer loan bonds) is amended—

(1) by striking out "consumer loan bond" each place it appears and inserting in lieu thereof "private loan bond",

(2) by striking out "Consumer Loan Bonds" in the subsection heading and inserting in lieu thereof "Private Loan Bonds", and

(3) by striking out "Consumer loan bonds" in the heading for paragraph (2) and inserting in lieu thereof "Private loan bonds".

(b) Clerical Amendments.—

(1) Clause (ii) of section 103(o)(2)(C) (relating to excluded loans) is amended by striking out "subsection (c)(6)(G)(i)" and inserting in lieu thereof "subsection (c)(6)(H)(i)".

(2) Section 103 is amended by redesignating the subsection (o) (relating to cross references) as subsection (p).

(c) Transitional Rules.—

(1) Treatment of certain obligations issued by the city of Baltimore.—Obligations issed by the city of Baltimore, Maryland, after June 30, 1985, shall not be treated as private loan bonds for purposes of section 103(o) of the Internal Revenue Code of 1954 by reason of the use of a portion of the proceeds of such obligations to finance or refinance temporary advances made by the city of Baltimore in connection with loans to persons who are not exempt persons (within the meaning of section 103(b)(3) of such Code) if—

(A) such obligations are not industrial development bonds (within the meaning of section 103(b)(2) of such Code),

(B) the portion of the proceeds of such obligations so used is attributable to debt approved by voter referendum on or before November 2, 1982,

(C) the loans to such nonexempt persons were approved by the Board of Estimates of the city of Baltimore on or before October 19, 1983, and

(D) the aggregate amount of such temporary advances financed or refinanced by such obligations does not exceed $27,000,000.

(2) Clarification of transitional rule for certain student loan programs.—Subparagraph (A) of section 626(b)(2) of the Tax Reform Act of 1984 is amended by striking out "$11 million" in the table contained in such subparagraph and inserting in lieu thereof "$70 million".

(3) Treatment of obligations to finance St. Johns River Power Park.—

(A) In general.—The amendment made by section 626(a) of the Tax Reform Act of 1984 shall not apply to any obligation issued to finance the project described in subparagraph (B) if—

(i) such obligation is issued before September 27, 1985,

(ii) such obligation is issued after such date to refund a prior tax exempt obligation for such project, the amount of such obligation does not exceed the outstanding amount of the refunded obligation, and such prior tax exempt obligation is retired not later than the date 30 days after the issuance of the refunding obligation, or

(iii) such obligation is issued after such date to provide additional financing for such project except that the aggregate amount of obligations to which this clause applies shall not exceed $150,000,000.

Clause (ii) shall not apply to any obligation issued for the advance refunding of any obligation.

(B) Description of project.—The project described in this subparagraph is the St. Johns River Power Park system in Florida which was authorized by legislation enacted by the Florida Legislature in February of 1982.

(4) White pine power project.—The amendment made by section 626(a) of the Tax Reform Act of 1984 shall not apply to any obligation issued during 1984 to provide financing for the White Pine Power Project in Nevada.

(5) Tax increment bonds.—The amendment made by section 626(a) of the Tax Reform Act of 1984 shall not apply to any tax increment financing obligation issued before January 1, 1986, if—

(A) substantially all of the proceeds of the issue are to be used to finance—

(i) sewer, street, lighting, or other governmental improvements to real property,

(ii) the acquisition of any interest in real property pursuant to the exercise of eminent domain, the preparation of such property for new use, or the transfer of such interest to a private developer, or

(iii) payments of reasonable relocation costs of prior users of such real property,

(B) all of the activities described in subparagraph (A) are pursuant to a redevelopment plan adopted by the issuing authority before the issuance of such issue,

(C) repayment of such issue is secured exclusively by pledges of that portion of any increase in real property tax revenues (or their equivalent) attributable to the redevelopment resulting from the issue, and

(D) none of the property described in subparagraph (A) is subject to a real property or other tax based on a rate or valuation method which differs from the rate and valuation method applicable to any other similar property located within the jurisdiction of the issuing authority.

SEC. 1570. AMENDMENT RELATED TO SECTION 627 OF THE ACT.

Subparagraph (A) of section 103(b)(16) (relating to limitation on use for land acquisition) is amended by striking out "clause (i)" in the last sentence and inserting in lieu thereof "clause (ii)".

SEC. 1571. AMENDMENTS RELATED TO SECTION 628 OF THE ACT.

(a) Certain Restrictions Apply to Exemptions Not Contained in Internal Revenue Code of 1954.—

(1) In general.—Paragraph (1) of section 103(m) (relating to obligations exempt other than under this title) is amended by striking out "(k), (l), and (n)" and inserting in lieu thereof "(j), (k), (l), (n), and (o)".

(2) Effective date.—The amendment made by paragraph (1) shall apply to obligations issued after March 28, 1985, in taxable years ending after such date.

(b) Conforming Amendments to Repeal of Advance Refunding of Qualified Public Facilities.—Paragraphs (13), (14)(A), and (17)(A) of section 103(b) are each amended by striking out "(6), and (7)" and inserting in lieu thereof "and (6)".

SEC. 1572. AMENDMENTS RELATED TO SECTION 631 OF THE ACT.

(a) Clarification of General Effective Date.—

(1) Paragraph (1) of section 631(c) of the Tax Reform Act of 1984 (relating to effective date for other provisions relating to tax-exempt bonds) is amended by striking out "made by this subtitle" and inserting in lieu thereof "made by sections 622, 623, 627, and 628 (c), (d), and (e) (and the provisions of sections 625(c), 628(f), and 629(b))".

(2)(A) Subparagraph (A) of section 631(c)(3) of the Tax Reform Act of 1984 is amended by striking out "amendments made by this subtitle (other than section 621)" and inserting in lieu thereof "amendments (and provisions) referred to in paragraph (1)".

(B) Effective with respect to obligations issued after March 28, 1985, subparagraph (A) of section 631(c)(3) of the Tax Reform Act of 1984 is amended by striking out clauses (i) and (ii) and inserting in lieu thereof the following:

"(i) the original use of which commences with the taxpayer and the construction, reconstruction, or rehabilitation of which began before October 19, 1983, and was completed on or after such date,

"(ii) with respect to which a binding contract to incur significant expenditures for construction, reconstruction, or rehabilitation was entered into before October 19, 1983, and some of such expenditures are incurred on or after such date, or

"(iii) acquired after October 19, 1983, pursuant to a binding contract entered into on or before such date."

(3) Paragraph (3) of section 631(c) of the Tax Reform Act of 1984 is amended by adding at the end thereof the following new subparagraph:

"(C) Exception.—Subparagraph (A) shall not apply with respect to the amendment made by section 628(e) and the provisions of sections 628(f) and 629(b)."

(4) Subparagraph (B) of section 631(c)(3) of the Tax Reform Act of 1984 is amended by striking out "subsection (b)(2)(A)" and inserting in lieu thereof "subsection (b)(2)".

(b) Special Rule for Health Club Facilities.—Subsection (c) of section 631 of the Tax Reform Act of 1984 is amended by adding at the end thereof the following new paragraph:

"(5) Special rule for health club facilities.—In the case of any health club facility, with respect to the amendment made by section 627(c)—

"(A) paragraph (1) shall be applied by substituting 'April 12, 1984' for 'December 31, 1983', and

"(B) paragraph (3) shall be applied by substituting 'April 13, 1984' for 'October 19, 1983' each place it appears."

(c) Treatment of Certain Solid Waste Disposal Facilities.—

(1) In general.—Subsection (d) of section 631 of the Tax Reform Act of 1984 (relating to provisions of subtitle not to apply to certain property) is amended by adding at the end thereof the following:

"(5) Any solid waste disposal facility described in section 103(b)(4)(E) of the Internal Revenue Code of 1954 if—

"(A) a city government, by resolutions adopted on April 10, 1980, and December 27, 1982, took formal action to authorize the submission of a proposal for a feasibility study for such facility and to authorize the presentation to the Department of the Army (U.S. Army Missile Command) of a proposed agreement to jointly pursue construction and operation of such facility,

"(B) such city government (or a public authority on its behalf) issues obligations for such facility before January 1, 1987, and

"(C) expenditures have been made for the development of such facility before October 19, 1983. Notwithstanding the foregoing provisions of this subsection, the amendments made by section 624 (relating to arbitrage) shall apply to obligations issued to finance property described in paragraph (5)."

(2) Conforming amendment.—Paragraph (1) of section 632(a) of the Tax Reform Act of 1984 is hereby repealed.

SEC. 1573. AMENDMENTS RELATED TO SECTION 632 OF THE ACT.

(a) Clerical Amendment.—Subsection (a) of section 632 of the Tax Reform Act of 1984 is amended by striking out "section 623" in the matter preceding paragraph (1) thereof and inserting in lieu thereof "section 624".

(b) Certain Obligations Not Treated as Private Loan Bonds.—Subsection (d) of section 632 of the Tax Reform Act of 1984 is amended by adding at the end thereof the following new sentence:

"The amendment made by section 626 shall not apply to any obligations described in the preceding sentence."

(c) Treatment of Certain Obligations to Finance Hydroelectric Generating Facility.—If—

(1) obligations are to be issued in an amount not to exceed $9,500,000 to finance the construction of an approximately 4 megawatt hydroelectric generating facility owned and operated by the city of Hastings, Minnesota, and located on United States Army Corps of Engineers lock and dam No. 2 or are issued to refund any of such obligations,

(2) substantially all of the electrical power generated by such facility is to be sold to a nongovernmental person pursuant to a long-term power sales agreement in accordance with the Public Utilities Regulatory Policies Act of 1978, and

(3) the initially issued obligations are issued on or before December 31, 1986, and any of such refunding obligations are issued on or before December 31, 1996,

then the person referred to in paragraph (2) shall not be treated as the principal user of such facilities by reason of such sales for purposes of subparagraphs (D) and (E) of section 103(b)(6) of the Internal Revenue Code of 1954.

(d) Treatment of Certain Obligations to Finance Methane Recovery Electric Generating Facility.—If—

(1) obligations are to be issued in an amount not to exceed $3,000,000 to finance the construction of a methane recovery electric generating facility located on a sanitary landfill near Richmond, California, and

(2) substantially all of the electrical power generated by such facility is to be sold to a nongovernmental person pursuant to a long-term power sales agreement entered into on April 16, 1985, in accordance with the Public Utilities Regulatory Policies Act of 1978,

then the person referred to in paragraph (2) shall not be treated as the principal user of such facilities by reason of such sales for purposes of subparagraphs (D) and (E) of section 103(b)(6) of the Internal Revenue Code of 1954.

(e) Treatment of Certain Obligations to Finance Hydroelectric Generating Facility.—If—

(1) obligations are to be issued in an amount not to exceed $6,000,000 to finance the construction of a hydroelectric generating facility having a Federal Energy Regulatory Commission license number 3189, and located near Placerville, California,

(2) an inducement resolution for such project was adopted in March 1985, and

(3) substantially all of the electrical power generated by such facility is to be sold to a nongovernmental person pursuant to a long-term power sales agreement in accordance with the Public Utilities Regulatory Policies Act of 1978,

then the person referred to in paragraph (3) shall not be treated as the principal user of such facilities by reason of such sales for purposes of subparagraphs (D) and (E) of section 103(b)(6) of the Internal Revenue Code of 1954.

SEC. 1574. TREATMENT OF CERTAIN POLLUTION CONTROL BONDS.

(a) General Rule.—For purposes of subparagraph (F) of section 103(b)(4) of the Internal Revenue Code of 1954 (relating to pollution control facilities), an obligation shall be treated as described in such subparagraph if it is part of an issue substantially all of the proceeds of which are used by a qualified regional pollution control authority to acquire existing air or water pollution control facilities which the authority itself will operate in order to maintain or improve a control of pollutants. The provisions of section 103(b)(17) of such Code (relating to acquisition of existing property not permitted) shall not apply to any obligation described in the preceding sentence.

(b) $200,000,000 Limitation.—The aggregate amount of obligations to which subsection (a) applies shall not exceed $200,000,000.

(c) Restrictions.—Subsection (a) shall apply only if—

(1) the amount paid (directly or indirectly) for the facilities does not exceed their fair market value,

(2) the fees or charges imposed (directly or indirectly) on any seller for the use of any facilities after the sale are not less than the amounts charged for the use of such facilities to persons other than the seller,

(3) no person other than the qualified regional pollution control authority is considered after the sale as the owner of the facilities for purposes of Federal income taxes, and

(4) the facilities are placed in service before September 3, 1982.

(d) Qualified Regional Pollution Control Authority Defined.—For purposes of this section, the term "qualified regional pollution control authority" means an authority which—

(1) is a political subdivision created by State law on September 1, 1969, to control air or water pollution,

(2) has within its jurisdictional boundaries all or part of at least 2 counties (or equivalent political subdivisions), and

(3) operates air or water pollution control facilities.

(e) Repeal of Section 103(b)(11).—Paragraph (11) of section 103(b) is hereby repealed.

CHAPTER 7—MISCELLANEOUS PROVISIONS

SEC. 1575. AMENDMENTS RELATED TO TITLE VII OF THE ACT.

(a) Amendment Related to Section 711(a).—Subsection (c) of section 58 (relating to estates and trusts) is amended by striking out "of tax preference" and inserting in lieu thereof "of tax preference (and any itemized deductions)".

(b) Amendment Related to Section 712(1).—Paragraph (1) of section 304(a) (relating to treatment of certain stock purchases) is amended by striking out "In any such case" and inserting in lieu thereof "To the extent that such distribution is treated as a distribution to which section 301 applies".

(c) Amendments Related to Section 713.—

(1)(A) Section 402(a)(5)(F)(ii) (relating to special rules for key employees) is amended to read as follows:

"(ii) 5-percent owners.—An eligible retirement plan described in subclause (III) or (IV) of subparagraph (E)(iv) shall not be treated as an eligible retirement plan for the transfer of a distribution if the employee is a 5-percent owner at the time such distribution is made. For purposes of the preceding sentence, the term '5-percent owner' means any individual who is a 5-percent owner (as defined in section 416(i)(1)(B)) at any time during the 5 plan years preceding the plan year in which the distribution is made."

(B) The amendments made by subparagraph (A) shall apply to distributions after the date of the enactment of this Act. Such amendments shall apply also to distributions after 1983 and on or before the date of the enactment of this Act to individuals who are not 5-percent owners (as defined in section 402(a)(5)(F)(ii) of the Internal Revenue Code of 1954 (as amended by this paragraph)).

(2) Section 713(c) of the Tax Reform Act of 1984 is amended by adding at the end thereof the following new paragraph:

"(4) Effective date for paragraph (3).—The amendment made by paragraph (3) shall apply to distributions after July 18, 1984."

(3) Section 62(7) (relating to pension, profit-sharing, and annuity plans of self-employed individuals) is amended by striking out "to the extent attributable to contributions made on behalf of such individual".

(4) Section 219(f)(1) (defining compensation) is amended by striking out "reduced by any amount allowable as a deduction to the individual in computing adjusted gross income under paragraph (7) of section 62".

(5) Section 713(d)(1) of the Tax Reform Act of 1984 is amended by striking out "Paragraph" and inserting in lieu thereof "Effective with respect to contributions made in taxable years beginning after December 31, 1983, paragraph".

(6)(A) Section 408(d)(5) (relating to certain distributions of excess contributions after due date) is amended by striking out "$15,000" and inserting in lieu thereof "the dollar limitation in effect under section 415(c)(1)(A) for such taxable year".

(B) Subparagraph (C) of section 219(b)(2) is amended by striking out "the $15,000 amount specified in subparagraph (A)(ii)" and inserting in lieu thereof "the dollar limitation in effect under section 415(c)(1)(A)".

(7)(A) Subparagraph (C) of section 404(a)(8) is amended by striking out "the earned income of such individual" and inserting in lieu thereof "the earned income of such individual (determined without regard to the deductions allowed by this section)".

(B) Effective with respect to taxable years beginning after December 31, 1984, subparagraph (D) of section 404(a)(8) is amended by striking out "(determined without regard to the deductions allowed by this section and section 405(c))".

(8) Subparagraph (A) of section 408(d)(3) is amended—

(A) by striking out "(other than a trust forming part of a plan under which the individual was an employee within the meaning of section 401(c)(1) at the time contributions were made on his behalf under the plan)" in clause (ii),

(B) by striking out "(other than a plan under which the individual was an employee within the meaning of section 401(c)(1) at the time contributions were made on his behalf under the plan)" in clause (ii), and

(C) by adding at the end thereof the following new sentence:

"Clause (ii) shall not apply during the 5-year period beginning on the date of the qualified total distribution referred to in such clause if the individual was treated as a 5-percent owner with respect to such distribution under section 402(a)(5)(F)(ii)."

(9) Clause (iii) of section 415(b)(2)(E) is amended by striking out "adjusting any benefit or limitation under subparagraph (B), (C), or (D)" and inserting in lieu thereof "this subsection".

(10) Subparagraph (B) of section 3405(d)(1) is amended by striking out "or" at the end of clause (ii), and by striking out the material following clause (ii) and inserting in lieu thereof the following:

"(iii) any amount which is subject to withholding under subchapter A of chapter 3 (relating to withholding of tax on nonresident aliens and foreign corporations) by the person paying such amount or which would be so subject but for a tax treaty, or

"(iv) any distribution described in section 404(k)(2)."

(11) Subparagraph (C) of section 415(c)(3) is amended by striking out "a profit-sharing or stock bonus plan" and inserting in lieu thereof "any defined contribution plan".

(12) The amendments made by paragraphs (3), (4), and (6) shall take effect as if included in the amendments made by section 238 of the Tax Equity and Fiscal Responsibility Act of 1982.

(d) Amendments Relating to Section 714 of the Act.—

(1) Section 6229 is amended by adding at the end thereof the following new subsection:

"(g) Period of Limitations for Penalties.—The provisions of this section shall apply also in the case of any addition to tax or an additional amount imposed under subchapter A of chapter 68 which arises with respect to any tax imposed under subtitle A in the same manner as if such addition or additional amount were a tax imposed by subtitle A."

(2) Notwithstanding section 715 of the Tax Reform Act of 1984, the amendments made by section 714(n)(2) of such Act shall apply only to applications filed after July 18, 1984.

(e) Amendment Related to Section 734 of the Act.—Subsection (a) of section 201 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-11) is amended by striking out "section 209(f)(5) of the Highway Revenue Act of 1956" and inserting in lieu thereof "section 9503(c)(4)(B) of the Internal Revenue Code of 1954".

(f) Amendment Related to Section 735 of the Act.—The table of sections for part I of subchapter A of chapter 32 is amended by striking out "guzzlers" and inserting in lieu thereof "guzzler".

(g) Amendment of Section 1248.—

(1) In general.—Subsection (g) of section 1248 (relating to exceptions) is amended by inserting "or" at the end of paragraph (1), by striking out paragraph (2), and by redesignating paragraph (3) as paragraph (2).

(2) Effective date.—The amendment made by paragraph (1) shall apply to exchanges after September 27, 1985.

SEC. 1576. AMENDMENTS RELATED TO TITLE VIII OF THE ACT.

(a) Treatment of Section 923(a)(2) Non-Exempt Income.—

(1) Paragraph (6) of section 927(d) (defining section 923(a)(2) non-exempt income) is amended by adding at the end thereof the following new sentence: "Such term shall not include any income which is effectively connected with the conduct of a trade or business within the United States (determined without regard to this subpart)."

(2) Paragraph (6) of section 1248(d) (relating to foreign trade income) is amended to read as follows:

"(6) Foreign trade income.—Earnings and profits of the foreign corporation attributable to foreign trade income of a FSC other than foreign trade income which—

"(A) is section 923(a)(2) non-exempt income (within the meaning of section 927(d)(6)), or

"(B) would not (but for section 923(a)(4)) be treated as exempt foreign trade income.

For purposes of the preceding sentence, the terms 'foreign trade income' and 'exempt foreign trade income' have the respective meanings given such terms by section 923."

(b) Clarification of Preference Cutbacks.—

(1) Paragraph (4) of section 291(a) (relating to 20-percent reduction in certain preference items, etc.) is amended to read as follows:

"(4) Certain fsc income.—In the case of taxable years beginning after December 31, 1984, section 923(a) shall be applied with respect to any FSC by substituting—

"(A) '30 percent' for '32 percent' in paragraph (2), and

"(B) '$^{15}/_{22}$' for '$^{16}/_{23}$' in paragraph (3).

If all of the stock in the FSC is not held by 1 or more C corporations throughout the taxable year, under regulations, proper adjustments shall be made in the application of the preceding sentence to take into account stock held by persons other than C corporations."

(2) Subparagraph (F) of section 995(b)(1) (relating to deemed distributions from a DISC) is amended—

(A) by inserting "in the case of a shareholder which is a C corporation," before "one-seventeenth" in clause (i), and

(B) by striking out "the amount determined under clause (i)" in clause (ii) and inserting in lieu thereof "$^{16}/_{17}$ of the excess referred to in clause (i),".

(3) Subsection (a) of section 923 (defining exempt foreign trade income) is amended by adding at the end thereof the following new paragraph:

"(6) Cross reference.—

"For reduction in amount of exempt foreign trade income, see section 291(a)(4)."

(c) Treatment of Foreign Trade Income Under Subpart F.—

(1) Subsection (b) of section 952 (relating to exclusion of United States income) is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, income described in paragraph (2) or (3) of section 921(d) shall be treated as derived from sources within the United States."

(2) Paragraph (1) of section 951(e) is amended by striking out the last sentence.

(d) Dividends Received Deduction for Certain Distributions From a FSC.—

(1) Deduction for certain dividends.—

(A) Paragraph (1) of section 245(c) (relating to certain dividends received from FSC) is amended to read as follows:

"(1) In general.—In the case of a domestic corporation, there shall be allowed as a deduction an amount equal to—

"(A) 100 percent of any dividend received by such corporation from another corporation which is distributed out of earnings and profits attributable to foreign trade income for a period during which such other corporation was a FSC, and

"(B) 85 percent of any dividend received by such corporation from another corporation which is distributed out of earnings and profits attributable to qualified interest and carrying charges received or accrued by such other corporation while such other corporation was a FSC.

The deduction allowable under the preceding sentence with respect to any dividend shall be in lieu of any deduction allowable under subsection (a) or (b) with respect to such dividend."

(B) Paragraph (3) of section 245(c) (relating to definitions) is amended by adding at the end thereof the following new sentence: "For purposes of this subsection, the term 'qualified interest and carrying charges' means any interest or carrying charges (as defined in section 927(d)(1)) derived from a transaction which results in foreign trade income."

(2) Separate application of section 904.—Subparagraph (D) of section 904(d)(1) is amended to read as follows:

"(D) distributions from a FSC (or a former FSC) out of earnings and profits attributable to foreign trade income (within the meaning of section 923(b)) or qualified interest and carrying charges (as defined in section 245(c)), and".

(3) Coordination of sections 906 and 902.—Subsection (b) of section 906 (relating to nonresident alien individuals and foreign corporations) is amended by adding at the end thereof the following new paragraph:

"(6) For purposes of section 902, any income, war profits, and excess profits taxes paid or accrued (or deemed paid or accrued) to any foreign country or possession of the United States with respect to income effectively connected with the conduct of a trade or business within the United States shall not be taken into account, and any accumulated profits attributable to such income shall not be taken into account."

(e) Exchange of Information Requirements.—

(1) Paragraph (3) of section 927(e) (relating to exchange of information requirements) is amended—

(A) by striking out "unless, at the same time such corporation was created or organized, there was" an inserting in lieu thereof "unless there is",

(B) by striking out "section 274(h)(6)(C)" in subparagraph (A) and inserting in lieu thereof "section 274(h)(6)(C) (determined by treating any reference to a beneficiary country as being a reference to any foreign country and by applying such section without regard to clause (ii) thereof)", and

(C) by amending subparagraph (B) to read as follows:

"(B) an income tax treaty which contains an exchange of information program—

"(i) which the Secretary certifies (and has not revoked such certification) is satisfactory in practice for purposes of this title, and

"(ii) to which the FSC is subject."

(2) Effective for periods after March 28, 1985, paragraph (2) of section 924(c) (relating to requirement that FSC be managed outside the United States) is amended to read as follows:

"(2) the principal bank account of the corporation is maintained in a foreign country which meets the requirements of section 927(e)(3) or in a possession of the United States at all times during the taxable year, and".

(f) Coordination With Possessions Taxation.—

(1) Paragraph (5) of section 927(e) (relating to exemption from certain other taxes) is amended to read as follows:

"(5) Coordination with possessions taxation.—

"(A) Exemption.—No tax shall be imposed by any possession of the United States on any foreign trade income derived before January 1, 1987. The preceding sentence shall not apply to any income attributable to the sale of property or the performance of services for ultimate use, consumption, or disposition within the possession.

"(B) Clarification that possession may exempt certain income from tax.—Nothing in any provision of law shall be construed as prohibiting any possession of the United States from exempting from tax any foreign trade income of a FSC or any other income of a FSC described in paragraph (2) or (3) of section 921(d).

"(C) No cover over of taxes imposed on fsc.—Nothing in any provision of law shall be construed as requiring any tax imposed by this title on a FSC to be covered over (or otherwise transferred) to any possession of the United States."

(2) Clerical amendment.—Section 934 is amended by striking out the subsection (f) added by section 801(d)(7) of the Tax Reform Act of 1984.

(g) Clarification of Interest on DISC-Related Deferred Tax Liability.—Subsection (f) of section 995 (relating to interest on DISC-related deferred tax liability) is amended by adding at the end thereof the following new paragraph:

"(7) DISC includes former disc.—For purposes of this subsection, the term 'DISC' includes a former DISC."

(h) Clarification of Exemption of Accumulated DISC Income.—Subparagraph (A) of section 805(b)(2) of the Tax Reform Act of 1984 (relating to exemption of accumulated DISC income from tax) is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, the term 'actual distribution' includes a distribution in liquidation, and the earnings and profits of any corporation receiving a distribution not included in gross income by reason of the preceding sentence shall be increased by the amount of such distribution."

(i) Clarification of Effective Date for Requirement That Taxable Year of DISC and FSC Conform to Taxable Year of Majority Shareholder.—Paragraph (4) of section 805(a) of the Tax Reform Act of 1984 is amended to read as follows:

"(4) Section 803.—The amendments made by section 803 shall apply to taxable years beginning after December 31, 1984."

(j) Application of Dividends Received Deduction With Respect to Certain Dividends.—Subsection (c) of section 245 (relating to dividends received from certain foreign corporations) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) Coordination with subsections (a) and (b).—The gross income giving rise to the earnings and profits described in subparagraph (A) or (B) of paragraph (1) (and not described in paragraph (2)) shall not be taken into account under subsections (a) and (b)."

(k) Treatment of Certain Qualifying Distributions From DISC.—Paragraph (2) of section 996(a) (relating to qualifying distributions) is amended by striking out the last sentence and inserting in lieu thereof the following: "In the case of any amount of any actual distribution to a C corporation made pursuant to section 992(c) which is required to satisfy the condition of section 992(a)(1)(A), the preceding sentence shall apply to $\frac{16}{17}$ths of such amount and paragraph (1) shall apply to the remaining $\frac{1}{17}$th of such amount."

(l) Treatment of Certain Receipts From Other FSC.—Paragraph (1) of section 924(f) (relating to certain receipts not included in foreign trade gross receipts) is amended by adding at the end thereof the following new sentence:

"In the case of gross receipts of a FSC from a transaction involving any property, subparagraph (C) shall not apply if such FSC (and all other FSC's which are members of the same controlled group and which receive gross receipts from a transaction involving such property) do not use the pricing rules under paragraph (1) of section 925(a) (or the corresponding provisions of the regulations prescribed under section 925(b)) with respect to any transaction involving such property."

(m) Treatment of Certain Former Export Trade Corporations.—If—

(1) a corporation which is not an export trading corporation for its most recent taxable year ending before the date of the enactment of the Tax Reform Act of 1984 but was an export trading corporation for any prior taxable year, and

(2)(A) such corporation may not qualify as an export trade corporation for any taxable year beginning after December 31, 1984, by reason of section 971(a)(3) of the Internal Revenue Code of 1954, or (B) such corporation makes an election, before the date 6 months after the date of the enactment of this Act, not to be treated as an export trade corporation with respect to taxable years beginning after December 31, 1984,

rules similar to the rules of paragraphs (2) and (4) of section 805(b) of the Tax Reform Act of 1984 shall apply to such corporation. For purposes of the preceding sentence, the term "export trade corporation" has the meaning given such term by section 971 of such Code.

(n) Treatment of Distribution of Accumulated DISC Income Received by Cooperatives.—Paragraph (2) of section 805(b) of the Tax Reform Act of 1984 (relating to transition rules for DISC's) is amended by adding at the end thereof the following new subparagraph:

"(C) Treatment of distribution of accumulated DISC income received by cooperatives.—In the case of any actual distribution received by an organization described in section 1381 of such Code and excluded from the gross income of such corporation by reason of subparagraph (A)—

"(i) such amount shall not be included in the gross income of any member of such organization when distributed in the form of a patronage dividend or otherwise, and

"(ii) no deduction shall be allowed to such organization by reason of any such distribution."

(o) Treatment of Certain Contracts.—Paragraph (2) of section 805(a) of the Tax Reform Act of 1984 (relating to transitional rule for certain contracts) is amended to read as follows:

"(2) Special rule for certain contracts.—To the extent provided in regulations prescribed by the Secretary of the Treasury or his delegate, any event or activity required to occur or required to be performed, before January 1, 1985, by section 924(c) or (d) or 925(c) of the Internal Revenue Code of 1954 shall be treated as meeting the requirements of such section if such event or activity is with respect to—

"(A) any lease of more than 3 years duration which was entered into before January 1, 1985,

"(B) any contract with respect to which the taxpayer uses the completed contract method of accounting which was entered into before January 1, 1985, or

"(C) in the case of any contract other than a lease or contract described in subparagraph (A) or (B), any contract which was entered into before January 1, 1985; except that this subparagraph shall only apply to the first 3 taxable years of the FSC ending after January 1, 1985, or such later taxable years as the Secretary of the Treasury or his delegate may prescribe."

(p) Clerical Amendments.—

(1) Subsection (f) of section 995 is amended by redesignating the paragraphs following the paragraph (3) relating to deferred DISC income as paragraphs (4), (5), and (6).

(2) Subsection (h) of section 901 is amended by striking out "section 927(d)(6)" and inserting in lieu thereof "section 927(d)(6))".

(3) Paragraph (3) of section 802(c) of the Tax Reform Act of 1984 is hereby repealed.

(4) Subparagraph (A) of section 805(a)(2) of the Tax Reform Act of 1984 is amended by striking out "the taxpayer" and inserting in lieu thereof "the DISC or a related party".

(5) Paragraph (2) of section 927(e) is amended by striking out "clauses (i) and (ii)" and inserting in lieu thereof "clauses (ii) and (iii)".

SEC. 1577. AMENDMENTS RELATED TO TITLE IX OF THE ACT.

(a) Amendment Related to Section 911 of the Act.—Paragraph (3) of section 34(a) (relating to credit for certain uses of gasoline and special fuels) is amended to read as follows:

"(3) under section 6427—

"(A) with respect to fuels used for nontaxable purposes or resold, or

"(B) with respect to any qualified diesel-powered highway vehicle purchased (or deemed purchased under section 6427(g)(6)),

during the taxable year (determined without regard to section 6427(j))."

(b) Amendments Related to Section 915 of the Act.—

(1) Paragraph (2) of section 6427(b) (relating to intercity, local, or school buses) is amended by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively, and by inserting after subparagraph (A) the following new subparagraph:

"(B) Exception for school bus transportation.—Subparagraph (A) shall not apply to fuel used in an automobile bus while engaged in the transportation described in paragraph (1)(B)."

(2) Subparagraph (A) of section 6427(b)(2) is amended by striking out "subparagraph (B)" and inserting in lieu thereof "subparagraphs (B) and (C)".

(3) The heading for subparagraph (C) of section 6427(b)(2), as redesignated by paragraph (1), is amended by striking out "Exception" and inserting in lieu thereof "Exception for certain intracity transportation".

(c) Amendment Related to Section 921 of the Act.—Paragraph (3) of section 4051(d) (relating to temporary reduction in tax on certain piggyback trailers) is amended by adding at the end thereof the following new sentence:

"No tax shall be imposed by reason of this paragraph on any use or resale which occurs more than 6 years after the date of the first retail sale."

SEC. 1578. AMENDMENTS RELATED TO TITLE X OF THE ACT.

(a) Amendment Related to Section 1001 of the Act.—Subsection (b) of section 1001 of the Tax Reform Act of 1984 is amended by adding at the end thereof the following new paragraph:

"(24) Clause (i) of section 1278(a)(1)(B) (relating to short-term obligations)."

(b) Amendment Related to Section 1015 of the Act.—Subparagraph (I) of section 4162(a)(6) (defining sport fishing equipment) is amended to read as follows:

"(I) fishing hook disgorgers, and".

(c) Amendments Related to Section 1018 of the Act.—

(1) Paragraph (1) of section 4041(l) (relating to exemption for certain helicopter uses) is amended to read as follows:

"(1) transporting individuals, equipment, or supplies in the exploration for, or the development or removal of, hard minerals, oil, or gas, or".

(2) Paragraph (1) of section 4261(e) (relating to exemption for certain helicopter uses) is amended to read as follows:

"(1) transporting individuals, equipment, or supplies in the exploration for, or the development or removal of, hard minerals, oil, or gas, or".

(d) Amendments Related to Section 1034 of the Act.—

(1) The last sentence of section 514(c)(9)(B) (relating to exceptions) is amended by striking out "would be unrelated business taxable income (determined without regard to this paragraph)" and inserting in lieu in lieu thereof "is unrelated business taxable income".

(2) Clause (i) of section 514(c)(9)(C) is amended by striking out "section 509(a)" and inserting in lieu thereof "section 509(a)(3)".

(3) Subparagraph (B) of section 514(c)(9) (relating to real property acquired by a qualified organization) is amended by adding at the end thereof the following new sentence: "Subject to such conditions as the Secretary may prescribe, the Secretary may treat the requirements of clause (vi)(II) as met if it is shown to the satisfaction of the Secretary that there is no potential for tax avoidance."

(e) Amendments Related to Section 1041 of the Act.—

(1) The subsection (j) of section 51 (relating to targeted jobs credit) added by section 1041 of the Tax Reform Act of 1984 is hereby redesignated as subsection (k).

(2) Subparagraph (B) of section 1041(c)(5) of the Tax Reform Act of 1984 is amended by striking out "section 51(j)" and inserting in lieu thereof "section 51(k)".

(f) Amendment Related to Section 1053 of the Act.—Paragraph (2) of section 1034(h) (relating to members of armed forces) is amended by striking out "before the last day described" and inserting in lieu thereof "before the day which is 1 year after the last day described".

(g) Amendment Related to Section 1063 of the Act.—Subsection (c) of section 1063 of the Tax Reform Act of 1984 (relating to permanent disallowance of deduction for expenses of demolition of certain structures) is amended to read as follows:

"(c) Effective Dates.—

"(1) The amendments made by this section shall apply to taxable years ending after December 31, 1983, but shall not apply to any demolition (other than of a certified historic structure) commencing before July 19, 1984.

"(2) For purposes of paragraph (1), if a demolition is delayed until the completion of the replacement structure on the same site, the demolition shall be treated as commencing when construction of the replacement structure commences.

"(3) The amendments made by this section shall not apply to any demolition commencing before September 1, 1984, pursuant to a bank headquarters building project if—

"(A) on April 1, 1984, a corporation was retained to advise the bank on the final completion of the project, and

"(B) on June 12, 1984, the Comptroller of the Currency approved the project."

(h) Amendment Related to Section 1065 of the Act.—Subsection (b) of section 1065 of the Tax Reform Act of 1984 (relating to rules treating Indian tribal governments as States) is amended by striking out "section 7871" and inserting in lieu thereof "section 7871(a)".

(i) Amendments Related to Section 1071 of the Act.—

(1) Subsection (a) of section 852 (relating to taxation of regulated investment companies and their shareholders) is amended by adding "and" at the end of paragraph (1), by striking out paragraph (2), and by redesignating paragraph (3) as paragraph (2).

(2) Paragraph (1) of section 852(b) (relating to imposition of tax on regulated investment companies) is amended by striking out the last sentence and inserting in lieu thereof the following: "In the case of a regulated investment company which is a personal holding company (as defined in section 542) or which fails to comply for the taxable year with regulations prescribed by the Secretary for the purpose of ascertaining the actual ownership of its stock, such tax shall be computed at the highest rate of tax specified in section 11(b)."

SEC. 1579. MISCELLANEOUS PROVISIONS.

(a) Waiver of Estimated Tax Penalties.—No additional tax shall be made under section 6654 or 6655 of the Internal Revenue Code of 1954 (relating to failure to pay estimated income tax) for any period before April 16, 1985 (March 16, 1985 in the case of a taxpayer subject to section 6655 of such Code), with respect to any underpayment, to the extent that such underpayment was created or increased by any provision of the Tax Reform Act of 1984.

(b) Amendments Related to Orphan Drug Credit.—

(1) Clause (ii) of section 28(b)(2)(A) (defining clinical testing) is amended—

(A) by striking out "the date of such drug" in subclause (I) and inserting in lieu thereof "the date such drug", and

(B) by striking out "of such Act" in subclause (II) and inserting in lieu thereof "of such Act or, if the drug is a biological product, before the date on which a license for such drug is issued under section 351 of the Public Health Services Act".

(2) Paragraph (1) of section 28(d) (defining rare disease or condition) is amended to read as follows:

"(1) Rare disease or condition.—For purposes of this section, the term 'rare disease or condition' means any disease or condition which—

"(A) affects less than 200,000 persons in the United States, or

"(B) affects more than 200,000 persons in the United States but for which there is no reasonable expectation that the cost of developing and making available in the United States a drug for such disease or condition will be recovered from sales in the United States of such drug.

Determinations under the preceding sentence with respect to any drug shall be made on the basis of the facts and circumstances as of the date such drug is designated under section 526 of the Federal Food, Drug, and Cosmetic Act."

(3) The amendments made by this subsection shall apply to amounts paid or incurred after December 31, 1982, in taxable years ending after such date.

(c) Treatment of Sales Within Affiliated Group for Purposes of Section 29.—

(1) Paragraph (8) of section 29(d) (relating to related persons) is amended by adding at the end thereof the following new sentence: "In the case of a corporation which is a member of an affiliated group of corporations filing a consolidated return, such corporation shall be treated as selling qualified fuels to an unrelated person if such fuels are sold to such a person by another member of such group."

(2) The amendment made by paragraph (1) shall take effect as if included in the amendments made by section 231 of Public Law 96-223.

(d) Returns and Records With Respect to Certain Fringe Benefits.—

(1) Subsection (d) of section 6039D (added by section 1 of Public Law 98-611) is amended to read as follows:

"(d) Definitions.—For purposes of this section—

"(1) Specified fringe benefit plan.—The term 'specified fringe benefit plan' means—

"(A) any qualified group legal services plan (as defined in section 120),

"(B) any cafeteria plan (as defined in section 125), and

"(C) any educational assistance plan (as defined in section 127).

"(2) Applicable exclusion.—The term 'applicable exclusion' means—

"(A) section 120 in the case of a qualified group legal services plan,

"(B) section 125 in the case of a cafeteria plan, and

"(C) section 127 in the case of an educational asistance plan."

(2) The section 6039D added by section 1 of Public Law 98-612 is hereby repealed.

(e) Repeal of Joint Committee Report Requirement.—Section 6405 (relating to reports of refunds and credits) is amended by striking out subsection (b) and redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d), respectively.

(f) Amendments Related to Public Law 99-121.—

(1) The table contained in section 467(e)(3)(A) is amended—

(A) by striking out "18-year real property" and inserting in lieu thereof "19-year real property", and

(B) by striking out "18 years" and inserting in lieu thereof "19 years".

(2) The amendments made by paragraph (1) shall take effect as if included in the amendments made by section 103 of Public Law 99-121.

(g) Defined Contribution Plan of Rural Electric Cooperative May Include Qualified Cash or Deferred Arrangement.—

(1) In general.—Paragraphs (1) and (2) of section 401(k) (relating to cash or deferred arrangements) are each amended by striking out "(or a pre-ERISA money purchase plan)" and inserting in lieu thereof ", a pre-ERISA money purchase plan, or a rural electric cooperative plan".

(2) Rural electric cooperative plan defined.—Subsection (k) of section 401 is amended by adding at the end thereof the following new paragraph:

"(6) Rural electric cooperative plan.—For purposes of this subsection, the term 'rural electric cooperative plan' means any pension plan—

"(A) which is a defined contribution plan (as defined in section 414(i)), and

"(B) which is established and maintained by a rural electric cooperative (as defined in section 457(d)(9)(B)) or a national association of such rural electric cooperatives."

(3) Effective date.—The amendments made by this subsection shall apply to plan years beginning after December 31, 1984.

(h) Clarification of Definition of Newly Discovered Oil.—

(1) In general.—Paragraph (2) of section 4991(e) (defining newly discovered oil) is amended by adding at the end thereof the following new sentences: "Such term includes any production from a property which did not produce oil in commercial quantities during calendar year 1978. For purposes of the preceding sentence, a property shall not be treated as producing oil in commerical quantities during calendar year 1978 if, during calendar year 1978 (A) the aggregate amount of oil produced from such property did not exceed 2,200 barrels (whether or not such oil was sold), and (B) no well on such property was in production for a total of more than 72 hours."

(2) Effective date.—The amendments made by paragraph (1) shall apply to oil removed after February 29, 1980.

(i) Medicinal Alcohol, Etc. Brought Into the United States From Puerto Rico or the Virgin Islands Eligible for Drawback.—

(1) Section 7652 (relating to shipments to the United States) is amended by adding at the end thereof the following new subsection:

"(g) Drawback for Medicinal Alcohol, Etc.—In the case of medicines, medicinal preparations, food products, flavors, or flavoring extracts containing distilled spirits, which are unfit for beverage purposes and which are brought into the United States from Puerto Rico or the Virgin Islands, this subpart shall be applied as if—

"(1) the use and tax determination described in subsection (a) thereof had occurred in the United States by a United States person at the time the article is brought into the United States, and

"(2) the rate of tax were the rate applicable under subsection (f) of this section."

(2) The amendment made by paragraph (1) shall apply to articles brought into the United States after the date of the enactment of this Act.

(3)(A) Section 7652 of the Internal Revenue Code of 1954 (other than subsection (f) thereof) shall not prevent the payment to Puerto Rico or the Virgin Islands of amounts with respect to medicines, medicinal preparations, food products, flavors, or flavoring extracts containing distilled spirits, which are unfit for beverage purposes and which are brought into the United States from Puerto Rico or the Virgin Islands on or before the date of the enactment of this Act.

(B) With respect to articles brought into the United States after September 27, 1985, subparagraph (A) shall apply only if the Secretary of the Treasury or his delegate is satisfied that the amounts paid to Puerto Rico or the Virgin Islands under subparagraph (A) are being repaid to the proper persons who used the distilled spirits in such articles.

CHAPTER 8—EFFECTIVE DATE

SEC. 1581. EFFECTIVE DATE.

Except as otherwise provided in this subtitle, any amendment made by this subtitle shall take effect as if included in the provision of the Tax Reform Act of 1984 to which such amendment relates.

Subtitle B—Related to Other Programs Affected by the Deficit Reduction Act of 1984

CHAPTER 1—AMENDMENTS RELATED TO SOCIAL SECURITY ACT PROGRAMS

SEC. 1585. AMENDMENTS RELATED TO COVERAGE OF CHURCH EMPLOYEES (SECTION 2603 OF THE DEFICIT REDUCTION ACT).

(a) Clarification of Exception for Members of Certain Religious Faiths.—Subsection (g) of section 1402 of the Internal Revenue Code of 1954 (relating to members of certain religious faiths) is amended by adding at the end thereof the following new paragraph:

"(5) Subsection not to apply to certain church employees.—This subsection shall not apply with respect to services which are described in subparagraph (B) of section 3121(b)(8) (and are not described in subparagraph (A) of such section)."

(b) Treatment of Income of Certain Church, Etc., Employees.—

(1) Amendments of internal revenue code of 1954.—

(A) In general.—Section 1402 of such Code (relating to definitions for purposes of the tax on self-employment income) is amended by adding at the end thereof the following new subsection:

"(j) Special Rules for Certain Church Employee Income.—

"(1) Computation of net earnings.—In applying subsection (a)—

"(A) church employee income shall not be reduced by any deduction;

"(B) church employee income and deductions attributable to such income shall not be taken into account in determining the amount of other net earnings from self-employment.

"(2) Computation of self-employment income.—

"(A) Separate application of subsection (b)(2).—Paragraph (2) of subsection (b) shall be applied separately—

"(i) to church employee income, and

"(ii) to other net earnings from self-employment.

"(B) $100 floor.—In applying paragraph (2) of subsection (b) to church employee income, '$100' shall be substituted for '$400'.

"(3) Coordination with subsection (a)(12).—Paragraph (1) shall not apply to any amount allowable as a deduction under subsection (a)(12), and paragraph (1) shall be applied before determining the amount so allowable.

"(4) Church employee income defined.—For purposes of this section, the term 'church employee income' means gross income for services which are described in section 3121(b)(8)(B) (and are not described in section 3121(b)(8)(A))."

(B) Technical and conforming amendments.—

(i) Net earnings.—Paragraph (14) of section 1402(a) of such Code (defining net earnings from self-employment) is amended to read as follows:

"(14) in the case of church employee income, the special rules of subsection (j)(1) shall apply."

(ii) Self-employment income.—Subsection (b) of section 1402 of such Code is amended by adding at the end thereof the following new sentence: "In the case of church employee income, the special rules of subsection (j)(2) shall apply for purposes of paragraph (2)."

(iii) Conforming amendment.—The second sentence of section 1402(b) of such Code is amended by striking out "clause (1)" and inserting in lieu thereof "paragraph (1)".

(2) Amendments of social security act.—

(A) In general.—Section 211 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(i)(1) In applying subsection (a)—

"(A) church employee income shall not be reduced by any deduction;

"(B) church employee income and deductions attributable to such income shall not be taken into account in determining the amount of other net earnings from self-employment.

"(2)(A) Subsection (b)(2) shall be applied separately—

"(i) to church employee income, and

"(ii) to other net earnings from self-employment.

"(B) In applying subsection (b)(2) to church employee income, '$100' shall be substituted for '$400'.

"(3) Paragraph (1) shall not apply to any amount allowable as a deduction under subsection (a)(11), and paragraph (1) shall be applied before determining the amount so allowable.

"(4) For purposes of this section, the term 'church employee income' means gross income for services which are described in section 210(a)(8)(B) (and are not described in section 210(a)(8)(A))."

(B) Technical and conforming amendments.—

(i) Net earnings.—Section 211(a)(13) of such Act is amended to read as follows:

"(14) In the case of church employee income, the special rules of subsection (i)(1) shall apply."

(ii) Self-employment income.—Section 211(b) of such Act is amended by adding at the end thereof the following new sentence: "In the case of church employee income, the special rules of subsection (i)(2) shall apply for purposes of paragraph (2)."

(3) Effective date.—The amendments made by this subsection shall apply to remuneration paid or derived in taxable years beginning after December 31, 1984.

(c) Revocation of Election Under Section 3121(w).—Paragraph (2) of section 3121(w) of the Internal Revenue Code of 1954 (relating to timing and duration of election) is amended by striking out the last 2 sentences and inserting in lieu thereof the following: "The election may be revoked by the church or organization under regulations prescribed by the Secretary. The election shall be revoked by the Secretary if such church or organization fails to furnish the information required under section 6051 to the Secretary for a period of 2 years or more with respect to remuneration paid for such services by such church or organization, and, upon request by the Secretary, fails to furnish all such previously unfurnished information for the period covered by the election. Any revocation under the preceding sentence shall apply retroactively to the beginning of the 2-year period for which the information was not furnished."

SEC. 1586. CORRECTIONS RELATING TO ENROLLMENT AND PREMIUM PENALTY UNDER THE MEDICARE WORKING AGED PROVISION.

(a) Premium Penalty.—The second sentence of section 1839(b) of the Social Security Act (42 U.S.C. 1395r(b)), as amended by section 2338(a) of the Deficit Reduction Act of 1984, is amended by striking out "months in which" and all that follows through "clause (iv) of such section" and inserting in lieu thereof "months during which the individual has attained the age of 65 and for which the individual can demonstrate that the individual was enrolled in a group health plan described in section 1862(b)(3)(A)(iv)".

(b) Special Enrollment Periods.—Section 1837(i) of the Social Security Act (42 U.S.C. 1395p), as added by section 2338(b) of the Deficit Reduction Act of 1984, is amended—

(1) in paragraph (1) by amending subparagraph (A) to read as follows:

"(A) has attained the age of 65,"; and

(2) in paragraph (2), by redesignating subparagraph (C) as subparagraph (D) and by amending subparagraphs (A) and (B) to read as follows:

"(A) has attained the age of 65;

"(B)(i) has enrolled (or has been deemed to have enrolled) in the medical insurance program established under this part during the individual's initial enrollment period, or (ii) is an individual described in paragraph (1)(B);

"(C) has enrolled in such program during any subsequent special enrollment period under this subsection during which the individual was not enrolled in a group health plan described in section 1862(b)(3)(A)(iv) by reason of the individual's (or individual's spouse's) current employment; and".

(c) Effective Dates.—

(1) The amendment made by subsection (a) shall apply to months beginning with January 1983 for premiums for months beginning with the first month that begins more than 30 days after the date of the enactment of this Act.

(2)(A) The amendments made by subsection (b) shall apply to enrollments in months beginning with the first effective month (as defined in subparagraph (B)), except that in the case of any individual who would have a special enrollment period under section 1837(i) of the Social Security Act that would have begun after November 1984 and before the first effective month, the period shall be deemed to begin with the first day of the first effective month.

(B) For purposes of subparagraph (A), the term "first effective month" means the first month that begins more than 90 days after the date of the enactment of this Act.

SEC. 1587. TECHNICAL CORRECTIONS IN OTHER PROVISIONS RELATED TO SOCIAL SECURITY ACT PROGRAMS.

(a) Amendments Relating to OASDI Program.—

(1) Section 202(c)(5)(B) of the Social Security Act is amended by striking out "or (I)" and inserting in lieu thereof "or (J)".

(2) Section 202(q)(5)(A)(i) of such Act is amended by striking out "prescribed by him" and inserting in lieu thereof "prescribed by the Secretary".

(3) Section 202(q)(5)(C) of such Act is amended by striking out "she shall be deemed" and inserting in lieu thereof "he or she shall be deemed".

(4) Section 203(a)(6) of such Act is amended by striking out the comma after "shall be".

(5) Section 210(a)(5)(G) of such Act is amended by striking out "Any other service" and inserting in lieu thereof "any other service".

(6) Effective on the date of the enactment of the Deficit Reduction Act of 1984—

(A) section 2601(d)(1)(B)(ii) of that Act is amended by striking out "210(a)(5)(g)(iii)" and inserting in lieu thereof "210(a)(5)(G)(iii)"; and

(B) section 2663(c)(1) of that Act is amended by striking out subparagraph (B).

(7) Section 211(c)(2) of the Social Security Act is amended by indenting subparagraph (G) two additional ems (for a total indentation of four ems) so as to align its left margin with the margins of the other subparagraphs in such section.

(8) Section 215(i)(5)(B) of such Act is amended—

(A) by striking out "subdivision (I)" in clause (ii) and inserting in lieu thereof "clause (i)(I)";

(B) by striking out "subdivisions (I) and (II)" in the matter between clauses (iii) and (iv) and inserting in lieu thereof "clause (i)".

(9) The heading of section 218(m) of such Act is amended to read as follows:

"Wisconsin Retirement Fund".

(10) Section 221(e) of such Act is amended by striking out "under this section" in the first sentence.

(11) Section 223(g)(1) of such Act is amended by striking out the second comma after the term "benefits" where such term first appears in the matter following subparagraph (C).

(12)(A) Section 1402(c)(2) of the Internal Revenue Code of 1954 is amended by indenting subparagraph (G) two additional ems (for a total indentation of four ems) so as to align its left margin with the margins of the other subparagraphs in such section.

(B) Section 3121(a)(8) of such Code is amended by moving subparagraph (B) two ems to the left, so that its left margin is in flush alignment with the margin of subparagraph (A) of such section.

(b) Amendments Relating to AFDC and Child Support Programs.—

(1)(A) Section 402(a) of the Social Security Act is amended by striking out "and" after the semicolon at the end of paragraph (37), and by making any additional changes which may be necessary to assure that paragraphs (34) through (37) each end with a semicolon, paragraph (38) ends with "; and", and paragraph (39) ends with a period.

(B) Effective on the date of the enactment of the Deficit Reduction Act of 1984, section 2639(a) of that Act is amended by striking out the period immediately following "utility providing home energy" (in the quoted matter) and inserting in lieu thereof a semicolon.

(2) The placement of the last sentence of section 402(a) of the Social Security Act is modified to the extent necessary to assure that it begins flush to the full left margin without any indentation, immediately after and below the last of the numbered paragraphs.

(3) Section 457(c) of such Act is amended by striking out "subsection (b)(3) (A) and (B)" in the matter following paragraph (2) and inserting in lieu thereof "subsection (b)(4) (A) and (B)".

(4) Section 458(d) of such Act is amended by striking out "on behalf of individuals residing in another State" and inserting in lieu thereof "at the request of another State".

(5) Section 464(b)(2)(A) of such Act is amended by striking out "threshhold" and inserting in lieu thereof "threshold".

(c) Amendments to General Provisions.—

(1) Section 1101(a) of such Act is amended by shifting paragraphs (3), (4), and (5) to the right to the extent necessary to assure that their left margins are aligned with the left margins of the other numbered paragraphs.

(2) Section 1136(b)(7) of such Act is amended by striking out "nongovermental" and inserting in lieu thereof "nongovernmental".

(d) Amendments Relating to SSI Program.—

(1) The heading of section 1631(g) of such Act is amended to read as follows:

"Reimbursement to States for Interim Assistance Payments".

(2) Section 1612(a)(1)(C) of such Act is amended by striking out "section 43" and inserting in lieu thereof "section 32".

(3) Section 1612(b) of such Act is amended by making any changes which may be necessary to assure that paragraph (11) ends with a semicolon, paragraph (12) ends with "; and", and paragraph (13) ends with a period.

(e) Amendments Relating to Medicare Program.—

(1)(A) Subclause (III) of section 1842(b)(7)(B)(ii) of the Social Security Act (42 U.S.C. 1395u(b)(7)(B)(ii)), as added by section 2307(a)(2)(G) of the Deficit Reduction Act of 1984, is amended by indenting it two additional ems to the right so as to align its left margin with the left margins of subclauses (I) and (II) of that section.

(B) Section 1861(n) of the Social Security Act (42 U.S.C. 1395x(n)), as inserted by section 2321(e)(3) of the Deficit Reduction Act of 1984, is amended by striking out "at his home" and inserting in lieu thereof "as his home".

(C) Section 1888(b) of the Social Security Act (42 U.S.C. 1395yy(b)), as added by section 2319(b) of the Deficit Reduction Act of 1984, is amended by striking out "nothwithstanding" and inserting in lieu thereof "notwithstanding".

(D) The amendments made by this paragraph shall be effective as if they had been originally included in the Deficit Reduction Act of 1984.

(2)(A) Clause (iii) of section 1842(b)(7)(B) of the Social Security Act (42 U.S.C. 1395u(b)(7)(B)), as added by section 3(b)(6) of Public Law 98-617, is amended by moving its alignment two additional ems to the left so as to align its left margin with the left margins of clauses (i) and (ii) of that section.

(B) The amendment made by subparagraph (A) shall be effective as if it had been originally included in Public Law 98-617.

(3)(A) Section 1861(v)(1)(G)(i) of the Social Security Act (42 U.S.C. 1395x(b)(1)(G)(i)), as amended by section 602(d)(1) of the Social Security Amendments of 1983, is amended by inserting, in the matter after subclause (III), "on the basis of" after "(during such period)".

(B) The amendment made by subparagraph (A) shall be effective as if it had been originally included in the Social Security Amendments of 1983.

(f) Amendments Relating to Social Services Program.—

(1)(A) Section 2003(d) of such Act is repealed.

(B) Section 2003(b) of such Act is amended by striking out "(subject to subsection (d))".

(2) Section 2007 of such Act is repealed.

(g) Effective Date.—Except as otherwise provided in this section, the amendments made by this section shall take effect on the date of the enactment of this Act.

CHAPTER 2—AMENDMENTS RELATED TO UNEMPLOYMENT COMPENSATION PROGRAM

SEC. 1590. TECHNICAL CORRECTIONS IN FEDERAL UNEMPLOYMENT TAX ACT.

The Federal Unemployment Tax Act is amended as follows:

(1) Subparagraph (B) of section 3302(c)(2) (relating to a limit on the credit against the unemployment tax) is amended—

(A) by striking out "determination" the second place it appears in the material preceding clause (i) and inserting in lieu thereof "denominator", and

(B) in clause (i)—

(i) by striking out "percent" immediately preceding the comma at the end thereof, and

(ii) by inserting "percent" after "2.7".

(2) Subparagraph (A) of section 3302(f)(8) (relating to a partial limitation on the reduction of the credit against the unemployment tax) is amended by striking out "1987" and inserting in lieu thereof "1986".

(3) Clause (i) of section 3306(o)(1)(A) (relating to crew leaders who are registered or provide specialized agricultural labor) is amended by striking out "Farm Labor Contractor Registration Act of 1963" and inserting in lieu thereof "Migrant and Seasonal Agricultural Workers Protection Act".

CHAPTER 3—AMENDMENTS RELATED TO TRADE AND TARIFF PROGRAMS

SEC. 1591. AMENDMENTS TO THE TARIFF SCHEDULES.

The Tariff Schedules of the United States (19 U.S.C. 1202) are amended as follows:

(1) Telecommunications product classification corrections.—(A) Schedule 6 is amended as follows:

(i) Headnote 1 to subpart C of part 4 is amended by striking out "688.43" and inserting in lieu thereof "688.42".

(ii) Headnote 3 of part 5 of schedule 6 is amended by striking out "items 685.11 through 685.19, inclusive," and inserting in lieu thereof "items 684.92, 684.98, 685.00, and 685.08".

(iii) Item 685.34 is amended by inserting "35% ad val." in Column No. 2.

(iv) Item 685.55 is amended by striking out "685.11 to 685.50" and inserting in lieu thereof "684.92 to 685.49".

(B) Headnote 2(ii) to part 7 of schedule 8 is amended by striking out "688.43" and inserting in lieu thereof "688.42".

(2) CORRECTIONS TO THE APPENDIX.—Subpart B of part 1 to the Appendix is amended as follows:

(A) The article description for item 906.38 is amended to read as follows: "N-Acetylsulfanilyl chloride (provided for in item 405.31, part 1B, schedule 4)".

(B) Item 907.38 is amended by striking out "411.87" and inserting in lieu thereof "411.82".

(C) Item 912.13 is amended by striking out "670.20" and inserting in lieu thereof "670.21".

(3) MISCELLANEOUS CORRECTIONS.—The Schedules are further amended as follows:

(A) Headnote 1 of subpart D of part 4 of schedule 1 is amended by striking out "(casein plus albumin)" and inserting in lieu thereof "(casein plus lactalbumin)".

(B) Headnote 1 of subpart C of part 4 of schedule 3 is amended—

(i) by inserting "or" after the semicolon at the end of clause (v); and

(ii) by striking out "; or" at the end of clause (vi) and inserting in lieu thereof a period.

(C)(i) Subpart B of part 2 of schedule 6 is amended by inserting before the superior heading to items 608.26 and 608.29, and at the same indention level as that heading, the following new item:

"608.25	Silicon electrical steel	6.1% ad val + additional duties (see headnote 4)	5.1% ad val. + additional duties (see headnote 4)	33% ad val + additional duties (see headnote 4)"

(ii) The amendment made by clause (i) shall apply with respect to articles entered or withdrawn from warehouse, for consumption on or after the 15th day after the date of the enactment of this Act.

SEC. 1592. TECHNICAL CORRECTIONS TO COUNTERVAILING AND ANTIDUMPING DUTY PROVISIONS.

(a) Title VII of the Tariff Act of 1930 is amended as follows:

(1)(A) Subsection (c) of section 701 (19 U.S.C. 1671(c)) is redesignated as subsection (d).

(B) Subsection (g) of such section 701 (as added by section 613(b) of the Trade and Tariff Act of 1984) is—

(i) amended by striking out "(g) Whenever" and inserting in lieu thereof "(c) UPSTREAM SUBSIDY.—Whenever"; and

(ii) inserted immediately after subsection (b) of that section.

(2) Sections 702(b)(1) and 732(b)(1) (19 U.S.C. 1671a(b)(1) and 1673a(b)(1)) are each amended by striking out "(C), (D), or (E)" and inserting in lieu thereof "(C), (D), (E), or (F)".

(3) Subsection (h) of section 703 (19 U.S.C. 1617b(h)) is redesignated as subsection (g), and—

(A) paragraph (2)(A) of that subsection (as so redesignated) is amended by striking out "days under section 705(a)(1) or 225 days under section 705(a)(2), as appropriate" and inserting in lieu thereof "or 225 days, as appropriate, under section 705(a)(1)"; and

(B) paragraph (2)(B)(ii) of that subsection (as so redesignated) is amended by striking out "days under section 705(a)(2)" and inserting in lieu thereof "or 225 days, as appropriate, under section 705(a)(1)".

(4) Section 704 is amended—

(A) by amending subsection (d)—

(i) by redesignating paragraph (2) as paragraph (3); and

(ii) by inserting after paragraph (1) the following new paragraph:

"(2) EXPORTS OF MERCHANDISE TO UNITED STATES NOT TO INCREASE DURING INTERIM PERIOD.—The administering authority may not accept any agreement under subsection (b) unless that agreement provides a means of ensuring that the quantity of the merchandise covered by that agreement exported to the United States during the period provided for elimination or offset of the subsidy or cessation of exports does not exceed the quantity of such merchandise exported to the United States during the most recent representative period determined by the administering authority."; and

(B) by amending subsection (i)(1)(D) by striking out "international" and inserting in lieu thereof "intentional".

(5) Paragraph (2) of section 706(a) is amended by aligning the margin of the matter appearing after subparagraph (B) with the margin of the matter appearing before subparagraph (A).

(6)(A) Section 708 is amended by striking out "SEC. 708." and inserting in lieu thereof the following flush section heading:

"SEC. 708. EFFECT OF DEROGATION OF EXPORT-IMPORT BANK FINANCING.".

(B) The table of contents for such title VII is amended by inserting in numerical sequence the following:

"Sec. 708. Effect of derogation of Export-Import Bank financing.".

(7) Section 736(c)(1) (19 U.S.C. 1673(c)(1)) is amended by inserting ", and was sold to any person that is not related to such manufacturer, producer, or exporter," immediately before "on or after the date of publication of—".

(8) The last sentence of section 751(b)(1) (19 U.S.C. 1675(b)(1)) is amended by inserting "or countervailing duty" after "antidumping" each place it appears.

(9) Section 771(7)(F)(i) (19 U.S.C. 1677(7)(F)(i)) is amended—

(A) by striking "any merchandise" in that part which precedes subclause (I) and inserting in lieu thereof "the merchandise"; and

(B) by striking out "find orders" in subclause (VIII) and inserting in lieu thereof "final orders".

(10) Section 771A(a) is amended by striking out "(ii), or (iii)" and inserting in lieu thereof "(ii), (iii), or (iv)".

(11) Subsection (g) of section 773 (19 U.S.C. 1677b(g)) is redesignated as subsection (f).

(12) Section 775 (19 U.S.C. 1677d) is amended by striking out "an proceeding" each place it appears in the text and in the heading and inserting in lieu thereof "a proceeding".

(13) Section 777 (19 U.S.C. 1677f) is amended—

(A) by striking out "confidential", "nonconfidential", and "confidentiality" each place they appear in the text and in the side headings and inserting in lieu thereof "proprietary", "non-proprietary", and "proprietary status", respectively; and

(B) by inserting "or the Commission" after "administering authority" in subsection (b)(1)(B)(i).

(b) Section 626(b) of the Trade and Tariff Act of 1984 (relating to the effective dates of the amendments made therein to title VII of the Tariff Act of 1930) is amended—

(1) by amending paragraph (1) by inserting ", and to reviews begun under section 751 of that Act," after "1930"; and

(2) by adding at the end thereof the following new paragraphs:

"(3) The administering authority may delay implementation of any of the amendments referred to in subsections (a) and (b)(1) with respect to any investigation in progress on the date of the enactment of this Act if the administering authority determines that immediate implementation would prevent compliance with a statutory deadline in title VII of the Tariff Act of 1930 that is applicable to that investigation.

"(4) The amendment made by section 621 shall apply with respect to merchandise that is unliquidated on or after November 4, 1984.".

SEC. 1593. AMENDMENTS TO THE TRADE ACT OF 1974.

The Trade Act of 1974 is amended as follows:

(1) Section 128(b) (19 U.S.C. 2138) is amended by striking out "587.70" in paragraph (1) and inserting in lieu thereof "687.70".

(2) Subsection (n) of section 135 (as added by section 306(c)(2)(B)(v) of the Trade and Tariff Act of 1984) is redesignated as subsection (m).

(3) Section 141(d)(6) is amended by striking out "3679(b) of the Revised Statutes (31 U.S.C. 665(b))" and inserting in lieu thereof "1342 of title 31, United States Code".

(4) Subparagraphs (A), (B), and (C) of section 502(b)(4) are amended to read as follows:

"(A) has nationalized, expropriated, or otherwise seized ownership or control of property, including patents, trademarks, or copyrights, owned by a United States citizen or by a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens,

"(B) has taken steps to repudiate or nullify an existing contract or agreement with a United States citizen or a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of property, including patents, trademarks, or copyrights, so owned, or

"(C) has imposed or enforced taxes or other exactions, restrictive maintenance or operational conditions, or other measures with respect to property, including patents, trademarks, or copyrights, so owned, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of such property,".

(5) That part of section 504(c)(3)(D)(ii) (19 U.S.C. 2464(c)(3)(D)(ii)) that precedes subclause (I) is amended—

(A) by striking out "from any beneficiary developing country";

(B) by inserting "an aggregate value equal to" immediately before "15"; and

(C) by striking out "if for the preceding calendar year such beneficiary developing country—" and inserting in lieu thereof "for those beneficiary developing countries which for the preceding calendar year—".

SEC. 1594. AMENDMENTS TO THE TARIFF ACT OF 1930.

The Tariff Act of 1930 is amended as follows:

(1) Section 304(c) (19 U.S.C. 1304(c)) is amended—

(A) by striking out "No" and inserting in lieu thereof the following: "(1) Except as provided in paragraph (2), no"; and

(B) by adding at the end thereof the following new paragraph:

"(2) If, because of the nature of an article, it is technically or commercially infeasible to mark it by one of the four methods specified in paragraph (1), the article may be marked by an equally permanent method of marking such as paint stenciling or, in the case of small diameter pipe and tube, by tagging the containers or bundles.".

(2) Section 313(j) (19 U.S.C. 1313(j)), as amended by section 202(1) of the Trade and Tariff Act of 1984, is amended—

(A) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively; and

(B) by amending paragraph (3) (as so redesignated) to read as follows:

"(3) The performing of incidental operations (including, but not limited to, testing, cleaning, repacking, and inspecting) on—

"(A) the imported merchandise itself in cases to which paragraph (1) applies; or

"(B) the merchandise of the same kind and quality in cases to which paragraph (2) applies:

that does not amount to manufacture or production for drawback purposes under the preceding provisions of this section shall not be treated as a use of that merchandise for purposes of applying paragraph (1)(B) or (2)(C).".

(3) Section 339(c)(2)(A) (19 U.S.C. 1339) is amended by striking out "relief" and inserting in lieu thereof "injury".

(4) Section 514(a) (19 U.S.C. 1514(a)) is amended by striking out "as defined in section 771(9) (C), (D), (E), and (F) of this Act".

(5) Section 516(a)(2) (19 U.S.C. 1615(a)(2)) is amended by adding at the end thereof the following new sentence:

"Such term also means a person that is an association, a majority of whose members is composed of persons described in subparagraph (A), (B), or (C).".

(6) Section 516A(a)(3) (19 U.S.C. 516a(a)(3)) is amended by striking out "(2)(A)(ii)" and inserting in lieu thereof "(2)(A)(i)(II)".

(7) Section 613a of the Tariff Act of 1930 (19 U.S.C. 1613a), as added by section 317 of the Joint Resolution entitled "A Joint Resolution making appropriations for fiscal year 1985, and for other purposes.", approved October 12, 1984 (98 Stat. 2054, Public Law 98-473), is repealed.

SEC. 1595. AMENDMENTS TO THE TRADE AND TARIFF ACT OF 1984.

The Trade and Tariff Act of 1984 (Public Law 98-573) is amended as follows:

(1) Section 126 is amended—

(A) by striking out the following:

"(3) Paragraphs (1) and (2) of section 126 of the bill are amended to read as follows:"; and

(B) by striking out "8.3% ad val." in paragraph (1) and inserting in lieu thereof "7.5% ad val.".

(2) Section 174(b) is amended by adding at the end of the table appearing therein the following:

"January 1, 1987 .... 4.9% ad val.".

(3) Paragraph (7) of subsection (b) of section 212 is redesignated as subsection (c) of that section.

(4) The table in section 234(a) is amended by striking out "711.49" and inserting in lieu thereof "712.49".

(5) Section 304(d)(2)(A) is amended—

(A) by striking out "paragraph (6)" in clause (i) and inserting in lieu thereof "paragraph (9)";

(B) by striking out "paragraph (7)" in clause (ii) and inserting in lieu thereof "paragraph (10)"; and

(C) by redesignating the paragraph proposed to be added by clause (iii) as paragraph (11) of section 141(d) of the Trade Act of 1974.

(6) Section 307(b)(3) is amended by striking out "or paragraph (3)".

(7) Paragraph (4) of section 404(e) of the Trade and Tariff Act of 1984 is amended by striking out "147.44" and inserting in lieu thereof "147.33".

(8) Section 504 is amended by striking out "Tariff Act of 1930" and inserting in lieu thereof "Trade Act of 1974".

(9) Paragraph (3) of section 619 is amended by striking out "subsection (b)" and inserting in lieu thereof "subsection (b)(1)".

SEC. 1596. AMENDMENTS TO THE CARIBBEAN BASIN ECONOMIC RECOVERY ACT.

Section 213 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703) is amended—

(1) by amending paragraph (3) of subsection (a) (as added by section 235 of the Trade and Tariff Act of 1984)—

(A) by redesignating that paragraph as paragraph (4), and aligning its margin with that of paragraph (3), and

(B) by striking out "such" the first time it appears therein and inserting in lieu thereof "any beneficiary"; and

(2) by striking out "138.42" in subsection (f)(5)(B) and inserting in lieu thereof "138.46".

SEC. 1597. CONFORMING AMENDMENTS REGARDING CUSTOMS BROKERS.

Title 28 of the United States Code is amended—

(1) by striking out "(3) or (c)" in section 1581(g)(1) and inserting in lieu thereof "(3)"; and

(2) by striking out "641(a)(1)(C)" in section 1582(1) and inserting in lieu thereof "641(b)(6)".

SEC. 1598. SPECIAL EFFECTIVE DATE PROVISIONS FOR CERTAIN ARTICLES GIVEN DUTY-FREE TREATMENT UNDER THE TRADE AND TARIFF ACT OF 1984.

(a) Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the customs officer concerned on or before the 90th day after the date of the enactment of this Act, the entry of any article described in subsection (b) shall be treated as provided for in that subsection.

(b) In the case of the application of any amendment made by sections 112, 115, 118, 167, and 179 of the Trade and Tariff Act of 1984 (Public Law 98-573) to any entry—

(1) which was made after the applicable date and before the 15th day after the date of the enactment of this Act; and

(2) with respect to which there would have been no duty or a lesser duty if the amendment made by any such section applied to such entry;

such entry shall be liquidated or reliquidated as though such entry had been made on the 15th day after the date of the enactment of this Act.

(c) For purposes of subsection (b), the term "applicable date" means—

(1) in the case of section 118, June 1, 1982;

(2) in the case of sections 112, 115, and 179, June 30, 1983; and

(3) in the case of section 167, October 30, 1983.

(d) For purposes of this section—

(1) The term "entered" means entered, or withdrawn from warehouse for consumption in the customs territory of the United States.

(2) The term "entry" includes any withdrawal from warehouse.

AMENDMENT OFFERED BY MR. UDALL

Mr. UDALL. Mr. Chairman, I offer an amendment made in order under the rule.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. UDALL:

SEC. 671A. REVENUES NOT TO DECREASE; NONDISCRIMINATORY TREATMENT REQUIRED.

(a) REVENUES NOT TO DECREASE.—The total amount of the revenue received by any possession referred to in section 671(a) pursuant to its tax laws during the implementation year and each of the 4 fiscal years thereafter shall not be less than the revenue (adjusted for inflation) which was received by such possession pursuant to tax laws for its last fiscal year before the implementation year.

(b) NONDISCRIMINATORY TREATMENT REQUIRED.—Nothing in any tax law of a possession referred to in section 671(a) may discriminate against any citizen or resident of the United States or of any other possession.

(c) ENFORCEMENT.—

(1) IN GENERAL.—If the Secretary of the Treasury (after consultation with the Secretary of the Interior) determines that any possession has failed to comply with subsection (a) or (b), the Secretary of the Treasury shall so notify the Governor of such possession in writing. If such possession does not comply with subsection (a) or (b) (as the case may be) within 90 days of such notification, the Secretary of the Treasury shall notify the Congress of such noncompliance. Unless the Congress by law provides otherwise, the mirror system of taxation shall be reinstated in such possession and shall be in full force and effect for taxable years beginning after such notification to the Congress.

(2) SPECIAL RULES FOR REVENUE REQUIREMENTS.—If the failure to comply with subsection (a) is for good cause and does not jeopardize the fiscal integrity of the possession, the Secretary may waive the requirements of subsection (a) for such period as he determines appropriate.

(d) DEFINITIONS AND SPECIAL RULES.—

(1) IMPLEMENTATION YEAR.—For purposes of this section, the term "implementation year" means the first fiscal year of the possession in which the tax laws authorized by section 671(a) take effect.

(2) MIRROR SYSTEM.—For purposes of this section, the mirror system of taxation consists of the provisions of law (in effect on the day before the date of the enactment of this Act) which make the provisions of the income tax laws of the United States (as in effect from time to time) in effect in a possession of the United States.

(3) SPECIAL RULES FOR NORTHERN MARIANA ISLAND.—Notwithstanding the provisions of the last clause of section 601(a) of Public Law 94-241, the Commonwealth of the Northern Mariana Islands may elect to continue its mirror system of taxation without regard to whether Guam enacts tax laws under the authority provided in section 671(a).

Page 491, strike out line 10 and 11.

Page 491, line 12, strike out "(4)" and insert in lieu thereof "(3)".

Page 491, line 15, strike out "(5)" and insert in lieu thereof "(4)".

Page 491, line 19, strike out "Treasury" and insert in lieu thereof "Treasury (after consultation with the Secretary of the Interior)".

Page 507, line 7, insert "AND EMPLOYEES OF THE UNITED STATES" after "MILITARY PERSONNEL".

Page 509, line 8, before the period insert ", after consultation with the Secretary of the Interior".

The CHAIRMAN. Pursuant to House Resolution 343, the amendment is considered as having been read.

Under the rule, the gentleman from Arizona [Mr. UDALL] will be recognized for 10 minutes, and a Member opposed will be recognized for 10 minutes.

The Chair recognizes the gentleman from Arizona [Mr. UDALL].

Mr. UDALL. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, the old Brooklyn Dodgers who moved to Los Angeles later on, the baseball team, for a decade would lose the pennant in the last week and blow it to the Giants or somebody, and they had a loyal fan who ran a store. He put up a banner after they lost the pennant every year and said: "Wait Until Next Year."

Finally, the Dodgers put it all together, or somebody else lost, and they backed into the pennant, and the storekeeper put up a banner which said: "That Is Next Year."

Well, for me tax reform has been a passion I have had for 20 years. I doubt, as was said by the previous speaker, we will ever get to a situation where you will have a Republican President, a Democratic House, a Republican-controlled Senate where we can move on it. It would be a great shame if, after all the work that has been done, not to pass this bill today.

I have just a few words on my minor amendment which is not very controversial.

When the President sent up Treasury I to the Hill, it had attached to the President's proposals to revise the Federal tax system a proposal to revise the local tax systems of the smaller insular areas.

These local tax systems were provided for by laws within the jurisdiction of the Committee on Interior and Insular Affairs which established our relationships with the islands. They were not established by Federal revenue laws and do not directly affect the Federal tax system.

Included are the Guam and Virgin Islands Organic Acts, the Northern Mariana Islands Covenant, and the Samoan Islands Cession. What is known as the mirror tax system was established under these laws.

I had initially planned to request a sequential referral of the provisions which would revise the mirror system. However, to facilitate the desire to bring this bill to the floor and because I generally approve of the provisions, I am, instead, simply offering an amendment.

My amendment would accomplish the insular tax revisions that the President and the Committee on Ways and Means seek. It has bipartisan support in the Committee on Interior and Insular Affairs and has been worked out with Chairman ROSTENKOWSKI and Ranking Republican DUNCAN and the representatives of the insular areas.

Under the mirror system, insular tax systems are identical to—but separate from—the Internal Revenue Code. Federal Tax Code changes are automatically reflected in the local tax codes.

A number of problems have arisen with the mirror. Unintended loopholes have been created. Lower Federal rates have resulted in insular deficits. Its complexities are difficult to administer.

The bill attempts to rectify these problems. It would revise the Virgin Islands mirror system. It would authorize Guam and the Northern Marianas to replace the mirror system with local laws. It would standardize American Samoa's existing authority to write local tax laws.

The amendment is intended to both accomplish insular tax revisions and protect the integrity of Federal-insular relationships.

Ensuring fiscal responsibility in the replacement of the mirror code with local laws is an important aspect of the amendment. Islands would not be permitted to raise less revenue without good cause, such as changed economic conditions or reduced expenses.

Additionally, the amendment ensures that the Northern Marinas are not forced to change their tax system if Guam changes its system. Currently, the Commonwealth's system actually mirrors the Guam system which mirrors the Federal system.

The amendment also ensures that the Interior Department, which has insular responsibilities, helps the Treasury Department develop the agreements which will govern the relationships between the Federal and insular tax systems. Chairman ROSTENKOWSKI and I expect that the Treasury and Interior Departments will consult fully with the insular legislative and executive branches in developing these agreements.

Further, the agreements themselves can specify consultation on issues such as determining the bona fide residence and source of income of taxpayers. We expect a good faith effort on both sides to reach agreements so that insular tax objectives can be obtained while protecting the Federal Tax system.

The amendment makes a technical change to the bill intended to ensure that all Federal collections which are required to be rebated to insular areas continue to be rebated and are rebated as they are now. This means, for example, that Guam would be rebated all collections on the income of persons receiving Federal pensions and their survivors and of Guam residents in the military stationed abroad.

The cover over these funds is in addition to the cover over of taxes on Federal employees as required by the Organic Act of Guam. Our intent is also that such rebates are paid on advance estimates, as required by the 1978 Omnibus Insular Areas Act.

In this connection, certain inconsistencies in the authority to cover over Federal collections to various insular areas became apparent during the Committee's hearing on this bill December 9. It is important that we resolve these inconsistencies which question the principle of no taxation without representation and our insular relationships.

One inconsistency is that the authority to use collections for public services in American Samoa is more limited than in any other insular area. Even though almost no revenue is involved, this authority ought to be conformed to the authority regarding the other islands.

Another inconsistency is that, despite the original intent of the Virgin Islands Organic Act, a Senate amendment to last year's tax act prevents all collections on products of the territory from being rebated. Chairman ROSTENKOWSKI and I have agreed that this is a problem that should and will be addressed, recognizing our longstanding fiscal commitment to the Virgin Islands.

Similarly, last year's tax act created significant problems by not fully honoring the longstanding practice of rebating all excise taxes collected in Puerto Rico. The Puerto Rico Federal Relations Act expressly continued this practice.

Because our relationship with the Commonwealth was adopted in the nature of a compact, the limitation raised questions about an unwitting repudiation of the relationship. Moreover, Puerto Rico—like the Virgin Islands—is very reliant on the use of these collections.

During debate on last year's tax act, the chairman and ranking Democrat of the Ways and Means Committee agreed that careful consideration and a fair hearing would be given this matter and remedial action would be taken if necessary to correct any inequities. This situation should be dealt with when it is opportune to do so.

In sum, my amendment is imperative both for accomplishing insular tax revisions and protecting the integrity of Federal-insular relationships. It does not affect the Federal tax reforms the bill is primarily designed to make.

Finally, let me say that I appreciate the recognition by Chairman ROSTENKOWSKI and ranking Republican DUNCAN of the need for my amendment. I also appreciate their recognition of the continuing jurisdiction of the Interior and Insular Affairs Committee regarding the insular systems.

Essentially, this is a noncontroversial amendment to correct or to rectify some errors in putting the bill together. I know of no opposition to the amendment.

Mr. Chairman, I yield 30 seconds to the distinguished Delegate from the Virgin Islands [Mr. DE LUGO].

Mr. de LUGO. Mr. Chairman, I thank the gentleman.

Mr. Chairman, I rise in support of Chairman UDALL'S amendment to the tax bill. With regard to the U.S. Virgin Islands, the amendment would retain the mirror Tax Code and make certain adjustments to the mirror thereby avoiding unfair results which have yielded a higher tax burden for some, such as denying the full benefit of joint returns and dependent deductions to certain taxpayers. While allowing others to take advantage of unintended loopholes. Most importantly, the Virgin Islands will now be able to take advantage of the industrial incentive program enjoyed by the other territories and commonwealths under section 936 of the Internal Revenue Code. This should help the territory's efforts to attract mainland business investment. First, because application of section 936 is better understood by the business community than is the current incentive under section 934(B) of the code which is unique to the Virgin Islands. Second, under section 936, investors can benefit from the dividends received deduction when income is repatriated to the mainland parent; under section 934 such transactions are fully taxed. These changes are based on a package negotiated by Governor Juan Luis of the Virgin Islands and the Department of the Treasury.

Furthermore, I appreciate the opportunity provided by the amendment for input by the insular governments in the development of certain of the tax regulations directed at their jurisdictions. This input is important if the mirror system, or any other tax relationship with our territories and commonwealths is to be effective.

I commend the Chairman of the Interior and Insular Affairs Committee, Mr. UDALL, for his leadership in proposing this amendment for the insular areas. I also thank the ranking minority members of that committee, particularly Mr. YOUNG, Mr. LUJAN and Mr. LAGOMARSINO, for their role in bringing this amendment to the floor. The committee's expertise is needed in developing tax legislation directed at the insular areas since such legislation plays a major role in the economic development of these jurisdictions, a priority in the Federal relationship with the Territories and Commonwealths.

I thank the Chairman of the Ways and Means Committee, Mr. ROSTENKOWSKI, for his interest in working with the Interior and Insular Affairs Committee on this amendment. I also thank certain members of the Ways and Means Committee who took a special interest in tax reform as it affects the U.S. Virgin Islands. I especially thank the gentleman from New York, Mr. RANGEL for his help, and the gentleman from Georgia, Mr. JENKINS. Additionally, I appreciate the help of the gentleman from Tennessee, Mr. DUNCAN, the gentleman from Texas, Mr. ARCHER, and the gentleman from Pennsylvania, Mr. SCHULZE.

I urge my colleagues to vote in support of this amendment.

Mr. UDALL. Mr. Chairman, I yield 30 seconds to the distinguished Delegate from American Samoa [Mr. SUNIA].

Mr. SUNIA. Mr. Chairman, I thank our committee chairman for yielding time.

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Mr. UDALL. Mr. Chairman, I yield myself such time as I may consume, and I yield to the gentleman from Illinois [Mr. ROSTENKOWSKI].

Mr. ROSTENKOWSKI. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the Udall amendment.

Under the House rules, the Committee on Ways and Means has jurisdiction over revenue measures relating to the insular possessions. The Committee on the Interior has jurisdiction over other matters relating to those same insular possessions.

The tax bill allows the possessions to modify their internal revenue laws. Under the Udall amendment, the possessions will be required to raise the same amount of revenue as they now raise under the mirror system of taxation. In addition, the amendment includes several technical and conforming changes.

Mr. Chairman, the Committee on Ways and Means has worked with Mr. UDALL and the Interior Committee on this perfecting amendment. I urge Members to support it.

Mr. UDALL. I thank the gentleman.

Mr. Chairman, I yield to the gentleman from Tennessee [Mr. DUNCAN].

Mr. DUNCAN. Mr. Chairman, as far as I know, the amendment is not controversial, and all parties with interest in the legislation in this body have agreed to its provisions, according to all of the information that is available to me, and I support the proposal.

Mr. UDALL. I thank the distinguished gentleman for his help.

Mr. Chairman, I yield to the gentleman from California [Mr. LAGOMARSINO], a member of our committee.

Mr. LAGOMARSINO. I thank the gentleman for yielding.

Mr. Chairman, both H.R. 3838 and the Republican alternative contain the same language regarding the U.S. territories and commonwealths. The Udall amendment to H.R. 3838 could apply to either proposed tax reform bill.

I think we would all agree that our tax laws—even reformed tax laws—are complex. That complexity extends to the insular areas as well. The territories and commonwealths have local tax systems which mirror the Internal Revenue Code. So, as we change the I.R.C, those changes are also reflected in insular area's tax codes, although the impact there is often different than here. Several of the insular areas would like to have the option to set up their own tax systems. I agree that they should have that option within certain parameters. We recently held a hearing on H.R. 3838, where representatives of the areas affected by this legislation testified of their concerns.

I believe that we have been able to address their concerns in the amendment to H.R. 3838 which is before us now.

I am particularly proud of the process that was used in producing this amendment. We consulted with the representatives of the territories and commonwealths, the Ways and Means Committee and the Department of the Treasury regarding changes necessary in this bill. There exists a broad spectrum of support for the amendment.

Knowing that this amendment is substantively and technically better than the existing provisions, I urge the Members of this body to join with me in voting for this improved provision.

If the Udall amendment is adopted to H.R. 3838, I will ask unanimous consent to apply it to the Republican alternative.

Mr. UDALL. I thank the gentleman.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. There being no Member appearing to oppose the amendment, the question is on the amendment offered by the gentleman from Arizona [Mr. UDALL].

The amendment was agreed to.

Mr. LAGOMARSINO. Mr. Chairman, I ask unanimous consent that the Udall amendment be added as an amendment to the Republican alternative.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

AMENDMENT OFFERED BY MR. MC HUGH

Mr. McHUGH. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. MCHUGH: Page 43, strike out line 22 and all that follows through line 25, and insert in lieu thereof the following:

SEC. 112. CREDIT FOR CONTRIBUTIONS TO CANDIDATES FOR CONGRESS.

(a) FULL CREDIT FOR CONTRIBUTIONS TO CANDIDATES FOR CONGRESS IN CERTAIN CIRCUMSTANCES; REPEAL OF CREDIT FOR CONTRI-

BUTIONS TO PRESIDENTIAL, STATE, AND LOCAL CANDIDATES, POLITICAL ACTION COMMITTEES, AND NEWSLETTER FUND CONTRIBUTIONS.—Section 24 (relating to contributions to candidates for public office) is amended to read as follows:

"SEC. 24. CONTRIBUTIONS TO CANDIDATES FOR CONGRESS.

(a) GENERAL RULE.—In the case of an individual, there shall be allowed, subject to the limitations of subsection (b), as a credit against the tax imposed by this chapter for the taxable year, an amount equal to the full amount of all congressional candidate contributions, as defined in subsection (c)(1).

(b) LIMITATIONS—

"(1) MAXIMUM CREDIT.—The credit allowed by subsection (a) for a taxable year shall not exceed $100 ($200 in the case of a joint return under section 6013).

"(2) VERIFICATION.—The credit under subsection (a) shall not be allowed, with respect to any congressional candidate contribution, unless the person claiming the credit submits a signed statement attesting to the amount and date of said contribution, the office (House or Senate) sought by the recipient, and such other information as the Secretary may require by regulation, except that such other information shall not include the recipient's political affiliation, name, or other identifying information.

"(3) CONTRIBUTIONS MADE THROUGH INTERMEDIARY ORGANIZATIONS.—The credit under subsection (a) shall not be allowed, with respect to a congressional candidate contribution, if the contribution is transmitted to the candidate or a campaign committee of the candidate through an intermediary group organization or committee.

"(c) DEFINITIONS.—For purposes of this section—

"(1) CONGRESSIONAL CANDIDATE CONTRIBUTION.—The term 'congressional candidate contribution' means a contribution or gift of money that—

"(A) is made during the taxable year to an individual who is a candidate for nomination or election to the office of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress of the United States in any primary, general or special election;

"(B) is from a taxpayer (or either spouse in case of a joint return) who is a resident of the State in which the election is held; and

"(C) is solely for use by the recipient to further his candidacy for nomination or election to such office.

(2) CANDIDATE.—The term 'candidate' means an individual who—

"(A) Publicily announces before the close of the calendar year following the calendar year in which the contribution of gift is made that he is a candidate for nomination or election to one of the offices specified in paragraph (1); and

"(B) meets the qualifications prescribed by law to hold such office.

"(3) STATE.—The term 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories of Guam, American Samoa, and the Virgin Islands.

(d) CROSS REFERENCE.—

"For disallowance of credits to estates and trusts, see section 642(a)(2),".

Page 44, strike out line 17 and all that follows through line 25.

Page 45, line 1, strike out "(3)" and insert in lieu thereof "(2)".

Page 45, strike out lines 7 through 9, and insert in lieu thereof the following:

(3) The term relating to section 24 in the table of sections for subpart A of part IV of subchapter A of chapter 1 is amended to read as follows:

"Section 24. Contributions to candidates for Congress,".

Page 70, after line 11, insert the following new subsection:

(g) CREDIT FOR CONTRIBUTIONS TO CANDIDATES FOR CONGRESS.—The amendments made by section 112 shall apply to contributions paid after December 31, 1986, in taxable years ending after that date.

In the table of contents of the bill, strike out the item relating to section 112 and insert in lieu thereof the following new item:

"Sec. 112. Credit for contributions to candidates for Congress."

The CHAIRMAN. Pursuant to House Resolution 343, the amendment is considered as having been read.

Under the rule the gentleman from New York [Mr. McHUGH] will be recognized for 10 minutes, and a Member opposed will be recognized for 10 minutes.

The Chair recognizes the gentleman from New York [Mr. McHUGH].

Mr. McHUGH. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I am offering this amendment on behalf of the gentleman from [Mr. TAUKE] and myself. It is bipartisan initiative, and I believe the Members on both sides of the aisle can and should support the amendment. It deals with a problem which afflicts the political candidates in both political parties. It goes to the heart of the political process itself. And that problem is the increasing influence of political action committees [PAC's] in the financing of political campaigns.

The corresponding problem is the diminishing influence of small contributors, individual contributors in congressional campaigns. This trend has been going on for some years now, and it is getting worse. And it has been going on at a time existing law provides a 50-percent tax credit for small contributions.

The Ways and Means Committee bill would repeal all of the tax credits, 50-percent tax credits, for small contributions. This is the only financial incentive in the law for the small contributor.

Our amendment would try to rectify that problem, at least with regard to congressional campaigns. The amendment specifically provides for a 100-percent tax credit for a contribution to a congressional candidate up to $100 per year, $200 on a joint return.

The contribution, to qualify, would have to come from a resident of the candidate's home State. It would be available on the short form as well as the long form, and it would be effective in 1987.

Mr. Chairman, this is the only opportunity we are going to have to increase the incentive for small individual contributions. We are all political professionals. We know how political campaigns are financed has a great deal to do with the integrity of our political process. It relates to who has influence in this process. It relates to the perception of who has influence and, therefore, it goes to the confidence which the average citizen has in our political process and in our Government.

I urge the Members to support this amendment.

The CHAIRMAN. Does any Member rise in opposition to the Amendment?

The Chair recognizes the gentleman from Tennessee [Mr. DUNCAN] for 10 minutes.

Mr. DUNCAN. Mr. Chairman, I yield 4 minutes to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Chairman, of all the amendments that the Rules Committee could have chosen to make in order, this one is I think the most insulting to the people of the United States that could have been approved. Here we have a bill where we are reducing the amount of charitable contributions poeple can make, we are reducing pension contributions, we are reducing the opportunities to create low-income housing, we are reducing the amount of tax exempt bonds that can be issued. But, what does this amendment suggest? That we raise a particular tax credit, by 100 percent. And guess who is benefited by this tax credit. Members of Congress are benefitted by this tax credit. And guess who gets othe other benefit. Their rich friends who can afford the contribute $100.

Today the tax credit is $50. The Ways and Means Committee, in a show I think of some strength and some character, agreed by a vote of 20 to 6 to eliminate the current $50 credit. The committee said, "As long as we are taking hits at charities, we are taking hits at pensions, we are taking hits at historic rehabilitation, we are doing all of these things that people like and we are reducing them so we can cut taxes, we are going to get rid of this tax credit too." It did it by an overwhelming vote.

Now the Democrat study group come before us and say, "Not only are we going to reinstate this discriminatory tax credit, but also we are going to double it."

Why? Because it would be easier for us to raise money for our campaigns.

Who are going to be the beneficiaries? The incumbents.

Will their challengers be the beneficiaries? To a lesser extent they will.

This covers only Federal candidates. It does not cover political parties.

Now, remember that the one element in elections that seems to be getting lost, the group that now contributes the smallest percentage to the election campaigns, are political parties. But this amendment, of course, eliminates political parties.

It is also discriminatory because it only goes to Federal candidates. It is against small States and low-income States who may not have average fund raising potential.

Remember that the largest agglomerations of political funds come from small contributors. The Teachers Political Action Committee, for instance, collects $10 to $20 bucks from thousands of members to create a political force so that they can try to elect people they support. Here we are not encouraging small contributions. We are encouraging $100 givers. I have some $100 givers, and they are wonderful people. More or less, they do not need that incentive. They have discretionary funds to contribute.

I see no reason why low-income Americans should be obliged under this bill to finance the political contributions of high-income Americans. It may make sense to the Democrat study group. I do not think it will make any sense to the people of the United States.

It is not going to lower the amount of money spent in politics because most of the money is now raised through direct mail fund-raising. Those contributions continue to come in small amounts and will continue to come in small amounts.

It is estimated by the joint committee to cost $500 million. When we can't allow full charitable deductions for short-form tax filers, we can afford to fund a goodie for Congress and its friends. So we are not going to shuffle the cards very much. What we are going to do is give a special preference to rather affluent contributors and a special preference to Federal candidates, namely, us. We are going to do it in the name of reform in the very same bill where we are cutting back charitable contributions, cutting back pension contributions, cutting back capital gains, cutting back low income housing, cutting back historic rehabilitation, removing many of the historic preferences that Members in this House like.

Do not do it in the name of ourselves and our rich friends. Defeat the amendment.

Mr. McHUGH. Mr. Chairman, I yield 2 minutes to the gentleman from Iowa [Mr. Tauke].

Mr. TAUKE. I thank the gentleman for yielding.

Mr. Chairman, certainly this is not the most critical issue that could have been brought to the attention of the House when this bill was debated. But it nevertheless, is an issue that merits our consideration, and I urge my colleagues to pay close attention to what this amendment does.

Understand that this bill, without this amendment, totally eliminates the tax credit for individual contributions. Consequently, this bill removes incentives for individual contributions and increases the reliance of Members of Congress upon political action committees to finance their campaigns.

Now, my colleague, the gentleman from Minnesota, who I respect greatly and whose opinion I generally parallel on this bill, I think is off base on this amendment, because he suggests this will somehow give assistant to those who are wealthy or who have interests. Just the opposite is true. Because this is a 100 percent tax credit, any individual who pays taxes, no matter how wealthy or how poor, can participate in the political process and receive 100 percent credit for doing so.

That will encourage individual contributions. It is a way that we can shift our reliance away from political action committees toward individuals who voluntarily decide to participate in the political process.

Surely, as part of reform, which this bill theoretically is, we should not allow ourselves to do away with the incentives for individual contributions and rely more on the special interests. And without this amendment, that is what will happen.

Let me say to my Republican colleagues that we have a history of greater reliance on individual contributors. We should embrace this kind of an amendment, which again encourages individuals to participate in the political process.

Moreover, if we do not adopt this amendment, we shift reliance to PAC's where our Democratic brethren do substantially better than we do.

So I urge the Members to vote for this amendment.

Mr. DUNCAN. Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. Fawell].

Mr. FAWELL. Mr. Chairman, I rise in opposition to the McHugh amendment to the committee's tax reform bill. This amendment is a good example of what many of us feel are more strenuous efforts to achieve "tax revisions" rather than "tax reform."

Current law grants tax credits of $50 for political contributions for individuals and $100 for couples in a joint return. The current provision applies to political contributions to all candidates for public office, State, local, and Federal. The committee bill repeals all tax credits for political contributions in the Internal Revenue Code.

The McHugh amendment would reinstitute the concept of tax credits for political contributions to candidates for public office, but with two substantial differences: First, the amount of the political contribution tax credit would be increased to $100 per individual and to $200 per couple filing a joint return. This would add $500 million to the deficit because the amendment's sponsors provide no new revenues to offset this provision. That's reason enough to defeat this amendment. That's quite a substantial increase of tax credits.

Second, and most important, these tax credits for political contributions would be restricted to contributions to congressional candidates. Selfishly speaking, such an amendment has a lure. But that's about as positive as I can get about the matter.

It seems to me to be an audacious request. It is tax revision, not tax reform.

We would simply build a bigger tax shelter, specially designed for people who contribute to congressional campaigns.

If this amendment were to pass, we all would be, in effect, telling potential contributors that they should ignore giving scarce tax revenues to the Federal Government, no matter how bad the national debt and annual deficits may be, and, instead, give them to Congressional candidates at $100 and $200 lots for our political causes. We are taking money out of the Federal treasury in order to finance our campaigns.

It seems to me that our No. 1 political cause should be to reduce deficits, even more than tax reform. But if we are involved in tax reform we should, wherever possible, be removing tax deductions or tax credits which have relatively modest or no basic taxpayer support.

This is especially true since we will be adding one-half billion dollars to the deficit over 5 years with this amendment. In addition, one cannot realistically assume that this provision will not be expanded to include State and local candidates in the Senate or in a conference committee when word gets out on what the Congress is up to here.

Our national debt is over $2 trillion and growing. During the next 3 years about one-half trillion more will be added to that debt. We have $200 billion annual deficits and we have had to resort to the drastic measures in Gramm-Rudman, which I support to finally come to grips with our deficit.

I am personally embarrassed by this kind of a request. Considering our national debt and the deficits, and probable more deficits which will come as a result of tax reform, as well as the basic unfairness of limiting tax credits to congressional races only. I urge a no vote on the McHugh amendment.

Mr. McHUGH. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota [Mr. Oberstar].

Mr. OBERSTAR. Mr. Chairman, perhaps the most disagreeable part of elective office is fundraising. This amendment will not make fundraising easier, it will make it less disagreeable.

It is not the $100 contributor that my colleague from Minnesota talked about that I worry about. It is the $1,000 and the $5,000 contributor that is causing this downward spiral of contributors.

The number of small contributors to congressional campaigns is declining and the number of big contributors is raising. And that is what this amendment is intended to stop, to put the little guy back into the political picture. It puzzles me that a few years ago my colleagues from Minnesota testified in favor of a 75 percent tax credit, up to $100, to political contributions, and today he is opposed to the straightforward proposal.

Finally, you do not have to give 100 bucks. You can give $10 or $15 or $25 and qualify for 100 percent contribution. We think that that makes good sense, and that helps spread out the reach of political campaigns to those who we are supposed to represent, the people from the districts from which we are elected and the States in which we reside.

I think that the proposal before us is a reasonable one, and a vote against it is an incumbent protection vote. If you really care about the political process, you will widen it and make it possible for more people to contribute, not fewer.

□ 1850

Mr. DUNCAN. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. BARTON].

Mr. BARTON of Texas. I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in opposition to the McHugh amendment because I think it is a classic case of what is wrong with the Ways and Means Committee bill. This is not tax reform; this is a special tax exemption for Members of Congress.

We need to be reforming the code. One of the good things about H.R. 3838 right now is that it eliminates the deduction all together. We should not come back and double it. My colleague, Mr. OBERSTAR, talked about the amount of individual contributions that are declining. That is a true statement. But they are declining because we as Members of Congress are not out soliciting and staying in touch with our people. We are coming to depend more and more on political action campaign contributions.

I think that we need to repeal this. We should not put in a special exemption, a special tax credit exactly for us, Members of Congress. This thing is bad; it is terrible. I think it is a disservice to the American people to try to attach something that helps ourselves onto the overall revision bill.

I would hope that we will reject this amendment.

Mr. McHUGH. Mr. Chairman, I yield 1 minute to the gentleman from North Carolina [Mr. WHITLEY].

Mr. WHITLEY. I thank the gentleman for yielding me this time.

Mr. Chairman, as one who has announced that he will not again seek reelection to this body, I believe I can speak from the perspective not of one who will personally benefit by this measure should it pass, but one who has watched in dismay in recent years as increasingly larger percentages of campaign financing have come not from individual contributions but from political action committees, many of whom are located far from the State or district to be represented by the congressional candidate.

I think one of the best things that this Congress can possibly do is to take any step possible to try to concentrate on getting the financial support of congressional candidates put back in their districts and in their home States. The best thing that this amendment does is to say that this tax credit will be limited to contributions made to congressional candidates in the home State of the contributor. There are too many political action committees in this country located in the oil States. There are too many political action committees located far from the States and districts to be represented that are having too much influence on the election of Members of Congress.

Mr. DUNCAN. Mr. Chairman, I yield 1 minute to the gentleman from Virginia [Mr. OLIN].

Mr. OLIN. I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in opposition to this amendment. With all due respect to my friends in the Democratic Study Group, I cannot imagine why this amendment is coming before us tonight. It should not be in this tax bill. If our problem is that we are getting too much money from PAC's then we can deal with that problem all by itself.

There is no reason in the world why we ought to set up a 100-percent tax credit plan to get small contributions to finance the campaigns of Congressmen. It is ridiculous. It does not take much imagination to figure out what the slick boys and their slick mail campaigns will do with this.

I have been watching the antics of a slick group under the name of "Jimmy Roosevelt," raising $10 or $15 from poor people to finance a program that he defines. I am told that that program on one of the early mailings got 1 million responses at $10 each. Ten million dollars. It was to save the Social Security system. It would not take much imagination to figure out that when somebody gets hold of this $100 tax break what could happen.

I hope that everybody here with good sense will vote this amendment down and get on with the main portion of the bill.

Mr. McHUGH. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. REGULA].

Mr. REGULA. I thank the gentleman for yielding me this time.

Mr. Chairman, Aristotle said:

> If liberty and equality as is thought by some are chiefly to be found in democracy, they will be best attained when all persons alike share in the government to the utmost.

What we are talking about on this amendment is to get more people to share in the responsibility for electing Members to this House. A congressional seat belongs to the people in each of the congressional districts, and they should be given incentives and be encouraged to participate in the financing of those campaigns.

I think this amendment as proposed here is a giant step in the direction of involving more people in the political process. The alternative is to go eventually to public financing. I think that this proposal is a far more desirable way to approach the problem of financing campaigns. It addresses the problem that today we are getting only 20 percent of the receipts in House races coming from small contributions as compared to 50 percent not too many years ago.

By the same token, PAC contributions, as a percentage of receipts, have gone from 17 to 38 percent. I am sure that all of us hear our constituents deplore what is happening in the financing of campaigns, large contributions as opposed to small, individual contributions as a means of support.

I urge my colleagues to support this amendment as a way of broadening the base, as a way of getting far more people involved in the political process, and as a way of keeping the responsibility in the private sector in terms of contributions rather than to go the direction of public financing.

Mr. DUNCAN. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. THOMAS].

Mr. THOMAS of California. I thank the gentleman for yielding me this time.

Mr. Chairman, one of the things about this amendment that saddens me the most is that it simply fails to recognize the role of political parties in our system. I guess we could look at it from the Ways and Means approach, and that is, we examined the $50 tax credit in committee and although it was extended to political parties, to political action committees, to candidates at any level, the problem that we discussed most was the fact that you could not enforce it. People could claim it but you had no ability to prove that they actually offered the money to those various groups.

The exact amendment that we have in front of us was offered in committee, and discussed extensively and voted down; 21 to 14. There were eight Democrats who opposed this amendment in committee. It has been said in some of the literature that has been circulated on the floor that this is a device that is offered to offset PAC contributions. If that is the reason it is being offered, it simply will not succeed.

If it was targeted only to congressional candidates to save costs, as was argued, I think it is sad that left out of the Tax Code of the United States is some formal recognition of political parties. I wish I had more time to talk about the institution of the political party in this country. It is not mentioned in the Constitution, as we know, but it has become a key structural device by which we organize our political activity in this country.

The two great parties, the Democratic Party and the Republican Party, have a long tradition and a long history. They also play a very fundamental role in terms of the organization of this body. They are not recognized in this amendment. You can get a $100 contribution, and it goes to a Federal candidate, but the political parties are left out. Not one cent to political parties.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. THOMAS of California. I yield to the gentleman.

Mr. FRENZEL. Does the gentleman know how much this amendment costs when we are trying to save money? I understand it is a half-a-billion dollars, and we cannot meet the other requirements of the bill.

□ 1900

Mr. THOMAS of California. It is as much as a half-billion dollars. There are other estimates that place it slightly less than that, and that was why they argue it was targeted for congressional candidates, but that targeting in itself is onerous, and if it was done to save money, it is obvious that they are trying to create a device which looks cheaper, but it is not.

I believe it will be closer to a half-billion dollars than some of the estimates I have seen of around $200 million. So there is not 1 cent for political parties in the tax code of the United States; 100 percent for candidates for office, and most of those candidates for office will be incumbents. If you want an incumbent-protection provision which fails to recognize political parties even to the point that they are not worthy of allowing you 1 cent of tax credit, then vote for this amendment. If you believe political parties are important in the system, vote it down.

Mr. McHUGH. Mr. Chairman, I yield 1 minute to the gentleman from Washington [Mr. SWIFT].

Mr. SWIFT. Mr. Chairman, we heard earlier in the debate that this was to the benefit of ourselves and our rich friends. How misleading can you be? Ourselves? Well, perhaps our campaigns, but perhaps the campaign of our opponent, or perhaps of the Senator from our State, or perhaps another congressional district in our State.

And our rich friends? Our rich friends do not need the tax break; our rich friends can contribute directly.

What this does, however, is let the average guy get in where he can compete with our rich friends in those political contributions, dollar for dollar, up to $100.

Why can he do that? Because he is either going to pay that money to Uncle Sam, or he can contribute it to us, or our opponent, or a Senate race, or another congressional race in our State, because this money will not come out of the mortgage, it will not come out of shoes for the children or school supplies or food; it will come out of what he is going to have to pay in taxes anyway.

No, it is not for our benefit, nor our rich friends. This is for the American people.

Mr. McHUGH. Mr. Chairman, I yield such time as he may consume to the gentleman from Massachusetts [Mr. MAVROULES].

Mr. MAVROULES. Mr. Chairman, I rise today in strong support of the amendment to H.R. 3838, which has been offered by my colleague from New York.

This amendment would provide for a 100-percent tax credit for small individual contributions to candidates for Federal office. If passed, the credit will result in the return of thousands of individual contributors to the electoral process.

It is important to remember that the tax bill before us today would repeal the existing tax credit for political contributions. It is estimated that in this fiscal year, the existing credit will result in a revenue loss of $280 million. On the other hand, individual contributions of less than $100, which would be subject to a credit under the McHugh amendment, currently amount to less than $40 million per year. At a time when we are all concerned with the issue of revenue neutality, I believe this to be an important consideration.

Mr. Chairman, some opponents of this amendment have voiced the opinion that this tax credit will be used by various single interest lobbies to direct millions of dollars to like-minded candidates. Frankly, I share their concern.

However, our party has long prided itself on the abilility to develop grassroots support, and to build from within. If we as Democrats are not willing to assume the challenge of expanding our donor base with individual contributions, then what are the alternatives?

Failure to enact this amendment will serve to widen the gap between individual contributions and contributions by political action committees. In the past 10 years, contributions by individuals to Federal candidates have decreased nearly 30 percent while at the same time, contributions from PAC's have increased more than 20 percent. Without a tax credit, the level of PAC spending will certainly increase even more.

Mr. Chairman, the 100-percent credit will increase the aggregate amount of small contributions and the number of individual contributors.

If we are serious about reducing the influence of PAC's in Federal elections and raising the level of individual participation in the electoral process, we should pass the small contributor tax credit. By doing so, we will be taking a major step forward in restoring public confidence in our Federal elections.

Mr. ANNUNZIO. Mr. Chairman, I rise in support of the amendment. As chairman of the committee that writes our election laws, I take this opportunity to commend those Members, on both sides of the aisle, whose efforts have brought this amendment to the floor.

There are two ways individuals can vote for their candidate. They can vote with their ballot and they can vote with their pocketbook. This amendment is an invitation to our constituents to participate more actively in the financing of our elections.

This is a modest reform. Incumbents and challengers are treated alike. It makes our constituents welcome guests in our campaigns. It does not correct all of the problems but it is a step toward redressing the imbalance between small individual home-State contributors and out-of-State special interest groups.

I can assure the Members of this body that the Committee on House Administration will continue to seek out ways to curb excesses in financing Federal elections.

I support passage of this amendment and urge each of you to do likewise. By voting for this provision, we will be sending a message to all of our individual constituents that their contributions, no matter how small they are, do indeed count in our electoral process.

Mr. McHUGH. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from New York [Mr. McHUGH] is recognized for 1 minute.

Mr. McHUGH. Mr. Chairman, a number of opponents of this amendment have suggested that this amendment takes away a tax credit for political parties or other types of political contributions. That is wrong. This amendment takes away nothing. The bill itself has taken away any existing tax credits for political contributions small in nature.

What this does is focus on the problem that we in congressional races have of encouraging participation by individual small contributors. Make no mistake about it: the alternative to this amendment is increasing dependence by congressional candidates on political action committees, something which is distorting the process in this country, something which we have to stop today, and this is our only opportunity.

Mr. Chairman, I urge a yes vote on this amendment.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from New York [Mr. McHUGH].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. FRENZEL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 230, noes 196, not voting 8, as follows:

[Roll No. 468]

AYES—230

Ackerman
Addabbo
Akaka
Alexander
Anderson
Andrews
Annunzio
Applegate
Aspin
Barnard
Barnes
Bates
Bedell
Beilenson
Bereuter
Berman
Biaggi
Boehlert
Boggs
Bonior (MI)
Bonker
Borski
Bosco
Boucher
Boxer
Breaux
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Burton (CA)
Chappell
Clay
Coelho
Coleman (MO)
Coleman (TX)
Collins
Conte
Conyers
Cooper
Coyne
Crockett
Dannemeyer
Darden
Davis
de la Garza
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Downey
Durbin
Dwyer
Dyson
Early
Eckart (OH)
Edgar
Edwards (CA)
Evans (IL)
Fascell
Fazio
Feighan
Flippo
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Gingrich
Gonzalez
Gray (PA)
Guarini
Hall (OH)
Hamilton
Hatcher
Hawkins
Hayes
Hefner
Hertel
Horton
Howard
Hoyer
Huckaby
Hughes
Hutto
Jacobs
Jeffords
Jenkins
Jones (NC)
Kanjorski
Kaptur
Kastenmeier
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lantos
Leach (IA)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lightfoot
Lipinski
Long
Lowry (WA)
Luken
Lundine
Lungren
MacKay
Madigan
Manton
Markey
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McDade
McHugh
McKernan
Mica
Mikulski
Miller (CA)
Miller (WA)
Mineta
Mitchell
Moakley
Mollohan
Moody
Morrison (CT)
Mrazek
Murphy
Myers
Neal
Nowak
Oakar
Oberstar
Ortiz
Owens
Oxley
Packard
Panetta
Pease
Penny
Pepper
Perkins
Petri
Pursell
Rahall
Rangel
Ray
Regula
Reid
Richardson
Ridge
Rinaldo
Robinson
Rodino
Roe
Roemer
Rose
Rostenkowski
Rowland (GA)
Roybal
Rudd
Russo
Sabo
Savage
Scheuer
Schroeder
Seiberling
Sensenbrenner
Sharp
Shelby
Sikorski
Skelton
Smith (FL)
Smith (IA)
Solarz
Spratt
St Germain
Staggers
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Swift
Tallon
Tauke
Tauzin
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Vento
Walgren
Waxman
Weaver
Weiss
Wheat
Whitley
Williams
Wirth
Wise
Wolpe
Wortley
Wright
Wyden
Yates
Yatron
Young (AK)

NOES—196

Anthony
Archer
Armey
Atkins
AuCoin
Badham
Bartlett
Barton
Bateman
Bennett
Bentley
Bevill
Bilirakis
Bliley
Boner (TN)
Boulter
Broyhill
Burton (IN)
Bustamante
Byron
Callahan
Campbell
Carney
Carper
Carr
Chandler
Chapman
Chappie
Cheney
Clinger
Coats
Cobey
Coble
Combest
Coughlin
Courter
Craig
Crane
Daniel
Daschle
Daub
DeLay
DeWine
Dickinson
DioGuardi
Dorgan (ND)
Dornan (CA)
Dowdy
Dreier
Duncan
Eckert (NY)
Edwards (OK)
Emerson
English
Erdreich
Evans (IA)
Fawell
Fiedler
Fields
Fish
Florio
Fowler
Franklin
Frenzel
Frost
Fuqua
Gallo
Gekas
Gilman
Glickman
Goodling
Gordon
Gradison
Green
Gregg
Grotberg
Gunderson
Hall, Ralph
Hammerschmidt
Hansen
Hartnett
Heftel
Hendon
Henry
Hiler
Hillis
Holt
Hopkins
Hubbard
Hyde
Ireland
Johnson
Jones (OK)
Jones (TN)
Kasich
Kemp
Kindness
Kolbe
Kramer
Lagomarsino
Latta
Leath (TX)
Lewis (FL)
Livingston
Lloyd
Loeffler
Lott
Lowery (CA)
Lujan
Mack
Marlenee
Martin (IL)
Martin (NY)
Martinez
McCain
McCandless
McCurdy
McEwen
McGrath
McMillan
Meyers
Michel
Miller (OH)
Molinari
Monson
Montgomery
Moore
Moorhead
Morrison (WA)
Murtha
Natcher
Nichols
Nielson
O'Brien
Obey
Olin
Parris
Pashayan
Pickle
Porter
Quillen
Ritter
Roberts
Rogers
Roth
Roukema
Rowland (CT)
Saxton
Schaefer
Schneider
Schuette
Schulze
Schumer
Shaw
Shumway
Shuster
Siljander
Sisisky
Skeen
Slattery
Slaughter
Smith (NE)
Smith (NJ)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Snyder
Solomon
Spence
Stallings
Strang
Stump
Sundquist
Sweeney
Swindall
Synar
Taylor
Thomas (CA)
Thomas (GA)
Valentine
Vander Jagt
Visclosky
Volkmer
Vucanovich
Walker
Watkins
Weber
Whitehurst
Whittaker
Whitten
Wilson
Wolf
Wylie
Young (FL)
Zschau

NOT VOTING—8

Boland
Dymally
Gray (IL)
Hunter
McKinney
Nelson
Price
Young (MO)

☐ 1910

Mr. MARTINEZ and Mr. YOUNG of Florida changed their votes from "aye" to "no."

Messrs. FOGLIETTA, McKERNAN, and STENHOLM changed their votes from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

☐ 1925

The CHAIRMAN. The Committee will rise informally in order that the House may receive a message.

MESSAGE FROM THE SENATE

The SPEAKER resumed the chair.

The SPEAKER. The Chair will receive a message.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a joint resolution of the House of the following title:

H.J Res. 491. Joint resolution making further continuing appropriations for fiscal year 1986.

The message also announced that the Senate further insist upon its amendments to the joint resolution (H.J. Res. 465) "Joint resolution making further continuing appropriations for the fiscal year 1986, and for other purposes," disagreed to by the House, agrees to a further conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. HATFIELD, Mr. STEVENS, Mr. WEICKER, Mr. McCLURE, Mr. GARN, Mr. COCHRAN, Mr. ANDREWS, Mr. STENNIS, Mr. BYRD, Mr. PROXMIRE, Mr. JOHNSTON, Mr. BURDICK, and Mr. LAUTENBERG to be the conferees on the part of the Senate.

ENROLLED JOINT RESOLUTION SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a joint resolution of the House of the following title, which was thereupon signed by the Speaker:

H.J. Res.491. Joint resolution making further continuing appropriations for fiscal year 1986.

The SPEAKER. The Committee will resume its sitting.

TAX REFORM ACT OF 1985

The Committee resumed its sitting.

The CHAIRMAN. The Chair recognizes the gentleman from Tennessee [Mr. DUNCAN].

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. DUNCAN

Mr. DUNCAN. Mr. Chairman, I offer an amendment in the nature of a substitute which has been made in order under the rule.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows: Strike out all after the enacting clause and insert in lieu thereof the following:

H.R. 3879

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Tax Fairness and Reform Act of 1985".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Internal Revenue Code of 1985 enacted.
Sec. 3. Amendment of 1985 Code; coordination with section 15.

TITLE I—INDIVIDUAL INCOME TAX PROVISIONS

Subtitle A—Rate Reductions; Increase in Standard Deduction and Personal Exemptions

Sec. 101. Rate reductions.
Sec. 102. Increase in standard deduction.
Sec. 103. Increase in personal exemptions.
Sec. 104. Technical amendments.

Subtitle B—Provisions Related to Tax Credits

Sec. 111. Increase in earned income credit.
Sec. 112. Repeal of credit for contributions to candidates for public office.

Subtitle C—Provisions Related to Exclusions

Sec. 121. $5,000 limit on dependent care assistance exclusion.
Sec. 122. Taxation of unemployment compensation.
Sec. 123. Scholarships, etc.

Subtitle D—Provisions Related to Deductions

Sec. 131. Repeal of deduction for 2-earner married couples.
Sec. 132. 1-percent floor on miscellaneous itemized deductions.
Sec. 133. Charitable deduction for individuals who do not itemize made permanent.
Sec. 134. Repeal of deduction for adoption expenses.
Sec. 135. Limitation on deduction for consumer interest.
Sec. 136. Repeal of deduction for State and local sales taxes and personal property taxes.
Sec. 137. Overall limitation on amount of itemized deductions other than deductions for charitable contributions and qualified residence interest.

Subtitle E—Miscellaneous Provisions

Sec. 141. Repeal of income averaging.
Sec. 142. Limitations on deductions for meals, travel, and entertainment.
Sec. 143. Changes in treatment of hobby loss, etc.
Sec. 144. Deduction for mortgage interest and real property taxes allowable where parsonage allowance or military housing allowance received.
Sec. 145. Information reporting of income taxes and real and personal property taxes.
Sec. 146. Repeal of checkoff for presidential election campaign.

Subtitle F—Effective Dates

Sec. 151. Effective dates.

TITLE II—CAPITAL INCOME PROVISIONS

Subtitle A—Depreciation Provisions

Sec. 201. Repeal of accelerated cost recovery system.
Sec. 202. Recapture provisions for section 1250 property.
Sec. 203. Effective dates.

Subtitle B—Regular Investment Tax Credit

Sec. 211. Regular investment tax credit.

Subtitle C—Changes in Certain Rapid Amortization Provisions

Sec. 221. Repeal of 5-year amortization of trademark and trade name expenditures.
Sec. 222. Changes relating to depreciation of expenditures to rehabilitate low-income rental housing.

Subtitle D—Other Capital Related Costs

Sec. 231. Amendments relating to credit for increasing research activities.
Sec. 232. Modification of investment tax credit for rehabilitation expenditures.

Subtitle E—Capital Gains and Losses

Sec. 241. Retention of 20 percent maximum capital gain tax.
Sec. 242. Indexing of certain assets for purposes of determining gain or loss.
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SEC. 2. INTERNAL REVENUE CODE OF 1985 ENACTED.

(a) ENACTMENT.—The provisions designated in subsection (b) are hereby enacted into law and may be cited as the "Internal Revenue Code of 1985".

(b) PROVISIONS ENACTED.—The provisions designated in this subsection are as follows:

(1) the Internal Revenue Code of 1954 as in effect immediately before the enactment of this Act,

(2) the amendments to such Code made by title XV of this Act (relating to technical corrections), and

(3) the amendments made by the other titles of this Act.

(c) REFERENCES IN OTHER LAWS TO THE INTERNAL REVENUE CODE.—Any reference in any other law of the United States or in any Executive order to any provision of the Internal Revenue Code of 1954 shall, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, be deemed also to refer to the corresponding provision of the Internal Revenue Code of 1985.

(d) SAVINGS PROVISIONS.—

(1) IN GENERAL.—Subchapter B of chapter 80 (relating to effective date and related provisions) is amended by adding at the end thereof the following new section:

"SEC. 7853. TRANSITION TO THE INTERNAL REVENUE CODE OF 1985.

"Any provision of section 7851 or 7852 relating to the transition from the Internal Revenue Code of 1939 to the Internal Revenue Code of 1954 is hereby extended to and made applicable to the transition from the Internal Revenue Code of 1954 to the Internal Revenue Code of 1985, whenever such extension and application is necessary or appropriate."

(2) CONFORMING AMENDMENTS.—

(A) The table of sections for subchapter B of chapter 80 is amended by adding at the end thereof the following new item:

"7853. Transition to the Internal Revenue Code of 1985."

(B) Subsection (d) of section 7852 is amended—

(i) by striking out "this title shall" and inserting in lieu thereof "this title in effect on August 16, 1954, shall", and

(ii) by striking out "on the date of enactment of this title" and inserting in lieu thereof "such date".

SEC. 3. AMENDMENT OF 1985 CODE; COORDINATION WITH SECTION 15.

(a) AMENDMENT OF 1985 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of those provisions embodied in paragraphs (1) and (2) of section 2(b), as amended by amendments and repeals made by this Act and appearing in this Act before the amendment or repeal concerned.

(b) COORDINATION WITH SECTION 15.—For purposes of section 15 of the Internal Revenue Code of 1985, no amendment or repeal made by this Act shall be treated as a change in the rate of a tax imposed by chapter 1 of such Code.

TITLE I—INDIVIDUAL INCOME TAX PROVISIONS

Subtitle A—Rate Reductions; Increase in Standard Deduction and Personal Exemptions

SEC. 101. RATE REDUCTIONS.

(a) GENERAL RULE.—Section 1 (relating to tax imposed on individuals) is amended to read as follows:

"SECTION 1. TAX IMPOSED.

"(a) MARRIED INDIVIDUALS FILING JOINT RETURNS AND SURVIVING SPOUSES.—There is hereby imposed on the taxable income of—

"(1) every married individual (as defined in section 143) who makes a single return jointly with his spouse under section 6013, and

"(2) every surviving spouse (as defined in section 2(a)),

a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $22,500	15% of the taxable income.
Over $22,500 but not over $57,000.	$3,375, plus 25% of the excess over $22,500.
Over $57,000 but not over $100,000.	$12,000, plus 35% of the excess over $57,000.
Over $100,000	$27,050, plus 37% (35% in the case of taxable years beginning after December 31, 1990) of the excess over $100,000.

"(b) HEADS OF HOUSEHOLDS.—There is hereby imposed on the taxable income of every head of a household (as defined in section 2(b)) a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $16,000	15% of taxable income.
Over $16,000 but not over $51,500.	$2,400, plus 25% of the excess over $16,000.
Over $51,500 but not over $75,000.	$11,275, plus 35% of the excess over $51,500.
Over $75,000	$19,500, plus 37% (35% in the case of taxable years beginning after December 31, 1990) of the excess over $75,000.

"(c) UNMARRIED INDIVIDUALS (OTHER THAN SURVIVING SPOUSES AND HEADS OF HOUSEHOLDS).—There is hereby imposed on the taxable income of every individual (other than a surviving spouse as defined in section 2(a) or the head of a household as defined in section 2(b)) who is not a married individual (as defined in section 143) a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $12,500	15% of the taxable income.
Over $12,500 but not over $44,000.	$1,875, plus 25% of the excess over $12,500.
Over $44,000 but not over $60,000.	$9,750, plus 35% of the excess over $44,000.
Over $60,000	$15,350, plus 37% (35% in the case of taxable years beginning after December 31, 1990) of the excess over $60,000.

"(d) MARRIED INDIVIDUALS FILING SEPARATE RETURNS; ESTATES AND TRUSTS.—There is hereby imposed on the taxable income of—

"(1) every married individual (as defined in section 143) who does not make a single return jointly with his spouse under section 6013, and

"(2) every estate and trust,

a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $11,250	15% of the taxable income.
Over $11,250 but not over $28,500.	$1,687.50, plus 25% of the excess over $11,250.
Over $28,500 but not over $50,000.	$6,000, plus 35% of the excess over $28,000.
Over $50,000	$13,525, plus 37% (35% in the case of taxable years beginning after December 31, 1990) of the excess over $50,000.

"(e) ADJUSTMENTS IN TAX TABLES SO THAT INFLATION WILL NOT RESULT IN TAX INCREASES.—

"(1) IN GENERAL.—Not later than December 15 of 1986, and each subsequent calendar year, the Secretary shall prescribe tables which shall apply in lieu of the tables contained in subsections (a), (b), (c), and (d) with respect to taxable years beginning in the succeeding calendar year.

"(2) METHOD OF PRESCRIBING TABLES.—The table which under paragraph (1) is to apply in lieu of the table contained in subsection (a), (b), (c), or (d), as the case may be, with respect to taxable years beginning in any calendar year shall be prescribed—

"(A) by increasing the minimum and maximum dollar amounts for each rate bracket for which a tax is imposed under such table by the cost-of-living adjustment for such calendar year,

"(B) by not changing the rate applicable to any rate bracket as adjusted under subparagraph (A), and

"(C) by adjusting the amounts setting forth the tax to the extent necessary to reflect the adjustments in the rate brackets.

"(3) Cost-of-living adjustment.—For purposes of paragraph (2), the cost-of-living adjustment for any calendar year is the percentage (if any) by which—

"(A) the CPI for the preceding calendar year, exceeds

"(B) the CPI for the calendar year 1985.

"(4) CPI for any calendar year.—For purposes of paragraph (3), the CPI for any calendar year is the average of the Consumer Price Index as of the close of the 12-month period ending on August 31 of such calendar year.

"(5) Consumer price index.—For purposes of paragraph (4), the term 'Consumer Price Index' means the last Consumer Price Index for all-urban consumers published by the Department of Labor.

"(6) Rounding.—

"(A) In general.—If any increase determined under paragraph (2)(A) or under section 63(c)(4) is not a multiple of $10, such increase shall be rounded to the nearest multiple of $10 (or if such increase is a multiple of $5, such increase shall be increased to the next higher multiple of $10).

"(B) Table for married individuals filing separately, etc.—In the case of the table contained in subsection (d) and the standard deduction applicable to a married individual filing a separate return, subparagraph (A) shall be applied by substituting '$5' for '$10' each place it appears and by substituting '$2.50' for '$5'."

(b) Amendment of Section 15.—Subsection (d) of section 15 (relating to effect of changes in rates during a taxable year) is amended to read as follows:

"(d) Section Not to Apply to Inflation Adjustments.—This section shall not apply to any change in rates under subsection (e) of section 1 (relating to adjustments in tax tables so that inflation will not result in tax increases)."

SEC. 102. INCREASE IN STANDARD DEDUCTION.

(a) General Rule.—Section 63 (defining taxable income) is amended to read as follows:

"SEC. 63. TAXABLE INCOME DEFINED.

"(a) In General.—Except as provided in subsection (b), for purposes of this subtitle, the term 'taxable income' means gross income minus the deductions allowed by this chapter (other than the standard deduction).

"(b) Individuals Who Do Not Itemize Their Deductions.—In the case of an individual who does not elect to itemize his deductions for the taxable year, for purposes of this subtitle, the term 'taxable income' means adjusted gross income, minus—

"(1) the standard deduction,

"(2) the deduction for personal exemptions provided in section 151, and

"(3) the direct charitable deduction.

"(c) Standard Deduction.—For purposes of this subtitle—

"(1) In general.—Except as otherwise provided in this subsection, the term 'standard deduction' means the sum of—

"(A) the basic standard deduction, and

"(B) the additional standard deduction.

"(2) Basic standard deduction.—For purposes of paragraph (1), the basic standard deduction is—

"(A) $4,600 in the case of—

"(i) a joint return, or

"(ii) a surviving spouse (as defined in section 2(a)),

"(B) $4,026 in the case of a head of household (as defined in section 2(b)),

"(C) $2,828 in the case of an individual who is not married and who is not a surviving spouse or head of household, or

"(D) $2,300 in the case of a married individual filing a separate return.

"(3) Additional standard deduction for aged and blind.—For purposes of paragraph (1), the additional standard deduction is the sum of each additional amount to which the taxpayer is entitled under subsection (f).

"(4) Adjustments for inflation.—In the case of any taxable year beginning in a calendar year after 1986, each dollar amount contained in paragraph (2) or subsection (f) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(e)(3) for the calendar year in which the taxable year begins.

"(5) Limitation on standard deduction in the case of certain dependents.—In the case of an individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which the individual's taxable year begins, the standard deduction applicable to such individual for such individual's taxable year shall not exceed such individual's earned income.

"(6) Certain individuals, etc., not eligible for standard deduction.—In the case of—

"(A) a married individual filing a separate return where either spouse itemizes deductions,

"(B) a nonresident alien individual,

"(C) a citizen of the United States entitled to the benefits of section 931 (relating to income from sources within possessions of the United States),

"(D) an individual making a return under section 443(a)(1) for a period of less than 12 months on account of a change in his annual accounting period, or

"(E) an estate or trust, common trust fund, or partnership,

the standard deduction shall be zero.

"(d) Itemized Deductions.—For purposes of this subtitle, the term 'itemized deductions' means the deductions allowable by this chapter other than—

"(1) the deductions allowable in arriving at adjusted gross income,

"(2) the deductions for personal exemptions provided by section 151, and

"(3) the direct charitable deduction.

"(e) Election to Itemize.—

"(1) In general.—Unless an individual makes an election under this subsection for the taxable year, no itemized deduction shall be allowed for the taxable year. For purposes of this subtitle, the determination of whether a deduction is allowable under this chapter shall be made without regard to the preceding sentence.

"(2) Time and manner of election.—Any election under this subsection shall be made on the taxpayer's return, and the Secretary shall prescribe the manner of signifying such election on the return.

"(3) Change of election.—Under regulations prescribed by the Secretary, a change of election with respect to itemized deductions for any taxable year may be made after the filing of the return for such year. If the spouse of the taxpayer filed a separate return for any taxable year corresponding to the taxable year of the taxpayer, the change shall not be allowed unless, in accordance with such regulations—

"(A) the spouse makes a change of election with respect to itemized deductions, for the taxable year covered in such separate return, consistent with the change of treatment sought by the taxpayer, and

"(B) the taxpayer and his spouse consent in writing to the assessment, within such period as may be agreed on with the Secretary, of any deficiency, to the extent attributable to such change of election, even though at the time of the filing of such consent the assessment of such deficiency would otherwise be prevented by the operation of any law or rule of law.

This paragraph shall not apply if the tax liability of the taxpayer's spouse, for the taxable year corresponding to the taxable year of the taxpayer, has been compromised under section 7122.

"(1) Additional amounts for the aged.—The taxpayer shall be entitled to an additional amount of $600—

"(A) for himself if he has attained age 65 before the close of his taxable year, and

"(B) for the spouse of the taxpayer if the spouse has attained age 65 before the close of the taxable year and an additional exemption is allowable to the taxpayer for such spouse under section 151(b).

"(2) Additional amount for blind.—The taxpayer shall be entitled to an additional amount of $600—

"(A) for himself if he is blind at the close of the taxable year, and

"(B) for the spouse of the taxpayer if the spouse is blind as of the close of the taxable year and an additional exemption is allowable to the taxpayer for such spouse under section 151(b).

For purposes of subparagraph (B), if the spouse dies during the taxable year the determination of whether such spouse is blind shall be made as of the time of such death.

"(3) Blindness defined.—For purposes of this subsection, an individual is blind only if his central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or if his visual acuity is greater than 20/200 but is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

"(g) Marital Status.—For purposes of this section, marital status shall be determined under section 143.

"(h) Direct Charitable Deduction.—For purposes of this section, the term 'direct charitable deduction' means that portion of the amount allowable under section 170(a) which is taken as a direct charitable deduction for the taxable year under section 170(i)."

(b) Optional Tax Tables.—Section 3 (relating to tax tables for individuals) is amended by striking out subsection (a) and inserting in lieu thereof the following:

"(a) Imposition of Tax Table Tax.—

"(1) In general.—In lieu of the tax imposed by section 1, there is hereby imposed for each taxable year on the taxable income of every individual—

"(A) who does not itemize his deductions for the taxable year, and

"(B) whose taxable income for such taxable year does not exceed the ceiling amount,

a tax determined under tables, applicable to such taxable year, which shall be prescribed by the Secretary and which shall be in such form as he determines appropriate. In the table so prescribed, the amounts of the tax shall be computed on the basis of the rates prescribed by section 1.

"(2) Ceiling amount defined.—For purposes of paragraph (1), the term 'ceiling amount' means, with respect to any taxpayer, the amount (not less than $20,000) determined by the Secretary for the tax rate category in which such taxpayer falls.

"(3) Certain taxpayers with large number of exemptions.—The Secretary may exclude from the application of this section taxpayers in any tax rate category having more than the number of exemptions for that category determined by the Secretary.

"(4) Authority to prescribe tables for taxpayers who itemize deductions.—The Secretary may provide that this section shall apply also for any taxable year to individuals who itemize their deductions. Any tables prescribed under the preceding sentence shall be on the basis of taxable income."

SEC. 103. INCREASE IN PERSONAL EXEMPTIONS.

(a) General Rule.—Subsection (f) of section 151 (defining exemption amount) is amended to read as follows:

"(f) Exemption Amount.—For purposes of this section—

"(1) In general.—Except as provided in paragraph (2), the term 'exemption amount' means $2,000.

"(3) Inflation adjustment for years after 1986.—In the case of any taxable year beginning in a calendar year after 1986, each dollar amount contained in paragraph (1) or (2) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment (as defined in section 1(e)(3)) for the calendar year in which the taxable year begins.

If the increase determined under the preceding sentence is not a multiple of $10, such increase shall be rounded to the nearest multiple of $10 (or if such increase is a multiple of $5, such increase shall be increased to the next higher multiple of $10).

"(4) Exemptions offset income only to extent it is not subject to rate in excess of 25 percent; phaseout above $100,000.—

"(A) In general—Notwithstanding any other provision of this subtitle, any deduction for an exemption provided by this section shall not reduce the tax imposed by this chapter for the taxable year by an amount exceeding the limitation determined under subparagraph (B).

"(B) Limitation.—

"(i) In general.—Except as provided in clause (ii), the limitation determined under this subparagraph is 25 percent of the exemption amount (determined after any adjustment under paragraph (2)).

"(ii) Phaseout between $100,000 and $150,000.—In the case of a taxpayer whose taxable income exceeds $100,000, the limitation determined under clause (i) shall be reduced by an amount which bears the same ratio to such limitation as—

"(I) the taxable income of the taxpayer for the taxable year (determined without regard to the exemptions provided by this section) in excess of $100,000, bears to

"(II) $50,000."

(b) Repeal of Additional Exemptions for Taxpayers Over Age 65 or Blind.—Section 151 is amended by striking out subsections (c) and (d) and by redesignating subsections (e) and (f) as subsections (c) and (d), respectively.

SEC. 104. TECHNICAL AMENDMENTS.

(a) Filing Requirements.—

(1) Section 6012.—

(A) Paragraph (1) of section 6012(a) (relating to persons required to make returns of income) is amended to read as follows:

"(1)(A) Every individual having for the taxable year gross income which equals or exceeds the exemption amount, except that a return shall not be required of an individual (other than an individual described in subparagraph (C))—

"(i) who is not married (determined by applying section 143), is not a surviving spouse (as defined in section 2(a)), is not a head of a household (as defined in section 2(b)), and for the taxable year has gross income of less than the sum of the exemption amount plus the basic standard deduction applicable to such an individual,

"(ii) who is a head of a household (as so defined) and for the taxable year has gross income of less than the sum of the exemption amount plus the basic standard deduction applicable to such an individual,

"(iii) who is a surviving spouse (as so defined) and for the taxable year has gross income of less than the sum of the exemption amount plus the basic standard deduction applicable to such an individual, or

"(iv) who is entitled to make a joint return and whose gross income, when combined with the gross income of his spouse, is, for the taxable year, less than the sum of twice the exemption amount plus the basic standard deduction applicable to a joint return, but only if such individual and his spouse, at the close of the taxable year, had the same household as their home.

Clause (iv) shall not apply if for the taxable year such spouse makes a separate return or any other taxpayer is entitled to an exemption for such spouse under section 151(c).

"(B) The amount specified in clause (i), (ii) or (iii) of subparagraph (A) shall be increased by the amount of 1 additional standard deduction in the case of an individual entitled to such deduction by reason of section 63(f)(1)(A) (relating to individuals age 65 or more), and the amount specified in clause (iv) of subparagraph (A) shall be increased by the amount of the additional standard deduction for each additional standard deduction to which the individual or his spouse is entitled by reason of section 63(f)(1).

"(C) The exception under subparagraph (A) shall not apply to any individual—

"(i) described in section 63(c)(5) whose income (other than earned income) is at least equal to the exemption amount applicable under section 151(d)(2), or

"(ii) for whom the standard deduction is zero under section 63(c)(6).

"(D) For purposes of this subsection—

"(i) The terms 'standard deduction', 'basic standard deduction' and 'additional standard deduction' have the meanings given such terms by section 63(c).

"(ii) The term 'exemption amount' has the meaning given such term by section 151(d)."

(B) Paragraph (9) of section 6012(a) is amended by striking out "$2,700 or more" and inserting in lieu thereof "not less than the sum of the exemption amount plus the basic standard deduction under section 63(c)(2)(D)".

(2) Section 6013.—Subparagraph (A) of section 6013(b)(3) (relating to when return deemed filed) is amended—

(A) by striking out "(twice the exemption amount in case such spouse was 65 or over)" each place it appears,

(B) by striking out "section 151(f)" and inserting in lieu thereof "section 151(d)", and

(C) by adding at the end thereof the following new sentence: "For purposes of clauses (ii) and (iii), if the spouse whose gross income is being compared to the exemption amount is 65 or over, such clauses shall be applied by substituting 'the sum of the exemption amount and the additional standard deduction under section 63(c)(2) by reason of section 63(f)(1)(A)' for 'the exemption amount'."

(b) Other Amendments.—

(1) Section 21, etc.—

(A) Sections 21(b)(1)(A), 21(e)(6)(A), and 129(c)(1) are each amended by striking out "section 151(e)" and inserting in lieu thereof "section 151(c)".

(B) Sections 21(e)(6)(B), 32(c)(1)(A)(i), 129(c)(2), 152(e)(1)(A), and 7703(b)(1) are each amended by striking out "section 151(e)(3)" and inserting in lieu thereof "section 151(c)(3)".

(2) Section 152, etc.—Sections 152(d)(2) and 2032A(c)(7)(D) are each amended by striking out "section 151(e)(4)" and inserting in lieu thereof "section 151(c)(4)".

(3) Section 172.—Subsection (d) of section 172 (relating to modifications) is amended by striking out paragraph (7).

(4) Section 402.—Subparagraph (B) of section 402(e)(1), as amended by section 1122(b) of this Act, is amended by striking out "the zero bracket amount applicable to such individual for the taxable year plus".

(5) Section 441.—Clause (iii) of section 441(f)(2)(B) (relating to change in accounting period) is amended by striking out "and by adding the zero bracket amount,".

(6) Section 443.—

(A) Paragraph (1) of section 443(b) (relating to computation of tax on change of annual accounting period) is amended by striking out ", and adding the zero bracket amount".

(B) Clause (ii) of section 443(b)(2)(A) (relating to computation based on 12-month period) is amended to read as follows:

"(ii) the tax computed on the modified taxable income for the short period."

(7) Section 511.—Sections 511(b)(1) and 10641(a) (relating to tax on charitable, etc., trusts) are each amended by striking out "section 1(e)" and inserting in lieu thereof "section 1(d)".

(8) Section 613A.—Paragraph (1) of section 613A(d) (relating to limitation on percentage depletion based on taxable income) is amended by striking out "(reduced in the case of an individual by the zero bracket amount)".

(9) Section 667.—Paragraph (2) of section 10667(b) (relating to tax on amount deemed distributed by trust in preceding years) is amended to read as follows:

"(2) Treatment of loss years.—For purposes of paragraph (1), the taxable income of the beneficiary for any taxable year shall be deemed to be not less than zero."

(10) Section 861.—Subsection (b) of section 861 (relating to taxable income from sources within the United States) is amended by striking out "the zero bracket amount" and inserting in lieu thereof "the standard deduction".

(11) Section 862.—Subsection (b) of section 862 (relating to taxable income from sources without the United States) is amended by striking out "the zero bracket amount" and inserting in lieu thereof "the standard deduction".

(12) Section 904.—Subsection (a) of section 904 (relating to limitation on foreign tax credit) is amended by striking out the last sentence.

(13) Section 1211.—Subparagraph (A) of section 1211(b)(1) (relating to limitation on capital losses) is amended by striking out "reduced (but not below zero) by the zero bracket amount".

(14) Section 1398.—Subsection (c) of section 1398 (relating to computation and payment of tax; zero bracket amount) is amended—

(A) by striking out "Zero Bracket Amount" in the subsection heading and inserting in lieu thereof "Basic Standard Deduction", and

(B) by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) Basic standard deduction.—In the case of an estate which does not itemize deductions, the basic standard deduction for the estate for the taxable year shall be the same as for a married individual filing a separate return for such year."

(15) Section 3402.—

(A) Paragraph (1) of section 3402(f) (relating to withholding exemptions) is amended by striking out subparagraphs (B) and (C) and by redesignating subparagraphs (D), (E), (F), and (G) as subparagraphs (B), (C), (D), and (E), respectively.

(B) Subparagraph (B) of section 3402(f)(1), as redesignated by subparagraph (A), is amended by striking out "subparagraph (A), (B), (C), or (F)" and inserting in lieu thereof "subparagraph (A) or (D)".

(C) Subparagraph (C) of section 3402(f)(1), as redesignated by subparagraph (A), is amended by striking out "section 151(e)" and inserting in lieu thereof "section 151(c)".

(D) Subparagraph (E) of section 3402(f)(1), as redesignated by subparagraph (A), is amended by striking out "zero bracket" and inserting in lieu thereof "standard deduction".

(E) The last sentence of paragraph (1) of section 3402(f) is amended—

(i) by striking out "subparagraph (G)" and inserting in lieu thereof "subparagraph (E)", and

(ii) by striking out "zero bracket" and inserting in lieu thereof "standard deduction".

(F) Paragraph (3) of section 3402(m) is amended by inserting "(including the additional standard deduction under section 63(c)(3) for the aged and blind)" after "deductions".

(16) Section 6014.—

(A) Subsection (a) of section 6014 (relating to income tax return—tax not computed by taxpayer) is amended by striking out "who does not have an unused zero bracket amount (determined under section 63(e))" and inserting in lieu thereof "who is not described in section 6012(a)(1)(C)(i)".

(B) Paragraph (4) of section 6014(b) is amended to read as follows:

"(4) to cases where the taxpayer itemizes his deductions or where the taxpayer claims a reduced standard deduction by reason of section 63(c)(5)."

(17) Section 6212.—Subparagraph (A) of section 6212(c)(2) (relating to cross references) is amended to read as follows:

"(A) Deficiency attributable to change of treatment with respect to itemized deductions, see section 63(e)(3)."

(18) Section 6504.—Paragraph (2) of section 6504 (relating to cross references) is amended to read as follows:

"(2) Change of treatment with respect to itemized deductions where taxpayer and his spouse make separate returns, see section 63(e)(3)."

Subtitle B—Provisions Related to Tax Credits

SEC. 111. INCREASE IN EARNED INCOME CREDIT.

(a) Increase in Amount of Credit.—Subsection (a) of section 32 (relating to earned income credit) is amended by striking out "11 percent" and inserting in lieu thereof "14 percent", and by striking out "$5,000" and inserting in lieu thereof "$7,143".

(b) Increase in Income Level at Which Phaseout Begins.—Subsection (b) of section 32 is amended to read as follows:

"(b) Limitation.—The credit allowable to any taxpayer under subsection (a) for any taxable year shall be reduced by 12.5 percent of so much of the adjusted gross income (or, if greater, the earned income of the taxpayer for the taxable year) as exceeds $8,000.

(c) Conforming Amendments.—

(1) Paragraph (2) of section 32(f) (relating to amount of credit to be determined under tables) is amended by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(A) for earned income between $0 and the amount of earned income at which the credit is phased out under subsection (b), and

"(B) for adjusted gross income between the dollar amount at which the phaseout begins under subsection (b) and the amount of adjusted gross income at which the credit is phased out under subsection (b)."

(2) Subparagraph (B) of section 3507(c)(2) (relating to earned income advance amount) is amended by striking out clauses (i) and (ii) and inserting in lieu thereof the following:

"(i) of not more than 14 percent of the first earned income (but not in excess of the amount of earned income taken into account under section 32(a)), which

"(ii) phases out between the amount of earned income at which the phaseout begins under subsection (b) of section 32 and the amount of earned income at which the credit under section 32 is phased out under such subsection, or".

(3) Subparagraph (C) of section 3507(c)(2) is amended by striking out clauses (i) and (ii) and inserting in lieu thereof the following:

"(i) of not more than 14 percent of the first earned income (but not in excess of ½ of the amount of earned income taken into account under section 32(a)), which

"(ii) phases out between amounts of earned income which are ½ of the amounts of earned income described in subparagraph (B)(ii)."

SEC. 112. REPEAL OF CREDIT FOR CONTRIBUTIONS TO CANDIDATES FOR PUBLIC OFFICE.

(a) General Rule.—Section 24 (relating to contributions to candidates for public office) is hereby repealed.

(b) Technical Amendments.—

(1) Subsection (g) of section 527 (relating to treatment of newsletter funds) is amended—

(A) by striking out "section 24(c)(2)" in paragraph (1) and inserting in lieu thereof "paragraph (3)", and

(B) by adding at the end thereof the following new paragraph:

"(3) Candidate.—For purposes of paragraph (1), the term 'candidate' means, with respect to any Federal, State, or local elective public office, an individual who—

"(A) publicly announces that he is a candidate for nomination or election to such office, and

"(B) meets the qualifications prescribed by law to hold such office."

(2) Subsection (a) of section 10642 (relating to credits against tax for estates and trusts) is amended to read as follows:

"(a) Foreign Tax Credit Allowed.—An estate or trust shall be allowed the credit against tax for taxes imposed by foreign countries and possessions of the United States, to the extent allowed by section 901, only in respect of so much of the taxes described in such section as is not properly allocable under such section to the beneficiaries."

(3) Paragraph (6) of section 7871(a) (relating to Indian tribal governments treated as States for certain purposes) is amended by striking out subparagraph (A) and by redesignating subparagraphs (B), (C), (D), (E), and (F) as subparagraphs (A), (B), (C), (D), and (E), respectively.

(4) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by striking out the item relating to section 24.

Subtitle C—Provisions Related to Exclusions

SEC. 121. $5,000 LIMIT ON DEPENDENT CARE ASSISTANCE EXCLUSION.

(a) General Rule.—Subsection (a) of section 129 (relating to dependent care assistance programs) is amended to read as follows:

"(a) Exclusion.—

"(1) In general.—Gross income of an employee does not include amounts paid or incurred by the employer for dependent care assistance provided to such employee if the assistance is furnished pursuant to a program which is described in subsection (d).

"(2) Limitation of exclusion.—The aggregate amount excluded from the gross income of the taxpayer under this section for any taxable year shall not exceed $5,000 ($2,500 in the case of a separate return by a married individual).

For purposes of the preceding sentence, marital status shall be determined under the rules of paragraphs (3) and (4) of section 21(e)."

(b) Treatment of Onsite Facilities.—Subsection (e) of section 129 is amended by adding at the end thereof the following new paragraph:

"(8) Treatment of onsite facilities.—In the case of an onsite facility, except to the extent provided in regulations, the amount excluded with respect to any dependent shall be based on—

"(A) utilization, and

"(B) the value of the services provided."

(c) Reporting Requirement.—

(1) Paragraph (1) of section 6039D(d) (defining specified fringe benefit plan) is amended by striking out "and" at the end of subparagraph (B), by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "and", and by adding at the end thereof the following new subparagraph:

"(D) any dependent care assistance program (within the meaning of section 129)."

(2) Paragraph (2) of section 6039D(d) (as so amended) is amended by striking out "and" at the end of subparagraph (B), by striking out the period at the end of subparagraph (C) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(D) section 129, in the case of a dependent care assistance program."

SEC. 122. TAXATION OF UNEMPLOYMENT COMPENSATION.

Section 85 (relating to unemployment compensation) is amended to read as follows:

"SEC. 85. UNEMPLOYMENT COMPENSATION.

"(a) General Rule.—In the case of an individual, gross income includes unemployment compensation.

"(b) Unemployment Compensation Defined.—For purposes of this section, the term 'unemployment compensation' means any amount received under a law of the United States or of a State which is in the nature of unemployment compensation."

SEC. 123. SCHOLARSHIPS, ETC.

(a) Scholarships.—

(1) In general.—Section 117 (relating to scholarship and fellowship grants) is amended to read as follows:

"SEC. 117. QUALIFIED SCHOLARSHIPS.

"(a) General Rule.—Gross income does not include any amount received as a qualified scholarship grant by an individual who is a candidate for a degree at an educational organization described in section 170(b)(1)(A)(ii).

"(b) Qualified Scholarship Grant.—For purposes of this section—

"(1) In general.—The term 'qualified scholarship' means any amount received by an individual as a scholarship or fellowship grant to the extent the individual establishes that, in accordance with the conditions of the grant, such amount was required to be used (and was used) for qualified tuition and related expenses.

"(2) Qualified tuition and related expenses.—For purposes of paragraph (1), the term 'qualified tuition and related expenses' means—

"(A) tuition and fees required for the enrollment or attendance of a student at an educational organization described in section 170(b)(1)(A)(ii), and

"(B) fees, books, supplies, and equipment required for courses of instruction at such an educational organization.

"(c) Limitation.—Subsections (a) and (d) shall not apply to that portion of any amount received which represents payment for teaching, research, or other services by the student required as a condition for receiving the qualified scholarship or qualified tuition reduction.

"(d) Qualified Tuition Reductions.—

"(1) In general.—Gross income shall not include any qualified tuition reduction.

"(2) Qualified tuition reduction.—For purposes of this subsection, the term 'qualified tuition reduction' means the amount of any reduction in tuition provided to an employee of an organization described in section 170(b)(1)(A)(ii) for the education (below the graduate level) at such organization (or another organization described in section 170(b)(1)(A)(ii)) of—

"(A) such employee, or

"(B) any person treated as an employee (or whose use is treated as an employee use) under the rules of section 132(f).

"(3) Reduction must not discriminate in favor of highly compensated, etc.—Paragraph (1) shall apply with respect to any qualified tuition reduction provided with respect to any officer, owner, or highly compensated employee only if such reduction is available on substantially the same terms to each member of a group of employees which is defined under a reasonable classification set up by the employer which does not discriminate in favor of officers, owners, or highly compensated employees."

(2) Technical amendments.—

(A) Subsection (a) of secton 74 is amended by striking out "(relating to scholarship and fellowship grants)" and inserting in lieu thereof "(relating to qualified scholarships)".

(B) The second sentence of section 1441(b) (relating to income items) is amended to read as follows: "The items of income referred to in subsection (a) from which tax shall be deducted and withheld at the rate of 14 percent are amounts which are received by a nonresident alien individual who is temporarily present in the United States as a nonimmigrant under subparagraph (F) or (J) of section 101(a)(15) of the Immigration and Nationality Act and which are incident to a qualified scholarship to which section 117(a) applies, but only to the extent such amounts are includible in gross income."

(C) Paragraph (6) of section 7871(a) (relating to Indian tribal governments treated as States for certain purposes) (as amended by section 112) is amended by striking out subparagraph (B) and by redesignating subparagraphs (C), (D), and (E) as subparagraphs (B), (C), and (D), respectively.

(D) The table of sections for part III of subchapter B of chapter 1 is amended by striking out the item relating to section 117 and inserting in lieu thereof the following new item:

"Sec. 117. Qualified scholarships."

(b) Prizes and Awards.—Subsection (b) of section 74 is amended by striking out "and" at the end of paragraph (1), by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and", and by adding after paragraph (2) the following new paragraph:

"(3) the prize or award is transferred by the payor to a governmental unit or organization described in paragraph (1) or (2) of section 170(c) pursuant to a designation made by the recipient."

(c) Treatment of Employee Gifts.—

(1) Amounts transferred by employer not excludable as gifts.—Section 102 (relating to gifts and inheritances) is amended by adding at the end thereof the following new subsection:

"(c) Employee Gifts.—

"(1) In general.—Subsection (a) shall not exclude from gross income any amount transferred by or for an employer to, or for the benefit of, an employee.

"(2) Cross reference.—

"For provisions excluding de minimis gifts from gross income, see section 132."

(2) Section 274(b) limitation not to apply to employee gifts.—

(A) Paragraph (1) of section 274(b) (relating to gifts) is amended by inserting "or" at the end of subparagraph (A), by striking out ", or" at the end of subparagraph (B) and inserting in lieu thereof a period, and by striking out subparagraph (C).

(B) Subsection (b) of section 274 is amended by striking out paragraph (3).

Subtitle D—Provisions Related to Deductions

SEC. 131. REPEAL OF DEDUCTION FOR 2-EARNER MARRIED COUPLES.

(a) General Rule.—Section 221 (relating to deduction for 2-earner married couples) is hereby repealed.

(b) Conforming Amendments.—

(1) Section 62 is amended by striking out paragraph (16).

(2) Subparagraph (A) of section 86(b)(2) is amended by striking out "sections 221," and inserting in lieu thereof "sections".

(3) The table of sections for part VII of subchapter B of chapter 1 is amended by striking out the item relating to section 221.

SEC. 132. 1-PERCENT FLOOR ON MISCELLANEOUS ITEMIZED DEDUCTIONS.

(a) General Rule.—Part I of subchapter B of chapter 1 (defining gross income, adjusted gross income, etc.) is amended by adding at the end thereof the following new section:

"SEC. 67. 1-PERCENT FLOOR ON MISCELLANEOUS ITEMIZED DEDUCTIONS.

"(a) General Rule.—In the case of an individual, the miscellaneous itemized deductions for any taxable year shall be allowed only to the extent that the aggregate of such deductions exceeds 1 percent of adjusted gross income.

"(b) Miscellaneous Itemized Deductions.—For purpose of this section, the term 'miscellaneous itemized deductions' means the itemized deductions other than—

"(1) the deduction under section 163 (relating to interest),

"(2) the deduction under section 164 (relating to taxes),

"(3) the deduction under section 165(a) for losses described in subsection (c)(3) or (d) of section 165,

"(4) the deduction under section 170 (relating to charitable deductions),

"(5) the deduction under section 213 (relating to medical deduction), and

"(6) the deduction under section 691(c) (relating to deduction for estate tax in the case of income in respect of a decedent).

"(c) Determination of Adjusted Gross Income in Case of Estates and Trusts.—For purposes of this section, the adjusted gross income of an estate or trust shall be computed in the same manner as in the case of an individual, except that the deductions for costs paid or incurred in connection with the administration of the estate or trust shall be treated as allowable in arriving at adjusted gross income."

(b) Nonreimbursed Business Expenses of Employees Made Subject to 1 Percent Floor.—Paragraph (2) of section 62 (defining adjusted gross income) is amended to read as follows:

"(2) Reimbursed expenses of employees.—The deductions allowed by part VI (section 161 and following) which consist of expenses paid or incurred by the taxpayer, in connection with the performance by him of services as an employee, under a reimbursement or other expense allowance arrangement with his employer."

(c) Clerical Amendment.—The table of sections for part I of subchapter B of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 67. 1-percent floor on miscellaneous itemized deductions."

SEC. 133. CHARITABLE DEDUCTION FOR INDIVIDUALS WHO DO NOT ITEMIZE MADE PERMANENT.

Subsection (i) of section 170 (relating to rule for nonitemization of deductions) is amended to read as follows:

"(i) Rule for Nonitemization of Deductions.—In the case of an individual who does not itemize his deductions for the taxable year, the excess of—

"(1) the amount allowable under subsection (a) for the taxable year, over

"(2) $100,

shall be taken into account as a direct charitable deduction under section 63."

SEC. 134. REPEAL OF DEDUCTION FOR ADOPTION EXPENSES.

(a) General Rule.—Section 222 (relating to deduction for adoption, etc.) is hereby repealed.

(b) Conforming Amendments.—

(1) Section 223 is redesignated as section 220.

(2) The table of sections for part VII of subchapter B of chapter 1 is amended by striking out the items relating to sections 222 and 223 and inserting in lieu thereof the following:

"Sec. 220. Cross references."

SEC. 135. LIMITATION ON DEDUCTION FOR CONSUMER INTEREST.

Section 163 (relating to deduction for interest) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) Limitation on Deduction of Consumer Interest.—

"(1) In general.—In the case of an individual, the amount allowed as a deduction under this chapter for consumer interest (to the extent not disallowed under paragraph (2)) paid or accrued during any taxable year shall not exceed—

"(A) $1,000 in the case of a joint return,

"(B) $750 in the case of a head of household (as defined in section (2)(b)), or

"(C) $500 in the case of any other taxpayer.

"(2) Disallowance of deduction for purchase of foreign car.—No deduction shall be allowed under this chapter for any consumer interest on a loan incurred or continued to acquire a highway motor vehicle which is not domestically manufactured (within the meaning of section 503(b)(2) of the Motor Vehicle Information and Cost Savings Act.

"(3) Consumer Interest.—For purposes of this subsection—

"(A) In general.—Except as provided in subparagraph (B), the term 'consumer interest' means any interest other than interest paid or accrued on indebtedness incurred or continued in connection with the conduct of a trade or business or in connection with an activity described in section 212.

"(B) Exception for certain interest.—The term 'consumer interest' shall not include—

"(i) any qualified residence interest, or

"(ii) any interest on indebtedness incurred to pay educational expenses.

"(4) Qualified residence interest.—For purposes of this subsection—

"(A) In general.—The term 'qualified residence interest' means interest which is paid or accrued during the taxable year on indebtedness which is secured by any property which (at the time such interest is paid or accrued) is a qualified residence of the taxpayer.

"(B) Exception for interest on indebtedness in excess of the fair market value of the qualified residence.—

"(i) In general.—The term 'qualified residence interest' shall not include any interest paid or accrued on indebtedness secured by any qualified residence which is allocable to that portion of the principal amount of such indebtedness which, when added to the outstanding aggregate principal amount of all other idebtedness previously incurred and secured by such qualified residence, exceeds the fair market value of such qualified residence.

"(ii) Time for determination.—The determination under clause (i) shall be made as of the time the indebtedness is secured.

"(C) Qualified residence.—For purposes of this paragraph—

"(i) In general.—The term 'qualified residence' means—

"(I) a principle residence (within the meaning of section 1034) of the taxpayer, and

"(II) 1 other residence (whether or not a principal residence) of the taxpayer which is selected by the taxpayer for purposes of this subsection for the taxable year.

"(ii) Married individuals filing separate returns.—If a married couple does not file a joint return for any taxable year—

"(I) such couple shall be treated as 1 taxpayer for purposes of clause (i), and

"(II) each individual shall be entitled to take into account a residence unless both individuals consent in writing to 1 individual taking into account a principal residence and 1 other residence.

"(D) Special rule for cooperative housing corporations.—For purposes of this paragraph, any indebtedness secured by stock held by the taxpayer as a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as so defined) shall be treated as secured by the house or apartment which the taxpayer is entitled to occupy as such a tenant-stockholder.

"(E) Special rule for residential lots.—For purposes of this paragraph—

"(i) In general.—A residential lot shall be treated as a residence.

"(ii) Exception for divided lots.—Clause (i) shall not apply to any lot which is divided by the taxpayer and sold.

"(F) Special rule for time-sharing.—For purposes of this paragraph, up to 6 weeks of time-sharing of a residential property may be treated as 1 residence.

SEC. 136. REPEAL OF DEDUCTION FOR STATE AND LOCAL SALES TAXES AND PERSONAL PROPERTY TAXES.

(a) General Rule.—Subsection (a) of section 164 (relating to taxes) is amended—

(1) by striking out paragraphs (2) and (4) and by redesignating paragraphs (3) and (5) as paragraphs (2) and (3), respectively, and

(2) by striking out the last sentence.

(b) Technical Amendment.—Subsection (b) of section 164 is amended by striking out paragraphs (2) and (5) and by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

SEC. 137. OVERALL LIMITATION ON AMOUNT OF ITEMIZED DEDUCTIONS OTHER THAN DEDUCTIONS FOR CHARITABLE CONTRIBUTIONS AND QUALIFIED RESIDENCE INTEREST.

(a) General Rule.—Part I of subchapter B of chapter 1 (defining gross income, adjusted gross income, etc.) is amended by adding at the end thereof the following new section:

"SEC. 68. LIMITATION ON AGGREGATE AMOUNT OF ITEMIZED DEDUCTIONS OTHER THAN DEDUCTIONS FOR CHARITABLE CONTRIBUTIONS AND QUALIFIED RESIDENCE INTEREST.

"(a) General Rule.—In the case of any return of an individual, the amount of the itemized deductions to which this section applies allowed for any taxable year shall not exceed the sum of—

"(1) $1,000, and

"(2) 70 percent of the excess of such deductions for the taxable year over $1,000.

"(b) Itemized Deductions to Which Section Applies.—This section shall apply to any itemized deduction (as defined in section 63(d) other than—

"(1) the deduction allowable under section 170, or

"(2) any deduction allowable for qualified residence interest (as defined in section 163(d)(4)).

"(c) Order of Application.—This section shall be applied after the application of all other provisions limiting deductions allowable under this chapter."

(b) Clerical Amendment.—The table of sections for part I of subchapter B of chapter 1 is amended by adding at the end thereof of the following new item:

"Sec. 68. Limitation on aggregate amount of itemized deductions other than deductions for charitable contributions and qualified residence interest."

Subtitle E—Miscellaneous Provisions

SEC. 141. REPEAL OF INCOME AVERAGING.

(a) General Rule.—Part I of subchapter Q of chapter 1 (relating to income averaging) is hereby repealed.

(b) Technical Amendments.—

(1) Subsection (b) of section 3 (relating to section inapplicable to certain individuals) is amended by striking out paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(2) Subsection (b) of section 5 (relating to cross references relating to tax on individuals) is amended by striking out paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(3) Subparagraph (B) of section 6511(d)(2) (relating to special rules applicable to income taxes) is amended to read as follows:

"(B) Applicable rules.—

"(i) In general.—If the allowance of a credit or refund of an overpayment of tax attributable to a net operating loss carryback or a capital loss carryback is otherwise prevented by the operation of any law or rule of law other than section 7122 (relating to compromises), such credit or refund may be allowed or made, if claim therefor is filed within the period provided in subparagraph (A) of this paragraph.

"(ii) Tentative carryback adjustments.—If the allowance of an application, credit, or refund of a decrease in tax determined under section 6411(b) is otherwise prevented by the operation of any law or rule of law other than section 7122, such application, credit, or refund may be allowed or made if application for a tentative carryback adjustment is made within the period provided in section 6411(a).

"(iii) Determinations by courts to be conclusive.—In the case of any such claim for credit or refund or any such application for a tentative carryback adjustment, the determination by any court, including the Tax Court, in any proceeding in which the decision of the court has become final, shall be conclusive except with respect to the net operating loss deduction, and the effect of such deduction, or with respect to the determination of a short-term capital loss, and the effect of such short-term capital loss, to the extent that such deduction or short-term capital loss is affected by a carryback which was not an issue in such proceeding."

(c) Clerical Amendment.—The table of parts for subchapter Q of chapter 1 is amended by striking out the item relating to part I.

SEC. 142. LIMITATIONS ON DEDUCTIONS FOR MEALS, TRAVEL, AND ENTERTAINMENT.

(a) All Business Meals Must Have Clear Business Purpose.—

(1) In general.—Section 162 (relating to trade or business expenses) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) All Business Meals Must Have Clear Business Purpose.—No deduction shall be allowed under this chapter for the expense of any food or beverages unless—

"(1) the furnishing of such food or beverages has a clear business purpose presently related to the active conduct of a trade or business,

"(2) such expense is not lavish or extravagant under the circumstances, and

"(3) the taxpayer (or an employee of the taxpayer) is present at the furnishing of such food or beverages."

(2) Technical amendments.—

(A) Subsection (e) of section 274 (relating to specific exceptions to application of subsection (a)) is amended by striking out paragraph (1) and by redesignating paragraphs (2) through (10) as paragraphs (1) through (9), respectively.

(B) Paragraph (3) of section 274(e), as redesignated by subparagraph (A), is amended by striking out "paragraph (3)" and inserting in lieu thereof "paragraph (2)".

(b) Additional Restrictions on Expenses for Meals, Travel, and Entertainment.—Section 274 (relating to disallowance of certain entertainment, etc. expenses) is amended by redesignating subsection (j) as subsection (m) and by inserting after subsection (i) the following new subsections:

"(j) Additional Limitations on Entertainment Expenses.—

"(1) Entertainment tickets.—

"(A) In general.—In determining the amount allowable as a deduction under this chapter for any ticket for any activity or facility described in subsection (d)(2), the amount taken into account shall not exceed the face value of such ticket.

"(B) Exception for certain charitable sports events.—Subparagraph (A) shall not apply to any ticket for any sports event—

"(i) which is organized for the primary purpose of benefiting an organization which is described in section 501(c)(3) and exempt from tax under section 501(a),

"(ii) all of the net proceeds of which are contributed to such organization, and

"(iii) which utilizes volunteers for substantially all of the work performed in carrying out such event.

"(2) Skyboxes, etc.—In the case of a skybox or other private luxury box leased for more than 1 event, the amount allowable as a deduction under this chapter with respect to such events shall not exceed the sum of the face values of non-luxury box seat tickets for the seats in such box covered by the lease. For purposes of the preceding sentence, 2 or more related leases shall be treated as 1 lease."

"(k) Additional Limitations on Travel Expenses.—

"(1) Luxury water transportation.—

"(A) In general.—No deduction shall be allowed under this chapter for expenses incurred for transportation by water to the extent such expenses exceed twice the aggregate per diem amounts for days of such transportation. For purposes of the preceding sentence, the term 'per diem amounts' means the highest amount generally allowable with respect to a day to employees of the executive branch of the Federal Government for per diem while away from home but serving in the United States.

"(B) Exception for expenses allowed under subsection (h)(2).—Subparagraph (A) shall not apply to any expense allocable to a convention, seminar, or other meeting which is held on any cruise ship.

"(2) Travel as form of education.—No deduction shall be allowed under this chapter for expenses for travel as a form of education.

"(l) Only 80 Percent of Meal and Entertainment Expenses Allowed as Deduction.—

"(1) In general.—The amount allowable as a deduction under this chapter for—

"(A) any expense for food or beverages, and

"(B) any item with respect to an activity which is of a type generally considered to constitute entertainment, amusement, or recreation, or with respect to a facility used in connection with such activity, shall not exceed 80 percent of the amount of such expense or item which would (but for this paragraph) be allowable as a deduction under this chapter.

"(2) Exceptions.—Paragraph (1) shall not apply to any expense if—

"(A) subsection (a) does not apply to such expense by reason of paragraph (2), (3), (4), (7), (8), or (9) of subsection (e),

"(B) in the case of an expense for food or beverages, such expense is excludable from the gross income of the recipient under section 132 by reason of subsection (e) thereof (relating to de minimis fringes), or

"(C) such expense is covered by a ticket described in subsection (j)(1)(B)."

(c) No Deduction Allowed for Seminars, Etc., for Section 212 Purposes.—

(1) In general.—Subsection (h) of section 274 (relating to attendance at conventions, etc.) is amended by adding at the end thereof the following new paragraph:

"(3) Seminars, etc. for section 212 purposes.—No deduction shall be allowed under section 212 for expenses allocable to a convention, seminar, or similar meeting."

(2) Technical Amendments.—Paragraphs (1) and (2) of section 274(h) are each amended—

(A) by striking out "or 212" each place it appears, and

(B) by striking out "or to an activity described in section 212 and" each place it appears.

(d) Additional Penalty for Overstated Meal Deductions.—Section 6653 (relating to additions to tax for failure to pay tax) is amended by adding at the end thereof the following new subsection:

"(h) Special Rules for Overstated Meal Deductions.—In any case in which any part of an underpayment is due to an erroneous deduction for any expense for food or beverages—

"(1) if such error is due to negligence or disregard of rules and regulations, the addition to tax under subsection (a) shall not be less than 50 percent of the portion of such underpayment attributable to such error, or

"(2) if such error is due to fraud, with respect to the portion of the underpayment which is attributable to such error, subsection (b) shall be applied by substituting '100 percent' for '75 percent'."

(e) Denial of Charitable Contribution for Certain Travel Expenses.—Section 170 (relating to charitable, etc., contributions and gifts) is amended by redesignating subsections (k) and (l) as subsections (l) and (m), respectively, and by inserting after subsection (j) the following new subsection:

"(k) Denial of Deduction for Certain Travel Expenses.—No deduction shall be allowed under this section for traveling expenses (including amounts expended for meals and lodging) while away from home, whether paid directly or by reimbursement, unless there is no significant element of personal pleasure, recreation, or vacation in such travel."

SEC. 143. CHANGES IN TREATMENT OF HOBBY LOSS, ETC.

(a) Hobby Loss.—Subsection (d) of section 183 (relating to presumption) is amended—

(1) by striking out "2 or more of the taxable years in the period of 5 consecutive taxable years" and inserting in lieu thereof "3 or more of the taxable years in the period of 5 consecutive taxable years", and

(2) by striking out the last sentence and inserting in lieu thereof the following: "In the case of an activity which consists in major part of the breeding, training, showing, or racing of horses, the preceding sentence shall be applied by substituting "2 or more of the taxable years in the period of 7 consecutive taxable years" for "3 or more of the taxable years in the period of 5 consecutive taxable years."

(b) Treatment of Rental to Employer Under Section 280A.—Subparagraph (C) of section 280A (relating to exceptions for certain business or rental use; limitation on deductions for such use) is amended by adding at the end thereof the following new paragraph:

"(6) Treatment of rental to employer.—Paragraphs (1) and (3) shall not apply to any item which is attributable to the rental of the dwelling unit (or any portion thereof) by the taxpayer to his employer during any period in which the taxpayer uses the dwelling unit (or portion) in performing services as an employee of the employer."

(c) Revision of Limitation on Deduction for Business Use of Home.—Paragraph (5) of section 280A(c) (relating to exceptions for certain business or rental use; limitation on deductions for such use) is amended by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) the sum of—

"(i) the deductions allocable to such use which are allowable under this chapter for the taxable year whether or not such unit (or portion thereof) was so used, and

"(ii) the deductions allocable to the trade or business in which such use occurs (but which are not allocable to such use) for such taxable year.

Any amount not allowable as a deduction under this chapter by reason of the preceding sentence shall be taken into account as a deduction (allocable to such use) under this chapter for the succeeding taxable year."

SEC. 144. DEDUCTION FOR MORTGAGE INTEREST AND REAL PROPERTY TAXES ALLOWABLE WHERE PARSONAGE ALLOWANCE OR MILITARY HOUSING ALLOWANCE RECEIVED.

Section 265 is amended by adding at the end thereof the following new paragraph:

"(6) Section not to apply with respect to parsonage and military housing allowances.—No deduction shall be denied under this section for interest on a mortgage on, or real property taxes on, the home of the taxpayer by reason of the receipt of an amount as—

"(A) a military housing allowance, or

"(B) a parsonage allowance excludable from gross income under section 107."

SEC. 145. INFORMATION REPORTING OF INCOME TAXES AND REAL AND PERSONAL PROPERTY TAXES.

(a) In General.—Subsection (a) of section 6050E (relating to State and local income tax refunds) is amended to read as follows:

"(a) Requirement of Reporting.—Every person who, with respect to any individual, during any calendar year—

"(1) makes payments of refunds of State or local income taxes (or allows credits or offsets with respect to such taxes) aggregating $10 or more, or

"(2) receives payments of State or local income taxes or real or personal property taxes aggregating $10 or more,

shall make a return according to forms or regulations prescribed by the Secretary setting forth the amount of such payments, credits, or offsets, and the name and address of the individual with respect to whom a payment described in paragraph (1), credit, or offset was made or from whom a payment described in paragraph (2) was received."

(b) Technical Amendments.—

(1) Subsection (b) of section 6050E (as amended by title XIII of this Act) is amended—

(A) by inserting "and of payments received from the individual" before the period at the end of paragraph (2), and

(B) by inserting "or, in the case of payments described in paragraph (2), will not claim itemized deductions under chapter 1 for the taxable year during which such payments are paid or incurred by the individual" before the period at the end of such subsection.

(2) Subsection (c) of section 6050E is amended to read as follows:

"(c) Person.—For purposes of this section, the term 'person' means—

"(1) the officer or employee—

"(A) having control of the payments of the refunds (or the allowance of the credits or offsets), or

"(B) receiving the payments described in subsection (a)(2), or

"(2) the person or persons appropriately designated for purposes of this section."

(c) Clerical Amendments.—

(1) The section heading for section 6050E is amended to read as follows:

"SEC. 6050E. CERTAIN STATE AND LOCAL TAX PAYMENTS AND REFUNDS."

(2) The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by striking out the item relating to section 6050E and inserting in lieu thereof the following:

"Sec. 6050E. Certain State and local tax payments and refunds."

SEC. 146. REPEAL OF CHECKOFF FOR PRESIDENTIAL ELECTION CAMPAIGN FUND.

(a) General Rule.—Part VIII of subchapter A of chapter 61 (relating to designation of income tax payments to Presidential Election Campaign Fund) is hereby repealed.

(b) Clerical Amendment.—The table of parts for subchapter A of chapter 61 is amended by striking out the item relating to part VIII.

Subtitle F—Effective Dates

SEC. 151. EFFECTIVE DATES.

(a) General Rule.—Except as otherwise provided in this section, the amendments made by this title shall apply to taxable years beginning after December 31, 1985.

(b) Unemployment Compensation.—The amendment made by section 122 shall apply to amounts received after December 31, 1986, in taxable years ending after such date.

(c) Scholarship Provisions.—The amendment made by section 123(a) shall apply to scholarships and fellowships granted after September 25, 1985, in taxable years ending after such date.

(d) Repeal of Deduction for Adoption Expenses.—The amendments made by section 134 shall apply to expenses paid or incurred after December 31, 1986, in taxable years ending after such date; except that such amendments shall not apply to expenses paid or incurred during calendar year 1987 in connection with an adoption with respect to which the taxpayer paid or incurred expenses during calendar year 1986 which were allowable as a deduction under section 222 of the Internal Revenue Code of 1954.

(e) Parsonage and Military Housing Allowances.—The amendment made by subsection 144 shall apply to taxable years beginning before, on, or after, December 31, 1985.

(f) Payments of Income, Real, and Personal Property Taxes.—The amendments made by section 145 shall apply to payments received after December 31, 1986.

TITLE II—CAPITAL INCOME PROVISIONS

Subtitle A—Depreciation Provisions

SEC. 201. REPEAL OF ACCELERATED COST RECOVERY SYSTEM.

(a) General Rule.—Section 168 (relating to accelerated cost recovery system) is amended to read as follows:

"SEC. 168. INCENTIVE DEPRECIATION SYSTEM FOR TANGIBLE PROPERTY.

"(a) General Rule.—Except as otherwise provided in this section, the depreciation deduction provided by section 167(a) for any tangible property shall be determined by using—

"(1) the applicable depreciation method,

"(2) the applicable recovery period, and

"(3) the applicable convention.

"(b) Applicable Depreciation Method.—For purposes of this section—

"(1) In general.—Except as provided in paragraph (2), the applicable depreciation method is—

"(A) the 200 percent declining balance method,

"(B) switching to the straight line method for the first taxable year for which using the straight line method with respect to the adjusted basis as of the beginning of such year will yield a larger allowance.

"(2) Class 10 property.—In the case of class 10 property, the applicable depreciation method is the straight line method.

"(3) Salvage value treated as zero.—Salvage value shall be treated as zero.

"(c) Applicable Recovery Period Under the Incentive System.—For purposes of this section, the applicable recovery period under the incentive system shall be determined in accordance with the following table:

"In the case of property in:	The applicable recovery period is:
Class 1	3 years
Class 2	5 years
Class 3	7 years
Class 4	10 years
Class 5	13 years
Class 6	16 years
Class 7	20 years
Class 8	25 years
Class 9	28 years
Class 10	28 years.

"(d) Applicable Convention.—For purposes of this section—

"(1) In general.—Except as otherwise provided in this subsection, the applicable convention is the half-year convention.

"(2) Class 10 property and low-income housing.—In the case of—

"(A) any class 10 property, and

"(B) any low-income housing,

the applicable convention is the mid-month convention.

"(3) Special rule where substantial property placed in service during last quarter of taxable year.—

"(A) In general.—Except as provided in regulations prescribed by the Secretary, if during any taxable year—

"(i) the aggregate bases of property to which this section applies and which are placed in service during the last quarter of the taxable year, exceeds

"(ii) 40 percent of the aggregate bases of all such property placed in service during such taxable year,

the applicable convention for all such property placed in service during such taxable year shall be the mid-month convention.

"(B) Class 10 property and low-income housing not taken into account.—For purposes of subparagraph (A), class 10 property and low-income housing shall not be taken into account.

"(4) Definitions.—

"(A) Half-year convention.—The half-year convention is a convention which treats all property placed in service during any taxable year (or disposed of during any taxable year) as placed in service (or disposed of) on the mid-point of such taxable year.

"(B) Mid-month convention.—The mid-month convention is a convention which treats all property placed in service during any month (or disposed of during any month) as placed in service (or disposed of) on the mid-point of such month.

"(e) Classification of Property.—For purposes of this section—

"(1) In general.—Except as otherwise provided in this subsection, property shall be classified under the following table:

"Property shall be placed in:	If such property has a class life of:	
	At least:	But less than:
Class 1		5 years
Class 2	5 years	7 years
Class 3	7 years	10 years
Class 4	10 years	13 years
Class 5	13 years	16 years
Class 6	16 years	20 years
Class 7	20 years	25 years
Class 8	25 years	30 years
Class 9	30 years	36 years
Class 10	36 years	

"(2) Classification of certain property.—

"(A) Low-income housing.—Any low-income housing—

"(i) if it is very low-income housing meeting the requirements of subsection (j)(3)(B), shall be in class 7, or

"(ii) if it does not meet such requirements, shall be in class 9.

"(B) 28-year real property.—Any 28-year real property shall be in class 10.

"(C) Certain vehicles.—Any car or any light general purpose truck shall be in class 2.

"(D) Qualified technological equipment.—Any qualified technological equipment shall be in class 2.

"(E) Computer based telephone switching equipment.—Any computer based telephone switching equipment shall be in class 2.

"(F) Clothing held for rental.—Any clothing held for rental shall be in class 1.

"(G) Single purpose agricultural or horticultural structure.—Any single purpose agricultural or horticultural structure (as defined in section 48(p)) shall be in class 5.

"(H) Horses.—

"(i) Race horses.—Any race horse shall be in class 2.

"(ii) Other horses.—Any horse other than a race horse shall be in class 4.

"(I) Telephone distribution plant, etc.—Any telephone distribution plant and comparable equipment used by other transmitters of information shall be in class 8.

"(3) Property with no class life.—Any property—

"(A) which does not have a class life, and

"(B) which is not classified under paragraph (2),

shall be in class 4.

"(f) Property To Which Section Does Not Apply.—This section shall not apply to—

"(1) Rehabilitation expenses for low-income rental housing.—The portion of the basis of any property to which section 167(k) applies.

"(2) Certain methods of depreciation.—Any property if—

"(A) the taxpayer elects to exclude such property from the application of this section, and

"(B) for the 1st taxable year for which a depreciation deduction would be allowable with respect to such property in the hands of the taxpayer, the property is properly depreciated under the unit-of-production method or any method of depreciation not expressed in a term of years (other than the retirement-replacement-betterment method or similar method).

"(3) Certain public utility property.—Any public utility property (within the meaning of section 167(l)(3)(A)) if the taxpayer does not use a normalization method of accounting.

"(4) Films and video tape.—Any motion picture film or video tape.

"(5) Sound recordings.—Any sound recording described in section 280(c)(2).

"(g) Inflation Adjustments.—

"(1) In general.—The depreciation deduction determined under this section for any taxable year with respect to any property to which this subsection applies shall be the product of—

"(A) the amount of such deduction (determined without regard to this subsection), multiplied by

"(B) the product of the inflation adjustments for the taxable year and each prior taxable year for which a depreciation deduction was allowable during the holding period of the taxpayer with respect to such property and for which an inflation adjustment was allowed under this subsection.

"(2) Property to which inflation adjustment applies.—

"(A) In general.—Except as provided in subparagraph (B), this subsection applies to any tangible property to which this section applies.

"(B) Exception for property depreciated under nonincentive depreciation system.—This subsection shall not apply to any property to which subsection (h) applies (other than by reason of an election under paragraph (7) thereof).

"(3) Inflation adjustment.—For purposes of this subsection—

"(A) In general.—Except as otherwise provided in this subsection, an inflation adjustment shall be allowed under this subsection for any taxable year if—

"(i) the inflation for the calendar year in which such taxable year begins, exceeds

"(ii) 5 percent.

The preceding sentence shall not apply to taxable years beginning after December 31, 1990.

"(B) Amount of adjustment.—

(i) Years before 1991.—The inflation adjustment for any taxable year beginning before January 1, 1991 shall be 1.0 plus the excess described in subparagraph (A) (when expressed in decimal terms).

(ii) Inflation adjustments for years after 1991.—The inflation adjustment for any taxable year beginning after December 31, 1990 plus the inflation (when expressed in decimal terms) for the calendar year in which the taxable year begins.

"(C) Inflation for any calendar year.—For purposes of subparagraph (A), the inflation for any calendar year shall be the percentage (if any) by which—

"(i) the CPI for such calendar year (as defined in section 1(e)(4)), exceeds

"(ii) the CPI for the preceding calendar year.

"(4) Inflation adjustment not allowed for certain taxable years.—

"(A) Taxable years beginning before 1987.—No inflation adjustment shall be allowed under this subsection for any taxable year beginning in a calendar year before 1987.

"(B) Year in which placed in service or disposed of.—An inflation adjustment shall not be allowed under this subsection with respect to any property for the taxable year in which such property is placed in service or disposed of.

"(5) Not treated as depreciation deduction for certain purposes.—Any increase in the deduction determined under this section with respect to any property by reason of this subsection shall not be treated as a depreciation deduction for purposes of—

"(A) determining the adjusted basis of such property,

"(B) determining the amount (or character) of gain or loss on any disposition of such property, and

"(C) determining the earnings and profits. In the case of any property used in an activity to which section 465 applies, no adjustment shall be allowed under this subsection with respect to any depreciation deduction not allowed by reason of the limitation of such section until such depreciation deduction is allowed under such limitation, and any such adjustment when allowed shall not reduce the at risk amount under section 465(b).

"(h) Nonincentive Depreciation System for Certain Property.—

"(1) In general.—In the case of—

"(A) any tangible property which during the taxable year is used predominantly outside the United States,

"(B) any tax-exempt use property,

"(C) any tax-exempt bond financed property,

"(D) any imported property covered by an Executive order under paragraph (6), and

"(E) any property to which an election under paragraph (7) applies,

the depreciation deduction provided by section 167(a) shall be determined under the nonincentive depreciation system.

"(2) Nonincentive depreciation system.—For purposes of paragraph (1), the nonincentive depreciation system is depreciation determined by using—

"(A) the straight-line method (without regard to salvage value),

"(B) the applicable convention determined under subsection (d), and

"(C) a recovery period determined under the following table:

"In the case of:	The recovery period shall be:
(i) Property not described in clause (ii) or (iii)	The class life.
(ii) Personal property with no class life	12 years.
(iii) 28-year real property	40 years.

"(3) Special rules for determining class life.—

"(A) Classified property.—If any property (other than 28-year real property) is classified under paragraph (2) of subsection (e) in any class, the recovery period applicable to such property under the incentive system shall be treated as such property's class life for purposes of paragraph (2).

"(B) Tax-exempt use property subject to lease.—In the case of any tax-exempt use property subject to a lease, the recovery period used for purposes of paragraph (2) shall in no event be less than 125 percent of the lease term. The preceding sentence shall not apply to any qualified technological equipment not described in subsection (i)(3)(B).

"(C) Tax-exempt bond financed property.—In the case of any tax-exempt bond financed property, the recovery period used for purposes of paragraph (2) shall be equal to the recovery period determined under subsection (c) for the next higher numbered class to the class of such property (or in the case of property in class 9 or 10 shall not be less than 40 years).

"(4) Property used predominantly outside the United States.—For purposes of this subsection, under regulations prescribed by the Secretary, rules similar to the rules under section 48(a)(2) (including the exceptions contained in subparagraph (B) thereof) shall apply in determining whether property is used predominantly outside the United States. In addition to the exceptions contained in such subparagraph (B), there shall be excepted any satellite or other spacecraft (or any interest therein) held by a United States person if such satellite or spacecraft was launched from within the United States.

"(5) Tax-exempt bond financed property.—For purposes of this subsection—

"(A) In general.—Except as otherwise provided in this paragraph, the term 'tax-exempt bond financed property' means any property if part or all of such property is financed (directly or indirectly) by an obligation the interest on which is exempt from tax under section 103(a).

"(B) Allocation of bond proceeds.—For purposes of subparagraph (A), the proceeds of any obligation shall be treated as used to finance property acquired in connection with the issuance of such obligation in the order in which such property was acquired.

"(C) Exemption for low-income housing.—The term 'tax-exempt bond finance property' shall not include any low-income housing.

"(6) Imported property.—

"(A) Countries maintaining trade restrictions or engaging in discriminatory acts.—If the President determines that a foreign country—

"(i) maintains nontariff trade restrictions, including variable import fees, which substantially burden United States commerce in a manner inconsistent with provisions of trade agreements, or

"(ii) engages in discriminatory or other acts (including tolerance of international cartels) or policies unjustifiably restricting United States commerce,

he may by Executive order provide for the application of paragraph (1)(D) to any article or class of articles manufactured or produced in such foreign country for such period as may be provided by such Executive order.

"(B) Imported property.—For purposes of this subsection, the term 'imported property' means any property if—

"(i) such property was completed outside the United States, or

"(ii) less than 50 percent of the basis of such property is attributable to value added within the United States.

For purposes of this subparagraph, the term 'United States' includes the Commonwealth of Puerto Rico and the possessions of the United States.

"(7) Election to use nonincentive depreciation system.—

"(A) In general.—If the taxpayer makes an election under this paragraph with respect to any class of property for any taxable year, the nonincentive depreciation system shall apply to all property in such class placed in service during such taxable year. Notwithstanding the preceding sentence, in the case of a certified historic structure (as defined in section 48(g)(3)), such election may be made separately with respect to such structure.

"(B) Election irrevocable.—An election under subparagraph (A), once made with respect to any class of property for any taxable year, shall be irrevocable.

"(i) Tax-Exempt Use Property.—

"(1) In general.—For purposes of this section—

"(A) Property other than 30-year real property.—Except as otherwise provided in this subsection, the term 'tax-exempt use property' means that portion of any tangible property (other than 28-year real property) leased to a tax-exempt entity.

"(B) 28-year real property.—

"(i) In general.—In the case of 30-year real property, the term 'tax-exempt use property' means that portion of the property leased to a tax-exempt entity in a disqualified lease.

"(ii) Disqualified lease.—For purposes of this subparagraph, the term 'disqualified lease' means any lease of the property to a tax-exempt entity, but only if—

"(I) part or all of the property was financed (directly or indirectly) by an obligation the interest on which is exempt from tax under section 103 and such entity (or a related entity) participated in such financing,

"(II) under such lease there is a fixed or determinable price purchase or sale option which involves such entity (or a related entity) or there is the equivalent of such an option,

"(III) such lease has a lease term in excess of 20 years, or

"(IV) such lease occurs after a sale (or other transfer) of the property by, or lease of the property from, such entity (or a related entity) and such property has been used by such entity (or a related entity) before such sale (or other transfer) or lease.

"(iii) 35-percent threshold test.—Clause (i) shall apply to any property only if the portion of such property leased to tax-exempt entities in disqualified leases is more than 35 percent of the property.

"(iv) Treatment of improvements.—For purposes of this subparagraph, improvements to a property (other than land) shall not be treated as a separate property.

"(v) Leasebacks during 1st 3 months of use not taken into account.—Subclause (IV) of clause (ii) shall not apply to any property which is leased within 3 months after the date such property is first used by the tax-exempt entity (or a related entity).

"(C) Exception for short-term leases.—

"(i) In general.—Property shall not be treated as tax-exempt use property merely by reason of a short-term lease.

"(ii) Short-term lease.—For purposes of clause (i), the term 'short-term lease' means any lease the term of which is—

"(I) less than 3 years, and

"(II) less than the greater of 1 year or 30 percent of the property's present class life. If the case of 28-year real property and property with no present class life, subclause (II) shall not apply.

"(D) Exception where property used in unrelated trade or business.—The term 'tax-exempt use property' shall not include any portion of a property if such portion is predominantly used by the tax-exempt entity (directly or through a partnership of which such entity is a partner) in an unrelated trade or business the income of which is subject to tax under section 511. For purposes of subparagraph (B)(iii), any portion of a property so used shall not be treated as leased to a tax-exempt entity in a disqualified lease.

"(E) 28-year real property to include low-income housing.—For purposes of this paragraph, the term '28-year real property' includes low-income housing.

"(2) Tax-exempt entity.—

"(A) In general.—For purposes of this subsection, the term 'tax-exempt entity' means—

"(i) the United States, any State or political subdivision thereof, any possession of the United States, or any agency or instrumentality of any of the foregoing,

"(ii) an organization (other than a cooperative described in section 521) which is exempt from tax imposed by this chapter, and

"(iii) any foreign person or entity.

"(B) Exceptions for certain property subject to United States tax and used by foreign person or entity.—Clause (iii) of subparagraph (A) shall not apply with respect to any property if more than 50 percent of the gross income for the taxable year derived by the foreign person or entity from the use of such property is—

"(i) subject to tax under this chapter, or

"(ii) included under section 951 in the gross income of a United States shareholder for the taxable year with or within which ends the taxable year of the controlled foreign corporation in which such income was derived.

For purposes of the preceding sentence, any exclusion or exemption shall not apply for purposes of determining the amount of the gross income so derived, but shall apply for purposes of determining the portion of such gross income subject to tax under this chapter.

"(C) Foreign person or entity.—For purposes of this paragraph, the term 'foreign person or entity' means—

"(i) any foreign government, any international organization, or any agency or instrumentality of any of the foregoing, and

"(ii) any person who is not a United States person.

Such term does not include any foreign partnership or other foreign pass-thru entity.

"(D) Treatment of certain taxable instrumentalities.—For purposes of this subsection, a corporation shall not be treated as an instrumentality of the United States or of any State or political subdivision thereof if—

"(i) all of the activities of such corporation are subject to tax under this chapter, and

"(ii) a majority of the board of directors of such corporation is not selected by the United States or any State or political subdivision thereof.

"(E) Certain previously tax-exempt organizations.—

"(i) In general.—For purposes of this subsection, an organization shall be treated as an organization described in subparagraph (A)(ii) with respect to any property (other than property held by such organization) if such organization was an organization (other than a cooperative described in section 521) exempt from tax imposed by this chapter at any time during the 5-year period ending on the date such property was first used by such organization. The preceding sentence and subparagraph (D)(ii) shall not apply to the Federal Home Loan Mortgage Corporation.

"(ii) Election not to have clause (i) apply.—

"(I) In general.—In the case of an organization formerly exempt from tax under section 501(a) as an organization described in section 501(c)(12), clause (i) shall not apply to such organization with respect to any property if such organization elects not to be exempt from tax under section 501(a) during the tax-exempt use period with respect to such property.

"(II) Tax-exempt use period.—For purposes of subclause (I), the term 'tax-exempt use period' means the period beginning with the taxable year in which the property described in subclause (I) is first used by the organization and ending with the close of the 15th taxable year following the last taxable year of the applicable recovery period of such property.

"(III) Election.—Any election under subclause (I), once made, shall be irrevocable.

"(iii) Treatment of successor organizations.—Any organization which is engaged in activities substantially similar to those engaged in by a predecessor organization shall succeed to the treatment under this subparagraph of such predecessor organization.

"(iv) First used.—For purposes of this subparagraph, property shall be treated as first used by the organization—

"(I) when the property is first placed in service under a lease to such organization, or

"(II) in the case of property leased to (or held by) a partnership (or other pass-thru entity) in which the organization is a member, the later of when such property is first used by such partnership or pass-thru entity or when such organization is first a member of such partnership or pass-thru entity.

"(3) Special rules for certain high technology equipment.—

"(A) Exemption where lease term is 5 years or less.—For purposes of this section, the term 'tax-exempt use property' shall not include any qualified technological equipment if the lease to the tax-exempt entity has a lease term of 5 years or less.

"(B) Exception for certain property.—

"(i) In general.—For purposes of subparagraph (A), the term 'qualified technological equipment' shall not include any property leased to a tax-exempt entity if—

"(I) part or all of the property was financed (directly or indirectly) by an obligation the interest on which is exempt from tax under section 103,

"(II) such lease occurs after a sale (or other transfer) of the property by, or lease of such property from, such entity (or related entity) and such property has been used by such entity (or a related entity) before such sale (or other transfer) or lease, or

"(III) such tax-exempt entity is the United States or any agency or instrumentality of the United States.

"(ii) Leasebacks during 1st 3 months of use not taken into account.—Subclause (II) of clause (i) shall not apply to any property which is leased within 3 months after the date such property is first used by the tax-exempt entity (or a related entity).

"(4) Related entities.—For purposes of this subsection—

"(A)(i) Each governmental unit and each agency or instrumentality of a governmental unit is related to each other such unit, agency, or instrumentality which directly or indirectly derives its powers, rights, and duties in whole or in part from the same sovereign authority.

"(ii) For purposes of clause (i), the United States, each State, and each possession of the United States shall be treated as a separate sovereign authority.

"(B) Any entity not described in subparagraph (A)(i) is related to any other entity if the 2 entities have—

"(i) significant common purposes and substantial common membership, or

"(ii) directly or indirectly substantial common direction or control.

"(C)(i) An entity is related to another entity if either entity owns (directly or through 1 or more entities) a 50 percent or greater interest in the capital or profits of the other entity.

"(ii) For purposes of clause (i), entities treated as related under subparagraph (A) or (B) shall be treated as 1 entity.

"(D) An entity is related to another entity with respect to a transaction if such transaction is part of an attempt by such entities to avoid the application of this subsection.

"(5) Tax-exempt use of property leased to partnerships, etc., determined at partner level.—For purposes of this subsection—

"(A) In general.—In the case of any property which is leased to a partnership, the determination of whether any portion of such property is tax-exempt use property shall be made by treating each tax-exempt entity partner's proportionate share (determined under paragraph (6)(C)) of such property as being leased to such partner.

"(B) Other pass-thru entities; tiered entities.—Rules similar to the rules of subparagraph (A) shall also apply in the case of any pass-thru entity other than a partnership and in the case of tiered partnerships and other entities.

"(C) Presumption with respect to foreign entities.—Unless it is otherwise established to the satisfaction of the Secretary, it shall be presumed that the partners of a foreign partnership (and the beneficiaries of any other foreign pass-thru entity) are persons who are not United States persons.

"(6) Treatment of property owned by partnerships, etc.—

"(A) In general.—For purposes of this subsection, if—

"(i) any property which (but for this subparagraph) is not tax-exempt use property is owned by a partnership which has both a tax-exempt entity and a person who is not a tax-exempt entity as partners, and

"(ii) any allocation to the tax-exempt entity of partnership items is not a qualified allocation,

an amount equal to such tax-exempt entity's proportionate share of such property shall (except as provided in paragraph (1)(D)) be treated as tax-exempt use property.

"(B) Qualified allocation.—For purposes of subparagraph (A), the term 'qualified allocation' means any allocation to a tax-exempt entity which—

"(i) is consistent with such entity's being allocated the same distributive share item of income, gain, loss, deduction, credit, and basis and such share remains the same during the entire period the entity is a partner in the partnership, and

"(ii) has substantial economic effect within the meaning of section 704(b)(2).

For purposes of this subparagraph, items allocated under section 704(c) shall not be taken into account.

"(C) Determination of proportionate share.—

"(i) In general.—For purposes of subparagraph (A), a tax-exempt entity's proportionate share of any property owned by a partnership shall be determined on the basis of such entity's share of partnership items of income or gain (excluding gain allocated under section 704(c)), whichever results in the largest proportionate share.

"(ii) Determination where allocations vary.—For purposes of clause (i), if a tax-exempt entity's share of partnership items of income or gain (excluding gain allocated under section 704(c)) may vary during the period such entity is a partner in the partnership, such share shall be the highest share such entity may receive.

"(D) Determination of whether property used in unrelated trade or business.—For purposes of this subsection, in the case of any property which is owned by a partnership which has both a tax-exempt entity and a person who is not a tax-exempt entity as partners, the determination of whether such property is used in an unrelated trade or business of such an entity shall be made without regard to section 514.

"(E) Other pass-thru entities; tiered entities.—Rules similar to the rules of subparagraphs (A), (B), (C), and (D) shall also apply in the case of any pass-thru entity other than a partnership and in the case of tiered partnerships and other entities.

"(F) Treatment of certain taxable entities.—

"(i) In general.—For purposes of this paragraph and paragraph (5), except as otherwise provided in this subparagraph, any tax-exempt controlled entity shall be treated as a tax-exempt entity.

"(ii) Election.—If a tax-exempt controlled entity makes an election under this clause—

"(I) such entity shall not be treated as a tax-exempt entity for purposes of this paragraph and paragraph (5), and

"(II) any gain recognized by a tax-exempt entity on any disposition of an interest in such entity (and any dividend or interest received or accrued by a tax-exempt entity from such tax-exempt controlled entity) shall be treated as unrelated business taxable income for purposes of section 511.

Any such election shall be irrevocable and shall bind all tax-exempt entities holding interests in such tax-exempt controlled entity.

"(iii) Tax-exempt controlled entity.—The term 'tax-exempt controlled entity' means any corporation (which is not a tax-exempt entity determined without regard to this subparagraph and paragraph (2)(E)) if 50 percent or more (in value) of the stock in such corporation is held (directly or through the application of section 318) by 1 or more tax-exempt entities.

"(G) Regulations.—For purposes of determining whether there is a qualified allocation under subparagraph (B), the regulations prescribed under paragraph (8) for purposes of this paragraph—

"(i) shall set forth the proper treatment for partnership guaranteed payments, and

"(ii) may provide for the exclusion or segregation of items.

"(7) Lease.—For purposes of this subsection, the term 'lease' includes any grant of a right to use property.

"(8) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.

"(j) Definitions and Special Rules.—For purposes of this section—

"(1) Class life.—

"(A) In general.—Except as provided in subparagraph (B), the term 'class life' means the class life (if any) which would be applicable with respect to any property as of January 1, 1985, under subsection (m) of section 167 (determined without regard to paragraph (4) thereof and as if the taxpayer had made an election under such subsection).

"(B) Secretarial authority.—The Secretary, through an office established in the Treasury—

"(i) shall monitor and analyze actual experience with respect to all depreciable assets,

"(ii) may prescribe a new class life for any property or class of property, and

"(iii) may prescribe a class life for any property which does not have a class life within the meaning of subparagraph (A).

Any class life prescribed under the preceding sentence shall reasonably reflect the anticipated useful life, and the anticipated decline in value over time, of the property to the industry or other group.

"(C) New class life to override classification under subsection (e)(2).—If the Secretary prescribes a class life under subparagraph (B) with respect to any property (other than 30-year real property or low-income housing), such class life shall be used in determining the class of such property without regard to any classification under subsection (e)(2).

"(2) 28-year real property.—The term '28-year real property' means any real property which—

"(A) does not have a class life, and

"(B) is not low-income housing.

"(3) Low-income housing.—

"(A) In general.—The term 'low-income housing' means any real property which is part of a residential rental project if such project meets the requirements of clause (i) or (ii), whichever is elected by the taxpayer at the time the property is placed in service:

"(i) The project meets the requirements of this clause if 20 percent or more of the units in such project are occupied by individuals whose income is 70 percent or less of median gross income.

"(ii) The project meets the requirements of this clause if 25 percent or more of the units in such project are occupied by individuals whose income is 80 percent or less of median gross income.

For purposes of the preceding sentence, property shall not be treated as failing to be residential rental property merely because part of the building in which such property is located is used for purposes other than residential rental purposes.

"(B) Very low-income housing.—Real property which is part of a project shall be treated as very low-income housing meeting the requirements of this subparagraph if such project meets the requirements of subparagraph (A)(i) determined by substituting '40 percent' for '20 percent' and '60 percent' for '70 percent'.

"(C) Income of individuals; median gross income.—The income of individuals and median gross income shall be determined by the Secretary in a manner consistent with determinations of lower income families and median gross income under section 8 of the United States Housing Act of 1937 (or, if such program is terminated, under such program as in effect immediately before such termination). Determinations under the preceding sentence shall include adjustments for family size.

"(D) Current income determinations.—

"(i) In general.—The determination of whether a resident meets the income requirements of subparagraph (A) or (B) (whichever applies to the project) shall be made at least annually on the basis of the current income of the resident.

"(ii) Continuing resident's income may increase to 120 percent of applicable ceiling.—A resident of a project whose income met the requirement of subparagraph (A) or (B) (whichever applies to such project) as of the beginning of such resident's occupancy of a unit in such project shall cease to be treated as meeting such requirement if such resident's income exceeds 120 percent of such requirement, and after such event any vacant unit in the project is rented to a new occupant whose income does not meet the applicable requirement of subparagraph (A) or (B).

"(E) Certification to secretary.—The operator of any low-income housing shall submit to the Secretary (at such time and in such manner as the Secretary shall prescribe) an annual certification that such project continues to meet the requirements of this paragraph.

"(4) Qualified technological equipment.—

"(A) In general.—The term 'qualified technological equipment' means—

"(i) any computer or peripheral equipment,

"(ii) any high technology telephone station equipment installed on the customer's premises, and

"(iii) any high technology medical equipment.

"(B) Computer or peripheral equipment defined.—For purposes of this paragraph—

"(i) In general.—The term 'computer or peripheral equipment' means—

"(I) any computer, and

"(II) any related peripheral equipment.

"(ii) Computer.—The term 'computer' means a programmable electronically activated device which—

"(I) is capable of accepting information, applying prescribed processes to the information, and supplying the results of these processes with or without human intervention, and

"(II) consists of a central processing unit containing extensive storage, logic, arithmetic, and control capabilities.

"(iii) Related peripheral equipment.—The term 'related peripheral equipment' means any auxiliary machine (whether online or off-line) which is designed to be placed under the control of the central processing unit of a computer.

"(iv) Exceptions.—The term 'computer or peripheral equipment' shall not include—

"(I) any equipment which is an integral part of other property which is not a computer,

"(II) typewriters, calculators, adding and accounting machines, copiers, duplicating equipment, and similar equipment, and

"(III) equipment of a kind used primarily for amusement or entertainment of the user.

"(C) High technology medical equipment.—For purposes of this paragraph, the term 'high technology medical equipment' means any electronic, electromechanical, or computer-based high technology equipment used in the screening, monitoring, observation, diagnosis, or treatment of patients in a laboratory, medical, or hospital environment.

"(5) Lease term.—

"(A) In general.—In determining a lease term—

"(i) there shall be taken into account options to renew, and

"(ii) 2 or more successive leases which are part of the same transaction (or a series of related transactions) with respect to the same or substantially similar property shall be treated as 1 lease.

"(B) Special rule for fair rental options on 28-year real property or low-income housing.—For purposes of clause (i) of subparagraph (A), in the case of 28-year real property or low-income housing, there shall not be taken into account any option to renew at fair market value, determined at the time of renewal.

"(6) Mass asset accounts.—Under regulations prescribed by the Secretary, a taxpayer may maintain one or more mass asset accounts for any property to which this section applies. Except as provided in regulations, all proceeds realized on any disposition of property in a mass asset account shall be included in income as ordinary income.

"(7) Changes in use.—

"(A) In general.—The Secretary shall, by regulations, provide for the method of determining the deduction allowable under section 167(a) with respect to any tangible property for any taxable year (and the succeeding taxable years) during which such property changes status under this section but continues to be held by the same person.

"(B) Special rule for low-income housing.—In the case of any property which was low-income housing before the change in status referred to in subparagraph (A)—

"(i) the gross income of the holder of such property shall be increased by the prior excess depreciation deductions,

"(ii) the adjusted basis of such property shall be increased by the amount included in gross income under clause (i), and

"(iii) such adjusted basis shall be depreciated over the remaining recovery period which would have applied to such property had it not been low-income housing when placed in service.

For purposes of the preceding sentence, the term 'excess depreciation deductions' means the excess of the depreciation deductions previously allowable with respect to any property which was low-income housing over the depreciation deductions which would have been allowable if such property had been treated as 28-year real property when placed in service.

"(8) Treatments of additions or improvements to property.—The applicable recovery period for any addition to (or improvement of) property shall begin on the later of—

"(A) the date on which such addition (or improvement) is placed in service, or

"(B) the date on which the property with respect to which such addition (or improvement) was made is placed in service.

"(9) Treatment of certain transferees.—

"(A) In general.—In the case of any property transferred in a transaction described in subparagraph (B), the transferee shall be treated as the transferor for purposes of computing the depreciation deduction determined under this section with respect to so much of the basis in the hands of the transferee as does not exceed the adjusted basis in the hands of the transferor.

"(B) Transactions covered.—The transactions described in this subparagraph are any transaction described in section 332, 351, 361, 371(a), 374(a), 721, or 731. Subparagraph (A) shall not apply in the case of a termination of a partnership under section 708(b)(1)(A).

"(10) Treatment of leasehold improvements.—In the case of any building erected (or improvements made) on leased property, if such building or improvement is property to which this section applies, section 178 shall not apply (and the depreciation deduction shall be determined under the provisions of this section).

"(11) Normalization rules.—

"(A) In general.—In order to use a normalization method of accounting with respect to any public utility property for purposes of subsection (f)(3)—

"(i) the taxpayer must, in computing its tax expense for purposes of establishing its cost of service for ratemaking purposes and reflecting operating results in its regulated books of account, use a method of depreciation with respect to such property that is the same as, and a depreciation period for such property that is no shorter than, the method and period used to compute its depreciation expense for such purposes; and

"(ii) if the amount allowable as a deduction under this section with respect to such property differs from the amount that would be allowable as a deduction under section 167 (determined without regard to section 167(l)) using the method (including the period, first and last year convention, and salvage value) used to compute regulated tax expense under clause (i), the taxpayer must make adjustments to a reserve to reflect the deferral of taxes resulting from such difference.

Adjustments similar to the adjustment provided in clauses (i) and (ii) shall be made in the case of any increase in the depreciation deduction determined under this section with respect to any property by reason of subsection (g).

"(B) Use of inconsistent estimates and projections, etc.—

"(i) In general.—One way in which the requirements of subparagraph (A) are not met is if the taxpayer, for ratemaking purposes, uses a procedure or adjustment which is inconsistent with the requirements of subparagraph (A).

"(ii) Use of inconsistent estimates and projections.—The procedures and adjustments which are to be treated as inconsistent for purposes of clause (i) shall include any procedure or adjustment for ratemaking purposes which uses an estimate or projection of the taxpayer's tax expense, depreciation expense, or reserve for deferred taxes under subparagraph (A)(ii) unless such estimate or projection is also used, for ratemaking purposes, with respect to the other 2 such items and with respect to the rate base.

"(iii) Regulatory authority.—The Secretary may by regulations prescribe procedures and adjustments (in addition to those specified in clause (ii)) which are to be treated as inconsistent for purposes of clause (i).

"(C) Public utility property which does not meet normalization rules.—In the case of any public utility property to which this section does not apply by reason of subsection (f)(3), the allowance for depreciation under section 167(a) shall be an amount computed using the method and period referred to in subparagraph (A)(i)."

(b) Limitation on Election To Expense Certain Depreciable Assets.—Subsection (b) of section 179 (relating to election to expense certain depreciable assets) is amended to read as follows:

"(b) Limitations.—

"(1) Dollar limitation.—The aggregate cost which may be taken into account under subsection (a) for any taxable year shall not exceed $10,000.

"(2) Certain taxpayers not eligible for election.—Subsection (a) shall not apply to any taxpayer for any taxable year if the cost of section 179 property placed in service during such taxable year exceeds $200,000.

"(3) Married individuals filing separately.—In the case of a husband and wife filing separate returns for the taxable year—

"(A) paragraph (1) shall be applied by substituting '$5,000' for '$10,000', and

"(B) such individuals shall be treated as one taxpayer for purposes of determining whether the requirements of paragraph (2) are met."

(c) System Used for Purposes of Earnings and Profits.—Paragraph (3) of section 312(k) is amended to read as follows:

"(3) Exception for tangible property.—

"(A) In general.—Except as provided in subparagraph (B), in the case of tangible property to which section 168 applies, the adjustment to earnings and profits for depreciation for any taxable year shall be determined under the nonincentive depreciation system within the meaning of section 168(h)(2).

"(B) Treatment of amounts deductible under section 179.—For purposes of computing the earnings and profits of a corporation, any amount deductible under section 179 shall be allowed as a deduction ratably over the period of 5 taxable years (beginning with the taxable year for which such amount is deductible under section 179)."

(d) Continuation of Rules Relating to Motor Vehicle Operating Leases.—Section 7701 is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) Motor Vehicle Operating Leases.—

"(1) In general.—For purposes of this title, in the case of a qualified motor vehicle operating agreement which contains a terminal rental adjustment clause—

"(A) such agreement shall be treated as a lease if (but for such terminal rental adjustment clause) such agreement would be treated as a lease under this title, and

"(B) the lessee shall not be treated as the owner of the property subject to an agreement during any period such agreement is in effect.

"(2) Qualified motor vehicle operating agreement defined.—For purposes of this subsection—

"(A) In general.—The term 'qualified motor vehicle operating agreement' means any agreement with respect to a motor vehicle (including a trailer) which meets the requirements of subparagraphs (B), (C), and (D) of this paragraph.

"(B) Minimum liability of lessor.—An agreement meets the requirements of this subparagraph if under such agreement the sum of—

"(i) the amount the lessor is personally liable to repay, and

"(ii) the net fair market value of the lessor's interest in any property pledged as security for property subject to the agreement,

equals or exceeds all amounts borrowed to finance the acquisition of property subject to the agreement. There shall not be taken into account under clause (ii) any property pledged which is property subject to the agreement or property directly or indirectly financed by indebtedness secured by property subject to the agreement.

"(C) Certification by lessee; notice of tax ownership.—An agreement meets the requirements of this subparagraph if such agreement contains a separate written statement separately signed by the lessee—

"(i) under which the lessee certifies, under penalty of perjury, that it intends that more than 50 percent of the use of the property subject to such agreement is to be in a trade or business of the lessee, and

"(ii) which clearly and legibly states that the lessee has been advised that it will not be treated as the owner of the property subject to the agreement for Federal income tax purposes.

"(D) Lessor must have no knowledge that certification is false.—An agreement meets the requirements of this subparagraph if the lessor does not know that the certification described in subparagraph (C)(i) is false.

"(3) Terminal rental adjustment clause defined.—

"(A) In general.—For purposes of this subsection, the term 'terminal rental adjustment clause' means a provision of an agreement which permits or requires the rental price to be adjusted upward or downward by reference to the amount realized by the lessor under the agreement upon sale or other disposition of such property.

"(B) Special rule for lessee dealers.—The term 'terminal rental adjustment clause' also includes a provision of an agreement which requires a lessee who is a dealer in motor vehicles to purchase the motor vehicle for a predetermined price and then resell such vehicle where such provision achieves substantially the same results as a provision described in subparagraph (A)."

(e) Technical and Conforming Amendments.—

(1) Section 167.—Paragraph (4) of section 167(m) (relating to termination of class lives) is amended to read as follows:

"(4) Termination.—This subsection shall not apply with respect to any property to which section 168 applies."

(2) Section 178.—Section 178 is amended by adding at the end thereof the following new subsection:

"(d) Cross Reference.—

"For provision providing that this section does not apply to certain property, see section 168(j)(10)."

(3) Section 179.—Paragraph (8) of section 179(d) is amended to read as follows:

"(8) Treatment of partnerships and S corporations.—In the case of a partnership, the limitations of subsection (b) shall apply with respect to the partnership and with respect to each partner. A similar rule shall apply in the case of an S corporation and its shareholders."

(4) Section 280F.—

(A) Paragraph (2) of section 280F(b) (relating to depreciation) is amended by striking out "the straight line method over the earnings and profits life for such property" and inserting in lieu thereof "section 168(h) (relating to nonincentive depreciation system)".

(B) Subparagraph (A) of section 280F(b)(3) (relating to recapture) is amended by striking out "the straight line method over the earnings and profits life" and inserting in lieu thereof "section 168(h) (relating to nonincentive depreciation system)".

(C) Paragraph (4) of section 280F(b) (relating to definitions) is amended to read as follows:

"(4) Property predominantly used in qualified business use.—For purposes of this subsection, property shall be treated as predominantly used in a qualified business use for any taxable year if the business use percentage for such taxable year exceeds 50 percent."

(D) Paragraph (4) of section 280F(c) is amended by striking out "section 168(j)(6)(B)" and inserting in lieu thereof "section 168(j)(5)(A)".

(E) Paragraph (1) of section 280F(d) is amended by striking out "recovery deduction" and inserting in lieu thereof "depreciation deduction".

(F) Paragraph (2) of section 280F(d) is amended—

(i) by striking out "recovery deduction" and inserting in lieu thereof "depreciation deduction", and

(ii) by striking out "use described in section 168(c)(1) (defining recovery property)" and inserting in lieu thereof "use in a trade or business (including the holding for the production of income)".

(G) Clause (iv) of section 280F(d)(4)(A) is amended by striking out "section 168(j)(5)(D)" and inserting in lieu thereof "section 168(j)(4)(B)".

(H) Paragraph (8) of section 280F(d) (defining unrecovered basis) is amended to read as follows:

"(8) Unrecovered basis.—For purposes of subsection (a)(1), the term 'unrecovered basis' means the adjusted basis of the passenger automobile determined after the application of subsection (a) and as if all use during the recovery period were use in a trade or business."

(I) Paragraph (10) of section 280F(d) is amended by striking out ", notwithstanding any regulations prescribed under section 168(f)(7),".

(5) Section 312.—Paragraph (4) of section 312(k) is amended by striking out the last sentence.

(6) Section 461.—

(A) Subclause (I) of section 461(i)(2)(C)(ii) (defining cash basis) is amended by striking out "section 168(e)(4)" and inserting in lieu thereof "paragraph (6)".

(B) Subsection (i) of section 461 is amended by adding at the end thereof the following new paragraph:

"(6) Related person.—For purposes of this subsection, a person (hereinafter in this paragraph referred to as the 'related person') is related to any person if—

"(A) the related person bears a relationship to such person specified in section 267(b) or section 707(b)(1), or

"(B) the related person and such person are engaged in trades or business under common control (within the meaning of subsections (a) and (b) of section 52).

For purposes of subparagraph (A), in applying section 267 (b) or (f) or 707(b)(1), '10 percent' shall be substituted for '50 percent'."

(7) Section 465.—Subparagraph (C) of section 465(b)(3) is amended by striking out "section 168(e)(4)" and inserting in lieu thereof "section 461(i)(6)".

(8) Section 467.—

(A) Paragraph (3) of section 467(e) is amended to read as follows:

"(3) Statutory recovery period.—

"(A) In general.—

"In the case of property in:	The statutory recovery period is:
Class 1	3 years
Class 2	5 years
Class 3	7 years
Class 4	10 years
Class 5	13 years
Class 6	16 years
Class 7	20 years
Class 8	25 years
Class 9	28 years
Class 10	28 years.

"(B) SPECIAL RULE FOR PROPERTY NOT DEPRECIABLE UNDER SECTION 168.—In the case of property to which section 168 does not apply, subparagraph (A) shall be applied as if section 168 applies to such property."

(B) Paragraph (5) of section 467(e) (defining related person) is amended by striking out "section 168(e)(4)(D)" and inserting in lieu thereof "section 461(i)".

(9) SECTION 514.—Subclause (II) of section 514(c)(9)(B)(vi) (relating to real property acquired by a qualified organization) is amended by striking out "section 168(j)(9)" and inserting in lieu thereof "section 168(i)(6)".

(10) SECTION 751.—Subsection (c) of section 751 (defining unrealized receivables) is amended by striking out "section 1245 recovery property (as defined in section 1245(a)(5)),".

(11) SECTION 1245.—

(A) Paragraph (1) of section 1245(a) (relating to gain from dispositions of certain depreciable property) is amended by striking out "beginning after December 31, 1962, or section 1245 recovery property is disposed of after December 31, 1980,".

(B) Paragraph (2) of section 1245(a) (defining recomputed basis) is amended to read as follows:

"(2) RECOMPUTED BASIS.—For purposes of this section—

"(A) IN GENERAL.—The term 'recomputed basis' means, with respect to any property, its adjusted basis recomputed by adding thereto all adjustments reflected in such adjusted basis on account of deductions (whether in respect of the same or other property) allowed or allowable to the taxpayer or to any other person for depreciation or amortization.

"(B) TAXPAYER MAY ESTABLISH AMOUNT ALLOWED.—For purposes of subparagraph (A), if the taxpayer can establish by adequate records or other sufficient evidence that the amount allowed for depreciation or amortization for any period was less than the amount allowable, the amount added for such period shall be the amount allowed.

"(C) CERTAIN DEDUCTIONS TREATED AS AMORTIZATION.—Any deduction allowable under section 179, 190, or 193 shall be treated as if it were a deduction allowable for depreciation."

(C) Paragraph (3) of section 1245(a) (defining section 1245 property) is amended by adding at the end thereof the following new sentence:

"Such term includes any tangible property to which section 168 applied and which is not 28-year real property (as defined in section 168) or low-income housing (as defined in section 168)."

(D) Subsection (a) of section 1245 is amended by striking out paragraphs (5) and (6).

(12) SECTION 4162.—Paragraph (3) of section 4162(c) (defining related person) is amended by striking out "section 168(e)(4)(D)" and inserting in lieu thereof "section 461(i)(6)".

(13) SECTION 6111.—Clause (ii) of section 6111(c)(3)(B) (relating to certain borrowed amounts excluded) is amended by striking out "section 168(e)(4)" and inserting in lieu thereof "section 461(i)(6)".

(14) SECTION 7701.—

(A) Subparagraph (A) of section 7701(e)(4) is amended by striking out "section 168(j)" and inserting in lieu thereof "section 168(h)".

(B) Paragraph (5) of section 7701(e) (relating to exception for certain low-income housing) is amended by striking out "section 168(c)(2)(F)" and inserting in lieu thereof "section 168(j)(3)".

(15) CLERICAL AMENDMENT.—The item relating to section 168 in the table of sections for part VI of subchapter B of chapter 1 is amended to read as follows:

"Sec. 168. Incentive depreciation system for tangible property."

SEC. 202. RECAPTURE PROVISIONS FOR SECTION 1250 PROPERTY.

(a) GENERAL RULE.—Subsection (a) of section 1250 (relating to gain from dispositions of certain depreciable realty) is amended by redesignating paragraphs (1), (2), (3), and (4) as paragraphs (2), (3), (4), and (5), respectively, and by inserting before paragraph (2) the following new paragraph:

"(1) ADDITIONAL DEPRECIATION FOR CERTAIN PROPERTY PLACED IN SERVICE AFTER DECEMBER 31, 1985.—

"(A) IN GENERAL.—If any section 1250 property placed in service after December 31, 1985, is disposed of, then the lower of—

"(i) the additional depreciation (as defined in subsection (b) (1) or (4)) in respect of such property, or

"(ii) the excess of the amount realized (in the case of a sale, exchange, or inventory conversion), or the fair market value of such property (in the case of any other disposition), over the adjusted basis of such property,

shall be treated as gain which is ordinary income. Such gain shall be recognized notwithstanding any other provision of this subtitle.

"(B) APPLICATION OF THIS PARAGRAPH.—This paragraph shall not apply to any property described in section 203(b) of the Tax Reform Act of 1985 (relating to transitional rules).

"(C) COORDINATION WITH PARAGRAPH (2).—Paragraph (2) of this subsection shall not apply to any property to which this paragraph applies."

(b) DETERMINATION OF ADDITIONAL DEPRECIATION.—Paragraph (5) of section 1250(b) (relating to method of computing straight line adjustments) is amended by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(A) in the case of—

"(i) property to which section 168 (as amended by the Tax Reform Act of 1985) applies, by determining the adjustments which would have resulted for such year if such adjustments had been made under the straight-line method for such year using the recovery period applicable to such property, or

"(ii) recovery property to which section 168 (as in effect on the day before the date of the enactment of the Tax Reform Act of 1985) applies, by determining the adjustments which would have resulted for such year if the taxpayer had elected the straight-line method for such year using the recovery period applicable to such property, and

"(B) in the case of property not described in subparagraph (A), if a useful life (or salvage value) was used in determining the amount allowable as a deduction for any taxable year, by using such life (or value).

In the case of any property described in subparagraph (A)(i) which is low-income housing (as defined in section 168(i)(3)) which is sold by the taxpayer and leased back by the taxpayer, the Secretary may by regulations prescribe that the recovery period applicable to 28-year real property shall be used for purposes of this paragraph if such property is not to be used as low-income housing after such leaseback."

SEC. 203. EFFECTIVE DATES.

(a) GENERAL RULE.—Except as otherwise provided in this section, the amendments made by section 201 shall apply to property placed in service after December 31, 1985, in taxable years ending after such date.

(b) GENERAL TRANSITIONAL RULE.—

(1) IN GENERAL.—The amendments made by section 201 shall not apply to—

(A) any property which is constructed, reconstructed, or acquired pursuant to a written contract which was binding on September 25, 1985,

(B) property which is constructed or reconstructed by the taxpayer if—

(i) the lesser of (I) $1,000,000, or (II) 5 percent of the cost of such property has been incurred or committed by September 25, 1985, and

(ii) the construction or reconstruction of such property began by such date, or

(C) an equipped building or plant facility if construction has commenced as of September 25, 1985, pursuant to a written specific plan and more than one-half of the cost of such equipped building or facility has been incurred or committed by such date.

(2) REQUIREMENT THAT PROPERTY BE PLACED IN SERVICE BEFORE CERTAIN DATE.—Paragraph (1) and subsection (d) (other than paragraph (9) thereof) shall not apply to any property unless such property is placed in service before the applicable date determined under the following table:

In the case of property in class:	The applicable date is:
1	July 1, 1986
2	January 1, 1987
3	January 1, 1989
4	January 1, 1989
5	January 1, 1989
6	January 1, 1989
7	January 1, 1991
8	January 1, 1991
9	January 1, 1991
10	January 1, 1991.

For purposes of the preceding sentence, property referred to in section 168(e)(2)(C) (relating to cars and light general purpose trucks) shall be treated as being property in class 1, and all property described in subsection (d)(5)(A) shall be treated as being property in class 7.

(3) PROPERTY QUALIFIES IF SOLD IN LEASEBACK IN 90 DAYS.—Property shall be treated as meeting the requirements of paragraphs (1) and (2) with respect to any taxpayer if such property is acquired by the taxpayer from a person in whose hands such property met the requirements of paragraphs (1) and (2) and such property is leased back by the taxpayer to such person not later than the earlier of the applicable date under paragraph (2) or the day 90 days after such property was originally placed in service.

(c) PROPERTY FINANCED WITH TAX-EXEMPT BONDS.—

(1) IN GENERAL.—Subparagraph (C) of section 168(h)(3) of the Internal Revenue Code of 1954 (as added by this section) shall

apply to property placed in service after December 31, 1985, in taxable years ending after such date, to the extent such property is financed by the proceeds of an obligation (including a refunding obligation) issued after September 25, 1985.

(2) Exceptions.—

(A) Construction or binding agreements.—Subparagraph (C) of section 168(h)(3) of such Code (as so added) shall not apply to obligations with respect to a facility—

(i)(I) the original use of which commences with the taxpayer, and the construction, reconstruction, or rehabilitation of which began before September 26, 1985, and was completed on or after such date,

(II) with respect to which a binding contract to incur significant expenditures for construction, reconstruction, or rehabilitation was entered into before September 26, 1985, and some of such expenditures are incurred on or after such date, or

(III) acquired on or after September 26, 1985, pursuant to a binding contract entered into before such date, and

(ii) described in an inducement resolution or other comparable preliminary approval adopted by the issuing authority (or by a voter referendum) before September 26, 1985.

(B) Refunding.—

(i) In general.—Except as provided in clause (ii), in the case of property placed in service after December 31, 1985, which is financed by the proceeds of an obligation which is issued solely to refund another obligation which was issued before September 26, 1985, subparagraph (C) of section 168(h)(3) of such Code (as so added) shall apply only with respect to an amount equal to the basis in such property which has not been recovered before the date such refunded obligation is issued.

(ii) Significant expenditures.—In the case of facilities the original use of which commences with the taxpayer and with respect to which significant expenditures are made before January 1, 1985, subparagraph (C) of section 168(h)(3) of such Code (as so added) shall not apply with respect to such facilities to the extent such facilities are financed by the proceeds of an obligation issued solely to refund another obligation which was issued before September 26, 1985.

(C) Facilities.—In the case of an inducement resolution or other comparable preliminary approval adopted by an issuing authority before September 26, 1985, for purposes of subparagraphs (A) and (B)(ii) with respect to obligations described in such resolution, the term "facilities" means the facilities described in such resolution.

(D) Significant expenditures.—For purposes of this paragraph, the term "significant expenditures" means expenditures greater than 10 percent of the reasonably anticipated cost of the construction, reconstruction, or rehabilitation of the facility involved.

(d) Other Transitional Rules.—

(1) Supplier service contracts.—The amendments made by section 201 shall not apply to any property which is readily identifiable with and necessary to carry out a written supply or service contract, or agreement to lease, which was binding on September 25, 1985.

(2) Special rules for property included in master plans of integrated projects.—The amendments made by section 201 shall not apply to any property placed in service pursuant to a master plan which is clearly identifiable as of September 25, 1985, for any project if—

(A) the project is a newspaper printing and distribution plant project with respect to which a contract for the purchase of 8 printing press units and related equipment to be installed in a single press line was entered into on January 8, 1985, and

(B) the contract price for such units and equipment represents at least 50 percent of the total cost of such project.

(3) Solid waste disposal facilities.—The amendments made by section 201, and subsection (c) of this section, shall not apply to any qualified solid waste disposal facility (as defined in section 7701(e)(3)(B) of the Internal Revenue Code of 1954) if before January 1, 1986—

(A) there is a binding written contract between the service recipient and the service provider with respect to the operation of such facility to pay for the services to be provided by such facility, or

(B) a service recipient or governmental unit (or any entity related to such recipient or unit) made a financial commitment of at least $200,000 for the financing or construction of such facility.

(4) Certain submersible drilling units.—In the case of a binding contract entered into on October 20, 1984, for the purchase of 6 semi-submersible drilling units at a cost of $425,000,000, such units shall be treated as having an applicable date under subsection (b)(2) of January 1, 1991.

(5) Sewage treatment facility.—The amendments made by section 201 shall not apply to any property which is part of a sewage treatment facility if—

(A) a city-parish advertised in September 1985, for bids for construction of secondary treatment improvements for such facility,

(B) in May 1985, the city-parish received statements from 16 firms interested in privatizing the waste water treatment facilities, and

(C) the metropolitan council selected a privatizer at its meeting on November 20, 1985, and adopted a resolution authorizing the Mayor to enter into contractual negotiation with the selected privatizer.

(6) Certain hydroelectric project.—The amendments made by section 201 shall not apply to any property which is part of a hydroelectric project on the Mississippi River which received approval from the Federal Energy Regulatory Commission on January 27, 1982.

(e) Normalization Requirements.—

(1) In general.—A normalization method of accounting shall not be treated as being used with respect to any public utility property for purposes of section 167 or 168 of the Internal Revenue Code of 1954 if the taxpayer, in computing its cost of service for ratemaking purposes and reflecting operating results in its regulated books of account, reduces the excess tax reserve more rapidly or to a greater extent than such reserve would be reduced under the average rate assumption method.

(2) Definitions.—For purposes of this subsection—

(A) Excess tax reserve.—The term "excess tax reserve" means the excess of—

(i) the reserve for deferred taxes (as described in section 167(l)(3)(G)(ii) or 168(e)(3)(B)(ii) of the Internal Revenue Code of 1954 as in effect on the day before the date of the enactment of this Act), over

(ii) the amount which would be the balance in such reserve if the amount of such reserve were determined by assuming that the corporate rate reductions provided in this Act were in effect for all prior periods.

(B) Average rate assumption method.—The average rate assumption method is the method under which the excess in the reserve for deferred taxes is reduced over the remaining lives of the property as used in its regulated books of account which gave rise to the reserve for deferred taxes. Under such method, if timing differences for the property reverse, the amount of the adjustment to the reserve for the deferred taxes is calculated by multiplying—

(i) the ratio of the aggregate deferred taxes for the property to the aggregate timing differences for the property as of the beginning of the period in question, by

(ii) the amount of the timing differences which reverse during such period.

(f) Special Rule for Finance Lease Provisions.—The provisions of section 168(f)(8) of the Internal Revenue Code of 1954 (as amended by section 209 of the Tax Equity and Fiscal Responsibility Act of 1982) shall continue to apply to any transaction permitted by reason of section 12(c)(2) of the Tax Reform Act of 1984 or section 209(d)(1)(B) of the Tax Equity and Fiscal Responsibility Act of 1982.

Subtitle B—Regular Investment Tax Credit

SEC. 211. REGULAR INVESTMENT TAX CREDIT.

(a) General Rule.—Subpart E of part IV of subchapter A of chapter 1 (relating to investment tax credit) is amended by adding at the end thereof the following new section:

"SEC. 49. REGULAR PERCENTAGE TO APPLY ONLY TO DOMESTICALLY PRODUCED MANUFACTURING, ECT., EQUIPMENT.

"(a) Limitation to Domestically Produced Manufacturing, Etc., Equipment.—

"(1) In general.—Except as otherwise provided in this section, for purposes of applying the regular percentage—

"(A) the term 'section 38 property' shall only include qualified domestically produced property, and

"(B) the regular percentage shall be 5 percent.

"(2) Qualified domestically produced property.—For purposes of paragraph (1), the term 'qualified domestically produced property' means any tangible property which—

"(A) is manufacturing, production, or extraction machinery or equipment,

"(B) is not imported property, and

"(C) which is used predominantly within the United States (as determined under section 48(a)(2) without regard to subparagraph (B) thereof).

"(3) Imported property.—For purposes of this subsection, the term 'imported property' means any property if—

"(A) such property was completed outside the United States, or

"(B) less than 50 percent of the basis of such property is attributable to value added within the United States.

For purposes of this subparagraph, the term 'United States' includes the Commonwealth of Puerto Rico and the possessions of the United States.

"(b) Exception for Qualified Progress Expenditures for Periods Before January 1, 1986.—In the case of any taxpayer who has made an election under section 46(d)(6), subsection (a) shall not apply to the portion of the adjusted basis of any progress expenditure property attributable to qualified progress expenditures for periods before January 1, 1986.

"(c) Exception for transition property.—

"(1) In general.—Subsection (a) shall not apply to transition property.

"(2) Credit for transition property earned ratably over 5 years.—The amount of the qualified investment for any taxable year with respect to transition property (determined without regard to this paragraph) shall be taken into account ratably over the 5-taxable-year period beginning with the taxable year for which such qualified investment would have been taken into account but for this paragraph.

"(3) Full basis adjustment.—In the case of transition property, section 48(q) (relating to basis adjustment to section 38 property) shall be applied—

"(A) by substituting '100 percent' for '50 percent' in paragraph (1), and

"(B) by applying section 48(q) as if it did not contain paragraph (4) thereof (relating to election of reduced credit in lieu of basis adjustment).

"(4) Transition property.—The term 'transition property' means any property placed in service after December 31, 1985, and to which the amendments made by section 201 of the Tax Reform Act of 1985 do not apply. For purposes of paragraphs (2) and (3), such term shall not include any property described in section 203(d)(4) and 211(c)(3) of the Tax Reform Act of 1985.

"(5) Treatment of progress expenditures.—No progress expenditures for periods after December 31, 1985, with respect to any property shall be taken into account for purposes of applying the regular percentage unless it is reasonable to expect that such property will be transition property when placed in service. If any progress expenditures are taken into account by reason of the preceding sentence and subsequently there is not a reasonable expectation that such property would be transition property when placed in service, the credits attributable to progress expenditures with respect to such property shall be recaptured under section 47."

(b) Conforming Amendments.—

(1) Paragraph 7 of section 46(c) is amended to read as follows:

"(7) Applicable percentage for property to which section 168 applies.—Notwithstanding paragraph (2), the applicable percentage for purposes of paragraph (1) shall be—

"(A) in the case of any property to which section 168 applies other than class 1 property, 100 percent, and

"(B) in the case of class 1 property, 60 percent."

(2) Subparagraph (B) of section 48(q)(4) is amended—

(A) by striking out "any recovery property" in the material preceding clause (i) and inserting in lieu thereof "any property to which section 168 applies and", and

(B) by striking out all that follows clause (i) and inserting in lieu thereof the following:

"(ii) notwithstanding section 46(b)(1), the regular percentage shall be—

"(I) 4 percent in the case of property other than class 1 property, and

"(II) 2 percent in the case of class 1 property."

(c) Normalization Rules.—If the requirements of paragraph (1) or (2) of section 46(f) of the Internal Revenue Code of 1954 is not met with respect to public utility property to which the regular percentage applied for purposes of determining the amount of the investment tax credit—

(1) all credits for open taxable years as of the time of the final determination referred to in section 46(f)(4)(A) of such Code shall be disallowed, and

(2) if the amount in the taxpayer's unamortized credits (or the credits not previously restored to rate base) with respect to such property (whether or not for open years) exceeds the amount referred to in paragraph (1), the taxpayer's tax for the taxable year shall be increased by the amount of such excess.

If any portion of the excess described in paragraph (2) is attributable to a credit which is allowable as a carryover to a taxable year beginning after December 31, 1985, in lieu of applying paragraph (2) with respect to such portion, the amount of such carryover shall be reduced by the amount of such portion. Rules similar to the rules of this subsection shall apply in the case of any property with respect to which the requirements of section 46(f)(9) of such Code are met.

(d) Effective Date.—The amendments made by this section shall apply to property placed in service after December 31, 1985, in taxable years ending after such date.

Subtitle C—Changes in Certain Rapid Amortization Provisions

SEC. 221. REPEAL OF 5-YEAR AMORTIZATION OF TRADEMARK AND TRADE NAME EXPENDITURES.

(a) In General.—Section 177 (relating to trademark and trade name expenditures) is hereby repealed.

(b) Technical and Conforming Amendments.—

(1) Paragraph (3) of section 312(n) is amended by striking out ", 177,".

(2) Subsection (a) of section 1016 (relating to adjustments to basis) is amended by striking out paragraph (16) and by redesignating paragraphs (17) through (27) as paragraphs (16) through (26), respectively.

(3) The table of sections for part VI of subchapter B of chapter 1 is amended by striking out the item relating to section 177.

(c) Effective Date.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to expenditures paid or incurred after December 31, 1985.

(2) Transitional rule.—The amendments made by this section shall not apply to any expenditure incurred—

(A) pursuant to a binding contract entered into before September 26, 1985, or

(B) with respect to the development, protection, expansion, registration, or defense of a trademark or trade name commenced before September 26, 1985, but only if not less than the lesser of $1,000,000 or 5 percent of the aggregate cost of such development, protection, expansion, registration, or defense has been incurred or committed before such date.

The preceding sentence shall not apply to any expenditure with respect to a trademark or trade name placed in service after December 31, 1987.

SEC. 222. CHANGES RELATING TO DEPRECIATION OF EXPENDITURES TO REHABILITATE LOW-INCOME RENTAL HOUSING.

(a) Amortization Made Permanent.—Paragraph (1) of section 167(k) is amended by striking out "and before January 1, 1987,".

(b) Increase in Expenditures Permitted To Be Taken Into Account.—Paragraph (2) of section 167(k) (relating to depreciation of expenditures to rehabilitate low-income rental housing) is amended—

(1) by striking out "$20,000" in subparagraph (A) and inserting in lieu thereof "$30,000",

(2) by striking out subparagraph (B), and

(3) by redesignating subparagraph (C) as subparagraph (B).

(c) Technical Amendment.—Paragraph (3) of section 167(k) is amended by striking out subparagraph (D) thereof.

(d) Effective Date.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to expenditures paid or incurred after December 31, 1985.

(2) Transitional rule.—The repeal of subparagraph (B) of section 167(k)(2) of such Code made by subsection (b) shall not apply to any expenditure incurred—

(A) pursuant to a binding contract entered into before September 26, 1985, or

(B) with respect to a rehabilitation which commenced before September 26, 1985, but only if not less than 5 percent of the aggregate cost of such rehabilitation has been incurred or committed before such date.

The preceding sentence shall not apply to any expenditure with respect to property (or additions or improvements thereto) placed in service after December 31, 1987.

(3) Additional transitional rule.—The repeal of subparagraph (B) of section 167(k)(2) of such Code made by subsection (b) shall not apply to any expenditure incurred with respect to units located in neighborhood strategy areas within the community development block grant program of the city of Fort Wayne, Indiana. The number of units to which the preceding sentence applies shall not exceed 150.

Subtitle D—Other Capital Related Costs

SEC. 231. AMENDMENTS RELATING TO CREDIT FOR INCREASING RESEARCH ACTIVITIES.

(a) 3-Year Extension of the Research Credit.—

(1) In general.—Section 30 (relating to credit for increasing research activities) is amended by adding at the end thereof the following new subsection:

"(h) Termination.—

"(1) In general.—This section shall not apply to any amount paid or incurred after December 31, 1988.

"(2) Computation of base period expenses.—In the case of any taxable year which begins before January 1, 1989, and ends after December 31, 1988, any amount for any base period with respect to such taxable year shall be the amount which bears the same ratio to such amount for such base period as the number of days in such taxable year before January 1, 1989, bears to the total number of days in such taxable year."

(2) Conforming amendment.—Subsection (d) of section 221 of the Economic Recovery Tax Act of 1981 is amended—

(A) by striking out ", and before January 1, 1986" in paragraph (1), and

(B) by striking out the last sentence of paragraph (2)(A).

(b) Reduction in Rate From 25 Percent to 20 Percent; Credit for Basic Research Payments to Qualified Organizations.—Subsection (a) of section 30 is amended to read as follows:

"(a) General Rule.—For purposes of section 38, the research credit determined under this section for the taxable year shall be an amount equal to the sum of—

"(1) 20 percent of the excess (if any) of—

"(A) the qualified research expenses for the taxable year, over

"(B) the base period research expenses, and

"(2) 20 percent of the basic research payments determined under subsection (e)(1)(A)."

(c) Definitions and Special Rules Relating to Payments for Basic Research.—Subsection (e) of section 30 (relating to credit available with respect to certain basic research by colleges, universities, and certain research organizations) is amended to read as follows:

"(e) Credit Allowable With Respect to Certain Payments to Qualified Organizations for Basic Research.—For purposes of this section—

"(1) In general.—In the case of any taxpayer who makes basic research payments for any taxable year—

"(A) the amount of basic research payments taken into account under subsection (a)(2) shall be equal to the excess of—

"(i) such basic research payments, over

"(ii) the qualified organization base period amount, and

"(B) that portion of such basic research payments which does not exceed the qualified organization base period amount shall be treated as contract research expenses for purposes of subsection (a)(1).

"(2) Basic research payments defined.—For purposes of this subsection—

"(A) In general.—The term 'basic research payment' means, with respect to any taxable year, any amount paid during such taxable year by a corporation to any qualified organization for basic research but only if—

"(i) such payment is pursuant to a written agreement between such corporation and such qualified organization, and

"(ii) such basic research is to be performed by such qualified organization.

"(B) Exception to requirement that research be performed by the organization.—In the case of a qualified organization described in subparagraph (C) or (D) of paragraph (6), clause (ii) of subparagraph (A) shall not apply.

"(3) Qualified organization base period amount.—For purposes of this subsection, the term 'qualified organization base period amount' means an amount equal to the sum of—

"(A) the minimum basic research amount, plus

"(B) the maintenance-of-effort amount.

"(4) Minimum basic research amount.—For purposes of this subsection—

"(A) In general.—The term 'minimum basic research amount' means an amount equal to the greater of—

"(i) 1 percent of the average of the sum of amounts paid or incurred during the base period for—

"(I) any in-house research expenses, and

"(II) any contract research expenses, or

"(ii) the amounts treated as contract research expenses during the base period by reason of this subsection (as in effect during the base period).

"(B) Floor amount.—The minimum basic research amount for any base period shall not be less than 50 percent of the basic research payments for the taxable year for which a determination is being made under this subsection.

"(5) Maintenance-of-effort amount.—For purposes of this subsection—

"(A) In general.—The term 'maintenance-of-effort amount' means, with respect to any taxable year, an amount equal to the excess (if any) of—

"(i) an amount equal to—

"(I) the average of the nondesignated university contributions paid by the taxpayer during the base period, multiplied by

"(II) the cost-of-living adjustment for the calendar year in which such taxable year begins, over

"(ii) the amount of nondesignated university contributions paid by the taxpayer during such taxable year.

"(B) Nondesignated university contributions.—For purposes of this paragraph, the term 'nondesignated university contribution' means any amount paid by a taxpayer to any qualified organization described in paragraph (6)(A)—

"(i) for which a deduction was allowable under section 170, and

"(ii) which was not taken into account—

"(I) in computing the amount of the credit under this section (as in effect during the base period) during any taxable year in the base period, or

"(II) as a basic research payment for purposes of this section.

"(C) Cost-of-living adjustment defined.—

"(i) In general.—The cost-of-living adjustment for any calendar year is the cost-of-living adjustment for such calendar year determined under section 1(e)(3).

"(ii) Special rule where base period ends in a calendar year other than 1983 or 1984.—If the base period of any taxpayer does not end in 1983 or 1984, section 1(e)(3)(B) shall, for purposes of this paragraph, be applied by substituting the calendar year in which such base period ends for 1983.

"(6) Qualified organization.—For purposes of this subsection, the term 'qualified organization' means any of the following organizations:

"(A) Educational institutions.—Any educational organization which—

"(i) is an institution of higher education (within the meaning of section 3304(f)), and

"(ii) is described in section 170(b)(1)(A)(ii).

"(B) Certain scientific research organizations.—Any organization not described in subparagraph (A) which—

"(i) is described in section 501(c)(3) and is exempt from tax under section 501(a),

"(ii) is organized and operated primarily to conduct scientific research, and

"(iii) is not a private foundation.

"(C) Scientific tax-exempt organizations.—Any organization which—

"(i) is described in—

"(I) section 501(c)(3) (other than a private foundation), or

"(II) section 501(c)(6),

"(ii) is exempt from tax under section 501(a),

"(iii) is organized and operated primarily to promote scientific research by qualified organizations described in subparagraph (A) pursuant to written research agreements, and

"(iv) currently expends—

"(I) substantially all of its funds, or

"(II) substantially all of the basic research payments received by it,

for grants to, or contracts for basic research with, an organization described in subparagraph (A).

"(D) Certain grant organizations.—Any organization not described in subparagraph (B) or (C) which—

"(i) is described in section 501(c)(3) and is exempt from tax under section 501(a) (other than a private foundation),

"(ii) is established and maintained by an organization established before July 10, 1981, which meets the requirements of clause (i),

"(iii) is organized and operated exclusively for the purpose of making grants to organizations described in subparagraph (A) pursuant to written research agreements for purposes of basic research, and

"(iv) makes an election, revocable only with the consent of the Secretary, to be treated as a private foundation for purposes of this title (other than section 4940, relating to excise tax based on investment income).

"(7) Definitions and special rules.—For purposes of this subsection—

"(A) Basic research.—The term 'basic research' means any original investigation for the advancement of scientific knowledge not having a specific commercial objective, except that such term shall not include—

"(i) basic research conducted outside of the United States, and

"(ii) basic research in the social sciences or humanities.

"(B) Base period.—The term 'base period' means the 3-taxable year period ending with the taxable year immediately preceding the 1st taxable year of the taxpayer beginning after December 31, 1983.

"(C) Exclusion from incremental credit calculation.—For purposes of determining the amount of credit allowable under subsection (a)(1) for any taxable year, the amount of the basic research payments taken into account under subsection (a)(2) shall not—

"(i) be treated as qualified research expenses under subsection (a)(1)(A), and

"(ii) be included in the computation of base period research expenses under subsection (a)(1)(B).

"(D) Trade or business qualification.—Any basic research payments shall be treated as an amount paid in carrying on a trade or business of the taxpayer in the taxable year in which it is paid (without regard to the provisions of subsection (b)(3)(B)).

"(E) Certain corporations not eligible.—The term 'corporation' shall not include—

"(i) an S corporation,

"(ii) a personal holding company (as defined in section 542), and

"(iii) a service organization (as defined in section 414(m)(3))."

(d) Denial of Credit With Respect to Amounts for Certain Leased Personal Property.—Clause (iii) of section 30(b)(2)(A) (defining in-house research expenses) is amended to read as follows:

"(iii) under regulations prescribed by the Secretary, any amount paid or incurred to another person for the right to use computers in the conduct of qualified research."

(e) Research Credit Treated as Other Business Credits.—

(1) In general.—Subsection (b) of section 38 (relating to current year business credit), as amended by this Act, is amended by striking out "plus" at the end of paragraph (2), by redesignating paragraph (3) as paragraph (4), and by adding after paragraph (2) the following new paragraph:

"(3) the research credit determined under section 40(a)."

(2) Transfer of research credit to subpart relating to business credits.—Section 30 (relating to credit for increasing research activities) is hereby transferred to subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (as amended by this Act), inserted before section 41 of such Code, and redesignated as section 40 of such Code.

(3) Technical and conforming amendments.—

(A)(i) Subsections (b) and (c) of section 28 are each amended by striking out "section 30" each place it appears and inserting in lieu thereof "section 40".

(ii) Paragraph (2) of section 28(c) is amended by striking out "section 30(b)" and inserting in lieu thereof "section 40(b)".

(iii) Paragraph (4) of section 28(d) is amended by striking out "section 30(f)" and inserting in lieu thereof "section 40(f)".

(B) Subsection (d) of section 38, as amended by this Act, is amended by inserting "40(a)," before "41(a),".

(C)(i) Subsection (d) of section 39 (relating to carryback and carry forward of unused credits) is amended by adding at the end thereof the following new paragraph:

"(3) Similar rules for research credit.—Rules similar to the rules of paragraphs (1) and (2) shall apply to the credit allowable under section 30 (as in effect before the date of the enactment of the Tax Reform Act of 1985) except that—

"(A) 'December 31, 1985' shall be substituted for 'December 31, 1983' each place it appears, and

"(B) 'January 1, 1986' shall be substituted for 'January 1, 1984'."

(ii) Subsection (g) of section 40 (relating to limitation based on amount of tax), as redesignated by this section, is amended to read as follows:

"(g) Special Rule for Pass-Thru of Credit.—In the case of an individual who—

"(1) owns an interest in an unincorporated trade or business,

"(2) is a partner in a partnership,

"(3) is a beneficiary of an estate or trust, or

"(4) is a shareholder in an S corporation,

the amount determined under subsection (a) for any taxable year shall not exceed an amount (separately computed with respect to such person's interest in such trade or business or entity) equal to the amount of tax attributable to that portion of a person's taxable income which is allocable or apportionable to the person's interest in such trade or business or entity."

(D) Subparagraph (B) of section 108(b)(2) (relating to reduction of tax attributes in title 11 case or insolvency) is amended by striking out all that precedes the second sentence and inserting in lieu thereof the following:

"(B) General business credit.—Any carryover to or from the taxable year of a discharge of an amount for purposes for determining the amount allowable as a credit under section 38 (relating to general business credit)."

(E)(i) Paragraph (3) of section 280C(b) is amended—

(I) by striking out "section 30(f)(5)" and inserting in lieu thereof "section 40(f)(5)",

(II) by striking out "section 30(f)(1)(B)" and inserting in lieu thereof "section 40(f)(1)(B)", and

(III) by striking out "section 30(f)(1)" and inserting in lieu thereof "section 40(f)(1)".

(ii) Subsection (c) of section 280C, as amended by this section, is amended—

(I) by striking out "section 30(b)" in paragraph (1) and inserting in lieu thereof "section 40(b)",

(II) by striking out "section 30(a)" in paragraph (1) and inserting in lieu thereof "section 40(a)", and

(III) by striking out "section 30" in paragraph (2) and inserting in lieu thereof "section 40".

(F) Subsection (c) of section 381 is amended by striking out paragraph (25) and by redesignating paragraph (26) as paragraph (25).

(G) Section 936(h)(5)(C)(i)(I)(a) (defining product area research) is amended by striking out "section 30(b)" and inserting in lieu thereof "section 40(b)".

(H) Section 6411 (relating to tentative carryback and refund adjustments) is amended—

(i) by striking out "by a research credit carryback provided in section 30(g)(2)" in subsection (a),

(ii) by striking out "a research credit carryback or" in subsection (a),

(iii) by striking out "(or, with respect to any portion of a business credit carryback attributable to a research credit carryback from a subsequent taxable year within a period of 12 months from the end of such subsequent taxable year)" in subsection (a), and

(iv) by striking out "unused research credit," each place it appears in subsections (a) and (b).

(I) Subparagraph (C) of section 6511(d)(6) (defining credit carryback) is amended by striking out "and any research credit carryback under section 30(g)(2)".

(J) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by striking out the item relating to section 30.

(K) The table of sections for subpart D of such part is amended by inserting before the item relating to section 41 the following new item:

"Sec. 40. Credit for increasing research activities."

(f) Deduction for Certain Contributions of Scientific Research Property.—Clause (i) of section 170(e)(4)(B) (relating to special rule for contributions of scientific property used for research) is amended to read as follows:

"(i) the contribution is to an organization described in subparagraph (A) or subparagraph (B) of section 40(e)(6),".

(g) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1985.

SEC. 232. MODIFICATION OF INVESTMENT TAX CREDIT FOR REHABILITATION EXPENDITURES.

(a) Reduction in Percentage.—Paragraph (4) of section 46(b) (relating to rehabilitation percentage) is amended to read as follows:

"(4) Rehabilitation percentage.—

"(A) In general.—The term 'rehabilitation percentage' means—

"(i) 10 percent in the case of qualified rehabilitation expenditures with respect to a qualified rehabilitated building other than a certified historic structure, and

"(ii) 20 percent in the case of such expenditure with respect to a certified historic structure.

"(B) Regular and energy percentages not to apply.—The regular percentages and the energy percentages shall not apply to that portion of the basis of any property which is attributable to qualified rehabilitation expenditures."

(b) Special Rules for Qualified Rehabilitated Buildings.—Subsection (g) of section 48 (relating to special rules for qualified rehabilitated buildings) is amended to read as follows:

"(g) Special Rules for Qualified Rehabilitated Buildings.—For purposes of this subpart—

"(1) Qualified rehabilitated building.—For purposes of this subsection—

"(A) In general.—The term 'qualified rehabilitated building' means any building (and its structural components) if—

"(i) such building has been substantially rehabilitated,

"(ii) such building was placed in service before the beginning of the rehabilitation, and

"(iii) in the case of any building other than a certified historic structure, in the rehabilitation process—

"(I) 50 percent or more of the existing external walls of such building are retained in place as external walls,

"(II) 75 percent or more of the existing external walls of such building are retained in place as internal or external walls, and

"(III) 75 percent or more of the existing internal structural framework of such building is retained in place.

"(B) Building must be first placed in service before 1936.—In the case of a building other than a certified historic structure, a building shall not be a qualified rehabilitated building unless the building was first placed in service before 1936.

"(C) Substantially rehabilitated defined.—

"(i) In general.—For purposes of subparagraph (A)(i), a building shall be treated as having been substantially rehabilitated only if the qualified rehabilitation expenditures during the 24-month period selected by the taxpayer (at the time and in the manner prescribed by regulations) and ending with or within the taxable year exceed the greater of—

"(I) the adjusted basis of such building (and its structural components), or

"(II) $5,000.

The adjusted basis of the building (and its structural components) shall be determined as of the beginning of the 1st day of such 24-month period, or of the holding period of the building, whichever is later. For purposes of the preceding sentence, the determination of the beginning of the holding period shall be made without regard to any reconstruction by the taxpayer in connection with the rehabilitation.

"(ii) Special rule for phased rehabilitation.—In the case of any rehabilitation which may reasonably be expected to be completed in phases set forth in architectural plans and specifications completed before the rehabilitation begins, clause (i) shall be applied by substituting '60-month period' for '24-month period'.

"(iii) Lessees.—The Secretary shall prescribe by regulation rules for applying this subparagraph to lessees.

"(D) Reconstruction.—Rehabilitation includes reconstruction.

"(2) Qualified rehabilitation expenditure defined.—For purposes of this section—

"(A) In general.—The term 'qualified rehabilitation expenditure' means any amount properly chargeable to capital account—

"(i) for property for which depreciation is allowable under section 168 and which is—

"(I) 30-year real property,

"(II) low-income housing,

"(III) real property which has a class life of more than 12.5 years, or

"(IV) an addition or improvement to property or housing described in subclause (I), (II), or (III), and

"(ii) in connection with the rehabilitation of a qualified rehabilitated building.

"(B) Certain expenditures not included.—The term 'qualified rehabilitation expenditure' does not include—

"(i) Incentive method of depreciation may not be used.—Any expenditure with respect to which an election has not been made under section 168(h)(7) (relating to election to use nonincentive depreciation system). The preceding sentence shall not apply to any expenditure to the extent the nonincentive depreciation system of section 168(h) applies to such expenditure by reason of subparagraph (B) and (C) of section 168(h)(1).

"(ii) Cost of acquisition.—The cost of acquiring any building or interest therein.

"(iii) Enlargements.—Any expenditure attributable to the enlargement of an existing building.

"(iv) Certified historic structure, etc.—Any expenditure attributable to the rehabilitation of a certified historic structure or a building in a registered historic district, unless the rehabilitation is a certified rehabilitation (within the meaning of subparagraph (C)). The preceding sentence shall not apply to a building in a registered historic district if—

"(I) such building was not a certified historic structure,

"(II) the Secretary of the Interior certified to the Secretary that such building is not of historic significance to the district, and

"(III) if the certification referred to in subclause (II) occurs after the beginning of the rehabilitation of such building, the taxpayer certifies to the Secretary that, at the beginning of such rehabilitation, he in good faith was not aware of the requirements of subclause (II).

"(v) Tax-exempt use property.—

"(I) In general.—Any expenditure in connection with the rehabilitation of a building which is allocable to that portion of such building which is (or may reasonably be expected to be) tax-exempt use property (within the meaning of section 168(h)).

"(II) Clause not to apply for purposes of paragraph (1)(C).—This clause shall not apply for purposes of determining under paragraph (1)(C) whether a building has been substantially rehabilitated.

"(vi) Expenditures of lessee.—Any expenditure of a lessee of a building if, on the date the rehabilitation is completed, the remaining term of the lease (determined without regard to any renewal periods) is less than the recovery period determined under section 168(c).

"(C) Certified rehabilitation.—For purposes of subparagraph (B), the term 'certified rehabilitation' means any rehabilitation of a certified historic structure which the Secretary of the Interior has certified to the Secretary as being consistent with the historic character of such property or the district in which such property is located.

"(D) 30-year real property; low-income housing; class life.—For purposes of subparagraph (A), the terms '30-year real property', 'low-income housing', and 'class life' have the respective meanings given such terms by section 168(i).

"(3) Certified historic structure defined.—For purposes of this subsection—

"(A) In general.—The term 'certified historic structure' means any building (and its structural components) which—

"(i) is listed in the National Register, or

"(ii) is located in a registered historic district and is certified by the Secretary of the Interior to the Secretary as being of historic significance to the district.

"(B) Registered historic district.—The term 'registered historic district' means—

"(i) any district listed in the National Register, and

"(ii) any district—

"(I) which is designated under a statute of the appropriate State or local government, if such statute is certified by the Secretary of the Interior to the Secretary as containing criteria which will substantially achieve the purpose of preserving and rehabilitating buildings of historic significance to the district, and

"(II) which is certified by the Secretary of the Interior to the Secretary as meeting substantially all of the requirements for the listing of districts in the National Register.

"(4) Property treated as new section 38 property.—Property which is treated as section 38 property by reason of subsection (a)(1)(E) shall be treated as new section 38 property."

(c) Basis Adjustment for Certified Historic Structures.—Paragraph (3) of section 48(q) (relating to special rule for qualified rehabilitated buildings) is amended by striking out "other than a certified historic structure".

(d) Effective Date.—

(1) In general.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to property placed in service after December 31, 1985, in taxable years ending after such date.

(2) General transitional rule.—The amendments made by this section shall not apply to any property placed in service before January 1, 1994, if such property is placed in service as part of—

(A) a rehabilitation which was completed pursuant to a written contract which was binding on September 25, 1985, or

(B) a rehabilitation incurred in connection with property (including any leasehold interest) acquired before September 26, 1985, or acquired on or after such date pursuant to a written contract that was binding on September 25, 1985, if—

(i) the rehabilitation was completed pursuant to a written contract that was binding on November 22, 1985,

(ii) parts 1 and 2 of the Historic Preservation Certification Application were filed with the Department of the Interior (or its designee) before November 23, 1985, or

(iii) the lesser of $1,000,000 or 5 percent of the cost of the rehabilitation is incurred before November 23, 1985, or is required to be incurred pursuant to a written contract which was binding on November 22, 1985.

(3) Upper Pontalba building.—The amendments made by this section shall not apply to the rehabilitation of the Upper Pontalba Building in New Orleans, Louisiana.

(4) Reduction in credit for property under transitional rules.—In the case of property placed in service after December 31, 1985, and to which the amendments made by this section do not apply—

(A) subparagraph (A) of section 46(b)(4) of the Internal Revenue Code of 1954 (as in effect before the enactment of this Act) shall be applied—

(i) by substituting "10 percent" for "15 percent",

(ii) by substituting "13 percent" for "20 percent", and

(iii) by substituting "20 percent" for "25 percent", and

(B) paragraph (3) of section 48(q) of such Code (as so in effect) shall be applied without regard to the phrase "other than a certified historic structure".

(5) Treatment of certain textile mill.—The amendments made by this section (and the provisions of paragraph (4)) shall not apply to a textile mill listed on the National Register and containing approximately 365,000 square feet if the site on which such mill is located was donated to a State on November 6, 1981.

Subtitle E—Capital Gains and Losses

SEC. 241. RETENTION OF 20 PERCENT MAXIMUM CAPTIAL GAIN TAX.

(a) Retention of 20 Percent Maximum Capital Gain Tax.—

(1) In general.—Subsection (a) of section 1202 (relating to deduction for capital gains) is amended by striking out "60 percent" and inserting in lieu thereof "17/37 (15/35 in the case of taxable years beginning after December 31, 1990)".

(2) Retention of maximum 32 percent tax on commodity future contract gains.—Subsection (a) of section 1256 (relating to section 1256 contracts marked to market) is amended—

(A) by striking out "40 percent" and inserting in lieu thereof "70 percent (80 percent in the case of taxable years beginning after December 31, 1990)", and

(B) by striking out "60 percent" and inserting in lieu thereof "30 percent (20 percent in the case of taxable years beginning after December 31, 1990)".

(b) Conforming Amendments.—

(1) Section 170(e) (relating to certain contributions of ordinary income and capital gain property) is amended by striking out "40 percent" and inserting in lieu thereof "20/37 (20/35 in the case of taxable years beginning after December 31, 1990)".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1985.

SEC. 242. INDEXING OF CERTAIN ASSETS FOR PURPOSE OF DETERMINING GAIN OR LOSS.

(a) In General.—Part II of subchapter O of chapter 1 (relating to basis rules of general application) is amended by inserting after section 1021 the following new section:

"SEC. 1022. INDEXING OF CERTAIN ASSETS FOR PURPOSES OF DETERMINING GAIN OR LOSS.

"(a) General Rule.—

"(1) Indexed basis substituted for adjusted basis.—Except as provided in paragraph (2), if an indexed asset which has been held for more than 1 year is sold or otherwise disposed of, for purposes of this title the indexed basis of the asset shall be substituted for its adjusted basis.

"(2) Exception for depreciation, etc.—The deduction for depreciation, depletion, and amortization shall be determined without regard to the application of paragraph (1) to the taxpayer or any other person.

"(b) Indexed Asset.—

"(1) In general.—For purposes of this section, the term 'indexed asset' means—

"(A) stock in a corporation, and

"(B) real property (or any interest therein), which is a capital asset or property used in the trade or business (as defined in section 1231(b)).

"(2) Certain property excluded.—For purposes of this section, the term 'indexed asset' does not include—

"(A) Creditor's interest.—Any interest in property which is in the nature of a creditor's interest.

"(B) Options.—Any option or other right to acquire an interest in property.

"(C) Net lease property.—In case of a lessor, net lease property (within the meaning of subsection (h)(1)).

"(D) Certain preferred stock.—Stock which is fixed and preferred as to dividends and does not participate in corporate growth to any significant extent.

"(E) Stock in certain corporations.—Stock in—

"(i) an electing small business corporation (within the meaning of section 1371(b)),

"(ii) a personal holding company (as defined in section 542), and

"(iii) a foreign corporation.

"(3) Exception for stock in foreign corporation which is regularly traded on national or regional exchange.—Clause (iii) of paragraph (2)(E) shall not apply to stock in a foreign corporation the stock of which is listed on the New York Stock Exchange, the American Stock Exchange, or any domestic regional exchange for which quotations are published on a regular basis other than—

"(A) stock of a foreign investment company (within the meaning of section 1246(b)), and

"(B) stock in a foreign corporation held by a United States person who meets the requirements of section 1248(a)(2).

"(c) Indexed Basis.—For purposes of this section—

"(1) Indexed basis.—The indexed basis for any asset is—

"(A) the adjusted basis of the asset, multiplied by

"(B) the applicable inflation ratio.

"(2) Applicable inflation ratio.—The applicable inflation ratio for any asset is the percentage arrived at by dividing—

"(A) the gross national product deflator the calendar quarter in which the disposition takes place, by

"(B) the gross national product deflator for the calendar quarter in which the asset was acquired by the taxpayer (or, if later, the calendar quarter ending December 31, 1990).

The applicable inflation ratio shall not be taken into account unless it is greater than 1. The applicable inflation ratio for any asset shall be rounded to the nearest 1/10 of 1 percent.

"(3) Gross national product deflator.—The gross national product deflator for any calendar quarter is the implicit price deflator for the gross national product for such quarter (as shown in the first revision thereof).

"(d) Special Rules.—For purposes of this section—

"(1) Treatment as separate asset.—In the case of any asset, the following shall be treated as a separate asset:

"(A) a substantial improvement to property,

"(B) in the case of stock of a corporation, a substantial contribution to capital, and

"(C) any other portion of an asset to the extent that separate treatment of such portion is appropriate to carry out the purposes of this section.

"(2) Assets which are not indexed assets throughout holding period.—

"(A) In general.—The applicable inflation ratio shall be appropriately reduced for calendar months at any time during which the asset was not an indexed asset.

"(B) Certain short sales.—For purposes of applying subparagraph (A), an asset shall be treated as not an indexed asset for any short sale period during which the taxpayer or the taxpayer's spouse sells short property substantially identical to the asset. For purposes of the preceding sentence, the short sale period begins on the day after the substantially identical property is sold and ends on the closing date for the sale.

"(3) Treatment of certain distributions.—A distribution with respect to stock in a corporation which is not a dividend shall be treated as a disposition.

"(4) Section cannot increase ordinary loss.—To the extent that (but for this paragraph) this section would create or increase a net ordinary loss to which the second sentence of section 1231(a) applies or an ordinary loss to which any other provision of this title applies, such provision shall not apply. The taxpayer shall be treated as having a long-term capital loss in an amount equal to the amount of the ordinary loss to which the preceding sentence applies.

"(5) Acquisition date where there has been prior application of subsection (a)(1) with respect to the taxpayer.—If there has been a prior application of subsection (a)(1) to an asset while such asset was held by the taxpayer, the date of acquisition of such asset by the taxpayer shall be treated as not earlier than the date of the most recent such prior application.

"(6) Collapsible corporations.—The application of section 341(a) (relating to collapsible corporations) shall be determined without regard to this section.

"(e) Certain Conduit Entities.—

"(1) Regulated investment companies; real estate investment trusts; common trust funds.—

"(A) In general.—Stock in a qualified investment entity shall be an indexed asset for any calendar month in the same ratio as the fair market value of the assets held by such entity at the close of such month which are indexed assets bears to the fair market value of all assets of such entity at the close of such month.

"(B) Ratio of 90 percent or more.—If the ratio for any calendar month determined under subparagraph (A) would (but for this subparagraph) be 90 percent or more, such ratio for such month shall be 100 percent.

"(C) Ratio of 10 percent or less.—If the ratio for any calendar month determined under subparagraph (A) would (but for this subparagraph) be 10 percent or less, such ratio for such month shall be zero.

"(D) Valuation of assets in case of real estate investment trusts.—Nothing in this paragraph shall require a real estate investment trust to value its assets more frequently than once each 36 months (except where such trust ceases to exist). The ratio under subparagraph (A) for any calendar month for which there is no valuation shall be the trustee's good faith judgment as to such valuation.

"(E) Qualified investment entity.—For purposes of this paragraph, the term 'qualified investment entity' means—

"(i) a regulated investment company (within the meaning of section 851),

"(ii) a real estate investment trust (within the meaning of section 856), and

"(iii) a common trust fund (within the meaning of section 584).

"(2) Partnerships.—In the case of a partnership, the adjustment made under subsection (a) at the partnership level shall be passed through to the partners.

"(3) Subchapter s corporations.—In the case of an electing small business corporation, the adjustment under subsection (a) at the corporate level shall be passed through to the shareholders.

"(f) Dispositions Between Related Persons.—

"(1) In general.—This section shall not apply to any sale or other disposition of property between related persons except to the extent that the basis of such property in the hands of the transferee is a substituted basis.

"(2) Related persons defined.—For purposes of this section, the term 'related persons' means—

"(A) persons bearing a relationship set forth in section 267(b), and

"(B) persons treated as single employer under subsection (b) or (c) of section 414.

"(g) Transfers To Increase Indexing Adjustment or Depreciation Allowance.—If any person transfers cash, debt, or any other property to another person and the principal purpose of such transfer is—

"(1) to secure or increase an adjustment under subsection (a), or

"(2) to increase (by reason of an adjustment under subsection (a)) a deduction for depreciation, depletion, or amortization,

the Secretary may disallow part or all of such adjustment or increase.

"(h) Definitions.—For purposes of this section—

"(1) Net lease property defined.—The term 'net lease property' means leased real property where—

"(A) the term of the lease (taking into account options to renew) was 50 percent or more of the useful life of the property, and

"(B) for the period of the lease, the sum of the deductions with respect to such property which are allowable to the lessor solely by reason of section 162 (other than rents and reimbursed amounts with respect to such property) is 15 percent or less of the rental income produced by such property.

"(2) Stock includes interest in common trust fund.—The term 'stock in a corporation' includes any interest in a common trust fund (as defined in section 584(a)).

"(i) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section."

(b) Clerical Amendment.—The table of sections for part II of subchapter O of such chapter 1 is amended by inserting after the item relating to section 1021 the following new item:

"Sec. 1022. Indexing of certain assets for purposes of determining gain or loss."

(c) Adjustment To Apply for Purposes of Determining Earnings and Profits.—Subsection (f) of section 312 (relating to effect on earnings and profits of gain or loss and of receipt of tax-free distributions) is amended by adding at the end thereof the following new paragraph:

"(3) Effect on earnings and profits of indexed basis.—

For substitution of indexed basis for adjusted basis in the case of the disposition of certain assets after December 31, 1990 see section 1022(a)(1)."

(d) Effective Date.—The amendments made by this section shall apply to dispositions after December 31, 1990, in taxable years ending after such date.

SEC. 243. REPEAL OF SECTION 631(c).

(a) In General.—Section 631(c) (relating to disposal of coal or domestic iron ore with a retained economic interest) is hereby repealed.

(b) Conforming Amendments.—

(1)(A) Section 272 (relating to disposal of coal or domestic iron ore) is hereby repealed.

(B) The table of sections for part IX of subchapter B of chapter 1 is amended by striking out the item relating to section 272.

(2) Each of the following sections is amended by striking out "631(b) or (c)" and inserting in lieu thereof "631(b)":

(A) Subparagraph (A) of section 871(d)(1).

(B) Paragraph (2) of section 881(a).

(C) Subparagraph (A) of section 882(d)(1).

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(D) Section 1441(b).

(E) Paragraph (5) of section 1441(c).

(3) Paragraph (2) of section 1231(b) is amended—

(A) by striking out ", coal, and iron ore", and

(B) by striking out ", COAL OR DOMESTIC IRON ORE" in the heading thereof.

(4)(A) The heading for section 631 is amended by striking out ", COAL, OR DOMESTIC IRON ORE".

(B) The table of sections for part III of subchapter I of chapter 1 is amended by striking out ", coal, or domestic iron ore" in the item relating to section 631.

(c) Effective Dates.—

(1) In general.—The amendments made by this section shall apply to sales after December 31, 1985, in taxable years ending after such date.

(2) Transitional rules.—

(A) Corporations.—In the case of any corporation, the amendments made by this section shall not apply to amounts properly taken into account before January 1, 1989.

(B) Taxpayers other than corporations.—In the case of any taxpayer other than a corporation, the amendments made by this section shall not apply to—

(i) 60 percent of the amounts properly taken into account during 1986,

(ii) $^{20}/_{33}$ of the amounts properly taken into account during 1987, and

(iii) $^{10}/_{33}$ of the amounts properly taken into account during 1988.

Subtitle F—Provisions Relating to Oil and Gas

SEC. 251. PERCENTAGE DEPLETION FOR OIL AND GAS WELLS.

(a) In General.—Paragraph (5) of section 613A(c) (defining applicable percentage) is amended to read as follows:

"(5) Applicable percentage.—For purposes of paragraph (1)—

"(A) In general.—Except as otherwise provided in this paragraph, the applicable percentage shall be zero.

"(B) Special rule for stripper wells.—In the case of any stripper well oil or gas produced during any calendar year after 1985, the applicable percentage shall be 15 percent.

"(C) Rate for royalty holders.—

"(i) In general.—In the case of any nonstripper qualified royalty oil or gas produced after 1986, the applicable percentage shall be—

"(I) 7.5 percent for production during calendar year 1986, and

"(II) 5 percent for production after calendar year 1986.

"(ii) Nonstripper qualified royalty oil or gas.—The term 'nonstripper qualified royalty oil or gas' means any oil or gas which is attributable to an economic interest other than an operating mineral interest (within the meaning of section 614(d)). Such term does not include any oil or gas attributable to an overriding royalty interest, production payment, net profits interest, or similar interest which—

"(I) is created after December 2, 1985, out of an operating mineral interest in property which is proven oil or gas property (within the meaning of subsection (c)(9)(A)) on the date such interest was created, and

"(II) is not created pursuant to a binding contract entered into before December 3, 1985.

"(D) Ordering rule for depletable oil or gas quantity.—A taxpayer's depletable oil quantity under paragraph (3) or depletable natural gas quantity under paragraph (4) for production during calendar years 1986 and 1987 shall be allocated first to stripper well oil or gas.

"(E) Stripper well oil or gas.—For purposes of this paragraph, the term 'stripper well oil or gas' means—

"(i) domestic crude oil from a stripper well property within the meaning of the June 1979 energy regulations (as defined in section 4996(b)(8)(C)), or

"(ii) domestic natural gas which is stripper well gas within the meaning of section 108(b) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3318(b))."

(b) Effective Date.—The amendments made by this section shall apply to production after December 31, 1985, in taxable years ending after such date.

SEC. 252. PERCENTAGE DEPLETION NOT ALLOWED FOR LEASE BONUSES, ETC.

(a) In General.—Subsection (d) of section 613A (relating to limitations on application of subsection (c)) is amended by adding at the end thereof the following new paragraph:

"(5) Percentage depletion not allowed for lease bonuses, etc.—In the case of any oil or gas property to which subsection (c) applies, for purposes of section 613, the term 'gross income from the property' shall not include any lease bonus, advance royalty, or other amount payable without regard to production from the property."

(b) Effective Date.—The amendment made by subsection (a) shall take effect on January 1, 1986.

SEC. 253. PERCENTAGE DEPLETION FOR GEOTHERMAL DEPOSITS.

(a) Phase-Out of Percentage Depletion.—Paragraph (2) of section 613(e) (relating to percentage depletion for geothermal deposits) is amended to read as follows:

"(2) Applicable percentage.—For purposes of paragraph (1)—

"(A) In general.—Except as provided in subparagraph (B), the applicable percentage is—

"(i) 7.5 percent for production during calendar year 1986, and

"(ii) zero for production after calendar year 1986.

"(B) Exception for royalty holders.—In the case of any production after 1986 attributable to a royalty interest, the applicable percentage shall be 5 percent."

(b) Percentage Depletion Not Allowed for Lease Bonuses, Etc.—Section 613(e) is amended by adding at the end thereof the following new paragraph:

"(4) Percentage depletion not to include lease bonuses, etc.—In the case of any geothermal deposit, the term 'gross income from the property' shall, for purposes of this section, not include any amount described in section 613A(d)(5)."

(c) Effective Dates.—

(1) Reduction in percentage.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1985.

(2) Lease bonuses, etc.—The amendment made by subsection (b) shall take effect on January 1, 1986.

SEC. 254. EXEMPTION FROM WINDFALL PROFIT TAX FOR CERTAIN CRUDE OIL EXCHANGED FOR RESIDUAL FUEL OIL.

(a) In General.—Subsection (b) of section 4991 (defining exempt oil) is amended by striking out "and" at the end of paragraph (5), by striking out the period at the end of paragraph (6) and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:

"(7) any exempt production oil."

(b) Exempt Production Oil Defined.—Section 4994 (relating to definitions and special rules relating to exemptions) is amended by adding at the end thereof the following new subsection:

"(h) Exempt Production Oil.—For purposes of section 4991(b)—

"(1) In general.—The term 'exempt production oil' means, with respect to any person, the number of barrels of domestic crude oil—

"(A) of which such person is the producer,

"(B) which is removed from a property during the calendar quarter,

"(C) which would (but for section 4991(b)(7)) be taxable crude oil,

"(D) which is attributable to such person's operating mineral interest (as defined in section 614(d)) in the property, and

"(E) which is exchanged solely for an equal number of barrels of residual fuel oil used by such person with respect to such property during such quarter or the next succeeding quarter in enhanced recovery processes.

"(2) Determination of fuel oil used.—

"(A) In general.—For purposes of paragraph (1), a person shall be treated as using residual fuel oil with respect to any property during a calendar quarter in an amount which bears the same ratio to—

"(i) the aggregate residual fuel oil used during such quarter in enhanced recovery processes with respect to crude oil from such property, as

"(ii)(I) the amount of such person's share for such quarter of the production of crude oil from such property, bears to

"(II) the amount of such production.

"(B) Application to nonoperating interests.—

"(i) Residual fuel oil not treated as used by nonoperating interests.—Subparagraph (A) shall apply only to shares of production which are attributable to operating mineral interests (as defined in section 614(d)).

"(ii) Unallocated residual fuel oil treated as used by operating interests.—For purposes of subparagraph (A)(ii)(II), the amount of production of crude oil from a property for a quarter shall be reduced by the amount of such production which is not attributable to operating mineral interests (as so defined).

"(3) Allocation of exempt production oil among tiers.—Under regulations prescribed by the Secretary, exempt production oil shall be allocated—

"(A)(i) in any case where the crude oil produced from a property falls within 1 tier, to such tier of oil, or

"(ii) in any case where the crude oil produced from a property falls within more than 1 tier, among the tiers in proportion to the production from such property for such quarter of domestic crude oil in each such tier, and

"(B) within any tier of taxable crude oil, on the basis of the removal prices for such person's domestic crude oil (produced from such property) in such tier removed during such quarter, beginning with the highest of such prices.

For purposes of this paragraph, crude oil which is not taxable crude oil (without regard to this section) shall be treated as a tier of oil and newly discovered oil shall be treated as a separate tier of oil and not included in tier 3 oil.

"(4) Residual fuel oil defined.—For purposes of this subsection, the term 'residual fuel oil' means—

"(A) any fuel oil commonly known as—

"(i) No. 4, No. 5, or No. 6 fuel oil,

"(ii) Bunker C, or

"(iii) Navy Special Fuel Oil, and

"(B) any fuel oil not described in subparagraph (A) which has a 50 percent boiling point over 700 degrees Fahrenheit in the ASTM D-86 standard distillation test.

"(5) Enhanced recovery process.—

"(A) In general.—For purposes of this subsection, the term 'enhanced recovery process' means any process—

"(i) for increasing the ultimate total recovery of oil from a reservoir which is designed to modify any property of any fluid in the reservoir or the reservoir rock, or

"(ii) for displacing or controlling the flow rate or flow pattern in the reservoir.

"(B) Exclusion of processes applied solely to aid lifting.—Such term does not include any process the sole purpose of which is to aid in the lifting of fluids in the well bore."

(c) Depletion Deduction Disallowed.—Section 611 of such Code (relating to the allowance of a deduction for depletion) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) Exempt Production Oil.—No deduction for depletion shall be allowed under this subchapter with respect to crude oil which is exempt from the tax imposed by section 4896 solely by reason of section 4991(b)(7)."

(d) Effective Date.—The amendments made by this section shall apply to residual fuel oil used, and crude oil removed, after the date of the enactment of this Act.

SEC. 255. REDUCTION IN TAX FOR FUEL USED BY TAXICABS MADE PERMANENT.

Paragraph (3) of section 6427(e) (relating to termination of credit for certain taxicabs) is amended by striking out "September 30, 1985".

Subtitle G—Treatment of Hard Minerals

SEC. 261. REDUCTION OF PERCENTAGE DEPLETION FOR CERTAIN HARD MINERALS.

(a) In General.—Section 613 (relating to percentage depletion) is amended by adding at the end thereof the following new subsection:

"(f) Applicable Percentage Defined.—

"(1) In general.—Except as otherwise provided in this subsection, the applicable percentage shall be 5 percent.

"(2) No depletion in certain cases.—In the case of any mine, well, or natural deposit—

"(A) described in paragraph (6) of subsection (b), or

"(B) any noncompetitive bid mineral,

the applicable percentage shall be zero.

"(3) Special rules for certain stone and minerals used in production of animal feed or fertilizer.—

"(A) Dimension or ornamental stone.—In the case of any stone described in subsection (b)(7) used or sold for use by the mine owner or operator as dimension stone or ornamental stone, the applicable percentage shall, with respect to the gross income from the property properly allocable to such stone, be 14 percent.

"(B) Fertilizer and animal feed.—In the case of any qualified fertilizer or animal feed substance, the applicable percentage shall, with respect to the gross income from the property properly allocable to such substance, be the percentage in effect under subsection (b) on the day before the date of the enactment of this subsection.

"(C) Qualified fertilizer or animal feed substance.—For purposes of subparagraph (B), the term 'qualified fertilizer or animal feed substance' means any substance—

"(i) used by taxpayer in the manufacture or production of fertilizer or animal feed, or

"(ii) sold by the taxpayer for—

"(I) use by the purchaser, or

"(II) resale by the purchaser for use, or resale for ultimate use,

in the manufacture or production of fertilizer or animal feed.

"(4) Transitional rules for 1986 and 1987.—In the case of any mine, well, or natural deposit to which paragraph (1) or (2) applies, the applicable percentage shall, for production during calendar years 1986 and 1987, be determined in accordance with the following table:

"If the item is described in the following paragraph of subsection (b):	The applicable percentage is:	
	1986	1987
(1)	16⅓	10⅔
(2)	11⅔	8⅓
(3) or (7)	11	8
(4)	8⅓	6⅔
(5)	6⅔	5⅚
(6)	3⅓	1⅔

For purposes of this paragraph, any item described in paragraph (2)(B), shall be treated as described in subsection (b)(6).

"(5) Noncompetitive bid mineral.—For purposes of paragraph (2)(B), the term 'noncompetitive bid mineral' means any mineral described in subsection (b)(7) which—

"(A) is used, or sold for use, by the taxpayer as rip rap, ballast, road material, rubble, concrete aggregates, or similar purposes,

"(B) is not sold by the taxpayer on bid in direct competition with a bona fide bid to sell a mineral described in subsection (b)(3), and

"(C) is not slate to which subsection (b)(5) applies."

(b) Reduction of Taxable Income Which May Be Offset From 50 Percent to 25 Percent.—Section 613(a) (relating to percentage depletion) is amended—

(1) by striking out "50 percent" and inserting in lieu thereof "25 percent", and

(2) by adding at the end thereof the following new sentence: "This paragraph shall be applied—

"(1) except as provided in paragraph (2), in the case of taxable years beginning during 1986 and 1987, by substituting '41⅔ percent' and '33⅓ percent', respectively, for '25 percent', and

"(2) in the case of any oil or gas well or geothermal deposit for any taxable year beginning after December 31, 1985, by substituting '50 percent' for '25 percent'."

(c) Conforming Amendments.—

(1) Section 613(a) is amended by striking out "percentage, specified in subsection (b)," and inserting in lieu thereof "applicable percentage determined under subsection (f)".

(2) Subsection (b) of section 613 is amended—

(A) by striking out ", and the percentages," in the matter preceding paragraph (1),

(B) by striking out "22 percent—" in paragraph (1) and inserting in lieu thereof "Any—"

(C) by striking out "15 percent—" in paragraph (2),

(D) by striking out "14 percent—" in paragraph (3) and inserting in lieu thereof "Any—",

(E) by striking out "10 percent—" in paragraph (4) and inserting in lieu thereof "Any—",

(F) by striking out "7½ percent—" in paragraph (5) and inserting in lieu thereof "Any—",

(G) by striking out "5 percent—" in paragraph (6) and inserting in lieu thereof "Any—", and

(H) by striking out "14 percent—all" in paragraph (7) and inserting in lieu thereof "All".

(3) The first sentence of section 613(b)(7) is amended by striking out ", except" and all that follows and inserting in lieu thereof a period.

(4) The heading for section 613(b) is amended to read as follows:

"(b) Property to Which Section Applies.—"

(5) Each of the following provisions of section 613A are amended by striking out "deemed to be specified in subsection (b) of section 613" and inserting in lieu thereof "the applicable percentage under section 613(f)":

(A) Subsection (b)(2).

(B) Subsection (c)(1).

(C) Subsection (c)(6)(A).

(6) Section 614(d) is amended by striking out "the 50 percent limitation" and inserting in lieu thereof "the taxable income limitation".

(d) Effective Dates.—

(1) Reduction in rates.—The amendments made by subsection (a) and (c) shall apply to production in calendar years beginning after December 31, 1985.

(2) Reduction in taxable income.—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 1985.

SEC. 262. TREATMENT OF DEVELOPMENT AND MINING EXPLORATION EXPENDITURES.

(a) In General.—Section 616 (relating to development expenditures) is amended to read as follows:

"SEC. 616. DEVELOPMENT AND MINING EXPLORATION EXPENDITURES.

"(a) Allowance of Deduction.—A taxpayer may elect to treat any qualified development or mining exploration expenditures which are paid or incurred during the preproductive period with respect to any mine as expenses which are not chargeable to capital account. Any expenditures so treated shall be allowed as a deduction in the taxable year in which paid or incurred.

"(b) Recapture Upon Commencement of the Production Stage.—

"(1) Inclusion in income.—In the case of any taxable year in which the taxpayer reaches the production stage with respect to any mine, the taxpayer shall include in gross income the amount of the adjusted development or mining exploration expenditures with respect to such mine.

"(2) Amount recaptured treated as investment in class 1 property.—In any case to which paragraph (1) applies, the taxpayer shall, for purposes of this subtitle, be treated as having placed in service class 1 property (within the meaning of section 168(e)) with an adjusted basis equal to the amount included in gross income under paragraph (1).

"(3) Time when placed in service.—For purposes of paragraph (2), the class 1 property shall be treated as having been placed in service in the month in which the production stage was reached.

"(4) Election not to have subsection apply.—

"(A) In general.—A taxpayer may elect not to have this subsection apply to all mines reaching the production stage during a taxable year.

"(B) Effect of election.—If an election under subparagraph (A) applies to any mine, no deduction for depletion shall be allowed under section 611 with respect to such mine until the amount of such deduction equals the adjusted development or mining exploration expenditures with respect to such mine.

"(C) Time of election.—Any election under subparagraph (A) for any taxable year may be made or revoked on or before the due date for filing the return (including extensions) for such taxable year.

"(c) Gain From Dispositions of Certain Mining Property.—

"(1) General rule.—Except as otherwise provided in this subsection, if mining property is disposed of, the lesser of—

"(A) the sum of—

"(i) the adjusted development or mining exploration expenditures with respect to such property, and

"(ii) the aggregate amount of deductions under section 611 which reduced the basis of such property, or

"(B) the excess of—

"(i) in the case of—

"(I) any sale, exchange, or involuntary conversion, the amount realized, or

"(II) in the case of any other disposition, the fair market value over

"(ii) the adjusted basis of such property,

shall be treated as ordinary income. Such gain shall be recognized notwithstanding any other provision of this subtitle.

"(2) Disposition of portion of property.—For purposes of paragraph (1)—

"(A) In general.—In the case of the disposition of a portion of a mining property (other than an undivided interest), the amount described in paragraph (1)(A) with respect to such property shall be treated as attributable to such portion to the extent of the amount of the gain to which paragraph (1) applies.

"(B) Undivided interests.—In the case of the disposition of an undivided interest in a mining property (or a portion thereof), a proportionate part of the amount described in paragraph (1)(A) with respect to such property shall be treated as attributable to such undivided interest to the extent of the amount of the gain to which paragraph (1) applies.

"(C) Exception.—This paragraph shall not apply to any amount described in paragraph (1)(A) to the extent that the taxpayer establishes to the satisfaction of the Secretary that such expenditure does not relate to—

"(i) the portion (or interest therein) disposed of, or

"(ii) any mine which is part of the mining property held by the taxpayer before the disposition and which has reached the producing stage.

"(3) Exceptions and limitations.—Paragraphs (1), (2), and (3) of section 1245(b) (relating to exceptions and limitations with respect to gain from disposition of certain depreciable property) shall apply in respect of this subsection in the same manner and with the same effect as if references in section 1245(b) to section 1245 or any provision thereof were references to this subsection or the corresponding provisions of this subsection and as if references to section 1245 property were references to mining property.

"(4) Application of subsection.—This subsection shall apply notwithstanding any other provision of this subtitle.

"(d) Adjusted Development or Mining Exploration Expenditures.—For purposes of this section—

"(1) In general.—The term 'adjusted development or mining exploration expenditures' means, with respect to any mine, the amount of the deduction allowable to any person under subsection (a) for the taxable year in which the production stage is reached and any preceding taxable year which—

"(A) are properly chargeable to such mine, and

"(B) which, but for subsection (a), would be reflected in the adjusted basis of such mine.

"(2) Adjustments for gain recognized.—The adjusted development or mining exploration expenditures determined under paragraph (1) shall be properly adjusted to reflect any amount included in gross income under subsection (b)(1), (c), or (g)(4) with respect to any mine.

"(3) Special rules relating to partnership property.—

"(A) Property distributed to partner.—In the case of any property received by a taxpayer in a distribution with respect to part or all of the taxpayer's interest in a partnership, the adjusted development or mining exploration expenditures with respect to such property shall include the excess of—

"(i) the adjusted development or mining exploration expenditures immediately before such distribution which have not otherwise been included in gross income under subsection (b)(1), over

"(ii) the amount of gain to which section 751(b) applied and which was realized by the partnership (as constituted after the distribution) on the distribution of such property.

"(B) Property retained by partnership.—In the case of any property held by a partnership after a distribution to a partner to which section 751(b) applied, the adjusted development or mining exploration expenditures with respect to such property shall, under regulations, be reduced by the amount of gain to which section 751(b) applied and which was realized by such partner with respect to such distribution on account of such property.

"(e) Special Rules for Foreign Development and Mining Exploration Costs.—In the case of any qualified development or mining exploration expenditures paid or incurred during the preproductive period with respect to any mine located outside of the United States—

"(1) subsections (a) and (b) shall not apply, and

"(2) such expenditures shall—

"(A) at the election of the taxpayer, be included in the adjusted basis of the taxpayer for purposes of computing the amount of any deduction allowable under section 611 (without regard to section 613), or

"(B) if subparagraph (A) does not apply, be allowed as a deduction ratably over the 10-taxable year period beginning with the taxable year in which such expenditures were paid or incurred.

"(f) Qualified Development or Mining Exploration Expenditures.—For purposes of this section—

"(1) In general.—The term 'qualified development or mining exploration expenditures' means any expenditures which, but for this section, would not be allowable as a deduction for the taxable year and which are paid or incurred—

"(A) for the development of a mine or other natural deposit (other than an oil or gas well), or

"(B) for the purpose of ascertaining the existence, location, extent, or quality of any deposit of ore or other mineral.

"(2) Certain expenditures not included.—The term 'qualified development or mining exploration expenditures' shall not include any expenditures—

"(A) with respect to any deposit of oil or gas or of any mineral with respect to which a deduction for percentage depletion is not allowable under section 613 (as in effect before the Tax Reform Act of 1985), or

"(B) for the acquisition or improvement of property of a character which is subject to the allowance for depreciation under section 167.

"(g) Other Definitions and Special Rules.—For purposes of this section—

"(1) Preproductive period.—The term 'preproductive period' means—

"(A) in the case of qualified mining exploration expenditures, any expenditures paid or incurred before the beginning of the development stage of any property, and

"(B) in the case of any qualified development expenditures, any expenditures paid or incurred after the existence of ores or minerals in commercially marketable quantities has been disclosed.

"(2) Mining property.—The term 'mining property' means any property (within the meaning of section 614 after the application of subsections (c) and (e) thereof) with respect to which any qualified development or mining exploration expenditures are properly chargeable.

"(3) Mine.—The term 'mine' includes any natural deposit.

"(4) Adjustments to basis.—The basis of any property shall not be reduced by the amount of any deduction for depletion which, but for the application of this section, would be allowable.

"(5) Recapture in case of bonus or royalty.—If—

"(A) an election under subsection (a) has been made with respect to any mining property, and

"(B) the taxpayer receives or accrues a bonus or royalty with respect to such property,

then the deduction under section 611 with respect to the bonus or royalty shall be disallowed until the amount of such deduction which, but for this paragraph, would be allowable equals the amount of the adjusted development or exploration expenditures with respect to such property.

"(6) Time for making election.—

"(A) In general.—Any election under subsection (a) for any taxable year may be made at any time before the expiration of the time for filing a claim for credit or refund of the tax imposed by this chapter for such taxable year.

"(B) Revocation of election.—An election under subsection (a), once made, may be revoked only with the consent of the Secretary.

"(C) Period for assessing deficiencies.—Notwithstanding any provision of law or rule of law, the statutory period for the assessment of any deficiency for any taxable year which is attributable to an election or revocation of election under subsection (a) shall not expire before the last day of the 2-year period beginning on the day after the date on which such election or revocation is made."

(b) CORPORATE PREFERENCE ITEMS.—Subparagraph (B) of section 291(b)(2) (relating to mineral exploration and development costs) is amended to read as follows:

"(B) MINERAL EXPLORATION AND DEVELOPMENT COSTS.—In the case of any amount not allowable as a deduction under section 616(a) for any taxable year by reason of paragraph (1), the taxpayer shall be treated as having placed in service on the first day of such taxable year class 2 property (within the meaning of section 168(e)) with an adjusted basis equal to such amount."

(c) CONFORMING AMENDMENTS.—

(1) Section 170(e)(1) is amended by striking out "617(d)(1)" and inserting in lieu thereof "616(c)(1)".

(2) Section 243(b)(2)(C) is amended by inserting "and" at the end of clause (i), by striking out clause (ii), and by redesignating clause (iii) as clause (ii).

(3) Subparagraph (A) of section 263(a)(1) is amended to read as follows:

"(A) qualified development or mining exploration expenditures deductible under section 616(a)".

(4)(A) Subparagraph (B) of section 291(b)(1) is amended by striking out "or 617".

(B) Section 291(b) is amended by striking out paragraph (3) and redesignating paragraphs (4), (5), and (6) as paragraphs (3), (4), and (5), respectively.

(5) Subparagraph (B) of section 312(n)(2) is amended by striking out "or 617".

(6) Paragraph (12) of section 341(e) is amended by striking out "617(d)(1)" and inserting in lieu thereof "616(c)(1)".

(7) Section 381(c) is amended by striking out paragraph (10).

(8) Paragraph (2) of section 453B(d) is amended by striking out "617(d)(1)" and inserting in lieu thereof "616(c)(1)".

(9)(A) Section 617 is hereby repealed.

(B) The table of sections for part I of subchapter I of chapter 1 is amended by striking out the item relating to section 617.

(10) Paragraph (4) of section 703(b) is amended to read as follows:

"(4) section 616(a) (relating to deduction of certain development and mining exploration expenditures), or".

(11) Section 751(c) is amended by striking out "617(d)(1)" and inserting in lieu thereof "616(c)(1)".

(12) Section 1016(a) is amended by striking out paragraph (9).

(13) Subparagraph (B) of section 1362(c)(2) is amended to read as follows:

"(B) section 616(a) (relating to deduction and recapture of certain development and mining exploration expenditures), and".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to costs paid or incurred after December 31, 1985, in taxable years ending after such date.

(2) SPECIAL RULES FOR RECAPTURE PROVISIONS.—

(A) IN GENERAL.—Section 616(c) of the Internal Revenue Code of 1985, as added by this section, shall apply to any disposition of property placed in service by the taxpayer after December 31, 1985.

(B) EXCEPTION FOR BINDING CONTRACTS.—Section 616(c) of such Code, as so added, shall not apply to property placed in service after December 31, 1985, if such property was acquired pursuant to a written contract which was entered into before September 26, 1985, and which was binding at all times thereafter.

(C) SECTION 617(d).—Section 617(d) of such Code, as in effect before the amendments made by this Act, shall apply to property to which it applied before such amendments and to which section 616(c) of such Code, as so added, does not apply.

TITLE III—CORPORATE PROVISIONS

Subtitle A—Corporate Rate Reductions

SEC. 301. CORPORATE RATE REDUCTIONS.

(a) GENERAL RULE.—Subsection (b) of section 11 is amended to read as follows:

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—The amount of the tax imposed by subsection (a) shall be the sum of—

"(A) 15 percent of so much of the taxable income as does not exceed $50,000,

"(B) 25 percent of so much of the taxable income as exceeds $50,000 but does not exceed $75,000, and

"(C) 33 percent of so much of the taxable income as exceeds $75,000.

"(2) PHASEOUT OF BENEFIT OF LOWER RATES.—In the case of a corporation which has taxable income in excess of $100,000 for any taxable year, the amount of tax determined under paragraph (1) for such taxable year shall be increased by the lesser of—

"(A) 5 percent of such excess, or

"(B) the amount by which the tax determined under paragraph (1) for such taxable year is less than the amount which would have been determined if the tax on taxable income not in excess of $75,000 were determined at a 33 percent rate.

"(3) PHASEIN OF REDUCTION IN MAXIMUM RATE.—In the case of taxable years beginning in calendar years before 1991, the applicable percentage determined under the following table shall be substituted for '33 percent' in paragraphs (1) and (2):

"In the case of taxable years beginning in calendar year:	The applicable percentage is:
1986	42
1987	38
1988	36
1989	36
1990	35."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1985.

SEC. 302. REPEAL OF CORPORATE CAPITAL GAINS TREATMENT.

(a) GENERAL RULE.—Section 1201 (relating to alternative tax for corporations) is amended to read as follows:

"SEC. 1201. ALTERNATIVE TAX FOR CORPORATIONS.

"(a) GENERAL RULE.—If for any taxable year a corporation has a net capital gain, then, in lieu of the tax imposed by sections 11, 511, 821(a) or (c), and 831(a), there is hereby imposed a tax (if such tax is less than the tax imposed by such sections) which shall consist of the sum of—

"(1) a tax computed on the taxable income reduced by the amount of the net capital gain, at the rates and in the manner as if this subsection had not been enacted, plus

"(2) the sum of—

"(A) 28 percent of the pre-1986 net capital gain,

"(B) the applicable percentage of timber, iron, or coal capital gain, plus

"(C) 33 percent (34 percent in the case of taxable years beginning before January 1, 1991) of the net capital gain to the extent not taken into account under subparagraph (A) or (B).

"(b) PRE-1986 NET CAPITAL GAIN.—For purposes of this section, the term 'pre-1986 net capital gain' means the lesser of—

"(1) the net capital gain for the taxable year, or

"(2) the net capital gain determined by taking into account only gain or loss which—

"(A) is attributable to any sale or exchange made on or before December 2, 1985 (or pursuant to a written binding contract in effect on such date), or

"(B) which is properly taken into account for the portion of the taxable year before January 1, 1986.

"(c) TIMBER, IRON, OR COAL CAPITAL GAIN.—For purposes of this section—

"(1) IN GENERAL.—The term 'timber, iron, or coal capital gain' means the lessser of—

"(A) the net capital gain for the taxable year reduced by the amount (if any) of the pre-1986 net capital gain, or

"(B) the net capital gain for the taxable year determined by taking into account only gain or loss attributable to timber, coal, or iron ore with respect to which section 631 applies.

In applying subparagraph (B), gains and losses described in subsection (b)(2), and gains and losses for periods after December 31, 1988, shall not be taken into account.

"(2) APPLICABLE PERCENTAGE.—The term 'applicable percentage' means—

"In the case of taxable years:	The applicable percentage is:
Beginning or ending in 1986	30
Beginning in 1987	31
Beginning in 1988	32

"(d) CROSS REFERENCES.—

"For computation of the alternative tax—

"(1) in the case of life insurance companies, see section 801(a)(2),

"(2) in the case of regulated investment companies and their shareholders, see section 852(b)(3)(A) and (D), and

"(3) in the case of real estate investment trusts, see section 857(b)(3)(A)."

(b) TECHNICAL AMENDMENTS.—

(1) Paragraph (1) of section 170(e) (relating to certain contributions of ordinary income in capital gain property) is amended by striking out "(28/46 in the case of a corporation)" and inserting in lieu therof "(100 percent in the case of a corporation)".

(2) Clause (iii) of section 852(b)(3)(D) is amended by striking out "72 percent" and inserting in lieu thereof "67 percent (66 percent in the case of taxable years beginning before January 1, 1991)".

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years ending after December 31, 1985.

SEC. 303. REDUCTION IN DIVIDENDS RECEIVED DEDUCTION.

(a) GENERAL RULES.—

(1) The following provisions are each amended by striking out "85 percent" and inserting in lieu thereof "the applicable percentage determined under section 246(f)":

(A) Section 243(a)(1) (relating to dividends received by corporations).

(B) Sections 244(a)(3) and (b)(2) (relating to dividends received on certain preferred stock).

(C) Section 246(b) (relating to limitation on aggregate amount of deductions).

(D) Section 246A(a)(1) (relating to dividends received deduction reduced where portfolio stock is debt financed).

(2) Section 246 is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) Applicable Percentage for Determining Amount of Dividend Received Deduction.—The applicable percentage determined under this subsection shall be determined under the following table:

"In the case of taxable years beginning in calendar year:	The applicable percentage is:
1986	80
1987	79
1988	78
1989	77
1990	76
1991 and thereafter	75.".

(b) Effective Date.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1985.

SEC. 304. REPEAL OF PARTIAL EXCLUSION OF DIVIDENDS RECEIVED BY INDIVIDUALS.

(a) General Rule.—Section 116 (relating to partial exclusion of dividends received by individuals) is hereby repealed.

(b) Technical Amendments.—

(1) Subsection (g) of section 301 is amended by striking out paragraph (4).

(2)(A) Subsection (c) of section 584 is amended to read as follows:

"(c) Income of Participants in Fund.—Each participant in the common trust fund in computing its taxable income shall include, whether or not distributed and whether or not distributable—

"(1) as part of its gains and losses from sales or exchanges of capital assets held for not more than 6 months, its proportionate share of the gains and losses of the common trust fund from sales or exchanges of capital assets held for not more than 6 months,

"(2) as part of its gains and losses from sales or exchanges of capital assets held for more than 6 months, its proportionate share of the gains and losses of the common trust fund from sales or exchanges of capital assets held for more than 6 months,

"(3) its proportionate share of the ordinary taxable income or the ordinary net loss of the common trust fund, computed as provided in subsection (d).

(B) If the amendments made by section 1001 of the Tax Reform Act of 1984 cease to apply, effective with respect to property to which such amendments do not apply, subsection (c) of section 584 is amended by striking out "6 months" each place it appears and inserting in lieu thereof "1 year".

(3) Section 642 is amended by striking out subsection (j).

(4) Paragraph (7) of section 643(a) is hereby repealed.

(5) Paragraph (5) of section 702(a) is amended by striking out "or interest with respect to which there is an exclusion under section 116 or 128".

(6) Section 854 is amended—

(A) by striking out "section 116 (relating to an exclusion for dividends received by individuals), and" in subsection (a),

(B) in subsection (b)—

(i) by striking out subparagraph (B) of paragraph (1) and redesignating subparagraph (C) as subparagraph (B),

(ii) by striking out "or (B)" in subparagraph (B) (as so redesignated),

(iii) by striking out "the exclusion under section 116 and" in paragraph (2), and

(iv) by amending subparagraph (B) of paragraph (3) to read as follows:

"(B)(i) The term 'aggregate dividends received' includes only dividends received from domestic corporations.

"(ii) For purposes of clause (i), the term 'dividend' shall not include any distribution from—

"(I) a corporation which, for the taxable year of the corporation in which the distribution is made, or for the next preceding taxable year of the corporation, is a corporation exempt from tax under section 501 (relating to certain charitable, etc., organizations) or section 521 (relating to farmers' cooperative associations), or

"(II) a real estate investment trust which, for the taxable year of the trust in which the dividend is paid, qualifies under part II of subchapter M (section 856 and following).

"(iii) In determining the amount of any dividend for purposes of this subparagraph, a dividend received from a regulated investment company shall be subject to the limitations prescribed in this section."

(7) Subsection (c) of section 857 is amended by striking out "section 116 (relating to an exclusion for dividends received by individuals), and".

(8) The table of sections for part III of subchapter B of chapter 1 is amended by striking out the item relating to section 116.

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1985.

SEC. 305. CLARIFICATION OF NONDEDUCTIBILITY OF STOCK REDEMPTION EXPENSES.

Section 162 (relating to trade or business expenses) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) Stock Redemption Expenses.—No deduction shall be allowed under this chapter for any amount paid or incurred by a corporation in connection with the redemption of its stock."

Subtitle B—Limitation on Net Operating Loss Carryforwards and Excess Credit Carryforwards

SEC. 311. LIMITATION ON NET OPERATING LOSS CARRYFORWARDS.

(a) General Rule.—Section 382 (relating to special limitation on net operating loss carryovers) is amended to read as follows:

"SEC. 382. LIMITATION ON NET OPERATING LOSS CARRYFORWARDS.

"(a) General Rule.—The amount of the taxable income of any corporation for any post-trigger year which may be offset by pre-trigger losses shall not exceed the trigger amount for such year.

"(b) Trigger Amount.—For purposes of this section—

"(1) In general.—Except as otherwise provided in this section, the trigger amount for any taxable year is an amount equal to—

"(A) the trigger value of the old loss corporation, multiplied by

"(B) the long-term tax-exempt rate.

"(2) Carryover of unused limitation.—

"(A) In general.—If the trigger amount for any post-trigger year exceeds the taxable income of the corporation for such year, the trigger amount for the next taxable year shall be increased by the amount of such excess.

"(B) Cross Reference.—

"For ordering rule for purposes of subparagraph (A), see subsection (n)(9).

"(3) Special rule for post-trigger year which includes the trigger day.—In the case of the post-trigger year which includes the trigger day—

"(A) Limitation does not apply to taxable income before trigger.—Subsection (a) shall not apply to the portion of the taxable income for such year which is allocable (determined on a daily pro rata basis) to the period in such year before the trigger day.

"(B) Limitation for period on or after trigger day.—For purposes of applying the limitation of subsection (a) to the remainder of the taxable income for such year, the trigger amount shall be an amount which bears the same ratio to such amount (determined without regard to this paragraph) as—

"(i) the number of days in such year on or after the trigger day, bears to

"(ii) the total number of days in such year.

"(c) Carryforwards Disallowed if Continuity of Business Requirements Not Met.—In the case of any trigger, the trigger amount for any post-trigger year shall be zero if the continuity of business enterprise requirements applicable under section 368 are not met with respect to the new loss corporation during the 2-year period beginning on the date of the trigger.

"(d) Definition of Pre-Trigger Loss and Post-Trigger Year.—For purposes of this section—

"(1) Pre-trigger loss.—The term 'pre-trigger loss' means—

"(A) any such net operating loss of the old loss corporation for any taxable year preceding the taxable year in which the trigger occurs, and

"(B) the net operating loss of the old loss corporation for the taxable year in which the trigger occurs which is allocable (determined on a daily pro rata basis) to the period in such year before the trigger day.

"(2) Post-trigger year.—The term 'post-trigger year' means any taxable year ending after the trigger day.

"(e) Trigger Value.—For purposes of this section—

"(1) In general.—Except as otherwise provided in this subsection, the trigger value of the old loss corporation is the value of the equity of such corporation immediately before the trigger.

"(2) Equity defined.—The term 'equity' means—

"(A) stock,

"(B) warrants or other options (issued by the corporation) to acquire an interest in the equity of the corporation,

"(C) the conversion feature of convertible debt interests, and

"(D) any other interest in the equity of the corporation.

"(3) Special rule in the case of redemption.—If the last component event of the trigger is a redemption, the trigger value under paragraph (1) shall be determined immediately after the trigger.

"(4) Special rule for insolvency transactions.—In the case of a reorganization described in subparagraph (G) of section 368(a)(1) or any exchange of debt for stock in a title 11 or similar proceeding, the trigger value shall be the value of the equity of the new loss corporation immediately after the trigger.

"(f) Long-Term Tax-Exempt Rate.—For purposes of this section, the long-term tax-exempt rate shall be the Federal long-term rate (determined under section 1274 as of the trigger) properly adjusted, under regulations prescribed by the Secretary, for differences between rates on taxable and tax-exempt obligations.

"(g) Trigger.—For purposes of this section—

"(1) In general.—There is a trigger if—

"(A) Owner shift.—There is a more than 50-percent owner shift, or

"(B) Equity structure change.—There is a more than 50-percent equity structure change.

"(2) 50-percent owner shift.—There is a more than 50-percent owner shift if the total value of the stock of the corporation held at the close of the testing period by 5-percent shareholders has increased by more than 50 percentage points over such holdings by such shareholders at the beginning of the testing period.

"(3) 50-percent equity structure change.—There is a more than 50-percent equity structure change if, as the result of an equity structure change, the continuing interest of the shareholders of the old loss corporation in the new loss corporation is less than 50 percent.

"(4) Owner shift defined.—

"(A) In general.—Except as provided in subparagraph (B), the term 'owner shift' means any change in the respective holdings in the stock of a corporation.

"(B) Exclusion of equity structure change.—An equity structure change shall not be treated as an owner shift.

"(5) Equity structure change defined.—The term 'equity structure change' means any reorganization (within the meaning of section 368). Such term shall not include any reorganization described in subparagraph (D) or (G) of section 368(a)(1) unless the requirements of subparagraphs (A) and (B) of section 354(b)(1) are met.

"(h) Special Rules for Built-In Gains and Losses.—

(1) In general.—For purposes of this section—

"(A) Net unrealized built-in gain.—

"(i) In general.—If the old loss corporation has a net unrealized built-in gain, the trigger amount for any taxable year ending in the recognition period shall be increased by the recognized built-in gains for such year.

"(ii) Limitation.—The increase under clause (i) for any taxable year ending in the recognition period shall not exceed—

"(I) the net unrealized built-in gain, reduced by

"(II) the recognized built-in gains for prior years ending in the recognition period.

"(B) Net unrealized built-in loss.—

"(i) In general.—If the old loss corporation has a net unrealized built-in loss, the recognized built-in loss for any taxable year ending in the recognition period shall be subject to limitation under this section in the same manner as if such loss were a pre-trigger loss.

"(ii) Limitation.—Clause (i) shall apply to recognized built-in losses for any taxable year in the recognition period only to the extent such losses do not exceed—

"(I) the net unrealized built-in loss, reduced by

"(II) recognized built-in losses for prior taxable years ending in the recognition period.

"(2) Recognized built-in gains and losses.—For purposes of this subsection—

"(A) Recognized built-in gain.—The term 'recognized built-in gain' means any gain recognized during the recognition period on the disposition of any asset to the extent such gain does not exceed the excess of—

"(i) the fair market value of such asset as of the trigger day, over

"(ii) its adjusted basis as of such day.

"(B) Recognized built-in loss.—The term 'recognized built-in loss' means—

"(i) any loss recognized in the recognition period on the disposition of any asset to the extent such loss does not exceed the excess of—

"(I) the adjusted basis of such asset as of the trigger day, over

"(II) its fair market value as of such day, and

"(ii) any amount allowable for depreciation, amortization, or depletion for the taxable year attributable to the excess described in clause (i).

"(3) Net unrealized built-in gain and loss defined.—For purposes of this subsection—

"(A) Net unrealized built-in gain and loss.—The terms 'net unrealized built-in gain' and 'net unrealized built-in loss' mean with respect to any old loss corporation, the amount by which—

"(i) the fair market value of the assets of such corporation as of the trigger day, is more or less, respectively, than

"(ii) the aggregate adjusted bases of such assets as of such day.

If the last component of the trigger is a redemption, determinations under the preceding sentence shall be made as of the time immediately after the trigger.

"(B) Threshold requirement.—

"(i) In general.—If the amount of the net unrealized built-in gain or loss (as the case may be) of any old loss corporation is not greater than 15 percent of the amount determined under clause (i) of subparagraph (A) (as modified by clause (ii) of this subparagraph), the net unrealized built-in gain or loss shall be treated as zero.

"(ii) Cash and cash items not taken into account.—For purposes of clause (i), there shall not be taken into account—

"(I) any cash or cash item, or

"(II) any marketable security which has not declined or appreciated substantially in value (as determined under regulations).

"(C) Secretary may treat certain deductions as built-in losses.—The Secretary may by regulation treat amounts which accrue before the trigger day but which are allowable as a deduction on or after such day as unrealized built-in losses.

"(4) Recognition period.—For purposes of this subsection, the term 'recognition period' means the period beginning on the trigger day and ending at the close of the 10th post-trigger year.

"(5) Determination of fair market value in certain cases.—If 80 percent or more in value of the stock of a corporation is acquired in 1 transaction (or in a series of related transactions) during any 12-month period, for purposes of determining the net unrealized loss, the fair market value of the assets of such corporation shall not exceed the grossed up amount paid for such stock properly adjusted for indebtedness of the corporation and other relevant items.

"(6) Tax-free exchanges or transfers.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection where property held on the trigger is transferred in a transaction where gain or loss is not recognized (in whole or in part).

"(i) 5-Percent Shareholders.—For purposes of this section—

"(1) 5-percent shareholder defined.—The term '5-percent shareholder' means any person holding 5 percent or more in value of the stock of the corporation at any time during the testing period.

"(2) Treatment of increases in holdings of non-5-percent shareholders.—If—

"(A) the percentage of the total value of the stock of the corporation held by persons who are not 5-percent shareholders, exceeds

"(B) the percentage of the total value of the stock of the corporation held at the beginning of the testing period by persons who would not have been 5-percent shareholders if the determination had been made at such time,

the percentage points representing such increase shall be taken into account as if it were an increase in the percentage holdings of a 5-percent shareholder.

"(j) Continuing Interest Where There Is Equity Structure Change.—For purposes of this section—

"(1) In general.—The continuing interest of the shareholders of the old loss corporation as the result of an equity structure change is the percentage of the value of the stock of the new loss corporation owned (immediately after the change) by the shareholders (immediately before the change) of the loss corporation, as the result of owning stock of the loss corporation.

"(2) 5-percent shareholder rules taken into account.—

"(A) In general.—If there has been an increase in the holdings of the 5-percent shareholders of the loss corporation during the testing period, the continuing interest percentage determined under paragraph (1) shall be adjusted by multiplying it by the percentage equal to 100 percent minus the percentage point increases in such holdings.

"(B) Rule for applying subparagraph (A).—In applying subparagraph (A) the testing period shall close immediately before the equity structure change.

"(3) Adjustments where stock of corporation other than acquiring corporation is used.—Appropriate adjustments shall be made in the application of this section in case of a reorganization where the stock exchanged for the stock or securities of the controlled corporation is stock of a corporation other than the acquiring corporation.

"(k) Testing Period.—For purposes of this section—

"(1) 3-year period.—Except as otherwise provided in this section, the testing period is the 3-year period ending on the day of any owner shift or equity structure change.

"(2) Shorter period where there has been recent trigger.—If there has been a trigger under this section affecting any carryforward of a loss or of an excess credit, the testing period for determining whether a 2d trigger has occurred with respect to such carryforward shall not begin before the trigger day of such earlier trigger.

"(l) Trigger Day.—For purposes of this section, the trigger day is—

"(1) in the case of a more than 50-percent owner shift, the 1st day as of which there is such a shift, or

"(2) in the case of a more than 50-percent equity structure change, the date of the transfer of the stock or property.

"(m) Definitions and Special Rules.—For purposes of this section—

"(1) Loss corporation.—The term 'loss corporation' means a corporation entitled to use a net operating loss carryforward. Except to the extent provided in regulations, such term includes any corporation with a net unrealized built-in loss.

"(2) Old loss corporation.—The term 'old loss corporation' means the corporation which (before the trigger) was a loss corporation.

"(3) New loss corporation.—The term 'new loss corporation' means a corporation which (after the trigger) is a loss corporation. Nothing in this section shall be treated as implying that the same corporation may not be both the old loss corporation and the new loss corporation.

"(4) Taxable income.—Taxable income shall be computed with the modifications set forth in section 172(d).

"(5) Value.—The term 'value' means fair market value.

"(6) Rules relating to stock.—

"(A) Stock not to include certain preferred stock.—The term 'stock' means stock other than stock described in section 1504(a)(4).

"(B) Determinations on basis of value.—Determinations of the percentage of stock of any corporation held by any person (or group of persons) shall be made on the basis of value.

"(n) Certain Additional Operating Rules.—For purposes of this section—

"(1) Treatment of capital contributions during testing period.—

"(A) In general.—For purposes of this section—

"(i) the trigger value of any old loss corporation shall be reduced by an amount equal to the aggregate capital contributions received by such corporation during the testing period, and

"(ii) such contributions shall not be taken into account for purposes of applying subsection (h)(3)(B), and, if identifiable as of the trigger, shall not be taken into account for purposes of applying the remainder of subsection (h).

"(B) Capital contribution defined.—

"(i) In general.—Except as otherwise provided in this subparagraph, the term 'capital contribution' means any amount received by the corporation—

"(I) for stock in the corporation, or

"(II) as a contribution to capital.

"(ii) Employee stock options and stock reinvestment plans excluded.—The term 'capital contribution' does not include any amount received by the corporation pursuant to an employee stock option plan or a dividend reinvestment plan which meets the standards prescribed by the Secretary for purposes of this subparagraph.

"(C) De minimis exception.—The Secretary may by regulations provide a de minimis exception to the provisions of subparagraph (A).

"(2) Coordination with section 172(b) carryover rules.—In the case of any pre-trigger loss for any taxable year (hereinafter in this paragraph referred to as the 'loss year') subject to limitation under this section, for purposes of determining under the second sentence of section 172(b)(2) the amount of such loss which may be carried to any taxable year, taxable income for any taxable year shall be treated as not greater than—

"(A) the trigger amount for such taxable year, reduced by

"(B) the pre-trigger losses for taxable years preceding the loss year.

Similar rules shall apply in the case of any credit or loss subject to limitation under section 383.

"(3) Constructive ownership.—Section 318 (relating to constructive ownership of stock) shall apply in determining ownership of stock, except that—

"(A) paragraph (1) of section 318(a) shall be applied by assuming that the family status as of the close of the testing period was the same as the family status as of the beginning of the testing period,

"(B) paragraph (2)(C) of section 318(a) shall be applied without the 50-percent limitation contained therein,

"(C) paragraph (3)(C) of section 318(a) shall be applied—

"(i) without the 50-percent limitation contained therein, and

"(ii) by considering a corporation as owning the stock (other than stock in such corporation) owned by or for any shareholder of such corporation in that proportion which the value of the stock which such shareholder owns in such corporation bears to the value of all stock in such corporation, and

"(D) to the extent provided in regulations, paragraph (4) of section 318(a) shall not apply.

Stock in any corporation which is treated as owned by such corporation by reason of paragraph (2) of section 318(a) shall be treated as stock which is not outstanding.

"(4) Waiver of back attribution in certain cases.—Under regulations prescribed by the Secretary, paragraph (3) of section 318(a) shall not apply to the extent that the application of such paragraph is not necessary to carry out the purposes of this section.

"(5) Prevention of double counting.—The regulations prescribed under this section shall include regulations under which—

"(A) section 318 shall be applied so that only 1 person will be treated as owning any share of stock, and

"(B) such person shall be the person which results in the largest percentage increase or the smallest continuing interest, whichever is applicable.

"(6) Stock acquired by reason of death.—If—

"(A) the basis of any stock in the hands of any person is determined under section 1014 (relating to property acquired from a decedent), or

"(B) stock is received by any person in satisfaction of a right to receive a pecuniary bequest,

such person shall be treated as owning such stock during the period such stock was owned by the decedent. The preceding sentence shall apply only in the case of the estate of the decedent or a person who is a member of the decedent's family (within the meaning of section 318(a)(1)(A)).

"(7) Certain changes in percentage ownership which are attributable to fluctuations in value not taken into account.—Under regulations prescribed by the Secretary, any change in proportionate ownership which is attributable solely to fluctuations in the relative fair market values of different classes or amounts of stock shall not be taken into account.

"(8) Reduction in trigger value where substantial nonbusiness assets.—

"(A) In general.—If, immediately after the trigger, the old loss corporation has substantial nonbusiness assets, the trigger value of such corporation shall be reduced by the excess (if any) of—

"(i) the fair market value of the nonbusiness assets of such corporation, over

"(ii) the nonbusiness asset share of indebtedness for which such corporation is liable.

"(B) Corporation having substantial nonbusiness assets.—For purposes of subparagraph (A), the old loss corporation shall be treated as having substantial nonbusiness assets if at least ⅓ of the value of the total assets of such corporation consists of nonbusiness assets.

"(C) Nonbusiness assets.—For purposes of this paragraph, the term 'nonbusiness assets' means—

"(i) cash,

"(ii) marketable stocks or securities, and

"(iii) any other asset which is—

"(I) not held for active use in a trade or business, or

"(II) disposed of (other than in the ordinary course of the old loss corporation's trade or business) pursuant to a plan or arrangement in existence before the trigger day.

"(D) Nonbusiness asset share.—For purposes of this paragraph, the nonbusiness asset share of the indebtedness of the corporation is an amount which bears the same ratio to such indebtedness as—

"(i) the fair market value of the nonbusiness assets of the corporation, bears to

"(ii) the fair market value of all assets of such corporation.

"(E) Treatment of subsidiaries.—For purposes of this paragraph, stock and securities in any subsidiary corporation shall be disregarded and the parent corporation shall be deemed to own its ratable share of the subsidiary's assets. For purposes of the preceding sentence, a corporation shall be treated as a subsidiary if the parent owns 50 percent or more of the combined voting power of all classes of stock entitled to vote, or 50 percent or more of the total value of shares of all classes of stock.

"(9) Ordering rule.—In any case in which—

"(A) a pre-trigger loss of a loss corporation for any taxable year is subject to the limitation of this section, and

"(B) a net operating loss of such corporation from such taxable year is not subject to such limitation,

taxable income shall, for purposes of this chapter, be treated as having been offset first by the loss subject to such limitation.

"(o) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section and section 383, including (but not limited to) regulations—

"(1) providing for the application of this section and section 383 where a trigger with respect to the old loss corporation is followed by a trigger with respect to the new loss corporation,

"(2) which treat warrants, obligations convertible into stock, and other similar interests as stock,

"(3) which treat options to acquire or sell stock as having been exercised, and

"(4) which provides such adjustments to the application of this section and section 383—

"(A) where 1 corporation owns stock in a 2nd corporation which owns stock in the 1st corporation,

"(B) where 1 corporation owns stock in a 2nd corporation which is extinguished by the merger of the 2nd corporation into the 1st corporation,

"(C) where the same persons own stock in 2 corporations,

"(D) where it is necessary to follow the ownership of old loss shareholders in the new loss corporation, or

"(E) in any other case where the foregoing rules of this section do not carry out the purpose of this section and section 383."

(b) Amendment of Section 383.—Section 383 (relating to special limitations on unused investment credits, etc.) is amended to read as follows:

"SEC. 383. SPECIAL LIMITATIONS ON CERTAIN EXCESS CREDITS, ETC.

"(a) Excess Credits.—

"(1) In general.—Under regulations prescribed by the Secretary, if a trigger occurs with respect to a corporation, the amount of any excess credit for any taxable year before the 1st post-trigger year which may be used in any post-trigger year shall be limited to an amount determined on the basis of the tax liability which is attributable to so much of the taxable income as does not exceed the trigger amount for such post-trigger year to the extent available after the application of section 382 and subsections (b) and (c) of this section.

"(2) Excess credit.—For purposes of paragraph (1), the term 'excess credit' means—

"(A) any unused general business credit of the corporation under section 39, and

"(B) any unused minimum tax credit of the corporation under section 53.

"(b) Limitation on Net Capital Loss.—If a trigger occurs with respect to a corporation, the amount of any net capital loss under section 1212 for any taxable year before the 1st post-trigger year which may be used in any post-trigger year shall be limited under regulations prescribed by the Secretary which shall be based on the principles applicable under section 382. Such regulations shall provide that any such net capital loss used in a post-trigger year shall reduce the amount of any pre-trigger net operating loss which may be used under section 382 in a subsequent post-trigger year.

"(c) Foreign Tax Credits.—If a trigger occurs with respect to a corporation, the amount of any excess foreign taxes under section 904(c) for any taxable year before the 1st post-trigger taxable year shall be limited under regulations prescribed by the Secretary which shall be consistent with purposes of this section and section 382.

"(d) Pro Ration Rules for Year Which Includes Trigger.—For purposes of this section, rules similar to the rules of subsections (b)(3) and (d)(1)(B) of section 382 shall apply.

"(e) Definitions.—Terms used in this section shall have the same respective meanings as when used in section 382, except that appropriate adjustments shall be made to take into account that the limitations of this section apply to credits and net capital losses."

(c) Conforming Amendment to Section 318(b).—Paragraph (5) of section 318(b) is amended by striking out "section 382(a)(3)" and inserting in lieu thereof "section 382".

(d) Repeal of Changes Made by Tax Reform Act of 1976.—

(1) Subsections (e) and (f) of section 806 of the Tax Reform Act of 1976 are hereby repealed.

(2) Subsection (g) of such section 806 is amended by striking out paragraphs (2) and (3).

(3) The repeals made by paragraph (1) and the amendment made by paragraph (2) shall not affect the amendment to section 383 of the Internal Revenue Code of 1954 made by subsection (f) of such section 806.

(e) Effective Dates.—

(1) In general.—

(A) The amendments made by subsections (a), (b), and (c) shall apply to—

(i) equity structure changes (as defined in section 382(g)(5) of the Internal Revenue Code of 1985 as amended by this section) pursuant to plans of reorganization adopted after December 31, 1985, and

(ii) 50-percent owner shifts (as defined in section 382(g)(2) of such Code as so amended) where the trigger day (as defined in section 382 of such Code as so amended) occurs after December 31, 1985.

(B) For purposes of determining whether there is a more than 50-percent owner shift after December 31, 1985, the testing period shall not begin before October 28, 1985.

(2) For amendments to tax reform act of 1976.—The repeals made by subsection (d)(1) and the amendment made by subsection (d)(2) shall take effect on the date of the enactment of the Tax Reform Act of 1976 except that such amendment shall not apply in any case to which the amendments repealed by subsection (d)(1) apply by reason of an election under section 368(b) of the Revenue Act of 1978.

(3) Bankruptcy proceedings.—In the case of a reorganization described in subparagraph (G) of section 368(a)(1) of such Code or an exchange of debt for stock in a title 11 or similar case, as defined in section 368(a)(3) of such Code, the amendments made by subsections (a), (b), and (c) shall not apply to any 50-percent equity structure change or 50-percent owner shift resulting from such a reorganization or proceeding if—

(A) a plan of reorganization was filed with the court before September 26, 1985, or

(B) the reorganization occurs before January 1, 1989.

In any case to which subparagraph (B) applies, only the amount of claims held by persons which were creditors as of September 25, 1985, or which become creditors under written contracts which are binding on September 25, 1985, and who receive stock in the reorganization shall be taken into account.

Subtitle C—Recognition of Gain and Loss on Distributions of Property in Liquidation

SEC. 321. AMENDMENT TO SECTION 336.

(a) General Rule.—Section 336 (relating to distributions of property in liquidation) is amended to read as follows:

"SEC. 336. DISTRIBUTIONS OF PROPERTY IN LIQUIDATION.

"(a) General Rule.—Except as otherwise provided in this section, gain or loss shall be recognized to a corporation on the distribution of property in complete liquidation as if such property were sold to the distributee at its fair market value.

"(b) Nonrecognition in Certain Corporate Liquidations.—

"(1) In general.—In the case of any liquidation to which section 332 applies where there is not a minority shareholder, no gain or loss shall be recognized to the liquidating corporation on the distribution of property in complete liquidation.

"(2) Partial recognition where minority shareholder.—In the case of any liquidation to which section 332 applies where there is a minority shareholder, the 80-percent distributee's share of each gain or loss which (but for this paragraph) would be recognized under subsection (a) shall not be recognized.

"(3) Determination of 80-percent distributee's share.—For purposes of this subsection—

"(A) In general.—Except as provided in subparagraph (B), the 80-percent distributee's share of any gain or loss is the percentage (in value) of the stock of the liquidating corporation which is held by the 80-percent distributee on the date of the adoption of the plan of complete liquidation.

"(B) Increase for certain shares acquired from minority shareholders.—The percentage determined under subparagraph (A) shall be increased by an amount determined by treating—

"(i) any stock acquired (after the adoption of the plan) by the 80-percent distributee from a minority shareholder for cash, and

"(ii) any stock of a minority shareholder with respect to which the liquidating distribution consists of cash,

as held by the 80-percent distributee on the day on which the plan of liquidation was adopted. This subparagraph shall not apply in the case of any liquidation which is a qualified section 332 liquidation (as defined in section 337(b)(2)).

"(4) Other definitions.—For purposes of this subsection—

"(A) 80-percent distributee.—The term '80-percent distributee' means any shareholder that meets the 80-percent stock ownership requirement specified in section 332(b).

"(B) Minority shareholder.—The term 'minority shareholder' means any shareholder in the liquidating corporation other than the 80-percent distributee.

"(c) Exception for Qualified Stock Held in Certain Active Business Corporations.—

"(1) In general.—In the case of any liquidation of an active business corporation where 1 or more shareholders hold qualified stock, the applicable percentage of each gain or loss which (but for this paragraph) would be recognized under subsection (a) shall not be recognized.

"(2) Paragraph (1) not to apply to certain items.—Paragraph (1) shall not apply to—

"(A) any gain or loss which is an ordinary gain or loss,

"(B) any gain or loss on a capital asset held for not more than 6 months, and

"(C) any gain to the extent section 453B applies.

"(3) Applicable percentage.—The term 'applicable percentage' means the percentage (by value) of the stock of the corporation which is qualified stock (determined as of the date of the adoption of the plan of complete liquidation).

"(4) Qualified stock.—For purposes of this subsection—

"(A) In general.—The term 'qualified stock' has the meaning given to such term by section 311(e)(1).

"(B) Rules for pass-thru entities.—Rules similar to the rules of section 311(e)(1)(C) shall apply.

"(5) Qualified active business corporation.—For purposes of this subsection—

"(A) In general.—The term 'active business corporation' means any corporation if—

"(i) substantially all of the assets of such corporation consists of the assets of 1 or more qualified businesses, and

"(ii) no substantial part of such corporation's nonbusiness assets were acquired in a transaction to which section 351 applied, or as a contribution to capital, within the 5-year period ending on the date of the completion of the liquidation.

"(B) Qualified business, etc.—The terms 'qualified business' and 'nonbusiness asset' have the respective meanings given to such terms by section 311(e)(2)(B).

"(C) Treatment of subsidiaries.—In determining whether any liquidating corporation is a qualified active business corporation, such corporation shall be treated as owning its proportionate share of the assets of all other corporations in which it owns 50 percent or more in value of the outstanding stock.

"(6) Coordination with subsection (b).—In the case of any liquidation described in subsection (b) where 1 or more shareholders own qualified stock, the nonrecognition under this subsection shall be in addition to the nonrecognition under subsection (b).

"(d) Exception for Certain Liquidations to Which Part III Applies.—This section (and section 337) shall not apply with respect to any exchange or distribution of property to the extent there is nonrecognition of gain or loss with respect to such property to the recipient under part III.

"(e) Special Rule Where Liabilities Exceed Basis.—

"(1) In general.—For purposes of this section, if any property distributed in the liquidation is subject to a liability, or the shareholder assumes a liability of the liquidating corporation in connection with the distribution, the fair market value of such property shall be treated as not less than the amount of such liability.

"(2) Special rule where property distributed with respect to qualified stock.—If—

"(A) the liability referred to in paragraph (1) exceeds the adjusted basis of the property in the hands of the liquidating corporation, and

"(B) such property is distributed with respect to qualified stock,

subsection (b) shall not apply to any gain on such property."

(b) Definition of Qualified Stock.—Paragraph (1) of section 311(e) (defining qualified stock) is amended by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(A) In general.—The term 'qualified stock' means stock held by any person (other than a corporation) if—

"(i) such person held such stock for at least 5 years (or, if lesser, the period during which the liquidating corporation (or predecessor corporation) was in existence), and

"(ii) at all times during such period, such person held at least 10 percent in value of the outstanding stock of the distributing corporation (or predecessor corporation).

"(B) Determination of period for which stock held.—Section 318 shall apply in determining ownership of stock under subparagraph (A); except that, in applying section 318(a)(1), the term 'family' includes any individual described in section 267(c)(4) and any spouse of any such individual. Any person who acquires any stock by reason of the death of an individual shall be treated as owning such stock for all periods during which such stock was held by the decedent."

SEC. 322. AMENDMENT TO SECTION 337.

Section 337 (relating to gain or loss on sales or exchanges in connection with certain liquidations) is amended to read as follows:

"SEC. 337. GAIN OR LOSS ON SALES OR EXCHANGES IN CONNECTION WITH CERTAIN LIQUIDATIONS.

"(a) General Rule.—In the case of any liquidation to which this section applies, gain or loss shall not be recognized to the liquidating corporation from the sale or exchange by it of property within the 12-month period referred to in subsection (b)(1) to the extent gain or loss would not be recognized under section 336 if such property were distributed to the shareholders of the liquidating corporation.

"(b) Liquidations to Which This Section Applies.—

"(1) In general.—Except as otherwise provided in this subsection, this section shall apply to any liquidation of a corporation—

"(A) if within the 12-month period beginning on the date on which the corporation adopts a plan of complete liquidation, all of the assets of the corporation are distributed in complete liquidation (less assets retained to meet claims), and

"(B) if—

"(i) such liquidation is a qualified section 332 liquidation, or

"(ii) the liquidating corporation is an active business corporation and 1 or more shareholders in the liquidating corporation hold qualified stock.

For purposes of this subsection, the terms 'qualified stock' and 'active business corporation' have the respective meanings given to such terms by section 336.

"(2) Qualified section 332 liquidation.—

"(A) In general.—For purposes of paragraph (1), the term 'qualified section 332 liquidation' means any liquidation to which section 332 applies if—

"(i) within the 12-month period beginning on the date of the adoption of a plan of liquidation by the liquidating corporation, such corporation and each distributee corporation is completely liquidated, and

"(ii) none of the complete liquidations referred to in clause (i) is a liquidation to which section 333 applies.

"(B) Distributee corporation.—For purposes of subparagraph (A), the term 'distributee corporation' means any corporation which receives a distribution to which section 332 applies in a complete liquidation of the liquidating corporation. Such term also includes any other corporation which receives a distribution to which section 332 applies in a complete liquidation of a corporation which is a distributee corporation under the preceding sentence or prior application of this sentence.

"(C) Treatment of certain section 332 liquidations of active business corporations.—In the case of a liquidation to which section 332 applies of an active business corporation with 1 or more shareholders who hold qualified stock, unless such liquidation is a qualified section 332 liquidation, the exceptions contained in section 336(b) shall not apply for purposes of determining the amount of gain or loss recognized under subsection (a).

"(3) Collapsible corporations and liquidations to which section 333 applies.—This section shall not apply to any sale or exchange—

"(A) made by a collapsible corporation (as defined in section 341(b)), or

"(B) following the adoption of a plan of complete liquidation, if section 333 applies with respect to such liquidation.

"(c) Definitions and Special Rules.—

"(1) Property defined.—For purposes of subsection (a), the term 'property' does not include—

"(A) stock in trade of the corporation, or other property of a kind which would properly be included in the inventory of the corporation if on hand at the close of the taxable year, and property held by the corporation primarily for sale to customers in the ordinary course of its trade or business,

"(B) installment obligations acquired in respect of the sale or exchange (without regard to whether such sale or exchange occurred before, on, or after the date of the adoption of the plan referred to in subsection (a)) of stock in trade or other property described in subparagraph (A) of this paragraph, and

"(C) installment obligations acquired in respect of property (other than property described in subparagraph (A)) sold or exchanged before the date of the adoption of such plan of liquidation.

"(2) Section to apply to certain transaction before adoption of plan of liquidation.—Subsection (a) shall also apply to any loss on the sale or exchange (other than in the ordinary course of the liquidating corporation's trade or business) of property during the 1-year period ending on the adoption of the plan of complete liquidation or at any time after the adoption of the plan of liquidation.

"(3) Special rule for involuntary conversions.—If—

"(A) there is an involuntary conversion (within the meaning of section 1033) of property of a distributing corporation and there is a complete liquidation of such corporation which qualifies under subsection (b),

"(B) the disposition of the converted property (within the meaning of clause (ii) of section 1033(a)(2)(E)) occurs during the 60-day period which ends on the day before the 1st day of the 12-month period, and

"(C) such corporation elects the application of this paragraph at such time and in such manner as the Secretary may by regulations prescribe,

then for the purposes of this section such disposition shall be treated as a sale or exchange occurring within the 12-month period."

SEC. 323. AMENDMENT TO SECTION 338.

(a) Recognition of Gain in Case of Elections Under Section 338.—Paragraph (1) of section 338(a) (relating to certain stock purchases treated as asset acquisitions) is amended by striking out "to which section 337 applies".

(b) Exception for Qualified Stock.—Subsection (c) of section 338 is amended to read as follows:

"(c) Exception for Qualified Stock in Active Business Corporations.—

"(1) In general.—If—

"(A) the target corporation is an active business corporation, and

"(B) as of the day on which the 1st stock purchase included in the qualified stock purchase was made, 1 or more shareholders held qualified stock in such corporation,

the amount of gain or loss recognized under subsection (a) shall be determined under section 336 (without regard to subsection (b) thereof) as if the target corporation distributed all of its assets in liquidation on the acquisition date.

"(2) Determination of applicable percentage.—For purposes of determining the amount of gain or loss recognized under subsection (a) of this section, the applicable percentage used for purposes of section 336(c) shall be determined as of the 1st day on which there was a purchase of stock included in the qualified stock purchase.

"(3) Active business corporation, etc.—For purposes of this subsection, the terms 'active business corporation' and 'qualified stock' have the respective meanings given to such terms by section 336."

SEC. 324. TECHNICAL AMENDMENT.

Subsection (d) of section 1362 (relating to termination) is amended by adding at the end thereof the following new paragraph:

"(4) Termination in the case of certain liquidations.—

"(A) In general.—If—

"(i) a corporation elects on or after November 20, 1985, to be an S corporation for any taxable year,

"(ii) such corporation (or predecessor) was a C corporation for any prior taxable year, and

"(iii) such corporation liquidates before the close of the 3-year period beginning on the 1st day of the 1st taxable year for which such election was effective,

such election shall be terminated as of such 1st day.

"(B) Statute of limitations.—If any election is terminated under subparagraph (A)—

"(i) the period for the assessment of any deficiency of the liquidating corporation (or any shareholder thereof) attributable to such termination shall not expire before the expiration of the date 1 year after the date of the liquidation, and "(ii) the period for filing a claim for credit or refund of any overpayment attributable to such termination shall not expire before the expiration of the date 1 year from the date of the liquidation.

Such deficiency may be assessed before the expiration of such 1-year period, and any credit or refund of such overpayment may be allowed or made if claim therefor is filed during such 1-year period, notwithstanding the provisions of any law or rule of law which would otherwise prevent such assessment (or the allowance or making of such refund)."

SEC. 325. EFFECTIVE DATE.

(a) General Rule.—Except as otherwise provided in this section, the amendments made by this subtitle shall apply to distributions or sales and exchanges on or after November 20, 1985 and to any transaction described in section 338 of the Internal Revenue Code of 1954 for which the acquisition date occurs on or after November 20, 1985.

(b) Exception for Plans of Liquidation Adopted Before November 20, 1985.—

(1) In general.—The amendments made by this subtitle shall not apply to distributions or sales and exchanges made pursuant to a plan of liquidation adopted before November 20, 1985.

(2) Special rules for determining when plan adopted.—For purposes of paragraph (1), transactions shall be treated as made pursuant to a plan of liquidation adopted before November 20, 1985—

(A) if before November 20, 1985—

(i) the board of directors of the liquidating corporation adopted a resolution to solicit shareholder approval for a transaction of a kind described in section 336 or 337, or

(ii) the shareholders or board of directors have approved such a transaction,

but only if a plan of complete liquidation is adopted before January 1, 1988, and at least 1 sale or distribution pursuant to such plan is made before such date,

(B) if before November 20, 1985—

(i) there has been an offer to purchase a majority of the voting stock of the liquidating corporation, or

(ii) the board of directors of the liquidating corporation has adopted a resolution approving an acquisition or recommending the approval of an acquisition to the shareholders,

but only if the sale or distribution is pursuant to or was contemplated by the terms of the offer or resolution, a plan of complete liquidation is adopted before January 1, 1988, and there is at least 1 sale or distribution pursuant to such plan of liquidation before January 1, 1988, or

(C) a ruling request was submitted to the Secretary of the Treasury or his delegate with respect to a transaction of a kind described in section 336 or 337 and (pursuant to the transaction described in the ruling request) a plan of complete liquidation is adopted, and at least 1 sale or distribution pursuant to such plan occurs, before the later of January 1, 1988, or 90 days after the date on which the Secretary of the Treasury or his delegate issues a ruling with respect to such transaction.

For purposes of the preceding sentence, any election under section 338 shall be treated as an adoption of a plan of complete liquidation, and such liquidation shall be treated as occurring on the acquisition date.

(3) Special rule for action by parent.—For purposes of paragraph (2), any action taken by the board of directors or shareholders of a corporation with respect to any subsidiary of such corporation shall be treated as taken by the board of directors or shareholders of such subsidiary.

(c) Special Rule.—In the case of the United States Shelter Corporation, subsection (b)(1) shall be applied by substituting "January 1, 1986" for "November 20, 1985".

Subtitle D—Real Estate Investment Trusts

SEC. 331. AMENDMENT OF THE RULES AFFECTING REIT EARNINGS AND PROFITS UNDER THE DEPRECIATION SYSTEM.

(a) In General.—Section 857 (relating to taxation of real estate investment trusts and their beneficiaries) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) Taxation of Income of Shareholders of Certain Real Estate Investment Trusts.—

"(1) In general.—If a person sells or exchanges stock in a real estate investment trust, the gain recognized on such sale or exchange shall be treated as ordinary income to the extent of the amount of any recapture distribution previously received with respect to such stock.

"(2) Recapture distribution.—For purposes of this subsection, a recapture distribution is a distribution by a real estate investment trust for which there is in effect, a valid election under subsection (d)(2) of this section and such distribution—

"(A) is designated in accordance with subparagraph (C) as an amount attributable to recovery property (other than property described in section 168(b)(3)), which is section 1245 recovery property (as defined in section 1245(a)(5)) or section 1250 property (as defined in section 1250(c)),

"(B) would have qualified as a dividend under section 316 but for the election provided by subsection (d)(2), and

"(C) is designated as a recapture distribution by the real estate investment trust in a written notice to its shareholders in accordance with regulations prescribed by the Secretary.

"(3) Termination of real estate investment trust status.—If the election of a real estate investment trust under section 856(c)(1) terminates as provided under section 856(g), then at the time of such termination, a shareholder shall include in gross income for the taxable year of such termination any recapture distribution previously received."

(b) Election.—Subsection (d) of section 857 is amended to read as follows:

"(d) Earnings and Profits.—

"(1) In general.—The earnings and profits of a real estate investment trust for any taxable year (but not its accumulated earnings and profits) shall not be reduced by any amount which is not allowable as a deduction in computing its taxable income for such taxable year. For purposes of this subsection, the term 'real estate investment trust' includes a domestic corporation, trust, or association which is a real estate investment trust determined without regard to the requirements of subsection (a).

"(2) Election with respect to certain recovery property.—A real estate investment trust may elect to compute its earnings and profits without regard to the exception in section 312(k)(3), relating to adjustments to earnings and profits for depreciation with respect to recovery property (within the meaning of section 168). The election shall be made (in the manner provided in regulations prescribed by the Secretary) on or before the due date (including any extensions of time) for filing such trust's return of tax under this chapter for the first taxable year in which such election is to apply. The election made under this paragraph (2) shall be irrevocable."

SEC. 332. FULL EXEMPTION FOR REIT'S FROM THE SECTION 291 SPECIAL RULES FOR CORPORATE TAX PREFERENCE ITEMS.

(a) In General.—The matter preceding paragraph (1) of the first sentence of section 291(a) (relating to special rules relating to corporate preference items) is amended by striking out "a corporation" and inserting in lieu thereof "a corporation other than a real estate investment trust (as defined in section 856(a))".

(b) Conforming Amendment.—Section 291 is amended by striking out subsection (d) and redesignating subsection (e) as subsection (d).

SEC. 333. EXPANSION OF OPPORTUNITIES FOR SALE WITHOUT IMPOSITION OF THE 100 PERCENT PROHIBITED TRANSACTIONS TAX.

(a) In General.—

(1) Other dispositions included.—Subparagraph (C) of section 857(b)(6) (relating to prohibited transaction safe havens) is amended—

(A) by inserting "or other dispositions" after "does not include a sale", and

(B) by inserting "or exchanges" after "sales" in the heading thereof.

(2) Selling price.—Clause (ii) of section 857(b)(6)(C) is amended by striking out "20" and inserting in lieu thereof "30".

(3) Number of sales.—Clause (iii) of section 857(b)(6)(C) is amended by striking out "5" and inserting in lieu thereof "10".

(b) Aggregation of Units in Certain Cases.—Subparagraph (D) of section 857(b)(6) (setting forth special rules for application of safe haven provisions) is amended by adding at the end thereof the following new clause:

"(viii) If a property held for production of rental income for not less than four years is converted to condominiums or cooperative units, sales of qualified units within the property during a taxable year shall constitute one sale. A unit shall be qualified if aggregate expenditures made by the trust during the applicable conversion period and includible in the basis of the unit are within the amount allowable under clause (ii) of subparagraph (C). The applicable conversion period for a unit shall be the period ending on the date of sale of such unit and beginning on the earlier of the date four years prior to such sale or the date of termination of rental use of at least one unit within the property for purposes of conversion."

SEC. 334. ELIMINATION OF THE INDEPENDENT CONTRACTOR REQUIREMENT.

(a) Subparagraph (C) of section 856(d)(2) (relating to exclusions of amounts received with respect to rental property that the REIT operates other than through an independent contractor) is amended by inserting "in which a real estate investment trust directly or indirectly holds a capital and income interest of less than 20 percent" after "real or personal property".

(b) Paragraph (4) of section 856(e) (relating to foreclosure property) is amended by striking out subparagraph (C), by adding "or" at the end of subparagraph (A), and by striking out ", or" at the end of subparagraph (B) and inserting in lieu thereof a period.

SEC. 335. MODIFICATION OF THE STANDARDS FOR DISQUALIFICATION OF A REIT AS A PERSONAL HOLDING COMPANY.

Paragraph (6) of section 856(a) (imposing the personal holding company limitation) is amended to read as follows:

"(6) which, if all of its adjusted ordinary gross income (as defined in section 543(b)(2)) constituted personal holding company income (as defined in section 543), would not be a personal holding company as defined in section 542 modified as follows—

"(A) the stock ownership requirement of section 542(a)(2) shall be applicable only with respect to the first full taxable year following the effective registration of the shares of the corporation, trust or association under the Securities Act of 1933, as amended (15 U.S.C. 77a–77aa), and

"(B) the attribution of ownership of stock to an individual under section 544(a)(2) by virtue of direct or indirect ownership of such stock by or for his partners shall not be applicable in the case of a corporation, trust or association otherwise meeting the requirements of this part; and".

SEC. 336. AUTHORIZATION FOR REIT'S TO HAVE WHOLLY OWNED SUBSIDIARIES.

(a)(1) Subparagraph (C) of section 856(c)(4) is amended by inserting "or shares of a REIT subsidiary" after the parenthetical.

(2) Subparagraph (B) of section 856(c)(6) is amended by inserting "in a REIT subsidiary or" after the second parenthetical.

(3) Paragraph (6) of section 856(c) is amended by redesignating subparagraph (D) as subparagraph (E) and by inserting after subparagraph (C) the following new subparagraph:

"(D) The term 'REIT subsidiary' means a corporation all of the shares of which are owned by a real estate investment trust which meets the requirements of this part."

(b) Section 857, as amended by section 33 of this Act, is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) TREATMENT AS 1 ENTITY.—For purposes of this subtitle, a real estate investment trust and its REIT subsidiaries (if any) shall be treated as 1 entity."

SEC. 337. AMENDMENT OF THE PRESENT RULES DISQUALIFYING INCOME IN THE FORM OF RENTS OR INTERESTS BASED ON NET INCOME OR PROFITS OF THE TENANT OR BORROWER.

(a)(1) Subparagraph (A) of section 856(d)(2) is amended by striking out "paragraph (4)" and inserting in lieu thereof "paragraphs (4) and (6)".

(2) Subsection (d) of section 856 is amended by adding at the end thereof the following new paragraph:

"(6) SPECIAL RULE FOR CERTAIN PROPERTY SUBLEASED BY TENANT OF REAL ESTATE INVESTMENT TRUSTS.—If—

"(A) a real estate investment trust receives or accrues, with respect to real or personal property, amounts from a tenant who derives substantially all of its income with respect to such property from the subleasing of substantially all of such property, and

"(B) such tenant receives or accrues, directly or indirectly from subtenants only amounts which are not described in subparagraph (A) of paragraph (2),

then the amounts that the trust receives or accrues from the tenant shall not be excluded from the term 'rents from real property' solely by reason of being based on the net income, net profits or profits of such tenant."

(b)(1) Subsection (f) of section 856 (relating to qualifying interest income) is amended by striking out "and" at the end of paragraph (1), by striking out the period at the end of paragraph (2) and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:

"(3) any amounts so received or accrued with respect to an obligation secured by a mortgage on real property or an interest in real property shall not be excluded from the term 'interest' solely by reason of being based on the net income, net profits or net cash flow of the debtor from such property, if—

"(A) the debtor derives all or substantially all of its gross income with respect to such property by the leasing of all or substantially all of its interests in such property to tenants, and

"(B) the amounts received or accrued directly or indirectly by the debtor from such tenants are not described in subparagraph (A) of paragraph (2) of subsection (d)."

(2) The next to the last sentence of section 856(f) is amended by striking out "provisions of this subsection" and inserting in lieu thereof "provisions of paragraphs (1) and (2) of this subsection".

SEC. 338. AMENDMENT OF SECTION 857(b)(3)(C) REGARDING PAYMENT OF CAPITAL GAIN DIVIDENDS BY REAL ESTATE INVESTMENT TRUSTS THAT HAVE NET OPERATING LOSS CARRYOVERS FROM PRIOR YEARS.

The last sentence of section 857(b)(3)(C) (relating to the definition of "capital gain dividend" for purposes of subchapter M, part II) is amended to read as follows: "For purposes of this subparagraph, the net capital gain shall be deemed not to exceed the real estate investment trust taxable income (determined without regard to the deduction for dividends paid (as defined in section 561) and the net operating loss deduction (as defined in section 172) for the taxable year)."

SEC. 339. AMENDMENT OF SECTION 857(b)(2)(F) SO THAT NET LOSSES FROM PROHIBITED TRANSACTIONS ARE TAKEN INTO ACCOUNT IN COMPUTING REIT TAXABLE INCOME.

Subparagraph (F) of section 857(b)(2) (defining REIT taxable income) is amended to read as follows:

"(F) There shall be excluded an amount equal to any net income derived from prohibited transactions."

SEC. 340. AMENDMENT OF SECTION 857(b)(3)(C) REQUIREMENT FOR CAPITAL GAIN DIVIDENDS SPECIAL NOTICE WITHIN 30 DAYS AFTER THE CLOSE OF THE REIT TAXABLE YEAR.

Subparagraph (C) of section 857(b)(3) (relating to capital gains) is amended—

(1) by striking out "mailed to its shareholders or holders of beneficial interests" and inserting in lieu thereof "mailed to the Secretary", and

(2) by striking out "30 days" and inserting in lieu thereof "45 days".

SEC. 341. MITIGATION OF THE SECTION 6697 PENALTY IMPOSED ON A REIT MAKING A DEFICIENCY DIVIDEND DISTRIBUTION DUE TO ADJUSTMENT OF REIT TAXABLE INCOME.

(a) REVISION OF LIMITATION.—Subsection (b) of section 6697 (relating to assessable penalties with respect to liability of tax of qualified investment entities) is amended to read as follows:

"(b) LIMITATION.—The penalty payable under this section with respect to any determination shall not exceed the lesser of—

"(1) one-half of the amount of the deduction allowed by section 860(a) for such taxable year.

"(2) 5 percent of real estate investment trust taxable income (as defined in section 857(b)(2), but determined without regard to section 857(b)(2)(B) and by excluding any net capital gain) for the 3 taxable years immediately preceding the taxable year in which the claim for the deduction allowed by section 860(a) is filed, or

"(3) one-half of 1 percent of the value of the total assets of the qualified investment entity."

(b) REASONABLE CAUSE EXCEPTION.—Section 6697 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) SPECIAL RULE FOR TAX TREATMENT BASED UPON REASONABLE CAUSE.—The penalty payable under this section shall not be imposed to the extent that the tax treatment of any item giving rise to the adjustment described in section 860(d) is due to reasonable cause and not to willful neglect."

SEC. 342. EXCLUSION FROM REIT DISTRIBUTION REQUIREMENT FOR NON-CASH INCOME RECOGNIZED BY A REIT UNDER CERTAIN DEFERRED PAYMENT AND INSTALLMENT SALES RULES ADDED BY THE DEFICIT REDUCTION ACT OF 1984.

Subparagraph (B) of section 857(a)(1) (relating to reduction of REIT taxable income for purposes of determining whether a deduction for dividends paid satisfies the distribution requirement of section 857(a)(1)) is amended by striking out "and" at the end of clause (i), by striking out ", and" at the end of clause (ii) and inserting in lieu thereof "; and", and by adding at the end thereof the following new clause:

"(iii) amounts included in income—

"(I) as recapture income pursuant to section 453(i),

"(II) as rent and interest pursuant to section 467, or

"(III) as original issue discount on instruments described in section 1274(c),

to the extent such amounts exceed the amount of money and the fair market value of other property received during the taxable year by the trust with respect to those transactions from which such income was derived, and".

SEC. 343. EXCLUSION FROM REIT DISTRIBUTION REQUIREMENT FOR INCOME RECOGNIZED BY A REIT UPON A DETERMINATION THAT AN EXCHANGE OF CERTAIN REAL PROPERTY FAILED TO MEET THE REQUIREMENTS OF SECTION 1031.

Subparagraph (B) of section 857(a)(1) (relating to reduction of REIT taxable income for purposes of determining whether a deduction for dividends paid satisfies the distribution requirement of section 857(a)(1)), as amended by section 342 of this Act, is amended by striking out "and" at the end of clause (ii), by striking out ", and" at the end of clause (iii) and inserting in lieu thereof "; and", and by adding at the end thereof the following new clause:

"(iv) income recognized on the disposition of a real estate asset if such income is recognized pursuant to a determination (as described in section 860(e)) that such disposition was not part of an exchange within the meaning of section 1031, and if failure to meet the requirements of section 1031 is due to reasonable cause and not due to willful neglect, and".

TITLE IV—TAX SHELTERS

SEC. 401. EXTENSION OF AT RISK LIMITATIONS TO REAL PROPERTY.

(a) In General.—Paragraph (3) of section 465(c) (relating to activities to which section applies) is amended by striking out subparagraph (D) and by redesignating subparagraph (E) as subparagraph (D).

(b) Qualified Nonrecourse Financing Treated as an Amount at Risk.—Section 465(b) (relating to amounts considered at risk) is amended by adding at the end thereof the following new paragraph:

"(6) Qualified nonrecourse financing treated as amount at risk.—For purposes of this section—

"(A) In general.—Notwithstanding any other provision of this subsection, in the case of an activity of holding real property, a taxpayer shall be considered at risk with respect to any qualified nonrecourse financing which is secured by real property used in such activity.

"(B) Qualified nonrecourse financing.—For purposes of this paragraph, the term 'qualified nonrecourse financing' means any financing—

"(i) which is borrowed by the taxpayer with respect to the activity of holding real property,

"(ii) which is borrowed by the taxpayer from a qualified person or represents a loan from any Federal, State, or local government or instrumentality thereof, or is guaranteed by any Federal, State, or local government or instrumentality thereof,

"(iii) which is not used by the taxpayer to acquire an interest in property from a person who is a related person (within the meaning of paragraph (3)(C)),

"(iv) except to the extent provided in regulations, with respect to which no person is personally liable for repayment, and

"(v) which is not convertible debt.

"(C) Special rule for partnerships.—In the case of a partnership, a partner's share of any qualified nonrecourse financing of such partnership shall be determined on the basis of the partner's share of liabilities of such partnership (within the meaning of section 752).

"(D) Qualified person defined.—For purposes of this paragraph, the term 'qualified person' has the same meaning given such term by section 46(c)(8)(D)(iv).

"(E) Activity of holding real property.—For purposes of this paragraph, the activity of holding real property shall—

"(i) include personal property and services which are incidental to making real property available as living accommodations, and

"(ii) not include the holding of mineral property."

(c) Effective Date.—The amendments made by this section shall apply to losses incurred after December 31, 1985, with respect to property acquired by the taxpayer after December 31, 1985.

SEC. 402. LIMITATION ON DEDUCTION FOR INVESTMENT INTEREST.

(a) General Rule.—Subsection (e) of section 163 (relating to limitation on interest on investment indebtedness) as redesignated by section 135 is amended to read as follows:

"(e) Limitation on Investment Interest.—

"(1) In general.—In the case of a taxpayer other than a corporation, the amount allowed as a deduction under this chapter for investment interest for any taxable year shall not exceed the sum of—

"(A) $10,000 ($20,000, in the case of a joint return), plus

"(B) the net investment income for the taxable year.

In the case of a trust, the amount specified in subparagraph (A) shall be zero. The dollar amount applicable under subparagraph (A) shall be reduced by the amount of consumer interest (not including qualified residence interest but including interest described in subsection (d)(3)(B)(i)) allowable as a deduction for the taxable year after the application of subsection (d).

"(2) Carryover of disallowed interest.—The amount not allowed as a deduction for any taxable year by reason of paragraph (1) shall be treated as investment interest paid or accrued by the taxpayer in the succeeding taxable year.

"(3) Investment interest.—For purposes of this subsection, the term 'investment interest' means any interest allowable as a deduction under this chapter (determined without regard to paragraph (1)); except that such term shall not include—

"(A) any consumer interest (as defined in subsection (d)(2) without regard to the exceptions contained in subparagraph (B) thereof), and

"(B) any interest which is allowable as a deduction in computing adjusted gross income and is not attributable to a limited business interest.

For purposes of the preceding sentence, the term 'interest' includes any amount allowable as a deduction in connection with personal property used in a short sale.

"(4) Net investment income.—For purposes of this subsection—

"(A) In general.—The term 'net investment income' means the excess of—

"(i) investment income, over

"(ii) investment expenses.

"(B) Investment income.—The term 'investment income' means the sum of—

"(i) the gross income from interest, dividends, rents, and royalties,

"(ii) any amount treated under sections 1245, 1250, or 1254 as ordinary income, and

"(iii) any capital gain net income (reduced by the amount of any deduction under section 1202(a) allocable to such gain) attributable to the disposition of property held for investment,

but only to the extent such amounts are not derived from the conduct of a trade or business.

"(C) Investment expenses.—The term 'investment expenses' means the deductions allowable under this chapter (other than for interest) which are directly connected with the production of investment income.

"(D) Special rule for certain amounts attributable to net leases.—The net investment income of a taxpayer for any taxable year shall be increased by an amount equal to the excess (if any) of—

"(i) the deductions allowable for such taxable year under this section (determined without regard to this subsection) and sections 162, 164(a) (1) or (2), or 212 attributable to a net lease, over

"(ii) the income for such taxable year attributable to such property.

"(E) Income and losses from limited business interests taken into account.—Any income or loss derived from a limited business interest shall be taken into account in computing net investment income.

"(5) Limited business interest.—For purposes of this subsection—

"(A) In general.—The term 'limited business interest' means—

"(i)(I) any interest as a limited partner in a partnership, and

"(II) any other interest as a partner in a partnership if the taxpayer does not actively participate in the management of such partnership,

"(ii) any interest as a shareholder in an S corporation if the taxpayer does not actively participate in the management of such corporation,

"(iii) any interest of a lessor in property subject to a lease if—

"(I) for the taxable year the sum of the deductions of the lessor with respect to such property which are allowable solely by reason of section 162 (other than rentals and reimbursed amounts with respect to such property) is less than 15 percent of the rental income produced by such property, or

"(II) the lessor is either guaranteed a specific rental or is guaranteed in whole or in part against loss of income, and

"(iv) any interest as a limited entrepreneur (within the meaning of section 464(e)(2)).

"(B) Exception for certain low-income housing.—A limited business interest shall not include an interest in—

"(i) any project described in section 168(j)(3)(B),

"(ii) a qualified residential rental project described in section 142(c)—

"(I) section 142(c)(1)(A), or

"(II) section 142(c)(1)(B),

but only if such project is financed from the proceeds of tax-exempt obligations, or

"(iii) any low-income rental housing described in section 167(k).

Net investment income shall be computed without regard to any such interest.

"(C) Special rules for subparagraph (A) (iii).—For purposes of determining whether an interest is a net lease under subparagraph (A)(iii)—

"(i) Certain personal services taken into account.—In the case of—

"(I) an individual, or

"(II) a partnership (other than a partnership in which an interest is held by a limited partner),

which manages property held by such individual or partnership, deductions under section 162 with respect to such property shall be treated as including the fair market value of management or repair services performed by such individual or a partner in such partnership with respect to such property.

"(ii) Real property leases.—

"(I) 2 or more leases.—If a parcel of real property of the taxpayer is leased under 2 or more leases, subparagraph (A)(iii) shall, at the election of the taxpayer, be applied by treating all leased portions of such property as subject to a single lease.

"(II) Property held for more than 5 years.—At the election of the taxpayer, subparagraph (A)(iii) shall not apply with respect to real property of the taxpayer which has been in use by the taxpayer for more than 5 years.

"(6) Coordination with section 280A.—

"(A) Application of section 280A.—Section 280A shall be applied without regard to the limitations of this subsection.

"(B) Application of interest limitation.—For purposes of this subsection—

"(i) the determination of whether any interest is allocable to a section 280A use shall be made in the same manner as for purposes of section 280A, and

"(ii) any interest allocable to a section 280A use shall be treated as nonbusiness interest to the extent such interest is greater than the excess (if any) of—

"(I) the gross income derived from such use for the taxable year, over

"(II) the deductions referred to in section 280A(c)(5)(B) (other than for interest).

For purposes of the preceding sentence, the term 'section 280A use' means any use referred to in section 280A(c)(5).

"(7) Net lease.—For purposes of this subsection, the term 'net lease' means a limited business interest described in clause (iii) of paragraph (6)(A).

"(8) Phase-in of limitation.—In the case of any taxable year beginning in calendar years 1986 through 1994—

"(A) In general.—The amount of interest disallowed under this subsection for any such taxable year shall not exceed the sum of—

"(i) the amount of interest which would have been disallowed under this subsection (as in effect on the day before the date of the enactment of the Tax Reform Act of 1985) for the taxable year, plus

"(ii) the applicable percentage of the excess of the amount which (but for this paragraph) would have been disallowed under this subsection for the taxable year over the amount described in clause (i).

"(B) Applicable percentage.—For purposes of this paragraph, the term 'applicable percentage' means, with respect to any calendar year, 10 percent, multiplied by 1 plus the number of years between such calendar year and 1985."

(b) Short Taxable Year.—Paragraph (3) of section 443(b) (defining modified taxable income) is amended by adding at the end thereof the following new sentence: "In the case of a short period, for purposes of this subsection, the applicable dollar amount specified in section 163(d)(1)(A) shall be reduced to the amount which bears the same ratio to such applicable amount as the number of days in the short period bears to 365."

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1985.

TITLE V—ALTERNATIVE MINIMUM TAX

Subtitle A—General Provisions

SEC. 501. ALTERNATIVE MINIMUM TAX FOR INDIVIDUALS AND CORPORATIONS.

(a) General Rule.—Part VI of subchapter A of chapter 1 (relating to minimum tax for tax preferences) is amended to read as follows:

"PART VI—ALTERNATIVE MINIMUM TAX

"Sec. 55. Alternative minimum tax imposed.
"Sec. 56. Treatment of certain tax preferences.
"Sec. 57. Other items of tax preference.
"Sec. 58. Denial of certain losses.
"Sec. 59. Other definitions and special rules.
"Sec. 60. Superminimum tax.

"SEC. 55. ALTERNATIVE MINIMUM TAX IMPOSED.

"(a) General Rule.—There is hereby imposed (in addition to any other tax imposed by this subtitle) a tax equal to the excess (if any) of—

"(1) tentative minimum tax for the taxable year, over

"(2) the regular tax for the taxable year.

"(b) Tentative Minimum Tax.—For purposes of this part—

"(1) In general.—The tentative minimum tax for the taxable year is—

"(A) 22.5 percent (20 percent in the case of a corporation) of so much of the alternative minimum taxable income for the taxable year as exceeds the exemption amount, reduced by

"(B) the alternative minimum tax foreign tax credit for the taxable year.

"(2) Alternative minimum taxable income.—The term 'alternative minimum taxable income' means the taxable income of the taxpayer for the taxable year—

"(A) determined with the adjustments provided in section 56 and section 58, and

"(B) increased by the amount of the items of tax preferences described in section 57.

"(c) Regular Tax.—

"(1) In general.—For purposes of this section, the term 'regular tax' means the regular tax liability for the taxable year (as defined in section 26(b)) reduced by the foreign tax credit allowable under section 27(a). Such term shall not include any increase in tax under section 47.

"(2) Cross references.—

"For provisions providing that certain credits are not allowable against the tax imposed by this section, see sections 26(a), 28(d)(2), 29(b)(5), and 38(c).

"(d) Exemption Amount.—For purposes of this section—

"(1) Exemption amount for taxpayers other than corporations.—

"(A) In general.—In the case of a taxpayer other than a corporation, the term 'exemption amount' means—

"(i) $30,000 in the case of a joint return or a surviving spouse,

"(ii) $25,000 in the case of an individual who is not married and is not a surviving spouse, and

"(iii) $15,000 in the case of a married individual who files a separate return or an estate or trust.

For purposes of this subparagraph, the term 'surviving spouse' (as so defined) has the meaning given such term by section 2(a) and marital status shall be determined under section 143.

"(B) Phasedown.—If the taxable income of the taxpayer exceeds $175,000, the exemption amount determined under clause (i) or (ii) of subparagraph (A) (whichever applies) shall be reduced by an amount which bears the same ratio to—

"(i) the excess of such exemption amount over $15,000 as

"(ii) the amount of the taxpayer's taxable income in excess of $175,000 bears to $50,000.

"(2) Corporations.—In the case of a corporation, the term 'exemption amount' means $40,000.

"SEC. 56. TREATMENT OF CERTAIN TAX PREFERENCES.

"(a) Adjustments Applicable to All Taxpayers.—In determining the amount of the alternative minimum taxable income for any taxable year the following treatment shall apply (in lieu of the treatment applicable for purposes of computing the regular tax):

"(1) Depreciation.—

"(A) In general.—The depreciation deduction allowable under section 167 (or any amortization deduction in lieu of depreciation) with respect to any tangible property placed in service after December 31, 1985, shall be determined under the nonincentive system of section 168(h) (without any inflation adjustments under section 168(g)).

"(B) Exception for certain property.—This paragraph shall not apply to property described in paragraph (2), (3), (4), or (5) of section 168(f).

"(C) Special rule for rehabilitation expenditures of low-income housing.—In the case of rehabilitation expenditures to which section 167(k) applies, the recovery period used for purposes of subparagraph (A) shall be 15 years.

"(2) Treatment of certain long-term contracts.—

"(A) In general.—The taxable income from any long-term contract to which this paragraph applies shall be determined under the percentage of completion method of accounting.

"(B) Long-term contracts to which paragraph applies.—This paragraph shall apply to any long-term contract entered into by the taxpayer after September 25, 1985, if the taxpayer is not required to use the percentage of completion method with respect to such contract by reason of section 904(d) of the Tax Reform Act of 1985.

"(3) Alternative tax net operating loss deduction.—The alternative tax net operating loss deduction shall be allowed in lieu of the net operating loss deduction allowed under section 172.

"(4) Adjusted basis.—The adjusted basis of any property to which paragraph (1) applies (or with to which there are any expenditures to which paragraph (2) or subsection (b)(3) applies) shall be determined on the basis of the treatment prescribed in paragraph (1) or (2) or subsection (b)(2), whichever is applicable.

"(b) Adjustments Applicable to Individuals.—In determining the amount of the alternative taxable income of any taxpayer (other than a corporation) the following treatment shall apply (in lieu of the treatment applicable for purposes of computing the regular tax):

"(1) Limitation on itemized deduction.—Any deduction not allowable in computing adjusted gross income shall not be allowed unless such deduction is an alternative tax itemized deduction.

"(2) Circulation and research and experimental expenditures.—

"(A) In general.—The amount allowable as a deduction under section 173 or 174(a) in computing the regular tax for amounts paid or incurred after December 31, 1985, shall be capitalized and—

"(i) in the case of circulation expenditures described in section 173, shall be amortized ratably over the 3-year period beginning with the taxable year in which the expenditures were made, or

"(ii) in the case of research and experimental expenditures described in section 174(a), shall be amortized ratably over the 10-year period beginning with the taxable year in which the expenditures were made.

"(B) Loss allowed.—If a loss is sustained with respect to any property described in subparagraph (A), a deduction shall be allowed for the expenditures described in subparagraph (A) for the taxable year in which such loss is sustained an amount equal to the lesser of—

"(i) the amount allowable under section 165(a) for the expenditures if they had remained capitalized, or

"(ii) the amount of such expenditures which have not previously been amortized under subparagraph (A).

"(C) Special rule for personal holding companies.—In the case of circulation expenditures described in section 173, the adjustments provided in this paragraph shall apply to a personal holding company (as defined in section 542).

"(3) Mining exploration and developments costs.—

"(A) In general.—With respect to each mine or other natural deposit (other than an oil, gas, or geothermal well) of the taxpayer, the amount allowable as a deduction under section 616(a) in computing the regular tax for costs paid or incurred after December 31, 1985, shall be capitalized and amortized ratably over the 10-year period beginning with the taxable year in which the expenditures were made.

"(B) Loss allowed.—If a loss is sustained with respect to any property described in subparagraph (A), a deduction shall be allowed for the expenditures described in subparagraph (A) for the taxable year in which such loss is sustained an amount equal to the lesser of—

"(i) the amount allowable under section 165(a) for the expenditures if they had remained capitalized, or

"(ii) the amount of such expenditures which have not previously been amortized under subparagraph (A).

"(C) Special rule for personal holding companies.—The adjustments provided in this paragraph shall apply also to a personal holding company (as defined in section 542).

"(c) Alternative Tax Net Operating Loss Deduction Defined.—

"(1) In general.—For purposes of subsection (a)(4), the term 'alternative tax net operating loss deduction' means the net operating loss deduction allowable for the taxable year under section 172, except that in determining the amount of such deduction—

"(A) the net operating loss (within the meaning of section 172(c)) for any loss year shall be adjusted as provided in paragraph (2), and

"(B) in the case of taxable years beginning after December 31, 1985, section 172(b)(2) shall be applied by substituting 'alternative minimum taxable income' for 'taxable income' each place it appears.

"(2) Adjustments to net operating loss computation.—

"(A) Post-1985 loss years.—In the case of a loss year beginning after December 31, 1985, the net operating loss for such year under section 172(c) shall—

"(i) be determined with the adjustments provided in this section and section 58,

"(ii) be reduced by the items of tax preference determined under section 57 for such year which are taken into account in computing the net operating loss, and

"(iii) be computed by taking into account only itemized deductions which are alternative tax itemized deductions and which are otherwise described in section 172(c).

"(B) Pre-1986 years.—In the case of loss years beginning before January 1, 1986, the amount of the net operating loss which may be carried over to taxable years beginning after December 31, 1985, for purposes of paragraph (2), shall be equal to the amount which may be carried from the loss year to the first taxable year of the taxpayer beginning after December 31, 1985.

"(d) Alternative Tax Itemized Deductions.—For purposes of this part—

"(1) In general.—The term 'alternative tax itemized deductions' means any amount allowable as a deduction for the taxable year (other than a deduction allowable in computing adjusted gross income) under—

"(A) section 165(a) for losses described in subsection (c)(3) or (d) of section 165,

"(B) section 170 (relating to charitable deductions),

"(C) section 213 (relating to medical deductions),

"(D) this chapter for qualified interest, or

"(E) section 691(c) (relating to deduction for estate tax).

The amount determined under the preceding sentence shall be reduced by the amount of the reduction determined under section 63(e)(4) (relating to reduction in itemized deductions for portion of personal exemption).

"(2) Amounts which may be carried over.—No amount shall be taken into account under paragraph (1) to the extent such amount may be carried to another taxable year for purposes of the regular tax.

"(3) Qualified interest.—The term 'qualified interest' means the sum of—

"(A) any qualified housing interest, and

"(B) any amount allowed as a deduction for interest (other than qualified housing interest) to the extent such amount does not exceed the qualified net investment income of the taxpayer for the taxable year.

"(4) Qualified housing interest.—

"(A) In general.—The term 'qualified housing interest' means interest which is paid or accrued during the taxable year on indebtedness which is incurred in acquiring, constructing, or substantially rehabilitating any property which—

"(i) is the principal residence (within the meaning of section 1034) of the taxpayer at the time such interest accrues or is paid, or

"(ii) is a qualified dwelling used by the taxpayer (or any member of his family within the meaning of section 267(c)(4)) during the taxable year.

"(B) Qualified dwelling.—The term 'qualified dwelling' means any—

"(i) house,

"(ii) apartment,

"(iii) condominium, or

"(iv) mobile home not used on a transient basis (within the meaning of section 7701(a)(19)(C)(v)),

including all structures or other property appurtenant thereto.

"(C) Special rule for indebtedness incurred before July 1, 1982.—The term 'qualified housing interest' includes interest paid or accrued on indebtedness which—

"(i) was incurred by the taxpayer before July 1, 1982, and

"(ii) is secured by property which, at the time such indebtedness was incurred, was—

"(I) the principal residence (within the meaning of section 1034) of the taxpayer, or

"(II) a qualified dwelling used by the taxpayer (or any member of his family (within the meaning of section 267(c)(4))).

"(5) Qualified net investment income.—For purposes of this subsection—

"(A) In general.—The term 'qualified net investment income' means the excess of—

"(i) qualified investment income, over

"(ii) qualified investment expenses.

"(B) Qualified investment income.—The term 'qualified investment income' means the sum of—

"(i) investment income (within the meaning of section 163(d)(3)(B) other than clause (ii) thereof), and

"(ii) any capital gain net income attributable to the disposition of property held for investment.

"(C) Qualified investment expenses.—The term 'qualified investment expenses' means the deductions (determined with the adjustments provided in section 56) directly connected with the production of qualified investment income to the extent that—

"(i) such deductions are allowable in computing adjusted gross income, and

"(ii) such deductions are not items of tax preference.

"(6) Special rules for estates and trusts.—

"(A) In general.—In the case of an estate or trust, the alternative tax itemized deductions for any taxable year includes the deductions allowable under section 643(b) or sections 10642(c), 10651(a), and 10661(a).

"(B) Determination of adjusted gross income.—The adjusted gross income of an estate or trust shall be computed in the same manner as in the case of an individual, except that the deductions for costs paid or incurred in connection with the administration of the estate or trust shall be treated as allowable in arriving at adjusted gross income.

"(7) Limitation on medical deduction.—In applying subparagraph (C) of paragraph (1), the amount allowable as a deduction under section 213 shall be determined by substituting '10 percent' for '5 percent' in section 213(a).

"(8) Treatment of interests in limited partnerships and subchapter S corporations.—

"(A) Certain interest treated as not allowable in computing adjusted gross income.—Any amount allowable as a deduction for interest on indebtedness incurred or continued to purchase or carry a limited business interest shall be treated as not allowable in computing adjusted gross income.

"(B) Income and losses taken into account in computing qualified net investment income.—Any income or loss derived from a limited business interest shall be taken into account in computing qualified net investment income.

"(C) Limited business interest.—The term 'limited business interest' means an interest—

"(i) as a limited partner in a partnership, or

"(ii) as a shareholder in an S corporation if the taxpayer does not actively participate in the management of such corporation.

"SEC. 57. OTHER ITEMS OF TAX PREFERENCE.

"(a) General Rule.—For purposes of this part, the items of tax preference determined under this section are—

"(1) Capital gains of taxpayers other than corporations.—

"(A) In general.—In the case of a taxpayer other than a corporation, an amount equal to the net capital gain deduction for the taxable year determined under section 1202.

"(B) Principal residence.—For purposes of subparagraph (A), gain from the sale or exchange of a principal residence (within the meaning of section 1034) shall not be taken into account.

"(C) Sales of farm land by insolvent farmers.—For purposes of this paragraph, gain from a qualified farm sale (as defined in section 59(c)) shall not be taken into account.

"(2) Depletion.—With respect to each property (as defined in section 614), the excess of the deduction for depletion allowable under section 611 for the taxable year over the adjusted basis of the property at the end of the taxable year (determined without regard to the depletion deduction for the taxable year).

"(3) Intangible drilling costs.—

"(A) In general.—With respect to all oil, gas, and geothermal properties of the taxpayer, the amount (if any) by which the amount of the excess intangible drilling costs arising in the taxable year is greater than the net income of the taxpayer from oil, gas, and geothermal properties for the taxable year.

"(B) Excess intangible drilling costs.—For purposes of subparagraph (A), the amount of the excess intangible drilling costs arising in the taxable year is the excess of—

"(i) the intangible drilling and development costs paid or incurred in connection with oil, gas, and geothermal wells (other than costs incurred in drilling a nonproductive well) allowable under section 263(c), 263(i), or 291(b) for the taxable year, over

"(ii) the amount which would have been allowable for the taxable year if such costs had been capitalized and straight line recovery of intangibles (as defined in subsection (c)) had been used with respect to such costs.

"(C) Net income from oil, gas, and geothermal properties.—For purposes of subparagraph (A), the amount of the net income of the taxpayer from oil, gas, and geothermal properties for the taxable year is the excess of—

"(i) the aggregate amount of gross income (within the meaning of section 613(a)) from all oil, gas, and geothermal properties of the taxpayer received or accrued by the taxpayer during the taxable year, over

"(ii) the amount of any deductions allocable to such properties reduced by the excess described in subparagraph (B) for such taxable year.

"(D) Paragraph applied separately with respect to geothermal properties and oil and gas properties.—This paragraph shall be applied separately with respect to—

"(i) all oil and gas properties which are not described in clause (ii), and

"(ii) all properties which are geothermal deposits (as defined in section 613(e)(3)).

"(E) Paragraph not to apply to corporations.—This paragraph shall not apply to a corporation other than a personal holding company.

"(4) Incentive stock options.—With respect to the transfer of a share of stock pursuant to the exercise of an incentive stock option (as defined in section 422A), the amount by which the fair market value of the share at the time of exercise exceeds the option price. For purposes of this paragraph, the fair market value of a share of stock shall be determined without regard to any restriction other than a restriction which, by its terms, will never lapse.

"(5) Reserves for losses on bad debts of financial institutions.—In the case of a financial institution to which section 585 or 593 applies, the amount by which the deduction allowable for the taxable year for a reasonable addition to a reserve for bad debts exceeds the amount that would have been allowable had the institution maintained its bad debt reserve for all taxable years on the basis of actual experience.

"(6) Accelerated depreciation or amortization on certain property placed in service before January 1, 1986.—The amounts which would be treated as items of tax preference with respect to the taxpayer under paragraphs (2), (3), (4), and (12) of this subsection (as in effect on the date before the date of the enactment of the Tax Reform Act of 1985). The preceding sentence shall not apply to any property to which section 56(a)(1) applies.

"(b) Straight Line Recovery of Intangibles Defined.—For purposes of paragraph (3) of subsection (a)—

"(1) In general.—The term 'straight line recovery of intangibles' when used with respect to intangible drilling and development costs for any well, means (except in the case of an election under paragraph (2) ratable amortization of such costs over the 120-month period beginning with the month in which production from such well begins.

"(2) Election.—If the taxpayer elects, at such time and in such manner as the Secretary may by regulations prescribe, with respect to the intangible drilling and development costs for any well, the term 'straight line recovery of intangibles' means any method which would be permitted for purposes of determining cost depletion with respect to such well and which is selected by the taxpayer for purposes of subsection (a)(4).

"SEC. 58. DENIAL OF CERTAIN LOSSES.

"(a) Denial of Excess Farm Loss.—

"(1) In general.—For purposes of computing the amount of the alternative minimum taxable income for any taxable year—

"(A) Disallowance of excess farm loss.—The excess farm loss of the taxpayer for such taxable year shall not be allowed.

"(B) Deduction in succeeding taxable year.—Any loss from a tax shelter farm activity disallowed under subparagraph (A) shall be treated as a deduction allocable to such activity in the 1st succeeding taxable year.

"(2) Excess farm loss.—For purposes of this section, the term 'excess farm loss' means the amount by which the loss for the taxable year from any tax shelter farm activity exceeds twice the taxpayer's cash basis in such activity as of the close of the taxable year.

"(3) Tax shelter farm activity.—For purposes of this subsection, the term 'tax shelter farm activity' means—

"(A) any farming syndicate as defined in section 464(c) (as modified by section 461(i)(4)(A)), and

"(B) any other activity consisting of farming unless the taxpayer materially participates in the operation of such activity or is a member of the family (within the meaning of section 2032A(e)(2)) of an individual who so participates.

The determination of whether any individual materially participates in the operation of any activity shall be made in the manner similar to the manner in which such determination is made under section 2032A (including modifications under paragraphs (4) and (5) of section 2032A(b)); except that an individual shall not be treated materially participating in the operation of any activity if such individual is a limited partner with respect to such activity.

"(4) Treatment of separate activities.—A taxpayer's activity with respect to each farm of which the taxpayer is the proprietor shall be treated as a separate activity.

"(b) Disallowance of Excess Passive Activity Loss.—

"(1) In general.—For purposes of determining the amount of the alternative minimum taxable income for any taxable year—

"(A) Disallowance on loss.—The excess passive activity loss of the taxpayer for the taxable year shall not be allowed.

"(B) Deduction in succeeding taxable year.—Any loss from an activity disallowed under subparagraph (A) shall be treated as a deduction allowable to such activity in the 1st succeeding taxable year.

"(2) Excess passive activity loss.—For purposes of this subsection, the term 'excess passive activity loss' means the amount by which—

"(A) the aggregate losses from all passive activities reduced by the aggregate income from such activities exceed

"(B) the sum of—

"(i) the taxpayer's cash basis in passive activities which are not tax shelters, and

"(ii) the lesser of—

"(I) the taxpayer's cash basis in passive activities which are tax shelters, or

"(II) $50,000.

For purposes of the preceding sentence, the term 'tax shelter' has the meaning given to such term by section 461(i)(3).

"(3) Passive activity.—For purposes of paragraph (1)—

"(A) In general.—The term 'passive activity' means any activity if a substantial portion of the income from such activity is from a trade or business. For purposes of the preceding sentence, all rents and royalties shall be treated as income from a trade or business.

"(B) Activities in which taxpayer materially participates, etc., excluded.—An activity shall not be treated as a passive activity under subparagraph (A) if the taxpayer (or the spouse of the taxpayer)—

"(i) materially participates in the activity, or

"(ii) provides substantial personal services for the activity.

"(C) Treatment of limited partners.—A limited partner shall not be treated as meeting the requirements of clause (i) or (ii) of subparagraph (B) with respect to an activity.

"(D) Treatment of certain retired individuals.—A taxpayer shall be treated as materially participating in the operation of any farm activity if such individual meets the requirements of paragraph (4) or (5) of section 2032A(b) with respect to such activity.

"(4) Coordination with subsection (a).—Loss from a farm activity to the extent it is disallowed under subsection (a) shall not be taken into account under this subsection.

"(c) Definitions and Special Rules.—For purposes of this section—

"(1) Cash basis.—The term 'cash basis' means—

"(A) in the case of an interest in a partnership, the adjusted basis of the taxpayer's interest in such partnership, determined without regard to—

"(i) any liability of the partnership, and

"(ii) any amount borrowed by the partner with respect to such partnership which—

"(I) was arranged by the partnership or by any person who participated in the organization, sale, or management of the partnership (or any person related to such person within the meaning of section 461(i)), or

"(II) was secured by any assets of the partnership, and

"(B) in the case of any other interest in an activity, the adjusted basis of such interest determined under the principles of subparagraph (A).

"(2) Definition of loss.—The loss from any activity shall be determined under the principles of section 465(d); except that—

"(A) the adjustments of section 56 shall apply, and

"(B) any deduction to the extent such deduction is an item of tax preference under section 57(a) shall not be taken into account, and

"(C) any loss resulting from the disposition of part or all of any interest in such activity shall not be taken into account.

"(3) Certain rules made applicable.—For purposes of this subsection, rules similar to the rules of subsections (b)(5) and (e) of section 465 shall apply.

"(4) Loss allowed for year of disposition.—If the taxpayer disposes of his entire interest in any farm shelter activity or passive activity during any taxable year, the amount of the loss attributable to such activity (determined after carryovers under subsections (a)(1)(B) and (b)(1)(B)) shall be allowed for such taxable year in computing alternative minimum taxable income and not treated as a loss from a tax shelter farm activity or passive activity.

"SEC. 59. OTHER DEFINITIONS AND SPECIAL RULES.

"(a) Alternative Minimum Tax Foreign Tax Credit.—For purposes of this part, the alternative minimum tax foreign tax credit for any taxable year shall be the credit which would be determined under section 27(a) for such taxable year if—

"(1) the amount determined under section 55(b)(1)(A) were the tax against which such credit was taken for purposes of section 904 for the taxable year and all prior taxable years beginning after December 31, 1985,

"(2) section 904 were applied on the basis of alternative minimum taxable income instead of taxable income, and

"(3) section 911(d)(6) did not apply for taxable years beginning after December 31, 1985.

"(b) Minimum Tax Not To Apply to 936 Corporations.—The tax imposed by this part shall not apply to any corporation for which a credit is allowable for the taxable year under section 936.

"(c) Qualified Farm Sale.—

"(1) In general.—For purposes of subsection (a)(9)(E), the term 'qualified farm sale' means any sale or exchange before January 1, 1989, to an unrelated person of farmland during any taxable year if—

"(A) 50 percent or more of the average annual gross income of the taxpayer for the 3 preceding taxable years is attributable to the trade or business of farming,

"(B) such taxpayer is insolvent (within the meaning of section 108(d)(3)) as of the time of the sale or exchange,

"(C) substantially all of the proceeds from the sale or exchange are applied in satisfaction of indebtedness of the taxpayer, and

"(D) 90 percent or more of the fair market value of the farmland held by the taxpayer as of the beginning of such taxable year is sold or exchanged during such taxable year in qualified farm sales (determined without regard to this subparagraph).

"(2) Definitions.—For purposes of this subsection—

"(A) Farmland.—The term 'farmland' means any land used or held for use in the trade or business of farming.

"(B) Unrelated person.—The term 'unrelated person' means any person other than a related person (as defined in section 453(f)(1)).

"(d) Special Rules for Treatment of Certain Entities.—

"(1) Estates and trusts.—In the case of an estate or trust, the differently treated items for any taxable year shall be apportioned between the estate or trust and the beneficiaries in accordance with regulations prescribed by the Secretary.

"(2) Participants in a common trust fund.—The differently treated items of a common trust fund (as defined in section 584(a)) for each taxable year of the fund shall be treated as items of the participants of such fund and shall be apportioned pro rata among such participants. For purposes of this subsection, this part shall be treated as applying to such fund.

"(3) Regulated investment companies and real estate investment trusts.—In the case of a regulated investment company to which part I of subchapter M applies or a real estate investment company to which part II of subchapter M applies, the differently treated items of such company or trust for the taxable year shall be apportioned between the company or trust and shareholders and holders of beneficial interests in such company or trust in accordance with regulations prescribed by the Secretary.

"(4) Differently treated items.—For purposes of this subsection, the term 'differently treated item' means any item of tax preference or any other item which is treated differently for purposes of this part than for purposes of computing the regular tax.

"(e) Optional 10-Year Writeoff of Certain Tax Preferences.—

"(1) In general.—For purposes of this title, any qualified expenditure to which an election under this paragraph applies shall be allowed as a deduction ratably over the 10-year period (3-year period in the case of circulation expenditures described in section 173) beginning with the taxable year in which such expenditure was made.

"(2) Qualified expenditure.—For purposes of this subsection, the term 'qualified expenditure' means any amount which, but for an election under this subsection, would have been allowable as a deduction for the taxable year in which paid or incurred under—

"(A) section 173 (relating to circulation expenditures),

"(B) section 174(a) (relating to research and experimental expenditures),

"(C) section 263(c) (relating to intangible drilling and development expenditures), or

"(D) section 616(a) (relating to mining exploration and development expenditures).

"(3) Other sections not applicable.—Except as provided in this subsection, no deduction shall be allowed under any other section for any qualified expenditure to which an election under this subsection applies.

"(4) Election.—

"(A) In general.—An election may be made under this subsection with respect to any portion of any qualified expenditure.

"(B) Revocable only with consent.—Any election under this subsection may be revoked only with the consent of the Secretary.

"(C) Time and manner.—An election under this subsection shall be made at such time and in such manner as the Secretary shall by regulations prescribe.

"(D) Partners and shareholders of S corporations.—In the case of a partnership, any election under this subsection shall be made separately by each partner with respect to the partner's allocable share of any qualified expenditure. A similar rule shall apply in the case of an S corporation and its shareholders.

"(5) Dispositions.—

"(A) Oil, gas, and geothermal property.—In the case of any disposition of any oil, gas, or geothermal property to which section 1254 applies (determined without regard to this section) any deduction under paragraph (1) with respect to costs which are allocable to such property shall, for purposes of section 1254, be treated as a deduction allowable under section 263(c).

"(B) Application of section 616(c).—In the case of any disposition of mining property to which section 616(c) applies (determined without regard to this subsection), any amount allowable as a deduction under paragraph (1) which is allocable to such property shall, for purposes of section 616(c), be treated as a deduction allowable under section 616(a).

"(6) Amounts to which election apply not treated as tax preference.—Any qualified expenditure to which an election under paragraph (1) or (4) applies shall not be treated as an item of tax preference under section 57(a) and section 56 shall not apply to such expenditure.

"(f) Coordination With Section 291.—Section 291 shall apply before the application of this part.

"(g) Tax Benefit Rule.—The Secretary shall prescribe regulations under which differently treated items shall be properly adjusted where the tax treatment giving rise to such items will not result in the reduction of the taxpayer's regular tax for any taxable year.

"SEC. 60. SUPERMINIMUM TAX.

"(a) General Rule.—If 2 percent of the expanded alternative minimum taxable income exceeds the tentative minimum tax determined under section 55, such tentative minimum tax shall be treated as being equal to 2 percent of the expanded alternative minimum taxable income.

"(b) Expanded Alternative Minimum Taxable Income.—For purposes of subsection (a), the term 'expanded alternative minimum taxable income' means alternative minimum taxable income computed with the following adjustments:

"(1) Alternative minimum taxable income shall be increased by any amount excluded from gross income under section 911(a)(1).

"(2) Alternative minimum taxable income shall be increased by the amount of any tax-exempt interest.

"(3) In the case of a shareholder of an FSC, alternative minimum taxable income shall be increased by such shareholder's pro rata share of the taxable income of the FSC (determined as if the FSC were a domestic corporation).

"(4) In the case of a shareholder of a DISC, alternative minimum taxable income shall be increased by such shareholder's pro rata share of the taxable income of the DISC (before reduction for distributions) over the amounts deemed distributed under subparagraphs (A), (B), (C), (D), and (E) of section 995(b)(1).

"(5) Any net operating loss deduction for the taxable year shall not be allowed to the extent it would reduce the amount of the alternative minimum taxable income (determined with the adjustments provided in paragraphs (1), (2), (3), and (4) and without regard to the net operating loss deduction) to an amount less than 10 percent of the alternative minimum taxable income (as so determined).

"(c) Limitation on Foreign Tax Credit.—The foreign tax credit allowable against the tax imposed by section 55 shall not reduce the amount of such tax to an amount less than 50 percent of the amount determined under subsection (a)."

(b) Credit Against Regular Tax for Prior Year Minimum Tax Liability.—Part IV of subchapter A of chapter 1 (relating to credits allowable) is amended by adding at the end thereof the following new subpart:

"Subpart G—Credit Against Regular Tax For Prior Year Minimum Tax Liability

"Sec. 53. Credit for prior year minimum tax liability.

"SEC. 53. CREDIT FOR PRIOR YEAR MINIMUM TAX LIABILITY.

"(a) Allowance of Credit.—There shall be allowed as a credit against the tax imposed by this chapter for any taxable year an amount equal to the minimum tax credit for such taxable year.

"(b) Minimum Tax Credit.—For purposes of subsection (a), the minimum tax credit for any taxable year is the excess (if any) of—

"(1) the net minimum tax imposed for all prior taxable years beginning after 1985, over

"(2) the amount allowable as a credit under subsection (a) for such prior taxable years.

"(c) Limitation.—The credit allowable under subsection (a) for any taxable year shall not exceed the lesser of—

"(1) the regular tax liability of the taxpayer for such taxable year reduced by the sum of the credits allowable under subparts A, B, D, E, and F of this part, or

"(2) the excess (if any) of the amount determined under paragraph (1) over the tentative minimum tax for the taxable year.

"(d) Definitions.—For purposes of this section—

"(1) Net minimum tax.—

"(A) In general.—The term 'net minimum tax' means the tax imposed by section 55.

"(B) Exclusion preferences of individuals not taken into account.—In the case of a taxpayer other than a corporation, the amount of the net minimum tax for any taxable year shall be reduced by the amount which would have been the net minimum tax for such year if sections 56 (other than subsection (b)(1) thereof) and 58 did not apply and the only items of tax preference taken into account were the items described in paragraphs (1), (2), (3), (6), and (7) of section 57(a).

"(2) Tentative minimum tax.—The term 'tentative minimum tax' has the meaning given to such term by section 55(b)."

(c) Credits Not Allowable Against Minimum Tax.—

(1) Personal credits.—

(A) Subsection (a) of section 26 (relating to limitation based on amount of tax) is amended to read as follows:

"(a) Limitation Based on Amount of Tax.—The aggregate amount of credits allowed by this subpart for the taxable year shall not exceed the excess (if any) of—

"(1) the taxpayer's regular tax liability for the taxable year, over

"(2) the tentative minimum tax for the taxable year (determined without regard to the alternative minimum tax foreign tax credit)."

(B) Regular tax liability.—Subsection (b) of section 26 is amended—

(i) by striking out "tax liability" in paragraph (1) and inserting in lieu thereof "regular tax liability",

(ii) by striking out subparagraph (A) of paragraph (2) and inserting in lieu thereof the following:

"(A) section 55 (relating to minimum tax),", and

(iii) by striking out "Tax Liability" in the subsection heading and inserting in lieu thereof "Regular Tax Liability".

(c) Gross minimum tax.—Subsection (c) of section 26 is amended to read as follows:

"(c) Tentative Minimum Tax.—For purposes of this part, the term 'tentative minimum tax' means the amount determined under section 55(b)(1)."

(2) Credit for clinical testing expenses.—Paragraph (2) of section 28(d) is amended to read as follows:

"(2) Limitation based on amount of tax.—The credit allowed by this section for any taxable year shall not exceed the excess (if any) of—

"(A) the regular tax (reduced by the sum of the credits allowable under subpart A and section 27), over

"(B) the tentative minimum tax for the taxable year."

(3) Credit for production of fuel from nonconventional sources.—Paragraph (5) of section 29(b) is amended to read as follows:

"(5) Application with other credits.—The credit allowed by subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(A) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A of sections 27 and 28, over

"(B) the tentative minimum tax for the taxable year."

(4) General business credit.—Subsection (c) of section 38 (relating to limitation based on amount of tax) is amended by redesignating paragraph (3) as paragraph (4), and by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) In general.—The credit allowed under subsection (a) for any taxable year shall not exceed the lesser of—

"(A) the allowable portion of the taxpayer's net regular tax liability for the taxable year, or

"(B) the excess (if any) of the taxpayer's net regular liability for the taxable year over the tentative minimum tax for the taxable year.

"(2) Allowable portion of regular tax liability.—For purposes of paragraph (1), the allowable portion of the taxpayer's net regular tax liability for the taxable year is the sum of—

"(A) so much of the taxpayer's net regular tax liability for the taxable year as does not exceed $25,000, plus

"(B) 75 percent of so much of the taxpayer's net regular tax liability for the taxable year as exceeds $25,000.

For purposes of the preceding sentence, the term 'net regular tax liability' means the regular tax liability reduced by the sum of the credits allowable under subparts A and B of this part."

(c) Estimated Tax Provisions To Apply to Corporate Minimum Tax.—

(1) Paragraph (1) of section 6154(c) is amended to read as follows:

"(1) The amount which the corporation estimates as the sum of—

"(A) the income tax imposed by section 11 or 1201(a), or subchapter L of chapter 1, whichever is applicable, and

"(B) the minimum tax imposed by section 55, over".

(2) Subparagraph (A) of section 6425(c)(1) is amended to read as follows:

"(A) The sum of—

"(i) the tax imposed by section 11 or 1201(a), or subchapter L of chapter 1, whichever is applicable, plus

"(ii) the tax imposed by section 55, over".

(3) Paragraph (1) of section 6655(f) is amended to read as follows:

"(A) The sum of—

"(i) the tax imposed by section 11 or 1201(a), or subchapter L of chapter 1, whichever is applicable, plus

"(ii) the tax imposed by section 55, over".

(d) Technical Amendments.—

(1) Coordination of section 265 with minimum tax.—Section 265 (relating to expenses and interest relating to tax-exempt interest) is amended by adding at the end thereof the following new paragraph:

"(6) Special rule for interest treated as tax preference.—Interest shall not fail to be treated as wholly exempt from taxes imposed by this subtitle solely by reason of being taken into account under section 60."

(2) Application of section 381.—Subsection (c) of section 381 is amended by adding at the end thereof the following new paragraph:

"(27) Credit under section 53.—The acquiring corporation shall take into account (to the extent proper to carry out the purposes of this section and section 53, and under such regulations as may be prescribed by the Secretary) the items required to be taken into account for purposes of section 53 in respect of the distributor or transferor corporation."

(3) Limitation in case of controlled corporations.—Subsection (a) of section 1561 (relating to limitations on certain multiple tax benefits in the case of certain controlled corporations) is amended—

(A) by striking out "and" at the end of paragraph (1), by striking out the period at the end of paragraph (2) and inserting in lieu thereof ", and" and by inserting after paragraph (2) the following new paragraph:

"(3) one $40,000 exemption amount for purposes of computing the amount of the minimum tax.", and

(B) by striking out "amounts specified in paragraph (1)" and inserting in lieu thereof "amounts specified in paragraph (1) (and the amount specified in paragraph (3))".

(4) Treatment of short taxable years.—Subsection (d) of section 443 (relating to adjustment in computing minimum tax for tax preference) is amended to read as follows:

"(d) Adjustment in Computing Minimum Tax and Tax Preferences.—If a return is made for a short period by reason of subsection (a)—

"(1) the alternative minimum taxable income for the short period shall be placed on an annual basis by multiplying such amount by 12 and dividing the result by the number of months in the short period, and

"(2) the amount computed under paragraph (1) of section 55 shall bear the same relation of the tax computed on the annual basis as the number of months in the short period bears to 12."

(e) Effective Dates.—

(1) In general.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 1985.

(2) Adjustment of net operating loss.—

(A) Individuals.—In the case of a net operating loss of an individual for a taxable year beginning after December 31, 1982, and before January 1, 1986, for purposes of determining the amount of such loss which may be carried to a taxable year beginning after December 31, 1985, for purposes of the minimum tax, such loss shall be adjusted in the manner provided in section 55(d)(2) of the Internal Revenue Code of 1954 as in effect on the day before the date of the enactment of this Act.

(B) Corporations.—If the minimum tax of the corporation was deferred under section 56(b) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act) for any taxable year beginning before January 1, 1986, and the amount of such tax has not been paid for any taxable year beginning before January 1, 1986, the amount of the net operating loss carryovers of such corporation which may be carried to taxable years beginning after December 31, 1985, for purposes of the minimum tax shall be reduced by the amount of tax preferences a tax on which was so deferred.

(3) Transitional rule for loss disallowance rules.—For purposes of section 58 of the Internal Revenue Code of 1954—

(A) the cash invested in any activity as of the beginning of any taxable year beginning in 1986 shall be treated as not less than zero, and

(B) in applying the principles of section 465 of such Code for purposes of such section 58, there shall be no recapture of any loss from a taxable year beginning before January 1, 1986.

(4) Farm sale.—For purposes of applying section 57(a)(9) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act) for taxable years beginning after December 31, 1984, the amount of the net capital gain of any individual shall be determined without taking into account any gain from a qualified farm sale (as defined in section 59(c) of such Code) is amended by this Act.

Subtitle B—Treatment of Existing Carryforwards of Steel Companies

SEC. 511. EFFECTIVE 15-YEAR CARRYBACK OF EXISTING CARRYFORWARDS OF STEEL COMPANIES.

(a) General Rule.—If a qualified corporation makes an election under this section for its 1st taxable year beginning after December 31, 1985, with respect to any portion of its existing carryforwards, the amount determined under subsection (b) shall be treated as a payment against the tax imposed by chapter 1 of the Internal Revenue Code of 1985 made by such corporation on the last day prescribed by law (without regard to extensions) for filing its return of tax under chapter 1 of such Code for such 1st taxable year.

(b) Amount.—For purposes of subsection (a), the amount determined under this subsection shall be the lesser of—

(1) 75 percent of the portion of the corporation's existing carryforwards to which the election under subsection (a) applies, or

(2) the corporation's net tax liability for the carryback period.

(c) Corporation Making Election May Not Use Same Amounts Under Section 38.—In the case of a qualified corporation which makes an election under subsection (a), the portion of such corporation's existing carryforwards to which such an election applies shall not be taken into account under section 38 of the Internal Revenue Code of 1985 for any taxable year beginning after December 31, 1985.

(d) Net Tax Liability for Carryback Period.—For purposes of this section—

(1) In general.—A corporation's net tax liability for the carryback period is the aggregate of such corporation's net tax liability for taxable years in the carryback period.

(2) Net tax liability.—The term "net tax liability" means, with respect to any taxable year, the amount of the tax imposed by chapter 1 of the Internal Revenue Code of 1954 for such taxable year, reduced by the sum of the credits allowable under part IV of subchapter A of such chapter 1 (other than section 34 thereof). For purposes of the preceding sentence, any tax treated as not imposed by chapter 1 of such Code under section 26(b)(2) of such Code shall not be treated as tax imposed by such chapter 1.

(3) Carryback period.—The term "carryback period" means the period—

(A) which begins with the corporation's 15th taxable year preceding the 1st taxable year from which there is an unused credit included in such corporation's existing carryforwards (but in no event shall such period begin before the corporation's 1st taxable year ending after December 31, 1961), and

(B) which ends with the corporation's last taxable year beginning before January 1, 1985.

(e) No Recomputation of Minimum Tax, Etc.—Nothing in this section shall be construed to affect—

(1) the amount of the tax imposed by section 56 of such Code, or

(2) the amount of any credit allowable under such Code,

for any taxable year in the carryback period.

SEC. 512. EXISTING CARRYFORWARDS OF QUALIFIED CORPORATIONS MAY OFFSET 75 PERCENT OF MINIMUM TAX.

For purposes of determining the amount of the qualified corporation's existing carryforwards which may be allowed as a credit under section 38 of the Internal Revenue Code of 1985 for any taxable year beginning after December 31, 1985, the limitation of section 38(c) of such Code shall not be less than 75 percent of such corporation's tentative minimum tax for the taxable year (as defined in section 55 of such Code).

SEC. 513. $300,000,000 LIMITATION.

(a) General Rule.—The sum of—

(1) the amount treated as a payment made by a qualified corporation under section 511, and

(2) the aggregate increase in such qualified corporation's credit allowable under section 38 of such Code by reason of section 512 for taxable years beginning before 1991,

shall not exceed $300,000,000.

(b) Affiliated Group Treated As 1 Taxpayer.—For purposes of this section, all members of the same affiliated group (as defined in section 1504 of such Code) shall be treated as 1 corporation.

SEC. 514. DEFINITIONS.

(a) Qualified Corporation.—

(1) In general.—For purposes of this subtitle, the term "qualified corporation" means any corporation which—

(A) had net operating loss in at least 2 of its last 3 taxable years ending before January 1, 1986, and

(B) is described in section 804 of the Steel Import Stabilization Act.

(2) Certain predecessors included.—In the case of any qualified corporation which has carryforward attributable to a predecessor corporation described in such section 804, the qualified corporation and the predecessor corporation shall be treated as 1 corporation for purposes of paragraph (1)(A) and subsections (d) and (e) of section 511.

(b) Existing Carryforwards.—The term "existing carryforward" means the aggregate of the amounts which are unused business credit carryforwards to the taxpayer's 1st taxable year beginning after December 31, 1985 (determined without regard to the limitations of section 38(c) of such Code).

TITLE VI—FOREIGN PROVISIONS

Subtitle A—Modification in Regulations Allocating Research and Experimental Expenditures

SEC. 601. 2-YEAR MODIFICATION IN REGULATIONS PROVIDING FOR ALLOCATION OF RESEARCH AND EXPERIMENTAL EXPENDITURES.

(a) General Rule.—For purposes of section 861(b), section 862(b), and section 863(b) of the Internal Revenue Code of 1985, notwithstanding section 864(e) of such Code—

(1) 50 percent of all amounts allowable as a deduction for qualified research and experimental expenditures shall be apportioned to income from sources within the United States and deducted from such income in determining the amount of taxable income from sources within the United States, and

(2) the remaining portion of such amounts shall be apportioned on the basis of gross sales or gross income.

The preceding sentence shall not apply to any expenditures described in section 1.861-8(e)(3)(i)(B) of the Income Tax Regulations.

(b) Qualified Research and Experimental Expenditures.—For purposes of this section—

(1) In general.—The term "qualified research and experimental expenditures" means amounts—

(A) which are research and experimental expenditures within the meaning of section 174 of such Code, and

(B) which are attributable to activities conducted in the United States.

(2) Treatment of depreciation, etc.—Rules similar to the rules of section 174(c) of such Code shall apply.

(c) Effective Date.—

(1) In general.—This section shall apply to taxable years beginning after August 1, 1985, and on or before August 1, 1987.

(2) Special rule.—If section 126 of the Tax Reform Act of 1984 applied to the taxpayer's 3rd taxable year beginning after August 13, 1981, by reason of subsection (c)(2) of such section, this section shall apply to the 1st taxable year of the taxpayer following such 3rd taxable year.

Subtitle B—Possessions Tax Credit Changes

SEC. 611. MODIFICATIONS TO SECTION 936.

(a) Treatment of Intangibles.—

(1) Cost sharing method.—Section 936(h)(5)(C)(i)(I) is amended—

(A) by striking out "the same proportion of the cost" and inserting in lieu thereof "the same proportion of 110 percent of the cost", and

(B) by adding at the end thereof the following new sentence: "In the case of intangible property described in subsection (h)(3)(B)(i) which the electing corporation is treated as owning under subclause (II), in no event shall the payment required under this subclause be less than the royalty payment which would be required under section 367(d)(2)(A)(ii) and section 482 if the electing corporation were a foreign corporation."

(2) Profit split method.—Section 936(h)(5)(C)(ii)(II) is amended by striking out "the third sentence thereof)" and inserting in lieu thereof "the third and fourth sentences thereof, but substituting '120 percent' for '110 percent' in the second sentence thereof)".

(b) Repeal of Requirements That Amounts Be Received in the United States.—Subsection (b) of section 936 is hereby repealed.

(c) Treatment of Certain Investment Income as Qualified Possession Source Investment Income.—Subsection (d) of section 936 is amended by adding at the end thereof the following new paragraph:

"(4) Investment in qualified Caribbean basin countries.—

"(A) In general.—For purposes of paragraph (2)(B), an investment in a financial institution shall be treated as for use in Puerto Rico to the extent used by the Government Development Bank of Puerto Rico for investment in active business assets in a qualified Caribbean Basin country. A similar rule shall apply in the case of a direct investment in the Government Development Bank of Puerto Rico.

"(B) Qualified Caribbean basin country.—For purposes of this subsection, the term 'qualified Caribbean Basin country' means any beneficiary country (within the meaning of section 212(a)(1)(A) of the Caribbean Basin Economic Recovery Act) which meets the requirements of clauses (i) and (ii) of section 274(h)(6)(A).

"(C) Additional requirements.—Subparagraph (A) shall not apply to any investment made by the Government Development Bank of Puerto Rico unless—

"(i) the person in whose trade or business such investment is made and such Bank certify to the Secretary that the proceeds of the loan will be promptly used to acquire active business assets, and

"(ii) the Government Development Bank of Puerto Rico agrees to permit the Secretary to examine such of its books and records as may be necessary to ensure that the requirements of this paragraph are met.".

(d) Increase in Amount of Gross Income Which Must Be From Trade or Business.—

(1) In general.—Subparagraph (B) of section 936(a)(2) is amended by striking out "65 percent" and inserting in lieu thereof "75 percent".

(2) Transitions.—Subparagraph (C) of section 936(a)(2) is amended to read as follows:

"(C) Transitional rule.—In applying subparagraph (B) with respect to taxable years beginning during calendar year 1986, '70 percent' shall be substituted for '75 percent'."

(e) Treatment of Certain Royalty Payments.—Subparagraph (A) of section 367(d)(2) (relating to transfers of intangibles treated as transfer pursuant to sale for contingent payments) is amended by adding at the end thereof the following new sentences:

"The amounts taken into account under clause (ii) shall be commensurate with the income attributable to the intangible. In the case of any transfer not described in paragraph (1) to a foreign corporation or other foreign entity, rules similar to rules of this subparagraph shall apply for purposes of section 482."

(f) Effective Dates.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1985.

(2) Special rule for transfer of intangibles.—The amendments made by subsection (o) shall apply to transfers after November 16, 1985, in taxable years ending after such date; except that, for purposes of section 936(h)(5)(C) of the Internal Revenue Code of 1985, such amendments shall apply to taxable years beginning after December 31, 1985, without regard to when the transfer (if any) was made.

Subtitle C—Tax Treatment of Possessions

Part I—Treatment of Guam, American Samoa, and the Northern Mariana Islands

SEC. 671. AUTHORITY OF GUAM, AMERICAN SAMOA, AND THE NORTHERN MARIANA ISLANDS TO ENACT REVENUE LAWS.

(a) In General.—Except as provided in subsection (b), nothing in the laws of the United States shall prevent Guam, American Samoa, or the Northern Mariana Islands from enacting tax laws with respect to income—

(1) from sources within, or effectively connected with the conduct of a trade or business within, any such possession, or

(2) received or accrued by any resident of such possession.

(b) Agreements to Alleviate Certain Problems Relating to Tax Administration.— Subsection (a) shall apply to Guam, American Samoa, or the Northern Mariana Islands only if (and so long as) an implementing agreement is in effect between the United States and such possession with respect to—

(1) the total amount of revenue collected by each respective possession shall be not less than the total amount of revenue adjusted by inflation, which was received by such possession pursuant to laws in effect in the year immediately prior to the date of enactment of this Act.

(2) the elimination of double taxation involving taxation by such possession and taxation by the United States,

(3) the establishment of rules under which the evasion or avoidance of United States income tax shall not be permitted or facilitated by such possession,

(4) the nondiscriminatory treatment of citizens and residents of the United States and any possession,

(5) the exchange of information between such possession and the United States for purposes of tax administration, and

(6) The resolution of other problems arising in connection with the administration of the tax laws of such possession or the United States.

Any such implementing agreement shall be executed on behalf of the United States by the Secretary of the Treasury in consultation with the Secretary of the Interior. If the Secretary of the Treasury determines that any possession has failed to comply with all of the terms of said implementing agreement, he shall so notify the governor of such possession, in writing. If said possession does not comply with the terms of the implementing agreement within ninety days, the Secretary shall notify the Congress of such non-compliance for its review. Unless the Congress provides otherwise, within ninety days, the income tax laws applicable immediately prior to the date of enactment of this Act shall be reinstead and shall be in full force and effect in such possession. The provisions of paragraph (1) of this subsection shall be effective for five years after an implementing agreement has been executed pursuant to the subsection.

(c) Non-Applicability to the Northern Mariana Islands.—Notwithstanding the provisions of the last clause of Section 601(a) of Pubic Law 94-241, the Commonwealth of the Northern Mariana Islands may elect to maintain the tax system otherwise required by Public Law 94-241 to be in force immediately preceding the date of enactment of this Act.

SEC. 672. EXCLUSION OF POSSESSION SOURCE INCOME FROM THE GROSS INCOME OF CERTAIN INDIVIDUALS.

(a) In General.—Section 931 (relating to income from sources within possessions of the United States) is amended to read as follows:

"SEC. 931. INCOME FROM SOURCES WITHIN GUAM, AMERICAN SAMOA, OR THE NORTHERN MARIANA ISLANDS.

"(a) General Rule.—In the case of an individual who is a bona fide resident of a specified possession during the extire taxable year, gross income shall not include—

"(1) income derived from sources within any specified possession, and

"(2) income effectively connected with the conduct of a trade or business by such individual within any specified possession.

"(b) Deductions, Etc. Allocable to Excluded Amounts Not Allowable.—An individual shall not be allowed—

"(1) as a deduction from gross income and deductions (other than the deduction under section 151, relating to personal exemptions), or

"(2) any credit,

properly allocable or chargeable against amounts excluded from gross income under this section.

"(c) Specified Possession.—For purposes of this section, the term 'specified possession' means Guam, American Samoa, and the Northern Mariana Islands.

(d) Special Rules.—For purposes of this section—

"(1) Employees of the united states.—Amounts paid for services performed as an employee of the United States (or any agency thereof) shall be treated as not described in paragraph (1) or (2) of subsection (a).

"(2) Determination of source, etc.—The determination as to whether income is described in paragraph (1) or (2) of subsection (a) shall be made under regulations prescribed by the Secretary, in consultation with the governor of the possession to which such regulations apply.

"(3) Determination of residency.—For purposes of this section and section 876, the determination of whether an individual is a bona fide resident of Guam, American Samoa, or the Northern Mariana Islands shall be made under regulations prescribed by the Secretary, in consultation with the governor of the possession to which such regulations apply."

(b) Exemption From Withholding Tax; Tax Imposed by Section 1.—Section 876 (relating to alien residents of Puerto Rico) is amended to read as follows:

"SEC 876. ALIEN RESIDENTS OF PUERTO RICO, GUAM, AMERICAN SAMOA, OR THE NORTHERN MARIANA ISLANDS.

"(a) General Rule.—This subpart shall not apply to any alien individual who is a bona fide resident of Puerto Rico, Guam, American Samoa, or the Northern Mariana Islands, during the entire taxable year and such alien shall be subject to the tax imposed by section 1.

"(b) Cross References.—

"For exclusion from gross income of income derived from sources within—

"(1) Guam, American Samoa, and the Northern Mariana Islands, see section 931, and

"(2) Puerto Rico, see section 933."

(c) Technical and Conforming Amendments.—

(1) Section 932 (relating to citizens of possessions of the United States) is hereby repealed.

(2) Section 935 (relating to coordination of United States and Guam individual income taxes) is hereby repealed.

(3) Paragraph (1) and (2) of section 933 are each amended by inserting ", or any credit," before "properly".

(4) Subparagraph (C) of section 32(c)(1) is amended to read as follows:

"(C) Individual who claims benefits of section 911 not eligible individual.— The term 'eligible individual' does not include an individual who, for the taxable year, claims the benefits of section 911 (relating to citizens or residents of the United States living aborad)."

(5) Clause (vii) of section 48(a)(2)(B) is amended by striking out "932.".

(6) Paragraph (6) of section 63(c) relating to certain individuals, etc., not eligible for standard deduction), as amended by title I of this Act, is amended by striking out subparagraph (C) and by redesignating sub-

paragraphs (D) and (E) as subparagaphs (C) and (D), respectively.

(7) Section 153 is amended by striking out paragraph (4) and by redesignating paragraph (5) as paragraph (4).

(8) Paragraph (8) of section 1402(a) is amended by striking out "and section 931 (relating to income from sources within possessions of the United States)" and by inserting "and" after "of the employer,).".

(9) Paragraph (9) of section 1402(a) is amended to read as follows:

"(9) the exclusion from gross income provided by section 931 shall not apply;".

(10) Clause (iii) of section 6091(b)(1)(B) is amended by striking out "possessions of the United States" and inserting in lieu thereof "Guam, American Samoa, or the Northern Mariana Islands".

(11) Subsection (b) of section 7655 is amended by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively, and by inserting before paragraph (2), as so redesignated, the following new paragraph:

"(1) Section 931, relating to income tax on residents of Guam, American Samoa, or the Northern Mariana Islands;".

(12) The table of sections for subpart D of part III of subchapter N of Chapter 1 is amended by striking out the items relating to sections 932 and 935 and by striking out the item relating to section 931 and inserting in lieu thereof the following:

"Sec. 931. Income from sources within Guam, American Samoa, or the Northern Mariana Islands."

(13) The table of sections for subpart A of part II of subchapter N of Chapter 1 is amended by striking out the items relating to section 876 and inserting in lieu thereof the following:

"Sec. 876. Alien residents of Puerto Rico, Guam, American Samoa, or the Northern Mariana Islands."

SEC. 673. TREATMENT OF CORPORATIONS ORGANIZED IN GUAM, AMERICAN SAMOA, OR THE NORTHERN MARIANA ISLANDS.

(a) Treatment Under Subpart F.—Subsection. (d) of section 957 (relating to controlled foreign corporations; United States persons) is amended by adding "and" at the end of paragraph (1) and by striking out paragraphs (2) and (3) and inserting in lieu thereof the following new paragraph:

"(2) with respect to a corporation organized under the law of Guam, American Samoa, or the Northern Mariana Islands—

(A) 80 percent or more of the gross income of which for the 3-year period ending at the close of the taxable year (or for such part of such period as such corporation or any predecessor has been in existenc) was derived from sources within such a possession or was effectively connected with the conduct of a trade or business in such a possession, and

"(B) 50 percent or more of the gross income of which for such period (or part) was derived from the conduct of an active trade or business within such a possession,

such term does not include an individual who is a bona fide resident of Guam, American Samoa, or the Northern Mariana Islands.

For purposes of subpargraphs (A) and (B) of paragraph (2), the determination as to whether income was derived from sources within a possession, was effectively connected with the conduct of a trade or business within a possession, or derived from the active conduct of a trade or business within a possession shall be made under regulations prescribed by the Secretary, in consultation with the governor of the possession to which such regulations apply."

(b) Exemption From Withholding.—

(1) In general.—Subsection (b) of section 881 (relating to exception for certain Guam and Virgin Islands corporations) is amended by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) In general.—For purposes of this section, a corporation created or organized in Guam, American Samoa, the Northern Mariana Islands, or the Virgin Islands or under the law of any such possession shall not be treated as a foreign corporation for any taxable year if—

"(A) at all times during such taxable year less than 25 percent in value of the stock of such corporation is beneficially owned (directly or indirectly) by foreign persons,

"(B) at least 65 percent of the gross income of such corporation is shown to the satisfaction of the Secretary to be effectively connected with the conduct of a trade or business in such a possession or the United States for the 3-year period ending with the close of the taxable year of such corporation (or for such part of such period as the corporation or any predecessor has been in existence), and

"(C) no substantial part of the income of such corporation is used (directly or indirectly) to satisfy obligations to persons who are not bona fide residents of such a possession or the United States."

(2) Technical amendments.—

(A) Subsection (b) of section 881 is amended by redesignating paragraph (3) as paragraph (2) and by striking out paragraph (4).

(B) Subsection (c) of section 1442 is amended to read as follows:

"(c) Exception for Certain Possessions Corporations.—For purposes of this section, the term 'foreign corporation' does not include a corporation created or organized in Guam, American Samoa, the Northern Mariana Islands, or the Virgin Islands or under the law of any such possession if the requirements of subparagraphs (A), (B), and (C) of section 881(b)(1) are met with respect to such corporation."

Part II—Treatment of the Virgin Islands

SEC. 674. COORDINATION OF THE VIRGIN ISLANDS INDIVIDUAL INCOME TAXES.

(a) In General.—Subpart D of part III of subchapter N of chapter 1 is amended by inserting after section 931 the following new section:

"SEC. 932. COORDINATION OF UNITED STATES AND VIRGIN ISLANDS INDIVIDUAL INCOME TAXES.

"(a) Treatment of United States Residents.—

"(1) Application of subsection.—This subsection shall apply to an individual for the taxable year if—

"(A) such individual—

"(i) is a citizen or resident of the United States (other than a bona fide resident of the Virgin Islands at the close of the taxable year), and

"(ii) has income derived from sources within the Virgin Islands, or effectively connected with the conduct of a trade or business within such possession, for the taxable year, or

"(B) such individual files a joint return for the taxable year with an individual described in subparagraph (A).

"(2) Filing requirement.—Each individual to whom this subsection applies for the taxable year shall file his income tax return for the taxable year with both United States and the Virgin Islands.

"(3) Extent of income tax liability.—In the case of an individual to whom this subsection applies in a taxable year for purposes of so much of this title (other than this section and section 7654) as relates to the taxes imposed by this chapter, the United States shall be treated as including the Virgin Islands.

"(b) Portion of United States Tax Liability Payable to the Virgin Islands.—

"(1) In general.—Each individual to whom this subsection applies for the taxable year shall pay the applicable percentage of the taxes imposed by this chapter for such taxable year (determined without regard to paragraph (3)) to the Virgin Islands.

"(2) Applicable percentage.—

"(A) In general.—For purposes of paragraph (1), the term 'applicable percentage' means the percentage which Virgin Islands adjusted gross income bears to adjusted gross income.

"(B) Virgin islands adjusted gross income.—For purposes of subparagraph (A), the term 'Virgin Islands adjusted gross income' means adjusted gross income determined by taking into account only income derived from sources within the Virgin Islands and deductions properly apportioned or allocable thereto.

"(3) Amounts paid allowed as credit.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the taxes required to be paid to the Virgin Islands under paragraph (1) which are so paid.

"(c) Residents of the Virgin Islands.—In the case of an individual who is a bona fide resident of the Virgin Islands at the close of the taxable year and who, on his return of income tax to the Virgin Islands, identifies the source of each item shown on such return, gross income shall not include any amount included in gross income on such return.

"(d) Special Rule for Joint Returns.—In the case of a joint return, this section shall be applied on the basis of the residence of the spouse who has the greater adjusted gross income (determined without regard to community property laws) for the taxable year.

"(e) Section Not To Apply to Tax Imposed in Virgin Islands.—This section shall not apply for purposes of determining income tax liability incurred to the Virgin Islands."

(b) Authority To Impose Nondiscriminatory Local Income Taxes.—Nothing in any provision of Federal law shall prevent the Virgin Islands from imposing on any person nondiscriminatory local income taxes. Any taxes so imposed shall be treated in the same manner as State and local income taxes under section 164 of the Internal Revenue Code of 1985 and shall not be treated as taxes to which section 901 of such Code applies.

(c) Regulations on Application of Mirror System.—The Secretary of the Treasury or his delegate shall prescribe such regulations as may be necessary or appropriate for applying this title for purposes of determining tax liability incurred to the Virgin Islands.

(d) Clerical Amendment.—The table of sections for such subpart D is amended by inserting after the item relating to section 931 the following new item:

"Sec. 932. Coordination of United States and Virgin Islands individual income taxes."

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SEC. 675. VIRGIN ISLANDS CORPORATIONS ALLOWED POSSESSION TAX CREDIT.

(a) POSSESSION TAX CREDIT ALLOWED.—Paragraph (1) of section 936(d) (defining possession) is amended by striking out ", but does not include the Virgin Islands of the United States" and inserting in lieu thereof "and the Virgin Islands".

(b) CLARIFICATION OF TREATMENT OF VIRGIN ISLANDS CORPORATIONS.—Subparagraph (B) of section 7651(5) (relating to the Virgin Islands) is amended to read as follows:

"(B) For purposes of this title, section 28(a) of the Revised Organic Act of the Virgin Islands shall be effective as if such section 28(a) had been enacted before the enactment of this title and such section 28(a) shall have no effect on the amount of income tax liability required to be paid by any person to the United States."

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subsection 934 is amended by striking out subsections (b), (c), (d), (e), and (f), and by redesignating subsection (g) as subsection (c).

(2)(A) Subsection (a) of section 934 is amended by striking out "or (c) or in section 934A".

(B) Section 934, as amended by paragraph (1), is amended by inserting after subsection (a) the following new subsection:

"(b) REDUCTIONS PERMITTED WITH RESPECT TO VIRGIN ISLANDS SOURCE INCOME, ETC.—

"(1) IN GENERAL.—Except as provided in paragraph (2), subsection (a) shall not apply with respect to so much of the tax liability referred to in subsection (a) as is attributable to income derived from sources within the Virgin Islands or income effectively connected with the conduct of a trade or business within the Virgin Islands.

"(2) EXCEPTION FOR LIABILITY PAID BY CITIZENS OR RESIDENTS OF THE UNITED STATES.—Paragraph (1) shall not apply to any liability payable to the Virgin Islands under section 932(b).

"(3) DETERMINATION OF INCOME SOURCE, ETC.—The determination as to whether income is derived from sources within the Virgin Islands or is effectively connected with the conduct of a trade or business within the Virgin Islands shall be made under regulations prescribed by the Secretary, in consultation with the governor of the Virgin Islands."

(3) Section 934A (relating to income tax rates on Virgin Islands source income) is hereby repealed

(4) Subparagraph (B) of section 28(d)(3) is amended to read as follows:

"(B) SPECIAL LIMITATION FOR CORPORATIONS TO WHICH SECTION 936 APPLIES.—No credit shall be allowed under this section with respect to any clinical testing conducted by a corporation to which an election under section 936 applies."

(5) Clause (vii) of section 48(a)(2)(B) is amended by striking out "or which is entitled to the benefits of section 934(b)" and by striking out ", 933, or 934(c)" and inserting in lieu thereof "or 933".

(6) Subsection (e) of section 246 is amended by striking out "or 934(e)(3)".

(7) Clause (i) of section 338(h)(6)(B) is amended by striking out "a corporation described in section 934(b).".

(8) Subparagraph (B) of section 864(d)(5) is amended to read as follows:

"(B) SPECIAL RULES FOR POSSESSIONS.—An amount treated as interest under paragraph (1) shall not be treated as income described in subparagraph (A) or (B) of section 936(a)(1) unless such amount is from sources within a possession of the United States (determined after the application of paragraph (1))."

(9) The table of sections for subpart D of part III of subchapter N of chapter 1 is amended by striking out the item relating to section 934A.

PART III—COVER OVER OF INCOME TAXES

SEC. 676. COVER OVER OF INCOME TAXES.

(a) IN GENERAL.—Section 7654 (relating to coordination of United States and Guam individual income taxes) is amended to read as follows:

"SEC. 7654. COORDINATION OF UNITED STATES AND CERTAIN POSSESSION INDIVIDUAL INCOME TAXES.

"(a) GENERAL RULE.—The net collection of taxes imposed by chapter 1 for each taxable year with respect to an individual to which section 931 or 932(c) applies shall be covered into the Treasury of the specified possession of which such individual is a bona fide resident.

"(b) DEFINITION AND SPECIAL RULE.—For purposes of this section—

"(1) NET COLLECTIONS.—In determining net collections for a taxable year, an appropriate adjustment shall be made for credits allowed against the tax liability and refunds made of income taxes for the taxable year.

"(2) SPECIFIED POSSESSION.—The term 'specified possession' means Guam, American Samoa, the Northern Mariana Islands, and the Virgin Islands.

"(c) TRANSFERS.—The transfers of funds between the United States and any specified possession required by this section shall be made not less frequently than annually.

"(d) FEDERAL PERSONNEL.—In addition to the amount determined under subsection (a), the United States shall pay to each specified possession at such times and in such manner as determined by the Secretary—

"(1) the amount of the taxes deducted and withheld by the United States under chapter 24 with respect to compensation paid to members of the Armed Forces who are stationed in such possession but who have no income tax liability to such possession with respect to such compensation by reason of the Soldiers' and Sailors' Civil Relief Act (50 App. U.S.C. 501 et seq.), and

"(2) the amount of the taxes paid under chapter I which are attributable to amounts paid for services performed as an employee of the United States (or any agency thereof) with respect to an individual to which section 931 or 932(c) applies.

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section and sections 931 and 932, including regulations prescribing the information which the individuals to whom such sections may apply shall furnish to the Secretary."

(b) CLERICAL AMENDMENT.—The table of sections for subchapter D of chapter 78 is amended by striking out the item relating to section 7654 and inserting in lieu thereof the following:

"Sec. 7654. Coordination of United States and certain possession individual income taxes."

SEC. 677. (a) COLLECTIONS REMITTER.

Notwithstanding any other provision of law, all customs, duties, excise taxes imposed by and collected under the Internal Revenue Laws on the United States on articles produced in American Samoa, federal income taxes derived from American Samoa, and the proceeds of any other taxes which may be levied on the inhabitants of American Samoa by the United States, and all quarantine, passport, immigration and naturalization fees collected in American Samoa shall be covered into the Treasury of American Samoa and held in an account to be expended for the benefit and Government of American Samoa as provided by the laws thereof.

(b) Section 28(b) of the Revised Organic Act of the Virgin Islands, 68 Stat. 508, is amended by adding the following:

"Notwithstanding any other provision in law, all excise taxes imposed by, and collected during the fiscal year under, the Internal Revenue laws of the United States on rum produced in the Virgin Islands shall be paid over in full to the Government of the Virgin Islands".

PART IV—EFFECTIVE DATE

SEC. 678. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsections (b) and (c), the amendments made by this subtitle shall apply to taxable years beginning after December 31, 1985.

(b) SPECIAL RULE FOR GUAM, AMERICAN SAMOA, AND THE NORTHERN MARIANA ISLANDS.—The amendments made by this subtitle shall apply with respect to Guam, American Samoa, or the Northern Mariana Islands (and to residents thereof and corporations created or organized therein) only if (and so long as) an implementing agreement under section 671 is in effect between the United States and such possession.

(c) SPECIAL RULE FOR THE VIRGIN ISLANDS.—The amendments made by section 675(c) shall apply with respect to the Virgin Islands (and residents thereof and corporations created or organized therein) only if (and so long as) an implementing agreement is in effect between the United States and the Virgin Islands with respect to the establishment of rules under which the evasion or avoidance of United States income tax shall not be permitted or facilitated by such possession. Any such implementing agreement shall be executed on behalf of the United States by the Secretary of the Treasury.

Subtitle D—Excise Tax on Certain Broadcast for Olympic Events

SEC. 631. IMPOSITION OF EXCISE TAX ON AMOUNTS PAID FOR UNITED STATES TELEVISION AND RADIO BROADCAST RIGHTS FOR OLYMPIC EVENTS: TRANSFER OF FUNDS TO TRUST FUND.

(a) IMPOSITION OF EXCISE TAX.—

(1) IN GENERAL.—Chapter 36 (relating to certain other excise taxes) is amended by inserting before subchapter D the following new subchapter:

"Subchapter C—Tax on Amounts Paid for United States Television and Radio Broadcast Rights for Olympic Events

"Sec. 4471. Imposition of tax.
"Sec. 4472. Definitions and special rules.

"SEC. 4471. IMPOSITION OF TAX.

"(a) IMPOSITION OF TAX.—A tax is hereby imposed on the amount paid to any person or government for the United States broadcast rights for Olympic events.

"(b) AMOUNT OF TAX.—The amount of the tax imposed by subsection (a) shall be 10 percent of the amount so paid.

"(c) LIABILITY FOR TAX.—

"(1) IN GENERAL.—The person or government receiving the payment to which the tax under this subchapter applies shall be liable for such tax.

"(2) Withholding.—The payor of any amount which is subject to tax under subsection (a) shall withhold such tax from such amount. Such payor shall be liable for the payment of the tax required to be withheld under the preceding sentence and shall not be liable to any person for the amount of any such payment.

"(3) Recipient treated as having paid withheld amount.—The person or government receiving any payment to which the tax under this subchapter applies shall be treated as having paid any amount withheld under this subsection with respect to such payment.

"SEC. 4472. DEFINITIONS AND SPECIAL RULES.

"(a) United States Broadcast Rights.—For purposes of this subchapter, the term 'United States broadcast rights' means any right (whether or not exclusive) to the original broadcast on television or radio in the United States of any Olympic event.

"(b) Olympic Event.—For purposes of this subchapter, the term 'Olympic event' means any event of the summer or winter Olympic games.

"(c) Excise Tax To Apply Notwithstanding Treaties.—The tax imposed by this subchapter shall apply notwithstanding any treaty obligation of the United States, whether entered into before, on, or after the date of the enactment of this section."

(2) Excise tax to be deductible against income tax.—Subsection (a) of section 164 (relating to deduction for taxes) is amended by adding at the end thereof the following new paragraph:

"(6) The tax imposed by section 4471 (relating to tax on amounts paid for United States broadcast rights for Olympic events)."

(3) Clerical amendment.—The table of subchapters for chapter 36 is amended by inserting before the item relating to subchapter D the following new item:

"Subchapter C. Tax on amounts paid for United States television and radio broadcast rights for Olympic events."

(4) Effective dates.—

(A) In general.—Except as provided in subparagraph (B), the amendments made by this subsection shall apply to amounts paid after November 22, 1985.

(B) Special rule for binding contracts.—The amendments made by this subsection shall not apply to amounts paid after November 22, 1985, pursuant to a binding contract in effect on November 22, 1985 (whether or not in writing), and at all times thereafter.

(b) Establishment of United States Olympic Trust Fund.—

(1) In general.—Subchapter A of chapter 98 (relating to trust fund code) is amended by adding at the end thereof the following new section:

"SEC. 9505. UNITED STATES OLYMPIC TRUST FUND.

"(a) Creation of Trust Fund.—There is established in the Treasury of the United States a trust fund to be known as the 'United States Olympic Trust Fund', consisting of such amounts as may be appropriated or credited to the United States Olympic Trust Fund as provided in this section or section 9602(b).

"(b) Transfer to United States Olympic Trust Fund of Amounts Equivalent to Certain Taxes.—There is hereby appropriated to the United States Olympic Trust Fund amounts equivalent to the amounts received in the Treasury under section 4471 (relating to tax on amounts paid for United States broadcast rights for Olympic events).

"(c) Expenditures From Trust Fund.—

"(1) In general.—The Secretary shall pay, not less often than quarterly, to the United States Olympic Committee from the United States Olympic Trust Fund an amount equal to the amount in such Fund as of the time of such payment less any administrative expenses which may be paid under paragraph (2).

"(2) Administrative expenses.—Amounts in the United States Olympic Trust Fund shall be available to pay the administrative expenses incurred by the Department of the Treasury in administering subchapter C of chapter 36 and in carrying out its responsibilities with respect to the United States Olympic Trust Fund."

(2) Clerical amendment.—The table of sections for such subchapter A is amended by adding at the end thereof the following new item:

"Sec. 9505. United States Olympic Trust Fund."

Subtitle E—Excise Tax on Insurance Premiums Paid to Foreign Insurers

SEC. 641. PROVISIONS RELATING TO AMOUNT AND WITHHOLDING OF EXCISE TAXES ON POLICIES ISSUED BY FOREIGN INSURERS.

(a) Uniform Rate of Tax on Insurance and Reinsurance Policies.—Section 4371 (relating to excise tax on policies issued by foreign insurers) is amended to read as follows:

"SEC. 4371. IMPOSITION OF TAX.

"(a) In General.—If any foreign insurer or reinsurer issues a policy of insurance, indemnity bond, annuity contract, or policy of reinsurance, there is hereby imposed on such policy, bond, contract, or policy of reinsurance a tax equal to—

"(1) in the case of—

"(A) a policy of casualty insurance or an indemnity bond which is issued to or for, or in the name of, an insured (within the meaning of section 4372(d)), or

"(B) a policy of reinsurance covering any such contract or bond,

4 percent of the amount of the premium retained by the foreign insurer or reinsurer on such policy, or bond, or on such policy of reinsurance; and

"(2) in the case of—

"(A) a policy of life, sickness, or accident insurance or an annuity contract, or

"(B) a policy of reinsurance covering any such policy or contract,

1 percent of the amount of the premium retained by the foreign insurer or reinsurer on such policy or contract, or on such policy of reinsurance.

No tax shall be imposed under paragraph (2) on any policy or contract with respect to which the insurer is subject to tax under section 819.

"(b) Amount of Premium Retained.—For purposes of subsection (a), the term 'amount of the premium retained' means, with respect to any policy, bond, or contract described in subsection (a), the excess of—

"(1) the gross premium (and other consideration) received by a foreign insurer, over

"(2) the premiums (and other consideration) paid by such insurer with respect to reinsurance ceded with respect to such policy, bond, or contract."

(b) Liability for Tax.—Section 4374 (relating to liability for tax) is amended—

(1) by striking out "or for whose use or benefit the same are made, signed, issued, or sold", and

(2) by striking out the last sentence.

(c) Withholding of Excise Tax on Foreign Insurers.—

(1) In general.—Chapter 34 (relating to policies issued by foreign insurers) is amended by adding at the end thereof the following new section:

"SEC. 4375. WITHHOLDING OF EXCISE TAX ON FOREIGN INSURERS.

"(a) In General.—In any case in which—

"(1) a foreign insurer issues a contract to which this section applies, or

"(2) a foreign reinsurer issues a policy of reinsurance covering any contract to which this section applies,

the insured or any withholding agent shall deduct and withhold from the gross premium (and other consideration) paid an amount equal to the amount determined under subsection (b).

"(b) Amount To Be Withheld.—The amount to be deducted and withheld under subsection (a) shall be equal to—

"(1) in the case of any contract described in subsection (d)(1)(A) or any policy of reinsurance subsequently issued with respect to the risks covered by such contract, 4 percent of the gross premium (and other consideration) paid,

"(2) in the case of any contract described in subsection (d)(1)(B) or any policy of reinsurance subsequently issued with respect to the risks covered by such contract, 1 percent of the gross premium (and other consideration) paid.

"(c) Exceptions.—Subsection (a) shall not apply to any contract or policy of reinsurance—

"(1) the premium on which is exempt from tax under section 4373, or

"(2) with respect to which the Secretary by regulations provides for an exemption from the requirement to deduct and withhold under subsection (a).

"(d) Definitions and Special Rules.—For purposes of this section—

"(1) Contract to which this section applies.—This section shall apply to any contract which—

"(A) is a policy of casualty insurance or an indemnity bond with respect to an insured, or

"(B) any policy of life, sickness, or accident insurance or an annuity contract (within the meaning of section 4372(e)) with respect to which the issuer is not subject to tax under section 819.

"(2) Insured.—The term 'insured' has the meaning given such term by section 4372(d).

"(3) Withholding agent.—Except as provided in regulations prescribed by the Secretary, the term 'withholding agent' means, with respect to any premium paid to a foreign insurer or reinsurer (or to any nonresident agent, solicitor, or broker), the person who controls, receives, has custody of, disposes of, or pays such premium.

"(4) Procedural rules.—Under regulations prescribed by the Secretary, rules similar to the rules of subchapter C of chapter 3 shall apply to any amount required to be deducted and withheld under this subsection."

(2) Conforming amendment.—The table of sections for chapter 34 is amended by adding at the end thereof the following new item:

"Sec. 4375. Withholding on excise tax on foreign insurers."

(d) Effective Date.—The amendments made by this section shall apply to premiums paid after December 31, 1985.

Subtitle F—Treatment of Certain Employees of Panama Canal Commission

SEC. 651. TREATMENT OF CERTAIN EMPLOYEES OF THE PANAMA CANAL COMMISSION.

(a) General Rule.—Nothing in the Panama Canal Treaty (or in any agreement implementing such Treaty) shall be construed as exempting any citizen or resident of the United States from tax under chapter 1 of the Internal Revenue Codes of 1954 and 1985 on amounts received from the Panama Canal Commission. The preceding sentence shall apply to all taxable years whether beginning before, on, or after the date of the enactment of this Act.

(b) Treatment of Employees of Panama Canal Commission for Purposes of Section 912.—Employees of the Panama Canal Commission stationed in Panama may exclude from gross income allowances which are comparable to the allowances excludable under section 912(1) of the Internal Revenue Code of 1985 by employees of the State Department of the United States stationed in Panama. The preceding sentence shall apply to taxable years beginning after December 31, 1985.

TITLE VII—TAX-EXEMPT BONDS

SEC. 701. APPLICATION OF ARBITRAGE RULES WHERE ANNUITY CONTRACTS ACQUIRED.

(a) In General.—Paragraph (2) of section 103(c) (defining arbitrage bonds) is amended to read as follows:

"(2) Arbitrage bond.—

"(A) In general.—For purposes of this subsection, the term 'arbitrage bond' means any obligation which is used as part of an issue any portion of the proceeds of which are reasonably expected to be used directly or indirectly—

"(i) to acquire higher yielding investments, or

"(ii) to replace funds which were used directly or indirectly to acquire higher yielding investments.

"(B) Higher yielding investments.—

"(i) In general.—For purposes of this section, the term 'higher yielding investments' means any investment property which can reasonably be expected, at the time of issuance of the bond, to produce a yield over the term of the issue which is materially higher (taking into account any discount or premium) than the yield on the bond of such issue.

"(ii) Investment property.—For purposes of this section, the term 'investment property' means—

"(I) any security (within the meaning of section 165(g)(2) (A) or (B)),

"(II) any obligation,

"(III) any annuity contract, or

"(IV) any investment-type property.

Such term shall not include any tax-exempt bond."

(b) Effective Date.—The amendment made by subsection (a) shall apply to obligations issued after September 25, 1985.

SEC. 702. TREATMENT OF TAX INCREMENT BONDS ISSUED BEFORE JANUARY 1, 1986.

The amendment made by section 626(a) of the Tax Reform Act of 1984 shall not apply to any tax increment financing obligation issued before January 1, 1986, if—

(1) substantially all of the proceeds of the issue are to be used to finance—

(A) sewer, street, lighting, or other governmental improvements to real property,

(B) the acquisition of any interest in real property pursuant to the exercise of eminent domain, the preparation of such property for new use, or the transfer of such interest to a private developer, or

(C) payments of reasonable relocation costs of prior users of such real property,

(2) all of the activities described in subparagraph (A) are pursuant to a redevelopment plan adopted by the issuing authority before the issuance of such issue,

(3) repayment of such issue is secured exclusively by pledges of that portion of any increase in real property tax revenues (or their equivalent) attributable to the redevelopment resulting from the issue, and

(4) none of the property described in subparagraph (A) is subject to a real property or other tax based on a rate or valuation method which differs from the rate and valuation method applicable to any other similar property located within the jurisdiction of the issuing authority.

TITLE VIII—FINANCIAL INSTITUTIONS

SEC. 801. LIMITATIONS ON BAD DEBT RESERVES.

(a) Large Banks Not Eligible for Bad Debt Reserves.—

(1) In general.—Subsection (a) of section 585 (relating to reserves for losses on loans of banks) is amended to read as follows:

"(a) Reserve for Bad Debts.—

"(1) In general.—Except as provided in subsection (c), a bank shall be allowed a deduction for a reasonable addition to a reserve for bad debts. Such deduction shall be in lieu of any deduction under section 166(a).

"(2) Bank.—For purposes of this section—

"(A) In general.—The term 'bank' means any bank (as defined in section 581) other than an organization to which section 593 applies.

"(B) Banking business of United States branch of foreign corporation.—The term 'bank' also includes any corporation to which subparagraph (A) would apply except for the fact that it is a foreign corporation. In the case of any such foreign corporation, this section shall apply only with respect to loans outstanding the interest on which is effectively connected with the conduct of a banking business within the United States."

(2) Reserve deduction not available for large banks.—Section 585 is amended by adding at the end thereof the following new subsection:

"(c) Section Not To Apply to Large Banks.—

"(1) In general.—In the case of a large bank, this section shall not apply (and no deduction shall be allowed under any other provision of this subtitle for any addition to a reserve for bad debts).

"(2) Large banks.—For purposes of this subsection, a bank is a large bank if, for the taxable year (or for any preceding taxable year beginning after December 31, 1985)—

"(A) the average adjusted bases of all assets of such bank exceeded $500,000,000, or

"(B) such bank was a member of a parent-subsidiary controlled group and the average adjusted bases of all assets of such group exceeded $500,000,000.

"(3) 5-year spread of adjustments.—Except as provided in paragraph (4), in the case of any bank which for its last taxable year before the disqualification year maintained a reserve for bad debts—

"(A) the provisions of this subsection shall be treated as a change in the method of accounting of such bank for the disqualification year,

"(B) such change shall be treated as having been made with the consent of the Secretary, and

"(C) the net amount of adjustments required by section 481(a) to be taken into account by the taxpayer shall be taken into account in each of the 5 taxable years beginning with the disqualification year with—

"(i) the amount taken into account for the 1st of such taxable years being the greater of ⅕ of such net amount or such greater amount as the taxpayer may designate, and

"(ii) the amount taken into account in each of the 4 succeeding taxable years being equal to ¼ of the portion of such net amount not taken into account under clause (i).

"(4) Elective cut-off method.—If a bank makes an election under this paragraph for the disqualification year—

"(A) the provisions of this subsection shall not be treated as a change in the method of accounting of the taxpayer for purposes of section 481,

"(B) the taxpayer shall continue to maintain its reserve for loans held by the bank as of the 1st day of the disqualification year, and

"(C) no deduction shall be allowed under this section (or any other provision of this subtitle) for any addition to such reserve for the disqualification year or any subsequent taxable year.

"(5) Definitions.—For purposes of this subsection—

"(A) Parent-subsidiary controlled group.—The term 'parent-subsidiary controlled group' means any controlled group of corporations described in section 1563(a)(1). In determining the average adjusted bases of assets held by such a group, interests held by one member of such group in another member of such group shall be disregarded.

"(B) Disqualification year.—The term 'disqualification year' means, with respect to any bank, the 1st taxable year beginning after December 31, 1985, for which such bank was a large bank if such bank maintained a reserve for bad debts for the preceding taxable year."

(b) Reserves of Domestic Building and Loan Associations, Mutual Savings Banks, and Cooperative Banks.—

(1) In general.—Subsection (a) of section 593 (relating to reserves for losses on loans) is amended to read as follows:

"(a) Reserve for Bad Debts.—

"(1) In general.—Except as provided in paragraph (2), in the case of—

"(A) any domestic building and loan association,

"(B) any mutual savings bank, or

"(C) any cooperative bank without capital stock organized and operated for mutual purposes and without profit,

there shall be allowed a deduction for a reasonable addition to a reserve for bad debts. Such deduction shall be in lieu of any deduction under section 166(a).

"(2) Organization must meet 60-percent asset test of section 7701(a)(19).—This section shall apply to an association or bank referred to in paragraph (1) only if it meets the requirements of section 7701(a)(19)(C)."

(2) Limitation on percentage of taxable income method.—Paragraph (2) of section 593(b) (relating to percentage of taxable income method) is amended—

(A) by striking out subparagraphs (A), (B), and (C) and inserting in lieu thereof the following:

"(A) In general.—Subject to subparagraphs (B) and (C), the amount determined under this paragraph for the taxable year shall be an amount equal to 5 percent of the taxable income for such year.

"(B) Reduction for amounts referred to in paragraph (1)(A).—The amount determined under subparagraph (A) shall be reduced (but not below 0) by the amount determined under paragraph (1)(A).", and

(B) by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively.

(3) Repeal of percentage method of computing reserves for bad debts.—Subsection (b) of section 593 (relating to addition to reserves for bad debts) is amended by striking out paragraphs (3) and (5) and by redesignating paragraph (4) as paragraph (3).

(4) Section 593 reserves not treated as preference for purposes of section 291.—Subparagraph (A) of section 291(e)(1) (defining financial institution preference item) is amended by striking out "or 593".

(c) Repeal of Section 586.—Section 586 (relating to reserves for losses on loans of small business investment companies, etc.) is hereby repealed.

(d) Conforming Amendments.—

(1) Amendment to section 585.—Paragraph (1) of section 585(b) is amended by striking out "section 166(c)" and inserting in lieu thereof "subsection (a)".

(2) Amendments to section 593.—

(A) Paragraph (1) of section 593(b) is amended by striking out "section 166(c)" and inserting in lieu thereof "subsection (a)".

(B) Subparagraph (B) of section 593(b)(1) is amended—

(i) by striking out "paragraph (2), (3), or (4)" and inserting in lieu thereof "paragraph (2) or (3)", and

(ii) by striking out "paragraph (4)" in clause (i) and inserting in lieu thereof "paragraph (3)".

(C) Subparagraph (B) of section 593(e)(1) is amended by striking out "subsection (b)(4)" and inserting in lieu thereof "subsection (b)(3)".

(3) Bonds, etc., losses and gains of financial institutions.—

(A) Paragraph (1) of section 582(c) (relating to bonds, etc., losses and gains of financial institutions) is amended by striking out "a financial institution to which section 585, 586, or 593 applies" and inserting in lieu thereof "a financial institution referred to in paragraph (5)".

(B) Subsection (c) of section 582 is amended by adding at the end thereof the following new paragraph:

"(5) Financial institutions to which paragraph (1) applies.—

"(A) In general.—For purposes of paragraph (1), the financial institutions referred to in this paragraph are—

"(i) any bank (and any corporation which would be a bank except for the fact it is a foreign corporation),

"(ii) any financial institution referred to in section 591,

"(iii) any small business investment company operating under the Small Business Investment Act of 1958, and

"(iv) any business development corporation.

"(B) Business development corporation.—For purposes of subparagraph (A), the term 'business development corporation' means a corporation which was created by or pursuant to an act of a State legislature for purposes of promoting, maintaining, and assisting the economy and industry within such State on a regional or statewide basis by making loans to be used in trades and businesses which would generally not be made by banks within such region or State in the ordinary course of their business (except on the basis of a partial participation), and which is operated primarily for such purposes.

"(C) Limitations on foreign banks.—In the case of a foreign corporation referred to in subparagraph (A)(i), paragraph (1) shall only apply to gains and losses which are effectively connected with the conduct of a banking business in the United States."

(e) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1985.

SEC. 802. INTEREST INCURRED TO CARRY TAX-EXEMPT BONDS.

(a) General Rule.—Section 265 (relating to expenses and interest relating to tax-exempt income) is amended by adding at the end thereof the following new subsection:

"(b) Pro Rata Allocation of Interest Expense of Financial Institutions to Tax-Exempt Interest.—

"(1) In general.—In the case of a financial institution, no deduction shall be allowed for that portion of the taxpayer's interest expense which is allocable to tax-exempt interest.

"(2) Allocation.—For purposes of paragraph (1), the portion of the taxpayer's interest expense which is allocable to tax-exempt interest is an amount which bears the same ratio to such interest expense as—

"(A) the taxpayer's average adjusted bases (within the meaning of section 1016) of tax-exempt obligations acquired after December 31, 1985, bears to

"(B) such average adjusted bases for all assets of the taxpayer.

"(3) Definitions.—For purposes of this subsection—

"(A) Interest expense.—The term 'interest expense' means the aggregate amount allowable to the taxpayer as a deduction for interest for the taxable year (determined without regard to this subsection and section 291). For purposes of the preceding sentence, the term 'interest' includes amounts (whether or not designated as interest) paid in respect of deposits, investment certificates, or withdrawable or repurchasable shares.

"(B) Tax-exempt obligation.—The term 'tax-exempt obligation' means any obligation the interest on which is wholly exempt from taxes imposed by this subtitle. Such term includes shares of stock of a regulated investment company which during the taxable year of the holder thereof distributes exempt-interest dividends.

"(4) Financial institution.—For purposes of this subsection, the term 'financial institution' means any person who—

"(A) accepts deposits from the public in the ordinary course of such person's trade or business, and is subject to Federal or State supervision as a financial institution, or

"(B) is a corporation described in section 585(a)(2).

"(5) Special rules.—

"(A) Coordination with subsection (a).—If interest on any indebtedness is disallowed under subsection (a) with respect to any tax-exempt obligation—

"(i) such disallowed interest shall not be taken into account for purposes of applying this subsection, and

"(ii) for purposes of applying paragraph (2), the adjusted basis of such tax-exempt obligation shall be reduced (but not below zero) by the amount of such indebtedness.

"(B) Coordination with section 263A.—This section shall be applied before the application of section 263A (relating to capitalization of certain expenses where taxpayer produces property)."

(b) Repeal of Special Treatment for Certain Financial Institutions.—Paragraph (2) of section 265 (as in effect on the day before the date of the enactment of this Act) is amended by striking out the second sentence.

(c) Termination of Reduction in Deduction for Interest Allocable to Tax-Exempt Obligations Under Section 291.—

(1) In general.—Clause (i) of section 291(e)(1)(B) (relating to interest on debt to carry tax-exempt obligations acquired after December 31, 1982) is amended by striking out "after December 31, 1982" and inserting in lieu thereof "after December 31, 1982, and before January 1, 1986".

(2) Technical amendments.—Subparagraph (B) of section 291(e)(1) is amended—

(A) by striking out "(but for this paragraph)" in clause (i) and inserting in lieu thereof "(but for this paragraph or section 265(b))",

(B) by striking out "without regard to this section" in clause (ii) and inserting in lieu thereof "without regard to this section and section 265(b)", and

(C) by striking out "AFTER DECEMBER 31, 1982" in the subparagraph heading and inserting in lieu thereof "AFTER DECEMBER 31, 1982, AND BEFORE JANUARY 1, 1986".

(d) Clerical Amendment.—Section 265 is amended by striking out "No deduction shall be allowed for—" and inserting in lieu thereof the following:

"(a) General Rule.—No deduction shall be allowed for—".

(e) Effective Date.—

(1) In general.—Except as provided in this subsection, the amendments made by this section shall apply to obligations acquired after December 31, 1985, in taxable years ending after such date.

(2) Obligations acquired pursuant to certain commitments.—For purposes of paragraph (1), any tax-exempt obligation which is acquired after December 31, 1985, pursuant to a direct or indirect written commitment—

(A) to purchase or repurchase such obligation, and

(B) entered into before September 25, 1985,

shall be treated as an obligation acquired before January 1, 1986.

SEC. 803. TERMINATION OF SPECIAL 10-YEAR CARRYBACK RULES FOR CERTAIN FINANCIAL INSTITUTIONS.

(a) General Rule.—

(1) Subparagraph (F) of section 172(b)(1) (relating to years to which loss may be carried) is amended by striking out "after December 31, 1975," and inserting in lieu thereof "after December 31, 1975, and before January 1, 1986,".

(2) Subparagraph (G) of section 172(b)(1) is amended by striking out "after December 31, 1969," and inserting in lieu thereof "after December 31, 1969, and before January 1, 1986,".

(3) Subparagraph (H) of section 172(b)(1) is amended—

(A) by striking out "after December 31, 1981," and inserting in lieu thereof "after December 31, 1981, and before January 1, 1986,", and

(B) by striking out "after December 31, 1984," and inserting in lieu thereof "after December 31, 1984, and before January 1, 1986,".

(b) Effective Date.—The amendments made by subsection (a) shall apply to losses incurred in taxable years beginning after December 31, 1985.

SEC. 804. REPEAL OF SPECIAL REORGANIZATION RULES FOR FINANCIAL INSTITUTIONS.

(a) GENERAL RULE.—Subparagraph (D) of section 368(a)(3) (relating to agency receivership proceedings which involve financial institutions) is amended to read as follows:

"(D) AGENCY RECEIVERSHIP PROCEEDINGS WHICH INVOLVE FINANCIAL INSTITUTIONS.—For purposes of subparagraphs (A) and (B), in the case of a receivership, foreclosure, or similar proceeding before a Federal or State agency involving a financial institution referred to in section 581 or 591, the agency shall be treated as a court."

(b) REPEAL OF SPECIAL TREATMENT FOR FSLIC FINANCIAL ASSISTANCE.—

(1) Section 597 (relating to FSLIC financial assistance) is hereby repealed.

(2) The table of sections for part II of subchapter H of chapter 1 is amended by striking out the item relating to section 597.

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendments made by subsection (a) shall apply to acquisitions after December 31, 1985, in taxable years ending after such date.

(2) SUBSECTION (b).—

(A) IN GENERAL.—The amendments made by subsection (b) shall apply to transfers after December 31, 1985, in taxable years ending after such date; except that such amendments shall not apply to transfers after such date pursuant to a written binding contract entered into on or before September 26, 1985.

(B) CLARIFICATION OF TREATMENT OF AMOUNTS EXCLUDED UNDER SECTION 597.—Section 265(a)(1) of the Internal Revenue Code of 1985 (as amended by this title) shall not deny any deduction by reason of such deduction being allocable to amounts excluded from gross income under section 597 of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act).

SEC. 805. TREATMENT OF LOSSES ON DEPOSITS OR ACCOUNTS IN INSOLVENT FINANCIAL INSTITUTIONS.

(a) IN GENERAL.—Section 165 (relating to losses) is amended by redesignating subsection (l) as subsection (m) and by inserting after subsection (k) the following new subsection:

"(l) TREATMENT OF CERTAIN LOSSES IN INSOLVENT FINANCIAL INSTITUTIONS.—

"(1) IN GENERAL.—If—

"(A) as of the close of the taxable year, it can reasonably be estimated that there is a loss on a qualified individual's deposit in a qualified financial institution, and

"(B) such loss is on account of the bankruptcy or insolvency of such institution,

then the taxpayer may elect to treat the amount so estimated as a loss described in subsection (c)(3) incurred during the taxable year.

"(2) QUALIFIED INDIVIDUAL DEFINED.—For purposes of this subsection, the term 'qualified individual' means any individual, except an individual—

"(A) who owns at least 1 percent in value of the outstanding stock of the qualified financial institution,

"(B) who is an officer of the qualified financial institution,

"(C) who is a sibling (whether by the whole or half blood), spouse, aunt, uncle, nephew, niece, ancestor, or lineal descendant of an individual described in subparagraph (A) or (B), or

"(D) who otherwise is a related person (as defined in section 267(b)) with respect to an individual described in subparagraph (A) or (B).

"(3) QUALIFIED FINANCIAL INSTITUTION.—For purposes of this subsection, the term 'qualified financial institution' means—

"(A) any bank (as defined in section 581),

"(B) any institution described in section 591,

"(C) any credit union the deposits or accounts in which are insured under Federal or State law or are protected or guaranteed under State law, or

"(D) any similar institution chartered and supervised under Federal or State law.

"(4) DEPOSIT.—For purposes of this subsection, the term 'deposit' means any deposit, withdrawable account, or withdrawable or repurchasable share.

"(5) ELECTION.—Any election by the taxpayer under this subsection may be revoked only with the consent of the Secretary and shall apply to all losses of the taxpayer on deposits in the institution with respect to which such election was made.

"(6) COORDINATION WITH SECTION 166.—Section 166 shall not apply to any loss to which an election under this subsection applies."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1982.

TITLE IX—ACCOUNTING PROVISIONS

Subtitle A—General Provisions

SEC. 901. SIMPLIFIED DOLLAR-VALUE LIFO METHOD FOR CERTAIN SMALL BUSINESSES.

(a) GENERAL RULE.—Section 474 (relating to election by certain small businesses to use one inventory pool) is amended to read as follows:

"SEC. 474. SIMPLIFIED DOLLAR-VALUE LIFO METHOD FOR CERTAIN SMALL BUSINESSES.

"(a) GENERAL RULE.—An eligible small business may elect to use the simplified dollar-value method of pricing inventories for purposes of the LIFO method.

"(b) SIMPLIFIED DOLLAR-VALUE METHOD OF PRICING INVENTORIES.—For purposes of this section—

"(1) IN GENERAL.—The simplified dollar-value method of pricing inventories is a dollar-value method of pricing inventories under which—

"(A) the taxpayer maintains a separate inventory pool for items in each major category in the applicable Government price index, and

"(B) the adjustment for each such separate pool is based on the change from the preceding taxable year in the component of such index for the major category.

"(2) APPLICABLE GOVERNMENT PRICE INDEX.—The term 'applicable Government price index' means—

"(A) except as provided in subparagraph (B), the Producer Price Index published by the Bureau of Labor Statistics, or

"(B) in the case of a retailer using the retail method, the Consumer Price Index published by the Bureau of Labor Statistics.

"(3) MAJOR CATEGORY.—The term 'major category' means—

"(A) in the case of the Producer Price Index, any of the 2-digit standard industrial classifications in the Producer Prices Data Report, or

"(B) in the case of the Consumer Price Index, any of the general expenditure categories in the Consumer Price Index Detailed Report.

"(c) ELIGIBLE SMALL BUSINESS.—For purposes of this section, a taxpayer is an eligible small business for any taxable year if the average annual gross receipts of the taxpayer for the 3 preceding taxable years do not exceed $5,000,000. For purposes of the preceding sentence, rules similar to the rules of section 448(c)(3) shall apply.

"(d) SPECIAL RULES.—For purposes of this section—

"(1) CONTROLLED GROUPS.—

"(A) IN GENERAL.—In the case of a taxpayer which is a member of a controlled group, all persons which are component members of such group shall be treated as 1 taxpayer for purposes of determining the gross receipts of the taxpayer.

"(B) CONTROLLED GROUP DEFINED.—For purposes of subparagraph (A), persons shall be treated as being component members of a controlled group if such persons would be treated as a single employer under the regulations prescribed under section 52(b).

"(2) ELECTION.—

"(A) IN GENERAL.—The election under this section may be made without the consent of the Secretary.

"(B) PERIOD TO WHICH ELECTION APPLIES.—The election under this section shall apply—

"(i) to the taxable year for which it is made, and

"(ii) to all subsequent taxable years for which the taxpayer is an eligible small business,

unless the taxpayer secures the consent of the Secretary to the revocation of such election.

"(3) LIFO METHOD.—The term 'LIFO method' means the method provided by section 472(b).

"(4) TRANSITIONAL RULES.—

"(A) IN GENERAL.—In the case of a year of change under this section—

"(i) the inventory pools shall—

"(I) in the case of the 1st taxable year to which such an election applies, be established in accordance with the major categories in the applicable Government price index, or

"(II) in the case of the 1st taxable year after such election ceases to apply, be established in the manner provided by regulations under section 472;

"(ii) the aggregate dollar amount of the taxpayer's inventory as of the beginning of the year of change shall be the same as the aggregate dollar value as of the close of the taxable year preceding the year of change, and

"(iii) the year of change shall be treated as a new base year in accordance with procedures provided by regulations under section 472.

"(B) YEAR OF CHANGE.—For purposes of this paragraph, the year of change under this section is—

"(i) the 1st taxable year to which an election under this section applies, or

"(ii) in the case of a cessation of such an election, the 1st taxable year after such election ceases to apply."

(b) CLERICAL AMENDMENT.—The table of sections for subpart D of part II of subchapter E of chapter 1 is amended by striking out the item relating to section 474 and inserting in lieu thereof the following:

"Sec. 474. Simplified dollar-value LIFO method for certain small businesses."

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1985.

(2) TREATMENT OF TAXPAYERS WHO MADE ELECTIONS UNDER EXISTING SECTION 474.—The

amendments made by this section shall not apply to any taxpayer who made an election under section 474 of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act) for any period during which such election is in effect. Notwithstanding any provision of such section 474 (as so in effect), an election under such section may be revoked without the consent of the Secretary.

SEC. 902. LIMITATION ON USE OF CASH METHOD OF ACCOUNTING.

(a) General Rule.—Subpart A of part II of subchapter E of chapter 1 (relating to methods of accounting) is amended by adding at the end thereof the following new section:

"SEC. 448. LIMITATION ON USE OF CASH METHOD OF ACCOUNTING.

"(a) General Rule.—Except as otherwise provided in this section, in the case of a—

"(1) C corporation, or

"(2) partnership which has a C corporation as a partner,

taxable income shall not be computed under the cash receipts and disbursements method of accounting.

"(b) Exceptions.—

"(1) Farming business.—Subsection (a) shall not apply to any farming business.

"(2) Qualified personal service corporations.—Subsection (a) shall not apply to a qualified personal service corporation, and such a corporation shall be treated as an individual for purposes of determining whether subsection (a) applies to any partnership.

"(3) Entities with gross receipts of not more than $5,000,000.—Subsection (a) shall not apply to any corporation or partnership for any taxable year if, for all prior taxable years, such entity (or any predecessor) did not meet the $5,000,000 gross receipts test of subsection (c).

"(c) $5,000,000 Gross Receipts Test.—For purposes of this section—

"(1) In general.—A corporation or partnership meets the $5,000,000 gross receipts test of this subsection for any prior taxable year if the average annual gross receipts of such entity for the 3-taxable-year period ending with such taxable year exceeds $5,000,000.

"(2) Aggregation rules.—All persons treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (o) of section 414 shall be treated as one person for purposes of paragraph (1).

"(3) Special rules.—For purposes of this subsection—

"(A) Not in existence for entire 3-year period.—If the entity was not in existence for the entire 3-year period referred to in paragraph (1), such paragraph shall be applied on the basis of the period during which such entity (or trade or business) was in existence.

"(B) Short taxable years.—Gross receipts for any taxable year of less than 12 months shall be annualized by multiplying the gross receipts for the short period by 12 and dividing the result by the number of months in the short period.

"(C) Gross receipts.—Gross receipts for any taxable year shall be reduced by returns and allowances made during such year.

"(d) Definitions and Special Rules.—

"(1) Farming business.—For purposes of this section, the term 'farming business' has the meaning given to such term by section 263A(d)(4).

"(2) Qualified personal service corporation.—For purposes of this section, the term 'qualified personal service corporation' means any corporation—

"(A) if substantially all of the activities of the corporation involve the performance of services in the fields of health, law, engineering, architecture, accounting, actuarial science, performing arts, or consulting, and

"(B) substantially all of the stock of such corporation is held by—

"(i) employees performing services for such corporation in a field referred to in subparagraph (A),

"(ii) retired employees who had performed such services for such corporation,

"(iii) the estate of any individual described in clause (i) or (ii), or

"(iv) any other person who acquired such stock by reason of the death of an individual described in clause (i) or (ii) (but only for the 2-year period beginning on the date of the death of such individual).

The preceding sentence shall be applied without regard to community property laws.

"(3) Special rules for services.—

"(A) In general.—In the case of any person using an accrual method of accounting with respect to amounts to be received for the performance of services by such person—

"(i) such person shall not be required to accrue such amounts earlier than when billed, and

"(ii) such person shall not be required to accrue any portion of such amounts which (on the basis of experience) will not be collected.

Clause (ii) shall not apply to any amount if interest is required to be paid on such amount or there is any penalty for failure to timely pay such amount.

"(B) Exceptions for financial institutions and utilities.—In the case of—

"(i) a financial institution described in section 581 or 593(a), clauses (i) and (ii) of subparagraph (A) shall not apply, and

"(ii) a utility, clause (i) of subparagraph (A) shall not apply.

"(4) Treatment of certain trusts subject to tax on unrelated business income.—For purposes of this section, a trust subject to tax under section 511(b) shall be treated as a C corporation with respect to its activities constituting an unrelated trade or business.

"(5) Coordination with section 481.—In the case of any taxpayer required by this section to change its method of accounting for any taxable year—

"(A) such change shall be treated as initiated by the taxpayer,

"(B) such change shall be treated as made with the consent of the Secretary, and

"(C) the period for taking into account the adjustments under section 481 by reason of such change shall not exceed 5 years (10 years in the case of a hospital described in section 144(b)(3))."

(b) Amendment to Economic Performance Rules.—Clause (i) of section 461(h)(2)(A) (relating to services provided to the taxpayer) is amended to read as follows:

"(i) the providing of services to the taxpayer by another person—

"(I) economic performance occurs as such person performs such services if such person is an employee of the taxpayer, and

"(II) in any other case, economic performance occurs as of the later of when such services are performed or the taxpayer is billed for such services,".

(c) Clerical Amendment.—The table of sections for subpart A of part II of subchapter E of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 448. Limitation on use of cash method of accounting."

(d) Effective Date.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1985.

(2) Election to retain cash method for certain transactions.—A taxpayer may elect not to have the amendments made by this section apply to any loan or lease, or any transaction with a related party, entered into before September 25, 1985. Any election under the preceding sentence may be made separately with respect to each transaction.

SEC. 903. RECOGNITION OF GAIN ON PLEDGES OF INSTALLMENT OBLIGATIONS.

(a) General Rule.—Subpart B of part II of subchapter E of chapter 1 (relating to taxable year for which item of gross income included) is amended by inserting after section 453B the following new section:

"SEC. 453C. PLEDGES, ETC., OF INSTALLMENT OBLIGATIONS.

"(a) General Rule.—For purposes of sections 453 and 453A, if any indebtedness (hereinafter in this section referred to as 'secured indebtedness') is secured by an installment obligation, the ratable portion of the net proceeds of the secured indebtedness shall be treated as a payment received on such installment obligation at the time the indebtedness becomes secured indebtedness.

"(b) Exception for Certain Sales of Capital Assets.—

"(1) In general.—Subsection (a) shall not apply with respect to an installment obligation received for the sale or exchange of tangible property if such property was a capital asset at all times during the taxpayer's holding period for such property.

"(2) Exception for tax shelters.—Paragraph (1) shall not apply to any sale or exchange by a tax shelter (as defined in section 461(i)(3)).

"(c) Limitation Based on Total Contract Price.—The amount treated as received under subsection (a) by reason of any secured indebtedness shall not exceed the excess (if any) of—

"(1) the total contract price, over

"(2) any portion of the total contract price received under the contract before such secured indebtedness was incurred (including amounts so treated under subsection (a) but not including amounts not taken into account by reason of subsection (d)).

"(d) Later Payments Treated As Receipt of Tax Paid Amounts.—If any amount is treated as received under subsection (a) with respect to any installment obligation, subsequent payments received on such obligation shall not be taken into account for purposes of sections 453 and 453A to the extent that the aggregate of such subsequent payments does not exceed the aggregate amount treated as received under subsection (a).

"(e) Ratable Portion of Net Proceeds; Exception for Short-Term Indebtedness.—For purposes of this section—

"(1) Ratable portion of net proceeds.—

"(A) In general.—The term 'ratable portion of net proceeds' means the net proceeds of any secured indebtedness multiplied by a fraction—

"(i) the numerator of which is the portion of the total contract price which is required to be paid under the installment obligation after the 9-month period beginning on the date the obligation arose, and

"(ii) the denominator of which is the total contract price.

"(B) Treatment of revolving credit plans.—In the case of an installment obligation arising under a revolving credit plan, the amount reasonably expected to be paid on such obligation after the 9-month period beginning on the date it arose (determined under regulations on a statistical basis by treating payments as being made on obligations in the order in which incurred) shall be treated as if it were a required payment for purposes of subparagraph (A).

"(2) Short-term indebtedness.—Subsection (a) shall not apply to any secured indebtedness if such indebtedness is for a term of 90 days or less and such indebtedness is not extended or refinanced (or otherwise replaced) during the 45-day period beginning on the day such indebtedness is repaid.

"(f) Secured Indebtedness.—For purposes of this section—

"(1) In general.—Indebtedness is secured by an installment obligation to the extent that payment of principal or interest on such indebtedness is secured (under the terms of the indebtedness or any underlying arrangement) by any interest (other than a qualified general security interest) in such installment obligation.

"(2) Indirectly secured indebtedness.—For purposes of paragraph (1), indebtedness shall be treated as secured by an installment obligation if it is reasonable to expect that the lender took into account payments on the installment obligation as a source for any portion of the payments required on the indebtedness.

"(3) Qualified general security interest.—

"(A) In general.—The term 'qualified general security interest' means a security interest held by an unrelated financial institution in all of the assets of the taxpayer but only if more than 50 percent (in value) of the taxpayer's assets are assets used in the active conduct of a trade or business. For purposes of the preceding sentence, the value of any asset shall be reduced by the amount of any indebtedness to which the property is subject or which is secured by an interest in such property.

"(B) Limitation on amount.—The amount of any qualified general security interest shall not exceed the fair market value of the assets in which the security interest is held and which are used in the active conduct of a trade or business of the taxpayer."

(b) Clerical Amendment.—The table of sections for subpart B of part II of subchapter E of chapter I is amended by inserting after the item relating to section 453B the following new item:

"453C. Pledges, etc., of installment obligations."

(c) Effective Dates.—

(1) In general.—The amendments made by this section shall apply to any indebtedness—

(A) becoming secured indebtedness after December 31, 1985, or

(B) with respect to which security is renewed after such date,

without regard to when the installment obligation arose.

(2) Certain indebtedness secured before January 1, 1986.—The amendments made by this section shall apply also to any indebtedness which on January 1, 1986, is secured indebtedness by reason of an installment obligation arising after September 25, 1985. Any such indebtedness shall be treated as becoming secured indebtedness on January 1, 1986.

(3) Special rule for certain secured indebtedness.—

(A) In general.—In the case of any qualified indebtedness which—

(i) becomes secured indebtedness in 1986, such indebtedness shall, for purposes of applying the amendments made by this section, be taken into account ratably over the 3 taxable years beginning with the taxable year in which such indebtedness becomes secured indebtedness, and

(ii) becomes secured indebtedness in 1987, such indebtedness shall, for purposes of applying such amendments, be taken into account ratably over the 2 taxable years beginning with the taxable year in which such indebtedness becomes secured indebtedness.

(B) Qualified indebtedness.—For purposes of this paragraph, the term "qualified indebtedness" means indebtedness arising out of the sale of property by the taxpayer which is inventory or primarily held for sale to customers in the ordinary course of the trade or business of the taxpayer.

(4) Special rule for certain apartment complex.—The amendments made by this section shall not apply to secured indebtedness arising in connection with the selling of a 369-unit apartment complex if—

(I) such secured indebtedness relates to a binding contract entered into on June 8, 1985, for the selling of such complex, and

(II) such secured indebtedness was entered into before January 1, 1985, and

(III) the amount of such secured indebtedness is approximately ⅓ of $9,000,000 of installment notes with respect to such complex.

(5) Secured indebtedness.—For purposes of this subsection, the term "secured indebtedness" means any indebtedness which is secured by an installment obligation (within the meaning of section 453C(f) of the Internal Revenue Code of 1954 as added by subsection (a)).

SEC. 904. REPEAL OF COMPLETED CONTRACT METHOD OF ACCOUNTING.

(a) In General.—Subpart B of part II of subchapter E of chapter 1 is amended by adding at the end thereof the following new section:

"SEC. 460. SPECIAL RULES FOR LONG-TERM CONTRACTS.

"(a) General Rule.—In the case of a long-term contract—

"(1) the amount includible in gross income for any taxable year with respect to the contract shall be determined under the percentage of completion method, with the percentage of completion being determined by comparing costs incurred during the taxable year with respect to the contract with the estimated total contract costs, and

"(2) on completion of the contract, the taxpayer shall pay (or shall be entitled to receive) interest computed under the look-back method of subsection (b).

"(b) Look-Back Method.—The interest computed under the look-back method of this subsection shall be determined by—

"(1) first allocating income under the contract among taxable years before the year in which the contract is completed on the basis of the actual contract price and costs instead of the estimated contract price and costs,

"(2) second, determining (solely for purposes of computing such interest) the overpayment or underpayment of tax for each taxable year referred to in paragraph (1) which would result solely from the application of paragraph (1), and

"(3) then using the overpayment rate established by section 6621, compounded daily, on the overpayment or underpayment determined under paragraph (1).

"(c) Long-Term Contract.—For purposes of this section—

"(1) In general.—The term 'long-term contract' means any contract for the production, manufacture, building, installation, or construction of tangible property if such contract is not completed before the date 1 year after the contract commencement date.

"(2) Aggregation, etc.—For purposes of paragraph (1)—

"(A) 2 or more contracts which are interdependent (by reason of pricing or otherwise) shall be treated as 1 contract, and

"(B) a contract which is properly treated as an aggregation of separate contracts shall be so treated.

"(d) Exception for Certain Construction Contracts.—

"(1) In general.—This section shall not apply to any construction contract entered into by a taxpayer—

"(A) who estimates (at the time such contract is entered into) that such contract will be completed within the 2-year period beginning on the contract commencement date of such contract, and

"(B) whose average annual gross receipts over the 3 taxable years preceding the taxable year in which such contract is entered into do not exceed $10,000,000.

"(2) Determination of taxpayer's gross receipts.—For purposes of paragraph (1), the gross receipts of—

"(A) all trades or businesses (whether or not incorporated) which are under common control with the taxpayer (within the meaning of section 52(b)), and

"(B) all members of any controlled group of corporations of which the taxpayer is a member, for the 3 taxable years of such persons preceding the taxable year in which the contract described in paragraph (1) is entered into shall be included in the gross receipts of the taxpayer for the period described in paragraph (1)(B). The Secretary shall prescribe regulations which provide attribution rules that take into account, in addition to the persons and entities described in the preceding sentence, taxpayers who engage in construction contracts through partnerships, joint ventures, and corporations.

"(3) Controlled group of corporations.—For purposes of this subsection, the term 'controlled group of corporations' has the meaning given to such term by section 1563(a), except that—

"(A) 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in section 1563(a)(1), and

"(B) the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563.

"(4) Construction contract.—For purposes of this subsection, the term 'construction contract' means any contract for the building, construction, reconstruction, or rehabilitation of, or the installation of any integral component to, or improvements of, real property.

"(e) Contract Commencement Date.—For purposes of this section, the term 'contract commencement date' means, with respect to any contract, the first date on which any costs (other than costs such as bidding expenses or expenses incurred in connection with negotiating the contract) allocable to such contract are incurred."

(b) Change in Regulations.—The Secretary of the Treasury or his delegate shall modify the income tax regulations relating to accounting for long-term contracts to carry out the provisions of this section.

(c) Conforming Amendment.—The table of sections for subpart B of part II of subchapter E of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 459. Special rules for long-term contracts."

(d) Effective Date.—The amendments made by this section shall apply to any contract entered into after September 24, 1985.

SEC. 905. CAPITALIZATION OF CERTAIN EXPENSES WHERE TAXPAYER PRODUCES PROPERTY.

(a) General Rule.—Part IX of subchapter B of chapter 1 (relating to items not deductible) is amended by inserting after section 263 the following new section:

"SEC. 263A. CAPITALIZATION OF CERTAIN EXPENSES WHERE TAXPAYER PRODUCES PROPERTY.

"(a) General Rule.—In the case of any taxpayer who produces real or tangible personal property, the following costs shall be capitalized:

"(1) the direct costs of such production, and

"(2) such production's proper share of those indirect costs (including taxes) part or all of which are assignable to such production.

"(b) General Exceptions.—

"(1) Personal use property.—Subsection (a) shall not apply to any property produced by the taxpayer for use by the taxpayer other than in a trade or business or an activity conducted for profit.

"(2) Research and experimental expenditures.—Subsection (a) shall not apply to any amount allowable as a deduction under section 174.

"(3) Certain development and other costs of oil and gas wells or other mineral property.—Subsection (a) shall not apply to any cost allowable as a deduction under section 263(c) or 616(a).

"(4) Coordination with long-term contract rules.—Subsection (a) shall not apply to any property produced by the taxpayer pursuant to a contract if a long-term contract method of accounting is required to be used with respect to such contract.

"(c) Exception for Farming Businesses.—

"(1) Subsection (a) to apply only if preproductive period is more than 2 years.—

"(A) In general.—Subsection (a) shall not apply to any plant or animal which is produced by the taxpayer in a farming business and which has a preproductive period of 2 years or less.

"(B) Exception for taxpayers required to use accrual method.—Subparagraph (A) shall not apply to any corporation or partnership required to use an accrual method of accounting under section 447.

"(2) Treatment of certain plants lost by reason of casualty.—If plants bearing a crop for human consumption were lost or damaged (while in the hands of the taxpayer) by reason of freezing temperatures, disease, drought, pests, or casualty, subsection (a) shall not apply to any costs of the taxpayer of replanting plants bearing the same type of crop (whether on the same parcel of land on which such lost or damaged plants were located or any other parcel of land of the same acreage in the United States).

"(3) Election to have subsection (a) not apply.—

"(A) In general.—If a taxpayer makes an election under this paragraph, subsection (a) shall not apply to any tangible personal property produced in any farming business carried on by such taxpayer.

"(B) Certain persons not eligible.—No election may be made under this paragraph—

"(i) by a corporation or partnership, if such corporation or partnership is required to use an accrual method of accounting under section 447,

"(ii) by any farming syndicate (as defined in section 464(c)) or tax shelter within the meaning of section 6161(b)(2)(C)(ii), or

"(iii) with respect to the planting, cultivation, maintenance, or development of pistachio trees.

"(C) Special rule for citrus and almond growers.—An election under this paragraph shall not apply with respect to any item which is attributable to the planting, cultivation, maintenance, or development of any citrus or almond grove (or part thereof) and which is incurred before the close of the 4th taxable year beginning with the taxable year in which the trees were planted. For purposes of the preceding sentence, the portion of a citrus or almond grove planted in 1-taxable year shall be treated separately from the portion of such grove planted in another taxable year.

"(D) Election.—Unless the Secretary otherwise consents, an election under this paragraph may be made only for the taxpayer's 1st taxable year which begins after December 31, 1985, and during which the taxpayer engages in a farming business. Any such election, once made, may be revoked only with the consent of the Secretary.

"(d) Definitions and Special Rules for Purposes of Subsection (c).—

"(1) Recapture of expensed amounts on disposition.—

"(A) In general.—In the case of any plant or animal with respect to which amounts would have been capitalized under subsection (a) but for an election under subsection (c)(3)—

"(i) such plant or animal (if not otherwise section 1245 property) shall be treated as section 1245 property, and

"(ii) for purposes of section 1245, the recapture amount shall be treated as a deduction allowed for depreciation with respect to such property.

"(B) Recapture amount.—For purposes of subparagraph (A), the term 'recapture amount' means any amount allowable as a deduction to the taxpayer which, but for an election under subsection (c)(3), would have been capitalized with respect to the plant or animal.

"(2) Effects of election on depreciation.—

"(A) In general.—If the taxpayer (or any related person) makes an election under this paragraph, the provisions of section 168(h)(2) (relating to straight line depreciation) shall apply to all property of the taxpayer used predominantly in the farming business and placed in service in any taxable year during which any such election is in effect.

"(B) Related person.—For purposes of subparagraph (A), the term 'related person' means—

"(i) the taxpayer and members of the taxpayer's family,

"(ii) any corporation (including an S corporation) if 50 percent or more (in value) of the stock of such corporation is owned (directly or through the application of section 318) by the taxpayer or members of the taxpayer's family,

"(iii) a corporation and any other corporation which is a member of the same controlled group described in section 1563(a)(1), and

"(iv) any partnership if 50 percent or more (in value) of the interests in such partnership is owned directly or indirectly by the taxpayer or members of the taxpayer's family.

"(C) Members of family.—For purposes of this paragraph, the term 'family' means the parents and any of their children who have not attained age 18 before the close of the taxable year.

"(3) Preproductive period.—

"(A) In general.—For purposes of this section, the term 'preproductive period' means—

"(i) in the case of a plant or animal which will have more than 1 crop or yield, the period before the 1st marketable crop or yield from such plant or animal, or

"(ii) in the case of any other plant or animal, the period before such plant or animal is reasonably expected to be disposed of.

For purposes of this subparagraph, use by the taxpayer in a farming business of any supply produced in such business shall be treated as a disposition.

"(B) Rule for determining period.—In the case of a plant grown in commercial quantities in the United States, the preproductive period for such plant if grown in the United States shall be based on the nationwide weighted average preproductive period for such plant.

"(4) Farming business.—For purposes of this section, the term 'farming business' means the trade or business of farming. Such term shall include the trade or business of operating a nursery or sod farm or the raising or harvesting of trees bearing fruit, nuts, or other crops, or ornamental trees.

"(5) Certain inventory valuation methods permitted.—The Secretary shall by regulations permit the taxpayer to use reasonable inventory valuation methods to compute the amount required to be capitalized under subsection (a) in the case of any plant or animal.

"(e) Special Rules for Interest.—

"(1) Interest capitalized only in certain cases.—Subsection (a) shall apply to interest costs only in the case of property which has—

"(A) a long useful life,

"(B) a production period exceeding 2 years, or

"(C) a production period exceeding 1 year and a cost exceeding $1,000,000.

"(2) Allocation rules.—In determining the amount of interest required to be capitalized under subsection (a) with respect to any property, under regulations prescribed by the Secretary—

"(A) interest on any indebtedness directly attributable to production expenditures with respect to such property shall be assigned to such property, and

"(B) interest on any other indebtedness shall be assigned to such property to the extent that the taxpayer's interest costs could have been reduced if production expenditures (not attributable to indebtedness described in subparagraph (A)) had not been incurred.

"(3) Definitions.—For purposes of this subsection—

"(A) Long useful life.—Property has a long useful life if such property is real property or classified in class 7, 8, 9, or 10 under section 168.

"(B) Production period.—The term 'production period' means, when used with respect to any property, the period—

"(i) beginning on the date on which production of the property begins, and

"(ii) ending on the date on which the property is ready to be placed in service or is ready to be held for sale.

In the case of a plant or animal, such term means the preproductive period as defined in subsection (c)(3).

"(C) Production expenditures.—The term 'production expenditures' means the costs required to be capitalized under subsection (a) with respect to the property.

"(f) Production.—For purposes of this section—

"(1) In general.—The term 'produce' includes construct, manufacture, develop, improve, raise, or grow.

"(2) Treatment of property produced under contract for the taxpayer.—The taxpayer shall be treated as producing any property produced for the taxpayer under a contract with the taxpayer; except that only costs paid or incurred by the taxpayer (whether under such contract or otherwise) shall be taken into account in applying subsection (a) to the taxpayer.

"(g) Cross Reference.—

"For provision permitting amortization of amounts required to be capitalized under this section in the case of small timber producers, see section 194."

(b) Technical Amendments.—

(1) Section 278 is hereby repealed.

(2) Section 189 is hereby repealed.

(3) Subsection (b) of section 447 is amended to read as follows:

"(b) Preproductive Period Expenses.—

"For rules requiring capitalization of certain preproductive period expenses, see section 263A."

(4) Subsection (a) of section 447 is amended by striking out "and with the capitalization of preproductive period expenses described in subsection (b)".

(5) Section 471 (relating to general rule for inventories) is amended—

(A) by striking out "Whenever" and inserting in lieu thereof "(a) General Rule.—Whenever", and

(B) by adding at the end thereof the following new subsection:

"(b) Cross Reference.—

"For rules relating to capitalization of direct and indirect costs where taxpayer produces property, see section 263A."

(c) Clerical Amendments.—

(1) The table of sections for part IX of subchapter B of chapter 1 is amended by striking out the item relating to section 278 and by inserting after the item relating to section 263 the following:

"Sec. 263A. Capitalization of certain expenses where taxpayer produces property."

(2) The table of sections for part VI of subchapter B of chapter 1 is amended by striking out the item relating to section 189.

(d) Effective Date.—

(1) In general.—Except as provided in this subsection, the amendments made by this section shall apply to costs incurred after December 31, 1985, in taxable years ending after such date.

(2) Special rule for timber.—

(A) In general.—In the case of any costs in connection with trees planted before January 1, 1986, which, but for the amendments made by this section would not have to be charged to capital account, only the applicable percentage of such costs incurred after December 31, 1985, and before January 1, 1991, shall be taken into account for purposes of applying such amendments.

(B) Applicable percentage.—For purposes of subparagraph (A), the term "applicable percentage" means the percentage determined in accordance with the following table:

For costs incurred in calendar year:	The percentage is:
1986	20
1987	40
1988	60
1989	80
1990 and thereafter	100.

(3) Special rule for urban renovation project.—The amendments made by this section shall not apply to an urban renovation project described in section 203(d)(1)(D)(vi) of this Act.

(4) Special rule for inventory property.—In the case of any inventory property (other than farm or timber inventory property), the amendments made by this section shall apply to taxable years beginning after December 31, 1985, and—

(A) the amendments made by this section shall be treated as a change initiated by the taxpayer in the method of accounting of the taxpayer,

(B) such change shall be treated as having been made with the consent of the Secretary, and

(C) the net amount of adjustments required by section 481 of the Internal Revenue Code of 1954 to be taken into account by the taxpayer shall be taken into account in not more than the 1st 5 taxable years beginning after December 31, 1985.

SEC. 906. REPEAL OF RESERVE FOR BAD DEBTS OF TAXPAYERS OTHER THAN FINANCIAL INSTITUTIONS.

(a) General Rule.—Subsection (c) of section 166 (relating to reserve for bad debts) is hereby repealed.

(b) Computation of Wholly Worthless Debts.—Paragraph (1) of section 166(a) (relating to wholly worthless debts) is amended by inserting "in an amount not in excess of the part charged off within such taxable year" after "taxable year".

(c) Effective Date.—

(1) In general.—The amendments made by this section shall apply to taxable years beginning after December 31, 1985.

(2) 5-year spread of adjustments.—In the case of any taxpayer who maintained a reserve for bad debts for such taxpayer's last taxable year beginning before January 1, 1986—

(A) the amendment made by subsection (a) shall be treated as a change in the method of accounting of the taxpayer,

(B) such change shall be treated as having been made with the consent of the Secretary,

(C) the net amount of adjustments required by section 481 of the Internal Revenue Code of 1954 to be taken into account by the taxpayer shall be taken into account ratably in each of the first 5 taxable years beginning after December 31, 1985.

SEC. 907. LIMITATION ON ACCRUAL OF VACATION PAY.

(a) General Rule.—Paragraph (1) of section 463(a) (relating to accrual of vacation pay) is amended by striking out "and expected to be paid during the taxable year or within 12 months following the close of the taxable year" and inserting in lieu thereof "and paid during the taxable year or within 8½ months following the close of the taxable year".

(b) Effective Date.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1985.

SEC. 908. INCLUSION IN GROSS INCOME OF CONTRIBUTIONS IN AID OF CONSTRUCTION.

(a) General Rule.—Section 118 (relating to contributions to the capital of a corporation) is amended by striking out subsections (b) and (c), by redesignating subsection (d) as subsection (c), and by inserting after subsection (a) the following new subsection:

"(b) Contributions in Aid of Construction, Etc.—For purposes of subsection (a), the term 'contribution to the capital of the taxpayer' does not include any contribution in aid of construction or any other contribution as a customer or potential customer."

(b) Technical Amendment.—Subsection (c) of section 362 (relating to special rules for certain contributions to capital) is amended by striking out paragraph (3).

(c) Effective Date.—The amendments made by this section shall apply to amounts received after December 31, 1985, in taxable years ending after such date.

Subtitle B—Provisions Relating to Timber

SEC. 911. EXPENSING OF 50 PERCENT OF CERTAIN TIMBER PREPRODUCTIVE EXPENDITURES.

(a) General Rule.—Section 194 (relating to amortization of reforestation expenditures) is amended to read as follows:

"SEC. 194. EXPENSING OF 50 PERCENT OF CERTAIN TIMBER PREPRODUCTIVE EXPENDITURES.

"(a) Allowance of Deduction.—In the case of any qualified timber producer to whom an election under this section applies, 50 percent of the qualified timber preproductive period expense paid or incurred during any taxable year shall be allowed as a deduction for such taxable year.

"(b) Qualified Timber Preproductive Expense.—The term 'qualified timber preproductive period expense' means any amount paid or incurred—

"(1) which is attributable to the planting, cultivating, and caring for trees for sale or use in the commercial production of timber products,

"(2) which is attributable to the period before the timber is cut or disposed of, and

"(3) which would have been allowable as a deduction for the taxable year in which so paid or incurred if section 263A had not been enacted.

Such term does not include any expenses with respect to any trees bearing fruit, nuts, or other crops or ornamental trees.

"(c) Qualified Timber Producer.—For purposes of this section, the term 'qualified timber producer' means any taxpayer engaged in the trade or business of planting, cultivating, caring for, or cutting of trees for sale or use in the commercial production of timber products (hereinafter in this section referred to as the 'timber business').

"(d) Effects of Election on Depreciation.—

"(1) In general.—If the taxpayer (or any related person) makes an election under this section, the provisions of section 168(h)(2) (relating to straight line depreciation) shall apply to all property used predominantly in the timber business and placed in service during any taxable year during which any such election is in effect.

"(2) Related person.—The term 'related person' has the meaning given to such term by section 263A(d)(2).

"(e) Election.—Any election under this section shall apply to amounts paid or incurred in—

"(1) the taxable year for which made, and

"(2) all subsequent taxable years during which a taxpayer is a qualified timber producer, unless revoked with the consent of the Secretary."

(b) Section 1245 Recapture Not To Apply.—Paragraph (2) and (3) of section 1245(a) are each amended by striking out "194" each place it appears and inserting in lieu thereof "194 (as in effect on the day before the date of the enactment of the Tax Reform Act of 1985)".

(c) Technical Amendment.—Section 62 is amended by striking out paragraph (14).

(d) Clerical Amendment.—The table of sections for part VI of subchapter V of chapter 1 is amended by striking out the item relating to section 194 and inserting in lieu thereof the following:

"Sec. 194. Expensing of 50 percent of certain timber preproductive expenditures."

(e) Effective Date.—The amendments made by this section shall apply to costs incurred after December 31, 1985, in taxable years ending after such date.

SEC. 912. CAPITAL GAINS TREATMENT FOR TIMBER NOT AVAILABLE TO CORPORATIONS.

(a) General Rule.—Section 631 (relating to gain or loss in the case of timber, oil, or domestic iron ore) is amended by adding at the end thereof the following new subsection:

"(d) Limitation on Subsection (a) and (b).—

"(1) Persons eligible.—Subsections (a) and (b) shall apply only in the case of—

"(A) a natural person,

"(B) an estate, or

"(C) a trust all the beneficiaries of which are natural persons or estates.

"(2) Timber on federal lands.—Subsections (a) and (b) shall not apply in the case of timber on any land owned by the United States or any agency or instrumentality thereof.

"(3) Fruit, nut, and ornamental trees.—Subsections (a) and (b) shall not apply to any tree bearing fruit, nuts, or other crops or any ornamental tree."

(b) Conforming Amendment.—Subsection (a) of section 631 is amended by striking out the last sentence.

(c) Effective Dates.—

(1) Timber on federal lands.—Paragraphs (2) and (3) of section 631(d) of the Internal Revenue Code of 1985 (as added by subsection (a)) shall take effect on January 1, 1986.

(2) Corporations.—

(A) Paragraph (1) of section 631(d) of the Internal Revenue Code of 1985 (as added by subsection (a)) shall apply to amounts properly taken into account for periods after December 31, 1988.

(B) For rate of tax for gains of corporations for periods during 1986, 1987, and 1988, see the amendments made by section 301 of this Act.

Subtitle C—Special Provisions Relating to Agriculture

SEC. 921. REPEAL OF SPECIAL TREATMENT OF EXPENDITURES FOR FERTILIZER AND CLEARING LAND.

(a) General Rule.—The following provisions are hereby repealed:

(1) Section 180 (relating to expenditures by farmers for fertilizers, etc.).

(2) Section 182 (relating to expenditures by farmers for clearing land).

(b) Technical Amendments.—

(1) Paragraph (1) of section 263(a) (relating to capital expenditures) is amended by striking out subparagraphs (D) and (E) and by redesignating subparagraphs (F), (G), and (H) as subparagraphs (D), (E), and (F), respectively.

(2) Subparagraph (A) of section 1252(a)(1) (relating to gain from disposition of farm land) is amended by striking out "(relating to expenditures by farmers for clearing land)" and inserting in lieu thereof "(as in effect on the day before the date of the enactment of the Tax Reform Act of 1985)".

(3) The table of sections for part VI of subchapter B of chapter 1 is amended by striking out the items relating to sections 180 and 182.

(c) Effective Date.—The amendments made by this section shall apply to amounts paid or incurred after December 31, 1985, in taxable years ending after such date.

SEC. 922. LIMITATION ON EXPENSING OF SOIL AND WATER CONSERVATION EXPENDITURES.

(a) General Rule.—Subsection (c) of section 175 (relating to soil and water conservation expenditures) is amended by adding at the end thereof the following new paragraph:

"(3) Additional limitations.—

"(A) Expenditures must be consistent with soil conservation plan.—Notwithstanding any other provision of this section, subsection (a) shall not apply to any expenditures unless such expenditures are consistent with—

"(i) the plan (if any) approved by the Soil Conservation Service of the Department of Agriculture for the area in which the land is located, and

"(ii) any soil conservation plan of a comparable State agency.

"(B) Certain activities not qualified.—Subsection (a) shall not apply to any expenditures in connection with the draining or filling of wetlands or land preparation for center pivot irrigation systems."

(b) Effective Date.—The amendment made by subsection (a) shall apply to amounts paid or incurred after December 31, 1985, in taxable years ending after such date.

SEC. 923. TREATMENT OF DISPOSITIONS OF CONVERTED WETLANDS OR HIGHLY ERODIBLE CROPLANDS.

(a) General Rule.—Part IV of subchapter P of chapter 1 (relating to special rules for determining capital gains and losses) is amended by adding at the end thereof the following new section:

"SEC. 1257. DISPOSITION OF CONVERTED WETLANDS OR HIGHLY ERODIBLE CROPLANDS.

"(a) Gain Treated as Ordinary Income.—Any gain on the disposition of converted wetland or highly erodible cropland shall be treated as ordinary income. Such gain shall be recognized notwithstanding any other provision of this subtitle, except that this section shall not apply to the extent such gain is recognized as ordinary income under any other provision of this part.

"(b) Loss Treated as Long-Term Capital Loss.—Any loss recognized on the disposition of converted wetland or highly erodible cropland shall be treated as a long-term capital loss.

"(c) Definitions.—For purposes of this section—

"(1) Converted wetland.—The term 'converted wetland' means any converted wetland (as defined in section 1201(2) of H.R. 2100 of the 99th Congress, as passed by the House of Representatives) held—

"(A) by the person whose activities resulted in such land being converted wetland, or

"(B) by any other person who at any time used such land for farming purposes.

"(2) Highly erodible cropland.—The term 'highly erodible cropland' means any highly erodible cropland (as defined in section 1201(6) of H.R. 2100 of the 99th Congress, as passed by the House of Representatives) if at any time the taxpayer used such land for farming purposes (other than the grazing of animals).

"(3) Treatment of successors.—If any land is converted wetland or highly erodible cropland in the hands of any person, such land shall be treated as converted wetland or highly erodible cropland in the hands of any other person whose adjusted basis in such land is determined (in whole or in part) by reference to the adjusted basis of such land in the hands of such person.

"(d) Special Rules.—Under regulations prescribed by the Secretary, rules similar to the rules applicable under section 1245 shall apply for purposes of subsection (a). For purposes of sections 163(d), 170(e), 341(e)(12), 453B(d)(2), and 751(c), amounts treated as ordinary income under subsection (a) shall be treated in the same manner as amounts treated as ordinary income under section 1245."

(b) Clerical Amendment.—The table of sections for part IV of subchapter P of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 1257. Disposition of converted wetlands or highly erodible croplands."

(c) Effective Date.—The amendments made by this section shall apply to dispositions after December 31, 1985, in taxable years ending after such date.

SEC. 924. TREATMENT OF THE NETTING OF GAINS AND LOSSES BY COOPERATIVES.

(a) In General.—Section 1388 (relating to definitions and special rules applicable to cooperatives) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) Special Rules for the Netting of Gains and Losses by Cooperatives.—For purposes of this subchapter, in the case of any organization to which part I of this subchapter applies—

"(1) Optional netting of patronage gains and losses permitted.—The net earnings of such organization may, at its option, be determined by offsetting patronage losses (including any patronage loss carried to such year) which are attributable to 1 or more allocation units (whether such units are functional, divisional, departmental, geographic, or otherwise) against patronage earnings of 1 or more other such allocation units.

"(2) Certain netting permitted after section 381 transactions.—If such an organization acquires the assets of another such organization in a transaction described in section 381(a), the acquiring organization may, in computing its net earnings for taxable years ending after the date of acquisition, offset losses of 1 or more allocation units of the acquiring or acquired organization against earnings of the acquired or acquiring organization, respectively, but only to the extent—

"(A) such earnings are properly allocable to periods after the date of acquisition, and

"(B) such earnings could have been offset by such losses if such earnings and losses had been derived from allocation units of the same organization.

"(3) Notice requirements.—

"(A) In general.—In the case of any organization which exercises its option under paragraph (1) for any taxable year, such organization shall, on or before the 15th day of the 9th month following the close of such taxable year, provide to its patrons a written notice which—

"(i) states that the organization has offset earnings and losses from 1 or more of its allocation units and that such offset may have affected the amount which is being distributed to its patrons,

"(ii) states generally the identity of the offsetting allocation units, and

"(iii) states briefly what rights, if any, its patrons may have to additional financial information of such organization under terms of its charter, articles of incorporation, or bylaws, or under any provision of law.

"(B) Certain information need not be provided.—An organization may exclude from the information required to be provided under clause (ii) of subparagraph (A) any detailed or specific data regarding earnings or losses of such units which such organization determines would disclose commercially sensitive information which—

"(i) could result in a competitive disadvantage to such organization, or

"(ii) could create a competitive advantage to the benefit of a competitor of such organization.

"(C) Failure to provide sufficient notice.—If the Secretary determines that an organization failed to provide sufficient notice under this paragraph—

"(i) the Secretary shall notify such organization, and

"(ii) such organization shall, upon receipt of such notification, provide to its patrons a revised notice meeting the requirements of this paragraph.

Any such failure shall not affect the treatment of the organization under any provision of this subchapter or section 521.

"(4) Patronage earnings or losses defined.—For purposes of this subsection, the terms 'patronage earnings' and 'patronage losses' means earnings and losses, respectively, which are derived from business done with or for patrons of the organization."

(b) Tax-Exempt Status Not Affected by Netting.—Section 521(b) (relating to applicable rules) is amended by adding at the end thereof the following new paragraph:

"(6) Netting of losses.—Exemption shall not be denied any such association because such association computes its net earnings for purposes of determining any amount available for distribution to patrons in the manner described in paragraph (1) of section 1388(j)."

(c) Effective Date.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1962.

(2) Notification requirement.—The provisions of section 1388(j)(3) of the Internal Revenue Code of 1954 (as added by subsection (a)) shall apply to taxable years beginning on or after the date of the enactment of this Act.

(3) No inference.—Nothing in the amendments made by this section shall be construed to infer that a change in law is intended as to whether any patronage earnings may or may not be offset by nonpatronage losses, and any determination of such issue shall be made as if such amendments had not been enacted.

SEC. 925. TREATMENT OF CERTAIN PLANT VARIETY PROTECTION CERTIFICATES AS PATENTS.

(a) In General.—Section 1235 (relating to sale or exchange of patents) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) Certain Plant Certificates Treated as Patents.—For purposes of this section, the term 'patent' includes a certificate of plant variety protection issued under section 81 of the Plant Variety Protection Act (7 U.S.C. 2481)."

(b) Effective Date.—The amendments made by subsection (a) shall apply to transfers after December 31, 1985, in taxable years ending after such date.

TITLE X—INSURANCE PRODUCTS AND COMPANIES

PART I—POLICYHOLDER ISSUES

SEC. 1001. REPEAL OF EXCLUSION FOR INTEREST ON INSTALLMENT PAYMENTS OF LIFE INSURANCE PROCEEDS.

(a) In General.—The second sentence of paragraph (1) of section 101(d) (relating to payment of life insurance proceeds at a date later than death) is amended to read as follows: "There shall be excluded from the gross income of such beneficiary in the taxable year received any amount determined by such proration."

(b) Technical Amendment.—Subsection (d) of section 101 is amended by striking out paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(c) Effective Date.—The amendments made by this section shall apply to amounts received with respect to deaths occurring after December 31, 1985, in taxable years ending after such date.

SEC. 1002. DEDUCTION FOR NONBUSINESS CASUALTY LOSSES COVERED BY INSURANCE ALLOWABLE ONLY IF CLAIM FILED.

(a) In General.—Paragraph (4) of section 165(h) (relating to treatment of casualty gains and losses) is amended by adding at the end thereof the following new subparagraph:

"(E) Claim required to be filed in certain cases.—Any loss of an individual described in subsection (c)(3) which is covered in whole or in part by insurance shall be taken into account under this section only if the individual files a timely insurance claim with respect to such loss."

(b) Effective Date.—The amendment made by this section shall apply to losses sustained in taxable years beginning after December 31, 1985.

SEC. 1003. EXCLUSION FROM INCOME WITH RESPECT TO STRUCTURED SETTLEMENTS LIMITED TO CASES INVOLVING PHYSICAL INJURY.

(a) In General.—Subsection (c) of section 130 (relating to certain personal insurance liability assignments) is amended by inserting "(in a case involving physical injury or physical sickness)" after "personal injury or sickness".

(b) Effective Date.—The amendment made by this section shall apply to assignments entered into after December 31, 1985, in taxable years ending after such date.

PART II—LIFE INSURANCE COMPANIES

SEC. 1011. REPEAL OF SPECIAL LIFE INSURANCE COMPANY DEDUCTION.

(a) In General.—Section 806 is amended by striking out subsection (a) and by redesignating subsections (b), (c), and (d), as subsections (a), (b), and (c), respectively.

(b) Technical and Conforming Amendments.—

(1) Sections 453B(e)(2)(B) and 465(c)(7)(D)(v) are each amended by striking out "section 806(c)(3)" and inserting in lieu thereof "section 806(b)(3)".

(2) Section 804 is amended by adding "and" at the end of paragraph (1) and by striking out paragraphs (2) and (3) and inserting in lieu thereof the following:

"(2) the small life insurance company deduction (if any) determined under section 806(a)."

(3) Paragraph (1) of section 806(b), as redesignated by subsection (a), is amended by striking out "without regard to—" and all that follows and inserting in lieu thereof "without regard to the small life insurance company deduction."

(4) Paragraph (1) of section 806(c), as redesignated by subsection (a), is amended by striking out "subsections (a) and (b)" and inserting in lieu thereof "subsection (a)" and by striking out "any special life insurance company deduction and".

(5) Paragraph (4) of section 813(b) is amended by striking out "section 806(b)(3)(C)" and inserting in lieu thereof "section 806(a)(3)(C)".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1985.

SEC. 1012. REPEAL OF TAX-EXEMPT STATUS FOR CERTAIN ORGANIZATIONS PROVIDING COMMERCIAL-TYPE INSURANCE.

(a) In General.—Section 501 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) Certain Organizations Providing Commercial-Type Insurance Not Exempt From Tax.—

"(1) Denial of tax exemption where providing commercial-type insurance is substantial part of activities.—An organization described in paragraph (3) or (4) of subsection (c) shall be exempt from tax under subsection (a) only if no substantial part of its activities consists of providing commercial-type insurance.

"(2) Other organizations taxed as insurance companies on insurance business.—In the case of an organization described in paragraph (3) or (4) of subsection (c) which is exempt from tax under subsection (a) after the application of paragraph (1) of this subsection—

"(A) the activity of providing commercial-type insurance shall be treated as an unrelated trade or business (as defined in section 513), and

"(B) in lieu of the tax imposed by section 511 with respect to such activity, such organization shall be treated as an insurance company for purposes of applying subchapter L with respect to such activity.

"(3) Commercial-type insurance.—For purposes of this subsection, the term 'commercial-type insurance' shall not include—

"(A) insurance provided at substantially below cost to a class of charitable recipients,

"(B) incidental health insurance provided by a health maintenance organization of a kind customarily provided by such organizations, and

"(C) property or casualty insurance provided (directly or through a wholly owned corporation) by a church or convention or association of churches for such church or convention or association of churches.

"(4) Insurance includes annuities.—For purposes of this subsection, the issuance of annuity contracts shall be treated as providing insurance.

"(5) Exception for activities attributable to high-risk individuals and small groups.—

"(A) In general.—The Secretary may prescribe regulations which provide, for Blue Cross and Blue Shield and their affiliates, special treatment for activities with respect to high-risk individuals and small groups.

"(B) Exception.—The regulations prescribed under subparagraph (A) shall not provide special treatment for any activity to the extent the activity is required by applicable law."

(b) Effective Date.—

(1) In general.—The amendments made by this section shall apply to taxable years beginning after December 31, 1985.

(2) Study of fraternal beneficiary associations.—The Secretary of the Treasury or his delegate shall conduct a study of organizations described in section 501(c)(8) of the Internal Revenue Code of 1954 and which received gross annual insurance premiums in excess of $25,000,000 for the taxable years of such organizations which ended during 1984. Not later than January 1, 1988, the Secretary of the Treasury shall submit to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Joint Committee on Taxation the results of such study, together with such recommendations as he determines to be appropriate. The Secretary of the Treasury shall have authority to require the furnishing of such information as may be necessary to carry out the purposes of this paragraph.

(3) Special rules.—

(A) The amendments made by this section shall not apply with respect to that portion of the business of Mutual of America which is attributable to pension business.

(B) In the case of the Teachers Insurance Annuity Association-College Retirement Equities Fund, the amendments made by this section shall not apply to taxable years beginning before January 1, 1988, with respect to that portion of its business which is attributable to pension business.

(C) For purposes of this paragraph, the term "pension business" means the administration of any plan described in section 401(a) of the Internal Revenue Code of 1954 which includes a trust exempt from tax under section 501(a), any plan under which amounts are contributed by an individual's employer for an annuity contract described in section 403(b) of such Code, any individual retirement plan described in section 408 of such Code, and any eligible deferred compensation plan to which section 457(a) of such Code applies.

SEC. 1013. OPERATIONS LOSS DEDUCTION OF INSOLVENT COMPANIES MAY OFFSET DISTRIBUTIONS FROM POLICYHOLDERS SURPLUS ACCOUNT.

(a) In General.—If—

(1) on November 15, 1985, a life insurance company was insolvent,

(2) pursuant to the order of any court of competent jurisdiction in a title 11 or similar case (as defined in section 368(a)(3) of the Internal Revenue Code of 1954), such company is liquidated, and

(3) as a result of such liquidation, the tax imposed by section 801 of such Code for any taxable year (hereinafter in this subsection referred to as the 'liquidation year') would (but for this subsection) be increased under section 815(a) of such Code,

then the amount described in section 815(a)(2) of such Code shall be reduced by the loss from operations (if any) for the liquidation year, and the unused operations loss carryovers (if any) to the liquidation year (determined after the application of section 810 of such Code for such year). No carryover of any loss from operations of such company arising during the liquidation year (or any prior taxable year) shall be allowable for any taxable year succeeding the liquidation year.

(b) Definitions.—For purposes of subsection (a)—

(1) Insolvent.—The term "insolvent" means the excess of liabilities over the fair market value of assets.

(2) Loss from operations.—The term "loss from operations" has the meaning given such term by section 810(c) of such Code.

(c) Effective Date.—This section shall apply to liquidations on or after November 15, 1985, in taxable years ending after such date.

PART III—PROPERTY AND CASUALTY INSURANCE COMPANIES

SEC. 1021. INCLUSION IN INCOME OF 25 PERCENT OF UNEARNED PREMIUM RESERVE.

(a) In General.—Paragraph (4) of section 832(b) (defining premiums earned) is amended by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) To the result so obtained, add 75 percent of the unearned premiums on outstanding business at the end of the preceding taxable year and deduct 75 percent of the unearned premiums on outstanding business at the end of the taxable year.

"(C) To the result so obtained, in the case of a taxable year beginning after December 31, 1985, and before January 1, 1991, add an amount equal to 4 percent of unearned premiums on outstanding business at the end of the most recent taxable year beginning before January 1, 1986."

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 1985.

SEC. 1022. REPEAL OF PROTECTION AGAINST LOSS ACCOUNT.

(a) In General.—Part II of subchapter L of chapter 1 (relating to mutual insurance companies, etc.) is amended by striking out section 824 and by redesignating sections 825 and 826 as sections 824 and 825, respectively.

(b) Amounts in Account Includible Not Less Rapidly Than Ratably Over 5-Year Period.—

(1) In general.—There shall be included in gross income for each of the first 5 taxable years beginning after December 31, 1985 (and subtracted from the protection against loss account) an amount equal to the greater of—

(A) the amount which would be required to be subtracted from such account if subsection (a) had never been enacted and there were no additions to the account after the close of the last taxable year of the taxpayer beginning before January 1, 1986, or

(B) an amount equal to the required percentage of the amount in such account as of the close of the preceding taxable year determined in accordance with the following table:

If the taxable year begins during:	The required percentage is
1986	20
1987	40
1988	60
1989	80
1990	100.

(2) Treatment of amounts included in income.—Any amount included in income under paragraph (1) shall be treated under part II of subchapter L of chapter 1 of the Internal Revenue Code of 1954 in the same manner as such amount would have been treated under such part if this section had never been enacted.

(c) Technical and Conforming Amendments.—

(1)(A) Paragraph (1) of section 821(b) (defining mutual insurance company taxable income) is amended by striking out subparagraph (C), by adding "and" at the end of subparagraph (A), and by striking out "and" at the end of subparagraph (B) and inserting in lieu thereof "exceeds".

(B) Subparagraph (C) of section 821(b)(2) is amended by striking out "section 825(a)" and inserting in lieu thereof "section 824(a)".

(2) Subparagraph (B) of section 823(a)(1) (defining statutory underwriting income) is amended by striking out "the deductions provided in subsection (c) and section 824(a)" and inserting in lieu thereof "the deduction provided in subsection (c)".

(3) Paragraph (2) of section 824(b) (defining unused loss), as redesignated by subsection (a), is amended by striking out subparagraph (C), by adding "and" at the end of subparagraph (A), and by striking out ", and" at the end of subparagraph (B) and inserting in lieu thereof a period.

(4) Subsection (f) of section 824 (defining offset), as redesignated by subsection (a), is amended to read as follows:

"(f) Offset Defined.—For purposes of subsection (e), the term 'offset' means, with respect to any taxable year (hereinafter referred to as the 'offset year'), the mutual insurance company taxable income for the offset year. For purposes of the preceding sentence, the mutual insurance company taxable income for the offset year shall be determined without regard to any unused loss carryback or carryover from the loss year or any taxable year thereafter."

(5)(A) Section 825, as redesignated by subsection (a), is amended by striking out subsection (d) and by redesignating subsections (e), (f), and (g) as subsections (d), (e), and (f), respectively.

(B) Subsection (f) of section 825 (as redesignated by this section) is amended by striking out "subsection (e)" and inserting in lieu thereof "subsection (d)".

(6) Section 844 (relating to special loss carryover rules) is amended—

(A) by striking out "section 825" in subsection (a) and inserting in lieu thereof "section 824", and

(B) by striking out "section 825(a)" in subsections (a) and (b) and inserting in lieu thereof "section 824(a)".

(7) The table of sections for part II of subchapter L of chapter 1 is amended by striking out the item relating to section 824 and by redesignating the items relating to sections 825 and 826 as items relating to sections 824 and 825, respectively.

(d) Effective Date.—The amendments made by this section and subsection (b) shall apply to taxable years beginning after December 31, 1985.

SEC. 1023. REVISION OF SPECIAL TREATMENT FOR SMALL COMPANIES.

(a) Revision of Exemption From Tax.—

(1) In general.—Paragraph (15) of section 501(c) (relating to list of exempt organizations) is amended to read as follows:

"(15)(A) Insurance companies or associations other than life or marine (including interinsurers and reciprocal underwriters) if the net written premiums (or, if greater, direct written premiums) for the taxable year do not exceed $500,000.

"(B) For purposes of subparagraph (A), in determining whether any company or association is described in subparagraph (A), such company or association shall be treated as receiving during the taxable year amounts described in subparagraph (A) which are received during such year by all other companies or associations which are members of the same controlled group as the insurance company or association for which the determination is being made.

"(C) For purposes of subparagraph (B), the term 'controlled group' means any controlled group of corporations (as defined in section 1563(a)); except that subsections (a)(4) and (b)(2)(D) of section 1563 shall not apply."

(2) Technical amendment.—Paragraph (1) of section 821(f) is amended by striking out "mutual".

(b) Repeal of Cap on Tax in Certain Cases.—Subsection (a) of section 821 (relating to tax on mutual insurance companies to which part II applies) is amended to read as follows:

"(a) Imposition of Tax.—A tax is hereby imposed for each taxable year on the mutual insurance company taxable income of every mutual insurance company (other than a life insurance company and other than a fire, flood, or marine insurance company subject to the tax imposed by section 831). Such tax shall be computed by multiplying the mutual insurance company taxable income by the rates provided in section 11(b)."

(c) Revision of Alternative Tax for Certain Small Companies.—

(1) In general.—Part IV of subchapter L of chapter 1 is amended by adding at the end thereof the following new section:

"SEC. 847. ALTERNATIVE TAX FOR CERTAIN SMALL COMPANIES SUBJECT TO TAX UNDER PART II OR III.

"(a) Imposition of Tax.—There is hereby imposed for each taxable year on the income of every insurance company to which this section applies a tax computed by multiplying the taxable investment income of such company for such taxable year by the rates provided in section 11(b).

"(b) Companies To Which This Section Applies.—

"(1) In general.—This section shall apply to every insurance company or association other than life or marine (including interinsurers and reciprocal underwriters) if—

"(A) the net written premiums (or, if greater, direct written premiums) for the taxable year exceed $500,000 but do not exceed $2,000,000, and

"(B) such company or association elects the application of this section for such taxable year.

"(2) Controlled group rules.—

"(A) In general.—For purposes of paragraph (1), in determining whether any company or association is described in paragraph (1)(A), such company or association shall be treated as receiving during the taxable year amounts described in subparagraph (A) of paragraph (1) which are received during such year by all other companies or associations which are members of the same controlled group as the insurance company or association for which the determination is being made.

"(B) Controlled group.—For purposes of subparagraph (B), the term 'controlled group' means any controlled group of corporations (as defined in section 1563(a)); except that subsections (a)(4) and (b)(2)(D) of section 1563 shall not apply."

"(c) Tax in Lieu of Otherwise Applicable Tax.—The tax imposed by this section shall be in lieu of any tax otherwise applicable under section 821(a) or 831(a)."

(2) Technical and conforming amendments.—Section 821 is amended by striking out subsections (c) and (d) and by redesignating subsections (e) and (f) as subsections (c) and (d), respectively.

(3) Clerical amendment.—The table of sections for such part IV is amended by adding at the end thereof the following new item:

"Sec. 847. Alternative tax for certain small companies subject to tax under part II or III."

(d) Repeal of Special Small Company Deduction.—Subsection (c) of section 823 (relating to special deduction for small companies having gross amount of less than $1,100,000) is hereby repealed.

(e) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1985.

SEC. 1024. ADDITIONAL RULE RELATING TO APPLICATION OF TAX REFORM ACT OF 1984.

(a) Application of Special Determination of Tentative LICTI to Apply to Corporations in Virginia and Louisiana.—Paragraph (1) of section 217(c) of the Tax Reform Act of 1984 (relating to determination of tentative LICTI where corporation made certain acquisitions in 1980, 1981, 1982, and 1983) is amended by striking out "or Texas" and inserting in lieu thereof "Texas, Virginia, or Louisiana".

(b) Effective Date.—The amendment made by this section shall apply as if included in section 217 of the Tax Reform Act of 1984 on the date of the enactment thereof.

SEC. 1025. STUDY OF PROPERTY AND CASUALTY INSURANCE INDUSTRY.

(a) In General.—The advisory commission established under subsection (b) shall conduct a study which comprehensively analyses all aspects of the taxation of property and casualty insurance companies.

(b) Commission.—The President, in consultation with the Chairman of the Committee on Ways and Means of the House of Representatives and the Chairman of the Committee on Finance of the Senate, shall appoint an advisory commission to conduct the study described in subsection (a).

(c) Contents of Study, Etc.—

(1) Design.—The study under subsection (a) shall be designed in such a way that policymakers in the Federal Government have a thorough understanding of the nature of the property and casualty insurance business, including, with respect to such business, risks underwritten, statistical profiles, financial and operational patterns, cyclicality, and trends in claims and losses.

(2) Study to be conducted in consultation with knowledgeable persons.—In conducting the study, the commission shall consult with individuals knowledgeable of the property and casualty insurance business, including the National Association of Insurance Commissioners, the Academy of Actuaries, the AICPA, the Internal Revenue Service, the securities industry, State and local governments, the Insurance Services Office, insurance specialists from the tax bar, and tax economists.

(3) Advantages and disadvantages of income tax alternatives.—The report of the study shall discuss the relative advantages and disadvantages, from both tax and business perspectives, of the current Federal income taxation of the property and casualty insurance industry and various Federal income tax alternatives thereto.

(d) Due Date.—The report of the study shall be submitted not later than March 31, 1988, to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Secretary of the Treasury.

(e) Staff.—The staff for the commission established under subsection (b) shall be provided by the General Accounting Office.

(f) Commission To Meet At Least 4 Times Per Year.—The commission shall meet at least 4 times during each year in which the study under this section is being conducted, and shall conduct hearings for developing a record of its findings.

TITLE XI—PENSIONS AND DEFERRED COMPENSATION

Subtitle A—Individual Retirement Accounts

SEC. 1101. $2,000 SPOUSAL IRA.

(a) In General.—Subsection (c) of section 219 (relating to special rules for certain married individuals) is amended to read as follows:

"(c) Special Rules for Certain Married Individuals.—

"(1) In general.—In the case of an individual with respect to whom a deduction is otherwise allowable under subsection (a)—

"(A) who files a joint return for the taxable year, and

"(B) whose spouse elects to have this subsection apply for such taxable year,

there shall be allowed as a deduction any amount paid in cash for the taxable year by or on behalf of the individual to an individual retirement plan established for the benefit of his spouse.

"(2) Limitation.—

"(A) In general.—The amount allowable as a deduction under paragraph (1) shall not exceed the excess of—

"(i) the lesser of—

"(I) the amount determined in accordance with the table contained in subparagraph (B), or

"(II) an amount equal to the aggregate compensation includible in the gross income of such individual and his spouse for the taxable year, over

"(ii) the amount allowable as a deduction under subsection (a) for the taxable year (determined without regard to so much of the employer contributions to a simplified employee pension as is allowable by reason of paragraph (2) of subsection (b)).

"(3) Phase-in of $2,000 deduction.—The amount determined under this paragraph shall be—

For taxable years beginning in:	The amount determined is:
1986	$2,600
1987	$2,950
1988	$3,300
1989	$3,650
1990 or thereafter	$4,000

"(4) Maximum $2,000 spousal IRA.—In no event shall the amount allowable as a deduction under paragraph (1) exceed $2,000.

"(5) Effect of paragraph (1) election.—

"(A) In general.—The spouse who makes the election under paragraph (1)(B) for a taxable year shall be treated as having no compensation includible in gross income for such taxable year for purposes of subparagraph (B)(1).

"(B) No election required where spouse has no compensation.—Paragraph (1)(B) shall not apply to any spouse who has no compensation (determined without regard to section 911) for the taxable year."

(b) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1985.

SEC. 1102. NONDEDUCTIBLE CONTRIBUTIONS PERMITTED TO INDIVIDUAL RETIREMENT PLANS.

(a) General Rule.—

(1) Nondeductible limit taken into account in determining excess contributions.—Subparagraph (B) of section 4973(b)(1) (defining excess contributions) is amended to read as follows:

"(B) the sum of the amount allowable as a deduction under section 219 for such contributions plus the nondeductible limit for the taxable year, and".

(2) Definition of nondeductible limit.—Section 4973 is amended by adding at the end thereof the following new subsection:

"(d) Nondeductible Limit.

"(1) In general.—

"(A) Phase-in of $2,000 limit.—For purposes of subsection (b), the term 'nondeductible limit' means whichever of the following is the least:

"(i) the amount determined under subparagraph (B),

"(ii) the excess of—

"(I) the compensation (as defined in section 219(e)(1)) includible in the individual's gross income for the taxable year, over

"(II) the maximum amount allowable as a deduction under section 219 for such taxable year to the individual, or

"(iii) the amount of the designated nondeductible contributions for the taxable year.

"(B) Determination of amount.—The amount determined under this subparagraph is the amount determined in accordance with the following table:

For taxable years beginning: after January 1	The amount is:
1990	$400
1991	$800
1992	$1,200
1993	$1,600
1994 or thereafter	$2,000.

"(2) Designated nondeductible contribution.—

"(A) In general.—For purposes of paragraph (1), the term 'designated nondeductible contribution' means any contribution to an individual retirement plan for the taxable year which is designated as a nondeductible contribution.

"(B) Designation.—Any designation under subparagraph (A) may be made (or revoked) at any time before the last day prescribed by law for filing the return of tax imposed by subtitle A for the taxable year (including extensions thereof).

"(3) Special rules for spousal IRA.—In the case of an individual to whom a deduction is allowable under section 219(a) for any taxable year—

"(A) the nondeductible limit for such year shall be determined by reference to the compensation of such individual and his spouse,

"(B) the amount taken into account under paragraph (1)(B) shall be twice the amount determined under the table contained in paragraph (1)(B), and

"(C) the nondeductible limit shall be allocated between the spouses in such manner as they may designate.

In no event may the amount allocated to a spouse under subparagraph (C) exceed the amount determined under the table contained in paragraph (1)(B) without regard to subparagraph (B) of this paragraph."

(3) Conforming amendment.—Subparagraph (C) of section 4983(b)(2) is amended to read as follows:

"(C) the excess (if any) of—

"(i) the sum of the maximum amount allowable as a deduction under section 219 for the taxable year plus the nondeductible limit for the taxable year, over

"(ii) the amount contributed (determined without regard to section 219(f)(6)) to the accounts or for the annuities for the taxable year."

"(b) Treatment of Distributions.—Paragraphs (1) and (2) of section 408(d) (relating to tax treatment of distributions) are amended to read as follows:

"(1) In general.—Except as otherwise provided in this subsection, any amount paid or distributed out of an individual retirement account or under an individual retirement annuity shall—

"(A) first be treated as paid or distributed out of income and gains attributable to designated nondeductible contributions (to the extent thereof),

"(B) second be treated as paid or distributed out of designated nondeductible contribution (to the extent thereof), and

"(C) then be treated as paid or distributed out of other amounts.

"(2) Treatment of distributions.—

"(A) Ordinary income amounts.—Any amount to which subparagrah (A) or (C) of paragraph (1) applies shall be included in gross income by the payee or distributee (as the case may be) for the taxable year in which the payment or distribution is received.

"(B) Basic recovery—Any amount to which subparagraph (B) of paragraph (1) applies shall be excluded from gross income.

"(C) Distributions of annutiy contracts.—Paragraph (1) shall not apply to the distribution from an individual retirement account or an annuity contract which meets the requirements of paragraphs (1), (3), (4), and (5) of subsection (b); except that paragraph (1) shall apply to any distributions under such contract.

"(D) Loss.—If—

"(i) the aggregate amount of designated nondeductible contributions to any individual retirement account or annuity, exceeds

"(ii) the aggregate amount paid or distributed out of such account or under such annuity,

an amount equal to such excess shall be allowed as a deduction to the individual for the last taxable year in which such account or annuity is in existence."

(c) Information Requirements.—

(1) Individual retirement accounts.—Subsection (a) of section 408 (defining individual retirement accounts) is amended by adding at the end thereof the following new paragraph:

"(7) The trustee maintains such records as may be necessary to separately account for designated nondeductible contributions and for income and gains attributable to such contributions."

(2) Individual retirement annuities.—Subsection (b) of section 408 is amended by inserting after paragraph (4) the following new paragraph:

"(5) The issuer of such contract maintains such records as may be necessary to separately account for designated nondeductible contributions and for income and gains attributable to such contributions."

(d) Technical Amendments.—

(1) Disallowance of deduction for designated nondeductible contribution.—Subsection (d) of section 219 (relating to other limitations and restrictions) is amended by adding at the end thereof the following new paragraph:

"(5) Denial of deduction for designated nondeductible contributions.—No deduction shall be allowed under this section with respect to any designated nondeductible contribution (as defined in section 4973(d)(2))."

(2) Increase in limitations on amount individual retirement plan can accept.—

(A) The following provisions are each amended by striking out "$2,000" each place it appears and inserting in lieu thereof "the sum of $2,000 and the nondeductible limit under section 4973(d)":

(i) Section 408(a)(1).

(ii) Section 408(b).

(iii) Section 408(j).

(B) Subparagraph (A) of section 408(d)(5) is amended by striking out "$2,250" and inserting in lieu thereof "the sum of $2,250 plus the nondeductible limit under section 4973(d)".

(3) Separate records required in case of rollover contributions.—Paragraph (3) of section 408(d) (relating to rollover amounts) is amended by adding at the end thereof the following new subparagraph:

"(E) Separate reporting for amounts attributable to designated nondeductible contributions.—For purposes of this paragraph, the Secretary shall prescribe regulations providing for such allocations of amounts attributable to designated nondeductible contributions (as defined in section 4973(d)(2)) as may be necessary to ensure that the separate treatment of such contributions and the income and gain attributable to such contributions is maintained."

(e) Effective Date.—The amendments made by this section shall apply to contributions made during taxable years beginning after January 1, 1990.

Subtitle B—Cash or Deferred Arrangements

SEC. 1111. COORDINATION OF IRA DEDUCTION WITH OTHER ELECTIVE DEFERRALS.

(a) General Rule.—Subsection (d) of section 219 (relating to other limitations and restrictions) is amended by adding at the end thereof the following new paragraph:

"(6) Coordination with certain other elective deferrals.—

"(A) In general.—The $2,000 amount set forth in subsection (b)(1) shall be reduced (but not below zero) by the amount by which the individual's elective 401(k) deferrals (if any) for the taxable year exceed $10,000.

"(B) Spousal deduction.—The amount determined under subsection (c)(3) shall be reduced (but not below zero) by the sum of—

"(i) the amount (if any) of the individual's elective 401(k) deferrals for the taxable year to the extent such deferrals do not exceed $2,000, and

"(ii) the amount (if any) of the spouse's elective 401(k) deferrals for the taxable year.

"(C) Elective 401(k) deferrals.—For purposes of this paragraph, the term 'elective 401(k) deferrals' has the meaning given to such term by section 402(g)(3)."

(b) Effective Date.—

(1) In general.—the amendments made by this section shall apply to taxable years beginning after December 31, 1985.

(2) Deferrals under collective bargaining agreements.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers which are ratified before November 22, 1985, the amendment made by subsection (a) shall not apply to contributions made pursuant to such an agreement for taxable years beginning before the earlier of—

(A) the date on which the last of such collective bargaining agreements terminats (determined without regard to any extension thereof after November 21, 1985), or

(B) January 1, 1991.

SEC. 1112. $12,000 LIMITATION ON ELECTIVE 401(k) DEFERRALS.

(a) GENERAL RULE.—Section 402 (relating to taxability of beneficiary of employees' trust) is amended by adding at the end thereof the following new subsection:

"(g) LIMITATION ON EXCLUSION FOR ELECTIVE 401(k) DEFERRALS.—

"(1) IN GENERAL.—Notwithstanding subsection (a)(8) of this section, the elective 401(k) deferrals of any individual for any taxable year shall be included in such individual's gross income to the extent the amount of such deferrals for the taxable year exceeds $12,000.

"(2) REQUIRED DISTRIBUTION OF EXCESS DEFERRALS.—

"(A) IN GENERAL.—If any amount (hereinafter in this paragraph referred to as 'excess deferrals') is included in the gross income of an individual under paragraph (1) for any taxable year—

"(i) not later than the 1st March 1 following the close of the taxable year, the individual shall allocate the amount of such excess deferrals among the plans under which the deferrals were made and shall notify each such plan of the portion allocated to it, and

"(ii) not later than the 1st April 15 following the close of the taxable year, each such plan shall distribute to the individual the amount allocated to it under clause (i) (and any income attributable to such amount).

The distribution required under clause (ii) may be made notwithstanding any other provision of law.

"(B) TREATMENT OF DISTRIBUTION UNDER SECTION 401(k).—Any portion of an excess deferral distributed from a plan under subparagraph (A)(ii) shall be treated as if it had not been contributed under the plan for purposes of applying section 401(k)(3)(A)(ii).

"(C) TAXATION OF DISTRIBUTION.—In the case of a distribution under subparagraph (A)—

"(i) such distribution shall not be included in gross income except to the extent attributable to the income on the excess deferral, and

"(ii) no tax shall be imposed under section 72(t).

In the case of such a distribution, for purposes of section 61, any income described in clause (i) shall be deemed to have been earned and received in the taxable year in which such excess deferral is made.

"(3) ELECTIVE 401(k) DEFERRALS.—For purposes of this paragraph, the term 'elective 401(k) deferrals' means, with respect to any taxable year, any employer contribution under a qualified cash or deferred arrangement (as defined in section 401(k)) to the extent not includible in gross income for the taxable year under subsection (a)(8) (determined without regard to this subsection).

"(4) DISREGARD OF COMMUNITY PROPERTY LAWS.—This subsection shall be applied without regard to community property laws.

"(5) COORDINATION WITH SECTION 72.—This subsection shall not affect the employee's investment in the contract for purposes of applying section 72."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1985.

(2) DEFERRALS UNDER COLLECTIVE BARGAINING AGREEMENTS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before November 21, 1985, the amendments made by this section shall not apply to contributions made pursuant to such an agreement for taxable years beginning before the earlier of—

(A) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after November 21, 1985), or

(B) January 1, 1991.

Such contributions shall be taken into account for purposes of applying the amendments made by this section to other plans.

SEC. 1113. ELIGIBILITY REQUIREMENTS FOR EMPLOYERS TO HAVE SECTION 401(k) PLANS.

(a) CLARIFICATION THAT TAX-EXEMPT ENTITIES ELIGIBLE FOR SECTION 401(k) PLANS; NO PROFITS REQUIRED.—Subsection (a) of section 401 is amended by inserting after paragraph (25) the following new paragraph:

"(26) In the case of employer contributions meeting the requirements of subparagraphs (B) and (C) of subsection (k)(2), the determination of whether the plan under which such contributions are made is a profit sharing plan shall be made without regard to current or accumulated profits of the employer."

(b) GOVERNMENTAL PLANS.—Subsection (k) of section 401 (relating to cash or deferred arrangements) is amended by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) GOVERNMENTAL PLANS.—A cash or deferred arrangement shall not be treated as a qualified cash or deferred arrangement if it is a part of a plan maintained by a Federal, State, or local government. The preceding sentence shall not apply to any plan maintained by the Tennessee Valley Authority."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this * * * apply to years beginning after December 31, 1985.

(2) COLLECTIVE BARGAINING AGREEMENTS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before November 22, 1985, the amendments made by this section shall not apply to years beginning before the earlier of—

(A) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after November 21, 1985), or

(B) January 1, 1991.

(3) TRANSITIONAL RULE FOR CERTAIN GOVERNMENTAL, ETC. PLANS.—Section 401(k)(4) of the Internal Revenue Code of 1954 (relating to governments not eligible for cash or referred arrangements), as added by this section, shall not apply to any cash or deferred arrangement adopted before November 6, 1985, by the employer if before such date a determination letter request was submitted by the employer to the Secretary of the Treasury or his delegate for a determination that such arrangement is a qualified cash or deferred arrangement. In the case of such an arrangement, the amendments made by this section shall apply to years beginning after November 21, 1987.

SEC. 1114. PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1988.

If any amendment made by this subtitle requires an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after January 1, 1988, if—

(1) during the period after such amendment takes effect and before such first plan year, the plan is operated in accordance with the requirements of such amendment, and

(2) such plan amendment applies retroactively to the period after such amendment takes effect and such first plan year.

Subtitle C—Basis Recovery Rules for Qualified Pension Plans

SEC. 1121. BASIS RECOVERY RULES FOR QUALIFIED PENSION PLANS.

(a) REPEAL OF SPECIAL RULES FOR EMPLOYEES' ANNUITIES.—Subsection (d) of section 72 (relating to employee's annuities where employee's contributions recoverable in 3 years) is hereby repealed.

(b) AMOUNTS NOT RECEIVED AS ANNUITIES ALLOCATED FIRST TO INCOME.—

(1) IN GENERAL.—Subsection (e) of section 72 is amended by adding at the end thereof the following new paragraph:

"(8) EXTENSION OF PARAGRAPH (2)(B) TO QUALIFIED PLANS.—Notwithstanding paragraph (5)(D), paragraph (2)(B) shall apply to any amount received from a trust or contract described in clause (i) or (ii) of paragraph (5)(D) to the extent that the amount of such payment (when increased by the amounts previously received under the contract after December 31, 1986) exceeds the investment in the contract as of December 31, 1986. In the case of any trust or contract referred to in the preceding sentence, amounts to which the employee does not have a nonforfeitable right shall not be treated as income on the trust or contract."

(2) CONFORMING AMENDMENT.—Subparagraph (D) of section 72(e)(5) is amended by striking out "paragraph (7)" and inserting in lieu thereof "paragraphs (7) and (8)".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to amounts distributed after December 31, 1986, in taxable years ending after such date.

(2) REPEAL OF SPECIAL RULES FOR EMPLOYEES ANNUITIES.—The amendment made by subsection (a) shall apply where the annuity starting date is after December 31, 1986.

Subtitle D—Repeal of Exclusion for Cost of Group-Life Insurance

SEC. 1131. REPEAL OF EXCLUSION FOR COST OF GROUP-LIFE INSURANCE.

(a) IN GENERAL.—Subsection (a) of section 79 (relating to group-term life insurance purchased for employees) is amended by striking out "the sum of—" and all that follows and inserting in lieu thereof "the amount (if any) paid by the employee toward the purchase of such instance."

(b) TECHNICAL AMENDMENT.—Section 79 is amended by striking out subsection (d) and by redesignating subsection (e) as subsection (d).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1985.

Subtitle E—Tax Treatment of Parsonage Allowances and Military Housing Allowances

SEC. 1141. DEDUCTION FOR MORTGAGE INTEREST AND REAL PROPERTY TAXES ALLOWABLE WHERE PARSONAGE ALLOWANCE OR MILITARY HOUSING ALLOWANCE RECEIVED.

Section 265 is amended by adding at the end thereof the following new paragraph:

"(6) SECTION NOT TO APPLY WITH RESPECT TO PARSONAGE AND MILITARY HOUSING ALLOW-

ANCES.—No deduction shall be denied under this section for interest on a mortgage on, or real property taxes on, the home of the taxpayer by reason of the receipt of an amount as—

"(A) a military housing allowance, or

"(B) a parsonage allowance excludable from gross income under section 107."

Subtitle F—Additional Tax on Early withdrawal From Pension Plans

SEC. 1151. UNIFORM ADDITIONAL TAX ON EARLY DISTRIBUTIONS FROM QUALIFIED RETIREMENT PLANS.

(a) In general.—Section 72 (relating to annuities; certain proceeds of endowment and life insurance contracts) is amended by adding by redesignating subsection (t) as subsection (u) and by inserting after subsection (s) the following new subsection:

"(t) 10-Percent Additional Tax on Early Distributions From Qualified Retirement Plans.—

"(1) Imposition of additional tax.—If any taxpayer receives any amount under a qualified retirement plan, the taxpayer's tax under this chapter for the taxable year in which such amount is received shall be increased by an amount equal to 10 percent of the portion of such amount which is includable in gross income.

"(2) Subsection not to apply to certain distributions.—This subsection shall not apply to any distribution—

"(A) made on or after the date on which the employee attains age 59½,

"(B) made to a beneficiary (or to the estate of the employee) on or after the death of the employee,

"(C) attributable to the employee's being disabled within the meaning of subsection (m)(7), or

"(D) which is part of a series of substantially equal periodic payments (not less frequently than annually) made for the life of the employee (or the life of such employee and his beneficiary).

"(3) Qualified retirement plan.—For purposes of this subsection, the term "qualified retirement plan' means—

"(A) a plan described in section 401(a) which includes a trust exempt from tax under section 501(a),

"(B) an annuity plan described in section 403(b),

"(C) an individual retirement account described in section 408(a), or

"(D) an individual retirement annuity described in section 408(b).

"(4) Employee.—For purposes of this subsection, the term 'employee' means, in the case of an individual retirement account or annuity, the individual for whose benefit such account or annuity was established."

(b) Conforming Changes to Tax on Premature Distributions From Annuity Contracts.—

(1) Paragraph (1) of section 72(q) is amended by striking out "5 percent" and inserting in lieu thereof "10 percent".

(2) Subparagraph (D) of section 72(q)(2) is amended to read as follows:

"(D) which is part of a series of substantially equal periodic payments (not less frequently than annually) made for the life of the employee (or the life of such employee and his beneficiary)."

(c) Technical Amendments.—

(1) Subparagraph (A) of section 72(m)(5) is amended to read as follows:

"(A) This paragraph applies to amounts which are received from a qualified trust described in section 401(a) or under a plan described in section 403(a) at any time by an individual who is, or has been, a 5-percent owner, or by a successor of such an individual, but only to the extent such amounts are determined, under regulations prescribed by the Secretary, to exceed the benefits provided for such individual under the plan formula."

(2) Subsection (f) of section 408 is hereby repealed.

(d) Effective Date.—

(1) In general.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 1985.

(2) Exception where distribution commences.—The amendments made by this section shall not apply to distributions to any employee from a plan maintained by any employer if—

(A) before November 6, 1985, the employee separated from service with the employer,

(B) as of November 6, 1985, the accrued benefit of the employee was in pay status pursuant to a written election providing for the distribution of the entire accrued benefit of the employee, and

(C) such distribution is made pursuant to such written election.

Subtitle G—Treatment of Certain Full-Time Life Insurance Salesmen

SEC. 1161. TREATMENT OF CERTAIN FULL-TIME LIFE INSURANCE SALESMEN.

(a) General Rule.—Paragraph (20) of section 7701(a) (defining employee) is amended by striking out "and 106" and inserting in lieu thereof "106, and 125".

(b) Effective Date.—The amendment made by subsection (a) shall apply to years beginning after December 31, 1985.

Subtitle H—Changes Relating to Employee Stock Ownership Plans

SEC. 1171. REPEAL OF EMPLOYEE STOCK OWNERSHIP CREDIT.

(a) In General.—Section 41 (relating to employee stock ownership credit) is hereby repealed.

(b) Technical and Conforming Amendments.—

(1) Subsection (b) of section 38 is amended by striking out paragraph (4), by striking out ", plus" at the end of paragraph (3) and inserting in lieu thereof a period, and by inserting "plus" at the end of paragraph (2).

(2) Subsection (d) of section 38 is amended—

(A) by striking out "196(a), and 404(i)" and inserting in lieu thereof "and 196(a)", and

(B) by striking out "41(a),".

(3) Subsection (c) of section 56 is amended by striking out the last sentence.

(4) Subparagraph (B) of section 108(b)(2) is amended by striking out the last sentence.

(5) Paragraph (21) of section 401(a) is hereby repealed.

(6) Subsection (i) of section 404 (relating to deductibility of unused portions of employee stock ownership credit) is hereby repealed.

(7)(A) Section 6699 (relating to assessable penalties relating to tax credit employee stock ownership plan) is hereby repealed.

(B) The table of sections for subchapter B of chapter 68 is amended by striking out the item relating to section 6699.

(c) Effective Date.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to compensation paid or accrued after December 31, 1985, in taxable years ending after such date.

(2) Section 404(i) to continue to apply to pre-1986 credits.—The provisions of section 404(i) of the Internal Revenue Code of 1985 shall continue to apply with respect to credits under section 41 of such Code attributable to compensation paid or accrued before January 1, 1986.

SEC. 1172. TERMINATION OF CERTAIN ADDITIONAL TAX BENEFITS RELATING TO EMPLOYEE STOCK OWNERSHIP PLANS.

(a) Termination of Exclusion for Interest on Loans Used to Acquire Employer Securities.—Section 133 (relating to interest on certain loans used to acquire employer securities) is amended by adding at the end thereof the following new subsection:

"(d) Termination.—This section shall not apply to securities acquisition loans made after December 31, 1985."

(b) Termination of Dividends Paid Deduction.—Subsection (k) of section 404 (relating to dividends paid deductions) is amended by adding at the end thereof the following new sentence:

"This subsection shall not apply to any dividend paid after December 31, 1985, in taxable years ending after such date."

(c) Termination of Nonrecognition of Gain on Sales of Stock to ESOP's, Etc.—Section 1042 (relating to sales of stock to stock ownership plans or certain cooperatives) is amended by adding at the end thereof the following new subsection:

"(g) Termination.—This section shall not apply to any sale after December 31, 1985, in taxable years ending after such date."

(d) Termination of Transfer of Certain Estate Tax Liability to ESOP's, Etc.—Section 2210 (relating to liability for payment in case of transfer of employer securities to an employee stock ownership plan or a worker-owned cooperative) is amended by adding at the end thereof the following new subsection:

"(h) Termination.—This section shall not apply to estates of decedents dying after December 31, 1985."

SEC. 1173. CHANGES IN REQUIREMENTS RELATING TO EMPLOYEE STOCK OWNERSHIP PLANS.

(a) Additional Qualification Requirements for Employee Stock Ownership Plans.—Subsection (a) of section 401 (relating to qualified pension, profit-sharing, and stock bonus plans) is amended by inserting after paragraph (25) the following new paragraph:

"(27) Additional requirements relating to employee stock ownership plans.—

"(A) In general.—In the case of a trust which is part of an employee stock ownership plan, such trust shall not constitute a qualified trust under this section unless such plan meets the requirements of subparagraphs (B), (C), (D), (E), and (F).

"(B) Additional nondiscrimination test.—

"(i) In general.—A plan meets the requirements of this subparagraph if not more than ⅓ of the employer contributions for a year are allocated to the group of employees consisting of—

"(I) officers,

"(II) shareholders owning more than 10 percent of the employer's stock, or

"(III) employees whose compensation for such year exceeds an amount equal to twice the amount in effect under section 415(c)(1)(A) for such year (determined without regard to section 415(c)(6)(A)).

"(ii) Attribution of ownership.—For purposes of clause (i)(II), an individual shall be considered to own more than 10 percent of the employer's stock if, without regard to stock held under the employee stock ownership plan, he owns (after application of section 1563(e)) more than 10 percent of the total combined voting power of all classes of stock entitled to vote or more than 10 percent of the total value of shares of all classes of stock.

"(C) Vesting.—

"(i) In general.—A plan meets the requirements of this subparagraph if an employee has a nonforfeitable right to a percentage of his accrued benefit derived from employer contributions determined under the following table:

"Years of service	The nonforfeitable percentage is:
6	20
7	40
8	50
9	80
10 or more	100.

"(ii) Certain rules made applicable.—Except to the extent inconsistent with the provisions of this subparagraph, the rules of section 411 shall apply for purposes of this subparagraph.

"(D) Diversification of investments.—

"(i) In general.—A plan meets the requirements of this subparagraph if each qualified participant in the plan may elect within 90 days after the close of each plan year in the qualified election period to direct the plan as to the investment of at least 25 percent of the participant's account in the plan (to the extent such portion exceeds the amount to which a prior election under this subparagraph applies). In the case of the election year in which the employee can make his last election, the preceding sentence shall be applied by substituting '50 percent' for '25 percent'.

"(ii) Method of meeting requirements.—A plan shall be treated as meeting the requirements of clause (i) if—

"(I) the portion of the employee's account covered by the election under clause (i) is distributed within 90 days after the period during which the election may be made, or

"(II) the plan offers at least 3 investment options (not inconsistent with regulations prescribed by the Secretary) to each participant making an election under clause (i).

"(iii) Qualified employee.—For purposes of this subparagraph, the term 'qualified employee' means any employee who has completed at least 10 years of service with the employer and has attained age 55.

"(iv) Qualified election period.—For purposes of this subparagraph, the term 'qualified election period' means the period consisting of the plan year in which the qualified employee attains age 55 and ending with the 5th succeeding plan year. If a qualified employee does not have a qualified election period under the preceding sentence, the plan year in which the individual first becomes a qualified employee shall be treated as such individual's election.

"(E) Use of independent appraiser.—A plan meets the requirements of the subparagraph if all valuations of employer securities with respect to activities carried on by the plan are by an independent appraiser. For purposes of the preceding sentence, the term 'independent appraiser' means any appraiser meeting requirements similar to the requirements of the regulations prescribed under section 170(a)(1).

"(F) Distribution requirement.—

"(i) In general.—A plan meets the requirements of this subparagraph if it provides that, unless the participant otherwise elects, the distribution of the participant's entire account in the plan will be made not later than 60 days after the close of the plan year following the plan year in which the participant separates from service.

"(ii) Exception for certain financed securities.—To the extent that the account of any employee in the plan is attributable to securities with respect to which there is acquisition indebtedness, the requirements of clause (i) shall be treated as met if the distribution of such portion is made before 60 days after the close of the plan year in which such loan is repaid.

"(G) Employee stock ownership plan.—For purposes of this paragraph, the term 'employee stock ownership plan' has the meaning given such term by section 4975(e)(7)."

(b) Pass-Thru of Voting Rights.—Paragraph (3) of section 409(e) (relating to voting rights) is amended to read as follows:

"(3) Requirement for other employers.—If the employer does not have a registration-type class of securities, the plan meets the requirements of this paragraph only if—

"(A) each participant having at least 10 years of participation in the plan is entitled to direct the plan as to the manner in which employer securities which are entitled to vote and are allocated to the account of such participant are to be voted, and

"(B) each participant in the plan having less than 10 years of service (as so defined) is entitled to direct the plan as to the manner in which voting rights under employer securities which are allocated to the account of such participant are to be exercised with respect to a corporate matter which (by law or charter) must be decided by more than a majority vote of outstanding common shares voted."

(c) Put Option Requirements.—Subsection (h) of section 409 (relating to right to demand employers securities; put option) is amended by adding at the end thereof the following new paragraph:

"(5) Payment requirement.—

"(A) In general.—Except as provided in subparagraph (B), if the employee requires the employer to repurchase employer securities, the requirements of paragraph (1)(B) shall not be treated as met unless the employer pays the employee for such securities within 90 days after the election.

"(B) Exception for certain installment payments.—Subparagraph (A) shall not apply if—

"(i) the securities to be purchased are part of a lump sum distribution,

"(ii) the amount to be paid for the employer securities is paid in substantially equal periodic payments (not less frequently than annually) over a period not exceeding 5 years, and

"(iii) there is adequate security and adequate interest rate on the amounts referred to in clause (i)."

(d) Effective Date.—The amendments made by this section shall apply to the portion of any participant's account balance which is attributable to amounts allocated in plan years beginning after December 31, 1985.

SEC. 1174. DISTRIBUTIONS ON TERMINATION PERMITTED.

(a) General Rule.—Paragraph (1) of section 409(d) (relating to employer securities must stay in the plan) is amended by striking out "or separation from service" and inserting in lieu thereof "separation from service, or termination of the plan without the establishment of a successor plan".

(b) Effective Date.—The amendment made by subsection (a) shall apply to plan terminations after December 31, 1984.

SEC. 1175. SPECIAL RULE FOR ELIGIBLE WORKER-OWNED COOPERATIVES.

(a) General Rule.—Subsection (c) of section 1042 is amended by adding at the end thereof the following new paragraph:

"(7) Special rule for eligible worker-owned cooperatives.—In the case of any cooperative organization where each patron has only 1 voting share, for purposes of this section and section 2210, any security shall not fail to be treated as employer securities merely because such securities are nonvoting so long as each participant in the plan has at least 1 voting share."

(b) Effective Date.—The amendment made by subsection (a) shall take effect on January 1, 1986.

Subtitle I—3-Year Extension of Exclusion for Educational Assistance

SEC. 1181. 3-YEAR EXTENSION OF EXCLUSION FOR EDUCATIONAL ASSISTANCE.

Subsection (d) of section 127 (relating to termination) is amended by striking out "December 31, 1985" and inserting in lieu thereof "December 31, 1988".

TITLE XII—REPEAL OF GENERATION-SKIPPING TAX

SEC. 1201. REPEAL OF GENERATION-SKIPPING TAX.

(a) In General.—Chapter 13 (relating to tax on certain generation-skipping transfers) is hereby repealed and the Internal Revenue Code of 1954 shall be applied as if such chapter had never been enacted.

(b) Credit or Refund, Etc.—

(1) In general.—In the case of any tax imposed by chapter 13 of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act), such tax (including interest, additions to tax, and additional amounts) shall not be assessed and if assessed, the assessment shall be abated, and if collected, shall be credited or refunded (with interest) as an overpayment.

(2) Waiver of statute of limitations.—If on the date of the enactment of this Act (or at any time within 1 year after such date of enactment) refund or credit of any overpayment of tax resulting from the application of paragraph (1) is barred by any law or rule of law, refund or credit of such overpayment shall, nevertheless, be made or allowed if claim therefore is filed before the date 1 year after the date of the enactment of this Act.

TITLE XIII—COMPLIANCE AND TAX ADMINISTRATION

Part I—Revision of Certain Penalties, Etc.

SEC. 1301. PENALTY FOR FAILURE TO FILE INFORMATION RETURNS OR STATEMENTS.

(a) General Rule.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new part:

"PART II—FAILURE TO FILE CERTAIN INFORMATION RETURNS OR STATEMENTS

"Sec. 6721. Failure to file certain information returns.
"Sec. 6722. Failure to furnish certain payee etc., statements.
"Sec. 6723. Failure to include correct information.
"Sec. 6724. Waiver; definitions and special rules.

"SEC. 6721. FAILURE TO FILE CERTAIN INFORMATION RETURNS.

"(a) General Rule.—In the case of each failure to file an information return with the Secretary on the date prescribed therefor (determined with regard to any extension of time for filing), the person failing to so file such return shall pay $50 for each such failure, but the total amount imposed on such person for all such failures during any calendar year shall not exceed $100,000.

"(b) Penalty in Case of Intentional Disregard.—If 1 or more failures to which subsection (a) applies are due to intentional disregard of the filing requirement, then, with respect to each such failure—

"(1) the penalty imposed under subsection (a) shall be $100, or, if greater—

"(A) in the case of a return other than a return required under section 6045(a), 6041A(b), 6050H, 6050J, 6050K, or 6050L, 10 percent of the aggregate amount of the items required to be reported, or

"(B) in the case of a return required to be filed by section 6045(a), 6050K, or 6050L, 5 percent of the aggregate amount of the items required to be reported, and

"(2) the $100,000 limitation under subsection (a) shall be increased by the amount of the penalties determined under paragraph (1).

"SEC. 6722. FAILURE TO FURNISH CERTAIN PAYEE ETC., STATEMENTS.

"(a) General Rule.—In the case of each failure to furnish a payee etc. statement on the date prescribed therefor to the person to whom such statement is required to be furnished, the person failing to so furnish such statement shall pay $50 for each such failure, but the total amount imposed on such person for all such failures during any calendar year shall not exceed $100,000.

"(b) Failure to Notify Partnership of Exchange of Partnership Interest.—In the case of any person who fails to furnish the notice required by section 6050K(c)(1) on the date prescribed therefor, such person shall pay a penalty of $50 for each such failure.

"SEC. 6723. FAILURE TO INCLUDE CORRECT INFORMATION.

"(a) General Rule.—If—

"(1) any person files an information return or furnishes a payee etc. statement, and

"(2) such person does not include all of the information required to be shown on such return or statement or includes incorrect information,

such person shall pay $5 for each return or statement with respect to which such failure occurs, but the total amount imposed on such person for all such failures during any calendar year shall not exceed $20,000.

"(b) Coordination With Section 6676.—No penalty shall be imposed under subsection (a) with respect to any return or statement if a penalty is imposed under section 6676 (relating to failure to supply identifying number) with respect to such return or statement.

"SEC. 6724. WAIVER; DEFINITIONS AND SPECIAL RULES.

"(a) Reasonable Cause Waiver.—No penalty shall be imposed under this part with respect to any failure if it is shown that such failure is due to reasonable cause and not to willful neglect.

"(b) Payment of Penalty.—Any penalty imposed by this part shall be paid on notice and demand by the Secretary and in the same manner as tax.

"(c) Special Rules for Failure To File Interest and Dividend Returns or Statements.—

"(1) Higher standards for waiver.—In the case of any interest or dividend return or statement—

"(A) subsection (a) shall not apply, but

"(B) no penalty shall be imposed under this part if it is shown that the person otherwise liable for such penalty exercised due diligence in attempting to satisfy the requirement with respect to such return or statement.

"(2) Limitations not to apply.—In the case of any interest or dividend returns or statements—

"(A) the $100,000 limitations of section 6721(a) and 6722(a) and the $20,000 limitation of section 6723(a) shall not apply, and

"(B) penalties imposed with respect to such returns or statements shall not be taken into account for purposes of applying such limitations with respect to other returns or statements.

"(3) Self assessment.—Any penalty imposed under this part on any person with respect to an interest or dividend return or statement—

"(A) shall be assessed and collected in the same manner as an excise tax imposed by subtitle D, and

"(B) shall be due and payable on April 1 of the calendar year following the calendar year for which such return or statement is required.

"(4) Deficiency procedures not to apply.—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed under this part with respect to an interest or dividend return or statement.

"(5) Interest or dividend return or statement.—For purposes of this subsection, the term 'interest or dividend return or statement' means—

"(A) any return required by section 6042(a)(1), 6044(a)(1), or 6049(a), and

"(B) any statement required under section 6042(c), 6044(e), or 6049(c).

"(d) Definitions.—For purposes of this part—

"(1) Information return.—The term 'information return' means—

"(A) any statement of the amount of payments to another person required by—

"(i) section 6041 (a) or (b) (relating to certain information at source),

"(ii) section 6042(a)(1) (relating to payments of dividends),

"(iii) section 6044(a)(1) (relating to payments of patronage dividends),

"(iv) section 6049(a) (relating to payments of interest),

"(v) section 6050A(a) (relating to reporting requirements of certain fishing boat operators), or

"(vi) section 6051(d) (relating to information returns with respect to income tax withheld), and

"(B) any return required by—

"(i) section 4997(a) (relating to information with respect to windfall profit tax on crude oil),

"(ii) subsection (a) or (b) of section 6041A (relating to returns of direct sellers),

"(iii) section 6045 (a) or (d) (relating to returns of brokers),

"(iv) section 6050H(a) (relating to mortgage interest received in trade or business from individuals),

"(v) section 6050I(a) (relating to cash received in trade or business),

"(vi) section 6050J(a) (relating to foreclosures and abandonments of security),

"(vii) section 6050K(a) (relating to exchanges of certain partnership interests),

"(viii) section 6050L(a) (relating to returns relating to certain dispositions of donated property),

"(ix) section 6052(a) (relating to reporting payment of wages in the form of group term life insurance), or

"(x) section 6053(c)(1) (relating to reporting with respect to certain tips).

"(2) Payee etc., statement.—The term 'payee etc. statement' means any statement required to be furnished under—

"(A) section 4997(a) (relating to records and information; regulations),

"(B) section 6031(b), 6034A, or 6037(b) (relating to statements furnished by certain passthru entities),

"(C) section 6039(a) (relating to information required in connection with certain options),

"(D) section 6041(d) (relating to information at source),

"(E) section 6041A(e) (relating to returns regarding payments of remuneration for services and direct sales),

"(F) section 6042(c) (relating to returns regarding payments of dividends and corporate earnings and profits),

"(G) section 6044(e) (relating to returns regarding payments of patronage dividends),

"(H) section 6045(b) or (d) (relating to returns of brokers),

"(I) section 6049(c) (relating to returns regarding payments of interest),

"(J) section 6050A(b) (relating to reporting requirements of certain fishing boat operators),

"(K) section 6050C (relating to information regarding windfall profit tax on domestic crude oil),

"(L) section 6050H(d) (relating to returns relating to mortgage interest received in trade or business from individuals),

"(M) section 6050I(e) (relating to returns relating to cash received in trade or business),

"(N) section 6050J(e) (relating to returns relating to foreclosures and abandonments of security),

"(O) section 6050K(b) (relating to returns relating to exchanges of certain partnership interests),

"(P) section 6050L(c) (relating to returns relating to certain dispositions of donated property),

"(Q) section 6051 (relating to receipts for employees),

"(R) section 6052(b) (relating to returns regarding payment of wages in the form of group-term life insurance), or

"(S) subsection (b) or (c) of section 6053 (relating to reports of tips)."

(b) Increase in Maximum Penalty for Failure To Supply Identifying Numbers.—Subsection (a) of section 6676 (relating to failure to supply identifying numbers) is amended by striking out "$50,000" and inserting in lieu thereof "$100,000".

(c) Clarification of Penalty for Failure To Furnish Payee Statements.—

(1) Subsection (d) of section 6041 is amended to read as follows:

"(d) Statements To Be Furnished to Persons With Respect to Whom Information Is Required.—Every person required to make a return under subsection (a) shall furnish to each person with respect to whom such a return is required a written statement showing—

"(1) the name and address of the person required to make such return, and

"(2) the aggregate amount of payments to the person required to be shown on the return.

The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made. To the extent provided in regulations prescribed by the Secretary, this subsection shall also apply to persons required to make returns under subsection (b)."

(2) Subsection (c) of section 6042 is amended to read as follows:

"(c) Statements To Be Furnished to Persons With Respect to Whom Information Is Required.—Every person required to make a return under subsection (a) shall furnish to each person whose name is required to be set forth in such return a written statement showing—

"(1) the name and address of the person required to make such return, and

"(2) the aggregate amount of payments to the person required to be shown on the return.

The written statement required under the preceding sentence shall be furnished (either in person or in a separate mailing by first-class mail) to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made, and shall be in such form as the Secretary may prescribe by regulations."

(3) Subsection (e) of section 6044 is amended to read as follows:

"(e) Statements To Be Furnished to Persons With Respect to Whom Information Is Required.—Every cooperative required to make a return under subsection (a) shall furnish to each person whose name is required to be set forth in such return a written statement showing—

"(1) the name and address of the cooperative required to make such return, and

"(2) the aggregate amount of payments to the person required to be shown on the return.

The written statement required under the preceding sentence shall be furnished (either in person or in a separate mailing by first-class mail) to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made, and shall be in such form as the Secretary may prescribe by regulation."

(4) Subsection (b) of section 6045 is amended to read as follows:

"(b) Statements To Be Furnished to Customers.—Every person required to make a return under subsection (a) shall furnish to each customer whose name is required to be set forth in such return a written statement showing—

"(1) the name and address of the person required to make such return, and

"(2) the information required to be shown on such return with respect to such customer.

The written statement required under the preceding sentence shall be furnished to the customer on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made."

(5) Subsection (c) of section 6049 is amended to read as follows:

"(c) Statements To Be Furnished to Persons With Respect to Whom Information Is Required.—

"(1) In general.—Every person required to make a return under subsection (a) shall furnish to each person whose name is required to be set forth in such return a written statement showing—

"(A) the name and address of the person required to make such return, and

"(B) the aggregate amount of payments to, or the aggregate amount includible in the gross income of, the person required to be shown on the return.

"(2) Time and form of statement.—The written statement under paragraph (1)—

"(A) shall be furnished (either in person or in a separate mailing by first-class mail) to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made, and

"(B) shall be in such form as the Secretary may prescribe by regulations."

(6) Subsection (b) of section 6050A is amended to read as follows:

"(b) Written Statement.—Every person required to make a return under subsection (a) shall furnish to each person whose name is required to be set forth in such return a written statement showing the information relating to such person required to be contained in such return. The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made."

(7) Subsection (b) of section 6050B is amended to read as follows:

"(b) Statements To Be Furnished to Individuals With Respect to Whom Information Is Required.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

"(1) the name and address of the person required to make such return, and

"(2) the aggregate amount of payments to the individual required to be shown on such return and of payments received from the individual.

The written statement required under the preceding sentence shall be furnished to the individual on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made. No statement shall be required under this subsection with respect to any individual if it is determined (in the manner provided by regulations) that such individual did not claim itemized deductions under chapter 1 for the taxable year giving rise to the refund, credit, or offset or, in the case of payments described in paragraph (2), will not claim itemized deductions under chapter 1 for the taxable year during which such payments are paid or incurred by the individual."

(8) Subsection (b) of section 6050E is amended to read as follows:

"(b) Statements To Be Furnished to Individuals With Respect to Whom Information Is Required.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

"(1) the name of the State or political subdivision thereof, and

"(2) the information required to be shown on the return with respect to refunds, credits, and offsets to the individual.

The written statement required under the preceding sentence shall be furnished to the individual during January of the calendar year following the calendar year for which the return under subsection (a) was required to be made. No statement shall be required under this subsection with respect to any individual if it is determined (in the manner provided by regulations) that such individual did not claim itemized deductions under chapter 1 for the taxable year giving rise to the refund, credit, or offset."

(9) Subsection (b) of section 6050F is amended to read as follows:

"(b) Statements To Be Furnished to Persons With Respect to Whom Information Is Required.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

"(1) the name of the agency making the payments, and

"(2) the aggregate amount of payments, of repayments, and of reductions, with respect to the individual required to be shown on such return.

The written statement required under the preceding sentence shall be furnished to the individual on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made."

(10) Subsection (b) of section 6050G is amended to read as follows:

"(b) Statements To Be Furnished to Persons With Respect to Whom Information Is Required.—The Railroad Retirement Board shall furnish to each individual whose name is required to be set forth in the return under subsection (a) a written statement showing—

"(1) the aggregate amount of payments to such individual, and of employee contributions with respect thereto, required to be shown on the return, and

"(2) such other information as the Secretary may require.

The written statement required under the preceding sentence shall be furnished to the individual on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made."

(11) Subsection (d) of section 6050H is amended to read as follows:

"(d) Statements To Be Furnished to Individuals With Respect to Whom Information Is Required.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

"(1) the name and address of the person required to make such return, and

"(2) the aggregate amount of interest described in subsection (a)(2) received by the person required to make such return from the individual to whom the statement is required to be furnished.

The written statement required under the preceding sentence shall be furnished on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made."

(12) Subsection (e) of section 6050I is amended to read as follows:

"(e) Statements To Be Furnished to Persons With Respect to Whom Information Is Required.—Every person required to make a return under subsection (a) shall furnish to each person whose name is required to be set forth in such return a written statement showing—

"(1) the name and address of the person required to make such return, and

"(2) the aggregate amount of cash described in subsection (a) received by the person required to make such return.

The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made."

(13) Subsection (b) of section 6050K is amended to read as follows:

"(b) Statements To Be Furnished to Transferor and Transferee.—Every partnership required to make a return under subsection (a) shall furnish to each person whose name is required to be set forth in such return a written statement showing—

"(1) the name and address of the partnership required to make such return, and

"(2) the information required to be shown on the return with respect to such person.

The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made."

(14) Subsection (b) of section 6052 is amended to read as follows:

"(b) Statements To Be Furnished to Employees With Respect to Whom Information Is Required.—Every employer required to make a return under subsection (a) shall furnish to each employee whose name is required to be set forth in such return a written statement showing the cost of the group-term life insurance shown on such return. The written statement required under the preceding sentence shall be furnished to the employee on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made."

(d) Conforming Amendments.—

(1)(A) Section 6652 is amended—

(i) by striking out subsection (a) and by redesignating subsections (b) through (k) as subsections (a) through (j), respectively, and

(ii) by striking out "Other Returns" in the heading of subsection (a) (as so redesignated) and inserting in lieu thereof "Returns With Respect to Certain Payments Aggregating Less Than $10".

(B) Subsection (g) of section 219 is amended by striking out "section 6652(h)" and inserting in lieu thereof "section 6652(g)".

(C) Sections 6033(e), 6034(c), and 6043(c) are each amended by striking out "section 6652(d)" and inserting in lieu thereof "section 6652(c)".

(D) Section 6047(e)(1) and 6058(f) are each amended by striking out "section 6652(f)" and inserting in lieu thereof "section 6652(e)".

(E) Paragraph (1) of section 6050C(d) is amended by striking out "section 6652(b)" and inserting in lieu thereof "section 6722".

(F) Subsection (g) of section 6057 is amended by striking out "section 6652(e)" and inserting in lieu thereof "section 6652(d)".

(2) Section 6678 is hereby repealed.

(3) Subchapter B of chapter 68 is amended by inserting after the subchapter heading the following:

"Part I. General provisions.
"Part II. Failure to file certain information returns or statements.

"PART I—GENERAL PROVISIONS".

(4) The table of sections for subchapter B of chapter 68 (as in effect before the amendment made by paragraph (3)) is amended by striking out the item relating to section 6678.

(e) Effective Date.—The amendments made by this section shall apply to returns the due date for which (determined without regard to extensions) is after December 31, 1985.

SEC. 1302. INCREASE IN PENALTY FOR FAILURE TO PAY TAX.

(a) General Rule.—Section 6651 (relating to failure to file tax return or to pay tax) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) Increase in Penalty for Failure To Pay Tax In Certain Cases.—

"(1) In general.—In determining the amount of addition to tax under paragraph (2) or (3) of subsection (a) with respect to each month (or fraction thereof) beginning after the day described in paragraph (2) of this subsection, paragraph (2) or (3) (as the case may be) of subsection (a) shall be applied by substituting '1 percent' for '0.5 percent' each place it appears.

"(2) Description.—For purposes of paragraph (1), the day described in this paragraph is the earlier of—

"(A) the day 10 days after the date on which notice is given under section 6331(d), or

"(B) the day on which notice and demand for immediate payment is given under the last sentence of section 6331(a)."

(b) Repeal of Certain Reduction in Failure To Pay Penalty.—Paragraph (1) of section 6651(c) is amended to read as follows:

"(1) Additions under more than one paragraph.—With respect to any return, the amount of the addition under paragraph (1) of subsection (a) shall be reduced by the amount of the addition under paragraph (2) of subsection (a) for any month (or fraction thereof) to which an addition to tax applies under both paragraphs (1) and (2). In any case described in the last sentence of subsection (a), the amount of the addition under paragraph (1) of subsection (a) shall not be reduced under the preceding sentence below the amount provided in such last sentence."

(c) Effective Date.—The amendments made by this section shall apply to amounts assessed after December 31, 1985, with respect to failures to pay which begin before, on, or after such date.

SEC. 1303. AMENDMENTS TO PENALTY FOR NEGLIGENCE AND FRAUD.

(a) General Rule.—Section 6653 (relating to failure to pay tax) is amended by striking out subsections (a) and (b) and inserting in lieu thereof the following:

"(a) Negligence.—

"(1) In general.—If any part of any underpayment (as defined in subsection (c)) is due to negligence or disregard of rules or regulations, there shall be added to the tax an amount equal to the sum of—

"(A) 5 percent of the underpayment, and

"(B) an amount equal to 50 percent of the interest payable under section 6601 with respect to the portion of the underpayment which is attributable to such negligence or disregard for the period beginning on the last date prescribed by law for payment of such underpayment (determined without regard to any extension) and ending on the date of the assessment of the tax (or, if earlier, the date of the payment of the tax).

"(2) Underpayment taken into account reduced by portion attributable to fraud.—There shall not be taken into account under this subsection any portion of an underpayment attributable to fraud with respect to which a penalty is imposed under subsection (b).

"(3) Negligence.—For purposes of this subsection, the term 'negligence' includes any failure to make a reasonable attempt to comply with the provisions of this title, and the term 'disregard' includes any careless, reckless, or intentional disregard.

"(b) Fraud.—

"(1) In general.—If any part of any underpayment (as defined in subsection (c)) of tax required to be shown on a return is due to fraud, there shall be added to the tax an amount equal to the sum of—

"(A) 75 percent of the portion of the underpayment which is attributable to fraud, and

"(B) an amount equal to 50 percent of the interest payable under section 6601 with respect to such portion for the period beginning on the last day prescribed by law for payment of such underpayment (determined without regard to any extension) and ending on the date of the assessment of the tax or, if earlier, the date of the payment of the tax.

"(2) Determination of portion attributable to fraud.—If the Secretary establishes that any portion of an underpayment is attributable to fraud, the entire underpayment shall be treated as attributable to fraud, except to the extent the taxpayer establishes that a portion of such underpayment is not attributable to fraud.

"(3) Special rule for joint returns.—In the case of a joint return, this subsection shall not apply with respect to a spouse unless some part of the underpayment is due to the fraud of such spouse."

(b) Special Rule for Interest or Dividend Payments Extended to Other Amounts Shown on Information Returns.—Subsection (g) of section 6653 (relating to special rule in the case of interest or dividend payments) is amended to read as follows:

"(g) Special Rule for Amounts Shown on Information Returns.—

"(1) In general.—If—

"(A) any amount is shown on an information return (as defined in section 6724(d)(1)), and

"(B) the payee (or other person with respect to whom such return is made) fails to properly show such amount on his return,

any portion of an underpayment attributable to such failure shall be treated, for purposes of subsection (a), as due to negligence in the absence of clear and convincing evidence to the contrary.

"(2) Penalty to apply only to portion of underpayment due to failure to include amount.—If any penalty is imposed under subsection (a) by reason of paragraph (1), the amount of the penalty imposed by subparagraph (A) of subsection (a)(1) shall be 5 percent of the portion of the underpayment which is attributable to the failure described in paragraph (1)."

(c) Conforming Amendments.—

(1) Subsection (d) of section 6222 is amended by striking out "intentional or negligent".

(2) Subsection (f) of section 6653 is amended by striking out "or intentional disregard of rules and regulations (but without intent to defraud)".

(d) Change in Section Heading.—

(1) The heading for section 6653 (relating to failure to pay tax) is amended to read as follows:

"SEC. 6653. ADDITIONS TO TAX FOR NEGLIGENCE AND FRAUD."

(2) The item relating to section 6653 in the table of sections for subpart A of chapter 68 is amended to read as follows:

Sec. 6653. Additions to tax for negligence and fraud."

(e) Effective Date.—The amendments made by this section shall apply to returns the due date for which (determined without regard to extensions) is after December 31, 1985.

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PART II—ESTIMATED TAX PAYMENTS BY INDIVIDUALS

SEC. 1311. CURRENT YEAR LIABILITY TEST INCREASED FROM 80 TO 90 PERCENT.

(a) In General.—Clause (i) of section 6654(d)(1)(B) (defining required annual payment) is amended by striking out "80 percent" each place it appears and inserting in lieu thereof "90 percent".

(b) Technical Amendments.—

(1) The table contained in clause (ii) of section 6654(d)(2)(C) (defining applicable percentage) is amended—

(A) by striking out "20" and inserting in lieu thereof "22.5",

(B) by striking out "40" and inserting in lieu thereof "45",

(C) by striking out "60" and inserting in lieu thereof "67.5", and

(D) by striking out "80" and inserting in lieu thereof "90".

(2) Subparagraph (C) of section 6654(i)(1) (relating to special rules for farmers and fishermen) is amended by striking out "80 percent" and inserting in lieu thereof "90 percent".

(3) The table contained in subparagraph (B) of section 6654(j)(3) (relating to special rules for nonresident aliens) is amended—

(A) by striking out "40" and inserting in lieu thereof "45",

(B) by striking out "60" and inserting in lieu thereof "67.5", and

(C) by striking out "80" and inserting in lieu thereof "90".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1985.

PART III—PROVISIONS RELATING TO ATTORNEYS' FEES AND EXHAUSTION OF ADMINISTRATIVE REMEDIES

SEC. 1315. EXTENSION OF PROVISION PERMITTING PAYMENT OF ATTORNEYS' FEES, ETC.

(a) General Rule.—Subsection (f) of section 7430 (relating to termination) is amended by striking out "December 31, 1985" and inserting in lieu thereof "December 31, 1989".

(b) Internal Revenue Service Employees Personally Liable for Court Costs, Etc. in Certain Cases.—Section 7430 is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new section:

"(f) Personal Liability of Internal Revenue Service Employees in Certain Cases.—In any proceeding in which the prevailing party is awarded a judgment for reasonable litigation costs under this section, the court may assess a portion of such costs against any Internal Revenue Service employee (and such employee shall not be reimbursed by the United States for the costs so assessed) if the court determines that such proceeding resulted from any arbitrary or capricious act of such employee."

(c) Technical Amendment.—Subsection (a) of section 7430 is amended by inserting "(payable in the case of the Tax Court in same manner as such an award by a district court)" after "a judgment".

(d) Report.—Within 90 days after the close of each calendar year beginning after 1985 and before 1990, the Secretary of the Treasury or his delegate shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report setting forth—

(1) the number of awards made under section 7430 of the Internal Revenue Code of 1954 during such calendar year,

(2) the number of proceedings in which claims for such awards were made by substantially prevailing parties during such calendar year, and

(3) the aggregate amount payable by the United States pursuant to the awards so made during such calendar year.

(e) Effective Dates.—

(1) Subsections (a) and (b).—The amendment made by subsections (a) and (b) shall apply to proceedings commenced after December 31, 1985.

(2) Subsection (c).—The amendment made by subsection (c) shall take effect as if included in the amendments made by section 292 of the Tax Equity and Fiscal Responsibility Act of 1982.

PART IV—TAX ADMINISTRATION PROVISIONS

SEC. 1321. AUTHORITY TO RESCIND NOTICE OF DEFICIENCY WITH TAXPAYER'S CONSENT.

(a) In General.—Section 6212 (relating to notice of deficiency) is amended by adding at the end thereof the following new subsection:

"(d) Authority To Rescind Notice of Deficiency With Taxpayer's Consent.—The Secretary may, with the consent of the taxpayer, rescind any notice of deficiency mailed to the taxpayer. Any notice so rescinded shall not be treated as a notice of deficiency for purposes of subsection (c)(1) (relating to further deficiency letters restricted), section 6213(a) (relating to restrictions applicable to deficiencies; petition to Tax Court), and section 6512(a) (relating to limitations in case of petition to Tax Court), and the taxpayer shall have no right to file a petition with the Tax Court based on such notice."

(b) Effective Date.—The amendment made by subsection (a) shall take effect on January 1, 1986.

SEC. 1322. AUTHORITY TO ABATE INTEREST DUE TO ERRORS OR DELAYS BY THE INTERNAL REVENUE SERVICE.

(a) In General.—Section 6404 (relating to abatements) is amended by adding at the end thereof the following new subsection:

"(e) Assessments of Interest Attributable to Errors and Delays by Internal Revenue Service.—In the case of any assessment of interest on—

"(1) any deficiency attributable in whole or in part to any error or delay by an officer or employee of the Internal Revenue Service (acting in his official capacity) in performing a ministerial act, or

"(2) any payment of tax described in section 6212(a) to the extent that any delay in such payment is attributable to such an officer or employee being dilatory in performing a ministerial act,

the Secretary may abate the assessment of all or any part of such interest for any period. For purposes of the preceding sentence, a delay shall be taken into account only after the Internal Revenue Service and the taxpayer involved have been in contact with respect to such deficiency or payment."

(b) Effective Date.—The amendment made by subsection (a) shall apply to interest accruing with respect to deficiencies or payments for taxable years beginning after December 31, 1981.

SEC. 1323. SUSPENSION OF COMPOUNDING WHERE INTEREST ON DEFICIENCY SUSPENDED.

(a) In General.—Subsection (c) of section 6601 (relating to suspension of interest in certain income, estate, gift, and certain excise taxes cases) is amended by inserting before the period at the end thereof "and interest shall not be imposed during such period on any interest with respect to such deficiency for any prior period".

(b) Effective Date.—The amendment made by subsection (a) shall apply to periods after December 31, 1985.

SEC. 1324. CERTAIN SERVICE-CONNECTED DISABILITY PAYMENTS EXEMPT FROM LEVY.

(a) Exemption From Levy.—Subsection (a) of section 6334 (relating to the enumeration of property exempt from levy) is amended by adding at the end thereof the following new paragraph:

"(10) Certain service-connected disability payments.—Any amount payable to an individual as a service-connected (within the meaning of section 101(16) of title 38, United States Code) disability benefit under—

"(A) subchapter II, IV, or VI of chapter 11 of such title 38,

"(B) subchapter I, II, or III of chapter 19 of such title 38, or

"(C) chapter 21, 31, 32, 34, 35, 37, or 39 of such title 38."

(b) Effective Date.—The amendment made by subsection (a) shall apply to amounts payable after December 31, 1985.

SEC. 1325. INCREASE IN VALUE OF PERSONAL PROPERTY SUBJECT TO CERTAIN LISTING AND NOTICE PROCEDURES.

(a) In General.—Section 7325 (relating to personal property valued at $2,500 or less) is amended by striking out "$2,500" each place it appears (including the section heading) and inserting in lieu thereof "$100,000".

(b) Increase in Amount of Bond by Claimant.—Paragraph (3) of section 7325 is amended by striking out "$250" and inserting in lieu thereof "$2,500".

(c) Technical Amendment.—Paragraph (4) of section 7103(b) is amended by striking out "$1,000" and inserting in lieu thereof "$100,000".

(d) Clerical Amendment.—The item relating to section 7325 in the table of sections for part II of subchapter C of chapter 75 is amended by striking out "$2,500" and inserting in lieu thereof "$100,000".

(e) Effective Date.—The amendments made by this section shall take effect on January 1, 1986.

SEC. 1326. CERTAIN RECORDKEEPING REQUIREMENTS.

For purposes of sections 132 and 274 of the Internal Revenue Code of 1954, use of a automobile by a special agent of the Internal Revenue Service shall be treated in the same manner as use of an automobile by an officer of any other law enforcement agency.

PART V—INTEREST PROVISIONS

SEC. 1331. DIFFERENTIAL INTEREST RATE.

(a) General Rule.—Section 6621 (relating to determination of rate of interest) is amended by striking out subsections (a), (b), and (c) and inserting in lieu thereof the following:

"(a) General Rule.—

"(1) Overpayment rate.—The overpayment rate established under this section shall be the sum of—

"(A) the short-term Federal rate determined under subsection (b), plus

"(B) 2 percentage points.

"(2) Underpayment rate.—The underpayment rate established under this section shall be the sum of—

"(A) the short-term Federal rate determined under subsection (b), plus

"(B) 3 percentage points.

"(b) Short-Term Federal Rate.—For purposes of this section—

"(1) General rule.—The Secretary shall determine the short-term Federal rate for the first month in each calendar quarter.

"(2) Period during which rate applies.—The Federal short-term rate determined under paragraph (1) for any month shall apply during the first calendar quarter beginning after such month.

"(3) Federal short-term rate.—The Federal short-term rate for any month shall be the rate determined by the Secretary based on the average market yield (during such month) on outstanding 91-day Treasury bills. Any such rate shall be rounded to the nearest full percent (or, if a multiple of ½ of 1 percent, such rate shall be increased to the next highest full percent)."

(b) Technical Amendments.—

(1) Section 6621 is amended—

(A) by redesignating subsection (d) as subsection (c), and

(B) by striking out "the adjusted rate established under subsection (b)" in subsection (c)(1) (as so redesignated) and inserting in lieu thereof "the underpayment rate established under this section".

(2) Subparagraph (G) of section 47(d)(3) is amended by striking out "determined under section 6621" and inserting in lieu thereof "determined at the underpayment rate established under section 6621".

(3) The last sentence of section 48(d)(6)(C)(ii) (defining at risk percentage) is amended by striking out "the rate" and inserting in lieu thereof "the underpayment rate".

(4) Subparagraph (B) of section 167(q)(2) is amended by striking out "at the rate determined under section 6621" and inserting in lieu thereof "at the underpayment rate established under section 6621".

(5) Subparagraph (B) of section 644(a)(2) (as in effect before the amendments made by title VII of this Act) is amended by striking out "the annual rate established under section 6621" and inserting in lieu thereof "the underpayment rate established under section 6621".

(6) Subparagraph (A) of section 852(e)(3) is amended by striking out "the annual rate established under section 6621" and inserting in lieu thereof "the underpayment rate established under section 6621".

(7) Paragraph (2) of section 4497(c) is amended by striking out "at rates determined under section 6621" and inserting in lieu thereof "at the underpayment rate established under section 6621".

(8) Subsection (e) of section 6214 is amended by striking out "section 6621(d)(4)" and inserting in lieu thereof "section 6621(c)(4)".

(9) Paragraph (1) of section 6332(c) is amended by striking out "an annual rate established under section 6621" and inserting in lieu thereof "the underpayment rate established under section 6621".

(10) Subsection (c) of section 6343 is amended by striking out "an annual rate established under section 6621" and inserting in lieu thereof "the overpayment rate established under section 6621".

(11) Subsection (a) of section 6601 is amended by striking out "an annual rate established under section 6621" and inserting in lieu thereof "the underpayment rate established under section 6621".

(12) Section 6602 is amended by striking out "an annual rate established under section 6621" and inserting in lieu thereof "the underpayment rate established under section 6621".

(13) Subsection (a) of section 6611 is amended by striking out "an annual rate established under section 6621" and inserting in lieu thereof "the overpayment rate established under section 6621".

(14) Paragraph (1) of section 6654(a) is amended by striking out "the applicable annual rate established under section 6621" and inserting in lieu thereof "the underpayment rate established under section 6621".

(15) Paragraph (1) of section 6655(a) is amended by striking out "the rate established under section 6621" and inserting in lieu thereof "the underpayment rate established under section 6621".

(16) Subsection (g) of section 7426 is amended by striking out "an annual rate established under section 6621" and inserting in lieu thereof "the overpayment rate established under section 6621".

(17) Section 1961(c)(1) of title 28, United States Code, is amended by striking out "a rate established under section 6621" and inserting in lieu thereof "the underpayment rate or overpayment rate (whichever is appropriate) established under section 6621".

(18) Section 2411 of title 28, United States Code, is amended by striking out "an annual rate established under section 6621" and inserting in lieu thereof "the overpayment rate established under section 6621".

(c) Effective Date.—The amendments made by this section shall apply for purposes of determining interest for periods after December 31, 1985.

SEC. 1332. INTEREST ON ACCUMULATED EARNINGS TAX TO ACCRUE BEGINNING ON DATE RETURN IS DUE.

(a) In General.—Subsection (b) of section 6601 (relating to last date prescribed for payment) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) Accumulated earnings tax.—In the case of the tax imposed by section 531 for any taxable year, the last date prescribed for payment shall be deemed to be the due date (without regard to extensions) for the return of tax imposed by subtitle A for such taxable year."

(b) Effective Date.—The amendments made by this section shall apply to returns the due date for which (determined without regard to extensions) is after December 31, 1985.

PART VI—MODIFICATION OF WITHHOLDING ALLOWANCES

SEC. 1335. WITHHOLDING ALLOWANCES TO REFLECT NEW RATE SCHEDULES.

(a) In General.—The Secretary of the Treasury or his delegate shall modify the withholding schedules under section 3402 of the Internal Revenue Code of 1954 to better approximate actual tax liability under the amendments made by this Act.

(b) Certain Decreases in Withholding Not Permitted.—Subsection (i) of section 3402 is amended by striking out "or decreases".

(c) Effective Date.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1985.

PART VII—INFORMATION REPORTING PROVISIONS

SEC. 1341. REQUIREMENT OF REPORTING FOR REAL ESTATE TRANSACTIONS.

(a) General Rule.—Subsection (c) of section 6045 (relating to returns of brokers) is amended by adding at the end thereof the following new paragraph:

"(5) Real estate transactions.—In the case of any real estate transaction, the term 'broker' means the settlement attorney or other stakeholder (or if there is no such stakeholder, the person designated in regulations prescribed by the Secretary). Any person treated as a broker under the preceding sentence shall be treated as doing business as a broker for purposes of subsection (a)."

(b) Effective Date.—The amendment made by subsection (a) shall take effect on January 1, 1986, and shall apply without regard to whether the Secretary of the Treasury requires a return under section 6045(a) of the Internal Revenue Code of 1954.

SEC. 1342. TAX-EXEMPT INTEREST REQUIRED TO BE SHOWN ON RETURN.

(a) In General.—Section 6012 (relating to persons required to make returns of income) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the new subsection:

"(d) Tax-Exempt Interest Required To Be Shown on Return.—Every person required to file a return under this section for the taxable year shall include on such return the amount of interest received or accrued during the taxable year which is exempt from the tax imposed by chapter 1."

(b) Effective Date.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1985.

PART VIII—REPORT ON RETURN-FREE SYSTEM

SEC. 1345. REPORT.

(a) Report.—The Secretary of the Treasury or his delegate shall prepare a report on a return-free system for the Federal income tax of individuals. Such report shall include—

(1) the identification of classes of individuals who would be permitted to use a return-free system,

(2) how such a system would be phased in,

(3) what additional resources the Internal Revenue Service would need to carry out such a system, and

(4) the types of changes to the Internal Revenue Code of 1954 which would inhibit or enhance the use of such a system.

(b) Due Date.—The report under subsection (a) shall be submitted, not later than 6 months after the date of the enactment of this Act, to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

PART IX—CERTAIN DIESEL FUEL TAXES MAY BE IMPOSED ON SALES TO RETAILERS

SEC. 1351. TAX ON SALES TO RETAILER.

(a) In General.—Section 4041 (relating to imposition of tax on special fuels) is amended by adding at the end thereof the following new subsection:

"(n) Tax on Diesel Fuel For Highway Vehicle Use May Be Imposed on Sale to Retailer.—Under regulations prescribed by the Secretary—

"(1) In general.—The tax imposed by subsection (a)(1)—

"(A) shall apply to the sale of diesel fuel to a qualified retailer (and such sale shall be treated as described in subsection (a)(1)(A)), and

"(B) shall not apply to the sale of diesel fuel by such retailer if tax was imposed on such fuel under subparagraph (A).

"(2) Definitions.—For purposes of this subsection—

"(A) Qualified retailer.—The term 'qualified retailer' means any retailer—

"(i) who elects (under such terms and conditions as may be prescribed by the Secretary) to have paragraph (1) apply to all sales of diesel fuel to such retailer, and

"(ii) who agrees to provide a written notice to each person who sells diesel fuel to such retailer that paragraph (1) applies to all sales of diesel fuel by such person to such retailer.

Such election and notice shall be effective for such period or periods as may be prescribed by the Secretary.

"(B) Retailer.—The term 'retailer' means any person who sells diesel fuel for use as a fuel in a diesel-powered highway vehicle. Such term does not include any person who sells diesel fuel primarily for resale.

"(C) Diesel fuel.—

"(i) In general.—The term 'diesel fuel' means any liquid on which tax would be imposed by subsection (a)(1) if sold to a person, and for a use, described in subsection (a)(1)(A).

"(ii) Exception.—A liquid shall not be treated as diesel fuel for purposes of this subsection if the retailer certifies in writing to the seller of such liquid that such liquid will not be sold for use as a fuel in a diesel-powered highway vehicle.

"(3) Failure to notify seller.—

"(A) In general.—If a qualified retailer fails to provide the notice described in paragraph (2)(A)(ii) to any seller of diesel fuel to such retailer—

"(i) paragraph (1) shall not apply to sales of diesel fuel by such seller to such retailer during the period for which such failure continues, and

"(ii) any diesel fuel sold by such seller to such retailer during such period shall be treated as sold by such retailer (in a sale described in subsection (a)(1)(A)) on the date such fuel was sold to such retailer.

"(B) Penalty.—For penalty for failing to notify seller, see section 6652(j).

"(4) Exemptions not to apply.—

"(A) In general.—No exemption from the tax imposed by subsection (a)(1) shall apply to a sale to which paragraph (1) or (3)(A) of this subsection applies.

"(B) Cross reference.—

"For provisions allowing a credit or refund for certain sales and uses of fuel, see sections 6416 and 6427."

(b) Penalty.—Section 6652 (relating to failure to file certain information returns, registration statements, etc.), as amended by section 1301, is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) Failure To Give Written Notice to Certain Sellers of Diesel Fuel.—

"(1) In general.—If any qualified retailer fails to provide the notice described in section 4041(n)(2)(A)(ii) to any seller of diesel fuel to such retailer, unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid, on notice and demand of the Secretary and in the same manner as tax, by such retailer with respect to each sale of diesel fuel to such retailer by such seller to which section 4041(n)(3) applies an amount equal to 5 percent of the tax which would have been imposed by section 4041(a)(1) on such sale had section 4041(n)(1) applied to such sale.

"(2) Definitions.—For purposes of paragraph (1), the terms 'qualified retailer' and 'diesel fuel' have the respective meanings given such terms by section 4041(n)."

(c) Effective Date.—The amendments made by this section shall apply to sales after the first calendar quarter beginning more than 60 days after the date of the enactment of this Act.

TITLE XIV—MISCELLANEOUS PROVISIONS

SEC. 1401. EXCLUSION FOR CERTAIN FOSTER CARE PAYMENTS.

(a) In General.—Clause (i) of section 131(b)(1)(B) (defining qualified foster care payment) is amended to read as follows:

"(i) paid to the foster parent for caring for a qualified foster child in the foster parent's home, or".

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 1985.

SEC. 1402. EXTENSION OF RULES FOR SPOUSES OF INDIVIDUALS MISSING IN ACTION.

(a) Extension of Provisions.—

(1) Definition of surviving spouse.—Subparagraph (B) of section 2(a)(3) (relating to special rule where deceased spouse was in missing status) is amended to read as follows:

"(B) except in the case of the combat zone designated for purposes of the Vietnam conflict, the date which is 2 years after the date designated under section 112 is the date of termination of combatant activities in that zone."

(2) Income taxes of members of armed forces on death.—The last sentence of section 692(b) (relating to individuals in missing status) is amended to read as follows: "Except in the case of the combat zone designated for purposes of the Vietnam conflict, the preceding sentence shall not cause subsection (a)(1) to apply for any taxable year beginning more than 2 years after the date designated under section 112 as the date of termination of combatant activities in a combat zone."

(3) Joint returns.—The last sentence of section 6013(f)(1) (relating to joint returns where an individual is in missing status) is amended by striking out "no such election may be made for any taxable year beginning after December 31, 1982" and inserting in lieu thereof "such election may be made for any taxable year while an individual is in missing status".

(4) Postponement of time for performing certain acts.—The last sentence of section 7508(b) (relating to application to spouse) is amended to read as follows: "Except in the case of the combat zone designated for purposes of the Vietnam conflict, the preceding sentence shall not cause this section to apply for any spouse for any taxable year beginning more than 2 years after the date designated under section 112 as the date of termination of combatant activities in a combat zone."

(b) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1982.

SEC. 1403. CERTAIN DISTRIBUTIONS OF LOW COST ARTICLES AND EXCHANGES AND RENTALS OF MEMBER LISTS BY CERTAIN ORGANIZATIONS NOT TO BE TREATED AS UNRELATED TRADE OR BUSINESS.

(a) In General.—Section 513 (defining unrelated trade or business) is amended by adding at the end thereof the following new subsection:

"(h) Certain Distributions of Low Cost Articles Without Obligation to Purchase.—

"(1) In general.—In the case of an organization which is described in section 501 and contributions to which are deductible under paragraph (2) or (3) of section 170(c), the term 'unrelated trade or business' does not include—

"(A) activities relating to the distribution of low cost articles if the distribution of such articles is incidental to the solicitation of charitable contributions, or

"(B) any trade or business which consists of—

"(i) exchanging with another such organization names and addresses of donors to (or members of) such organization, or

"(ii) renting such names and addresses to another such organization.

"(2) Low cost article defined.—For purposes of this subsection—

"(A) In general.—The term 'low cost article' means any article which has a cost not in excess of $5 to the organization which distributes such item (or on whose behalf such item is distributed).

"(B) Article may include more than 1 item.—If more than 1 item is distributed by or on behalf of an organization to a single distributee in any calendar year, the aggregate of the items so distributed in such calendar year to such distributee shall be treated as 1 article for purposes of subparagraph (A).

"(C) Indexation of $5 amount.—In the case of any calendar year beginning after December 31, 1986, there shall be substituted for the $5 amount in paragraph (1) an amount equal to $5 multiplied by the cost-of-living adjustment (as defined in section 1(e)(3)) for taxable years beginning in such calendar year.

"(3) Distribution which is incidental to the solicitation of charitable contributions described.—For purposes of this subsection, any distribution of low cost articles by an organization shall be treated as a distribution incidental to the solicitation of charitable contributions only if—

"(A) such distribution is not made at the request of the distributee,

"(B) such distribution is made without the express consent of the distributee, and

"(C) the articles so distributed are accompanied by—

"(i) a request for a charitable contribution (as defined in section 170(c)) by the distributee to such organization, and

"(ii) a statement that the distributee may retain the low cost article regardless of whether such distributee makes a charitable contribution to such organization."

(b) Effective Date.—The amendment made by subsection (a) shall apply to distributions of low cost articles and exchanges and rentals of membership lists after the date of the enactment of this Act.

SEC. 1404. CHANGES IN DEDUCTION OF TAXES AND INTEREST BY TENANT-STOCKHOLDERS OF COOPERATIVE HOUSING CORPORATIONS.

(a) In General.—Paragraph (3) of section 216(b) (defining tenant-stockholder's proportionate share) is amended to read as follows:

"(3) Tenant-stockholder's proportionate share.—

"(A) In general.—Except as provided in subparagraph (B), the term 'tenant-stockholder's proportionate share' means that proportion which the stock of the cooperative housing corporation owned by the tenant-stockholder is of the total outstanding stock of the corporation (including any stock held by the corporation).

"(B) Special rule where allocation of taxes and interest reflect cost to corporation of stockholder's unit.—

"(i) In general.—If, for any taxable year—

"(I) each dwelling unit owned or leased by a cooperative housing corporation is separately allocated a share of such corporation's real estate taxes described in subsection (a)(1) and a share of such corporation's interest described in subsection (a)(2), and

"(II) such allocations reasonably reflect the cost to such corporation of such taxes, and of such interest, attributable to the tenant-stockholder's dwelling unit (and such unit's share of the common areas),

then the term 'tenant-stockholder's proportionate share' means the shares determined in accordance with the allocations described in subclause (II).

"(ii) ELECTION BY CORPORATION REQUIRED.—Clause (i) shall apply with respect to any cooperative housing corporation only if such corporation elects its application. Such an election, once made, may be revoked only with the consent of the Secretary."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1985.

SEC. 1405. TREATMENT OF COMPUTER SOFTWARE ROYALTIES AND INTEREST OF SECURITIES DEALERS FOR PURPOSES OF PERSONAL HOLDING COMPANY TAX.

(a) IN GENERAL.—Paragraph (1) of section 543(a) (defining personal holding company income) is amended—

(1) by striking out "and" at the end of subparagraph (A),

(2) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof ", and", and

(3) by adding at the end thereof the following new subparagraphs:

"(C) active business computer software royalties (within the meaning of subsection (d)).

"(D) any qualified securities dealer interest (within the meaning of subsection (e)(1))."

(b) ACTIVE BUSINESS COMPUTER SOFTWARE ROYALTIES AND QUALIFIED SECURITIES DEALERS INTEREST DEFINED.—Section 543 is amended by adding at the end thereof the following new subsections:

"(d) ACTIVE BUSINESS COMPUTER SOFTWARE ROYALTIES.—

"(1) IN GENERAL.—For purposes of this section, the term 'active business computer software royalties' means any royalties—

"(A) received by any corporation during the taxable year in connection with the licensing of computer software, and

"(B) with respect to which the requirements of paragraphs (2), (3), (4), and (5) are met.

"(2) ROYALTIES MUST BE RECEIVED BY CORPORATION ACTIVELY ENGAGED IN COMPUTER SOFTWARE BUSINESS.—The requirements of this paragraph are met if the royalties described in paragraph (1)—

"(A) are received by a corporation engaged in the active conduct of the trade or business of developing, manufacturing, or producing computer software, and

"(B) are attributable to computer software which—

"(i) is developed, manufactured, or produced by such corporation (or its predecessor) in connection with the trade or business described in subparagraph (A), or

"(ii) is directly related to such trade or business.

"(3) ROYALTIES MUST CONSTITUTE AT LEAST 50 PERCENT OF INCOME.—The requirements of this paragraph are met if the royalties described in paragraph (1) constitute at least 50 percent of the ordinary gross income of the corporation for the taxable year.

"(4) DEDUCTIONS UNDER SECTIONS 162 AND 174 RELATING TO ROYALTIES MUST EQUAL OR EXCEED 25 PERCENT OF ORDINARY GROSS INCOME.—

"(A) IN GENERAL.—The requirements of this paragraph are met if—

"(i) the sum of the deductions allowable to the corporation under sections 162, 174, and 195 for the taxable year which are properly allocable to the trade or business described in paragraph (2) equals or exceeds 25 percent of the ordinary gross income of such corporation for such taxable year, or

"(ii) the average of such deductions for the 5-taxable year period ending with such taxable year equals or exceeds 25 percent of the average ordinary gross income of such corporation for such period.

If a corporation has not been in existence during the 5-taxable year period described in clause (ii), then the period of existence of such corporation shall be substituted for such 5-taxable year period.

"(B) DEDUCTIONS ALLOWABLE UNDER SECTION 162.—For purposes of subparagraph (A), a deduction shall not be treated as allowable under section 162 if it is specifically allowable under another section.

"(C) LIMITATION ON ALLOWABLE DEDUCTIONS.—For purposes of subparagraph (A), no deduction shall be taken into account with respect to compensation for personal services rendered by the five individual shareholders holding the largest percentage (by value) of the outstanding stock of the corporation. For purposes of the preceding sentence—

"(i) individuals holding less than 5 percent (by value) of the stock of such corporation shall not be taken into account, and

"(ii) stock deemed to be owned by a shareholder solely by attribution from a partner under section 544(a)(2) shall be disregarded.

"(5) DIVIDENDS MUST EQUAL OR EXCEED EXCESS OF PERSONAL HOLDING COMPANY INCOME OVER 10 PERCENT OF ORDINARY GROSS INCOME.—

"(A) IN GENERAL.—The requirements of this paragraph are met if the sum of—

"(i) the dividends paid during the taxable year (determined under section 562),

"(ii) the dividends considered as paid on the last day of the taxable year under section 563(c) (as limited by the second sentence of section 563(b)), and

"(iii) the consent dividends for the taxable year (determined under section 565),

equals or exceeds the amount, if any, by which the personal holding company income for the taxable year exceeds 10 percent of the ordinary gross income of such corporation for such taxable year.

"(B) COMPUTATION OF PERSONAL HOLDING COMPANY INCOME.—For purposes of this paragraph, personal holding company income shall be computed—

"(i) without regard to amounts described in subsection (a)(1)(C),

"(ii) without regard to interest income during any taxable year—

"(I) which is in the 5-taxable year period beginning with the later of the 1st taxable year of the such corporation or the 1st taxable year in which such corporation conducted the trade or business described in paragraph (2)(A), and

"(II) during which the corporation meets the requirements of paragraphs (2), (3), and (4), and

"(iii) by including adjusted income from rents and adjusted income from mineral, oil, and gas royalties (within the meaning of paragraphs (2) and (3) of subsection (a)).

"(6) SPECIAL RULES FOR AFFILIATED GROUP MEMBERS.—

"(A) IN GENERAL.—In any case in which—

"(i) the taxpayer receives royalties in connection with the licensing of computer software, and

"(ii) another corporation which is a member of the same affiliated group as the taxpayer meets the requirements of paragraphs (2), (3), and (4) with respect to such computer software,

the taxpayer shall be treated as having met such requirements.

"(B) AFFILIATED GROUP.—For purposes of this paragraph, the term 'affiliated group' has the meaning given such term by section 1504(a).

"(e) SPECIAL RULES FOR INTEREST OF DEALERS IN SECURITIES.—

"(1) QUALIFIED SECURITIES DEALER INTEREST.—For purposes of subparagraph (D) of subsection (a)(1)—

"(A) IN GENERAL.—The term 'qualified securities dealer interest' means any interest of a dealer in securities from securities or money market instruments held as inventory, but only if the requirements of subparagraphs (B), (C), and (D) are met.

"(B) ADJUSTED ORDINARY GROSS INCOME REQUIREMENT.—The requirements of this subparagraph are met if the sum of—

"(i) the income of the dealer in securities from the trade or business of dealing in securities (other than personal holding company income determined without regard to subsection (a)(1)(D)), plus

"(ii) the interest of such dealer from securities or money market instruments held as inventory,

equals or exceeds 50 percent of the ordinary gross income of such dealer.

"(C) DIVIDEND REQUIREMENT.—The requirements of this subparagraph are met if the sum of—

"(i) the dividends paid during the taxable year (determined under section 562),

"(ii) the dividends considered as paid on the last day of the taxable year under section 563(c) (as limited by the second sentence of section 563(b)), and

"(iii) the consent dividends for the taxable year (determined under section 565),

equals or exceeds the amount, if any, by which the personal holding company income for the taxable year (determined without regard to income described in subsection (a)(1)(D)) exceeds 10 percent of the ordinary gross income of such corporation for such taxable year.

"(D) DEDUCTION REQUIREMENT.—The requirements of this subparagraph are met if the sum of the deductions which are allowable under section 162 other than—

"(i) deductions for compensation for personal services rendered by the shareholders, and

"(ii) deductions which are specifically allowable under sections other than section 162,

equals or exceeds 15 percent of the adjusted ordinary gross income.

"(2) CERTAIN INTEREST INCOME OFFSET WHERE OFFSETTING LOAN.—For purposes of this part—

"(A) IN GENERAL.—In the case of a dealer in securities who regularly derives income from loans which are offset by other loans, the interest income from any such loan shall be reduced by any interest paid or accrued by such dealer on the offsetting loan.

"(B) OFFSETTING LOANS.—For purposes of this paragraph, any loan made by a dealer in securities shall be treated as offset by another loan if such other loan—

"(i) is made at the same time as such loan and has the same maturity as such loan, is in substantially the same amount as such loan, and is secured by the same property as such loan, and "(ii) is designated, in such manner as the Secretary may prescribe, by such dealer as an offsetting loan.

"(3) Definitions.—For purposes of this subsection—

"(A) Dealer in securities.—The term 'dealer in securities' has the meaning given such term by section 1236.

"(B) Inventory.—The term 'inventory' means property described in section 1221(1).".

(c) Conforming Amendments.—

(1) Section 543(a)(4) (relating to copyright royalties) is amended by adding at the end thereof the following new sentence: "This paragraph shall not apply to active business computer software royalties.".

(2) Section 543(b)(3) (relating to adjusted income from rents) is amended—

(A) by striking out "or" at the end of subparagraph (C),

(B) by striking out the period at the end of subparagraph (D) and inserting in lieu thereof ", or", and

(C) by adding at the end thereof the following new subparagraph:

"(E) active business computer software royalties (as defined in subsection (d)).".

(d) Effective Date.—The amendments made by this section shall apply to royalties and interest received after December 31, 1985, in taxable years ending after such date.

SEC. 14[illegible]. ADOPTION ASSISTANCE AGREEMENTS UNDER ADOPTION ASSISTANCE PROGRAM; PAYMENT OF NONRECURRING EXPENSES RELATED TO ADOPTIONS OF CHILDREN WITH SPECIAL NEEDS.

(a) In General.—Section 473(a) of the Social Security Act is amended—

(1) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively; and

(2) by striking out all of paragraph (1) down through "adopt a child who—" and inserting in lieu thereof the following:

"(1)(A) Each State having a plan approved under this part shall enter into adoption assistance agreements (as defined in section 475(3)) with the adoptive parents of children with special needs.

"(B) Under any adoption assistance agreement entered into by a State with parents who adopt a child with special needs, the State—

"(i) shall make payments of nonrecurring adoption expenses incurred by or on behalf of such parents in connection with the adoption of such child, directly through the State agency or through another public or private nonprofit private agency, in amounts determined under paragraph (3), and

"(ii) in any case where the child meets the requirements of paragraph (2), shall make adoption assistance payments to such parents, directly through the State agency or through another public or nonprofit private agency, in amounts so determined.

"(2) For purposes of paragraph (1)(B)(ii), a child meets the requirements of this paragraph if such child—".

(b) Definition and Payment of Nonrecurring Adoption Expenses.—Section 473(a) of such Act (as amended by subsection (a) of this section) is further amended by adding at the end thereof the following new paragraph:

"(6)(A) For purposes of paragraph (1)(B)(i), the term 'nonrecurring adoption expenses' means reasonable and necessary adoption fees, court costs, attorney fees, and other expenses which are directly related to the legal adoption of a child with special needs and which are not incurred in violation of State or Federal law.

"(B) A State's payment of nonrecurring adoption expenses under an adoption assistance agreement shall be treated as an expenditure made for the proper and efficient administration of the State plan for purposes of section 474(a)(3)(B).".

(c) Technical and Conforming Amendments.—(1) The first sentence of section 470 of such Act is amended by striking out "foster care" and all that follows down through "title XVI)" and inserting in lieu thereof the following: "foster care for children who otherwise would be eligible for assistance under the State's plan approved under part A and adoption assistance for children with special needs".

(2) Paragraphs (1) and (11) of section 471(a) of such Act are each amended by striking out "adoption assistance payments" and inserting in lieu thereof "adoption assistance".

(3) Section 473(a)(3) of such Act (as redesignated by subsection (a)(1) of this section) is amended—

(A) by striking out "the adoption assistance payments" in the first sentence and inserting in lieu thereof "the payments to be made in any case under clauses (i) and (ii) of paragraph (1)(B)"; and

(B) by inserting after "the adoption assistance payment" where it first appears in the second sentence the following: "made under clause (ii) of paragraph (1)(B)".

(4) Section 473(a)(5) of such Act (as so redesignated) is amended by striking out ", pursuant to an interlocutory decree, shall be eligible for adoption assistance payments under this subsection," and inserting in lieu thereof "in accordance with applicable State and local law shall be eligible for such payments,".

(5) Section 475(3) of such Act is amended by striking out clause (A) and inserting in lieu thereof the following: "(A) specifies the nature and amount of any payments, services, and assistance to be provided under such agreement, and".

(d) Effective Date.—

(1) In general.—The amendments made by this section shall apply only with respect to expenditures made after December 31, 1985.

(2) Tax treatment of certain nonrecurring adoption expense payments.—In any case where an individual receives after December 31, 1985, a payment of nonrecurring adoption expenses (as defined in section 473(a)(6)(A) of the Social Security Act), no deduction shall be allowable for such expenses under section 222 of the Internal Revenue Code of 1954.

The CHAIRMAN. Pursuant to House Resolution 343, the amendment in the nature of the substitute is considered as having been read.

Under the rule, the gentleman from Tennessee [Mr. Duncan] will be recognized for 1 hour, and a member opposed will be recognized for 1 hour.

The Chair now recognizes the gentleman from Tennessee [Mr. Duncan].

Mr. Duncan. Mr. Chairman, I yield 8 minutes to the gentleman from Texas [Mr. Archer].

Mr. ARCHER. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise as a longtime supporter of the concept of tax reform. For the 2 years prior to the Treasury unveiling its first recommendation, I spoke continuously about the defects in the current code, a code so complex that I, as a lawyer and a member of the tax-writing committee, had reached the point where I could no longer do my own return without outside help; and, sadly enough, where the outside help could no longer tell me with a certainly that the advice that they gave me could be depended upon with certainty.

Yes, this code cried out for change and reform, true reform. But to label "reform" without concern for the substance of the bill is, in my opinion, worthless. It is purely change for the sake of change. True reform should embody the 3 characteristics that the President has highlighted: Simplicity—and, yes, when I go back home, what do most of the people tell me? "When are we going to get tax simplification?" They do not talk reform. They talk tax simplification—fairness and growth.

Members of the Committee, does the committee bill measure up? I say after excruciating analysis that, in my opinion, it does not. Admittedly, there are good things in it. Rate reduction is good, but at what trade-off and what price?

Does it simplify the current Tax Code? I say to the people of America: Do not be deceived that this bill is simplification, it is not. The current code is 3973 pages. The committee bill is an additional 1379 pages that does not replace the current Code but adds to the current code. It will necessarily require the addition of many thousands of IRS agents above the current level and thousands upon thousands of tax practitioners in the private sector. It is not simplicity. It adds additional complexity to an already arcane Tax Code.

We were told that we were moving toward at the beginning of tax reform, a return-free system where taxpayers would not even have to file a return; that they could just be billed by the IRS. The return-free system, ladies and gentlemen, went out the window early on in the process and the addition of the amendment that was just adopted for political tax credits puts us even farther away from a return-free system.

So we can no longer argue simplicity with any validity whatsoever. I defy any member of the committee to stand before this body and claim that this bill is more simple than the current law. Yes, it drops some people from the rolls who would currently be taxed, but those people are already in the most simple form imaginable.

For almost everyone left on the tax rolls it is made more complex than current law. It rewrites the pension code for the third time in 3 consecutive years, creating many additional complexities. It will mean that pension plans throughout this country will have to be completely redrafted and rewritten, at a cost of hundreds of millions of dollars, wastefully and unnecessarily; and as a result, many of those plans will be dropped and people will not have benefits they need in their retirement years, particularly those provided by small businesses and professional organizations.

If the committee bill passes, half of middle-income Americans will have their taxes increased in 1986. That is not what most people are expecting out of what is called tax "reform." In the area of foreign-source income so vital to the ability of this Nation to trade and compete against its foreign competitors, this bill makes it far more difficult and far more complex than the current law. We could spend 2 hours today on the floor talking only about that segment, but it will lean against exports and lean toward imports in the future years for this country. The result will necessarily be fewer jobs for Americans.

Is the Committee bill fair? Fairness is in the eye of the beholder. To some, I am sure it will be considered to be fair. But to me, fairness means that it must be conducive to growth and job creation. I have checked with major economists of various persuasions in the last 2 days across this country and there is not a single one of them, liberal, moderate or conservative, who said that this bill will bring growth. At best, they say it will be flat or neutral in the long term, and in the short term the majority of them say it will be negative in its impact on the gross national product.

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Perhaps in the out years, some Americans will receive an individual tax reduction, but if they do not have their jobs, it will be a pyrrhic victory for tax "reform."

The Committee bill is clearly antigrowth, antiinvestment, and that flaw cannot be remedied in the other body. There are too many dollars involved.

It is proconsumption, and perhaps we should encourage our people to eat their seedcorn so that they cannot plant the crops in the years to come. I do not think so. I think we should be encouraging more savings and more investment.

In the long run, the pieces in this substitute and the committee bill compared to the current law have got to be weighed in the aggregate. There is good and bad in all three. I believe that the substitute is an improvement over the committee bill, and as an amendment to the bill, I intend to vote for it.

But I must say that when I put in the balance compared to the current law, the proposals we are permitted to consider today, the risk of loss is far greater than the chance of gain for the entire U.S. economy.

Should we at this time, when the market is telling us we are going to have an excellent economic year in 1986, play "Russian roulette" with the jobs of Americans? I think not. I think it is time to talk about phasing in massive changes instead of creating dislocations which potentially jeopardize national interests vital to all of us.

I am reluctant to take the well to speak against, in effect, our committee chairman and my President whom I respect. Both have expended great effort to move this process along. But I do not in my heart believe that the other body can improve what, in my opinion, is overall a bad bill for America. I must stand here and oppose that bill, and I urge the other members of the committee to do likewise on final passage.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 3 minutes to the gentleman from Alabama [Mr. FLIPPO].

Mr. FLIPPO. Mr. Chairman, I rise in support of the committee bill and in opposition to the Republican substitute.

I would like to make a few remarks about the guiding principles that were guiding the committee bill in its preparation. We have heard of those principles mentioned as revenue neutrality. I think it is important to talk about, to understand this bill from what it does not do, what it is not.

The committee bill is not a vehicle for tax increases, either backdoor or front door. The committee bill does not contribute to the Nation's deficit. Its principle is revenue neutrality, and one I think we need to retain.

The second principle is to reduce the rates. This bill, if the committee bill is passed, will have the lowest rates we have had in 30 years, going from 50 percent to 38 percent for individuals and 46 percent to 36 percent for corporations.

If you are going to maintain revenue neutrality and cut the rates, you must find the revenue in some area. Notice that there is no claim this time for some supply-side growth to pay for these tax cuts. These cuts must be paid for by reducing tax preferences, and our committee first of all looked at the tax preferences or tax loopholes, if you will, and we imposed a very strong and I think fair minimum tax to make sure that the social objectives that people who make income must pay some kind of taxes. That is the first principle that I believe was very important.

The committee, after it turned to the minimum tax and raised those revenues, began to look at those companies and individuals that paid the lowest effective tax rates, and we began to increase those. I think that is a fair and equitable approach.

The committee bill reduces those rates to their lowest in 30 years. The committee bill preserves incentives to save and invest by restoring 401(k) and 403.

The committee bill preseves the deductability of State and local taxes, which the Republican substitute does not do. We retain the deductability of home mortgages and the mortgages on second homes. The committee bill does not tax fringe benefits, and the Republican alternative would.

So I think that for the first time ever, our bill continues to make IDBs, not for the first time, but IDB's were set to expire, and we will be able to continue to have IDB growth as a tool for jobs.

In regard to simplification in growth, we have had our tax preferences and our Tax Code oriented toward preferences for equipment and buildings where the growth sectors of our economy have been on people, small, innovative businesses that use creative minds and human resources.

I think the committee bill is far preferable, and much more in line with the changing economy that we face today and in the future, and I encourage your support of the committee bill.

Mr. Chairman, I rise in strong support of H.R. 3838. The Tax Reform Act of 1985 represents sound public policy, prudent Federal tax policy and is consistent with needs of our changing economy.

H.R. 3838 merits the support of everyone in the House because it provides tax incentives for the working poor, a significant reduction of the tax burden of middle America, a substantial reduction in the marginal tax rates of all taxpayers, for horizontal equity among corporations and contains a strong minimum tax that significantly reduces the probability that any corporate or individual taxpayer will escape paying their fair share of taxes.

There is one very important sector of the economy that receives special consideration in the Tax Reform Act of 1985. The Committee on Ways and Means carefully shaped this tax bill to reflect the needs of the small business community.

H.R. 3838 is the first tax reform bill in my memory that specifically addresses the needs and concerns of the small business community about fairness and equity.

The studies conducted at MIT and elsewhere have demonstrated that small businesses are the key factor in the growth of the economy. The small business sector has been the prime source of new jobs and creative new products that have fueled the growth of the U.S. economy in recent year.

The key role that small business plays in the economic development of our Nation requires fair tax treatment for the small business community. H.R. 3838 carefully addresses the need of small businesses for a simple and fair Tax Code.

The bill before you today reduces the corporate tax rate by more than 20 percent from 46 percent to 36 percent. Just as important, the bill would provide for a greater degree of horizontal equity among all corporations.

The number of corporate tax rates is reduced from 5 to 3 under the provisions of H.R. 3838. The tax rate applied to small businesses with taxable income of $25,000 or less would remain unchanged at 15 percent. The rate applied to taxable income between $25,000 and $50,000 would be reduced from 18 percent to 15 percent and the rate applied to taxable income between $50,000 and $75,000 would be reduced from 30 to 25 percent.

The reduction in the rates for small businesses will help to nurture growth in this sector of our economy. There are, however, numerous other provisions in this bill that will encourage and support the growth of small businesses. At every opportunity the Committee provided for special treatment for small businesses that will simplify the application of the Tax Code to this important segment of the economy, reduce the cost of compliance and encourage growth.

The bill would resolve the serious problems small businesses have encountered in accounting for inventory. H.R. 3838 provides businesses with annual gross receipts of $5 million or less the opportunity to use a simplified dollar-value LIFO method in accounting for their inventories. The LIFO method generally is considered to be an advantageous method of accounting for inventories, particularly when costs are rising. The small business community, however, has been reluctant to use the LIFO inventory accounting system because it is complex and the costs of compliance are high.

The Committee on Ways and Means recognized that the complexity and compliance costs discouraged small businesses from adopting LIFO despite its advantages. The bill before you today provides for a simplified dollar-value LIFO method for small businesses. This provision resolves a longstanding problem by allowing small business to use the LIFO method long available to large business.

The simplified dollar-value LIFO will enable small businesses to improve efficiency, increase productivity, and accurately compute taxable income. It will improve their competitive standing in the market place by reducing costs and strengthening financial statements.

The small business community has long sought recognition of their unique inventory accounting problem. The bill meets the needs of this important segment of our economy. This is one important reason why the bill is supported by the small business community.

The bill would repeal the completed contract method of accounting for "long-term contracts" and redefine the definition of a long-term contract. The small business community, however, would be exempted from this substantial change in the tax laws. Under the provision of H.R. 3838, small firms with gross receipts of $10 million or less would be permitted to continue to use the completed contract method of accounting under a contract for the construction of real property that is expected to be completed within a 2-year period.

The bill would require that the costs of producing timber including interest costs, be capitalized using the uniform capitalization rules. Small timber producers, however, would be allowed to elect to amortize over a period of 5 years, amounts required to be capitalized under the provisions of the bill which are currently eligible to be expensed. The bill once again clearly provides for preferred treatment for the small business operator.

The bill would require most businesses not already doing so, to shift to the accurual method of accounting. The motive for this provision is the belief that the cash method of accounting frequently fails to reflect accurately the economic results of a taxpayer's trade or business over a taxable year.

The bill, however, recognizes that the cash method generally is a simpler method of accounting and that simplicity justifies its contined use by small business. Thus, H.R. 3838 would allow businesses with gross receipts of $5 million or less to continue to use the cash method of accounting in order to avoid the higher costs of compliance which would be entailed in switching to the accrual method.

The bill would repeal the reserve method of accounting for bad debts now presently used by all commercial banks. There are numerous justifications for repealing the reserve method. The committee recognized, however, that the repeal of the reserve method for smaller banks could endanger the viability of the small institutions already under considerable market pressures. Thus, the bill under consideration today retains present law regarding the use of reserves for banks with assets of $500 million or less. This provision will allow approximately 90 percent of the commercial banks in the country to continue to use the reserve method of accounting for bad debts.

Small businesses generally do not have sophisticated mechanized accounting systems or access to the necessary expertise except at considerable expense to deal with the complexities of the corporate tax laws. The tax laws should be developed and designed to reflect the special needs and circumstances of the small business community for simplicity and fairness. H.R. 3838 addresses the needs of the small business community. It provides special treatment for small businesses that will simplify the application of the tax laws to small businesses and reduce the cost of compliance. In doing so, the bill encourages economic growth and the creation of new jobs.

I urge my colleagues to support small business and vote for the Tax Reform Act of 1985.

Mr. DUNCAN. Mr. Chairman, I yield 30 seconds to the gentleman from Nebraska [Mr. Daub].

Mr. DAUB. Mr Chairman, I would like to enter into a colloquy with the chairman of the Committee on Ways and Means, Mr. Rostenkowski, if I might.

I will be very brief.

Mr. Chairman I want to clarify the committee's intent with respect to a provision of the bill making a technical correction to the Deficit Reduction Act of 1984. Under this technical correction, a transition rule is provided to certain employers who maintain vested vacation pay plans for their employees. An employer is eligible for this transition rule if payments under the vacation pay plan are required to be made during the taxable year in which the vacation pay is earned or in the following taxable year. The committee intended that this transition rule would also be available to employers who maintain plans in which payments are, in fact, made in the current or following taxable year, even if the payment is not required in such years.

Mr. ROSTENKOWSKI. Mr. Chairman, will the gentleman yield?

Mr. DAUB. I yield to the gentleman from Illinois.

Mr. ROSTENKOWSKI. The gentleman is correct.

Mr. DUNCAN. Mr. Chairman, I yield 5 minutes to the gentleman from Illinois [Mr. Crane].

Mr. CRANE. Mr. Chairman, we have before us an exciting piece of legislation that has attracted so much attention that there are probably at least 50 Members of this body present to listen to this scintillating debate. We are talking about a reformation of our entire Tax Code.

One of the criteria that the President enunciated early on was simplification. Right? I mean, this document is simplification. We have real simplification in this code, Mr. Chairman, approximately 1,400 pages of simplification.

I read recently that in the 1984 Tax Reform Act that we passed, one paragraph alone has already produced 126 pages of IRS interpretation. Exciting, isn't it, to contemplate what they can do with this document? This is real simplification of the code, Mr. Chairman.

I calculated that approximately 100 of these documents, if you are only assuming 100 pages of interpretations per page of this weighty document, that ought to give us interpretations that easily would reach to the ceiling of this Chamber.

I have introduced a flat tax bill. It is all of seven pages and would totally reform this code. I contrast it with the 1,400-page committee bill. You tell me which one comes closer to tax simplification in your judgment.

One of the concerns I have about this bill is its implications in terms of capital formation. We have had a number of studies, independent studies done in terms of what this bill would do with regard to GNP, the deficit, the unemployment rate, and the cost of capital. One of these was done by Laurence H. Meyer Associates with regard to GNP. The other was Wharton Econometrics, and the third one was Chase Econometrics, all reputable authorities that have been invoked many times in all of our debates on these esoteric tax and economic questions.

Listen to their estimates. Meyer Associates estimates that the real GNP would decline by two-tenths of 1 percent in 1986 relative to current law. Wharton Econometrics estimates a 1.1-percent decline in 1986. Chase Econometrics estimates a two-tenths of 1 percent decline in 1986.

In order words, there is unanimity on that point: There would be a real decline in GNP.

On the question of the deficit, Meyer estimates the budget deficits would rise by $16 billion in 1986 over current levels. Wharton estimates the deficit would increase by $14.1 billion in 1986. Chase puts the figure at $7 billion, a modest $7 billion. But when you are talking $200 billion deficits, every one of these economies that we can effect is obviously in the best interest of the eocnomy and the country.

On the question of unemployment, Meyer estimates that the unemployment rate would be 2.9 percent higher in 1987, and listen to this figure, 24.1 percent higher unemployment in 1991 as result of the assault on capital formation in this bill. Wharton puts the figure at a 5.7-percent increase in unemployment in 1986 over what will be the case under current law. Chase estimates a modest 1.3-percent increase over current law in 1986.

But I think the point is well taken. Every one of these economic assessments of this bill says we are going to have escalated unemployment, and it could be astronomically escalated.

On the question of capital, listen to these figures.

This should really grab you. You know it is a good thing there are folks back home watching C-SPAN that are listening to this debate too, because we have a lot of Christmas parties going on, and I do not think too many Members are all that enthused about this whole subject matter anyway.

But listen to these estimated costs of capital. In the Meyer study to the producers of durable equipment, the cost of capital in 1986, up 18.3 percent; nonresidential structures up 11.3 percent; multiple-family housing up 7.3 percent. Wharton says manufacturing capital costs in 1986 will be up 11.8 percent, mutiple-family housing up 35.8 percent. Chase Econometrics says producers' durable equipment will be up 25.2 percent and industrial and commercial equipment up 30.6 percent.

The fact of the matter is that the Republican alternative attempts to address these questions dealing with the preservation of at least a portion of the investment tax credit, the indexation of depreciable assets and a more preferential treatment with regard to capital gains.

Mr. Chairman, I urge our colleagues to give serious thought and consideration to this. We need the Republican alternative, and we must reject the committee's bill, notwithstanding the yeoman efforts of our distinguished chairman.

Mr. Chairman, the Ways and Means tax bill will obviously have a dramatic negative effect on capital formation. If we are to stimulate growth and allow the economy to create jobs, we must not strike down the very reforms in the Tax Code which have strengthened the economy over the last few years. The Ways and Means bill strikes these reforms. The most significant stimulus to the mobility of capital achieved during the Carter administration, the reduction in the capital gains rate, is washed aside; the very cornerstone of the 1981 tax bill which stimulated the dramatic job-creating growth in the economy, Accelerated Depreciation and the Investment Tax Credit, is eliminated, the economic reality proclaimed by the President in 1983, that the corporate tax is a regressive tax which is transferred directly to individuals, is ignored, and the realization that the Tax Code must encourage savings and discourage debt financing if we are to achieve a significant decline in the interest rate is given a severe blow by the increased taxation of retirement savings.

The tax bill before us will raise the effective tax rate on capital gains to a maximum 22 percent. That is an increase from the present 20 percent capital gains rate, and a large increase from the President's proposal of a 17.5 percent maximum rate.

As history has clearly shown, higher taxes on capital gains decrease capital formation, new business ventures, and entrepreneurial activity. Throughout the 1970's, capital gains were taxed at an effective rate of between 42.5 percent and 49 percent. This was a period of stagnation for American entrepreneurial activity. Associated with the abrupt rise in the taxation of capital gains was a sharp decline in new funds raised by venture capital firms. As funds for venture capital firms dried up, the development of new and growing companies was nearly stopped in its tracks. This is reflected in the massive decline in new capital raised by emerging companies. Then, in 1978, the Congress reduced the capital gains rate to 28 percent. The capital gains rate was again reduced to 20 percent in 1981. The amount of money dedicated to organized venture capital rebounded from an average of $70 million per year in the years 1969 through 1977 to an average of just under $1.5 billion per year between 1978 and 1983, with total dedications of $1.7 billion in 1982 and $4.1 billion in 1983. The reduced capital gains rate is the Nation's seed capital, from which thousands of new companies and new jobs are started each year. The Ways and Means bill kills this seed by increasing the capital gains tax rate at a time when it should be further decreased.

Ironically, this provision will actually prove to reduce tax revenues at the same time it is eliminating jobs. The figures on tax revenues are remarkable. When the capital gains tax rate was raised in 1969, tax revenues from capital gains stood at $5.5 billion. However, even though the maximum tax rate had been doubled after 1969, tax revenues averaged only $5.3 billion per year from 1969 to 1978—the period of high capital gains taxes. In stark contrast, after the capital gains tax rate had been sliced by nearly half in 1978, tax revenues from capital gains averaged $11.1 billion per year. This provides substantial evidence for Adam Smith's dictum that moderate taxation often provides government with more revenues than do higher levels of taxation.

The cornerstone of the 1981 tax bill was the ACRS—Accelerated Cost Recovery system, and the Investment Tax Credit. These two reforms provided the stimulus to investment in plant and equipment which fueled the economic growth in job-creating industries. Now, the Ways and Means tax bill eliminates the Investment Tax Credit and stretches out the period which real property can be depreciated from 18 years, in the current ACRS system, to 30 years. This dramatically increases the costs to business of investment in plant and equipment by greatly reducing the annual deduction a company can take for the depreciation of these costs of production. While the supporters of the Ways and Means tax bill argue that the changes in the depreciation schedules and the elimination of the Investment Tax Credit are compensated by the reduction in the top corporate rate from 46 percent to 36 percent, this fails to recognize the point recently made by Martin Feldstein, which is that reduced corporate rates only help already existing investment, while investment incentives stimulate new investment. And new investment is what is needed if the economy is to continue to create jobs.

During the debate we have heard that the Ways and Means bill is a good bill because it has a stiff corporate minimum tax that guarantees that corporations will all pay their "fair share" of taxes. But this argument ignores the economic fact realized by economists on both the right and the left, such as Lester Thurow and Joseph Peckman at the Brookings Institution, Martin Feldstein and Nobel laureate, Milton Friedman, and articulated by our own President in March 1983, when he stated his conviction that corporations do not pay taxes, rather they pass them on to individuals.

The corporate income tax is an indirect tax on individuals. It is another cost to business, such as wages, advertising, and investment in equipment, which must be passed on to individuals in the form of higher prices and reduced dividends to stockholders. To the extent it is passed on to individuals in the form of higher prices, it is a regressive tax, hitting the poor hardest. Remember, that the poor spend all of their money on consumption: food, cloth-

ing, and shelter. The tax on food processors, clothing manufacturers, and homebuilders is contained in the high cost of these items. A corporation is only a paper agreement between individuals to produce goods and services. And when this paper agreement is taxed it passes that tax on, like it passes everything else on, to individuals. The result of the tax, however, is increased costs which only burden the ability of that corporation to provide jobs and sell inexpensive merchandise to its customers.

Then there is the issue of saving's rates. America has the lowest saving's rates in the industrialized free world. Only 2 weeks ago we found out that the saving's rate in the thrid quarter of 1985 was the lowest rate in about 10 years. America has a history of having the lowest saving's rates in the world. And it is no wonder. Our Tax Code favors debt over savings. It punishes savings by taxing the same dollar when it is earned, and again when it is saved. The crime is, that if we do what our parents teach us to do, that is save instead of spend, our tax system penalizes that act. If, however, we spend that hard earned dollar, there is no tax penalty. That is absurd.

The Ways and Means bill further penalizes saving. America needs savings to increase, not decrease. Savings make the economy grow. Savings provide the capital needed for business investment. Savings provide the means for creating jobs. And this bill is antisavings.

This bill denies the $2,000 spousal IRA deduction called for by the President. That is not only discriminatory against women, it is antifamily. This bill severely limits the most popular tax deferral retirement program in the land, the so-called 401(k) plans, perhaps the most successful savings incentives in the entire Tax Code. Given the bleak future for the Social Security system, it is utter folly to reduce incentives for private retirement plans. The committee bill also forces those who choose to use 401(k) plans to reduce their IRA contributions on a dollar-for-dollar basis. That further restricts savings incentives. That threatens capital formation. That threatens the well-being of future retirees. This bill moves in the wrong direction.

In conclusion, the committee bill moves the Tax Code in the wrong direction. Although I strongly favor the reduction of rates, the price exacted in this measure is too great to accomplish that goal. The bill moves away from encouraging savings and investment. Without enhancing that type of incentive, American businesses cannot hope to meet and best the increasingly fierce international competition of the 1980's and beyond.

I hope those members who support this measure are prepared to explain their votes to the businesses that will go bankrupt as a result. For the owners and their employees, lowered individual rates will produce little succor. I urge you to vote no on the Ways and Means bill.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Chairman, one of the important elements in the tax reform debate is the question of economic growth previously mentioned by the speaker from Illinois who supported the Republican substitute. I stand today in support of the Ways and Means bill for several reasons.

Where I hail from in central Illinois, we are concerned about the farm economy. One of the aspects of this tax reform bill which is very important to the Midwest is the fact that the committee has preserved the ethanol excise tax exemption. This not only means jobs in my area, but it means more farm income for farmers across the Midwest, and in fact, across the Nation.

One of the aspects of the Caribbean Basin Initiative relative to ethanol is being considered by the House Ways and Means Committee at this time, and I have been advised by the chairman that at a date in the spring of next year, the House Ways and Means Committee will be considering hearings on the question of the CBI. I would like to salute in particular some members of the House Ways and Means Committee, the gentleman from North Dakota, BYRON DORGAN, and the gentleman from Nebraska, HAL DAUB, for their efforts in the ethanol portion.

I would like also to speak particularly to an element brought up in the debate, and that is whether or not the House Ways and Means Committee proposal is antibusiness and antigrowth. Rather than take the words of some association or lobbyist, I contacted businesses in my district. I did a telephone survey of local businesses over the last several weeks to ask them whether or not they supported the tax reform bill. There were two major businesses which opposed the Ways and Means bill.

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Without exception, every small- and medium-size businessman in my district that was contacted said that he supported it, even though some acknowledged it would cost them some income. They have acknowledged the fact that when it comes to small- and medium-size businesses, this Tax Code is onerous, it is regressive, and it needs change.

I believe the House Committee on Ways and Means' proposal is the more progressive in terms of helping small- and medium-size businesses, the source of over 95 percent of our new jobs in America. I will support the committee bill. I urge my colleagues to do the same and to resist the Republican substitute.

Mr. DUNCAN. Mr. Chairman, I am pleased to yield 9 minutes to the gentleman from Pennsylvania [Mr. SCHULZE], a member of the Committee on Ways and Means.

(Mr. SCHULZE. Mr. Chairman, I rise in opposition to H.R. 3838, the Tax Deform Act of 1985. This measure fails to achieve the goals for tax reform which President Reagan outlined earlier this year—fairness, economic growth, and simplification. On the other hand, the Republican alternative comes much closer to these goals. The Republican alternative addresses the issue of America's position in international trade; and this an issue both the administration and our committee failed to consider.

From a standpoint of fairness, the Republican alternative stands far above the committee bill. A major litmus test of fairness is the bill's effect on jobs. Will the Rostenkowski bill stimulate the economy and provide employment for American workers and the opportunity for upward mobility, or will this bill result in a downturn in the economy and in an increase in unemployment? H.R. 3838 will cost America jobs and this certainly is not fair tax policy. How can anyone argue that rate reduction will help those who earn no wages because their jobs have been eliminated?

Another indication of fairness is where the individual rate cuts are targeted. A recent analysis by the accounting firm of Ernst & Whinney revealed that all average families below $75,000 of income receive higher itemized deductions and have lower taxable income under the Republican alternative than the committee bill. Those earning more than $75,000 receive a larger tax cut under the Rostenkowski bill. Another test of fairness is the effect of both bills on the poor. Under the Republican alternative, the poor are much better off.

First, the poor will keep their jobs under the Republican alternative. Second, those making under $10,000 per year will receive almost a 98 percent tax cut in 1986 compared to 64 percent under the Rostenkowski bill. In 1987, our alternative will continue to be more generous to the poor. At the other end of the scale, the Rostenkowski bill gives those making over $200,000 per year a larger tax cut than the alternative. As a matter of fact, the committee bill gives a larger tax cut to those making over $200,000 a year than it does to those making $75 to $100 thousand.

Is this fair tax policy? Is this horizontal or vertical equity? The answer is "No."

On the business side, the committee bill once again fails when it comes to fairness.

Is it fair to take away tax incentives for our manufacturers and our basic industries at a time then they are on their knees as a result of unfair or subsidized foreign competition? Is it fair to give IBM and General Motors, two of our largest and most profitable corporations, a large tax cut and pay for it by increasing taxes on our steel companies, our machine tool industry, and our oil and gas industry? The committee bill essentially will tax our basic industries into oblivion in order to reduce the rates for some of our most profitable companies in the country.

Finally, is it fair to terrorize the business community year after year by changing the way in which they are taxed? Is it fair to blackmail our property and casualty companies with horrendous tax provisions to force them to tell us how to better tax them? It seems the committee tax bill is following a "Darwinian" principle. Our ailing basic industries will be allowed to die in order that the greediest will survive and pick up the slack.

The trouble with this approach is that a large portion of our manufacturing base will be lost forever. On the issue of fairness, the Rostenkowski bill strikes out. It costs jobs, it unfairly applies the rates, it is prejudiced against manufacturing, it puts our industries at a competitive disadvantage with those overseas and it changes the rules all over again. The Republican alternative is at bat in the bottom of the ninth trying to save the initiative for true tax reform. But on the issue of fairness, a vote for the Rostenkowski bill is strike one.

Simplification? Strike two against the committee bill. The Gipper is at bat now and a vote for the Rostenkowski bill opposed every principle of simplification the President and the public demand. The committee decided that everything was up for grabs and in most cases the bill attaches new law or new provisions to areas where our Tax Code needs none. And it differentiates between large and small. It taxes small banks one way, and it taxes large banks another. Small timber growers one way and large ones another.

It throws a knuckleball at individuals planning their tax returns. When it comes to simplification, the committee bill should be reentitled, "the Tax Accountants and Tax Attorneys Relief Act of 1985."

Try to look at this bill from the standpoint of an ordinary taxpayer. Is the 401K and IRA linkage provision easily discernible? Is the personal exemption easy to figure out, No, it is not.

Does the Rostenkowski bill, all 1,379 pages of it, truly simplify our Tax Code? Again, the answer is no. On the other hand, the Republican alternative is simpler. It eliminates new taxes and regulations in the pension area, an area which the Ways and Means oversight subcommittee is now examining closely. Our alternative simplifies sections on foreign tax, trusts and estates, and one of the most complicated sections of our Tax Code, bonds. State and local governments have just learned how to implement the changes Congress made last year to bond taxation. Everyone will have to learn all over if the committee's bond provisions are accepted. While the Republican alternative clearly simplifies the tax reform process, the committee bill swings again and misses on simplicity, and that is two strikes against the Rostenkowski bill.

What this entire process boils down to is what effect tax reform will have on our budget and trade deficits. What will it do to the economy? Will it stimulate savings over consumption? Will this bill create employment opportunities? Many well known and highly respected economists and experts believe this measure will cause a recession. Martin Feldstein, for one, has indicated that the loss of the investment tax credit alone will reduce the incentive to invest in plants and equipment and lead us into a recession. A report to the President by the Council of Economic Advisers advised that the committee bill would cause a steep economic downturn over the next 2 to 3 years. A study by St. John's University recently indicated that with the repeal of the ITC, America would lose 1.5 million jobs in the industrial sector alone. A study by Arthur Anderson indicated that the United States would drop from 3d to 13th among industrialized nations in capital formation incentives—and this was before the committee raised the corporate tax rate from 33 percent to 36 percent.

What do the experts tell us? They tell us that the committee bill is dangerous to our economy.

From a regional standpoint, the older, industrialized Northeast and Midwest take the hardest hit under this bill. We have already taken more than our fair share of abuse from unfair foreign trading practices. My State of Pennsylvania is heavily dependent on basic industry.

While we have been making great progress in diversifying our economic base and in moderizing and retooling our industrial plants, State manufacturing employment has still been falling. This tax reform package would cut our efforts off at the knees. The loss of the investment tax credit will deal a crippling blow to manufacturing in the Northeast. Repeal of the ITC is ludicrous. Since enacted in 1962 at the request of President John F. Kennedy, the ITC has had, and I'll quote DANNY ROSTENKOWSKI on this one, "more lives than a cat."

Each time it was repealed, once in 1966 and again in 1969, it was brought back quickly. It seems that every time ITC was repealed the economy took a turn for the worst.

The Republican alternative includes a targeted ITC for domestically produced equipment and machinery. This 5 percent ITC would alleviate some of the bias of the bill against manufacturing. Mark my words, if the committee bill passes, the ITC will be reinstated faster than you can say, "strike three." And that's where the committee bill stands now.

With the repeal of the ITC, the chairman and Ways and Means Commitee have struck out. There will be no joy in Mudville. Nor Mansfield, OH, or Joliet, IL, or Pittsburgh, PA, or Mobile, AL, or Richmond, VA, or Houston, TX, or Albany, NY. There will only be people out of work.

According to a leading economist, the committee bill will "ensure that capital stock will go abroad or into less productive uses at home" with repeal of ITC.

If we pass the Rostenkowski bill, Congress will be forcing domestic companies to go overseas in search of better tax incentives and lower wages. Additionally, with incentives for purchasing productive equipment gone, sheltering of income will become more active in nonproductive assets. How many shelters are really closed in the committee bill? Will our manufacturers decide to move into another line of work? Perhaps, but more likely they will be forced to move overseas or close down altogether.

While concentrating on economic growth and repeal of the ITC, I did not mention the committee bill's return to pre-1981 depreciation. And I didn't mention that taxes were raised on capital gains. And what of the onerous minimum tax which will tax our steel industry out of existence? I could go on and on about the committee alternative minimum tax. You see the minimum tax is the spitball in this bill. It leaves the impression that the committee bill will be fair because it will tax those taxpayers who have failed to pay their fair share.

To some extent, this is true. But the minimum tax will also tax those who lose money—and heavily. It creates the illusion of simplification, but the minimum tax will force itemizing taxpayers to figure out their tax liability not once, but twice. Is this simplication? Again, the answer is no.

In conclusion, the Rostenkowski bill strikes out on all three counts of simplification, fairness, and economic growth—the cornerstone of President Reagan's call for tax reform.

The committee bill strikes out on increasing savings incentives for Americans—an essential goal in moving America away from debtor Nation status. The committee bill threatens to increase our spiraling trade deficit. All-in-all, this bill is a dangerous vehicle for the deindustrialization of the United States. The Republican alternative may not be perfect, but it addresses the concerns which I have highlighted.

A vote for the Rostenkowski bill is a vote to deindustrialize America and is a vote to bring about economic dislocation in the United States of America.

I urge my colleagues to support the Republican alternative, and if that fails, vote against the committee bill.

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Mr. COUGHLIN. Mr. Chairman, will the gentleman yield?

Mr. SCHULZE. I yield to the gentleman from Pennsylvania.

Mr. COUGHLIN. Mr. Chairman, I want to associate myself with the remarks of the gentleman in the well.

Mr. Chairman, I rise this evening to express my support for the Republican alternative to the Ways and Means Committee bill.

The Republican alternative, while not perfect, is—in my opinion—a more equitable package than that envisioned in H.R. 3838. The Republican alternative is fairer and reserves the committee proposal's bias against economic development. Quite frankly, the committee bill is antigrowth, antiinvestment, antijobs, and antisavings.

The committee bill has an antisavings disposition.

Despite the fact that Americans are currently saving at the slowest rate in 35 years, the committee bill sets up several savings road blocks. Curbs on Individual Retirement Accounts, 403(b) arrangements, and 401(k) plans are established.

On the other hand, the Republican alternative curbs our slow savings rate by retaining the independence of IRA's, by providing for a full $2,000 spousal IRA, and by allowing an annual $12,000 401(k) contribution for both private nonprofit employees and for profit employers.

But the Ways and Means Committee didn't stop its meddling into private retirement system when it establishes various contribution limits. Rather, it provides for extensive, and in some cases, incongruous modifications to the existing maze of statutory tax restrictions governing our private retirement system.

Have not the extensive revisions enacted with three separate pieces of legislation since 1982 curbed perceived abuses? Are the on-going committee reviews of retirement income policies now underway not needed?

Apparently the committees feel more revisions are needed and that the on-going committee examinations are unnecessary.

Taking a different position, the Republican alternative provides for only minimal changes in this area.

The Ways and Means Committee bill is also anti-investment. But the Republican alternative proposes to moderate this shift by retaining a 5-percent investment tax credit for domestically produced machinery and equipment, allows for real property to be depreciated over a 28-year period (rather than 30 years in H.R. 3838), and retains the current law capital gains rate for individuals at 20 percent (rather than the 22 percent rate established in the Ways and Means Committee bill).

The anti-investment thrust of H.R. 3838 goes even further in that it severely hampers the efforts of State and local governments to invest in vital infrastructure improvements. The committe bill imposes new and complex restrictions on public and private purpose tax-exempt bond financing—a prime source of financing for needed public improvements. The Republican alternative to the contrary basically retaining existing law for public and private investment development bonds.

It is through economic growth and investment that new jobs are created. But with the Ways and Means Committee antigrowth and anti-investment provisions coupled with the proposed restrictions on the Targeted Jobs Tax Credit, new job creation will be hampered at best.

During this debate we have all heard about fairness and I stand second to none in my desire to make the existing Tax Code fairer.

Certainly working families living in poverty must be removed from the Federal income tax rolls. Lets be clear about one thing. The Republican alternatives, like the committee bill, eliminates the Federal income tax liability for these individuals.

But I fail to see how the Ways and Means Committee meets the test of overall fairness when it denies the full $2,000 personal exemption to individuals who itemize their tax returns.

In essence, the committee has patted itself on the back and told Americans that it preserved the income tax deduction for State and local taxes, that is saved the tax deduction for mortgage interest, and that it retained deductions of charitable contributions.

What the committee does not advertise is the simple fact that if a family avails itself of these preserved deductions, the value of the personal exemption is reduced. Specifically, if a family of four takes these deductions as it is permitted to do through the panel's largesse, it will lose one full $2,000 exemption. By disallowing the first $500 of itemized deductions for each personal exemption claimed, the committee bill penalizes taxpayers for claiming deductions it is entitled to.

The Republican alternative does not play this hoax on the American public. The Republican alternative provides the full $2,000 personal exemption for all taxpayers whether they itemize or not.

I also fail to see how the committee can say the legislation is fair to the 19 million Americans who will be forced to pay double taxes if the measure is enacted as currently written.

By eliminating the initial tax-free period for pension benefits received under a plan to which both employees and employers contributed, 19 million Americans will be taxed twice.

First, when they make their own contributions from their taxable wages and second when they begin to receive annuity benefits. Firemen, public employees, teachers, and policemen to name a few will pay higher taxes when they retire because they will be taxed twice.

The Republican alternative will not do this. The Republican alternative rather retains current law for public pensions and in this respect as well it is vastly more equitable.

In conclusion I want to reiterate my support for tax reform. And in my opinion the Republican alternative meets the tests of tax reform and does so in a fair and equitable manner.

But the Ways and Means Committee bill should be opposed. Unlike the 1,379 double-spaced text or the 1,068 single-spaced explanation of H.R. 3838, I oppose the bill for several simple reasons.

H.R. 3838 is antigrowth, anti-investment, antijobs, antisavings, and anti-Pennsylvania. It should be defeated.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 5 minutes to the gentleman from New York [Mr. Downey].

Mr. DOWNEY of New York. I thank the gentleman for yielding.

Mr. Chairman, my colleagues, there have been over 20 major changes of tax law in the last 22 years, and I hope, I know all of us do, that this will be one that we can be proud of and one that will last a long time. I believe that the committee bill qualifies under all of the elements that we look for in good tax reform.

There is a holy trinity that has been talked about here on the floor that we try to follow with respect to tax reform. It is the effort to make the Code more simple, to make it more fair, and to make it more economically neutral.

In fairness to the Republican substitute, I would say that theirs qualifies in many of the same respects as our bill does. Both attempts make the bill for taxpayers more simple; 6 million people are removed from the rolls, some 13 million will no longer have to itemize. That is good. The 1,379 pages, frankly, is something that we have to live with in a complicated society. Clearly, if we want to be fair to people—and we do—there are times when we are going to have to be somewhat complex. Also in a $4 trillion economy let us not be naive. It is not easy to be simple, and in some instances it would be downright mistaken.

Second, the idea of revenue neutrality or economic neutrality, rather, is an important one. What we have attempted to do, and succeeded, is to reduce the number of times that people make economic decisions based on tax reasons. That is just no good.

Those of you on the other side, my Republican colleagues, have preached to us for a long time that we should let the marketplace determine economic activity. You are 100 percent right. Our bill does that, frankly, I believe a little bit better than yours. But where our bill succeeds immeasurably over the Republican substitute is in the question of equity and on the question of governance.

When the President started this proposal, what he did was, in attempting to fashion lower rates for individuals and businesses, eliminated the deductibility of State and local taxes.

There was a hue and cry that was audible across this land about tax reform. People may not have cared a whole lot about what we were doing, but they did not want that deduction touched. All of us are politicians, all of us know that in the next election we do not want to give our opponent the opportunity to say, "Well, Congressman so-and-so found a way to make sales taxes, property taxes, and State income taxes more expensive to you." That is the political argument. A powerful one.

The federalism argument should be abundantly clear. We have systematically over the last 5 years emasculated the role of the Federal Government in State and local government. We have said to the States, "It is your responsibility now to govern, to care for the poor and indigent, and do more to educate our children." What the Republican substitute says is, "While we are giving you more responsibility, we are going to make it harder for you to pay for it." They eliminate the ability to deduct State sales tax and personal property taxes, they reduce by 30 percent the deduction for property tax and State income tax. That will only be the first step, my colleagues, because as we are standing here today, debating tax reform, next year we will be debating how to raise revenue. And if you go after State and local tax deductibility, as you do, it will be very easy once that firebreak has been breached to go back and get more and more and more. It will be chaos for school districts, it will be disastrous for local governments.

We have wisely understood the political realities that exist in this land as well as the very foundation of our federalism.

Mr. Chairman, I want to tell you that the political realities are clear, all the polls suggest it, but, more importantly, the governmental realities speak even louder. The Republican substitute opens the door to double taxation. It is shut by the Democratic proposal. We understand that, and for that reason alone the Republican substitute deserves to be defeated and the Democratic alternative deserves to be passed.

Mr. DAUB. Mr. Chairman, will the gentleman yield?

Mr. DOWNEY of New York. I would be happy to yield to the gentleman from Nebraska.

Mr. DAUB. I thank the gentleman for yielding.

Mr. Chairman, does the gentleman recognize, however, that while 50 States enjoy that setting of that deduction and the federal system does not control it that there is a certain fairness that we are trying to appeal to you about when we talk about taxing some portion of State and local taxes?

Mr. DOWNEY of New York. No, I see no fairness in that whatsoever. The States created the National Government, the States have enormous responsiblities to govern. We have made it more difficult for the States and localities to do that. Let us not make it any harder.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN of Michigan. Mr. Chairman, the question of economic growth has been raised, and appropriately. Let me give you an answer as one born and raised in an industrial State and who represents one. We have suffered these last years. Employment in heavy industry is down; down in machine tools, almost a third in machine tools, over a third in steel, about 10 percent in autos.

But the problem is there is no clear correlation between the investment tax credit that the Republican proposal wishes to preserve and economic growth.

Let me just give you some of the past history. In 1962 a 7-percent investment tax credit was enacted; in 1967, the investment tax credit suspended; 1969, investment tax credit reinstated; 1970 investment tax credit removed; 1972, investment tax credit was reinstated; in 1975, the investment tax credit raised to 10 percent.

What has happened the last 5 years with the present system? The answer is there has been static, yes static fixed business investment.

So I suggest that this investment tax credit does not clearly correlate to economic growth and it is better to drop it.

There are other factors more clearly related to economic growth than these tax proposals: inflation, budget deficits, exchange rates. What I have heard from business people througout Michigan is that these are the factors that related to profitability; these are the factors that really count. Not primarily whether a business can claim a tax credit.

What does the Duncan proposal suggest? Not saving the ITC altogether; it hedges; it wants to save about half of it. How does it do it? It does it in part by keeping corporate tax rates higher than under the Ways and Means bill until 1988. That is how it maintains this investment tax credit.

There have been all kinds of reference to economists here. Let me quote the former chief economist for the Council of Economic Advisers during the Ford administration:

> Our fundamental belief in the inherent efficiency of free markets should continue to push us to a more equitable and undistoring system, irrespective of the always-iffy guestimates of the forecasters.

That is what the Ways and Means Committee bill does under the leadership of the chairman, and I am proud to stand here and urge that we adopt the Ways and Means proposal and not the Duncan proposal.

I care most of all about economic growth; I support the Ways and Means Committee bill.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. LEVIN of Michigan. I will be glad to yield to the gentleman.

Mr. VENTO. I thank the gentleman for yielding. I want to commend the gentleman for his statement with regard to the record of the ITC, what it does and does not do, as well as the depreciation asked. That is why we have empty buildings coast to coast that are not providing productive capacity for our economy.

Mr. Chairman, I want to commend the Member from Michigan for his statement and his analysis of the investment tax credit, it along with the overly generous depreciation schedule in place these past years have not resulted in economic growth or reinvestment. Rather these provisions are responsible for the see-through buildings that demonstrate the wasted tax dollars.

The substitute proposed by Mr. DUNCAN supported by the minority continues and even brags about these provisions—provisions that even the President of their own political party has objected to.

This Duncan Republican substitute increases $35 billion more taxes on individuals and reduces oil and business corporate taxes by $35 billion than the committee bill.

In other words $35 billion more in taxes from people in the next 5 years and $35 billion more tax cut goodies for corporate America.

These tax breaks in the GOP substitute are indeed for special interests at the expense of our constituencies.

This Republican substitute will cause significant new deficits in the 1990's back loading the tax policy which will cause a new deficit nightmare in the 1990's.

It deserves to be defeated.

I rise in support of H.R. 3838, the Tax Reform Act of 1985. I want to commend the chairman and members of the Ways and Means Committee for their fine work. They have taken the President's directive to reform our Tax Code and have produced a bill worthy of our support. The Ways and Means bill is, in almost every respect, an improvement over the current law and the President's own proposal. This bill closes major special interest loopholes and nonproductive tax shelters which have been abused in the past. Most importantly, this bill unlike the President's proposal does not shift a large share of our Nation's tax burden on working men and women by taxing fringe benefits and eliminating the State and local tax deductions.

I do, however, want to point out a problem area in the bill and urge the chairman, his committee and colleagues, and the Members of the other body to seek modifications as the legislation moves forward. I'm referring to the bill's provision which places tax-exempt single and multifamily housing bonds under the per capita limitation applicable to all tax-exempt industrial development bonds [IDB's]. The bill provides for a $175 per capita limitation for all IDB's, with $25 per capita available for 501(c)(3) hospital and educational facilities, and of the remaining $150, 50 percent—is set aside for housing, although the set-aside may be changed or eliminated by State legislatures.

Tax-exempt multifamily rental housing bonds under current law are not subject to a volume limitation. Single family mortgage revenue bonds are subject to a separate volume cap in each State equal to the greater of $200 million or 9 percent of the average annual mortgage activity within the State during the previous 3 years.

My concern with housing being included in the cap can be illustrated in its impact on my city of St. Paul. In 1985, the city issued a total of $63.5 million in single and multifamily housing bonds. Under a per capita distribution included in the committee bill, its 1985 allocation would have been $10.1 million, 16 percent of its actual 1985 activity. Under existing law the city could have issued $48.5 million in bonds for urgently needed housing in 1986. This legislation limits St. Paul to only $10.1 million or 20 percent of its projected 1986 activity.

This allocation assumes that the 50 percent set aside will not be altered by our State legislature. I'm concerned that it will be, as pressure is brought to shift more of the authority to other IDB purposes.

Mr. Chairman, we are all painfully aware of how drastically Federal funds for lower income housing programs have been cut over the last 4 years. This reduction of more than 60 percent since 1981 makes tax-exempt housing bonds one of the few remaining tools for responding to lower income housing needs.

In addition, there are other serious problems in the committee bill which need correcting: an effective date of January 1, 1986 when there is no possibility that Congress will enact the legislation by that time and allowing the Mortgage Revenue Bond Program to sunset in 1987. Tax-exempt bonds have been the subject of extensive congressional scrutiny over the last 5 years. Congress has made many changes in these areas, as recently as 1984. It is now time to give those changes a chance to work.

I strongly urge my colleagues who serve on the Ways and Means Committee and the other body to see that the legislation is changed as it moves forward to remove housing bonds from the IDB cap.

Mr. Chairman, I would also like to state my firm opposition to the provisions in the committee legislation which changes the income tax basis for employee pension contributions. This proposed change unfairly denies the individual taxpayer the right to recover his or her contributions, for which they have already paid tax, in the initial years of their retirement. The committee measure averages out this tax for the expected life of the retiree, significantly increasing the taxes paid and diminishing the value of the individual's pension benefits. This is clearly inappropriate and undermines the pension programs upon which workers depend.

With all the Federal tax benefits provided, for example, in 401(k), 403(b) Keogh, most of which are exclusively or have a strong noncontributary element as well as the noncontributary pension programs, it is ironic that we have to single out the one small tax benefit that contributary pension programs possess for elimination.

If there is abuse, that can and should be addressed, but these employees should be able to obtain their contribution out up front, tax free rather than being put through an actuarial wringer.

While this measure has other shortcomings, it nevertheless is a major step toward U.S. Tax Code reform—a major improvement over the Reagan submitted legislation.

I commend it to this House its a major step towards a fair tax program for our Nation.

This tax measure will put in place a rational tax policy governing private sector decisions regarding investment. Too often the existing overly generous depreciation and investment tax credits have skewed decisions towards tax benefit rather than profitability and competition, the landscape from coast to coast is replete with empty office buildings as monument to the 1981 tax law in all its shortcomings, the promoters and developers earned handsome tax returns, but I suggest our economy and Nation were the losers.

Similarly I am pleased to note the committee measure has effectively dealt with numerous tax shelters, using an at-risk test criteria to judge the legitimate nature of such ventures. The special rules and policy that have governed military hardware contractors have also been reformed in this law and I offer my support and hope that this effort will be effective in making taxpayers out of these profitable entities. The special limitations in this tax measure to curtail the tax benefits shopping which has influenced and propelled mergers and acquisitions.

Business decisions and takeover attempts are disruptive and frequently not helpful in our economy. These actions and decisions should not be encouraged by our tax laws. Frankly we should not permit the U.S. Tax Code to be utilized in this manner. This is a good bill basically and deserves our support.

Mr. SCHULZE. Mr. Chairman, I yield 5 minutes to the most distinguished member of the Committee on Ways and Means, the gentleman from Minnesota [Mr. Frenzel].

Mr. FRENZEL. I thank the gentleman for yielding.

Mr. Chairman, it is painfully apparent that the committee bill is fatally flawed. I believe the Republican substitute on which we are soon to vote is far superior in all respects to the committee bill.

Now it has been pointed out that there is a better distribution of tax cuts according to income, particularly if you want to benefit low-income taxpayers. It has been pointed out that it cuts more for those people, particularly under $10,000, than the committee bill. In addition, ours creates cuts on January 1, not in the middle of the year. The committee bill, of course, means that for many taxpayers there will be no cut in the first year that the bill is in being.

Our bill is a profamily bill. The heart of the profamily focus is on the $2,000 personal exemption and the spousal IRA. Ours gives that exemption to far more taxpayers than the Democratic committee bill, and creates the spousal IRA while the committee bill does not.

With respect to charities we are more generous because we do not let the alternate minimum tax attack the appreciated value of contributions, and we provide better tax deduction for short form filers.

Our bill is not perfect, nothing is perfect. It is just so much better than the Rostenkowski bill that the difference is almost infinite. I want to talk particularly about two sections, actually three, and I can dispatch one very quickly. That is the alternative minimum tax. Our tax in the Duncan substitute raises more from corporations than the Ways and Means bill. The alternate minimum tax for individuals makes more taxpayers or catches more nontaxpayers than the committee bill. The committee of course, misses the largest class of income earners who do not pay taxes, that is, recipients of tax-exempt bonds.

Let's talk for a minute about foreign tax provisions. We have a few present incentives to put American firms and individuals overseas. Those are foreign tax credit, tax deferral, FSC, section 911. The committee bill wrecks them all. It costs $11.3 billion more than the Republican substitute in lost incentives to those Americans who would like to sell our wares overseas.

Our bill maintains $11.3 billion more of incentives. Now this is a time when we are doing terribly in international trade and have a record trade deficit.

Finally, I want to talk about the pensions section—or maybe I guess I want to talk about the trust section first.

The committee bill has a large number of pages of totally unnecessary changes in the trust sections of our law which are complicated, specialized, not understood, and on which there were no hearings. They do not raise a lot of money, but they totally louse up that particular section of the law.

With respect to pensions, the Republican substitute again is clearly the superior version. The Democrats will give up about $8.9 billion of personal savings incentives.

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Those will relate, basically, to qualified pension programs, 401(k)'s, 403(b)'s and IRA's.

On the 401(k)—and there are 20 million participants in these programs—the Democrat bill reduces that from $30,000 contribution to $7,000. The Republican bill takes it up to $12,000.

For the spousal IRA's, for instance, the Democrat committee bill ignores them. The Republican bill takes the spousal IRA out to the $2,000 recommended by the President in the final year.

The net difference is $9 billion. If you want personal savings—and I do, the Republican has $9 billion more in incentives. The United States has the lowest rate of personal savings in the industrialized world. After the 1981 act, when we cut taxes, personal savings went down. They have continued to go down. They reached a bottom last month, the lowest in history. We need more personal savings incentives so that we don't have to go abroad to borrow. When we borrow offshore, our interest rates go up, the cost of our dollar goes up, and the U.S. trade balance goes down. All are undesirable aspects. All of them undersirable aspects. All of them going to be affected by the committee bill.

If I were starting fresh, I would not start fresh with the Republican substitute as a matter of tax reform. But it is certainly infinitely better than the competition and should be supported strongly by this Committee.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. WOLPE].

Mr. HAYS. Mr. Chairman, will the gentleman yield?

Mr. WOLPE. I yield to the gentleman from Illinois.

Mr. HAYES. Mr. Chairman, I rise today to give a different view of tax reform. I rise, not as an expert on tax policy. I strongly oppose this Republican alternative to the tax reform proposals of the Ways and Means Committee. Being one of the most junior Members of this body, I do not expect to be selected as a member of the conference committee.

However, there are some things that I must say before my colleagues tonight about this tax reform legislation that we are now considering. I voted for the rule which allowed us to debate this measure. I voted for it both today and last Thursday, when the Republican leadership targeted it for defeat. I also plan to support final passage of this bill today. But I must speak out about some things which seem to me to be of great importance, and which are not addressed by either this legislation, or this debate.

I am heartened, as many Members are, at the removal from the tax rolls of over 6 million poor people. Representing a district such as mine, which has so many poor people and one with the lowest per capita income, the real way to help these people is to help them find employment. What they really want are jobs that will enable them to take care of themselves. Then they could pay into the tax system as self-supporting, self-sufficent taxpayers. The charity we give them by removing them from the tax rolls is nothing compared to the dignity we could give them by letting them earn their own way.

Next year, these same people will have to battle not only unemployment, but a deficit reduction measure called Gramm-Rudman, which will only make their plight worse.

Mr. Chairman, the President does a great disservice to the entire legislative process when he says that he will veto this bill if it were brought before it in this present form. What we have here is by no means a perfect product, but it is a great deal better than the original proposal he sent to this body. We did not declare his tax reform dead on arrival in this Chamber when he sent it. We have worked with, grappled with it and changed it, and I believe that we have improved it. I hope that he will look at it with an open mind, and examine the good things that it does for our Nation's people. I also call upon my colleagues who will be conferees to hold on to the good parts of this bill, to stand strong, and to not negotiate away the real reform that is in this bill and bring back a so-called tax reform bill where these provisions, benefiting the poor will be eliminated.

I am glad to see some of the improvements that the Committee on Ways and Means has made. I was bitterly opposed to some of the President's proposals, like eliminating the deduction of State and local taxes and taxing the hard-won benefits of working people. At the same time, I am still bitterly opposed to Ways and Means provisions which will change the way that the pensions of Government employees are taxed. While I am encouraged by the committee's proposals to provide for a minimum corporate tax, I am not convinced that it is strong enough. The biggest sense of unfairness in our present tax system is that the most wealthy corporations and individuals in our society escape paying even the minimum tax, while the poor and working class people bear the burden of financing our Government. This bill takes a step in the right direction it will make our tax system fairer, but it will not make it equitable.

Mr. WOLPE. Mr. Chairman, I rise in strong support of the Ways and Means Committee bill and in opposition to the Republican alternative.

The Republican alternative is very similar to the Ways and Means bill. In fact, some 80 percent of the provisions of the Republican alternative are identical with those advanced by the Ways and Means Committee. But there are some key differences. And almost every instance, in my judgment, the alternative offered by the gentleman from Tennessee [Mr. DUNCAN] moves us away from, rather than toward, the goal of greater fairness in the Tax Code.

Let it be very clear: Under the Republican alternative individual taxpayers will pay some $30 billion more over the next 5 years. There will be a particularly negative impact upon middle-income taxpayers.

There are two provisions of the Republican alternative that I find especially troublesome. The first is that which reduces by some 30 percent itemized deductions in excess of $1,000, except for the home mortgage interest and charitable contributions. That amounts to nothing less than partial repeal of deductibility of State income and property taxes.

The second provision that is troublesome, from the standpoint of fairness, is the total elimination of the deductibility of State and local sales taxes and personal property taxes.

Let it be very clear, as the gentleman from New York [Mr. DOWNEY] observed a few moments ago, those provisions have nothing whatever to do with reform. The deductibility of State and local taxes was part of the original income tax system, going back to 1913. That was made part of the original 1913 Tax Code out of recognition that it simply made no sense to tax people doubly on the taxes that they pay the State and local governments if we were to remain faithful to the principle of fairness.

To do so has nothing to do with reform. And now the suggestion that we begin to move away from the retention of deductibility comes precisely at a time when State and local governments are under infinitely greater pressure because of all of the Federal cutbacks that are the consequence of the budgetary crisis we are facing.

So, from the standpoint of tax fairness and from the standpoint of allowing local and State governments to continue their mission in a Federal system, the Republican substitute must be rejected.

I support the committee bill because it has, in fact, succeeded in lowering tax rates not only for middle-income Americans and for low-income Americans, but also for corporations with high effective tax rates. And it is important to understand that that lowering of tax rates for both individuals and for many corporations has been accomplished without touching the deductibility of State and local taxes whatsoever.

The committee bill has lowered tax rates for middle-income Americans by closing those unjustifiable loopholes that have allowed numerous profitable corporations and wealthy individuals to escape paying their fair share of the tax burden.

I urge my colleagues to oppose the Republican substitute and support the committee's tax reform bill.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to the Republican alternative to the Ways and Means Committee tax bill. My principal objections are first, that the Republican alternative is not fair to individuals and second, that the Republican alternative threatens future deficits by "backloading" an enormous tax cut for corporations in the out years. The alternative is far better for corporations than the Ways and Means Committee bill, but far worse for middle income working families.

Let's take a closer look at the revenue losses from this amendment. By backloading tax cuts for wealthy individuals and corporations, the substitute attempts to hide an enormous tax cut for corporation which will cause enormous revenue losses in years after 1990. For example, in 1991 the maximum rate on individuals falls from 37 percent to 35 percent. The maximum corporate rate is phased down from 42 percent in 1986 to 33 percent in 1991. Full indexing for capital gains and depreciation deductions becomes fully available in 1991. It is clear that after 1990 this amendment will further fuel the already large Federal budget deficit.

My other significant concern with the Republican alternative is that it's simply nor fair. The Ways and Means Committee bill provides tax relief for individuals, the Republican alternative provides tax relief for corporations. Under the Republican alternative, individuals will pay $30 billion more in taxes over 5 years, and corporations $30 billion less, than under the Ways and Means Committee bill.

The Republican alternative is not fair to middle income taxpayers. The amendment cuts back by 30 percent those itemized deductions in excess of $1,000, except for home mortgage interest and charitable deductions. The deductions that have been cut back include those of most importance to middle income families, including State and local property taxes, State and local income taxes and medical deductions.

For Members concerned about the deductibility of State and local taxes, the Republican alternative is a disaster. The Republican's substitute repeals State sales taxes, personal property taxes, and other miscellaneous State and local taxes—and cuts back by 30 percent the value of State and local real property taxes and State income taxes. These cutbacks will have a dramatic impact on the quality of services provided by State and local governments in each of our Congressional Districts.

The amendment also repeals the exclusion for employer-provided life insurance, which is probably the most important insurance protection available to families of low and middle income workers.

The Republican alternative would strike from the bill all rules ensuring adequate and fair fringe benefit coverage to rank and file employees.

The list goes on and on. As a result, the substitute provides far less tax relief for moderate income families than does the Ways and Means Committee bill.

While providing inadequate tax relief to middle income taxpayers, the Republican alternative is excessively generous to the wealthy The alternative drops the maximum rate to 35 percent after 5 years and repeals the generation-skipping tax, which Congress enacted in 1976 to prevent the wealthiest families from avoiding the estate tax for several generations.

Rather than reforming the taxation of corporations, the Republican alternative creates new distortions and new complexities.

For example, the amendment provides a 5-percent investment tax credit, but only for domestically produced capital goods. The deductibility of interest on auto loans would be restricted to loans for domestically produced cars. These provisions are a blatant violation of the GATT agreement, and would certainly invite retaliation from our trading partners.

The Republican alternative leaves open many corporate tax loopholes the Ways and Means Committee bill would close. The Ways and Means Committee bill ensures that multinational corporations will pay their fair share of tax, but the Republican alternative allows large multinationals to continue to pay little tax by artificially moving income into low tax countries. Similarly, the Republican alternative allows the property/casualty insurance industry which pays very little tax under present law to escape paying their fair share.

Finally, I would like to emphasize that the Republican alternative eliminates the public financing of Presidential election campaigns by repealing the $1 checkoff that funds the election fund. The creation of the checkoff system was an important victory in our longstanding battle to reduce the importance of special interests in financing Presidential campaigns. Repealing the checkoff represents an enormous step backwards in the progress of campaign financing reform.

For all these reasons, I urge my colleagues to vote against the Republican alternative. The Ways and Means Committee has worked long and hard to produce a bill that is fair, that benefits low and middle income families, and that makes corporations pay their fair share of taxes.

I urge you not to be distracted from real reform by this substitute. I urge that you not support an amendment that puts the interests of corporations and the wealthy above the interest of middle income working families, and that promises to increase the deficit in future years.

I urge you to vote down this substitute, and to support the tax reform bill approved on a bipartisan basis by the Committee on Ways and Means.

Mr. SMITH. of Iowa. Mr. Chairman, will the gentleman yield?

Mr. ROSTENKOWSKI. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. We have a special problem out in Iowa of selling some bonds to finance a retraining program for the unemployed, and we have had a problem with the gentleman's bill because it had a date in it of December 31, 1985.

I understand and I would like to get the gentleman to tell me about this, that the gentleman is going to take steps to ensure that that date will be a year from now, so that whatever happens will really be determined in the final bill; is that correct?

Mr. ROSTENKOWSKI. The rule provides that a measure, a House resolution, offered by Mr. MICHEL will be considered immediately after passage of this legislation, which will address the problem that the gentleman is addressing with respect to bonds in Iowa.

Mr. SMITH of Iowa. We can be assured that the final decision will be made in the final bill, then?

Mr. ROSTENKOWSKI. Well, the final decision will be made—as I understand what the resolution calls for—in a year or so.

Mr. SMITH of Iowa. I thank the gentleman.

Mr. DUNCAN. Mr. Chairman, I yield 4 minutes to the gentleman from South Carolina [Mr. CAMPBELL], a valued member of the committee.

Mr. COURTER. Mr. Chairman, will the gentleman yield?

Mr. CAMPBELL. I yield to the gentleman from New Jersey.

Mr. COURTER. Mr. Chairman, over the past several years many Members of this body have committed themselves to supporting comprehensive tax reform that would reduce tax rates across the board, take a substantial number of the working poor off the tax rolls and provide incentives for economic growth and job creation.

Today we are considering a tax plan which is far from ideal but which lives up to many of the goals we have set. The Ways and Means tax plan would remove over 6 million poor and low income taxpayers from Federal income tax liability. It has always seemed illogical to me that low income individuals who want to work and own a home and build a better life for their children should face high Federal tax rates. The expanded earned income tax credit and the increase in the personal exemption and the standard deduction proposed in H.R. 3838 will relieve the poor and families earning up to $20,000 from 30 billion dollars' worth of taxes they would otherwise pay.

The bill would obviously reduce income tax rates although not by as much as I had hoped: 14 brackets would collapse into 4 with a 12-percent reduction in the top rate. And the marginal tax rate on corporations would be significantly reduced, encouraging economic growth by increasing the rate of return on investment.

There are a number of industries, important sectors of the economy that will not benefit from this bill. Capital intensive businesses are especially hard hit by provisions which include the lengthening of depreciation of plants and equipment and repeal of the regular investment tax credit. But, frankly, I think these are areas that are likely to be improved upon in the Senate.

There are other tax proposals that are, in my opinion, more beneficial for the overall economy, such as Treasury II and Kemp-Kasten. But this is only the beginning of the process—H.R. 3838 will not become law without significant modifications, and those who are working for full employment will be back again next year and the year after that seeking further tax rate reductions.

The question is whether the bill is better than present law. Clearly, many individuals will think so, especially low-income individuals. The National Federation of Independent Businesses, and the small businesses it represents also thinks so, as do hundreds of major corporations, and incentivist economists like George Gilder, Art Laffer, Alan Reynolds, and Jude Wanniski.

If the House fails to pass H.R. 3838 today we will effectively cut off any chance of instituting tax reform, at least for the foreseeable future. An imperfect tax reform is better than none. I urge my colleagues to vote for what is positive about this plan.

Mr. CAMPBELL. Mr. Chairman, we have come through a very long and difficult task of trying to draft tax reform legislation. Chairman ROSTENKOWSKI has, in my opinion, done a remarkable job. The fact that I do not think that the product that he has produced is as good as the one that is offered here is no reflection of that effort.

But let me point out to the Members, if I might, some of the things that are of real concern to me. As we talk to the American people about tax fairness, let us remember, as we are talking about the fairness issue, as we are talking about lower rates, as we are talking about revenue neutrality, let us not compare apples and oranges.

The Republican substitute cuts the rates on January 1, not July 1. That is a major difference of 6 months. That means that a lot of people would have a tax increase under the committee bill in 1986. And I do not think people should be fooled by that.

I have listened to the debate here tonight about the State and local tax issue. Do not be fooled that the committee bill does not take away from State and local taxes. You may ask me how this is done. Let me point out to you that if you are a family, a man and a woman, both of you working, you have two children, and you buy your first home, and you decide that for the first time you want to itemize your deductions and you want to take off your property tax and you want to take off your interest deduction from your home, you first have to give up $500 per person for your individual exclusion. That is $2,000 you lose for claiming your right to deduct under the bill of the committee.

Now, that means that you are losing part of your property tax and your home mortgage interest deduction.

So do not be fooled by that. The fact is that the Republican alternative treats itemizers and nonitemizers the same way. You do not lose that deduction if you choose to exercise your rights under the law. We penalize in the committee bill anyone choosing to exercise their rights under the law. We have a two-tiered law, those who choose to exercise their rights and those who abdicate. That is no way to legislate. That gives me an awful lot of trouble with this.

And let us talk about the federalism issue that I heard mentioned a while ago. Did they tell you that under the committee bill that they go back and tax the interest on your tax exempt State and local government bonds under the minimum tax of the committee bill?

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Well, they do. You go home and find about those bonds in Iowa that you are going to issue or those bonds in South Carolina that you are going to issue. Then you find out how that interest that you thought was tax free all of a sudden is rolled back into the minimum tax and you have to pay for it. That is how you are going to get at your States, and that is how you are going to pick their pockets. You are not out front with it, but the truth is you are denying the deductions and you are going back and taxing tax-exempt bonds that the States and local governments issue. Do not forget that. That is the reason the Republican alternative is better. Not to mention the arguments that we have had on competitiveness around the world.

The fact is that the capital gains rate is higher under the committee bill than the Republican alternative. Those things are reason enough to vote for this alternative.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 3 minutes to the gentleman from Wisconsin [Mr. MOODY].

Mr. MOODY. I thank the gentleman. I rise to strongly support the Ways and Means Committee product before us this evening.

Mr. Chairman, let me say that without bipartisan effort we would not even have a tax bill here, and as someone who has spent many hours in the classroom talking about the benefits of base broadening and lower marginal rates for both economic efficiency and taxpayer fairness, I am very proud to participate in this historic effort. I certainly hope we move forward. I commend the chairman of the Ways and Means Committee and the bipartisan basis on which that committee that worked so hard to bring to this body the product we have here today.

Now let's discuss several points about the bill.

First, let me mention the question of length. Many opponents of the bill have been criticizing the length of this document. Mr. Chairman, if the Republican substitute were adopted, the length will be almost identical. The Republican substitute amends the Ways and Means version and there would not be much reduction in pages, if any. I hope we can dispose of the constant drumbeat of criticism.

Regarding the substance of the bill, I think the other speakers have adequately discussed the question of continuing deductibility of State and local taxes and continuing nontaxing of fringe benefits. Those are two very important distinctions between the Ways and Means bill and the Republican substitute. I know that many people, labor unions and others, consider that taxing of fringes in any form is a nose under the tent which will only expand, and as you know, they are very strongly against it. We would be crossing that Rubicon if we adopt the Republican substitute.

The same is true of State and local taxes. The Republican substitute would cross that Rubicon too. It must not happen.

An even more important issue for me between the versions before us is the issue that the chairman mentioned earlier, namely, the question of revenue neutrality and deficit neutrality. There is no way that the Republican substitute can be revenue neutral. All the revenue estimates that we have for this bill cover only the period of time 1986 to 1990. But a number of things happen in the Republican bill, my colleagues, that do not take full effect until 1991 and then they take effect beyond that. The effect of these phase-in effects beyond will all lose revenue. For example, the top personal rate under the Republican substitute would be cut down to 35 percent, but not until 1991, so there would be another revenue drop in 1991 that is not included through the 1990 calculations. Similarly, the top corporate rate would be dropped to 33 percent, but not until 1991—again, beyond the period of revenue estimation. Also, inflation adjustments for capital gains would not be fully phased in until 1991. And the inflation adjustments for depreciation would not be phased in until 1991.

There is also the phasing in of the $2,000 spousal IRA and the tax treatment of property casualty companies which are basically only through the window period. So we know that there would be serious revenue losses that would come due after the revenue estimates that we have looked at.

We simply cannot afford to let the deficit grow any more and, having just gone through the Gramm-Rudman exercise, I know all of us agree with that. In fact, many people complain that this bill does not raise revenues. The last thing we want to do is adopt a version that enlarges the deficit.

I urge my colleagues to reject the Republican substitute and adopt the Ways and Means substitute.

The CHAIRMAN. The Chair will inform the Members that the gentleman from Illinois [Mr. Rostenkowski] has 34 minutes remaining and the gentleman from Tennessee [Mr. Duncan] has 28½ minutes remaining.

Mr. DUNCAN. Mr. Chairman, I yield 1 minute to the gentleman from Virginia [Mr. Parris].

Mr. PARRIS. I thank the gentleman for yielding me this time.

Mr. Chairman, although many of us have serious reservations about the Ways and Means Committee tax bill and the Republican alternative, I am delighted that both bills clarify that military housing allowances and parsonage allowances for members of the clergy utilized to pay home mortgage expenses should not result in a reduction of the mortgage interest or real property tax deductions for members of these two professions who own a home.

The effect of this amendment is to overrule Internal Revenue Ruling 83-3 which would have provided that home mortgage interest and real property tax expenses paid by members of the clergy and of the military would be reduced by such allowances. Because of the unfairness of the IRS ruling, Congress has delayed the effective date of Revenue Ruling 83-3 on several occasions.

Over 70 of my colleagues in this body joined with me as a cosponsor of H.R. 385, which would preserve the tradition in our Tax Code that our clergy and military personnel receive a tax incentive for buying a home for themselves and families. Senator Warner and others have lead a similar effort in the other body. To their credit, my friends, the distinguished gentleman from New York, Mr. Rangel, and the distinguished gentleman from Nebraska, Mr. Daub, lead the effort in the Ways and Means Committee to preserve this home buying incentive. Irrespective of the outcome of today's deliberations on the tax bills, the clear message to the IRS is that Congress has reaffirmed its commitment to providing a homebuying incentive for those who unselfishly serve as members of the ministry or our Armed Forces.

I thank the gentleman for yielding to me his time.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield such time as he may consume to the gentleman from Washington [Mr. Lowry].

Mr. STALLINGS. Mr. Chairman, will the gentleman yield?

Mr. LOWRY of Washington. I yield to the gentleman from Idaho.

Mr. STALLINGS. I thank the gentleman for yielding to me.

Mr. Chairman, I rise in support of the Ways and Means Committee bill, acknowledging its imperfections and understanding that it is not ideal tax reform.

So why support it?

First, because President Reagan has asked me to do so. Tax reform is the President's major policy initiative of his second term. I have to believe that the voters of the Second District of Idaho support the major policy initiative of a President who received 8 out of every 10 votes cast.

Second, because I support tax reform. I agree with the President that a vote against final passage is a vote to kill the tax reform movement. In contrast, a vote for final passage is a vote to keep the process moving. We can improve this package. Like the historic Gramm-Rudman deficit reduction legislation signed into law last week, tax reform is an issue that will require continual negotiation. It is not time for the President or the House to sit back. Each step of the way, there must be input, cooperation, and consensus. That is the process that must be maintained, and it is the key to progress.

Over the next few months, I intend to work to make the changes I believe are needed. I will work to increase the personal exemption to all taxpayers to $2,000. I will make further efforts to eliminate the unfair treatment nonworking spouses face in contributions to IRA's. In addition, I am concerned about changes in the Tax Code that could discourage saving and capital formation. But these problems are not insurmountable, and I am confident that agreement can be reached on each of these provisions.

Moreover, there is much in the committee bill that needs to be preserved, and I will work to see that these provisions are retained in future versions. Many loopnoles which had been used by the wealthy and large corporations to avoid paying taxes were eliminated. Tax rates for the ordinary taxpayer were substantially lowered. Specifically, I support the committee's decisions not to tax employer-provided health benefits and the inside buildup of life insurance. In addition, I am especially pleased that the mortgage deduction for homeowners was retained.

Mr. Chairman, I urge my colleagues to support the committee bill. We all agree that reform is needed. We will never be in complete agreement about every detail. But we are closer today to comprehensive tax reform than we have been in the last 40 years. Let's not lose this opportunity. Let's give it a chance.

Mr. LOWRY of Washington. Mr. Chairman, I rise for the purpose of entering into a colloquy with the gentleman from Illinois.

Mr. Chairman, a matter of concern relating to the drafting of the language of section 801(b) of this bill has come to my attention. This section modifies the bad debt reserve deduction available to thrift institutions under section 593 of the Internal Revenue Code [IRC]. I would ask the gentleman from Florida [Mr. Rostenkowski] if he would respond to a few questions concerning the intent of the amendment accepted in committee

Mr. ROSTENKOWSKI. If the gentleman will yield, I would be happy to respond to the gentleman's questions concerning the intent of the amendment.

Mr. LOWRY of Washington. It is my understanding that the amendment was intended to modify the percentage of income method of reserving for bad debts of thrift institutions by reducing the percentage deduction available from 40 percent to 5 percent for those institutions keeping 60 percent of their assets in qualifying assets as defined under section 7701(a)(19)(C) IRC.

Mr. ROSTENKOWSKI: Yes, that is the intent of the amendment.

Mr. LOWRY of Washington. It is also my understanding that the committee intended that the experience method of reserving for bad debts be applied under this bill for thrift institutions as it is under current law for banks.

Mr. ROSTENKOWSKI. The gentleman is correct.

Mr. LOWRY of Washington. Under current law, savings banks are not required to meet an asset test in order to use the experience reserve under section 593. Unfortunately, the language of the committee bill has been drafted to apply a 60 percent qualifying asset test to the experience method of reserves. Would the gentleman agree that the Ways and Means Committee did not directly discuss the appropriate treatment of savings banks which do not meet the 60 percent qualifying asset test, but nonetheless does not operate like a commercial bank.

Mr. ROSTENKOWSKI. Yes; the Ways and Means Committee did not address the appropriate bad debt treatment of mutual savings banks. Savings banks have attributes which are similar to both commercial banks and thrift institutions. It may be that special bad debt rules for savings banks would be appropriate and I will be happy to work with the gentleman from Washington during the consideration of this tax legislation to develop appropriate bad debt rules for savings banks.

Mr. LOWRY of Washington. Mr. Chairman, I thank the gentleman, and again I compliment the chairman of the committee for a job very well done and ask for support of the committee bill.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. Mica].

Mr. MICA. Mr. Chairman, I rise to engage the chairman of the committee in a colloquy.

Mr. Chairman, I want to ask the chairman a question about section 203(d)(2) which grants transition relief for property that is part of a project that the Federal Energy Regulatory Commission [FERC] certified, before September 26, 1985.

Often, a project developer must have the certificate amended to reflect minor design changes and cost savings. For example, a cogeneration project with which I am familiar was originally certified by FERC on April 24, 1985, as a facility that would burn culm to generate steam and electricity. Culm is a waste byproduct of coal mining. The FERC order indicates that the facility will have a net electricity output of 17.27 megawatts. The successful builder showed how the project could be built at a lower cost using roughly the same quantity of culm to produce more steam and electricity. The facility will now have a net electricity output of 20.2 megawatts. The developer will have to have the original certificate amended to reflect the higher electricity output.

The committee report addresses what happens if a developer must return to FERC to have a FERC certificate amended. It says that a project will not lose its status as transition property as long as the amendments amount to "minor modifications."

The case I have described seems to me to fit into the category of minor modifications. My question is whether the chairman agrees.

Mr. ROSTENKOWSKI. Mr. Chairman, if the gentleman will yield, the committee felt that a project should not lose its status as transition property if a FERC certificate is amended after September 25 as part of routine modification that occurs as a project moves from the drawing board to construction. On the other hand, the committee did not want a project to remain transition property if it became significantly more expensive or it is no longer physically the project originally contemplated.

The amendments to the FERC order that you describe seem to me to fit into the category of minor modifications.

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Mr. DUNCAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Maine [Mr. McKernan].

Mr. McKERNAN. Mr. Chairman, I rise in support of the substitute.

There is little disputing the need to make our tax system fairer for American taxpayers. Many changes could be made which would help to ensure that all taxpayers contribute a fair share of taxes, and that some taxpayers are not unduly burdened.

However, I am concerned about the effect of some of the provisions in the Tax Reform Act of 1985, H.R. 3838, on various segments of society. One of my concerns is the effect which various provisions would have on our ability to provide decent and affordable housing for our citizens.

In particular, the proposal to include tax-exempt bonds for housing under the State volume cap would severely limit the issuance of bonds for this purpose. For example, in my State of Maine, the issuance of bonds for housing would be cut nearly in half, drastically reducing the number of families who could be assisted.

Since 1982, the Maine State Housing Authority has provided $370 million worth of low-interest-rate financing through the sale of tax-exempt bonds under a State housing assistance program. Another $35 million in tax-exempt financing was provided by the Maine State Housing Authority under the Federal section 8 program. These programs have provided or improved housing for almost 15,000 households in my State. When these figures are multiplied by the experiences of other States across the country the effect is to greatly expand housing opportunities for low- and moderate-income individuals.

While I feel that some additional restrictions may be appropriate to ensure that tax-exempt financing is not misused, I am concerned about the overly restrictive proposals in the Tax Reform Act of 1985.

The substitute being offered by Mr. Duncan, however, takes the right direction by maintaining existing law as it pertains to the issuance of tax-exempt bonds for housing.

While H.R. 3838 has many merits, I feel that the changes in tax-exempt bond financing, coupled with other changes, such as new targeting requirements, would have a severely negative effect on our ability to provide safe, affordable housing for all Americans.

I hope that as this legislation moves through the legislative process, we can work to seek improvements which will enhance, rather than impede, our ability to provide housing for our citizens.

Mr. DUNCAN. Mr. Chairman, I yield 4 minutes to the gentleman from Wyoming [Mr. Cheney].

Mr. CHENEY. Mr. Chairman, first of all I would like to direct a comment to the distinguished chairman of the Ways and Means Committee, the gentleman from Illinois [Mr. Rostenkowski]. We have said some difficult things about his bill in recent weeks, but that in no way reflects our view of him personally. He is a gracious and dignified Member of the body. He deals with one of the most difficult assignments this House has, and he does it with considerable grace and good humor and tenacity. The House is a better institution for his service in it.

Mr. Chairman, some believe that this is a good bill, and they ought to vote for it. Tonight I would like to address my remarks to those who share my view that this legislation, in spite of the best efforts of the Ways and Means Committee, is flawed.

When we were first visited a year ago by the then Secretary of the Treasury, Mr. Regan, and presented with Treasury I, many of us asked what the economic consequences would be if that bill were adopted. At the time we were told that the administration did not know what the economic consequences would be, they had not had time to analyze them.

Now, a year later, we find ourselves here tonight considering legislation which in my view fails the basic, fundamental test that has to be applied to any tax-reform legislation; specifically, it fails to provide the kind of stimulus for capital formation and incentives for savings and investment that are such a vital part of economic growth and prosperity. For that reason I have to oppose the bill on its merits, as do most of my fellow Republicans.

How did we get to where we are today? We had the best of intentions. The President believed in tax reform. Nearly everyone here does. We ended up with a situation in which, as the chairman suggested earlier, the Democrats believe we have had a bipartisan process, but I must say, Mr. Chairman, that on the Republican side of the aisle the perception is decidedly different. I emphasize "the perception" because we are obviously both talking about the same reality.

We began the process with a committee, the Ways and Means Committee, that is stacked, and does not fairly reflect the Republican share of seats in the body. The administration took a pass on participating in the drafting of the legislation. They said they would not criticize the committee product.

The bill went through the Rules Committee, stacked 9 to 4 against us, and then to the floor on a take-it-or-leave-it basis, no amendments allowed to the committee bill.

Maybe if the two major committees that handled this legislation more nearly reflected the makeup of the House, then a majority of the Members of this body would not have rejected this legislation 1 week ago.

Now comes the moment of truth, and we Republicans find ourselves in the uncomfortable position of having to oppose the bill and of having to oppose our President. That is an unusual and uncomfortable position for me. I am proud to have been a part of the Reagan coalition these past 5 years, and I look forward to rejoining it in the future. But tonight I rise in opposition to my President because on this matter I believe he is in error.

He has indicated repeatedly that he would veto this bill if it landed on his desk in its present form, and yet he has asked me to vote for it. He shares my view that this bill is flawed and requires fundamental change; yet he has asked me to vote for it. He has indicated he will not sign it unless it is changed, but his administration has pursued a strategy in the House that forces us to accept it on a take-it-or-leave-it basis, with no changes, and he wants me to vote for it.

Mr. President, I cannot do that. Frankly, I do not believe any of us who are opposed to this bill should vote for it in the vain hope that the other body will clean it up, and frankly, I have my doubts whether or not the President's advisers are really prepared to recommend a veto if they cannot take the heat of opposing a Ways and Means Committee bill in the House.

Mr. President, this is a proud institution. We take seriously our obligations and responsibilities, just as you do yours, and we should vote our convictions here tonight; we should not cast our vote for bad legislation merely because our President has asked us to do so. Far better that we keep faith with the American people and with the principles that have made our party great and give this bill the resounding defeat it deserves.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 3 minutes to the gentleman from Massachusetts [Mr. BOLAND].

Mr. BOLAND. Mr. Chairman, I support H.R. 3838, the Tax Reform Act of 1985—and oppose the Republican substitute.

I want to extend my congratulations to Chairman DAN ROSTENKOWSKI and his colleagues on the Ways and Means Committee for the job they have done on tax reform. In spite of a task that at times, must have appeared overwhelming, and in the face of odds that must have seemed insurmountable, they have given this House a chance to vote on meaningful tax reform. All of us owe the committee a debt of gratitude, for the job it has done over the months of hearings and marathon markup sessions. I want to particular commend Chairman DAN ROSTENKOWSKI for his leadership. Quite simply, without his commitment to the cause of tax reform, no bill could have been produced.

We have all heard from the naysayers about the committee bill. They point out objections to this provisions or that, as though they would have us believe that it is possible to draft a tax bill that everyone would like. I've been in this House for awhile and I have seen many, many tax bills. I know that it is impossible to satisfy everyone in this area of legislation. The most that you can do—and the only standard by which the final product should be judged—is whether the bill, on balance, will leave the country in better shape than it is in, under the existing tax system. The test is not whether each and every special interest is protected, but whether the national interest is advanced. The committee bill clearly passes that test.

H.R. 3838 will provide individual Americans and American corporations, with the largest tax rate reductions, since the administration of Calvin Coolidge. It will provide tax relief to the American middle class, while ensuring, that the Tax Code does not penalize 6 million of our impoverished citizens for choosing to work, rather than to exist on welfare. In addition, the bill will require some corporations, which have skillfully avoided paying taxes in spite of achieving record levels of profits, to join, with millions of ordinary taxpayers, in financing the programs which defend this Nation and improve the lives of its people. The Republican substitute makes some changes in corporate taxation but it does not go far enough. I believe that is its greatest shortcoming. Under the Republican alternative, some $30 billion in tax relief, that will go to ordinary taxpayers under the committee bill, will be redirected. That money will be used to maintain special tax breaks that serve no purpose other than to reduce the tax bills of their corporate champions. That is not a tradeoff which will impress most individual taxpayers as an example of either tax reform or sound tax policy.

Mr. Chairman, by broadening the tax base and toughening minimum tax provisions, the committee bill will ensure that the most favored individuals and businesses in this society start paying their way. That, in combination with overall rate reduction and the relief it will bring to most taxpayers, is what I thought the tax reform effort was all about. That effort has been immeasurably advanced by the committee bill. We have a choice to make this evening on tax reform, a choice between two different approaches. The Rostenkowski proposal, the Ways and Means bill, is the right choice.

Mr. DUNCAN. Mr. Chairman, I yield 4 minutes to the gentleman from New York [Mr. KEMP].

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Mr. KEMP. Mr. Chairman, no one has worked harder over the past several years on behalf of tax reform for the American family and for pro-growth economic policies than this Member of Congress.

For that very reason, Mr. Chairman, because I know what can be accomplished, I would say to my Republican colleagues, no one is more disappointed than I in the substance of the committee bill. I would not vote for this bill on final passage if I did not believe that we have the assurance of the President of the United States of America, our President, that we can make substantial improvements in the bill. I am going to vote for the Republican substitute, but I am also going to vote on final passage for the committee bill to keep the process alive of reforming our Tax Code and lowering the rates. It is my conviction that this bill can be and will be improved, and indeed has to be.

Our President has solemnly promised to us, personally and by letter, that he would veto a bill that does not include the $2,000 exemption for every family in America, itemizer and nonitemizer alike, veto a bill that does not get the top rate down to no more than 35 percent, and expand the tax bracket threshold for middle-income taxpayers so their rates go down, not up; and increase the incentives for investment in plant and machinery and equipment.

I want to say to my colleagues, we will have another chance to vote on tax reform when it comes back from the Senate. Some of you think it would be impossible to make a change. I do not think we should rule that out here tonight. If the bill that comes back does not meet the criteria that the President has outlined, I announce tonight that I will help lead a fight against that bill, if it is a bad bill for goals that we outlined in our Republican platform of 1984 in Dallas, and as outlined in the President's letter to our colleagues today and which I include at the conclusion of my remarks.

There are those who say that in voting on that basis we are taking a risk. But I am willing to take that risk because I think the reward of true reform is commensurate with that risk. I am willing to rely on the President's word.

We all know the words of Shakespeare that:

> There is a tide in the affairs of men which when taken at the flood leads on to fortune; omitted, all the voyage of their life is bound in shallows and in miseries. We must take the current when it serves, or lose our ventures.

Many of us are disappointed that the bill does not contain that $2,000 exemption for all. But I would say to my colleagues, there is no way we are going to get a $2,000 exemption for those families in America if this bill is killed here tonight. The time for action is now.

I want to remind my colleagues how far we have come. A few years ago, we were looking at a 70-percent top tax rate on both earned and unearned income. Tonight the debate is over 35, 37, or 38 percent. A few years ago, I say to the gentleman from Texas [Mr. ARCHER], we came to Congress and the corporate income tax was 48 percent. We are debating whether it ought to be 33, 34, or 35 percent. When the gentleman from Texas [Mr. ARCHER] and I were in the Congress in the seventies, the capital gains rate was 49 percent; tonight the debate is whether it ought to be 22, 20, or 17 percent.

Is the Republican Party going to be a party of low tax rates on capital and labor and on entrepreneurs and on working people, or are we going to be the party of special interest tax breaks for some and tax credits for business and confusion for the taxpayer?

In my view the bill should be supported, as well as the Republican bill, but we must, in my view, support this process so we can get from here, the status quo, to realize a better vision of America that will provide jobs and growth and opportunity for all Americans, and take the working poor off the tax rolls totally; because they should not pay income taxes up to about 130 percent of the poverty level, at least in my view of what we want for the poor in this country.

I ask my colleagues to support the Republican substitute but then support the committee bill so we can work for those goals we all share for America: fairness and simplicity and lower tax rates on American workers, savings, investors, and entrepreneurs.

Letter from the President follows:

THE WHITE HOUSE,
Washington, December 16, 1985.

Hon. JACK KEMP,
House of Representatives, Washington, DC.

DEAR JACK: In my recent letter on tax reform, I strongly urged all members "to vote for tax reform—the Republican alternative or, should it not preveail, the Ways and Means bill." I stated then what seems to me to to be the straightforward case: A vote against moving a House bill forward would doom our efforts to achieve real tax reform for the American people. We must not allow that to happen.

I understand the concern that many members have with a strategy that depends upon improvement of the House bill in the Senate. From my perspective, it would be totally inappropriate to give up at this stage—to fail to seek improvement in the Senate. But in order to help reduce concern about this approach, let me state my position with respect to the type of bill I might ultimately accept.

Like you, I believe that increasing incentives for economic growth and jobs, and fairness for individual Americans and their families, are fundamental objectives toward which our tax reform deliberations must be oriented. I will veto any tax bill that fails to meet these objectives.

In order that there can be no misunderstanding concerning my views on any ultimate bill, let me say that the minimum requirements for a tax reform bill I am willing to sign are as follows: a full $2,000 personal exemption for both itemizers and non-itemizers, at least for those individuals in the lower and middle income tax brackets; basic tax incentives for American industries, including those which depend upon heavy capital investment in equipment and machinery; effective dates which erase doubt and apprehension in the minds of those who must begin now to plan for 1986 investments; a minimum tax which allows no individual or business to escape paying a fair share of the overall tax burden; a rate structure with a maximum rate no higher than in my proposal; and tax brackets that are fully consistent with our desire to reduce taxes for middle-income working Americans.

These requirements can be met, and should be met as the legislative process moves forward. Getting a bill out of the House is now the essential step we must take in order to keep the process alive, and preserve the chance to achieve true tax reform. I ask for your support.

Sincerely,

RONALD REAGAN.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Tennessee [Mr. FORD].

Mr. FORD of Tennessee. Mr. Chairman, I would like to commend the chairman of the Ways and Means Committee and also my colleagues, both Democrats and Republicans alike, who serve on the Ways and Means Committee for reporting the tax bill out of the committee and thus having it here on the House floor today.

Mr. Chairman, in November 1984 we received the Treasury I comprehensive tax reform package calling for simplicity, fairness, as well as saying in May 1985 that they modified that same Treasury I that finally we called or referred to it as Treasury II.

I think we also realize that in that bill they called for simplicity, fairness, and also revenue neutral. They talked about neutrality must be a part of the bill.

I think that today we here on the House floor with a bipartisan bill being reported from the Ways and Means Committee, both Democrats and Republicans reported that bill out and I think when we think in terms of what we are really saying and what we are really trying to accomplish for the taxpayers of this Nation, I think the House-reported version of the bill from the Ways and Means Committee is the one we should take and not the substitute being offered by the Republicans today.

I think what we are really trying to say is that we are making taxpayers out of the rich and wealthy of this Nation. What we are saying is that what is good for American families is that we are calling on fairness, which the President called for in Treasury I, Treasury II, and even the option by the chairman of the committee in a bipartisan bill, which we have before us today.

What is good for American children is fairness, fariness in the Tax Code is what we want and what we have today in the House version of the bill.

I would hope that we would reject and vote down the Republican substitute and say yes to the bill that is before the House today, that has been reported from the committee by both Democrats and Republicans.

Two issues should be clarified with respect to section 1508(d), the technical amendment to section 108 of the Tax Reform Act of 1984. First, if an individual owned a seat on a commodities exchange, such individual will be treated as a "commodities dealer." Further, if a securities trading firm also regularly trades commodities in connection with its business, the commodities trading will be deemed to be part of its trade business. This only applies to the securities trading firm itself. It does not apply to separate individual trading of its partners, principals, or employees, nor to partnerships or other organizations formed for the principal purpose of marketing tax straddles.

Mr. DUNCAN. Mr. Chairman, I yield 7½ minutes to the gentleman from California [Mr. THOMAS], a member of the committee.

Mr. THOMAS of California. Mr. Chairman, first of all, I would like to thank my colleagues for allowing me the privilege of serving on what I consider the most important committee in the House. I believe that committee has the finest chairman in the House, but no chairman is a free agent.

What I am asking you to do tonight is to vote for the Duncan substitute. This is the Duncan substitute, which if you vote for it will take the place of this bill.

One of the reasons this bill is so thick is because it required a sufficient amount of pork to get it thus far. There is more pork in this bill than in this piggy.

When you examine the specific provisions that have been provided for Members, not just on the committee, not just on the Rules Committee, but for other Members of the House, you begin to appreciate why no one can be a free agent, including the distinguished chairman of this committee.

I might add, one of the reasons this bill is so thick is that it has no pork in it.

I want to make five statements tonight that are not going to be challenged. They are not going to be challenged, because they cannot be challenged. There has been a lot of rhetoric about what these various bills contain. There have been a lot of numbers and statistics, but I want to give you a couple statements which cannot be challenged.

One, the Duncan substitute takes more of our working poor off the tax rolls than the committee bill. That is a fact. The Duncan substitute takes more of our working poor off the tax rolls than the committee bill.

Second, next year many modest income taxpayers will pay more in taxes under the committee bill than under present law. More modest income taxpayers will pay more in taxes under the committee bill than under present law.

Three, when you compare the committee bill to the Duncan substitute, everybody with a taxable income of less than $50,000 does better under the Duncan substitute. Everyone with a taxable income above $100,000 does better under the committee bill.

Some people and the corporations with sizable incomes will pay no taxes under the committee bill. Despite the argument that the committee bill contains a minimum tax, this statement will go unchallenged. Some people and corporations with sizable incomes will pay no taxes under the committee bill.

Any person with a sizable income and any corporation with earned income will pay some tax under the Duncan substitute.

Finally, in the Duncan substitute, private savings can accumulate tax free at better than twice the amount than the committee bill.

Now, the reason that I can say that more working poor will be taken off the tax rolls under the Duncan substitute than the committee bill is very simple. Speaker TIP O'NEILL in addressing the Ways and Means Committee in June said, "Reducing the tax burden of the working poor is the very heart and soul of tax reform."

He went on to say, "Important to this group are the factors that determine at what income they begin to pay taxes, the standard deduction and the personal exemption."

Under the committee bill, improved standard deductions do not take effect until January 1, 1987.

The Speaker also referred to the personal exemption under the committee bill is only for nonitemizers. If you want to be an itemizer, it is going to cost you $500 off that $2,000 for each personal exemption.

The two most important factors that the Speaker referred to, the standard deduction and the personal exemption, are phony under the committee bill.

Therefore, the Duncan substitute removes more working poor than the committee bill.

Because the committee bill plays games with effective dates, you know there is a nonbinding resolution which says we are going to alter the dates. Why did the committee not accept altered dates as part of their bill? Very simple. If they accept the dates as part of their bill, that are included in the nonbinding substitute, it would cost them $30 billion. That is why they do not accept those dates. It would cost them money. That is why they put the dates there in the first place.

If you believe that some corporation that makes money or someone who receives the benefit of this system and utilizes the services in this system should pay some tax, you have no choice but to vote for the Duncan substitute, because the committee bill, as does present law, allows some folks who live quite well in this economic system to pay no tax.

I will repeat that. The committee bill allows some folks who make sizable incomes in this system to pay no tax.

Finally, if you really believe it is good public policy to let those who can help themselves do so, you really need to know that with a $2,000 IRA in the Duncan substitute, not only for working spouses, but also for nonworking spouses and for the IRA that is allowed to accumulate on a nondeductible basis, including other adjustments in the bill, that the Duncan substitute allows individuals to accumulate tax-free savings at twice the rate of the committee bill.

So if you want to remove more working poor from the tax rolls and not make some modest-income people pay more taxes next year than under present law, have a real minimum tax and create needed savings for individuals who can do so, your choice really is the Duncan substitute.

Now, I believe that the role of the minority is more than just opposition. What we have tried to do is to provide a creative alternative. When you examine the option in terms of the way it is structured, it is not only a credible option, it is one that if you read the option and weigh the choices, you will support it.

I urge Members as they come in, please do not look at the people at the door with their thumbs up or their thumbs down; do not follow the guide of someone else. Take a look at the real choices between these two alternatives and I think if you look as most people would look in terms of where they are going to be next year on taxes, there really is a difference between the two alternatives, and the better of the two, despite the rhetoric, on the basis of the statements I have made which will go unchallenged is the substitute and I urge its support, because if it passes we do not need to worry about urging folks to vote for the committee bill. We will have a substitute which is thinner, better, and really contains less pork.

Mr. RANGEL. Mr. Chairman, I yield 3 minutes to the gentleman from New Jersey [Mr. GUARINI].

Mr. GUARINI. Mr. Chairman, I ask my colleagues to support the Ways and Means Committee bill and reject the Republican alternative.

I would like to address for a moment the issue of capital formation and balancing taxes for our people.

Those who have studied the tax changes that were made in 1981, ERTA, realize that the combination of the 10-percent ITC and accelerated depreciation resulted in negative tax rates for many corporations.

□ 2105

The system was far too generous and in need of pruning. Even the President, in his proposal, reached the same conclusion and advocated repeal of the investment tax credit and lengthening of depreciation schedules.

The Republican alternative gives a 5-percent tax credit for domestically produced goods. Clearly, this is in violation of GATT. It is difficult to administer. And it invites retaliation by our trading partners. A very poor choice.

The Ways and Means Committee bill strikes a fair balance. It still provides incentives for investments such as rehab tax credits and a realistic depreciation schedule, and the best incentive of all is that it lowers the individual and corporate taxes now, without delay, without waiting for several years for it to happen.

As for accumulation of capital long-term investment, the committee continues the popular 401(k) plans which have been repealed and asked to be repealed by the President. It permits continuation of other significant savings incentives through pensions reachable by our workers.

Where our proposal diverges from the Republican alternative is who benefits. The Republican substitute provides more tax breaks for corporations and the wealthy. It sets up the prospect of enormous revenue drains after the first few years of enactment by phasing in provisions with staggering revenue losses once we get past 1990.

The backloading is not revenue neutral and it is not reliable as the revenue losses are calculated for more than 5 years out.

Who will be the beneficiaries of this generosity of top rates of 35 percent for individuals and full IRA's and full indexing and depreciation and capital gains after 1991? Clearly, major corporations and wealthy individuals.

Just to give my colleagues one example, our research shows the IRA's are used most exclusively by those with incomes over $50,000, while 401(k) plans are used more by middle-income workers. Who is going to pick up the tab? Middle-income working families, because individuals will pay $35 billion more in taxes under the Republican alternative and corporations will pay $35 billion less.

It cannot be all things to all people. The Republican substitute cuts back by 30 percent itemized deductions and those deductions will be eroded in the future.

The CHAIRMAN. The time of the gentleman from New Jersey [Mr. GUARINI] has expired.

Mr. RANGEL. Mr. Chairman, I yield 30 additional seconds to the gentleman from New Jersey.

Mr. GUARINI. I thank the gentleman for yielding this additional time to me.

Mr. Chairman, all in all, the tax package approved by the committee gives hard-working, tax-paying citizens a fair shake. It is not pro oil or pro gas or pro multinationals or pro-Cadillac health plans. It eliminates tax shelters, loopholes, excess and abuses that large corporations and the wealthy have traditionally benefited from.

We can take great pride in reducing individual rates back to 1931 and corporations back to 1941.

I strongly urge rejection of the Republican alternative.

Mr. RANGEL. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio [Mr. PEASE].

Mr. PEASE. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise to oppose the GOP substitute, but first I would like to commend some people who have worked on the bill, first and foremost the chairman of our committee, the gentleman from Illinois [Mr. ROSTENKOWSKI], who I think has turned in a virtuoso performance over the last several months in bringing this bill to the floor tonight.

Second, to the staff of the Committee on Ways and Means and the Joint Committee on Taxation, who have done an unparalleled amount of work on this bill over the last few months. My hat is off to them.

Third, to the Republican minority. Their numbers may be smaller than they would like on the committee, but I have detected over the last months no shortage of talent, expertise on taxes, energy, or dedication when it came to working on this tax bill that we have before us tonight. My hat is off to them as well.

The GOP alternative which is before us now is in many respects an excellent bill. Indeed, 80 percent of what is in the Republican bill is in the House Committee on Ways and Means bill. Some features which are unique to the GOP substitute are well thought out provisions which deserve the attention of this House, but the GOP substitute is not perfect; it is not as good as it could be. Members of the GOP, in fashioning their alternative, were forced to make compromises in order to keep the package revenue neutral, and some of those compromises make the substitute not as good as our committee product.

For example, the GOP substitute cuts back by 30-percent itemized deductions in excess of $1,000. That means that the GOP substitute denies part of the deductions for State and local taxes, for medical expenses, and for consumer interest. What, I ask my colleagues, is profamily about that?

The GOP substitute repeals altogether the deduction for sales and personal-property taxes. What is profamily about that?

The GOP substitute provides $35 billion less in tax relief to individuals than the committee bill. What is profamily about that?

And the GOP bill phases in—remember this—phases in the corporate tax rate cuts over 5 years instead of dropping the rate to 36 percent in the first year. What, I ask my colleagues, is probusiness about a 5-year phase in for the reduction of corporate taxes?

The GOP substitute is a good bill, but not good enough. I urge support for the committee bill.

The CHAIRMAN. The Chair will state that the gentleman from New York [Mr. RANGEL] has 17½ minutes remaining and the gentleman from Tennessee [Mr. DUNCAN] has 12 minutes remaining.

Mr. RANGEL. Mr. Chairman, I yield 3 minutes to the gentleman from Arkansas [Mr. ANTHONY].

Mr. ANTHONY. I thank the gentleman for yielding this time to me.

Mr. Chairman, before I go into the real reason that I am for the committee bill and against the Republican substitute, I would just ask my colleague, the gentleman from California [Mr. THOMAS] to say whether or not there is no pork or a little pork in the Republican substitute. His opening statement said "no pork." In his closing statement he said "a little pork."

It is my understanding that only the Republican pork was contained in the Republican substitute.

Mr. THOMAS of California. Mr. Chairman, will the gentleman yield on that point?

Mr. ANTHONY. I would be happy to yield to the gentleman from California.

Mr. THOMAS of California. I thank the gentleman for yielding.

Mr. Chairman, there are no transition rules in terms of providing Members any pork whatsoever in the substitute, just as there is no deduction on contributions, as the gentleman from Ohio mistakenly said.

Mr. ANTHONY. Mr. Chairman, reclaiming my time, it is certainly not my understanding that that is correct, so I would challenge the Members to take a look at that.

Later tonight Members will have a simple question to answer: Is current law better, or is the plan endorsed by the Committee on Ways and Means, despite its acknowledged flaws, better? I think the committee bill is better. I will work to improve it in the other body and in the ensuing conference.

There is one glaring mistake that is made in the Republican alternative, and that is the provision to repeal the 1984 ESOP or employee ownership incentives as of January 1, 1986. This is part of the 20 percent of the committee bill that the Republican alternative does not pick up. In brief, the incentives provide for a tax deduction on dividends paid to employees who own their own company stock in an ESOP and exclusion of 50 percent of the interest on a loan used to purchase employer stock for employees, a tax-free rollover of an employee's proceeds from the sale of an employer's stock to an ESOP is the ESOP owns 30 percent or more of the employer's stock after the sale and if the proceeds are reinvested, and an ESOP to assume the estate tax liability in certain very limited circumstances.

The original staff proposal to the Ways and Means Committee recommended that these ESOP incentives be repealed as of January 1, 1986. On October 27, the Ways and Means Committee, by a bipartisan voice vote, rejected the staff proposal, and instead voted to accept my amendment to continue these incentives for 3 more years.

Now, in a move contrary to the bipartisan position of the committee, and contrary to the position of President Reagan, who has endorsed these incentives, the Republican alternative repeals the 1984 ESOP incentives.

It is my understanding that the justification given by the drafters of the Republican alternative is that the repeal of these incentives raises $6 billion, which is needed to reduce individual and corporate rates.

This justification is just not correct. These 1984 ESOP incentives cost the Treasury approximately $100 million per year—a small price to pay to encourage more capitalism and less concentration of wealth.

Anyone who says that the 1984 ESOP incentive cost $6 billion is not checking the facts carefully.

It is unfortunate that the Republican alternative takes this negative position on employee ownership because for over 15 years, Congress has supported ESOP's in a bipartisan fashion. Now, at the last minute, the Republican alternative strikes a partisan note against ESOP's. I only hope that the Republicans in the House will desert their position on ESOP's in the future, and return to a position similar to that of their President, Ronald Reagan, and their Republican colleagues in the other body.

A vote for the alternative is a vote against ESOP's. A vote for the Ways and Means bill is a vote for ESOP's.

□ 2115

Mr. DUNCAN. Mr. Chairman, I yield 3 minutes to the gentleman from Louisiana [Mr. Moore].

Mr. MOORE. Mr. Chairman, I support reform. I think the choice here between the Duncan substitute and the bill is a choice between reform and revision. I want to say that again, a choice between reform and revision.

The Duncan substitute comes far closer to a reform bill. The bill brought out of the Ways and Means Committee is a political revision of who is going to pay the taxes of this country.

I want to give you two points to prove that conclusion. First, the bill does not do as much for families and, therefore, is antifamily, as compared to the substitute. It does not do as much for savings and, therefore, is antisavings as compared to the substitute. The bill does not give the full $2,000 personal exemption, as we have heard over and over again in this debate. I want you to understand that fully.

It says it gives it, but then if you itemize your tax returns, in the very small print, it takes back $500.

Thirty-five percent of the taxpayers, from the latest information we have, in 1983 itemized their tax returns. So those 35 percent do not get a $2,000 personal exemption, they get $1,500.

And do not make the mistake of thinking that only wealthy taxpayers itemize. Sixty-three percent of the people in this country who earn between $25,000 and $30,000 on a joint tax return, and that is middle income, 63 percent of those people itemized their tax returns in 1983. That means that they and their children are worth $500 less than their neighbor next door making exactly the same amount of money who does not itemize his tax return. That is antifamily. That is treating families differently without any other compensation.

Ask yourselves why. There has been no reason yet to come from the supporters of this bill as to why. I am going to give you the reason.

It was not a matter of tax policy. The reason was simply they had spent the money on other things. They had spent the money on full deductability of local and State tax deductions, or whatever it was to get the political coalition to get the bill out of committee, so they did not have the money to give full $2,000 exemptions. They simply said, "Well, let us create a sham, a mirage, a shell game. Let us look like we give it, and let us take it back, and maybe nobody is smart enough to know the difference."

My colleagues, the American people are a lot smarter than we are if you think they are not going to catch on to that. I personally think that is a disgrace in the bill. The Ways and Means Committee normally performs much better than that, and I think it is wrong to fool the people or try to. And if you vote for the bill, that is what you are doing, you are voting for a political revision, and a mirage instead of reform, because the Duncan substitute does give the $2,000 personal exemption to everybody but the very highest income. Ninety percent of the taxpayers will get it whether you itemize or do not, and therefore, that is the first point of why the Duncan substitute is reform as compared to the political revision of the committee bill.

Do not think this is unimportant. I happen to think the American family is very important. I think it is important that they not be thrown on relief or on to Government programs. I believe they lose their dignity and it puts strains on the family.

What we are saying is we are going to let you keep $2,000 for every member of your family of the money that you work so hard to earn before the Government takes anything. Now what could be more fair or better or more profamily than that? Let us not force you to go ask for some Government program.

If we simply took the original $600 exemption and updated it for inflation it would be somewhere in the neighborhood of $3,500 today. So we are still not giving the American people the relief that they are entitled to.

The second point: Antisavings. Let me tell you something. The Japanese are beating us today and it is not because they are cheating, it is because they have got a better running economy than we have. One reason is they save money; we do not; 17.5 percent of their earnings they save. We are saving something like 2.9 percent, close to the historic low which was 2 months ago of 1.9 percent, the lowest we have been in recorded history. We are not saving money.

We know that the foreign capital in this country that is financing our borrowing is going to be leaving pretty soon as we bring down the value of the dollar. Where are you going to get the money to finance this country? Consumer borrowing, business borrowing, where is it going to be coming from? You are going to see crowding out, increasing pressure on capital and increasing interest rates if we do not do something to increase savings.

So in the face of that, what does the bill do? The bill takes action that reduces savings. First of all, it reduces the 401(k) plans that the speaker from the other side just said is so popular from $30,000 down to $7,000.

The second thing it does is it wipes out an IRA for those same people who have 401(k) plans if they have at least $2,000 in a 401(k) plan, and it does nothing for spouses or homemakers. It says their services are worthless because we have spent the money on something else.

Meanwhile the substitute restores the 401(k) plans to $12,000, allows a 401(k) holder to still have an IRA, provides a $2,000 spousal IRA and contains my provision to allow nondeductible contribution to an IRA of $2,000. The substitute is decidedly more prosavings than the bill.

Therefore, the choice is for reform or for revision. Vote for the substitute and if it fails, against the bill.

Mr. RANGEL. Mr. Chairman, I would ask how much time we have remaining?

The CHAIRMAN. The Chair announces that the gentleman from New York [Mr. Rangel] has 4½ minutes remaining, and the gentleman from Tennessee [Mr. Duncan] has 7 minutes remaining.

Mr. RANGEL. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. Matsui].

Mr. MATSUI. Mr. Chairman, the Republican substitute just demonstrates, as I said earlier in my remarks, how difficult tax reform really is.

The gentleman from Louisiana [Mr. Moore] talked about some of the problems with our bill. Let me just state a few of the problems with the Republican substitute.

First of all, it shifts some $35 billion onto the individuals and takes it off of the corporate side at a time when we try to give relief to individuals in our particular bill. But that is just not all of it.

The Republican substitute also taxes fringe benefits which have historically been nontaxable. It only gives 70 percent of the deduction for State and local taxes.

In addition to that, all that they give back is 5 percent on the ITC. It violates GATT, mainly because it applies only to domestically made goods, and that could put us in a noncompetitive position if you buy goods from overseas and they are not available in the United States.

Fourthly, which is very interesting, the way they pay for their 5 percent investment tax credit is by starting with the corporate rates at 42 percent. That is why they have not had any support from the service industries and the high-tech industries. They start at 42 percent, and over 6 years, they try to get down to 33 percent.

Let me tell you, at the end of 6 years, I can guarantee you that the Republican substitute will no longer be revenue-neutral, because they do not make up the revenues by going down to 33 percent in any way, and as a result of that, in 5 years, the Republican substitute will have massive deficits in addition to being a proposal that is much less fair than the House Ways and Means Committee bill.

I yield back the balance of my time.

Mr. RANGEL. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, a lot of praise has been given to the chairman of the Ways and Means Committee for being able to bring together a bill with Republican and Democratic support, fashioned after what the President of the United States has suggested to our Congress. Of course, we first heard word from Treasury in November of 1984, and we immediately started to hear witnesses and take testimony, working 7 days a week, around the clock, in order to fashion a bill to bring to this House.

But I think a lot of praise ought to be given to our Republican colleagues, because even though we were able to get their expertise and parxigipation in the bill that we are presenting to the House, none of us were able to be invited to participate in the bill that they bring to the House, and they were able to do this in probably two nights and a couple of days. So I think our Republican colleagues ought to be complimented for being able to patch together the bill that they bring us today, and also for their ability to not put so much pork in their bill since their Members found it so easy to lean upon the chairman for them to be accommodated in our bill since we consider it to be a House bill.

Nevertheless, I think those that come to the floor and drip with hypocrisy suggesting that in the Republican bill which finds itself so pure, I would suggest that they check with the Members that drafted the bill and perhaps they can see that there was some compassion on the Republican side of the aisle for some of the Members who found themselves with political problems.

In any event, I would like to believe that if the Republicans did have enough time, perhaps when they got to the question of the earned income tax credit that they would have listened more closely to their President and the Treasury Department, and they would have indexed it as the Democrats have done with Republican support, because none of the good things that we did on the Ways and Means Committee did we do without the help of our hard-working Republican colleagues.

It would seem to me on the question of sales and property tax, too, perhaps if the staff had time enough, they would have allowed this to be deductible, because they fully appreciated that it smacked of being unconstitutional, and certainly it was inequitable to keep those provisions in the Ways and Means Committee bill.

But I think one of the proudest points that we had in our deliberation, and again we are talking about Republicans and Democrats, unlike the Republican alternative where it is Republican, Republican, that we tried to make the fringe benefits that were provided for the rank and file, to make certain that the rank and file were treated equitable and fair, and unfortunately, because of a lack of time, in a 2-day span that you had, you were unable to take care of the rank and file on fringe benefits. And I am certain that somewhere along the line, you would even manage to tax the fringe benefits to provide health services for the hard-earned benefits that the unions have gained through management/labor contracts.

Nevertheless, I am satisfied that you did not take your bill too seriously, because that is probably why you only had 14 Republicans voting for the rule that would have ordered your bill before the House so we would have been able to discuss it.

In any event, it would seem to me that as we vote down the Republican bill that we should still extend our hand and our friendship to the Republicans that are trying to do now the courageous thing, after our President was forced to come down here, embarrass himself and ask for the support of our colleagues on the other side of the aisle, I am convinced that now we both will be working toward the same goal. Perhaps the bill is not everything we want it to be, but working together, we can make it just that.

Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. MILLER].

Mr. AuCOIN. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Oregon.

Mr. AuCOIN. Mr. Chairman, last April I held hearings throughout the First Congressional District on the issue of tax reform. At that time, the issue of tax reform was just a gleam in the eye of Ways and Means Chairman DAN ROSTENKOWSKI. But through his incredible persistence and the hard work of his colleagues on the committee, we are considering today one of the most significant pieces of legislation to face the Congress in years.

The testimony I heard last spring strengthened my long-held conviction that an overhaul of the Tax Code was overdue. In school gymnasiums and employee lounges, I heard testimony from people who couldn't understand why a working woman making only $12,500 a year paid more than some of our largest oil companies. I heard from people who couldn't fill out a tax return or who couldn't begin to guess what tax breaks were available to them without the help of an accountant.

The message I received was clear: The U.S. Tax Code is unfair—and it is a mess.

I couldn't agree more.

It is unfair when 129 corporations earning $66.5 billion in pretax domestic profits pay no taxes at all. It is unfair when nearly 30,000 individuals, with incomes greater than $250,000, including 3,000 millionaires, pay less than 5 percent of their income in taxes. It is unfair when people with incomes below the poverty level are forced to pay any taxes at all.

The bill that we are considering today constitutes a significant step in the right direction toward tax reform.

For example, the bill cuts $140 billion in taxes for individuals, giving most Americans an average tax cut of 9 percent. The ones who need it the most—the lower and middle-income taxpayers—would receive the largest tax cuts. In fact, more than 50 percent of the tax relief would go to taxpayers earning between $20,000 and $75,000. Meanwhile, the bill would remove about 6.5 million low income workers from the tax rolls.

What's particularly appealing is the fact that, while the bill slashes tax rates, it retains several tax deductions or credits that are extremely important to the average taxpayer. I commend the committee for, among other things, retaining the deduction for State and local income, sales and property taxes, for increasing the earned income credit, for extending the research and development credit, for continuing the targeted jobs credit and for insuring the tax-exempt status of fringe benefits.

Mr. Chairman, it is easy these days to get caught up in the spirit of holiday gift-giving. And, like many of my colleagues, I am eager to give hard-working Oregonians a present in the form of a well-deserved tax break. But while everyone wants to play the role of Santa Claus, I must examine how this bill will affect Oregon after the holiday season.

While I support the general thrust of the bill, I am convinced that the bill provides short-term happiness in exchange for long-term economic disaster.

In deciding whether or not to vote for this bill, I have four tests that must be met: first, it cannot increase the deficit; second,

it must be fair—following the principle that those who earn more pay more and the people with equal incomes pay about the same; third, it must offer the lowest possible tax rate for the largest number of people; and fourth, it must encourage innovation, productivity, growth, jobs and payrolls.

Upon close examination I've concluded that this bill fails the fourth test. It does not encourage economic development in Oregon.

Tax reform which wipes out the gimmicks, insures that profitable corporations pay their fair share, produces fewer distortions in business deductions and doesn't shortchange the needy or middle income is commendable. But the message I received during those April town meetings was: "Don't support a tax bill unless it encourages innovation, productivity, growth, jobs and payrolls."

Passage of this bill, no matter how well intentioned, will do nothing to encourage economic development in Oregon and, in fact, will make matters worse in a State that is still reeling from the throes of the 1981 recession.

And a tax cut is no good to a person with no paycheck.

WHAT IS THE ECONOMIC SITUATION IN OREGON?

As attractive as the tax bill might be, I cannot examine it in an economic vacuum. Few people realize that, while the Nation as a whole is on an economic upturn, the State of Oregon is still trying to climb out of the depths of the 1981 recession.

My decision to vote against this bill is determined by its affect on Oregon's major industries: timber, high tech, agriculture, and trade. I am also very concerned about its affect on education and its lack of incentives for savings.

TIMBER

Passage of this bill would destroy the lifeline of Oregon's economy—timber.

Oregon is the single largest producer of Federal and private timber in the Nation. A report prepared by the Forest Industries Committee on Timber Valuation and Taxation estimates that nearly 90,000 Oregonians are employed by the forest products industry, and that another 25,000 Oregonians own private woodlands. This same report estimates that the total annual wood products industry payroll in Oregon is $1.4 billion.

During the 1981 recession, Oregon's timber industry lost thousands of jobs. Our State, and the timber and lumber industries in particular, suffered economic dislocation from which it still has not completely recovered. Dozens of mills have shut down. Meanwhile, many of the remaining timber operators have fought back. They have tightened their belts, trimmed the fat from their operations, and struggled to climb out of the depths of those terrible economic times.

Congress has played a helpful role as well. In 1984, Congress passed, and the President signed, the Federal Timber Contract Payment Modification Act, which gave holders of Federal timber contracts an opportunity to buy out some of their high-priced, inoperable timber harvest requirements.

But as Oregon's timber operators struggle to get off their life support systems, I am being asked to support a bill that proposes to pull the plug altogether.

WHAT PROVISIONS OF THIS BILL AM I CONCERNED ABOUT?

Timber management expenses and interest for private forest lands of more than 50,000 acres would no longer be deducted on a current basis. Instead, they would have to be capitalized over the life of the tree. Think about it. Trees grow for 40 to 75 years before they may be commercially harvestable. That is a very long time for a timber owner to wait before being able to write off the cost of properly maintaining forest land. Even small woodlot owners would lose much of their ability to expense management costs each year.

There are economic and environmental consequences to this change that are, in my view, unacceptable. Requiring that expenses be capitalized will result in a "cut and run" liquidation of private forestland. The short-term effects of this drastic change will be a depression of lumber prices. The long-term impact will be no reforestation, no conservation of industrial forestlands, and increased pressure of Federal timber supplies to meet softwood lumber demand.

Timber harvested by corporations would no longer be given capital gains treatment when harvested. In addition, public timber income would lose capital gains treatment as well. Over the years the Tax Code has recognized this unique nature of timber, that is, its long growing period and its susceptibility to uncontrollable disease or destruction.

Small woodlot would lose the reforestation provision that has served as an incentive to replant after a harvest.

It is estimated that approximately 5,000 jobs would be lost in my State alone if this bill passed. And that doesn't account for the inevitable ripple effect that will occur when this industry starts to go down the tubes. In fact, some studies estimate that there would be a loss of 180,000 jobs nationwide, $4 billion in payroll taxes and $17 billion in sales.

The provisions in this bill requiring capitalization of current management, protection and carrying costs for all owners would spell disaster for the timber industry. And this bill threatens not only the employees and plants, but the forest resources themselves and the Oregon communities dependent upon them.

I believe the current tax system has treated timber resources fairly. And, as much as Oregonians would like to have a few extra dollars in their paycheck, they are not willing to let the single most important industry in the State be destroyed. In fact, the strong feelings of my constitutents on this issue were recently demonstrated in an informal poll taken by my office. When recently asked "Would you favor a bill that lowers your tax rate, but poses a threat to Oregon's timber industry?," approximately 60 percent of those polled said "no".

Oregonians will not sacrifice timber at the alter of tax cuts.

HIGH TECH

Dozens of electronic companies have made their home in Washington County which is just west of the city of Portland. Dubbed "Silicon Forest," this area has brought not only hope but jobs to the residents of the First Congressional District.

Infortunately, most of these companies are facing difficult economic times at the moment. Hit by dwindling backlogs, the high level of the dollar and declining orders, high tech executives are now being forced to trim back as much as possible just to survive. For example, the Intel Corp. has eliminated almost 1,200 jobs from the company's Portland-area payroll since February. The most recent layoff occured in November when 520 employees were asked to leave at the company's Aloha plant. Their third quarter report showed a loss of $4 million. Other companies are going through the same hard times.

One of the main reasons for the woes of the high tech industry is competition from overseas markets. And, while I am adamantly opposed to protectionism, I do believe that we should be encouraging American firms to invest in new, competitive technologies. As our national trade deficit looms around the $150 billion level, I question whether this is an appropriate time to take away incentive for new investment.

I also question whether this is the time to cut back on the tax credit for research and development. Currently, the credit is 25 percent for R&D expenditures, but the Ways and Means bill would reduce it to 20 percent. Again, at a time when we need our high tech firms to do more research, is it appropriate to cut back on Federal incentives?

TRADE

It's no secret that the economy of the Pacific Northwest depends on a robust international trade. And while our national trade deficit is predicted to be $150 billion for this year, Oregon continues to run a trade surplus.

But I am very concerned that the changes proposed in this bill would discourage those capital investments that are necessary to make American industries more productive and competitive. Faced with stiff, often subsidized, competition from around the world, American industry has to invest heavily in the latest technology and machinery to keep jobs in this country.

Just a few weeks ago I voted against giving the textile industry protection against foreign imports, protection in the form of import limitations. However, I also believe that we should be encouraging such industries to compete through the modernization of their plants and equipment. At a time when foreign competition is intense and foreign governments are doing everything they can to encourage manufacturing, I question the timeliness of scaling back drastically on certain investment incentives.

FARMING

Agriculture is vital to the economic well-being of Oregon. This is evidenced by the fact that in 1984 the Farm Gate Value from the 1,900 farms in Washington County alone amounted to over $92 million.

While agriculture in Oregon is faring better than in other parts of the United States, the State faces some serious problems. Last year the Oregon Crop and Livestock Reporting Service recorded a 17 percent decline in the value of farmland in Oregon. Farm exports, have fallen dramatically. Pacific Northwest wheat exports, for example, are off 34 percent and white wheat exports are off 51 percent from the same period last year.

The reasons for these problems are many: the strong dollar makes American products noncompetitive on the world market, federal farm policies need to be revamped and we need to get serious about promoting exports.

What we don't need are some of the provisions contained in this tax bill. The elimination of income averaging, for example, could have a very adverse effect on farmers because farm income can fluctuate dramatically from year to year due to changes in weather and other uncontrollable factors. Additionally, elimination of the investment tax credit will make it more difficult for farm families to modernize and expand their operations.

EDUCATION

Changes in the committee bill regarding tax treatment of appreciated property and the capital gains rate for charitable contributions will hamper the ability of colleges and universities to attract contributions from private donors.

While the changes will affect private schools most dramatically, state schools are going to feel the bite. Oregon's colleges and universities receive only about a third of their funding directly from the State. The remainder comes from tuition, Federal grants and private gifts. As Federal money becomes more scarce, private dollars are becoming more important.

The bottom line is that endowments often spell the differences between a good school and an outstanding school. Private funds and gifts of equipment are important for attracting quality staff and quality students.

A good higher education system is important for attracting new business to Oregon, and expanding existing firms. By reducing the incentive for private donations, this bill would undo part of the work that has been done in Oregon to upgrade our schools.

SUMMARY

However well-intentioned and despite some commendable provisions, the passage of this tax bill would spell disaster for Oregon's major industries. For timber—the bulwark of our economy—it would be the final nail in the coffin. Thus, today I am casting a vote in Oregon's interest.

Tax reform is necessary and desirable—but not at the expense of Oregon jobs and paychecks.

Mr. MILLER of California. Mr. Chairman, the President asked us to reform this Nation's outdated tax laws, and especially to make them more fair for American families.

That is exactly what H.R. 3838 accomplishes. And the reason I rise in strong support of its passage.

Months ago, I asked the staff of the Select Committee on Children, Youth and Families to analyze all the tax reform proposals then before Congress. At that time, the second Treasury proposal proved fairest to families.

The staff has just completed a new analysis, however, evaluating the bill before us today. Let there be no doubt: The proposal coming from the Committee on Ways and Means is the fairest tax reform package for families so far. It provides the most tax relief for low- and moderate-income families, treats one-earner and two-earner families more equitably, and distributes tax burdens across income levels more fairly.

FAIR TAXES FOR AVERAGE INCOME FAMILIES

The average income of families with children in 1983 was about $32,000, yet rising costs make it increasingly difficult for these families to maintain a desired standard of living. The Ways and Means plan understands the pressures these families are facing.

The plan clearly is best for average-income families with children because it taxes them least. By nearly doubling the personal exemption to $2,000 for those who do not itemize deductions and increasing the standard deduction to $4,800, an average-income, four-person family would see their tax bill drop by over $1,000 under current law.

For those families who do itemize, this bill fully protects their most valuable deductions: the interest on their home mortage, the taxes they pay as responsible State and local residents, and charitable contributions they make as compassionate citizens.

FAIR TAXES FOR LOW-INCOME FAMILIES

There are over 5½ million families with children in poverty. And many of them have been taxed into poverty under our current tax laws. The Ways and Means bill reaches out to these impoverished families.

The bill raises the tax-paying threshold to about $14,400 in 1986, nearly $5,000 above the level at which poor families must now begin to pay income taxes. This will eliminate taxes for millions of poor families.

The bill also greatly expands the earned income tax credit, which will increase the number of families eligible for, and the value of, the credit. By 1987, when this provision is fully implemented, a poverty level family of four would receive a cash credit nearly twice as great as they would in 1986.

FAIR TAXES FOR SINGLE-PARENT FAMILIES

Twenty-two percent of all U.S. children now live in single-parent families, nearly double the number since 1970. Single parents will have far greater resources for raising their children under the Ways and Means proposal.

Taxes for single-parent families would be reduced more under H.R. 3838 than under any other plan. By raising the standard deduction for single parents to $4,200, the highest among any major reform bill, a single-parent household with 3 children, earning about $21,000 would see their taxes drop by over 38 percent from current law.

FAIR TAXES FOR FAMILIES USING CHILD CARE

Over 50 percent of mothers with preschool-age children are now in the labor force, creating a tremendous need for affordable child care. H.R. 3838 is clearly sympathetic to working families' needs.

The Ways and Means bill retains one of the best provisions for families under current law. The child care credit. Low- and moderate-income parents would continue to receive a payment of up to $1,200 to help them pay for the child care they need to work and provide for their families.

FAIR TAXES FOR LARGE FAMILIES

The tax burdens for large families have increased far faster than those of small families because of the tremendous erosion in the value of the personal exemption. H.R. 3838 balances the tax burden faced by large families.

A married couple with four children, earning about $27,000, would see their taxes go down by nearly $1,000, from about $2,500 to just over $1,500.

FAIR TAXES FOR TWO-EARNER FAMILIES

The number of one-earner families has declined steadily since 1970. While the number of two-earner families has grown rapidly. The Ways and Means bill keeps pace with these trends.

The bill does not penalize families where both parents want, or need to work. While the deduction for two-earners is repealed, as it is in all of the other reform plans, the Ways and Means bill significantly lowers these families' tax bill compared to what they pay today.

Also, while two-earner families taxes are reduced at a somewhat slower rate than one-earner families, the gap between the two kinds of families in the rate at which taxes are lowered is not nearly as great as under other reform proposals.

These examples show that H.R. 3838 is by far the most equitable, most progressive, and fairest bill for this Nation's families. Because this is true, it is also the fairest bill for children.

Children's voices have not been heard in the great national debate on tax reform, but they will be the ones who, for decades to come, will bear the brunt of the decisions we make here today.

After all, the average American family with children pays $7,000 in taxes each year, more than half of which goes to Federal income taxes, of their remaining disposable income. The same average family spends more than $5,000 for each child, mostly on food, housing, transportation, and other necessities.

Taxes greatly influence the final resource level available for family functioning. And these resources are spent largely on children. Consequently, tax policy has become a de facto family and children's policy.

We have a chance to do better by our children and families. Let's vote for H.R. 3838.

Mr. Chairman, I would like to conclude by submitting for the RECORD the highlights of the Select Committee's most recent analysis of tax reform proposals, "a family tax report card: round II":

HIGHLIGHTS OF FAMILY TAX REPORT CARD: ROUND II

ALL PLANS

All plans, including Ways and Means, lower taxes for single-parent families, but Bradley-Gephardt actually increases the disparities in tax burdens between single parents and married couples.

Ways and Means and Treasury II maintain one of the best features of current law, a tax credit for child care expenses. The greatly increased numbers of single-parent families and two-earner families would at least be able to maintain current resource levels to meet this expense. Bradley-Gephardt changes the credit to a deduction, lowering its value for low- and average-income families, while the credit is eliminated entirely under Kemp-Kasten.

All plans, including Ways and Means, significantly reduce the tax burden of the working poor, although Bradley-Gephardt clearly leaves room for improvement. *By 1987, Ways and Means increases more than any other plan both the number of families eligible for, and the value of, the Earned Income Tax Credit.*

All plans, including Ways and Means, provide greater tax relief for one-earner families than for two-earner families. Because Treasury II increases the maximum IRA contribution for a nonworking spouse to $2,000, the greatest disparity occurs under that plan.

BRADLEY-GEPHARDT

Relative to the other plans, Bradley-Gephardt, as currently designed, is excellent in its treatment of the marriage penalty, good for average-income families and average for two-earner families. It is below average for large families, low-income families and families using child care, and poor for single-parent families.

KEMP-KASTEN

Relative to the other plans, Kemp-Kasten, as currently designed, is excellent for large families, single-parent families and families with two earners. It is average for poor families, below average for average-income families and poor for families using child care and in its treatment of the marriage penalty.

TREASURY II

Relative to the other plans, Treasury II, as currently designed, is excellent for poor families and families using child care. It is good for single-parent families, average for large families and average-income families, and below average for families with two earners and in its treatment of the marriage penalty.

WAYS AND MEANS

Relative to other plans, Ways and Means, as currently designed, is excellent for low-income families, average-income families and families using child care. It is good for large families and families with two earners, and average for single parent families and in its treatment of the marriage penalty.

CONCLUSION

All the reform proposals, including Ways and Means, are better for families than current law.

Averaging the seven grades for each plan, Ways and Means heads the class with a 3.14 average; Treasury II is next with a 2.43 average; Kemp-Kasten has a 2.14 average. Bradley-Gephardt has a 1.71 average; and current law has a 1.14 average.

* Treasury II originally proposed changing the child care credit to a deduction, which would have reduced its value for low- and average-income families. This analysis is based on Treasury II as amended to retain the credit in its current form.

□ 2130

Mr. DUNCAN. Mr. Chairman, I reserve the balance of my time.

Mr. RANGEL. It is my understanding, Mr. Chairman, that we have 5½ minutes remaining.

The CHAIRMAN. The gentleman is correct.

Mr. RANGEL. I yield the remaining time to the gentleman from Georgia [Mr. JENKINS] to close debate.

Mr. JENKINS. Mr. Chairman, my colleagues from both sides of the aisle, this is truly an historic moment, because tonight for the first time in some 25 or 30 years, we have the opportunity to truly reform a massive Tax Code.

I want to pay special tribute not only to my chairman, but also to the minority ranking member, from Members on both sides of the aisle who have truly made their mark and contributed to this bill, the committee bill.

It is true that we have a rather large bill; but we have a rather large Tax Code. This bill is large and massive for many reasons. We have touched every section of the Tax Code. We do have transition rules in this particular proposal. So does the Republican substitute.

Transition rules for a hydroelectric project in Mississippi, in the Republican substitute. It probably is well-deserved, but it is a special transition rule. A special transition rule for a printing company in the Republican substitute. It probably ought to be there. They are the same.

All of us have the need for transition rules when companies or individuals find themselves in unique circumstances with a massive Tax Code change.

This committee, Mr. Chairman, and notice that I say committee—not Democratic—this committee bill that we will ultimately vote on is an excellent bill that deserves support from both sides of the aisle. This bill does more than has been done in decades for the individual.

Let me compare for a moment, and I do so without being overly critical, because you have many good provisions in the Republican bill; but I want to point out to you and to my colleagues on the Democratic side, that many of the benefits that are in the Republican substitute unfortunately are light years away, beyond the revenue requirements that we have in the first 5 years.

It is easy, you could have even gone beyond what you did and take the corporate rate down to 10 percent, if you wanted to, make it effective in 2010, or some other year. That would be extremely easy, and you took the easy way out.

Let me say that in the fringe benefit area and in the deductibility of State and local taxes, I have talked to people on both sides of the aisle. I do not come from a high tax State, but my public education is supported by property taxes; and 84 percent of some 15,000 people that responded to a questionnaire to me from my district said that they wanted the full deductibility and did not want to do away with it.

You only permit 70 percent of deductibility. That is not right.

On medical expenses, some of the most terrible expenses in the world, you limit the deductibility to 70 percent. I do not believe that that is right.

On the little group life insurance, where you pick up $9½ billion for your bill, that money—used many times for the family, for burial expenses, much below $50,000, should not be taxable to the employee. It will be taxable under the Republican substitute. I do not believe that that is right.

Even in capital gains, because of the way that you have structured the substitute, it can go as high as 29 percent under the Republican substitute. Why? Because of the way that you phase out the personal exemption, it can and will in some instances go as high as 29 percent. I do not believe that that is conducive to a good tax bill.

No, this bill is not perfect on the Democratic, the committee side, nor is your bill.

I believe that with your contributions from the Republican side, we have made the committee bill a good bill.

I also want to pay tribute to the President, our President, to Jim Baker, the Secretary of the Treasury, for the work that he has done because he indicated to the committee that in 1981 we were excessive on the corporate side, and that we needed to shift some of the burden away from the individual and onto some of the corporations.

I remind my colleagues tonight that $30 billion is the difference in the two bills; the individuals in the committee bill get that $30 billion.

Some of my colleagues from particular States have problems with oil. I understand your problems with oil and gas, but there are more people that live even in your States that must be listened to.

I urge you to defeat the Republican bill and to support the committee product.

Mr. DUNCAN. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. PACKARD].

Mr. PACKARD. Mr. Chairman, I rise in strong support of the Duncan substitute, and in opposition to the committee bill.

Mr. DUNCAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Nebraska [Mr. DAUB].

Mr. DAUB. Mr. Chairman, I rise in support of the Duncan substitute.

Mr. Chairman, without question the most controversial provision in the tax reform effort was the various proposals to limit the itemized deduction for State and local taxes. This singular issue had more to do with the product of the months of hearings and markup activities in the House Ways and Means Committee, than any other particular issue. Indeed, when all such limits were eliminated from the committee's bill the committee was left with few good choices on many other important capital formation and savings incentive issues.

The itemized deduction for State and local taxes should be limited. Then Congress can make real, rather than cosmetic tax policy changes. The itemized deduction for State and local taxes is a significant source of the erosion of our Federal tax base and creates unacceptable inequities in our tax system. Absent some limitation of the deduction, this current tax reform effort will fail to deliver the real reform which is needed for the long-term viability of our Federal tax system.

The deduction for State and local taxes is a significant contributor to the erosion of our Federal tax base. Deductible State and local taxes have grown from $32 billion in 1970 to $100 billion in 1983. During recent years, State and local taxes have grown overall at a rate of over 8 percent. This fact and the growing number of itemizers in this country guarantees that the existing individual income tax provisions cannot insure a stable revenue base.

The total deficits of all State and local governments combined do not effect the prime rate, but each of us can be assured that our Federal deficit will continue to dominate our economic climate. Suggestions of the problems limitations may pose for State governments pale in comparison to the fundamental Federal fiscal problems currently caused by the erosion of our Federal tax base in the face of excessive spending.

More importantly, however, the itemized deduction for State and local taxes raises fundamental questions of fairness. The deductibility of State and local taxes is largely a tax break for the wealthy. Approximately two-thirds of the benefits from this deduction are provided to taxpayers with taxable incomes of over $50,000. Given the fact that little more than 5 percent of all taxpayers have taxable incomes over this amount, it seems strange to me that anyone concerned with fundamental fairness could support a deduction where two-thirds of the benefits are directed at only 5 percent of the wealthiest American taxpayers.

Additionally, the deductibility of State and local taxes forces the low tax States to subsidize the high tax States. The deduction is a tax expenditure for the benefit of these high tax States and income distribution between similarly situated taxpayers with the exception of only their geographic location. How do I justify this deduction to Nebraskans when only 35 percent of Nebraska taxpayers itemize their deductions and 50 percent of taxpayers in high tax States itemize? How do I suggest that there is anything fair about tax reform that discriminates solely on State borders?

In considering alternatives and amendments, I would hope that the other body would seriously consider some limitation of the itemized deduction for State and local taxes. Such a limitation makes tax policy sense and will provide the revenues necessary to make capital formation and savings incentive changes. Tax reform necessarily involves tradeoffs. We should gladly trade the benefits given the affluent from the State and local tax deduction for some real tax reform directed at fundamental fairness and economic growth.

Mr. DUNCAN. Mr. Chairman, I yield the balance of my time to the gentleman from Michigan [Mr. VANDER JAGT].

Mr. KASICH. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will advise the gentleman from Ohio that the Chair cannot entertain that point of order at this time, a quorum having been established during the amendment process.

Does the gentleman want to ask unanimous consent for a quorum call?

Mr. KASICH. Mr. Chairman, I ask unanimous consent for a quorum call.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. A quorum call is ordered. Members will record their presence by electronic device.

The call was taken by electronic device and the following Members responded to their names:

[Roll No. 469]

Ackerman
Addabbo
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Archer
Armey
Aspin
Atkins
AuCoin
Badham
Barnard
Bartlett
Barton
Bateman
Bates
Bedell
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Biaggi
Bilirakis
Bliley
Boehlert
Boggs
Boland
Boner (TN)
Bonior (MI)
Bonker
Borski
Bosco
Boucher
Boulter
Boxer
Breaux
Brooks
Broomfield
Brown (CA)
Brown (CO)
Broyhill
Bruce
Bryant
Burton (CA)
Burton (IN)
Bustamante
Byron
Callahan
Campbell
Carney
Carper
Carr
Chandler
Chapman
Chappell
Chappie
Cheney
Clay
Clinger
Coats
Cobey
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Craig
Crane
Crockett
Daniel
Dannemeyer
Darden
Daschle
Daub
Davis
de la Garza
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Duncan
Durbin
Dwyer
Dyson
Early
Eckart (OH)
Eckert (NY)
Edgar
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Evans (IA)
Evans (IL)
Fascell
Fawell
Fazio
Feighan
Fiedler
Fields
Fish
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Fowler
Frank
Franklin
Frenzel
Frost
Fuqua
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Gray (PA)
Green
Gregg
Grotberg
Guarini
Gunderson
Hall (OH)
Hall, Ralph
Hamilton
Hammerschmidt
Hansen
Hartnett
Hatcher
Hawkins
Hayes
Hefner
Heftel
Hendon
Henry
Hertel
Hiler
Hillis
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Johnson
Jones (NC)
Jones (OK)
Jones (TN)
Kanjorski
Kaptur
Kasich
Kastenmeier
Kemp
Kennelly
Kildee
Kindness
Kleczka
Kolbe
Kolter
Kostmayer
Kramer
LaFalce
Lagomarsino
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Loeffler
Long
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
Mack
MacKay
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCain
McCandless
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McKernan
McMillan
Meyers
Mica
Michel
Mikulski
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Monson
Montgomery
Moody
Moore
Moorhead
Morrison (CT)
Morrison (WA)
Mrazek
Murtha
Myers
Natcher
Neal
Nichols
Nielson
Nowak
O'Brien
Oakar
Oberstar
Obey
Olin
Ortiz
Owens
Oxley
Packard
Panetta
Parris
Pashayan
Pease
Penny
Pepper
Perkins
Petri
Pickle
Porter
Pursell
Quillen
Rahall
Rangel

Ray
Regula
Reid
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Roemer
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Rudd
Russo
Sabo
Savage
Saxton
Schaefer
Schneider
Schroeder
Schuette
Schulze
Schumer
Seiberling
Sensenbrenner
Sharp
Shaw
Shelby
Shumway
Sikorski
Siljander
Sisisky
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Snyder
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Strang
Stratton
Studds
Stump
Sundquist
Sweeney
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Weber
Weiss
Wheat
Whitehurst
Whitley
Whittaker
Whitten
Wilson
Wirth
Wise
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zschau

☐ 2155

The CHAIRMAN. Four hundred sixteen Members have answered to their names, a quorum is present, and the Committee will resume its business.

The gentleman from Michigan [Mr. VANDER JAGT] is recognized for 6½ minutes.

Mr. VANDER JAGT. Mr. Chairman, I rise in strong support of the Republican alternative, and I apologize to my colleagues in the House that I cannot find more adequate words to fully explain its contents because I believe that if I could that the vast majority of this body on both sides would comfortably vote for it, maybe even including the distinguished chairman of the Ways and Means Committee, who has labored so mightily and so well on behalf of the cause of tax reform and rate reductions for average Americans.

Now, that is not going to happen because the best kept secret in America is the contents of the Republican alternative.

Last week the Wall Street Journal earned the applause of my Democratic friends by labeling this product an undistinguished product, and then it listed three changes that were essential to making the committee bill a good bill. And this product does all three of them, which leads me to the inescapable conclusion that the editorialists, like many others, do not really know what this bill does and how it gets there.

President Reagan, in his historic meeting with the Republican conference yesterday, described the kind of bill that he would sign, and essentially he was describing the Republican alternative.

I first began to see a glimmer of how politically speaking this is a Machiavellian masterpiece and substantively speaking it gets us in the Tax Code to where we would all like to go when I had a debate last week with a very good friend and a Democratic colleague on the Ways and Means Committee. And I began to see the first outlines of the theme of next fall's campaign as the committee bill was described as going after those rich corporations that are not paying any taxes and using that revenue to deliver significant tax cuts for the American people.

The only opposition to that apple pie proposal, according to that characterization, were the Republicans who, as usual, were defending big business and rich corporations. Even though I did not agree with that characterization, because that particular audience was predisposed to think that way, I was so happy that I was able to take that debate by the nape of the neck and say, "Let's move it over here to another battleground where the Republican alternative beats you at every step of the way."

Democrats are so proud that 6 million Americans are removed from the rolls. Our alternative removes 6½ million from the rolls.

Democrats are so proud that their bill delivers a 76-percent rate reduction to the working poor. This alternative delivers an 86-percent rate reduction to the working poor.

Whatever you can do, we can do better, and we have done it in this product.

Democrats are so proud that they reduced the individual rate down to 38 percent, and justifiably proud, because rate reduction is the heart and soul of tax reform. But we take the rate down to 35 percent in our alternative.

Democrats are proud that they have a minimum tax, and they should be proud, but their own staff has testified that even with that toughened minimal tax, rich corporations and wealthy individuals will still get away without paying any tax. That is why we have a super minimum tax where nobody gets away.

And Democrats are so proud that with one hand they give a $2,000 personal exemption, but if you itemize State and local taxes with the other hand, they take $500 away for every dependent, and the more kids you have the more they take away.

Our bill puts in the full $2,000 exemption for itemizers and for nonitemizers, and at that point in the debate, my good Democratic friend said, "Hey, wait a minute, hold the phone. That can't be. We give $30 billion more in tax rate reductions to individuals than you do. You can't possibly beat us at every step of the way. It is a mathematical impossibility." And it is a mathematical impossibility if—but only if—you refuse to do what the Democrats refuse to do, and that is make the very, very rich pay their fair share of the tax.

The fact of the matter is that 80 percent of the benefits of State and local tax deductibility goes to the top 20 percent of the taxpayers, and unless you put in some sort of cap, there is no way to deliver fairness and equity throughout the code. And that is why the committee staff produced the figures that show that even when taking into account State and local itemization that the average American family that itemizes is better off under the Republican alternative than under the Democrat until you get to $75,000 a year of taxable income. Is that not astonishing, that the one income group that the Democrats favor better than the Republicans are $75,000 and over? I am telling you, if the word "Republican" were not on this alternative, liberal Democrats would be clamoring to get on board this particular bill.

But the beauty is that because by fairness we can deliver more tax relief with less loss of revenue, we place $30 billion less of a load on the back of an expanding economy, and if you look at ITC, at depreciation, at capital gains, at the corporate rate, at pensions, at spousal IRA's, savings, investment, timber, oil and retiring public and private employees, the Republican alternative solves the problem better and is more pro growth than the committee bill.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Tennessee [Mr. DUNCAN].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. DUNCAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 133, noes 294, not voting 7, as follows:

[Roll No. 470]

AYES—133

Archer
Badham
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boulter
Broomfield
Broyhill
Bryant
Burton (IN)
Callahan
Campbell
Carper
Chandler
Chappie
Cheney
Clinger
Coats
Cobey
Coble
Coleman (MO)
Combest
Coughlin
Courter
Craig
Crane
Daub
DeWine
Dickinson
Dornan (CA)
Duncan
Edwards (OK)
Emerson
Erdreich
Fawell
Fields
Frenzel
Gekas
Goodling
Gradison
Gregg
Grotberg
Hall, Ralph
Hansen
Hartnett
Hendon
Henry
Hiler
Hillis
Holt
Hopkins
Hunter
Hyde
Ireland
Jeffords
Johnson
Kasich
Kemp
Kindness

Kolbe
Lagomarsino
Latta
Lewis (CA)
Lewis (FL)
Livingston
Lott
Lowery (CA)
Lujan
Lungren
Marlenee
Martin (IL)
McCain
McCandless
McCollum
McDade
McEwen
McKernan
McMillan
Meyers
Michel
Miller (OH)
Miller (WA)
Moore
Moorhead
Morrison (WA)
Myers
Nielson
O'Brien
Oxley
Packard
Pashayan
Porter
Pursell
Quillen
Regula
Ritter
Roberts
Roemer
Rogers
Rowland (CT)
Rudd
Schaefer
Schuette
Schulze
Shaw
Shuster
Siljander
Skeen
Slaughter
Smith (NE)
Smith, Robert (NH)
Snyder
Spence
Stangeland
Strang
Stump
Sundquist
Swindall
Tauzin
Taylor
Thomas (CA)
Vander Jagt
Whitehurst
Whittaker
Wolf
Wylie
Young (AK)
Young (FL)
Zschau

NOES—294

Ackerman
Addabbo
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Armey
Aspin
Atkins
AuCoin
Barnard
Barnes
Bates
Bedell
Beilenson
Bennett
Berman
Bevill
Biaggi
Boehlert
Boggs
Boland
Boner (TN)
Bonior (MI)
Bonker
Borski
Bosco
Boucher
Boxer
Breaux
Brooks
Brown (CA)
Brown (CO)
Bruce
Burton (CA)
Bustamante
Byron
Carney
Carr
Chapman
Chappell
Clay
Coelho
Coleman (TX)
Collins
Conte
Conyers
Cooper
Coyne
Crockett
Daniel
Dannemeyer
Darden
Daschle
Davis
de la Garza
DeLay
Dellums
Derrick
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dowdy
Downey
Dreier
Durbin
Dwyer
Dyson
Early
Eckart (OH)
Eckert (NY)
Edgar
Edwards (CA)
English
Evans (IA)
Evans (IL)
Fascell
Fazio
Feighan
Fiedler
Fish
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Fowler
Frank
Franklin
Frost
Fuqua
Gallo
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Gordon
Gray (PA)
Green
Guarini
Gunderson
Hall (OH)
Hamilton
Hammerschmidt
Hatcher
Hawkins
Hayes
Hefner
Heftel
Hertel
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jacobs
Jenkins
Jones (NC)
Jones (OK)
Jones (TN)
Kanjorski
Kaptur
Kastenmeier
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
Kramer
LaFalce
Lantos
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lightfoot
Lipinski
Lloyd
Loeffler
Long
Lowry (WA)
Luken
Lundine
Mack
MacKay
Madigan
Manton
Markey
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McGrath
McHugh
Mica
Mikulski
Miller (CA)
Mineta
Mitchell
Moakley
Molinari
Mollohan
Monson
Montgomery
Moody
Morrison (CT)
Mrazek
Murphy
Murtha
Natcher
Neal
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens
Panetta
Parris
Pease
Penny
Pepper
Perkins
Petri
Pickle
Rahall
Rangel
Ray
Reid
Richardson
Ridge
Rinaldo
Robinson
Rodino
Roe
Rose
Rostenkowski
Roth
Roukema
Rowland (GA)
Roybal
Russo
Sabo
Savage
Saxton
Scheuer
Schneider
Schroeder
Schumer
Seiberling
Sensenbrenner
Sharp
Shelby
Shumway
Sikorski
Sisisky
Skelton
Slattery
Smith (FL)
Smith (IA)
Smith (NJ)
Smith, Denny (OR)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Stratton
Studds
Sweeney
Swift
Synar
Tallon
Tauke
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weaver
Weber
Weiss
Wheat
Whitley
Whitten
Williams
Wilson
Wirth
Wise
Wolpe
Wortley
Wright
Wyden
Yates
Yatron

NOT VOTING—7

Dymally
Gray (IL)
McKinney
Nelson
Price
St Germain
Young (MO)

☐ 2220

Mr. CONTE changed his vote from "aye" to "no."

Mr. RALPH M. HALL and Mr. RITTER changed their votes from "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Under a previous agreement by unanimous consent, the gentleman from Tennessee [Mr. DUNCAN] will be recognized for 3 minutes and the gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 3 minutes.

The Chair now recognizes the gentleman from Tennessee [Mr. DUNCAN] for 3 minutes.

Mr. DUNCAN. Mr. Chairman, I am pleased to allocate the last 3 minutes of my time to the Republican leader, the gentleman from Mississippi [Mr. LOTT].

Mr. LOTT. Mr. Chairman, the snake is out of the hole after all, and it looks like it is going to sprout wings before this night is over.

As we go now to the final votes on recommital and on final passage, I just have to leave a few thoughts with you here tonight. It has been a very confusing and interesting week for me, to say the least, over the past few days, and I feel a little bloodied perhaps, but not broken.

I have tried to listen to the plea of our President, and I have listened to the other side of the Capitol, hoping maybe I would hear something that would make me feel better about the future. But I hear an uncertain trumpet coming from the other body and about the future of this tax bill. So while I tell you, and you all know it, from my actions over the past 5 years and my votes, when the President has called for help, I have almost always been there.

It strikes to the bottom of my heart not to be there this time, but in this case I cannot support the President in this initiative because I feel the Rostenkowski bill is not right for the economy of this country.

☐ 2230

Let me list the reasons why not, just going down the items that really led me to the conclusion I could not support the Rostenkowski bill and why I think we should vote no on this bill.

The full $2,000 personal exemption is not in the bill; the spousal IRA is not there; the break points for the middle income are far too low. Some people, believe me, more than you would ever expect, are going to get a tax increase.

This bill, at best, may be tax change. It is not tax reform. And for a lot of Americans, individuals and businesses, they are going to get a tax increase, and I am sure that you are aware of that.

The brackets, they are not 3, they are 4. They are not at 35 percent. We have raised capital gains. The depreciation schedule needs a lot of work done on it. The timber industry in this country would be decimated, steel would be damaged, industrial development bonds would be more difficult, particularly in those areas like my own State, which is a poor State that needs it, and it is going to cost us jobs. I have seen estimates of as much as 1.5 million. I am telling you when you have had your rates reduced some, you are not impressed if you just lost your job.

This bill, Mr. Chairman, is not in the best interests of the country. We should stop it here. We still do not have to kill it tonight. But the thing that I have looked at over the past few days is the argument of simplicity. Do any of you think this is simple, fairness when you get your taxes raised? Is that fair? And if you lose your job, is that fair?

But as I thought about this this morning at 2 a.m., I could not help but for my own self recall something that I have said many times over the past 12 years as I was wrestling with my own conscience on this issue, a quote from Peter Marshall when he was Chaplain of the United States Senate. In one of his last prayers, he said, "Oh, God, give us the strength to stand for something lest we fall for anything."

I think we should stand against this Rostenkowski bill because it is not in the best interest of the economy of this country. I ask you to vote no on this bill.

Mr. ROSTENKOWSKI. Mr. Chairman, much ado has been made about the size of the bill. This is the 1985 code.

This is the 1954 code. We are replacing this with this, and there are 700 pages of transitional rules so that we can be fair to the American people.

But I do not want to talk about the size of the legislation. I think we would all have to agree that when you want to be fair, it really is difficult to be simple, and that is what the Ways and Means Committee tried to do, to be fair in the revising of the code that is known as the 1985 Tax Code.

Let us talk for a minute about where this bill came from. It came from Bradley-Gephardt. It came from Kemp-Kasten. It came from Dutch Reagan, who stood up on the gallery, and it came from the American people.

Why did it come and why are we here this evening discussing it? It is because there is a doubt in the minds of the constituents that we serve. They think that they are being cheated. They are discouraged and frustrated because they feel that those of us who serve in Government are not doing our job.

They cannot understand why somebody does not pay taxes.

You know, you have got to love the American people. They write that check out on April 15, maybe a little grudgingly, but they give us the most voluntary effort that really has been created by man.

And what are we doing to those people? We are faking them out. We are asking others with wealth who can afford an attorney or an accountant to figure out how they can avoid paying the taxes that the American middle-income earner whose taxes are withheld is paid. That is what this whole debate is about. It is getting fairness into the Code.

Let me tell you something. As a Democrat, whenever a Republican offers an opportunity for us to revise the Code to get simplicity and fairness into the Code, this Democrat will take advantage of them every time around the clock.

I do not want to conclude on a sour note. I think the debate has been lively and educational.

I want to compliment the Committee on Ways and Means. My members, Democrats and Republicans, worked together for a long time. I do not think anyone will stand up in the committee and say that it was easy. Arguments and debates were vigorous, sometimes almost feisty enough to think that fists were going to fly; but we have got a document here tonight that we can begin the trail of reform for the American people.

I never said that that document was perfect. There are a lot of things in that bill that I do not like, but as chairman of the committee I made a commitment to be fair. There are people that would love to see me wink at them, knowing that I as chairman could take care of them. That did not happen and I do not think a member of my committee can stand up and say there was anybody that came before our committee that I treated more favorably than anyone else.

Let me just conclude by saying thank you for the cooperation that I have received. It has been a long journey, but I have enjoyed it.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. NATCHER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3838) to reform the internal revenue laws of the United States, pursuant to House Resolution 343, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the following amendments are considered as having been agreed to in the House:

(1) An amendment to strike line 23 on page 840 through line 12 on page 841 and insert in lieu thereof the following:

"(2) REPEAL OF SPECIAL RULE FOR EMPLOYEES' ANNUITIES.—The amendments made by paragraph (1) of subsection (c) shall apply where the annuity starting date is after July 1, 1986," and

(2) An amendment to strike out subtitle C of title XV and the corresponding portion of the table of contents.

Under the rule, the previous question is ordered.

The question is on the amendments adopted in the Committee of the Whole.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. CRANE

Mr. CRANE. Mr. Speaker, I offer a motion to recommit. I think it is flawed and it should go back to the committee for reformation.

The SPEAKER. The gentleman obviously is opposed to the bill.

Mr. CRANE. Yes, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

Mr. CRANE. Mr. Speaker, may I make a unanimous-consent request at this point?

The SPEAKER. The gentleman may state his request.

Mr. CRANE. Mr. Speaker, my unanimous request is that the distinguished Chairman of the Ways and Means Committee would be entitled to discuss this recommittal motion for 2 minutes and then I might have 2 minutes—or 5, would the gentleman prefer 5?

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

Mr. ROSTENKOWSKI. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. CRANE moves to recommit the bill, H.R. 3838, to the Committee on Ways and Means.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. CRANE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 171, nays 256, not voting 7, as follows:

[Roll No. 471]

YEAS—171

Alexander
Andrews
Applegate
Archer
Armey
AuCoin
Badham
Bartlett
Barton
Bateman
Bentley
Bilirakis
Bliley
Boehlert
Boggs
Boulter
Breaux
Brooks
Brown (CO)
Broyhill
Bryant
Burton (IN)
Callahan
Campbell
Carney
Carr
Chandler
Chapman
Chappie
Cheney
Coats
Cobey
Coble
Coleman (MO)
Coleman (TX)
Combest
Coughlin
Craig
Crane
Dannemeyer
de la Garza
DeLay
Dickinson
DioGuardi
Dowdy
Dreier
Duncan
Eckert (NY)
Edwards (OK)
Emerson
English
Fawell
Fiedler
Fields
Fish
Franklin
Frenzel
Frost
Gallo
Gilman
Gingrich
Green
Gregg
Grotberg
Gunderson
Hall (OH)
Hall, Ralph
Hammerschmidt
Hansen
Hartnett
Hendon
Hiler
Hillis
Holt
Hopkins
Horton
Hubbard
Huckaby
Hunter
Hutto
Jeffords
Jones (OK)
Kasich
Kindness
Kolbe
Kramer
Leath (TX)
Lewis (CA)
Lewis (FL)
Livingston
Lloyd
Loeffler
Long
Lott
Lowery (CA)
Lungren
Mack
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCain
McCandless
McCollum
McCurdy
McMillan
Miller (OH)
Miller (WA)
Molinari
Monson
Montgomery
Moore
Moorhead
Morrison (WA)
Myers
Nielson
O'Brien
Ortiz
Oxley
Packard
Parris
Pashayan
Pursell
Ray
Ridge
Ritter
Roberts
Roemer
Rogers
Roth
Rudd
Saxton
Schaefer
Schulze
Sensenbrenner
Shaw
Shelby
Shumway
Shuster
Siljander
Skeen
Slaughter
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Spence
Stenholm
Strang
Stump
Sundquist
Sweeney
Swindall
Synar
Tallon
Tauke
Tauzin
Thomas (CA)
Vucanovich
Walker
Watkins
Weber

Whittaker
Wilson
Wirth
Wolf
Wortley
Wright
Wyden
Young (AK)
Zschau

NAYS—256

Ackerman
Addabbo
Akaka
Anderson
Annunzio
Anthony
Aspin
Atkins
Barnard
Barnes
Bates
Bedell
Beilenson
Bennett
Bereuter
Berman
Bevill
Biaggi
Boland
Boner (TN)
Bonior (MI)
Bonker
Borski
Bosco
Boucher
Boxer
Broomfield
Brown (CA)
Bruce
Burton (CA)
Bustamante
Byron
Carper
Chappell
Clay
Clinger
Coelho
Collins
Conte
Conyers
Cooper
Courter
Coyne
Crockett
Daniel
Darden
Daschle
Daub
Davis
Dellums
Derrick
DeWine
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Downey
Durbin
Dwyer
Dyson
Early
Eckart (OH)
Edgar
Edwards (CA)
Erdreich
Evans (IA)
Evans (IL)
Fascell
Fazio
Feighan
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Fowler
Frank
Fuqua
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Glickman
Gonzalez
Goodling
Gordon
Gradison
Gray (PA)
Guarini
Hamilton
Hatcher
Hawkins
Hayes
Hefner
Heftel
Henry
Hertel
Howard
Hoyer
Hughes
Hyde
Ireland
Jacobs
Jenkins
Johnson
Jones (NC)
Jones (TN)
Kanjorski
Kaptur
Kastenmeier
Kemp
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lagomarsino
Lantos
Latta
Leach (IA)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lightfoot
Lipinski
Lowry (WA)
Lujan
Luken
Lundine
MacKay
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McDade
McEwen
McGrath
McHugh
McKernan
Meyers
Mica
Michel
Mikulski
Miller (CA)
Mineta
Mitchell
Moakley
Mollohan
Moody
Morrison (CT)
Mrazek
Murphy
Murtha
Natcher
Neal
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Owens
Panetta
Pease
Penny
Pepper
Perkins
Petri
Pickle
Porter
Quillen
Rahall
Rangel
Regula
Reid
Richardson
Rinaldo
Robinson
Rodino
Roe
Rose
Rostenkowski
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Savage
Scheuer
Schneider
Schroeder
Schuette
Schumer
Seiberling
Sharp
Sikorski
Sisisky
Skelton
Slattery
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Snowe
Snyder
Solarz
Spratt
Staggers
Stallings
Stangeland
Stark
Stokes
Stratton
Studds
Swift
Taylor
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walgren
Waxman
Weaver
Weiss
Wheat
Whitehurst
Whitley
Whitten
Williams
Wise
Wolpe
Wylie
Yates
Yatron
Young (FL)

NOT VOTING—7

Dymally
Gray (IL)
McKinney
Nelson
Price
St Germain
Young (MO)

☐ 2245

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

☐ 2255

The **SPEAKER**. The question is on the passage of the bill.

The bill was passed.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. **EDWARDS** of Oklahoma. Mr. Speaker, I would like the record to show that had I been able to vote on the tax bill I would have voted "no."

PERSONAL EXPLANATION

Mr. **RUDD**. Mr. Speaker, I would like the record to show that had I been able to vote on the tax bill I would have voted "no."

PERSONAL EXPLANATION

Mr. **PARRIS**. Mr. Speaker, I ask that the record show that had I been able to vote on the tax bill, H.R. 3838, I would have voted "no."

PERSONAL EXPLANATION

Mr. **CRAIG**. Mr. Speaker, I ask that the record show that had I been able to vote on the tax bill, H.R. 3838, I would have voted "no."

PERSONAL EXPLANATION

Mr. **NIELSON** of Utah. Mr. Speaker, I ask that the record show that had I been able to vote on the tax bill, H.R. 3838, I would have voted "no."

PERSONAL EXPLANATION

Mr. **ROEMER**. Mr. Speaker, I ask that the record show that had I been able to vote on the tax bill, H.R. 3838, I would have voted "no."

PERSONAL EXPLANATION

Mr. **COMBEST**. Mr. Speaker, I ask that the record show that had I been able to vote on the tax bill, H.R. 3838, I would have voted "no."

PERSONAL EXPLANATION

Mr. **HUBBARD**. Mr. Speaker, I ask that the record show that had I been able to vote on the tax bill, H.R. 3838, I would have voted "no."

PERSONAL EXPLANATION

Mr. **CLINGER**. Mr. Speaker, I ask that the record show that had I been able to vote on the tax bill, H.R. 3838, I would have voted "no."

PERSONAL EXPLANATION

Mr. **BURTON** of Indiana. Mr. Speaker, I ask that the record show that had I been able to vote on the tax bill, H.R. 3838, I would have voted "no."

CONSIDERATION OF HOUSE RESOLUTION 335

Mr. **MICHEL**. Mr. Speaker, pursuant to House Resolution 343, I call up the resolution (H. Res. 335) to express the sense of the House of Representatives with respect to the effective date of certain provisions of tax reform, and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. Res. 335

Whereas the prospect for significant revision of the Tax Code has been pending for over a year and may continue for the greater part of next year;

Whereas because of the possibility of significant tax changes occurring with an effective date of January 1, 1986, many individuals and businesses have been unable to determine with certainty how to plan their investments in the near future and for the long term;

Whereas such uncertainty over the prospects of tax reform and its effective date may result in an adverse economic impact on the country as a whole;

Whereas it is necessary to minimize the economic impact of any delay or uncertainty which major tax reform may create; and

Whereas some provisions of current tax law will expire in 1986, creating the necessity for their extension in order to prevent an adverse effort on economic growth: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that the chairman and ranking member of the House Committee on Ways and Means are hereby instructed, in conjunction with the Secretary of the Treasury and the chairman and the ranking member of the Senate Committee on Finance, to make public not later than December 31, 1985, an agreed upon statement which would have the effect of postponing the effective date until January 1987, of those selected items of tax reform the delay of which would reduce the adverse economic effects which might otherwise be caused by the uncertainty as to the date of final enactment which still recognizing the need for some retroactive dates for certain expiring provisions.

The **SPEAKER**. The gentleman from Illinois [Mr. MICHEL] is recognized for 30 minutes.

Mr. **MICHEL**. Mr. Speaker, I yield myself such time as I may consume.

PARLIAMENTARY INQUIRIES

Mr. **SHAW**. Mr. Speaker, could I ask for a parliamentary inquiry?

The **SPEAKER**. Will the gentleman from Illinois [Mr. MICHEL] yield for a parliamentary inquiry?

Mr. **MICHEL**. I yield to the gentleman from Florida.

Mr. **SHAW**. Mr. Speaker, there are some of us on both sides of the aisle who are a little confused at this particular point.

Mr. Speaker, you got up earlier today and told about what a revolutionary type of bill was before the House. Then we found that it passed on a voice vote.

The **SPEAKER**. The gentleman will state his parliamentary inquiry.

Mr. **SHAW**. My parliamentary inquiry, Mr. Speaker, is: Did this revolutionary tax bill pass on a voice vote tonight?

The **SPEAKER**. The Chair would answer in the affirmative. There were no Members on either side that stood to ask for a rollcall.

Does the gentleman want to challenge the Chair? The Chair would say that he looked with deliberation and there was no Member that was standing there, and your aide was standing down there in the well and looked for a Member. Now do not suggest to the Chair that he did not try exceptionally to be fair and honest.

Mr. WEBER. Mr. Speaker, nobody accused the Chair of that.

Mr. ARCHER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. ARCHER. Would it not be within the rules and appropriate at this time to move to vacate the proceedings so that we can have a recorded vote?

The SPEAKER. The gentleman needs unanimous consent.

Mr. ARCHER. Mr. Speaker, I make that unanimous-consent request.

Mr. BONIOR of Michigan. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

The Chair resents Members talking to the Speaker of the House in the manner in which they did, when he very deliberately looked down there, and at your own staff people there, and nobody rose.

Mr. WEBER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. WEBER. I just want to say to the Speaker on behalf of this Member, no one questions the Speaker's fairness in the application of this decision.

The SPEAKER. The Chair appreciates that.

Mr. WALKER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman from Illinois [Mr. Michel] has the time.

Mr. MICHEL. Mr. Speaker, I yield to the gentleman from Pennsylvania.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. WALKER. Mr. Speaker, is it not appropriate, though, that the House should be in order at the time that the question is put on final passage?

The SPEAKER. The House was in order at that particular time. The gentleman was in his seat.

Mr. WALKER. Mr. Speaker, I was in the back of the Chamber and I did not even hear the question being put.

The SPEAKER. The Chair would say that with deliberation he looked at the Republican side and was awed that there was not a rollcall requested.

Mr. WALKER. Yes, I was, too, Mr. Speaker.

I thank the Speaker.

The SPEAKER. The Chair recognizes the gentleman from Illinois [Mr. Michel].

Mr. MICHEL. Mr. Speaker, now that the House has passed the tax reform bill, it is important that we clarify the issue of effective dates.

When the bill was drafted in committee, I'm sure the expectation was that it would become law yet this year and therefore the provisions taking effect in 1986 would be prospective in nature.

However, that obviously is not going to happen. In fact, it is likely to be late next year before a tax bill is ultimately enacted. Under such circumstances, leaving a bill hanging loose with effective dates that would end up being retroactive in nature cannot help but leave a cloud hanging over our economy.

We do not want businesses and individuals canceling or delaying planned investments because of uncertainty as to whether those investments will be tax deductible. Reduced investment will weaken the economy and cost us jobs.

The American economy is strong and resilient. It can withstand inflation and recession and come bouncing back.

What it cannot withstand is constant anxiety and fear and boubt. And that is exactly what it will be faced with for months and months—if we fail to pass a resolution with respect to the effective dates.

That is why I have introduced a resolution that will do just that.

Mr. BADHAM. Mr. Speaker, point of order.

The SPEAKER. The gentleman from Illinois [Mr. Michel] must yield for a point of order.

Mr. BADHAM. Mr. Speaker, the House is not in order, and I perceive that we must listen very, very carefully so that the House might know everything that does transpire.

Mr. MICHEL. Mr. Speaker, the resolution makes it the sense of the House that the chairman and ranking member of the House Committee on Ways and Means, in conjunction with the Secretary of the Treasury and the chairman and the ranking member of the Senate Committee on Finance are to make public, not later than December 31, 1985, a statement which would have the effect of postponing the effective date until January 1987, of selected items of tax reform.

The resolution identifies those selected items as those—and I quote—"the delay of which would reduce the adverse economic effects which might otherwise be caused by the uncertainty as to the date of final enactment."

Now that is the language of a resolution. Let me put it in plain English.

What we are talking about is relieving every worker, every businessman, every investor of the uncertainty that would come if we put the American economy on hold for almost a year while the other body debates tax reform.

What are we talking about when we say provisions that need to be moved to January 1, 1987? Let me give you one big example:

We are talking about ACRS/ITC. The kind of job-producing, industry-building, investment-attracting provisions that can be at the heart of economic progress.

But we also realize that there is a need for retroactive dates for certain expiring provisions, such as research and experimentation credit, targeted jobs credits, and exclusion for employer-provided group legal service. The resolution provides for the recognition of such retroactive dates.

We understand the complexity of the tax bill. We know that there are certain provisions that need to be "date of enactment" such as any change in trusts and real estate provisions.

So my resolution provides for the chairman and ranking members and the Secretary of the Treasury to meet, deliberate and come up with certain dates for these various provisions.

I am reminded of the question from Scripture:

> If the trumpet gives an uncertain sound, who shall prepare himself to the battle?

This resolution makes certain that tax reform will have the ringing clarity of certainty, that it will give American workers and American businessmen a sense of confidence as they do battle for growth and expansion and progress, here at home and in the world market.

I was not on the floor at the time the measure was passed by voice vote. I was in my own office. I would have said that I voted against the bill because it did not meet my goals for reform or simplification. I voted against it to accurately reflect the needs of my constituents and their priorities. They need jobs. Their priority is making enough money to pay taxes. They would be hurt by the committee bill. They will be hurt worse if there isn't some certainty over effective dates. Don't penalize them and millions of others because we couldn't get the job done on tax reform this year.

Those who were part of the process know that passing the tax reform bill was a difficult and at times excruciating process.

That work will come to nothing if we leave the American people uncertain as to when provisions take place.

We owe it to the American people not to leave them dangling in uncertainty and doubt.

I urge passage of this resolution because it gives the tax reform measure we just passed the kind of direction and stability it needs if it is going to capture the support and the confidence of the American people.

Mr. JONES of Oklahoma. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to my distinguished friend, the gentleman from Oklahoma [Mr. Jones].

Mr. JONES of Oklahoma. Mr. Speaker, for clarification on the gentleman's resolution, as the distinguished gentleman from Illinois is aware, there are a number of provisions of H.R. 3838 which affect tax-exempt bonds issued by State and local governments. The bill makes numerous significant changes in the rules which affect tax-exempt bonds. These bonds are the principal source of funds for State and local government's capital construction projects and economic development programs. Uncertainty created by the threat of retroactive loss of tax exemption would substantially inhibit the sale of tax-exempt bonds thus making this source of capital more costly or even unavailable in some instances.

Given these facts, am I correct in assuming that provisions of H.R. 3838 which affect tax-exempt bonds fall into the category of selected items of tax reform described in the distinguished gentleman's resolution the delay of which until January 1987 would reduce the adverse economic effects caused by uncertainty over the date of final enactment of H.R. 3838?

☐ 2310

Mr. MICHEL. I recognize what the gentleman has said. The distinguished gentleman from Oklahoma is correct. I regard the provisions of H.R. 3838, which affect tax-exempt bonds as an item of tax reform where uncertainty over effective dates would have adverse economic effects unless such dates are postponed, and I know that the chairman and ranking member of the Committee on Ways and Means will consider postponing the effective dates of these provisions as well as other items.

Mr. JONES of Oklahoma. I thank the gentleman.

Mr. PICKLE. Will the gentleman yield?

Mr. MICHEL. I yield to the gentleman.

Mr. PICKLE. I am glad the gentleman has introduced his resolution, and I support the resolution.

Mr. Speaker, I do want to add my colloquy, though, to the words just exchanged between the gentleman from Oklahoma and the minority leader.

With respect to the tax-exempt bonds, we do not want to put, we need to extend these dates so that we can remove some uncertainty, but neither do we want to in the area of tax-exempt bonds have an open invitation for cities or counties throughout the country to rush out and issue more and more of these bonds, because if they do, the cap which we have placed in order is going to be breached, but sooner than would.

We ought to be careful that we are not giving carte blanche authority to just extended these bonds indiscriminately.

Mr. MICHEL. I certainly agree with the comments of the gentleman, and that is one of the reasons, obviously, for my having introduced the resolution.

I would be happy to yield to the gentleman from Illinois.

Mr. ROSTENKOWSKI. If the gentleman will yield, I think that at this time it is very difficult for any one of us to make any commitment on any specifics; but as I understand what the resolution calls for is that the Secretary, the chairman of the Finance Committee and ranking members of the Committee on Ways and Means will sit down and discuss; but to be specific about any bonds at this point in time I think is unfair to the American people and to the bond market.

If the gentleman will yield, I would like to make a statement.

Mr. MICHEL. I am reminded of the distinguished gentleman's predecessor managing a bill a few years back, and the same question arose. I recall also, I think there was a vote in the other body of 93 to 3, thinking that would allay those misapprehensions out there on the part of the bond market, and it went crazy. I mean, people did not know where they were, and that is the kind of thing I certainly do not want to see have happen, and that is the reason for the introduction of the resolution.

As the gentleman says, we are not defining it clearly here; what I am saying is, we have got to have confidence in the chairman, the ranking member here, same over in the other body, with the Secretary of the Treasury, and because of this being December 17, by the end of the month, coming to some kind of general consensus whereby we can make a declaration to the American people out there.

Mr. ROSTENKOWSKI. Will the gentleman yield to me to make a statement?

Mr. MICHEL. Mr. Speaker, I reserve the balance of my time. The gentleman has 30 minutes on his own time.

The SPEAKER. Does the gentleman from Illinois [Mr. Rostenkowski] desire his time?

Mr. ROSTENKOWSKI. Yes, I do, Mr. Speaker.

The SPEAKER. The gentleman from Illinois [Mr. Rostenkowski] is recognized for 30 minutes.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the rule under which we have considered H.R. 3838 allows the House of Representatives now to consider House Resolution 335 expressing the sense of the House regarding the effective dates of certain provisions contained within this tax reform legislation.

House Resolution 335 states that it is the sense of the House of Representatives that Congressman Duncan and I, along with the Secretary of the Treasury and the chairman of and the ranking member of the Senate Committee on Finance, make public by December 31, 1985, a statement postponing the effective date until January 1987, of selected items of tax reform. The items selected for delay are unspecified but would be selected to reduce adverse economic effects that might otherwise be caused by uncertainty regarding the date of final enactment of this major legislation. The statement would continue to recognize the need for some retroactive dates, particularly for expiring provisions.

Mr. Speaker, I support this resolution. When considering such major revisions as those contained within H.R. 3838, the House and Senate tax-writing committees in the past have issued statements regarding proposed effective dates. In fact, two statements were issued earlier this year regarding the effective date of certain tax reform changes.

Pending legislation should not cause unwarranted economic disruptions. However, in determining which effective dates are appropriate for postponement, those involved in the negotiations must consider the revenue impact of any chance as well as the effect upon tax compliance.

The statement also must consider any adverse effect of a delay in effective dates for individual provisions. For example, a delay for some provisions could result in a rush to market for transactions that are purely tax motivated. This adverse effect must be weighed against the need for certainty provided by a deferred effective date.

I will work closely with Mr. Duncan, the Treasury Secretary, and the Senate Finance Committee leaders to develop an appropriate statement regarding these important effective dates.

Mr. Speaker, I support this resolution.

Mr. MICHEL. Mr. Speaker, I yield myself such time as I may consume, and I yield to my friend, the gentleman from Arizona [Mr. McCain].

Mr. McCAIN. I would like to have the intent of this resolution clarified as it applies to section 903 of H.R. 3838, relating to the recognition of gain on mortgages collateralizing homeowner or builder bonds. This section would change the manner in which the gain on mortgages collateralizing these bonds would be recognized, depending upon the dates on which the pledges of the mortgages are made. Subsection (c)(3) of section 903 provides for a 3-year phase-in, beginning on January 1, 1986, of certain secured indebtedness to which this section would apply.

These bonds are issued on an ongoing basis. There would therefore be uncertainty among those issuing the bonds if they did not have an assurance of the effective date of this new provision. I would therefore ask the minority leader if it is his intention that the discussion noted in this resolution would apply to section 903.

Mr. MICHEL. I would advise the gentleman from Arizona that I share his concern over the effective date of section 903. I can only reiterate what has already been said with respect to my resolution; namely, we are directing the principles involved in tax reform to make public by the end of this year a statement outlining the effective dates on the provisions of the tax bill.

I do agree, however, with the gentleman from Arizona [Mr. McCain] that this provision, along with many others in this bill, should be given every consideration with respect to postponing the effective date to January 1987.

I would be happy to yield to my friend from Maine [Mr. McKernan].

Mr. McKERNAN. I thank the gentleman for yielding.

Mr. Speaker, I would just like to follow up on this, because many of us who, had we had the opportunity, would have voted for final passage of this bill, would have done so because of this particular resolution which we feel will take care of the uncertainty in the marketplace, as we try to finally come to a consensus over the next year on tax reform.

We have one industry in Maine that is particularly important; the timber industry. I wonder if the changes in that particular industry are the types of changes that we are talking about in this particular resolution.

Mr. MICHEL. Well, there are varying changes throughout, for whatever industry, and they are at different times in any given year, expiration dates and all the rest.

What I am trying to get here, Mr. Speaker, is a consensus on all those appropriate dates; and that is what we have chosen; the chairman, the ranking member, and the principles here, to work that out together so that everybody knows exactly where we are.

□ 2320

Mr. McKERNAN. And I take it this would also apply to situations where there have been investments that have been started that perhaps the historical tax credit might apply to but with the current 1986 date would adversely affect those projects and we would be pushing that off as well to 1987?

Mr. MICHEL. The gentleman is absolutely correct.

Mr. Speaker, I yield to my friend from California [Mr. Thomas].

Mr. THOMAS of California. I thank the gentleman for yielding.

It is my understanding that the purpose of this nonbinding resolution is to minimize the adverse economic effects that might otherwise be the case in terms of any particular dates that are in the committee bill that has just been passed by voice vote. I would ask the gentleman from Illinois that if there are certain dates in the bill which would add to the deficit if they are not changed, does that fall under the adverse economic effects as defined by this resolution?

Mr. MICHEL. Well, I would suspect it would.

Mr. THOMAS of California. In the bill just passed the reduced rates are not scheduled to go into effect until January 1, 1986. The individual standard deduction change is not scheduled to go into effect until January 1987. Is it the assumption of the gentleman from Illinois that those dates will be pushed back to the middle of 1987 and to January 1, 1988, because if we do not do otherwise there will be, in fact, an increase in the deficit?

Mr. MICHEL. As I understand what the gentleman is saying, that, of course, is going to be one of those decisions that will have to be determined by the principals, and I think there are no more appropriate ones than those who have to deal with this subject.

Mr. THOMAS of California. So in terms of the standard deduction, it is entirely possible that to make sure there is no deficit because of the carefully picked dates in the bill, that it is possible that the standard deduction would not go into effect until January 1, 1988.

Mr. MICHEL. That is a possibility.

Mr. THOMAS of California. I thank the gentleman for yielding.

Mr. MICHEL. Mr. Speaker, might I ask how much time remains for this gentleman from Illinois?

The SPEAKER. The gentleman from Illinois [Mr. Michel] has 12 minutes remaining.

Mr. MICHEL. And the gentleman from Illinois?

Mr. ROSTENKOWSKI. Mr. Speaker, I yield back the balance of my time.

Mr. MICHEL. Mr. Speaker, I yield such time as he may consume to the gentleman from Nebraska in order to make his point.

Mr. DAUB. Mr. Speaker, I am sorry, but I am not going to be able to speak very loudly, and I would like to be heard.

I do wish, Mr. Speaker, that every Member of the House could read this because it is a resolution and it is designed to express the sense of the House with respect to certain effective dates in the bill just passed. Now since the finality of what we did tonight may have been somewhat diluted by the voice vote on final passage of the bill, the gentleman from Illinois has a resolution that is extremely important to the way in which every Member of this House will take what we did here tonight home to explain to our constituents. I would like us to remember the earlier importance attached by the gentleman from Illinois [Mr. Rostenkowski], and the chairman of the Finance Committee in the other body, and the Secretary of the Treasury with respect to a year ago making a similar announcement with respect to effective dates. It seems to me that that precedent makes in order the favorable consideration of this resolution at this time because it is possible that there could be some delay in the other body in their consideration of this matter.

So I would think that it is most genuinely in order that we act in a bipartisan way and pass this resolution.

The SPEAKER. The gentleman from Illinois [Mr. Michel] has 10 minutes remaining.

Mr. MICHEL. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. Frenzel].

Mr. FRENZEL. I thank the minority leader for yielding.

Will the gentleman tell me what force and effect this resolution has? It directs four individuals to make decisions——

Mr. MICHEL. Five.

Mr. FRENZEL. Five individuals to make decisions for the rest of us, and when they make that decision then all of the world out there, the people who are going to issue bonds, build factories, or do whatever else they are going to do are going to be fully assured that these four or five wonderful people have been exactly right in their prediction of the dates, or does it mean the world is still going to be uncertain and just have some modest hopes that it will come out the way the gentleman suggests?

Mr. MICHEL. Well, it is quite obvious that the five gentlemen that we are talking about here, the two members of the Committee on Ways and Means, and the Senate Finance Committee, and the Secretary of the Treasury, on their own, cannot legislate on their own but I think as significant individuals as they are can at least give some expression as to where we are and what the prospects are for a really bona fide effective date, assuming, for example, that the bill being passed here now could not possibly be passed by the other body, from all indications, until next May or June. There has to be some kind of expression made by these individuals, it seems to me, to give a measure of confidence to those out there who are withholding investing, or planning, or expanding, or whatever, and particularly in the bond market where we have so many things in a state of disarray until some declaration is made by these five individuals.

Mr. FRENZEL. If the gentleman would yield further.

Mr. MICHEL. I yield to the gentleman.

Mr. FRENZEL. I think the gentleman's resolution is a good one, but it does seem to me that it is trying to make a swan out of a very ugly duckling. And the resolution really has the full force and effect of a cloakroom rumor. I would hope it would do more for us, but it certainly reveals some of the clay underpinning of the bill just passed.

I thank the gentleman.

Mr. MICHEL. Well, I would simply say too that, frankly, it does not have the full force and effect of law other than to bring those five parties together and force some kind of declaration. In my judgment, that will be helpful.

Mr. Speaker, unless there are further requests for time, I move the previous question on the resolution.

The SPEAKER. Pursuant to the rule, the previous question is ordered on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. EDWARDS of Oklahoma. Mr. Speaker, I ask unanimous consent that the record show that had I been able to vote on the tax bill I would have voted "no."

PERSONAL EXPLANATION

Mr. RUDD. Mr. Speaker, I wish to have the record show that had I been able to vote on the tax bill I would have voted "no."

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Marks, one of his secretaries.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. When the House adjourns tonight, the House will adjourn to meet at 10 o'clock tomorrow morning.

TEXTILE AND APPAREL TRADE ENFORCEMENT ACT OF 1985—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 99-137)

The SPEAKER laid before the House the following veto message from the President of the United States:

To the House of Representatives:

I am returning herewith without my approval H.R. 1562. It is my firm conviction that the economic and human costs of such a bill run far too high—costs in foreign retaliation against U.S. exports, loss of American jobs, losses to American businesses, and damage to the world trading system upon which our prosperity depends.

At the same time, I am well aware of the difficulties of the apparel, textile, copper, and shoe industries, and deeply sympathetic about the job layoffs and plant closings that have affected many workers in these industries.

As I stated in my trade speech in September, I will not stand by and watch American businesses fail because of unfair trading practices abroad. I will not stand by and watch American workers lose their jobs because other nations do not play by the rules.

I am directing Secretary of the Treasury Baker, as Chairman Pro Tempore of the Economic Policy Council, to investigate the import levels of textiles and apparel to determine if these imports have exceeded those limits agreed upon in international negotiations. I have directed that he report back to me within 60 days and recommend changes in existing administrative and enforcement procedures, if necessary, so that corrective action is taken.

Also, I am directing the Office of the United States Trade Representative to most aggressively renegotiate the Multi-Fiber Arrangement (MFA) on terms no less favorable than present. Our trading partners must be put on notice that we will not allow unfair trading practices to continue. I am further directing Ambassador Yeutter to closely consult with the U.S. textile and apparel industry to ensure that their views will be fully represented during the negotiations.

Finally, I have directed Secretary of Labor Brock to work with the Congress to provide an additional $100 million increase in funds appropriated to help retrain and relocate displaced workers under the Job Training Partnership Act. The Job Training Partnership Act is a more effective way than Trade Adjustment Assistance for the Secretary of Labor to target those American workers and geographic areas most affected. This is the way we can best help dislocated workers—and without pitting one American worker against another.

Free and fair trade policies have helped create nearly 9 million new jobs in the last 3 years and given us the highest rate of employment in our Nation's history. Still, for some workers in troubled industries, these are difficult times. The personal distress of those who lose their jobs is very real. None of us wants to see American workers lose their jobs or American businesses suffer. I pledge to you to do everything possible to combat unfair trade practices. But in so doing we must take wise and positive steps to redress wrongs. To do otherwise would be counterproductive.

Unfortunately, H.R. 1562 would invite immediate retaliation against our exports resulting in a loss of American jobs in other areas. Because this bill is so sweeping in its provisions, we could expect that retaliation to be extensive. The United States exported tens of billions of dollars worth of goods to the countries which would be most affected by this measure, including approximately a third of our farm exports. Workers in agriculture, aerospace, high-tech electronics, chemicals, and pharmaceuticals would be the first to feel the retaliatory backlash, but the damaging effects would soon be felt by every American in the form of lost jobs, higher prices, and shrinking economic growth.

We are pursuing an aggressive trade policy, based on the knowledge that American know-how is still number one and that American industry thrives on fair competition. Where U.S. industries are hurt by unfair practices, we will continue to take vigorous actions. Where foreign trade barriers lock out U.S. exports, we will do everything in our power to knock those barriers down. Our philosophy will always be to increase trade, increase economic growth, and increase jobs. We want to open markets abroad, not close them at home. In a fair and open world market, we know that America can out-produce and out-compete anybody.

RONALD REAGAN.

THE WHITE HOUSE, *December 17, 1985.*

☐ 2335

The SPEAKER. The objections of the President will be spread at large upon the Journal, and the message and bill will be printed as a House document.

Mr. JENKINS. Mr. Speaker, I ask unanimous consent that further consideration of the veto message of the President on the bill, H.R. 1562, be postponed until August 6, 1986.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

Mr. FRENZEL. Mr. Speaker, reserving the right to object, I do so in order that the gentleman from Georgia [Mr. JENKINS] can explain the nature of this request.

I yield to the distinguished gentleman from Georgia.

Mr. JENKINS. Mr. Speaker, the President in his message, the veto message, has delineated certain action that the administration intends to take in the coming months. This will give the House, as well as the administration, ample opportunity to see if the matter can be addressed without taking up the veto message until August 6.

Mr. FRENZEL. Mr. Speaker, further reserving the right to object, I yield to the distinguished gentleman from South Carolina [Mr. CAMPBELL].

Mr. CAMPBELL. I thank the gentleman for yielding.

Mr. Speaker, as the gentleman from Georgia has stated, the President has delineated certain action. The fact is that it is a way to deal with the problems without the confrontation of the veto, and we feel that the White House is trying to deal in good faith and we would like to try to give them that opportunity.

Mr. FRENZEL. Mr. Speaker, further reserving the right to object, it is obvious that the White House and those people representing textile districts are trying to work out an accommodation which will avoid unnecessary confrontation. Those of us who support the President's veto believe that this is probably in the best interest of the country and all of the institutions.

Mr. Speaker, I therefore withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

AUTHORIZING THE SPEAKER TO DECLARE RECESSES ON LEGISLATIVE DAY OF WEDNESDAY, DECEMBER 18, 1985

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that it may be in order for the Speaker to declare recesses at any time on the legislative day of Wednesday, December 18, 1985, subject to the call of the Chair.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. FRENZEL. Mr. Speaker, reserving the right to object, could the gentleman tell us what kind of notice the Members are going to have, particularly when we are confronted with rather abrupt presentations of conference reports?

Mr. WRIGHT. If the gentleman will yield, we will give as much notice as we possibly can. That has been our practice. I think the gentleman would know that we have tried to give as much notice as is possible.

We do not know when the conferences are going to be ready to report. We do not have much business left to transact; therefore, it is meaningless to keep Members in session. We usually give 15 minutes notice.

Mr. FRENZEL. If the gentleman will assure us that we will have no less than 15 minutes, I think many of us would feel relieved.

Mr. WRIGHT. I think the gentleman can know that there would be at least 15 minutes notice given prior to resumption of the House, when the House is in recess. We ring bells.

Mr. FRENZEL. I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON TOMORROW

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on tomorrow.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

GENERAL LEAVE

Mr. GALLO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous material, on the subject of House Resolution 343, the resolution providing for the consideration of the bill, H.R. 3838, the Tax Reform Act of 1985.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

FREE FIVE MARYLAND RABBIS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland [Mr. BARNES], is recognized for 5 minutes.

Mr. BARNES. Mr. Speaker, last Friday five Maryland rabbis went to prison for conducting a peaceful vigil in front of the Soviet Embassy. They are serving a 15-day prison sentence at the Federal Correctional Institute at Petersburg, VA. The rabbis were protesting the harsh treatment of six Soviet Jewish prisoners of conscience.

I have asked the President to immediately pardon these five rabbis. And today I am introducing a resolution to that effect.

These rabbis were sent to prison before they had the chance to appeal their case or settle their affairs. The unusually harsh sentence and its excessively swift execution are matters of concern, particularly in the middle of this religious holiday season and in light of our Government's refusal to prosecute demonstrators in front of the South African Embassy.

In solidarity with jailed Soviet Prisoners of Conscience, the rabbis rejected probation. In essence, these five Maryland rabbis are, like their Soviet friends, "prisoners of conscience." It offends the moral conscience that those who protest harsh Soviet treatment would, themselves, be serving 15 days in a Federal penitentiary. This is an excessive punishment by our legal system, which, unlike the Soviet system, respects the importance of freedom of religion and conscience.

A Presidential pardon would leave the Soviets no justification for equating our actions with their abuses, but would instead be a real-life example of what true justice and compassion in this holiday season mean.

There are over 3 million Jews in the Soviet Union. They understand what it is that makes our two countries so fundamentally different. The President's signature can send these rabbis back to their families, their congregations, and their religious duties. I do not lightly ask this pardon of the President, but I believe it is the right course, the just course, in this case.

The text of my resolution follows:

H. RES. —

Resolution expressing the sense of the House of Representatives that the President should pardon the five rabbis who were sentenced to prison on December 12, 1985, for peacefully demonstrating at the Embassy of the Soviet Union on behalf of persecuted Jewish cultural activists and teachers of Hebrew

Whereas, on May 1, 1985, 25 religious leaders peacefully demonstrated at the Embassy of the Soviet Union in Washington, D.C., in order to protest the violation by the Government of the Soviet Union of the human rights of the people of the Soviet Union, particularly the violation of the human rights of Jewish cultural activists and teachers of Hebrew;

Whereas the Government of the United States chose to proscute most of the 25 religious leaders for such demonstrating, and not to prosecute demonstrators at the Embassy of the Republic of South Africa;

Whereas five of the religious leaders—Rabbi Leonard Cahan, Rabbi David Oler, Rabbi Bruce Kahn, Rabbi Mark Levine, and Rabbi H. Steven Bayar—were sentenced to 15 days in Federal prison;

Whereas the five rabbis felt a moral imperative to express in a meaningful way their solidarity with Jewish Prisoners of Conscience in the Soviet Union;

Whereas the sentences imposed on the five rabbis forced the five rabbis to spend the Hanukkah holidays in Federal prison;

Whereas in the Soviet Union there has been a sharp increase in officially sanctioned anti-Semitic campaigns directed at Soviet Jewish refuseniks, teachers of Hebrew, and cultural activists;

Whereas the United States has consistently opposed the serious problem of human rights violations by the Government of the Soviet Union against the people of the Soviet Union, particularly with respect to the violation of the right to exercise religious freedom; and

Whereas the House of Representatives is opposed to the harassment and arrests of Jewish refuseniks, teachers of Hebrew, and cultural activists: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that the President should pardon Rabbi Leonard Cahan, Rabbi David Oler, Rabbi Bruce Kahn, Rabbi Mark Levine, and Rabbi H. Steven Bayar.

RETROACTIVITY IS UNFAIR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. DOWNEY] is recognized for 5 minutes.

Mr. DOWNEY of New York. Mr. Speaker, in the past, whenever Congress has enacted limitations on the deductibility of investment interest, they were applied in a prospective fashion only. I regret to say that in the bill before us today, that trend has been broken—extremely unwisely, in my opinion.

In the Tax Reform Act of 1976, to cite a primary example, new rules were applicable to taxable years beginning after December 31, 1975. However, prior law continued to apply to interest on indebtedness incurred before September 11, 1975—the date of committee action—or incurred after that date under a binding written contract in effect then. The point, of course, was that the effective date of the new limitations was strictly prospective.

The same decision was made in 1969, a year which also saw the passage of legislation titled, the Tax Reform Act. New interest limitations in that bill did not apply to investment interest if indebtedness was incurred before December 17, 1969—the date of conference committee action—or after that date if there was a binding written contract in effect on that date.

Mr. Speaker, I regret that today's Tax Reform Act does not reflect the same wisdom. New limitations on the deductibility of investment interest apply for the first time to existing debt, all of which was incurred by taxpayers whose investment decisions were predicated on the fact that interest would be deductible as usual. My objection to H.R. 3838 is that no taxpayer, making investment decisions several years ago, could have guessed that it would reach back to limit those transactions. Doing so is unfair. In fact, it violates the spirit of public assurances made earlier in the year, and Ways and Means tradition.

This unfortunate provision in no way affects my decision to support the hard-fought tax reform in the Ways and Means Committee bill, but in this one area, I believe our bill can be improved upon and I sincerely hope the other body sees it that way as well.

TRIBUTE TO ABRAHAM SPIEGEL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kentucky [Mr. HUBBARD] is recognized for 5 minutes.

Mr. HUBBARD. Mr. Speaker, I rise today to pay tribute to Mr. Abraham Spiegel, a man whose business acumen and pursuit of excellence have placed him and his association at the pinnacle of the savings and loan industry.

Abe Spiegel is chairman of the board of Columbia Savings & Loan Association of Beverly Hills, CA, and he is a man upon whom we can look as proof that the United States is the land of opportunity and free enterprise.

Born in Czechoslovakia, he was a survivor of two World War II Nazi prison camps, Auschwitz and Buchenwald. In 1948, he left a war-ravaged Europe to settle in the United States and made a new life for himself and his family.

During the 1950's and 1960's, he engaged in real estate development and construction and was involved in the building of some 10,000 homes in southern California. But it was in the late 1950's that Abe Spiegel developed an interest in the savings and loan industry.

His first involvement in the thrift industry occurred in 1958 when he took an equity position in a small savings and loan, which was eventually sold and merged into a life insurance company's savings and loan operations.

In 1965, Abe Spiegel bought a small, one-office association based in Long Beach, CA. The association, Aetna Savings & Loan, thrived under his ownership and leadership and was sold in 1971 to the Jim Walter organization.

In 1974, he immersed himself in the industry for the third time by acquiring more than 35 percent of a Beverly Hills thrift then known as Eastland Savings & Loan. By acquiring a majority interest, he was able to become chairman, president, and chief executive officer. Two years later, he changed the association's name to Columbia. Also in 1976 and to his pleasure, his son Tom Spiegel joined Columbia. The following year saw Tom Spiegel elected president and chief executive officer, while Abe Spiegel continued as chairman of the board.

The decade of the 1980's has thus far not been a good one for the financial industries, particularly the savings and loan industry. The industry has undoubtedly been the victim of the worst period it has ever known. Yet through the wisdom, leadership, and commitment of Abe Spiegel and his son Tom, Columbia has achieved great progress and has indeed become one of our Nation's most successful savings institutions with $7 billion in assets.

Perhaps the greatest tribute to Abraham Spiegel lies in the recognition that his business fortitude and willingness toward innovation have elevated Columbia Savings & Loan Association to a level of success in its industry which is surpassed by none during a time when many, if not most, thrifts have struggled simply to survive.

Abe Spiegel is a philanthropist, mainly in the field of education. Abe Spiegel has been recognized by several colleges and universities, including being awarded an honorary doctorate degree.

My wife Carol and I admire and are very fond of this outstanding 79-year-old resident of Beverly Hills, CA.

Carol and I wish for our friend Abraham Spiegel, his lovely wife Edita and his family, God's richest blessings now at this holiday season and during the years ahead.

NATIONAL SEED PROTECTION ACT OF 1985

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon [Mr. WEAVER] is recognized for 5 minutes.

Mr. WEAVER. Mr. Speaker, I am introducing, today, the National Seed Protection Act of 1985. This legislation will ensure that our Nation's most precious possession—our seed—are adequately protected.

Thomas Jefferson stated in 1790, "The greatest service which can be rendered any country, is to add a useful plant to its culture." With the passage of this act, I hope to guarantee that the hundreds of thousands of plant varieties on the Earth today are preserved for all future generations.

Passage of this act will protect our Nation from potentially catastrophic loss of food and fiber production resulting in widespread hunger. Historically, in the potato famines of the 1830's and the corn blight of 1970, mankind was faced with disasters that caused massive economic hardship. These disasters could have been averted had we been prepared.

Mr. Speaker, study after study indicates that the present national germplasm system is woefully inadequate to meet future needs. My bill requires the Secretary of Agriculture to construct at least three additional storage facilities geographically dispersed including at least one tropical center. These facilities must be built to ensure safe storage of our germplasm collections in the event of natural or manmade disasters.

My bill provides for the establishment of a National Animal Germplasm System to complement the Plant Germplasm System. The protection of animal germplasm has been overlooked by the Department of Agriculture. The Nation is extremely vulnerable to disruptions in milk production. Ninety-five percent of all milk produced in the United States is from a single breed, the Holstein. The emergence of a novel disease could endanger the entire milk industry.

The Secretary is instructed to report to Congress the status of existing facilities and required to address any shortcomings he discovers.

We must act while there is still time to protect and preserve for all future generations the seeds and animals essential to the production of our Nation's food and fiber. We must provide future scientists with the raw material necessary to unlock the mysteries of diseases fatal to human survival. We must protect our natural resources so future industries can produce more lasting and durable goods. Studies indicate up to 95 percent of all seeds currently stored have not been adequately evaluated. Thousands are being lost due to poor facilities and lack of trained personnel.

We must act today to ensure against an economic holocaust brought about by the extraordinarily narrow genetic base of the current U.S. agricultural system.

As we prepare to end this first session of the Ninety-ninth Congress, I urge my colleagues to join with me in this effort. There is no greater service we can render our Nation than the preservation of our seeds and animals.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. LELAND] is recognized for 5 minutes.

Mr. LELAND. Mr. Speaker, during consideration of H.R. 3363, providing for the private relief of Hamilton Jordan, I was unavoidably detained away from the Hill. Had I been present, I would have voted "yea" and ask the record to reflect this fact.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. NELSON] is recognized for 5 minutes.

Mr. NELSON of Florida. Mr. Speaker, due to official business, I was unable to be present and voting for rollcall votes on December 12 and December 16, 1985. Had I been present, I would have voted "aye" on roll No. 455, motion to approve the Journal; "aye" on roll No. 457, adopting House Resolution 328, providing for the consideration of House Joint Resolution 192, National Day of Remembrance of Man's Inhumanity to Man; and, "aye" on roll No. 460, motion to approve the Journal.

THE TAX BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. BURTON] is recognized for 60 minutes.

Mr. BURTON of Indiana. Mr. Speaker, I will not keep those at the front desk here for an hour. It will be a very brief statement I want to make.

I received a lot of mail about the tax bill—I know a lot of my colleagues did, as well—from individual citizens, from businessmen throughout my district. Thousands, probably tens of thousands of people, wrote Members of Congress about this very controversial bill.

I had made a decision to vote against this piece of legislation tonight. I think it is disgraceful that the American people were denied tonight to know how their Representatives stood on the most far-reaching tax bill that has reached the floor of this House in probably our lifetime.

□ 2350

I personally feel that it was a fast gavel from the Chair; maybe I am in error, but it seemed to me that it was very rapid. I think that we on the Republican side were in error because we did not have somebody sitting at this table; we were asleep at the switch. Nevertheless, the American people were denied their right tonight to know how their Representatives felt about the most important tax measure that we are going to face probably in our lifetime.

I personally think it is going to have a very adverse impact on business, I think it will precipitate a recession, and it is going to create a lot of uncertainty in the months to come on the part of American business that provides the jobs that keeps the free enterprise system running in this country. I just want to state my personal concern that this body, the greatest deliberative body in the world, would fail to give the American people a recorded vote on an issue of this magnitude.

Mr. Speaker, I yield to the gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. I thank the gentleman.

Mr. Speaker, I would like to associate myself with the remarks of the gentleman from Indiana and to say that if I had been given an opportunity, I would have voted against this bill.

I think that for an issue of this magnitude, to let it fly on a voice vote, and there was obviously some error involved here, that Members cannot be accommodated by being on the record in an issue of this magnitude speaks very well, very well to the concern that Americans and many Members of Congress have for the need of institutional reform here. An issue like this should not pass on a voice vote. It is a travesty and a tragedy for the American people that they cannot know how their elected Representatives stand on an issue of this magnitude.

Mr. FRENZEL. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentleman.

Mr. FRENZEL. I thank the gentleman for yielding.

Mr. Speaker, I would say I do not think the problem lay at the podium. I think the problem lay in the Chamber. It was a terribly unruly House tonight; the House was not order. I was in the back of the Chamber trying to get forward to be recognized to call for a vote. I could not come down the aisle. The aisle was jammed with Members; I could not make any progress, and the vote passed without a vote being called.

I think that is a terrible thing. I think the gentleman is right. I think all the Members wanted to be recorded. I would have hoped that the Speaker would have exercised extraordinary, heroic procedures to see that a vote might be called for. That was not the case. But I think the problem is that we are not maintaining any kind of order in this House and running this businesslike House, particularly when we operate in the evening. I have got to believe that responsibility lies with the Speaker, as well as looking out for the interests of all the Members when they want to be recorded. I doubt it is any secret that I would have voted "no" as well. I think the gentleman is dead right, and I thank him for taking this special order.

Mr. EMERSON. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentleman.

Mr. EMERSON. To make a point of disagreement with the gentleman from Minnesota who said that all Members would have liked to have been recorded. It should be noted that an attempt was made to get the vote reconsidered and that that would have required unanimous consent, and that there was objection on the other side to the unanimous-consent request.

Mr. HUBBARD. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentleman.

Mr. HUBBARD. I thank the gentleman for yielding.

Mr. Speaker, as a Member from Kentucky who voted "no" on the rule of the tax bill, a Member who voted "yes" to recommit, and as a Member who would have voted "no" on final passage, I must say in all fairness, and I think those who watched the proceedings tonight know that the House Speaker acted in all fairness.

The Speaker of the House announced that "All in favor will say 'aye,'" there were some "ayes;" he then said "All of those against will say 'no;'" there were some "noes." He said, "The 'ayes' have it." He rapped the gavel. He looked for a few seconds, toward the Republican side. There was silence from the Republican side; there was silence from me. I was thinking about it in the back of the Chamber; that is, asking for a rollcall vote, but I did not. When my friend from Minnesota who mentioned that the aisles were jammed, I know he is referring to the aisles on his side of the aisle, which is understandable. There was a lot of commotion; there was a lot of noise. There was a lot of moving around. But again, as one who was opposed to the bill and who would have voted "no," I am among those who sat here and watched the Speaker act with all fairness in declaring that the bill had passed.

To my surprise, no one, including myself, rose to ask for a rollcall vote.

Mrs. MARTIN of Illinois. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentlewoman.

Mrs. MARTIN of Illinois. I think perhaps we will have blame enough to go around. For the desire, whether one was for the bill and would wish to be recorded or opposed. I happen to oppose the bill. Perhaps even in a greater way than I did before, and I think the gentleman from Minnesota's point is well taken. That after a certain hour of the evening, and granted, there are times that will have to be, it is imperative that there be, near the end of votes, and we all get restless, a greater, I will not say serenity, but quiet in the Chamber.

Four hundred and thirty-four people could have asked for that vote, excluding the Speaker himself. I was one of those 434, and I did not. Like everyone else, I thought it would be someone else. I will take additional blame because as part of the group, we should have been sure there was someone else.

For those Members today and tomorrow who oppose the bill, I hope there will be just such a special time so they can assure their constituents, either of their support or of their feeling that it is a destructive bill and warranted a "no" vote.

Mr. EDWARDS of Oklahoma. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentleman.

Mr. EDWARDS of Oklahoma. I thank the gentleman for yielding.

Mr. Speaker, I think one of the previous speakers made an important point and that is that it was not a problem with the Speaker; I think the Speaker was trying to be fair. The problem is with the system.

I am going to introduce a House resolution to make a change in the rules of the House to provide that all votes on final passage on anything other than a bill being considered under suspension must be by recorded vote. I would hope that some of my colleagues would join me in supporting such a resolution.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentleman.

Mr. WALKER. I thank the gentleman for yielding.

Mr. Speaker, I am not unfamiliar with the process of getting votes around here; I have done a little of it in my time. From what I understand, the Speaker was in fact tough but fair in what he did. It may have gone quickly, but he did in fact go through the procedure as established.

The problem was that the House was not in order. I share the frustration of the gentleman from Minnesota being in the back of the Chamber, all of a sudden realizing that we were in a hurry-up procedure, and being unable to get up toward a microphone to be able to request the vote.

The fact is, though, that is our fault for not being close to the microphone. That has to be understood. But the House was not in order. I think that if we are going to have matters this serious coming before the body, and we are in a position where recorded votes are needed for the country to understand what this House is doing, then it seems to me that we have to make extraordinary efforts to assure that the House is in order at the point that those votes are going to be asked for. That certainly was not the case here this evening, and for that I am disappointed.

I am also disappointed, that when, given the circumstances of the matter, the unanimous consent was asked for so that the proceedings could be vacated and we could go to a vote, there was an objection from the other side from a member of the Rules Committee. It seems to me that that is one of the people that ought to be protecting the prerogatives of the Members of this House. Instead, there was an objection so that we could not have that particular vote.

I am disappointed that the majority would not at that point have permitted the vote which so many Members on both sides of the aisle wanted.

Mr. COBEY. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentleman.

Mr. COBEY. I thank the gentleman for yielding.

Mr. Speaker, I want the RECORD to clearly show that if I had had the opportunity to vote on the bill tonight, the Ways and Means tax reform bill, I would have voted "no."

□ 2400

Mr. BURTON of Indiana. Mr. Speaker, I yield to the gentleman from Virginia [Mr. PARRIS].

Mr. PARRIS. Mr. Speaker, I appreciate the gentleman yielding.

I just want to make an observation. There are six microphones in this Chamber and there are 435 of us. It is not possible for each of the Members of this body to act as minority leader or majority leader, whatever the Member's inclination may be. We cannot, each of us, each one of us, call for every vote on every bill. It is not physically possible.

So the system has got to work in some kind of an orderly manner or this will not be a legislative Chamber or a legislative body; this will be a mob.

There has got to be some kind of dignity and structure to the process.

I share the frustrations of the previous speakers before me, but I say to my friend from Oklahoma who wants to change the rules the Democrats write the rules around here. I submit to you they are not going to change them. We had a straight party vote when we adopted the rules in this Congress and the one before it and every one I have been involved with. We do not control the rules; they do. And I will submit they are not going to change them.

The next thing I would like to submit is that if we have 435 of us who are supposed to look for our individual interests, it cannot be that you are responsible for doing that unless the system is changed.

I share the frustration that we have an objection.

I think everybody should spread on the RECORD, and I now ask unanimous consent, Mr. Speaker, that my statement that had I been permitted to vote, I would have voted against this bill be inserted here in the CONGRESSIONAL RECORD just subsequent to the vote on H.R. 3838.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. CRAIG. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I yield to my colleague.

Mr. CRAIG. Mr. Speaker, I think, as the gentleman knows and as all of our colleagues in this body know, that the responsibility for order and decorum in the House does not rest solely with the membership of the body, but with the Chair. Any rule or order of parliamentary procedure that I have ever read and studied says that the decorum of the House and the order of the House shall be set by the Chair.

This House was out of order tonight when the vote was called. No one could hear it, and, in my opinion, the microphone did not kick on. If it did, the din was so high that no one could hear.

I would have to believe that the responsible action of the chairman, and in this case this evening the Speaker was chairing the body, would have been to bring order to the House to call the vote. In my opinion, that was not done.

Now we can point fingers and we can cast blame. I suspect the RECORD will show that what I have just said would place the bulk of the blame with the chairman of the body, the Speaker, because the body was out of order.

Mr. Speaker, I would ask unanimous consent at this time that I be shown in the RECORD following the vote on the tax bill, H.R. 3838, having there been an opportunity for a recorded vote, my recorded vote would have been "no."

That opportunity was denied me. That opportunity was denied the membership of this body by the lack of decorum that was allowed to exist by the Speaker of the House.

Mr. SWIFT. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I would be happy to yield to my colleague.

Mr. SWIFT. Mr. Speaker, I thank the gentleman.

BEST COPY AVAILABLE

Mr. Speaker, I want to first say that I respect the restraint with which the frustration of the gentlemen on that side of the aisle have been expressing their concern. I can appreciate their concern.

Let me say a couple of things.

First of all, what a lot of people outside this body may not realize is that the Chair would expect that particular request come from the minority in that situation. I think most of the gentlemen on that side of the aisle would grant that.

The gentleman from Minnesota who said he could not get down the aisle in order to make the request, he is one of the most alert gentlemen on the floor. I think the gentleman would also agree that that aisle is rarely filled with Democrats.

Third, I think it is very important that we all understand that if that does not come in an orderly procedure and if the Chair is reasonably expecting it to come from your side of the aisle and it does not in a timely fashion, that the Chair has no alternative but to proceed.

Do we get back in order after votes as quickly as we should? No. And I have not heard anyone over there say that is a partisan problem. We all do that. You as members of the minority have not had the opportunity to chair. Would I, without giving up the majority, give you that opportunity? I would. That is a much more difficult process than you might think, and I think you have been saying that. We are all as Members on the floor at fault for not responding more rapidly to efforts on the part of the Chair to bring order back to the body.

So to the extent that you are raising an issue I agree with that we should have had a vote on something as important as that, I think it is only fair to point out that the minority holds a very large share of the responsibility for not conducting its responsibility to ask for it in a timely fashion, not having someone by the microphones at the time to ask that, for not having the aisle clear, like the gentleman from Minnesota wanted to get down the aisle to make that request, for not along with those of us on this side of the aisle coming to order more quickly. We have all become sloppy in that regard.

The vote today was denied not by rules and not certainly by one party or the other, but rather by the fact that a number of people were not watching the switch and 434 of us, as the gentlewoman from Illinois suggested, were not doing precisely what we should have been doing at the time.

I have listened with care to what you are saying. I understand your frustration. I agree with it.

To the extent there have been little examples that suggested it was somehow the majority party's role, I think that is wrong. I think it is dead wrong. But its all our responsibility to see that it does not happen again.

Mr. Speaker, I thank very much the gentleman for yielding his time.

Mr. NIELSON of Utah. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I would be happy to yield to my colleague, the gentleman from Utah.

Mr. NIELSON of Utah. Mr. Speaker, I, too, would have liked to have been recorded as no if I had had a chance to vote on the bill.

I do also agree with the gentleman who just spoke that it is the minority party's fault for not having the rollcall called for. We tend to lean on those at the desk, and those who were not at the desk had no opportunity to get to the desk because of the confusion.

My objection to the bill was primarily on the difference, the $2,000 for those who do not itemize and the $1,500 for those who do itemize. It is fundamentally unfair. Eighty percent of the people in my district do itemize, and I could no way support such a bill. I made that clear at various points. I did not have opportunity to debate on the bill. We had many very good speakers from the Ways and Means Committee, and there was no time for anyone other than that committee to speak. Had I been able to speak, I would have made that more clear to the House.

Mr. Speaker, I would ask unanimous consent that my statement be put in the Record just following the vote on the bill, H.R. 3838.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

Mr. ROEMER. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentleman from Louisiana.

Mr. ROEMER. Mr. Speaker, I thank my colleague for yielding.

Mr. Speaker, I just want to join in the statement tonight and add my disappointment to the events of tonight. I am disappointed at the fact that we did not have a recorded final vote on passage.

I am more disappointed that the bill passed, however it passed. I thought the bill was antigrowth and antijobs. I testified against the bill at every opportunity, gave one, minutes on the floor, voted for the motion to recommit, voted for the Republican substitute because I thought it was better, and I would have voted against that on final passage, quite frankly.

It has happened before in the House. I have only been here 5 years. I do not know whether these things happen deliberately or late at night, but the evidence is that the longer we stay in session toward Christmas and the later we stay in session past 9 or 10 o'clock, we are apt to get tired and make mistakes. I am disappointed.

Mr. Speaker, I ask unanimous consent that my statement be placed in the Record following the final passage of H.R. 3838, and be noted that I object to the bill and, if given the chance to record my vote, I would have voted no, and did vote no by voice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. RITTER. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I would be happy to yield to my colleague.

Mr. RITTER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I think it is a tragedy that perhaps the most important vote of the last several years in this House was not a record vote. I think it is a tragedy that the people of the United States of America watching these proceedings, reading about these proceedings tomorrow morning, will not have any idea as to how their Representative felt or would have voted on this most important issue of the last several years.

But I think the biggest tragedy of all is not the human failing of the excitement and the disorganization and indeed the chasos that followed the vote, the biggest tragedy of all is that when it was asked to vacate the proceedings, unanimous consent was asked to vacate the proceedings and have a record vote, an important member of the Democratic Party, a member of the Rules Committee, objected.

Now I ask, what was the reason for that objection? Is there some reason to hide how the Democratic Members of this House felt on this vote? Obviously none of the Republicans objected. The Republicans wanted a record vote on this tax bill. We were denied a record vote by an important member of the Rules Committee in the Democratic Party.

Mr. COMBEST. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentleman from Texas.

Mr. COMBEST. Mr. Speaker, I appreciate the gentleman yielding.

Mr. Speaker, I wish we would have had a rollcall vote. I am not pointing fingers at anyone. I would only like to say that coming from a district in Texas that would probably be the most negatively impacted, or one of the most negatively impacted, due to the considerations in the Ways and Means bill on the oil and gas industry, I strongly oppose the bill.

I do support tax reform in the vein in which it was conceived, and that is simplicity, fairness, and certainly in economic growth.

I opposed the rule both times. I voted for the motion to recommit, and I voted for the Republican substitute only because I felt that it was somewhat better than the other alternative. As the gentleman from Louisiana indicated, I would have voted against that on final passage had it prevailed.

I appreciate the gentleman's yielding. I wanted to go on record as having opposed the Ways and Means Committee bill.

Mr. PARRIS. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentleman from Virginia.

Mr. PARRIS. Mr. Speaker, I would just like to pick up the thread that the gentleman from Pennsylvania was alluding to just a moment ago, and I think the record would be less than complete here tonight—we did not concede that there are Members in this Chamber who do not want a record vote. It is technically correct under the rules that any one of the 434 of us have the right to call for that vote. As I have suggested earlier, as a practical matter it is simply not possible. We have systems and procedures and leadership and methods by which that can be done, but for some unknown and unexplainable and bizarre reason, it was not done here this evening.

That does not meet with the dissatisfaction of a number of people who are in fact politicians and would like to be able to go home to an oil district when they intended to vote for this bill which decimates the oil industry and say, "Well, gee, guys, I would have voted against it," or "I did not vote against it; it was a voice vote." How are you going to prove him otherwise? There are people from timber districts who were sweating blood. I heard Members on the floor of this House today say, "I wish I could get sick. Take me to the hospital. Do something. Get me out of this trap. I am about to take the dive here."

There are people who did not want to vote, so before we get carried away with our altruism and try to display our patriotism, let us ask the question: Why do we not put every Member on record regardless of how they vote they should be counted? For some bizarre reason in this probably the most important legislative measure that any of us will vote in this entire Congress, that will not be the case.

Mr. BOEHLERT. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I am happy to yield to my colleague, the gentleman from New York.

Mr. BOEHLERT. Mr. Speaker, I share the frustration that many of our colleagues referred to earlier in these proceedings with their remarks.

I would make this observation, that we have not been a witness to one of the finest hours in the House in its historic history this evening; but I would suggest there is a lot of blame to go around. We probably all should look within.

Tonight we debated, as the Speaker mentioned in his remarks when he took to the well of the House, one of the most significant pieces of legislation in the history of this great body. We were all witness to one of our colleagues from this side of the aisle, the gentleman from Michigan [Mr. VANDER JAGT] trying valiantly to give a very eloquent presentation so that we all would have a better understanding.

What was he greeted with? Alternate applause and catcalls, some people on the floor talking about Sunday's football, others reading the paper.

I would suggest that all of us take a personal pledge that when we come to this great Chamber we come here to do the people's business, not to read the paper, not to applaud, not to engage in a circuslike atmosphere when we have very serious business before us.

I was there as the Speaker was in the chair. I saw what happened. The Speaker very deliberately looked to the Republican side. There was no one here. It was not 2 seconds or 5 seconds. I would suggest that it was longer.

I do not think we have to point the finger at the Speaker any more than we should point the finger at any one individual here who should have grabbed that microphone and asked for a rollcall vote.

I think we should all go home after these proceedings and look in the mirror. I think we all have plenty of room for improvement of our conduct on this floor.

This is a great institution. I am proud to serve in it. I am proud of the people I see here, men and women who this week, day after day have worked 18 to 20 hours on something that is going to affect every single American, every single corporation.

We have our differences of opinion. I did not like the committee bill. I did not like the Republican alternative. I would have welcomed an opportunity to be on record, to have my name up there in lights, so that everyone would know that the Congressman from the 25th District of New York did not approve of this piece of legislation; but I would suggest to all of us that we do not need that recorded vote to be accountable to the people we represent, because every single constituent who is concerned about this bill is going to hold us to an accounting of what we did here this evening.

I would suggest that there is room for a lot of improvement. I am making a personal pledge to myself that when I come to this floor I am going to come to conduct the people's business. I am not going to applaud, except in rare instances when the Chamber joins, as we did tonight, to pay tribute to our distinguished colleague, the gentleman from Kentucky [Mr. NATCHER] for the very fair way that he monitored these proceedings.

This is not one of the House's proudest moments. There is room for improvement. I think we should all vow to be part of that improvement.

I thank my colleague for yielding.

Mr. HUBBARD. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I am happy to yield to the gentleman from Kentucky.

Mr. HUBBARD. Mr. Speaker, I would like to compliment my friend, the gentleman from New York, an outstanding Republican Member of the House, for his comments, especially agreeing with my earlier remarks.

The Congressman from New York and I were seated near each other in the back of the Chamber. We saw it exactly alike, that the Speaker of the House indeed did give the Members at least 5 seconds opportunity to ask for a rollcall vote.

One of our colleagues said that we did not get a vote because of a Democratic member of the Rules Committee; really the reason we did not get a vote tonight is because 434 Members of the House did not ask for a vote when we had a chance to.

I admit I was waiting on another Member of the House, a member of the Ways and Means Committee in opposition to the bill, to ask for a vote, so I did not ask for one. I trust that is why a lot of others in the Chamber did not.

So Democrats and Republicans who opposed the bill did not get a chance to vote "no" because we failed to ask for one.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I am happy to yield to my colleague, the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding.

As I stated before, I think that given the rules that the Speaker at the point that the vote was being asked operated within the rules. He was tough and the failure was in large part on this side.

I will say, however, that having gone through these procedures on a number of occasions, we do operate with somewhat of a dual standard, because there have been numerous instances where it was to the advantage of the majority party to assure that there was appropriate order in the Chamber, when the Members have literally been gaveled into their seats, where I have personally been told to sit down and not be at the microphone when a vote was coming up so that they could assure that there was absolute order and absolutely everybody was in their seats so that there would be a problem in getting enough people to rise for a vote; so when it was in the interest of the majority to get the House in that kind of a position, the Chair has consistently been used in that manner at those times.

It was not important enough evidently tonight to get the body in that kind of order to assure that that vote got taken at that point.

In other words, what I am saying is that, yes, within the rules the appropriate and proper thing was done; however, given the seriousness of the matter before us, it seems to me that extraordinary measures not unlike those that are taken in other instances could have been taken here tonight.

The Chamber at the very least could have been brought to order to assure that what we were doing was something that everybody understood we were doing when it was taking place. That was not done and that is something which is done when, as I say, it is to the advantage of the majority to assure that.

I think the House is ill-served by this side not having someone in place to get the vote; but it is also ill-served by a process which allowed the whole thing to take place in a disorderly way and the American people were denied seeing how their Representatives voted on the issue.

I thank the gentleman for yielding.

Mr. HUBBARD. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I am happy to yield to the gentleman from Kentucky.

Mr. HUBBARD. Mr. Speaker, I would like to ask the gentleman from Pennsylvania [Mr. Walker] where he was when it was time to ask for a recorded vote.

Mr. WALKER. Well, as I explained earlier, I was in the back of the Chamber at the moment that I realized that something was quickly taking place. I tried to work my way down the aisle. Because the House was not in order and there were more Members in the aisle than in their seats, I was unable to get down to a microphone.

I would say to the gentleman that I am very disappointed that I was not where I usually am, and that is sitting right here, standing up and getting votes.

I get an awful lot of Members from time to time who are not happy when I rise to ask for a vote. I think some of them understand now why someone has to be around once in a while to ask for a vote in this place. It just does not happen if someone is not in his place. I will take that as a lesson learned and I will try to be a little closer to the microphone in the future. It is obvious, otherwise, some of these things just do not happen.

I thank the gentleman again for yielding.

Mr. BURTON of Indiana. Mr. Speaker, before I yield to my colleague, I promised the people at the front desk, everybody is tired, that we would get out of here as quickly as possible, but I yield to my colleague, the gentleman from West Virginia.

Mr. RAHALL. Mr. Speaker, I thank my colleague for yielding. I had not planned to say anything, but listening to the comments that have been said, one can certainly understand the frustration of not being able to have a recorded vote on such an important issue.

I happened to have been prepared to vote for the bill and have so stated by insertion of remarks in the Congressional Record, as each of us can do to make our position fully clear on such an important matter.

I would say to the gentleman from Pennsylvania, who has said that he was in the back of the Chamber at the time, that the Speaker was looking for somebody on the minority side to ask for a rollcall vote, on such an important issue, though, as the gentleman has said, and he knows the rules of the House very well and knows what the procedures are that are going to take place in sequence and on such an important issue of this nature, I would have thought that the gentleman would be up front prepared to ask for a rollcall vote, as he has been on many other issues, as the gentleman has testified to this evening.

So I would say that the insinuation that perhaps it was in the interest of the majority party to not have a rollcall vote on this particular issue is not entirely fair.

I think the President of the United States who supported the Ways and Means Committee after the Republican substitute defeat would like to have seen how members of his party stood on this issue, and it would have been in his best interest to also have seen a rollcall vote on this issue; so I do not think it can be said that it was in the interest of our party to not see a rollcall vote on the issue.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I do not want to prolong this, but I yield to my colleague, the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding.

I would just point out to the gentleman that I will accept my share of the blame. I do not think, however, that one Member of the House, even though I do a large share of it, should be given the total responsibility for getting all the votes around here. I do my share. I think maybe some others can share in that.

I would also say to the gentleman that it was a member of the gentleman's party, a member of the Rules Committee from the gentleman's party, who denied this House a vote by denying the unanimous consent request.

The gentleman's party is responsible for that. A gentleman, one of the leaders of the gentleman's party, someone who was picked to serve on the Rules Committee, was the one who stood in the front and objected to this House having a vote on the matter.

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So from that standpoint I can say that we can make it very, very clear that that gentleman was responsible for denying the House the vote because at that point, by unanimous consent, we could have vacated the proceedings in such a way as to go to a rollcall vote. So that surely rests on your side of the aisle, not on this side of the aisle.

Mr. RAHALL. Mr. Speaker, will the gentleman yield to this side of the aisle for a response?

Mr. BURTON of Indiana. I yield just briefly to the gentleman from West Virginia.

Mr. RAHALL. I thank the gentleman for yielding.

Mr. Speaker, I would say to the gentleman that he has already testified this evening as to the House being out of order, and I think we all will agree with that fact.

When the gentleman from the majority side stood to object, there were many other Members standing at that same time. I could not tell who was really objecting. There were Members on the gentleman's side of the aisle standing trying to seek recognition of the chair also. Perhaps they were willing to object to a vacating of the order for a rollcall. So it is hard to put the blame entirely here.

Mr. CLINGER. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentleman from Pennsylvania.

Mr. CLINGER. I thank the gentleman for yielding.

Mr. Speaker, I think we could go through a mea culpa here all evening. I think it is probably true that there are people on both sides of the aisle who would hope that we would have had a recorded vote on this most crucial issue, probably the most important issue that we have had all year.

I am reminded of the old line out of Pogo, "We have met the enemy and he is us." I think in this case we blew it on both sides and I am not going to point any fingers of blame but I think that the critical point is that we were denied a vote on a critical, critical issue for this country.

I happen to feel that that bill is going to be a disaster for the country if it is not changed. It is antigrowth, it is antifamily, it is anticompetitive. In my own district, it would have put at risk 47,000 manufacturing jobs. I just think that is a debacle.

But we can agonize over it, where the blame lies. The fact is that for whatever reason, a vote was denied and I would hope that somehow we can rectify this. I think it is an appalling way to operate when we come to a vote on an issue which has been before us for months and months and months, and the American people are also denied the right to know how their Representatives would have voted on an issue which is going to be absolutely critical to this country.

Mr. BURTON of Indiana. I would just like to say that in my 3 years here in this body, and I know we do not want to cast blame on the Chair or individuals who were asleep at the switch on this side of the aisle, but I can recall cases where the Speaker said, "Does the gentleman request a rollcall vote?" From the Chair, the question was posed, "Does the gentleman request a rollcall vote?" And on an issue of this magnitude, I would have thought that the Chair would have looked around the Chamber and made that kind of a statement because I have heard it on bills of less significance in the past.

So I feel it was a tragedy. I feel the decorum in the Chamber was not what it should have been, and I think that was a big part of the problem. I think that the Republican side of the aisle was asleep at the switch. I think we were all asleep at the switch. But I also think that the Chair could have made sure that everybody was aware that we were coming to that point a rollcall should have been requested.

Mr. CLINGER. If the gentleman will yield for just one more momemt, I just would like to state that had we had the opportunity to vote, I would have obviously voted against this bill because I think it is so bad for the country.

Mr. WALKER. Mr. Speaker, if the gentleman will yield just for a moment again, and I appreciate the gentleman wants to end this special order and I thank him very much for taking the time, but I do want to make one point to clarify the record.

There was absolutely no Republican seeking to object to the unanimous-consent request at the time that the time unanimous-consent request was put to vacate the proceedings. I think that needs to be clear. The objection came from the Democratic side of the aisle. There was no Republican seeking to object to that unanimous-consent request.

Mr. BURTON of Indiana. Mr. Speaker, let me just end by saying I would like to also ask for unanimous consent to have my vote recorded right after the final voice vote on this issue, H.R. 3838. Had I been given the opportunity to record my vote, I would have voted "no."

I want to thank everybody at the front desk, for bearing with us this evening.

NEW FINANCIAL RELATIONSHIP BETWEEN THE UNITED STATES AND NORTHERN MARIANA ISLANDS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona [Mr. Udall] is recognized for 10 minutes.

Mr. UDALL. Mr. Speaker, on October 21, I introduced legislation, House Joint Resolution 423, to authorize a new financial relationship between the United States and the Northern Mariana Islands. Today, I am introducing another bill for the same purpose.

The bill that I introduced earlier was introduced at the request of the Reagan administration. The legislation that I am introducing now is being introduced at the request of the elected representative of the islands in Washington.

Public Law 94-241 provided assistance for the operation of government, development of essential infrastructure, and private sector growth of the Northern Mariana Islands. It was to last through the 7 fiscal years after they became the newest member of the American political family.

The covenant that established the Commonwealth also required representatives of the President and the Governor to meet prior to the expiration of this period. They were to submit recommendations to the Congress for assistance for a subsequent multiyear period for these western Pacific islands.

The administration's bill would approve an agreement between the President's representative, the Assistant Secretary of the Interior for Territorial and International Affairs, and the Governor's representatives, the Lieutenant Governor, a member each of the Senate and the House of Representatives of the Legislature of the Commonwealth, and a representative of the island of Tinian. This agreement, which was reached in closed-door negotiations, would provide $228 million during the 7 fiscal years which began this past October 1.

The resident representative in Washington of the Commonwealth and some members of the Commonwealth's legislature have questioned the advisability of the agreement now that they have had an opportunity to study it. The representative has proposed an alternative bill to provide the same amount of assistance over the same period.

I made it clear in October that I was introducing the administration's bill to permit the consideration that the Federal and Commonwealth administration seek. I am introducing the resident representative's bill to permit the consideration he seeks as well.

Introducing either proposal, of course, should not be misunderstood as an indication of an intent to approve either. Further, even if one or the other merits approval, amendments might very well be necessary.

The chairman of the committee of the other body which has jurisdiction over insular matters and I both had hoped that the Congress could consider this matter in this session. I believe it is fair to say that we both consider action on the recommendation of the Federal and Commonwealth representatives a fundamental obligation assumed by Congress in approving the covenant.

It, therefore, remains my intent, as chairman of the Committee on Interior and Insular Affairs, to have this matter considered as expeditiously as possible. The hearing that I postponed last month at the request of the Governor will be held in the next couple of months.

Action should come early in the next session. This would include any necessary amendments.

There will be no gap in authorizations between the expiration of the initial financial relationship and the time that a law providing for new relationship is enacted, however. The law approving the covenant provides that the initial financial relationship will be maintained until it is replaced.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Young of Missouri (at the request of Mr. Wright), for 1 week, on account of illness.

Mr. McKinney (at the request of Mr. Michel), for today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Gallo) to revise and extend their remarks and include extraneous material:)

Mr. Burton of Indiana, for 60 minutes, today.

Mr. Barton of Texas, for 5 minutes, today.

Mr. Barton of Texas, for 5 minutes, December 18.

Mr. Barton of Texas, for 5 minutes, December 19.

Mr. Bentley, for 5 minutes, today.

Mr. Dannemeyer, for 60 minutes, today.

(The following Members (at the request of Mr. Hubbard) to revise and extend their remarks and include extraneous material:)

Mr. Barnes, for 5 minutes, today.

Mr. Downey of New York, for 5 minutes, today.

Mr. Hubbard, for 5 minutes, today.

Mr. Weaver, for 5 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Leland, for 5 minutes, today.

Mr. Rangel, for 60 minutes, today.

Mr. Udall, for 10 minutes, today.

Mr. Pease, for 60 minutes, December 18.

Mr. Nelson of Florida, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Rudd, prior to the vote on H.R. 3132, in the House, today.

Mr. Guarini, in support of H.R. 3838, in the Committee of the Whole, today.

Mr. Weiss, on H.R. 3838, in the Committee of the Whole, today.

Mr. Rinaldo, on H.R. 3838, in the Committee of the Whole, today.

Mr. Kemp, and to include extraneous material, in the Committee of the Whole, today.

Mr. Wright, prior to the vote on H.R. 3838, Tax Reform Act of 1985.

(The following Members (at the request of Mr. Gallo) and to include extraneous matter:)

Mr. Molinari.
Mr. Shumway.
Mr. Porter in two instances.
Mr. Courter in two instances.
Mr. Miller of Ohio in three instances.
Mr. Cheney.
Mr. Barton of Texas.
Mr. Livingston.
Mr. Clinger.
Mr. Broomfield in two instances.
Mr. Broyhill in two instances.
Mr. Madigan.
Mr. Davis.
Mr. Leach of Iowa in three instances.
Mr. Green.
Mr. Bilirakis.
Mr. Campbell.
Mr. McGrath.
Mr. Lightfoot.
Mr. Badham.
Mr. Gilman in two instances.
Mr. Emerson in five instances.

(The following Members (at the request of Mr. Hubbard) and to include extraneous matter:)

Mr. Fascell in four instances.
Mr. Mazzoli.
Mr. Hawkins.
Mr. Skelton.
Mr. Miller of California.
Mr. Frank.
Mr. Levin of Michigan.
Mr. Levine of California.
Mr. Lipinski.
Mr. Schumer.
Mrs. Schroeder.
Mr. Bedell.
Mr. Stark.
Mr. Montgomery.
Mr. Dymally.
Mr. Barnes.
Mr. Florio in four instances.
Mr. Mikulski.
Mr. Roe in two instances.
Mr. McHugh.
Mr. McCloskey.
Mr. Barnes.
Mr. Downey of New York.
Mr. Rahall.
Mr. Roe.
Mr. Garcia in three instances.
Mr. Lantos.
Mr. Rangel.
Mr. Ford of Tennessee.
Mr. Lehman of Florida.
Mr. Lehman of California.
Mr. Tallon.
Mr. Bonker.
Mr. Borkski.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1174. An act to amend the Juvenile Justice and Delinquency Prevention Act of 1974 to provide States with assistance to establish or expand clearinghouses to locate missing children; to the Committee on Education and Labor.

ENROLLED BILL SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 3003. An act to authorize the Secretary of the Interior to convey certain land located in the State of Maryland to the Maryland National Capital Park and Planning Commission.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1621. An act to amend title 25, United States Code, relating to Indian education programs, and for other purposes.

ADJOURNMENT

Mr. HUBBARD. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 30 minutes a.m.), the House adjourned until today, Wednesday, December 18, 1985, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2403. A letter from the Secretary of Transportation, transmitting a report on a violation of the Antideficiency Act, pursuant to 31 U.S.C. 1351; to the Committee on Appropriations.

2404. A letter from the Deputy Assistant Secretary of the Air Force for Logistics and Communications, transmitting notice of a decision to convert to contractor performance the grounds maintenance function at Sheppard Air Force Base, TX, pursuant to 10 U.S.C. 2304 note; to the Committee on Armed Services.

2405. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting a report by the Secretary of State to remove China and Tibet from the application of section 620(f), pursuant to 22 U.S.C. 2370(f); to the Committee on Foreign Affairs.

2406. A letter from the Director, Defense Security Assistance Agency, transmitting a report on commercial and governmental military exports, together with list of all security assistance surveys authorized for foreign countries during preceding quarter, pursuant to 22 U.S.C. 2776(a); to the Committee on Foreign Affairs.

2407. A letter from the Director, Defense Security Assistance Agency, transmitting a report on commercial and governmental military exports, together with list of all security assistance surveys authorized for foreign countries during proceeding quarter, pursuant to 22 U.S.C. 2776(a); to the Committee on Foreign Affairs.

2408. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

2409. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting a report on political contributions for James L. Malone, of Virginia, to be Ambassador of the United States to Belize, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

2410. A letter from the Acting Staff Director, U.S. Commission on Civil Rights, transmitting a report of compliance with the requirements of the internal accounting and administrative control system, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2411. A letter from the Chairman, Nuclear Regulatory Commission, transmitting recommendations for the assurance of quality in construction of nuclear powerplants, pursuant to Public Law 97-415; jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. de la GARZA: Committee of conference. Conference report on H.R. 2100; (Rept. 99-447). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. EVANS of Illinois:

H.R. 3968. A bill to amend title 5, United States Code, to provide that civilian employees of the National Guard may not be required to wear military uniforms while performing civilian service, jointly, to the Committee on Armed Services, and Post Office and Civil Service.

By Mr. HAMMERSCHMIDT:

H.R. 3969. A bill to modify the flood control project for the White River basin, Missouri and Arkansas, to include recreation as a project purpose for certain Lakes, to the Committee on Public Works and Transportation.

By Mr. ROSE:

H.R. 3970. A bill to amend the Fair Packaging and Labeling Act to provide that a numerical count of the contents of a package will not be required if the contents are clearly visible to and readily ascertainable by the consumer, to the Committee on Energy and Commerce.

H.R. 3971. A bill to amend the Federal Aviation Act of 1958 to require the use of detection methods and procedures at airports for the purpose of detecting plastic explosives and other devices which may be used in aircraft piracy and which cannot be detected by metal detectors, to the Committee on Public Works and Transportation.

By Mr. STARK:

H.R. 3972. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide for discretionary grants to supplement existing State appropriations of direct financial aid to units of local government for specific programs designed to combat violent crime associated with controlled substances; to the Committee on the Judiciary.

By Mr. WEAVER:

H.R. 3973. A bill to provide for the protection and preservation of seeds and animal germplasm that may be of benefit to our Nation's future needs; to the Committee on Agriculture.

By Mrs. SCHROEDER (for herself, Mr. Aspin, Mr. Dickinson, Mr. Stratton, Mr. Whitehurst, Mr. Nichols, Mr. Spence, Mr. Daniel, Mrs. Holt, Mr. Montgomery, Mr. Hillis, Mrs. Byron, Mr. Kramer, Mr. Mavroules, Mr. Martin of New York, Mr. Hutto, Mr. Kasich, Mr. Skelton, Mr. Leath of Texas, Mr. McCurdy, Mr. Foglietta, Mr. Dyson, Mr. Hertel of Michigan, Mr. Sisisky, Mr. Ortiz, Mr. Robinson, Mr. Bustamante, Mr. McCloskey, Mr. Hubbard, Mr. Hefner, Mr. Coleman of Texas, Mr. Frank, and Mr. Wheat):

H.R. 3974. A bill to amend title 10, United States Code, to include in the death gratuity payable to survivors of a member of the Armed Forces who dies on active duty an amount equivalent to 2 months housing allowances; to the Committee on Armed Services.

By Ms. OAKAR:

H.R. 3975. A bill to amend the Public Health Service Act to provide assistance for counseling of, and preparation and distribution of information for pregnant women; to the Committee on Energy and Commerce.

By Mr. MILLER of Ohio.

H.R. 3976. A bill to amend the Immigration and Nationality Act to exclude from admission into the United States most nonimmigrants from any foreign state with which the United States does not have diplomatic relations; to the Committee on the Judiciary.

By Mr. MINETA (for himself, Mr. St Germain, Mr. Boland, Mr. McKinney, Mr. Mitchell, Mr. Wylie, Mr. Lewis of California, Mr. Leach of Iowa, Mr. Wortley, and Ms. Oakar):

H.J. Res. 492. Joint resolution to designate the week beginning on June 1, 1986, as "National Neighborhood Housing Services Week"; to the Committee on Post Office and Civil Service.

By Mr. UDALL (for himself, and Mr. Young of Alaska) (by request):

H.J. Res. 493. Joint resolution to authorize assistance for the Northern Mariana Islands, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. FEIGHAN (for himself and Mr. Dixon):

H. Con. Res. 261. Concurrent resolution expressing the sense of the Congress that the Republic of Korea should restore the civil and political rights of Kim Dae Jung and that true democracy should be instituted in the Republic of Korea; to the Committee on Foreign Affairs.

By Mr. BARNES:

H. Res. 346. Resolution expressing the sense of the House of Representatives that the President should pardon the five rabbis who were sentenced to prison on December 12, 1985, for peacefully demonstrating at the Embassy of the Soviet Union on behalf of persecuted Jewish cultural activists and teachers of Hebrew; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. LOTT:

H.R. 3977. A bill for the relief of Joseph W. Newman; to the Committee on the Judiciary.

By Mr. LOWRY of Washington:

H.R. 3978. A bill to amend a law relating to the sale of obsolete vessels for use in the fisheries of the United States; to the Committee on Merchant Marine and Fisheries.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 26: Mr. Ortiz, Mrs. Lloyd, Mr. Wise, and Mr. Walgren.

H.R. 469: Mr. Roth.

H.R. 528: Mr. Denny Smith.

H.R. 596: Mr. Matsui, Mr. Wolpe, Mr. Howard, Mr. Leland, Mr. Smith of Florida, Mr. Torres, Mr. Evans of Illinois, Mr. Wortley, Mrs. Bentley, Mr. Frenzel, Mr. Wheat, Mr. Boucher, Mr. Towns, Mr. Gingrich, Mr. Kolbe, Mr. Biaggi, Mr. Martinez, Mr. Mrazek, Mr. Mitchell, Mr. de Lugo, and Mr. Fuster.

H.R. 864: Mrs. Smith of Nebraska.

H.R. 867: Mr. Roe, Mr. Lagomarsino, Mr. DeWine, Mr. Young of Florida, Mr. Parris, Mr. Kolter, Mr. Eckert of New York, and Ms. Kaptur.

H.R. 890: Mr. Borski.

H.R. 1348: Mr. Mitchell, Mr. Conyers, Mr. Towns, Mr. Vento, and Mr. Wolpe.

H.R. 1356: Mr. Grotberg.

H.R. 1436: Mr. Gekas, Mr. Coble, Mr. Weber, Mr. Boucher, and Mr. Roberts.

H.R. 1453: Mr. Fazio, Mr. Wilson, Mr. Morrison of Connecticut, and Mr. Kolter.

H.R. 1454: Mr. Fazio, Mr. Wilson, Mr. Morrison of Connecticut, and Mr. Kolter.

H.R. 1507: Mr. Gekas.

H.R. 1682: Mr. Henry.

H.R. 2030: Mr. Crockett, Mr. Henry, Mrs. Boxer, Mr. Feighan, Mr. Kolbe, Mr. Morrison of Washington, Mr. Martinez, Mr. McKinney, Mr. Gejdenson, Mr. Conte, Mr. Panetta, and Mr. Fazio.

H.R. 2180: Mr. Wirth, Mr. Mitchell, Mr. Kolter, Mr. Crockett, Mr. Berman, and Mr. Martinez.

H.R. 2451: Mr. Swift.

H.R. 2557: Mr. Coelho and Mr. Ford of Tennessee.

H.R. 2620: Mr. Vento.

H.R. 2653: Mr. Young of Alaska, Mr. Neal, Mr. Gekas, Mr. Regula, Mr. Lewis of Florida, Mr. McCollum, Mr. Staggrs, Mr. Evans of Iowa, and Mr. Traxler.

H.R. 2657: Mr. Markey, Mr. Hawkins, and Mr. Seiberling.

H.R. 2659: Mr. Rangel.

H.R. 2782: Mr. Dymally.

H.R. 2840: Mr. Horton, Mr. Richardson, and Mr. Duncan.

H.R. 2857: Mr. Lowry of Washington.

H.R. 2919: Mr. Dymally.

H.R. 2954: Mr. Rinaldo, Mr. Lujan, Mr. Monson, Mr. Bevill, and Mr. Armey.

H.R. 3006: Mr. Gekas.

H.R. 3025: Mr. Smith of New Jersey.

H.R. 3042: Mr. Guarini.

H.R. 3089: Mr. Morrison of Connecticut and Mr. Neal.

H.R. 3100: Mr. Wolpe and Mr. Conte.

H.R. 3136: Mr. Edwards of Oklahoma and Mr. Morrison of Washington.

H.R. 3259: Mr. Bliley.

H.R. 3339: Mr. Sikorski.

H.R. 3436: Mr. Clay, Mr. Lipinski, Mr. Loeffler, Mr. Young of Alaska, Mr. Jeffords, Mr. Daub, Mr. Lundine, and Mr. Parris.

H.R. 3438: Mr. Aspin.

H.R. 3479: Mr. Rangel and Mr. Shaw.

H.R. 3706: Mr. Weiss.

H.R. 3715: Mr. Chappie, Mr. Fuqua, Mr. Kolter, and Mr. Martinez.

H.R. 3750: Mr. Solarz.

H.R. 3767: Mr. Chapman, Mr. Boehlert, and Mr. Lewis of Florida.

H.R. 3816: Mr. Conyers, Mrs. Collins, Mr. Bates, Mr. Brown of California, Mr. Smith of Florida, Mr. Owens, Mr. Dorgan of North Dakota, Mr. Frank, Mr. Hertel of Michigan, and Mrs. Boxer.

H.R. 3842: Mr. Horton, Mr. Dwyer of New Jersey, Mr. Kindness, Mr. Feighan, Mr. Dannemeyer, Mr. Leach of Iowa, Mr. Myers of Indiana, Mr. Fuster, Mr. Matsui, Mr. Roe, Mr. Morrison of Connecticut, Mr. Bennett, Mr. Henry, Mr. Pashayan, Mr. Dymally, Mr. Fazio, Mr. Schaefer, Mr. Monson, Mr. Bliley, Mr. Frost, and Mr. LaFalce.

H.R. 3845: Mr. Evans of Iowa, Mr. Hutto, Mr. Mitchell, Mr. Rangel, Mr. Roe, Mr. Stark, Mr. Weiss, and Mr. Lehman of Florida.

H.R. 3855: Mr. Weiss.

H.R. 3906: Mr. Saxton, Mr. Boner of Tennessee, and Mr. Vento.

H.J. Res. 207: Mr. Valentine, Mr. Volkmer, Mr. de Lugo, Mr. Pursell, Mr. Kasich, Mr. Bennett, Mr. Boucher, Mr. Gingrich, Mr. Anderson, Mr. Neal, Mr. Vander Jagt, and Mr. Wylie.

H.J. Res. 345: Mr. Burton of Indiana, Mr. Wylie, Mr. Barnes, Mr. Jones of Tennessee, Mr. Dorgan of North Dakota, Mr. Watkins, Mr. Skelton, Mr. Dyson, Mr. Coleman of Texas, Mr. Flippo, Mr. Roybal, Mr. Barnard, Mr. Lundine, Mr. Brown of California, Mr. Stenholm, Mr. Traxler, Mr. Stump, Mr. Hopkins, Mr. Applegate, Mr. Hefner, Mr. Hatcher, Mr. Anthony, Mr. Rose, Mr. Gonzalez, and Mr. Hawkins.

H.J. Res. 375: Mr. Anderson, Mr. Bedell, Mrs. Byron, Mr. Daniel, Mr. Davis, Mr. de la Garza, Mr. de Lugo, Mr. Dellums, Mr. Dyson, Mr. Callahan, Mr. Garcia, Mr. Ralph M Hall, Mr. Hansen, Mr. Hefner, Mr. Hiler, Mr. Hillis, Mr. Latta, Mr. Lantos, Mr. Lewis of California, Mr. McCain, Mr. Markey, Ms. Oakar, Mr. Perkins, Mr. Price, Mr. Richardson, Mr. Rinaldo, Mr. Schumer, Mr. Siljander, Mr. Snyder, Mr. Solarz, Mr. Tallon, Mr. Tauke, Mr. Tauzin, Mr. Thomas of Georgia, Mrs. Vucanovich, Mr. Weber, Mr. Wyden, Mr. Wylie, Mr. Young of Alaska, Mr. Moakley, Mr. English, and Mr. Craig.

H.J. Res. 433: Mr. Lent, Mr. Breaux, Mr. Young of Alaska, Mr. Biaggi, Mr. Anderson, Mr. Snyder, Mr. Studds, Ms. Mikulski, Mr. Hughes, Mr. Lowry of Washington, Mr. Hutto, Mr. Tauzin, Mr. Dyson, Mr. Davis, Mr. Borski, Mr. Carney, Mr. Shumway, Mr. Fields, Mr. Hartnett, Mr. Miller of Washington, Mr. Foglietta, Mr. Hertel of Michigan, Mrs. Bentley, Mr. Chappie, Mr. Carper, Mr. Bosco, Mr. Bateman, Mr. Thomas of Georgia, Mr. Franklin, Mr. Tallon, Mr. Ortiz, Mr. Manton, Mr. Bennett, Mr. Hubbard, Mr. McKernan, Mr. Lipinski, Mr. Callahan, Mr. Saxton, Mr. de la Garza, Mr. Fuqua, Mr. Fazio, Mr. Vander Jagt, Mr. Levin of Michigan, Mr. Kolter, Mr. Hefner, Mr. Edgar, Mr. Daub, Mr. AuCoin, Mr. Gunderson, Mr. Martinez, Mr. Blaz, Mr. Smith of Florida, Mr. Whitley, Mr. Mollohan, Mr. Daschle, Mr. Martin of New York, Mr. Wirth, Mr. Volkmer, Mr. Matsui, Mr. Roe, Mrs. Holt, Mr. Yatron, Mr. Rangel, Mr. Evans of Illinois, Mr. Rose, Mr. Heftel of Hawaii, Mr. Wilson, Mr. Schuette, Mr. Howard, Mr. Hatcher, Mr. Towns, Mr. Wyden, Mr. Boner of Tennessee, Mr. Sunia, Mr. Rahall, Mr. Shaw, Mr. Dannemeyer, Mr. Reid, Mr. Nowak, Mrs. Boxer, Mr. Gregg, Mr. Bevill, Mr. Barnard, Mr. Derrick, Mr. Kastenmeier, Mr. Daniel, Mr. Kanjorski, Mr. Chandler, Mr. Gingrich, Mr. Spratt, Mr. Bryant, Ms. Oakar, Mr. Rogers, and Mr. Campbell.

H.J. Res. 439: Mr. Cheney, Mr. Courter, Mr. Jenkins, Mr. Leach of Iowa, Mr. Livingston, Mr. Rangel, Mr. Strang, Mr. Thomas of Georgia, Mr. Torricelli, and Mr. Young of Florida.

H.J. Res. 463: Mr. Edwards of Oklahoma and Mr. Waxman.

H. Con. Res. 129: Mr. Yatron and Mr. McCurdy.

H. Con. Res. 213: Mr. Gekas.

H. Con. Res. 240: Mr. Matsui, Mr. Scheuer, Mr. Brown of California, Mr. Wolpe, and Mr. Fauntroy.

H. Con. Res. 243: Mr. Dixon, Mr. Rinaldo, Mr. Rodino, and Mr. Frost.

H. Res. 311: Mr. Horton, Mr. Leland, Mr. Moody, Mr. Frank, Mr. Dixon, Mr. Hayes, Mr. Fauntroy, Mrs. Boxer, Mr. de Lugo, Mr. Savage, Mr. Gilman, Mr. Bryant, Mr. Crockett, Ms. Mikulski, Mr. Rahall, Mr. Mrazek, Mr. Mazzoli, Mr. Levine of California, Mr. Frost, Mr. Ackerman, Mr. Reid, Mr. Rangel, Mr. Gray of Pennsylvania, Mr. Morrison of Connecticut, Mr. Hawkins, and Mr. Garcia.

EXTENSIONS OF REMARKS

1985 ANNUAL REPORT ON THE HIGHWAY SAFETY IMPROVEMENT PROGRAMS

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. TRAFICANT. Mr. Speaker, I rise today to introduce a bill that is designed to encourage State and local governments to initiate road safety improvement projects that will produce maximum cost/benefit returns to the motoring public. To accomplish this when the project undertaken is of the type that evaluation studies of the Federal Highway Administration's Highway Safety Evaluation System have shown generally produce cost/benefit ratios equal to or greater than 1.0 per dollar invested, the Federal share of such project may be 100 percent.

The Office of Highway Safety of the Federal Highway Administration in its 1985 Annual Report on the Highway Safety Improvement Programs published a chart (table III-14-pg 37) listing those highway safety improvements with benefit to cost ratios of 1.0 or better. That chart is reproduced following this statement. Twelve types of improvements are listed. Under this legislation, they would be eligible for 100 percent funding. By this means, State and local authorities will be encouraged to undertake these high payoff types of road safety improvements. By doing so, hundreds, perhaps thousands, of lives will be saved each year after the program is in full swing. And countless injuries will be prevented altogether, or their severity will be minimized. Because of its cost/effectiveness, the 100 percent funding will promote the most efficient and effective expenditure of public moneys for road safety.

According to the 1985 Annual Report earlier referred to (page 9):

> Since the inception of the highway safety categorical programs in 1974, the FHWA's Office of Highway Safety estimates that almost 30,000 lives have been saved and almost 650,000 serious injuries have been prevented as the result of highway safety improvements.

The Committee on Public Works and Transportation initiated and was responsible for enactment of those programs in the Highway Safety Act of 1973 referred to above. The 100-percent Federal funding bill will take the road safety process a further lifesaving step. Its approval and enactment will provide new, targeted focus for highway safety improvements programs. There will be a legislative incentive for States and localities to undertake those projects which contribute most to the safety of the motoring public. When they do, they will receive 100-percent funding from the Federal Government. When they do not, that is to say when they undertake projects whose benefit-to-cost ratio is less than 1, States and localities will receive Federal sharing based on the Federal-aid road system being improved (Interstate—90 percent; other systems—75 percent)

Through this new initiative, the Congress' and the Committee on Public Works and Transportation's traditional focus on and commitment to road safety can be continued and expanded in a highly responsible and effective way during this period of budgetary concern. This is so because funds allocated to projects eligible for section 120(d) moneys have already been apportioned to the States from the highway trust fund. This legislation will simply assure that obligations under this provision will produce the greatest benefits to the motoring public for each dollar invested.

For the forgoing reasons, I urge every Member of Congress interested in road safety and cost-effectiveness to support this bill, the Highway Safety Initiative Act.

TABLE III-14.—HIGHWAY SAFETY IMPROVEMENTS WITH BENEFIT/COST RATIOS EQUAL TO OR GREATER THAN 1

Rank	Improvement type code and description	B-C ratio
1	1C—Traffic signs	[illegible]
2	1E—Illumination	3.1
3	3K—Upgraded guardrail	2.5
4	1G—New traffic signals	1.9
5	3N—Impact attenuator	1.7
6	3R—Obstacle removal	1.7
7	3M—New median barrier	1.6
8	3Q—Upgrade bridge/guardrail transition	1.6
9	3C—New median strip	1.5
10	1F—Upgraded traffic signals	1.3
11	1A—Channelization and turning lanes	1.1
12	1B—Sight distance improvements	1.1

Source: Highway Safety Evaluation System, FHWA, 1984.

A TIME FOR SHOWING THAT WE CARE

HON. JIM ROSS LIGHTFOOT

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. LIGHTFOOT. Mr. Speaker, the Christmas holiday season is a time for us to make an extra effort to give thanks for what we have, and to share our blessings with those who aren't as fortunate. For the hungry in the world, Christmas won't be full of happiness and cheer. To them, Christmas will be another cold day of wanting.

It, therefore, is an appropriate time for us to consider and pass one particular bill before us today; and that is House Concurrent Resolution 57, encouraging private sector involvement in the worldwide effort to alleviate hunger. This bill expresses the sense of the Congress that, among other things, American institutions in the public and private sectors should jointly develop commitments and a plan to end world hunger. As a cosponsor of this bill, I strongly urge my colleagues to give it their support.

Our passing this resolution today gives recognition to the problem of world hunger and helps to heighten public awareness of the need for everyone to pull together and help. It's easy to pass a bill to spend hundreds of millions of our tax dollars to fight world hunger. But what we really need to do is to create an attitude of cooperation and a lasting framework for getting the private sector directly involved in our efforts.

When world hunger is mentioned, thoughts of Ethiopia and other poor Third World countries come to mind. I support efforts to help the people in those countries, but we sometimes seem to forget that there are many people within our own borders who need help. One doesn't normally think about the Midwest when talking about hunger, but the crisis in the farm economy is forcing more and more people in Iowa to seek help in feeding their families from the local food pantries.

It was because of this growing need within the very district that I represent that I decided to see what I could do without passing any laws or spending any of the taxpayers' money. So last month I helped organize a districtwide food drive to solicit donations from the private sector to replenish the community food pantries. The result was a tremendous outpour of support from corporations, private citizens, and volunteers. Collection boxes were placed in businesses, public buildings, food pantries, and churches in all 27 counties of the district. Hundreds of cases of food were donated by concerned corporations, turning my district offices into temporary warehouses. Phone calls and letters with cash donations poured into my offices. Schoolchildren joined the effort—the student council of the Adair-Casey High School raised $127 in cash and used it to buy food for the Adair community. One company loaned a semitruck to haul the food to the empty food pantries throughout the district. Thanks to the efforts of people like Rev. Gary Haines, Mr. Joe Ricketts, and Mr. Rick Gibson, donations for the drive including cash and food totaled well over $40,000—and donations continue to come in.

In short, Mr. Speaker, the drive was a tremendous success. At the start the project was given the title "Care and Share," and I can think of nothing more appropriate.

The response this project received proves that neighbors care about each other and

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● This "bullet" symbol identifies statements or insertions which are not spoken by the Member of the Senate on the floor.

Boldface type indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

are willing to give of themselves when there's a need. We, their elected Representatives, can help by providing the leadership and organization that is needed to create a framework for this sharing to take place. What happened in the fifth district of Iowa should not be considered a special occurrence. Instead, it should be seen as what it really was—a natural response to a need by people who cared enough about each other to do something about it.

It is this attitude of pulling together that the bill we have before us today seeks to encourage, and I urge my colleagues to give it their support.

A BALANCED BUDGET BILL THAT SAYS YES

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. GUNDERSON. Mr. Speaker, for the past few months we have been engaged in a fierce struggle with the proponents of negativism, the advocates of "no." They say, "No, we can't balance the budget; no, we can't guarantee our children and grandchildren that they will not be saddled with trillions and trillions of dollars of debt; no, we can't assure our senior citizens that we will be responsible today so that tomorrow there will be funds for pensions and retirement programs; and, no, we can't find a way to responsibly take control of a budget process that has run wild."

Last week, Congress and the President met the pessimists head-on by passing and signing a balanced budget bill that says "yes." Yes, we can make Government work. Yes, we can solve our problems. We can ensure an economically secure Nation. We can make the hard choices and the difficult sacrifices necessary to ensure that our Nation will move forward to meet the challenges of the future, instead of sliding back into the irresponsible policies of the past.

It takes only a moment to see that those past policies would provide America with an unacceptable future. Those policies have already resulted in:

A Government spending $24 for every $19 it raises in taxes and other forms of revenue;

A national debt that would require $7,000 from every single man, woman and child living in the United States, if it were to be paid off today.

A Federal Government that removes from the private sector, because of borrowing needs, an amount every year equivalent to 5 percent of all produced and all services rendered in the United States;

$130 billion in interest payments on the debt for 1985 alone.

While there are parts of Gramm-Rudman that I am less than pleased with, the fact remains that the bill will contribute in a number of important ways to the battle against the Federal deficit:

Fiscal responsibility will be a part of the budget process from the very outset as the President will be required to submit annual budgets in which the projected deficits do not exceed specified levels. Starting with a budget proposal that is already within resonable funding limits will make it all that much easier for Congress to come up with a finished product that stays within the deficit guidelines. These specified levels will be gradually decreased, until 1991, when the maximum allowable Federal budget deficit will be zero.

The bill includes provisions establishing a new, accelerated timetable for the budget process. In recent years, Congress has dragged its feet, oftentimes waiting until as late as October to finally pass a budget. Time after time, temporary extensions must be passed so that government agencies won't have to close their doors. At this very moment, Congress is preparing to pass its fourth continuing resolution of the year, required because of its inability to complete the appropriation process in a timely manner. The results has been increased costs, inefficient expenditures, and an inability for agencies and departments to adequately plan for the fiscal year. Under Gramm-Rudman, Congress would complete action on the budget by April 15, with the House completing action on regular appropriations bills by June 30.

Up to now, there has been a lot more talk about deficit reduction than concrete action to bring down the deficit. With the passage of Gramm-Rudman, we will see more than just talk. The first major event under the budget regime will come February 1, when automatic cuts for fiscal year 1986 are announced. These automatic cuts will take effect March 1, unless Congress and the President come to terms and voluntarily enact cuts based on agreed upon spending priorities.

While it is important that the United States maintain a strong and effective military, it is also important that the Pentagon do its fair share for deficit reduction. If nondefense programs alone had to shoulder the burden of budget cuts, hundreds of worthwhile programs would have to be axed. Under Gramm-Rudman, any automatic cuts would be divided equally between defense and nondefense programs.

As long as Congress did nothing to discourage the notion that the Federal Government had a magic money tree with an infinite supply of greenbacks, there was little incentive to cut wasteful and inefficient spending practices. Why cut the fat when all you have to do is get Uncle Sam to dole out more money? The Gramm-Rudman bill makes it clear that Uncle Sam's pockets have been picked clean. Knowing that they will not be rewarded for waste with increased appropriations, agencies receiving Federal funds will hopefully have all the incentive they need to put an end to $600 toilet seats, inefficient procurement practices, and duplication of services.

In passing Gramm-Rudman, Congress is not forsaking those individuals most in need of government help. A variety of programs for children, elderly and the Nation's poorest will be protected from automatic cuts. Social Security benefits, child-nutrition programs, Medicaid and veterans' compensation are among the programs that are exempted from automatic cuts. Certain critical health programs are protected, through provisions that set maximum permissible reductions at no more than 1 percent in fiscal year 1986 and 2 percent in fiscal year 1987.

It is my hope that automatic cuts will not become necessary. Each year Congress will have at least two opportunities to do its job by making careful and rational choices about the programs that will receive cuts. Only if Congress fails to meet the deficit-reduction objectives, will automatic cuts come into play.

America today is at a turning point. For too long we've been stalled in history, repeating mistakes of yesterday because our leaders have been afraid to see a new tomorrow. That tomorrow is upon us. We must not let the pessimists convince us otherwise. The future will be ours if we dare to work for it. The people of this Nation are ready to move forward and effectively address the problem of the deficit. With the signing of Gramm-Rudman, Congress has made it known that it too is ready to do its part in moving our Nation ahead.

TRIBUTE TO GILBERT GUDE

HON. RALPH REGULA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 12, 1985

Mr. REGULA. Mr. Speaker, as a Member of the U.S. House of Representatives and as the director of Congressional Research Service, Gilbert Gude has set a standard of performance that is a challenge to all of us.

He approached his responsibilities in the Congress with an independent, thoughtful analysis of each decision. Colleagues recognize this and look for Gil for leadership.

As the director of the Congressional Research Service, he has always been very helpful to Members without any hint of partisanship.

It always has been a pleasure to call for information and have a prompt and friendly response.

I join with my colleagues in wishing Gil well in his future endeavors.

SAVIMBI'S GROUPIES

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. WOLPE. Mr. Speaker, I would like to commend to our colleagues the following column, "Savimbi's Groupies", by Richard Cohen, which appeared in the December 13 Washington Post.

Given Mr. Savimbi's political background—two decades of authoritarian socialism—it truly boggles the mind to hear some conservatives comparing him to our

Founding Fathers. Recently Howard Phillips, the chairman of the Conservative Caucus, went so far as to suggest that "if Jonas Savimbi were an American citizen; he would be the Presidential candidate of the conservative movement in 1988". This would be akin to nominating someone like Mao Tse-tung or Gamal Abdul Nasser, two of Mr. Savimbi's erstwhile heroes, for the Presidency.

When will the far right come to its senses? Aiding Savimbi would, as virtually every United States expert on Angola predicts, play right into the hands of our Soviet and Cuban adversaries in Africa because of Savimbi's alliance with South Africa. The Soviet Union couldn't write a script more advantageous to its interests in Africa.

[From the Washington Post, Dec. 13, 1985]

Savimbi's Groupies

(By Richard Cohen)

In his book, "Political Pilgrims," Paul Hollander called the roll of celebrated leftists who visited Russia and made memorable fools of themselves. George Bernard Shaw praised the Soviets for making "the world safe for honest men." Edmund Wilson pronounced Russia "the moral top of the world" and the Webbs, Beatrice and Sidney, toured the Gulag and found it "free from physical cruelty." Like too many others, they saw the future, but not its quirks.

Now comes yet another wave of political pilgrims, this time conservatives who find virtue approaching sainthood in anyone willing to fight either Russia or Cuba—no matter what the reason. Beatified as "Freedom Fighters," they are compared with the Founding Fathers, even though (and even bearing in mind that war is hell) they occasionally rape and pillage on their way to their own versions of Yorktown.

The latest freedom fighter is Jonas Savimbi, the charismatic leader of Angola's UNITA guerrilla movement, and—if things work out—the recipient of maybe $30 million in U.S. aid. Savimbi's main attribute is the fact that for many years he has been fighting Angola's Marxist government, which, in turn, is buttressed by some 35,000 Cuban troops. In the lexicon of today's political pilgrims, that makes him—three-cornered hat, please—yet another moral equivalent of our Founding Fathers.

It would be one thing simply to say that we are going to play hardball with the Cubans and hire Savimbi to harass them in Angola. Aside from the fact that there is not much reason to do so (Angola is our fourth-largest trading partner in sub-Sahara Africa), you could make the weak and totally cynical case that any foe of the Cubans is our friend.

But the American political right, which is to say the American political establishment, will accept nothing less than a sweeping and morally uplifting anticommunist crusade. They have given it the rubric of the Reagan Doctrine, and it holds, it seems, that anyone who for any reason fights the Soviet Union or a client state ought to be embraced as our friend.

Take Savimbi. His anti-communism, like his love for democracy, is more imaginary than real. As an important guerrilla leader, he spent a year in China and returned home describing himself as a Marxist-Leninist and his foes as "the notorious agents of imperialism." In 1970, UNITA's magazine, Kwacha-Angola, named its mentors: "great revolutionaries such as Mao Tse-tung, Gen. Giap, Ho Chi Minh, Ché Guevara and many others." Since then, this Freedom Fighter has moderated his views some, but not to the point of accepting capitalism or junking UNITA's classic Leninist structure—central committee and all.

The "ism" that probably best motivates Savimbi is opportunism. That explains his alliance with South Africa. It is from it that Savimbi gets what it takes to wage his guerrilla war, and it is from Pretoria that he takes orders. The UNITA-South Africa relationship is so cozy that Savimbi was the only black African leader to attend President P.W. Botha's inauguration. Even African leaders who appreciate that UNITA has to take support where it is offered were offended by that. Consequently, Savimbi is a pariah in black Africa—the continent's No. 1 Uncle Tom.

Little to none of that gets mentioned when Savimbi's fans in Washington describe the man. Instead, he becomes a kind of African neoconservative, someone who started on the left and then, having had an epiphany while scanning the National Review, moved right. Suspended in his case is the conservative doctrine that Marxists are all alike—genetically programmed to institute just one kind of government.

It boggles the mind to compare Jesse Helms with George Bernard Shaw or contemporary conservatives with the radicals now dead. Nevertheless, they share a willingness to look reality in the face and see fantasy.

SPR IS WORKING

HON. PHILIP R. SHARP

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. SHARP. Mr. Speaker, the Department of Energy is currently conducting a test drawdown and sale of oil from the strategic petroleum reserve [SPR]. The Congress conceived of this test to see if the SPR could work.

That is:

Could oil be successfully sold to bidders in the private sector?

Could oil be pumped out of the underground salt domes where it is stored?

Could SPR oil really be refined into usable oil products?

Could all the paperwork that has to be completed in order to sell SPR oil under Government regulations be done in a timely, efficient fashion?

So far, the SPR is passing the test.

In fact, not only were there 32 bids for the oil from 17 companies—demonstrating significant private sector interest in SPR oil—but the five successful bidders paid $28.9 million, as much as $10 per barrel more than they might have had to pay in the market. There was obviously a desire by the bidders to make sure they are prepared to deal with the physical and administrative details of using SPR oil.

The successful test of our Nation's buffer against future oil emergencies should increase the level of confidence in the SPR and should serve as a demonstration of preparedness to both our citizens and our foreign oil suppliers.

I commend to my colleagues two recent news accounts of the test sale, one, by Robert D. Hershey, Jr. in the New York Times on December 12, 1985, and the other, an editorial in The Washington Post on December 2, 1985.

[From the Washington Post, Dec. 2, 1985]

Testing the Strategic Reserve

The Energy Department is selling a little oil out of its strategic reserve, just to test the system. This demonstration of capability is essential, and long overdue. It's a small sale—just over one million barrels, one-fifteenth of this country's daily consumption, Sales like this one need to be a regular and routine part of managing this crucially important resource.

The strategic petroleum reserve has been carefully built up by the Energy Department in gigantic underground caverns along the rim of the Gulf of Mexico. It was first conceived as a response to the shortages that this country suffered in the 1973-74 oil embargo by the Arab producers. The idea—and it was a good one—was to build a shock absorber against sudden disruptions in the foreign oil supply and, especially, to ensure that foreign producers could not threaten the United States.

Organizing the reserve was slow work, and the department was not able actually to begin filling it until late 1977. In 1979 the department installed high-speed pumps that could retrieve the oil in an emergency. But it never quite got around to demonstrating the administrative and physical capacity to take bids on the oil, sell it and deliver it to the refineries—fast. That is the capability that the current exercise will test. Perhaps there will be a few hitches. That's why it's necessary to keep doing it and make the procedures completely familiar both to the department and to its industrial customers.

The country now has about $14 billion invested in those caverns—490 million barrels of oil, the equivalent of 100 days' imports. Since one conspicuous reason for that investment is to deter anyone who might hope to throw the American economy off balance by interfering with the flow of imports, it's essential to show that the reserve can be fed, rapidly and smoothly, into the distribution system.

This kind of sale from the reserve is like army maneuvers. The purpose is not only to keep the troops proficient, but to show that proficiency to anyone who might be watching.

[From the New York Times, Dec. 12, 1985]

U.S. Taps Its Oil Reserves

FIRST DELIVERY FROM STORAGE

(By Robert D. Hershey, Jr.)

Washington, Dec. 11.—In the first comprehensive test of the country's ability to tap its vast oil stockpile in an emergency, a Texas refiner today began to take delivery on a shipment of crude oil from the Government's strategic petroleum reserve.

As the La Gloria Oil and Gas Company received the first of its 100,000-barrel order at a terminal near Nederland, Tex., Department of Energy officials said they were now confident that the United States could act efficiently to deal with a supply disruption by moving stockpiled oil into commercial channels within three weeks.

"The system works," said George Bradley, Jr., and acting assistant secretary at the Department of Energy.

CONFINED TESTS

Until now, emergency planners have confined their tests largely to the physical pumping and tranportation of oil and to theoretical "paper" exercises in which the price of oil was estimated for various shortage conditions. There are five stockpiling storage sites along the Louisiana and Texas coasts.

The current test, which began Nov. 18, is the first in which oil was auctioned off to the industry and then actually delivered. La Gloria, one of the five successful bidders, is a small Houston concern that will move the oil to its refinery at Tyler, Tex.

A total of 1 million barrels of oil has been sold from a reserve that now has 492 billion barrels.

The other companies to buy oil from the Government at a time when prices are falling in the open market were the Phillips Petroleum Company, Conoco Inc., the Amoco Oil Company and the Marathon Petroleum Company.

PLEASED WITH BIDS

Energy Department officials, who said they had worried that the industry would not participate, said they were pleased with the 32 bids they received from 17 companies. Among the nonbidders, however, were such industry giants as the Exxon Corporation, Texaco Inc. and the Mobil Corporation.

An Exxon spokesman in Houston, Leslie C. Rogers, said that his company did not bid because "we had no need for the crude oil at that time."

The stockpile, created under a law passed 10 years ago this month, is now large enough to replace all imports for more than 100 days at current demand levels. Because the United States receives most of its oil imports—averaging 5 million barrels a day during November—from Western sources, the stockpile could replace imports from Arab members of the Organization of Petroleum Exporting Countries for more than three and a half years.

During the first half of 1985, the five biggest foreign suppliers were Mexico, Canada, Venezuela, Britain and Indonesia. Saudi Arabia, No. 2 at the time of the 1973 Arab oil embargo, is no longer among the top 10.

The period for which the United States could do without foreign oil now equals or exceed the level of protection envisioned by the Government when the reserve legislation was initially passed.

The five buyers paid $28.9 million for their oil, or 96 percent of the then-prevailing price in the open market. Because of recent price declines, some of the successful bidders wound up paying as much as $10 a barrel more for the stockpile oil than they might have paid Tuesday in the market.

"It would appear we sold high," said Richard Furiga, and Energy Department official.

The department said the oil it sold came from the underground storage operations themselves rather than oil held in delivery pipelines.

"We've shown beyond any reasonable doubt that the Government and the private sector can work together in a fair and efficient test of the reserve's competitive bidding process," Energy Secretary John S. Herrington said in a statement.

AGRICULTURAL POLICY AND ECONOMIC REALITY

HON. WILLIS D. GRADISON, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. GRADISON. Mr. Speaker, the Second Congressional District of Ohio, which I have the honor to represent, provides me with a varied perspective on the farm problem. While my district is commonly thought of as Cincinnati and the suburbs of Hamilton County, I represent farmers too. Corn farmers in the district received $1,056,203 in deficiency payments in 1984, 104th in the Nation. Agriculture is critical to the economic base of Clermont and Brown Counties. Tobacco, corn, and soybean farms are the landscape in those two-thirds of my district.

Farmers in my district are as independent, skilled, and concerned as farmers anywhere else in this country. They recognize that Federal fiscal and agricultural policies have contributed to their current difficulty and they are aware of the crucial role they play in the economy. These farmers sense that this farm bill will do little to alleviate the long-term problems facing them or the farm economy generally.

When Congress convened last January, the Reagan administration was determined to move the focus of American agriculture from dependence on government subsidies to a more market-oriented policy. Moving American agriculture toward the free market, however, has proven to be politically difficult. In spite of the fact that American farmers recorded another bumper crop in 1985 for wheat, feed grains, dairy products, and other major commodities, the farm economy is experiencing its most severe financial crisis since the Great Depression. After months of debate and delay, we are now considering the conference report on the 1985 farm bill.

The approach favored by the administration is not new. In recent years, questions have increasingly been raised about the nature of government agricultural programs. Critics have charged that the system of target prices, deficiency payments, and other vehicles designed to support the income of farmers and help stabilize consumer prices have actually encouraged the overproduction of major commodities and increased the cost of most food items for consumers. These same programs have had the preverse impact of contributing to the downturn in prices received by the farmer.

Farm land values which appreciated every year for 30 years prior to 1981 have declined an average of 19 percent since then. In some States, particularly Indiana, Illinois, Nebraska, Minnesota, Iowa, and my home State of Ohio, the decline has been especially severe. Overall farm income declined by 50 percent between 1981 and 1983, rose slightly in 1984, but fell again this year. According to the U.S. Department of Agriculture, approximately 10 percent of all farmers have debt-to-assist ratios so high—in excess of 70 percent—that they may not be farming 2 years hence if conditions do not improve.

Particularly in communities acutely sensitive to the downturn in the general farm economy, these conditions have reached a critical phase. Yet, this has occurred in spite of significant Federal aid. Prior to 1981, Federal spending on farm programs averaged $5 billion per year. In 1985, commodity programs intended to stabilize farm incomes will cost the taxpayer $18 billion.

Over the life of the 1981 farm bill, the United States has spent in excess of $63 billion on agricultural support programs. This unprecedented amount is four times the original estimated cost of the legislation. Despite this multibillion dollar subsidy, the problems caused by overproduction, falling farm income, and falling land values are seemingly more intractable now than 4 years ago.

The traditional outlet for much of America's agricultural bounty has been the export market. Four out of every 10 cropland acres currently under production are devoted to the export market. The 20 to 25 percent of farm income across the Nation is dependent on agricultural trade. For grain farmers, the ability to export represents slightly over half of their income.

In 1985, American agricultural sales abroad amounted to $33.5 billion, down 24 percent from 1981. However, it should be remembered, and is often forgotten, that American agricultural exports peaked in 1979–81.

Beginning in 1971, U.S. agricultural exports increased an average of 17 percent per year through 1981. These were the boom years of American agriculture. Soviet grain purchases in 1973 led the expansion of United States farm trade in the period. Even Chinese grain purchases in 1980 and 1981, roughly equivalent to the earlier purchases by the Soviet Union, were not enough to arrest the slide from the peak of 1979–81.

By the early 1980's, overproduction resulting primarily from acreage expansion, based on an assumption that export demand would continue to expand, caused commodity prices to fall. Under normal circumstances, the decline in prices might have had a beneficial effect on farmers by making American agricultural products more competitive in the world market. Unfortunately, just as prices declined, the dollar began its upward surge. Massive Federal budget deficits that have skewed the value of the dollar have had the same negative effect on farmers as they have had on other export sectors of the economy.

The boom period of the early 1970's was a confident time for America's farmers. The value of farm land appreciated as the expansion of production and investment in land continued. In 1970, for example, 44 million acres of wheat were harvested. By 1982, wheat acreage had expanded to 78 million acres, much of it coming in the Southeast and Southwest. Current plantings and yields of corn and soybeans have doubled since the early 1970's.

In spite of the downturn in export sales, the United States continues to dominate world trade in agricultural products. Eighty percent of the soybeans, 70 percent of the corn, and 38 percent of the wheat traded in world markets is produced by American farmers.

America's market expansion of the 1970's was not lost on others. The European Community, Canada, Australia, Argentina, Brazil, and other countries have significantly increased their agricultural output. The United States faces stiffening competition from abroad. For example, foreign corn production has increased by 50 percent in the past 12 years and foreign soybean production is up 140 percent over the same period.

Furthermore, this sharpening competition is occurring amidst the successes of the Green Revolution. India and China, in particular, have made significant gains in their ability to feed their own people, thereby reducing their demand for agricultural imports. Most analysts view a strong agricultural base as a necessary feature of long-term development in the Third World. As a result, even if the dollar regains purchasing parity in international markets, America cannot expect, over the long term, to produce at recent levels.

The comparative downturn in export trade and the bumper crops brought in by U.S. farmers have triggered, under existing law, a massive increase in Federal price and income support payments and the stockpiles of commodities held by the Government. For example, 1 out of every 10 gallons of milk sold between 1980 and 1983 was bought and stored by the Federal Government. In an effort to support dairy farmers, the Department of Agriculture has stored a 2-month supply of butter, a 3-month supply of cheese, and a 2-year supply of milk for every American.

Government policies and the economic decisions made by many farmers in recent years were based on the assumption that the agricultural boom of the 1970's would continue. When the boom collapsed, the Nation was left with an agricultural sector wonderfully prolific, but dependent on Government support.

Unfortunately, economic success is not based solely on the quantity of production. Production is not the same as productivity. These facts, and more than a little politics, continue to confound the emergence of a rational farm policy.

The cumulative effect of decades of Government involvement in agriculture has contributed heavily to the current state of affairs on the farm. As a nation, we have overinvested in agriculture. Federal farm programs that continue to encourage overinvestment and overproduction can do little to reverse the trend. Tax policy exacerbates this problem by encouraging investment in agriculture that otherwise would not be made.

For many farmers, the effects of overinvestment in agriculture have been very harmful. Yet, in addressing the farm crisis, neither the House, the Senate, nor the conference committee has adequately come to grips with the problem.

Debate on effective policies to reverse the trend in the agricultural sector has run head on into politics. With congressional elections in 1986 and control of the Senate at stake, the politics that come into play when farm legislation is debated have become even more byzantine than usual. The disunity of farmers around the country and the massive $214 billion debt held by farmers have contributed to the delay.

Indeed, the debt problems in rural America have loomed over every debate on the future direction of American agriculture. The debt of the Federal Government also has had a tremendous negative impact on the farm sector. Nearly everyone agrees that the Federal budget deficit is the most pressing domestic issue we face. Last week's vote on the Gramm-Rudman proposal to eliminate the deficit by 1991 is evidence of that. Meaningful deficit reduction would, in the long run, benefit farmers as it would benefit the rest of the economy by lowering relative interest rates and the value of the dollar.

Both the House and the Senate have reacted to the difficulties facing agriculture in substantially the same manner as before by throwing more money at agriculture. The congressional budget resolution approved earlier this year called for spending on agricultural programs for the next 3 years of $34.8 billion. The $56 billion House and $58 billion Senate versions of the farm bill were passed in the knowledge they were budget busters. The final $52 billion version of the farm bill exceeds the budget resolution by spending more than $50 billion deemed acceptable by the White House.

The House voted to lower loan rates (the floor under commodity prices) on major commodity programs, except for sugar, to discourage excessive production and make American agricultural products more competitive. Yet, at the same time, the House voted for a 5-year freeze on deficiency payments—the subsidy the Government gives a farmer to make up the difference between the market price and the artificially set target price.

The House also voted to revive the Dairy Diversion Program that pays farmers not to produce. Over time, the House dairy program would have raised supports while shifting the onus for bearing the costs of the program from the Government to the consumer. The conference committee wisely chose to abandon the House position.

The Senate bill was also replete with contradictions. The Senate voted, as did the House, to lower price supports. The Senate also voted for a 2-year freeze on deficiency payments. While turning back the Dairy Diversion Program, the Senate bill would allow grain farmers to opt for higher supports if land is taken out of production.

Several positive reforms have been incorporated into the legislation. One of the most significant would reduce the price support floor under corn, wheat, and dairy products to make these commodities more competitive in the world market.

At the same time, however, the conference has circumvented real reform by retaining the peanut and sugar programs without cuts. The conference added a requirement that the administration adjust sugar import quotas downward to avoid cost to the Government. This plan will add to consumer food costs and damage our Latin American and Caribbean allies while providing only short-term protection to American sugar beet and cane growers, whose return per acre is three times the level of rice, corn, cotton, and soybeans, and five times that for wheat and oats. The overall result is a conference report that broadly continues the policy mistakes of the past, the same mistakes that have brought us to the present situation.

During the often emotional debate on farm policy, much was said, about saving the family farm and preserving a way of life. Two members of the House expressed the view that "farming is more than an occupation, more than an industry; it is a way of life for millions of Americans." They urged the membership to examine the toll the current difficulties in the farm economy take on the human spirit.

The Jeffersonian vision of the United States as an agricultural republic runs deep in our culture. There is no doubt that agriculture plays an important role in our economy and our national life. However, the United States is no longer strictly an agricultural economy. Indeed, the number of Americans working on the land has declined steadily throughout our history. As late as 1920, five times as many people lived on farms as in 1983. The farm population is currently only 2.5 percent of the population. Not even the most ambitious farm programs can reverse the trend toward fewer, larger, more highly capitalized farms.

It is difficult not to sympathize with those who have lose or will lose their farms, some of which have been in the same family for generations. But agricultural fundamentalism can only lead to policies that will provide the short-term semblance of a solution, while deepening the real problem—overcapacity. It is likely, therefore, that the problem of surplus, exacerbated by Federal policies which encourage excessive investment and production, will not be brought under control by the bill before us.

Even a casual look at current programs reveals their misguided nature. Many farmers produce nonprogram crops and are ineligible for income support payments no matter what the state of their financial distress. In 1984, 90 percent of commodity program payments were distributed to farmers of wheat, feed grains, cotton, rice, and dairy products. These commodities, however, represent only 31 percent of the total cash receipts in American agriculture.

Less than half the distressed farmers in this country—those with negative cash flow and a debt-to-asset ratio above 40 percent—are participants in Federal commodity programs. For those who are participants, 95 percent receive less than $25,000 from the Government—61 percent of all commodity program payments. The remaining 5 percent of farmers receive 39 percent of the program benefits. Seventy-two percent of the farms in the country have annual sales less than $40,000; these farms receive only 22 percent of the Federal payments. By any reasonable standard, the poorest and most needy farmers do not receive assistance of the kind accruing to larger producers.

The fact is that the larger the farm, the higher the degree of program participation, and the larger the volume of production, the larger the likely share of program benefits. Do larger farms, however, mean that the family owned farm is under attack? In terms of the percentage of all farms, the percentage of land under cultivation, and the percentage of total farm output, nonfamily corporate farming has been declining for a decade. Families are increasingly incorporating their farms for practical tax and business reasons. The family farm is not dying; rather, it is adapting, albeit painfully, to a new environment.

As a nation and as a matter of public policy, we have decided that it is desirable to subsidize agriculture. In my view, we have done so because of the belief that farming is "basic and fundamental" to the economy. But, there is no realistic threat of losing our agricultural production base. We should not make agricultural policy on that assumption.

"Saving the family farm" and "increasing farm income" are two phrases that have been used repeatedly in our debates. These are legitimate concerns, while there are obviously important economic dimensions to the farm problem, let's be honest with ourselves and admit that it is the social dimensions of the farm problem that have largely influenced this bill. At bottom agriculture policy is primarily social and not economic policy.

Ironically, programs designed to support the struggling, small farmer have clearly had the opposite effect. Simply transferring income to farmers, because they are farmers, is neither prudent nor fiscally responsible. After all, there are many other groups in our society equally deserving of transfer payments.

Deliberations on farm legislation and farm credit have indicated the desire of Congress to preserve the family farm. The difficulty, of course, is that technology, the global economy, and the increasing efficiency of farmers have rendered Federal farm programs ineffective in dealing with economic reality.

The family farm has changed. Farming is no longer simply a way of life. It is a multibillion-dollar industry. More than any other sector of the economy, Federal policy affords protection to this industry from the competitive rigors of the marketplace. The irony is that there is little reason for monopolistic concerns in an industry with over 2.3 million units of production. Congress has supported deregulation in many sectors of the economy, but not in agriculture. Indeed, the economist's model of "perfect competition" comes closest in agriculture.

Congress began 1985 with the hope that the debate on farm legislation would set the tone of American agriculture for the remainder of the century. Without question, the farm economy has been battered by many forces beyond the control of individual farmers. However, the Congress must take a large share of the responsibility for enacting programs which have encouraged overproduction in major commodities.

The legislation now before us makes a bow in the direction of changing the destructive pattern of throwing money at the farm problem. But this conference report fails to provide the needed gradual transition to a deregulated agricultural sector. When this bill expires in 4 years, we will surely be back here debating what to do about the next farm crisis. Politics and the scramble to save the farm, however, have led again to inconsistent and contradictory legislation—far from the clear policy statement on the future of American agriculture which all Americans—including farmers—deserve.

HAZARDOUS DRUG EXPORT CONTROL ACT

HON. HENRY A WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. WAXMAN. Mr. Speaker, today I am introducing H.R. 3962, the Hazardous Drug Export Control Act.

This legislation has two main features. First, it would prohibit U.S. companies from selling a U.S.-approved drug in another country with labeling which omits necessary warning language or makes unfounded health claims. It appears that many U.S. drug companies are selling abroad the same drug that is approved in the United States but with one, very important exception; they have revised the cautionary labeling. In some foreign countries, particularly those like the Philippines, Mexico, and Thailand, some United States companies change the label to remove FDA required warnings and adverse reaction information or to add uses which are not approved by the FDA. This means that the physicians and pharmacists in those countries who see the labeling are not informed about the proper use of the drug or about serious problems which FDA discovered when reviewing the drug for sale in the United States.

The other main provision allows the export of drugs and antibiotics which are not yet approved but which have completed all clinical testing and are under active FDA review. The export would be allowed to those several countries which appear to have drug approval systems comparable to ours and health care professionals who are knowledgeable about the prescribing and dispensing of drugs. This provision would allow a U.S. company to produce the drug in the United States even though it is to be sold only in those other permitted countries which have approved its sale. The export of this unapproved drug would be limited to the short, interim period before U.S. approval.

I am troubled by the proposition that unapproved drugs should be exported from the United States under any circumstances. Such a policy means we do not extend to foreign consumers the same protections we insist on for ourselves. Nevertheless, I have concluded that legislation of the type I am introducing today will contribute to a more focused and productive debate on the need to permit the export of unapproved drugs. This bill also will assure a more thorough investigation of problems involving drugs which are currently exported, such as U.S.-approved drugs with different labeling in foreign countries and unapproved antibiotics which can be exported under existing law.

A heavy burden rests on the proponents of legislation to permit the export of drugs unfit for sale in the United States. Even properly used approved drugs, which are essential to good health care, can cause severe adverse reactions. The potential for harm from unapproved drugs is obviously much greater. Proponents of such legislation must show that our reputation as the world's leader in pharmaceutical development is not compromised by the export of unapproved drugs. While the bill I am introducing contains a provision to permit some unapproved drugs to be exported, I am not yet satisfied that those provisions are needed. I expect my subcommittee's investigation and our hearings to provide sufficient information for action, pro or con, on this legislation.

Mr. Speaker, there is another bill which permits the export of unapproved drugs, but it is quite different in scope and philosophy. S. 1848 was recently approved by the Senate Committee on Labor and Human Resources. I do not support that legislation. Frankly, I am not aware of any credible evidence that the open-ended and far-reaching provisions of that legislation are either needed for justified. Also, I believe it fails to address serious deficiencies in our current export laws.

The Senate bill permits drugs which have never been reviewed by the Food and Drug Administration to be exported to countries which do not even have a drug approval system.

The Senate bill asks the Secretary of Health and Human Services to establish a list of "developed" countries which have "adequate governmental health authorities" that, in effect, protect their citizens from unsafe, ineffective, or mislabeled drugs. Is it possible for the Secretary to objectively and accurately evaluate the competence and capabilities of trusted allies? Could the Secretary suffer the international embarrassment of leaving countries like Italy or Ireland off such a list?

The Senate bill fails to place any enforceable restrictions on the reexport of drugs, from countries to which export is lawful, to countries of the Third World. The FDA has already testified that they could not stop the illegal reexport of drugs if given the authority.

The Senate bill purports to encourage the development of drugs for tropical diseases by permitting drug companies to ship inadequately tested products directly to underdeveloped countries.

The Senate bill doesn't develop comprehensive and uniform export policy for drugs and antibiotics. Banned or unapproved antibiotics could continue to be exported to Third World countries. If all the "safeguards" in S. 1848 are needed to protect foreign consumers of U.S. made, unapproved drugs, why aren't they needed for unapproved antibiotics exported by U.S. companies?

The Senate bill fails to address and correct documented labeling abuses involving U.S. approved drugs.

Mr. Speaker, it is true that most other nations permit the export of unapproved drugs and impose few if any restrictions. Is that justification to lower U.S. standards? Or, is it cause to encourage developed nations to enact export standands similar to the United States, take responsibility for the products they manufacture and demonstrate respect for the foreign consumers they serve?

The policies of the United States affecting the international community should convey our traditions of justice, compassion, and fair play. The legacy of this Nation is too important to mirror the image and judgments of other governments. The United States should be proud of its long tradition of attempting to provide foreign consumers of U.S. drug products the same standard of safety that it provides American consumers.

This philosophy, this legal standard, affirms in the clearest sense, our Nation's commitment to human rights. It confirms our commitment to the promotion of exports based upon the quality and safety of the product rather than pursuit of economic advantage.

Mr. Speaker, I expect the Subcommittee on Health and the Environment will begin hearings on this legislation early in the second session. The hearings will be comprehensive and deal with a wide range of issues affecting the production of unapproved drug products, the fair and safe promotion of U.S.-approved drug overseas, and the effect of U.S. export policy upon world health. There are numerous, important questions which are raised by this important legislation that must be answered.

Will a change in our export policy towards unapproved drugs generate new U.S. jobs? The drug companies first said 50,000 new jobs would be created, but then changed the estimate to 8,000. We will seek objective data.

Will the drug companies really close production facilities overseas and repatriate those jobs to the United States? They say so. We will investigate.

Under S. 1848, will the export of less-than-fully tested unapproved drugs for tropical diseases and other "health conditions * * * which do not exist to a significant extent in the United States" be a boon or a curse on the Third World? The drug companies say boon. We will investigate.

Do the foreign countries listed in this bill and S. 1848 have drug approval systems comparable to ours? We will determine which do.

Does the FDA take longer to approve a drug than other comparable foreign approval systems? If so, why? Is it because companies start testing in the foreign countries first?

Do biotechnology companies have to transfer important, and otherwise unattainable technology to foreign partners because they can't export unapproved drugs? Are there deficiencies in the protection such companies receive for their innovations from our patent laws?

Mr. Speaker, it is a major undertaking to evaluate these issues, but my subcommittee will do so. Without the answers to questions like these, Congress will not have sufficient information to determine whether legislation in this area is needed.

WISCONSIN ELECTRIC POWER: A WORTHWHILE PROJECT

HON. F. JAMES SENSENBRENNER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. SENSENBRENNER. Mr. Speaker, Wisconsin Electric Co., a company which has consistently pressed for improved efficiency and has earned a place among the leaders of its industry, has recently announced a plan for making use of the latest technologies as part of a major $600 million commitment to upgrading its efficiency and reducing its impact on the environment.

The chairman of Wisconsin Electric, Charles McNeer, has estimated that overall his company's continuing improvements will result in a cumulative 50 percent reduction in sulfur dioxide emissions, combined with an increase in generating capacity of 64 percent in the 1970 to 1992 period, when the recently announced upgradings will be in place.

Of particular interest is the pioneering use of pressurized fluidized bed combustion technology at the Port Washington powerplant, which is in my district, which is part of the company's proposed program under the Federal Clean Coal Technology Program. At the Oak Creek plant, the company plans to add four units to atmospheric fluidized bed combustion, to make it the largest such plant in the world using this technology.

The 6-year project will mean a peak work force of 875 workers at the two plants.

I am submitting for the RECORD the text of Mr. McNeer's announcement, which gives the details of this far-reaching effort.

STATEMENT OF CHARLES MCNEER

For decades, Wisconsin Electric has been an industry leader in power production technology.

Our East Wells Power Plant was the first to burn pulverized coal. Lakeside Power Plant was the first in the world built solely to burn pulverized coal. Port Washington Power Plant was the most efficient in the world for more than a dozen years. Our Point Beach Nuclear Plant still ranks at the top of the list of most efficient nuclear units in the country.

Today we are here to announce another first for Wisconsin Electric and our industry, a series of steps that will ensure reliable energy supplies for our customers and a cleaner environment.

Public concern with the environment is strong. Wisconsin Electric shares that concern. Much of what we're describing for you today represents what we believe is a reasonable and cost-effective approach to acid rain concerns.

We believe there is more to be learned about the causes and effects of acid rain. But we also share the belief of many of our state's citizens that we can take reasonable steps now to reduce our emissions even further while we wait for research results and for national legislation.

The new technologies we're proposing for our plants are surely part of the overall answer.

Last February we announced plans to demonstrate the nation's first pressurized fluidized bed combustion system at our Port Washington Power Plant. An international funding effort is under way now so that we can proceed with that project.

Today we are announcing plans to build the world's largest atmospheric fluidized bed combustion plant, converting four of the generating units at our Oak Creek Power Plant to this new technology for the clean burning of coal. The conversion will reduce sulfur dioxide emissions by 90 percent from the four units which represent 500,000 kilowatts, or about 15 percent of our coal-fired capacity. The Oak Creek Plant is Wisconsin's largest coal-fired power plant.

Construction of four AFBC units at Oak Creek along with the use of lower-sulfur coal in all other major generating units on our system will decrease sulfur dioxide emissions from our plants by 42 percent compared to 1980 levels. That's a reduction of 90,000 tons of SO_2 per year. The figures are even more significant if we look back to 1970 and compare our system then to the system we'll have in place by 1992.

We will have achieved a 50 percent reduction in SO_2 emissions despite an increase in generating capacity of 64 percent. That's a reduction of 125,000 tons of SO_2 per year.

Besides taking steps to reduce emissions, our plans call for modernizing the other units at Oak Creek and Port Washington to extend their lives.

Total cost of this modernization and clean-air effort will be about $600 million. For our investment, we'll be getting a cleaner and more efficient generating system. Further, a peak workforce of 875 construction people will be involved over the six years of work. About 700 workers will be utilized at Oak Creek; 500 for the AFBC project alone. At Port Washington, it will mean a peak construction workforce of 175 workers.

This is our blueprint for Wisconsin Electric's future, ensuring a cleaner environment and promising reliable electricity supplies for our customers. And it's less costly than other options for achieving such significant emissions reductions and maintaining adequate energy supplies.

So not only will our plan address acid rain concerns, it will also extend the lives of several of our generating units to promise reliable generating supplies and it will do all this without a financial burden on our customers. In other words, it will keep Wisconsin competitive in terms of economic development, improving our economic environment at the same time we enhance the quality of our natural environment.

SAVE THE FAMILY FARM

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. CONYERS. Mr. Speaker, I along with several of my colleagues have taken it upon ourselves to write the conferees on the continuing resolution to urge them to support the Farm section in that measure. This section begins to map out a plan for recovery in rural America, something that is essential to the social and economic health of the country. At this time, I would like to submit this letter along with the relevant continuing resolution language into the RECORD.

HOUSE OF REPRESENTATIVES,
Washington, DC, December 13, 1985.

DEAR CONFEREES: Under the leadership of House Appropriations Chairman Jamie Whitten, the House approved language in the continuing resolution which would be a major step toward solving the crisis in rural America, while saving billions of dollars in unnecessary appropriations. We write to express our strong support for maintaining the agriculture provisions, sections 105 and 106, contained in the House Continuing Resolution.

Section 105 directs the Secretary of Agriculture to use existing law to implement the Commodity Credit Corporation for the loan program upon which farm commodity prices are set. This would establish a fair price based on the cost of production. It provides for commodity payment by the commodity purchaser rather than by Committee appropriation. It has been the law for the past forty years, and has been proven effective in promoting a prosperous agriculture in America.

Section 106 recognizes the burden placed upon the family farmer by the embargoes during the past decade and, in that regard, requires the Secretary to adjust principle and interest on outstanding loans on a case by case basis depending on the extent to which the farmer was unfairly hurt due to foreign policy. Also, this section modestly establishes a 12 month moratorium on foreclosures until the Secretary determines the exact amount due to the farmer.

In the midst of our nation's severe budget crisis, we can no longer afford to have farmers depend on the Treasury for survival. At best that is only a band-aid solution. The farm dollar should not come from the Appropriations Committee: it should come from the market. Twenty-two million rural and urban jobs are ultimately at stake.

Maintaining sections 105 and 106 in the continuing resolution will return prosperity to rural America. This historic legislative initiative is essential to the survival of our nation's farmers.

Sincerely,

JOHN CONYERS, Jr.,
JAMES WEAVER,
EDOLPHUS TOWNS,
MICKEY LELAND,
Members of Congress.

H.J. RES. 465

SEC. 105. In view of the financial crisis facing many farmers, resulting from embargoes and suspension of exports in 1973, 1974, 1975, and 1980, and failure to use the Commodity Credit Corporation for a loan program which led to a fair price from the user, the Secretary of Agriculture shall use his authority under existing law to provide for nonrecourse loans on basic agricultural commodities at such levels as will reflect a fair return to the farm producer above the cost of production, and to issue such regulations as will carry out this provision and as will provide for payment by the purchaser, rather than by appropriation, for basic commodities sold for domestic use and the Secretary of Agriculture shall issue such regulations as will enable producers of any basic agricultural commodity to produce the amount needed for domestic consumption, to maintain the pipeline, and to regain and retain by competitive sales our normal share of the world market.

REINSURANCE KEY TO INSURANCE CRISIS

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. FLORIO. Mr. Speaker, in the current crisis in the unavailability of liability insurance, an important factor is the availability of reinsurance. Reinsurance is not subject to the same degree of State regulation as is insurance, and foreign companies play a significant role in the reinsurance market. Members who are concerned about the insurance crisis should be aware of the reinsurance situation. It is a matter my subcommittee will be examining in our insurance inquiry. An article on this subject from Business Week follows.

NOW EVEN INSURERS HAVE A HARD TIME GETTING COVERAGE

Property and casualty insurers, after six years of debilitating cutthroat competition, have finally been able to post higher premiums and make them stick. But now they're finding themselves with a supply-side crisis. They can't write as much new business as their corporate customers want to buy, and some can't even renew existing policies. The trouble this time: They, too, are being faced with the equivalent of a supply squeeze in the amount of reinsurance they can buy.

Little-known and even less well-understood, reinsurers are insurers of last resort who back up the primary policy-writers and one another. By turning over a portion of their premium income to reinsurers, insurance companies can spread their risks and increase their capacity. Last year the reinsurers' share was $11.3 billion, 10% of premium income.

In recent years, however, reinsurers have paid out much more to primary insurers and to each other than they ever expected, producing large losses on some accounts and overall declines in their performance (chart, page 129). Fed up, they are demanding price increases ranging from 50% to 500% this year. And both reinsurance and primary insurance prices, predicts Thomas R. Tizzio, president of the domestic brokerage division at American International Group Inc., "will go up even farther in the first six months of 1986."

NASTY SURPRISES

Despite steep price hikes, reinsurers have shrunk from the risks of taking on much new business—or have withdrawn from the U.S. market altogether. Among those turning their backs are some foreign reinsurers, including members of scandal-shaken Lloyd's of London, the world's main reinsurance exchange (BW—Nov. 25).

Reinsurers cite skyrocketing court judgments in the U.S. as the main reason for walking away. They also claim that they are being forced to shell out for damages they never thought they were covering—those related to products such as asbestos and Agent Orange that weren't seen as massively hazardous at the time the policies were written. "We cannot price for future generous court awards," says Michael G. Fitt, chairman, president, and chief executive officer at Employers Reinsurance Corp., a U.S. company that has abandoned a number of high-risk lines of insurance. "And we cannot price for future social goods decided by the courts."

Faced with new uncertainties, a lot of reinsurers are abandoning the business. That is particularly true on the product liability side, where "fifteen months ago 120 companies were writing reinsurance. Now there are only 50 to 60 left," says David J. O'Leary, research director for Fox-Pitt, Kelton Inc., a stock brokerage firm specializing in insurance.

As reinsurers pull back, insurers are finding it harder to meet the insurance demands of commercial clients. "A lot of good industrial companies used to easily get $200 million to $300 million in liability coverage," says Donald A. Thomas, executive vice-president of Crump Cos. "Now they're lucky to get $50 million, and even then we want more money up front in premiums."

Union Carbide Corp., for one, had an estimated $300 million in liability insurance before the Bhopal disaster, which has let loose a flood of lawsuits. Now, industry sources speculate, Carbide might find its policies impossible to renew.

GIANT GAP

Even companies with much better records are having trouble. The Insurance Services Office, an industry trade group, estimates that the gap between insurance offered and the coverage corporations ought to have will be as high as $62 billion over the next three years. Even at steeply escalated rates, the group calculates, the industry's premium income in 1987 will fall 18% short of the amount business customers would be willing to pay.

As one response, primary insurers and reinsurers alike are engaged in an allout assault to reduce their exposure in the courts. They're also trying to institute new types of policies limiting future liability. Several are backing federal legislation being drafted by Senator John C. Danforth (R-Mo.) that would cap court awards. Whether these approaches will work is an open question. "There's a lot of talk, but our judicial system is very flexible. I don't see it changing," says Wolfgang J. Buettner, president of American Intermediaries Inc.

THE DUMB FACTOR

A number of industry experts are less quick to lay exclusive blame on the courts. "The capacity shortage is a direct result of reinsures failing to do our job and underpricing our product, [while] the losses are piling up," says Crump's Thomas. He traces the problem to the mid-1970s, when high prices and market opportunities attracted a flock of new entrants to the reinsurance business—ranging from small companies to traditional insurer and even huge corporations such as Phillips Petroleum Co., which set up a foreign insurance-writing subsidiary.

The lure was easy money—premium income that could be invested in the high-yielding bonds of the time. Reinsurers often seemed cavalier about the risks that they were helping to underwrite. After all, a reinsurer pockets premium income from a primary insurer up front, and loss claims usually don't start rolling in until years later.

In the ensuing competitive fracas, however, "Many of the new players cut prices, grabbed for market share, but didn't understand the risks," says Joseph R. Aspland, general manager of the reinsurance division of Allstate Insurance Co. "I call it the 'dumb factor.'" Most established reinsurers were equally guilty of price-cutting, however, as they fought to preserve market share.

Stung by unexpected losses, a number of companies, including Phillips, left the business. More worrisome, about 31 insolvencies have been recorded in the past two years (page 134). Most recently, Mission Insurance Co., a unit of Mission Insurance Group Inc., was declared insolvent by the California Insurance Dept. in October, largely because of its reinsurance woes. "It became a more significant player in the reinsurance business at the wrong time," notes Richard M. Haverland, a Mission director and executive vice-president at a unit of American Financial Corp., which owns 49.9% of Mission. State regulators are negotiating with AFC—itself controlled by investor Carl H. Lindner—to bail out Mission.

With even a big company like Mission insolvent, insurance companies have grown as queasy about their reinsurers as the reinsurers are about sharing risks with insurance companies or each other. So insurers have embarked on a wholesale flight to quality. And that is aggravating the capacity crunch. The trend is "benefiting the big reinsurers," says John L. Gilbert, a New York reinsurance broker. "They know it, and right now they're charging a high price to do business with them."

No one expects large amounts of new supply to close the insurance gap anytime soon. Reinsurers familiar with the situation in the U.S. are just too nervous to begin another round of aggressive marketing. But a new batch of foreigners has begun to evince that old fatal attraction for the U.S. market. Now that reinsurers have jacked up prices so high, reinsurers from Finland, Sweden, and West Germany have made tentative forays here. Meanwhile, a few domestic manufacturers have begun setting up self-insurance units.

For some industry watchers, these new entries are evidence of a suicidal flaw in the market. In the rueful view of American Intermediaries' Buettner, "Reinsurers can't stand prosperity, and every time prices improve, someone tries to raise their market share by cutting prices." But until that day comes again, the outlook is for a continuing capacity shortage and costlier coverage for U.S. businesses—whose need for insurance is growing all the time.

MEDICAL MALPRACTICE: COSTING US ALL

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. PORTER. Mr. Speaker, our expensive, inefficient, and inequitable system of medical malpractice insurance and recovery is a problem which already significantly affects the cost and quality of health care throughout the country and mounts in seriousness every year.

Even with recent tort reforms in many States, including my home State of Illinois, the costs of malpractice insurance coverage are going through the roof. With yearly insurance premiums up to $80,000, no wonder that many fine doctors are asking themselves if they can afford to continue using their talents and training to deliver babies, to set broken bones, and to perform neurosurgery.

The consumer ultimately pays the bills for malpractice insurance as well as the hidden costs, amounting to billions of dollars annually, of defensive medicine and expensive tort litigation. These costs must be controlled.

We must focus simultaneously on quality control of those few unprofessional doctors and tort lawyers whose actions ultimately hurt everyone.

New data being collected for Congress by the GAO should help guide our policy decisions on a package of reforms to insure the continuing availability of good medical care for everyone.

NEW GI BILL ALREADY A SUCCESS

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. MONTGOMERY. Mr. Speaker, although the new GI bill has only been in effect since July 1, 1985, it is already doing what so many of us said it would do—that is, bring more high quality young people into the National Guard and Selected Reserve. The following letter from Col. Claude Holland of the Military Department of the State of Mississippi, is typical of those I have received since the July 1 startup date for this new educational assistance program. The word is out that in exchange for a 6-year commitment in the Guard or Reserves, a young man or woman will receive $140 a month for 36 months in education benefits.

The National Guard and Selected Reserves are the initial and primary source for augmentation of the Active Forces in any future emergency requiring a rapid and substantial expansion of the Active Forces. As such, it is critical that the Guard and Reserves stay fully manned by high quality personnel. As reflected by the letter from Colonel Holland, the availability of the new GI bill is already enabling the Guard and Reserves to achieve this goal.

State of Mississippi,
Military Department,
Jackson, MS, December 3, 1985.

Hon. G.V. Montgomery,
House of Representatives, Rayburn House Office Building, Washington, DC.

Dear Mr. Montgomery: Your recent contribution to the National Guard, "The New G.I. Bill", has proven to be a most effective recruiting incentive for the Mississippi Air National Guard. With the aid of this program, the recruiters from the three Air Guard bases throughout the state are enlisting above average young people to bear a proud heritage.

On June 11, 1986, more than fifty of these individuals will depart Mississippi for Lackland AFB, Texas, to begin basic training. From that point forward, they will carry the distinction of being a member of the "Mississippi Magnolia Flight".

A luncheon is being planned for the day of their departure to honor members of the "flight" and their families. The local media will also be invited to attend.

This event would be greatly enhanced by your presence as guest speaker. If this request can be worked into your busy schedule, the program will remain flexible to accommodate your needs.

Thank you for your consideration into this matter, and as always I remain.

Sincerely,
Claude A. Holland, Col, MS ANG,
Executive Support Staff Officer.

FAREWELL TO MR. SABA QURAISHI

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. DYMALLY. Mr. Speaker, for the past 4 months Mr. Saba Quraishi undertook an internship in my Washington office. I wish to take this opportunity to share with the membership of this House my appreciation of this young man's services.

Mr. Quraishi is a student at the University of California, Santa Barbara campus. He chose to learn about the operations of Congress on a voluntary basis in lieu of a semester in school. That is a sacrifice worth noting, and one that earned him a position on my staff.

Unfortunately, all good things end at some point. It has been a pleasure, however, for me and my staff to have worked with this student during his internship. His contributions to the constituents of the 31st District of California are greatly appreciated. Mr. Quarishi was responsible for gathering support for a minority business piece of legislation I offered. In addition, he assisted in responding to constituent requests and correspondences, and monitored the operations of the House Subcommittee on Asian and Pacific Affairs.

Mr. Speaker, since coming to Congress I have established a reputation for constant employment of congressional interns and

fellows. I am proud to say that most of them have been of top quality. Mr. Quraishi certainly added to that record. The faculty and administration at the University of California-Santa Barbara should be pleased with the efforts of this student, and I commend them for the education they have provided to this individual. He certainly will be a welcomed addition to the University of California-San Diego where he was transferred. My service in Congress has benefited from him, and I hope that this internship has benefited his education.

Mr. Speaker, I urge Members of this body to join me and my staff in thanking Mr. Quraishi for his contributions to this Congress, and wish him all the best in his future endeavors. Thank you Saba and best wishes.

ORTEGA'S MINIONS CENSOR THE POPE

HON. BOB LIVINGSTON

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. LIVINGSTON. Mr. Speaker, the Sandinista regime in Nicaragua continues its repression of the church in Nicaragua and of those who try to speak and print the truth, rather than the party line established by the Marxist Sandinistas. The Sandinista regime's edicts require that everything to be published in Nicaragua be reviewed by the censors in the Sandinista Government's communications office. You can print only what they let you print and only when they let you print it. The decisions are completely arbitrary—today you cannot print it, or maybe tomorrow you can print it, or maybe you cannot print it, but you can read it on the radio once, and so on. The Boston Globe of December 12, 1985, carried an article which shows just one example of the arbitrary repressiveness of Daniel Ortega's Sandinistas censors.

The article follows:

[From the Boston Globe, Dec. 12, 1985]

NICARAGUA CENSORS LETTER FROM POPE, THEN RETRACTS AND ALLOWS PUBLISHING

MANAGUA, NICARAGUA.—Government censors deleted most of a letter from Pope John Paul II about tensions between the church and state, then allowed its publication and broadcast in full, radio and newspaper spokesmen said.

The letter, sent by the pope for Monday's celebration of the Day of the Immaculate Conception, urged church leaders to not be discouraged by "intimidation and criticism of ministers" in Nicaragua.

The manager of Radio Catolica, Alberto Caraballo, said the letter "was mutilated by censors last Dec. 7 and we decided not to transmit it that way, since our interpretation was that the government did not want the people to know the true message from the pope."

Caraballo said the government censorship bureau, known as the Office for Communications Media, later ordered that the letter be broadcast in full "but only one time, which we did Tuesday at noon."

Sources in Radio Catolica, who spoke on condition of anonymity, said Nicaraguan bishops had protested to President Daniel Ortega over the censorship and insisted that the letter be made public.

Capt. Nelba Blandon, director of the communications office, said Tuesday, "We have not prohibited publication or diffusion of the letter from the pope."

But she added that by law anything that is to be published in the country must be reviewed by her office.

Jamie Chamorro, director of the opposition newspaper La Prensa, said the newspaper sent the letter to the censorship office last Saturday with material to be published that day.

He said the government then closed the newspaper for two days because it disclosed to other journalists material that censors had eliminated from the newspaper. The letter was published in Tuesday's paper, he said.

The pope said in the letter that "in recent weeks difficulties in pastoral action . . . have increased." He added that he holds "the firm hope that the existing problems can be resolved soon in a satisfactory manner."

PERMANENT SOLUTIONS TO TOXIC WASTE MUST BE FOUND

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. FLORIO. Mr. Speaker, one of the most important initiatives contained in the Superfund reauthorization legislation (H.R. 2817) recently passed by the House is language mandating the implementation of permanent treatment technologies for cleanup of toxic wastes whenever such solutions are feasible and achievable. As we prepare to go to conference with the other body, the importance of retaining these provisions in the final legislation cannot be underemphasized.

A recent incident in Charlevois, MI, provides an excellent example of the need for the Congress to require the Environmental Protection Agency [EPA] to undertake permanent solutions to such toxic hazards. Some 30 years ago, a spill of the deadly chemical trichloroethylene [TCE] began to seep into the town's ground water. The site of the spill was eventually placed on the Superfund national priorities list.

Unfortunately, when it came time to formulate cleanup plans for this site, EPA announced that it planned to simply allow the chemical to be gradually absorbed into Lake Michigan rather than undertaking any measures to remove it from the ground water. This inadequate remedy has been vigorously protested by Michigan's Governor and other State officials.

The inadequate remedy proposed by EPA at Charlevoix is just the kind of proposal that would be prevented by the Superfund legislation we recently passed. I commend a recent article from the New York Times describing the controversy to my colleagues' attention.

[From the New York Times, Nov. 29, 1985]

MICHIGAN CHEMICAL HAZARD LEADS TO DISPUTE

CHARLEVOIX, MICH., Nov. 28.—A chemical believed to cause cancer has been seeping into underground water supplies here, and Gov. James J. Blanchard and the Federal Environmental Protection Agency are disputing how the problem should be handled.

Traces of the chemical, trichloroethylene, or TCE, which is used to dryclean clothes and degrease machinery, were found in the Charlevoix water system four years ago.

The amount of material did not present an immediate health hazard, Federal officials said, but they decided an alternative water source would be necessary.

The environmental agency designated the town's water problem as No. 359 on its list of 538 contaminated sites around the nation eligible for special cleanup funds. Under that program, the agency is financing a $3.5 million plant that is to provide this resort town with clean, treated water from Lake Michigan.

POINT OF DISPUTE

Although the Governor and the agency agreed on the need for the water treatment plant, they disagree on what should be done with the contaminated ground water that remains.

E.P.A. researchers said a drum of the chemical was apparently dumped on the grounds of the Charlevoix Middle School about 30 years ago. It seeped into the ground and eventually reached the well that supplies the town with drinking water. The well is about 400 yards west of the school and 100 yards from Lake Michigan.

In June the environmental agency recommended that the chemical be left to seep naturally into Lake Michigan and called for regular monitoring. Jack Kratzmeyer, remedial project manager in the E.P.A.'s Chicago office, said the process would take about 50 years. He said the chemical would not pose a health hazard so long as no one drank from any wells in the area between the school and the lake. The program would cost $160,140, the agency said.

GOVERNOR'S CRITICISM

Mr. Blanchard opposes the agency's plan. He says it is the first time the E.P.A. has decided not to remove a hazardous chemical from a cleanup site in the Great Lakes region.

"Letting the contaminant remain until it is finally sponged up in the lake sets a dangerous precedent for the Great Lakes basin," he said in a recent interview. "I will go to Washington myself to exert all the influence I have in Congress, where I served four terms, to persuade the E.P.A. to change this decision."

David Dempsey, the Governor's environmental specialist, said in a telephone interview from Lansing, "It means nothing that the TCE can't be detected in the lake now because it will show up in the fish eventually."

"But it isn't just a question of public health," he added. "The real question is whether we have a clean environment in and of itself, for its own sake."

PLAN IS DEFENDED

Mr. Katzmeyer of the Federal environmental agency defended the E.P.A. plan.

"I think our decision is entirely consistent with the law which governs cleanups," he said in a telephone interview. "The levels of TCE that reach the lake now are not detectable by any means now available, because the plume is so wide and diffused.

"We have been running tests constantly in the area out in front of the present well and where we are installing the intake for the new system," he added, "and at no time have we been able to detect any TCE."

He said it would cost $4.4 million to pump up all water containing any trace of the chemical and clean it.

A FIRST STEP IN GUATEMALA: WE SHOULD HELP THE DEMOCRATIC PROCESS

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. BROOMFIELD. Mr. Speaker, I am hopeful that progress along the road to democracy in Guatemala will continue. Given the fragile nature of this first step, however, that problem-plagued country needs our help in many respects. We must do all that we can to ensure that the flame of democracy continues to burn in Guatemala. Helping Guatemala is a risk worth taking.

The recent election of Marco Vinicio Cerezo Arevalo bodes well for the movement toward democracy in Guatemala. The elections were free and the voter turnout was impressive. He is a brave Christian Democrat who is determined to make Guatemala a better country. The military, however, is still a powerful force in that poor country.

Over the years, human rights violations in Guatemala have been numerous and regrettable. The Indians in the highland areas of Guatemala have suffered much. In that region, leftist guerrilla groups operate against Government security forces. Thousands of innocent Indians have died in that insurgency. The indiscriminate use of force and insensitivity to the human rights of the mountain people by both parties in that struggle have been the cause of severe problems in that area. Guatemalan police have also created problems in the human rights area. Exposure to U.N. antiterrorism techiques and giving human rights sensitivity training to police units will help reduce some of the problems in that long-suffering country.

Earlier in the year, the administration sent to the Congress H.R. 3462, the Central American Counterterrorism Act of 1985. It provides counterterrorism training for civilian police and military antiterrorism units in certain Central American countries to include Guatemala. The Senate version of that proposal eliminated training for military units. Aid to the Guatemalan police is severely restricted.

The proposed legislation requires that the President certify to Congress that an elected civilian government is in power and that the new Government in Guatamala has made progress toward controlling the military and ending human rights abuses by security forces. The proposal also requires that the President report to Congress that the security forces in Guatemala and countries in Central America are not engaged in systematic human rights violations. Also included is a provision that the concerned governments are making progress in creating law enforcement agencies and judicial systems that investigate and prosecute criminal acts, and that the aid will achieve the purpose of professionalizing independent police agencies.

Given, the history of repressive military rule in Guatemala, some conditions on assistance of this nature appear to be appropriate. While there are certain inherent risks in providing aid of this kind to Guatemala, the planned training program will serve to reform the security forces whose present performance and behavior leave much to be desired. It is essential that the military and police units in that country be part of this reform effort. Of great importance is the fact that the program has a large human rights component in its training schedule.

We must do all that we can to encourage the ongoing democratic trends in Guatemala. Guatemalan security forces need our help. They have a long way to go. Although we cannot be absolutely sure of the final outcome of this training effort, we must take a chance and work with Guatemala in this important area of counterterrorist training. It is a risk worth taking.

I urge my colleagues to support the Senate version of the President's Central American Counterterrorism Act of 1985 when it is considered in the House.

With these comments in mind, I commend the following New York Times editorial on democracy in Guatemala to my colleagues in the Congress.

[From the New York Times, Dec. 12, 1985]

A NEW CHANCE IN GUATEMALA

For Guatemala, now comes the hard part. The military, in power for most of 31 years, has honored its promise to permit the free election of a civilian president. The vote seems to have been fair. The victor, with the highest vote total in history, is an attractive center-leftist, Marco Vinicio Cerezo Arévalo, and he pledges to take charge without vengeance against the military for its murderous rule. If he succeeds, it will be a tremendous advance for democracy in Central America's largest, most developed country.

Success is far from certain. Mr. Cerezo plainly does not lack for courage; three assassination attempts failed to deter his candidacy. "The only way they are going to get me out of the palace is to carry me out dead," he defiantly proclaims. But in fact he has trimmed a bit, running a conservative campaign. His Christian Democratic Party promised to respect landowners and financial interests, to try no one for human rights violations and to let the military manage counterinsurgency. A new Constitution leaves the armed forces in control of local government and legalizes the resettlement of Indians into "model villages" and their conscription into civilian patrols. Human rights abuses against urban citizens may now decline, but what relief can be expected in the countryside?

Swollen military budgets and endless warfare have contributed to a severe economic crisis. Foreign lenders and donors will feel more comfortable about helping a civilian Government, but until priorities are reordered, new money may not make much difference. Mr. Cerezo, an admirer of Clausewitz, suggests that his deference to the military is part of a grand strategy, yielding to realities. That judgment, backed by the voters, should not be second-guessed from afar. Americans join in hailing his victory, and his promise.

A PICTURE OF AN ECONOMY WITHOUT MASSIVE DEFICITS

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. PORTER. Mr. Speaker, the Commerce Department estimates that our Nation's GNP grew 3.3 percent in the third quarter.

New car purchases and Government spending led the rise. The auto companies offered below market interest rate financing and consumers responded.

Of course, Mr. Speaker, the auto companies can't offer cut rate financing forever. Eventually they will be forced to return to our still relatively high market rates. Those rates are the price that our Government must pay to convince free people to invest with Uncle Sam. They are the price of financing a $2 trillion national debt increasing by over half a billion dollars a day.

With a balanced budget, Mr. Speaker, those rates would drop and the growth we have just seen in auto sales would occur throughout our economy.

Congress, however, has avoided painful deficit reduction, preferring the politically safe approach of deficit stimulus even during a period of relative prosperity. Our economy, Mr. Speaker, wallows in mediocrity because of high interest rates, and Congress is to blame. We have met the enemy and he is us.

CONGRESSMAN AUGUSTUS F. HAWKINS COMPLETES 50 CONTINUOUS YEARS IN ELECTED OFFICE

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. DYMALLY. Mr. Speaker, in 1935, 249 Members of this 99th Congress has not yet been born. Franklin D. Roosevelt had recently replaced Herbert Hoover as President, and Roosevelt had begun many of the programs that for the past 50 years have shaped U.S. domestic policy; 1935 was the first year of Social Security. Back then each Member of Congress represented about 280,000 people rather than the approximately 550,000 each of us now represent. The fastest passenger plane, the new DC-3 could get a person to California in about 18 hours of flight time. If you wanted to go to Europe you took a dirigible. Mass produced automobiles had been around the United States for only 27 years, and the assembly line was only 22 years old.

In fact, the automobile itself was less than 50 years old. It was 12 years before Gen. Chuck Yeager first broke the sound barrier, 22 years before humans first put something in space, and 34 years before a human being walked on the Moon. The Presidential likenesses on Mount Rushmore were still being sculpted. There was no atom bomb. Martin Luther King, Jr., was 6 years old. We are often so caught up in the rush forward that we take little time to look back and realize just how many changes our world has undergone in 50 years. A milestone event occurred in this year of 1985 that has given me pause to look back. You see, this year marks the 50th continuous year that our respected friend and colleague AUGUSTUS HAWKINS has held elective office. He has never lost an election.

He won a seat in the California State Assembly on his first try, defeating a Republican incumbent who had held the seat since 1919. Congressman HAWKINS served in the State assembly for 28 years before coming to Congress in 1962. He was during those 28 years the author of many ground breaking pieces of legislation. And those outstanding legislative accomplishments foretold the mission of advocacy for laborers that would mark his career in the U.S. House of Representatives. Among other things, those important pieces of legislation set a minimum wage for women, created workman's compensation for domestics, disability insurance, low-cost housing for the poor, fair housing practices, an old age pension, fair employment practices, and child care centers.

In the assembly, Mr. HAWKINS rose to assume key chairmanships that made him one of the most powerful members of the assembly. He was chairman of the rules committee as well as chairman of the senate and assembly joint legislative organization committee, the primary committee position in the State legislature. His decision to seek a seat in Congress was especially significant for me. I won the seat he vacated. In effect, I owe the beginning of my political career to AUGUSTUS HAWKINS, and I am thankful for the long and warm friendship I have shared with him.

In the Congress, AUGUSTUS HAWKINS' name is associated with legislation that has provided opportunity for the disadvantaged of the country. Congressman HAWKINS was a primaray author of the Comprehensive Employment and Training Act, the major Job Training Program of the Federal Government from 1978 to 1982. He also guided the Job Training Partnership Act, the successor to CETA to final passage in 1982. Each year when we debate the budget on the House floor, time is set aside to discuss the ideals reflected in the Humphrey-Hawkins Full Employment and Balanced Growth Act. Mr. HAWKINS is the HAWKINS of Humphrey-Hawkins. The law, Public Law 95-523, has served for nearly a decade to define the ultimate Federal goal in the jobs area: full employment and balanced growth. Based on legislative accomplishment in the field, no Member of Congress is more qualified to hold the chairmanship of the Education and Labor Committee than is Chairman HAWKINS.

As a member of the Congressional Black Caucus, I think it significant to point out to my colleagues that AUGUSTUS HAWKINS, with 22 years of congressional service, has served the people of the country longer than any other present black Member of Congress. He is the 27th black person in our Nation's history to serve in the House of Representatives. I hope to have the good fortune to be a Member of this body on that day in 1990 when the members of the Black Caucus will raise a toast to celebrate the fact that AUGUSTUS HAWKINS, in his 55th continuous year in elected office, will have served in the Congress longer than any other black person in history. If I am here on that day it will be in large part because I have tried to live up to an ideal defined by Congressman HAWKINS' own view of public service:

> The leadership belongs not to the loudest, not to those who beat the drums or blow the trumpets, but to those who day in and day out, in all seasons, work for the practical realization of a better world—those who have the stamina to persist and to remain dedicated. To those belong the leadership.

U.N. CONDEMNS TERRORISM

HON. JOE BARTON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. BARTON of Texas. Mr. Speaker, on December 9, 1985, 118 members of the U.N. General Assembly voted in favor of a resolution condemning terrorist acts as criminal. The only dissenter was Cuba; a haven for airline hijackers for years. Although the U.N. resolution is symbolic in nature, it is noteworthy in that this is the first time the United Nations has fundamentally condemned terrorism.

The U.S. Ambassador to the United Nations, Gen. Vernon Walters described the resolution as, "a symbol of new times." With 70 percent of International acts of terrorism in the last year directed at U.S. citizens, it is time to turn symbolism into action. The people of this great Nation deserve to be protected when outside of our borders and should not be at the mercy of barbarous thugs who commit acts of terrorism. Countries who support and encourage terrorism should not be treated as our friends.

The representatives of such criminal governments as Iran, Syria, and Libya all of whom voted for the resolution, need to demonstrate their commitment to fight terrorism. My colleague from the other side of the aisle, MORRIS UDALL and I have introduced H.R. 3661, the Anti Terrorism Trade Preference Act of 1985, which will put teeth into our rhetoric on combating terrorism. The bill would deny trade preferences to countries that support terrorism.

International terrorism and atrocities aimed at Americans must not be tolerated and the countries responsible must be punished. I encourage my colleagues to support H.R. 3661.

The following is the Washington Times article on the U.N. vote to condemn terrorism:

[From the Washington Times, Dec. 10, 1985]

U.N. OKs ANTITERROR RESOLUTION—ITS FIRST

(By Narayan Keshavan)

NEW YORK.—The U.N. General Assembly yesterday approved by consensus a resolution that condemned terrorist acts as "criminal"—the first time the world body has unequivocally passed such a resolution condemning terrorism.

The resolution was hailed by U.S. Ambassador to the United Nations Vernon A. Walters, who said it was "a symbol of new times."

"Every country has felt this in its flesh," Gen. Walters said.

The U.N. text loosely defined terrorism as "acts . . . in all its forms which endanger or take innocent lives, jeopardize fundamental freedoms and seriously impair the dignity of human beings."

Yesterday's vote in the General Assembly came after the assembly's legal committee on Friday overwhelmingly approved it by a vote of 118 to 1, with Cuba voting against it.

A Western diplomat, speaking privately after yesterday's vote, said he understood other members of the 101-member Non-Aligned Movement had been furious with Cuba, which apparently found its isolation in Committee "not so splendid."

After the assembly adopted the anti-terrorism resolution yesterday, there was a sharp exchange of words between the Israeli delegate and other Middle Eastern representatives.

Israeli Ambassador Benjamin Netanyahu charged that terrorists have continued to murder people "because for years they have gotten away with murder."

"Some of the states that voted for resolution are the worst offenders," Mr. Netanyahu said. "They don't prosecute terrorists, they defend them. They don't prevent hijackings, they encourage them. They don't extradite terrorists, they give them villas and cash bonuses."

Mr. Netanyahu deplored the attempt to legitimize terrorism by linking it to "a struggle for self-determination."

Israel had abstained on the voting in the committee because the resolution referred to self-determination. However, Israel yesterday joined other member nations in unanimously approving the resolution.

The resolution's preamble reaffirms the "inalienable right to self-determination and independence of all peoples under colonial and racist regimes and other forms of alien domination" and upholds "the legitimacy of their struggle, in particular the struggle of national liberation movements."

However, the paragraph says the struggle must be "in accordance with the purposes and principles of the [U.N.] Charter."

Zehdi Labib Terzi, the observer from the Palestine Liberation Organization, praised the resolution and claimed that his organization was against terrorism. He then urged the international community to force Israel to halt "its terrorist activity against the people in the occupied territories."

It was "ironic," as one Western diplomat put it, to hear Iran, Syria, Libya, the PLO and Iraq—all at one time or another suspected of backing terrorism—speak out against acts of terror.

Israel's Mr. Netanyahu stated that he could not but chuckle when hearing statements from delegates of those nations who are "pioneers of terrorism."

House of Representatives
Washington, DC. November 1, 1985.

Dear Colleague: Terrorism against the United States and her citizens is a cruel reality that must be addressed. Recently we have witnessed the hijacking of a TWA airliner and an Italian cruise ship. In both instances, terrorists selected innocent Americans for torture and murder. According to the FBI, 50% of the international terrorist incidents since 1968 were directed at Americans.

In some cases, the criminal acts of terrorism are the work of individuals and organizations that have little support in the world community. Their acts properly receive the condemnation of civilized people throughout the world.

However, the specter of state-supported terrorism has arisen in recent years. There are nations that support terrorism and the time has come for the U.S. to take direct action to force them to cease their support for terrorist organizations. The U.S. is a nation of great economic power and we feel that it is entirely appropriate that to use our economic power as a weapon against international terrorism.

The legislation that we propose would repeal trade preferences to nations that support terrorism. We were both surprised and disturbed to discover that some of the most criminal governments in the world, including Iran, Libya, and Syria, enjoy Most Favored Nation (MFN) status with the U.S. Our legislation would repeal MFN status for nations that support terrorism and subject them to higher tariffs and trade restrictions. This is the very least our nation can do to punish these criminal governments. Special trade preferences should be reserved to our friends and allies, not nations that are attempting to murder our citizens.

H.R. 3661, the Anti-Terrorism Trade Preference Act of 1985, would do three things: First, require the Secretary of State to maintain a list of countries that support terrorism and notify Congress whenever a country is removed from or added to the list. The Secretary already maintains such a list for other purposes. Second, deny trade preferences to any country on this list. Third, grant the President authority to waive this proscription if he finds that it is not in the national interest.

Senator Lloyd Bentsen (D-Texas) has introduced identical legislation in the other body. This is important legislation that should become public law. We believe that this bill could be a first step in the formulation of a broad strategy to combat terrorism against Americans.

Any Member who wishes to be a cosponsor of H.R. 3661, the Anti-Terrorism Trade Preference Act of 1985, should call Joe Kelliher at extension 5-0486.

Sincerely,

Joe Barton,
Morris Udall,
Members of Congress.

BLACK AMERICAN WEST MUSEUM

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mrs. SCHROEDER. Mr. Speaker, the December issue of Odyssy West magazine has a profile on the Black American West Museum in Denver.

The museum was started by Paul W. Stewart, who has a collection of over 35,000 pieces of black American history. It is a truly outstanding collection, and I am pleased Odyssy West has given it the recognition it deserves.

Denver Museum Links the Past With the Present

(By Mary Jackson)

During the two years with Lincoln, the two became very close. "We drink from the same canteen," is the inscription on a pin Lincoln gave to him. During the Civil War, several mines and "watering holes" were owned by Blacks, where Black and White men stood side by side toasting the fruits of their labor.

When you walk into the Black American West Museum you can't help but get lost in the past, in the rich history and heritage of Black Americans. You can't help but wonder what life must have been like for those who helped to shape this country. You can't help but wonder how it took the sweat of their brows to harvest the land, and the ingenuity of their spirit to deal with Indians on a long, lonesome wagon train across barren land to a better life. And you can't help but feel what we take for granted would have been a luxury for them. After all, much of this history has been deleted from America's history books and much of this history has remained untold.

But much of this history has been the pride and joy of one man, and is on display in the Five Points area of Denver.

The Museum began as the personal hobby of Paul W. Stewart, who after meeting a Black cowboy in his early years vowed to uncover all the material he could on other Black pioneers. His search has taken him to nearly every corner of the West, gathering personal artifacts, memorabilia, newspapers, legal documents, clothing, letters, photographs and oral histories. The collection consists of over 35,000 pieces of Black American history, and although the current collection has been 30 years of Stewart's work, the story is still growing, and the Museum is still collecting memories.

The collection found its way from boxes to its first home in 1964 in Stewart's East 34th Avenue barber shop. From there, it was moved to donated space at Denver's Clayton College on Martin Luther King Boulevard in 1974. Presently, the collection is housed at 608 26th Street at Welton.

The Museum has two main galleries and a multi-purpose room. The latter show-cases the works of visiting artists from around the nation. An interesting exhibit now on display is dedicated to LeRoy Wiley, owner of LeRoy's Electronics and for many years the only Black Larimer Street businessman. Wiley also collected hats of all shapes and sizes—over 2,000 in fact. He would have celebrated 32 years as a businessman this fall; but, on April 11, 1985, robbers shot and killed this man who had such a zest for life. The exhibit is really a memorial to The Hat Man of Larimer. In his own words: ". . . Without God I couldn't have done anything."

Gallery No. 1 showcases findings of Blacks in the early West from the 1700's to the 1800's. Remember the Buffalo Soldiers? They were mappers, interpreters and guides for White fur traders. The Indians called them Buffalo Soldiers because their hair reminded them of buffalo fur.

The 1800's were the formative years for Blacks—a time to escape slavery and the Homestead Act. Black wagon trains crossed the continent in search of a home to call their own. Blacks established self-sufficient towns, two of which were Nicodemos, Kan., and Dearfield, Colo. The latter is widely known for Bill Pickett, the most famous Black cowboy, and the first Black to be named to the Cowboy Hall of Fame. Pickett invented the trick of bull-dogging, by roping the bull and biting its lip so hard, the pressure would cause it to succumb. He was a self-promoter and often was featured in movies in the early 1920's.

Blacks were also in the military, taking San Juan Hill with Teddy Roosevelt in the Spanish-American War of the late 1800's. It is a little known fact that the all-Black 10th Cavalry should really be credited for that victory.

Gallery No. 2 showcases mostly Denver history from 1800-1925. Blacks held every profession from musician to lawyer, from doctor to entrepreneur—they covered the gamut. The Colorado Statesman was the first Black newspaper, established in 1881. Dr. Justina Ford was Denver's first Black woman doctor. Dr. Joseph Westbrook was instrumental in infiltrating the Ku Klux Klan, and because of his negotiations, the Black community turned back the march of an angry Klan group.

In August of this year, Epsilon Nu Omega chapter of Alpha Kappa Alpha Sorority, Inc., hosted a reception for the grand opening of the Museum. Denver Councilman Hiawatha Davis kicked off the three-day event by cutting the ribbon to the Museum's entrance.

"The Museum is a vital part of our cultural heritage, and it is up to us to support its efforts," Davis said during the ceremony. Several dignitaries joined in the festivities, including Denver district Attorney Norm Early, State Senators Regis Groff and Dennis Gallagher, Building Developer Leroy Smith and Denver City Councilman Bill Roberts. The event netted over $18,000 in contributions, but this is only a fraction of the moneys needed to keep the Museum's programs going.

On September 21, nearly 100 people gathered at the City and County Building to show their support for both the Museum and the Justina Ford House, at a meeting of the Mayor's Advisory Council for community development block grants. The Board of Directors of the Museum will receive a grant for $197,000 to turn the Ford House into a community center to serve the Five Points area. Dr. Ford practiced out of her home for 50 years, providing a haven for the care and nourishment of many of Denver's residents and delivering as many as 7,000 babies during that time.

The Board has raised the money from private donations to more the house from its original site to a lot on 31st and California. It has been declared an historic landmark, and with the help of the moneys from the block grant, they hope to transform the

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house into a satellite of the Black American West Museum.

The plan is to exhibit the rich history of the Five Points area on the first floor of the house. In the 1870's, Five Points was one of Denver's wealthiets areas, and by the 1930's was the jazz capital of the West. The second floor rooms will be turned into areas for meetings and classes. Basic living skills, such as winterizing your home, nutrition and health, will be taught; these are not found at other local community centers such as the Glenarm Recreation Center and the Five Points Community Center.

It was the work of Stewart and Councilman Davis a year ago which saved this house from demolition. "It is phenomenal that in twelve months, the Black community has seized a major victory for all Blacks in this city," Davis commented. This grant is the first of its kind to be awarded to a Black historical project like this in the grant's ten-year history.

If you haven't taken the time to delve into your historical past, there's an abundance of Black American heritage waiting for you. The Museum—at 26th and Welton—is open Wednesday through Friday from 10 a.m. to 2 p.m., Saturday from 10 a.m. to 5 p.m., and Sunday from 2 p.m. to 5 p.m. Admission for adults is $1.00; seniors, students and children under 16 pay only 50¢. Group rates and tours are also available.

The Museum conducts various workshops for the community. Recently, Dr. Dent Williams, noted genealogist from Washington, D.C., held a workshop on tracing ancestry. The Museum also provides classroom education and collaborates with many local events during Juneteenth, the Bill Pickett Rodeo and Black History Month.

The Black American West Museum is still growing and influencing others across the country. The Museum has been commissioned to host the American Museum Association's convention next year.

The Black American West Museum: A memorial to those who built the West and dedicated to the Black cowboy—a symbol of how the West was won.

ASBESTOS INDUSTRY EXPERIENCE POSES LESSON FOR CHEMICAL INDUSTRY

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. FLORIO. Mr. Speaker, one of the most important developments for the American court system in recent years has been the filing of thousands of lawsuits by those who have contracted fatal diseases as a direct result of their exposure to hazardous asbestos. A detailed history of this litigation was recently published by Pantheon. Entitled "Outrageous Misconduct: The Asbestos Industry on Trial," and authored by Paul Brodeur, this interesting commentary was reviewed by Business Week and I commend the review to my colleagues' attention.

Mr. Brodeur's description of the asbestos industry's travails contains some important object lessons for other industries that have not yet been hit with such challenges. For example, the asbestos industry, overwhelmed by the prospect of victorious plaintiffs' lawsuits, has finally come to endorse the concept of an administrative compensation system which would decrease the transaction costs of such awards. But other industries faced with the same potential exposure to toxic tort cases still vigorously resist both compensation systems and toxic tort law reform.

It may turn out that other manufacturers of toxic substances will find themselves in the same position as the asbestos industry in the next couple of decades. We can only hope that such industries do not wait until litigation has gotten out of hand to face the issues posed by alternatives to the resolution of such disputes.

AN UNSPARING LOOK AT THE ASBESTOS TRAGEDY

Paul Brodeur is a talented journalist. One of his talents is the ability to rouse indignation in the reader without raising his voice as a writer. If you doubt it, read any dozen pages of *Outrageous Misconduct*, Brodeur's detailed history of the decades-long effort to hold the asbestos industry liable for the illness and death of thousands of asbestos workers.

The magnitude of the public-health problem is difficult to overstate. From 1940 to 1980, some 21 million Americans were exposed to microscopic fibers of asbestos from insulation and other building materials. The fiber entered their lungs and, in a high proportion of cases, caused cancer. From that group, the best estimate is that in each year until the turn of the century, 8,000 to 10,000 people will die of asbestos disease.

What Brodeur demonstrates from court records, corporate documents, and interviews is that the asbestos industry in general, and Manville Corp. in particular, was aware since at least the 1930s of the dangers to their employees and to the employees of their customers, but knowingly suppressed that knowledge. For years the manufacturers contended, often successfully, that industrial medicine was not sufficiently advanced to diagnose asbestosis until the 1960s. Thus the defendants could not be held liable for failing to warn workers of danger. The drama of the book is in the laborious process by which the victims' lawyers destroyed this defense. So thoroughly did they do so that juries began to award not only compensation but also punitive damages running into the hundreds of thousands of dollars. Thus Brodeur's heroes are not the victims but the plaintiffs' lawyers who took their cases and, in increasing numbers, won them.

The irony is that these are trial lawyers of the unromantic sort who deal in personal accident and negligence suits, workers' compensation law, and product liability actions. Many work for fees contingent on winning a judgment and are held in low regard by colleagues in big corporate law firms, who call them ambulance chasers and worse.

Few of the protagonists in Brodeur's book attended Ivy League law schools. Ward Stephenson, for example, whose zeal started Manville's endless skein of troubles, was graduated from Southern Methodist University. Stephenson developed the strategy that, says Brodeur, triggered "the greatest avalanche of toxic tort litigation in the history of American jurisprudence." By the end of 1982 about $600 million had been paid out in claims, and one study estimated that perhaps $40 billion would eventually be paid. Manville itself ended by seeking protection under the bankruptcy laws.

Stephenson's first asbestos client was a pipe insulator who used asbestos in his work. In most states, workers' compensation laws bar a worker from suing his employer for damages beyond the compensation award. But Stephenson rightly judged that liability suits against the suppliers of the insulating material—the asbestos manufacturers, who failed to warn of danger—would stand up.

If the heroes are the plaintiffs' lawyers, the villains are legion. Among them are *The New York Times* and *The Washington Post*. Their record illustrates what happens when editorial writers take on issues that they know little about—issues that appear straightforward but that are complex and problematic. That happens a lot, and it's of concern to journalists such as Brodeur.

In 1983, *The Washington Post* ran an editorial on asbestos based on a report by Rand Corp. (Brodeur stops just short of asserting that the research for the report was paid for by asbestos makers and their insurance carriers.) The *Post* argued that the tort system was an inefficient way of compensating asbestos victims, largely because it was so expensive. Brodeur points out that the newspaper failed to grasp that the largest part of the cost resulted from the manufacturers' intransigence. "When asbestos victims were allowed to use the supposedly inefficient tort system," he writes, "it appeared to be compensating them at a splendid rate. . . ."

Several politicians, notably Senator Gary Hart (D. Colo.), in whose state Manville has its headquarters, also come off badly. Hart twice introduced bills designed to bail out the asbestos companies by closing the court system to victims of asbestos disease and setting up instead a less effective compensation system partly supported by tax dollars.

Brodeur calls such bills cynical and unconscionable, and he's persuasive. But his grasp of the politics of the issue, especially the question of political-action-committee contributions, is shaky. No one can accurately predict from Federal Election Commission PAC reports how congressmen will vote. Indeed, as Brodeur notes elsewhere, several senators who voted against Hart's bill received corporate PAC money, including Ernest F. Hollings (D-S.C.), who led the fight.

Brodeur also discusses Manville's efforts to achieve Chapter 11 protection. The struggle turned on statistics: How many people exposed to asbestos-fiber inhalation are likely to contract asbestos diseases between 1982 and the end of the century? How many are likely to sue? How much could they collect? Manville's goal was to shape the estimates of experts so that the numbers were large enough to justify to the bankruptcy court protection under Chapter 11, but not, so large as to force involuntary bankruptcy under Chapter 7.

Manville succeeded, which makes Brodeur unhappy. He believes that the bankruptcy and the inadequate settlements it will force are bad public policy. One reason is that he never allows the story of corporate and big-time legal maneuvering to detract from the true center of gravity—the suffering of the people who contracted asbestos disease.

Periodically throughout the book, Brodeur stops the action to tell the history of an individual worker and the nature of his illness and death. These episodes are sobering. At the end of the book, Brodeur pulls together extracts from letters collected by a medical researcher from the widows of asbestos workers. The composite cry of distress and loss is worth pondering in an age devoted to cost-benefit analyses and statistics. As Brodeur notes: "Statistics are human beings with the tears wiped off."

PROGRESSIVE REFORM: "THE UNDERPINNING OF A STABLE DEMOCRACY"

HON. RICHARD J. DURBIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. DURBIN. Mr. Speaker, Eleanor Holmes Norton of the Georgetown University Law Center was this year's recipient of the Center for National Policy Award. Her acceptance speech deserves our attention and reflection, particularly those seeking to shape progressive public policy for our country's future.

Ms. Norton tells us that progressive reformers cannot now sit back and simply bask in our accomplishments. While we must remain rooted in the principles that have guided us, we should not cling to the agenda of the past without looking to the needs of the present and the future.

Leaders such as Eleanor Holmes Norton give us the spirit and direction to meet those challenges and move forward. I commend her timely remarks to my colleagues.

REMARKS OF ELEANOR HOLMES NORTON

Always embarrassed at the thought of being honored, my instinctive reaction was to offer to accept posthumously. The declination of that offer by the Center accounts only partly for my presence here tonight. I am here as well to turn the tables and do honor to the Center which has excelled in its first four years and which I have had the privilege to serve as a founding board member. I come also to honor the Center's first three presidents, Terry Sanford, Cyrus Vance and Edmund Muskie, who with grace and hard work have born the startup human costs of presiding at the birth of a new institution. And if I may shamelessly carry through that metaphor, I come to do honor to the Center's midwives, its first two staff members, Ted Van Dyke, its estimable and energetic First President and Maureen Steinbrunner, its able research director. Their contributions are beyond both description and gratitude.

The Center has suggested that in these brief remarks, I might focus on the future. Actually I am unable to focus elsewhere. Public policy is not like Modiglianis or Gregorian chants, the artifacts of civilization that survive because of their splendor. Unrevised public policy is apt to grow not only gray but weak with age, unable to attack robustly problems necessarily unforeseen when these policies were new and young. Gwendolyn Brooks, the great Pulitzer Prize winning poet, said it best: "Time upholds or overturns." In politics, it more often overturns.

That is not to say that there are no policies worth keeping. Many do and should enjoy longevity. Indeed occasionally such policies represent a quantum leap forward and embed themselves into the national fabric. This occurred, for example, when Americans embraced the notion of collective responsibility for the disadvantaged through the New Deal. But policies which are truly lasting are rare. Even the wisest policies need timely revision to avoid the damp surprise of mildew.

These are not thoughts I offer for conservatives, particularly those in power today. They have not been about the task of policy reform. Their mission has found perfect expression in the recent musings of that eminent constitutional scholar, Attorney General Edwin Meese III, on the "jurisprudence of original intention."

Rather I direct my concern about the impermanence of public policy at the likes of myself, the liberals who have had such important effects on the public weal for 50 years. And I do so in the spirit of perhaps the most thoughtful reformer of our time. Martin Luther King, Jr., the great crusader, refused to rest on his truly historic achievements. Rather, he said, "It is not a sign of weakness but a sign of high maturity to rise to the level of self-criticism." To be sure, what we have accomplished has given some of us something to defend for the first time—a social revolution begun by Roosevelt and revised by Truman, Kennedy, Johnson and Carter, an enlightened and vigorous trade union movement, a foreign outlook that rejects multiple standards for human rights, and a domestic imperative that gives a central place to human rights for the historically excluded here at home.

With so much that is good to defend, our historic role as bearers of change could be in jeopardy. Yet we still fancy ourselves as players for the offense. We still see ourselves as changemakers. In recent years, though, our role as reformers has been mightily tested. In the face of a wholesale attack on all we have achieved, we have been forced to defend and repel, to protect and preserve. It is an ironic posture, especially for the change agents of the 1960s and 70s.

It must not lead to comfort with the status quo, even a status quo of our own making. All that we have won, even the best of it—from affirmative action to food stamps—needs not only our protection, but our critical scrutiny. If there needs to be reform in our reforms, let it come from us.

For yesterday's reform held to uncritically is today's conservatism. Brilliant as our changes have been, they need caring and continuing change. For we achieved them before the present administration created structural deficits and built an unprecedented and dangerous debt. We achieved them before the balance of payments showed erosion in our trade position. We achieved them when the manufacturing sector was still vigorous. We achieved them when the country preferred the risk of reform to the caution of the familiar.

What we have won we shall defend. I have no doubt that we will prevail. But even the best of our reforms cannot alone meet brand new problems. The equal employment statutes it was my great privilege to administer cannot create jobs for the permanently unemployed. The civil rights laws cannot house the homeless. The great aid to education laws cannot by themselves bring excellence to the public schools or assure that the disadvantaged are not left further behind. The Great Society programs cannot alone restore the black family to its historic strength.

Yet we understand that changes of the kind we have pursued are not the luxurious fruits of intermittent periods of social activism. Progressive reform is the essential underpinning for a stable democracy. It was Shakespeare who wrote, "The smallest worm will turn, being trod on. And doves will peck in safeguard of their brood."

We have done our work well and accomplished much. But glorious as it was, it was yesterday's work. It is no surprise that there are still hungry children, unequal women, disadvantaged blacks, poor Hispanics and unemployed workers. We never promised the millenium in a generation—or even two! What we promised was to fight until we got it right. What we promised was never to substitute the shield for the sword.

AN IMMIGRANT'S SON BUILDING A CITY

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. SCHUMER. Mr. Speaker, today, I would like to bring to my colleagues' attention the outstanding work of David Minkin, the president of the Kingsbrook Jewish Medical Center, who was recently honored at a dinner marking the 60th anniversary of that important medical facility in Brooklyn. In addition to his efforts on behalf of the Kingsbrook Jewish Medical Center, Mr. Minkin has been active in numerous charities, such as Bonds for Israel, the United Hospital Fund, the United Jewish Appeal, and the Catholic Bishops' Law Committee of the Diocese of Brooklyn. Mr. Minkin's achievements as a philanthropist and as a builder have improved Brooklyn for all of us, and I am enclosing an article that appeared in the New York Times, which describes his outstanding work on behalf of his fellow citizens and community.

The article follows:

[From the New York Times, June 23, 1985]

AN IMMIGRANT'S SON BUILDING A CITY

(By Lawrence Van Gelder)

The secret of real estate? "Buying future development."

So says 80-year-old David Minkin, who divides his time between Forest Hills and Sands Point. He is not without experience to justify his assertion. "I am a developer, builder, owner and manager of real estate for over 50 years," he said. And he has been successful at it, too.

He has built and owned apartment houses and other properties in such places as Jackson Heights, Rego Park, Forest Hills and Jamaica Estates in Queens; in the Flatbush section of Brooklyn, in lower Manhattan and Washington Heights, in New Rochelle in Westchester County, and in Hackensack, N.J. And these days, he is holding some vacant land in Florida for development.

Mr. Minkin has lost count of the number of properties he has constructed, but of them all he seems proudest of the Bernard and Rose Minkin Pavillion and the David Minkin Rehabilitation Institute constructed under his supervision at the Kingsbrook Jewish Medical Center, a 930-bed hospital in East Flatbush section Brooklyn. Mr. Minkin has been the institution's president for 13 years and is a major benefactor.

The pavilion is named for Mr. Minkin's parents, and it was through his father, an immigrant from Russia, that Mr. Minkin entered the real-estate business. Mr. Minkin, who was born in Manhattan, where his father owned some real estate, moved with his family to Brooklyn in 1907. "My father was a builder as well as an owner of sorts—residences and apartment houses, and also, I believe, store property in Brooklyn and Queens."

While growing up, he said, "Naturally I used to go out with him here and there, and it opened up my eyes to a great number of things. He looked at buildings, construction, and, of course, I had to learn the blueprints and study them and layouts, and became a professional builder."

In 1922, after graduating from Commercial High School, Mr. Minkin joined his father in business, taking charge of construction, performing general supervisory duties and renting apartments. Four years later he went into business for himself.

With a partner, Mr. Minkin put up two apartment houses in Jackson Heights between 1926 and 1929. "The first property was a six-story apartment house on 90th Street, corner of 37th Avenue," Mr. Minkin said, "The building is still there. But I don't own it.

"Jackson Heights," he said, "was just getting started. It was in the very early stages. A lot of streets weren't even paved yet." His father, he noted, had built there in 1923. "It was a good, clean new neighborhood and it had a lot of future attached to it.

When it comes to a comparison of construction costs then and now, Mr. Minkin offers only laughter as comment, but he notes that in those days the five-and-a-half-day work week and eight-hour workdays were the norm. "Today it's a five-day week, and instead of eight hours, it's seven hours," he said.

Mr. Minkin went right on building through the Depression and the post-World War II era, and through his mother, who had become active in raising money for the Kingsbrook Jewish Center in 1925, be began supporting the institution as well, donating millions of dollars. Earlier this month he was guest of honor when the hospital celebrated its 60th anniversary with a banquet.

Mr. Minkin, who is not married, has also been active in such charities as Bonds for Israel, the United Hospital Fund, the United Jewish Appeal and the Catholic Bishops' Law Committee of the Diocese of Brooklyn.

As a builder, he said, "I always looked at areas where the future was enticing, to a point where there was what they call a follow-through of growth. You could foresee growth coming. It may take a few years before this happens, but that's the time you purchase. You buy cheap. When it materializes, it goes up 4, 5, 10 times in value. That's the secret of all real estate—buying future development."

These days, he said, such sites still exist in parts of Queens, Staten Island and the Bronx.

Looking back over his own career, he said "I feel that I have made a great contribution to the City of New York by creating properties people live in. They're still existing. They're still there, and they're full taxpaying properties. They're making a contributions to the City of New York."

THE MURDER OF A POLISH PRIEST: COMMUNISM IN ACTION

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. BROOMFIELD. Mr. Speaker, I suggest that all of my colleagues read an revealing article in the December 1985 Reader's Digest by John Fox, a constituent, concerning the tragic murder of a young, Polish priest by Polish security agents.

In 1984, Father Jerzy Popieluszko was murdered by state security agents in Poland. He was tortured to death for his beliefs and his activist role in supporting the Solidarity Union. He was a moral challenge to the growing Communist power in that country. Polish and Soviet authorities believed he had to be silenced. The death of that brave man symbolizes to me the essence of what freedom means to all of us and what communism does to crush individual liberty. This is a story we in the free world must remember.

Father Jerzy was born in a small village in Poland to a poor peasant family. He was a sickly child who knew hard work and grew to love the Polish people and his country. As a young priest, he grew in popularity as a hard-working and dedicated man who gave much of himself to his people. That self-sacrificing man became the workers' priest and actively supported the Solidarity Union which had won limited rights under the Polish Government in power at that time.

In spite of death threats from the Polish security service, Father Jerzy maintained his support of the union and ministered to the poor in his parish. After the declaration of martial law in Poland and Solidarity's decision to move underground, Father Jerzy came under increasing threats, and staged accidents planned by the Polish secret police.

His elderly parents were harassed and his car and apartment were electronically bugged by state security personnel. Even though he was fearful of his life, he refused to abandon his commitment to the Polish workers. He knew that scores of Solidarity supporters had died from beatings, in police custody, and that others had died in mysterious accidents and arranged suicides. After agents tried to kill Father Jerzy by bombing his apartment, they planted arms and propaganda in his home and arrested him.

After being released, he was subjected to more efforts to silence him. He clearly became a dangerous symbol in a Soviet empire that was experiencing religious ferment. Even the Soviet daily Izvestia criticized him. In 1984, he was subjected to 13 interrogations. His car was nearly rammed in a staged accident shortly before his death.

Finally in 1984, Polish security officers, on instructions from the Polish Government, beat and tortured the young priest until he died.

While he always tried to calm the Polish workers' antiregime anger and stressed the need for a peaceful solution to Poland's problems, the totalitarian government that was set up in Poland by the Kremlin could not tolerate the truth which that activist clergyman spoke. That frail and poor young priest was a threat to godless communism.

Throughout his life, Father Jerzy talked about and deeply believed in the ultimate triumph of good over evil. While a totalitarian and brutal regime took his life, communism in its many forms will not snuff out the love of freedom that so many people in the oppressed nations around the world cherish. In the end, good will triumph over the darkness of evil. His life symbolizes that struggle and that triumph.

With these thoughts in mind, I commend to all of the Members John Fox's article in the December 1985 Reader's Digest on the life of Father Jerzy Popieluszko. It is an inspirational story that is worth reading.

POSSIBLE INSURANCE BOYCOTT PROBE

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. FLORIO. Mr. Speaker, I am inserting in the RECORD an article discussing allegations regarding suggested links between insurance premium hikes and policy cancellations and efforts to get legislators to change our tort system to limit victims' rights. This is a very serious issue, and in our insurance inquiry, my subcommittee will be following this matter closely.

FTC PROBES POSSIBLE INSURANCE BOYCOTT

(By Julie Kosterlitz)

In the wake of skyrocketing premiums and cancellations of some kinds of casualty insurance—including medical malpractice and product liability policies—the Federal Trade Commission (FTC) is conducting an investigation of the property and casualty insurance industry for possible violations of federal antitrust laws.

While the insurance industry is exempt from most federal regulation and federal antitrust laws under the 1945 McCarran-Ferguson Act, that law does not cover boycotts, in which companies agree among themselves to withold goods or services, usually unless certain conditions are met. Such agreements would violate the Sherman Act governing restraint of trade.

The FTC would not confirm or deny an investigation; confirmation comes from informed sources. A clue about theories the FTC is considering comes from the National Insurance Consumers Organization (NICO), a nonprofit Washington-area consumer advocacy group that the FTC has contacted during the investigation.

NICO has charged that the dramatic increases in premiums and policy cancellations are not justified by the claims experience of the companies. Instead, it contends, the actions were taken to offset declining earnings within the industry, which NICO says is because of premium price wars in the early 1980s, and to create pressure for changes in tort laws, which govern personal injury claims.

"I believe what we are witnessing is joint action by insurers to create an atmosphere where rates can be put too high and legislators will be intimidated into action designed to take away victims' rights and allow wrongdoers to go unpunished," said NICO's president, Robert Hunter, at a recent hearing of a House Small Business Subcommittee on Energy, Environment and Safety Issues Affecting Small Business.

The insurance industry considers NICO's allegations a case of "conspiracy theory run rampant," said Marc H. Rosenberg, vice president of the Insurance Information Institute, a New York City-based clearinghouse supported by insurance companies. He agrees that some of the problem stems from a price war, but said that much of it reflects increases in the number of lawsuits and the size of awards to plaintiffs—factors that couldn't have been foreseen at the time some low-cost policies were issued.

NICO argues that the alleged boycott may originate with reinsurance companies, which sell insurance to insurance companies, generally to protect them in the event of unexpectedly large or numerous claims. In some cases in which insurance firms have requested higher rates or canceled policies, they have cited trouble in obtaining reinsurance.

The reinsurance industry says it has been experiencing losses because of declining investment income and the higher number and size of court awards. "It's not a conspiracy, just a recognition of the marketplace," said Andre Maisonpierre, president of the Reinsurance Association of America in Washington.

NICO concedes that it may be hard to prove that industry actions were concerted and deliberate, and not a reflection of the herd instinct.

Some groups that are caught in the crunch share NICO's view that insurance industry actions sometimes seem unrelated to their claims experience. In May, Mutual Fire Marine and Inland Insurance Co. of Philadelphia notified the American College of Nurse Midwives in Washington that Mutual would not renew the midwives group's malpractice insurance policy, and the group was unable to find another insurer. According to the group, the insurer said the policy was being canceled, not because of malpractice claims (a relatively low 6 per cent of nurse-midwives have been sued for malpractice compared with 73 per cent of obstetricians and gynecologists) but because of the unavailability of reinsurance.

"We have not been able to get insurance from anyone, seemingly not based on our actual experience, so we wonder what it is based on," said Mary Rita Prah, director of the group, which has talked to the FTC.

Whether or not they are the result of a boycott, the premium hikes and coverage denials are putting political pressure on the states and the federal government to change malpractice laws. In several states, including California, Florida and New York, surgeons and obstetrician-gynecologists are refusing to accept new patients or perform risky procedures. Many physicians have been lobbying state legislatures to change malpractice laws, and most states have taken steps to do so.

Five bills have been introduced in Congress that would change federal malpractice laws, including an American Medical Association-backed measure introduced by Sen. Orrin G. Hatch, R-Utah, that would encourage states to rewrite tort laws, including reducing attorneys' contingency fees and limiting court awards.

FCC DECISION CONCERNING COUNTY PUBLIC SAFETY NEEDS

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. LEVINE of California. Mr. Speaker, Los Angeles County Sheriff Sherman Block and his department have been petitioning the FCC since 1981 for the use of ultrahigh radio frequency channels to meet the growing public safety needs of the area's citizens. Last week the FCC granted their request by allocating UHF-TV channel 16 to the sheriff's department.

As a result of the FCC decision, the fifth largest police agency in the Nation will finally be able to utilize a modern communications system to better aid the public. For the first time, the Los Angeles County sheriff's patrol officers can be equipped with hand-held portable radios. Also, the department will be able to implement a high-speed mobile digital system and a comprehensive mutual aid communications system for law enforcement agencies.

In addition to granting Los Angeles County these new frequencies, the FCC is currently engaged in developing a plan to meet the long-term radio needs of the entire Nation's public safety services. I applaud these FCC actions and wish to commend Sheriff Block and his department for their successful efforts in obtaining channel 16.

Mr. Speader, I wish to submit my congratulatory letter to Sheriff Block for the RECORD.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, December 11, 1985.

Sheriff SHERMAN BLOCK,
County of Los Angeles,
Los Angeles, CA.

DEAR SHERM: I am very pleased that the FCC has allocated UHF-TV Channel 16 for use by your Department. The high speed mobile digital system, the portable radios, and the mutual aid communications system provided for by these new frequencies will be invaluable in helping to meet Los Angeles County's public safety needs.

I wish to take this opportunity to compliment your team for their outstanding work on this project. Chief Ken Cable, Lt. Bud Wenke, and Sgt. Bob Elson were marvelous to work with and deserve special recognition for their tireless efforts.

Congratulations and best regards,
Sincerely,

MEL LEVINE,
Member of Congress.

OVERSEAS PIRACY OF U.S. BOOKS

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. DOWNEY of New York. Mr. Speaker, the piracy of U.S. books overseas results in more than a staggering $2 billion yearly loss to U.S. authors and publishers, according to industry sources. Some of the most flagrant pirating nations are our major trading partners in the Far East—Taiwan, Singapore, South Korea and the Phillipines, with whom we are running substantial balance-of-payments deficits.

I am glad to see that the U.S. Trade Representative has initiated a section 301 trade complaint against South Korea for violation of U.S. intellectual property rights in all areas of copyright protection, including literary works.

We must continue to act with determination to be certain that pirate nations begin to recognize the seriousness of the problem, and that they will not be allowed to enjoy the large trade benefits they receive if they pursue the path of piracy.

In this regard, the December 16, 1985, issue of Newsday, which is widely distributed throughout my Long Island district, carried a comprehensive analysis of the book piracy problem titled, "Print Pirates Pillaging Book Trade."

I commend this article to my colleagues.

PRINT PIRATES PILLAGING BOOK TRADE

(By Richard Sandomir)

The Il Won Books Center in South Korea lists 8,000 books in its eclectic catalog. The selections range from John Steinbeck's "Of Mice and Men" to the textbook "Treatment and Disposal of Wastewater Sludges."

But neither Bantam Books nor Butterworth Publishers nor any American publisher with books in the catalog earn a dime of royalties from Il Won's sales. The books are pirated versions of the real things—copied, sometimes translated and sold in violation of U.S. copyright laws, according to the Association of American Publishers.

It's a cheap, easy and growing business, one where the pirate publishers have no development, editorial, or marketing costs. They even use the U.S. copyright seal.

"Once a book becomes popular, they're out pirating it," said Nak Chong, vice president of the international division of Harper & Row in Manhattan. "The best sellers are copied right away. I suspect they must have people here."

The publishers association estimates the cost of piracy at $2 billion annually—$1 billion from books whose pages are photographed and used to print nearly-identical offset copies and $1 billion from editions made on photocopying machines. The estimates, however, are based on the price of the pirated books—10 to 15 percent of the legitimate price.

Pirating takes an enormous toll on the $8-billion industry, restricting publishers to sell few if any copies of legitimately-published books in countries where counterfeits flow like Stephen King's word processor. Some small publishers without an international presence sometimes are unaware their books are being copied.

Says Alexander Burke, senior vice president of Manhattan-based McGraw-Hill, Inc., a major publisher of textbooks: "There are more units of pirated books selling around the world than legitimate units of American books sold."

Stories of literary Jolly Rogers abound: Pirated books shipped from Taiwan to Nigeria disguised as boxes of crash helmets or automotive parts. Stores that sell only illegally copied books. Trade missions dispatched from developing countries to Singapore to order pirated medical textbooks.

"The organization of pirating is so great," says Richard Snyder, chairman of Simon & Schuster in the city, which publishes general-interest trade books and textbooks by its Prentice-Hall subsidiary, "that international pirates have a better distribution system than American publishers do."

Improving copying technology is also a factor. Book quality varies: some are barely detectable counterfeits made on high-grade paper; other are the shoddy kind made on thin bond. Few, if any, can duplicate four-color book jackets, and use black-and-white covers. Nevertheless, appearances don't seem to count; best sellers and engineering textbooks alike are selling in vast numbers at cheap prices.

"Countries see how profitable this is," said Don deKieffer, general counsel of the International Anticounterfeiting Coalition. "Pirates have no risk. They just watch to see what books are selling well, and bang, they copy them."

Publishers have found little recourse in retaliation. Rare is the pirate country with copyright laws, or effective enforcement on existing statutes. Court fights in countries like Singapore aimed at collecting royalties are inevitably futile.

So the fight has turned to government action. The publishers association, along with the record, film, computer and software industries banded together two years ago to form the International Intellectual Property Alliance to press for action against the pirates, many of whom receive duty-free trade treatment for products entering the United States.

In an August report to the U.S. Trade Representative, the alliance estimated book piracy in 10 selected countries at $427 million, led by $118 million in Taiwan, $110 million of which is in exports to other nations. Singapore followed at $107 million. At least 20 others are suspected pirates.

On Nov. 1, U.S. Trade Representative Clayton Yeutter opened a formal inquiry under Section 301 of the Trade Act of 1974 into South Korean violations of U.S. intellectual property rights in all areas of copyright, patent and trademark protection.

The investigation—which sent a delegation of industry and government officials to Seoul last week—could result in sanctions against Korea, a most-favored nation trading partner, unless strong laws with enforcement teeth are enacted.

"We're hoping that before there is trade retaliation, we can get the countries to improve their legal systems to let us have access to the courts," said Carol Risher, director of copyrights for the publishers' association. "Up until now, we haven't had much access."

Burke, head of the publishers' association's International Copyright Protection Committee, who accompanied the delegation, said he had encouraging discussions with Korean publishers. But any agreement would need Korean government approval.

Young Ahn, senior press attache for the South Korean Embassy in Washington, said he expected "tangible conclusions" for the Seoul talks, but was unaware of a major piracy problem.

Meanwhile, Taiwan has passed a new copyright law, which features some stiff penalties; Singapore has a draft bill in its legislatures. Said Burke: "It's inadequate. They've been saying they'd pass one for 10 years. Progress is not just having a bill in the legislature."

Several publishers were pleased by the government action. Simon & Schuster's Snyder said; "The government is the only way to win. We've got to tell the Koreans: no more VCRs unless you stop this. Going through the courts is ridiculous. I want to be alive when this is resolved."

BILL NELSON: OUR MAN IN SPACE

SPEECH OF

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday 16, 1985

Mr. FASCELL. Mr. Speaker, I note with particular pride the selection of an esteemed colleague and friend, Congressman BILL NELSON, to be the first Member of this body to be sent into space. He certainly has earned the right with his dedicated and effective service on the Science and Technology Committee, overseeing our space program, and I am confident he will do an excellent job as Our Man In Space.

As an outstanding representative of Florida's 11th Congressional District, which includes Cape Kennedy, BILL has helped make our space program what it is today.

Knowing BILL, I am confident he will perform his duties in an exemplary fashion.

BILL's journey into orbit will give him new insights into our space program, and enable him to perform his oversight functions more effectively. I am anxious to hear his report upon his return.

I wish BILL bon voyage and every success. And I have only one bit of advice for him: "Please don't touch anything."

OPPOSITION TO GRAMM-RUDMAN

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. LIPINSKI. Mr. Speaker, I did not have an opportunity to speak the other night in opposition to the Gramm-Rudman bill but I did wish to express my views so that they would be on the record.

First of all, Gramm-Rudman is an abdication of our responsibilities as Congressmen and Senators to the computers, staffers, and bureaucrats in the Office of Management and Budget, the Congressional Budget Office, and the General Accounting Office. Appointed civil servants will be making decisions instead of elected public officials. I don't think that the Founding Fathers had this in mind when they wrote the U.S. Constitution; if they had, I don't think they would have bothered to include elections. Because of the transfer of responsibility, I believe that there is a very strong possibility that this legislation will be declared unconstitutional and our exercise in regards to Gramm-Rudman, thank the Lord, will be null and void.

This catastrophic legislation has the potential to bring America's defense effort, that Ronald Reagan stated just a short time ago was standing tall, to all knees. Our first priority, as Members of Congress, is to protect the citizens of Republic from enemies, foreign and domestic. I believe it will be impossible for us to do this underneath this legislation. We may have trouble finding financing for bullets and rifles, let alone personnel, missiles, and submarines. There are many in Washington who believe this legislation will mean the end of the volunteer Army and cause the draft to be reinstated. This legislation creates the first ever income test for veterans using VA hospitals. Those with income exceeding $25,000 annually would receive care if space was available and if they paid a new fee.

And that is going to happen to our domestic programs that so many, many Americans participate in and benefit from? Where is the safety net for our poor, ill, and disadvantaged citizens? This legislation rips that safety net, that is often talked about, to shreds. Medicare will be reduced. Meals on Wheels will be cut and Urban Development Act programs may be terminated. This package turns its back on educating our children and thereby endangers our Republic's future.

This legislation may very well destroy, and I do mean destroy, our American cities, particularly those of the Northeast and Midwest. In the last 5 years, cities have lost 46 percent of their Federal aid. There will be cuts in the funding for the Nation's infrastructure: streets, bridges, sewers, and water plants. Fire and police assistance will be cut, so will community development programs. Deep cuts will be made in mass transit funds, and a lower cap put on highway trust funds. FAA operating assistance will be cut thereby jeopardizing air traffic safety and air traffic control services. Amtrak subsidies and the Small Business Administration will be terminated.

The Republican mayor of Cleveland said this legislation may cause rioting in the streets, and Mark Israel of the National Center for Municipal Development said the impact on cities he represents ranges from disastrous to more disastrous.

Gramm-Rudman should not have been passed and I believe those who voted for it, someday very soon, will say that it is the worst piece of legislation they ever supported.

EDUCATION VOUCHERS ARE A COPOUT

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. HAWKINS. Mr. Speaker, the Secretary of Education, Mr. William Bennett, has once again introduced a misbegotten clinker to the American public called education vouchers. They are designed to give Federal tax moneys, in the form of a voucher, to parents whose children are receiving compensatory educational services. Mr. Bennett claims that vouchers will ail what is wrong—in his view—with public education. Since Mr. Bennett has been so wrong on so many issues concerning public education, there is a question about whether the public will accept another one of his education resolutions. According the November 10 editorial in the New Orleans Times-Picayune Bennett's vouchers are not only a copout, they are coming at the wrong time when public education reform programs are being implemented all over the country.

I urge my colleagues to read the very insightful editorial of the New Orleans Times-Picayune, for a clear view of how bad an idea vouchers really are.

VOUCHERS ARE A COPOUT

A voucher system is the last thing the nation's struggling public schools need. It is surprising and dismaying that President Reagan and federal education officials and others are promoting a government-paid voucher system as an answer to the problems of public education in this country.

While frustration with the progress of public education is understandable, a voucher system that would enable students to choose between private and public schools would almost certainly sound the death knell of public education in the United States. Public schools need more support from federal and state government, not less.

The voucher idea was given strong support at a Baton Rouge education conference last weekend by John D. Klenk, director of planning and evaluation for the U.S. Education Department. Earlier this year, we defended Mr. Klenk's right to speak on the voucher system or anything else after he had been discouraged from speaking his mind at a Baton Rouge meeting by state Education Superintendent Tom Clausen's office. But we believe strongly that a voucher system is a copout, not the solution of the problems of public education.

In his Baton Rouge address, Mr. Klenk said he believes the competition for students caused by a voucher system will improve the public schools. That notion strikes us as illogical. The basic argument for vouchers is that many parents are unhappy with public schools and should have a government-financed choice to send their children elsewhere. Public schools are already suffering in part because many parents, even without a voucher system, have elected to send their children to private schools, thus diminishing financial and community support for public schools.

Vouchers would almost surely hasten the process—indeed, seem almost designed to do so—and further reduce support for public education in the United States.

If enacted in the near future, a voucher system would be all the more regrettable because it would come at a time when public education reform has already begun to take hold in many states. While Louisiana is yet to be counted among states that have made sweeping reforms in public education, some local school boards in Louisiana, as elsewhere, are making progress. There remains hope that Louisiana, which made some improvements at last summer's session of the Legislature, will fully join the growing reform movement at the state level.

While the poor are sometimes mentioned as among the parents favoring a voucher system, the freedom of choice implied in the program depends on ease of transportation. And many poor students, particularly in inner city neighborhoods, would be restricted in their choice of schools for lack of mobility.

Vouchers have obvious politcal appeal, offering a simple solution to a complex problem. But they could be fatal to a public education system that, historically, has served this nation well.

OPPOSITION TO FAVORED-NATION STATUS FOR SOVIET UNION

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Ms. MIKULSKI. Mr. Speaker, I rise today to voice my strong opposition to recent Moscow requests asking the United States to grant to the Soviet Union "most-favored nation" trading status.

I don't think the Soviets should be one of our top trading partners if they're not also going to be one of our top negotiating partners on arms control, the solving of regional conflicts, and the improtant issue of human rights.

Yes, the Geneva talks were useful in bringing about a thaw in United States-Soviet relations—but there's still a lot of ice. There are still several unresolved problems between our two nations.

Before we take any concrete steps to open trade gates between our two countries, we should make certain the Soviets open their emigration gates.

When they agree to let Soviet Jews out of their country, then we can agree to let more of their products into our country.

When they agree with us to stop the spread of nuclear weapons, then we can agree to share some of our high technology with them.

But until these agreements are reached, I say let's keep our trading status right where it is—maintain the Jackson-Vanik amendment. I say, before we reach any new agreements on trade with the Soviets, they've got to live up to the agreements they've already signed on human rights.

PERSONAL EXPLANATION

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. PORTER. Mr. Speaker, I have never before cast a "present" vote, but I did so on Senate Joint Resolution 238, and wish to explain it. My understanding is that the time limit for Congress to reject or modify the terms of the sale of nuclear technology and materials to the People's Republic of China under Senate Joint Resolution 238 expired several days ago. This means that Congress, by failing to take up this matter in a timely fashion, has lost any control over the terms of the sale and that the vote on Senate Joint Resolution 238 is meaningless. My "present" vote is cast, therefore, in frustration and in protest of the failure of House leadership to schedule a substantive vote on time on a matter of such great importance. The spread of nuclear technology available under this agreement could lead to weapons production by a nation whose government embraces little of our Nation's values and provides so great a threat to other nations which do.

PERSONAL EXPLANATION

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. CLINGER. Mr. Speaker, I was absent for the first vote on the House floor on December 16, 1985. Congressman THOMAS J. RIDGE and I were in Meadville, PA, conducting a hearing as a result of the terrible destruction which was caused by 17 tornadoes which hit our congressional districts on May 31. The following groups provided testimony at this function: the National Weather Service; the Federal Emergency Management Agency; the Pennsylvania Emergency Management Agency, local government and emergency management officials.

Had I been present, I would have voted in the following fashion: Rollcall No. 460: Journal, the House voted to approve the Journal of Thursday, December 12, "yea."

FARM CREDIT SYSTEM'S CAPITAL CORPORATION NEEDS TO BE INDEPENDENT

HON. NORMAN D. SHUMWAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. SHUMWAY. Mr. Speaker, on December 10, 1985, the House passed H.R. 3792, a bill to amend the Farm Credit Act of 1971, and for other purposes. The Senate enacted a comparable bill, S. 1884, on December 3, 1985. I voted in favor of the House bill despite my already expressed concerns with both the haste under which the bill was considered and the absence of a cap on the amount of public assistance which could be made available to the Farm Credit System through the Secretary of the Treasury.

One part of H.R. 3792 would create a Capital Corporation for the Farm Credit System as a federally chartered vehicle by which the system would be required to utilize its substantial financial resources before obtaining any public moneys. There are a number of significant differences between the House and Senate bills concerning the structure of that Capital Corporation. The House bill would establish a five-person board of directors, four to be elected by the banks of the Farm Credit System and one to be appointed by the new Chairman of the Farm Credit Administration. The Senate bill would also create a five-person board, but would have the system appoint two members, the FCA elect two members and authorize the Secretary of Agriculture to appoint the fifth member.

I firmly support, and urge my colleagues to support, the provisions of S. 1884 on the structure of the Capital Corporation board. The Senate bill has taken an enlightened approach in assuring that a majority of the members of the board of directors of the Capital Corporation will be individuals appointed from outside the System. Such an independent board approach is critical to the success of our efforts to resolve the crisis facing the system and must be retained in any final legislation.

The Capital Corporation will face a very difficult task in causing the system to utilize its resoures and to manage problem loans. Those efforts will require a tough-minded, disciplined approach and atitude on the part of the Corporation's directors, and a specialized expertise to deal with the problems confronting the Farm Credit System. An independent board comprised of a majority of directors appointed from outside the Farm Credit System is necessary to overcome parochial interests to assure equitable treatment of both contributing and distressed banks, and to protect the public interest. While the Capital corporation will oversee transfer and management of system resources, the overriding interests to be protected are those of the public whose support and funds created and nurtured the System over the years, and whose additional support and contingent funds are being sought by the system in its time of need.

Congress has required the use of independent oversight and controls when it has provided assistance to other private sector firms such as Chrysler Corp., and that approach has been responsible in large measure for whatever success those efforts achieved. I strongly urge the adoption in any final farm credit legislation of the approach taken in S. 1884 in requiring an independent board of directors for the Capital Corporation to be established to assist the Farm Credit System.

JAPAN TO SUBSIDIZE SMALL BUSINESS EXPORTERS

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. SKELTON. Mr. Speaker, as the U.S. trade deficit has surpassed $100 billion increasing our exports is of even greater importance. As chairman of the Small Business Subcommittee on Exports we have learned that there are several factors hindering increased exports by small businesses. At the top of the list is the high value of the dollar.

According to a recent Wall Street Journal article the Japanese Government has reported that their small business exporters are being affected by the rising yen. As a result, the Japanese Government is preparing to offer a $500 million low-interest loan program for small exporters. The loans are available at 6.8-percent interest. And it is expected that the Government will relax credit rules such as not to require collateral for loans.

The Government Accounting Office estimates that more than 20,000 new-to-export businesses have the potential to export which could add $4.2 billion in goods and services to our export tab. Mr. Speaker, this emphasizes to me our need to encourage our small businesses to export. I'm not saying we need a $½ billion subsidy for our small businesses such as Japan's. But we must encourage our small businesses to be more aggressive in the field of international trade and assist them in overcoming the many barriers.

CONGRESS DRAGGING ANCHOR ON STRATEGIC HOMEPORTING ISSUE

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. COURTER. Mr. Speaker, as the attached editorial from the Wall Street Journal contends, Congress has once again intervened in the military decisionmaking process and voted "maybe" on the strategic homeporting of America's naval fleets. The fleets are currently concentrated in Charleston, SC, and in Norfolk, VA, which boasts the largest military installation in the world. When the Secretary of the Navy had the good sense to propose the dispersal of these valuable assets to avoid a modern-day Pearl Harbor situation, he ran into force five gale of protest from the Congress. Naval ports are big business for the neighboring civilians, but it does little good to have vessels in port if they cannot make their way to the open sea because of Soviet submarine blockades. Strategic homeporting made good military sense, and the Congress should lift its own blockade of the Navy's plans.

The editorial follows:

SHORE DUTY DANGERS

Congress acted this week to delay the Navy's plan to disperse its growing fleet of ships to 15 new home ports in New York and on the Gulf and West coasts. A House-Senate conference committee said that the dispersal program "could make modernization of our existing bases unaffordable," and ordered the Navy to submit a detailed report within three months. The Pentagon yesterday said that previous information supplied to Congress already meets those requirements. Regardless, any final decision to wreck the Navy's program would not only be financially foolish but strategically dangerous.

No matter what, the expansion to a 600-ship Navy requires the construction of new harbor facilities—whether at the 15 proposed home ports or at the three main existing facilities in Charleston, S.C., Norfolk, Va., and San Diego. Congressmen and senators from these districts, fearing a loss of federal funds, are the primary challengers of the dispersal plan. Their parochial criticisms, however, show little concern about overall budgetary savings or the defense of the fleet.

Navy Secretary John Lehman's primary strategic reason for adding 15 home ports is to avoid a repeat of Pearl Harbor. Soviet submarines lying off our coasts could easily attack our highly concentrated port facilities using nuclear-tipped ballistic and cruise missiles. Such weapons can reach their targets within a few minutes. Even conventional missiles could set off a firestorm in these tightly packed harbors. Dispersing the fleet, therefore, would improve its chances of surviving an attack and permit quicker response to trouble in a broader variety of geographical areas.

Besides, as a recent Navy report points out, the cost of building home ports is only marginally more expensive than modifying the existing ones. Estimates of the additional costs range from $55 million to $217 million. "Not surprisingly, the total cost of establishing new bases is slightly more costly," the report added. "But in the Navy's judgment, the strategic and tactical advantages make the investment worthwhile."

By comparison, Mr. Lehman's competitive procurement process has already brought down the cost of the new Aegis cruisers from an estimated $1.2 billion in 1981 to about $900 million. The Navy plans to build some 30 of these advanced ships, which are capable of protecting naval battle groups at sea using highly sophisticated electronics equipment. The savings on just one Aegis cruiser would more than pay for the added cost of dispersing the fleet.

Given the need to reduce government spending, we would be the last to advocate profligate expenditures. there are plenty of obsolete military installations that could be closed. In the case of new naval bases, however, the spending is affordable and necessary. When Congress gets around to making a final decision in three months or so, we hope it approves the Navy's program. Otherwise the nation's huge investment in a 600-ship Navy might wind up at the bottom of Chesapeake Bay.

INTRODUCTION OF A BILL TO HELP LOCAL COMMUNITIES FIGHT NARCOTICS TRAFFICKERS

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. STARK. Mr. Speaker, today I am introducing legislation to provide assistance to creative programs designed to improve the criminal justice system with respect to combating the illegal narcotics industry. My bill would authorize $50 million a year over 5 years. It would be allocated at the discretion of the Attorney General to supplement existing State appropriations of direct financial aid to units of local government for specific programs designed to combat drug-related violent crime. It would both assist existing worthy local programs and encourage local governments to focus more directly on this drug epidemic and to develop creative, effective programs of their own.

Mr. Speaker, the problems we are confronting in this area are huge in scope and magnitude. Our drug enforcement officers are engaged in a multifront war in which they are outspent, outmanned and outgunned by their adversaries, and it is a wonder that they accomplish as much as they do.

What we need to do now is recognize that we won't be able to solve this entire problem at once and that it's time for us to start tearing off chewable bites. Rather than dreaming up grand Goldbergian schemes at the Federal level, we need to go to the local level, to those people who are most closely in touch with the issues, and support efforts there to eradicate these problems in the communities. Rather than trying to smother this problem with a blanket thrown down from the top, we need to eat away at its supports from the bottom until it topples under its own weight.

Many such programs are being developed at the local level. There are programs designed to improve the local criminal justice systems to ameliorate the problems of violent narcotics-related crime, to reduce backlogs in the courts which allow dealers and other criminals to remain on the streets to commit additional crimes while they await trial for their first offenses, and to streamline cumbersome interagency organizational structures which hinder communication and hamper efforts to develop an efficient, official response system to the problems which arise. These programs, though, are being funded with insufficient State and local resources and are therefore probably not as effective as they could be. It is in situations like this that the Federal Government has a clear responsibility to step in and provide the money to fill in these shortfalls.

Why should we spend $50 million a year on these programs?

First, because they are, on their own merits, valuable programs and they need additional support. Second, and more importantly, because the benefits from these programs can be shared by others, and when externalities such as these exist, it is appropriate for all citizens, through the Federal Government, to participate in their funding. We need to experiment with novel approaches to this monumental problem and the costs of that experimentation should be shared by all who could potentially benefit.

Mr. Speaker, this is not an expensive program. Fifty million dollars is small change compared to the money we give away for jojoba bean tax shelters and defense contractor extravagances. I have to believe that money spent on worthwhile drug enforcement programs, which have already been approved and funded by State legislatures but which need additional assistance, is better spent than the money we give to develop exotic, fragrant shampoos or to house pedigree dogs in luxury accommodations while their owners are vacationing at government expense in elegant resorts.

I urge my colleagues to support this legislation so that we can take some very important steps towards eliminating this drug disease that is plaguing our society.

HATS OFF TO MADD

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. MAZZOLI. Mr. Speaker, as we enter the Christmas season, I think it appropriate to commend the supporters and members of Mothers Against Drunk Drivers (MADD) on their success in the March Across America.

The 115-day transcontinental march, which started in Los Angeles and ended at the Capitol steps on December 9, attracted thousands of participants—mothers, fathers, students, celebrities, and everyday citizens—from all walks of life. They pooled their efforts to bring to the national forefront a message of concern for the well-being of America's families.

MADD—which was started by one concerned woman, Candy Lightner—has in 5 years, blossomed into a nationwide organization that has just staged the largest event ever of its kind to draw attention to drunk driving. It has numerous other successes to its credit.

Since 1981, more than 400 laws have been enacted at Federal State, and local levels to counter drunk driving and to give more sensitive handling to the victims and the survivors of drunk drivers within the ciminal justice system.

Youth education programs—Students Against Drunk Driving—affiliated with MADD have developed in almost every State. And resolutions have been adopted by Congress each of the past few years designating a week in December as "National Drunk and Drugged Driving Awareness Week."

Christmas is a time for reflection. So in a country in which 25,000 lives are claimed yearly by drunken drivers, 20 percent of whom are teenagers, we must continue to take the strongest meaasures to stop this national carnage. Hats off to MADD for doing just that.

ELOQUENT VOICE FOR AGRICULTURE

HON. THOMAS A. DASCHLE

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. DASCHLE. Mr. Speaker, I read letters every day from farmers and ranchers in trouble, serious financial trouble. Unfair trade practices, huge deficits, and the highest real interest rates in decades have combined to push family farmers and ranchers into the greatest depression since the 1930's.

The most eloquent voices for agriculture are not in the Congress. They are among the family farmers of this Nation, whose strength in the face of the adversity before them is a tribute to their courage and forebearance. It is time for us to offer our own tribute to those who have fed our country and served as the backbone of our export economy. It is time for fair prices for the family farmer. John Block has been able to convince many in the Congress that the answer should be "no."

Mr. Speaker, following is a letter written to me and all Members of Congress by Mrs. Nancy Ekroth of Dallas, SD.

LETTER FROM NANCY EKROTH, DALLAS, SD, TO THE MEMBERS OF CONGRESS

We've had our farm operation for 13 years. Our goal was not to become rich and have it all; but our goal was and still is to be able to remain with our small operation and to proudly pass it on to our children someday. But, the chances of reaching our goal are grim, because of the poor mishandlings and ignorance of those making the wrong decisions on our behalf.

Can the farmer survive on the House farm bill? Absolutely not! And for those of you who think differently, I personally invite you to come and run our operation, and let's see what you feel would be a fair finishing price for your wheat, corn, feed grain, beef, pork, dairy and/or other. But, only when you've calculated all you've done to get it there. And then dare anyone to call you poor managers, because you couldn't cut it!

Then when you've hit rock bottom, one more time, the government offers low interest money; disaster payments at low interest; putting the shirt on our back again. But for how long? Oh probably until our debt payments are due and we can't possibly make payment. We are caught in a vicious web of self destruction. It's getting damn hard to look a farmer in the eye and see fire and determination there anymore, only defeat and very little hope of surviving as farmers.

I refuse to blame ourselves for being the incompetent ones. The ones who incurred a national debt of trillions of dollars in a very few years. I'm well aware there is so much I don't understand. I also know I wouldn't want the job of running a nation. But, agriculture does need the attention of our nation, immediately. Even if the future of agriculture were promising, it will not happen soon enough to save very many of us.

What approaches would do the most to help family agriculture?

(A) Definitely mandate livable prices.

(B) Yes, get tough on trade.

(C) Affordable credit? That's questionable, considering we can't live without it. but I'm sure most farmers would rather be more debt free and independent. Credit will always mean money owed.

(D) No way will they ever get government out of the process, they're too deeply involved, but, they do need to do something immediately, to better our chances of surviving in agriculture.

We realize we represent a small percentage nationwide, but, we're expected to feed a nation, doesn't that make us important enough to save?

I think you could compare us to dominoes, we are so positioned (at the beginning) that should we fall, all others will fall in turn. If the destination of agriculture is not dealt with immediately and done so in a positive direction, it will be the fate of more than just agriculture; should we fall. Especially in a community the size of ours. Small businesses, schools, even towns will be forced to shut down. So, we all stand to lose . . .

CONGRATULATIONS TO HELEN SMADES FOR HER ACCOMPLISHMENTS IN FRESNO

HON. CHARLES PASHAYAN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. PASHAYAN. Mr. Speaker, I should like to call to attention of my colleagues the accomplishments of Helen Smades during her term as president of the Fresno County and City Chamber of Commerce.

Ms. Smades oversaw the completion of a visitors bureau, which opened its doors in April 1985. The creation of a visitors Bureau has been a major goal for the chamber, and represents a response to a $5 million campaign for tourism in the State of California that was initiated by Governor Deukmejian.

Ms. Smades also presided over the creation of a small business hotline to encourage community economic development. The purpose of the hotline is to provide prospective businesses with information about Fresno and to encourage them to consider Fresno when making a decision on where to locate their firms.

Ms. Smades worked diligently and successfully to market the chamber and to increase its visability in the community.

To increase community involvement, a community calendar hotline was developed under her leadership, which began functioning on October 1, 1985.

To increase the opportunities for local businesses to network and to display their products and services to the community, a Business After Hours Program was launched under Ms. Smades' leadership.

Under her guidance, the chamber has taken a leadership role on issues that affect the community, including environmental issues.

Several changes and improvements within the chamber were undertaken by Ms. Smades to increase its reponsiveness and efficiency. The changes include the expansion of the executive board to increase the representation of the minority community, the establishment of modern recordkeeping, and the chamber's own production of the Membership Directory and Buyer's Guide to increase accuracy and decrease costs.

I wish to commend Helen Smades for her outstanding contributions to the chamber and to the city and county of Fresno. It is through the diligent efforts and forsight of people like Helen Smades that our community has progressed and will continue to do so.

Mr. Speaker, the enthusiasm and dedication that Helen Smades has given to our community makes us very proud. I offer her my congratulations for a job well done, and my best wishes for continued success in her future endeavors.

TRIBUTE TO SGT. JAMES C. KENNON, WALNUT CREEK, CA, POLICE DEPARTMENT

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. MILLER of California. Mr. Speaker, I rise to pay tribute to Sgt. James C. Kennon, who will retire this month after 28 years of dedicated service with the Walnut Creek, CA., Police Department.

Sergeant Kennon began his career in the department on September 30, 1957. He has served in many capacities within the department, and in each assignment he has distinguished himself by his exemplary performance.

He is a professional law enforcement officer, Mr. Speaker, and he has served as an outstanding role model for other officers. He and his efforts will be missed by the Walnut Creek Police Department in particular, and by all of California's Contra Costa County law enforcement agencies in general.

I know that my colleagues here in the House join me in extending to Jim and his wife, Bonnie, our best wishes and our congratulations and thanks for a job well done.

PRIVATE EDUCATION

HON. BERKLEY BEDELL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. BEDELL. Mr. Speaker, recent press reports in Iowa have indicated that our former colleague Shirley Chisholm was highly critical of private education in a speech in Iowa.

It was my pleasure to serve with Mrs. Chisholm, and I hope that these remarks were taken out of context. I am advised that one of those in attendance has so indicated.

Mr. Chairman, I have both a private education advisory committee and a public education advisory committee within my congressional district with whom I meet.

While these committees do not always agree with each other, let me assure everyone that both are firmly committed to the best possible education of our young people. Both schools serve our children well, and both have staff firmly committed to quality education.

I sincerely hope that Mrs. Chisholm's remarks were not as reported in the press. We need to work together, private and public educators, towards a common goal—the best possible education of our youth.

THE "WE LOVE CHILDREN" FUND IN GREATER FALL RIVER, MA, ESTABLISHED TO HELP FAMILIES IN NEED

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. FRANK. Mr. Speaker, I bring to the attention of my colleagues the efforts of a group of dedicated citizens in the Fall River, MA, area that have organized the "We Love Children" Fund. At a time of year that is traditionally associated with charitable giving, I thought the work of the "We Love Children" Fund would be of particular interest.

This nonprofit all volunteer organization was founded to help keep families together during medical crises. Founded by Irene and Joe Cassidy and with the untiring efforts of Isaiah and Eliza Avila, this organization now boasts over 1,800 members and is growing every day. There is a serious need for this kind of assistance because of the extraordinarily high costs of medical care today. I am enclosing a list of people who make up the "We Love Children" Fund Committee because I believe their efforts deserve special recognition. I am also enclosing an article about the group that appeared recently in the Providence Journal which describes the fund's origins.

"We Love Children" Fund Committee: Isaiah and Eliza Avila; Louis and Yvette Almeida; Joe and Irene Cassidy; Pauline Travers; Dee Therrien; Julie Rapoza; Don and Eva Nolan; John and Lorraine Richardson; Rita Bohun; Elaine Mello; Lucy Moniz; Cathy Murphey; Bill Whitty; Attorney Dennis Poole; Attorney John Mitchel; State Senator Tom Norton and aide; Isabel Lopes; Ken Fiola; State Representative Joan Menard and aide; Dave Augutino; City Councilor John Medeiros; Mr. Raposa, L.A.S.A. President; and Kathy Castro, O Jornal.

[From the Providence Journal, Oct. 10, 1985]

FUND AIDS PARENTS IN TIME OF NEED

CASSIDYS SEE PLEADING DAD, START GROUP

(By Dan Durand)

FALL RIVER, MA.—Putting a worthwhile idea into action isn't always the easiest thing to do.

Joe and Irene Cassidy found that out when they came up with the idea of starting the "We Love Children Fund."

The Cassidys began about three years ago while watching a father plead for help during a local television newscast.

Mikey Almeida was dying and his only hope for a healthy future was a new liver. Medical costs were astronomical, and Mikey's father needed money.

The Cassidys wanted to help. But how?

They knew the needy family lived in the greater Fall River area, but they had no clue on how to contact them.

They began by calling every Almeida in the phone book. After many calls without result, the Cassidys finally reached the sick boy's grandfather, Louis Almeida.

The Cassidys explained how they were moved to help Mikey after they saw the boy's father pleading for help. They also requested that they remain anonymous while helping the family.

Mikey's transplant operation was performed in Pittsburgh. The Cassidys discovered medical insurance does not pay a parent's food, lodging or transportation costs to the hospital. And they learned that there is no on-going social agency or charity to help the parents with the costs to be near when the child must receive medical treatment away from home.

So they got an idea. Why not launch an on-going charity to fill the gap? They sought support for their cause from friends, family members and strangers. They held fundraisers. They sent out letters. They got their message across on radio.

The organization now has about $2,800, and its headquarters are in the Cassidy's home at 539 Divison Street.

"There have been special funds formed to help parents defray medical costs and related expenses, but they were set up only on a case-by-case basis, only to be disbanded after the child received medical treatment," Joe said.

"The cost to parents staying in a hotel near the hospital where their sick child is being treated in some cases can amount to over $100 daily," Joe said.

This year the "We Love Children Fund" made an attractive agreement with the Holiday Inn on Charles Street, Boston, next to Massachusetts General Hospital.

The hotel agreed to provide rooms to the organization at a reduced price, an agreement that was coordinated by State Rep. Joan Menard of Somerset. It charges the organization about $75 a night for a room that normally costs about $102 nightly.

Any parent whose child is treated in a Boston hospital will be allowed a maximum of three night stays at the hotel at the organization's expense.

The parents need meet only two requirements to qualify: proof that the child is under 18 and proof from the child's doctor that the child needs treatment at a Boston hospital.

The organization also is planning a program whereby city emergency medical technicians or local hospitals will be able to call the Cassidys on the day of an accident and they in turn would contact the hotel and arrange for a room on the same night of the accident, Joe said.

The organization has about 23 members who help with fundraising and membership drives. It costs $1 to join.

Joe points out that everyone in the organization is a volunteer.

So far the "We Love the Children Fund" has helped Mikey Almeida's parents and the parents of Mark Gousie, who is scheduled to undergo a bone marrow transplant at a Boston hospital.

Although the organization is still in it infancy, donations are starting to come in daily.

"We're on our way," Joe said.

UNITED NICARAGUAN OPPOSITION LEADERSHIP SPEAKS OUT FOR FREEDOM

HON. DICK CHENEY

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. CHENEY. Mr. Speaker, the United Nicaraguan Opposition represents the only chance that Nicaragua will know freedom in our lifetimes. The Sandinista regime of Nicaragua, under Soviet-Cuban tutelage, imposes a totalitarian state on the Nicaraguan people. If the United States continues with its half-hearted response of providing just enough aid to keep the Opposition alive in Nicaragua, but not enough aid to help them liberate the Nicaraguan people, the price will ultimately be paid by the American people, in large sums of blood and treasure. The United States cannot afford to let the Communists consolidate their foothold on the mainland of the Americas. We should restore full aid to the Nicaraguan Democratic Resistance, represented by the United Nicaraguan Opposition.

The United Nicaraguan Opposition stands for the values of freedom, democracy, and human rights which we cherish. The Opposition's leadership made its views clear in the following article in the New York Times of December 13, 1985:

"CONTRAS" ARE ON THE RIGHT TRACK

(By Adolfo Calero, Arturo José Cruz and Alfonso Robelo Callejas)

Public opinion in the United States has a passion for "balance"—for believing that both sides in any conflict are at fault and blaming both in equal measure. In the case of the Central American conflict, this is leading many people astray.

There has been increased recognition in the United States of the fraud perpetrated by the Sandinistas. People hear increasingly urgent expressions of concern from the elected leaders of Nicaragua's neighbors, and there is growing awareness of the danger that the Sandinistas pose to peace and democracy.

This recognition is all to the good. The problem is that many North Americans worry that it is one-sided. They don't like the fact that it may lead Washington to support the Nicaraguan opposition—and so they look for a "balancing" argument. They suggest that, while the Sandinistas are bad, there are also grave problems with the anti-Sandinista fighters known as the "contras"—an incorrect label first pinned on them by the Sandinistas.

This is an easy way out: No political movement is above reproach, and one can always point to disagreements and unsavory elements in the opposition. In truth, however, the facts do not justify the charges.

We in the United Nicaraguan Opposition, an umbrella group known as U.N.O., are the first to admit that there are differences among our leaders. We respect our differences and are proud we do: That is what distinguishes us from the Sandinistas. U.N.O. has brought together a wide range of democratic groups—from all across the spectrum of those who joined in the revolution against Anastasio Somoza Debayle—struggling to prevent the consolidation of Sandinista rule, and we are proud to be united behind this objective. The organization was designed to preserve differences of opinion on economic and social questions and to preserve the groups that represent each point of view.

There is, however, one issue on which we brook no disagreement—human rights. Our commitment to respect human rights applies even while we are fighting against those who systematically violate the rights of others, innocent Nicaraguans. We agree across the board about the need for systematic procedures to insure that this commitment is implemented by our troops and that violations are punished. Such procedures have been in place for some time. They are continually tested and will continually be improved.

Only the very innocent imagine that we could fight a guerrilla war with no misconduct by our troops. But a large share of the "atrocities" of which we are accused are either fabricated by the Sandinistas or are in fact atrocities committed by the Sandinistas.

Beyond this agreement, the U.N.O. leadership is also united in its goals—peaceful solutions and national reconciliation. All the groups in the organization have repeatedly offered to stop fighting and start negotiating. That offer is still open.

The leadership of the Nicaraguan opposition has the right to disagree about many things, but we agree on the important points. We recognize that the only legitimate source of power is a free electoral process. We agree completely on the need to overturn the Sandinistas' totalitarian control of Nicaragua. We prefer to do so by negotiation, but we recognize the need now to fight for this objective. We are determined to respect human rights even at the height of the struggle, and we hope to establish a genuinely democratic system under which every Nicaraguan has the right to participate in the political process.

The Sandinistas have failed historically because they are an instrument of foreign interests. We are not, and will never be, the instrument of a foreign power.

The Nicaraguan opposition is the genuine voice of the people of Nicaragua. It does not threaten a return to Somocism. Its strength comes from tens of thousands of Nicaraguan peasants and other young people from every social class who are willing to risk their lives to fight for it—to fight for pluralism and freedom and the protection of human rights.

NEW ZEALAND AND PORT ACCESS LEGISLATION

HON. GUY V. MOLINARI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. MOLINARI. Mr. Speaker, I was disappointed to learn last week that New Zealand's Prime Minister David Lange has introduced legislation which would put into law the current government's policy of not granting port access to nuclear powered or armed ships. The legislation also bans nuclear-armed aircraft from landing in New Zealand.

Relations between the United States and New Zealand have been strained since February of this year when New Zealand first implemented this policy by refusing to allow the U.S.S. *Buchanan* entry into a New Zealand port. New Zealand claims that in its legislation it is attempting to accommodate the United States policy of neither confirming nor denying the presence of nuclear weapons aboard our ships by assigning that responsibility to the Prime Minister, who will make the determination based on all relevant information and advice available to him from various sources.

The U.S. State Department has made it's feelings about this legislation quite clear. In order to maintain our alliance under the ANZUS Treaty, full cooperation of all three parties is necessary. The State Department has stated that a full review of our security obligations to New Zealand under the ANZUS Treaty will be undertaken if such legislation is enacted, with the possible result that our longstanding treaty alliance with New Zealand would be terminated.

Mr. Speaker, New Zealand has always been a true and loyal friend of the United States and it would be unfortunate if the port access issue would force the United States to make any change in our alliance relationship. It is my hope that New Zealand will reconsider the advisability of the port access legislation and return to a policy of full cooperation under ANZUS—an alliance that an overwhelming majority of the New Zealand public supports. In the event that this is not the case, however, I would hope that the Congress would support the State Department in actions it may view as necessary as a result of the enactment of such legislation.

PANAMA "BEHEADED"

HON. MICHAEL D. BARNES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. BARNES. Mr. Speaker, the following editorial from the Washington Post pretty well reflects the frustrations of the Congress and the American people with the perversion of democratic government in Panama under General Noriega. Panama is part of a not-very-select group of countries in Latin America—Cuba, Nicaragua, Haiti, Chile, Paraguay, and a few others—that are not making progress toward democratic government. I believe we need to look very hard at future aid allocations for Panama so long as current political trends continue. Particularly at this Christmas season, I know that all of us in the House join in hoping that the new year will progress toward democracy for the Panamanian people.

The editorial follows:

[From the Washington Post, Dec. 6, 1985]

PANAMA "BEHEADED"

According to a report from the police in Ciudad Neily, Costa Rica, witnesses last saw Dr. Hugo Spadafora alive reading a newspaper at a Panamanian National Guard border checkpoint, where he was being detained after having been removed from a bus, about noon on Friday, Sept. 13. The next person the Costa Rican police could find who had seen him was the young man who found his body, "completely decapitated," in La Vaquita River just across the border from Panama the next afternoon.

Dr. Spadafora was known, among other things, for having formed a battalion in Panama to fight against the Somoza family in Nicaragua. He was also known for being a keen critic of, among other things, the alleged drug trafficking connections of Gen. Manuel Noriega, strongman of Panama

The murder and its manner stunned Panama, which is not one of those Central American places where the killing, let alone the evident torture and beheading, of critics is routine. In an important sense, however, Dr. Spadafora was not the only victim. There is reason to believe that the elected president, Nicolas Arditas Barletta, was planning to launch an inquiry into the crime upon his return from a trip to the United Nations in October. While he was still in New York, Gen. Noriega forced his ouster; actually, President Barletta, struggling to maintain a thread of constitutionality, "separated" himself from office under an obscure article and technically remains president.

The story was put out that the Barletta economic policies were largely to blame, but knowledgeable Panamanians look more to the Spadafora affair. Panama's painful progress toward democracy was thereby "beheaded" too.

In Panama these days, the atmosphere reeks of police intimidation, but large numbers of citizens have come out in the streets calling peacefully for an inquiry into the Spadafora murder. Meanwhile, the armed forces are bringing under their direct control a whole range of functions—ports, railroads, customs, immigration—previously and more properly under civil administration. The Barletta economic policy, which had been sanctioned by the political parties, threatens to go by the boards, with immense potential costs to the country's economic viability and credit worthiness.

Gen. Noriega is well known in Panama. He is becoming well known outside Panama as an impervious leader who fears to let independent investigators examine the Spadafora affair and to let independent citizens control their government. Almost every country in Latin America is going the democratic way except Nicaragua and Panama. Gen. Noriega is an embarrassment to his country, and to the integrity of the Panamanian armed forces.

A TRIBUTE TO TOMMY WINEBRENNER

HON. CARROLL A. CAMPBELL, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. CAMPBELL. Mr. Speaker, after 30 years on Capitol Hill, Tommy Winebrenner is leaving. To say that he will be missed is an understatement.

How do you say goodbye to an institution? I remember very clearly my first days here as a freshman Congressman and the invaluable help Tommy provided. His knowledge of the House schedule, the legislative calendar and process, Jefferson's Manual, Roberts Rules of Order, and just the everyday comings and goings of the House were at that time rumored to be legendary. And, I can honestly say that the legend proved to be true. Tommy has always been there to provide just the right parliamentary stroke and keep us on the right track. His honesty and professionalism are recognized by both sides of the aisle and he will certainly be missed. It has been a pleasure to work with him and I wish him the best of luck.

A TRIBUTE TO TOMMY WINEBRENNER

HON. CHARLES PASHAYAN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. PASHAYAN. Mr. Speaker, in paying tribute to Tommy Winebrenner, I shall not make comment on Tommy's parliamentary prowess, which, I take it, has been done abundantly by my colleagues. Rather, I shall dwell on what on first blush seems a small point, but is really important to Members in a practical way.

No parliamentary body such as ours can perform without the presence of a sufficient number of Members. Short of an extreme situation, the attendance of Members of the House is voluntary. The people elect Members to attend and to vote, but they also elect Members to perform a whole host of other duties.

There is no Member of this body who feels that 24 hours a day are too many to succeed in the numerous tasks given by those who elect us. Meetings in committees and in Members' offices on the Hill are important, but on occasion meetings off the Hill are also of significant importance.

Now Mr. Speaker, it is often no small matter to determine when it is safe to leave the Hill for such a meeting, when a Member can do constituent business at a department or agency without missing votes.

The same holds true when deciding whether to fly to the district on this day or that.

When we stop to think about it, Mr. Speaker, deciding when to leave the Hill can be one of the important things Members decide countless times during the legislative year.

Mr. Speaker, the advice given to several generations of Members by Tommy Winebrenner on this small but important item as well as his constant and sage counsel on parliamentary procedures on the floor will be sorely missed by us all, and by that, Mr. Speaker, I mean by both Democrats and Republicans. None of these decisions can be made competently except by complete mastery not only of parliamentary details but of the political strategies occurring at any moment throughout the parliamentary day. We cannot count the number of times that we have taken comfort in Tommy's judgment, "Be back by such a time."

I am sure that my colleagues join me when I say, Tommy, thanks for your wise advice given countless times on whether to stay on the Hill or to do business elsewhere, or whether to stay in Washington one more day or to leave for the district. Tommy, your advice and your humor will be missed by us all, and your contributions to parliamentary procedures and events in your three decades on the Hill have been brilliant and immense. I wish you the best fortune in you next endeavor.

DANTE FASCELL AND THE MIRACLE OF DEMOCRACY

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. RICHARDSON. Mr. Speaker, there are giants in the U.S. Congress. One of these is DANTE FASCELL—little in height but enormously tall in stature and accomplishments for this country.

There is also another side to FASCELL. When I was a young, struggling, aspiring public servant, he was always there with a kind word and willingness to help. I will always consider him as one of my mentors.

This article captures the FASCELL style and character.

THE MIRACLE WORKER

(By Joel Achenbach)

"Where'm I going? Where'm I going?

No one answers.

"They're not listening to me, they never listen to me," says Dante Fascell, feigning self-pity. They always listen, of course. He jams a wad of Captain Black into his pipe, and turns up the volume.

"Where'm I going?"

"Rules," a press aide says from across the room.

Rules Committee.

"Let's go!" the congressman says, and he charges out of the office and down the hall, staffers and supplicants in tow. It is a Tuesday morning and the King is coming to town, the one from Jordan, Hussein. But first there is business to conduct, deals to make, meetings to attend. Fascell is in overdrive, power-walking like an Olympian, gaining speed from liberal use of the forearms. He would be believable as a plumber or a Navy mechanic. Old Southern congressmen are supposed to have distinguished white hair, mellifluous voices, distractingly articulate speech, but Fascell is gruff, jowly, blunt, a bulldog among the swans. He is built low to the ground, for better cornering.

After a quick left and a quick right he rides the elevator to the sub-basement, cuts through the boiler room—he hates to waste time—and then loads himself into a cart that looks a tad like the Conch Train down in Key West. An attendant throws a lever and the cart goes humming on train tracks down a curved, gloomy tunnel. A little subway for congressmen. This is the first thing that seems a little strange.

At the end of the ride he finds himself deep beneath the United States Capitol. An escalator and another elevator take him to the Rules Committee room. The entire trip avoids any contact with sunlight and, and more importantly, tourists, thousands of whom roam the Capitol, driven by a thirst for the symbols of democracy. This is the second thing that seems a little strange. You just can't believe that the Congress actually works here, that it continues to operate the government of the United States above and below and around these innumerable busloads of people from Dubuque and Akron and Montgomery.

In the Rules Committee room, a surprisingly small and cramped chamber with fancy curtains, Claude Pepper calls the meeting to order. Eight Democrats sit to his left. One Republican sits to his right. A few other Republicans wander in and then quickly leave. They know they don't have a chance against Fascell, who heads the Foreign Affairs Committee, and who is such a powerful congressman that he once pushed through a foreign aid bill that included millions of dollars *for Miami.*

Fascell and several Republicans trade turns arguing about a nuclear test ban resolution. Fascell wants the Rules Committee to prohibit amendments. The Republicans easily win the day from a rhetorical standpoint. Fascell starts to leave, but then pauses and cocks one ear, to catch the vote. Nine to one. As expected. He had called them all the day before, just to make sure.

Fascell has barely made it back to his office when a bell rings on the wall. Two bursts, loud and raunchy. Fascell drops everything and rushes back into the hall and charges once again down the corridor. A bell. They use a bell, just like school. This is the third thing that seems a little strange.

As Fascell marches on the Capitol he is joined by other congressmen, but they can't keep up with the 68-year-old from Kendall. In Congress, 68 isn't old. Some of the gentlemen appear in need of pure oxygen.

"It's a stupid vote, really," Fascell says. The House is voting on the previous day's journal. Kind of like approving the minutes. "You're not going to vote down the journal. It's a technicality. We should abolish it, but we won't."

Two bells means a floor vote. Three bells means a quorum call. Four bells means go home for the day. Twelve bells means that in a few moments everyone will turn to vapor. Years ago, the 12-bell alert would be tested at 11 a.m. on the first Wednesday of every month, and all the congressmen would ignore the noise. Eventually someone realized that the Russians might learn about the test and attack precisely at that moment, dusting the leaders of the Western World in the middle of a committee meeting, rather than, say, in the elevator leading to the garage.

Eventually you get accustomed to the bells, the subway, the votes, the jokes, the Capitol, and then you begin to discern the entire arabesque process, the unnatural division of responsibility among the authorization committees, appropriations committees, budget committees, revenue committees, conference committees . . . You marvel at the explosion of staff, the pandering to television, the breakdown of the seniority system, the frenzy of campaign fund raising, the rapidly growing clout of the big-money Political Action Committees (called PACs, like some electronic game demons), and of course the traditional red-ink spending, pork barrel projects, the grandstanding, the back-slapping, the palm-greasing . . .

And you begin to wonder.

What is going on here?

What is happening to Congress?

Is this any way to run a government?

The Founding Fathers, the Framers, they had a very good idea—good enough to survive two centuries of sometimes moronic stewardship—but the simple fact is that the Constitution is a document of principles, with a basic sketch of the structures of government, and it does not say anything about subcommittees and budget making and deficit spending and PACs and TV. It does not say anything about the freaking *Rules Committee* . . . vague and high-minded, the Constitution leaves unanswered the question of how the decisions will be made, how the bridges will get built, how the money will be taxed.

So for nearly 200 years, Congress has been . . . well, winging it.

When you realize this is when you begin to appreciate a man like Dante Fascell, career congressman, master of the game.

No one—it's almost sad—no one will ever build a big marble Lincoln Memorial-style monument in honor of Dante B. Fascell, D-Fla., representative of the 19th congressional district, going on 31 years in Congress.

He deserves something. Maybe a good, solid statue. It would not have to be a tall statue. In fact it could be rather squat. Stubby. Oblate. The countenance would have a lot of . . . character, shall we say. and instead of a scroll in his left hand, it would be a pipe. And a Captain Black pouch sticking out the back pocket. The inscription, the one glorious quotation to remember him by, could be simply: "You have to have the votes."

In a way Fascell already has monuments everywhere, particularly in his district, which runs from Coconut Grove to Key West and once covered all of Dade and Monroe counties. Radio Marti is a monument to his anti-Castro passion. Biscayne National Park is a monument to his stubborness and refusal to cave in to developers. The new bridges in the Keys, and the new water main to Key West . . . those were Fascell. The new beach on Miami Beach . . . Fascell. The War Powers Act, the establishment of the Consumer Protection Agency, the Department of Housing and Urban Development, the Department of Education, the extension of the principle of government-in-the-sunshine to Congress . . . Fascell had his thick hand in all that.

Yet, even though he's by all estimates one of the 10 most powerful and respected men in Congress, maybe one of the top five, he's still . . . well, he's still just a congressman. And he is an intentionally low-key one at that. A mangler of language, he is definitely not an orator. ("I wish I could speak seven languages, fluently," Fascell says. "I speak one language. Badly.") He has built up a reputation as a behind-the-scenes smoky-room dealmaker—although Fascell protests unconvincingly, "I've never made a deal in my life." He doesn't like the smoky-room allusions, and notes that he doesn't smoke cigars and "gave up pinching women."

Some liberal Democrats think Fascell is too willing to compromise with the Republicans. But rather than ram through legislation with a brute Democratic majority, Fascell likes to get everyone on his side. He just wants to get the job done.

DBF, as his staffers call him, isn't even ambitious, at least by the standards of Washington, that roiling pit of megalomania. It's hard to retain much humility and restraint inside the Beltway, where thousands of people who are big shots back home but mere rodents here in the Center of the Universe are competing for influence and searching for the ultimate Power Lunch. They are the kind of people who are so competitive they won't share a recipe.

Fascell, to his credit, has never been one of these lowly dust-eating gerbils. Of course, he will never be the House Majority Leader or the Speaker. He got off that track years ago. He's no Jack Kemp or Bill Bradley or Peter Ueberroth, he's not trying to ride into power on some kind of Great Man Plan.

"I made a conscious decision then that I would stick to my knitting, that I would pay attention to my district and work on my committee," Fascell says.

He has a distinguished position as chairman of Foreign Affairs, but for the most part, Congress is just tagging along on foreign policy—the constitutional province of the Executive Branch.

Which is not to imply that Dante B. Fascell is a nobody, or a failure. The Republicans know otherwise. Fascell has been an immovable object as far as the GOP is concerned. He has won 16 straight elections in the 19th congressional district. Won big almost every time. In a time when more and more congressmen have the blow-dried hair, freeze-frame smiles and mechanistic delivery of TV newscasters, Fascell had endured and triumphed. In fact, in 1982 the local GOP went so far as to run an actual TV newscaster against Fascell. The man was Glenn Rinker, from Channel 10, and Fascell beat him by a mile.

What is perhaps most remarkable is that Fascell has prospered and grown powerful despite a reformist upheaval that has made life a little harder for many of the old-line breed.

The greatest change during his 31-year tenure has been the ditching of the seniority system, which essentially gave power to whoever could live the longest. Old Southern congressmen dominated the committees, created or disbanded subcommittees at will, picked themselves to chair all important panels, hired all staff, scheduled all meetings, stepped on any and all challengers. The Constitution, of course, didn't explicitly say that Congress had to be *fair*. The younger congressmen would arrive in Washington and discover that they had been more or less disenfranchised. Naturally they couldn't tell this to the people back home. They were supposed to be cheeses. And they knew it was suicide to buck the system and cross a committee chairmam. So they all sucked in their guts, queued up and waited their turn.

Fascell waited 28 years. When he first got to Washington he was assigned an office in the basement next to the elevator shaft. "He couldn't talk on the phone because the elevator made so much noise," remembers Fascell's longtime campaign chairman, Pontiac dealer Burton Kahn.

Fascell was patient. His staff expanded. Congress changed. By the time Fascell took over Foreign Affairs, the seniority system had given way to a centrifugal dispersion of power, and an explosion of subcommittees. For example, the Agriculture Committee now has eight subcommittees, such as the Cotton, Rice and Sugar subcommittee, the Wheat, Soybeans and Feed Grains subcommittee, and the Tobacco and Peanuts subcommittee. These have become fiefdoms for younger congressmen. According to a report in the Atlantic last December, there were 47 meaningful Mr. Chairman positions in Congress in 1964. By 1984 the number of Mr. Chairman positions had risen to 326. There was a Mr. Chairman glut.

The number of congressmen has not changed, but the size of the whole corporation has mushroomed. The Foreign Affairs Committee staff went from 14 people in 1960 to 85 by 1983. Rules Committee staff went from 2 to 47. Nowadays staffers are often busy just trying to cope with other staffers. Staffer gridlock.

The House held 73 floor votes in 1955, and 498 votes in 1983. And yet Congress is passing less than half as many bills. It turns out that the seniority system was the grease in the wheel.

Fascell admits that it is now harder to pass legislation. But he defends the system like Cerberus at the Gates of Hades.

"In the old days of the seniority system, all that was required was a meeting of the leadership," he says. "That is no longer true. Some people don't happen to like that. I happen to think it's great."

Allen Weinstein, president of a nonpartisan think tank called the Center For Democracy in Washington, says, "I don't know a single other member of Congress who has bridged the gap as successfully as Fascell between the older political culture of Washington and the newer culture. He is respected by every young turk I can think of."

In his tenure Fascell has seen seven presidents, seven governors of Florida, six mayors of Miami and 13 city editors of The Miami Herald.

There is a bridge named for him in the Florida Keys. And there is a park named for him in Kendall.

A few years ago he decided to go to Dante B. Fascell Park to play tennis. He forgot his ID card. The attendant didn't recognize the fellow. Made him pay a nonresident's fee.

Fascell is drinking coffee in the House dining room, telling war stories about his days in the Army (in essence, he defended California from the Japanese horde and invaded his ancestral homeland of Sicily). The room is as noisy as a college cafeteria, packed with congressmen, House officers, lobbyists, reporters, dignitaries and sycophants, and as Fascell talks, a man at the next table stands up, points at Fascell and says very loudly, apparently for the benefit of the people he is sitting with, "That man is one of the most powerful men in Congress—if not the most powerful."

The guy's a young congressman. Maybe he's trying to score points. Fascell just laughs and shouts back, "I keep trying to tell people that, but they won't listen."

A few yards away is George Washington, who is sticking his hand out at Cornwallis, who in turn is suing for cessation of hostilities under the flag of truce. The fresco had been walled up in the Capitol for years, and found during a remodeling. The Capitol has that slightly mysterious air that cloaks all old buildings, as though perhaps it is full of early 19th Century secrets, lots of little passageways and tunnels and bookcases that spin around, ghosts.

Fascell knows of a tiny prayer room. He sometimes goes there to pray.

"We pray for forgiveness," he jokes, taking a sip of coffee.

"Or pray that your bill will pass," someone suggests.

"And do you know what God says? God says—"Fascell pauses theatrically—" 'Do you have the votes?' "

He believes in votes. The one who gets the most, wins. Simple.

And the consensus around the Hill is that there's no one better than Fascell at getting them. Fascell is what is known around the Capitol as "a player." Unlike a lot of the 535 representatives and senators, he matters.

Consider his foreign aid feat. Producing a foreign aid bill has historically been the single most important task faced each year by the House Foreign Affairs Committee, and yet, under the lame leadership of ancient Clement Zablocki of Wisconsin, the committee hadn't managed to put together a foreign aid bill for several years. Foreign aid has never been politically popular, even though it's a great way to implement and regulate a foreign policy. It means giving money to people who are not Americans. This doesn't go over well with the folks in the cheap seats. Zablocki couldn't even get a bill out of committee.

Then Fascell took over in January 1984, knocked heads, kicked tail, and within a few months he had rammed the bill through the House. Judging from the incredulous reaction of the Congress-watchers you'd have thought Fascell had single-handedly balanced the budget.

What does this stocky old guy know that others don't? What is The Secret?

The answer isn't obvious. Or maybe it's so obvious it's invisible. Mostly, Fascell talks to people. He pulls them aside in the hall, whispers something in their ear, and they nod, and the next thing you know there's a bridge going up. The strange thing is that if you sneak up next to him and try to detect what it is he's saying, to surreptitiously catch those few precious words, you hear something like, "Natcher says two hours, OK?"

It's all so . . . mundane. But then that's the system. The oratory, the "I regret I have but one life to give for my country," that's just the wrapping, part of the marketing. Democracy is riding elevators and finding out if Natcher wants one or two hours, whoever the hell Natcher is.

Here are some rough notes from watching Fascell at work, some journalistic ore, if you will:

Fascell gets on Capitol subway next to congressman from Oklahoma.

Fascell: "I just told someone you still make buggy whips in your country"

Oklahoman: "That's right. It's so poor there, my brother'n'I went out the other day to shoot the pig between the eyes, but he was so thin we had to smother him to death."

HA HA HA HA HA HA HA HA HA HA HA

Fascell goes to office, three men waiting.

Silver-haired man: "We're Barnett Bank for Better Government."

Younger guy (correcting): "Barnett *People* for Better Government."

Fascell: "You the PAC, are you?"

They talk about an interstate banking bill.

Fascell: "Hold on, let me call my legislative assistant and get a reading on that. Marcia?

The national trigger bill, still in committee?

Dying? And where am I on it?"

Fascell sees congressman in hall.

Fascell: "Hello, Mr. Chairman."

Congressman: "Hello, Mr. Chairman."

Fascell gets briefed about world events.

Fascell: "George, hurry up!"

George: "I just wanted to give you an update on the Israeli bombing of the PLO headquarters in Tunisia."

Fascell: "The people who allegedly murdered the Israelis are back in jail."

George: "Yes, in Cyprus."

Fascell: "So the attack on the PLO headquarters was gratuitous."

George: "Gratuitous."

Fascell: "And exacerbated an already . . . exacerbatable situation."

Fascell receives a clipping frm the morning paper.

Fascell: "What's this?"

Aide: "Today's paper."

Fascell: "Did they quote me?"

Aide: "Yes."

Fascell: "Is it accurate?"

Aide: "Yes."

Fascell: "Is it good or bad?"

Aide: "it's fine."

Fascell (to reporter): "That's how we read the paper."

So there it is. An actual congressman in action! You have to wonder: Are we missing something? In a word: Yes. There are things happening out of sight, in the staff offices, in the cloakroom behind the Speaker's podium, in the private conferences. But at least on the surface, big-time representative government is a lot like . . . smalltalk.

The scene on the House floor itself is not particularly riveting. Often, protocol gets in the way of any serious discussion. They are constantly "yielding" and "not yielding" to each other. Here is a sample from the Farm Bill debate:

Rep. Rose: You can produce peanuts in California.

Rep. Brown: Nonquota peanuts, yes.

Rep. Rose: And do you know that, if there is any shortage in the domestic—

Rep. Brown: Did the gentelman ask me if I would yield to him?

Rep. Rose: I thought the gentleman did yield. I apologize.

Rep. Brown: No, but if you will ask, I will.

Rep. Rose: Well, will the gentleman yield?

Rep. Brown: I am happy to yield to my friend.

Rep. Rose: I appreciate it . . . Do you know that exports of those peanuts have gone up 40—

Rep. Brown: I continue to yield to my friend.

Rep. Rose: Do I have to say that every time I speak with you? I will get my own time, but I thank the gentleman for what appeared to be yielding.

When everyone goes home for the day, a few people stick around to make speeches in an empty room, for the benefit of who ever might be watching out there on C-Span. One night William Dannemeyer of California got up and spoke for half an hour about AIDS, blaming it on the existence of homosexuality: "God's plan was for Adam and Eve, not Adam and Steve . . ."

This is Congress. Somehow—and this is the miracle—it works.

There's still the question of The Secret. Maybe it's just that everybody likes Fascell, because he's so straight-ahead, so raw and real and honest. That's not exactly common in Washington. He's just a Heckuva Guy.

Even the Republicans admire Fascell, though he doesn't vote with them like some of the Democratic "boll weevils" from the South. "He is well-liked on our side of the aisle," says California Republican Robert "B-1 Bob" Dornan, who flies as far right as anyone in the House. "Personal warmth goes a long way. Fairness goes even farther."

Maybe The Secret is that Fascell is a true patriot. He is an old-fashioned anti-Communist liberal, a disciple of the New Frontier. He is one of the leading forces in Congress to extend the message of America overseas, lobbying hard for the Voice of America and, of course, Radio Marti. He was never one, not even in the darkest hours of Vietnam and Watergate, to lose faith that we are the good guys.

"I haven't found a better system," he says, staunchly.

Maybe The Secret is just hard work. He's got some kind of internal energy source that isn't normal—it makes nuclear fusion look like static electricity. This is a man who once literally staggered into the House chamber with a blood clot on his brain, stumbling around and nearly paralyzed on his right side, but doggedly determined to vote against Reagan's tax cut. The next day the doctor drilled two holes in Fascell's head and he's been better ever since.

Most likely The Secret is nothing more than a special attitude about government. Fascell is viciously pragmatic, willing to compromise in a pinch. He beelines for the common ground with the unerring instinct of a sea turtle.

"You got umpteen people on the committee. Every member has a different idea about something. The first thing you go to do is get all those people moving along the same railroad track. You might not be able to get them on the same car, but you got to at least get them on the same train."

Be it from coincidence or contrivance, Fascell's philosophy is usually in step with the politically attainable. He also doesn't forget the electorate. In his district, one of the most eclectic in America—including the military personnel in Homestead, the vegetable farmers in the Redlands, the Yuppies in Kendall, and the uncharted ground in Key West and Coconut Grove—it is quite a balancing act. Into the mix goes a sizable number of conservative Latin exiles. His staunchly anti-Communist votes, particularly his hawkish stance on Cuba and Central America, nicely match the beliefs in his district. He is a politician.

"The main thing is being a known quantity," Fascell says of his success.

That's about all he says. He doesn't seem very thrilled to talk about himself. He could be making phone calls instead. Getting votes.

Fascell's drive and pragmatism date back to his scrappy youth. A first-generation American, he was born in Bridgehampton, N.Y., and moved with his Italian immigrant parents to Miami in 1925. He helped his father deliver milk and eke out a modest income. His mother, 90-year-old Mary Fascell of Coral Gables, remembers Dante, who she named after the poet, as a rule-abiding, untroubled boy who lived school. He didn't move out until he got married, in 1941, to Jeanne-Marie Pelot, a marriage that thrives today. Fascell earned a law degree from the University of Miami, and, backed by the local Young Democrats and Jaycees, won a spot in 1950 in the Florida Legislature. When U.S. Rep. William Lantaff retired four years later, the 37-year-old Fascell cruised into the vacancy with the slogan "Ring the Bell for Dante Fascell."

Fascell says that if he hadn't gone into politics he "would've done something else great." He winks when he says it but there's a fat streak of truth there. Ultimately Fascell believes that his success is the product of an unmeasurable and indefinable greatness. And he does have a certain air about him—like many men and women of unusual achievement, he is at all times the perceived locus of energy in the room, the axis of the magnetic field, the monopolizer of power. Everyone present is either listening to Dante Fascell or speaking to him.

"Attaboy!"

The congressman springs from his chair and balls his fist and slugs the air, as the radio crackles news of a Miami Hurricane touchdown. This is a Saturday, in Kendall.

"Hey. Hey Stan? Stan. This guy went 90 yards on a screen pass. Alonzo Highsmith."

Stan Strother, Fascell's son-in-law, shakes his head. The congressman sits down and his 10-month-old granddaughter Stacy comes pounding into the room, teetering on her impossibly small feet.

"Hi Sweetie Pie! Lookadat. Yeh, she's got a biiiig smile all the time. She's a cutie-pie. What you grinning at, punky?"

The phone rings and the congressman gets it.

"Yeah. Right. Yeah. Don't wo— Don't worry, we'll catch up with each other. You bet. Bye."

He scowls.

"Man! He was determined to come over here tomorrow."

"Who was that?"

"Constituent."

A visitor says the congressman is a very important man. Stan nods, says to his father-in-law, "It's like when you were doing the foreign aid bill. I sorta knew it was major. But I didn't know how major it was until I started watching C-Span."

Interception.

"I can't believe it. Yuck," Fascell says.

The congressman fields another phone call, then answers the door and is handed a stack of papers by a woman who immediately vanishes, and then he sits down.

"Who am I? Y'know, I'm a public office holder, y'know. I'm a family man. Y'know. I try to live in the community. Try to have some kind of private life. I like to fish. I'm a Renaissance Man. I like music. Don't write that. Don't write that! It's presumptuous to use the term Renaissance Man. I'm not a poet or a writer or anything."

He loads his pipe.

"Christmas is a big thing for us. It's a big deal. We have a tree, right here where we're sitting, and everybody has fun."

His voice grew somber.

"We have a good family. Good family."

Dante and Jeanne-Marie Fascell have two living children—Toni, Stacy's mother, and Sandra Jeanne.

On Feb. 9, 1984, barely a month after he finally became chairman of the Foreign Affairs Committee, Fascell was presiding over a hearing and listening to Defense Secretary Caspar Weinberger testify when he was summoned into a back room. Two of his aides, Bob O'Regan and Barbara Burris, were waiting. They told Fascell that his only son, Dante Jon, called "Deej" by the family, had been killed in a collision on the Seven Mile Bridge.

"It's just a big blur right now," he says as he shifts in his armchair. "Somebody got me, said it was an emergency call. My son had been killed. I don't know. Maybe I talked to my wife. It's just a big blur.

"You go on doing the best you can. You never really get over the loss of a child or a loved one. But it makes you realize philosophically about life and how quickly it can change. It also makes you realize how beautiful people are. We got correspondence from all over the country. There was a tremendous outpouring of sympathy and support. You know that there's just worlds of good people out there."

His sister Vera says later. "It's like a part of him is gone. There's a certain sadness there that was not there before. You would have to know him to know it was there."

It is late morning on a Friday in Washington, and Fascell has to catch a plane in an hour, to go home to Kendall. Every Friday, thousands of people abandon Washington and return to various corners of the United States. Fascell goes to Kendall because Kendall is where he lives. He doesn't live in Washington, he says. He spends most of his time in Washington, but he says "You couldn't give me this city."

Part of his loyalty to South Florida has to do with the water, he says. He likes to fish. One suspects that his loyalty also has to do with the voters. After all, he is a congressman, which means that he is supposed to be "closer to the people" than a senator, which means that he has to run for office every two years, which in the modern age of long campaigns means that he is always running for office. He is always raising campaign funds, some of which pay for his annual Labor Day picnic, a legendary cook-out that draws thousands of people. His longtime campaign treasurer, insurance agent George Korge, notes that Fascell won his first race in 1954 on a total budget of $10,000. "If we got a $25 contribution, we'd go out and celebrate," Korge remembers. Times have changed: Fascell already has $239,000 in the bank for his 1966 race.

Altogether it's not the best system imaginable, but it beats the way they do it in, say, Paraguay.

In any case, it's another Friday, and Fascell has to catch a plane, though first he must attend to details, phone calls, meetings.

"Never seems to be enough time. Should be 40 hours in the day. All right. I got the speech. Schedule. Travel arrangements. Reporter's telephone number . . ."

An aide hands him a letter and Fascell says, "Do it over, because that's not too good."

Pounding through the office, Fascell catches a scent and grimaces. "Jesus! What is that stuff that Jack smokes? Holy . . ."

Then he settles down in his chair and rubs his bleary eyes, his wise old barnacle eyes.

"This week just suddenly caught up with me," he says to no one in particular. "I'm tired . . . I hope no one shakes me."

Which means he hopes no one shakes him awake on the plane. They do that. They sneak up to him and grab his shoulder and shake and say "Are you asleep?" And he has to say no, because congressmen are always running.

Fascell loads up his briefcase and descends to the basement to his Pontiac 6000, and in a minute he is up on the Capitol Expressway. He dodges slower cars as he picks up speed, his right hand working the gearshift like a drag racer even though his Pontiac is an automatic (he says he likes to "use the engine"). He passes the Smithsonian, where a marble George Washington sits on a throne in a toga, nearly barechested, one God-like finger pointing skyward. He passes vast dizzying tracts of federal office buildings, horizontal skyscrapers, so many that you can't believe the government could be that big. And then on the right, rising above the cherry trees near the bank of the river, appears a familiar neo-Classical temple.

"There's the Jefferson Memorial!"

The congressman's saggy old face turns happy and reverent.

"There's Jefferson, standing in the middle of all these thoughts and words. Jeffersonain. I think the monuments really capture the individuals."

Thirty years he's been in Washington and he still gets a charge from it all, a sensation. To think: He is part of it. He is one of the chosen, picked from among the teeming minions to be a leader, his only boss the Constitution. He is part of it: Checks and balances. Representative government. The Grand Continuum of Democracy!

"It's still not lost on me, I still get tingles," he says at one point. "Y'know, looking at the flag flying over the Capitol, and the dome is lit and you're walking through the halls and you're looking at Washington and Lincoln and Roosevelt and Stevenson and all the rest of the great figures in American history . . ."

The Pontiac passes within a few hundred yards of Jefferson, who stands embronzed under the rotunda, a scroll in his left hand, his words on the walls, words that, in the intoxicating seriousness of the nation's capital, lose their rote quality, their elementary school obviousness, and become something immediate and important and even real.

"Lincoln's is so dramatic, it has such a somber impact on you," Fascell says, noting the even more massive temple in the distance, at the end of the Mall.

Then: "Look at the Potomac River!"

Just as he says this another car nearly smashes his front right fender, and he slaps on the brakes and downshifts and shrieks, "Jesus Christmas! YiYiYi!"

He gets off the expressway and onto the George Washington Parkway, winding along the western shore of the Potomac River. Fascell says he doesn't think George Washington actually threw a silver dollar across. Too far.

On the outskirsts of the airport a cop standing in the roadway signals Fascell to pull over. Fascell does, and leans out the door.

"What'd I do?" he says with an impish grin.

"Forty-six, sir," says the cop, who shows no sign of recognizing the chairman of the House Foreign Affairs Committee.

"Well, I'm sorry, I was just trying to catch an airplane."

"Well, the airport's busy today," the officer says. The cop has ticket written all over his face. But for some reason—maybe it's the body language of this stubby little guy hanging out the door of the Pontiac, maybe it's his spunky "What'd I do?" maybe it's something in his eyes, a glowering that suggests both friendliness and power, maybe it's the negotiable smile—for some ultimately unknown reason the cop pulls back a little and says simply, "Please slow down, sir."

"OK!"

The deal is struck. The congressman drives away. He shows no sign of slowing down.

TRIBUTE TO TOMMY WINEBRENNER

HON. CHALMERS P. WYLIE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. WYLIE. Mr. Speaker, may I add to the many expressions of respect and compliments said of Tommy Winebrenner. I want to commend Congressman JOHN MYERS and Congressman BUD HILLIS for taking special orders so that we may put in the RECORD our warm regards for Tommy Winebrenner. Thanks to the technology of television and the fact that the House proceedings are broadcast on C-SPAN, Tommy's mother and sister were able to see the enthusiastic expressions of praise by Members of Congress on Tommy's behalf. The proceedings were even broadcast all the way to Texas so that his brother could see them. I know it meant a lot to Tommy that his mother, sister, and brother were able to hear those wonderful remarks about their son and brother. Tommy is one of those public servants who goes about doing his job in a very professional way without fanfare, who feels his reward is in doing a good job. He has been rewarded richly. I came to know Tommy early on in my time in Congress when he was introduced to me by Harry Brookshire who had his position before Tommy. Harry said if you want to know anything about what has happened on the floor or is about to happen, ask Tommy Winebrenner. I have found that to be good advice over the years. Tommy is not only knowledgeable however elementary or mundane the question might seem. But the information he imparts is always reliable and useful.

It would be hard to estimate the impact he has had on legislation and the deliberations of the House, but they have been considerable by being available to give advice as to how you go about being a part of the process, especially for us as we came in as new Members. I have never heard an unkind or uncomplimentary word said about Tommy Winebrenner. He is held in high esteem by Members on both sides of the aisle.

Tommy was most overwhelmed when the Republican conference gave him a standing ovation on learning of his early retirement and afforded him the rare privilege of asking him to address the conference. His humbleness and appreciation were evident. Tommy is one of those persons who will be truly missed when he leaves his job on the House floor. Majorie joins me in wishing for Tommy, his wife Barbara, his daughter Pat, who is a nurse at Duke Hospital and his son Mark, a junior at Chowan College, success and happiness in their life after Congress.

TRIBUTE TO TOMMY WINEBRENNER

HON. FLOYD SPENCE

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. SPENCE. Mr. Speaker, Tommy Winebrenner has drawn so much praise and accolades in the past few days from both sides of the aisle until I am not certain what more can be said. But when it all has been said, I feel that the summary must include words like dedication, intelligence, competence, loyalty, and honesty. The truth of the matter is that Tommy possesses all these good traits and more.

When I came to this body back in January 1971, Tommy was already a fixture. In fact, you sometimes felt that like the title of the late Secretary of State Dean Atcheson's book, he was "Present at the Beginning."

But regardless of when my colleagues—Republican and Democrat—took the oath, everyone of them knows that Tommy Winebrenner is the definitive source of knowledge about the House of Representatives and its workings.

Of course, one of Tommy's greatest characteristics is that he does not attempt to ingratiate himself. In short, he knows his business, and in a thorough, concise way he provides advice and counsel without a lot of extraneous verbiage. Members of the House and their staffs totally trust Tommy, because they know that he does not cut corners, and he knows what he is talking about. As General Lee observed upon hearing that his cavalry commander, Gen. Jeb Stuart, was seriously wounded, "he never brought me bad information."

It is for certain we will all miss Tommy Winebrenner. He came here as a page during the Eisenhower administration, and he leaves as one of the most respected staff officials in the history of Congress. His tenure is such that only a dozen sitting Members of the House were here when he first came to work as a staff member. After seven Presidents and four Speakers of the House, it is safe to say that Tommy has been a vital part of the history of the legislative branch of government for the past 30 years.

Tommy, we wish you well. We admire you, and we thank you for the long hours and hard work that you put forth in our behalf. You made us look good, but more important, you made our country look good.

THE NEED FOR A TEST BAN TREATY

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. SEIBERLING. Mr. Speaker, as a cosponsor of House Joint Resolution 3, I strongly support the resumption of negotiations between the United States and the Soviet Union toward a Comprehensive Test Ban [CTB] Treaty.

The United States and the Soviet Union have already initiated a step-by-step approach to the completion of a complete halt to nuclear testing. In 1963, the Limited Test Ban Treaty, which prohibits nuclear tests in the atmosphere, outer space, and underwater, was signed by President Kennedy and Premier Krushchev and ratified by the Senate. In 1968, the Nuclear Non-Proliferation Treaty was signed and ratified. The United States and the U.S.S.R. completed negotiations on the Threshold Test Ban Treaty in 1974, and on the Peaceful Nuclear Explosions Treaty in 1976. These two treaties prohibit all nuclear tests with yields in excess of 150 kilotons, and include important provisions for successful monitoring and compliance verification. Unfortunately, these two treaties have not been ratified, and CTB negotiations are on hold.

Ratification of the Threshold Test Ban and Peaceful Nuclear Explosions Treaty, and the prompt successful conclusion of negotiations on the CTB would inevitably facilitate the difficult job of arms reductions to which the President and Secretary General Gorbachev committed themselves, at least in principle, at the Geneva summit. A complete halt to nuclear testing would place considerable restraints on the development of new and more deadly nuclear weapons systems by both countries. As such, the CTB offers a strong foundation for mutual and verifiable arms reductions.

The Reagan administration has deferred CTB negotiations, asserting that a moratorium on further testing would leave the United States in an inferior position to the Soviet Union. Tom Gentry, an Akron resident and a constituent of mine, put the administration's assertions in perspective in a December 4 letter printed in the Akron Beacon Journal. As Mr. Gentry notes, "since the beginning of the nuclear age in 1945, the United States has conducted 200 more tests than the Soviet Union (756 to 556) and technologically holds a firm lead in nuclear weapons development." Mr. Gentry concludes that a test ban would be "a significant step toward stopping the arms race." I agree with his sentiments, and am convinced that it is time we got on with the business of resuming CB negotiations.

Mr. Gentry's letter is reprinted as follows:

[From the Akron Beacon Journal, Dec. 4, 1985]

WE HAVE A TEST-BAN FOUNDATION

(By Tom Gentry)

It's possible that there never will be another U.S. or U.S.S.R. nuclear explosion. I wonder how many people know that on Aug. 6, 1985, the Soviet Union began an unconditional five-month halt to the testing of nuclear warheads.

The moratorium would be extended if the United States joins in and could result in a comprehensive test-ban treaty a significant step toward stopping the arms race.

The media in general and the Beacon journal in particular have done an unbelievably bad job in reporting the Soviet Union's action or commenting about it editorially.

I've asked a newspaper editor, business executives, pastors at a convention, friends and acquaintances if they know about the Soviet testing halt. The editor and most of the others didn't know.

Why a test ban? A warhead testing moratorium such as the Soviets have enacted represents a significant step toward a comprehensive test ban and stopping the arms race.

There is no truth to the Reagan administration assertion that the Soviets have "accelerated their testing in recent months, putting them in a position not to need further testing this year."

This year the Soviets conducted seven tests; the United States nine. This a lower rate of testing by the Soviet Union than in recent years, hardly a spurt in testing. The U.S. Department of Energy announced 10 Soviet tests in the first seven months of 1984.

Since the beginning of the nuclear age in 1945, the United States has conducted 200 more tests than the Soviet Union (756 to 556) and technologically holds a firm lead in nuclear weapons development.

The administration also asserts that the Soviet testing moratorium is no more than a hollow propaganda ploy. This deludes the American public into thinking that the moratorium was merely an offer, not the concrete action that it is.

The quick U.S. dismissal of the merits of the moratorium ignores the national security aspects of a halt to testing. A warhead test ban would enhance security by stopping much of the technology needed to develop first-strike weapons.

A comprehensive test ban would block testing of warheads for MX, Pershing 2, cruise and Trident II missiles, all of which are designed to increase our ability to strike first and fight a nuclear war.

Equally significant, a comprehensive test ban would block tests of the nuclear explosions designed to power the x-ray laser on "star wars" battle stations, part of a first-strike strategy to provide a shield against a weakened Soviet second strike.

I wish the Beacon Journal would give this issue its consideration, present the facts to the people in its area, and let us hear its editional comments soon. I don't know why President Reagan didn't make a test-ban agreement in Geneva.

I hope people let our administration and Congress know how they feel. It would be nice to end nuclear explosions in the United States and the Soviet Union.

GENERAL DYNAMICS IS EMBLEMATIC OF A LARGER PROBLEM

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. COURTER. Mr. Speaker, As the following editorial from the Newark Star-Ledger declares, General Dynamics has had more than its share of criticism recently, as a result of the DIVAD cancellation, the nuclear submarine programs, and the indictments of present and former officials. But

perhaps the most enduring lesson from the General Dynamics affair is that America needs a broader, more capable defense industrial base. Otherwise, all the threats of contract denial and other penalties will ring hollow, because the Government will have nowhere else to turn for important major weapons systems. In the case of General Dynamics, they are our sole supplier for ballistic missile submarines and main battle tanks, and one of only two suppliers for nuclear attack submarines. It is simply not credible for the Navy or the Defense Department as a whole to threaten penalites for misconduct under defense contracts when there is nowhere else to turn. This situation needs to be corrected, in the interest of peacetime efficiency and wartime effectiveness.

The editorial follows:

[The Newark (NJ) Star-Ledger, Dec. 10, 1985]

DIVAD AND GOLIATH

General Dynamics, the nation's No. 3 defense contractor, has not been on the best of terms with the Pentagon in recent times.

False claims on expense vouchers submitted to the Navy got the corporation in trouble last summer. The disagreeable matter was settled in August with a $111 million package of renegotiated overhead expenses and $658 million in contracts for a new Trident submarine and other military goodies.

The reconciliation with the Navy, however, was short-lived. That same month, Defense Secretary Caspar Weinberger called a halt to further work by General Dynamics on the Sgt. York anti-aircraft gun—also known as DIVAD, for Division Air Defense.

DIVAD was—and continues to be—a major embarrassment for Pentagon brass, a project on which $1.8 billion had already been spent. Despite the huge expenditure, one major flaw persisted: The weapon did not work.

Now an equally embarrassing sequel to the DIVAD fiasco is being written. James Beggs, administrator of the National Aeronautics and Space Administration, has been indicted with three others on charges of hiding overrun losses on the Sgt. York when they held executive posts at General Dynamics between 1978 and Aug. 31, 1981.

The alleged crime is said to have involved mischarges of $7.5 million, losses diverted to other government contracts. As a result, the government reports that it suffered a net loss of $3.2 million. Mr. Beggs had been corporate executive vice president of General Dynamics until he left that post on July 10, 1981, to take over the top job at the federal space agency.

Mr. Beggs has wisely decided to take a leave of absence from his command post at the space agency, pending disposition of the charges against him. And General Dynamics, for the second time this year, has been barred from receiving government contracts. This time the suspension applies not only to defense work, but all government orders. How long the punishment will last, however, is anyone's guess, given the historic chumminess between the military supplier and the military.

Other investigations are continuing against General Dynamics, whose executive vice president, George Sawyer, was indicted Oct. 31 on a charge of lying to the government about his job-hunting trips while serving as assistant Navy secretary.

General Dynamics, the recipient of some $6 billion in military contracts, seems to be no better at managing its internal affairs than it was at turning out a working antiaircraft weapon. Little wonder the public suspects that it could be getting much more for its defense dollars if the Pentagon did a better job monitoring its favorite contractors.

TAX BILL

HON. ROBERT W. DAVIS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. DAVIS. Mr. Speaker, my vote today in favor of the Ways and Means tax bill is reluctant and conditional.

I labored over my decision on how to vote on this legislation. I remain committed to the ideals of true tax reform which results in simplicity, fairness, and growth. This bill does not embody these ideals. It does, however, allow the effort to continue. I agree with my colleagues who predict that the defeat of this bill will dash all prospects for tax reform in 1986 and in the foreseeable future.

Two of the principal industries in my northern Michigan district are forest products and mining. The treatment of these industries in the Ways and Means bill is unnecessarily punitive. Natural resource and basic manufacturing activities, which are the foundation from which all goods are produced and national wealth is created, involve highly risky and enormously costly capital investment. This investment has been encouraged by income tax incentives. Loss of these incentives portends serious consequences for the industries and the communities that rely on their economic health. Basic industries and their employees that are already suffering because of unfair trade practices by foreign competitors will have to absorb a tax burden shifted from service and low capital intensive industries that are prospering.

Individual taxpayers fare extremely well in this bill. The American taxpayer will find his or her income taxes reduced by an average 9 percent over current law. The personal exemption allowed for each dependent will be raised from $1,080 to $2,000 for nonitemizers and to $1,500 for those who file the long form. Lower tax rates will result in more after tax dollars for American workers. These are certainly changes for the better.

Mr. Speaker, I am relying on the Senate to take a more informed and realistic look at the effect loss of capital incentives will have on basic industries and American jobs. I also am hopeful that the other body will allow the full $2,000 personal exemption for all taxpayers. I must count on the other body so that the effort for true tax reform may continue.

This bill is neither simple nor fair, but it is a vehicle for further consideration. However, if the conference report is not a considerable improvement over the bill we passed today, I will withdraw my support.

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PROCEEDINGS AND DEBATES OF THE 99th CONGRESS, FIRST SESSION

SENATE—*Wednesday, December 18, 1985*

(Legislative day of Monday, December 9, 1985)

The Senate met, in executive session, at 10 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Gracious God, our Heavenly Father, love is the big word at this season—God's love who gave His Son—and our response. Forgive us for our indifference—for allowing almost everything else to be more important. Forgive us for the way we have cheapened love, demeaned it, degraded it. Help us to recover its meaning, patient Lord. It is difficult to think about love under these circumstances—difficult to give it or receive it. Grant us grace not to allow inordinate delays in legislation to deprive us of the edification of love. Save us from being victimized by a political process which was never meant to be efficient or fast—but was meant to be true and equitable and just. Refresh us with Your love, Righteous Father, that we may reflect Your love to spouse, children, neighbor, and one another. Transfuse the frustration of the hours that drag interminably with Your gracious, accepting, unconditional love. In the name of Him, whose incarnate love was for all people. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The distinguished majority leader is recognized.

SCHEDULE

Mr. DOLE. Mr. President, under the standing order, the leaders have 10 minutes each, followed by routine morning business not to extend beyond 10:30 a.m. Then we would hope to have conference reports today. I think the first one will be the farm bill conference report, which should be here by about noon, I am advised, or a little after. That may not require a rollcall. I am not certain. If Members want a rollcall, obviously, there will be a rollcall. I think that could be disposed of fairly quickly.

Then the continuing resolution conference report. I have not discussed this with the chairman of the Appropriations Committee, Senator HATFIELD, but I understand there will be a conference this morning. There are only a few issues under consideration, or reconsideration.

As to the reconciliation conference report, again I am not certain the fate of that, though I know they were still working late last evening. I also know that the distinguished chairman of the Budget Committee, Senator DOMENICI, is necessarily absent today because his son is graduating from law school in New Mexico, so he will be gone. But he has indicated to me that we should proceed if the conference report is available.

Mr. Scanlon is still one of the nominees we hope to confirm today. There may be others on the Executive Calendar.

I know there are a number of resolutions that Members would like to dispose of if we can reach some agreement on both sides. Senator DANFORTH has indicated he would like to dispose of the telecommunications bill. He has advised me that it has been cleared on both sides, but I am not certain that is the case. I have told him, until we have been able to clear it on both sides, we could not entertain that because it would take a lot of time, maybe some votes, and it is my view the fewer votes the better.

We are in the last day of the session, hopefully, and I know that a number of my colleagues have indicated that most of these matters can probably wait until January. But if we can clear something on both sides, whether it comes from that side or this side, I would hope we could proceed. We do wish to avoid a number of amendments on bills and rollcalls, and so unless it has been fairly well cleared and can be handled by unanimous consent, it is very doubtful that it will be taken up today.

Also, I wanted to mention, seeing the Presiding Officer reminds me that we also have the low-level nuclear waste compacts. If we do not do something on that today, then we have, as I understand, three States involved that are going to stop accepting low-level waste as of January 1. According to the distinguished President pro tempore, the distinguished chairman of the Judiciary Committee, Senator THURMOND, they are very close to agreement. I hope we can work those out today and handle those by unanimous consent.

CONGRATULATIONS TO LAW SCHOOL GRADUATE—PETER DOMENICI

Mr. DOLE. Mr. President, Senator DOMENICI is necessarily absent from the Senate because his second oldest child, Peter, is graduating from the University of New Mexico Law School. All of us who are parents appreciate the importance of such milestones and recognize these events as a special time when families should be together. I am sure his Senate colleagues, as well as Senator DOMENICI'S constituents understand that the decision to return to New Mexico for the scheduled celebration was a difficult one. However, I am sure we all agree that he is where he should be.

I would like to add my personal congratulations to Peter. I am sure he will make a fine lawyer.

RECOGNITION OF THE ACTING MINORITY LEADER

The PRESIDENT pro tempore. The distinguished acting Democratic leader is recognized.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

WHY ARMS CONTROL IS IN DEEP TROUBLE

Mr. PROXMIRE. Mr. President, it has been said that the most tangible accomplishment of the summit meeting at Geneva last November was the agreement of President Reagan and Secretary Gorbachev to hold two additional top-level meetings. Certainly that assessment seems correct with respect to arms control. In a recent article, Lou Cannon, the White House correspondent of the Washington Post, writes that U.S. officials do not at this time expect a new arms control agreement at the Washington summit which is expected to take place next June. Cannon has good reason for this conclusion. Any arms control agreement approved by the two superpower leaders will require substantial progress in the United States-Soviet arms control negotiations that have been going on at Geneva.

How much progress has been made to date? Answer: None. For many months, the two sides have been meeting without the slightest public evidence that they have even begun to approach an agreement on any arms control issue. There has been no progress on restraining or limiting intermediate arms. There has been no advance in limiting intercontinental ballistic missiles or their nuclear warheads. In spite of a conspicuous public effort by Secretary Gorbachev to negotiate a comprehensive end to nuclear weapons testing, including an announced unilateral moratorium on such tests by the Soviet Union for the last 5 months of 1985, there has been exactly zero progress in even beginning such negotiations.

Meanwhile, the second Strategic Arms Limitation Treaty—SALT II—expired on December 31. If it is not renewed, arms control will suffer a major setback. SALT II has already required both superpowers to slow the massive buildup of their nuclear arsenals. SALT II has forced the Soviet Union to retire more of its nuclear arsenal than the United States. If SALT II is extended, both superpowers will have to reduce their arsenals further. The Soviet cutback once again will be even greater in relation to the American cutback than it has been to date. The continuation of SALT II is in the clear national security interest of the United States. If SALT II dies, not only does the cause of arms control suffer a setback, the relative nuclear power of the United States vis-a-vis the Soviet Union also suffers.

SALT II is not the only arms control casualty. The ABM Treaty of 1972 has prevented the extension of the arms race into space. It has averted the kind of immense offensive-defensive nuclear arms competition that would impose a colossal cost burden on both superpowers while reducing the security of both sides. But now the Congress is engaged in a rapid-fire buildup of a super missile defense system—the SDI or star wars. Just this past year, we have increased research expenditures by a huge 100 percent to nearly $3 billion, and the program is just beginning. Most independent scientists contend that the SDI cannot work and that it certainly cannot protect American cities from Soviet nuclear attack. But one consequence we know for sure that star wars will bring is the end of the ABM treaty. After all, what is the whole purpose of the ABM treaty? It is precisely to stop the construction of the kind of antiballistic missile system that the SDI would require. So the two most significant arms control accomplishments of the nuclear age have become terminal.

Now we are told that there will be no arms control advance in 1986. Administration arms control specialists contend that there is unlikely to be any progress in the negotiations that will resume in January. They say they expect progress, however, later in 1986. U.S. officials tell us that "it might be possible" for the two leaders to sign an arms control agreement at their third, and probably their final, summit at Moscow in 1987. How about that, Mr. President? We are losing our two prime arms control agreements. And we are told that some kind of arms control agreement between the superpowers may be possible in 1987.

We are living in the most dangerous time in the world's history. The two superpowers literally hold in their hands the power to destroy civilization and perhaps end the existence of mankind on Earth. Now we are faced with a year and a half in which the meager and painstakingly constructed arms control agreements between the United States and Russia are beginning to collapse. We are told that, just possibly, some kind of arms control agreement may develop in 1987. Well, this Senator believes there is very little prospect that will happen. President Reagan is absolutely determined to push ahead with his missile defense or SDI. Secretary Gorbachev has made it crystal clear that he will not agree to a reduction or a limitation on Soviet offensive missiles as long as the United States pushes ahead with its defensive system. And why not? After all, isn't it clear that the simplest way the Soviet Union can hold onto its hard-won superpower status in the face of the challenge represented by star wars is to maintain the credibility of its deterrent? And isn't it obvious that the most direct way to challenge and overcome SDI is to overwhelm it with such a volume of offensive missiles that it cannot prevent substantial penetration?

Mr. President, in all fairness, President Reagan is not the only reason why the SDI represents such a threatening juggernaut. In supporting SDI, both Houses of the Congress have voted for what is probably the biggest single-year percentage increase in a research program that exceeds $1 billion in this country's history. This kind of money, this kind of dollar commitment, takes on a life of its own. With each additional billion dollars appropriated and with each passing year, this vast expenditure in the sky will take on a more vigorous momentum and life of its own. That SDI momentum will provoke a corresponding offensive nuclear buildup. The prospects for a successful arms control summit agreement in 1987 are unfortunately invisible.

INCREASE IN HONORARIUM LIMITS

Mr. PROXMIRE. Mr. President, I wish to announce that if the conference report on the continuing resolution comes back to the Senate with the provision for an increase in the honorarium limits for Senators from 30 to 40 percent of salary, then the Senator from Arizona [Mr. DeConcini] and I will raise this issue and bring it to a vote.

All Senators should be on notice that they will have to vote on this backdoor pay increase which was placed in the continuing resolution virtually without debate even though it represents a $7,500 increase in earning power for Senators.

Senator DeConcini and I would welcome the assistance and support of all other Senators interested in this issue. For those listening to these remarks, we encourage them to contact either one of us or our respective staffs.

MYTH OF THE DAY: WOMEN SOLDIERS SHOULD BE BARRED FROM COMBAT

Mr. PROXMIRE. Mr. President, the myth of the day is that women soldiers should be barred from combat. It is time for us to remove the myths from our national defense policies and replace them with facts.

First, it is a myth that there is an inclusive law which bars women from combat. The fact is that only the Air Force, Navy, and Marines are currently restricted from allowing women to serve on vessels and aircraft with combat missions. Army and Coast Guard women do not face the same legal restrictions, rather, women are barred from combat by Army policy and face no combat restrictions under current Coast Guard policy.

This policy is ridden with anamolies. Navy women may serve on destroyer tenders, but not on destroyers—even though tenders and destroyers sail together as part of the same carrier battle group. Women can fly tankers to refuel bombers on long-range missions, but cannot fly the bomber. Where is the logic? The tanker would be a primary target in any battle. Shoot down the tanker and you have the bombers.

Current policy effectively allows women to serve in positions where they would be shot at, but prohibits them from positions where they could shoot.

The reason for the many anamolies in the combat exclusion policy is that the policy itself is founded on a myth. The myth is that we can define combat. The fact is that technology has so expanded the range and effectiveness of weapons that the distinctions between combat and noncombat missions are sometimes arbitrary. What really are the differences between an air traffic controller on shore and an air traffic controller on an aircraft carrier that justify restricting women to shore positions? Neither controller is likely to see combat unless the Soviets decide to take our carriers with swords in their teeth. Of course, the Soviets could bomb our carrier, but they could also bomb our airport.

The military caste system of combat by gender hampers flexibility and inhibits readiness and deployability of the Armed Forces. Events, not law, policy or mission will determine which vessels, aircraft, and soldiers see combat. Combat exclusion policies result only in confusion, mismanagement, and crisis.

Grenada should have taught us our lesson. Four women military police officers deploying from Fort Bragg were stopped at the loading ramp and sent back to their barracks three times before they were finally allowed to deploy to Grenada. When they arrived at the island 4 days after the invasion they were ordered back to Fort Bragg. Then, after another 3-day wait at Fort Bragg, they were deployed to Grenada again, and this time they were allowed to do their jobs. Playing yo-yo with women soldiers in a large scale military emergency would result in confusion and the Armed Forces losing a critical 10 percent of its strength with no trained replacements available.

Valid concerns do exist regarding women in combat, and primary among these concerns is strength. Physical requirements are valid combat exclusion criteria. No soldier should be assigned to a position for which he or she is not suited. Gender exclusion, however, is confusing, limits flexibility in assigning soldiers during times of emergency, and inhibits readiness. Combat exclusion policy has led to such fiascos as barring women from masonry and surveying specialties in 1983, only to reopen them soon thereafter. If hand-to-hand combat is the activity of a masonry specialist, who is doing the fighting?

This illustrates the confusion and inconsistency of attempting to guess which soldiers will see combat. It is time to take these inconsistencies out of our defense policy and recognize the critical contribution that women make to the military. We cannot define combat; we cannot protect women soldiers from combat. At least we can recognize this and get rid of confusing policies that hamper readiness and deployability.

THE HELSINKI COMMISSION REPORTS ON HUMAN RIGHTS ACTIVIST

Mr. PROXMIRE. Mr. President, the Helsinki Commission reports of the Soviet's deplorable treatment of a well-known human rights activist in Russia. Balys Gajauskas is now serving his 33d year in a Soviet concentration camp.

Balys began serving a 25-year term for treason in 1948, 1 year before President Truman transmitted the Genocide Convention to the Senate. His dubious charge was based upon his participation in the Lithuanian resistance to the Soviet occupation of his country. He was released in 1973 after serving his full term. Balys was barred from the Soviet Union but returned to care for his ailing mother.

In 1977, after years of continued harassment by the KGB, Balys was again imprisoned, this time for his involvement with a Russian human rights group. He has been imprisoned in a labor camp until 1993 although he is in such poor health that he may not survive this sentence.

Still Balys Gajauskas remains undaunted in his commitment to freedom. Despite the abuses he has suffered at the hands of his Soviet captors and the hardships of family separation and isolation, he continues to defend the qualities of liberty we all take so much for granted.

The Genocide Convention defends these basic human rights as well. The ratification of this treaty will aid the struggle of those noble spirits like Balys Gajauskas in their fight for human rights.

We have considered the fate of the Genocide Convention for nearly as long as the 33 years that Balys Gajauskas has suffered in prison. In honor of the dedication to justice Balys Gajauskas represents, we must recognize the importance of this treaty. I call for the immediate ratification of the Genocide Convention.

RECOGNITION OF THE MINORITY LEADER

Mr. PROXMIRE. Mr. President, I am happy to yield the time of the distinguished Democratic leader to the Democratic leader. How much time remains?

The PRESIDING OFFICER (Mr. GRASSLEY). The Democratic leader has 5 minutes remaining.

The Democratic leader is recognized.

AFGHANISTAN ANNIVERSARY: 6 YEARS OF BRUTALITY

Mr. BYRD. Mr. President, the holidays not only are a time for merrymaking, gift giving, and song, but also a time for reflection. This December marks a grim anniversary. Six years ago, the Soviets invaded Afghanistan. On December 27, 1978, the Afghan people began an arduous struggle to maintain control of their country. While friends and families in the hills of West Virginia prepare to enjoy the warmth and fellowship of this sacred season, the mountain people of Afghanistan recall the sixth anniversary of the Soviet invasion.

In the 6 years since Soviet troops swept into Afghanistan, more than 3 million Afghan men, women, and children have been forced from their homes. The systematic war against civilians has cost tens of thousands of Afghan lives. At this time of year—and all year—the children of Afghanistan know that toys dropped from the sky are not presents. They are booby-trapped weapons the Soviet helicopters drop to maim and kill. During the past 6 years, the Soviets have waged an unprecedented campaign of brutality against civilians. It is a measure of the bankruptcy of Soviet policy in Afghanistan that children are a prime target of Soviet atrocities.

When I led a Senate delegation to Moscow in September to meet with General Secretary Gorbachev, the matter of Afghanistan was high on my list of priorities. When I raised that issue with Mr. Gorbachev, it led to the most heated exchange in our conversation. Nonetheless, I have a sense that the Soviet Union may be reconsidering its options. After 6 years, the Soviets have deployed more Soviet troops in Afghanistan than ever before—and these troops are taking more casualties. Six years of occupation have failed to achieve Soviet policy objectives in Afghanistan. The Soviet troops have less control of the countryside now than they had immediately following the invasion. Supply lines are less certain. And the Afghan freedom fighters are more effective, more coordinated, and more committed than ever to forcing the Soviets out of their homeland.

The Washington Post of Saturday, December 14, carried a report that the State Department has offered to play a role in achieving a peaceful solution and Soviet withdrawal from Afghanistan. I hope the Soviet leadership will take up this offer. I have followed Soviet-American relations for too long to believe that they would do so for

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any reason other than self-interest. But perhaps we have reached the point where the direction of that self-interest is clear to them. As Soviet casualties mount, and as control of the country and its people continues to elude them, I hope the Soviet leadership will use the occasion of this grim anniversary to reflect on the need to find another way in Afghanistan.

The Washington Post of December 15 includes a brief, powerful editorial about Soviet policy in Afghanistan. I ask unanimous consent that the editorial, entitled "Afghanistan: This Is Genocide," along with the December 14 article entitled "U.S. Said Ready for Role in Afghanistan Peace," be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Washington Post, Dec. 15, 1985]

Afghanistan: This Is Genocide

"Human rights violations" is a phrase used so often and so casually that even the most compassionate among us can take it as routine. The quick meaning in most people's minds, we suspect, centers on police abuses, roughing and locking people up, perhaps killing some of them. Something like that is what you may expect to find in a new United Nations report entitled "Situation of Human Rights in Afghanistan."

But it's different. The second report on Afghanistan by Austrian parliamentarian and academic Felix Ermacora and a companion report on Iran mark the first time the United Nations has debated human rights in those countries on the basis of official U.N. reports. By a vote of 75 to 23 with 33 abstentions—India, lamentably, was the lone democracy holding Moscow's hand—the General Assembly registered its "profound concern." Afghanistan was singled out not just because a Third World Moslem country is the victim of aggression but also because of the terrible and deepening intensity of its ordeal.

Soviet troops with their Afghan clients have driven 4 million people out of the country and perhaps another 2 million out of their homes. Massively and indiscriminately, they bomb civilians—they bomb funerals. They destroy villages, crops and agricultural facilities. For the children, they drop cute, limb-shattering booby traps disguised as harmonicas and birds. Torture is "commonplace" and the operation of the judicial system "creates an atmosphere of insecurity and anguish." "There is apparently no health care for the majority of the population. As a consequence, the infant mortality rate has reached 300 and 400 per 1,000." Civilian deaths number "approximately 500,000."

When half the population is uprooted and a third driven into exile, when infant mortality reaches plague levels, when half a million civilians die and uncounted millions of others are maimed and malnourished, when, as Prof. Ermacora reports, the situation is getting worse, all this moves Soviet conduct well beyond what is ordinarily called "human rights violations." The word that comes to mind when one reads this report is genocide.

Soviets who talk about Afghanistan with foreigners sometimes solicit a certain sympathy for their policy dilemma and their costs. This is callous and arrogant. The people who deserve the sympathy are the Soviet Union's victims. Says a desperate Prof. Ermacora, "every hour lost is detrimental to the population"—the Afghan population. Moscow is committing one of the great crimes.

[From the Washington Post Dec. 14, 1985]

U.S. Said Ready for Role in Afghanistan Peace

(By Jim Anderson)

The United States is prepared to play a role in guaranteeing provisions of a cease-fire and Soviet troop withdrawal in Afghanistan, Deputy Secretary of State John Whitehead said yesterday.

The offer, given to Soviet leader Mikhail Gorbachev at the Geneva summit last month and made in writing to the Secretary general of the United Nations, was made public by Whitehead in an address to the Washington World Affairs Council.

Whitehead said endless fighting is the only alternative to a negotiated cease-fire and withdrawal in the costly war, which began when Soviet troops invaded Afghanistan in December 1979. He suggested that the United States is prepared to increase aid to rebels fighting the Soviets.

"For our part, the rest of the world must exact from the Soviets a political price. They must pay for the death and destruction they are wreaking daily in Afghanistan," Whitehead said.

He also said President Reagan made it clear to Gorbachev in Geneva that the Afghanistan fighting will hamper the search for better superpower relations.

A U.S. official, who asked not to be identified, said, "This is a way of testing the Soviets. They said all these wonderful things at the summit. Now let's see if they're willing to follow them up."

Whitehead said, "As long as the Soviets pursue a military solution, we will continue to support the Afghan cause."

He also said the Soviets have increased their troop strength in and near Afghanistan to 150,000 as the war continues to spread.

He estimated that rebels control 65 percent of the country and have begun to bring the war to the cities with guerrilla attacks.

Whitehead also said the Soviets are paying a high political price in terms of their relationship with the rest of the world, including the United States.

He said the only lasting solution to the war is a political settlement under which Soviet troops are removed from Afghanistan, the 3.5 million refugees return home and the Afghanistan people can determine their future.

Whitehead said the Soviets will have a chance to follow through on Gorbachev's words at the summit starting Monday when the U.N.-sponsored "proximity talks" involving the Soviet Union and Pakistan resume in Geneva.

The remaining issue, according to Whitehead, is withdrawal of Soviet troops and how it would relate to the other issues already settled in the talks. These include an agreement on noninterference between Afghanistan and Pakistan, the key element that the United States would be expected to guarantee.

U.S. officials said that terms of a U.S. guarantee have not been defined but that Whitehead's remarks were intended to counter charges that the United States is delaying a settlement by not being helpful.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business, not to extend beyond 10:30 a.m., with statements therein limited to 5 minutes each.

VETO OF TEXTILE BILL

Mr. THURMOND. Mr. President, I am terribly disappointed that President Reagan has seen fit to veto the textile and apparel bill.

Mills are closing every day; thousands of jobs are leaving this country. People in this country are being thrown out of jobs on account of the trade policy that is being followed in the textile and apparel matter.

Mr. President, I think the President has made a great President, one of the finest this country has ever had, but he has been ill-advised on this subject. In my opinion, the administration is going to live to regret the day this bill was vetoed.

Mr. President, I ask unanimous consent to have printed in the Record the veto message of the President and a newspaper article containing my statement on the veto of the textile bill.

There being no objection, the material was ordered to be printed in the Record, as follows:

To the House of Representatives:

I am returning herewith without my approval H.R. 1562. It is my firm conviction that the economic and human costs of such a bill run far too high—costs in foreign retaliation against U.S. exports, loss of American jobs, losses to American businesses, and damage to the world trading system upon which our prosperity depends.

At the same time, I am well aware of the difficulties of the apparel, textile, copper, and shoe industries, and deeply sympathetic about the job layoffs and plant closings that have affected many workers in these industries.

As I stated in my trade speech in September, I will not stand by and watch American businesses fail because of unfair trading practices abroad. I will not stand by and watch American workers lose their jobs because other nations do not play by the rules.

I am directing Secretary of the Treasury Baker, as Chairman Pro Tempore of the Economic Policy Council, to investigate the import levels of textiles and apparel to determine if these imports have exceeded those limits agreed upon in international negotiations. I have directed that he report back to me within 60 days and recommend changes in existing administrative and enforcement procedures, if necessary, so that corrective action is taken.

Also, I am directing the Office of the U.S. Trade Representative to most aggressively renegotiate the Multi-Fiber Arrangement (MFA) on terms no less favorable than present. Our trading partners must be put on notice that we will not allow unfair trading practices to continue. I am further directing Ambassador Yeutter to closely consult with the U.S. textile and apparel industry to ensure that their views will be fully represented during the negotiations.

Finally, I have directed Secretary of Labor Brock to work with the Congress to provide an additional $100 million increase in funds appropriated to help retrain and relocate displaced workers under the Job Training Partnership Act. The Job Training Partnership Act is a more effective way than Trade Adjustment Assistance for the Secretary of Labor to target those American workers and geographic areas most affected. This is the way we can best help dislocated workers—and without pitting one American worker against another.

Free and fair trade policies have helped create nearly 9 million new jobs in the last 3 years and given us the highest rate of employement in our Nation's history. Still, for some workers in troubled industries, these are difficult times. The personal distress of those who lose their jobs is very real. None of us wants to see American workers lose their jobs or American businesses suffer. I pledge to you to do everything possible to combat unfair trade practices. But in so doing we must take wise and positive steps to redress wrongs. To do otherwise would be counterproductive.

Unfortunately, H.R. 1562 would invite immediate retaliation against our exports resulting in a loss of American jobs in other areas. Because this bill is so sweeping in its provisions, we could expect that retaliation to be extensive. The United States exported tens of billions of dollars worth of goods to the countries which would be most affected by this measure, including approximatley a third of our farm exports. Workers in agriculture, aerospace, high-tech electronics, chemicals, and pharmaceuticals would be the first to feel the retaliatory backlash, but the damaging effects would soon be felt by every American in the form of lost jobs, higher prices, and shrinking economic growth.

We are pursuing an aggressive trade policy, based on the knowledge that American know-how is still number one and that American industry thrives on fair competition. Where U.S. industries are hurt by unfair practices, we will continue to take vigorous actions. Where foreign trade barriers lock out U.S. exports, we will do everything in our power to knock those barriers down. Our philosophy will always be to increase trade, increase economic growth, and increase jobs. We want to open markets abroad, not close them at home. In a fair and open world market, we know that America can out-produce and out-compete anybody.

RONALD REAGAN.

THE WHITE HOUSE, *December 17, 1985.*

THURMOND GREATLY DISAPPOINTED IN VETO OF TEXTILE BILL, HOPES CONGRESS WILL OVERRIDE

WASHINGTON, December 17, 1985.—President Reagan's veto today of a bill designed to halt the flood of foreign textile and apparel goods disappointed Sen. Strom Thurmond (R-SC), who says the industry cannot sustain continued damage from imports.

"I believe the President has heeded bad advice in vetoing this bill," said Thurmond, who originally introduced the measure in March. "I sincerely hope the House of Representatives overrides the President's veto and we shall exert every effort in the Senate to do likewise."

"Our domestic textile and apparel industry cannot sustain the damage it is facing. We are going to see more layoffs, more plant shutdowns and more long-term economic damage to an industry that is crucial to this nation," President Pro Tempore Thurmond said, noting that the bill would have assured the continued competitiveness against unfairly subsidized foreign imports. "We must not turn our backs on an industry which contributes $80 billion dollars to the gross national product and means four million jobs in textile and related industries."

The nation's defense structure and its consumers will suffer also, Thurmond said, if a major effort is not initiated to stem the flow of textile and apparel products made overseas. "The American textile and apparel industry has never asked for nor sought an unfair advantage. What this industry wants is competition on an even keel. What it is facing is an avalanche of goods made by cheap labor and deliberately targeted to undercut one of our basic manufacturing sectors."

Thurmond said many foreign manufacturers have gone beyond legal bounds and are now intentionally sidestepping international trade agreements. For that reason, the textile bill included an import licensing provision which was designed to prevent fraud.

Thurmond said he would continue to urge the Customs Service to strictly enforce laws designed to stop illegal imports. "Last year over $31 million in illegal textile and apparel goods were removed from the American market," he said. "That is a 300 percent increase over the year before."

The licensing provision was aimed at preventing fraud by improving import data used by Customs officials, reducing misidentification and stopping the practice of shipping products from one country through another to avoid quota restrictions.

ORDER OF PROCEDURE

The PRESIDING OFFICER. Does the Senator from Utah seek recognition?

Mr. GARN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GARN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GARN. Mr. President, I ask unanimous consent that all of these matters be considered as in legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

REMOVAL OF CERTAIN RESTRICTIONS ON AVAILABILITY OF OFFICE SPACE FOR FORMER SPEAKERS OF THE HOUSE

Mr. GARN. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be discharged from further consideration of H.R. 2962, a bill to remove certain restrictions on availability of office space for former Speakers of the House.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I do not believe that the script shows the request for consent to take this bill up immediately, nor does it show that the Chair put that question, does it?

The PRESIDING OFFICER. The Democratic leader is correct.

Mr. GARN. Mr. President, I ask unanimous consent for the immediate consideration of H.R. 2962.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2962) to remove certain restrictions on the availability of office space for former Speakers of the House.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on third reading and passage of the bill.

The bill (H.R. 2962) was ordered to a third reading, was read the third time, and passed.

Mr. GARN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE ROBERT N.C. NIX, SR., FEDERAL BUILDING AND U.S. POST OFFICE

Mr. GARN. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be discharged from further consideration of H.R. 2903, a bill to designate the Federal Building and U.S. Post

Office, located in Philadelphia, PA, as the "Robert N.C. Nix, Sr., Federal Building and U.S. Post Office," and I ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2903) to designate the Federal Building and United States Post Office located in Philadelphia, Pennsylvania, as the "Robert N.C. Nix, Sr., Federal Building and United States Post Office."

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 2903) was ordered to a third reading, was read the third time, and passed.

Mr. GARN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AUTHORITY FOR THE ADMINISTRATOR OF GSA TO COLLECT ADDITIONAL CONTRIBUTIONS IN REGARD TO THE NANCY HANKS CENTER

Mr. GARN. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be discharged from consideration of H.R. 2391, a bill to authorize the Administrator of General Services to collect additional contributions of money provided to him by private individuals or organizations for the Nancy Hanks Center, and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2391) to authorize the Administrator of General Services to collect additional contributions of money provided to him by private individuals or organizations for the Nancy Hanks Center.

There being no objection, the Senate proceeded to consider the bill.

Mr. STAFFORD. Mr. President, the House of Representatives has passed H.R. 2391 and sent it to the Senate. This bill would authorize the Administrator of General Services to collect additional contributions of money provided to him by private individuals or organizations for the Nancy Hanks Center in the Old Post Office here in Washington. It is comparable to the provision contained in section 2 of S. 709 which was reported by the Committee on Environment and Public Works and passed the Senate on May 14 of this year. Current law contains a deadline on the acceptance of such contributions which had already been extended once. The extended deadline expired on February 15, 1985, but the memorial to Nancy Hanks has yet to be completed.

I regard this legislation as necessary to allow the construction of a suitable memorial to Nancy Hanks and would recommend it to my colleagues. At the same time I would point out that section 1 of S. 709 as it passed this body contained an important amendment to the Public Buildings Act of 1959. It provides for the establishment of the Public Buildings Service within the General Services Administration and requires that the Commissioner of Public Buildings be appointed by the President and confirmed by the Senate. This measure would give legal recognition to the significant functions of the Public Buildings Service and confer the stature of Presidential appointment on its Commissioner.

In passing S. 709, this body deemed both the provision relating to the Nancy Hanks Center and the provision relating to the Public Buildings Service as worthy of enactment. Let our willingness today to consider favorably H.R. 2391 as a separate measure concerning the Nancy Hanks Center not be regarded as a change of mind or a lack of resolve in promoting final enactment of the Public Buildings Service provision.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 2391) was ordered to a third reading, was read the third time, and passed.

Mr. GARN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BILL PLACED ON CALENDAR—H.R. 2698

Mr. GARN. Mr. President, I ask unanimous consent that the Environment and Public Works Committee be discharged from further consideration of H.R. 2698, the James A. Walsh Courthouse bill, and I ask that it be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONTROLLED SUBSTANCE ANALOGS' ENFORCEMENT ACT OF 1985

Mr. GARN. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar Order No. 431, S. 1437, the Designer Drug Enforcement Act.

The PRESIDING OFFICER. The clerk will report

The assistant legislative clerk read as follows:

A bill (S. 1437) to amend the Controlled Substances Act to create new penalties for the manufacturing with intent to distribute, the possession with intent to distribute, or the distribution of "designer drugs", and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Utah?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary, with an amendment to strike out all after the enacting clause and insert the following:

That this Act may be cited as the "Controlled Substance Analogs' Enforcement Act of 1985".

SEC. 2. Part D of the Controlled Substances Act is amended by adding after section 403 the following new section 403A (21 U.S.C. 843):

"§ 403A. Prohibited acts D

"Any person who knowingly or intentionally manufactures with intent to distribute, possesses with intent to distribute, or distributes a controlled substance analog all or part of which substance is intended for human consumption shall be fined not more than $250,000, or imprisoned not more than fifteen years, or both. Any person who knowingly or intentionally possesses a controlled substance analog all or part of which substance is intended for human consumption shall be fined not more than $25,000, or imprisoned not more than one year, or both. This section does not apply to a person who manufactures, possesses, or distributes a substance in conformance with the provisions of an approved new drug application or an exemption for investigational use within the meaning of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355). For purposes of this section, section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) shall be applicable to the introduction or delivery for introduction of any new drug into intrastate, interstate, or foreign commerce.".

SEC. 3. Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended by adding at the end thereof the following new paragraphs:

"(31) The term 'controlled substance analog' as used in section 403A means a substance other than a controled substance that has a chemical structure substantially similar to that of a controlled substance in schedules I or II or that was specifically designed to produce an effect substantially similar to that of a controlled substance in schedules I or II. Examples of chemical classes in which controlled substance analogs are found include, but are not limited to, the following: phenethylamines, N-substituted piperdines, morphinans, ecogonines, quinazolinones, substituted indoles, and arylcycloalkylamines.

"(32) The term 'human consumption' includes application, injection, inhalation, or ingestion.".

SEC. 4. The analysis of part D of the Controlled Substances Act is amended by inserting after the item relating to section 403 the following:

"403A. Prohibited acts D.".

Mr. GARN. Mr. President, I move adoption of the committee substitute.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment was agreed to.

Mr. THURMOND. Mr. President, I rise today to support the passage of S. 1437, the Controlled Substance Analogs Enforcement Act. The purpose of this bill is to forestall a potentially grave national epidemic. Those who prosper by exploiting human weakness have discovered a relatively new field of enterprise promising huge sums of money at relatively low risk. Increasingly, such profiteers are synthesizing enormously potent drugs which, while often lethal, are absolutely legal. Whether generated by individual back-alley chemists or by those associated with organized crime, these easily manufactured and unregulated chemical compounds present us with a truly frightening problem: designer drugs dealing designer death.

Simply put, law enforcement's problem is that unlawful activity under the Controlled Substances Act is defined with regard to the precise chemical makeup of the substances described by schedules issued in accordance with the act. Make a minor alteration in the molecular structure of an outlawed drug—replicate the chemical composition of heroin, say, in all but the slightest regard—and you have produced a powerful and dangerous narcotic which is not illegal. These laboratory-manufactured "analogues" of controlled substances are imprecisely and perhaps inappropriately termed "designer drugs." Such drugs are currently being sold both as counterfeits of the drugs they imitate and for consumption as designer drugs in their own right. Such drugs are potent and destructive. The deaths have begun, and we are informed that in California, at least, 20 percent of the State's herion addicts have turned to these even more dangerous designer compounds.

In order to deal with this deadly peril, the Judiciary Committee expedited consideration of S. 1437 with a hearing on September 18, and unanimous approval of a substitute amendment on October 3, 1985. The amendment to S. 1437 substitutes the phrase "controlled substance analog" for the perhaps too enticing term "designer drug" and creates a misdemeanor offense for simple possession of a controlled substance analog.

As befits the serious nature of the problem, there is strong bipartisan resolve to give our law enforcement officers the tools needed to combat designer drugs. To this end, I would like to commend Attorney General Meese and my colleagues from both parties who have joined me in introducing S. 1437, the Controlled Substance Analogs Enforcement Act of 1985. Senators HAWKINS and CHILES have taken a lead role in supporting the bill, as has the ranking minority member of the Judiciary Committee, Senator BIDEN. I am gratified that numerous other leading Senators from across the political spectrum are also sponsors of the legislation.

Mr. BIDEN. Mr. President, as the ranking member of the Judiciary Committee I join with the committee chairman, Senator THURMOND, in asking our colleagues to support final passage of S. 1437 the Controlled Substance Analogs Enforcement Act of 1985.

The urgency for the Senate to respond to the "designer drug" phenomenon was documented in my State yesterday morning when the headline in the Morning News in Wilmington, DE, read, "Chemist Charged in Drug Scheme." the article, which I will ask unanimous consent be placed in the RECORD, goes on to tell of the arrest of a Du Pont Co. chemist who allegedly manufactured and distributed more than 1 million dollars' worth of synthetic heroin substitute. Authorities seized four ounces of 3-methyl-fentanyl which is the largest amount ever confiscated and is the first major seizure on the east coast.

These so-called designer drugs are variations of known controlled substances that are manufactured by underground chemists for sale on the street. Designer drugs are extremely dangerous. They are extraordinarily potent, increasing the likelihood of death by overdose. Over 100 deaths, so far, have been linked to designer drug use. Designer drugs are also responsible for causing long-term neurodegenerative conditions, similar to Parkinson's disease, in some users. Designer drugs are also cheap to produce. For example, less than $500 worth of chemicals and equipment is needed to make 1 cup of heroin substitute that is worth $2 million on the black market. Thus, manufacturers and distributors of these drugs profit from them at the expense of the public health and safety.

This bill addresses a new and expanding law enforcement and drug abuse problem that could become the drug abuse problem of the 1980's and 1990's. The enormous profits that can be made, the high potency of these drugs, and the difficulty in detecting and identifying them could result in a drug abuse phenomenon far beyond what we have experienced to date. The Federal Government must act quickly to stop the spread of these drugs so we are not caught off guard as we were in the 1970's when PCP became a major drug abuse problem. This new legislation will permit an immediate response to those producing these drugs, permitting investigations, arrests, and prosecution before these drugs spread throughout the country.

Because of the complexity and volatility of the designer drug problem, this statute cannot define what is forbidden with the high degree of precision of the Controlled Substances Act. To lessen the chance of any language later being viewed as impermissibly vague, I would direct attention to the committee report on this bill, 99-196, particularly part II, section 3, in which a detailed explanation of the definition of a controlled substance analog appears. Section 3 concludes:

> . . . The definition of "Controlled Substance Analog" contained in this section, therefore, closes the present loopholes in the Controlled Substances Act while still specifying a comprehensible standard of conduct. A substance fitting either of the two prongs of the controlled substance analog definition qualifies as such an analog. The legislation's message to illicit drug traffickers is clear: No longer will you remain immune from punishment when purposefully dealing in drugs that imitate the most dangerous compounds defined by law. When such chemical copies are intended for human consumption and do not fall under the exceptions set out in section 2 of the legislation, simulation is no defense.

Additionally, I wish to make clear that this legislation is not aimed at legitimate drug research that unwittingly falls within the designer drug definition. This act specifically exempts substances manufactured, possessed, or distributed in conformance with the new drug approval provision of the Federal Food, Drug, and Cosmetic Act. Early stage, clinical research is also protected by the new drug approval requirement for investigational use. These exemptions were included to prevent interference with legitimate research and development of new pharmaceuticals. Industrial and nonclinical applications are not affected since they are not intended for human consumption.

This emerging drug problem will require a partnership between law enforcement, the medical community, and scientific community if we are to be successful in stopping drugs before they become the next tragic drug abuse problem in this country.

I ask my colleagues to join me in passing this bill.

Mr. President, I ask unanimous consent that the article I referred to in the "Morning News" and related articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Morning News, Dec. 17, 1985]

CHEMIST CHARGED IN DRUG SCHEME

(By Laurie Hays)

When Michael C. Hovey appeared for his bail hearing in the tiny courtroom of Wilmington's U.S. Magistrate on Monday handcuffed and escorted by a U.S. marshal, his wife and her close friend and neighbor let out quiet gasps.

The tall, good-looking 33-year-old does not appear anything like a big-time drug dealer. He wore a plaid shirt, blue jeans and hiking boots and a pine-green L.L. Bean-style parka. He has light brown hair, a moustache and blue, friendly eyes.

His face looked strained and scared.

"So stupid," the neighbor, who did not wish to be identified, repeated to herself. "This is like a horror movie. I can't believe it."

Hovey's wife, an attractive woman, stared ahead most of the time. Once, when she looked at her husband, she studied him as though she were trying to understand what he had done.

Given permission after the hearing to speak with him briefly, she wept together with her husband while the uncomfortable U.S. marshal looked the other way and chatted with other officers in the hall.

"I'm sorry," Hovey said tearfully to the neighbor as he walked down the hallway, on his way back to Gander Hill.

News of Hovey's arrest on charges of manufacturing and distributing synthetic heroin and methamphetamine shocked and upset his friends and neighbors in quiet Graylyn Crest, a suburb north of Wilmington.

People wondered what could have made the young scientist with a doctorate from the University of Wisconsin and such an apparently bright future do "such a stupid thing."

His wife said she knew nothing about his alleged activities until she returned from church Sunday morning and found federal drug agents searching their house.

Betty Malone, who lives down the street from the Hoveys, said, "I really am in shock. I can't believe it. He's a doll. He's a family man. He rides a bike. They come to block parties. . . . He wouldn't even get a speeding ticket. He wouldn't even park a car where it shouldn't be. That's the kind of guy he is."

Like other neighbors, Malone spoke of the Hoveys' daughter, about 3 years old, and the devotion he showed for her. He recently built a small playhouse for her in their back yard. The gray-shingled house, which he built from scratch, has a tiny chimney and shutters painted with little red hearts.

Hovey had worked as an agricultural products research chemist at Du Pont for five years. Both he and his wife attended the University of Illinois and moved to the Wilmington area from Wisconsin when he came to work for the company.

His laboratory was in Building 402 at the Experimental Station, the company's research facility on a hill overlooking the Brandywine River.

Though the family did not appear to need money, the letters Hovey allegedly sent to another employee of the Du Pont Co. and federal undercover drug agents present the image of a man in need of cash and suspicious of the world.

He asked to be paid in gold coins because, he allegedly wrote, "Gold is untraceable and will remain legal tender long after our government collapses."

The letters also tell the story of a man so inexperienced in the drug business that the only "dealers" he could find were Federal Drug Enforcement Administration agents.

In the anonymous letter to a Du Pont Co. employee asking for contact with a dealer, Hovey allegedly wrote: "Why have I chosen you as my contact. . .? Because I picked someone who works at Du Pont. If something goes wrong and the police try to trace me through you, they will naturally look at Du Pont's chemists. I don't work at Du Pont, so they will not pick up my trail. My contacts tell me you can make the necessary million-dollar contract."

The recipient of the anonymous letter turned it over to company officials.

[From the Morning News, Dec. 17, 1985]

Synthetic Heroin Seized

(By Laurie Hays)

A Du Pont Co. chemist has been charged with manufacturing and distributing more than $1 million worth of a synthetic heroin substitute he allegedly made at his Experimental Station lab.

The four ounces of 3-methyl-fentanyl that was seized is the largest amount ever confiscated and is the first major seizure on the East Coast, Assistant U.S. Attorney Richard J. McMahon said Monday.

Michael C. Hovey, 33, was arrested Sunday morning as he was attempting to collect a $260,000 cash payment in the woods west of U.S. 202 near the Delaware-Pennsylvania line, McMahon said. The payment was for one ounce of the potent substance.

Drug agents later seized three additional ounces of 3-methyl-fentanyl and six ounces of methamphetamine at Hovey's house in the 1000 block of Sedgwik Drive, Graylyn Crest.

One ounce of the 3-methyl-fentanyl is equivalent to 62 pounds of pure heroin or 3,000 pounds of street heroin.

The drug is one of the "designer drugs," which are formed by chemically altering the structure of another drug to enhance its effect. More than 100 deaths, all on the West Coast have been attributed to use of the synthetic heroin, which is 1,000 times stronger than street heroin.

One ounce of 3-methyl-fentanyl, worth about $500,000, is commonly mixed with 3,000 pounds of lactose to make street heroin.

Federal Drug Enforcement Administration officials said Hovey was an amateur in the drug business, with no apparent street contacts that could enable him to sell the synthetic heroin. He has no prior criminal record and his wife, who appeared at his hearing in U.S. Magistrate Court on Monday, said she had been "absolutely shocked" by the news of his arrest.

Hovey has been a chemist in agricultural research for five years at the Experimental Station, Du Pont's primary research center on the Brandywine, north of Wilmington. He is described by friends and neighbors as "friendly," "normal" and a "family man."

Residents of his quiet, suburban neighborhood north of Wilmington were stunned.

Federal officials said Hovey manufactured the drug at the Experimental Station, but they could provide no further details.

According to the officials, in mid-October the Du Pont Co, Security Department initiated the investigation that resulted in Hovey's arrest after another Du Pont employee received an anonymous letter through the company mail asking for help contacting a drug dealer.

The letter, allegedly sent by Hovey, began, "Would you like to earn $10,000 or more? If so, I have a business proposition for you. This is no joke."

The letter also contained a small sample of the synthetic heroin.

The employee, who reportedly did not know why the letter had been sent to him, turned it over to the company, which notified federal drug agents.

Not knowing who sent the letter, undercover federal drug agents decided to do as it instructed and place a "Happy Ad" in the News-Journal papers on Oct. 31. The ad read, "Happy 31st Birthday Vermillion, Love, Joy, Kisses."

The ad was intended to signify that the agents were interested in making a deal. The agents two weeks later placed a second classified ad, as instructed, in the Help Wanted section. It contained their address and a phone number where the drug manufacturer could contact them.

The agents then waited. Pretending to talk about the advertisement, the letter sender on Nov. 15 called the undercover agent, who was using the name Robert Jones, and agreed to make a deal.

Five days later, the caller, allegedly Hovey, stashed one ounce of the synthetic heroin in two Army surplus ammunition boxes placed in a hole behind the Wilmington Hilton Hotel, at the Naamans Road exit of Interstate 95.

The agents in turn left him $40,000 in marked bills in the boxes placed in a hole in the woods north of Naamans Road, near Talley Junior High School. After leaving the money at 6 a.m. on Dec. 1, agents spent the day nearby, in the rain, watching everyone who came and went.

An agent standing behind a tree saw Hovey come for the money at 7 p.m., according to a spokesman for the federal drug enforcement agency.

Hovey was apprehended Sunday at the second pickup, where agents had left fake cash in a bright orange U.S. Mail bag in the woods north of Wilmington. Waiting for him in the woods were 10 officers from the federal drug agency and from state, county and Newark police, who provided additional assistance.

Hovey was carrying a loaded gun at the time of his arrest, the agents said.

Following a third payment of $700,000, Hovey was supposed to have sold the additional three ounces of the 3-methyl-fentanyl and six ounces of methamphetamine.

Hovey's bail hearing before U.S. Magistrate N. Richard Powers was postponed until Wednesday because he did not yet have an attorney to represent him on Monday. His case will be presented to a federal grand jury in the next few weeks.

He faces a maximum 15 years on six charges of manufacturing and distributing 3-methyl-fentanyl and methamphetamine. He was being held Monday at Gander Hill Prison. McMahon called Hovey "dangerous" and asked Powers to order Hovey incarcerated until his trial.

John R. Malloy, senior vice president of external affairs for Du Pont, said he was unsure whether Hovey would be fired.

"We've got to look at all the facts and circumstances. We're not exactly sure of all the details," he said.

[From the Morning News, Dec. 17, 1985]

Making Potent Drug Seems a Simple Task

(By Merritt Wallick)

A master's degree-level chemist with a few hundred dollars in raw materials and laboratory equipment can make a kilogram of 3-methyl-fentanyl that would sell on the street for about $1 billion.

Aside from breaking the law, the biggest risk is that the chemist could kill himself making the heroin-like substance, today the most common "designer drug" being illicitly sold. The drug is so powerful—about 3,000 times as strong as morphine and 1,000 times as strong as heroin—that breathing even few stray particles could induce coma and death.

Michael C. Hovey, a research scientist at the Du Pont Co.'s Experimental Station, was arrested Sunday for allegedly making four ounces of 3-methyl-fentanyl in the Du Pont lab and trying to sell it for $1 million. Hovey is the first person known to have produced the granular substance on the East Coast.

Robert J. Roberton, administrator of American Hospital in Los Angeles, said that the "designer drugs" have introduced "a whole new technological terror" to our society and that it's spreading. Roberton became acquainted with the drug as the former top drug officer in California.

Roberton attributes 106 deaths to the drug from overdoses. "You can put enough 3-methyl-fentanyl on a postage stamp to support 1,000 heroin addicts for a month," he said. Enough could be placed on the head of a pin to kill 50 people.

Making the drug is easy, Roberton said. The difficult part is mixing it so that the drug could be taken in doses that would not be fatal. "They have to have very good equipment to weigh it," he said.

The term "designer drug" was coined by Gary L. Henderson, a pharmacologist at the University of California at Davis, specifically to refer to a family of man-made drugs derived from fentanyl, a prescription narcotic sold under the trade name Sublimaze by Janssen Pharmaceutics of Belgium.

Chemists produce designer drugs by subtly altering the molecular structure of a drug, creating an analog that is often much more potent than the original drug. Normal fentanyl, for instance, is only about 100 times as powerful as morphine, and its effects last only about 30 minutes.

Roberton said at least 10 analogs of fentanyl have been found in California. He estimates that 20 percent of what is being sold as heroin on the streets is really a fentanyl derivative, most often 3-methyl-fentanyl.

Gregory Hayner, a pharmacologist at the Free Drug Clinic in Haight Ashbury in San Francisco, said addicts are avoiding 3-methyl-fentanyl because it is so easy to get a fatal overdose.

"People are getting the idea that they are really playing Russian roulette with this stuff," Hayner said.

Another problem is that a similar family of designer drugs derived from meperidine, a narcotic, is suspected of causing Parkinson's disease. "You can't tell it apart until it's too late," Hayner said.

The presence of 3-methyl-fentanyl in the blood cannot be detected by normal methods, Roberton said. Only two laboratories in the United States perform tests sensitive enough to detect the one-part-per-trillion levels in the blood of someone under the influence of the drug, he said. People in drug treatment programs can use the drug without fear of detection by normal urine tests.

Du Pont officials declined to discuss security procedures at the Experimental Station in the wake of Hovey's arrest. In March, company officials said Du Pont's security staff conducts about 100,000 random searches annually of cars leaving and entering the site. About 400 employees in the lab have access to prescription drugs, they said, but only 50 employees have access to the pharmacy development area where narcotics and other substances regulated by the Federal Drug Enforcement Administration are stored.

Hovey's research was in agricultural products, which means he would not normally have had access to controlled substances. A chemist at the University of Delaware said the chemicals needed to make 3-methyl-fentanyl are available at any chemical supply house or in any adequately stocked organic chemistry laboratory.

Mr. DENTON. Mr. President, I want to join my distinguished colleague from South Carolina [Mr. THURMOND] in emphasizing the urgency of the problem that we face with designer drugs. I also would like to commend him for his leadership in making all of us aware of the magnitude of the problem.

Our efforts to put a halt to the designer drug phenomenon must be totally bipartisan. They kill and cripple our Nation's youth in increasingly greater numbers. We need to take immediate action to give our law enforcement agencies, both Federal and State, the knowledge, authority, and resources necessary to fight the growth of designer drugs.

Currently, the production of designer drugs appears to be confined to small individual labs. Because of the tremendous profits that can be realized from the resale of small amounts of the powerful drugs, however, it is only a matter of time before organized crime moves in and controls the market in the larger metropolitan areas, just as it controls the current market in conventional illegal drugs. When that happens, we could face a medical disaster of epidemic proportions. The effects of the new drugs are absolutely devastating, and we must not wait for a disaster to occur before we take action.

We owe it to the youth of our country to educate them about the debilitating and dangerous effects that these drugs will have. We also owe it to them to give Attorney General Edwin Meese and the Department of Justice the resources and authority they need to fight the growing problem.

Although the emergency scheduling provision of the Comprehensive Crime Control Act is important, it is inadequate to discourage the production of designer drugs. We must take a proactive approach, such as that in S. 1437, with heavy penalties.

Mr. President, I offer my utmost support of the legislation, and I urge my colleagues to pass it.

Thank you, Mr. President.

Mr. CRANSTON. Mr. President, I rise in support of S. 1437. It is sorely needed legislation. My own bill S. 1413, which was introduced the week before S. 1437 would have achieved the same goals—the creation of new penalties for those criminals who manufacture and distribute controlled substances analogs known as designer drugs.

These analogs can cripple and permanently ruin the lives of unsuspecting users. They are taken by people in the drug world who do not know what it is they are taking. Unfortunately, these drugs are being manufactured mostly in clandestine laboratories in my home State of California. These "chemists" have taken a lifesaving drug, fentanyl—anyone who has had major surgery has taken it—and made it into a deadly street drug. The derivatives of fentanyl induce all the effects of heroin and more. When improperly manufactured they kill.

Because these analogs can be manufactured so quickly and so cheaply it is imperative that we move full force on this. Cases have already been cited outside of California. Cases of young people who are permanently disfigured and undergo sporadic bouts with paralysis as a result of these analogs. Still there is a more severe effect, it comes after respiration halts and comatose sets in—death. In the meantime this new criminal industry is getting rich.

Cocaine and heroin have been by far the most widely distributed drugs by organized crime. But, the California Department of Justice has found fentanyl in organized crime laboratories, an indication that organized crime is entering the designer drug market.

This legislation will give us the weapons to fight the spread of this dangerous drug menace. I thank Senator THURMOND and the committee for acting swiftly on their own version of this legislation.

Mrs. HAWKINS. Mr. President, I rise to support S. 1437, an amendment to the Controlled Substances Act. This amendment will create penalties for the manufacturing of analog drugs with the intent to distribute these drugs.

Too often we, as a legislative body can only be reactive and respond to a problem that has already gotten out of hand. Today we have a chance to be proactive, to institute changes in the Controlled Substances Act which may make it possible to stem the tide of the most dangerous drug movement of the country.

Controlled substance analogs are sometimes flippantly called "designer drugs", suggesting something fashionable and trendy, like Sassoon jeans or Varnay sunglasses, Gucci shoes, Bill Blass Chocolates, or Bailey's Irish Creme. Nothing could be further from the truth. These drugs have earned their name from the Machiavellian abilities of the underground chemists to design a drug directed at a particular market by moving a radical here or changing a benzene ring there.

These analog drugs may be 1,000 or more times stronger than the drug it is meant to replace, such as heroin. Let me give you just one example of their potency: Fentanyl, which is legally used as a narcotic analgesic, has over a hundred possible analogues which have not been adequately tested for safety and can be made by a chemist for very little investment and extremely high street sale value. This can be done legally because each new analog must go through the procedure required for substances to be put on the controlled substance list and the underground chemists come up with new analogs faster than the DEA can get the drugs listed. For one dose of one fentanyl analog, the drug must be cut in microgram amounts.

Mr. President, a single postage stamp weighs 60,000 micrograms! According to the Los Angeles Times, as many as 40 street doses can be made from a chunk of the drug the size of a grain of table salt.

Mr. President, these drugs are extremely dangerous and the only test trials they receive are on the street. Human beings are serving as the test animals. The potency of the drugs make overdoses common. They do not need to be imported and they are very cheap to make.

In testimony before my subcommittee, Dr. Robert Robertson, the chief of the division of drug problems of the California Department of Alcohol and Drug Programs stated that at least one of these drugs may be like time bombs in the brain, slowly destroying neurons, creating a whole generation of people likely to develop Parkinsonian like diseases down the road, 2, maybe 10 years, or even more after the drugs have been ingested. There have been over a hundred deaths caused by analog drugs.

We must pass this amendment to facilitate the efforts of our law enforcement agencies in dealing with analog drugs. So far, the major problems have been in California. However, they are spreading. We cannot delay.

(By request of Mr. Byrd, the following statement was ordered to be printed in the Record:)

● Mr. CHILES. Mr. President, I rise in support of S. 1437, the Controlled Substance Analogs (Designer Drug) Enforcement Act of 1985, and urge my colleagues to support this bill. I compliment both Senator Thurmond and Senator Biden for their timely consideration of this measure in the Judiciary Committee. Likewise, I compliment the administration, through the efforts of the National Drug Enforcement Policy Board, in addressing this issue.

Earlier this year, I introduced S. 746, a bill to require the National Drug Enforcement Policy Board to provide a comprehensive assessment of the designer drug problem and make recommendations to Congress for necessary legislation. Subsequently, at a hearing of the Senate Appropriations Subcommittee on Commerce, Justice, State, the Judiciary, and Related Agencies, I secured a commitment from Attorney General Meese, as Chairman of the National Drug Enforcement Policy Board, to address the designer drug problem and develop a strategy to get the necessary laws on the books before the problem gets out of hand. This bill meets that commitment. We cannot overstate the dangers posed by these new drugs. We need concern and results, and I certainly commend the Attorney General for his quick handling of this.

Last March, I brought the designer drug problem to the attention of my colleagues. This bill addresses the problem by making it unlawful to manufacture with intent to distribute, to possess with the intent to distribute, or to distribute designer drugs. Persons convicted of manufacturing, possessing, or distributing would be subject to 15 years imprisonment and a $250,000 fine.

We have before us a rare opportunity—the opportunity to address the problem before it become a disaster. I'm talking about designer drugs and the glitch in our law which allows those with only a smattering of ability to produce a deadly chemical in their basement and sell it, entirely legally, on the streets of America.

We have spent millions of dollars in the last decade in combating, with some success, the importation of deadly drugs. Certainly, that funding needs to continue. Now, however, we're finding unscrupulous drug dealers are buying equipment and chemicals over the counter and producing quite legally the same kind of substances we have been spending millions of dollars to keep out of America.

On July 18, I held a hearing about the designer drug problem and heard how someone can spend $2,000 on readily available equipment and chemicals, and turn 2 weeks of time into 200 million doses of drugs which has the potential street value of $70 billion. That just blows my mind. We have an opportunity to get ahead of the curve before it becomes a disaster and that's why this legislation needs our support right now today.

Designer drugs are made by chemically modifying controlled substances to produce analogs or chemical cousins of these substances which are not covered by the Controlled Substances Act. By adding a flouride or an extra carbon molecule, a new drug is created which will produce the high or euphoria the user seeks but is not illegal. But they are extremely dangerous, thousands of times more potent than the illegal narcotics presently flooding the country, and more than 100 deaths have been identified with designer drug use so far.

The more commonly used drugs—cocaine, heroin, and marijuana—take a terrible toll on their users in health problems and even deaths. Designer drugs multiply these risks and open the door to long-term neurodegenerative diseases, adding an entirely new dimension to the drug abuse problems. No one knows what is in each batch of designer drugs. They are not tested; there is no process to remove contaminants or unwanted compounds; and the potential is very real that is a highly toxic compound will hit the streets. In California, a substance known as MPTP was circulated as "new heroin." It has caused severe brain damage similar to end-stage Parkinson's disease in a number of users. The doctors are not optimistic about the future of a number of these patients because of the problems they are having. The human body can't last very long in this condition. At the hearing I held in July on the designer drug problem, Dr. William Langston showed a videotape about the Parkinson-like syndrome these patients developed. They literally changed before our eyes as the medication they were taking wore off; they became like zombies. The doctors are aware of over 400 young people who used these drugs in northern California. Although most are currently asymptommatic, a senior investigator at NIH has referred to them as walking time bombs. The human and medical economic costs of such an epidemic are almost incalculable. More recently, a designer drug user has been identified with the neurological symptoms of Huntington's chorea, a debilitating and eventually fatal disease.

All the signs indicate that designer drugs will be a major part of the drug abuse problem of the future. If that proves to be the case, the public health consequences of drug use may be entering an entirely new and frightening dimension.

The current procedure for controlling illicit drugs, even with the emergency scheduling provisions authorized by Congress in 1984, represents an essentially unworkable response in the face of any significant increase in the manufacture of designer drugs. The Federal Register will simply be required reading for the criminal chemist to keep up to date on what analog formulas are now illegal and need to be modified.

Mr. President, our experience with illegal drug law enforcement is usually a matter of too little, too late. The potential disaster posed by the designer drug phenomenon is too grave for us to delay in acting to prevent the manufacture and distribution of these drugs. We must outlaw these drugs before the country finds itself in the middle of a public health disaster of overdose deaths, poisonings, and addiction. I urge my colleagues to support this bill.●

Mr. GARN. Mr. President, I move the passage of the bill, as amended.

The **PRESIDING OFFICER**. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 1437), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed.

The title was amended so as to read: "A bill to amend the Controlled Substances Act to create new penalties for the manufacture with intent to distribute, the possession with intent to distribute, the possession or the distribution of 'controlled substance analogs', and for other purposes.".

Mr. **GARN**. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. **BYRD**. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SHAREHOLDER COMMUNICATIONS ACT OF 1985

Mr. **GARN**. Mr. President, I ask unanimous consent that the Senate turn to Calendar Order No. 486, S. 918, the Shareholder Communications Act.

The **PRESIDING OFFICER**. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 918) to amend the Securities Exchange Act of 1934 to authorize the Securities and Exchange Commission to subject banks, associations, and other entities that exercise fiduciary powers, to the same regulations as brokers-dealers, pursuant to section 14(b) of the Securities Exchange Act of 1934.

The **PRESIDING OFFICER**. Is there objection to the request of the Senator from Utah?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Banking, Housing, and Urban Affairs, with an amendment to strike out all after the enacting clause, and insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Shareholder Communications Act of 1985".

AMENDMENT TO SECURITIES EXCHANGE ACT OF 1934

SEC. 2. (a) Section 14(b) of the Securities Exchange Act of 1934 (15 U.S.C. 798n(b)) is amended by inserting "or any bank, association, or other entity that exercises fiduciary powers," after "under this title,".

(b) Such section is further amended by inserting "(1)" after "(b) and by adding at the end thereof the following new paragraph:

"(2) With respect to banks, the rules and regulations prescribed by the Commission under paragraph (1) shall not require the disclosure of the names of beneficial owners of securities in an account held by the bank on the date of enactment of this paragraph unless the beneficial owner consents to the disclosure. The provisions of this paragraph shall not apply in the case of a bank which the Commission finds has not made a good faith effort to obtain such consent from such beneficial owners.".

EFFECTIVE DATE

SEC. 3. The amendments made by this Act shall become effective one year after the date of enactment of this Act.

Mr. **GARN**. Mr. President, I move the adoption of the committee amendment.

The **PRESIDING OFFICER**. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. **D'AMATO**. Mr. President, I strongly urge my colleagues to vote for final passage of S. 918, the Shareholder Communications Act of 1985. Although the legislation is technical in nature, its enactment will have important ramifications for millions of American investors who will receive more information about their investments. S. 918 is intended to improve the access of certain shareholders to proxy materials. Legislation such as the Shareholder Communications Act is needed to ensure that the congressional intent of the Federal securities laws, that investors be able to make well-informed investment decisions, is realized. A failure to vote for final passage of this legislation will deprive certain members of the investing public of the benefits of increased disclosure.

S. 918, in its present form, varies from the legislation that I introduced earlier this year. The legislation was amended in the Senate Banking Committee in response to the concerns of the banking industry during our consideration of this legislation. These institutions were concerned that S. 918, as originally introduced, could have breached the confidential relationship between a bank and certain of its clients. As explained in greater detail below, S. 918 as amended by the Senate Banking Committee, avoids the breach of any existing confidential relationship between a bank and its present clients by recognizing the important distinctions between stock held by broker-dealers for their customers and stock held by a bank trust department as a fiduciary.

The Shareholder Communications Act is designed to extend the authority of the Securities and Exchange Commission [SEC] to improve the proxy dissemination process by enabling the SEC to promulgate rules and regulations relating to the dissemination of these materials to banks, associations, and other entities that exercise fiduciary powers and hold stock on behalf of beneficial owners.

Section 14(b) of the Exchange Act currently grants the SEC the authority to regulate the activities of broker-dealers regarding proxy dissemination and voting with respect to shares held by them on behalf of beneficial owners. Under this authority, the Commission has adopted rule 14b-1, which requires broker-dealers to disseminate proxy and other material to beneficial owners. See, Release No. 34-13719 (July 5, 1977) (42 FR 35953). The Commission amended that rule to improve the proxy dissemination process with respect to the activities of broker-dealers and to add a provision which will make it easier for issuers to communicate directly with certain beneficial owners. See, Release No. 34-20021 (July 28, 1983) (48 FR 35082).

However, neither the SEC, nor bank regulators have authority to regulate the proxy processing activities of banks, associations and other entities that execise fiduciary powers and hold stock on behalf of beneficial owners. The SEC is therefore unable to extend rule 14b-1 or similar provisions to them. The inability to regulate banks and other entities in this regard creates a gap which denies beneficial owners of securities held by banks and other entities the benefits of the rules of the SEC that require timely delivery of information. The absence of such authority is especially significant with respect to banks, because banks hold a majority of the securities registered in nominee name. To remedy this deficiency, the Commission's Advisory Committee on Shareholder Communications, composed of private sector participants, including representatives of issuers, banks, broker-dealers and others, recommended that legislation be enacted to cover banks. See, "Improving Communications Between Issuers and Beneficial Owners of Nominee Held Securities," report of the Advisory Committee on Shareholder Communications, June 1982.

Section 2 of the Shareholder Communications Act amends section 14(b) of the Exchange Act to make that section applicable to banks, associations, and any other entities that exercise fiduciary powers. This would give the SEC the authority to adopt rules and regulations that would require bank nominees, association nominees, and other nominees that exercise fiduciary powers, to perform certain tasks with respect to proxy voting and distribution of proxies in respect of shares held in nominee name but where voting rights have been reserved. This authority would be delayed for 1 year, under section 3 of the bill to accord the SEC an adequate opportunity to promulgate thoughtful and effective rules and regulations

Section 2 extends the SEC's authority to the trust and custodial activities of "banks," as that term is defined in section 3(a)(6) of the Exchange Act, and to other entities, such as savings and loan associations and savings banks. Among the entities covered by this provision are associations, as defined in 12 U.S.C. 14672(d) (1982). Such associations are Federal savings and loan associations or savings banks chartered by the Federal Home Loan Bank Board [FHLBB] under 12 U.S.C. 1464(n) (1982). In addition, State savings and loan associations and savings banks and other entities who are or become authorized to exercise fiduciary powers would come within the ambit of the legislation. Historically, these other entities did not have fiduciary powers and, thus, did not hold securities in trust or custodian accounts on behalf of their customers. In recent years, however, a growing number of these entities, both at the State and Federal level, have been granted fiduciary powers and now are maintaining trust and custodian accounts. These activities are indistinguishable from the trust activities of banks and other entities that engage in similar fiduciary activities, and, thus, should be subject to the same regulations as banks with respect to those activities.

Section 2 recognizes that banks, and other associations and entities, as well as broker-dealers, hold securities that are beneficially owned by others. The legislation is intended to assure that shareholders who have retained the right to vote stock held in another name have the opportunity to vote that stock in a timely manner irrespective of the nature of the institution in whose name the stock is registered.

Consistent with this section, the SEC has indicated that it expects to extend rule 14b-1 to banks and, as it becomes appropriate, to other entities. Extension of similar requirements to banks and other entities will ensure that beneficial owners of securities held by them will receive the same protection as beneficial owners of securities held by broker-dealers.

Section 2 enables the SEC more effectively to carry out its mandate to protect shareholders. It is not intended to alter the overall regulatory scheme for banks and other institutions affected by this provision. The SEC is not intended to serve as a bank inspector or investigator, nor does this legislation provide that authority. However, when a securities violation occurs under this section, the SEC shall use its existing enforcement authority to obtain compliance.

THE COMMITTEE AMENDMENT

The Banking Committee amended S. 918 by adding section 2(b). Section 2(b) was added to ensure that the SEC, in carrying out its responsibilities under this provision, recognizes the important distinctions between stock held by broker-dealers for their customers and stock held by a bank trust department as fiduciary. The relationship between a trustee and a beneficiary is unique, and the courts have consistently held trustees to high standards.

During the Banking Committee's consideration of this legislation, issues were raised by banking institutions with regard to the disclosure of the identity of beneficial owners of securities held in nominee name. The banking institutions contended that such disclosures would violate an institution's fiduciary duty to protect the privacy of a customer. In recognition of the unique relationships between trustees and beneficiaries and the duties owed by trustees to beneficiaries, the regulations to be issued by the SEC under section 2(b) shall be applicable only where someone other than the bank trustee has voting authority, and any disclosure required by the regulations shall be applicable only to those who have voting authority. The legislation does not require trustees to disclose trust beneficiaries or other bank customers who do not have the power to vote.

Concerns about violations of a shareholder's privacy were particularly relevant to the standard of disclosure that the SEC could adopt. The SEC's rules with respect to broker-dealers require disclosure of the name, address and number of shares registered in the name of the brokerage firm unless the shareholder objects. Representatives of the banking industry felt that disclosing the same information—required from broker-dealers by the SEC's rules—with regard to their existing accounts without the customer's affirmative consent would violate the customer's privacy and potentially expose the banks to liability. They argued that they should be required to supply the names and other customer information only if the customer affirmatively consented. At the same time, banking industry representatives contended that these same considerations would not apply with new customers, who could be advised upon the opening of an account that their names would be supplied to issuers unless they objected.

Therefore, section 2(b) was adopted to accommodate these concerns. The SEC, in exercising its rulemaking authority under section 2(b) shall not require the disclosure of names of beneficial owners of securities in an account held by the bank on the date of enactment unless the beneficial owner consents to the disclosure. By contrast, the SEC could require that the names of beneficial owners of securities held in accounts with the bank after the date of enactment must be supplied to issuers unless the customer objected to the disclosure.

Because of the differences between brokerage accounts and fiduciary accounts and the numerous State statutes specifically relating to the confidentiality of bank records, an "affirmative consent" requirement, may be the more appropriate standard for rules promulgated pursuant to this section that are applicable to banks, associations and any other entities that exercise fiduciary powers, rather than the "nonobjection" standard adopted in the Commission's rule applicable to brokerage accounts. While the affirmative consent standard is appropriate to avoid breaches of a bank's duty to or the violation of a privacy right of a customer, a bank is in a different posture with regard to a new customer upon enactment of this legislation. Upon enactment of this legislation, a bank opening a new customer account would be on notice of the applicability of the nonobjection standard for beneficial owner disclosure and any such concerns would be adequately addressed by the bank at the time the new account is opened.

Section 2(b) is designed to grant the SEC authority to address the concerns of the banks and simultaneously ensure that banks are complying with the legislation's purpose of facilitating shareholder communication. The rules promulgated by the SEC should be designed to ensure that the intent of the legislation is realized and that the institutions covered by this act make a good faith effort to obtain responses from their customers. Therefore the legislation provides that the restrictions on SEC rulemaking shall not apply if the SEC determines that the institutions covered by this act have not made good faith effort to obtain the affirmative consent of their existing customers. The SEC will provide guidance in its rulemaking to assist the affected institutions in the determination of the conduct constituting a good faith effort to obtain affirmative consent.

In recognition of the concerns expressed to the committee that led to the adoption of section 2(b), the SEC must consider the privacy rights of bank customers in promulgating any rule governing bank proxy processing. The legislation contemplates that the SEC, in its rulemaking, must address the concerns of those who comment on the rules and regulations promulgated pursuant to this section. The SEC is expected to work in conjunction with the bank regulatory agencies to develop a regulatory scheme that is appropriate for banks.

Legislation, containing identical provisions, was passed by the other body this summer. I urge my colleagues to give favorable consideration to this bill which will enable shareholders to be provided with more information and will facilitate the ability of issuers to communicate with their shareholders.

Mr. GARN. Mr. President, I move the bill to third reading.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. GARN. Mr. President, I ask unanimous consent that the Banking Committee be discharged from further consideration of H.R. 1603, the House companion bill.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 1603) to amend the Securities Exchange Act of 1934 to authorize the Securities and Exchange Commission to subject banks, associations, and other entities that exercise fiduciary powers to the same regulations as broker-dealers, pursuant to section 14(b) of the Securities Exchange Act of 1934.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Utah?

There being no objection, the Senate proceeded to consider the bill.

Mr. GARN. Mr. President, I move passage of H.R. 1603.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill (H.R. 1603) was read the third time, and passed.

Mr. GARN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GARN. Mr. President, I ask unanimous consent that S. 918 be placed back on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CALENDAR

Mr. GARN. Mr. President, I inquire of the minority leader if he is in a position to pass or indefinitely postpone any of the following calendar items. First to indefinitely postpone Calendar Order No. 465, S. 978.

Mr. BYRD. Mr. President, there is no objection.

Mr. GARN. Mr. President, next would be to pass Calendar Order No. 466, S. 1896.

Mr. BYRD. No objection, on this side.

Mr. GARN. Mr. President, next would be to pass Calendar Order No. 472, H.R. 2542.

Mr. BYRD. No objection, on this side.

ORDER TO INDEFINITELY POSTPONE S. 978

Mr. GARN. Mr. President, I ask unanimous consent to indefinitely postpone Calendar Order No. 465, S. 978.

The PRESIDING OFFICER. Without objection, it is so ordered.

CAPTAIN JOHN FOSTER WILLIAMS COAST GUARD BUILDING

The bill (S. 1896) to designate the General Services Administration building known as the "United States Appraiser's Stores Building" in Boston, MA, as the "Captain John Foster Williams Coast Guard Building," was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 1896

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the General Services Administration building known as the "United States Appraiser's Stores Building", located at 450 Atlantic Avenue, Boston, Massachusetts, shall hereafter be known and designated as the "Captain John Foster Williams Coast Guard Building", in recognition of Captain John Foster Williams' contributions to the Commonwealth of Massachusetts during the Revolutionary War. Any reference is a law, map, regulation, document, record, or other paper of the United States to such building shall be deemed to be a reference to the "Captain John Foster Williams Coast Guard Building".

Mr. GARN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

WALLACE F. BENNETT FEDERAL BUILDING

The bill (H.R. 2542) designating the building located at 125 South State Street, Salt Lake City, UT, as the "Wallace F. Bennett Federal Building," was considered, ordered to a third reading, read the third time, and passed.

Mr. GARN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

JENNINGS RANDOLPH LAKE

The bill (S. 1740) to designate Bloomington Lake located on the North Branch of the Potomac River, near Bloomington, MD, and Keyser, WV, as the "Jennings Randolph Lake," was considered.

JENNINGS RANDOLPH LAKE

Mr. ROCKEFELLER. Mr. President, it is a privilege to support S. 1740, a bill to designate the Bloomington Lake on the North Branch of the Potomac River near Keyser, WV, and Bloomington, MD, as the "Jennings Randolph Lake." I am also grateful to the senior Senator from Maryland [Mr. MATHIAS] for giving me the opportunity to be an original cosponsor of this measure.

This bill is a highly appropriate way for the Congress to express a well-deserved tribute to former Senator Jennings Randolph who served the citizens of West Virginia and our Nation for over 40 years in the House of Representatives and in the Senate.

As a member of the Senate Committee on Environment and Public Works for his entire service in the Senate and chairman of this committee for 14½ years, Senator Randolph was an effective and constant advocate for needed flood control and navigation projects not only in our State but throughout this country. For several years, he served as chairman of the then Subcommittee on Flood Control—Rivers and Harbors.

As Senators know, West Virginia recently suffered from devastating floods which has resulted in 29 counties being declared disaster areas. We are still in the process of calculating the damage from this flooding. However, it should be noted that the existing flood control projects in our State prevented hundreds of millions of dollars in additional damage. Many of those projects were brought into being by Jennings Randolph during his service in the Congress.

Thus, Mr. President, I am pleased that the Senate Committee on Environment and Public Works has unanimously recommended the renaming of the Bloomington Lake—a flood control project for which Senator Randolph worked and supported over a period of many years.

However, Mr. President, I prefer to view this bill as recognition of the accomplishments of Jennings Randolph beyond the vital work of flood control and navigation projects. As the successor to Senator Randolph, I continue to learn of the remarkable scope of his activities and accomplishments. Public works, highways, aviation, economic and regional development, the environment, education, the handicapped, worker health and safety, social services, veterans, programs for the elderly and the young are just some of the areas in which Jennings Randolph was a leader. His record of achievements has benefited millions of people throughout our Nation.

Mr. President, the Environment and Public Works Committee's report quotes one of Senator Randolph's colleagues: "Jennings Randolph was an institution himself within the institution of the Senate, which he took very seriously." That is an exceptional tribute to a very exceptional public servant and I am privileged to join the members of the committee and the Senate in urging the approval of this bill.

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UMI

The bill (S. 1740) was ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 1740

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Bloomington Lake located on the North Branch of the Potomac River near Bloomington, Maryland and Keyser, West Virginia is named and designated as the "Jennings Randolph Lake". Any reference in a law, map, regulation, document, record, or other paper of the United States to such lake shall be held to be a reference to the "Jennings Randolph Lake".

Mr. GARN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I ask unanimous consent that I be added as a cosponsor to S. 1740.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUPPLEMENTAL EXPENDITURES BY THE SELECT COMMITTEE ON INDIAN AFFAIRS

The Senate proceeded to consider the resolution (S. Res. 204) authorizing supplemental expenditures by the Select Committee on Indian Affairs, which had been reported from the Committee on Rules and Administration with amendments.

The amendments were agreed to.

The resolution (S. Res. 204), as amended, was agreed to, as follows:

Resolved, That section 21 of S. Res. 85, Ninety-ninth Congress, agreed to February 28, 1985, as amended, is amended by striking out "$764,032" and inserting in lieu thereof *"$814,032".*

SEC. 2. Section 2(a) of S. Res. 85, agreed to February 28, 1985, as amended, is amended by striking out "$44,828,358" and inserting in lieu thereof "$44,878,358".

Mr. GARN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE FORMER PRESIDENTIAL YACHT "SEQUOIA"

Mr. GARN. Mr. President, I send the enclosed concurrent resolution to the desk, for myself and Mr. CRANSTON, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the concurrent resolution.

The assistant legislative clerk read as follows:

S. CON. RES. 98

To recognize the historical significance of the former Presidential yacht Sequoia, and express support for her donation to the United States Navy by the Presidential Yacht Trust

Whereas the former Presidential yacht Sequoia served eight Presidents of the United States, from Herbert Hoover to Gerald R. Ford, over a period of forty-four years;

Whereas the Sequoia was the setting for Presidential meetings, negotiations and decisions of extraordinary significance for and effect on the history of the United States and the course of world events;

Whereas the Sequoia was disposed of in 1977 to reduce Federal expenditures;

Whereas in recognition of Sequoia's unique historical significance, the private, bipartisan, and nonprofit Presidential Yacht Trust was established in 1981 for the purpose of restoring and preserving Sequoia;

Whereas since 1981 many Americans have visited the Sequoia and demonstrated support for her preservation and return to service;

Whereas in response to this support, the Presidential Yacht Trust, in consultation with the United States Navy, has determined that the proper future of the Sequoia is her return to Government service in the United States Navy as the Presidential yacht; and

Whereas the Presidential Yacht Trust has taken steps to fully restore the Sequoia by November 15, 1988, to donate her to the Navy as a gift of the Presidential Yacht Trust and the American people, and to establish an endowment sufficient for her future operation and maintenance: Now, therefore be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) recognizes the unique significance of the former Presidential yacht Sequoia which has made her a symbol of American political heritage and the Office of the President;

(2) supports the plans of the Presidential Yacht Trust to donate the Sequoia, with an endowment sufficient for her operations and maintenance, to the United States Navy for service once again as the Presidential yacht.

There being no objection, the Senate proceeded to the immediate consideration of the concurrent resolution.

Mr. SIMPSON. Mr. President, the former Presidential Yacht *Sequoia* is not only of great historical significance, but takes on this extraordinary uniqueness in that she is to be returned to service without expense to the American taxpayer.

Sequoia served eight Presidents of the United States over a period of 44 years, from Herbert Hoover to Gerald R. Ford, and a review of her role during that period is much like a synopsis of major world events—from President Roosevelt's shipboard planning of both war and domestic strategy, to President Truman's hosting of the first conference on nuclear controls, to President Nixon's meetings with Soviet President Brezhnev during the 1973 summit.

Following her disposal in 1977 President Carter, *Sequoia* pass through several private owners befo being acquired by the bipartisan, no profit Presidential Yacht Trust f historical preservation in 1981. Ov the ensuing years, the Presidenti Yacht Trust has undertaken inform tional and public service progran with *Sequoia*, including significa support for other charities and t much acclaimed 1984 national tou which took the *Sequoia* to over 1 cities in 16 States. Through these an other programs tens of thousands o Americans have had the unique, pe sonal opportunity to visit and demor strate support for *Sequoia's* preserv tion and return to service.

In recent months, the Presidenti Yacht Trust, in consultation with th Naval Historical Society, has dete mined that the proper future role fo the *Sequoia* is her return to service s the Presidential Yacht. The trust ha undertaken steps that would accom plish such a remarkable comeback o this truly historic vessel under th very best of circumstances.

First, the trust will donate *Sequoi* to the U.S. Navy no later than Novem ber 15, 1988, as a gift from the trus and the American people.

Second, prior to her donation, *Se quoia* will be totally restored by th trust in preparation for her futur service.

Third, at the time of donation, th trust will provide an endowment suffi cient for *Sequoia's* future operation and maintenance.

The *Sequoia* project is first and fore most an effort of significant historica preservation—with the added benefi of her future service at no cost to American taxpayers.

I believe this resolution, endorsing the return of *Sequoia* to Government service, is an important step in assuring continued private financial support of the endowment fund and public awareness of this important project.

SUMMARY

Under plans developed by the Presidential Yacht Trust and the Naval Historical Society, the former Presidential Yacht *Sequoia* would be returned to service in the U.S. Navy as the Presidential Yacht by November 15, 1988, under the following conditions:

First. *Sequoia's* return to service would be by donation from the Presidential Yacht Trust to the U.S. Navy.

Second. Prior to her donation, *Sequoia* would be fully restored—at no cost to the Government—and in first-class operating condition suitable for her new use.

Third. Prior to her donation, legislation would be sought to recognize *Sequoia's* historical importance and to protect her from future disposal.

Fourth. At the time of donation, the Presidential Yacht Trust would provide an endowment sufficient to cover costs of *Sequoia's* operations and maintenance in perpetuity.

These plans provide for *Sequoia's* return to active service under the very best of circumstances. This historical vessel, which served eight Presidents of the United States would be first, restored; second, donated by the bipartisan, nonprofit Presidential Yacht Trust as a gift of the American people; and third, available for future service at no cost to the taxpayer.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (S. Con. Res. 98) was agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXECUTIVE CALENDAR

Mr. GARN. Mr. President, I ask unanimous consent that the Senate proceed to consider all nominations on the Executive Calendar under the Foreign Service list appearing on page 5 with the exception of the nomination of Edward G. Corr.

Mr. BYRD. Mr. President, there is no objection on this side.

Mr. GARN. Mr. President, I ask unanimous consent that the nominations be considered en bloc, and confirmed en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations confirmed en bloc are as follows:

Foreign Service nominations beginning L. Paul Bremer, III, and ending Jerome F. Tolson, Jr., which nominations were received by the Senate and appeared in the Congressional Record of October 28, 1985, except Edwin G. Corr.

Mr. GARN. Mr. President, I move to reconsider the vote by which the nominations were confirmed en bloc.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GARN. I ask unanimous consent that the President be immediately notified that the Senate has given its consent to these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

RAILROAD RETIREMENT BOARD

Mr. GARN. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the nomination of William J. Doyle III, of Maryland, to be inspector general, Railroad Retirement Board.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination will be stated.

The legislative clerk read the nomination of William J. Doyle III, of Maryland, to be inspector general, Railroad Retirement Board.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. GARN. Mr. President, I ask unanimous consent that the President be immediately notified that the Senate has given its consent to the nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. GARN. Mr. President, I ask unanimous consent that the Senate resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

JOINT RESOLUTION WAIVING PRINTING ON PARCHMENT

Mr. GARN. Mr. President, I ask unanimous consent that the Senate turn to the consideration of House Joint Resolution 485, waiving the printing on parchment of enrolled bills and joint resolutions during the remainder of the 1st session of the 99th Congress.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 485) waiving the printing on parchment of enrolled bills and joint resolutions during the remainder of the 1st session of the 99th Congress.

The PRESIDING OFFICER. Without objection, the joint resolution will be considered as having been read twice by title.

The Senate proceeded to consider the joint resolution.

The joint resolution (H.J. Res. 485) was ordered to a third reading, read the third time, and passed.

Mr. GARN. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AN ACT TO AMEND THE SMALL BUSINESS INVESTMENT ACT OF 1985

Mr. GARN. Mr. President, I ask unanimous consent that the Senate turn to the consideration of H.R. 3608, the Small Business Investment Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

H.R. 3608, an act to amend the Small Business Investment Act of 1985.

The Senate proceeded to the immediate consideration of the bill.

Mr. WEICKER. Mr. President, I rise in support of H.R. 3608 which would amend the Small Business Investment Act of 1985, to clarify certain provisions in current law that establish the permissable interest rates that a small business investment company [SBIC] may charge to a small business borrower. In effect, H.R. 3608 simply makes clear what Congress intended to do in 1980 when this provision was enacted into law, that is, permit the Small Business Administration by regulation to establish the maximum interest rate that an SBIC may charge to a small business borrower. The change is really a technical one that will take some confusion out of current law regarding which interest rate—SBA, State, or a formula based upon the Federal Reserve rate—applies to any particular SBIC financing.

I want to emphasize, however, that nothing in this legislation in any way affects or impedes the right of any State to override SBA's interest provision, if it so desires. It simply ensures that SBA can establish the maximum, uniform, programmatic interest rate standard that applies to all SBIC's. But, if a State wants to override this interest rate standard as inconsistent with its own standard, it can easily do so, just as it can now.

I might also note, Mr. President, that hearings were held recently by the House Small Business Committee on this bill. The SBIC industry and SBA, after clearing its testimony with the Office of Management and Budget, testified in support of enactment of this bill. And, I can assure you, when OMB signs off on any legislation to permit SBA to operate any of its programs more efficiently, you can be sure that it is nothing more than a technical matter.

Mr. President, Senator BUMPERS, the Small Business Committee's ranking member, has also reviewed this bill carefully and concurs in my view that this bill will serve to clarify the original congressional intent with regard to SBIC interest rates. We jointly recommend that this bill pass and be enacted into law.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 3608) was ordered to a third reading, was read the third time, and passed.

Mr. GARN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GARN. Mr. President, I have no further business at this time. I ask, does the distinguished Democratic leader have any further business?

Mr. BYRD. Mr. President, I thank the distinguished acting majority leader.

OBSERVATIONS OF SENATOR BAUCUS ON TRADE

Mr. BYRD. Mr. President, I call attention to a statement by our distinguished colleague, Mr. Baucus.

Senator Max Baucus is one of the Senate's most thoughtful experts on trade policy. He has distinguished himself in his work in this area on the Finance Committee, and as a member of the Democratic Working Group on Trade Policy. On December 9, 1985, he shared his thoughts on a new round of global trade negotiations with the "consumers for world trade" here in Washington. I know his colleagues and others will find these observations useful, and I ask unanimous consent that Senator Baucus' statement be printed in the Record.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

Remarks of Senator Max Baucus, New Round of GATT Negotiations

Centuries ago, the Roman poet, Ovid, made the following observation: "What is worthwhile is necessarily difficult."

Today I want to make two simple points that reaffirm that ancient maxim. First, the new round of GATT negotiations is potentially the most worthwhile round we have ever had. Second, it will also be the most difficult round we have ever faced.

NEED FOR A NEW ROUND

Let me take these two points in order: Why can a new round be worthwhile?

The answer lies in a relatively unpublicized statement by the GATT economists several weeks ago. At that time, the GATT economists announced that the level of world trade will grow by only 2 to 3% this year. That compares to an average increase of 6% in the decades following World War II. In those years, a healthy GATT was the locomotive for the growth in world trade.

Today, the breakdown in the GATT has led to a serious decline in world trade. By the Administration's own estimates, only between 10 to 50% of world trade is subject to the GATT. Some products are not covered by GATT. Other products have been intentionally excluded. But other products are not subject to GATT because many countries are not adhering to GATT.

In many cases, the GATT rules simply are not working anymore. And when the rules don't work, countries don't play by the rules. And when countries don't play by the rules, they erect barriers that stifle trade. And when trade is stifled, all countries are worse off.

The point is that: if a GATT is properly negotiated and enforced, America has the potential to benefit greatly from a new round. We can improve the living standards of the citizens of all nations.

Simply put, we can make a better world.

STRICTER ENFORCEMENT

Now that's the good news. The bad news—or at least the challenging news—is that this will be the toughest round of GATT negotiations we have ever faced.

Let me suggest several reasons why this round will be so tough.

First, it will be tough because we want tighter enforcement of the GATT rules, but we as a country typically resist control by international institutions. We all want to strengthen GATT by tightening its enforcement provisions. But as the debate over a new GATT round proceeds, I suspect that we will have to ask ourselves how much of our independence we are willing to forfeit for stronger enforcement of the GATT rules. Because if GATT can be strictly enforced against other countries, it can be strictly enforced against us. And that will not be easy medicine for a country that is used to being the biggest kid on the block.

If you don't believe this will be tough, let me review a little history. Over 35 years ago, in 1950, when GATT was first contemplated, a stronger organization was also proposed. That organization—called the International Trade Organization—would have had stronger enforcement authority over world trade. And do you know how the United States reacted? It refused to join the ITO precisely because of business pressure and Congressional opposition to some of the ITO's authority.

We will face the same problem today. We want greater control, but we do not want to be controlled.

Let me make my position clear. I believe we need stricter enforcement of the GATT. But I simply observe that it will be difficult to find ways that we and other countries can live with stricter international enforcement.

NONTARIFF BARRIERS

A second reason this GATT round will be more difficult is that the unfair trade practices we face today are more subtle.

In the first seven rounds of trade negotiations, we liberalized barriers that are easily identifiable—barriers such as tariffs. Although high tariffs on some products remain, those negotiations were generally successful: the average tariff has decreased from 40% in 1947 to 5% today.

However, as tariffs fell, countries found new ways to protect national interest groups. Today we face a host of more subtle, non-tariff barriers that are less transparent, but just as devastating to U.S. trade. And most important, these non-tariff barriers are much more difficult to root out.

In short, when it comes to eliminating barriers, many of the easy things have been done. Achieving progress on the remaining barriers will be tough.

THE CURRENT TRADE CRISIS

A third reason these talks will be tough is that America is facing its worst trade crisis since the Depression.

Traditionally, Congress grants the President trade negotiating authority only if he accepts trade law reform legislation in return. For example, Congressional approval of the first textile agreements in 1962 was accompanied by the Trade Expansion Act of 1962.

Today, the likelihood this will happen is even greater. Today we have a Congress that feels that strong action must be taken on trade. We are suffering through a severe trade crisis that fuels those demands. Bu we have a President who is opposed to trad law reform generally.

I suggest to you today that those competing demands and pressures will make it difficult even to grant the President the initia authority to negotiate a new round—le alone provide the Congressional backing t keep those negotiations going.

BUILDING A NATIONAL CONSENSUS

Finally, let me say that this new roun will be difficult because we have not ye even begun to decide what we want out of new round. As a nation, we need to build consensus as to what kind of world trading system we want to shape.

But building this consensus will not be easy. We lament the fact that only 10 to 50% of world trade is covered by the GATT. But many of the products not covered by the GATT are produced by industries that are vital to America: agriculture and textiles, to name a few. Other countries benefit by the special treatment given these industries, but America benefits as well.

Do we have the political resolve to relinquish these benefits? Would this be in the best interests of America? Are willing to trust our trading partners to remove their barriers if we remove ours?

I do not know the answers to these questions. But I do know that we have not begun to find answers to these questions—or to define our interests.

Let me suggest as well that it is not just a question of defining our interests, but also of reconciling competing interests.

Let me give you an example. The U.S. is very interested in expanding its service trade. However, in return for a liberalized service trade, the LDCs are likely to demand access to our traditional manufacturing markets. It is very likely that we will have to strike a balance between the interests of our service and traditional manufacturing sectors. Traditional manufacturing will argue it is the backbone of our country. Service interests will argue they are the future of our country.

And that debate will raise the fundamental question as to what kind of economy we believe America should have.

But we must reach a consensus on what we want, or no GATT agreement will sell domestically.

The Administration will not be able to sell Congress on a new round unless it makes progress on issues with strong constituencies, such as agriculture, services, manufacturing and high tech.

Congress must also begin to understand how a consensus can be built. So I would like to extend an invitation to each of you in this audience today. I personally invite each of you to meet with me or my staff at your earliest convenience to discuss what we must accomplish in the new round.

In the end, we can only succeed in this new round if we reach a consensus in this country as to what we want to achieve. So let me repeat: I invite all of you to meet with me or my staff to discuss your concerns, so that we can begin building a new national consensus.

CONCLUSION

Let me make one point in conclusion. The new round of GATT negotiations will require that we not only develop a national consensus, but also that we develop a national purpose. It will require that we ask not only where we are, but where we hope to be.

That search will involve difficult choices. It will require all of our discipline, integrity and statesmanship to carry it out. But we must begin defining America's new role in the world trading system.

Walter Lippman one put it well: "Surely the task of statesmanship is more difficult today than ever before in history. . . . The distance between what we know and what we need to know appears to be greater than ever. But we cannot keep to the problems within our borders. Whether we wish it or not, we are involved in the world's problems and all the winds of heaven blow through our land."

The new GATT round presents new challenges, but offers great opportunities. I am confident that when we confront those challenges, the winds blowing thorugh our land will be the uplifting breezes of enhanced international trade.

Mr. BYRD. Mr. President, I yield the floor.

THE LEAST A GRATEFUL NATION CAN DO

Mr. WILSON. Mr. President, I rise to make clear my intention, later in this day, to ask unanimous consent for the introduction of a bill and for its immediate consideration. The bill will be a complement to that which the distinguished senior Senator from South Carolina [Mr. THURMOND] is offering to try to provide relief to the bereaved families of the victims of the tragic crash in Gander. Senator THURMOND's legislation will keep a roof over the heads of those who are suffering grief and loss. It will allow them the time to determine what their plans are and to relocate.

It is necessary because of a deficiency in existing law which unintentionally, I must assume, has the heartless effect of displacing and dislocating those families from military housing on base or, alternatively, of requiring that they now, in their time of need, begin to pay market value rent for the housing that they have received.

This is an obvious injustice. It is an obvious hardship. Most of these families are young families; they are the families of young enlisted personnel. In most instances, they are families of modest income. For them suddenly to find themselves so dislocated clearly is not a result that we can countenance. Therefore, Senator THURMOND's legislation is necessary, and I commend him and have joined him as cosponsor of that legislation.

Mr. President, in addition to giving that amount of help, which is the very least a grateful Nation must afford in order to show its gratitude for the sacrifice of these young men and women serving us in the armed services, what is also necessary in order to provide needed relief to their families, their survivors, is to provide those families with the flexibility which can come from having only an adequate amount of cash so that they can take such decisions, make such plans involving relocation as is required in their best judgment.

Mr. President, Public Law 99-166, enacted on December 8, 1985, will assist in the future to provide that kind of flexibility by increasing the serviceman's group life insurance maximum amount—that is, the base amount—from the existing base amount of $35,000 to $50,000. Prospectively, that will assist, but the problem, obviously, is that the change was to be effective on January 1, 1986. The bill that I intend to introduce, upon which I am soliciting cosponsors, would simply make that change effective on October 23, 1983; that is to say that the amendment that was enacted on December 8 will be deemed to have been in effect during the period from October 23, 1983, and ending January 1, 1986, so as to provide special assistance not only to the families of the Gander crash victims but also to the families of the Marines killed in the tragic bombing of Beirut on October 23, 1983.

This assistance would be provided to the families of service members who died within that period of active duty. It is, it seems to me, the least a grateful Nation can do. It is some modest increase in the assistance required.

So, Mr. President, later today, I shall send that bill to the desk. It is my purpose now to advise all colleagues who wish to cosponsor that measure to contact me or to contact the Armed Services Committee, specifically the Subcommittee on Manpower, so that we may render this assistance for the dependents of those service personnel to whom we owe so much.

The increase in the amount of insurance would be made payable to the families of the members of the armed services from that date, October 23, 1983, forward. That would be the effect of this bill in conjunction with the change in the law that was enacted on December 8.

I thank the Chair and repeat that it is the intention before the end of this day, which the leader has announced is intended to be the last day before we recess for Christmas, to see that this bill is introduced so that we can offer to the victims' families the assurance that they will receive this increase in assistance.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KASTEN). Without objection, it is so ordered.

DEPRESSION IN AGRICULTURE

Mr. GRASSLEY. Mr. President, hopefully later today we will be passing a farm bill and I suppose these remarks would be as appropriate for the farm bill now in morning business. But I want to stand aside of the farm bill just a little while to address the issue of depression in agriculture and to do it in a way that will highlight the seriousness of the situation. That seriousness is demonstrated by a survey that was taken at the annual Iowa Farm Bureau convention held 2 weeks ago in Des Moines, IA. I think the significance of this survey is that it is of the leaders of the farm bureau, the voting delegate from each of the 99 counties and other leaders within the farm bureau.

I have known, in 30 years' membership in the farm bureau and my relationship with that organization, these people to be the cream of the crop.

Mr. President, over the last few months many policymakers and observers have advanced the idea that only the bad farmers are in trouble. The implication is that if a farmer is experiencing financial difficulties he probably should not be in the business of farming anyway. Somehow these experts believe that our country's economy would be better off by eliminating these inefficiencies.

I believe this view is completely off base and an insult to many good farmers who are now experiencing financial trouble. The farmers who are in business today are in fact efficient producers. Our farmers are capable of outproducing any other country in the world.

The Iowa Farm Bureau during its State convention last week conducted a poll of the organization's leaders, that I have already referred to, to find out what their financial conditions were. These farmers represent some of the best farmers in Iowa and the most efficient producers in the United States and the world. The results of this survey showed without question that the difficulties facing rural America are not limited to the inefficient producers, if there are any inefficient producers left farming. I believe that the bad managers went out of business long ago. This poll showed that 38 percent of these farmers had debt-to-asset ratios in excess of 40 percent and 9 percent had debt-to-asset ratios in excess of 70 percent. This means that well over one-third of these farmers are experiencing serious financial difficulties and almost 1 out of 10 are in critical financial condition. The experts would have you believe that these farmers are lazy, unsuccessful, and unproductive farmers. On the contrary, these are farmers who are successful in their community, in their profession, and recognized by their peers as leaders in agriculture.

The survey also showed that 41 percent of these leaders felt that Iowa farmers as a whole were experiencing very serious financial conditions and 45 percent felt that their areas' agribusinesses were suffering severe problems as well. In addition, 47 percent believe that financial institutions were also experiencing very serious financial problems.

Now, for those of us from the upper Midwest, there is nothing in this survey that is surprising, but I feel Congress ought to take into consideration the plight of the best of farmers in our State.

These farm bureau leaders are generally very conservative businessmen and they have very many years of experience in the business of agriculture. The leaders polled in this survey had an average of—and let me emphasize this figure—27.3 years of experience in farming and they farmed an average of 581 acres. 581 acres in my State is twice the average farming operation.

Both farmers and financial institutions are likely to experience even more troubles in the near future as only 80 percent of the farmers surveyed were current in their real estate loans and only 71 percent were current in their operating loans. Of those surveyed, only 64 percent were current on obligations to suppliers and 13 percent expected to have problems arranging for operating money in 1986.

Let me repeat that figure: 13 percent of these farm bureau leaders expected to have problems arranging for operating money in 1986. If 13 percent of the farm bureau leaders are having this trouble, I think it is fair to assume that a higher percentage of farmers generally are going to have this problem. As this is the last day of the 1985 session of the 99th Congress, I would think that even as we debate what is going to be paraded on the floor of this body today as an ideal piece of farm legislation, they should not be surprised that when we reconvene on January 21 the farm issue is not in fact behind us, as a lot of people want to believe it ought to be after we pass the farm bill, but there is still going to be a lot of problems out there in agricultural America that we have to deal with, and the most immediate is that at least 13 percent of the farm bureau leaders, and probably a higher percentage of farmers generally, are going to have trouble arranging for operating money in 1986.

Mr. President, I hope policymakers who have blamed farmers for their own troubles listen to these statistics and start looking for constructive ways to further solve the problems in agriculture. I am one who believes that a farm bill, or even credit in agriculture is not the solution, but there are problems not associated directly with farm legislation which are probably more important to profitability in agriculture, the most important of which is the reduction of interest rates and the reduction of the value of the dollar, and those two are somewhat related. Those two things being accomplished, hopefully as a result of Gramm-Rudman, will do more for agriculture than anything we can do in the farm bill. It is too easy for people unconcerned about agriculture to point their finger at someone else and then just walk away without doing anything. If we in the Congress do not move to stop counterproductive trade policies, bad monetary and fiscal policies, and offer stability and consistency to our agricultural policies, we will certainly see more and more good farmers fall to the level of insolvency. The statistics that I just quoted could be even worse next year and the year after that unless we act responsibly.

RELIEF FOR SERVICE FAMILIES

Mr. McCONNELL. Mr. President, early this morning the distinguished Senator from California [Mr. WILSON] introduced on behalf of himself, Senator THURMOND and others, S. 1956.

Mr. President, I rise in strong support of this legislation. We are all aware of the unfortunate tragedy which robbed 248 families of their loved ones. the men and women who died in Gander, Newfoundland, last week were members of the 101st Division, an exceptional unit with a record of accomplishments that all Americans can be proud of. They died serving their Nation in a mission of peace. when those men and women joined the U.S. Army they did so knowing they were putting their lives at risk to defend their country. They turned a risk into a challenge, then dedicated their courage and skill to meeting that challenge. They fulfilled their commitment to their nation. Now it is our turn to fulfill ours to their bereaved families.

Under current law, the families of servicemen who die on active duty are no longer entitled to the living quarters or housing allowances they have received. If this law is enforced, dozens of women and children will be forced onto the street immediately. I know my colleagues share my sympathy for the suffering these families have already endured in the loss of their soldiers. Those members of the 101st who died were brothers, sons, fathers, neighbors and friends of hundreds of people. They were, most recently, Kentuckians. I cannot imagine evicting them at a time like this. They are most deserving of our support, not the cold shoulder of bureaucracy that tells them they must move on. Let us not compound this tragedy with insensitivity.

I urge my colleagues to support this resolution and afford the victims of this disaster a brief grace period, some time to gather their strength before being forced to address the pressing practical business of day-to-day life. I urge my colleagues to support this legislation which will allow these families 60 days to stay right where they are. We are not providing them much, particularly given their loss. I spent Monday with the President visiting many of these families. Their grief is overwhelming. I ask my colleagues to help relieve some of their anxiety and burden by passing this bill. During this holiday season of good will, let us not forget those who have so valiantly defended our peace and freedom. More important, let us remember the families who have comforted and supported those soldiers and who now need our help. Sixty days will never compensate for or recover the lifetimes lost, but it will give a few families some peace of mind.

In addition, Mr. President, Senator WILSON introduced a complementary bill, which I am also cosponsoring, which will increase the maximum death benefits of service members' families from $35,000 to $50,000. This will cover any service people who died on or after October 23, 1983. This bill will entitle family members of the marines killed in the Beirut bombing, for example, on October 23, 1983, to receive a supplement to their earlier death benefits.

I also urge favorable consideration of that measure. I think it is terribly important that one or both of these bills be approved by the Senate and the House today, before we leave. It is the least we can do in fitting memory of those of the 101st who died last week.

FARM CREDIT

Mr. GRASSLEY. Mr. President, yesterday the Senate passed a bill designed to restructure the Farm Credit System and offer more regulatory power to the Farm Credit Administration. This legislation did not however offer financial assistance to the system or the stockholders of the system. We must recognize that if we do not do something to shore up the seriously deteriorating situation in the Farm Credit System, agriculture will certainly take a turn for the worse. It should be clear that financial help is necessary for the farmers within the system but we in Congress should make sure that this money goes to help the farmer and not the system.

If there is one thing I have discovered from my many conversations and meetings with Farm Credit System officials, farmers, and responsible outside observers, it is that the Farm Credit System's policies are not working. Not only are their policies not working but they are actually making the situation worse.

The policies the Farm Credit System is implementing today are hurting the farmer, destroying the system, and in the near future will cause tremendous expense to the rest of the economy. The Farm Credit System was created during the last depression in agriculture to serve the family farmer. On September 6 of this year I held a hearing regarding the Farm Credit System. During that hearing testimony proved overwhelmingly, that the Farm Credit System has taken on an identity of its own, separate from its own stockholders. Even the president of the farm credit banks of Omaha admitted, in the hearing I held, that their policies do not work in times like these but they are continuing them anyway. The system. believes that it has the power to do whatever it wants and not answer to its boards of directors, its membership, and least of all, to the Congress.

The system's lack of responsiveness has been proven everyday by their actions. We know, for example, that the farm credit banks of Omaha intends to call more than 2,000 of its 16,000 Production Credit Association loans. This is 12.5 percent of all their PCA loans and is 4 to 5 times as many loans as are already in bankruptcy or acquired property. Presently the system has put these actions on hold until at least January 1 but that is not nearly enough and we have no guarantees after that point. As a matter of fact, I have heard reports from concerned officials within the system that some PCA's will be liquidating more than 30 percent of their borrowers. These statistics do not even include the loans that will be called by the Federal Land Banks, and other Farm Credit System institutions.

I have received many calls from bankers stating that they are very concerned about the direction the system is taking. They say that they can't stand idly by and watch their assets be eaten up by the Farm Credit System. So these commercial bankers now feel they need to foreclose or hold credit away from farmers who deal with the system. We can add to this chaos the Farmers Home Administration, insurance companies, and others who are being forced to call loans and continue the panic. This is a dangerous deteriorating situation that requires drastic action before events get anymore out of control. If we do not do something quickly, we may have only seen the tip of the iceberg.

Mr. President, I know what the Farm Credit System officials will say. They will say, "we are only reacting to the situation we are in". They will say that "we are the victims not the culprits". To some extent they are right, they are victims of bad government policy just as the farmers and all of rural America have been. But they are also the cause of many of our problems and they are definitely accelerating the decline. In the last 15 months the members of the Federal Land Bank in my district have watched interest rates go up 1¾ percent. Higher interest rates cause the farmers expenses to increase and even more significantly cause their assets to decline. These higher interest rates turn cash-flowing farmers into bankrupt farmers and only serves to dump more assets on the market. This not only destroys the farmer but it also hurts the system. The system takes the loss on the loan, the loss on the land values, and the loss of an otherwise good customer.

In any other industry the Government would classify the Farm Credit System as a monopoly. The control one-third of all agricultural debt. They could use this control to either stabilize the crisis, as they did in the last depression, or to destabilize it further. Unfortunately, today they are heading down the road to destroying stability in agriculture. The system through it's policies is causing an erosion of their customer base, a deterioration in capital, an increase in expenses, and the most significant issue of all, they are causing a complete loss of hope in the future for their stockholders.

Many might say that I am making an emotional plea and they would be right, but I am also making an economic argument. Farmers who lose any hope of surviving don't make payments and give back their farms to their lenders. This causes the Farm Credit System's situation to deteriorate even faster. In addition to these losses, many farmers are leaving the system for greener financial pastures. It is clear that the system's policies are leaving the farmers in the middle, the ones that are not rich enough to get out and not poor enough to quit, to pay the price. By doing this the system is forcing these farmers in the middle to take one more step closer to quitting themselves.

Not a day goes by that I do not receive phone calls from farmers who are being harassed by the system. Many of these farmers are only 30 or 60 days late on their payments. Some of these farmers are being foreclosed on despite the fact that they offered to make their payments. It is quite obvious, from all the research that has been done, that the farmers confidence in the system has virtually disappeared.

It does not make any sense to go through all the expense of liquidating these farmers, when they may become income producing customers after financial assistance. The system admits that foreclosures and liquidations are expensive. During my hearing it was revealed that liquidation costs on real estate is minus 25 percent to 35 percent from the present market value, which is 50 percent below land values of just 4 years ago. Liquidation costs on machinery is minus 25 percent, on grain and livestock is minus 25 percent, and on hay and silage is minus 65 percent. It is simply bad business to foreclose on farmers today, and incur all the legal and liquidation costs, when this farmer may be able to cash-flow in just a few months. The system assumes in its evaluation of loans that it will take 2 years to liquidate a farmer. What is a couple of months in relation to 2 years, when a farmer's livelihood and the stability of agriculture is at stake.

I have received many reports that the Farm Credit System is foreclosing on farms and then turning around and giving "sweetheart" deals to nonstockholders of the system. Such deals include: Selling the land at a lower price; not requiring the new owner to buy stock in the Farm Credit System; allowing the new buyer to make low down payments; and most importantly, offering lower interest rates to these new owners than they do to their own members. In many cases, if the same opportunity had been offered to the original owner, a stockholder in the system, he could have survived.

When I first heard these reports about "sweetheart" deals, I could not believe them. During my hearing in September, I asked Mr. Harling, president of the Farm Credit Banks of Omaha, about this practice and my worst fears were confirmed. When I asked him to justify this policy the reply I received was:

> We don't want to leave the impression . . . that we are giving preferential treatment to the borrowers who are having financial difficulties.

Yet they are willing to give preferential treatment to nonstockholders of the System. This twisted philosophy is ruling their actions. These type of policies will bankrupt the System and will cost the U.S. Government billions of dollars unless we put them on hold until more intelligent decisions can be made.

The Farm Credit System will say that these actions are necessary to shore up their assets. The professional managers of the Farm Credit System don't even know where they are at financially. Every projection that has come from the System has been grossly "off the mark." Just 3 days before my hearing in September the Farm Credit Administration admitted that they needed help. This was only 30 days after Governor Wilkinson had denied that there was any need for Government assistance.

It is obvious to anyone who has studied the Farm Credit System, that the professional managers of the System want it to be one big nationwide diversified bank. I encourage my colleagues to read the "project 1995" study and speeches given by officials of the System. They would like to first consolidate all the banks and associations in a district into one district-wide bank or association. Then they would like to consolidate all the districts into one nationwide bank.

Finally, they would like Congress to write them a "blank check" and allow them to do whatever they want. Many Senators may think that this is just a dream. Let me tell you that this is happening today, right under our noses. The System is using "Gestapo tactics" to blackmail its own membership into voting for mergers and consolidations. These mergers and consolidations take all meaningful control away from the stockholders on the local level.

We have heard that plans are being made to eliminate all members of the boards of directors, whose loans are not of the highest quality. We hear that once these consolidations take place presidents of local banks and associations become answerable to the district presidents and not local board members or stockholders. We also know that the Farm Credit System is threatening to liquidate all associations and banks which do not vote for the consolidations and mergers the system wants.

In my district Federal Land Bank Board members were told that they needed to vote for consolidations or the internal Farm Credit System assistance package would be void. We later found out that this was not only misleading but just plain wrong because the production credit association mergers were the only consolidations required under the assistance contract. Of course this discovery was too late than to allow for these board members to revote. In addition, during my hearing, it became clear that the System could not afford to liquidate even one assocation because it would cause a "chain reaction" that would first destroy the district and then destroy the whole Farm Credit System.

Many people might say, "Why don't these farmers just get out of the System if they don't like it?" Many farmers cannot leave because their production credit association's stock has been frozen. When stock is frozen it turns from an asset to a liability. Other commercial lenders look at this as a potential loss instead of a liquid asset. Let me make this perfectly clear, these farmers cannot redeem their stock, which is 10 percent to 15 percent of their loan, even if they walked in today and paid off their loan completely. These farmers are forced to wait until the System decides their fate. The System has told these farmers that if they do not vote for the mergers the System wants they will lose their stock, which means instant bankruptcy for many of these farmers. This isn't a choice, this is a threat.

I have been contacted by commercial bank presidents and past and present officials in the system who believe the system is destroying the whole economic fabric of rural America. These same officials and bank presidents are afraid to speak out in public because the system will retaliate against them. Senators, this is happening today, in America, and we must put a stop to it.

Mr. President, I want to make it very clear that this is a problem not just in my district but across the Nation. I admit that things are worse in my district and Senators should take notice. What is happening in my district today will be happening in your district tomorrow. The pattern is clear, the System takes on a district at a time, one board of directors at a time, one bank at a time and one group of stockholders at a time.

The System is patient in deciding who will be the next victim, but once they decide, they attack. Since the beginning of this year the Farm Credit System has managed to wrestle away all real power from the stockholders in my district. The only action that is left for them to do was to officially vote away their authority last month. Many banks and associations stood their ground and voted against these mergers. Now it is clear that they will be pressured to vote again. Not all banks and associations will be asked to vote again, only those who did not approve the System's plan the first time, around. Board members and farmers tell me that they do not want to give away all their local control and that they do not believe these consolidations will be significantly more efficient. Why did farmers vote for these consolidations? Because the Farm Credit System told these farmers that if they did not vote for consolidations, they would be liquidated. To scare these farmers even more, they have started foreclosing on many of their neighbors and friends.

If a Senator is interested in finding out if his district may be next I suggest he look at the financial condition of his district's banks and associations. If your district is in any kind of trouble, you better look out. The St. Paul, Wichita, Louisville, and Columbia districts are prime targets for the System's plans. As a matter of fact, I believe the process has already started in many of these districts.

I am not here to say "The sky is falling." I am here to say that it has already fallen. We, in Congress, have a responsibility to stop it from falling any further and then putting it back up where it belongs. The Farm Credit System's professional managers need to know that Congress is not going to lay down and let them walk over us. They need to know that we believe in a locally controlled system. They need to know that if we are going to get rid of any layer of the System's bureaucracy, it is going to be the top layer not the bottom layer.

I believe that any bail out plan for the system needs to include more local control, more arms length regulatory authority, and a re-establishment of stockholders rights. Any financial assistance has to be geared to help the farmer and not just the system. All these policies will take time to legislate and implement. While we discuss solutions in congress, we need to know that the system is no longer foreclosing on its farmers and tightening its grip around the throat of the system.

These are times of extreme difficulty. We have great plans to deal with most other disasters that occur both nationally or internationally. Yet no one in this body has a real reference point to draw from in order to deal with the type of crisis we are experiencing today. Few, if any, of us were around during the last depression. Our memories are at best clouded. We need to look beyond standard practices. We need to be creative and challenge ourselves to meet this completely new situation. But we can't be creative and make clear headed decisions when our farmers are being bled to death by a system that was created by Congress.

Mr. President, the bill passed yesterday is a beginning but it certainly does not go far enough. It may satisfy the concerns of some bond holders for the short-term. Unfortunately, this bill has many holes, it is only a matter of time before we must revisit this issue and come to grips with the real solutions to the economic and human tragedy now occurring in rural America. This legislation leaves too much control in the hands of farm credit system's and farm credit administration's officials. In the coming months we need to watch FBA and FCS actions closely, particularly the regulations issued by the FCA. Congress must address the issues of stockholder's rights, local control, congressional oversight, and direct assistance to farmers before we lay this whole Farm Credit System assistance package to rest for good.

In the near future we will be considering many important issues dealing with trade, monetary and fiscal policy, and ways of assisting agriculture. You can be certain that I will be making every effort to push for policies that will lead the way to a recovery in agriculture and not perpetuate the failed policies of the past and I encourage my colleagues to join me in this effort.

CONTINUING TRADE CRISIS WITH JAPAN

Mr. DOLE. Mr. President, last August, this Senator led a delegation of seven Members to the Far East to discuss our growing trade imbalance with countries in that region. This delegation was particularly concerned about the enormous United States trade deficit with Japan, which by itself makes up about one third of our total global trade imbalance.

The trade imbalance with Japan has been escalating at an alarming rate, increasing last year by more than 70 percent. At its current pace it will likely increase by another 35 percent this year. In fact, in this year alone, our trade deficit with Japan will likely reach close to $50 billion, an amount larger than our total international trade deficit just 3 years ago.

THE JAPANESE RESPONSE

In response to our concerns, Japanese officials pointed to Prime Minister Nakasone's then recently announced Action Program. This action Program was a small step forward, but the 3-year implementation period ignored the urgency of the problem.

I am disappointed to say that little progress has been made since that August announcement.

While in Japan, this Senator had the opportunity to address the Japan National Press Club and comment on our trade concerns. In that speech, I indicated that any new initiative to address the escalating trade deficit would need to be judged based on its results rather than on the rhetoric that heralded its announcement.

Unfortunately the actions that have been taken are largely symbolic in the short term rather than actions that have had a measurable effect on the trade imbalance. As noted, the Japanese Government's Action Program, with its delayed implementation date, was not calculated to achieve quick results. Our own administration has set up a strike force and instituted some section 301 and antidumping cases, but these steps are merely striking at the fringes of the problem.

The fact is the trade deficit has continued to widen and most of the unfair barriers to fair trade with Japan remain in place. In September we set a new record single month trade deficit with Japan of $5.1 billion. Moreover, most experts predict that the trade deficits with Japan will continue to widen despite all steps taken to date. To put this deficit in perspective one needs to bear in mind that 1977 was the first time the United States had an annual trade deficit with the entire world that exceeded $10 billion.

This problem would be greatly compounded if the Japanese Government decides to end voluntary restraints on automobile imports as was recently suggested in the press. No amount of rhetoric can change the fact that such a decision would widen the United States-Japan trade deficit.

Therefore, this Senator believes it is time to take stronger action to address the problem. We indicated to the officials we met with in Japan that there was a brief window of opportunity to take meaningful action to open Japanese markets and to address the concerns we raised. That window is about to slam shut and no real measurable improvement has been achieved.

Therefore, I believe it is time that the Senate take up and pass several pieces of legislation that the Senate Finance Committee has reported out and which have long awaited action.

PENDING TRADE LEGISLATION

One such bill that I believe we should act on is S. 1404, the Japanese unfair trade practice bill. Under this bill, the President is required to take all action necessary to eliminate Japanese trade barriers to United States goods or to offset the effects of trade barriers between the United States and Japan.

A second bill that we should act on immediately is S. 942, the telecommunications bill. This bill is designed to require the negotiation of agreements to obtain opportunities in foreign markets that are substantially equivalent to opportunities available in the U.S. markets for telecommunications products and services.

Finally, we need to move forward on S. 1860, the bipartisan trade initiative that was introduced on November 20, 1985. This bill addresses a broad range of trade issues and seeks to strengthen our ability to eliminate barriers to U.S. exports by enhancing retaliatory authority and setting time limits for action on the part of the U.S. Government.

CONCLUSION

In sum, the situation grows worse leaving us little option but to take strong action. As a Senator from an agricultural State, I appreciate the risks that strong action involves. I would sooner see a system of trade based on equal access to all markets. We welcome fair trade. But that is dependent on open, accessible markets. We look to Japan to help us in achieving truly open markets in the immediate future.

TEMPORARY FAMILY HOUSING FOR DEPENDENTS OF DECEASED MEMBERS OF THE ARMED FORCES

Mr. THURMOND. Mr. President, I ask unanimous consent to bring up S. 1956, a bill which is at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

> A bill (S. 1956) to amend title 5, United States Code, to authorize temporary family housing for certain dependents of deceased members of the Armed Forces; and to amend title 37, United States Code, to authorize temporary payment of an allowance for quarters for certain dependents of deceased members of the uniformed services.

The Senate proceeded to the immediate consideration of the bill.

Mr. THURMOND. Mr. President, I want to say that joining in this bill are the distinguished majority leader, Mr. Dole; Mr. Wilson, who is in charge of the Subcommittee on Manpower and Personnel of the Armed Services Committee; the distinguished Senator from Virginia, Mr. Warner; and Senator Stennis, Senator Rudman, Senator Kennedy, Senator McConnell, Senator Hecht, Senator Helms, Senator Trible, Senator Bentsen, Senator Leahy, Senator Humphrey, Senator Exon, Senator Sasser, Senator Hart, Senator Levin, Senator Bingaman, Senator Glenn, Senator Nunn, Senator Dixon, Senator Goldwater, Senator Metzenbaum, and Senator Byrd.

Mr. President, this is an urgent bill in behalf of the wives of the Army personnel who lost their lives recently in the crash of the chartered aircraft in Gander, NF.

Dependents of military personnel living in the community at the time of the death of the sponsor are also faced with a financial hardship. In most instances, they must continue to pay rental or mortgage payments even though they no longer receive the deceased military member's income.

Mr. President, section 5911 of title 5, United States Code, requires that a reasonable value be charged for housing provided civilian employees in the United States. The Office of Management and Budget Circular A-45, which implements the law, permits the military services the option of allowing dependents of deceased service members to remain in Government quarters for a period normally not to exceed 60 days. They are required to pay either the fair market rental or an amount equivalent to the service member's housing allowances. This policy imposes a financial hardship on the dependents who are required to vacate quarters and find new housing during this time.

Dependents of deceased members no longer receive housing allowances after the death of the military member. However, current law requires the dependents of deceased members to pay a rental charge to occupy Government quarters. In addition, unneeded stress is placed on dependents residing in the community who have the burden of paying for housing without the member's income. The law must be amended to allow dependents of deceased members to remain in quarters without charge.

Mr. President, the dependents remaining in Government quarters would not be entitled to a housing allowance. The law must also be amended to provide a housing allowance to dependents of deceased military members who are not residing in Government housing for a period not to exceed 60 days.

This proposal will provide dependents an opportunity to locate other housing and tend to matters of an immediate nature without imposing the additional financial burden and stress of a housing rental or mortgage payment.

Any additional cost resulting from the enactment of this proposal will be negligible and will be absorbed in applicable appropriations.

Mr. President, I believe our country should take this additional burden off the families of our Army personnel who lost their lives in the service of our country. I strongly recommend that my distinguished colleagues promptly approve this measure before the holiday recess.

Mr. President, some questions have arisen about the number of days. The distinguished Senator from Ohio preferred a longer time and I would prefer a longer time. I am sure that most of those who joined on the bill would so prefer.

However, if we went much longer we would have to go to the Armed Services Committee, hold hearings, and delay it. This is more or less of a rush matter, an emergency matter, to help those people right now. They need this help right now.

I have conferred with Members and I have conferred with the distinguished Senator from Ohio. We have reached an agreement to make it 90 days. We have increased it to that amount.

AMENDMENT NO. 1421

(Purpose: To increase the period for housing and housing allowance extension from 60 to 90 days)

Mr. THURMOND. Mr. President, I now send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND], for himself and Mr. METZENBAUM, proposes an amendment numbered 1421.

Strike out the phrase "60 days" both places it appears in the bill and insert in lieu thereof "90 days".

Mr. THURMOND. Mr. President, we hope this amendment will be agreed to. I realize the Army has recommended 60 days and the Defense Department favors that time. However, we think that 90 days should be granted. I am very pleased to offer this amendment, along with the distinguished Senator from Ohio who joins in this amendment with me, to favor the 90 days instead of the 60 days.

Mr. METZENBAUM. Mr. President, I not only support the amendment but support the original thrust of this legislation. I would like to address myself very briefly to the issue.

The issue has to do with the period of time that the Government provides housing rental free to the widow of a soldier killed in the line of duty.

Under the present law, it is my understanding that they can remain in the housing for 60 days but must pay rent. Under this proposal, originally it was to be 60 days rent free.

At that point when I heard about the proposal, I put myself in the shoes, hopefully never to be in those shoes, of one who had lost a loved one, perhaps a wife or mother—probably a wife—maybe with one or two little children and suddenly has the shock of knowing that her husband has given his life to his country, whether in an accident of the kind that just occurred recently, which was so tragic—and it is hard to think of any instance in which giving a life by a soldier is not tragic—and then having somebody come to the door and say, "The military is being very cooperative on this and we want you to know what we are doing for you. We are going to let you stay in these premises for 60 days."

Put yourself in the shoes of that woman. The whole world has crashed down upon her. She has lost her husband. The children have lost their father, and then they are told that their Government, for which the life was given, is going to permit them to stay on the premises for 60 days rent free.

When I thought about that, I said, to me that is just almost insulting, demeaning. It is too little. I do believe that the very minimum that ought to be made available is a period of 1 year rent free, at least, so the wife might be given an opportunity to adjust, to be able to accept the shock of having lost her husband.

I got to thinking about that. I was going to come to the floor and talk about the issue, about making it for 1 year. After talking with my distinguished colleague from South Carolina, I was urged to make it a lesser period. I wanted to go to 6 months but we finally agreed to make it 90 days.

I agreed to the 90-day figure not because I believe it is the right figure, but because it is my understanding that the subcommittee that has jurisdiction with respect to this issue, headed up by my distinguished colleague from California, Senator WILSON, will be addressing itself to this entire issue.

I am not unaware of the fact that Senator WILSON offered a proposal this morning, in which I join, to increase the insurance from $35,000 to $50,000. I commend him for that and I was happy to be a cosponsor.

But housing, the home over the head, is something different, something more emotional in many ways than the dollars, because the dollars are hard for the woman to appreciate, whereas knowing that she must move is a very, very traumatic experience.

I am happy to hear that the Armed Services Committee will be looking at this entire issue. I would hope that they would see fit to go substantially further than the 90 days. But I think that going from no days, which is the present law, no days free rent, but merely being permitted to remain on the premises for 60 days, to the point where the Senator from South Carolina and so many other cosponsors are now advocating, 90 days—and I am a cosponsor of that—90 days rent free at least is a major step in the right direction.

It is not the perfect solution but I think it is better than no solution at all. I do not want to impede the passage of this legislation and, therefore, I am happy to join with my colleague from South Carolina both in the amendment as well as the original legislation. I hope we will see further action on this subject.

Certainly, there is no American, probably no person in this world, that does not empathize with the loss of those whose beloved ones went down with that plane in Gander. I cannot think of anything more horrible for a family to learn about, particularly in this holiday season. There is nothing we can do to undo that which has occurred, except maybe to see that it does not happen again. I think that is a subject that bears the Government's scrutiny promptly, as to why we are continuing to use planes of this kind in private charter, particularly of this company. But that is a subject for another day. At least at this point I think the Senate is indicating that it does have some feeling, some concern, and is trying to evidence that concern before we adjourn.

Mr. THURMOND. Mr. President, I thank the distinguished Senator from Ohio. If there is no further comment on the amendment, we can adopt that and then there will be comments on the bill, I am sure.

Mr. WARNER. Does the distinguished manager wish to move the amendment now?

Mr. THURMOND. To move the amendment to the bill.

Mr. President, I move adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1421) was agreed to.

Mr. THURMOND. I move to reconsider the vote by which the amendment was agreed to.

Mr. METZENBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I have joined as a cosponsor and I wish to commend the others, particularly the Senator from South Carolina and the majority leader, for taking this step forward, for taking the leadership. I do want to ask a question or two.

We are driven into this expeditious legislative course by this frightful tragedy that has come at this happiest of all times of the year. I certainly feel that the Congress should step in to help.

The bill is drawn, however, to affect the entire military, as I understand it, and stands as a precedent for future tragedies.

Mr. THURMOND. That is correct. That is the legislation.

Mr. WARNER. Did the drafters of the bill consider perhaps just limiting this bill to this specific tragedy and the families involved and then at a later date, after adequate opportunity for hearings, go into a broader policy that would affect the entire military?

Mr. THURMOND. The Army recommended that we make it permanent law for the dependents to stay in the housing rent-free for 60 days. We felt that was a short time and made it 90 days so that the matter could be considered further by the Armed Services Committee.

Mr. WARNER. And it applies to everyone in uniform?

Mr. THURMOND. That is correct.

Mr. WARNER. A further question, Mr. President.

The phrase is used in here that the allowance is for the dependents of a member of the Armed Forces "who dies in the line of duty."

Mr. THURMOND. Yes.

Mr. WARNER. Would that apply to an individual who is in the hospital and regrettably has a heart attack tomorrow?

Mr. THURMOND. Yes, it would, Mr. President.

Mr. WARNER. So all the persons who are in the Armed Forces at this moment who might be suffering from illness and would pass on would be subject to the benefits of this measure?

Mr. THURMOND. That is correct. And if they do not occupy Government housing, they would get the allowances.

Mr. WARNER. Mr. President, I ask these questions only in the sense of trying to clarify and make some legislative history. As the distinguished Senator knows, at one time, I had some responsibility for managing this type of thing in the Defense Department.

Mr. THURMOND. And the Senator did a good job, Mr. President.

Mr. WARNER. Was consideration given to the fact that each case is different and, say, under section H, where there was a widow who was in housing—she gets to remain 60 days, but she might wish to exercise the option of going immediately to stay with her friends or relatives for the normal compassion the family gives. She would not require the housing but would, in fact, require the remuneration of the family allowance. In other words, if we are trying to help the person, should we not give them the option either to take the housing or the allowance depending upon their individual difficulties?

Mr. THURMOND. I think the Armed Services Committee would want to look into that facet of it, but the idea was to allow them to remain in the housing during this transition period or, if they are not in Government housing, to draw the allowance.

Mr. WARNER. As I look at the bill, if they are in the housing, that is the sole option, to remain in that set of quarters. This would not give the widow the option to draw the allowance if in fact she wished to live elsewhere?

Mr. THURMOND. That is correct. If she did not need the housing and wished to move to another place, she would not draw the allowance. But she is entitled to remain in that housing.

Mr. WARNER. That is clear from the way the bill is drawn, but should we not give that person the option either to stay in the housing or draw the allowance?

Mr. THURMOND. I think the distinguished Senator has made a good point, but this is more of an emergency matter. The Armed Services Committee will be taking it up and that specific point could be considered at that time when they have a hearing on the bill.

Mr. WARNER. That would seem to me to be a reason to limit this legislation to this particular group of families who are facing this tragedy at this time and not try to make broad policy for the entire Armed Forces.

Mr. WILSON. Will the Senator yield for a question?

Mr. WARNER. Yes, Mr. President.

Mr. WILSON. Actually, it is to offer a suggestion. The Manpower and Personnel Subcommittee will be holding a hearing or hearings to determine whether or not this or another period is the appropriate time, in addition to which, we will consider the very subject that the Senator from Virginia has raised, quite properly, this morning.

I suggest that it may not be necessary to limit the particular relief that the Senator from South Carolina is proposing. It can be a permanent change, because as I understand the Senator from Virginia, he is suggesting that there be an alternative or option. I think we can make this change now and he likely will wish to offer that option as well, but that can be added.

Mr. WARNER. I am wondering—Mr. President, I would be happy to provide an amendment which would enable a widow to exercise either the option under section H—or however this is drawn—the two particular provisions.

Mr. THURMOND. The Armed Services Committee plans to hold hearings and we are going further now than the Army recommended, Mr. President, to take care of these people in this emergency now, although it is permanent law. If we had another accident tomorrow, you see, we would only get this taken care of. I would suggest that we just pass this bill now as the Army recommended, except to extend it for 90 days. Then the distinguished Senator from California [Mr. WILSON] plans to hold hearings on this and related matters. That can be handled at that time. That could be handled by the 90-day period.

Mr. WARNER. I hope the distinguished Senator does not misconstrue my motivation in any way as trying to be dilatory but having had the experience, I know that once we establish a policy throughout the Department of Defense, regulations have to be implemented, a lot of steps have to be taken prior to the Armed Services Committee having hearings and then beginning to modify the legislation. People in the armed services tend to learn about a situation, get adjusted to it; then we turn around and change it, perhaps.

Mr. THURMOND. We did not want to have a disruption there of anybody who is in the housing. If they feel they no longer need the housing or want to move from there, they have a right to do so; but they can stay there 90 days free. We felt that was a reasonable way to handle it. To say we will go beyond that, beyond what the Army recommended—the Armed Services Committee is going to have hearings and go into the entire field. At that time, there may be other angles that will want to be considered.

The distinguished Senator from California is on the floor. As I understand, he plans to hold hearings on this and any other related matter he feels necessary.

Mr. WILSON. That is correct, Mr. President.

Mr. WARNER. That is correct and I do feel we should hold hearings, but once again, it is a matter of a few minutes to draw up a quick amendment to enable a widow to have the option of staying in a relative's or friend's home and drawing the allowance and then going back to this place and still have the benefit of the housing.

Mr. THURMOND. Mr. President, I think we have gone as far as we need to go right now. The able Senator from California is going to hold these

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hearings right away and we think that will take care of it. In my view, that is the wise thing now. If we try to amend this, other amendments may come in and we will get bogged down and we may get nothing. I feel we should stay as we are and do it as quickly as we can.

I do appreciate the suggestion the Senator made. There is merit in it and the distinguished Senator from California will consider that when he holds these hearings.

Mr. WARNER. Mr. President, I have made my case. I am fully supportive of what we are trying to do in the Senate. I simply am trying to perfect it to take care of individual situation. If the managers of the bill feel this cannot be achieved, I shall withdraw any further suggestion at this time. I support the bill.

Mr. WILSON. Mr. President, I rise to commend and join my distinguished colleague, the distinguished Senator from South Carolina. I commend his initiative in trying to relieve the bereavement of these families of the victims of the tragic crash in Gander. The situation in which these widows and the surviving children of the crash victims now find themselves is as has been described. I cannot believe that the effect was intended, but the law presently on the books would displace them from their housing on a military base or, if they are receiving the basic allowance for quarters and living off base, that allowance would cease upon the death of the uniformed member.

Mr. President, I can conceive of no more heartless result. It is not acceptable. The law must be changed. I think most of us were unaware that such a provision existed to actually penalize rather than assist the dependents of those servicemen whom we so often take the floor to praise.

This change in the law is essential if we are to do the very least which a grateful Nation owes to the memory of those departed service members and which we owe to their surviving families.

I not only commend and join as cosponsor Senator THURMOND in this legislation but, as I earlier announced in an effort to advertise the fact of my intention to introduce a companion bill and I now repeat, a supplement to this measure by Senator THURMOND which will literally keep a roof over the heads of the widows and surviving children of these crash victims. What is really necessary is to provide them with the kind of cash in a lump-sum payment that will afford them adequate flexibility so that they can make plans, released from the pressures that they are faced with upon the death of their loved service member.

On December 8, the law was changed in a beneficial way. Those who are covered, as are most service members unless they have consciously elected not to be covered by the Servicemen's Group Life Insurance Program, are insured on their lives to the amount of $35,000 under exiting law. On December 8 a change was made to increase that face value from $35,000 to $50,000. The law unfortunately was not to become effective until January 1, 1986. As such, the beneficial increase in the face value of the policy would not apply to those victims of the Gander crash.

Mr. President, the bill which I intend to offer and for which I seek cosponsors will simply treat that change in the law as having been in effect since October 23, 1983. The purpose simply and obviously is to do equity not only to the families of the Gander crash victims but to the families of all those killed in the line of duty from that date, October 23, 1983, to the effective date of the change in the law on January 1. October 23, 1983, is chosen, Mr. President, because it is the date of the bombing of the marine barracks in Beirut. So in order to both keep literally a roof over the heads of the families, these dependent families of those whom we have lost in this tragic crash, as well as the victims of that tragic bombing in Beirut and for all who have died in the line of duty from that day to the present time, it is necessary that we act on both these measures as early as possible.

It is going to be a very sad Christmas for those families. It has been a sad Christmas for the families of those young marines who were lost in the Beirut bombing. The least that a grateful Nation can do, Mr. President, it seems to me, is to act promptly upon both these measures to give a modicum of financial relief to those families who find themselves faced now not only with the enormous burden of their grief but with the immediate financial loss that they have in no way been prepared to expect or to deal with.

So, Mr. President, I urge the prompt action of the Senate upon Senator THURMOND's legislation and later in the day, when we have cleared the other measure, I will seek similar action upon it. I thank the Chair.

Mr. SIMPSON. Mr. President, I seem to always become involved with things which would portray a man as pinched, driven, and less than compassionate as I deal with immigration, veterans affairs, and nuclear regulation. As I have said so many times, they are issues that have a remarkable blend in them of emotion, fear, guilt, and racism. I say that because that is how this place works. You either pass or kill a bill with a deft blend of those particular emotions or feelings. Now, there is no possible question about the senseless tragedy of those veterans, those active-duty service persons in the crash of the plane in Gander, Newfoundland.

It becomes late in the session, as we are batting the ball back and forth across the Chambers, trying to bring a tiny bit of order to the final hours, which is impossible, totally impossible. I share with my colleagues that Senator MURKOWSKI is the chairman of the Veterans' Affairs Committee, and he is not in the city. He is not in Washington, DC. And so as the ranking majority member of the Senate Veterans' Affairs Committee, let me just very briefly share with you just where we are.

On December 3 of this year legislation was enacted increasing the GI life insurance from $35,000 to $50,000. This legislation has an effective date of January 1, 1986. This life insurance program, which is SGLI, the veterans' life insurance issue, is a self-sustaining program with premiums that are paid by active-duty service persons. In view of this terrible event in Gander on December 12, in which 260 active-duty service members were killed in a deep tragedy, we now have an effective date on this legislation which would encompass them and then here we see a retroactive date now presented for approximately 2 years, to October 23, 1983. That change would cover service in Grenada, Central America, Beirut as well, all inservice deaths. I respectfully suggest—and there is no one I admire more than this fine friend and Senator from California, but I respectfully suggest that I think it is something within the province of the Veterans' Affairs Committee. I do not know where else it could possibly be. It should not be in the Foreign Relations Committee or the Armed Services Committee. The Veterans' Affairs Committee has jurisdiction over this issue. This proposal is not within the province of any other committee. This is where GI life insurance is discussed, veterans' health benefits, veterans' comp, and pension plans. I earnestly suggest that making the bill retroactive to this date of enactment would be a dangerous precedent. Certainly it is a tragic situation. Who does not agree with that? I think this a marvelous attempt to see that there is an accommodation and a feeling expressed with regard to those survivors of that tragedy. But these are the kinds of things, as we legislate in the arena of emotion, fear, guilt, or racism, where we usually end up wishing we had not done it—because we often go for more than we intended.

I say to you that we could also go on to amendments which would take the GI life insurance policy back to other wars where it was $10,000. I am a member of the VFW and American Legion and American Veterans. It would be easy to also go back to those years when the benefit was $10,000.

Cost implications I know I should not even bring up. Someone will say, "Well, why should that even enter the discussion?" But approximately $60 million in benefits could be required to be paid out of the SGLI insurance fund, and it would be paid by current active-duty beneficiaries. That is who will pay it. It is an insurance policy. It is not a gratuity. Insurance policies are based on actuarial tables—not very functional in the veterans or active duty community—but they are paid on what you pay in and the amount of coverage. I hope the Senator can be urged to let this proceed in its original form, and I can assure the Senator on behalf of the chairman of the Veterans' Affairs Committee, Senator MURKOWSKI, that the Senator can introduce the legislation and we will see that it is referred properly to the Veterans' Affairs Committee for consideration, or at least, if that is not possible, request him to offer some type of language or compromise that would make the change effective upon the date of enactment, which would take care of those who were tragically killed in Gander. I hope that might be a prospect for consideration.

Mr. WILSON addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. THURMOND. Mr. President, will the Senator yield for a moment?

Mr. WILSON. I yield.

Mr. THURMOND. I wonder if we could pass this bill and then carry on the discussion of the other matter.

Mr. WILSON. Mr. President, I am happy to allow the vote to occur on the measure introduced by the Senator from South Carolina, and then I will respond to the points raised by my distinguished friend and colleague from Wyoming.

TIMELY ASSISTANCE FOR DEPENDENTS OF SERVICEMEN WHO DIE IN THE LINE OF DUTY

Mr. DOLE. Mr. President, I am pleased to join the distinguished Senator from South Carolina, Senator THURMOND and many of my colleagues in sponsoring S. 1956, which authorizes temporary family housing for dependents of members of the Armed Forces who died in the line of duty.

While the genesis of this legislation may have been the recent and tragic crash of a plane killing 248 brave soldiers of the 101st who were returning home for the holidays, it is legislation long overdue.

When a member of the military dies in the line of duty, difficult times always lay ahead for his or her family. Friends and loved ones may comfort them—but the cruel reality is that most of these soldiers are young and do not always have the financial means to support a wife or family in the event of a tragic accident. This bill, in a small way, helps alleviate the burden of worrying about housing for the dependents of a serviceman.

We often forget that simply being an American serviceman is a dangerous undertaking—whether it be in Korea, Lebanon, Central America, or anywhere else our global commitments take us. We often forget the routine stresses and strains to which these courageous men are subjected on a daily basis.

This bill is straightforward. The Secretary of Defense or Transportation, in the case of the Coast Guard, may provide an allowance for quarters to the dependents of servicemen who die in the line of duty for 60 days.

There is no way, Mr. President, that we can adequately express our profound sorrow over the death of the men who died in Newfoundland or servicemen that may die in the future while wearing the uniform. But one thing we can do, is assure that their dependents will have a roof over their heads.

I know I speak for my colleagues, in expressing our heartfelt grief at the death of the brave men of the 101st, and extend our condolences to their families. One of the best things we can do this holiday season, on behalf of their families, is pass this bill. Thank you Mr. President.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 1956), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1956

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5911 of title 5, United States Code, is amended by adding at end thereof the following new subsection:

"(h) The Secretary of Defense, or the Secretary of Transportation in the case of the Coast Guard when not operating as a service in the Navy, may allow the dependents of a member of the Armed Forces who dies in line of duty and whose dependents are occupying family housing provided by the Department of Defense, or by the Department of Transportation in the case of the Coast Guard, other than on a rental basis on the date of the member's death to continue to occupy such housing without charge for a period of not to exceed 90 days.".

SEC. 2. Section 403 of title 37, United States Code, is amended by adding at the end thereof the following new subsection:

"(l) The Secretary concerned may pay an allowance for quarters to the dependents of a member of the uniformed services who dies in line of duty and whose dependents are not occupying a housing facility under the jurisdiction of a uniformed service on the date of the member's death or are occupying such housing on a rental basis on such date. The amount of the allowance for quarters shall be the same amount that would be payable to the deceased member under sections 403, 403a, and 405 of this title if the member had not died. The payment of an allowance for quarters under this subsection shall terminate not later than 90 days after the date of the member's death.".

SEC. 3. The amendments made by this Act shall take effect December 12, 1985, and shall apply only with respect to dependents of members of the uniformed services who died on or after that date.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. WILSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

APPOINTMENTS BY THE CHAIR

The PRESIDING OFFICER. In accordance with Public Law 83-420, the Chair appoints the following Senator to the Board of Directors of Gallaudet College: NANCY LANDON KASSEBAUM of Kansas.

In accordance with 22 U.S.C. 1928a-1928d, as amended, the Chair appoints the following Senator as member and chairman of the Senate delegation to the North Atlantic Assembly during the 99th Congress: WILLIAM V. ROTH, JR., of Delaware.

In accordance with Public Law 94-118, the Chair appoints the following Senator to the Japan-United States Friendship Commission: WILLIAM V. ROTH, JR., of Delaware.

In accordance with Public Law 99-83, the Chair appoints the following Senator to the International Advisory Commission for the Caribbean Region: THAD COCHRAN, of Mississippi.

Under provisions of Public Law 99-93, as amended by Public Law 99-151, the Chair appoints the following Senators as members of the U.S. Senate Caucus on International Narcotics Control: FRANK H. MURKOWSKI, of Alaska; ARLEN SPECTER, of Pennsylvania; JAMES ABDNOR, of South Dakota.

In accordance with Executive Order 12131 signed by the President on May 4, 1979, as extended, the Chair appoints the following Senator to the Presidents Export Council: ROBERT KASTEN, of Wisconsin, vice Senator WILLIAM ROTH.

MEMORIAL SERVICES FOR CASUALTIES OF THE 101ST AIRBORNE DIVISION

Mr. THURMOND. Mr. President, on December 16, 1985, I attended a ceremony at Dover Air Force Base, DE, honoring those members of the 101st Airborne Division who were killed in Gander, NF, last week. The ceremony was a poignant reminder of the high costs that must often be paid in order to maintain peace in a troubled world.

These young men and women were a part of Task Force 3/502d, and they were returning from 6 months duty in the Sinai as a part of the Multinational Force and observers. Theirs was a mission of peace and hope for long-term stability in the Middle East—a mission which sadly ended in tragedy.

As we all know, these soldiers—eight of whom were from South Carolina—were returning home to families and loved ones for the Christmas holidays. Their deaths are made all the more tragic and senseless for that reason, especially when we have all seen the pain and sorrow their families have suffered at a time when they had looked forward to joy and celebration. Their grief and tremendous loss shook all of us, and our Nation collectively mourns for those families.

Words cannot adequately console those families, but I know my colleagues join in extending our prayers that God will aid and comfort each of them in this most trying and difficult of times.

The simple, dignified tribute paid by the U.S. Army to its fallen comrades touched all who were present. The Secretary of the Army, Hon. John O. Marsh; and the Chief of Staff of the Army, Gen. John A. Wickham; paid homage to the 248 soldiers who were killed in the line of duty.

These fine young Americans answered the call of duty to help preserve peace in a region scarred by war and suffering. For this noble cause, they gave their lives. We will never know what accomplishments they might have achieved had they lived, but we will never forget the cause for which they served so proudly.

It is always difficult for a nation to accept so tragic a loss of life, and it is up to us to ensure that their sacrifice will not have been in vain.

When the 101st was formed more than four decades ago at the height of World War II, the division commander stated that the Division had no history, but it had a rendezvous with destiny. The Division has established quite a history in the fight for peace and freedom, and these young Americans now belong to that proud history.

I was deeply moved by the ceremony at Dover Air Force Base and by the remarks made by Secretary Marsh and General Wickham. In order to share those remarks with my colleagues, I ask unanimous consent at this time that their speeches be included in the Record at the conclusion of my statement.

There being no objection, the speeches were ordered to be printed in the Record, as follows:

Remarks by Hon. John O. Marsh, Jr., Secretary of the Army, 101st Airborne Division Memorial Service, Dover DE

In the Book of Isaiah are the words:

"Whom shall I send and who will go for us? Then said I, Here am I: send me."

This was the spirit of these men and women of the American Army we mourn today.

We are here to pay tribute to them—soldiers of the 101st Airborne Division who gave their lives in the service of their country. In a troubled world, they were the Peacekeepers.

They were returning from a mission in support of our Nation's commitment to world peace.

Their duty as soldiers took them far from home and family. It took them to a place of isolation and loneliness. Their tasks were difficult and demanding—and they did them superbly. We knew they would because they were great soldiers.

Our hearts, our love, our prayers go out to those who suffer the most by such a loss. We shall seek to comfort them, aware we can never fully thank them, or assuage their grief. The U.S. Army—this great Divison shall forever honor and remember them.

They were engaged in a noble endeavor—to bring peace to a troubled land.

Today in the Sinai, the checkpoints and observation posts, where they kept their lonely vigil, are manned by another battalion of the American Army, a continuation of the mission they had fulfilled.

The Christmas Season is one of deep spiritual meaning.

It is a time we reflect on values.

It is a time of hope when we pause to think of peace and goodwill.

It is a time of giving, and thanksgiving, as we count the blessings of our abundance.

It is a time of compassion when we remind ourselves we are our brothers' keeper.

This year as we observe the festival of lights, and tell again the Christmas Story, let us light a candle in our hearts for those soldiers who were coming home from the land of our Spiritual heritage. A place where they in their own way, and in their own time, sought to give meaning to the message of "Peace on Earth, Goodwill Toward Men."

Let us remember them for what they were—American soldiers, who were the peacekeepers.

Remarks by Gen. John A. Wickham, Jr., Chief of Staff, Army, 101st Airborne Division Memorial Service, Dover, DE

Today the Nation and the total Army mourn our fallen soldiers from the 101st Airborne Division and Fort Campbell, Kentucky. All of us in the Army are deeply saddened that their homeward journey which began with great anticipation of a holiday reunion with friends and loved ones, ended with tragedy. Our prayers reach out to all those who have been touched by this sorrow.

The father of the 101st Airborne Division, Major General William Lee, started the proud tradition of the Division with these words:

"The 101st * * * has no history, but it has a rendezvous with destiny * * *. We shall be called upon to carry out operations of far-reaching military importance * * *."

These superb young soldiers kept their "rendezvous with destiny" as they fulfilled an important peacekeeping mission in lonely outposts of the Sinai. They served with honor and distinction on duty with the Multinational Force and Observers. As soldiers of the U.S. Army and Fort Campbell they were proud of their heritage and proud of their service. Just as other soldiers before have been and are proud today in protecting freedom for us and our friends.

Theirs was the ultimate sacrifice made in line of duty. Their service adds luster to the proud history of the U.S. Army and the 101st. Soldiers who follow behind them will know of their dedication, patriotism, and sacrifice, the same as the "Screaming Eagles" in World War II and in Vietnam.

The American flag which covers each coffin is the emblem of our unity, our power, our purpose as a nation. Our flag has no other character than that which Americans endow it from generation to generation, just as these superb soldiers have given in our time. Though silent and motionless on each coffin the flag speaks to us of the men and women who have served and of the values, deeds, and memories we shall forever cherish.

In Arlington Cemetery there is a monument to fallen soldiers which says:

"Not for fame or reward * * * but in simple obedience to duty as they understand it, these soldiers suffered all, sacrificed all, dared all, and perished."

The magnificent soldiers we mourn today were obedient to their duty and selfless in their service to our nation. The United States Army salutes them.

ROMANIA: "THE DEFECTOR'S STORY"

Mr. HELMS. Mr. President, this week Secretary of State Shultz has been in Romania warning "President" Ceausescu that most-favored-nation trade status might be cut off if Romania persists in its human rights violations. A great many Americans are wondering where Secretary Shultz has been for the last 3 years, because the facts of Romania's repressive behavior have been well known to everyone except the State Department, which has long served as an apologist for the most authoritarian regime in Eastern Europe.

The question is whether the Secretary of State is really serious with his warning, or is it merely a rhetorical exercise to placate the Congress?

Mr. President, for some reason the State Department is under the naive impression that Romania has a supposed independent foreign policy, but United States Ambassador David Funderburk—who was the closest United States official to the Romanian atrocities—has pointed out there is definite proof that this alleged independence is dictated by Romania's masters in the Kremlin.

The real story on Romania is so well known to everyone, except those in Foggy Bottom, that even the fashionable Washingtonian magazine has reported extensively on the brutal regime. Mr. Ion Pacepa, former Deputy Director of Romania's Department of Foreign Intelligence and personal adviser to Ceausescu—also the highest ranking intelligence officer from a Soviet bloc country to defect to the West—describes the horror of the Ceausescu regime in detail in the current issue of the Washingtonian.

Mr. President, I ask unanimous consent that Mr. Pacepa's article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

THE DEFECTOR'S STORY

(By Ion Mihai Pacepa)

When Ion Mihai Pacepa arrived at Andrews Air Force Base on July 28, 1978, aboard a US military aircraft that had taken off in West Germany, he was described by State Department spokesmen and newspaper reports as a "high-ranking aide" to Rumanian president Nicolae Ceausescu.

In fact, Pacepa, who quickly was granted political asylum by the United States, had been personal adviser to Ceausescu and deputy director of the Department of Foreign Intelligence—called DIE from its Rumanian name, Departamentul de Informatii Externe. He is the highest-ranking Soviet-bloc intelligence officer ever to defect to the West.

Within months of Pacepa's defection, the Rumanian ambassadors to the United States and the United Nations were replaced. In a November 19, 1978, report on Rumania, Michael Dobbs of the Washington Post wrote that the Pacepa affair "has contributed to the most thorough purge of ranking Communist-party and government officials since Ceausescu came to power thirteen years ago."

Educated as an engineer at the Polytechnical Institute in Bucharest, Pacepa entered the Rumanian intelligence service in 1951, when he was 23 years old. By the time of his defection he had been a frequent visitor to the United States.

Pacepa made advance arrangements for President Ceausescu's official trips to visit President Richard Nixon in 1973, President Gerald Ford in 1975, and President Jimmy Carter in 1978. He then accompanied the Rumanian president and his wife, Elena, on all three of the White House visits. During these state visits, Pacepa not only arranged discussions with American Presidents but even provided a food taster for the security-obsessed Ceausescu. Pacepa also arranged for special Rumanian intelligence teams to electronically sweep Ceausescu's quarters in the US for listening devices, including rooms at Blair House.

Pacepa, whose father worked in Rumania for General Motors before World War II, is now 57 years old and living under a new identity in the US. His daughter, Dana, an artist, remains in Rumania with her husband and family. Despite making repeated attempts, Pacepa has had no contact with her since he called her from West Germany in 1978, just before his defection. An "open letter" sent to her last year through a Paris newspaper—and repeated time and again over Radio Free Europe—ended:

"There is a picture on my desk. I took it on a sunny day, of you eating an apple. Bite the apple again, my daughter, for infinitely more sunny days. I love you incredibly much, my Dana."

Pacepa is at work on a book about life at the top in the Communist world and about what he calls "the first Communist dynasty"—Nicolae Ceausescu and his family. These excepts from the book manuscript represent the first time Pacepa has told his story for publication.

HEADS OF STATE

Blair House—the lady wasn't impressed

Rumanian president Nicolae Ceausescu and his wife, Elena, arrived in Washington on April 11, 1978, for a state visit with Jimmy Carter. Ceausescu has not returned to the United States since.

The presidential Boeing 707 landed at Andrews Air Force Base at 6 pm. A few minutes later Evan Dobelle, the US chief of protocol, came on board the plane and invited the Rumanian guests onto American soil. At the plane's steps, Nicolae Ceausescu and his wife, Elena, were greeted by Secretary of State Cyrus Vance and his wife, Grace, as well as by other American and Rumanian representatives. From the airport the Ceausescus rode in the same car with the Vances. Half an hour later, the motorcade arrived at the official residence for visitors, Blair House.

Blair House was already familiar to me from Ceausescu's last two visits to Washington, in 1973 and 1975. To alleviate Elena's traditional scene over not yet having her luggage when she arrived, I asked one of the people in charge of the house to show her around.

"Blair House was built by Dr. Joseph Lovell, America's first surgeon general, 154 years ago," the distinguished lady said with professional competence. "After his death in 1836, the family sold the house for $6,500 to Mr. Blair, who had just come to Washington as the new editor of the Globe. . . ."

The tour began with the first floor's Blair drawing room and its beautiful Queen Anne desk and magnificent Sully portrait of Montgomery Blair, then it continued to the Abraham Lincoln Room.

"It was in this room full of memorabilia that Mr. Lincoln signed the Emancipation Proclamation," the guide went on, pointing to a pen-and-ink drawing of President Lincoln.

"The portrait of General Robert E. Lee is a reminder of the fact that, in this same room, Lee refused the command of the Union Army, which was offered to him by Lincoln through Blair, who was related to Lee by marriage." The table in the first-floor dining room was set with heavy linen damask cloths for the private dinner on this evening.

On the second floor Elena was shown Ceausescu's large bedroom, adjoining a spacious library, both decorated with fresh flowers. That morning's Washington Post and New York Times, as well as the just arrived evening newspaper, the Washington Star, lay on a table in the library.

"This is your bedroom suite, madam," said the guide, pointing to a room with a lovely, canopied four-poster bed. "Although it could not be refurbished in time for the 1957 visit of Queen Elizabeth, it is still called the Queen's Suite to this day," finished the guide, wishing Elena an enjoyable stay.

"Close the door, Pacepa," Elena's acid voice suddenly rasped out. After I had executed the order, she exploded. "Just look at the harpy. She has never seen me before in her life, and she decides I should sleep here, not with the Comrade. Just so she can make up stories about the Comrade to tell other people who stay here."

Imitating the guide's voice, she went on, "'We have an Emancipation Proclamation.' It's a long way from that piece of paper until these idiots will really be emancipated." Then, suddenly changing the subject, she ordered me, "Tell our press correspondents to include in their articles that 'the Vances came to the airport on behalf of the President of the United States and Mrs. Rosalynn Carter. Idiots that they are, they may forget that."

Friendly persuasion

Jean-Bédel Bokassa became leader of the Central African Republic in a coup staged December 31, 1965. On December 4, 1977, he crowned himself emperor of the impoverished nation in a lavish ceremony. Ousted in a coup nearly two years later and sentenced to death in absentia for atrocities committed during his reign, Bokassa lives now in France.

Before the infamous president of the Central African Republic Jean-Bédel Bokassa made a visit to Rumania, the DIE spent months on intensive intelligence operations to study him. The most important vulnerabilities found were his insatiable desire for women and a primitive impulse to collect jewels, money, and personal bank accounts and safe-deposit boxes in Switzerland. Several days after Ceausescu received a complete study on Bokassa, he took me for a walk in the enormous garden surrounding his personal residence.

"Central Africa has huge diamond reserves, which could spell a fortune for us. The problem is we cannot compete with the experienced capitalist sharks in obtaining concessions for diamond mining there. We'll have to steal them. Bokassa has five wives in Bangui. Let's give him another one, prettier and more high-class than he could ever dream of having. Get a good-looker ready for his visit, and then let Bokassa find her himself. And then I'll be magnanimous with him."

During his visit to Bucharest, Bokassa fell head over heels in love with a comely Rumanian doctor who was a security agent sent to him when he gave the first sneeze of an apparent cold. Following Bokassa's repeated requests to Ceausescu, the doctor was sent to Africa on a special presidential airplane to further treat the cold he had allegedly contracted in Rumania. The doctor was overwhelmed with jewels, was given a personal villa full of servants, and became Bokassa's unofficial but favorite wife.

When she asked for fresh tomatoes and other vegetables, Bokassa implored the Rumanian ambassador to help him. Military airplanes brought an agricultural team and equipment into the country, and soon a modern vegetable farm started producing for Bokassa and the doctor. The manager of the farm, an agricultural engineer, was actually a DIE officer who became the doctor's case officer.

Soon after that, Vasile Pungan and Nicolae Doicaru, two of Ceausescu's personal advisers, made a secret trip to Bangui. When they returned home, they reported that Bokassa had accepted 10 percent of the Rumanian profits from diamond mines developed on preferential terrains in his country, taking the business away from Western companies with experience in diamond mining.

Several years later, the doctor decided to take her life in her own hands. She escaped from Bangui with some of the jewels Bokassa had given her and began a new life in France. Discovered by the French press, she made history telling of her romance with Bokassa, but she carefully omitted all mention of her connections with the DIE.

"Make Use of Carter's Inexperience"

We were walking along the garden path at his Bucharest residence when Ceausescu suddenly started talking.

"I read through the whole file you gave me on Carter and his family twice." I had given him a briefing file on American President Jimmy Carter, based on material in DIE records.

"I can see that, despite his innocent smile, his soft voice, and shy manner, Carter is not an easy or predictable fellow. But he is not contradictory, as you describe him. The file says that, although he graduated from the Naval Academy only in 60th place out of 820, he has the intelligence of a near genius, a fantastic memory, an unusual capacity to absorb masses of information, and is a very good listener and a very hard worker. That's not a contradiction. I never graduated from any university before becoming a political leader. His rivals accuse him of having concealed a high degree of stubbornness and a vindictiveness behind his smile when he was the governor of Georgia. That's not a contradiction, either. It's probably normal for a politician.

"In my opinion, his weak points are other ones. One is his ridiculous religiousness. . . . Another weakness is his intense inner life, which is detrimental to the dynamism he needs to have.

"Nevertheless, as I read in your file and between its lines, Carter has enough qualities to succeed. You probably haven't realized that there are even some similarities between him and me. Both of us consider that the people elected us not just as an individual but as a paterfamilias, that our wives and children were also elected together with us. Apropos, you might pull together everything you have on Carter's deep respect for his wife and children and on his commitment to giving them a high profile during his presidency, and then give it to Comrade Elena. That may help to change her broken record that Carter is nothing but a peasant.

"Carter's biggest disadvantage is that he is totally inexperienced—what can you expect from somebody who raised and sold peanuts all his life. That's one of the worst sides of the American system: Anybody can become President, if he has money and a nice smile, and then, just when he starts to learn something, he has to leave. They just can't understand that being chief of state is a profession. . . .

"Anyway, that's their problem, isn't that true? And we should make use of Carter's inexperience and friendship as long as he is President. That's why I insisted on having my visit there in the very first days of his presidency, to find him virgin, uncontaminated by the influence of others."

Suddenly Ceausescu stopped, hung onto a button of my jacket, and, looking me in the eye, continued in a low, conspiratorial tone. "In your file on Carter's family, I see that his brother, Billy, is some kind of drunk, a corruptible fellow who doesn't know how to do anything but is trying to turn a fast buck any way he can. I see also that the DIE has turned up a foreign agent who might manage to build up some business relations with Carter's farm and with Billy. Isn't that a Liberian who has an export-import company in London?"

"Yes, Comrade," came my answer.

"We should do everything we can to encourage this operation. We import enough peanuts into Rumania, so let's buy them from him, from his farm. We can use so many peanuts that we could buy up his whole production for at least the next ten years. Let's make Billy our representative for importing peanuts and other things. But for the beginning, let's work under a foreign flag. Let's import peanuts through the London company of your Liberian agent's. When Billy has gotten enough of a taste for this money, then we can tell him that it's not English or Liberian money, but ours. But only when we are sure that Billy won't be able to do without his new source of income."

Advice for Kojak

Although Ceausescu has never been in a public movie theater, he is a movie fanatic. Each of his four residences has a fully equipped projection room and a permanent film library. His favorites are movies about the Roman empire and Napoleon and American police films and television shows.

During a movie at his private residence, where he does not have to worry about protocol or what people looking at him will think, Ceausescu is a normal human being, relaxed and entirely different from his public image. He loves to watch Kojak shows, not only because they are full of action, but especially because with his quick mind he has no trouble figuring out the dénouement of a Kojak episode. Savoring the thought that he would once again be one step ahead of Kojak, he settled down into his chair, disappearing completely from my sight from where I was sitting behind him.

"Come on. Don't waste your time on him, Commissar. He's a friend. You'd do better to keep your eye on the dead man's girlfriend. Hey, Ropoteanu, tell him that in English."

Ropoteanu was an English teacher who had become an intelligence officer and was Ceausescu's favorite interpreter for movies.

"Don't listen to the captain, Kojak," Ceausescu continued his advice. "He didn't know anything in the last movie, either. In Rumania I wouldn't keep him on the payroll a single day longer."

"An idiot, Nick. An idiot," piped up Elena, who was sitting in the chair beside him. "All security officers are idiots. I've told you that many times. Wouldn't it be better to show a war movie, with the army in it? They're idiots, too, but at least they carry out orders without asking any questions."

At the end of the movie the lights revealed Elena fast asleep, with her head resting on the soft back of her easy chair. Her mouth and her robe had both fallen indecorously open.

HUMAN RIGHTS AND WRONGS

Ceausescu's grand plan

"Horizon" was by far the most secret DIE operation, and its files were locked in the DIE's super-secure vault, continuously covered by closed-circuit television cameras and accessible only to the minister of interior, the political chief of the DIE, and me. Everything in its files is written ony by hand.

"Horizon" was Ceausescu's grand plan, an extension of Euro-Communism, for strengthening his Communist rule in Rumania with help from capitalist governments. It was created by him as a masterpiece of a political-influence operation, aimed at gaining Western good will, political support, credits, and prohibited technologies, without in the least compromising Bucharest's orthodox Marxist rule.

"Horizon" contained in several bulky files organized by geographic area, was the only place where one could find a distillation of Ceausescu's overall goals and concrete objectives for each non-Communist country of interest, starting with the United States and ending with Bokassa's Central African Republic, as well as data on the most important influence agents created by the DIE over the years.

Concealed in the "Horizon" files was information on every major successful influence operations created by Ceausescu. Among the oldest was the operation to provide clandestine support for Willy Brandt, the chairman of West Germany's Social Democratic party, in two parliamentarian votes of confidence, in 1973 and 1974, which he won only by also having two supporting votes from the opposition. According to the DIE station chief in West Germany, the two deputies in question had been approached by Rumanian intelligence officers, who plied them with valuable gifts and persuaded them to vote against their own party.

One of the newest operations documented there, and by far the most important, was the annual effort to have the United States Congress renew most-favored-nation trade status from Rumania.

For this operation, almost every Rumanian representative in the United States, including the ambassador, was replaced by an intelligence officer. More than 10,000 Rumanians were recruited as agents and sent to the West as émigrés in a mass operation designed to influence the governments of the United States and its allies, especially West Germany and Israel. Intelligence officers and agents were secretly sent to the United States to take over control of émigré organizations and direct their publications and social activities.

The file showed that the DIE had helped finance and direct the activities of such émigré organizations as the American-Rumanian Central Foundation, the American-Rumanian National Institute, and the American-Rumanian National Committee for Human Rights. Through such organizations, the DIE conducted an intensive lobby on Capitol Hill and led street demonstrations in Washington. In 1975, when Rumania first received most-favored-nation status, the DIE's chief was rewarded by being made a Hero of the Rumanian Socialist Republic, and the chief of the U.S. Brigade was promoted to the rank of general.

Ceausescu considered that this operation gave Communist Rumania the most valuable political, financial, and technological benefits in its history.

Targets of Assassination

At the conclusion of his 1978 visit to the U.S., Ceausescu and Jimmy Carter issued a joint declaration in which both affirmed the "observance of and promotion of respect for human rights and fundamental freedoms, including all the conditions required for a free, dignified, and prosperous life."

Three months later, during a walk in his garden, Ceausescu orderd Pacepa to arrange the assassination of Emil Georgescu, a supervising editor in Radio Free Europe's Rumaninan Department.

"Emil Georgescu must be killed, without involving the Rumanian government," Pacepa recalls Ceausescu saying. "Foreign professional criminals must be used, and that wasps' nest, Radio Free Europe headquarters, must be wiped out with powerful explosives."

Pacepa defected one week later.

In the totalitarian logic of the Rumanian government, émigrés are Rumanian citizens subject to Rumanian laws, regardless of their current citizenship. In dealing with them, the DIE has the same role as the security forces have inside Rumania: It acts as the "extended arm of the proletarian dictatorship."

In 1975 the DIE began an ambitious project to set up a complete, computerized data bank on the more than 600,000 native or second-generation Rumanians living in the West, using consular, mail-censorship, and intelligence information. Undercover officers and agents sent abroad to take over control of émigré organizations, publications, and social activities used various covers, from folk-art instructor to priest.

Because the Rumanian government has no poisons abroad, it uses beatings, kidnappings, and unattributable assassinations to "discipline" émigrés in the West. It has become a matter of political prestige for Bucharest to try to execute defectors who have been granted political asylum in such countries as the United States, France, and West Germany. Explosive letters and packages are sent to Rumanian anti-Communist leaders in exile, such as those mailed during the 1981 Madrid Conference on Security in Europe.

Dissidents who have been given exit visas from Rumania have also become DIE targets for assassination in the West. In April 1982, Matei Haiducu, a Rumanian who moved to France in 1975, confessed to French authorities that he was a Rumanian illegal officer and that his current assignment was to assassinate dissident writers Paul Goma and Virgil Tanase in France "by any means," the only condition being that Rumanian government involvement not become known. Haiducu turned over to the French a fountain pen loaded with a toxic chemical that he had been given to accomplish the deed, in true spy-thriller fashion.

Orders have repeatedly been given for the silencing of émigré journalists and others who publicly criticize the Rumanian dictatorship, including US government employees working for Radio Free Europe. Monica Lovinescu, a respected but outspoken French citizen who for years has been an employee of Radio Free Europe in France, has particularly incensed Ceausescu.

"Lovinescu must be silenced," Ceausescu ordered at one point. "Not killed. We don't need any uncomfortable French and American investigations just now. She should be beaten to a pulp and have her jaw, teeth, and arms broken, so that she will never again be able to speak or write—beaten in her own home so she and others will learn that no place is safe for people who calumniate the proletarian dictatorship, not even their own homes. She should become a living corpse, an unforgettable example for others."

In November 1976 Lovinescu was severely beaten in her home by a Palestine Liberation Organization group acting on Rumania's behalf.

Emil Georgescu, the program editor at Radio Free Europe in Munich whom Ceausescu had ordered me to have killed in 1978, was brutally stabbed 22 times at his own home on July 28, 1981, and barely escaped with his life. That order played a decisive role in my final break with Bucharest.

The flesh trade

Trade in human beings became another important business for the DIE. Ceausescu was obliged to open the door for emigration, despite his personal repugnance to it, by the international movement for human rights and the freedom of movement, in particular the Helsinki Agreement on Security and Cooperation in Europe and the decision by the US Congress to tie most-favored-nation trade status to emigration rights. Emigration provided Ceausescu with political gain, and he soon decided to use it for financial profit as well, in a highly confidential operation kept so secret that at his direction it was handled only through the DIE.

The DIE initiated discreet contacts in Israel and West Germany and cautiously suggested that, if Rumania could be reimbursed in hard currency for the social and education expenses incurred for the ethnic German and Jewish émigrés seeking to leave Rumania, the emigration process might be accelerated.

Secret, unwritten agreements were made with the Israeli foreign intelligence service and with the West German Ministry of Interior. The Israelis and the West Germans paid thousands of dollars for each Rumanian Jew and ethnic German granted an exit visa, in some cases as much as $50,000 per person, depending on his or her level of education and profession.

Over the years, many hundreds of millions of dollars were secretly paid to Rumania, along with low-interest credits issued through the DIE as bonuses for increasing the emigration quotas. For reasons of secrecy, most of the payments were made in cash and only in US dollars. No other member of the Rumanian government knew anything about them except the prime minister, who was given only a general briefing and instructed that, if the matter even came up, he should vehemently deny any suggestion that Jews and Germans were being sold.

In February 1972 Ceausescu decided that additional side benefits might be had from the emigration of Jews and Germans. "No Rumanian citizen," Ceausescu stated, "whether of Rumanian, Jewish, or German ancestry, should be given an emigation visa unless he is a security agent, has signed a secret, written agreement with the security forces, and has agreed to act as an intelligence agent abroad." More than 10,000 emigrating Rumanians were recruited in a mass operation between 1972 and 1978 and instructed to penetrate the governments, political life, and scientific and technological circles of the United States, Israel, West Germany, and other Western countries.

Most of the Jewish and many of the German émigrés never used their secret communications systems and simply disappeared as agents.

AS OTHERS SEE US

The American way

During a previous visit to the United States, I was in the Cabinet Room with Ceausescu, when, counting the labeled chairs, he suddenly said, "Can you believe it? Only thirteen secretaries! Why do we have to have a president and a prime minister? Why do we keep a prime minister, twelve deputy prime ministers, and 40 ministers? Why does the prime minister need 53 labeled chairs for a government meeting? We should learn from the American system of democracy. We should apply the same principles. And if some journalist says we have a dictatorship, we should answer that our government is a faithful copy of the American government. As here, we should have only one boss and several secretaries carrying out his orders."

That was when Ceausescu gave me the order to give him a complete study on the American system of government. Based on this order, a DIE officer under deep cover, Colonel Dumitru Masilu, was sent to the United States for six months to prepare the study.

When I gave the final report to Ceausescu, he promptly said: "You don't understand anything! I don't need to know anything about the Congress and the judicial system. Stop talking about the three branches of their government. Rewrite the report covering only the administration, and strongly emphasize that the American government has only a President, a Vice President, and a few secretaries, that they don't have and never have had any prime ministers! Write that they have a presidential system without any prime minister or deputy prime ministers and that that's all they need. Someday we have to finish with the wastefulness we have. We don't need two governments, one run by the president and the other by the prime minister."

The air-conditioned nightmare

Air conditioning was probably my biggest headache for all the presidential visits I prepared.

Shortly after he had taken over, after the death of his predecessor, Gheorghe Gheorghiu-Dej, Ceausescu returned from a secret visit to Moscow and began worrying about the protracted pain in his throat. Gheorghiu-Dej had died from a fast-developing form of cancer, its first symptoms having appeared as throat pains not long after his return from a vacation in the USSR together with the Italian Communist leader Palmiro Togliatti, who had died very suddenly after his return under circumstances considered strange. Ceausescu was convinced beyond the shadow of a doubt that both had been assassinated by the Kremlin through secret radiation with a strong source of isotopes, and his throat pains therefore caused him indescribable panic.

Doctors from all around the world were secretly brought to Bucharest over an anguishing period of long weeks. Finally an old, very conservative West German doctor put it to him very bluntly: "You, sir, talk too much and too loudly, and your vocal chords are terribly irritated. If you want to keep them, you must protect then."

The doctor's prescriptions were old-fashioned: chamomile tea as often as possible, but always when he had to speak longer and louder than usual, and protection from any kind of drafts, including fans and air conditioners. Since then, during every speech Ceausescu makes, a waiter changes his chamomile tea glass every half hour, no matter whether it is a routine meeting, a Politbureau session, or a Party Congress. Every single fan had to be removed from all his residences, and the central air conditioning system installed at the Central Committee of the Communist Party was dismantled.

During his foreign visits, especially to North and South America, I encountered indescribable difficulties in having the air conditioning and heating turned off in every building he was to visit and closing or at least covering every vent. In Venezuela, for instance, he ordered me to disconnect the air conditioner in his official vehicle, so that the Venezuelan driver would not under any circumstances be able to turn it on. As it was an armored car, the windows of which could not be opened, the trips around Caracas quickly became a nightmare.

I also had never-ending discussions with the management of the Waldorf Astoria in New York and other hotels used by Ceausescu, when I would ask them to turn off the central air-conditioning or heating systems and to seal off every vent. It repeatedly happened that Rumanian dignitaries accompanying Ceausescu abroad spent their nights trying to find and seal off hidden vents or leaky windows.

Distinguished Americans

"Pacepa's just been telling me some interesting information about the American President," Ceausescu told Elena as she entered the room. "Carter looks unexpectedly nice, even distinguished, showing esteem for his wife and devotion to his family. I've asked him [Pacepa] to prepare a file for you that I hope you'll like."

"Go soak your head, Nick! Have you ever seen a 'distinguished American'?" Elena squawked, trying to put all her knowledge of English into the last two words. "Name me just one movie where you've seen such an American, and on top of it all a loving husband and devoted father, and I'll eat it, Nick. And you," she went on, turning toward me. "Don't you fill the Comrade's head with your intrigues and fantasies. Do you understand?" Then turning back to Ceausescu, "You'd better come to bed Nick, rather than wasting your night away listening to fairy tales. You want to learn about Americans? You have your *Kojak* movies. They are at least authentic, made by Americans!"

Books, blacks, and Barbara Walters

The following conversation took place at Blair House on April 11, 1978, the first day of Ceausescu's visit to Jimmy Carter.

"What about the book exhibition I ordered? Ceausescu asked me.

"It opened today at the Martin Luther King Library, with books printed in all the languages of the various ethnic groups living in Rumania and with a special exhibit case containing books written by and about you. The report says that the director of the library opened the exhibition with an address presenting you as a brilliant thinker and political personality, whose love of books has favorably influenced the whole course of publishing activity in Rumania."

"Listen to him, Nick," Elena broke in. "In all of America, they couldn't find any better place than a library for black people!"

"Anything new on the television interview?" Ceausescu intervened.

"Yes. ABC insists on taping the interview tomorrow afternoon so they can put parts of it on the air during the prime-time news tomorrow evening, the first day of the visit, and broadcast the entire interview on Sunday, April 16, on the *Issues and Answers* show."

"Is the interviewer somebody?" he asked.

"Yes, Comrade. Barbara Walters, one of the ABC's best television interviewers."

"A woman? A woman to interview you, Nick? That's ridiculous! Isn't she the harpy who interviewed Castro and made a whole circus out of his personal life, his estranged wife, and his love affairs? Isn't she that one?"

"I think, Comrade Elena, that she interviewed Fidel Castro several years ago."

"Fiddlers! That's all they all are, nothing but fiddlers. I told you so. It's all a plot against you, no question about it. Why else, out of 200 million Americans, could they find only that harpy to interview you? It's a plot to compromise you, Comrade. Can't you see that?"

After reaching this decision, Elena furiously left the dining area. During Ceausescu's visits abroad, Elena was always dissatisfied with everything and everybody.

TRADECRAFT

The nuclear go-between

In 1975 I showed Ceausescu credible DIE information indicating that Pakistan was conducting secret operations to develop its own nuclear capability. Two days later he ordered me to arrange a secret meeting for him with Zulfikar Ali Bhutto, Pakistan's Prime Minister. With the help of Andrei Stefan, secretary of the Central Committee of the Communist Party and chief of its international department, a short stopover was arranged to take place in Karachi, with Bhutto welcoming Ceausescu at the airport.

When Ceausescu's airplane landed in Karachi, Bhutto was there, accompanied by numerous local dignitaries. He invited Ceausescu for lunch to a nearby palace, where we arrived after almost an hour's ride on a hot, dusty day. In the palace garden tents were already waiting, filled with food in large silver pots. For each guest there were several servants ready to carry out his least wish at the slightest signal. In the main tent, the highest Rumanian and Pakistani dignitaries joined their two leaders for lunch.

Ceausescu has a great talent for personal diplomacy, most of his successes having been brought about by personal discussions. A good psychologist, he pays a great deal of attention to knowing his discussion partners, and he tries to impress and subdue them with a deliberately open and direct manner and with discreet anti-Soviet allusions.

Bhutto was a relatively easy prize for the experienced and well-prepared Ceausescu. By the end of the luncheon, Bhutto was addressing Ceausescu only in superlatives.

After lunch, Ceausescu asked for a private discussion, accompanied only by a DIE interpreter and me. He opened his frontal attack on Bhutto. "You and I share the same dream, to make a place in history for our countries, and the best way to do that is to build their power. In our time the only real power is nuclear power. We should build it secretly. Working separately, our intelligence services"—pointing toward me—"have obtained remarkable results. Together we might be able to realize our dreams. In this envelope is a sample of what we can do. Read it later on. If you agree, give me a sign. If not, you may forget the whole thing."

Bhutto put the envelope carefully into his pocket, without opening it. It contained a detailed inventory of the nuclear-intelligence information Rumania could secretly provide to Pakistan.

Then there was a short break in the meeting.

When Bhutto came back into the room, he proposed that he and Ceausescu make a public declaration. Ceausescu spontaneously gave a public speech, followed by Bhutto.

Intelligent, sensitive, and ambitious, Bhutto reacted almost exactly as Ceausescu had expected. Just before our departure, he gave Ceausescu an envelope. "Inside is a name, one of our most secret names. Don't try to find him," Bhutto said in my direction, "because he doesn't have any official positions. I will personally instruct him and send him to Bucharest. I will send you the date and flight number through your ambassador, without further explanation. In Bucharest one of your people should meet him and organize future cooperation. It should be a personal contact between two individuals, not two governments. I hope we never need discuss this matter again in our future cooperation, my dear friend."

Two weeks later I had a meeting in a safe house with the man who would become "235," and the next day Ceausescu had both of us for a private dinner at his residence in Snagov, not far from Bucharest. Radu Andreescu was the operational name of a brilliant DIE engineer who became his case officer. Ten days later Andreescu left for Pakistan with a voluminous diplomatic pouch containing the whole documentation secretly obtained from Canada and used to construct a Rumanian heavy-water plant.

He came back with the complete project for a small Canadian Candu reactor that the Pakistani government had bought as well as significant intelligence data on the industrial-size Candu nuclear reactor.

On further visits to Pakistan, Andreescu took with him technical intelligence on West German and French nuclear reactors and security systems, and he brought back to Rumania the Degussa centrifugal system for enriching uranium, data on the industrial production of uranium 235, and other military technical nuclear intelligence that Pakistan had obtained.

A recently arrived postcard was the first sign of life we had gotten from "235" after the July 5, 1977, coup, when General Muhammed Zia ul-Haq arrested Bhutto and declared himself chief administrator of martial law.

"You must be terribly careful! We badly need to keep our Rosenberg," said Ceausescu.

The corn caper

Technological espionage was also extended to unclassified projects, in order to save costs on legal imports. The complete blueprints for newly designed American aluminum rolling mills were used as the basis for constructing high-capacity aluminum-foil and sheet-metal factories, which were scheduled to go into production between 1982 and 1984. Three glass factories were built from 1976 to 1980 based on illegally obtained intelligence provided by an American engineer in exchange for the initial sum of $200,000. The intention was to flood the American market with glass products at dumping prices. Today Rumanian glass products are for sale at attractive prices all over the United States and Western Europe.

Through an agent recruited at the United States Department of Agriculture's Research Center in Beltsville, Rumania secretly obtained the entire US national hybrid-corn collection, containing more than 14,000 assortments and species, which became the basis for further research in Rumania. Together with other genetic materials also illegally obtained from the United States, American brands of corn, such as Pioneer or Wyoming, soon began to be replaced by Rumanian hybrid strains. As of 1978 they numbered from RH-101 up to RH-291, RH standing for "Rumanian hybrid."

In July 1978 the Rumanian ministry of agriculture estimated the total savings for Rumania generated by this operation over the years at a staggering 300 billion dollars.

Shallow penetration

Accompanied by Pacepa and others, Ceausescu visited the Dallas headquarters of Texas Instruments during his April 1978 trip to the United States. Afterwards, at a dinner arranged by the Texas Chamber of Commerce, Ceausescu said, in part:

"Some of the products turned out by Texas Instruments also have a strategic character. We are not concerned with turning out such products, because we stand for disarmament, for the destruction of atomic armaments and of weapons in general. We stand for a world without weapons, a world of peaceful cooperation."

In all of Eastern Europe, and in their foreign intelligence services, Texas Instruments was considered to be the most advanced producer of microelectronics and chips in the whole world, and also one of the best-protected private companies working on classified government contracts.

During the Brezhnev-Ustinov-Andropov militarization era, I was repeatedly asked by Soviet KGB representatives to direct the DIE toward penetrating Texas Instruments and obtaining its highly secret microelectronic technologies, but the intensive efforts made in this direction over many years were without success.

Some technological information was later obtained indirectly, however, through cooperation with a prestigious British firm producing microelectronics under a Texas Instruments license. Several hundred volumes, containing tens of thousands of pages of classified American documents, were photographed and turned over by a newly recruited and well-paid British agent.

These documents almost entirely filled Ceausescu's executive-committee room when they were presented to him. He considered this operation one of the most valuable producers of technological intelligence for Rumania, and he directed that it be used as the basis for the secret production of chips and other microelectronics in a top-secret military plant close to Bucharest especially created for this purpose. But this beginning only whetted his appetite for a real penetration of Texas Instruments.

After Leonid Brezhnev had personally asked him for information on American microelectronics, Ceausescu asked me to include a visit to Texas Instruments in the itinerary of his April 1978 visit to the U.S., as a way of opening the door to a direct intelligence operation. At the end of March, when I was sent to the U.S. by Ceausescu to prepare for his visit, he ordered me to go personally to Texas Instruments in my official capacity as presidential adviser and to open its doors for officers from both the Washington and the New York DIE stations. But up until the time of Ceausescu's visit there, the Rumanians had been totally unable to talk with any engineers or technicians from Texas Instruments, being restricted to meeting with only public-relations or security officers.

Several weeks later as Ceausescu stepped inside the company's building, he shot me a triumphant look, then turned to the other people present, his face and eyes lighted up with enormous self-satisfaction. He had accomplished his wish to be the first Communist president to set foot inside Texas Instruments, to do something Brezhnev had been unable to do. Indeed, Ceausescu was at last able to walk into that prohibited microelectronics empire, but the equipment and the people working there could be seen by him only through a protective window wall.

Stealing NASA's secrets

On Saturday, April 15, 1978, we were flying from Dallas to Houston on an Air Force One airplane provided by the White House for Ceausescu's visit to the United States. Without enthusiasm we began a new game of chess.

"Was the contact with 'ARMAND' put on ice for the duration of the visit, as we discussed, Pacepa?"

"Yes, Comrade. We paid him to take a two-week vacation in Italy. It's best for him to be as far away from NASA as possible."

"That's good. Sometime you may bring him to the Black Sea, under another name, and treat him to a vacation there that he'll never forget."

"ARMAND" was a British engineer who was recruited in the early 1970s on the basis of "tax-exempt" money to provide technological information. He proved to be a workaholic who was greedy to make a fortune, and he turned his contact with the DIE into a big business.

Ceausescu became aware of "ARMAND" when the NASA technical documents he furnished caused stupefaction in Bucharest and a report about them, handwritten and signed by Gheorghe Opera, the first deputy prime minister, was presented to Ceausescu. The report stated that the NASA documents contained incredibly valuable technological and technical information never before seen in any published material. Because of imperfections in the American bureaucratic system, the material had not yet been legally classified. The report further stated that the information could be immensely useful for the creation of a Rumanian space industry, with meteorological rockets as its public facade and military rockets as its most important and much larger component.

It was proposed that the DIE mount an intensive operation to steal as many technical and technological materials from the United States as possible, before the deficiency in the security precautions would be discovered and measures taken to classify such material.

Ceausescu has a particular fascination for everything that is on a grand scale. Now, because of the NASA documents, he could visualize his dream of a space program as not only fantasy but as a real possibility. He ordered me to arrange an exposition of the most significant NASA documents in a room next door to his office, taking maximum security precautions to ensure that the secret of our possession of the NASA documents be tightly kept.

These NASA documents became a cult object of admiration for Ceausescu. The exhibit remained next door to him for many weeks, and he repeatedly visited the secure room where they were kept, asking for explanations and details. Then he started showing the exhibit off—first to his wife, Elena, then to his son, Nicu, and to his brothers, Ilie and Nicolae, both generals, and eventually to his closest collaborators, such as Prime Minister Manea Manescu and Secretaries of the Central Committee of the Communist Party Ilie Verdet, Andrei Stefan, and Corneliu Burtica.

Whenever Ceausescu took me for an evening stroll in his garden, I understood very well that he wanted to talk about something very confidential.

"Remember how, on our last visit to the United States in 1975, Kissinger said that his time and his life were limited, and that he could and would not spend them dealing with small countries, because they couldn't play any significant role in contemporary history? Or how he said that he should spend his time only on the big countries, because only they held the key for the peace and the future of mankind? I said then that he was wrong and that history would prove it. With his German head he can't understand that in today's scientific explosion, undeveloped countries like India or small countries like Pakistan can one day possess nuclear arms and then have a powerful voice in world affairs."

Ceausescu stopped, grabbed one of my buttons, and said, looking deep into my eyes, "Maybe one day Rumania, too, if we could attract Qaddafi's money."

Agents of terror

Through cooperation among the Soviet-bloc services, Communist state-owned land, air, and sea transportation organizations were secretly used as cover for the movements of specially trained officers and for the clandestine shipping of captured persons.

Based on the Bulgarian model, in 1972 the CIE (Centrala de Informatii Externe) assumed direct control of the whole TIR (Transport International Routier) land transportation system. Bulgaria has one of the largest TIR fleets in Europe, basically intended for the rapid shipment of its fruits and vegetables to the West. As was the case in Bulgaria, in less than two years' time most of the drivers of the Rumanian TIR trucks were CIE officers under cover, who were trained to transport people and equipment and to pick up espionage materials from dead drops placed along Western highways.

Patterned after Bulgaria's Balkanair, the Rumanian airline company TAROM was taken over by the military intelligence service, Directia de Informatii a Armatei. Positions in TAROM offices in Western countries were filled with officers of the DIA (Rumanian military intelligence).

Drawing on the Hungarian experience with using water transportation on the Danube for clandestine intelligence operations, the CIE took over control of the Rumanian chartering agency NAVLO-MAR, introducing undercover officers into most of its offices abroad. The Bulgarian foreign intelligence service adopted identical measures.

These measures opened a new era in terrorist operations. The intelligence officers assigned under transportation cover were intensively trained. The logistical support systems at their control soon began to be used for illegal import and export. The TIR system was used for the secret transportation of intelligence materials and prohibited goods, from embargoed alloys to Western military equipment captured in Lebanon. TIR tracks were used to ship drugs and contraband arms sold to obtain foreign currency, particularly to Turkey, with the cooperation of the Bulgarian authorities.

Some of these shipments were protected by diplomatic courier seals and papers, as well as by foreign customs seals. In Rumania, every kind of seal used by foreign customs authorities was duplicated over the years and used when needed to replace an original customs seal destroyed in an intelligence operation.

TAROM airplanes were used for the "unaccompanied diplomatic pouch," which consisted of documents, illegally obtained cash, illegal arms for use of the CIE abroad, and technology and other military equipment, including relatively large napalm bombs and COBRA and MILAN antitank missile systems.

NAVLOMAR's ships were occasionally used for bulky pieces of equipment, such as a Centurion tank the DIE obtained, Air Force radar equipment and rockets, and for technology equipment illegally imported from Japan or Hamburg.

Drawing on the experience of the Bulgarians and the Yugoslavs, in the 1970s the CIE started to look for foreign professional criminals capable of carrying our terrorist acts on its behalf. Rumania's close relations with Yasir Arafat, the leader of the Palestine Liberation Organization, opened the way for personal cooperation between DIE leaders and Hanny Hassan, the chief of the PLO security department. Specially trained PLO teams were used to carry out terrorist acts, which only Hassan knew were undertaken for Rumania. Paramilitary training schools were organized in Rumania for training Greek and Spanish Communist-party members for terrorist and guerrilla-type operations. Although the foreigners were trained under the direction of the Rumanian military forces and the DIA, the DIE utilized them for spotting foreign professional criminals. The Greek Communists were useful in recommending Greek and Turkish terrorists. The Spanish Communists, for many years exiled to France, facilitated contact with French smugglers and drug dealers.

The Mafia is another pool in which the Communists fish. In the 1970s an American citizen who lived in New York City was arrested by the Bulgarians at their border for carrying undeclared, illegal merchandise. He was turned over to Rumanian security authorities becuse his wife was a native Rumanian. He admitted to being a member of the Mafia in the United States. Asked to locate Rumanian defectors, he came up with reliable information through Mafia sources. He was given the assignment of assassinating several defectors in the United States, but the killings were prevented by my defection.

ENEMY OF THE STATE

Within the Soviet bloc, religion is considered to be even more dangerous than capitalism, because faith cannot be destroyed through political-administrative measures such as the nationalization of capital. When Communist governments, directed from the Kremlin, came to power in Eastern Europe, thousands of churches were seized and turned into cultural clubs, public libraries, Communist office buildings, or simply sealed up. Baptism, marriage and other religious sacraments were outlawed and replaced by civil ceremonies. Many churchmen were sent to labor camps and interrogation centers or secretly assassinated. In Rumania more than 400 Greek Orthodox, Roman Catholic, and other priests and religious servants were secretly arrested on one night, January 7, 1951. These operations were orchestrated by Moscow, as a step toward clearing the way for a society in which Marxism would be the sole religion.

The Roman Catholic Church, because of its close ties to the faithful, its historic ability to mobilize large population groups, its huge international membership, and its financial power, is considered by Communist governments to be a dangerous threat. The neutralization of the Catholic Church is a cardinal task for every Communist government, even in countries where there are relatively few Catholics, such as Rumania. There the Catholic bishops began to be confined to monasteries in 1948. The campaign against Catholicism culminated in a show trial organized in Bucharest by the Soviet forerunner of the KGB and the Rumanian political police in April 1951. The Vatican was accused of anti-state plotting and espionage on behalf of the CIA and other Western intelligence organizations. A number of Catholic clergy were sentenced to jail, official relations with the Vatican were broken, and the seat of the Papal Nuncio was closed.

In the 1950s operations against the Catholic Church inside the Soviet bloc began to be closely coordinated by the Kremlin. A fanatical and experienced member of the Politburo in each country was put in charge of measures against the Catholic Church. In Rumania it was Emil Bodnaras, a former colonel in the Soviet Army during World War II whose real name was Bodnarenko. In 1945, backed by the Red Army, he had been the main person behind the overthrow of the recently elected Rumanian democratic government. Bodnaras remained in charge of measures against the Catholic Church until his death shortly before my defection in 1978.

By 1949, special departments charged with supervising the activities of the Catholic Church had been created in all Soviet-bloc security forces. Every Catholic Church building and religious servant became a target. An operation coordinated by Moscow placed microphones in every Catholic church, especially in the confessionals and priests' residences. In Rumania, they were still there at the time of my defection.

THE FIRST COMMUNIST DYNASTY

Is Rumania really a maverick?

Should the West support "maverick" Rumania? Within the limits of Marxist-Leninist principles and Warsaw Pact obligations, Bucharest does display a certain degree of independence from Moscow, deciding its own day-to-day foreign and domestic policies. The nature of this administrative independence is strongly influenced by the kind of personal relationship existing at any given moment between Rumania's leader and the top man in the Kremlin.

Under Nikita Khrushchev, who was considerate of Rumania's leader, Bucharest took pains to inform the Kremlin about all its overt and covert decisions. Leonid Brezhnev, however, ignored the Rumanian leader, an extension of Brezhnev's earlier career as First Secretary of the Moldavian Soviet Socialist Republic, where he forcibly ejected the Rumanians living there after the province came to the Soviet Union following World War II. As a result, Ceausescu kept Brezhnev at a distance. Under Yuri Andropov and now under Mikhail Gorbachev, who seems to show less rigidity toward him, Ceausescu has evidently resumed closer ties with Moscow.

It is true that Rumania's political position within the Warsaw Pact embodies a degree of genuine independence and is an irritant to the Soviet Union. Until now, however, the pragmatic purpose of that posture has been solely to increase Ceausescu's personal stature and to attract Western money and technology to help build Communism in Rumania.

Rumania has today the second-most orthodox Marxist domestic policy in the whole Warsaw Pact, topped only by Albania, in the entire world. The West's support to Rumania over the past seventeen years, since its spectacular reaction to the Soviet invasion of Czechoslovakia, has not brought about any change in Ceausescu's policies toward his own people, in terms of the economy, the standard of living, or human rights. Rumania's political police are now the most oppressive in the entire Soviet bloc. The ratio of security forces to the total population is one to fifteen, higher than that in any Western jail.

In order to export more fuel, presidential decrees signed in November 1984 to forbid the illumination of the streets at night and drastically restrict the use of private automobiles throughout the whole country. According to the Western press, during this past winter the highest temperature permitted indoors in all public buildings in Rumania, including hospitals, was only 40 degrees Fahrenheit, which reportedly caused the deaths of numerous newborn babies in maternity hospitals.

Despite these dramatic signs of economic distress, Rumania has not stopped its politically motivated practice of providing long-term, low-interest—4 percent—credits to Third World countries.

In another recent announcement, the Greek newspaper *Acropolis* called attention to confidential negotiations taking place for the sale of Aristotle Onassis's famous personal yacht *Christina* (now *Aristoteles*), which was given to the Greek government after his death. It is to be purchased as a presidential yacht for Ceausescu. One of the most publicized yachts in the world, the 325-foot *Christina* is fitted with such niceties as a canary-yellow amphibian airplane on the upper deck, a lapis-lazuli fireplace, and bar stools covered with whale foreskin, which may strike only a Ceausescu as not being too much.

At the same time, Ceausescu's messengers have been visiting the United States and other Western countries asking for new financial assistance and the renewal of most-favored-nation status, all of which they claim is vitally needed to support Rumania's independence.

Portrait of Nicu

Now 67 years old, Ceausescu is thought to be seriously, perhaps terminally ill. His death, though, would not necessarily mean that control of Rumania would pass from the Ceausescu family.

Among Ceausescu's most likely successors are his wife, Elena, and his son, Nicu. First deputy prime minister and head of the National Council for Science and Technology, Elena has been called by the Rumanian press "a scientist of world reknown." Nicu was once hailed by the newspaper Rumania Libera as being a part of "the line of great continuity of the revolutionary, patriotic spirit."

In the small portrait that follows, Nicu is at the Ceausescu's Bucharest residence. Located on Primaverii Street, it is enclosed by a nine-foot, gray-brick-and-concrete wall. Ceausescu has a weekend home in nearby Snagov, a summer home in Neptun on the Black Sea, and a winter home near Predeal in the Carpathian mountains.

Ceausescu continued silently on the fast walk with me through his Bucharest garden, without looking at me or at anything around him. We passed around the indoor swimming pool, a massive, modern building constructed of concrete and glass, illuminated now in the evening. Through the open sliding door I could hear noisy rock-and-roll music and then splashes, not loud enough to have been made by someone diving but too loud to have been made by someone swimming.

As we passed the open door, I glanced inside to my right and saw Ceausescu's son Nicu throwing Scotch bottles into the pool. He was probably drunk again. Nicu has been a hard drinker ever since his middle teens, when he would often disappear from home and be found days later, drunk as a lord, at some friend's house or in some seedy restaurant. At that time he would drink anything, from tauic—a strong plum brandy similar to slivovitz, and the Rumanian national drink—to Cointreau or champagne. Now he drinks only Johnny Walker Black Label Scotch.

A passionate automobile driver, Nicu has demolished at least a dozen cars on his drunken sprees, killed one young Rumanian girl, and injured many people.

Lady Macbeth of Transylvania

When we returned from a reception and dinner given by the mayor of New Orleans during the 1978 visit to the United States, Elena was in good spirits. Ordering her favorite champagne, she said, "I had an interesting conversation with the 'mayoress.' You know, Nick? They are serious people. They don't want abortion. The 'mayoress' said that there's an anti-abortion movement in all of Louisiana and that the Catholic Church played an important role in it."

Draining her glass at one swallow, she continued: "Church or no, I've told you many times, Nick, that we should sign a presidential decree prohibiting abortions in Rumania and obliging every family to have at least four children."

Elena asked for another glass of champagne and emptied it before going on. "Everybody agrees that you are the greatest contemporary statesman and economist. Even the mayor, who met you for the first time tonight, said that you were a visionary, a personality that would live for centuries. A man like you is born once every 500 years."

Elena got yet another glass of champagne. "How do you feel, being so big, so important, and yet the head of such a little country? Only Albania is smaller than our country. If we sign such a decree, in less than ten years Rumania will grow to at least 40 million people. It will be entirely different then," she concluded.

"Hey, woman, be serious—shut up," said Ceausescu, laughing but flattered.

That was not the first time I had heard Elena trying to push through an anti-abortion law. During the countless hours I spent with her, I often saw her dreaming. Her most cherished dream is to become president herself in Rumania as her idol, Isabel Perón, did in Argentina. She dreams of having her name go down in history as the only woman president who during her presidency doubled the population of her country.

In the summer of 1977 Elena sent me to Paris for two weeks with her daughter, Zoia, in order to arrange there for an "accidental" meeting with the man she had selected to become Zoia's husband. A passionate methematician, Zoia is a genuine dissident, fighting against her father's cult of personality and her mother's reign of terror.

One evening, when we were together in a striptease nightclub in Montmartre, Zoia exploded, having understood very well what was going on: "I don't want my husband to be picked by anybody but myself. I don't want to spend my whole life just having babies. I want a life decided by myself, not by ridiculous rules and laws. If I hear the harpy trying just once more to persuade Papa to sign an anti-abortion law, I'll crack her skull open. She doesn't know how to do anything else but dream about becoming a queen over 40 million idiots!"

GOODWILL GAMES—MOSCOW 1986

Mr. DOLE. Mr. President, this morning, I had the privilege of welcoming five of the world's greatest athletes, who will be participating in the goodwill games, a summer international multisport event which will take place every 4 years. The Soviet Union will host the inaugural games in Moscow July 5-20, 1986, and the United States in 1990. More than 5,000 athletes representing over 40 countries will be participating in this new quadrennial competition.

I was also honored with a goodwill games flag from visiting athletes: 1984 Olympic U.S. gold medal swimmers Rowdy Gaines and Nancy Hogshead; triple jump world record holder Willie Banks; the captain of the 1984 gold medal water polo team, Terry Schroeder; and Russian track star Viktor Saneyev, who won the Olympic gold medal in the triple jump in 1968, 1972, and 1976.

The goodwill games will mark the first time since 1976 that Soviet and American athletes will participate in summer world class events. This is an important step toward establishing even more of an athletic bond with nations around the world.

On the heels of the successful Geneva summit between President Reagan and Soviet General Secretary Gorbachev, I could not think of a better way in which to foster mutual cooperation among nations around the globe.

As ambassadors of the goodwill games, these young athletes are participating in a 20-city national and international tour. I know their enthusiasm, which was so evident in our meeting today, will generate broad support for the games.

As a former athlete myself, I know that athletics has a way of breaking down barriers. Therefore, I hope those participating in next year's games will compete together in the spirit of good will and sportsmanship.

THE WHITE HOUSE REPORT ON NICARAGUA

Mr. DURENBERGER. Mr. President, congressional approval of $27 million in funding for humanitarian assistance for the Nicaraguan democratic resistance reflected growing disenchantment with the dictatorial actions of the Sandinista regime and was a clear signal of our commitment to help those fighting to bring democratic change to that country.

During the most recent congressional debate on Nicaragua in June, there was considerable concern in the Congress that the United States continue to pursue a peaceful solution to the regional conflict in Central America through negotiations. At the same time, many of us in the Congress strongly urged that effective and comprehensive measures be taken to ensure that those we assist in the democratic resistance are maintaining acceptable standards of human rights performance.

Reflecting these concerns, the legislation approving humanitarian assistance to the United Nicaraguan Opposition [UNO] requires a report every 90 days from the President of United States efforts to promote a negotiated solution in Central America and on alleged human rights violations by the Sandinista government and the Nicaraguan resistance.

While progress in both areas is important, I am especially concerned about the human rights performance of all of the parties that are engaged in Nicaragua's civil war. The reimposition of a state of emergency by the Sandinista government on October 15 served as a final confirmation of the autocratic basis of Sandinista rule. Since that action, hundreds of religious activists, labor leaders, journalists, businessmen, and opposition politicians have been detained, interrogated, and threatened by Sandinista authorities. These antidemocratic actions only confirm the growing international understanding of the true nature of the Sandinista regime. It is clear that Sandinista security officials, such as Interior Minister Tomas Borge and Deputy Interior Minister Luis Carrion, fear democracy and abhor freedom, except for themselves. We should not expect much progress in human rights from people like Borge and Carrion.

This is why it is doubly important to me that the Nicaraguan democratic resistance must be held to a higher standard than its opponents. The abuses of the Sandinistas cannot justify other abuses by individual members of the resistance forces. The tactics of terror—torture and atrocities—must not be countered by more terror. With our commitment to the cause of the democratic resistance, in the form of open U.S. funding, comes the obligation to demonstrate that that cause is one of freedom and civilized conduct. The Nicaraguan people deserve an alternative to terror, and if the democratic resistance is to succeed in its objectives, it must offer that alternative.

In the past several months, there have been a number of improvements in the area of human rights by anti-Sandinista forces. I want to take this opportunity to support their efforts to establish human rights commissions at various levels. I'm especially pleased that a man of Arturo Cruz's stature has undertaken special responsibility in promoting better human rights practices among the resistance forces. The establishment of UNO's Human Rights Commission under Ismael Reyes, the former head of the Nicaraguan Red Cross, and the adoption of a code of conduct are both positive developments.

It is vitally important that the Reagan administration continues to strongly encourage these developments and to strengthen the democratic resistance's human rights organizations. In my view, some of the $27 million in humanitarian assistance provided by the Congress could be well spent in furthering these objectives, and I would urge the administration to fund carefully considered projects in this field. It would be especially helpful to have onsite reports from designated human rights officials on human rights offenses committed by resistance forces or by the Sandinista regime itself. These reports should be circulated as widely as possible so that Americans can become better informed about the human rights situation in Nicaragua.

I am looking forward to the next 90-day report for further evidence that the democratic resistance is serious about its commitment to human rights through punishment of human rights offenders and promulgation of a healthy respect for accepted international human rights practices among its troops.

It appears that UNO has made a good start in improving its human rights performance over the past several months. Just as important, the November 6 report implies that both the administration and UNO are fully aware of the importance of this issue to all Americans. UNO must now demonstrate that it is committed to living up to the promise contained in the President's report—it must move beyond good intentions and preliminary steps into the practical application and institutionalization of good human rights practices and monitoring in the field.

The State Department's Nicaraguan Humanitarian Assistance Office [NHAO] has achieved impressive results in a very short time. NHAO was created by an Executive order on August 29. During the month of September, NHAO's staff was assembled and Ambassador Robert Duemling was selected as NHAO's director. In less than 3 weeks of operation, NHAO has issued $13.25 million in program grants. Of this total, $10.8 million has been committed to specific purchases, and $4.4 million has actually been paid out.

At the same time, UNO has determined the allocation of resources through its requests to NHAO. The financial assistance to UNO has been spent as follows: 40 percent for clothing, 25 percent for food, 15 percent for gear—cots, canteens, tents, et cetera—10 percent for medicine and medical equipment, and 10 percent for transportation.

NHAO is getting aid through to the democratic resistance, but it is also scrupulously observing the guidelines imposed by Congress. U.S. funds go only for authorized goods and services. All commercial transactions are carefully scrutinized for such elements as competitive price and value received. Deliveries are closely monitored to prevent diversions. Detailed records of all transactions are kept, along with signed receipts of purchase.

Despite these successes of UNO and NHAO, several problems remain to be resolved. Transportation of supplies from the United States to Central America has been subject to complications and delays. The administration and NHAO are now trying to resolve these transportation snags. Second, UNO's lack of vehicles creates problems in moving supplies to forward areas and in extracting the wounded from battle zones in time to save their lives or to avoid the necessity of amputations. To make the aid more effective, NHAO must be permitted to supply vehicles to UNO for general use.

Our humanitarian assistance must be seen in the proper context. At the present level of funding, aid is keeping the democratic resistance alive, but it is not enough to tip the balance given the vastly superior resources available to the Sandinistas. Just as important, UNO has demonstrated an ability to attract ever-increasing support from the Nicaraguan people. UNO is a popular movement that has demonstrated its commitment and its vitality.

We must therefore begin to consider what further assistance is appropriate and in our interest. On the one hand, we must avoid inducing a debilitating dependency by UNO on the United States; on the other, we must demonstrate our own commitment and staying power, and not allow this program to simply disappear on March 31.

Officials in both Washington and Managua realize that 1986 will be the critical year in the battle for Nicaragua. If the Sandinistas are able to consolidate their rule by the end of next year, we may have another Cuba in the heart of Central America. If UNO is able to become truly unified and to bring the conflict to all parts of Nicaragua, then there may be hope for the democratic forces.

Mr. President, I ask unanimous consent that the President's November report as well as an article on human rights in Nicaragua from the Washington Post be entered in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Efforts to Promote a Settlement in Central America and in Nicaragua[1]

It has been the consistent view of the United States that the domestic and foreign policies of the Sandinista National Liberation Front (FSLN) are the root source of inter-state tensions in Central America. Sandinista policies are also the cause of the internal conflict in Nicaragua. Those policies have created a democratic resistance in Nicaragua. Those policies led the resistance to conclude that change in Nicaragua would be possible only through a resort to arms. Sandinista backing of insurgent groups, in the form of organization, command and control, training, communication and logistical support, has been the major factor in the level and duration of conflict elsewhere in the region, especially El Salvador. Both the domestic and foreign policies of the Sandinistas are at issue in the Contadora process, which is seeking a regional peace settlement among the five Central American states.

The United States seeks to change those policies in four ways that would benefit peace in Central America. We seek:

Termination of all forms of nicaragua support for insurgencies or subversion i neighboring countries;

Reduction of Nicaragua's expanded military/security apparatus to restore militar equilibrium in the region;

Severance of Nicaragua's military and security ties to the Soviet Bloc and Cuba an the return to those countries of their military and security advisers now in Nicaragua and

Implementation of Sandinista commitments to the Organization of American States to political pluralism, human rights free elections, non-alignment, and a mixed economy.

The United States has sought to achieve these objectives in two principal ways:

We have supported a verifiable and comprehensive implementation of the September 1983 Document of Objectives of the Contadora process as the best hope for achieving an enduring regional peace; and,

Consistent with Contadora principles,[2] we have urged the Sandinistas to enter into direct talks with the Nicaraguan democratic resistance and civil opposition.

U.S. SUPPORT FOR CONTADORA

As Secretary of State Shultz informed the International Court of Justice in August, 1984:

"The United States fully supports the objectives already agreed upon in the Contadora process as a basis for a solution of the conflict in Central America. The objectives of United States policy toward Nicaragua are entirely consistent with those broader agreed objectives and full and verifiable implementation of the Contadora Document of Objectives would fully meet the goals of the United States in Central America. . . ."

By design of Contadora's participants, the United States does not take part in the Contadora process. In October 1982, three months before Contadora's inception, the United States and seven other democratic states of the region sought to engage Nicaragua in a multilateral diplomatic dialogue. But the Sandinistas declined to receive the Costa Rican Foreign Minister, acting as emissary for the group, on the grounds that a dialogue with a group including the United States would be structured to its disadvantage. When Colombia, Mexico, Panama, and Venezuela subsequently initiated the Contadora process, they chose not to include the United States in order to meet this Sandinista concern. Informed of this decision through diplomatic channels, we indicated our understanding and support for this initiative.[3]

The means available to us to support these regional negotiations as a result are necessarily indirect. Our support has taken various forms. Since Contadora began, we have made it clear repeatedly, both publicly and privately, that we support Contadora objectives. The President expressed that support authoritatively on April 27, 1983, before a Joint Session of the Congress.[4]

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[1] Aspects of these efforts are also treated in Part III of United States Department of State Special Report No. 132: "'Revolution beyond Our Borders': Sandinista Intervention in Central America." September, 1985.

[2] The Document of Objectives and all three drafts of a Contadora agreement provide for dialogue to promote national reconciliation.

[3] Ironically, Nicaragua in time objected to Contadora on the grounds that the United States was not a participant. This was a major reason why the Manzanillo talks were undertaken. President Ortega is reported to have suggested U.S. participation in the Contadora process during meetings with other Latin American leaders in New York, in October, 1985.

[4] The President stated U.S. support again in a July 23, 1983 letter to the Presidents of Mexico,

Shortly thereafter the President created the position of United States Special Envoy for Central America to give focus to that support and make it more effective.

Former Senator Richard Stone served as Special Envoy from May 1983 to February 1984. Ambassador Harry W. Shlaudeman was appointed U.S. Special Envoy in March 1984 and has served continuously since that time. In twenty months Ambassador Shlaudeman has made 34 trips abroad and held 179 separate exchanges with ranking officials.

The United States sought to support Contadora directly during nine rounds of bilateral talks with the Government of Nicaragua June–December 1984. Those talks were undertaken at the request of the Contadora Group for the express purpose of facilitating a successful outcome of the Contadora process. Nicaragua sought to use the talks to negotiate a bilateral settlement with the United States in lieu of a Contadora agreement. In January 1985 the United States declined to schedule further discussions pending demonstration that Nicaragua was prepared to negotiate seriously within the Contadora framework.[5]

U.S. SUPPORT FOR NATIONAL RECONCILIATION IN NICARAGUA

National reconciliation through dialogue in countries with armed insurgencies is a fundamental principle of the Contadora process. It was explicitly accepted by all five Central American states, Nicaragua included, in the September 1983 Document of Objectives. Although they signed the document of Objectives, the Sandinistas have consistently rejected dialogue with the Nicaraguan democratic resistance.[6] The Sandinistas seek instead to portray the crisis in Central America as deriving from United States hostility toward the Nicaraguan revolution. We believe that the Sandinistas' refusal to deal directly with their own people and with the legitimate concerns of their neighbors constitutes a major roadblock to peace in Central America.

Both the internal and external opposition have proposed dialogue. On February 22 the internal opposition set forth the conditions under which a national dialogue could be successfully conducted. These included the lifting of the state of emergency;[7] freedom of expression; a general amnesty and pardon for political crimes; restoration of constitutional guarantees and the right of habeas corpus; guarantees of the safety of members of the resistance movement who participate in the dialogue; and the implementation of these measures under the supervision of guarantor governments.

On March 1 the externally-based opposition (including representatives of the FDN, the Miskito group MISURA, ARDE, and prominent democratic civilian leaders such as Arturo Cruz) proposed a national dialogue to be mediated by the Nicaraguan Catholic Church. It included a mutual in situ cease-fire and acceptance of Daniel Ortega as President until such time as the Nicaraguan people decided on the matter through a plebiscite. On March 22, the Nicaraguan Catholic Church hierarchy (Episcopal Conference) issued a communique reiterating its support for a national dialogue and declaring its willingness to act as a mediator.

President Reagan on April 4 undertook an initiative to support these possibilities. A key feature was the offer to refrain from providing military assistance to the democratic resistance if the Sandinistas accepted the March 1 offer. Although the Sandinistas rejected (and continue to reject) dialogue with the democratic resistance, the President's initiative did serve to focus attention on this fundamental issue.[8]

In the context of Congressional consideration of the Administration's request for humanitarian assistance for the Nicaraguan democratic resistance, the President in a June 11 letter to Representatives Robert Michel (R–Ill.), Dave McCurdy (D–Ok.), and Joseph McDade (R–Pa.) stated that:

"I recognize the importance that you and others attach to bilateral talks between the United States and Nicaragua. It is possible that in the proper circumstances, such discussions could help promote the internal reconciliation called for by Contadora and endorsed by many Latin American leaders. Therefore, I intend to instruct our special Ambassador to consult with the governments of Central America, the Contadora countries, other democratic governments, and the United Nicaraguan Opposition as to how and when the U.S. would resume direct bilateral talks with Nicaragua. However, such talks cannot be a substitute for a church-mediated dialogue between the contending factions and the achievement of a workable Contadora agreement. Therefore, I will have our representatives meet again with representatives of Nicaragua only when I determine that such a meeting would be helpful in promoting these ends."

Ambassador Shlaudeman conducted such consultations with the governments of Central America and the Contadora Group in visits to the region in late June and early July, and in early September with the governments of the Contadora Support Group (Argentina, Brazil, Peru, and Uruguay). The Contadora Group and Support Group governments generally favored resumption and the Contadora Group publicly called on the United States to do so on July 22. Costa Rico, Honduras and El Salvador did not favor such a course (Guatemala did not express a strong view one way or the other). These Central American countries argued that the Manzanillo talks had distracted from and undermined the primacy of Contadora talks where they are the negotiators; that U.S.-Nicaraguan bilateral talks legitimized Sandinista efforts to portray the Central American crisis as a U.S.-Nicaraguan conflict amenable to full resolution through arrangements between those two countries; and that it would be particularly [illegible]priate for the United States to resume such talks in the aftermath of Nicaragua's disruption of Contadora negotiations in June.[9] Ambassador Shlaudeman also discussed the question with the leadership of the United Nicaraguan Opposition, which opposed resumption in the absence of the Sandinistas undertaking a serious dialogue with UNO. The subject was also regularly discussed in meetings with other interested governments during this same period.

On July 26, 1985, in Mexico City, Secretary Shultz explained the U.S. attitude toward national reconciliation and a resumption of bilateral talks with the Sandinistas as follows:

"Nicaragua's purpose [in the Manzanillo talks], as now, was to negotiate bilateral accords dealing on a priority basis only with its security concerns. The Nicaraguan communists refused then, as they refuse now, even to consider dialogue with the Nicaraguan democratic resistance. These conflicting purposes were never reconciled and hindered progress from the start.

"The United States ultimately concluded that the talks were detracting from instead of contributing to a comprehensive Contadora settlement. In deciding in January of this year not to schedule further meetings we made it clear that we were not closing the door to their possible resumption under appropriate conditions. On June 11 the President made public his readiness to have United States representatives meet representatives of Nicaragua when such a meeting would promote a church-mediated dialogue between the contending factions in Nicaragua and a workable Contadora agreement. . . .

"We will continue to consult closely with all parties with a view to judging the appropriateness of a resumption of bilateral talks. We strongly urge Nicaragua to begin a church-mediated dialogue as proposed by the United Nicaraguan Opposition and to return to multilateral negotiations within the Contadora Process to continue work on a comprehensive and verifiable regional accord."

THE CONTADORA PROCESS IN 1985

As 1984 came to a close, two draft agreements were under consideration within the Contadora process: a September 1984 revision of a June 1984 draft; and an October 1984 draft (the "Tegucigalpa" draft) that defined the position of Costa Rica, Honduras, and El Salvador. Following a period of private consultations among the participating governments, the Contadora Group scheduled a resumption of negotiations for mid-February. Nicaragua's refusal to respect the right of asylum, however, created a dispute with Costa Rica that prevented the February meeting from taking place. The dispute was resolved in March 1985 through Contadora Group mediation, and negotiations among Central American plenipotentiaries resumed in April.

The April 11–12 meeting resulted in agreement in principle on revised verification procedures. All five Central American governments reserved the right, however, to propose modifications. A second meeting, May 16–18, was devoted primarily to discussion of approaches suggested by the Contadora Group for resolving outstanding security issues. The May meeting focused in particular on those elements of the October

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Panama, Colombia, and Venezuela—the four Contadora Group countries.

[5] See "Revolution Beyond Our Borders," pages 29–30.

[6] The following statement by Tomas Borge, quoted in Daily Barricada, June 27, 1985, is characteristic: "We will negotiate with the Contras on the day the right wing parties and COSEP count all the grains of sand in the sea and all the stars in the sky. When they finish we will ask them to count them all again."

[7] First imposed in March 1982; additional civil liberties were suspended October 15, 1985.

[8] The President's April 4 initiative is described in: (1) "President Reagan Supports Nicaraguan Peace Process," United States Department of State Current Policy No. 682, April 4, 1985; (2) "U.S. Support for the Democratic Resistance Movement in Nicaragua," April 10, 1985: Unclassified Excerpts from the President's Report to the Congress Pursuant to Section 8066 of the Continuing Resolution for FY-1985, PL 98–473; (3) "The New Opportunity for Peace in Nicaragua; "April 17, 1985: Prepared Statement by Assistant Secretary of State Langhorne A. Motley, before the Subcommitte on Western Hemisphere Affairs of the House Committee on Foreign Affairs; and (4) "The Nicaraguan Peace Process: A Documentary Record;" Department of State Special Report 126,April 1985.

[9] See discussion of June Contadora meeting below.

1984 "Tegucigalpa" proposals of Honduras, Costa Rica, and El Salvador that the Contadora Group judged could be incorporated into the September 7 draft without difficulty. There reportedly was consensual acceptance of some of these non-controversial suggestions, particularly in the preambular section of the working draft.

At the conclusion of the May meeting, the Contadora Group governments circulated a proposal to resolve the more difficult security issues for consideration at the next meeting, in June. When the June meeting convened, the Nicaraguan delegate insisted that Contadora discuss renewed U.S. support for the Nicaraguan democratic resistance and refused to discuss the Contadora compromise proposal. Contadora Group efforts to have the Nicaraguan delegation reconsider were unsuccessful. In this situation, the June meeting was adjourned.

Nicaragua's disruption of the June meeting caused a suspension in the plenipotentiaries' negotiations that was to last four months. In July, the Contadora Group foreign ministers met in Panama to consider how the damage could be repaired. In a July 22 communique the Contadora Group Foreign Ministers announced their intention to consult bilaterally with each of the Central American governments in lieu of resuming talks.

The foreign ministers also called on Nicaragua and the United States to resume bilateral talks and on Costa Rica and Nicaragua to initiate a bilateral dialogue on a continuing series of Sandinista Army incursions into Costa Rican territory. After protesting innumerable such incidents in bilateral channels in vain, Costa Rica was prompted by a May 31 incident in which two Costa Rican Civil Guardsmen were killed on Costa Rican soil to seek an OAS investigation and condemnation of Nicaragua. The investigation established the facts, which pointed to Sandinista Army responsibility for the deaths. The OAS report refrained from stating that conclusion explicitly, however, and the OAS resolution deplored the incident instead of condemning Nicaragua and endorsed Nicaraguan and Costa Rican bilateral border talks within the Contadora framework. Costa Rica, which has relied on the Inter-American System for its national security, felt let down by the lack of forceful action and has been unwilling to hold the talks unless the Sandinistas satisfactorily explain the incident. Further incidents—in which Sandinista planes dropped bombs and fired a rocket into Costa Rican territory—took place on July 26 and August 21.

Three of the Central American governments—Costa Rica, Honduras, and El Salvador—on August 1 welcomed the visit of Contadora Group vice ministers and jointly proposed that the negotiations among plenipotentiaries should be reconvened as a prior step to developing a third draft. They proposed that the talks be strengthened by meeting in more prolonged sessions that would give the meetings a "permanent character." Following consultations August 3-8 between the Contadora Group vice ministers, Costa Rica, Honduras, and El Salvador formally reiterated this proposal September 4. The three governments also stated their view that the key remaining issues to be resolved were national reconciliation, arms and troop level reductions, and verification.

Nicaragua's disruption of the June meeting and the suspension of plenipotentiaries' talks produced generalized concern that the Contadora process was in difficulty. Special Envoy Shlaudeman consulted with the Contadora Group and democratic Central American governments following the aborted meeting in June to urge that the meetings of plenipotentiaries be reconvened. Ambassador Shlaudeman also expressed the U.S. view that any procedural or substantive inducement to Nicaragua to return to the process would invite further disruption and counseled patience. Ambassador Shlaudeman was asked by one Contadora Group government if the United States would, at an appropriate opportunity, publicly reaffirm its support for the Contadora process. The Secretary of State Shultz did so on July 26, in Mexico City:

"The United States fully supports efforts to achieve a political solution to the Central American crisis. We have given strong support to the efforts of the Central Americans themselves, assisted by the Contadora Group, to achieve a negotiated settlement. In our view, there exists in the Contadora Document of Objectives a fair, comprehensive and balanced framework for such an outcome. We expressed our support for a comprehensive and verifiable implementation of the Document of Objectives when it was agreed in September 1983. We reaffirm that support today."

The suspension of talks prompted expressions of support for Contadora from other governments as well. Following consultations with the Contadora Group governments, the governments of Argentina, Brazil, Peru, and Uruguay on July 28 formed a "Contadora Support Group." The foreign ministers of these governments met with the Contadora Group foreign ministers in Cartagena, Colombia August 23-25 to consult on how that support could be provided most effectively. A joint communique issued by the eight governments stated that there would be regular consultations among the governments in support of the negotiating process but did not, by mutual agreement, contemplate the direct participation of the Support Group governments in Contadora deliberations.

Ambassador Shlaudeman visited Buenos Aires, Montevideo, Brasilia, and Lima, the four Support Group capitals, September 10-13 to convey U.S. support for Support Group activities. The Department of State had made an official statement on August 26 welcoming formation of the Support Group, following the meeting in Cartagena. In his discussions, Ambassador Shlaudeman suggested it would be useful for the Support Group to consult directly with all the Central American governments; to urge the Sandinistas to accept the proposal of the United Nicaraguan Opposition for a church-mediated dialogue; and to meet directly with UNO leaders to form first-hand judgments as to their purposes and programs. He also briefed the Support Group governments on the Manzanillo talks and outlined United States views on the requirements for an effective and lasting peace in the region.

Costa Rica, Honduras, and El Salvador jointly requested a meeting with the Support Group governments during a September 12-13 meeting of Contadora process foreign ministers in Panama. The Support Group foreign ministers declined the request, however, out of concern that such a meeting not interfere with the Contadora process itself.

The four Contadora Group foreign ministers presented the five Central American foreign ministers a third draft of a Contadora agreement at a meeting in Panama September 12-13. The nine ministers agreed to convene negotiations on October 7, 1985 with the aim of reaching final agreement
a period not to exceed 45 days.[10] It was al
agreed that discussion would be devoted e
clusively to the timing of entry into effe
and duration of commitments; control an
reduction of armaments; verification in s
curity and political matters; military exe
cises; and operational matters that must b
addressed in order to implement an agre
ment. It was further agreed that incident
or developments in the region would not b
discussed in the meetings or condition th
participation of any delegations. The Conta
dora Group ministers stressed that the Cen
tral American states have exclusive respon
sibility for reaching agreement.

The first round of talks were held Octobe
7-11, 1985 on Contadora Island, off th
coast of Panama. A second round of talk
was held October 17-19.[11] A third round i
currently scheduled for November 6-
While various delegates have characterize
the talks in comments to reporters, the par
ticipating governments have refrained fron
issuing any joint statements or communi
ques.

U.S. DIPLOMATIC CONTACTS WITH NICARAGUA

The United States has continued, since declining to schedule further meetings in the Manzanillo talks, to have diplomatic contacts with Nicaraguan government officials in Managua, Washington and other capitals Secretary Shultz, for example, met with Nicaragua President Ortega March 2 in Montevideo, during the inauguration of President Sanguinetti. Vice President Bush spoke with President Ortega during the inauguration of President Sarney of Brazil March 16. There have been a number of contacts between Ambassador Bergold and Sandinista Government officials, as well as contacts at a lower level. In Washington, there have been meetings between Nicaraguan Ambassador Tunnermann and National Security Council officials and with Assistant Secretary of State for Inter-American Affairs Elliott Abrams.

The United States sought a meeting for Ambassador Shlaudeman with a high-level Nicaraguan official on the margins of the United Nations General Assembly this fall. The Nicaraguan Government initially accepted a meeting between Ambassador Shlaudeman and Assistant Secretary Abrams and Foreign Minister D'Escoto. The Nicaraguan Government then proposed, however, to send a lower ranking official to the proposed meeting. Ultimately, Nicaragua accepted the U.S. suggestion that Ambassadors Shlaudeman and Tunnermann meet in Washington. The two ambassadors met on October 29 and October 31, 1985.

In the October 29 meeting Ambassador Shlaudeman informed Ambassador Tunnermann that the United States would be prepared to resume bilateral talks if the Sandinistas were to accept the March proposal of the United Nicaraguan Opposition for a church-mediated dialogue and cease-fire. Ambassador Shlaudeman said that progress in this dialogue would make it possible to resolve U.S.-Sandinista bilateral problems. Ambassador Tunnermann responded on October 31 that the Government of Nicaragua rejects dialogue with the democratic resistance.

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[10] It has been suggested by some Contadora Group government officials that this refers to negotiating, not calendar, days.

[11] Several delegations noted the presence on Contadora Island during the talks of German Sanchez, an official of the Americas Department of the Cuban Communist Party.

THE PRESIDENT'S INITIATIVE ON REGIONAL CONFLICTS AND THE U.S.-SOVIET EXPERTS' TALKS

On October 24, in his address to the United Nations General Assembly, President Reagan presented an initiative on regional conflicts that is intended, in part, to support the Contadora process and an end to the conflict in Nicaragua.

President Reagan's initiative aims at achieving peace and internal reconciliation, ending foreign military involvement, and fostering economic reconstruction in five of the most pressing international conflicts: Afghanistan, Cambodia, Angola, Ethiopia and Nicaragua.

The President's plan sets forth a comprehensive and flexible framework for cooperation toward these goals among the warring parties themselves, between the U.S. and the Soviet Union, and among other interested parties. The plan, which would complement and bolster existing peace-making efforts, involves action at three levels:

The starting point is a process of negotiation among the warring parties themselves. "The form of these talks may and should vary," the President explained, "but negotiations—and an improvement of internal political conditions—are essential to achieving an end to violence, the withdrawal of foreign troops and national reconciliation."

The second level involves joint United States-Soviet talks about how best to support the ongoing talks among the warring parties, when those negotiations make genuine progress. "In every case," the President said, "the primary task is to promote this goal: verified elimination of the foreign military presence and restraint on the flow of outside arms."

The third level entails an international effort to welcome these countries back into the world economy. The President pledged the United States would respond generously to their democratic reconciliation with their own people, their respect for human rights, and their return to the family of free nations.

This plan puts the primary responsibility on the parties in conflict themselves to reach accommodation; as the President points out, it is not for the United States or the Soviet Union to impose solutions. Yet it also provides a framework for the Soviet Union to cooperate with the United States in helping to bring peace to Nicaragua.

Pursuant to a 1984 presidential proposal, the United States and the Soviet Union held experts' talks on Central America and the Caribbean October 31-November 1 in Washington. The talks were the fifth in a series of such exchanges on regional issues. Previously experts' meetings (at the level of Assistant Secretary) treated East Asia, Afghanistan, the Middle East and Southern Africa.

The purpose was to clarify U.S. policy, making it clear that the United States intends to defend its interests, and thereby reduce the possibilities of unnecessary conflict. The talks held so far have been useful in understanding the Soviet position and making the Soviets understand the U.S. position. As the foregoing indicates, the experts' meetings were held under the rubric of the President's 1984 proposal, not the 1985 initiative on regional conflicts, and were in no sense negotiations.

ECONOMIC AND TRADE MEASURES

Both the National Bipartisan Commission on Central America and the Congress have recommended use of trade and economic measures to promote a resolution of the conflict in Central America and Nicaragua, and we have regularly consulted with our trading partners and allies on this question. Positive economic incentives for Nicaragua to resolve its internal conflict have formed an integral part of every proposal the United States has made to the Sandinistas since they came to power in 1979. The President's October 24 initiative on regional conflict (see above) proposes generous economic aid where democratic national reconciliation takes place.

Even prior to the United States embargo imposed in May, 1985, Nicaraguan trade with the United States, Latin America, and other traditional trading partners had been declining because of Nicaragua's lack of credit worthiness. The composition of foreign aid to Nicaragua had also changed dramatically, with the Soviet Bloc replacing the West as primary credit suppliers and as aid donors. Any increased aid from Western donors is likely to go to regional institutions such as the Central American Bank for Economic Integration (CABEI). Neither CABEI nor most of the multilateral financial institutions are presently approving new loans to Nicaragua owing to its serious payment arrearages to many of these institutions. Nicaragua's dependence on the Soviet Union and its allies is expected to continue to increase, although not at levels sufficent to offset its economic decline.

Human Rights Issues

THE NICARAGUAN DEMOCRATIC RESISTANCE

The Sandinista regime's intolerance of dissent has resulted in a growing democratic resistance movement in Nicaragua. The most prominent leaders of this movement had been leaders of democratic sectors in the broad coalition which eventually overthrew former Nicaraguan President Anastasio Somoza. They were forced into opposition by the Sandinistas' betrayal of the promise of a pluralistic system, one of the principal goals for which the 1979 revolution was fought. Refusing to pursue internal reconciliation, the Sandinistas instead have taken increasingly repressive measures to silence the democratic opposition and consolidate a totalitarian system. As a result, increasing numbers of Nicaraguans from all walks of life have felt compelled as a last resort to take up arms against the regime. Today, the democratic resistance has approximately 18,000 men and women under arms and shows every indication of continuing to grow in strength.

Resistance forces have been charged by the Sandinista regime with a wide range of human rights abuses, from forced recruitment to rape and summary execution. These allegations have received broad coverage in the government-owned media and have been disseminated abroad through international human rights organizations and foreign groups active in Nicaragua and sympathetic to the Sandinista regime. Many of these allegations are either false or greatly distorted. Some excesses, however, including instances of forced recuritment and summary execution of military prisoners or, in certain cases, Sandinista officials and regime informers, may well have occurred. It is also clear that individual soldiers in the course of combat have committed random abuses or atrocities. Such violations are unacceptable, and resistance leaders are keenly aware of the necessity of improving the performance of their troops in this area. The principal resistance group, the United Nicaraguan Opposition (UNO), has taken measures to eliminate human rights violations committed by soldiers subordinate to its direction.

As in any conflict, there has been a serious lack of reliable information on human rights abuses that occur in isolated combat zones. While UNO has begun to record instances of abuse by its personnel, as well as remedial or punitive measures taken in response, such information was not in the past collected on a systematic basis.

Heretofore, the only regularly received allegations of resistance violations have come from Sandinista sources. These allegations have been biased, grossly exaggerated and often false. This conclusion is supported by residents in communities where atrocities allegedly have been committed and by the testimony of Sandinista defectors who were directly involved in implementing official policy. A key element in the Sandinista campaign has been the fabrication of charges of human rights abuses and, in some cases, attribution to the resistance of atrocities actually committed by Sandinista forces. The following cases illustrate these tactics:

In April 1985 U.S. Embassy personnel in Honduras, seeking information concerning resistance abuses, interviewed a number of Nicaraguan refugees. One woman related that a Cuban operating with Sandinista troops had executed seven farmers in her home village in December 1983 after an attack by the resistance. The farmers were considered resistance sympathizers by the authorities. The murders were publicly attributed by the authorities to the resistance. The true facts were later circulated by residents who had witnessed the killings.

In a complaint filed through his mother in the summer of 1985 with the independent Permanent Commission on Human Rights, a Sandinista soldier stated that he had been severely pressured by military authorities to issue statements claiming he had been abused while held captive by the resistance. He said that although he had been exposed to resistance political views, he had been well treated and given medical assistance. He was asked if he wanted to join the resistance, but when he refused he was escorted some distance from the camp and released. The soldier refused to make the statements sought by the authorities. He was then beaten badly and turned over to State Security. The soldier stated that he had been warned that he would be held in jail until he cooperated with the authorities in their disinformation campaign.

A Sandinista Army deserter, now fighting with the resistance, said he decided to go over to the other side when his unit carried out orders to execute two campesinos specifically for the purpose of blaming yet another atrocity on the "Contras."

According to those on the scene, a government press story that FSLN and neighborhood defense committee members had been brutally murdered in an August 1, 1985 "Contra" attack on Cuapa was false. Witnesses said the encounter was a military-to-military engagement which left a number of Sandinista soldiers dead; there were no civilian casualties. Following the fight, the resistance troops held a town meeting with residents, after which they left. Nevertheless, there were press reports that the "Contras" had not only murdered innocent civilians, but skinned their faces. It appears that the Sandinistas mutilated the bodies of some of their own casualties to substantiate such a charge.

The incidents cited above represent cases where available information suggests that the facts have been purposely distorted by the Sandinista regime. In most instances, however, it is not possible to confirm or deny allegations presented by the regime, a situation that should be partially remedied by more complete information being collected by UNO.

There is reason to believe that the resistance has in the past abducted civilians. Statements from a number of sources who have themselves been taken by the resistance indicate a pattern in which civilian prisoners, under reasonable humane circumstances, are exposed to "political indoctrination" (i.e. lectures on resistance goals, abuses of authority by the Sandinistas, etc.), given food and medical treatment, and offered one of three choices: joining with the resistance; accepting refugees status in another country; or returning to their homes.

An example is provided in the case of seven members of Sandinista ' education brigades"—squads of young adults who provide basic education in rural areas—who were taken prisoner by the resistance at various times and places. Rather than return home, they have chosen to remain with the armed opposition. In letters sent to their families through the Red Cross in April 1985, the former brigadistas speak openly of their opposition to the policies of the Sandinista regime and their desire to see a free and democratic Nicaragua. Several of them vociferously reject allegations of opposition abuses. The Sandinistas continue to use the "kidnapping" of these and other brigadistas in propaganda charges against the resistance.

There have been civilian casualties from resistance attacks, in some cases as a direct result of the Sandinista policy of placing civilians in situations in which they are likely to be endangered during attacks on legitimate military targets. This was true, for example, in the July 1985 deaths of eight women who were being transported in a military vehicle, along with soldiers, to visit their sons at the front.

There is no reliable information to confirm that military prisoners have been executed by resistance forces, although such executions may have occurred. Summary executions are contrary to accepted rules of conflict, regardless of the circumstances contributing to the practice.

Since its establishment in June 1985, UNO has taken steps to prevent human rights violations by establishing an office of human rights to educate troops on proper conduct towards both civilians and prisoners of war. During their basic military training, UNO troops receive one hour of instruction daily on human rights based on the Geneva Conventions, the American Convention on Human Rights, UNO's "Code of Conduct," and the "Manual of the Combatant." The "Manual of the Combatant" emphasizes humane treatment of enemy prisoners and wounded and respect for the property and well-being of innocent civilians. UNO's "Code of Conduct" sets forth specific punishments for criminal acts, including those against civilians.

Arturo Cruz, a member of the UNO Directorate, has been assigned special responsibilities for overseeing measures to promote respect for human rights by UNO forces. Ismael Reyes, the former President of the Nicaraguan Red Cross, has been named head of the UNO Human Rights Commission. UNO has also created a "red cross" society to promote the humane treatment of military prisoners. In establishing this informal "red cross" society, UNO leaders have emphasized in communications with the International Committee of the Red Cross the organization's intent to abide by the provisions of the Geneva Convention of 1949, in particular those regarding the humanitarian treatment of prisoners, enemy wounded and civilians.

UNO/FDN also has corresponded with the International Committee of the Red Cross to institute a regular mechanism under which prisoners can be released and/or exchanged. Although a decision is pending on the UNO/Nicaraguan Democratic Force (UNO/FDN) request for assistance in this endeavor, a number of prisoners have already been released. On May 13, 1985, 17 prisoners were released in the presence of witnesses in the towns of La Batea, El Espabel and El Cacao. Another nine were set free on September 19, again in the presence of witnesses, in the Somotillo/Rio Negro area of Chinandega Department. While comprehensive information is lacking concerning conditions of imprisonment, it is possible to confirm that some, such as the Sandinista soldier mentioned earlier, are detained under humane conditions.

UNO has provided Red Cross offices lists of Sandinista prisoners and dead and information regarding persons reported missing. It has forwarded letters from Sandinista prisoners. UNO has also invited the Inter-American Commission on Human Rights to send a representative to observe the conduct of its forces in the field.

A recent report prepared by the Director of the UNO Commission of Human Rights reviews twenty-one cases in which members were accused under the "Code of Conduct" of crimes ranging from theft to homicide and lists punishments accorded those found guilty. Of the 21 persons whose court-martials are addressed in the report, 19 were convicted and two found innocent. The two murder cases were a case of accidental shooting and a "crime of passion" involving only members of the FDN. In one of the cases, the defendant had stolen a horse and a pistol from a Nicaraguan civilian. Because of his mistreatment of a civilian, the normal two-year sentence was doubled.

Nineteen UNO/FDN combatants are reported currently held in detention facilities at resistance camps, serving sentences imposed in accordance with the "Code of Conduct." resistance members have also been expelled from the movement for criminal actions which may have involved human rights abuses. The punitive measures taken against human rights offenders and the efforts underway to improve the resistance record clearly indicate that the resistance leadership does not condone human rights violations and has taken positive action to prevent their occurrence.

THE SANDINISTA REGIME

On October 15, Daniel Ortega announced a new State of Emergency suspending virtually all civil liberties in Nicaragua. The decree signaled an escalation in the assault on basic freedoms, providing further legal underpinning to the consolidation of a totalitarian regime. The 1982 State of Emergency was partially lifted in 1984 as part of pre-election atmospherics; in reality, the policy of intolerance towards dissent continued in force through arbitrary arrests, detentions, and interrogations and the forcible disruption of religious, political, private sector, and labor activities. The new decree suspends the following rights and freedoms:

"Freedom of expression; freedom of th press; the right of assembly; the right t trial by jury; the right to be considered i nocent until proven guilty; the right c habeas corpus; freedom from arbitrary imprisonment; freedom of movement; th right to form labor organizations and t strike; the right to found and advance community, rural and professional organiz tions; and the right to found and advanc cooperatives.

It was subsequently clarified in the National Assembly on October 30 that certai rights are to remain in effect—the right to jury, the right to an attorney, and the righ to habeas corpus—but only for those not accused of crimes against "the security of the nation and public order." The decision as t what constitutes a crime against national security or public order rests with the Sandinista authorities, and it is apparent that ordinary political and civic activities are being placed in that category.

The Sandinistas have offered several rationales for the further oppression of the Nicaraguan people, among which they include the need to protect the public against the armed resistance. There would seem to be a striking inconsistency in attempting to close ranks against an opponent—particularly one allegedly enjoying little or no public support and whose defeat, according to the regime, is imminent—by launching an assault on the public at large. Analysis of the rising level of domestic unrest in the months preceding the announcement suggests that the actual motive was a sense that diminishing public support for regime policies had reached a dangerous level.

The crackdown was particularly directed at the Catholic Church, traditionally one of the strongest institutions in Nicaragua. The October 15 decree followed a series of Sandinista actions against the Catholic Church, including the forced induction of eleven youths preparing for the priesthood; armed raids on the broadcasting facilities of Radio Catolica and disruption of transmissions of Cardinal Obando y Bravo's homilies; confiscation of the newly-published Church newspaper La Iglesia and seizure of the printing equipment used in its publication; and occupation of the Church Curia Social Services offices. The authorities have now intensified the attack not only on the Church—some of the most prominent leaders of which have been vilified as counterrevolutionaries in the government press—but on virtually all other sectors of the opposition.

Agents of State Security have rounded up leaders of political, private sector, labor, and Church organizations, subjecting them to interrogations and threatening further action should they fail to observe the new prohibitions. One labor group, the Nicaraguan Workers Central (CTN)—associated with the Social Christian Party—has been closed down and three of its officials arrested and interrogated; political leaders have been warned against the issuance of public statements or holding of political meetings; and thousands of worshippers have been prevented by force from attending masses given by Cardinal Obando. Over a hundred persons have been rounded up and paraded as the centerpiece in the Sandinista campaign against the "internal front," another justification offered by the Sandinistas for their actions against the public. The policies now in force are clear evidence of the regime's totalitarian goals, and underscore the growing level of popular alienation from the regime.

A sinister backdrop to these actions has been provided by the revelations of a recent Nicaraguan director, Jose Alvaro Baldizon. The former chief investigator of the Special Investigations Commission, an immediate subordinate to Interior Minister Tomas Borge, Baldizon has offered detailed information, as well as supporting documents, indicating that the Sandinista regime engages in massive violations of human rights as a matter of policy. According to investigations carried out by Baldizon himself, the regime has sanctioned the summary execution of hundreds of Nicaraguans perceived to be "potential enemies of the revolution."

Specific cases investigated by Baldizon concern the application of "special measures" (execution) to 150 Miskito Indians and 300 campesinos, religious activists and political opponents. The most well-known of the Sandinistas' victims was Jorge Salazar, former Vice President of the Superior Council of Private Enterprise (COSEP), who was gunned down by State Security in 1980. Baldizon stated that weapons were placed in Salazar's vehicle after he was killed to lend credence to the charge that Salazar was planning armed insurrection in Managua. Baldizon further states that the policy of assassination has not been codified in a strict and highly-secret system of regulations governing the selection and execution of "potential enemies," authorization for which must be obtained in writing from Interior Minister Borge or his first deputy, Luis Carrion.

Baldizon's charges do not stand alone. They are complemented by a considerable body of information concerning Sandinista atrocities, some of which confirms the specific cases cited by Baldizon. The following examples represent only a small part of the information available on such abuses:

On April 16, 1985, forces of the armed resistance attacked the Atlantic Coast town of Bluefields, during the course of which they freed prisoners held at the local garrison. While some of those freed fled with the resistance when the Sandinistas counterattacked, about 20 unarmed youths took shelter under a building. The Sandinista Army took the prisoners into custody. Town resisents testify that the bodies of all of the youths were subsequently seen in a pile of "contra" corpses put on display as an example to local residents.

The Sandinistas have carried out extensive mining of border areas and around villages vacated at their orders. Although the ostensible purpose of the mining is to deny use to resistance forces, in fact many of the victims have been persons fleeing to the safety of Honduras. Indian villages in Mosquitia were similarly mined, and Indian guerrillas have stated that at least six persons have been killed by the mines when returning to their homes under Sandinista auspices.

According to a complaint filed with the Sandinista-sponsored human rights commission, several persons at the Carcel Modelo at Tipitapa went on a hunger strike in January 1985 to protest their continued detention on charges of which they were innocent and the conditions under which they were being held. As a result, they were brutally beaten, tortured, and held in isolation. There are other reports of mass executions of prisoners, including eight who headed an uprising at the Zona Franca prison in 1981.

Another complaint, filed with the independent Permanent Commission on Human Rights, relates the torture of Sofonios Cisneros Leiva, a 60-year old engineer and community leader, at State Security facilities. Cisneros was arrested the night of May 14, 1985, following a meeting he organized to discuss parental concerns over the forced Marxist indoctrination of their Church-schooled children. Cisneros was tortured by Lenin Cerna, head of State Security, who threatened to kill Cisneros, warned him to remain silent concerning his arrest, and had him dropped off naked on the Masaya highway.

According to residents in several villages, Sandinista troops have conducted deliberate attacks on civilians in order to attribute the atrocities to the resistance. For example, in March 1985 a hand grenade was thrown by Sandinista troops into a house at Los Cerritos, killing a husband and wife and their two children. In other cases, the forcible relocation of families from areas of popular support for the resistance has been accompanied by the burning of family homes and possessions, slaughter of livestock, and physical brutality against those reluctant to depart. There have been reports that persons who have refused to leave have been shot as an example to others. Resistance forces frequently report the use of indiscriminate fire by the Sandinistas in counterattacks, leading to the deaths of numerous civilians.

A Nicaraguan employee of the United Nations, Javier Ivan Blandon, disappeared while on a visit to Managua in January 1985. We understand he had come into conflict with the Sandinistas over his travel documents. Blandon's body was later returned to his family in a sealed coffin, with the official explanation that he had been killed in an Air Cubana crash. His name was on a passenger list shown to the family. Baldizon states that Blandon was murdered by State Security, and that the cooperation of the Cubans was enlisted in having his name added to the passenger list of a recent airline crash.

Martha Lidia Murillo Vallejo, a nine-year old from Jinotega, related to Honduran authorities that her father was shot by the Sandinista military in November 1984 while he and the family were picking coffee. The reason: he had refused to join the military. The rest of the family, including children, fled from the scene and were also killed. Martha escaped and hid with her uncle, who later took her to the Honduran border. There he was shot by Sandinista soldiers, and Martha was bayoneted in the neck. When she regained consciousness, she was hit in the head with a rifle butt and left for dead. She was found by resistance forces, who carried her to a nearby home. The facts of the massacre were confirmed by an official from Jinotega.

In July 1985, Sandinista soldiers near San Isidro reportedly tortured to death Ismael Cantarero because he refused to join the Patriotic Military Service. Cantarero's hands and feet were cut off.

Although the incidents related above represent only a fraction of the evidence available concerning the deliberate violation of basic human rights by the Sandinistas, there has been remarkably little publicity given to these abuses. Indeed, several reports from private human rights organizations and activists either ignore entirely Sandinista abuses or dramatically understate the significance of those abuses. Statements by Baldizon and other Sandinista defectors indicate that this imbalance is at least partially a result of a skillful, highly-organized official disinformation program.

Mateo Guerrero, a former Executive Director of the Sandinista-sponsored human rights commission (CNPPDH) who has received asylum in the United States, has publicly discussed the way in which the organization has evolved into a a propaganda tool for the regime. While the CNPPDH has always faced serious restrictions on its ability to investigate allegations of official abuses, in January 1985 CNPPDH was specifically ordered by the Foreign Ministry to cease any further efforts to do so. Guerrero further states that on several occasions reports actually written by the Foreign Ministry were published as CNPPDH documents. CNPPDH was instructed to lend full assistance to persons or groups favorably disposed to the regime who were preparing human rights reports.

In the case of Reed Brody, a New York attorney, this assistance included the payment of all expenses, including food and lodging, provision of a chauffeured car, arrangement of all interviews and provision of a list of "appropriate" cases for investigation. Mr. Brody nevertheless explicitly stated in his introduction to the study "Attacks by the Nicaraguan 'Contras' on the Civilian Population" that, although the idea for the report was conceived by the law firm of Reichler and Appelbaum (a registered agent of the Sandinista regime), neither he nor any other member of the investigations team received any form of compensation or reimbursement for their expenses, travel and living expenditures having been paid by the team members themselves. Brody's disclaimer conceded only that the team stayed in a house belonging to the regime for "part" of the visit and had used office space provded by CNPPDH. Another defector has stated that Brody selectively edited his evidence to eliminate any statements supportive of or favorable to the resistance. As a rule, inquiries to the CNPPDH and other official agencies from human rights organizations concerning allegations against the regime are satisfied by providing deliberately false information deflecting or significantly mitigating the charges.

In an effort to ensure the "correct" ideological perspective within CNPPDH, two purges of membership have been engineered by the regime. By 1982, many of the original members were replaced, in some cases because their defense of human rights per se was too vocal and too independent. Edgar Macias, a leader of the Popular Social Christian Party, went into exile after being labeled a "U.S. intelligence agent." He was followed by Ismael Reyes Rojas, president of the Nicaraguan Red Cross, whom the Sandinistas accused of embezzlement and counterrevolutionary activity. In July 1985, following Guerrero's defection, the entire membership was changed. The new members were all staunch supporters of the FSLN.

In further illustration of the CNPPDH's role as a propaganda arm, we note that in 1984 only two reports were issued, both of which addressed only allegations of resistance abuses. Concerning the regime, the documents stated only that it "was operating under a declared state of emergency." In 1985, no reports had been issued as of August. On the other hand, if the CNPPDH does not carry out investigations into abuses, it does play a vital role in meeting with foreign delegations for the purpose of denouncing the resistance. In January 1985, Alejandro Bendana of the Foreign Ministry announced to CNPPDH members that he would personally direct the group's activities in order to promote an international offensive by the Sandinistas to denounce alleged abuses of the resistance.

Baldizon adds counterpoint to Guerrero's report, stating that the CNPPDH was routinely denied access to any information concerning official abuses. He explained that his own extensive investigations were used to create elaborate cover stories, precise to the detail, which explained away Sandinista atrocities by showing the victims had fled to other countries, been killed by the resistance, or been killed while escaping. In a few instances, for the sake of credibility, individual soldiers were "found guilty" of abuses and brought to justice in show trials at which they received lengthy prison terms. (Baldizon states that these men were later quietly released, after attention had subsided, and sometimes were given government jobs in other areas of the country.) Such disinformation has been regularly disseminated to international human rights organizations.

HUMANITARIAN ASSISTANCE FOR THE NICARAGUAN DEMOCRATIC RESISTANCE

On August 29, 1985, the President signed Executive Order 12530 creating the Nicaraguan Humanitarian Assistance Office (NHAO) for the purpose of disbursing $27 million in humanitarian aid to the Nicaraguan democratic resistance. On September 9, the President designated Ambassador Robert W. Duemling as Director of NHAO.

The NHAO staff consists of the Director, five supervisory and two clerical personnel, all detailed on a non-reimbursable basis from federal agencies (State, AID and USIA), with the exception of the Director, whose salary is reimbursed to State from the humanitarian assistance program funds. Office space in a government-leased building is charged to program funds, but furnishings and equipment have been borrowed at no charge. Administrative support, including legal advice from the Office of the Legal Adviser, is provided by the Department of State.

The Executive Order assigned responsibility for policy guidance to the Secretary of State and his designees. The Secretary has established a Senior Inter-Agency Group, chaired by the Under Secretary for Political Affairs, to establish basic policy and exercise oversight of NHAO activities; policy guidance for day-to-day NHAO operations is provided by the Assistant Secretary of State for Inter-American Affairs, who chairs an inter-agency group that assures effective coordination.

As a matter of policy, the United Nicaraguan Opposition (UNO) was designated to be the initial recipient for humanitarian assistance distributed by NHAO. UNO is an umbrella organization which brings together the largest number of anti-Sandinista political and paramilitary elements. It is led by Adolfo Calero, Arturo Cruz and Alfonso Robelo; its principal components include the Nicaraguan Democratic Force (UNO/FDN), the Armed Forces for Revolution in Nicaragua (UNO/FARN), and a coalition of Atlantic Coast Indians and Creoles (UNO/KISAN). Using UNO as a conduit for assistance serves the policy objective of encouraging cohesion within the democratic resistance; it also simplifies administrative procedures and restrains administrative costs.

METHOD FOR FUNDING

NHAO is disbursing funds for four basic categories of goods and services: food, clothing, medicine and medical care, and equipment. NHAO also provides funds for transporting supplies to the field.

Funds for these goods and services are being provided to UNO through a series of grants, each of which obligates a fixed amount of humanitarian assistance funds for the use of UNO, subject to certain terms and conditions. While the grant gives UNO a conditional legal entitlement to the funds, NHAO retains actual possession of the funds and administers their disbursement. To date, three major grants totaling $5.5 million and a smaller grant of $25,000 have been issued. Once a grant has been issued, UNO identifies the goods or services it needs and a suitable vendor, and negotiates the terms of a proposed sale to UNO. These terms are set forth on a pro forma invoice which UNO submits to NHAO. The pro forma invoice is reviewed by NHAO to ensure that the goods or services are humanitarian assistance within the meaning of the law, and that the payment requested is appropriate for value received. NHAO also monitors the quantity of items, to assure against an oversupply so substantial as to suggest a possible risk of diversion. If the proposed purchase is approved, NHAO authorizes UNO to make the purchase. NHAO signals its approval to the vendor through issuance of a letter of commitment. After shipment or delivery has been verified, NHAO pays the vendor directly from UNO grant funds.

Monitoring and verification of procurement and delivery take several forms, depending on location. Within the United States, NHAO representatives are able to make on-site inspections of supplies as they are aggregated for shipment to the field. To monitor supplies and services contracted and delivered abroad, NHAO relies on reports from all available sources to confirm that actual transactions conform to the relevant documentation.

DELIVERY INCIDENT

On October 10, an UNO charter flight paid for by NHAO carrying supplies purchased under NHAO auspices landed apparently without permission in Tegucigalpa, causing the Honduran Government to take custody of the cargo. Discussions between the American Embassy and the Honduran Government resulted in the cargo being released and returned to the United States.

SUMMARY OF PAYMENTS

Following is a summary of NHAO disbursements and commitments to pay, through October 31, 1985.

NAHO Grants to UNO (to be disbursed through letters of commitment): Grant 601, $1,000,000 (Issued October 3, 1985); Grant 602, $1,500,000 (Issued October 15, 1985); Grant 603, $3,000,000 (Issued October 29, 1985); Total $5,500,000.

In addition to the above three grants for food, clothing and medical supplies, NHAO issued a small fourth grant signed October 17, 1986 for $25,000 (Grant 641-001) to fund an UNO office in Washington, DC. The grant stipulates that the activities of that office must be strictly limited to the provision of liaison services between UNO and NHAO to facilitate the operation of the program. This liaison office grant differs from the other three in that it permits UNO to receive a small advance payment of cash to cover administrative expenditures, which expenditures must be documented and justified before further cash advances are made.

UNO expenditures from grants through October 31, 1985:	
Total humanitarian assistance	$4,660,928
Food	1,257,189
Clothing	2,070,807
Medical	553,4
Equipment	639,5
Transport	139,9
Total UNO Liaison Office expenses	7,5
NHAO expenditures through October 31, 1985:	
Total administrative expenses	23,0
Direct personnel costs	13,37
Travel	4,80
Office rent	3,65
Telephone toll calls	1,20
Miscellaneous	80
Grand total	4,692,06

[From the Washington Post, Dec. 15, 1985]

SANDINISTAS INTERROGATE OPPONENTS—300 REPORTEDLY HELD FOR QUESTIONING

(By Edward Cody)

MANAGUA, NICARAGUA.—Sandinista securit officials have tightened censorship durin the past two months and, through arrest and interrogations, have issued a series o tough warnings to leading dissidents in po litical parties, labor unions and the church

The increased pressure against govern ment opponents has taken place in th framework of stiffened emergency restric tions decreed Oct. 15 by President Danie Ortega. Measures flowing from that decre have created an atmosphere of heightene determination by the Sandinista leadershi to block political opponents from any ac tions that could assist, even indirectly, U.S. sponsored rebel forces fighting to overthro the government.

Lino Hernandes, a lawyer who heads the antigovernment Permanent Human Right Commission, estimated that more than 30 persons have been summoned for interroga tion by the Interior Ministry's General Di rectorate for State Security since the Oct 15 order and that about 20 remain in jail The Rev. Bosco Vivas, auxiliary bishop of Managua, said that total includes "not fewer than 100" Roman Catholic lay activists and 50 priests.

The others have been mainly political party leaders, evangelical ministers and union activists, according to diplomatic sources, Hernandes and interviews with those called in. In addition, U.S. officials have reported that 17 Nicaraguan employes of the U.S. Embassy have been summoned for interrogation, and diplomatic sources said a few Nicaraguan employes of the Honduran and Venezuelan embassies here also have been called in.

Jimmy Hassan, a lawyer and evangelical preacher who heads the Campus Crusade for Christ in Nicaragua, said he was taken away at gunpoint by security police who showed up at his house at 6 a.m. on Oct. 31. After searching his office in his presence, police released him at 2 p.m., Hassan said, but then returned to his home at 11 p.m. with an order for him to report to House 50 in the General Directorate for State Security complex at 8 a.m. the next day.

As Hassan recalled it in an interview, he was accused of being "proimperialist" and "a friend of the [U.S.] embassy" during interrogation by several officers that lasted intermittently until 6:30 p.m., when he was released. Neither Hassan nor a number of other detainees interviewed this week reported physical abuse, although several complained of rough treatment and threats of long prison terms for opposition to the government.

Ortega, in announcing the broadened suspension of civil liberties, said it was necessary to combat an "internal front" working to support the anti-Sandinista guerrillas. With-in days, more than 120 persons were arrested in the countryside on charges of carrying messages among rebel units, the government announced. Since then, 50 more have been arrested on similar charges, according to reports reaching Hernandez's office.

Hernandes said the approximately 300 additional detentions were designed to intimidate political dissidents and encourage them to fall in line with government policies or leave the country.

"I would say the state of emergency was not directed against the armed counterrevolutionaries, but against civic opposition to the government," he said in an interview, "What they are doing is closing the little space that remains."

Luis Rivas Leiva, a leader of the opposition Social Democratic Party who was summoned for interrogation Oct. 20, said the government is tightening up political controls because "they want all the energy on the military front."

"What they have been unable to achieve with mercenary, forces, the imperialists try to achieve through their agents," said Deputy Interior Minister Luis Carrion in explaining the expanded restrictions Oct. 20. "They are trying to achieve it through open, cynical and insolent political activity."

Deputy Commander Omar Cabezas, a high-ranking Sandinista security official and author of a popular memior about his life as a guerrilla, said in explaining the interrogations of a dozen evangelical pastors that their sermons were being used to encourage draft resistance in defiance of the law.

Responding to expressions concern by related U.S. religious groups, Cabezas asked why such "uproar" should focus on Nicaragua when security forces in countries such as Chile and El Salvador murder dissidents instead of interrogating them and releasing them after a few hours or days as Nicaragua has done.

"This was the great punishment, the great sanction, that we applied to them," he said in a news conference.

"Yes, we have called in Catholic priests and told them they were violating the laws," he added later "It's the least we can do. They were violating the law. These people not only speak ill of the Patriotic Military Service [the draft], but they also invite others to refuse to serve. This is called incitement to crime in Nicaragua, and in any other country."

Bishop Visas said some lay Catholics summoned for interrogation belonged to committees preparing visits to provincial towns by Cardinal Miguel Obando y Bravo, the country's leading symbol of opposition to Sandinista rule. Since his ascension to cardinal last May, the popular prelate has been making such visits almost weekly.

Although they often took on the air of rallies during the summer, since Oct. 15 the government has forbidden outdoor ceremonies connected with the cardinal's appearances, Vivas said.

Jaime Chamorro, editor of the opposition newspaper La Prensa, said during the same time the amount of censored news has risen from about 40 percent to 60 percent of what his staff tries to report. In addition, he said, the Interior Ministry's Communications and Media Department has launched a new effort to present distribution of censored articles, which La Prensa regularly makes available to embassies and foreign correspondents.

The department head, Capt. Nelba Blandon, warned Chamorro in a letter Nov. 27 that such distribution is against the law and that if he continues he risks being held responsible under the Maintenance of Order and Public Security Law. To back up the warning further, Blandon suspended publication of the newspaper for two days this month.

FOOD AND DRUG LEGISLATION

Mr. GORE. Mr. President, for over 100 years, the Food and Drug Administration and its predecessor, the Bureau of Chemistry, have stood for public protection. From the Pure Food and Drugs Act of 1906 to the Infant Formula Act of 1980, the Congress has sought to ensure and enhance the health of the American people. Because of the importance of its mission, FDA has often endured intense scrutiny, both from the Congress and from the general public. It decisions have been heavily debated, but most often upheld. Through it all, the FDA has developed a worldwide reputation for professionalism, and a striking reputation within the Congress of the United States for being accountable for its actions.

But now increasingly that reputation is being called into question and doubt. Over the past 5 years, while other agencies have come under considerable public scrutiny and criticism for their failure to adequately protect the public health, often substituting politics for science, similar workings at the FDA have been ignored. Through the dry words of the Federal Register, the administration has launched a quiet revolution that, in my view, threatens to undermine one of the best health protection agencies in the world. This silent regulatory coup is wrong—for industry and for the public—and it should be reversed.

I. THE INTEGRITY OF THE POLICY DEVELOPMENT PROCESS

Over the last 5 years, there has been substantial erosion in the integrity of the policy development process at FDA. Because the Agency does not exist in any statutory sense, in 1982, then Secretary of Health and Human Services Richard Schweiker, in what must really be considered a landmark decision, withdrew the long-standing authority delegated to the commissioner for administering the Food, Drug, and Cosmetic Act through a simple notice in the Federal Register. This was his right under the law, but it has had several detrimental effects. First, by placing DHHS in the position of continually second guessing agency decisions, people tend to involve themselves in problems they know nothing about. A clear example of this, is my opinion, is the recent "Herbalife" episode, involving unsubstantiated health claims. Yet there is substantial evidence that the responsible and predictable scientific judgments of the experts at EDA were set aside. In their place the issue was handled in the Secretary's office, primarily by people who have no experience in the field. The result has been a flip-flop in FDA's position that has left the public confused and has cost the FDA in terms of credibility.

Allowing the Department of HHS into FDA decisionmaking has led to other irresponsible decisions with respect to the public health. Consider the problem of salmonella and camphylobacter in raw milk. There is simply overwhelming scientific evidence that unpasteurized milk is a threat to the small population that drinks it on a daily basis. Yet Secretary Heckler reversed unanimous recommendations from her scientific advisers and kept the Agency from enforcing its regulations in this area. According to Judge Gesell, the Department's reasons were "lame at best and irresponsible at worst."

One can only imagine what such incidents do to the morale of dedicated professionals. More important, they illustrate a disregard for accountability and a simplistic notion that science can simply be wished away when the politics of the situation are uncomfortable.

The FDA policy process is in disarray. Career officials at the Agency no longer believe that their views matter in the ultimate decisions. This belief will eventually corrode, if it has not already, the quality of their analysis. The competent people will leave the Agency, and that will be a sad thing for the American people.

The loss of integrity in policy development will also hurt industry. Moving the locus of decisionmaking up the ladder from the Agency to the Department will result in less timely decisions as fewer, busier people feel they must review all policies. It will hurt because it will produce a regulatory process that is unpredictable. I believe in the long run it would be far simpler to deal with a process that is predictable and works from a reliable set of rules, than one that can turn 180 degrees with a change of party in the White House—or a change in Secretary at the Department.

II. THE REGULATORS AND EXTERNAL OVERSIGHT

The specter behind the problems is in the Office of Management and Budget, the Darth Vader of the Federal Government. I consider it intolerable that critical decisions affecting the public health are made at the OMB. I was glad to learn recently that the Department will shortly announce regulations regarding aspirin and Reyes syndrome. But the delays that have occurred are an abuse of power and process. It is intolerable that an

OMB official was singlehandedly able to stop a major decision, and then gloat about it.

When officials with no training in any of the relevant technical disciplines are making the decisions, why should anyone even bother with the FDA? Such preemptory decisionmaking will only reduce accountability, and rob the FDA of the good people it needs to make the right decisions. This hurts consumers and industry. The fact is that the OMB will not and cannot make every decision. But if one constructs a policy environment in which people know their views will be overridden from outside, the incentive to make responsible decisions will disappear. The OMB cannot make drug and food additive decisions intelligently. It cannot decide whether new recombinant DNA products present substantial risks. Without a competent and responsible FDA, progress will be strangled—because the Congress will never repeal the laws that require premarket approval. The public would not stand for it.

III. THE ROLE OF ENFORCEMENT

This administration has undercut the enforcement apparatus of the FDA. Not only have overall enforcement actions declined during the past 5 years, but some laws are deliberately not being enforced.

Consider, for example, the regulations that speak to FDA's statutory role to ensure "honesty and fair dealing with the consumer." Whether or not one supports detailed food labeling standards, the fact is, these responsibilities are not being enforced. As a result, many firms are gaining an unfair advantage in the marketplace over those that continue to obey the rules. Nothing could diminish respect for the FDA faster than the presence of major market discrepancies in this area. If this administration believes these standards and regulations are no longer important, they should send Congress a legislative proposal to repeal them. The Agency should not decide for itself to pursue a policy of calculated nonenforcement. That can only invite the kind of situation that ultimately developed at the EPA.

IV. THE LEVEL OF REGULATORY RESOURCES

One of the sorriest things about the FDA today is its helpless shortage of money and people. It is easy to talk about managing more efficiently. But the same people who talk about speeding up the drug regulatory process deprive the Agency of the resources to do it. The Secretary makes glowing statements about a planning process that will prepare the Food and Drug Administration for the challenges of the 21st century. Yet at the same time, the Agency is being decimated in the budget process. This is not management; it is public relations masquerading as management.

Certainly, we must make sacrifices to balance the budget. But let's find savings that represent real efficiency—not penny-wise actions that will cost society much more down the road.

V. POLITICS AND PROFESSIONALISM

In the past, from my seat on the Energy and Commerce Committee in the House of Representatives, I have been a strong supporter of vigorous oversight. I believe that Members of Congress have a duty to hold the executive branch to its responsibilities, and even to light a fire under people at times.

But I don't think this power gives me or any other Member of Congress the right to dictate priorities to a separate but equal branch of the Government, or to twist scientific data in a way that justifies my particular social policy position. I am always willing to learn from people who devote themselves with single-minded attention to a given set of subjects on a daily basis.

I fear that some people in the administration don't understand this distinction. If we want to assure that some semblance of public confidence in the Government will remain after the Reagan revolution, we must begin to restore faith in the value of public service, and distinguish between politics fought in the open, and deals made behind closed doors.

VI. THE STATUTORY BASE

As we look toward the second century of public protection under this regulatory system, we must come back to the basic objectives and procedures of the statutes. Clearly, some tinkering can be done to improve a fundamentally good statutory base. In light of what I have laid out earlier, there is also the need for a major conceptual overhaul in the way the FDA does its work.

In the category of tinkering, I put such items as simplifying the medical device laws to bring them in tune with the realities of resources, even if those resources can be expanded. The public might also be better served by a food safety law that permitted a phase-out, rather than immediate removal, of substances that flunked the Delaney test.

At the same time, we need tougher labeling requirements to inform consumers of potential health problems. The Agency needs the same authority the Department of Agriculture already has, to subpoena records in cases of recall. In the case of human drugs, the post-marketing surveillance problem needs to be reconsidered. In all of these issues, I know that the Congress will entertain reasonable suggestions, if only the administration comes forward to debate modifications in public.

On a more fundamental level, I am reminded of my friend JOHN DINGELL's comment about the importance of process in law. "You go ahead and write the substance," he says, "and I'll write the procedure. I'll beat you every time." Now is the time to pay more attention to process when it comes to public protection and the role of the FDA. In this context, I intend to propose legislation after the holiday break that will:

First, establish the Food and Drug Administration as an intrinsic part of the Food, Drug and Cosmetic Act. The Commissioner of Food and Drugs should be a Presidential appointment, serving at the pleasure of the President. I believe as a practical matter, that the FDA will probably need to remain a part of a Cabinet Department, but the Commissioner should be free of the political control now being exerted by HHS and OMB.

Second, clarify the roles of the Cabinet Department and the Executive Office of President in regulatory decisionmaking. In my view, the FDA should have the ability to propose regulations without interference from the Office of Management and Budget. OMB, and other parts of the executive branch, should have the opportunity to work with FDA and all interested groups, during the comment period, as long as these workings are disclosed.

Third, the FDA should be reauthorized every 5 years by the relevant committees of the Congress, and it should be given an authorized level of funding that serves as a realistic target for both the budget committees and the appropriations process.

Fourth, the FDA Commissioner should report directly to the Congress, on a yearly basis. The Commissioner should be required to turn his action plan into a real management agenda for which he is accountable to the Congress. The Senate Government Affairs, and other relevant committees, should hold annual oversight hearings concerning all Agency operations.

Mr. President, the Food and Drug Administration is too important to the health of the American people to let it die a lingering death, sapped of its best people and responsibility. The Congress need not launch a witch hunt to place the blame for the current discouraging state of affairs. The responsibility rests squarely with the administration. It is unlikely that the people in charge will change, when it is clear that their objectives are being carried out. The only answer then, is for the Congress to make its wishes known through both legislation and oversight. I urge my colleagues to support a return to the ideals of professionalism and accountability that made the "Poison Squad" and its successors the epitome of progressive government and effective public protection.

APPOINTMENT BY THE CHAIR

The PRESIDING OFFICER. In accordance with Public Law 93-29, as amended by Public Law 98-459, the Chair appoints Russell Mills, Ph.D., of Kansas, to the Federal Council on the Aging.

CONGRESSIONAL CALL TO CONSCIENCE FOR SOVIET JEWS AND CHRISTIANS

Mr. KENNEDY. Mr. President, I would like to call the attention of my colleagues to the case of Dr. Anatoly Koryagin. This Soviet psychiatrist has been sentenced to 7 years hard labor plus 5 years of internal exile and is now near death in the Christopol prison.

Dr. Koryagin has opposed the psychiatric abuse of political prisoners such as the system of labeling dissidents as insane and treating them with drugs in mental hospitals. He refuses to sign a false document which denounces his evidence of such abuses. This courageous man is close to death because of his mistreatment and his series of hunger strikes.

Organizations such as the American Psychiatrics Association, Amnesty International Action for Soviet Jewry, and Physicians for Social Responsibility are deeply concerned about Dr. Koryagin. An article by Peter Reddaway, "The Case of Dr. Koryagin," in the October 10, 1985, edition of the New York Review of Books explains Dr. Koryagin's plight fully. I ask unanimous consent that the full text of this article be placed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Review of Books, Oct. 10, 1985]

THE CASE OF DR. KORYAGIN

Fears are mounting that the psychiatrist Anatoly Koryagin is near to death in the notorious jail of Chistopol in central Russia. Letters that have reached the West from his wife and a friend indicate that he is so weak that unless he is given expert medical care he could die at any time.

Dr. Koryagin has been in prison for the last four years for actively opposing the political abuse of psychiatry. The abuse takes the form of labeling dissidents as mad and forcibly treating them with drugs in mental hospitals.

Koryagin is an unfanatical man of forty-seven, married to another doctor and the father of three boys. His motives are human compassion and a strong concern for medical ethics. His sentence of seven years' hard labor plus five years internal exile was longer than those imposed on other members of his human rights group, evidently because he was the only psychiatrist in it and the authorities were anxious to intimidate his fellow psychiatrists into silence.

Koryagin had examined sixteen dissidents who had been labeled mentally ill for their dissent, and found that the diagnoses were false. His main report on his work was published in the British medical journal, "The Lance", and has just been printed in the book "The Breaking of Bodies and Minds", edited by Eric Stover and Elena O. Nightingale (W.H. Freeman). In recognition of his work and his courage Koryagin has been elected an honorary member of the World Psychiatric Association and of leading psychiatric and scientific bodies in Britain, America, France, Canada, and elsewhere.

Ever since his arrest Koryagin has been subjected to a gradually escalating series of psychological and physical pressures, then to outright beatings. The unconcealed aim has been to force him to sign a false statement denouncing his own evidence of psychiatric abuse. Since this aim has been thwarted by his consistent refusal to go against his conscience, the authorities have evidently begun to consider bringing about his death.

Their technique has been to isolate him from other prisoners; then, by putting mental and physical pressure on him, provoke him into his only means of self-defense, the hunger strike. Then, although Soviet regulations require them to keep him alive through force-feeding, they keep him hovering on the brink of death, too weak to start eating again without expert help, even when he wants to. The apparent hope is that his heart will eventually give out and he will die. In that event the authorities will have documentation to "prove" that they did everything they could to preserve his life. This interpretation of their behavior is confirmed by the new letters from Russia I have mentioned as well as by the fact that several other political prisoners have died in similar circumstances in the USSR in recent months.

No friend or relative has seen Koryagin since September 1983. For a year up to last June no communication of any sort was received from him. Then his wife got a letter containing advice on how to bring up the children, but with no information on his own condition. He may, it is feared, have written it in anticipation of his death

The letter from his wife, Galina, who lives in the Ukrainian city of Kharkov, was written last November but only recently received in the West. She refers to a six-month hunger strike begun in December 1982, and comments that "it was only by some miracle that he survived: his life hung by a thread." Then a family visit was allowed in September 1983:

When I saw Anatoly, there was nothing in my heart but horror—fear for his life, compassion, and anguish at my powerlessness to help him.

The visit lasted two hours; for about an hour I couldn't speak, because of the convulsions in my throat. The talking was done by him, his mother and the children. I immediately understood, without words or explanation, what had happened. He was like a medusa, so bloated that his neck was wider than his face. It was covered with oedemas caused by protein starvation.

Throughout his imprisonment he's been constantly reduced to a state of extreme weakness . . . by the torture of cold, hunger and sleep deprivation, of harassment, humiliation, mental agony, and even beatings. So it's hard, even terrifying for me to imagine how he is now (after a new hunger-strike).

The letter from Koryagin's friend, which was written in June and reached the West last week, is an appeal to doctors throughout the world. The author is well known to Koryagin's friends in the West, but, in the current repressive climate in the USSR, prefers to remain anonymous. Extracts from the appeal follow:

"I remember Tolya Koryagin as a tall, handsome, broad-shouldered man, with a good-natured smile. That's how he was when first he entered our house, and that's how he looked when I saw him last, not long before his arrest. It's terrifying what they've turned him into during his years in prison—a virtual corpse, bloated from almost continuous hunger-strikes, sprawled on a crude prison cot. . . . They beat him brutally."

There are no words to describe the pain and humiliation of artificial feeding. Andrei Sakharov (the famous physicist), according to his family's reports, gave up his hunger-strike last year after a month: "It was too torturous," he explained.

Anatoly Koryagin has been on hunger-strike for nearly a year. He is slowly dying in the Chistopol prison. His family is suffering dreadfully in Kharkov.

I appeal to all the doctors of the world, and also to each of you individually. Today your colleague, the doctor Koryagin, is near to death because of his loyalty to the Hippocratic Oath. Today he and his family need your immediate help. Tomorrow it may be too late. I ask you to do everything to secure the immediate emigration of Anatoly Koryagin and his family from the USSR.

I suggest that as this can't be done by normal means, you make the Koryagin family's immediate emigration an absolute condition of any cooperation with the health organizations of the USSR.

You have the real chance to save a human being's life. Peter Reddaway

A FIFTH PROTOCOL

Mr. PELL. Mr. President, the one concrete result of the recent Geneva summit between President Reagan and General Secretary Gorbachev was an agreement to expand people-to-people contacts between our two countries. This proposition is of considerable significance.

Expanding exchanges between the United States and the Soviet Union has both a lofty and pragmatic dimension. Ideally, exchanges should contribute to peace. As Senator William Fulbright put it when introducing legislation creating the Exchange Program that now bears his name, if a larger number of the world's people knew and understood each other, "they might develop a capacity for empathy, a distaste for killing, and an inclination for peace." Hopefully, as Americans and Russians get to know each other as people, each side will be that much more hesitant about blowing up the other.

As a pragmatic matter, each side will adopt more realistic and more workable policies toward the other if the policymakers have a better understanding of the other's society. For this reason, I myself have made several trips to Moscow in recent years to talk to the Soviet leadership, and I have encouraged my colleagues to do likewise.

For similar reasons, I have strongly supported efforts to increase exchanges between the younger genera-

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tion of political and economic leaders in the two countries. One very fine program, now underway, is being conducted by the American Council of Young Political Leaders and the Committee of Youth Organizations of the U.S.S.R. This exchange brings Democratic and Republican elected officials together with the Young Komsomols, the younger Communist Party leadership.

A key problem of many United States-Soviet exchanges is, however, a lack of full reciprocity. As Prof. Richard Gardner points out in a recent New York Times op-ed piece, the domination of the Soviet Academy of Sciences over the Soviet-American dialog has led to a frustrating lack of symmetry. While American groups contain those with access to the highest levels of government, Soviet participants rarely include officials responsible for policy or the rising stars of the Communist Party.

While an exchange like that by the American Council of Young Political Leaders partially addresses this problem, I concur with Professor Gardner that a more comprehensive approach should be considered. Professor Gardner proposes the creation of a new Soviet-American Institute based in Washington and Moscow, and headed by cochairmen of the highest standing and access.

Soviet participants in any exchange will of course be the most dedicated Communists. I believe, however, that even in this case exposure to Americans and to our free society is bound to have some beneficial impact. If a new United States-Soviet Institute can contribute to raising United States-Soviet exchanges to a higher level, it could make a valuable contribution indeed.

Mr. President, I ask unanimous consent that Professor Gardner's article, "A Fifth Protocol," be inserted in the Record. I commend it to my colleagues.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the New York Times, Oct. 22, 1985]

A "Fifth Protocol"

(By Richard N. Gardner)

Despite Moscow's dramatic arms control proposal last month, we are unlikely to see breakthroughs on the four Summit agenda items to which the United States is giving priority—arms control, regional political issues, trade and human rights. But the interests of both sides could be served by a "fifth protocol" that would provide for a new and more satisfactory channel of communication between American and Soviet leadership groups.

For generations, the Soviet Academy of Sciences has virtually monopolized the dialogue with the American academic, scientific and business communities. This has led to a frustrating lack of symmetry in communication, for despite the high quality of some of its scholars, the Academy is neither independent of the Soviet Government nor representative of its senior decision makers.

While American groups serve up an array of past and future policy makers or people with direct access to the highest levels of government—people such as Harold Brown, former Secretary of Defense—the Soviet side is usually represented by figures such as American expert Georgi Arbatov. They are generally well informed, cooperative and friendly. But we who participate in these meetings rarely see a senior official responsible for Soviet defense or arms control policy, a rising leader of the Communist Party, much less a present or likely future member of the Politburo. Surely a more authoritative Soviet channel can be found than the Academy of Sciences.

So here is an idea for Mr. Reagan to float in Geneva. Let the two governments create a new Soviet-American Institute, headed by Soviet and American co-chairmen who have access to the highest levels of their governments, with headquarters in Moscow and Washington. The Institute would organize small seminars for periods of a week or more. These would discuss not just hot political items—the Middle East, for instance—but also global questions such as the environment and economic development, where present policies are less rigid and the scope for cooperative action large.

Institute members from both sides would be expected to produce serious reserch papers, not the familiar propaganda statements. Most important, the Soviet co-chairman would be expected to mobilize the rising stars in the Soviet political, military, and economic establishments, just as the American co-chairman would be expected to deliver key members of the Congress, businessemen, labor leaders and academics.

Such a "fifth protocol" would not substitute for existing unofficial channels in the Soviet-American dialogue. But it would help assure that future Soviet leaders spend time in the United States and acquire a network of influential American contracts before reaching the pinnacles of power. It would also help our emerging leadership learn more about the men who will rise to power in Russia. And it would represent a quantum leap forward in the avenues of mutual information and understanding.

STRATEGIC DEFENSE INITIATIVE

Mr. HEFLIN. Mr. President, on December 3, 1985, I gave a speech to the American Security Council regarding the strategic defense initiative. I believe there might be information in the speech which could be useful to Members of this body. Therefore, I ask unanimous consent that this speech be printed in today's Record.

There being no objection, the speech was ordered to be printed in the Record, as follows:

Speech of Senator Howell Heflin Before the American Security Council, December 3, 1985

Now that much of the fanfare which accompanied the Reagan-Gorbachev summit has subsided, we can assess in realistic terms the results and long range impact of that historic meeting. In my mind, there is no doubt but that the summit was a success for many reasons and I heartily congratulate President Reagan.

Why do I believe the summit was successful from the U.S. point of view? First, the leaders of the world's two great superpowers met face-to-face, eyeball-to-eyeball, and came away with a better understanding of each other's views on important issues. Second, President Reagan and Secretary Gorbachev pledged to accelerate arms control negotiations and called for a 50% reduction in nuclear arms by each side. Thus, at the very least, the two leaders established a framework for limiting nuclear weapons when negotiators meet again in January. Third, Reagan and Gorbachev agreed to future meetings which will further ease tensions and provide a continuing dialogue between the two nations. Fourth, the Soviet Union is now fully aware of President Reagan's resolve to go forward with the research and development of strategic defense technologies.

While this meeting promises a thaw in U.S.-Soviet icey relations, a new realism nonetheless pervaded at this summit in which both sides acknowledged the ideological and sociological differences between these two countries. Such issues as human rights, arms control, Poland, Afghanistan and the Strategic Defense Initiative will not be easy to resolve. However, both men discovered that the Soviet Union and the United States can, to some degree, do business together.

I was particularly pleased with the President's refusal to bow to the pressure on the Strategic Defense Initiative. Our country has embarked upon a program to counter the Soviet nuclear ballistic missile threat with defensive measures. It is intended to be defensive only and should not be compromised for mere promises or modest changes in the status quo. And while we can applaud the President's commitment to SDI, there are nonetheless many battles ahead on this program, many of which will be fought in the Halls of Congress. For the next few minutes, I would like to discuss some of the important SDI issues which will no doubt be heatedly debated over the next several years.

One of the most immediate and important concerns for those of us who support the SDI program is it's cost. Future costs of the program are actually unknown at this stage because no one knows what research will develop. For the years 1985–1989 the predictions are that the Pentagon will require more than $26 billion for the SDI program. However, some critics of the program argue that this figure is far too low and that by the beginning of the next decade SDI could command up to one-third of the total research funds. It is feared by these critics that this would severely hamper new defense projects. Obviously, frequent and periodical examinations and evaluations of costs and programs will be required, however, research should go forward at this stage.

I think what must be kept in perspective, despite attacks on SDI to the contrary, is that the goal of the program is to protect America. U.S. Strategic Defense has been drastically underfunded for many years. Thus while, the U.S. has cut back on funding for defense since the 1972 Anti-Ballistic Missile Treaty, the Soviet Union has not. It is also important to remember that SDI is not a totally new program but is the result of integrating a number of projects ongoing within the DOD and other agencies under one umbrella organization.

Thus far, proponents of SDI in the Congress have rallied each year to defeat attempts to cut the program below what is feasible to maintain its goals and objectives. However, I expect attacks on SDI to continue each year when Congress considers the defense funding bills.

A second important issue is the argument propounded by SDI critics that the program may violate the spirit of the Anti-Ballistic Missile Treaty. This treaty was signed by the Soviet Union and the United States in 1972 as an acknowledgement by both sides of the futility of building terminal stage intercept systems to guard against warheads delivered by ballistic missiles. It was seen as a major step toward ending the arms race in that offense would no longer be required to build more weapons to saturate the defense. The treaty permitted each side to build an anti-ballistic missile defense around a single site and to continue research into ABM systems. However, the building of new components was prohibited under the treaty.

In my opinion, and that of many experts, the charge that the SDI program constitutes a breach by the United States of the ABM treaty is totally unfounded. SDI is a comprehensive research program only and does not include development or testing inconsistent with the treaty. No decision on development or deployment of the system has been made and will not be made until we know the results of the research. Nothing in the ABM treaty prohibits this type of research. With the SDI program the United States is merely investing in research of a wide range of technologies such as computers, sensors, radars, high energy particle beams and lasers. If a comprehensive, strategic defense system proves not to be feasible, the program should nonetheless result in many important technological spinoffs. It is also important to remember that the Soviet Union is pursuing research very similar to our SDI.

According to Soviet Military Power, DoD's analysis of the Soviet Union's military programs indicates that Russia could field a space based prototype laser for use against satellites by the end of the 1980s. Furthermore, space-based laser systems for ballistic missile defense could be ready for deployment by the Soviets "after the year 2000."

A third issue which has yet to be fully debated is one raised by the Administration itself, and that is whether the SDI technology will be deployed in some kind of cooperative effort with the Soviet Union. The Reagan Administration has maintained that SDI is purely a defensive system and should not threaten the balance of power. To reinforce this point, Administration officials, including President Reagan, have stated that the system, if deployed, would be shared with the Soviet Union. The President has even proposed that the U.S. might share it's strategic defense technology while it is still in the research and development stage.

Although there would, no doubt, be many stringent requirements placed on sharing our SDI technology with the Soviet Union, I nonetheless believe we must be extremely cautious about sharing our military secrets with hostile countries. SDI represents the most sophisticated technology being develeoped in our country and sharing it with the Soviet Union could prove to be extremely dangerous. I'm afraid that the United States may, down the road, regret sharing nuclear technology with other nations given the current threat of nuclear proliferation among third world countries. We must raise the flag of caution in this area and do nothing that could ultimately threaten the security of our country.

The fourth issue I want to discuss with you is one I have talked about since the inception of the Strategic Defense Initiative, and that is the need to maintain an evolutionary approach to strategic defense. An evolutionary approach to strategic defense means stepping up the pace of research on advanced, long range defense concepts such as directed energy devices while continuing work on more mature, near term ballistic missile concepts. The United States must maintain the option of deploying a BMD system of relatively mature technology within a decade.

Under the terms of the ABM Treaty, both the United States and the Soviet Union have the right to build a limited missile defense system with up to 100 interceptor missiles. Soon after the treaty was signed the Soviet Union began to deploy a ballistic missile defense system around Moscow and today it is fully operational. The Soviets now have the capability to protect Moscow from a limited missile attack. The United States on the other hand, would be helpless if it were attacked by nuclear missiles. The ability to respond to unforeseen national and international developments quickly and effectively constitutes one of the greatest reasons for pursuing conventional, near term BMD research. A ballistic defense system would allow the United States to counter an accidental or erroneous launch of a nuclear missile and provide the time necessary to make vital decisions.

Maintaining the option to deploy a BMD system is also an appropriate response to the ongoing and extensive Soviet anti-ballistic missile effort. The Soviet Union has had a very active BMD program for many years. As I noted earlier, they are also engaged in extensive research on lasers and neutral particle beams for their strategic defense. It is vital to our nation's security that we provide a deterrent to any Soviet decision to expand its ballistic missile defense capability beyond that permitted by the ABM treaty.

Last year the Army successfully demonstrated the capability of a non-nuclear missile to intercept and destroy an incoming warhead outside the earth's atmosphere. If we are to maintain this momentum, it is essential that the Strategic Defense Initiative Organization vigorously pursue research on near term deployment options. The option of deploying a BMD system around Washington, D.C., as the Soviets have done around Moscow, is one which should be seriously investigated. Washington is the seat of power for the free world and yet would be extremely vulnerable to missiles launched by Soviet submarines off the U.S. coast.

A BMD system may also be needed to enhance the survivability of America's land-based ballistic missile forces, particularly the MX missile. For a number of years we progressively developed the technology necessary to defend any ground-based ICBM. Our technology has progressed to the point that an effective system could be engineered. Also, BMD is not exlcusively related to a specific MX basing mode, or even exclusively to the MX. Its components could be packaged to defend either fixed or deceptively based ICBMs. A mobile ICBM launcher must have a base or bases.

The decision of whether to deploy a BMD system for point defense does not have to be made at this time. Such a determination would necessarily be based on a number of factors. However, in order to maintain the option of deploying such a system in Strategic Defense Initiative Organization must re-emphasize near term, conventional BMD research and development.

The problems of mounting deficits which will no doubt result in budgetary cuts and possibly cuts in military spending, dictates an evolutionary approach to SDI development. Otherwise, near term successes, which are crucial for a sustained SDI effort, will be lost as well as a thus far successful investment of billions of dollars over a ten year period in BMD research.

CONCLUSION

Today the world is confronted by an awesome military balance between two great superpowers. That balance is constantly changing as technologies are developed by both sides which place at risk present systems. In my judgement, development of a strategic defense system would do much toward accelerating a nuclear ballistic missile disarmament. If our SDI technologies do prove feasible and a defense system can be both cost effective and survivable it would ultimately increase a potential attacker's uncertainty about the likelihood of a successful attack, which would enhance deterrence. If each side neutralizes the other's offensive ICBM capability, the threat of ICBMs must be reduced. We all agree that the United States must pursue equal and verifiable agreements with the Soviet Union to produce real reductions in the nuclear arsenal of both sides. The SDI can be a crucial means by which such agreements can be reached.

RECESS UNTIL 2 P.M.

Mr. WILSON. Mr. President, I ask unanimous consent that the Senate stand in recess until 2 p.m.

There being no objection, the Senate, at 12:53 p.m., recessed until 2 p.m.; whereupon the Senate was called to order by the Presiding Officer [Mr. MATTINGLY].

VETO OF TEXTILE AND TRADE BILL

Mr. HEFLIN. Mr. President, I am terribly disappointed that the President has vetoed the textile and trade bill.

Our Nation is in the worst trade crisis in more than half a century. This year we may have a trade deficit of more than $150 billion.

This legislation is important for the American people; it is important for the American economy. It aggressively attacks the unfair trading practices by other nations and the weak enforcement of American trading rights.

The list of Alabama communities with textile and apparel plants idle, dark, and closed grows every month. Other mills have been forced to reduce their work force and shorten their workweek.

In the last year alone, 12,000 Alabamians have lost their jobs in this industry.

It is the duty of Congress and the President to provide for a level playing field for our international trade activity. With this veto, again the U.S. State Department and the international bankers have flexed their muscles and have shown they control the White House.

THE PRESIDENT'S VETO OF THE SHOE AND TEXTILE BILL

Mr. SASSER. Mr. President, I am saddened and frustrated by the President's action in vetoing H.R. 1562, the shoe and textile bill.

Once again, the President has shown his utter disregard for our citizens who are losing their jobs due to imports. Once again, the administration has shown that it has no trade policy. Once again, we see American industries sacrificed on the alter of free trade.

Well, Mr. President, they are worshipping a golden idol. There is no such thing as free trade in the international marketplace. Every nation has in place trade restrictions. Every nation helps its industries with subsidies, with restrictive licensing laws, with currency manipulation, or with quotas.

What this administration doesn't seem to realize is that it is presiding over the deindustrialization of America in the name of free trade. They assume that there is some magic point at which the United States will be free from further import penetration. Well, when do they think we will reach that point? We have seen industry after industry squeezed out by imports—shoes, textiles, electronics, televisions, steel, and automobiles.

The administration seems to think that it is all right to crumple up certain industries and throw them away. They seem to think that these unemployed workers can just get another job in another industry that somehow will never be touched by imports.

Well, that just isn't true. It is not only old industries that are falling to imports, new industries—computers, computer chips, semiconductors, are facing the same pressures. In 1980, U.S. high technology exports stood at $26.6 billion, and were on the increase, helping to offset the declining surpluses in other segments of the American economy. By 1984, American high technology exports had fallen to a mere $6.2 billion—and during the third quarter of 1984, the United States for the first time, ran a deficit in high technology trade. The sharp drop in the 1984 high technology trade surplus stemmed from a 44-percent jump in imports against a 9-percent rise in exports.

Mr. President, there is no magic cutoff point for import pressure. There is no industry that is too sophisticated for our trading partners to target.

The administration is fond of talking about the new jobs that have been created in the last few years of high imports. But let's take a look at those jobs. Over a third of them have been created in three areas: temporary services, sales clerks, and fast food. Is that what this administration envisions as our future industrial base, safe from imports? Do they think that our trading competitors can make a semiconductor but not a hamburger?

We simply must develop a coherent trade policy. We must offer short term assistance to some industries to help them regain their competitiveness as well as develop programs to cure the long term structural components of the trade deficit.

H.R. 1562 offers the chance to address the short term problem of industries that need assistance to regain competitiveness.

For the shoe industry, it would provide a period of stability so that they can further modernize their industry to compete with imports. The industry isn't asking for this relief so it can sit back and do nothing. They have offered an aggressive 5-year plan to improve their plant and marketing techniques and thus improve competitiveness.

For the textile and apparel industry, H.R. 1562 says we are going to enforce our trade agreements. We are going to make our trading partners adhere to the treaty they signed. A good deal of the problem in the textile and apparel industry is due to the fact that the administration keeps telling country after country that they don't have to live up to the multifiber agreement. It's bad enough to stand around and do nothing and lose an industry to imports. In the case of textiles and apparel, we're giving it away.

As I travel around my State of Tennessee, I continually see the effects of shoe imports on our citizens. Seven shoe facilities were closed in Tennessee last year, and another five have closed so far this year. In these towns, shoeworkers are already out of work or will be put out of work in the near future. I talk to individuals who have lost their jobs in the communities where they have lived and worked for years. And they face the future with no prospects of new jobs.

Tennessee is the fifth most important footwear producing State in the country. The industry employs about 10,000 workers in 25 factories and generated in excess of $96 million in payroll dollars last year. We simply must preserve these businesses and these jobs for our citizens.

The footwear industry is the leading employer in 6 counties in Tennessee and is among the top 3 employers in another 14 counties. It is a significant industry in 28 counties; 24 of these 28 counties have populations under 50,000; 16 of them have populations under 25,000.

My State of Tennessee ranks eighth in the textile and apparel industry. It employs over 87,000 people, with a payroll of $658 million. The facilities there are facing the same pressure from imports as those in other States In the first 8 months of this year, textile and apparel imports have cost over 7,500 Tennesseans their jobs.

But these figures are more than mere statistics. They represent real people and real jobs. The closing of a shoe, textile, or apparel factory can be devastating to a local community. Many such facilities are located in rural areas. They are often the major employer in the area—areas which have few comparable jobs to which workers may transfer their skills. Many people are prevented by family obligations and ties from moving to a new area—especially when there is no guarantee that they will not face the same situation sometime down the road.

These hardworking citizens deserve the help that this bill can provide.

While the hour is late in this session, we are going to be back here next year, and I hope the first order of business will be a comprehensive trade debate. It's time to take a hard, cold look at our trade laws, because they're certainly not working now.

In my view, a coherent trade policy must be developed to curtail the serious injury from imports being suffered by industry after industry. I intend to be an active participant in that debate.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SYMMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER [Mr. GORTON]. Without objection, it is so ordered.

The Senator from Idaho is recognized.

Mr. SYMMS. Mr. President, are we still in morning business?

The PRESIDING OFFICER. The Senate is in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE FARM BILL

Mr. DOLE. Mr. President, we want to get on the conference report on the farm bill momentarily. The distinguished chairman of the committee is on his way and Senator ZORINSKY and others who wish to speak on the conference report are ready.

I think it is well to point out that I happened to witness the vote on the House floor. And, having witnessed a number of votes on farm bills on the House floor, I do not recall any with the margin that this bill had of 325 to 96; and not voting were 14.

But I think the encouraging thing was most farm State Members supported the bill. I think all but one Republican on the House Agriculture Committee supported the bill. I do not know how many Democrats, but all but seven or eight supported the bill. The one conferee who voted against the bill did sign the conference report and voted for the conference report. It had not changed any since that time.

So I believe, overall, the message was fairly loud and clear that this bill does represent a bipartisan effort. It may not be perfect legislation. Farm bills never are. There will be another one, I assume, and it may not be perfect, either.

But it would be my hope that we could move quickly on the farm bill. I believe the President will sign it. I hope he would have a signing ceremony where he would sign both the farm credit legislation and the farm bill together. It would seem to me that would be sort of a double-barreled message to farmers of America that the President is concerned about their welfare, as he is.

If we can move quickly on this conference report this afternoon, then I hope that before we all take off we could join the President in the ceremony which is not only symbolic but I believe would send a genuine signal to America's farmers.

Mr. President, let me extend my thanks to all members of the conference—Republicans and Democrats, Senators and House Members—because it was a long, long period, and a long, long session. Particularly, I commend the chairman of the conference, the Senator from North Carolina, Senator HELMS, for his patience and understanding.

It seems to me that we were able to put together, in most cases, a satisfactory solution to everyone's problem. In some areas, of course, there are still strong differences of opinion but, overall, I found the attitude among conferees of both parties and both bodies to be very positive. And that, in itself, reflects well upon agriculture and the challenge ahead as we help farmers who are in deep distress.

FOOD SECURITY ACT OF 1985—CONFERENCE REPORT

Mr. HELMS. Mr. President, there is a conference report at the desk to accompany H.R. 2100, the farm bill, and I ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

> The committee of conference on the disagreeing vote of the two Houses on the amendments of the Senate to the bill (H.R. 2100) to extend and revise agricultural price support and related programs, to provide for agricultural export, resource conservation, farm credit, and agricultural research and related programs, to continue food assistance to low-income persons, to ensure consumers an abundance of food and fiber at reasonable prices, and for other purposes; having met, after full and free conference, have agreed to recommend and do recommend to their repective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Is there objection to the request of the Senator from North Carolina?

There being no objection, the Senate proceeded to consider the conference report.

(The conference report is printed in the House proceedings of the RECORD of December 17, 1985.)

Mr. HELMS. Mr. President, after an entire year of work, 26 days of hearings, 38 days of markup, 12 days of floor debate, and 8 marathon conference sessions, the conference report on the 1985 farm bill is before us.

Mr. President, I have reflected upon this past year. I recall, right after the November elections, it became clear that I would again have the duty as chairman of the Senate Agriculture Committee to oversee the drafting of a farm bill, and it was at that time that I stated my conviction that it was time for a change in farm policy. I recall saying over and over again that what American agriculture needs most is a course toward market orientation that would restore competitiveness to U.S. agriculture.

Mr. President, I think that this farm bill, entitled the Food Security Act of 1985, is the beginning of a transition to market-oriented farm policy.

Now, in all honesty, the bill is not exactly what I would want if I had the right and authority to prepare a bill precisely to my specifications, but it is a good bill.

There are many important reforms in this bill, but the most important aspect is that this bill will restore the United States as a strong competitor in world markets and thereby increase exports of U.S. farm commodities. No longer will our Nation encourage farmers to produce commodities just to be sold to the Government for storage. U.S. agriculture will now head back to the free market concept which should never have been abandoned in the first place.

This 5-year bill reduces loan rates for wheat, feed grains, cotton, and rice, sets target prices for those program commodities, reauthorizes other commodity programs, extends and expands export programs of the U.S. Department of Agriculture, contains strong, new soil conservation provisions and improves the effectiveness of the credit programs of the Farmers Home Administration.

This bill, as approved by the conference, is the beginning of a slow, but decisive, transition to market oriented farm policy. The significance of the 1985 farm bill is that Congress has begun the process of correcting the failures of past farm policies. A new era of hope is in store for American farmers.

Passage of this legislation marks the starting point for the return of the American farmer as a strong competitor in world markets. By allowing for reductions in the basic price support mechanisms and giving the Secretary of Agriculture authority to make additional reductions when competitive conditions warrant, Congress has made a commitment to a vigorous export policy for U.S. agriculture.

The legislation sends a clear and unmistakable message to countries which have been using export subsidies to unfairly increase their share of world markets: the American farmer is back as the major competitor in world markets.

The loan rate reductions in the bill are supplemented by a strong export title which expands current export programs and creates new tools for the Secretary of Agriculture to use to promote U.S. exports.

At the same time, farm income protection will be maintained at record levels in order to assist farmers financially during the transition to market-oriented pricing of their products.

In all candor, the bill is not without its flaws. Anybody who has examined it or who has watched the process this year as this bill took shape realizes that the target prices are still set at high levels, and in a way that directs billions of dollars in taxpayer subsidies to support the income of the largest and wealthiest farmers. In a time of massive budget deficits and the need to reduce those deficits, this kind of policy just does not make sense. These high support levels will also induce large surplus production, which can only delay for several years longer a solid recovery in the farm economy.

Equally in candor, Mr. President, the cost of the bill is also very high—well over the congressional budget resolution and slightly higher than the $50 billion the President has indicated would be acceptable for the farm program portions. The cost of the Commodity Credit Corporation programs under the provisions of the bill are estimated to be about $52 billion in fiscal years 1986–88.

But, on the other hand, the bill makes historic reforms in conservation policy. It makes U.S. agriculture more efficient by protecting our soil and water resources and ensuring that the most productive land will be used, and not abused.

Important reforms are even made in the dairy program. The price supports will be reduced over the life of the bill, reducing Government costs, helping to balance supply and demand. I am extremely disappointed, though, at the imposition of a milk tax in the bill.

Despite the shortcomings I have described, the bottom line is that this bill makes many significant and effective reforms in farm policy. It signals the intention of Congress to make a decisive transition to market-oriented farm policy. At the same time, there are important reforms yet to be made. Congress must continue to try to reduce the cost of farm programs by devising a way to more effectively limit large subsidies to those producers least in need of assistance.

The bill is not perfect, but it does make many important farm policy reforms that must be enacted into law. To the best of my knowledge, Congress will be in session next year, and the following year, and it would be my hope that some of the policy problems not fixed in this piece of legislation could be addressed at that time.

But the fundamental reforms made in this bill are historic. It will put U.S. agriculture back on the road to competitiveness, and that achievement alone makes this a worthwhile bill. I urge my colleagues to support this conference report.

Mr. President, as much as I am pleased by many of the advancements that were made in farm policy, I am disappointed by the budget-busting increases that were adopted for the Food Stamp Program.

Let me say at the outset, neither the Senate position nor that taken by the Senate conferees was for reducing overall food stamp benefits. The Senate bill proposed to continue indexing of food stamp benefits, which automatically increases costs by over half a billion dollars annually. The sole benefit reduction proposed in the Senate bill was similar to one in the House bill; both Houses were in agreement about the need to provide greater consistency with the Aid to Families with Dependent Children Program [AFDC] in treatment of income under the Job Training Partnership Act, which would result in modest benefit reductions for certain households receiving such income. The only other significant spending reduction in the Senate bill is the proposal to tighten the administration of the program by requiring States to lower the rate of overpayments which presently takes place—costing taxpayers over $900 million annually. The Senate bill proposed that States accept more responsibility for their mismanagement of food stamp spending.

However, it become obvious that the House conferees were insistent that food stamp spending be increased—indeed, increased above and beyond cost-of-living increases. They wanted increased eligibility so that food stamp rolls could be increased beyond the 20 million people who receive monthly benefits currently. They wanted increased deductions and new deductions (used to calculate food stamp benefits) which will drive up overall food stamp spending.

Frankly, Mr. President, I could scarcely believe that such increases were being proposed less than a week after Congress took the seemingly important step of setting long-range objectives for deficit reduction by adoption of the Gramm-Rudman-Hollings balanced budget legislation. Instead, the net result of food stamp spending will be to add over $1 billion to the deficit over the next 5 years because of new food stamp spending. Thus, the deficit targets established by Gramm-Rudman-Hollings are $1 billion more difficult to achieve as a result of the irresponsible actions urged upon the conference by certain members.

The conferees not only ignored Gramm-Rudman-Hollings, they ignored this year's budget resolution—so resolute was their desire to expand food stamp spending. If certain members are not going to enforce our present budgetary restraint, I cannot be too optimistic that they will abide by the future restraint that Gramm-Rudman-Hollings is supposed to bring.

Mr. PANETTA, the distinguish chairman of the House Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition, insisted that this year's budget resolution made room for the increases desired by the House. However, with all due respect such assertions are only partially accurate. While it is true that increased spending could be made for the Food Stamp Program, such increases could take place only to the extent that offsetting reductions are made—according to the budget resolution.

I quoted to the conferees, unpersuasively I must report, from a letter from the Senate Budget Committee Chairman, Mr. DOMENICI, that makes this abundantly clear. I ask unanimous consent that the letter from Senator DOMENICI be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON THE BUDGET,
Washington, DC, September 10, 1985.

Hon. JESSE HELMS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HELMS: As the Agriculture Committee proceeds over the next several weeks to mark up legislation to reauthorize the food stamp and other nutrition programs, I thought that it would be useful to summarize for you what is assumed for food and nutrition programs in Senate Concurrent Resolution 32, the first concurrent resolution on the budget for fiscal year 1986.

The Senate-passed budget resolution assumed savings of $1.7 billion in budget authority and outlays, fiscal years 1986-88, for food and nutrition programs. The House-passed resolution assumed additional spending of $1.2 billion in budget authority and outlays, fiscal years 1986-88, for food and nutrition programs.

The conferees on the budget felt that additional spending for these programs was warranted only if the funding could be provided without damaging the overall deficit reduction effort. The conferees provided room in the budget to allow up to $1.2 billion in additional budget authority and outlays, fiscal years 1986-88, for programs under the authorizing jurisdiction of the Senate Agriculture Committee—i.e., food stamps, child nutrition, special milk, and supplemental feeding for women, infants and children [WIC]. To prevent total Federal spending from rising due to this action, the budget conferees assumed additional savings of $1.2 billion in budget authority and outlays, fiscal years 1986-88, in programs under the spending jurisdiction of the Agriculture Subcommittee of the Senate Appropriations Committee.

SENATE CONCURRENT RESOLUTION 32 ASSUMPTIONS

[Dollars in millions; change to the baseline]

	Fiscal year—			Total 1986–88
	1986	1987	1988	
Authorization:				
Agriculture Committee:				
Budget authority	+400	+400	+400	+1,200
Outlays	+400	+400	+400	+1,200
Appropriation:				
Agriculture Subcommittee:				
Budget authority	−400	−400	−400	−1,200
Outlays	−400	−400	−400	−1,200
Net budgetary effect:				
Budget authority	0	0	0	0
Outlays	0	0	0	0

As your Committee determines how best to provide food and nutrition assistance, I hope that you will consider the strong feeling of the Senate conferees that any increase in funding for these programs be offset with equal savings in these or other income security programs. An economy that falters under the weight of massive federal deficits would be hard-pressed to provide assistance to the needy and hungry in America.

Sincerely,

PETE V. DOMENICI,
Chairman.

Mr. HELMS. Mr. President, unfortunately, the conferees did not heed the conditions which Senator DOMENICI and other budget conferees specified earlier this year. It should be noted that both the continuing resolution and the tentative conference report on the Agriculture appropriations Act do not contain reductions in spending to accommodate the increases pressed by the House. Our obligation, failing any offsetting reductions, was to abstain from increased food stamp spending, but I regret to say that is not what the farm bill conferees did in this area.

Instead of resisting increased spending, the conference report embraces it. Over $1.1 billion in increased food stamp spending will take place over the next 5 years—over and above the $67.7 billion that is scheduled to be spent on the Food Stamp Program.

The following table outlines the spending contained in the conference report for the Food Stamp Program and the nutrition assistance block grant for Puerto Rico.

ESTIMATED COSTS OF FOOD STAMP AND NUTRITION ASSISTANCE FOR PUERTO RICO PROVISIONS, AS ADOPTED BY THE HOUSE-SENATE CONFERENCE

[By fiscal year, in millions of dollars] [1]

	1986	1987	1988	1989	1990	5-yr total
BUDGET RESOLUTION BASELINE						
Food stamps: Estimated budget authority	11,804	12,339	12,869	13,358	13,826	64,196
SPENDING CHANGES UNDER CONFERENCE REPORT						
Expand definition of disability	1	1	1	1	1	5
Count JTPA earnings as income	−17	−27	−27	−28	−28	−127
Deduct self-employment losses of farmers	1	2	2	2	2	9
Increase earned income deduction to 20 percent [2]	20	51	53	55	58	237
Separate and raise caps on shelter and dependent care deductions [2]	21	53	56	59	62	251
Increase resource limitations [2]	22	77	115	121	126	461
Provide information at Social Security offices	0	1	1	1	1	4
Speed up sanction collections	0	−42	0	0	0	−42
Expand State ADP systems	0	1	2	2	2	7
Strengthen work requirements	4	4	5	5	0	18
Subtotal (food stamps only)	52	121	208	218	224	823
Nutrition assistance for Puerto Rico:						
Estimated budget authority (CBO Baseline) [3]	863	902	940	979	1,019	4,703
Spending under conference report	825	853	880	908	937	4,403
CBO projection of spending change under conference report (Puerto Rico) [3]	−38	−49	−60	−71	−82	−300
Total change from CBO baseline (food stamps and Puerto Rico) [3]	14	72	148	147	142	523
Total change from administration baseline (Puerto Rico) [3]	0	28	55	83	112	278
Total change (food stamps and Puerto Rico) using administration estimate for Puerto Rico [3]	52	149	263	301	336	1,101
Total spending estimated budget authority (food stamps and Puerto Rico) (CBO)	12,681	13,313	13,957	14,404	14,987	69,422

[1] Prepared by staff of the Committee on Agriculture, Nutrition, and Forestry, using budget figures from the CBO and administration.

[2] May 1, 1986, effective date.

[3] The CBO baseline (above) assumed indexation of the current grant in each year. The administration's baseline assumed continuation of the Puerto Rican grant at $825,000,000 annually.

The table demonstrates that food stamp spending will be increased $823 million over the next 5 years—using estimates prepared by the Congressional Budget Office.

With regard to Puerto Rico, new spending of $278 million will take place during the next 5 years. However, this increase is actually attributed as being a "savings" by the Congressional Budget Office. Only in Washington can such budgetary gimmicks be accepted with a straight face. The Puerto Rico block grant is $825 million annually. The block grant was established by the 1981 reconciliation legislation (to be effective the following year) in order to reduce spending in Puerto Rico which at that time had the largest portion of the food stamp program (over 10 percent of the entire program) and the highest portion of the population on food stamps (over 50 percent of the population).

The Congressional Budget Office "assumed" (on its own) for purposes of preparing its "baseline" this year for future spending that the block grant would be indexed over the next several years—resulting in increased spending of almost $600 million over 5 years. In effect, the CBO built into the baseline an assumed increase in spending.

Inasmuch as neither the administration nor the Senate bill provided for an increase in the Puerto Rico block grant, CBO "scored" the Senate bill with a "savings"—for the fact that we did not increase Puerto Rico's spending.

The conference report proposes to "save" some money by increasing the Puerto Rico block grant less than CBO "assumed." In effect, an increase in spending (in fact) can be termed by the Congressional Budget Office as a reduction (according to their "scorekeeping"). The double irony is that the conferees decided that since they had "saved" some money by not increasing Puerto Rico as much as CBO had predicted, they might as well spend the "savings" by yet additional spending in other parts of the Food Stamp Program.

The net result is that actual increased spending is $1.1 billion, but CBO "scores" the result as an increase of only $523 million.

Unfortunately, the $1.1 billion is the real effect—on taxpayers on the deficit, and on the long-term ability to control Federal spending.

I regret to say that we are already seeing the first of what is likely to become countless ploys to evade the impact of the Gramm-Rudman-Hollings legislation. Two of the proposals for increased spending proposed in the House bill were advanced in the conference report from October 1, 1986, to May 1, 1986. The reason? To get the increases in quickly—before the pressure from Gramm-Rudman-Hollings can come to bear—and to build up next year's baseline so that attempts to restrain spending next year will be termed "cuts" in the food stamp program. Inevitably, these new increases will be targeted to be eliminated early next year. Proponents of high food stamp spending will charge that the program is being "cut," when, in actuality, such "reductions" would only restore the program spending to where it was before the conference report's binge.

MEANINGFUL NEW WORK PROGRAMS

Well, Mr. President, enough of the bad news. Let me at least report on the glimmer of a silver lining contained in the food stamp title. For the first time in the history of the Food Stamp Program, the conference report institutes a substantive work policy for able-bodied food stamp recipients. In addition to the optional workfare authority that already exists in the Food Stamp Act, the conference agreement requires States to institute meaningful work programs for able-bodied recipients. It is a program that is not a mere paper-shuffling exercise. Rather, the new work policy to be implemented nationally will allow States a great deal of flexibility in designing and operating programs to assist able-bodied members of food stamp households to gain skills, training, or work experience that will increase their ability to obtain regular employment.

One of the concerns we had on the Senate side was that this would be a paper tiger—one that looked good on paper but had no real teeth to it. But from our negotiations with Mr. EMERSON concerning the expected operation of the program, I believe we have come to an understanding as to what this program will do and how it will work. While the Emerson work program affords the States a great deal of latitude in designing their programs, the Secretary of Agriculture will have the final authority for approving or disapproving a State's plan based on its substance.

The Secretary will review a State's submitted plan of operation and judge whether the components of the proposal meet the program's goals. For example, in the area of exempting those required to register for work and being covered under the work requirements of this program, the Secretary shall review the categories and persons proposed to be exempted from these requirements. In deciding whether the State used prudent judgment, the Secretary will evaluate the rational basis on which a State proposes to exclude from the plan's coverage certain categories of persons. In other words, States should show a rational basis for exemption of persons from coverage under this program. Similarly, the Secretary's review shall include the components of the State's Employment and Training Program. Thus, the Secretary's review is of a substantive nature to ensure that the program components are meaningful and of value. It is important that the persons involved in the Emerson work program be engaged in job activity of substance.

In this way, Mr. President, we can be assured that we will have the appropriate kind of review and oversight that was envisioned and agreed to when the Emerson program was developed while preserving a State's flexibility in designing its plan of operation. I believe this aspect in and of itself is one of the better provisions in the Food Stamp Program's reauthorization. At this point, Mr. President, I would ask unanimous consent to insert into the Record a transcript of the conference concerning the Emerson work provision. I believe it is an enlightening discussion related to this most important aspect of the bill, and I believe it will further delineate what the conferees' understanding was when this provision was adopted. The discussion includes references to Mr. John Bode, the Assistant Secretary of Agriculture for Food and Consumer Services. I ask unanimous consent that the conference discussion be printed at this point in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Mr. Emerson. At the point we recessed we were on employment and training and Chairman De la Garza had suggested that the amendment that I was going to offer was indeed included in the proposal that was made and accepted, and I had said if we are referring to Document Number 1, Item 17 with a separate piece of paper marked Number 17 that then we were in agreement and no further action was necessary, and I would just like to get a clarification if that is, indeed, what we were talking about.

Mr. Foley. That was my understanding.

* * * * *

Mr. Panetta. We agreed that the Emerson approach on the employment program is the one that we are accepting here.

Mr. Emerson. If I may say, the proposal that Senator Dole and Chairman Panetta and I, and I think Senator Helms' people, have all been in the loop on, and I thought we had it completely worked out.

We have made, in the course of the discussion, some concessions to the Senate position that we felt were acceptable.

Senator Dole. You liked this better do you not, John, than the Senate version?

Mr. Bode. Certainly not better than the Senate version, but in terms of getting something taken care of, it is preferrable to get it out.

The Chairman. Well, John, I guess what we are talking about is closing the loopholes that states may use to exempt practically everybody from the work requirement, is that right?

Mr. Bode. Yes, sir, as we understand this provision, the Secretary has authority ultimately on approval of the plan and that involves a substantive review to assure that the goals that states have a rational basis for excluding groups or categories of able-bodied people from the program and also a rational basis for the design of the types of activities that would be done in the program.

Mr. Panetta. I would move, just to get to the situation, I would move that the House recede on this element with the Emerson amendment on the work requirement which, as I understand, moves towards the Senate position.

Mr. Emerson. That is correct.

The Chairman. Before we accept, I still have to get somebody—I do not know what—

Mr. Foley. Mr. Chairman, maybe just to put it over to your side for your consideration, maybe we ought to just, without objection, the House will recede with an amendment.

The Chairman. Very well.

John, you are going to have to walk me through this, you and Mr. Boney, perhaps. What is the difference between his proposal and the Senate's.

Mr. Bode. Well, under his proposal, it is very clear, first of all, that states have much broader discretion in the design of what employment activities, employment and training activities are done.

The states have broader discretion in deciding which portions of the able-bodied food stamp recipients, how many of them, are subject to entering into the program, but still ultimately the Secretary has authority on all of those factors in determining that whether in their accumulated program are substantial and in meeting the goals of the Act.

Finally, the Senate has specific percentages of the work registration population that has to be served, has to be served in this program. The House provision allows greater flexibility for phasing that in.

Mr. Panetta. I think this proposal adds a requirement if I am not mistaken on that.

Mr. Bode. Yes.

Mr. Panetta. Bill, do you want to indicate what that is?

Mr. Emerson. Our understanding is that the Secretary shall set minimum performance standards which shall vary according to such factors described by the Secretary including program characteristics and the types of programs chosen.

Such standards can vary from state to state and shall take into consideration the cost to states and the degree of participation by exempt persons. In addition, such standards will relate to those required to participate in an employment and training program and not either permanently or temporarily exempt.

Now, that is a compromise between the House and the Senate position. I mean, we have moved towards the Senate.

Mr. Panetta. We are mandating now that all states have to set up work programs, that the Secretary will have the discretion to determine how those programs are implemented and whether they are sufficient in terms of responding to that mandate.

And thirdly, we are recommending that the Secretary can establish flexibility on that mandate up to 50 percent.

Mr. Emerson. Yes, and the reason we want flexibility, frankly, is to bring more people into it. If we are more flexible, we think we are going to have more people participating; at least, based on evidence that we deduced from hearings that we had that is the case.

The Chairman. Does this exempt for 30 days any requirement for participation?

Mr. Bode. As I recall, Senator, it does not build in the 30 days specifically because there is greater discretion for the states to design it.

The Chairman. It lets the states drag their feet if they want to?

Mr. Bode. Well, to us, that has been the key point, Senator. If states, and that is why the Secretary ultimately having the authority to disapprove the plan if it does not meet the objectives was important, and we felt that was key in getting the issue resolved.

And that accommodation has been made so the Secretary can disapprove a plan if it is not substantial.

The Chairman. States may temporarily exempt additional persons an categories of persons based on participation of 30 days or less? That does not make sense.

Mr. Bode. From exemption.

The Chairman. But it is hash anyway you eat it. I do not know what the thing means.

Mr. Foley. Mr. Chairman, I gather what they are trying to do, and correct me if I am wrong, is not put somebody in a work program where there is the requirement of supervision and everything else if they are just going to be in the program for a couple of weeks or three weeks. I think it is a de minimis rule in terms of the administrative complications of the workforce program.

When you get long term or medium term food stamp recepients that have to be brought into it, but if there is a snow storm or something like that, and I do not know what the conditions were and people would be on a very temporary food stamp program of very short time, it would not be worth putting them in and out of the program, workfare program, just for mechanical reasons.

One other point, I guess. As I hear the Department saying, they feel a little better about these flexibility questions because the Secretary has authority to review all of them to decide if there is too much flexibility and too many loopholes, and it is his responsibility to decide whether this program works or does not, and if he decides it does not, he disapproves it.

Mr. Bode. Yes, sir, and we are supportive of states having a lot of flexibility in designing the concepts that states can—

Mr. Foley. So that you can look over what they do and decide whether it meets the objectives if the Secretary thinks they are reasonable in terms of the program objectives and in terms of the conditions as designed by the states, but the Secretary retains the final authority to say yes or no on the program.

Mr. Bode. Yes, sir.

The Chairman. Now, where did this come from?

Mr. De la Garza. Mr. Emerson's.

The Chairman. Now, this is not here so—

Well, that ought to meet your concerns fairly well.

Now, you are not going to sit on your hands and let the states get by with murder or continue to get by with murder, are you?

Mr. Bode. No, sir. I am sure I would be up here right away if I hear about it.

The Chairman. Well, do not come here. Go to the states with a baseball bat.

Mr. Bode. We will work very diligently with the states to assure that each state has a good substantial program.

The Chairman. We will want a report from you after this is implemented a little while. Okay. Without objection.

Mr. HELMS. Mr. President, the conference report adopted an amendment to provide explicit authority for the Secretary to approve or disapprove State requests to exempt food stamp recipients who have participated 30 days or less. However, as the foregoing conference discussion indicates, it is understood that the Secretary has ultimate authority to approve the overall structure of a State's employment and training program.

We wanted to make absolutely certain that States will not be able to evade the provision by trying to exempt virtually all of their recipients from it, or setting up meaningless paper exercises that pretend to be work efforts. We have seen meaningless work efforts before. It would be my hope that the Secretary will exercise keen oversight in encouraging States to begin innovative approaches. These approaches will be appreciated not only by the taxpayers but by many of the recipients who stand to benefit greatly from the new employment and training program. While we grant the Secretary the flexibility to delay the establishment of performance standards—for up to 18 months—I would hope that he would not delay, and that he would implement the program as soon as possible.

On another matter where the conferees grant the Secretary discretion to delay implementation, I would hope he would be equally reluctant. Both Houses passed provisions that require State and local governments to stop the practice of imposing food sales taxes on food stamp purchases. Currently over $100 million of the Food Stamp Program is funneled indirectly to State and local governments in about 17 States through these sales taxes now paid for with food stamp coupons.

The Senate bill provided that this practice should stop on October 1 of the year in which the next session of the legislature meets, following enactment of the farm bill. The conference report specifies the next regular session of the State legislature, and provides that the Secretary may grant waivers up until October 1, 1987, by which time all States must be in compliance. The waivers could be granted if the State can show, to the satisfaction of the Secretary, that implementation of the "no tax" policy would have an adverse and disruptive effect on the administration of the Food Stamp Program or would provide inadequate time for retail stores to implement changes in sales tax policy. In my judgment, the Secretary should not be left the discretion to waive such important changes in the law, and I would hope that he would be more wary of using the waiver authority. He should certainly notify States about the change in law, but the decision about how those affected States will comply with the law is one that ultimately rests with the Governors and legislators in those States, not with the Secretary.

Mr. President, there is an area of the bill that I would like to clarify for the record because it is a complex issue and I believe we need to be clear as to what we mean. The conference agreed to a 6-month moratorium on the collection of quality control sanctions while mandating a concurrent 1 year study of the quality control system. The moratorium is to be in effect for 6 months only and then the Federal Government shall resume its collection procedures. This is an important point because while the moratorium is to be in effect for only 6 months, the study is to run for a longer period.

The moratorium does not preclude the Secretary from establishing claims against States under the error rate sanction system during that period. Nor should the moratorium or the rulemaking cause the courts to suspend judicial reveiw of established claims at any time.

Section 1541 also requires that two studies of the quality control system be undertaken and that a rulemaking be performed based on those studies. Finally, any revisions in the qualtiy control sanction system that are made in that rulemaking will be implemented 2 years after enactment. Following implementation of any system changes, the Secretary shall make any adjustments in claims that have been asserted or collected for excessive error rates before implementation of the revised quality control procedure so those claims conform to what would have been claimed under the revised system, as best the Secretary, in his discretion can make such a determination.

The conferees do not intend for actual collections of sanction claims or administrative or judicial review of those claims to be effected in any manner by the required studies and rulemaking.

The Department must have an effective operational mechanism to enforce compliance and prudent management in the Food Stamp Program, and the quality control system is the best means by which this can be accomplished. Therefore, USDA shall promptly resume collection of the quality control sanctions after the 6-month moratorium and not be encumbered in its appropriate oversight responsibilities by waiting for the study to be completed and acted on.

I want to make it clear for the record that with regard to the section on retail food stores and wholesale food concerns that the sale of such an entity to a bona fide purchaser is to intend an arms length transaction and not simply a "fair market price" which the legal term "bona fide purchaser" usually connotes. What the conferees were intending to address was to prohibit the sham sale of stores by a program violator to someone other than a legitimate business interest. We are concerned with program violators trying to evade sanctions by setting up a sham sale. As such a bona fide purchaser is intended to reflect this fact, not just that the buyer paid the fair market price.

In the section related categorical eligibility of AFDC recipients for the Food Stamp Program, there was no intent to change the factors by which persons could not comply with the provisions of this act and still become eligible for Food Stamp Program benefits. Specifically, households that become ineligible due to failure to cooperate in providing information needed by State agencies to determine or review eligibility would not be considered categorically eligible, nor would households whose ineligibility is due to transferring assets in order to qualify. Such households would be covered by current regulations.

This is an important point, Mr. President, that I want to make sure is understood. We certainly do not want to have a situation where someone could refuse to cooperate and then receive food stamps, and I am sure that we conferees had no such intention.

The bill also specifically addresses in how State, local, or private educational benefits are counted as income. However, since almost all of such educational aid provides students with funds which may be used for living expenses connected with attending college, as the student determines appropriate, such educational aid even where spent on necessary books or supplies would not be excludable as a reimbursement from income. Where the student receives a fund of money to be used for all future educational expenses—including living expenses such as food or rent—each dollar is "provided for living expenses," although it may be used for necessary books, and is not excludable as a reimbursement. This same principle has been properly applied by the courts to Federal educational assistance. *Shaffer* v. *Block*, (Sixth Circuit 1983); *Burkett* v. *Block* (Sixth Circuit 1985); *Reichley* v. *Block* (District Court, Colorado, 1985); and *Malone* v. *Block*, (District Court, Iowa 1985).

Neither the computational budgets used by colleges to compute the amounts of aid, nor the award letters colleges issue to announce the awards, preclude students from using general grants or scholarships which they receive for living expenses connected with attending college. Thus, such aid was, and still will be, properly counted as income unless spent on tuition or mandatory school fees and will not represent an excludable reimbursment even where spent on necessary school supplies or books.

With regard to the resource limitations provision and inaccessible resources, only the portion of an asset that is encumbered by a lien is inaccessible to the household. Only the equity value of an asset—fair market value less any liens or other encumbrances—is to be counted toward the household's resource limit.

Section 1454 of the Senate bill amended section 1114 of the Agriculture and Food Act of 1981 by specifying the inclusion of dairy products, wheat or wheat products, rice, honey, and cornmeal as being among the CCC commodities made available at no charge or credit to food assistance programs. This change in no way relieves the Secretary of his duty to prevent displacement of like or similar commodities with those donations as required by section 203(a) of Public Law 98–92. Only after taking whatever precautions the Secretary, in his discretion, deems necessary will the Secretary act to distribute these commodities without credit or charge.

The Temporary Emergency Food Assistance Act of 1983 was amended by extending through June 1987 the requirement for the Secretary to enter into agreements with private companies for processing of commodities into end-use products. This extension does not preclude the Secretary from exercising his authority under section 10 of the Child Nutrition Act of 1966 to prescribe such regulations as he may deem necessary to carry out programs authorized under the act and the National School Lunch Act including the requirement for States to process commodities into end-use products. Processing encourages the consumption of surplus commodities by converting them into products that are more desirable to recipient agencies than bulk commodities in unprocessed forms.

The processing of bonus commodities is to continue through the NCP program until expiration of that program approaches. Processing of entitlement commodities is to be expanded. The Secretary is expected to undertake a rulemaking to require States to provide entitlement commodity processing. We certainly do not want States to regress in their own level of commitment to commodity processing, especially in the case of entitlement commodities.

I thank the Chair.

I yield the floor.

The **PRESIDING OFFICER**. The Senator from Nebraska.

Mr. **ZORINSKY**. Mr. President, before the Senate takes final action on the farm bill conference report, I think it is important that the Senate take cognizance of the severe financial situation facing our Nation's farmers. Many of my colleagues have heard all this before. Certainly, the tragic deaths in Iowa just a few days ago focused new attention on the seriousness of conditions in the rural America.

But these facts and figures bear repeating as we consider farm legislation in this body for the last time this year. We will shortly adjourn the 1st session of the 99th Congress, perhaps as early as tomorrow. As we prepare to depart for home and holidays, the Midwestern Farm Belt is awash in foreclosures and bankruptcies.

Farm sales have become epidemic in my State and many other States, and bank closings are so common that they no longer make the front pages. Violent incidents involving distressed farmers occur with alarming frequency.

Agriculture Department figures show that nearly a third of all U.S. farms have high debt loads, are unable to pay their bills, or both. Twenty percent have both a negative cash flow and problems making loan payments. Since 1981, land values have declined almost 50 percent in Iowa and Nebraska and 40 percent in Ohio, Illinois, Indiana, Minnesota, and Missouri.

As a result of such conditions, it is no exaggeration to say the very existence of our family farm system is in doubt. And this crisis affects far more than just the farmer. In rural America today, this crisis affects the banker, the feed and fertilizer dealer, and the supermarket operator. In Nebraska, it even affects the local school system. Today, in my State, we hear of an increasing number of school districts in financial trouble; farm bankruptcies and plummeting land values have caused property tax payments to drop off sharply.

A recent study by Wharton Econometrics concluded that today's farm debt crisis, if not resolved will trigger "higher interest rates, lower employment, reduced gross national product, lower personal income and a larger Federal deficit." Specifically, this study states that farm loan losses of $25 billion over the next 4 years would increase the Federal debt $21.5 billion, increase short-term interest rates 1.25 percent, reduce employment by 275,000 jobs, and reduce the GNP by $50 billion over 8 years. So, ultimately, the entire economy will suffer if nothing is done to aid the farmer. To quote President Dwight Eisenhower, "Without a prosperous agriculture, there will not be prosperous America."

BACKGROUND

Mr. President, 4 years ago, speaking in this Chamber, I called our last general rewrite of Federal farm programs a "blueprint for farm failures." Regrettably, I was all too prophetic with that remark. And today, with conditions much more deteriorated in the Farm Belt, we give final consideration to another multiyear farm bill.

The conference report on H.R. 2100 is the culmination of nearly 2 years of effort toward comprehensive legislation spelling out Federal farm policies and programs through 1990. It is the product of hundreds of hours of hearings before the House and Senate Agriculture Committees and months of committee markups. Dozens of alternatives were considered during floor debate.

These discussions were held at a time when there exists a severe depression in the farm economy in many parts of the Nation and a time when there are unprecedented budgetary constraints in Washington. Despite marked differences of opinions over which direction farm programs should take, the committee of conference agreed to a report on the 1985 farm bill after 8 days of negotiations.

Mr. President, this legislation is not all I would have liked to see in a new farm bill. At a time of severe financial problems in the Farm Belt, the bill does not do everything that is necessary to assure farmers of an adequate safety net of income protection. At best, this is a hold-the-line measure that will help buy time for agriculture to work its way out of its current crisis. Still, that is far better than the complete turnaround in farm programs sought by the administration.

Many of the things that would do the most to aid financially strapped farmers are, of course, beyond the scope of any farm bill. These include tax changes affecting the strength of the dollar, a reduction in the Federal deficit that will lead to a decrease in interest rates, and a more aggressive attitude on exports.

SALIENT PROVISIONS

The wheat and feed grains titles of the bill are of key importance to farmers in my area. They reflect a blend of the "market-oriented" approach to farm programs and the "safety net" concept of income protection. The commodities programs are established for 5 years.

Loan rates for 1986 are established initially at $3 a bushel for wheat and $2.40 for corn, with mechanisms in all years that would lower them further in order to provide competitive pricing. For 1987 through 1990, initial loan rates would decline by no more than 5 percent in each year, with the increased deficiency payments resulting from reductions in the initial loan rates for each year exempted from the $50,000 payment limitation.

Income protection is provided by what is in effect a 3-year freeze in target prices over the life of the bill. Target prices are established at $4.38 per bushel for wheat and $3.03 per bushel for corn through 1987, with a total reduction of 5 percent spread over 1988 and 1989. For 1990, target price levels would decline by 5 percent from the previous year's level. However, under the bill the target prices for wheat and feed grains would never be less than $4 and $2.75, respectively.

Without doubt, one of the most difficult conflicts to resolve in conference was the acreage reduction portion of the bill. The House and Senate bills contained different provisions. Specifically, the House provisions established a minimum level of acreage reduction, while the Senate bill provided a maximum level. The compromise was to establish statutory maximums and minimums between which the Secretary of Agriculture can adjust acreage reduction levels as he determines necessary. The lower limits will prevent the Secretary from moving toward a "full production" commodity program, while the upper limits will restrict authority to increase unpaid acreage reductions above established levels.

Specifically, to qualify for benefits in a year in which carryover wheat stocks exceed 1 billion bushels, wheat producers would be required to reduce acreage as follows: In 1986, a maximum diversion of 25 percent—including a mandatory minimum reduction of 15 percent, a mandatory in-kind paid diversion of 2.5 percent, and a further reduction at secretarial discretion of 7.5 percent; in 1987, a maximum reduction of 27.5 percent—including a mandatory minimum of 20 percent and a further 7.5 percent at the Secretary's discretion; and for 1988-90, a maximum of 30 percent—including a mandatory minimum of 20 percent and 10 percent at the Secretary's discretion. For the 1986 wheat crop only, the Secretary would be required to offer growers who planted before announcement of the program a chance to idle an additional 10 percent of their base in return for payments.

For feed grains, if stocks exceed 2 billion bushels of corn, the 1986 reduction would be a maximum of 20 percent of which 12.5 percent would be a mandatory minimum, a mandatory paid-in-kind diversion of 2.5 percent, and a further reduction at secretarial discretion of 5 percent. For 1987-90, the maximum would be 20 percent—including a mandatory minimum of 12.5 percent plus up to 7.5 percent at the Secretary's discretion. For all grains, the Secretary would have discretionary authority to offer producers a further voluntary paid diversion beyond the basic requirements of the bill. The bill also requires the Secretary to allow haying and grazing on diverted acres in 1986 and grazing in 1987-90 if State agricultural stabilization committees require it. The Secretary has discretionary authority for haying in 1987-90.

Mr. President, as I stated earlier, the 3-year freeze and the floors for target prices will provide critically important income protection for farmers as lower, market-oriented, loan rates make U.S. farm commodities more competitive in world markets.

Of particular interest to Midwestern farmers, this bill gives the Secretary of Agriculture discretionary authority to establish mandatory production controls on wheat, in favored in a farmer referendum. I fought hard for—and would have much preferred—language requiring the Secretary to hold a referendum among wheat growers on mandatory controls.

Personally, I am convinced that mandatory production controls offer the only real hope for bringing the supply of farm commodities in line with demand and keeping prices above the cost of production. However, the discretionary authority in this bill does give the Agriculture Department one more tool to use in shaping farm programs over the next few years.

The bill does require the Secretary to conduct—by August 1, 1986—a survey of wheat farmers to see if they favor mandatory production controls on wheat as a means of adjusting production and increasing the price wheat farmers receive for their production. The parliamentary rules of the conference prevented us from requiring a similar survey of feed grain producers. However, the statement of the managers accompanying the conference report notes that the Secretary could, in his discretion, conduct a similar survey of feed grain producers, and I urge the Secretary to conduct that survey as well.

It is time we listened to farmers in fashioning farm programs and the surveys will be extremely important in the establishment of future production adjustment programs for wheat and feed grains.

Mr. President, at the outset of the conference, I indicated that possibly the one prerequisite for securing my vote for the bill would be the inclusion of authority in the legislation for the Secretary of Agriculture to proclaim marketing quotas and establish a mandatory production control program for wheat, subject to approval by wheat producers voting in a referendum.

There is a surplus of grain commodities in this Nation, together with many other agricultural commodities. That surplus places pressure on prices. Before the bottom of prices is reached, we must have supply management.

General Motors, Ford Motors—any manufacturer—will stop manufacturing when they create surpluses of a product above and beyond which they have no capability to sell. That is good business, because to oversupply a nation with new product depresses, the price of that product to the extent that the producer eventually goes broke or becomes bankrupt.

Condominium builders in this city, apartment builders, and home builders all know that when there is a glut on the market of whatever commodity, it depresses the price of that commodity. It is pure, basic economics. That is why I feel so strongly that production controls are necessary. We have attempted to do it voluntarily for many years and we have a supply of more agricultural products than we know what to do with. If I wanted to be in a business this coming year, it would be in the business of building places to store surplus commodities, because we are going to have plenty of them.

The conference report includes many other items I worked hard for through the Senate's many months of deliberations on a new farm bill. Some of them, I'm pleased to say, are taken from my omnibus farm bill, S. 1051, or from amendments I offered in committee or on the Senate floor.

Chief among these are, first, a 3-year, $490 million program to reduce interest rates on farm loans and, second, landmark conservation programs, including tough sodbuster and swampbuster provisions and a conservation reserve that would retire from production up to 45 million acres of highly erodible land.

The interest rate reduction program would aid hard-pressed farmers with loans guaranteed by the Farmers Home Administration. The Agriculture Department and private lenders would share equally in the cost of the reduction. The Government could pay for 2 percent of the overall "buydown" or one-half of the total, whichever was less.

The sodbuster program denies price supports and other farm program benefits to farmers who plant on fragile land in violation of the terms of the program. A "grandfather clause" exempting land used for crops between 1981 and 1985 would terminate for most farmers by 1990. The companion swampbuster program would deny farm benefits to those who, in the future, convert wetlands to crop use.

The sodbuster and swampbuster provisions are extremely important to those of us interested in conserving our precious natural resources. Conversion of marginal grassland to cropland is more serious in the Great Plains but it is a problem all over the country. Nationwide, 45 million acres of highly erodible land have already been brought into production and another 247 million acres could be cultivated.

Loss of wetlands takes its toll on wildlife and recreation and is a serious problem in Nebraska. My State is one of the five in the Nation that have lost more than 90 percent of their natural wetlands, most of it through conversion to cropland. Nationwide, 14.7 million acres of wetlands were destroyed from 1955 to 1975, 80 percent of them drained or filled for farm use.

The sodbuster and swampbuster programs are needed for economic reasons as well as for conservation. It's time Government stopped subsidizing the cultivation of land not suitable for farming. It just adds to our surpluses and further depresses commodity prices.

The long-term conservation reserve has been called by Agriculture Secretary John Block the "largest single soil conservation initiative in the history of American agriculture." It would allow farmers to contract with USDA to return highly erodible soils already in crop use to less intensive uses such as grass or trees. Growers would receive cash or in kind land rental payments plus payments covering a part of the cost of land treatment measures. There would be a $50,000 limit on annual payments to farmers under reserve contracts.

OTHER PROVISIONS

Other provisions of the conference report I worked hard to see enacted include:

A nationwide "check-off" program to finance research, promotion and advertising of pork products. This provision, which results from an amendment I offered, should be a great benefit to pork producers. It is an excellent example of self-initiative and self-reliance on the part of hog producers, who desire to improve the viability of their industry.

Protections against further cuts for the grassroots Agricultural Stabilization and Conservation committees that for 50 years have provided farmers with timely information on Federal farm programs. The ASC county and community committees operate within the local communities to inform their neighbors about farm programs and help see that these programs are administered by fairness and equity. This provision maintains a viable committee system while making the program cost effective.

Authority to make certain surplus government grain available free or at reduced cost for processing into ethanol.

Discretionary authority for a strategic ethanol fuel reserve.

Extension of the Soil and Water Resources Conservation Act requiring the Agriculture Department to produce assessments of soil and water resources in 1995 and again in 2005.

Provisions assuring that sugar growers continue to receive Government support payments when sugar processors—through whom the payments pass—go bankrupt.

FOOD STAMP PROGRAM

The bill reauthorizes for 5 years the important Food Stamp Program. The bill includes changes in the program that will make the program more accessible to farmers in States like Nebraska that are experiencing extremely adverse economic conditions.

Under the current Food Stamp Program, eligibility of self-employed households is largely determined on the basis of the previous year's income and not on the basis of the circumstances of household at the time that an application for assistance is made. Therefore, a large number of farm households do not qualify for assistance even though they may have no money available to feed their families. This problem will be corrected by allowing a household's current circumstances to be considered in determining eligibility.

Another hinderance to the availability of the program to economically troubled farm families involves the deductibility of farm losses in determining eligibility. Under the current program, many farm families—who are otherwise eligible and need immediate assistance—do not qualify because income earned off the farm cannot be offset by losses in the farming operation. This is true even though the off-farm income must be used to pay for the losses from the farming operation and is not available to the family to meet their household needs. The bill will correct this situation by allowing farm losses to be offset against other income of the household.

CLEAR TITLE

The bill attempts to address the so-called double jeopardy problem whereby a purchaser of farm products may have to pay twice for commodities because of a financial dispute between the producer/borrower and lender.

Under the bill, a purchaser of farm products includes a buyer, commission merchant, or selling agent. The bill provides that a purchaser of farm products can take free of a security interest created by a seller, even though the security interest is perfected and even though the purchaser knows of the existence of such interest unless, First, within 1 year before the sale of the farm products, the purchaser has received from the secured party or the seller, written notice of the security interest; and second, the purchaser has failed to perform the payment obligations.

Similarly, in those States that choose to set up a central filing system rather than providing for prenotification, a purchaser buying farm products takes them subject to a lender's security interest if first, the purchaser agent did not register with the Secretary of State—or a designee of the State whose duties include the making or keeping of records—as a potential purchaser and the lender has filed an effective financing statement; or second, the purchaser (i) received written notice from the State that specifies the seller and farm products that are subject to an effective security interest, and (ii) did not obtain waiver or release of the security interest from the secured party.

Additional seller obligations are provided for under the bill as well as a provision that requires the Secretary of Agriculture to promulgate regulations within 90 days after the bill is signed in order to facilitate those States that have, or intend to, set up a central filing system. In providing the Secretary with the authority to certify State central filing systems, Congress also provided guidelines for the Secretary to follow in determining whether or not a system is in general compliance with the requirements. The Secretary should be fair and reasonable in making such determination for those States that have already or are in the process of implementing a central filing system.

I am most concerned with the clear title language that provides that what constitutes receipt of notification shall be determined on the basis of the buyer's resident State. I believe that such a determination is better left to the States.

I would like to see the clear title provision work and I urge purchasers, lenders, and States to make an effort toward making the concept successful.

CSFP AND TEFAP

Nebraska is one of several States that has a Commodity Supplemental Food Program [CSFP] under which low-income women, infants, and children are provided with certain commodities. Under the bill, Nebraska's CSFP agencies, with the approval of the Secretary and under certain conditions, will be permitted to provide commodities to low-income elderly.

The Temporary Emergency Food Assistance Program [TEFAP] is reauthorized for 2 years. Under this program, the Secretary releases CCC commodities to States allowing for disposal of government-held surplus commodities to prevent waste as well as providing food assistance to low-income households. In addition to authorizing appropriations of $50 million for each of the fiscal years, effective January 1, 1987, the bill will, among other things, first, require State matching on a dollar for dollar basis, except for States that have no regular session of their State legislature by that time, the deadline would be October 1, 1987; second, limit the matching requirement to those funds that a State retains at the State level and devotes to State-level activities (to the extent the State pays for the direct expenses of local distribution, the matching requirement would not apply); and third, in determining whether the State match has been met, allow in-kind contributions by a State to be counted according to procedures approved by the Secretary for certifying these contributions.

CONCLUSION

Mr. President, this bill is hardly a cure-all for farmers. In no way will this bill resolve the very serious problems facing agriculture today. Rather, as I said earlier, it is at best a hold-the-line measure. It should help buy time for agriculture to work its way out of its current economic dilemma. And, as I also indicated earlier, it is far better than the wholesale dismantling of government farm programs favored by the administration.

It should be pointed out that any additional delay in acting on this bill will serve no useful purpose. Not enacting a bill will only further the decline in Farm Belt land values and worsen the problems of the Farm Credit System.

Also, while this measure is a 5-year farm bill, conditions in the farm economy will undoubtedly require us to revise these programs in another year or two. In the meantime, the freeze on target prices represents the maximum income protection we could negotiate for farmers this year.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, I again want to compliment the chairman, Senator HELMS, and the ranking Democrat on the committee, Senator ZORINSKY. I also want to repeat in case Members do not know what the vote was in the House. It was 325 for the bill, 96 against, and 14 not voting. From a party standpoint, voting yea, 131 Republicans and 194 Democrats. Voting nay, 47 Republicans and 49 Democrats. Not voting, 4 and 10. The message of that vote, I believe, is fairly clear. Having been in the House 8 years and having been here for some time and having been involved in a lot of farm bills, I cannot recall a vote as lopsided as this one on a farm bill.

I cannot speculate why each Member voted for or against the bill, but I can indicate that it has broad bipartisan support.

We have come to the moment of making a judgment. We know for certain that not every farmer in our States will like the bill, so we have to decide whether we want to vote for something that I believe offers income protection, market orientation, flexibility, and contains a lot of good provisions that are never mentioned in the media, whether it is Food for Peace, whether it is export programs, research and development, or other programs that play a very important role in agriculture.

We find ourselves getting hung up around here on how high is the target price. Is it going to be 1 cent higher, 2 cents higher, or 3 cents higher? Many times we lose sight of good policy in farm legislation that may mean more to the farmer than whether it is 1, 2, 3, 4, or 5 cents more in target price or loan rates, whatever it may be.

I am very pleased to support this bill. I believe it will provide protection for the American farmer. I believe that farmers in the past in many areas have been in distress. If you go back and look at the speeches made in 1981 and 1977, with some changes you could just about use the same speech. Every time we pass a farm bill we know that there are farmers out there who are in difficulty, and who have real problems. It is more significant now than ever. Our responsibility is greater now than ever.

By voting on the farm credit bill last night and the farm bill today, it seems to me that we have again demonstrated our concern for American agriculture in a bipartisan way.

I assume there will be a rollcall vote on the conference report. If not, that is something else. But if there is, I hope it is unanimous. It may not be unanimous. There may be some who represent large urban areas who feel that it will cost too much.

I am advised that the final tally, and it is sort of a moving tally, the latest final tally is $51.95 billion.

I am also advised that the bill weighs 13 pounds. That figures out to about $4 billion a pound.

If you want to read it, you may want to know how many hundreds and hundreds of pages it is. It is a very lengthy document.

The Chairman now has it in his hand. In any event, it is heavy.

Mr. President, it is with great satisfaction that I now join my colleagues in considering and hopefully passing the conference report on the 1985 farm bill. This legislation was just passed by the other body at about 1:45 p.m., this afternoon by a bipartisan majority of 325 to 96. I hope we can now follow suit and send it to the President who, I understand, is favorably disposed to sign it into law.

There have been many difficulties and obstacles overcome in developing and reaching a working consensus on this bill. The critical problems in our agricultural economy, which have been increasing in severity over the past 5 years, cannot be reversed so quickly, nor can legislation alone provide answers to our concerns with the international trading system, the strength of the dollar, and the impact of Federal deficits on the dollar and on commercial interest rates.

The problems of American farmers and ranchers are real, and they are present even as we are considering this legislation. I would only say that there are a number of very positive features in this farm bill that should not be ignored, either by farmers, by the general public, or by the national press which is covering this deliberation.

LONG-TERM CONSERVATION RESERVE

I would cite the landmark establishment of a 40-million acre conservation reserve as a major contribution toward long-term land management and toward conserving our rich inheritance of natural resources for posterity. The conservation reserve could well become the foundation of future efforts to balance our agriculural productivity with world demand for farm products.

FLEXIBLE LOAN RATES TO RESTORE EXPORTS

Another single achievement in this bill is the establishment of flexible loan rates that can respond fully to variations in the international prices of our principal agricultural commodities. Under the 1981 farm bill, we have watched almost helplessly as the strong dollar and price cutting by our major competitors have virtually cut U.S. farm exports in half. We have, in effect, had the worst of both worlds—holding prices at below our production costs while failing to attain price levels that can reduce heavy, price-depressing stocks.

Using the tools available in this bill, the administration can now respond to these conditions and make clear the intention of the United States to be fully competitive for world markets over the long-term. This message is of key importance, both to our competitors and to our customers abroad. We simply cannot afford past policies in which sometimes we sought out export markets and other times slammed the door on them.

A STABLE INCOME SUPPORT PROGRAM

And the key to sustaining this long-term commitment to exports, Mr. President, is to assure our producers a stable base of income support. There has been great concern expressed over the course of this debate over whether we can afford to maintain the current level of target prices to grain and cotton farmers, and for how long. The focus of discussion and, occasionally, disagreement in the Agriculture Committee, on the Senate floor, and in conference was whether we would have a 1, a 2, or a 4 year freeze on target prices.

Like most issues that become tied to numbers, we were able to resolve the so-called target price "freeze" question by splitting the difference. So we have what amounts to a 2½-year freeze in the bill. The level will remain at the 1985 level for 1986 and 1987, decline 2 percent in 1988, 3 percent in 1989, and 5 percent in 1990. What is really important, however, is that Government support for farm income will be held relatively constant while we make a determined effort to get demand back into our supply-demand relationship.

OTHER POSITIVE BENEFITS

I could cite numerous other positive features in this legislation, Mr. President. They include an additional $8 billion in funding for export credits and credit guarantee programs, renewal of the Food for Peace Program, continued support for the Food Stamp Program, a compromise on the clear title issue, and a major resolution of the animal welfare differences.

I would take exception with those critics who argue that this legislation is just "more of the same" with regard to noncompetitive prices and inadequate income support for farmers. The administration costed this bill out on the assumption that the competitive prices under the so-called Findley amendment and the marketing loan would be fully achieved. I anticipate that the program details for 1986 crops, which should be forthcoming by the end of the week for wheat, will reflect these provisions.

So I believe, Mr. President, that those of us who are aware of the serious difficulties in the farm economy, and who share responsibility for developing farm policy that responds to them, can take some degree of pride in having wrested a fair and balanced package through the legislative process this year. In so doing, I want to give particular praise to the distinguished chairman of the Agriculture Committee, Senator **Helms**, and the distinguished ranking member, Senator **Zorinsky**. Without their daily dedication to moving the process forward through months of hearings, mark-ups, and floor debates, I know that none of us would be ready to vote on this bill today.

Let me also thank the other members of the committee, its professional staff on both sides, and the personal staff for members both on and off the committee for their almost tireless efforts.

I also want to comment on the Food Stamp Program reauthorization.

Mr. President, most of the focus in the debate thus far this year has been on the agriculture section of the 1985 farm bill. However, S. 1714, the Agriculture, Food, Trade and Conservation Act of 1985 also contains a 5-year reauthorization of the Food Stamp Program, as well as extensions of the Commodity Supplemental Food Program and the Temporary Emergency Food Assistance Program. As chairman of the Subcommittee on Nutrition, the Senator from Kansas has a great interest in all of the Federal nutrition programs.

FOOD STAMP PROGRAM BACKGROUND

Mr. President, unlike previous years, when we were dealing with significant program changes and budget reductions of about $2 billion in 1981, and nearly $900 million in 1982, budget issues no longer dominate the policy debate for the Food Stamp Program. By improving the targeting of benefits, implementing administrative reforms and going after fraud, waste, and abuse, we were able to achieve about 7 billion dollars' worth of savings for the fiscal period 1982-85.

This year's reauthorization process mainly focused on fine-tuning the program and making certain that it is working effectively—that low-income Americans who depend upon this program for food assistance are being reached, and that benefits are adequate. By adequate, it is important to clarify that food stamps were intended to provide a minimum diet, based upon the so-called thrifty food plan.

According to the Director of the Center on Budget and Policy Priorities:

> For some time, there was a fair amount of debate between those who argued that cuts in the food programs had caused a large upsurge in hunger and those who denied that a hunger problem existed. I think the evidence increasingly indicates that both of these positions were mistaken. The problem of hunger is real, but it is caused by many factors. Federal budget cuts in food programs were not the principal cause here.

FOOD STAMP PROVISIONS OF FARM BILL

Mr. President, as I have stated, the 1985 farm bill contains a 5-year reauthorization of the Food Stamp Program. The major provisions include an employment and training program, and modest benefit increases targeted to the working poor. There are also some program reforms in the administrative area, as well as a further strengthening of existing tools to eliminate fraud, waste, and abuse. An enhanced computerization provision, added as a floor amendment sponsored by the distinguished Senator from Minnesota [Mr. **Boschwitz**], and myself, will encourage States to develop and implement a plan to automate their administration of the Food Stamp Program. This should help States reduce their error rates through the use of computerized issuance and eligibility determination systems.

EMPLOYMENT AND TRAINING PROGRAM

One area of the Food Stamp Program which has always been weak is that of work requirements for able-bodied recipients. Under current law, able-bodied food stamp recipients between the ages of 18 and 60 who do not have dependent children under age 6 are merely required to register for work and participate in job search. During the conference, the gentleman from Missouri [Mr. **Emerson**], the ranking minority member of the House Nutrition Subcommittee, and I offered a compromise on the Employment and Training Program contained in the Senate bill, which was accepted by the conferees.

The provision contained in the 1985 farm bill would provide a "mini-block grant" to the States to implement a work program for able-bodied food stamp recipients. States must now initiate some kind of work program tailored to the needs of their food stamp population. This program may be structured from a variety of options, including job search, job clubs, and workfare. The Secretary of Agriculture has the authority to approve or disapprove State work plans. Also, the Federal Government will now provide $40, $50, $60, $75, and $75 million for fiscal year 1986 through fiscal year 1990, to help pay for the administrative cost of such State-designed programs. If a State chooses to spend more on this effort, there will be a Federal match.

BENEFIT INCREASES FOR WORKING POOR

Mr. President, during previous budget cycles in 1981 and 1982, the working poor were the group most affected by many of the changes in the Food Stamp Program. Therefore, the 1985 farm bill contains some modest benefit increases targeted to the working poor. The conferees adopted a proposal to increase the earned-income deduction from 18 to 20 percent—a provision contained in both the 1984 and 1985 Domestic Food Assistance Acts which I introduced along with many of my colleagues on both sides of the aisle. The Domestic Food Assistance Act of 1984 also contained proposals similar to those adopted by the farm bill conferees. Just about all of these provisions were recommendations of the President's Task Force on Food Assistance.

For quite some time, the assets provisions have needed to be adjusted to accommodate the modern realities of inflation. Therefore, the 1985 food stamp reauthorization would increase the liquid assets limit from $1,500 to $2,000 for nonelderly participants, and the assets limit for a single elderly household would be increased to $3,000, the current limit for a household containing two elderly individuals.

Recent poverty studies have shown that single women with children are the group that is the most vulnerable and has the most serious economic problems. Under current law, the shelter and dependent care deduction are combined. This legislation would create separate shelter and dependent care deductions, imposing a limit of $160 and $147 per month, respectively.

Further, self-employed farmers would be able to deduct their losses in order to be eligible to receive food stamps. In the past, this had been a barrier to their program participation in these tough economic times.

Since 1981, the Food Stamp Program in Puerto Rico has consisted of an $825 million block grant. This bill would provide for a 1-year freeze, and three-fourths of an inflation increase for the next 4 years.

FRAUD PROVISIONS AND ADMINISTRATIVE IMPROVEMENTS

Mr. President, there are many provisions in this conference report designed to help eliminate fraud. One of these provisions would allow the Secretary of Agriculture to require photo identification cards where necessary to protect program integrity, provided the measure is cost effective. Further, fraud detection units would be established in large metropolitan areas to prevent, detect, investigate, and assist in the prosecution of fraud.

In areas prone to high error rates, the Secretary of Agriculture would be permitted to require a State to carry out new or modified certification procedures, including the use of automatic data-processing systems. Further, every adult household member must sign a food stamp application under penalty of perjury, stating that all the information in the application is true; each adult member of a food stamp household would be jointly and severally liable for the value of any overissuance of food stamps, based on intentional misrepresentation.

OTHER PROVISIONS

Other provisions of interest would prohibit banks from charging retail grocery stores a fee for handling food stamps. This was a proposal originally introduced as a separate bill by both of the distinguished Senators from Minnesota.

A floor amendment introduced by the Senator from Washington, [Mr. **Evans**], and accepted by the Senate, providing for a 2-year moratorium on the collection of error rate sanctions owed by the States to the Federal Government was reduced to a 6-month moratorium, but the provision for a study of the underlying food stamp quality control system was retained.

There is another provision that would increase the purchasing power of food stamp recipients in States that charge a sales tax on food. States that engage in this practice will not be allowed to participate in the Food Stamp Program if they continue to charge a sales tax to food purchased by recipients after October 1, 1987. This concept was contained in both of the Domestic Food Assistance Acts, which the Senator from Kansas introduced in the last 2 years.

CONCLUDING REMARKS

Mr. President, deliberations on the Agriculture, Food, Trade, and Conservation Act of 1985, have continued over a period of many months, beginning late in the spring of this year. We are now on the last day of the first session of the 99th Congress, and the Senator from Kansas is pleased to see that this conference report will be brought to a vote on final passage today. This legislation will benefit farmers and food stamp recipients alike. It is the result of many compromises along the way, and the final product is one that no member of this body is probably completely satisfied with. Yet it contains something of interest to all those actively involved and concerned with these issues.

I would like to commend the distinguished chairman of the Agriculture Committee and the ranking minority member for their untiring patience throughout this lengthy process. It is also appropriate to thank the distinguished Senator from Minnesota [Mr. **Boschwitz**], for his leadership in the nutrition program area. We have spent many months working on the 1985 farm bill and food stamp reauthorization, and a special thanks should go to the staff of members of the Agriculture Committee.

I urge my colleagues to vote in favor of this conference report on the Agriculture, Food, Trade and Conservation Act of 1985. This 5-year reauthorization will be one of the most significant accomplishments of the 99th Congress.

The Food Stamp Program is another important part of the farm bill, a very important part of the farm bill. It is very important to many people in urban areas. I hope some of my urban colleagues will take a look at some of these provisions that will affect their States even though they may not be particularly concerned about cotton, rice, soybeans, honey, wool, or some other price-supported commodity.

We believe that we should have done more on the spending reduction side in food stamps, but again, there were some good policy changes made. The work requirements were tightened up in accordance with the suggestions of the Representative from Missouri, **Bill Emerson**. There were a number of other changes made in the food stamp section which, I believe on balance are sound. Many were recommended by the Presidential task force a couple of years ago. Again, it was a give-and-take proposition.

I happen to share the view of the chairman. I think we need some block grant pilot projects going into some of these States to see if we can save on the cost of the program and give the States more flexibility. About 17 States have claimed they would like to do that. There is not even any discretionary authority in this bill for that kind of approach, but sooner or later, it will come.

Mr. President, there has been some discussion that somebody might raise a point of order on this bill. I hope that is not the case, but if it is, I hope we have the votes to do whatever we need to do—either to waive the point of order or reverse the ruling of the Chair. If that comes, it will come under some new technical problem caused by Gramm-Rudman. We are ready to address that.

If somebody wants to try to kill the farm bill, we are here to protect it. If somebody wants to reduce the cost, make that point of order, we are here to debate it. But I would say on balance that we believe this represents, as it has many times in the past, the best efforts of Democrats and Republicans working together under the leadership of Senator **Helms** of North Carolina and Senator **Zorinsky** of Nebraska for the last several months.

We have had a lot of heated debates on this floor. A lot of fingers were pointed on both sides about who was holding it up, who was not letting us meet, why we did not do it before the recess. We have a chance to do it now before adjournment. It is not very early. It is a little late for wheat farmers, but they would rather have it now than not at all.

I join my colleagues in urging support for the conference report and hopefully, very soon.

Mr. MELCHER. Mr. President, the bill before us is a minimal bill. I want to include such happy remarks about, well, we have passed a great farm bill, for instance, in my Christmas card to farmers. I want to say in that Christmas card with Happy New Year salutations to farmer friends, but I would not say, that 1986 promises to be a grand and glorious year.

No, I would not do that. I would not do that based on this bill, because what we have done is sort of said, well, we have kind of reversed the concept that was put forward, passage of this bill will reverse the concept that was put forward by the administration early this year when they unfolded their proposal and presented to Congress a bill that was designed to eliminate farmers.

In fact, the Secretary of Agriculture was very candid. He said, in response to questioning by media reports, "Yes, there are too many farmers and market conditions and such may result in 18 to 20 percent of them being eliminated over the next 2 or 3 years."

Mr. President, that is pretty sad, that sort of statistic, if you want to look at it that way, a rather dry, narrow way of looking at it, that sort of statistical reporting by the Secretary of Agriculture. But if you are one of those 15 to 20 percent of the farmers that might be eliminated over the next 2 or 3 years, it is your way of life, it is your livelihood, it is the place where your family lives, it may have been in the family for generations before you. It is a sort of signature on a huge report card of your entire life. It says "F" for failure.

Yet the administration did present a bill that would not only recognize the elimination of farmers, it would help eliminate them—I said "help," help eliminate them. So, in some respects, over the past year, this bill could be viewed as a sort of turning point—a turning point away from where we have the Department of Agriculture statistically sort of figuring out what happens when you eliminate 15 to 20 or 25 percent of the existing farmers and ranchers of this country over the next 2 or 3 years.

So we have in this bill simply a framework for the rescue of the remaining American agricultural industry. I said, "industry." That is a little bit more than just farmers and ranchers. Within that framework, it is obvious that much remains to be done. I am speaking about a 5-year farm program, the whole kit-and-caboodle of all those farm programs, as a framework. If we are going to help this most basic industry survive, we must, first of all, recognize that this bill, this framework bill, is just the opening round, granted that this round lasted all this year. I think it is fair to say that we have drawn the line now; we retreat no farther, and we must fight. We must fight it out on this line no matter how long it takes us in 1986 and 1987 and 1988— whatever it takes.

The reason we must do that is not just to keep those farmers and ranchers on the land, it is also because we have been seeing the landscape of America changing. All across the rural countryside of the United States, we see community after community invariably shrinking and it shrinks as farmer after farmer or rancher after rancher leaves the land.

It is a social change that is not desirable and it is a type of social change that, if it goes on unchecked, will change America forever. That I cannot countenance. I cannot believe it would be good for the United States. And I do not believe that we can allow it to happen. Despite whatever Gramm-Rudman means for American agriculture in 1986, or 1987, and however long Gramm-Rudman lasts in its present form, there may be special steps—I believe there will be required special steps to take on behalf of American agriculture. I say that again in its broader form on behalf of rural America.

Despite how bad the credit situation is for the survival of both the producers on the land and the businesses that serve them in rural America, I believe it will be absolutely essential that we take whatever steps are necessary for their reasonable survival.

And so I repeat, our work is just starting for American agriculture and we will see a lot of it necessary in 1986. While we have drawn the line now, we will have to continue to fight it out in this Chamber and in the House Chamber through 1986 and 1987 and as long as it takes to resuscitate the agricultural endeavors of this country.

Now, Mr. President, I am not going to take long to make my comments. I want to conclude by drawing to the attention of the Senate some of the things you might not have noticed in this bill. Some made remarks about how long it is and how much it weighs, and that is true but nobody is ever going to know everything in detail. But some of the things you might miss I would now like to draw to your attention.

First of all, there is in the bill about six different ways to export surplus commodities from the United States that are additions, enlargements, or new export programs either through donations or commercial sales or a blending of the two. I must note in particular that Public Law 480 is endorsed and broadened with more minimum tonnages than we have had in the past. Section 416, the other donation program, is very greatly broadened with more commodities that can be used for these donations.

A very significant point that should be noted about 416 is that we allow the Secretary of Agriculture to utilize it as a donation program along with a commercial sale—in other words, tying the two together. That is something which could be very beneficial in the years to come for American agriculture and the development of markets as well as helping friendly countries with their nutritional needs.

Another point that might be missed in perusal of the bill is that we have provided for a special assistant to the President to both expedite and coordinate the agricultural food aid programs as well as agricultural trade in general. A point you might miss is that that special assistant will be given full cabinet rank. He will not be advised and consented to by the Senate, which is unusual for a person of that rank but, believe me, that is the way the bill calls for it. He will have a pay equal to any of the other secretaries.

Another point that is perhaps overlooked because it is not expected to be found in a farm bill is the sodbuster provisions. It is something we have sought to enact in this Chamber for 2 years. I trust this bill, when it clears the Senate, will be signed by the President. The sodbuster provisions will prevent those who break up highly erodable land from participating in the farm program.

But added to that is also what we call the swamp-buster provisions which provide the same limitations on anybody who is breaking up swamp land to be put into agricultural production. They, too, will not be able to participate in the farm programs under the terms of the bill.

Fourth, and not the most insignificant point but unless you look carefully for it you will not be aware of it, is that in the animal welfare amendments included in the farm bill we require research institutions which use primates in their experimentation to provide for their psychological well-being. You might wonder, Mr. President, what does "psychological well-being" mean. Let me tell you what is in the report. The report says that the psychological well-being of primates means they will have adequate space. That is vitally needed. If you look at where some of these institutions keep the chimps or monkeys or the apes which they use in research, you will see that they are often confined to very small quarters. But also the report states that the psychological well-being of primates means they not only have the space but they have interesting things to do, so they are not bored to death just waiting to be part of man's quest through true research for better lives for all of us.

Lastly, a point you might miss is on the whole-herd buyout plan. If you do not know what the whole-herd buyout plan is, I will explain to you that that authorizes the Secretary of Agriculture to buy entire herds of dairy cows in order to get them out of production and reduce the dairy surplus. It is a new concept.

I am not sure how well it will work, but an interesting point made twice, if not thrice, during the conference committee negotiation by one of the Assistant Secretaries of Agriculture was that when the Secretary of Agriculture buys out the whole herd from a dairy farmer, it also means he cannot remove the dairy barn and the milking parlor from the premises but neither can the dairy farmer continue to utilize that dairy barn or milking parlor. I do not know exactly what they are going to do in the dairy barn or the milking parlor after the herd is gone. I suppose they could use it for barn dances, if it is the right kind, or they could use the milking parlor for sort of a family room away from the house. Kids could use it for their parties. I do not know. I hope that would be acceptable to the Secretary of Agriculture as he buys out these whole herds from dairy farmers. I hate to think that the Secretary of Agriculture would have to review and examine and inspect periodically the use of those dairy barns or milking parlors to make sure they fit whatever regulations the Secretary of Agriculture is going to draw up for their future use.

Mr. President, with that I conclude my remarks. I will support the conference report. I hope it is adopted, and I assume with quite a degree of confidence that the President will sign it.

Mr. COCHRAN. Mr. President, I hope Senators will vote for this conference report. It offers the best hope we can provide to farmers throughout America that they will be able to operate at a profit. It is a very strong effort to put profit back into farming.

The centerpiece of the effort is market enhancement, to make America more competitive in the international marketplace but not at the expense of farm profits. That is hard to do. But there has been developed a strategy of a marketing loan that is found throughout this legislation which authorizes the Secretary of Agriculture to permit the repayment of nonrecourse loans by farmers at rates that are equal to the market, the market value of the commodities, rather than the loan rate which was originally set in the legislation for the harvest loan. This is new. The only crop for which it is mandated for the 1985 crop year is rice. In the other commodities, it is authorized for the 1986 crop year and later.

In my judgment, this is going to permit America to become competitive again in the international marketplace, but there will be a sharing of the financial burden to become competitive. Farmers will not have to bear the entire financial burden themselves. Our Government will continue to assist by making up the difference between the loan rate and the market price at the time the loan is redeemed.

This does two things. It lowers the effective price of U.S. commodities at the market. It forces the sale of those commodities in the international marketplace and does not require their forfeiture to the Government. The Government saves money because it does not have to pay storage costs; it does not have to pay interest. It moves these commodities into the international marketplace.

I think it also sends a very strong signal around the world that America is going to stay in the farming business. There were some who were arguing at the beginning of this debate last year that America ought to limit production so severely that prices are forced upward because of reduced supplies. Most felt, however, that this would take us out of the international market. It would require the idling of huge amounts of acreage. Some said that if we are not going to sell at all in the international marketplace, we would have to idle as much as 40 percent of all cropland throughout the country.

There is another key feature of this bill, and it is that we continue to make a commitment to agriculture that there will be income support and a structure for maintaining a reasonable supply of food for our domestic consumption, at reasonable prices. I think everybody realizes that the consumer has an important stake in the outcome of this farm bill, too, and this bill recognizes that, and is sensitive to those interests as well. But it also sends a very strong signal to farmers in this country that we in Congress recognize that if the American farmer goes down the drain, America goes down the drain, too, and we are not going to permit that to happen.

There are some miscellaneous provisions in the conference report that I think are significant. There is a solution at last to the dispute between the maritime industry and the agriculture industry over cargo preference.

There is a compromise reflected in this conference report that ought to put an end to the litigation that has been going on for the last few years over the applicability of cargo preference to certain commercial type shipments. We basically have provided in this bill that cargo preference will not apply to commercial type transactions and the shipment of commodities under those transactions, but it will apply to the extent of 75 percent of the shipments in concessional type transactions, such as Public Law 480 and the like.

We hope that this provision will be funded by additional appropriations to the Department of Transportation to pay for that extra 25 percent of the concessional-type shipments. If that funding is not forthcoming, then these provisions and these changes will be a nullity.

There is another provision of the conference report that I think Senators should notice, and that is the clear title provision, which puts to an end the continuing disagreements and concerns that have been expressed over the preference that is given in domestic transactions involving agricultural commodities as among lenders and purchasers and farmers.

We have established in this conference report that a purchaser of agricultural commodities takes title clear of any lien interest, unless that lien interest has been disclosed to the purchaser in writing by the lender, or unless the lender has sent in his notice and filed it with a central filing system that can be created under the authority of this legislation by the States. Many States already have moved in this direction and find that it is a more satisfactory way to protect the interests of lenders, farmers, and purchasers than the old uniform commercial code.

The fact is that section 9 of the Uniform Code had become ununiform. Some 21 States opted to change the provisions, and no one can know what they are from one State to another without doing exhaustive research, trying to find who has liens on which growing crops or on whose livestock. It was a mess.

I think that by the adoption of this conference report, we will have improved that area of the law for all concerned. It had the support in conference of the representatives of the Banking Committee, those who were involved in developing the legislation here in the Senate. We were trying to protect the interests of buyers, lenders, and farmers, and I think we succeeded.

Mr. President, before I yield the floor, I want to thank, in a most sincere way, the staff members who have worked harder than any group of staff members I have ever observed in the development of this legislation, in the passage of it, in the drafting of language, in the conference, and in getting this all together in the proper form to present it to the House and the Senate today. It has been a massive undertaking by the staff of our committee, led by George Dunlop and Bob Franks, the legal counsel; also, our personal staff members, such as David Graves, who is on my staff; and Carl Rose, who is the staff director on the minority side.

They have all done a magnificent piece of work. I commend them and thank them and congratulate them for the work they have done and the professional way in which the work was done.

I also have to say that none of this would have been possible without the very skillful and brilliant leadership of the leaders of our committee—the chairman, Senator HELMS; Senator DOLE; and Senator ZORINSKY. They had to put together from a disparate group of suggestions and ideas provisions that have been sifted through, analyzed, and have now come together in the form of this conference report to the Senate. I think it is a brilliant piece of legislative work, and I congratulate and compliment them.

Mr. PRYOR. Mr. President, after almost a year's work, we are finally about to take final action on the 1985 farm bill. For over 11 months, the Senate Agriculture Committee has listened to economists, administration officials, representatives of farm groups, and, most important of all, farmers themselves. We have tried to ascertain their thoughts on what a new farm program should contain. These thoughts were at best conflicting, and it was rare for more than one or two groups to agree on any one specific approach to a new farm program.

Maybe what made this process even more difficult is that we were operating in a crisis atmosphere. Farmers are going bankrupt, rural banks—and the Farm Credit System—all find themselves struggling for survival. And the country itself is facing a debt of trillions of dollars.

It has been an emotional experience for me to travel through Arkansas meeting with thousands of farmers, many of whom are losing their farms. However, the reality of our great budget deficit and what it is doing to our economy dictates that all decisions have to be made within the realm of a limited budget.

As a member of the Senate Agriculture Committee, and this year a conferee on the farm bill, I have had an opportunity to be involved in the development of this year's legislation. I have never taken part in a more difficult or complicated exercise in my political career. Although I may change my mind by this time next year, at this point I would say that rewriting the complex Tax Code looks easier now than the "push and pull" gymnastics involved in the farm bill rewrite.

Mr. President, I represent an agricultural State that is almost completely dependent on the farm economy for its own financial health. I have tried to be as effective an advocate and spokesman for the agriculture community as I could be during the months of discussion and debate.

Because of our overall budget restraints, from the very beginning of our consideration of the 1985 farm bill, we were forced in our discussions to deal not with raising the farm safety net for our farmers, but on just how low we could take this net without having wholesale bankruptcies and foreclosures. We had to try to determine why the American farmer, the most efficient in the world, cannot compete with foreign agriculture and why our farmers, as well as their lenders and suppliers, are facing such disastrous problems.

During the last 11 months we have all looked for some avenues to make our farmers more competitive. We have examined several new concepts to allow our farmers to get a price for their goods.

Both the Senate and House Agriculture Committees and the resulting conference looked at scores of alternatives to solve this puzzle, trying always to fit the pieces together within the budget framework.

I am quick to say that this is not the bill I wanted. But under the circumstances, it is much better than it might have been. I believe it falls short in providing the kind of safety net income protection for farmers that I think is needed. But it does offer some new approaches for making American agriculture more competitive and to return a fair price to our farmers.

I am proud that the marketing loan concept that Senator Cochran and I proposed has become a part of the price program. I believe this experiment will prove successful and that it will eventually become an integral part of other commodity programs. It will increase exports and provide a fairer price to the farmer, while reducing the drain on the Federal Treasury.

The inclusion of this program is one of the reasons I will vote for this bill today. It doesn't contain all the solutions, and for sure we will be working on farm legislation again next year. But to merely extend the current farm programs would have been even worse. That bill, which I voted against in 1981, helped mire agriculture in its present crisis and provided no new tools for farmers to start regaining lost markets.

Writing farm legislation is a lot like climbing a ladder. We must take it one rung at a time. I look at this bill as the first step. To vote it down runs the risk that farmers would end up with a much worse program. And with Gramm-Rudman looming over our shoulders and a Congress that is becoming less and less rural oriented, we can't put off approaching that first rung of the ladder any longer.

The survival and the economic vitality of the farm community—and, Mr. President, of the country as a whole—depend now on how we continue the process of taking it one rung at a time.

Mr. President, we have a little town up in the mountains of north Arkansas, in Marion County, named Yellville.

One Saturday each year, usually during the fall, Yellville, AR, does a unique thing, and I must say that it is very controversial. Yellville, AR, has become the scene of the annual turkey drop. They have a big parade, and they fly an airplane over the town—it is a small town—and they start dropping turkeys out of the airplane, about 500 feet over the town.

All the townspeople go out there and wait for the turkeys to drop. On the wing or the leg of each turkey is a little certificate. It might be for a free lawnmower from Joe's Lawnmower Shop, or a free homemade pie from Mary's Pie Shop, or it might be a sofa from Joe and Bill's Furniture Store.

But whatever the case may be, as to these turkeys that drop from the sky and these people who stand under them and try to catch a 25-pound turkey, dropped from 500 feet up in the airplane, sometimes the recipients of these turkeys made out a lot worse, I might say, than the turkeys themselves do.

Mr. President, a lot of people today are going to refer to this bill as a turkey and they are going to say that we have flown low and we have thrown this turkey out, and now the farmers are supposed to stand there and catch the turkey.

Mr. President, I wish to say that I also, as my colleague from Mississippi, as the distinguished chairman from North Carolina, and the ranking member of the Agriculture Committee from Nebraska, and those other Members of the Senate who have spoken this afternoon for and against this farm bill and those who will definitely follow my brief remarks, must say that I understand the threat of a Presidential veto after 11½ months of a gestation period which has now presented us with that 13-pound baby which sits over there in its crib, that with the parameters of a budget resolution which have constrained and restrained us working very closely and tightly within a budget that is extremely severe, I must say to my colleagues that I believe that our system has produced the best farm bill under the circumstances that we could produce at this time.

I also wish to say that if I wanted to make myself very popular back home and maybe across America with a lot of farmers, I would vote against this bill. I would vote against this bill because all of us know that this farm crisis that we are in today is a crisis that is not going to improve dramatically because of this bill; nor are we going to see dramatic changes take place in the agricultural community across America for possibly the next 12 months. We are in serious times and we have produced a farm bill to the best of the ability of the members of the Agriculture Committee of the Senate, and the conferees who worked 8 days and 8 nights, and the members of the staff, without whom we could not have completed and laid this bill on the desk today. This bill would not even be here today except for an exceptional and dedicated staff. I truly believe, Mr. President, that we have produced the best program and the best document humanly possible under our restraints.

When we started this bill back in January, a lot of people said, "Well, wait a minute. Maybe we do not need to make any changes. Let us reenact the farm bill that we now have on the books and extend it for another 2 years or possibly another 4 years."

There was one train of thought that was going through the Senate and the House of Representatives at that time. It said let us just have mandatory controls. Well, that provision was discussed and it did not prevail in our democratic system.

Another train of thought said something like this: let us just not do anything. Let us just get the U.S. Government totally out of agriculture and let the farmers sink or swim on their own.

Mr. President, we have chosen to do none of those particular two examples. We have chosen a bill which I truly believe is an attempt to move back into the export markets and to retrieve many of the export customers that we have lost over the last several years.

I, and I speak as a Senator from Arkansas, have been one of those severe critics of this administration when it comes to agriculture policy. I have from time to time been a severe critic, not personally but professionally, of the policy that our present Secretary of Agriculture espouses, but that is behind us, and on Saturday night at 7 p.m., when the conference finally adjourned after days and nights, and months of discussion, and almost a year of debate, and I think it might be noted, Mr. President, that every member of that conference, Democrat and conservative, Republican and liberal, whoever, chose to vote affirmatively to send this conference report to the floor of the Senate.

Finally, Mr. President, if we were all magicians or if we were inspired or maybe crowned with a divine right theory, or whatever, if we had some extra perception or even some extra money, maybe we could have done a better job. But our system is one that has to work within the parameters that are given us. We can do no more; we can do no less.

I say, also, to the distinguished Senator from Mississippi, Senator Cochran, with whom I had the honor of coauthoring something known in the committee as the "Cochran-Pryor marketing loan provision," when Senator Cochran and I introduced this concept last spring, I studied what it did and we both thought it would work. We introduced it and it got a lot of flak and people would call me on the phone and say, "What about that marketing loan bill?" I said, "Oh, that is Senator Cochran's bill. I just kind of tagged along, and, you know, by typographical error or something I had my name on there."

But the longer I loooked at that bill, and the longer I looked at Senator Cochran's proposal on the marketing loan, I truly believed that our rice industry, our cotton industry, and ultimately those other commodities such as wheat, corn, and maybe soybeans, down the line, were going to see what this concept will be able to do in expanding our exports and retrieving those customers we have lost and, by using supply and demand, ultimately increasing commodity prices to the extent that maybe someday we can get out of the area of setting loan rates and target prices.

So, Mr. President, it has been a great honor and privilege for me to have worked with my colleagues on the committee, with the chairman, with the ranking minority member, members on both sides of the aisle, and with the members of the conference, who once again supported this proposal unanimously to send it, all 13 pounds of it, to the floor at this time.

Mr. President, in conclusion, I might note that after we had adjourned the conference on Saturday night, that on Sunday morning the members of our staff came back and for over a 40-hour period, nonstop, began putting this bill together and trying to assemble this huge proposal that will affect our agriculture policy for the next 5 years.

Mr. President, I yield the floor.

Mr. STENNIS. Mr. President, will the Senator yield for just 1 minute?

Mr. PRYOR. I yield.

Mr. STENNIS. Mr. President, I compliment the Senator. I am very glad I got to come here just at this time for a chance to hear the Senator's speech.

I believe he has been speaking so truthfully and correctly about the difficult situation in passing this bill this year on the subject of agricultural products.

I believe that of the years that I have been here, this was the most difficult year that I have known to pass a comprehensive farm bill that had real meaning and possibilities of success.

I wish to commend and thank all of the members who worked so hard, so diligently, from the East, the South, the West, the Far West, everywhere. A lot of hard work went into this bill trying to meet problems and situations. I feel mighty thankful we have the bill. I have supported virtually all phases of the measure.

I commend the Senators highly who have worked on the bill, including my own colleague from Mississippi, Senator COCHRAN, who has been diligent and effective in covering parts of the bill. I commend him for his work.

Mr. PRYOR. I thank my colleagues from Mississippi.

The PRESIDING OFFICER (Mr. ABDNOR). The Senator from Nebraska is recognized.

Mr. EXON. Mr. President, this is an extremely important bill that is going to have extreme effects on rural America. So I hope that we understand what we are doing on this bill when the vote comes.

Yesterday I was in this Chamber and indicated the rapidly deteriorating situation in Nebraska, and that is for the record.

As we approach the vote on this bill I have two or three questions that I wish to ask the managers of the bill and anyone else who would care to respond. But before doing so I today cite another reason for the crisis situation that we are in in agriculture today and not only agriculture but the businesses and the people who live in rural America.

It is summed up basically by an excellent article that appeared recently in the Sioux City Journal. It is about a very knowledgeable farmer and farm-banker in Nebraska whose name is Vince Rossiter.

Mr. President, I ask unanimous consent that, at the conclusion of my remarks and when I yield that floor, the full article be printed in the RECORD, including the article entitled "Banker Blames Government Inaction, Debt," along with an article subtitled, "Nebraskans Seek Parity."

The PRESIDING OFFICER. Without objection it is so ordered.

(See exhibit 1.)

Mr. EXON. Mr. President, I first want to compliment the managers of the bill. I am not a member of the Agriculture Committee, but I have been working very closely with them. I was in and out of the conference with the House of Representatives. I know that our Members and especially our staff worked extremely hard on this, and particularly staff continued into the wee hours of the 3 days following the conclusion of the conference to get the bill in a form that it could be considered first by the House of Representatives and now by the U.S. Senate.

In reviewing the vote in the House of Representatives, I noticed that a rather high number of those who opposed that bill in the House of Representatives were from farm States. So, while it is true that there was bipartisan support for this in the House of Representatives, a major portion of the opposition over there came from Members of the House of Representatives that represented farm States.

Let me first say that my colleague from Nebraska, ED ZORINSKY, fought very hard in that conference and tried to get some things done that were not accomplished. I compliment ED ZORINSKY and the other Members for holding fast for what they thought was proper.

Unfortunately, they did not get as much done as I think would have made this bill acceptable. But, nevertheless, they worked extremely hard. If we could just have gotten some give on some points. If we could have recognized, for example, that if we could get to some kind of a mechanism to mandatory control of production or at least steps significantly in that direction, rather than the watered-down approach to even the referendum by wheat growers as to whether or not they want to go to mandatory controls, I could have been more enthusiastic about this bill.

But I reference again the item by Vince Rossiter in the Sioux City paper. Again, it comes home to roost that there is no way out of this situation. There is no way out of it with extended credit. There is no way out of the thing by simply bailing out the Farm Credit System. The only way out of the difficulties of rural America today is to get some profitability into the hands of the food producers.

I believe the key question about this bill, therefore, is not to what extent it busts the budget or does not bust the budget. I think the key question is whether or not this bill before us, which we will be voting on sometime today, as I understand it, raises farm income for any one of the following years: 1986, 1987, 1988, 1989, and 1990.

My first question of anyone who is in a position to answer: Will this bill improve farm income in any of those years?

Mr. President, I pose the question once again because obviously no one heard me: Will this bill improve farm income in 1986, 1987, 1988, 1989, and 1990?

Mr. ZORINSKY. I would like to answer my distinguished colleague from Nebraska. If properly administered by the administration, this bill has the potential for increasing profit. Based on past history, the odds might be against that. however, the discretionary authority that is vested in the Secretary of Agriculture and the Department of Agriculture gives numerous options to make that happen. As a matter of fact, this bill, for instance, would give him the discretionary authority to implement mandatory production controls on wheat, which my colleague from Nebraska has just indicated he would like to have included in the bill. The Secretary does have that option under the bill. Were he to use that, I would say that I would be able to answer the Senator's question affirmatively. Obviously, the choice of those discretionary options has a great deal to do with the profitability of agriculture in the future.

Mr. EXON. Let me ask another question of my colleague, then. I appreciate his frank and forthright answer. During his discussions, or any discussions that he knew of between the present Secretary of Agriculture, who is the only one that we have had under this administration, during the discussions around the measure before us, which the Secretary of Agriculture was intimately involved in, or previously, has there been any indication whatsoever, has there been one iota of hope expressed directly or indirectly by the Secretary of Agriculture that he might use some of the tools at his disposal that my friend from Nebraska has just cited?

Mr. ZORINSKY. Well, the Secretary has indicated to me, I might relate to my good colleague from Nebraska, that he is hopeful agriculture will turn the corner and farmers will be able to earn a profit in the marketplace. However, he did not indicate in which manner. He did not indicate how; he did not delineate any plans in the near future.

However, the results of the wheat poll—the mandatory requirement that the Secretary conduct a survey of wheat farmers to see if they favor mandatory production controls—may change the Secretary's mental attitude toward implementing production controls and help the profitability of agriculture.

But, in answer to the Senator's question, I have found throughout the entire evolution of this farm bill that everybody wants to increase the prices for commodities for farmers. Many people are on different tracks on how to get there. Unfortunately, my differences with the administration and Secretary Block were on how to get there. I felt we have to have new innovative ways to do that, whereas it appears he is satisfied to let the failed practices of the past control the future.

Mr. EXON. I thank my friend from Nebraska. I would simply comment that, from his answer, I only took it that the answer to my question as to whether or not the Secretary of Agriculture had ever indicated in any fashion that he was prepared, ready, anxious, or would move to production controls to raise prices, I think the answer to that is no. Because I do not believe that he has ever indicated that he thinks that is the proper course of action. To the contrary, this administration has always taken the position that they did not want any kind of controls; that they were for fence-row to fence-row production as much as they could because that would eventually lead the price of grains down to a point where we could—and I use their words—"be competitive in the international marketplace."

What they are really saying is that the farmers of the United States should be able to produce grain as cheaply as they do by hand in mainland China, where the average wage is something around 18 or 19 cents, and they do it all by hand and they have no equipment and no costs therewith.

I also say this is the same Secretary of Agriculture—and that is why I object to this measure that allows too much flexibility, and too much control for the Secretary of Agriculture—who not more than 2 years ago was in the room over there suggesting that we cut target prices on wheat so that he would not have to pay out as much money, and that he could reduce the loan price of wheat if we would simply put the target price which unfortunately and over my objections we did.

There is one other question that I think we have to keep in mind as we look to the future. This is my last question, Mr. President. When I get the answer to this one, I will yield the floor.

It is not just what is in this farm bill and how much money we are going to spend. But it is tremendously important, for the planning for not only 1986 but in future years, to the farmers who have to work with their lenders to see what they can do, and what their budgets are. It seems to me that whatever this bill does or does not do we will be facing a near-term reduction in whatever amount of money we appropriate for this bill because of Gramm-Rudman. I suspect that at least will happen in the February to March 15 period of next year when Gramm-Rudman triggers about a $11 billion-plus decrease in the budget for 1986, a reconciliation, if you will.

When you knock out—and eliminate, if you can, and as Gramm-Rudman does—over 50 percent of the budget and say that is sacrosanct, it cannot be touched, then you come with under 50 percent of the budget, and you start whacking out $11 billion there, it appears to me from rough calculations that would require maybe a 5-percent reduction in all budgets including agriculture in the spring of next year.

At the very same time we will be tied up with the message from the President of the United States that Gramm-Rudman requires, to cut another $35 billion out of the next fiscal year. What I am saying is I think it is fair that we level with the American farmer, and have an understanding as to what this bill does or does not do.

I do not think we can argue with the fact that Gramm-Rudman, good, bad, or indifferent, hangs like a meat ax or a meat cleaver over all appropriations including agriculture.

So whatever we outline here, whatever we do, whenever we come to figuring cash flow as to if I raise so many bushels on so many acres how much money will I have to meet my debts and retire my loan payments, and if I am going to have anything left, it seems to me there is no way that figuring cannot be done on a realistic basis given the uncertainty of Gramm-Rudman.

My question is, Is it not possible or is it not probable that Gramm-Rudman and its budget approach in the spring and in outyears is going to do great harm to whatever amount of moneys we are attempting to appropriate here with regard to a 5-year Farm Program?

That is my question. Can anyone answer it for me?

Mr. ZORINSKY. I would like to say to my colleagues from Nebraska that quite obviously any cut in any budget severely constrains its effectiveness, and its ability to operate. If we had the guts a long time ago to start reducing the deficits and the budget, maybe today's farmers would be paying 5 percent interest which would certainly more than offset any 5-percent cut in the budget next year. It is a hypothetical question. Obviously any cut in anyone's budget can terminate programs, can hurt budgets and can hurt the effect of any program—quite obviously.

The ultimate responsibility for making budget cuts rests with Congress. Gramm-Rudman did not repeal the Constitution.

I would hope that come next year we do not have to trigger Gramm-Rudman, and have the ability ourselves to face what I have heard the American people tell me time and time again; that is, Mr. ZORINSKY, we are not overtaxed. We are overspent in Washington.

So I just feel at this point it is difficult to describe what problems would be created by Gramm-Rudman.

Mr. EXON. Can anyone else answer the question for me as to whether or not Gramm-Rudman with its automatic triggering action is going to have an effect on the agricultural community? I did not come here to argue that we should not cut spending. What I am arguing, and what I argued for yesterday, was the fact that Gramm-Rudman and the whole process that we are going about did not make an even cut. As I said yesterday, there is great joy in most of America today—merry, merry Christmas and all that good cheer. There is no good cheer in the Farm Belt today. How many people in America today would be having a merry Christmas if they felt that their total assets had deteriorated by 50 percent in the last 4 years?

I am trying to get across to the U.S. Senate that we are going about this in an uneven manner. I do not buy the fact that we have to make some reductions as we go through this overall process.

What I am trying to get at is this bill we are passing today is generally understood, I think, in rural America as doing this when in fact we are misleading them by not coming up front and saying whatever we do in this bill it is going to be something less.

I agree with my colleague from Nebraska. I hope we do not have to make $11 billion in cuts in February. But we have already been told that we are going to have to do that. We have already had outlined in Gramm-Rudman that we are going to have to cut spending by $35 billion a year for 5 years. It seems to me, Mr. President, that Gramm-Rudman hangs like a meat cleaver over the agricultural budget, in what it is going to do to a sector of our economy that has already been devastated.

Since I cannot get the answer to the question, at least I tried.

I yield the floor.

Exhibit 1

Banker Blames Government Inaction, Debt

(By Joan Burney)

Hartington, Neb.—V.E. Rossiter Sr., chief executive officer of the Bank of Hartington, has been an activist for the cause of the family farm all his banking life.

He has served as president of the National Organization for Raw Materials, has also given numerous speeches and participated in a number of meetings in Washington, including a recent one with Paul A. Volcker, chairman of the Federal Reserve Board.

Rossiter said "What Governor Branstad has done to correct this problem will be lost in history and soon forgotten in the economic chaos that is just ahead of us—unless we restore the primary income created in monetizing farm and other raw materials to 100 percent of parity immediately."

He said he didn't care to speak directly on Branstad's action. "I'm sure he has done as much as he can do . . . to persuade President Reagan to release his stranglehold on the throat of American agriculture.

"On the other hand I am painfully conscious of the fact that the midwestern governors have had three or four years to consider 'mininmum pricing' legislation where the several midwestern states would be permitted to supplant the federal government in a farm-price-support program. When it passed the legislature of South Dakota three or four years ago, Governor Janklow vetoed it. Of all the midwestern governors, Governor Perpich of Minnesota was the only governor to actively support state level 'minimum farm pricing' legislation.

"The Nebraska state legislature has prepared a bill and the agricultural committee has approved it, but it has found no support from the Nebraska governor nor members of the legislature in the last two sessions.

"You would think that if the midwestern governors really wanted to deal with underpriced farm raw material, the primary source of state tax revenues, then they would do something in the way of minimum pricing and legislation at the state level."

Rossiter said midwestern governors appear to be insincere in their political efforts to help the ailing agricultural economy within their states, and they are dishonest if they criticize President Reagan for doing nothing for the farm economy, if they are not willing to supplant mismanaged and ineffective farm programs at the federal level with carefully managed and effective, state-administered farm programs which will support our farm economy, and the national economy.

He says, "I personally anticipate tragic economic consequences for rural America, and metropolitan America as well, by the unconscionable delays in dealing with the pricing problem of the farm economy. Agriculture's share of national income has declined 85 percent from the 1943-52 average. The share of national income earned by small unincorporated businesses and professional people has declined 59.1 percent. The share earned by individual owners of rental property has declined 25.7 percent. And the share earned by corporations before taxes has declined 23.2 percent from the average share of each national income dollar earned from 1943-52" Rossiter says he feels these figures are significant and show that everybody should be concerned. He said, "The point here is that agriculture earned 100 percent of parity farm prices on the average during the 1943-52 period and all sectors for the economy prospered.

"Today we have the greatest distortion of individual sector share of national income that has prevailed since records have been kept. This distortion was created by the dislocation of income due the private enterprise sectors, which was siphoned off by the increasing interest costs on an unprecedented public and private debt injection into the economy. The purpose was to 'stabilize' the economy over the past 32 years, but the effect has been rampant destabilization."

Rossiter said, "The result is an increase in public and private debt in the United States from $550 billion in 1952, to $7.1 trillion at the close of 1984. An increase of 46.5 trillion of debt in 32 years. The net result because of this dislocation is that with all private enterprise sectors losing income to service debt, interest income to individuals share of national income has risen 661.9 percent from the average from 1943.52.

"This in an unprecedented example of gross mismanagement of our national economy by the Republicans and Democrats alike. The debt incurred must be paid out of future income or it will cause economic collapse and it will be abrogated, cancelled and charged off against the capital assets of the nation."

Nebraskan Seeks Parity

Hartington, Neb.—V.E. Rossiter Sr., chief executive officer of the Bank of Hartington, said "What Governor Bradstad has done to correct this problem will be lost in history and soon forgotten in the economic chaos that is just ahead of us, unless we restore the primary income created in monetizing farm and other raw materials to 100 percent of parity immediately."

He said he didn't care to speak directly on Branstad's action. "I'm sure he has done as much as he can do . . . to persuade President Reagan to release his stranglehold on the throat of American agriculture."

Several Senators addressed the Chair.

The **PRESIDING OFFICER**. The Senator from Alabama.

Mr. **HEFLIN**. Mr. President, the peanut title, as reported out by the Senate-House Committee conferees, reauthorizes and improves upon the Peanut Program provided in the 1981 farm bill. These improvements are considered necessary by experts in the peanut industry. Since the provisions of the peanut title of the conference report, the Senate bill and the House bill are almost identical to the peanut title of the bill I introduced, I feel I am the proper Member of Congress to explain the provisions of the final bill which includes the improvements of the existing law.

Mr. President, I would like to briefly outline these improvements or modifications for clarification.

First, the bill seeks to be more flexible in regard to meeting increased market demand, by giving the Secretary of Agriculture discretionary authority to adjust the national poundage quota by the amount he estimates that domestic edible, seed, and related uses of peanuts would exceed the statutory level of 1.1 million tons. Increases in the national quota are required to be apportioned among the States so that each State's poundage quota is equal to the percentage of the national poundage quota allocated to farms in the State for 1985.

It is the intent of the conferees that the State Agriculture Stabilization and Conservation Committees shall determine the basis for allocation of such poundage quota released. The State Agriculture Stabilization and Conservation Committee is more aware of the situations and conditions that exist in their respective States and are, therefore, in the best position to determine how the quota reallocation should be made on a basis of fairness, equity, and need. There may be some conditions prevailing in some States and not in others that should be taken in account in making allocations of poundage quotas.

Second, the bill further expands provisions that establish poundage quota for farms that currently do not have a farm poundage quota. Under the bill, a farm poundage quota for the 1985 crop and for each farm on which peanuts were produced in at least 2 out of the last 3 crop years. In addition, if the national poundage quota is increased by the Secretary, poundage quota would be allocated equally to both quota and nonquota growers.

The bill also provides for reduction of a farm poundage quota if the quota was not produced in 2 of the last 3 years. Voluntary release of quota is also permitted. Quota that is reduced for failure to produce or voluntarily released would be allocated to all farms that produced peanuts in 2 out of the 3 last years.

Third, the bill increases the marketing penalties to 140 percent of the support price for producers and handlers. Previously, handler penalties were 120 percent of the support price. Also, penalties of 140 percent of the support price are imposed on importers of additional peanuts which have been exported from the United States.

Fourth, some physical requirements for exported additional peanuts have been relaxed to improve overseas sales potential.

Fifth, the deadline for contracting for the export or crushing of peanuts has been changed from April 15 to August 1 to allow growers more time to assess their planting and marketing objectives before making commitments on contracts.

Sixth, the bill gives the Secretary authority to adjust the support rate for 1986, based on changes in the index of prices paid by farmers over the past 5 years.

BEST COPY AVAILABLE

The national average quota support rate for the 1986 crop of quota peanuts shall be the same as the national average quota support rate established for the 1985 crop of quota peanuts, adjusted by the Secretary by a percentage equal to the percentage increase in the index of prices paid by farmers for commodities and services, interest, taxes, and farm wage rates, 1977 equals 100, for the calendar year beginning January 1, 1981, through calendar year ending December 31, 1985. This adjustment shall be made by adding any increase determined by the percentage of any increase for the 1981-85 calendar years to the quota support rate, $559 per ton for 1985. The index, 1977 equals 100, of prices paid by farmers is compiled and published on a monthly and annual basis by the Crop Reporting Board, Statistical Reporting Service of the U.S. Department of Agriculture.

The Secretary of Agriculture has already gone through the formula outlined in the farm bill and has determined that the quota support for the 1986 crop will be $615 per ton. In a letter to the House of Representatives, dated September 18, 1985, the Department of Agriculture outlined its position on six aspects of the farm bill. In writing about peanuts, this letter specifically stated among other things:

> The Committee Bill would set the 1986 quota price support level for domestic use equal to the 1985 level (559 per ton) adjusted by the change on the cost of production. This price is currently estimated at $615 per ton—well above the estimated 1984 farm price of $506 per ton.

After the Senate Agriculture Committee reported its bill, Senator JESSE HELMS, chairman of the Committee on Agriculture, Nutrition, and Forestry of the U.S. Senate, requested the Department of Agriculture's position on the committee-approved bill. John R. Block, Secretary of Agriculture, responded to this request by a letter addressed to Senator HELMS dated September 26, 1985. On page 4 of that letter, under the heading "Peanuts," the Secretary wrote, among other things, the following:

> *Peanuts*—The Committee-approved bill would extend the present peanut program with some modifications. The legislation would set the national poundage quota at estimated domestic edible, seed, and related uses, but in no case could the quota be less than 1.1 million tons. The legislation would set the 1986 quota price support level for domestic use equal to the 1985 level ($559 per ton) adjusted by the change in the costs of production. This price is currently estimated at $615 per ton—well above the estimated 1984 farm price of $506 per ton. The 1987-89 quota price support level is tied to changes in cost of production. As a result, the legislation would substantially increase both the national poundage quota and the quota support level. . . .

In writing that the 1986 quota support level is currently estimated at $615 per ton, the Secretary was expressing displeasure with the committee-approved bill on peanuts and, obviously, the purpose was to try to influence the Senate to change the Senate committee-approved bill. In making this evaluation, the Secretary had to adjust the support price from the 1985 level of $559 a ton upward to reflect the percentage increase in the index of prices paid by farmers for commodities and services, interest, taxes, and farm wage rates for the period beginning January 1, 1981, through December 31, 1985. It is assumed that the estimation was made around August 1, 1985, or September 1, 1985. The reason for the use of the words "currently estimated" was that the year 1985 was not completed at the time the Secretary made his review. Thus, it would appear that if a different review of the period from January 1, 1981 through to-wit: September 1, 1985, were to produce a different figure for the final program figure, then the Department would be guilty of making one estimate for political expediency to support its political position and a different one for program purposes. I trust the Department would not desire its integrity to be so questioned.

For each of the crops years 1987 through 1990, the national average quota support rate shall be the same as the preceding year, adjusted to reflect any change in the national average cost of production of peanuts, excluding any change in the cost of land, for the calendar year immediately preceding the crop year for which the quota support rate is being determined. However, in no event may the national average quota support rate for any of the 1987 through 1989 crops (a) exceed by more than 6 percent of the national average quota support rate for the preceding crop.

Annual adjustments in the national average quota support rate shall be based on the national average cost of production of peanuts calculated by the Economic Research Service and reported annually in the publication, "Economic Indicators of the Farm Sector." The committee is aware that the Economic Research Service considerably changed its cost of production formula as it pertained to peanuts in 1983. This action by the Department affected the determination of the quota support rate contrary to the intent of Congress in the Agriculture and Food Act of 1981. It is the intent of the committee that the Department of Agriculture use the same formula and the same reporting format, as used to calculate the quota support rate for 1985, in determining the cost of production of peanuts, as it pertains to adjustments in the quota support rate, throughout the life of this act.

Seventh, the bill modifies the provision of law relating to area pools and the buy-back from the pools. Currently, farmers may place additional or quota peanuts in the areas pool an allow them to be redeemed by sheller into domestic markets within 72 hour The provision sometimes allows add tional peanuts in one pool to displac quota peanuts in another pool. Highe priced quota peanuts remaining in th pool may be crushed, at Governmen expense. In the past, three separat pools—Southwest, VC, and GFA—op erated independently regarding th buy-back provision even though re demptions in one area could affec other pool profits. The bill provide that the buy-back will remain intact but a loss sharing requirement wil exist among the three pools. Losse sustained from quota peanuts in a poo must be offset by profits from addi tional peanuts in that pool first. I there is inadequate profit from addi tionals, profits from segregation 2 and 3 pools must be used to offset losses in the quota pool. If a deficit still re mains, then income from the other two pools will be used to offset the losses. This pool arrangement is de signed to reduce Government cost ex posure.

The conferees have improved upon this position by including a technical amendment that would further insure that the Peanut Program does not result in substantial cost to the Commodity Credit Corporation.

Under current law and regulations, and the provisions of the conference approved bill, "additional" peanuts that Commodity Credit Corporation has acquired at additional peanut loan rates can be sold for domestic edible use instead of export or crushing uses. This eligibility of additional peanuts for the domestic edible market occurs under a practice known as buy back. Under current law and regulations, additional peanuts can be bought back from CCC by the producer or his assignee. After the buy back occurs, these additional peanuts become eligible to be sold into the domestic edible market. Since the domestic edible market is limited, then quota peanuts which CCC has acquired can be displaced from the domestic edible market, because of the sale of additional peanuts for domestic edible use under buy-back procedures. When such displacement occurs, CCC has to sell quota peanuts for export or crushing at a much lower price—additional peanut price. In other words, CCC may be forced to sell quota peanuts for export or crushing at approximately the additional peanut support price, that is, $148 a ton, where normally quota peanuts would have sold for approximately $559, thus causing a loss to CCC.

The purpose of this amendment is to prevent loss to the CCC and, thus direct that the regulations promulgated by the Secretary of Agriculture be written or changed in a manner to prevent any substantial increased cost to the CCC which could result under buy-back practices. This amendment also goes further than just directing regulation promulgation for it requires the Secretary of Agriculture to operate the buy-back provisions in a manner so that they do not result in substantially increased cost to the Commodity Credit Corporation.

This buy-back practice is practically the only form of Government cost associated with the Peanut Program. The House and Senate both have taken steps to reduce any possible losses to the Commodity Credit Corporation by establishing area pools for distribution of marketing gains and losses. This provision commonly called national compliance will provide that losses in area quota pools will first be offset by gains in the same area additional pool. If there remains a loss in any area quota pool. Any gains in other area pools must be applied to this loss. However, if the Secretary promulgates proper regulations and/or operates the buy-back procedure in a manner where there is no increased cost to the CCC, then there may not be a need for pool offsetting.

The amendment in no way interferes with the Secretary's authority to implement and administer the Peanut Loan Program. It does, however, provide the Secretary authority to prohibit or curb all practices dealing with the storage or disposition of any peanuts owned or controlled by the Commodity Credit Corporation that result in substantially increased cost to the Government.

Thank you, Mr. President.

Mr. President, I also ask unanimous consent that a letter dated September 26, 1985, addressed to the Honorable Jesse Helms, chairman of the Committee on Agriculture, Nutrition, and Forestry of the U.S. Senate, Washington, DC, signed by John Block, the Secretary of Agriculture, which is referred to in the statement that I made on the change of the peanut title be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Department of Agriculture,
Washington, DC, September 26, 1985.

Hon. Jesse Helms,
Chairman, Committee on Agriculture, Nutrition, and Forestry, Washington, DC.

Dear Mr. Chairman: Thank you for your request regarding the Department's position on the Committee-approved bill entitled, "The Agriculture, Food, and Conservation Act of 1985", which was reported out of Committee last week.

As we both know, the development of a 1985 Farm Bill has been a long and arduous process. I have been encouraging the debate beginning with the Agricultural Summit in July 1983. At that time, I stated that agricultural policy had reached a critical point—a watershed period. I also stated that if appropriate agricultural policy is not developed in the 1985 Farm Bill, there could be irreparable damage to our farm and agribusiness economies, and thus the total economic standing of the U.S. Given the recent situation of bumper crops, low commodity prices and the overall depressed rural economy, I am convinced of that premise now more than ever.

Earlier this year, I forwarded to the Congress the Administration's farm legislation. That legislation contained the following objectives:

A long-term consistent agricultural policy which will allow farmers to make realistic investment and production decisions.

Increase U.S. competitiveness which allows farmers to effectively compete in international markets.

Movement toward market orientation that allows farmers to respond to market signals, rather then responding to artificial support rates set by Government programs.

Provides for a compassionate transition from our current programs to a policy of less government in the agricultural sector.

Exercise fiscal restraint by providing income benefits to those most in need to reduce the budget deficit.

While the bill does contain some provisions that are market-oriented and contain sound policy principles, the current version of the bill violates many of the Administration's objectives.

Specifically, I would like to address the major provisions of the Committee-approved bill and provide you with the Administration's position and their potential economic impacts.

MAJOR PROVISIONS

Loan Rates—The legislation does provide for authority to reduce loan rates by establishing them at 75–85 percent of the most recent 5-year average, but not more than 5 percent from the previous year's level. In addition, it provides discretionary authority for the Secretary to lower loan rates an additional 20 percent (the so-called Findley amendment) if the average market price is less than 110 percent of the loan rate. The Administration supports these provisions and commends the Committee in recognizing the need for U.S. agriculture to become more competitive in international markets.

Marketing Loans—The Secretary is required to permit repayment of loans at the lower of the loan rate determined for the crop (prior to Findley amendment) and the higher of 70 percent of the loan rate or prevailing world market price. The Administration opposes mandating this authority but would not object to its provisions on a discretionary basis. Large budget outlays would be incurred if the loan contracts are paid back at less than the loan rate, despite the fact that a floor is placed on the marketing loan. In addition, payments resulting from the lower loan repayment level are exempt from the current $50,000 payment limitation. Together, with the portion of payments resulting from the Findley Amendment, almost 30 percent of all producer payments will be exempt from the payment limit for the 1986 crop.

Target Prices—The Committee-approved bill freezes target prices for wheat, feedgrains, cotton and rice for four years. In addition, due to the tiering of the wheat target price, the effective target price is actually 12 cents above the current level of $4.38 per bushel. The Administration is adamantly opposed to these provisions. Freezing target prices at current levels for the 1986–90 crops is a perpetuation of past failed policies that will have serious consequences on the size of acreage reduction programs, farmers' production decisions both in the U.S. and abroad, foreign governments' interpretations of U.S. policies, and Government costs.

The prevailing argument used by some members of the Committee and others is that it is necessary to have high target prices in order to maintain farm income. In other words, there are some who believe that high target prices will address both the farm income and farm credit situation. There is a serious misconception that much of agriculture benefits from income supports. About 90 percent of all direct Government payments for the 1984 programs went to wheat, feedgrains, cotton, rice, and dairy farms. Yet, these farms account for less than a third of total farm marketings. And, considering that overall only about 50 to 60 percent of these producers participated in the program, 90 percent of farm program payments went to producers that account for less than 20 percent of farm marketings.

More importantly, of all producers who are experiencing both debt to asset ratios of 0.4 or more and have negative cash flow, only 47 percent actually participated in farm programs. As a result, only 17 percent out of each dollar spent for 1984 commodity programs went to producers who were under financial stress and therefore directly benefited from farm income support assistance payments. Other more targeted approaches are far more appropriate to aid this group.

Acreage Reduction Programs—Because target prices are frozen at high levels, incentives to expand production capacity will continue unabated. To contain this growth in production and stocks, extensive annual acreage reduction programs would be required. The magnitude of these reductions would be similar to those under a continuation of current programs, meaning that at least 45 million acres of grain, cotton and rice would likely be idled annually. This approach has had the effect in the past of openly inviting our competitors to expand production and take away our markets.

Marketing Quotas and Referendums—The proposed legislation contains provisions to poll producers to determine support for a referendum and national marketing quota for wheat. The Administration is opposed to any form of mandatory supply controls. Mandatory controls will result in higher prices of wheat and render U.S. exports noncompetitive without large subsidies. Wheat acreage would have to be reduced about 50 percent to achieve desired trigger carryover levels. Import restrictions would have to be applied to processed products such as flour and bakery products in order to prevent cheaper foreign products from undercutting those made from expensive U.S. wheat. Expenditures for inputs—seed, energy, fertilizer, pesticides and machinery—would drop about $10 billion during the 1987–89 period.

Diary—The bill contains provisions which would allow the current support price ($11.60 per cwt.) to remain in effect until January 1, 1987. On that date, the support price must be reduced 50 cents per cwt. If the Secretary estimates that surplus removals of dairy products are projected to be 5 billion pounds or more in the next 12 months. On January 1, 1988, and thereafter, the support price must again be reduced if removals are at or in excess of 5 billion pounds. In addition, if the Secretary estimates surplus removals on January 1, 1988 and thereafter to be 10 billion pounds or more, the support price must be reduced $1.00 per cwt.

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The Administration is supportive of this approach, but believes it is necessary that the legislation provide authority to reduce the support price in 1986 if surpluses continue to exist.

Presently, the combination of increased cow numbers, increased feeding, higher productivity, and lower feed costs are driving a strong expansion in milk production. U.S. milk production for the 1984/85 marketing year ending September 30 is projected at 139.0 billion pounds, exceeding the record level of 138.8 billion pounds in the 1982/83 marketing year. CCC purchases are projected to exceed $2 billion. More importantly, preliminary estimates for the 1985/86 marketing year indicate milk production will increase to 143.0 billion pounds and CCC purchases exceeding 13 billion pounds. This projection is based on maintaining the current support price of $11.60 per hundredweight throughout the 1985/86 marketing year. It is clear that with no adjustment in the support price during 1986, there will continue to be increased production, continued high levels of CCC purchases and excessive government costs.

Sugar—The legislation extends the current program and would set the minimum loan rate for raw cane sugar at 18 cents per pound, the current level with upward adjustments for inflation and rising production costs. The Administration is opposed to an extension of current law for sugar.

This legislation would perpetuate a heavy burden on U.S. sugar consumers, industrial uses, and refiners of raw sugar and would further penalize foreign exporters to the United States. High sugar prices also encourage the shift to lower-cost rival sweeteners and provide manufacturers of sugar-containing products with a major incentive to relocate outside the United States taking the jobs with them.

Domestic market prices for raw sugar are currently about 21 cents a pound, far in excess of the world price of approximately 5 cents a pound. Even if the world price reflected the 1984 estimated average global production cost of 14 to 16 cents a pound for raw sugar, the current U.S. market price would still be 5 to 8 cents (24 to 38 percent) higher.

The Administration would support lowering the sugar support price each year over the next three years. This would provide sugar cane and beet producers with income support, while at the same time, addressing the concerns of sugar users.

Peanuts—The Committee approved bill would extend the present peanut program with some modifications. The legislation would set the national poundage quota at estimated domestic edible, seed, and related uses, but in no case could the quota be less than 1.1 million ton. The legislation would set the 1986 quota price support level for domestic use equal to the 1985 level ($559 per ton) adjusted by the change in the costs of production. This price is currently estimated at $615 per ton—well above the estimated 1984 farm price of $506 per ton. The 1987-89 quota price support level is tied to changes in cost of production.

As a result, the legislation would substantially increase both the national poundage quota and the quota support level. Because total edible supplies are not considered in setting the national poundage quota, quota supplies would likely exceed demand in years with larger than normal year-end stocks. The bill would require forecasts of domestic edible use each year; if over-estimated, this would result in program costs to the Commodity Credit Corporation (CCC). The proposal would halt the marginal progress made toward market orientation through annual quota reductions under the 1981 Act by imposing a floor on the national poundage quota.

Finally, the proposal continues to penalize U.S. consumers of roasted and salted peanuts, and peanuts used in domestic products such as peanut butter and peanut candy. It has been estimated that the price premium on quota peanuts, compared with additional peanuts for export use, caused consumers to pay an additional $170-$200 million for peanuts used in domestic products during 1982-84. Moreover, this premium caused an estimated 14 percent increase in the price of peanut butter. As the spread between quota and additional peanut prices continues to grow larger than 1981-83, U.S. consumers will be penalized even further.

Wool—The bill extends the current provisions for the wool and mohair program. In addition, it establishes a payment limit of $50,000 per person on the total amount of wool and mohair payments. The Administration supports the latter provision. In 1984, 0.6 percent of the total payees received more than $25,000 each, which accounted for one-third of all payments. A large number of these payees received more than $50,000.

Wool production continues to decline as support prices have increased faster than market prices, making the wool industry noncompetitive. The result is continued growth in budget outlays as price supports continue to exceed market-clearing levels. Thus, the Administration supports efforts to set the wool support price level based on past market prices.

Honey—The legislation freezes the honey price support at the 1985 level of 65.3 cents per pound. For the 1987-91 crop years, the loan rate is established at 85 percent of the most recent 5-year average of farm prices or 50 cents per pound whichever is higher. In addition, the Secretary would be required to permit loans to be repaid at levels below the loan rate. Finally, the Secretary may provide deficiency payments to producers who forgo obtaining a loan in return for payment.

While the Administration is supportive of establishing price supports based on past market prices, we are opposed to mandating the use of marketing loans or providing deficiency payments to honey producers.

High price supports for honey have resulted in large takeovers of domestic honey by the CCC at a current cost of around $100 million annually. U.S. honey is no longer price competitive in world markets and can only become competitive in domestic and world markets if price supports are phased down to market-clearing levels.

Conservation Reserve—The Committee-approved bill requires the implementation of a 25-30 million acre reserve which would retire erodible cropland. Contracts would range from 7-15 years and payments would be made with either cash or in-kind commodities. In addition, the legislation contains sodbuster and swampbuster provisions to prevent cultivation of highly erodible land and converted wetlands.

The Administration is very supportive of this provision but would prefer a program level of 20 million acres as originally proposed by the Administration.

Food Assistance Reserve—A food assistance reserve is created which may have up to 500 million bushels of wheat and feedgrains, but not less than 200 million bushels of wheat for humanitarian needs. The c
rent Farmer-Owned and Food Security
serves would be repealed. The Administ
tion supports these provisions.

$50,000 Payment Limitation—The bill c
tains provisions that exempt the portion
payments made to producers due to a red
tion in the loan level under the so-cal
Findley Amendment. It would also not
clude any gain realized by the lower loan
payment level at 70 percent of such lo
rate. The Administration is opposed to th
provisions. In 1984, 95 percent of all p
gram payees received less than $25,0
However, 5 percent of all program pay
received more than $25,000 and account
for almost 40 percent of the total paymen
As a result of these provisions, almost
percent of all producer payments would
exempt from the payment limit for the 1
crop. The Government would incur pot
tially large budget exposure and provide
ditional income support to a very sm
group who already receive a disproporti
ate share of the total payments. We fav
instead applying the $50,000 payment li
tation to all payments.

Export Provisions—In the area of co
mercial export activities, the mandatory
thorization of various levels, including
billion for intermediate credits in FY 86-
are inappropriate because they preclude t
Department's ability to respond to changi
market conditions. Furthermore, we belie
that the present export credit authorit
are adequate to meet our export objectiv
when coupled with price competitive co
modities.

No new authority is needed for expo
bonus programs. The Department is cu
rently implementing such a program over
three-year period using existing authori
under the CCC Charter Act. At the mi
mum, Section 106(a)(1) should be amend
to make the authority for export bonus pr
grams discretionary.

In the area of overseas food aid, we co
tinue to strongly believe that we can be
achieve our goals for the P.L. 480 Title I p
vate sector local currency initiative by usi
the existing Title I staff and procedur
rather than by reinstating local curren
sales under this authority. This will sa
delays and costly duplication. The target
such as those in this provision, often slo
the process of signing Title I agreemen
and exporting commodities.

The Administration continues to strong
support the Food for Progress concep
However, we strongly believe it should
carried out through the existing P.L. 4
program structure.

Our final major concern is the establis
ment of a Special Assistant to the Preside
for Agricultural Trade and Food Aid. Such
position is duplicative and will, inevitabl
lead to confusion and unnecessary expens

Food Stamps—The Food Stamp and Co
modity Distribution provisions will enhan
the operation of the food stamp and co
modity distribution programs. In particula
the employment and training provisio
adopted by the Committee will aid foo
stamp recipients in more quickly findi
gainful employment. While the Departme
would have preferred a more extensive pr
gram, we regard the Committee's emplo
ment and training proposal as sol
progress. Similarly, the strengthened erro
rate provisions will be a valuable mechanis
to help reduce high food stamp error rate
Although we support the improvements
the error rate system in the final Commi
tee bill, we prefer the error rate provision

passed by the House in H.R. 5151 and initially agreed to by the Committee, as a more positive approach to reducing food stamp errors. We also support the provision to simplify current procedures regarding State's standard utility allowances. The Committee bill is more equitable than current law since it will recognize the receipt of Low Income Energy Assistance payments in determining shelter expenses deductions.

The Administration does not favor continuation of $50 million in administrative funding for the Temporary Emergency Food Assistance Program (TEFAP). However, we recognize the Committee's requirement that States share TEFAP administrative costs as a reasonable compromise that will promote prudent management of the program.

Farm Credit—The Administration proposes that all farm loans, except disaster emergency, be consolidated into a single program that would be phased into an all-guarantee program by fiscal year 1989. The transition would be made as follows: Fiscal year 1986: $2 billion insured, $2 billion guaranteed, fiscal year 1987: $1.5 billion insured, $2.5 billion guaranteed, fiscal year 1988: $1 billion insured, $3 billion guaranteed, and fiscal year 1989: $4 billion guaranteed.

We believe that insured loans should not be made to refinance long-term real estate debt and that new borrowers to the Farmers Home Administration (FmHA) will be better served by utilizing the guarantee program. The changes being made in the guaranteed loan regulations have the enthusiastic support of the private sector lending community, and the program will be used much more widely than in previous years.

In keeping with FmHA's mission as lender of last resort, the exception to this policy should be farmers whose current loans are with banks or Production Credit Associations (PCA's) that fail and who are "credit homeless".

Emergency loans should be made only in counties where crop insurance is not available and should be capped at $200 million a year for each of the four years.

COMMODITY PROGRAM COSTS

The commodity program provisions in the bill reported by the Committee has been estimated by USDA analysts to cost about $55 billion over the FY 86–88 period covered by the Congressional Budget Resolution and $85–$90 billion over the life of the bill FY 86–90. Mr. Chairman, I am grateful to you for your leadership in attempts to reduce government costs, though it is clear that virtually no attempt was made on the part of some Members to meet the budget mark of $35 billion. Rather, in the final actions prior to reporting the bill, additions to outlays were mandated through a four year target price freeze. Thus, the bill would be more costly than current law if it were enacted and allowed to operate unchanged through the 1989 crop year. The current law has averaged about $12 billion per year in price support spending and it was projected to average about $16 billion per year over the next four crop years. The bill reported by the Senate Agriculture Committee is projected to average $17–$18 billion over the same period.

PROPOSED ADMINISTRATION AMENDMENTS

In an effort to establish long-term sound agricultural policy that meets the objectives of the Administration, I will forward to the Senate the following amendments for consideration on the Senate floor:

Target Prices—This amendment would freeze target prices for the 1986 crop year and provide for a 5 percent decline each year thereafter. This amendment will provide for a gradual transition to farmers to a more market-oriented farm program. The gradual reduction in target prices will reduce incentives for increased production and reduce the need for acreage reduction programs. As target prices are reduced, acreage reduction programs could be phased out over a short period of time. Lower target prices would also reduce incentives for foreign producers to maintain or expand production in competition with U.S. producers. Finally, this amendment would result in significantly lower budget outlays. Some $2.3 billion could be saved over the life of the bill if this amendment were adopted.

Wheat Referendum and Quotas—This amendment would strike the language requiring the Secretary to conduct a producer poll to determine support for a referendum and national marketing quotas for wheat.

Dairy—This amendment would require that on January 1, 1986, the support price must be reduced 50 cents per cwt. if the Secretary estimates that surplus removals of dairy products are projected to be 5 billion pounds or more in the next 12 months. The existing provisions of the dairy legislation would remain intact. With adoption of this proposal, CCC outlays would be more than $950 million less over the FY 86–90 period. Consequently, CCC purchases of dairy products would be 6 billion pounds less over the same period. Commercial use would expand by 3 billion pounds. Most importantly, it will send dairy producers and processors the necessary signal in 1986 that the surplus capacity needs to be reduced and milk production moved toward supply-demand balance.

Peanuts—This amendment would phase out the current two-price peanut program—quota and additional price supports. During this phase-out, the quota for domestic edible peanuts would be set at 800,000 tons in 1986, 600,000 tons in 1987, 400,000 tons in 1988, and eliminated for the 1989 crop. Correspondingly, price supports for quota peanuts would be reduced to $500 per ton in 1986, $480 per ton in 1987, and $460 per ton in 1988. The price for additional peanuts would be set at the discretion of the Secretary of Agriculture at a level not to result in any cost to the Government. After 1989, the Secretary of Agriculture would set one support price for all peanuts that would result in no Government losses.

This program would virtually eliminate CCC outlays compared with the average of $40 million per year over the past 10 years, reduce production cost since quota rent accounts for about 30 percent of the cost of production, and save peanut consumers over $200 million per year.

Sugar—This amendment is aimed at a rational lowering of sugar support levels to bring them more in line with competitive world market conditions. The amendment would accomplish this by keeping the loan level for the 1985 crop at 18 cents a pound for raw sugar, then reduce the loan gradually by 1 cent per year through the 1988 crop, and holding the loan level constant for the duration of the bill. Thus, the loan level would be 18 cents a pound for the 1985 crop, 17 cents for the 1986 crop, 16 cents for the 1987 crop, and 15 cents for the 1988 and subsequent crops. In addition, it would put the sugar program on the same basis as other crops by eliminating transportation charges from the calculation of the market stabilization price. This amendment would require processors (borrowers) to pay the Government the transportation cost on raw sugar forfeited to the CCC, thereby reducing the effective market price by around 2.5 cents a pound.

With sugar consumption at 7 to 8 million tons a year, savings to sugar users and consumers would total $4.2 to $4.8 billion for the period 1985/86 through 1990/91. The 30 percent of U.S. households with the lowest incomes would benefit the most under this amendment as they spend about 35 percent of their gross income on food. Also, manufacturers of sugar-containing products would have less incentive to relocate abroad, particularly to Canada where tariffs are minimal and there is not quota on sugar imports, and U.S. employment would benefit.

Lower support levels would also correct imbalance in U.S. sugar imports which have dropped to only 26 percent of total U.S. sugar use as a result of the growing isolation of the U.S. sugar market from international competition. Historically, U.S. imports have averaged 40 to 50 percent of our sugar needs. In addition, foreign exhange earnings from sugar exports are critical to the economic stability of many less developed countries, especially those in Latin America and the Caribbean that are highly dependent on revenues from sugar exports to the United States.

$50,000 Payment Limitation—This amendment would place a $50,000 payment limitation on *all* direct payments made by the Commodity Credit Corporation to producers including payments due to lower loan rates or lower loan repayment levels. The number of producers affected by imposing this payment limitation on all direct payments is relatively small. Only 1 percent of the corn producers would be affected; 2 percent of the wheat producers; 20 percent of the cotton farmers; and 42 percent of the rice producers. However, over the period FY 86–88, nearly $1 billion could be saved through this proposal.

Reduced Farm Payment Acreage—This amendment will reduce the acreage on which deficiency payments are made so that it does not exceed that acreage needed to meet demand and maintain reasonable carryover stocks. Deficiency payments will not be made on acreage used to produce surpluses. If farm payment acreage is reduced in this manner, about $6 billion could be saved from the deficiency payments in the Senate Committee bill as currently written. With the combination of a 1-year target price freeze, a total of $7.3 billion could be saved from the two amendments.

Wool—This amendment would provide for authority to phase down price supports to market clearing levels over the life of the Bill.

Honey—This amendment would also provide for authority to reduce the price support level to market clearing prices over time.

Mr. Chairman, with the adoption of these amendments, we will be able to formulate sound agricultural policy that will also exercise the necessary fiscal restraint.

In summary, if agriculture is to share in the economic recovery, we have an obligation to provide sound, long term agricultural policy. That means agriculture must regain its competitiveness in international markets and have policy tools that do not encourage excess production when the market place indicates otherwise. It also means providing income benefits but targeting them to most in need. Finally, the Federal government must, once and for all, reduce our budget deficits to provide relief to agriculture through lower interest rates,

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continued low inflation, and a moderation of the value of the dollar. Farmers deserve no less. Indeed, We have an obligation to them to accomplish that.

It is my sencere hope that we can work together toward an acceptable solution. I urge you and other members of the Committee and the Senate to complete action on the bill as soon as possible so that our Nation's farmers will be able to adequately plan for the 1986 crop.

Sincerely,

John R. Block,
Secretary.

Mr. HEFLIN. Mr. President, I would like to take a moment to express my disappointment with the soybean title of this farm bill. The American soybean farmer has been devastated by the House-Senate conference committee on the 1985 farm bill.

I noted in the morning press the attitude expressed by the soybean farmers in Alabama. Ted Johnson, the president of the Alabama Soybean Growers Association said, "Soybean growers in Alabama will be a thing of the past." One of my State's leading soybean farmers, Bill Dixon, said the program approved by the conferees will be a double blow to soybean farmers and those who rely on them. "This will have an adverse effect not only on soybean producers, but on all agriculture-related businesses. He also said, "It's the first time in my life that I'm wondering just where do I go from here."

The acreage payment included in the Senate-passed bill generated some hope for the financially-stressed soybean farmers. I was informed at one time that the Secretary of Agriculture stated that the FAIR Program, which included the payment of $35 per acre, was cost-neutral. If a farmer accepted the acreage payment, he bypassed the opportunity to place his soybeans in the CCC loan. With fewer soybeans stockpiling in the Commodity Credit Corporation, the USDA would not be subject to storage cost or the risk of soybeans being forfeited to repay the loan.

There is a great deal of evidence that the State Department, Treasury Department, and the international bankers undermined the Soybean Program because they were worried the plan threatened loans made to Brazil and Argentina.

Mr. President, I cannot speak for every Member of Congress, but I was elected to protect the farmers of Alabama, not the farmers of Brazil and Argentina.

I was also very disappointed to learn that the conference committee dropped an amendment I offered on the floor and was approved by the Senate, which would have prevented the U.S. Government from funding grants or loans to foreign countries to enhance production of foreign soybeans in competition with American soybean producers.

The conference committee also modified another Heflin amendment which established a marketing loan program without lowering soybean loan rates. This provision would have given the Secretary of Agriculture authority to implement a plan to make U.S. soybeans competitive in world markets without lowering loan rates to the farmer. The conference version, however, effectively legislates lower soybean prices for the farmer.

The Soybean Program, as adopted by the conference committee at the urging of the U.S. State Department and the international bankers, lowers the loan rate and produces an atmosphere that will result in the soybean farmer receiving less and less for a bushel of soybeans in the world market.

Mr. President, I think the statement of George Fluegel, president of the American Soybean Association, best sums up my feelings on the soybean program contained in this bill. It represents an "outright disaster in many parts of the United States. Congress totally ignored America's soybean farmers."

Mr. BOSCHWITZ. Mr. President, I rise in support of the farm bill conference report.

The farm bill sure is not everything I had wanted it to be but it is certainly much better than reverting to preexisting law and also it can be truly said that in farming—where decisions of farmers and their lenders are quite long range—having a policy in place is very important.

The bill is expensive, but there was no reasonable way to avoid that. The bill will allow us to be competitive in world markets and that is a great plus.

Perhaps most of all the farm bill is behind us and not looming ahead in an election year. Maybe Gramm-Rudman will cause us to revisit it, but at least that will occur with a policy in place and that policy as incorporated in the 1985 farm bill is better than what we have even if it is not everything that we want. Changing farm policy is not easy but the 1985 bill is certainly a step in a longer policy.

I will vote for the bill and recommend that you do so, too.

POLICY GOALS: WHAT HAPPENED TO THEM

The following policy goals were in the Boschwitz-Boren bill and not shared by everyone, but they will give you a better sense of the overall bill.

Protect farm income. The bill does this very well. In virtually every commodity there is not 100 percent protection at present levels, but very close—closer than I thought we could get and stay within budgetary constraints.

Be competitive on world markets. The bill certainly authorizes—but does not mandate—the tools to make us market competitive, and the Secretary says he is going to use them. Since the alternatives of not using those tools is for the Federal Government to
just tons of grain, I am satisfied t
they will be used.

Full production. Senator D
Boren and I were almost alone in
concern for the infrastructure of a
culture—the truckers, rails, barges,
porters, fertilizer and seed people,
grain elevators, processors, et ceter
which employs an enormous num
of people who rely more on
volume of agricultural product
than on the price. The theory is t
if you "set aside"—take out of prod
tion—enough land, you will reduce
supply, increase prices to farmers,
reduce the cost of the farm progr
to the Government. That is what th
have been doing for the last 4 ye
and you can judge the success
yourself—huge costs. Neverthele
that theory was continued in the n
farm bill. I just plain lost—though
Secretary has a lot of discretion
this issue and he says he opposes la
acreage reduction programs—his f
predecessors who served from 1960-
said set asides were "futile" and all
do is give away world markets. Well,
the Secretary carries through, we m
have a chance here. But you have
score this as unlikely.

Free up planting. Now so much
planted for Government progran
rather than for the market. We act
ally did as well as could be expect
here and a full-scale abandonment
planting requirements without a par
lel abandonment of the program its
was perhaps an unreasonable, a
may have been an undesirable, goal.

Freezing bases and yields. Increasi
acreage bases and crop yields to ta
advantage of program payments ha
been a large element in spiraling co
of farm programs. We froze yields a
gave the Secretary the authority
freeze bases. This is a very significa
accomplishment.

Returning agriculture to the fr
market. Not as much was achieved
this area as I hoped for—but a sl
transition was indeed begun, and
sure is necessary. Four to five yea
ago about 20 percent of producti
was enrolled in farm programs. W
expect it to be up around 90 percent
1986. A transition—that is too slow
my judgment—to reverse this w
begun. My efforts to let the farm
benefit from the market as prices ri
didn't meet with success.

Meeting budget goals. We did
fairly reasonable job here—but who
to know. Budget outlays in agricultu
are based on predictions about th
weather, economic conditions, curre
cy values, commodity prices, plus cro
and yields throughout the world
for the next 5 years. That is a lot
variables over a long period. We did
well as could be expected and if th
rains favor us—well, who knows.

SPECIFIC COMMODITY GROUPS

Target prices and loan rates. Target prices on all major commodities were kept at the same level for 1986 and 1987—except rice which was frozen for only one year—reduced by 2 percent in 1988, an additional 3 percent in 1989 and an additional 5 percent in 1990. Loans—which establish the market floor—were reduced 5-10 percent in 1986 (see specifics below) plus an additional 10 percent in wheat and feed grains in 1986 only. For the purpose of figuring the loan, that 10 percent would "snap back" in 1987. Then there would be a 5-percent reduction in 1987 and 5 percent each year thereafter—on a formula reflecting market prices. There is considerable authority to lower loans much further, though the farmer's income—the space between the target and the loan—would be fully protected. It is not quite as complicated as it sounds.

Corn, the target remains at $3.03 in 1986 and 1987, $2.97 in 1988, $2.88 in 1989 and $2.73 in 1990—per bushel. In 1986, the loan goes to $2.16—from $2.55 presently—and then down 5 percent each year thereafter—the 5-percent reduction figured on a $2.40 level—with considerable authority to lower it still further to market clearing levels if necessary. On the basis of targets and loans, farm income is well protected in corn, but the set asides are raised as follows:

	Percent
Minimum:	
1986	12.5
1987-90	12.5
Triggered:	
1986	5.0
1987-90	7.5
Paid:	
1986	2.5
1987	....

There is no payment for set aside acres except the initial 2.5 percent. The triggered set aside comes into effect if the carryover stocks exceed 2 billion bushels. Since there is presently a $3.03 target and a 10-percent set-aside, leaving the target the same and increasing the set-aside reduces farm income—albeit slightly if the trigger is not reached. In 1986 the trigger will be reached and per bushel income effectively reduced 17 cents a bushel.

Wheat, the target is $4.38-$4.38-$4.29-$4.16-$3.95 per bushel over the next 5 years. In 1986, the loan goes to $2.70—from $3.30 presently—and then down 5 percent each year thereafter, the 5-percent reduction figured on a $3.00 level with considerable authority to lower it still further to market clearing levels if necessary. Farm income is well protected above the loan to the target prices. The set aside program is:

Minimum:	
1986	15.0
1987	20.0
1988-90	20.0
Triggered:	
1986	7.5
1987	7.5
1988-90	10.0
Paid:	
1986	2.5
1987	....
1988-90	....

Nothing is paid except the 2.5 percent. The triggered set aside comes in if the carryover stocks equal 1.0 billion bushels. Since this year there is 20 percent unpaid set aside and next year there will be 22.5 percent—more thereafter—wheat growers also take a small income cut.

Soybeans have no target or set aside, only a loan. The official loan will be $5.02-$4.77-$4.52-$4.50—per bushel—but the Secretary has a 5-percent discretion below those figures (but not below $4.50) if necessary to maintain market competitiveness. Next year the loan will surely be $4.77. Below that a marketing loan is authorized which allows a farmer to repay a loan at the market price—so if he borrows $5.02 and the market is $4.60 he can repay and satisfy the $5.02 loan for $4.60 with the interest forgiven. It will make our soybeans competitive on world markets.

Cotton, the target price—per pound—is $.81-$.81-$.79-$.77-$.73 from 1986-90. The loan starts at $.55 and can't go below $.50. Then there are mandatory provisions that make cotton competitive on the market again, and farm income is protected. Set asides for cotton—triggered by carryover stocks—are 20 percent and 7.5 percent is discretionary. We did the right thing for cotton, too, though cotton took its full share of adjustments.

Rice, the target price—per hundred pounds—is (approximately—$11.90-$11.66-$11.30-$11.06-$10.70 from 1986-90. The loan rate goes down to $7.20 and then 5 percent a year with a $6.50 minimum. We made rice competitive in 1985 by changing its program immediately which was smart in my judgment, as there is no use just putting the darn stuff in storage. We should have done it for all crops but USDA hit the ceiling. Rice took its full share of adjustments with other crops. The rice set aside is 30 percent and a discretionary 5 percent is available.

Dairy, the 1986 support price—per hundred pounds—is $11.60. In 1987 the support level is $11.35 until October 1 when it drops to $11.10. There is a $.40 assessment—paid by the farmer—in 1986 and $.25 until October 1, 1987. The assessment pays for a whole-herd buyout—a dairyman may bid his whole herd out of production—which will reduce production—and hopefully raise the price at least as much as the assessment. In 1988 and beyond the Secretary has the discretion to lower prices $.50 a year if there is still overproduction—and if the CCC is buying more than 5 billion pounds of milk a year. Unfortunately, the price of fluid milk may rise—even in 1986 due to ill-advised changes in the marketing orders!

Honey, loan rates were reduced by $.64-$.63-$.60-$.57-$.54 (per pound) from 1986-90. A marketing loan was authorized which will cut the cost of the program in half, make our honey price competitive, and end the need for imports.

Sugar, we froze the loan rate for the life of the bill. The 1986 import quotas were extended for 3 months, and in years after that the Secretary is directed to continue operating the program at no cost to the Government. Frankly, if you have voted against the sugar program in the past, we have not given you any reason to vote for it in the future.

Tobacco, is not covered by the farm bill, though most people think it is. However, in the reconciliation bill tobacco loan rates were dropped 16 percent and the program continues at no cost to the Government.

Peanuts, the program is unchanged and operates at probably no cost to the Government—except for the administration of the program at USDA.

EXPORT PROGRAMS AND PUBLIC LAW 480

Export credits

First, $5 billion of short-term (6 months to 3 years) export credit guarantees (GSM-102) are mandated in each year, fiscal year 1986-fiscal year 1990.

Second, $500 million of intermediate term (3-10 years) export credit guarantees (GSM-201 and GSM-301) are mandated in each of fiscal year 1986-fiscal year 1988, with up to $1 billion in fiscal year 1989 and fiscal year 1990.

Third, mandates $325 million in direct credit funds (GSM-5) or commodities in fiscal year 1986-fiscal year 1988 to combat competitor subsidies. (These funds could be used in the blended credit program.)

Export Subsidy (PIK), $2 billion in commodities owned by the CCC are mandated to be used over 3 years to combat foreign subsidies. The Secretary must seek to use 15 percent of the commodities on meat and poultry exports.

Public Law 480 (food for peace), there are presently three titles. Title I covers concessional sales made at market prices but at very low—or no—interest and long—up to 40 years—terms. Title II covers donations. Title III is a concessional sale where repayment is forgiven if the money received by the recipient county in selling the grain—within its own borders—is used to fund development projects. The total outlay is about $2 billion with nearly one-half in title I and nearly one-half in title II—perhaps 5 to 7 percent in title III. Adjustments to the program were modest and aimed at raising minimum levels and allowing title I repayments to be used for private sector developments in the coun-

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try that we are helping. It is an excellent program, it does a lot of good and should make us all proud.

Section 416 (surplus commodity donations), has been greatly increased both in the required tonnage—650,000 annually—and by including all surplus commodities owned by the CCC. At least 150,000 must be dairy, 500,000 must be grains, and 75,000 tons of those amounts must be used in the new Food for Progress Program which will encourage agricultural policy reform in the recipient countries. It is another program that brings great credit to our country.

Cargo preference rules did require 50 percent of all shipments "generated" by the Federal Government to go on U.S.-flag ships. U.S.-flag ship rates are often three times as high as international rates. This was always thought to apply to Public Law 480 and other donations only. In February of this year a Federal judge decided that cargo preference applied to export credit and subsidy programs. In conference we increased the 50 percent to 75 percent on Public Law 480 and donation programs, but exempted from cargo preference export credit and subsidy programs. Our effort on the Senate floor to protect the Great Lakes was weakened by the farm bill is still worth voting for.

Conservation

The conservation provisions will be very popular with environmentalists and hunters because for the first time we have included both the necessary incentives to get erodible land into a conservation reserve, and the teeth to deny any Federal farm aid to those who persist in plowing up erodible land. The reserve will be 40-45 million acres within 5 years. In 1990 the so-called sodbuster provision becomes effective. This means that after January 1, 1990, a farmer must use an approved conservation plan on his erodible acres, or he will be ineligible for any Federal program benefits on all his acres—a good provision.

Agricultural credit

We made two well-intentioned efforts in this bill to improve the situation facing farmers and their lenders. One was to sweeten the current FmHA debt adjustment program by providing a Federal interest rate buydown of up to 2 percent if the lender agrees to match it. Commercial banks and Production Credit Associations could qualify if they also agreed to write down some principal or further lower interest rates in order to make the farmer cash flow. Loans under this program would then be eligible for up to 90 percent guarantees by the FmHA. Unfortunately, the program is not large enough.

Our second effort was to make some changes in the FmHA's internal procedures, in an effort to make them a more accountable agency, as well as more efficient. Time will tell if we were successful here.

Food stamps

The House had been $1.4 billion over current services. The Senate bill was $600 million under current services. We settled at $350 million over current services. We went up $950 million. The House came down $1,050 million. These figures are not per year—the Washington Post story was wrong—but a total over 4 years.

The major reforms made in the Food Stamp Program by the conference committee include: An employment and training program; enhanced computerization; modest benefit increases targeted to the working poor; and, additional provisions to eliminate fraud.

The employment and training program would be a "mini-block grant" to the States to institute a work program for food stamp recipients. Under current law, able-bodied recipients between 18 and 60 who do not have dependent children under six are required to register for work and participate in job search. States will now be allowed to structure their own employment and training program. The Federal Government will provide $40-$50-$60-$75-$75 million in the next 5 years to aid the States, plus a match if the State spends more on its work program.

The enhanced computerization provision will encourage states to develop and implement a plan to automate their administration of the Food Stamp Program.

Benefit increases targeted at working poor. Food stamp eligibility and benefit levels are based on gross income substracting a number of set deductions. To be eligible for food stamps your gross income cannot exceed 130 percent of the poverty level and you net income—less the deductions—cannot exceed 100 percent of poverty. The deductions include a standard deduction—$95 per month—excess shelter and dependent care deduction—$139 per month—18 percent of earned income, and a medical deduction for the elderly and disabled.

The benefit increases targeted to the working poor included: Making the dependent care deduction a separate deduction up to a limit of $160 per month, increasing the shelter deduction to $147, and increasing the earned income deduction to 20 percent. In addition, the asset limit of $1,500 was increased to $2,000. The asset limit for the elderly of $3,000 was extended to single elderly. A list of the benefit increases and their budget impact follows.

Elimination of fraud. The provisions designed to help eliminate fraud include: allowing the Secretary of Agriculture to require photo identification cards where needed to protect program integrity and where cost effec-
tive; fraud detection units would be
tablished in large metropolitan ar
for detection, investigation, and ass
ance in prosecution of fraud; in ar
where payment error rates impair
integrity of the program the Secret
of Agriculture would be permitted
require a State to carry out new
modified certification procedures;
adult household member must s
under penalty of perjury that eve
thing in a food stamp application
report is true; each adult member o
food stamp household would be join
and severeally liable for the value
any overissuance of food stamps.

Senator Durenberger's provision
prohibit banks from charging groce
stores for handling food stamps w
included in the bill.

Senator Evans' 2-year moratoriu
on the collection of error rate sa
tions owed by the States to the Fed
al Government was shortened to
months. The study of the error r
and quality control system suggest
by Senator Evans will be done.

Sales tax on food stamp purchas
States that charge a sales tax on fo
stamp purchases will not be eligible
participate in the Food Stamp P
gram if they continue the practi
after October 1, 1987.

Puerto Rico has a block grant
$825 million for food stamps. Th
figure has been frozen since 1982.
would remain frozen in 1986, and the
go up at three-fourths of the rate
inflation. We show a savings on th
following chart because CBO scored
assuming a full inflation increase.

Job Training Partnership A
income is presently exempt in figuri
whether a person's income qualifi
for food stamps. A good deal of JTP
income will be included. This sav
$112 million over 4 years.

On balance this is a fair compromi
that improves the integrity of the foo
stamp program while protecting th
benefits of those most in need.

I again urge my colleagues to su
port this conference report. It is n
everything I wanted, but it is bett
than reverting to existing law and
will allow our farmers to make the
plans, which is very important.

Mr. President, I ask unanimous co
sent that the following chart be prin
ed in the Record.

There being no objection, the tabl
was ordered to be printed in th
Record, as follows:

FOOD STAMP COMPROMISE

[Budget impact—millions over current services]

	Fiscal year—				
	1986	1987	1988	1989	Tota
Disability definition	$1	$1	$1	$1	$
Deduction losses of self-employed farmers[1]	0	1	2	2	
Job Training Partnership Act income	−27	−28	−28	−29	−11

FOOD STAMP COMPROMISE—Continued

[Budget impact—millions over current services]

	Fiscal year—				
	1986	1987	1988	1989	Total
Increase earned income deduction [2]	21	51	53	55	180
Increase shelter deduction to 147 [2]	14	36	37	39	126
Separate child care deduction [2]	7	16	16	16	55
Increase asset limit to $2,000, $3,000 for single elderly [2]	22	77	115	121	335
Employment and training	4	4	4	4	16
Speed up collection	0	−45	3	0	−42
Puerto Rico (1 year freeze, then three-fourths of inflation)	−38	−49	−60	−70	−217
Provide information at SSI offices [1]	0	1	1	1	3
Total	4	65	144	140	353

[1] Effective October 1, 1986.

[2] Effective May 1, 1986.

Mr. **MATSUNAGA.** Mr. President, I rise to speak in support of the conference report on the farm bill, H.R. 2100, and to congratulate and commend the conferees for accomplishing an almost impossible task. As a consequence, we are enacting today a historic farm bill which will set the course for American agriculture for the next 5 years. This legislation is being enacted at a time of almost unprecedented depression in our Nation's agricultural community. While the measure demonstrates congressional concern, I am aware that many of the problems in agriculture are beyond the powers of this Congress to resolve during a period of falling farm prices and burgeoning Federal deficits.

Mr. President, I am especially pleased to note that the bill, as finally agreed upon by the conferees, provides assurance to the most economically important agricultural producers of my State, our Hawaiian sugarcane farmers, on two critical points: First, that they will have a basic support program continued at the current level and, second, that this program will be operated without cost to the Government—an assurance as important to them as it is to the American taxpayer.

In this connection, I wish to compliment the Senate conferees for standing firm on the Senate provision that the sugar program continue to be operated at no cost to the taxpayer. This is vital, not only to avoid an increased burden on the taxpayers of our country, but to assure our domestic sugar producers as well that they will receive the price support level intended by Congress.

During the first years of the current program, the Department of Agriculture operated the sugar program with a net gain to the Government and with a price to our sugar producers equal to or higher than the loan rate. Unfortunately, however, the administration failed to administer the program in a like manner in 1985, with a result that the Department ran up a loss of more than $100 million while our domestic industry sustained a loss of many more millions of dollars.

In setting the 1986 quota the administration actually increased the quota from the 2.2 million tons which were imported in fiscal year 1985, to 2.33 million tons for 1986, despite the fact that domestic consumption declined with the shift by soft drink makers from sugar to 100 percent high fructose corn sweetener, except in Hawaii where consumers are sophisticated enough to demand "the real thing." In taking such action, the administration also disregarded the anticipated increase in domestic production due to improved yields. That increased import quota brought about a sharp reduction in price which has seriously injured the earning prospects for our domestic sugar industry.

The language adopted in the Senate version of the farm bill, which is retained in the conference report, and which mandates an extension of the current quota for an additional 3 months, plus a no-cost operation of the program beginning at the end of this current quota year, is, therefore, of the most crucial importance. The sugar industry in my State of Hawaii will lose many millions of dollars this year, despite record yields of more than 12 tons of sugar per acre and despite strenuous cost cutting efforts that have reduced costs by some 12½ percent since passage of the 1981 Farm Act. The Hawaii sugar industry, despite its world-renowned efficiency, is expected to lose money again in 1986, although its losses will be sharply reduced by the extension of the current quota. However, the farm bill, as agreed upon in conference, offers hope for the future, thanks to the retention of the Senate no-cost language. That language should assure that our Nation's sugar farmers will receive the 18 cents per pound which Congress intends, and, what is more important, they will get that price from the market, not from being forced to forfeit sugar to the U.S. Government.

Mr. President, I want to thank those responsible for achieving this important legislative victory for our sugar producers and, indeed, for taxpayers and over the long haul for consumers as well. I particularly wish to thank our distinguished majority leader, the senior Senator from Kansas, Mr. DOLE, for his active role in securing this happy result. It offers very real hope for the future of our domestic sugar industry.

Several Senators addressed the Chair.

The **PRESIDING OFFICER.** The Senator from Illinois.

ILLINOIS FARMERS DESERVE BETTER

Mr. **DIXON.** Mr. President, when I first came to the Senate, one of my initial speeches in this Chamber was a plea for an increase of a dime a bushel for my Illinois corn farmers. That speech was made 4 years ago, Mr. President, when we were in the process of passing the 1981 farm bill.

Much has happened in the agricultural economy since we developed legislation to bolster farm income. Because of events and economic factors largely beyond their control, farmers in Illinois and elsewhere in our Nation have seen farm income evaporate and the rural economy deteriorate to the worst point we've seen since the Great Depression.

Now, after 11 months of effort, we have fashioned a new farm bill to guide us during the next 5 years. My first question, of course, has to be whether this bill is good for the farmers of Illinois. After a careful review of the bill's provisions which directly impact on Illinois corn and soybean farmers, I have reluctantly concluded, Mr. President, that this is not the bill that the Illinois farmer needs in order to continue farming.

Much of the media attention and our attention has been directed during the last couple of years at the farm credit crisis. There truly is such a crisis, Mr. President, but the problem results from a lack of adequate income. If the farmer can get a decent price for his products, then the credit crunch will begin to disappear. What does this 1985 farm bill do for farm income? Unfortunately, this bill moves it in the wrong direction at the wrong time. The net effect of the bill is to lower Government loan support prices for corn, soybeans, and wheat, among other commodities.

It is true that the loan rate for corn for 1986 is set at $2.40 per bushel. That level, however, is 15 cents less than our current loan rate. In addition, there is a mandatory requirement that the Findley amendment be utilized to reduce the loan rate an additional 10 percent. That maneuver knocks another 24 cents off of a bushel of corn. In relation to the current loan rate for corn, we suddenly discover that we have lopped 39 cents off the price of corn. My Illinois farmers do not need that, and they cannot stand that, because we are talking about $2.16 corn in 1986.

What about soybeans? Well, here things are a little better for 1986 and 1987, because the loan rate is maintained at $5.02 per bushel. The Secretary, however, has discretionary authority to reduce the loan level up to an additional 5 percent if he decides such a cut is necessary to maintain markets. Downward adjustments in the loan rates can begin in 1988, with

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the result that the loan rate can drop to a level of $4.50 per bushel.

The soybean market has already shown us in recent weeks what havoc we can create by the approach we take to commodity prices. I have to say that a drop of 52 cents—from $5.02 to $4.50—even if it occurs over time, cannot be viewed as a good deal for Illinois farmers.

The loan rate for wheat in 1986 will be at $3 per bushel. A mandatory requirement that the 10-percent Findley provision be invoked in 1986 effectively reduces the loan rate to $2.70 for wheat.

Another element in this bill which threatens to lower prices for Illinois farmers is the provision relating to acreage reduction programs [ARP's]. Even when the loan rate for corn stands at $2.16 per bushel, which is already low, there are three other monumental problems. The first is the imposition of a 12½-percent minimum ARP. The second is a 2½-percent mandatory PIK set-aside. The third is the additional discretionary authority for the Secretary to require the farmer to set aside 5 percent more acreage. If we add these three items together, Mr. President, the corn farmer could be forced to idle 20 percent of his acreage—twice the percentage required under current law. The result cannot be anything but even lower prices. As we set aside twice as much acreage in the outyears, Illinois farmers will start receiving less and less income for their crops.

Let me cite a quick example. If a farmer's acreage base for corn is 100 acres, and the farmer planted 90 acres in 1985, then he could plant only 80 acres in 1986. We say we are freezing the target price. We cannot say, however, that we are freezing income supports, because we are increasing acreage reduction programs by 10 percent. With fixed production costs, this means the farmer with the 100-acre corn base is getting the same payment on 10 percent less acreage, which, in turn, means he is receiving 10 percent less income.

This movement toward lower prices is unacceptable to me, and as farmers begin to operate under the terms of this bill, I am sure that my Illinois farmers will likewise find it unacceptable. Lower farm income is the wrong way for us to be heading at this time in American history.

In today's Chicago Tribune, Christopher Drew offers a vivid example: "On a 500-acre Illinois corn farm with a typical yield of 128 bushels per acre," the increased set-asides, he says, "will mean a $3,200 to $9,600 drop from this year's total revenue of $193,920." He also mentions that the "increased set-

by 5 to 15 cents a bushel from the $3.03-a-bushel target price. * * *"

There are other examples I could cite, Mr. President, but I think my point has been made. This bill moves in the direction of lowering prices at the most inopportune time. It is my understanding that Congress has never before reduced support prices for the commodities I have discussed. Illinois farmers—indeed, farmers across the Nation—need income, not lower prices. I favored a 4-year freeze on price supports, and I was satisfied with the 4-year freeze which was the key element in the original Senate farm bill which came out of the Agriculture Committee for our consideration.

My dilemma in looking at the farm bill before us is that I must cast a vote on an entire package. We cannot vote on separate sections. That posture poses a problem for me, as it does for others, because there are many good provisions in this bill. I like many of the mechanisms for improving our export sales of farm products. I like the sodbuster and swampbuster provisions. Some of the proposals I have made are embodied in both the export and conservation sections of this bill.

I am especially interested in the cargo preference section, because those of us who are Great Lakes Senators waged a very long, tough battle here on the floor of the Senate to establish a floor under the amount of Government-shipped commodities through our Great Lakes ports. These shipments are important to Midwestern farmers and the Great Lakes maritime industry.

As far as Great Lakes ports are concerned, the cargo preference provisions in the farm bill are bad. In Great Lakes country, we would have been far better off to have returned to the old cargo preference posture. As I mentioned, we won the fight on the floor of the Senate to require a minimum amount of Government-shipped commodites to go through the Great Lakes. The conference committee weakened what was a less than adequate—but a fair—proposal, by saying that such protection for shipping levels on the Great Lakes will occur only if it does not impact on other ports. As a practical matter, we probably cannot help the Great Lakes without some small harm to other ports. We desperately need to halt the decline in shipping on the Great Lakes. With the bill in its present form, we have not achieved the objective we had, at one point, accomplished. Our task thus remains unfinished, but we have not given up the fight.

The legislation also contains a separate section designed to bolster our

separate bill. Restoring confidence liquidity to the Farm Credit Syste absolutely essential to the recovery our agricultural economy. Farm lenders, and rural businesses must made aware of Congress' determi tion to maintain a viable farm cr program in this country.

While we have successfully comp ed action on the Farm Credit Syst bill, I am terribly disappointed w the administration's opposition to amendment to the farm bill wh would have allowed a private sec initiative whereby rural banks co mark down farm loans to present lateral levels, with the proviso t losses could be written off over a year period rather than taking a m sive loss in 1 year. This legislat makes eminently good sense. farmer can stay on his land by avo ing foreclosure, while continuing a customer of a rural bank that rema financially strong. I emphasize ag my disappointment that this propo lost on a vote of 44 to 47, failing only 3 votes to provide financial sta ity to the private sector of farm le ing, as we have for the Farm Cre System lenders.

There are some favorable eleme in this bill, but they are outweighed far too many negative factors. Ther no reason for me to belabor the po with a lengthy discussion. The pri pal difficulty for me is that the effect of this bill is to lower fa income. Illinois farmers and rela businesses and industries can afford continuing low prices. We m restore farm income. This bill does do that in the immediate future, an is the immediate future that will termine whether many of our farm will survive or whether the number farm sales and foreclosures will c tinue unabated.

I have felt compelled to outline some detail what my problems with this bill. I want it fully und stood that my vote against the bil made with great reluctance, but it cast with the knowledge that what I nois farmers need is income, and cannot in good conscience support l islation which does not provide inco for our Illinois farmers at the m critical juncture in our agricultu history.

We could have done better, but did not. Since we did not, I can lend my support to farm legislat which makes a bad situation wor My hope is that we rectify our m takes when we return for our 1986 s sion. By then, we will have come the realization that what we are do here today simply doesn't do the j Our Illinois farmers deserve better.

Having set forth these conce

I ask unanimous consent that Christopher Drew's article from the Chicago Tribune be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Chicago Tribune, Dec. 18, 1985]

FARM EXPERTS MIXED ON NEW BILL BENEFITS

(By Christopher Drew)

A huge new farm bill lays the groundwork for gradually reviving foreign interest in American grain exports, but it will mean modest cuts in income for most farmers and won't save nearly as many troubled farms as its legislative sponsors had hoped.

That is the reaction of leading farm economists and trade officials to the five-year bill that emerged from nearly a year of intense debate.

Passed by a House-Senate conference last weekend, the bill is expected to win final approval from both chambers Wednesday. It then will be sent to President Reagan, who once threatened a veto but now is considered likely to sign it.

"I see this farm bill as one that moves us toward market realities, but at a fairly slow pace," said Mark Drabenstott, chief farm economist at the Federal Reserve Bank of Kansas City, Mo.

While such a shift is positive, he said, "the bill probably will continue to put most of the benefits in the hands of farmers who are not highly stressed, and that's a disappointment."

Noting that most polls show strong public support for helping troubled farmers, he said, "I think if people really understood when they send in their tax checks on April 15 that their money is going to large cotton farmers in California who have a larger net worth than they do, they'd feel differently about it."

The experts also predicted mixed results from a new plan to pay some dairy farmers to get out of their surplus-ridden business.

The highlight of the bill, according to the economists and trade leaders, is its requirement for immediate cuts of 15 to 20 percent in corn and wheat price supports. The bill also gives the market-oriented Reagan administration power to cut an additional 10 percent if needed to bring U.S. grain prices back into line with world trading levels.

The cuts, the first since the complex web of support programs was put into place in the 1930s, could offset dramatic price hikes caused partly by the surprising strength of the U.S. dollar in recent years. They also could discourage further expansion by low-cost South American producers.

Still, demand for grain in key importing nations remains relatively weak, and there seems little prospect for much growth soon.

Consequently, said Michael Hall, the Washington representative for the National Corn Growers Association, the support cuts may break a five-year skid in U.S. export sales, but they probably won't help lead to a broad recovery for several years.

To protect farmers from the price cuts, legislators voted to freeze separate income-subsidy rates, called target prices, for two years. The government pays farmers the difference between market prices and the higher target rates, so freezing the rates will force it to give them larger checks to offset losses from the lower market prices.

Still, most grain farmers probably will aside to qualify for the subsidy programs. Corn farmers, for instance, will have to set aside 12.5 to 17.5 percent of their acreage next year, compared to 10 percent in 1985.

The increased set-asides, designed to ease burdensome surpluses and limit government costs, will cut the farmers' output and could lower their earnings by 5 cents to 15 cents a bushel from the $3.03-a-bushel target price, Hall said.

On a 500-acre Illinois corn farm with a typical yield of 128 bushels per acre, that will mean a $3,200 to $9,600 drop from this year's total revenue of $193,920.

Rep. Thomas Foley [D., Wash.], a prime architect of the bill, defended the cuts as a small price to pay for continued government support in an era of budget-cutting in Washington. He also pointed out that the cuts would have been much greater if Congress hadn't blocked the administration's original plans to phase out the income subsidies.

Drabenstott, the Federal Reserve economist, agreed. But he also argued that the legislators' failure to target more of the benefits to the most troubled farmers may have hastened, rather than prevented, the demise of many of them.

Critics ranging from conservative Sen. Jesse Helms [R., N.C.] to liberal farm groups have complained that only 20 percent of the subsidies now go to farmers in serious trouble.

The reason is that the payments typically have been used to encourage production cutbacks in times of surplus rather than as vehicles for income transfers. So the biggest checks generally have gone to the largest farmers with the most acreage to set aside.

Mr. McCONNELL and Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Mr. President, I rise in support of this conference report. In my experience during a period of private law practice and as judge-executive of a local government of some size, and I have never been around a subject more complicated than American agriculture and in particular in a year like this, in which times were difficult and many farmers were in trouble. I think it shows the true mettle of our leadership that at a time like this, when American agriculture is truly in a different situation, we are able to produce a farm bill that I am optimistic will improve conditions on the American farm.

I thank the ranking minority member of our committee (Mr. ZORINSKY) and in particular, the distinguished chairman of the committee, the Senator from North Carolina (Mr. HELMS), with whom I have worked on many issues, for their truly outstanding leadership in the development of this farm bill in what quite possibly is the worst year for the farmer since the Depression.

I personally support the conference report in spite of some reservations I have, but I do not think anybody would have done any better than our his outstanding work and gladly support the conference report.

Mr. HELMS. Will the Senator yield?

Mr. McCONNELL. I yield to the distinguished Senator from North Carolina.

Mr. HELMS. Mr. President, of course, I thank the distinguished Senator from Kentucky for his remarks, but let me say for the record that I have never seen a Senator come here who has participated so quickly in the delicate and difficult matters as the Senator has described in the agriculture bill. I want to say to Senator McCONNELL that he is already a fine Senator and it has been my privilege to work with him. I thank the Senator.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, as we meet here this evening to discuss the farm bill, everybody is talking about the merits, what a great solution it is, and nobody remembers that subject we were on about a week ago. That was the Gramm-Rudman bill. Gramm-Rudman was going to help us balance the budget.

Well, it is my understanding that this bill violates section 311 of the Budget Act as amended by Gramm-Rudman. Sixty-one people voted for Gramm-Rudman and I have not heard any of them out here making the point that the farm bill is $2.5 billion over Gramm-Rudman, over the budget; therefore, this body should not be passing it. If you who voted for Gramm-Rudman—I fortunately did not. But if you who voted for Gramm-Rudman were as sincere in your convictions and your concerns as you indicated just a couple of weeks ago, where are you today?

I pose a parliamentary inquiry without raising the point, but as a parliamentary inquiry, I ask of the Chair whether or not this bill violates section 311 of the Budget Act as amended by Gramm-Rudman and therefore, if raised, would be subject to a point of order.

The PRESIDING OFFICER. The Senator is correct.

Mr. METZENBAUM. Mr. President, can I say any more? I am right that it violates Gramm-Rudman.

You came out here and you went to the wall and you battled and you insisted that this was the solution, and the editorial writers all over the country wrote about Gramm-Rudman solving the problems of balancing the budget and we were going to move forward and by 1990, we were going to have a balanced budget. OK, stand up and be counted. Let me hear from you.

I am not going to raise the issue because I did not vote for that Gramm-Rudman provision and I do not think that it is good law. But 61 of you thought it was good law. If you good law today? Why are you not raising the point out here on the floor of the Senate?

Many of us have said that those who were so anxious to vote for Gramm-Rudman would run for cover just as soon as the issue comes before the Senate and they have to bite the bullet. Well, tonight is the night to bite the bullet. Tonight is the night to determine whether or not you meant what you said when you passed Gramm-Rudman.

The Parliamentarian has already indicated that it is indeed subject to a point of order. If you believe as strongly as you indicated just a couple of weeks ago that Gramm-Rudman was the solution to our Nation's economic problems and balancing our budget, now is the time to stand up and be counted and be heard and to raise the point. I stand not because I am opposed to the farm bill; I am not opposed to the farm bill. I stand because I am so concerned that some people come out here and make great speeches and go all over the country and say how they are going to balance the budget and they need to do something for the country and it needed to be done and we have to face the music and therefore, we are passing Gramm-Rudman; therefore, our deficit is only going to be $141 billion in 1987 and it is going to go down in 1988 and by 1990, we are going to have the budget in full balance.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. METZENBAUM. I do indeed yield, Mr. President.

Mr. DOLE. The Senator has left off the name HOLLINGS all through there. [Laughter.]

Mr. METZENBAUM. As usual, my colleague from Kansas is right on target—the Gramm-Rudman-Hollings bill. Whether it is Gramm-Rudman or Gramm-Rudman-Hollings, it seems to me when things are going well and the editorial writers are saying great things, it is Gramm-Rudman. But when it comes to a point where nobody is willing to live up to the terms of that bill, my distinguished colleague, the majority leader [Mr. DOLE], wants to point out that there is indeed a Democrat who was a party to the measure.

I guess it is a fact that there were a number of Democrats who voted for Gramm-Rudman-Hollings. This one, I am proud to say, did not.

But if you meant what you said before, let me hear from you tonight.

Mr. HARKIN. Mr. President, will the Senator yield for a question?

Mr. METZENBAUM. I do indeed.

Mr. HARKIN. The Senator makes a good point. To those who came out here and said Gramm-Rudman was a solution to our problem, here we are with a farm bill that is over budget.

The question I pose to the distinguished Senator from Ohio is this: This farm bill, so-called farm bill, received pretty wide support, as indicated by the majority leader. It got a big vote in the House, although I note a number of Midwestern Congressmen voted against it. That will tell us how this farm bill is going to affect the Midwest.

But it did receive a lot of support. There are a lot of lobbyists out there. A lot of powerful people support this bill—processors, shippers, a lot of big actors out there support this farm bill. I guess the question I have for the distinguished Senator from Ohio is this: What is going to happen, looking down the road to early next year, when maybe a bill comes on the floor that does not have all those powerful lobbyists behind it—that maybe is for the handicapped; maybe it is to help the poor; maybe it is to help the elderly; maybe it is a bill for education for the disadvantaged. Maybe it is a bill to provide some feeding programs for the poor and maybe it is going to be slightly above budget. Does the Senator think this place will be as quiet or as silent on a point of order as it is right now? I ask the distinguished Senator from Ohio, what does he think will happen at that point? Will there be then a rush to embrace Gramm-Rudman or will we have the same kind of silence from those 61 who supported Gramm-Rudman?

Mr. METZENBAUM. Oh, no, I am happy to respond and say that you may count on it. When the issues have to do with funding for the handicapped or for the poor or for educational programs or for any one of a number of other programs that the Senator alluded to, there will be a lot of people over there who will be happy to raise the point of order that it violates Gramm-Rudman-Hollings, but this farm bill is a different story. The Senator, indeed, makes the point, and makes it very well, that come tomorrow when it is not the farm bill and when there are programs having to do with the nonfarm members of our community, those who live in urban centers, there will be an indifference to their problems and everybody will be rushing to make the point of order. When the cities are cut back by billions of dollars from revenue sharing programs and if the program exceeds by a dollar the provisions of Gramm-Rudman in the budget, they will be out here on the floor making the point of order, and everybody will come here with tears streaming from their eyes saying they are sorry they have to do this but under the banner and the flag of Gramm-Rudman-Hollings they have no alternative but to stand up and say that this is too much. "We must balance the budget."

But it depends on whose back the budget is to be balanced. In this instance nobody, nobody who has supported Gramm-Rudman is on this floor raising the issue. I say their words do not speak as loudly as their actions with respect to the matter of supporting budget balancing, supporting Gramm-Rudman-Hollings.

Mr. BUMPERS. Will the Senator yield just for a comment?

Mr. METZENBAUM. I do indeed.

Mr. BUMPERS. Does the Senator from Ohio have the floor?

Mr. METZENBAUM. I do have the floor.

Mr. BUMPERS. I have the utmost appreciation for what the Senator is saying, but I think the Senator paints with much too broad a brush. No. 1, I do not know of any segment of the economy in this country that is suffering more right now than the farm economy. No. 2, I have been one of those people who has tried to be cognizant of and sensitive to the needs of all people. I voted for revenue sharing and I have tried my very best to keep faith with what I think the national character of this country ought to be, with a view toward what kind of a future we want for the country. And so while I think the Senator makes a very good point, I hope he is not suggesting that every farm State Senator, and particularly farm State Senators who support this bill, are somehow or other suspect about every other segment of this Nation. I would deeply resent such a comment as that. You cannot go into eastern and southern Arkansas as I have done for the past 5 years and look into the eyes of people who have spent their entire lives trying to build an estate, trying to make a decent living and trying to leave something for their children, you cannot experience the trauma they have been experiencing and believe this bill is any panacea to the farm community of this country. It is nothing more nor less than a holding action. And while I would be reluctant to demoralize the farm community further, I will say that 15 to 20 percent of the people who are now farming and who may get another chance to farm in 1986 as a result of this bill will not be around after 1987. I thank the Senator.

Mr. METZENBAUM. I am happy to have the comments of the distinguished Senator from Arkansas. I think he is aware of the fact—I do not know at which point he arrived on the floor, but I am not attacking the farm bill, and I share his concern about the farmers of this country. I think all of us do. I am concerned about every American, whether they be on the farm or live in an urban area, and how they are able to attain a quality of life to which they are entitled. What I am talking about has nothing to do with the farm bill. What I am talking about is Gramm-Rudman-Hollings, that great majestic piece of legislation that after a lot of turmoil and a lot of battling back and forth suddenly finally became the law of the land when the President signed it. All I am saying is where are all those who paraded under the banner of Gramm-Rudman-Hollings tonight? How come they are not out here defending the implementation of that piece of legislation as well as the enactment of the law in the first instance?

● Mr. MATHIAS. Mr. President, I would like to express my appreciation to the chairman of the Agriculture Committee and the other members of the farm bill conference committee for their cooperation in ensuring our Nation's defense against the potential agricultural disaster represented by the Africanized honeybee.

I understand that the conference committee has stated the concern of the Congress that more research is needed into ways to deter the Africanized bee, also known as the killer bee, and has directed the Agricultural Research Service to make the necessary funds available to conduct this research. Could I ask the manager of the farm bill if my understanding is correct?

● Mr. HELMS. The Senator's understanding is correct. The so-called killer bee, besides being a threat to the lives of animals and people, could wreak havoc with American agriculture because farms and orchards rely upon the peaceful varieties of bees for pollination. The manager's report accompanying the conference report makes clear our concerns on this point and instructs ARS to undertake new research into means of heading off severe disruption to agriculture, and I will be interested to review the progress of this research during the committee's oversight hearings next year.

Mr. MATHIAS. I thank the chairman for his assistance.●

Mr. BOREN addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. BOREN. Mr. President, I associate myself with the remarks that were made just a few minutes ago by the distinguished Senator from Arkansas. As he has been going around his State, I have been visiting with the farm families of our State. I hope that our colleagues, as they vote on this particular measure, will bear in mind the massive social upheaval that is occurring across this country in the rural areas. I was called this morning by a reporter in my home State and asked to comment on the demographic shift that is occurring in my State as people are moving out of the rural areas and into the cities. They are moving because they are losing their farms. Now, on the eve of the Christmas season at Enid, OK, for example, in the heart of the Wheat Belt in my State, in that one small geographical area, there are 150 foreclosures on family farms pending. I talked with one farm wife the night before last, now in her late 1960's, who told me that she and her family had and operated a particular farm, one of our more productive farms, in the eastern part of our State for over 50 years. She tearfully told me on the phone that they were on the verge of losing that farm; that not only did she not know what her family would do but she did not know what six other families that had worked with them on that farm, for over 30 years in some cases, would do either. We read about the tragic story of what happened in Iowa for one farmer in his sixties, a solid member of the community who took the life of his beloved wife, the life of a neighbor, the life of the banker in the local community, and his own life because of the desperation that he felt in not knowing how to begin his life over when he was losing everything he had worked his entire life to achieve. He did not have other skills. He did not know another way of life. It was not easy for him to be uprooted, moved into some urban area and a totally different way of life for which he had never been prepared.

We are facing across this country a series of heartbreaks and a social upheaval of monumental proportions that deserve the sympathy and understanding of all of us. It is not only a matter that demands our emotional empathy, our understanding, and the expression of the concerns of our hearts. It is also a matter that deserves our attention as economic policymakers.

I am reminded of what began in this country in 1926 in the agricultural sector, and I am also reminded of the great flurry of activity at the peak of the stock market in 1929. I am reminded of what is happening in the Farm Belt now and what is happening on Wall Street now.

I am reminded of the fact that agricultural land is deflating in my home State at the rate of 36 percent a year and that there are literally hundreds of financial institutions across this country whose economic health is dependent upon stabilization of the value of the land that stands behind those loans.

More than 4,000 banks in this country have 25 percent of the total loans or folios, depending upon the stability of the value of the agricultural land.

Mr. President, we face a very serious situation. I do not think any of us should fool ourselves by believing that this farm bill is going to solve the problems. It is not going to abate the crisis we have in rural America.

If you figure the income levels for the average family sized wheat farm, for example, this bill will just about hold those income levels where they have been this year for the next 2 years. The best thing you can say about the bill is that it is much better than the first conference committee proposals, which would have dropped family farm income by approximately 12 percent next year. But when we are facing such a serious crisis on the farm, how in the world can we say that maintaining the status quo is adequate? It is not. We are going to be feeling the financial and economic effects and the social effects rippling all across this country over the next 12 months, and we will be back here next year, I believe, facing again an economic emergency in the agricultural sector.

There is some hope for this bill, and it is in the area of the discretionary authority given to the Secretary. I read an editorial within the last couple of days about this farm bill that described it as a new beginning, in terms of an innovative policy. It could begin to be a change in policy if the Secretary of Agriculture would use the discretion that is given to him—if, for example, he will use the discretion to target the benefits to the family-sized farm.

We adopted an amendment on the floor of the Senate, a bipartisan amendment, which this Senator joined with others in offering, that would have saved our precious budgetary dollars, as discussed by the Senator from Ohio, by not paying high price supports to hobby farmers who derive 98 percent of their income from sources other than agriculture. When we have family farmers going out of business in a desperate situation, how can we justify wasting our dollars to give higher and higher benefits to those who simply drive out of the towns and the cities on the weekend and dabble as hobby farmers?

How can we justify spending our precious dollars to prop up huge corporate farming operations? The Secretary in this bill is given authority to target family-sized farms and make more effective use of the dollars. If he would use that discretion, this bill could begin to move us in the right direction.

The Secretary is also given direction to move the vast amounts of grain we have in this country onto the world markets to help us in an aggressive way to get back our share of the world market. The United States has been the patsy of the world too long. We have guaranteed the price to producers in other nations who have been producing full out. We have been storing surpluses for the rest of the world, while they laugh up their sleeves at us and drop their prices enough to seize the market from us, while we, in effect, are storing their surplus grain. If the Secretary would use the discretionary authority, we could move in the right direction.

My concern is, will the OMB allow the Secretary of Agriculture to use that discretion? In order to save a lot of money over a 4- or 5-year period, under the ill-conceived accounting devices we often use around here, there will be a tendency to score some costs in the first year of operation of such a program.

So I am fearful that the new beginning which was described in an editorial in one of our leading newspapers may well not occur. It will not occur if the Secretary does not boldly use the discretion given under this farm bill.

Will this bill be a warmed-over retread of a failed policy or will it be at least the beginning, a start, in the right direction? Much depends upon the actions of the Secretary and the extent to which he uses the discretionary authority that is there.

So far as this Senator is concerned, I can only repeat that this is not an adequate farm bill. I do not denigrate the work that has been done by the conferees, who have spent hours and hours laboring over this matter. They have worked hard. We have some fine Senators on that committee who care about agriculture and understand its importance to the rest of the economy. This Senator cannot say, in conscience, that it is going to solve the problems.

I think we should alert the American people that the problem is not going to go away, that merely assuring the status quo so far as income levels are concerned for a sector that is already in serious crisis is not enough.

As I listened to the Senator from Ohio talk about the budget, I could not help think to myself that if you could single out one group of people in this country who have been the victims of the budget deficits more than any other group, who would it be? It would be the farmers. The budget deficits have so overvalued our dollar that that development has absolutely destroyed the export market for agricultural products.

We have people here who get up early in the morning and work hard all day long. As a man said to me as I walked back to my office the night before last;

> I don't understand how our farmers, who work so hard, who are not looking for a Government handout but who work as hard as any people in this country, who are productive, who have kept pace in terms of scientific and technical developments, would be handed such problems. It isn't fair.

No, it is not fair, and our farmers have suffered more than anyone else because of the Government deficits and Government policies we have followed—programs that have overvalued our dollar, embargoes that have been imposed upon them.

When we talk about budgetary equity, I think we should realize that even under the Gramm-Rudman proposal, about 55 percent of all spending is exempt—not agriculture, but about 55 percent of all the rest of the spending is exempt—from automatic cuts. The farmers are willing to do their part.

This bill represents a sharp reduction in cost from a continuation of current law.

Has defense been trimmed from current law? Have the social programs been trimmed from current levels of spending? No.

In terms of what has actually happened around here, the farmers have again and again been asked to do their part. Others have been exempted and, because they have been exempted, we have not done anything to really get the deficit down. The farmers are then destroyed.

Then we have the question raised as to whether or not they are doing their part from a budgetary point of view.

They are the innocent victims of our own failure to be responsible in dealing with the budget overall.

The defense budget has fences built around it. We cannot touch sacred cows like Social Security even for those people who are in the upper income levels, and, as we all know, just because people are over 65 it does not automatically mean that they are in lower income levels. Yes, I want to protect those who are at the poverty level. We have been afraid to even touch those who are millionaires if they happen to be over a certain age because we have allowed certain areas of the budget to become sacred cows politically and untouchable.

So when it comes to fairness, Mr. President, I do not think it is fair to single out that part of society which is suffering the most right now through no fault of its own and to say that it should bear the burden by itself while we exempt so much of the remainder of the budget from any sacrifices at all in terms of trying to get our budgetary house in order.

We will be revisiting this issue next year. I hope we can do better. I hope one of these days we will take action that will give the farmers a chance to earn a fair enough income that we can turn the depression in the agriculture sector around; but regrettably this bill will not do that, and as we vote on it no Member of the Senate should be deluded into thinking that it will.

Mr. LAUTENBERG. Mr. President, today the Senate is considering the conference report on the farm bill. It is one of the first measures to come before the Senate with significant budgetary consequences, since we passed Gramm-Rudman.

What do we see? It is over budget. It is way over budget.

CBO has done a preliminary estimate. The farm bill is $2.5 billion over current services in fiscal year 1986. It spends $2.5 billion more than if we just left current programs in place, $2.5 billion.

But that is not all. It is $4.5 billion over where we should be. It is $4.5 billion over the level for farm programs assumed in the budget resolution that we passed last summer. It is roughly $4.5 billion over what the Agriculture Committee was allotted in the budget resolution.

Now, that budget resolution assumed a deficit of $172 billion. Well, we know we are not going to come near that number. In fact, according to the latest CBO scorekeeping, we have already overshot the target by close to $19 billion, $16 billion from spending, close to $3 billion from a shortfall in revenues. So, we are close to $19 billion over, based on laws that Congress has already passed, and the President signed.

The farm bill adds another $2.5 billion to that.

Supporters of the farm bill say it does not add to the deficit. They say it cuts the deficit; that it saves money. That it saves $11.2 billion over 3 years even if it costs $2.5 billion this year. They say it makes it back and more in 1987 and 1988.

Mr. President, this is a time-worn statement and one we hear over and over again in Congress. It is the kind of mentality that has gotten us into the deficit hole we are in.

But, the implications of approving this bill are broader. And Senators and the public should know this. By approving this farm bill, we not only add to our deficit. Under Gramm-Rudman, once we approve this conference report, we will be picking the pockets of other programs to pay for the bill.

Mr. President, that is because today we are over budget. And under Gramm-Rudman, that means cuts this year, not in 1987, not in 1988. Come January, the CBO and OMB will sit down and figure it all out. They will figure out how far over we are, and how much to cut.

The more we spend on price supports, the less we spend on education, the less we spend on environmental protection, the less we spend on the defense of our Nation.

We have all read about that tragic story of the farmer who shot his family and then shot himself. It is a story of despair, of hopelessness. Some say this farm bill will help tragedies like that.

But what of the families in New Jersey exposed to the dangers of toxic waste? What of the displaced industrial worker who will be denied job training? What of the poor but aspiring student who wants to pursue his or her education? What of the young child or senior citizen who needs federally assisted medical care? These too are stories of despair. The more we spend on price supports, the less we spend on these programs, on job training, on health care, on education. And, Mr. President, unlike the farm programs, all of these programs have already been subject to the budget cutting knife this year. All have been cut already in fiscal year 1986. That means that Gramm-Rudman cuts imposed on these programs will come on top of cuts already made, while future Gramm-Rudman cuts on farm programs will be protected by the cushion provided by this bill.

Ironically, it is a cushion on top of a cushion. The cuts that Gramm-Rudman would impose on farm programs will not even hit price support programs, not in 1986 anyway, not if the farmers sign up fast. Any contracts signed before February 1, when the sequester order is issued, will be safe this year. In fact, even if a farmer does not sign up, but another farmer growing the same crop does, then they are both exempt. So, if some wheat farmers sign up, then all the wheat farmers are exempt from Gramm-Rudman.

Mr. President, we are playing a zero sum game. A vote to break the budget here, is a vote to cut education, air traffic safety, the FBI, the CIA.

There is another point. Gramm-Rudman puts a limit on how much we will cut next year automatically. The Gramm-Rudman Act says if we are as much as $20 billion over the deficit set in the budget resolution, then cut, cut back roughly $12 billion of that.

What if Congress and the President spend $25 billion over the deficit set in the budget resolution? The answer is still, cut just $12 billion. Now, what does that do? It puts us further into debt. We could top our target by $30 billion, and the result would be the same, $12 billion in automatic cuts in 1986, next year, reaching our target for fiscal year 1987, a target of $144 billion, will be that much harder.

We are not talking about insignificant savings. We are talking about savings that could prevent major cuts in other programs.

The Senate should start exercising its responsibilities now. Gramm-Rudman did not just authorize automatic spending cuts. It did not just authorize Congress to give away its control. It made changes in how we exercise our own power, it made changes in our own controls. Under section 201(B) of the Gramm-Rudman Act, this farm bill conference report should be out of order. Out of order because it breaks the budget that Congress passed. Out of order under section 311 of the Budget Act, as amended by 201(B) of the Gramm-Rudman Act.

Now, the Budget Act says if a point of order is made, the Budget Act can be waived, but only if three-fifths of the Senators agree. That means 60 Senators, not three-fifths of those voting—three-fifths of the entire body. The farm bill got just 61 votes when it passed the Senate. It might be a pretty close vote.

But, I am told, a Senator intent on passing the bill has another route. He can appeal the ruling of the chair. Submit it to a vote. For that, the Senate needs just a bare majority. But if the chair's ruling is appealed, and if a majority overturns the chair, then we have no more section 311 point of order. We set a precedent that renders a control, no control.

Do I think there are 51 Senators who want the farm bill that bad? So bad that they would undermine Gramm-Rudman so soon after enactment? Are there 51 Senators who want the farm bill so bad, that they would set a precedent that says $2.5 billion over in outlays is not over in outlays?

Unfortunately, I do.

For that reason, I will not make a point of order.

Mr. President, I yield the floor.

Mr. DOLE. Mr. President, I just want to take a second. I know there are other speakers. But I would like to get some indication that we could have a vote on this matter. I thought most people wanted to go home for the holidays. Apparently, I was mistaken. So we are prepared to stay here well into the evening, if necessary.

We still have the continuing resolution, reconciliation, plus some other minor resolutions that people might want to discuss. They were able to dispose of this conference report in the House today, with 435 Members, in about an hour. We have been on it for nearly 3 hours.

I certainly do not want to shut anyone off, but I wonder if the managers might be able to get an agreement that we vote by 6 p.m. on final passage.

Mr. HARKIN. Mr. President, I have been waiting for 2 hours to get recognition. I am constrained to object to that. I do not think I will take more than 10 or 15 minutes.

Mr. DOLE. Maybe I can find out how many speakers there are.

Mr. ZORINSKY. If the majority leader would allow us to check with the minority leader.

Mr. DOLE. Why do we not let people speak, but I hope we might be able to have a vote by 6 o'clock.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I first of all want to join with others who have complimented the distinguished chairman of the committee, the Senator from North Carolina, for his stewardship of the bill throughout the year. It has not been an easy task. We have had some long days. I know that the chairman was frustrated at many times because a quorum would not show up in the committee meetings. I shared that frustration with him many times.

But I also want to add again for the record, as I have done before, that at no time during this long markup of this bill did the chairman exhibit anything other than the greatest courtesy and indulgence toward all members of the committee. I know that the chairman and I have had some very strong disagreements on certain aspects of this bill. Again, I say for the record that at no time was this Senator ever cut off at any time from either offering an amendment or from debating at length those amendments that I supported or opposed. And for that I am most grateful.

Again, I compliment the chairman for exhibiting a great deal of patience and forbearance during a long markup session. It does not, however, say that we still do not have some strong disagreements on the contents of the bill.

I also want to compliment the distinguished ranking minority Member on our side, Senator ZORINSKY, from my neighboring State of Nebraska, for exhibiting the same kind of patience and forbearance as the distinguished chairman of the committee in keeping us there during the long markup sessions. He was successful in insuring that, on our side, we did, I think, on the vast majority of occasions, have a majority there during the markup sessions. So I want to again compliment the Senator from my neighboring State for his stewardship on our side of the aisle on this farm bill for a long year. I know there were times when his health was not the best and yet he stayed here and worked on the bill to see it through.

But, Mr. President, I have said and maintained since the first day of the first hearing of this bill back in the spring of this year that I would stake out a position and the position would be this: that I could not, in conscience, vote for any farm bill, nor could I vote for any amendment to a farm bill, that would cut farm income any less than what it was right now. Mr. President, that is exactly what the conference report does. It cuts farm income.

I would like to point out what it does to a typical Iowa farmer. Even though the target price has been frozen for 2 years, an Iowa corn farmer next year has to retire 75 percent of his land to qualify for the program than he did this year. After next year, he will have to retire 100 percent more of his farmland to qualify than he did this year. So the farmer's overall income in Iowa is going to decline, even though the target price has not been reduced.

I had my staff run a study of a typical Iowa corn farmer with a 300-acre corn base. Next year, that farmer will have about an 8-percent cut in his gross income—some $8,000. And that does not count inflation. If inflation goes up by 3 percent, then that could be as much as an 11-percent cut; or, if there is a 4-percent inflation, that could be as much as a 12-percent cut in the gross income of that Iowa corn farmer. But, nonetheless, even if there is no inflation, there will be an 8-percent cut in the income of that Iowa farmer.

Mr. President, Iowa farmers cannot stand to have their income cut any further. And it is not just the farmers, but it is the bankers, it is the small business people, it is our educational system, it is the whole structure of our society in the State of Iowa that cannot stand another 8-percent cut in the income of these farmers.

Mr. President, I would point out, in all honesty, that this conference report is better than what the Senate passed. This conference report is slightly better than what was originally passed by the Senate. For example, under the Senate bill, that same Iowa corn farmer with the 300 acre corn base would have had his income cut next year by 10-percent, not 8-percent. So this bill is just a little bit better.

The Senate bill, for example, had a 5-percent cut in the target price in 1988 and a 10-percent cut in 1989. The conference report has a 2-percent cut in 1988 and a 3-percent cut in 1989 and a 5-percent cut in 1990. So this bill, for the corn farmers, is slightly better than what came out of the Senate, but it still cuts farm income.

I might point out also that the wheat farmers in the Midwest also have a cut in their income; not as bad as the corn farmers, but wheat farmers will also have a cut in their income next year.

Now, it has been pointed out that the vote in the House was tremendous in favor of this bill. But, as I said earlier, if you look at the Midwest, there were a considerable number of Midwest Members of the other body that voted against this bill. And that ought to tell you something when those in the Midwest begin voting against it.

As far as I can see, the bill that passed the Senate and this conference report is an anti-Midwest farm bill, because that is where the biggest cuts come. So, as I said, Mr. President, I should not say this is better than what came out of the Senate, I should say it is not as bad. This is not as bad as what was originally passed by the Senate.

What came out the Senate is not as bad as what the President sent down earlier this year. But that is not saying much. It is like the difference between, as I said earlier, a puff adder snake and a rattlesnake. I guess the bite of the puff adder kills you in just a few seconds, and a rattlesnake takes slightly longer. But the effect is still the same.

This farm bill for the farmers that I represent is like the bite of a rattlesnake. We have had a warning. The warning is there. It is going to be an 8-percent cut in the farm income next year.

What it is going to mean is more and more farmers are going to go under, and more and more farm families are going to be driven off their farms. This farm bill continues the misguided policies of the past. There are those who say this is a great break with the past; somehow this charts a new course in agriculture—far from the truth. This continues the same old policy of reducing farm income from what the farmers get for their products, and trying to make it up with appropriations from U.S. Treasury. The only difference is that those appropriations next year and the next year are going to be less and less. But it is not a change in the fundamental policy of what we have had.

Mr. President, the debate over this farm bill has not been a budget debate. I am going to have more to say about that later on the point of order. But this has not been a budget debate. Maybe it should have been. If it had been a budget debate, we might have gotten a different kind of farm bill. But this has been a debate over philosophy.

For example, this bill calls for an estimated $52 billion over the next 3 years, and that is not all. We are going to be back next year for probably a minimum of $10 billion just to help bail our the Farm Credit System. We will be back again for more assistance to banks, to small businesses that are going to go under because of the further drop in the farm income. So it has been a debate on philosophy.

I asked the Secretary of Agriculture once in a meeting that took place in the Capitol about this, whether budget was controlling or whether philosophy was controlling. He tried to say well maybe they want to get it under the budget. I said if you do, what we should have is a farmer referendum, and have a supply management program. Well, no, that was against their philosophy. So it has been a philosophical debate, not that they want to bring it under budget, but that they want to continue the same misguided policies of the past.

The philosophy basically is two pronged. The first prong in the philosophy says there are too many farmers. We have to get rid of some of them. The second prong of that philosophy says commodities are too high priced, and we have to reduce the price of those commodities.

I believe neither is true. I believe our family sized farmers are an economic asset to this country, and not an economic drain. I believe our family farms are a viable economic unit of production, and not something that has to go by the wayside.

Mr. President, there has been a lot of talk about the death of the family farmer, that it is a thing of the past. There is a fine article in the Des Moines Register this morning entitled "Obituary for Family Farm Is Viewed as Premature."

Mr. President, I ask unanimous consent that this article from the Des Moines Register of this morning be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Des Moines Register, Dec. 17, 1985]

OBITUARY FOR FAMILY FARM IS VIEWED AS PREMATURE

(By Dixon Terry)

The fight is over. Family farming is dead. This is the implicit message in the remarks of Dean Kleckner, Iowa Farm Bureau Federation head, in a Des Moines Register interview. This would seem a dramatic turnabout for an individual who, until a little over a year ago, refused to acknowledge the existence of an agricultural crisis.

Stranger still, Kleckner's gloomy predictions come right at the time of the Farm Bureau's seemingly successful lobbying effort in Congress to pass a 1985 farm bill that would assure lower prices, increased bankruptcy and the grim future he foresees.

Kleckner's "free market" future would leave farming in the hands of those farmers who can grow corn for less than $2 per bushel. In effect, the occupation of farming would be restricted to those who are wealthy in terms of land and other capital, or those who would farm as a hobby while earning a living in town.

Even if the jobs were there for the great majority of us who would fall into the second category, farming for nothing on nights and weekends is not a heritage to pass on to the next generation.

Posing farm-price levels well below the average farmer's production costs as the standard of efficiency effectively slams the door on farming as a full-time occupation and continuing way of life for the majority of Iowa farm families.

This is a phony standard that fails to recognize that farmers in general have successfully incorporated most of the advantages of technological innovation into family-sized operations. As a policy goal, $2 corn favors those advantaged by inheritance, tax breaks or outside capital and puts control of the land in fewer hands.

Judging the future of agriculture by such narrow standards ignores the tremedous psychological, social and environmental costs involved with moving in the "free market" (that is, corporate dominated) direction.

Loss of farmers means declining rural communities and increased unemployment. Industrialized agriculture, with its drive for all-out production and increasing chemical dependence, holds an unacknowledged but costly inefficiency in the deterioration it causes in soil and water resource base. Farm families as steward of society's most vital resources can never be replaced.

Kleckner's "tough talk" is the last thing Iowa's farmers need right now. Counseling farmers to adjust to such a grim future can only increase the growing sense of desperation in the countrywide and contribute to the occurrence of more personal tragedies.

Since the national Farm Bureau leadership is spouting the same line, this appears to be a position from the organization hierarchy with a purpose behind it. The purpose seems clearly to be to convince us that the farm-policy fight is over.

The bureau leadership has used its full lobbying force this past year working with the grain trade, the ag-supply conglomerates and the rest of the agribusiness establishment to defeat in Congress the producer referendum on higher prices and supply management advanced by a national grassroots farm movement. Now it wants to consolidate its gains. It wants us to believe the fight for farmers to choose their own destiny is dead.

But even as Kleckner spoke, the House of Representatives was passing by a vote of 220-to-200 an amendment to the budget resolution attached by Appropriations Chairman Jamie Whitten that in two paragraphs summarizes the guts of the Harkin farm bill and directs the secretary of agriculture to implement it along with a moratorium on foreclosures. Tiring of Congress' failure to help farmers, Whitten took the initiative and the House supported him over the opposition of the administration.

Regardless of the outcome of this particular attempt, one point must be understood. The battle is not over. The national coalition of organizations working for fair prices is growing monthly in strength and intends to come back again and again with the same demand.

The 36 senators who supported Senator Tom Harkin's proposal provide a very powerful base on which to build. Without a doubt, emergency farm legislation will be proposed after the end of the year to replace the disastrous farm bill now emerging in Congress.

This is the message that Iowa needs. There is hope for a future that includes more farmers, not fewer, and healthy rural communities. The hope lies in the power farmers already have demonstrated in Congress. The power lies in unity and organization.

The Iowa Farm Unity Coalition has successfully brought together statewide groups including farm organizations, organized labor and all the major church denominations to form a common force as part of this national farm movement.

This winter the coalition will continue to build this kind of unified effort on the local level through county Farm Unity committees. We must first unite in our communities to support each other emotionally and materially through this difficult time. At the same time, we must strengthen our battle in Washington and in the Statehouse. There is a role for everyone to play, whether they belong to Farm Bureau, the American Agriculture Movement or none of the above.

Iowa farmers need real hope, not tough medicine. By countering despair with constructive action, the Farm Unity Coalition offers hope through empowerment. The future direction of farming is a political decision in which we all can participate.

Mr. HARKIN. I believe any obituaries on the family farm really are premature. We will be back. There is a prairie fire growing out there in the countryside amongst those who see what is happening to our family farm structure. It used to be just a few farmers. Now it is growing larger and larger. Now it is not just the farmers. Now it is the smalltown bankers. It is the implement dealers. It is the farm supply businesses now. It started in Iowa. Now it is growing to other States.

But more and more we are finding a growing support for some kind of a supply management program that will preserve the family farm structure.

I believe the support for this will grow rather than dwindle.

The point on the price of commodity prices being too high, I have one message to those who represent a more urban constituency. This cheap food farm bill—that is what it is—may look pleasing in that it will keep the price of food cheap but I believe that is really a short-term relief masking a longer term, more serious problem; that is, the concentration of land in fewer and fewer hands, the destruction of our soil base, and the outmigration from our rural areas to the cities, all are going to weigh more heavily upon those in urban areas than trying to get more income for the farmer through a higher price for his commodities.

Again, I point out that giving the farmer a little bit higher price for his commodities I think would be the best and fairest way to do this and, quite frankly, I think it would be cheaper when you compare it to the number of tax dollars or deficit spending that this country is going to engage in trying to support to some minimum level of income for those farmers that are not now getting enough money for their commodities.

Let me say just a word here about the farm credit bill that recently passed and is now on its way to the President for his signature. But again that farm credit bill is just an extension of the same philosophy that is in this farm bill. The farm credit bill that came through is fine for the Farm Credit System. It is fine for the bondholders. And I suppose there is going to be a little bit of trickle down to help the farmers. But it does not really help the farmers restructure their debt. That is what we need. The Senator from Minnesota, I, and others joined in an amendment that would have done that—would have helped the farmer restructure his debt, and stretch it out over a long period of time.

We were not successful in that. So again the farm credit bill is going through. Money will flow out of the Treasury but it will not help the farmers a bit.

Next to last, let me make a point on the international impact on this farm bill. Reducing our farm income in this country, and depressing the price of our farm commodities is going to do the same thing throughout the world: it is going to decrease the income to farmers in other countries; it may cause unrest, chaos and violence in many countries around the world.

Last, Mr. President, we fought all year for peanuts. I do not mean peanuts specifically. I mean peanuts figuratively in trying to get more for farmers. We have tried to mitigate the damage to farm income. We have tried to mitigate what the President sent down earlier this year—his farm bill that was dead on arrival. But his farm bill was introduced. It sort of set the standard by which we then operated which was how much could we mitigate the damage rather than what could we do to get farm income up.

Next year, Mr. President, Gramm-Rudman, as others before me have said, is going to come down the pike, and more cuts will come in the farm program. There have been those who have said time and time again that we need a long-term consistent farm program. Here we are passing a 5-year farm bill, but Gramm-Rudman will be here next year and there will be further cuts in the farm programs again next year, making our farm policy even more unstable and unpredictable.

So for those who think that this conference report is going to get them something, all I can say is do not go to the bank yet. Do not count on it because Gramm-Rudman is coming down the pike. We are going to have more cuts next year.

Finally, Mr. President, I want to talk about the point of order. It has been raised by at least two Senators prior to now. And, Mr. President, this possible point of order I think is intriguing.

If I thought that by raising a point of order it would change the direction of this farm bill, I would raise the point of order. If I thought that a point of order would redirect this miserable policy that we have, I would raise the point of order. If I thought that by raising a point of order that we would get a change in philosophy that would help raise farm income by getting a better price in the marketplace for what the farmer sells rather than pushing it down, if I thought that would happen, I would raise a point of order. But that will not happen.

However, there is another reason for raising a point of order. It has to do with responsibility and accountability.

I have long believed that those who hold public office ought to be held accountable for the votes that they cast and be responsible for those votes. People who voted for Gramm-Rudman, though I did not, people who supported Gramm-Rudman and think that is the way we ought to go, perhaps there ought to be an accounting for that and they ought to be held responsible for that vote.

So here we have a bill that exceeds the budget authority, subject to a point of order.

But, again I have to ask the question, if I raise the point of order, would it really hold people accountable for the actions that they took on passing Gramm-Rudman?

Again I would have to say no. What would happen is two things: The ruling of the Chair would be appealed and there would be 51 votes to do so. I have no doubt there would be 51 votes. I would probably vote to overturn the ruling of the Chair myself because I never supported Gramm-Rudman. Or there would be a motion made to waive the Budget Act. There would probably be 60 votes and, again I would be one who would support it myself because I was not one who supported Gramm-Rudman.

So, for those reasons, I, too, will not raise a point of order. But there will come a time next year when this body will have to be held accountable and responsible for the action they took on Gramm-Rudman.

Mr. President, in conclusion, I will vote against this farm bill because it decreases farm income. It raids the Treasury. It increases the deficit. In no way will it help us get out of the mess that we are in in rural America today.

Mr. ABDNOR. Mr. President, I am going to vote in favor of this conference report today, but I do not do so in the belief that this Congress or the administration have done America's financially pressed farmers any great favors through this legislation.

This farm bill falls short of recognizing and acting toward the economic crunch faced by the agriculture sector. It does not take into consideration the fact that we are faced with a crisis in agriculture equivalent in economic pain and suffering to the 1982 recession that prompted Congress to spend over $1 billion in assistance.

Congress has not acted as compassionately now as it did then. It has not answered the needs of our farmers and ranchers, of rural America. But in considering this bill, I have to ask myself one question: What is our alternative?

I want to make it clear that I am not faulting the conferees for the work they have done on this legislation. Some of this body's strongest agriculture advocates served on that conference committee. They worked for 8 solid days on this legislation, and they decided that this was the best legislation achievable given the circumstances they were working under. I am not going to quarrel with their judgment.

It would be very easy for me to vote no on this bill, and say I am going to get something better for the farmers and ranchers in my State. That would make me quite a hero back home. It would also be a cruel hoax on those farmers and ranchers, because there are no better alternatives out there that are either viable or achievable.

Given the urban orientation of this Congress and the inclination of many in this town to make deep slashes in the agriculture budget if given half an opportunity, I shudder to think of what might happen if we defeat this bill and give them that opportunity.

Now, Mr. President, I am not going to stand here and demagog this legislation and say that it is 100-percent negative. If it did not have some very substantive redeeming factors, I could not vote for it.

This bill contains "sodbuster" provisions, something a lot of us have waited for a long time. It will help prevent outside tax shelter-seeking investors from coming into States like South Dakota and breaking up our fragile lands and exacerbating soil erosion problems. This provision, combined with what I hope will be the eventual passage of my legislation restricting those who seek massive tax writeoffs through farm operations, will change the face of American agriculture for the better.

This bill contains strong soil conservation provisions, a long-term conservation reserve program under which farmers would contract for periods of 10 to 15 years to return 40 to 45 million highly erodible acres to less intensive uses, like grass or trees.

It includes increased credit and promotion moneys for farm exports, something that is absolutely vital if we are going to begin regaining our share of the world agricultural market.

And I like to think that I made this bill significantly better through the adoption of four of my amendments, amendments that protect farmers from the costly impact of the Environmental Protection Agency's leaded gas ban; that help transport Emergency Feed Program grain stocks to sparsely populated areas of the country; that address inequities with winter wheat insured by the Federal Crop Insurance [FCI]; and that investigate how possibly declining grain quality standards affect our farm exports.

Mr. President, let me note that it disturbs me that the conferees dropped the student aid amendment I offered to this bill. I am advised that my amendment was dropped because similar language is contained in another bill. In actuality, Mr. President, my provision is included in two other bills: H.R. 3128, the reconciliation measure, and the Senate Labor and Human Resources Committee bill to reauthorize the Higher Education Act. I appreciate greatly the assistance I have received from Senators PELL, STAFFORD, HATCH, and KENNEDY on this issue.

Mr. President, if we could state with certainty that the reconciliation measure will be enacted before the New Year, I would not be raising this issue today. I am hopeful that measure will be approved. However, I understand that conferees on the reconciliation bill have reached an impasse that they have been unable to resolve. In the event the conferees do not resolve their differences in time to pass H.R. 3128 before we adjourn, we have lost our only other opportunity to rectify this situation in time to assist those students who are seeking aid for the remainder of this school year.

This farm bill is not, by any means, a bill completely lacking in positive assets. It falls short in that it does not provide what America's farmers need in the dire situation they face. Even then, the bill does enough to buy us time to fight again at a time when the Congress and the administration may be more receptive to the needs of rural America.

To try to get a better bill now by rejecting this one would be utter folly and would give carte blanche to those at the Office of Management and Budget who would shape a bill that would be absolute disaster for American agriculture. I am not willing to do that, and I am going to vote for a bill that represents the best we can achieve under the current circumstances.

Let me close by complimenting the work done by the conferees, and the diligent effort of the chairman [Mr. HELMS] and the ranking minority member, [Mr. ZORINSKY] of the Agriculture Committee throughout this process. They deserve our acknowledgement for a conscientious undertaking of a very difficult task.

Mr. GRASSLEY. Mr. President, I oppose this bill because it will likely reduce farm income in the Midwest.

I had hoped that the conferees could craft a compromise that would at least maintain the safety net for feed-grain farmers. As long as our Government takes actions that disrupt farm markets and refuses to take tough stands against unfair trade practices of our foreign competitors, our farm programs will be costly.

The answer to the problem, however, does not lie with attacking the symptoms of high costs.

I don't have any farmers in Iowa that like to farm for the Government. Iowa farmers pride themselves in their self-reliance. It's only when "Big Brother" Government interferes with farming that Iowa farmers are forced to rely upon farm programs.

Clearly, this conference report is better than what we voted for initially in the Senate. But if my Senate colleagues truly understood the magnitude of the farm economy problems, and understood the real source of those problems, they would vote against this farm bill, too.

Mr. President, the farm bill we are considering today is better than the one which passed the Senate a few week ago. However, it is not a real 3- or 4-year freeze, especially when compared to the 1985 support levels.

The target price, which is the only real income support in this bill, will be reduced after 2 years in this bill. Instead of 3 or 4 years with a $3.03 target price, farmers will witness a reduction to $2.97 in 1988, $2.88 in 1989, and $2.75 in 1990. Target price stability was essential under this bill because the loan rate is being dropped so dramatically. Both farmers and their lenders will certainly need to depend on Government programs for their income stability. Without a freeze in target prices they will be making decisions based on projections instead of known factors.

In addition to the target price reduction there is an increase in the set-asides required to be in these commodity programs. In 1985, our corn farmers were required to set aside 10 percent of their crop acres to be in the farm program. In 1986 under this bill farmers will be required to set aside at least 15 percent and up to 20 percent, with 2.5 percent of that being a paid diversion. In the out years, set-asides could be as high as 20 percent without any paid diversion. This increase in the set-asides will seriously undermine many farmers' ability to make a profit.

Primarily it is for these reasons that I cannot support this bill even though it is an improvement over the Senate bill. When I voted to send the farm bill to the conference committee in November with a 2-year freeze, I fully expected at least a 3- or 4-year freeze in target prices because the House bill contained a 5-year freeze. Agriculture in my State is in worse economic shape of any in the country. To help my farmers recover from the crisis they are now experiencing, we needed stability in this farm bill. This bill does not guarantee us stability, in fact it guarantees us reductions which I cannot accept.

Mr. QUAYLE. Mr. President, today, the Senate is completing its work on the conference report on the 1985 farm bill, an omnibus package of legislation that will set in place for the next 5 years our Federal policies for farm income protection, export promotion, farm and rural development credit, international food assistance and domestic nutrition programs.

Frankly, Mr. President, I have very mixed emotions about this bill. On the one hand, the bill continues financial assistance to farmers who are now experiencing one of the most difficult economic periods in decades. Commodity prices and farm asset values are now at record lows, reflecting drastically decreased agricultural exports, high real interest rates and world crop surpluses. As a result, our price support programs have taken on a renewed importance in stabilizing farm income.

On the other hand, I have witnessed what poorly designed farm programs can do and have done to the long-run health of American agriculture, and I am concerned that this farm bill does not go far enough toward changing the basic method by which we support commodity prices and protect farm income. By encouraging production through volume-based programs, we have brought about changes in production patterns, affecting what commodities are produced and where. In addition, through our loan programs, we encourage increased world production. All of this works to the detriment of our full-time farmers and those parts of our country that enjoy a natural advantage in the production of certain crops.

I am also disappointed with the inability of Congress to say "no" to certain specific interests that survive solely on Federal subsidies. For example, I was successful on the floor of the Senate in offering an amendment to the Senate Agriculture Committee bill to phase out the Honey Price Support Program. This program cost American taxpayers $100 million last year to support the incomes of but a few thousand beekeepers. As a result of the program, with its price support level at over 65 cents per pound compared to a world market price of between 30 and 40 cents, the Federal Government last year was forced to purchase over 70 percent of all domestically produced honey.

With 60 votes in the Senate for such a honey program phaseout, and with all the demands on the farm program that exist, one would think that, at a minimum, the farm bill conference could have produced a compromise that included fundamental changes in this flawed program. But as is too often the case, the House-Senate conference committee took the path of least resistance and preserved much of the subsidy for some 2,000 to 3,000 beekeeper beneficiaries.

Congress as a whole simply must summon the will, as the Senate did in approving my amendment to phase out the Honey Price Support Program, to eliminate wasteful and unnecessary Federal programs. I deeply regret that, in the end, Congress failed this litmus test of its resolve to make a true dent in the cost of the Federal Farm Program.

There are many other problems with this bill. It continues the failed programs of the past in sugar, peanuts, wool, mohair, and others. It also contains one of the most complicated and costly dairy programs in history, which includes a milk tax that I strongly oppose.

Having stated my reservations, let me say that this farm bill does contain several very positive provisions, including an impressive effort to improve competitiveness and promote exports, as well as a strong conservation title. I am very pleased to see that the farm bill conference report includes the Intermediate Export Credit Program that I first proposed in the Agricultural Trade Enhancement Act, S. 171, which I introduced in January.

Given the very gradual move toward market orientation that it provides, this bill could set the groundwork for later, more fundamental reform of our farm programs at a time when the state of the farm economy is more stable. Certainly, there is a need for such a comprehensive reform. The key to such reform is divorcing production decisions from income protection and allowing economic stimuli to direct farm production, rather than commodity price supports.

This farm bill freezes target prices for wheat and feed grains for 2 years and authorizes a very gradual reduction thereafter. In addition, loan rates for these crops are lowered toward a level between 75- and 85-percent of a 5-year average market price.

In so doing, this bill walks a tightrope between three objectives. First, it maintains farm income during a transition period toward market orientation and attempts to protect farmers from the extremes of our current economic climate. Second, it makes our commodities more competitive by lowering loan rates to levels that should put our products back into the market place here and abroad, rather than Government storage. And finally, this bill attempts to accomplish these two almost mutually exclusive objectives within budget guidelines worked out over the last several months in consultation with the administration.

But, one could certainly question whether we have succeeded in producing a fiscally responsible farm bill. The cost of the Commodity Credit Corporation portion of the bill—its price support provisions—is estimated at around $52 billion during the first 3 years of the bill's 5-year life. I would suggest that when one compares the number of farmers in this Nation, regardless of how a farmer is defined, with the unbelievable cost of these programs, it becomes clear that these programs simply cannot be sustained in the long run.

All three of the bill's objectives are important. Market orientation must be achieved if our farmers are to again derive their income from the market and not the U.S. Treasury. I know that the farmers of Indiana want to see conditions again that will allow them to earn their living without the restrictions of Federal Government involvement. They can only do so if we in Congress will finally turn our attention to the real factors prohibiting competitiveness and profitability, including the strength of our dollar, high real interest rates and conflicting Federal policies.

Mr. President, recognizing that these three objectives are so difficult to achieve together, I will support this farm bill because, given the seriousness of the problems confronting our farm economy, the farmers of Indiana and this Nation cannot afford the luxury of further delay or guesswork. They need a solid foundation upon which to plan for the future, and the farm bill will provide that. Therefore, I would encourage my colleagues to support this bill.

Mr. EAGLETON. Mr. President, the compromise farm bill is not the best legislation in the world, but it is better than two other things I can think of one, the administration's proposed farm program or two, doing nothing at all.

I don't think there was any advantage to holding off until next year to settle on a program. If anything, the budget pressures under Gramm-Rudman will be even more intense then and the chances of getting a good farm program even less.

I think we did the best we could under the circumstances and I am hopeful we can make this program work.

Mr. FORD. Mr. President, in Kentucky, 110,000 people work on the farm, and another 750,000 nonfarm workers owe their jobs to farming. Agriculture in Kentucky has a $3 billion farm gate value, but its associated feed seed equipment, packaging, transportation, processing, wholesaling, and retailing activities make for an $11 billion industry. No other combination of business activities provides nearly as many jobs or as great an economic stimulus.

The 1985 farm bill was meant to be a revolution for agriculture. Those of us in agricultural producing States recognized that agriculture was a crossroad, with a need for a change. However, no change could occur without improving the income for our Nation's farmers.

In anticipation of the 1985 farm bill deliberations, I submitted to the chairman of the Senate Committee on Agriculture, Nutrition and Forestry, a lengthy document expressing my views on what Kentucky needed from a farm bill.

Of overall importance to me was the necessity that the farm bill provide an incentive for young people to farm. They are currently abandoning the family farm in alarming numbers. The last census of agriculture showed that, nationwide, there are 4,200 fewer farmers who were age 25 and under than a few years earlier. For our Nation to have a strong agriculture sector in the future, we must attract and maintain the farmers of tomorrow.

The farm bill had to contain, in my opinion, a balanced approach to long-term programs which are consistent and practical; first, price stability and farm credit reform; second, export promotion and fair terms for imported goods; third, strong soil and water conservation for the farms of future generations; fourth, continued Federal cooperation with State programs; and fifth, emphasis on research and extension programs.

Farming has been good to our Nation since the days when our Founding Fathers bartered with cash crops. The U.S. farmer leads the world in efficiency, now producing 15 times as much as our land yielded in 1930. As a result, American consumers spend less of their disposable income on food than people in any other nation. This is despite the fact that the average farm receipt is only 2 cents for every dollar spent on food.

Mr. President, while agriculture has been exceptionally good to our Nation, we have let our farmers down. Farm debt in the U.S. today stands at an all-time high of $215 billion. It more than doubled between 1977 and 1983. Our farmers deserve more.

The 1985 farm bill, unfortunately does not go far enough to improve the income of our Nation's farmers. However, considering budget constraints and the radical changes proposed by those who favored lower prices and hence reduced farm income as necessary, the final bill is at least acceptable. It could have been a monstrosity.

The freezes in target prices for 3 years does provide certainty for our farmers and their lenders. The 1985 farm bill makes a profound statement that Congress recognizes the income problem of our Nation's farmers.

I am pleased that the bill puts back a floor that is reasonable for our Nation's soybean farmers. Changes could have been made to encourage exports while improving farm income over the long term. Budgetary and time constraints kept this from occurring, but it was imperative that the certainty associated with a minimum floor price be reestablished.

The 1985 farm bill makes a strong statement to foreign nations that practice unfair trade. The U.S. Congress believes in free trade, but will be providing the necessary tools to establish trade that is fair. U.S. commodities, as a result of this bill, will move into the export arena at market clearing prices. However, farm income will be preserved through fair target prices. I support this move to a free market, and while this is a 5-year authorizing piece of legislation, let me say that if in 5 years this move to a free market is not successful, I stand ready to fight for changes in farm programs to assure farmers a fair return on their commodities. The next 5 years is a test to see if these theories hold true and I am pleased that for the duration, income protection is preserved.

I am extremely pleased with the farm credit titles of this bill. The single most important provision contained in this section is a $490 million program whereby the Agriculture Department and private lenders share equally in the cost of reducing interest rates for hard-pressed farmers. Twenty percent of today's farming costs are tied up in interest on loans for 1 year of operation. This interest writedown will go far in benefiting the individual farmers through reduced interest costs.

By far the best provision in the 1985 farm bill is the soil conservation program that—for the first time ever—ties farm program benefits to the way a farmer treats his cropland.

Since Kentucky has one of the top 10 highest erosion rates in the Nation, we can be especially pleased about this historic legislation which will help preserve our land for tomorrow's crops.

The new bill would deny crop price-support loans, subsidy payments, crop insurance and other Federal benefits to any producer who continues to till land classified as a high erosion risk.

Soil conservation programs had actually been targeted for drastic cuts in the administration's 1986 budget proposal. However, it has finally been realized in Washington that soil conservation is actually a very smart program from a budget perspective.

Technological advances are needed in order to restore profitability to the farm sector. The nature of a competitive agricultural environment mandates that continued advancement in the sciences continue. The 1985 farm bill will see to it that adequate levels of research and extension work continues.

I am disappointed that the 1985 farm bill does not contain more specific references on improvements in Federal and State program cooperation. Every State is different. These differences are strengths of American agriculture. We must direct our attention in the future to see to it that Federal and State agriculture programs do more to complement one another.

The 1985 farm bill is not perfect by any stretch of the imagination. The problems in American agriculture are real but they are also diverse. It would be wrong to assume that one piece of legislation could be viewed as a cure-all.

This farm bill, when viewed as a whole, does provide a workable framework for American agriculture. I intend to vote for this bill, given the realities from which it was developed. I do so knowing that improvements for American agriculture must continue to be sought.

I do not vote for this bill assuming that we in Congress will place agriculture in a closet for the next 5 years. I vote for this bill because it was the best that could be achieved and because I believe Congress will continue to be striving for those improvements. Farming is an ongoing process in the fields, and agricultural legislation is also an ongoing process in Congress.

Mr. LEAHY. Mr. President, the new farm bill that will be established under the conference report on H.R. 2100 can do much to improve the financial conditions facing farmers and others who live in rural communities. If properly administered, the new farm bill can boost farm income, while reducing the Federal budget for agricultural programs. Under the provisions of this conference report, farm program costs will represent less of the Federal budget, while still providing farmers program provisions they have sought during the long debate that has led to this conference report. In particular, I am pleased that the dairy program established under the conference report will provide dairy farmers with a supply management program that the industry needs.

The programs and authorities provided under the bill will not provide all of what I believe could be done to insure the improvement and financial soundness of our agricultural economy. But the bill is the best available approach to solving some of the difficult economic problems confronting farmers and the Nation. Financially hard-pressed farmers would benefit from stronger support prices, but, at this late date, it is more important to farmers that the provisions of the farm bill are enacted, thereby providing some stability for farm income and allowing farmers to plan for next year. Farmers need to obtain production financing for next year and dairy farmers need to be able to begin the industry self-help program established in the conference report.

I believe we must make every effort to insure that farming remains a vigorous industry in our Nation. Farming and food production are national security matters. The United States is the most powerful Nation on Earth—indeed, the most powerful Nation in the history of the world. But many nations possess weapons that can inflict terrible damage on the United States. The power to destroy is commonplace in the world today.

Other nations do not possess our agricultural abundance. The United States is the only major military power in the world that can feed itself. We are the only major military power in the world that does not have to import food, that can never be starved by a rival country, and that cannot have its foreign policy, or its domestic policy, or its economic policy shaped by outside forces. That is our unique strength. It is a strength we must maintain.

DAIRY PROGRAM PROVISIONS OF THE BILL

The bill provides both short-term emergency measures to adjust supply and long-term provisions that maintain the vitality of the industry.

Briefly, the price support provisions of the new dairy program:

(1) Require, through January 1, 1987, that the price of milk be supported through the purchase of milk and milk products at a level equivalent to $11.60 per hundredweight for milk containing 3.67 milkfat.

(a) Require, on January 1, 1987, a reduction in the support price of 25 cents per hundredweight, to $11.35.

(b) Authorize the Secretary, on January 1, 1988, January 1, 1989, and January 1, 1990, to adjust the price support of milk. If the Secretary estimates that for the succeeding 12-month period net price support purchases of milk or milk products would—

(i) exceed 5 billion pounds or more milk equivalent, the Secretary would be authorized to reduce the price support level by $.50 per hundredweight.

(ii) be less than 2.5 billion pounds, the Secretary would be required to increase the price support level by 50 cents per hundredweight.

(2) Require collection of assessments to fund the "whole herd buy out" program. Farmers would be assessed 40 cents per hundredweight on all milk marketed between April 1, 1986, and December 31, 1986, and 25 cents per hundredweight on all milk marketed between January 1, 1987, and September 30, 1987.

(3) Establish a whole-herd buyout program—

(A) Beginning April 1, 1986, the Secretary can offer to enter into contracts with farmers submitting bids to make payments to those farmers who agree to sell their entire herd for slaughter or export and idle their productive plant for 3 to 5 years.

(B) Producers wishing to terminate production under the program must supply the Secretary with evidence of their marketing history, and the size and composition of their dairy herd.

(C) Only producers who entered the industry before January 1, 1985, are eligible for this program, except in cases where the producer's entire herd and production plant were transferred by the death of, or as a gift from, a family member.

(D) Civil penalties are provided for in cases where producers make false statements in submitting bids or verifying compliance with contracts, or where purchasers of cattle sold under the program do not slaughter or export them within a reasonable period. Marketing penalties apply to producers who violate the contract.

(E) Orderly marketing of dairy cattle—The Secretary must estimate as soon as possible the number of cattle that will be marketed for slaughter under the program and implement marketing procedures to ensure that greater numbers of cattle are slaughtered in the periods April to August 1986, and March to August 1987 than for other months of the program. The objective is to maintain historical seasonal marketing patterns for red meat producers.

(F) The Secretary must limit the number of dairy cattle marketed for slaughter under the program in excess of the historical dairy herd culling rate to 7 percent of the national dairy herd per calendar year.

(G) The Secretary is given standby diversion/whole herd buyout authority for calendar years 1988–90.

(4) Provide for Red Meat Purchases—

(A) The Secretary is required to purchase 400 million pounds of red meat during the 18 month period the whole herd buy out is in effect. 200 million pounds must be purchased with CCC funds; 200 million pounds must be purchased with funds available through CCC and commodity distribution and other nutrition programs of USDA.

(B) Red meat purchased under this program must be made available to the Department of Defense use, or for export.

5. Revise Marketing Order (Class I Differential)—

(A) Class I differentials are increased in most regions covered by federal milk marketing orders. These differentials, when added to the M-W price, form the guaranteed minimum price for milk sold for fluid consumption. NOTE: A list of the increases, and a map of the Federal order regions, are attached to this summary. The map shows the current differentials.

(B) Service payments to dairy cooperatives and to other handlers who perform "services of marketwide benefits" are authorized. These payments would be made out of the pooled receipts from the sale of milk in each federal order region.

(6) Extend Other Provisions of Law—

(A) Not less that 1 million pounds of surplus nonfat dry milk must be made available by CCC, on a bid basis, to be used in the domestic production of casein.

(B) The Secretary must conduct a study to determine whether casein imports tend to interfere with the dairy price support program. The study must be completed within 60 days of enactment.

(C) Provisions of the Federal milk marketing law relating to authority for seasonal base-excess plans, seasonal takeout-payback plans—commonly known as Louisville plans—mandatory hearings on amendments to milk marketing orders, and the use of milk production capacity as part of the pricing standard used by the Secretary in setting milk prices under a marketing order (through December 31, 1989).

(D) The requirement that the CCC make dairy products available, without charge, to veterans' hospitals and the military (through September 30, 1989).

(E) Authority for indemnity payments to dairy farmers who sustain losses as a result of pesticides, nuclear radiation or fallout, or from other chemicals or toxic substances (through September 30, 1989).

(F) The bill makes clear that the legal status of producer-handlers would not be changed under the provisions of the bill.

CONSERVATION

The new farm bill will do much to conserve our scarce land and water resources. We cannot afford to deplete natural resources that future generations will rely on for agricultural production. To protect this heritage, soil and water conservation programs must be appropriately strengthened and adequately funded. The new farm bill accomplishes many of conservation objectives.

Mr. President, the conference report on H.R. 2100 contains very important provisions that strengthen our soil and water conservation efforts. First, the bill would protect highly erodible land.

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The conference report on H.R. 2100 contains the so-called sodbuster bill that makes ineligible for Federal Farm Program benefits any person who produces an agricultural commodity on highly erodible land.

Second, the new bill will protect fragile wetlands. Under the conference report on H.R. 2100, a swampbuster bill would be enacted that applies many of the same sanctions as are levied against persons who farm highly erodible land against persons who farm unsuitable wetlands.

Third, the new farm bill establishes a conservation acreage reserve. The conservation reserve will be used to reduce soil erosion by designating land currently in production that is prone to erosion for a reserve wherein the land is less intensively used. Less intensive uses include pasture, tree growth, or permanent grass. The reserve can be as large as 30 million acres, with 10 million acres required to be placed in this reserve—through contracting with owners and operators of eligible erosion prone land—during crop year 1986. An additional 10 million acres will be added to this reserve during crop year 1987 and another 5 million acres must be added before the end of the 1989 crop year.

FOOD AND NUTRITION PROGRAMS

The Food Stamp Program helps low-income households to stretch limited dollars to ensure a nutritious and adequate diet, as it did in 1961 when President John F. Kennedy established pilot projects that led to the current program.

Unfortunately, the incidence of these human tragedies is on the rise. The number of families and individuals living at the poverty level is rapidly increasing. One of every six children under the age of 6 now lives in a household whose income is at or below the poverty level. Also, there is evidence that malnutrition among the elderly is a serious problem in this country.

This country is blessed with an abundance of food. The Food Stamp Program is a fair and reasonable way to provide needy Americans and their families a part of this abundance.

Throughout the debate on the food stamp reauthorization, I worked to encourage support for provisions that help States to administer the program in a humane and efficient manner, while requiring them to be mindful of accountability and good stewardship of Federal resources.

My goal for the Food Stamp Program has always been to ensure that food stamp dollars are spent properly on food aid for the needy and are not wasted. We must always be vigilant in combinating any sign of waste, fraud or abuse in this program—both to protect taxpayers' dollars and to safeguard the basic integrity and reputation of the program. If we are to be credible in our efforts to maintain the Food Stamp Program, which is the most important nutrition program available to low-income Americans, we must be sure that the program is operated in an efficient manner.

I am concerned that the administration has proposed converting the Food Stamp Program into a block grant at State option—a provision that would end the Food Stamp Program as we know it today. I oppose the block grant proposal, as well as short-sighted work requirements which take away the States' flexibility in developing and administering work and training programs. I oppose increased bureaucratic complexity which would hinder efficient management, and would raise the potential for increased error rates and sanctions.

RESEARCH, EXTENSION, AND TEACHING

A major part of the bill focuses on supporting and improving food and agricultural research, extension, and teaching.

Federal support of the development of agricultural science and technology is a public investment that has paid huge dividends for this Nation and the world—the development and dissemination of new agricultural technology—through cooperative extension and teaching programs—are fundamental missions of the Department of Agriculture.

Congress has the responsibility of providing the necessary tools by which the Department and the scientific community can meet the agricultural research, extension, and teaching needs of our Nation.

Congress first addressed the needs of the food and agricultural sciences in a unified manner in title 14 of the 1977 farm bill.

The 1985 bill will not make radical changes in the Federal policies and programs established under the 1977 bill. The conference report on H.R. 2100 will continue—through fiscal year 1989—funding authorizations for agricultural research, extension, and teaching programs provided under title 14, and will update and fine tune the operation of a number of these programs.

The testimony of witnesses from the agricultural research, extension, and teaching community at the farm bill hearings was clear that coordination of agricultural research and education activities could be improved.

The great strength of our decentralized system of agricultural research and education has been that diverse needs can be addressed. Yet, that decentralization can be a weakness if coordination of efforts is lacking. I look forward to more vigorous efforts to coordinate research and extension programs.

Also, a better system for communication between the Federal and State research systems, and between the research community and the users of that research, is needed. I believe the Users Advisory Board can play a stronger role in this area.

To better focus the expenditure of funds and insure greater communication and coordination within the food and agricultural sciences, the bill extends the terms of the Joint Council on Food and Agricultural Sciences and the Users Advisory Board. In addition, the responsibilities of these key panels are more carefully defined, to ensure the concentration of research and extension efforts in those areas of greatest national needs, and to ensure greater coordination between these two bodies.

The bill will strengthen the role of the States in the research, extension, and teaching programs. It also will give the Secretary of Agriculture additional authorities to improve higher education in the food and agricultural sciences.

I am pleased that the bill includes the provisions of my bill to strengthen the Rural Development and Small Farm Research and Extension Programs. I am particularly pleased that the conference report on H.R. 2100 includes what has come to be known as the "Agricultural Productivity Act" as a subtitle.

The purpose of the Agricultural Productivity Act is to facilitate and promote research on farming systems that are environmentally sound. Under the bill, the Secretary of Agriculture will conduct research, and disseminate the results of that research, on farming systems that hold potential for reducing farm production costs and minimizing the potential for environmental damage. Today, as farm production costs continue to increase, this type of research is needed more than ever. To accomplish cost reduction while protecting the environment by promoting conservation and sensible use of traditional farming practices is sound policy.

The Agricultural Productivity Act establishes a new program of agricultural productivity research. This program would:

Provide for the definition of terms used in the program;

Declare the findings of Congress that the long-term agricultural viability and profitability of the farms and ranches in the United States are dependent on highly productive and efficient agricultural systems; agricultural research and technology transfer activities of the Secretary of Agriculture, State cooperative extension services, land-grant and other colleges and universities, and State agricultural experiment stations have contributed to innovation in agriculture and have a continuing role to play in improving agricultural productivity; agricultural productivity is reduced by annual irretrievable loss of billions of tons of top soil through wind and water erosion; many farmers and ranchers are highly dependent on machines and energy resources for agricultural production; public funding of a properly planned and balanced agricultural research program is essential to improving efficiency in agricultural production and conservation practices; and expanded agricultural research and extension efforts are needed to improve agricultural productivity and implement soil, water, and energy conservation practices;

Establish the purposes of the subtitle as being those of facilitating and promoting scientific investigation in order to enhance agricultural productivity, maintain the productivity of land, reduce soil erosion and loss of water and plant nutrients, and conserve energy and natural resources; and facilitating the conduct of research projects in order to study agricultural production systems located in areas possessing various soil, climatic and physical characteristics, and managed using farm production practices that rely on items purchased for the production of an agricultural commodity and a variety of conservation practices, and are subjected to change as the result of such practices;

Require the Secretary to inventory and classify by subject all studies, reports and other materials developed by any person or governmental agency with the participation or financial assistance of the Secretary, that could be used to promote the purposes of the subtitle. In addition, the Secretary is required to identify, assess, and classify existing information and research reports that will further the purposes of the program; provide useful information and to make the reports available to farmers and ranchers, and identify gaps in such information and carry out a research program to fill such gaps;

Require the Secretary, in cooperation with Federal and State research agencies and agricultural producers, to conduct such research projects as are necessary to promote the purposes of the subtitle. In carrying out these research projects the Secretary is required to conduct projects and studies in areas that are broadly representative of United States agricultural production. In addition, the Secretary is authorized to conduct such research projects involving crops, soils, production methods, and weed, insect and disease pests on individual fields or other areas of land. In the case of research projects involving the planting of a sequence of crops, the Secretary is required to conduct the projects for a term of at least 5 years and, to the extent practicable, 12 to 15 years. The Secretary is also required to ensure that producers are aware of the research projects and to ensure that such projects are open for public observation. The Secretary is authorized to indemnify an operator of a project for damages incurred or undue losses sustained as a result of a rigid requirement of research or demonstration under the project that is not experienced in normal farming operations. Any indemnity payment would be subject to any agreement between a project grantee and operator entered into prior to the initiation of such project;

Require the Secretary to establish a panel of experts consisting of representatives of the Agricultural Research Service, Cooperative State Research Service, Soil Conservation Service, Extension Service, State cooperative extension services, State agricultural experiment stations, and other specialists in agricultural research and technology transfer; and to take into consideration the views of the panel before a project under this subtitle is designed;

Require the Secretary to report to the House and Senate agriculture committees within 180 days after the effective date of this subtitle on the design of the research projects established under this subtitle, within 15 months after the effective date of the subtitle on the results of the information study, and not later than April 1, 1987, and annually thereafter on the progress of projects conducted under this subtitle;

Authorize the Secretary to carry out the required information study through agreements with land-grant colleges or universities, other universities, nonprofit organizations, or Federal or State governmental entities, that have demonstrated appropriate expertise in agriculture research and technology transfer;

Require the Secretary to make the information and research reports identified under the information study and the information and conclusions resulting from any research project conducted under the subtitle available to the public through the Extension Service, State cooperative extension services and otherwise as necessary;

Authorize the appropriation of such sums as may be necessary to carry out the subtitle and provide that such sums are to remain available until expended.

CONCLUSION

While the deficit and its secondary effects are problems which must be addressed, we must not let such concerns become our central and only focus. The agricultural problems now confronting this Congress require more than a myopic response from Congress—it requires a certain pragmatism and delicateness of response. We must meet the nutritional needs of our growing population if we are to provide for a strong defense. We must maintain a strong farming industry if our economy is to maintain its past health. The new farm bill will help in this effort.

I urge my colleagues to vote to approve the conference report.

Mr. SYMMS. Mr. President, I wish to speak in support of the farm bill reported out of the recent House-Senate agriculture conference. I commend the conferees. Although I am in substantial disagreement with a number of the actions taken, I feel the conferees produced better legislation than what we started with. Certainly this bill is far from perfect, but I'm convinced that this is good as we can do under the circumstances. Mr. President, I'm normally not inclined to quote the editorials in the Washington Post. However, I'd like to call your attention to the last sentence of a recent editorial. Speaking of the farm bill the Post said, "In a difficult area and in the worst of years Congress has finally acquitted itself rather well." While in my opinion that is an overstatement it is not completely incorrect.

This bill is headed in the right direction. It provides for lowering loan rates on basic commodities and basing these rates on market prices. That is bad news for some of our foreign competitors. For too long they have used our loan rates—set at above market prices—as shelter under which they have steadily increased their share of the world market.

I am very pleased that this bill has an aggressive export title. Mr. President, our agricultural economy can't operate at present levels without substantial export markets. As an example, about 75 percent of Idaho's wheat crop must be exported. Our farmers can compete, head to head, with anyone in the world—if they are playing on a level playing field. However, we're not playing on a level field, On every hand our foreign competitors are heavily subsidized. We're in a vital battle for markets and we've got to support our producers.

The conservation provisions are sound and, in the long run, will be very beneficial. I certainly support them.

The bill has weaknesses and, of course, some very controversial provisions.

I'm very disappointed that the foreign agricultural investment reform amendment that I introduced—and which passed the Senate overwhelmingly—was deleted in conference. It makes no sense for us to loan money, at very low interest rates, to foreign governments to finance agricultural production in direct competition with our own producers. It's especially senseless when we have surpluses and are buying and storing our own surplus crops. Mr. President, FAIR is a good idea whose time is coming. This issue will be back for consideration.

It's also very disappointing to me and my staff that the animal damage control amendment was deleted from the conference report. We felt sure that this amendment would pass without serious opposition. However, we have made substantial progress. Amendment 31 in the continuing resolution, which must be approved before midnight Thursday to keep the Government functioning, contains an amendment that funds the ADC Program in the Department of Agriculture for 1986. I have no reason to believe that this won't happen.

I recognize that the support price levels are open to debate. I know our wheat growers are not totally pleased. However, I'm sure the conferees acted on their best judgment.

The dairy provisions are centainly controversial in Idaho and I suspect in other States. I know the cattlemen in my State are very concerned about the whole herd buyout. I hope adequate provisions will be made to avoid flooding the cattle markets to everyone's detriment. A way has to be found to bring the Dairy Program into balance without injuring the cattlemen. However, my contracts with the Department of Agriculture aren't too reassuring.

This bill contains a provision to make Federal agencies better neighbors by making more efficient control of grasshopper infestations on public land possible.

The sugar and wool programs are extended in about their present forms. As these programs are designed to operate with minimal Government expense, I'm pleased to support them.

I'm in general agreement with the pork and beef promotion provisions. I applaud our livestock producers for taking the initiative in trying to increase their markets.

I believe the clear title provisions represent a reasonable compromise. I'm not as pleased with the cargo preference resolution but recognize it as a difficult issue.

Mr. President, I'm not going to try to discuss all the details of the bill. Overall, I feel it merits support and urge that it be enacted. Our farmers deserve to know the rules of the game.

Mr. President, this is a subject that is near and dear to my heart, farm programs and farming, in general. Coming from an agricultural State and having a farming background myself, I really wish to say that I think that the leadership of the Agriculture Committee and Senator DOLE, the majority leader, all deserve a strong pat on the back and commendation from not only the people who come from farm States but from the taxpayers of this country.

It appears to me that the farm bill is changing the course and the direction of our current farm policy. Under our current farm policy our farmers are growing grain to sell to the Government and then the Government is paying to store it, and we are losing the markets to Argentina, Brazil, Australia, Canada, and Western Europe. So, the farmers in those countries have been cheering for our farm programs while our farmers are facing financial disruptions, bankruptcies, and other problems.

I really think that all of my colleagues, if they have not had the opportunity to carefully peruse through what the conferees came back with, should peruse it, and I wish to give my support for this bill.

I only say, in summary, I do not like Government programs, but I would say that you have three choices. The first choice is vote for this bill, this conference report, which is a step in the right direction for farm policy. As slow as it may be, it at least starts on the course of getting us back into international competition. The other alternative would be to extend the current Farm Program for another year, and that is an unmitigated disaster. We know that. So we do not need to do that.

The last course would be to go back to the 1949 Farm Act, which would be an even worse disaster with 90 percent of parity locked into the law and very rigid acreage controls. It would be very unflexible, unworkable and most costly to the taxpayers of the country.

So I think the wisest course of action to take here today is to pass this conference report and encourage the President to go ahead and sign the farm bill.

I might just say that there is one part of the farm bill that I have a great deal of reservation and concern about. Actually, there are many parts of the farm bill that one might have concerns and reservations about. Specifically, I am concerned about the American cattlemen. The cowboys are one group of farmers who do not come into Washington and have their hand in the Federal trough. Yet, in order to solve the dairy problem, and it is a problem, I am first to admit that, there has been a very negative impact on the price of beef in this country and I regret that a great deal.

I do not have a solution. I know the conferees worked very hard to come up with this whole-herd buyout proposal. As a matter of fact, the dairy people in my State favored this. So it is a mixed bag. But as far as the cowboys, the cattle producers, we prop up the grain prices, and they have to pay higher grain prices. We have whole-herd buyouts and then those dairy cows go to the slaughterhouse and depress the price.

I do not know the answer, but I do have a great deal of concern for the American cattlemen and I think they deserve our heartiest congratulations. I guess one thing we could all do is encourage everyone to go buy some beefsteak, that might help them as much as anything. We could also drink a couple extra glasses of milk and do our part to help get rid of the dairy surplus.

Mr. MELCHER. Mr. President, will the Senator yield?

Mr. SYMMS. I am happy to yield.

Mr. MELCHER. Mr. President, I say to my friend from Idaho I have shared the same concern about the whole-herd buyout plan that is in the farm bill. It was in the House-passed bill, and the conferees have accepted it where the Secretary of Agriculture is authorized to buy an entire dairy herd, to take it out of production. The dairy cattle would either be sold abroad or would be slaughtered.

My concern is like that of my friend from Idaho, that that added slaughter of dairy cows would further depress the cow market for the beef industry.

Nevertheless, as it was finally accepted, the conferees agreed to buy up to 200 million pounds of red meat per year and at least 100 million pounds of that red meat that is purchased by the Government will have to be for export.

So to that extent the conference did address the concerns that the Senator from Idaho and I share.

Mr. SYMMS. I thank the distinguished Senator for that observation. I think that is a point that needs to be made and widely acknowledged, that 100 million pounds of this will be exported and 100 million pounds will go in the school lunch programs and other programs. Is that correct?

Mr. MELCHER. That is right.

I must point out it is 200 million pounds per year for 2 years, and those 2 years will actually be only about 18 to 20 months duration, so it will be during 2 years.

But the point about red meat should not go ignored. It is not just beef; it could be pork also.

The Senator is correct. Of those 200 million pounds, 100 million pounds would be for the domestic nutrition programs such as school lunch, and 100 million pounds will have to be exported.

Mr. SYMMS. I thank the Senator very much.

I say to the Senator and all Senators who were on the conference that I just want to say again, as one Member of the Senate, I appreciate the job the conferees did. I had the privilege of being on the House Agriculture Committee for 8 years in the other body, and I was watching very carefully what they were doing here to keep tract of it.

I think that our Senate conferees on both sides of the aisle did an excellent job of trying to put the best foot forward for a sound farm policy for the future.

As I say, the Senator mentioned about the dairy-herd buyout, the dairy producers are going to pay for this cost. It is not going to be an additional cost to the taxpayer, as I understand the program. So at least it is a self-support program that addresses another problem that we all have, and that is a surplus of dairy products being produced in the country.

So, by and large, I just think Senator HELMS and Senator ZORINSKY and their conferees deserve a pat on the back, and I wish them a Merry Christmas in the process.

Mr. STAFFORD. Mr. President, this conference report on the farm bill contains language purporting to enact the policy voted by both this body and the House regarding the deductibility of the shelter costs covered by low income home energy assistance payments. During consideration of both the Reconciliation Act and the farm bill, the Senate adopted, by 60 and 63 votes, my amendment striking committee language which would have had the effect of counting LIHEAP benefits as income when food stamp benefits, and in some cases, eligibility are determined.

As a result, the policy enunciated in the 1980, 1981, and 1984 LIHEAP acts, which all prohibited counting energy assistance as income for any purpose was clearly reaffirmed; the original committee provisions might have negated the decision of the U.S. Eighth Circuit Court in this matter, but as a result of the amendment, no action has been taken with respect to that decision and, in essence, current law remains unchanged. Similar language was adopted by the House.

While the conference report appears in many respects to implement our intent, I have a continuing concern as to whether the complex formulations adopted with respect to multiple standards for utility allowance and with respect to out of pocket costs adequately and clearly protect the recipient of food stamps and energy assistance as Congress intends. The requirement of having out of pocket costs to qualify for a standard allowance seems inconsistent with the other provisions of the act and is certainly inconsistent with the votes on the floor of the Senate. Further, the flexibility allowed the States with respect to interpretation of the standard allowance provisions may be so broad as to permit discrimination against LIHEAP recipients which is contrary to the intent of Congress.

On a positive note, the conference committee chose to remain silent on the deductibility of costs paid by the Energy Assistance Program and thus left stand the recent court decisions on this issue.

When the reauthorization for the LIHEAP block grant is considered by the Labor and Human Resources Committee next year, I will examine this matter as part of the committee's legislative review of the program to make sure that both acts consistently ensure that energy assistance is disregarded as income.

Mr. BENTSEN. Mr. President, I support the farm bill now before the Senate, not because it is going to solve our farm problems, but because it is the best that we can do within the limits that have been imposed on us. All in all, it is a major step forward in our agricultural policy. It provides a number of important new tools, such as marketing loans, that will allow us to move aggressively back into agricultural export markets.

I appreciate the work and the cooperation of the members and staff of the Senate Agriculture Committee in addressing many of my concerns on this bill. The chairman of the committee, Senator HELMS, and the ranking member, Senator ZORINSKY, and their staffs were most helpful and considerate, as were the other members of the committee.

I especially appreciate the work of the distinguished Senator from Mississippi [Mr. COCHRAN]. I was pleased to collaberate with him on a number of amendments to this bill, and he has done outstanding work for the farmers of Mississippi and of the Nation.

It is finally time to pass the 1985 farm bill. We must have a farm bill now. Wheat farmers throughout Texas and in many other States have had to plant without a Farm Program. They do not know how much to plant, They had to guess. Cotton farmers in south Texas have had to put down herbicides already. That action locks them in on their planting decisions. They will start planting milo in late January or early February. They will start planting cotton about mid-February. Wheat farmers can graze out their excess acres, and this bill will allow them to do that as well as providing diversion payments for wheat farmers who have already planted. Those are provisions I have strongly supported. But cotton and milo farmers cannot graze out their excess. They must plant exactly what they want to harvest.

I have talked to Secretary of Agriculture Block. He has given me his personal assurances that the 1986 farm programs will be announced immediately after this bill is enacted into law. I appreciate those assurances, and many farmers are depending on those assurances. I have done everything I could to see that all farmers get a Farm Program as soon as possible, and that the Secretary of Agriculture would have the authority necessary to announce those programs before Congress recesses for Christmas. That has now been done.

In addition, provisions have been made in the bill to see that this year's problems never need arise again. These provisions are made through the inclusion of language from one of my Senate floor amendments. My advance announcement amendment gives the Secretary of Agriculture the authority, whenever a farm program is not announced by the deadline set by law, to allow farmers hurt by that delay to choose between last year's program and this year's program for that commodity. That authority extends for 1 year more than the farm bill commodity titles, so that it will provide protection during the next farm bill.

The Secretary can offer affected farmers the choice of last year's acreage bases and acreage reductions, wheat grazing authority, and other program details necessary to make planting decisions. Or he can offer them the full program, including price supports. This should never be necessary during the farm bill, because program announcement deadlines are set by law. If it is used then, the announcement of bases and acreage reductions may well be sufficient under some circumstances, such as when the price supports are already set by law.

This section will become extremely important, however, in a farm bill year, in a year in which the Secretary does not have the authority to announce the new program. I feel, and it is also so stated in the statement of managers, that this section is especially intended for the next farm bill year. In that year the Secretary of Agriculture should provide the full program option to farmers. Without having price support levels, farmers cannot get financing for their crops.

This section has been made discretionary, rather than mandatory, by the conferees. But that should not, in my estimation, reduce its effectiveness. Any reasonable Secretary of Agriculture would not deny farmers the information they need to make planting decision in a timely fashion. The end result will be that 1990 will be the first farm bill in memory in which wheat farmers will have a farm program before they plant. It will be the first time that early-planting Southern States cannot be held hostage because of their unique need for early passage of a farm bill. We will all be on equal footing.

A number of other amendments in which I was actively involved are also included in this bill. With the assistance and cooperation of the members of the Senate Agriculture Committee and their staffs, a number of those changes which I had thought were needed have been incorporated into the bill now before us. I would like to mention just a few of those changes.

This bill will get the 1986 farm program announced. It will prevent this year's problems with announcement dates from happening again.

It freezes yields for 5 years, but the freeze calculation is done using program yields instead of actual yields. This prevented cuts of up to 43 percent in deficiency payments to many Texas farmers, particularly West Texas cotton producers.

It includes the clear title legislation which I cosponsored with the distinguished Senator from Mississippi [Mr. COCHRAN]. It will implement in early 1985 a marketing loan program for rice to in order to re-activate what is now a dead market. It will extend the peanut and wool programs without crippling changes.

It will continue the Secretary's authority to provide disaster payment protection to farmers. It will require, for the first time, prevented-planting disaster payments if Federal Crop Insurance coverage is not available. It will retain the current ceilings on Farmers Home Administration loans, rather than lowering them sharply.

The cottonseed industry is protected against prices shocks rippling in from soybeans this year, first because of my amendment which the Senate adopted and second because the conferees deleted those changes in the soybean program.

The bill will break the current logjam over cargo preference and allow USDA export credit programs to work effectively once again. It will help Texas dairy farmers both through a long-overdue adjustment in the price differentials and through a whole-herd buyout provision. It will provide for a more effective agricultural export policy by getting the Special Trade Representative, our top trade official, involved directly in recommending actions to counter agriculture trade problems.

There are many other provisions in this bill in which I had an active interest on behalf of Texas farmers, but I will not take the time of the Senate on them. Others have already spoken more extensively than I. I would simply say that the tools are now there to do the job. The challenge now is to use them well.

We have given good tools to the administration. To get good results, especially in agricultural exports, they will have to be used well. As the ranking member of the International Trade Subcommittee I have been actively involved in trade issues, including agricultural trade. In that capacity and in my capacity as the senior Senator from Texas, one of our largest agricultural States, I will be working hard on this. I intend to help in every way possible to see that the trade tools in this bill, and the other trade tools available to the administration, are used wisely and well and as often as needed.

Their track record so far is very poor, but there have been a few steps forward recently. If our farmers are to get the help they need, those hesitant steps will have to turn into a dead run very soon.

Mr. President, I urge passage of this bill so that we can get on with the critical job of reviving our agricultural economy.

Mr. DeCONCINI. Mr. President I rise in opposition to the conference report on farm credit which passed the Senate last night. I opposed the bill when it was first considered in the Senate and I have seen nothing in the conference report to change my views on this legislation. First, let me state that I have always opposed bailouts. I opposed the bailout of New York City, the bailout of Chrysler and the bailout of Continental Illinois. However, if I had believed that this farm credit bill would have really helped farmers in America I might have broken my strong record and supported it. But this bill is not a bailout of farmers—it is a bailout of investors.

Since this session began, we have spent many days—and many nights—debating the fate of America's farmers. There has been much gnashing of teeth and pulling of hair in the Senate on how best to help the family farmer. But if this farm credit bill is any indication of our true concern for the farmers, I don't believe we are at all, because this bill is a farm credit system investor bailout. These investors, be they big city banks or foreign corporations or whomever, went into this with their eyes wide open. It is an accepted economic principle that with higher yield come higher risks. Farm credit system bonds are no exception to this principle. I have no sympathy for investors who take lousy investment advice and make lousy business decisions—that is part of our free enterprise system, the right to make a mistake. Do not be misled into thinking that any of these investors were in this to help out the poor farmer, because they weren't. They took a risk and perhaps now they will have taken a bad risk. But bailing out the investors is not going to help the farmers.

I am convinced that if we really want to we could formulate farm credit legislation which will help assuage the problems facing many farmers. The credit crunch is real, but that is not at question here. The question is how do we help the farmers. This bill is not the answer.

Mr. NICKLES. Mr. President. It is no news to anyone that American agriculture is at a crossroads in history. The path on which it is struggling today is, I fear, headed down a dead end road. The farm bill Congress is approving today will not change the course of this path.

There is great misery out on the farm. During the past few years, I have talked with thousands of farmers and ranchers across Oklahoma and the mood is depressed. For most family farmers, life in rural America has become bleak.

Farmers are up against the wall because of sustained low commodity prices, falling land values, and high interest rates. Recent farm programs have failed to provide adequate income protection despite record amounts of money poured into these programs. They have also failed to hold down production and, in fact, have had many built-in incentives to produce beyond our ability to consume and export.

The 1985 farm bill will do very little to change these problems.

Yes, there are a few positive aspects of this bill. It does contain my proposal to allow farmers to maximize program benefits on half of their production acreage. Under this program, farmers would be able to receive a fair price on at least part of their acreage, and would be able to diversify without risking reductions in their acreage base.

However, this farm bill, overall, falls far short of what is really needed on the farm. It shows too little understanding of what our farmers and ranchers need.

It has been predicted that if conditions in the agriculture sector don't improve over what they have been for the last 3 years, a quarter of the Nation's producers could be forced out of business. The family farm is at the very heart of our Nation's economy and we can't afford for it to fail.

Facing the possibility of foreclosure is a frightening prospect for anyone in business, but consider the added plight of the farmer. The farm is more than his business, it is his life. And the worst part of this is that the financial crisis many farmers are facing is not a result of mistakes or poor business decisions on their part. Rather, a large part of the blame rests on the Federal Government.

The Government has allowed interest rates and inflation to go sky high; imposed embargos on Soviet grain purchases; and ignored the ever-growing deficit. And farmers are paying the price.

What does the Federal Government owe the farmers? At the very least, it owes them compassion, understanding, and willingness to offer some consistent guidelines before planting season to help farmers make decisions. The Federal Government has been interfering with the farmer's business for about 50 years now and, quite frankly, has not done a very good job.

It has always been my contention that the best assistance farmers can get will be the reduction of the Federal deficit. This would assure lower interest rates, and reduce the value of the dollar to help selling to foreign markets. Additionally, we need to be more aggressive with out trade policy, and do all that we can to be more competitive in the world market. The 1985 farm bill does little of this. In fact, it doesn't adequately maintain farm income through these very worst of times.

Thirty years ago farmers received $1.99 for a bushel of wheat. Ten years ago the same bushel would bring $3.40. Today, Oklahoma farmers find the downward market offering a dismal $2.85 per bushel. A single bushel of wheat produces seventy-three #1 pound loaves of bread, and yet a farmer's share of a dollar loaf of bread is less than 4 cents. This farm bill doesn't change that either.

I'm not saying that this on any farm bill can cure all the ills facing our farmers; it cannot. But the least it could do is fully recognize the deep and serious problems on the farm by maintaining and not decreasing farm income. Under this bill, cargo preference subsidies, which cost farmers and taxpayers, increase 50 percent, food stamp costs increase millions of dollars, but farmers are faced with target price reductions of 10 percent over the life of the bill.

The social fabric of rural America is tearing under the strain caused by farm failures, bank closings and the migration of rural families to urban areas. This farm bill doesn't mend that fabric. For these reasons, I will vote against the 1985 farm bill.

FARM BILL STILL TOO COSTLY TOO INEFFECTIVE TO SUPPORT

Mr. PELL. Mr. President, we have labored for many days and have made many improvements in the farm bill but, even after a round of last-minute budget cuts in conference, it remains too expensive and too ineffective for me to support.

This measure, according to the Department of Agriculture, would cost about $52 billion for farm support programs during the first 3 years of this 5-year bill. That is far too much to repeat the mistakes of the past.

During Senate consideration of the farm bill, I opposed efforts to boost Federal payments to corporate agricultural interests. At the same time, I supported efforts to reduce the bloated subsidies that push our farm economy even more off-balance by encouraging our farmers to over-produce.

It is becoming increasingly apparent that our agricultural policy is bankrupt, like many of the farmers who trusted the easy credit made available by the Federal Government and over extended their operations.

We need to aid the farmers and, as some observers have said, we need to set an income floor to assure that farmers are not wiped out by the vagaries of weather and market conditions beyond their control.

I understand and support the need to establish an income floor, but we are not doing that in this bill. We are targeting most of our aid to the wealthiest farmers who need it least and we are encouraging farmers to produce for Government warehouses and not consumers.

The conference report, moreover, does away with some of the progress we made in reducing subsidies, such as those for peanuts and sugar. It also does away with the Senate elimination of the lavish Honey Program. Neither consumers nor taxpayers benefits from these changes.

Clearly we must act to protect the farm economy. This farm bill, however, only repeats the mistakes of the past by continuing enormous farm subsidies that reward the wealthy, at great cost to the taxpayers and consumers, and do little for those who need help the most.

I have worked for measures that would have reduced some of the enormous subsidies and eliminated some of the needless Federal largesse in the farm bill. We did not make enough changes, unfortunately, to cut this expensive bill down to size or to make it an effective vehicle to aid the Nation's farmers.

For that reason, after considerable reflection, I decided I could not support final passage of the farm bill in its current form.

Mr. THURMOND. Mr. President, I rise in support of the conference report on the 1985 farm bill. This comprehensive legislation represents a concerted effort by all individuals involved to improve the marketability of American farm products abroad. The Congress has labored many months to reduce the cost of farm programs to the Federal Government without jeopardizing the economic stability of our farmers.

This bill contains a conservation title that will improve our efforts to preserve our land for future generations. The strong export title, combined with lower loan rates on several commodities, will encourage foreign nations to purchase American goods and stimulate our depressed agricultural economy. Furthermore, the bill provides a mechanism for the Secretary of Agriculture to make additional reductions in price supports in response to competitive changes in the world market.

The dairy provision will allow some farmers to get out of production without suffering a terrible economic loss, thereby reducing our overproduction of dairy products. Although I am disappointed by the assessment leveled on dairy farmers, I am encouraged by the provision to terminate this "milk tax" on October 1, 1987.

The 1985 farm bill is a very large step in the right direction for American agriculture. I urge my colleagues to vote for adoption of this conference report.

Mr. KASTEN. Mr. President, I rise in opposition to H.R. 2100, the 1985 farm bill.

I oppose this legislation with a great deal of reluctance, because I know how much our farmers need a farm bill, and how important it is for them to have some indication about what Government policy toward agriculture is going to be.

But while no piece of legislation this large and complicated can possibly please everyone, this farm bill contains more than its share of flawed and misguided provisions which we will regret having passed.

Mr. President, I was especially disappointed to see the conference committee adopt the very worst feature of the dairy title approved by the House, the legislated increases in class I differentials in most of the Nation's marketing order regions.

Class I differentials, when added to the M-W price for manufacturing-grade milk, determine the guaranteed minimum price for milk sold for fluid use. By arbitrarily raising them in Southern and Southeastern marketing orders, the conference report will stimulate greater milk production in those orders at a time when we are trying to reduce a massive dairy surplus. The increased prices for milk will also depress consumption at a time when we need to encourage it.

Moreover, the higher guaranteed minimum prices for Southern dairy farmers will increase the incentive for those farmers to remain in the industry and refuse to participate in the whole-herd buyout program. This will place an unfair burden for reducing milk production on the traditional heart of the dairy industry, Wisconsin and the upper Midwest. Ironically, it will be the most efficient, lowest cost of production dairying region that will lose the most dairy production under this program.

Of course, things may not work out this way. What may happen is that increased class I prices will deter participation in the whole-herd buyout program in the Southeast, and that producers in the upper Midwest will decide that they have no alternatives to dairying even with the buyout payments. In many parts of Wisconsin, there are no alternatives in agriculture to dairying. So under this scenario, the buyout program will simply not work at all.

Another flaw with this conference report is its partial reliance on support price cuts to bring supply and demand in balance. I believe it is fundamentally unfair to freeze wheat and feed grains for 2 years, and sugar prices indefinitely, while starting to chip away at the dairy support price after only 1 year.

Mr. President, there is a farm income crisis in Wisconsin. I cannot

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ignore it either. Wisconsin dairy farmers have already endured three price-support cuts in the last 2 years. The additional price-support cuts required in the conference report will not significantly reduce the surplus—the only thing they will accomplish is to send a few more Wisconsin dairy farmers over the edge.

The objectionable provisions of this bill are not limited to the dairy title. Because of the sugar title of this farm bill, sugar users in Wisconsin will have to pay higher sugar prices, without guaranteeing that sugar producers in the rest of the country will be any better off.

Because of the cargo preference section of this bill, the Great Lakes ports of Milwaukee, Green Bay, and Superior will have to fight just to stay open. By raising the cargo preference requirement on Public Law 480 shipments to 75 percent, the farm bill slashes the amount of cargo that can go out through the lakes. Since there is little U.S.-flag service through the lakes, Wisconsin ports will now have to bid for one-fourth, rather than one-half, of Public Law 480 cargos.

With the Port of Milwaukee dependent on Public Law 480 shipments for over 90 percent of its business, this change in legislation is unacceptable. It is ironic, at a time when farmers are being called on to sacrifice, that the maritime industry on coasts other than the Great Lakes are being given an effective increase in Government subsidies—and one that will be exempt from cuts under Gramm-Rudman.

In sum, Mr. President, Congress has not done a good job in this year's farm bill. It does not do enough for farmers, and it will all have to be redone well before the 1989 expiration date. For that reason, I oppose passage of this bill.

Mrs. HAWKINS. Mr. President, I rise today to support this conference report on the 1985 farm bill. Today marks the beginning of what I hope will be a new era in Federal agricultural policy. This legislation provides, for the first time, a market-oriented approach to supporting American farmers, expanded programs to promote the exports of U.S. commodities, a tough new conservation program intended to protect erodible lands and wetlands, an extension of the Federal Food Stamp Program, and provisions for dealing with the credit problems of many of America's farmers.

It is an understatement to say this is comprehensive legislation. The 1985 farm bill is a massive article intended to promote an abundant supply of food and fiber to U.S. citizens and many of the other people of the world. This bill is also intended to help protect, and eventually improve, the income of many of our hard-pressed farmers. This is, without doubt, an expensive bill. Estimates of the total cost of this legislation range upward of $55 billion over the first 3 years of the bill's life. This bill maintains many of the wrong-headed concepts of past Federal farm policy. Artificial price subsidies are maintained at relatively high levels. The dairy program is designed to pay farmers to go out of business. But on the whole this legislation corrects many more of the bad policies of the 1981 farm bill than it retains.

Commodity loan rates have been tied to moving market averages and the bill includes the use of marketing loans in an attempt to improve American farmers' competitive position in the world market. These are costly provisions. But they are necessary provisions if American farmers are to compete with the subsidized farm exports of many of our trading partners. Most importantly, as policy tools, they demonstrate our Nation's commitment to the fundamental concepts of the free and competitive marketplace. Further, they send a strong message abroad that the United States will not abandon agriculture.

In fact, agriculture is and will continue to be the foundation on which our Nation's wealth and prosperity is based. Our Nation was born as an agrarian society. Agriculture is still vital to our life and livelihood. Today, agricultural exports are vital to the U.S. balance of trade. Without agriculture, our negative trade balance would immeasurably worsen. Agriculture provides approximately one-fifth of U.S. gross national product. This farm bill underlines our commitment to American agriculture.

Mr. President, several weeks ago I voted against the Senate-passed version of the farm bill. I felt at that time that we had created an expensive monster that held out little hope for our Nation's farmers. I hoped the conference committee would improve the bill. I am convinced this is the best that can realistically be achieved. Today I plan to vote for the 1985 farm bill because of the policy changes that it includes. Taken together, flexible loan rates, marketing loan provisions, reductions in the target prices after 1987, tough new conservation provisions to eventually prohibit farmers who place erodible lands and wetlands into cultivation from participating in Federal farm programs, the adoption of a long-term dairy policy that reduces prices to reduce production, and the provision of credit assistance to hard-pressed farm borrowers, make this farm bill a supportable measure. I want to remind Senators that this 1985 farm bill is only one-half of the package we are offering to American farmers.

Yesterday, the Senate passed a tough self-help program for the Farm Credit System. That legislation provides the mechanism for drawing on credit from the Federal Treasury to assist the borrowers of the Federal Farm Credit System. As chairman of the Subcommittee on Agricultural Credit and Rural Electrification I cosponsored that legislation for a number of reasons.

First, among those was my desire to see affordable interest rates for American farmers. Equally important, is my desire to see the Farm Credit Administration replaced with a new strong "arms length" regulator, improve the operating procedures and reporting practices of Farm Credit System institutions, and provide for adequate examination of Farm Credit System institutions. I would add for the record, as an original cosponsor of S. 1884 and author of an amendment to the House passed text, a statement on the intent of this legislation. This legislation is intended to provide the Farm Credit Administration with the necessary authority to regulate the Farm Credit System Capital Corporation's power to require contributions of capital to the Corporation. This legislation is intended to provide a mechanism for drawing on the existing surplus of the Farm Credit System to address the financial problems of Farm Credit System institutions. Further, the legislation is intended to provide the Farm Credit Administration with the regulatory authority to insure that the surplus is drawn upon to the maximum extent practicable before Federal funds are made available to the Capital Corporation. Specifically, the Senate amendments offered to the House-passed text section 4.28G(a)(15)(B) (i)(II) and (ii)(I) were intended to insure that the Farm Credit Administration will have adequate regulatory authority in this regard. The Farm Credit legislation, S. 1884, as passed by both the House and Senate goes a long way toward meeting the goals I believe the Congress sought to achieve. Without that legislation I believe the New York markets would have abandoned the Farm Credit System with disastrous consequences for American farmers. Because Congress has taken action to address the problems of the Farm Credit System and if we enact this farm bill, I believe we hold out considerable hope for the farmers of this Nation.

To close, Mr. President, I would simply say that the 1985 farm bill marks an end and a beginning. It is the end of long hours of effort by the chairman of the Senate Agriculture Committee and the ranking member of our committee, the Senator from Nebraska, and the majority leader, and many other memers of the committee and the Senate. We would not be here today, however, without the yoeman efforts of the staff of the Senate Agriculture Committee under the direction of George Dunlop. I

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largest benefits will continue to go to in the institution and practical ways of anced approach to this important in crafting this farm bill. I urge my colleagues to support this measure.

Mr. DODD. Mr. President, after careful consideration I have decided to vote against the farm bill once again, although I realize that we have a much improved product in front of us. Obviously, with a bill of this length and enormous complexity no one can possibly like or dislike every provisions. There are several parts of this bill that I can fully support. In my State of Connecticut the dairy provisions are important for many of my constituents. I am satisfied with the dairy part of the bill. It lowers price supports, in itself not a joyous piece of news for dairy farmers, but it does so in a gradual, balanced way by tying price supports to the level of production. This is a sensible solution. The dairy farmers of my State do not seek handouts from a dairy price system but reasonable security and predictability.

The bill, however, is still over budget to a degree that I find unacceptable. At this time when we force every recipient of our Federal expenditures to take painful reductions we cannot create such exceptions to the general rule. Exceptions lead to clamor for other exceptions and we continue to add to the deficit instead of reducing it. It is no secret that among the prime victims of the deficit are the small farmers who are devastated by high interest rates resulting from the deficit. This bill does not do much for the small farmer anyway, its major beneficiaries are the large agribusiness type of operations.

For these reasons, Mr. President, I cannot support this bill even in this improved form.

Mr. GLENN. Mr. President, before the present version of the 1985 farm bill emerged from the conference committee, I was deeply troubled with the course of U.S. agricultural policy. The Senate-passed farm bill did little to boost farm income and thereby relieve the financial distress in agricultural communities. Paradoxically, by continuing costly and inefficient programs, the bill did little to reduce the Federal deficit.

The Senate bill did, nonetheless, contain provisions which I wholeheartedly endorsed, including strong conservation and export enhancement programs. I reluctantly voted for this bill, not only because it contained those programs, but also because a vote for final passage was also a vote to consider the crucial issue of Farm Credit System assistance, and because a farm bill was better than permanent legislation or, worse yet, no legislation at all.

Many of my concerns have been allayed by the conference committee's farm bill. The present version of the

port—conservation and export enhancement programs. Of particular pride to me, it also includes a healthy commitment to new-uses research. Finding new uses for agricultural products will help correct the imbalance between supply and demand for farm products. I, along with my colleague, Senator LUGAR proposed and won inclusion of a new program for nonfood use agricultural research in this country. I will have other proposals along a similar line early in 1986.

More importantly, perhaps, the conference committee legislation is a step in the direction of a more sensible agricultural policy. For example, although I have been a strong supporter of a 4-year freeze in target prices I can accept a 2-year freeze. This means that the incomes of farmers will be stable for at least the next 2 years. The level will be gradually phased down, allowing farmers to comfortably adjust to the agricultural economy.

Mr. President, my vote in favor of the conference committees' farm bill remains, nonetheless, a reluctant one. We have yet to deal resolutely with the crisis in the agricultural community. Small farmers continue to veer toward bankruptcy, suppliers are still shutting their doors, and rural communities in the Midwest are still experiencing an economic depression.

I believe that we need to return prosperity to America's family farmers. I have called for a new partnership between the Federal Government and farmers to ensure that this goal is met. The 1985 farm bill takes some first steps in this direction.

Mr. LEVIN. Mr. President, I intend to vote for the conference report on the farm bill because I am convinced that given the budget constraints, it is the best we can do.

Although I had hoped we could devise innovative approaches to our farm programs, I am also aware that drastic changes may not be appropriate because of the delicate state of the farm economy.

I am heartened that the administration's wishes to cut farmer income and let the alleged free market dictate commodity prices which are already depressed, did not prevail. Although a 2-year freeze in commodity prices is, by no means, relief for our farmers, we have at least not pulled the rug out from under the farmers as some had wished.

This farm bill contains an important provision for the dairy farmers in my State. The fact of the matter remains that we have to reduce the amount of milk-producing cows in this Nation and this provision should be a significant step toward reducing milk production.

I also support keeping the loan rate for sugar at its current level for 5

Finally, we have taken strong steps to discourage farming fragile land by establishing the conservation reserve and denying Federal payments to those who plow up erodible land without an approved conservation plan.

It would be easy to point out the many negative aspects of the farm bill and simply vote against it. But I am convinced that an overriding concern in Michigan is that we get a reasonable farm bill. Our farmers need the stability of a 5-year program and they expect us to act now. If I thought delay on the farm bill would result in a significantly better farm bill, I would vote against it. However, I do not believe that is the case and therefore, I will vote for the bill.

Mr. CHAFEE. Mr. President, I must oppose the conference agreement on H.R. 2100, the farm bill. I do so with some regret, for this bill contains several provisions that I would like to see enacted into law—particularly those pertaining to agricultural conservation and the Food Stamp Program.

There is no question that we need a farm bill. Not just any farm bill, however, but one that is fair to taxpayers, consumers, and farmers alike. Many say this is the best that can be achieved. Do we have to go with something so far short of excellence. I don't think so.

I don't believe anyone would dispute that this bill is a woeful failure as far as taxpayers are concerned. In budgetary terms, it misses its target by a long shot. The commodity portion alone is more than $13 billion over the generous limits this Congress set just 4 months ago in the budget resolution.

Now let us consider consumers. Under this bill consumers will continue to pay inflated prices for milk, sugar, peanut butter, and honey. This hits poor families—who spend two and a half times as much of their income on food as do average families—especially hard. It is, in effect, a tax more regressive than any that Congress would ever write.

This is entirely inconsistent with the portion of the bill that increases authorized funding levels for the Food Stamp Program. Once again, we find ourselves in the position of giving with one hand and taking away with the other.

Some of these deficiencies might be pardoned if there was any likelihood that this bill would actually alleviate the stress in the farm sector. Unfortunately that is not the case here: This bill would do little to break the downward spiral of the farm economy. While it does move toward a more market-oriented policy, that transition will be very slow. And it largely fails to address the problem of poorly targeted direct subsidies, thus assuring that the

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the largest producers.

One portion of the bill, however, that does represent a radical departure from the past is the conservation title. I strongly support these historic provisions. Under this title, highly erodible land would be permanently retired into a 40-million acre conservation reserve. Also, those who farm such land would—for the first time—be ineligible for Federal farm benefits. Thus, it would ensure that our most fragile lands will finally be taken out of production.

At the same time, it would ensure that our best farmland stays in production and protected from development. A provision which I authored, for example, allows FmHA to sell the development rights to farmland, thus ensuring that the land will not be developed. The bill also provides that FmHA will make every effort to keep prime farmland in the hands of family farmers, rather than simply selling it off to the highest bidder.

Despite these excellent provisions, I believe that the bill as a whole falls far short of what these times demand. Rather than confronting tough choices, it simply spends more on the counterproductive policies of the past.

This is fair to neither taxpayers or consumers—nor, ultimately, to farmers themselves. I must, therefore, respectfully oppose the conference report.

ANIMAL WELFARE LEGISLATION

Mr. DOLE. Mr. President, the farm bill contains legislation dealing with the humane treatment of animals. The main thrust of the bill is to minimize pain and distress suffered by animals used for experiments and tests.

In so doing, biomedical research will gain in accuracy and humanity. We owe much to laboratory animals and that debt can best be repaid by good treatment and keeping painful experiments to a minimum.

INFORMATION SERVICE

The bill establishes an information service at the National Agricultural Library to work in cooperation with the National Library of Medicine and it is intended that all investigators be provided ready access to methods of research and testing involving fewer or no animals or reduced pain or distress. Institutions would have access to instructional materials for use in personnel training and it is intended that a data base be maintained to avoid unintended duplication in testing and experimentation. It is hoped that substantial savings in Government expenditures can be made in this way.

TRAINING

Mr. President, the bill calls for training of scientists, technicians, and animal care personnel by research facilities. It is intended that instruction cover the basic needs of each species fulfilling these needs, handling appropriate to the species, nursing care following operations, or other traumatic interventions and feeding appropriate to the condition of the animal.

Training for scientists should include instruction on anesthesia, analgesia, and tranquilizing drugs appropriate to each species used in experiments that could cause pain, and instruction in the least distressing methods of restraint for each species and in other methods of minimizing pain or distress. It is intended that details be provided on the availability of information from the National Agricultural Library in cooperation with the National Library of Medicine to prevent unintended duplication of experiments and tests and encourage use of state-of-the-art means of reducing pain, and avoiding unnecessary use of animals.

EMPLOYEE EDUCATION

It is intended that all personnel be acquainted with the provisions of this act and instructed to report deficiencies promptly to ensure that the institution is in compliance at all times. No one should be discriminated against for reporting violations of the act. Veterinary inspectors from the U.S. Department of Agriculture cannot be present on a daily basis. However, their enforcement capability can and should be enhanced by the Institutional Animal Committee and personnel in laboratories must be protected against any reprisal for reporting mistreatment of animals.

PERFORMANCE

With regard to experimental procedures, it is intended that the Secretary promulgate standards relating to the performance of experiments and tests only with respect to the act's provisions as specified for the purpose of minimizing pain and distress, including anesthesia, analgesia, tranquilizing drugs, restraint and handling methods, nursing care, and euthanasia.

EXERCISE

The new provision calling for exercise of dogs is intended to prevent permanent caging without daily release from a cage. It is intended to include a variety of practical means to allow dogs movement. This could include housing in pens or kennel-runways or, where dogs are housed in cages, removal from the cage during cleaning. The attending veterinarian should work within the basic standards set by the Secretary providing special attention to the needs of individual dogs.

CONCLUSION

Mr. President, it is my desire that these points reflected in the legislative history of this bill will clarify the intent of some of the bill's provisions. Finally, I would note that this bill is the result of efforts made by members of both the research and animal welfare communities and reflects a balanced approach to this important issue.

Mr. LAUTENBERG. Mr. President, I have some very strong objections to the conference report on the farm bill.

One of the principal reasons I will vote against this conference report is that it exceeds the budget resolution and will result in all other Federal programs paying for that excess. I have spoken to that point separately.

I also oppose this bill because it fails to make essential reforms in the sugar, peanut, and dairy programs important to consumers, and to food processing manufacturers and workers trying to compete in an increasingly competitive world economy with their hands tied behind their backs.

This conference report permits the current sugar price support level to continue unchanged instead of gradually reducing the support price, the approach I supported during Senate consideration of the farm bill.

Under the current sugar program, raw sugar sells for about 21 cents per pound in the United States, although it costs only 4 to 5 cents in the world market. It is kept at this artificially high price through an 18-cents loan rate, the price the Government will pay for sugar as a buyer of last resort, and through quotas on how much sugar can enter the United States. The difference between what American consumers pay for sugar and sugar-containing products and what these items cost on the open market is estimated to add about $3 billion a year to the bill Americans pay for sweeteners. The artificially high price of sugar also hurts those involved in the processing of products containing sugar by impairing their ability to compete with foreign businesses who can buy cheaper sugar. Chocolate, candy, cookie, and ice-cream manufacturers all suffer a competitive disadvantage from the sugar program.

This conference report perpetuates a bad program by failing to make even modest reforms in the sugar program. And by adding a "no net cost" provision to the law, it makes a bad program worse. "No net cost" means that the Government must assure that the price of sugar is high enough that it is more profitable for sugar farmers to sell their sugar on the market rather than selling it to the Government for the support price. To do this, the Government must decrease the amount of sugar entering the country under quota, lessening the sugar supply and raising the price of domestic sugar.

The conference report also fails to make reforms in the peanuts program. The price of peanuts is supported by limiting those who can produce peanuts for domestic consumption, and supporting those peanuts at a price four times that of world prices. Lower-priced peanuts are kept out of the U.S.

market through import quotas. Although anyone can produce peanuts for the overseas market, those peanuts are supported at a much lower price. Because domestic peanut production is artificially limited, and low-priced peanuts are kept out of the United States, consumers pay about 13 percent more per jar for peanut butter. And it also costs candy, cookie, and bakery businesses more to buy peanuts for their products.

Not only does the conference report fail to make significant reforms in this program, it actually provides that the support price for domestic peanuts could be increased in 1986 by an amount equal to any increase in the cost of production. The conference report permits further increases in the support levels for 1987 and for the life of the bill up to 6 percent annually to reflect increases in the cost of production.

Finally, this conference report takes a step toward reform of our dairy support program, but takes that step 1 year too late. Our Government supports the price of milk by agreeing to buy all farmers' surplus milk in the form of butter, dry milk, and cheese at an agreed price, and by dictating the price at which most fluid milk must be sold. By keeping the price of milk high, and by guaranteeing dairy farmers a Government market for their milk, this program has encouraged excess production. The result is large surpluses of dairy products sitting in Government warehouses, and a projected Government price tag to $2 billion in 1985. The only way to decrease production is by lowering the price support—which the bill does in 1987, not this year, which would be the better choice by far. The conference report also pays dairy farmers who agree to slaughter their herds instead of using them to produce milk. But the money for these payments would be raised by imposing a milk tax or roughly 3 cents a gallon on each and every milk producer in the country in 1986. While we must reduce the milk supply, I do not believe that taxing each dairy producer in the country is the way to do it.

For all these reasons, Mr. President, I cannot support this bill. While it takes some steps to reform our farm policy, it simply does not go far enough and it would impose penalties on our consumers, workers, and domestic food processors.

OPPOSITION TO THE FARM BILL

Mr. HART. Mr. President, it was with some reluctance that I voted for the farm bill when it passed the Senate a few weeks ago. It will be with some reluctance today that I will vote against the conference report on this legislation.

When the Senate began consideration of legislation to write a new 4-year program for rural America, I established a set of principles against which I would judge the bill. It was my belief that we must do no less than maintain farm income at current levels, even though that income is deeply depressed; even though many farmers are being forced from their land.

It was my belief that the commodity supports should be targeted or tiered, so that small- and medium-sized operations would enjoy the lion's share of the benefits provided by the programs.

Since the farm credit situation is inextricably linked to the status of farm families, I wanted a farm credit bill which provided direct assistance to farmers—to keep them on the land. The best backup for our farm banks is a farmer on his land paying his mortgage.

I voted to send the bill to conference because I hoped there was some prospect of achieving those objectives. The Senate bill did not apply targeting across the board to all commodity programs—as I believe they should—but it did apply targeting to the wheat program. And that's a good start. Farm income, due to the efforts of Senators HARKIN, MELCHER, and EXON, was helped in the Senate bill when they pressed for and won a real, 2-year freeze approach. Rather than prolonging the process further, I voted in favor of the Senate bill to see what the conference might accomplish.

Now that the conference report has come back to the Senate, much has changed, but not for the better. Targeting is gone; there is no 2-year freeze to protect farm income, even minimally, and no diversion payments are required after 1986 for those who agree to cut back production. The Congress has since voted for farm credit legislation which will not materially contribute to the elimination of farm debt, or the solvency of farmers and small businesses.

If that were not enough, the Congress has passed, and the President has signed, the Gramm-Rudman bill. As sure as the Sun rises in the East, this farm bill will be cut back radically, when the computerized spending reductions mandated by Gramm-Rudman are issued by the President. This will make a bad situation all the worse.

Rather than allow effective supply management programs, rather than effectively negotiate fair market shares for U.S farm goods in international trade forums, the Senate is voting to abandon family farmers. We are not talking about a few farm families. We are talking about cutting thousands of farmers adrift in a flood of excess commodities, buffeted by the winds of a hostile farm policy.

We should, instead, be swimming in new waters.

This bill will become law. It does offer something to some farmers in distress in Colorado and in other sugar producing regions of the country. For that, I am grateful. The majority leader joined me in offering legislation dealing with the problem of lost CCC payments. Payments lost to honest farmers when processors entered bankruptcy before payments had been conveyed. The conference approved this provision and I offer my thanks.

It has become axiomatic that voting here inevitably involves making tough choices. There have been times I have voted for legislation which should have been better, but there weren't adequate alternatives.

In this instance, and in good conscience, I cannot sentence the families and small businesses affected by this bill to 5 years of existence under its provisions. The farm legislation is not an answer to their problems but a repudiation of their concerns. I intend to vote against it.

Mr. BURDICK. Mr. President, I supported the farm bill that was passed by both the House and the Senate, because it was the best we could do under the threat of the Presidential veto. However, I have serious reservations that it will not be enough to provide for our farmers not only over the life of the bill, but even in 1986.

There is no question that this bill is better than what the Senate originally passed. The system of target prices and deficiency payments is the most important facet of the farm bill that serves to bolster our farmers' incomes. Because this bill contains essentially a 3-year freeze, it is better than the 2-year freeze passed by the Senate. However, it is not nearly as helpful as the 4-year freeze which was adopted by the Senate Agriculture Committee.

This administration, Mr. President, has little compassion for the family farmer. We witnessed this lack of compassion on both the farm bill and the farm credit bill. Neither piece of legislation is enough for our farmers, who are the most deserving of anyone in our society of Federal assistance.

Let me tell you this, Mr. President. Without our farmers, this country would not run. We would not need the massive defense budget because we would have little to protect. I want this administration to know that just because we have passed a farm bill and a farm credit bill, this is not the end of it. We need to do more and we must do more. Those of us who care about farmers and farming will be back next year to push for what is right and just for our farmers.

Mr. HELMS. Mr. President, I ask for the yeas and nays on the conference report.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

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Mr. HELMS. I yield to my friend from Oregon.

Mr. PACKWOOD. Mr. President, on the reconciliation conference, I want to say that Medicaid is finished, trade is finished, Social Security Trust Fund, pension, the pension benefit guarantee board, finished, extension of aid to widows, CHAMPUS finished, and so forth. The only issue holding us up is revenues. The Senate made an offer to the House yesterday afternoon about 2 or 3 o'clock in the afternoon. Since that time we have had no response from the House. The chairman of the House conferees refuses to meet. So we have had neither a counteroffer nor a meeting. At the moment, I am stuck because there is no place else to go. The two issues holding us up are Superfund and Medicare coverage for State and local employees. When we get a counteroffer, we may make progress. We have none at the moment.

Mr. DOLE. Mr. President, I take this time because earlier the distinguished Senator from North Dakota——

Mr. STENNIS. May we have order, Mr. President?

The PRESIDING OFFICER. The Senate will be in order.

Mr. DOLE. Mr. President, earlier the distinguished Senator from North Dakota, Senator ANDREWS, and I hoped to have an exchange on another matter, wheat deficiency payments. I did not want to keep the floor at that time because other Members had not had the opportunity to speak. I now yield for a question.

Mr. ANDREWS. Mr. President, I appreciate the majority leader yielding. I was interested in listening to the comments of the Senator from New Jersey followed by the comments of the Senator from Iowa. The Senator from New Jersey said the spending is too high and, therefore, we ought to oppose this farm bill because it is taking too much from the budget.

The Senator from Iowa said that the spending is too low and, therefore, we ought to oppose this farm bill.

But, Mr. President, when we continue talking about this, the problem that we have in the farm sector is that we are operating under a program right now that pays deficiency payments to the wheat producers. As we speak, the wheat producers in my State, the majority leader's State, and other States are not getting those deficiency payments. Those checks are being held up in the local ASC office, checks that are desperately needed by those farm families, checks that amount to in excess of $3 billion, held up because we cannot get a continuing resolution through.

Mr. President, I would like to ask my colleague, the majority leader of the Senate, what his observations are on how fast the Department of Agriculture will be able to disburse these checks if and when we can resolve this continuing resolution.

Mr. DOLE. Well, first, as the Senator pointed out, the USDA ASC offices are withholding sending out deficiency payments on the 1985 wheat crop because they are nearing the end of their CCC spending authority and are continuing to make commodity loans and payrolls. They had $4 billion, as the Senator knows, in the continuing resolution for additional CCC spending authority.

Had the House passed the continuing resolution a couple of nights ago we probably would have been out of here by now, plus the farmers in my State and the Senator's State and other States, in the Dakotas and other States, would have been getting their deficiency payments on time. I regret that the continuing resolution did not pass the House the other evening. I regret that some Members of Congress from farm States voted against the continuing resolution.

Mr. ANDREWS. That is precisely the problem.

Mr. President, let me point out to the majority leader that I have never yet voted for a farm bill that was good enough, in my estimation. Yet I have voted for every farm bill that has come along because it represents the very best product that we could put together.

This, again, Mr. President, is the best product that we could put together. Our farm families need not just these checks for deficiency payments for this past crop year, but they need to be able, as they go into their banker, their local PCA or Farmers Home office, right after the first of the year, to sit down with that lender and know what is happening in those outyears.

Under this bill, they have a freeze on target prices for 2 years, a 2-percent cut the next year, a 3-percent cut in the next. That gives a fairly level playing field and to the best of my knowledge in talking with the conferees and in talking with my colleagues it is the best we could get through.

I applaud the individuals who worked so long and hard. They did a good job. I only wish we could have done better. The satisfaction I have is that they share my feelings that we always could have done better. But this is what we have now and that is why we have to support it now, because those farm families cannot wait around to find out what is going to happen any more than they can wait around many more weeks for their deficiency payments.

Mr. HARKIN. Will my colleague yield?

Mr. ANDREWS. First, let me say that my friend from Iowa has a special program for agriculture that would result in less spending. I should not have referred to him in the way that he wanted to spend more. Other colleagues on his side of the aisle say we are spending too much. Other colleagues have said we are not spending enough. But the Senator from Iowa has a very unique program that cuts back much more acreage and, therefore, runs the price up on less production. It would have less budget impact.

Yes, I yield.

Mr. HARKIN. I did want to point out that at no point in my remarks did I indicate that we were not spending enough. I think we are chasing bad money after good.

Mr. ANDREWS. But my colleague will agree that the time has come to act. We cannot continue to postpone for those farm families which are suffering.

Mr. DOLE. Mr. President, I would ask unanimous consent that we might include in the RECORD at this point the recorded vote by Members in the House who voted against the continuing resolution.

Mr. ANDREWS. Maybe some of their wheat farmers will be glad to send them a special Christmas card saying, "Thanks for holding up my payment for another 2 weeks."

There being no objection, the vote was ordered to be printed in the RECORD, as follows:

The vote was taken by electronic device, and there were—yeas 170, nays 239, not voting 25, as follows:

[Roll No. 461]

YEAS—170

Ackerman, Akaka, Alexander, Anderson, Andrews, Annunzio, Atkins, AuCoin, Badham, Barnes, Bateman, Beilenson, Bennett, Berman, Bevill, Biaggi, Boehlert.

Boggs, Boland, Bonior (MI), Bonker, Borski, Bosco, Boucher, Brown (CA), Burton (CA), Burton (IN), Bustamante, Byron, Carney, Carr, Chandler, Chappell, Cheney.

Clinger, Coelho, Coleman (MO), Coleman (TX), Conte, Coughlin, Coyne, Daniel, Darden, Daub, de la Garza, Derrick, DeWine, Dickinson, Dicks, Dingell, DioGuardi.

Dixon, Dowdy, Downey, Duncan, Dwyer, Early, Fascell, Fazio, Fish, Flippo, Foglietta, Foley, Ford (TN), Frost, Gaydos, Gephardt, Gibbons.

Gilman, Gonzalez, Goodling, Gray (PA), Hall (OH), Hatcher, Heftel, Hiler, Holt, Horton, Howard, Hoyer, Hutto, Hyde, Jones (NC), Jones (TN).

Kanjorski, Kennelly, Kolter, Kostmayer, Lantos, Latta, Lehman (CA), Lehman (FL), Leland, Levine (CA), Lewis (CA), Livingston, Lowery (CA), Lujan, Manton, Martin (NY), Matsui, Mazzoli.

McDade, McGrath, McHugh, Mica, Michel, Mikulski, Miller (CA), Miller (OH), Mineta, Molinari, Montgomery, Morrison (WA), Mrazek, Murtha, Myers, Natcher, Nichols.

O'Brien, Oakar, Oberstar, Obey, Ortiz, Parris, Pepper, Quillen, Regula, Reid, Rogers, Rose, Rostenkowski, Rowland (GA), Roybal, Rudd.

Sabo, Scheuer, Schulze, Schumer, Sisisky, Skeen, Skelton, Smith (FL), Smith (IA), Smith (NE), Smith (OR), Solarz, Spence, Stangeland, Strang, Stratton, Sundquist.

Thomas (GA), Torricelli, Udall, Watkins, Waxman, Weiss, Whitehurst, Whitley, Whitten, Wilson, Wolf, Wolpe, Wright, Wyden, Wylie, Yates, Young (AK), Young (FL).

NAYS—239

Anthony, Applegate, Archer, Armey, Barnard, Bartlett, Barton, Bates, Bedell, Bentley, Bereuter, Bilirakis, Bliley, Boner (TN), Boulter, Boxer, Breaux.

Broomfield, Brown (CO), Broyhill, Bruce, Bryant, Callahan, Campbell, Carper, Chapman, Chappie, Clay, Coats, Cobey, Coble, Collins, Combest, Conyers.

Cooper, Courter, Craig, Crane, Dannemeyer, Daschle, DeLay, Dellums, Donnelly, Dorgan (ND), Dornan (CA), Dreier, Durbin, Dyson, Eckart (OH), Eckert (NY), Edgar.

Edwards (CA), Edwards (OK), Emerson, English, Erdreich, Evans (IA), Evans (IL), Fawell, Feighan, Fiedler, Fields, Florio, Ford (MI), Fowler, Frank, Franklin, Frenzel.

Gallo, Gejdenson, Gekas, Gingrich, Glickman, Gordon, Gradison, Green, Gregg, Grotberg, Guarini, Gunderson, Hall, Ralph, Hamilton, Hammerschmidt, Hansen, Hartnett, Hawkins.

Hayes, Hendon, Henry, Hertel, Hopkins, Hubbard, Huckaby, Hughes, Hunter, Ireland, Jacobs, Jeffords, Jenkins, Johnson, Jones (OK).

Kaptur, Kasich, Kastenmeier, Kemp, Kildee, Kleczka, Kolbe, Kramer, LaFalce, Lagomarsino, Leach (IA), Leath (TX), Levin (MI), Lewis (FL), Lightfoot, Lipinski, Lloyd, Loeffler, Long.

Lowry (WA), Luken, Lundine, Lungren, Mack, MacKay, Madigan, Marlenee, Martin (IL), Martinez, Mavroules, McCain, McCandless, McCloskey, McCollum, McCurdy, McEwen, McKernan, McMillan.

Meyers, Miller (WA), Mitchell, Mollohan, Monson, Moody, Moore, Moorhead, Morrison (CT), Murphy, Neal, Nielson, Nowak, Olin, Owens, Oxley.

Packard, Panetta, Pashayan, Pease, Penny, Perkins, Petri, Pickle, Porter, Pursell, Rahall, Ray, Richardson, Ridge, Rinaldo, Ritter, Roberts, Robinson, Rodino.

Roe, Roemer, Roukema, Rowland (CT), Russo, Savage, Saxton, Schaefer, Schneider, Schroeder, Schuette, Seiberling, Sensenbrenner, Sharp, Shaw, Shelby, Shumway.

Shuster, Sikorski, Siljander, Slattery, Slaughter, Smith (NJ), Smith, Denny (OR), Smith, Robert (NH), Snowe, Snyder, Solomon, Spratt, St Germain, Staggers, Stallings, Stark, Stenholm.

Stokes, Studds, Stump, Sweeney, Swift, Swindall, Synar, Tallon, Tauke, Tauzin, Taylor, Thomas (CA), Torres, Towns, Traficant, Traxler.

Vento, Visclosky, Volkmer, Vucanovich, Walgren, Walker, Weber, Wheat, Whittaker, Williams, Wirth, Wise, Wortley, Yatron, Zschau.

NOT VOTING—25

Addabbo, Aspin, Brooks, Crockett, Davis, Dymally, Fuqua, Garcia, Gray (IL), Hefner, Hillis, Kindness.

Lent, Lott, Markey, McKinney, Moakley, Nelson, Price, Rangel, Roth, Valentine, Vander Jagt, Weaver, Young (MO).

The Clerk announced the following pairs:

On this vote:

Mr. Nelson of Florida, for, with Mr. Crockett against.

Messrs. WEBER, DORNAN of California, STOKES, GLICKMAN, ERDREICH, SCHAEFER, ZSCHAU, BEDELL, VOLKMER and CAMPBELL changed their votes from "yea" to "nay."

Messrs. MORRISON of Washington, CHANDLER, BURTON of Indiana, and STANGELAND changed their votes from "nay" to "yea."

So the conference report was rejected.

Mr. DOLE. Mr. President, I would like to renew my request that the Senator from Arkansas be permitted to speak for 10 minutes—there may be others who request time—and that we may have a vote on passage on the conference report at 6:30 p.m.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, reserving the right to object. Does the Senator from Iowa wish to speak further? I had understood that he did.

Mr. President, I have no objection.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. GORTON. Mr. President, at long last the time has come for the Senate to take its final look at the 1985 farm bill. The bill that comes to the Senate out of the conference committee is an improvement on the two bills that went in to the conference. That in itself is an accomplishment that should not be ignored and I applaud the efforts of the conferees on both sides of the aisle and from both Houses of Congress for their diligent work on this bill.

For all the improvements that have been made in the bill, I do not think there is a Member in this body who does not disagree with some of its provisions. I am one of that number. I would have done many things differently. However, the opportunity for changing the legislation, at least for this session of Congress, is past. Now is the time to decide if we will pass a 5-year farm bill that will begin to help correct some of the failed policies of the past or if we will fail to do so. I believe that we should pass this farm bill and I urge my colleagues to join me in this effort.

For the farmers in Washington State, the wheat and dairy programs are of particular importance. A number of improvements have been made in both programs—some of which are revolutionary. The loan rates for wheat will start at $3 per bushel for 1986. However, from 1987 on, loans for wheat will be set to the marketplace rather than to a governmentally determined rate. In the second through fifth years of the bill the loan rates for wheat will be set between 75 and 85 percent of the average price received by producers during the immediate preceding 5 marketing years, excluding the high and low years. The Secretary will also have the authority to further lower the loan rate if the market price continues to fall. Ultimately this will lead to decisions on the farm to plant for the market rather than for the program.

The target prices under the Wheat Program will be frozen at current levels through 1987. Beginning in 1988, the Secretary will have the authority to set the target price at slightly lower levels. This provision is also a movement in the correct direction.

The Dairy Program has also been improved in this bill. The 1 year freeze in support prices followed by two reductions in the next year will begin the process of reducing the tremendous surplus that the Federal Government piles up every year. I am also pleased that the whole herd buy-out plan—truly a revolutionary idea—was included in the conference report. Although this provision was never debated on the floor of the Senate, it has often been the center of informal discussion among Senators. It is an untested program, but I am convinced it is a necessary one. The whole herd buy-out program will get thousands of dairy cows out of production and keep them out. With protections in place for our cattlemen and beef producers, this idea needs to be tried and I am pleased that it is part the bill.

The commodity provisions of the bill are complimented by a strengthened export title and a very good conservation program. The export provisions of the bill are imaginative and innovative in many respects. These provisions require the Secretary of Agriculture to offer federally owned surplus commodities to exporters, processors, or foreign buyers to encourage the development and expansion of overseas markets for U.S. commodities. This will help the administration in its efforts to combat unfair foreign trade practices. In addition, the Cargo Preference Program has been revised to free the Blended Credit Program which has been suspended for more than 9 months. The conference report offers a workable compromise on this program—the Food for Peace Program will be subject to cargo preference percentages of 60 percent in 1986, rising to 75 percent in 1988 and thereafter.

Moreover, the Food for Peace Program, America's great charitable food donation program, will be accomplished by the establishment of a companion Food and Progress Program. The new program will promote free enterprise policy and development through the donation of surplus Federal commodities.

The conservation section offers a necessarily tough sodbuster provision which will ensure that highly erodible land will not be put into production. the penalties that producers will suffer for violating this provision are stiff. The conservation title is also noteworthy for the inclusion of a long-term conservation reserve which will return crop land to less productive uses. This will take 40 million acres of land that is now producing surplus commodities out of production. with-

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out causing undue suffering for the farmer who owns the land.

There are a number of other provisions in the conference report which are noteworthy. Some are important steps toward returning agriculture to a freer market, others are downright onerous. Most importantly, however, this bill is a beginning. A beginning toward a market oriented farm policy and a beginning toward the day when the American farmer will again be able to produce for the world.

Finally, we should make no mistake in assuming that the ills of American agriculture will be solved by this bill or any other Federal agricultural policy. The big problems facing agriculture are interest rates, the strong dollar and a shrinking world market. The solutions to these larger problems lie beyond the farm bill. I urge my colleagues to consider this as well as we move toward the final vote on this bill.

Mr. President, no consideration of the farm bill is complete without an accounting of the food assistance titles. I would like to take a moment to comment on the Food Stamp Program and other programs that have emerged from the conference committee.

Feeding the hungry is one of the hallmarks of a civilized society. It is through programs such as the Food Stamp Program that we are able to provide assistance to those who are hungry.

Before the bill went to conference, the House and the Senate versions were significantly different in their treatment of food stamps. The House version provided for $1.4 billion in excess of current service levels, while the Senate bill was $600 million under current service levels. The result of the conference is a bill providing for $305 million over current services. This is certainly a fair compromise.

I would like to touch on several of the major reforms made in the Food Stamp Program by the conference committee. First, several benefit areas impacting the working poor were increased. Among the changes are: increasing the shelter deduction to $147; making the dependent care deduction a separate deduction, with a limit of $160 per month; and increasing the earned income deduction to 20 percent. In addition, the asset limit was increased from $1,500 to $2,000. Undoubtedly, these reforms will provide additional benefits to those who are among the working poor.

A second provision that the conference committee dealt with was the Employment and Training Program. Under the conference report, States will not be provided with a miniblock grant, enabling them to establish their own employment and training program.

Third, the conference committee revised the Job Training Partnership Act income provision to count earnings in the equation for determining food stamp benefit levels. They did, however, exclude stipends, training costs, uniforms, and other nonearnings moneys from the equation. This change is worthy of support—income should be counted in the equation; however, there is significant debate as to whether items such as training costs and uniform costs should be included.

Mr. President, I believe the reforms I have mentioned, in addition to enhanced computerization and provisions to eliminate fraud, represent a fair compromise, while ensuring that those who are most in need will have their benefits protected.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I have not had an opportunity to go through all of this bill, and I do not believe that there is a single Senator here who has. I have asked my staff to give me a detailed summary of the bill, and they have done so.

I find the bill marginal, but I intend to vote for it because it is marginally better than no bill. This is what we must do: If we do not vote for it, we have no agriculture bill and we leave desperate farmers in limbo about their future. My guess is that farmers would rather take a little less than they would like to have, than to have the kind of chaos and confusion that would result from not passing this bill.

Compared to the bill that the President submitted to this body, it is one of the finest bills ever presented here. That bill had disaster written all over it. To suggest that the farmers were prepared to go to a free market and compete in the world against countries who subsidize their farmers and their commodities on a much higher percentage basis than we do would have been unthinkable.

Agriculture in this country, in my opinion, has the potential for being the catalyst that could take this country's economy down in the next 24 months. A lot of people have talked about the fact that agribusinesses are affected and that banks are affected. You can bet your bottom dollar that, when the farmers of this country owe $212 to $220 billion and that a big part of it is delinquent and more of it about to become delinquent, there is a significant possibility that it could be the very catalyst that triggers the closing of hundreds of banks, which would have the undesired ripple effect of closing more and more nonagricultural banks.

The farmers have to pay a price in this bill to keep the support and target prices at the level we want, and one of the prices they have to pay is the possibility of the Secretary setting aside huge percentages of their base. In the case of rice—and we in Arkansas grow about 35 to 40 percent of all the rice in this country—rice farmers could be required to set aside as much as 35 percent of their land—a very unhappy thought. We used to require set-asides in this country, Mr. President, in an effort to raise prices, and we have found in the last few years that the more we set aside, the more Argentina, Brazil, Canada, and Australia grow. And it has virtually no effect on raising prices, particularly of our exported commodities.

What set-asides do and what they are designed to do in this bill is to limit the cost of this bill to the Federal Government.

There is one other thing about rice in this bill. There is a marketing loan provision which we hope will help us wipe out our big surpluses of rice over the next 2 years. It has that very salutary effect. Certainly, the rice provision of this bill will be hailed by all the farmers in this country. However, I have serious reservations about its soybean provisions.

I said earlier, and I repeat, this bill is marginal. I promise you that somewhere between 10 and 20 percent of all the farmers in this country who are now farming will not be farming in 2 years because they cannot finance the staggering debt they are under.

Much has been said here about Gramm-Rudman, and much should be said about Gramm-Rudman. Nobody has raised a point of order on this bill, which, in my opinion, would be technically well taken under the Gramm-Rudman amendment. I am pleased that no point of order has been made, but it points up the trauma that this body and the House both are going to be faced with in 1986 and as early as February 1986.

I voted for Gramm-Rudman in the hope that this body would do its duty and that we would not abdicate our responsibilities to a computer printout. If we cannot in this body decide, for example, where we are going to cut and how much, and whether or not we need a tax increase—if we cannot decide, for example, that school lunches are more important to our vision of the future, our commitment to excellence, our national character—if we cannot conclude in this body that school lunches are more important than Amtrak, we ought to fold it up and go home.

If we in the U.S. Congress cannot decide, for example, that childhood immunizations and WIC and maternity and child health care are more important than Urban Development Action Grants, we ought to fold up our tents and silently steal away.

So, Mr. President, I voted for Gramm-Rudman on the assumption that the Congress, and especially the U.S. Senate, could make those distinctions and that there was still enough sensitivity is this body to understand what is really important and what is political.

If we come up on the deadline and say we just cannot work it out, fire up the computer and bring us the printout, Gramm-Rudman will be the most dismal disaster that ever passed this body.

Finally, Mr. President, I know that there are people in this body, in the House, and all across the country who are really tired of hearing some of us talking about the plight of the farmer. I get tired of talking about it. But I can tell you there are people in this country who do not get tired of hearing about it. They are the people who are losing their farms and their homes and who have lost everything they fought and scratched for all their lives.

I do not care whether you are an urban Senator or a farm State Senator or somewhere in between. We do not have the discretion or the right to turn our back on any segment of our economy, no matter how large or small. This bill is much better than nothing and I urge my colleagues to support it. It is not a panacea, but it is certainly better than nothing.

Mr. President, I yield the floor.

Mr. HELMS. Mr. President, we have unanimous consent to vote at 6:30; is that correct?

The PRESIDING OFFICER (Mr. CHAFEE). The Senator is correct.

Mr. HELMS. It is not no later than 6:30; it is at 6:30?

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. I thank the Chair.

Mr. President, I had better defend my baby a little bit from the criticism it has received. It is true enough that it would have been necessary to waive section 311(a) of the Budget Act in order for this farm bill to qualify for further consideration by the Senate, but let me make the point it is because we are the last car in the train. We are the caboose. If this farm bill, this very farm bill conference report had appeared in July or September, or even October, there would be no question about it.

Now, let me say for the RECORD, Mr. President, that I happen to be the only chairman of the Agriculture Committee in the history of the Senate to vote against reporting a farm bill and to vote against the farm bill itself on the floor, and I did so because in my judgment it was too expensive. In conference we reduced the Senate bill's cost by about $5 billion, and that put it in the ballpark.

Furthermore, this farm bill saves $11 billion over current law, so if we continued current law as many Senators were urging us to do early this year, it would cost $11 billion more than this conference bill. So as I said at the outset this afternoon when the conference report was made the pending business, it is not perfect. It is not what I would have written if I were a dictator and I could have sat down and prescribed and proscribed as I pleased. But it is a pretty good farm bill considering the situation that exists out there across America, and I hope Senators will support it.

Furthermore, this bill comes very close to the $50 billion mark set by the President himself. So I reiterate a point of order under the Budget Act can be raised only because of the quirk that this farm bill is the caboose of the train in the legislative process. I reiterate that I spent 40 hours by actual count waiting for a quorum to appear during the markup of this bill. I sat there often by myself, frequently with the distinguished Senator from Iowa. I pay him the compliment of saying that he was there. Senator ZORINSKY was also there, but we have difficulty, as the Senator from Iowa himself pointed out, getting a quorum day after day. In addition, often we were not allowed to meet in the afternoons or beyond 2 hours after the Senate had convened in the morning. But that is history. We have that behind us, and we have worked together in a remarkable fashion to produce a farm bill that I believe is worthy of the Senate's approval and I hope it will be overwhelmingly approved.

Mr. President, while I have the floor I want to thank so many people who have contributed to the production of this bill. I have said over and over again what a joy it is to work with the distinguished Senator from Nebraska [Mr. ZORINSKY] and the majority and minority leaders. All members of the committee have cooperated constantly, but most particularly the young, dedicated staff of the Senate Agriculture Committee, both minority staff members, and majority staff members. We worked together as a team. Some day I hope to just lay out for the record the sacrifices of their time that were made throughout this year, on occasion after occasion. Since Saturday night, they went round the clock, day after day, to produce that 13-pound document that is now pending before the Senate.

So, with that, Mr. President, I yield the floor.

I would say to Senators, if I may regain the floor, we cannot vote until 6:30 because of the unanimous-consent agreement. So I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. WILSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILSON. Mr. President, I rise to express serious reservations about the 1985 farm bill and to convey my heartfelt concerns about the future, competitive vitality of the American farmer.

I do not mean to suggest that the conference report before us is devoid of positive developments in agricultural policy. Indeed, the distinguished conference chairman, Senator HELMS, and his fellow conferees should be commended for far more than their tireless efforts and remarkable endurance. Yet, for many of the provisions, which I would characterize as pluses, there are unfortunately offsetting minuses of significant dimensions and serious consequences.

For example, the bill makes a major—and a positive—structural change in Federal policy by allowing commodity loan levels to reflect marketplace prices, instead of codified estimates. This means that our grain and cotton loan rates will come down over the length of the bill; but only gradually—not more than 5 percent in most years. Another favorable provision is the use of a "marketing loan" which will allow growers to redeem their crops from the Commodity Credit Corporation at world price levels, instead of higher CCC loan levels; thereby enabling American farm products to be sold to foreign buyers; not forfeited to the Federal Government.

Unfortunately, the downward trend of loan levels, which may be the single-most important change in the bill, is offset by freezing target prices at their presently high levels. Technically, this is a 2-year freeze, but a token 2-percent reduction in 1988 and a 3-percent reduction in 1989 do little to thaw the freeze.

While I understand the rationale behind the target price freeze and sympathize with the desire of my colleagues to maintain farm income—especially during these difficult economic times—the combination of high target prices and lower loan rates will translate into larger Federal deficiency payments to farmers. Moreover, I strongly suspect that the attractive combination of higher direct payments and marketing loan flexibility will prompt more farmers to participate in these programs.

Consequently, we are about to adopt a farm bill which will not only increase the size of each individual deficiency payment, but will also increase the number of farmers to whom these Government payments will be made. For example, in recent years, only about 20 percent of eligible farmers participated in these Federal support programs; however, as Government subsidy levels increased and commodity prices fell, program participation has skyrocketed. This trend will surely

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continue under the 1985 farm bill, prompting speculation that next year as many as 90 percent of eligible wheat growers and feed grains farmers will seek shelter in USDA's programs.

Long-term changes in the dairy program represent steps in the right direction; however, dairymen will crawl through an 18-month Federal tax on their production before they will reach a support program responsive to the realities of supply and demand. Despite the fact that USDA will purchase more than 16 billion pounds of surplus dairy products in 1985, the bill retains throughout all of the next year the existing support level of $11.60 per hundredweight.

During that period of time—and until October of 1987—the Secretary of Agriculture will administer a "whole herd buy-out" program pursuant to which dairymen who wish to remain in business will be assessed a tax on every 100 pounds of their production, in order for the Government to "buy-out" any one of their competitors interested in leaving the dairy business.

I do not doubt that this is a well-intentioned attempt to "fine tune" a farm program whose primary problem is unrealistically high support levels. Unfortunately, by addressing fundamental problems with slick-packaged gimmicks instead of straight-forward changes, we in Congress are indirectly penalizing segments of American agriculture—specifically, producers of cattle and growers of fruits, nuts, and vegetables—who do not receive Government subsidies and have not requested them.

For example, proponents of the dairy provisions accurately recognized that returns to cattlemen, who do not receive farm subsidies, will be adversely affected by the increased amount of red meat which will come on the market in the wake of a whole-herd buy out. Unfortunately, their solution—to require the Secretary of Agriculture to buy 400 million dollar's worth of red meat—does not recognize that this money depletes a discretionary fund which the Secretary has historically used to purchase surplus fruit, nut and vegetable crops—none of which receive Federal subsidies—for distribution in Federal food programs.

On other matters, this final farm bill version properly eliminates the short-lived and ill-advised subsidy payments for soybeans and sunflowers, which had been added on the floor of the Senate. Unfortunately, the conference revived the honey program, which the Senate had voted overwhelmingly to phase out, and restored unlimited "incentive" payments—worth hundreds of thousands of dollars annually—to a select number of wool and mohair producers.

It is proper that the bill does contain a strong, commendable conservation title which will return nearly 45 million acres of highly erodible land to less-intensive uses and will discourage farmers from converting fragile soil or wetlands into planted acreage; however, in addition to a conservation reserve, the bill's commodity titles will still continue to require farmers to idle significant amounts of fertile, potentially productive lands through acreage reduction programs. Compliance with these so-called ARP's, which will range from a low of 20 percent of our Nation's corn acreage to a high of 35 percent of rice acres, are a regrettable outgrowth of the high costs of the type of support programs which this legislation reauthorizes.

Unfortunately, not only do these ARP's increase the per unit cost of American farm products and reduce our economies of scale, but they serve as an incentive for farmers abroad to increase their own plantings and provide additional competition for U.S. agricultural exports. The displacement effect of this approach is evidenced by the plight of our farm exports under policies in the last 4 year farm bill. These exports have plummetted from a high of $44 billion in 1981 to barely $30 billion in the current year.

Fortunately, the 1985 farm bill will provide a variety of tools to enable the Secretary of Agriculture to reverse this downward export trend and to respond to a variety of unfair trade practices. Yet, I am concerned that the benefits of a strong trade title will be, at least, partially diluted, if not fully negated, by some of the other provisions, which I have already discussed.

I recite this list of the pluses and minuses contained in the 1985 farm bill in order to demonstrate the inconsistent policies and incongruous provisions which we are about to enact—or should I say reenact—into law. These same inexplicable contradictions are contained in current farm policies, which have so miserably and tragically failed the American farmer.

And the failure of our Federal farm policies is not limited to those growers who participate in these support programs, many of whom are confronting severe financial problems—despite $50,000 a year deficiency payments. These Federal farm subsidies take a toll on agricultural operations, which for a variety of reasons, such as their size, diversity, or free-market ideology, do not qualify for participation in USDA's commodity programs.

An agricultural constituent of mine provides a timely and troubling example. The J.G. Boswell Co., one of the world's largest cotton-growing concerns, announced last month that it needs to reduce its work force by 600 employees, from a work force of 1,300 to 700. In a letter from the chairman of this family-run operation to his employees announcing these severe cutbacks, Mr. J.G. Boswell cited the inability of this Congress to reduce farm subsidies as major factor behind the need to restructure his operation.

Mr. President, this year the American taxpayer will have distributed approximately $20 billion to farmers who produce basic commodities and are eligible for program participation. Their dire economic plight convincingly demonstrates to me that this year's Federal largess was inadequate to restore prosperity to the farm belt. At the same time that these agricultural subsidies have failed to revitalize farmers who participate in the program, they have, also, penalized those agricultural enterprises beyond the scope of Federal assistance.

In my mind, this is a lose-lose scenario—harming the most efficient of American agriculture while failing to revive the financially troubled growers—which will be played-out for 5 more years under the policies contained in the 1985 farm bill. For this reason, Mr. President, I am regrettably compelled to vote against the conference report.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Under the previous order, the vote on this measure has been set for 6:30 p.m.

The question is on agreeing to the conference report. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON, I announce that the Senator from New Mexico, [Mr. DOMENICI], Senator from Alaska [Mr. MURKOWSKI], the Senator from Virginia [Mr. TRIBLE], the Senator from Connecticut [Mr. WEICKER], are necessarily absent.

I also announce that the Senator from Maryland [Mr. MATHIAS], is absent on official business.

Mr. CRANSTON. I announce that the Senator from Massachusetts [Mr. KENNEDY], is necessarily absent.

I also announce that the Senator from Florida [Mr. CHILES], is absent because of illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 55, nays 38, as follows:

[Rollcall Vote No. 378 Leg.]

YEAS—55

Abdnor
Andrews
Armstrong
Baucus
Bentsen
Boschwitz
Bumpers
Burdick
Cochran
Cranston
D'Amato
Danforth

Denton
Dole
Durenberger
Eagleton
East
Evans
Ford
Glenn
Gorton
Hatch
Hatfield
Hawkins
Heinz
Helms
Inouye
Johnston
Kassebaum
Laxalt
Leahy
Levin
Long
Lugar
Matsunaga
Mattingly
McClure
McConnell
Melcher
Metzenbaum
Nunn
Packwood
Pryor
Quayle
Riegle
Rockefeller
Sarbanes
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Wallop

NAYS—38

Biden
Bingaman
Boren
Bradley
Byrd
Chafee
Cohen
DeConcini
Dixon
Dodd
Exon
Garn
Goldwater
Gore
Gramm
Grassley
Harkin
Hart
Hecht
Heflin
Hollings
Humphrey
Kasten
Kerry
Lautenberg
Mitchell
Moynihan
Nickles
Pell
Pressler
Proxmire
Roth
Rudman
Sasser
Simon
Warner
Wilson
Zorinsky

NOT VOTING—7

Chiles
Domenici
Kennedy
Mathias
Murkowski
Trible
Weicker

So the conference report was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

(Earlier the following occurred:)

Mr. PRYOR. Mr. President, in order that our colleagues who were not on the Agriculture Committee may have the benefit of an excellent summary that was issued by the committee on the conference agreement on the new farm bill as proposed, I ask at this time unanimous consent that it be printed in the RECORD immediately following the disposition of the conference report, providing that it passes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Major provisions of the bill include:

WHEAT AND FEED GRAINS

Basic initial loan rates for grains would start at $3.00 a bushel for 1986 wheat and $2.40 for 1986 corn. From 1987 on, loans for grains would be set each year at between 75 and 85 percent of the average price received by producers during the immediate preceding 5 marketing years, excluding the high and low years, with annual reductions limited to 5 percent.

After calculating the basic initial rates, the Secretary could then further reduce the rate for any year by up to 20 percent if (1) market prices in the previous season failed to top 110 percent of the previous year's basic loan rate, or (2) he determines that a further cut is needed to compete on world markets.

For the 1986 crop only, the Secretary would be required to use this authority to drop the loan at least 10 percent.

The Secretary would have discretionary authority to allow repayment of price support loans at levels which could be set as low as 70 percent of the original loan rate. The Secretary would have additional discretionary authority to give producers one of two alternate types of marketing certificates to help promote exports.

Target price income protection would operate alongside whichever loan system was used, and any reduction below the basic initial loan rates would be offset by increased target price deficiency payments which would not be subject to payment limits.

Target prices, which provide direct payments to farmers when market prices are below the target rate, would be frozen at current levels ($4.38 a bushel for wheat and $3.03 a bushel for corn) through 1987. For the 1988 crop, the Secretary would have authority to set the target price level at not less than 98 percent of the 1986 level ($4.38 and $3.03); at not less than 95 percent for the 1989 crop; and at not less than 90 percent for the 1990 crop, but not to lower than $4 for wheat and $2.75 for corn.

To qualify for benefits in any years in which carryover wheat stocks exceed 1 billion bushels, wheat producers would be required to reduce acreage as follows: in 1986, a maximum diversion of 25 percent, (including a mandatory minimum reduction of 15 percent, a mandatory in-kind paid diversion of 2.5 percent, and further discretion for reductions of 7.5 percent); in 1987, a maximum reduction of 27.5 percent (including a mandatory minimum reduction of 20 percent and a further 7.5 percent at the Secretary's discretion); and in 1988-90, a maximum of 30 percent (including a mandatory minimum of 20 percent and a further 10 percent at the Secretary's discretion). For the 1986 crop only, the Secretary would be required to offer growers who planted before announcement of the program a chance to idle 10 percent of their base in return for payments.)

For feed grains, if stocks exceed 2 billion bushels of corn, the 1986 reduction would be a maximum of 20 percent (including a mandatory minimum of 12.5 percent, a mandatory in-kind paid diversion of 2.5 percent, and further discretion for reductions of 5 percent. For 1987-90, the maximum would be 20 percent (including a mandatory minimum of 12.5 percent plus up to 7.5 percent at the Secretary's discretion).

For all grains, the Secretary would have the authority to offer producers a further, voluntary, paid diversion beyond the basic minimums in the bill.

The Secretary is required to allow haying and grazing on diverted acres in 1986, permit grazing in 1987-90 if state Agricultural Stabilization Committees request it. Current law gives the Secretary discretionary authority to permit haying in 1987-90.

The Secretary would have discretionary authority to offer producers a "Target Option Program" under which the individual grower's wheat target price would rise if he elected higher levels of acreage reduction or decline at lower acreage-cut levels. Also optional for the Secretary would be a plan varying target price levels for farms of different sizes an effort to concentrate benefits on medium-sized farms. For the 1986 crop, the Secretary would be required to pay part of the expected target price deficiency payments on an advance basis and to make part of the payment "in-kind."

Under the bill, the Secretary would have the discretionary authority to proclaim marketing quotas for wheat, and establish a mandatory acreage control program for wheat, subject to the approval of producers in a referendum.

The bill requires the Office of Technology Assessment to study federal grain export quality standards. It also provides that 6 months after the study, the Agriculture Department would have to revise its export grading rules, in line with the study findings, to protect grain quality.

COTTON

The basic support loan rate is set at 55 cents per pound for 1986. In 1987 and thereafter for the life of the bill, the loan rates would be based on 85 percent of the world market price, with reductions limited to 5 percent annually, with a floor of 50 cents.

If the basic rate is not competitive on world markets, the Secretary would choose one of two alternate "market enhancement" plans for repayment of loans. Under one plan, he could lower the repayment rate by up to 20 percent, thus allowing farmers to redeem their crops and sell them at a competitive price. Under the second plan, repayment would be at rates varied periodically through the year to keep pace with world markets. In instances where world market levels fall below the new loan repayment levels, the Secretary would issue "in-kind" certificates to domestic and foreign buyers to bridge the gap between the effective support and the market.

Target prices would be frozen for the 1986 crop at the 1985 level of 81 cents per pound. For the 1987 crop, the Secretary would have the authority to set the target price at not less than 98 percent of the 1986 level (81 cents); at not less than 95 percent for the 1988 crop; at not less than 92 percent for the 1989 crop; and at not less than 90 percent for the 1990 crop.

To qualify for program benefits, producers would be required to divert up to 25 percent and the Secretary could offer a voluntary payment in kind supplemental diversion plan, including payments in kind, if greater acreage cuts were needed.

The base loan rate would be set at $7.20 per hundredweight for 1986 and then based on 85 percent of the average market price in the past 5 years, excluding the high and low years, with annual reductions limited to 5 percent and a floor of $6.50.

The Secretary is required to permit repayment of the price support loan at the world market price, but for 1986 and 1987 not below 50 percent of the original loan rate, for 1988 not below 60 percent of the original loan, and for 1989 and thereafter not below 70 percent of the original loan. Up to one-half of the difference between the original level and repayment level may be paid in negotiable in-kind certificates.

If the market price falls below the repayment level, the Secretary must issue in-kind marketing certificates to exporters bridging the gap between domestic and world prices. (The "marketing loan" plan under which growers can repay support loans at a reduced rate would be applied in the case of rice to the 1985 crop as well as the 1986-90 crops.)

Target prices would be frozen at $11.90 per hundredweight for the 1986 crop and then scaled down using the same formula as for cotton. (Percentages of 98, 95, 92, and 90 of the original level for the years 1987-90.)

Producers who want to enter the program would be subject to acreage reductions of up to 35 percent. The Secretary could also offer a voluntary paid diversion program and make in-kind payments.

DAIRY

The bill retains the current $11.60 support price for 1986.

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The Secretary is required to implement a whole herd buyout program for 18 months, under which producers—on a bid basis—may take their entire herds out of production. The program will be funded by a producer assessment of 40 cents per hundredweight.

The Secretary is required to purchase 400 million pounds of red meat for export and domestic feeding programs during the 18-month program.

The Secretary is required to implement orderly marketing provisions during the whole herd program.

On January 1, 1987, the Secretary is required to reduce the price support level by 25 cents per hundredweight, and is required to reduce the assessment to 25 cents per hundredweight.

The Secretary is required to reduce the price support level by 25 cents per hundredweight on October 1, 1987, at which time the assessment is terminated.

For the rest of the life of the bill—1988-1990—the Secretary is required to reduce the support price level by 50 cents per hundredweight if CCC purchases are projected to exceed 5 billion pounds. If CCC purchases are projected to be less than 2.5 billion pounds, the Secretary must raise the price support 50 cents per hundredweight.

Differentials used in setting minimum fluid milk prices in some marketing orders would be increased.

SOYBEANS

The bill continues the basic price support loan rate through 1986 and 1987 at the current minimum rate of $5.02 a bushel. For the next three years, rates would be based on an average market price formula with reductions limited to no more than 5 percent a year and with a floor of $4.50 per bushel. In all of the 5 years, the Secretary would have authority to reduce loan levels by an additional 5 percent if necessary to keep the crop competitive in world markets. The Secretary would also have discretionary power to allow repayment of loans under a "marketing loan" system.

SUGAR AND WOOL

The bill also generally extends current programs. The wool price support formula would be frozen for the life of the bill.

The sugar price support is maintained for the life of the bill at 18 cents per pound.

1986 import quotas, scheduled to expire September 30, would be extended for at least 3 months.

Beginning with the next quota year, the Secretary would be directed to operate the sugar program with quota levels which avoid any cost to the government. Also, beginning in the 1987 quota year, no import quotas can be given to a country that is a net importer of sugar unless the country can verify that it does not import any sugar produced in Cuba.

PEANUTS

The peanut program would be continued without major changes. Supports for peanuts grown within a domestic (food and seed) quota in 1986 would be set at the 1985 level plus any increase in the cost of production; for 1987 and thereafter for the life of the bill, such support levels would be adjusted to reflect increases in the cost of production, but not by more than 5 percent annually, and access to quota sales at the domestic support level would be broadened by sharing any growth in the quota between old and new growers. The bill sets a floor of 1.1 million tons (the statutory 1985 level) under the annual domestic peanut quota for the next 5 years, but provides the quota can increase if actual domestic needs grow.

HONEY

The price support would be reduced from the present level of 65 cents a pound to 64 cents for 1986 and 63 cents for 1987. In the following 3 years the Secretary would be authorized to provide reductions of up to 5 percent annually and to implement a marketing loan.

PAYMENT LIMITATIONS AND GENERAL COMMODITY PROVISIONS

The bill continues the present $50,000 annual per producer ceiling for program payments. Exempt from the ceiling would be: (1) target price payments required to offset support loan cuts below basic loan levels, (2) payments made under several program cost-reduction items which the bill provides for discretionary use by the Secretary, and (3) any gains farmers realize when paying off support loans at less than the initial loan level.

A $100,000 ceiling would be placed on disaster payments to producers of grains, cotton, and rice and similar disaster payments are authorized for the 1985-90 crops of soybeans, sugar beets, sugarcane and peanuts.

Advance deficiency payments would be required for the 1986 crops of wheat, feed grains, cotton, and rice, and would be discretionary in future years for the life of the bill. The Secretary also would be given authority to make up to 5 percent of the total deficiency payment with surplus commodities.

New provisions for determining crop and total farm acreage bases are included, along with revisions in the farmer-owned grain reserve program, putting new limits on the program.

Also for the program using target price, the Secretary would have the discretion to make payments to producers who are eligible for loan and target price payments but agree to forgo those benefits.

A beef promotion board is established to administer a beef promotion program. The program will be funded by a $1 per head checkoff at the point of sale, including imported beef. A credit of up to 50 cents per head is provided for assessments paid to State beef councils. Provision is also made for refunds to producers and importers. The program will begin as soon as practicable, and a referendum of beef producers must be held within 22 months of the beginning of the program.

A similar pork promotion board is established to operate a pork promotion program, funded by a ¼ of 1 percent checkoff of the sales price of swine and imported pork products. The checkoff is refundable at the request of the producer until a referendum is approved by pork producers. A referendum must be held within 24 to 30 months of date of enactment of the bill.

EXPORT TITLE

Requires the Secretary to offer surplus commodities owned by the Agriculture Department to exporters, processors or foreign buyers to encourage the development and expansion of overseas markets for American crops including processed farm products. The Secretary would be directed to use $2 billion worth of commodities for the program over the next 3 years to counter unfair foreign trade practices and generally to make American products more competitive, and at least 15 percent of the program could to be devoted to exports of poultry, meat and meat products. To the extent practical, the Secretary must use the com modities in equal amounts in each of the years.

Requires the Secretary of Agriculture t make available not less than $5 billion annu ally in short-term export credit guarantee for the life of the bill where such guaran tees would improve the competitive positio of American exports.

The Secretary is required to make not les than $325 million available annually in FY 86–88 in cash or in surplus commodities fo direct export credits to counter the subsi dies, import quotas or unfair trade practice of foreign countries. (The direct credits whether in cash or in kind, could be used i so-called "blended credit" export programs.

Broadens the purposes for which an exist ing intermediate (3-to-10-year) export credi program can be used and directs the Secre tary to make available intermediate loa guarantees of at least $500 million a yea through 1988, with a ceiling in fiscal 1989 o $1 billion. A previously-authorized expor credit revolving fund is reauthorized unde the bill. Also, the Agriculture Departmen would be directed to operate a pilot test o barter programs with at least 2 countries t acquire strategic or other materials fo which there are unmet national stockpil goals.

Requires the President to designate a Special Assistant for Agriculture Trade and Ai to improve coordination of federal agenc programs in overseas food assistance.

Extends the Food for Peace program and provides that at least 75 percent of the foods shipped under the donation phase of the program must be in the form of processed, fortifies or bagged products. For fiscal 1986, shipments under the donation phase would be maintained at the 1985 level of 1.8 million tons. The bill also authorizes expanded operations under a related program which provides surplus commodities for needy people abroad and it provides that not less than one-tenth of 1 percent of Food for Peace (P.L. 480) funds for fiscal 1986 and 1987 must be used for a farmer-to-farmer technical assistance program.

Authorizes the President to donate up to at least 75,000 and up to 500,000 metric tons of eligible section 416 of P.L. 480 commodities, or any combination thereof, in each of the fiscal years 1989-90 under a new Food for Progress program to promote private free enterprise policy and development. At least 75,000 tons of such commodities must be from section 416. In return for the commodities, the recipient country must promote economic freedom in the production of food for domestic consumption and must be able to use the donated commodities without disrupting its own agricultural markets.

A section on cargo preference regulations states that commodities exported under Public Law 480 (Food for Peace) and two other donation programs will be subject to a cargo preference floor starting at 60 percent in calendar 1986 and rising to 75 percent in 1988 and thereafter (in place of the current 50 percent). The bill provides that additional funds needed for these increases would come from the Department of Transportation and it exempts from cargo preference a number of commercial-style export and export credit programs operated by the Agriculture Department including blended credit programs. If the Transportation Department is not able to provide the needed funds, the new provisions would be shelved and existing law would come back into effect.

The bill requires the Secretary of Agriculture and the U.S. Trade Representatives to pursue agricultural trade consultations with major producing countries. Trade-related studies required by the bill include one to determine the impact on U.S. agriculture of Brazilian ethanol and another on specific unfair trade practices by foreign countries which affect American exports.

CONSERVATION

For highly erodible land which has not been cultivated since 1980, the bill provides a "sodbuster" program to discourage plowing up fragile soils. If a farmer planted a crop on fragile land in violation of the terms of the bill, he would lose price supports and other farm benefits for all of his crops in the year of the violation. Highly erodible land which was used for crops (or idled under a government acreage control program) between 1981 and 1985 would initially be exempt from the sodbuster penalties, but this "grandfather clause" exemption would disappear for any affected producer who fails to begin applying a conservation plan by 1990 or 2 years after completion of a soil survey of his land, whichever is later. Producers would have until 1995 to complete application of the conservation plan. A companion "swampbuster" provision would deny farm benefits to producers who convert wetlands to crop use in the future except in cases where the impact of the action is found to be minimal.

For highly erodible soils which are already in crop use, the bill provides a long-term Conservation Reserve program under which farmers would contract for periods of 10 to 15 years to return 40 to 45 million of such acres to less-intensive uses such as grass or trees, which in some cases may be used to establish shelterbelts. In return for compliance with the contracts, growers would get cash or "in kind" land rental payments (established on a bid basis) plus payments covering a part of the cost of needed land treatment measures. No more than 25 percent of the land in any county could be enrolled in the Reserve except in counties where the Secretary of Agriculture decides that higher levels would not hurt the county economy. There would be a $50,000 limit on annual payments to farmers under Reserve contracts.

The bill extends the Resources Conservation Act, requiring the Agriculture Department to produce assessments of soil and water resources in 1995 and again in 2005. A further section permits governors of states which have state laws to protect farmland from urban development to file suits in cases where the federal government has not followed procedures of a federal farmland protection law. (The federal law requires, among other points, that government agencies must consider alternatives before taking actions which result in shifting farmland to nonfarm use.)

The bill requires the Secretary of Agriculture to formulate plans and give technical assistance to property owners, state and local agencies, and interstate river basin commissions to protect the quality and quantity of subsurface water, reduce flooding hazards, and control salinity. The Secretary must report to Congress on this matter by February 15, 1987.

CREDIT AND RURAL DEVELOPMENT

The bill reauthorizes and in some cases revises federal farm credit and rural development programs. It requires the Secretary, through September of 1988, to operate a $490 million program under which the Agriculture Department and private lenders would share equally in the cost of reduction in interest rates for hard-pressed farmers who hold loans guaranteed by the Farmers Home Administration. The government could pay for 2 percent of the "buy-down," or one-half of the total, whichever was less.

The bill includes discretionary authority for a program of planting-season advance commodity loans to farmers beginning in 1986.

Authorization ceiling include annual caps for the 1986 through 1988 fiscal years of $3.48 billion for Farmers Home Administration farm operating loans with a phased shift from an equal division between direct and guaranteed loans to a third-year division of $870 million for direct and $2.610 billion for guaranteed loans.

For farm ownership loans, the bill authorizes $520 annually, beginning with an equal diversion between direct and guaranteed loans and ending with a third-year diversion of $130 million direct and $390 million in guarantees. (The Secretary is authorized to transfer up to 25 percent of each year's guarantee allocation into direct loans.)

For emergency disaster loans there would be ceilings of $1.3 billion in fiscal year 1986, $700 million in 1987 and $600 million in 1988. Under new changes contained in the bill, such disaster loans would no longer be available to those who can get credit elsewhere or beginning in 1987, to those who chose not to purchase crop insurance if it were available. In addition, FmHA disaster loans would now be restricted to not larger than family size farm operators.

For rural development programs, the bill authorizes $340 million annually for 3 years in direct water and waste disposal loans and $250 million annually in guaranteed industrial development loans plus $115 million in direct community facility loans. The bill also provides a new method of determining eligibility for water and sewer loans and grants based on community income and health and sanitary conditions.

A "clear title" provision in the bill is designed to protect buyers of farm products from challenges to the title to their purchases while still allowing lenders to protect their liens on farm products. States would be given 12 months to set up central registry systems for recording farm product liens, if they wish to do so.

Also, the Agriculture Department would be ordered to observe a number of new restrictions on the way it handles farmland acquired by the government in future foreclosures of FmHA loans. Among other provisions, USDA would be forbidden to sell such land if the sales would depress local farmland values, and first priority in any sales or leases would have to be given to operators of farms which are not larger than family size. In leases, the bill calls for giving priority to former owners of the land and sales prices must reflect the probable income the land can produce. Where FmHA-owned land is administered under management contracts, contracts must be let under competitive bids with preference to local small businessmen, and the use of conservation practices may be required on land which has been classed as highly erodible as a condition of sale or lease.

The bill allows the Secretary to acquire from FmHA borrowers who cannot repay their loans on conservation, recreational or wildlife easements on land which has been in crops but is classed as wetland, upland, or highly erodible. In return, the Secretary could cancel part of the borrower's debt.

The Secretary would be given discretion to make loans to distressed FmHA borrowers who plant timber crops on marginal farmland which is security for their existing loans. The new credit, which would reamortize the old loans and would be limited to an overall total of 50,000 acres, would be repayable when the timber produces revenue or within 45 years.

The category of those eligible to borrow from cooperative banks of the Farm Credit System is expanded to include all rural utilities eligible to borrow from the Rural Electrification Administration.

The bill requires a study of procedures used by FmHA for farmer appeals when loan applications are rejected, and a further provision creates a new, speedier appeals system using informal meetings. Other amendments require FmHA to process loan applications within 60 days, to provide funds on approved loans within 15 days, and to continue the agency's small farmer training and technical assistance program.

RESEARCH

The bill authorizes a 3-year program of special grants for educational and counseling programs to develop income alternatives for producers who have been forced out of farming by economic stress. It also directs the Secretary of Agriculture to develop "appropriate controls" on the development and use of biotechology in agriculture.

The bill also includes a provision urging USDA to emphasize, in its research and teaching programs, new technology suitable for small- and moderate-sized farms. The Secretary of Agriculture would be directed to report on the feasibility of more complete studies of the relationship between diet and blood cholesterol in humans, and dietary calcium and its importance in human health and nutrition. The bill allows the Secretary to make cooperative, cost-sharing agreements with private agencies, organizations or individuals to develop new agricultural technology, authorizes research on new uses for farm and forest products, and directs the Secretary to conduct demonstration projects on the development or commercialization of crops that would supply strategic industrial products.

Federal agricultural research funding authorizations would be extended through 1990 with fiscal 1986 ceilings including $600 million for federal activities, $270 million for contributions to cooperative research in state experiment stations and $370 million for contributions to cooperative extension programs in states (with $10–$20 million annual increases in following years for the three programs), and $7.5 million annually for aquaculture research.

The bill authorizes competitive research grants at a level of $70 million for the period covered by the bill and for grants and fellowships for food and agricultural sciences education at an annual level of $50 million. It authorizes the Research Facilities Act for the period covered by the bill at a level of $20 million with a federal-state matching provision for facilities at state cooperative institutions. It reauthorizes the animal health and disease research advisory board and an authorization level of $25 million. It also authorizes permanent extension funding for the 1890 institutions and $10 million annually for 5 years for extension facilities. The bill establishes a new program of agricultural productivity research with demonstration projects to be conducted for a term of at least 5 years and to the extent practicable 12 to 15 years.

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FOOD ASSISTANCE

The food program section of the bill extends the Food Stamp program for 5 years, improves some program benefits, and requires all states to set up special employment and training programs to help move jobless stamp recipients onto payrolls. The bill also extends for 2 years, through fiscal 1987, the Temporary Emergency Food Assistance Program authorizing distribution of government surplus foods to the needy.

Among the food stamp changes adopted were an increase in work incentives by revising the "earned income" deduction used in calculating stamp benefits; changes in assets limitations to make the program more accessible to working poor households; an increase in the excess shelter cost deduction to the Food Stamp Program operations; and action to strengthen program accountability and management.

Other food assistance provisions in the bill would extend the Commodity Supplemental Food Program for women and young children for 5 years and broaden the program to serve elderly persons in cases where this would not deny benefits to women and children. The bill also would authorize increased nutrition education for low-income people and strengthen current efforts to monitor nutrition of low-income people.

OTHER PROVISIONS

The bill provides that in order to prevent damage to older gasoline engines used on many farms, the Environmental Protection Agency must not reduce the lead limit in gasoline to below 0.1 gram per gallon until Jan. 1, 1988. In the interim, the Agriculture Department and EPA would make a study of the need for lead in engines, completing the study by Jan. 1, 1987 and reporting within 6 months on whether it would be appropriate to modify the general lead-limit rules in the case of gasoline used for farming purposes.

Another provision bans imports of Flue-cured or Burley tobacco which does not pass U.S. pesticide residue tests applying to American-grown tobacco. Also, the bill directs the Agriculture Department to continue a program of random checks to determine if imported Canadian potatoes meet U.S. standards.

A ban for a total for 5 years is placed on price supports and certain other farm benefits for persons convicted of growing or storing "controlled substance" drugs; requires tobacco importers, in addition to reporting the country of origin of the project, to also identify the intended U.S. purchaser; authorizes watermelon producers to adopt a checkoff program to finance research and promotion; and directs the Secretary to conduct a pilot project under which wheat, cotton, feed grain and soybean growers in at least 40 counties would test a program of using futures or options markets to protect their incomes (with participating producers assured by the USDA that their returns could not fall below support loan levels).

An animal welfare title revises standards for the humane handling of animals by research facilities, dealers and exhibitors. It directs the Secretary to develop standards with minimum requirements in areas including housing, feeding, shelter, veterinary care and experimental procedures that minimize pain and distress.

Changes would be made in the federal Virus-Serum-Toxin Act, a law which regulates veterinary biologics, to give the Agriculture Department control over intrastate as well as interstate sales, but would allow states which have effective regulatory systems to retain them. Intrastate producers would be given up to 4 years to comply with Federal regulations.

Other provisions in the bill: require the Secretary to give 60 days notice to the Senate and House agriculture committees before he acts to terminate marketing orders for non-price supported crops; require the Secretary to designate 3 administrative areas for the selection of community Agricultural Stabilization Committees in all counties with some exceptions such as in counties with less than 150 farmers, in which case only a single area is required; and require the Secretary to control grasshoppers and Mormon crickets on federal rangeland.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I would like to ask the majority leader about the program for the rest of the evening, whether there will be rollcall votes, how late we may be in this evening, and what is the prospect for sine die tomorrow?

Mr. DOLE. Mr. President, I thank the distinguished minority leader.

I am advised that the House will not take up the continuing resolution until 11 a.m. on tomorrow, which means that we cannot adjourn sine die tonight. I am also advised that at this very moment the House is sending to us an extension on 13 expiring items that must be acted on tonight: Extension of R&D targeted jobs credit as in the tax reform bill, moratorium on IRS and R&D regs as in the tax reform bill, educational assistance, prepaid legal, architectural barriers, net operating loss moratorium attorney fees, energy credits to the extended tax reform, factory housing, sugar and excise tax, taxi cab fuel extension, spouses of Vietnam MIA's.

These are on the Ways and Means extender bill through March 15 of next year.

I do not see the distinguished chairman of the Finance Committee.

Mr. METZENBAUM. Mr. President, will the distinguished majority leader yield for a question?

Mr. DOLE. I yield.

Mr. METZENBAUM. What is the moratorium that the majority leader is talking about? Is it on some regulations of IRS? I understood this was a tax extender bill. But I did not know we were putting in a moratorium on the IRS.

Mr. DOLE. No. I qualified that. That was a moratorium on IRS and R&D regs as in the tax reform bill passed by the House last evening.

I do not know if anyone here wants a rollcall on this package. If we can have the assurance there will be no rollcall, but we have to pass it by midnight. Some of these provisions expire.

I would not want to indicate there would be no more rollcall votes, and someone jump up and either demand a rollcall or offer some amendment which we had to dispose of.

There are a number of Members on the floor. If no one seeks a rollcall, I think we can assure Members we might not do that.

Mr. BYRD. Mr. President, has the distinguished majority leader completed the list of extension?

Mr. DOLE. Yes. There are 13 of them.

Mr. BYRD. What date or dates would they be?

Mr. DOLE. Through March 15, 1986.

Mr. BYRD. Is this the only possibility or likelihood of a rollcall vote tonight, may I ask?

Mr. DOLE. That is correct.

Mr. BYRD. If no one indicates a desire to have a rollcall vote on the extensions, then I would take it that, if the majority leader agrees, there will be no more rollcall votes tonight.

Mr. DOLE. Mr. President, I am prepared to announce that there will be no other matters that require a rollcall vote.

The distinguished minority leader has the floor. I wonder if he might yield to the distinguished chairman of the Appropriations Committee to get some indication of what will happen in the timeframe on the Senate side on CR.

Mr. BYRD. I am happy to yield.

Mr. HATFIELD. Mr. President, the reconstituted conference committee has completed all of the items on our agenda with the exception of the Defense Subcommittee. That is pretty well narrowed down to the question of chemical weapons.

I would anticipate that we will complete work, and I have been in touch with the administration. Under a certain set of guidelines they will sign off on this CR, and will support it in both the House and the Senate.

We have not yet met those guidelines. We are in the process, and I anticipate that we will meet them before we complete our work, probably within about 1 hour.

Mr. BYRD. I thank the distinguished chairman of the Appropriations Committee, and the CR conference on this.

Mr. President, I have one more question of the majority leader.

Beyond the CR conference report, does the distinguished majority leader anticipate that the Senate will be in session beyond that, or do we expect to complete the conference on the reconciliation bill?

Mr. DOLE. The reconciliation bill is still hopefully a live possibility. They are down to two subconferences: one on Banking, and one involving Finance and the Ways and Means Committee. There is some hope that the Banking matter can be resolved. We hope it can be resolved.

Then as I understand, according to the chairman of the Finance Committee, there is just one outstanding issue involving Ways and Means and Finance. That is Superfund, and how it should be paid for—whether it should be a new tax. I do not know what it is called. But it is a value-added tax. We hope that is a possibility tomorrow.

Mr. BENTSEN. Mr. President, will the majority leader yield?

Mr. BYRD. Mr. President, I yield the floor.

I thank the majority leader.

Mr. BENTSEN. Mr. President, I think we have two issues still outstanding. I believe we have two issues left between Ways and Means and Finance. One of them is the Superfund and the other is the extension regarding Social Security.

Mr. DOLE. Mr. President, the chairman of the Finance Committee earlier indicated that there had been a reluctance on the part of the House conferees to meet. So it is fairly difficult to work out any agreement that they can meet. I will announce there will be no more votes this evening.

Mr. DANFORTH. Mr. President, before the leader does that, I wonder if I can ask a question. I am sorry. I was in the cloakroom when the majority leader discussed the program for the rest of the evening.

But as I understand it, one of the suggestions was to take up a bill which I think has been passed by the House extending certain provisions of the Internal Revenue Code which would otherwise expire.

My understanding is that the House bill extends 13 provisions of the Internal Revenue Code. But what the House does in some of those programs is amend the underlying program. Therefore, what they are asking us to do is not only extend the programs as is but to change the programs really on faith without any input at all from the Senate.

Some of us have been considering—and, in fact, Senator BENTSEN and I and others with 68 cosponsors have introduced a bill which is a straight extension of these provisions without any action to modify them in the last day or so of the Congress.

It is my hope that the Senate can agree to take up the House bill, and to amend it to provide for a straight extension. If we can do that, that may or may not require a rollcall depending on the sense of the Senate. But I would like to at least hold open the possibility for that kind of amendment on the floor tonight, if that is one of the bills that will be brought up.

Mr. BENTSEN. Mr. President, if I may strongly urge that we follow the suggestion of Senator DANFORTH in that regard because we do not know how this will modify particular underlying legislation, nor what the extension will affect. We would be continuing the status quo under the bill that we talked about with the cosponsors. We would leave it to the appropriate committee over here to study the underlying legislation to make the proper decision.

Mr. DOLE. Mr. President, I think it is fair to say that we better be prepared to hang around here for a while. What they have done on the House side is to send us extensions. In four cases, it is a change in current law because they have extended as they have it in the tax reform bill passed last night by the House, on R&D credits, targeted jobs credits, the moratorium and energy credits. That could lead to a nice debate on those items and maybe some more that we have not thought of.

I suggest the absence of a quorum.

Mr. CRANSTON. Will the Senator withhold for one question on another topic? I know the Senator cannot predict the schedule with accuracy, but what is the earliest time we might get to the continuing resolution tomorrow?

I just asked another question on the schedule. What is the earliest time we might get to the continuing resolution tomorrow.

Mr. HATFIELD. Mr. President, assuming the fact that we expect to complete the continuing resolution tonight, there will be about a 3-hour requirement to put the paperwork together, which would indicate then that, according to my information, the House will come in at 10 and go to the Rules Committee to seek a rule. Normally, they try to put a time limit on that consideration of a resolution of about an hour. They did it the last time. That would mean, then, that the House conceivably could finish up with the continuing resolution by, say, 1 o'clock and send it over here. We could conceivably have it ready for consideration on the floor between 2 and 3 o'clock. I would say that is a fairly liberal exercise of the time scenario. They could conceivably get it over here by 1 o'clock.

Mr. CRANSTON. The House automatically takes it up first?

Mr. HATFIELD. The House will take it up first.

Mr. CRANSTON. I thank the Senator.

Mr. BUMPERS. Will the majority leader yield?

Mr. DOLE. Yes.

Mr. BUMPERS. As I understand, we are taking up the House bill on these extensions. I would like to ask the manager of the bill, if he is around, under current law——

Mr. DOLE. The manager of the bill is not here.

Mr. BUMPERS. Maybe the staff would know the answer to the question. Under current law, judges who are on senior status are not required to pay Social Security, the reason being that they take senior status and they take retirement and then if they carry a caseload, they are required to pay Social Security. So it is to their advantage not to carry a caseload if they have to pay Social Security. So we have exempted them. That is one of the items that is coming to an end. That exemption is in the Senate bill but I wonder if it is in the House bill. If it is not, I might want to offer an amendment on that.

Mr. DOLE. I do not see it listed. That is not one of them. I would hope if there are going to be amendments, that we do not wait until 2 a.m. to draft amendments on this bill.

Mr. EXON. Will the majority leader yield for a question?

Mr. DOLE. I yield.

Mr. EXON. I would like to ask the majority leader so we might plan ahead, is there any possibility that we could get agreement that we would be out of here by 6 o'clock on Christmas Eve and not meet until 2 p.m. on Christmas day, if that becomes necessary?

Mr. DOLE. I hoped we might be out this evening. Obviously, that is not going to happen. Again, I could see us here even through Friday but I cannot think of anything that would keep us here longer.

Mr. EXON. Actually, on planning ahead, is there a possibility that we might possibly conclude our activities by tomorrow night sometime or is that not a safe assumption?

Mr. DOLE. I have just been advised by Senator STEVENS, who is a member on Defense, that they have not reached agreement yet on Defense, though I assume they will stay in conference tonight until there is either agreement or total disagreement. If there is disagreement we will get an extension with some CR, I guess, up through next January. I guess the big question that I cannot answer is what happens to reconciliation. If we do not do the CR until 3 o'clock, and I do not know when we will do reconciliation, we may have a very late night tomorrow night and hopefully that might end it.

Mr. EXON. As I understand it right now, there is still a possibility of rollcall votes tonight.

Mr. DOLE. A possibility of rollcall votes tonight, I am sorry to say, yes.

Mr. EXON. I thank the majority leader.

The PRESIDING OFFICER (Mr. COCHRAN). Does any Senator seek recognition?

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

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Mr. SIMPSON. Mr. President, we have some business to perform. I have conferred with the Democratic leader and I now present various matters to the Chamber.

FEDERAL DEBT COLLECTION

Mr. SIMPSON. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 1890.

The **PRESIDING OFFICER** laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendments of the Senate numbered 1, 2, 4, 5, 6, 8, 9, and 11 to the bill (H.R. 1890) entitled "An Act to provide for an equitable waiver in the compromise and collection of Federal claims.".

Resolved, That the House agree to the amendment of the Senate numbered 3 to the aforesaid bill, with the following amendment:

In lieu of the matter stricken and inserted by said amendment, strike out [made on or after January 1, 1985].

Resolved, That the House agree to the amendment of the Senate numbered 7 to the aforesaid bill, with the following amendment:

In lieu of the matter stricken and inserted by said amendment, strike out [made on or after January 1, 1985].

Resolved, That the House agree to the amendment of the Senate numbered 10 to the aforesaid bill, with the following amendment:

In lieu of the matter stricken and inserted by said amendment, strike out [made on or after January 1, 1985], and on page 4, after line 17 of the House engrossed bill, insert:

SEC. 4. EFFECTIVE DATE.

The amendments made by section 1 of this Act shall apply to any claim arising out of an erroneous payment of travel, transportation, or relocation expenses and allowances made on or after the date of the enactment of this Act. The amendments made by section 2 and 3 of this Act shall apply to any claim arising out of an erroneous payment of travel and transportation allowances made on or after the date of the enactment of this Act.

Mr. SIMPSON. Mr. President, I move that the Senate concur in the House amendments to Senate amendments numbered 3, 7, and 10.

The motion was agreed to.

Mr. SIMPSON. Mr. President, I move to reconsider the vote.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ENROLLMENT CORRECTION

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Senate now turn to consideration of House Concurrent Resolution 262, to correct the enrollment of the Compact of Free Association.

The **PRESIDING OFFICER.** Is there objection? Without objection, the clerk will state the resolution by title.

The legislative clerk read as follows:

A house concurrent resolution (H. Con. Res. 262) correcting the enrollment H.J. Res. 187.

The resolution (H. Con. Res. 262) was considered and agreed to.

Mr. SIMPSON. I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DESIGNATION OF THE PERIOD COMMENCING JANUARY 1, 1986, AND ENDING DECEMBER 31, 1986, AS THE "CENTENNIAL YEAR OF THE GASOLINE POWERED AUTOMOBILE"

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of Senate Joint Resolution 231, designating the period commencing January 1, 1986, and ending December 31, 1986, as the "Centennial Year of the Gasoline Powered Automobile," and I ask for its immediate consideration.

I ask for its immediate consideration.

Mr. PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the joint resolution by title.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 231) to designate the period commencing January 1, 1986, and ending December 31, 1986, as the "Centennial Year of the Gasoline Powered Automobile".

Mr. PRESIDING OFFICER. Without objection, the joint resolution will be considered as having been read the second time at length, and the Senate will proceed to its consideration.

The resolution (S.J. Res. 231) was considered, ordered to a third reading, read the third time, and passed, as follows:

The preamble was agreed to.

The joint resolution with its preamble is as follows:

S.J. Res. 231

Whereas the first motor vehicle powered by an internal combustion engine was invented in 1886;

Whereas such vehicle was the forerunner of the present automobile and there are more than one hundred twenty-four million automobiles registered in the United States;

Whereas one in five jobs in the Nation are dependent directly or indirectly on the automobile industry;

Whereas the automobile has been associated with tremendous changes in society in the one hundred years since its invention; and

Whereas the automobile has enhanced communication, travel and has brought mobility to all people in the Nation; Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period commencing January 1, 1986, and ending December 31, 1986, is designated as the "Centennial Year of the Gasoline Powered Automobile" and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such year with appropriate ceremonies and activities.

Mr. SIMPSON. I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

● **Mr. RIEGLE.** Mr. President, I am pleased that the Senate has been able to approve Senate Joint Resolution 231 prior to adjournment. This resolution will designate 1986 as the centennial year of the gasoline powered automobile. The automobile has had a great impact on our world, and it is fitting that we recognize the role that it has played during the past 100 years.

By taking this action today, and obtaining speedy House action, many organizations ranging from the UAW to automobile dealers and manufacturers will be organizing events and raising public awareness of the automobile. I thank Senator THURMOND for his assistance in allowing me to bring this resolution before the Senate today, and also for cosponsoring this bill along with 37 other Senators.●

AMENDMENT OF TITLE 10, U.S. CODE

Mr. SIMPSON. I ask unanimous consent that the Senate turn to consideration of H.R. 3974, the House companion to S. 1956.

The **PRESIDING OFFICER.** Is there objection? Without objection, it is so ordered.

The clerk will state the bill.

The legislative clerk read as follows:

A bill (H.R. 3974) to amend title 10, United States Code, to include in the death gratuity payable to survivors of a member of the Armed Forces who dies on active duty an amount equivalent to two months housing allowance.

AMENDMENT NO. 1428

Mr. SIMPSON. Mr. President, I send an amendment in the nature of a substitute to the desk on behalf of Senator THURMOND.

The **PRESIDING OFFICER.** The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON], for Mr. THURMOND, proposes an amendment numbered 1428.

Mr. SIMPSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That section 403 of title 37, United States Code, is amended by adding at the end thereof the following new subsection:

"(l)(1) The Secretary of Defense, or the Secretary of Transportation in the case of the Coast Guard when not operating as a service in the Navy, may allow the dependents of a member of the armed forces who dies in line of duty and whose dependents are occupying family housing provided by the Department of Defense, or by the Department of Transportation in the case of the Coast Guard, other than on a rental basis on the date of the member's death to continue to occupy such housing without charge for a period of 90 days.".

"(2) The Secretary concerned may pay an allowance for quarters to the dependents of a member of the uniformed services who dies in line of duty and whose dependents are not occupying a housing facility under the jurisdiction of a uniformed service on the date of the member's death or are occupying such housing on a rental basis on such date, or whose dependents violate such housing sooner than 90 days after the date of the members death. The amount of the allowance for quarters shall be the same amount that would be payable to the deceased member under sections 403, 403a, and 405 of this title if the member had not died. The payment of an allowance for quarters under this subsection shall terminate 90 days after the date of the member's death.".

Sec. 2. The amendments made by section 1 of this Act shall take effect December 12, 1985, and shall apply only with respect to housing for and payment of an allowance for quarters to dependents of members of the uniformed services who died on or after that date.

Sec. 3. Servicemen's Group Life Insurance Program.—Section 401(c) of Public Law 99-166 is amended to read as follows:

"(c) Effective date.—(1) Except as provided in paragraph (2), the amendments made by subsections (a) and (b) shall take effect on January 1, 1986.

"(2) The amendment made by subsection (a)(1)(A) shall be deemed to have taken effect on December 12, 1985, with respect to members who—

"(A) died after December 11, 1985, and before January 1, 1986; and

"(B) were, on the date of death, insured in the amount of $35,000 under subchapter III of chapter 19 of title 38, United States Code.".

The **PRESIDING OFFICER**. The question is on agreeing to the amendment.

The amendment (No. 1428) was agreed to.

The **PRESIDING OFFICER**. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The **PRESIDING OFFICER**. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 3974), as amended, was passed.

The title was amended so as to read:

"To provide for temporary family housing or temporary housing allowances for dependents of members of the Armed Forces who die on or after December 12, 1985, and for other purposes.".

Mr. **SIMPSON**. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. **BYRD**. Mr. President, I move to lay the motion to reconsider on the table.

The motion to lay on the table was agreed to.

ASSISTANCE FOR THE REPUBLIC OF LIBERIA

Mr. **SIMPSON**. Mr. President, I ask unanimous consent that the Senate turn to calendar item No. 476 (S. Res. 271), dealing with Liberia.

The **PRESIDING OFFICER**. Is there objection? Without objection, it is so ordered.

The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 271) expressing the sense of the Senate regarding the furnishing of assistance for the Republic of Liberia, and for other purposes.

The Senate proceeded to consider the resolution.

U.S. POLICY TOWARD LIBERIA

Mr. **DODD**. Mr. President, I rise in strong support of the resolution regarding U.S. policy toward the Republic of Liberia.

On December 10, the Foreign Relations Committee Subcommittee on African Affairs, chaired by my distinguished colleague from Kansas, Senator Kassebaum, held a hearing on U.S. policy toward Liberia. Hope is disintegrating for a return to civilian rule by free elections in Liberia, and much of that hearing focused on the U.S. Aid Program to Liberia, in light of events.

Since 1981, the United States has provided Liberia with $375 million in economic and military aid, based on the Government of Liberia's commitment to free and fair elections. Let me just read to my colleagues section 807 of the International Security and Development Cooperation Act of 1985:

> In recognition of the special relationship that the United States has with Liberia and of the wide variety of interests that the United States has in Liberia, security assistance for fiscal years 1986 and 1987 is based on the expectation of a successful completion of free and fair elections, on a multiparty basis, in October 1985 as proposed by the Government of Liberia and on a return to full civilian, constitutional rule as a consequence of those elections.

In case there may be any lingering doubts among my colleagues that the government of Samuel K. Doe has failed to meet those requirements, the basic facts about the tragedy that is now occurring in Liberia will dispel them.

When the Doe regime seized power in 1980, there seemed some grounds to hope that power would be shared more equitably in Liberia, that the native African majority might gain a fair share in the Government with the descendants of freed American slaves. Then sergeant, now Major General Doe, the leader of the coup, promised a return to civilian rule. The Doe regime promised free and fair elections. Those promises have been broken and those hopes have been dashed. Look at what has happened.

On September 13, 1985, for example, Ellen-Johnson Sirleaf, one of the Doe regime's prinicipal opponents, was convicted of sedition. Mrs. Johnson-Sirleaf's crime was to give a speech in the United States opposing the economic policies of the Doe regime, as an economist, the Nairobi representative of Citibank, Mrs. Johnson-Sirleaf's opinions on the economic mismanagement of her native land are worth hearing. But the Liberian people did not have the chance. Her Liberal Action Party, and the primary opposition group, the United People's Party, were barred from the elections.

On October 15, the already tained elections were held. And on October 29, the predictable results were announced—a victory, albeit a narrow one, for Samuel K. Doe. Topping the long list of election irreguarities witnessed by opposition figures and Western reporters was a large pile of ballots that were burned outside of the Liberian capital.

In light of Liberia's economic woes, compounded by these political troubles, it is not surprising that a coup was attempted on November 12. It failed, but let no one suspect that failure augers well for Liberia's future.

In response to the coup, Liberian soldiers went on what can only be described as a rampage. There were summary executions, a diplomatic crisis with neighboring Sierra Leone, and arrests of leading opposition figures on trumped-up charges of participating in the coup. According to one observer on the scene, the Government did not have its soldiers under control after the coup attempt. As reported in the Washington Post, this businessman said: "The soliders are just arresting anyone who they think might be a threat."

So at the risk of appearing balanced and consistent—something maybe we ought to try more often around here—it seems to me that the Government of Liberia deserves no better treatment from the United States than does the Government of South Africa.

We know what the Government of Pretoria is, and what it has done to its people. It is a totalitarian regime and it is brutal. Regrettably, the Government in Monrovia also shows signs of totalitarianism. And it also brutalizes its people.

So the credibility of our policy requires that we apply the same rules

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and the same standards to both situations. We can be no more concerned about the political prisoners, the political killings and political injustice in South Africa than we are about the political prisoners, the political killings and the political injustice in Liberia.

Liberia is the highest per capita recipient of U.S. foreign aid in Africa. U.S. aid to Liberia has increased sixfold since the Doe regime took power. I think the record shows that to be a very poor investment, indeed.

This Congress has conditioned further U.S. aid on free and fair elections, and on a return to civilian government. The evidence shows that warning has been disregarded. That disregard must now have its consequences.

We should not turn our backs on the people of Liberia, with whom the United States has had a long and unique relationship, but we should have as little as possible to do with the Doe regime.

This resolution asserts that the October elections do not meet the requirements this Congress set for U.S. aid to Liberia. It calls on the President to channel future economic aid to Liberia through nongovernmental channels. And it calls on the President to suspend all military aid to Liberia until the Doe regime's political prisoners are released, and real steps are taken toward free and fair elections and a return to civilian rule. I think that is the only prudent course for U.S. policy toward Liberia at this time, and I urge my colleagues to pass this resolution unanimously.

The **PRESIDING OFFICER**. The question is on agreeing to the resolution.

The resolution (S. Res. 271) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. Res. 271

Whereas the Republic of Liberia and the United States are bound by ties of mutual respect and friendship;

Whereas the Government of Liberia has undertaken since 1981 to restore civilian rule and establish a genuinely democratic government which will provide all citizens with an equal voice in the goverance of their country;

Whereas the Goverment of Liberia made a public commitment to hold a free and fair election in 1985 and to install a civilian government based on the results of that election by 1986;

Whereas the United States has provided the Republic of Liberia with $375,000,000 in economic and military assistance since 1981 on the basis of the Government of Liberia's commitment to hold free and fair elections;

Whereas the election that took place in the Republic of Liberia on October 15, 1985, has been characterized by improprieties, including the denial of the right to participate by significant opposition parties and candidates and restrictions on the freedom to campaign;

Whereas the results of the election, as announced on October 29, 1985, giving 50.9 percent of the vote to General Doe, were tallied in secret by an ad hoc committee appointed by the military government after an earlier tabulation in the presence of opposition party representatives gave the election to another candidate;

Whereas several political leaders have been arrested and held in detention without charge, allegedly on the grounds that they participated in the attempted coup d'etat of November 14, 1985;

Whereas the Congress, in the International Security and Development Cooperation Act of 1985, expressed the need for free elections in the Republic of Liberia; and

Whereas it is the desire of the Congress that the people of Liberia enjoy the full fruits of democracy as well as the respect of the international community: *Now, therefore, be it resolved*, That (e) it is the sense of the Senate that—

(1) the October 15, 1985, election and vote tally in the Republic of Liberia do not meet the requirements of section 807 of the International Security and Development Cooperation Act of 1985;

(2) the President should channel, to the maximum extent possible, future economic assistance to the Republic of Liberia through nongovernmental organizations; and

(3) the President should suspend military assistance to the Republic of Liberia until the Government of Liberia has released all political prisoners, provided for free and fair elections, and established a civilian government chosen through such election.

(b) The Senate hereby expresses to the people of Liberia the friendship of the people of the United States and the earnest desire of the people of the United States for the establishment of a genuine democracy in Liberia.

Sec. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.

Mr. **SIMPSON**. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. **BYRD**. Mr. President, I move to lay the motion to reconsider on the table.

The motion to lay on the table was agreed to.

EXTENSION FOR SUBMISSION OF U.S. SENTENCING COMMISSION GUIDELINES

Mr. **SIMPSON**. Mr. President, I ask unanimous consent that the Senate turn to H.R. 3837 dealing with the United States Sentencing Commission.

The **PRESIDING OFFICER**. Is there objection? Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3837) to extend the deadline for submission of the initial set of sentencing guidelines by the United States Sentencing Commission, and for other purposes.

The Senate proceeded to consider the bill.

The **PRESIDING OFFICER**. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 3837) was ordered to a third reading, was read the third time, and passed.

Mr. **SIMPSON**. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. **BYRD**. Mr. President, I move to lay the motion to reconsider on the table.

The motion to lay on he table was agreed to.

JAMES A. WALSH UNITED STATES COURTHOUSE

Mr. **SIMPSON**. Mr. President, I ask unanimous consent that the Senate turn to calendar item No. 489, H.R. 2698, the James A. Walsh U.S. Courthouse.

The **PRESIDING OFFICER**. Is there objection? Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2698) to designate the United States courthouse in Tuscon, Arizona as the James A. Walsh United States Courthouse.

the Senate proceeded to consider the bill.

Mr. **DeCONCINI**. Mr. President, the bill presently before the Senate, H.R. 2698, honors an individual who has served nearly 50 years as a distinguished member of the legal profession in Arizona, Judge James A. Walsh. H.R. 2698, sponsored by my friend and distinguished colleague in the House, Morris K. Udall, would designate the U.S. Courthouse located at 55 East Broadway in Tucson, AZ, the James A. Walsh United States Courthouse. I can think of no more fitting tribute to a man who has given so much to the Federal judiciary than to, at the very least, name a courthouse in his honor.

Throughout his 50 years of service Judge Walsh has proven himself a master in judicial ingenuity. Judge Walsh was admitted to the Arizona State Bar in 1928. Since that time he continued to serve in various public positions including city attorney of Mesa, administrative assistant to U.S. Senator Ernest McFarland, assistant U.S. attorney, Maricopa County attorney and judge of the superior court in Phoenix. In 1947 Judge Walsh left the bench to join one of Arizona's leading law firms, now known as Snell & Wilmer. In 1951-52, he was chief counsel to the Arizona Code Commission which completely revised the statutory law of Arizona. In 1952 President Harry S. Truman appointed Judge Walsh to the U.S. district court. He served as chief judge from 1961 until 1973. On July 9, 1976 he took senior judge status.

I have known Judge Walsh and his family for many years, and have had the privilege of practicing law before him. His earnestness and objectivity in performing the duties of his office have gained him the respect of all who have appeared in his court. Many lawyers througout the West have learned from him the high values to be placed on hard work and the respect to be given to the civility with which the work of lawyers and judges should be conducted.

Judge Walsh is recognized as one of the finest judges ever to serve in the Western States. A building named in his honor is a fitting tribute to his lifetime of achievements, both as a public servant and an understanding individual.

Mr. President, I want to take this opportunity to personally express my thanks and appreciation to Mr. STAFFORD, chairman of the Environment and Public Works Committee, and his staff Steve Swain, for their outstanding efforts in moving this bill expeditiously through the committee. Through their assistance, we now have a bill that can be sent to the President before the Congress adjourns. I also want to thank the distinguished ranking minority of the committee, Mr. BENTSEN and his staff for their help.

I urge my colleagues in the Senate to unanimously give their approval to this legislation.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 2698) was ordered to a third reading, was read the third time, and passed.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. Mr. President, I move to lay the motion to reconsider on the table.

The motion to lay on the table was agreed to.

EXECUTIVE CALENDAR

Mr. SIMPSON. Mr. President, I inquire of the minority leader if he is in a position to confirm any or all of the following Executive Calendar nominations.

Mr. BYRD. Mr. President, if the distinguished assistant Republican leader will proceed with the items, I believe I will be able to agree with going forward on them.

Mr. SIMPSON. Mr. President, I thank the Senator from West Virginia, the Democratic leader. The items are:

Calendar No. 626, J. H. Tyler McConnell; Calendar No. 627, Robert Setrakian; Calendar No. 628, Gerald Ralph Riso; Calendar No. 629, C. Dale Duvall; Calendar No. 630, Sidney Lovett; Calendar No. 631, John Norton Moore; Calendar No. 632, Richard John Neuhaus; Calendar No. 633, W. Bruce Weinrod; Calendar No. 634, Dennis L. Bark; Calendar No. 635, Evron M. Kirkpatrick; Calendar No. 636, W. Scott Thompson; Calendar No. 637, Allen Weinstein; and Calendar No. 638, William R. Kintner.

Also, all military nominations reported out of the Armed Services Committee today, which include 54 Air Force brigadier generals, 1 Navy vice admiral.

If the Democratic leader has reviewed those items and is in a position to agree, I ask unanimous consent that, as in executive session, the nominations just identified be considered en bloc and confirmed en bloc.

Mr. BYRD. Mr. President, there is no objection on this side to proceeding with the nominations, and there is no objection to considering the aforementioned nominations en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered en bloc and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

UNITED STATES POSTAL SERVICE

J. H. Tyler McConnell, of Delaware, to be a member of the Board of Governors of the United States Postal Service for the remainder of the term expiring December 8, 1988.

Robert Setrakian, of California, to be a Member of the Board of Governors of the United States Postal Service for the remainder of the term expiring December 8, 1993.

NEW REPORTS

DEPARTMENT OF THE INTERIOR

Gerald Ralph Riso, of New York, to be an Assistant Secretary of the Interior.

C. Dale Duvall, of Washington, to be Commissioner of Reclamation.

UNITED STATES INSTITUTE OF PEACE

Sidney Lovett, of Connecticut, to be a Member of the Board of Directors of the United States Institute of Peace for a term of 2 years expiring January 19, 1987. (New Position)

John Norton Moore, of Virginia, to be a Member of the Board of Directors of the United States Institute of Peace for a term of 4 years expiring January 19, 1989. (New Position)

Richard John Neuhaus, of New York, to be a Member of the Board of Directors of the United States Institute of Peace for a term of 2 years expiring January 10, 1987. (New Position)

W. Bruce Weinrod, of the District of Columbia, to be a Member of the Board of Directors of the United States Institute of Peace for a term of 2 years expiring January 19, 1987. (New Position)

Dennis L. Bark, of California, to be a Member of the Board of Directors of the United States Institute of Peace for a term of 4 years expiring January 19, 1989. (New Position)

Evron M. Kirkpatrick, of Maryland, to be a Member of the Board of Directors of the United States Institute of Peace for a term of 4 years expiring January 19, 1989. (New Position)

W. Scott Thompson, of New Hampshire, to be a Member of the Board of Directors of the United States Institute of Peace for a term of 4 years expiring January 19, 1989. (New Position)

Allen Weinstein, of the District of Columbia, to be a Member of the Board of Directors of the United States Institute of Peace for a term of 4 years expiring January 10, 1989. (New Position)

William R. Kintner, of Pennsylvania, to be a Member of the Board of Directors of the United States Institute of Peace for a term of 2 years expiring January 19, 1987. (New Position)

AIR FORCE AND NAVY

In the Air Force 54 brigadier generals and 1 Navy vice admiral, reported out of the Armed Services Committee today.

GERALD RALPH RISO

Mr. McCLURE. Mr. President, I support the nomination of Gerald Ralph Riso to be Assistant Secretary of the Interior for Policy, Budget, and Administration. Mr. Riso has complied with all requirements of the Senate and the Committee on Energy and Natural Resources. Mr. Riso appeared before the committee on December 12, 1985, and has fully responded to all questions asked of him by the committee. On Tuesday, December 17, 1985, the committee met in open business session and ordered Mr. Riso's nomination favorably reported to the Senate by a unanimous vote.

The position of Assistant Secretary for PBA is a difficult one, but one for which Mr. Riso is exceptionally well qualified. The Assistant Secretary will be the point man for the Department in the development of the annual budget. He will have responsibility for the coordination of the various missions of the Department within the overall policy guidelines of the Secretary and the parameters set by law. He will be responsible for ensuring that the various agencies have adequate resources to fulfill their mandates and protect and conserve the lands and resources of this Nation. His position is one of support for the other Assistant Secretaries to enable them to achieve their objectives.

Mr. Riso has previously held several senior management positions within the Federal Government. He was Deputy Assistant Secretary for Health and Scientific Affairs at the then Department of Health, Education, and Welfare from 1970 to 1972. He also served as Deputy Commissioner of the Immigration and Naturalization Service within the Department of Justice from 1982 to 1984. He comes to this position well qualified, and I urge my colleagues to support his nomination.

U.S. INSTITUTE OF PEACE

Mr. HATFIELD. Mr. President, the confirmation of the nine nominees for the Board of Directors of the U.S. Institute of Peace represents a landmark. The U.S. Institute of Peace is a dream I've shared with many people for a long time—indeed, a dream as old as our Nation. With the Board in place, this independent and nonprofit

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educational Institute can begin to study ways to feed America's hunger for peace.

Many times I have stood before this body to encourage you, my colleagues, to support the Institute of Peace. Today I stand before you to say thank you. The years of hard work by the 45,000 members of the National Peace Academy Campaign, my distinguished colleagues and former colleagues Matthew Neely, Jennings Randolph, Vance Hartke, Spark Matsunaga, Robert Stafford, and many others have paid off. This payoff will, I am certain, reach every citizen in this country who cares to learn how to wage peace.

The U.S. Institute is a dream which became a reality through necessity. Technological wizardry and international tensions complicate our daily lives. Just as we need to actively provide for our defense, we need to know how to protect peace and how to promote it in other countries. The Institute is designed to provide insight into the techniques required to obtain and maintain peace, and these newly confirmed Board members will have the enviable task of crafting and shaping the project. To them I say congratulations and good luck, and to everyone involved in the U.S. Institute of Peace, I say thanks.

C. DALE DUVALL

Mr. McCLURE. Mr. President, I am pleased to bring before the Senate the nomination of C. Dale Duvall to be the Commissioner of the Bureau of Reclamation. Mr. Duvall has complied with all requirements of the Senate and of the Committee on Energy and Natural Resources. Mr. Duvall appeared before the committee on December 12, 1985, and has fully responded to all questions posed to him by the committee. On December 17, 1985, the committee met in open business session to consider his nomination and unanimously voted to report the nomination to the Senate favorably.

Mr. Duvall is the first Commissioner of the Bureau of Reclamation to require confirmation. He comes from the West and is familiar with the important, and essential, contributions which the Bureau has made to the development of this country. He has an appreciation of the future of the Bureau and the many problems which the Bureau faces. Mr. Duvall has been candid and I look forward to working with him in the future. He does not have an enviable task given the seeming myopia of the Office of Management and Budget. While there will be some shift in emphasis for the Bureau in the future, the entire economy of the West will continue to depend on how well the Bureau continues to function.

Mr. Duvall brings to the job important qualifications. He has been treasurer and vice president of the Overseas Private Investment Corp. and previously was managing partner of a multioffice regional CPA firm based in Spokane, WA. I support his nomination and urge my colleagues to do so also.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the vote by which the nominations were considered and confirmed en bloc be reconsidered.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the President be immediately notified that the Senate has given its consent to these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS APPOINTMENTS

Mr. BYRD. Mr. President, will the distinguished assistant Republican leader yield so that I may read a letter into the Record?

Mr. SIMPSON. I yield.

Mr. BYRD. I thank the distinguished Senator.

Mr. President, the White House, under date of today, has written the following letter to me with respect to recess appointments:

> This is in response to your letter of December 16 to the President, concerning recess appointments during the upcoming adjournment of the Senate.
>
> At this time, the President has no plans to make any recess appointments during the adjournment, assuming that there are votes before adjournment on those nominations currently pending before the Senate. There can be no doubt, however, that the adjournment will be of sufficient duration to permit recess appointments to be made, as envisioned by the Constitution. If for any reason we should decide it is necessary to make recess appointments during the upcoming adjournment, we will, pursuant to previous discussions you have had with Administration officials on this issue, advise you of those appointments before they are made.
>
> With best wishes for a joyous holiday season,
>
> Sincerely,
>
> M.B. Oglesby, Jr.
> *Assistant to the President.*

NOMINATION OF JAMES RICHARDS

Mr. SIMPSON. Mr. President, as in executive session, I ask unanimous consent that the Government Affairs Committee be discharged from further consideration of the nomination of James Richards, and I ask that it be placed on the Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENTS TO NATIONAL GROUND WATER COMMISSION

Mr. SIMPSON. Mr. President, pursuant to Public Law 98-616, I appoint to be members of the National Ground Water Commission, the following Senators:

Senator David Durenberger of Minnesota, Vice Chairman.

Senator Don Nickles of Oklahoma.

SENATE SCHEDULE

Mr. SIMPSON. Mr. President, just a quick review of things, while the Democratic leader is present.

I believe the majority leader has indicated that there is a possibility of other items yet to come before us this evening.

As the majority leader has discussed, we will remain in session for a time this evening. Regrettably, there is still a possibility of rollcall votes. I wish I could indicate differently, but that is not possible.

We have a bill coming from the House extending various revenue provisions until March 15, 1986, which must be passed by midnight tonight. I know that is repetitive, since the leader mentioned that. Since that time, however, I believe there has been an agreement reached with regard to the low-level radioactive waste transitional legislation. That has been a difficult negotiation. Senator Evans of the Energy Committee, Senator Johnston, Senator McClure, and Senator Thurmond have been instrumental in resolving that. I think it has been resolved. I do not know if a rollcall vote will be required on it, or perhaps there will be an amendment. I am not certain of that, but I share with my colleagues the fact that that measure may be before us later this evening.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I now understand that the House of Representatives will send us a simple 1-day extension of four provisions which would otherwise expire at midnight tonight, and these four provisions have been acted on before. They are: trade adjustment assistance, cigarette excise tax, railroad retirement, and black lung and Medicare.

We have extended those before. This will be a 1-day extension until tomorrow night at midnight.

I am going to assume that we can pass a 1-day extension on those four items without a rollcall vote. So there will be no more rollcall votes tonight.

EXTENSION OF CERTAIN TOBACCO EXCISE TAXES AND OTHER EXTENSIONS.

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 3981.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3981), to extend until December 19, 1985, the application of certain tobacco excise taxes, trade adjustment assistance, certain medicare reimbursement provisions, and borrowing authority under the railroad unemployment insurance program.

There being no objection, the Senate proceeded to the immediate consideration of the bill.

Mr. DOLE. Mr. President, let me indicate that this is a 1-day extension of four items that we have extended before.

The other nine that we mentioned previously will be taken up by the House Rules Committee tomorrow. They will come over sometime tomorrow.

I have suggested that in order to expedite the process tomorrow, maybe the staff on all sides can get together and try to work out what might be acceptable so that we do not have a big debate on the floor.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 3981) was ordered to a third reading, was read the third time, and passed.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LEADERSHIP FOR THE FUTURE: THE GIFTED IN A CHANGING SOCIETY

Mr. McCLURE. Mr. President, we are indebted to our colleague, the Senator from Indiana, Mr. QUAYLE, for his leadership role in a recent national seminar, "Leadership for the Future: The Gifted in a Changing Society." The seminar was sponsored by the National Business Consortium for the Gifted and Talented and boasted a distinguished seminar host committee: Secretary and Mrs. William E. Brock, Lilia Clemente, Arthur E. Dewey, the Honorable Alexander M. Haig, Jr., Senator and Mrs. Ernest F. Hollings, the Honorable Frank Ikard, Gen. David C. Jones, Congressman and Mrs. James R. Jones, Congressman and Mrs. Jack F. Kemp, James S. Kemper, Jr., The Honorable Drew L. Lewis, Jr., the Honorable John A. Love, Robert A. Maheu, Attorney General and Mrs. Edwin Meese, Senator and Mrs. Dan Quayle, Congressman and Mrs. Richard T. Schulze, Donald V. Seibert, Dr. Dorothy Sisk, James A. Skidmore, Jr., Congressman and Mrs. Guy Vander Jagt, James R. Whelan, my wife, Louise, and me.

The conference was presided over by Mr. Robert A. Maheu, chairman of the National Business Consortium for the Gifted and Talented.

Senator QUAYLE led off the conference with a strong presentation on the need for the Nation to address the subject of America's leadership for the future and the mobilization of business on behalf of our Nation's greatest asset—our most able young people.

Senator QUAYLE said:

I do believe and I think that your National Consortium points out a lack of appreciation and perhaps a lack of attention that we have in fact given to the gifted and talented. as we look into this new era that we are beginning to enter into with high technology—the growth industries, turning into the 21st century—there is no doubt about it that we are going to face competition like we have never faced before, not just domestically but internationally and as competition rises, as the requirement for getting along and understanding this new technology, obviously we have got to have as much creativity as we possibly can and we have got to have an education base and when you have a statistic that only 13 percent of our school districts have a gifted and talented program, I think that shows a real need for some attention and for some help. It ought to be 100 percent of the school districts, not just 13 percent. I think that the Federal government's role in this area—I might point out as we go down this road—will be one to facilitate, to encourage. There are some availabilities of programs, but I think that the primary emphasis if we are really going to be successful is how we can develop a partnership at the local and state levels with our public and private institutions that deal with education and our private sector. Now, the Federal government has in the past been involved in gifted and talented education that first started in the late 1960's with the National Defense Education Act; the funding there was $2 million but in those days $2 million was real money—today it doesn't go too far. In 1978 where there was probably more attention than there is right now, the Congress passed a Gifted and Talented Children's Act. It was a separate categorical grant. In 1981, with the new Federalism and block grants, the Gifted and Talented Children's Act was forwarded into Chapter 2 of the money that is now on a block grant basis—back to the states and the local communities—they do have the option right now to use the Chapter 2 monies for the gifted and talented but as I stated, you have only 13 percent of the school districts that are utilizing the Chapter 2 funds for gifted and talented and that is a very low statistic.

Keynoting the seminar was the well-known trend analyst, Marvin Cetron, author of a half dozen titles on trends and developments in education, jobs, business, and the future. Mr. Cetron's best-known work is probably "An Encounter with the Future," which he co-authored with Washington Post writer, Thomas O'Toole.

Cetron set the scene:

REMARKS OF MARVIN CETRON, PRESIDENT, FORECASTING INTERNATIONAL

The truth is that our scarcest resource is neither energy or water, it's our kids. And the scarest resource of the scarce resources happens to be the bright ones. We're ignoring them, saying they're bright, they'll take care of themselves, don't worry, they'll get a job or a career, and that's probably true. But they won't get what they could be capable of producing and what they could put out, and that's what we need. If we're going to compete worldwide, we've got to use our brightest and our sharpest, and eight out of 10 of our people go into entrepreneurial jobs. Those are the ones that make jobs for others, and if we don't get these kids the education and capability they require so that they can use their skills—we're not talking about the highest and brightest I.Q., that's not the answer. Anything over 135 (I.Q. points) is great, they can do it on their own. What they need is the stimulating environment that Senator Quayle mentioned earlier. The business of having a summer camp—that's great. The idea of having these kids work for corporations in the summer and helping out is tremendous. Having corporations making available their people to work with them so that they can increase productivity themselves, so they understand things like Junior Achievement—how the capitalistic system works by increasing productivity—and we need the bright ones for this.

We are a country that wastes, and you can see what we can do with conservation of energy alone. We've got to realize that we've got to utilize our equipment better, more efficiently, and think brighter. And to think brighter, you need brighter kids.

A panel of top business executives followed Mr. Cetron's dynamic multi-screen audiovisual presentation and his most provocative remarks.

Mr. James S. Kemper, chairman of the Kemper Group of insurance and financial service companies, led the industry response.

REMARKS OF JAMES S. KEMPER, CHAIRMAN, KEMPER GROUP

I think you could say very properly that what we are involved with here is a movement, a movement on behalf of the gifted and talented, and you need an active and interested constituency to create something called a movement.

It is relatively easy to develop a constituency supporting better education for underprivileged kids—inner-city kids. The villain here is ignorance, and everybody wants to find ways to help these kids to help themselves get out of the underclass and become productive, useful citizens. And the constituency here is also easy because it's politically expedient to devote large sums of money at the federal and state level to get those kids out of the underclass. But when it comes to working with gifted and talented students we're dealing with a tough one here—a relatively small percentage of young people who are exceptionally gifted. There are no villians, and as the public sees it,

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there is no urgent necessity to give people who are already gifted beyond the capacities of most of us the opportunity to utilize their talents. It's a tough job (to build a constituency for the gifted and talented), and so far, at least as I have observed, the principle active constituency in support of doing something for the gifted and talented are some government agencies—Labor and Defense are two that come to mind immediately—and the fact that we're here today indicates that the Commerce Department is interested, and the educational establishment, which is a constituency, but not even all of it is what I would call an active constituency in support of the gifted and talented.

Mr. Bruce Smart, Under Secretary of Commerce for International Trade, spoke from his former corporate experience as chairman of the Continental Group.

REMARKS OF THE HONORABLE BRUCE SMART, UNDER SECRETARY OF COMMERCE FOR INTERNATIONAL TRADE

It has become increasingly clear that in a country that no longer has the advantages of wide oceans to protect its markets, or technology that cannot flow outside its boundaries, or the best interest structure, or the best education system in the world, we are pretty hopeful if we think that with 5 percent of the world's population and the world's lowest industrialized saving rate that we can somehow remain preeminent in all factors of industry—so that I think that the success of the United States economically, and the economic success of course undergirds military strength—will depend entirely on our ability to develop the gifted people for positions of professional responsibility and/or leadership over the next decade.

Obviously the gifted person coming into adulthood and moving out into the working world is principally a product of two environments; one environment is the family and the home community and the other environment is the educational system; and for those of us who are recruiting these people into work environments that do not relate to where they once were and certainly the large corporation is such an environment. These are environments that are radically different from what these young people have experienced.

So the more gifted people tend to come to us individually very successful academically but they also come with an elitist bent and occasionally with an arrogance about their skills but it is unwarranted when it is measured against the broader spectrum of talent and human competence. They also come it seems to me lacking in experiencing or skills in team play and in leadership because so much of what they have done has been judged on individual effort and they often come, because of elitism and arrogance, lacking in an appreciation of the contribution that can be made to society by people less gifted than they are, who bring a certain determination and perseverence and on whom they must depend if they are to project their ideas over a broad enough group of people to have the ideas have any particular force in the society.

What is the private sector doing about the gifted and talented? What can it do that it's not already doing?

Mr. Theodore C. Rogers, chairman of NL Industries, Inc., responded from the corporate perspective to the challenge of gifted and talented development.

REMARKS OF THEODORE ROGERS, CHAIRMAN AND CEO, NL INDUSTRIES, INC.

I worry and concern myself with the fact that we may be much more capable of adopting technology and discarding technology than we are in incorporating that technology in a change and movement of the fundamental folkways and mores of our society. Therefore it seems to me we produce the edges of severe conflict and strain. How to deal, and how to cope with those strains and conflicts, it seems to me, will become an increasingly large problem for us and the world.

We need the talent and the skills and the creativity to cope with these changes and to carry out and mold an efficient and peaceful world society.

To state the obvious—it's been stated over and over again—we miss about half of the gifted students, and those that we do identify don't really have the resources made available to them to enrich them and challenge them and to motivate them in school. Hence, we have quite a few dropouts who are in fact gifted children. The world needs, and government and business must assist in the development of programs for identification and enrichment of the gifted. We need personal involvement, this isn't something you throw money at. It's something that you have to become personally involved with.

Mr. William Poduska is one of the founders of Prime Computer Co. He then founded Apollo Computer Co. Today he is heavily involved in the startup of his third computer firm. Bill Poduska's remarks were particularly thought-provoking. I quote from them at some length:

REMARKS OF WILLIAM PODUSKA, FORMER CHAIRMAN OF APOLLO COMPUTER, INC.

I'm trying to gather a bunch of people to start a new enterprise, and I can tell you what I look for in the people and the culture of this organization that we're building. I identify six nouns, three of which were stolen from Bob Townsend, my favorite author in the management business. Six nouns that identify the characteristics that I'm looking for in the people that I want to be with me to build this next major enterpise in the computer business.

First of all, I'm looking for excellence. I want people to do things well today. I want people of action. Today's the time to do it, not tomorrow. I don't see why anything can't be done today. I'm looking for people of ego, people who believe in themselves. Not the blustering kind of ego that's born mostly of insecurity, but that thing that's born of inner confidence that says I know what I'm doing and I'm going to do it. Muhammed Ali said one time that it ain't bragging if it's true. The converse is probably true also, that it is bragging if it isn't true.

I want people of ethics. I want people who will not knowingly do any dishonorable thing, not with customers, not with vendors, not with investors, not with employees, not with anybody. Don't con anybody, least of all your family. I'm looking for justice within the organization. I want to fairly award people who put out. I'm going to try to make 50 millionaires out of this new company, but more than the money, they'e going to look in the mirror in the morning and say "that person there did it." Of course, the opposite side of that is true, too. If the enterprise doesn't make it, the reason it didn't make it is staring you right in the face.

Finally, I'm looking for people who want to have some fun. Joy of today—have a laugh in the afternoon or hop into a tavern, or whatever, but also that long-term joy that says "we've done something good, we've really done something good."

If you want to talk about leadership and talent, those are ones I'm looking for. And you notice what I didn't say? I didn't say IQ. Sure, I want bright people, but what is more frequently told than the story of the unfulfilled promise of the genius? I didn't say I'm looking for accomplishment. I'm willing to take raw material. I'd rather have a few of them to look at some books on the subject of management. I would direct your attention to Bob Townsend's book "Up The Organization" and the sequel, "Further Up the Organization," the man has a sense of humor. He seems to be an iconoclast who puts these things into perspective.

Now, with regard to leadership—that's what this seminar is about (the) leadership of the future, the gifted in a changing society. Let me tell you what I think about leadership. I'm an M.I.T.-type jerk—I like the Sloan school of M.I.T., at least some of the things they do. They have a little saying—they talk about the Business Trinity, the issue of what command is about. They say command falls into three broad categories: administration, executive skills, and leadership. It's easy enough to define what administrative skills are. It may not be so easy to acquire them, but I think it's relatively easy to define them. But leadership—ah, that's a different sort of thing, isn't it?

What is it to lead? It must mean something that is not obvious, otherwise all would do it. It must have something to do with courage and determination. It must have something to do with those short human words that have these large meanings like "love," "faith," "hope." Well, I tell you, I heard a Persian proverb—I refuse to call it Iranian, it's always Persian—a Persian proverb that talks about leadership and talks about it in terms of those who know, have knowledge, and those who know that they have knowledge, and it goes something like this: "Those who know not, and know that they know not, are students—teach them. Those who know and know not that they know are followers—lead them. Those who know not, and know not that they know not, are fools—avoid them. But those who know and know that they know are leaders—follow them.

So my friends in the audience, and especially the youngsters who are here, I say to you: know, and know that you know. Take ownership of problems, make commitments to solving these problems. But in all of your doing, live also. Enjoy the life that we have. I can find no better words to describe that than the words written in a poem turned into song by James Taylor called "Secret Of Life." It starts out with the line: "The Secret of life is enjoying the passage of time. Any fool can do it. There's nothing to it. As anyone knows, love is the only road. Love yourselves and the work that you do, and we'll all live a little better."

Mr. William McGowan, chairman of the board and president of MCI, the pioneering telecommunications company, contributed to the response from the point of view of his experience in high tech and entrepreneurial enterprises.

REMARKS OF MR. WILLIAM MC GOWAN, CHAIRMAN OF THE BOARD AND PRESIDENT OF MCI

The American business community, which must go through a major change in the way it operates, the way it structures its organization, the way it makes decisions, has an excellent chance of doing so if it takes advantage of the people who are capable of coping with such a dramatic change, and they are typically the (gifted and talented) youngsters who are the subject of your concern.

We were in a position where one of our major motivations, one of our major tasks in life was surviving. It was in that period that I discovered, simply because I had no choice, that many of the attributes that have developed over the course of years in a substantial number of corporations—certainly not all by a long-shot, but a substantial number of them—were developed, probably all with good intentions, but also with the result that they were typically rather unattractive places for a certain group of people. The group of people that it was unattractive to turned out to be the group of people I decided to try to seek out. When the period was over, through dint of some decisions, there was in front of MCI a great opportunity.

And so therefore we decided that since we were looking for individualistic type people, people who wanted to be individuals, who did not want the typical corporation, I had the advantage of not needing to add the accoutrements of larger corporations that typically you might find.

We encourage that by giving past credit for seniority and for all of the things that they do. We also said that we cannot afford to be a home for you, but we explain to them very carefully there is no home here. If you can't figure out the rest of your life and the rest of your social life and the rest of your community life, then you're in the wrong organization. We don't have credit unions, we don't have teams, we don't have Christmas parties, we expect the individual to function for himself and not rely upon the company.

In being in that position, I think we did collect a group of people who were interested in a challenge, who did not wish to spend the time learning how to adapt to somebody else's way of working, who wanted the opportunity to grow as fast as they could go. We have in the company still a policy that says there will never exist a seniority list, because I don't wish someone who comes in today to think that therefore, they are less than someone who was here 10 years ago.

Mr. Donald Seibert, retired Chairman of J.C. Penney Co., and former president of the national United Way, stepped to the microphone next to lead a panel discussing the programs and project of the National Business Consortium to tackle the basic problems faced by gifted and talented youth as they move into the work force.

REMARKS OF DONALD V. SEIBERT, RETIRED CHAIRMAN OF J.C. PENNEY CO.

I believe significant percentages of school dropouts and juvenile offenders are actually gifted young people, which is a tragedy. Many of these people have not been identified and have not been cultivated and worked with and, in effect, are dropping out of society, let alone missing the opportunity that they have to contribute. For our country to remain competitive, to achieve dominance in the years ahead, we obviously must use our best resources. They are clearly our people. We must have bright minds to tackle tough problems. Dominance in the future will not come from simply being producers but in being creators, and we must establish environments of creativity in which great minds can flourish.

For a powerful conclusion to the half-day seminar, Dr. Larry Eastland returned to the podium to spell out the challenge.

REMARKS OF DR. LARRY EASTLAND, PRESIDENT OF EASTLAND & ASSOCIATES

What we have in the Consortium is more than just concern, because concern must be translated into action. There must be specific, measurable kinds of programs. There must be outcomes to these programs that one can look at and show that indeed, to business people at least, of which I am one, and volunteers, of which I am one; we've got to be able to see in all of this that somewhere on the bottom line that something is succeeding, because it's been said before that of the programs that we see now that train leadership, separate from the educational system, many of them do not apply to the kinds of things that we're concerned about. Unfortunately, there are very few programs that are specifically aimed at developing the knowledge, skills, and abilities of young people. What we have to become is the invisible. We have to, as business people, involve ourselves in providing the kind of invisible curriculum for the young people of this nation. We should not view dollars and resources that we put into the gifted and talented as being competitive with dollars that we put into programs for the general populations in the schools or dollars that we're putting in to help the disadvantaged, that one taking away from one is one that we then give to another. We should look rather at the bottom line dollars that we give, and time and talent that we give to the gifted and talented as being our hedge in a world of competition. We are competing with the gifted and talented of Japan and China and Korea and Singapore and Mexico and Hong Kong and Brazil and Argentina. That's what our dollars are going into.

What we need to teach our gifted and talented are very basic kinds of things, and in order to do this, the national board and the Consortium have been created. The national office serves as a catalyst, as a clearinghouse for ideas and information. There is no national clearinghouse today on gifted and talented on what is going on across the country, the differences in programs, what kinds of knowledge and skills being taught, and what's being received.

The second task of the National Consortium is to identify the corporations and institutions at the local level that are willing to make a commitment, willing to make the commitment of their time and their talents. What we do is to identify those companies that have the vision that it takes to recognize that they must begin to contribute, and that that contribution will come back not just to their corporation, but to other companies in America.

The third goal that we have, and one that we're going to start on very shortly here, is to do a national needs assessment of the gifted and talented students so that we can specifically target the resources that are brought to bear by the consortium itself to the specific needs. If, in the gifted and talented programs in the country, 70 percent are working on computer programs, then there's no reason for us to do that. But if there is an area where we are deficient, those are the areas that we need to target our resources, and we need to be able to feed back into the businesses where that is.

The third is to develop pilot programs, specific pilot programs that will work. We are developing a pilot program right now which we hope to be able to start this coming summer. It will be a national business camp in which we can, on a regional basis, target gifted and talented programs for basic economic competition and leadership education. The point is that we have very little hands-on experience with young people who have the talent and creativity but have yet to have that organized to understand how to take an idea and get it on paper and financially plan it and know the relationship of the economic structure to the creativity structure. Our national business camp will be able to measure numbers of students, numbers of skills that we can produce through our techniques, and particularly, with the help of the corporations' research and development offices, so that the skills that we're producing for tomorrow are the skills that are needed tomorrow.

Dr. Dorothy Sisk, professor of special education at the University of South Florida, spoke for the Nation's teachers of the gifted and talented.

REMARKS OF DR. DOROTHY SISK, PROFESSOR AT THE UNIVERSITY OF SOUTH FLORIDA

As I listened to all of you talk, I couldn't help but think about how many young people that we have who are unmotivated, who are not identified in even the few gifted programs that we have, because the regular program doesn't challenge them. I oftentimes find, too, that as I look at the gifted programs that it's really a little bit more of the same. In fact, I chuckled ruefully this morning when the young man said, "Well, in our program we just do harder work or more work." I think that's part of what the Business Consortium can begin to model for the nation, and that is that we need a different kind of program. We need the types of programs where youngsters can focus in on thinking. I certainly concur with all of the emphasis on becoming computer literate. I also concur with something that maybe we didn't even mention or mean to mention, and that's the fact that we need more people who are mentors who can model the kind of risk-taking, the kind of step forward, and get things done that we saw this morning with the individuals.

TRADE TALKS: AMERICA BETTER LISTEN

Mr. BRADLEY. Mr. President, 2 weeks ago while we were on Thanksgiving recess, the 90 member countries of the General Agreement on Tariffs and Trade [GATT] agreed to establish a preparatory committee to plan the eighth major round of multilateral trade negotiations since World War II. This is a major step forward and those talks could begin next fall.

The trading system is in disarray. international cooperation is at its lowest point since World War II. With

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discipline lacking, a full scale trade war is a distinct possibility. Pressures for trade restrictions abound because of current unemployment problems. And those pressures will increase because of the labor adjustment problems inherent in heightened international competition and in the transition from old to new technologies. Overvaluation of the dollar also increases the pressure for protection in this country.

Yet, even as the trading system faces great dangers, opportunities are evident as well. The developing countries, the fastest growing markets for industrial country exports, still have vast pools of unemployed or underutilized resources. Integrating the LDC's more fully into the trading system will be the greatest challenge of the coming decade. If this were to be accomplished, the world economy would get a sorely needed stimulus to growth comparable to the one the world enjoyed after World War II when the United States used its dominant economic power to promote trade liberalization in a series of trade negotiating rounds. For over a generation from 1950 to 1973, the world economy experienced unprecedented growth averaging 3.3 percent per annum. Trade liberalization was a major factor creating that growth and helped spread it around the world.

But those real income gains gave way to stagnation and unemployment in the mid-1970's. Now the trading system, from which all countries have benefited, is under severe pressure. Countries are pursuing more nationalistic trade policies and some are on the verge of adopting the beggar-thy-neighbor policies which characterized the Depression of the 1930's. I participated in a small group of world economic leaders appointed by Mr. Director-General of GATT to study the trading system. We concluded that "today the world market is not opening up; it is being choked by a growing accumulation of restrictive measures. Demands for protection are heard in every country, and from one industry after another." If present trends continue, the trading system could collapse. The new negotiators could reverse that trend. We in Congress have a special responsibility to oversee these negotiations. The Constitution gives to Congress the authority to regulate foreign commerce and to lay and collect duties. The President's authority on trade derives from a congressional delegation of authority. Next year we will debate how and in what form that negotiating authority should be given. The outcome of that debate will determine how ambitious these new negotiations will be.

In the meantime, I urge the Members of Congress to become familiar with the issues, problems and prospects for these negotiations. According to a timely new book by C. Michael Aho and Jonathan David Aronson, Trade Talks: America Better Listen! published by the Council on Foreign Relations in New York, these new negotiations will be more difficult, more complicated and will last longer than any in the past. They could last a decade.

We and the administration have a great deal of work to do in establishing priorities, in developing strategies for maximizing U.S. leverage and in ameliorating the domestic consequences any liberalization we pledge in return for greater market access overseas. We also have to decide how to structure the negotiations in order to hold them together and make progress over the course of a decade. Surely without high-level political attention and active private sector support these negotiations will not succeed. Their book has useful suggestions in this regard.

I highly recommend this new book as an excellent overview of the players, prospects and problems of the new trade talks. The authors have drawn a blueprint for the changes that are needed in the trading system if it is going to survive. I ask that the concluding chapter of the book which details their recommendations, be printed in the RECORD.

TRADE TALKS: AMERICA BETTER LISTEN!

COUNCIL ON FOREIGN RELATIONS

CONCLUSION: OUTLOOK

Trade talks can succeed. If countries cooperate, higher growth and greater discipline are possible. These two goals go hand-in-hand. Neither is possible without the other. No country will sacrifice its own growth prospects for the insubstantial benefits of stronger trade rules. Yet national and international growth prospects will suffer unless the trading rules are overhauled and made relevant to today's fast-changing world economy. To get ready for the 1990s, trade talks will have to address and make progress on both fronts at once.

The ten policy challenges described in chapter 2 will make new negotiations different and more difficult than those in the past. Growing interdependence, the decline in the ability and will of the United States to dictate terms, the proliferation of industrial policies and the emergence of excess capacity in many sectors at a time when world economic growth is slowing puts profound pressure on negotiators. In addition, negotiations will be different because traditional sectoral distinctions are breaking down, global corporate competition is changing, new types of trade barriers have replaced tariffs as the focus of attention, services need to be addressed, and product-life cycles are shortening as the pace of change accelerates. These challenges make it more difficult to build domestic coalitions favoring trade liberalization, particularly because employment and adjustment problems are critical everywhere and are related to broad domestic reforms which ultimately will determine whether trade can be liberalized.

As new trade talks begin, opportunities and pitfalls abound. We expect progress because the alternative is deterioration of the trading system and with it the world economic system. How long the system will hold together without reform is impossible to predict, but few careful analysts believe that the trading system can survive indefinitely without a major overhaul. However, no country, including the United States, is willing to accept the brunt of the costs of renovation. Each would like a free (or at least a subsidized) ride. That's impossible. Therefore political leaders around the world will have to summon up courage and persuade their countries that they must contribute something if everyone is to benefit.

The most critical moves must come from, and the most ominous signs are coming from, the United States. Over 300 protectionist bills have been introduced into Congress in 1985. Members of Congress are currently unprotected from constituent requests for special treatment. They are only hearing one side of the story. The overvaluation of the dollar has eroded the domestic consensus in favor of trade liberalization as exporters facing unprecedented competitive problems are not lobbying for open trade. GATT is not now effective as a means to deflect special interest requests. The feeling is widespread on Capitol Hill that the United States is not vigorously enforcing its existing trade laws. Congress wonders who is in charge of trade policy. Sentiment is brewing to pass some legislation restricting imports and/or rewrite U.S. trade laws expanding the definition of unfair trade practices and to make retaliation mandatory when unfair trade practices are found.

In the face of the possibility that Congress will pass some form of restrictionist legislation, President Reagan has reassessed his trade policy and overall international macroeconomic policy. He instructed the Secretary of Treasury to work together with the other major countries to bring the dollar down. This represents a change in the Administration's position. He has also instructed his USTR, Clayton Yeutter, to work with Congress to put together a trade bill with revisions in U.S. trade laws acceptable to the Administration and with a request for negotiating authority for a new round of trade talks. Whether a trade bill will pass in a form acceptable to the President is uncertain. Much bargaining needs to be done. But at least the process is beginning in earnest. Whatever else emerges from the President's new trade strategy, new trade talks will be a central element. And even if Congress should pass a restrictionist bill, the President has said he will veto it and the veto can be sustained with only 34 votes in the Senate. Passage of a restrictionist bill with a Presidential veto might not be all bad. Indeed, a veto with the threat of an override might be just the leverage the Administration needs to get recalcitrant countries to move forward in negotiations.

The President's strategy, even if arrived at late in the game, is a sound one. A new round of trade talks will both begin to address the manifold problems of the trading system and provide protection for legislators confronted with special interest requests. To take unilateral actions would jeopardize the multilateral talks. But the Congressional pressures are not going to go away, and the Administration is going to have to re-establish its credibility on trade issues by vigorously pressing other countries. If the priorities for action are selected carefully, that could also have the salutary effect of mobilizing domestic interests behind the Administration's strategy. But only in a multilateral context can such strategies be effectively employed. Then once in the round, the Administration will have to begin to address the labor adjustment problems inherent in granting more market access to import competition. Although the President is not out of the woods yet, he is moving down the right path. What remains to be seen is whether he has the commitment and resolve to see it through.

To revitalize the trading system, rhetoric will have to give way to pragmatism. Ultimately, a package that is perceived as fair to all major interests needs to be developed. That is still years away. For now, countries must get things started one step at a time. We believe that the chances of increasing growth and strengthening trade disciplines will improve if political leaders and their negotiators keep in mind these eight observations.

First, promote growth and discipline; worry less about free trade and protectionism. Progress is more likely if the focus is on positive goals instead of sterile debates. Trade liberalization enhances economic growth. Greater discipline can reduce uncertainty and lead to an expansion of trade, investment and growth. By contrast, free trade, like absolute zero in physics, cannot be attained. Freer trade is all that can be achieved. In an interdependent world where sectoral boundaries blur and national industrial policies conflict, free trade is only useful as an ideal to help in making comparisons. Protectionism is also relative. Legitimate social, cultural and security concerns will always persuade governments to protect key sectors to varying degrees. Countries will continue to promote their own development even if this means protecting their firms against foreign imports and subsidizing their firms' exports. In order to protect against widespread abuse of these practices, negotiators need to develop trade practices and procedures that are responsive and respected so that trade issues are resolved with a minimum of friction. Otherwise the system's credibility will continue to suffer.

Second, learn to live with complexity; stop trying to revolt against interdependence. The world is changing. A return to a simple, isolated existence is impossible even if it were desirable. The world in which the GATT was created is gone forever. As interdependence increases, domestic economic policies cannot clash successfully with world economic trends. Nations can no longer follow independent trade, monetary, and investment policies. Shifting corporate structures and the emerging world information economy provide great opportunities for growth and job creation but are making regulation much more difficult to fine tune domestically or internationally. The line between goods and services is getting harder to distinguish. Similarly, tariffs have declined in importance as obstacles to trade and have been replaced by various sorts of nontariff barriers. Too often government officials and negotiators are trying to solve yesterday's problems. Such myopia creates as many problems as it solves. Therefore, negotiators need to learn to deal with the world as it is and as it is becoming and not base their actions and positions on a view of the world that is no longer relevant.

Third, make sure the underlying principles are right; stop being overly rigid and legalistic. The increased complexity of the world economy and of world competition makes it necessary to focus more on general principles and less on details. Unless the trading system is moving in the right direction, nothing much will help. Because the rate of economic change is accelerating, detailed rules are likely to become outdated and inappropriate more rapidly than in the past. Overriding principles (e.g., nondiscrimination, transparency and reciprocity) with mechanisms for updating rules are necessary to keep the trading system vital and relevant.

Some computer programs now rewrite themselves. They learn from experience and adapt to improve their performance. For example, chess-playing computer programs now defeat all but the best players in the world. The same concept needs to be introduced to trade rules. Trade rules cannot be written in stone. They must be allowed to adapt and change as the world economy and the world trading system change. Following the letter of the law is not helpful when the world for which the law was designed is gone. The United States remains the foremost advocate of a legalistic approach to trade rules. This approach needs to be tempered. The application of rules should depend more on the circumstances of the problem. Nevertheless, ways need to be found to prevent cheating. In the future, prudent application of safeguards and escape clauses may have to replace strict application of rules. However, in emphasizing adaptability, care must be taken not to sacrifice predictability. That is why it is not contradictory to strengthen mediation and conciliation procedures and mechanisms for seeking redress and for enforcing norms.

Fourth, start the process of reform now; don't wait for the crisis. In the past, major reforms were only possible in the face of crisis or collapse. Interdependence makes risking collapse before instituting reforms particularly dangerous. Today, all countries would suffer in a collapse. If depression strikes the United States and the major industrial countries or if the major LDCs are unable to service their debts, all countries will suffer the consequences. Work needs to begin to extend and adapt the trading system to cover the areas that are not now covered within the GATT. It is equally important to pull some of the sectors that have escaped from GATT discipline back into the system and to strengthen GATT discipline. Each country can contribute something now to preserving and promoting the general good, or they may have to pay much more later to restore a broken system.

Fifth, U.S. leadership is critical. Some one must take the lead—only the United States can do this and it must be done at the highest levels. Ronald Reagan needs to be personally involved. As former U.S. Trade Representative Robert Strauss has put it, the President's popularity is not to be saved; it should be spent in order to achieve breakthroughs on trade. In addition, the President must make clear that he has confidence in and will actively support his trade negotiator. Moreover, since the United States will have a new President before negotiations are far under way, the next President and perhaps the one after that will need to make trade a continuing priority. This is needed domestically, otherwise Congress might seize the initative and try to set trade policy. For if U.S. leadership wavers or falters, other countries will pick up the cue and efforts to move forward will be undermined.

Sixth, the United States cannot lead alone. Even as the United States must redouble its efforts to lead, others need to increase their contributions as well. As power diplomacy has faded, the need for cooperation, coalitions and bargaining increases. Unless in today's highly pluralistic world the other pillars of the system, the European Community and Japan, accept their responsibilities, no progress is possible. They must take a less parochial attitude and increasingly assume the burdens and responsibilities commensurate with their size and stake in international trade. This means that the EC should stop holding efforts at trade liberalization and strengthening discipline hostage to the resolution of existing internal and external disputes. For Japan, this means taking further unilateral steps to open its markets and, more fundamentally, to change the social and political attitudes that have made its market so impervious to outside penetration and to dispel the widespread perception that it uses unfair practices to gain competitive advantages. The NICs must also accept that they have responsibilities for maintaining the system and cannot expect to get the benefits of access to industrial-country markets without doing their share to open their markets and support trade rules. Since fundamental social policies and objectives are involved in all the major countries, other heads of state must become active participants. A far-reaching global bargain can only be struck at the higher levels.

Seventh, reforms must be phased in slowly; domestic political constraints are growing, not decreasing. Even as we write of progress, it is clear that reform can only be implemented in an ordered, step-by-step manner, countries will accept more competition and discipline, but only a little bit at a time. Domestic accommodations are needed and domestic adjustment needs time to work. However, limits and schedules have to be developed for adjustment so that uncompetitive sectors are not protected indefinitely to the detriment of their own consumers and the rest of the world. Long phase-in periods are another reason to begin the process now and not delay. Both the long phase-ins and the long duration of the negotiations will also require flexible, continuing processes in GATT to monitor developments and to deal with potential problems before they become full-blown.

Eighth, mobilize the stakeholders in an open trading system. The fate of the trading system depends upon domestic political decisions. Unless the key stakeholders are mobilized to encourage more liberal trade at home and abroad, long-term trade prospects will dim. Multilateral negotiations can help to mobilize the stakeholders in all countries, but internal reforms are needed as well. Trade negotiations are held among the nations of the world, but fundamentally they involve internal disputes with distributional consequences. To maximize the chances of progress, the round should be structured to highlight those domestic conflicts of interest. Internal reforms which increase domestic awareness about the positive as well as the negative consequences of trade liberalization would help the negotiations to move forward.

Countries should adopt open procedures and require cost/benefit analyses of changes in trade policy similar to the environmental-impact statement now required in some countries. Where there are negative consequences for workers, firms, and communities, governments have a responsibility to ameliorate the adjustment burden for those who suffer the consequences of trade liberalization. But that amelioration should be done in such a way that the govern-

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ments' responsiblity to the other stakeholders in trade liberalization is also met. Internal and international reforms would be mutually reinforcing. Stronger international discipline would reduce the resort to unilateral action. Internal decisions resulting in fewer unilateral actions would enhance the credibility of the international discipline. Both would work hand-in-hand to restore confidence in the efficiency and the efficacy of the trading system.

Needless to say, a great deal needs to done to reform the international trading system. It will not be easy and it will not happen overnight, but the stakes are too high not to try.

Institutions, like human beings, seldom mark time. The GATT will observe its fortieth birthday in 1987. Much has changed since its inception. But now, as then, the world is sorely in need of more international cooperation on trade matters. In the absence of efforts to make progress on the important international trade issues, the system will regress further. If nations of the world do not begin to focus on these pressing trade problems, the world faces the possibility of a repeat of the 1930s, when the collapse of the trading system contributed to the length and severity of the depression.

Although the problems confronting the trading system are grave, failure to deal with them is a prescription for disaster. If all countries would put aside their longstanding differences and be bold and forthcoming, all countries will gain and a better future is possible. Let us begin that long arduous process.

ARIZONA VOLUNTEERS WHO ASSISTED EARTHQUAKE VICTIMS IN MEXICO CITY

Mr. DeCONCINI. Mr. President, at 7:19 a.m. Thursday, September 19, "El Terremoto"—the earthquake—unleashed its fury on the largest metropolitan area in the world, Mexico City. This calamity befell our good neighbor to the South with such devastation and personal tragedy that many in our country suffered as well. The cultural roots between Mexico and the United States made this natural disaster much more personal than most others. The outpouring of support from this country, particularly my home State, reflects our sense of compassion for our friend to the South. With the dust having settled, it is now appropriate that we recognize several displays of enormous humanitarian effort.

Amid the confusion, the dust and the isolation, the world response to our friend in need was virtually universal. In the forefront of these efforts was the individual Arizonan. The spontaneous reaction that resulted from the devastation is indicative of the deep-seeded emotional ties between the two countries. My office became the focal point of some of the relief efforts. It is to these efforts and volunteers that recognition is most deserved.

With the international and domestic telephone communication system severely disrupted, my State offices were flooded with calls from distraught constituents with relatives and friends in the vicinity of Mexico City. From the need for information arose volunteer staffed crisis information centers coordinated through my State offices. After these crisis information centers were established, several Arizona ham radio operators began relaying information from their counterparts in the quake area. During the second day of operation, Phil Richardson, a Tucson area ham operator, proposed utilizing his local club to establish a link with Mexican ham operators so that Mexico City telephone numbers could be contacted and the information relayed back to desperate Arizonans. The coordinated efforts of these individuals, in combination with the local media, provided the conduit for information that helped alleviate the concerns of hundreds of distraught relatives.

These efforts were further enhanced when the domestic phone system became operable 6 days after the initial quake. Several residents of Nogales, AZ, and Nogales, Sonora, sprung into action with their own impromptu communications system. Coordinated by my good friend Irma Maytorena, they relayed messages between relatives and friends in the United States and Mexico City.

Several U.S. companies that had facilities in Nogales, as well as Canacintra, the Industrial Chamber of Commerce of Mexico, displayed overwhelming compassion by not only donating office space and phone lines, but also assuming the significant expense for the hundreds of long distance calls. The actual phone connections to Mexico City were successful in large part due to the persistent efforts of the phone operators. The Mexican National Phone Co. put these operators at the disposal of our volunteers for 14 hours a day.

These are just a few examples of the total effort that was undertaken on behalf of our stricken neighbor. I was proud to be a part of it. Mr. President, I ask unanimous consent to have printed in the Record the names of those individuals who assisted me in my limited endeavors to offer assistance. These individuals unselfishly gave of their time and resources to help. This body's recognition of the individuals listed below is a fitting reward for a job well done.

There being no objection, the names were ordered to be printed in the Record, as follows:

Assisting Volunteers

Irma Maytorena.
Jannette Marie Raptis.
Maria Sophia Orduno Valle.
Delia Saspe de Ruiz.
Maria Antonieta Alvarez Gaxiola.
Yolanda Varona.
Rosa Maria Haas.
Martha Castro.
Lester H. Van Dyke.
William Wallace.
Roberto E. Hernandez
Luis A.G. Larios
Mike Rico.
Ann Bressi.
Roberto Borboa.
Rhonda Nichols.
Rene' Leglue.
Lupe Klein.
Patrick Wilch.
Betty Medina.
Mollie Smith-Eno.
Wendy Hakes.
Marta Ann Alcumbrac.
Wendy Gerlach.
Darren Clinton Graybill.
Deborah Lynn Teeler.
Brian Laird.
Jim Posner.
Ken McCollester.
Wes Soderquist.
Brad Rich.
Jeff Barker.
Yolanda Arenas.
Jackie Andrew.
Wendy Hannah.
Blanche Carter.
Willa Rackley.
Asociacion De Maquiladoras De Sonora.
Canacintra.
Murt-KB7NE.
Stan-K7KNP.
Doug-WA7IGV.
A.J.-KB7KZ.
Gerard-K7SPH.
Jim-W7FF.
Ted-W7DMT.
Rich WB7QBM.
Bob-KC7HU.
Doris-KC7AQ.
Jim-N7DZN.
Steve-N7AVS.
Elio-WA7ESQ.
Leo-K7JPI.
Owen-AA7Q.
Phil-K7OBS.
Dennis-WD4HRO.
Forest-NI7Y.
Joane Eno.
Earthquake Relief Group.
Marly Carpenteiro.
Mr. & Mrs. Baranca.
Telephono de Mexico.
All Operator's for Telephono de Mexico.
George Kalil.
John Anaya.
Judy Anaya.
Central Bag and Supply Company.
Kalil Bottling Company.

TAX REFORM

Mr. KASTEN. Mr. President, after the dramatic vote in the House Monday, the focus in the tax reform debate shifts to the Senate.

It is up to us to draft a final package that is truly profamily, projobs and progrowth; that remains revenue neutral; and that can gain enough votes to pass.

I believe we will prove ourselves equal to that challenge.

We will rise to the challenge because we are beginning to realize how crucially important tax reform is to the future of this nation.

True tax reform could restore equity and simplicity to our Tax Code and fuel a growing economy well into the 1990's.

Under our current Tax Code, low-income families face steep tax barriers preventing them from climbing the ladder of success. Small businessmen and women are hit by tax rates up to 50 percent, while large corporations play the Tax Code game and pay no taxes at all.

Loopholes in the Tax Code totalled $36 billion 10 years ago. Today, they are at $360 billion. That mean as equal incomes don't pay equal taxes. And that drags our economy down.

It is time for a fundamental restructuring of our Nation's Tax Code.

The package passed by the House provides us a vehicle with which to work. But many changes must be made. I am particularly concerned that the following principles be included:

First. The top tax rate for individuals should be no higher than 35 percent President Reagan has affirmed his support for this goal.

Second. The personal exemption should be raised to $2,000 for all taxpayers, whether they itemize or not. There is no basis for discriminating against a family simply because it decides to itemize its expenses rather than take the standard deduction.

Third. Deductions should not be repealed until tax rates are lowered. Under the House bill, many taxpayers would see their taxes increase in 1986 because deductions are eliminated on January 1 and rates are not lowered until July. This is unfair; it could slow economic growth; and it is hardly the objective of true tax reform.

Fourth. The business tax changes should not bias the Tax Code against capital-intensive industries. The House package would hit especially hard at the kind of capital-intensive industries that predominate in the Midwest. I believe the business section of the Tax Code should not be biased for or against any specific industry. Our goal must be to provide a level playing field for all.

Fifth. Tax reform must be revenue neutral. It should not become the vehicle for an election-year tax increase.

Each of these principles is crucial to a balanced tax reform package.

Mr. President, next year we will have a chance to do something dramatic here in the Senate. We will have the opportunity to fundamentally restructure our Nation's Tax Code to restore fairness and simplicity and equity, and to extend our current economic recovery to the turn of the century.

A chance like this comes to us very rarely. Let us use it wisely. The American people deserve nothing less.

ERISA AMENDMENTS—H.R. 3500

Mr. DECONCINI. Mr. President, I have been particularly interested in following the ERISA amendments of this bill and how they impact on the rights of troubled companies, and entities in bankruptcy. Initially, I must admit I was greatly troubled by some of the provisions that were in the Senate version of the budget reconciliation bill, S. 1730, but I was even more concerned about some of the more far flung amendments contained in various House proposals. My concern, in part, was prompted by not knowing exactly what the various bills were trying to do and because the Judiciary Committees of Congress, which traditionally handle bankruptcy related matters, had not been involved in any degree in the development of this most important legislation that has a dramatic impact on bankruptcy.

I have been encouraged and applaud the process that has taken place since early November, when the Judiciary Committee became aware of the provisions in the bill dealing with bankruptcy, whereby members of the Judiciary Committee staff and other interested parties in the bankruptcy field have met with the Labor Committee staff and staff of the Pension Benefit Guarantee Corporation to discuss the various viewpoints on this legislation. I believe this process has resulted in a final product which is considerably better and more equitable for all who will come into contact with it.

I remain concerned about the impact of certain provisions of the bill on employer companies with sizable unfunded pension liabilities. I do not believe Congress has adequately focused on whether or not the increase in liabilities to the PBGC will make it more difficult for these companies to obtain credit or to raise cash by selling divisions, assets or subsidiaries for badly needed money to pay creditors. I am fearful that credit for troubled companies will be even more difficult to come by when the lender must take into consideration the augmented unfunded pension liabilities of a potential borrower. I can only hope that we are not passing legislation that will have the impact of forcing more and more companies into chapter 11 reorganization proceedings rather than be able to successfully workout their financial problems outside of bankruptcy. On the same theme, only experience will tell us if we have placed such an enormous burden on debtors with unfunded pension liabilities that we negate any hope they have of a successful reorganization and effectively have denied any possibility of meaningful payouts to unsecured creditors in cases involving unfunded pension liabilities.

I have reviewed the provisions of the bill as they impact on companies in chapter 11 of the Bankruptcy Code and I am satisfied that the bill does not intend to couple any new liens or priorities with the increase in liability to the PBGC from 30 percent of net worth to 75 percent of unfunded pension liability. I am also assured that the bankruptcy court will retain exclusive jurisdiction over plan terminations for companies in chapter 11 and that the termination during the pendency of a bankruptcy proceeding does not create any administrative expense priority. Finally, I am satisfied that new section 4069 on evasion of liability, is intended to be narrowly construed and applied only to fraudulent transactions, such as those where inadequate consideration is paid to a distressed company for the sale of valuable assets.

MICHAEL STERN

Mr. CRANSTON. Mr. President, I want to take this opportunity to pay special tribute to a member of the Senate staff who is leaving after over 17 years of service in this body. Michael Stern has worked for the Senate since 1968. He has served as a longtime assistant to Senator LONG; in that capacity he has served as the staff director of the Senate Finance Committee from 1973 through 1980, and since 1981 as its minority staff director.

Michael has been an invaluable resource to members on both sides of the aisle on the Finance Committee and in the Senate at large. His breadth of knowledge, his wise counsel, and his patience in helping carry out the will the Senate are well-known to many, if not all, Senators.

Michael has on many, many occasions assisted me and my staff in working out complicated problems within the jurisdiction of the Finance Committee. He has always been a true professional in every sense of the word, always willing to help in an objective and thorough way and lend his considerable expertise to the tasks that needs to be performed.

Michael has left his mark upon countless measures acted on by this body, but I recall perhaps most vividly his dedication and commitment to helping gain passage of the 1980 Adoption Assistance and Child Welfare Act—legislation designed to improve the lot of America's forgotten foster children. This legislation was of special interest to me and I recall that—in sharp contrast to the interest displayed as to many other issues before the Finance Committee—there were only a handful of outside groups lobbying for its passage. Nevertheless, Michael put in countless hours and boundless energy helping make sure that this landmark legislation became law.

Michael Stern has served the Senate and the Nation extraordinarily well. My staff and I will miss him deeply. I know that his exceptional legislative and analytical skills, his vast experience and knowledge in the extremely

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diverse subjects under the Finance Committee's jurisdiction, his keen and insightful mind, and his deep sense of public commitment and public trust will be missed by all who have worked with him.

We wish him all possible success in his new endeavors and have no doubt he will achieve the same success in the private sector that he has achieved in his long career in public service.

CENTRAL AMERICA COUNTERTERRORISM LEGISLATION

Mr. CRANSTON. Mr. President, during the next session of Congress, the Senate is expected to consider S. 1915, legislation which would provide $22 million in "counterterrorism assistance" to four Central American countries.

This measure represents a compromise reached through protracted bargaining among members of the Foreign Relations Committee. The compromise has been difficult because the legislation deals with one of the very elements in the region that has repeatedly been guilty of abuses of human rights in the past, the national police forces. In 1974, Congress terminated a similar "public safety" program begun in the late 1950's because of evidence of abuses by some of the police officials trained under the U.S. program.

Originally, the Reagan administration made an urgent request for $54 million in counterterrorism assistance. That proposal would have set up an open-ended program which had few restrictions on the expenditure of funds. Because of the history of the public safety program, and because human rights abuses—from the left as well as the right—continue in Central America, I had serious reservations about supporting this legislation.

The compromise establishes a 1-year program providing $22 million in counterterrorism assistance to El Salvador, Costa Rica, Honduras, and Guatemala. Of that total, $1 million will go to a witness protection fund to aid those providing information or other assistance against terrorist activity. In an effort to avoid a repetition of past abuses, the legislation includes numerous restrictions. Before any funds can be given to a country, the President is required to report to Congress twice over the next 12 months and demonstrate that substantial improvements have taken place in that country's human rights situation and in its efforts to set up police and judicial institutions independent of the military. A separate certification is required for Guatemala to demonstrate that an elected civilian government is in power and has made substantial progress in this area after assuming power.

In addition, the General Accounting Office [GAO], an investigatory arm of the Congress, is required to report three times to Congress over the next year on the progress made by each country receiving this U.S. assistance in eliminating human rights violations; in creating law enforcement and judicial systems which promote and encourage the prosecution of criminal acts; and in professionalizing its independent law enforcement agencies. Intelligence agency participation is barred, except for U.S.-based training, and there is a 10-percent cap on lethal weapons expenditures.

While I believe we are taking a risk in authorizing this program, I believe the risk will be worthwhile if the program results in a significant contribution to the professionalization of the police and security forces and the elimination of human rights abuses in the countries receiving assistance. The police and security forces are institutions which must change so that more positive developments in the direction of true democracy can continue to take place in these countries.

The careful restrictions Congress has placed on the program will give us a chance to measure its success. Since Congress must renew the proposal in 1 year if it is to continue, we will be able to determine whether the assistance has helped to bring about the type of change anticipated. If the counterterrorism aid fails to accomplish the goals we have set for it, then we in Congress will have an opportunity to take the appropriate steps to put an end to it.

THE FEDERAL DEFICIT

Mr. LEAHY. Mr. President, like the ancients, last week Congress walked into the proverbial Valley of Decision, when we passed the Gramm-Rudman-Hollings deficit reduction plan.

Our decision to go forward with this historic plan to reduce Federal deficits, like the decision to enter the legendary valley, was only a beginning. Many decisions—the important decisions—lie ahead. And there must be no avoiding them.

We have resolved to set annual limits on the Federal deficit and to retire it by 1991. We have forced ourselves and the President to make the tough choices to meet the goals we set out in law.

Mr. President, now it is our responsibility—our duty—to fashion the actual program under which we will reduce the Federal deficit by $36 billion annually. Members of the Senate, on both sides of the aisle, must work together in a spirit of cooperation to live up to the objectives of Gramm-Rudman-Hollings.

Some favor reducing the deficit by eliminating one-third of the shortfall through cuts in domestic and social programs, one-third through cuts in defense spending and one-third through Federal income tax increases.

The plan I have supported for 3 years, the Hollings-Leahy freeze, would reduce the deficit by freezing all Federal spending at 1984 levels for domestic, social, and defense programs. In addition, wealthy individuals and large, profitable corporations that have paid no taxes would be forced to pay their fair share.

Mr. President, I believe our plan is the most responsible and equitable way of reducing the deficit. Every program is frozen. No one program is favored. No one group is disadvantaged. And every American would benefit from reducing the deficit. In fact, our plan, were it enacted when first proposed in 1983, would have retired the Federal deficit this year.

Some suggest that we must reduce the deficit to stimulate investment and economic growth.

That is only half the story, Mr. President. Reducing the deficit is vital to health of our economy, but it is just as vital to the well-being of our society.

Our children and their children deserve the opportunity we have had to choose a direction for Government and society—to determine their own priorities for the Nation. The ever-growing portion of our annual budget that is wasted on interest payments on the Federal debt jeopardizes the ability of the next generation to choose their own direction. There simply won't be the money for investment in new research that cures disease or famine, or education that enlightens and makes us strong, or any other worthy endeavor which future Americans may wish to explore.

We owe it to ourselves, and especially to future Americans to take seriously the commitment we have made to reduce the deficit. We have entered the valley, now we must begin to find a way out. We need a plan that is fair, responsible and future-minded.

MARTIN LUTHER KING, JR. NATIONAL HOLIDAY

Mr. DURENBERGER. Mr. President, national holidays are important occasions for Americans to break their routines and celebrate our Nation's accomplishments. National holidays are also a time to reflect upon and reinforce the ideas and principles upon which our country was founded, and the men and women who have inspired and represented those ideals.

The inspiration provided by Dr. Martin Luther King, Jr. is fully deserving of that kind of national recognition and reflection. It is truly significant that on January 20, 1986, Americans will celebrate the first annual observance of Dr. King's birthday as a national holiday.

Dr. Martin Luther King, Jr.'s crusade, for which he gave his life, was the fight against the equivocation of the constitutional guarantees of freedom, justice and equality, not only for blacks, but for all minorities, women, the disabled, the elderly, and other groups who have historically not been offered the full measure of American opportunity.

Martin Luther King was born on January 15, 1929, in Atlanta, GA. He attended the first public high school for blacks in Atlanta, Booker T. Washington High School. Completing high school in 2 years by skipping the 9th and 12th grades, he was admitted to Morehouse College at age 15.

Dr. King was ordained into the ministry in the National Baptist Church in 1947, and received a B.A. degree in sociology from Morehouse College in 1948. Following graduation from Morehouse, Dr. King earned Crozer Theological Seminary. Following his seminary training, Dr. King earned a doctorate in theology from Boston University.

In 1964, Dr. King made history by becoming the youngest person ever to receive the Nobel Peace Prize for his adherence to the principles of nonviolence and for the example he set for others working toward peaceful social change. His vision of a better America is an inspiration to us all. In the words of Martin Luther King, Jr.:

> Human progress is neither automatic nor inevitable. Even a superficial look at history reveals that no social advance rolls in on the wheels of inevitability. Every step toward the goal of justice requires sacrifice, suffering, and struggle; the tireless exertions and passionate concern of dedicated individuals without persistent effort, time itself becomes an ally of the insurgent and primitive forces of irrational emotionalism and social destruction. This is no time for apathy or complacency. This is a time for vigorous and positive action.

Mr. President, these lessons of vigor, diligence, honesty and indeed, hope, in the struggle for the rights of all Americans are the legacy Dr. King left to the modern civil rights movement. Dr. King's spirit lives on in our efforts to extend the provisions of the Voting Rights Act, to preserve the U.S. Commission on Civil Rights, to extend greater economic opportunities to women under the Economic Equity Act, to reinforce Federal support for affirmative action through Executive Order 11246, and to preserve our cornerstone civil rights statutes through the Civil Rights Restoration Act.

Mr. President, I am honored and grateful for the opportunity to follow in the path of this great man. His vision and principles have inspired a generation of citizens and their representatives to "vigorous and positive action." The result is a shared, and healthy impatience with an imperfect world, and the energy to continue to work to change it.

Our need to maintain the courage and conviction for equality and justice is as strong today as it was during Martin Luther King's time with us. Celebrating his contribution to America on January 20 is a fitting opportunity to recommit ourselves to the fundamental principles of freedom, justice, and equality which were at the heart of his life and his legacy to us all.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Armed Services.

(The nominations received today are printed at the end of the Senate proceedings.)

PRESIDENTIAL APPROVALS

A message from the President of the United States announced that he had approved and signed the following enrolled bill and joint resolution:

On December 16, 1985:

S.J. Res. 238. Joint resolution relating to the approval and implementation of the proposed agreement for nuclear cooperation between the United States and the People's Republic of China.

On December 17, 1985:

S. 1639. An act to authorize the minting of gold bullion coins.

MESSAGES FROM THE HOUSE RECEIVED DURING PROCESS

ENROLLED JOINT RESOLUTION SIGNED

Under the authority of the order of the Senate of January 3, 1985, the Secretary of the Senate, on December 17, 1985, during the recess of the Senate, received a message from the House of Representatives announcing that the Speaker had signed the following enrolled joint resolution:

H.J. Res. 491. Joint resolution making further continuing appropriations for fiscal year 1986.

Under the authority of the order of the Senate of January 3, 1985, the enrolled joint resolution was signed on December 17, 1985, during the recess of the Senate by the President pro tempore (Mr. THURMOND).

MESSAGES FROM THE HOUSE

At 10:13 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the amendments of the Senate to the bill (H.R. 1784) to authorize appropriations for fiscal year 1986 for the operation and maintenance of the Panama Canal, and for other purposes.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3132. An act to amend chapter 44, of title 18, United States Code, to regulate the manufacture, importation, and sale of armor piercing ammunition, and for other purposes; and

H.R. 3838. An act to reform the internal revenue of the United States.

At 2:12 pm., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2100) to extend and revise agricultural price support and related programs, to provide for agricultural export, resource conservation, farm credit, and agricultural research and related programs, to continue food assistance to low-income persons, to ensure consumers an abundance of food and fiber at reasonable prices, and for other purposes.

ENROLLED BILL AND JOINT RESOLUTIONS SIGNED

At 2:48 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bill and joint resolutions:

S. 1728. An act to authorize the Cherokee Nation of Oklahoma to lease certain lands held in trust for up to ninety-nine years;

H.J. Res. 436. Joint resolution to designate 1986 as "Save for the U.S.A. Year", and for other purposes; and

H.J. Res. 485. Joint resolution waiving the printing on parchment of enrolled bills and joint resolutions during the remainder of the first session of the Ninety-ninth Congress.

The enrolled bill and joint resolutions were subsequently signed by the President pro tempore (Mr. THURMOND).

At 3:12 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 1918. An act to change the date for transmittal of a report.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3931. An act to designate the General Services Administration building known as the "United States Appraiser's Stores Building" in Boston, Massachusetts, as the "Captain John Foster Williams Coast Guard Building"; and

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H.R. 3974. An act to amend title 10, United States Code, to include in the death gratuity payable to survivors of a member of the Armed Forces who dies on active duty an amount equivalent to two months housing allowance.

At 4:10 p.m., a message from the House of Represenatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the amendments of the Senate to the amendment of the House to the bill (S. 1884) to amend the Farm Credit Act of 1971, to restructure and reform the Farm Credit System, and for other purposes.

The message also announced that the House has passed the following joint resolution, with an amendment, in which it requests the concurrence of the Senate:

S.J. Res. 240. Joint resolution opposing the Soviet Union's invasion and six-year occupation of Afghanistan against the national will of the Afgan people.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 262. Concurrent resolution correcting the enrollment of House Joint Resolution 187.

ENROLLED BILL SIGNED

At 7:50 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 3914. An act to preserve the authority of the Supreme Court Police to provide protective services for Justices and Court personnel.

The enrolled bill was subsequently signed by the President pro tempore [Mr. THURMOND].

At 8:01 p.m., a message from the House of Representatives, delivered by Ms. Goetz, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3981. An act to extend until December 19, 1985, the application of certain tobacco excise taxes, trade adjustment assistance, certain medicare reimbursement provisions, and borrowing authority under the railroad unemployment insurance program.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 3838. An act to reform the internal revenue laws of the United States; to the Committee on Finance.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 3132. An act to amend chapter 44, of title 18, United States Code, to regulate the manufacture, importation, and sale of armor piercing ammunition, and for other purposes.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, December 18, 1985, she, had presented to the President of the United States the following enrolled bills:

S. 1621. An act to amend title 25, United States Code, relating to Indian education programs, and for other purposes.

S. 1728. An act to authorize the Cherokee Nation of Oklahoma to lease certain lands held in trust for up to ninety-nine years.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2133. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report on a violation of law involving the overobligation of an approved apportionment of appropriations; to the Committee on Appropriations.

EC-2134. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the status of certain budget authority proposed for rescission for which the Congress has failed to pass a rescission bill before the 45-day withholding period; pursuant to the order of January 30, 1975, referred jointly to the Committee on the Budget, the Committee on Appropriations, and the Committee on the Judiciary.

EC-2135. A communication from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend title 10, United States Code, to revise and standardize the provisions of law relating to appointment, promotion, and separation of commissioned officers of the reserve components of the armed forces, and for other purposes; to the Committee on Armed Services.

EC-2136. A communication from the Acting Secretary of the Army, transmitting, pursuant to law, a report on the breach of the unit cost threshold of the SINCGARS program by more than 25 percent; to the Committee on Armed Services.

EC-2137. A communication from the Chairman of the Nuclear Regulatory Commission, transmitting, pursuant to law, a report on progress in the preparation of the study of quality and quality assurance guidelines in the design and construction of nuclear powerplants; to the Committee on Environment and Public Works.

EC-2138. A communication from the Secretary of Health and Human Services, transmitting a draft of proposed legislation to provide for voluntary private alternative coverage for Medicare beneficiaries, and for other purposes; to the Committee on Finance.

EC-2139. A communication from the Secretary to the Commission on Fine Arts, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect during fiscal year 1985; to the Committee on Governmental Affairs.

EC-2140. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the 60-day period to December 13, 1985; to the Committee on Foreign Relations.

EC-2141. A communication from the Secretary of Labor, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, Department of Labor, for the period April 1 through September 30, 1985; to the Committee on Governmental Affairs.

EC-2142. A communication from the Assistant Secretary of State (Legislative and Intergovernmental Affairs), transmitting, pursuant to law, the annual report on the Foreign Service Retirement and Disability System for fiscal year 1984; to the Committee on Governmental Affairs.

EC-2143. A communication from the Acting Staff Director of the Commission on Civil Rights, transmitting, pursuant to law, a report on the system of internal accounting and administrative control in effect for the Commission during fiscal year 1985; to the Committee on Governmental Affairs.

EC-2144. A communication from the Assistant Vice President (Employee Benefits) of the Ninth Farm Credit District of Wichita, transmitting, pursuant to law, the annual report on their pension plan for the plan years ending February 28, 1985, and February 29, 1984; to the Committee on Governmental Affairs.

EC-2145. A communication from the Secretary of Defense, transmitting, pursuant to law, a report on legislation to reinstate the death penalty for persons convicted of espionage in civilian courts; to the Committee on the Judiciary.

EC-2146. A communication from the Comptroller of the American Council of Learned Societies, transmitting, pursuant to law, the audited financial statement of the Council for fiscal year 1985; to the Committee on the Judiciary.

EC-2147. A communication from the Secretary of the Interior, transmitting, pursuant to law, notice of a leasing system for the North Aleutian Basin, Sale 92, scheduled to be held in January 1986; to the Committee on Energy and Natural Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted.

By Mr. HATCH, from the Committee on Labor and Human Resources, with amendments:

S. 1855: A bill to revise the provisions of the Public Health Service Act relating to health planning (Rept. No. 99-224).

By Mr. HATCH, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 1848: A bill to amend the Federal Food, Drug, and Cosmetic Act to establish conditions for the export of drugs (Rept. No. 99-225).

By Mr. HATCH, from the Committee on Labor and Human Resources, without amendment:

S. 1968: An original bill to amend the Railroad Unemployment Insurance Act to assure sufficient resources to pay benefits, to increase the maximum daily benefit, and for other purposes.

Mr. President, today on behalf of the Committee on Labor and Human Resources, I am reporting an original bill, S. 1968, to amend the Railroad Unemployment Insurance Act. The bill complements provisions adopted by the Committee on Finance and included in its portion of S. 1730, the Consolidated Omnibus Budget Reconciliation Act of 1985.

In general, the bill is a package of amendments designed to restore solvency to the railroad unemployment system and to address several concerns raised by rail labor and rail carriers. I recognize that some of the provisions contained in the bill are probably within the jurisdiction of the Senate Finance Committee, and I look forward to that committee's review and consideration.

In 1983, when Congress passed the Railroad Retirement Solvency Act, it established the Railroad Unemployment Compensation Committee to prepare a report on the problems besetting the railroad unemployment insurance system. The bill I am reporting today embodies most of the recommendations made by the committee, recommendations which the Compensation Committee believes are necessary to insure an efficient and equitable benefit system.

Briefly, let me explain the various amendments contained in this bill. First, the bill would increase from $25 to $27 the maximum daily benefits payable to eligible workers for employment and sickness benefits. This would bring the benefits more into line with those available to workers covered by other unemployment systems. Along with this increase, the bill would index the daily benefit rate to insure that the benefit level would grow at a rate comparable to employee compensation rates and overcome the effects of inflation.

At the same time, more stringent requirements for eligbility would be established to guarantee that persons seeking benefits are regular railroad employees. Prior to registering for benefits, employees must have worked at least 6 months and earned a certain level of compensation. A 3 day waiting period would be established for the first registration period of each year.

In order to insure that there are sufficient revenues with which to pay benefits and to insure that those revenues increase with raises in the daily benefit rates, employer contributions would be indexed to the monthly compensation base. The current maximum contribution rate of 8 percent would be increased to 12 percent and any contribution required beyond the 12 percent maximum would be assessed proportionately to other employers.

The contribution of each employer would be based on an experience rating for individual employers, rather than the current system-wide base. This amendment would encourage employers to maintain a high employment level and would produce an employer desire to monitor benefit claims. Employers would be authorized to participate in the investigation, processing, and appeal of employee claims in order to establish which claims are not justified and to make certain that employer contributions are not unduly increased.

In order to guarantee that future claims do not financially overburden the system, there would be a 1.5-percent or 2.5-percent surcharge levied against all employers for any year in which the fund reserve for benefits drops below certain levels.

Finally, in order to improve the efficiency of investigation and processing of benefit claims, the amount of administrative funds assessed to each employer would be increased.

The bill being reported today will help to establish the solvency of the Railroad Unemployment Insurance System and strike a legitimate balance between the interests of the rail carriers and the rail unions. When coupled with the amendments to the system that the Senate Finance Committee has included in its portion of S. 1730, the bill will provide Congress with a solution to the problems besetting the system and I urge my colleagues to support the legislation.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. GOLDWATER, from the Committee on Armed Services:

The following-named officer, under the provisions of title 10, United States Code, section 5141, to be Chief of Naval Personnel and to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be vice admiral

Rear Adm. Dudley L. Carlson, 571-34-1829/1110, U.S. Navy.

The following officers for appointment in the U.S. Air Force to the grade of brigadier general under the provisions of section 624, title 10 of the United States Code:

To be brigadier general

Col. Robert M. Alexander, 418-48-3868FR, Regular Air Force.

Col. James S. Allen, 016-30-3225FR, Regular Air Force.

Col. John R. Allen, Jr., 247-52-3450FR, Regular Air Force.

Col. Edgar R. Anderson, Jr., 433-60-4339FR, Regular Air Force.

Col. James G. Andrus, 529-48-2009FR, Regular Air Force.

Col. Malcolm B. Armstrong, 438-60-7184FR, Regular Air Force.

Col. Lester P. Brown, Jr., 227-48-7400FR, Regular Air Force.

Col. Robert A. Buethe, Jr., 321-32-7571FR, Regular Air Force.

Col. Gerald A. Daniel, 436-58-5221FR, Regular Air Force.

Col. Thomas E. Eggers, 333-34-7982FR, Regular Air Force.

Col. James W. Evatt, 448-36-7167FR, Regular Air Force.

Col. Frederick A. Fiedler, 524-42-8785FR, Regular Air Force.

Col. Paul D. Gleason, 014-26-1352FR, Regular Air Force.

Col. Joel T. Hall, 442-34-9937FR, Regular Air Force.

Col. William P. Hallin, 046-32-0572FR, Regular Air Force.

Col. Floyd E. Hargrove, 453-50-8373FR, Regular Air Force.

Col. George B. Harrison, 251-60-5770FR, Regular Air Force.

Col. John R. Harty, 501-34-3453FR, Regular Air Force.

Col. Richard E. Hawley, 069-34-7170FR, Regular Air Force.

Col. Harald G. Hermes, 154-28-4701FR, Regular Air Force.

Col. Thomas W. Honeywill, 299-30-1055FR, Regular Air Force.

Col. John R. Hullender, 260-56-6601FR, Regular Air Force.

Col. Grover E. Jackson, 416-50-3954FR, Regular Air Force.

Col. John E. Jackson, Jr., 234-62-8810FR, Regular Air Force.

Col. Arlen D. Jameson, 538-36-5959FR, Regular Air Force.

Col. Jeffery D. Kahla, 534-36-0824FR, Regular Air Force.

Col. Donald L. Kaufman, 461-56-8494FR, Regular Air Force.

Col. Vernon J. Kondra, 532-34-3136FR, Regular Air Force.

Col. Paul E. Landers, Jr., 525-64-8724FR, Regular Air Force.

Col. James J. LeCleir, 380-38-5475FR, Regular Air Force.

Col. Orthus K. Lewis, Jr., 430-60-5191FR, Regular Air Force.

Col. Nathan J. Lindsay, 387-34-3109FR, Regular Air Force.

Col. John D. Logeman, Jr., 397-34-5697FR, Regular Air Force.

Col. Charles F. Luigs, 404-50-5689FR, Regular Air Force.

Col. Billy G. McCoy, 462-64-1237FR, Regular Air Force.

Col. Michael P. McRaney, 425-80-0798FR, Regular Air Force.

Col. Philip L. Metzler, Jr., 524-44-8266FR, Regular Air Force.

Col. Kenneth V. Meyer, 471-44-5038FR, Regular Air Force.

Col. John M. Nowak, 374-42-6339FR, Regular Air Force.

Col. Carl G. O'Berry, 363-34-3273FR, Regular Air Force.

Col. Richard J. O'Lear, 567-52-4439FR, Regular Air Force.

Col. David C. Reed, 555-48-9953FR, Regular Air Force.

Col. Jon A. Reynolds, 194-30-7566FR, Regular Air Force.

Col. Paul L. Roberson, 566-56-4803FR, Regular Air Force.

Col. Alan V. Rogers, 411-62-9465FR, Regular Air Force.

Col. Richard M. Scofield, 026-28-8454FR, Regular Air Force.

Col. John F. Sievertson, 234-50-6314FR, Regular Air Force.

Col. Victor S. Stachelczyk, 041-30-6463FR, Regular Air Force.

Col. Kenneth E. Staten, 521-52-2702FR, Regular Air Force.

Col. Robert F. Swarts, 448-36-1484FR, Regular Air Force.

Col. Dale W. Thompson, Jr., 441-36-6881FR, Regular Air Force.

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Col. Denis L. Walsh, 499-36-6931FR, Regular Air Force.

Col. Sam W. Westbrook III, 492-44-3573FR, Regular Air Force.

Col. Robert V. Woods, 509-40-1816FR, Regular Air Force.

By Mr. Lugar, from the Committee on Foreign Relations:

Thomas A. Bolan, of New York, to be a Member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 1988.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HATCH, from the Committee on Labor and Human Resources:

S. 1968. An original bill to amend the Railroad Unemployment Insurance Act to assure sufficient resources to pay benefits, to increase the maximum daily benefit, and for other purposes; placed on the calendar.

By Mr. SPECTER:

S. 1969. A bill to create a National Center for the Prosecution of Child Abuse under the Office of Justice Programs in the Department of Justice; to the Committee on the Judiciary.

S. 1970. A bill to authorize loan guarantees and interest subsidies for severely depressed cities; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. LAXALT:

S. 1971. A bill to transfer certain lands under the jurisdiction of the Secretary of the Interior to the city of Mesquite, Nevada; to the Committee on Energy and Natural Resources.

By Mr. HELMS (for Mr. East (for himself, Mr. Thurmond, Mr. Quayle, Mr. Symms and Mr. Helms)) (by request):

S. 1972. A bill to authorize the furnishing of military assistance to the National Union for the Total Independence of Angola (UNITA); to the Committee on Foreign Relations.

By Mr. BINGAMAN (for himself, Mr. Hatfield, Mr. Hart and Mr. Pryor):

S. 1973. A bill to provide for multilateral limitations on arms sales, and for other purposes; to the Committee on Foreign Relations.

By Mr. WILSON (for himself, Mr. Mathias, and Mrs. Hawkins):

S. 1974. A bill to prohibit the imposition by the states of the worldwide unitary method of taxation; to the Committee on Finance.

By Mr. GOLDWATER:

S. 1975. A bill to provide that the laws restricting trade between two points in the United States to vessels of the United States shall not apply to inflatable passenger boats or rafts before November 1, 1993; to the Committee on Commerce, Science, and Transportation.

By Mr. SPECTER:

S. 1976. A bill to provide for a study relating to the development of high speed rail systems within the United States; to the Committee on Commerce, Science, and Transportation.

By Mr. SYMMS:

S. 1977. A bill to temporarily increase the duty on Canadian softwood lumber and wood shingles and shakes; to the Committee on Finance.

By Mr. CRANSTON (for himself, Mr. D'Amato, Mr. Dixon, Mr. Dodd, and Mr. Mattingly):

S. 1978. A bill to clarify the taxation of certain asset-backed securities in multiple class arrangements; to the Committee on Finance.

By Mrs. KASSEBAUM:

S. 1979. A bill to fulfill the purposes of the Airport and Airway Improvement Act of 1982, promote air passenger safety, and provide equity to airway users; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977.

By Mr. THURMOND (for himself, Mr. Zorinsky, Mr. East, Mr. Simpson and Mr. Kerry):

S. 1980. A bill to amend title 17, United States Code, regarding the conveyance of audiovisual work, and for other purposes; to the Committee on the Judiciary.

By Mr. MURKOWSKI (for himself, Mr. Stevens, Mr. Heinz, Mr. Grassley and Mr. McClure):

S. 1981. A bill to provide a duty on surimi; to the Committee on Finance.

By Mr. DeCONCINI:

S. 1982. A bill to provide financial assistance to States to enable them to establish or expand teacher education programs, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. KERRY:

S. 1983. A bill to amend the Clean Air Act to control certain sources of sulfur dioxide and oxides of nitrogen to reduce acid deposition, and for other purposes; to the Committee on Environment and Public Works.

By Mr. NICKLES:

S. 1984. A bill to amend the Employee Retirement Income Security Act of 1974 to improve the financial solvency of multiemployer pension plans, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. DURENBERGER:

S. 1985. A bill entitled the "Medicare Voucher Act of 1986"; to the Committee on Finance.

By Mr. PELL (for himself and Mr. Danforth):

S.J. Res. 252. A joint resolution requesting the President of the United States to negotiate controls upon and the early prohibition of nuclear explosions; to the Committee on Foreign Relations.

By Mr. HATCH:

S.J. Res. 253. A joint resolution to designate the week of March 2, 1986, through March 8, 1986, as "Women's History Week"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SPECTER (for himself, Mr. Denton, Mr. Lautenberg, Mr. Cranston, Mr. Simon, and Mr. McConnell):

S. Res. 278. A resolution to disapprove the freeze on funds for the Office of Juvenile Justice and Delinquency Prevention; to the Committee on the Judiciary.

By Mr. HELMS (for himself, Mr. Hecht, Mr. East, and Mr. Denton):

S. Res. 279. A resolution expressing the sense of the Senate with respect to any transfer of U.S. territory, including certain islands in the Arctic Ocean; to the Committee on Foreign Relations.

By Mr. GARN (for Mr. Simpson (for himself and Mr. Cranston)):

S. Con. Res. 98. A concurrent resolution to recognize the historical significance of the former presidential yacht Sequoia, and express support for her donation to the United States Navy by the Presidential Yacht Trust; considered and agreed to.

By Mr. DODD (for himself and Mr. Stevens):

S. Con. Res. 99. A concurrent resolution supporting expanded cultural exchange between the United States and the Soviet Union; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SPECTER:

S. 1969. A bill to create a National Center for the Prosecution of Child Abuse under the Office of Justice Programs in the Department of Justice; to the Committee on the Judiciary.

CHILD ABUSE PROSECUTION ACT

Mr. SPECTER. Mr. President, today I introduce the Child Abuse Prosecution Act of 1985. This legislation will establish the National Center for the Prosecution of Child Abuse.

The incidence of child abuse in the United States is staggering. The present precedures for the prosecution of child offenders, however, are inadequate to counter this growing nationwide problem. The National Center established by this legislation will provide district attorneys and local prosecutors with the essential support they desperately need to address this tragedy.

In 1983, 1.7 million cases of child abuse were reported—an alarming increase of 800 percent since 1976. As a former district attorney of Philadelphia, I am acutely aware of the problems associated with prosecuting child abuse cases. More recently, as chairman of the Senate Subcommittee on Juvenile Justice and cochairman of the Senate children's caucus, I have heard extensive testimony on the increasing problem of child abuse. I believe we must implement innovative new methods to address this problem. Local prosecutors are primarily responsible for the prosecution of child abuse cases; a nationwide network will provide invaluable support services for their efforts in these difficult cases.

A National Center for the Prosecution of Child Abuse has the support of Attorney General Edwin Meese and his pledge of cooperation by the Department of Justice in implementing this program. On May 12, 1985, the criminal justice section of the American Bar Association endorsed establishment of the National Center under the auspices of the American Prosecutors Research Institute.

A survey recently conducted for the U.S. Department of Health and Human Services showed an alarming increase in 1984 of documented reports of abused and neglected children. According to the HHS survey, the total number of such reported cases was 1,712,641—a 16-percent increase over 1983 figures. The largest increase is in sexual abuse reporting—from 71,691 reports in 1983 to an estimated 110,878 reports in 1984—an increase of 54 percent.

The increasing reports of child abuse require us to do more to protect our children nationwide. I believe that establishment of a National Center for the Prosecution of Child Abuse is an important step toward achieving this important goal.

This legislation addresses the need to improve procedures for prosecution of child abuse cases and to protect the child victim. The National Center for the Prosecution of Child Abuse would provide the following services:

Training programs for professionals involved in child abuse cases, to improve sensitivity toward the victims;

Dissemination of information about model prosecution programs to prosecutors throughout the United States;

Development of techniques to provide better interviewing of the victim-witness, to avoid further traumatization of the child;

Monitoring of changes in case and statutory law in every jurisdiction and prompt provision of this information directly to prosecutors;

Recommendations of charging and sentencing practices which consider the unique factors involved in child abuse cases; and

Coordination of local and regional interdisciplinary teams to assist local prosecutors in the investigation and preparation of child abuse cases.

Creation of the National Center for the Prosecution of Child Abuse would not be a long-term financial burden for the Federal Government; the National Center would be operated by uniquely qualified criminal justice organizations, such as the American Prosecutors Research Institute and the National District Attorneys Association. It is expected that the local and regional interdisciplinary teams would become financially self-sufficient after a few years, as a result of local private support; the National Center also is expected to become financially self-sufficient after a period of 5 years.

The vital services provided by the National Center currently are not available to most prosecutors. We must act now to provide prosecutors with the information and technical assistance they desperately need in the prosecution of child abuse cases. The National Center for the Prosecution of Child Abuse established by this legislation will coordinate and support the important efforts by prosecutors throughout the United States to combat the growing national problem of child abuse.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1969

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Child Abuse Prosecution Act of 1985".

FINDINGS AND PURPOSE

SEC. 2. (a) Congress finds that:

(1) Approximately 1.7 million cases of child abuse were reported in this country in 1983, an 800 percent increase since 1976. The more serious of these incidents of physical child abuse and all incidents of child sexual abuse are regarded as crimes and fall within the purview of local prosecutors.

(2) This escalation in reported cases of child abuse has created dramatic case load increases for prosecutors responsible for seeking appropriate redress.

(3) The unique nature of the relationships of offenders to their victims in intrafamilial cases and the fact that, in all abuse cases, the main witnesses are children, requires the exercise of extreme sensitivity on the part of prosecutors responsible for interviewing these young witnesses and preparing cases for trial.

(4) The traditional criminal justice system has not been responsive to the verbal and developmental limitations of children and must be reformed in order to ensure that, while defendants are afforded the full panoply of rights granted them under the constitution or statutes, children are shielded from further vitimization by the system designed to protect them.

(5) Prosecutors do not have the resources necessary to acquire the requisite skills in handling these sensitive cases, the capabilitly to track changes in case and statutory law, or to obtain information on model or innovative programs.

(6) While prosecutors have a wealth of actual case experience, they do not have the resources to monitor, evaluate and recommend changes in State and Federal legislation designed to accommodate the needs of the child witness and thereby eliminate barriers to successful prosecution.

(7) Many prosecutors do not have the benefit of authorities in the fields of pediatric medicine or mental health on which to rely for export testimony and are at a distinct disadvantage when seeking a conviction.

(b) It is therefore the declared policy of the Congress to provide the necessary resources to develop a national prosecutorial capacity to undertake legal research, identify and disseminate model prosecutorial child abuse programs, and provide technical assistance and litigation support to local prosecutors across the country.

ESTABLISHMENT OF CENTER

SEC. 3. (a) part A of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S. 3711-3712) is amended—

(1) in section 102—

(A) in clause (5) by striking out "and" after the semicolon;

(b) by redesignating clause (6) as clause (7); and

(C) by inserting after clause (5) the following:

"(6) provide for the operation of the National Center for the Prosecution of Child Abuse as provided in Section 103; and"; and

(2) by adding at the end thereof the following:

"NATIONAL CENTER FOR THE PROSECUTION OF CHILD ABUSE

"SEC. 103. (a) The Assistant Attorney General shall provide for the operation of a clearinghouse, to be known as the 'National Center for the Prosecution of Child Abuse', the functions of which shall include but not be limited to the following:

"(1) disseminating nationally information on innovative and model prosecution programs;

"(2) monitoring and evaluating changes in State and Federal legislation based upon the actual case experience of prosecutors, for the purpose of developing model legislation;

"(3) reporting and tracking changes in case and statutory law in every jurisdiction and disseminating this information to prosecutors;

"(4) providing technical assistance and litigation support to prosecutors in child abuse cases;

"(5) coordinating local and regional interdisciplinary teams to assist local prosecutors in the investigation and preparation of child abuse cases; and

"(6) assisting local prosecutors in the design and implementation of efforts for private funding to support the establishment and maintenance of such interdisciplinary teams.

"(b) The Assistant Attorney General is authorized to make grants to or enter into cooperative agreements or contracts with public agencies or private nonprofit organizations to operate the National Center for the Prosecution of Child Abuse as provided in this section.".

AUTHORIZATION AND CONFORMING AMENDMENT

SEC. 4. (a) Subsection (a) of section 1001 of title I of the Omnibus Crime Control and Safe Streets Act (42 U.S.C. 3793(a)) is amended by adding at the end thereof the following:

"(7) There is authorized to be appropriated $1,300,000 for each fiscal years 1987 and 1988 to operate the National Center for the Prosecution of Child Abuse as provided in section 103.".

(b) The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding at the end of the item relating to Part A the following:

"Sec. 103. National Center for the Prosecution of Child Abuse.".

By Mr. SPECTER:

S. 1970. A bill to authorize loan guarantees and interest subsidies for severely depressed cities; to the Committee on Banking, Housing, and Urban Affairs.

SUDDEN AND SEVERELY ECONOMICALLY DEPRESSED CITIES LOAN GUARANTEE AND LOAN INTEREST SUBSIDY ACT

Mr. SPECTER. Mr. President, today I am introducing legislation designed to call the Government's attention to the severe economic distress that many municipalities suffer as a result of their loss of industry and, thus, their tax bases.

On November 1, 1985, the distinguished acting chairman of the Commerce, State, Justice Appropriations Subcommittee, Mr. RUDMAN, and I called this body's attention to the problems of cities like those in Pennsylvania which have experienced a loss of steel companies and related industries. I noted then that "along with the decline of the industry have come lowered county assessments on homes and businesses, reduced employment, and an aging population."

The city of Clairton, PA, was given as an example of the problems faced by municipalities with declining industries. I stated in the colloquy that, as I pointed out, in 1960, Clairton's population was 18,389. By 1980, the population had declined to 12,188, for a loss of 33.7 percent. A further 6-percent loss is projected by the year 2000. And in 1980, 17.2 percent of the population was over 65 years old. The decline in the city's ratables has produced a fiscal crisis of the first order, to the extent that health and safety are now endangered. The city of Clairton is projecting a deficit of $600,000 by year end, or nearly one-third of the city's $3.2 million budget. As of September 10, 1985, there was only $3,000 remaining in the city's bank account, which was not enough to pay its 13 police officers and 10 firefighters. State police and volunteer firefighters now constitute the city's sole safety forces.

Clairton by no means stands alone. There are many other "steel" towns in a similar situation throughout my State and the country. Other examples in Pennsylvania include, but are not limited to, Aliquippa, Homestead, West Homestead, Duquesne, and Dravosburg.

But the problem is not limited to towns with a declining steel industry. Towns whose economies are based on farming, lumber, textiles, mining, and other industries that are experiencing difficulties are also facing severe economic problems like those being experienced by Clairton. This is truly a national problem in scope.

My bill would authorize long-term loan guarantees and interest subsidies for severely economically depressed cities that are deemed eligible for assistance under criteria to be established by the Secretary of the Treasury. The loan guarantee part of the legislation is modeled on the rescue plan that Congress adjusted for the city of New York a few years ago.

This legislation also contains a provision that would allow severely economically depressed communities to divert portions of their community development block grants to pay for vital municipal services such as police and firefighters where they would not otherwise be able to pay for these services. The Secretary of Housing and Urban Development would give permission to divert funds based on criteria development by the Secretary.

This bill need not impose major new costs on the Federal Treasury. Past loan guarantee programs, such as those for New York City and Chrysler, have demonstrated that guarantees do not cost the Government 1 cent if careful criteria are established for working loans available. The low interest loans need not be a prohibitive expense to the Government if awarded only where needed. My bill explicitly authorizes the Secretary of the Treasury to take such considerations into account in setting eligibility criteria.

I should also add that there will be high costs to doing nothing in terms of the additional benefits that a devastated citizenry will become entitled to if basic municipal services cannot be maintained to protect health and safety.

I urge my colleagues to give this bill their most serious consideration, and I ask unanimous consent that the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1970

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, This Act may be cited as the "Sudden and Severe Economically Depressed Cities Loan Guarantee and Loan Interest Subsidy Act".

TITLE I—LOAN GUARANTEES AUTHORITY

SEC. 101. (a) Upon the written request of a unit of general local government and the Governor of the State where that unit of general local government is located, the Secretary of the Treasury may guarantee the timely payment, in whole or in part, of interest or principal, or both, of indebtedness of that unit of general local government in accordance with this title.

(b) Any guarantee under this title shall cease to be effective not later than fifteen years after the date of the issuance of the indebtedness involved.

(c) The Secretary of the Treasury shall prescribe terms and conditions for the making of guarantees under this title.

(d) The Secretary of the Treasury shall also provide interest subsidies where needed to enable cities which meet the requirements established by the Secretary to obtain loans at below market interest rates.

CONDITIONS OF ELIGIBILITY

SEC. 102. (a) A guarantee may be made under this title only if the Secretary of the Treasury finds—

(1) that the unit of general local government is severely economically depressed;

(2) that it has lost such a significant amount of industry, employed population, and, therefore, its tax base; and

(3) that it is in a financial crisis and is unable to meet its financial obligations or to maintain vital municipal services.

The Secretary of the Treasury shall determine the criteria for eligibility.

(b) The Secretary shall include in the criteria prescribed under this title assessments of the viability of the unit of general local government and of the exposure of the United States Treasury.

AUTHORIZATION FOR LOAN GUARANTEES AND SUBSIDY AMOUNTS

SEC. 103. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this title.

TITLE II—EMERGENCY USE OF COMMUNITY DEVELOPMENT BLOCK GRANTS FOR CITY SERVICES IN SEVERELY ECONOMICALLY DEPRESSED CITIES AUTHORIZATION

SEC. 201. (a) Upon the written request of a unit of general local government and the Governor of the State where that unit of general local government is located, the Secretary of Housing and Urban Development may permit the unit of general local government to divert portions of its community development block grant to pay for vital municipal services, where the Secretary finds that the unit of general local government has lost such a significant amount of industry and taxpaying population that its tax base can no longer support vital municipal services.

(b) As used in this section—

(1) the term "Secretary" means the Secretary of Housing and Urban Development; and

(2) the term "vital municipal services" includes the services of police and firefighters and ambulance and medical services.

By Mr. HELMS for Mr. EAST (for himself, Mr. THURMOND, Mr. QUAYLE, Mr. SYMMS, and Mr. HELMS) (by request):

S. 1972. A bill to authorize the furnishing of military assistance to the National Union for the Total Independence of Angola [UNITA]; to the Committee on Foreign Relations.

MILITARY AID TO ANGOLA

Mr. HELMS. Mr. President, as our colleagues are aware, the distinguished junior Senator from North Carolina, Mr. EAST, has been necessarily absent from this Chamber for much of this year.

Nevertheless, JOHN is looking forward to his return. Among other issues, he is deeply concerned by the relative lack of interest which our Government has taken in providing assistance to the freedom fighters opposing the Communist government of Angola. My able colleague believes that it is our responsibility to assist all those trying to throw off Communist tyranny, and I agree with him wholeheartedly.

Accordingly, Mr. President, Senator EAST has asked me to introduce on his behalf a bill to provide military aid to the Angolan freedom fighters, along with the statement he had prepared for the legislation.

Mr. President, I ask unanimous consent to submit, at the request of Mr. EAST, the aforementioned bill, and also on behalf of myself and the other cosponsors, Mr. QUAYLE, Mr. THURMOND, and Mr. SYMMS.

● Mr. EAST. Mr. President, I am introducing today S. 1972, a bill to provide $27 million in military aid to

UNITA forces, under the leadership of Dr. Jonas Savimbi, currently fighting the Marxist regime of Angola.

I believe military aid to these anti-Communist and pro-Western forces is necessary for three reasons, Mr. President. First, military assistance will provide necessary supplies and weaponry to UNITA at a time when the Soviet Union appears to be increasing its own massive aid to the MPLA regime and to be preparing for a final onslaught on the freedom fighters. Second, the repeal of the Clark amendment earlier this year, which prohibited any American aid to any group in Angola, permits the United States to play a more active role in southern Africa in behalf of the cause of freedom in that region. American assistance to UNITA, which has long proved itself one of the most effective and reliable pro-Western forces in southern Africa, may well provide the margin of victory in Angola for the supporters of freedom there. The victory of UNITA and the removal of the Marxist regime in Angola would eliminate a source of instability in the region. The 35,000 Cuban troops who prop up the MPLA in power would be sent home, and the assistance that Angola now provides to SWAPO and other terrorist groups in Africa would be ended.

Third, Mr. President, American aid to UNITA would encourage similar anti-Communist forces throughout the world. Afghan, Nicaraguan, Cambodian, and Vietnamese resistance fighters against the Marxist regimes in their own countries would see the United States as a champion of their cause and a source of effective, material aid. The false doctrine that the victory of communism is inevitable would be exposed as the lie that it is, and the claim that the United States has withdrawn from the struggle for freedom and its responsibilities in the world would be refuted.

Mr. President, the regime of the Marxist MPLA seized power in Angola in 1975 after independence from Portugal was gained and in violation of the Alvor agreement, which provided for free elections in Angola. These elections were never held, and the MPLA, with the aid of 13,000 Cuban troops, came to power. There was no pretence that the new regime rested on consent, and since that time popular resistance to the MPLA has grown steadily and dramatically. Since 1983, when UNITA forces won a major victory in central Angola, the regime has been on the defensive and has been forced to rely even more on Soviet and Cuban aid.

In the past 2 years, Soviet military aid to the MPLA has amounted to $1 to $2 billion. Cuban troops in Angola now number some 35,000. Soviet military materiel recently deployed in Angola consists of T-62 heavy tanks, Mig-23 jet fighters, SU-22 fighter bombers, and about 25 MI-24 helicopter gunships. The Soviets have established an air defense line in southern Angola, and Soviet and Cuban pilots have flown Angolan Air Force planes, which in fact are Soviet planes. In July of this year the Soviets undertook and offensive against UNITA forces in eastern Angola. Soviet commanders directed four Government brigades in the offensive, and Soviet military officers directed the MPLA forces down to the battalion level. The Soviets also undertook an offensive against the heartland of UNITA support in Jamba in southeastern Angola. UNITA forces resisted these offensives valiantly and succeeded in blunting the massive, Soviet-coordinated attack.

There are indications, however, that the Soviets are preparing to mount a new offensive in the very near future, and the hard truth is that unless the United States provides military aid to UNITA to counter Soviet and Cuban weaponry and troops, the struggle for freedom in Angola could suffer a serious reverse and perhaps defeat.

Dr. Savimbi has stated many times that he does not seek simply a military victory and the installation of his own forces in power. What he seeks is the withdrawal of all foreign forces from Angola, a free election as promised in the Alvor Agreement of 1975 in which the Angolan people may choose their own government, and the establishment of permanent democratic institutions. UNITA has been forced to wage war against the Marxist regime because that regime has violated its agreement to hold elections, has relied on foreign troops, has waged war against its own people, and has refused to negotiate with UNITA. Nor has the regime shown any disposition to move forward in negotiations over the presence of Cuban troops, the removal of which is a prerequisite in the settlement of the Namibian issue. Indeed, there are more Cuban (and Soviet) military personnel in Angola today than ever before, and they show no sign of leaving.

Mr. President, it is rare that we have an opportunity to help movements like UNITA, which for over a decade has proved its commitment to freedom and its endurance and effectiveness against overwhelming Communist strength. We cannot allow such a movement to be crushed by the tyranny it is resisting, and I urge my colleagues to join with me in providing UNITA the military aid it needs and deserves.●

By Mr. BINGAMAN (for himself, Mr. HATFIELD, Mr. HART, and Mr. PRYOR):

S. 1973. A bill to provide for multilateral limitations on arms sales, and for other purposes; to the Committee on Foreign Relations.

THIRD WORLD

Mr. **BINGAMAN**. Mr. President, today along with Senators HATFIELD, HART, and PRYOR, I am offering legislation intended to limit the sale of sophisticated conventional arms to the Third World. This bill calls on the President to begin discussions with the major arms-supplying countries and encourages formation of a permanent Consultative Commission for Multilateral Arms Transfer Restraint, modeled on the successful Nuclear Suppliers Group which negotiated multilateral restraints on the export of sensitive nuclear technologies in the Ford and Carter administrations. An almost identical bill is being introduced in the House today by Congressman LEVINE.

The reasons for controlling, and hopefully reducing, the sale of advanced conventional weapons to the Third World are very clear. As we gather in this Chamber today, conflicts in Afghanistan, the Persian Gulf, Southeast Asia, Africa, and Central America relentlessly take their toll of human life and threaten the stability of entire regions. These local conflicts, inflamed by the continuing supply of newer and more sophisticated arms, threaten to engulf other states and to provoke wider wars that might involve the United States and the Soviet Union. Most students of international politics believe that a United States-Soviet confrontation, if one were to occur, is most likely to grow out of a regional war in which both superpowers have major interests and considerable prestige at stake. Apart from that menace, arms suppliers also face the possibility that the sophisticated weapons they provide to the rest of the world could be used against them or their allies. This is a lesson the British learned in a very costly fashion during the Falklands war.

The magnitude of advanced arms sales to the developing world is staggering. Based on data supplied by the Arms Control and Disarmament Agency, worldwide arms sales increased tenfold from the early 1960's to the early 1980's. Exports to the Third World accounted for about 80 percent of this increase. Congressional Research Service figures show that from 1977 to 1984, Third World countries doubled their purchases of arms. Foreign sales to the Third World now amounts to over $30 billion a year.

Many countries produce and sell sophisticated weapons. The Soviet Union's record of exporting arms to the Third World—in support of wars of national liberation and in search of hard currency—is abundantly clear. Many Western nations, including our closest NATO allies, also participate in arms trade, as do the Soviet Union's East European allies. In addition, an

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increasing number of newly industrializing countries are selling weapons to Third World countries. Brazil, Israel, India, North and South Korea, Taiwan, and China have all developed indigenous arms industries to enhance self-sufficiency, promote economic development, and gain technological expertise. Brazil, for example, has recently had an annual arms sales of $2 billion. And Egypt, India, and Israel all exceed $1 billion in annual arms sales.

Mr. President, the desire to limit arms sales to the Third World is of concern to all Americans. As many in this Chamber will recall, during the Carter administration in 1977, the United States and the Soviet Union initiated discussions on what were then called the Conventional Arms Transfer Talks. A year later, in response to Soviet adventurism in Africa, the United States ended the talks.

In his United Nations speech earlier this fall, President Reagan called on the Soviets to channel competition with the United States along peaceful lines and to enter into negotiations to bring peace to regional hotspots around the world. Multilateral controls on the export of conventional arms would be a major step in this direction.

Former President Nixon also recognized the danger of conventional arms transfers in the fall 1985 issue of the Foreign Affairs Journal. Noting that arms competition in the Third World must be brought under control, Mr. Nixon said:

> U.S. and Soviet arms sales to Third World countries run to billions of dollars. Most of these countries are desperately poor, and they need economic assistance far more than they need additional arms. For the Soviet Union to arm India, while the United States arms Pakistan, can only end in tragedy for the people of both countries. Even though these are only non-nuclear arms, they are instruments of war, and small wars always have the potential of escalating into nuclear wars. There is no prospect for reducing arms sales soon, if at all, but both the United States and the U.S.S.R. have an interest in controlling them and not letting them drag us into conflict.

I share Mr. Nixon's view, and his realistic assessment of the prospects for success, with one qualification: that such discussions should include all major arms suppliers just as the Nuclear Suppliers Group included all major suppliers of nuclear technology. Mindful of the realities of the 1980's, particularly of the emergence of additional actors on the international stage, I believe that progress toward peaceful competition among states inevitably requires a multinational commitment.

In the spring of this year, my distinguished colleague from Oregon, Senator HATFIELD, recognized the need for additional participation in this dialog. Senator HATFIELD's amendment to the foreign aid authorization bill called for conventional arms discussions among the United States, the Soviet Union, and France. That amendment later became public law together with a requirement for an extensive report on this whole area. I am proposing that we further broaden the participation in the negotiations, in the interest of attempting to avoid the circumvention of an agreement.

Mr. President, the legislation that I present for the Senate's consideration is not intended to produce a cessation of arms transfers. Clearly this would be impossible. Moreover, it would also be undesirable. Arms exports can serve U.S. interests to the extent that they strengthen the defensive capabilities of friendly states against aggression by hostile neighbors. What the proposed legislation does is to recommend that this administration establish an international forum modeled after the Coordinating Committee for Multilateral Security Export Controls and the Nuclear Suppliers Group. This new Commission would be comprised of the United States, the Soviet Union, the United Kingdom, France, Italy, and the Federal Republic of Germany. Membership could be expanded later to include other supplier nations.

In the words of this legislation, the purpose of the new Commission would be to "establish guidelines, to regulate the effect of multilateral limitations on arms sales and on the national economies of its member countries; and address other areas pertinent to limiting the sale or transfer of arms." The legislation would also amend the Arms Export Control Act to recognize the threat which the sales of sophisticated arms to the Third World pose to regional and world peace.

Mr. President, I am convinced that there is no greater real threat to world peace then the proliferation of massive quantities of highly sophisticated conventional weapons in regions of great instability. In an immediate sense, conventional arms sales may pose a greater danger than the more dramatic threat of nuclear proliferation.

Mr. President, I also want to take this opportunity to thank Mr. Hugh De Santis, who recently left my staff for a position with the Carnegie Endowment for International Peace, for educating me regarding the threat of international arms sales and for his hard work in preparing the proposed legislation.

Mr. President I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1973

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress finds that—

(1) arms sales worldwide have increased from $3-4 billion per year to $30-35 billion per year over the past two decades;

(2) $25-30 billion of this annual amount represents arms transfer agreements with countries of the Third World;

(3) the accelerating pace of arms transfers to developing countries absorbs resources which could be more productively utilized to foster economic growth;

(4) the proliferation of arms in the developing world tends to undermine geopolitical regional balances;

(5) the deterioration of regional balances has direct implications for North-South relations and East-West relations;

(6) experts agree that any military confrontation between the United States and the Union of Soviet Socialist Republics, and thus another global war, is most likely to stem from a regional conflict in the Third World; and

(7) Third World countries contracted to buy arms from the United States, the Union of Soviet Socialist Republics, and the major West European suppliers between 1980-1984 totaling $40,249,000, $40,201,000, and $33,328,000, respectively.

SEC. 2. (a) It is the sense of the Congress that the President should undertake negotiations with governments of the key arms suppliers in order to establish a consultative commission, modeled after the Coordinating Committee for Multilateral Security Export Controls and the nuclear suppliers group, which should be called the Consultative Commission for Multilateral Arms Restraint (hereafter in this Act referred to as the "Consultative Commission").

(b)(1) The Consultative Commission should be comprised of the United States and the Union of Soviet Socialist Republics, historically the largest arms suppliers, as well as France, the United Kingdom, Italy, and the Federal Republic of Germany.

(2) The Consultative Commission should meet in Geneva, Switzerland, at intervals to be determined by its members in order to negotiate restrictions on sophisticated combat weaponry and the technology of conventional arms production.

(3) The Consultative Commission should—

(A) establish guidelines to regulate the effect of multilateral limitations on arms sales on the national economics of its member countries; and

(B) address other areas pertinent to limiting the sale or transfer of arms, including—

(i) the adoption of mechanisms to safeguard against the circumvention of the arms restraint regime by its member countries; and

(ii) the establishment of a procedural timetable for the purpose of creating an additional forum to facilitate deliberations between member countries of the Consultative Commission and other developed as well as newly industrialized countries on the limitation of arms transfers.

SEC. 3. Paragraph (5) of section 25(a) of the Arms Export Control Act (22 U.S.C. 2765(a)(5)) is amended by adding at the end thereof the following new subparagraphs:

"(C) the aggregate dollar value and quantity of defense articles, defense services, and design and construction services furnished by the United States to each foreign country and international organization, by category, for the preceding fiscal year, specifying whether such articles and services were furnished—

"(i) by sale under chapter 2 of this Act, "(ii) by sale under chapter 2A of this Act,

"(iii) by commercial sale licensed for permanent export under section 38 of this Act (including separate listings for the value and quantity of the defense articles and defense services which were licensed for permanent export during that fiscal year and for the value and quantity of the defense articles and defense services which were actually exported on a permanent basis during that fiscal year), or

"(iv) by other authority;

"(D) the aggregate dollar value of all commercial manufacturing license agreements approved under section 38 of this Act during the preceding fiscal year, listed by foreign country and international organization;

"(E) the aggregate dollar value of all commercial technical assistance agreements approved under section 38 of this Act during the preceding fiscal year, listed by foreign country and international organization; and

"(F) the aggregate dollar amount of all offset agreements (as defined for purposes of section 309 of the Defense Production Act of 1950 (50 U.S.C. app. 2099)) associated with commercial licensed sales or government-to-government sales under this Act, which were entered into during the preceding calendar year by the United States suppliers of the defense articles, defense services, or design and construction services sold, listed by foreign country and international organization;".

By Mr. WILSON (for himself, Mr. MATHIAS, and Mrs. HAWKINS):

S. 1974. A bill to prohibit the imposition by the States of the worldwide unitary method of taxation; to the Committee on Finance.

UNITARY TAX REPEALER ACT

Mr. WILSON. Mr. President, I rise today to offer a bill that, unfortunately, must be offered in order that the United States avoid starting an international conflict over the taxation of multinationals.

The legislation that I am introducing, the Unitary Tax Repealer Act, would, first, prohibit States from imposing corporate income taxes on a worldwide unitary basis; second, limit State taxation of dividends received by U.S. companies from foreign corporations; and third, provide States with Federal assistance in gathering information necessary to administer their tax laws relating to multinational businesses. The legislation was prepared by the Treasury Department at the express direction of the President. I am introducing the bill today, as is Representative DUNCAN in the other body, so that the Congress can begin its consideration of the legislation in a timely manner.

Mr. President, the practice of a small but important minority of the States, including my State of California, that assesses corporate income taxes on a worldwide unitary basis has caused serious difficulties with the conduct by the Federal Government of our foreign economic policy. The worldwide unitary method departs from the separate accounting principles of international taxation generally followed by the Federal Government and within the international community. That method imposes severe recordkeeping and administrative burdens on multinational businesses and, because of its departure from internationally accepted taxing principles, often results in double taxation.

These adverse consequences of State worldwide unitary taxation have led to serious formal diplomatic complaints from virtually all of our closest trading partners including Canada, the United Kingdom, Germany, Belgium, the Netherlands, Italy, Switzerland, and Japan. These objections have resulted in the adoption of enabling legislation by the United Kingdom permitting serious retaliatory measures to be taken against United States companies that operate in worldwide unitary States and that have subsidiaries in the United Kingdom. It has become clear that the ability of the Federal Government to speak with one voice in the conduct of its foreign economic affairs is significantly weakened because of these State tax practices.

Over the past 2 years the administration has worked closely with States and affected businesses in an attempt to arrive at a voluntary resolution of the worldwide unitary tax problem. The Treasury Department chaired a Worldwide Unitary Taxation Working Group which in 1984 arrived at principles for the voluntary resolution of the unitary issue at the State level. A number of States responded to this initiative by ceasing the use of the unitary method on a worldwide basis. Other States have not yet acted, however. The failure to date to achieve voluntary compliance by all States with the principles adopted by the working groups, and the increasing international difficulties caused by continued adherence by a few States to the worldwide unitary method, now require that restrictive Federal legislation be adopted.

While the principal foreign commerce issues raised by State worldwide unitary taxation would be resolved if States were to agree that they would not impose worldwide unitary tax on foreign controlled entities, such as limited resolution would cause other serious problems. If a "foreign only" solution were adopted, domestically controlled businesses would thereby be disadvantaged. This would occur because the foreign income of the States, whereas the foreign income of domestically controlled multinationals would continue to be subject to tax at the State level, either on a worldwide unitary combination basis or when repatriated in the form of dividends. The working group recognized expressly the need for competitive balance for domestic multinations, foreign multinational and purely domestic businesses in any resolution of the unitary issue. That principle requires that legislation restricting State worldwide unitary taxation also address the question of equitable State taxation of foreign source dividends.

The legislation I am introducing does not mandate that any specific method of dividend taxation be imposed by the States. Rather, it provides in broad terms for equitable taxation of dividends and suggests certain guidelines that States can follow to avoid the systematic overtaxation and double taxation of U.S. taxpayers—in contravention of a strong Federal policy. Many States, including a number of former worldwide unitary tax States, already compete with these guidelines. Parenthetically, I might also note that even the Ways and Means Committee version of the tax bill recognizes the evil of double taxation by continuing the deductibility of State and local taxes for Federal tax purposes.

States have legitimately contended in the working group and elsewhere that they lack the resources and ability to monitor adequately transactions between members of a water's edge unitary group and related foreign companies outside that group. The Treasury Department agreed with the recommendations of the working group to provide appropriate assistance to the States in order to assure proper operation of the separate accounting method. The working group suggested that an annual information return be filed with the Internal Revenue Service by multinational companies. This return would in turn be shared with the States and with multistate audit agencies and would provide States with some assurance that corporations had allocated and apportioned the appropriate share of the corporation's income to each State. The report would also identify those related companies with which serious income shifting would be most likely to arise. In the summer of 1985, the Treasury Department published for comment a draft of legislation implementing this reporting system. Section 3 of the bill is based upon that draft after taking into account the many comments received from affected businesses and the various States. The information reporting system provided for in the bill is an integral part of the solution to the worldwide unitary problem.

Arguments of federalism and State fiscal sovereignty are not easily overcome. Due concern for rights of the States dictate that they be granted great leeway to tailor their own systems of taxation. However, in this instance the lack of a solution will certainly yield serious international ramifications, including foreign sovereign retaliation against innocent bystanders. Therefore, the Congress must insert itself into the process in order to avoid a serious disruption of international commerce and so that a solution can be forged.

It is my sincere hope that California and the other six remaining unitary tax States will take remedial action without Federal mandate. However, they are now on notice that the unitary tax repealer has left the station, and, one way or another, the problem will be solved by the end of 1986.

I ask unanimous consent that the text of the Unitary Tax Repealer Act be printed in the Record along with a copy of the President's statement of November 8, 1985, addressing the unitary tax issue.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 1974

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this bill may be cited as the "Unitary Tax Repealer Act".

Sec. 2. Chapter 77 of the Internal Revenue Code of 1954 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new section:

"SECTION 7518. STATE TAXATION OF FOREIGN INCOME.

"(a) State Use of Worldwide Unitary Method Prohibited.—No State shall impose income tax on any taxpayer on a worldwide unitary basis, unless:

"(1) the taxpayer materially fails to comply with the requirements of section 6039A or with the legal or procedural requirements of the income tax laws of such State; or

"(2) neither the taxpayer nor the government of the relevant foreign country provides to such State, within a reasonable period after proper request, material information relating to the determination of the income of the taxpayer on transactions between the taxpayer (or any related corporation described in section (c)(2)) and any corporation not described in section (c)(2) which is a member of the same controlled group of corporations as the taxpayers.

"Notwithstanding the foregoing, this subsection shall not preclude any State from permitting a taxpayer to be taxed on a worldwide unitary basis pursuant to an unconditional election by such taxpayer.

"(b) State Taxation of Foreign-Source Dividends.—No State shall require the inclusion in the income base upon which State income tax of a corporation is calculated of more than an equitable portion of any dividend received from another corporation, other than a corporation described in section (c)(2)(A) through (E). For purposes of this subsection (b), a State shall not be considered to include in the income base more than an equitable portion of dividends described in the preceding sentence if it—

"(1) excludes from the income base at least eighty-five percent of such dividends;

"(2) excludes from the income base the portion of the dividend that effectively bears no Federal income tax after application of the foreign tax credit; or

"(3) adopts a method of taxation that, considering all the facts and circumstances, results in an equitable apportionment of the dividend to the State substantially simuar to (1) or (2), pursuant to regulations to be promulgated by the Secretary.

"This subsection shall not apply to any tax imposed on a dividend by the State of commercial or legal domicile of the recipient. This subsection shall not be construed to permit State taxation of any dividend not subject to State taxation prior to enactment of this section.

"(c) Definitions.—

"(1) Income tax.—For purposes of this section, the term 'income tax' shall include any State franchise or other tax which is imposed upon or measured by the income of the taxpayer.

"(2) Worldwide unitary basis.—For purposes of this section, the term 'worldwide unitary basis' means that in computing its State income tax liability a corporation includes in the income base on which the tax is calculated any share of the income of any corporation other than a corporation that is a member of the same controlled group of corporations and is:

"(A) a domestic corporation (including a corporation that has made an effective election under section 936);

"(B) a corporation described in section 922;

"(C) a corporation organized in the Commonwealth of Puerto Rico, Guam, American Samoa or the United States Virgin Islands;

"(D) any foreign corporation if—

"(i) such corporation is subject to State income tax in at least one State by virtue of its business activities in that State, and

(ii) (a) such corporation has, assignable to one or more locations in the United States, at least $10,000,000 in compensation payments made by it for services rendered during its most recent Federal taxable year, sales or purchases of at least $10,000,000 to or from unrelated parties during its most recent Federal taxable year, or property (other than stock or securities of a corporation) with an aggregate original cost of at least $10,000,000, or (b) the average of the percentages of such corporation's property (based on its aggregate original cost), compensation payments made for personal services (determined for its most recent Federal taxable year), and sales (determined for its most recent Federal taxable year) that are assignable to one or more locations in the United States is at least 20 percent; or

"(E) any foreign corporation described in subsection (c)(3).

"(3) Certain foreign corporations.—A foreign corporation is described in this subparagraph if such corporation—

"(A) is a member of a controlled group of corporations that includes at least one reporting corporation (within the meaning of section 6039A but determined without reference to this paragraph);

"(B) either carries on no substantial economic activity or makes at least

"(i) 50 percent of its sales,

"(ii) 80 percent of its payments for expenses other than payments for intangible property, or

"(iii) 80 percent of all of its payments for expenses,

"to one or more corporations that are described in subparagraph (A) through (D) of paragraph (2) and that are within the controlled group of corporations referred to in subparagraph (A) of this paragraph; and

"(C) under standards established in regulations to be prescribed by the Secretary, is not subject to substantial foreign tax on its net income.

"(4) Certain domestic corporations treated as foreign corporations.—For purposes of paragraphs (2) and (3), a domestic corporation shall be treated as a foreign corporation if (i) such corporation has, assignable to one or more locations in the United States, less than $10,000,000 in compensation payments made by it for services rendered during its most recent Federal taxable year, sales or purchases of less than $10,000,000 to or from unrelated parties during its most recent Federal taxable year, and property (other than stock or securities of a corporation) with an aggregate original cost of less than $10,000,000, and (ii) the average of the percentages of such corporation's property (based on its aggregate original cost), compensation payments for personal services (determined for its most recent Federal taxable year), and sales (determined for its most recent Federal taxable year) that are assignable to one or more locations in the United States in less than 20 percent.

"(5) Controlled group.—For purposes of this section, the term 'controlled group' has the same meaning as in section 6039(c)(4).

"(6) Certain bank branches.—For purposes of this section, a domestic branch of a foreign corporation shall be treated as a separate corporation that is incorporated in the United States if such branch is engaged in the commercial banking business. For purposes of the preceding sentence, a branch is engaged in the commercial banking business if—

"(i) the predominant—part of its business consists of receiving deposits or making loans and discounts, and

"(ii) it is subject to supervision and examination by State or Federal authorities having supervision over banking institutions. The Secretary may issue regulations providing that for purposes of this section domestic branches of foreign corporations in other specified industries shall be treated as separate corporations incorporated in the United States."

Sec. 3. Subpart A of part III of subchapter A of Chapter 61 of the Internal Revenue Code of 1954 (relating to information returns) is amended by adding immediately after section 6039 the following section:

"SECTION 6039 A. INFORMATION WITH RESPECT TO CERTAIN MULTISTATE AND MULTINATIONAL CORPORATIONS.

"(a) General Rule.—A reporting corporation shall file, within 180 days of the due date (including extensions thereof) of its Federal income tax return for the taxable year, a return disclosing information relating to its State income tax returns for state taxable years ending with or within the taxable year of such corporation for Federal income tax purposes. Such return shall include the reporting corporation's income tax liability to each State in which it is liable to pay income tax, its income subject to tax in each State, the method of calculation by which the reporting corporation computed and allocated its income subject to tax by each State, each corporation in which the reporting corporation, or any corporation owning 50 percent or more of the outstanding voting stock of the reporting corporation, owns, directly or indirectly, at any time during the reporting corporation's taxable year, more than 20 percent of the combined voting power of all classes of stock entitled to vote and which, during the reporting corporation's taxable year, has engaged in transactions with the reporting corporation and its includible corporations aggregating $1,000,000 or more, and such other related information as the Secretary may by regulation prescribe.

"(b) Reporting by Related Corpora-

"(1) Reporting by common parent of affiliated group.—If a reporting corporation is a common parent of an affiliated group of corporations, in filing the return required by subsection (a) it shall include the information described in subsection (a) with respect to each includible corporation in such affiliated group. Such information shall be filed for the state taxable year of each includible corporation ending with or within the common parent corporation's taxable year for Federal income tax purpose.

"(2) Reporting on behalf of other related corporations.—If a reporting corporation is a member of a controlled group of corporations that includes a foreign corporation that is described in section 7518(c)(3) but is not required to file a Federal income tax return, then such foreign corporation shall, for purposes of paragraph (1), be considered to be a member of an affiliated group, of which such reporting corporation is the common parent. The preceding sentence shall not apply if the foreign corporation and such reporting corporation are included in a return filed on behalf of an affiliated group pursuant to paragraph (1).

"(c) Definitions.—

"(1) Reporting corporation.—

"(A) In general.—For purposes of this section, the term 'reporting corporation' means a corporation that is required to file a Federal income tax return for the taxable year, and that

"(i) makes aggregate payments of at least $10,000,000 as compensation for services rendered outside the United States during the taxable year;

"(ii) owns assets situated outside the United States with an aggregate original cost of least $10,000,000;

"(iii) has gross sales occurring outside the United States of at least $10,000,000 during the taxable year; or

"(iv) is subject to tax in at least two States, and owns total assets with an aggregate original cost of at least $250,000,000, at least $10,000,000 of which are located in the United States.

The Secretary shall have authority at any time to increase any dollar threshold set forth in this paragraph. The allocation of compensation payments, property, or sales to or among foreign countries shall be determined under regulations prescribed by the Secretary.

"(B) Application of definition to related corporations.—For purposes of applying subparagraph (A) to related corporations—

"(i) compensation paid by, property owned by, or sales made by members of an affiliated group of corporations shall be treated as if paid, owned, or made directly by the common parent corporation; and

"(ii) compensation paid by, property owned by, or sales made by members of a controlled group of corporations that are not members of the same affiliated group of corporations shall be consolidated and attributed to each member of such controlled group that is required to file a Federal income tax return.

"(2) Affiliated group.—For purposes of this section, the term 'affiliated group' means one or more chains of includible corporations connected through stock ownership with a common parent corporation which is required to file a Federal income tax return for the taxable year if—

"(A) stock possessing more than 50 percent of the combined voting power of all classes of stock entitled to vote of each of the includible corporations (except the common parent corporation) is owned directly or indirectly by one or more of the other includible corporations within the affiliated group; and

"(B) the common parent corporation own directly stock possessing more than 50 percent of the voting power of all classes of stock entitled to vote of at least one of the other includible corporations.

"(3) Includible corporation.—For purposes of this section, with respect to any taxable year, the term "includible corporation" means—

"(A) any domestic corporation, other than a corporation exempt from tax under section 501,

"(B) any corporation incorporated in the Commonwealth of Puerto Rico, Guam, American Samoa or the United States Virgin Islands,

"(C) any corporation defined in section 922,

"(D) any foreign corporation that is required to file a Federal income tax return with respect to such taxable year, or

"(E) any other foreign corporation that is described in section 7518(c)(3).

"(4) Controlled group.—For purposes of this section, the term 'controlled group' has the meaning given to such term by section 267(f)(1), except that the determination shall be made without regard to section 1563(b)(2)(C).

"(5) Certain branches treated as separate corporations.—For purposes of this section, a branch described in section 7518(c)(6) shall be treated as a separate corporation that is incorporated in the United States.

"(d) Status of Return.—If the information return filed pursuant to subsection (a), or any information reflected on such return, is disclosed or made available to a State tax agency (as defined in section 6103(d)(4)(C)), or to any common agency (as defined in section 6103(d)(4)(A)) in which a State particicipates, the return may thereupon be treated, if and to the extent provided by the laws of such State, as if originally filed with such State for purposes of the imposition of civil or criminal penalties under the laws of such State for negligence, fraud, or a material understatement of income or of tax liability. Except as provided by the laws of the applicable State, treatment of the information return as a State return shall not extend or otherwise affect any State statute of limitations.

"(e) Dollar Penalty for Failure to Comply.—

"(1) In general.—If with respect to any taxable year a reporting corporation fails to comply substantially with the requirement of subsection (a) on or before the due date specified in subsection (a), such corporation shall pay a penalty of $1,000.

"(2) Increase in penalty where failure continues after notification.—If any failure described in paragraph (1) continues for more than 90 days after the date on which the Secretary mails notice of such failure to the reporting corporation, such corporation shall pay a penalty (in addition to the penalty imposed by paragraph (1) or by any applicable State law) of $1,000 for each 30-day period (or fraction thereof) during which such failure continues after the expiration of such 90-day period. The increase in penalty under this paragraph shall not exceed $24,000.

"(3) Imposition of penalties under State law.—Nothing in this subsection shall preclude any State from imposing any fines or penalties for negligence, fraud, or understatement of income or of tax liability in accordance with the laws of that State."

Sec. 4. Section 6103 of the Internal Revenue Code of 1954 (relating to confidentiality and disclosure of returns and return information) is amended by—

(a) revising subsection (d) to read as follows:

"(d) Disclosure to State Officials, Etc.

"(1) In general.—Upon compliance with the procedures and requirements of paragraph 2, returns and return information with respect to taxes imposed by chapters 1, 2, 6, 11, 12, 21, 23, 24, 31, 32, 44, 45, 51, and 52 and subchapter D of chapter 36, returns described in section 6039A, and return information obtained by the Internal Revenue Service from any foreign government, or agency or department thereof, under the exchange of information provisions of any income tax treaty, estate and gift tax treaty or agreement described in section 274(h)(6)(C), to which the United States is a party, shall be open to inspection by, or disclosure to, any State tax agency for the purposes of, and only to the extent necessary in, the administration of the tax laws of a State, including any procedures with respect to locating any person who may be entitled to a refund. Notwithstanding the preceding sentence, return information obtained under treaties or section 274(h)(6)(C) agreements shall be open to examination or disclosure only to the extent such examination or disclosure is permitted by, and shall be subject to any limitation imposed by, the relevant treaty or agreement. Returns and return information described in this paragraph (1) relating to any taxpayer that is a reporting corporation (within the meaning of section 6039A(c)(1)) or that is a member of an affiliated group (within the meaning of section 6039A(c)(2)) that also includes such a reporting corporation shall also be open to inspection by or disclosure to any common agency.

"(2) Procedures and Restrictions.—

"(A) Persons to whom information may be disclosed.—Except as the Secretary shall prescribe by regulation, inspection shall be permitted, or disclosure made, under paragraph (1) only upon written request by the head of the State tax agency or common agency, and only to the representatives of such agency designated in such written request as the individuals who are to inspect or to receive the returns or return information on behalf of such agency. Such representatives shall not include any individual who is the chief executive officer of a State or who is neither an employee or legal representative of such agency nor a person described in subsection (n). Returns and return information shall not be disclosed under paragraph (1) to the extent that the Secretary determines that such disclosure would identify a confidential informant or seriously impair any civil or criminal tax investigation.

"(B) Disclosure of returns and return information relating to section 6039A reporting corporations by State tax agencies, and common agencies.—A State tax agency or common agency obtaining returns or return information that are described in paragraph (1) and that relate to any taxpayer that is a reporting corporation (within the meaning of section 6039A(c)(1)) or that is a member of an affiliated group (within the meaning of section 6039A(c)(2)) that also includes such a reporting corporation, may disclose such returns and return information to a State tax agency of any other State, provided the State tax agency of such other State has entered into an applicable nondisclosure agreement with the Secretary that satisfies the requirement of paragraph (2)(C).

"(C) NONDISCLOSURE AGREEMENT.—A State tax agency or common agency obtaining returns or return information that are described in paragraph (1) and that relate to any taxpayer that is a reporting corporation (within the meaning of section 6039A(c)(1)) or that is a member of an affiliated group (within the meaning of section 6038A(c)(2)) that also includes such a reporting corporation shall be required to execute a non-disclosure agreement with the Secretary prohibiting the disclosure of such returns or return information or of any data, information or conclusion extracted or of any data, information or conclusion extracted from or based upon such returns or return information except for the purposes of and under the conditions provided in this section. The required nondisclosure agreement shall contain such terms and conditions as the Secretary shall prescribe.

"(3) DISCLOSURE TO STATE AUDIT AGENCIES.—Returns or return information described in paragraph (1) obtained by any State tax agency may be open to inspection by, or disclosure to, officers and employees of a State audit agency for the purpose of, and only to the extent necessary in, making an audit of the State tax agency. Notwithstanding the preceding sentence, return information obtained under a treaty or section 274(h)(6)(C) agreement shall not be open to inspection by or disclosure to any State audit agency.

"(4) DEFINITION.—

"(A) COMMON AGENCY.—For purposes of this section, the term 'common agency' means a joint or common agency, body, or commission which has been designated under the laws of four or more States to represent such States collectively in the administration of the corporate income tax laws of those States and which has executed a nondisclosure agreement of the type described in paragraph (d)(2)(C).

"(B) STATE TAX AGENCY.—For purposes of this section, the term 'State tax agency' means any agency, body, commission or other body charged under the laws of a State with responsibility for the administration of State tax laws.

((C) STATE AUDIT AGENCY.—For purposes of this section, the term 'State audit agency' means any State agency, body, commission, or entity which is charged under the laws of the State with the responsibility of auditing State revenues and programs."

(b) Striking "subsection (e)(1)(D)(iii)" in subsection (a)(3) and inserting in lieu thereof "paragraph (1) of subsection (d), subsection (e)(1)(D)(iii)".

(c) Striking "subsections (c)" in the second sentence of subsection (p)(3)(A) and inserting in lieu thereof "subsections (c), (d)(2)(A)".

SEC. 5. The second sentence of section 274(h)(6)(C)(i) of the Internal Revenue Code of 1954 (relating to exchange of information agreements) is amended to provide as follows:

"Except as provided in clause (ii), an exchange of information agreement shall provide for the exchange of such information (not limited to information concerning nationals or residents of the United States or the beneficiary country) as may be necessary and appropriate to carry out and enforce the tax laws of the United States (whether criminal or civil proceedings), the tax laws of the beneficiary country and if the parties to the agreement agree, the tax laws of the several States of the United States, including information which may otherwise be subject to nondisclosure provisions of the local law of the beneficiary country (such as provisions respecting bank secrecy and bearer shares.)"

SEC. 6. EFFECTIVE DATE.—The amendments made by this Act shall be effective for taxable years beginning after December 31, 1986.

STATEMENT BY THE PRESIDENT

Since early in this Administration, we have been working with the states, the business community, and foreign governments in an effort to resolve issues related to state use of the worldwide unitary method of taxation. At this time I believe it appropriate for the Federal Government to state its support for the concept of legislation that would:

1. Effect a requirement that multinationals be taxed by states only on income derived from the territory of the United States ("the water's edge requirement"); and

2. Address the question of equitable taxation of foreign source dividends.

We hoped that by this time these principles would have been enacted by the various states that have unitary taxation. Since states have not universally accepted these principles, I am instructing the Secretary of the Treasury to initiate the process of crafting Federal legislation to incorporate these principles into law and to work with the Congress for passage, and also, where appropriate, to enter into negotiations to amend double taxation agreements. I am also instructing the Secretary of the Treasury to pursue enactment of the domestic "spreadsheet" legislation, which has been previously proposed, and which is designed to assist nonunitary states with tax enforcement respecting multinational corporations in order to promote full taxpayer disclosure and accountability.

Further, I am instructing the Attorney General to ensure that the United States' interests are represented in appropriate controversies and cases consistent with this approach.

Mr. MATHIAS. I am very pleased to cosponsor this bill, drafted by the administration and introduced at its request by Senator WILSON. It marks a great stride toward the worldwide unitary tax reform I have been pressing for two decades.

The bill has two major components. First, it restricts the States from applying a unitary tax to corporate income generated beyond U.S. territory and requires the States to follow the principles of the Federal Tax Code in taxing intercorporate dividends from foreign corporate branches. Second, it requires multinational corporations to make fuller financial disclosures to the State taxing authorities on a new domestic disclosure spreadsheet.

Abandoning the worldwide unitary tax will have little direct effect on the revenues coming to the States from corporate taxes. It will, however, give a powerful boost to the economic vitality of the few States that have clung to this method of taxation. The change should enhance the investment climate in these States. In addition, the full disclosure spreadsheet will reassure the States that all the corporations' worldwide operations are being taxed properly in the jurisdictions in which they are generating income.

The worldwide unitary tax has been a source of distress among our foreign trading partners. By introducing a bill this year and vigorously pursuing its enactment next year, we hope to avert retaliatory measures from other countries, such as the pending British action to restrict the advance corporate tax rebate that United States corporations now enjoy in that country.

As one who has worked on this issue for more than 20 years, I am gratified to see the support this proposal has drawn in its present form, from the President and the Senator from California, among many others. The Secretary of the Treasury, James Baker, and his predecessor, White House Chief of Staff Donald Regan, both deserve special mention for their sustained involvement and leadership in maintaining progress on this issue over the past few years. I look forward to working further with all these gentlemen, and with the rest of my colleagues, in advancing the bill through the legislative process next year.

By Mr. GOLDWATER:

S. 1975. A bill to provide that the laws restricting trade between two points in the United States to vessels of the United States shall not apply to inflatable passenger boats or rafts before November 1, 1993; to the Committee on Commerce, Science, and Transportation.

WHITEWATER RAFTING TRADE EXEMPTIONS

● Mr. GOLDWATER. Mr. President, I am today introducing legislation to provide the whitewater rafting industry with a temporary exemption from the Jones Act.

Owners of these river touring companies have been advised by the U.S. Customs Service that the operation of foreign-built inflatable rafts on navigable rivers of the United States is illegal under provisions of the Jones Act. This affects well over 90 percent of the rafts currently owned by professional river outfitters. Because of domestic supply problems, outfitters cannot replace worn rafts for the 1986 river season, let alone replace their entire fleet with U.S.-built rafts. A period of relief and transition is very much justified. The 8-year exemption to the Jones Act provided by my bill is sufficient to determine whether domestic raft manufacturers can begin to service this market.

There are many among my colleagues who are cautious about any proposals to amend the Jones Act. I want to reassure these colleagues that over a period of several months the whitewater industry has worked closely with maritime labor, domestic inflatable raft manufacturers, and other parties to reach accommodation of the interests of these groups. That process is ongoing, and it is not the intent of the river outfitters to strike at the fiber of the Jones Act.

I hope that my colleagues can also appreciate the urgency of this situation and act quickly to resolve the question. The problem has confronted the industry for some time now with the verbal assurances of its Government that no enforcement procedures would occur. However, enforcement has now occurred. Hundreds of river outfitters and their thousands of employees are left without recourse in their business plans for the upcoming 1986 river season.

It has been determined that no administrative or legal remedy is available to river outfitters. What happens next to this segment of recreation is solely in the hands of this Congress. We need to move quickly on any unresolved factfinding, because the stability of this industry depends upon a congressional decision within the next few months.

I thank my colleagues for the time many have already devoted to this problem and for the attention it receives in the future.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1975

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 27 of the Merchant Marine Act, 1920 (46 U.S.C. 883), is amended by inserting after the period at the end thereof the following: "Before November 1, 1993, nothing in this section, or in any other provision of law restricting trade between points in the United States to vessels of the United States, shall apply to inflatable passenger boats or rafts not exceeding two and one half tons."●

By Mr. SPECTER:

S. 1976. A bill to provide for a study relating to the development of high speed rail systems within the United States; to the Committee on Commerce, Science, and Transportation.

HIGH SPEED RAIL SYSTEMS

Mr. SPECTER. Mr. President, I am introducing legislation directing the Federal Railway Administration and the National Railroad Passenger Corporation (Amtrak) to conduct a joint study for the purpose of determining the most effective means by which the Federal Government can encourage the development of high speed rail systems within the United States. In conducting such a study, the Federal Railway Administration and the National Railroad Passenger Corporation are directed to consider, among others, such means as tax benefits for private investors; Federal assistance in obtaining necessary rights-of-way; matching Federal grants for developing new technology that could be applied nationally; and the establishment of a pilot program. The recommendations will be reported to Congress within 6 months of enactment.

Last year, April 11, 1984, Congress enacted legislation which I cosponsored granting its consent to an interstate compact among the States of Illinois, Indiana, Michigan, Ohio, and Pennsylvania for the preparation of a feasibility study for the development of a system of high-speed intercity rail passenger service. The bill I am introducing today directs that the Federal study be conducted in consultation with this congressionally recognized compact.

The involvement of Amtrak in this venture is also essential; it has the experience as the national passenger railway and owns much of the track and rights-of-way necessary for development of high-speed rail service. On July 31, 1985, I wrote Mr. W. Graham Claytor, Jr., president of Amtrak, and urged him to study the feasibility of initiating high-speed rail service between Philadelphia and Pittsburgh. I ask unanimous consent that my letter and Mr. Claytor's response be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, July 31, 1985.

Mr. W. GRAHAM CLAYTOR, Jr.,
President, Amtrak, North Capitol Street, NW., Washington, DC.

DEAR MR. CLAYTOR: I am intrigued by the reports in the recently issued preliminary study of the Pennsylvania High Speed Intercity Rail Passenger Commission that rail service between Philadelphia and Pittsburgh may be accomplished in less than three hours, at speeds of 160 miles per hour or faster. According to the study, such high speed rail systems are currently in use in France, Great Britain and Japan.

Such a system would give Pennsylvania a quality and frequency of service unknown in America, but widely available to those countries presently utilizing safe rapid rail transit between major cities. It also would help meet a growing demand for intercity transportation which some studies have indicated will double by the year 2000.

I strongly urge you to support the development of such rail service, if indeed it is practical for the areas in which it is envisioned.

Thank you for your prompt attention to this important aspect of transportation improvement.

Sincerely,
ARLEN SPECTER.

SEPTEMBER 5, 1985.

Hon. ARLEN SPECTER,
U.S. Senate, Washington, DC.

DEAR SENATOR SPECTER: I am responding to your July 31 letter concerning reports you have received from the Pennsylvania High Speed Intercity Rail Passenger Commission regarding the feasibility of establishing a 160-mile-per-hour rail service between Philadelphia and Pittsburgh.

While I have not yet seen the reports you mention, I am familiar with the efforts of various groups to establish high-speed rail service in this country, and I can offer some general observations. As you point out, the Japaneses bullet trains and France's Tres Grande Vitesse (TGV) are perhaps the two better known high-speed services in operation today. In the United States, Amtrak currently operates service in the Northeast at 120 miles per hour, the fastest rail passenger service in the country, and we hope to achieve slightly greater speeds as further refinements in our operations permit.

Amtrak has taken the position that it will support the effort of private and public sector initiatives to develop high-speed rail service, but for budgetary reasons we cannot participate financially in the institution of such service. Amtrak did, however, enter into a licensing agreement with the former American High Speed Rail Corporations (AHSRC) for development of high-speed rail passenger service in the Los Angeles-San Diego corridor. Our interest in AHSRC was predicated on the belief that the introduction of high-speed passenger trains to the United States on a commercial basis holds the promise of financial benefits to Amtrak and that prospects are favorable that Amtrak can enter into profitable commercial relationships with the direct providers of high-speed passenger service whereby we could possibly provide reservations, operating and maintenance services, all on a profitable basis. Unfortunatley, AHSRC was not able to secure the private sector financing to institute service, but this does not necessarily work against other entities' efforts to establish service. In fact, the Florida High-Speed Rail Commission was recently formed to consider the feasibility of high-speed rail service in that state, and technical information prepared by the Japanese National Railways was made available to the Commission through AHSRC. Clearly, the development of high speed service should result in greater public awareness of rail service as a viable transportation alternative, and we look forward to the day that the United States will have world class high-speed service.

I appreciate your interest in high-speed rail and hope that you will let me know if you have any further questions about Amtrak's role in its development in the United States.

Sincerely
W. GRAHAM CLAYTOR, Jr.,
President.

Mr. SPECTER. Mr. President, high-speed rail service is the wave of the future, and it is unconscionable that this Nation, once a leader in new technology, should lag so far behind other developed nations such as France, Germany, Great Britain, Canada, and Japan. We cannot settle for a society that fails to develop the infrastructure needed to maximize our potential.

Just as the railroads once paved the way for the development of our Nation, high-speed rail can pave the way for revitalization of our cities by stimulating tourism, increasing employment opportunities, and encouraging business development in now near-deserted urban train stations and in outlaying cities served by these rails. The greatly reduced travel times—the current 7-hour trip between Philadelphia and Pittsburgh, for example, could be cut to just over 2 hours—and the greater choice in arrival and departure times, will attract vastly more riders with a corresponding savings in oil and gas use and reduction in highway and airport congestion.

We must begin now to develop the transportation infrastructure we will need by the turn of the century. Several years ago, the Congress set up the National Transportation Study Commission to study America's future transportation needs. The Commission's final report predicted that, by the year 2000, this country will need almost double its present ability to transport passengers by common carriers. If we are to meet these travel needs, development of high-speed rail systems should be a high priority.

The Federal study took special note of the absence of an efficient travel mode for short-distance intercity markets—a niche high-speed rail might fill:

> Present inter-city service offers limited speed and cost options. In short-range markets, there are no substantial high-speed options—air being relatively slow due to excessive access time, and the auto and bus being fixed at a maximum upper speed limit of 55 miles per hour. This market is often indicated as having potential for high-speed rail service; however, substantial capital investment is required. Where auto, bus and air speeds are often impaired by road and airway congestion, rail services may gain market share when rail speeds and service levels begin to compare favorably with the other modes.

A high-speed rail network will not only provide the transportation system necessary for future growth, but it will also deliver benefits related to its planning and construction. In my own State of Pennsylvania, a study prepared for the Pennsylvania High Speed Intercity Rail Passenger Commission found that new jobs directly created can boost the State's employment growth rate by as much as 68 percent during the construction period—estimated at 8 years—and by up to 35 percent when service begins. A high-speed rail system between Philadelphia and Pittsburgh could provide as many as 24,000 construction jobs and 12,500 permanent positions. Similar economic benefits would be found in the construction of high-speed rail in other States.

It is equally important to note that this economic activity and business activity would be shared by a wide range of industries, sparking an employment upturn in many of the same industries that built the interstate highways, such as construction companies clearing the rights-of-way, and those providing the steel necessary to construct bridges and the other necessities in laying the roadbed. Heavy industry currently building conventional railroad equipment would have a new market, while construction would also involve the advanced technology required for communications, operations, ticketing, and other aspects of a high-speed rail system.

In the cities of participating States, high-speed rail would be expected to provide a new dimension to the revitalization of urban areas which have fallen into neglect as rail service declined. The high-speed rail facilities will stimulate business, construction, employment, and tax revenues.

The five Northeast-Midwest States in the congressionally authorized high-speed rail compact, Pennsylvania, Illinois, Indiana, Michigan, and Ohio, comprise the industrial heartland of America. Today this heartland and its industry has been weakened by recession and new competition and is seeking new businesses and new opportunities. A modern, efficient rail passenger system would attract business and lay a strong foundation for industrial revitalization.

The promise of these economic benefits has stimulated State and local interest in the development of high speed rail service, but the States cannot meet this national need for an improved transportation infrastructure on their own. Timely development of high-speed rail requires Federal assistance. Notwithstanding severe budget constraints, we cannot afford not to make this capital investment in our future, which will yield extreme benefits for the entire country.

As Pennsylvania State Representative Richard Geist, chairman of the PA High-Speed Rail Commission and vice chairman of the national High Speed Rail Association, recently told a group in Washington, DC:

> We can either confidently help shape the future, or we can slide further behind other developed nations with our passenger rail technology. The choice is ours.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1976

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal Railway Administration and the National Railroad Passenger Corporation shall conduct a joint study for the purpose of determining the most effective means by which the Federal Government can encourage the development of high speed rail systems within the United States. In conducting such study, the Federal Railway Administration and the National Railroad Passenger Corporation shall consider, among others, such means as tax benefits for private investors; Federal assistance in obtaining necessary rights-of-way; matching Federal grants for developing new technology that could be applied nationally; and the establishment of pilot programs.

(b) In carrying out such study, the Federal Railway Administration and the National Railroad Passenger Corporation shall consult with members of the Interstate High Speed Intercity Rail Passenger Network Compact.

(c) On or before the expiration of the 180-day period following the date of the enactment of this Act, the Federal Railway Administration and the National Railroad Passenger Corporation shall report, jointly, to the Congress the results of such study, together with their recommendations.

Sec. 2. There is authorized to be appropriated such sum as may be necessary to carry out the provisions of this Act.

By Mr. SYMMS (for himself and Mr. McClure):

S. 1977. A bill to temporarily increase the duty on Canadian softwood lumber and wood shingles and shakes; to the Committee on Finance.

AMERICAN SOFTWOOD LUMBER STABILIZATION ACT

Mr. SYMMS. Mr. President, yesterday I talked to Mr. Douglas Westenhaver, president of DAW Inc., a lumber manufacturing firm. He is a competent and respected manager. His firm manages 14 lumber mills in Idaho, Montana, Oregon, and Washington.

I contacted him when I heard that two of his Idaho plants, the W-I and DAW mills in the Coeur d'Alene area, are the latest victims of subsidized Canadian lumber imports. The DAW plant is shut down and the W-I plant is facing an environmental deadline on December 21. Because of the economic impact of Canadian lumber on American markets, management cannot justify spending the money to cure the environmental problem.

Consequently, another 235 workers will probably be laid off at these two mills by Christmas. About 160 loggers supplying the W-I plant are idled and more will be out of work if the DAW plant cannot start up again soon.

"This is just the first two mills," according to Westenhaver. "Others will be going down, at least one more (not in Idaho) before Christmas." Doug puts the blame squarely on the Canadians. "Thats what's killing all our dimension mills" he says. In his view, and that of other lumbermen, the Canadians are able to take American markets simply because they are subsidized. "I've been in their plants and I'm not a bit concerned about competing with them. If we could get free timber for 6 months like they do we'd close the borders ourselves. Its not just the mills that are hurting, the quality of life of the workers sure goes way down when they lose their jobs."

Mr. President, I share Doug's view, and those of other Idaho lumbermen. We are being taken for a royal ride. The Canadians love to talk. They are anxious to meet with us often and discuss trade issues. While we talk, they are taking our markets and putting our people out of work. As Doug says, "It's a shame to be broke and have the people who broke us laughing at us."

The Westenhaver operations are not unique. Riley Creek Lumber, Scott Paper, Champion International, and Potlatch, among others, have experienced downtime or closures related at least partially to import-impacted markets. I am tired of this and our people are tired of it. No one can argue that we are not hurting badly. In 1979, Idaho's timber industry employed 19,400 people; right now we probably have less than 15,000 jobs.

The situation is the same, or maybe worse, nationally. In 1984, the timber industry operated at 80 percent of capacity, had pretax losses of over $300 million, and took over $600 million in writeoffs. More than 30,000 jobs have been lost, 22,000 of them directly attributed to Canadian competition.

We occasionally hear statements that Canadian imports are not really the problem. Mr. President, the Canadian share of the American market has grown from 18.7 percent in 1975 to 30.9 percent in 1984. Between 1979 and 1984, our plant utilization dropped from essentially 100 percent to about 80 percent. If anyone thinks that is a coincidence, the Canadians would really like to talk to you.

Several factors contribute to the Canadian success. A recent ITC study indicates that the Canadian Government sells standing timber—stumpage—at a fraction of the price American producers must pay for standing timber. Canadian sources indicate that Canadian firms are not required to pay the costs of reforesting the cutover land. Most Canadian timber is sold on a negotiated basis, from government entities. In the United States about two-thirds of the timber is harvested from private land with the stumpage price being required to cover all management land reforestation costs. Public timber is usually purchased on a competitive bid basis, guaranteeing fair market price. In addition, environmental constraints on timber harvesting appear to be much more stringent in the United States, thus dramatically increasing costs. All of these factors, and others, have placed American products at a disadvantage.

Mr. President, we have very recently seen a change in tactics by our neighbors to the north. The Canadian Cousul-General from Seattle has been stumping Idaho, claiming that imposition of a tariff would cost us long-term jobs with only four States gaining employment. He cites a study done by an American think tank. His message is, at the least, misleading. First of all, the study in question covers a broad range of natural resources. We are talking only about Canadian timber. More importantly, according to the Congressional Budget Office, the study is based on a faulty premise.

Mr. President, I am certain that in making the Canadians play by the same rules we are using, it will help our ailing timber industry. For this reason, I am introducing a bill to impose a 3-year tariff on imports of Canadian softwood lumber, shakes, and shingles. The tariff is set at 30 percent for 1986, 25 percent for 1987, and 20 percent for 1988. It would end at the end of the third year or earlier if the import level decreases to historic levels—15 percent.

I have been hesitant to introduce this legislation because other measures are already under consideration to restore equity to our lumber trade. I and a number of my colleagues have been involved with this matter for some time now. Last spring, Congress passed a "Symms" resolution calling on our Government to take action on the imported lumber issue. Currently, the Senate has before it a quota bill and a natural resources subsidy bill designed to give us a level playing field for our lumber industry.

I am pleased to be a cosponsor of both bills. The former bill was introduced by my senior colleague, Senator McCLURE. The natural resource subsidy bill was designed to give us a level playing field and was introduced by the Senator from Montana [Mr. BAUCUS].

The quota bill would limit the amount of lumber from other countries that we would accept and the subsidy bill would allow countervailing duties to be imposed in the amount of the subsidy. Either of these bills would be very beneficial. The tariff bill I am introducing is designed to partially offset the subsidies the Canadians enjoy. These subsidies are the edge in exchange rates and the pennies on the dollar rates they pay for stumpage. In other words, the 30-percent tariff would equalize the 30-percent difference between the Canadian dollar and the United States dollar.

Mr. President, I and many of my colleagues have met on numerous occasions with top Canadian officials and key administration figures to emphasize the importance of this matter to resource producing States.

I would still much prefer to avoid legislation. However, our industry can not wait any longer. By introducing this tariff bill, we are providing the Congress and the administration with a full range of options to deal with Canadian lumber.

Mr. President, I send the bill to the desk, so that any colleagues who wish to cosponsor it may do so, for the remainder of the day.

In summary, Mr. President, there will be no action on the part of the Canadians without some action on the part of Congress to demonstrate to them that we mean business. I hope that some of my colleagues will join in this effort.

I have met with Dr. Clayton Yeider on this matter on numerous occasions. I know that he is willing to negotiate with the Canadians, to settle the issue with some sort of administrative solution to the problem. We would welcome that. But, in my view, that will not happen until Congress takes some action.

By Mr. CRANSTON (for himself, Mr. D'AMATO, Mr. DIXON, and Mr. DODD):

S. 1978. A bill to clarify the taxation of certain asset-backed securities in multiple class arrangements; to the Committee on Finance.

RECOVERY ACT FOR MORTGAGES AND OTHER ASSET-BACKED SECURITIES

Mr. CRANSTON. Mr. President, today I am introducing a bill to eliminate impediments to the growth of the mortgage-backed securities market and to permit the development of the new asset-backed securities market. This legislation would amend the Internal Revenue Code to permit the issuance of multiple class passthrough securities backed by pools of mortgages or other assets under the grantor trust rules of the Internal Revenue Code. Other assets include consumer loans, commercial real estate mortgages, and commercial leases.

The secondary mortgage market provides billions of dollars in credit each year to finance home ownership by enabling originators of home mortgages such as thrift institutions and mortgage bankers to resell mortgage loans to investors in the form of mortgage-backed securities. Recently, the first such securities backed by automobile receivables and consumer loans have come to market. An efficient secondary market lowers the cost of funds for that particular market, making it possible for originators: To make mortgage funds available to homebuyers at lower interest rates, to make car loans available at lower cost and, make other types of consumer loans available at lower cost. Under this proposal originators of all types of loans or assets will be able to sell loans or assets in a more efficient manner to other investors for cash and use the new funds to continue the lending process.

There is approximately $300 billion of outstanding mortgage securities in the secondary market. Purchasers of mortgage backed securities include banks, thrift institutions, pensions and other retirement funds, insurance companies and other institutional as well as individual investors. The first issuance of securities backed by pools of mortgages ever accomplished was done under title 8 of the Housing Act of 1968 by the Federal National Mortgage Association [FNMA]. One of my constituents from California, Ray Lapin, the First President of FNMA while it was still a part of the U.S. Department of Housing and Development, devised the concept of putting the full faith and credit of the U.S. Government behind securities backed by pools of FHA-VA mortgages. The success of those securities led to the development of the secondary market as we know it today. Mr. Lapin can truly be said to be the "father" of the secondary mortgage market.

Since that time, the secondary mortgage market has developed a variety of mortgage-backed securities that have been attractive to investors in terms of safety, yield, and investment performance. However, because residential mortgages are subject to prepayment at uncertain intervals, the traditional mortgage security lacks call protection—assurance that the investment will have a definite maturity. The lack of call protection—from a cash payment occurring before the stated maturity to the investor—causes investors to demand a higher yield on moneys invested in these securities. This higher cost of funds is passed on to homebuyers and other participants in the market.

Many investors have differing timing needs in structuring their investments. If one pool of mortgages could be structured to pay off on several maturity dates, that is—2 years, 5 years, 10 years et cetera—investors could select the maturity date most compatible with their investment needs. This concept is called the multiple class mortgage-backed passthrough. This multiple class feature would add more predictability to this instrument thereby reducing the demand for higher yields on these securities.

Presently the tax laws, most of which were enacted prior to the development of mortgage-backed securities, have made it difficult to structure securities that provide call protection, as well as securities that rearrange the cash flows from mortgages to create different maturity classes.

The fixed investment trust vehicle, traditionally used to market pools of mortgages in securitized form without tax liability at the pool level, has been interpreted to restrict the flexibility necessary to provide call protection even to a limited extent and the ability to structure different classes of investors with different maturities as defined by proposed treasury section 301.7701-4(c) published in the Federal Register on May 2, 1984. In early 1984, Sears Mortgage Securities Corp. along with Dean Witter pioneered the development of a multiple class, mortgage-backed passthrough security. The security was set up under the grantor trust rules with multiple classes of ownership and consistent with private letter rulings from the Internal Revenue Service. Two months later the IRS promulgated draft regulations that espoused the view that multiple class shares in collateral pools violate the passive requirement of the grantor trust form. However, the initial Sears/Dean Witter issue was grandfathered. A public hearing was held by the IRS on the proposed regulation on July 31, 1984. At that hearing, numerous witnesses, including the public securities Association, the Mortgage Bankers Association of America, the National Association of Home Builders, Sears' Mortgage Securities Corp., Dean-Witter Reynolds Inc., Norwest Mortgage Co., the Lomas & Nettleton Co., the First Boston Corp., Solomon Bros., and the gentleman from Texas, Congressman STEVE BARTLETT, all testified in opposition to the regulation. The witnesses described the negative effect of the regulation on the mortgage-backed securities market, and why the use of multiple class fixed investment trusts should be differentiated from Treasury concerns regarding other tax deferral investment proposals.

The Bankers Association of America testified:

> We cannot overemphasize the importance of multiclass mortgage passthrough instruments to all parties involved.
>
> We find no legal or tax rationale for the consequences of these regulations that would treat certain multiclass mortgage passthrough arrangements as a 'corporation' instead of a trust for tax purposes.

The Public Securities Association stated:

> From a public policy perspective, the use of multiple class passthrough custodial arrangements are desirable because investments in traditional 30-year mortgage passthrough securities are somewhat limited, and this new structure, by providing various maturities, will attract many new institutional investors to participate in the mortgage-backed securities market.
>
> We can conceive of no reason why it is sound tax policy, or sound public policy, to pursue adoption of the proposed amendments without a specific exception permitting multiple class mortgage passthrough arrangements to be classified as fixed investment trusts, and not associations taxable as corporations.

The National Association of Home Builders stated:

> The recent development of multiple maturity mortgage investments has been extremely beneficial for the housing industry and American homebuyers.
>
> Mortgage-backed securities, the principal tool for raising mortgage money in the capital markets, have had higher yields than other similar investments because of the unpredictable prepayment of the underlying mortgages which makes management of mortgage pass-through portfolios more difficult than for other similar investments. The development of multiple class mortgage investments has substantially reduced the investment risk problems associated with direct investment in mortgage-backed securities. These multiple class investments, by virtue of more predictable maturities, typically have had significantly lower yield requirements than other mortgage-backed securities.

Dean Witter Reynolds, Inc./Sears Mortgage Securities Corp. stated:

> . . . offering 'fast-pay-slow-pay' interests in mortgage pools is desirable, because the different interests have different investment characteristics and appeal to different classes of investors.
>
> We think it is wrong as a matter of legal analysis and tax policy not to exclude multiple class mortgage-pass-through arrangements from the amendments proposed . . .

I would like to insert in the RECORD at this time more recent letters supporting the multiclass mortgage-backed passthrough.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

MORTGAGE BANKERS
ASSOCIATION OF AMERICA,
Washington, DC, July 31, 1985.

Hon. ALAN CRANSTON,
U.S. Senate,
Washington, DC

DEAR SENATOR: As you know, the Mortgage Association of America has been most interested over the past several years in the development of a multiple class mortgage-backed pass-through security that would not be subjected to the restrictions embodied in the grantor trust tax treatment under the Internal Revenue Code. We view this mechanism as an excellent opportunity for the attraction of needed additional investment capital for one of our country's most important goals—creation and maintenance of an adequate national stock of housing.

We are most pleased that you are in the process of crafting legislation, the "Mortgage-Backed Securities Legislative and Regulatory Improvements Act of 1985," that would authorize the creation of such a security. We would be happy to work with you and your staff in exploring the effect your proposal would have on the market and in offering any possible technical drafting assistance. And, of course, at such time as Congressional hearings might be scheduled on the subject, we would very much appreciate the opportunity to appear and testify in support of the concept.

We understand that group of investment banking firms has designed a similar proposal and have also indicated to them our interest and support in this matter.

Our goal, of course, is the development of the most effective instrument that could be put in place as quickly as possible. We would hope that all interests involved in this effort could agree on a mutually satisfactory course of action.

Sincerely,

————.

NATIONAL COUNCIL OF
SAVINGS INSTITUTIONS,
October 7, 1985.

Hon. ALAN CRANSTON,
Senate Hart Office Building,
Washington, DC.

DEAR SENATOR CRANSTON: On behalf of the National Council of Savings Institutions, I would like to offer some observations on draft legislation prepared by your staff entitled the "Recovery Act for Mortgage-Backed Obligations" (RAMBO).

This legislation recognizes that tremendous change has happened in the mortgage markets in the past five years. The liquidity of mortgages has increased substantially, and the volume of trading in mortgages and mortgage-related investment vehicles has also grown.

Not only has the use and volume of mortgage-backed securities grown over the past decade, the creativity applied by the market to these instruments has mushroomed. Savings institutions now use mortgage-backed securities in their asset management. As the need to put old loans in portfolio to use, savings institutions are issuing collateralized mortgage obligations, mortgage-backed bonds, and preferred stock. In the majority of these transactions, mortgage-backed securities, not the mortgages themselves, are used as the collateral.

However, the ability to best utilize mortgage-backed securities, both from the investor and issuer point of view is hampered by tax law. The passive management requirements imposed by the grantor trust provision of the tax code have limited mortgage-backed securities. Your legislation addresses this fundamental weakness in the current structure for mortgage-backed securities.

At the present time, we would like to reserve our technical comments on your legislation. However we would like to express support for your efforts and urge that you introduce legislation in this important area.

Kind Regards,

John H. Rousselot

American Bankers Association, Mortgage Bankers Association of America, National Association of Home Builders, National Association of Realtors, National Council of Savings Institutions,

October 17, 1985.

Hon. Bob Packwood,
Chairman, Committee on Finance,
U.S. Senate, Washington, DC.

Dear Mr. Chairman: It is our understanding that legislation is currently being drafted that would amend the tax laws to permit the issuance of multiple-class securities backed by a single pool of mortgages.

The undersigned organizations strongly support proposals that would remove tax liability at the pool level for multiple-class mortgage pass-through securities set up under specified guidelines. With these tax law amendments, multiple-class pass-through securities could be issued that would resemble collateralized mortgage obligations (CMOs) and offer investors a choice of maturities. This would lessen the unpredictability of prepayments and permit issuers to sell mortgage assets at higher prices than can be commanded by using secondary market instruments currently available to them. Thus, issuers could have the benefits of CMOs as well as sale-of-assets treatment for accounting purposes. In turn, homebuyers would realize a benefit in terms of lower interest rates that would result from more favorable secondary market pricing. Indications are that any revenue loss to the Treasury would be negligible.

We, therefore, respectfully urge Congress to hold hearings on this matter and to pass legislation that would authorize these types of multiple-class mortgage securities. Such legislation would expand the universe of investors willing to purchase mortgage products because such securities could be fashioned to accommodate differing investment needs. Pricing benefits would accrue to homebuyers in the form of lower interest rates, and there would be no significant loss to the Treasury.

Sincerely,

James C. Cairns,
President,
American Bankers Association.
Ronald F. Poe,
President,
Mortgage Bankers Association of America.
John J. Koelemij,
President,
National Association of Home Builders.
David D. Roberts,
President,
National Association of Realtors.
Kenneth F.X. Albers,
Chairman of the Board,
National Council of Savings Institutions.

Mr. CRANSTON. Mr. President, Treasury officials could promulgate final regulations by the end of January 1986 on these issues, however, from my conversations with them, they have indicated that they will not substantially amend the regulations with respect to mortgage-backed securities trusts to allow the use of multiple class passthrough securities. They have given indications that they would like some guidance from the Congress on this matter. I believe this legislation would provide such guidance.

My bill simply overrides the proposed draft regulations prohibiting multiclass passthrough securities under the grantor trust rules. This proposal provides that multiclass passthrough securities that do not have active management features are considered with the grantor trust rule.

My legislation makes clear that all classes of passthrough securities representing an interest in the same pool of assets must be issued simultaneously, and the interests represented thereby may not be changed after issuance. This does not, however, prevent the passing through of any adjustments inherent in the assets themselves, such as an adjustable interest rate or a prepayment of principal. Furthermore, the pool of assets must be fixed prior to the date of the first payment to security holders, except for a 2-year period in which substitution of substantially similar assets is allowed in connection with a breach of a representation or warranty made by the transfer of the assets to the trust. I believe that these restrictions provide protection against any tax deferral securities being issued under this provision and that the IRS has sufficient regulatory authority to handle such matters.

The bill contemplates that passthrough securities may be issued in one or more classes. A class is defined to include one or more classes. A class is defined to include one or more passthrough securities, each of which represents a pro rata right to specified cash payments and other rights provided for in the identified assets. For example, a class may represent an undivided interest in all of the assets of the trust; an undivided interest that differs from another class of undivided interests in that its right to payments on the assets is senior to or subordinate to such other class in the event of a delinquency or default on an underlying asset; or a sequential—"fast pay" or "slow pay"—interest which receives payments of principal—or similar amounts—on the assets prior to or later than another such interest, together with amounts designated as interest.

The assets which may be owned through a grantor trust are as proposed in the bill described as "financial instruments." These are defined to include: First, any evidence of indebtedness, such as residential or commercial mortgage, automobile loan, commercial bank loan, credit card receivable, or trade receivable; second, any lease receivable; third, any proceeds of a financial instrument, temporary investments of such proceeds and any income thereon, and any property acquired pursuant to foreclosure—or similar realization on a security interest—with respect to any financial instrument; and fourth, any other passthrough security. Proceeds of a financial instrument include any payment thereon or any payment in lieu thereof, such as advances, guaranty payments, insurance proceeds, or foreclosure proceeds. The bill would be effective with respect to passthrough securities issued after April 27, 1984, the effective date of proposed Treasury regulation section 301.7701-4.

The multiclass format has historically been used predominantly for mortgages. However, the securitization of nonmortgage assets, a relatively recent development, was not consciously excluded from early efforts to facilitate the securitization of mortgages. It simply was not in existence.

It would be incongruent to divide the capital markets by permitting one form of assets, mortgages, to be securitized versus other types of assets. Although homeownership is an important goal for many Americans, food, clothing, home furnishing, automobiles, and other consumer items are generally viewed as equally essential necessities. I believe that there is merit to including consumer loans, commercial mortgages, leases and other assets because this could have a substantially beneficial impact on consumers, business, and financial institutions. This is an area that deserves greater attention by the Congress and the Treasury.

For instance, finance companies, thrifts, and commercial banks that are holders of consumer loans will have a format to sell those loans and remove some of the risk inherent in consumer lending, such as student and education loans. Creating a more efficient capital market is one way to lower interest rates on credit card loans in response to continued consumer complaints that credit card interest rates are too high. Second, the securitization of commercial leases will be beneficial to computer companies as a means to raising capital for expansion by securitization of their equipment leases. Commercial banks for example, should benefit by being able to securitize and sell commercial loans and commercial real estate loans to investors more economically. This should add liquidity and new sources of fee income for these institutions. Mortgage bankers who are unable to withstand increased debt burdens on their balance sheets should benefit greatly from obtaining sale-of-asset treatment for securitization of commercial and residential mortgages. Thrifts, which in recent years have been the hardest hit by the high cost of financing their assets, should benefit greatly as well by having a new asset-liability management tool. This legislation will also provide them new sources of fee income and it will mitigate against loan losses on commercial and consumer loans as they diversify into these new lending areas. Domestic automobile companies have found in recent years that less costly financing alternatives offered by their finance company subsidiaries have been largely responsible for increased purchases of automobiles and have helped revitalize the automobile industry. The inclusion of automobile receivables as qualifying assets will help them substantially. It is also my belief that asset-based passthrough financings will be of substantial benefit to many other companies that are highly leveraged and/or cannot support additional debt burdens on their balance sheets. Indeed, several prominent financial commentators have argued that excessive debt burdens are endangering American corporations. This security can be used to provide asset liability management and improve the ratio of equity to debits of many corporations. Additionally, those Government sponsored agencies that sell mortgages such as Ginnie Mae, Fannie Mae, and Freddie Mac, will certainly benefit from the multiclass mortgage backed passthrough structure as it will lower their cost of funds.

Not to allow the use of a multiclass grantor trust for nonmortgage loans or assets will deprive consumers of the benefits of a more efficient security while creating yet another level of complexity by requiring regulators and investors to treat otherwise very similar assets differently. To not clarify the application of the Internal Revenue Code to the fullest extent possible is counterproductive to the overall tax simplification efforts presently being undertaken by the Congress and administration. While it is clear that the Treasury could proceed with authorizing a multiclass mortgage-backed passthrough, this is too important an area with broad public policy implications to be left solely to the Treasury.

This area has been in limbo since the proposed Treasury regulations were issued in early 1984. These regulations have never been made final. It is recognized that any change in the way business is done could have tax implications. However, because the Treasury has not spoken on these matters, the market has created other instruments such as the collateralized mortgage obligations to carry out this activity. This particular mechanism is an inefficient one and therefore a more costly one. If there are tax problems created by these instruments, it is time that Treasury stepped forward to propose a solution so that business in this important area of the capital markets can go on in an orderly manner.

The secondary market is now a large market with broad-based participation. Private entities such as General Motors Acceptance Corp., the General Electric Credit Corp., Ford Motor Credit Corp., and Chrysler Financial Corp., are now all active participants in the secondary market. The growth of this market is being restrained by anachronistic tax laws and in some cases the application of laws that have no relevance to market activity. Now is the time for the Congress to begin the process of providing a unified framework for the future development and growth of the mortgage and asset-backed securities market to the benefit of consumers, underwriters, and issuers, both private and public. I would urge the chairman of the Senate Finance Committee to schedule hearings on this matter as soon as possible early next year. Mr. President, I ask unanimous consent to include in the RECORD the text of the bill and a technical explanation of the bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1978

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the Recovery Act for Mortgage and Other Asset-Backed Securities.

SEC. 2. MULTI-CLASS PASS-THROUGH SECURITIES.

Subpart E of Part 1 of Subchapter J of Chapter 1 of Subtitle A of the Internal Revenue Code of 1954 (relating to the treatment of grantor trusts) is amended by adding at the end thereof the following new section.

"SEC. 680. PASS-THROUGH SECURITIES.

"(a) GENERAL RULE.—Holders of pass-through securities that represent interests in cash payments and other contractual rights provided for in identified financial instruments shall be treated for all purposes of this subtitle as the owners of beneficial interests in such payments and contractual rights, and the arrangement pursuant to which such financial instruments are held and such pass-through securities are issued shall be treated as a grantor, trust subject to the provisions of this subpart, provided that—

"(1) the interests in the financial instruments represented by the pass-through securities are established prior to the intitial issuance of the pass-through securities and, pursuant to the terms of the pass-through securities, such interests may not be changed; and

"(2) the financial instruments in which the holders of pass-through securities own interests are identified prior to the first payment made to holders and are not changed thereafter, except that substantially similar financial instruments may be substituted for identified financial instruments within 2 years of such first payment date in connection with a breach of a representation or warrenty made by the seller of all or a portion of the identified financial instruments.

"(b) CLASSES OF INTEREST.—One or more classes of interests in identified financial instruments represented by pass-through securities may be established with respect to the same identified financial instruments, and the arrangement pursuant to which such financial instruments are held and such pass-through securities are issued shall be treated as the same grantor trust.

"(c) BENEFICIAL OWNERSHIP OF FINANCIAL INSTRUMENTS.—Pass-through securities shall represent the ownership of beneficial interests in the underlying identified financial instruments to the extent of the holder's adjusted basis in such pass-through securities allocable thereto for all purposes of this subtitle, including section 593(d), section 851(b)(4), section 856(c)(5), and section 7701(a)(19)(C).

"(d) DEFINITIONS.—For purposes of this section—

"(1) PASS-THROUGH SECURITY.—The term "pass-through security" means—

"(A) an instrument that evidences the holder's contractual right to receive cash payments on identified financial instruments, the holder's rights in any security for such payments, and the holder's rights in other contractual rights contained in or incident to the identified financial instruments, where the issuance of pass-through securities representing interests in such financial instruments is treated as a sale under section 1001 of all or a portion of such financial instruments, and

"(B) the retained beneficial interest of the seller of a portion of such financial instruments.

"(2) CLASS.—The term "class" means a pro rata right to specified cash payments and other contractual rights provided for in identified financial instruments represented by one or more pass-through securities, which pro rata right differs from the right represented by one or more other pass-through securities, if any, established with respect to the same identified financial instruments.

"(3) FINANCIAL INSTRUMENT.—The term financial instrument means—

"(A) any bond, debenture, note, certificate, account receivable, or other evidence of indebtedness, or a participation interest therein;

"(B) any lease receivable;

"(C) any proceeds of a financial instrument temporary investments of such proceeds and any income thereon, and any property acquired due to a default on any financial instrument and any income thereon; and

"(D) any pass-through security representing direct or indirect interests in financial instruments described in subparagraph (A), (B), or (C)."

SEC. 3. EFFECTIVE DATE.

The amendments made by section 2 shall apply to pass-through securities issued after April 27, 1984.

TECHNICAL EXPLANATION OF THE BILL

The proposal provides that arrangements for the issuance of "pass-through securities" in one or more "classes" would be taxed as grantor trusts and not as corporations. As in the case of present mortgage pass-through securities, the holder of the security would be treated as the owner of his share of the assets represented by the security. The holder would be taxed on his proportionate share of the payments on the assets to the extent such payments represented either an undivided interest in the income on such assets or income reportable under the stripped bond rules of section 1286 or similar rules.

The proposal limits the proposed tax treatment to passive arrangements that do not carry on a business activity. Accordingly, all classes of pass-through securities representing interests in the same pool of assets must be issued simultaneously, and the interests represented thereby may not be changed after issuance, pursuant to the terms of the security. This does not, however, prevent the pass-through of any adjustments inherent in the assets themselves, such as an adjustable interest rate or a prepayment of principal. Furthermore, the pool of assets must be fixed prior to the date of the first payment to security holders, except for a two-year period in which substitution of substantially similar assets is allowed in connection with a breach of a representation or warranty made by the transferor of the assets to the trust.

As defined in the proposal, pass-through securities represent interests in assets that are treated as having been sold either in whole or in part by the transferor of the assets. Partial sales include transfers in which the transferor retains either an undivided interest in the assets or an interest consisting of one or more stripped coupons or stripped bonds within the meaning of section 1286 of the Code (or similar interests in the case of assets other than debt obligations). The beneficial interest retained by the transferor is also treated as a pass-through security. Essentially, any arrangement other than one treated for federal income tax purposes as an issuance of debt obligations by the transferor is included.

The proposal contemplates that pass-through securities may be issued in one or more classes. A class is defined to include one or more pass-through securities, each of which represents a pro rata right to specified cash payments and other rights provided for in the identified assets, which pro rata right differs from the right represented by one or more other pass-through securities, if any, established with respect to the same identified assets. For example, a class may represent an undivided interest in all of the assets of the trust; an undivided interest that differs from another class of undivided interests in that its right to payments on the assets is senior to or subordinate to such other class in the event of a delinquency or default on an underlying asset; or a sequential ("fast pay" or "slow pay") interest which receives payments of principal (or similar amounts) on the assets prior to or later than another such interest, together with amounts designated as interest.

The assets which may be owned through a grantor trust are described as "financial instruments" in the bill. These are defined to include (i) any evidence of indebtedness, such as a residential or commercial mortgage, automobile loan, commercial bank loan, credit card receivable, or trade receivable, (ii) any lease receivable, (iii) any proceeds of a financial instrument, temporary investments of such proceeds and any income thereon, and any property acquired pursuant to foreclosure (or similar realization on a security interest) with respect to any financial instrument, and (iv) any other pass-though security. Proceeds of a financial instrument include any payment thereon or any payment in lieu thereof, such as advances, guaranty payments, insurance proceeds, or foreclosure proceeds.

The Act would be effective with respect to pass-through securities issued after April 27, 1984, the effective date of Proposed Treasury Regulation §301.7701-4(c).

Mr. D'AMATO. Mr. President, today my colleagues and I are introducing legislation to help foster the growth of the mortgage-backed securities market and the development of a new market in asset-backed securities, including security interests in commercial real estate, equipment leases, credit card receivables, commercial loans, and automobile receivables.

Although I endorse this legislation, I realize that it may not provide a perfect solution. To the extent that the issues regarding phantom profits, original issue discount and revenue neutrality are not adequately addressed by the legislation in its present form, I fully intend that these issues be resolved during consideration of this bill. My qualified endorsement of the bill does not diminish my desire to compel the Treasury Department to clarify existing rules or promulgate new ones regarding the tax treatment of these securities. My colleagues and I have been prompted by Treasury's inaction in this area. This legislation therefore should be a starting point which will hopefully culminate in the passage of legislation or the promulgation of rules that sets forth a rational system of allocating taxes on these securities.

The efforts of our colleague Senator CHAFEE, who has also attempted to address this very complex issue in legislation introduced yesterday, deserve considerable credit. Although that legislation and the bill we introduce today address the taxation of certain securities, they represent slightly different approaches. The most significant distinction between the bills is that Senator CHAFEE's bill applies only to pools backed by mortgage backed securities while the bill that I am cosponsoring would clarify the tax rules as they would apply to many types of asset based securities. Senator CHAFEE's bill may also allow for an election procedure for debt treatment or asset treatment which would affect the taxation of the issuer. The legislation that I am cosponsoring does not change the character of the present multiclass passthrough securities but clarifies the tax treatment of these particular instruments. I am hopeful that we can work with Senator CHAFEE to inspire the Treasury to participate in the process and clarify tax treatment of the securities at issue. These legislative proposals are subject to modification due to the complexity of these issues and I hope that Treasury will finally come forward to address these very important issues.

This legislation would authorize the use of multiple classes of ownership in fixed investment or grantor trusts which are used in issuing passthrough securities. The legislation will harness the innovation of Wall Street to lower the cost of mortgage and consumer credit. These new innovations in the capital markets would provide additonal billions of dollars of credit to these markets and help commerical bankers, thrifts, mortgage bankers, finance companies, computer companies, and others to reduce the cost of financing their assets. This should allow them to reduce interest rates on loans they make to consumers.

Such legislation is a logical next step in the development of the mortgage-backed securities market following on the administration's trusts for investment in mortgages [TIMS] initiative and the recent enactment and signing by the President of the Secondary Mortgage Market Enhancement Act of 1984. This legislation recognizes, however, that other new assets are now a key part of the Nation's capital markets, especially the secondary markets.

The Recovery Act for Mortgage and Other Asset-Backed Securities is a response to the efforts of securities firms that have devised a marketing device that was utilized by them on certain mortgage-backed bonds, called collateralized mortgage obligations. Subsequently these firms attempted to apply this marketing structure to pass-through securities. The Treasury Department, however, on May 2, 1984, proposed restrictive amendments to its regulations on classification of investment arrangements with multiple classes of ownership. This legislation would help the Treasury distinguish the use of multiple class passthrough securities from restrictions proposed by Treasury on other investment arrangements where the Treasury was concerned about tax deferral or tax avoidance use of trusts with multiple classes of ownership.

During hearings held by the Treasury Department's Internal Revenue Service on its proposed regulations in this area, the Mortgage Bankers Association of America, the Public Securities Association, the National Association of Home Builders, and others testified and supported the concepts we have embodied in this legislation.

This legislation is intended to be revenue neutral and would merely eliminate roadblocks to more efficient capital markets. I believe this legislation will benefit consumers by causing interest rates to decline, assist in the continued recovery of the housing industry, and provide additional liquidity and efficiency in the lending operations of any other lender who securitizes assets. I therefore urge my colleagues to support our efforts to work with the Treasury on an issue of vital importance to investors, lenders, borrowers, and consumers.

I ask that my statement be included in the RECORD as if given.

By Mrs. KASSEBAUM:

S. 1979. A bill to fulfill the purposes of the Airport and Airway Improvement Act of 1982, promote air passenger safety, and provide equity to airway users; pursuant to the order of August 4, 1977, referred jointly to the Committee on the Budget and the Committee on Governmental Affairs.

AIR PASSENGER SAFETY AND EQUITY ACT

● Mrs. KASSEBAUM. Mr. President, I am today introducing legislation I had hoped would not be necessary.

This bill simply treats the airport and airway trust fund in the same manner as Social Security. It states that, notwithstanding any other provisions of law, the receipts and disbursements of the aviation trust fund shall not be included in the totals of the budget of the U.S. Government as submitted by the President or of the congressional budget and shall be exempt from any general budget limitation imposed by statute on expenditures and net lending of the U.S. Government.

My colleagues are well aware of my longstanding belief that all revenue and spending programs of the Federal Government should be counted in the budget process. We are one country, one people, and one government. We should also have one budget which accounts for all receipts and costs of Government programs.

Unfortunately, in my opinion, the Senate has expressed several times this year its support for moving certain items, notably Social Security, "off budget."

While that is now an accomplished fact, I believe we must look ahead to the protection of commitments that we have made. One such commitment is to a safe, efficient, modern system of air transportation. That promise has been made many, many times over the years. Most recently, in 1981, Congress decided it was fitting and proper that those users of the airways should be responsible for maintaining, expanding, and modernizing the system. Users accepted that responsibility based on explicit assurances that revenues generated by their use would be utilized in the airway and airport system.

Mr. President, let us understand clearly this point. The users of aviation fuel, who pay higher Federal taxes, and the users of commercial airlines, who pay a substantial excise tax with each ticket, have relied on a Government promise. That promise was not merely that their taxes would be dedicated to the airport and airway trust fund but that Congress would expend those tax revenues for that dedicated purpose. Only one side of that bargain has been kept.

Since fiscal year 1982, we have never approached the authorization ceilings for aviation trust fund expenditures. Look at the following figures. Through fiscal year 1985, the Airport Improvement Program obligations have been $360 million less than authorizations and the Facilities and Equipment Program $766 million short. During that same period, the surplus in the aviation trust fund has grown to an estimated $3.3 billion.

Earlier this fall, we passed a transportation appropriation bill which widened considerably the gap between trust fund revenues and spending. In a year when concern about aviation safety has never been greater, we initially passed appropriations levels which would have gutted the air traffic control system, gutted the FAA safety inspection system, and seriously hampered our modernization efforts. Sure we may get this money back in the continuing resolution—this time. Next time our choice will be which day of the week will the air traffic control system be shut down.

Literally billions of dollars have been collected solely and exclusively from aviation users. These dollars rest in the trust fund account, their main purpose being to shelter billions of dollars of other spending. As chairman of the Aviation Subcommittee, a member dedicated to aviation safety, and a citizen who flies, I cannot sanction this abuse of trust.

Mr. President, the House Committee on Public Works and Transportation voted to remove the aviation trust fund from the budget. That provision was narrowly defeated on the House floor. I believe the committee's rationale is convincing, and I ask unanimous consent that the section of the committee report supporting that provision be printed in the RECORD.

We sometimes wonder why the American public is cynical. I do not wonder why aviation users are cynical. They agreed to fund a trust, only to find that Congress could change the definition of "trust." Instead of a safer, more efficient, and more modern airways system, their tax dollars have shielded spending on a myriad of programs which could not survive individual scrutiny. This legislation gives us the opportunity to respond to that cynicism in a positive and responsible way. It gives us the opportunity to regain that trust. And it gives us the chance to be honest.

In closing, Mr. President, I remind my colleagues of a phrase we all learned while young, "you get what you pay for." I hope my colleagues will join me by cosponsoring this legislation and restoring the truth of that simple slogan. I ask unanimous consent that the text of this bill be placed in the RECORD following my statement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1979

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Air Passenger Safety and Equity Act of 1985."

SECTION 1. Notwithstanding any other provision of law, the receipts and disbursements of the Airport and Airway Trust Fund shall not be included in the totals of the budget of the United States Government as submitted by the President or of the congressional budget and shall be exempt from any general budget limitation imposed by statute on expenditures and net lending (budget outlays) of the United States Government.

[Excerpts from H. Rept. 99-300, accompanying H.R. 3500, the Omnibus Budget Reconciliation Act of 1985]

AIRPORT AND AIRWAY TRUST FUND

The Airport and Airway Trust Fund is fully supported by taxes paid by users of the airport and airway system, including a passenger ticket tax imposed on commercial airlines and a fuel tax imposed on general aviation. These tax revenues are used to support capital development of the airport and airways systems, and as a subsidiary purpose, the operations and maintenance of the air traffic control system.

In 1981, the Trust Fund program was renewed and user taxes were increased. The users supported these increases because they recognized that higher taxes were needed to support a major program of modernizing the air traffic control system and expanding airport capacity so that the system could handle the increased demands which would be placed upon it during the 1980s. Unless these capital improvements were undertaken, airport and airway congestion would increase dramatically and we would soon be faced with the undesirable alternatives of either incurring major delays or imposing restrictions on operations at congested airports, thereby reducing the benefits of competition. The only way to avoid these problems was to modernize and expand the system.

Regrettably, the programs established in 1981 have not been fully funded and the users have been paying considerably more into the Trust Fund than has been going out for capital development. In every year since Fiscal 1982, obligation ceilings have been imposed on the Airport Improvement Program and as a result of these ceilings, obligations under the AIP program through fiscal 1985 have been $360 million less than authorizations. In Fiscal 1986, the obligation ceiling imposed by the House Appropriations Committee will produce an additional shortfall of $92 million below authorized funding.

In the Facilities and Equipment program for modernization of the air traffic control and navigation systems, there has been an even greater shortfall. Through Fiscal 1985, appropriations for this program were $766 million below the authorized level. The House Appropriations bill for Fiscal 1986 produces an additional $318 million deficiency below the authorization.

These shortfalls are inexcusable when user taxes are producing far more revenues than are needed to support the Airport and Airway Trust Fund programs. As a result of the shortfall, the uncommitted surplus in the Trust Fund has grown from $2.1 billion at the end of Fiscal 1982 to an estimated $3.3 billion at the end of Fiscal 1985. By the end of Fiscal 1986, the uncommitted surplus is estimated to reach $4.6 billion under the appropriations bill passed by the House.

With the Trust Fund included in the general Presidential and Congressional budgets, the increase in the Trust Fund's uncommitted surplus has served to reduce the general budget deficit. In other words, since Fiscal 1982 aviation users have contributed $1.3 billion to reduce the general budget deficit and under the House bill for Fiscal 1986 the aviation users will contribute an additional $1.2 billion to reducing the general budget deficit. This is totally inconsistent with the conceptual basis of user funds. The mistreatment of users in this Aviation Trust Fund threatens our ability to extend the user fund concept to other areas.

The shortfall in spending out of the Trust Fund is largely attributable to the inclusion of the Trust Fund in the Presidential and Congressional budgets. When these programs are included in overall budgets the Administration and the Appropriations Committee tend to lose sight of the fact that the Trust Fund programs themselves produce surpluses rather than deficits, and that the justification for imposing specific taxes on aviation users is that the tax revenues will be spent on the aviation system. In the pressure for reductions of general budget deficits, the temptation to cut Trust Fund programs, while gaining the benefit of their revenues, becomes irresistible. Unless this process is stopped, Congress and the users will be unwilling to have the Trust Fund programs continued and the aviation system will suffer the consequences.

If there is an unfunded aviation authorization, the Secretary of Transportation next determines whether the Trust Fund receipts (taxes and interest) for the two years following the close of the next fiscal year will be greater than the unfunded authorizations. If the unfunded authorizations are greater than the net receipts, the Secretary determines the percentage which the excess is of the authorized amounts. Each authorization (Airport Improvement Program, Facilities and Equipment, etc.) is then reduced by this same percentage.

The reported bill also permits the restoration of any reductions if the Trust Fund deficit is subsequently reduced or eliminated. If the Secretary determines in a subsequent estimate that the excess of unfunded authorizations over net receipts has been reduced, the authorizations are restored. Each authorization is restored by an equal percentage, up to a point where the unfunded authorizations will equal estimated net receipts to the Trust Fund.

In sum, inclusion of the Airport and Airway Trust Funds in the general budget process has prevented the Trust Fund from functioning as intended and has led to the users contributing far more in taxes than has been spent for development of the airport and airway systems. If we are to continue to realize the benefits of the Trust Fund, this situation must be changed. Under the reported bill the Trust Fund will be removed from the budget process, but will be subject to the appropriations process and an anti-deficit provision. With these controls the Trust Fund will not operate at a deficit.●

By Mr. THURMOND (for himself, Mr. ZORINSKY, Mr. EAST, Mr. SIMPSON, and Mr. KERRY):

S. 1980. A bill to amend title 17, United States Code, regarding the conveyance of audiovisual work, and for other purposes; to the Committee on the Judiciary.

USE OF MUSICAL WORKS IN SYNDICATED TELEVISION PROGRAMS

Mr. THURMOND. Mr. President, I am introducing a bill today along with my distinguished colleagues, Senators ZORINSKY, EAST, SIMPSON, and KERRY. I believe this bill is a fair and equitable reform to the process of licensing performance rights in the copyrighted music which accompanies nonnetwork programs broadcast on television. This legislation will remedy a problem of continued concern to hundreds of local television stations throughout the United States.

Congress is specifically entrusted by the Constitution to ensure a balance of rights in copyright law between the creators and users of intellectual property. As Members of Congress, it is our responsibility to enact a copyright law which will protect the public interest and encourage proliferation of the arts. This Congress would be neglecting its duty if we do not ensure that the copyright law provides a balance in music broadcasting by television stations on syndicated programs.

Specifically, Mr. President, this measure would prohibit the conveyance of a copyrighted audio-visual work to nonnetwork television stations without simultaneously conveying the right to perform in synchronization any copyrighted music which accompanies such audio-visual work.

The problem addressed by this bill can be best explained by a brief discussion on how the current system works for licensing performance rights in television music.

Today, when a local television station buys the right to broadcast a syndicated program, all of the performance rights for copyrighted works embodied in that program are included in the purchase price except for one; the right to broadcast music on the soundtrack. The local television station must separately buy permission to broadcast the music even though the music is already embodied on the soundtrack of the syndicated program.

Generally, the effect of this is to require the local station to go to one of two societies, ASCAP or BMI, to buy a blanket license to broadcast the music on the soundtrack. These two societies currently issue over 95 percent of all blanket licenses. I use the term blanket license for a good reason. The local station is required to buy the "blanket" right to use all 3 million of the compositions controlled by ASCAP or all 1 million of the works controlled by BMI, even though the actual soundtrack of the program involved may contain no more than one or two copyrighted songs.

Mr. President, these local television stations have almost no bargaining power as they seek to purchase the right to broadcast the music on a prerecorded soundtrack. They cannot deal with ASCAP and BMI in an arms-length transaction as that term is ordinarily understood in the marketplace. The local broadcasters have no other alternative but to confront these two giants which control over 95 percent of all blanket licenses. The stations have already purchased broadcast rights in a program, but those rights are virtually worthless without the accompanying right to braodcast its music.

One illustration of the current unfair practice is a recent case in Atlanta, GA, with WAGA television station. WAGA negotiated a music package with suppliers, independent of ASCAP and BMI, to broadcast music for its locally produced programming, that is, its local news and public affairs programs. This music package cost WAGA $740 per month and covers programming which accounts for 60 percent of WAGA's nonnetwork revenue. By contrast WAGA has to pay ASCAP $30,000 per month for a blanket license to cover their syndicated programming which generates only 40 percent of the station's nonnetwork revenue. This is a figure ASCAP is now proposing to raise to $52,000 per month. WAGA has no choice but to pay ASCAP this fee because the music is an essential part of every syndicated program.

Mr. President, it is important here to note that the large corporations who make television programs are the primary beneficiaries of this system. Although ASCAP and BMI collect the money from local stations, most of the money goes back to these corporations. This is because most of the music used on television is composed by employees of the studios which make the shows, not by independent composers. The studios get paid twice. They are paid by the television station to broadcast the program and in addition receive payment as members of ASCAP and BMI.

Local television stations are treated differently from movie theaters in this area. The rental fee paid by theaters to the studios who produce the films shown covers all of the rights of the studio in the movie, including the copyrights to the music. This is the result of a 1948 court decision. This same rule should apply to syndicated programs shown on local television.

Local television stations are willing to negotiate directly with ASCAP and BMI for broadcast rights in music to accompany programs which they produce locally. But with syndicated programs, television stations have no bargaining position to negotiate for the music used by the corporations which produce syndicated films and serials. Their only choice is to take it or leave it.

Under this bill, the syndicators who license programs to TV stations would be required to simultaneously convey the rights to use copyrighted music on the soundtrack of their programs. It is only logical for the local stations to negotiate one price for the entire package. It is virtually worthless for local stations to have broadcast rights for a syndicated program but not for the music which accompanies it. Indeed, who would enjoy watching that great classic, "The Sound of Music", without hearing the very talented Julie Andrews sing the beautiful songs in that movie.

Congress has a responsibility to ensure a balance between the rights of copyright owners and users. This legislation will restore fairness and balance to this area of the copyright system.

Mr. ZORINSKY. Mr. President, I am pleased to cosponsor Senator THURMOND's legislation that will prevent abuse of the monopoly power of copyright owners who control the music in syndicated TV programs. S. 1980 will permit local TV stations to negotiate with these copyright owners "up front" at the same time they clear the rights to broadcast all of the other elements of a syndicated program.

By bringing the licensing of music into the marketplace, windfall profits now paid to music companies will be eliminated, but the quality of TV music will improve. Under S. 1980, the market will determine the price for each composition. Good music will receive more, bad music, less.

Under the present law, when a syndicated TV program is licensed to a local station for broadcast, a payment is negotiated between the syndicator and the station. However, the copyright in the music on the soundtrack—a small but necessary element which must be cleared before the station can actually broadcast the program—is routinely withheld and licensed separately through two monopolistic organizations, ASCAP and BMI. These two organizations control the rights of 95 percent of all of the music in syndicated TV programs. They use their copyright control to demand that stations buy a "blanket license" from them before the programs already purchased from the syndicators actually can be used.

A blanket license includes the copyrights for all the music licensed by the organization, not just the music actually used in a particular show. ASCAP's blanket license includes 3 million songs. BMI's license requires buying the rights to 1 million compositions.

Stations have little leverage with ASCAP and BMI because they must "clear" ASCAP and BMI's copyrights in order to operate. The price ASCAP and BMI charge stations for these blanket licenses bears absolutely no relationship to the amount or quality of music the stations actually use. Instead, stations are charged a percentage of their gross revenue, currently a little less than 2 percent—in effect, a tax or tribute—for permission to operate.

S. 1980 would amend the copyright law. It would eliminate this inefficient system and bring common sense into the licensing of TV music. The bill would apply the simple principle of "you pay for what you get" to music used by local television stations.

I urge my colleagues to support the bill.

Mr. KERRY. Mr. President, I am pleased to cosponsor this important legislation, which amends the 1976 copyright law to prevent the abuse of the monopoly power of copyright owners who control the music on syndicated TV programs.

The current system in effect requires local broadcasters to purchase a "blanket copyright" for the entire library of music owned by the major performing rights societies even if the broadcaster will actually use only a tiny fraction of these works. Not only is this arbitrary system unfair, but it imposes a growing financial burden on broadcasters, thereby limiting the resources which could otherwise be used to hire musical talent from the local community not represented by one of the national societies.

This legislation will not in any way allow local broadcasters to avoid the obligation to compensate performers, composers, or publishers for the use of the music they have created. Rather, it proposes a fairer and more logical method of arriving at a mutually acceptable license fee for such use by replacing the current blanket copyright with a "source licensing" system.

Source licensing of music performance rights is not a new idea. On the contrary, this system has been used for decades with respect to music on soundtracks of films shown in movie theaters. The simple principle of fairness—you pay for what you use—that lead to the adoption of source licensing for movie theaters in the 1940's should be applied to local broadcast of syndicated programs in 1985.

Musicians, performers, and composers as well as broadcasters and television viewers nationwide will benefit by the creation of a more efficient market for the negotiation of music license fees for syndicated TV programs. Creative artists would benefit because a new TV music market for all creators, not just those affiliated with the major societies, would develop. Furthermore, because source licensing would allow bargaining for the right to use identifiable compositions, artists could command a fee that accurately reflects the unique value of their work. TV viewers would benefit because the quality of TV music would improve, and because broadcasters would be able to reinvest into local news, public affairs, and community programming money currently spent on rights to music they don't use.

By Mr. MURKOWSKI (for himself, Mr. STEVENS, Mr. HEINZ, Mr. GRASSLEY, and Mr. MCCLURE).

S. 1981. A bill to provide a duty on surimi; to the Committee on Finance.

DUTY ON SURIMI

● Mr. MURKOWSKI. Mr. President, today I introduce a bill which will establish a new tariff category for surimi, with a 6.5-percent import duty. Surimi is not well known by name and many of my colleagues may be wondering why we need a new tariff category for this product. However, most of us have eaten surimi in one form or another, and its usage in food products is skyrocketing.

"Surimi" is the Japanese word for minced fish. It is made from bottomfish—generally from Alaska pollock—which is put through a process that washes, debones, minces, and presses the fish into a stable, odorless, tasteless intermediate product. This product is then used to manufacture hundreds of different types of finished foods. In Japan, surimi-based products are a major food type. The Japanese eat surimi products in quantities comparable to the American consumption of breakfast cereal. In the United States, surimi-based products are becoming very popular in the form of imitation crab legs, shrimp, scallops, and lobster tails. These products have advanced to the point where most individuals do not recognize that they are eating an imitation unless they are told otherwise.

Mr. President, we must promote fair trade, and that is the reason this legislation calls for a 6.5-percent tariff. Right now, most Japanese surimi is entering duty free, while U.S. producers must pay a 6.5-percent duty if our product is sold in Japan. While the effect of this measure is to raise a tariff of 6.5 percent, the United States should be prepared to remove the proposed tariff when Japan removes its tariff. The message we must send to Japan is, "You drop your trade barriers, and we will drop ours."

This message needs to be sent because the U.S. surimi market and industry is at a critical stage. If we don't take action now, the Japanese surimi industry is likely to monopolize the U.S. market and cripple our infant industry.

Mr. President, let me give my colleagues some facts that show the dramatic growth of the surimi market in the United States: When the Alaska king crab fishery collapsed several years ago, the Japanese surimi industry spotted a golden opportunity. Japan began producing and exporting imitation crab legs to the United States. In 1981 Japan exported 5 million pounds of crab legs to the United States. By the end of 1985 those exports will have doubled every year to a present level of nearly 100 million pounds and a wholesale value of $200 million.

And that is only part of the picture. Japan not only exports ready-to-eat surimi products to the United States, but has also begun building secondary processing plants in the United States to produce imitation seafood products. In just this year, the number of processing lines in the United States will have grown from 10 to 50. These plants need supplies of raw surimi, and Japanese exports of surimi in 1985 reflect this growing demand. The 6.5 million pounds of raw surimi imported into the United States as of October 1985 represents a 55-percent increase over 1984 total imports. It may sound small compared with the nearly 100 million pounds of finished surimi products that will be imported in 1985, but remember the fivefold increase in secondary processing lines in 1985 and you can get an idea of what the future demand will be. Those 50 processing lines will require nearly 50 million pounds of raw surimi—10 times what was imported this year.

So where, you may ask, is the U.S. surimi producing industry while all this is going on? It is just getting started. The first U.S. plant was located on Kodiak Island in Alaska. It has been operating on an experimental basis for about 1 year, and by the end of this year will have produced about 1 million pounds. Already half a million pounds have been distributed to the research and development departments of U.S. food and ingredient companies. Over 450 organizations in 32 States, involved in everything from cheese to crackers, have shown interest.

This year two seafood companies based in Seattle, WA, announced plans to build surimi plants in Alaska, and on the east coast $1 million has been set aside to study the application of surimi technology to menhaden, an east and gulf coast fishery as large as Alaska's pollock fishery.

Mr. President, as my colleagues can see, the United States has the fish, is developing the technology, and has an exploding domestic market. As our industry grows, it will be looking not only to the U.S. market, but also the Japanese market. Right now Japan gets most of its fish for surimi production from the fishing grounds off Alaska. As the U.S. surimi industry grows, it will displace the Japanese fishing and processing industry. But the Japanese market for surimi will still be there and will become the prime export market for our surimi.

It is for these reasons, Mr. President, that we need this new tariff category. The tariff will put our infant surimi producing industry on an equal footing with the Japanese industry. Matching tariffs is one step in that direction because we will send the message that we want fair and equal trade access. Japan's import quota system is also a barrier to our exports and must be dealt with by the administration under section 301 of the Free Trade Act.

I ask my colleagues to support this legislation as a modest but necessary step to gain access to a key Japanese market for our growing surimi industry.●

By Mr. DeCONCINI:

S. 1982. A bill to provide financial assistance to States to enable them to establish or expand master teaching education programs, and for other purposes; to the Committee on Labor and Human Resources.

MASTER TEACHER EDUCATION ASSISTANCE ACT

Mr. DeCONCINI. Mr. President, it is with a great sense of responsibility that I introduce legislation which I believe will ultimately improve the quality of education for our Nation. The Master Teacher Education Assistance Act of 1985, if enacted, will provide financial assistance to States to enable them to establish or expand Master Teacher Education Programs resulting in "master teachers" in selected fields of instruction. This is an essential step toward improving and reforming our schools and achieving educational excellence for our children.

The problems with our educational system are complex, and it is difficult to adequately rectify them as a whole. Therefore, I believe a more logical approach would be to systematically address each problem individually. In doing so, we can more realistically achieve our goal of quality education for this country. This legislation which I am introducting was drafted to address one specific goal of our educational reform movement—to improve the quality of instruction within our classrooms.

If enacted, this legislation would provide funds to establish 50 master teacher institutes across the United States. Teachers from both the elementary and secondary school levels would attend these institutes to strengthen their teaching skills and subject knowledge. The high intensity programs developed in the institutes would reach at least 3 percent of their classroom teachers per year. It is anticipated that the graduates of these institutes would return to their school districts equipped and eager to share new skills with their colleagues through formal or informal mentor and peer partnerships.

Mr. President, our United States has moved into a new, postindustrial era of technology and communication. It is imperative that American education meet the challenge of this change. Decidedly, we must acknowledge the fact that this challenge belongs to everyone. It belongs to the taxpayers who provide funds for our educational system; it belongs to the teachers and school administrators who must formulate and translate educational goals into realities; it belongs to parents and students, whose individual lives are directly and profoundly affected by the changes in our educational policy; and perhaps most relevant, it belongs to the Congress, which is responsible for the passage of legislation to appropriate funds to meet the current challenge and make programs such as the Master Teacher Education Assistance Act a reality.

There are a number of reports on the status of education which have recently been issued and among them are several recommendations for change within our current educational system. One of the most notable of these was done by the National Commission on Excellence in Education, a task force organized with the primary purpose of examining the quality of American education. The Commission concluded that "the educational foundations of our society are presently being eroded by a rising tide of mediocrity that threatens our very future as a nation and a people." The Commission points out that quality education for all members of the society is essential for maintaining the country's competitive edge in international economic markets, and for success in the so-called information age.

In focusing on secondary education, the Commission asserts "that the high school curriculum is to diffuse and lacks a central purpose; that high school students are excessively found in general track programs and not academic track programs; that students spend time ineffectively and inefficiently, particularly in comparison with their counterparts in other countries; and that teaching is attacting too few academically able persons and offers a professional life that is, on the whole unacceptable."

Further, the Commission stated that it is the Federal Government's responsibility to take a strong position in meeting the need for educational quality in this country. Every student in America is entitled to look for and find subjects in any of the major disciplines and have a professor or teacher who can impart guidance and instruction in those subjects in preparation of his or her life's endeavor.

Mr. President, I feel we have an obligation to the coming generations to prepare them for the new age. We should do our best to train our teachers and classroom personnel to provide the greatest possible educational system in the world and I believe one means of doing this is to enact the Master Teacher Education Assistance Act of 1985. We cannot afford the risk of not having an educated populace in this time of fierce international competition. Therefore, I urge my colleagues, without hesitation, to join me in the passage of ths legislation as a commitment to progress toward excellence in our public schools. I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1952

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Master Teacher Education Assistance Act of 1985".

STATEMENT OF PURPOSE

SEC. 2. It is the purpose of this Act to provide financial assistance to States for the establishment or expansion, and operation of master teacher education programs in order to improve the quality of instruction by current teachers and by new teachers through intense subject and pedagogic training designed to improve classroom skills.

DEFINITIONS

SEC. 3. As used in this Act—

(1) the term "elementary school" has the same meaning given that term under section 198(a)(7) of the Elementary and Secondary Education Act of 1965;

(2) the term "equipment" has the same meaning given that term by section 198(a)(8) of the Elementary and Secondary Education Act of 1965;

(3) the term "institution of higher education" has the same meaning given that term under section 1201(a) of the Higher Education Act of 1965;

(4) the term "local educational agency" has the same meaning given that term under section 198(a)(10) of the Elementary and Secondary Education Act of 1965;

(5) the term "secondary school" has the same meaning given that term under section 198(a)(7) of the Elementary and Secondary Education Act of 1965;

(6) the term "Secretary" means the Secretary of Education;

(7) the term "State" means each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands; and

(8) the term "State educational agency" has the same meaning given that term under section 198(a)(17) of the Elementary and Secondary Education Act of 1965.

PROGRAM AUTHORIZED

SEC. 4. (a) The Secretary is authorized, in accordance with the provisions of this Act, to make grants to States to pay the Federal share of the costs of establishing and operating master teacher education programs for elementary and secondary school teachers within each State.

(b) There are authorized to be appropriated $50,000,000 for the fiscal year 1986 and for each succeeding fiscal year ending prior to October 1, 1989.

ALLOTMENT TO STATES

SEC. 5. (a)(1) From the sums appropriated to carry out this Act in any fiscal year, the Secretary shall reserve—

(A) not to exceed 1 percent for payments to Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands, and

(B) 0.5 percent for payments for children enrolled in Indian schools, to be allotted in accordance with their respective needs.

(2) From the remainder of the amount appropriated for this Act, the Secretary shall allot to each State—

(A) an amount which bears the same ratio to 50 percent of such remainder as the school-age population of the State bears to the school-age population of all States; plus

(B) an amount which bears the same ratio to 50 percent of such remainder as the number of the children aged 5 through 17 who are counted for the purpose of section 111(c) of the Elementary and Secondary Education Act of 1965 in the State in the fiscal year preceding the fiscal year for which the determination is made bears to the total number of such children in all States.

(b) For the purpose of this subsection—

(1) the term "school-age population" means the population aged 5 through 17; and

(2) the term "States" includes the fifty States, the District of Columbia, and the Commonwealth of Puerto Rico.

USES OF FUNDS

SEC. 6. Grants under this Act may be used for the payment of the Federal share of the cost of the establishment and operation of a master teacher education program for elementary and secondary school teachers within the State which meet the requirements of this Act.

MASTER TEACHER EDUCATION PROGRAM CRITERIA

SEC. 7. No grant may be made under this Act to any State unless—

(1) the master teacher education program will be conducted for a 3-year period and is designed to reach at least 3 percent of the elementary and secondary school classroom teachers within the State;

(2) the master teacher education program will carry out a skill-based curriculum, including—

(A) subject matter instruction in reading and writing skills, computer science, natural science, mathematics, and humanities;

(B) classroom management;

(C) professional growth and development; and

(D) other appropriate areas of instruction which the State deems appropriate; and

(3) the State will furnish each participant who successfully completes the course of instruction in the master teacher program with an appropriate certificate.

STATE APPLICATION

SEC. 8. (a) Each State which desires to receive assistance under this Act shall file an application with the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

(b) Each such application shall—

(1) designate the State educational agency as the State agency responsible for the administration and supervision of the program of assistance under this Act;

(2) describe the establishment or expansion and operation of a master teacher education program for elementary and secondary school teachers within the State which meets the requirements of section 7;

(3) provide assurances that the proposal contained in the application was developed by the State educational agency in collaboration with State and local education officials, State teachers organizations, and the institutions of higher education which have significant responsibilities in teacher training within the State;

(4) provide a description of the procedures under which the local educational agencies within the State will select elementary and secondary school teachers for participation in the master teacher education program;

(5) provide assurances that the percentage of elementary and secondary school teachers from local educational agencies located in rural areas of the State selected for the program will reflect the percentage of elementary and secondary school students from such areas;

(6) describe the length of the enrollment period in the program and the number and location of each project under the master teacher education program to be conducted in the State with assistance under this Act;

(7) describe the manner in which the State educational agency will encourage elementary and secondary school teachers who successfully complete the master teacher education program to participate in a master teacher program or a teacher residency program;

(8) provide assurances that the State—

(A) will use grants under this Act (i) to supplement the level of funds available from non-Federal sources for the purpose of the program for which assistance is sought; and (ii) not to supplant funds from non-Federal sources; and

(B) will not commingle funds made available under this Act with State funds;

(9) provide assurances the State will not expend more than 10 percent of the funds available to it under this Act for administration and oversight of the master teacher education program;

(10) provide assurances that the State educational agency will, at the end of each fiscal year, evaluate the effectiveness of the master teacher education program assisted under this Act;

(11) provide assurances that the State educational agency will pay from non-Federal sources the non-Federal share of the cost to the State of the master teacher education program for which assistance is sought under this Act;

(12) provide that the procedures for the selection of elementary and secondary school teachers by a local educational agency under this Act will not be denied without notice and opportunity for a hearing to the local educational agency before the State educational agency; and

(13) provide such additional assurances as the Secretary deems necessary to assure

compliance with the requirements of this Act.

(c)(1) An application submitted by the State under subsection (a) shall be for a period not to exceed 5 fiscal years and may be amended annually as may be necessary to reflect changes without filing a new application.

(2) The Secretary shall not disapprove an application submitted by the State educational agency without first affording notice and opportunity for a hearing.

(d) The Secretary may approve an application submitted under subsection (a) by a State which has in effect a master teacher education program on the date of enactment of this Act if the master teacher education program substantially meets the requirements of this Act. The Secretary, in carrying out this subsection, may, for fiscal year 1986 and for each of the succeeding fiscal year ending prior to October 1, 1990, waive any particular requirement specified in section 7 or 8 of this Act which the Secretary determines is not essential to carrying out the purposes of this Act and is necessary to carry out this subsection.

PAYMENTS; FEDERAL SHARE

SEC. 9. (a) From the amounts allotted to each State pursuant to section 3, the Secretary shall, in accordance with the provisions of this Act, pay to the State an amount equal to the Federal share of the cost of the program to be assisted under this Act.

(b)(1) The Federal share of each fiscal year shall not exceed 75 percent.

(2) Non-Federal contributions may be in cash in kind, fairly evaluated, including plant, equipment, and services.

By Mr. KERRY:

S. 1983. A bill to amend the Clean Air Act to control certain sources of sulfur dioxide and oxides of nitrogen to reduce acid deposition, and for other purposes; to the Committee on Environment and Public Works.

NATIONAL ACID RAIN CONTROL ACT

● Mr. KERRY. I rise today to offer legislation that addresses a growing problem of national and international significance. Acid rain, a phenomenon resulting from reactions between fossil fuel emissions and atmospheric components, continues to be a major environmental problem threating lakes and streams, forests, human health and manmade structures.

Acid rain damage to aquatic ecosystems, including many freshwater lakes and streams, has been well documented in Europe and eastern North America. The problem, once thought to be an issue only for New England and upper New York State, is quickly revealing itself as one with much broader implications. In addition to the Northeastern States and eastern Canada, recent studies indicate aquatic sensitivity to acidification in the Southeast, areas of the Rocky Mountains, and the Pacific Northwest. The EPA's recently released Eastern Lakes Survey confirms the research of many experts and surprised many by documenting extensive damage thoughout Florida. The National Academy of Sciences projects that, "At current rates of emissions of sulfur and nitrogen oxides, the number of affected lakes can be expected to more than double by 1990, and to include larger and deeper lakes."

Extensive forest damage and growth decline throughout North America and Europe are believed to be the result of acid precipitation. Declines in the United States have been documented in high elevation forests in the Northeast, parts of the Midwest and as far south as North Carolina. It may already be too late to reverse the long-term decline of much of the central European forests from these gaseous pollutants. The emission reductions that countries such as West Germany are undertaking may not save their forests since the pollution effects appear to be cumulative and the recovery time long. Central Europe's experiences should serve as a hard lesson for the United States. In fact, during an acid rain factfinding visit to Europe in January 1984, I visited the Black Forest in Germany and was told by German officials and scientists that much of their damage could be permanent. I believe that we have a responsibility and a vested interest in acting before it is too late for us to undo our past negligence.

The air pollutants associated with acid rain can have direct impact on human health. Evidence indicates that even current levels of sulfur dioxide can produce adverse health effects in some people. Those at greatest risk include people with allergies, children, individuals with bronchitis and more severe respiratory and cardiovascular diseases, the elderly and smokers. It is also suspected that pollutant levels that have been accepted as safe when pollutants are in isolation, may become hazardous when the pollutants are combined—as is the case with acid rain.

Acid deposition at current levels is damaging materials—metal, stone and exterior coatings—as well as many important historic and cultural resources. In addition, acid rain is known to contribute to a deterioration of visibility, particularly in those areas where the pollutants are initially emitted.

Given the magnitude of the effects of acid rain and the growing consensus in the scientific community that it is not confined to a few "dead" lakes in New England, comprehensive, immediate action is indicated. The National Acid Rain Control Act will accomplish the needed emissions reductions while being sensitive to issues of coal miner job displacement, cost responsibilities, equity and other regional concerns. The bill will also allow the flexibility needed to encourage advanced fossil fuel combustion technology.

Let me summarize the major provisions of my bill:

The National Acid Rain Control Act will amend the Clean Air Act to reduce sulfur dioxide (SO_2) emissions by 12 million tons per year and nitrogen oxides (NO_x) emissions by 3 million tons per year by 1995 in the 48 contiguous States and the District of Columbia.

The sulfur dioxide reductions will be achieved in three different ways. First, utilities and industry will, immediately upon enactment, be required to reduce emissions by following a series of mandated steps that include coal washing and the addition of adipic acid before combustion.

Second, each State will have control over allocating the additional reductions based on its share as determined by the EPA Administrator using the best available data. The State plan must call for a phased reduction so that seven-twelfths of the State's share of reductions will be achieved before 1992, and the entire share by 1995. A State may allow a source to substitute emissions of NO_x for SO_2 at a ratio of 2:1. In the event that a State fails to submit a plan, or in the event that the plan is not accepted by the Administrator, major stationary sources will have to comply with an emission limitation equal to 1.2 lbs. of SO_2 per million Btu's of heat input.

Finally, a trust fund will be established by the collection of a fee on the production of electricity generated by fossil fuel combustion. Payments from the fund will be used to help defray capital costs incurred by facilities in meeting their reduction requirements. The subsidy will be paid at a rate of $147 per ton of SO_2 reduced. This amount is designed to reduce electric rate increases payable by utility customers. The fee will be assessed at one of three levels, based upon the 1982 State average SO_2 emissions rate. States with lower rates of emissions will be assessed lower fees. This fee structure is designed to provide equity while recognizing that in order to develop a feasible plan, the costs of emissions reductions must be shared. The trust fund also provides $10 million a year for accelerated research on cleaner burning industrial processes as well as $25 million a year for acid deposition mitigation programs.

Acid rain will not go away by wishing. Congress must act now because, unfortunately, the present administration has abdicated its responsibility to develop a viable solution to this problem. The President asked the National Academy of Sciences, EPA Administrator William Ruckelshaus and Acid Rain Special Envoy Drew Lewis to carry out studies of the problem and report their findings and recommendations. All have concluded that a plan for action must be enacted with haste. So far, the President has declined to heed their common warning but, instead, has decided to hide behind requests for more research. There exists ample evidence to support our contention that we must act now before it is too late.

Mr. President, I believe that this legislation will provide the tools that will enable us to stop acid rain in a way that will minimize the burden on utilities, other industry and of course, ultimately, our consumers. I am hopeful that in the coming session we will get to work on this profoundly important task.●

By Mr. NICKLES:

S. 1984. A bill to amend the Employee Retirement Income Security Act of 1974 to improve the financial solvency of multiemployer pension plans, and for other purposes; to the Committee on Labor and Human Resources.

MULTIEMPLOYER PENSION PLAN REFORM ACT

● Mr. NICKLES. Mr. President, today I am introducing legislation amending the Multiemployer Pension Plan Amendments Act of 1980.

Under current law, an employer who contractually agrees to contribute to a multiemployer pension plan may be subject to a withdrawal liability for a share of any unfunded vested liability when he ceases to participate in the plan. After 5 years of experience with the Multiemployer Pension Plan Amendments of 1980, which imposes the liabilities, we have found that the liabilities are, too frequently, calculated on an exaggerated artificial basis, thus resulting in an unfair levy on the withdrawing employer.

The problem is that the earnings or interest rate assumptions on which the liabilities are calculated are not in line with actual market conditions or with what the plans are actually earning—or could and should be earning. The calculations should not be based on the so-called plan rate which is permitted under current law.

The use of such rates creates large, unwarranted liabilities that are entirely artificial and have no relation to the actual financial condition and performance of a given plan. But they add substantial risks and costs for employers. The result is that employers are necessarily shying away from the plans. A shrinking base of employer support means a shrinking pool of funds to distribute as benefits in the future.

That clearly is not what was intended. The purpose of the bill I am introducing is to remedy the problem. It will amend the current law to assure the use of more realistic rates in calculating withdrawal liabilities in multiemployer pension plans. The rate required by this legislation is the average yield to maturity on bills, bonds, and notes of the U.S. Government that mature during the period when plan liabilities become due. This is essentially the same treatment current law affords single employer plan sponsors that terminate their plans.

Recent studies show that all but a small fraction of multiemployer pension plans are adequately funded and have no need to assess withdrawal liabilities when realistic rates are used.

The truth is that the need to assess any withdrawal liability is an admission of failure to operate a plan properly. At best, withdrawal liability was conceived as a safety net to be used only when all else had failed. It certainly was not designed to be used routinely as an alternative to proper plan performance. Nor was it designed to encourage reckless behavior such as promises to pay benefits that plan income and earnings cannot support.

A properly run plan keeps benefits in line with plan assets, income and earnings and keeps costs rational and affordable. The considerable majority of multiemployer pension plans already meet that test. My goal is to see to it that all will meet that test.

I am not proposing to remove withdrawal liability as a safety net. But I am proposing to work with employers and employees alike to create a simple and straightforward system that will assure that the safety net will not need to be used. That is my intention in introducing this bill.●

By Mr. DURENBERGER:

S. 1985. A bill entitled the "Medicare Voucher Act of 1986;" to the Committee on Finance.

MEDICARE VOUCHER ACT

● Mr. DURENBERGER. Mr. President, today I rise to introduce the Medicare Voucher Act of 1986. This bill was developed by the Department of Health and Human Services and I introduce it on the behalf of the Department.

The Tax Equity and Fiscal Responsibility Act of 1982 [TEFRA] provides an alternative to traditional Medicare coverage. TEFRA allows Medicare beneficiaries to opt out of traditional Medicare coverage and enroll in a Health Maintenance Organization [HMO] or comparable Competitive Medical Plan [CWP]. For those beneficiaries choosing a health plan, Medicare pays the health plan a premium priced at 95 percent of the average per beneficiary cost for the area in which the health plan enrollee lives.

S. 1985 furthers this concept by broadening the types of health plans that would qualify as alternatives to traditional Medicare coverage. It is an ambitious proposal and will contribute to the process of reform my colleagues in the Congress and I started with TEFRA. I am very supportive of the underlying concept of the bill and look forward to refining the specifics of the proposal as it proceeds through the legislative process in 1986.

Mr. President, the ultimate objective of Medicare reform is to provide Medicare beneficiaries the same choice of health plans they had when they were employed, but with a standard set of hospital, doctor and medical benefits appropriate to elderly and disabled persons.

Medicare will get out of the costly and, to beneficiaries, confusing business of paying doctors and hospitals. Congress was never intended to be an insurance company and we prove it annually. It will be the responsibility of Congress and Medicare to assure access to quality health benefits and competitive, quality health plans.

The experience of the Twin Cities in my homestate of Minnesota has shown that consumer choice of health plans can work for the elderly as well as the non-Medicare population. Experience with the Medicare HMO demonstrations and with the HMO/CMP TEFRA provisions going into effect April 1, 1985 for a fixed prepaid premium has shown that health plans can provide services and benefits to Medicare eligible beneficiaries at least as generous as the traditional Medicare plan. And best of all, major headaches for the elderly covered by Medicare, confusing paperwork and arguments over "reasonable and customary charges," are gone.

The attractiveness of the health plan option is illustrated well by beneficiary enrollment data. Through November 1 of 1985, 1.2 million Medicare beneficiaries, 3.8 percent of the total of eligible beneficiaries, have enrolled in prepaid health plans. There is every sign this number will grow dramatically in 1986 and beyond.

S. 1985, the Department's new proposal, would expand the variety of options available to Medicare beneficiaries. TEFRA limited the range of participating health plans by requiring plans to have physicians on staff or under contract. This requirement basically restricts insurance companies and employer-based plans from participating.

S. 1985 would open the field to health plans providing or paying for medical or hospital services under insurance policies or contracts, and includes plans sponsored by employers or employee organizations, including unions. It calls qualifying health plans, "health benefits organizations" [HBO's].

The most significant feature of this bill is the removal of barriers which now prevent insurers and employer-based plans from participation in Medicare. The TEFRA requirements for participating as a health plan in Medicare would be changed by S. 1985. Plans would qualify only if they could meet a test of actuarial equivalence to Medicare's benefit package and have cost sharing no greater than the average out-of-pocket costs under traditional Medicare. Participating plans would also have to meet a test of financial soundness, provide a mimimum level of hospital care, and exclude providers barred from Medicare.

The bill would make a wider choice of benefit packages available to beneficiaries. Currently, most Medicare beneficiaries purchase "Medigap" coverage to fill-in the coinsurance and deductibles they must pay under the traditional Medicare Program. Too frequently they purchase more coverage than they need. S. 1985 would allow for a combined premium which would offer the beneficiary the advantage of a single insurance policy.

The Voucher Act of 1986 would be of most immediate use for Medicare beneficiaries who have health benefits as part of their retirement benefits. The premium payment would offer advantages to both the retiree and the payer, be it a pension plan or the former employer. The retiree would have the advantage of staying with the health plan he or she had before retirement, eliminating both the need to learn about Medicare's coverage rules and the necessity of first obtaining Medicare's reimbursement and then submitting a supplemental claim. The payer could achieve economies by escaping the rigidity of Medicare's benefit structure by structuring cost sharing to produce better utilization incentives than Medicare, by conducting more effective utilization review, and by making use of preferred provider networks.

S. 1985 would also provide an incentive for more health plans to offer coverage to Medicare beneficiaries and promote more competition in the health care market by removing the restrictiveness of the TEFRA payment for HMO's and CMP's. Current law requires participating health plans to subtract the adjusted community rate [ACR] for the health plan from the average area per capita cost [AAPCC] for all Medicare beneficiaries and commit the difference to lower beneficiary cost sharing, more benefits or simply return it to Medicare. S. 1985, instead, would give plans control over their margin above expenses.

It would even allow plans to make cash rebates to beneficiaries of up to $500 per year. This new flexibility in the treatment of the AAPCC and ACR is important and worthy of attention.

Finally, S. 1985 establishes a single nationwide open enrollment period. This period would work much as open-enrollment for the Federal Employee Health Benefits Program. It would offer plans the opportunity to market their coverage and give beneficiaries the broadest choice and opportunity to compare options.

Since employment originated plans are only available for their own retirees, these plans would be exempted from the open enrollment period. But, the open enrollment still provides a period for comparision shopping, so the annuitant can use it to determine whether his employment-based plan does or does not meet his needs better than alternatives in the marketplace.

As with all Americans, Medicare beneficiaries will do better with choice. Yet, the elderly are often vulnerable to exploitation so great care must be taken in crafting the "rules of the game" for health plan competition under Medicare.

The Medicare Voucher Act of 1986 includes many important concepts which should be discussed and explored by the Congress. It offers beneficiaries more flexibility, promotes health plan participation in Medicare, and provides employers the opportunity to extend coverage to their retirees. It will mitigate the perception among beneficiaries that they have to have all varieties of MediGap coverage, and move the Federal Government to a more appropriate role in the health care marketplace.

Mr. President, I ask unanimous consent that a summary of S. 1985, the text of S. 1985, and the example calculation of actuarial equivalence for the Medicare voucher.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1985

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Medicare Voucher Act of 1986".

PAYMENTS TO HEALTH BENEFITS ORGANIZATIONS

SEC. 2. (a) Section 1876 of the Social Security Act (42 U.S.C. 1395mm) is amended to read as follows:

PAYMENTS TO HEALTH BENEFITS ORGANIZATIONS

"SEC. 1876. (a)(1) The Secretary shall annually determine a per capita rate of payment for each class of individuals who are entitled under this section to benefits from a health benefits organization with which he has entered into a contract under subsection (i). The Secretary shall define appropriate classes of individuals, based on such factors as age, sex, disability status and place of residence. The rate for each class shall be equal to 95 percent of the adjusted average per capita cost for that class. Each month the Secretary shall pay each such organization the appropriate rate, in advance, for the estimated number of individuals in each class entitled under this section to benefits from the organization. The Secretary shall make appropriate retroactive adjustments for differences between the estimated and actual number of individuals. Payments under this paragraph shall be payable by the Secretary as otherwise provided under this title for services furnished during any month for which the Secretary finds that the organization has substantially failed to meet the requirements of this section.

"(2) For purposes of this subsection, the term 'adjusted average per capita cost' means the average per capita amount that the Secretary estimates in advance (on the basis of actual experience, or actuarial equivalent based upon an adequate sample and other information and data) would be payable in any contract year for services covered under parts A and B, and types of expenses otherwise reimbursable under parts A and B (including administrative costs incurred by entities described in sections 1816 and 1842), if payment for the services (and, in the case of services covered only under section 1861(s)(2)(H), if the services were physicians' services or furnished as an incident to a physician's professional service) were to be made other than under this section.

"(3) The payment to a health benefits organization under this section for individuals entitled under this section to benefits from the organization shall be made from the Federal Hospital Insurance Trust Fund and the Supplementary Medical Insurance Trust Fund. The portion of that payment to the organization for a month to be paid by the latter trust fund shall be equal to 200 percent of the sum of—

"(A) the product of (i) the number of such individuals for the month who have attained age 65, and (ii) 95 percent of the monthly actuarial rate for supplementary medical insurance for the month as determined under section 1839(a)(1), and

"(B) the product of (i) the number of such individuals for the month who have not attained age 65, and (ii) 95 percent of the monthly actuarial rate for supplementary medical insurance for the month as determined under section 1839(a)(4).

The remainder of that payment shall be paid by the former trust fund.

"(b) For purposes of this section—

"(1) the term 'health benefits organization' means a voluntary association, corporation, partnership, or other organization which is lawfully engaged in providing or paying for health services under insurance policies or contracts, medical or hospital service agreements, membership or subscription contracts, or similar arrangements, and includes a health benefits plan duly sponsored or underwritten by an employer or by an employee organization, and

"(2) the term 'employment based plan' means a plan under which—

"(A) a health benefits organization provides health benefits to at least all individuals residing in a geographic area who were employees of a particular employer at age 65 or at a lower age specificed in the plan (or, alternatively, had served as employees of that employer for at least 10 years or for a shorter minimum period specified in the plan), but who are not current employees,

"(B) the health benefits organization provides health benefits only to families of individuals who are or were employees of that employer, and

"(C) at least 25 percent of the premium (if any) for each employee or former employee is paid by the employer.

"(c) A health benefits organization—

"(1) shall, for an individual entitled under this section to benefits from the organization, provide the categories of services (such as inpatient hospital services and physicians' services) that are covered under this title only through, or shall pay for those categories of services only if furnished through, entities that are permitted to participate in the programs under this title,

"(2) shall provide or pay for, to the extent prescribed by the Secretary, services furnished on an emergency basis in any location that are within the categories of services covered under this title,

"(3) shall provide for a sufficient number of entities to furnish the categories of services covered under this title, and which the organization provides or pays for, in the geographic area in which the individual re-

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sides, so as to assure reasonable access to those categories of services, and

"(4) may offer one or more combinations of benefits, as long as it offers to all individuals residing in a geographic area who are entitled under this section to benefits from the organization under a particular employment based plan each combination of benefits that it offers to any such individual, and as long as it offers to all individuals residing in a geographic area who are entitled under this section to benefits from the organization but not under an employment plan each combination of benefits that it offers to any such individual.

"(d) Subject to the provisions of subsection (e), every individual enrolled in the insurance programs under parts A and B (other than an individual medically determined to have end-stage renal disease or an individual to whom section 1862(b)(3) applies) shall be eligible to enroll under this section with any health benefits organization with which the Secretary has entered into a contract under subsection (i) that serves the geographic area in which the individual resides.

"(e)(1) The Secretary may prescribe the procedures and conditions under which a health benefits organization that has entered into a contract with the Secretary under subsection (i)(A) may inform individuals eligible to enroll under this section with the organization about the organization and (B) may enroll such individuals with the organization.

"(2) An individual may enroll under this section with a health benefits organization—

"(A) during August and September of each year,

"(B) during the initial enrollment period described in section 1837(d),

"(C) during a special enrollment period described in section 1837(i) (but without regard to section 1837(i)(1)(C)), and

"(D) as prescribed by the Secretary (to the extent that the Secretary finds it feasible) to enable the individual to be entitled to benefits from the organization beginning with a month during which he no longer resides in the geographic area served by another health benefits organization from which he was entitled to benefits in a previous month but is no longer so entitled.

"(3) The period during which an individual is entitled to benefits under this section from a health benefits organization shall begin—

"(A) in the case of an enrollment under paragraph (2)(A), on January 1 of the following year,

"(B) in the case of an enrollment under paragraph (2)(B), as specified by section 1838(a),

"(C) in the case of an enrollment under paragraph (2)(C), as specified by section 1838(e), or

"(D) in the case of an enrollment under paragraph (2)(D), as specified by the Secretary.

"(4) The period during which an individual is entitled to benefits under this section from a health benefits organization shall terminate—

"(A) as of the end of any year, if the individual has requested termination in August or September of that year,

"(B) as of the beginning of any month during which the individual is no longer entitled to benefits under part A or is no longer entitled to benefits under part B,

"(C) after the third consecutive month for which the individual has failed to pay the required monthly premium, or

"(D) as of the beginning of any month during which the individual no longer resides in the geographic area that the organization serves, if the individual has requested termination in the preceding month.

"(5) Any individual who ceases to be entitled to benefits under this section but who remains entitled to benefits under part A or part B of this title shall be entitled to those benefits as prescribed other than under this section.

"(6) A health benefits organization may refuse to accept the enrollment of an eligible individual under this section with the organization only if the organization accepts enrollments in the order of application and—

"(A) the organization provides health benefits in a geographic area only under employment based plans and an applicant for enrollment residing in that geographic area is not eligible to participate in one of those plans,

"(B) the enrollment of the individual would result in a total new enrollment under this section in a calendar year exceeding a number that the organization had transmitted to the Secretary by the time specified by the Secretary (but not later than June of the preceding year),

"(C) the enrollment of the individual would result in the organization's failing to meet the requirement of subsection (h), or

"(D) the individual lost entitlement to benefits from a health benefits organization under paragraph (4)(B) during the twelve month period preceding the month in which the individual has applied for enrollment.

"(7) A health benefits organization may not terminate the entitlement under this section of any individual to benefits from the organization other than as prescribed by paragraph (4), and shall so notify each individual at the time of the individual's enrollment.

"(f) Any individual entitled under this section to benefits from a health benefits organization who is dissatisfied by reason of his failure to receive any health benefit to which he believes he is entitled shall, if the amount in controversy is at least $100, be entitled to a hearing before the Secretary to the same extent as is provided in section 205(b), and in any such hearing the Secretary shall make the health benefits organization a party. If the amount in controversy is at least $1,000, the individual or health benefits organization shall, upon notifying the other party, be entitled to judicial review of the Secretary's final decision as provided in section 205(g), and both the individual and the health benefits organization shall be entitled to be parties to that judicial review.

"(g)(1) The actuarial value of the aggregate payments (including deductibles, coinsurance, copayments, amounts above the levels recognized by the health benefits organization, and amounts for services furnished on days after those for which the organization provides benefits, but excluding premiums) that individuals entitled under this section to benefits from a health benefits organization are required to make for the categories of services (such as inpatient hospital services and physicians' services) furnished in any calendar year that are covered under this title may not exceed the actuarial value of the aggregate payments (including deductibles, coinsurance, amounts above the levels recognized under this title, and amounts for services furnished as days after those for which this title provides benefits, but excluding premiums) that those individuals would be required to make for those categories of services if they were not entitled under this section to benefits from the organization. The Secretary shall consult with recognized actuarial bodies with expertise in health benefits actuarial techniques, such as the American Academy of Actuaries, in developing methods to measure the actuarial values described in the preceding sentence.

"(2) A health benefits organization shall provide, or pay in full for, the first ninety days of inpatient hospital services covered under this title and furnished in a calendar year to an individual entitled under this section to benefits from the organization, except that the organization may require the individual to pay not more than the inpatient hospital deductible for that year (as determined under section 1813(b)(2)) for the first day of each inpatient hospital admission, and not more than 25 percent of the inpatient hospital deductible for each remaining day of the ninety days.

"(3) The organization may charge each individual entitled under this section to benefits from the organization a premium set by the organization, but the premium rate for any particular combination of benefits for all individuals residing in a geographical area who are enrolled under a particular employment based plan shall be the same during a calendar year, and the premium rate for any particular combination of benefits for all individuals residing in a geographic area who are not enrolled under an employment based plan shall be the same during a calendar year. The organization may provide rebates, subject to the condition prescribed by the preceding sentence, instead of charging premiums. Rebates may not exceed $500 per individual for any calendar year, and may not be paid to an individual until the individual has been entitled under this section to benefits from the organization for at least one year (but may cover that initial year).

"(4) The health benefits organization may, in the case of services furnished to an individual entitled under this section to benefits from the organization for an illness or injury for which the individual is entitled to benefits under a workmens' compensation law or plan of the United States or a State, under an automobile or liability insurance policy or plan (including a self-insured plan), or under no-fault insurance, charge or authorize the entity furnishing the services to charge, in accordance with the charges allowed under that law, plan, or policy—

"(A) the entity which under that law, plan, or policy is to pay for the provision of those services, or

"(B) the individual, to the extent that he has been paid under that law, plan, to policy for those services.

"(h) (1) Except as otherwise provided in paragraph (2), each health benefits organization with which the Secretary enters into a contract under this section shall, in any geographic area, provide health benefits to at least as many individuals who are not entitled to benefits under this title or under a State plan approved under title XIX as individuals entitled to benefits under this title or under such a State plan.

"(2) The Secretary may modify or waive the requirement imposed by paragraph (1) if the Secretary determines that—

"(A) special circumstances warrant a modification or waiver, and

"(B) the organization is making reasonable efforts to provide health benefits to individuals who are not entitled to benefits under this title or under State plan approved under title XIX.

"(i)(1) The Secretary shall enter into a contract with any health benefits organization that agrees to meet, and that the Secretary finds will meet, the requirements of this section.

"(2) Each contract under this section shall be for a term of at least 1 year, as determined by the Secretary, and may be made automatically renewable from term to term in the absence of notice by either party of intention to terminate at the end of the current term; except that the Secretary may terminate any such contract at any time (after such reasonable notice and opportunity for hearing to the health benefits organization involved as he may provide in regulations) if he finds that the organization has substantially failed to meet the requirements of this section.

"(3) The effective date of any contract executed pursuant to this subsection shall be specified in the contract.

"(4) Each contract under this section—

"(A) shall provide that the Secretary—

"(i) shall have the right to inspect or otherwise evaluate the quality, appropriateness, and timeliness of services performed under the contract, and

"(ii) shall have the right to audit and inspect any books and records of the health benefits organization that pertain to services performed or determinations of amounts payable under the contract,

"(B) shall require the health benefits organization to report to the Secretary any fraudulent claims submitted to the organization for services furnished to individuals entitled under this section to benefits from the organization,

"(C) shall require the health benefits organization to provide such information to the Secretary as he may request,

"(D) shall require the health benefits organization to provide (and pay for) written notice in advance of the contract's termination,

"(E) shall require the health benefits organization to protect individuals entitled under this section to benefits from the organization and the Secretary from incurring liability for payment of any fees which are the legal obligation of the organization through—

"(i) a contractual arrangement with any hospital that is regularly used by those individuals prohibiting the hospital from holding any of those individuals liable for payment of any fees which are the legal obligation of the organization,

"(ii) insolvency insurance, acceptable to the Secretary,

"(iii) adequate financial reserve, acceptable to the Secretary, or

"(iv) other arrangements, acceptable to the Secretary,

except that the above requirements shall not apply if applicable State law provides those individuals with protection from liability for payment of any fees which are the legal obligation of the organization, and

"(F) shall require the health benfits organization to meet such other conditions as the Secretary may find are needed to carry out effectively the provisions of this section.

"(5) The Secretary may not enter into a contract with a health benefits organization under this subsection if more than one former contract with that organization under this subsection was terminated at the request of the organization within the preceding five year period except in circumstances which the Secretary finds warrant special consideration.

"(6) Any claim of the United States against a health benefits organization shall have priority over any claim of any other entity against the organization.

"(j) The functions vested in the Secretary by subsection (i) may be performed without regard to such provisions of law of regulations relating to the making, performance, amendment, or modification of contracts of the United States as the Secretary may determine to be inconsistent with the furtherance of the purpose of this title.

"(k) The provisions of this section preempt any State or local law or regulation that requires benefits more extensive than the minimum benefits specified in this section.

"(l) Whoever knowingly and willfully—

"(1) makes a false representation that there is a contract in force under subsection (i) between the Secretary and an entity, or

"(2) substantially misrepresents the benefits under a contract under that subsection,

shall be guilty of a felony and upon conviction shall be fined not more than $25,000 or imprisoned for not more than 5 years, or both.".

(b) Section 1833(a)(1)(A) of the Social Security Act (42 U.S.C. 1395l(a)(1)(A)) is amended by striking out "provides medical and other health services (or arranges for their availability) on a prepayment basis may elect to be paid" and inserting instead "has provided medical and other health services (or has arranged for their availability) on a prepayment basis for not more than one year may elect to be paid for not more than 36 months".

(c) Section 1861(s)(2)(H) of the Social Security Act (42 U.S.C. 1395x(s)(2)(H)) is amended by striking out "to a member of an eligible organization" and "to such a member".

(d) Section 1866(a)(1) of the Social Security Act (42 U.S.C. 1395cc(a)(1)) is amended—

(1) by striking out "and" at the end of subparagrah (G),

(2) by substituting ", and " for the period at the end of subparagraph (H), and

(3) by inserting after subparagraph (H) the following:

"(I) in the case of a hospital that has been so requested by a health benefits organization that is receiving payments under section 1876, to accept as payment in full for inpatient hospital services furnished to any individual who is entitled under that section to benefits from the organization the amounts that would be accepted as payment in full if the individual were not so entitled.".

(e) Section 1886(c)(1)(D) of the Social Security Act (42 U.S.C. 1395ww(c)(1)(D)) is amended by striking out "an eligible organization (as defined in section 1876(b))" and inserting instead "a health benefits organization that is receiving payments under section 1876".

(f) The first sentence of section 1903(g)(1) of the Social Security Act (42 U.S.C. 1395b(g)(1)) is amended by striking out "health maintenance organization as defined in section 1876 or which is" and inserting instead "health benefits organization that is receiving payments under section 1876 or with".

(g) Section 114(d) of the Tax Equity and Fiscal Responsibility Act of 1982 (42 U.S.C 1395mm nt.) is repealed.

EFFECTIVE DATE AND TRANSITIONAL PROVISION

SEC. 3. (a) The amendments made by section 2 apply with respect to services furnished after 1986, but shall not apply—

(1) for the periods and under the conditions specified in section 114(c) (other than paragraph (2)(B)) of the Tax Equity and Fiscal Responsibility Act of 1982 (42 U.S.C. 1395mm nt.),

(2) to any individual who at the end of 1986 is enrolled with a health maintenance organization or competitive medical plan with which the Secretary has entered into a contract under section 1876(h) of the Social Security Act (42 U.S.C. 1395mm(h)), unless—

(A) the individual requests at or after that time that the amendments apply, or

(B) the Secretary determines at any time that the amendments should apply to all members of the organization because of administrative costs or other administrative burdens involved and so informs in advance each affected member of the organization, or

(3) with respect to services furnished to any individual receiving benefits under a plan of a State approved under title XIX of the Social Security Act (unless the services are furnished by an entity that has furnished services to such individuals under section 1876 of that Act (42 U.S.C. 1395mm) before 1987) until the Secretary finds that it is administratively feasible for the amendments to apply.

(b) The amendments made by section 2 of this Act shall apply only with respect to the categories of services covered under part B of title XVIII of the Social Security Act for any individual who at the end of 1986 is not enrolled in the program under part A of title XVIII of that Act but is enrolled with a health maintenance organization or competitive medical plan under section 1876 of that Act (42 U.S.C. 1395mm), unless subparagraph (A) or (B) of subsection (a)(2) of this section applies.

(c) Periods of time that have occurred at any time before as well as after the end of 1986 shall be taken into account for purposes of determining the one year period specified in the amendment made by section 2(b) of this Act.

(d) Notwithstanding subsection (i)(1) of section 1876 of the Social Security Act (42 U.S.C. 1395mm), the Secretary may enter into contracts under that section that will expire at the end of 1986 although the contracts are for a term of less than one year.

SUMMARY OF MEDICARE VOUCHER ACT OF 1986

Section 1 would assign the bill the short title "Medicare Voucher Act of 1986".

Section 2 would permit the Secretary to contract with health benefits organizations (HBOs) (a broad range of health insurers and health services providers, including health maintenance organizations (HMOs) and competitive Medical plans (CMPs)) to provide private alternative coverage for medicare beneficiaries (other than individuals suffering from end-stage renal disease, or who are working and for whom Medicare is a secondary payer) who chose to participate in such a private plan. Section 2 would also enact additional amendments to current provisions of law concerned with Medicare contracts with such organizations to—

Establish a single, coordinated open enrollment period during August and September of each year (but only for that number of new enrollees, in order of applications filed, previously specified by an HBO), and

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to enable the Secretary, to the extent feasible, to provide for individuals who move from the area served by one HBO to an area served by another (similar to the system used by the health benefits program for Federal employees),

Preclude new enrollments for individuals receiving only Supplementary Medical Insurance (SMI) benefits,

Permit cost-based contracts for up to 36 months only for organizations that have been providing (or arranging for) medical and other health services for not more than one year (including periods of time that have occurred before the effective date of the draft bill), and permit those contracts only for SMI benefits,

Permit HBOs to offer separate benefit packages for employer-based groups,

Permit HBOs to offer one or more benefit packages (with deductibles, coinsurance, copayments, levels of benefit payments, and days of coverage to be determined by the HBO) as long as each package limits the actuarial value of the aggregate payments (including deductibles, coinsurance, copayments, amounts above the levels the HBO recognizes, and amounts for days beyond those for which the HBO will pay, but excluding premiums) that Medicare enrollees in the HBO have to make for the categories of services Medicare covers to the actuarial value of their aggregate payments under Medicare,

Require HBOs to cover inpatient hospital services for at least 90 days annually, with a deductible for the first day of an admission of not more than the Medicare inpatient hospital deductible, and coinsurance for each remaining day of no more than 25 percent of the inpatient hospital deductible,

require any hospital, at the request of an HBO, to accept as payment in full for inpatient hospital services furnished to any enrollee of the HBO the amounts that would be accepted as payment in full if the enrollees had not chosen to enroll in the HBO,

permit HBOs to provide annual rebates of up to $500 (instead of charging premiums), but payment of a rebate could not be actually made until the individual had been covered by the HBO for at least a year,

preempt provisions of State or local law requiring benefits more extensive than those under this section, and

make it a criminal offense to represent falsely that an organization is a contractor under this section, or to substantially misrepresent the benefits an HBO offers.

Section 3 would make the provisions of section 2 applicable to services furnished after 1986. Section 3 would also—

retain the transitional provisions enacted in 1982 when Congress amended the provisions of law providing for payments to HMOs,

permit any enrollee of an HMO or CMP at the end of 1986 who was not already covered by those earlier transition provisions to continue his enrollment under the provisions of law then current if either the HMO or CMP had a cost-based contract with the Secretary, unless the Secretary found that the new provisions should apply to all members of an HMO or CMP because of administrative costs or other administrative burdens,

permit any enrollee of an HMO or CMP at the end of 1986 who was enrolled for Medicare SMI (but not Hospital Insurance) benefits to continue enrollment only for SMI benefits (subject to the conditions stated in the previous paragraph), and

apply the provisions of section 2 to beneficiaries who also receive benefits under Medicaid and who are not enrolled in an HMO or CMP as of the end of 1986 only after the Secretary finds that it is administratively feasible.

EXAMPLE CALCULATION OF ACTUARIAL EQUIVALENCE FOR THE MEDICARE VOUCHER

A. BACKGROUND

The proposed medicare voucher program would require that qualified policies would have no greater cost sharing than Medicare. More precisely, the actuarial value of the payments for which patients are responsible in a qualified plan for services as defined for Medicare coverage could not be greater than it is in Medicare.

The standard for comparison would be an idealized Medicare plan, which included all the services that meet the Medicare definitions of eligible services and providers, and require no patient payments. The standard would include all payments which beneficiaries (as opposed to the Medicare program) make for services which are reimbursed in any part by Medicare or would be reimbursed if there were no deductibles, coinsurance or benefit limits in Medicare. This standard is used to compare the proportion of the idealized plan benefits that are paid for by Medicare and by any qualified plan under consideration.

There are thus two components to the calculation, Medicare benefits compared to its idealized version and the proposed qualified plan compared to the idealized Medicare version. Specifically:

(1) The actuarial value, relative to the idealized plan, of the deductibles, coinsurance, services excluded by limits, and the excess of actual over reasonable charges for unassigned bills in Medicare.

(2) The actuarial value of the cost sharing, reimbursement limits, and any services excluded by limits in the proposed qualified plans.

Sample calculation are provided below for both of these components. It should be noted that the calculations for the Medicare program need only be prepared once for each fiscal year (and would change by only small amounts from year to year). It would thus be documented in an annual statement by the Secretary on the basis of the best information available.

B. ACTUARIAL VALUE OF PATIENT PAYMENTS IN MEDICARE

The out-of-pocket costs faced by Medicare beneficiaries for covered services consist of the following:

Inpatient hospital deductible and Part A "coinsurance" payments for long hospital and skilled nursing home stays

The $75 deductible and 20% coinsurance in Part B

Hospital stays beyond the 90 days per spell of illness and those claimed for the 60 day lifetime reserve

Inpatient stays for mental and nervous conditions not reimbursed because of the 190 day lifetime limit

Nursing home stays beyond 100 days per spell of illness

Reasonable charges for outpatient services for mental or nervous conditions beyond $500 of charges in a calendar year

Charges in excess of "reasonable charges" for which no assignment is taken (and are thus a liability for patients).

In the following calculations, no adjustment is made for the 190 day lifetime limit on inpatient mental. It would appear very unlikely that any of the qualified plans would waive this limit. If one did, an additional credit would have to be calculated for it.

SAMPLE CALCULATIONS

Unless otherwise noted, the data for these calculations are from tabulations of the 1977 Medicare History File, adjusted to a 1985 basis.

(1) Paying the inpatient hospital deductible and the part A coinsurance amounts for long hospital and skilled nurisng home stays would increase reimbursements by 7.35%.

(2) Paying the $75 deductible and the 20% coinsurance on Part B raise benefit payments for services covered by Part B by 32%. An additional 1% adjustment is needed to allow for the $500 limit on covered services for mental or nervous conditions. Therefore, the following calculations increase Part B payments by 33% to allow for the added cost of filling in these patient payments.

(3) Paying for days beyond the 150 day maximum per spell of illness adds 0.8% to the total number of days covered. These are probably underreported on the MHSF, however, so we increase this by a factor of 1.25. These long term days include relatively few ancillary charges and thus have a lower average cost. Tabulations of cost per day by length of stay suggest the marginal days cost about 82.1% as much as the average below 150 days. An estimate of the cost of covering unlimited hospital stays is given by:

$$.008 \times 1.25 \times .821 \times .954 = .0078$$

The last factor, .954, allows for the portion of Part A reimbursement and cost sharing accounted for by hospital payments.

(4) 34.6% of skilled nursing home days are beyond the 100 day maximum per spell of illness. Allowing 20% for underreporting of such days to Medicare and 80% for the relative cost of days beyond 100 compared to those reimbursed by Medicare, we have an increase in Part A payments as follows:

$$.346 \times 1.20 \times .8 \times .027 = .0090$$

The last factor accounts for the portion of part A reimbursements and cost sharing that is for skilled nursing home care.

(5) Data from the actuarial appendices to the 1985 Trustees' Report for Part B shows that 82.4% of covered charges were for services affected by the physician screens. Other HCFA data for the same year show that 50% of Medicare physician bills were assigned. The average ratio of Medicare approved charges to actual charges was projected to be 77.5%. No data was available that showed this percentage separately for assigned and unassigned claims. Under the assumption that this ratio was only 70% for unassigned claims, paying the excess of actual over approved charges on unassigned claims would increase Part B outlays (if physicians did not change their assignment patterns) as follows:

$$.824 \times .5 \times (1/.70 - 1) = .177$$

(6) Medicare benefits per capita are $2333 (for the aged), of which $1566 is part A and $767 is part B. Total out-of-pocket expenses can then be computed as follows:

Part A:	
Cost-sharing (1566 × .0735)	115
Days past 150 ((1566 + 115) × .0078)	13
SNG days past 100 ((1566 + 115) × .0090)	15
Part B:	
Cost-sharing (767 × .330)	253

Unassigned excess over reasonable ((767 + 253) × .177)	181
Total out-of-pocket costs	577

The total per capita expense including uncovered days and unassigned excess bills is 2333 + 577, or $2910. The percentage that out-of-pocket expenses represent of the idealized Medicare plan is 577 / 2910, or 19.8%

C. CALCULATION OF THE RELATIVE VALUE OF A SUBMITTED PLAN

For illustrative purposes, suppose an insurer submitted a proposed plan with a $250 deductive and 15% coinsurance, each applicable to all covered services, but excluding the excess of actual over reasonable charges on unassigned claims. Suppose further that the coinsurance was limited so that no patient would pay more than $750 in any calendar year.

The proposed plan in effect has a coinsurance rate of 100% on the first $250 and of 15% on the next $5000. The deductible requires enrollees to pay 5.74% of all expenses, and the coinsurance is applied to 40.13% of all expenses (i.e., 40.13% of charges for Medicare covered services are in excess of $250 but not in excess of $5250). Cost-sharing is thus approximately .0574 + (.15) (.4013), or 11.76% of covered expenses. Covered expenses are 2333 + 115 + 13 + 15 + 253 = $2729 (excess over reasonable is not covered), so cost-sharing is $321. The excess over reasonable charges on unassigned claims must then he added, giving total out-of-pocket costs of 321 + 181 = $502. (This is 17.3% of total expenses.) Thus, this plan would qualify as being at least actuarially equivalent to Medicare.●

By Mr. PELL (for himself and Mr. DANFORTH):

S.J. Res. 252. Joint resolution requesting the President of the United States to negotiate controls upon and the early prohibition of nuclear explosions; to the Committee on Foreign Relations.

TEST BAN RESOLUTION

Mr. PELL. Mr. President, the Senator from Missouri [Mr. DANFORTH] and I are introducing a joint resolution today designed to chart a course toward a complete cessation of nuclear testing. We know that many of our fellow Senators share our deeply held belief that ways must be found to increase nuclear stability and reduce the threat of nuclear war. We believe tighter controls on testing leading to a mutual and verifiable ban could be of crucial importance in that effort, and we urge our fellow Senators to join us as cosponsors.

The joint resolution urges the President, at the earliest possible date, to:

Endorse and request Senate consent to ratification of the Threshold Test Ban Treaty and the Peaceful Nuclear Explosions Treaty, signed in 1974 and 1976 respectively;

Call upon the Soviet Union to join in a further agreement reducing the permitted yields of explosions, as specified in the Threshold Test Ban Treaty and the Peaceful Nuclear Explosions Treaty, to the lowest possible verifiable levels which advances in seismic detection and other verification capabilities will allow;

Express to the Soviet Union and Great Britain the desire of the United States to resume negotiations to conclude an agreement leading immediately or in balanced steps to a mutual and verifiable ban on nuclear explosions to which all nations would be invited to become party; and

Seek Soviet agreement to facilitate negotiations by declaring at the earliest practicable date a mutual moratorium of finite duration on nuclear explosions.

Mr. President, there is strong bipartisan support for effective arms control. The President speaks for all Americans in his desire for the eventual elimination of nuclear weapons. We hope that significant agreements can be reached at an early date in Geneva.

Unfortunately, one key arms control goal for well over two decades remains curiously absent current discussions. That is a comprehensive ban on nuclear explosions. An end to nuclear explosions could be an invaluable underpinning in efforts both to reduce nuclear arms and to deal with space weapons—the goals at the current negotiations. I am convinced that, as our resolution states, the early prohibition of nuclear explosions would constrain the development and deployment of the threatening new nuclear arms, reduce confidence in and reliance upon nuclear arsenals, and strengthen efforts to prevent nuclear proliferation.

Twenty-two years ago, the United States, Great Britain, and the Soviet Union concluded the Limited Test Ban Treaty, which banned nuclear testing under water and in the atmosphere and space. In 1974, President Nixon signed a treaty, the Threshold Test Ban Treaty, which restricts tests in the only medium in which nuclear tests are allowed—underground—to 150 kilotons. In 1976, President Ford signed a companion treaty—the Peaceful Nuclear Explosions Treaty—to ensure that so-called peaceful explosions were not used as a way to test and gain weapons information outside the strictures of the TTBT and PNET. Although never ratified, the treaties have been respected by both sides since 1976. The treaties remain on the calendar of the Committee on Foreign Relations.

In 1977, the committee held extensive hearings on the TTB and PNE Treaties. They received significant support in the scientific community. Representatives of the Secretary of Defense and the Joint Chief of Staff testified that the treaties were in our national security interests. The committee supported the treaties and would have reported them favorably had not the Carter administration shifted its priorities to early attainment of a comprehensive ban. That negotiation did, indeed, make considerable progress, but it lapsed with the change in administration.

The Soviets have made much of the fact that, since 1972, the United States has not ratified significant arms control agreements which have been painstakingly negotiated. Ratification now would demonstrate our seriousness and could help improve prospects for success in Geneva.

The administration, after an extended period of inaction and review, decided in June 1982, that no ratification of the TTB and PNE treaties was possible unless the Soviets agreed to new talks aimed at expanding the agreements' provisions on verification. It took some additional months for the administration to decide what new verification was wanted, and the matter was finally broached with the Soviets in early 1983. The Soviets have rejected at least three separate United States demarches for such discussions, arguing that any discussion of new provisions should follow, and not precede, ratification. Unfortunately, the two sides remain at impasse with regard to these two treaties.

Since the agreements have not been formally ratified, two important provisions related to verification have not been implemented: First, provisions under the PNE for onsite monitoring of preannounced groups of nuclear explosions with an aggregate yield above 150 kilotons; and second, exchange of data and test calibration information under both treaties that should improve each side's verification confidence level.

The Threshold Test Ban Treaty and the Peaceful Nuclear Explosions Treaty can be verified with high confidence. Recent advances in seismology are helping resolve questions about compliance and reassuring us that we can ratify those treaties without threatening our security. Weapons laboratory chiefs have indicated that they can meet their responsibilities under these constraints. We must remember that we have lived under the treaties for nearly 10 years with no significant problems for our security.

In recent years, the Senate has urged the President to seek Senate advice and consent to the two treaties. I believe that that advice should be reaffirmed strongly as the Senate charts, in our resolution, a course toward a complete ban on tests.

With the treaties formally in place, the administration would be in a position to seek a substantially lowered threshold and expanded verification as appropriate. That should take care of any particular verification problems. A radically lower ceiling for tests—which could be only a small fraction of the current ceiling of 150 kilotons—could be agreed upon in safety, given advances in technologies.

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With such steps behind us we would be in an excellent position to move on to negotiation of a complete ban. That could be instituted on a date certain or phased in over several years to allow any necessary testing for reliability and durability to be conducted before the complete stop.

Mr. President, I believe it would be misguided to dismiss the possibility of a mutual moratorium out of hand, as so many seem prepared to do. I believe a moratorium could be tailored which would boost prospects for a total ban without any risk to our security. Last summer, Mr. Gorbachev announced that the Soviets would observe a unilateral moratorium from early August through December. The Soviet leader also invited the United States to join in a bilateral moratorium to extend past December. The President seemed initially attracted to the idea, although the White House later seemed much more dubious. Nevertheless, the President indicated a willingness to engage in a mutual moratorium after our necessary testing is completed.

In September, I and other members of a Senate delegation had an opportunity to discuss the Soviet offer with Mr. Gorbachev. The Soviet leader argued strongly for his proposal, maintaining that a joint moratorium would permit a return to the negotiating table to set the terms of a comprehensive ban.

Regrettably, the two leaders did not deal with the moratorium at the summit. Consequently, there seems to be no current prospect for agreement on a mutual moratorium to follow the present unilateral Soviet halt. Nonetheless, the suggestion advanced by Mr. Gorbachev is too important to be dismissed out of hand. It is in our clear interest to test his seriousness by seeing whether a moratorium of finite duration could be put in place while negotiations proceed.

Specifically, we need to establish what verification provisions would apply; and we need to be assured that, despite Mr. Gorbachev's words, a moratorium would not substitute for a formal agreement. A nonbinding pause of uncertain duration is no substitute for a detailed set of long-term agreed commitments with effective verification provisions.

However, a moratorium of a finite duration—such as 1 year—would open the way to a serious resumption of the negotiations on a comprehensive test ban agreement conducted by the Carter administration. Considerable progress on verification matters had been made in these negotiations. The sides had agreed to allow seismic monitoring stations on their territory, and details on inspections on demand to look into suspicious seismic activity were being worked out. Thus, the two sides would not be starting from scratch. A finite duration to a moratorium would give the sides reason to conclude their work expeditiously, although, if success were in sight, there would be nothing wrong with a brief extension of the moratorium.

Critics argue that a moratorium should be avoided because the Soviets might break out of it, as they did in the moratorium which preceded the Limited Test Ban Treaty of 1963. That concern is based on an erroneous recalling of the record. From 1958 until August 1961, both sides observed a testing moratorium, although President Eisenhower announced in 1959 the United States would no longer be bound, thus opening the way to a similar Soviet decision. The Soviets had said they would not remain bound if any Western powers tested. Indeed, following four French tests, the Soviets resumed testing, and the United Staters followed suit several weeks later.

Mr. President, I believe that the test ban agenda I have described is a practical one. It is clear that steadily improved controls on nuclear testing, culminating in a ban on all nuclear explosions, offers many critically important benefits:

Over time, confidence in the reliability of our warheads would erode, although actual reliability should remain high for some time. Eventually, however, the reliance placed on nuclear weapons by both sides would decline, and that would be to everyone's benefit.

A moratorium followed by a ban would curb the modernization of United States and Soviet nuclear warheads. This could prevent them from developing new, smaller warheads with high weight-to-yield ratios to be proliferated on their missile forces, especially MIRV's. It could also impede the development of new technologies, such as x-ray lasers driven by nuclear explosions.

A moratorium and ban would put pressure on the Chinese and the French to stop their testing programs, and a halt by the nuclear nations would certainly deter other nations from starting their own testing programs.

Finally, such steps by the superpowers would serve to reinforce the resolve of the 127 nations who have foresworn nuclear weapons. A ban open to all nations could well give new life to the crucial effort to stop the spread of nuclear nations.

Mr. President, I hope this resolution will receive substantial support from those Senators concerned about the testing problem, and that it will gain the approval of the Senate next year. As ranking Democratic member of the Committee on Foreign Relations, I will seek hearings on this resolution and the issue of continued nuclear testing.

There is no greater imperative than finding a way to stop the nuclear arms race. I believe that the Geneva talks offer promise if the sides are willing to bring them to fruition. I believe, further, that this resolution would complement that effort without being dependent upon success in Geneva to make its own, independent and crucially important contribution. Application of stiffer controls upon nuclear testing as we move toward a complete ban would represent the keeping of longstanding promises to other nations. Just as importantly, it would represent the keeping of an obligation we have to our children and grandchildren to take those positive steps we have the wisdom and resolve to pursue to remove forever the threat of nuclear holocaust.

Mr. President, I ask, unanimous consent that the resolution the Senator from Missouri [Mr. DANFORTH] and I are introducing be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 252

Whereas the United States, the Soviet Union and Great Britain are committed in the Limited Test Ban Treaty of 1963 and in the Non-Proliferation Treaty of 1968 to seek the discontinuance of all test explosions of nuclear weapons for all time;

Whereas the early prohibition of nuclear explosions would constrain the development and deployment of the threatening new nuclear arms, reduce confidence in and reliance upon nuclear arsenals, and strengthen efforts to prevent nuclear proliferation;

Whereas the early ratification of the Peaceful Nuclear Explosions Treaty and the Threshold Test Ban Treaty and subsequent agreement to reduce the size of permitted nuclear explosions would make completion of a comprehensive test ban treaty and further progress in strategic arms control more probable;

Whereas the President of the United States has spoken for all American in expressing the desire for the eventual elimination of all nuclear weapons: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of American in Congress assembled, That at the earliest possible date the President of the United States should—

(1) Endorse and request Senate consent to ratification of the Threshold Test Ban Treaty and the Peaceful Nuclear Explosions Treaty, signed in 1974 and 1976 respectively;

(2) Call upon the Soviet Union to join in a further agreement reducing the permitted yields of explosions, as specified in the Threshold Test Ban Treaty and the Peaceful Nuclear Explosions Treaty, to the lowest possible verifiable levels which advances in seismic detection and other verification capabilities will allow;

(3) Express to the Soviet Union and Great Britain the desire of the United States to resume negotiations to conclude an agreement leading immediately or in balanced steps to a mutual and verifiable ban on nuclear explosions to which all nations would be invited to become party; and

(4) Seek Soviet agreement to facilitate negotiations by declaring at the earliest practicable date a mutual moratorium of finite duration on nuclear explosions.

Mr. DANFORTH. Mr. President, I am pleased to join the Senator from Rhode Island, Mr. PELL, in introducing this resolution calling for a series of steps toward a comprehensive ban on nuclear explosions.

For more than a generation, American Presidents have sought a complete ban on the testing of nuclear bombs. The reason is simple: Practically nothing would do a better job of slowing down the development of new and more dangerous weapons than a mutually verifiable agreement among the superpowers to quit performing nuclear tests.

There are other benefits to a test ban. The Nuclear Nonproliferation Treaty of 1968 commits the nuclear weapon States to pursue disarmament in exchange for a commitment by the nonweapon States to forgo weapons of their own. A comprehensive test ban remains the single most important indication of our commitment to this pledge. Continued insistent on testing by the superpowers stands as a major barrier to our efforts to stop the spread of nuclear weapons.

Opponents of a test ban have raised questions about our ability to maintain a reliable stockpile in the absence of testing. Prudent design and regular inspection of our warheads, coupled with careful negotiations, can ensure sufficient reliability. In addition, a slight decrease in each side's confidence in its warheads may well be a good thing. Perfect reliability is a requirement only of a first strike policy; it is not necessary for a strategy of deterrence based on retaliation.

Progress toward a nuclear test ban has been stalled too long. The resolution we are introducing today calls on the President to take a series of actions designed to break this stalemate.

The resolution asks the President to endorse the Threshold Test Ban Treaty and the Peaceful Nuclear Explosions Treaty and submit them to the Senate for ratification. The protocols to these treaties contain important precedents in the area of verification, including the exchange of seismic date and limited onsite inspections, that will go into effect only on ratification.

Second, the resolution calls on the President to pursue an additional agreement reducing the permitted yields of explosions to the lowest possible verifiable levels.

Third, the resolution calls on the administration to resume negotiations, broken off in 1980, with the Soviet Union and Great Britain toward a full treaty to implement a comprehensive test ban.

Finally, as a means of facilitating these negotiations, the resolution endorses a temporary, mutual moratorium on nuclear testing. No declared moratorium can be a substitute for a full, verifiable treaty. We must make clear at the outset that a moratorium that does not lead to a treaty should be discontinued. A pause in testing, however, could be a useful step toward those negotiations.

Mr. President, a verifiable and effective test ban treaty is in our interest and our children's interest. We have attempted in this resolution to identify a number of concrete steps that we can take now to advance this goal.

By Mr. HATCH:

S.J. Res. 253. Joint resolution to designate the week of March 2 through 8, 1986, as "Women's History Week"; to the Committee on the Judiciary.

WOMEN'S HISTORY WEEK

Mr. HATCH. Mr. President, this past October I sponsored a women's conference in Salt Lake City, UT. The theme of this conference, "Discovering the Diversity and Unity of Women," emphasizes the important role women have played, are playing, and will continue to play in American life. Women have played a central role as mothers and homemakers as well as politicians, philanthropists, doctors, businesses executive, laborers, civic leaders, and in many other important fields. Yet we have only begun to recognize them for their contributions.

Today, I am pleased to introduce a joint resolution designating the week beginning March 2, 1986, as "Women's History Week." Representative BARBARA BOXER of California has introduced a companion resolution in the House of Representatives. Throughout our Nation's history, many significant improvements in our quality of life can be attributed to our foremothers' vision and dedication as well as to our forefathers'. The hard work of both women and men brought good ideas to fruition.

Let me give you just one example of such a woman from my own State of Utah. Martha Hughes Cannon is probably one of the best known characters in Utah history. As a child, despite her family's limited income, she dreamed of becoming a physician. She saved as much as she could, and in 1876 enrolled in the premedical department of the University of Deseret. She graduated with an M.D. degrees on her 23d birthday. After receiving her degree in medicine, she studied oratory so that she could be a more effective speaker for public health. She enrolled in both the University of Pennsylvania and the National School of Elocution and Oratory. In 1882, she received a bachelor of science degree from the university, the only woman in a class of 75. She also received a bachelor of oratory degree from the School of Elocution.

She moved back to Utah, set up a private medical practice, got married, and became actively involved in politics and the woman suffrage movement. On January 11, 1897, she began her career in the Utah State Senate, where she continued her work for public sanitation and health. She introduced "An Act Creating a State Board of Health and Defining Its Duties." The act passed, and the first Utah Board of Health was created. Martha Hughes Cannon is only one of many women whose vision and perserverence have improved our lives.

Mr. President, I am impressed with the growing support and enthusiasm for this piece of legislation honoring the contribution of women in our Nation's history. Once again, I urge my colleagues to join me in cosponsoring this joint resolution establishing a week to commemorate the impact of women in our history.

ADDITIONAL COSPONSORS

S. 359

At the request of Mr. DURENBERGER, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as a cosponsor of S. 359, a bill to provide for medical demonstrations in health promotion and disease prevention.

S. 400

At the request of Mr. BINGAMAN, the name of the Senator from Utah [Mr. HATCH] was added as a cosponosr of S. 400, a bill to provide health promotion and disease prevention services to Indians.

S. 1154

At the request of Mr. MATSUNAGA, the name of the Senator from South Dakota [Mr. ABDNOR] was added as a cosponsor of S. 1154, a bill to amend the title XVIII of the Social Security Act to provide direct medicare reimbursement for services performed by registered nurse anesthetists.

S. 1437

At the request of Mr. THURMOND, the name of the Senator from Texas [Mr. BENTSEN] was added as a cosponsor of S. 1437, a bill to amend the Controlled Substances Act to create new penalties for the manufacturing with intent to distribute, the possession with intent to distribute, or the distribution of "designer drugs," and for other purposes.

S. 1525

At the request of Mr. PELL, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of S. 1525, a bill to amend the Elementary and Secondary Education Act of 1965 to provide grants to local educational agencies for dropout prevention demonstration projects.

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S. 1562

At the request of Mr. GRASSLEY, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 1562, a bill to amend the False Claims Act, and title 18 of the United States Code regarding penalties for false claims, and for other purposes.

S. 1574

At the request of Mr. LUGAR, the name of the Senator from Washington [Mr. EVANS] was added as a cosponsor of S. 1574, a bill to provide for public education concerning the health consequences of using smokeless tobacco products.

S. 1595

At the request of Mr. WARNER, the names of the Senator from Georgia [Mr. MATTINGLY], the Senator from Oklahoma [Mr. NICKLES], the Senator from New Mexico [Mr. BINGAMAN], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Virginia [Mr. TRIBLE], and the Senator from Arizona [Mr. GOLDWATER] were added as cosponsors of S. 1595, a bill to prevent the implementation of Revenue Ruling 83-3 and other similar considerations affecting the housing allowances of the military and clergy.

S. 1740

At the request of Mr. BYRD, his name was added as a cosponsor of S. 1740, a bill to designate Bloomington Lake located on the North Branch of the Potomac River, near Bloomington, MD, and Keyser, WV, as the "Jennings Randolph Lake."

S. 1804

At the request of Mr. HATCH, the name of the Senator from Nevada [Mr. HECHT] was added as a cosponsor of S. 1804, a bill to provide for Federal incentive grants to encourage State health care professional liability reform.

S. 1914

At the request of Mr. GORTON, the names of the Senator from Illinois [Mr. SIMON], and the Senator from New Mexico [Mr. BINGAMAN], were added as cosponsors of S. 1914, a bill to amend the Stevenson-Wydler Technology Innovation Act 1980 to permit cooperative agreements between industry and laboratories owned and operated by the Federal Government, and for other purposes.

S. 1917

At the request of Mr. BRADLEY, the names of the Senator from Missouri [Mr. DANFORTH], and the Senator from Vermont [Mr. STAFFORD] were added as cosponsors of S. 1917, a bill to amend the Foreign Assistance Act of 1961 to provide assistance to promote immunization and oral rehydration, and for other purposes.

S. 1956

At the request of Mr. THURMOND, the names of the Senator from Georgia [Mr. NUNN], the Senator from Colorado [Mr. HART], the Senator from Michigan [Mr. LEVIN], the Senator from Ohio [Mr. GLENN], the Senator from New Mexico [Mr. BINGAMAN], the Senator from Illinois [Mr. DIXON], the Senator from Ohio [Mr. METZENBAUM], the Senator from Wisconsin [Mr. KASTEN], the Senator from Arizona [Mr. GOLDWATER], the Senator from West Virginia [Mr. BYRD], the Senator from Tennessee [Mr. GORE], and the Senator from Alabama [Mr. DENTON] were added as cosponsors of S. 1956, a bill to amend title 5, United States Code, to authorize temporary family housing for certain dependents of deceased members of the Armed Forces; and to amend title 37, United States Code, to authorize temporary payment of an allowance for quarters for certain dependents of deceased members of the uniformed services.

At the request of Mr. WILSON, the name of the Senator from Kentucky [Mr. FORD] was added as a cosponsor of S. 1956, supra.

S. 1966

At the request of Mrs. KASSEBAUM, the name of the Senator from Hawaii [Mr. MATSUNAGA], was added as a cosponsor of S. 1966, a bill to provide for efficient and equitable use of operating rights at congested airports, and for other purposes.

SENATE JOINT RESOLUTION 112

At the request of Mr. PELL, the names of the Senator from South Carolina [Mr. HOLLINGS], and the Senator from Arkansas [Mr. BUMPERS], were added as cosponsors of Senate Joint Resolution 112, a joint resolution to authorize and request the President to call a White House Conference on Library and Information Services to be held not later than 1989, and for other purposes.

S.J. RES. 226

At the request of Mr. RIEGLE the names of the Senator from California [Mr. WILSON], the Senator from Nebraska [Mr. ZORINSKY], and the Senator from California [Mr. CRANSTON] were added as cosponsors of Senate Joint Resolution 226, a joint resolution to designate the week of April 6, 1986, through April 12, 1986, as "World Health Week" and to designate April 7, 1986, as "World Health Day."

SENATE JOINT RESOLUTION 231

At the request of Mr. RIEGLE, the name of the Senator from Illinois [Mr. DIXON], was added as a cosponsor of Senate Joint Resolution 231, a joint resolution to designate the period commencing January 1, 1986, and ending December 31, 1986, as the "Centennial Year of the Gasoline Powered Automobile".

SENATE JOINT RESOLUTION 239

At the request of Mr. DURENBERGER, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as a cosponsor of Senate Joint Resolution 239, a joint resolution designating the week beginning on June 1, 1986, a "National Maternal and Child Healt Week."

SENATE JOINT RESOLUTION 244

At the request of Mr. GORTON, hi name was added as a cosponsor o Senate Joint Resolution 244, a bill t designate October 8, 1986, as "National Fire Fighters Day."

At the request of Mr. DECONCIN the name of Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of Senate Joint Resolutio 244, supra.

SENATE JOINT RESOLUTION 246

At the request of Mr. DIXON, th name of the Senator from Ohio [Mr METZENBAUM] was added as a cosponsor of Senate Joint Resolution 246, joint resolution to designate May 25 1986 as "Hands Across America Day," for the purpose of helping people t help themselves, and commendin United Support of Artists for Afric and all participants for their effort toward combating domestic hunge with a 4,000 mile human chain from coast to coast.

SENATE CONCURRENT RESOLUTION 90

At the request of Mr. LAUTENBERG the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of Senate Concurrent Resolution 90, a concurrent resolution urging the President to convene a conferenc to develop and International Seaport Security Agreement relating to seaport and passenger vessel security among the United States, its allies other interested nations, and the private sector.

SENATE CONCURRENT RESOLUTION 98—RELATING TO THE FORMER PRESIDENTIAL YACHT "SEQUOIA"

Mr. GARN (for Mr. SIMPSON, for himself and Mr. CRANSTON) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 98

Whereas the former Presidential yacht Sequoia served eight Presidents of the United States, from Herbert Hoover to Gerald R. Ford, over a period of forty-four years;

Whereas the Sequoia was the setting for Presidential meetings, negotiations, and decisions of extraordinary significance for and effect on the history of the United States and the course of world events;

Whereas the Sequoia was disposed of in 1977 to reduce Federal expenditures;

Whereas in recognition of Sequoia's unique historical significance, the private, bipartisan, and nonprofit Presidential Yacht Trust was established in 1981 for the purpose of restoring and preserving Sequoia;

Whereas since 1981 many Americans have visited the Sequoia and demonstated support for her preservation and return to service;

Whereas in response to this support, the Presidential Yacht Trust, in consultation with the United Sates Navy, has determined that the proper future of the Sequoia is her return to Government service in the United States Navy as the Presidential yacht; and

Whereas the Presidential Yacht Trust has taken steps to fully restore the Sequoia by November 15, 1988, to donate her to the Navy as a gift of the Presidential Yacht Trust and the American people, and to establish an endowment sufficient for her future operation and maintenance: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) recognizes the unique significance of the former Presidential yacht Sequoia which has made her a symbol of American political heritage and the office of the President:

(2) supports the plans of the Presidential Yacht Trust to donate the Sequoia, with an endowment sufficient for her operation and maintenance, to the United States Navy for service once again as the Presidential yacht.

SENATE CONCURRENT RESOLUTION 99—SUPPORTING INCREASED CULTURAL EXCHANGE BETWEEN THE UNITED STATES AND THE SOVIET UNION

Mr. DODD (for himself and Mr. STEVENS) submitted the following concurrent resolution, which was referred to the Committee on Foreign Relations:

S. CON. RES. 99

Whereas historically the arts have been recognized as a powerful expression of thoughts and feelings, a means to strenghten communication, and one of the most vital ways of understanding the human experience;

Whereas the visual arts, music, theatre, dance, and all other forms of creative expression have the ability to transcend national boundaries;

Whereas nations participating in cultural exchange gain mutual understanding which contributes to continued peaceful coexistence;

Whereas independent citizen groups across the United States have formed to promote cultural contacts between nations, particularly between the United States and the Soviet Union;

Whereas many members of the Senate and House of Representatives have joined together in a Congressional Arts Caucus to demonstrate the importance of the arts to our Nation and the other countries of the world.

Whereas since 1981 the Congressional Arts Caucus has worked to highlight America's cultural activities and the role of these activities in worldwide cooperation; and

Whereas at the recently completed Geneva Summit of November 1985, the President, also recognizing the importance of artistic activity, indicated his intention to secure an increase in cultural exchange between the United States and the Soviet Union: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress strongly supports expanded cultural exchange between the United States and the Soviet Union and pledges to work with the President in strengthening such an expanded cultural exchange which will contribute to mutual cooperation and world peace.

● Mr. DODD. Mr. President, today I am submitting a concurrent resolution supporting expanded cultural exchange between the United States and the Soviet Union. I am pleased to have my distinguished colleague from Alaska, Senator STEVENS, join me as a sponsor of this concurrent resolution.

As a member of the Foreign Relations Committee, I have spent many hours listening to experts testify on new ways to improve diplomatic relations between this country and other nations. Unfortunately, the importance of cultural exchanges among nations is not mentioned often enough. Yet historically, the arts have been proven invaluable in breaking down barriers and fostering cooperative efforts which transcend national boundaries. And such cooperative efforts can lead to the ultimate goal this Nation has pursued since the days of the Founding Fathers: Namely, world peace.

By submitting this concurrent resolution calling for increased cultural exchanges between the United States and the Soviet Union, I am following the lead of independent groups of citizens from my State of Connecticut to California. Such citizens have already taken the first steps in promoting a greater understanding here at home of the cultural heritage of the Soviet people. Likewise, students from my State of Connecticut and many other States have both studied and performed in the U.S.S.R., thereby giving Soviet citizens a better sense of American culture.

At the recent Geneva summit, the President signed an accord to increase artistic exchanges between our country and the U.S.S.R. As a member of the congressional arts caucus, I commend this formal recognition of the importance that the visual arts, music, theater, and dance can play in bringing people of different nationalities together. It is my hope that this Senate concurrent resolution being submitted today will lend further recognition of the important role of the arts in promoting continued peaceful coexistence with the Soviet Union. Identical legislation has been introduced in the House of Representatives by Congressman DOWNEY from New York and Congressman JEFFORDS from Vermont.

In closing, I urge my colleagues to support this concurrent resolution. By so doing, the Senate of the United States will put itself on record as supporting an increased cultural exchange with the Soviet Union.●

● Mr. STEVENS. Mr. President, I'm pleased to join my colleague from Connecticut in submitting this concurrent resolution of support for expanded cultural exchanges between the United States and the Soviet Union.

The exchange agreement reached at last month's summit will significantly enhance communications between our two nations in a variety of fields. In my State of Alaska, our proximity to the U.S.S.R. has meant a real overlap in the anthropological and cultural origins of our native peoples, to say nothing of Alaska's history as a Russian outpost in the 18th and 19th centuries. In addition, our shared arctic climate and the environmental conditions which flow from our existence above the Arctic Circle make Alaska and Siberia one in the challenges posed to us by our geography.

In years past, Alaska Airlines flew direct from Anchorage to Moscow, and the residents of the Bering Sea region had opportunities to visit their Siberian relatives. We have so much in common, so much to share both culturally and scientifically, that this resumption of exchanges between our two countries merits the strongest of congressional support.

Last week, Armand Hammer was in Moscow, meeting with the Cultural Minister and successfully finalizing a bilateral exhibition of masterworks from the Leningrad Hermitage, the National Gallery, Armand Hammer's personal collection, and the Pushkin museum in Moscow. This agreement is the first negotiated under the accord signed at the Geneva summit, and exemplifies what we can hope for in the future, in both the visual and performing arts.

The concurrent resolution we are submitting today is not just a resolution of support, but a resolution of welcome as well. Welcome to the millions of Soviet citizens who, through this sharing of our cultural resources, will be joining their American counterparts in mutual appreciation and increased understanding of our respective nations' cultural heritage.●

SENATE RESOLUTION 278—RELATING TO FUNDING FOR THE OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION

Mr. SPECTER (for himself, Mr. LAUTENBERG, Mr. CRANSTON, Mr. SIMON, and Mr. MCCONNELL) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 278

Resolved, That the Senate hereby disapproves the current informal freeze, in the absence of a formal rescission request, on funds of the Office of Juvenile Justice and Delinquency Prevention.

Mr. SPECTER. Mr. President, I submit today a resolution in response to a very disturbing situation which has arisen within the Department of Justice regarding the freezing of funds for the Office of Juvenile Justice and Delinquency Prevention [OJJDP].

It has come to my attention that the Office of Management and Budget has

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informally recommended to the Department of Justice the rescission of all fiscal year 1986 appropriations for the Bureau of Justice Assistance [BJA] and OJJDP. The Justice Department sought a reconsideration of the proposed rescission of appropriations for BJA. The Department did not, however, seek to avoid the rescision request as to OJJDP funds.

I have been deluged by calls from organizations which currently receive OJJDP grants, and have learned that all OJJDP funds, including their grant moneys now due, have been frozen pending the resolution of the rescission request. This action will halt extremely important studies on juvenile delinquency, which OJJDP has been funding.

The administration has ordered OJJDP not to spend any of its funds until the rescission issue is resolved, notwithstanding that Congress has not yet received a formal notice of a proposed deferral or rescission of OJJDP funds pursuant to the Impoundment Control Act of 1974. A formal rescission notice from the Administration is not expected to be received by Congress until the end of January 1986, at which time the 45-day time period begins for congressional action.

Mr. President, a delay of over 2 months in Federal funding will impose undue hardship on existing and proposed juvenile justice programs nationwide.

This informal freeze, which also includes unspent fiscal year 1985 funds, plainly violates the Impoundment Control Act of 1974. Moreover, it is a slap in the face to Congress, which repeatedly has rejected every single attempt by the administration to limit or eliminate the funding of OJJDP.

On October 29, 1981, the administration formally proposed deferral of OJJDP funds. In response, on December 15, 1981, the Senate passed Senate Resolution 260, which I introduced, expressing its disapproval of the deferral request.

Each year since 1983, the administration has requested zero funding for OJJDP, and each year Congress has provided level funding of $70 million. In the face of continued administration attempts to eliminate funding for this important office, the Congress in 1984 reauthorized OJJDP for an additional 5 years.

Because Congress has repeatedly rejected the proposed eliminations of OJJDP and continued to fund the Office at this level, an effort has been made to eliminate the Office's functions de facto, by having it not spend the appropriated funds. Earlier this year, the administration requested reprogramming of $12.2 million in unspent fiscal year 1984 juvenile justice funds for other purposes. The Senate Committee on Appropriations adopted, and the full Senate passed, an amendment to the fiscal year 1985 supplemental appropriations bill which rejected this subterfuge and directed that these funds be preserved for OJJDP. Conference report language specifically directed that these funds be allocated to the States within the parameters of the law.

Finally, last month the Senate was notified that the Administrator of OJJDP had failed to spend $13.665 million in appropriated funds. Only a few days ago, Congress again appropriated $70 million for fiscal year 1986 and, in the conference report, directed OJJDP to spend the fiscal year 1985 carryover funds in fiscal year 1986, spend the fiscal year 1986 appropriation in fiscal year 1986, and submit to Congress quarterly reports regarding obligations and expenditures for the previous quarter and proposed obligations and expenditures for the forthcoming quarter.

Against this backdrop, the current Justice Department freeze of OJJDP funds can only be considered a direct and clear violation of the directive of the Congress. It would be a travesty for the Administrator's first quarterly report to Congress, due on January 1, 1986, to reflect zero expenditures.

The Department's informal policy to freeze OJJDP funds already has disrupted many vital juvenile justice programs nationwide. A very serious situation has been created by this freeze and anticipated rescission request: numerous juvenile justice projects nationwide are likely to cease even if there is only a slight delay in the receipt of Federal funds.

As chairman of the Senate Juvenile Justice Subcommittee and cochairman of the Senate Children's Caucus, I have held numerous oversight hearings on OJJDP, and the proceedings repeatedly have highlighted the importance of preserving this Office. The testimony presented at subcommittee hearings illustrates the compelling need for the Federal Government to do more, no less, to address the problems facing young Americans today. Continued operation of OJJDP consistent with congressional intent is an important step toward this goal.

There are thousands of people who administer, need, and benefit from juvenile justice programs nationwide. Funding of these programs is desperately needed. Approval of this resolution by the Senate before it goes out of session will help insure the continuation of this important juvenile justice and delinquency program.

I have written to Attorney General Edwin Meese and Office of Management and Budget Director James Miller to express my extreme concern regarding the freeze and anticipated rescission proposal of OJJDP funds. I now urge my colleagues to support this resolution to avert the impending crisis in juvenile justice funding.

Mr. President, I ask that letters from various juvenile justice groups to Attorney General Edwin Meese be printed in the RECORD.

There being objection, the letters were ordered to be printed in the RECORD, as follows:

NATIONAL COALITION OF STATE
JUVENILE JUSTICE ADVISORY GROUPS,
Cape Elizabeth, ME, December 18, 1985.

Hon. EDWIN MEESE,
Attorney General, Department of Justice, Washington, DC.

DEAR MR. ATTORNEY GENERAL: On behalf of the National Coalition of State Juvenile Justice Advisory Groups, I am compelled to convey my grave concern and deepest disappointment at the action of the Administration in regard to the proposed budget which recommends deletion of fiscal year 1986 funds for Juvenile Justice. It is unquestionable that this action flies in the face of repeated expressions of Congress that the Juvenile Justice Program be continued.

Upon notice that this proposal would be submitted, the Office of Juvenile Justice and Delinquency Prevention placed a "hold" on all unobligated fiscal year 1985 funds and all fiscal year 1986 funds. Such an action, particularly in regard to fiscal year 1986 appropriations, will place the states in an extremely difficult position. As you know, the fiscal year began October 1, 1985, and the funds in question are desperately needed by states to continue programs and operations. Because the funding cycle for some state programs begins in the first part of the current year, some state programs find themselves in serious jeopardy. Without the fiscal year 1986 funds, many programs designed and developed to cover any period of time will be terminated without any ability to permit assumption of their costs by state and local governments. Many discretionary programs, moreover, are subject to immediate termination. In addition, most states cannot insure the integrity of Federal funds already in the cycles, absent the Administration funds provided by the Act. It appears to me outrageous not only that many important programs may be terminated, but that this action also jeopardizes the ability of the states to provide accountability for current Federal program funds.

This action is strongly reminiscent of the actions of former President Nixon when he impounded funds appropriated by the Congress. Congress's response at that time was to pass the Budget Impoundment and Control Act. I sincerely, hope that you will reconsider this similar highhanded attempt to subvert the will of Congress.

Very truly yours,

A.L. CARLISLE,
Chair, National Coalition.

THE NATIONAL PTA,
Chicago, Ill., December 18, 1985.

Hon. EDWIN MEESE III,
Attorney General, U.S. Department of Justice, Washington, DC.

DEAR ATTORNEY GENERAL MEESE: I am writing on behalf of the 5.6 million members of the National Congress of Parents and Teachers (National PTA) in regard to funding of the Office of Juvenile Justice and Delinquency Prevention. The National PTA is outraged to learn that a rescission has been proposed for this vital program and that all OJJDP monies have been impounded. It is our understanding also, that the Department of Justice did not appeal this rescission.

The National PTA, urgently requests that the Department of Justice immediately appeal this rescission and release for obligation all monies appropriated for OJJDP by the Congress. Inaction on the part of the Department in this regard would bring to a halt juvenile justice programs in the States and local communities throughout the country, thus threatening the well being of our youth and our communities. Such an outcome would be a total contradiction of the national resolve that juvenile justice and delinquency prevention is a federal priority. Congress passed and, last week, President Reagan signed into law the FY 1986 appropriations for the Department of Justice, including level funding of the OJJDP.

The Office of Juvenile Justice provides the national leadership, the incentives, and the seed money that is absolutely necessary for states to implement programs that will accomplish the goals of the Juvenile Justice and Delinquency Act. The National PTA appeals to you to ensure that the historic federal leadership role in juvenile justice is maintained by appealing the OMB rescission and allowing OJJDP to continue its important responsibilities to our nation.

Sincerely,

MILLIE WATERMAN,
Vice President for Legislative Activity.

DECEMBER 18, 1985.

Hon. EDWIN MEESE III,
Attorney General, U.S. Department of Justice, Washington, DC.

DEAR MR. ATTORNEY GENERAL: As Co-Chairmen of the Ad Hoc Coalition for Juvenile Justice and Delinquency Prevention, we are writing to express our strong opposition to the recent "freeze" placed on funding of the Office of Juvenile Justice and Deliquency Prevention (OJJDP). We respectfully urge you to reverse this decision.

The Ad Hoc Coalition for Juvenile Justice, comprised of more than 40 national youth services organizations, has been a strong supporter of the Juvenile Justice and Deliquency Prevention Act. We are especially concerned of the effects which this freeze will have on efforts supported under the Act's formula grants to states provision.

Our purpose in writing at this time is not to argue the cost-effectiveness or success of the federal juvenile justice program. We will be making such a case to you at the appropriate time.

We are requesting, however, that you immediately lift the current freeze on OJJDP funds so that the legal mandates of the Act can be carried out. The intent of Congress, as recently as the December 4th action on OJJDP appropriations, is quite clear. The statutory mandates and enacted appropriations measures are to be carried out.

As our nation leading law enforcement official, we are confident that you are committed to carrying out the law of the land, in this case, the JJDP Act as signed by the President. This current freeze clearly violates the letter and spirit of the law.

Again, we urge the immediate lifting of the freeze. We welcome the opportunity to meet with you and your staff to discuss ways that the Act can better protect the youths and communities that all of us are committed to protecting.

Sincerely,

SHARON MARTIN,
Co-Chair, The Ad Hoc Coalition, YMCA of the USA.
DONALD W. MATHIS,
Co-Chair, The Ad Hoc Coalition, National Network of Runaway and Youth Services.

NATIONAL FUND FOR RUNAWAY CHILDREN, THE NATIONAL NETWORK OF RUNAWAY AND YOUTH SERVICES, INC.
Washington, DC., December 18, 1985.

Hon. EDWIN MEESE III,
Attorney General, U.S. Department of Justice, Washington, DC.

DEAR ATTORNEY GENERAL MEESE: The National Network of Runaway and Youth Services, comprised of more than 1,200 member agencies across America, is writing to you to oppose the recent freeze on funds which has been placed on programs administered by the Office of Juvenile Justice and Delinquency Prevention (OJJDP). This highly-arbitrary and unsound decision is creating immediate havoc with state and local, public and private juvenile justice programs.

This freeze, which has not even been formally submitted to the Congress as a rescission, is puzzling at best. Given the appropriations cut time line of March 1st by Gramm/Rudman, a freeze at this time places extreme and unanticipated hardship on programs including law enforcement, judges, probation, and a myriad of youth services agencies. This freeze is bad policy and should be lifted immediately.

As you well know, Congress has passed and President Reagan has signed both the reauthorization and appropriation legislation which provide for the Juvenile Justice and Delinquency Prevention Act. I strongly urge you to fulfill these statutory mandates and immediately lift the freeze on OJJDP. Thank you for your consideration of the National Network's position opposing the OJJDP freeze.

Sincerely,

JUNE BUCY,
Executive Director.

● **Mr. McCONNELL.** Mr. President, I join in the resolution of the Senator from Pennsylvania, and urge my colleagues to support it as well. In my judgment, the attempt by the administration to rescind the 1986 funding for the Office of Juvenile Justice and Delinquency Prevention should be soundly rejected. Similar attempts have been made in the past, and each has been disapproved.

Mr. President, last summer the members of the Subcommittee on Juvenile Justice, under the able leadership of Senator SPECTER, advised OJJDP that it was the unanimous judgment of the subcommittee members that all unspent funds from fiscal year 1985 appropriations for that office should be spent, as directed by the act. In a letter dated November 21, 1985, we advised the distinguished acting chairman of the subcommittee on Commerce, Justice, State, and Judiciary that we believed that all funds for OJJDP should be retained by the Senate conferees. In that letter, we noted as follows:

As you know, the conference report prepared by the Committee on Appropriations to accompany H.R. 2965, the Department of Commerce, Justice, and State, the Judiciary, and related agencies appropriation bill for fiscal year 1986, would provide for new appropriations to the Office of Juvenile Justice and Delinquency Prevention of only $62,100,000. This amount would be combined with some $7,900,000 in unobligated balances of funds previously appropriated to that office. In this way, the Administration seeks to provide a total appropriation for OJJDP of $70,000,000 for fiscal year 1986.

While this is characterized by the Administration as level funding for OJJDP, we see it as a cut of nearly $8,000,000 in the level of appropriations from the previous year, a significant and unwarranted cut in the funding for this important office.

When the Appropriations Committee's report on this bill goes to conference with the House, we respectfully request that you advise the Senate conferees that the Senate should concur with the House provision of the bill, providing for funding of the Office for fiscal year 1986 at the same level as 1985 and appropriate $70,000,000. In addition, we would ask that you advise the Senate conferees that it is the Subcommittee's belief that the $7,900,000 of funds previously appropriated and now available in unobligated balance should be redirected to the states, as currently provided for in the Senate report.

Mr. President, those letters represent the unanimous judgment of the members of the Juvenile Justice Subcommittee that the programs funded by OJJDP are vitally important, and are deserving of full funding. Happily, the members of this body have uniformally agreed with that assessment.

Nevertheless, now the Office of Management and Budget has informally recommended to the Department of Justice the rescission of all fiscal year 1986 appropriations for the Bureau of Justice Assistance [BJA], OJJDP, and other programs. The Justice Department sought a reconsideration of the proposed rescission of appropriations for BJA. The Department did not, however, seek to avoid the rescission request as to OJJDP funds. As a result, the administration has ordered OJJDP not to spend any of its funds until the rescission issue is resolved, notwithstanding that Congress has not yet received a formal notice of a proposed deferral or rescission of OJJDP funds pursuant to the Impoundment Control Act of 1974. A formal rescission notice from the administration is not expected to be received by Congress until the end of January 1986, at which time the 45-day time period begins for congressional action.

Consequently, a variety of important programs nationwide stand to be disrupted, notwithstanding the clear congressional intent.

Mr. President, I understand the administration's position on funding for OJJDP, and while I support the ad-

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ministration whenever possible, on this issue I disagree most stridently. These programs are necessary, these funds are appropriate, and this resolution is a good one. I urge my colleagues to help defeat this latest attempt to delete these funds for children and adolescents who are in need.

SENATE RESOLUTION 279—RELATING TO THE TRANSFER OF U.S. TERRITORY IN THE ARCTIC OCEAN

Mr. HELMS (for himself, Mr. Hecht, Mr. East, and Mr. Denton) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. Res. 279

Whereas Wrangell Island became a part of the United States by right of confirmed discovery during the voyage of Captain Thomas Long, a citizen of the United States, of the barque *Nile* in 1867 and by right of first possession formalized during the voyage of Captain Calvin L. Hooper of the U.S. Revenue Marine steamer *Corwin* in 1881;

Whereas the Senate had printed a "Report of the U.S. Revenue Steamer *Thomas Corwin*, in the Arctic Ocean," as Ex. Doc. No. 204 in the 1st Session of the 48th Congress;

Whereas the House of Representatives had printed reports on the cruise of the United States Revenue Marine steamer *Corwin* in Alaska and the Northwest Arctic Ocean in the 2d Session of the 47th Congress, in the 1st Session of the 49th Congress, and in the 1st Session of the 50th Congress;

Whereas the Senate and House of Representatives of the United States of America approved on March 18, 1878 an Act in aid of a Polar expedition designed by James Gordon Bennett, a citizen of the United States, which authorized the Secretary of the Treasury to issue an American register to the vessel *Jeannette*, purchased in Great Britain;

Whereas the Senate and House of Representatives of the United States of America approved on February 27, 1879 an Act authorizing the Secretary of the Navy to accept and take charge of the ship *Jeannette* for the use of a North Polar Expedition;

Whereas Jeannette Island was discovered on May 16, 1881 and formally taken possession of on June 3, 1881 during the voyage of U.S. Navy Commander George Washington De Long on the *Jeannette;*

Whereas Henrietta Island was discovered on May 24, 1881 and formally taken possession of on June 3, 1881 during the voyage of U.S. Navy Commander George Washington De Long on the *Jeannette;*

Whereas Bennett Island was discovered on July 11, 1881 and formally taken possession of on July 29, 1881 during the voyage of U.S. Navy Commander George Washington De Long on the *Jeannette;*

Whereas Wrangell, Herald, Jeannette, Henrietta, and Bennett islands were surveyed by the United States Navy for the United States Coast and Geodetic Survey in 1881;

Whereas the United States Coast and Geodetic Survey placed Wrangell, Herald, Jeannette, Henrietta, and Bennett islands in the District of Alaska;

Whereas beginning in 1900 the United States Geological Survey included Wrangell, Herald, Jeannette, Henrietta, and Bennett islands as part of the District, later Territory, and State of Alaska; and

Whereas unlike the governments of Canada and Great Britain, the Government of the United States has never surrendered its sovereignty over these islands; Now, therefore, be it

Resolved, That (a) it is the sense of the Senate that under the United States in any territory, outercontinental shelf, exclusive economic zone, or fishery conservation zone, including the territory described in subsection (b), may only be transferred to any other country—

(1) by treaty, in accordance with Article II, section 2, clause 2 of the United States Constitution which states that "[the President] shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two-thirds of the Senators present concur;"; and

(2) by enactment of Congress in accordance with Article IV, section 3, clause 2 of the United States Constitution which states that "[t]he Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States.".

(b) The territory referred to in subsection (a) includes the islands of Wrangell, Herald, Bennett, Henrietta, and Jeannett which are located in the Arctic Ocean and the outer continental shelf of, and the exclusive economic zone surrounding, those islands.

Mr. HELMS. Mr. President, I am deeply concerned that the Department of State is endeavoring to turn over to the Soviet Union five U.S. islands in the Arctic Ocean. These islands are: Wrangell Island, Herald Island, Jeannette Island, Henrietta Island, and Bennett Island.

There is far more at stake here than the ownership of five small islands covered with ice and snow. What is at stake is how, under the rules of international law, the United States will define its Outer Continental Shelf. If we surrender these islands we will be surrendering an area that amounts to almost half of our entire Outer Continental Shelf.

Moreover, these islands lie in the Arctic between the Soviet Union and the North Pole. If we surrender the islands to Soviet sovereignty we may well be surrendering control of the Arctic Ocean to Soviet nuclear submarines.

The State Department refers to this problem as a boundary dispute involving the 1867 Convention Line established with the purchase of Alaska. It is true that there are substantive issues involving the 1867 Convention Line in the Navarin Basin, south of the Bering Strait. These are questions which ought to be carefully studied, both by the administration and by the Senate.

But the islands are all north of the Bering Strait, in the Arctic Ocean, and deserve to be a focus of separate attention. A glance at the map will show that this is hardly a "boundary dispute," a term which might imply drawing a line a hundred miles one way or another. This is a major issue, substantively different from the Navarin Basin problem, which could determine control of the Arctic Ocean for generations to come.

These islands are U.S. territory and property. They were discovered by U.S. citizens and taken possession of on behalf of the United States. The United States has asserted sovereignty over them. The U.S. Congress has acted upon them as our territory and property. Therefore, it is clear that, under the Constitution, they cannot be alienated by the State Department, without the express consent of both Houses of the U.S. Congress.

The resolution which I am submitting today expresses the sense of Congress that the provisions of the Constitution with regard to the disposition of U.S. territory and property be complied with fully. I hope that the Committee on Foreign Relations will schedule hearings on this resolution at an early date next year, so that all aspects of the issue can be considered. Incredibly, there have never been hearings on this issue; yet the State Department has been blithely proceeding as though this were just a minor issue.

The resolution that I am offering today is simple and to the point. It states that it is the sense of the Senate that under the U.S. Constitution any right, title, or interest of the United States in any territory, Outer Continental Shelf, exclusive economic zone or fishery conservation zone may only be transferred to another country by treaty, within the meaning of article II, section 2, clause 2 of the U.S. Constitution, and by enactment of Congress in accordance with article IV, section 3, clause 2 of the U.S. Constitution.

Mr. President, the President has the power to make treaties, by and with the advice and consent of the Senate, provided two-thirds of the Senators concur. There is no dispute over the President's power to make treaties. All we are saying in this resolution is that this matter is a matter which should be handled by treaty. It is not a matter to be considered as a technical issue settled by an Executive order.

Mr. President, the treatymaking power does not stand alone. Where U.S. territory and property is concerned, there are further requirements. Our Constitution in article IV, section 3, clause 2 states clearly that, "(t)he Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States." Nowhere, does our Constitution state that the Department of State has the power to hand over U.S. territory to a foreign power by means of an Executive agreement or other similar instrument.

The historical facts about United States sovereignty over thise islands are clear. Unfortunately, the Department of State has been spreading all manner of disinformation concerning these islands not only to Members of Congress but also to the public at large.

In a letter to me earlier this year, the State Department referred to this matter as "a maritime boundary" issue. It stated that "all of these islands are claimed by the U.S.S.R." The State Department went on to say that "It has been alleged that the United States has claimed sovereignty over the five islands"—it is noteworthy that the State Department states the Soviet claim as an accepted fact, whereas it asserts that "after extensive research, the Department of State has not found any evidence that the Government of the United States has ever formally asserted a claim to any of these islands."

That statement is totally false. In fact, one of my illustrious predecessors representing North Carolina in the Senate, Senator Robert R. Reynolds, dealt with this matter extensively in 1940. The State Department simply has not bothered to look into the historical record. I have spent some months researching that record, including diaries of the period—newspaper accounts of the discovery period—including previously overlooked accounts in Honolulu newspapers of the last century—the U.S. Geological Survey, the CONGRESSIONAL RECORD, and other official documents of record.

So let us be clear about the historical record.

Wrangell Island was discovered during the voyage of Captain Thomas Long, a citizen of the United States, aboard the barque *Nile* in 1867. A new account of this confirmed discovery appeared in the "Pacific Commercial Advertiser" published in Honolulu on November 9, 1867.

First possession of Wrangell Island was formalized during the voyage of Capt. Calvin L. Hooper of the U.S. revenue marine steamer *Corwin* in 1881. Information about this voyage was printed in Senate Executive Document Number 204 in the first session of the 48th Congress. The title of this report is, "Report of the U.S. Revenue Marine Steamer Thomas Corwin, in the Arctic Ocean." The House of Representatives also printed reports about this voyage during the second session of the 47th Congress; during the first session of the 49th Congress; and during the first session of the 50th Congress.

Mr. President, on March 25, 1922, the distinguished Senator Joseph T. Robinson placed a letter in the RECORD written to him by the Captain Commandant of the U.S. Coast Guard, W.E. Reynolds. In his letter, Commandant Reynolds notes that he was a junior officer aboard the *Corwin* and was the officer assigned to carry our flag during the landing on Wrangell Island on August 12, 1881. In the letter he states, and I quote, "The captain and I landed together, being the first to get ashore. I had the flag, and with the captain's permission waved it and took possession of the new land in the name of liberty and of the Government of the United States of America."

Mr. President, the words of Captain Reynolds of the U.S. Coast Guard are certainly crystal clear with respect to taking formal possession of Wrangell Island.

Senators should also take note of the following entry in the log book of Captain Hooper, and I quote:

> Friday, August 12, 1881. Lat. 71–04 Long. 177–40 off Wrangle Land. Got under way at 4:00 a.m. After a good deal of bumping and squeezing we reached the land and anchored in a small clear space off the mouth of a small river. Went on shore and took possession in the name of the U.S.

This quotation is contained in a study entitled, "The Discovery of Wrangel Island" by Samuel L. Hooper. It was published by the California Academy of Sciences as Occasional Paper No. XXIV, in San Francisco in 1956.

Prof. John Muir, a member of this expedition, wrote in his book that, and I quote, "A notable addition was made to the national domain when Captain Calvin L. Hooper landed on Wrangell Land and took formal possession in the name of the United States." John Muir, one of our Nation's most famous naturalists, was the founder of the Sierra Club.

The famed arctic explorer Vilhjalmar Steffansson in his book, "The Adventure of Wrangel Island" describing an expedition undertaken in 1921, wrote that, and I quote, "* * * following 1881 * * * the island was United States territory."

The Soviets have, in the past, claimed that a Russian Lieutenant Wrangel discovered the island. This assertion is groundless according to the lieutenant's own memoirs. Wrangel himself wrote in his work, "The Narrative of a Voyage to the Polar Seas in the Years 1821, 1822, and 1823" that, and I quote, "* * * with a painful feeling of the impossibility of overcoming the obstacles with which nature had opposed us, our last hope vanished of discovering the land which we yet believed to exist * * * we had done what duty and honor demanded, further attempts would have been absolutely hopeless and I decided to return."

Mr. President, the matter of Wrangell Island was before the Senate and the House of Representatives in 1939 and 1940. With the gathering storm of World War II about to engulf our Nation, Members of the Senate and the House became concerned about our Pacific air routes. A bill was offered in the House by Congressman Maas authorizing and directing the Secretary of the Navy to construct a naval air station on Wrangell Island. The bill, H.R. 4286, was introduced on February 17, 1939, and referred to the Committee on Naval Affairs. The State Department influenced the committee to take no action on the bill.

Mr. President, a similar bill was introduced in the Senate by a distinguished predecessor of mine from the State of North Carolina, Senator Robert R. Reynolds. While no action was taken on the bill, in the following year, Senator Reynolds introduced a resolution and articles relative to ownership of Wrangell Island.

Mr. President, so that our colleagues may have Senator Reynold's resolution and statement for immediate reference, I ask unanimous consent that the statement of Senator Reynolds of Monday, April 8, 1940, be printed in the RECORD at the conclusion of my remarks as exhibit 1.

Mr. President, I ask unanimous consent that a scholarly article entitled, "The Right of American Sovereignty over Wrangell Island," by Mr. David Nolan and Mr. Mark Seidenberg which appeared in the Canadian historical journal published by the University of Saskatchewan, "Musk Ox," be printed in the RECORD at the conclusion of my remarks as exhibit 2.

On March 18, 1878, the Senate and the House of Representatives approved an act in aid of a polar expedition designed by James Gordon Bennett, a U.S. citizen which authorized the Secretary of the Treasury to issue an American register to the vessel *Jeannettee* which had been purchased in Great Britain.

On February 27, 1879, the Senate and the House of Representatives approved an act authorizing the Secretary of the Navy to accept and to take charge of the ship *Jeannette* for the purpose of a north polar expedition.

Jeannette Island was discovered on May 16, 1881, and formally taken possession of on June 3, 1881, during the congressionally authorized voyage of U.S. Navy Commander George Washington De Long on the *Jeannette*.

Henrietta Island was discovered on May 24, 1881, and formally taken possession of on June 3, 1881, during this same voyage.

Bennett Island was discovered on July 11, 1881, and formally taken possession of on July 29, 1881, during this same voyage.

Mr. President, there is ample published historical material to verify these facts about the three De Long Islands. For example, Houghton Miff-

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lin Co. published a two volume work in 1883 entitled, "The Voyage of the *Jeannette*, The Ship and Ice Journals of George W. De Long." These were edited by his wife, Emma De Long. There is also an extensive collection of clippings and other information about this voyage at the Naval Academy in Annapolis.

Mr. President, I ask unanimous consent that excerpts from Captain De Long's journals relating to Henrietta, Jeannette, and Bennett islands be printed in the RECORD at the end of my remarks as exhibit 3.

Mr. President, I ask unanimous consent that the appropriate citations on these five islands from the bulletin of the U.S. Geologic Survey, No. 187, entitled "Geographic Dictionary of Alaska," written by Marcus Baker, the Secretary of the U.S. Geologic Survey, and published in 1902 be printed in the RECORD at the conclusion of my remarks as exhibit 4.

Senators should note that this "Geographic Dictionary of Alaska" was reprinted in a second edition in 1906 by the U.S. Geological Survey. The same citations to these five islands appear in this edition.

Mr. President, in 1930, the U.S. Geological Survey published its bulletin 817 which was entitled, "Boundaries, Areas, Geographic Centers and Altitudes of the United States and the Several States." This publication was written by Mr. Edward M. Douglas and was a revision and enlargement of the 1923 edition. In the chapter entitled, "Additions to the territory of the United States," Wrangell, Bennett, Henrietta, and Jeannette islands are described. Mysteriously and without explanation, or perhaps owing to the influence of the Department of State, these references were deleted from the 1966 and the 1976 edition of this work which were edited by Mr. Franklin van Zandt. According to information reaching my office, Mr. van Zandt had submitted his manuscript for the 1966 edition to the State Department and was told by the State Department to delete the reference to Wrangell, Bennett, Henrietta, and Jeannette islands.

Mr. President, I ask unanimous consent that the appropriate citations to these islands in the 1930 edition of this bulletin be printed in the RECORD at the end of my remarks as exhibit 5.

The giveaway of these five islands to the masters of the Kremlin is not some obscure action. In fact, back in North Carolina, folks are concerned about this situation as are other citizens around the country judging by the mail that I have received on the issue.

Mr. President, I ask unanimous consent that an excellent article entitled "U.S. Considering Relinquishing Control of Alaskan Islands" which appeared in the Laurinburg Exchange of Laurinburg, NC, on June 5, 1985 be printed in the RECORD at the conclusion of my remarks as exhibit 6.

Mr. President, facts are facts. These five islands are U.S. territory. If the Department of State is endeavoring to give away these islands to the Soviet Union, including the related Outer Continental Shelf areas and economic zone areas, then it is the duty of the Congress to adhere to the Constitution in terms of how territory may be transferred.

Mr. President, this resolution simply expresses the sense of the Senate that the Constitution must be observed in cases where our territory is to be transferred. The resolution outlines the historical facts which I described earlier in order that an accurate description of the sovereign rights of the United States of America over these five islands be presented.

There being no objection, the exhibits were ordered to be printed in the RECORD, as follows:

EXHIBIT 1

[Extension of Remarks of Hon. Robert R. Reynolds of North Carolina in the Senate of the United States, April 8, 1940]

RESOLUTION AND ARTICLES RELATIVE TO OWNERSHIP

Mr. REYNOLDS. Mr. President, under the permission granted me during the course of my remarks, I ask to have printed in the Appendix of the RECORD the resolution (S. Res. 253) to which I referred; a statement which I have prepeared with respect to Wrangell Island; an article from the Washington Post of February 26, 1939; and an article entitled "War of Propaganda May Be Already Won."

There being no objection, the matters referred to were ordered to be printed in the RECORD, as follows:

SENATE RESOLUTION 253

Resolved, That the Secretary of State is requested to make a report to the Senate at the earliest practicable date with respect to whether or not the United States has a valid claim to sovereignty over Wrangell Island.

STATEMENT BY HON. ROBERT R. REYNOLDS OF NORTH CAROLINA

Wrangell Island is, roughly, the size and shape of Jamaica, 80 miles long and 35 miles wide. It is rugged rather than rocky with a maximum elevation of about 2,000 feet. So far as we know, there is no permanent ice or snow, with the snows of winter disappearing completely in summer. The minimum temperature in winter is only a little lower than that of Montreal, about the same as that of Winnipeg, and not nearly so low as that of some of the Russian cities. Because the island is small and surrounded by a small ocean, the warmest summers will not be far different from the month of May throughout some of the northwest sections of Canada and some of the northeast sections of the United States. Essentially it is a prairie land—no trees, and only small bushes. The beach is abundantly supplied with driftwood for fuel and for the building of log houses. It is probably the greatest polar bear country in the world. But bearskins have at present a small commercial value. There are no locations better for the trapping of white and blue foxes, and there are considerable quantities of the remains of the prehistoric elephants—mammoths of that fossil monster may be of some importance. It is an excellent station for th walrus and hair-seal industry. Nothing i known about the presence or absence c minerals. Great herds of reindeer are owne by natives and whites in Alaska and suitabl breeding stock could be purchased at reasonable cost and landed in Wrangell Islan

Probably Wrangell Island could suppor some ten to twenty thousand herd equall in value to double that numbers of sheep.

Although the commercial value of Wrangell Island is small, it is not negligible. As matter of fact I should not have been in th least interested in this island, however, bu for my belief that within 25 years from no the Polar Ocean will be one of the chief theaters of air commerce. It is true that we o the United States have plenty of rich lan to develop, both at home and in our Territories, particularly in Alaska, and in speakin of Alaska, may I say that I believe that w have come to need badly a supply statio under our own flag somewhere on the northern frontier of Asia such as Wrangell Island for remember that Asia, Russian territory is located within a stone's throw of ou American Territory of Alaska. Fact is, the Little Diamede Island, which we acquire from Russia together with Alaska and Pribilof in the Aleutian Islands for a consideration of $7,200,000, is only about one-hal mile from the Big Diamede Island which belongs to Russia itself.

Every other island on this vast norther frontier of Asia is clearly the property o some other nation, either by discovery or by occupation, but I believe that this one spot Wrangell Island, is clearly ours and the longer that we let it go and remain in the hands of Russia, as of now, the more difficult will be our chance of obtaining our legal rights.

From a purely commercial standpoint a of now, the island would not be worth anything to us, but as I have heretofore stated within 25 years from now it would be a very valuable spot, so my chief design, that what I have said and done, shall rest entirely on the grounds of public interest and public spirit.

If one looks at the Polar Ocean on a globe, which is the only way of correctly realizing the situation, you will note that Wrangell Island lies straight across from New York and is almost directly in line between the metropolis of New York and Manila, the capital of the Philippine Commonwealth. Even though it is not strategically the most important island on the northern coast of Siberia, it is the only island to which the United States Government has a claim on that vast frontier.

A couple of years ago when I was in Alaska and at which time I visited Point Barrow, the northernmost point in the Western Hemisphere, as well as Deering, Wainwright, Nome, and Siberian waters, friends of mine there and others whom I have met from time to time and place to place who were familiar with Siberia, impressed upon me how the Japanese were penetrating northward into that great country. And, as a matter of fact, several years ago while in Russia I understood that the Soviet Government was encouraging the immigration of its nationals from the congested cities such as Odessa, Leningrad, and Moscow to Siberia and its northeastern portions on the mainland in the neighborhood of Wrangell Island.

At the present time I am informed that a number of Chuckhees, Russian nationals, are occupying the island as a result of our nationals having been forcibly taken from the island a number of years ago, concerning which incident I shall return to shortly. We have never asked submission of the question to some form of international court, in which case their occupation, coupled with our neglect, could have established ownership, so in this bill I am merely asking that our State Department inquire into the question of whether or not the United States has a valid claim to sovereignty over this island.

It is my information that in September of 1921 several Britishers, together with a small party of Eskimos, landed on Wrangell Island, where they raised the British flag, which they claimed was the third time that the British flag had been placed upon the soil of Wrangell Island. At that time there were some press stories in the United States to the effect that our Government had protested against Britain's occupation of this island, but as to whether or not these statements are authentic I have not been informed. At that time, however, it is my understanding that the Soviet Government of Russia did protest. This protest contained three reasons on account of which Wrangell Island was said to be Russian.

The first reason was discovery of the island by Baron Wrangell a little more than a hundred years ago. Close students of the baron's journey at the time that he was supposed to have discovered Wrangell Island will reveal that he was never anywhere near it. And in addition to that he states in his description definitely that he failed to discover land. Confirmation of this can be obtained easily.

The second Russian claims are on the basis of a landing between the years 1910 and 1915. As a matter of fact, any nation could have claimed Wrangell Island on the basis of a landing in 1910, 1915, or 1921, the latter of which was claimed by the British.

Thirdly, the Russians advance the claim that Wrangell Island is Russian by reason of its immediate proximity to Siberia. The distance from Siberia is about 100 miles, and as to this claim for ownership through proximity might possibly be agreed upon by some future international convention, but it certainly has not been agreed upon in the past.

In the year 1880 or 1881 the New York Herald fitted out a Polar expedition under the command of Lieutenant De Long, an officer on leave of absence from the United States Navy. This was the famous and tragic *Jeannette* expedition, so called after the ship which De Long took north through the Pacific and through the Bering Straits proceeding into the ice which he met northwest of Alaska, firm in the belief that just beyond were the shores of a great continent. Shortly thereafter, while the *Jeannette* expedition was found in the ices of the great Polar region, the American flag was planted on Wrangell Island either by a member of his expedition or by one of the crew of an expedition that went in search of the members of the *Jeannette* expedition.

I claim that Wrangell Island is originally the property of the United States through right of discovery, but it is a principle of international law that claims arising out of the discovery must be followed up within any reasonable time by exploration or occupancy or else it lapses into the territory of a no-man's land.

The British claim some sort of title as of 1854, by way of discovery or otherwise, and the Russians claim title for the same or similar reasons; but, after all, it is not disputed that the American flag was placed on Wrangell Island in 1881 or 1882, and it was actually occupied by the nationals of the United States when the Russian nationals, forcibly and against their will, removed the nationals of the United States from the island to Siberia, and I understand that since then the Russians have occupied the island.

I think it is pretty well conceded—at least, there is no information to the effect—that any human being ever landed on Wrangell Island before the Americans did in 1881, and we know pretty definitely that no landing was made upon the island thereafter for many, many years.

Those who claim to have a knowledge of aerial navigation say that conditions on the whole there are better than in any other area in the world, and, of course, for the time being, we are interested in the acquisition of this island for the reason that, as I have heretofore stated, within 25 years it will be a very valuable spot, as the condition of the island is such that, without great difficulty or excessive expense, airplane bases could be established. Some have ventured that a harbor at one end of the island is so enclosed that aquaplanes could make safe landings, and in the winter, with the airport covered with snow, great passenger and freight planes could land safely on skis. Not only are flying conditions over the polar area on the whole good, according to those who are familiar with this section, but it is much the smaller of the oceans and therefore the easiest ocean to cross. As the settlements creep northward along the great rivers of Siberia and Canada, the polar mediterranean will continually increase in importance through the airways above which connects the various lands.

In conclusion, may I say that Russia is now in the possession of Wrangell Island. I claim that that possession was obtained by force and not by discovery. Of course, on account of Wrangell Island's being in the immediately proximity of Russian territory, it would be easy for Russia to seize and difficult for us to defend, but surely it would be possible to establish the ownership of the island at an international conference. If Russia—or any other country for that matter—then acted contrary to the decision of the conference, the facts would at least be known and the blame would be laid where it was deserved; and again I wish to say that to use Wrangell Island as a base we would have there a short cut for airplanes flying over the top of the globe from New York to Manila instead of around the circumference by such routes as are taken by ships and trains.

Wrangel Island has an area of about 2,000 square miles. Its elevation rises to 2,500 feet, but there is much less land on the south and north. Shoals and sand spits project to sea on the north and southwest. The west and east coast are steep and lofty. The harbor is on the southeast. Tundra covers many parts.

In 1923 a party of Eskimos under an Alaskan trapper were established on Wrangel Island, but Russia, laying stress on the claim made around 1915, forcibly removed the colony in August of 1924 and shortly afterward brought 50 Chuckhees to form a settlement under Soviet officials, and I understand that the colony was visited by Russian airplanes in 1927. At that time these claims were not officially disputed by the United States, according to my information.

Last year I introduced a bill in Congress calling for the establishment of naval bases on Wrangell Island. This resolution was referred to the Naval Committee of the Senate, and no action to date has been taken thereupon. Fact of the matter is, I think that I was a little premature in the introduction of that resolution. I probably then should have introduced a bill such as I am introducing today, requesting the Secretary of State to make a report to the Senate at the earliest practical date with respect to whether or not the United States has a valid claim to sovereignty over Wrangel Island; and then, after the establishment of this claim, if an international congress awards the island to the United States, then would be the proper time for a bill calling for the establishment of naval bases there. At any rate, last year, when I introduced the aforementioned bill, which was referred to the Naval Affairs Committee of the Senate, there appeared in the Washington Post under date of February 26, 1939, an article entitled "United States Owns Wrangell Island. Not Soviet, Says Reynolds," and the subhead of that story reads. "Retired rear admiral, who planted American flag, revives controversy of Arctic possession." I wish to have this article at this juncture printed as a part of my remarks.

I ask that the resolution be referred to the Foreign Relations Committee, and I hope that we may shortly ascertain the rightful owner of this island, which in the future, I am confident, will prove to be a most valuable possession.

[From the Washington Post of February 26, 1939]

United States Owns Wrangell Island, Not Soviet, Says Reynolds—Retired Admiral, Who Planted American Flag There, Revives Controversy Over Arctic Possession

Because "first come first served" still is the law of the masterless lands, Rear Admiral William Edward Reynolds, retired, believes the Russians ought to get off Wrangell Island.

It is a matter of personal pride to him, for he "came first," in this case, he said, and planted the American flag on that ice-bound spot in the Arctic Sea one August morning in 1881.

There is a first-class international squabble ready to flare up over this disputed land, and it was another Reynolds who started it.

Last Friday Senator Robert R. Reynolds, of North Carolina, introduced a bill in the Senate to establish a naval air base on Wrangell Island, but there is small chance of doing that while the Russians are there.

It seems that in 1924, taking advantage of a claim they had made in 1916 that had never been officially disputed, the Russians abducted one Charles Wells, an American sailor from Seattle, and 12 Eskimos peacefully engaged in fishing and hunting and otherwise making good America's title to the spot, and replaced them with a colony of enthusiastic Communists.

RESTRAINS HIS PRIDE

This is a pretty intolerable situation for 79-year-old William Reynolds, who retired as rear admiral in the Coast Guard just when this was going on. But, mild-mannered and dignified, he restrained his outraged pride yesterday and spoke of the arrogant Bolsheviks with creditable courtesy.

"I don't know what right they had to take our island," he remarked, "but then I don't know much about international law. I took possession of Wrangell Island for the United States, and we were the first white

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men that ever landed there. Of course, it's named after a Russian, Baron Wrangell, but he never reached the island; he just saw it."

As a matter of fact, it was something of an accident that led to that historic landing party, the gray-haired seaman admitted. The steamship Corwin, on which he was a junior officer at the time, was not sailing about the Artic looking for new lands for Uncle Sam. She was searching for survivors of the exploring ship Jeannette crushed by ice just before.

They didn't find any survivors, but they found a lot of polar bears and walrus, and a good plateau now useful as an airplane landing field, and they presented this chilly spot to the State Department to file away for the future.

FIFTEEN YEARS TOO LATE

Now Senator REYNOLDS has found a use for it, but he is 15 years too late. When, in 1924, Commander M. Davidoff came back in triumph to Vladivostock with Wells and his Eskimos he proudly boasted that once more the proletarian revolution had scored over the "imperialists," who were attempting to "seize the island" because it "would have made an ideal aerial base."

Poor Wells died before he ever got away from Siberia and as Rear Admiral Reynolds is the last survivor of the officers on that historic cruise of the *Corwin*, he is now the only principal of the drama of Wrangell still able to tell the tale.

But Wells' sponsor, Carl J. Lomen, is still very much alive, and so in his claim against the Russian Government for the 167 foxskins and 40 polar bear skins they relieved him of in 1924, not to mention damaged against his firm, the Loman Reindeer & Trading Corporation, which bought from an English firm the trading interests in the island just in time to have them seized behind their backs by the conquering Russian revolutionaries.

But after all, the whole thing rests with the State Department, and the State Department isn't interested now. Maybe if we build that air base Senator Reynolds wants there will be a showdown, and the Russians will be forced to admit the validity of Rear Admiral Reynolds' deed, and pay Lomen his damages. Such at least is the hope of Reynolds, Reynolds, and Lomen.

WAR OF PROPAGANDA MAY BE ALREADY WON—HUNGER IN JOBLESS HOME MORE PERILOUS THAN ANY FOREIGN SPY, IS VIEW

The little man, sitting in his little home, and wondering where he can get another pail of coal, will ultimately decide whether we get into war or stay out, asserts Samuel Grafton, writing in the New York Post. He adds:

"We are being told to watch out for propaganda. Good enough. But in the larger sense, this is a false steer. The propaganda fight has already been fought and won by the Allies. The United States now hates Hitler more than it hated the Kaiser in 1916. The toothiest of British lecturers can add only a drop to the brimming bucket of our hate. * * *

"History is made when the father of the family says he isn't hungry and slides his food down-table to this children, and the kids take it, trying not to think that's all there is, there isn't any more.

"History is made when the foreman at the plant tells John Smith, American worker, that he can't give him a job until the factory gets another war order, but that the factory isn't getting war orders because the Neutrality Act forbids lending money to the Allies. The muse of history really begins to smirk when John Smith walks down the factory street, feeling the stones through his shoes and wondering why the devil we shouldn't lend money to the Allies when it means a job a man can work at and feed his kids with.

"A decent peacetime job would keep John Smith from making this decision. * * *

"Tracing out the figures nationally, I find that the total of W. P. A. workers has been cut almost in half, from 3,043,367 in February to 1,661,970 in September. The rise in 'war boom' employment doesn't even remotely correspond to this wholesale slaughter of W. P. A. pay envelopes. The cut occurs at a time when a job is the best and most vital antiwar propaganda of all, because it talks to a man 7 days a week and 24 hours a day.

"I have a feeling that we are flunking our national test. We are depending on a Neutrality Act, a dike of words against a sea of need and blood. We are asking men to consult the national interest first, at a time when the interests of their children clamor in their ears. We are asking the little man to be big. That is the measure of the smallness of our approach.

"The stage for war, the stage for our participation, is being set. It is a bare stage and on it are a few kitchen chairs, an empty table, a congealing stove; in one of the chairs sits a man who fears the morning and who will accept any hope that comes. So far, we have been afraid to look at him."

EXHIBIT 2

THE RIGHT OF AMERICAN SOVEREIGNTY OVER WRANGELL ISLAND

(David B. Nolan* and Mark J. Seidenberg†)

ABSTRACT

The dispute over rightful sovereignty to Wrangell Island today continues as an international issue of the Arctic. The Soviet Union, United States, the United Kingdom, and Canada at one time or other have asserted interests over this frozen piece of tundra and mountain. The proximity of the island to both the U.S. and Russia has great strategic value in our push-button nuclear age. The issue itself has implications for the resurgence of American military might, for superpower detente, and for international law.

The history of Wrangell Island is filled with courage and tragedy. It is a tale of kidnapping and death.

The valiant Captain Calvin L. Hooper, the *de facto* governor of the Alaska territory, was the first to land on Wrangell Island. He claimed the island for the United States which perfected this claim through effective occupation in accordance with international law.

The Soviet government seized control of Wrangell Island in 1924 and took American citizens into custody. This act is held to have been in violation of international law and American statutes that sought to protect U.S. territorial rights.

Hence the Soviet Union is believed to have occupied Wrangell Island illegally until the present time. International law does not allow any nation to gain sovereignty in such a fashion. The U.S. sovereignty over Wrangell has never been legally ceded to the Soviet Union, either on account of treaty or due to U.S. inaction.

* * * * *

Extensive exploration of the Arctic did not occur until the nineteenth century. It is not surprising that Wrangell Island,[1] one of the largest yet most inaccessible islands in the Arctic did not become known to the world until this time.

Wrangell Island[2] is located eighty-five miles off the northeast coast of Siberia and two hundred seventy miles northwest of Cape Lisbourne, Alaska. It straddles the 180° meridian and the 71° parallel and encompasses an area to two thousand square miles. As with other islands in the Arctic Ocean, accessibility is limited by thick fog and sea ice. Impenetrable ice floes block access even to its southern shore for at least ten months of each year.

Four nations have asserted interests over this island—the United States, the Soviet Union, the United Kingdom, and Canada. The superiority of the claim by the United States can best be understood when placed in the perspective of arctic history and international law.

Early recorded explorations into the Arctic did not intend to lay formal claim to, and take effective occupation of, arctic territory. Without these elements sovereignty will not arise over discovered land. The Greek navigator Pytheas of Massila made the first recorded voyage into the Arctic Ocean in the fourth century. B.C.E., but was turned back by fog and ice.[3] The next recorded voyage into the Arctic of any significance was by a Norse chief named Ottar who sailed into the White Sea, after passing the Kola Peninsula.[4]

By the sixteenth century, England and other maritime nations sought better trade routes to the Orient than the long and arduous routes around the Cape of Good Hope and Cape Horn. In the year 1553 English merchants organized voyages to China by the Northeast Passage across to top of Europe and Asia.[5] In 1594 the Dutch navigator Willem Barents sailed into the Kara Sea.[6]

A Cossack trader named Simon Dezhnev sailed eastward from the Kolyma River in the summer of 1648. The natives of eastern Siberia told him of a "large country" lying to the north of Chukchi and Alaska. He was the first white man to hear of this land called Beringia.[7]

In 1763, another Cossack named Andreyev heard of this land and traveled to the Medvezhi Ostrova to find it. He claimed to have seen a large land to the East from that island location. However, six years later three Russian surveyors named Leontev, Lesev, and Pushkarov confirmed that there was no land that could be seen from such location.[8] Mirages of islands are not uncommon in the Arctic. This factor, added to the difficulty of obtaining star readings for location determinations in arctic fog, have often made land sightings unreliable.

Baron Ferdinand Petrovich von Wrangell, a lieutenant in the Imperial Russian Navy, also heard the tale of the land's existence from the Chukchi chiefs of Siberia. Between 1820 and 1824 he commanded several expeditions in search of the island but he never saw it, let alone land on or occupy it.[9] In April of 1824, at the end of his last arctic expedition, Wrangell wrote:

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* Dr. Nolan Assistant Counsel to the President of the United States.

† Mr. Seidenbergy is Vice-President of an American corporation, living in Seal Beach, California.

[1] Footnotes at end of article.

"[W]ith a painful feeling of the impossibility of overcoming the obstacles which nature opposed to us, our last hope vanished of discovering the land which we believed to exist. We saw ourselves compelled to renounce the object for which we had been striving through three years of hardships and danger." [10]

Despite this failure, Wrangell gained worldwide fame as an arctic explorer. He later became Governor of Russian America. Yet he was never to land upon the island that would bear his name in his honour.

During the mid-nineteenth century, England, still looking for a short-cut to the Orient, attempted to find a Northwest Passage. In 1845 Sir John Franklin left England with a company of 129 to travel over the top of America to Petropavlovsk, Kamachatka. By September, 1846, the expedition's ships had become locked in an ice pack twelve miles from King William Island.

On 11 June 1847 Sir John Franklin died. On 22 April 1848 the ships *Erebus* and *Terror* were deserted and what was left of their crew started on a hopeless march to safety. No one survived.[11]

By 1848 the Royal Geographical Society became concerned over the ships' disappearance and the British Admiralty agreed to its request to organize a search. The United States and Canada also organized searches for the missing ships.

On 6 August 1849, Captain Henry Kellett, R.N., of H.M.S. *Herald*, one of the Franklin search vessels, arrived at a small island west of Cape Lisburne. Upon landing, Kellett took possession and named the island Herald after his ship. He hoisted the Union Jack and claimed the island on behalf of Queen Victoria.

Kellett sighted a large land mass beyond Herald Island to the west which he called Plover in honor of another Franklin relief expedition ship. Whereas no land mass existed at the position noted by Kellett on navigation charts, it may have been a mirage rather than Wrangell Island. In any event, no further landing or exploration was made.

Six years later, on 13 August 1855 Captain John Rogers, in his flagship the U.S.S. *Vincennes,* reached the position ascribed to Plover Island, also known as Kellett Land on the Admiralty charts.[13] When there was no land to be seen from the clear horizons, the charts by the Depot of Charts and Instruments of the U.S. Navy were changed accordingly. It should be noted that the Russian author Shvede gives credit to the American, Rogers, for discovering Wrangell Island [14] on that Congressionally authorized voyage.[15]

The United States' legal rights in the northwest of the North American Continent have a foundation in the Treaty of Adams-de Onus of 22 February 1821 which ceded Spanish rights in Oregon Country to the U.S.[16] The United States' claims to northern parts of the Oregon Country (now southern Alaska) are based, in part, upon voyages of discovery and annexation by Don Juan Francisco de la Bodega y Quadra and Don Ignacio Arteiga for the Spanish Government between 1775–1779.[17]

H.I.M. Tsar Aleksandr Pavlovich of Russia issued a ukase in 1821 banning "transaction of Commerce, and the pursuit of whaling and fishing or any other industry . . . all along the North West Coast of America from the Bering Sea to the 51st parallel." [18] This coast was part of the area ceded to the United States by Spain in 1821. The Tsar's ukase prompted U.S. President Monroe, in his message to Congress on 2 December 1823, to proclaim the Monroe Doctrine. A compromise was reached on 11 January 1825. The United States government ceded the coast of America north of the 54°40′ parallel to the Imperial Russian Government as part of a Treaty of Navigation and Fisheries of the Northwest Coast.[19]

As will be seen, this accord was superseded by the Seward-de Stoechl Treaty in 1867 which ceded Russian America to the United States. The 1825 treaty has no bearing on sovereignty over Wrangell Island which was undiscovered at the time.

By the middle of the nineteenth century, Russian interests in expansion beyond the Asian mainland waned just as American interest in expanding to the West increased. The loss of the Crimean War illustrated the vulnerability of the Russian Empire at its extremities.

The Russian government, fearing that its American colony was no longer defensible and recognizing its economic liability, sold the North American lands to the United States for 7.2 million dollars on 20 June 1867.[20] This convention between the governments of Russia and the United States ended all Russian claims to sovereignty east of the demarcation line.

On 18 October 1867 the Tsarist double eagle flag was lowered over Novoarkhangelsk, the capital of Russian-America, and the Stars and Stripes was hoisted over the renamed city of Sitka. Alaska was now a possession of the United States.[21]

The Office of the Solicitor, U.S. Department of State, determined after a review of the documents leading up to and including the Seward-de Stoechl Treaty "that the Emperor of all the Russias ceded to the United States certain territories, and that the United States on its part entered into no commitment which could be interpreted as an understanding not to press claims to any land west of the particular line above described." [22] Therefore, there can be no inference that the United States ceded sovereignty to any as yet undiscovered island to the west of the Diomede Islands.

During this period the American whaling industry expanded into arctic waters. On 14 August 1867 Captain Thomas Long of New London, Connecticut, sailed his whaling bark *Nile* along a trek some thirty miles north of the route navigated by U.S.S. *Vincennes* some twelve years earlier. A seaman named Thomas sighted land (Cape Thomas) to the northeast from the ship's masthead. Captain Long named this territory "Wrangell's Land" as an appropriate tribute to the memory of the Russian explorer who spent three consecutive years above the 69th parallel.[23] Long also was the first to sight the identifying volcano of more than 2000 feet in height on Wrangell Island. He sailed past the southern shore and returned to the port of Honolulu. Between 1868 and 1869 the news of the American discovery of "Wrangell's Land" spread worldwide. Geographical Societies in the United States and Europe honored Captain Long for his discovery.[24]

Other American whalers—the captains Raynor of the *Reindeer,* Philips of the *Monticello,* and Bliver of the *Nautilus* also confirmed the sighting of the large land mass discovered by Thomas Long. They spread their belief that Wrangell was not an island but a frozen continent similar to that at the South Pole, a speculation that prompted the New York Herald to outfit an expedition in 1879, led by Naval Lieutenant George Washington De Long, to Wrangell Island and then the North Pole.[25] De Long and his ship, the *Jeannette,* formerly called the *Pandora,* never made it. The *Jeannette* became locked in ice floes and drifted westward past Wrangell Island where it was crushed and sunk in the summer of 1881.

Fearing for the fate of De Long, the U.S. Congress in early 1881 authorized one hundred and seventy-five thousand dollars for a search. The *Jeannette* relief ships, the U.S. Revenue Marine Steamer, the *Thomas Corwin* and the U.S.S. *John Rogers* entered the Bering Sea in the summer of 1881. Commanding officer of the *Corwin* was Captain Calvin Leighton Hooper.

Hooper at the time commanded the Bering Sea Patrol of the U.S. Revenue Marine, which made him the *de facto* Governor of Alaska. During the spring of 1877, jurisdiction of the District of Alaska was transferred from the Department of War to the Treasury Department. Treasury in turn placed Alaska under the charge of the U.S. Revenue Marine from that year until 1884.[26] Hooper clearly had authority at that time to discover and claim sovereignty over land on behalf of the United States.[27] The *Corwin* also carried aboard a complement of scientists. These included the world renowned naturalist, John Muir, who was later to found the Sierra Club.

The *Corwin* landed on Herald Island in hopes of finding the *Jeannette* or its crew. Unsuccessful in the rescue attempt, Hooper valiantly forced his ship through heavy ice floes to Wrangell Island to the west.[28]

On 12 August 1881, Hooper, Muir, and their party of six made the first recorded landing by man upon Wrangell Island. Edward W. Nelson, a member of the landing party later noted.

"The result of our examination of the Island, so far as we saw, gave not the slightest evidence of its ever having been visited by man before. All subsequent examinations of Wrangell Island by those who have visited it later appear to establish the fact that the landing party from the *Corwin* contained the first men to set foot on this island." [29]

Landing at the mouth of the Clark River on the eastern side of the island, Hooper and his fellow officers raised the American flag and took possession of Wrangell Island in the name of the United States. While Hooper and Muir explored the island, other party members erected a rock cairn and deposited documents recording the significant event. William Reynolds, a member of the party, recalled:

"I had the flag and with the Captain's permission waved it and took possession of the new land in the name of liberty and of the Government of the United States of America. I planted the flag on a bluff a little to the northwest of our landing place and left it there together with a record of our visit." [30]

Hooper called the island "New Columbia." He explained,

"It was believed that as the island had become, by our act of landing upon it, a part of the United States, by selecting a name of national character, no disrespect would be shown to the memory or offense given to the friends of the gallant officer whose name it bore, and that the name given would be adopted by all nations." [31]

The name "New Columbia" never replaced Wrangell, however.

Captain Hooper told Captain L. C. Owens of the American whaler *Belvedere* of his plan to annex Wrangell Island to the United States prior to landing there. The *Belvedere* became the second ship to land at Wrangell

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on 19 August 1881. "As soon as we got ashore we saw the signal planned by Lieutenant Reynolds, a small American ensign fastened to a slender piece of driftwood, driven into the soil," confirmed a *Belvedere* crew member.[32]

On 26 August 1881 a party from the *Rogers*, the other relief ship, landed on Wrangell Island. They completed an official survey for the U.S. Government on 13 September of the same year. One crew expedition proceeded overland to the mountains, where a general view of land and water could be obtained. Another group found the cairn left by the *Corwin*, and deposited copies of the documents contained therein, taking the originals for the Navy's report. The crew of the U.S.S. *Rogers* also raised the American flag over Wrangell Island.[33] The crew determined that its new U.S. possession was not a continent but a large island.

Major E. W. Clark, the Chief of the United States Revenue Marine Service, informed the U.S. Coast and Geological Survey in 1881 of the annexation of Wrangell Island to the United States. The U.S.C. & G.S. of the U.S. Treasury Department determined that Wrangell Island should be included in the District of Alaska.[34]

Between the years 1881 and 1910 Wrangell Island was visited exclusively by Americans. These were mostly whalers and walrus and seal hunters. On 8 September 1889 the U.S.S. *Thetis* went to Wrangell Island while cruising the Arctic Ocean, "showing the American flag." [35] In the year 1910 Captain Louis Lane sailed the ship *Adler* of Nome, Alaska, to Wrangell Island with a motion picture company from Hollywood, which filmed a polar bear hunt.

For a period of twenty-nine years following Hooper's claim, U.S. and Russian publications recognized United States sovereignty over Wrangell. U.S. Geological Survey Bulletins No. 169 in 1900, No. 187 in 1902, and Nos. 274 and 299 in 1906 included Wrangell Island as part of the U.S. Russian Naval Maps and Encyclopedia at the turn of the century also show the same designation.

In 1910 the Imperial Russian government, interested in compiling hydrographic charts to facilitate shipping routes from Kolyma to Vladivostok, commissioned two steel icebreaking ships, the *Vaigatch* and *Taimyr*. On 16 September 1911 the *Vaigatch* anchored in a cove off Blossom Point at the southwest corner of Wrangell Island while taking shelter from a gale from the northeast.[36] Its captain sent a landing party ashore on 15 September via whaleboat and motor launch to establish the correct astronomical position by celestial observation. The landing party found a coal deposit and erected a ten meter structure to establish the astronomical position of the landing place before leaving.

The Russians then circumnavigated the island, but unfortunately at a distance too far to contribute to the definite outlining of the coast.[37] This was the only visit that the Russians ever made to the Wrangell Island before 1924, nor did they ever make any claim to the island during their stay.

In 1911 Dr. Rollin Harris, an American oceanographer, again raised interest in the possibility of an as-yet-undiscovered arctic continent. He hypothesized the existence of "Harris Land" to explain tidal movements in the Arctic Ocean.

In 1913 the National Geographic Society planned to finance an expedition to the Arctic to find this new land. Sir Robert Borden, Prime Minister of Canada, asked and received permission to finance the expedition for fear that Americans might make new discoveries north of Canada for the United States.[38].

Vilhjalmur Stefansson, a Canadian who had grown up on the plains of North Dakota, was chosen to lead the expedition. The Canadian government directed Stefansson that "any new or partly unknown lands which the expedition would touch would be observed, position fixed, and the British flag would be planted on these lands."[39]

Stefansson's flagship was the whaler *Karluk* under the mastery of Captain Robert A. Bartlett. Bartlett was a U.S. citizen who had commanded the ship *Roosevelt* for the Peary and Henson expedition to the North Pole during the years 1905 to 1909. The *Karluk* suffered the tragic fate of other vessels and became caught in arctic ice, drifted west along the north coast of Alaska, and eventually sank. For two months the survivors walked south across the polar ice cap, arriving at Wrangell Island on 12 March 1914. Two members of the ship's crew, John Munro and Robert Templeman, raised the Canadian flag over Wrangell Island in celebration of Dominion Day, 1 July 1914.

Of course, Wrangell Island had already been formally claimed by the United States, and the previous establishment of U.S. sovereignty served to cut off subsequent rival claims. Furthermore, Great Britain had transferred jurisdiction of her rights to islands in the Arctic Ocean to the Canadian Government in 1880.[40] Therefore, whatever pretention to sovereignty Great Britain might have had to Herald and Wrangell Islands by virtue of the voyage of the H.M.S. *Herald* in 1849, or the landing on Wrangell in 1914, now belonged to Canada.

The shipwrecked members of the *Karluk* also recognized the prior discovery of Wrangell Island. Bartlett later wrote that "we passed Hooper cairn, which was built by a party from the U.S. Revenue cutter *Corwin* in August, 1881. The cairn, as I could see, was still intact." [41]

Captain Bartlett and an Eskimo crew member, Kakatovik, walked across the ice pack to summon help. Upon Bartlett's reaching Alaska, Captain William E. Reynolds, U.S.R.C.S., immediately ordered a rescue attempt. On 7 September 1914 the American ship *King and Wing* picked up the happy survivors on Wrangell Island (Figure 1). Not knowing that the *Karluk* survivors had already been rescued, the *Thomas Corwin* landed at Wrangell a few days later. The same ship that thirty-three years earlier had carried Hooper to claim the island, re-established the flying of the U.S. flag over Wrangell Island.

After the *Karluk* survivors were transferred to the U.S Revenue Cutter *Bear*, they were transported to the ship's home port of Unalaska where the port commander, William Reynolds (who in 1881 had landed on Wrangell with Hooper) told Bartlett that the island was indeed part of Alaska.

On 13 November 1916 a challenge to U.S. sovereignty over Wrangell Island came from a different source. The Imperial Russian Embassy in Washington presented a memorandum to the U.S. Department of State regarding Russia's claim to lands in the Arctic. It claimed that Wrangell Island, Alaska, was one of the islands which "form an extension Northward of the Continental tableland of Siberia." [42] This argument, like that of the sphere of influence, continuity, or sector theory to the Pole has no validity in international law.[43] Before this claim
could again be pressed the Imperial Russi
Government was overthrown by the Bolsl
viks. World events were to continue to pl
a major part in the issue of sovereignty ov
Wrangell.

On 7 July 1918 Allied Commanders, a
an army that included Japanese troops,
sumed protection of the city of Vladivosto
The threat of the Japanese taking an imp
rialistic hold in eastern Siberia caused co
cern, just as the expansion of power by t
Bolsheviks had done formerly. In 1920 St
fansson became worried that the Japane
government, in their desire to control ea
ern Siberia, might try to take Wrang
Island. He observed, "I felt certain th
within a year or two they would realize t
coming importance of Wrangell Island a
would occupy it."

Great Britain, Japan, and the Unit
States were allied against the Bolshevik
However, if the Japanese (future Paci
rivals to the United States) were to occu
Wrangell Island, it would be difficult to ou
them in favor of the Bolsheviks. Therefor
Stefansson met in Ann Arbor, Michiga
with Allen Crawford, a Canadian, and S
Auckland Geddes, British Ambassador
the U.S., for the United Kingdom to plan
expedition to secure Wrangell Island a
also to promote their own economic inte
ests.

Crawford led a party that included fo
Americans on the American ship *Silv*
Wave. When they landed on Wrange
Island on 15 September 1921 the crew rais
the Stars and Stripes over the island und
Captain Jack Hammer's direction. On
September 1921 Crawford raised the Unio
Jack over Wrangell "in the name of th
King and the Empire" as a continuation
Stefanson's "right to the island already e
tablished by the Stefansson Canadia
Arctic Expedition of 1913-18 and the shi
wreck of the *Karluk*."[44] He did not te
anyone aboard the *Silver Wave* that he ha
raised the British flag over the island.

In 1922 it became *cause célèbre* in th
British and American press that Stefansso
and company had "claimed" Wrange
Island, Alaska, as part of the United Kin
dom. Anglo-American relations becam
strained over an island in which Great Bri
ain had shown no interest since the disco
ery of Herald Island in 1849.

The Crawford party landed with prov
sions for only six months, saying the
planned to sustain themselves with huntin
Stefansson's relief mission in 1922 wa
blocked by ice floes. When Harold Noice a
rived aboard the relief ship *Donaldson* on 2
August 1923 only an Eskimo seamstres
named Ada Blackjack survived of the orig
nal group. A new party led by Charles Well
of Uniontown, Pennsylvania, continued se
tlement of the island.

When Stefansson realized in 1924 that th
Canadian government would not back a sov
ereignty claim as to *dominium directu*
rights he sold his title and his *dominiu*
utile interests in Wrangell Island to th
Lomen Brothers company of Nome, Alask
(Figures 2(a) and 2(b)). On 13 May 1924 Sec
retary of State Charles Evans Hughes de
clared that the Lomen Brothers were th
owners of the island (Figure 3). On 18 Jun
of that year, the British Colonial Secretar
stated in a confidential dispatch: "Th
United States Government is thought t
have a strong, if not indisputable, claim t
the Island." [45a]

On 20 August 1924 the Soviet gunboa
Red October landed on Wrangell Islan
armed with a six-pound cannon and a com

pany of Soviet infantry. The Soviets took Wells by force and the other thirteen Americans on the island and told them they were being taken to Alaska. Instead they were forcibly taken to Vladivostok.[46] The Soviet officials confiscated all the pelts which the trappers had accumulated during the twelve bitter months on the island.[47] Following intervention by the U.S. Consul at Harbin, Manchuria, the Soviets released the twelve Americans still living. The Bolsheviks claimed that Wells had died of pneumonia. His diary was never found.

A year later the Soviets proclaimed Wrangell Island as their territory. But in 1930 the U.S. Department of the Interior publication entitled *Boundaries, Areas, Geographic Centers and Altitudes of the United States and the Several States* expressly included Wrangell Island as an American possession. Since that time no abandonment by the U.S. of its rightful sovereignty has occurred, nor under international law could such abandonment occur following a deprivation of sovereignty by force.

Besides the abducting of Americans on Wrangell Island, the Russians violated federally promulgated Alaskan law that prohibits the exercise of foreign jurisdiction. The Alaskan Organic Act of 1884 adopted Oregon law, which in turn had adopted the Iowa Territory prohibitions against foreign governmental interference with American sovereignty.[48]

In 1973 the State Department reissued the *Hackworth Digest of International Law* which explained, "The United States has not relinquished its claim to Wrangell Island." In the centennial year of the American landing on Wrangell, the United States government's position has not changed. Captain Hooper formally claimed Wrangell Island on 12 August 1881 and the U.S. established effective occupation until the Soviet invasion.

FOOTNOTES

[1] The island has also been spelled Wrangel and Vrangel. The U.S. Board of Geographic names, by resolution named 29 July 1901 determined that Wrangell Island, Alaska, in the Arctic Ocean should be spelled with two l's. The island was named in tribute to Ferdinand Petrovich von Wrangell who spelled his own name with two l's when he wrote in the Roman alphabet.

[2] Dermot Cole, "Now We're Losing Wrangel Island." *Fairbanks Daily News Miner*, 1 October 1977.

[3] David Mountfield. *A History of Polar Exploration* (New York: The Dial Press. 1974), pp. 15-16, 19-20.

[4] Ibid., p. 23.

[5] Ibid., pp. 27, 33.

[6] Ibid., pp. 33-39.

[7] Leonid Vasilevich Gromov, *Oskolok Drevnei Beringi* (Moskva: Gos izd-vo geogr. lit-ry, 1960).

[8] Ibid.

[9] Lieutenant Baron Ferdinand Petrovich von Wrangell, I.R.N., *Narrative of an Expedition to the Polar Sea in the Years 1820-1823*, ed. Major Sir Edward Sabine, R.A. (London: James Madden and Co., 1840) pp. 342-359.

[10] "Wrangell Island," *The Geographical Journal*, Vol. 62, No. 6, (December, 1923), p. 441.

[11] Leopold McClintock, *The Voyage of the Fox: Discovery of the Fate of Franklin* (London: J. Murry, 1908).

[12] Bertold C. Seaman, *Narrative of the Voyage of the Herald during 1845-51*, (London: Reeve & Co., 1853), pp. 115-116.

[13] Wilhelm Heine, *Di Expedition in die Seen von China, Japan and Ocholsk under Commodore Colin Reingold und Commodore John Rodgers, in auftrage der Regierung der Jahren 1853 bis 1856* (Leipzig: H. Constenoble, 1858-59).

[14] Evgenni Evgenievich Shevde "Ostrov Vrangelya" *Morskoisbornik* God 76. No. 9 (Sept. 1923) pp. i-xiv

[15] 31 August 1852 (10 Stat. L. 100).

[16] 8 Stat. L. 252.

[17] Francisco Antonio Mourelle, *Journal of a Voyage in 1775* (London, 1781).

[18] John J. Underwood, *Alaska: an Empire in the Making* (New York: Dodd, Mead, 1913) p. 265. It should be noted that Prof. William R. Hunt of the University of Alaska, in his book, *Alaska: A Bicentennial History* (New York: W. W. Norton & Company, Inc. and Nashville: American Association for State and Local History, 1976), p. 30, erred in ascribing the ukase to "Alexander II" (Tsar Aleksandr Nikolaevich of Russia).

[19] 8 Stat. L. 302. For background information concerning counter claims of sovereignty to the Oregon County read Thomas Falconer, *Oregon Questions; or a Statement of the British Claims to the Government of the United States of America*. 2nd Ed. (London: Samuel Clark, 1845), and Travers Twiss. *The Oregon Question Examined* (London: Longman, Brown, Green and Longman, 1846).

[20] 15 Stat. L. 539.

[21] The name Alaska was gradually established for this region by local use while the Russians officially designated it Russian America. The name Alaska was proposed for official acceptance by W. H. Seward. Hon. Charles Sumner, and Maj. General H. W. Halleck after the U.S. Government took possession of the region.

[22] Bretton G. Sciaroni. *The U.S. Claim to Wrangell Island*, Contract Study (No. 1722-620057) prepared for the U.S. Department of State on February 4, 1976, p. 30. Also see, F. M. Anderson, "Memorandum" (November 25, 1924), M. S. Department of State, file 861.0144/75 and S. Wittemore Boggs "Delimination of Seward Areas under National Jurisdiction." *American Journal of International Law*, 45, No. 2 (April, 1951), p. 240, fn 2.

[23] Captain Thomas Long, "Arctic Land Discoveries," *The Pacific Commercial Advertiser* (Honolulu), 9 November 1867.

[24] "A Polar Continent: Reported Discovery of a Polar Continent in the Arctic Ocean," *New York Times* (7 December 1867); William W. Wheridens, "The New Arctic Continent or Wrangell's Land" (Chicago: American Association for the Advancement of Science, August 1868); K. M. Baer, "Nesholho slov po povodu novothritoy Vrangelyevshoy semily", *Izvesti Russhovo Geograficheshovo Obshestva*, (1968), V4, N7, pp. 333-349.

[25] J. E. Nourse, *American Exploration in the Ice Zones*, (Boston: D. Lothrop and Company), pp. 365-66 and David Mountfield, *A History of Polar Exploration* (New York: Dial Press, 1974), pp. 123-124.

[26] Formal letters of 17 and 24 March 1877 between Secretary of War George W. McCrary and Secretary of Treasury, John Sherman. National Archives, files of the Adjutant General (Microcopy MGGG, reel No. 358).

[27] International law has also recognized the status of private individuals to claim sovereignty on behalf of their country. *A fortiori* Hooper in his official capacity had no less authority regarding Wrangell Island than in his validly ordered claim of Wake Island on behalf of the United States in 1898, while in transit after the Spanish-American War as a member of U.S. Pacific forces.

[28] Muir, *The Cruise of the Corwin*, pp. 140-158; Hooper, *Cruise of the Corwin*, 1881, pp. 53-54.

[29] Nelson, *Congressional Record, Senate*, 22 March 1922, p. 4261, col. 2.

[30] William Reynolds, *Congressional Record, Senate*, 25 March 1922, p. 4538, col. 2. Also included under these papers sent from the Secretary of Treasury Andrew W. Mellon to Secretary of State Charles Evans Hughes, 13 April 1922, M.S. Department of State, file 861.0144/7.

[31] Hooper, *Cruise of the Corwin*, 1881, p. 70.

[32] "Wrangel Land: A Description of the Island by a Visitor," *San Francisco Chronicle* (16 August 1882), p. 3.

[33] Nelson, *Congressional Record, Senate*, 22 March 1922, p. 4261, col., stated the "Rogers partly took possession of the island by right of [Captain Long's] discovery, and that was within a space of a few weeks [of the *Corwin* party taking possession for the United States Government]."

[34] In 1900 the U.S. Geological Survey, at the direction of Henry Gannett, issued U.S. Geological Survey Bulletin No. 169 which included Wrangell Island of the Arctic as part of Alaska. Gannett is known as the father of American map making, and was the Chief Geographer of the U.S.G.S., having started in 1882.

[35] Jean Denuce "les expeditions polaires depuis 1800," Bulletin de la Societe Royale de Geographie D'Anvers (Anvers: J. Van Hille-De Bocher, 1911), p. 336. Also see: Charles Herbert Stockton, "The Arctic Cruise of the USS *Thetis* in the summer and autumn of 1889," *National Geographic Magazine* (1890), v. 2, No. 3, p. 194; and D.W. Knox, Captain, U.S.N. (Ret.), letter to Lt. Comdr. F. W. Mead, U.S.N. (Ret.) dated 31 October 1933.

[36] Blossom Point was named by Lt. R. M. Berry, U.S.N. in 1881 after H.M.S. *Blossom*.

[37] L. M. Starokadomskiy, *Charting the Russian Northern Sea Route: The Arctic Ocean Hydrophic Expedition, 1909-1919*; ed. and trans. William Barr, (Montreal: Arctic Institute of North America and McGill-Queen's University Press, 1976) pp. 60-64; Nikolai Nikolaevich Alekseev, "Ostrov Vrangelya," *Bulletin of the Far Eastern Branch of the Academy of Sciences of the U.S.S.R.* (Vladivostok: 1932) No. 3-4, p. 83; L. V. Gromov, *Ostrov Vrangelya* (Magadan; 1961) p. 24; Vilhjalmur Stefansson, "The Russian Visit to Wrangel Island," appendix 9, *The Adventure of Wrangel Island*, op. cit., pp. 393-394.

[38] Vilhjalmur Stefansson, The Adventure of Wrangel Island, pp. 50-51.

[39] Order-in-Council, approved 22 February 1913.

[40] Gordon W. Smith, "The Transfer of Arctic Territories from Great Britain to Canada in 1880, and some related matters, as seen in official correspondence," *Arctic*, March, 1961, Vol. 14, No. 1, pp. 53-73.

[41] Bartlett, *The Last Voyage of the Karluk*, op. cit., p. 173.

[42] The note of 13 November 1916 stated in part:

"Le Gouvernment IMPERIAL profite de cette occasion pour faire ressortir qu'il considère aussi comme faisant partie intégrante de l'Empire les iiles Henriette, Jeannette, Bennett, Herald et Oujedinemia, qui forment avec iiles Nouvelle Sibèrie, Wrangel et autres situées près la côte asiatique de l'Empire, une extension vers le nord de la plate forme continentale de la Sibèrie.

Le Government IMPERIAL n'a pas jugé nécessaire de joindre à la présente notification les îles Novaia Zemlia, Kologouev, Kolgouev, Waigatch et autres de moindres dimensions situées près la côte européene de l'Empire, étant donné que leur appartenance aux territories de l'Empire se trouve depuis des siècles universellement reconnue.

[43] It should be noted that unsupported claims advanced by the Imperial Russian Government in the above note were rejected by the United States in 1902, as part of the "Whaling and Sealing Claims Against Russia." Herbert H. D. Peirce, *Foreign Relations of the United States, 1902*, Appendix 1, (Washington: GPO, 1903), pp. 18 and 107. Fedor Fedorovich Martens, the legal counsel for the Imperial Russian Ministry of Foreign Affairs, rejected the notion that Russian sovereignty extended northward into the Arctic. He contended that the marginal seas north of Russian mainland were *Mare Liberum* from the judicial point of view. F. F. Martens, "Du territoire de l'etat", *Traite de droit international*, trans. Alfred Leo, (Paris: 1883) v. 1, pp. 495-496.

[44] Stefansson, *The Adventure of Wrangel Island*, op. cit. p. 95.

[45] Ibid, pp. 128-131.

[45a] Colonial Secretary to Governor General: confidential dispatch No. 537. Cited in Bretton G. Sciaroni, *The U.S. Claim to Wrangel Island*, Contrast Study No. 1722-620057 prepared for the Department of State on February 4, 1976, p. 15.

[46] Affidavit of 22 March 1977 by Hilda Koonuknowrunk Weber, one of the American prisoners.

[47] *Japan Advertiser*, 27 January 1925.

[48] On 7 May 1884 the U.S. Congress passed "An Act providing a Civil Government for Alaska", c. 53, 23 *Stat. at Large 24*. That act adopted Oregon law providing it does not conflict with other provisions of Alaskan law. This Act extended to Alaska "An Act Adopting the Statutes and Laws of the Territory of Iowa and the Common Law." *Oregon Acts and Laws Passed by the House of Representatives at a Meeting Held in Oregon City, August, 1845* (New York: N.A. Phemister Company, 1921), p. 16. It should be remembered that the Act of 12 August 1845 became part of the laws of the Territory of Oregon through "An Act to Establish the Territorial Government of Oregon", of 14 August 1848. c. 177. *Stat. at Large 323* (known as the Oregon Organic Act. Laws of the Territory of Iowa, passed at the Extra Session of the Legislative Assembly, begun and held in the City of Burlington: J. H. M. Kenny, 1840, and Des Moines: Historical Department of Iowa, 1902), c. 85.

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and Ice Journals of George W. De Long, Lieutenant-Commander U.S.N., and Commander of the Polar Expedition of 1879-1881.

May 16th, Monday.—Land! There is something then besides ice in this world. About seven o'clock this evening Mr. Dunbar, who usually winds his way aloft several times a day, could hardly believe his eyes when they rested on an island to the westward. He called Chipp to look at it, and Chipp saw it was land sure enough, and sent Ericksen to inform me. I had just finished working out our position when the extraordinary news came, and was writing out the result: Latitude 76° 43' 20" N., longitude 161° 53' 45" E., a drift since the 14th of five and a half miles to N. 16° E. Of course I dropped my books and ran up to the fore yard, and there, sure enough, I saw a small island one half point forward of our starboard beam, the first land that has greeted our eyes since March 24, 1880, nearly fourteen months ago. And our voyage, thank God, is not a perfect blank, for here we have discovered something, however small it may be. Some fog is resting over it, and to the right hand or northward of it, and we do not think we see all of our wonderful landfall. Bearings I take at once, and find our island bears S. 78°45' W. (magnetic), or (the variation being 18° E.) N. 83° 15' W. (true), but we can do nothing more. Its distance we cannot estimate. If low land comparatively, it may be forty miles distant (see our idea of Herald Island's distance), and if high land seventy to eighty miles. But after a number of days, if we change the bearing of it to some extent, I can compute its distance, and determine if, and in what manner, we can land upon and take possession of and explore our discovery. Cooped up as we have been for over twenty months, we shall enjoy getting our foot on solid earth or stone as much as if it were Central Park, for it will be a change. But whether it will be earth or stone we do not know of course. What this poor desolate island, standing among icy wastes, may have to do in the economy of nature I do not know, or in fact care. It is solid land, whether of volcanic origin or otherwise, and will stand still long enough to let a man realize where he is. Moreover, this must be the spot to which the ducks and geese have been steadily flying, and if we can get some of them for a change to our canned meats, what a treat! And then bears must swarm on our island! In fine, this island is to us our all in all. We gaze at it, we criticise it, we guess at its distance, we wish for a favoring gale to drive us toward it, and no doubt we would accept an assertion that it contained a gold mine which would make us all as rich as the treasury without its debts. I believe most of us look carefully at our island before we go to bed, to make sure it has not melted away. Fourteen months without anything to look at but ice and sky, and twenty months drifting in the pack, will make a little mass of volcanic rock like our island as pleasing to the eye as an oasis in the desert.

Beside this stupendous island, the other events of the day sink into insignificance.

May 17th, Tuesday.—Our island continues to be the cynosure of all eyes, of course, and as the fog which hung over it yesterday has disappeared today, we are able to define its appearance better, the white portion which the fog hid yesterday showing as a snowy slope extending back to some distance. The shaded portions seem to be rock, with clefts

a volcano top. We are watching the land anxiously enough, and getting our position by observations daily, but of course in one day we have not altered hearings at all. That may be a question of weeks, unless we have stiff winds. Sights today place us in latitude N. 76° 43' 38", longitude E. 161° 42' 30",—a drift since yesterday of two and one half miles N. 83° W., or exactly toward the island.

Soundings forty-three fathoms (mud and pebbles), a slight drift N. by E. being indicated by the lead line. Temperature, maximum, 11.5°; minimum, minus 5.5°. What lovely weather for the middle of May!

May 18th, Wednesday.—Latitude N. 76° 44' 50", longitude E. 161° 30' 45". As we draw ahead of our island, we open out quite a face to the northward, and Mr. Dunbar is quite certain that he saw high land above and beyond it to the westward. My repeated visits to the crow's-nest show me a strong appearance of high land, but I have not yet been able to say positively that it is not cloud. At one time I thought I could see a connecting snow-line, as if the upper part of our island sloped backward and upward to a higher ridge beyond, but I was unable to see a snow-peak that Mr. Dunbar saw just before I could join him in the crow's-nest. Weather generally clear, bright, and pleasant. An E. wind freshening, and promising a stronger blow for tomorrow.

The ice opened in a crack about five hunderd yards to the eastward of the ship, and came together toward midnight, the ship receiving several shocks when the ice edges met.

We are favored with an occasional dovekie (black guillemot), shot by some of our people, the luckless bird being attracted by the little lanes and cracks in the ice near us instead of making for the island, where it would be safe. Last Saturday we in the cabin had one apiece for dinner, and I am in hopes of seeing enough hanging to the main boom to have them for dinner fore and aft next Saturday.

May 19th, Thursday.—E.S.E. winds make us move along at a brisk rate, evidenced by our opening out our island's north side. Centre of island bears W. (true).

At 9:30 A.M. the ice quietly opened seventy yards from our starboard bow, and a lane of water about twenty feet in width extended north and south for about three miles, and several other cracks and lanes were visible to the northwest. Whether when we get to the westward of our island the ice will spread and open remains to be seen; but the land is quite close enough, unless we can use it for an advance. We have a crack under our starboard counter that may connect, and a crack ahead in the line of our keel as a starter, which may at any time leave our whole starboard side bare.

May 20th, Friday.—Latitude 76° 52' 22" N., longitude 161° 7' 45" E.,—a drift since the 18th of nine miles N. 35° W. As the island point observed on the 16th now bears S. 78° 30" W. (true), I can compute the distance by the change in bearing, and the result is twenty-four and three fifths miles (and thirty-four and seven tenths miles on the 16th). The dimensions of it I cannot accurately measure yet, though with an octant I find it subtends an angle of 2° 10' on this bearing. But from our point of view the island is foreshortened, for I think its greatest length is in an east and west direction. As we draw to the northwest, we open out the western face and shut in the eastern

same point each time for my bearing by the course indicator on the bridge. There now seems to be a curious little island off the western end, which looks like a mound with a beehive on it, but I hope soon to be able to say whether it is a separate island or a continuation of the first one.

Toward midnight a strong appearance of land was seen bearing west by north roughly, like an inclined plane, but clouds rested on so much of it that I cannot speak positively.

Soundings in forty-two fathoms; drift N. W. indicated. At this rate we shall soon get to the shortest distance from our island, which I locate by computation of its distance before mentioned to be in latitude N. 76° 47' 28", longitude 159° 20' 45" E. E. S. E. gale seventeen to twenty-one miles an hour, and a pleasant temperature plus 16°. At 8:30 a.m. the ship received a blow under water, seemingly near the stern post, and doubtless from some drifting, submerged ice-block.

May 21st, Saturday.—A dull, gloomy day, E. S. E. gale, and I manage to get a meridian altitude, showing that we have made seven miles in latitude at all events. Our island appears only occasionally, but bearing S. 72° W. There seems to be no immediate chance of this blow abating, so it will be a question of waiting to see in what position it leaves us before deciding upon our ability to land upon and take possession of our island.

I am sorry to record the mysterious disappearance of another of our dogs, generally known as Lauterbach, and heretofore recognizable by his having a hairless tail, the result of a scalding accident. He has gone and laid himself away somewhere, for he has been missing several days.

May 22d, Sunday.—At nine a.m. the ship received another severe shock, probably striking ice under water.

May 23d, Monday.—I am sorry to be obliged to record the addition of Chipp to our sick-list. For a long time past he has been in poor condition, growing thin and weak, but insisting on going about and attending to his duty. He has strong dislikes to medicines and medical treatment, and would not believe he stood in need of either. Being overruled in that respect by me, he did take a tonic prescribed by the doctor; but of course, as it was taken unwillingly, under protest, no good was experienced from its use, and it was discontinued. Now nature asserts itself, and he is so reduced, by reason of his failure to eat enough, and so nervous and restless, because of continued loss of sleep, that it is simply impossible for him to keep up, and he is forced to his bed. The doctor hopes to have him around in a few days, but I am not satisfied that a few days can repair the damage already done. Considerable fall of soft, large snowflakes.

May 24th, Tuesday.—The first thing I heard upon arising this morning was that more land was in sight, and the next thing was that the ice was very slack, with many large lanes of water. The strong appearance of land on the 20th, toward midnight, proves to have been land in reality,—another island being added to our discoveries, somewhat longer (if not less distant) than our first named. Upon going up to the crow's nest I had a good view of both islands and of more water than we have seen since September, 1879. In consequence of the subsidence of the wind, the ice has become very slack, and numerous long openings or lanes have occurred, varying in width from twenty to one hundred feet, and in length not connected, and though having a general northwest and southeast direction, do not lead to anything. Just at this moment I would be contented if by any means I could get the ship into one of these islands for a temporary breathing spell, and a chance to get some game for our supplies; but, unfortunately, I cannot saw through thirty miles of ice or blast that amount out of my way. The lanes of water are very tantalizing, for they indicate what might be done if there were more of them. They seem to be in our neighborhood only, or within radius of five miles, while the islands are thirty, and say forty miles off—and from that five miles radius to the islands the ice is as close and compact as ever.

However, we made all the use we could of the openings. The iron dingy, the two kyacks, and the oumiack were put into requisition, and away went parties to hunt for birds and seals, dragging the boats from one lead to another, as occasion required. And while a party of men were thus employed in transportating the oumiack on their shoulders she slipped, and brought so much weight on John Lauterbach (a coal heaver) as to double him up and severely strain his back.

"It never rains but it pours," is an old saying, and it seems to be proven in our case, for hardly had we prepared ourselves to take care of Chipp when we have another case, Lauterbach. When I saw him being supported back to the ship by a shipmate, I was afraid he had shot himself, or had been shot by a companion,—accidentally, of course, in both cases,—and I ran out to meet him with considerable alarm. For some time it was impossible to find out what was the matter, for the man was in great pain and unable to talk. However, beyond a severe wrench to the small of his back, there was no injury inflicted, and except for his being laid up for some days no serious consequences are to be anticipated.

Now for the land. It is an island beyond doubt; and its nearest point, which I take to be its southern extremity, bears S. 69° 30′ W., and it subtends an angle of 3° 35′, while our first discovery's eastern end bears S. 17° W., and subtends an angle of 2° 42′. I think both islands extend in a west by north and east by south direction. Computation of the position of our first island from our change of its bearing of the 20th and 24th, would put it more accurately in latitude N. 76° 48′, longitude E. 159°; and until I can get its bearing due south (true), this bearing of today and the 20th are more nearly accurate as to longitude than those of the 16th and 20th.

Latitude N. 77° 16′, longitude E. 159° 33′ 30″. A drift since the 20th of thirty-two and one half miles N. 41° W. This is progress indeed,—eight miles a day. Considering that we commenced the year in latitude 73° 48′, longitude E. 177° 32′, we have no reason to complain at the long step we have made,—310 miles N. 47° W.

Soundings in forty and one half fathoms, and temperature comparatively cheerful, plus 27°.

Our engineer's force are occupied in putting together the windmill pump and getting it ready for the summer's work. Chipp is still quite weak, and in consequence obliged to keep his bed. I have taken every precaution to keep his surroundings as quiet as possible, muffling chair legs, not striking the ship's bell, etc., and he has had a peaceful day in consequence.

and obliged to keep his bed altogether by the surgeon's orders, as a surety for rest and quiet. Danenhower is just the same, but as he caught a cold some days ago, he is forced to stay below at all times, except at meal hours. Lauterbach is better, though his back will feel the wrench it received for some days. Alexey is slowly getting his leg to heal, there being now but a very small hole open. Otherwise, we are all as well as usual, and all hands are certainly free from scorbutic taint.

Many of our lanes are found closed today, the ice having come together during the night. A light film, say one eighth of an inch of ice, formed over the lanes not disturbed. Our islands were in plain sight all day, giving me a chance to get good bearings and angles, which are sufficiently indicated by the sketches on the preceding pages.

May 26th, Thursday.—A dull, gloomy day, with overcast sky, and N. N. W. breezes puffing fitfully. The islands were invisible until six p.m., when they came out from the dull, thick haze. The ice seemed to slack up again today, numerous unconnected lanes and ponds showing themselves, but of no use to us yet. Took advantage of the breeze to make the windmill do all the pumping after noon, to the relief of the men on watch, who must have learned to hate the hand-pumps many months since.

May 27th, Friday.—Latitude 77° 14′ 45″ N., longitude 159° 16′ E. A drift since the 25th of five miles S. W. This brings us much nearer our second island, and it is very tantalizing to be gazing at what seems a fine bay and not be able to sail into it. Soundings in thirty-nine fathoms, slight drift S. W. On account of light winds had to close the water gates again and fall back upon hand pumping.

May 28th, Saturday.—Soundings forty fathoms, and the state of the temperature is by no means pleasant, maximum 19°, minimum 15°. Our invalids give me the usual anxiety. Chipp is very weak, and I fear it will take a long time to build him up. Danenhower, of course, will be of no use so long as he is in the ship. Alexey slowly recovers. Lauterbach is improving, his back slowly recovering from the strain. But with many things crowding in on me I almost feel that the crucial moment in our voyage is at hand.

May 29th, Sunday.—We get considerable work out of the windmill today, and our men are consequently relieved from the endless clang-clang of the handpump. Our dull and gloomy weather continues, to my disappointment, for I can get no observations for position. These are particularly desirable now, because I want to fix the position of Henrietta Island. It is very difficult to get good bearings from deck of anything, because the ice-hummocks and ridges are so high and so continuous that it is only here and there that we can see even the plainest land; and then it looks so much like the black spots in the ice, that when one puts his eye down to the sight-vane of the compass, he is as apt to take the bearing of a black spot as of the land. Besides, we cannot see extreme points from the land. Angling with a sextant from aloft is cold work, and some points show too faintly to get a reflection, so that though I have measured angles several times, I have only recorded them when I have been sure of them.

We were startled this afternoon by an enormous flock of ducks, estimated to be five hundred in number—more than any one

after them in a body, until stopped by water, and turned back.

The ice seems to be very close again, an easterly breeze setting it in motion enough to press against the islands and close all lanes.

Inspection and divine service as usual on Sundays.

May 30th, Monday.—I have decided to send a party to try to make a landing on Henrietta Island. Tired of waiting for a chance to get observations to determine its position, I accept twelve miles as its probable distance southwest and a half west, true. Though I know the traveling will be heavy, I hope that by sending two officers, four men, fifteen dogs, with a sled and light dingy (for ferriage), and seven days' provisions, as the only heavy weights, they will be able to accomplish my object,—landing, leaving a record of our condition, and perhaps bringing back a good supply of birds. Having but one commissioned officer available, Melville, he must take charge of the party. With Chipp and Danenhower both on the sick-list, they can neither be sent, nor left in charge of the ship if I go myself, as is my strong desire. The doctor cannot go, for his steady sick-list puts him hors concours, and my responsibility for the ship and the safety of all hands will not permit me to leave her in charge of Mr. Dunbar, the only sailor man in the cabin besides myself fit for duty. Consequently I make out orders for Mr. Melville to go in command, and to take Mr. Dunbar, Nindemann, Ericksen, Bartlett, and Sharvell with him, and to start tomorrow morning. The weather continues good, with light winds, and barometer rising to 30, and I think we are drawing in toward the island all the time with the ship. Such arrangements as I have made for them and their return I will write out in full tomorrow. To-day I had Sweetman remove the porch from the starboard side of the galley, and I set the men to work digging a trench around the ship. We are now beginning to be straitened for dog food; all our condemned meats, fish, and other suitable articles are ended. Having tried the dogs upon everything to their seeming satisfaction, we at last tried them with potatoes (desiccated). But here was the dividing line. They turned up their noses and walked away in disgust, and no matter how great their hunger, they cannot be induced to astonish their stomachs with such an excellent (?) anti-scorbutic. In fine, something else had to be done, and so I ordered one half pound English pemmican, and one half pound corn meal to be served out to every dog every second day from the ship's stores; and in order that no more of such precious food than was absolutely necessary should be expended for dogs, I gave orders that three old and worn-out dogs should be quietly removed from the ship and shot. Of course I regret taking even a dog's life, but where it is a question of sentiment only in putting priceless food into a dog, from which no work can ever be obtained, the sentiment cannot be tolerated.

May 31st, Tuesday.—At nine a.m., everything being ready, the sledge party, in charge of Melville, started. Mr. Dunbar, Nindemann, Ericksen, Bartlett, and Sharvell composed the personnel, and the following the material:—

15 dogs.
42 lbs. American pemmican.
6 sleeping-bags.
10½ lbs. sardines.

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21 lbs. pigs feet,
42 oz. lime juice,
1 McClintock sled,
1 McClintock dingy,
1 tent,
5 tent-poles,
210 lbs. English pemmican,
42 lbs. bread,
1 cooking-stove and mess gear,
42 lbs. mutton-broth,
5¼ lbs. coffee,
2¾ lbs. tea,
5¼ lbs. chocolate,
10½ lbs. sugar,
2 rubber blankets,
6 packed knapsacks,
2 rifles,
2 shot-guns,

sextant, artificial horizon, prismatic compass, opera-glass, ensign, medicine, etc.

We all assembled on the ice, and of course cheers were exchanged. Away they went merrily enough until they came to an ice opening, where they were obliged to make a ferriage. Here some of their dogs ran away and returned to the ship, but I sent them back at once, and followed up the sled until they made a new departure. I watched them frequently from the crow's-nest, and at six p.m. I saw them about five miles from the ship, evidently halting for a rest. Of course I sent lime juice, and moreover I started them with eleven gallons fresh water; and besides having Dr. Ambler prepare medical advice and suggestions, I directed Melville frequently to rest his party, to look out for snow-blindness, and to avoid using surface snow and floe ice. Should the distilled water give our during the trip to the island, he was directed to scrape the brokendown crystals from the tops of old hummocks. From the moment of his departure, a large black flag eleven feet six inches square was to be kept flying at the main, and he was frequently to take bearings to it. Should it shut in thick after he had been away forty-eight hours, one of the whale guns or the brass piece will be fired every four hours; and in clear, bright weather, from and after the third noon from his departure, a fire of some material, giving plenty of smoke, will be made at meridian. He is not to remain at the island more than twenty-four hours, and is to do as much as he can in carrying out my written orders.

Of course there is some risk in the this trip. But the weather remains good, light northerly winds prevail, and our drift seems to be directly toward the island. I want to know whether there is any bay in which I can place the ship, and perhaps remedy her leak; whether there is any animal or bird life with which I can replenish our waning stock of provisions; and whether, in the event of disaster, we can fall back upon this island as a place to live, and make a fresh departure for the Siberian coast; whether there is any more land in sight from its summit; and very particularly what is the appearance of the world beyond, whether interminable ice or a chance of water. Should the ice break up around us, I want to know what are the prospects; and so much knowledge can be gained by this visit, as well as the satisfaction of planting our flag upon a newly discovered piece of the earth, that I think the risk of undertaking the journey is justified. During the afternoon, when the weather cleared up, I got good bearings, and I find Jeannette Island on our port bow (S. 11° E. true) and Henrietta Island on our starboard bow (S. 51° W. true), verifying my belief that we are drifting toward the latter island, and heading between the two. My anxiety will be endless and unremitting until I get all hands under my wing again; and I pray God so to aid them and guide us that no mishap may occur.

Soundings in thirty-nine fathoms; slight drift S.S.W., and a low temperature to close our month—9°. Lauterbach restored to duty from sickness.

June 1st, Wednesday.—What next? The doctor informs me this morning that he is of opinion that several of our party under his treatment are suffering from lead poisoning. Newcomb is quite under the weather with severe colic, and Kuehne is about the same. Alexey is complaining in a similar manner, and our steward is very ill indeed. The doctor says he is a little disturbed also, and Chipp has had a sharp touch of it. No less than six people, and the sledge party yet to hear from. Suspicion was first directed to the water, for as all joints about the distiller are red leaded to make them tight, we fear that some of the lead was carried over with the steam and deposited in the receiver. This, unfortunately, cannot be entirely avoided, though it may be reduced. Then I examined all vessels in which drinking water is carried or tea and coffee made, and I put out of commission all having any solder patches, substituting iron vessels lined with procelain. But upon examining our tomatoes, they were found to show traces of lead in larger amounts than the water, and the doctor thinks that the distemper, if I may so call it, is due to our large consumption of that vegetable. The acid of the tomato acts chemically upon the solder used in the tins, and the dangerous mixture is formed; and since we have had tomatoes every day for dinner subsequent to May 4th, it is assumed that we have become largely dosed with lead, and some of us have had to succumb. Inasmuch as we all eat tomatoes, the exemption of the majority is due to their greater capacity for lead, I suppose, for no good reason presents itself to my mind. It has transpired that the steward, who is the worst case, is remarkably fond of this vegetable, and eats of its unsparingly. Of course we have eaten tomatoes four times a week ever since our commissioning, and until May 4th, without any bad result, but that does not prove anything. A very interesting question here comes in. Our canned fruits have, I believe, similar chemical action upon the lead soldering, and no doubt we are absorbing more or less lead all the time. Now does this chemical action begin at once or at the end of two years? A very important question to an Arctic expedition, for of what use is it to secure exemption from scurvy for two years if disabling lead poison finishes you in the third year? The doctor says each severe attack may be mitigated by medicine, but a continued absorption of the lead will produce palsy, and that would certainly be a perplexing disease to deal with in an Arctic ship. If the chemical action begins as soon as the tomato is canned one is in danger at all times. However, as we stood the vegetable four times a week, I order a return to that issue to see what effect well be produced.

We are certainly drawing in upon Henrietta Island, and getting Jeannette Island well opened on the port bow. Bearings today: ship's head S. 10° W. (true); east end Jeannette Island, S. 10° 30′ E.; south end Henrietta Island, S. 51° W.; north end, S. 57° W.; latitude 77° 16′ 14″; but I could get no time sight.

During the forenoon our travelling party were sighted from aloft, apparently more than half way to the island.

Dull and gloomy weather; temperature, maximum 15°, minimum 8°,—lovely for a June day. (Strawberries will be late this year in these latitudes.) The ice seems to have slacked up again, a wide opening occurring about twenty yards west of the ship, and extending for a mile north northwest and south southeast.

June 2d, Thursday.—Henrietta Island ha been in sight all day and very plainly too and I am very much deceived if it is mor than eight miles distant.

Our lead invalids are responding to treatment, the steward more slowly than the rest, as his attack was the most severe. have had occasion hereto fore to note how naturally one of our two Chinese does the work of both whenever one is sick, and I am not surprised, therefore, to see the cook calmly cook for all hands and look out for the cabin and ward-room, and wait upon the table; and just now, with extra things like arrow-root, beef-tea, etc., for the sick, and the serving of one sick officer's meals in his room, he has no easy time of it. But it is all done, and Ah Sam nurses Charles Tong Sing meanwhile. My respect and admiration for these two men are boundless. Everything about the ice seems to have come to a stand again. Ice has formed over all openings.

June 3d, Friday.—Nothing yet to be seen of Melville and his party. Taking all things into consideration, I do not expect him before tomorrow night or Sunday morning but though neither of these times are here yet, I cannot help the constant uneasiness which I experience. Henrietta Island was in plain sight all day, and we are assuredly closing in on it. Bearings of the south end S. 52° W. (true), and of the north end S. 61° W (true) I fix our position today in latitude 77° 13′ N., longitude 158° 12′ E.; and by the change of bearing since May 24th I fix the south end of the island in latitude 77.8° N. longitude 157° 43′ E., and that makes it eight miles distant. Our drift since May 25th has been S. 74° W. nineteen miles.

We discovered this morning that the ice under the stern was domed up and cracked, and we came to the conclusion that the ship was trying to rise in her bed. To facilitate this operation, and to prevent too much strain being brought on her keel which prolongs under the rudder, the men were set to work digging away the ice. It was a tough job, for it is as hard as flint, and clings like an old and tried friend. Here and there the mark of the fibre of the wood shows in the attached ice, and in several places the oakum has been torn out of the seams when the ship has been raised a little.

We rig our quarter deck pumps for an hour today, and pump the ship out dry, getting up much of the dirty water which has been stagnant all winter, and of late has occasionally greeted our noses. By counting the number of strokes of our pumps and computing the work done, I find that our leak now amounts to 4,874 gallons a day, or about 203 gallons an hour.

The steward has gone back to duty today, to our great comfort. He seems quite recovered from his share of lead. Chipp is, however, set back again by an imprudent eating of raisins yesterday. Newcomb is terribly down in the mouth, and looks as woe-begone as possible. He has suffered considerably. Curious that so many of us feel no effects of "Lead in ours" as yet! And we are all on the same diet. I hope none of the traveling party have been afflicted, for assuredly they have enough to do for well men.

June 4th, Saturday.—With one thing and another a lively day. As a fog shut everything in after three p.m., I got our brass gun out and loaded it for a signal to our traveling party should they be within range. Before noon it was fairly clear and pleasant weather, and at eleven a.m. I had a fire made on the ice ahead of the ship, and with tar and oakum we made a good black smoke for an hour. About two p.m. I heard a shot, and going out to see about it I learned that a bear had come up near the ship without being seen by the man on watch (a bright lookout on Dressler's part), and when Starr, who was astern, ran out to get a shot, his aim was so disturbed by his breathlessness that he missed, and away ran Bruin. Chase was given him, of course, and he was fired at; but alas! our 600 pounds of fresh meat escaped.

From Starr's account, he came up and looked at our few remaining dogs, and they looked at him without making a sign. Then Bruin walked to the nearest clothes-pole, deliberately used it to scratch his back and sides against, and then, seeing Starr, commenced to walk away. As he heard the bullet sing he quickened his pace to a run and (why prolong it) escaped. Our tar smoke, no doubt, attracted him. Fired the guns at four p.m. At eight p.m., with a good clearing, we could see nothing of the sledge party.

June 5th, Sunday.—At six a.m., Manson, the man on watch, informed me that the traveling party was in sight. Going out on deck, I could see the silk flag here and there appearing among the hummocks as the sled advanced through the ice. I ordered our colors to be shown, and the men to be turned out to receive the travelers, and then hastening out on the ice tried to fire the whale-gun as a signal to our people that they were seen. After failing once or twice, I left the gun in charge of the men who had come on deck, and came on board. As I reached the mainmast I heard a slight explosion, and, anxious to know whether it was our gun or a shot from the returning party, I was rushing up on the bridge, when crash! I got a terrible blow on the head. Forgetful of the windmill, in my anxiety for the travelers, I had rushed up in time to get a blow from one of its wings flying before a ten-mile wind. Stunned and confused I crawled back, while the blood sprinkled on the ladder and quarter deck, and the quartermaster ran toward me in alarm. Feeling that my head must be cut, I called the steward to get me some water in a basin, and when he came I told him to see what was wrong. He looked at my head, and exclaimed, "Oh my! great big hole!" upon which I concluded I wanted the doctor's opinion, loath as I was to disturb him and add to his already great care and anxiety. When Dr. Ambler came up in the cabin, I learned that I had my head cut open in a four-inch gash, etc. Stitching and plastering followed, and then I resumed my scrutiny of the returning party.

To my relief I could count six people, and all hands seemingly had come to a halt. As soon as possible, I sent out Mr. Cole and the starboard watch to meet them and help them in. At 8.50 A. M. along came the sled, drawn by the dogs and three of the six travelers. Melville and Sharvell had remained with the boat, and Mr. Dunbar was carried part way and walked part way, and reached the ship snow-blind. He was disabled at noon on the third day out, and led or carried thenceforth. Melville sent me the following message, on receipt of which I sent the port watch in Sweetman's charge with a spare sled, and, accompanied by the doctor, I went forward shortly after. By 9.40 A. M. I had them all on board, worn and tired, it is true, but no one disabled but Mr. Dunbar.

Melville's message:

10.30 A. M. I have just broken the sleigh runner, dismounted my boat, and am in the midst of a heavy jam of ice. Please send another sled at once. Landed on the island 5.10 P. M., third day out.

Respectfully,

MELVILLE.

To Lieutenant De Long, Commanding Jeannette.

The party landed on the island on Thursday, June 2d (Friday, June 3d), hoisted our silk flag, took possession of the island in the name of the Great Jehovak and the United States of America, and, agreeably to my orders, named it Henrietta Island. They build a cairn and placed within it the record which I send with them, and made as much examination of the island and search for vegetation as their limited stay would permit. The island is a desolate rock, surmounted by a snow-cap, which feeds several discharging glaciers on its east face. Dovekies, nesting in the face of the rock are the only signs of game. A little moss, some grass, and a handful of rock were brought back as trophies. The cliffs are inaccessible, because of their steepness. The ice between the ship and the island is something frightful. Road-digging, ferrying, and its attendant loading and unloading, arm-breaking hauls, and panic-stricken dogs made their journey a terribly severe one. Near the island the ice was all alive, and Melville left his boat and supplies, and carrying only a day's provisions and his instruments, at the risk of his life went through the terrible mass, actually dragging the dogs, which from fear refused to follow their human leaders. If this persistence on landing upon this island, in spite of the superhuman difficulties he encountered, is not reckoned a brave and meritorious action, it will not be from any failure on my part to make it known. I issued a general order communicating the names and positions of the two islands: Jeannette Island (our discovery of May 16th), in latitude N. 76° 47', longitude E. 158° 56'; and Henrietta Island (our discovery of May 24th), in latitude N. 77° 8', longitude E. 157° 43'; and in the evening I ordered a double ration of whiskey served out forward. At ten a.m. I read the Articles of War and inspected the ship, and at 1:30 p.m. I read divine service.

Thank God, we have at least landed upon a newly discovered part of this earth, and a perilous journey has been accomplished without disaster. It was a great risk, but it has resulted in some advantage.

July 11th, Monday, everything was advanced one and a half miles, and I was counting upon completing another three miles this day, when a lead was found open a quarter of a mile from our dinner camp. Every time I stopped before midnight I could hear the soft roar of water lapping against ice, and I was not much surprised when water was found close at hand. Turned to at 1.50 A.M., and advanced everything to the lead by 3.50. The opening had widened considerably, and several of them followed in close succession, requiring ferrying and bridging, and at 6.40 A.M., when we pitched camp, I am sorry to say we had advanced only two miles altogether instead of three.

While waiting for everything to come up to the first ferry, I was much struck with the unusual appearance of the clouds to the southwest, which gave more indications of water than anything we had yet seen. Calling Mr. Dunbar's attention to them, he expressed his opinion that such clouds did not hang over ice. Climbing to the top of a hummock twenty feet above the water-level, and examining carefully with a glass, I saw unmistakable land and water. It now appears that this was the land seen yesterday. At all events it is land, sure enough, and water, too. What it may be no one can say—whether newly discovered land, or (our longitude being out) some portion of Siberia. It can hardly be any one of the Liakhoff Islands.

Another pleasant feature is our course, southwest being a straight line to it. My change from south to southwest may therefore be a wise act, resulting in our speedier liberation. Judging by ordinary distances, I should say the land is ten to fifteen miles distant; and as I could see quite a large expanse of water, with long streams of detached ice, it may be that once at the margin of this ice-field through which we are now toiling we may have open water to the Siberian coast, thus verifying some part of the statement of Russian explorers. We have exploded so many theories of other people that it will be hard to make us believe that we can have left the ice behind us short of the Arctic circle.

One month ago today our ship went down, and I do not see any one the worse for the work that has fallen to us since. That it is hard work there can be no dispute. It is conceded by everybody to be the hardest work they ever did. The drag, drag, the slips and jerks, the sudden bringing up of the hauling belt across the chest, are fearfully trying; and the working with pickaxes through flinty ice makes every bone ache. From the looks of the weather at camping, I judge we are in for a southeast blow. The sky is overcast, a nasty fog shuts in everything. If we have a southeaster we may be blown miles to the northwest before we can get to this land or water.

Our cocoa and chocolate being exhausted (to my satisfaction, for I like neither), we commenced this evening (morning) on our tea,—one ounce per man is too much, and I shall reduce it to a half ounce. Pipe down at nine a.m. Men to stand watches of two hours. Called all hands at six p.m.; breakfast at seven for everybody but No. 1, and we were delayed until 7.20; occasionally the cooks get bothered with the stoves, and this was the case with our cook, Ericksen, this morning. Found the barometer had fallen to 29.55 at 38°, and the temperature risen to 35°. A thick fog shut in everything at short distances, but we had so much water around us that we seemed already to have reached the margin of the ice. Rain fell at six p.m. heavily, and the S.E. wind, which blew freshly during our sleep, was now only a moderate breeze from south southwest. At eight p.m. I took the dingy and went ahead to look at our prospects. So much fog prevailed that from the camp it was impossible to see the other side of the water around us. Just after I started rain fell again, but the wind shifted to southwest, and a clearing along the horizon indicated a change for the better. I found that in order to make any progress we must ferry our things down a lead about three hundred yards in length, and then drag them across in intervening floe piece to another lead which we must cross. Emptying the first and second cutters at nine p.m., they were made to serve as ferry boats. Hauling loose packages, tents, sleeping-bags, knapsacks, and even dogs and dog sleds was easy enough, but the loaded sleds gave much annoyance, lest improper managing should damage a boat. Using the first cutter alone for this purpose, and hauling one sled at a time over the stern, two trips were made, and then I took her and gave her the two remaining sleds to carry, one over the bow and one over the stern, while six of us got amidships to distribute

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weight while we hauled her over. It was risky, I admit, but I did not want to lose the time which would be required to unload, load, and relash the four heavy sleds. I do not think, as it was, we made more than one quarter of a mile good when the arrival of—

July 12th, Tuesday, gave the signal of halting for dinner, which we ate at one a.m. The weather was sensibly colder, and the wind had veered to the west. The sun began to show brightly, and we could see for some distance. The ice ahead of us had all opened with the change of wind, and ferrying was the order of the day. Though not disagreeable work it is at times fearfully slow, particularly when no suitably sized pieces are at hand, and we have to take an island as long as a mail steamer, and seven to ten feet thick, for a ferry boat. However, over we went, traversed two floes one quarter of a mile each in extent, and, finally at 6:30 a.m., halted and camped on an island of ice five hundred years in diameter, and averaging ten feet in thickness, as the best camping place available. Our outlook was not encouraging. Lanes of water not large enough to help us, but wide enough to bother us, and some rough-looking ice lay before us for our next task. The wind had got to northwest and the weather was bright and sunny, but somewhat squally. Distance made good one and a half miles. Nothing could be seen of the land and water we saw yesterday. The southwest horizon was foggy. Many dovekies (guillemots) were seen, several gulls, one auk, and, strange to say, the doctor picked up a live butterfly, which I have preserved. This last is not an habitué of the ice, and was certainly blown from the land by the southeaster of yesterday, or by the southwester which followed it.

Supper at 7:30 a.m. Nobody under our conditions could write very fully all the occurrences of a day, and I am very glad before turning in each morning to remember even as much as I write. The hundred trials and difficulties in getting along, the heavy hauling, etc., are regular, and once mentioned need no repetition. No doubt, one of these days I can more satisfactorily describe our march over the frozen ocean, but just now these rough notes must suffice. Sounded in twenty-five fathoms; muddy bottom, rapid drift S.E. Piped down at nine a.m. Called all hands at six p.m., breakfasted at seven p.m.; fresh N.W. wind; barometer, 30.05 at 40°; thermometer, 31°; cloudy and foggy; under way at eight p.m. Immediately we had to ferry all our things across from the island on which we camped to the one alongside of it, and from there to adjoining ones, and at 12:30 a.m.,

July 13th, Wednesday, we had only made on half mile good, reaching then a strip of ice about a mile long. Halted for dinner, and at 1:50 went ahead again. Traversed this one mile piece, and then came to an opening about two hundred feet wide, separating us from an ice-island, which on the opposite side was near enough to a floe piece to make access easy. By great look there were three large cakes floating along this two hundred and a foot opening; we seized on them, dragged them into position for a bridge, and were thus able to proceed without much delay. Beyond them was a long, flat floe one half mile in extent northeast and southwest, and probably five miles northwest and southeast. As we only took so much of it as was on our course, the one half mile was all that we traversed, and at 6.35 A.M. halted and camped, satisfied that our one and three fourths miles were well made. While the boats were being brought up, Mr. Dunbar and I took the dingy and went down the lead at which our floe terminated, to see what it promised. It resulted in nothing except giving me a high hummock from which I could see well around me. I at once made up my mind that to go on our course tomorrow would be impossible. For not only did we have a fearful half mile of repeated ferryings before we reached good ice again, but the unloading of the boats, and a whole day, would be thus involved. By going across the lead due west we had a level floe running west southwest for two miles, which then connected with good ice, and would enable us to resume our course southwest. This I decided to be my plan of action on again breaking camp. Returning to our camping place I again saw the curious-looking clouds noticed in the southwest on the 11th, and looked anxiously for the same land and water then seen, but was disappointed. Shortly after Mr. Dunbar came to me and said he saw the open water. After some looking in vain, I at last saw it, with ice-streams in it, but no land, and judging from relative distances and my range of view, I think it was inside of eight miles southwest. The weather since midnight had been dull and gloomy. Large ponds, larger than any we had yet seen, were crossed, and more lay beyond us. These, and the remarkable looseness of the ice, led us to infer that we were near open water. As a good clear horizon would decide this question beyond doubt at any time, our foggy weather is all the more deplorable before camping.

And now occurred the first serious breach of discipline among the crew since our commissioning, over two years ago, and on the part of a man whose conduct has been so uniform beyond reproach as to make it the more surprising. It appears that Melville had placed a pair of soles in the stern of one of the boats, and the shaking of the boat in dragging had shifted them on the sleeping-bag of Ed. Starr (seaman). Upon halting to camp, Starr went to the boat, picked up the soles, and flung them some distance on the ice, in a temper. Melville informed him they belonged to him, and ordered Starr to pick them up, at the same time saying, "Don't do that again." To the order Staff paid no attention, but growled something about wet soles and his sleeping-bag, and he did not care whose they were. Hearing Melville repeating his order, and Starr making argumentative and sulky replies I went to the scene, and to my surprise found Starr showing no intention to pick up the soles, but continuing to speak in a surly and disrespectful manner. I at once ordered him to stop talking, and to obey Mr. Melville's order. He paid no attention to either order, but continued his rummaging in the boat; and his growl continued, "A nice place to put wet boot soles," etc., etc. And it was only upon my three or four times repeated order to pick up those soles that he did so. But to my order to keep silent he paid no obedience till he apparently had no more to say. I ordered him to stand up apart from everybody, and in a few moments asked him if he had anything to say in explanation of his conduct—disobedience of Mr. * * * repairs exceed our supply. I have already authorized the use of the leather from the dingy's oars, and this morning I had to have the leather cut off the first cutter's steering oar for patches. This leather will last longer than skin patches, it is true, but I hope the time is not far distant when I can have at least this one care and anxiety removed from my mind. Supper at 7:20 a.m. Piped down at nine a.m. Called all hands at six p.m. Breakfast at seven p.m. Moderate N.W. wind; weather dull and gloomy, with some fog. Under way at 8:15 p.m., some little time having been lost in harnessing up the dogs. Some of them, during our sleep, devoted themselves to eating the hide part of two harnesses carelessly placed within their reach. There were no less than eleven openings in the ice ahead of us before dinner, and we had to bridge and watch three of them. In momentary fear that all eleven might open and give us any amount of trouble, I hurried everything along with all speed, and I am satisfied that by one a.m. we had made a good mile and a half.

July 15th, Friday.—Before midnight the horizon to the northwest began to brighten, and there were indications of a clearing. The heavy masses of fog and clouds began to roll away, and occasional glimpses could be had of the sun and blue sky, with cirro-cumulus clouds which seemed to me to be rising from the southeast. By midnight the sky was clearing also to the west and southwest, and I was beginning to peer around for our land and water, when I saw Aneguin ahead of me on a high hummock looking intently to the westward. Hastening forward, he showed me a long black streak on the western horizon, calling it an island. I looked, but saw what I called water, and so it proved upon getting my glasses. I saw the long, regular curve mentioned on the 13th, and, perhaps, the same seen on the 11th. I certainly think it is the open ocean. As from our elevation our horizon could not exceed six miles, I feel satisfied that the edge of the ice must be within that distance, and as the point of the land came down in the middle of the water it is equally evident that we shall come to the water before reaching the land. As the land now bears S. 60° W. magnetic (about W. by S. true) we have been drifting a long distance to the southeast, or else we are vey close to it, for a change of bearing of five points has occurred in fifty-two hours. We have not had wind enough during that time to make any very extensive drift, and our course has been steadily southwest. All things taken into consideration, therefore I assume that we are near land and water, and I decide upon resuming our march after dinner, to head W. by S. directly for both. During dinner (1.40 to 2.20) we saw the moon for the first time, I think, in two months, and what was more satisfactory we saw a seal in a lead near us, and Mr. Collins shot him, while the dingy this time got him before he sunk. Upon resuming the march at 2.20, therefore, we headed W. by S. (true), and I directed Mr. Dunbar to take Anequin with him and go ahead a prudent distance to see whether we were really approaching the open sea, without paying attention to the movements of the sleds. I was certain that Mr. Dunbar and Anequin could go three miles while we were advancing half a mile, and from this three miles a better view could be obtained, and a more correct opinion formed as to its remoteness. If the water were only six miles off, going three miles toward it would permit a very accurate estimate of the remaining distance. Mr. Dunbar carried a rifle and ammunition and some pemmican.

By 5.50 A. M. we had advanced everything three quarters of a mile, and then had come to a smooth place for camping, the only suitable place except one at a much greater distance than I thought we could make in reasonable time. Camped therefore and very fortunately, for no sooner were the tents pitched than it commenced to rain steadily.

The wind had backed to west northwest, the sky had become covered with clouds generally in north and south lines.

The seal comes in splendidly for two things,—food, and grease for our leaking boots. Before camping I had Iversen break off from boat-hauling, and set to work on the preparation of pussy. Removing the backbone and blubber the meat was cut up into small pieces for convenience in stewing, and the amount, twenty lbs., proportionally divided among the five tents. A similar division was made of the blubber, so that I am sure each man got his share for his food and for greasing his boots. Extra alcohol for cooking (2 oz. of salt), and a potful of broken bread to each tent,—seemed to promise a good supper. At 7.15 A. M. we sat down in No. 1 tent to a simply delicious repast. After our long diet of pemmican the change alone was a luxury. We did not stand upon our ship ideas of hanging the seal up until the animal heat had departed, or keeping it for a few days. The seal was shot at 2.30, skinned at four, and eaten at seven, and we feel as if we had dined at Delmonico's. Our seven thirty-thirds of twenty lbs. were cut up in small lumps, boiled in water, three and one half ounces Liebig added, one pint bread crumbs added to that, and salt to the extent of one ounce, and for a feast I shall long remember it. No. 4 tried to fry their six thirty-thirds, and so very successfully that Melville says the taste was like fried oysters!

At 7:30 Mr. Dunbar and Aneguin returned, and I was informed of the result of their journey. They went about three and one half miles, and Mr. Dunbar says he thinks they were half way to the open water. He was raising it very fast, but the land remained as distant as ever,—that is, he could see nothing but the faint snow curve which we have seen all along. Evidently, then, the land is distant, and may be, after all, one of the Liakhoff Islands. But I thank God that our chances seem so good for a speedy getting afloat, and thus rendering comparatively easy our access to it. Piped down at nine A.M. Called all hands at six P.M.

Weather, curiously enough, bright and pleasant, though from the temperature (34° in the sun) one would expect our customary fog.

Under way at eight P.M. Had "a rocky road" ahead of us with some digging, and, though we crossed several leads, but one bridging had to be done.

CHAPTER XIV.—BENNETT ISLAND

16 July—5 August, 1881.

Nearer View of the Island.—A Narrow Escape from Drowning.—Open Water in Various Directions.—Crimson Snow.—Perplexing Views of the Island.—Land or Water?—Making for the Land.—Impassable Roads.—Needle Ice.—Walrus.—Rotten Ice.—Confusion of the Moving Ice.—Clear Weather and New Views.—Recourse to Boats.—Fearful Work.—The Constant Change of the Ice.—Drifting Away from the Island.—How Relief is called.—Sudden Discovery of a Cliff.—A Rush for the Island.—A Terrible Landing.—Taking Possession of Bennett Island.—Plan of Operation.—Assignment of Work.—Geological Foundation of the Island.—Tidal Observations.—Reconnoissance by Mr. Dunbar.—Coal on the Island.—Mr. Chipp sent on an Expedition.—Return of Mr. Dunbar.—His Report.—Disagreeable Weather.—Return of Mr. Chipp.—Record made for Deposit.—The Cold Storm.—Shooting of Dogs.

July 16th, Saturday.—By 12:30 a.m. we had made a good mile from our camp, and halted for dinner. The weather continued bright and pleasant, and a few cirrus clouds were all that could be observed. The island shows more plainly than yesterday, but no water could be seen. At two a.m. resumed our march, and advanced everything another good half a mile by 5:30 a.m. Here there was but a poor place to camp, and, as I was closely occupied with getting sights, I sent Mr. Dunbar ahead to choose a place. He informed me that a quarter of a mile ahead there was a good place, and that, though there had been several leads open, they were not closed, and we might sled right over. I gave the order, therefore, to go ahead, and returned to my work of a Sumner. As I have to carry my instrument box on a dog sled, my movements and those of the sled do not correspond, and I generally have to send to the rear to get my box brought up, and keep by it during the interval between sights to prevent it getting out of my reach. Mr. Dunbar had gone ahead to get a good hummock to look for the water. Much time elapsed without Melville coming back for the second fleet, and I could not understand why. Finally I rushed ahead, with my sextant in one hand and my artificial horizon in the other, and at least found the cause of the delay; the ice had opened again, and left us in a fearful mess. The dog sleds had got over and discharged, but could not get back, and Melville was trying to get his two sleds out of the snarl in which he found himself. I saw we were in for a time, and so it was; for not until nine a.m. did we get all our traps into camp, requiring three hours for what we expected to do in one. However, we are consoled, for Mr. Collins shot a seal meanwhile, the dingy got him, and we have another luxurious supper ahead.

Previous to getting sights, I had a mishap which was annoying. Going to the top of a hummock to take a look at the land, Mr. Dunbar and I had to go out of the road and jump some rather wide openings. Going was all right, but jumping across a four foot opening the ice broke under me as I jumped, and I went into the water up to my neck. My clothes held me up for a moment, and Mr. Dunbar grabbed be by the hood, as he thought, but by the whiskers principally, as I realized, for he nearly took my head off. My knapsack was away to the fear, and I sent Johnson back for it when I reached the dingy. However, I soon got dry clothes on, and, thanks to the bright sun, my wet ones were soon drying. By capsizing of a dog sled we lost 270 pounds of pemmican. Mr. Newcomb shot a bird new to us,—a Mollemokki. The event of the day, however, was the seal,—a fine, large, fat one, giving us food and boot grease. Not much less in importance was the appearance of a walrus,—the first one seen by us in a very, very long time. Though fired at and hit by Mr. Collins and Nindemann, he remained under water finally after many reappearances.

The land showed somewhat plainly today, but I could see no water. Mr. Dunbar thinks he saw it, about seven a.m., to the left of the land, but I do not think he was right.

Supper at 10.15 a.m. Our seal was simply delicious. As it was so late (11:05) when we had finished supper, I concluded to sit up for a meridian altitude, which, when obtained, gave me 76° 41′ N. for our latitude, agreeing fairly with my Sumner, roughly plotted as it was. I shall now work my first sight over, with this correct latitude, and see our exact position.

As we have started the lashings of No. 1 sled, and as, in anticipation of rough roads ahead, I have concluded to lighten its load anyhow, we have some work ahead of us before our next march, and shall probably make a late start; I therefore, on piping down at 11.15, ordered all hands to be called at eight p.m. Wind light northwest; barometer 30.40 at 40°; thermometer 31°; sky beginning to cover with cirrus and cirro-cumulus clouds.

Called all hands at eight p.m.; light west breeze, overcast sky; breakfasted at nine p.m. Chipp was discharged from the sick-list and returned to duty. This relieves Melville, who now takes charge of the road and bridge making, in place of the doctor, who now becomes a reserve.

Set to work repairing and lightening Nos. 1 and 2 sleds. Sent Mr. Dunbar ahead to flag out, and upon his return he told me he had seen the water. I now was able to see it from a hummock alongside the camp, and it was to the right of the island. The island itself was much plainer in sight than ever. I am again in hopes that we have made another discovery.

Working my longitude over with correct latitude, I find we are in 76°41′N., and 153°30′E. Soundings, twenty-three fathoms—mud.

The brings me along to—

July 17th, Sunday, upon the arrival of which we promptly sat down to dinner. Turned to at one a.m., and started ahead, leaving Mr. Cole and a sled crew to finish lashing and bring No. 4 sled. At two hundred yards from camp we had some bridging to do, and five hundred yards further some more serious. However, Melville managed it well, and Chipp lost no time in jumping things across, and we finally reached a stretch of hard ice, over which we could make good time, so that, by 6.45 a.m., I am satisfied we had made one and a half miles good. We then halted and camped.

During our march, from the top of a hummock we saw the water to the right and left of the island, and on the right, through spaces between hummocks, we could see it continue for a short distance. Believing we were close to it Mr. Dunbar went ahead one and a half of his miles, and kept raising the water very fast. From his turning point, he says he thinks the water about twice as far as he went, making its distance four and a half miles. After he returned we advanced half a mile more, so that, upon camping, we ought not to be more than four miles off. The land seemed as distant as ever. He says the ice is very much better, much of it being smooth and of last winter's growth, and thinks in two days we can reach the water. But we shall see.

To-day I saw some faint "crimson snow" and several pieces of muddy ice. A very curious seal trick came to light by my breaking through the ice. He had two holes leading from the sea connected by a covered way under the snow and thin crust. I suppose it was to give him a resort in case a bear headed him off. On the ice, by one hole, was a cavity in which the seal had lain and rubbed the shedding hair off his skin.

Supper at 7.45 a.m. Divine service at 8.30. Piped down at nine. Called all hands at six p.m.; breakfasted at seven p.m. Under way at eight p.m. About one quarter of a mile from the camp we came to our first opening in the ice, which, simple enough for the leading dog sled, became very difficult for the heavy sleds and boats, because of a sudden widening. Two other leads beyond widened also, and altogether we had a very delicate amount of work, requiring much care and attention.

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Anxious to see what Mr. Dunbar saw before camping, I hastened forward with him to the same high ridge at which he stopped, and which commanded a good view. Here, to my unpleasant surprise, I could see land enough, but no water; and though Mr. Dunbar averred he could see water with streaks of ice in it, I felt inclined to think it was an effect of refraction. After undergoing many kaleidoscopic changes, I began to believe it had settled into land and water, both. The whole back curve remained as a dim outline, but lower down there were apparently dark cliffs and snow patches, but infinitely less distinct and regular. The more I looked the more confused I became, and Mr. Dunbar was nonplussed. At one time I was ready to declare that nothing but ice extended to the land; at another, that the land was very distant, and that we were near an open ocean, with pieces of drifting ice; and again, that mirage had raised and inverted ice hummocks and small peaks, and that there was neither land nor water. This last I abandoned, however, because the light curve above had been too often seen and too well maintained its regularity to be an effect of refraction. I sat and studied this thing for an hour, watching every change carefully with a glass, and I finally made up my mind that part of the dark looking mass was land, but that the lower strata was certainly water. I decided, however, to send Dunbar and the doctor ahead after dinner, to look nearer and speak more surely. Turning back to see what kept Chipp and the boats behind, I learned of the serious ice-openings, and, having got everything advanced a good three quarters of a mile since breaking camp, I halted at midnight and prepared for dinner. Just then Mr. Collins called out to me, "Captain, is that land or water?" Looking south, where he pointed, behold there were some more uncertainties. Was this land or water? If land, then we had seen no water west. If water, then our only land west was the faint curve drawn above and very distant. I was fairly staggered, and Mr. Dunbar looked as if he had been dropped from the clouds. It was a confusing moment to me. The south appearance indicated much greater distance, and if I made for it a S.E. wind might spring up and drift me away from it faster than I could go toward it, and I might, by going to the westward, reach the land or water before a southeaster set me away from it. I decided to await the result of the trip of Dunbar and the doctor.

July 18th, Monday.—At 12:50 a.m. ahead went those two gentlemen, and at 1:15 a.m. we moved along with our effects. After crossing two small leads we struck a long piece—two miles—of smooth ice, made last winter, and got along splendidly. Next to the smooth ice was a long floe of hard, older ice (two miles), and I was beginning to contemplate a good day's work when some unexpected openings occurred among the last winter's ice and threw us back somewhat, and, in consequence, when I halted and camped on the old ice at 5:40 a.m., I think we had barely made two miles good since our breakfast.

The weather had remained pleasant. The sun was frequently obscured, and enabled us to dispense from time to time with our snow-glasses, to the great relief of many who have difficulty in wearing them. Light west airs, the clouds having a slow motion from that direction.

At six a.m. the doctor and Mr. Dunbar returned. They had gone, they thought, four miles ahead of our dinner-camp, and from there had concluded they saw no water at all, but all land; and, though they could form no estimate of the distance of the land, they thought the ice extended to its base. This is slightly different from the "open water in two days," but it cannot be helped. After mature consideration, I have decided to keep on heading for the land for several days yet. From the manner in which we have raised it in two days, I hope it is less distant than supposed; and, as the appearance south can no longer be seen, it is evident that the land west is the nearer. Chipp says he saw a similar appearance north this morning.

If we can get on this land, we shall, at all events, know that we are stationary, and that the wind will not carry us around aimlessly. Unless the Liakhoff Islands are incorrectly charted, this land is not one of them, for the northern point on the chart is still south of west considerably of our position on the 16th. If there ever was open water north of these liakhoff Islands, as stated by Wrangel, Anjou, and Hedenstrom, we may get to it from the south side of this land. "A bird in the hand is worth two in the bush," and I will head for what I can plainly see, instead of bearing away across a shifting sea of ice for something which I cannot see.

Supper at 6:30 a.m. Piped down at nine a.m. Called all hands at six p.m. Breakfasted at seven p.m. Bright and absolutely cloudless. Thermometer 31°. Temperature inside tent No. 6, 48.5°. Under way at eight p.m., and immediately had a stretch of three fourths of a mile, over good ice, bringing up at a lead two hundred years wide. In this we secured a large floe piece, and having everything on it by 10.15 p.m., we ferried across. Then we had a mile of splendid going over smooth ice, and when we halted for dinner at 12.30 a.m.,—

July 19th, Tuesday, I am sure we had made one and three fourths miles good, over a west and north (true) course. The weather bright and sunny, a few cirrocumulus clouds only having appeared in the northeast. The wind remained at south, and seemed inclined to freshen. The land was in plain sight, and though I was so puzzled yesterday, I am not satisfied yet that there is no water.

Turned to at 1.50 a.m. and went ahead. For two miles we had a good road, and then we came to a fearful mess of small ice lumps and water, with a rare large block. It was the kind of ice over which one might walk, but dragging anything was out of the question, while a boat would be knocked to pieces. Some fearful disturbance has occurred here at some time or other, and huge blocks have been reared up on end, and at all angles. Traveling looks something like this:—

In vain I climbed up several large hummocks and kept Mr. Dunbar running around in quest of a better place for crossing. Melville had already commenced the herculean task of digging away some of these huge slabs to level a road, in case we could manage the water-gaps, which seemed almost impossible, when the doctor said he had seen what he thought a better way of crossing farther to the northward. We hastened to the spot, and by some work and management, I think we can get across this mess and on the level ice beyond. But it was now six a.m. and our usual supper time and we had made mearly four miles. The work of crossing would probably require three hours; so, instead of continuing at once, I decided to get supper first and proceed afterwards. I am too anxious to leave this mess behind us, to camp on this side of i and though we have made a good three and one fourth miles already, I must kept the men at it for a little while longer. The barometer is falling rapidly, 29.95 at 44°, and though the temperature is 31°, I anticipate a S.E wind, and do not want to lose the grip almost feel I have on the land.

The action of the ice in formation i nicely shown by blocks of wasted (needle ice, which we pick up and can pull in pieces The doctor called my attention today to the distinct manner in which the hexagona prisms were visible, and the vacuole, as wel as the lines of successive freezing. The formation is like that of muriate of ammonia or the basaltic columns in Fingal's Cave The blocks can be easily separated, flake by flake, vertically and at each freezing line horizontally. (See Appendix G.)

By 7.20 a.m. everything was up to the edge of the rotten pack, and we sat down as soon as possible to supper. The sky remained nearly cloudless, and the sun shone brightly. As everybody was complaining of the heat, I exposed a thermometer to the sun getting 35°. At 8:40 a.m. turned to and set to work, and from this time to three p.m. we had the hardest time we have had yet. Such a mess of loose cakes, rotten ice, water holes, and pack ice I have never seen. We tried everything, bridging, road-making, and finally, by means of rope, to join the moving mass together. Everything succeeded for a few moments, and then came to nothing and it was only by rushes and jumps and risks that we got everything on solid ice and camped,—four and a quarter miles good. Towards noon clouds rose rapidly from the southward, and covered the sky so as to prevent my getting a latitude, which I very much desired. Called all hands at eleven p.m., and at midnight sat down to breakfast Soundings in twenty-two and one half fathoms.

July 20th, Wednesday.—Hard as our work was last night I congratulate myself that it was not left till this morning, for we have a thick fog, which would have made our task an impossibility. Temperature 27°, due to the evaporation, for the pools on the ice show not the slightest sign of freezing Found Foxy dead in the water. He probably had a fit and fell in.

Got under way at 1:30 a.m., and though our work was not so difficult as yesterday, it was still sufficiently trying, and by the time we had succeeded in getting all our things across the one half mile intervening between the hard ice on which we camped and the long level plain beyond, it was six a.m and I decided to go no further. Tents were accordingly pitched and preparations made for supper. While loading the first detachment of sleds on a cake of ice for ferrying we were surprised by seeing a walrus come up alongside us, and apparently intent upon getting on our cake too. Mr. Collins hurried along with his gun and fired at him, hitting him near the eye. Down went the walrus and we thought we had seen the last of him Soon after, however, we heard a sound of hard "blowing" to the northward of us among the fearful mess of broken ice, and looking along in that direction, we could see large patches of blood on the ice where it had been ejected in breathing. The doctor at once set out on the hard ice to the west and Mr. Collins on that to the east, while I sent Mr. Dunbar along to the scene. Soon I heard a shot and a cry for a rope, and then four more shots, and, in five, we killed him and secured the game.

While the doctor was firing at him the walrus was in the water, and, no doubt, if he had been killed at once he would have sunk, but while stunned for moment, Mr. Dunbar cut a hole in a flipper with a knife, and rove in it the doctor's belt, and then one more shot finished him. We hauled him down to camp. He was a young bull, from 1,200 to 1,500 pounds in weight,—more meat than we and the dogs can eat under the circumstances. The choice parts, tenderloin, sirloin, heart, liver, brain, and flippers, will more than suffice for three meals for us, and the dogs may eat all day if they like. The skin will be cut up into pieces and divided for boot soles. The tusks go to Mr. Collins, one of which he gave to the doctor. In the walrus's stomache there were shrimps and small fish like smelt, and numerous sea anemones or sea cucumbers(?).

Fog cleared away about four A.M., but weather remained cloudy and dull. No land in sight up to seven A.M.

We found our walrus stew excellent. It was not as good as stew, the meat being coarser and not so sweet. We shall repeat for breakfast, and carry as much as we can conveniently in the dingy. Piped down at nine a.m. Called all hands at six p.m. Nothing visible on account of fog.

Breakfast should have been ready at seven p.m., but as both our supper and breakfast were cooked by burning blubber, much longer time was required, and it was not until 7.45 that we in No. 1 sat down to our meal. The saving in alcohol has been effected at the expense of time.

Under way at 8.30 p.m., and after advancing three quarters of a mile over our course, W. and S. (magnetic) we came to a broken and confused mass of water and ice, much resembling our recent serious experience, and here I halted the leading sleds. Two of our McClintock sleds had received some hard usage in our troublous trip over the "mess" on the 19th, and needed relashing, and the dingy sled was cripped, one runner being doubled under entirely. Ericksen's dog sled was also hors de combat, and much work was thus in readiness for Sweetman. This delayed us considerably, for I could not attempt to cross the rotten and ugly mess before us with crippled sleds, and I dared not leave anything behind me.

At eleven p.m. the wind had got to N. E. and commenced to blow. Rain fell also, and seemed likely to fall for some time. The ice in the opening (one quarter of a mile of lumps, hummocks and floebergs) commenced moving, and I began to fear it was now impossible to cross. Altogether it was a dreary prospect. Everybody was getting wet. We could not advance over a living, moving, rotting pack, and the increasing wind promised a gale. So I concluded to pitch the tents where we were, as a shelter, and get dinner.

July 21st, Thursday.—At one a.m. the tents came along, and the cooking stoves, and while the cooks pitched camp and prepared dinner, Chipp took the rest of the men back and brought forward the dingy, with walrus meat enough for supper. At two a.m. dinner was ready, alcohol being used as fuel. Rain still continued in squalls, and the ice in front of us was moving before the moderate northeast gale. Clearly this was a case of a lost day, and I accepted the situation.

At 5:30 a.m. the land showed quite plainly between W.S.W. and a half W., and W. by N. Soundings in twenty-two fathoms, and a rapid drift W.S.W. (two points to right of leeward). Supper at seven a.m., and as our bags were the most comfortable things we had at one disposal, we in No. 1 crawled into them at eight a.m. Piped down at nine a.m. During the sleeping time the wind tore around our tents in fierce gusts, threatening to pull them out and whirl them away. Rain fell from time to time. Called all hands at six p.m. Breakfasted at seven p.m. Ice still moving in the lead. Land in plain sight, and much nearer too, extending from S. 87° W. to N. 56° W., both magnetic. Wind strong from east, but moderating somewhat.

The confusion before us was such that I dared not risk trying to cross anything. Large blocks, small lumps, and floebergs were moving along to the southward, and occasionally a large piece, seemingly free, would suddenly be shot up in the air as it was squeezed by larger ones, or its submerged portions became freed from overriding masses. If one of our sleds had been caught in such a predicament, or one of our boats, the result would not be doubtful. The wind seemed inclined to freshen again, and going ahead was out of the question. A quarter of a mile of this living, moving ice would hold a Goliath back.

Looking further north we saw the most promising place yet, which seemingly offered an easy transit across the narrowest part of this ice channel. Sending Mr. Dunbar ahead to pick out the road, I hurried back to bring up the sleds, and at 9:35 P.M. we commenced our first forward movement. Some little pickaxe work gave us a fairly good road, though three jams were threatening to relax and leave water gaps every movement. In fact, hardly had we got the boats through than one of them opened. Meanwhile, a cold fog had shut us in and hidden the island from our sight.

July 22d, Friday.—As but one sled or one boat could be hauled at one time through the passageway above described, it was one A.M. before our last boat was through, and we halted for dinner. We were on a good piece of hard ice, lumpy, but giving fair traveling. This was separated from a much larger piece of hard, old, smooth ice by another ugly mess, which we could get over if it held together; but it was threatening to open at any moment.

Before dinner I had sent Melville forward to cut a road, which was done, and by great good fortune at 2:20 A.M., when we turned to, we got everything through without trouble. Before us there lay a mile of excellent going, which we took so well that at 5.45 A.M., when I pitched camp, I felt satisfied that two miles might be scored as made good from our starting-point at 9:35 P.M. yesterday.

Dunbar and I had gone half a mile further ahead on hard, smooth ice (after passing a ridge at which we camped), and were then brought to a stand by some more confused mess, across and beyond which the fog prevented us from seeing. Though we might have gone as far as this before camping, I preferred to have a clear stretch at first for our next move, hoping to see the land meanwhile, and perhaps change our course to more favorable ice. Saw several murres, one loon, and many gulls. Walrus meat again for supper, and then, except his flippers, we have eaten all the choice parts. Our dogs have literally gorged themselves on the remainder, and some of them are too fat for comfort.

We are, thank heaven, rid of the wet, slushy travel which tried us so long. So many holes have been made through the ice, either old seal-holes or places where mud had collected, that the surface snow in melting has drained off, leaving good, fine, hard traveling. Our only enemy now is an ice-opening, and unfortunately this occurs frequently.

Piped down at nine a.m.; called all hands at six p.m. The sun shining brightly, though much fog around the horizon prevented us from seeing the land. Under way at 8:10 p.m., and made good time over the mile of smooth ice which lay before us. At the end of this mile we came to some trouble; a mess of loose pack, fifty feet in width, and some rough ice beyond, separated us from hard ice one quarter of a mile distant. However, we made a flying bridge, or ferry rather, and by 12:10 a.m.,

July 23d, Saturday, had everything across in safety on the hard ice, and halted for dinner. Turned to at 1:20 a.m. and went ahead. The fog seemed inclined to lift, and we could see a point showing which, from its bearing N.40° W. (magnetic), I judged to be the point which yesterday bore N. 56° W. (magnetic). Shaped a course to carry us to the left of it. We came to some good hard ice again after crossing one bad mess, and I hurried along a good mile and a half to a high ridge, to watch with Mr. Dunbar the reappearance of the land. Upon the ridge we began to see a headland working out from the fog, and bearing N. 84° W. (magnetic), and apparently good ice leading to it. Almost calm at four. At 5:40 a.m. halted and camped, having, I consider, made an advance of two and a half miles west northwest since breaking camp yesterday evening.

The fog now almost uncovered the island and enabled me to determine that the land was one island and not two, as I for some time supposed. The bearings of its extreme points were S. 82° W. and N. 27° W., both magnetic. Other bearings will appear in the sketch which I have directed Mr. Collins to make. I do not think it is now five miles distant, and a long, low point of land, sloping to the ice. I think somewhat nearer. Magnificant weather, calm and cloudless, save for a few streaks of cirro-stratus clouds. Sufficient mist and fog rest over the top of the land to hide whatever is in the background; but several have said they saw high rolling land back from the cliffs, which are shown in the sketch. Broiling hot sun, though the thermometer reads 27°. Got a Sumner, and determined our position to be in latitude N. 76°40′, longitude E. 151°25′, a change of position since the 16th of twenty-eight and a half miles to S. 88° W. Soundings, twenty and a half fathoms; rapid drift to westward.

Piped down at nine a.m., but I remained up until noon to get a meridian altitude; latitude resulting 76°39′15″. So my Sumner was very nearly exact. In fact we are drawing in so rapidly upon the land all the time that I dare say my Sumner is quite exact. Called all hands at six p.m.; under way at eight p.m. Bright, nearly cloudless weather; an appearance of land to the southwest.

Before getting under way got fresh bearings. The extreme points were found to bear as follows: S. 87° W. and N. 18° W., both magnetic, and the low point at which I headed, west (magnetic). Though the weather was bright and pleasant, a fogbank was in the eastern horizon and threatened to advance upon us. In order to give this new island a chance to see the "Stars and Stripes" before the fog shut in, our colors were displayed.

For one and three quarters of a mile we advanced over a good road, and then came to an opening with large and small blocks of ice, but yet water enough to permit a ferry. The ice was all in motion, and as everything might change favorably before we were

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ready to cross, no useless labor was indulged in by getting ready bridges or ferrying pieces. At 11:50 p.m. all our sleds and boats were up. At ten the fog had covered us and shut in the land, while an easterly breeze sprang up that changed our sensations from those of uncomfortable heat to those of uncomfortable cold, though probably the temperature remained unchanged.

July 24th, Sunday.—At 12.20 a.m. we sat down to dinner by the opened ice. Some little excitement was created by the appearance of a seal, which Mr. Collins killed; but it sank before the dingy could reach it, and thus our luxurious supper faded away. At 12.50 a.m. turned to; the ice had been alternately moving east and west during dinner, but had now subsided, leaving a lane fifty yards wide of clear water between us and a neighboring hard floe. I at once decided this to be a case for floating boats, and as soon as I had run a line across in the dingy, and Mr. Dunbar had secured its end, the boats were in turn drawn over. The first cutter upon arrival was emptied, and used to ferry dogs, dog sleds, and loose packages, and in one and a quarter hours everything was across, then we proceeded for a short distance three quarters of a mile, and were again confronted by an ice freshet. Large blocks were being swirled around and carried first west and then east; leads were opening and closing every moment; water lanes opened now, where a moment before a good road appeared, and such a state of activity as we have not before seen. Beyond this lay a stretch of good hard ice, and better than that a lead of water on our course west (magnetic), and fifty to one hundred feet wide, while extending as far as the fog would permit us to see, which, it is true, was not far. But the sliding, shifting mess, before alluded to, bothered us exceedingly; though there were three dog-sled trips for each sled, and four trips for the men, a new way had to be found each time, going and returning, and it was not until 6.40 a.m. we got all things over and camped. Mr. Collins, however, at 6.30 shot a seal, and we know that to-morrow we shall have a seal for supper. The land showed just once, about 5 a.m., and we are seemingly quite close to our point. It still bears west, but hardly had we seen it than down shut the fog thicker than ever.

Supper at 7.30. Divine service at 8.30. Piped down at nine a.m. Immediately after a cry was raised "a bear," and away rushed three or four in pursuit. We soon heard two shots, but at 9.45 a.m. all returned without any game. The natives fired at about one thousand yards, but rather wildly, I imagine. Bruin is described as not very large, (sour grapes?) and of a dirty brown color.

As I was very tired upon turning in, I at first slept very soundly; but towards morning (i.e. evening) I became wakeful. During one of these breaks, I heard two shots fired at some distance. Supposing it to be another wild goose chase, I paid no attention to it, and resumed my sleep; but at six p.m., when Mr. Cole called all hands, I learned that at four p.m. Görtz had killed a bear. Bruin came within five hundred yards of the camp, and Görtz crawled within one hundred yards of him unnoticed, and planted his two bullets with good results.

Fog still continues. Light airs from east. Temperature 28°. What lovely weather for the last week in July! Breakfast at seven p.m. Under way at eight p.m. Start fleet where lead bent to West. Go down it in dingy. Lead closes. Much trouble. Strike hard ice finally, but much difficulty in getting gear up to it. Succeed by 12.45 a.m.

July 25th, Monday.—Sent Dunbar ahead, across an ugly mess. He and doctor go together. Strike hard ice, and at its edge they see low point, through fog, one eighth mile distant, bearing west. Turn to at 1:45 a.m. Very ugly time crossing mess. Little or nothing accomplished in distance by six a.m., our usual supper time. Conclude to work all night. Land suddenly shows plainly, and we seem about one mile from it. Moss plainly seen on the face of the cliffs. Go ahead at eight a.m., and from that time to noon, frightful work: ice opening, swirling, swinging us off from land, separating our things in spite of us. Rain sets in and continues in showers. Get our things together and dine at 12:45 p.m. Getting our reckoning straight at the expense of rest. Under canvas to avoid rain. Apparently we are drawing into a bay making an indentation on south side of island. Rain ceases. Turn to at two p.m.; go ahead. Simply fearful work which I can never forget, and ending at six p.m. in a fog which hid everything. Got on a piece of good ice and pitched camp. Bear meat for supper. Twenty-four hours since we commenced work. Wind S.E. Temperature 30.5°. Tired, cold, wet, hungry, sleepy, disappointed, and disgusted; but ready to tackle it again to-morrow. Piped down at nine p.m. This affords me a chance to return to our natural way of living, working by day and sleeping at night.

July 26th, Tuesday.—during the night I was frequently awake, and could hear the wind getting up, and occasionally the rain pattered down. As I gave everybody a good long rest, it was eight a.m. before all hands were called. I then found a northeast gale blowing, a thick fog, and only unsatisfactory glimpses of the land now and then obtainable. The ice to the eastward of us was all in motion, and much water and drift-ice pieces lay between us and the land. Several of the watch declared that during the night, when they saw the land, it was much nearer than when we camped; and Mr. Collins, who turned out during the night, said we were in front of the valley, and he could see clear water between us and an ice-foot, or strip of ice next the land. The situation I think is as follows:—

I think we are far enough under the lee of the point east to escape drifting with the ice pressing down along the island, and passing the point east, even if we are not in an eddy so created, and thus pushed in closer to the land. As nothing can be seen clearly, it would be folly to move into a probably endless confusion, and I shall therefore wait until some plan can be safely carried out.

I do not think I shall ever forget yesterday. Such a time of difficulty and vexation can be experienced nowhere else. Such a shifting of ice and opening of leads! Hardly had we commenced to move our things along what seemed a fair road, than the road broke up; ice broke under us, ice slid away from us, ice moved to the right, when we wanted to go to the left, and vice versa, and each installment of provisions got safely across was considered by me as barely rescued from destruction. And all this time the land, not one half mile off, was tempting .us by its solidity, and appealing to our desire for rest by its moss-covered hills and slopes. At eight a.m. yesterday, when we concluded to go on, and worked for twenty-four hours, so many good roads, each leading seemingly directly on shore, presented themselves, that I was embarrassed in a choice. In fifteen minutes they had fallen to pieces, and became puzzling masses of ice and water. There was no question that when I gave it up at six p.m., everybody was used up, and could not possibly have gone further. Everybody was wet up to his knees, stiff legs and cramps annoyed us until we had been an hour or two in our bags, and we were too tired, in fact, to get the rest we stood so much in need of. However, we are all right again this morning, and none the worse off, better off, in fact, for if we had not put in the twenty-four hours in full, we should have been out in the heavy drift ice, and probably miles away from the land by the time this gale is over.

At noon the fog broke away and showed the land for a few moments. We were exactly as I had supposed and indicated by the sketch on the preceding page. The pressure of the ice in swinging off the east point has backed us in toward the bay, and between our floe and the land there is about two miles of water nearly clear of ice. Jammed against our floe are a number of large blocks and hummocks, offering serious difficulty to any attempt to launch our boats. On the off side of these hummocks the sea is breaking considerably. The wind tears around us in fierce gusts. No. 6 tent has been twice blown down. We shall see what the state of affairs is after dinner. Dined at 12:30 p.m. luxuriously on bear stew.

By 1:30 the land was again in fog, and otherwise the situation was as before. My desire was to go ahead, but prudence told me to wait until the weather moderated. The barometer is still falling, the rain beats down from time to time, and nothing can be seen through the fog. I decide to wait for an improvement, and then I shall push on in the second cutter and try to land some provisions.

Soundings in thirteen fathoms; no drift indicated. Our ice is evidently jammed tight. Probably at the first chance the loose hummocks now pressing against it will slack off and leave us place to launch our boats, even if our floe piece does not go bodily in toward the land.

During the afternoon the ice scene was constantly changing. At one moment ice seemed to reach from our floe to the land; at another time lanes of water were seen, and once our floe was left as an island, while it would have been possible to launch a boat and reach the shore. I confess I was tempted to try it, but I realized that the whaleboat could carry nothing more than her crew safely until her garboards were repaired, and that it would take six or seven trips of the two other boats to carry our efforts. The whaleboat has leaked badly each time she has been floated, and the weather to-day (the first chance for repairs) has been such that Sweetman could not handle his tools. Before I could have got one boat in the water ice shoved in between us and the land, and we were once more helpless. It seems as if Providence were directing our movements, for the floe upon which we camped last night is the only large piece of ice to be seen; all else is confusion and trouble. Had I gone farther, or stopped short of this place, it is hard to say where we should be now.

We are moving west slowly, about a mile or a mile and a half from the land, and are now (seven p.m.) abreast a large glacier, whose broken edge (it may be twenty feet high) we can see with a glass. I have watched carefully all day for a landing-place, but not one has shown. The coast is either steep cliff or glacier, and neither is a successful landing-place. The barometer is now at a stand,—I think 29.63 at 33°,—and, though rain is occassionally falling, and the sky is dark and threatening where the fog does not hide it altogether. I am in hopes the weather will improve during the night. Supper (bear stew) at six p.m. Piped down at nine.

July 27th, Wednesday.—Called all hands at six. Breakfasted at seven. The wind has veered to E., and is dying away. A thick fog continues, hiding everything fifty yards distant. The barometer is rising,—29.67 at 36°, the temperature is 28.5°, from which two things I anticipate clearing weather. Meanwhile, we remain where we are. "Hope deferred maketh the heart sick." Patiently and hopefully have I waited all the forenoon for a clearing, but still, at one p.m., does the fog hang about us impenetrably. The barometer still goes up (29.72 at 35°), and the temperature is 30°

Soundings in sixteen fathoms water, and I am afraid we have drifted down abreast the point west, and are too far west to hope for any benefit from the bay in which yesterday we shoaled our water to thirteen fathoms, in which case we are now beginning to open the west face of the island. This will be the last forlorn hope for open water in this neighborhood.

And yet there is much to be thankful for; everybody is in excellent health, in spite of our terribly hard work; the appetites are something wonderful to thank of, and our sleep is sound and unbroken. Forth-one days of our march over the frozen sea have had no bad effect. Our bear is so nearly consumed that for supper we have only half our usual ration to serve out. (In five meals we have eaten about 250 pounds bear meat. The gross weight was probably 450 pounds.) The only trace our marching shows on us is tender feet, and that probably arises from their being so often wet. Wading through pools would make wet feet if our foot gear was changed every hour.

Chipp described to me the queer way in which the man on watch "calls" his relief. Instead of calling him, which would wake everybody else up, or of crawling over to him, which would also waken everybody, a boat-hook is employed. Chipp says, while awake the other night he saw, to his amazement, a boat-hook slowly coming through this tent door, and poising a moment over Sharvell, poke him vigorously in the back. To show how soundly the man slept, it is worthy of mention that he merely tried to brush it away, as a troublesome fly. This ought to make a good Arctic sketch.

At six p.m. had supper. At 6.45 the fog lifted a little, and showed us the land, seemingly about half a mile off. We have drifted along ashore since last evening, and have left on our right hand the glacier which we were in front of last night; but ahead of us, and apparently extending in to the land, was a very heavy floe of blue ice, separated from us by a few insignificant openings. Such a chance was not to be lost. All hands were at once turned to, and at 7.15 we went ahead with all four sleds, officers dragging also, and then bounced along the boats, and in one hour we had everything on the heavy floe. This we now found to be one and one half miles in width upon going over it, and we were still separated from the land by a half mile of broken ice, water lanes, etc. I at once made up my mind that it could not be done to-night, and that I had better devote a day to it.

The wind had veered to E. S. E., was blowing fresh, and rain began to fall steadily, and when, at 10:45 p.m., just inside the blue floe edge, I gave the order to camp, I think I did a very prudent and sensible thing.

July 28th, Thursday.—Called all hands at seven. Breakfasted at eight. Windy (E.S.E.), foggy, and disagreeable. Land in sight at times. We have gone a short distance to westward. Temperature 29°. Under way at 8:50 a.m. Sent Mr. Dunbar ahead, and after a while we succeeded in crossing the broken ice which had stopped us last night. Here we had a small floe, across which we speeded. The fog now shut in impenetrably, and I feared we were in for a troublesome time. Mr. Dunbar returned, however, and informed me, that after crossing this floe we should find large ice blocks, with only two-foot openings, and that these extended to the ice-foot, or fast ice, and that, moreover, he had climbed up on the ice-foot, and advanced one hundred yards over it toward the land. This was too good a chance to lose, and away we went. But though we made all haste, and got over our last ferry, and across the small floe in splended time, when we reached the further edge we found everything fallen to pieces, and more water and rapidly moving ice than we could undertake. Much of the moving ice looked like small bergs broken off from a glacier foot, and from the rounded lumps of ice on top, and their almost straight edges, I am inclined to think they were icebergs. By 12:30 p.m. we had everything up to the floe edge, and halted for dinner.

The sun now tried to break through the fog, and I hoped for a clearing; but at 1:30 p.m., when we turned to, the fog was as thick as ever. The situation had improved somewhat, for another floe piece had now come along, and a few loose pieces offered a convenient bridge. Away we went, but the floe piece was a small one, and we soon reached its edge. Here was another confusion, but we could make out a larger floe ahead. Everything was embarked on an ice-cake for a ferryboat, and a hauling line run to the floe. By great effort we got our piece clear by four p.m. and commenced to haul over. Suddenly everybody gave a shout, "Look!" Away up over our heads 2,500 (?) feet towered the land, and we were sweeping past it like a mill-stream. Hurriedly sounded in eighteen and one half fathoms. Soon our floe was reached. Away we jumped our sleds and boats, and, seeing two or three large cakes nearly together, ran everything rapidly over until we at last stood at the base of the ice-cap. It was a narrow squeeze, for the men with the tents and remaining loose provisions on their shoulders had hard work to run fast enough to get on the last cake before the other cakes were swept away. Now that we were on the last cake our situation became critical. We could not get up on the ice-foot, for ten feet of water and small lumps intervened, and we were sweeping along by it at the rate of three miles an hour. Our cake was none of the strongest, and in the swirling and running masses, and small bergs, I feared we should be broken up and separated. It was an anxious moment. The southwest cape of the island was not half a mile away, and this was our last chance. Over two weeks of dragging and working to reach this island seemed about to be thrown away. I soon noticed our cake begin to turn around, and saw that it might be whirled into a kind of corner against the fast ice, where, if it remained long enough, a landing might be effected. "Stand by," was the order now, and with sled ropes in hand we waited the trying moment. Soon our cake caught and held. "Now is the time, Chipp!" I shouted, and away we went.

One sled got over on the rough ice-foot all right; a second nearly fell overboard; the third did fall overboard, dragging in Cole; and a piece of ice had to be dragged in by sheer force to bridge for the fourth. When I started the St. Michael's sleds, they seemed to stick somewhere. Watching our cake closely, I saw signs of its giving way. "Away with the boats!"—but how? Nindemann sang out, that he thought we could float the boats below, and haul them over. No sooner said than done, and down they went into the water. The men were hurried from the sleds to the boats, and I saw the first cutter just beginning to haul out, when away swept our ice-cake, carrying Melville, Iversen, Aneguin, and myself, with six dogs. Wilson had carried one load of dogs over in the dingy, but he could not get back for the remainder. Chipp was on the ice-foot with the boats, and I knew he could look out for them, and I felt pretty certain we had saved everything. For ourselves, on the drifting ice-cake, I had some little anxiety, but one corner of our cake fortunately soon after drifted near a fast berg, and by making a flying leap through the air, we escaped in safety. At last! But though standing still, we were not ashore. The ice-foot extended out from the land, and was a confused mass of piled up ice-blocks and ridges,—honeycombed, cracked, and broken,—and presenting a simple impassable road for travel with sleds. Glad enough was I to get a solid foothold anywhere, and I gave the order to camp at 6:30 p.m. (our first sled having got on the ice-foot about five), everything being hauled in as near to the land as possible, say fifty feet from it. Rocks were occasionally slipping down and falling into a little stream of water at the foot of the cliff, the stream being where the thawing of surface ice has left a channel about four feet deep.

The face of the cliff was literally alive with dovekies. Supper at 7:30 p.m. At 8:30 p.m. all hands were called to muster and, led by me, everybody waded, or jumped, or ferried over to the land, where we held on as well as we could to the steep slopes of débris, while our colors were displayed. When all had gathered around me, I said, "I have to announce to you that this island, towards which we have been struggling for more than two weeks, is newly discovered land. I therefore take possession of it in the name of the President of the United States, and name it Bennett Island. I now call upon you to give three cheers." And never were three more lusty cheers given. With great kindness three were then given to me.

I now change the date to the correct one, and record that at 8:30 p.m.,

July 29th, Friday, I added Bennett Island to American soil. Our landing cape I named Cape Emma. Piped down at nine p.m.; fresh E. wind, thick fog; ice off shore rapidly moving west. The birds kept up a fearful chattering all night, but we slept well in spite of it.

EXHIBIT 4

GEOLOGICAL SURVEY NO. 187 SERIES F, GEOGRAPHY, 27

Bennett; island, in the Arctic ocean, north of the New Siberian islands. Discovered by De Long, in 1881, and named by him, after Mr. James Gordon Bennett.

Henrietta; island, in the Arctic ocean, north of the New Siberian islands. Discovered and so named by De Long in 1881.

Herald; island (856 feet high), east of Wrangell island, Arctic ocean. Discovered and landed upon in July, 1849, by Captain Kellett, of H.M.S. *Herald* and named by him after his ship.

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Jeannette; island, northeast of the New Siberian islands, Arctic ocean. Discovered by De Long, in 1881, and named by him after his ship *Jeannette.*

Wrangell; island, off the northern shore of Siberia, northwesterly from Bering strait. The existence of this land was reported by natives, in March and April, 1823, to Baron von Wrangell, who then made an unsuccessful search for it. It was first clearly seen and its shore delineated by Capt. Thomas Long, of the New London whaling bark *Nile*, in August, 1867, and by him called Wrangell's Land. From that date to 1881 it was shown on maps as the south end of a tract extending indefinitely northward and, by some, thought to connect with Greenland across the north pole. Its insular character was established by Berry, in 1881, and since that time it has borne the name of Wrangell island. Possibly Plover island of Kellett, in 1849, may be some peak of this island seen from afar.

Exhibit 5

Boundaries, Areas, Geographic Centers and Altitudes of the United States and the Several States

WRANGELL ISLAND

Wrangell Island is in the Arctic Ocean, about 100 miles from the Siberian coast. A harbor in the southeastern part is in latitude 70° 57′ N. and longitude 178° 10′ W. The island is about 80 miles long and 30 miles wide; its highest point is 2,500 feet above sea level. It was sighted in 1867 by the captain of a United States sailing vessel. In 1881 officers from United States naval vessels landed on the island and claimed it for the United States.[51] According to newspaper reports of October 4, 1926, the Soviet Government had landed a colony of 50 persons on this island, hoisted the Russian flag, and claimed it for that country. An airplane survey is said to have been made and the area found to be 2,925 square miles.

BENNETT, HENRIETTA, AND JEANNETTE ISLANDS

Bennett, Henrietta, and Jeannette Islands were discovered by the DeLong polar expedition and claimed for the United States in 1881, but were only partly explored.

Bennett, the largest of the three, is about 300 miles from the mainland of Siberia, in latitude 76° 38′ N., approximate longitude 149° E. This island probably has an area of several hundred square miles, possibly more than 1,000, and altitudes above sea level of 300 feet or more.

Henrietta Island is in latitude 77° 8′ N., longitude 157° 45′ E., and Jeannette Island in latitude 76° 47′ N., longitude 158° 56′ E.; each has an area of approximately 50 square miles and an altitude of more than 500 feet.[52]

[From the Laurinburg (NC) Exchange, June 5, 1985]

Exhibit 6

U.S. Considers Relinquishing Control of Alaskan Islands

"The State Department appears ready and willing to surrender five strategic Alaskan islands and hundreds of thousands of square miles of oil-rich Alaskan outer continental shelf to the Soviet Union without full public debate and Senate ratification of a treaty," according to Carl Olson, Executive Vice President of The Conservative Caucus Research, Analysis & Education Foundation, Inc., of Vienna, Virginia.

"This giveway of literally billions of barrels of America's oil reserves and Alaskan sovereign territory makes the Panama Canal fiasco look insignificant in comparison," Olson declared.

This giveaway was the subject of a high-level State Department delegation which went to Moscow for the week of July 23–27, headed by the department's Legal Adviser Davis Robinson and supported by his staff members Elizabeth Verville and Scott Hajost, and by Harry Marshall and Richard T. Scully of the department's Bureau of Oceans and International Environmental and Scientific Affairs, and by Robert W. Smith of the office of the Geographer.

The enormous size of the giveaway of strategic oil reserves is reflected in official Department of the Interior estimates. The oil-rich outer continental shelf off Alaska is equal in area to six Californias—or three-quarters of the entire U.S. outer continental shelf. Seabeds equal to about twice the size of California lie to the east of the 1867 Convention Line, and seabeds equal to about four Californias lie the west in the vicinity of the Alaskan islands of Wrangell, Herald, Bennett, Heneritta, and Jeannette. The estimated hydrocarbon reserves of the seabeds to the east of the 1867 Convention Line are 12.2 billion barrels of oil equivalent. (The Navarin Basin alone contains 1.9 billion barrels of reserves.) To the west of the 1867 line, which has twice the area, the reserves have not been officially estimated, but it would not be unreasonable to place them at twice the amount for the area to the east of the line. Or, in other words, the State Department is contemplating giving away about 25 billion barrels of oil equivalent to the Soviets.

The State Department's basis for the giveaway involves its novel (and incorrect) portrayal of the "U.S.-Russia Convention Line of 1867", which was used in the purchase of Alaska from Russia in 1867 for $7,200,000.

This stance by the State Department appeared in the Federal Register notice of the leasing of the Navarin Basin (p. 10065, March 16, 1964). In paragraph 16, under the heading "Jurisdiction", was the following language: "The differing claims relate to differing depictions of the line established by the 1867 Conventions Ceding Alaska between the United States and Russia. The United States depicts the 1867 Convention Line as the maritime boundary by arcs of great circles while the Soviet Union depicts the 1867 Convention Line as rhumb lines." There is no question in the State Department's position that the 1867 Convention Line is "the maritime boundary".

Contradicting this characterization is a mass of historical evidence and even the State Department's own words. In the State Department's International Boundary Study No. 14 (revised 1965) on "U.S.-Russia Convention Line of 1867", the language is very clear:

"Rather than a boundary per se, this report concerns a convention line which ordinarily appears on official maps in the same manner as a boundary . . .

"Furthermore, in keeping with the policy that the line does not constitute a boundary, the standard symbol for the representation of an international boundary should never be used."

So far, the State Department has failed to explain how the United States has relinquished its claim to the islands and seabeds between 1965 and 1984. No treaty, agreement, or other public understanding had been cited for this surrender of American sovereignty.

Even as late as 1978 the noted authority Dr. William E. Butler, Professor of Comparative Law at the University of London, wrote in the book International Straits of the World, Volume 1 "Northeast Arctic Passage as follows: "The Russo-American Convention Line of 1867 is not regarded as a state frontier, and the continental shelf boundary in the Chukchi Sea and northward remain to be negotiated."

The five Arctic Alaskan Islands—Wrangell, Herald, Bennett, Henrietta, and Jeannette—were never considered in the purchase of Alaska. Four has not yet been discovered in 1867. Americans discovered and claimed them on Arctic expeditions in following decades. Herals Islands was discovered and claimed by the British in 1849, and was later acquired by the United States.

Bennett, Henrietta, and Jeannette Islands were discovered and claimed by U.S.N. Commander George Washington DeLong aboard the Jeannette in the 1879–81 expedition. The islands still bear his name (the DeLong Islands), and the U.S. Naval Academy in Annapolis has a monument to that expedition.

Wrangell Island, the largest of the five with an area of 2,800 square miles (the size of Rhode Island and Delaware combined), was discovered and claimed on August 12, 1881, by Captain Calvin Leighton Hooper aboard the U.S. Revenue Marine (Coast Guard) ship Thomas Corwin. Among the landing party on Wrangell Island was the famed explorer John Muir, who wrote of his trip in the book. The Cruise of the Corwin, Various surveys, expeditions, and settlements were made on Wrangell Island in the next four decades by Americans. This ended when the Soviet Union invaded the island with a landing of infantry from the ship Red October on August 20, 1924, and took as prisoners the 14 Americans of the Lomen Brothers Company's fur settlement and confiscated all the gear, pelts, and other property. The 12 surviving Americans were eventually released from their imprisonment in Vladisvostok. The Soviets currently maintain slave labor camps on the island.

It is significant to note that in the State Department's reissue of the book Digest of International Law by Green Haywood Hackworth in 1973, the unequivocal settlements is made:

"The United States has not relinguished its claim to Wrangell Island."

Numerous efforts by various parties, including the owners of Wrangell Island, have been made over the decades to take back their property and collect damages for the unlawful occupation by the Soviet Union. Unfortunately, the State Department has not seen fit yet to honor those claims or even the decision by the Foreign Claims Settlement Commission in 1959 in favor of the Lorne Brothers.

"This impending giveaway of the five islands and the enormous tracts of oil-rich outer continental shelf to the Soviets demands the most searching public scrutiny and debate. It must be made in issues for a national decision-making," Olson stated. "The State Department is not empowered to surrender American real estate and seabeds. Only the Congress has that power. It must be brought up in the form of a treaty, signed by the President, and debated and ratified by the Senate in order to receive the full force of law. The Constitution cannot be ignored in this potentially massive cession of strategic American interests so close to home."

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[51] See Arctic Pilot, vol. 1, p. 338, 1917; U.S. Geol. Survey Bull. 299, p. 682, 1906; U.S. Hydrographic Office Chart 906; and Problems of polar research, p. 241, New York, Am. Geog. Soc., 1928.

[52] For further information regarding these islands see The voyage of the *Jeannette*, ed. by Emma DeLong, vol. 2, pp. 679–689, Boston 1883, and 47th Cong., 2d sess., H. Ex. Doc. 108, p. 361, 1883.

In an ironic comparison with the apparent lenient attitude that the State Department has exhibited toward the Soviets over the seabed boundaries, the State Department has adopted a hardline position toward our ally Canada in the Arctic. This position came to light with the leasing on August 22 of the Diapir Field which borders Canada. The Federal Register announcement of July 23, 1984 (p. 29726) noted a "Jurisdictional Dispute" with Canada over some of the blocks being offered. Although the notice did not say so explicitly, the U.S. position is that the seabed boundary should reflect the "equidistant" theory of boundaries, while this dispute continues, the three petroleum companies which bid on these leases (Union Oil Co. of Calif., Amoco Production Co., and Shell Western E & P Inc.) will have their bid money deposit lie in escrow. Their total winning bids for the four blocks totalled $5,105,000—a substantial affirmation of the rich nature of the Arctic Alaskan outer continental shelf.

AMENDMENTS SUBMITTED

TEMPORARY FAMILY HOUSING FOR DEPENDENTS OF VICTIMS OF THE GANDER, NEWFOUNDLAND AIR CRASH

THUMOND (AND OTHERS) AMENDMENT NO. 1421

Mr. THURMOND (for himself, Mr Metzenbaum, Mr. Byrd, and Mr. Ford) proposed an amendment to the bill (S. 1956) to amend title 5, United States Code, to authorize temporary family housing for certain dependents of deceased members of the Armed Forces; and to amend title 37, United States Code, to authorize temporary payment of an allowance for quarters for certain dependents of deceased members of the uniformed services; as follows:

Strike out the phrase "60 days" both places it appears in the bill and insert in lieu thereof "90 days".

RELIEF OF HAMILTON JORDAN

HATCH AMENDMENT NO. 1422

(Ordered to lie on the table.)

Mr. HATCH submitted an amendment intended to be proposed by him to the bill (H.R. 3363) for the relief of Hamilton Jordan of Lawrenceville, GA; as follows:

At the end of the bill, add the following new section:

Sec. .

(a) Sec. 706 of Title 2, United States Code, is amended by inserting after the words "not to exceed $5,000." and before the words "No action" the following:

"This civil penalty shall be the exclusive penalty for such knowing and willful violation of Section 702 of this title, notwithstanding any other provision of the United States Code, including Section 1001 of Title 18. This section shall be deemed to be effective on the date of enactment of the Ethics in Government Act."

(b) Sec. 304 of Title 28 App. , United States Code, is amended by inserting after the words "not to exceed $5,000." the following:

"This civil penalty shall be the exclusive penalty for such knowing and willful violation of Section 302 of this title, notwithstanding any other provision of the United States Code, including Section 1001 of Title 18. This section shall be deemed to be effective on the date of enactment of the Ethics in Government Act."

(c) Sec. 204 of Title 5 App. 4, United States Code, is amended by inserting after the words "not to exceed $5,000." the following:

"This civil penalty shall be the exclusive penalty for such knowing and willful violation of Section 202 of this title, notwithstanding any other provision of the United States Code, including Section 1001 of Title 18. This section shall be deemed to be effective on the date of enactment of the Ethics in Government Act."

UNFAIR TRADE PRACTICES OF JAPAN

HOLLINGS AMENDMENT NO. 1423

(Ordered to lie on the table.)

Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill (S. 1404) to require the President to respond to unfair trade practices of Japan; as follows:

At the end of the bill, add the following:

TITLE I—TEXTILE AND APPAREL TRADE ENFORCEMENT

SEC. 101. SHORT TITLE.

This title may be cited as the "Textile and Apparel Trade Enforcement Act of 1985".

SEC. 102. POLICY.

The policy of this title is—

(1) to prevent further disruption of the United States textiles and textile products markets, damage to United States textile and apparel manufacturers, and loss of jobs by United States workers by providing for orderly and nondisruptive growth of imports of textiles and textile products; and

(2) to implement the objectives of the Multi-Fiber Arrangement by requiring the effective enforcement of import levels of textiles and textile products contemplated by the Multi-Fiber Arrangement.

SEC. 103. FINDINGS.

The Congress finds that—

(1) the United States and most major textile producing countries are parties to the Multi-Fiber Arrangement, the purpose of which is to ensure the orderly growth of imports of textiles and textile products and to avoid disruption of the markets for textiles and textile products in importing nations;

(2) the Multi-Fiber Arrangement, which first entered into force on January 1, 1974, and which was most recently extended in December 1981, through July 1986, contemplates a 6 per centum annual rate of growth for imports for most exporting countries and provides for a lower rate of growth for imports from significant exporting countries;

(3) since 1980, the objective of orderly growth of imports of textiles and textile products provided for in the Multi-Fiber Arrangement has not been achieved; from 1981 through 1984 imports of textiles and textile products into the United States have grown at an annual rate of 19 per centum, far in excess of the 1 per centum growth rate of the United States market for textiles and textile products during the same period and far in excess of the annual rate of import growth of less than 2 per centum that prevailed during the period 1974 through 1980;

(4) the disruptive surge in imports of textiles and textile products which occurred from 1981 through 1984 resulted from the failure of the United States to enforce adequately its rights under the Multi-Fiber Arrangement and to extend coverage of the Multi-Fiber Arrangement to imports made of competing fibers;

(5) import growth of apparel products has substantially outstripped the growth of the domestic market so that import penetration of the domestic market has more than doubled in the last six years, reaching a level of 50 per centum in 1984;

(6) based on a nationwide audit of major retail outlets, the import penetration of such major items of apparel as trousers, blouses, shirts, suits, skirts, and sweaters exceeds 50 per centum of domestic consumption;

(7) since the most recent extension of the Multi-Fiber Arrangement, certain exporting countries have sharply increased their exports of textiles and textile products made in whole or in part from fibers not subject to the Multi-Fiber Arrangement with the effect of circumventing restraints agreed to under the Arrangement; the increased imports of these textiles and textile products have caused disruption of the United States market for textiles and textile products and have seriously undercut the effectiveness of the Multi-Fiber Arrangement;

(8) imports of textiles and textile products into the United States are predominantly the product of significant producing countries, with five large producing countries now accounting for more than 50 per centum of all imports of textiles and textile products;

(9) the domination of import trade by producers in the significant producing countries has limited participation in the United States market by other producing countries, many of which share important trade and other national interests, and encourage mutually beneficial trade and investment, with the United States;

(10) a change in United States textile trade policy to afford the smaller producing countries and countries in the Caribbean region a relatively greater share of imports of textiles and textile products would promote the national economic interests of the United States;

(11) the textile and apparel trade deficit of the United States was more than $16,200,000,000 in 1984, an increase of 53 per centum over 1983, and accounted for 13 per centum of the Nation's overall merchandise trade deficit;

(12) the current level of imports of textiles and textile products, ten billion square yard equivalents in 1984, represents over one million job opportunities lost to United States workers;

(13) imported textiles and textile products now account for 38 per centum (the equivalent of three million two hundred thousand bales of cotton) of the annual cotton consumption in the United States; only one of five of the bale equivalents included in imported textiles and textile products is grown in the United States; the result of the massive increases in cotton textile and apparel

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imports has been a declining market share for, and a $1,000,000,000 loss to, domestic cotton producers in 1983 alone, which was only partially offset by Federal cotton program benefits; another result is that United States cotton producers, who are spending about $20,000,000 annually in research and promotion efforts, have built markets not for themselves but for foreign growers;

(14) imports of wool products have doubled since 1980, creating major disruptions among domestic wool products producers and seriously depressing the price of United States produced raw wool; the Multi-Fiber Arrangement recognizes that imports of certain products, such as wool products, in certain countries, including the United States, pose particular problems for certain industries, such as, the wool products industries in those countries and import growth rates of 1 per centum or less have been permitted in such cases;

(15) as a result of this increased penetration and the very limited growth of the domestic market, the United States companies producing textiles and textile products identical, or similar, to those imported have been seriously damaged, many of them have been forced out of business, many have closed plants or curtailed operations, workers in such companies have lost employment and have been otherwise materially and adversely affected, and serious hardship has been inflicted on hundreds of impacted communities causing a substantial reduction in economic activity and lost revenues to local governments;

(16) the increase in imports and increased import penetration of the United States domestic market have occurred notwithstanding the fact that, through extensive modernization programs and investment in more modern equipment, productivity, as measured by output per man hour, in the textile mill products sector has increased in the last ten years at the average annual rate of 4.2 per centum and in the apparel sector at the average annual rate of 3.4 per centum, as compared with the lower productivity growth of all manufacturing in the same period of 1.9 per centum;

(17) the factors described above are causing serious damage, or the actual threat thereof, to domestic producers of textiles and textile products; as a result, market disruption exists in the United States requiring the new measures established under this Act;

(18) based on experience during the past ten years and on other factors, the growth of the United States market for textiles and textile products is unlikely to exceed an average annual rate of 1 per centum during the next several years;

(19) if the rate of growth of imports of textiles and textile products into the United States that occurred since 1980 continues, plant closings will continue to accelerate, leaving the United States market with reduced domestic competition for imported products;

(20) in order to avoid further market disruption and deterioration of the situation confronting the United States industry producing textiles and textile products, which is already seriously damaged, it is essential—

(A) to require the establishment of import levels for textiles and textile products supplied by major producing countries that reflect—

(i) the import level that would have occurred had imports from these countries grown since 1980 by the 6 per centum annual growth rate contemplated by the Multi-Fiber Arrangement, or 1 per centum in the case of wool products, or

(ii) the actual import level resulting from restraints under a bilateral agreement with the United States providing for an annual import growth rate of less than 6 per centum,

whichever is the lesser,

(B) to require the establishment of import levels for textiles and textile products supplied by producing countries that reflect their 1984 import levels,

(C) to require the establishment of import levels for textiles and textile products supplied by small producing countries that provide a significant increase in their market shares to meet their development needs and to permit future growth in such shares consistent with the Multi-Fiber Arrangement, and

(D) to limit the future growth rate of imports of textiles and textile products into the United States to levels which reflect orderly growth as provided for in the Multi-Fiber Arrangement and the most recent Protocol extending the Multi-Fiber Arrangement;

(21) the establishment of import levels, and limitation of future import growth to levels, that reflect effective enforcement of the Multi-Fiber Arrangement and that also reflect the expected growth rate of the United States market for textiles and textile products will fulfill announced policy objectives of the United States regarding trade in textiles and apparel;

(22) as the Department of Defense has long recognized, a strong, viable and efficient domestic textiles and textile products industry is essential in order to avoid impairment of the national security of the United States;

(23) the developments that have led to the sharp increase in imports of textiles and textile products since 1980 may not have been foreseeable; nevertheless, the rights of the United States under international agreements should have been invoked in order to prevent increased quantities of textiles and textile products from being imported under such conditions as to cause or threaten serious damage to domestic producers of textiles and textile products in the United States; and

(24) the sharp increase in imports of textiles and textile products since 1980, and the effect of this increase on the United States textiles and apparel industry and its workers, constitutes exceptional circumstances within the meaning of the Multi-Fiber Arrangement and its Protocol.

SEC. 104. DEFINITIONS.

For purposes of this title—

(1) The term "textiles and textile products" includes, but is not limited to, all tops, yarns, man-made fibers, piece goods, made-up articles, apparel, and other textile manufactured products (which derive their chief characteristics from their textile components) made in whole or in part from any natural or manmade fiber, or blend thereof, that are classified under schedule 3, part 6 of schedule 6, parts 1 (except subpart A but including item number 700.75), 4, 5 (except subpart E), 7 or 13 (except item number 790.57) of schedule 7, or part 1 of schedule 8 of the Tariff Schedules of the United States, or part 1 of the Appendix to the Tariff Schedules of the United States; such term does not include apparel containing 70 per centum or more by weight of silk except articles classified under item numbers 373.20 and 373.22 of the Tariff Schedules of the United States;

(2) The term "category" means, with respect to textiles and textile products that are the product of a country, each of the following—

(A) each category of textiles and textile products identified by a three-digit textile category number in the Department of Commerce publication "Correlation: Textile and Apparel Categories with Tariff Schedules of the United States Annotated", dated January 1985 and, subsequently, in the first edition of such document that is revised to reflect the adoption by the United States of the Nomenclature Structure of the Harmonized System;

(B) with respect to each country with which the United States has (i) an agreement on the date of enactment of this title limiting exports of textiles and textile products to the United States that includes specific limitations on subdivisions of a category described in subparagraph (A), or (ii) taken unilateral action to limit products entered under such a subdivision, each such subdivision;

(C) a category consisting of the man-made fiber products not covered by a category described in subparagraph A and classified under subpart E of part 1 of schedule 3 to the Tariff Schedules of the United States; and

(D) each category consisting of each of the following products when, because of fiber content, that product is not subject to the Multi-Fiber Arrangement:

(i) yarn,

(ii) fabric,

(iii) apparel, and

(iv) other textile products;

(3) The term "import sensitive category" means—

(A) each category (other than a category applicable to textiles and textile products that are a product of a country in the Caribbean region) for which the ratio of imports to domestic production, as reported in the Department of Commerce publication "U.S. Production, Imports and Import/Production Ratios for Cotton, Wool and Man-Made Fiber Textiles and Apparel", equals or exceeds 40.0 for the preceding calendar year; and

(B) each category covering wool products;

(4) The term "country" means a foreign country (other than Canada and the Member States of the European Economic Community as constituted on January 1, 1985), a foreign territory, an insular possession of the United States, or any other territory, possession, colony, trusteeship or political entity, whether affiliated with the United States or not, that is outside the customs territory of the United States;

(5) The term "major producing country" means a country the annual aggregate quantity of textiles and textile products of which that entered under the categories referred to in subparagraph (2)(A) of this section during calendar year 1984 equaled or exceeded 10 per centum of all textiles and textile products under such categories that entered from all countries and from Canada and the Member States of the European Economic Community during calendar year 1984;

(6) The term "producing country" means a country (other than a major producing country and a country in the Caribbean region) the annual aggregate quantity of textiles and textile products of which that entered under the categories referred to in subparagraph (2)(A) of this section during calendar year 1984 equaled or exceeded 1.25 per centum of all textiles and textile products under such categories that entered from all countries and from Canada and the

Member States of the European Economic Community during calendar year 1984;

(7) The term "small producing country" means a country other than a major producing country and a producing country;

(8) The term "country in the Caribbean region" means the United Mexican States and a country eligible for designation as a beneficiary country under section 212 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702);

(9) The term "wool product" means an article containing over 17 per centum by weight;

(10) The term "cotton, wool and manmade fiber sweaters" means articles classified under categories 345, 445, 446, 645 or 646 as defined in the Department of Commerce publication "Correlation Textile and Apparel Categories with Tariff Schedules of the United States Annotated," dated January 1985;

(11) The term "entered" means entered, or withdrawn from warehouse, for consumption in the customs territory of the United States; and

(12) The term "Multi-Fiber Arrangement" means the Arrangement Regarding International Trade in Textiles, as extended by the Protocol done at Geneva, December 22, 1981.

SEC. 105. LIMITS ON TEXTILE AND APPAREL IMPORTS.

(a) CALENDAR YEAR 1985.—Notwithstanding any other provision of law, the aggregate quantity of textiles and textile products classified under a category that is entered during calendar year 1985 shall not exceed—

(1) in the case of textiles and textile products that are a product of a major producing country, other than textile luggage, textile handbags, and textile flat goods subject (as of the date of enactment of this title) to a specific limitation under an agreement with a major producing country) the lesser of an amount equal to 101 per centum (A) of the aggregate quantity of such products of such country classified under such category that would have entered during calendar year 1984 if the aggregate quantity of such products of such country classified under such category entered during calendar year 1980 had increased by 6 per centum annually, or 1 per centum annually in the case of a category covering a wool product, during calendar years 1981, 1982, 1983, and 1984, or (B) if the United States has an agreement with such country providing for an annual growth rate for such category of less than 6 per centum, of the aggregate quantity of such products of such country classified under such category that entered during calendar year 1984;

(2) in the case of textile luggage, textile handbags, and textile flat goods subject (as of the date of enactment of this title) to specific limitation under an agreement with a major producing country, the specific limitation quantity in effect as of the date of enactment of this title;

(3) in the case of textiles and textile products that are a product of a producing country, an amount equal to the aggregate quantity of (A) such products of such country classified under such category that entered during calendar year 1984, or (B) in the case of textile luggage, textile handbags, and textile flat goods subject (as of the date of enactment of this title) to specific limitation under an agreement with an exporting country, the specific limitation quantity in effect as of the date of enactment of this title;

(4) in the case of textiles and textile products that are a product of a small producing country (other than cotton, wool, and manmade fiber sweaters described in paragraph (5)), an amount equal to the sum of (A) the aggregate quantity of such products of such country classified under such category that entered during calendar year 1984, plus (B) an amount equal to (i) 15 per centum of such quantity, in the case of a category that is not an import sensitive category, or (ii) 1 per centum of such quantity, in the case of a category that is an import sensitive category; and

(5) in the case of cotton, wool, and manmade fiber sweaters that are—

(A) the product of substantial assembly operations in Guam from otherwise completed knit-to-shape component parts, an aggregate amount equal to 160,000 dozen; and

(B) the product of substantial assembly operations in the Commonwealth of the Northern Mariana Islands from otherwise completed knit-to-shape component parts, an aggregate amount equal to 70,000 dozen.

If application of paragraph (1) would result in the aggregate quantity of textiles and textile products of a major producing country classified under all categories permitted to enter during calendar year 1985 to be less than 70 per centum of the aggregate quantity of such products of such country that entered during calendar year 1984, then, notwithstanding paragraph (1), the aggregate quantity of textiles and textile products of such country that may be entered under each category during calendar year 1985 shall not be less than 40 per centum of the aggregate quantity of such products of such country that entered under such category during calendar year 1984.

(b) GROWTH ADJUSTMENT.—For calendar years after 1985, the aggregate quantity of textiles and textile products classified under each category that may be entered during each such calendar year shall—

(1) in the case of such products that are a product of a major producing country or of a producing country, be increased by an amount equal to 1 per centum of the aggregate quantity that could be entered under such category during the preceding calendar year; and

(2) in the case of such products that are a product of a small producing country, be increased by an amount equal to—

(A) in the case of a category (other than an import sensitive category), 6 per centum of the aggregate quantity that could be entered under that category during the preceding calendar year, and

(B) in the case of an import sensitive category, 1 per centum of the aggregate quantity that could be entered under that category during the preceding calendar year.

If the aggregate quantity that could be entered under a category for a calendar year after 1985 is reduced under section 111(b), then, in the first calendar year in which there is no such reduction, this subsection shall be applied as if there had been no reduction under section 111(b) in previous calendar years.

(c) MINIMUM QUANTITIES.—If, under subsection (a) or (b), the aggregate quantity of textiles and textile products of a country that may be entered during a calendar year under a category is—

(1) less than one million square yard equivalents, in the case of a category covering yarn, fabric, made-ups, and miscellaneous products, other than wool products;

(2) less than seven hundred thousand square yard equivalents, in the case of a category covering apparel, other than wool products apparel; or

(3) less than one hundred thousand square yard equivalents, in the case of a category covering wool products,

then, notwithstanding subsection (a) or (b), the aggregate quantity of textiles and textile products of such country that may be entered under such category during the calendar year shall be one million, seven hundred thousand, or one hundred thousand square yard equivalents, respectively. The amount prescribed in the preceding sentence shall be accorded growth subject to the provisions of subsection (b) beginning the first calendar year after the aggregate quantity of products of such country entered under such category equals the minimum quantity prescribed under this subsection.

(d) SPECIAL RULE.—For purposes of this section, if during any calendar year after 1984, the aggregate quantity of textiles and textile products that are the product of a small producing country (other than a country in the Caribbean region) and that are entered under the categories referred to in subparagraph 2(A) of section 104 of this title equals or exceeds 1.25 per centum of all textiles and textile products entered under such categories from all countries and from Canada and the Member States of the European Economic Community during such calendar year, then such small producing country shall be considered to be a producing country for all succeeding calendar years.

(e) ENFORCEMENT.—The Secretary of Commerce shall prescribe such regulations governing the entry, or withdrawal from warehouse, for consumption of textiles and textile products as may be necessary to carry out this title.

SEC. 106. IMPORT LICENSING.

In order to ensure the equitable and efficient administration of section 105 of this title, the Secretary of Commerce shall, within six months after the date of enactment of this title, establish and administer an import licensing system under which an importer of any textiles and textile products from any country and from Canada and the Member States of the European Economic Community, will be required to present an import permit as a condition of entry. The Secretary shall charge a fee for import licenses in such amount as may be necessary to cover the cost of administration of the system. The Secretary of the Treasury shall make all determinations regarding classification under the Tariff Schedules of the United States, appraisement, and valuation of products subject to licensing under this section.

SEC. 107. ANNUAL REPORT.

Not later than March 15, 1986, and March 15 of each calendar year thereafter, the President shall submit to the Congress a report on the administration of this title during the preceding calendar year. Such report shall include detailed information about the implementation and operation of the limitations established under section 105. The report shall also include a detailed report by the Department of Commerce on the implementation and enforcement for the provisions of this title exempting from import limitations certain articles of silk apparel, with special regard to the extent to which nonsilk articles, and silk articles not exempt from import limitations, are erroneously or fraudulently classified as silk items exempt from import limitations and are entered under this title. All departments and agencies shall cooperate in preparation of this report as requested by the President.

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SEC. 108. REVIEW.

The Secretary of Commerce shall commence ten years after the date of enactment of this title a formal review of the operation of the Textile Import Control Program under the provisions of this title. The Secretary shall consult Members and committees of Congress, representatives of the labor unions and the industries affected by the program, the Secretary of the Treasury, and other appropriate government officials. Within six months after the commencement of the study, the Secretary shall submit to Congress his findings as well as his recommendations for the future conduct of the program.

SEC. 109. DUTY FREE ENTRY OF CERTAIN SWEATERS FROM GUAM AND THE NORTHERN MARIANAS.

Subpart A of part 7, schedule 3 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by adding at the end thereof the following new item:

"385.97	Cotton, wool and man-made fiber sweaters that are entitled to enter under the quotas established under section 105(a)(5) of the Textile and Apparel Trade Enforcement Act of 1985 or the increased quotas under section 105(b) of such Act that adjust the quotas under such section 105(a)(5) and that do not contain foreign materials to the value of more than 50 percent of their total value as this standard is applied pursuant to Headnote 3(a) of the General Headnotes and Rules of Interpretation	Free".

SEC. 110. PRODUCTS OF THE INSULAR POSSESSIONS OF THE UNITED STATES.

(a) General Rule.—Notwithstanding section 104(4) of this title, textiles and textile products that are the product of an insular possession of the United States shall not be considered to be products of a country, within the meaning of section 104(4), if such products meet the requirements of subsection (b).

(b) Possession Content.—

(1) Subsection (a) shall apply to an article if—

(A) that article is imported directly from an insular possession of the United States into the customs territory of the United States; and

(B) the sum of (i) the cost or value of the materials produced in such insular possession of the United States or in the customs territory of the United States plus (ii) the direct costs of processing operations performed in such insular possession of the United States is not less than 85 per centum of the appraised value of such article at the time it is entered.

(2) The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out this section, except that the rules of origin contained in 19 CFR 12.130 shall be the rules of origin for purposes of this section.

(3) As used in this subsection, the phrase "direct costs of processing operations" includes—

(A) all actual labor costs attributable to permanent residents of the insular possession involved in the growth, production, manufacture, or assembly of the specific merchandise, including fringe benefits, on-the-job training and the cost of engineering, supervisory, quality control, and similar personnel; and

(B) dies, molds, tooling, and depreciation on machinery and equipment which are allocable to the specific merchandise.

Such phrase does not include costs which are attributable to nonpermanent resident labor, are not directly attributable to the merchandise concerned, or are not costs of manufacturing the product, such as (i) profit, and (ii) general expenses of doing business which are either not allocable to the specific merchandise or are not related to the growth, production, manufacture, or assembly of the merchandise, such as administrative salaries, casualty and liability insurance, advertising, and salesmen's salaries, commissions or expenses.

SEC. 111. EFFECTIVE DATE.

(a) In General.—Subject to the provisions of subsection (b), the provisions of this title shall apply to textiles and textile products entered, or withdrawn from warehouse, for consumption on or after the date of enactment of this title.

(b) Calendar Years 1985 and 1986.—The Secretary of Commerce shall prescribe by regulation the aggregate quantity, if any, of textiles and textile products that may be entered under section 105 (a) or (c) of this title from each country under each category during the period beginning on the date of enactment of this title and ending December 31, 1985. Notwithstanding subsection (a), to the extent that the aggregate quantity of imports of textiles and textile products of a country entered under a category after December 31, 1984, and before the date of enactment of this title exceeds the quantity permitted entry for such products of such country and such category during calendar year 1985 under subsection 5 (a) or (c) of section 105, then the limit that would otherwise apply under section 105 (b) or (c) for such category for such country for calendar year 1986 shall be reduced by the amount of such excess quantity. If such excess quantity exceeds the limit that would otherwise apply under section 105 (b) or (c) for such category for such country for calendar year 1986 shall be reduced by the amount of such excess quantity. If such excess quantity exceeds the limit that would otherwise apply under section 105(b) for such category for such country for calendar year 1986, then the limit for such category and country for calendar years after 1986 shall be reduced until such excess is accounted for.

TITLE II

SEC. 201. SHORT TITLE.

This title may be cited as the "American Footwear Industry Recovery Act of 1985".

SEC. 202. FINDINGS AND PURPOSE.

(a) The Congress finds that—

(1) The domestic nonrubber footwear industry is important to the national economy, and footwear firms are vital to the economic health of small towns throughout the United States.

(2) The domestic nonrubber footwear industry is highly labor intensive, and low capital requirements for entry into footwear production make it a primary target for industrializing or newly industrialized countries. As a consequence, footwear is produced in virtually every footwear consuming country in the world.

(3) Tremendous competitive pressure has been created in the world footwear market in the last decade as a result of rapidly growing production and capacity in numerous developing and developed countries. This development has resulted in the widespread erection of tariff and nontariff barriers by foreign countries designed to protect their domestic footwear industries.

(4) The United States has historically resisted the protectionist trends of other producing nations and has instead maintained a market distinguished by its accessibility. As a result, the United States market has become a focal point for world trade in nonrubber footwear.

(5) The diversion of international trade to the United States market has resulted in serious injury to domestic producers as manifested by—

(A) the loss of 155,000 footwear jobs since 1968,

(B) a decline in domestic production and production capacity, and

(C) the permanent closure of over 500 plants during the same period.

(6) The serious injury to domestic producers poses a significant danger to the industry's supplier base as well.

(7) The domestic nonrubber footwear producers have made a significant commitment to the future of the industry through substantial capital investment.

(8) Since the termination of temporary import relief in 1981, capital investment in the domestic nonrubber footwear industry has declined as the industry struggled to battle the massive surge in imports which increased the percentage share of imported footwear in the United States market from, 51 per centum in 1981 to 77 per centum in 1985.

(9) Without the restriction of import levels, capital investment in this domestic industry will continue to decrease.

(10) The domestic nonrubber footwear industry has thrice been judged by the International Trade Commission, as recently as May 1985, to be seriously injured by imports.

(11) Since the termination of the two, 4-year orderly marketing agreements in 1981, the harm to the domestic industry is even more critical than the serious injury which triggered the Commission's unanimous findings in 1976 and 1977.

(12) The domestic nonrubber footwear industry has not been afforded adequate and appropriate relief from imports; therefore, the Congress concludes that—

(A) the administrative process under sections 201, 202, and 203 of the Trade Act of 1974 has proven inadequate; and

(B) in the absence of and effective remedy under such process, legislative relief is essential.

(b)(1) It is the purpose of Congress in enacting this section to—

(A) promote and expand the economic health of the United States nonrubber footwear industry,

(B) preserve the jobs of American workers, and

(C) prevent the further decline of this important domestic industry.

(2) It is declared to be the policy of Congress that access to the United States market for foreign-produced nonrubber footwear should be on an equitable basis to ensure orderly trade in nonrubber footwear, reduce unfair trade in nonrubber footwear, and address United States balance-of-payments problems, of which footwear is the seventh largest component. In order to accomplish these objectives, it is deemed necessary and appropriate to limit imports of nonrubber footwear into the United States market.

SEC. 203. DEFINITIONS.

For purposes of this title—

(1) The term "entered" means entered, or withdrawn from warehouse, for consumption in the customs territory of the United States.

(2) The term "Secretary" means Secretary of Commerce.

(3) The term "nonrubber footwear" means the following categories of nonrubber footwear products, identified by reference to the following item numbers of the Tariff Schedules of the United States (as in effect on January 1, 1985): 700.05 through 700.45; 700.56; 700.72 through 700.83; and 700.95; except alpine (down hill) ski boots and nordic (cross country and jumping) ski boots.

(4) The term "apparent domestic consumption" means, with respect to any 1-year period, the sum of imports plus domestic production less exports.

SEC. 204. QUANTITATIVE LIMITATION ON NONRUBBER FOOTWEAR.

(a)(1) During the 8-year period beginning on the date of enactment of this title, the aggregate number of pairs of nonrubber footwear which may be entered during any 1-year period shall not exceed 60 per centum of the estimated apparent domestic consumption of nonrubber footwear for such period.

(2) The quantitative limitation imposed by paragraph (1) for any 1-year period shall be distributed among the following categories of nonrubber footwear so that the aggregate number of pairs of nonrubber footwear in such category which may be entered during any 1-year period shall not exceed the quantity equal to—

(A) in the case of nonrubber footwear with a customs value that does not exceed $1.25 per pair, 10 per centum of apparent domestic consumption of nonrubber footwear for such period,

(B) in the case of nonrubber footwear with a customs value that exceeds $1.25 per pair but does not exceed $2.50 per pair, 5.4 per centum of apparent domestic consumption of nonrubber footwear for such period, and

(C) in the case of nonrubber footwear with a customs value that exceeds $2.50 per pair, 44.6 per centum of apparent domestic consumption of nonrubber footwear for such period.

(b) Within 60 days after the effective date of this title, and on the first day of the fourth quarter of each 1-year period thereafter, the Secretary shall determine on the basis of the best information available, including his own or independent forecasts, the expected apparent domestic consumption of nonrubber footwear for, in the case of the initial determination, the remainder of the current 1-year period and in the case of the first day of the fourth quarter of each 1-year period thereafter, the next succeeding 1-year period. On each such date, the Secretary shall determine and publish in the Federal Register the allocation for the next succeeding 1-year period of permissible imports of nonrubber footwear as required by this section.

(c) On the first days of the first, second, and third quarters of each 1 year period, the Secretary shall revise the determinations of expected apparent domestic consumption made under subsection (b) for the current 1 year period on the basis of the best information then available and shall make such adjustments in the quantity of nonrubber footwear permitted to be imported under this section as indicated by the revision. All revisions and adjustments made under this subsection shall be published in the Federal Register.

(d) If the revised determination of expected apparent domestic consumption published in the Federal Register under subsection (c) on the first day of the third quarter in any 1 year period for nonrubber footwear varies from the actual apparent domestic consumption of nonrubber footwear for such 1 year period, the Secretary shall publish in the Federal Register on the first day of the second quarter of such succeeding 1 year period a revision to the determination of expected apparent domestic consumption for such 1 year period made under subsection (c) of this section. The revision shall be in the amount of such variance and shall be in addition to any other revision that would be made on any such first day of the second quarter under subsection (c) of this section.

(e)(1) The Secretary and the Secretary of the Treasury shall take such actions within their respective jurisdictions as may be necessary or appropriate to enforce the provisions of this section, including without limitation, the issuance of orders to Customs officers to bar entry to merchandise if the entry of such merchandise would cause the limitations established under this section to be exceeded.

(2)(A) The Secretary and the Secretary of the Treasury are each authorized to issue such implementing regulations, including the issuance of import licenses, as may be necessary or appropriate to effect the purposes of this section and to enforce the provisions of this section.

(B) Before prescribing any regulations under subparagraph (A), the Secretary or the Secretary of the Treasury, as the case may be, shall—

(i) consult with interested domestic parties,

(ii) afford an opportunity for such parties to comment on the proposed regulations, and

(iii) consider all such comments before prescribing final regulations.

SEC. 205. COMPENSATION AUTHORITY.

For purposes of section 123 of the Trade Act of 1974 (19 U.S.C. 2133), the imposition of the quantitative limitation under section 204 shall be treated as action taken under section 203 of the Trade Act of 1974 (19 U.S.C. 2253).

TITLE III—COPPER

SEC. 301. SHORT TITLE.

This title may be cited as the "Copper Free Market Restoration Act of 1985".

SEC. 302. FINDINGS, PURPOSE, AND POLICY.

(a) FINDINGS.—The Congress finds that—

(1) the copper industry of the United States is critical to the national defense and the maintenance of a strong economy, but has suffered a substantial economic setback, including a 50 per centum reduction in employment levels, a 25 per centum drop in production, the closure of 16 major mines, and the permanent loss of copper reserves;

(2) the substantial economic setback to the domestic copper industry is attributable to the steep decline in world copper prices that has resulted from—

(A) the continued overproduction of copper by government-owned foreign producers that—

(i) have been encouraged to overproduce by their host governments in order to generate foreign exchange and maintain employment levels, and

(ii) enjoy unfair competitive advantage over United States producers because of subsidized loans from their governments and from international lending institutions, such as the World Bank, and the absence of adequate environmental regulation; and

(B) the overvaluation of the dollar and its impact on domestic copper prices;

(3) the extent of the economic setback to the domestic copper industry was documented in 1984 when the United States International Trade Commission unanimously found that the industry had been injured by foreign competition under the terms of section 201 of the Trade Act of 1974 and recommended that appropriate relief be granted;

(4) while copper producers in the United States have made a substantial commitment to the modernization of the industry, more improvements are needed, and the reinvestment in the United States copper industry that is needed for those improvements is seriously jeopardized by the failure of existing trade statutes to deal effectively with the problem of excess world production; and

(5) a 5-year stabilization of foreign copper production is needed if the domestic copper industry is to attract the necessary capital for reinvestment.

(b) PURPOSE.—The purpose of this title is to—

(1) ensure an adequate supply of domestic copper,

(2) expand employment in the copper industry, and

(3) stabilize foreign copper production at levels that will enable domestic copper producers to make necessary improvements and modernization.

(c) POLICY.—The Congress declares it to be the national policy that the United States must seek to negotiate agreements temporarily limiting copper production by foreign copper producers so that the purposes of this title can be fulfilled.

SEC. 303. DEFINITIONS.

For purposes of this title—

(1) The term "agreement negotiation period" means the 9-month period beginning on the first day of the first calendar month beginning after the date of enactment of this Act.

(2) The term "major copper producing country" means any foreign country whose production of unwrought copper during 1984 exceeded 300,000 metric tons.

(3) The term "significant copper producing country" means any foreign country whose production of unwrought copper during 1984 exceeded 200,000 metric tons but did not exceed 300,000 metric tons.

(4) The term "unwrought copper" means articles provided for in items 612.02 through 612.06 of the Tariff Schedules of the United States.

(5) The term "restraint period" means the 5-year period beginning at the close of the agreement negotiation period.

SEC. 304. NEGOTIATIONS AND ACTION REGARDING AGREEMENTS TO VOLUNTARILY RESTRAIN COPPER PRODUCTION.

(a) NEGOTIATIONS.—

(1) The President, acting through the United States Trade Representative and the Secretary of the Interior, shall undertake negotiations during the agreement negotiation period with all major copper producing countries for the purpose of obtaining voluntary restraint agreements under which the aggregate production of unwrought copper by the major copper producing countries during each 1-year period within the restraint period will not exceed the aggregate production of unwrought copper by those countries during calendar year 1982.

(2) The President, acting through the United States Trade Representative and the Secretary of the Interior, shall undertake negotiations during the agreement negotiation period with all significant copper producing countries for the purpose of obtaining voluntary restraint agreements under which the aggregate production of unwrought

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copper by the significant copper producing countries during each 1-year period within the restraint period will not exceed the sum of—

(A) the aggregate production of unwrought copper by those countries during calendar year 1984, plus

(B) the estimated growth in demand for unwrought copper for such 1-year period within the restraint period.

(b) Reports.—

(1) At the close of each 3-month period within the agreement negotiation period, the President shall submit to the Congress a report on the progress of negotiations conducted under subsection (a). Such report shall—

(A) set forth the terms of any voluntary restraint agreement that has been entered into under subsection (a) during such 3-month period,

(B) contain a summary of the actions taken by the President during such 3-month period to obtain agreements under subsection (a) with each major copper producing country and significant copper producing country that has not entered into such an agreement,

(C) contain a summary of the responses (including counteroffers) made during such 3-month period by each of the countries described in subparagraph (B) to the actions of the President described in subparagraph (B),

(D) include a description of the obstacles and objections encountered by the President during such 3-month period to the achievement of agreements under subsection (a), and

(E) include an assessment of whether each country described in subparagraph (B) is negotiating in good faith.

(2) The final report that is required to be submitted under paragraph (1) shall include—

(A) a determination by the President of whether the agreements entered into under subsection (a) will achieve the purposes of this title, and

(B) recommendations of the President regarding any actions that should be taken against any major copper producing country or significant copper producing country which refuses to enter into a voluntary restraint agreement under subsection (a).

(c) Action if Voluntary Restraint Agreements Take Effect.—If voluntary restraint agreements described in subsection (a) take effect between the United States and the major copper producing countries or significant copper producing countries—

(1) the United States Trade Representative, with the cooperation of other appropriate Federal officers, shall monitor the production of unwrought copper by those countries during each 1-year period within the restraint period for the purpose of ascertaining if the terms of the agreements are being complied with during such 1-year period, and

(2) the United States Trade Representative shall, within 30 days after the close of each 1-year period within the restraint period, report to the Congress on the results of the monitoring carried out during such 1-year period.

TITLE IV—FOREIGN LABOR PRACTICES

SEC. 401. REPORTS.

(a)(1) The United States International Trade Commission shall conduct a study of the wage rates, labor costs, and other labor practices of each foreign country which had a surplus in the balance of trade between the United States and such foreign country for calendar year 1984 that exceeded $4,000,000,000. Such study should consider labor practices existing throughout the economy of each of such countries and the labor practices of the industries in each of such countries that were responsible for such balance of trade surplus.

(2) The study conducted under paragraph (1) shall include, with respect to each foreign country described in paragraph (1), analyses of—

(A) the effects of the labor practices of such foreign country studied under paragraph (1) on the competitive position of United States exports in foreign markets and in United States markets,

(B) the relationship between—

(i) the wages and other compensation paid to workers in United States industries producing goods that face substantial competition from products of such foreign country, and

(ii) the wages and other compensation paid to workers in such foreign country who produce such competitive products,

(C) the relationship, if any, between the labor practices of such foreign country studied under paragraph (1) and the cultural, religious, and political practices or values of such foreign country.

(D) the extent to which such labor practices are encouraged or enforced by the government of such foreign country,

(E) the history, duration, and extent of such labor practices, and

(F) the extent to which private or public forces that are anticompetitive encourage such labor practices.

(3) By no later than the date that is 9 months after the date of enactment of this Act, the United States International Trade Commission shall submit a report on the study conducted under paragraph (1) to the Congress, the Secretary of Labor, and the Secretary of Commerce.

(b)(1) The Secretary of Labor and the Secretary of Commerce shall each conduct a separate investigation to—

(A) identify each of the labor practices discussed in the report submitted under subsection (a)(3) that—

(i) is illegal under existing laws of the United States or of any State, or

(ii) should be prohibited by all countries under an international labor law code,

(B) determine what labor principles and rules should be included in an international labor law code, and

(C) determine the issues involved in, and the prospects for achieving, the elimination of labor practices identified under subparagraph (A) through negotiations with foreign countries.

(2) By no later than 3 months after the date on which the report is submitted under subsection (a)(3), the Secretary of Labor and the Secretary of Commerce shall each submit to the Congress a report on the investigation conducted under paragraph (1).

TRADE NEGOTIATIONS AND EXPORTS

HOLLINGS AMENDMENT NO. 1424

(Ordered referred to the Committee on Finance.)

Mr. HOLLINGS proposed an amendment to the bill (S. 1860) to amend the Trade Act of 1974 to eliminate barriers and distortions ~~to trade~~, to provide authority for a new round of trade negotiations, to promote U.S. exports, and for other purposes; as follows:

At the end of the bill, add the following:

TITLE I—TEXTILE AND APPAREL TRADE ENFORCEMENT

SEC. 101. SHORT TITLE.

This title may be cited as the "Textile and Apparel Trade Enforcement Act of 1985".

SEC. 102. POLICY.

The policy of this title is—

(1) to prevent further disruption of the United States textiles and textile products markets, damage to United States textile and apparel manufacturers, and loss of jobs by United States workers by providing for orderly and nondisruptive growth of imports of textiles and textile products; and

(2) to implement the objectives of the Multi-Fiber Arrangement by requiring the effective enforcement of import levels of textiles and textile products contemplated by the Multi-Fiber Arrangement.

SEC. 103. FINDINGS.

The Congress finds that—

(1) the United States and most major textile producing countries are parties to the Multi-Fiber Arrangement, the purpose of which is to ensure the orderly growth of imports of textiles and textile products and to avoid disruption of the markets for textiles and textile products in importing nations;

(2) the Multi-Fiber Arrangement, which first entered into force on January 1, 1974, and which was most recently extended in December 1981, through July 1986, contemplates a 6 per centum annual rate of growth for imports for most exporting countries and provides for a lower rate of growth for imports from significant exporting countries;

(3) since 1980, the objective of orderly growth of imports of textiles and textile products provided for in the Multi-Fiber Arrangement has not been achieved; from 1981 through 1984 imports of textiles and textile products into the United States have grown at an annual rate of 19 per centum, far in excess of the 1 per centum growth rate of the United States market for textiles and textile products during the same period and far in excess of the annual rate of import growth of less than 2 per centum that prevailed during the period 1974 through 1980;

(4) the disruptive surge in imports of textiles and textile products which occurred from 1981 through 1984 resulted from the failure of the United States to enforce adequately its rights under the Multi-Fiber Arrangement and to extend coverage of the Multi-Fiber Arrangement to imports made of competing fibers;

(5) import growth of apparel products has substantially outstripped the growth of the domestic market so that import penetration of the domestic market has more than doubled in the last six years, reaching a level of 50 per centum in 1984;

(6) based on a nationwide audit of major retail outlets, the import penetration of such major items of apparel as trousers, blouses, shirts, suits, skirts, and sweaters exceeds 50 per centum of domestic consumption;

(7) since the most recent extension of the Multi-Fiber Arrangement, certain exporting countries have sharply increased their exports of textiles and textile products made in whole or in part from fibers not subject to the Multi-Fiber Arrangement with the effect of circumventing restraints agreed to under the Arrangement; the increased imports of these textiles and textile products have caused disruption of the United States

market for textiles and textile products and have seriously undercut the effectiveness of the Multi-Fiber Arrangement;

(8) imports of textiles and textile products into the United States are predominantly the product of significant producing countries, with five large producing countries now accounting for more than 50 per centum of all imports of textiles and textile products;

(9) the domination of import trade by producers in the significant producing countries has limited participation in the United States market by other producing countries, many of which share important trade and other national interests, and encourage mutually beneficial trade and investment, with the United States;

(10) a change in United States textile trade policy to afford the smaller producing countries and countries in the Caribbean region a relatively greater share of imports of textiles and textile products would promote the national economic interests of the United States;

(11) the textile and apparel trade deficit of the United States was more than $16,200,000,000 in 1984, an increase of 53 per centum over 1983, and accounted for 13 per centum of the Nation's overall merchandise trade deficit;

(12) the current level of imports of textiles and textile products, ten billion square yard equivalents in 1984, represents over one million job opportunities lost to United States workers;

(13) imported textiles and textile products now account for 38 per centum (the equivalent of three million two hundred thousand bales of cotton) of the annual cotton consumption in the United States; only one of five of the bale equivalents included in imported textiles and textile products is grown in the United States; the result of the massive increases in cotton textile and apparel imports has been a declining market share for, and a $1,000,000,000 loss to, domestic cotton producers in 1983 alone, which was only partially offset by Federal cotton program benefits; another result is that United States cotton producers, who are spending about $20,000,000 annually in research and promotion efforts, have built markets not for themselves but for foreign growers;

(14) imports of wool products have doubled since 1980, creating major disruptions among domestic wool products producers and seriously depressing the price of United States produced raw wool; the Multi-Fiber Arrangement recognizes that imports of certain products, such as wool products, in certain countries, including the United States, pose particular problems for certain industries, such as, the wool products industries in those countries and import growth rates of 1 per centum or less have been permitted in such cases;

(15) as a result of this increased penetration and the very limited growth of the domestic market, the United States companies producing textiles and textile products identical, or similar, to those imported have been seriously damaged, many of them have been forced out of business, many have closed plants or curtailed operations, workers in such companies have lost employment and have been otherwise materially and adversely affected, and serious hardship has been inflicted on hundreds of impacted communities causing a substantial reduction in economic activity and lost revenues to local governments;

(16) the increase in imports and increased import penetration of the United States domestic market have occurred notwithstanding the fact that, through extensive modernization programs and investment in more modern equipment, productivity, as measured by output per man hour, in the textile mill products sector has increased in the last ten years at the average annual rate of 4.2 per centum and in the apparel sector at the average annual rate of 3.4 per centum, as compared with the lower productivity growth of all manufacturing in the same period of 1.9 per centum;

(17) the factors described above are causing serious damage, or the actual threat thereof, to domestic producers of textiles and textile products; as a result, market disruption exists in the United States requiring the new measures established under this Act;

(18) based on experience during the past ten years and on other factors, the growth of the United States market for textiles and textile products is unlikely to exceed an average annual rate of 1 per centum during the next several years;

(19) if the rate of growth of imports of textiles and textile products into the United States that occurred since 1980 continues, plant closings will continue to accelerate, leaving the United States market with reduced domestic competition for imported products;

(20) in order to avoid further market disruption and deterioration of the situation confronting the United States industry producing textiles and textile products, which is already seriously damaged, it is essential—

(A) to require the establishment of import levels for textiles and textile products supplied by major producing countries that reflect—

(i) the import level that would have occurred had imports from these countries grown since 1980 by the 6 per centum annual growth rate contemplated by the Multi-Fiber Arrangement, or 1 per centum in the case of wool products, or

(ii) the actual import level resulting from restraints under a bilateral agreement with the United States providing for an annual import growth rate of less than 6 per centum,

whichever is the lesser,

(B) to require the establishment of import levels for textiles and textile products supplied by producing countries that reflect their 1984 import levels,

(C) to require the establishment of import levels for textiles and textile products supplied by small producing countries that provide a significant increase in their market shares to meet their development needs and to permit future growth in such shares consistent with the Multi-Fiber Arrangement, and

(D) to limit the future growth rate of imports of textiles and textile products into the United States to levels which reflect orderly growth as provided for in the Multi-Fiber Arrangement and the most recent Protocol extending the Multi-Fiber Arrangement;

(21) the establishment of import levels, and limitation of future import growth to levels, that reflect effective enforcement of the Multi-Fiber Arrangement and that also reflect the expected growth rate of the United States market for textiles and textile products will fulfill announced policy objectives of the United States regarding trade in textiles and apparel;

(22) as the Department of Defense has long recognized, a strong, viable and efficient domestic textiles and textile products industry is essential in order to avoid impairment of the national security of the United States;

(23) the developments that have led to the sharp increase in imports of textiles and textile products since 1980 may not have been foreseeable; nevertheless, the rights of the United States under international agreements should have been invoked in order to prevent increased quantities of textiles and textile products from being imported under such conditions as to cause or threaten serious damage to domestic producers of textiles and textile products in the United States; and

(24) the sharp increase in imports of textiles and textile products since 1980, and the effect of this increase on the United States textiles and apparel industry and its workers, constitutes exceptional circumstances within the meaning of the Multi-Fiber Arrangement and its Protocol.

SEC. 104. DEFINITIONS.

For purposes of this title—

(1) The term "textiles and textile products" includes, but is not limited to, all tops, yarns, man-made fibers, piece goods, made-up articles, apparel, and other textile manufactured products (which derive their chief characteristics from their textile components) made in whole or in part from any natural or manmade fiber, or blend thereof, that are classified under schedule 3, part 6 of schedule 6, parts 1 (except subpart A but including item number 700.75), 4, 5 (except subpart E), 7 or 13 (except item number 790.57) of schedule 7, or part 1 of schedule 8 of the Tariff Schedules of the United States, or part 1 of the Appendix to the Tariff Schedules of the United States; such term does not include apparel containing 70 per centum or more by weight of silk except articles classified under item numbers 373.20 and 373.22 of the Tariff Schedules of the United States;

(2) The term "category" means, with respect to textiles and textile products that are the product of a country, each of the following—

(A) each category of textiles and textile products identified by a three-digit textile category number in the Department of Commerce publication "Correlation: Textile and Apparel Categories with Tariff Schedules of the United States Annotated", dated January 1985 and, subsequently, in the first edition of such document that is revised to reflect the adoption by the United States of the Nomenclature Structure of the Harmonized System;

(B) with respect to each country with which the United States has (i) an agreement on the date of enactment of this title limiting exports of textiles and textile products to the United States that includes specific limitations on subdivisions of a category described in subparagraph (A), or (ii) taken unilateral action to limit products entered under such a subdivision, each such subdivision;

(C) a category consisting of the man-made fiber products not covered by a category described in subparagraph A and classified under subpart E of part 1 of schedule 3 to the Tariff Schedules of the United States; and

(D) each category consisting of each of the following products when, because of fiber content, that product is not subject to the Multi-Fiber Arrangement:

(i) yarn,

(ii) fabric,

(iii) apparel, and

(iv) other textile products;

(3) The term "import sensitive category" means—

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(A) each category (other than a category applicable to textiles and textile products that are a product of a country in the Caribbean region) for which the ratio of imports to domestic production, as reported in the Department of Commerce publication "U.S. Production, Imports and Import/Production Ratios for Cotton, Wool and Man-Made Fiber Textiles and Apparel", equals or exceeds 40.0 for the preceding calendar year; and

(B) each category covering wool products;

(4) The term "country" means a foreign country (other than Canada and the Member States of the European Economic Community as constituted on January 1, 1985), a foreign territory, an insular possession of the United States, or any other territory, possession, colony, trusteeship or political entity, whether affiliated with the United States or not, that is outside the customs territory of the United States;

(5) The term "major producing country" means a country the annual aggregate quantity of textiles and textile products of which that entered under the categories referred to in subparagraph (2)(A) of this section during calendar year 1984 equaled or exceeded 10 per centum of all textiles and textile products under such categories that entered from all countries and from Canada and the Member States of the European Economic Community during calendar year 1984;

(6) The term "producing country" means a country (other than a major producing country and a country in the Caribbean region) the annual aggregate quantity of textiles and textile products of which that entered under the categories referred to in subparagraph (2)(A) of this section during calendar year 1984 equaled or exceeded 1.25 per centum of all textiles and textile products under such categories that entered from all countries and from Canada and the Member States of the European Economic Community during calendar year 1984;

(7) The term "small producing country" means a country other than a major producing country and a producing country;

(8) The term "country in the Caribbean region" means the United Mexican States and a country eligible for designation as a beneficiary country under section 212 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702);

(9) The term "wool product" means an article containing over 17 per centum by weight;

(10) The term "cotton, wool and man-made fiber sweaters" means articles classified under categories 345, 445, 446, 645 or 646 as defined in the Department of Commerce publication "Correlation Textile and Apparel Categories with Tariff Schedules of the United States Annotated," dated January 1985;

(11) The term "entered" means entered, or withdrawn from warehouse, for consumption in the customs territory of the United States; and

(12) The term "Multi-Fiber Arrangement" means the Arrangement Regarding International Trade in Textiles, as extended by the Protocol done at Geneva, December 22, 1981.

SEC. 105. LIMITS ON TEXTILE AND APPAREL IMPORTS.

(a) CALENDAR YEAR 1985.—Notwithstanding any other provision of law, the aggregate quantity of textiles and textile products classified under a category that is entered during calendar year 1985 shall not exceed—

(1) in the case of textiles and textile products that are a product of a major producing country, other than textile luggage, textile handbags, and textile flat goods subject (as of the date of enactment of this title) to a specific limitation under an agreement with a major producing country) the lesser of an amount equal to 101 per centum (A) of the aggregate quantity of such products of such country classified under such category that would have entered during calendar year 1984 if the aggregate quantity of such products of such country classified under such category entered during calendar year 1980 had increased by 6 per centum annually, or 1 per centum annually in the case of a category covering a wool product, during calendar years 1981, 1982, 1983, and 1984, or (B) if the United States has an agreement with such country providing for an annual growth rate for such category of less than 6 per centum, of the aggregate quantity of such products of such country classified under such category that entered during calendar year 1984;

(2) in the case of textile luggage, textile handbags, and textile flat goods subject (as of the date of enactment of this title) to specific limitation under an agreement with a major producing country, the specific limitation quantity in effect as of the date of enactment of this title;

(3) in the case of textiles and textile products that are a product of a producing country, an amount equal to the aggregate quantity of (A) such products of such country classified under such category that entered during calendar year 1984, or (B) in the case of textile luggage, textile handbags, and textile flat goods subject (as of the date of enactment of this title) to specific limitation under an agreement with an exporting country, the specific limitation quantity in effect as of the date of enactment of this title;

(4) in the case of textiles and textile products that are a product of a small producing country (other than cotton, wool, and man-made fiber sweaters described in paragraph (5)), an amount equal to the sum of (A) the aggregate quantity of such products of such country classified under such category that entered during calendar year 1984, plus (B) an amount equal to (i) 15 per centum of such quantity, in the case of a category that is not an import sensitive category, or (ii) 1 per centum of such quantity, in the case of a category that is an import sensitive category; and

(5) in the case of cotton, wool, and man-made fiber sweaters that are—

(A) the product of substantial assembly operations in Guam from otherwise completed knit-to-shape component parts, an aggregate amount equal to 160,000 dozen; and

(B) the product of substantial assembly operations in the Commonwealth of the Northern Mariana Islands from otherwise completed knit-to-shape component parts, an aggregate amount equal to 70,000 dozen.

If application of paragraph (1) would result in the aggregate quantity of textiles and textile products of a major producing country classified under all categories permitted to enter during calendar year 1985 to be less than 70 per centum of the aggregate quantity of such products of such country that entered during calendar year 1984, then, notwithstanding paragraph (1), the aggregate quantity of textiles and textile products of such country that may be entered under each category during calendar year 1985 shall not be less than 40 per centum of the aggregate quantity of such products of such country that entered under such category during calendar year 1984.

(b) GROWTH ADJUSTMENT.—For calendar years after 1985, the aggregate quantity of textiles and textile products classified under each category that may be entered during each such calendar year shall—

(1) in the case of such products that are a product of a major producing country or of a producing country, be increased by an amount equal to 1 per centum of the aggregate quantity that could be entered under such category during the preceding calendar year; and

(2) in the case of such products that are a product of a small producing country, be increased by an amount equal to—

(A) in the case of a category (other than an import sensitive category), 6 per centum of the aggregate quantity that could be entered under that category during the preceding calendar year, and

(B) in the case of an import sensitive category, 1 per centum of the aggregate quantity that could be entered under that category during the preceding calendar year.

If the aggregate quantity that could be entered under a category for a calendar year after 1985 is reduced under section 111(b), then, in the first calendar year in which there is no such reduction, this subsection shall be applied as if there had been no reduction under section 111(b) in previous calendar years.

(c) MINIMUM QUANTITIES.—If, under subsection (a) or (b), the aggregate quantity of textiles and textile products of a country that may be entered during a calendar year under a category is—

(1) less than one million square yard equivalents, in the case of a category covering yarn, fabric, made-ups, and miscellaneous products, other than wool products;

(2) less than seven hundred thousand square yard equivalents, in the case of a category covering apparel, other than wool products apparel; or

(3) less than one hundred thousand square yard equivalents, in the case of a category covering wool products,

then, notwithstanding subsection (a) or (b), the aggregate quantity of textiles and textile products of such country that may be entered under such category during the calendar year shall be one million, seven hundred thousand, or one hundred thousand square yard equivalents, respectively. The amount prescribed in the preceding sentence shall be accorded growth subject to the provisions of subsection (b) beginning the first calendar year after the aggregate quantity of products of such country entered under such category equals the minimum quantity prescribed under this subsection.

(d) SPECIAL RULE.—For purposes of this section, if during any calendar year after 1984, the aggregate quantity of textiles and textile products that are the product of a small producing country (other than a country in the Caribbean region) and that are entered under the categories referred to in subparagraph 2(A) of section 104 of this title equals or exceeds 1.25 per centum of all textiles and textile products entered under such categories from all countries and from Canada and the Member States of the European Economic Community during such calendar year, then such small producing country shall be considered to be a producing country for all succeeding calendar years.

(e) ENFORCEMENT.—The Secretary of Commerce shall prescribe such regulations governing the entry, or withdrawal from warehouse, for consumption of textiles and textile products as may be necessary to carry out this title.

SEC. 106. IMPORT LICENSING.

In order to ensure the equitable and efficient administration of section 105 of this title, the Secretary of Commerce shall, within six months after the date of enactment of this title, establish and administer an import licensing system under which an importer of any textiles and textile products from any country and from Canada and the Member States of the European Economic Community, will be required to present an import permit as a condition of entry. The Secretary shall charge a fee for import licenses in such amount as may be necessary to cover the cost of administration of the system. The Secretary of the Treasury shall make all determinations regarding classification under the Tariff Schedules of the United States, appraisement, and valuation of products subject to licensing under this section.

SEC. 107. ANNUAL REPORT.

Not later than March 15, 1986, and March 15 of each calendar year thereafter, the President shall submit to the Congress a report on the administration of this title during the preceding calendar year. Such report shall include detailed information about the implementation and operation of the limitations established under section 105. The report shall also include a detailed report by the Department of Commerce on the implementation and enforcement for the provisions of this title exempting from import limitations certain articles of silk apparel, with special regard to the extent to which nonsilk articles, and silk articles not exempt from import limitations, are erroneously or fraudulently classified as silk items exempt from import limitations and are entered under this title. All departments and agencies shall cooperate in preparation of this report as requested by the President.

SEC. 108. REVIEW.

The Secretary of Commerce shall commence ten years after the date of enactment of this title a formal review of the operation of the Textile Import Control Program under the provisions of this title. The Secretary shall consult Members and committees of Congress, representatives of the labor unions and the industries affected by the program, the Secretary of the Treasury, and other appropriate government officials. Within six months after the commencement of the study, the Secretary shall submit to Congress his findings as well as his recommendations for the future conduct of the program.

SEC. 109. DUTY FREE ENTRY OF CERTAIN SWEATERS FROM GUAM AND THE NORTHERN MARIANAS.

Subpart A of part 7, schedule 3 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by adding at the end thereof the following new item:

"385.97	Cotton, wool and man-made fiber sweaters that are entitled to enter under the quotas established under section 105(a)(5) of the Textile and Apparel Trade Enforcement Act of 1985 or the increased quotas under section 105(b) of such Act that adjust the quotas under such section 105(a)(5) and that do not contain foreign materials to the value of more than 50 percent of their total value as this standard is applied pursuant to Headnote 3(a) of the General Headnotes and Rules of Interpretation	Free".

SEC. 110. PRODUCTS OF THE INSULAR POSSESSIONS OF THE UNITED STATES.

(a) General Rule.—Notwithstanding section 104(4) of this title, textiles and textile products that are the product of an insular possession of the United States shall not be considered to be products of a country, within the meaning of section 104(4), if such products meet the requirements of subsection (b).

(b) Possession Content.—

(1) Subsection (a) shall apply to an article if—

(A) that article is imported directly from an insular possession of the United States into the customs territory of the United States; and

(B) the sum of (i) the cost or value of the materials produced in such insular possession of the United States or in the customs territory of the United States plus (ii) the direct costs of processing operations performed in such insular possession of the United States is not less than 85 per centum of the appraised value of such article at the time it is entered.

(2) The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out this section, except that the rules of origin contained in 19 CFR 12.130 shall be the rules of origin for purposes of this section.

(3) As used in this subsection, the phrase "direct costs of processing operations" includes—

(A) all actual labor costs attributable to permanent residents of the insular possession involved in the growth, production, manufacture, or assembly of the specific merchandise, including fringe benefits, on-the-job training and the cost of engineering, supervisory, quality control, and similar personnel; and

(B) dies, molds, tooling, and depreciation on machinery and equipment which are allocable to the specific merchandise.

Such phrase does not include costs which are attributable to nonpermanent resident labor, are not directly attributable to the merchandise concerned, or are not costs of manufacturing the product, such as (i) profit, and (ii) general expenses of doing business which are either not allocable to the specific merchandise or are not related to the growth, production, manufacture, or assembly of the merchandise, such as administrative salaries, casualty and liability insurance, advertising, and salesmen's salaries, commissions or expenses.

SEC. 111. EFFECTIVE DATE.

(a) In General.—Subject to the provisions of subsection (b), the provisions of this title shall apply to textiles and textile products entered, or withdrawn from warehouse, for consumption on or after the date of enactment of this title.

(b) Calendar Years 1985 and 1986.—The Secretary of Commerce shall prescribe by regulation the aggregate quantity, if any, of textiles and textile products that may be entered under section 105 (a) or (c) of this title from each country under each category during the period beginning on the date of enactment of this title and ending December 31, 1985. Notwithstanding subsection (a), to the extent that the aggregate quantity of imports of textiles and textile products of a country entered under a category after December 31, 1984, and before the date of enactment of this title exceeds the quantity permitted entry for such products of such country and such category during calendar year 1985 under subsection 5 (a) or (c) of section 105, then the limit that would otherwise apply under section 105 (b) or (c) for such category for such country for calendar year 1986 shall be reduced by the amount of such excess quantity. If such excess quantity exceeds the limit that would otherwise apply under section 105 (b) or (c) for such category for such country for calendar year 1986 shall be reduced by the amount of such excess quantity. If such excess quantity exceeds the limit that would otherwise apply under section 105(b) for such category for such country for calendar year 1986, then the limit for such category and country for calendar years after 1986 shall be reduced until such excess is accounted for.

TITLE II

SEC. 201. SHORT TITLE.

This title may be cited as the "American Footwear Industry Recovery Act of 1985".

SEC. 202. FINDINGS AND PURPOSE.

(a) The Congress finds that—

(1) The domestic nonrubber footwear industry is important to the national economy, and footwear firms are vital to the economic health of small towns throughout the United States.

(2) The domestic nonrubber footwear industry is highly labor intensive, and low capital requirements for entry into footwear production make it a primary target for industrializing or newly industrialized countries. As a consequence, footwear is produced in virtually every footwear consuming country in the world.

(3) Tremendous competitive pressure has been created in the world footwear market in the last decade as a result of rapidly growing production and capacity in numerous developing and developed countries. This development has resulted in the widespread erection of tariff and nontariff barriers by foreign countries designed to protect their domestic footwear industries.

(4) The United States has historically resisted the protectionist trends of other producing nations and has instead maintained a market distinguished by its accessibility. As a result, the United States market has become a focal point for world trade in nonrubber footwear.

(5) The diversion of international trade to the United States market has resulted in serious injury to domestic producers as manifested by—

(A) the loss of 155,000 footwear jobs since 1968,

(B) a decline in domestic production and production capacity, and

(C) the permanent closure of over 500 plants during the same period.

(6) The serious injury to domestic producers poses a significant danger to the industry's supplier base as well.

(7) The domestic nonrubber footwear producers have made a significant commitment to the future of the industry through substantial capital investment.

(8) Since the termination of temporary import relief in 1981, capital investment in the domestic nonrubber footwear industry has declined as the industry struggled to battle the massive surge in imports which increased the percentage share of imported footwear in the United States market from, 51 per centum in 1981 to 77 per centum in 1985.

(9) Without the restriction of import levels, capital investment in this domestic industry will continue to decrease.

(10) The domestic nonrubber footwear industry has thrice been judged by the International Trade Commission, as recently as May 1985, to be seriously injured by imports.

(A) the administrative process under sections 201, 202, and 203 of the Trade Act of 1974 has proven inadequate; and

(B) in the absence of and effective remedy under such process, legislative relief is essential.

(b)(1) It is the purpose of Congress in enacting this section to—

(A) promote and expand the economic health of the United States nonrubber footwear industry,

(B) preserve the jobs of American workers, and

(C) prevent the further decline of this important domestic industry.

(2) It is declared to be the policy of Congress that access to the United States market for foreign-produced nonrubber footwear should be on an equitable basis to ensure orderly trade in nonrubber footwear, reduce unfair trade in nonrubber footwear, and address United States balance-of-payments problems, of which footwear is the seventh largest component. In order to accomplish these objectives, it is deemed necessary and appropriate to limit imports of nonrubber footwear into the United States market.

SEC. 203. DEFINITIONS.

For purposes of this title—

(1) The term "entered" means entered, or withdrawn from warehouse, for consumption in the customs territory of the United States.

(2) The term "Secretary" means Secretary of Commerce.

(3) The term "nonrubber footwear" means the following categories of nonrubber footwear products, identified by reference to the following item numbers of the Tariff Schedules of the United States (as in effect on January 1, 1985): 700.05 through 700.45; 700.56; 700.72 through 700.83; and 700.95; except alpine (down hill) ski boots and nordic (cross country and jumping) ski boots.

(4) The term "apparent domestic consumption" means, with respect to any 1-year period, the sum of imports plus domestic production less exports.

SEC. 204. QUANTITATIVE LIMITATION ON NONRUBBER FOOTWEAR.

(a)(1) During the 8-year period beginning on the date of enactment of this title, the aggregate number of pairs of nonrubber footwear which may be entered during any 1-year period shall not exceed 60 per centum of the estimated apparent domestic consumption of nonrubber footwear for such period.

(2) The quantitative limitation imposed by paragraph (1) for any 1-year period shall be distributed among the following categories of nonrubber footwear so that the aggregate number of pairs of nonrubber footwear in such category which may be entered during any 1-year period shall not exceed the quantity equal to—

(A) in the case of nonrubber footwear with a customs value that does not exceed $1.25 per pair, 10 per centum of apparent domestic consumption of nonrubber footwear for such period,

(B) in the case of nonrubber footwear with a customs value that exceeds $1.25 per pair fourth quarter of each 1-year period thereafter, the Secretary shall determine on the basis of the best information available, including his own or independent forecasts, the expected apparent domestic consumption of nonrubber footwear for, in the case of the initial determination, the remainder of the current 1-year period and in the case of the first day of the fourth quarter of each 1-year period thereafter, the next succeeding 1-year period. On each such date, the Secretary shall determine and publish in the Federal Register the allocation for the next succeeding 1-year period of permissible imports of nonrubber footwear as required by this section.

(c) On the first days of the first, second, and third quarters of each 1 year period, the Secretary shall revise the determinations of expected apparent domestic consumption made under subsection (b) for the current 1 year period on the basis of the best information then available and shall make such adjustments in the quantity of nonrubber footwear permitted to be imported under this section as indicated by the revision. All revisions and adjustments made under this subsection shall be published in the Federal Register.

(d) If the revised determination of expected apparent domestic consumption published in the Federal Register under subsection (c) on the first day of the third quarter in any 1 year period for nonrubber footwear varies from the actual apparent domestic consumption of nonrubber footwear for such 1 year period, the Secretary shall publish in the Federal Register on the first day of the second quarter of such succeeding 1 year period a revision to the determination of expected apparent domestic consumption for such 1 year period made under subsection (c) of this section. The revision shall be in the amount of such variance and shall be in addition to any other revision that would be made on any such first day of the second quarter under subsection (c) of this section.

(e)(1) The Secretary and the Secretary of the Treasury shall take such actions within their respective jurisdictions as may be necessary or appropriate to enforce the provisions of this section, including without limitation, the issuance of orders to Customs officers to bar entry to merchandise if the entry of such merchandise would cause the limitations established under this section to be exceeded.

(2)(A) The Secretary and the Secretary of the Treasury are each authorized to issue such implementing regulations, including the issuance of import licenses, as may be necessary or appropriate to effect the purposes of this section and to enforce the provisions of this section.

(B) Before prescribing any regulations under subparagraph (A), the Secretary or the Secretary of the Treasury, as the case may be, shall—

(i) consult with interested domestic parties,

(ii) afford an opportunity for such parties to comment on the proposed regulations, and

(iii) consider all such comments before prescribing final regulations.

This title may be cited as the "Copper Free Market Restoration Act of 1985".

SEC. 302. FINDINGS, PURPOSE, AND POLICY.

(a) Findings.—The Congress finds that—

(1) the copper industry of the United States is critical to the national defense and the maintenance of a strong economy, but has suffered a substantial economic setback, including a 50 per centum reduction in employment levels, a 25 per centum drop in production, the closure of 16 major mines, and the permanent loss of copper reserves;

(2) the substantial economic setback to the domestic copper industry is attributable to the steep decline in world copper prices that has resulted from—

(A) the continued overproduction of copper by government-owned foreign producers that—

(i) have been encouraged to overproduce by their host governments in order to generate foreign exchange and maintain employment levels, and

(ii) enjoy unfair competitive advantage over United States producers because of subsidized loans from their governments and from international lending institutions, such as the World Bank, and the absence of adequate environmental regulation; and

(B) the overvaluation of the dollar and its impact on domestic copper prices;

(3) the extent of the economic setback to the domestic copper industry was documented in 1984 when the United States International Trade Commission unanimously found that the industry had been injured by foreign competition under the terms of section 201 of the Trade Act of 1974 and recommended that appropriate relief be granted;

(4) while copper producers in the United States have made a substantial commitment to the modernization of the industry, more improvements are needed, and the reinvestment in the United States copper industry that is needed for those improvements is seriously jeopardized by the failure of existing trade statutes to deal effectively with the problem of excess world production; and

(5) a 5-year stabilization of foreign copper production is needed if the domestic copper industry is to attract the necessary capital for reinvestment.

(b) Purpose.—The purpose of this title is to—

(1) ensure an adequate supply of domestic copper,

(2) expand employment in the copper industry, and

(3) stabilize foreign copper production at levels that will enable domestic copper producers to make necessary improvements and modernization.

(c) Policy.—The Congress declares it to be the national policy that the United States must seek to negotiate agreements temporarily limiting copper production by foreign copper producers so that the purposes of this title can be fulfilled.

SEC. 303. DEFINITIONS.

For purposes of this title—

(1) The term "agreement negotiation period" means the 9-month period beginning on the first day of the first calendar

month beginning after the date of enactment of this Act.

(2) The term "major copper producing country" means any foreign country whose production of unwrought copper during 1984 exceeded 300,000 metric tons.

(3) The term "significant copper producing country" means any foreign country whose production of unwrought copper during 1984 exceeded 200,000 metric tons but did not exceed 300,000 metric tons.

(4) The term "unwrought copper" means articles provided for in items 612.02 through 612.06 of the Tariff Schedules of the United States.

(5) The term "restraint period" means the 5-year period beginning at the close of the agreement negotiation period.

SEC. 304. NEGOTIATIONS AND ACTION REGARDING AGREEMENTS TO VOLUNTARILY RESTRAIN COPPER PRODUCTION.

(a) NEGOTIATIONS.—

(1) The President, acting through the United States Trade Representative and the Secretary of the Interior, shall undertake negotiations during the agreement negotiation period with all major copper producing countries for the purpose of obtaining voluntary restraint agreements under which the aggregate production of unwrought copper by the major copper producing countries during each 1-year period within the restraint period will not exceed the aggregate production of unwrought copper by those countries during calendar year 1982.

(2) The President, acting through the United States Trade Representative and the Secretary of the Interior, shall undertake negotiations during the agreement negotiation period with all significant copper producing countries for the purpose of obtaining voluntary restraint agreements under which the aggregate production of unwrought copper by the significant copper producing countries during each 1-year period within the restraint period will not exceed the sum of—

(A) the aggregate production of unwrought copper by those countries during calendar year 1984, plus

(B) the estimated growth in demand for unwrought copper for such 1-year period within the restraint period.

(b) REPORTS.—

(1) At the close of each 3-month period within the agreement negotiation period, the President shall submit to the Congress a report on the progress of negotiations conducted under subsection (a). Such report shall—

(A) set forth the terms of any voluntary restraint agreement that has been entered into under subsection (a) during such 3-month period,

(B) contain a summary of the actions taken by the President during such 3-month period to obtain agreements under subsection (a) with each major copper producing country and significant copper producing country that has not entered into such an agreement,

(C) contain a summary of the responses (including counteroffers) made during such 3-month period by each of the countries described in subparagraph (B) to the actions of the President described in subparagraph (B),

(D) include a description of the obstacles and objections encountered by the President during such 3-month period to the achievement of agreements under subsection (a), and

(E) include an assessment of whether each country described in subparagraph (B) is negotiating in good faith.

(2) The final report that is required to be submitted under paragraph (1) shall include—

(A) a determination by the President of whether the agreements entered into under subsection (a) will achieve the purposes of this title, and

(B) recommendations of the President regarding any actions that should be taken against any major copper producing country or significant copper producing country which refuses to enter into a voluntary restraint agreement under subsection (a).

(c) ACTION IF VOLUNTARY RESTRAINT AGREEMENTS TAKE EFFECT.—If voluntary restraint agreements described in subsection (a) take effect between the United States and the major copper producing countries or significant copper producing countries—

(1) the United States Trade Representative, with the cooperation of other appropriate Federal officers, shall monitor the production of unwrought copper by those countries during each 1-year period within the restraint period for the purpose of ascertaining if the terms of the agreements are being complied with during such 1-year period, and

(2) the United States Trade Representative shall, within 30 days after the close of each 1-year period within the restraint period, report to the Congress on the results of the monitoring carried out during such 1-year period.

TITLE IV—FOREIGN LABOR PRACTICES

SEC. 401. REPORTS.

(a)(1) The United States International Trade Commission shall conduct a study of the wage rates, labor costs, and other labor practices of each foreign country which had a surplus in the balance of trade between the United States and such foreign country for calendar year 1984 that exceeded $4,000,000,000. Such study should consider labor practices existing throughout the economy of each of such countries and the labor practices of the industries in each of such countries that were responsible for such balance of trade surplus.

(2) The study conducted under paragraph (1) shall include, with respect to each foreign country described in paragraph (1), analyses of—

(A) the effects of the labor practices of such foreign country studied under paragraph (1) on the competitive position of United States exports in foreign markets and in United States markets,

(B) the relationship between—

(i) the wages and other compensation paid to workers in United States industries producing goods that face substantial competition from products of such foreign country, and

(ii) the wages and other compensation paid to workers in such foreign country who produce such competitive products,

(C) the relationship, if any, between the labor practices of such foreign country studied under paragraph (1) and the cultural, religious, and political practices or values of such foreign country.

(D) the extent to which such labor practices are encouraged or enforced by the government of such foreign country,

(E) the history, duration, and extent of such labor practices, and

(F) the extent to which private or public forces that are anticompetitive encourage such labor practices.

(3) By no later than the date that is 9 months after the date of enactment of this Act, the United States International Trade Commission shall submit a report on the study conducted under paragraph (1) to the Congress, the Secretary of Labor, and the Secretary of Commerce.

(b)(1) The Secretary of Labor and the Secretary of Commerce shall each conduct a separate investigation to—

(A) identify each of the labor practices discussed in the report submitted under subsection (a)(3) that—

(i) is illegal under existing laws of the United States or of any State, or

(ii) should be prohibited by all countries under an international labor law code,

(B) determine what labor principles and rules should be included in an international labor law code, and

(C) determine the issues involved in, and the prospects for achieving, the elimination of labor practices identified under subparagraph (A) through negotiations with foreign countries.

(2) By no later than 3 months after the date on which the report is submitted under subsection (a)(3), the Secretary of Labor and the Secretary of Commerce shall each submit to the Congress a report on the investigation conducted under paragraph (1).

NATIONAL TRADE DATA BANK

HOLLINGS AMENDMENT NO. 1425

(Ordered referred to the Committee on Finance.)

Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill (S. 1837) to establish a National Trade Data Bank, to provide authority to revise certain trade and financial agreements, and for other purposes; as follows:

At the end of the bill, add the following:

TITLE I—TEXTILE AND APPAREL TRADE ENFORCEMENT

SEC. 101. SHORT TITLE.

This title may be cited as the "Textile and Apparel Trade Enforcement Act of 1985".

SEC. 102. POLICY.

The policy of this title is—

(1) to prevent further disruption of the United States textiles and textile products markets, damage to United States textile and apparel manufacturers, and loss of jobs by United States workers by providing for orderly and nondisruptive growth of imports of textiles and textile products; and

(2) to implement the objectives of the Multi-Fiber Arrangement by requiring the effective enforcement of import levels of textiles and textile products contemplated by the Multi-Fiber Arrangement.

SEC. 103. FINDINGS.

The Congress finds that—

(1) the United States and most major textile producing countries are parties to the Multi-Fiber Arrangement, the purpose of which is to ensure the orderly growth of imports of textiles and textile products and to avoid disruption of the markets for textiles and textile products in importing nations;

(2) the Multi-Fiber Arrangement, which first entered into force on January 1, 1974, and which was most recently extended in December 1981, through July 1986, contemplates a 6 per centum annual rate of growth for imports for most exporting countries and provides for a lower rate of growth for imports from significant exporting countries;

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through 1984 imports of textiles and textile products into the United States have grown at an annual rate of 19 per centum, far in excess of the 1 per centum growth rate of the United States market for textiles and textile products during the same period and far in excess of the annual rate of import growth of less than 2 per centum that prevailed during the period 1974 through 1980;

(4) the disruptive surge in imports of textiles and textile products which occurred from 1981 through 1984 resulted from the failure of the United States to enforce adequately its rights under the Multi-Fiber Arrangement and to extend coverage of the Multi-Fiber Arrangement to imports made of competing fibers;

(5) import growth of apparel products has substantially outstripped the growth of the domestic market so that import penetration of the domestic market has more than doubled in the last six years, reaching a level of 50 per centum in 1984;

(6) based on a nationwide audit of major retail outlets, the import penetration of such major items of apparel as trousers, blouses, shirts, suits, skirts, and sweaters exceeds 50 per centum of domestic consumption;

(7) since the most recent extension of the Multi-Fiber Arrangement, certain exporting countries have sharply increased their exports of textiles and textile products made in whole or in part from fibers not subject to the Multi-Fiber Arrangement with the effect of circumventing restraints agreed to under the Arrangement; the increased imports of these textiles and textile products have caused disruption of the United States market for textiles and textile products and have seriously undercut the effectiveness of the Multi-Fiber Arrangement;

(8) imports of textiles and textile products into the United States are predominantly the product of significant producing countries, with five large producing countries now accounting for more than 50 per centum of all imports of textiles and textile products;

(9) the domination of import trade by producers in the significant producing countries has limited participation in the United States market by other producing countries, many of which share important trade and other national interests, and encourage mutually beneficial trade and investment, with the United States;

(10) a change in United States textile trade policy to afford the smaller producing countries and countries in the Caribbean region a relatively greater share of imports of textiles and textile products would promote the national economic interests of the United States;

(11) the textile and apparel trade deficit of the United States was more than $16,200,000,000 in 1984, an increase of 53 per centum over 1983, and accounted for 13 per centum of the Nation's overall merchandise trade deficit;

(12) the current level of imports of textiles and textile products, ten billion square yard equivalents in 1984, represents over one million job opportunities lost to United States workers;

(13) imported textiles and textile products now account for 38 per centum (the equivalent of three million two hundred thousand bales of cotton) of the annual cotton consumption in the United States; only one of five of the bale equivalents included in imfor, and a $1,000,000,000 loss to, domestic cotton producers in 1983 alone, which was only partially offset by Federal cotton program benefits; another result is that United States cotton producers, who are spending about $20,000,000 annually in research and promotion efforts, have built markets not for themselves but for foreign growers;

(14) imports of wool products have doubled since 1980, creating major disruptions among domestic wool products producers and seriously depressing the price of United States produced raw wool; the Multi-Fiber Arrangement recognizes that imports of certain products, such as wool products, in certain countries, including the United States, pose particular problems for certain industries, such as, the wool products industries in those countries and import growth rates of 1 per centum or less have been permitted in such cases;

(15) as a result of this increased penetration and the very limited growth of the domestic market, the United States companies producing textiles and textile products identical, or similar, to those imported have been seriously damaged, many of them have been forced out of business, many have closed plants or curtailed operations, workers in such companies have lost employment and have been otherwise materially and adversely affected, and serious hardship has been inflicted on hundreds of impacted communities causing a substantial reduction in economic activity and lost revenues to local governments;

(16) the increase in imports and increased import penetration of the United States domestic market have occurred notwithstanding the fact that, through extensive modernization programs and investment in more modern equipment, productivity, as measured by output per man hour, in the textile mill products sector has increased in the last ten years at the average annual rate of 4.2 per centum and in the apparel sector at the average annual rate of 3.4 per centum, as compared with the lower productivity growth of all manufacturing in the same period of 1.9 per centum;

(17) the factors described above are causing serious damage, or the actual threat thereof, to domestic producers of textiles and textile products; as a result, market disruption exists in the United States requiring the new measures established under this Act;

(18) based on experience during the past ten years and on other factors, the growth of the United States market for textiles and textile products is unlikely to exceed an average annual rate of 1 per centum during the next several years;

(19) if the rate of growth of imports of textiles and textile products into the United States that occurred since 1980 continues, plant closings will continue to accelerate, leaving the United States market with reduced domestic competition for imported products;

(20) in order to avoid further market disruption and deterioration of the situation confronting the United States industry producing textiles and textile products, which is already seriously damaged, it is essential—

(A) to require the establishment of import levels for textiles and textile products supplied by major producing countries that reflect—

(i) the import level that would have occurred had imports from these countries

(ii) the actual import level resulting from restraints under a bilateral agreement with the United States providing for an annual import growth rate of less than 6 per centum,

whichever is the lesser,

(B) to require the establishment of import levels for textiles and textile products supplied by producing countries that reflect their 1984 import levels,

(C) to require the establishment of import levels for textiles and textile products supplied by small producing countries that provide a significant increase in their market shares to meet their development needs and to permit future growth in such shares consistent with the Multi-Fiber Arrangement, and

(D) to limit the future growth rate of imports of textiles and textile products into the United States to levels which reflect orderly growth as provided for in the Multi-Fiber Arrangement and the most recent Protocol extending the Multi-Fiber Arrangement;

(21) the establishment of import levels, and limitation of future import growth to levels, that reflect effective enforcement of the Multi-Fiber Arrangement and that also reflect the expected growth rate of the United States market for textiles and textile products will fulfill announced policy objectives of the United States regarding trade in textiles and apparel;

(22) as the Department of Defense has long recognized, a strong, viable and efficient domestic textiles and textile products industry is essential in order to avoid impairment of the national security of the United States;

(23) the developments that have led to the sharp increase in imports of textiles and textile products since 1980 may not have been foreseeable; nevertheless, the rights of the United States under international agreements should have been invoked in order to prevent increased quantities of textiles and textile products from being imported under such conditions as to cause or threaten serious damage to domestic producers of textiles and textile products in the United States; and

(24) the sharp increase in imports of textiles and textile products since 1980, and the effect of this increase on the United States textiles and apparel industry and its workers, constitutes exceptional circumstances within the meaning of the Multi-Fiber Arrangement and its Protocol.

SEC. 104. DEFINITIONS.

For purposes of this title—

(1) The term "textiles and textile products" includes, but is not limited to, all tops, yarns, man-made fibers, piece goods, made-up articles, apparel, and other textile manufactured products (which derive their chief characteristics from their textile components) made in whole or in part from any natural or manmade fiber, or blend thereof, that are classified under schedule 3, part 6 of schedule 6, parts 1 (except subpart A but including item number 700.75), 4, 5 (except subpart E), 7 or 13 (except item number 790.57) of schedule 7, or part 1 of schedule 8 of the Tariff Schedules of the United States, or part 1 of the Appendix to the Tariff Schedules of the United States; such term does not include apparel containing 70 per centum or more by weight of silk except articles classified under item numbers 373.20

and 373.22 of the Tariff Schedules of the United States;

(2) The term "category" means, with respect to textiles and textile products that are the product of a country, each of the following—

(A) each category of textiles and textile products identified by a three-digit textile category number in the Department of Commerce publication "Correlation: Textile and Apparel Categories with Tariff Schedules of the United States Annotated", dated January 1985 and, subsequently, in the first edition of such document that is revised to reflect the adoption by the United States of the Nomenclature Structure of the Harmonized System;

(B) with respect to each country with which the United States has (i) an agreement on the date of enactment of this title limiting exports of textiles and textile products to the United States that includes specific limitations on subdivisions of a category described in subparagraph (A), or (ii) taken unilateral action to limit products entered under such a subdivision, each such subdivision;

(C) a category consisting of the man-made fiber products not covered by a category described in subparagraph A and classified under subpart E of part 1 of schedule 3 to the Tariff Schedules of the United States; and

(D) each category consisting of each of the following products when, because of fiber content, that product is not subject to the Multi-Fiber Arrangement:

(i) yarn,

(ii) fabric,

(iii) apparel, and

(iv) other textile products;

(3) The term "import sensitive category" means—

(A) each category (other than a category applicable to textiles and textile products that are a product of a country in the Caribbean region) for which the ratio of imports to domestic production, as reported in the Department of Commerce publication "U.S. Production, Imports and Import/Production Ratios for Cotton, Wool and Man-Made Fiber Textiles and Apparel", equals or exceeds 40.0 for the preceding calendar year; and

(B) each category covering wool products;

(4) The term "country" means a foreign country (other than Canada and the Member States of the European Economic Community as constituted on January 1, 1985), a foreign territory, an insular possession of the United States, or any other territory, possession, colony, trusteeship or political entity, whether affiliated with the United States or not, that is outside the customs territory of the United States;

(5) The term "major producing country" means a country the annual aggregate quantity of textiles and textile products of which that entered under the categories referred to in subparagraph (2)(A) of this section during calendar year 1984 equaled or exceeded 10 per centum of all textiles and textile products under such categories that entered from all countries and from Canada and the Member States of the European Economic Community during calendar year 1984;

(6) The term "producing country" means a country (other than a major producing country and a country in the Caribbean region) the annual aggregate quantity of textiles and textile products of which that entered under the categories referred to in subparagraph (2)(A) of this section during calendar year 1984 equaled or exceeded 1.25 per centum of all textiles and textile products under such categories that entered from all countries and from Canada and the Member States of the European Economic Community during calendar year 1984;

(7) The term "small producing country" means a country other than a major producing country and a producing country;

(8) The term "country in the Caribbean region" means the United Mexican States and a country eligible for designation as a beneficiary country under section 212 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702);

(9) The term "wool product" means an article containing over 17 per centum by weight;

(10) The term "cotton, wool and man-made fiber sweaters" means articles classified under categories 345, 445, 446, 645 or 646 as defined in the Department of Commerce publication "Correlation Textile and Apparel Categories with Tariff Schedules of the United States Annotated," dated January 1985;

(11) The term "entered" means entered, or withdrawn from warehouse, for consumption in the customs territory of the United States; and

(12) The term "Multi-Fiber Arrangement" means the Arrangement Regarding International Trade in Textiles, as extended by the Protocol done at Geneva, December 22, 1981.

SEC. 106. LIMITS ON TEXTILE AND APPAREL IMPORTS.

(a) CALENDAR YEAR 1985.—Notwithstanding any other provision of law, the aggregate quantity of textiles and textile products classified under a category that is entered during calendar year 1985 shall not exceed—

(1) in the case of textiles and textile products that are a product of a major producing country, other than textile luggage, textile handbags, and textile flat goods subject (as of the date of enactment of this title) to a specific limitation under an agreement with a major producing country) the lesser of an amount equal to 101 per centum (A) of the aggregate quantity of such products of such country classified under such category that would have entered during calendar year 1984 if the aggregate quantity of such products of such country classified under such category entered during calendar year 1980 had increased by 6 per centum annually, or 1 per centum annually in the case of a category covering a wool product, during calendar years 1981, 1982, 1983, and 1984, or (B) if the United States has an agreement with such country providing for an annual growth rate for such category of less than 6 per centum, of the aggregate quantity of such products of such country classified under such category that entered during calendar year 1984;

(2) in the case of textile luggage, textile handbags, and textile flat goods subject (as of the date of enactment of this title) to specific limitation under an agreement with a major producing country, the specific limitation quantity in effect as of the date of enactment of this title;

(3) in the case of textiles and textile products that are a product of a producing country, an amount equal to the aggregate quantity of (A) such products of such country classified under such category that entered during calendar year 1984, or (B) in the case of textile luggage, textile handbags, and textile flat goods subject (as of the date of enactment of this title) to specific limitation under an agreement with an exporting country, the specific limitation quantity in effect as of the date of enactment of this title;

(4) in the case of textiles and textile products that are a product of a small producing country (other than cotton, wool, and man-made fiber sweaters described in paragraph (5)), an amount equal to the sum of (A) the aggregate quantity of such products of such country classified under such category that entered during calendar year 1984, plus (B) an amount equal to (i) 15 per centum of such quantity, in the case of a category that is not an import sensitive category, or (ii) 1 per centum of such quantity, in the case of a category that is an import sensitive category; and

(5) in the case of cotton, wool, and man-made fiber sweaters that are—

(A) the product of substantial assembly operations in Guam from otherwise completed knit-to-shape component parts, an aggregate amount equal to 160,000 dozen; and

(B) the product of substantial assembly operations in the Commonwealth of the Northern Mariana Islands from otherwise completed knit-to-shape component parts, an aggregate amount equal to 70,000 dozen.

If application of paragraph (1) would result in the aggregate quantity of textiles and textile products of a major producing country classified under all categories permitted to enter during calendar year 1985 to be less than 70 per centum of the aggregate quantity of such products of such country that entered during calendar year 1984, then, notwithstanding paragraph (1), the aggregate quantity of textiles and textile products of such country that may be entered under each category during calendar year 1985 shall not be less than 40 per centum of the aggregate quantity of such products of such country that entered under such category during calendar year 1984.

(b) GROWTH ADJUSTMENT.—For calendar years after 1985, the aggregate quantity of textiles and textile products classified under each category that may be entered during each such calendar year shall—

(1) in the case of such products that are a product of a major producing country or of a producing country, be increased by an amount equal to 1 per centum of the aggregate quantity that could be entered under such category during the preceding calendar year; and

(2) in the case of such products that are a product of a small producing country, be increased by an amount equal to—

(A) in the case of a category (other than an import sensitive category), 6 per centum of the aggregate quantity that could be entered under that category during the preceding calendar year, and

(B) in the case of an import sensitive category, 1 per centum of the aggregate quantity that could be entered under that category during the preceding calendar year.

If the aggregate quantity that could be entered under a category for a calendar year after 1985 is reduced under section 111(b), then, in the first calendar year in which there is no such reduction, this subsection shall be applied as if there had been no reduction under section 111(b) in previous calendar years.

(c) MINIMUM QUANTITIES.—If, under subsection (a) or (b), the aggregate quantity of textiles and textile products of a country that may be entered during a calendar year under a category is—

(1) less than one million square yard equivalents, in the case of a category cover-

ing yarn, fabric, made-ups, and miscellaneous products, other than wool products;

(2) less than seven hundred thousand square yard equivalents, in the case of a category covering apparel, other than wool products apparel; or

(3) less than one hundred thousand square yard equivalents, in the case of a category covering wool products,

then, notwithstanding subsection (a) or (b), the aggregate quantity of textiles and textile products of such country that may be entered under such category during the calendar year shall be one million, seven hundred thousand, or one hundred thousand square yard equivalents, respectively. The amount prescribed in the preceding sentence shall be accorded growth subject to the provisions of subsection (b) beginning the first calendar year after the aggregate quantity of products of such country entered under such category equals the minimum quantity prescribed under this subsection.

(d) Special Rule.—For purposes of this section, if during any calendar year after 1984, the aggregate quantity of textiles and textile products that are the product of a small producing country (other than a country in the Caribbean region) and that are entered under the categories referred to in subparagraph 2(A) of section 104 of this title equals or exceeds 1.25 per centum of all textiles and textile products entered under such categories from all countries and from Canada and the Member States of the European Economic Community during such calendar year, then such small producing country shall be considered to be a producing country for all succeeding calendar years.

(e) Enforcement.—The Secretary of Commerce shall prescribe such regulations governing the entry, or withdrawal from warehouse, for consumption of textiles and textile products as may be necessary to carry out this title.

SEC. 106. IMPORT LICENSING.

In order to ensure the equitable and efficient administration of section 105 of this title, the Secretary of Commerce shall, within six months after the date of enactment of this title, establish and administer an import licensing system under which an importer of any textiles and textile products from any country and from Canada and the Member States of the European Economic Community, will be required to present an import permit as a condition of entry. The Secretary shall charge a fee for import licenses in such amount as may be necessary to cover the cost of administration of the system. The Secretary of the Treasury shall make all determinations regarding classification under the Tariff Schedules of the United States, appraisement, and valuation of products subject to licensing under this section.

SEC. 107. ANNUAL REPORT.

Not later than March 15, 1986, and March 15 of each calendar year thereafter, the President shall submit to the Congress a report on the administration of this title during the preceding calendar year. Such report shall include detailed information about the implementation and operation of the limitations established under section 105. The report shall also include a detailed report by the Department of Commerce on the implementation and enforcement for the provisions of this title exempting from import limitations certain articles of silk apparel, with special regard to the extent to which nonsilk articles, and silk articles not exempt from import limitations, are erroneously or fraudulently classified as silk items exempt from import limitations and are entered under this title. All departments and agencies shall cooperate in preparation of this report as requested by the President.

SEC. 108. REVIEW.

The Secretary of Commerce shall commence ten years after the date of enactment of this title a formal review of the operation of the Textile Import Control Program under the provisions of this title. The Secretary shall consult Members and committees of Congress, representatives of the labor unions and the industries affected by the program, the Secretary of the Treasury, and other appropriate government officials. Within six months after the commencement of the study, the Secretary shall submit to Congress his findings as well as his recommendations for the future conduct of the program.

SEC. 109. DUTY FREE ENTRY OF CERTAIN SWEATERS FROM GUAM AND THE NORTHERN MARIANAS.

Subpart A of part 7, schedule 3 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by adding at the end thereof the following new item:

"385.97	Cotton, wool and man-made fiber sweaters that are entitled to enter under the quotas established under section 105(a)(5) of the Textile and Apparel Trade Enforcement Act of 1985 or the increased quotas under section 105(b) of such Act that adjust the quotas under such section 105(a)(5) and that do not contain foreign materials to the value of more than 50 percent of their total value as this standard is applied pursuant to Headnote 3(a) of the General Headnotes and Rules of Interpretation	Free".

SEC. 110. PRODUCTS OF THE INSULAR POSSESSIONS OF THE UNITED STATES.

(a) General Rule.—Notwithstanding section 104(4) of this title, textiles and textile products that are the product of an insular possession of the United States shall not be considered to be products of a country, within the meaning of section 104(4), if such products meet the requirements of subsection (b).

(b) Possession Content.—

(1) Subsection (a) shall apply to an article if—

(A) that article is imported directly from an insular possession of the United States into the customs territory of the United States; and

(B) the sum of (i) the cost or value of the materials produced in such insular possession of the United States or in the customs territory of the United States plus (ii) the direct costs of processing operations performed in such insular possession of the United States is not less than 85 per centum of the appraised value of such article at the time it is entered.

(2) The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out this section, except that the rules of origin contained in 19 CFR 12.130 shall be the rules of origin for purposes of this section.

(3) As used in this subsection, the phrase "direct costs of processing operations" includes—

(A) all actual labor costs attributable to permanent residents of the insular possession involved in the growth, production, manufacture, or assembly of the specific merchandise, including fringe benefits, on-the-job training and the cost of engineering, supervisory, quality control, and similar personnel; and

(B) dies, molds, tooling, and depreciation on machinery and equipment which are allocable to the specific merchandise.

Such phrase does not include costs which are attributable to nonpermanent resident labor, are not directly attributable to the merchandise concerned, or are not costs of manufacturing the product, such as (i) profit, and (ii) general expenses of doing business which are either not allocable to the specific merchandise or are not related to the growth, production, manufacture, or assembly of the merchandise, such as administrative salaries, casualty and liability insurance, advertising, and salesmen's salaries, commissions or expenses.

SEC. 111. EFFECTIVE DATE.

(a) In General.—Subject to the provisions of subsection (b), the provisions of this title shall apply to textiles and textile products entered, or withdrawn from warehouse, for consumption on or after the date of enactment of this title.

(b) Calendar Years 1985 and 1986.—The Secretary of Commerce shall prescribe by regulation the aggregate quantity, if any, of textiles and textile products that may be entered under section 105 (a) or (c) of this title from each country under each category during the period beginning on the date of enactment of this title and ending December 31, 1985. Notwithstanding subsection (a), to the extent that the aggregate quantity of imports of textiles and textile products of a country entered under a category after December 31, 1984, and before the date of enactment of this title exceeds the quantity permitted entry for such products of such country and such category during calendar year 1985 under subsection 5 (a) or (c) of section 105, then the limit that would otherwise apply under section 105 (b) or (c) for such category for such country for calendar year 1986 shall be reduced by the amount of such excess quantity. If such excess quantity exceeds the limit that would otherwise apply under section 105 (b) or (c) for such category for such country for calendar year 1986 shall be reduced by the amount of such excess quantity. If such excess quantity exceeds the limit that would otherwise apply under section 105(b) for such category for such country for calendar year 1986, then the limit for such category and country for calendar years after 1986 shall be reduced until such excess is accounted for.

TITLE II

SEC. 201. SHORT TITLE.

This title may be cited as the "American Footwear Industry Recovery Act of 1985".

SEC. 202. FINDINGS AND PURPOSE.

(a) The Congress finds that—

(1) The domestic nonrubber footwear industry is important to the national economy, and footwear firms are vital to the economic health of small towns throughout the United States.

(2) The domestic nonrubber footwear industry is highly labor intensive, and low capital requirements for entry into footwear production make it a primary target for industrializing or newly industrialized countries. As a consequence, footwear is produced in virtually every footwear consuming country in the world.

(3) Tremendous competitive pressure has been created in the world footwear market in the last decade as a result of rapidly

growing production and capacity in numerous developing and developed countries. This development has resulted in the widespread erection of tariff and nontariff barriers by foreign countries designed to protect their domestic footwear industries.

(4) The United States has historically resisted the protectionist trends of other producing nations and has instead maintained a market distinguished by its accessibility. As a result, the United States market has become a focal point for world trade in nonrubber footwear.

(5) The diversion of international trade to the United States market has resulted in serious injury to domestic producers as manifested by—

(A) the loss of 155,000 footwear jobs since 1968,

(B) a decline in domestic production and production capacity, and

(C) the permanent closure of over 500 plants during the same period.

(6) The serious injury to domestic producers poses a significant danger to the industry's supplier base as well.

(7) The domestic nonrubber footwear producers have made a significant commitment to the future of the industry through substantial capital investment.

(8) Since the termination of temporary import relief in 1981, capital investment in the domestic nonrubber footwear industry has declined as the industry struggled to battle the massive surge in imports which increased the percentage share of imported footwear in the United States market from, 51 per centum in 1981 to 77 per centum in 1985.

(9) Without the restriction of import levels, capital investment in this domestic industry will continue to decrease.

(10) The domestic nonrubber footwear industry has thrice been judged by the International Trade Commission, as recently as May 1985, to be seriously injured by imports.

(11) Since the termination of the two, 4-year orderly marketing agreements in 1981, the harm to the domestic industry is even more critical than the serious injury which triggered the Commission's unanimous findings in 1976 and 1977.

(12) The domestic nonrubber footwear industry has not been afforded adequate and appropriate relief from imports; therefore, the Congress concludes that—

(A) the administrative process under sections 201, 202, and 203 of the Trade Act of 1974 has proven inadequate; and

(B) in the absence of and effective remedy under such process, legislative relief is essential.

(b)(1) It is the purpose of Congress in enacting this section to—

(A) promote and expand the economic health of the United States nonrubber footwear industry,

(B) preserve the jobs of American workers, and

(C) prevent the further decline of this important domestic industry.

(2) It is declared to be the policy of Congress that access to the United States market for foreign-produced nonrubber footwear should be on an equitable basis to ensure orderly trade in nonrubber footwear, reduce unfair trade in nonrubber footwear, and address United States balance-of-payments problems, of which footwear is the seventh largest component. In order to accomplish these objectives, it is deemed necessary and appropriate to limit imports of nonrubber footwear into the United States market.

SEC. 203. DEFINITIONS.

For purposes of this title—

(1) The term "entered" means entered, or withdrawn from warehouse, for consumption in the customs territory of the United States.

(2) The term "Secretary" means Secretary of Commerce.

(3) The term "nonrubber footwear" means the following categories of nonrubber footwear products, identified by reference to the following item numbers of the Tariff Schedules of the United States (as in effect on January 1, 1985): 700.05 through 700.45; 700.56; 700.72 through 700.83; and 700.95; except alpine (down hill) ski boots and nordic (cross country and jumping) ski boots.

(4) The term "apparent domestic consumption" means, with respect to any 1-year period, the sum of imports plus domestic production less exports.

SEC. 204. QUANTITATIVE LIMITATION ON NONRUBBER FOOTWEAR.

(a)(1) During the 8-year period beginning on the date of enactment of this title, the aggregate number of pairs of nonrubber footwear which may be entered during any 1-year period shall not exceed 60 per centum of the estimated apparent domestic consumption of nonrubber footwear for such period.

(2) The quantitative limitation imposed by paragraph (1) for any 1-year period shall be distributed among the following categories of nonrubber footwear so that the aggregate number of pairs of nonrubber footwear in such category which may be entered during any 1-year period shall not exceed the quantity equal to—

(A) in the case of nonrubber footwear with a customs value that does not exceed $1.25 per pair, 10 per centum of apparent domestic consumption of nonrubber footwear for such period,

(B) in the case of nonrubber footwear with a customs value that exceeds $1.25 per pair but does not exceed $2.50 per pair, 5.4 per centum of apparent domestic consumption of nonrubber footwear for such period, and

(C) in the case of nonrubber footwear with a customs value that exceeds $2.50 per pair, 44.6 per centum of apparent domestic consumption of nonrubber footwear for such period.

(b) Within 60 days after the effective date of this title, and on the first day of the fourth quarter of each 1-year period thereafter, the Secretary shall determine on the basis of the best information available, including his own or independent forecasts, the expected apparent domestic consumption of nonrubber footwear for, in the case of the initial determination, the remainder of the current 1-year period and in the case of the first day of the fourth quarter of each 1-year period thereafter, the next succeeding 1-year period. On each such date, the Secretary shall determine and publish in the Federal Register the allocation for the next succeeding 1-year period of permissible imports of nonrubber footwear as required by this section.

(c) On the first days of the first, second, and third quarters of each 1 year period, the Secretary shall revise the determinations of expected apparent domestic consumption made under subsection (b) for the current 1 year period on the basis of the best information then available and shall make such adjustments in the quantity of nonrubber footwear permitted to be imported under this section as indicated by the revision. All revisions and adjustments made under this subsection shall be published in the Federal Register.

(d) If the revised determination of expected apparent domestic consumption published in the Federal Register under subsection (c) on the first day of the third quarter in any 1 year period for nonrubber footwear varies from the actual apparent domestic consumption of nonrubber footwear for such 1 year period, the Secretary shall publish in the Federal Register on the first day of the second quarter of such succeeding 1 year period a revision to the determination of expected apparent domestic consumption for such 1 year period made under subsection (c) of this section. The revision shall be in the amount of such variance and shall be in addition to any other revision that would be made on any such first day of the second quarter under subsection (c) of this section.

(e)(1) The Secretary and the Secretary of the Treasury shall take such actions within their respective jurisdictions as may be necessary or appropriate to enforce the provisions of this section, including without limitation, the issuance of orders to Customs officers to bar entry to merchandise if the entry of such merchandise would cause the limitations established under this section to be exceeded.

(2)(A) The Secretary and the Secretary of the Treasury are each authorized to issue such implementing regulations, including the issuance of import licenses, as may be necessary or appropriate to effect the purposes of this section and to enforce the provisions of this section.

(B) Before prescribing any regulations under subparagraph (A), the Secretary or the Secretary of the Treasury, as the case may be, shall—

(i) consult with interested domestic parties,

(ii) afford an opportunity for such parties to comment on the proposed regulations, and

(iii) consider all such comments before prescribing final regulations.

SEC. 205. COMPENSATION AUTHORITY.

For purposes of section 123 of the Trade Act of 1974 (19 U.S.C. 2133), the imposition of the quantitative limitation under section 204 shall be treated as action taken under section 203 of the Trade Act of 1974 (19 U.S.C. 2253).

TITLE III—COPPER

SEC. 301. SHORT TITLE.

This title may be cited as the "Copper Free Market Restoration Act of 1985".

SEC. 302. FINDINGS, PURPOSE, AND POLICY.

(a) FINDINGS.—The Congress finds that—

(1) the copper industry of the United States is critical to the national defense and the maintenance of a strong economy, but has suffered a substantial economic setback, including a 50 per centum reduction in employment levels, a 25 per centum drop in production, the closure of 16 major mines, and the permanent loss of copper reserves;

(2) the substantial economic setback to the domestic copper industry is attributable to the steep decline in world copper prices that has resulted from—

(A) the continued overproduction of copper by government-owned foreign producers that—

(i) have been encouraged to overproduce by their host governments in order to generate foreign exchange and maintain employment levels, and

(ii) enjoy unfair competitive advantage over United States producers because of subsidized loans from their governments and from international lending institutions, *such as the World Bank, and the absence of adequate environmental regulation; and*

(B) the overvaluation of the dollar and its impact on domestic copper prices;

(3) the extent of the economic setback to the domestic copper industry was documented in 1984 when the United States International Trade Commission unanimously found that the industry had been injured by foreign competition under the terms of section 201 of the Trade Act of 1974 and recommended that appropriate relief be granted;

(4) while copper producers in the United States have made a substantial commitment to the modernization of the industry, more improvements are needed, and the reinvestment in the United States copper industry that is needed for those improvements is seriously jeopardized by the failure of existing trade statutes to deal effectively with the problem of excess world production; and

(5) a 5-year stabilization of foreign copper production is needed if the domestic copper industry is to attract the necessary capital for reinvestment.

(b) PURPOSE.—The purpose of this title is to—

(1) ensure an adequate supply of domestic copper,

(2) expand employment in the copper industry, and

(3) stabilize foreign copper production at levels that will enable domestic copper producers to make necessary improvements and modernization.

(c) POLICY.—The Congress declares it to be the national policy that the United States must seek to negotiate agreements temporarily limiting copper production by foreign copper producers so that the purposes of this title can be fulfilled.

SEC. 303. DEFINITIONS.

For purposes of this title—

(1) The term "agreement negotiation period" means the 9-month period beginning on the first day of the first calendar month beginning after the date of enactment of this Act.

(2) The term "major copper producing country" means any foreign country whose production of unwrought copper during 1984 exceeded 300,000 metric tons.

(3) The term "significant copper producing country" means any foreign country whose production of unwrought copper during 1984 exceeded 200,000 metric tons but did not exceed 300,000 metric tons.

(4) The term "unwrought copper" means articles provided for in items 612.02 through 612.06 of the Tariff Schedules of the United States.

(5) The term "restraint period" means the 5-year period beginning at the close of the agreement negotiation period.

SEC. 304. NEGOTIATIONS AND ACTION REGARDING AGREEMENTS TO VOLUNTARILY RESTRAIN COPPER PRODUCTION.

(a) NEGOTIATIONS.—

(1) The President, acting through the United States Trade Representative and the Secretary of the Interior, shall undertake negotiations during the agreement negotiation period with all major copper producing countries for the purpose of obtaining voluntary restraint agreements under which the aggregate production of unwrought copper by the major copper producing countries during each 1-year period within the restraint period will not exceed the aggregate production of unwrought copper by those countries during calendar year 1982.

(2) The President, acting through the United States Trade Representative and the Secretary of the Interior, shall undertake negotiations during the agreement negotiation period with all significant copper producing countries for the purpose of obtaining voluntary restraint agreements under which the aggregate production of unwrought copper by the significant copper producing countries during each 1-year period within the restraint period will not exceed the sum of—

(A) the aggregate production of unwrought copper by those countries during calendar year 1984, plus

(B) the estimated growth in demand for unwrought copper for such 1-year period within the restraint period.

(b) REPORTS.—

(1) At the close of each 3-month period within the agreement negotiation period, the President shall submit to the Congress a report on the progress of negotiations conducted under subsection (a). Such report shall—

(A) set forth the terms of any voluntary restraint agreement that has been entered into under subsection (a) during such 3-month period,

(B) contain a summary of the actions taken by the President during such 3-month period to obtain agreements under subsection (a) with each major copper producing country and significant copper producing country that has not entered into such an agreement,

(C) contain a summary of the responses (including counteroffers) made during such 3-month period by each of the countries described in subparagraph (B) to the actions of the President described in subparagraph (B),

(D) include a description of the obstacles and objections encountered by the President during such 3-month period to the achievement of agreements under subsection (a), and

(E) include an assessment of whether each country described in subparagraph (B) is negotiating in good faith.

(2) The final report that is required to be submitted under paragraph (1) shall include—

(A) a determination by the President of whether the agreements entered into under subsection (a) will achieve the purposes of this title, and

(B) recommendations of the President regarding any actions that should be taken against any major copper producing country or significant copper producing country which refuses to enter into a voluntary restraint agreement under subsection (a).

(c) ACTION IF VOLUNTARY RESTRAINT AGREEMENTS TAKE EFFECT.—If voluntary restraint agreements described in subsection (a) take effect between the United States and the major copper producing countries or significant copper producing countries—

(1) the United States Trade Representative, with the cooperation of other appropriate Federal officers, shall monitor the production of unwrought copper by those countries during each 1-year period within the restraint period for the purpose of ascertaining if the terms of the agreements are being complied with during such 1-year period, and

(2) the United States Trade Representative shall, within 30 days after the close of each 1-year period within the restraint period, report to the Congress on the results of the monitoring carried out during such 1-year period.

TITLE IV—FOREIGN LABOR PRACTICES

SEC. 401. REPORTS.

(a)(1) The United States International Trade Commission shall conduct a study of the wage rates, labor costs, and other labor practices of each foreign country which had a surplus in the balance of trade between the United States and such foreign country for calendar year 1984 that exceeded $4,000,000,000. Such study should consider labor practices existing throughout the economy of each of such countries and the labor practices of the industries in each of such countries that were responsible for such balance of trade surplus.

(2) The study conducted under paragraph (1) shall include, with respect to each foreign country described in paragraph (1), analyses of—

(A) the effects of the labor practices of such foreign country studied under paragraph (1) on the competitive position of United States exports in foreign markets and in United States markets,

(B) the relationship between—

(i) the wages and other compensation paid to workers in United States industries producing goods that face substantial competition from products of such foreign country, and

(ii) the wages and other compensation paid to workers in such foreign country who produce such competitive products,

(C) the relationship, if any, between the labor practices of such foreign country studied under paragraph (1) and the cultural, religious, and political practices or values of such foreign country.

(D) the extent to which such labor practices are encouraged or enforced by the government of such foreign country,

(E) the history, duration, and extent of such labor practices, and

(F) the extent to which private or public forces that are anticompetitive encourage such labor practices.

(3) By no later than the date that is 9 months after the date of enactment of this Act, the United States International Trade Commission shall submit a report on the study conducted under paragraph (1) to the Congress, the Secretary of Labor, and the Secretary of Commerce.

(b)(1) The Secretary of Labor and the Secretary of Commerce shall each conduct a separate investigation to—

(A) identify each of the labor practices discussed in the report submitted under subsection (a)(3) that—

(i) is illegal under existing laws of the United States or of any State, or

(ii) should be prohibited by all countries under an international labor law code,

(B) determine what labor principles and rules should be included in an international labor law code, and

(C) determine the issues involved in, and the prospects for achieving, the elimination of labor practices identified under subparagraph (A) through negotiations with foreign countries.

(2) By no later than 3 months after the date on which the report is submitted under subsection (a)(3), the Secretary of Labor and the Secretary of Commerce shall each submit to the Congress a report on the investigation conducted under paragraph (1).

EXTENSION OF CERTAIN PROVISIONS OF LAW

HOLLINGS AMENDMENT NO. 1426

(Ordered referred to the Committee on Finance.)

Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill (H.R. 3722) to extend until December 14, 1985, the application of certain tobacco excise taxes, trade adjustment assistance, certain Medicare reimbursement provisions, and borrowing authority under the Railroad Unemployment Insurance Program; as follows:

Add at the end thereof the following:

TITLE I—TEXTILE AND APPAREL TRADE ENFORCEMENT

SEC. 101. SHORT TITLE.

This title may be cited as the "Textile and Apparel Trade Enforcement Act of 1985".

SEC. 102. POLICY.

The policy of this title is—

(1) to prevent further disruption of the United States textiles and textile products markets, damage to United States textile and apparel manufacturers, and loss of jobs by United States workers by providing for orderly and nondisruptive growth of imports of textiles and textile products; and

(2) to implement the objectives of the Multi-Fiber Arrangement by requiring the effective enforcement of import levels of textiles and textile products contemplated by the Multi-Fiber Arrangement.

SEC. 103. FINDINGS.

The Congress finds that—

(1) the United States and most major textile producing countries are parties to the Multi-Fiber Arrangement, the purpose of which is to ensure the orderly growth of imports of textiles and textile products and to avoid disruption of the markets for textiles and textile products in importing nations;

(2) the Multi-Fiber Arrangement, which first entered into force on January 1, 1974, and which was most recently extended in December 1981, through July 1986, contemplates a 6 per centum annual rate of growth for imports for most exporting countries and provides for a lower rate of growth for imports from significant exporting countries;

(3) since 1980, the objective of orderly growth of imports of textiles and textile products provided for in the Multi-Fiber Arrangement has not been achieved; from 1981 through 1984 imports of textiles and textile products into the United States have grown at an annual rate of 19 per centum, far in excess of the 1 per centum growth rate of the United States market for textiles and textile products during the same period and far in excess of the annual rate of import growth of less than 2 per centum that prevailed during the period 1974 through 1980;

(4) the disruptive surge in imports of textiles and textile products which occurred from 1981 through 1984 resulted from the failure of the United States to enforce adequately its rights under the Multi-Fiber Arrangement and to extend coverage of the Multi-Fiber Arrangement to imports made of competing fibers;

(5) import growth of apparel products has substantially outstripped the growth of the domestic market so that import penetration of the domestic market has more than doubled in the last six years, reaching a level of 50 per centum in 1984;

(6) based on a nationwide audit of major retail outlets, the import penetration of such major items of apparel as trousers, blouses, shirts, suits, skirts, and sweaters exceeds 50 per centum of domestic consumption;

(7) since the most recent extension of the Multi-Fiber Arrangement, certain exporting countries have sharply increased their exports of textiles and textile products made in whole or in part from fibers not subject to the Multi-Fiber Arrangement with the effect of circumventing restraints agreed to under the Arrangement; the increased imports of these textiles and textile products have caused disruption of the United States market for textiles and textile products and have seriously undercut the effectiveness of the Multi-Fiber Arrangement;

(8) imports of textiles and textile products into the United States are predominantly the product of significant producing countries, with five large producing countries now accounting for more than 50 per centum of all imports of textiles and textile products;

(9) the domination of import trade by producers in the significant producing countries has limited participation in the United States market by other producing countries, many of which share important trade and other national interests, and encourage mutually beneficial trade and investment, with the United States;

(10) a change in United States textile trade policy to afford the smaller producing countries and countries in the Caribbean region a relatively greater share of imports of textiles and textile products would promote the national economic interests of the United States;

(11) the textile and apparel trade deficit of the United States was more than $16,200,000,000 in 1984, an increase of 53 per centum over 1983, and accounted for 13 per centum of the Nation's overall merchandise trade deficit;

(12) the current level of imports of textiles and textile products, ten billion square yard equivalents in 1984, represents over one million job opportunities lost to United States workers;

(13) imported textiles and textile products now account for 38 per centum (the equivalent of three million two hundred thousand bales of cotton) of the annual cotton consumption in the United States; only one of five of the bale equivalents included in imported textiles and textile products is grown in the United States; the result of the massive increases in cotton textile and apparel imports has been a declining market share for, and a $1,000,000,000 loss to, domestic cotton producers in 1983 alone, which was only partially offset by Federal cotton program benefits; another result is that United States cotton producers, who are spending about $20,000,000 annually in research and promotion efforts, have built markets not for themselves but for foreign growers;

(14) imports of wool products have doubled since 1980, creating major disruptions among domestic wool products producers and seriously depressing the price of United States produced raw wool; the Multi-Fiber Arrangement recognizes that imports of certain products, such as wool products, in certain countries, including the United States, pose particular problems for certain industries, such as, the wool products industries in those countries and import growth rates of 1 per centum or less have been permitted in such cases;

(15) as a result of this increased penetration and the very limited growth of the domestic market, the United States companies producing textiles and textile products identical, or similar, to those imported have been seriously damaged, many of them have been forced out of business, many have closed plants or curtailed operations, workers in such companies have lost employment and have been otherwise materially and adversely affected, and serious hardship has been inflicted on hundreds of impacted communities causing a substantial reduction in economic activity and lost revenues to local governments;

(16) the increase in imports and increased import penetration of the United States domestic market have occurred notwithstanding the fact that, through extensive modernization programs and investment in more modern equipment, productivity, as measured by output per man hour, in the textile mill products sector has increased in the last ten years at the average annual rate of 4.2 per centum and in the apparel sector at the average annual rate of 3.4 per centum, as compared with the lower productivity growth of all manufacturing in the same period of 1.9 per centum;

(17) the factors described above are causing serious damage, or the actual threat thereof, to domestic producers of textiles and textile products; as a result, market disruption exists in the United States requiring the new measures established under this Act;

(18) based on experience during the past ten years and on other factors, the growth of the United States market for textiles and textile products is unlikely to exceed an average annual rate of 1 per centum during the next several years;

(19) if the rate of growth of imports of textiles and textile products into the United States that occurred since 1980 continues, plant closings will continue to accelerate, leaving the United States market with reduced domestic competition for imported products;

(20) in order to avoid further market disruption and deterioration of the situation confronting the United States industry producing textiles and textile products, which is already seriously damaged, it is essential—

(A) to require the establishment of import levels for textiles and textile products supplied by major producing countries that reflect—

(i) the import level that would have occurred had imports from these countries grown since 1980 by the 6 per centum annual growth rate contemplated by the Multi-Fiber Arrangement, or 1 per centum in the case of wool products, or

(ii) the actual import level resulting from restraints under a bilateral agreement with the United States providing for an annual import growth rate of less than 6 per centum,

whichever is the lesser,

(B) to require the establishment of import levels for textiles and textile products supplied by producing countries that reflect their 1984 import levels,

(C) to require the establishment of import levels for textiles and textile products supplied by small producing countries that provide a significant increase in their market shares to meet their development needs and to permit future growth in such shares consistent with the Multi-Fiber Arrangement, and

(D) to limit the future growth rate of imports of textiles and textile products into the United States to levels which reflect orderly growth as provided for in the Multi-Fiber Arrangement and the most recent Protocol extending the Multi-Fiber Arrangement;

(21) the establishment of import levels, and limitation of future import growth to levels, that reflect effective enforcement of the Multi-Fiber Arrangement and that also

reflect the expected growth rate of the United States market for textiles and textile products will fulfill announced policy objectives of the United States regarding trade in textiles and apparel;

(22) as the Department of Defense has long recognized, a strong, viable and efficient domestic textiles and textile products industry is essential in order to avoid impairment of the national security of the United States;

(23) the developments that have led to the sharp increase in imports of textiles and textile products since 1980 may not have been foreseeable; nevertheless, the rights of the United States under international agreements should have been invoked in order to prevent increased quantities of textiles and textile products from being imported under such conditions as to cause or threaten serious damage to domestic producers of textiles and textile products in the United States; and

(24) the sharp increase in imports of textiles and textile products since 1980, and the effect of this increase on the United States textiles and apparel industry and its workers, constitutes exceptional circumstances within the meaning of the Multi-Fiber Arrangement and its Protocol.

SEC. 104. DEFINITIONS.

For purposes of this title—

(1) The term "textiles and textile products" includes, but is not limited to, all tops, yarns, man-made fibers, piece goods, made-up articles, apparel, and other textile manufactured products (which derive their chief characteristics from their textile components) made in whole or in part from any natural or manmade fiber, or blend thereof, that are classified under schedule 3, part 6 of schedule 6, parts 1 (except subpart A but including item number 700.75), 4, 5 (except subpart E), 7 or 13 (except item number 790.57) of schedule 7, or part 1 of schedule 8 of the Tariff Schedules of the United States, or part 1 of the Appendix to the Tariff Schedules of the United States; such term does not include apparel containing 70 per centum or more by weight of silk except articles classified under item numbers 373.20 and 373.22 of the Tariff Schedules of the United States;

(2) The term "category" means, with respect to textiles and textile products that are the product of a country, each of the following—

(A) each category of textiles and textile products identified by a three-digit textile category number in the Department of Commerce publication "Correlation: Textile and Apparel Categories with Tariff Schedules of the United States Annotated", dated January 1985 and, subsequently, in the first edition of such document that is revised to reflect the adoption by the United States of the Nomenclature Structure of the Harmonized System;

(B) with respect to each country with which the United States has (i) an agreement on the date of enactment of this title limiting exports of textiles and textile products to the United States that includes specific limitations on subdivisions of a category described in subparagraph (A), or (ii) taken unilateral action to limit products entered under such a subdivision, each such subdivision;

(C) a category consisting of the man-made fiber products not covered by a category described in subparagraph A and classified under subpart E of part 1 of schedule 3 to the Tariff Schedules of the United States; and

(D) each category consisting of each of the following products when, because of fiber content, that product is not subject to the Multi-Fiber Arrangement:

(i) yarn,

(ii) fabric,

(iii) apparel, and

(iv) other textile products;

(3) The term "import sensitive category" means—

(A) each category (other than a category applicable to textiles and textile products that are a product of a country in the Caribbean region) for which the ratio of imports to domestic production, as reported in the Department of Commerce publication "U.S. Production, Imports and Import/Production Ratios for Cotton, Wool and Man-Made Fiber Textiles and Apparel", equals or exceeds 40.0 for the preceding calendar year; and

(B) each category covering wool products;

(4) The term "country" means a foreign country (other than Canada and the Member States of the European Economic Community as constituted on January 1, 1985), a foreign territory, an insular possession of the United States, or any other territory, possession, colony, trusteeship or political entity, whether affiliated with the United States or not, that is outside the customs territory of the United States;

(5) The term "major producing country" means a country the annual aggregate quantity of textiles and textile products of which that entered under the categories referred to in subparagraph (2)(A) of this section during calendar year 1984 equaled or exceeded 10 per centum of all textiles and textile products under such categories that entered from all countries and from Canada and the Member States of the European Economic Community during calendar year 1984;

(6) The term "producing country" means a country (other than a major producing country and a country in the Caribbean region) the annual aggregate quantity of textiles and textile products of which that entered under the categories referred to in subparagraph (2)(A) of this section during calendar year 1984 equaled or exceeded 1.25 per centum of all textiles and textile products under such categories that entered from all countries and from Canada and the Member States of the European Economic Community during calendar year 1984;

(7) The term "small producing country" means a country other than a major producing country and a producing country;

(8) The term "country in the Caribbean region" means the United Mexican States and a country eligible for designation as a beneficiary country under section 212 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702);

(9) The term "wool product" means an article containing over 17 per centum by weight;

(10) The term "cotton, wool and man-made fiber sweaters" means articles classified under categories 345, 445, 446, 645 or 646 as defined in the Department of Commerce publication "Correlation Textile and Apparel Categories with Tariff Schedules of the United States Annotated," dated January 1985;

(11) The term "entered" means entered, or withdrawn from warehouse, for consumption in the customs territory of the United States; and

(12) The term "Multi-Fiber Arrangement" means the Arrangement Regarding International Trade in Textiles, as extended by the Protocol done at Geneva, December 22, 1981.

SEC. 105. LIMITS ON TEXTILE AND APPAREL IMPORTS.

(a) CALENDAR YEAR 1985.—Notwithstanding any other provision of law, the aggregate quantity of textiles and textile products classified under a category that is entered during calendar year 1985 shall not exceed—

(1) in the case of textiles and textile products that are a product of a major producing country, other than textile luggage, textile handbags, and textile flat goods subject (as of the date of enactment of this title) to a specific limitation under an agreement with a major producing country) the lesser of an amount equal to 101 per centum (A) of the aggregate quantity of such products of such country classified under such category that would have entered during calendar year 1984 if the aggregate quantity of such products of such country classified under such category entered during calendar year 1980 had increased by 6 per centum annually, or 1 per centum annually in the case of a category covering a wool product, during calendar years 1981, 1982, 1983, and 1984, or (B) if the United States has an agreement with such country providing for an annual growth rate for such category of less than 6 per centum, of the aggregate quantity of such products of such country classified under such category that entered during calendar year 1984;

(2) in the case of textile luggage, textile handbags, and textile flat goods subject (as of the date of enactment of this title) to specific limitation under an agreement with a major producing country, the specific limitation quantity in effect as of the date of enactment of this title;

(3) in the case of textiles and textile products that are a product of a producing country, an amount equal to the aggregate quantity of (A) such products of such country classified under such category that entered during calendar year 1984, or (B) in the case of textile luggage, textile handbags, and textile flat goods subject (as of the date of enactment of this title) to specific limitation under an agreement with an exporting country, the specific limitation quantity in effect as of the date of enactment of this title;

(4) in the case of textiles and textile products that are a product of a small producing country (other than cotton, wool, and man-made fiber sweaters described in paragraph (5)), an amount equal to the sum of (A) the aggregate quantity of such products of such country classified under such category that entered during calendar year 1984, plus (B) an amount equal to (i) 15 per centum of such quantity, in the case of a category that is not an import sensitive category, or (ii) 1 per centum of such quantity, in the case of a category that is an import sensitive category; and

(5) in the case of cotton, wool, and man-made fiber sweaters that are—

(A) the product of substantial assembly operations in Guam from otherwise completed knit-to-shape component parts, an aggregate amount equal to 160,000 dozen; and

(B) the product of substantial assembly operations in the Commonwealth of the Northern Mariana Islands from otherwise completed knit-to-shape component parts, an aggregate amount equal to 70,000 dozen.

If application of paragraph (1) would result in the aggregate quantity of textiles and textile products of a major producing country classified under all categories permitted to enter during calendar year 1985 to be less than 70 per centum of the aggregate quanti-

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ty of such products of such country that entered during calendar year 1984, then, notwithstanding paragraph (1), the aggregate quantity of textiles and textile products of such country that may be entered under each category during calendar year 1985 shall not be less than 40 per centum of the aggregate quantity of such products of such country that entered under such category during calendar year 1984.

(b) GROWTH ADJUSTMENT.—For calendar years after 1985, the aggregate quantity of textiles and textile products classified under each category that may be entered during each such calendar year shall—

(1) in the case of such products that are a product of a major producing country or of a producing country, be increased by an amount equal to 1 per centum of the aggregate quantity that could be entered under such category during the preceding calendar year; and

(2) in the case of such products that are a product of a small producing country, be increased by an amount equal to—

(A) in the case of a category (other than an import sensitive category), 6 per centum of the aggregate quantity that could be entered under that category during the preceding calendar year, and

(B) in the case of an import sensitive category, 1 per centum of the aggregate quantity that could be entered under that category during the preceding calendar year.

If the aggregate quantity that could be entered under a category for a calendar year after 1985 is reduced under section 111(b), then, in the first calendar year in which there is no such reduction, this subsection shall be applied as if there had been no reduction under section 111(b) in previous calendar years.

(c) MINIMUM QUANTITIES.—If, under subsection (a) or (b), the aggregate quantity of textiles and textile products of a country that may be entered during a calendar year under a category is—

(1) less than one million square yard equivalents, in the case of a category covering yarn, fabric, made-ups, and miscellaneous products, other than wool products;

(2) less than seven hundred thousand square yard equivalents, in the case of a category covering apparel, other than wool products apparel; or

(3) less than one hundred thousand square yard equivalents, in the case of a category covering wool products,

then, notwithstanding subsection (a) or (b), the aggregate quantity of textiles and textile products of such country that may be entered under such category during the calendar year shall be one million, seven hundred thousand, or one hundred thousand square yard equivalents, respectively. The amount prescribed in the preceding sentence shall be accorded growth subject to the provisions of subsection (b) beginning the first calendar year after the aggregate quantity of products of such country entered under such category equals the minimum quantity prescribed under this subsection.

(d) SPECIAL RULE.—For purposes of this section, if during any calendar year after 1984, the aggregate quantity of textiles and textile products that are the product of a small producing country (other than a country in the Caribbean region) and that are entered under the categories referred to in subparagraph 2(A) of section 104 of this title equals or exceeds 1.25 per centum of all textiles and textile products entered under such categories from all countries and from Canada and the Member States of the European Economic Community during such calendar year, then such small producing country shall be considered to be a producing country for all succeeding calendar years.

(e) ENFORCEMENT.—The Secretary of Commerce shall prescribe such regulations governing the entry, or withdrawal from warehouse, for consumption of textiles and textile products as may be necessary to carry out this title.

SEC. 106. IMPORT LICENSING.

In order to ensure the equitable and efficient administration of section 105 of this title, the Secretary of Commerce shall, within six months after the date of enactment of this title, establish and administer an import licensing system under which an importer of any textiles and textile products from any country and from Canada and the Member States of the European Economic Community, will be required to present an import permit as a condition of entry. The Secretary shall charge a fee for import licenses in such amount as may be necessary to cover the cost of administration of the system. The Secretary of the Treasury shall make all determinations regarding classification under the Tariff Schedules of the United States, appraisement, and valuation of products subject to licensing under this section.

SEC. 107. ANNUAL REPORT.

Not later than March 15, 1986, and March 15 of each calendar year thereafter, the President shall submit to the Congress a report on the administration of this title during the preceding calendar year. Such report shall include detailed information about the implementation and operation of the limitations established under section 105. The report shall also include a detailed report by the Department of Commerce on the implementation and enforcement for the provisions of this title exempting from import limitations certain articles of silk apparel, with special regard to the extent to which nonsilk articles, and silk articles not exempt from import limitations, are erroneously or fraudulently classified as silk items exempt from import limitations and are entered under this title. All departments and agencies shall cooperate in preparation of this report as requested by the President.

SEC. 108. REVIEW.

The Secretary of Commerce shall commence ten years after the date of enactment of this title a formal review of the operation of the Textile Import Control Program under the provisions of this title. The Secretary shall consult Members and committees of Congress, representatives of the labor unions and the industries affected by the program, the Secretary of the Treasury, and other appropriate government officials. Within six months after the commencement of the study, the Secretary shall submit to Congress his findings as well as his recommendations for the future conduct of the program.

SEC. 109. DUTY FREE ENTRY OF CERTAIN SWEATERS FROM GUAM AND THE NORTHERN MARIANAS.

Subpart A of part 7, schedule 3 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by adding at the end thereof the following new item:

"385.97	Cotton, wool and man-made fiber sweaters that are entitled to enter under the quotas established under section 105(a)(5) of the Textile and Apparel Trade Enforcement Act of 1985 or the increased quotas under section 105(b) of such Act that adjust the quotas under such section 105(a)(5) and that do not contain foreign materials to the value of more than 50 percent of their total value as this standard is applied pursuant to Headnote 3(a) of the General Headnotes and Rules of Interpretation	Free".

SEC. 110. PRODUCTS OF THE INSULAR POSSESSIONS OF THE UNITED STATES.

(a) GENERAL RULE.—Notwithstanding section 104(4) of this title, textiles and textile products that are the product of an insular possession of the United States shall not be considered to be products of a country, within the meaning of section 104(4), if such products meet the requirements of subsection (b).

(b) POSSESSION CONTENT.—

(1) Subsection (a) shall apply to an article if—

(A) that article is imported directly from an insular possession of the United States into the customs territory of the United States; and

(B) the sum of (i) the cost or value of the materials produced in such insular possession of the United States or in the customs territory of the United States plus (ii) the direct costs of processing operations performed in such insular possession of the United States is not less than 85 per centum of the appraised value of such article at the time it is entered.

(2) The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out this section, except that the rules of origin contained in 19 CFR 12.130 shall be the rules of origin for purposes of this section.

(3) As used in this subsection, the phrase "direct costs of processing operations" includes—

(A) all actual labor costs attributable to permanent residents of the insular possession involved in the growth, production, manufacture, or assembly of the specific merchandise, including fringe benefits, on-the-job training and the cost of engineering, supervisory, quality control, and similar personnel; and

(B) dies, molds, tooling, and depreciation on machinery and equipment which are allocable to the specific merchandise.

Such phrase does not include costs which are attributable to nonpermanent resident labor, are not directly attributable to the merchandise concerned, or are not costs of manufacturing the product, such as (i) profit, and (ii) general expenses of doing business which are either not allocable to the specific merchandise or are not related to the growth, production, manufacture, or assembly of the merchandise, such as administrative salaries, casualty and liability insurance, advertising, and salesmen's salaries, commissions or expenses.

SEC. 111. EFFECTIVE DATE.

(a) IN GENERAL.—Subject to the provisions of subsection (b), the provisions of this title shall apply to textiles and textile products entered, or withdrawn from warehouse, for consumption on or after the date of enactment of this title.

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(b) CALENDAR YEARS 1985 AND 1986.—The Secretary of Commerce shall prescribe by regulation the aggregate quantity, if any, of textiles and textile products that may be entered under section 105 (a) or (c) of this title from each country under each category during the period beginning on the date of enactment of this title and ending December 31, 1985. Notwithstanding subsection (a), to the extent that the aggregate quantity of imports of textiles and textile products of a country entered under a category after December 31, 1984, and before the date of enactment of this title exceeds the quantity permitted entry for such products of such country and such category during calendar year 1985 under subsection 5 (a) or (c) of section 105, then the limit that would otherwise apply under section 105 (b) or (c) for such category for such country for calendar year 1986 shall be reduced by the amount of such excess quantity. If such excess quantity exceeds the limit that would otherwise apply under section 105 (b) or (c) for such category for such country for calendar year 1986 shall be reduced by the amount of such excess quantity. If such excess quantity exceeds the limit that would otherwise apply under section 105(b) for such category for such country for calendar year 1986, then the limit for such category and country for calendar years after 1986 shall be reduced until such excess is accounted for.

TITLE II

SEC. 201. SHORT TITLE.

This title may be cited as the "American Footwear Industry Recovery Act of 1985".

SEC. 202. FINDINGS AND PURPOSE.

(a) The Congress finds that—

(1) The domestic nonrubber footwear industry is important to the national economy, and footwear firms are vital to the economic health of small towns throughout the United States.

(2) The domestic nonrubber footwear industry is highly labor intensive, and low capital requirements for entry into footwear production make it a primary target for industrializing or newly industrialized countries. As a consequence, footwear is produced in virtually every footwear consuming country in the world.

(3) Tremendous competitive pressure has been created in the world footwear market in the last decade as a result of rapidly growing production and capacity in numerous developing and developed countries. This development has resulted in the widespread erection of tariff and nontariff barriers by foreign countries designed to protect their domestic footwear industries.

(4) The United States has historically resisted the protectionist trends of other producing nations and has instead maintained a market distinguished by its accessibility. As a result, the United States market has become a focal point for world trade in nonrubber footwear.

(5) The diversion of international trade to the United States market has resulted in serious injury to domestic producers as manifested by—

(A) the loss of 155,000 footwear jobs since 1968,

(B) a decline in domestic production and production capacity, and

(C) the permanent closure of over 500 plants during the same period.

(6) The serious injury to domestic producers poses a significant danger to the industry's supplier base as well.

(7) The domestic nonrubber footwear producers have made a significant commitment to the future of the industry through substantial capital investment.

(8) Since the termination of temporary import relief in 1981, capital investment in the domestic nonrubber footwear industry has declined as the industry struggled to battle the massive surge in imports which increased the percentage share of imported footwear in the United States market from, 51 per centum in 1981 to 77 per centum in 1985.

(9) Without the restriction of import levels, capital investment in this domestic industry will continue to decrease.

(10) The domestic nonrubber footwear industry has thrice been judged by the International Trade Commission, as recently as May 1985, to be seriously injured by imports.

(11) Since the termination of the two, 4-year orderly marketing agreements in 1981, the harm to the domestic industry is even more critical than the serious injury which triggered the Commission's unanimous findings in 1976 and 1977.

(12) The domestic nonrubber footwear industry has not been afforded adequate and appropriate relief from imports; therefore, the Congress concludes that—

(A) the administrative process under sections 201, 202, and 203 of the Trade Act of 1974 has proven inadequate; and

(B) in the absence of and effective remedy under such process, legislative relief is essential.

(b)(1) It is the purpose of Congress in enacting this section to—

(A) promote and expand the economic health of the United States nonrubber footwear industry,

(B) preserve the jobs of American workers, and

(C) prevent the further decline of this important domestic industry.

(2) It is declared to be the policy of Congress that access to the United States market for foreign-produced nonrubber footwear should be on an equitable basis to ensure orderly trade in nonrubber footwear, reduce unfair trade in nonrubber footwear, and address United States balance-of-payments problems, of which footwear is the seventh largest component. In order to accomplish these objectives, it is deemed necessary and appropriate to limit imports of nonrubber footwear into the United States market.

SEC. 203. DEFINITIONS.

For purposes of this title—

(1) The term "entered" means entered, or withdrawn from warehouse, for consumption in the customs territory of the United States.

(2) The term "Secretary" means Secretary of Commerce.

(3) The term "nonrubber footwear" means the following categories of nonrubber footwear products, identified by reference to the following item numbers of the Tariff Schedules of the United States (as in effect on January 1, 1985): 700.05 through 700.45; 700.56; 700.72 through 700.83; and 700.95; except alpine (down hill) ski boots and nordic (cross country and jumping) ski boots.

(4) The term "apparent domestic consumption" means, with respect to any 1-year period, the sum of imports plus domestic production less exports.

SEC. 204. QUANTITATIVE LIMITATION ON NONRUBBER FOOTWEAR.

(a)(1) During the 8-year period beginning on the date of enactment of this title, the aggregate number of pairs of nonrubber footwear which may be entered during any 1-year period shall not exceed 60 per centum of the estimated apparent domestic consumption of nonrubber footwear for such period.

(2) The quantitative limitation imposed by paragraph (1) for any 1-year period shall be distributed among the following categories of nonrubber footwear so that the aggregate number of pairs of nonrubber footwear in such category which may be entered during any 1-year period shall not exceed the quantity equal to—

(A) in the case of nonrubber footwear with a customs value that does not exceed $1.25 per pair, 10 per centum of apparent domestic consumption of nonrubber footwear for such period,

(B) in the case of nonrubber footwear with a customs value that exceeds $1.25 per pair but does not exceed $2.50 per pair, 5.4 per centum of apparent domestic consumption of nonrubber footwear for such period, and

(C) in the case of nonrubber footwear with a customs value that exceeds $2.50 per pair, 44.6 per centum of apparent domestic consumption of nonrubber footwear for such period.

(b) Within 60 days after the effective date of this title, and on the first day of the fourth quarter of each 1-year period thereafter, the Secretary shall determine on the basis of the best information available, including his own or independent forecasts, the expected apparent domestic consumption of nonrubber footwear for, in the case of the initial determination, the remainder of the current 1-year period and in the case of the first day of the fourth quarter of each 1-year period thereafter, the next succeeding 1-year period. On each such date, the Secretary shall determine and publish in the Federal Register the allocation for the next succeeding 1-year period of permissible imports of nonrubber footwear as required by this section.

(c) On the first days of the first, second, and third quarters of each 1 year period, the Secretary shall revise the determinations of expected apparent domestic consumption made under subsection (b) for the current 1 year period on the basis of the best information then available and shall make such adjustments in the quantity of nonrubber footwear permitted to be imported under this section as indicated by the revision. All revisions and adjustments made under this subsection shall be published in the Federal Register.

(d) If the revised determination of expected apparent domestic consumption published in the Federal Register under subsection (c) on the first day of the third quarter in any 1 year period for nonrubber footwear varies from the actual apparent domestic consumption of nonrubber footwear for such 1 year period, the Secretary shall publish in the Federal Register on the first day of the second quarter of such succeeding 1 year period a revision to the determination of expected apparent domestic consumption for such 1 year period made under subsection (c) of this section. The revision shall be in the amount of such variance and shall be in addition to any other revision that would be made on any such first day of the second quarter under subsection (c) of this section.

(e)(1) The Secretary and the Secretary of the Treasury shall take such actions within their respective jurisdictions as may be necessary or appropriate to enforce the provisions of this section, including without limitation, the issuance of orders to Customs officers to bar entry to merchandise if the entry of such merchandise would cause the

limitations established under this section to be exceeded.

(2)(A) The Secretary and the Secretary of the Treasury are each authorized to issue such implementing regulations, including the issuance of import licenses, as may be necessary or appropriate to effect the purposes of this section and to enforce the provisions of this section.

(B) Before prescribing any regulations under subparagraph (A), the Secretary or the Secretary of the Treasury, as the case may be, shall—

(i) consult with interested domestic parties,

(ii) afford an opportunity for such parties to comment on the proposed regulations, and

(iii) consider all such comments before prescribing final regulations.

SEC. 205. COMPENSATION AUTHORITY.

For purposes of section 123 of the Trade Act of 1974 (19 U.S.C. 2133), the imposition of the quantitative limitation under section 204 shall be treated as action taken under section 203 of the Trade Act of 1974 (19 U.S.C. 2253).

TITLE III—COPPER

SEC. 301. SHORT TITLE.

This title may be cited as the "Copper Free Market Restoration Act of 1985".

SEC. 302. FINDINGS, PURPOSE, AND POLICY.

(a) FINDINGS.—The Congress finds that—

(1) the copper industry of the United States is critical to the national defense and the maintenance of a strong economy, but has suffered a substantial economic setback, including a 50 per centum reduction in employment levels, a 25 per centum drop in production, the closure of 16 major mines, and the permanent loss of copper reserves;

(2) the substantial economic setback to the domestic copper industry is attributable to the steep decline in world copper prices that has resulted from—

(A) the continued overproduction of copper by government-owned foreign producers that—

(i) have been encouraged to overproduce by their host governments in order to generate foreign exchange and maintain employment levels, and

(ii) enjoy unfair competitive advantage over United States producers because of subsidized loans from their governments and from international lending institutions, such as the World Bank, and the absence of adequate environmental regulation; and

(B) the overvaluation of the dollar and its impact on domestic copper prices;

(3) the extent of the economic setback to the domestic copper industry was documented in 1984 when the United States International Trade Commission unanimously found that the industry had been injured by foreign competition under the terms of section 201 of the Trade Act of 1974 and recommended that appropriate relief be granted;

(4) while copper producers in the United States have made a substantial commitment to the modernization of the industry, more improvements are needed, and the reinvestment in the United States copper industry that is needed for those improvements is seriously jeopardized by the failure of existing trade statutes to deal effectively with the problem of excess world production; and

(5) a 5-year stabilization of foreign copper production is needed if the domestic copper industry is to attract the necessary capital for reinvestment.

(b) PURPOSE.—The purpose of this title is to—

(1) ensure an adequate supply of domestic copper,

(2) expand employment in the copper industry, and

(3) stabilize foreign copper production at levels that will enable domestic copper producers to make necessary improvements and modernization.

(c) POLICY.—The Congress declares it to be the national policy that the United States must seek to negotiate agreements temporarily limiting copper production by foreign copper producers so that the purposes of this title can be fulfilled.

SEC. 303. DEFINITIONS.

For purposes of this title—

(1) The term "agreement negotiation period" means the 9-month period beginning on the first day of the first calendar month beginning after the date of enactment of this Act.

(2) The term "major copper producing country" means any foreign country whose production of unwrought copper during 1984 exceeded 300,000 metric tons.

(3) The term "significant copper producing country" means any foreign country whose production of unwrought copper during 1984 exceeded 200,000 metric tons but did not exceed 300,000 metric tons.

(4) The term "unwrought copper" means articles provided for in items 612.02 through 612.06 of the Tariff Schedules of the United States.

(5) The term "restraint period" means the 5-year period beginning at the close of the agreement negotiation period.

SEC. 304. NEGOTIATIONS AND ACTION REGARDING AGREEMENTS TO VOLUNTARILY RESTRAIN COPPER PRODUCTION.

(a) NEGOTIATIONS.—

(1) The President, acting through the United States Trade Representative and the Secretary of the Interior, shall undertake negotiations during the agreement negotiation period with all major copper producing countries for the purpose of obtaining voluntary restraint agreements under which the aggregate production of unwrought copper by the major copper producing countries during each 1-year period within the restraint period will not exceed the aggregate production of unwrought copper by those countries during calendar year 1982.

(2) The President, acting through the United States Trade Representative and the Secretary of the Interior, shall undertake negotiations during the agreement negotiation period with all significant copper producing countries for the purpose of obtaining voluntary restraint agreements under which the aggregate production of unwrought copper by the significant copper producing countries during each 1-year period within the restraint period will not exceed the sum of—

(A) the aggregate production of unwrought copper by those countries during calendar year 1984, plus

(B) the estimated growth in demand for unwrought copper for such 1-year period within the restraint period.

(b) REPORTS.—

(1) At the close of each 3-month period within the agreement negotiation period, the President shall submit to the Congress a report on the progress of negotiations conducted under subsection (a). Such report shall—

(A) set forth the terms of any voluntary restraint agreement that has been entered into under subsection (a) during such 3-month period,

(B) contain a summary of the actions taken by the President during such 3-month period to obtain agreements under subsection (a) with each major copper producing country and significant copper producing country that has not entered into such an agreement,

(C) contain a summary of the responses (including counteroffers) made during such 3-month period by each of the countries described in subparagraph (B) to the actions of the President described in subparagraph (B),

(D) include a description of the obstacles and objections encountered by the President during such 3-month period to the achievement of agreements under subsection (a), and

(E) include an assessment of whether each country described in subparagraph (B) is negotiating in good faith.

(2) The final report that is required to be submitted under paragraph (1) shall include—

(A) a determination by the President of whether the agreements entered into under subsection (a) will achieve the purposes of this title, and

(B) recommendations of the President regarding any actions that should be taken against any major copper producing country or significant copper producing country which refuses to enter into a voluntary restraint agreement under subsection (a).

(c) ACTION IF VOLUNTARY RESTRAINT AGREEMENTS TAKE EFFECT.—If voluntary restraint agreements described in subsection (a) take effect between the United States and the major copper producing countries or significant copper producing countries—

(1) the United States Trade Representative, with the cooperation of other appropriate Federal officers, shall monitor the production of unwrought copper by those countries during each 1-year period within the restraint period for the purpose of ascertaining if the terms of the agreements are being complied with during such 1-year period, and

(2) the United States Trade Representative shall, within 30 days after the close of each 1-year period within the restraint period, report to the Congress on the results of the monitoring carried out during such 1-year period.

TITLE IV—FOREIGN LABOR PRACTICES

SEC. 401. REPORTS.

(a)(1) The United States International Trade Commission shall conduct a study of the wage rates, labor costs, and other labor practices of each foreign country which had a surplus in the balance of trade between the United States and such foreign country for calendar year 1984 that exceeded $4,000,000,000. Such study should consider labor practices existing throughout the economy of each of such countries and the labor practices of the industries in each of such countries that were responsible for such balance of trade surplus.

(2) The study conducted under paragraph (1) shall include, with respect to each foreign country described in paragraph (1), analyses of—

(A) the effects of the labor practices of such foreign country studied under paragraph (1) on the competitive position of United States exports in foreign markets and in United States markets,

(B) the relationship between—

(i) the wages and other compensation paid to workers in United States industries producing goods that face substantial competition from products of such foreign country, and

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(ii) the wages and other compensation paid to workers in such foreign country who produce such competitive products,

(C) the relationship, if any, between the labor practices of such foreign country studied under paragraph (1) and the cultural, religious, and political practices or values of such foreign country.

(D) the extent to which such labor practices are encouraged or enforced by the government of such foreign country,

(E) the history, duration, and extent of such labor practices, and

(F) the extent to which private or public forces that are anticompetitive encourage such labor practices.

(3) By no later than the date that is 9 months after the date of enactment of this Act, the United States International Trade Commission shall submit a report on the study conducted under paragraph (1) to the Congress, the Secretary of Labor, and the Secretary of Commerce.

(b)(1) The Secretary of Labor and the Secretary of Commerce shall each conduct a separate investigation to—

(A) identify each of the labor practices discussed in the report submitted under subsection (a)(3) that—

(i) is illegal under existing laws of the United States or of any State, or

(ii) should be prohibited by all countries under an international labor law code,

(B) determine what labor principles and rules should be included in an international labor law code, and

(C) determine the issues involved in, and the prospects for achieving, the elimination of labor practices identified under subparagraph (A) through negotiations with foreign countries.

(2) By no later than 3 months after the date on which the report is submitted under subsection (a)(3), the Secretary of Labor and the Secretary of Commerce shall each submit to the Congress a report on the investigation conducted under paragraph (1).

INTERNATIONAL TRADE IN TELECOMMUNICATIONS

HOLLINGS AMENDMENT NO. 1427

(Ordered to lie on the table.)

Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill (S. 942) to promote expansion of international trade in telecommunications equipment and services, and for other purposes; as follows:

At the end of the bill, add the following:

TITLE I—TEXTILE AND APPAREL TRADE ENFORCEMENT

SEC. 101. SHORT TITLE.

This title may be cited as the "Textile and Apparel Trade Enforcement Act of 1985".

SEC. 102. POLICY.

The policy of this title is—

(1) to prevent further disruption of the United States textiles and textile products markets, damage to United States textile and apparel manufacturers, and loss of jobs by United States workers by providing for orderly and nondisruptive growth of imports of textiles and textile products; and

(2) to implement the objectives of the Multi-Fiber Arrangement by requiring the effective enforcement of import levels of textiles and textile products contemplated by the Multi-Fiber Arrangement.

SEC. 103. FINDINGS.

The Congress finds that—

(1) the United States and most major textile producing countries are parties to the Multi-Fiber Arrangement, the purpose of which is to ensure the orderly growth of imports of textiles and textile products and to avoid disruption of the markets for textiles and textile products in importing nations;

(2) the Multi-Fiber Arrangement, which first entered into force on January 1, 1974, and which was most recently extended in December 1981, through July 1986, contemplates a 6 per centum annual rate of growth for imports for most exporting countries and provides for a lower rate of growth for imports from significant exporting countries;

(3) since 1980, the objective of orderly growth of imports of textiles and textile products provided for in the Multi-Fiber Arrangement has not been achieved; from 1981 through 1984 imports of textiles and textile products into the United States have grown at an annual rate of 19 per centum, far in excess of the 1 per centum growth rate of the United States market for textiles and textile products during the same period and far in excess of the annual rate of import growth of less than 2 per centum that prevailed during the period 1974 through 1980;

(4) the disruptive surge in imports of textiles and textile products which occurred from 1981 through 1984 resulted from the failure of the United States to enforce adequately its rights under the Multi-Fiber Arrangement and to extend coverage of the Multi-Fiber Arrangement to imports made of competing fibers;

(5) import growth of apparel products has substantially outstripped the growth of the domestic market so that import penetration of the domestic market has more than doubled in the last six years, reaching a level of 50 per centum in 1984;

(6) based on a nationwide audit of major retail outlets, the import penetration of such major items of apparel as trousers, blouses, shirts, suits, skirts, and sweaters exceeds 50 per centum of domestic consumption;

(7) since the most recent extension of the Multi-Fiber Arrangement, certain exporting countries have sharply increased their exports of textiles and textile products made in whole or in part from fibers not subject to the Multi-Fiber Arrangement with the effect of circumventing restraints agreed to under the Arrangement; the increased imports of these textiles and textile products have caused disruption of the United States market for textiles and textile products and have seriously undercut the effectiveness of the Multi-Fiber Arrangement;

(8) imports of textiles and textile products into the United States are predominantly the product of significant producing countries, with five large producing countries now accounting for more than 50 per centum of all imports of textiles and textile products;

(9) the domination of import trade by producers in the significant producing countries has limited participation in the United States market by other producing countries, many of which share important trade and other national interests, and encourage mutually beneficial trade and investment, with the United States;

(10) a change in United States textile trade policy to afford the smaller producing countries and countries in the Caribbean region a relatively greater share of imports of textiles and textile products would promote the national economic interests of the United States;

(11) the textile and apparel trade deficit o the United States was more than $16,200,000,000 in 1984, an increase of 5 per centum over 1983, and accounted for 1 per centum of the Nation's overall merchandise trade deficit;

(12) the current level of imports of textiles and textile products, ten billion square yard equivalents in 1984, represents over one million job opportunities lost to United States workers;

(13) imported textiles and textile products now account for 38 per centum (the equivalent of three million two hundred thousand bales of cotton) of the annual cotton consumption in the United States; only one of five of the bale equivalents included in imported textiles and textile products is grown in the United States; the result of the massive increases in cotton textile and apparel imports has been a declining market share for, and a $1,000,000,000 loss to, domestic cotton producers in 1983 alone, which was only partially offset by Federal cotton program benefits; another result is that United States cotton producers, who are spending about $20,000,000 annually in research and promotion efforts, have built markets not for themselves but for foreign growers;

(14) imports of wool products have doubled since 1980, creating major disruptions among domestic wool products producers and seriously depressing the price of United States produced raw wool; the Multi-Fiber Arrangement recognizes that imports of certain products, such as wool products, in certain countries, including the United States, pose particular problems for certain industries, such as, the wool products industries in those countries and import growth rates of 1 per centum or less have been permitted in such cases;

(15) as a result of this increased penetration and the very limited growth of the domestic market, the United States companies producing textiles and textile products identical, or similar, to those imported have been seriously damaged, many of them have been forced out of business, many have closed plants or curtailed operations, workers in such companies have lost employment and have been otherwise materially and adversely affected, and serious hardship has been inflicted on hundreds of impacted communities causing a substantial reduction in economic activity and lost revenues to local governments;

(16) the increase in imports and increased import penetration of the United States domestic market have occurred notwithstanding the fact that, through extensive modernization programs and investment in more modern equipment, productivity, as measured by output per man hour, in the textile mill products sector has increased in the last ten years at the average annual rate of 4.2 per centum and in the apparel sector at the average annual rate of 3.4 per centum, as compared with the lower productivity growth of all manufacturing in the same period of 1.9 per centum;

(17) the factors described above are causing serious damage, or the actual threat thereof, to domestic producers of textiles and textile products; as a result, market disruption exists in the United States requiring the new measures established under this Act;

(18) based on experience during the past ten years and on other factors, the growth of the United States market for textiles and textile products is unlikely to exceed an average annual rate of 1 per centum during the next several years;

(19) if the rate of growth of imports of textiles and textile products into the United States that occurred since 1980 continues, plant closings will continue to accelerate, leaving the United States market with reduced domestic competition for imported products;

(20) in order to avoid further market disruption and deterioration of the situation confronting the United States industry producing textiles and textile products, which is already seriously damaged, it is essential—

(A) to require the establishment of import levels for textiles and textile products supplied by major producing countries that reflect—

(i) the import level that would have occurred had imports from these countries grown since 1980 by the 6 per centum annual growth rate contemplated by the Multi-Fiber Arrangement, or 1 per centum in the case of wool products, or

(ii) the actual import level resulting from restraints under a bilateral agreement with the United States providing for an annual import growth rate of less than 6 per centum,

whichever is the lesser,

(B) to require the establishment of import levels for textiles and textile products supplied by producing countries that reflect their 1984 import levels,

(C) to require the establishment of import levels for textiles and textile products supplied by small producing countries that provide a significant increase in their market shares to meet their development needs and to permit future growth in such shares consistent with the Multi-Fiber Arrangement, and

(D) to limit the future growth rate of imports of textiles and textile products into the United States to levels which reflect orderly growth as provided for in the Multi-Fiber Arrangement and the most recent Protocol extending the Multi-Fiber Arrangement;

(21) the establishment of import levels, and limitation of future import growth to levels, that reflect effective enforcement of the Multi-Fiber Arrangement and that also reflect the expected growth rate of the United States market for textiles and textile products will fulfill announced policy objectives of the United States regarding trade in textiles and apparel;

(22) as the Department of Defense has long recognized, a strong, viable and efficient domestic textiles and textile products industry is essential in order to avoid impairment of the national security of the United States;

(23) the developments that have led to the sharp increase in imports of textiles and textile products since 1980 may not have been foreseeable; nevertheless, the rights of the United States under international agreements should have been invoked in order to prevent increased quantities of textiles and textile products from being imported under such conditions as to cause or threaten serious damage to domestic producers of textiles and textile products in the United States; and

(24) the sharp increase in imports of textiles and textile products since 1980, and the effect of this increase on the United States textiles and apparel industry and its workers, constitutes exceptional circumstances within the meaning of the Multi-Fiber Arrangement and its Protocol.

SEC. 104. DEFINITIONS.

For purposes of this title—

(1) The term "textiles and textile products" includes, but is not limited to, all tops, yarns, man-made fibers, piece goods, made-up articles, apparel, and other textile manufactured products (which derive their chief characteristics from their textile components) made in whole or in part from any natural or manmade fiber, or blend thereof, that are classified under schedule 3, part 6 of schedule 6, parts 1 (except subpart A but including item number 700.75), 4, 5 (except subpart E), 7 or 13 (except item number 790.57) of schedule 7, or part 1 of schedule 8 of the Tariff Schedules of the United States, or part 1 of the Appendix to the Tariff Schedules of the United States; such term does not include apparel containing 70 per centum or more by weight of silk except articles classified under item numbers 373.20 and 373.22 of the Tariff Schedules of the United States;

(2) The term "category" means, with respect to textiles and textile products that are the product of a country, each of the following—

(A) each category of textiles and textile products identified by a three-digit textile category number in the Department of Commerce publication "Correlation: Textile and Apparel Categories with Tariff Schedules of the United States Annotated", dated January 1985 and, subsequently, in the first edition of such document that is revised to reflect the adoption by the United States of the Nomenclature Structure of the Harmonized System;

(B) with respect to each country with which the United States has (i) an agreement on the date of enactment of this title limiting exports of textiles and textile products to the United States that includes specific limitations on subdivisions of a category described in subparagraph (A), or (ii) taken unilateral action to limit products entered under such a subdivision, each such subdivision;

(C) a category consisting of the man-made fiber products not covered by a category described in subparagraph A and classified under subpart E of part 1 of schedule 3 to the Tariff Schedules of the United States; and

(D) each category consisting of each of the following products when, because of fiber content, that product is not subject to the Multi-Fiber Arrangement:

(i) yarn,

(ii) fabric,

(iii) apparel, and

(iv) other textile products;

(3) The term "import sensitive category" means—

(A) each category (other than a category applicable to textiles and textile products that are a product of a country in the Caribbean region) for which the ratio of imports to domestic production, as reported in the Department of Commerce publication "U.S. Production, Imports and Import/Production Ratios for Cotton, Wool and Man-Made Fiber Textiles and Apparel", equals or exceeds 40.0 for the preceding calendar year; and

(B) each category covering wool products;

(4) The term "country" means a foreign country (other than Canada and the Member States of the European Economic Community as constituted on January 1, 1985), a foreign territory, an insular possession of the United States, or any other territory, possession, colony, trusteeship or political entity, whether affiliated with the United States or not, that is outside the customs territory of the United States;

(5) The term "major producing country" means a country the annual aggregate quantity of textiles and textile products of which that entered under the categories referred to in subparagraph (2)(A) of this section during calendar year 1984 equaled or exceeded 10 per centum of all textiles and textile products under such categories that entered from all countries and from Canada and the Member States of the European Economic Community during calendar year 1984;

(6) The term "producing country" means a country (other than a major producing country and a country in the Caribbean region) the annual aggregate quantity of textiles and textile products of which that entered under the categories referred to in subparagraph (2)(A) of this section during calendar year 1984 equaled or exceeded 1.25 per centum of all textiles and textile products under such categories that entered from all countries and from Canada and the Member States of the European Economic Community during calendar year 1984;

(7) The term "small producing country" means a country other than a major producing country and a producing country;

(8) The term "country in the Caribbean region" means the United Mexican States and a country eligible for designation as a beneficiary country under section 212 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702);

(9) The term "wool product" means an article containing over 17 per centum by weight;

(10) The term "cotton, wool and man-made fiber sweaters" means articles classified under categories 345, 445, 446, 645 or 646 as defined in the Department of Commerce publication "Correlation Textile and Apparel Categories with Tariff Schedules of the United States Annotated," dated January 1985;

(11) The term "entered" means entered, or withdrawn from warehouse, for consumption in the customs territory of the United States; and

(12) The term "Multi-Fiber Arrangement" means the Arrangement Regarding International Trade in Textiles, as extended by the Protocol done at Geneva, December 22, 1981.

SEC. 105. LIMITS ON TEXTILE AND APPAREL IMPORTS.

(a) CALENDAR YEAR 1985.—Notwithstanding any other provision of law, the aggregate quantity of textiles and textile products classified under a category that is entered during calendar year 1985 shall not exceed—

(1) in the case of textiles and textile products that are a product of a major producing country, other than textile luggage, textile handbags, and textile flat goods subject (as of the date of enactment of this title) to a specific limitation under an agreement with a major producing country) the lesser of an amount equal to 101 per centum (A) of the aggregate quantity of such products of such country classified under such category that would have entered during calendar year 1984 if the aggregate quantity of such products of such country classified under such category entered during calendar year 1980 had increased by 6 per centum annually, or 1 per centum annually in the case of a category covering a wool product, during calendar years 1981, 1982, 1983, and 1984, or (B) if the United States has an agreement with such country providing for an annual growth rate for such category of less than 6 per centum, of the aggregate quantity of such products of such country classified under such category that entered during calendar year 1984;

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(2) in the case of textile luggage, textile handbags, and textile flat goods subject (as of the date of enactment of this title) to specific limitation under an agreement with a major producing country, the specific limitation quantity in effect as of the date of enactment of this title;

(3) in the case of textiles and textile products that are a product of a producing country, an amount equal to the aggregate quantity of (A) such products of such country classified under such category that entered during calendar year 1984, or (B) in the case of textile luggage, textile handbags, and textile flat goods subject (as of the date of enactment of this title) to specific limitation under an agreement with an exporting country, the specific limitation quantity in effect as of the date of enactment of this title;

(4) in the case of textiles and textile products that are a product of a small producing country (other than cotton, wool, and man-made fiber sweaters described in paragraph (5)), an amount equal to the sum of (A) the aggregate quantity of such products of such country classified under such category that entered during calendar year 1984, plus (B) an amount equal to (i) 15 per centum of such quantity, in the case of a category that is not an import sensitive category, or (ii) 1 per centum of such quantity, in the case of a category that is an import sensitive category; and

(5) in the case of cotton, wool, and man-made fiber sweaters that are—

(A) the product of substantial assembly operations in Guam from otherwise completed knit-to-shape component parts, an aggregate amount equal to 160,000 dozen; and

(B) the product of substantial assembly operations in the Commonwealth of the Northern Mariana Islands from otherwise completed knit-to-shape component parts, an aggregate amount equal to 70,000 dozen.

If application of paragraph (1) would result in the aggregate quantity of textiles and textile products of a major producing country classified under all categories permitted to enter during calendar year 1985 to be less than 70 per centum of the aggregate quantity of such products of such country that entered during calendar year 1984, then, notwithstanding paragraph (1), the aggregate quantity of textiles and textile products of such country that may be entered under each category during calendar year 1985 shall not be less than 40 per centum of the aggregate quantity of such products of such country that entered under such category during calendar year 1984.

(b) GROWTH ADJUSTMENT.—For calendar years after 1985, the aggregate quantity of textiles and textile products classified under each category that may be entered during each such calendar year shall—

(1) in the case of such products that are a product of a major producing country or of a producing country, be increased by an amount equal to 1 per centum of the aggregate quantity that could be entered under such category during the preceding calendar year; and

(2) in the case of such products that are a product of a small producing country, be increased by an amount equal to—

(A) in the case of a category (other than an import sensitive category), 6 per centum of the aggregate quantity that could be entered under that category during the preceding calendar year, and

(B) in the case of an import sensitive category, 1 per centum of the aggregate quantity that could be entered under that category during the preceding calendar year.

If the aggregate quantity that could be entered under a category for a calendar year after 1985 is reduced under section 111(b), then, in the first calendar year in which there is no such reduction, this subsection shall be applied as if there had been no reduction under section 111(b) in previous calendar years.

(c) MINIMUM QUANTITIES.—If, under subsection (a) or (b), the aggregate quantity of textiles and textile products of a country that may be entered during a calendar year under a category is—

(1) less than one million square yard equivalents, in the case of a category covering yarn, fabric, made-ups, and miscellaneous products, other than wool products;

(2) less than seven hundred thousand square yard equivalents, in the case of a category covering apparel, other than wool products apparel; or

(3) less than one hundred thousand square yard equivalents, in the case of a category covering wool products,

then, notwithstanding subsection (a) or (b), the aggregate quantity of textiles and textile products of such country that may be entered under such category during the calendar year shall be one million, seven hundred thousand, or one hundred thousand square yard equivalents, respectively. The amount prescribed in the preceding sentence shall be accorded growth subject to the provisions of subsection (b) beginning the first calendar year after the aggregate quantity of products of such country entered under such category equals the minimum quantity prescribed under this subsection.

(d) SPECIAL RULE.—For purposes of this section, if during any calendar year after 1984, the aggregate quantity of textiles and textile products that are the product of a small producing country (other than a country in the Caribbean region) and that are entered under the categories referred to in subparagraph 2(A) of section 104 of this title equals or exceeds 1.25 per centum of all textiles and textile products entered under such categories from all countries and from Canada and the Member States of the European Economic Community during such calendar year, then such small producing country shall be considered to be a producing country for all succeeding calendar years.

(e) ENFORCEMENT.—The Secretary of Commerce shall prescribe such regulations governing the entry, or withdrawal from warehouse, for consumption of textiles and textile products as may be necessary to carry out this title.

SEC. 106. IMPORT LICENSING.

In order to ensure the equitable and efficient administration of section 105 of this title, the Secretary of Commerce shall, within six months after the date of enactment of this title, establish and administer an import licensing system under which an importer of any textiles and textile products from any country and from Canada and the Member States of the European Economic Community, will be required to present an import permit as a condition of entry. The Secretary shall charge a fee for import licenses in such amount as may be necessary to cover the cost of administration of the system. The Secretary of the Treasury shall make all determinations regarding classification under the Tariff Schedules of the United States, appraisement, and valuation of products subject to licensing under this section.

SEC. 107. ANNUAL REPORT.

Not later than March 15, 1986, and March 15 of each calendar year thereafter, the President shall submit to the Congress report on the administration of this title during the preceding calendar year. Such report shall include detailed information about the implementation and operation of the limitations established under section 105. The report shall also include a detailed report by the Department of Commerce on the implementation and enforcement for the provisions of this title exempting from import limitations certain articles of silk apparel, with special regard to the extent to which nonsilk articles, and silk articles not exempt from import limitations, are erroneously or fraudulently classified as silk items exempt from import limitations and are entered under this title. All departments and agencies shall cooperate in preparation of this report as requested by the President.

SEC. 108. REVIEW.

The Secretary of Commerce shall commence ten years after the date of enactment of this title a formal review of the operation of the Textile Import Control Program under the provisions of this title. The Secretary shall consult Members and committees of Congress, representatives of the labor unions and the industries affected by the program, the Secretary of the Treasury, and other appropriate government officials. Within six months after the commencement of the study, the Secretary shall submit to Congress his findings as well as his recommendations for the future conduct of the program.

SEC. 109. DUTY FREE ENTRY OF CERTAIN SWEATERS FROM GUAM AND THE NORTHERN MARIANAS.

Subpart A of part 7, schedule 3 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by adding at the end thereof the following new item:

"385.97	Cotton, wool and man-made fiber sweaters that are entitled to enter under the quotas established under section 105(a)(5) of the Textile and Apparel Trade Enforcement Act of 1985 or the increased quotas under section 105(b) of such Act that adjust the quotas under such section 105(a)(5) and that do not contain foreign materials to the value of more than 50 percent of their total value as this standard is applied pursuant to Headnote 3(a) of the General Headnotes and Rules of Interpretation	Free".

SEC. 110. PRODUCTS OF THE INSULAR POSSESSIONS OF THE UNITED STATES.

(a) GENERAL RULE.—Notwithstanding section 104(4) of this title, textiles and textile products that are the product of an insular possession of the United States shall not be considered to be products of a country, within the meaning of section 104(4), if such products meet the requirements of subsection (b).

(b) Possession Content.—

(1) Subsection (a) shall apply to an article if—

(A) that article is imported directly from an insular possession of the United States into the customs territory of the United States; and

(B) the sum of (i) the cost or value of the materials produced in such insular possession of the United States or in the customs territory of the United States plus (ii) the direct costs of processing operations performed in such insular possession of the United States is not less than 85 per centum of the appraised value of such article at the time it is entered.

(2) The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out this section, except that the rules of origin contained in 19 CFR 12.130 shall be the rules of origin for purposes of this section.

(3) As used in this subsection, the phrase "direct costs of processing operations" includes—

(A) all actual labor costs attributable to permanent residents of the insular possession involved in the growth, production, manufacture, or assembly of the specific merchandise, including fringe benefits, on-the-job training and the cost of engineering, supervisory, quality control, and similar personnel; and

(B) dies, molds, tooling, and depreciation on machinery and equipment which are allocable to the specific merchandise.

Such phrase does not include costs which are attributable to nonpermanent resident labor, are not directly attributable to the merchandise concerned, or are not costs of manufacturing the product, such as (i) profit, and (ii) general expenses of doing business which are either not allocable to the specific merchandise or are not related to the growth, production, manufacture, or assembly of the merchandise, such as administrative salaries, casualty and liability insurance, advertising, and salesmen's salaries, commissions or expenses.

SEC. 111. EFFECTIVE DATE.

(a) IN GENERAL.—Subject to the provisions of subsection (b), the provisions of this title shall apply to textiles and textile products entered, or withdrawn from warehouse, for consumption on or after the date of enactment of this title.

(b) CALENDAR YEARS 1985 AND 1986.—The Secretary of Commerce shall prescribe by regulation the aggregate quantity, if any, of textiles and textile products that may be entered under section 105 (a) or (c) of this title from each country under each category during the period beginning on the date of enactment of this title and ending December 31, 1985. Notwithstanding subsection (a), to the extent that the aggregate quantity of imports of textiles and textile products of a country entered under a category after December 31, 1984, and before the date of enactment of this title exceeds the quantity permitted entry for such products of such country and such category during calendar year 1985 under subsection 5 (a) or (c) of section 105, then the limit that would otherwise apply under section 105 (b) or (c) for such category for such country for calendar year 1986 shall be reduced by the amount of such excess quantity. If such excess quantity exceeds the limit that would otherwise apply under section 105 (b) or (c) for such category for such country for calendar year 1986 shall be reduced by the amount of such excess quantity. If such excess quantity exceeds the limit that would otherwise apply under section 105(b) for such category for such country for calendar year 1986, then the limit for such category and country for calendar years after 1986 shall be reduced until such excess is accounted for.

TITLE II

SEC. 201. SHORT TITLE.

This title may be cited as the "American Footwear Industry Recovery Act of 1985".

SEC. 202. FINDINGS AND PURPOSE.

(a) The Congress finds that—

(1) The domestic nonrubber footwear industry is important to the national economy, and footwear firms are vital to the economic health of small towns throughout the United States.

(2) The domestic nonrubber footwear industry is highly labor intensive, and low capital requirements for entry into footwear production make it a primary target for industrializing or newly industrialized countries. As a consequence, footwear is produced in virtually every footwear consuming country in the world.

(3) Tremendous competitive pressure has been created in the world footwear market in the last decade as a result of rapidly growing production and capacity in numerous developing and developed countries. This development has resulted in the widespread erection of tariff and nontariff barriers by foreign countries designed to protect their domestic footwear industries.

(4) The United States has historically resisted the protectionist trends of other producing nations and has instead maintained a market distinguished by its accessibility. As a result, the United States market has become a focal point for world trade in nonrubber footwear.

(5) The diversion of international trade to the United States market has resulted in serious injury to domestic producers as manifested by—

(A) the loss of 155,000 footwear jobs since 1968,

(B) a decline in domestic production and production capacity, and

(C) the permanent closure of over 500 plants during the same period.

(6) The serious injury to domestic producers poses a significant danger to the industry's supplier base as well.

(7) The domestic nonrubber footwear producers have made a significant commitment to the future of the industry through substantial capital investment.

(8) Since the termination of temporary import relief in 1981, capital investment in the domestic nonrubber footwear industry has declined as the industry struggled to battle the massive surge in imports which increased the percentage share of imported footwear in the United States market from, 51 per centum in 1981 to 77 per centum in 1985.

(9) Without the restriction of import levels, capital investment in this domestic industry will continue to decrease.

(10) The domestic nonrubber footwear industry has thrice been judged by the International Trade Commission, as recently as May 1985, to be seriously injured by imports.

(11) Since the termination of the two, 4-year orderly marketing agreements in 1981, the harm to the domestic industry is even more critical than the serious injury which triggered the Commission's unanimous findings in 1976 and 1977.

(12) The domestic nonrubber footwear industry has not been afforded adequate and appropriate relief from imports; therefore, the Congress concludes that—

(A) the administrative process under sections 201, 202, and 203 of the Trade Act of 1974 has proven inadequate; and

(B) in the absence of and effective remedy under such process, legislative relief is essential.

(b)(1) It is the purpose of Congress in enacting this section to—

(A) promote and expand the economic health of the United States nonrubber footwear industry,

(B) preserve the jobs of American workers, and

(C) prevent the further decline of this important domestic industry.

(2) It is declared to be the policy of Congress that access to the United States market for foreign-produced nonrubber footwear should be on an equitable basis to ensure orderly trade in nonrubber footwear, reduce unfair trade in nonrubber footwear, and address United States balance-of-payments problems, of which footwear is the seventh largest component. In order to accomplish these objectives, it is deemed necessary and appropriate to limit imports of nonrubber footwear into the United States market.

SEC. 203. DEFINITIONS.

For purposes of this title—

(1) The term "entered" means entered, or withdrawn from warehouse, for consumption in the customs territory of the United States.

(2) The term "Secretary" means Secretary of Commerce.

(3) The term "nonrubber footwear" means the following categories of nonrubber footwear products, identified by reference to the following item numbers of the Tariff Schedules of the United States (as in effect on January 1, 1985): 700.05 through 700.45; 700.56; 700.72 through 700.83; and 700.95; except alpine (down hill) ski boots and nordic (cross country and jumping) ski boots.

(4) The term "apparent domestic consumption" means, with respect to any 1-year period, the sum of imports plus domestic production less exports.

SEC. 204. QUANTITATIVE LIMITATION ON NONRUBBER FOOTWEAR.

(a)(1) During the 8-year period beginning on the date of enactment of this title, the aggregate number of pairs of nonrubber footwear which may be entered during any 1-year period shall not exceed 60 per centum of the estimated apparent domestic consumption of nonrubber footwear for such period.

(2) The quantitative limitation imposed by paragraph (1) for any 1-year period shall be distributed among the following categories of nonrubber footwear so that the aggregate number of pairs of nonrubber footwear in such category which may be entered during any 1-year period shall not exceed the quantity equal to—

(A) in the case of nonrubber footwear with a customs value that does not exceed $1.25 per pair, 10 per centum of apparent domestic consumption of nonrubber footwear for such period,

(B) in the case of nonrubber footwear with a customs value that exceeds $1.25 per pair but does not exceed $2.50 per pair, 5.4 per centum of apparent domestic consumption of nonrubber footwear for such period, and

(C) in the case of nonrubber footwear with a customs value that exceeds $2.50 per pair, 44.6 per centum of apparent domestic consumption of nonrubber footwear for such period.

(b) Within 60 days after the effective date of this title, and on the first day of the fourth quarter of each 1-year period thereafter, the Secretary shall determine on the basis of the best information available, including his own or independent forecasts, the expected apparent domestic consumption of nonrubber footwear for, in the case of the initial determination, the remainder of the current 1-year period and in the case of the first day of the fourth quarter of each 1-year period thereafter, the next succeeding 1-year period. On each such date, the Secretary shall determine and publish in the Fed-

eral Register the allocation for the next succeeding 1-year period of permissible imports of nonrubber footwear as required by this section.

(c) On the first days of the first, second, and third quarters of each 1 year period, the Secretary shall revise the determinations of expected apparent domestic consumption made under subsection (b) for the current 1 year period on the basis of the best information then available and shall make such adjustments in the quantity of nonrubber footwear permitted to be imported under this section as indicated by the revision. All revisions and adjustments made under this subsection shall be published in the Federal Register.

(d) If the revised determination of expected apparent domestic consumption published in the Federal Register under subsection (c) on the first day of the third quarter in any 1 year period for nonrubber footwear varies from the actual apparent domestic consumption of nonrubber footwear for such 1 year period, the Secretary shall publish in the Federal Register on the first day of the second quarter of such succeeding 1 year period a revision to the determination of expected apparent domestic consumption for such 1 year period made under subsection (c) of this section. The revision shall be in the amount of such variance and shall be in addition to any other revision that would be made on any such first day of the second quarter under subsection (c) of this section.

(e)(1) The Secretary and the Secretary of the Treasury shall take such actions within their respective jurisdictions as may be necessary or appropriate to enforce the provisions of this section, including without limitation, the issuance of orders to Customs officers to bar entry to merchandise if the entry of such merchandise would cause the limitations established under this section to be exceeded.

(2)(A) The Secretary and the Secretary of the Treasury are each authorized to issue such implementing regulations, including the issuance of import licenses, as may be necessary or appropriate to effect the purposes of this section and to enforce the provisions of this section.

(B) Before prescribing any regulations under subparagraph (A), the Secretary or the Secretary of the Treasury, as the case may be, shall—

(i) consult with interested domestic parties,

(ii) afford an opportunity for such parties to comment on the proposed regulations, and

(iii) consider all such comments before prescribing final regulations.

SEC. 206. COMPENSATION AUTHORITY.

For purposes of section 123 of the Trade Act of 1974 (19 U.S.C. 2133), the imposition of the quantitative limitation under section 204 shall be treated as action taken under section 203 of the Trade Act of 1974 (19 U.S.C. 2253).

TITLE III—COPPER

SEC. 301. SHORT TITLE.

This title may be cited as the "Copper Free Market Restoration Act of 1985".

SEC. 302. FINDINGS, PURPOSE, AND POLICY.

(a) FINDINGS.—The Congress finds that—

(1) the copper industry of the United States is critical to the national defense and the maintenance of a strong economy, but has suffered a substantial economic setback, including a 50 per centum reduction in employment levels, a 25 per centum drop in production, the closure of 16 major mines, and the permanent loss of copper reserves;

(2) the substantial economic setback to the domestic copper industry is attributable to the steep decline in world copper prices that has resulted from—

(A) the continued overproduction of copper by government-owned foreign producers that—

(i) have been encouraged to overproduce by their host governments in order to generate foreign exchange and maintain employment levels, and

(ii) enjoy unfair competitive advantage over United States producers because of subsidized loans from their governments and from international lending institutions, such as the World Bank, and the absence of adequate environmental regulation; and

(B) the overvaluation of the dollar and its impact on domestic copper prices;

(3) the extent of the economic setback to the domestic copper industry was documented in 1984 when the United States International Trade Commission unanimously found that the industry had been injured by foreign competition under the terms of section 201 of the Trade Act of 1974 and recommended that appropriate relief be granted;

(4) while copper producers in the United States have made a substantial commitment to the modernization of the industry, more improvements are needed, and the reinvestment in the United States copper industry that is needed for those improvements is seriously jeopardized by the failure of existing trade statutes to deal effectively with the problem of excess world production; and

(5) a 5-year stabilization of foreign copper production is needed if the domestic copper industry is to attract the necessary capital for reinvestment.

(b) PURPOSE.—The purpose of this title is to—

(1) ensure an adequate supply of domestic copper,

(2) expand employment in the copper industry, and

(3) stabilize foreign copper production at levels that will enable domestic copper producers to make necessary improvements and modernization.

(c) POLICY.—The Congress declares it to be the national policy that the United States must seek to negotiate agreements temporarily limiting copper production by foreign copper producers so that the purposes of this title can be fulfilled.

SEC. 303. DEFINITIONS.

For purposes of this title—

(1) The term "agreement negotiation period" means the 9-month period beginning on the first day of the first calendar month beginning after the date of enactment of this Act.

(2) The term "major copper producing country" means any foreign country whose production of unwrought copper during 1984 exceeded 300,000 metric tons.

(3) The term "significant copper producing country" means any foreign country whose production of unwrought copper during 1984 exceeded 200,000 metric tons but did not exceed 300,000 metric tons.

(4) The term "unwrought copper" means articles provided for in items 612.02 through 612.06 of the Tariff Schedules of the United States.

(5) The term "restraint period" means the 5-year period beginning at the close of the agreement negotiation period.

SEC. 304. NEGOTIATIONS AND ACTION REGARDING AGREEMENTS TO VOLUNTARILY RESTRAIN COPPER PRODUCTION.

(a) NEGOTIATIONS.—

(1) The President, acting through the United States Trade Representative and the Secretary of the Interior, shall undertake negotiations during the agreement negotiation period with all major copper producing countries for the purpose of obtaining voluntary restraint agreements under which the aggregate production of unwrought copper by the major copper producing countries during each 1-year period within the restraint period will not exceed the aggregate production of unwrought copper by those countries during calendar year 1982.

(2) The President, acting through the United States Trade Representative and the Secretary of the Interior, shall undertake negotiations during the agreement negotiation period with all significant copper producing countries for the purpose of obtaining voluntary restraint agreements under which the aggregate production of unwrought copper by the significant copper producing countries during each 1-year period within the restraint period will not exceed the sum of—

(A) the aggregate production of unwrought copper by those countries during calendar year 1984, plus

(B) the estimated growth in demand for unwrought copper for such 1-year period within the restraint period.

(b) REPORTS.—

(1) At the close of each 3-month period within the agreement negotiation period, the President shall submit to the Congress a report on the progress of negotiations conducted under subsection (a). Such report shall—

(A) set forth the terms of any voluntary restraint agreement that has been entered into under subsection (a) during such 3-month period,

(B) contain a summary of the actions taken by the President during such 3-month period to obtain agreements under subsection (a) with each major copper producing country and significant copper producing country that has not entered into such an agreement,

(C) contain a summary of the responses (including counteroffers) made during such 3-month period by each of the countries described in subparagraph (B) to the actions of the President described in subparagraph (B),

(D) include a description of the obstacles and objections encountered by the President during such 3-month period to the achievement of agreements under subsection (a), and

(E) include an assessment of whether each country described in subparagraph (B) is negotiating in good faith.

(2) The final report that is required to be submitted under paragraph (1) shall include—

(A) a determination by the President of whether the agreements entered into under subsection (a) will achieve the purposes of this title, and

(B) recommendations of the President regarding any actions that should be taken against any major copper producing country or significant copper producing country which refuses to enter into a voluntary restraint agreement under subsection (a).

(c) ACTION IF VOLUNTARY RESTRAINT AGREEMENTS TAKE EFFECT.—If voluntary restraint agreements described in subsection (a) take effect between the United States and the major copper producing countries or significant copper producing countries—

(1) the United States Trade Representative, with the cooperation of other appropriate Federal officers, shall monitor the production of unwrought copper by those coun-

tries during each 1-year period within the restraint period for the purpose of ascertaining if the terms of the agreements are being complied with during such 1-year period, and

(2) the United States Trade Representative shall, within 30 days after the close of each 1-year period within the restraint period, report to the Congress on the results of the monitoring carried out during such 1-year period.

TITLE IV—FOREIGN LABOR PRACTICES

SEC. 401. REPORTS.

(a)(1) The United States International Trade Commission shall conduct a study of the wage rates, labor costs, and other labor practices of each foreign country which had a surplus in the balance of trade between the United States and such foreign country for calendar year 1984 that exceeded $4,000,000,000. Such study should consider labor practices existing throughout the economy of each of such countries and the labor practices of the industries in each of such countries that were responsible for such balance of trade surplus.

(2) The study conducted under paragraph (1) shall include, with respect to each foreign country described in paragraph (1), analyses of—

(A) the effects of the labor practices of such foreign country studied under paragraph (1) on the competitive position of United States exports in foreign markets and in United States markets,

(B) the relationship between—

(i) the wages and other compensation paid to workers in United States industries producing goods that face substantial competition from products of such foreign country, and

(ii) the wages and other compensation paid to workers in such foreign country who produce such competitive products,

(C) the relationship, if any, between the labor practices of such foreign country studied under paragraph (1) and the cultural, religious, and political practices or values of such foreign country,

(D) the extent to which such labor practices are encouraged or enforced by the government of such foreign country,

(E) the history, duration, and extent of such labor practices, and

(F) the extent to which private or public forces that are anticompetitive encourage such labor practices.

(3) By no later than the date that is 9 months after the date of enactment of this Act, the United States International Trade Commission shall submit a report on the study conducted under paragraph (1) to the Congress, the Secretary of Labor, and the Secretary of Commerce.

(b)(1) The Secretary of Labor and the Secretary of Commerce shall each conduct a separate investigation to—

(A) identify each of the labor practices discussed in the report submitted under subsection (a)(3) that—

(i) is illegal under existing laws of the United States or of any State, or

(ii) should be prohibited by all countries under an international labor law code,

(B) determine what labor principles and rules should be included in an international labor law code, and

(C) determine the issues involved in, and the prospects for achieving, the elimination of labor practices identified under subparagraph (A) through negotiations with foreign countries.

(2) By no later than 3 months after the date on which the report is submitted under subsection (a)(3), the Secretary of Labor and the Secretary of Commerce shall each submit to the Congress a report on the investigation conducted under paragraph (1).

ARMED FORCES SURVIVORS HOUSING ALLOWANCES

THURMOND (AND OTHERS) AMENDMENT NO. 1428

Mr. SIMPSON for Mr. THURMOND (for himself, Mr. WILSON, Mr. DOLE, Mr. GLENN, Mr. KENNEDY, Mr. MCCONNELL, Mr. GOLDWATER, Mr. SIMPSON, Mr. NUNN, Mr. COCHRAN, Mr. STENNIS, Mr. SASSER, Mr. EXON, Mr. LEVIN, Mr. D'AMATO, Mr. HART, Mr. BINGAMAN, and Mr. DIXON) proposed an amendment to the bill (H.R. 3974) to amend title 10, United States Code, to include in the death gratuity payable to survivors of a member of the Armed Forces who dies on active duty an amount equivalent to 2 months' housing allowances; as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That section 403 of title 37, United States Code, is amended by adding at the end thereof the following new subsection:

"(l)(1) The Secretary of Defense, or the Secretary of Transportation in the case of the Coast Guard when not operating as a service in the Navy, may allow the dependents of a member of the armed forces who dies in line of duty and whose dependents are occupying family housing provided by the Department of Defense, or by the Department of Transportation in the case of the Coast Guard, other than on a rental basis on the date of the member's death to continue to occupy such housing without charge for a period of 90 days.".

"(2) The Secretary concerned may pay an allowance for quarters to the dependents of a member of the uniformed services who dies in line of duty and whose dependents are not occupying a housing facility under the jurisdiction of a uniformed service on the date of the member's death or are occupying such housing on a rental basis on such date, or whose dependents vacate such housing sooner than 90 days after the date of the members death. The amount of the allowance for quarters shall be the same amount that would be payable to the deceased member under sections 403, 403a, and 405 of this title if the member had not died. The payment of an allowance for quarters under this subsection shall terminate 90 days after the date of the member's death.".

SEC. 2. The amendments made by section 1 of this Act shall take effect December 12, 1985, and shall apply only with respect to housing for and payment of an allowance for quarters to dependents of members of the uniformed services who died on or after that date.

SEC. 3. SERVICEMEN'S GROUP LIFE INSURANCE PROGRAM.—Section 401(c) of Public Law 99-166 is amended to read as follows:

"(c) EFFECTIVE DATE.—Except as provided in paragraph (2), the amendments made by subsections (a) and (b) shall take effect on January 1, 1986.

"(2) The amendment made by subsection (a)(1)(A) shall be deemed to have taken effect on December 12, 1985, with respect to members who—

"(A) died after December 11, 1985, and before January 1, 1986; and

"(B) were, on the date of death, insured in the amount of $35,000 under subchapter III of chapter 19 of title 38, United States Code.".

ADDITIONAL STATEMENTS

TAX REFORM AND THE FUTURE OF 401(k)S

● Mr. BAUCUS. Mr. President, a priority issue for the Senate in the second session will be the tax legislation. My colleagues and I on the Finance Committee will be devoting many hours, days, and weeks to this subject in 1986. A major issue we will have to resolve will be the impact of the tax bill of the private, voluntary retirement savings system and, in particular, on cash-or-deferred retirement savings plans, popularly known as 401(k)'s.

Recently, Tax Notes carried an information and timely exchange on the value and future of 401(k)'s. Authored by Stuart J. Brahs, executive director of the Association of Private Pension and Welfare Plans (pro) and Dr. Gerard M. Brannon, Tax Notes editorial page editor (con), the article discusses the merits, shortcomings, and future of this popular and growing retirement program. I believe this article is a useful contribution to the public debate over one important aspect of the tax reform initiative and I commend it to our colleagues' attention.

The article follows:

[From Tax Notes, Nov. 25, 1985]

CODA's AND IRA's

(Commentators: Gerard M. Brannon and Stuart J. Brahs)

SPEAKING OUT

(Gerard M. Brannon)

In its various tax reform proposals, Treasury has been both for and against cash-or-deferred arrangements (CODAs or 401(k) plans). Under a CODA, an employee can take part of his or her current salary as deferred income. Commonly, employers match employee contributions. The arrangement can work like a pension plan, except CODA deferrals can sometimes be withdrawn or borrowed before retirement.

CODAs, like individual retirement accounts (IRAs), usually supplement qualified pension plans. Both arrangements involve some individual choice; in standard pension plans, a "Jiminy Cricket" employee cannot opt out, except by changing jobs. CODAs differ from IRAs by having an employer tie-in; employer matching constitutes pressure on employees to be squirrels rather than crickets.

CODAs are open-ended—they are not subject to the $2,000 contribution limit that applies to IRAs—and I consider this to be a very serious problem. Because individuals with high incomes normally save more and would use CODAs more than low- and middle-income earners. Congress created special nondiscrimination rules for CODAs. Roughly, the eligibility of employees to elect deferral must be like pension plan eligibility, and the deferral rate among the

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highest-paid third of qualified employees cannot be more than 150 percent of the deferral rate for the lowest two-thirds.

Treasury I recommended eliminating section 401(k). Treasury II relented to the extent of proposing a dollar ceiling. Treasury 11½, the Baker-Rostenkowski plan, would have retained current law. The Ways and Means Committee's reform bill would place a ceiling on the combined CODA and IRA.

THE CODE ISN'T CONSISTENT

First, let me just list some relevant personal judgments about basic tax policy.

Judgment 1—CODAs, IRAs, and pension plans are all part of a crazy patchwork of savings incentives in present law. We don't encourage all savings, only selected savings (for home, retirement, etc.). Worse, we don't even pay attention to *net* saving; present law encourages borrowing by way of the interest deduction.

Judgment 2—On the whole, the crazy patchwork mostly gives tax reductions for savings that would have occurred anyway. The overwhelming fact is that as we reduced tax penalties on savings, the savings rate didn't rise.

Judgment 3—The institution of qualified pension plans probably has a positive impact on savings. Low-income workers who probably would not save on their own save through pension plans.

Judgment 4—If we were serious about encouraging saving, we should specifically tax consumption. Several feasible consumption tax techniques are available.

Quite apart from these judgments, there are several policy points on which I detect a near consensus among policymakers, as of 1985.

Consensus 1—We won't go to consumption tax.

Consensus 2—We should move toward a law which taxes *income* more consistently, with fewer incentives for saving.

Consensus 3—Through tax reform we should not do anything basic to take away the tax advantages of pension plans.

THE INCENTIVES DON'T WORK

Unlike most pension plans, CODAs and IRAs each have an "individual choice" feature which makes it most likely that they will be used by people who would have saved anyway, i.e., they won't result in more retirement saving.

Among all workers, the IRA participation rate is eight times higher among those earning $50,000 or more than it is among those earning $5,000 to $10,000. Between these same brackets, the rate of CODA use is 20 times higher. This is not just a matter of unfairness, but it means that these provisions are being used by people who would save a substantial amount anyway and it indicates that savings incentives do not increase the savings rate. (These calculations are based on tabulations of the May 1983 Current Population Survey Pension Supplement, done by the Employee Benefit Research Institute.)

I find even less socially redeeming character in CODAs since they are not limited to pension saving. The opportunities to cash them in early without penalty makes them ordinary savings, and if we want to encourage saving through the tax system, the only way to go is to a consumption tax which nets savings against borrowing.

I do find some merit in IRAs as they were before 1981—limited to people not covered by pension plans. Even here, IRAs will be used by those with higher incomes, but they will at least offset some of the unfairness caused by the fact that pension plans apply to some workers but not others.

A problem in a strategy of once-a-generation tax reform is that the Treasury can't stir up many issues. It is hard to get the technical work done on very many topics and each new topic introduced rouses a new hostile constituency. Clearly Treasury was unwilling to do much about pension plans and I guess their position on IRAs was dictated by the number of IRA investors out there. CODAs are growing very fast and in a few years may present as intimidating a political problem as pension plans and IRAs do now. If the Administration is sincere about taxing all income, it should go back to pushing outright repeal of section 401(k) and it should at least hold the line on the dollar limits on IRAs and pension plans so that the growth of money income will narrow these tax benefits.—GERARD M. BRANNON.

ANOTHER VIEW

(Stuart J. Brahs)

The likelihood that meaningful "once-in-a-generation tax reform" will be voted upon by the 99th Congress is uncertain. What is certain is that both the Administration and the Ways and Means Committee have set their sights on pension and other retirement income programs to please the demanding but elusive goal of revenue neutrality. The Administration's back and forth attitude toward cash-or-deferred arrangements (CODAs), or 401(k)s—and more recently, the House tax writers' action to seriously undermine these valuable programs—are a good example of why the tax reform process is the worst possible arena for determining something as important and far-reaching as national retirement income policy.

Unfortunately, Jere, your views on 401(k)s serve only to cloud the issue of what tax reform and retirement income policy should accomplish.

Unlike IRAs, 401(k)s offer employees the prearranged discipline of regular savings managed and professionally invested by their employer who, surveys show, match employees' contributions in 80 percent of plans. While some preretirement withdrawals for specially defined "hardship" cases are permitted in many plans, actual utilization is infrequent and no abuse of this plan feature has been demonstrated. More importantly, however, is the fact that this very feature attracts participation by younger workers (who are typically the least likely to save) because they know they can access these funds in an emergency.

WHO PARTICIPATES

As many as 19 million Americans are now eligible to participate in 401(k)s. Data indicate that between 60–63 percent of eligible employees do participate, for an estimated 10 to 15 million active participants nationwide. Participation rates for workers earning between $10,000–$25,000 are double the IRA participation rates for workers in the same income group. At *every* income level, a higher percentage of those eligible participate in 401(k) plans instead of IRAs. CODAs are subject to strict rules enforcing nondiscrimination. IRA usage—not subject to such rules—is skewed toward upper-income individuals.

CODAs are engendering a revolution in worker savings behavior. 401(k)s play a major role in adapting retirement income options to the needs of a rapidly changing workforce. While we have made great strides in expanding pension coverage, some nagging problems still exist—particularly for workers in small businesses with fewer than 100 employees and for highly mobile workers. Workers who enter and leave the workforce with some regularity, such as working mothers, often have problems with vesting requirements.

401(k)s are contributing greatly to expanding pension coverage for these employees. One reason for the rapid growth of 401(k)s has been the ease of implementation and adoption by small companies and nonprofit organizations who never before could provide an effective retirement income plan. Once vested, workers participating in a 401(k) can roll over their "account" into a qualified plan such as an IRA. Recent data also indicate that for the overwhelming majority of 401(k) plans, full vesting is either immediate or occurs within five years, making CODAs especially attractive to younger, more mobile workers, such as working mothers and those in high tech and other volatile service occupations.

While I fear you're confusing the issue by raising the idea of a consumption tax, Jere, I will agree with you—and you make the point somewhere—that current tax reform proposals, and indeed current tax policies, often penalize savings and seemingly reward borrowing.

THE SAVINGS RATE IS TOO LOW

There is justifiable concern today over the woefully low U.S. savings rate—the lowest of all major industrialized countries and lower than projected for this year by most economists. The U.S. personal savings rate for September 1985 was a dismal 1.9 percent, the lowest it has been since the early 1950s. One cause of the current disheartening trend of borrowing over saving is that a chief byproduct of the 1950s—the baby boomers—is borrowing for homes, cars, and possibly computers to figure their tax returns. And they are not saving nearly enough.

Here, I think the question should not be whether we have a consumption tax instead of a reformed income tax, but whether the U.S. tax code should be an instrument for encouraging responsible behavior, such as saving. One needn't be a Nobel award-winning economist to know the answer to that. If those baby boomers haven't put enough away for retirement by the end of this century, Uncle Sam is going to have to make up the difference between a meager and an adequate retirement for this politically potent age group.

For over four decades, the tax code has been an effective tool to expand coverage of workers in employer-sponsored retirement programs. Since World War II, coverage under benefit plans sponsored voluntarily in the private sector has grown dramatically. Private sector pension plans, as you say in Judgment 3, have had "a positive impact on savings by applying to a lot of low-income workers who probably would not have saved on their own." Fully 70 percent of U.S. workers between the ages of 25 and 64 and in their full-time jobs over one year are now covered by some form of pension plan where they work. But, nearly a third of them have little or no savings beyond what's accrued in their employer-provided plan. These plans comprise an increasingly larger percentage of savings in the United States: 12.7 percent in 1950, 20 percent in 1970, and 30.9 percent in 1980. Without the growth in employer-sponsored arrangements, the savings rate in this country might be even lower.

WE NEED MORE SQUIRRELS

Now is not a time when we should discourage savings or create new disincentives toward saving for retirement. This is a time we must aggressively seek expanded savings as a deliberate national policy. Or as you put it, create more squirrels.

You have not made an effective or even an ancedotal case against 401(k)s. They are not "open-ended"—the amounts contributed by lower- and middle-income participants in a 401(k) plan determine the amounts that upper-income-employees contribute. There have been no abuses of withdrawals on loans; CODAs are subject to nondiscrimination rules; they have encouraged savings by all income groups. You have not backed up your "fact" that the tax code "mostly gives tax reductions for savings that would have occurred anyway." Given the abysmal savings rate, where is your evidence? Why shouldn't we encourage greater savings by all income groups, especially if savings by the higher income earners in 401(k) plans, for example, leverage greater savings by middle- to lower-income earners?

The real problem we have is that the "crazy patchwork" of retirement income programs should not be toyed with in a fast-paced revenue-driven, tax reform process. There are real questions that should be answered, but there is no time to ask them. You put it well in Consensus #3: "Through tax reform we should not do anything basic to take away the tax advantage of pension plans." AGREED!!!

Tax reform, as the President presented it, was to accomplish fairness, growth, and simplicity. So far, Administration and Joint Taxation Committee options, as applied to 401(k) plans specifically and retirement income and savings policy generally, meet none of these criteria. Pensions and other employee benefits are not "fringes" for the rich, but mainstays of lower- to middle-income working Americans. This applies to 401(k) plans. And just watch the constituency for them grow!!

STUART J. BRAHS,
Executive Director, The Association of Private Pension and Welfare Plans.

POSTSCRIPT

I disagree with Stu. CODAs are not revolutionizing savings behavior, because the total savings rate has not changed with all the so-called savings incentives in the tax law. This crazy system gives tax relief for borrowing and gives relief for liquidating one investment to acquire another. It's not an incentive for saving.

I agree with Stu that IRA usage is skewed to upper incomes and that 401(k) usage *among eligible employees* is less skewed than IRA's When you add the fact that upper-income workers are more likely to be eligible, my numbers show 401(k) usage more skewed than IRA. Both are pretty bad. This ties into my point that the crazy system (tax relief for selected kinds of saving with incentives for borrowing) is just relief for saving that would have occurred anyway.

If one were serious about saving, one should abandon the crazy system and tax consumption, i.e., untax *all net* saving.—GERARD M. BRANNON.●

THE FREE ENTERPRISE SYSTEM

Mr. SYMMS. Mr. President, my colleagues in this body know me as a champion of free enterprise and individual opportunity without government interference. I wish to bring to the attention of my colleagues an example of what creative free enterprise can accomplish through our system which encourages individual initiative.

We in the Pacific Northwest are accustomed to a salad dressing which cannot be surpassed anywhere in America: Lighthouse Dressing. This business owned and operated by my good friends Ed Hawkins and his sons Doug and Ed Jr., is a 3,000 jar per day business which now employs 35 people in Sandpoint, ID.

Lighthouse started as a summer venture to make a little money for college. In 1985, Ed Hawkins' restaurant, the Lighthouse Restaurant, featured a dressing that not only brought customers back for more, but brought them back with empty containers wanting more of Ed's unique dressing.

The free market system and a top quality product soon turned Lighthouse Dressing into a thriving business offering 14 different flavors plus jams and candy in great demand throughout the Pacific Northwest and Western Canada.

Mr. President, I ask that the following article from the Idaho Business Review about the Hawkins' successful venture be printed in the RECORD.

The article follows:

[From the Idaho Business Review, Dec. 9, 1985]

LITEHOUSE DRESSING—A FAMILY AFFAIR

(By Kathy Johansen)

SANDPOINT.—What began as a summer venture to earn extra college money has turned into a successful business for a Sandpoint family. In the summer of 1963, the Hawkins family of Hope, Idaho, began the Litehouse Dressing industry.

A familiar site today in the produce sections of many supermarkets, Litehouse Dressing was born at the Litehouse Restaurant of Hope. The restaurant, purchased by Ed Hawkins in 1958, featured a salad dressing so popular that restaurant patrons brought their empty jars from home to fill with dressing.

The elder Hawkins saw the dressing as a supplement to his restaurant business, but his sons, Doug and Ed Jr., had bigger visions. During his summer break from college, Doug bought 100 jars, filled them with the dressing and literally went door-to-door to businesses to sell his product.

The reception was good, said Doug, and sales continued at a "nice level" until 1974, when the brothers decided to escalate their production. They moved from Hope to Sandpoint, where their plant is presently located on the northwest edge of town.

Along with productions, the Hawkins also broadened the dressing's marketing area which reaches throughout the Northwest and into parts of Canada. Litehouse now offers 14 different flavors of dressings and has diversified, producing huckleberry jams and syrups and a chocolate-covered huckleberry candy. The goal of the plant, said Hawkins, is to produce other high quality food items, but he would not disclose what their next product might be; however, he said, plans are underway.

Total production of the dressing takes place at the Sandpoint plant, including the printing of the jar lettering and the production of the mayonnaise used in making the dressing. Such operations were previously done in Seattle.

The mayonnaise machine is capable of producing 60,000 pounds of mayonnaise in one shift, said Hawkins, and approximately 3,000 jars of dressing are made each production day. The plant employs 35 area residents.

The Hawkins family seem to have found the right ingredients—a good recipe, family input and local help—to successfully fulfill a dream and business venture that began 22 years ago.

STAR WARS

● Mr. SIMON. Mr. President, Townsend Hoopes is a former Assistant Secretary of Defense who has contributed to this country in a variety of ways.

Recently he gave a talk to the Milwaukee Institute of World Affairs on the whole question of star wars.

But it is really more than simply a comment on star wars. It outlines a sane, sensible policy for this Nation to be following.

We should be listening to these voices of sanity, rather than to the voices that would push us into an irrational policy.

I urge my colleagues to read his remarks.

I ask that the speech be printed in the RECORD.

The speech follows:

TOWNSEND HOOPES: ADDRESS TO MILWAUKEE INSTITUTE OF WORLD AFFAIRS, NOVEMBER 12, 1985

You have given me a very large topic—the Summit and Beyond—to discuss in the culminating lecture of this seminar series. To do the subject justice would have seemed, a month ago, to require a gift of prophecy, but I doubt if this is any longer the case. Regrettably, it is now rather clear that this Summit Meeting is not going to amount to much in substantive terms—an exercise in public relations and posturing for the home audiences, a mutual effort to reassure a world worried about nuclear war, and perhaps an agreement to meet again. This last could be a promising development.

But it is now almost certain that there will be no agreement on arms control. The best to be hoped for on that fundamental issue are new guidelines for the negotiators at Geneva. But even that is a long shot. Until a few weeks ago, I believed there was an historic opportunity to reaffirm explicitly a tacit understanding on the paramount reality: mutual vulnerability—that mutual vulnerability is an existential condition of our age; that neither side can significantly alter the present stalemate, no matter how great its military and technological exertions; that we and the Soviets face a common security problem based on the reality that we will live together or perish together; that we should accordingly reinforce those attitudes and policies that rule out war between the two superpowers.

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What are the chances for such an understanding? Not very good. Obstacles to such commonsense exist in both camps, but the Soviets seem closer to grasping this reality than the Reagan Administration. A new Soviet leader, indeed a new generation of Soviet leadership, has taken over from the diminished band of tired old men who were the last of the original revolution-makers, and the new men seem determined upon a major effort to clear away the dry rot—to reinvigorate and redirect Soviet society. But to achieve this even partially, Gorbachev knows he needs a stable international environment, and especially a stable relationship with the United States. He needs, above all, to avoid a vast new arms race that would serverly constrict plans for economic reform. And I believe he understands that a new arms race would be dangerously destablizing as well as futile. I believe he has made this clear, for example, in his interview with Time magazine, and in a series of quite respectable proposals for arms reductions which he has since put forward.

The Reagan Administration is unfortunately ambivalent, a house deeply divided from the top down. The rational part of the apparatus sees a need for compromise to reduce the threat of catastrophic war and to give reassurance to worried allies. But key Reaganites, in their heart of hearts, really don't want an agreement—any agreement—with the "focus of evil" whose machinations they see as the root cause for 9/10ths of the troubles in a seething world.

Professional military men, represented on the Joint Chiefs of Staff, support balanced arms reduction agreements, for they see dangerous uncertainty and loss of control in a continuing arms race that has no limits. But civilian leaders in the Pentagon, (like Weinberger, Ikle, and Perle) don't really want to give up the arms race, for they still nurture the illusion that this will overstrain the smaller Soviet economy and run it into breakdown. For the first time in our postwar history, we have a Secretary of Defense who is an avowed opponent of arms control.

President Reagan is somewhere in between these positions—susceptible to reason on occassion, but with an instinctive preference for confrontation, polarization an no binding agreements. His illusion is that Star Wars can work and will be good for the country. Unfortunately for all of us, he is too shallow an intellect to think through these issues with clarity or precision, so his government has become a cacaphony of conflicting voices.

We are now in the fifth consecutive year of an unprecedented military build-up (which is not incidentially the largest single contribution to the unprecedented national budget deficit, which is in turn the chief cause of the present paralysis in Congress over budget reductions). Mr. Reagan and Secretary Weinberger continue to assert that the buildup is required because the Soviets somehow managed to get way ahead of us in the 1970's and are continuing at a relentless pace. CIA estimates however have consistently shown that Soviet military spending has been steady, at a growth factor of about 3% a year, with no significant surges since the early 1970s—that is to say over the past 15 years.

Recently there has been growing resistence to further increases in defense spending, so the country may be slowly returning to a better sense of proportion about security. But after 5 years of buildup and a near tripling of the defense budget, no one can say with confidence that our people, our industry, or our society are safer today against the threat of nuclear war.

The truth is there is no way to protect people and cities against the nuclear threat. Mutual vulnerability is now an irremovable condition of life. When we start from the fact that each superpower possesses some 10,000 warheads and the means of their delivery, then additional weapons and delivery systems do not change the strategic balance or in any way improve the security of either side. Both populations remain totally vulnerable in the event of nuclear exchange.

As I have said, I don't believe this rock bottom truth has really penetrated Mr. Reagan's mind. But the considerble public tolerance and sympathy for this vagueness here suggests a wider ambivalence in the American psyche. By instinct and heritage we are a nation of "can-do" unilateralists. American historical experience has made it natural for us to act alone, but difficult for us to accept the idea of interdependence, and even more difficult for us to cooperate with nations whose political philosophy we despise and whose power we fear. We have preferred either to avoid them or destroy them. But now an attempt to destroy them would very probably bring about our destruction as well. In part, this mind-set is explainable by our heritage of separation, both physical and philosophical. Our forefathers came to America to escape what they regarded as a Europe riven by intrigue, corruption, and alien ideologies, and this produced an enduring American legacy of aloofness and moral censure toward the rest of the world. The heritage of separation, carrying with it the sense that we are both different and better, has shaped the American attitude toward political conflict and the use of power. It has made us impatient with deep-seated disputes between and within older nations—disputes that must be lived with because they can never be clearly resolved. Inescapable interdependence is the oldest story for every other nation in the world, but we Americans continue to resist any limits on our freedom of action.

When we meet resistance from allies or adversaries, the rebuff tends to strengthen our national preference for acting alone, and also for believing that military force can cut the Gordian knot. In a strange way, we still conduct our foreign policy as though we were a unique nation standing somewhat outside of history. History is something that happens to other people.

Yet we now exist in a world where practical power is widely diffused, where no single state or coalition of states has control, where interdependence is a fact and cooperation a necessity. The plain truth is that the United States does not have either the resource base or the political will to police the world. Neither does the USSR. We cannot be sure how this truth affects Soviet ambitions, but the macho portion of the American mind seems to chafe against these limitations, finding them irritating; they force us to face the fact of interdependence even among unequal nation states. We resist, for interdependence dilutes our sense of uniqueness and puts fetters on our freedom of action.

But if our situation is truly one of interdependence, and if our vulnerability to destruction cannot be removed no matter how much we spend on sophisticated defense, then surely wisdom lies in facing that fact and putting first things first. The highest priority task is to find sufficient common ground with the other superpower so that we can significantly lower the risks of nuclear war. This in turn requires focus on
ments that can stabilize the relationsh
fostering greater predictability and thu
growth of some essential minimu
mutual trust. Like it or not, the abil
control and reduce nuclear arms by
ment has become the primary barome
the US-Soviet political relationship—
tably so because the life or death of
nations depends on how the opposed
nals are managed.

For this reason, the issue of nuclear
control must be at the top of our a
with the Soviets, must be tenaciously
sued, and must be segragated from
issues. Every effort must be made to
linking nuclear arms agreements with
ous regional conflicts that beset the w
in Lebanon, Afghanistan, Central Am
or South Africa. Such linkage is a pow
and instinctive reaction of the America
litical system; it gives us emotional sat
tion to say we will refuse to reduce ou
clear weapons until the USSR gets o
Poland. But with respect to progress o
clear arms control, such linkage is se
feating. Our refusal, for example, to
SALT II (1979) exercised no leverage
Soviet behavior in Poland or Afghan
but did contribute to a growing uncert
in the nuclear arms race.

Unfortunately, the Reagan Admin
tion has developed no clear sense of
ities. It tends to denigrate arms co
agreements, and it resists setting aside,
temporarily, the many other issue
which it feels it must confront the USS

It is notable that in the flurry of arn
duction proposals over recent weeks,
the original offers came from the So
The Reagan Administration reacted,
edly and with evident reluctance, pro
by public opinion at home and by pre
from NATO allies in Europe to mak
own proposals for reduction, compro
and accomodation. And then the Pres
went to the United Nations and tri
shift the focus of public opinion away
nuclear arms control, by talking abou
lected regional issues, like Nicaragua
Afghanistan.

Now I don't wish to be misunderstood
clear arms agreements that limit the
piles will not of course solve all of our
lems. They will not, for example, resolv
basic conflict of purpose and values bet
us and the Soviet Union. Under the
possible circumstances, Americans
continue to live with a range of Soviet
tions and actions that will seem to us
cal or offensive. And competition will
tinue at the political, economic and id
cal levels, for each superpower see
extend its influence in the world.

But precisely because the difference
so basic and sharp, it is very important
we proceed as much as possible on the
of knowledge and fact, so that we c
least reduce the distorting influence
myth. The Soviet union is of course n
ideological abstraction, but a nation,
outgrowth of the Russian state that
lived for centuries on the borders of Eu
and which has partaken, partially, in th
velopment of modern Europe. Despite
bitary character (perhaps because
since Russian governments have a
been arbitrary), the Soviet Govern
finds ultimate support in the nation
and patriotism of the Russian people.
Soviet economy is backward, inefficient
overcentralized, but it is also large, st
and able to resist outside pressures.
Soviet Government is a dictatorship

to arbitrary and brutal methods both at home and where its writ runs abroad, but Soviet leaders do not glorify offensive war as a way to achieve their goals in the world; in theory—and substantially in practice—they aim at military power to hold "imperialist" power in check, thereby allowing social-economic forces in the world to determine the future. Such is their Marxist-Leninist doctrine.

Soviet leaders appear to retain a residual belief that history will proceed according to Marxist-Leninist analysis, and also a revolutionary attitude toward the outer world. In foreign affairs they seek to exploit disintegrative change in the existing international order, but there is little or nothing left in the USSR of the original dream of communist utopia. They make no pretense, for example, of believing in a classless society, and they defend their own internal social-economic stratification with great rigor. Despite the reality of their revolutionary impulse, their chief preoccupation is the defense of their internal system, their national boundaries, and their buffer zone in Eastern Europe. Which means in practice that, while they seek to maximize Soviet influence in the international arena, they consistently do so within the bounds of a cautious, pragmatic, low-risk prudence—which may owe something to their ultimate belief (or hope) that history is on their side.

Given the very real differences in the two systems, and given also the mutual suspicion and distrust, I would argue that a basic understanding about nuclear arms is the vital key to assured mutual survival. And I would argue that this is entirely possible, for each side has the rational capacity to recognize what must be done to assure its own survival.

I would further argue that only through agreements can inherent uncertainties be reliably reduced, and numerical ceilings and qualitative prohibitions on weapons be formally established and monitored. Only through sustained negotiations and sequential agreements can agreed weapons limits be pushed steadily downward.

Beyond the Summit, the possibilities for improving the relationship will thus depend on a genuine mutual effort to broaden the areas of cooperation. I am sorry to say that Mr. Reagan's simplistic anti-communism, combined with an instinctive tactical approach that narrows the options in nearly every situation, suggests that the relationship is unlikely to improve much while he is in office. I would like to be proved wrong on this point. But under Mr. Reagan, our political system has become the victim of a shallow public dialogue on foreign affairs, for he and his men insist on casting almost every foreign policy problem—from Lebanon to Nicaragua—almost exclusively in terms of military competition with the USSR. In a strange way, he serves as a kind of unwitting PR man for the USSR, inflating Soviet influence in places where its actual assets are quite marginal. Marxist ideology is really quite shopworn and motheaten, but Mr. Reagan periodically pulls it back from the political "ash heap of history." His approach reflects strong distaste for diplomatic solutions and a preference for straightforward action involving the threat or use of American military muscle. The trouble is that an American tendency to unilateral action in situations which are inherently interdependent serves only to complicate and aggravate those situations, bringing us no closer to a workable solution.

It seems to me that Star Wars is perhaps the ultimate example of wrongheaded American unilateralism—unilateralism gone bonkers. In his address to the nation in January 1983, President Reagan proclaimed the vision of a wholly new strategy; a Star Wars defense would replace the morally uncongenial doctrine of deterrence, where-under our security rests on the explicit threat to reduce our adversaries to rubble. Despite cogent attacks on the credibility of this proposal, he has not wavered from his original objective. As recently as March 29 of this year he told the National Space Club: "we need to render obsolete the balance of terror—or mutual assured destruction as it is called. Now, this is not, and should never be misconstrued as, just another method of protecting missile silos."

What the President is telling the American people is that we can achieve a nice, clean, technological, once-and-for-all solution to the threat of nuclear destruction without the need for Soviet cooperation. The implicit promise is breathtaking: once the strategic defense system is in place, neither the Soviet Union (nor any other potential adversary) would ever again pose a nuclear threat to us or our allies. The competition in strategic offensive weapons and other forms of military technology would somehow come to a benign halt.

If this were merely the vision of something distant, propounded by a scientist or a moral philosopher, it would not be much noticed. But it was propounded by the American President, and not merely as a desirable, if remote, possibility, but as the centerpiece of global strategy now, to be backed by $26 billion in hard cash for research and testing. The Reagan rhetoric has given the impression that a reliable alternative to the deterrent strategy lies within our grasp; moreover, that the Soviets can be readily persuaded of its benefits for them. A significant percentage of Americans, yearning for a simple way to escape the baffling nuclear nemesis, tends to look favorably on this scheme.

In the pre-nuclear ear concentration of effort on defense against attack was the natural order of things. And defense was, and is, morally more comfortable than reliance on nuclear deterrence. But the nuclear age is different. The destructive power of one nuclear warhead can kill a city (including millions of people). So the possession by both sides of thousands of warheads means there can be no effective defense in the sense that President Reagan hopes for.

To kill 1,000 silos would require a minimum of 2,000 warheads, but to kill 10 major cities would require only 10 warheads. 100 weapons used against our cities would utterly destroy the United States as an operating society (and conversely the Soviet society). But 100 warheads is only 1% of the available weaponry on each side, and the means of delivering warheads to their targets continue to grow more varied and more sophisticated. There is no conceivable way in which a defense system could prevent "leakage" against nuclear missiles to the extent of 1%. Yet unless the system formed a permanent, impenetrable umbrella, the vast cost and effort and political strain required to construct it would be useless.

There are, I believe, decisive technical reasons why the Star Wars system would not work, and I can perhaps deal with some of those in the question period. However, even if we assume it is technically feasible, it would be fatally flawed by its vulnerability to Soviet countermeasures. There is no argument about this. The scientific community is virtually unanimous in believing that a wide range of countermeasures against missile defenses are available; also that they are less expensive and less technically demanding to deploy than the defenses themselves. Zealous cheerleaders for Star Wars like Mr. Weinberger chastise critics by asserting they are the same people who said we could not get to the moon. But the analogy is false. The effort to get to the moon was not complicated by the presence of an adversary. A platoon of hostile moonmen with axes could have made it a disaster.

Rather astonishingly, the Administration has argued that the Soviets will welcome the effort. For example, General Abrahamson who directs SDI, has said that "when they see that we have embarked on a long term effort to achieve an effective defense, supported by a strong national will, then they will give up on the development of more offensive missiles and move in the same direction." We must ask ourselves, if it were the Soviets who were hell bent to develop a strategic missile defense, how would the U.S. react? Mr. Weinberger once remarked that an effective Soviet missile defense "would represent one of the most frightening prospects I could imagine." Why does he think so? Because he would perceive it as an effort to deny the US its retaliatory capacity, its deterrent. How is it possible, one wonders, that the Administration can so totally fail to understand that the Soviets will have the same perception of the Star Wars program?

In the late 1960s, the Soviets developed a rudimentary, ambiguous antiballistic missile defense around Moscow. Did we at that point conclude that our land and seabased missiles were obsolete? On the contrary, we countered directly development of the so-called MIRV missile (multiple independently targetable re-entry vehicle) which was designed specifically to confuse and evade a Soviet defense system should it be fully built. The central fact is here abundantly clear: faced with Soviet defensive developments which we interpreted as having the potential to deprive us of our retaliatory capacity, we moved resolutely to assure that our warheads could still penetrate. There was in our policy councils no thought of "giving up" on the further development of offensive missiles.

The Soviets will react to Star Wars in exactly the same way for exactly the same reasons. And if, as seems likely, they not only proliferate their offensive arsenal to ensure penetration, but also attempt their own version of strategic defense, the U.S. will be sucked into the development of further offensive weapons as well. The result will be the most expensive, most dangerous, most unnecessary and most futile round yet seen in the nuclear arms race.

It will be noted of course that the professional operatives in the Administration are trying to reshape the President's vision—to develop a more limited defense program confined to terminal defense around land-based missile silos. Four points should be made about this different effort: (1) it seems to be proceeding without the President's full understanding; (2) it will contribute nothing to population defense; (3) it will protect our silos only against intercontinental ballistic missiles, but will provide zero protection against missiles fired in low trajectory from submarines lying off our coasts, or against cruise missiles; (4) perhaps most important, it is likely to trigger the same kind of Soviet reaction as would a full-scale Star Wars effort—that is, the develop-

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ment of countermeasures to neutralise the defense, thus triggering a new arms race.

As these criticisms gather force, the Administration is beginning to shift its rationale for the program. Secretary Weinberger now tells us Star Wars is necessary because the Soviets no longer believe in mutual assured destruction; therefore, second-strike deterrence is not enough to avoid war. Another new argument is that Star Wars is merely a response to a large-scale Soviet strategic defense effort. Indeed a retired officer, General Graham, has suggested that the strategic defense initiative should be renamed the strategic defense response. Truth is the casualty here. The Soviets have of course carried on research on missile defense possibilities, but there was no mention of this in 1983 when President Reagan first announced Star Wars. And neither then nor now has there been the slightest hint of concern from our own military people that Soviet defense developments in any way hamper our ability to penetrate with ballistic missiles or air-launched cruise missiles. In short, this is a phony argument, employed to manipulate a public opinion that has developed increasing doubts about the program.

My regrettable conclusion is that Star Wars is another naive American effort to escape the condition of vulnerability in the nuclear age. It began with a presidential obsession with a dubious idea; it has gained momentum through the magnetic attraction of presidential power—it is a case of self-deception reinforced by sycophancy, greed and hype. Defense contractors, who doubt that Star Wars will ever work, are lining up at the Pentagon door rubbing their hands; politicians and assorted experts are visibly hedging their bets, wary of losing their influence with this Administration if they reject the program out of hand. Thus has a vague notion of stardust and moonbeams been converted in 3 years into what looks like becoming the Great Pork Barrel in the Sky.

If we pursue Star Wars, we can expect only increased aggravation and tension in the US-Soviet relationship, endless expense and no improvement in our security. Star Wars is a trillion dollar *mirage* in which our nation will be endlessly, and pointlessly, pursuing an ever-receding technological horizon. We will never quite get there. But in the process, we will impose the kinds of pressure on the USSR that are likely to magnify the dangers of war. Our allies—and the world at large—will have greater reason to doubt our judgment and commonsense.

If we genuinely wish to improve U.S.-Soviet relations, we must start by recognising the fundamental fallacy of believing that national safety can be secured by unilateral means. For the naked truth is that our survival is in the hands of the Soviet leaders and the survival of the Soviet Union is in the hands of our leaders. That is a difficult fact to face, but it is a fact.

Also, we must recognize that deterrence, based on the consequence of mutual destruction in the event that one side attacks the other, remains the controlling reality. Mutual Assured Destruction is a morally unsatisfying description of strategy, and there is no doubt that Mr. Reagan's vision of a leak-proof astrodome spread over our country and much of the free world is far more appealing to our ethical and aesthetic sense. Unfortunately, Mutual Assured Destruction is not an idea that can be worn today and cast off tomorrow like a change in the fashion of clothing. For it is not so much a strategy as a condition—simply stated, it is the very likely consequence of nuclear war.

If all responsible American leaders—Republicans and Democrats, military officers and civilian officials alike—shrink from the idea of launching a first-strike because they see they are peering into an abyss of limitless uncertainty and peril, where even "success" would bring down on our country a dimension of disaster beyond anything any nation has suffered or even dreamed about—then I suggest it is reckless ignorance to argue that the Soviets view the same prospect with equanimity—that they don't believe in the reality of Mutual Assured Destruction; that they are possessed fanatics who prefer death to life. All the evidence runs in the opposite direction. Like us, they want their system to survive and evolve. Like us, they are circumscribed by the same lethal uncertainties and the limits these place upon any sane policy.

A final point. In his famous and successful call for a Limited Test Ban Treaty at American University in April 1963, President Kennedy gave eloquent expression to the sense of proportion I have tried to define this evening. He said: "Americans are neither omnipotent nor omniscient," and warned his countrymen that "we must not see a distorted and desperate view of the other side; we must not see conflict as inevitable, accommodation as impossible, and communication as nothing more than an exchange of threats."

The Russian response to that statesmanship was immediate and forthcoming (in other passages, the Kennedy speech expressed sympathy for hard Russian realities, including the terrible losses of World War II; it showed an understanding of the truth that security is a mutual problem and that negotiations to strengthen it must be conducted on the basis of equality). Pravda printed the speech in its entirety—a first for Soviet journalism at the time. Averell Harriman went to Moscow and negotiated the Limited Test Ban Treaty in less than a month.

We will never fully agree with the USSR and will never totally eliminate nuclear weapons—indeed there are considerations of stability which will dictate that we should not try. But a process of substantial mutual reductions carried on incrementally over a period of years and verified to the satisfaction of both sides would impart a very reassuring measure of trust and confidence to the US-Soviet relationship, and the world would breathe a little easier.

To achieve this, we need arms control agreements. The challenge of serious negotiation has been, and remains, formidable. But there is no other way.

TOWNSEND HOOPES

President, Association of American Publishers (1973-)

Under Secretary of the Air Force (1967-69)

Author: "The Limits of Intervention" (1970), "The Devil and John Foster Dulles" (1973).●

UNITED STATES-BRITISH EXTRADITION TREATY

● Mr. LUGAR. Mr. President, the Senate Foreign Relations Committee has devoted many hours this year to consideration of the United States-United Kingdom Supplemental Extradition Treaty.

Senator PRESSLER, chairman of Subcommittee on European Aff recently wrote an excellent articl the treaty which analyzes the is relating to it.

Mr. President, I ask that Sen PRESSLER's article from the Novem 16 to 17, 1985, edition of the Inte tional Herald Tribune be printe the RECORD.

The article follows:

THIS EXTRADITION TREATY IS AN OCCAS

(By Larry Pressler)

WASHINGTON.—The U.S. Senate has a mendous opportunity to strike a against international terrorism by ratif the U.S.-British extradition treaty. Sur ingly, the Senate may refuse to do so. the opportunities embodied in the acc which is now before the Senate Foreign lations Committee, are clear. Above al would deny fugitives accused or convicte certain serious crimes the ability to a extradition from the United States on ground that their offenses were "politic

Ratification is on hold because a small vocal group of Irish-Americans has trie turn the debate into a referendum on port for the IRA. Without ratificat America will be a safe haven for IRA ter ists. Ratification would ensure extradi of those accused of the most serious fenses, including aircraft hijackings sabotage, crime against diplomats, host taking, murder and the use of firearms explosives.

In recent years, four terrorist fugit from British justice have escaped to f dom in the United States, and many m are likely to do so if this loophole rem open. All four cases involved members the IRA who were convicted of or sou for murder or attempted murder. Three those four cases involved the death injury of innocent civilians. Yet under present extradition treaty, U.S. courts c sified each of these offenses as "politic and refused extradition.

Much of the current debate focuses on "legitimacy" of IRA violence. This dan ous diversion must be stopped. The issue is terrorism.

The treaty, signed last June by Presid Reagan, is consistent with recent gove ment policy. Since 1981 the United Sta has signed, and Congress has ratified, ex dition treaties with Mexico, Colombia the Netherlands. None of those ratificati provoked protest. Each treaty allows the ecutive branch, not the courts, to determ whether a political-offense exception is n essary.

Such treaties offer three advanta First, a political-offense exception to ex dition is reserved for unusual cases, en ing flexibility to safeguard individual rig Second, terrorists are clearly warned t routine political-offense exceptions will be granted, stengthening the detern against such incidents. Third, mutual co eration among Western governments in battle against terrorism is greatly increa

The proposed U.S.-British treaty is c sistent with the European Convention the Suppression of Terrorism adopted 1976. It provides that the broadest range terrorist offenses will be grounds for ex dition. The Europeans saw the need fo compatible, universal approach to terrori so should Americans.

Ironically, even Ireland's strong extradition treaties both with the United States and Britain are similar to the proposed U.S.-British treaty and have repeatly been by Irish courts for the transfer of felons.

Although the United States has demanded repeatedly that its European allies take even more aggressive steps in terrorist situations where U.S. interests are at stake, it is seen to be waffling on this treaty.

As a Justice Department official said in August, "The United States cannot condemn terrorism committed abroad against our citizens and then provide shelter on these shores for perpetrators of such atrocities against citizens of other countries."

This treaty meets the need, but it does not exceed it. The treaty does not extend the range of extraditable offenses, nor diminish the requirement for a substantive case against the fugitive. It does not diminish the standard of evidence required to convict the fugitive, if he has not already been convicted. It does not affect the U.S. government's right to consider whether an extradition request is being improperly sought, for example because of religious or political beliefs. America's time-honored policy of providing a haven for political refugees will not be affected by Senate ratification of the treaty.

But homicide cannot be confused with political protest, and the right of asylum is not jeopardized when two allied democratic states jointly arrange to extradite terrorists. Stable and reliable extradition treaties are crucial if Western democracies are to prevail in their war against terrorism.●

IRANIAN HUMAN RIGHTS ABUSES

● Mr. **HATFIELD**. Mr. President, a few days ago three victims of the brutal Khomeini regime came to my office and described the horrors they had experienced as political prisoners in Iran. Their ordeals clearly demonstrate that human rights continue to be systematically violated in that country. For that reason, last week the U.N. General Assembly approved ratification of a resolution on the situation of human rights in Iran, detailing its deep concern over the specific and detailed allegations of abuses. I am sure my colleagues will be shocked and distressed, as my staff and I were, at the stories of brutality which these victims have suffered at the hands of a tyrant. While we must remain concerned about Khomeini's support for international terrorism, it is important to focus on acts of lawlessness that take place within Iran.

Mr. Hossein Dadkhah still suffers from the effects of the tortures he endured while in Tehran's Evin Prison. His feet were severely beaten, and several toes had to be amputated as a result of irreparable injury. Mr. Dadkhah's wife and brother were both executed by the regime. His parents were arrested and severely beaten, the psychological trauma causing both to suffer nervous breakdowns. Mr. Dadkhah's 18-month-old child has been taken by the regime as a hostage against his return to Iran.

Ms. Narges Shayesteh, a former teacher, was imprisoned for 2½ years. The effects of torture are still evident on her nose, hands, knees and chest, where during a 5-hour session with Khomeini's guards she was branded with 15 cigarettes.

Ms. Mojan Homayounfar is a former student of fine arts and a teacher. During her 3-year imprisonment one of her legs was amputated and the other crushed. Confined to a wheelchair, Ms. Homayounfar suffers a variety of ailments as a result of her ordeal.

These three victims are convinced that international exposure of the Khomeini regime's atrocities plays a crucial role in reducing the number of executions and the use of torture. In Ms. Shayesteh's words, "If because of a brief speech in a foreign parliament or an interview, one person is going to receive fewer lashes or one less person is executed, it is worth all the effort." She adds, "I have been in those prisons."

Mr. Dadkhah emphasizes, "We are the exceptions; we have gotten out. But 50,000 others have been executed, and 140,000 more may also be executed unless we do something about it. There are presently over 576 prisons and 3,771 professional torturers whose identities have been revealed in a recently published list. Such levels of repression reveal the extent of the present struggle for freedom in Iran."

Testimony given by Mr. Dadkhah, Ms. Shayesteh and Ms. Homayounfar in a recent press conference at the United Nations was instrumental in the December 6, 1985 ratification of the U.N. General Assembly Resolution on the situation of human rights in Iran. The General Assembly has expressed its deep concern over the specific and detailed allegations of abuses, "in particular, those related to the right to life, such as summary and arbitrary executions; the right to freedom from torture or cruel, inhumane or degrading treatment or punishment; the right to liberty and security of person and to freedom from arbitrary arrest or detention; the right to a fair trial; the right to freedom of thought, conscience and religion and to freedom of expression; and the right of religious minorities to profess and practice their own religion."

The systematic violation of human rights in Iran has been known to us for some time. Various international organizations have published numerous reports on the situation over the past 4½ years. The gravity of the Iranian situation has not been adequately portrayed; reporters wishing to investigate allegations are denied entry and appeals by international organizations such as Amnesty International and the United Nations go unanswered.

In its November 1985 report to the Political Affairs Committee of the European parliament, Amnesty International reported that its organization "has repeatedly requested Iran to comply with the international human rights instruments to which it is committed, calling for the implementation of adequate safeguards against torture and ill-treatment of prisoners in Iran, for the release of prisoners of conscience, for fair trials for all political prisoners and for an end to executions. Meanwhile the organization continues to receive numerous and persistent reports that human rights abuses are still occurring today."

Amnesty notes that the Iranian regime has officially acknowledged over 6,000 executions; the organization adds that many executions are carried out in secret. The actual total is probably much higher.

The Council of Europe in its Written Declaration of January 1985 declared that the Assembly is "appalled at reports of arrest, torture, and execution of political opponents of the regime resulting in 40,000 executions and 120,000 political prisoners since June 1981." The Council voiced its "strongest possible protest against the repressive measures" of the present regime in Iran.

The European parliament, the U.N. Economic and Social Council, the U.N. Commission on Human Rights, and the British Parliamentary Human Rights Group, among others, also have expressed their deep concern over abuses of human rights in Iran.

Unfortunately, despite the level of international protest in this matter, the Iranian envoy to the United Nations clarified his Government's position: "We do not claim that we observe human rights standards * * * the Bill of Human Rights" he said, "is more of an introduction to the material conception of Jewish-Christian culture. We urge our critics no to criticize us for violating what we do not believe in."

In an urgent plea for her fellow Iranians, Ms. Homayounfar asks "every humanitarian individual and organization to expose these atrocities, and thus contribute to the cause of humanity." Ms. Homayounfar, Ms. Shayesteh and Mr. Dadkhah have overcome their personal tragedies in order to help others, and I am hopeful that the U.S. Senate will continue to pressure the Khomeini regime and not let these human rights abuses go unnoticed.●

"SARGE" RICHARDS

Mr. **SYMMS**. Mr. President, in the December, 1985 issue of Better Homes and Gardens, author Kathryn Stechert tells the magazine's thousands of readers about 12 unique Americans who keep the Christmas spirit alive year-round.

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One of these 12 is a close friend to many Idahoans in Boise, 71-year-old Bob Richards, or "Sarge" to most of us.

I am delighted that "Sarge" Richards has been singled out by a major national publication for recognition. He is living proof that you are only as old as you feel.

For years "Sarge" has brought hope and joy to many senior citizens in my State. With jokes and encouragement he has made a success of the "Happy Hoofers," a loose-knit group of some 100 seniors who walk, joke, laugh, and hug—in other words, bring happiness to others.

If anyone wants to lighten their day and give a spring to their step, all they have to do is read about "Sarge" Richards.

Mr. President, I ask that the Better Homes and Garden article about "Sarge" be inserted in the CONGRESSIONAL RECORD along with an article about him from the Idaho Statement.

The articles follow:

[From Better Homes and Gardens, December 1985]

KEEPING HAPPY IN HAPPY HOOFERS

With a punctuality the airlines surely would envy, about 70 senior citizens in Boise, Idaho, get together twice a week to walk. The group, all members of the 100-strong Happy Hoofers and all aged "60 or better," don't just walk; they also talk and laugh and hug one another. The group's founder, 71-year-old Bob Richards, is known as Sarge or Papa Hoofer. He starts each Happer Hoofer walk with an authoritative blow of his whistle, followed by a joke. "We want to keep the word 'happy' in 'Happy Hoofers,'" he explains. Then come the hugs—five big ones delivered to whoever is handy—and the group sets off. The walks always end at a restaurant so the hoofers can rest and talk. "It's like a chicken coop," says Sarge, "lots of good, healthy chatter and lively laughter." The whole thing is so healthful, in fact, that Boise doctors sometimes recommend it as therapy for their older patients.

[From the Idaho Statesman, Nov. 18, 1985]

BOB RICHARDS AND HIS HAPPY HOOFERS

"There were three crows on a telephone wire," Bob Richards said as he gave his morning address. "What were they doing there? Waiting to make a long distant 'caw'!"

His audience, the Happy Hoofers, Boise's senior walkers, let loose with a chorus of boos and laughter. Then there was an exchange of hugs, and more laughter, as their walk along the Greenbelt got under way.

This ritual takes place at 9 a.m. every Tuesday and Saturday morning in Boise, and it's as dependable as the rising sun—though the jokes and routes vary. The Hoofers have been walking together for longer than four years now, and Mother Nature hasn't been able to do anyhing to stop them.

"Rain or shine, sleet, snow and fog haven't stopped us yet," said Richards, 71, the group's founder. "We haven't missed a scheduled walk in over four years."

Richards helped organize the Happy Hoofers in August four years ago with two other seniors, because at the time there wasn't a walking program in the Boise Center's Growing Younger program.

"It started with just three of us, but I knew it would work," Richards said. "Since then it's been just like the birth of a child, with normal and steady growth. We have over 100 Happy Hoofers now, depending on the season. The friendships are so strong now that you couldn't break them up if you wanted to."

Richards takes pride in the fact that the Happy Hoofers developed by word of mouth, with no recruiting or advertising, and that politics have no place within their organization.

"There are no committees, board of directors, and no punching of the clock," Richards said. "We've retired from all of that. We just start the day with hug and humor therapy, and our walk—we're just a happy bunch of senior walkers."

By general acclaim, Richards is "Papa Hoofer." With the help of other Hoofers, Richards organizes the group's monthly schedule, and has an answering machine at home that directs the Hoofers to their next meeting place, walking area and where they will gather afterward for fellowship and breakfast.

"Everyone walks at their own pace, with the group in high gear walking six or more miles," Richards said, "Then when they're all back together in the restaurant, good healthy chatter fills the air. It sounds like a chicken, coop!"

Other senior walking groups have grown out of the Happy Hoofers, including the Wednesday Night Owls and the Line Dancers, who dance as a group and visit nursing homes. And there have even been three Happy Hoofer marriages to date. As the Hoofers continue to grow, Richards looks forward to what he considers his main responsibility.

"My job is just to keep the word 'happy' in the Happy Hoofers," he said. "Ulltimately we'll all be meeting together in Happy Hoofers Heaven."

TEENAGE PREGNANCY

● Mr. DURENBERGER. Mr. President, one of the most pressing and, indeed, troubling issues of our time is that of unwanted pregnancies. I know of no other issue that can divide and confound this body, and this country, as this issue does. Recently, the questions of family planning and abortion came to the fore as funding for family planning programs under title X of the Public Health Service Act came under congressional consideration.

Although the Senate Labor and Human Resources Committee has agreed to reauthorize the title X family planning program, many aspects of the recent debate indicate that we are far from resolution of the many differences of opinion and philosophy on the prevention of unwanted pregnancies, particularly teenage pregnancies, family planning, adoption, and abortion. In that vein of further investigation and debate, I urge my colleagues to read the recent cover story in Time magazine, entitled, "Children Having Children."

Mr. President, I ask that the full text of the article be printed in the RECORD.

The article follows.

[From Time Magazine, Dec. 9, 198

CHILDREN HAVING CHILDREN—TEEN PR
CIES ARE CORRODING AMERICA'S
FABRIC

Before the baby came, her bedroom
dimly lighted chapel dedicated to the
of rock 'n' roll. Now the posters of
Duran and Ozzy Osbourne have been
away and the walls painted white.
Helton's room has become a nursery f
week-old Corey Allen. Angie, who
turned 15, finds it hard to think of h
as a mother. "I'm still just as young
was," she insists. "I haven't grown u
faster." Indeed, sitting in her parents'
ville living room, she is the prototypic
lescent, lobbying her mother for perm
to attend a rock concert, asking if sh
have a pet dog and complaining she
allowed to do anything. The weight o
new responsibilities is just beginning t
in. "Last night I couldn't get my home
done," she laments with a toss of her
curls. "I kept feeding him and feeding
Whenever you lay him down, he wa
get picked up." In retrospect she a
"Babies are a big step. I should
thought more about it."

The rhythm of her typing is like
trot, steady and deliberate. It is
summer day in San Francisco, and Mic
a chubby black 14-year-old, is practicin
office skills with great fervor, bea
sweat trickling down her brow. She i
ried about the future. "I have to ge
money together," she frets. "I have to
ahead." Indeed she must. In three
this tenth-grader with her hair in bra
going to have a baby. "I have to stop
all the childish things I've done before.
gravely resolves. "I used to think, ten
from now I'll be 24. Now I think, I'll b
and my child will be ten."

It is early afternoon, and the smel
dirty diapers and grease mingle in the
Minneapolis apartment. The TV is tun
"All My Children," and Stephanie Cha
17, has collapsed on the sofa. Her r
brief. Above the babble of the actors'
comes a piercing wail. Larissa, her t
week-old daughter, is hungry. In an
cent bedroom, Joey, 1½ years old and r
ering from the flu, starts to stir. Steph
who is an American Indian and one o
children herself, first became pregna
15. It was an "accident," she explain
too was her second baby. "I'm always t
she laments, "and I can't eat." Before J
birth, before she dropped out of sc
Stephanie dreamed of being a stewar
Now her aspirations are more dow
earth. "I want to pay my bills, buy groc
and have a house and furniture. I wa
feel good about myself so my kids ca
proud of me." It has been a long, long w
she confides, "Since I had a good time."

They are of different races, from diffe
places, but their tales and laments ha
haunting sameness. Each year more th
million American teenagers will be
pregnant, four out of five of them un
ried. Together they represent a distre
flaw in the social fabric of America.
Angela, Michelle and Stephanie,
become pregnant in their early or midt
some 30,000 of them under age 1
present trends continue, researchers
mate, fully 40% of today's 14-year-old
will be pregnant at least once before th
of 20. Says Sally, 17, who is strugglin

raise a two-year-old son in Los Angeles: "We are children ourselves having children."

Teenage pregnancy has been around as long as there have been teenagers, but its pervasiveness in this country, the dimensions of its social costs and the urgent need to attack the problem are just beginning to be widely appreciated. According to a Harris poll released in November, 84% of American adults regard teenage pregnancy as a serious national problem. The news in recent weeks illustrates the growing concern:

In Wisconsin last month, Governor Anthony Earl signed landmark legislation designed to combat unwanted teen pregnancies and, as he put it, to "limit thousands of personal tragedies that are played out in our state every day." The law, which won unanimous approval in the state legislature, provides funding for sex education in public schools, repeals restrictions on the sale of nonprescription contraceptives and provides $1 million for counseling pregnant adolescents. It also takes the unusual step of making grandparents of babies born to teenagers legally responsible for the babies' financial support. "All of us," said Earl, "young people and parents of young people, have a responsibility for our actions."

At Chicago's DuSable High School, controversy erupted when school officials decided to establish an on-campus health clinic, authorized to dispense contraceptives to students who have parental permission. The school, which serves one of the nation's poorest neighborhoods, is battling a veritable epidemic; each year about one-third of its 1,000 female students are pregnant. The clinic has elicited picketing and protest, mostly by religious and antiabortion groups, but the school has refused to back down. Says, Principal Judith Steinhagen: "All I can say is, we're trying to keep some young ladies in school and off welfare."

The school board in Los Angeles announced that it too plans to open a health clinic offering contraceptives to high school students. So far, nine schools around the U.S. have taken this step, and others are expected to follow suit. Says School Board Member Jackie Goldberg: "There's an appalling number of teen pregnancies. I hope to upgrade the quality of teen medical care, and I hope that young men and women will consider the ramifications of being sexually active."

Such strong and controversial measures reflect the magnitude of the problem and its consequences. Teen pregnancy imposes lasting hardships on two generations: parent and child. Teen mothers are, for instance, many times as likely as other women with young children to live below the poverty level. According to one study, only half of those who give birth before age 18 complete high school (as compared with 96% of those who postpone childbearing). On average, they earn half as much money and are far more likely to be dependent on welfare: 71% of females under 30 who receive Aid to Families with Dependent Children had their first child as a teenager.

As infants, the offspring of teen mothers have high rates of illness and mortality. Later in life, they often experience educational and emotional problems. Many are victims of child abuse at the hands of parents too immature to understand why their baby is crying or how their doll-like plaything has suddenly developed a will of its own. Finally, these children of children are prone to dropping out and becoming teenage parents themselves. According to one study, 82% of girls who give birth at age 15 or younger were daughters of teenage mothers.

With disadvantage creating disadvantage, it is no wonder that teen pregnancy is widely viewed as the very hub of the U.S. poverty cycle. "A lot of the so-called feminization of poverty starts off with teenagers' having babies," says Lucile Dismukes of the Council on Maternal and Infant Health in Atlanta, a state advisory group., "So many can't rise above it to go back to school or get job skills."

Among the underclass in America's urban ghettos, the trends are especially disturbing. Nearly half of black females in the U.S. are pregnant by age 20. The pregnancy rate among those ages 15 to 19 is almost twice what it is among whites. Worse still, nearly 90% of the babies born to blacks in this age group are born out of wedlock; most are raised in fatherless homes with little economic opportunity. "When you look at the numbers, teenage pregnancies are of cosmic danger to the black community," declares Eleanor Holmes Norton, law professor at Georgetown University and a leading black scholar "Teenage pregnancy ranks near the very top of issues facing black people."

The shocking prevalence of teenage pregnancy among white as well as black Americans was brought to light earlier this year, when the Alan Guttmacher Institute, a nonprofit research center in New York City, released the results of a 37-country study. Its findings: the U.S. leads nearly all other developed nations in its incidence of pregnancy among girls ages 15 through 19. As a point of comparison, AGI investigations looked at five other Western countries in detail: Sweden, Holland, France, Canada and Britain. Though American adolescents were no more sexually active than their counterparts in these countries, they were found to be many times as likely to become pregnant. And while black teenagers in the U.S. have a higher pregnancy rate than whites, whites alone had nearly double the rate of their British and French peers and six times the rate of the Dutch. Observes AGI President Jeannie Rosoff: "It's not a black problem. It's not just an East Coast problem. It's a problem for all of us."

It is also a complex problem, one that strikes many sensitive nerves. The subject of teenage pregnancy seems to raise almost every political explosive social issue facing the American public: the battle over abortion rights: contraceptives and the ticklish question of whether adolescents should have easy access to them; the perenially touchy subject of sex education in public schools; controversies about welfare programs; and the precarious state of the black family in America. Indeed, even the basic issue of adolescent sexuality is a subject that makes many Americans squirm.

To understand the nature of the problem, one must look beyond statistics and examine the dramatic changes in attitudes and social mores that have swept through American culture over the past 30 years. The teenage birth rate was actually higher in 1957 than it is today, but that was an era of early marriage, when nearly a quarter of 18- and 19-years-old females were wedded. The overwhelming majority of teen births in the '50s thus occurred in a connubial context, and mainly to girls 17 and over. Twenty and 30 years ago, if an *unwed* teenager should, heaven forbid, become pregnant, chances are her parents would see that she was swiftly married off in a shotgun wedding. Or, if marriage was impractical, the girl would discreetly disappear during her confinement, the child would be given up for adoption, and the matter would never be discussed again in polite company. Abortion, of course, was not a real option for most until 1973, when the Supreme Court ruled it could not be outlawed.

All this has changed. Today if a girl does not choose to abort her pregnancy (and some 45% of teenagers do), chances are she will keep the baby and raise it without the traditional blessings of marriage. "The shotgun marriage is a relic of the past," observes Mark Testa, of Chicago's National Opinion Research Center. With teen marriges two to three times as likely to end in divorce, he explains, "parents figure, why compound their mistake?" In 1950 fewer than 15% of teen births were illegitimate. By 1983 more than half were, and in some regions of the country, the figure exceeds 75%. Unwed motherhood has become so pervasive that "we don't use the term illegitimate anymore," notes Sister Bertille Prus, executive director of Holy Family Services, a Los Angeles adption agency for pregnant teens.

With the stigma of illegitimacy largely removed, girls are less inclined to surrender their babies for adoption. In fact, fewer than 5% do (compared with roughly 35% in the early 1960s). "In earlier times if a girl kept her child, society would treat her like an outcast," reflects Sister Bertille. "The fear and guilt are not the same as before."

Unwed motherhood may even seem glamorous to impressionable teens. "They see Jerry Hall on TV, flinging back her hair, talking about having Mick Jagger's second [out-of-wedlock] child, and saying what a wonderful life she has," bristles Daphne Busby of Brooklyn, founder of the Sisterhood of Black Single Mothers. A succession of attractive stars, including Farrah Fawcett and Jessica Lange, have joined Hall in making a trend of extramarital pregnancy, something that 35 years ago helped get Actress Ingrid Bergman blackballed in Hollywood.

But if unwed motherhood has lost much of its notoriety, premarital sex has over the same period become positively conventional. Like it or not, American adolescents are far more sexually active than they used to be. Guttmacher statisics show that the incidence of sexual intercourse among unmarried teenage women increased by two-thirds during the 1970s. Moreover, the sexual revolution seems to have moved from the college campus to the high school and now into the junior high and grade school. A 1982 survey conducted by Johns Hopkins Researchers John Kantner and Melvin Zelnick found that nearly one out of five 15-year-old girls admitted that she had already had intercourse, as did nearly a third of 16-year-olds and 43 percent of 17-year-olds. "In the eyes of their peers, it is important for kids to be sexually active. No one wants to be a virgin," observes Amy Williams, director of San Francisco's Teenage Pregnancy and Parenting Project (TAPP). The social pressure even on the youngest adolescents can be daunting. Says Stephanie, 14, of suburban Chicago, now the mother of a four-month-old, "Everyone is, like, 'Did you lose your virginity yet?' "

Social workers are almost unanimous in citing the influence of the popular media—television, rock music, videos, movies—in propelling the trend toward precocious sexuality. One survey has shown that in the course of a year the average viewer sees more than 9,000 scenes of suggested sexual intercourse or innuendo on prime-time TV. "Our young people are barraged by the mes-

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sage that to be sophisticated they must be sexually hip," says Williams. "They don't even buy toothpaste to clean their teeth. They buy it to be sexually attractive."

And yet, for all their early experimentation with sex, their immersion in heavy-breathing rock music and the erotic fantasies on MTV, one thing about American teenagers has not changed: they are in many ways just as ignorant about the scientific facts of reproduction as they were in the days when Doris Day, not Madonna, was their idol. In a study funded by the Rockefeller Foundation, Demographer Ellen Kisker of Princeton University found that teenage girls are awash in misinformation. Among the commonest myths: that they could not become pregnant the first time they had sex, if they had it only occasionally or if they had it standing up. Adolescents are especially foggy on the subject of contraception.

A National Opinion Research Center survey of teenage mothers found that few were familiar with the IUD, and most, says Researcher Pat Mosena, "didn't even know what the diaphragm was." Mistaken notions about the health risks of the birth control pill are rampant. All this may help explain why, according to Johns Hopkins researchers, only about one in three sexually active American girls between ages 15 and 19 uses contraceptives at all. And many who do use them have a rather weak grasp of the methodology: one-quarter of the girls in the NORC survey said they were using birth control at the time they became pregnant.

It is the naiveté and ineptitude coupled with less openness in American society generally about birth control that, according to Guttmacher researchers, constitute one of the most striking differences between American adolescents and their European peers. In Sweden teenagers are sexually active even earlier than they are in the U.S., and they are exposed to even more explicit television. However, the Swedish National Board of Education has provided curriculum guidelines that ensure that, starting at age seven, every child in the country receives a thorough grounding in reproductive biology and by age ten or twelve has been introduced to the various types of contraceptives. "Teachers are expected to deal with the subject whenever it becomes relevant, irrespective of the subject they are teaching," says Annika Strandell, the board's specialist in sex education. "The idea is to dedramatize and demystify sex so that familiarity will make the child less likely to fall prey to unwanted pregnancy and venereal disease."

In Holland, sex is similarly demystified. While the country has no mandated sex-education program, teens can obtain contraceptive counseling at government-sponsored clinics for a minimal fee. In addition, the Dutch media have played an important role in educating the public, says Dr. Evert Ketting of the Dutch Mental Health Center, citing frequent broadcasts on birth control, abortion and related issues. "We've been told that no Dutch teenager would consider having sex without birth control," says Guttmacher Spokeswoman Jane Murray. "It would be like running a red light."

The signals are quite different for American teenagers. Last summer, when the American College of Obstetricians and Gynecologists unveiled a new public service announcement designed to combat teenage pregnancy, all three major TV networks balked. The reason: the announcement included the word contraceptives. These are the same networks that, as one ABC official put it, routinely depict intercourse to "the point of physical motion under the covers of a bed." Network officials have since relented, but the offending word has been dropped.

How to explain this skittishness? "We are still very much governed by our puritanical heritage," answers Faye Wattleton, president of the New York-based Planned Parenthood Federation. "While European societies have chosen to recognize sexual development as a normal part of human development, we have chosen to repress it. At the same time, we behave as if we're not repressing it." In studying various cultures, the Guttmacher researchers found that the highest teen-pregnancy rates were in countries with the least open attitudes toward sex. "The ambivalence our society is projecting about sex is costing us a lot," concludes Institute President Rosoff.

People who work directly with teenagers agree. "We maintain this incredible double standard with teenagers about sex," says Alice Radosh, coordinator of pregnancy and parenting services in the New York City mayor's office. "If you're swept away by passion, then you didn't do anything wrong. But if you went on a date after taking the Pill or with a diaphragm, then you're bad. You were looking for sex, and that's not permitted."

The message that contraception is bad is often reinforced by parents, who are loath to admit that their children are sexually experienced. "I went to my mom five different times to see if she could at least get me to a doctor to get me on the birth control," recounts Nancee Mason, 19, from Pontiac, Mich., who has a nine-month-old son. "But my mom is the kind of person who, if you mention sex, she turns all red and clams up."

The Reagan Administration has taken steps to make it difficult for teenagers to obtain contraceptives. Since taking office, the President has repeatedly tried to restrict the availability of family-planning services. One-third of the women who seek such services at federally funded clinics are teenagers. In 1983 the Administration further attempted to control teenage access to contraceptives by issuing what quickly became known as the "squeal rule." The regulation required federally funded clinics to notify parents within ten days of prescribing contraceptives to minors. However, the squeal rule was squelched in the courts on the ground that it would have increased unwanted pregnancies and abortions.

Even without the risk of being squealed on, many young girls are embarrassed about going to a public clinic. "I chickened out,"confesses Debra Stinnett, 18. "I just never went back to Planned Parenthood for the pills." She now has a one-year-old daughter. Studies show that, on the average, teens wait twelve months after first becoming sexually active before they seek contraception. By then it is often too late. "When you're young," says Kim Adalid, 19, of Lawndale, Calif., a wise old mother to two, "all you think about is the weekend."

When they do become pregnant, many girls simply hide the fact, denying it even to themselves. For Angela Spencer, 16 of Lawndale, reality did not hit home until five months into her pregnancy, when she entered a special school for young mothers. "A lot of girls had already had their babies," she relates. "When I walked in that classroom, it was like the first time I realized what was happening to me." Unable to grasp their situation, adolescents frequently wait too long even to consider having
abortion. The gravity of such a deci
often eludes them. "I was going to have
abortion, but I spent the money on cloth
confesses Sonya Lyde, 18, of Chicago,
the mother of a seven-month-old boy.

According to the most recent statis
almost 30% of U.S. abortions are perform
on teenagers. Abortions seem to be comm
est among the affluent. "Upper-middle-c
girls look at abortions as a means of bi
control," says Myra Wood Bennett, a cou
health official in southern Illinois.
poorer girls, she notes, simply cannot aff
it. Federal funding of most abortions
low-income women was barred by Cong
in 1976; only nine states have stepped
the breach, providing for abortions with
restrictions.

There is for many young girls anot
less tangible factor in the sequence
events leading to parenthood: a sense of
talism, passivity and, in some cases, eve
certain pleasure at the prospect of moth
hood. Such attitudes are especially pre
lent among the poor. Take Zuleyma, 16
Los Angeles, who gave birth last May:
thought I might want to have a baby,"
says. "I was thinking more in the fut
but things happen." Or Derdra Jones
Chicago, who gave birth at 15: "Part of
wanted to get pregnant," she confesses
liked the boy a lot, and he used to say
wanted a baby." Or Marquel, 17, of H
thorne, Calif.: "I had birth control pill
my drawer. I just didn't take them,"
says. "My life was getting boring. I want
baby."

For young girls trapped in poverty,
offers few opportunities apart from get
pregnant. High school may seem pointl
Even graduation is little guarantee of a
Their lives are circumscribed in every se
Says Social Worker Lisa Rost, who coun
such youngsters at Project Hope in Chic
"Some of these kids have never seen L
Michigan." Pregnancy becomes one of
few accessible means of fulfillm
"Nobody gets more attention than a li
girl who's pregnant," observes Bishop
Paulk of Chapel Hill Harvester Church
Protestant church in Atlanta that spon
a program for pregnant teens. "It feels g
to be the center of things."

Youngsters who get pregnant often hav
history of feeling deprived and neglec
Many have been abused or raped. "Th
getting pregnant has nothing to do
sex," observes Pat Berg, director of a Ch
go program for homeless youth. "It's
tempting in a perverse sense to get some
curity and nurturing needs met. . . . It's
when kids get puppies." Finally, ther
little social pressure to persuade them
postpone childbearing, notes Joy Dryf
who has conducted research for the Ro
feller Foundation. Middle-class girls t
not to have babies, she says, "bec
Mother would kill them if they did."
the lower socioeconomic groups, she s
"it's the big shoulder shrug. They don't
abortions. They don't use contraception.
just not that important; they don't hav
sense of the future."

No wonder teenage pregnancies h
reached epidemic proportions in s
ghetto areas. According to Guttmacher
tistics, black American teenagers have
highest fertility rate of any teenage pop
tion group in the entire world. (Israeli A
come in a distant second.) One in four b
babies in the U.S. is born to a teen mot
most of them unwed. "In the black com
nity, the phenomenon of teen marriag

almost gone," observes Mark Testa of NORC. "Eventually these girls get married, but it might be years later and not to the father of the child." Young black women under age 24 are facing "a shrinking pool of marriageable—that is, economically stable—young men," explains Sociologist William Julius Wilson of the University of Chicago, who coauthored a 1985 study titled "Poverty and Family Structure." The reasons he cites for the dearth of eligible candidates: unemployment, incarceration and an appalling rate of murder, the leading cause of death of black males age 15 to 44.

Wilson is part of a new breed of black academicians and leaders who have begun to acknowledge teenage pregnancy as a major issue for the black community. The National Urban League has declared it its No. 1 concern and last spring, on Father's Day, launched a program aimed at teenage boys, the often forgotten partners in the problem of teen pregnancy. Says League President John Jacob: "We cannot talk about strengthening the black community and family without facing up to the fact that teenage pregnancy is a major factor in high unemployment, the numbers of high school dropouts and the numbers of blacks below the poverty line."

The public recognition from black leaders is a significant departure from the past. Back in 1965 when New York Senator Daniel Patrick Moynihan, then Assistant Secretary of Labor, released a study depicting instability in the black family and stressing the problem of the absentee father, he was roundly accused of racism for ignoring the economic basis of the situation. In the heyday of the civil rights movement, admits Jacob, "teenage pregnancy was not the kind of subject we were willing to deal with publicly We felt the black community would be blamed." That lack of attention was unfortunate, as black leaders now acknowledge. In the years since the Moynihan report, observes Eleanor Holmes Norton, the status of the black family has deteriorated. In 1965, she points out, only about one-third of black children were born to single mothers. Now more than half are. She insists that the black family remains strong, but admits "there have been important structural changes that will be hard to reverse."

Some blame the welfare system for contributing to the desintegration of the black family by providing an incentive for young women to have babies. While rules vary from state to state, indigent girls generally become eligible for public assistance in their third trimester of pregnancy. Most social-service workers argue, however, that the welfare system is at most a minor factor in teenage pregnancy. "It's possible that with no assistance, we would see fewer kids going to term," says Radosh of New York City's mayor's office. "But I don't think you'd see fewer getting pregnant."

Guttmacher researchers concur, pointing out that countrys like Holland, Sweden and France provide far more generously for indigent young mothers, yet have low pregnancy rates. Research by Sociologist Frank Furstenberg of the University of Pennsylvania further refutes the notion that teenagers who become pregnant are simply looking for a handout. In following 400 young black mothers in Baltimore, Furstenberg discovered that most were "surprisingly motivated to get off welfare." In fact, 17 years after bearing a first child, only one-quarter were receiving public assistance.

Despite the discrepancy in statistics, teen pregnancy, as black leaders are quick to point out, should not be seen as a specifically black problem. Rather, says Jacob, it is a poverty-related problem. "It has a greater impact on the black community because it is a poor community." Indeed, poor whites as well as blacks tend to have high rates of teenage pregnancy. In the largely white community of North Adams, Mass., an old mill town where unemployment has been high, teen pregnancy is reaching epidemic levels. One out of five births at North Adams Regional Hospital is to an adolescent, and 90% of the young mothers wind up on welfare. "I'm seeing a world where kids feel being pregnant is a viable option," sighs Maggie Bitman, who runs a parenting program in North Adams. "They feel their lives are in disarray." The situation is similar in the mostly white, down-at-the-heels southern counties of Illinois, and in white, working-class areas where the work has disappeared. The underlying reasons for the pregnancies are no different from those in urban ghettos: lack of opportunity, absence of interesting alternatives to childbearing. The girls feel "locked into their stations in life," says Health Official Wood Bennett of southern Illinois. "They're not motivated to break out."

Needy girls who imagine that having a baby will fill the void in their lives are usually in for a rude shock. Hopes of escaping a dreary existence, of finding direction and purpose, generally sink in a sea of responsibility. With no one to watch the child, school becomes impossible, if not irrelevant. And despite the harsh lessons of experience, many remain careless or indifferent about birth control. About 15% of pregnant teens become pregnant again within one year; 30% do so within two years. "You ask, 'Why didn't you come in for the Pill?' and they say, 'I didn't have time,'" says an exasperated Kay Bard of Planned Parenthood in Atlanta. "Their lives begin to spiral out of control."

The problems faced by children of such parents begin before they are even born. Only one in five girls under age 15 receives any prenatal care at all during the vital first three months of pregnancy. The combination of inadequate medical care and poor diet contributes to a number of problems during pregnancy, says Dr. John Niles of Columbia Hospital for Women in Washington: "Teenagers are 92% more likely to have anemia, and 23% more likely to have complications related to prematurity, than mothers aged 20 to 24." All of this adds up to twice the normal risk of delivering a low-birth-weight baby (one that weighs under 5.5 lbs.), a category that puts an infant in danger of serious mental, physical and developmental problems that may require costly and possibly even lifelong medical care.

Infants that escape the medical hazards of having a teenage mother do not always manage to negotiate the psychological and social perils. Desirée Bell, 19, of New York City, had her first son at age 15 and her second the following year. Her elder son Eddie has a learning disability and was almost auitistic as an infant. Bell, who has managed heroically to complete high school and secure a good job with the city, blames herself for his problems. "I hated the fact that I was pregnant," she recalls. "I was resentful of my unborn child. I used to punch myself in the stomach. Poor Eddie," she muses, "the first year I wouldn't play with him. He didn't talk until he was nearly two; he would just grunt. I would say, I traumatized my own son."

Desiree Bell has recognized her error and tried to give her son the extra attention he needs. Not all tennagers do. According to the Children's Aid Society in New York City, one of the oldest family agencies in the country, a large number of babies delivered to teenage mothers wind up in foster care. "Teenagers get excited about this little, adorable person that's all theirs," explains Barbara Emmerth of the New York City—based Citizens' Committee for Children, "but when the kid in in the terrible twos and the mother wants to go out on dates instead of taking care of the little monster, they change their minds."

Often the state must intervene in cases where abuse or neglect is suspected. Two-year old Ana Marie seemed to be perpetually falling and hurting herself. "I didn't pay her enough attention," admits her mother Kim Adalid, 19, who also has a three-year old son and expects a third child in January. After one of Ana Marie's mishaps, Kim took her daughter to a doctor, who quickly discovered that the child's arm was broken. Believing that the girl had been neglected (a charge that Kim vigorously denies), the doctor filed a report with the California courts. Ana Marie was taken away and placed with a temporary guardian.

Such interventions come at a considerable cost. In Illinois, state officials calculated that teenage pregnancy cost $853 million in medical care, day care, welfare and other social programs last year. It has been estimated that overall, the U.S. spends $8.6 billion on income support for teenagers who are pregnant or have given birth.

Most programs addressing the problem of teen pregnancy are directed at the group easiest to identify and help adolescents who are already pregnant or have given birth. The goals: to ensure that the girls obtain adequate prenatal care, continue their education and learn how to be good parents. Providing prenatal care has become a bigger problem since 1982, when the Reagan Administration reduced the appropriation for the Feeding Program for Women, Infants and Children, which offers nutritional supplements and medical care to low-income expectant mothers. The cuts say critics, will prove expensive in the long run, because caring for undersize, ailing infants through Medicaid is many times as costly as preventive prenatal measures. In recent years, private organizations and local governments have attempted to fill the gap left by WIC cutbacks. San Francisco's TAPP, a model program that the state plans to extend to other cities, has helped reduce the incidence of low-birth-weight infants to about 4% among the teenagers it counsels, against a national average of 17%.

Keeping young mothers in school has proved to be a stickier problem. Among TAPP counselees, for example, nearly half who were not enrolled in school were persuaded to resume their education. Unfortunately, an additional 31% who had been attending decided to drop out. In New York City, special public high schools have been established for pregnant teenagers to encourage them to stick with it. New York has also established day-care facilities at 18 of its 117 high schools, so that mothers can continue to attend after they have given birth.

Increasingly, conservative religious organizations have got into the business of aiding pregnant teenagers as a way of discouraging abortion. Jerry Falwell's Moral Majority has, for example, developed a nationwide $4 million program called Save-a-Baby, run in

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conjunction with an adoption agency. "We agree to assist girls who are fixing to have an abortion, if they will let the baby live," says Jim Savley, the program's executive director.

Other programs for teen mothers emphasize careful instruction in family planning to prevent more unwanted pregnancies. Some go so far as to send a social worker to the hospital shortly after the girl has given birth in order to present gifts of condoms and contraceptive foam, along with something for the baby. Increasingly, programs like the Door in New York and Crittenton Center in Los Angeles have extended their contraceptive-counseling programs to teens who have not yet become pregnant. Crittenton purposely holds discussion groups that mix young mothers with other adolescents to reinforce the lessons on birth control. "When they see how hard it is to be a mother," says executive Director Sharon Watson, "they don't get pregnant."

Many believe that such lessons should be a regular part of the curriculum in public schools. According to the Time poll taken by the research firm of Yankelovich, Skelly & White, Inc., 78% of Americans respond yes to the question "Do you favor sex education in the schools, including information about birth control?" And yet, despite the majority opinion the subject of sex education remains a divisive one. On one side are those like Wattleton of Planned Parenthood who argue that Americans should learn to accept adolescent sexuality and make guidance and birth control more easily available, as it is in parts of Europe. On the other side are those who contend that sex education is up to the parents, not the state, and that teaching children about birth control is tantamount to condoning promiscuity. Sex-education classes are simply "sales meetings" for abortion clinics, says Phyllis Schlafly, a leading right-to-lifer. In addition, she claims, there is simply no way to tell youngsters about contraception "without implicitly telling them that sex is O.K. You've put your Good Housekeeping seal on it."

The conflict has contributed to riotous clashes at school-board meetings whenever the sex-education curriculums come up for review. Last year, for example, when New York City developed a program designed to help combat a runaway rate of teenage pregnancy, religious groups presented a list of 56 objections. In middleclass San Juan Capistrano, Calif., the fray over sex-education reform grew so heated last spring that conservative opponents showed up at a school-board meeting dressed in Revolutionary War garb and bearing a cannon.

In 1981 the Reagan Administration instituted a program to, in its words, "encourage teenagers not to engage in sexual activities" and foster "good communication between parents and child about sexual matters." The plan has won favor with conservative church groups but has been derided by family-planning advocates as an unrealistic "chastity act." Terrance Olson, professor of family sciences at Brigham Young University in Provo, Utah, is using funds from the new program to develop a conservative sex-education curriculum. Olson's offering stresses abstinence, and, he says, "we try to involve teenagers with their parents in understanding the issues of marriage, family and reproduction." The program has been tested in selected schools in Utah, California and New Mexico since 1982, but, he admits, "we can't have a lot of evidence yet that we've changed behavior."

Changing human behavior is, of course, always an elusive objective. When Researcher Douglas Kirby, head of the Washington-based Center for Population Options, studied the behavioral effects of sex education, he found them to be few and far between. Sex-education graduates certainly knew more about reproduction, but that did not significantly affect their habits. There was, however, one important exception. Kirby found that when sex-education programs are coupled with efforts to help teenagers obtain contraceptives, the pregnancy rate drops sharply.

The model for this type of program was the Mechanic Arts High School in St. Paul, which in 1973 became the first public high school in the U.S. to have its own full-service health clinic in the building. Set up by St. Paul-Ramsey Medical Center, it offered everything from immunizations to sport physicals to treatment for venereal disease. Significantly, it also advised teenagers on contraception and dispensed prescriptions for birth control devices (provided that parents had agreed beforehand to allow their children to visit the clinic).

Such clinics now exist at four other St. Paul high schools (Mechanic Arts High has been closed). The results have been dramatic. Between 1977 and 1984, births to female students fell from 59 per thousand to 26 per thousand. Even girls who did become pregnant seemed to benefit from the counseling. At Mechanic Arts High, their dropout rate fell from 45% to 10%, and only 1% had another unwanted pregnancy within two years of the first. The controversial clinic at Chicago's DeSable High School and ones at other schools around the country were modeled after St. Paul's pioneering program.

For all their apparent success, in-school clinics do not necessarily get at the emotional wellsprings of teenage pregnancy: the sense of hopelessness and resignation felt by many underprivileged girls. In Milwaukee, Janice Anderson, a successful black businesswoman, is trying to do something about it. Anderson, 36, was inspired to act last March when she read that her hometown led the country in birthrates among black teenagers. "I sat up in bed at 2 a.m. and wrote down the name of every black professional woman I knew," she recalls. "I came up with a list of 42 names and wrote to each one, asking them to come help their sisters." Anderson's early-hour inspiration evolved into Reach for the Stars, a volunteer program that pairs inner-city adolescents with black role models who are successful achievers.

Similar groups have begun to appear around the country. In New York, the Family Life program, co-sponsored by the state and the Children's Aid Society, is attempting to give dead-end kids a sense of self-esteem, says Michael Carrera, its energetic director. Since the program's initiation last February, not one of the 55 participating youngsters has become pregnant or fathered a child.

These efforts are aimed at what may be the true root of the teenage pregnancy problem: not simply lack of sex education or access to birth control but a sense of worthlessness and despair. Recounts Watson of Crittenton Center: "The girls tell me, 'Before I was pregnant, I was nothing. Now I am somebody. I'm a mother.'" As long as adolescents look in the mirror and see nobody there, they are likely to seek identity by becoming—ready or not—somebody's mother.

The Missing-Father Myth

They are the forgotten partners. It is o
ous but often overlooked: for every teen
mother there is a father, usually a teena
who finds himself treated as an outsider,
ceiving none of the solicitous attention t
occasionally attends the mother and ch
These fathers are usually depicted as ch
ish scamps, irresponsible hit-and-run art
out to prove their sexual prowess withou
thought for the consequences. Until rece
ly, no one even seemed to factor the fat
into the situation. But with the surge
concern about teenage mothers, seve
groups and studies have taken a closer l
at teenage fathers. Their findings h
challenged many prevailing myths.

A recent study partially funded by
Ford Foundation revealed that many you
fathers are not only willing but eager
help their partner and offspring.
project, coordinated by New York Ci
Bank Street College of Education, offe
vocational services, counseling, and prena
and parenting classes to nearly 400 teen
fathers and prospective fathers in eight U
cities. At the end of the two-year progr
82% reported having daily contact w
their children; 74% said they contributed
the child's financial support. Almost
maintained a relationship with the moth
whom they had known for an average
two years. "We are learning that many t
fathers are anxious to participate in
parenting of their children," says Prude
Brown of the Ford Foundation, but
points out, "they need a lot of help and s
port to help them assume a responsi
father role."

Teenage fathers usually have lower
comes, less education and more child
than do men who wait until at least the
of 20 to have children. One reason for thi
that a teenager who has got his girlfrie
pregnant often compounds his first mist
with a second one: dropping out of sch
"When they leave school, they head ri
for a low-paying job," says Amy Willia
the executive director of the Teenage Pr
nancy and Parenting Project in San Fran
co. "Their own internal drummer says
them, 'If you are going to be a good fath
you have to get a job.'" Few are able to p
ceive the trap they are falling into. Say
counselor: "Five years down the line, th
won't have skills to qualify for much m
than work in a fast-food restaurant."

Teenage fathers are usually bewildered
the news of the impending arrival. Th
own fathers, statistics show, were of
phantom parents, and the young men h
very little idea of what a father is suppo
to do. Notes Debra Klinman, project dir
tor of the Bank Street College study
teenage parents. "A lot of fathers want
love their babies and do the right thing
them, but they don't see how to do wha
right."

For many of the young men there is als
conflict between the desire to provide
their children and doubts about their o
abilities as providers. Says Tommy Millad
a counselor at the Youth and Family Cen
in Lawndale, Calif.: "The paradox felt
teen fathers is that while they want t
young lady to receive services, they are a
bivalent because they can't provide
them the way they should. It defeats th
masculinity." Until recently it was thoug
that this same sense of masculine pr
would prevent young fathers from parti
pating in programs designed to help the
The Bank Street College study showed th

the opposite was true: teen fathers lunged at the opportunity, particularly where job training was offered. At the end of the two-year program, 61% of the previously unemployed young men had found jobs. Perhaps more important, 46% of those who had dropped out of school had resumed their education.

Programs designed to assist teenage fathers are still relatively few, but their growing number offers hope in arresting the cycle of children producing children. Terry, who is now 21, has a 17-month-old child and is himself the child of teenage parents. After being helped by the Teenage Pregnancy and Parenting Project in San Francisco, he is now a counselor there. "My father was a parent when he was a teenager," Terry says firmly. "My mother and grandmother were. It didn't stop with me or with my brothers. I know it will stop with my son."●"

NATIONAL FIREFIGHTERS DAY

● Mr. GORTON. Mr. President, I am pleased to join my distinguished colleagues in cosponsoring Senate Joint Resolution 244, which designates October 8, 1986, as "National Firefighters Day." Appropriately, this day will occur during National Fire Prevention Week.

As chairman of the Subcommittee on Science, Technology, and Space, which oversees and authorizes the Federal Fire Prevention and Control Act, I am well aware of the tremendous dedication of our Nation's firefighters. These courageous men and women are devoted to saving lives. I can think of no group more deserving of such an honor.

Mr. President, I ask the Members of the Senate to reflect, for a moment, on the magnitude of the job of fignting fires in this country. Each year, public fire departments respond to roughly 2½ million fires. There are over 28,000 public fire departments, staffed by over 2 million career and volunteer firefighters. Property damage resulting from fires costs us between $6 and $7 billion per year. Tragically, civilian—nonfirefighters—fire deaths still exceed 5,000 per year, and civilian fire injuries top 28,000 per year; but I am encouraged that civilian fire injuries and deaths have declined in recent years.

I am distressed, however, that the loss of life to firefighters is increasing. Last year, 117 firefighters died in the line of duty. Injuries to firefighters exceed 100,000 per year, which is roughly 24 injuries per 1,000 fires attended. More than 10 percent of these injuries are severe enough to require hospital treatment. Clearly, firefighting is one of the most hazardous occupations in our Nation.

Fire prevention and control is primarily a State and local responsibility. The Federal role is to provide services that are impractical for each community to develop, such as the collection of fire data, research into the causes of fires and methods to reduce fire loss, and education. Training programs at the National Fire Academy promote firefighter safety. The U.S. Fire Administration seeks to reduce firefighter deaths and injuries by funding projects such as fires—a project to improve the protective equipment worn by firefighters.

The U.S. Fire Administration recognized the sacrifice made by our firefighters by establishing the National Fallen Fire Fighters Memorial in Emmitsburg, MD. During the annual Fire Prevention Week ceremonies, an observance is held at the memorial to increase public awareness of the hazards faced by firefighters. The bronze plaque on the beautiful 7-foot pyramid-shaped cairn of Indiana and Pennsylvania limestone carries the following message from our President, Ronald Reagan:

> Dedicated to the thousands of fire fighters who lost their lives in the very act of saving others.

I commend this memorial and the annual observance to your attention.

Mr. President, I commend Senator DeConcini for introducing this resolution, and I join with the other sponsors to express our gratitude for the sacrifices made by our gallant firefighters, our Nation's first line of defense against the ravages of fire.

FIREFIGHTER WALTER McGINN, A BRAVE BOSTON HERO

● Mr. KENNEDY. Mr. President, last Sunday, Boston firefighter Walter McGinn demonstrated his willingness to make the ultimate sacrifice when he risked his life to save a 28-year-old man about to leap from an elevated highway in Boston. Fireman McGinn wrapped himself around the man, who finally succeeded in jumping, dragging McGinn with him. Together they plunged 30 feet to what could have been sudden death for them both. Fortunately, McGinn's firefighting colleagues were perfectly positioned below, and managed to break their fall with a safety net. McGinn and four of the nine firefighters holding the net were injured, but not seriously, and the man they were trying to save was unhurt.

The need for committed public servants is revealed time and time again by those who face such crises with quiet heroism. But the courage of Walter McGinn in his unrelenting and successful effort to salvage the life of a man he did not know writes an eloquent chapter of bravery all its own. We are all grateful for the strength and dedication of men and women like Walter McGinn whose commitment in the service of their fellow human beings is an inspiration to Americans everywhere. The faith and leadership that Walter McGinn and his colleagues demonstrate daily is a tribute to the best ideals of our people and our country, and I salute his personal act of humanity.●

INFANT MORTALITY

● Mr. DURENBERGER. Mr. President, infant mortality is a major public health problem in this country. The rate of infants dying during their first year of life has markedly decreased over the years, but in recent years the rate of decline has suddenly slowed. While everyone tries to figure out just why this has happened, the U.S. infant mortality rate remains higher than that of a dozen other developed nations. This is completely unacceptable.

One thing is well known and undeniable: low birth weight is the single most important factor in the early death of infants. Babies born weighing less than 5½ pounds are 40 times more likely to die in their first 4 weeks of life than are their normal weight counterparts. Neonatal intensive care has been able to save the lives of many tiny ones; however, the cost of this high technology treatment is tremendous—between $15,000 and $100,000 for every baby's intensive care hospital stay.

Why not do all we can to keep these infants in the best incubator of all—their mother's womb? It makes all the sense in the world. And how do we do that? A recent Institute of Medicine study concluded that the single most important thing is for all pregnant women to receive adequate prenatal care.

This, unfortunately, is not happening in this country, given the variability of States' eligibility levels for the Medicaid Program and the sparseness of preventive services for low-income, high-risk pregnant women in this country.

Mr. President, there are two bills which have yet to be reported out of the Committee on Governmental Affairs, of which I am a member. S. 1620, of which I am the sponsor, would establish a Council on Access to Health Care. The other, S. 1209, sponsored by my distinguished colleague, the Senator from Florida, [Mr. Chiles], would set up a National Commission on Infant Mortality.

Mr. President, these two measures go hand in hand and are good policy for improving this Nation's health. We need to assure that all pregnant women have access to prenatal services. We need to know what the problems are with the current programs and how they can be made more effective. We also have to identify just how far we as a nation have come in assuring needed access to health care services for all Americans and what effects the recent changes in the financing of the health care industry are having on the access and quality of services.

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This Council and Commission would give us information we need to accomplish these things. Only with this information can we really move ahead and get services to those who need them. Then we can certainly say that we are improving the public's health.

In a recent article in the Atlantic, Stephen Budiansky presented a timely view of what some of the problems are and why they exist for pregnant women who need prenatal care but are unable to get it.

Mr. President, I ask that this article be printed in the RECORD following my statement. I also ask my colleagues on the Governmental Affairs Committee and in Congress for their support of these important legislative initiatives. I look forward to returning in the new year and seeing their successful passage through both the committee and Senate.

The article follows:

PUBLIC HEALTH: A MEASURE OF FAILURE

Infant mortality, a public-health problem that most Americans, if they had to guess, would probably rank in importance somewhere between yellow fever and beriberi, has been getting a lot of attention lately. Public-health officials, who make their living dealing with things like AIDS, Legionnaires' disease, and an astounding assortment of poisonings, have come to refer to infant mortality with words like "worrisome" and "disquieting." Congressional hearings, governors' association reports, and mayoral task forces have become the order of the day.

The concern began three years ago, when the pace of decline in the country's rate of infant mortality suddenly slowed. Since 1965, when the infant-mortality rate in the United States was 24.7 deaths per thousand live births, the rate had fallen quickly—by 4.4 percent a year, on average. By 1982 infant mortality stood at 11.5 deaths per thousand live births. Then, in 1983, the rate fell by only 2.6 percent, to 11.2 deaths per thousand, and it seemed to many that nearly two decades of steady progress had come to an end.

Infant mortality has long been regarded as an indicator of a nation's health overall. In the United States it has had an added significance, underscoring gross economic and racial disparities in health and access to health care. It is not surprising, then, that interpretations of the slowdown have been distinctly political. When the 1983 figures were released, the Children's Defense Fund and the Food Research and Action Center—two Washington-based organizations that had been protesting the Reagan Administration's cutbacks in funds for Medicaid and food stamps—seized on them as evidence that the Administration's policy was causing real harm. Federal officials reacted by dismissing the slowdown as temporary—a "statistical artifact"—and suggested that in any case the major remaining causes of infant mortality were smoking, drinking, and drug-taking by pregnant women.

Provisional data for 1984—the most recent available—show that the slowdown had persisted: since 1983 the infant-mortality rate fell by only 2.8 percent. These days Administration officials do not try to argue that the pace of decline in infant mortality is satisfactory. But the explanations for the slowdown continue to have political implications, and the Administration continues to belittle any connection with the budget.

So far the debate has been less than illuminating. The best evidence to support a connection between infant mortality and the funding of social programs is a slight increase—immediately following the 1981-1982 cuts in the budgets of many federal health programs—in the percentage of women failing to receive timely prenatal care. Although that increase is significant inasmuch as it reversed a ten-year trend, its size is not impressive: from 1981 to 1982 the percentage of all pregnant women who either received no prenatal care or received it only in the last trimester rose from 5.2 to 5.4.

The budget-cut critics have been able to make a stronger case by marshaling data from states and localities which appear to show jumps in infant-mortality rates following cutbacks in health services. One often cited found that the infant-mortality rate for five Boston neighborhoods nearly doubled in a single year following funding cuts for neighborhood health centers. The trouble with such data is that vital statistics always fluctuate greatly from year to year in a small population. In a neighborhood where 100 babies are born each year there should be an average of one infant death a year, given the current U.S. infant-mortality rate of 10.6 per thousand. But there might well be two infant deaths one year and none the next. Such fluctuations would cause the infant-mortality rate for the neighborhood to appear to jump to twice the national average and then fall to zero. Trends are reliably ascertained only by looking at large samples or by sampling over a long period.

Because the debate over the cause of the recent slowdown has focused on the short term, a larger message contained in the numbers has been lost. The data point to the existence of a problem that has little to do with the politics of the past few years and a lot to do with the fundamental nature of our health-care system.

To put the story in context, we really need to begin with 1900, when an infant born in America faced a one-in-ten chance of dying before its first birthday. Infectious diseases, abetted by poor sanitation and unopposed by antibiotics, took the biggest toll on infant life.

Public-health researchers divide infant deaths into two groups: those that occur within the first four weeks (the majority being the result of low birth weight) and those that occur from the age of one month to one year (generally as a result of environmental factors, such as infectious disease or accidents). In 1900 a third of infant deaths occurred in the first month, and two thirds after—a sobering reminder of the threat once posed by whooping cough, scarlet fever, diphtheria, and other illnesses.

By 1950 the overall infant-mortality rate had fallen by two thirds. Significantly, nearly all of the improvement had come in the category of deaths after four weeks. Infectious disease had been conquered, but the underweight newborns were dying as readily as ever.

After a long plateau from 1955 or so to 1965, infant mortality began another sharp decline. From 1965 to 1982 it fell by half, but this time the bulk of the improvement—three quarters—came in the category of deaths within the first four weeks. The explanation is not hard to discern: beginning in the mid-sixties intensive care for underweight newborns came into its own. Incubators, monitoring devices, and respirators designed especially for infants were perfe
hospitals established regional intensive
facilities for newborns. Infants who
would have had no chance to survive
being saved.

Meanwhile, the reason for all the ne
cilities—low birth weight—persisted. T
low birth weight is the single most im
tant factor in the early deaths of inf
Newborns who weigh less than five a
half pounds are prone to such proble
hemorrhages, infections, and respiratory
ments. As a result they are forty times
likely to die in their first four weeks
are their normal-weight counterparts.
difference in American infant-mort
rates for blacks and whites—black inf
are twice as likely to die—is paralleled
difference between the two groups in th
cidence of low birth weight. Despite all
progress achieved in the United States s
1900, the low-birth-weight rate has decl
slowly—much more slowly than the rat
infant mortality. For example, whe
from 1965 to 1982 the overall infant-mor
ty rate fell by 4.4 percent per year and
rate of infant mortality in the first mo
by 4.8 percent per year, the low-bi
weight rate fell by only 1.2 percent per y

The biological cause of low birth weig
simply not understood. Some people h
suggested that the disappointing U.S. st
tics for low birth weight and infant mor
ty mean that a fundamental physiolog
limit has been reached, and that it is un
sonable to expect much more improvem
Over and over again, however, epidemiol
cal studies have shown that inadequate
natal care, poor nutrition, poor educat
teenage pregnancy, smoking, drinking,
drug use are risk factors. Moreover, the
formance of the United States does
match that of other developed countr
For the past twenty years the United St
have never ranked higher than thirtee
on the list of countries with the low
infant-mortality rates. Those count
whose rates are lower than ours continu
make progress in achieving further red
tions; they also have less incidence of
birth weight. It has been argued that in
Scandinavian countries and Japan, wh
infant-mortality and low-birth-weight r
are lowest, the population is ethnically
mogeneous. Yet even if one considers
infant-mortality and low-birth-weight r
for white Americans only, the Scandi
vians and the Japanese are still ahead.

The Reagan budget cuts in programs
signed to improve nutrition, education,
health care may have made those servi
marginally less effective, but the real m
sage in the statistics is that even when th
programs were fully funded they did not
far enough. Conservative ideologists h
that the Great Society and War on Pove
programs, started in the 1960s, failed
cause they were poorly managed or w
based on speculative social theories.
there is nothing speculative about the
fects of prenatal care. A recent study by
Institute of Medicine, an affiliate of the
tional Academy of Sciences, concluded t
providing adequate prenatal care to wom
who currently lack the means to receive
could reduce the national incidence of
birth weight by 15 percent—ten yea
worth of progress at current rates. Med
aid, which provides free medical care to
poor, is hampered by some perverse restr
tions. In twenty states a pregnant woman
a two-salary household cannot receive M
icaid coverage for prenatal care, no mat
how low the household income might be

single pregnant woman living alone must have an income far below the federal poverty level of $437.50 a month to qualify in most states. In the worst case, Alabama, the cutoff is $88 a month. Even before the Reagan budget cuts only about half of all women of childbearing age whose incomes fell below the federal poverty line were eligible for Medicaid.

The obvious solution is to spend more money—not a very popular idea these days. But the implicit decision, made in the 1960s, to save infants through the high technology of neonatal intensive care has proved very costly indeed—running to perhaps $2 billion a year. A stay in an intensive-care nursery can cost from $15,000 to well over $100,000. According to the Institute of Medicine study, preventing low birth weight would be cheaper. The study compared the cost of providing adequate prenatal care to one large group of women at high risk of having underweight babies—the 1.4 million women who did not finish high school who receive some form of government assistance, and who are not now receiving adequate prenatal care—with the savings that would be realized if there were fewer underweight babies in need of hospitalization. It was calculated that the investment in prenatal care would yield a net return of from $12 million to $29 million a year.

Prevention may become an even more attractive investment as further innovations in high-tech intensive care yield diminishing returns. Already in geriatrics wards much life-sustaining technology is merely death-delaying: machines can keep a patient breathing while doctors stand by, helpless to alter the course of the ailment. Geriatrics technology has advanced faster than medicine. Provisional statistics from the Department of Health and Human Services for 1983 and 1984 suggest that this may also be the case with neonatal intensive care. For although the overall infant-mortality rate continues to decline slowly, as does the mortality rate for vulnerable infants under four weeks old, the rate for infants four weeks old and over actually appears to be increasing. In other words, the heroic efforts of the intensive-care nursery are keeping alive for at least a month more infants who used to die shortly after birth—but many of those infants still die before the year is out.

Our present system of health insurance ensures that society as a whole foots the bill—in the form of higher insurance premiums—for any new medical technology that makes it out of the experimental phase. Society likewise foots the bill for treating uninsured patients, because hospitals pass on the costs in the form of higher fees. Yet those same hospitals that take charity cases in an emergency generally refuse to provide free preventive care. Medicaid, similarly, winds up paying emergency intensive-care costs of "medically needy" infants whose mothers have been ineligible for prenatal-care coverage. These costs are large but hidden, and they won't be eliminated until all pregnant women are assured access to prenatal care as a matter of course.—STEPHEN BUDIANSKY.●

THE IMPORTANCE OF CONTINUING TO COMPLY WITH THE SALT II TREATY

● Mr. LEVIN. Mr. President, I wish to join my Senate colleagues and other concerned Americans in urging the President to continue to observe the provisions of the SALT II Treaty beyond the treaty expiration date of December 31 of this year.

When considering the desirability of extending the provisions of the SALT II Treaty, and it is indeed desirable, it is important to note possibly the most unusual and important aspect of the SALT II Treaty. This treaty, unratified by the Senate and not officially binding upon either the United States or the Soviet Union, has nonetheless been observed by both countries since 1980. Despite many, strong disagreements between both countries; despite treaty limitations which explicitly and rigidly restrict the development and deployment of nuclear weapons on both sides; the SALT II Treaty in large measure has been observed by both countries. This is a wonder. The question is, Why has the unratified SALT II Treaty been observed for so long? Many close advisers to the President have recommended that he repudiate the treaty. He hasn't, and neither have the Soviets.

Let me suggest why this is so.

There are two reasons for observing a treaty: One is the benefits realized by observing the treaty. The other is the cost of repudiating the treaty.

The SALT II Treaty benefits the United States in a variety of ways. Most importantly, the treaty has put explicit, verifiable limits on the development, modification, and deployment of nuclear weapons: ICBM's, submarine-launched ballistic missiles, bombers, and cruise missiles. These limits have nonetheless permitted modernization of the respective nuclear forces. We have now reached those limits in the area of submarine-launched missiles and both sides are now decommissioning or otherwise removing older submarines from their nuclear roles. This is a clear example of the treaty working to our mutual benefit. The Soviet Union, alone, between 1974 and today, has retired hundreds of missiles from its nuclear forces in order to replace their older missiles with newer ones and still remain within the limits of the SALT I and SALT II Treaties. These treaties have worked and are working.

Critics of the treaty will point out that the destructive power of the nuclear forces of both the United States and the Soviet Union has increased despite the SALT agreements. They are correct. The treaties were not intended to reduce the size of the nuclear forces, but to limit growth of nuclear weapons, especially of the most dangerous weapons. Those critics tend to ignore the fact that the Joint Statement of Principles within SALT II was to serve as the basis of SALT III negotiations. And in SALT III, one of the principal objectives was significant and substantial reduction in strategic offensive weapons. In other words, SALT II was a critical precondition for the actual reduction of the nuclear arsenals of the United States and the Soviet Union. Another benefit of the SALT process has been that it has established an agreed-upon rubric for the conduct of these extraordinarily important and complex negotiations. These rules and procedures were hard won and it would be a tragedy to jeopardize them by repudiating the SALT II agreement.

Beyond the benefits of continued observance of the SALT II Treaty, there are the costs of repudiation. Repudiation of SALT II would almost certainly bring an end to substantive arms control negotiations for the Reagan administration. The recent summit between President Reagan and Secretary General Gorbachev has established a framework for negotiations. This framework would be dashed if the President refuses to continue observing the SALT II limits. This would be bad enough, but, worse, such action could precipitate a nuclear arms race of frightful dimensions. The technological genies which live in our aerospace industries are capable of shaping nuclear weapons to be used in space or on Earth that are beyond our imaginations. Other nuclear weapons control treaties, such as the test ban treaty or the nuclear nonproliferation treaty, could be swept away in such an arms race. The hope for a better, more secure world which the Geneva summit extended to us all would be gone for many years.

It is for these reasons that I urge the President to heed his better instincts and the heartfelt hopes of people everywhere and continue U.S. compliance with the SALT II Treaty.●

TRIBUTE TO POSTMASTER NATALE E. FELICETTI

● Mr. PELL. Mr. President, I noted with great interest over the weekend a most deserving tribute in the Westerly Sun to retiring Postmaster Natale E. Felicetti of Westerly, RI, which I would like to share with my colleagues.

In this period when it seems fashionable to criticize Federal and postal employees, many of whom go unrecognized year after year for their excellent contibutions to the quality of life and individual citizens, it is most rewarding to read a fine tribute regarding a career civil servant who has sacrificed much to ensure that families are brought closer through the mail service.

The career of Natale E. Felicetti is an example of excellence and sacrifice in Government service. It is a remainder to the citizens of our country of exemplary service rendered on a daily basis by many Federal and postal employees. Equally important, the example set by Postmaster Felicetti is one

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for current and future Federal employee to aspire to.

My warmest congratulations to Postmaster Felicetti.

Mr. President, I ask that the text of the article from the Westerly Sun appear in the CONGRESSIONAL RECORD.

The article follows:

[From the Westerly Sun, Dec. 15, 1985]

RETIRING POSTMASTER RECALLS A DRAMATICALLY DIFFERENT DAY

(By Stephanie LaTour)

WESTERLY.—When Postmaster Natale E. Felicetti started working for the Postal Service in 1936, at 65 cents an hour, all mail was delivered by train and sorted by hand.

Back then, it cost only two cents to mail a sealed letter, even less for an unsealed one.

In his 49 years with the Postal Service, Felicetti has seen a lot of change.

As his retirement approaches, he looks back on the good old days, when the service had not "lost its personal touch."

"When I used to deliver mail down in Misquamicut, I knew all the families personally," Felicetti says.

"In fact, the most tragic stage of my career was the hurricane of 1938, when I saw those people lose their homes and their lives. It was horrible.

"My favorite work, though, was doing the window clerk position because that's when I got to meet everybody," he adds.

"Of course, we have to keep up with progress. But it's too bad we have to lose that personal touch along the way."

Felicetti was in high school when the Depression began, working as a delivery boy. Sometimes the chauffeurs and maids of the Watch Hill families would sneak him an ice cream after a delivery, he says.

"You really appreciated a thing like that in those days. Everyone helped each other and learned the value of a dollar. Why, I used to go out on a date with 20 cents in my pocket."

After graduating from Westerly High School in 1932, Felicetti went to Rhode Island State College (now the University of Rhode Island) with the idea of becoming a dentist. But he had to leave college to get a job after an illness had drained away much of his parents' money.

"My sister urged me to take the postal exam. I had never thought about it, but I figured 'Why not?' Well, I'm glad she did think of it because I ended up loving the Postal Service."

"Sometimes I would dream about being a big Wall Street broker, you know. . . . But I've never really considered leaving the Postal Service. It's the greatest."

Felicetti, who got a 94.5 on that original test, moved up in the Postal Service through the years. He became a permanent letter carrier in 1941, a sub-clerk in 1942, a regular clerk in 1944, then assistant postmaster in 1955.

During World War II, when the night employees had to work with the blinds drawn tight for the wartime blackout, Felicetti would call families if a letter arrived from "their boys overseas," he says. "They would come at any time of the night to get those letters, even past midnight. We knew how important it was to them."

"In 1966, Felicetti helped organize a program called "Packages for Vietnam," allowing people to send Christmas packages to family members in Vietnam for half price. The local committee later received a letter from Vietnam commander Gen. William C. Westmoreland commending the program, through which hundreds of packages and cigarette cartons were sent to the front.

One of the biggest periods of change came in 1971, says Felicetti, when the Postal Service was reorganized as an independent organization. The postmaster position, which had been a "political plum," became based more on merit, he says.

When former postmaster Charles Butler retired in 1976, Felicetti was appointed to replace him, after rigorous screening.

Since then, he has been responsible for running the post office, maintaining a budget and making improvements. "I basically have to oversee everything. It has kept me pretty busy," he says.

As postmaster, Felicetti is on call seven days a week. One year, he even had to go out on Christmas day to take care of an express mail delivery.

Many other activities have kept him busy, including an appointment as beach commissioner, a position on the Advisory Charter Revision Commission and involvement in the Lions Club, Knights of Columbus and the Calabrese Society.

Felicetti, now 71 lives with his wife, the former Yvonne Boucher of Voluntown, on Lawrence Street. He says he likes gardening and spending time at the beach during his free time.

Many members of Felicetti's family work for the Postal Service, including his son Robert N. Felicetti, postmaster of West Kingston, and his son-in-law, Glenn Handley, a postal carrier in West Warwick. He has a daughter, Sheila Handley of Westerly, and five grandchildren.

"I tell the young people, like my grandchildren, to consider entering the Postal Service," he says, "You can't beat it for security and for the opportunity to move up if you work hard."

What will Felicetti do after retiring in January?

He says he plans to "take it easy" for a few months and take care of his ice cream business at the beach.

"It will be a readjustment," he says. "There's no question about it, I'm definitely going to miss the place."

There will be a testimonial dinner in honor of Felicetti on Jan. 18. at the Calabrese Club, starting with a social hour at 6:30 p.m., then dinner at 7:30 p.m. Invited guests include Leo Manfred, chairman, George Salimano, vice chairman, Joseph Turco, Anthony Chiaradio Jr., Capt. Robert Chiaradio and Milton Holland. The Calabrese Club may be contacted for tickets.

ACTION ON RADON NEEDED

● Mr. LAUTENBERG. Mr. President, just over a year ago, the potential for significant indoor radon contamination came to our attention when Stanley Watras, a worker at a nuclear facility in eastern Pennsylvania, set off a radioactive alarm upon entering the facility. The source of Mr. Watras' contamination turned out to be his home, which contained dangerously high levels of radon contamination: the highest levels ever recorded in a residence. The level of radiation Mr. Watras was exposed to was equivalent to exposure to 455,000 chest x-rays in a single year.

Since the Watras incident, we have learned a great deal about radon. But for every question we address, anot
arises. From studies on uran
miners, we know that exposure to h
levels of radon over an exten
period of time results in lung can
But we don't know what levels i
home would pose a similar threat.

Radon contamination in Pennsy
nia, New Jersey, and New York
been traced to large deposits of ur
um lying in a geologic format
known as the Reading Prong. I
radon problems have been detec
throughout the country, under va
different geologic conditions.

Mitigation has worked in so
homes, but not in others. In so
radon levels were reduced to s
levels, one to rise again to hazard
concentrations.

The need for increased Federal
tention to radon is clear. The Cent
of Disease Control has estimated t
6 million Americans could be expo
to hazardous levels of radon. An e
mated 5,000 to 30,000 lung can
deaths may be attributable to rad
each year. Over the course of t
year, I have tried to focus Federal
tention on the dangers of radon.

Earlier this year, I joined Senat
MITCHELL and BRADLEY in sponsor
the Indoor Air Quality Research A
of 1985, which was adopted by t
Senate as an amendment to the Sup
fund reauthorization bill. This bill
tablishes, for the first time, with
EPA, a comprehensive indoor air p
gram, with an emphasis on radon.
lays the foundation for an effect
national radon program

Additionally, during consideration
the fiscal year 1986 HUD-Independe
Agencies appropriations bill, I was s
cessful in securing $1.5 million
funding for the EPA for radon
search, and an additional $1.5 milli
for general indoor air research. T
funding is a starting point, and rep
sents a down payment on a 5-year pl
that professional staff at EPA has
veloped for Administrator Thom
EPA intends to use the bulk of the
funds for an expanded radon miti
tion demonstration project, which h
been started on a limited scale
Pennsylvania. It is my hope that E
will include New Jersey in this e
panded program.

Mr. President, radon is a nation
problem. Some 30 States have be
found to have some degree of rad
contamination. In New Jersey,
identified our problem earlier th
most other States. Problems in N
Jersey, and Pennsylvania, are well d
umented. In three radon workshops
have held throughout New Jerse
almost a thousand people have atten
ed, a clear indication of the level
concern in my State. And it is only
matter of time before this concern
shared by citizens throughout th
country.

There is a clear need for action. Four steps must be taken in our efforts to deal with the problem of radon: First, we must assess the scope of our problems nationally, and find the hot-spots; we must develop efficient and affordable mitigation measures; we must establish adequate health guidelines for residential radon exposure; and we must disseminate this information to the public.

Radon is a problem that can be dealth with, and must be dealt with. I will continue to work to see the Federal Government take the necessary action on radon, and hope my colleagues will join me in this effort.●

A TRIBUTE TO FRANCIS "MAC" McADAMS

● Mr. **DODD.** Mr. President, I wish to pay tribute to a friend and a fine public servant, Francis H. McAdams, known by his family and friends as "Mac," who recently passed away.

Mac's life spanned an ever-active 69 years. He devoted most of those years to the world of aviation: Flying seemed a fitting avocation for this man's generous and imaginative spirit.

Mac was one of the original members of the National Transportation Safety Board, which is responsible for investigating airline accidents, and a longtime advocate of improved training for airline pilots.

To the residents of Washington, DC, Mac is probably best remembered as the board member in charge of investigating the Air Florida jet crash into the 14th Street Bridge, a tragedy that killed 78 people. With his reassuring and fatherly manner, Mac was able to comfort the entire city in a time of grief and confusion.

Mac was also known as the "great dissenter" among his colleagues on the board. In keeping with his determined character, he was not afraid to disagree with the other members on findings of probable cause in transportation accidents.

The dissent for which he is best known involved a midair collision over San Diego in 1978 that killed 144 people. Not satisfied with the board's conclusion that the probable cause "was the failure of the flight crew" of one of the planes, Mac argued that "inadequacies of the air traffic control system" were the probable cause. This contention was eventually adopted as the board's majority opinion. Everyone of us who uses the airlines owes a debt of gratitude to Mac for his persistence and thoroughness in ensuring that these tragic accidents would never be repeated.

Born in Brooklyn, NY, Mac graduated from Georgetown University and Law School. His affinity for flying began in 1939 when he earned his commercial pilot's certificate. He served as a Navy Pilot in World War II and was executive officer of an aircraft-carrier fighter squadron. After the war, he was employed by Capital Airlines as an attorney. His civil career in Government began when he joined the Civil Aeronautics Board in 1948.

In 1967, Mac was appointed to the Transportation Safety Board by President Johnson. He was reappointed three times thereafter, by Presidents Nixon, Ford, and Carter. He served with the Safety Board until 1983. He then served as safety counselor of the Air Transport Association, the major airlines' trade group.

Mac is survived by two daughters, Hope and Wootie, two sons, Michael and Peter, a son-in-law, Steven, and a grandson, Simon, of whom he was very proud.

Mac will long be remembered by his family, his friends, and those he worked with and for. His many and valuable contributions will not be forgotten. But most of all, Mr. President, we shall miss him.●

NEXRAD

● Mr. **DANFORTH.** Mr. President, I would like to update my colleagues on the status of development of the Federal Government's next generation weather radar system. The system, known as Nexrad, is being developed to the specified requirements of the National Weather Service, the Federal Aviation Administration, and the Air Force, and is intended to replace existing Federal weather radar units, many of which were designed in the 1950's and 1960's.

The Nexrad system will improve dramatically our ability to monitor and predict severe weather conditions such as tornadoes, thunderstorms, and flash floods. Nexrad is a Doppler radar system, capable of generating detailed meteorological data which, combined with advanced processing and display systems, will revolutionize severe weather forecasting.

Nexrad is being developed to support a number of Federal missions, including hazardous weather warnings, flash flood predictions, aviation warnings, water resource management, and protection of military resources. Improved performance of these missions will reduce the annual average of 600 deaths and $20 billion in damages caused by severe weather in the United States.

Mr. President, the benefits of Nexrad will be greatest in areas such as my home state of Missouri, where tornadoes and thunderstorms are common. Tests have shown that Nexrad can provide tornado warnings in specific areas with average lead times of 20 minutes, compared to the current average of one-minute lead time for area-specific warnings. The warnings also will be accurate enough to increase responsiveness. One problem with the current system is that warnings are often general or inaccurate, and frequent false alarms cause people to ignore the forecasts. Nexrad will provide warnings that are timely and accurate enough to enable people to take measures to protect themselves and their property from severe storms.

Nexrad will provide significant benefits to Missouri, where, in an average year, severe weather kills or injures nearly 100 people and causes about $80 million in economic damage. I am very pleased that three of the first 10 Nexrad units will be installed in Missouri.

I also anticipate that Nexrad will improve the services provided by the National Severe Storms Forecast Center and the National Aviation Weather Advisory Unit, both of which are located in Kansas City, MO. These facilities have respective national responsibility for severe weather advisories and aviation warnings. Both facilities already do excellent jobs of providing area advisories, but Nexrad is needed to increase the lead time of these advisories and to enable local forecasters to develop more specific watches and warnings.

Mr. President, Nexrad development has proceeded in accordance with system requirements and a schedule agreed upon by the three responsible agencies. The schedule, which calls for deployment of the first operational Nexrad units in 1988, was observed through research phases and into a competitive evaluation phase involving two system contractors. Limited production is scheduled to begin during fiscal year 1986. The administration, however, reduced Nexrad funding in order to study Nexrad against alternative technologies to see if a more cost-effective system should be developed.

The Commerce Committee, which authorizes National Weather Service and Federal Aviation Administration funding, has supported the original technical requirements and schedule originally established for Nexrad. With regard to the administration's decision to undertake a study of alternative technologies, the committee stated, in a report on a fiscal year 1986 National Oceanic and Atmospheric Administration [NOAA] authorization bill (S. 1103), that:

> Regardless of whether such study is carried out, all interested parties agree that the original development schedule and technical requirements for Nexrad should not be compromised. The Committee notes that the Nexrad schedule calls for limited production of Nexrad units during fiscal year 1986, and the committee expects to be notified by NOAA of NOAA's plans for proceeding with established system requirements.

The administration's study, carried out by the Advisory Committee for Nexrad system requirements evaluation, has been completed, and I was pleased upon receiving the Advisory

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Committee's final report to learn that the Advisory Committee has echoed the position taken by the Commerce Committee. The Advisory Committee reported that the technical requirements for Nexrad are appropriate and should not be compromised. The Administrator of NOAA, Tony Calio, has informed me that he believes Nexrad development should proceed without further delay.

Mr. President, I am encouraged by these recent developments. However, I remain concerned about future administration actions to unreasonably delay Nexrad development. While spending for Nexrad will unavoidably come under scrutiny pursuant to the new Gramm-Rudman budget process, Nexrad should be considered in the context of necessary Federal programs. The cost of the system will be great, in the order of several hundred million dollars, but the benefits will be even greater. If Nexrad reduces by 1 percent the property damage caused by severe weather, the system will pay for itself in 2 years. This estimate ignores the potential for saving of lives, which we cannot measure in dollars. The need for the Nexrad system is clear, and I hope my colleagues agree that its development should not be subject to any unnecessary delays.●

TRIBUTE TO WEST VIRGINIA SERVICEMEN

Mr. ROCKEFELLER. Mr. President, last Thursday, a tragic air crash claimed the lives of 258 American soldiers of the 101st Airborne Division. Five of these young men were West Virginians. I would like to take a moment to pay tribute to Pfc. Mark Abrams of Rhodell, Sgt. Kevin Gantzer of Wheeling, Pfc. Thomas Hileman of Fairmont, P2c David Jordan of Nitro, and Sgt. James Mollett of Kermit, and all their brethren. These dedicated men were part of a multinational peacekeeping force in the Middle East. After serving their country half way across the world, they were on their way home to spend the holiday season with their families and friends. I know I join with the entire country in expressing my deep sympathy to each family. I hope they will find some comfort knowing the selfless role their loved ones played in furthering the case of world peace. As Charles Dickens wrote:

> When Death strikes down the innocent and young, for every fragile form from which he lets the panting spirit free, a hundred virtues rise, in shapes of mercy, charity, and love to walk the world, and bless it.●

SUPPORT FOR MEDVID PANEL ON ASYLUM

● **Mr. HUMPHREY.** Mr. President, on December 6, I introduced a resolution on behalf of myself and 52 of my colleagues that would establish a special Senate panel on asylum to investigate the bungling of the case of Miroslav Medvid. I have been greatly encouraged by the tremendous support from across the political spectrum that this resolution has received. Today I received a letter from Hyman Bookbinder of the American Jewish Committee, pledging their support for this resolution. I ask that the full text of this letter be printed in the CONGRESSIONAL RECORD.

The letter follows:

THE AMERICAN JEWISH COMMITTEE,
Washington, DC, December 18, 1985.
Senator GORDON HUMPHREY,
Hart Office Building,
Washington, DC.

DEAR SENATOR: We support your efforts to thoroughly investigate the human rights case of the Ukranian seaman, Miroslav Medvid, who was returned by the U.S. Border Patrol to the Soviet Freighter, the Marshall Koniev, on October 29, 1985.

The American Jewish Committee is pleased to note the wide range of bi-partisan support you have received for your proposal to create a special 7 member panel. We offer full cooperation in your efforts to explore the implications of the Medvid case and its significance for our present asylum procedures.

Sincerely,

HYMAN BOOKBINDER,
Washington Representative.

MARTIN LUTHER KING DAY

● **Mr. RIEGLE.** Mr. President, 1986 marks the first year that we as a nation will acknowledge the contributions and achievements of the Reverend Martin Luther King, Jr., by celebrating a national holiday in his honor on January 20. I would like to take a few moments to reflect on the vital contributions Dr. King made as a leader in the fight for equality.

Dr. King's courage and restraint inspired a new quest for a freedom long awaited for by our Nation's minorities and the oppressed. Through his nonviolent resistance and passionate oratory, Dr. King was able to elevate the struggle for civil rights to the forefront it deserved on the national agenda.

Dr. King's basic doctrine, as he proclaimed in a speech during the bus boycott in Montgomery, AL, was as follows:

> If you will protect courageously, and yet with dignity and Christian love, when history books are written in future generations, the historians will have to pause and say, "There lived a great people—a black people—who injected new meaning and dignity into the veins of civilization." This is our challenge and our overwhelming responsibility.

Dr. King spoke not for one group, but for many, and although he did not live to see his dream come true, we as a nation must continue to keep his dream and commitment to equal opportunity for all people alive.

In my home State of Michig
there are many tributes and eve
taking place to honor one of the
individuals in our Nation's history w
touched our collective conscience
deeply as did Mr. King. January
will serve as a reminder of the w
still to be done, and the challen
still to be met as we strive to reach
dream that Dr. Martin Luther K
cherished.●

SMALL BUSINESS COMMITTE INITIATIVE TO SIMPLI "SMALL PURCHASE" PROCUR MENT PRACTICES

● **Mr. WEICKER.** Mr. President,
Committee on Small Business is n
in the process of conducting an
quiry into the "small purchase" pr
tices used by various Federal agenc
The ultimate purpose of this comm
tee initiative is to devise ways to s
plify the Government's small purch
procurement procedures and forms
encourage small businesses to comp
in this segment of the Federal p
curement market. Today, I would l
to share with my colleagues the bro
outline of the committee's effort a
to enlist their suggestions and th
support.

To begin, Mr. President, let me
scribe what is meant by a "small p
chase" in the Federal procureme
process and where these procuremen
fit in the overall universe of the to
Federal procurement market. By st
ute, any procurement opportun
which is valued at less than $25,000
recognized as a "small purchase" a
may be awarded through so-call
"simplified small purchase pro
dures." Small purchases encompa
the acquisition of the complete sp
trum of items of supply, services, a
construction (principally repair or
teration of existing structures). In t
acquisition of supplies, small p
chases can include both one-time bu
of common, commercial items
remote field offices to the repetit
purchase of "spare parts" fabricat
to Government design specificatio
by the large inventory control poi
operated by the military services
stock the Defense Departmen
supply system.

In fiscal year 1985, the executi
branch expended slightly less th
$183 billion through slightly mo
than 21.1 million procurement actio
(contract awards and contract modi
cations). What is generally not reco
nized is that 98.1 percent of these p
curement actions, some 20.7 milli
procurement actions, are below t
"small purchase" threshold, only
cently raised from $10,000 to $25,000
This vast "small purchase" mark
which aggregated to a total of slight
more than $16 billion in fiscal ye
1985, or about 8.8 percent of the tot

for the fiscal year, should be a prime market for small business participation. This fact was recognized by the Congress in 1978, when it established a statutory small business reserve for small purchase contracting opportunities. Under Public Law 95-507, all procurements conducted under small purchase procedures were reserved for exclusive competition among small business concerns.

Yet, Mr. President, from the very limited data available from the Federal procurement data center (the Government's centralized procurement data repository operated by the General Services Administration under the statutorily recognized policy direction of the office of Federal procurement policy), it is estimated that small businesses receive less than 50 percent of the "small purchase" contract awards. Further, one would intuitively expect that the award of contracts for supplies, services, or construction valued at $25,000 or less would be highly competitive. This, too, does not seem to be the case. In fiscal year 1985, 45.1 percent of all procurement actions reported as "small purchases," almost 9.4 million procurement actions, totaling $7.3 billion, were made on a noncompetitive basis. Even after eliminating modifications to existing contracts, which are legitimately noncompetitive, it is estimated that between 30-40 percent of small purchase contract awards are being made on a sole-source basis. We need to know, Mr. President, why this is so, and that is part of the goal of the committee's inquiry.

If we find that the small purchase market is as noncompetitive as it appears to be, it may be that we need to communicate to the managers of the Federal procurement system that the congressional mandate for competitive procurements, clearly enunciated in the Competition in Contracting Act of 1984, does extend to those purchases below the small purchase threshold. I would hasten to add any legislative direction aimed at enhancing the competitive character of these millions of small purchase contract awards must give special recognition to the costs, in terms of time and personnel, that may be associated with seeking to foster such an improved competitive environment. Competitive procurement practices are not an end in themselves, but a means to better utilization of taxpayer dollars to fulfill recognized public requirements in the most effective manner. But, Mr. President, the procurement process, whether it be for "small purchases" or those contract opportunities over the small purchase threshold, must be an open process that permits any qualified supplier to compete.

From the committee's initial efforts, it has become clear that the "small purchase" element of the overall Federal procurement process, some 20.7 million procurement actions in fiscal year 1985, have received very little attention, both within the executive branch and from the Congress. The principal reason is probably that all these actions totalled "only" $16 billion in fiscal year 1985, a "mere" 8.8 percent of the total, and are therefore considered "small potatoes" by those charged with managing the procurement process.

Mr. President, I have already alluded to the very inadequate data that is being centrally maintained through the Federal Procurement Data System [FPDS]. The data on "small purchase" procurement actions being reported to the EPDS does not differentiate the simple, but important, distinction between types of actions. For example, we presently cannot readily determine whether an action is a new contract award or a modification to an existing contract. Nor, can we separate out those awards of less than $1,000 which are currently exempt by regulation from any requirement to seek competition. This makes impossible any analysis of the competition that exists in a market that has consistently constituted the vast majority of contract awards. Similarly, the current FPDS reporting system does not differentiate among contract modifications included in the "small purchases" count. For example, five contract modifications to a $5 million contract, if each were under $25,000, would be counted as a "small purchase" action along with a $1,500 modification to a true small purchase contract of, say, $15,000. It almost seems that the data collection system, the FPDS, was designed to obscure the parameters of the "small purchase" market, rather than to define them.

Interestingly, the committee staff's initial inquiries have revealed that more detailed information, in significantly divergent formats, is being maintained at the Department of Defense, by one of the military services, by that services major procurement commands, and even by major procurement centers within those service procurement commands. Interviews reflect that this additional data is being collected because these procurement managers believe that it is needed to manage effectively. Presently, the Office of Federal Procurement Policy is leading a comprehensive assessment of the Federal Procurement Data System. Hopefully, the inadequacy of the data being centrally collected on small purchases will be addressed during this effort.

Congress, too, has been generally inattentive to the vast small purchase segment in the overall Federal procurement market, despite devoting substantial time and energy to Federal procurement practices, generally, and those of the Department of Defense, in particular. During the 98th Congress, three major pieces of basic procurement policy legislation were enacted into law: The "Competition in Contracting Act of 1984", a part of Public Law 98-369; the "Defense Procurement Reform Act of 1984", title XII of Public Law 98-525; and the "Small Business and Federal Procurement Competition Enhancement Act of 1984", Public Law 98-577. Yet, all of those important pieces of procurement policy legislation properly focused on the solicitation and award of contracts above the small purchase threshold, the 1.9 percent of the procurement actions (only 411,407 in fiscal year 1985) which accounted for 91.2 percent of the procurement dollars expended ($166.8 billion in fiscal year 1985). The Committee now believes, Mr. President, that the "small purchase" procurement process, should receive a comprehensive review to assure that the congressional objectives embodied in the recently enacted legislation, especially the Competition in Contracting Act of 1984, are reflected in the small purchases procurement market.

Some useful analysis of the small purchases procurement practices of the executive agencies has been undertaken through the leadership of the Office of Federal Procurement Policy [OFPP]. In seeking to implement Executive Order 12352 (Federal Procurement Reforms), issued in March 1982, OFPP organized six interagency working groups, one of which was charged with devising concrete recommendations to implement section 1(E) of the executive order. This provision of the executive order tasked the managers of the Federal Procurement System to "establish programs to simplify small purchases and minimize paperwork burdens imposed on the private sector, particularly small businesses."

The final report of the OFPP task group was issued in March 1984, and distributed to the various executive departments and agencies by OMB in May 1984. Each agency was left to its own initiative to make use of the report's array of recommendations. One of the task group's most promising endeavors, the development of a model small purchase manual for use by all agencies, seems to have languished. Mr. President, the seemingly unnecessary differences in the procedures and forms used by the various executive agencies in awarding small purchase contracts is one of the complaints most frequently heard from small businesses.

Further, Mr. President, the task group, composed of agency procurement managers, tended to focus on changes that would be most beneficial to those doing the buying for the agencies rather than those competing to win the contracts, the small business contractors. In working with the

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report of the OFPP task group on small purchase simplification, the committee will seek to inject greater balance by working closely with various groups representing the interests of small business Government contractors.

Some of the task group's recommendations were incorporated into OMB's so-called "management budget" for fiscal year 1986 (Management of the United States Government, Fiscal Year 1986). Several legislative proposals relating small purchase simplification were subsequently presented to the Congress, one being referred to the Small Business Committee and the others being referred to the Governmental Affairs Committee and its Oversight of Government Management Subcommittee. From initial analyses, it appears that they will need substantial revision, lest they impede and diminish the participation of the small business Government contractors, whose participation we should be encouraging. But, Mr. President, these legislative proposals from OMB and the underlying work done by the OFPP-led task group, do encourage me that others believe that the small purchase procurement process is in need of attention by Congress as well as the executive.

Mr. President, the committee's staff inquiry into the small purchase procurement practices of the various executive agencies is now proceeding with assistance being provided by an experienced procurement policy analyst on detail from the General Accounting Office. Let me now outline the two basic parts of our inquiry.

First, the committee staff is reviewing the regulatory guidance, principally part 13 (Small Purchase and Other Simplified Purchase Procedures) of the government-wide Federal Acquisition Regulation [FAR], which provides the basis for the array of supplementary guidance—agency small purchase manuals as well as local procedure and forms peculiar to specific buying activities. To supplement this review of the "paper guidance", the staff is conducting discussions with those agency officials charged with establishing small purchase policy guidance, with special attention being given to obtaining their views on various proposals for improvement and to solicit further suggestions based upon their experience as public purchasing professionals. In addition, the committee staff has been collecting and analyzing the studies of Federal small purchase procurement practice that they have been able to identify from sources both inside and outside of Government. Very careful attention is being directed to findings and recommendations flowing from reviews of particular procurement centers, which have been conducted by the inspectors general, or other internal audit groups, of the various executive agencies and the military departments within the Department of Defense. Included among those reports is a recent review of the small business administration's procurement operations conducted by the SBA inspector general.

The second element of the committee's inquiry includes a series of visits to selected purchasing offices with substantial small purchase procurement activity. This will permit the staff to observe the process first-hand, to test the validity of problems identified and concerns expressed by small business Government contractors. The visits will also provide the committee staff with the opportunity to evaluate proposals for improvement from the viewpoints of both those who execute small purchase procurements on behalf of the Government and those small business contractors who compete for these contract opportunities. During these visits, the committee staff will be working closely with both the agency competition advocates and SBA respresentatives at the visited purchasing center, especially the breakout procurement center representatives.

Initially, the committee staff are focusing on Defense Department purchasing centers, since DOD has the lion's share of small purchase procurement activity in terms of both numbers of actions and dollars expended. According to the Federal Procurement Data System's report for fiscal year 1985, DOD reported 14.5 million procurement actions below the $25,000 small purchase reporting threshold, some 70 percent of the total number of actions, government-wide. These small purchase actions had an aggregate value of some $12.5 billion, which was 77.5 percent of the $16 billion Government-wide total.

Mr. President, there are two additional reasons for looking to DOD small purchase procurement activities first. Small purchase procurement operations, especially high volume operations, are very labor intensive. Given the shear volume of DOD's small purchase procurement responsibilities, and the fact that much of this activity is concentrated in repetitive buys of spare parts and support equipment by a relatively few inventory control points that stock the DOD supply system the military services and the Defense Logistics Agency have undertaken their own initiatives to make the process more efficient. Principally, they have undertaken the expanded use of computers to realize faster purchases with fewer people. For example, the Army Materiel Command [AMC] has been testing an automated procurement system on its small purchase procurement operation at communications-electronics command [CECOM] at Fort Monmouth, NJ. With the success of the tests at CECOM, AMC's Command Automated System for Procurement (CASPR) will be expanded to the small purchase operations at AMC's other inventory control points. Similar efforts are underway within the Navy at both its ships parts control center and the naval supply center, Norfolk. The Defense Logistics Agency has been operating an automated small purchase procurement activity at the defense general supply center in Richmond.

While recognizing the substantial efforts at improvement now being taken throughout the Department of Defense, we cannot ignore the facts that many of the spare parts "horror stories," which have so captured the public's attention and so discredited DOD's acquisition process, were for buys that fell below the $25,000 "small purchase" threshold, and were, therefore, receiving almost no review as to the noncompetitive character of the awards or the reasonableness of the prices resulting from these sole source buys. Mr. President, the two $659 ashtrays for the Navy, E–2C Hawkeye purchased by the Naval Air Station at Miramar, CA, were acquired on a sole source basis, using small purchase procedures.

The committee staff is planning to visit some of these base-type small purchase operations. And, if time permits, visits will be made to civilian agency activities with low-volume small purchase procurement operations. It is our intention to maintain a Government-wide perspective in our inquiry and in the recommendations that flow from the committee's efforts to simplify the Government's small purchase market to foster small business participation.

Mr. President, the committee staff investigation which I have just outlined will result in the issuance of a committee staff report. If warranted, the committee will hold multiple days of hearings during the early spring. The purposes of these hearings would be threefold: (1) to review the findings and recommendations of the staff report, hearing from Representatives of both the Federal agencies and the small business government contractors; (2) to motivate executive branch procurement policymakers to make appropriate administrative changes to foster expanded small business participation in the "small purchase" Federal procurement marketplace; and (3) to shape any appropriate legislative package needed to fully attain the objectives of small purchase procurement simplification.

Mr. President, it would be my expectation that any legislation flowing from this committee effort would likely fall within the jurisdiction of the Governmental Affairs Committee, and its oversight of Government Management Subcommittee. Specifically, we may well make first use of the authority to test innovative procurement procedures which is provided by section 15 of the Office of Federal Procurement Policy Act.

This important committee effort in the procurement arena is being carried forward on a bipartisan basis. My colleague and ranking minority member of the Small Business Committee, DALE BUMPERS, has contributed his staff resources to the effort. We would welcome the contributions of committee members active in the Federal procurement arena: Senator DIXON, who joined me in the last Congress in moving S. 2489 into law; Senator NICKLES, chairman of our Procurement Subcommittee; my friend from Michigan, Senator LEVIN, who serves as the ranking minority member of our Procurement Subcommittee as well as companion panels on the Armed Services and Governmental Affairs Committees; and my friend from Georgia, Senator NUNN, former ranking minority member of the committee and presently ranking minority member of the Armed Services Committee. Senator NUNN has repeatedly suggested the need to test innovative procurement techniques to simplify many defense procurements; we look forward to exchanging ideas with him as our two efforts move forward.

Throughout this committee effort, I have instructed our staff to maintain a close liaison with the staff of the Governmental Affairs Committee, especially its Subcommittee on the Oversight of Government Management, chaired by Senator COHEN, who along with Senator LEVIN, carried the Competition in Contracting Act of 1984 into law. Concurrently, close liaison is also being maintained with the staff of the Committee on Armed Services, and its Subcommittee on Defense Acquisition Policy, chaired by Senator DAN QUAYLE. If the experience of the last Congress are any guide, such a cooperative working relationship among our three committee's could well lead to a followon success to the effort that saw the enactment of important companion procurement reform legislation: The "Defense Procurement Reform Act of 1984," title XII of Public Law 98-525, and the "Small Business and Federal Procurement Compeititlon Enhancement Act of 1984," Public Law 98-577.

Mr. President, the small purchase procurement simplification initiative of the Committee on Small Business is a major undertaking that I wanted to share with my colleagues. Once again, I enlist their suggestions and their support, for if our effort is successful the ultimate beneficiaries will be many thousands of small business Government contractors and the Government agencies to whom they will be providing their supplies, services, and construction.●

● Mr. NICKLES. Mr. President, as the Chairman of the Small Business Committee has indicated, small purchase procurements need to be reviewed for competitiveness. Substantial changes in the law governing these procurement actions were made last year. The Small Business Committee is beginning an initiative to review and evaluate those changes to see if further improvements in the Governmentwide procurement system are necessary.

The volume of small purchases is staggering. The Federal Government expended $183 billion in fiscal year 1985 for approximately $21.1 million procurement actions; $20.7 million of these actions were small purchases, that is, less than $25,000. The dollar amount of these actions were $16 billion, small in comparison to total procurements. So pervasive are the small purchases, however, two such purchases are made every second of the workday.

I anticipate that we will find that the reforms made in 1984 for more competitive purchases will show reductions in the cost of procurement actions. Changes were desperately needed in light of the ongoing revelations of exorbitantly priced spare parts by the military. However, we need to verify any improvements and propose further changes if needed.

Given the chance to compete, small business has shown the innovation and efficiency to produce substantial savings in our procurement budget. The use of set-asides and other artificial means of promoting small business participation only glosses over the problem. What we need to emphasize is the ability and opportunity of small business to compete head-to-head with the larger companies.

In hearings I have held in Oklahoma, small businesses are asking for the chance to compete and a reduction of the burdensome paperwork required in Federal procurements. The Committee will also address the paperwork issue as we review the Small Purchase and Other Simplified Purchase Procedures in the Federal Acquisition Regulation.

Mr. President, I want my colleagues to know that the committee will be proceeding in this fashion and as chairman of the Subcommittee on Government Procurement, I solicit their input on the scope and nature of our work.●

● Mr. COHEN. Mr. President, I rise today to commend my colleague from Connecticut, Senator WEICKER, for taking the initiative to review the Federal Government's "small purchase" procurement practices. With much of the focus these days on major weapons system acquisition, not enough attention is being paid to the tens of millions of "small purchases" made each year.

While these purchases, in the aggregate, represent only a small percentage of the Government's annual procurement budget, they account for the vast majority of transactions. For this reason, I agree with the chairman of the Small Business Committee that Congress should look beyond the big-dollar buys to see how the small dollars are being spent.

The Competition in Contracting Act [CICA], which was passed last Congress, requires agencies to use competitive procedures, except under certain circumstances, in procuring property or services. CICA recognizes that the competitive procedures required of large purchases may not be cost-effective for small purchases and, therefore, requires that agencies provide "special simplifed procedures" for those purchases under $25,000.

These procedures do not, however, exempt agencies from awarding contracts competitively. Rather, CICA specifically states that agencies, in using small purchase procedures, "shall promote competition to the maximum extent practicable." While this does not mean that agencies are to use the formal source selection procedures proscribed by CICA, they should make some effort to solicit offers from more than one source.

Unfortunately, this does not seem to be the case in over one-third of the small purchase contract awards, according to the Small Business Committee staff's preliminary examination. I would encourage my friend from Connecticut, in reviewing the Government's "small purchase" procedures, to carefully consider the extent of competition, determine why so many contract awards are made noncompetitively, and perhaps recommend what can be done to encourage more competition on these small-dollar buys.

As chairman of the Governmental Affairs Subcommittee on Oversight of Government Management, which would have jurisdiction over any legislation in this area, I again commend Senator WEICKER for undertaking this initiative and look forward to working with him on this important issue.●

● Mr. DIXON. Mr. President, I am pleased to take this time to share with our colleagues the current initiative that we are taking in the Senate Small Business Committee to review the Federal Government's small purchase procurement procedures. I also look forward to again working with Chairman WEICKER and the other members of the Small Business Committee on a major procurement initiative.

During the past several years, Congress increased from $10,000 to $25,000 the level below which Federal agencies may use small purchase procedures. This increase has been consistent with efforts to raise the threshold on other related procurement activities. A number of agencies have also taken

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their own initiatives, or have made recommendations for improvements to the policies and practices for using small purchase procedures.

However, Congress has not undertaken a systematic or comprehensive review of the agencies' implementation of the small purchase programs, or assessed the advantages and disadvantages of this program to the small business contracting community. The Small Business Committee's review is therefore timely and important, particularly in light of the fact that over 98 percent of all Government contract actions, and over 70 percent of all DOD contract actions, fall under the $25,000 small purchase level.

Mr. President, in 1984 Senator WEICKER and I joined together in the Small Business Committee to greatly expand the opportunities for small and minority businesses to participate in the Federal Government purchase of major systems and subsystems. Our efforts culminated in the enactment of the Small Business and Federal Procurement Competition Enhancement Act of 1984, Public Law 98-577. In addition, because of the initiatives we took in the Small Business Committee, major portions of our work were made applicable to DOD and incorporated in the Department of Defense Procurement Reform Act of 1984, title XII of Public Law 98-525.

The procurement work that we have undertaken on the Small Business Committee in the past gives me great hope that, in the near future, we may be able to recommend to our colleagues a package of procurement recommendations that will improve the Federal Government's use of small purchase procedures, reduce the time and cost of conducting these contract actions, and, by expanding competition, increase the participation of small and minority businesses in the Federal marketplace.

I would welcome the comments and assistance of our colleagues, the small business community, and the Federal agencies in this review. I also want to compliment the Small Business Committee's chairman [Senator WEICKER] and ranking member [Senator BUMPERS] for their leadership in this comprehensive and bipartisan initiative.●

● Mr. NUNN. Mr. President, I am pleased to join with the chairman of the Senate Small Business Committee, Senator WEICKER, in calling attention to the work that the Senate Small Business Committee has under way reviewing the small purchase procurement practices of the Federal Government. This review is long overdue, and represents another important procurement initiative by the Small Business Committee. The executive branch has also undertaken some valuable reviews of their own policies and procedures, and have made recommendations which the Small Business Committee will be analyzing, as well. These recommendations, coupled with the committee's inquiry, should provide the committee with a solid foundation from which we can assess the need for further legislative or regulatory action in this area early next year.

Mr. President, there is no secret that the Federal acquisition process has become overly complex, time-consuming, and burdensome. During the past several years, Congress has undertaken a wide range of procurement reforms. Many of these reforms have focused on the highly visible, large dollar value purchases. In the Department of Defense, for example, the legislative and regulatory attention has been directed primarily at the procedures for purchasing major weapons system.

But as Chairman WEICKER correctly noted in his statement, the overwhelming number of procurement actions in the Federal Government generally, and in the Department of Defense specifically, are for purchases under the "small purchase" threshold of $25,000. Even though these purchases account for less than 9 percent of the dollars of Federal procurement activity, they account for over 98 percent of the contract actions on a Government-wide basis, and over 70 percent of the contract actions within DOD. When properly used, the small purchase procedures provide a means for the agencies to carry out the millions of routine, noncontroversial, low dollar value contract actions that the Government must make.

Mr. President, I believe it is important that the Congress carefully study the procedures used to award these contracts, and it is appropriate that the Small Business Committee undertake this initial review at this time. The need for congressional oversight in this area is long overdue.

Furthermore, many of the small and minority businesses that we have consistently tried to encourage to participate in the Federal procurement process can be expected to receive their first contracts as a result of the small purchase process. Yet with the large number of potential competitors for these contracts, it was surprising to note that almost half of the small purchase actions were still awarded on a "non-competitive" basis. Any reform of the small purchase procedures which further expands the opportunities for small and minority businesses to actively and aggressively compete for a share of the Federal procurement dollar enhances the viability of the business itself and pays both direct and indirect dividends to the Federal Government.

Finally, I believe we in Government need to find a way to simplify the total acquisition system. Any initiatives that we may adopt in the area of small purchase procedures could provide a potential model for streamlining and simplifying the high dollar value purchases in the Federal Government, particularly in the Department of Defense.

I want to compliment the chairman of the Small Business Committee on undertaking this initiative. As a senior member of the Small Business and Governmental Affairs Committees, and as the ranking member of the Senate Armed Services Committee, I look forward to working with him and Senator BUMPERS on this timely review of the Government's small purchase procedures.●

● Mr. BUMPERS. Mr. President, I am pleased to join the Senator from Connecticut, the distinguished chairman of our committee, in introducing the Small Business Committee's initiative to simplify "small purchase" Federal procurement practices. The committee has begun an extensive inquiry into the "small purchase" practices used by various Federal agencies. The purpose of the study is to devise ways to simplify Federal small purchase procurement procedures to encourage small businesses to compete in this segment of the Government procurement market.

A "small purchase" is one valued at less than $25,000 and, by statute, is to be awarded through simplified procedures. Out of the total 21.1 million procurement actions recorded by the executive branch in fiscal year 1985, 98.1 percent were below the small purchase threshold, but those actions accounted for only 8.8 percent of the funds expended for all procurement actions. In spite of the fact that the Government procurement market is flush with small purchases, little attention is paid to that side of the market because the related dollar expenditure is so low. Congress did recognize this potential small business market in 1978 when it established a statutory small business reserve for small purchase contracting opportunities. Under Public Law 95-507, all procurements conducted under small purchase procedures were reserved for exclusive competition among small business concerns.

Despite this statutory backing, it is estimated that small businesses receive less than 50 percent of the small purchase contract awards. In fiscal year 1985, somewhere between 30 and 40 percent of all small purchase procurement actions were made on a noncompetitive basis. The purpose of our inquiry is to find out why this is so, how much it costs to use noncompetitive procedures and what changes should be made.

To make it clear that the Competition in Contracting Act of 1984 requires that all Government purchases, including those below the small purchase threshold, are to be made on a competitive basis, the committee hopes to do the following: first, focus attention on the fact that 98 percent of all procurement actions are considered small purchases; second, create through the Federal Procurement Data System a method of determining whether an action is a new contract award or a contract modification which need not be made on a competitive basis; third, work with the Office of Federal Procurement Policy and its task force to devise concrete recommendations for establishing programs to simplify the small purchase procurement process; fourth, review the regulatory guidance provided in the Federal Acquisition Regulation for small purchases and discuss methods of improvement with those agency officials charged with establishing small purchase policy guidance; and fifth, have committee staff visit selected purchasing offices which have substantial amounts of small purchase activity and witness first-hand the problems identified by small business government contractors.

The committee has scheduled to have this review completed by late March 1986 and expects to conduct hearings on the results by April. The intended result is to create a small purchase procurement market which benefits those thousands of small businesses which can provide valuable services to the Government. This is a fully bipartisan effort in our committee, as the other statements by my colleagues reflect, and I hope the Defense Department is aware of our commitment to reform. I am instructing the minority staff of the Small Business Committee to participate fully in the background work for this projet, and I look forward to working with Senator WEICKER and my other colleagues on the committee on this important issue.●

OJO CALIENTE CRAFTSMAN CO.

● Mr. BINGAMAN. Mr. President, on my last trip to New Mexico, I made a special trip to the small northern New Mexico community of Ojo Caliente to visit a unique family-owned company, Ojo Caliente Craftsman. The company is owned and operated by Daniel Joseph, Julian Joseph, and Phil Archuleta. Ojo Caliente Craftsman fabricates and manufactures safety directional and informational signs for traffic control. The signs are constructed with the latest in silk-screen technology. Presently, 60 percent of their contracts are with the U.S. Forest Service and 30 percent are with the State of New Mexico. The other 10 percent are out-of-State contracts.

The reasons for my visit was to commend Ojo Caliente Craftsman for their innovative business practices and achievements in improving productivity and honor them as runner-up in a recent Senate Productivity Award. It is appropriate, I believe, that its contribution to northern New Mexico's economic development be recognized in this manner.

The population of Ojo Caliente is 415 and Ojo Caliente Craftsman employs 45 people. It is the company's philosophy to employ workers from Ojo Caliente or the immediate surrounding areas. Such commitment to local economic development is exemplary in this day and age of high technology and industrial expansion. I have great respect for Mr. Julian and Daniel Joseph and Mr. Phil Archuleta for their hard work, for their quality product, and for their commitment to creating and maintaining opportunities for challenging employment to the citizens of Ojo Caliente.●

COMMENDING ROBERT L. SUMMITT ON PROMOTION TO RANK OF REAR ADMIRAL, MEDICAL CORPS, U.S. NAVAL RESERVE

● Mr. SASSER. Mr. President, I rise today to pay tribute to Robert L. Summitt, the first person to be promoted to the rank of admiral who is also dean of a medical college. This is only the latest of many triumphs that Dr. Summitt has experienced during his distinguished career.

A native of LaFollette, TN, Dr. Summitt graduated from Davidson College and received his doctor of medicine from the University of Tennessee College of Medicine in 1955. Upon completion of his internship, he entered the U.S. Navy in 1956. While in the Navy he was designated a flight surgeon in 1957, a position he maintained during his active career in the Navy.

When Dr. Summitt left the Navy in 1959 he began a 2-year residency program in pediatrics at the University of Tennessee Medical College-City of Memphis Hospitals. Following a fellowship at the University of Tennessee and a fellowship in genetics at the University of Wisconsin, Dr. Summitt joined the faculty of the University of Tennessee College of Medicine. Since April 1981 he has been the dean of the college of medicine.

As a member of the Naval Reserve since 1957, Dr. Summitt has taken his commitment of service seriously by creating innovative programs to assist the Navy with its medical readiness planning. One of these programs is Naval Medical Reserve PRIMUS [physicians reservists in medical universities and schools], which Dr. Summitt was instrumental in organizing. This is a nationwide program with the detachment at the University of Tennessee being the Nation's largest and most active.

Dr. Summitt is to be commended for his outstanding work not only to his country, but to the advancement of the study of medicine. He has set an example of dedication to duty which should be emulated by all. I am sure that Dr. Summitt will experience more honors in his distinguished career, and I congratulate him on his most recent promotion.●

SPEECH DELIVERED BY THOMAS A. DINE ON UNITED STATES-ISRAEL RELATIONS

● Mr. WILSON. Mr. President, as is the case with many policy issues with which the Congress is presented, there are often many possible approaches and many competing concerns. And, as we search for answers, we speak with our constituents, with groups that have interests in and expertise with the questions at hand. When the question concerns Israel, there are few groups as understanding of the issues and well prepared to meet them as the American Israel Public Affairs Committee.

Mr. President, the executive director of AIPAC, Thomas A. Dine, recently gave a speech before the Comstock Club in Sacramento entitled "U.S.-Israel Cooperation: Pressing the Peace Issue." It touches on matters across the spectrum of United States-Israel concerns, from the very troublesome Pollard spy case to basic issues affecting the peace process in the Middle East. I believe that the speech provides important insights on a number of topical issues, and I therefore ask that it be printed in the RECORD.

The speech follows:

UNITED STATES-ISRAEL COOPERATION: PRESSING THE PEACE ISSUE

(By Thomas A. Dine)

Thank you Harry Tonkin, for that generous introduction. It is a privilege to come before the Comstock Club, and I look forward to receiving your questions, indeed hearing your comments, following my prepared remarks.

What I plan to do today is, first, speak about the whys and wherefores of the U.S.-Israel relationship, then the part that the American pro-Israel lobby plays in this and, third, analyze the most pressing issue of all in the Middle East, the peace process.

But, before I address these, I want to comment on the topic that has been in the headlines for the past ten days, the question of a U.S. Navy civilian employee, a counter-intelligence analyst, selling our documents to Israeli government officials.

It is a fact that the bilateral partnership between Washington and Jerusalem is strong, indeed very strong today, and rests on a firm moral, political, and military foundation. But it is also fact that the Pollard spy scandal has cast a shadow over the relationship. A whole list of allegations have been made by our Justice and State Department against the accused; in Israel a stunned and skeptical public, press, and parliament have vigorously asked their government to explain why certain officials would purchase U.S. Government secrets.

Yesterday, the Israeli Cabinet, after a week of hesitation, made a clear statement about the Israeli role and apologized to the

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American government. I am pleased by this move, but I believe it behooves both governments to move quickly and forthrightly on this matter and get back to the basics in the bilateral relationship. U.S. interestes are involved; so are Israel's.

I suggest several guidelines to overcome the current problem:

(1) The policy of friends not spying on friends must be reaffirmed and adhered to. The Pollard case—and perhaps revelations about the U.S. covertly acquiring Israeli military plans—are the exception, not the rule. The Cabinet statement yesterday was explicit: "Spying on the United States of America stands in total contradiction of our policy." The White House articulated similar words last week. Neither is to engage to covert activities against the other.

(2) All the purloined papers in Government of Israel hands must be returned to Washington.

(3) Israel should make available to U.S. investigators, for questioning, those Israelis involved with the arrested John Pollard.

(4) A credible, independent inquiry needs to be undertaken by Israel, led by a respected public figure. As we in this country have painfully learned, the government cannot investigate itself. There are many individuals of stature in Israel who could explore and analyze the initiators of this episode, how it took on a life of its own, and why there was a failure of accountability.

(5) Those Israeli officials involved, outside and inside the Israeli political mainstream, must be dealt with in an appropriate manner and steps must be taken so that such an episode not be repeated. It is encouraging that the unit, perhaps a rogue outfit, responsible for this egregious incident will be dismantled.

(6) And finally, underlying problems in the U.S.-Israel partnership revealed by this anomaly must be dealt with in a spirit of cooperation which has frankly characterized the bilateral relationship over the years. I would start first with the two intelligence communities. Enormous amounts of information are already shared. As one high-ranking U.S. official told me last week, "An intimate degree of cooperation has been achieved between the intelligence services. . . . It is broad and far-reaching and among the best we have in the world." We have learned, however, that there is information not shared. Awkward arrangements need to be squarely dealt with. Friends do check up on friends, but public accusations of parallel spying must stop. The only beneficiaries of current tensions in American-Israeli ties are the Soviets and their surrogates such as Syria. The U.S. has no interest in damaging Israel's intelligence abilities; President Reagan personally thanked Prime Minister Peres, when he was in Washington, for Israel's help in both the *Achille Lauro* hijacking and the U.S. interception of the flight with the perpetrators of the ship's hijacking and the Klinghoffer murder. Israel has no interest in upsetting American intelligence efforts. It would be timely, then, for the heads of the CIA and Mossad to meet in an intelligence summit so that inconsistencies among various agencies in both governments can be ironed out, working parameters reviewed, and altered arrangements made.

As this episode is fully and thoroughly addressed inside Israel and between the two governments, we must not be diverted. We need to keep our eyes on real American interests in the region:

The preservation of the U.S.-Israel alliance;

The preservation of a secure and sound Israel;

The preservation, indeed the forwarding of, an on-again, off-again peace process.

Let me now turn to the essence of the U.S.-Israel relationship. What makes the two peoples, the two democracies, kindred spirits?

First are the unique moral and political bonds between the two countries. The nation-state of Israel, recreated out of the ashes of the Holocaust and the results of British colonialism, since May of 1948 has proved itself to be a determined, feisty democracy, with the promising energy and visions of an immigrant people.

Israel has emerged as the only stable country in the Middle East. It has and regularly pursues meaningful free elections. It possesses a robust free press, checks and balances to prevent and correct abuses of authority, as witness what happened following the Sabra and Shatilla tragedies in September 1982 and now the Pollard case, extensive protections for the rights of individuals and minorities, basic equality for women, and other safeguards that are typical of a free society. It stands in sharp contrast to the other countries of the region—feudal monarchies like Saudi Arabia, one-bullet regimes like Jordan and Egypt, dictatorships like Syria, or radical states like Libya and Iran.

The moral and political bonds between the United States and Israel give them more than a common value system, a common sense of purpose. It means that Israel is and will be allied with the United States over the long term, long after erstwhile friends of convenience are supplanted and superceded. Israel has emerged as a geopolitical ally of the United States. This was enunciated by President Reagan on November 29, 1983 in his announcement of strategic cooperation between the two countries. Since then, Israel has demonstrated on multiple occasions its strategic value to the United States. Israel has:

Undertaken military planning with the United States to meet threats to mutual interests in the Middle East and the Eastern Mediterranean. And today through Wednesday discussions are again underway in Washington to enhance plans and develop new areas of cooperation.

Participated in joint naval exercises with the Sixth Fleet.

Made facilities available for the storage and maintenance of U.S. materiel for American use in a conflict. Pre-positioning of materiel is one agenda item being discussed this week.

Engaged in military training exchanges with the United States Marines.

Entered into formal arrangements and conducted two simulated tests to provide access to its sophisticated hospital facilities for U.S. military casualties in a conflict.

Undertaken joint research and development projects with the Pentagon to build on the technological expertise acquired from decades of conflict.

Stepped up its cooperation with the United States to combat international terrorism.

These undertakings have considerable strategic significance for the deterrent posture of the United States in the Middle East and Eastern Mediterranean. They provide tangible evidence to the Soviet Union and its clients that U.S. capabilities are supplemented and supported by Israel. Although, of course, Israel is a small nation, the Soviet Union understands better than some just what this means:

Israel's knowledge of and experience with Soviet equipment have for many years helped the United States develop more effective military countermeasures and tactics.

Israel's naval and air forces are sufficiently strong to challenge Soviet naval forces in the Eastern Mediterranean and therefore make a significant difference to the Soviet calculus of the balance of power in that area when added to American force deployments.

Israel has demonstrated the vulnerability of Soviet SAMs and MiGs, forcing the Soviet Union to divert expenditures from force expansion to force renovation, and discrediting the weapons on which much Soviet influence depends. The recent Syrian-Israeli dogfight over Lebanon and Syria is only the most recent example of this. The Israelis devised an innovative application of the U.S.-made AIM9L air-to-air missiles—which the Israelis fired from their F-15s at a range of twenty miles. Pentagon officials were astounded. "It is a remarkable feat," said one. "We've never fired one beyond the range of thirteen miles!"

The U.S. has invited all NATO nations, Japan, and Israel to participate in the research and development of the Pentagon's proposed Strategic Defense Initiative (SDI) and only the United Kingdom and Israel have said, "Yes!"

Israel's role as a friend and ally of the U.S. goes beyond the confines of military cooperation in the important Middle East region. More and more, it is a two-way street.

According to Congressional testimonies, over the last few years, Israel has voted with the United States in the United Nations in the highest percentage of any other country in the world, including the governments of Canada, England, France, Germany, Italy, and Japan.

After Spain, Greece, Turkey, and Oman rejected the U.S. Government's request to station a Voice of America transmitter on their soils to beam new programs into the Soviet Union, Washington went to Jerusalem and Israel, after intensive debate, accepted.

Israel now implements technical assistance development programs in Africa, at America's request.

And in the war on terrorism, America and Israel work side by side, as I mentioned earlier, in the whole Achille Lauro affair.

And it should be noted that with all of this, the Legislative and Executive branches of our government have come to view U.S. economic and military assistance to Israel as what several Senators label, a "bargain." To put the grants and loans slated for Israel into their proper perspective, just compare them to what the U.S. annually pays to protect Western Europe and Japan. Top Pentagon and State Department officials estimate that U.S. defense of Europe costs, in actual cash outlays alone, over $129 billion a year. The defense of Japan and Korea costs us an estimated $47 billion per year.

Contrast this with military aid to Israel, totaling $1.8 billion this year. And remember that all of the military grants for Israeli defense purposes are spent right here in the U.S. In short, we have a strong, deepened affinity for Israel and we have correctly backed that up with American military and economic assistance.

The American people at large are quite aware of the importance of this relationship. Three weeks ago, a Harris Poll showed support in this country for Israel to be at an all-time high. Sixty-four percent of Americans side with Israel on Middle East questions, 14 percent with the Arabs. Nearly 90 percent, according to Harris, see the PLO as an enemy of the United States.

The pro-Israel community is the activation of this American consensus. In Washington, the American Israel Public Affairs Committee or AIPAC is the keeper of that consensus. AIPAC is the political arm of America's pro-Israel activists. As a citizens' group, we promote through the political and policy process close and consistently strong U.S.-Israel relations. As such we contribute to Mr. Jefferson's and Mr. Madison's grassroots democracy.

AIPAC's objective is to affect the outcome of the foreign policy debate in our country. We engage in lobbying on Capitol Hill and within the Executive branch. We work closely with Members of Congress, with their staffs, with House and Senate committees, with Administration political officials, with career experts at the National Security Council, the Departments of State, Defense, and Treasury, and the CIA.

We engage in grassroots political action across the country. AIPAC members, in Congressional District after Congressional District, are Jews and Christians, liberals and conservatives, neo-liberals and neo-conservatives, Democrats and Republicans. We try to enlarge and enhance the pro-Israel consensus that stretches from one end of the political spectrum to the other. Our personal views—citations of history or of future trends notwithstanding—take a back seat as we build political bridges, not burn them. In short, we provide a domestic base to U.S. policy in the Middle East.

What about the prospects for peace between Israel and its neighbor Jordan, and perhaps even Palestinians who dwell on the "West Bank?" Why is the peace process, begun so dramatically by President Sadat and joined in by Menachem Begin, now in such a precarious position?

The seemingly endless Arab-Israel conflict needs to be broken down into each of its significant parts. We need to see the cards each player holds as they maneuver around the idea of an international peace conference, perhaps to be hosted by the United Nations.

First are the political activities of the PLO. Its military arm is weaker than ever, but Yasir Arafat has played Arab leaders off each other and gained himself continued clout. Israel and the United Sttes have both denied Arafat a place in peace negotiations as long as the PLO rejects or refuses to acknowledge Israel's right to exist and continues to uphold terrorism as its form of political action. Egypt embraces Arafat, but Jordan more and more is ambivalent, trying to distance itself from an unyielding chairman. King Hussein remains wedded to the February 11th accord with the PLO—but with less and less enthusiasm. A key happening in the peace process would be Hussein breaking from Arafat and dealing directly with Israel.

This leads to the second player in this precarious situation, Syria. Syria's alliance with the Soviets and Syria's efforts to divide-and-conquer the PLO compose one Syrian objective: preeminence in the Arab world. Destroying Israel is, in truth, less a Syrian goal than is the unification of all the Arab states under a banner of anti-West, anti-Zionist slogans, with Syria itself in the lead. Hatred is a significant, unifying force—and Syria's Assad intends to exploit it. The terrorism exported by Assad is his tool to train cadres—and it is a crafty mechanism. No public attacks, but frequent quiet murders. This ploy appears to keep Hussein's attention; it may also put the King into a political quagmire. Recent signs of reconciliation between Syria and Jordan have raised eyebrows in Washington. Will this lead to further motion in the peace process or less? Perhaps Syria is being drawn into the framework of an international conference. Damascus says it want in if the Soviets can play a role. This affects Palestinian representation as well, becasue Syria wants to bring its own Palestinian contingent and so further weaken Arafat. But, on the other hand, Syria remains firmly in the Soviet sphere and advocates a pan-Arab delegation. Moving into an international conference with these intentions puts further pressure on Jordan to adopt a non-negotiating line toward Israel.

Meanwhile, Jordan retains a moderate position. Hussein's overtures to Shimon Peres indicate his interest in rapproachment with Israel and his need for friendship with the United States. But the King is dragging his heels as long as he seeks an Arab consensus and Arab cover. In doing so, the King allows Arafat to retain a veto over his moves and allows Syria to blackmail him against Sadat-type boldness.

The Soviet Union wants to join the international peace conference as well—but it wants peace far less than it wants influence and turmoil. Soviet interests are best served by complicating life for Western powers, especially the U.S. In fact, the whole idea of an international conference itself originated with Brezhnev. Such a grouping would inject Moscow into a central nerve of Middle East decision-making. Having employed terrorism as an ineffective wedge for their policies—the Soviets now seek to come to the table. Having realized they cannot disrupt peace directly, they hope to at least manipulate the outcome of peace talks. In this effort, country-courting has been a new and successful Soviet ploy. Two weeks ago, the United Arab Emirates followed Oman's lead and established diplomatic relations with the Soviet Union. Previously, Kuwait was alone among the Gulf Cooperation council states to have formal ties with the Soviets. These maneuvers are calculated. In stark contrast to committed U.S.-Israel friendship, the Soviets establish ties that bind with the adhesive of opportunity. The pure pragmatism of an alliance determines its creation—or its cremation. The Soviets are playing political hard ball—and everybody knows it. The stopper is the condition issued by Prime Minister Peres—Soviet participation only if Moscow renews diplomatic relations with Israel.

Meanwhile, Washington and Jerusalem have coordinated their roles in this process. There is agreement on four major principles:

An international conference should only be an accompaniment, a prelude, not a place to negotiate. It cannot replace direct, bilateral talks between Jordan and Israel.

At an international conference, Syria cannot be allowed a veto.

The PLO, as presently constituted, cannot be involved because of its refusal to recognize Israel's right to exist, to renounce terrorism totally, and to accept U.N. Resolutions 242 and 338. Palestinians must be people of peace, not terror.

The Soviet Union can only be involved if it is prepared to alter its diplomatic policies toward Israel. Hopefully this will include the emigration of Soviet Jewry.

In this vein, Israel's Prime Minister has made it clear to his Likud coalition partners at home and his American ally that if the right conditions are met, he will:

Agree to an international conference with Jordan;

Agree to a PLO presence; and

Agree to Soviet participation.

The time for a break-through for peace is now. It is clear Peres is ready to play. The ball is in Hussein's court. There is motion among the players, but the process needs forward play, movement underway, real exchange.

The Reagan Administration has made it clear—over and over again—that Israel is the reality with which the Arab nations must deal. Arab nations must rid themselves—once and for all—of their delusions and agree to co-exist with an Israel that is here to stay. Our focus is on Jordan, to break through the vultural and political inhibitions in the Arab world and to at last deal directly with its neighbor across the river.

Prospects for peace are better than they have been in a long time. Peace is the hope of the American pro-Israel community. This is the hope of the U.S. Congress and Administration. This is the hope of the Israeli Government. And in this special season for all of us, this could become the new reality we deal with and nurture in 1986.

Thank you.●

SENATOR ROCKEFELLER'S REMARKS AT MARSHALL UNIVERSITY

● Mr. PELL. Mr. President, my distinguished colleague and the junior Senator from West Virginia recently addressed a large gathering of business leaders, educators, and students on the role of education in strengthening his State's and our Nation's competitiveness. He made his remarks at Marshall University, one of West Virginia's fine public institutions, at a special meeting of the Huntington, WV, Rotary Club on November 23, 1985.

It is indeed a fine statement on the critical need to make a major investment in education at all levels. Senator ROCKEFELLER's assistance in elementary, secondary, and higher education, and I would respectfully request that his Marshall University speech, "Education: Responding to the Competitive Challenge" be inserted in the RECORD in its entirety.

The remarks follow:

"EDUCATION: RESPONDING TO THE COMPETITIVE CHALLENGE"

Today I would like to talk with you about the most critical issue facing West Virginia and our country: how we insure our economic competitiveness in a world economy that is changing at a stunning pace.

We are facing this challenge at a time when our businesses, our workers, our universities—even our public schools—compete with those around the world. That's a fundamental change from the 1950's and 60's; it places major responsibilities on the entire nation; and it adds a new dimension to the economic problems already facing our state.

I cannot think of a better gathering to discuss the problem of economic competitiveness than here at Marshall University. So

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many of you—through the Center for Regional Progress and other initiatives—have been deeply involved with revitalization activities in this state. From first-hand experience, you know how much is at stake in terms of jobs. You've worked hard to generate public and private investments that contribute to growth and development of our local economies.

I see the challenge of economic competitiveness as a three part problem. We must have economic and trade policies that give us a reasonable chance to compete. We must also look at the way we do business and adapt some of our habits to the current realities of intense international competition. Finally, we must step up critical investments—both public and private—in areas that can boost our industrial performance: principally, education, training, research, and advanced technology.

Let's talk first about economic and trade policy.

West Virginia's unemployment rate of 12.6 percent is the legacy of a brutal recession and lopsided recovery. Throughout this period, our industries have struggled with the handicaps of high interest rates and an overvalued dollar—and many of them continued to lose jobs. Now, faced with an unprecedented trade deficit of at least $150 billion this year, the rest of the country is realizing the problem isn't confined to states like ours. The overvalued dollar has been a great equalizer: inflicting damage on West Virginia's coal miners, Iowa's wheat farmers, oil drillers in Texas, aircraft producers in Washington state and the computer industry in California.

Now that trade is a front burner issue in the Congress, there are some encouraging signs. The actions taken by the United States and other industrialized countries in the last two months to reduce the value of the dollar are most welcome, and the Administration should be commended for its role in initiating them. But the dollar is still roughly 30 percent higher, relative to other major currencies, than it was in 1980. Continued international monetary coordination will help, but real headway will depend on fundamental changes in general economic policy—both here and abroad.

Here at home, we have to substantially reduce the federal budget deficit. If coupled with changes in monetary policy, deficit reduction will help us to lower interest rates and produce a more favorable set of exchange rates. We must reduce the deficit fairly, so that we don't sacrifice critical investments for our future, but we must reduce the deficit. I supported the Gramm-Rudman amendment mandating a five year glidepath to a balanced budget because it was a departure from business as usual, and business as usual hasn't come to terms with the deficit crisis.

We must also stand up to unfair trade practices, and insist that other countries open their markets to our products and services. Nobody likes to resort to protectionist actions; as we export roughly 20 percent of what we produce in West Virginia, we cannot take lightly possible threats of retaliation against our exports.

But our trade laws are there for a reason, and we in the Congress have to continue to pressure the Administration to enforce them much more aggressively. We can't keep on doing nothing when other countries subsidize their exports and close their markets to our products. It makes you wonder what the Administration is saving its enforcement powers for if competitors feel free to resort to a variety of "non-tariff" barriers like standards, tests, and regulatory requirements to keep our products out.

Henry Kissinger wrote recently that "the United States cannot be the only nation practicing free trade in an increasingly mercantilist world." Where trade policy is concerned, we cannot drift while other countries chart their course. Try explaining to an unemployed steelworker how our government can preach free trade, while government ownership, subsidy and control of the steel industry is a basic fact of economic life almost everywhere in the world. Try explaining to anyone how we battle for years to get our oranges, lumber, telecommunications equipment into Japan, while millions of VCR's pour into this country.

Ultimately, we need to modernize, adjust and compete—not hide behind our borders and opt out of the world economy. Our prosperity—and everyone else's—depends on a high level of world trade. But we must insist that our trading partners open their markets to our products, that Europe and Japan play their part in the world economy and accept their share of exports from the third world countries as well.

To secure our competitive position in world trade, however, we'll need to go beyond economic and trade policy, as important as they are. We will have to face up to the rapid changes taking place in world markets—and recognize that some of the policies we followed, the ways we did business, and the habits we developed when the United States dominated international trade are no longer good enough.

I'm encouraged by the growing interest in more cooperative approaches to labor-management relations in many sectors of American industry. In the past, the strength of our competitive position allowed us to lead the world economy despite labor-management hostility. But those days are gone, and they won't be returning. Continuing the old antagonisms will cost us dearly—and in some cases, like the recent conflict at Wheeling-Pittsburgh, throw a company's survival into doubt.

The new contract ratified at Wheeling-Pitt, which ended an extremely bitter 98-day strike, was a tremendous breakthrough in labor-management relations. It envisions genuine opportunities for workers to participate in the full range of decisions affecting the company's future. Involving workers in solving problems—from the shop floor to the board room—is an inherently more productive way to do business, as so many of our competitors have demonstrated. While the antagonisms are deeply ingrained—particularly in our part of the country, labor and management simply must try to kick this habit—and recognize that they can accomplish so much as partners than as adversaries.

Competitiveness also depends on our industries having access to the most advanced technology available. Again, our foreign competitors—like Japan—offer some useful lessons. Over the years, the Japanese have made strenuous efforts to learn about our scientific research and discoveries: they've combed our professional journals, sent students to our unversities, and consulted extensively with American companies and researchers. Partly because of the language barrier, we don't regularly follow technological developments in Japan—even though first-rate research and innovation is occurring there.

In the Senate, I have sought to improve access to Japanese scientific and technical information through legislation which increases our government's efforts to translate such material. This bill, which I introduced with Senator Baucus of Montana in May, has been approved by the Senate Commerce Committee. At the very least, if our companies, scientists, and engineers could read about what the Japanese are doing, we'd know more about the kinds of technologies and products that will soon be competing against us. And in some fields, what we learn could spell the difference between keeping up with the competition and falling behind.

Despite the pressure created by the federal budget deficits, and our state's continuing recession, we cannot forget that some investments are absolutely essential to our economic well-being. If we scrimp on research and development, on technological innovation, on job training, we will save some money today—and pay the price in low growth and lost opportunities for years to come.

In my view, nothing is more important than investing in education at all levels. As the President's commission on education pointed out in its report entitled "A Nation at Risk," "knowledge, learning, information and intelligence are the new raw materials of international commerce." Anyone who believes that we can have a world-class economy without a world-class education system is deluding themselves.

The Reagan Administration deserves great credit for establishing the commission that wrote "A Nation at Risk." That commission rang a firebell in the night, with its memorable warning that our education system is "being eroded by a rising tide of mediocrity that threatens our very future as a Nation and as a people."

That commission and other studies have painted a disturbing picture of the contrast between our education system and Japan's. Japan has the highest rate of high school completion and literacy in the world. Japanese students study and learn more. As a major report by private corporations says, the Japanese students "spend more time in class than their American counterparts; by the time they graduate from high school, they have completed the equivalent of a second year at a good American college." In addition, Japanese children are consciously taught to appreciate team work and a sense of responsibility for others, the very qualities that universities and businesses say are declining among young Americans.

The good news is that America's wave of self-examination rather immediately turned into a push for reform. The most significant and dramatic efforts have taken place in the states, with a focus on public schools. Within a year after "A Nation at Risk," it was possible to issue another report "A Nation Responds," which described the tangible commitments of governments, business leaders, and individual educational institutions to achieve greater excellence in education.

West Virginia was among the states that responded vigorously. Along with our southern state neighbors, and fueled by the understanding of the economic significance, we built the coalitions to improve our schools. This has been a major undertaking. West Virginia ranked 44th in the nation in teacher salaries. Our high school dropout rate also placed us in the bottom ten states. And about 10.5 percent of the state's population has a college education, well below the national average of 16.5 percent.

As Governor, I went through an intense and sometimes painful assessment of the condition of West Virginia's educational system. West Virginia simply had to produce better student test scores, teacher salaries, literacy rates, curriculum, and candidates for college. Moreover, as Judge Recht ruled in 1982, there were serious inequities in the local funding of schools which had to be eliminated.

I am proud of the action we took. A revised "Master Plan for Public Education in West Virginia" emerged, drawing on the expertise and ideas of countless public and private leaders, as a blue-print for long-range educational change. It established new guidelines for textbooks, school accreditation, curriculum, student testing, and many other aspects of education that seriously needed up-dating. Some of the measures in the plan were already underway, but many others represented major advances in the school system.

Key steps called for in the revised Master Plan are now being taken. This year, ninth-graders will be required for the first time to complete an additional unit of science in order to graduate—to make their knowledge of science more comprehensive and attuned to today's demands. And new teachers will be required to pass tests on basic skills and certain subjects in order to qualify for positions.

But we could implement only so many changes with the funding available. The struggle for additional funding was frustrating but absolutely essential. With the Legislature, $29 million was appropriated to help equalize salaries for both teachers and service employees. This was the first step of a three-year program to bring all teacher salaries up to a level which could attract and retain the talent we must have to improve our public schools.

Today, the fate of the state's educational reform effort is in question. I believe that West Virginians understand how high the stakes are. The quality of our school system is the key to the state's economic destiny, and we can't have a first-rate education system unless we are willing to pay for it.

In stating those hard truths, our political leaders need the support of the business and education leaders of our state. Many distinguished members of the business community are here today. You know the cost of failing to provide students with the basic requirements for success in the workplace. In very real terms, you recognize support for the school system as an investment whose profits can be measured in increased productivity, a strengthened ability to compete for the Saturn plans and high-tech firms of the future.

Clearly, the main responsibility for improving our education system rests with the state. But the federal government's role, while limited, can also be pivotal. We all remember the federal government drive to emphasize education in response to Sputnik in the late 1950's—a drive that propelled the innovation and the prosperity of the 1960's.

It is the federal government that must continue to keep our country on the cutting edge of research in computers, engineering, math and sciences. Moreover, the federal government should assist in pioneering new approaches in curriculum and teaching.

For example, I introduced the Technology Literacy Act of 1985. At an early age, students should be exposed to the skills and concepts they need to compete in an increasingly technological world. My legislation would support efforts to develop effective curricula in technology education and to train teachers accordingly.

With respect to higher education, I believe that the importance of the federal government's role is undeniable—particularly in the area of student financial aid. The Reagan Administration's earlier proposal to cut over $2.3 billion in student aid programs was disastrous. I fought this suggestion aggressively, and was part of a successful effort to restore most of the funding in the federal budget.

At the same time, I am interested in exploring changes within the student aid system. More and more students are getting through college by going heavily into debt through student loans. As a consequence, they feel enormous pressure to find a decent-paying job immediately after graduation from college. The incentives for public service just do not exist for these young people. And it is similarly difficult for them to take any time to explore options for careers.

In order to motivate and enable students to perform community service as well as to meet critical needs, student aid as grants in return for a certain amount of time in community service should be considered. A recent report by the Carnegie Foundation strongly endorses this idea. Deploring a lack of commitment to "citizenship" among young people, the report calls upon the younger generation to take an active interest in society's problems—and urges that avenues for letting them do so be opened.

Using ROTC as a model, such a program could help pursue the ultimate goal of restoring and increasing America's competitiveness. For example, a program specifically designed for individuals interested in teaching would achieve a number of critical related objectives. Grants or fellowships would be given to students to receive a college education, with special emphasis on training for teaching. Certain obligations would be accepted by the student, the main one being an agreement to teach for two or three years after graduation. The student assistance could be geared towards fields where there are teacher shortages, such as math and science. In addition, like the National Health Service Corps program for doctors, this effort could provide teachers to areas of the country with the greatest need.

The intensified nature of international competition poses a great challenge for our country, but it presents real opportunities as well. To borrow a word from the Carnegie report, we need nothing less than an American "resurgence" in productivity and everything that contributes to it: research, technological innovation, education at all levels.

Despite the budgetary difficulties we face, it is not a time for retrenching, or even standing pat. It is a time to enlist the talents of our private sector, our universities, and our government in the kind of constructive partnership that has meant so much to other areas of our country. We need only to look at Silicon Valley in Northern California, Route 128 in Massachusetts and the Research Triangle in North Carolina to see what can happen when universities and the private sector work together. Your efforts here, in the Huntington area, could improve the industrial landscape in our state considerably—and deserve the support of all of us.●

PRESIDENT'S VETO OF COPPER RELIEF LEGISLATION

● Mr. **BINGAMAN.** Mr. President, I am greatly disappointed by the action of President Reagan in vetoing legislation to provide relief to the beleaguered copper industry. Unfortunately, this action is further evidence of the President's complete and utter refusal to help U.S. copper workers and producers.

The amendment which was added to the textile import bill during earlier Senate consideration, would have revitalized the copper industry by mandating that the United States enter into negotiations for voluntary production restraint agreements with major copper-producing countries. The President had earlier refused pleas to enter into such negotiations so it is not surprising he has now vetoed this bill.

Domestic copper production is at an all time low. There has been a 50-percent reduction in U.S. employment and a 25-percent loss in production. Sixteen major mines have closed. At the same time foreign production, much of it financed by U.S. backed international financing, is at an all-time high. As a result, there is a glut in the world copper supply.

We in Congress must continue to press the case for copper relief. There must be impressed upon the President the need to address the unfairness of the current situation, and I shall continue to do this in Congress.●

THE LANGUAGE OF FOREIGN TRADE

● Mr. **PELL.** Mr. President, one of the greatest threats to our economic and national security is our inability to conduct business in the languages of the international marketplace. It is unconscionable that the wealthiest nation with the greatest educational institutions should find itself at a disadvantage of this nature in the international arena. To my mind, it is absolutely clear that our ability to keep our competitive edge rests squarely on our willingness to improve our facility with other languages and cultures.

I would like to commend to my colleagues an excellent article written by Leonard Lauder entitled "The Language of Foreign Trade" which appeared in the New York Times on October 7. This article forcefully demonstrates just how far we are falling behind other nations in foreign language education, and of the great disservice this does to our trade position. His trenchent analysis provides persuasive argument for increasing our commitment to foreign language instruction and international education.

The threat that this situation poses to the strength of our economy moved my colleagues on the Senate Subcommittee on Education and me to in-

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crease our Federal commitment to foreign language instruction. In the Higher Education Amendments of 1985 which were recently reported out of the subcommittee, we expanded the international educational program by making new provision for the establishment of language resource centers, intensive summer language institutes and fellowships for advanced graduate training in foreign languages.

Analyses such as Mr. Lauder's clearly support such an expansion, and I would ask that the full text of his article be printed in the Record.

[From the New York Times, Oct. 7, 1985]

The Language of Foreign Trade

(By Leonard A. Lauder)

The debate rages over United States foreign-trade difficulties. But nobody is talking about the one issue that is more disturbing and far more revealing about the underlying problem than our overvalued dollar, closed foreign markets and the other obvious causes of our stunning trade deficit.

Why has no one raised the fact that so many Americans engaged in foreign trade can speak no language but their own? It's getting late in the day to realize that the language of international trade is not English. The language of international trade is the language of the customer.

In part, Japan, West Germany and other successful exporting nations have penetrated foreign markets because they have tried to understand the cultural peculiarities of those markets. Their executives take the trouble to learn the language of the country with which they wish to trade as the first step in gauging demand.

It is self-evident that you can't sell unless there is a demand for the product. It is also self-evident that you can't begin to understand what a people demand if you can't talk to them on their own terms. Their own terms, of course, means their own language.

It is hard to find figures on how many American business executives overseas speak the native tongue; it is certain, however, that virtually all foreign business executives in the United States speak English. S.I. Hayakawa, a former U.S. Senator, estimated a few years ago that there were 10,000 Japanese in business here, all of whom spoke English, compared with 1,000 American in business in Japan, of whom perhaps a handful spoke Japanese. That no hard data exist is not surprising. There's not enough interest to gather it.

The situation today is not better and is probably worse than it was when Mr. Hayakawa made his estimate. As far as business is concerned, our national parochialism is growing worse. A study commissioned by the National Council on Foreign Language and International Studies questioned 1,690 young men and women in 564 business schools working toward their doctoral degrees in business in the spring of 1984.

The study found only 17 percent of these students were taking one or more courses in international affairs and foreign languages. In 1976, that figure was 25 percent. Those surveyed are the people who will one day be teaching in business schools training our future business executives. In an area crucial to the health of business and the United States economy, these future teachers are inadequate.

Meanwhile, we continue to demand that the rest of the world speak English, play by our rules, buy more of our goods. Not in our country, in theirs. From a deficit-inflated dollar to the tongue-tied American executive, our foreign-trade problems are largely a self-inflicted wound.

Next May, the first class will graduate from the Joseph R. Lauder Institute of Management and International Studies at the University of Pennsylvania with an M.B.A., from the Wharton School and an M.A. in international affairs from the School of Arts and Sciences. There will be 51 of these dual-degree holders, all with a foreign-language proficiency. That same spring, 50,000 more M.B.A. candidates will graduate from the other 563 business schools. In just 13 of those schools are courses in foreign languages and international affairs required for graduation.

American business and business education are not the only guilty parties. The State Department does not require a foreign language to enter the Foreign Service. There are more teachers of English in the Soviet Union than there are students of Russian in the United States. Aside from the coverage given by a few national newspapers, the media's coverage of world affairs is scanty to the point of ridicule. A national survey of high school seniors to assess their knowledge of international affairs showed recently that 40 percent thought that Israel was an Arab nation.

After World War II, as other nations were rebuilding, the United States was a world player shaping its own terms. The U.S. still has the world's mightiest economy, but it is now one of several mighty economies. We are watching our strength and influence erode before our eyes. Paradoxically, this is happening not from weakness but from arrogance.

ORDERS FOR THURSDAY

RECESS UNTIL 11 A.M.

Mr. DOLE. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 11 a.m. on Thursday, December 19, 1985.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. DOLE. Mr. President, I further ask unanimous consent that following the recognition of the two leaders under the standing order, there be a period for the transaction of routine morning business for not to extend beyond the hour of 11:30 a.m. with Senators permitted to speak therein for not more than 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DOLE. I have just indicated that following morning business we can expect to turn to the conference report hopefully on the continuing resolution. That should be over between 1 or 1:30. I assume that prior to disposition of that, we will know the fate of the reconciliation conference report.

We might be in a position to advise Members by midafternoon on when we may expect sine die adjournment.

But there could be votes. Probably there will be votes on a conference report, or conference reports.

If there are other items that we can clear, we will take them up. I will make every effort to avoid rollcall votes tomorrow so that we may expedite sine die adjournment.

There could be some other matters on the Executive Calendar, if we can agree on those.

RECESS UNTIL 11 A.M. TOMORROW

Mr. DOLE. Mr. President, there being no further business to come before the Senate, I move in accordance with the previous order, that the Senate stand in recess until 11 a.m., Thursday, December 19, 1985.

The motion was agreed to; and, at 8:05 p.m., the Senate recessed until tomorrow, Thursday, December 19, 1985, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate December 18, 1985:

In the Air Force

The following officers for appointment in the Regular Air Force under the provisions of section 531, title 10, United States Code, provided that in no case shall any of the following officers be appointed in a grade higher than lieutenant colonel:

LINE OF THE AIR FORCE

Carne, James E., 370-46-4135
Dunn, Payton E., Jr., 241-70-5570
Gilson Mark D., 385-40-1934
Irwin, George F., Jr., 543-48-0820
Malec, Thomas A., 173-38-8600
McClure, Edward J. Jr., 491-48-7528
Miller, Howard H., 196-34-7630

The following officers for appointment in the Regular Air Force under the provisions of section 531, title 10, United States Code, with a view to designation under the provisions of section 8067, title 10, United States Code, to perform the duties indicated, provided that in no case shall any of the following officers be appointed in a grade higher than lieutenant colonel.

CHAPLAIN

Brown, D. Bruce, 540-34-9485

NURSE CORPS

Alexander, Elizabeth A., 103-36-3650
Witt, Sandra M., 326-32-5491

BIOMEDICAL SCIENCES CORPS

Pontier, John H., 141-36-5311
Walker, Marilyn A., 511-44-1976

In the Air Force

The following Air National Guard of the United States officers for promotion in the Reserve of the Air Force under the provisions of sections 593, 8374 and 8379, title 10 of the United States Code. Promotions made under section 8379 and confirmed by the Senate under section 593 shall bear an effective date established in accordance with section 307, title 32 United States Code:

LINE OF THE AIR FORCE

To be lieutenant colonel

Maj. Terry O. Bernhardt, 541-56-9535

Maj. Bruce K. Blakeman, 364-42-7398
Maj. Mark H. Bondo, 484-48-1298
Maj. Bernard C. Bryan, Jr., 513-42-9087
Maj. Richard Czarnota, 378-44-8066
Maj. Gilbert R. Dardis, 483-48-0949
Maj. George G. Ervice, 568-54-9922
Maj. Frank J. Fullmer, 518-44-9290
Maj. Robert G. Hawk, 510-46-0905
Maj. Joseph R. Herkalo, 201-36-9586
Maj. Gordon J. Hill, 519-52-4297
Maj. Paul C. Hlavaz, 041-36-8898
Maj. Frank C. Johnson, 529-40-3346
Maj. Kenneth G. King, 505-50-2339
Maj. Richard O. Lillie, 479-38-0815
Maj. Darrell L. Logan, 357-34-6061
Maj. Sherman P. McKenney, 416-54-6847
Maj. Louis Olivas, 526-64-8612
Maj. Robert R. Olson, 501-54-1120
Maj. David R. Parker, 046-34-1060
Maj. Seth E. Perelman, 055-38-4256
Maj. William J. Peters, Jr., 215-44-0911
Maj. Joe L. Rhoden, 491-44-3957
Maj. Kenneth L. Ross, 437-64-7544
Maj. Charles C. Taylor, Jr., 408-70-0999
Maj. Gary A. Tenney, 191-34-3704
Maj. Howard J. Thomsen, Jr., 371-44-0117

LEGAL

Maj. Joseph F. Speelman, 514-48-7654
Maj. Ronald E. Wurtz, 515-50-2219

MEDICAL CORPS

Maj. Michael T. Phillips, 456-78-0411

NURSE CORPS

Maj. Bettyann Herreros, 075-32-9334

IN THE AIR FORCE

The following officer for appointment in the Regular Air Force under the provisions of section 531, title 10, United States Code, with grade and date of rank to be determined by the Secretary of the Air Force provided that in no case shall the officer be appointed in a grade higher than indicated:

LINE OF THE AIR FORCE

To be major

Mumford, Paul R., 039-28-2637

IN THE AIR FORCE

The following-named officers for permanent promotion in the U.S. Air Force, under the provisions of section 628, title 10, United States Code, as amended, with dates of rank to be determined by the Secretary of the Air Force:

MEDICAL CORPS

To be major

Kellogg, Scott K., 348-44-4420
Perkinson, Diana T., 417-72-3480

DENTAL CORPS

To be major

Alkire, Randy G., 284-54-9126
Boyle, John J., Jr., 149-38-4083
Bradford, Victor P., 261-80-7732
Briley, John B., 412-88-0958
Dickerson, Herman S., 435-76-5860
Greenwell, John H., III, 402-66-8435
Ramer, John P., 398-56-1894
Robinson, Paul M., 228-60-0366
Standelmann, Philip F., 092-48-8555
Zinser, Philip J., Jr., 121-44-4833

IN THE AIR FORCE

The following-named officers for promotion in the Air Force Reserve, under the provisions of sections 593, 8362, and 8371, title 10, United States Code:

LINE OF THE AIR FORCE

Lieutenant colonel to colonel

Abbott, Thomas F., 069-32-6400
Abe, Harry H., 575-34-4615
Ames, Robert T., Jr., 089-26-3668
Anzures, Armando, 461-50-9225
Aylsworth, William E., 297-34-6233
Ballard, Almon B., 423-48-9753
Beason, John P., 248-52-5115
Bell, Raymond L., Jr., 253-54-2129
Bertocchi, Robert P., 488-40-4665
Blessing, David A., 060-32-1622
Bloomgren, Edwin L., 050-30-5144
Borandi, Bernard A., 266-68-4388
Breeden, George M., III, 420-54-0535
Bruce, Alan H., 485-48-9840
Buettner, Gerald F., 538-36-8382
Bush, William J., II, 233-64-6810
Cameron, Albert A., 414-62-9784
Campbell, Patrick K., 209-32-0122
Carroll, Winfred N., 247-60-8742
Cernohous, Arthur B., Jr., 477-40-8291
Cetola, Robert T., 179-32-2252
Cormier, Rene V., 023-28-4744
Cotton, Ralph A., 545-52-3502
Crigler, Louis A., 405-48-9640
Csady, John M., 080-32-8568
Dake, Terrence L., 504-36-7978
Daniels, Ralph F., 374-40-7286
Davis, Winston R., 018-34-5733
Day, Alvin L., 218-34-7255
Dibeler, Vernon H., II, 222-28-8185
Dittrich, Mark S., 087-30-1965
Edgar, Robert N., 434-62-9838
Emmons, Edwin I., 454-66-1611
Fairbanks, Robert A., 446-42-8190
Ferguson, Charles M., 242-60-6654
Finkleman, David, 579-52-7283
Foley, William H., Jr., 564-32-2062
French, Gale H., 003-28-0038
Frenett, Franklin A.P., 471-40-9489
Fuos, Alton C., 459-58-3463
Garland, Edward W., 439-60-4456
Garver, Edward G., Jr., 185-32-3525
Gerenz, Ralph F., 142-28-6243
Gobbo, Eugene C., 158-30-1967
Goodwin, John B., 017-30-6425
Granado, Alfonso R., 457-40-3914
Greenberg, Jonathan L., 072-34-6518
Guerra, Rafael, Jr., 525-48-3158
Hafler, Harry A., 268-28-3069
Handy, James H., 539-30-3621
Harris, George W., 260-52-4676
Harris, Joe R., 453-54-1762
Herndon, Thommie D., 432-54-9116
Hogan, Danny A., 227-56-6985
Holbrook, Reed W., 528-38-1479
Holloway, Jay, 212-38-1217
Hone, Stephen A., 552-48-4452
Hooper, George L., 513-30-8856
Horton, Burrell M., 433-62-2298
Hudenburg, Donald P., 318-30-6430
Hurst, Wendell L., 304-46-6938
Jack, Tharon L., 232-60-1350
Jankowski, Alan J., 289-30-9340
Johnson, Gene H., 448-34-9828
Kirkstadt, James M., 282-34-6769
Klotzkin, Kenneth C., 071-30-0846
Luther, Charles R., 439-62-4095
Maher, James P., 334-28-1489
Marshall, Robert E.,456-58-1583
Martin, Donald F., 464-48-0420
Martin, Donald R., 440-34-5047
Maxton, Gary L., 273-34-8193
McCormick, James M., 425-80-8621
McFarland, Marshall J., 519-46-4577
Mikulecky, Richard J., 334-34-8940
Miller, John M., 376-38-7265
Mitchell, G. Thorpe, 355-30-1099
Monoyios, Louis E., 074-30-6715
Moore, Harry E., Jr., 162-34-9424
Morris, David G., 456-58-1696
Mosier, Bruce M., 176-30-8220
Mulder, Grant R., 389-36-6734
Murr, James C., 462-70-2683
Nelson, Wayne N., 504-46-5602
Nichols, Carney D., 525-82-3150
Niven, William A., 559-52-5023
O'Benland, Carl T., 274-34-5448
O'Dell, Lawrence W., 093-32-4365
Palmer, Adrian S., 578-42-9561
Patrick, Herbert L., III, 248-70-2596
Patterson, James A., 416-52-0129
Peters, Michael J., 525-94-0804
Petty, David L., 458-56-4172
Pierce, James E., 286-36-2018
Polk, James G., 573-50-1669
Porten, Ronald E., 502-46-6067
Quarnaccio, Michael J., 155-32-9561
Rankin, Jerry R., 267-54-6326
Reiling, Keith T., 541-42-8475
Reilly, Edward A., Jr., 195-30-5847
Riessen, Herbert P., 479-38-6954
Riffey, Douglas G., Jr., 224-58-3391
Ritchie, Richard S., 244-58-2191
Ryan, Larry G., 555-46-2978
Ryder, Randolph C., Jr. 204-34-0160
Sarjeant, John B., 012-30-6215
Schellhase, Milton G., 539-40-4298
Schimmel, Charles, Jr., 186-32-1102
Schrader, Carl D., 263-52-4041
Schue, Howard K., 093-32-4095
Schuldt, Robert E., 481-42-9522
Serpanos, James E., 368-34-0711
Sharpe, Theodore C., 144-30-4791
Sinclair, Malvin D., 481-44-3013
Smith, Donald L., 349-28-5641
Smith, William A., 245-60-8784
Sowell, Robert S., 427-78-2909
Stabenow, Karl R., 201-34-4254
Stanley, David J., 012-32-7951
Stief, Mahlon H., 482-52-6981
Storgaard, Richard D., 534-36-4618
Tassone, Anthony, Jr., 143-38-7628
Tate, Vernon R., 023-28-5258
Thieme, Alfred, Jr., 450-50-7882
Thompson, Lane A., 579-54-2947
Tierney, J. Philip, 109-30-1400
Ulrich, Donald R., 151-28-7288
Viau, Donne D., 372-36-7912
Weber, Dennis F., 203-30-7483
Wehr, Rolf A., Jr., 318-30-5154
Westerbeck, Gerald W., 273-38-3913
Whaley, Wallace W., 247-80-1451
Wilson, John M., Jr., 477-36-1983
Wrucha, Jerry A., 352-34-5873
Yingling, Carl G., 162-32-2806

CHAPLAIN CORPS

Kennedy, David K., 576-28-8087
Kloehn, Gordon A., 397-32-3031
Kulwicki, Raymond J., 210-14-6154
Solomon, Victor M., 210-30-2964

DENTAL CORPS

Arnold, Roger R., 228-32-3115
Morrison, Donald J., 482-38-7217
O'Neill, John J., 397-26-9441
Welsh, Edward L., 223-40-6611

JUDGE ADVOCATE

Jander, Klaus H., 071-32-8892
Kinoshita, Joseph A., 576-32-3656
Lomax, John D., 445-38-0405
Nolan, Richard J., 485-42-1400
Scott, Robert W., 152-30-0305
Sgarzi, Louis A., 013-28-2298
Siegel, Thomas L., 137-30-1757
Sullivan, William A., 552-46-6015

MEDICAL CORPS

Bietz, Duane S., 562-46-6884
Boehrer, Philip M., 394-26-0074
Burst, Stephen J., 303-46-8928
Clemenz, Frederick W., 304-32-7760
Collins, Terry L., 219-48-1992
Cunningham, David L., 411-46-8979
Dehart, Ollie W., 445-24-9625
Dellinger, Richard P., 249-78-2845
Dever, Robert L., 497-50-0861
Gage, Ralph W., 462-74-6006
Gilner, Donald M., 256-52-8786
Gumbelevicius, John P., 492-48-7726
Hanes, Verna E., 213-44-7242
Harrington, John L., 190-20-3122
Hazen, Gale A., 502-52-0535

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Hidayat, Ahmed A., 152-46-7828
Hubbell, Charles G., 008-34-5879
Huber, Stanley J., 543-32-1592
Ivan, Douglas J., 158-36-1116
Kentsmith, David K., 508-50-7159
Mack, John W., Jr., 142-36-3302
Martin, Clyde V., 511-28-1259
Martin, William L., 382-20-2241
Millikan, William J., Jr., 263-58-2823
Nelson, Maynard 150-24-1061
Nicklas, Thomas O., 447-32-8718
Palmer, Patrick M., 467-80-3398
Smithson, John B., 418-62-8130
Stonecipher, William C., 345-24-9630
Stratbucker, Robert A., 506-36-6405
Theodore, Guy D., 068-48-9297
Ward, Swan S., 437-44-3513
Webb, Dean R., Jr., 277-34-9297
Whelan, Gerald P., 082-36-2949

NURSE CORPS

Abshier, Barbara J., 380-34-0827
Andrews, Paula J., 512-40-7496
Blakelobb, Marjorie A., 292-28-9891
Clark, Marcia F., 194-32-7591
Hernandez, Dora E., 466-54-4633
Hueschen, Helen J., 486-48-0784
Hughes, Samuel T., Jr., 514-36-1272
James, Shirley J., 251-62-3317
Pruett, James F., 498-36-8805
Roubik, Robert A., 528-62-7064
Shaifer, Andrea C., 425-88-1453
Shorb, Garnett A., 483-50-7143

MEDICAL SERVICE CORPS

Bailey, Jack C., 457-62-8417
Bold, Frank O., 559-34-3911
Demoss, Robert W., 454-72-9545
Eberly, Robert E., 267-48-8639
Fischelli, James R., 424-58-0226
France, Ronald B., 528-34-4524

BIOMEDICAL SCIENCES CORPS

Alter, Elliott B., 047-24-6960
Glaze, William C. H., 451-64-7164
Sampson, Plummer A., Jr., 425-46-3516
Schwertner, Harvey A., 454-66-8255

IN THE AIR FORCE

The following-named officers for permanent promotion in the U.S. Air Force, under the appropriate provisions of section 624, title 10, United States Code, as amended, with dates of rank to be determined by the Secretary of the Air Force:

LINE OF THE AIR FORCE

To be lieutenant colonel

Aanerud, Roy L., 395-48-1798
Aanstad, William L., 560-70-4910
Ackerson, Mark I., 448-42-3535
Acosta, Hector M., 467-84-4388
Acurso, Jeffrey L., 566-68-5148
Adams, Randolph K., 110-40-5427
Adams, Ronald M., 366-50-7588
Adsit, Jay R., 072-44-8061
Aquilar, John F., 571-54-3521
Ainsworth, Loren C., 562-76-1012
Airaghi, Robert F., 359-38-5340
Aitkencade, Philip B., 454-86-9267
Aldridge, Lee F., 470-44-6430
Alexander, Albert J., 511-46-3419
Alexander, John J., 085-40-9043
Alexander, Jon R., 212-44-7879
Alford, Roger W., 478-52-8486
Allain, Richard S., Jr., 437-70-8647
Allan, John P., 331-38-1452
Allen, James R., Jr., 467-66-0536
Allen, Russell L., 425-94-2309
Allen, William A., 245-78-9864
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Surguine, Freneau B., III, 266-74-0756
Sutton, Ernest B., 265-80-8122
Sutton, Peter U., 561-78-9325
Sutton, Richard K., 438-66-5104
Swan, Terence J., 369-54-0756
Swanson, Jon M., 285-16-9688
Swanson, Richard E., 394-52-0549
Swantner, Lawrence J., 315-48-7984
Swiderski, Francis E., 089-36-1568
Swift, Susan R., 185-36-1217
Szczepanik, Russell L., 046-36-8203
Tabor, Ronald D., 442-54-9992
Tabor, Terrence R., 227-70-8084
Takahashi, Gilbert T., 576-46-6823
Tappero, Charles P., 524-64-2740
Taylor, Gary C., 337-40-5671
Taylor, John A., Jr., 260-78-9472
Taylor, Lawrence J., 418-74-6396
Taylor, Sidney L., 507-68-5873
Tebay, Richard D., 043-34-0315
Teel, Douglas W., 510-44-8915
Tetzlaff, Neil R., 384-42-4728
Tharp, Russell E., 443-44-8756
Thibodeau, David A. 376-44-5430
Thiele, Arthur J., III, 559-72-4896
Thigpen, Jerry L., 466-68-8845
Thode, Paul T., 522-62-8731
Thomas, Larry D., 440-50-3307
Thomas, Mark D., 009-34-4011
Thomas, Ronald M., 258-64-3216
Thomas, William J., 289-42-5292
Thompson, Barry R., 228-66-6199
Thompson, Dan H., 166-36-9917
Thompson, William E., Jr., 249-80-5530
Thorpe, William G., 228-68-6805
Tibbetts, Jeffrey L., 502-42-1753
Tibodeau, Robert L., 475-56-0608
Tickel, Jobe C., Jr., 228-72-2644
Timmerman, Larry A., 485-60-2277
Tinder, Alan J., 249-82-7184

Tinsley, Michael F., 429-88-6516
Tipton, Robert L., Jr., 408-82-8163
Titus, George W., 197-30-6527
Toda, Frank K., 542-58-3029
Toews, Georgette M., 086-40-3019
Toews, Robert H., 184-36-9374
Tolk, John D., 456-78-6459
Tomich, Richard R., 519-56-0178
Topel, Robert W., 391-48-4552
Torresrivera, Jaime, 582-90-9928
Tothacer, James M., 409-80-6737
Townsend, Ronald D., 514-48-6224
Travis, William J., 186-36-3526
Tribe, Albert H., Jr., 452-74-6781
Trimble, Jack R., 311-52-9718
Triska, Charles S., 564-56-3112
Trowel, Laurence M., 012-42-1179
Tsukamoto, Wilfred S., 576-44-8655
Tullis, Stephen J., 310-46-2214
Turelli, Robert R., 329-44-6966
Turner, Kenneth S., 021-38-2203
Turquette, John N., 450-70-8540
Tuseth, Richard C., 439-74-1603
Twaddell, James W., III, 389-52-2426
Tyrrell, John A., Jr., 401-60-6805
Uhlik, Felix T., III, 158-40-7384
Umberger, Karen C., 084-36-5031
Uptmor, Clemens E., 322-42-4356
Upton, Craig P., 122-24-4082
Ussery James M., Jr., 486-48-6661
Valusek, John R., 451-84-8161
Vanaken, Harry W., III, 353-42-0188
Vanallen, Robert L., 515-44-8115
Vanalstine, Terry E., 064-40-0721
Vankeuren, Edmund T., 120-40-0404
Vanliere, Dennis A., 382-48-7294
Vanpelt, David F., 239-80-1367
Vanwagner, Bruce W., 458-74-2859
Varner, Michael J., 501-56-6404
Vazquez, Jaime, 584-03-0525
Veach, Vivianne, 533-42-6416
Veatch, Henry L., 406-70-4108
Vega, Guadalupe B., 462-72-0451
Verdoorn, William J., 481-62-0831
Verrochi, Lawrence R., 530-38-5528
Vesel, Fred H., 343-40-5339
Vilbert, Michael J., 295-46-5897
Vinal, William S., 072-42-2354
Vincent, Robert W., 234-72-3756
Viviano, Charles J., Jr., 171-40-4377
Voigt, Thomas A., 469-56-4574
Volkmar, Ronald L., 561-66-2968
Voreadis, Lazaros, 211-40-7377
Voss, David P., 072-36-3049
Voss, Denis L., 502-54-2591
Vranek, Eric A., 326-42-7803
Wachholtz, Robert O., 356-40-7518
Wade, Lawrence T., III, 587-48-6233
Wald, Victor J., 472-58-8567
Walker, James W., 262-02-6546
Walker, James W. B., 506-66-1553
Walker, Steven B., 002-38-5714
Wall, Steven E., 563-68-4645
Wallace, John M., 538-48-2380
Wallace, Richard, B., 400-76-6494
Walsh, John G., 075-40-7300
Walters, Everett A., Jr., 488-48-2960
Ward, Jack D., 459-66-8155
Ward, Richard D., II, 204-36-5855
Warner, Jack D., Jr., 456-78-0669
Warren, Hoyt M., Jr., 420-66-3492
Washburn, Frederick D., 398-42-2844
Watson, George D., 491-48-8702
Watters, Chalton J., Jr., 556-68-4744
Weaver, Alan J., 314-44-1631
Weaver, Dennis M., 555-70-8252
Webb, Dayton B., 007-44-4466
Webb, Gregory R., 585-20-7462
Webb, James T., 266-78-0286
Weber, David A., 228-68-6876
Webster, Russell J., 513-44-4972
Wegenhoft, William D., 452-78-4283
Weikel, Gary L., 295-44-4716
Weiner, Bruce G., 050-40-8062
Weir, Stan G., 512-48-2757
Weir, William C., 572-70-4092
Welch, Frederick R., 103-36-5424
Wells, Earl C., 178-36-6487
Wells, Floyd B., 400-62-6101
Wells, Kristin L., 094-38-2226
Wenska, Stefan G., 576-54-0592
Wentz, Charles M., 287-42-2618
Wepfer, Dale R., Jr., 455-74-4030
Wesley, John R., II, 237-72-5944
West, James A., 412-80-4879
Weston, John D., 249-80-9994
Wetterberg, Mayo E., Jr., 469-50-3817
Weyman, James C., 190-38-8981
Whalen, Dennis W., 047-34-3521
Wheeler, Graydon S., 429-82-2652
Wheeler, Larry E., 302-42-6962
White, Douglas S., 021-38-8896
White Jay R., 431-80-2736
White, Johnnie M., 585-03-9686
White, Richard D., 134-40-1480
White, Victor J., 434-74-1698
Whitecotton, William R., 234-74-3150
Whitelaw, Mark C., 450-74-9070
Whitefield, John D., 486-52-3144
Wickert, Roger F., 298-44-2672
Wiederhold, David A., 565-72-4398
Wieman, Kenny L., 504-60-6890
Wilcox, John E., 453-74-5343
Wilder, Hoke S., Jr., 260-68-2350
Wiles, Roger L., 508-60-4147
Wilkinson, James L., 469-52-2631
Willcox, Raymond C., 263-74-3962
Wille, Frank B., 436-68-2562
Williams, Charles E., 400-58-0426
Williams, Dennis R., 400-64-5888
Williams, Gary B., 225-68-0601
Williams, Keith A., 506-62-3135
Williams, Mark A., 406-72-4803
Williams, Richard L., 448-44-1967
Williams, Robert O., 449-88-4766
Williams, Ronald E., 204-36-8748
Williams, Scott K., 531-46-0485
Williams, Warren E., 192-38-3110
Willis, Dick E., 430-82-7074
Willis, James D., Jr., 264-86-9815
Willke, Ronald S., 361-38-3733
Willoughby, Steven B., 570-74-4602
Willis, James C., Jr., 548-62-8995
Wilson, Barry S., 228-78-5402
Wilson, John K., III, 242-74-8861
Wilson, Jon E., 437-76-2457
Wilson, Scott L., 393-46-1996
Wilson, William M., 052-38-5541
Wilson, William M., Jr., 507-60-9364
Wimberly, Gary V., 436-70-2146
Windler, John E., 393-44-5400
Winkelmann, Robert W., 369-46-8954
Winzer, Dale R., 059-42-5337
Wirth, Richard C., 338-44-0834
Witherell, Thomas J., 285-42-1873
Witt, Leonard E., III, 214-52-3084
Witt, Thomas P., 387-48-9541
Witt, William P., 357-40-3905
Womack, Eddie G., 265-80-7503
Wood, Buddy B., 587-30-6906
Wood, Douglas B., 575-46-8183
Wood, Gary B., 535-46-0161
Wood, Samuel H., IV, 231-68-5856
Wretschko, Brian W., 269-46-2652
Wright, Edward N., 270-40-5154
Wright, John C., 367-50-8496
Wright, Keith C., 505-62-0139
Wright, Steven E., 355-38-9171
Wright, Wesley D., 514-50-4257
Wursten, Douglas J., 216-50-1494
Wyatt, Susan J., 563-68-8441
Wyrick, Terry J., 513-52-1368
Xiques, George M., Jr., 415-76-0097
Yackel, Stanley J., 555-58-9068
Yancey, Henry R., Jr., 225-68-8900
Yehl, Thomas J., 114-38-3676
Young, James E., 441-40-3918
Youngman, Neil A., 284-42-2784
Yuknavich, Anthony R., 197-38-5901
Yurchak, George, Jr., 226-68-0707
Zahn, William H., 107-38-9015
Zank, Gary D., 390-52-1216
Zeluff, Robert M., 527-76-3426
Zerull, Lynn J., 501-56-3953
Zink, John W., 308-52-6848
Zinke, Ronald R., 465-74-6953
Zollars, Gerald J., 204-36-2931
Zubel, John S., 377-48-7421
Zurawka, Russell E., 191-36-3839

CHAPLAIN CORPS

Barmann, Karl W., 495-58-6552
Brown, D. Bruce, 540-34-9485
Cusick, Larence R., 386-44-9715
Deimeke, Louis E., 515-38-8755
Elwell, James T., 419-64-6430
Figel, Terence J., 335-30-7384
Flood, Peter J., 152-30-6510
Fueger, Richard F., 314-36-9823
Gilman, Robert R., 147-34-3715
Headley, Richard A., 223-58-2474
Heflin, James G., 445-32-5871
Kaczmarek, James A., 377-46-3615
Larkin, James K., 528-62-1910
Lundin, John O., 504-48-0674
Miller, James P., 425-58-6709
Potter, Lorraine K., 039-28-9945
Pruss, Rodney Lee, A., 505-50-7539
Roquemore, Jimmy A., 464-66-6243
Sobin, Roger M., 527-62-2396
Stephenson, Patrick C., 579-66-6595
Suhoza, John E., 183-32-5507
Thomason, Billy G., 440-40-0731
Weaver, Billy H., 424-56-7723
Willis, Paul F., 191-30-4562
Wood, John R., 540-58-6615
Zirzow, Wayne H., 514-40-9007

JUDGE ADVOCATE

Abbott, John M., 271-42-9165
Bartley, Harry M., 467-78-1144
Camp, William J., 260-78-9144
Cunningham, Albert J., Jr., 158-38-6346
Duffy, Kevin J., 027-36-9933
Few, Howard T., Jr., 264-74-1106
Flaherty, Warren T., 524-62-8513
Gilley, Harold C., Jr., 335-40-0515
Head, Craig L., 332-44-0860
Holt, Lake B., III, 254-72-0970
Hoover, Michael J., 223-74-3296
Hume, William D., 485-54-1350
Kingsford, Edward, 519-56-2500
Kohrt, Douglas H., 332-34-5358
Madrid, Michael N., 585-26-3003
McDonald, Richard A., 440-50-6290
McNeill, Susan P., 577-66-1221
Owens, Jeffrey R., 342-38-8223
Oxley, Joel M., 479-56-8689
Schmidt, William G., 585-32-3024
Sucher, Mark L., 085-40-5210
Vassey, Bradford C., 557-68-1801
Wilcox, Charles H., II, 505-60-9377
Wilkins, Donald J., 217-44-4274

NURSE CORPS

Adkins, Linda K., 087-38-3128
Alexander, Elizabeth A., 103-36-3650
Allison, Linda K., 096-38-8241
Andrews, Betty J., 449-84-7717
Barger, Judith, 431-02-0512
Bast, Thomas A., 350-34-3185
Bauer, Rosemary, 492-54-3465
Beadle, Claudia S., 272-48-6872
Black, Joanne M., 325-34-7828
Brock, Doreen E., 468-62-1294
Bush, Jacqueline A., 173-36-2721
Bys, Bernice N., 462-72-8621
Caldwell, Anna A., 490-48-8441
Campbell, Minnie L., 426-94-8670
Carlton, Helen M., 533-50-0526
Chambers, Rosalind A., 146-32-0924
Chizmas, Steven J., 032-38-4702
Damler, Patricia A., 351-40-5988

Deberg, Joellen, 464-70-7495
Drake, Ronald E., 519-46-5049
Dralnick, Barbara A., 262-96-1971
Dylla, Rebecca A., 471-56-5886
Elias, Geraldine E., 104-40-5311
Ellis, Wayne E., 195-34-2233
Floro, Marilyn C.A., 071-32-1012
Forkner, Mary E., 249-88-1814
Grenchik, Therese R., 307-44-8172
Jacobson, Diane E., 554-76-5566
Japar, Susan E., 125-38-6573
Jensen, Marjorie R., 528-60-7824
Johnson, Karen L., 157-42-6431
Keir, Brenda J., 010-40-3264
Kelley, Janie M., 260-70-7873
Kimmel, Karen D., 224-78-1549
Kliot, Cheryl S., 269-40-7900
Kunkel, Barbara A., 152-36-5128
Kunz, Charles A., 494-48-5695
Lamoureux, Gloria K., 520-50-3582
Latona, Catherine M., 563-84-6012
Leigh, Mary A., 278-34-2624
Mantel, Mikelene L., 322-42-4638
Marchand, Janice L., 041-36-4456
Maynard, John D., 314-46-5765
McCarthy, Judith A., 221-36-8076
McConnell, Sharon L., 144-36-8646
McFarland, Linda E., 261-84-8260
McKenna, Barbara M., 266-74-0895
McNeal, Grace H., 213-46-1873
Minkow, Florence J., 520-50-8509
Moore, Mary A., 430-92-1956
Obrien, Patricia M., 263-68-6120
Odonnell, Mary J., 259-78-6198
Origer, Elisabeth B., 304-54-2292
Parkin, Emily J., 130-42-1349
Pennington, Lois E., 504-58-9288
Porter, Carolyn S., 308-38-1307
Reynolds, Janet B., 438-76-8171
Reynolds, Kathy J., 237-86-5885
Rhoton, Nina K., 253-74-1370
Roaf, Carolyn P., 224-66-6033
Roe, Jane, 102-38-6222
Sauls, Samuel F., 263-68-5429
Schaub, Christine B., 382-54-8000
Schermerhorn, Linda C., 207-38-5721
Selle, Helen L., 215-42-9653
Stanfill, Patricia A., 209-32-1076
Stepherson, Patsy A., 463-84-7769
Stone, Donna M., 212-50-4278
Talarski, Josephine E., 488-38-7988
Thorpe, Ruth A., 030-34-3964
Vanvechten, Linda A., 121-36-7697
Walos, Carol A., 408-76-4311
Wegner, Mary C., 195-40-2263
Wesolowski, Jean A., 266-80-0551
Wilson, Lois R., 465-60-6022
Witt, Sandra M., 326-32-5491
Wood, Alice S., 422-64-6783

MEDICAL SERVICE CORPS

Aenchbacher, Arthur E., Jr., 230-68-2499
Brandler, Sidney, 075-30-4377
Csercsevits, Martin B., 140-38-9903
Didio, Nicholas, II, 265-70-5380
Edwards, Robert P., 429-90-6824
Fant, David J., 081-38-9766
Friestman, Gerald R., 456-74-3116
Gallman, James J., 418-56-1455
Hatton, Estil L., Jr., 464-68-7703
Hayden, Eric M., 219-48-9277
Jones, Lynn M., 129-38-7304
Marler, Phillip L., 423-64-6286
Marrs, Larry P., 461-72-6092
Modliszewski, Charles S., 038-30-3984
Murray, Robert B., 274-46-0206
Oleson, John N., 376-44-2382
Owens, Robert H., 213-48-1623
Paulsen, Norman W., 392-38-3459
Phillips, Roger D., 409-76-8334
Power, John D., 229-64-4850
Sexton, William P., 340-42-7547
Shields Robert E., 237-82-7845
Statzer, Fred C., 414-72-1786
Sutterer, Larry J., 491-50-5213

BIOMEDICAL SCIENCE CORPS

Almeida, Roy J., 156-40-5030
Ballinger, Michael B., 269-44-2519
Binovi, Robert D., 101-40-1987
Boone, Daniel C., 414-50-8159
Bradley, Michael J., 476-48-1995
Bradley, William P., 253-82-9895
Butler, John F., 488-48-2998
Cartledge, Robert M., 571-80-9351
Cayton, Tommie G., 261-74-1457
Clewell, Harvey J., III, 353-38-3936
Cropper, Thomas L., 400-64-3647
David, Freddy C., 401-62-5364
Delaney, Robert A., 147-38-8001
Dukes, William M., 267-74-4988
Duncan, Bernard J., 520-34-7252
Dungan, Paul B., 086-36-3272
Dunlap, James H., 437-48-3942
Fogelman, Vicky L., 423-60-4700
Freeman, James E., 243-70-0714
Gingras, Terry J., 001-36-9618
Grossi, John A., 189-38-9840
Hartson, Richard M., 474-40-4265
Hollowell, Morris L., 451-86-5248
Jemelka, Erwin D., 459-72-5717
Jenkins, Leslie G., 459-70-9523
Jordan, Dick T., Jr., 461-68-5115
Jung, Lynnette C., 516-42-4340
Kazmaier, Martin F., Jr., 063-20-6674
Larsen, Gary D., 502-50-7467
Layton, Louis J., 526-54-8998
Lehmann, Craig R., 541-54-7247
Marlowe, Britton L., 526-70-4946
Miller, Rebert E., II, 307-46-7253
Morford, Jerry M., 562-62-1032
Neill, Marvin W., 552-62-9763
Peterson, Michael R., 354-38-7509
Phelan, Patrick F., 073-40-8801
Pontier, John H., 141-36-5311
Pratt, George K., 260-74-2177
Reed, Dennis A., 383-46-8903
Rooney, James G., 026-34-5605
Scannell, Thomas J., 327-32-7226
Shwed, John A., 175-36-5092
Sugden, Brian W., 472-52-1562
Sweeney, Mary A., 488-52-4546
Taylor, Wiley, 295-36-2923
Vader, Henry F., 469-34-5407
Valentine, Walter W., 296-42-3584
Venable, Linda L., 006-46-3374
Walker, Marilyn A., 511-44-1976
Walker, Thomas J., 428-88-8944
Workman, Wilbur T., 250-88-8887

IN THE ARMY

The following-named officers for promotion in the Reserve of the Army of the United States, under the provisions of title 10, United States Code, section 3383:

ARMY PROMOTION LIST

To be colonel

Bernoski, Ronald G., 388-38-5212
Gang, William G., 539-40-9558
Hartzog, Robert L., 499-40-8070
Imborne, Vincent J., 436-58-0145
Jacobs, Allen C., Jr., 424-56-7691
Kotter, Jack H. 344-34-8513
Kryger, Adolph H., 321-34-0004
Lee, Donald 575-36-6829
Padilla, Aurilio, 575-36-1954
Portmann, Joslyn V., 405-52-9084
Radomski, Richard A., 166-32-7198
Schuster, John M., 388-44-8090
Simpson, Eugene P., 025-30-4952
Stone, William H., 418-44-0406
Tenorio, Juan C., 387-40-1472
Yelverton, Gary K., 426-62-3662

CHAPLAIN

To be colonel

Bigler, Robert L., 563-40-4482

ARMY NURSE CORPS

To be colonel

Spane, Janice E., 407-46-4491

MEDICAL CORPS

To be colonel

Graeser, Ronald E., 527-54-7387
Haynes, Ralph L., 216-42-5680

MEDICAL SERVICE CORPS

To be colonel

Charboneau, Keith N., 574-12-4790

ARMY PROMOTION LIST

To be lieutenant colonel

Blount, Lawrence C., 043-34-7384
Byrom, James E., 462-66-5794
Cheney, Perry S., 529-62-6439
Ching, Daniel G., 576-50-1702
Doggett, John J., III 408-74-0486
Foldesi, Robert S., 364-50-0135
Gipe, George W., 565-60-2616
Holmes, Joe L., Jr., 245-46-4547
Hoots, Lance, 565-60-2543
Houle, Richard M., 571-60-9952
Howell, Richard V., 116-34-9976
Howell, Watson M., 454-66-8261
Inman, James A., 222-28-1092
Ishida, Merton T., 317-44-6700
Kirby, John D., 477-52-3969
Kuer, Michael A., 402-66-0757
Lane, Raymond A., 550-54-8870
Logel, William R., Jr., 494-46-7182
Manney, Thomas P., 404-60-4820
Narrell, James E., 225-50-3782
Nixon, Richard H., 529-72-4603
Osman, Howard C., 225-60-6502
Pugh, Dudley L., 315-44-3365
Quick, Jeffry M., 343-40-9655
Regaldo, Raul L., 567-58-6707
Romey, Marco D., 538-38-4381
Scheftal, Paul A., 228-64-6152
Schiller, Eckhard W., 509-46-7182
Smith, David A., 459-78-6718
Smith, Lawrence D., 547-66-6549
Starkey, James S., Jr., 263-78-4557
Steinhardt, Gary C., 362-46-9468
Stone, Jeffrey R., 546-66-6684
Sulsona, Fernando, 582-86-4549
Urstadt, Henry W., 133-36-2082
Watson, Sherman E., 534-38-1759
Wells, James E., 526-70-8379
Whitten, Thomas C., 202-34-9036
Yamonoto, Warren H., 575-44-4521
Young, Michael S., 548-68-6010

DENTAL CORPS

To be lieutenant colonel

English, Charles E., 308-46-7590

MEDICAL CORPS

To be lieutenant colonel

Brown, Arnold, 570-52-7205
Longley, Selden, III, 412-64-8058
Nelson, Lionel M., 054-36-8234

MEDICAL SERVICE CORPS

To be lieutenant colonel

Haddad, Fred S., 264-68-5653
Smith, Dennis P., 279-36-6676
Tate, John C., 201-34-8466

The following-named officers for promotion in the Reserve of the Army of the United States, under the provisions of title 10, United States Code, section 3370:

ARMY NURSE CORPS

To be colonel

Buchan, Valerie B., 471-34-3809
Clifton, Mary R., 232-60-0236
Cooley, Sandra K., 179-32-3731
Diaz, Hilda, 262-40-9856
Easler, Velma B., 540-44-3879
Fitzsimons, Claudia, 110-30-3408
Ford, Timothy C., 343-28-2984
Gandar, Beatrice, 450-58-1841
Gonzalez, Alejandro, 356-32-6962
Gonzalezocasio, Ana, 580-88-9247
Haggard, Jeanette M., 572-48-4687

Hoffman, Sharon L., 132-28-2027
Johnson, Curtis B., 392-36-5074
Johnson, Maxine E., 434-64-0897
Johnson, Richard S., 363-40-5629
Keegan, Mary L., 427-64-7772
Kelm, Albert D., 389-38-5672
Lowe, Patricia H., 267-64-3987
McCarty, Elaine E., 023-30-5045
McClure, Margaret L., 176-26-7968
Mitchell, Georgia R., 521-52-9059
Modigh, Barbara P., 044-28-5484
O'Hare, Sara, 136-30-2859
Richtsmeier, Judith, 559-60-2204
Russell, Beverly J., 209-30-9974
Scheresky, Wilbur J., 501-36-6624
Schulte, Susan M., 389-50-8642
Seidlitz, Paul R., 337-30-8891
Snow, Yvonne A., 035-24-8532
Stryczek, Judith K., 304-38-8585
Summerlin, Edith B., 301-28-3031
Vanderlinden, Roosj, 547-60-7611
Vanderzyl, Sharon K., 478-50-4669
Weiermann, William, 396-34-5269
Wrench, William R., 515-40-1164

DENTAL CORPS

To be colonel

Alderman, Emery J., 515-34-7557
Billions, Gerald F., 409-60-3064
Buhler, John E., 067-36-8960
Buzby, John H., 006-38-1188
Colasanto, Anthony, 225-50-8750
Doherty, Tommy R., 432-64-8911
Feller, Ralph P., 020-26-9209
Gaston, Gerald W., 290-24-8955
Gilliam, Gary D., 526-56-3742
Grady, Paul F., 028-34-4947
Gunderson, James S, 478-52-3122
Hamilton, Reuel E., 256-50-5084
Hanley, Joseph B., Jr., 040-32-3710
Jensen, Lon J., 479-34-5361
Lainson, Phillip A., 485-36-7183
Lashbrook, Robert A., 541-40-3288
Law, Kenneth J., 566-38-5548
Leben, Jeffery B., 318-34-2390
Lloyd, John L., 371-30-8786
Lopez, Jesus, Jr., 585-10-0117
Malcharek, Gerhard, 349-28-4340
McGrath, Frank B., 242-54-7945
Mowrey, Stevan S., 482-34-3775
Myers, Dewey F., 425-78-0699
Nolan, Patrick S., 150-32-0767
O'Neal, William V., 206-28-6109
Pontoriero, Jack J., 164-24-9942
Smith, Joseph A., Jr., 333-30-4522
Sommer, William W., 137-30-3229
Thiedeman, Douglas, 490-40-2910
Tossasvega, Alberto, 582-48-6765
Ward, William A., 421-56-4392
Wood, Robert E., 511-28-1881

MEDICAL CORPS

To be colonel

Abraham, David A., 378-44-5604
Aebi, Ernest P., 542-40-3010
Ahsanuddin, Khaja M., 021-36-3553
Aiu, Patrick K.H., 575-30-4735
Anderson Harry J., 235-72-5380
Anderson, Thomas B., 466-43-9369
Arnold, David A., 482-60-3187
Bales, James D., 430-94-9448
Barcos, Maurice P., 355-40-1065
Barnawell, James R., 412-74-7867
Borowski, John T., 267-62-4417
Borromeo, Azael P., 170-40-4122
Brackett, Fred B., 249-68-2534
Brand, Jerry I., 103-32-9962
Campbell, Sammy C., 400-56-7828
Campbell, Selma, 266-40-9936
Cannon, Benjamin H., 259-68-6507
Cantey, Joseph R., 251-62-4904
Carman, Dean R., 512-34-5484
Cooper, George N., 145-28-9177
Cordell, Larry D., 500-42-7955
Covelli, Henry D., 331-38-0815
Crandall, David B., 510-40-7464
Daneault, Fernand J., 026-20-1331
Dantzler, Brian S., 251-80-3433
Dashow, Edward E., 367-50-1631
Deitz, Robert J., 148-22-9495
Diamond, Dalton E., 425-96-3690
Diaz, Jose A., 458-46-5296
Diazlegrand, Orland, 105-34-0391
Diodene, Alonzo N., 436-58-2557
Escalera, Gustavo A., 580-50-2643
Fasoglio, Aldo M., 040-20-4944
Fenster, Harold A., 261-72-8122
Fielding, Leonard T., 468-36-6200
Fischl, Edwin C., 196-34-1160
Fleischner, Jerry R., 327-20-7398
Fritschel, William, 389-38-8767
Gatens, Paul F., 233-68-3233
Golden, Stephen M., 042-36-0326
Goodwin, Cleon W., 245-64-9653
Green, Edward W., 503-52-8147
Hansen, Kenneth R., 518-34-9518
Harris, Ronald R., 327-36-7484
Hollison, Robert V., 576-50-4724
Hylton, Robert R., 520-32-7338
Jackson, Stanley M., 433-68-4895
Johnson, Melvin R., 225-62-3385
Johnston, Renner M., 002-28-1350
Johnston, Robert H., 465-40-4642
Keith, Joseph, 385-30-9818
Lambrecht, Robert W., 324-38-5890
Lazo, Deogracias S., 075-42-0066
Lentz, Carl W., 459-70-4948
Lesar, May Siang L., 383-46-5558
Lutz, Robert D., 210-24-4727
Maitland, Charles G., 146-34-2863
McCallum, Michael H., 570-46-7591
McElreath, Ricky L., 441-46-4175
Mellen, John D., 368-44-1309
Metcalf, Dormond E., 508-48-2002
Mobley, James A., 465-72-1285
Modarelli, Robert O., 146-32-5651
Mohanty, Santosh K., 099-44-0037
Moorman, Claude T., 261-58-4080
Morelli, Robert J., 559-34-5294
Munson, Wayne M., 391-26-9637
Nixon, James E., 434-58-6741
Nogueras, Juan A., 581-44-0460
Nold, Robert L., 400-44-1950
Nowakowski, Paul A., 099-28-3936
Ochoa, Gonzalo G., 491-38-3863
Padden, Thomas A., 368-38-7361
Park, Jinsoo, 078-42-6675
Patterson, James W., 123-36-1673
Payne, Ronald J., 528-40-7366
Pollock, Maurice I., 119-26-8136
Ralph, James W., 441-34-6050
Raue, William T., 331-28-3037
Reay, Donald T., 528-46-8368
Reitzel, Norman L., 184-20-7267
Richardson, Stephen, 353-34-9667
Rodgers, Donald E., 525-86-3861
Rossiter, Frances P., 259-56-8637
Schettler, William, 408-60-9142
Slavin, James D., 047-32-7132
Snyder, Alexander B., 107-24-2292
Spebar, Michael J., 385-44-1020
Stewart, Colston R., 578-56-4388
Strong, James S., 248-52-8761
Strum, Daniel G., 502-52-7946
Sue, Samuel S., 204-38-0183
Sutherland, James L., 248-68-6251
Tagliamonti, Joseph, 075-32-6723
Tri, Terry B., 544-56-3036
Vanway, Charles W., 579-50-2266
Vernon, Thomas M., 265-54-5867
Vigersky, Robert A., 139-38-8894
Waller, Stephen F., 457-72-2438
Webber, Everett H., 003-26-6526
Weinberg, Samuel E., 227-42-4958
White, Philip H., 039-28-5918
Williamson, Gary B., 258-74-7534
Wilson, Janet A., 139-28-5427
Youkey, Jerry R., 566-76-8671

MEDICAL SERVICE CORPS

To be colonel

Allen, Floyd E., 250-54-0816
Barber, Paul G., 260-54-3037
Bertinetti, Joseph, 525-98-6775
Bynum, Raleigh W., 261-48-6154
Cox, Kaye B., 518-34-2569
Davis, Leslie H., 245-64-6015
Desmone, John H., 281-36-7893
Gerow, William L., 495-38-5913
Grossfeld, Michael, 063-30-4876
Hampton, Ronald D., 529-40-2386
Hudson, Harold D., 455-56-8163
Hunter, Kenneth W., 120-26-7999
Iwen, Frank A., 397-28-0831
Jacobsen, John L., 502-26-9616
Jonasson, Jon F., 543-38-1991
Kutscha, Norman P., 152-28-8843
Leet, Charles F., 250-54-1171
Madden, Donald R., 256-58-1354
McNew, Walter H., 455-48-8398
Murphy, Mark J., 479-50-0839
Ottaviano, Jean L., 033-24-8412
Ponds, Otis D., Jr., 262-50-0461
Priest, Frank, Jr., 426-58-6042
Rezer, Harry M., 188-34-8961
Stenger, James J., 520-38-3308
Stewart, Michael O., 546-46-3923
Sudman, Marvin S., 295-32-1742
Sullivan, Daniel A., 097-38-2077
Vanormer, David G., 191-26-1750
Webster, Joseph L., 380-30-6817

ARMY MEDICAL SPECIALIST CORPS

To be colonel

Ager, Charlene L., 144-22-3227
Berg, Orville D., 474-30-8045
Dodge, Nancy H., 007-38-1427
Picking, Dona R., 505-56-0850

VETERINARY CORPS

To be colonel

Anderson, Carsten D., 475-28-3715
Applegate, Raymond, 283-34-1821
Bridges, Marvin J., 461-60-5355
Dahlgren, Robert R., 507-44-5940
Hagle, Richard, 564-42-0432
Manus, Allan G., 296-30-5392

The following-named officers for promotion in the Reserve of the Army of the United States, under the provisions of title 10, United States Code, section 3366:

ARMY NURSE CORPS

To be lieutenant colonel

Adams, Virginia W., 238-70-5077
Adamski, Joseph A., 104-34-9184
Alexander, Judith W., 001-38-5911
Arndt, Grace A., 047-32-5277
Assalone, Francis C., 177-36-2073
Austin, Eva S., 088-40-8972
Austin, Mary A., 257-72-3662
Austin, Maryann, 250-72-8695
Baker, Clifford E., 231-52-3414
Baldwin, Mary L., 365-40-2314
Ballesteros, Paulin, 333-36-1741
Balsley, Sharon J., 212-44-7826
Baltierra, Esther R., 442-44-7238
Baskerville, Barbar, 578-58-5739
Bastin, Herman L., 303-48-0677
Beahm, Vicki F., 547-66-1140
Beck, Shirley A., 221-20-1507
Beebe, Michael E., 493-48-7060
Bess, Dianne S., 325-38-6672
Beste, Linda R., 427-68-9959
Blaumeiser, Arlene, 142-30-1780
Bomberger, Audrey S., 167-34-1599
Borst, Ardienne D., 193-34-0440
Bowers, Judith A., 472-50-1911
Bradley, John J., 032-32-5356
Brock, Frankie D., 241-70-8205
Brown, Charles E., 442-40-5296
Brown, Inez J., 525-98-1899
Browne, Anne E., 115-32-9469

Burk, Robert J., 188-34-6955
Burroughs, Susan L., 259-74-5988
Butler, Danae L., 563-72-3462
Cahn, Marie T., 117-34-6729
Candelaria, Lydia C., 061-34-0490
Carlisle, Jo Ann, 416-54-9799
Carter, Barbara J., 478-62-5879
Carvalho, Fabian M., 117-46-1633
Clark, Linda F., 371-36-9357
Conerly, Judy B., 439-76-0050
Copenhaver, Dianne, 212-42-4065
Cothorn, Martha F., 386-44-9734
Daines, Samuel C., 396-40-6609
Daniel, Elnora D., 229-56-3450
David, Mary E., 231-64-2729
Didomenico, Patricia, 392-48-5264
Dionne, Francine M., 130-32-7613
Doyle, Thomas M., 396-46-1542
Dusenberry, Bethany, 279-44-9085
Ehrhart, Marjorie K., 288-32-6345
Fadhl, Nancy L., 495-46-8180
Faller, Nancy A., 210-36-6715
Feller, Carolyn M., 323-32-6540
Foss, Barbara A., 563-46-9930
Foss, Joan E., 523-60-4373
Franklin, Sharon R., 302-38-1217
Fries, Sandra L., 203-36-6605
Gerber, Frances T., 195-36-4856
Gibbons, Gloria J., 435-62-7021
Gonzalez, Irma R., 456-72-8166
Greene, Charlotte F., 454-72-5936
Grow, Susan E., 073-36-5073
Gulling, Jacqueline, 282-44-7508
Hart, Suzanne S., 223-58-2811
Hayes, Evelyn R., 095-34-6134
Heinley, Carol L., 523-58-2086
Henning, Marilyn J., 512-34-5915
Hill, Mary E., 425-86-6270
Hofmann, Grethchen, 301-38-0006
Holmes, Hannah L., 263-72-4249
Hudson, Frances J., 408-58-3197
Hutchisson, Celesti, 576-46-9845
Hynes, Sharon A., 065-34-2747
Jefferis, Walter R., 178-34-7577
Jenkins, Angeline V., 260-64-5365
Jewett, Martha S., 107-38-2872
Johnson, Patricia A., 370-42-3941
Jones, James E., 423-54-7119
Kelley, Suzanne M., 556-44-3570
Keltner, Norman L., 566-60-0667
Klassen, Loretta V., 519-34-5289
Knapp, Linda S., 442-48-7640
Kramer, Elizabeth E., 567-72-4508
Kruckemeyer, Margar, 496-48-4075
Kurth, Chestine, 513-50-2936
Laliberte, Elizabet, 050-30-2561
Lazar, Sue A., 312-48-7651
Leclaire, Suzanne M., 039-30-2264
Ledray, Linda E., 523-50-6872
Lee, Mary L., 401-70-0072
Lewis, Ramona C., 540-44-8851
Llewellyn, Franklin, 561-58-8275
Lucius, Nina J., 524-38-6817
Lynch, Joan A., 117-26-4116
Macgregor, Robert A., 186-30-9367
Malavecabanas, Brun, 580-92-5870
Mattson, Keith L., 530-30-4093
McKeon, Elizabeth, 060-40-3898
McNeil, Heather A., 542-44-4808
Menlove, Connie W., 529-74-9801
Meyer, Karen M., 115-36-4160
Miller, Carol A., 393-42-7958
Miller, Jean R., 474-44-9014
Miller, Nancy B., 267-76-5767
Mooney, Yvette M., 111-34-8287
Moore, Kerry S., 520-36-5082
Morales, Dorothy A., 368-38-8600
Nelson, Frances E., 397-42-5377
Nelson, Virginia L., 217-44-9212
Nichols, George M., 322-36-1011
Nickerson, Barbara, 452-54-2686
Nowland, Diann W., 266-78-5247
Nusz, Myra W., 424-62-4849
Ochoa, Diana K., 504-48-0540
Outlaw, Norma B., 315-44-0066
Padonu, Georgia L., 426-84-7574
Pagan, Catalino, 581-76-5902
Parrish, Doris P., 056-36-9190
Parrish, Helen D., 250-70-1364
Paul, Charlotte P., 457-64-8664
Paul, Donna B., 548-56-4017
Paulson, Donna M., 150-42-0301
Payne, Anna M. F., 558-68-5161
Pazant, Enith S., 079-34-4846
Pelham, Jacquelyn Y., 436-66-6289
Rafanan, Tita B., 181-42-2238
Rahm, Judith A., 483-42-7499
Richards, Theda R., 512-30-7422
Roberts, Shirley A., 406-50-3180
Rogers, Norma E., 465-68-0518
Rogness, Jeanne M., 081-28-4139
Rowe, Brenda B., 342-42-1093
Sampson, Mary A., 214-34-4806
Sands, Barbara, L., 025-38-0017
Santarelli, Eugene, 191-34-1507
Schraffner, Margaret, 266-44-8333
Schiffman, Marjorie, 233-68-8514
Schrempf, Jane L., 557-60-5144
Schuette, Lynnette, 450-70-5846
Shanahan, Maureen G., 088-36-9086
Sheehan, Elizabeth, 029-26-0466
Shellabarger, Virgi, 284-38-5207
Simdorn, Darlene J., 473-44-3380
Simpson, Barbara A., 245-74-4065
Sloan, Patricia E., 298-36-9799
Smith, Georgia M., 240-60-0646
Smith, Virginia M., 552-58-2241
Snyder, Sally A., 022-32-5224
Speakes, Marietta L., 212-48-2546
Stallworth, Ann V., 420-54-3983
Stark, Jerome H., 389-38-6248
Stossel, Heidi A., 133-36-9765
Strange, Mary M., 513-44-1144
Stumpf, Barbara R., 201-38-2007
Tillman, Patricia A., 457-72-7753
Titus, Robertei B., 108-26-4245
Trenholm, Isabelle, 365-42-9246
Vanmeter, Jacquelin, 219-52-1545
Verde, Edgardo A., 557-94-8132
Vittone, Gordon J., 388-44-8028
Walker, Sherilyn E., 424-68-2815
Walton, Joy A., 242-56-9571
Ware, Mary A. F., 426-84-1737
Welches, Martha L., 307-42-5321
Whalen, Jill E., 358-38-1312
Wieczorek, Lucie S., 435-54-8777
Wilson, Bettye J., 441-36-2094
Wilson, Sandra K., 363-44-3432
Winter, Sandra A., 116-38-3102
Worden, Mary H., 509-44-9825
Yeargan, Phyllis J., 488-46-9166
Zeccolo, Peggy L., 092-32-4627
Zwart, Elaine A., 506-42-0915

DENTAL CORPS

To be lieutenant colonel

Audette, Peter P., 024-30-9687
Banks, Thomas G., 393-50-7845
Berkman, Sheldon S., 136-38-0248
Black, Paul L., 101-34-1827
Blanch, Joseph P., 529-58-7236
Brezinski, Joseph M., 030-34-9965
Burns, Dennis A., 292-44-0805
Cass, Ronald B., 464-70-6692
Christensen, David, 528-60-7120
Colwell, Michael, 308-46-0060
Cowart, Rubin P., 261-62-2791
Crawford, Charles H., 251-78-5675
Dale, Robert A., 521-58-7281
Davis, Harry W., 266-78-8461
Davoren, Paul L., 030-34-4225
Denney, John D., 580-78-7059
Derda, Dennis C., 170-38-5655
Ditolla, William J., 080-38-1785
Dodson, Ronald G., 160-34-1578
Eplee, Harvey C., 509-44-5469
Evans, Larry B., 457-66-7891
Fields, David, 054-34-0883
Fong, Warren, 076-22-6482
Gangitano, Carl G., 573-56-9812
Heppner, Laurence J., 289-42-3433
Holland, George E., 249-76-3753
Jackson, James E., 261-66-5809
Kaercher, Timothy J., 084-36-2781
Kastantin, Brony F., 481-52-6686
Kelly, William H., 538-46-7546
Knopf, David, 046-40-5973
Lattanzi, Robert M., 043-28-4794
Lindenmuth, Robert, 571-60-4919
Macary, Thomas G., 122-36-5404
Mangum, Richard, 226-58-3318
Marquart, Max P., 125-36-2672
McArthur, Douglas R., 245-62-3563
McDonald, Terry J., 481-62-9491
Mikkonen, Daniel D., 533-32-6771
Miles, Michael B., 413-70-4673
Mitrosky, Michael J., 149-28-8110
Mize, Bobby D., 431-56-9226
Naugton, William C., 038-30-2143
Northrop, Ronald J., 553-64-4686
Palmer, James E., 226-44-7421
Paxton, Steven L., 529-62-0977
Reed, Kenneth C., 289-42-4016
Rekers, Douglas J., 557-56-0741
Rodriguez, Mario S., 577-56-7250
Shipman, Barry, 085-34-2393
Stabell, Edward R., 263-52-3031
Stofko, Albert E., 196-36-6896
Truitt, Thomas S., 250-80-8167
Whitner, Daniel J., 274-40-7778
Youngworth, Garret, 149-32-9073

MEDICAL CORPS

To be lieutenant colonel

Ackerman, Gary E., 140-38-3538
Aguila, Araceli, B., 188-34-5275
Alena, Gordon R., 132-28-5029
Ambrose, Anton L., 439-92-1420
Andrews, John S., 429-90-1547
Anees, Mukhtar, 132-48-1275
Axelrod, Ephraim, 507-36-4230
Ballou, James M., 003-28-2527
Basak, Bijan K., 109-42-0537
Baumer, Robert J., 389-42-3630
Beck, Roswell N., 409-86-6850
Berglund, Paul N., 474-30-0431
Berryer, Jacqueline, 172-42-5861
Bisgard, Carl V., 484-36-8570
Blumberg, Alvin D., 462-40-3497
Bombenger, James J., 351-40-5423
Brobyn, Thomas J., 481-48-1495
Bruce, Charles O., 401-68-4772
Buni, Herminia B., 476-54-7338
Butner, Robert W., 466-62-8291
Calverley, Roderick, 558-21-3704
Carter, Elijah, Jr., 419-58-8082
Chamberlain, Phil M., 578-58-0622
Chen, Chih C., 434-13-1693
Chon, Ahja K., 457-08-5610
Chung, Young Sook K., 122-52-0848
Coger, William A., 432-78-1264
Cohen, Steven I., 078-36-1270
Cook, Oscar R., 168-26-4759
Coppola, Antonia, 072-40-2740
Cort, David A., 246-64-2653
David, Marc F., 339-48-8330
Davis, Carol R., 522-64-1327
Deleon, Florante L., 320-46-3863
Desoyza, Neil D., 430-08-5826
Dibella, Geoffrey A., 215-38-4647
Diehl, George Z., 376-32-7772
Doner, Howard C., 527-66-0880
Dreher, Robert J., 199-38-9816
Duray, Paul H., 525-82-7536
Elaty, Frank, 037-36-1873
Erkulwater, Samard, 351-44-3955
Faucher, Paul G., 373-44-4046
Ferguson, Ronald A., 329-60-0842
Fisher, Clifton W., 287-28-6452
Fontanilla, Manuel, 216-52-2107
Foret, Lynn E., 439-78-6464
Fowler, Vincent R., 079-34-7909
Frankfort, Ian M., 102-38-6550

Franz, Friederike, 186-28-3692
Fridman, Rebeca, 264-17-2577
Garvey, Edmund P., 215-66-0710
Gaskins, Fay M., 499-22-5862
Generoso, William B., 075-46-1788
Gerber, Carl J., 382-32-4328
Gilbert, Stanley K., 430-86-6983
Green, Barth A., 348-36-0422
Greenwood, Laurence, 214-42-6784
Grover, Hugh L., 369-30-9294
Guanio, Lino P., 081-42-4075
Gumbiner, Carl H., 321-42-4412
Gurden, Gary G., 385-46-9188
Haas, Ray A., 314-50-5220
Hallaba, Moheb, 515-40-4606
Havalda, James T., 516-88-3376
Hayden, Virgil L., 432-72-0763
Hayes, Ada D., 564-60-1835
Haynes, Richard J., 298-34-8663
Hecker, Earl, 370-32-0809
Hellerman, Don V., 026-22-1401
Henrys, Paul, 044-50-8013
Hite, Louis Carey I., 247-80-1976
Huss, Richard W., 156-34-0027
Ilardi, Frank J., 117-26-3187
Isaac, Peter C., 370-42-5169
Judy, Kenneth L., 268-36-9961
Kaufman, Howard H., 364-42-4177
Keisler, David S., 483-56-0873
Kelly, Richard J., 214-30-0991
Khaw, Emily, 536-56-0522
Kim, Yoo Woong, 270-60-6403
Koval, Norman S., 155-28-6074
Kraft, Jerome P., 338-32-4793
Kraus, Nelson H., 277-44-3308
Kronmiller, Patrick, 517-48-9270
Kufta, Conrad V., 137-36-8121
Kumar, Dharmendra, 578-78-8143
Kumar, Joan R., 495-46-6095
Largoza, Nacianceno 166-42-7790
Latham, Harry S., 246-72-8384
Laubaugh, Richard M., 576-46-5951
Leibowitz, Stewart, 096-32-4022
Leon, Enrique, 526-68-3469
Leroux, Franklin T., 584-14-9421
Lopez, Enrique M., 223-56-7338
Lovell, Robert G., 519-56-6694
Lum, Don, 432-82-0319
Maesogonalez, Edwin, 582-98-2736
Maier, Gary J., 398-82-0494
Masakawa, Akiko, 071-48-7801
McCubbin, Jack H., 457-74-4520
McFadden, Michael R., 519-46-9712
Milicevic, Raelene, 338-64-4238
Miller, William C., 237-32-1491
Moon, Jae H., 140-56-0235
Morelli, Louis J., 280-38-8524
Moscoso, Washington, 154-44-2812
Muhanna, Nabil L., 256-04-6697
Mull, John D., 123-28-8083
Muthiah, Annamalai, 323-42-5730
Nappi, Anthony, 076-18-9930
Necheles, Thomas F., 333-28-1480
Nepomuceno, Cecil S., 510-50-3184
Nilakantan, Shanti, 149-46-0886
Ohmart, David L., 142-32-1606
Olaso, Norma B., 153-40-1828
Ostroy, Paul R., 527-56-2897
Pack, David A., 407-52-9917
Pang, Emily Jo M., 088-36-9643
Park, Jung H., 275-64-8628
Park, Young J., 226-96-5682
Patel, Ganesh K., 287-48-1159
Phillips, Steven J., 086-24-8821
Putzeys, Mario R., 382-60-9749
Quita, Vincent D., 570-62-4537
Rangappa, Jai K., 217-66-5183
Rasile, Giovanna, 113-36-3935
Reeves, Ronald L., 408-68-6041
Remigio, Paterno A., 157-30-7145
Robinson, Joe S., Jr., 258-68-2077
Roncal, Rogelio B., 102-38-1417
Roots, Logan H., 132-32-5584
Rostek, Sigmud, 150-16-6755
Rout, William R., 404-48-2819
Rowe, George A., 315-42-4209
Rudikoff, Jeffrey C., 054-32-0269
Ruizbetances, Juan, 581-68-5704
Rushton, Fred W., 428-90-0655
Saeed, Mohammad A., 379-70-5143
Sahukar, Satya P., 070-40-5893
Schreiber, Ronald, 112-28-3695
Schroyer, Wayne W., 291-26-1663
Siedenfeld, John J., 325-38-4723
Siazon, Pedro L., 169-34-4124
Siedlecki, Michael, 248-86-3453
Silvert, Mark A., 359-38-3084
Simpson, William M., 251-74-9805
Siroky, Mike B., 293-40-4652
Smith, Preston F., 526-46-4243
Smith, Ronald A., 324-36-9025
Sommers, Wilbur R., 310-42-5846
Suarez, Gerald G., 158-42-6565
Sullivan, Cornelius, 076-36-7822
Sullivan, Rebecca A., 328-36-8202
Sussman, Gilbert B., 137-32-5851
Tadeogoldman, Josep, 113-32-0240
Thomas, Gregory M., 224-68-1215
Thompson, Carson J., 009-32-5616
Torre, Salvacion, 330-50-5110
Tucker, Stanley C., 229-58-6951
Velezvelez, Lucila, 583-01-4247
Vu, Dich Quoc, 586-36-8690
Wade, John, 366-36-2074
Watson, William E., 163-36-6102
Wedin, Keith L., 532-36-6568
Weiss, Paul R., 084-34-2654
Weils, Louis M., 400-48-9613
Wells, Wilbur G., 434-68-2158
Whitmore, Andrew J., 191-38-3894
Whitson, Michael L., 413-76-4819
Whittaker, Richard, 199-32-6210
Wright, Ronald K., 492-48-2824
Zalma, Victor M., 064-32-1565

MEDICAL SERVICE CORPS

To be lieutenant colonel

Abbott, Richard F., 529-52-7389
Alter, James D., 308-44-5885
Anderson, John W., 429-72-9443
Angell, Thomas A., 008-32-2187
Atkins, Charles G., 373-36-9311
Atkins, Howard G., 441-46-4769
Bacon, Eugene L., 579-58-0555
Bair, Jeffrey H., 509-44-5010
Baker, Ralph A., 445-38-7568
Barton, Larry C., 366-44-0638
Beahm, Michael R., 230-46-8699
Becker, Theodore J., 071-38-4317
Berger, Dennis J., 512-38-0454
Bergman, Edward A., 146-36-3083
Berlant, Sheldon A., 117-32-4269
Beswick, Curtis A., 516-46-1408
Boensch, Paul A., 408-72-9330
Botwinik, Stuart A., 154-30-1358
Bouillet, John E., 317-44-2944
Broome, James P., 374-44-3566
Brunner, Frank R., 392-38-6695
Buckner, Winstead T., 402-58-0608
Burwell, Harvey H., 226-54-3398
Buxton, Robert E., 499-48-8071
Cahill, Patrick J., 116-32-0446
Camarda, Frank C., Jr., 125-38-2282
Carrier, Jack R., 415-58-9024
Carty, Robert E., 428-92-0041
Carver, Darryl L., 503-44-6695
Cenerini, Frank J., 027-32-3207
Cheung, Geoffrey P., 559-58-2971
Clark, Lynn R., 442-46-3290
Cline, Scotty I., 402-58-5446
Cochrane, Ronald D., 441-46-1391
Colby, Michael J., 564-64-6109
Cook, Joseph L., 395-40-0875
Culbertson, Daniel, 306-42-3937
Darci, Steven M., 567-56-3767
Davidson, Lynn M., 501-48-0217
Debiec, Stanley J., 273-40-1042
Degaetano, Robert F., 012-30-8657
Demko, Ronald T., 159-36-1577
Dennis, Harvey L., 266-46-8841
Dove, Donald K., 418-52-4604
Dunphy, James T., 174-36-8511
Dupaul, Bernard F., 011-34-5205
Durack, Michael O., 265-70-1955
Dyroff, Peter A., 537-42-9886
Elder, David H. J., 176-34-1866
Ellis, Harry V., 024-34-8611
Faiks, Walter A., 509-42-5971
Flahive, William J., 020-32-1281
Fornelli, Ronald J., 497-46-1994
Frame, Paul A., 303-54-0316
Franklin, Hollis M., 427-86-1394
Frederick, Lloyd J., 074-30-7649
French, William R., 481-52-6720
Giannoni, Ronald T., 342-26-4472
Gould, Paul J., 560-60-3140
Grosser, Earnst C., 481-50-3238
Guimond, Ronald N., 011-30-8435
Gunn, Elizabeth L., 267-58-1703
Hagan, Thomas W., 266-62-9076
Hampton, Dolores H., 154-32-7630
Hard, David E., 256-58-4019
Haroun, Joseph A., 013-30-2723
Hart, Thomas W., 471-46-7193
Henrichs, Roger, 351-36-6388
Herrmann, Richard J., 127-34-0872
Hilton, James M., 522-58-2749
Hood, Donald A., 539-44-1503
Howard, Larry D., 446-38-5168
Hunter, John W., 246-64-8109
Hyatt, Richard S., 506-54-1387
Jacobi, Eugene M., 412-60-5038
Jensen, William M., 532-42-0495
Jevec, Robert J., 302-36-5830
Kerins, James J., 273-40-3090
Keyt, Keith A., 541-54-4754
Knight, George A., 013-32-4067
Knox, Kenneth E., 426-98-6788
Kuck, Inara Z., 503-46-1194
Lacy, Duane B., 521-54-0685
Lange, Elwin H., 472-44-9079
Langkamp, Joseph P., 385-38-5763
Langlois, Alan M., 383-36-3037
Larsen, James H., 517-32-5604
Larsen, Robert J., 529-50-3364
Layman, George B., 425-66-6134
Leaks, Roger, Jr., 248-70-4889
Lee, Jung M., 429-86-1921
Lenox, John A., 143-30-7476
Levin, Kenneth N., 546-56-4607
Livingood, James R., 164-32-3574
Lloyd, Felix R., 464-66-3393
Long, Tom, 492-50-6748
Luce, Bryan R., 023-32-3037
Maguire, George J., 548-58-6473
Marsik, Frederic J., 152-34-6769
Martin, Larry E., 514-44-3259
McBride, Jacque M., 414-74-5834
McLean, Dale C., 066-36-0268
Means, Gary E., 548-56-7742
Mees, John C., 516-52-8977
Menard, Norman P., 024-36-4983
Miller, Charles A., 229-62-7361
Miller, Cledith A., 201-32-2168
Miller, Gerald J., 426-86-0345
Monroe, James E., 261-68-9904
Morganstern, Howard, 551-58-3201
Myers, Melvin H., 144-32-7759
Neeson, John F., 534-36-2261
Nelson, Gordon M., 117-34-1217
Neumann, Earnst F., 229-38-6839
Newsome, Cecil G., 258-64-6613
Norton, Tommy G., 440-50-5474
O'Daniel, George R., 248-74-7415
Oliveri, Benedetto, 180-32-0151
Opie, William E., 415-64-8779
Paris, Donald A., 132-36-9167
Peebles, Jack L., 462-60-8494
Pender, James B., 225-54-8087
Perlin, Harris I., 016-32-5980
Pfannenstiel, Raymo, 515-44-8191
Pillow, Walter W., 430-86-3820
Pinkham, Carlos F., 008-32-0500

Porter, Loril K., 529-46-9015
Pritchett, Gegory, 418-62-4789
Puckett, Thomas C., 515-44-9357
Radune, William F., 268-38-9211
Rettinger, Robert L., 571-56-3685
Revis, Donnie R., 248-68-7446
Richard, James M., 419-60-8875
Risko, Michael, Jr., 137-32-1131
Ritter, Ronald L., 504-42-9575
Rosenbluh, Edward S., 045-28-7006
Ross, Edwin S., 079-34-1061
Running, Joseph M., 437-66-8514
Schmechel, Walter W., 395-38-6849
Serio, Gary F., 451-72-6646
Shannon, Mack R., 412-70-3809
Sheppard, Samuel J., 536-40-0568
Sikora, Gregory J., 335-34-1904
Silke, Terry P., 317-46-9567
Simpson, George W., 260-62-5975
Smithee, Robert W., 466-68-7106
Snyder, Otis W., 466-64-3628
Soehl, Gene H., 483-58-4348
Sonneborn, Duane G., 202-32-1711
Spatz, Marvin, 141-28-6508
Spina, Arthur J., 077-38-0360
Steele, Carroll L., 407-50-0274
Stroman, William D., 001-32-0334
Thebeau, Robert S., 495-40-1455
Theriot, Howard J., 438-66-4471
Thompson, John P., 034-32-7088
Thompson, Joseph H., 478-46-5095
Thornton, Shirley A., 567-50-6468
Thorson, Thor J., 394-34-3929
Tierney, James P., 131-34-5185
Toler, Joseph R., 227-56-0033
Twitty, Willie L., 454-70-8802
Vance, Delmous Jr., 418-52-3337
Vanhee, Steven L., 470-46-0273
Wakayama, Junro E., 034-32-7567
Walters, Jerry M., 230-60-3505
White, Eric B., 492-48-4184
Willis, Finley Jr., 406-58-9482
Wodarz, Roy R., 517-44-4345
Yamilkoski, Paul J., 110-34-8700
Yarter, Maurice A., 585-07-9123
Yeager, Raymond E., 280-36-2534

ARMY MEDICAL SPECIALIST CORPS

To be lieutenant colonel

Bell, Joan E. L., 459-86-1876
Brooks, Patty S., 564-76-5068
Hodges, Patricia A., 240-60-0398
Hutchinson, Geoffre, 057-36-5474
Lilly, Marsha C., 233-70-9397
Much, Diane D., 573-66-2426
Needleman, Barbara, 019-32-3570
Phillips, Sharon L., 574-16-3413
Richards, Charlotte, 212-44-9102
Rowe, Barbara J., 222-30-6853
Stevens, Renee P., 477-46-1543
Sturges, Patricia A., 516-50-2415
Sweeney, Bonnie M., 228-58-8224
Tommervik, Dale A., 535-40-0345
Vallejo, Alfredo, Jr., 451-74-2972

VETERINARY CORPS

To be lieutenant colonel

Ackerman, Norman, 261-64-5593
Beck, Gary F., 083-34-1948
Bloomberg, Mark S., 349-38-2093
Fox, Jay D., 508-52-8109
Kastello, Michael D., 361-34-9198
Lane, Robert T., 487-52-1874
Mason, Douglas W., 470-50-5236
Taylor, Robert V., 402-64-1895

The following-named officers for appointment in the Reserve of the Army of the United States, under the provisions of title 10, United States Code, section 716:

MEDICAL CORPS

To be colonel

Brooks, Viola P., 203-40-5930
Frushour, Stephen J., 289-40-2575
Guistolisi, Vincent, 126-28-3088
Surti, Nergesh, 014-40-1517

ARMY PROMOTION LIST

To be lieutenant colonel

Cecil, Gerald T., 407-54-2152
Taylor, Thomas W., 239-68-6776
Wood, Piers M., 448-40-3582

DENTAL CORPS

To be lieutenant colonel

Fairchild, William, 511-40-2682
Ferguson, Lucian M., 257-68-0836
Jordon, Robert D., 354-40-3558

MEDICAL CORPS

To be lieutenant colonel

Brown, David L., 417-68-9267
Grimwood, Ronald, 276-48-0114
Insalaco, Samuel, 050-40-7975
Karsh, Richard B., 058-36-5237
Vike, Jean, 287-64-9270
West, Walter C., 579-64-5763

IN THE MARINE CORPS

The following-named Marine Corps Enlisted Commissioning Education Program graduates for permanent appointment to the grade of second lieutenant in the U.S. Marine Corps, pursuant to title 10, United States Code section 531:

Aivaz, Susan A., 6662
Anderegg, Anthony R., 8809
Burdette, Mark W., 0181
Campbell, Alton E., 7000
Clark, John F., III., 2674
Cohen, Gregory K., 6495
Cole, Paul L., 2968
Connare, Randall M., 6195
Cozine, Larry D., 7294
Engel, Shawn A., 4909
Ferry, Timothy E., 2478
Gdanski, Gregory T., 3796
Grace, Matt L., 4837
Hensen, Mark A., 0085
Hernandez, Edward G., 6100
Jones, Leah A., 4377
Koch, Gary D., 8439
Lennon, Michael K., 0997
Lewis, Jason N., 5090
Merchant, Steven L., 6096
Montgomery, Daniel P., 5324
Moore, Michael S., 8270
Nerio, Willie S., Jr., 4702
Noblit, Michael W., 3173
Ramirez, Michael J., 4005
Santiago, Vinent W., 2239
Sawicki, Timothy L., 0372
Soehnlin, Craig A., 2343
Summer John A., 3589
Sykes, David L., 7119
Vandenabeele, Rene A., Jr., 2420
Wall, Cody W., 8146
Waugh, Robert M., 0929
Whitehead, George B., 2903

The following-named Naval Reserve Officers Training Corps graduates for permanent appointment to the grade of second lieutenant in the U.S. Marine Corps, pursuant to title 10, United States Code, sections 531 and 2107:

Ainsworth, Kevin, N., 8493
Alder, Donald C., 2079
Amidon, Todd C., 6348
Amundson, Craig A., 6041
Anderson, Earl J., 5990
Anderson, Phillip Q., 1460
Anderson, Steven K., 7841
Arnold, Jefrey M., 0395
Baker, William H., 9798
Baldwin, Claude IV, 8258
Barber, Jon A., 8919
Barnes, Darryl G., 1502
Bass, Harold C., 8314
Beller, Stephen C., 6858
Belleville, Thomas R., 3460
Benhoff, David A., 6072
Berget, Cristopher C., 0103
Bevan, Timothy P., 1603
Bissell, Michael S., 4925
Black, Mark E., 2717
Bley, John C., 7852
Blomlie, Roxanne K., 4607
Bohn, Michael F., 8938
Bontell, Michael J., 9258
Bowen, Peter S., 7403
Brady, Jeffrey L., 6568
Brannen, William P., 8312
Brannon, David A., 1757
Brodfuehrer, Steven P., 0457
Broniec, Frank G., 6892
Brunter, Randy J., 1476
Byrne, Shawn P., 9379
Caldwell, Kenneth C., 4385
Canada, Jimmy D., II, 4085
Carberry, Michael K., 2352
Carlson, Christopher G., 6395
Carnesi, Thomas III, 9930
Carroll, Geoffrey C., 9674
Carusone, Jeffery S., 7492
Cassidy, Michael J., 4434
Chura, Gary P., 6419
Clancy, Matthew J., 3606
Clark, Lyle R., 7671
Clemens, Lance M., 9654
Cobb, Steven R., 4452
Connor, Richard A., 2045
Cook, Daniel R., 0256
Cote, Johanne L., 2235
Coulter, Jeffrey A., 6193
Cradic, Anthony L., 3303
Craft, Douglas M., 7004
Craig, Colin M., 4363
Craig, Michael R., 2075
Cromer, Peter G., 9438
Curtis, Christopher M., 3752
Dantonio, Patrick J., 6324
Darmi, Mickey T., 8846
Daugharty, Jeffrey T., 3266
Davis, Brian J., 2950
Dawson, David P., 9201
Deckert, Paul B., 4186
Denn, Douglas A., 0033
Dennis, Aaron L., 8666
Dillon, James T., 8455
Dinauer, Stephen R., 0470
Dodds, Richard B., 8692
Doig, Michael A., 7714
Dolson, Christopher J., 8474
Donovan, Michael J., 3753
Dorian, Winston F., 5822
Dorman, Steven B., 4016
Douglass, Travis L., 8998
Downs, Brady C., 4647
Dube, Hans G., 9109
Dumke, Brad R., 6215
Duncan, Robert A., 4056
Edgerly, Daniel O., 0449
Eid, Bradley F., 5254
Escalante, Yori R., 8842
Fairfield, Douglas H., 7369
Farr, Peter R., 1394
Fazekas, Scott J., 7454
Fitzpatrick, Will, Jr., 0257
Forbes, Allen P., 5534
Ford, Partick W., 0623
Frayer, Edward J., 3677
Freund, Kirk L., 9784
Fuka, Louis, 0385
Garcia, Randall E., 6350
Gero, John K., 5409
Gerst, Charles A., 2379
Gill, Peter B., 2672
Gionfriddo, Robert J., 6176
Giornelli, Raymond B., 1008
Glazier, Guy P., 5633
Gordon, Kerry T., 2468
Goulet, David G., 1234
Grant, Jeffrey G., 9357
Greer, Adam T., 3377

Gregory, Daniel T., Jr., 5711
Hall, Charles E., 4920
Hamester, Mark, 9965
Hamilton, Michael D., 0659
Hansen, Eric G., 1834
Harmon, Robert A., 9481
Harrington, Timothy J., 9118
Harris, Mark E., 4609
Harryman, Timothy P., 1753
Hart, Edward H., 4302
Hatcher, Wesley M., 9574
Hearney, Brenden K., 4220
Helgason, Kurt A., 5096
Hensell, James L., Jr., 9638
Herran, Francisco, 9489
Hershberger, William, 6321
Hess, Daniel G., 9521
Hoens, Robert J., Jr., 5627
Holmes, Brian T., 2604
Hooker, Daniel L., 8349
Horst, Derek M., 5108
Howard, Christopher E., 6197
Hrinko, John J., 6671
Hughes, Samuel B., 3740
Humphries, Donald, Jr., 2631
Jeffrey, Joseph M., 3442
Jeffries, Edward M., 9257
Johnson, Borden M., 3082
Johnson, Gary E., 2645
Johnson, James L., 1685
Johnson, Kathryn E., 8228
Jones, Robert A., 3402
Kamps, Larry G., 3932
Kapp, Edward A., 4545
Karnay, Laurie L., 8815
Karnes, Jeffrey A., 5285
Keers, Frederick, III, 4210
Kennedy, Andrew R., 6265
Kicklighter, Rodney K., 6657
Kissane, Philip A., 8142
Knight, Tracy S., 5581
Koziuk, Gregory G., 2408
Kraus, Daniel., 5783
Krieger, Jeff J., 8303
Kucera, Dane P., 7388
Kudlak, David M., 9516
Kurth, Douglas S., 4880
Laforest, James R., Jr., 9341
Landreth, Jack J., 3815
Lauson, William J., 5390
Lawson, Allen V., 0676
Leary, Michael P., 2859
Lenhard, Lee E., 2098
Leo, Kenneth J., 4435
Logan, Timothy K., 7586
Lopez, Victor D., 0349
Lord, John S., 4912
Lovejoy, Owen R., II, 9435
Lozada, Eriberto P., Jr., 3087
Lozano, Jose R., 3594
Lucente, Frank J., 3823
Luster, Frank, III, 0456
Lutkenhouse, John F., 6102
Lyons, William A., 9999
Mabry, Jeffrey D., 1576
MacFarlane, Colin J., 5339
Mahler, Mark A., 6642
Mahne, Kevin P., 4699
Malavet, Roman F., 7227
Maloy, Patick O., 9721
Manning, Stephen F., 0777
Maples, William C., 9788
Marano, Joseph A., 0718
Marsh, Christopher N., 0791
Martin, Kelly A., 3142
Martin, Mary J., 6413
Mason, William T., 7334
Mathis, Bonner L., 0748
Matkin, John T., III, 7503
Maxmin, Christopher W., 9549
May, Thomas F., 1893
McCarthy, Christopher, 9515
McCarthy, Kevin F., 6791
McCarthy, Timothy W., 9042
McCartney, Terrence E., 9831
McClurg, Henry J., 1332
McCombs, Robert H., 3306
McCoy, Marc D., 8547
McCullough, James C., 1681
McDonald, James A., III, 3729
McDonough, John F., III, 3239
McFall, Monte R., 5180
McGinnis, Thomas D., 9738
McHugh, James P., 8365
McIlvried, Bruce D., 9103
McKay, Raymond N., 7167
McLaughlin, Stephen D., 6270
Meizoso, Stephen C., 0195
Merriman, Gerald A., II, 3017
Michaels, Timothy R., 6515
Miller, Douglas W., 3647
Minchin, Edward H., III, 0012
Moline, Todd D., 9819
Monahan, Daniel P., 1636
Moore, Keith M., 4580
Moore, Ronald D., 3560
Morant, Kevin F., 0356
Mullen, William F., III, 6237
Mullins, James M., 4836
Munoz-Dones, Pedro, III, 3468
Murtha, Michael P., 3761
Needham, Peter D., 1680
Nelms, Joe D., 8716
Nerad, Anton H., 6393
Neulen, Barry C., 4289
Nicholls, Marc T., 8894
Nickle, Bruce E., 4650
O'Brien, Andrew G., 3541
O'Keefe, Timothy F., 7005
Oliver, Lawrence J., 2945
O'Neil, Patrick W., 7961
Orr, Alan J., 8156
Owen, Stephen S., 9577
Owens, Ben H., 7459
Ozmer, Joseph W., II, 5946
Palacius, Lynette M., 1008
Parker, John K., 3005
Pastva, Timothy A., 2138
Peet, Christopher H., 1507
Petro, Kenneth C., 0427
Petto, Joseph J., 0740
Pfiester, Andrew J., 0938
Pickett, George D., 4610
Pipho, Stuart A., 2804
Pixler, Darryl S., 3497
Planeta, Christopher C., 0979
Pockette, Michael D., 9231
Polk, William M., 9053
Powell, Kenneth D., 8800
Rabil, Daniel J., 6983
Radnich, Lisa M., 6198
Recio, Francisco, 4360
Redman, Benjamin L., 5008
Regan, Brian F., 1401
Reitz, David M., 4160
Remington, Eric J., 7799
Renier, Jeffrey S., 1651
Ridderhof, Phillip J., 6652
Roche, Paul L., III, 2411
Rogers, Philippe D., 6349
Root, Christopher R., 5705
Royston, Timothy M., 9465
Ruf, Joseph, III, 9082
Russell, Thomas W., 0027
Ryder, Lawrence S., 3234
Rynne, Brian T., 1455
Sanborn, Russell A., 7303
Schmanske, Brian M., 7262
Schmidt, Steven J., 9822
Schreck, Paul C., 7790
Sears, Stephen A., 3694
Seith, James P., 4371
Shanley, Kevin E., 7095
Sheets, Dennis T., 8666
Shepherd, Stephen S., 0392
Skuodas, Michael A., 8996
Slaughter, Aaron T., 0035
Slayne, Kevin F., 1434
Smith, Brian W., 6655
Smith, Cary K., 6657
Smitherman, Joe V., II, 4727
Soong, Warren J., 0023
Stanovich, Mark E., 4415
Stearrett, David H., 8613
Steidl, Eric J., 9623
Stevens, John A., 2645
Stone, Eric B., 3322
Strotman, Samuel J., 7641
Summerlin, Raymond, 6537
Swords, Michael T., 7669
Taber, George L., IV, 4160
Tadeo, Terrell A., 7403
Teeples, James S., 3838
Temples, David D., 4094
Thomas, Tommy D., 0097
Thome, Christopher W., 8486
Thompson, Kevin L., 3316
Thompson, Mark A., 4424
Thorne, Thomas R., 0772
Thornton, Michael W., 4397
Tipton, Leslie A., 8258
Tolley, Bruce E., 1121
Tomassetti, Arthur, 5482
Tornetta, Stephen A., 8647
Trabun, Michael A., 7362
Tracy, Richard J., 4891
Trimble, Kent D., 6343
Tucker, William A., 0522
Turek, Paul J., 5908
Urie, James H., Jr., 3837
Vagedes, Michael M., 3486
Vandervoorn, Patrick, 4262
Vaseghi, George H., 3963
Vincent, William L., II, 6819
Vosteen, David A., 3763
Walpole, Kenneth K., 6952
Walton, Kyle M., 3680
Waters, Jeffrey A., 5417
Wawrzyniak, Daniel J., 4583
Weber, Hans F., 2789
Weinberg, Steven B., 2609
Wember, Anthony P., 0264
Whitehouse, Thomas W., 4176
Whiting, Philip V., 6180
Wiedenhoeft, Shawn I., 8475
Wiersma, David B., 6715
Wilbur, David A., 6182
Willard, Lee B., 3132
Williams, Alan F., 8556
Williams, Richard II, 3049
Winkelman, Perrin D., 1757
Wise, Mark R., 7439
Wixted, Donna M., 8801
Wood, Lewis E., 2321
Wright, Justin A., 6701
Wright, Lawrence E., 9056
Wunder, George F., IV, 8397
Zobrist, Kenneth E., 5877

The following-named U.S. Naval Academy graduate for permanent appointment to the grade of second lieutenant in the U.S. Marine Corps, pursuant to title 10, United States Code, section 531:

Mimms, Bernard F., 0247

Federal Trade Commission

Daniel Oliver, of Connecticut, to be a Federal Trade Commissioner for the unexpired term of 7 years from September 26, 1981, vice James C. Miller III.

National Council on Educational Research

Joan M. Gubbins, of Indiana, to be a member of the National Council on Educational Research for a term expiring September 30, 1988, reappointment.

CONFIRMATIONS

Executive nominations confirmed by the Senate December 18, 1985:

Railroad Retirement Board

William J. Doyle III, of Maryland, to be Inspector General, Railroad Retirement Board.

U.S. Postal Service

J.H. Tyler McConnell, of Delaware, to be a member of the Board of Governors of the U.S. Postal Service for the remainder of the term expiring December 8, 1988.

Robert Setrakian, of California, to be a member of the Board of Governors of the U.S. Postal Service for the remainder of the term expiring December 8, 1993.

Department of the Interior

Gerald Ralph Riso, of New York, to be an Assistant Secretary of the Interior.

C. Dale Duvall, of Washington, to be Commissioner of Reclamation.

U.S. Institute of Peace

Sidney Lovett, of Connecticut, to be a member of the Board of directors of the U.S. Institute of Peace for a term of 2 years expiring January 19, 1987.

John Norton Moore, of Virginia, to be a member of the Board of Directors of the U.S. Institute of Peace for a term of 4 years expiring January 19, 1989.

Richard John Neuhaus, of New York, to be a member of the Board of Directors of the U.S. Institute of Peace for a term of 2 years expiring January 19, 1987.

W. Bruce Weinrod, of the District of Columbia, to be a member of the Board of Directors of the U.S. Institute of Peace for a term of 2 years expiring January 19, 1987.

Dennis L. Bark, of California, to be a member of the Board of Directors of the U.S. Institute of Peace for a term of 4 years expiring January 19, 1989.

Evron M. Kirkpatrick, of Maryland, to be a member of the Board of Directors of the U.S. Institute of Peace for a term of 4 years expiring January 19, 1989.

W. Scott Thompson, of New Hampshire, to be a member of the Board of Directors of the U.S. Institute of Peace for a term of 4 years expiring January 19, 1989.

Allen Weinstein, of the District of Columbia, to be a member of the Board of Directors of the U.S. Institute of Peace for a term of 4 years expiring January 19, 1989.

William R. Kintner, of Pennsylvania, to be a member of the Board of Directors of the U.S. Institute of Peace for a term of 2 years expiring January 19, 1987.

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

In the Navy

The following-named officer, under the provisions of title 10, United States Code, section 5141, to be Chief of Naval Personnel and to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be vice admiral

Rear Adm. Dudley L. Carlson, 571-34-1829/1110, U.S. Navy.

In the Air Force

The following officers for appointment in the U.S. Air Force to the grade of brigadier general under the provisions of section 624, title 10 of the United States Code:

Col. Robert M. Alexander, 418-48-3868FR, Regular Air Force.

Col. James S. Allen, 016-30-3225FR, Regular Air Force.

Col. John R. Allen, Jr., 247-52-3450FR, Regular Air Force.

Col. Edgar R. Anderson, Jr., 433-60-4339FR, Regular Air Force.

Col. James G. Andrus, 529-48-2000FR, Regular Air Force.

Col. Malcolm B. Armstrong, 438-60-7184FR, Regular Air Force.

Col. Lester P. Brown, Jr., 227-48-7400FR, Regular Air Force.

Col. Robert A. Buethe, Jr., 321-32-7571FR, Regular Air Force.

Col. Gerald A. Daniel, 436-58-5221FR, Regular Air Force.

Col. Thomas E. Eggers, 333-34-7982FR, Regular Air Force.

Col. James W. Evatt, 448-38-7167FR, Regular Air Force.

Col. Frederick A. Fiedler, 524-42-8785FR, Regular Air Force.

Col. Paul D. Gleason, 014-26-1352FR, Regular Air Force.

Col. Joel T. Hall, 442-34-9937FR, Regular Air Force.

Col. William P. Hallin, 046-32-0572FR, Regular Air Force.

Col. Floyd E. Hargrove, 453-50-8373FR, Regular Air Force.

Col. George B. Harrison, 251-6-5770FR, Regular Air Force.

Col. John R. Harty, 501-34-3453FR, Regular Air Force.

Col. Richard E. Hawley, 069-34-7170FR, Regular Air Force.

Col. Harald G. Hermes, 154-28-4701FR, Regular Air Force.

Col. Thomas W. Honeywill, 299-30-1055FR, Regular Air Force.

Col. John R. Hullender, 260-56-6601FR, Regular Air Force.

Col. Grover E. Jackson, 416-50-3954FR, Regular Air Force.

Col. John E. Jackson, Jr., 234-62-8810FR, Regular Air Force.

Col. Arlen D. Jameson, 538-36-5959FR, Regular Air Force.

Col. Jeffery D. Kahla, 534-36-0824FR, Regular Air Force.

Col. Donald L. Kaufman, 461-56-8494FR, Regular Air Force.

Col. Vernon J. Kondra, 532-34-3136FR, Regular Air Force.

Col. Paul E. Landers, Jr., 525-84-8724FR, Regular Air Force.

Col. James J. LeCleir, 389-38-5475FR, Regular Air Force.

Col. Orthus K. Lewis, Jr., 430-60-5191FR, Regular Air Force.

Col. Nathan J. Lindsay, 387-34-3109FR, Regular Air Force.

Col. John D. Logeman, Jr., 397-34-5697FR, Regular Air Force.

Col. Charles F. Luigs, 404-50-5689FR, Regular Air Force.

Col. Billy G. McCoy, 462-64-1237FR, Regular Air Force.

Col. Michael P. McRaney, 425-80-0798FR, Regular Air Force.

Col. Philip L. Metzler, Jr., 524-44-8266FR, Regular Air Force.

Col. Kenneth V. Meyer, 471-44-5038FR, Regular Air Force.

Col. John M. Nowak, 374-42-6339FR, Regular Air Force.

Col. Carl G. O'Berry, 363-34-3273FR, Regular Air Force.

Col. Richard J. O'Lear, 567-52-4439FR, Regular Air Force.

Col. David C. Reed, 555-48-9953FR, Regular Air Force.

Col. Jon A. Reynolds, 194-30-7566FR, Regular Air Force.

Col. Paul L. Roberson, 566-56-4803FR, Regular Air Force.

Col. Alan V. Rogers, 411-62-9465, Regular Air Force.

Col. Richard M. Scofield, 026-28-8454FR, Regular Air Force.

Col. John F. Sievertson, 234-50-6314FR, Regular Air Force.

Col. Victor S. Stachelczyk, 041-30-6463FR, Regular Air Force.

Col. Kenneth E. Staten, 521-52-2702FR, Regular Air Force.

Col. Robert F. Swarts, 448-36-1484FR, Regular Air Force.

Col. Dale W. Thompson, Jr., 441-36-6881FR, Regular Air Force.

Col. Denis L. Walsh, 499-36-6931FR, Regular Air Force.

Col. Sam W. Westbrook III, 492-44-3573FR, Regular Air Force.

Col. Robert V. Woods, 509-40-1816FR, Regular Air Force.

Foreign Service

Foreign Service nominations beginning L. Paul Bremer III, and ending Jerome F. Tolson, Jr., which nominations were received by the Senate and appeared in the Congressional Record on October 28, 1985. (Confirmed minus one nomination: Edwin G. Corr, to the class of career Minister.)

HOUSE OF REPRESENTATIVES—*Wednesday, December 18, 1985*

The House met at 10 a.m. and was called to order by the Speaker pro tempore [Mr. WRIGHT].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC, *December 17, 1985.*

I hereby designate the Honorable JIM WRIGHT to act as Speaker pro tempore on Wednesday, December 18, 1985.

THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Forgive us, O God, for waiting until difficulties to admit our needs; forgive us for waiting until good times to give thanks; forgive us for waiting until we have lost our way to seek direction. We offer our praise to You, O God, that Your spirit supports us in all the moments of life, in good times and bad, wherever we are or whatever we have done, and that we can never be too distant from You to be blessed by Your love and grace. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. BLILEY. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Chair's approval of the Journal.

The SPEAKER pro tempore. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BLILEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 228, nays 143, answered "present" 4, not voting 59, as follows:

[Roll No. 472]

YEAS—228

Ackerman
Addabbo
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Aspin
Barnard
Barnes
Bates
Bedell
Beilenson
Bennett
Berman
Bevill
Biaggi
Boggs
Boland
Boner (TN)
Bonior (MI)
Borski
Boucher
Boxer
Breaux
Brooks
Broomfield
Brown (CA)
Broyhill
Bruce
Bryant
Bustamante
Byron
Callahan
Carper
Carr
Chapman
Chappell
Clinger
Coelho
Coleman (TX)
Collins
Conyers
Cooper
Coyne
Daniel
Darden
Daschle
de la Garza
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dowdy
Downey
Duncan
Durbin
Dwyer
Dyson
Early
Eckart (OH)
Edgar
Edwards (CA)
English
Erdreich
Evans (IL)
Fascell
Fazio
Feighan
Fish
Florio
Foglietta
Fowler
Frank
Fuqua
Garcia
Gaydos
Gejdenson
Gilman
Glickman
Gonzalez
Gordon
Gradison
Gray (PA)
Green
Hamilton
Hatcher
Hayes
Hefner
Hertel
Hillis
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hyde
Jeffords
Jenkins
Johnson
Jones (OK)
Jones (TN)
Kanjorski
Kaptur
Kastenmeier
Kennelly
Kildee
Kolter
Kostmayer
LaFalce
Lantos
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lipinski
Long
Lowry (WA)
Lujan
Luken
Lundine
MacKay
Madigan
Manton
Martinez
Matsui
Mazzoli
McCloskey
McDade
McEwen
McHugh
Meyers
Mica
Mikulski
Miller (WA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Moore
Morrison (CT)
Mrazek
Murphy
Murtha
Myers
Natcher
Nichols
Nowak
Oakar
Olin
Ortiz
Panetta
Pease
Pepper
Perkins
Petri
Porter
Pursell
Ray
Regula
Reid
Richardson
Rinaldo
Robinson
Rodino
Roe
Rowland (GA)
Roybal
Russo
Sabo
Savage
Scheuer
Schneider
Schulze
Schumer
Sharp
Shelby
Shumway
Shuster
Sisisky
Skelton
Slattery
Smith (FL)
Smith (IA)
Smith (NE)
Snyder
Solarz
Spratt
St Germain
Staggers
Stallings
Stokes
Studds
Swift
Synar
Tallon
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Waxman
Weiss
Wheat
Whitley
Whitten
Wirth
Wise
Wolpe
Wright
Wyden
Wylie
Yates
Yatron

NAYS—143

Archer
Armey
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boulter
Brown (CO)
Burton (IN)
Carney
Chandler
Chappie
Cheney
Clay
Coats
Cobey
Coble
Coleman (MO)
Combest
Conte
Coughlin
Courter
Craig
Crane
Dannemeyer
Daub
Davis
DeLay
DeWine
Dickinson
DioGuardi
Dornan (CA)
Dreier
Edwards (OK)
Emerson
Evans (IA)
Fiedler
Flippo
Franklin
Frenzel
Gallo
Gekas
Gingrich
Gregg
Grotberg
Gunderson
Hall (OH)
Hall, Ralph
Hammerschmidt
Hansen
Hartnett
Hendon
Henry
Hiler
Holt
Ireland
Jacobs
Kasich
Kolbe
Kramer
Lagomarsino
Latta
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lloyd
Loeffler
Lott
Lungren
Mack
Marlenee
Martin (NY)
McCain
McCandless
McCollum
McGrath
McKernan
McMillan
Michel
Miller (OH)
Molinari
Monson
Moorhead
Morrison (WA)
Nielson
Oxley
Packard
Parris
Pashayan
Penny
Quillen
Ridge
Roberts
Roemer
Rogers
Roth
Roukema
Rowland (CT)
Saxton
Schaefer
Schroeder
Schuette
Sensenbrenner
Shaw
Sikorski
Siljander
Skeen
Slaughter
Smith (NJ)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Stangeland
Stenholm
Strang
Stratton
Stump
Sundquist
Sweeney
Swindall
Tauke
Tauzin
Taylor
Thomas (CA)
Vucanovich
Walker
Watkins
Weber
Whitehurst
Whittaker
Wolf
Wortley
Young (FL)
Zschau

ANSWERED "PRESENT"—4

Applegate
Bonker
Goodling
Obey

NOT VOTING—59

Atkins
AuCoin
Badham
Bosco
Burton (CA)
Campbell
Crockett
Dymally
Eckert (NY)
Fawell
Fields
Foley
Ford (MI)
Ford (TN)
Frost
Gephardt
Gibbons
Gray (IL)
Guarini
Hawkins
Heftel
Hutto
Jones (NC)
Kemp
Kindness
Kleczka
Leach (IA)
Leath (TX)
Lowery (CA)
Markey
Martin (IL)
Mavroules
McCurdy
McKinney
Miller (CA)
Mitchell
Neal
Nelson
O'Brien
Oberstar
Owens
Pickle
Price
Rahall
Rangel
Ritter
Rose
Rostenkowski
Rudd
Seiberling
Stark
Traxler
Udall
Walgren
Weaver
Williams
Wilson
Young (AK)
Young (MO)

□ 1015

Mr. ROGERS changed his vote from "yea" to "nay."

Mr. MARLENEE changed his vote from "present" to "nay."

So the Journal was approved.

The result of the vote was announced as above recorded.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Boldface type indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

BEST COPY AVAILABLE

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the amendment of the House to the bill (S. 1884) "An act to amend the Farm Credit Act of 1971, to restructure and reform the Farm Credit System, and for other purposes."

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 86. An act to amend the laws of the United States to eliminate gender-based distinctions;

S. 1574. An act to provide for public education concerning the health consequences of using smokeless tobacco products; and

S. 1918. An act to change the date for transmittal of a report.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The **SPEAKER** pro tempore (Mr. KILDEE). The Chair intends to take certain business requests before the 1-minute speeches.

CAPTAIN JOHN FOSTER WILLIAMS COAST GUARD BUILDING

Mr. HOWARD. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation be discharged from further consideration of the bill (H.R. 3931) to designate the General Services Administration building known as the "United States Appraiser's Stores Building" in Boston, MA, as the "Captain John Foster Williams Coast Guard Building," and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from New Jersey?

Mr. SHAW. Mr. Speaker, reserving the right to object, I yield to the chairman of the Committee on Public Works and Transportation, the gentleman from New Jersey [Mr. HOWARD], for an explanation of this legislation.

Mr. HOWARD. I thank the gentleman from Florida for yielding.

Mr. Speaker, during the Revolutionary War, Capt. John Foster Williams commanded a number of vessels, including the largest ship in the Massachusetts navy, the 26-gun, *Protector.* He was captured by the British in 1781 and sent to a London prison, from which he escaped and resumed his role in the war. After independence was won, Captain Williams continued to serve his country. He headed the committee of the Boston Marine Society which designed the first revenue cutter, the *Massachusetts,* and served as its commander from the completion of its construction in 1790 until his death in 1814.

Mr. SHAW. Mr. Speaker, this bill is supported by the administration. My side of the aisle supports it.

Mr. Speaker, I withdraw my reservation of objection.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The Clerk read the bill, as follows:

H.R. 3931

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the General Services Administration building known as the "United States Appraiser's Stores Building", located at 450 Atlantic Avenue, Boston, Massachusetts, shall hereafter be known and designated as the "Captain John Foster Williams Coast Guard Building", in recognition of Captain John Foster Williams' contributions to the Commonwealth of Massachusetts during the Revolutionary War. Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be deemed to be reference to the "Captain John Foster Williams Coast Guard Building".

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

□ 1030

GENERAL LEAVE

Mr. HOWARD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just passed.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

CHANGING TRANSMITTAL DATE OF A REPORT

Mr. FASCELL. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the Senate bill (S. 1918), to change the date for transmittal of a report, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. BROOMFIELD. Mr. Speaker, reserving the right to object, I do so to afford the chairman of the Foreign Affairs Committee an opportunity to explain the reason for this.

I yield to the gentleman for his explanation.

Mr. FASCELL. Mr. Speaker, I thank my colleague, the ranking Republican member of the Committee on Foreign Affairs for yielding.

Mr. Speaker, I rise in support of S. 1918, a bill to change the date for transmittal of a report to Congress on the employee stock ownership plan in business enterprises in Central America and the Caribbean.

This bill makes a technical change in the Foreign Assistance Act, changing the date of a required report from December 31, 1985, to October 1, 1986. The report deals with the use of employee stock ownership plans and development efforts in Central America and the Caribbean. ESOP's can potentially be a useful mechanism to promote development and private ownership in developing countries.

I look forward to reading the conclusions of this report.

Mr. Speaker, I urge the adoption of S. 1918.

Mr. BROOMFIELD. Mr. Speaker, we endorse the recommendation.

Mr. Speaker, I withdraw my reservation of objection.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1918

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 713(d) of the International Security and Development Cooperation Act of 1985 is amended by striking out "December 31, 1985," and inserting in lieu thereof "October 1, 1986,".

(b) The amendment made by subsection (a) shall take effect as of December 30, 1985.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

EXPRESSING SENTIMENT OF CONGRESS REGARDING DEATHS OF MEMBERS OF THE 101ST AIR ASSAULT DIVISION AT GANDER, NEWFOUNDLAND, CANADA

Mr. NICHOLS. Mr. Speaker, I ask unanimous consent that the Committee on Armed Services be discharged from further consideration of the resolution (H. Res. 345) to express the sentiment of Congress regarding the deaths of members of the 101st Air Assault Division in an airplane crash on December 12, 1985, at Gander, Newfoundland, Canada, while en route home for the season's holiday, and ask for its immediate consideration in the House.

The Clerk read the title of the resolution.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Alabama?

Mr. HOPKINS. Mr. Speaker, reserving the right to object, I do so so that the chairman might have an opportunity to explain his position.

I yield to the gentleman from Alabama [Mr. NICHOLS].

Mr. NICHOLS. I thank the gentleman for yielding.

Mr. Speaker, the resolution merely expresses our sorrow at the deaths of the 248 members of the 101st Airborne Division. It extends our sympathy to their families; it expresses our respect and gratitude to the members of the 101st Division for their service with the peacekeeping force. It also directs the Clerk of the House to transmit a copy of the resolution to the families of the deceased soldiers.

Mr. HOPKINS. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Kentucky [Mr. HUBBARD].

Mr. HUBBARD. I thank the gentleman for yielding to me.

Mr. Speaker, as a sponsor of House Resolution 345, joined by the gentleman from Missouri [Mr. SKELTON], the gentleman from Tennessee [Mr. SUNDQUIST], and the gentleman from Indiana [Mr. MCCLOSKEY], I would like to ask that we pass this resolution, and that we thereby express our sorrow again to the survivors of these 248 American service men and women who died in that tragic plane crash at Gander, NF.

Through this resolution, hopefully, we can insist that from now on, that we see to it that our military troops have safe transportation and are not being transported on old, commercial airlines which are not adequate for travel.

I thank the Members of the House for this time to express our sympathy. Also to express our appreciation to President Ronald Reagan and Mrs. Nancy Reagan for their going to Fort Campbell, KY, this week for that memorial service. Those who watched on television know that what we saw there firsthand, and that is that President and Mrs. Reagan were wonderful in their expressing sorrow, one-on-one, to the more than 500 survivors who crowded that hangar there at Fort Campbell in western Kentucky.

Mr. HOPKINS. Mr. Speaker, further reserving the right to object, on Monday of this week, along with other Members of this body and the Senate, I accompanied the President and Mrs. Reagan to Fort Campbell to pay the respect and express the sympathy of this Nation to the bereaved families and loved ones of those proud men and women of the airborne division who lost their lives in the airplane crash in Newfoundland 6 days ago.

Having looked into the anguished faces and felt their grief and shared their sense of loss, I am persuaded that this resolution is profoundly appropriate and deserves our unanimous approval. It seems to me to be so unfair at this time of year when most of us are setting up our Christmas trees that for some unknown reason this world tears down the trees of joy and happiness for some families in this country.

Our efforts must not end with the passage of this resolution, and it will not. I am pleased and proud to note that under the leadership of our distinguished chairman, Mr. NICHOLS, the Armed Services Subcommittee on Investigation already has begun gathering information and inquiring into all aspects of the military process which ended so tragically last week in Newfoundland.

I commend our chairman and the authors of this resolution.

Mr. Speaker, further reserving the right to object, I yield to the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. I thank the gentleman for yielding to me.

Mr. Speaker, I rise in support of the resolution. We were saddened by the loss of 248 of our servicemen and women. I am sure that many of my colleagues will be receiving inquiries of what will be done by our Government for the families of those killed. Mrs. SCHROEDER, in just a few minutes, will offer a resolution which I also support which would cover additional benefits for the families.

Let me briefly explain what these families will receive. The Veterans' Administration, the Department of Defense, and the Social Security Administration are providing casualty assistance to the families of these men and women to help them apply for their benefits. Social Security death benefits will be paid in a number of cases. The Department of Defense does pay a death payment of 6 months' salary, funeral costs and medical benefits to the survivors under CHAMPUS.

The widows and children of those killed may receive any or all of the following benefits from the Veteran's Administration: dependency compensation; educational assistance up to the age of 18; servicemen's group life insurance of up $35,000. You voted for a $50,000 life insurance policy for all the servicemen but that is not effective until January 1.

Mr. Speaker, I am writing each Member today detailing these benefits.

MR. HOPKINS. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Tennessee [Mr. SUNDQUIST].

Mr. SUNDQUIST. I thank the gentleman for yielding to me.

Mr. Speaker, I joined other members of the Kentucky and Tennessee congressional delegations on Monday as President and Mrs. Reagan attended a memorial service at Fort Campbell for the victims of last week's crash. I'm sure the gentleman from Kentucky would agree that the loss of those 248 lives was perhaps the most heartfelt tragedy in the history of the 101st Airborne Division. The President's appearance at the memorial service demonstrated to the world that the tragedy was more than a loss to the families of those brave peacekeeping forces from Fort Campbell—it was a loss to our entire Nation.

Mr. Speaker, more than 1 million Americans have died while serving their country this century. It is only fitting that we continue to preserve their memories, the ideals for which they so valiantly fought, and the quest for worldwide human rights. The resolution offered by the gentleman from Kentucky expresses this sentiment on behalf of these fallen soldiers of the Screaming Eagles.

The efforts of those who have died in service to this country and its allies were to ensure that you and I could speak freely, voice our opposition and our support of government publicly without fear of retaliation, travel this country and beyond unchecked by stone walls, barbed wire, and guard towers, and worship as we please.

These young Fort Campbell men who perished served the cause of peace and freedom not only for our country, but for the entire troubled Middle East. We enjoy freedom only because of men such as those who serve at Fort Campbell—men and women who are willing to sacrifice their lives in the service of our country. We must never forget the brave people who have joined in that fight and made the ultimate sacrifice, and all who have served honorably.

I thank the gentleman from Kentucky for offering this resolution.

□ 1040

Mr. JEFFORDS. Mr. Speaker, will the gentleman yield?

Mr. HOPKINS. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Vermont.

Mr. JEFFORDS. Mr. Speaker, I thank the gentleman for yielding. I certainly echo his comments and the comments of others.

Vermont and a friend of mine lost a fine young soldier in this tragic crash, and I wish to express my concern over the events that occurred and my support for the resolution.

Mr. Speaker, I rise in support of House Resolution 345, expressing the deep sorrow of Congress over the death of 248 members of the 101st Airborne Division in Gander, Newfoundland, on December 12, 1985. I would like to join my colleagues in sending our profound sympathy to the families of these brave men and women who were returning home from the difficult job of maintaining peace in the Middle East.

I am especially saddened by the death of Emery S. White III, the son of Wilma and Emery White, Jr. of Fair Haven, VT. Emery was returning home to spend Christmas with his wife, Stephanie, and his family, after completing 6 months of duty with the multinational peacekeeping force in the Sinai.

Emery attended Fair Haven High School, enlisted in the Army at age 17 and completed his degree while in the service. In 1974, when Emery signed up, joining the armed services was not a popular career choice. More money and fame were to be found in many other jobs. Yet, Emery was exceptionally dedicated, and after his first tour, he decided to make the Army his career. Like his father and grandfather before him, also members of the American Legion Post 49 in Fair Haven, Emery was willing to act upon his dedication to his country and place his life on the line in the defense of peace.

Emery's enthusiasm was an asset to the 101st Air Assault Division. He served 11 years in the Army, achieving the rank of staff sergeant. A serious and handsome young man, Emery was unusually attentive to his family, particularly during times of need. I well remember when, about 3 years ago, my car broke down and Emery let his father borrow his new Pontiac in order to drive me to my meeting. His service often kept him apart from his family, wife, and young son, Emery IV, taking him twice to Germany as a tank commander and to Korea as a member of the honor quard. In all of his endeavors, Emery served his country with distinction.

We all owe Emery a debt of gratitude. It is men and women like Emery who allow the rest of us to lead our lives free from the threat of war. I realize that this knowledge does little to lessen the grief of his family. However, I want them to know that my thoughts, and the appreciation of all Americans, are with them at this difficult time.

Mr. SKELTON. Mr. Speaker, will the gentleman yield?

Mr. HOPKINS. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Missouri.

Mr. SKELTON. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I take this opportunity to express my support for and urge the passage of this resolution. At the very least, we can, through this resolution, extend our sorrow at the deaths of these soldiers of the 101st Airborne, extend our sympathy to the families and loved ones, and also accord them respect and gratitude for the job that they were doing and are doing.

I might say that this summer I had the opportunity to drive through and visit Fort Campbell, KY. The commanding general, Maj. Gen. Burton Patrick, took me throughout the installation and showed me the soldiers that were there, and with great pride—and justifiable pride—the job that they were doing. So I know firsthand what fine young men and women they were.

I doubt if any other congressional district, other than the one that is the home of Fort Campbell, KY, suffered as much as the district that I represent. Three young men from the Fourth Congressional District of Missouri were aboard that airplane and perished in that crash.

By serving in the Armed Forces of the United States, these soldiers who were on active duty demonstrated their commitment to liberty and democracy, and we should not forget that, nor should we forget the tradition of the 101st Division and their peacekeeping efforts.

This resolution, which is introduced by the gentleman from Kentucky [Mr. HUBBARD], cosponsored by this gentleman from Missouri, myself, is designed as a remembrance to these outstanding soldiers. I realize that words are little consolidation at a moment like this, but the loved ones and the families should know that those who did die on that fateful day, the 12th of December, are remembered and respected.

Mr. BENNETT. Mr. Speaker, will the gentleman yield?

Mr. HOPKINS. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Florida.

Mr. BENNETT. Mr. Speaker, I am honored to speak today on behalf of these families that have suffered so much and the fine men who died in this untoward event.

I had the privilege of being an enlisted man in the 101st when it was activated in World War II, so I have a feeling of brotherhood with regard to these fine men who, at the very zenith of their career, were taken away from their families and taken away from their loved ones.

There is no real way to express the sorrow the people of the United States feel for these fine young men who dedicated their lives to the strengthening of their country and preserving it, only to be snatched away really on the eve of the tremendous emotional event of coming back from their hard service overseas to be with their families at Christmastime. No tragedy could hardly be worse than that.

So I think all of us have a tremendous feeling of sympathy. We hope that the families will have at least some comfort in their grief, knowing that their young people who were involved in this were giving nobly so much of their lives to their country.

Mr. SCHEUER. Mr. Speaker, will the gentleman yield?

Mr. HOPKINS. Further reserving the right to object, I yield to the gentleman from New York.

Mr. SCHEUER. Mr. Speaker, I join with the rest of my colleagues in mourning these several hundred young men who met their deaths in this fiery crash. As a former Army Air Corps pilot, I especially mourn these dedicated airmen and peacekeepers.

But I think we would fall short in our obligation to revere their memory and do the necessary things if we did not do what we can to make sure that nothing like this ever happens again.

Just look at the headline in this morning's Times: "Pentagon Denies That It Is Responsible for the Safety of the Plane" that crashed. No; they say they are not responsible. "The Rome office of the International Peacekeeping Force," says the Defense Department, "was responsible for the chartering, safety, and operation of the flight" that crashed.

Mr. Speaker, I feel that something has gone terribly amiss here. I feel that a terrible mistake took place. If anybody could have seen that Air Force captain, if anybody could have seen his wife report on the conversation and the letter she had from her husband about his terrible misgivings about getting on that plane, someone would feel that there is something rotten in the state of Denmark that that flight was ever dispatched.

The Defense Department abjures all responsibility. Who ordered those men onto that plane? Was it the tooth fairy? Did they go to a tourist office and try to get the cheapest ticket they could back home? No, they were under orders, and it was our military authority that put them on the plane.

Now, I have no problem with the military using charter transportation to transport our men around the world. It is apparently cheaper than using military aircraft, and it should be just as safe. But something went wrong in the supervision of this charter flight and that charter company and the whole charter operation of the military. Something went pathetically, tragically, horrifyingly wrong when this company that had a long record of poor maintenance and poor recordkeeping was never brought up short and those 250-odd men were ordered onto that plane. And to pile Pelion onto Ossa, to rub salt in the wounds of the American people, the Defense Department stands back, eyes wide with innocence, and says, "We had no responsibility in that matter. It is the peacekeeping force that is responsible for the safety and the inspection and the mechanics of supervising these charter flights."

Mr. Speaker, I feel that we have lost all sense of accountability in our military, and this is not the first instance. We have had instance after instance after instance in the last few years where the military simply denies all responsibility.

I want to know where the court-martial is going to be and who is going to be court-martialed. I want to know where there is going too be accountabilty and some factfinding and some remedies produced so that this kind of horrifying thing will never happen again.

We must reestablish accountability in the military. Somebody ought to be court-martialed. Somebody's military career ought to come to a grinding halt, just as those 248 lives came to a pathetic, grinding halt.

Mrs. SCHROEDER. Mr. Speaker, will the gentleman yield?

Mr. HOPKINS. I am delighted to yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Speaker, I want to thank the gentleman for yielding, and I really appreciate having the time. I also want to thank the gentleman from Alabama and the gentleman from Kentucky for bringing this to the Members' attention.

I want to point out to the Members that very shortly we will have another bill coming up. I think one of the tremendously frustrating things that all of us are feeling around here is that although we will pass this memorial resolution and we feel so strongly for those families whose Christmas holidays have been really ruined—and we know that they were terribly ruined because of the loss of these young men who were serving us and preserving our freedoms—we feel a little helpless.

The next bill that will come up is going to be very important because we can do something for these families, and I just wanted to use this time to explain it. One of the things we will be able to do is this: We found out that one of the oversights has been that when someone in the armed services is killed, obviously their housing allowance stops immediately, and what happens is that while their dependents are allowed to remain in their housing for 60 days after the death, they have to start paying rent. So it almost becomes a vaudeville reenactment. You have the base commander going over to pound the rent out of the dependents, and their money to pay the rent has all been stopped.

We are going to introduce a bill to cover that rent for 2 months. This will happen forever and ever. This should have been done long ago. When anyone is killed in active duty, giving their dependents housing during that 60-day period for that transition without the money to pay for the housing is really giving them nothing.

Furthermore, the gentleman from Mississippi [Mr. MONTGOMERY] has pointed out that we had passed the life insurance bill for members of the armed services and raised the limits from $35,000 to $50,000, but it was not to take effect until January of next year. The gentleman has checked it out and found there is so much money in the fund—the premium is very low—and he is going to attempt to amend my bill to make that retroactive to cover these people.

□ 1050

I think that is the least we can do. It costs a very minimal sum, and it goes beyond just being able to wring our hands. None of that ever brings these young men back. We all know that. We all know that there is absolutely nothing we can do to really soothe what is really going on in those families and the tremendous loss they are feeling this Christmas. But if we can do anything to at least relieve a little of the financial stress, that is very helpful.

I want to say that when I first talked about this on the House floor, I was very touched because I had phone calls from Members such as the gentleman from Illinois [Mr. CRANE] and many others saying they wanted to do anything that they could. Everybody on the Armed Services Committee has been terribly helpful.

So I just want to thank everybody for doing this, and to the families we say, we realize it is token, but we are doing everything we can and we really do agonize.

Mr. Speaker, I thank the gentleman from Kentucky [Mr. HOPKINS] for yielding.

Mr. SKELTON. Mr. Speaker, will the gentleman yield?

Mr. HOPKINS. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Missouri.

Mr. SKELTON. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I might make mention of the fact that the Army has just informed me that on Friday at 2 p.m., there will be a memorial ceremony at Fort Campbell, KY, regarding the loss of the 248 101st Airborne Division soldiers, and there will be a plane leaving Andrews Air Force Base at noon on Friday for Members of the Congress.

Mr. Speaker, further at this time, I ask unanimous consent that there be additional words attached to this resolution on the last page thereof, paragraph 4. I ask unanimous consent that it reads as follows:

> (4) Directs the Clerk of the House to transmit a copy of this resolution to the families of the deceased servicemen and servicewomen and to the commanding officer of the 101st Airborne Division, Major General Burton Patrick.

Mr. Speaker, I ask unanimous consent for those words to be attached thereto.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

Mr. HOPKINS. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Tennessee [Mr. DUNCAN].

Mr. DUNCAN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I join my colleagues in condolence to those who were lost in the tragedy. I happened to have one of my constituents in that plane crash.

Mr. HOPKINS. Mr. Speaker, in withdrawing my reservation of objection, I ask that all Members' of the House of Representatives names be added to this resolution.

The SPEAKER pro tempore. The Chair is waiting for the words of the amendment under unanimous consent to arrive at the Clerk's desk.

Did the gentleman ask that all Members' names be listed in the RECORD as cosponsors?

Mr. HOPKINS. That is correct, Mr. Speaker, that all Members' names be listed in the RECORD as cosponsors of this resolution. I ask unanimous consent for that permission.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The list of Members' names referred to is as follows:

A

Ackerman, Addabbo, Akaka, Alexander, Anderson, Andrews, Annunzio, Anthony, Applegate, Archer, Armey, Aspin, Atkins, AuCoin.

B

Badham, Barnard, Barnes, Bartlett, Barton, Bateman, Bates, Bedell, Beilenson, Bennett, Bentley, Bereuter, Berman, Bevill, Biaggi, Bilirakis, Bliley.

Boehlert, Boggs, Boland, Boner, Bonior, Bonker, Borski, Bosco, Boucher, Boulter, Boxer, Breaux, Brooks, Broomfield, Brown (CA), Brown (CO), Broyhill, Bruce, Bryant, Burton (CA), Burton (IN), Bustamante, Byron.

C

Callahan, Campbell, Carney, Carper, Carr, Chandler, Chapman, Chappell, Chappie, Cheney, Clay, Clinger, Coats, Cobey, Coble, Coelho, Coleman (MO), Coleman (TX), Collins, Combest, Conte, Conyers, Cooper, Coughlin, Courter, Coyne, Craig, Crane, Crockett.

D

Daniel, Dannemeyer, Darden, Daschle, Daub, Davis, de la Garza, DeLay, Dellums, Derrick, DeWine, Dickinson, Dicks, Dingell, DioGuardi, Dixon, Donnelly, Dorgan (ND), Dornan (CA), Dowdy, Downey, Dreier, Duncan, Durbin, Dwyer, Dymally, Dyson.

E

Early, Eckart (OH), Eckert (NY), Edgar, Edwards (CA), Edwards (OK), Emerson, English, Erdreich, Evans (IA), Evans (IL).

F

Fascell, Fawell, Fazio, Feighan, Fiedler, Fields, Fish, Flippo, Florio, Foglietta, Foley, Ford (MI), Ford (TN), Fowler, Frank, Franklin, Frenzel, Frost, Fuqua.

G

Gallo, Garcia, Gaydos, Gejdenson, Gekas, Gephardt, Gibbons, Gilman, Gingrich, Glickman, Gonzalez, Goodling, Gordon, Gradison, Gary (IL), Gray (PA), Green, Gregg, Grotberg, Guarini, Gunderson.

H

Hall (OH), Hall (TX), Hamilton, Hammerschmidt, Hansen, Hartnett, Hatcher, Hawkins, Hayes, Hefner, Heftel, Hendon, Henry, Hertel, Hiler, Hillis, Holt, Hopkins, Horton, Howard, Hoyer, Hubbard, Huckaby, Hughes, Hunter, Hutto, Hyde.

I

Ireland.

J

Jacobs, Jeffords, Jenkins, Johnson, Jones (NC), Jones (OK), Jones (TN).

K

Kanjorski, Kaptur, Kasich, Kastenmeier, Kemp, Kennelly, Kildee, Kindness, Kleczka, Kolbe, Kolter, Kostmayer, Kramer.

L

LaFalce, Lagomarsino, Lantos, Latta, Leach (LA), Leath (TX), Lehman (CA), Lehman (FL), Leland, Lent, Levin (MI), Levine (CA), Lewis (CA), Lewis (FL), Lightfoot, Lipinski, Livingston, Lloyd, Loeffler, Long, Lott, Lowery (CA), Lowry (WA), Lujan, Luken, Lundine, Lungren.

M

Mack, MacKay, Madigan, Manton (NY), Markey, Marlenee, Martin (IL), Martin (NY), Martinez, Matsui, Mavroules, Mazzoli, McCain, McCandless, McCloskey, McCollum, McCurdy, McDade, McEwen, McGrath, McHugh, McKernan, McKinney, McMillan.

Meyers (KS), Mica, Michel, Mikulski, Miller (CA), Miller, (OH), Miller (WA), Mineta, Mitchell, Moakley, Molinari, Mollohan, Monson (UT), Montgomery, Moody, Moore, Moorhead, Morrision (CT), Morrison (WA), Mrazek, Murphy, Murtha, Myers (IN).

N

Natcher, Neal, Nelson, Nichols, Nielson, Nowak.

O

O'Brien, O'Neill, Oakar, Oberstar, Obey, Olin, Ortiz, Owens, Oxley.

P

Packard, Panetta, Parris, Pashayan, Pease, Penny, Pepper, Perkins, Petri, Pickle, Porter, Price, Pursell.

Q

Quillen.

R

Rahall, Rangel, Ray, Regula, Reid, Richardson, Ridge, Rinaldo, Ritter, Roberts, Robinson, Rodino, Roe, Roemer, Rogers, Rose, Rostenkowski, Roth, Roukema, Rowland (CT), Rowland (GA), Roybal, Rudd, Russo.

S

Sabo, Savage, Saxton, Schaefer, Scheuer, Schneider, Schroeder, Schuette, Schulze, Schumer, Seiberling, Sensenbrenner, Sharp, Shaw, Shelby, Shumway, Shuster, Sikorski, Siljander, Sisisky, Skeen, Skelton, Slattery, Slaughter.

Smith (FL), Smith (IA), Smith (NE), Smith (NJ), Smith, Denny (OR), Smith, Robert (NH), Smith, Robert (OR), Snowe, Snyder, Solarz, Solomon, Spence, Spratt, St Germain, Staggers, Stallings, Stangeland, Stark, Stenholm, Stokes, Strang, Stratton, Studds, Stump, Sundquist, Sweeney, Swift, Swindall, Synar.

T

Tallon, Tauke, Tauzin, Taylor, Thomas (CA), Thomas, (GA), Torres, Torricelli, Towns, Traficant, Traxler.

U

Udall.

V

Valentine, Vander Jagt, Vento, Visclosky, Volkmer, Vucanovich.

W

Walgreen, Walker, Watkins, Waxman, Weaver, Weber, Weiss, Wheat, Whitehurst, Whitley, Whittaker, Whitten, Williams, Wilson, Wirth, Wise, Wolf, Wolpe, Wortley, Wright, Wyden, Wylie.

Y

Yates, Yatron, Young (AK), Young (FL), Young (MO).

Z

Zschau.

Mr. HOPKINS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the consideration of the amendatory language offered by the gentleman from Missouri [Mr. SKELTON]?

There was no objection.

The SPEAKER pro tempore. The Clerk will report the modification.

The Clerk read as follows:

Strike out the period at the end of the resolution and insert the following: "and to the commanding officer of the 101st Airborne Division, Major General Burton Patrick.".

The SPEAKER pro tempore. Without objection, the modification will be made.

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Alabama?

Mr. MOLINARI. Mr. Speaker, reserving the right to object, I was in my office watching this proceeding and I had to run over to say a few things that I had on my mind about the tragedy that has confronted our country.

Yesterday, Mr. Speaker, I had the sad duty to talk to two families in my district who had lost loved ones in the crash. One was a brother who was terribly broken up and, when I asked if there was anything I could do to help, he said, "Congressman, yes, there is one thing. Could you tell me why? Could somebody tell me why or how it happened?"

Now, we do not know at this point, but I could tell you this. Since the accident occurred Thursday, I have been attempting to get documents. I got some, and it is not adding up to a very pretty picture.

Mr. Speaker, I would just like to read for the RECORD a statement that came out of the NATI inspection, the so-called white glove phase II inspection. This was making reference to a pilot that worked for Arrow Air. This is what it says in the remark, section, Mr. Speaker:

Unsatisfactory ramp inspection. Recommend additional NATI emphasis as soon as practical. This ramp inspection was conducted at Logan Airport in Boston and as a result of the specific unsolicited urgent request of Captain Michael Sanjenis, an Arrow Air DC-8 Captain, who stopped this inspector on the ramp at Logan and not only requested that I look at his DC-8 and fly on it with him, but pleaded, demanded, begged and requested that the FAA * * * "please, please, home in on Arrow to stop current company maintenance practices before an accident occurs." He stated that it would be better to * * * "shut down the company rather than keep flying the aircraft."

Now, I do not mean to suggest that that was why that plane crashed, but there is plenty of evidence in the NATI phase II inspection indicating all kinds of deficiencies with that carrier that simply cried out for a detailed investigation.

Mr. Speaker, I only hope to God that when this is all finished, we will not find that that accident was caused by somebody's failure to perform their duties.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

The Clerk read the resolution, as modified, as follows:

H. RES. 345

Whereas on December 12, 1985, 248 members of the 3d Battalion, 502d Infantry, 101st Air Assault Division, based in Fort Campbell, Kentucky, died in an airplane crash after takeoff from Gander International Airport in Newfoundland, Canada, while returning home from a tour of peacekeeping duty in the Sinai Peninsula;

Whereas peace in the Middle East is vital to the security of the United States;

Whereas the stationing of these men and women in the Sinai Desert as part of the multinational force and observers, under the constant threat of terrorists attacks, was necessary to help secure the blessing of peace for the peoples of Israel and Egypt; and

Whereas Congress and the American people are united in grief over the untimely loss of our soldiers: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the American people—

(1) express profound sorrow at the deaths of the soldiers of the 101st Air Assault Division while returning to their loved ones and families;

(2) extend deepest sympathy to their loved ones and families; and

(3) accord respect and gratitude to the members of the Division, who served courageously and loyally as peacekeepers in the Middle East; and

(4) directs the Clerk of the House to transmit a copy of this resolution to the families of the deceased servicemen and servicewomen and to the commanding officer of the 101st Airborne Division, Major General Burton Patrick.

Mr. HUTTO. Mr. Speaker, I rise in support of House Resolution 345.

It is with a heavy heart that we honor those 248 soldiers of the 101st Air Assault Division who lost their lives in the tragic airplane crash last Thursday. It is difficult for us, but even more difficult for the families, to understand why these young people had their lives terminated at such an early age. Two youths from my district—Specialist 4th Class Tony Brasfield of Panama City and Specialist 4th Class Jeffrey Kee of Pensacola—were among the fatalities. I

have extended my sympathy to their families and would broaden that to include all the families who lost loved ones in this tragic accident.

Although we cannot understand this unfortunate tragedy—especially as they were on their way home to rejoin their families for a joyful holiday season—we can take solace in the fact that they gave their all in the service of their country. They had completed their tour of duty as part of the Multi-National Force keeping peace in the Sinai, a desolate place of difficult duty that I visited 3 years ago just about the time Israel turned the Sinai over to Egypt.

All the words we may say cannot change the circumstances of the sacrifice of these lives. I am convinced that these fine young Americans did not die in vain. I believe the world is a little better because they served the cause of peace. We will remember them with pride. May God comfort their loved ones in their bereavement.

The SPEAKER pro tempore. The question is on the resolution, as modified.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HUBBARD. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 401, nays 0, not voting 33, as follows:

[Roll No. 473]

YEAS—401

Ackerman
Addabbo
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
Barnard
Barnes
Bartlett
Barton
Bateman
Bates
Bedell
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Biaggi
Bilirakis
Bliley
Boehlert
Boggs
Boland
Boner (TN)
Bonior (MI)
Bonker
Borski
Bosco
Boucher
Boulter
Boxer
Breaux
Brooks
Broomfield
Brown (CA)
Brown (CO)
Broyhill
Bruce
Bryant
Burton (CA)
Burton (IN)
Bustamante
Byron
Callahan
Carney
Carper
Carr
Chandler
Chapman
Chappell
Chappie
Clay
Clinger
Coats
Cobey
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Craig
Crane
Daniel
Dannemeyer
Darden
Daschle
Daub
Davis
de la Garza
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Duncan
Durbin
Dwyer
Dyson
Early
Eckart (OH)
Eckert (NY)
Edgar
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Evans (IA)
Evans (IL)
Fascell
Fawell
Fazio
Feighan
Fiedler
Fields
Fish
Flippo
Florio
Foglietta
Foley
Ford (MI)
Fowler
Frank
Franklin
Fuqua
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Gray (PA)
Green
Grotberg
Guarini
Gunderson
Hall (OH)
Hall, Ralph
Hamilton
Hammerschmidt
Hansen
Hartnett
Hatcher
Hawkins
Hayes
Hefner
Hendon
Henry
Hertel
Hiler
Hillis
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Johnson
Jones (NC)
Jones (OK)
Jones (TN)
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennelly
Kildee
Kindness
Kleczka
Kolbe
Kolter
Kostmayer
Kramer
LaFalce
Lagomarsino
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Leland
Lent
Levin (MI)
Levine (CA)
Lightfoot
Lipinski
Livingston
Lloyd
Loeffler
Long
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
Lungren
MacKay
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCain
McCandless
McCloskey
McCollum
McCurdy
McDade
McEwen
McHugh
McKernan
McMillan
Meyers
Mica
Michel
Mikulski
Miller (CA)
Miller (OH)
Miller (WA)
Moakley
Molinari
Mollohan
Monson
Montgomery
Moody
Moore
Moorhead
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Natcher
Neal
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Oxley
Packard
Panetta
Parris
Pashayan
Pease
Penny
Pepper
Perkins
Petri
Pickle
Porter
Pursell
Quillen
Rahall
Rangel
Ray
Regula
Reid
Richardson
Ridge
Rinaldo
Roberts
Robinson
Rodino
Roe
Roemer
Rogers
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Seiberling
Sensenbrenner
Sharp
Shaw
Shelby
Shumway
Shuster
Sikorski
Siljander
Sisisky
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Snyder
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Strang
Stratton
Studds
Stump
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weaver
Weber
Weiss
Wheat
Whitehurst
Whitley
Whittaker
Whitten
Williams
Wilson
Wirth
Wise
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zschau

NOT VOTING—33

AuCoin
Badham
Campbell
Cheney
Crockett
Dymally
Ford (TN)
Frenzel
Frost
Gephardt
Gray (IL)
Gregg
Heftel
Kemp
Lehman (FL)
Lewis (CA)
Lewis (FL)
Mack
McGrath
McKinney
Mineta
Mitchell
Nelson
O'Brien
Owens
Price
Ritter
Rose
Rostenkowski
Rudd
Savage
Udall
Young (MO)

□ 1115

So the resolution, as modified, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. NICHOLS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Resolution 345, the resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

PERSONAL EXPLANATION

Mr. LEWIS of Florida. Mr. Speaker, due to official business, I was unavoidably detained during the rollcall vote on House Resolution 345. Had I been present, I would have voted "aye."

PERSONAL EXPLANATION

Mr. MINETA. Mr. Speaker, I was unavoidably detained during the rollcall vote on House Resolution 345. Had I been able to be present, I would have voted for this bill.

Along with my colleagues, I send my deepest sympathies to the families of those killed in the Gander accident.

DEATH GRATUITY TO SURVIVORS OF MEMBERS OF ARMED FORCES

Mrs. SCHROEDER. Mr. Speaker, I ask unanimous consent that the Committee on Armed Services be discharged from further consideration of the bill (H.R. 3974) to amend title 10, United States Code, to include in the death gratuity payable to survivors of a member of the Armed Forces who dies on active duty an amount equivalent to 2 months' housing allowances, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Colorado?

There was no objection.

The Clerk read the bill, as follows:

H.R. 3974

Be it enacted by the Senate and House of Represntatives of the United States of American in Congress assembled,

SECTION 1. INCREASE IN DEATH GRATUITY FOR SURVIVORS OF MEMBERS OF THE ARMED FORCES DYING ON ACTIVE DUTY.

(a) INCLUSION OF HOUSING ALLOWANCES IN AMOUNT OF DEATH GRATUITY.—Section

1478(a) of title 10, United States Code, is amended by striking out "shall be equal" and all that follows through "$3,000" and inserting in lieu thereof "shall be $3,000 plus an amount equal to the total amount payable for two months for the housing allowances authorized under sections 403, 403a, and 405 of title 37 for a member entitled to such allowances who has the same pay grade, duty location, and dependency status as the decedent, determined at the rates in effect at the time of death of the decedent".

(b) Effective Date.—The amendment made by subsection (a) shall apply with respect to death gratuities payable under chapter 75 of title 10, United States Code, for deaths occurring after December 11, 1985.

SEC. 2. SURVIVORS OF DECEASED MEMBERS OCCUPYING GOVERNMENT QUARTERS.

(a) General.—The Secretary concerned should provide dependents of a member of the Armed Forces who become entitled to a death gratuity under chapter 75 of title 10, United States Code, and who are occupying Government quarters at the time of the death of the member, a reasonable period of time before being required to vacate such quarters.

(b) Secretary Concerned Defined.—For the purposes of this section, the term "Secretary concerned" has the meaning given that term in section 101 of title 10, United States Code.

The **SPEAKER** pro tempore. The gentlewoman from Colorado [Mrs. Schroeder] is recognized for 1 hour.

Mrs. **SCHROEDER**. Mr. Speaker, I yield 30 minutes, for purposes of debate only, to the gentleman from Alabama [Mr. Nichols], the distinguished ranking member on the committee.

Mr. **DICKINSON**. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to commend the gentlewoman from Colorado [Mrs. Schroeder] for bringing this humanitarian legislation before the House today and urge my colleagues' wholehearted support.

We were all deeply saddened by the tragic loss of 248 service members last week in the air crash at Gander, Newfoundland.

I would like to extend my personal condolences to the families of Joe Highfill and John Wright, both of Daleville, AL, and Carl Simmons of Banks, AL, who were all from my congressional district. I am proud of the work that Joe, John, and Carl were doing in the Mideast with the 101st Airborne, and share with you in the loss of three very fine young men.

These young Army men and women had recently completed a peacekeeping assignment in the Sinai and were en route to Fort Campbell, KY—the home of the 101st Airborne Division—to spend Christmas with their families.

In addition to personal grief at the loss of a loved one, military families also face a variety of more pragmatic concerns. Military pay and allowances, including payments in kind like on-base housing, stop when the service member dies. Even for such time as they are permitted to remain, families in Government quarters must start paying rent.

Landlords for off-base housing obviously expect the rent to be paid on time, even though military housing allowances have stopped.

The current Military Estate Program includes a death gratuity of $3,000 payable immediately after the member's death to help defray a variety of expenses until Government and private insurance benefits are paid. The death gratuity does not contain a component specifically targeted to housing costs, however.

The gentlewoman's bill fills that void by adding to the death gratuity a payment equal to 2 month's housing allowances and urges that families be permitted to remain in Government quarters for a reasonable period of time following the member's death.

This is worthwhile, humanitarian legislation; I urge my colleagues' strong support.

Mr. Speaker, I think we have overlooked this in the past. I think we are correcting a deficiency that should have been done long before. We are simply saying that if someone dies on active duty, that his family be allowed 2 months of housing allowance that today is denied to them.

I think this is a commonsense approach. It is not very expensive to the Government, and I would certainly hope that this is passed unanimously on the floor. I think it will be, and I again would like to commend the gentlewoman from Colorado [Mrs. Schroeder] for originating the bill. I am proud to sponsor it.

I reserve the balance of my time.

Mrs. **SCHROEDER**. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the first thing I want to say is this bill would not be here if it had not been for the hard work of the gentleman from Alabama [Mr. Nichols] and many other people on this House floor, including the staff of the Armed Services Committee.

The chilling tragedy in Gander focuses on an oversight in the law that should have been corrected long ago. This bill corrects that oversight. Dependents' entitlements to housing stop with the death of the military member. The services have the option of allowing dependents of deceased service members to remain in Government quarters for up to 60 days. However, there is a catch. The dependents must pay a rental charge for on base family housing and those who are off base obviously must continue to pay the landlord. These families are under enough stress and financial strain without having to scurry for their rent.

My bill would provide 2 months of basic allowance for quarters [BAQ] and variable housing allowance [VHA] to the dependents of a deceased member of the Armed Forces. The bill is retroactive to December 11, 1985, and would apply to the dependents of the plane crash of the 101st Airborne Division.

The amount of the BAQ and VHA depends on rank and location. Most of the victims of the Gander's plane crash were E-2's, E-3's, and E-4's. If my bill were not approved, their dependents would have to pay $300 to $500 per month for housing.

These are young families with a low family income. Not having to pay for housing will ease their already painful transition. This benefit is long overdue and desperately needed.

Mr. Speaker, I yield 1 minute to the distinguished gentleman from Texas [Mr. de la Garza], chairman of the Committee on Agriculture.

Mr. **de la GARZA**. Mr. Speaker, I thank my colleague for yielding me this time.

Mr. Speaker, my heart, like all of ours, goes out to the grieving families of the 101st Airborne. I speak for many of my constituents, two of whom are Navy officers, are two sons, Jorge and Michael.

But I would like to note that we here dedicate ourselves not to the next emergency, but that the monument to the men of the 101st be that there be no serviceman on food stamps, that there be no serviceman or his family in inadequate housing, that they do not have to take cheap charters because they do not make enough to go home for the holidays. Let this be their monument, and let us dedicate ourselves through this measure to that end, that the men and women that are serving in the Armed Forces shall not be denied and shall be given what the civilians are guaranteed almost as an entitlement. That will be our monument to the men of the 101st past, present, and future. Blessed are the peacemakers: for they shall be called the children of God.

Mr. Speaker, this was the mission of the men and women of the 101st Airborne who lost their lives.

Mrs. **SCHROEDER**. Mr. Speaker, I yield such time as he may consume on this very important item to the gentleman from Alabama [Mr. Nichols], a very distinguished member of the subcommittee.

Mr. **NICHOLS**. Mr. Speaker, I thank the gentlewoman from Colorado for yielding me this time, and certainly would want to join with my colleagues in commending her for the resolution that she brings to this body this morning. It is timely, it is in order. It costs very little, and it is the least that this body can do to express our deep sympathy and appreciation to those who paid the supreme sacrifice.

I want to also thank my friend from Kentucky [Mr. Hubbard], for the earlier resolution that he passed here as the prime sponsor. I want to say I deeply appreciate that as well.

Finally, I would like to respond to the number of inquiries that have reached the Armed Services Committee, that have been sent to the Investigations Subcommittee. They come from Members from this entire body that want some answers to this. We are getting some mail, and some inquiries, not so much from the widows or from the fathers and mothers of these people, but these inquiries come from people who have loved ones in the service and are asking questions, very important questions about the safety of the aircraft in which our people fly.

You know a serviceman does not control his own destiny. He cannot choose Delta, or PanAm, or American. He goes where he is sent, and he flies on the plane in which he is put. So it is extremely important that we look into this.

For that reason, on the day of the crash when the gentleman from Kentucky [Mr. HOPKINS] first came to me about it, I instructed our staff to get cracking on this matter. The bottom line is that we are moving on it. We expect to hold hearings, hopefully the first or second week when the Congress returns in January.

We are not interested so much because we do not have the technical know-how to physically go out and go through the wreakage and decide what the cause of the crash was. The Canadian Aviation Board is currently looking into that matter. But it is very much the responsibility of this Congress to ask the question of why we are leasing civilian aircraft in the first place. Perhaps we do not have enough military planes to fly these people, and I believe that is probably the case.

But we want to know something about the safety of this particular plane that was leased to fly these people back home for Christmas.

☐ 1130

So Mr. Chairman, I would want this body to know that we are currently looking into the matter and we expect to have some report to offer when we get back here in January.

Mr. McCURDY. Mr. Speaker, will the gentleman yield?

Mr. NICHOLS. I yield to the gentleman from Oklahoma.

Mr. McCURDY. I thank my subcommittee chairman for yielding, and I agree with him totally. I commend him for taking this effort, and we will be conducting the investigation in our subcommittee.

Mr. Speaker, I rise in strong support of this resolution and as an original cosponsor.

Mr. DICKINSON. Mr. Speaker, I yield myself 2 minutes.

I would like to respond to the gentleman, the distinguished chairman of the Committee on Agriculture, Mr. DE LA GARZA, who has pointed out some of the deficiencies in the past in the military, and asked that there not be one serviceman eligible for food stamps; that they be not required to go on cheap charter trips, and so forth.

I would just like to remind the Members that we just passed a bill here last week called Gramm-Rudman. We have not gone through a very penurious time, a time of denial in the past few years; 5 years at least, and we have just now cut back drastically on what the defense budget is going to be.

Zero percent growth this year, probably a negative growth the next few years because of Gramm-Rudman. That sounds great; everybody is happy that they are onboard; they are happy to balance the budget, but I am telling Members, we are going to live to regret it.

The same thing that Mr. DE LA GARZA was referring to; they are not going to improve, they are going to get worse. I think everybody should be alerted to that because things are going to get worse not better; they are not going to have adequate housing, they are not going to be assured that they will not be eligible for food stamps because of the anticipated cutbacks in the future. There is going to be a negative growth in spending, not looking after the Members' interests.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. DICKINSON. Mr. Speaker, I yield myself 2 additional minutes.

Mr. DE LA GARZA. Will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman.

Mr. DE LA GARZA. I thank the gentleman very much, and I agree with him, and I am concerned that Gramm-Rudman is going to be very detrimental in this respect; but I would also remind my colleague that just 2 days or 3 days ago there was an article in the newspaper about how you cost what you buy in the Defense Department.

I know there may be controversy about it, but that article said that about $7 billion could have been saved if they had done this cost analysis or however it is called; so I would agree with the gentleman and I would urge him to look at every nook and cranny into how the Pentagon operates, because in spite of Gramm-Rudman, in spite of bad management, we still cannot allow the serviceman to suffer indignities beyond what the normal civilian does.

Mr. DICKINSON. Mr. Speaker, I agree with the gentleman from Texas, but let me say that much, much of the waste—and it is waste—that is carried on within the Department of Defense is mandated by the people sitting on this floor and in the other body. We require them to spend money that they do not want to spend; we stretch out the production programs that runs up the unit cost of an airplane $1 million per copy because of ordering less at a time instead of buying at the most economical rate.

We have on this floor mandated, in action with the Senate, buying three 747's that the Air Force said that they did not want, did not need, did not know what to do with them when they got them; we forced that on the Air Force, and these are actions that this body and the other body force on the military.

The problem is not entirely with the Department of Defense; we have just as many problems coming out of this body.

Mr. DE LA GARZA. Will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman.

Mr. DE LA GARZA. I accept that part of the responsibility, and I assure the gentleman that I will join him and other responsible Members to see, to the extent that we can be responsible also. I am not pointing the finger at the Department of Defense.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. DICKINSON. Mr. Speaker, I yield myself 1 additional minute.

Let me say, Mr. Speaker, when we mandate that we have to continue to buy A-10 aircraft because they are made in somebody's district year after year after year, when we mandate that we have got to buy C-12's not asked for because somebody has an interest in it, when we mandate they have got to buy 747's that the Air Force says it does not need, does not want, do not know how to use; we do it, in the Congress.

If you will join me when these things come up in bills to have a majority on the floor to cut out some of this waste that the Congress is doing, then there will be real economies.

Mr. DE LA GARZA. The gentleman has my commitment in that respect.

Mrs. SCHROEDER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Missouri [Mr. SKELTON].

Mr. SKELTON. Mr. Speaker, first I wish to commend the gentlewoman from Colorado. This is an excellent piece of legislation. My only thought, though, is it is too bad that a tragedy such as this has to be the cause of bringing it up and making it law.

We ask the best of our young men and our young women. The gentlewoman from Colorado [Mrs. SCHROEDER] is the champion of their welfare, and it is very fitting and appropriate that she be the one that offers this bill, and I am pleased to join her as a cosponsor for this very fine piece of legislation. It is the least that we can do.

I also wish to commend the gentleman from Alabama [Mr. Nichols], who is the chairman of the Subcommittee on Investigations. I urged him to investigate the unanswered questions regarding the crash in Gander, Newfoundland; not just for what happened there, but for those young men and young women who in the future will be flying to and from.

We have worldwide interests. We have Americans flying to and from far places in this world every day, and the loved ones and the families and friends have the right, for those young people, to travel safely to and from those far places in the defense and interests of our country.

Mr. Speaker, I am pleased that his investigation will go forward, and I thank him for his responsiveness to requests.

Mrs. SCHROEDER. Mr. Speaker, I yield 1 minute to the distinguished new member of the committee, the gentleman from Arkansas [Mr. Robinson].

Mr. ROBINSON. Mr. Speaker, eight fine Arkansans lost their lives in the Arrow Air tragedy this past week.

As a cosponsor, I rise in strong support of this bill, and I want to thank the gentlewoman from Colorado [Mrs. Schroeder], who has worked very hard all year on other matters related to the families in our military services.

This is a tragic event. In a few moments, the Honorable Sonny Montgomery will offer an amendment to increase the insurance death benefits to $50,000. Effective December 11, 1985, instead of the effective date of January 1986.

I would like to say that my heart goes out to the many families of the fine men and women killed in this tragic event, and I also want my colleagues to know that I sent a letter to our chairman, Les Aspin, yesterday, asking him to take a full look at how we charter aircraft to transport our military personnel; because it is haunting to know that there is a possibility that this airplane was not airworthy; and second, there has been safety incidents that had gone unreported.

In closing, I urge my colleagues to vote for the Schroeder bill and also for the amendment to be offered by the gentleman from Mississippi [Mr. Montgomery].

Mrs. SCHROEDER. Mr. Speaker, I yield 1 minute to the very distinguished senior member of the committee, the gentleman from Florida [Mr. Bennett].

Mr. BENNETT. Mr. Speaker, I very much congratulate the gentlewoman from Colorado for her leadership in this and other matters relative to the welfare of service personnel. She has done an outstanding job in this, and I want to congratulate her upon it.

I think this legislation is very much needed. It is a pity that we have to have such a tragic, dramatic event, such a sorrowful event such as this to bring to our attention the fact that laws are not always what they should be.

I hope we all join together and unanimously pass this legislation, and I again congratulate all the Members who have been active in bringing this to the floor.

Mrs. SCHROEDER. Mr. Speaker, I yield 1 minute to the very distinguished senior Member, the gentleman from Ohio [Mr. Seiberling.]

Mr. SEIBERLING. Mr. Speaker, I thank the gentlewoman, and I commend her for bringing this legislation to the floor.

This tragedy has affected families all across the Nation. Two of them are in my own congressional district. I think it is entirely fitting that the President of the United States personally went to Kentucky to be with the families.

□ 1140

I think it is fitting that the Congress has passed the resolution just previously acted on as well as taking up this resolution. I think it is important because it shows to the families that not only is official Washington but that the entire Nation is rallying around them, expressing its solidarity, its grief, and its commitment to those families and to the families of all servicemen, that we avoid this kind of tragedy and, having done so, will show again that these men who died in the service of their country did not die in vain.

Mr. Speaker, I thank the gentlewoman for giving me this time.

Mrs. SCHROEDER. Mr. Speaker, I yield 1 minute to a distingushed member of the Appropriations Committee, the gentleman from Texas [Mr. Coleman].

Mr. COLEMAN of Texas. Mr. Speaker, I want to compliment the gentlewoman from Colorado for her efforts in this regard. I had the distinct honor and pleasure to serve on the Personnel Subcommittee of Armed Services in my first term. The leadership of Mr. Dickinson and Mr. Price at the time was certainly important. Certainly Mr. Aspin also, as chairman of the Subcommittee on Personnel at the time, made a great difference to the servicemen and women of this country. But I think it should be said that the gentlewoman from Colorado has always shown, in my experience, the greatest concern and made the greatest efforts on behalf of all of those who serve this Nation. I would be remiss if I did not mention that her efforts, particularly with this bill, are absolutely one of the most important things I think all of us can do to show those who serve their country and serve our country willingly, fairly, and honestly, in the finest traditions of our country, that we care about them and their families. It is, after all, the families of those who do serve who oftentimes suffer the most.

So it is with great pleasure that I rise in very strong support of the gentlewoman's legislation.

Mrs. SCHROEDER. Mr. Speaker, I yield 1 minute to the gentleman from North Carolina [Mr. Rose].

Mr. ROSE. I thank the gentlewoman for yielding this time and appreciate her not calling me a senior Member.

Mr. Speaker, I rise in strong support of this legislation. It comes from the heart of all of us. It goes out to all those families who have or will suffer any kind of similar situation like this, and it is in the best intentions, it is in the best tradition of this House, that we very strongly endorse H.R. 3974.

My district, which includes Fort Bragg and Pope Air Force Base, has not been spared in this most recent tragedy. I thank the very compassionate gentlewoman from Colorado for bringing this legislation forward. I would also like the Record to show that I was unavoidably detained and was not here to vote for House Resolution 345.

Mr. Speaker, had I been here, I would have, of course, voted in favor of that resolution.

I urge my colleagues to strongly support the legislation now before us.

Mrs. SCHROEDER. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Kentucky [Mr. Mazzoli].

Mr. MAZZOLI. I thank the gentlewoman for yielding.

Mr. Speaker, I rise for two purposes. To salute the gentlewoman for her leadership in bringing this resolution to the House. It is fitting and proper that we adopt it, and I hope that it is adopted unanimously.

The second purpose for which I rise is to extend my personal condolences to the families of the four men who were on that plane who happen to live in my congressional district. The families have suffered grievously, the Nation has suffered grievously. There is no way to fully account for the problem at this point although at some point I hope that we will understand the cause of the crash, but, more importantly, I would that the families recognize from the earlier resolution and from this measure that the gentlewoman is bringing forward that the Congress, particularly the House of Representatives, are standing behind the families and extend to them the greatest condolences in their time of grief.

Mrs. SCHROEDER. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Alabama [Mr. Flippo].

Mr. FLIPPO. I thank the gentlewoman very much.

Mr. Speaker, I want to commend the gentlewoman from Colorado and the gentleman from Alabama for bringing this resolution to the floor. It gives all of us an opportunity to express our deep appreciation to the families of those who suffered this great tragedy. In Huntsville, AL, Vincent Turner, staff sergeant, paid the supreme sacrifice. I am grateful to you for giving us the opportunity to say a great thank you to the families for their sacrifice.

Mr. Speaker, I urge strong support of the resolution.

Mrs. SCHROEDER. Mr. Speaker, I yield myself 2 minutes to just say that in the panic that has gone on in trying to get this bill crafted a few names were left off the cosponsor list, very regrettably. I would like to say who they are, because once we have called the bill up it is too late to put them on.

First of all, one of the people who cares the most about all sorts of families and has been always active on this committee forever and ever, Congressman Bennett of Florida, he wanted to be one of the original cosponsors, and his name is now on the list. Congressman Obey of Wisconsin, Congressman Phil Crane of Illinois, and Congressman Sundquist of Tennessee. All of them were very helpful. Also another Congressman who really should be on the list, I think somehow got lost, but they were recovered, and I just wanted to say how many people voted so hard to bring this to the floor.

I yield such time as he may consume to the Congressman who has been hit the hardest, the base was in his district where these young men and their dependents are. He has been working on this day and night. He reminded all of us of this news a week ago when he first heard about it in the whip meeting, and we were absolutely stunned, stricken, and did not have any idea what to do.

He has given us all guidance and made many suggestions during the following week. I would now like to yield to Congressman Hubbard from Kentucky such time as he may consume.

Mr. HUBBARD. I thank the Speaker.

Mr. Speaker, I naturally apprecicate the generous remarks from the gentlewoman from Colorado. We express a great appreciation to you for bringing this bill before us; appreciation also to Mr. Dickinson of Alabama; appreciation also to Mr. Nichols of Alabama for being the one handling House Resolution 345 which passed the House by a record vote of 401-0 just minutes ago.

Yes, as a Member of Congress who represents Fort Campbell, KY, I hope that each Member will give this bill his support. Indeed, our unanimous support from the House of Representatives. Certainly what we are trying to do here through this appropriation, through this housing, is the least that we can do for these widows and survivors of these 248 men and women in the armed services of our country who were tragically killed last Thursday morning early in Gander, Newfoundland. Much has been said about the cause of the tragedy. Actually, we do not know at this moment exactly what did cause it. Some originally or initially suspicioned terrorism since the plane originated in the Middle East. The more we find out about that particular plane and how many times that Arrow Airline plane had aborted takeoffs, including one last summer when the Kentucky Air National Guard which is based in Congressman Mazzoli's district coming back from Michigan, I believe, taking off there in Michigan, coming back to Louisville, KY, that same airline, the same plane, was aborted in its takeoff. There were members of the delegation who were killed who had written and one had even sent a tape recording back home to his wife expressing their fear of the transportation that would be bringing them back from the Sinai, where they had spent 6 months in the service of our country, to Fort Campbell. I believe we heard on TV news the other night the tape recording of the officer, Captain Manion, who, prior to that plane leaving the Sinai in Cairo, Egypt, had, to his wife, through that tape recording, expressed his fear of this particular trip home because of the airplane that they knew they would be flying. Yes; these men have died in the service of their country. We hope and pray they have not died in vain. We, as Members of Congress, can see to it that they did not die in vain because we can urge, and insist, and demand that the Federal Aviation Administration and the Department of Defense in the future see to it that our American troops are transported on planes just as safe as Air Force One or as the planes that you and I, as Members of Cognress, will be taking from Washington National Airport or Dulles Airport returning to our homes this weekend for the Christmas and New Year's holidays.

Mr. DICKINSON. Mr. Speaker, would the gentleman yield?

Mr. HUBBARD. I would be glad to yield to the gentleman from Alabama.

Mr. DICKINSON. I thank the gentleman for yielding.

I did not mean to interrupt, but I thought the gentleman was finishing.

I would just like to make a couple of points, though. The Department of Defense charters aircraft. They have to do this because there are not enough passenger aircraft within the Department of Defense to transport troops. Nobody would suggest that we put them in the cargo hold of a C-130 or 141 or C-5 with no seats and without adequate comfort. So in order to transport troops, we have standing contracts with major airlines under the CRAF Program so that in an emergency we can take over and have transports full of troops, and the leasing of commercial aircraft is standard operating procedure. The point is, though, that it is not up to the Department of Defense to certify the airworthiness of the aircraft that they rent. It is up to the FAA. They have to certify the aircraft. The Department of Defense cannot go in until Delta or Pan Am or Arrow Air, the Department of Defense, insofar as I know at this point, unless something else develops, is no more responsible for the Arrow aircraft that went in than they were for the Air Florida that crashed here in Washington a couple of years ago. It is the Federal Aviation Administration authority that has to certify the airworthiness. If they did their job, then I think much of the problem we have had would be obviated. I just think we ought to be aware instead of excoriating the Army or DOD for not furnishing safe aircraft. It is up to the FAA to provide and to certify airworthiness. Small business tries to get into it. The Department of Defense would be chastised if they only went to the big airlines for their charters, even if the bigger airlines had them available for charter.

So I just mention this to discuss it. I do not disagree with anything the gentleman has said, but I do think we ought to keep that in mind.

Again, getting back to Gramm-Rudman, we are going to pay a price down the road if we cut as deeply into the defense budget and FAA. So I thank the gentleman.

Mr. HUBBARD. I thank the gentleman from Alabama for his remarks, and hopefully we can still agree that we do want to see to it, whatever Government agency it is, that our military troops have safe aircraft in which to be flown from place to place or base to base.

In closing, Mr. Speaker, as the Congressman who represents Fort Campbell, KY, and as a Democrat, I would be remiss if I did not say that President and Mrs. Reagan were extemely helpful at that memorial service. First of all, their willingness to go from Washington to Fort Campbell for that service on such a sad occasion. President and Mrs. Reagan went individually, one on one, to more than 500 of these survivors, shaking hands, embracing them, encouraging them, and promising to do what they can to see to it that these servicemen are never forgotten and, in fact, did not die in vain.

□ 1155

So congratulations to our President and First Lady for class acts, for sure.

as they went to Fort Campbell and were so helpful there, reminding these dependents and survivors that their loved ones are heroes.

Mrs. SCHROEDER. Mr. Speaker, I yield 1½ minutes to the gentlewoman from Ohio [Ms. Oakar], who has cared an awful lot about this issue.

Ms. OAKAR. I thank my friend for yielding, and I want to first of all commend the gentlewoman for having this legislation brought up today. I think the gentlewoman is a champion in this whole area of reform and survivors' benefits, and I want to congratulate her and all of those responsible for the legislation.

Mr. Speaker, I want to take just a second to relate to the issue that was mentioned about this airline. We are remembering the military who died. There were civilians who died, as well. One of the stewardesses was from my area. I talked to some of her loved ones, and the tell me that she was always very concerned about this airline and that one of the engines was out for couple days, and so on, and she called home. The whole crew was very concerned about going forward with this flight. Senator Glenn and I are going to take some statements from members of the family to verify this.

I think the thing that bothers me the most at this point in time, though, is that the Defense Department is going ahead and still booking this airline. This airline, I have done a little checking on them, they have a terrible record, in terms of safety. The gentlewoman from Colorado and I serve on the Committee on Post Office and Civil Service. We know the RIF's that have gone on with respect to Federal employees that relate to FAA, and I think we really should insist that the Defense Department, at least temporarily, not use this particular airline. I think that is the least they should do, in view of all of the questions asked.

Mrs. LLOYD. Mr. Speaker, I rise in support of this bill.

This Nation was stunned last week when the tragic news arrived of the Arrow Air crash in Gander, Newfoundland, killing 248 soldiers and all crew members on board.

The entire Nation feels the loss, however, none so much as the families of these service members. These Army personnel were on their way home for the holidays, which makes it doubly tragic.

This bill is to ensure that the family members—the wives, the husbands, the children—are protected against immediate eviction from their homes at this most difficult time. Department of Defense policy terminates benefits to survivors upon the death of the service member. This creates undue and unnecessary hardship.

This bill would also protect others in this situation in the future. It protects those living both on base and off base, as is only fair.

This is not a blank check. This bill provides living expenses for 2 months—a reasonable time for a family to make plans and adjust to their tremendous loss.

In the spirit of humanitarianism, I urge every Member of this body to support this bill. Let's take care of our own—as we should.

Mr. DICKINSON. Mr. Speaker, I yield back the balance of my time.

Mrs. SCHROEDER. Mr. Speaker, I yield to the gentleman from Mississippi [Mr. Montgomery], the very distinguished chairman of the Committee on Veterans' Affairs, for the purpose of offering an amendment.

AMENDMENT OFFERED BY MR. MONTGOMERY

Mr. MONTGOMERY. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Montgomery: At the end of the bill add the following new section:

SEC. 2. CHANGE IN EFFECTIVE DATE FOR INCREASE IN MAXIMUM AMOUNT OF INSURANCE UNDER SERVICEMEN'S GROUP LIFE INSURANCE (SGLI) PROGRAM.

Section 401(c) of the Veterans' Administration Health-Care Amendments of 1985 (Public Law 99-166) is amended by striking out "on January 1, 1986" and inserting in lieu thereof "with respect to deaths occurring after December 11, 1985".

Mr. MONTGOMERY. Mr. Speaker, I take this opportunity to thank the gentlewoman from Colorado [Mrs. Schroeder] for giving me the opportunity to offer this amendment to her unanimous-consent request to bring this bill up. I want to also say that I serve on the Personnel Subcommittee with the gentlewoman, and she has tremendous concern for the personnel and families of our military.

Now, what this amendment does, it says that the servicemen's group life insurance, that is the life insurance program for the military, under this amendment that insurance would be raised from $35,000 to $50,000. That comes under the Veterans' Affairs Committee, anyway, and that is one reason why I am offering this amendment. It is retroactive. The amendment says those from December 11 through January 1, 1986, who would lose their lives would be eligible for $50,000 of life insurance.

Now, as of January 1, by unanimous vote in the House and in the Senate, signed by the President, we raised the SGLI life insurance from $35,000 to $50,000, as of January 1, 1986; so we are giving a 20-day coverage that would cover these 248 persons of the military who were killed at Gander, Newfoundland.

Now, this fund is self-sustaining. I want to make this perfectly clear. That is not money coming out of the Treasury. This is a separate fund. The serviceman pays for this fund. The rate is $2.80 a month.

By raising this limit from $35,000 to $50,000, those after January 1 would have to pay around $4, 8 cents a thousand for the insurance.

I would predict that 99 percent of those 248 personnel had this insurance coverage. You are in the insurance program unless you opt to get out of the insurance program. So I would say most of those did have the insurance.

Now, I have briefly tried to explain this amendment. It raises from $35,000 to $50,000, it is not taking any money out of the Treasury, this is a self-sustaining fund, the fund is in good financial shape, and it would give the families $15,000 worth of additional insurance.

I would like to thank the gentleman from Florida [Mr. Shaw] for making this suggestion to me and the gentleman from Pennsylvania [Mr. Murtha] for saying, "Why don't you ask Mrs. Schroeder and add this amendment on to the bill?"

Mr. Speaker, I yield to the gentleman from Flordia [Mr. Shaw].

Mr. SHAW. I thank the gentleman for yielding.

Mr. Speaker, I would like to say at the outset that there is no finer friend that the veterans of the United States or their families have in the House of Representatives than Sonny Montgomery, the gentleman from Mississippi.

There is nothing that we can do for these men and women who perished in this crash other than to give them a decent burial at this time. But we do have a genuine obligation to their families to do everything that we possibly can to relieve their loss which they will feel for the rest of their lives.

I compliment the gentleman on this most important and most fair amendment, and I would certainly urge its adoption, and I am sure it will be adopted.

Mr. MONTGOMERY. Mr. Speaker, it was recommended by the actuaries last year that we raise this insurance from $35,000 to $50,000. We passed it in the House last year. For some reason, the Senate did not act on it. But this is 2 years in a row we have raised it from $35,000 to $50,000. With this amendment, those who lost their lives on December 12 would be covered.

Mr. Speaker, I yield to the gentleman from Florida [Mr. Hutto].

Mr. HUTTO. I appreciate very much the gentleman yielding.

Mr. Speaker, we are all deeply saddened at this tragic accident that happened last Thursday.

The gentleman from Mississippi [Mr. Montgomery] will recall that he and I and other members of the Armed Services Committee visited our multinational force in the Sinai a little over 3 years ago, just before the Sinai was turned back to Egypt. We were impressed with the indomitable spirit and the enthusiasm of those who were on service in that very desolate and lonely spot. Of course, we all believe and know that these men and women were in the service of their country in the finest tradition of those who would serve in the armed services of the United States. Two of those who were fatalities were from my district, Sp4. Tony Brasfield, of Panama City, and Sp4. Jeffrey Kee, of Pensacola. Our prayers go out to their families and to all of the families who lost loved ones in the tragic airplane crash.

Mr. Speaker, I want to commend the gentleman from Mississippi [Mr. Montgomery] for offering this amendment. I remember that we passed special legislation exempting from income tax those who lost their lives in Beirut and also in Grenada, and I think that what the gentleman has done here in offering this amendment is even better, extending from $35,000 to $50,000 the amount of insurance which would have gone into effect January 1, now to make it retroactive to apply to these and help to ease the burden a little bit for those families.

I would also like to commend the gentlewoman from Colorado [Mrs. Schroeder]. I am very pleased to be an original cosponsor. We all have great concern and sympathy for those who have felt this loss at this time of year. Our hearts and prayers go out to each one of them.

Mr. MONTGOMERY. I certainly thank the gentleman, a member of the Armed Services Committee.

Mr. Speaker, I yield to the gentleman from New York [Mr. Solomon], who is a ranking member of the Committee on Veterans' Affairs and a very hard-working Member of Congress.

Mr. SOLOMON. Mr. Speaker, I thank the chairman very much, and I just want to commend both the gentleman from Mississippi and the gentlewoman from Colorado for the bill which she is offering and which the gentleman is amending.

Mr. Speaker, the Veterans' Compensation Subcommittee did include this in the omnibus veterans' compensation bill, which would increase it from $35,000 up to $50,000.

I want to commend also the gentleman from Florida [Mr. Shaw] for recommending it.

As the chairman of the Veterans' Affairs Committee has mentioned, this fund is actuarily sound. This does not create a hardship on the fund. Certainly I would urge everyone to unanimously accept the gentleman's amendment.

Mr. Speaker, I would just like to comment on a statement that was made earlier by the chairman of the Committee on Agriculture, when he talked about the possibility of servicemen receiving food stamps. Mr. Speaker, it was not too long ago, back in 1978, 1979, when most of our servicemen were on food stamps. The salaries and the benefits in this country for our military people were so low that they were actually receiving food stamps for their families. Not only that, but we were losing thousands and thousands of very experienced technical people, both commissioned officers and noncommissioned officers, to the private sector.

I just want to remind everybody here that when we talk about the defense budget that almost 50 percent of every dollar that we appropriate and authorize for the defense budget goes toward salary and benefits for our military people, including the housing bill that we will be passing here today. I think we ought to keep that in mind, because we must maintain a strong national defense. Certainly the gentleman in the well [Mr. Montgomery], the Armed Services Committee, the gentleman from Alabama [Mr. Dickinson], have done an outstanding job in defending our defense budget. But when it comes to next year, let us keep this in mind: We do not want our military people on welfare, we do not want them going out to the private sector and losing those career people.

Again, I commend the gentleman in the well. This is a good amendment, and we ought to adopt it right away.

Mr. MONTGOMERY. I thank the gentleman for his support.

Mr. Speaker, I yield to the gentlewoman from Colorado [Mrs. Schroeder].

Mrs. SCHROEDER. Mr. Speaker, I just want to congratulate the gentleman on his amendment. I think it shows how fair the gentleman is. The gentleman is absolutely right, we should have done this. The gentleman did do it, and I am really pleased that he did all the staff work and all the leg work and all the running around that it took to put all this together. I thank the gentleman and I am sure the families will thank him, too. I realize it is very little that we are doing, but I think it shows how much this country cares about its veterans, about its service people and that even at this very busy time we will take this time to make sure we do everything we can to make sure they are treated as equitably and as fairly as they possibly can be.

Mr. MONTGOMERY. I thank the gentlewoman for what she said.

Mr. Speaker, there is a tendency sometimes, if you pass a bill in the House, then you do not follow up on it. But I certainly will work with the gentlewoman. In the Senate we have had problems before on this insurance, and we might have problems on the bill that the gentlewoman introduced today, and certainly we need to follow up. We have about 48 hours to do it.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Mississippi [Mr. Montgomery].

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mrs. SCHROEDER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Colorado?

There was no objection.

CONFERENCE REPORT ON H.R. 2100, FOOD SECURITY ACT OF 1985

Mr. de la GARZA. Mr. Speaker, pursuant to the order of the House of Monday, December 16, 1985, I call up the conference report on the bill (H.R. 2100) to extend and revise agricultural price support and related programs, to provide for agricultural export, resource conservation, farm credit, and agricultural research and related programs, to continue food assistance to low-income persons, to ensure consumers an abundance of food and fiber at reasonable prices, and for other purposes.

The Clerk read the title of the bill.

(For conference report and statement, see proceedings of the House of December 17, 1985.)

The SPEAKER pro tempore. Pursuant to the order of the House of Monday, December 16, 1985, the conference report is considered as having been read.

The gentleman from Texas [Mr. de la Garza] will be recognized for 30 minutes and the gentleman from Illinois [Mr. Madigan] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas [Mr. de la Garza].

□ 1210

Mr. de la GARZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the House will take its final vote today on one of the most important national issues we have faced in this session of Congress: Economic survival of large segments of American agriculture.

The House will vote today on the conference report on the Food Security Act of 1985, H.R. 2100. This is a massive piece of legislation, and I know that Members will have different views on almost every one of the 18 titles. But I believe you can sum up this bill in one four-letter word: Good.

This is a good bill because it says to the agriculture community and the nation that in spite of all the budget constraints, and in spite of all the problems we face, the Congress does recognize that American agriculture is in trouble, and the Congress is not going to jerk the safety net out from under the American farmer.

This is a good bill because it will help make American agriculture more competitive while it preserves basic income protection to the greatest degree possible at this time in order to get the bill through this Congress and signed into law. Mr. Speaker, I know perfectly well that some Members believe this bill does not give us all the income protection we need and I agree. The situation in some parts of rural America today is critical. Years of low prices, declining exports and collapsing land values have produced a crisis in some areas. The trouble has spilled over to produce serious problems in agriculture credit, and we will be dealing with that issue in a separate piece of legislation later today.

If I could write this farm bill by myself, it would include stronger provisions for higher target prices. But no single member alone can write this bill. The final product must be one on which the House, the Senate, and the President can agree.

Mr. Speaker, legislation is the art of the possible. If we want a farm bill, it must be one that can get the votes needed to pass the House and the Senate today. I believe that the House conferees have brought you a final product that was written within the art of the possible, and that the American agriculture community can live with. It provides a degree of protection that I hope will help many farmers to survive until better times.

Mr. Speaker, we need a farm bill. We need it because agriculture is this Nation's most basic industry. What happens to agriculture eventually effects the entire economy and to every group in this country. North as well as South. East as well as West. Urban as well as rural. Every Member of this House has a basic stake in giving our agricultural community a chance to survive and to return to economic health.

Let me speak briefly about costs. This bill will cost money, but as I told the House when we passed our own bill, this conference report meets our congressional budget targets. It will cost more than the proposal the administration brought us for what most of us thought was a prescription for tearing down the effectiveness of farm programs. But it will cost billions of dollars less than the cost of existing law.

When this bill passed the House in October, it met the congressional budget target, nearly $8 billion under the baseline cost of extending current law, according to the Congressional Budget Office. A preliminary estimate of the conference bill shows that we will have savings below baseline—for the 1986–88 budget cycle—of nearly $11 billion compared with the requirement of just under $8 billion.

Now let's look briefly at potential costs, and I ask the House to remember that these are projections based on assumptions of possible production, domestic demand, foreign demand, and weather for years into the future. At best, and the experts are clear about this, these are educated guesses which can be changed greatly if the weather changes or if any of a number of other key factors should change.

The Agriculture Department has estimated that the price support portions of the bill over the 3-year budget cycle—based on November commodity stock estimates—may average 1.7 percent of the total Federal budget. By the fifth year of our bill, price support program costs are estimated to be down to under 1 percent of the total Federal budget. For the entire 5 years, the average would be under 1.5 percent of the total Federal budget.

If you take the entire farm bill, including all other programs like farm credit, research, overseas food aid and everything else, the bill covers spending which would average just over 3.5 percent of the total Federal budget in the first year and less than 3.2 percent for the entire 5 years.

At the same time, the House should be aware that this is not going to be the last word on farm policy. The budget reduction bill which became law a few days ago will affect agriculture as well as most other Government programs, and we will have to keep the situation in agriculture under continual review.

Let me speak briefly, also, about the conservation section of our bill. I believe this represents one of the most significant soil protection measures adopted by Congress since I became a Member of this House. I think these provisions of the bill will be remembered long after our current economic problems have been forgotten.

H.R. 2100 includes 5 year commodity stabilization programs for dairy products, wool and mohair, wheat, feed grains, cotton, rice, peanuts, soybeans, sugar and honey. But in addition to those programs which appear in the first nine titles of the bill, H.R. 2100 includes a great many other important provisions.

Title 10 includes general provisions applying to groups of commodities.

Title 11 covers trade programs. These include programs to help expand our commercial trade, programs to continue the Food and Peace Program and to expand some of our other efforts to relieve hunger abroad, and a compromise on cargo preference.

Title 12 is the conservation title. It includes the new sodbuster and swampbuster programs which are designed to protect erodible land and wetlands for future generations.

Title 13 covers programs for agricultural credit and rural development. This includes an interest buy-down program for some borrowers who have loans guaranteed by the Farmers Home Administration. It also includes new rules to govern the way in which the Agriculture Department handles foreclosed land.

Title 14 covers programs for agricultural research, extension, and teaching. It provides some useful and potentially important new steps in research including a directive to develop appropriate controls on the development of biotechnology.

Title 15 includes the Food Stamp Program and related provisions including an extension of the temporary Food Assistance Program. In this title, we extend the Food Stamp Program with some needed and modest improvements for the needy, including the so-called working poor.

Title 16 includes a group of significant marketing programs. These include authorization for new programs of farmer-financed beef and pork promotion and provisions dealing with marketing orders and grain inspection.

Title 17 includes a group of provisions dealing with food processing and inspection, new regulations for the makeup of agricultural stabilization and conservation committees, and the creation of a National Agricultural Policy Commission. Also, this title includes improvements in the National Aquaculture Improvement Program, improvements in the Federal program for protecting animal welfare, and it includes provisions to modernize the Virus-Serum-Toxin Act.

Title 18 includes the effective date for the bill which is, for the commodity programs and many others, a 5 year bill.

Mr. Speaker, I know that many Members are especially concerned at this moment with what the bill does for our major commodity programs. Before I go into fuller details, let me briefly summarize the major thrust of what we have in the conference report.

For wheat, feed grains, cotton and rice we try to make our crops more competitive on world markets so that we can increase sales and hopefully improve market prices for farmers. This will be done by programs including more flexible price support loan rates. At the same time, we try to protect the farmers' total return for his crop by maintaining target prices. For wheat and feed grains, we have what amounts to nearly a 3 year freeze with reductions that cannot total more than 10 percent over the life of the bill. Cotton and rice also will be held at current levels in 1986 with later reductions that cannot amount to more than 10 percent over the life of the bill. The House, as you know, approved what amounts to a 5-year freeze for target prices, and I believe the compromise we achieved comes much closer to our bill than it did to either the Senate bill or the administration's proposals.

For dairy products, our bill is a compromise. It retains the so-called whole herd surplus reduction program to give dairy farmers a chance to deal with the problem of milk surpluses, and it says in effect that if we can't solve the problem in this way there will have to be more reductions in price supports.

Now, Mr. Speaker, I want to review the bill in some further detail. Because of the pressure of time, the material which follows is not organized to follow the exact breakdown of the titles of the bill. Instead, it will give the House an idea—very briefly in some cases—of how we have dealt with many but not all of the items in this massive piece of legislation:

The major provisions of the bill include:

COMMODITY STABILIZATION PROGRAMS

For wheat and feed grains (titles 3 and 4), the target price and commodity support loan programs for 1986 through 1990 crops include a market-oriented system for setting price support loans at levels that would make American crops competitive in international markets, coupled with target price protection.

Basic initial price support loan rates for grains would start at $3 a bushel for 1986 wheat and $2.40 for 1986 corn. From 1987 on, loans for grains would be set each year by formulas using average market prices of recent years, with any declines limited to 5 percent a year. After calculating the basic initial rates, the Secretary would then have discretionary power to further cut the rate for any year by up to 20 percent if—first, market prices in the previous season failed to top 110 percent of the previous year's loan rate, or if, second, he determines that a further cut is needed to compete on world markets. For the 1986 crop only, the Secretary would be required to use this authority to drop the loans at least 10 percent. The Secretary would have discretionary authority to allow repayment of support loans at levels which could be set as low as 70 percent of the loan rate. The Secretary would have discretionary authority, in addition, to give producers one of two alternate types of marketing certificates to help promote exports.

Target price income protection would operate with whichever loan system was used, and any cut in loan rates below the basic level in any year would be offset by increased target price payments which would not be subject to payment limits. Target prices, which protect farmers' income with direct payments when market prices are below the target, would be frozen at current levels ($4.38 a bushel for wheat and $3.03 a bushel for corn) through 1987 to prevent cuts in per-bushel returns to farmers. In succeeding years, the rate would be not less than 98 percent of the 1987 level for 1988, not less than 95 percent for 1989 and not less than 90 percent (but not less than $4 wheat and $2.75 for corn) in 1990.

To qualify for benefits in a year in which carryover wheat stocks exceed 1 billion bushels, wheat producers would be required to reduce acreage as follows: In 1986, a maximum diversion of 25 percent (including a mandatory minimum reduction of 15 percent, a mandatory in-kind paid diversion of 2.5 percent, and a further reduction at Secretarial discretion of 7.5 percent); in 1987, a maximum reduction of 27.5 percent (including a mandatory minimum of 20 percent and a further 7.5 percent at the Secretary's discretion); and in 1988–90 a maximum of 30 percent (including a mandatory minimum of 20 percent and 10 percent at the Secretary's discretion). (For the 1986 wheat crop only, the Secretary would be required to offer growers who planted before announcement of the program a chance to idle an additional 10 percent of their base in return for payments.) For feed grains, if stocks exceed 2 billion bushels of corn, the 1986 reduction would be a maximum of 20 percent of which 12.5 percent would be a mandatory minimum, 5 percent would be discretionary with the Secretary and 2.5 percent would get in-kind payment. For 1987–90 the maximum would be 20 percent (including a mandatory minimum of 12.5 percent plus up to 7.5 percent at the Secretary's discretion). For all grains, the Secretary would have discretionary authority to offer producers a further voluntary paid diversion beyond the basic requirements of the bill.

The bill requires the Secretary to allow haying and grazing on diverted acres in 1986 and grazing in 1987–90 if State agricultural stabilization committees request it. The Secretary has discretionary authority for haying in 1987–90.

The Secretary would have discretionary authority to offer producers a Target Option Program under which the individual grower's wheat target price would go up if he elected to use higher levels of acreage reduction and would decline at lower acreage-cut levels. Also optional for the Secretary is a plan varying target price levels for farms of different sizes in an effort to concentrate benefits on medium-sized farms.

The Secretary would be given discretionary authority under the bill to proclaim marketing quotas for wheat and provide for a mandatory control program. This quota program, if the Secretary should choose to use it, would be subject to approval by producers of wheat in a referendum.

The bill requires the Office of Technology Assessment to study Federal grain export quality standards. It also provides that 6 months after the study, the Agriculture Department would have to revise its export grading rules, in line with study findings, to protect the quality of export grain.

For cotton and rice (titles 5 and 6). The bill continues the traditional framework of target prices, price support loans, and voluntary supply control, but it includes new features to make the crops competitive on world markets and has a shorter target price freeze than the bill provides for grains.

For cotton:

The basic support loan is set at 55 cents a pound for 1986 with annual reductions (based on continued use of a traditional market-linked formula) of no more than 5-percent annually and a floor of 50 cents. If the basic rate is not competitive on world markets, the Secretary would choose one of two alternate market enhancement plans for repayment of loans. Under one plan, he could lower the repayment rate by up to 20 percent, thus allowing farmers to redeem their crops and sell them at a competitive price. Under the second plan, repayment would be at rates varied periodically through the year to keep pace with world markets. As a backup to assure competitiveness in case world market levels fall below the new loan repayment levels, the Secretary at such tims would issue in kind certificates to domestic and foreign buyers to bridge the gap between the effective support and the market.

Target prices would be held in 1986 at the 1985 rate of 81 cents a pound and then could be cut to no lower than 98 percent of the 1986 level in 1987, 95 percent in 1988, 92 percent in 1989 and 90 percent in 1990.

For farmers who want to qualify for price supports during periods of heavy supply, the Secretary would require acreage diversions of up to 25 percent and could offer a voluntary paid supplemental diversion program if greater acreage cuts were needed.

For rice: The basic loan rate would be $7.20 per hundred pounds for 1986 and then based on 85 percent of an average of past market prices with a 5 percent limit on annual cuts and a floor of $6.50. To keep rice competitive, growers could pay off their loans at lower rates and then sell the crop at market levels. Repayment could be set as low as 50 percent of the basic loan in 1986 and 1987 and scaled up to 70 percent of the loan by 1989 with up to half of the gap covered by negotiable payment in kind certificates. If the market price was below the repayment level, the crop would be kept competitive in foreign markets by issuing in kind marketing certificates to exporters bridging the gap between domestic and world prices. (The "marketing loan" plan under which growers can repay support loans at a reduced rate would be applied in the case of rice to the 1985 crop as well as the 1986–90 crops in order to prevent a heavy surplus buildup from this year's harvest.)

Target prices would be frozen at $11.90 per hundred pounds for 1986 and then scaled down under the same formula provided for cotton.

For farmers who want price support when surpluses are big, the Secretary would require acreage reductions of up to 35 percent and could offer a voluntary paid diversion program for any further needed reductions.

For dairy products (title 1). The bill is designed to reduce surpluses through a whole-herd diversion program. If this plan has not cut surpluses sharply, substantial support cuts would be authorized beginning in 1988. Chief features include:

The bill continues the current $11.60 per hundred pound support level for calendar 1986 but also activates an 18-month, Farmer-Funded Program under which producers can voluntarily elect—in return for payments set on a bid basis—to take entire dairy herds out of production in order to reduce surpluses. To fund the program, farmers would pay an assessment of 40 cents per hundredweight during 1986 giving them a net effective return of $11.20 on manufacturing-grade milk. On Jan. 1, 1987, the Secretary would be required to lower the support rate to $11.35 but the assessment would drop to 25 cents. On Oct. 1, 1987, the assessment would end but the Secretary would be required at the same time to lower the support to $11.10. Beginning Jan. 1, 1988, the Secretary would be required to make 50-cent annual cuts in the support rate if surplus purchases are expected to exceed 5 billion pounds a year or 50-cent increases if surpluses are expected to be under 2.5 billion pounds. After the whole herd disposal program ends, the Secretary would have discretionary authority to adopt a diversion program of whole-herd or partial cuts. Differentials used in setting minimum fluid milk prices in some marketing orders would be increased to reflect current transportation costs.

For livestock (portions of titles 4 and other titles). To protect livestock producers in case of heavy dairy cow sales into the meat market because of a Milk Diversion Program, the bill requires additional Government purchases of 400 million pounds of red meat during the duration of the whole-herd diversion for export or domestic donation. In a related area, the bill includes new authority for farmer-funded beef and pork promotion with a requirement that producers could get refunds of checkoff contributions during the period between the start of the programs and later referendums (within 22 months of the start of the beef program and 24–30 months from the start of the pork program) on whether to continue the programs. The beef checkoff would be $1 per head (including imported beef) with a credit of up to 50 cents for assessments of state beef councils; the pork checkoff would be 1/4 of 1 percent of the sale price of hogs and imported pork. Also, the bill requires that imported meats, livestock and poultry comply with American standards and residue regulations.

For soybeans (title 8). The bill continues the basic price support loan rate through 1986 and 1987 at the current minimum rate of $5.02 a bushel. For the next 3 years, rates would be based on an average market price formula with reductions limited to no more than 5 percent a year and with a floor of $4.50 per bushel. In all five years, the Secretary would have authority to reduce loan levels by an additional 5 percent if necessary to keep the crop competitive in world markets. The Secretary would also have discretionary power to allow repayment of loans for less than the original rate so the beans could go to market instead of government stockpiles.

For sugar (title 9) and wool and mohair (title 2). The bill generally extends current programs. The current wool support formula would be frozen for five years. Sugar supports would continue for five years at not less than the 1985 level of 18 cents a pound. To avoid a buildup of surplus stocks in government hands caused by forfeitures of support loans when market prices are low, the bill requires that import quotas currently scheduled through Sept. 30, 1986, would be extended for at least 3 months, thus reducing per-month import levels. As an alternative, the Secretary could reduce quota levels to protect domestic prices. Beginning with the next quota year, the Secretary would be directed to operate the sugar program with quota levels which avoid any cost to the Government. Also, the bill provides that beginning with the 1987 quota year, no import quotas can be given to countries which are net importers of sugar unless they verify that they do not import Cuban sugar.

The peanut program (title 7) would be continued without major changes. Support for peanuts grown under a domestic (food and seed) quota would be adjusted in 1966 and future years for increases in farm costs but not by more than 6 percent per year in 1987–90, and access to quota sales at the domestic support rate would be broadened by sharing growth in the quota between old and new growers. The bill sets a floor of 1.1 million tons (the current floor) under the annual domestic peanut quota for the next 5 years, but provides the quota can increase if domestic needs grow.

Honey supports (title 9) would be cut from the present 65 cents a pound to 64 cents in 1986 and 63 cents in 1987. In the next 3 years the Secretary could make cuts of up to 5 percent annually, and he would have discretion for all 5 years to allow repayment of loans at below the loan rate.

Payment limitations and other general commodity provisions (title 10) in the bill continue the present $50,000 annual per producer ceiling for program payments. Exempt from the ceiling would be: First, target price payments which offset support loan cuts below basic loan levels; second, any payments made under several program cost-reduction items which the bill provides for discretionary use by the Secretary; and third, any gains farmers realize when paying off support loans at less than the initial loan level. A $100,000 ceiling would be provided for disaster payments to producers of grain, cotton and rice and similar disaster payments are authorized for the 1985–90 crops of soybeans, sugar beets and cane and peanuts. Advance deficiency payments would be required for 1986 crops using target price programs and would be discretionary in future years, and 5 percent of total deficiency payments could be made in kind at the Secretary's discreting. New provisions for determining crop and total farm acreage bases are included, along with revisions in the farmer-owned grain reserve program putting new limits on the reserve. And in programs using target prices, the Secretary would have discretion to make payments to farmers who are eligible for loans and target prices but agree to forgo those benefits.

Trade (title 11): The bill mandates a payment-in-kind bonus export promotion program designed to make American commodities more competitive in world markets as well as a package of continued and expanded export credits.

The bonus export program provides that surplus commodities owned by the Government must be provided to exporters, processors or foreign buyers to encourage the development and expansion of overseas markets for American crops including processed farm products. The Secretary would be directed to use $2 billion worth of commodities for the program over the next 3 years to counter unfair foreign trade practices and generally to make American products more competitive, and at least 15 percent of the program could be devoted to exports of poultry, meat and meat products.

In the export credit area, the bill requires the Secretary of Agriculture to make available not less than $5 billion annually in short-term export credit guarantees for the life of the bill where such guarantees would improve the competitive position of American exports. The Secretary is also required, for the 1986 through 1988 fiscal years, to make not less than $325 million a year available in cash or in surplus commodities for direct export credits to counter the subsidies, import quotas or unfair trade practices of foreign countries. (The direct credits, whether in cash or in kind, could be used in so-called "blended credit" export programs.) The bill also broadens the purposes for which an existing intermediate (three-to-10-year) export credit program can be used and directs the Secretary to make available intermediate loan guarantees of at least $500 million a year through 1988, with a ceiling in fiscal 1989 of $1 billion. A previously authorized export credit revolving fund is reauthorized under the bill. Also, the Agriculture Department would be directed to operate a pilot test of barter programs with at least two countries to acquire strategic or other materials for which there are unmet national stockpile goals.

To improve coordination of Federal agency programs in overseas food assistance, the bill creates a new Presidential special assistant for agricultural trade and food aid. And to expand overseas food aid and trade promotion programs, the legislation extends the Food for Peace Program and provides that at least 75 percent of the foods shipped under the donation phase of the program must be in the form of processed, fortified or bagged products. For fiscal year 1986, shipments under the donation phase would be maintained at the 1985 level of 1.8 million tons. The bill also authorizes expanded operations under a related program providing surplus commodities for needy people abroad and it provides that not less than one-tenth of 1 percent of Food for Peace (Public Law 480) funds for fiscal 1986 and 1987 must be used for a farmer-to-farmer technical assistance program. Further, the bill creates a new Food for Progress Program under which the President would be authorized to donate commodities to countries which promote free enterprise in their domestic food production systems.

The bill includes a section revising existing cargo preference regulations which require that 50 percent of certain Government funded agricultural exports must be shipped in American-flag vessels. The measure states that commodities exported under Public Law 480 (Food for Peace) and other designated assistance programs will be subject to a cargo preference floor starting at 60 percent in calendar 1986 and rising to 75 percent in 1988 and thereafter (in place of the current 50 percent). The bill provides that additional funds needed for these increases would come from the Department of Transportation and it exempts from cargo preference a number of commercial-style export credit programs operated by the Agriculture Department including blended credit programs. If the Transportation Department is not able to provide the needed funds, the new provisions would be shelved and existing law would come back into effect.

The bill requires the Secretary of Agriculture and the U.S. Trade Representatives to pursue agricultural trade consultations with major producing countries. Trade-related studies required by the bill include one to determine the impact on U.S. agriculture of imports of Brazilian ethanol, and another on specific unfair trade practices by other countries which affect American exports.

Conservation (Title 12): The conservation section includes new programs to protect fragile soils and wetlands for future generations and move a substantial amount of erodible into less intensive use.

For highly erodible land which has not been cultivated since 1980, the bill provides a sodbuster program to discourage plowing up fragile soils. If a farmer planted a crop on fragile land in violation of the terms of the bill, he would lose price supports and other farm benefits for all of his crops in the year of the violation. Highly erodible land which was used for crops (or idled under a Government acreage control program) between 1981 and 1985 would initially be exempt from the sodbuster penalties, but this grandfather clause exemption would disappear for any affected producer who fails to begin applying a conservation plan by 1990 or 2 years after completion of a soil survey of his land, whichever is later. Producers would have until 1995 to complete application of the conservation plan. A companion swampbuster provision would deny farm benefits to producers who convert wetlands to crop use in the future except in cases where the impact of the action is found to be minimal.

For highly erodible soils which are already in crop use, the bill provides a long-term Conservation Reserve Program under which farmers would contract for periods of 10 to 15 years to return 40 to 45 million of such acres to less intensive uses such as grass or trees, which in some cases may be used to establish shelterbelts. In return for compliance with the contracts, growers would get cash or in kind land rental payments (established on a bid basis) plus payments covering a part of the cost of needed land treatment measures. No more than 25 percent of the land in any county could be enrolled in the Reserve except in countries where the Secretary of Agriculture decides that higher levels would not hurt the county economy. There would be a $50,000 limit on annual payments to farmers under reserve contracts.

Also, the bill includes an extension of the Resources Conservation Act, requiring the Agriculture Department to produce assessments of soil and water resources in 1995 and again in 2005 to help policymakers develop long-term plans for protecting those vital national resources. A further section permits Governors of States which have State laws to protect farmland from urban development to file suits in cases where the Federal Government has not followed procedures of a Federal farmland protection law. (The Federal law requires, among other points, that Government agencies must consider alternatives before taking actions which result in shifting farmland to nonfarm use.)

The bill requires the Secretary of Agriculture to establish a procedure under which adverse determinations made under these new conservation provisions may be appealed.

The bill authorizes the Secretary of Agriculture to formulate plans and give technical assistance to property owners, State and local agencies, and interstate river basin commissions to protect the quality and quantity of subsurface water, reduce flooding hazards, and control salinity. The Secretary must report to Congress on this matter by February 15, 1987.

Credit and Rural Development (title 13): The bill reauthorizes and in some cases revises Federal farm credit and rural development programs. It requires the Secretary, through September of 1988, to operate a $490 million program under which the Agriculture Department and private lenders would share equally in the cost of a reduction in interest rates for hard-pressed farmers who hold loans guaranteed by the Farmers Home Administration. The Government could pay for 2 percent of the overall buy-down or one-half of the total, whichever was less. The bill also includes discretionary authority for a program of planting-season advance commodity loans to farmers beginning it 1986. Authorization ceilings include annual caps for the 1986 through 1988 fiscal years of $3.48 billion for Farmers Home Administration farm operating loans with a phased shift from an equal division between direct and guaranteed loans to a third-year division of $870 million for direct and $2.610 billion for guaranteed loans. For farm ownership loans, the bill authorizes $520 million annually, beginning with an equal division between direct and guaranteed loans and ending with a third-year division of $130 million direct and $390 million in guarantees. (The Secretary is authorized to transfer up to 25 percent of each year's guarantee allocation into direct loans.) For emergency disaster loans there would be ceilings of $1.3 billion in fiscal 1986, $700 million in 1987 and $600 million in 1988. Under other changes made by the bill, disaster loans would no longer be available for those who could get credit elsewhere or, beginning in 1987, to those who do not buy crop insurance when it is available. In addition, disaster loans would be banned for farms larger than family-size.

For rural development programs, the bill authorizes $340 million annually for 3 years in direct water and waste disposal loans and $250 million annually in guaranteed industrial development loans plus $115 million in direct community facility loans. The bill also provides a new method of determining eligibility for water and sewer loans and grants based on community income and health and sanitary needs.

A clear title provision in the bill is designed to protect buyers of farm products from challenges to the title to their purchases while still allowing lenders to protect liens on farm products. The bill clears buyers from liability on liens against the commodities bought from farmers unless they have been given notice of those liens directly or via a State central registry system. The new provisions will be effective in 12 months, giving time for States to set up central filing systems if they wish to do so.

Also the Agriculture Department would be ordered to observe a number of new restrictions on the way it handles farmland acquired by the government in future foreclosures of FmHA loans. Among other provisions, USDA would be forbidden to sell such land if the sales would depress local farmland values, and first priority in any sales or leases would have to be given to operators of farms which are not larger than family size. In leases, the bill calls for giving priority to former owners of the land and sales prices must reflect the probable income the land can produce. Where FmHA-owned land is administered under management contracts, contracts must be let under competitive bids with preference to local small businessmen, and the use of conservation practices may be required on land which has been classed as highly erodible as a condition of sale or lease.

The bill allows the Secretary to acquire from FmHA borrowers who cannot repay their loans conservation, recreational or wildlife easements on land which has been in crops but is classed as wetland, upland or highly erodible. In return, the Secretary could cancel part of the borrower's debt. Also, the bill gives the Secretary discretion to make loans to distressed FmHA borrowers who plant softwood timber crops on marginal farmland which is security for their existing loans. The new credit would reamortize the old loans, would be limited to an overall total of 50,000 acres, and would be repayable when the timber produces revenue or within 45 years. The bill requires a study of procedures used by FmHA for farmer appeals when loan applications are rejected, and a further provision creates a new, speedier appeals system using informal meetings. Other amendments require FmHA to process loan applications within 60 days, to provide funds on approved loans within 15 days, and to continue the agency's Small Farmer Training and Technical Assistance Program. Also, when FmHA or Small Business Administration farmer-borrowers are foreclosed or bankrupt, the agencies would have discretionary power to allow the borrower to remain in his home as a renter for at least 3 years.

Research (title 14): the research section includes a 5-year extension of funding authority for agricultural research and extension programs, and a number of new research priority guidelines.

Among other items, the bill authorizes a 3-year program of special grants for educational and counseling programs to develop income alternatives for producers who have been forced out of farming by economic stress. It also directs the Secretary of Agriculture to develop appropriate controls on the development and use of biotechnology in agriculture. The bill also includes a provision urging USDA to emphasize, in its research and teaching programs, new technology suitable for small and moderate-sized farms. The Secretary of Agriculture would be directed to report on the feasibility of more complete studies of the relationship between diet and blood cholesterol in humans, and dietary calcium and its importance in human health and nutrition. The bill allows the Secretary to make cooperative, cost-sharing agreements with private agencies, organizations or individuals to develop new agricultural technology, authorizes research on new uses for farm and forest products, and directs the Secretary to conduct demonstration projects on the development or commercialization of crops that would supply strategic industrial products. Federal agricultural research funding authorizations would be extended through 1990 with fiscal 1986 ceilings including $600 million for Federal activities, $270 million for contributions to cooperative research in State experiment stations and $370 million for contributions to cooperative extension programs in States (with $10–$20 million annual increases in following years for the three programs), and $7.5 million annually for aquaculture research.

The bill authorizes competitive research grants at a level of $70 million for the period covered by the bill and for grants and fellowships for food and agricultural sciences education at an annual level of $50 million. It authorizes the Research Facilities Act for the period covered by the bill at a level of $20 million with a Federal-State matching provision for facilities at State cooperative institutions. It authorizes $25 million annually for animal health and disease research. It also authorizes permanent extension funding for the historically black "1890" colleges and universities and $10 million annually for 5 years for extension facilities at these institutions. The bill creates a new program of agricultural productivity research with demonstration projects to run for at least 5 years and, if practicable, 12 to 15 years.

Food assistance: The food program section of the bill extends the Food Stamp Program for 5 years, including the program for Puerto Rico which operates on a cash basis, improves some program benefits, and requires all States to set up special employment and training programs to help move jobless stamp recipients onto payrolls. The bill also extends for 2 years, through fiscal 1987, the Temporary Emergency Food Assistance Program authorizing distribution of Government surplus foods to the needy.

Among the food stamp changes were steps to increase work incentives by establishing a separate child care deduction and revising the earned income deduction, both of which are used in calculating stamp benefits; changes in asset limitations to make the program more accessible to working poor and elderly households; an increase in the excess shelter cost deduction, and action to strengthen program accountability and management.

Other food assistance provisions in the bill would extend the Commodity Supplemental Food Program for women and young children for 5 years and broaden the program to serve elderly persons in cases where this would not deny benefits to women and children. The bill also would authorize increased nutrition education for low-income people and strengthen current efforts to monitor nutrition of low-income people.

Other provisions (various titles): The bill provides that in order to prevent damage to older gasoline engines on farms, the Environmental Protection Agency must not reduce the lead limit in gasoline to below 0.1 gram per gallon until January 1, 1988. In the interim, the Agriculture Department and EPA would study the need for lead in engines, completing the study by January 1, 1987 and reporting within 6 months on whether it would be appropriate to modify future general lead-limit rules in the case of gasoline used for farming purposes.

H.R. 2100 modernizes the Federal Virus-Serum-Toxin Act, a law which regulates veterinary biologics, to give the Agriculture Department control over intrastate as well as interstate sales (giving producers of intrastate products up to 4 years to comply with Federal regulations), but would allow States which have effective regulatory systems to retain them. Another provision bans imports of Flue-cured or Burley tobacco which does not pass U.S. pesticide residue tests used for American-grown tobacco. Also, the bill directs the Agriculture Department to continue random checks to determine if imported Canadian potatoes meet U.S. standards.

The bill revises standards for the humane handling of animals by research facilities, dealers and exhibitors. It directs the Secretary to develop standards containing minimum requirements in areas including housing, feeding, shelter, veterinary care, and experimental procedures that minimize pain and distress.

Other sections include: A ban for a total of 5 years on price supports and certain other farm benefits for persons convicted of growing or storing controlled substance drugs; a directive to the Secretary to conduct a pilot project under which wheat, cotton, feed grain and soybean growers in at least 40 counties would test a program of using futures or options markets to protect their incomes (with participating producers assured by the USDA that their returns could not fall below support loan levels); a requirement that tobacco importers, in addition to reporting the country of origin of the product, must also identify the intended U.S. purchaser; and a provision authorizing watermelon producers to adopt a checkoff program to finance research and promotion.

Also included are provisions to: Require the Secretary of Agriculture to give 60 days notice to the Senate and House Agriculture Committees before he acts to terminate marketing orders for nonprice supported crops; extend the life of a food security wheat reserve; require the Secretary to designate three administrative areas for the selection of community Agricultural Stabilization Committees in all counties with some exceptions such as in counties with less than 150 farmers; require the Secretary to control grasshoppers and Mormon crickets on Federal rangeland; and make all rural utilities eligible to borrow from the Rural Electrification Administration also eligible to borrow from the Banks for Cooperatives of the Farm Credit System (at present, eligibility is restricted to co-ops with a specified minimum of farm or aquatic producer-members).

Mr. Speaker, I reserve the balance of my time.

Mr. MADIGAN. Mr. Speaker, I yield 2 minutes to the gentleman from Oregon [Mr. Robert F. Smith].

Mr. ROBERT F. SMITH. I thank the gentleman for yielding me this time.

Mr. Speaker, I wish to congratulate the chairman and the ranking member for this outstanding bill.

Mr. Speaker, back in the spring, when this House began work on this bill, I joined with my committee colleagues in setting out goals for the bill which we were responsible for construction.

At that time, we summarized the task. We said, "This Nation needs a workable, creative, and realistic blueprint for the survival of American agriculture."

My support for this bill is a declaration of my belief that we've achieved our overall purpose, and we've come as close as is legislatively possible to the five goals we set for ourselves.

They are these: One, to provide an effective farm policy which is budget responsible. At $52 billion for those of you concerned about the budget, this is billions less than a freeze.

Second, to recapture American agriculture's competitive edge in world and domestic markets. Today, American agriculture will be first, not last, when we craft foreign trade policy, and we have given the Department tools such as the bonus bushel to bring us back into the competitive world market we need.

Third, to create a bridge from Government domination to an improved marketplace. This is a transition bill. We will ratchet away from farming the Government, again, to farming the marketplace as we all want in this country.

Fourth, to recognize profitability as a key element in the long-term stability of American agriculture. There is a safety net in this bill. We did not cut the legs from under agriculture in America, but we did provide a method of a safety net to allow American agriculture to prosper in the next 5 years.

Lastly, to guarantee American consumers a plentiful and stable supply of nutritious food and fiber products. Certainly, the best deal in the world is for the American consumer. Less than 17 percent of disposable income is used in this country for the purchase of food; by far and away the best deal in the world.

Mr. Speaker, creating a 5-year farm program is a congressional duty that must occur without a guarantee of future precision. It must be policy capable of withstanding gale-force winds of economic and natural influences outside this committee's control.

With all of our influence and power, Congress still can't control the weather. We can't control the crops. And we have no crystal ball to predict the successes of our export incentives.

In other words, there is no precision in this business. There is only the promise that, if Congress follows through on its own promise to reduce the deficit, bring down high interest rates and deflate the strong dollar overseas, this bill will successfully stabilize the American farm community and begin to lead it away from the Government trough.

Some wanted a farm bill that would pull down the curtain of subsidies immediately. This is not that bill. I can safely say that no member of a congressional agriculture committee, neither Republican or Democrat, House or Senate, is willing to pay the awful price of an immediate end.

That price, at a minimum, would be bankruptcy for one-third of America's farmers and a permanent loss of production and markets to foreign competition.

The bill we've created depends heavily on the use of export markets to replace Government subsidies to American farmers in the future. And well it should. Throughout the history of this country, the one consistently bright spot in our balance of trade has been our farm production.

Unfortunately, we lost sight of that for a while. The United States was virtually the only postwar nation on Earth with all of its farming, manufacturing and industrial complexes still intact.

We were so enraptured with exports of hard goods and with America's market leadership over the last four decades that we began tinkering with the foundation of it all, farm exports.

Today, we are nothing more than another competitor in world markets—and one with a bad reputation and expensive products, at that. Hard goods—everything from cars to computers—today come from many places with softer currencies, and many farm products come from more reliable sources.

We need this entire Government to think first about the trade of American farm products. America's market advantage comes from the farm. We must never forget that.

If we keep that in mind, this bill will successfull ratchet down Government's intrusion on the market-oriented farm economy that we need for long-term success of the American farm community.

We've created export incentives to help and we've created the tools that will make it work. They include a strong conservation reserve program encompassing some 40-million acres; a solid new control on marginally productive and fragile croplands; a workable dairy program that will help dairymen without hurting the red-meat producer; and commodity programs that maintain a delicate balance between competing commodities.

The entire package comes together in a 5-year plan that continues to provide the American food consumer with stability of product and price.

Just as importantly, it takes into consideration the fact that the American farm family is a consumer as well as a producer. We can't ever forget that once they've provided the rest of us with food, they must be able to afford it, as well.

Colleagues, this is a good bill, certainly as good as any this Congress is capable of creating.

If you join me today in approving this plan, and join me in the future in cutting our national deficits and the interest rates which will fall with the debt; if you help me keep the wolves away from the door of our farm credit system and join in promotion and nurturing of our farm exports program, I assure you right now that this is the best farm policy offered by Government in generations.

I urge your vote in favor of passage of this bill.

Mr. DE LA GARZA. Mr. Speaker, I yield 2 minutes to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in reluctant opposition to this conference report. For nearly 1 year, my colleagues and I on the Agriculture Committee have worked countless hours to produce a new omnibus farm bill, and I have the deepest respect for the efforts of the chairman and our other colleagues to produce the compromise we have before us.

Unfortunately, what American farmers need is not a compromise. American farmers need a program which is bold, which breaks new ground, and which will lead us and our farmers out of this morass. As we started this process so many months ago, American farmers said they wanted a change in policy, but instead, they are basically getting the same old tired programs.

The conference report has three main problems, particularly with the grains.

First, most importantly, the bill offers no realistic promise that commodity prices will improve; indeed, they will fall.

Second, in large part, prices will stay depressed as surpluses will continue to build because the bill will not lead to an effective surplus control program. It leaves too much discretionary authority in the hands of an administration which has indicated it will not act aggressively to bring production into line with demand.

Third, the bill provides benefits indiscriminately. The largest producers will reap most of the limited Federal dollars we have to spend because this measure makes no mandatory effort to target income supports to the small- and medium-sized family farms which should be the focus of Federal agricultural policy.

A little less than 1 year ago, the administration came to the Congress with a bill decimating farm programs, and sure to decimate farm income. Rejection of that proposal was loud, swift, and conclusive from both sides of the aisle. In the House, we held the line and stood firm through this time of crisis. But today we have before us a bill very much like the one the President and his Agriculture Secretary saw pronounced dead on arrival last winter. That product is due in large part to the fact that the long shadow of the President's veto pen hung over the other body as it worked and over the conferees as they met so tirelessly.

However, when I go back to Kansas I cannot stand in that shadow. I will have to face my farmers in the harsh light of my vote today. While there are some provisions and particularly the conservative section, the question is not between this bill or no bill, it is between this bill and a better bill. I think we could have, indeed should have, produced a better bill for our farmers and I cannot endorse this program with my vote. We will be back.

Mr. MADIGAN. Mr. Speaker, I yield 4 minutes to the gentleman from Kansas [Mr. ROBERTS].

Mr. ROBERTS. I thank the gentleman for yielding me this time.

Mr. Speaker, for the better part of a year now, we have been involved in an effort to write a new farm bill or, better put, after months and months of hearings and hard work and so many choices between a rock and a hard place, I think perhaps that effort would be better described as a gauntlet.

Mr. Speaker, we have held quorums, we have held hearings, we have held listening tours, we have sat on a wagon tongue, we have figured, studied, penciled out, discussed and cussed virtually every farm proposal from shutting down the ASCS office to instant parity as of yesterday.

In the meantime, the adversity in farm country continues and hard-pressed farmers and ranchers have not so patiently been waiting, and we have been forced to go ahead with our cropping plans with no farm bill.

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Our difficult but necessary challenge has been to somehow address the adversity we are going through and still keep this farm bill within the budget limitations that we enacted in this Congress.

Does this bill meet all these requirements? No, it does not. It is not the best possible farm bill. It is, however, the best bill possible when we look at all the problems and the difficult circumstances we face.

This is not the farm bill that Pat Roberts would write, nor any member of the Agriculture Committee on the Senate or the House side. But again, Mr. Speaker, I believe it is the best bill possible under these very difficult circumstances. It is time to pass this bill.

Now, there will be those who will say with great passion that we have not done what we should do in terms of protecting farm income, yet compared to the proposal that was first advanced when our Republican Members sat down with David Stockman, this bill is absolutely generous.

The other side of that story, Mr. Speaker, is that the budget restrictions we are operating under did not come from the administration; they came from the budget, passed by a majority in this House months ago, some of them the very Members who are now doing the criticizing.

To all of my colleagues who now worry about the cost of this bill let me say that these cost predictions are guesstimates at best. Time and again I have asked the so-called budget experts how they can predict the weather, trade policy, interest rates, value of the dollar, embargoes, crop yields, and all the rest that goes into it that will affect the cost of this bill. However, the cost of not acting in terms of the adversity that we are going through in farm country will be far greater.

More to the point, as we become market competitive, which this bill will enable us to do, the farmer is made whole to the best of our ability to do that. So, my friends, in terms of the future obligations that would be incurred if we did not pass this bill, these figures will look very small in comparison.

I know that within minutes of the passage of this farm bill there will be people on both sides of the aisle who will do a lot of criticizing. I do not know who I have been more irritated with during this yearlong process, the administration for dragging its heels and poisoning the well or those who always prefer an issue to a bill. Let me tell my colleagues that I do not have of any farmer who can take an issue to the bank and countersign it.

Maybe I am a little touchy on this subject. Maybe it is because we have gone through a year of frustration and agony, and yes, even anger. Maybe it is because I lost the initiative that I worked very hard for, although it is now discretionary in this bill. But I say to my colleagues, do not stand there and criticize this bill and cast a reluctant vote against it when it was your budget, a budget that I did not vote for, that put us in this straitjacket. And if you voted for Gramm-Rudman, which a great many of us voted for—I did not—and you exempted eight or nine programs out of that budget process, and you are going to put us in that straitjacket as of next spring, I think, when you say, "Well, we just don't have a bill," that the administration simply held that heavy sword over it, that is demagogery at best.

There doubtlessly will be an emergency bill this spring. This bill gives the Secretary of Agriculture unprecended discretionary authority. All of us have an obligation to work with him not only to pass this bill but to implement that policy in the best interests of producers. In other word's you'll have your chance to put up political hay but we had better get the harvest such as it is in first.

We need the bill. We need this bill to stabilize land values and to keep the FDIC off of our backs. We need a bill. I urge a yes vote.

Mr. de la GARZA. Mr. Speaker, I yield such time as he may consume to our distinguished colleague, the gentleman from Michigan [Mr. Traxler].

Mr. TRAXLER. Mr. Speaker, I thank the committee chairman, the gentleman from Texas [Mr. de la Garza], for yielding this time to me, and I rise in unenthusiastic support of the conference report.

I commend the conferees, must especially the distinguished chairman of the committee. There is no question that this was their best effort, in spite of President Reagan's attempts to demolish the traditional farm price support programs.

Mr. Speaker, I rise in unenthusiastic support of the conference report on H.R. 2100, the Food Security Act of 1985. I am unenthusiastic about this conference report because it does not represent, in my view, the best possible policy for American agriculture. Rather, it represents the best that we are going to get.

There should be no question among our colleagues about the vital importance of the American farmer. We need the farmer so that we can continue to have an abundant food supply.

But if we want the farmer to continue to be productive, we should be willing to consider his and her need for a reasonable standard of living, and a return on the investment in the farm. In the name of budget austerity and as a precursor of Gramm-Rudman, we don't do that with this farm bill. And the fact that the White House and administration officials, including the Secretary of Agriculture, were so involved with the details of the conference on this bill makes me very suspicious of its value to agriculture over the next 5 years. Remember, this is the administration that effectively proposed the termination of farm price support programs when the President proposed his farm bill last spring. He even proposed abolishing the domestic sugar program.

I am very pleased with the sugar provisions of the bill. It continues a program that I have worked for so hard throughout my years in Congress, and one which will continue to help to provide a measure of stability for my farmers in the years to come. I am also very pleased that the House conferees agreed in principal with a Senate provision that directs the Department of Agriculture to modify its policy on import quotas so that we can continue to run the sugar program with no cost to the Government. This provision is very similar to a directive I sponsored on the fiscal 1986 continuing appropriations resolution.

The dairy provisions represent somewhat of a midpoint between the original House and Senate provisions. There is no question that the dairy farmers I represent would be much happier with the dairy program that was passed by the House as part of the farm bill, but this is one of those cases where the program had to be modified to meet the President's objections or be vetoed.

The dairy program will have the price support level frozen at $11.60 per hundredweight until January 1, 1987. At that time the support price drops to $11.35, and drops again to $11.10 on October 1, 1987. There will not be a paid diversion program initially, as the House had proposed, but the whole herd buyout provisions will be in place for 18 months, subject to the issuance of regulations by the Secretary of Agriculture. The buyout is financed by a producer assessment of 40 cents per hundredweight, which drops to 25 cents on January 1, 1987, and ends in October 1987. Support prices will continue to drop by 50 cents per hundredweight each year beginning in 1988 if the Secretary determines that Government purchases of dairy products will exceed 5 billion pounds. Standby authority for a paid diversion program is retained in the conference agreement. I believe we could have done better but for the administration's opposition.

The wheat and feed grains program also offers us a farm program that's been put

through the thrasher. Target prices will be frozen at $4.38 per bushel for wheat and $3.03 for corn for 2 years, and begin to drop in 1988. Deficiency payments made as a result of these target prices will be limited to $50,000. Loan rates will be set as a percentage of the average market price for 3 of the past 5 years, dropping the high and low price years, similar to the program approved by the House. Farmers will be required to set aside land in order to be eligible for these programs if surpluses exceed 1 billion bushels of wheat and 2 billion bushels of corn.

But there is a cautionary note at this point. The Gramm-Rudman provisions will take effect soon, and there is a strong danger that farm price support levels will have to be cut even more to meet the mandates of Gramm-Rudman. However, any farmer who signs a contract with the Government by February 1, 1986, should lock in the price support levels specified in the 1985 farm bill conference report today. The agreement on Gramm-Rudman states that:

> Payments and loan eligibility under any contract entered into after a sequester order has been issued for a fiscal year would be subject to a percentage reduction.

The President is supposed to submit his first round of spending cuts on Gramm-Rudman on February 1. It is essential that farmers make their decisions quickly, and sign up for the program to lock in these amounts.

Mr. Speaker, I want to do what is best for the farmers I represent. I have come to the conclusion that the approval of this conference report is better than having farmers continue to wonder what our farm programs will be if we do not approve this agreement. I will continue to take the counsel of the farmers I represent, my best advisers.

In order to give the American farmer some certainty for the days ahead, and with the knowledge it was the best possible in the face of a Presidential veto. I urge my colleagues to approve this conference report on the 1985 farm bill.

Mr. DE LA GARZA. Mr. Speaker, I yield 2 minutes to our colleague, the gentleman from Iowa [Mr. BEDELL].

Mr. BEDELL. Mr. Speaker, these are very difficult times for me. As I meet here on the floor of the House and as we meet in our conference and as we have our ties and suits on and talk about these issues, I then go back to my district and I see the pain that is there, and I see the good farmers who have always been recognized as leaders in their communities now facing the threat of bankruptcy. And it is not just the farmers, it is the small business people, it is the towns, and it is all of our area.

And let me say, Mr. Speaker, that if anybody here thinks we can have that pain only exist in our rural areas, they do not know what our country is like. I think we are going to feel it across the country.

In my opinion, this bill does not adequately address that problem. The farm bill as it came from the House Agriculture Committee would have strengthened farm income, and that is what we need to do in our area.

The administration opposed many sections of that bill and indeed opposed many of the efforts in our conference committee. With a veto threat constantly held above us, they wanted more and more to cut back on what could be done. But thanks to the efforts of the House members of that conference committee, let me say that this bill is a lot better than it would otherwise have been.

I want to commend the chairman of the Committee on Agriculture, the gentleman from Texas [Mr. DE LA GARZA], I want to commend the gentleman from Illinois [Mr. MADIGAN], and I want to commend all the conferees, be they Republican or Democrat. As I sat in that conference committee, let me say that there was no partisanship on the House side of the aisle. We held together and tried to do more for our farmers, but time and again the Senate side and the administration would prevail. The other body would carry water for the administration, and the leadership over there on the majority side would vote as a bloc and block what we were trying to do.

I am sorry that this bill is not better than it is for our farmers, but I do commend the Members who were in that conference, and I do say to all the world that this bill is not nearly as bad for our farmers as it might have been without the work of the House conferees, both Republicans and Democrats, in that conference committee.

Mr. MADIGAN. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. CRANE].

Mr. CRANE. Mr. Speaker, I thank the gentleman for yielding time to me.

As a House conferee representing the Committee on Ways and Means, there were some points contained in this legislation that really did violence under our rules to the jurisdiction of the Ways and Means Committee. All of those were resolved with one exception. The one exception has to do with the Sugar Program. Under the legislation introduced by the other body to this farm bill we have an unfortunate situation now contained in title IX that really has the effect of imposing vastly higher tariffs on sugar imports into this country. If you go to the objectives of this legislation, namely, to provide for agricultural exports, among other things, I think there is a potential with that kind of protectionism in this legislation for retaliation against other agricultural exports.

In addition to that, the other objective is to assure consumers an abundance of food at reasonable prices, and what we are going to witness with this provision in title IX is an escalation of the cost of sugar to the American consumer. It is unfortunate that that occurred. As I say, it came from the other body, and we were not able to get it removed in the conference. However, I have assurances from our colleagues here and from the distinguished committee chairman that perhaps we can at least minimize the impact of it legislatively next year.

I do not want to raise objection to all the good work of the conferees from the House side, but I did want to express my objections to what our colleagues in the other body did to flaw an otherwise basically good bill and one that represents many conscientious efforts by distinguished Members in this Chamber.

Mr. Speaker, I rise in opposition to the conference report on H.R. 2100, the Food Security Act of 1985. Specifically, my greatest concern centers around section 902, the prevention of sugar loan forfeitures.

As a conferee from the House Ways and Means Committee, I raised an objection to this specific section on two separate occasions during conference proceedings. Since the section in question had trade ramifications, I warned the other conferees that I intended to raise a point of order on the floor of the House if my concerns were not addressed. Compromise language was drafted to alleviate my concerns with section 902 and I was assured that this language would be substituted. During a unanimous consent request to waive points of order against the farm bill conference report, I was again reassured that my concerns had been taken care of, and therefore, I did not object to the request. Subsequently, my legitimate concerns with section 902 were disregarded and the original language remains in the conference report.

It was not my original intention to attempt to derail the entire conference report over one section, however, the repeated lack of any consideration to what I believe are legitimate concerns is extremely distressing. It has always been my understanding that the U.S. legislative process was structured so that the concerns of the minority would also be addressed.

With respect to the serious shortcomings of section 902 as it now stands, let me begin by outlining the existing Sugar Program in the United States. Excess production characterizes the world sugar economy, and sugar stocks are estimated at more than 50 percent above normal needs. World production is expected to continue to increase slightly despite low prices. The price of raw sugar in the world free market has averaged less than 5 cents a pound, the lowest in 15 years. Since passage of the current Sugar Program—1981 farm bill, U.S. imports have been limited to roughly half of their traditional level in order to prop up the artificially high U.S. price—about 22 cents a pound.

The means by which high U.S. prices are protected is an absurdly convoluted process established to please a limited domestic sugar growers industry. Section 902 is an attempt to further shore up these domestic price supports by increasing import restric-

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tions on foreign sugar. Section 902 specifically requires the Secretary of Agriculture to "operate the Sugar Program established under section 201 of the Agriculture Act of 1949 (7 U.S.C. 1446) at no cost to the Federal Government by preventing the accumulation of sugar acquired by the Commodity Credit Corporation [CCC]." Existing provisions provide that excess sugar may be forfeited to the CCC in lieu of payment on outstanding sugar loans. If the Department of Agriculture is mandated to run the Sugar Program on a no-net cost basis, as prescribed in section 902, then a nonaccumulation of sugar would mean no forfeitures of sugar to the CCC. To achieve this end, dramatic reductions in imported sugar would have to be initiated.

U.S. Trade Representative Clayton Yeutter, in a letter to Ways and Means conferees, warns that the provision requiring the Sugar Program to be operated so that there would be no cost to the Federal Government would require the United States to significantly reduce the sugar import quota—the letter is attached. Estimates place this reduction at more than a third compared to 1984-85 quota levels. Such action would also severely limit the discretion of the President to implement this program in a way which best meets our national interest. Many countries would challenge our restrictive import policy, and a drastic reduction in our sugar quota would undermine our efforts to resist new foreign barriers to our own agricultural exports.

Tightening the sugar quota would have a severe economic effect on a number of developing countries, including many of those encompassed in the Caribbean Basin Initiative [CBI]. Our exports to these countries will surely suffer if they cannot export to us. Furthermore, there is speculation that section 902 violates existing international trade agreements.

The impact of section 902 will also hurt the remaining U.S. cane sugar refiners. Their access to raw sugar has already been reduced by over 35 percent since the passage of the 1981 farm bill and, as a result, nearly 3,000 jobs have been lost in this industry. Most refiners are operating on reduced schedules, and at least one or two more may close if the import quota is lowered further. In addition, the high U.S. price for sugar has encouraged substitution by other sweetners, especially corn, which now accounts for over 25 percent of caloric sweetners.

The higher domestic sugar prices caused by section 902 would expand the differential between United States and world prices, which would encourage more imports of sugar-containing products. Since 1981, U.S. imports of sugar-containing products, particularly confectionary products, have increased dramatically. For example, imports of chocolate bars were over 400 percent greater last year than in 1981.

The ultimate loser as a result of the section 902 proposal, however, would be the American consumer. Forced to pay escalating prices on cane sugar and sugar-containing products, the domestic consumer would once again bear the burden of subsidizing a small, specialized industry. Protectionism has never solved our trade problems in the past, and never will in the future. the inclusion of section 902 in the farm bill is conclusive proof that prior attempts to protect the domestic sugar growers through import restrictions were unsuccessful. What makes one think that these additional import restrictions will prove any more successful?

In conclusion, I believe that I have demonstrated that my concerns are indeed legitimate. In an effort to satisfy the special interest concerns of some of the conferees, and to help expedite passage, my substitute language that would have essentially guarded against additional import restrictions was never honestly included in the farm bill. American consumers and exporters will pay the price for this narrow, special interest legislation. It will prove a high price to pay for the marginal political support it is designed to buy.

The U.S. Trade Representative,
Washington, December 11, 1985.

Hon. Philip M. Crane,
U.S. House of Representatives, Washington, DC.

Dear Phil: As you proceed to the House-Senate Conference on the Agriculture, Food Trade and Conservation Act of 1985, (H.R. 2100), I want to convey to you our concerns about certain trade provisions of this bill which fall within your responsibilities as conferees from the Ways and Means Committee. For this purpose, I am enclosing a copy of letters already sent by this office to conferees of the Senate and House Agriculture Committees.

Your committee staff specifically asked whether the Administration would be able to implement the sugar provisions of the Senate version of the bill without modifying import restrictions. Under current and foreseeable market conditions, it would not be possible to operate the sugar program at no cost to the Federal Government except by imposing much greater restrictions on imports.

At present levels of domestic production and imports, there is an excess of supply over demand for sugar compared to that necessary to maintain the domestic price at a level that would prevent forfeitures of sugar to the Commodity Credit Corporation (CCC). If the Administration were compelled to operate the sugar program so as to prevent forfeitures and thus avoid cost to the CCC, there would be no way to sustain domestic prices without either increasing the demand for sugar or limiting supplies of sugar. We do not believe there is any likelihood that domestic sugar demand will expand in the near future. Any rebalancing would therefore have to be made on the supply side of the equation. There is no authority to limit domestic sugar production. Therefore, the sugar program could not be operated without cost to the CCC without imposing much more severe reductions on sugar imports, a step that would raise serious legal and trade policy problems.

Sincerely,

Clayton Yeutter.

Mr. de la GARZA. Mr. Speaker, I yield 1 minute to our distinguished colleague, the gentleman from South Dakota [Mr. Daschle].

Mr. DASCHLE. Mr. Speaker, I rise in opposition to the bill. I do so knowing full well the difficulty that our ranking member and our chairman had in coming to an agreement.

We are told that this bill is a freeze, but I have to say that the only freeze I see is that farmers are frozen out of a decent income and a higher price. Frankly, I do not know how we are going to be able to go home and tell those farmers who are now facing this long, cold winter what they must do in light of the fact that for the next 4 years they are going to see a reduction in income and a reduction in price.

All we can do is to voice our opposition loudly and clearly this morning. All we can do is to insure that they know that the fight goes on, and that at long last at one point in the future we will realize the importance of the family farm, realize the importance of a good, solid return on investment, and realize what an important element in our economy they all are.

Mr. MADIGAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Nebraska [Mr. Bereuter].

Mr. BEREUTER. Mr. Speaker, I rise in support of the legislation, and I wish to commend the conferees for their efforts.

Mr. Speaker, I rise today in support of H.R. 2100—the 1985 farm bill. I do so, however, with several reservations—especially to the commodity programs for wheat, feed grains, and soybeans which I will address in a minute.

It is easy to vote against a farm bill for political posturing. Some politicians never will vote "aye" no matter what might be in a farm bill; they make a career of saying, "It wasn't good enough." However, the only responsible vote for a member of this house or the other body is "aye." What, I ask is the alternative? Can you imagine the chaos that would result if Congress adjourned without passing a farm bill? The impact on the farmers and ranchers of facing that possibility as they try to secure loans and plan their 1986 farm year would be devastating. If we do not pass this farm bill now, every astute observer of Capitol Hill farm politics knows a bill crafted in 1986 will be far less generous and far too late.

As a conferee on the trade title of this legislation, I can report to my colleagues that this was a long, difficult and tedious conference. I commend the members of the Agriculture Committee and especially the chairman of the committee, Mr. de la Garza, and the ranking minority member, Mr. Madigan, for their patience and perseverance in trying to craft a farm bill that will effectively address our Nation's farm problems within the fiscal restraints that exist.

There continues today to be great frustration and uncertainty in rural America about our agricultural crisis and Congress' inability to adequately correct it. As a member who represents farmers, cattlemen and a congressional district largely dependent upon agriculture, this bill will determine the future for thousands of my con-

stituents over the next several years. I share with my colleagues who are members of the Agriculture Committee their uncertainty about this farm bill and their frustration in trying to build a consensus for new directions in policy.

If our agricultural problems stemmed for a single source, it would be much easier to select the right solutions. Unfortunately, the major dilemma that exists today in agriculture is the multitude of problems which confront us: High interest rates, declining land values, low commodity prices, and an archaic Tax Code, dwindling export markets, foreign agricultural subsidies, the high value of the dollar, and many others. All are separate concerns, yet all have interrelated effects; and they must be addressed in a coordinated fashion to effectively provide a bright future for American agriculture.

Today, we consider the conference report on the 1985 farm bill. There are some who consider omnibus farm legislation to be the trough at which American agriculture depends for sustenance. There will be Members who criticize this farm bill because it does too much and because it is too expensive. There are many others who criticize this farm bill because it does not do enough. Where this farm bill is deficient, however, is not in the scope of its assistance, but the depth of its innovation and direction for the future.

In the past, agriculture has generally relied on the farm bill as the sole means of addressing our agricultural problems. However, it should also be considered an opportunity to lay down long-term policy goals for where we want agriculture to be in the future, rather than a short-term reaction to the fundamental problems which are symptomatic of agriculture. In addition to establishing a sound policy foundation for agriculture, this farm bill should also complement other legislation which this Congress has passed this year that also addresses fundamental problems in agriculture.

Aside from the farm bill, Congress has legislated many reforms this year which will chart a new course for agriculture for the rest of this century. For example, the tax bill which we passed yesterday will bring about major changes in the Tax Code that have a positive effect upon agriculture. While I objected to the rule under which that legislation was brought to the House floor, I made public my intention to vote for it because, in general, it is a beneficial step for Nebraskans and most American individual taxpayers. Accordingly, I voted against the motion to recommit it to committee and cast an oral vote for its passage.

For too long the tax code has enticed nonfarm investment in agriculture by those who are not reliant upon agriculture for a living but who instead farm the Tax Code for tax shelters. This type of investment has encouraged overdevelopment and overproduction in agriculture at the expense of traditional family-owned and family-operated farming operations.

The Export Administration Act which we passed earlier this year will also have positive and very crucial results for American agriculture. During the last 12 years, agriculture has borne the brunt of four major trade embargoes. These embargoes have cost U.S. farmers billions of dollars in lost exports and seriously impaired the credibility of the United States as a reliable trading partner. The Export Administration Act will curb the administration's prerogative to blatantly misuse grain and food embargoes as a tool of foreign policy and send a strong message to our trading partners that the United States is a reliable supplier of agricultural products.

I was pleased to successfully lead the fight for anti-embargo provisions and for contract sanctity through my membership on the Trade Subcommittee of Foreign Affairs and as a conferee on this farm bill.

Congress will also later today address legislation that will restructure the Farm Credit System, this Nation's largest agricultural lender. While this legislation is only the first step in addressing the debt crisis in agriculture, it is a necessary step to insure the future financial solvency of the Farm Credit System and, therefore, most importantly loan funds for farmers and ranchers at competitive rates.

Finally, to address the crippling effect that Federal deficits and high interest rates have had on agriculture, Congress has finally adopted serious deficit reduction measures. The Gramm-Rudman-Hollings deficit reduction package will impact agriculture in several ways. While this measure will force equal restraints in defense and domestic programs, including agriculture—which I will address shortly—it will have a positive impact on agriculture as it is effective in reducing the deficit and lowering interest rates for farmers and ranchers.

All of the legislation which I have just mentioned is in many ways progressive, innovative, and positive for agriculture. However, while these measures will compliment the 1985 farm bill, they alone cannot be a substitute for an equally progressive and innovative farm bill. Although many sections in the farm bill are certainly innovative, others remain shackled to the worn theories of the past.

To mention the improvements which have been made in this farm bill, I would first like to commend the members of the Conservation and Credit Subcommittee for their work in drafting a conservation title that is long overdue. The sodbuster-swampbuster provisions of the farm bill will discourage the development of marginal, highly erodible farmland which has not only been bad conservation policy, but also bad economic policy. The development of marginal lands has contributed to surplus production, the cost of our farm programs, and the debt crisis of many farmers.

With regard to farm debt and rural development problems, the conference report not only reauthorizes FmHA credit and rural development loan programs, but also requires the USDA to establish a 3-year interest buy-down program under which the Federal Government and commercial lenders will share equally in interest-rate reduction for borrowers of FmHA guaranteed loans.

As a conferee on the trade title of this farm bill, I would also point out that the export of our agricultural commodities was a top priority of both House and the other body. We are all well aware of the decline in our agricultural exports during the past several years; and with it, farm income. While agricultural exports alone will not solve our farm problems, we cannot ignore the importance of the contribution they make to our farm economy.

The reasons for the decline in our agricultural exports is due to a number of factors. One is certainly the high value of the dollar. Another is the predatory trade practices and subsidies of our foreign competitors. Increased world production has also taken its toll on U.S. exports.

The trade title of this farm bill is the best ever passed by Congress. It invigorates the competitiveness which has long been the trademark of American agriculture and has made it our Nation's largest exporting industry. In addition to reauthorizing existing commercial export promotion programs, the conference report requires the USDA to use at least $2 billion of CCC-owned commodities over the next 3 years to counter unfair foreign trade practices and recapture markets lost to foreign subsidized exports to create new business opportunities for American farmers.

The food assistance title, for which I was also a conferee, is also the best for American farmers—and recipients—that Congress has ever passed. For the impoverished regions of the world that need our assistance, this bill reauthorizes and restructures many of our food aid programs to better target and utilize our food aid dollars. While some may criticize spending money for foreign assistance at a time when U.S. agriculture suffers, I would point out that many nations which were once recipients of Public Law 480 donations are now large commercial purchasers of U.S. agricultural commodities.

Furthermore, the extent and application of cargo preference requirements, an issue which has been terribly divisive in this Congress, has been moved to a compromise and away from all-out counterproductive warfare. Both the House and the other body have been embroiled in this controversy since earlier this year when a U.S. district court ruled that cargo preference was applicable to the USDA's blended credit program. I am not happy with the compromise insisted upon by conferees of the other body, but after several days of negotiations and debate in conference, an agreement was reached in which all commercial export promotion programs, including the blended credit and intermediate credit programs, would be exempt from cargo preference requirements. In return, the U.S. maritime industry will be permitted to increase its share of food aid and famine relief shipments from the current 50 percent to eventually 75 percent of such cargoes.

The cost of this additional cargo preference requirement will be allocated to and paid for by the Department of Transportation. Assurances were also given by conferees from the Merchant Marine and Fisheries Committee during the conference that in the event the additional funding for cargo preference is not actually made available, then the so-called "snapback" provision will not expand cargo preference beyond current law. I am very pleased that our commercial export programs can once again begin to function unencumbered by cargo preference requirements.

The sections of the farm bill I have mentioned are worthy and commendable. There are, however, other sections, specifically the crucial programs for wheat, feed grains, and soybeans, that are the weak link in this farm bill.

It is both unfortunate and unnecessary that we are faced with basically the same warmed-over price support programs that were incorporated in the 1981 and previous farm bills. During the farm bill debate in the House, we had before us options that would have targeted the benefits of these programs more effectively. Unfortunately, they were rejected. Under our current farm programs, farm income has declined at the same time that surpluses and Federal expenditures have increased. Unless we move away from these programs, more of the same will continue in the future.

As we consider this legislation today, I think we should all be cognizant of what might occur during the next year with regard to these programs. Under the target price-loan rate mechanism in this farm bill, farmers will be forced into continued overproduction, surpluses will continue to grow, and the cost of these programs will continue to escalate. Either one, or both of two scenarios are likely to occur. Because of the record domestic carryover of grain and a glut of unprecedented size on the world market, I anticipate that the commodity programs for wheat and feed grains will within a year either collapse under their own weight, or self-destruct under the restrictions of Gramm-Rudman.

Until we move away from programs that attempt to support every bushel of wheat and corn, regardless of whether they are needed or not, we will continue to make ineffective and inefficient use of our farm programs. We will have to eventually target our resources toward our family-owned and-operated farms in a manner that provides them with a decent return on their investment and labor in agriculture.

While I am reluctant to vote for this farm bill because of the commodity programs that I have mentioned, I also recognize that we must continue to move forward. Imperfect as this farm bill may be, responsible national legislators operating in a tight fiscal climate and serving in a Congress increasingly populated by urban-oriented legislators do not have the luxury to pick and choose what programs we like or dislike. If we did, I would not hesitate to vote against the commodity programs for wheat, feed grains and soybeans in this bill. However, if we reject this bill there will be no farm bill and we will have rejected not only the negative, but positive provisions of this legislation.

We would be left with chaos for our farm constituents and for the Nebraska economy. Some Nebraska and farm State legislators may take the easy, politically expedient way out by voting "nay." Fortunately, there are always enough responsible legislators to give them the luxury of an irresponsible vote.

Next year, and whenever necessary thereafter, I am quite willing to address these programs once more. Then, perhaps we will adopt some of the alternative programs which we rejected earlier this year. Several were far more innovative and realistic in moving us toward the goal of a bright future for agriculture.

Mr. Speaker, at this time, I urge my colleagues to vote for the bill.

Mr. MADIGAN. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. Frenzel].

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Mr. FRENZEL. Mr. Speaker, I was a bit player in the conference along with the gentleman from Illinois [Mr. Crane] on a number of trade issues which were satisfactorily resolved, and on the sugar issue which the gentleman mentioned.

I was one of those in the House who supported the House sugar position, although 142 of us did not. The Senate language was much tougher. The gentleman from Illinois [Mr. Crane] and I were assured that it would be modified. On that basis in the Record of November 16 the gentleman from Illinois [Mr. Madigan] and the gentleman from Texas [Mr. de la Garza] had mentioned that our objections had been overcome. Mr. Crane and I then agreed to the unanimous consent request that brings this bill to us.

Apparently the people who assured us that they would take care of this situation were not able to do it. I say with considerable sadness, but no bitterness that I will support the bill, but it will be a long time before I agree to another unanimous consent request from the House managers.

This was a disappointing experience. I know the House managers did the best they could, but I feel they let us down in this case.

Mr. de la GARZA. Mr. Speaker, I yield 2 minutes to the distinguished chairman of the Subcommittee on Cotton, Rice and Sugar, the gentleman from Louisiana [Mr. Huckaby].

Mr. HUCKABY. Mr. Speaker, I thank the gentleman for yielding. I certainly want to thank the chairman and all the conferees for the many, many hours of hard work that went in to bringing this conference report to the floor of the House.

Mr. Speaker, let me urge my colleagues to support this legislation. It is not a perfect bill. Any of us would like to make changes. But it is a good bill.

I would like to address my remarks to cotton, rice and sugar.

In the area of sugar, we basically have a freeze, a continuation of the existing sugar program as is, which will protect American sugar farmers and allow them to stay in business.

For cotton and rice, Mr. Speaker, we are doing something dramatically different that has never been done before with an agriculture bill. We are going to the marketplace. In the last 4 years, we have seen our sales of cotton go from 14 million bales to 8 million bales, with similar reductions in rice, because of the strong American dollar, because of countries subsidizing, because of countries dumping, and we have been paying our farmers to cut back and reduce their production while the rest of the world has been expanding.

We are going to reverse that with this bill. We are going to the world marketplace. We are going to recapture our markets. We are going to see our prices actually go down to begin with, but we are going to pay our farmers this protection, and then we are going to see prices rise once we recapture our markets.

Mr. Speaker, this bill offers hope for the American farmer. I think it offers real hope to allow us to regain our markets, to regain prices, and still with the safety nets that have been provided.

Mr. Speaker, I would urge all of my colleagues to support this legislation.

Mr. MADIGAN. Mr. Speaker, I yield 2 minutes to the gentleman from Vermont [Mr. Jeffords].

Mr. JEFFORDS. Mr. Speaker, I rise to talk a bit about the dairy provisions of this bill. They are important provisions.

The dairy program will largely rely upon the concept of a whole-herd buyout.

There will likely be many people who will take the responsibility for being the father of the whole herd buyout concept. I am not entirely sure, however, that I want to have that dubious distinction, but I do with respect to this bill and therefore have a duty to explain to you what it means.

Dan Hollingsworth of California has promoted this concept. He is an example of the dairy farmers who have again come forward and said, "We are willing to pay for another supply management program. The milk diversion worked last time. Although we are not going to repeat that program, we have a better one. If we can get enough farmers to voluntarily sell their herds to the Secretary of Agriculture, then we can reduce milk production without having to put farmers through bankruptcy. Remember that for every dairy farmer that we can get to go out of business voluntarily, we save four from the spate of bankruptcies that would occur if we were to get our herd size down through price reductions alone.

I must however, point out that we have put all of our milk in one bucket in this instance. If the whole herd buyout fails because enough farmers do not take advantage of it, then dairy farmers will face annual price cuts until such time as we have reached a supply and demand balance.

The success of the program will depend, first, upon the Secretary of Agriculture; he must make the program work. Second, its success will depend upon the farmers themselves, for they must take advantage of it.

We have a little insurance in the bill, good faith insurance, that says that the Secretary must run a good program, because if he does not, he loses his price cut authority in the out years.

It is with confidence, however, that I stand here and echo the view that this program can and will work. If the enthusiasm that farmers have shown for this program is matched by their participation, the program has every chance of success. If they do not, the program has no chance at all. And the result will be exactly what this program was designed to prevent—the wholesale bankruptcy of dairy farmers, rather than the whole-herd buyout of cows.

We, in Congress, can legislate a good idea, but it will take the farmers to really make it work.

Mr. Speaker, I also want to discuss the bill's food stamp provisions and how they impact on energy assistance and standard utility allowances. This is a complicated issue, and it is one that has generated a surprising amount of controversy.

I approached this issue from the perspective that we, on the Agriculture Committee, had no business changing the Energy Assistance Act. This statute falls within the jurisdiction of the Education and Labor and Energy and Commerce Committees. In taking a position of neutrality on this issue, I think the conferees have recognized that the issue properly falls outside of the Agriculture Committee.

In fact, both the House and Senate have agreed with this assessment, voting as each body did to delete the provisions aimed at overturning the provisions of the Low-Income Home Energy Assistance Act. It is obviously the sentiment of Congress that the courts to date have properly interpreted the provisions of the Energy Assistance Act.

My only hope is that we have not overly confused the issue. I know that the Education and Labor Committee will look at this issue next year, and hope that we will, at that time, be able to explicitly, rather than implicitly, affirm the court decisions on this issue to date.

Mr. DE LA GARZA. Mr. Speaker, I yield 1 minute to the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Mr. Speaker, yesterday the St. Paul Pioneer Press & Dispatch carried the headline, "Official Says Farm Bill No Help to Agriculture." And in that article an official of the Farm Credit System in Minnesota was quoted as saying, "We believe there is a financial crisis in our industry, agriculture. We believe farms have more debt than farmers can pay with projected incomes."

He went to say, "The 1985 farm bill which cleared a congressional conference committee on Saturday won't change farm income projections substantially."

Mr. Speaker, farm groups are divided on many issues, but they are united in their opposition to more of the same old farm policy. What we have here, thanks to the Senate and the White House, is worse than more of the same, it is less of the same. We do not need to spend more on farm programs to help agriculture. What we need is a better farm policy that directs its assistance to mid-sized and small-family farms across America.

The President showed positive influence on a good issue, tax reform, yesterday and helped to get that measure passed. But what we need is his positive influence for the right kind of farm policy. Instead he has used his influence to produce a farm bill that will lower farm income and increase commodity surpluses. I'll be voting against this farm bill because farmers deserve better.

Mr. MADIGAN. Mr. Speaker, I yield such time as he may consume to the distinguished minority leader, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I certainly rise in support of the conference report.

I believe the conference committee has done a pretty darn good job, especially given the time constraints it operated under and given the task it had of fitting the conference report within the budget resolution and a strong Presidential request that farm spending for fiscal years 1986 through 1988 be kept within certain parameters.

They say history repeats itself and certainly that is true with respect to the recent history of House consideration of conference reports on farm bills. On December 16, 1981, we passed the conference report on the 1981 farm bill as our last such action in the 1st session of the 97th Congress. Here we are 4 years later at the tail end of a session with farmers and others anxiously awaiting for word on farm programs that will apply for the 1986 crops and beyond.

Mr. Speaker, during the consideration of H.R. 2100 in the House in September, Mr. OLIN, of Virginia, and I cosponsored an amendment to change the dairy title of the bill. We failed in that effort but I understand that the conference agreement has adopted some of the provisions of the Senate amendment to H.R. 2100 that I sought to include in the dairy title and so I now believe that with those "required" reductions in milk support levels in future years and a "whole-herd" buyout provision, there is a chance of achieving for the first time greater reliance on the marketplace for milk products that will benefit both dairy farmers and consumers.

I am also pleased that the soybean title of the conference substitute remains much as it operated in the last 4 years with a feature to maintain flexibility on loan levels in future years so that soybeans will not accumulate in Government storage and so that U.S. soybeans can continue to compete in world markets but with some protection to producers.

Also, the feed grains title, I understand, is one that corn growers can endorse and support. It provides a farm program giving income support to producers in the next critical 2 or 3 years while moving to a greater market orientation in the last 2 to 3 years of this 1985 farm bill. Meanwhile, I support provisions in this bill that will help corn producers to expand the use of corn products as a gasoline additive and as a good sweetener.

The conference agreement is a massive document that contains many, many technical provisions that only the members of the Conference Committee from the House will be able to explain in detail. However, I have maintained close contact with the ranking member, ED MADIGAN, from my State of Illinois, during the conference, and he advises me that this is a compromise measure that, while perhaps not perfect, is one that we can support. It may require close oversight by the Congress as it is implemented, but that it apparently will continue to provide the loan levels, target prices, and other farm program assistance to farmers that they are in desperate need of in the near term.

Mr. Speaker, I commend my colleague from Illinois, ED MADIGAN, the ranking member of the committee, and Chairman DE LA GARZA, of the Agriculture Committee, for their efforts in shaping this piece of legislation and bringing it to us in a form that I believe will be acceptable to the President. I urge you to support this measure and send it to the President for his signature.

Mr. MADIGAN. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I would be happy to yield.

Mr. MADIGAN. Mr. Speaker, I want to take just a second of the gentleman's time to express my gratitude to the gentleman for his assistance in the last couple days that made it possible for us to get on the floor here today. I thank the gentleman very much.

Mr. MICHEL. I thank the gentleman.

Mr. Speaker, I have said all along that it is absolutely imperative that before we pass the continuing resolution, we pass a farm bill, hopefully a credit piece of legislation to go along with it before the Congress adjourns. I think both sides would be in agreement on that score.

Mr. DE LA GARZA. Mr. Speaker, I yield 2 minutes to my distinguished colleague, the gentleman from Oklahoma [Mr. ENGLISH].

Mr. ENGLISH. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, it had been my hope to be able to vote for this farm bill. Certainly our farmers need desperately for some improvements as far as income is concerned and some hope for the future.

In the past 50 years, our objectives have been to try to keep supply and demand in balance in the hopes that we would be able to assure our farmers that they could receive a reasonable price for their products in the marketplace.

But under this legislation, at the insistence of the President and many of the Members of the U.S. Senate, we are changing that goal. We are accepting a new goal.

The objective is to reduce our prices to still lower levels than we have today, at a time in which we have great financial stress among the farmers of this Nation, while increasing grain surpluses to an even greater level. As far as the wheat and feed grains, we are today looking at the largest surpluses in the history of this Nation and the projections are that they will go even higher under this bill.

I think that is wrong, Mr. Speaker. I think what we need to do is to bring about a balance of supply and demand, to strengthen market prices so our farmers have some hope for the future. But, unfortunately, as I look at this bill, as far as wheat and feed grain farmers are concerned, I simply do not see that hope. I do not see that we are providing the opportunity for our farmers to receive better prices in the marketplace.

For that reason, Mr. Speaker, I very reluctantly will vote against the bill.

In addition, Mr. Speaker, I would like to point out that I was deeply involved in the farm bill conference regarding the cargo preference issue. In fashioning those cargo preference amendments, the conferees made no changes in the threshold concept of U.S.-flagship availability already contained in the Cargo Preference Act. Rather, the amendments in the conference report are based on the understanding that cargo preference continues to apply only to the extent U.S. flagships are "available." I also oppose the cargo preference provisions of this farm bill and provides still another reason to oppose this measure.

Mr. MADIGAN. Mr. Speaker, I yield 2 minutes to the gentleman from Mississippi [Mr. FRANKLIN], a member of the committee.

Mr. FRANKLIN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I want to also compliment the ranking member and the chairman of the Agriculture Committee for their diligent and intelligent work on this conference committee report, and I firmly support it.

Mr. Speaker, I am vitally interested and my district is vitally interested in the commodities of cotton and rice, and I also want to take this time to commend our chairman of that subcommittee, the gentleman from Louisiana [Mr. HUCKABY], and the ranking minority member, the gentleman from Minnesota [Mr. STANGELAND]. They held firmly committed to getting the best bill possible from the conference and I believe they have succeeded in that effort.

We have done something in this bill that I think is innovative and will help all American farmers. We have not given them everything that they need or everything certainly that they want, but I think for the first time what we have said to the American farmer is that we are going to put the U.S. Government behind you and we are going to make the commodities that you grow more competitive in world markets, in the sincere hope through this effort that your price will rise and that you can return profitability to your operations in the future.

That is basically a statement that I believe the gentleman from Louisiana [Mr. HUCKABY] made earlier concerning the commodities of cotton and rice that are so valuable to my district.

But, Mr. Speaker, what I want to do is to express to all of my colleagues the importance of getting the farmers of this Nation a bill that they can go to their banks with within the next 2 months, get their financial houses in order, make their cropping plans and farm next year. Farmers need a plan and a farm program so that they will know how to make their cropping plans and financial arrangements.

Absolutely, the worst thing that this House could do would be to deny the American farmer that knowledge of what he is going to be operating under and what structure he is going to be operating under next year. Refusing to adopt this conference report would deny farmers the right to obtain financing and reduce efficient production for lack of knowledge sufficient to plan adequately. It would be devastating to our economy nationally, and certainly it would be killing to our agricultural economy.

Mr. Speaker, I strongly urge my colleagues to support this conference report and thereby restore profitability to agriculture in the future.

Mr. DE LA GARZA. Mr. Speaker, I yield 1 minute to our distinguished colleague, the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Speaker, I must reluctantly rise in opposition to this conference report. I am reluctant because I understand and appreciate the time and effort that went into the development of this farm bill, and because I have great regard for my colleagues who support this measure and especially for the work of our chairman whose endeavors are responsible for a bill that is better than proposed by the Administration.

Still, the decision of how to vote on such an important piece of legislation must be made on the merits rather than the amount of time that has gone into its formulation. And while this bill has some commendable provisions, on the whole I find that it fails completely on the issue of concern to so many farmers facing economic disaster—income security.

This bill promises wheat and feed grains farmers one thing and one thing only—lower prices for their products. Farmers who cannot make a decent living today, receiving prices that are lower than their production costs, simply cannot be expected to survive on still lower prices.

The fact that this bill does so little for farmers is sad, and more than a little ironic. When the Agriculture Committee began this long process last year, we had many disagreements on how best to address the problems of American farmers, but one thing all involved seem to agree on was that we needed a new far policy and not a simple rehashing of the current failed system. The agreement before us today continues that basic policy, with lower prices.

I also find it ironic that we are willing to assist the farm credit system—and I am thankful for my colleagues' help on this matter—but we will do nothing under this bill to allow farmers to earn enough to pay their loans.

The central issue of this debate is clear: Does this bill establish a program which ensures Americans an adequate supply of food and fiber at a reasonable price which allows our farmers a fair income?

The answer is equally clear: it does not.

If we adopt this conference report, we are painting a dim future for the American farmer, and we are setting the stage for our citizens to pay a far greater share of their income for food.

Mr. MADIGAN. Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana [Mr. MOORE].

Mr. MOORE. Mr. Speaker, I thank the distinguished ranking minority member of the Agriculture Committee for yielding to me.

Mr. Speaker, I want to urge my colleagues to vote for this conference report.

I voted for the bill when it left the House over the objections of my administration, and this conference report is far superior to that bill.

Agriculture is the most important industry in my State, and it is in trouble in my State just as it is in yours for all the same reasons that we all share. But my State has also been hit by three hurricanes which have ravaged our crops. I learned something.

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I found out that the crops in my State, soybeans and sugar cane, two of the crops in my State, did not qualify for any kind of emergency disaster grant relief that we give to other commodities. This conference report corrects that oversight and now makes that available, and that is certainly good.

Secondly, the administration announced a very high, too high, import quota on sugar coming into this country. I oppose that very strongly. What that is going to mean is that the sugar program that has never cost the taxpayers any money will, which means greater deficits; secondly, it means that we will have greater imports, worsening our trade; and thirdly, it is not a good signal to farmers.

This bill corrects that by saying that has to be taken care of, it has to be operated on a no-cost basis, which probably means the import quota period will be extended for about 3 months to see to it that that does not happen.

Thirdly, for the taxpayers this bill is good, and for the farmers as well, because it begins to move us back to a market-oriented farm economy by the reduction of target prices ever so gradually, when we get out of the current bind we are in, to get to a market-oriented economy once again.

So I compliment the members of the Committee on Agriculture, and in particular my good friend, the gentleman from Louisiana, Jerry Huckaby, who did an outstanding job, and certainly the chairman and the ranking minority member, for having produced and brought forth a far superior conference report to the bill we all supported, and something we can all vote for in good conscience as being good for agriculture, good for the taxpayers and, therefore, good for the economy of this country.

Mr. de la GARZA. Mr. Speaker, I yield 1 minute to our distinguished colleague, the gentleman from California [Mr. Brown].

Mr. BROWN of California. I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in support of the conference report on H.R. 2100, the 1985 farm bill. This legislation is the result of months of work by both the House and Senate Agriculture Committees, and stands as a monument to the determination of the Members and staff who have toiled to deal with a very difficult situation in the farm sector. It is not a perfect bill, and I expect that we will have to return to these issues again in the coming months, so deep are the problems of agriculture. We will also have to debate farm policy next year to further cut the agriculture budget under the deficit reduction package we recently passed.

But there are many features of this legislation which are landmark changes and deserve the support of all Members of the House. Many of these programs are the result of years of work by Members and individuals whose vision is being rewarded in this bill.

This legislation makes major advances in our soil conservation programs. It establishes a conservation reserve to retire highly erodible acreage. It even focuses on the problems of western irrigated agriculture with an option for the Secretary of Agriculture to consider soil and water salinity problems in the establishment of a conservation reserve. This provision is one which I am especially interested in and I would like to personally thank Mr. Jones, the chairman of the Conservation, Credit, and Rural Development Subcommittee for holding onto this provision in conference.

This bill, for the first time, links conservation and price support programs, in the "sodbuster" provisions. Under this proposal, farmers who plow highly erodible land must have an approved soil conservation program in place before they can receive farm program benefits. This is a landmark advance in our soil conservation efforts, and Mr. Jones is to be congratulated for getting this program enacted. I would be remiss if I did not also pay tribute to Mr. Thomas Barlow who, in the mid 1970's, first brought this scheme to my attention. That was a time when even mentioning a link between price supports and conservation could get you in trouble, yet Mr. Barlow and other farsighted conservation advocates plugged away on the concept that we are addressing today.

Tucked away in the massive provisions of this bill is the Agriculture Productivity Act which the House passed earlier this year. This act establishes a program of research into sustainable, biological approaches to farming, an area which has great promise for reducing farm operating costs. Mr. Weaver of Oregon is to be congratulated for his tireless effort over recent years to get this needed initiative enacted. Here again, we are seeing the completion of an initiative which began nearly 10 years ago and has involved the efforts of dozens of farsighted individuals.

I would like to comment on the dairy provisions of this legislation, an area in which I was deeply involved during the House debate on H.R. 2100. Every Member of the House owes a great debt to Mr. Coelho, the chairman of the House Agriculture Subcommittee on Livestock, Dairy, and Poultry, for his work in crafting the legislation before us. Mr. Coelho was faced with a tremendous legislative challenge and rose to the occasion with the skill and energy that we all recognize him for.

The provisions in the conference report should deal effectively with the overproduction in our dairy sector with minimum disruption to dairy producers. This compromise agreement is nearly identical with the approach that I was seeking earlier this year—a price freeze for 1986 with reductions beyond that, combined with a whole herd buyout. The whole herd buyout is especially attractive since it allows those producers who want to leave the dairy business a transition mechanism. Under this proposal, the Government would use funds collected from dairy producers to buy out the entire herd of dairy farmers who want to get out of the business.

I have supported this concept for some time, but due to the parliamentary situation in the House during our debate on H.R. 2100, I was forced to oppose it, hoping to secure a price freeze in the House and get the whole-herd provision in the Senate. The compromise before us had secured the same result, in reverse order, and deserves our support. This provision is also testimony to the energy of one individual, Mr. Dan Hollingsworth of California, who devised the whole-herd buyout scheme a few years ago and has been doggedly pursuing the idea ever since. It is rare that we see so clearly an issue on which one person has made the difference, and Mr. Hollingsworth deserves special recognition for his work on the dairy provisions before us.

I am pleased with the research title of this bill and thank Mr. Bedell and Mr. Roberts, the chairman and ranking member, respectively of the House Agriculture Subcommittee on Department Operations, Research, and Foreign Agriculture, for their efforts. The research, extension, and teaching programs reauthorized in this bill hold the promise for agriculture's future and need our support. I am pleased that the conferees have held three issues of importance to me: new crop research, pesticide resistance, and a review of the formula for the distribution of funds for cooperative extension. I wish that the competitive grant program could have been authorized for more than $70 million, given the new tasks that we are assigning to the program. But its increasing support in a time of austerity is comfort enough to me.

I would like to raise one cautionary note on the matter of funding for research, extension, and teaching in agriculture. Next year, we will be starting the process of deficit reduction required by the recent legislation on that matter. Civilian research is now only about one-quarter of our total Federal research and development budget, down from one-half in 1981. It is extremely vulnerable to this budget cutting process which is occurring at a time of great promise for agriculture research and extension, and a time of great need in agriculture teaching. We must exercise caution in our zeal to find areas for budgetary reduction lest we threaten the future of agriculture in this country.

I would like to take special notice of a major advancement in the humane treatment of laboratory animals contained in the conference report. It is a revised version of the Improved Standards for Laboratory Animals Act of 1985, H.R. 2653, which I introduced in the House, and S. 1233, introduced by Senator DOLE in the Senate. Over 140 Members of Congress cosponsored H.R. 2653, and 40 Senators cosponsored the Senate version.

This legislation is not new; Senator DOLE and I introduced earlier versions of this legislation in the 98th Congress, H.R. 5725 and S. 657. Hearings were held on this legislation in the Senate Committee on Agriculture, Nutrition, and Forestry on July 20, 1983, and in the House Agriculture Subcommittee on Department Operations, Research and Foreign Agriculture on September 19, 1984. The revisions made to the 1983-84 bills were based on testimony given at these hearings.

The intent to title XX is to increase assurances that laboratory animals are treated humanely, while at the same time not restricting scientific inquiry. The legislation amends the Animal Welfare Act, the primary law concerning the care and transportation of animals. These amendments are necessary in addition to the new NIH animal care guidelines since a large portion of our Nation's laboratories do not fall under the NIH umbrella.

I would like to thank the many people who reviewed the various versions of this legislation, provided my office with pertinent background information, and prepared several thoughtful suggestions and critiques for my review. I was especially grateful to the many Representatives, who may have preferred no legislation at all, for their constructive comments and efforts in this behalf. This legislation will be setting new standards in some areas, and I encourage a continued dialog between the research community and the Secretary of Agriculture in regard the needs and capabilities of research facilities in meeting these standards.

I think it would be useful to attach a summary of the legislation at this point:

SUMMARY

Title XX of the Farm Bill would reduce distress and pain to laboratory animals through three approaches:

(1) Strengthen standards for laboratory animal care.—The legislation includes requirements for the use of painkillers and euthanasia, provisions for exercise for dogs, and a physical environment adequate to promote the psychological well-being of primates; requires researchers to give assurances that alternatives to practices which may cause pain and distress to animals have been considered; and allows the Secretary of the U.S.D.A. to set regulations regarding care, treatment and practices in experimental procedures to minimize pain. It encourages humane treatment of animals by requiring research facility employees working with animals to have animal care training once a year. As in the past, the Secretary is not given the authority to make rules, regulations, or orders (except for reporting requirements) regarding design, outlines, or guidelines of actual research. In addition, all standards may be deviated from when the researcher deems it scientifically necessary.

(2) Increase enforcement of the Animal Welfare Act.—The legislation requires each facility to appoint an Institutional Animal Committee, including at least one member not affiliated with the laboratory and a veterinarian. This Committee will be responsible for representing society's concern regarding the care and treatment of laboratory animals, inspecting the facility twice a year and notifying the institutions and appropriate federal authorities of violations. Federal Research Facilities shall also appoint a Federal institutional Animal Committee which will report to the Agency head instead of U.S.D.A. If a facility, given the opportunity to correct violations, does not adhere to the Animal Welfare Act, federal agencies are directed to suspend or revoke funding. The U.S.D.A. Animal and Plant Health Inspection Service (APHIS) would be required to inspect facilities at least once a year, with follow-up visits until violations are corrected. Fines for violators of the Animal Welfare Act will be increased.

(3) Reduce unintended duplication of experiments using animals and encourage the use of more humane and non-animal procedures. —The legislation calls for the creation of a national information service to help reduce unintended duplication of experiments using animals and to disseminate information on human and alternative methods of research currently being developed. This service will be made available on a voluntary basis to researchers.

Due to an inadvertent error, there is some question as to whether the amendments allow the Secretary to require annual reporting from Federal Research Facilities. It was the intention of the final agreement that, as in the past, government agencies would still be responsible for inspecting their own research facilities but that these Federal Research Facilities would still be required to file annual reports. I will be supporting a technical amendment to this portion if needed.

Title XX takes several steps forward in assuring that animals which are used in research receive humane care and treatment, and that pain and distress to these animals are minimized. However, this legislation still protects the right of each research facility from interference with its ability to conduct its research.

I would like to thank the distinguished majority leader in the Senate, Senator DOLE, the Senator from Montana, Senator MELCHER, as well as the distinguished Congressman from Washington, Congressman FOLEY, for their strong support and efforts on behalf of this legislation.

There are many other provisions of this conference agreement which merit attention and support. But most in need of notice is the work that Mr. DE LA GARZA and Mr. MADIGAN have put into the process of getting H.R. 2100 enacted. We all owe our gratitude to them for the work that they have done this year, and the work which will need to be done in coming months as we struggle to deal with the farm crisis. We owe them our thanks and our support for this conference report.

Mr. MADIGAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of the conference report on the farm bill. I commend all who have participated in the process resulting in this bill because the efforts were great, the consideration serious, sincere, and empathetic to the plight of agriculture and, as Chairman DE LA GARZA has said, this is the best consensus product that could, given our constraints, be produced. I am optimistic that the results of this bill will be positive.

I would associate myself with the remarks of the gentleman from Louisiana [Mr. HUCKABY] and the gentleman from Mississippi [Mr. FRANKLIN] in the positive things they have said here today about this bill. I hope that they are right and I think they are. I believe this bill can bring stability and improvement in the farm income picture, and it is important for purposes of predictability and being able to make responsible business decisions that we have a responsible law from which to take guidance.

No one should continue this bill as a panacea. It is not. It will not solve all of Agricultures problems. My farmers tell me time and time again that they feel the larger problem in agriculture cannot be fixed by the simple passage of a farm law. They tell me that the farm economy will come into proper relationship with the rest of the economy when we reclaim foreign markets, lost through embargoes and a too-strong dollar and unfair trade practices; when we get deficits under control and real interest rates down to affordable levels. These are not items that can be fully addressed in farm legislation, but to the extent we can, we have tried. Those of us who are agriculture conscious must remain ever vigilant to opportunity for agriculture when we consider the budget and trade issues. I think the trade features of this bill are among its better features. The Ways and Means Committee could add to what we have done. The conservation features of this bill are very positive and will have benefit for our farmers now and will help conserve a precious natural resource, our soil, for the future.

The conference report on the farm bill before us today contains the reauthorization of several food assistance programs. The major food assistance programs. The major food assistance program is the food stamp program which has been reauthorized for the life of the bill. The Temporary Emergency Food Assistance Program, which provides surplus commodity distribution authority, has been reauthorized for 2 years. I am pleased that the conference did adopt a proposal I offered along with Senator DOLE and the gentleman from California [Mr. PANETTA]. This proposal requires that States set up an employment and training program designed to help certain food stamp participants move into regular employment by providing training and experience and improving the employability of participants. It also allows the States to coordinate employment and training activities under both the food stamp and AFDC programs.

States will have considerable flexibility in designing their programs. State flexibility is important if this program is to succeed. The employment and training program may encompass, at the discretion of the State, job search training and support programs, such as job finding endeavors; training in employment techniques; job placement; or, other training and support activities aimed at improving the employability of food stamp participants.

The bill I introduced earlier this year, H.R. 2745, provided the basis for the employment and training program contained in this conference report. I appreciate the cooperation and assistance of other members of the conference, especially Senator DOLE and Mr. PANETTA. I believe that we have a sound, workable employment and training program—one that combines State flexibility and appropriate review and oversight by the Secretary of Agriculture.

EMERSON EMPLOYMENT AND TRAINING PROGRAM DETAILS

First, States must design and operate an employment and training program encompassing one or more of the components listed, by April 1, 1987, and may include job search and workfare. State flexibility is ensured and the Secretary retains the authority to approve the State program.

Second, all persons subject to work registration are required to participate in the State employment and training program, including Indians on reservations. States may temporarily exempt additional persons and categories of persons based on participation of 30 days or less, work opportunities, cost-effectiveness of participation, and personal circumstances, such as lack of child care. These latter exemptions are of a temporary nature and must be reevaluated at the beginning of each certification period for inidividual exemptions and periodically for categorical exemptions.

Third, States may operate employment and training programs for those food stamp participants not required to participate, either permanently or temporarily. Those persons volunteering for employment and training programs would be able to participate in the same programs as operated for those required to participate. Volunteers will receive the $25 as well, under the same requirements for other participants. Volunteers will be accepted into the State program whenever practicable. States may have a program component for volunteers only.

Fourth, States must reimburse participants for costs that are reasonably necessary and directly related to participation in the employment and training program. The maximum reimbursement is $25 per month, per participant. Reimbursement for this cost is based on a 50-percent State match and is calculated outside the grant to States for employment and training programs.

Fifth, the State employment and training program will be a part of the overall State plan of operations. Failure to comply with the requirement to submit an employment and training program for Secretary approval or failure to adhere to such program with result in withholding of Federal funds, as in all violations of the State plan of operation. Regular administrative and judicial review procedures apply.

Sixth, State employment and training grants are set at $40 million for 1986; $50 million for 1987; $60 million for 1988; and, $75 million for 1989 and 1990 (depending on the length of the farm bill). These funds may be used only for employment and training activities related to the State program.

Seventh, the Secretary shall set minimum performance standards, which shall vary according to such factors described by the Secretary, including program characteristics and the types of programs chosen. Such standards can vary from State to State and shall take into consideration the costs to States and the degree of participation by exempt persons. In addition, such standards will relate to those required to participate in an employment and training program and not either permanently or temporarily exempt. In addition, such standards will take into consideration such factors as placement in unsubsidized employment; increase in earnings; reduction in the number of persons participating in the food stamp program; and, other factors as determined by the Secretary and related to employment and training. It is recognized that setting specific minimum performance standards is an essential component of any successful employment and training program. However because this food stamp employment and training program will have different program components and different types of participants, setting minimum standards at this time would be an arbitrary function. For example, States with a simple job search program for recently unemployed persons will have an easier task in meeting standards than other States. Therefore the Secretary is given the authority to delay implementation of the minimum standards for up to 18 months after the beginning of the food stamp employment and training program so that appropriate minimum standards can be determined. In order to allow appropriate phasing in of this employment and training program, the standards shall not exceed 50 percent through 1989.

Mr. DE LA GARZA. Mr. Speaker, I yield 1 minute to our friend and colleague, the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in opposition to the conference report. This bill simply reduces surpluses by pushing farmers out of business, and most of the dairy farmers who will go out of business are going to be from the Upper Midwest because of the class I differential which still remains in this bill.

I have no criticism of the conferees. I understand how difficult that problem is. I think this bill is simply an example of how little running room one has when the administration is against one rather than for one and can brandish a threat of a veto in order to get most of what it wants.

There were alternatives available which would have been less costly to the taxpayer and less brutal to the farmers, but unfortunately, the bill does not take them and a human tragedy is about to result.

The administration has taken the 60-percent support it got from farmers in the last election and they have used that as a club to resist really fundamental agricultural reform. The result is this bill today, and the result is that a lot of farmers are going to experience a very brutal crunch in the next 2 years.

Mr. MADIGAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. OXLEY].

Mr. OXLEY. I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of the conference report. I would like to compliment the distinguished chairman of the House Agriculture Committee, ranking Republican, Mr. MADIGAN, and other members of the committee for their diligence, patience and fine work in bringing a farm bill to the floor that addresses so forcefully the serious problems facing agriculture today.

The 5-Year Food Security Act of 1985 includes a resource conservation provision for the lasting protection of our most valuable resource—the soil.

PAST HISTORY

Fifty years ago, the Federal Government launched an ambitious program to cope with what was then recognized as America's most serious environmental problem: The severe soil erosion that threatened hundreds of millions of acres of agricultural land throughout the country. Since then, U.S. taxpayers have spent billions of dollars to help farmers defray part of the cost of soil conservation practices, and to provide free technical assistance on how to control erosion. Despite this massive Government effort, soil erosion remains a serious national problem.

EROSION PROBLEMS ARE SERIOUS

The U.S. Department of Agriculture [USDA] estimates that soil is eroding at more than twice the official tolerance rates on 96 million acres (23 percent) of the Nation's cropland. More than 3 billion tons of soil are eroded by wind and water from our cropland each year. Another 63 millon acres of land in pasture, range or forest use are eroding at more than double the rate that the USDA considers tolerable. In Ohio we have nearly 2 million acres of eroding cropland that need conservation. In my district, more than 15 percent of the cropland is eroding at excessive rates.

Soil erosion is a deceptively subtle environmental problem. Yet the major form of soil erosion, sheet and rill erosion, usually is invisible even to experts because the soil is washed away in a shallow, uniform layer (sheet erosion) or from minute channels on the soil surface (rill erosion). An acre of land exposed to a sheet and rill erosion rate of 5 tons annually—the average tolerance level—is losing less than one thirtieth of an inch of soil each year, about the thickness of a dime.

CONSERVATION PROVISIONS IN THE FARM BILL

We have once more reached a time for a change. The soil conservation provisions of this bill are the most intensive conservation efforts ever undertaken in this country. We expect, by the end of this decade, to retire about 10 percent of the Nation's cropland—some 40 to 45 million acres of the Nation's most highly erodible, and generally least productive, cropland. In addition to reducing soil erosion, the water quality of our streams, rivers, and lakes will be greatly improved. Fish and wildlife interests will also greatly benefit from the movement to permanent land cover.

CONSERVATION COMPLIANCE

For the first time, plowing up of erodible land for unneeded crop production will be discouraged by this bill. Some lands just should not be farmed. Once plowed, such lands are subject to erosion so severe that the land may not recover for decades. Farmers will still be able to plow out and convert to cropland these lands. They just won't be able to get any help from the taxpayer through price support loans and other Federal program benefits when they do so.

Soil conservation enjoys the overwhelming support of farmers and the public at large. I believe, without question, that this conservation provision in the bill is a good one for the farmer and for the consumer and taxpayer. I urge my colleagues to give it and the entire conference report their full support.

Mr. MADIGAN. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in support of the conference report on the 1985 farm bill. In doing so, I want to begin by extending special commendations to the distinguished chairman, Mr. DE LA GARZA and our distinguished ranking member, Mr. MADIGAN. Without the leadership, counsel and wisdom of these two men there would not be a farm bill before us today. They deserve the thanks of every farmer in America.

These are special and tragic times in American agriculture. They demand special and unique responses from our Federal Government. We must stabilize farm income in the short run. We must move toward a more market oriented Farm Program in the long term. We must respond to the differing needs and philosophies of every commodity and every region of the country. We must also live within our budget limitations.

The task of the conference committee was to do all of this and still remain sensitive to the desires of the House, the Senate and the administration. The fact that we have any farm bill at all is nothing short of a miracle.

DAIRY

The dairy title is obviously a compromise but it does accomplish the goals we set for a new Dairy Program earlier in the year with a supply management program to reduce stocks, a support price to maintain farm income in the short run and a program in the out years that leans toward more market orientation.

The Whole-Herd Buy-Out Program pays producers to leave the dairy industry by having them slaughter or export their entire herd thus eliminating enough milk production to get supply and demand in balance. The program would be funded by producers through an assessment.

In the program the Secretary of Agriculture would be required to remove 12 billion pounds of milk over the 18-month life of the program. Producers would be required to submit a bid to the Secretary of Agriculture outlining the payment they would accept to leave the dairy business for 3 to 5 years. The Secretary would then have the discretion to chose the bids that he determines to be reasonable.

The Dairy Program, as I have said, ought to be maintaining farm income during a time of supply management while moving to more market orientation. This legislation accomplishes that by keeping the effective support price of milk above $11 per hundredweight in 1986 and 1987 while implementing the Whole-Herd Buy-Out Program.

If past history holds true this should result in a market price which will exceed the support price of milk by the end of 1986. As we all recall the Minnesota-Wisconsin series price reached an all time high during the recent partial diversion program. If implemented properly by the Secretary of Agriculture, the Whole-Herd Buy-Out Program should accomplish our goals in the short term as well as the long run.

In 1986 the support price is frozen at a level of $11.60 and reduced to $11.35 in 1987. There will a 40-cent assessment from April 1, 1986 to December 31, 1986, and a 25-cent assessment from January 1, 1987 to September 30, 1987. This assessment should pay for the entire Whole-Herd Buy-Out Program. In 1988 through 1990, there will be a 50 cent price cut annually if Government purchases are to exceed 5 billion pounds.

From the perspective of dairy farmers from the Upper Midwest, I must acknowledge one major inconsistency with the dairy provisions that came out of the conference committee, and that is for an increase in price differentials for certain areas of the country.

Changes in price differentials are not necessary at this time. With a Whole-Herd Buy-Out Program implemented to reduce production by 12 billion pounds over an 18-month timespan why do we need to increase in the price of class I milk in certain areas of the country.

Economists I have consulted have indicated that such legislated increases are likely to increase production in these areas by some 120 million pounds which will increase the cost of the Dairy Price Support Program by $25 million.

In a time when we are faced with surplus production we ought to be moving milk from areas with a surplus rather than creating an artificial incentive to produce more milk.

With this one exception, the dairy title of the farm bill is quite good as it gives those farmers experiencing financial difficulties or just having a desire to pursue other business ventures a chance to leave the dairy business not through a foreclosure or an auction but through the Whole-Herd Buy-Out Program.

While maintaining farm income in the short run with an effective support price of more than $11 in the first 2 years of the bill, it also sends a signal to producers that the dairy industry is leaning toward a more market orientated policy in the future.

CONSERVATION

The conservation title of the farm bill could possibly be the best and strongest title in the bill. Soil erosion is a growing problem across this country and it is imperative that something be done so that our children will also have a foundation on which to grow.

The Conservation Reserve Program will pay producers either through cash or in-kind payments to take their highly erodible land out of production for 10 to 15 years. The intent if the legislation is to remove 40 to 45 million acres over the 5-year life of the bill.

The sodbuster and swampbuster provisions will protect fragile soils and wetlands by penalizing producers who cultivate on highly erodible soil. Producers doing such would be unable to receive price supports and other farm benefits. Highly erodible land that was tilled between 1981 and 1985 will be initially exempted from the program; however, this exemption would not be valid if a producer does not begin applying for a conservation program for his farm by 1990 or if a he doesn't start a program 2 years after a soil survey has been taken.

Due to or extreme desire to maximize our production and plant fence row to fence row, many of our producers have disregarded conservation practices. We are already feeling the effects of major losses of our topsoil. Any more delay in restoring our most important natural resources and our next generation will be paying dearly in years to come.

CREDIT

It is no wonder that the agricultural credit sector has fallen on hard times with substantial decreases in farm income over the past few years.

Just 2 weeks ago we passed legislation to help the Farm Credit System try and help itself. Quite possibly we will be faced with similar legislation in the next session; however, it will most likely deal with the problems facing the commercial banking industry, specifically the agricultural banks.

To insure that the Farmers Home Administration remains a credible lender the conference committee reauthorized $4 billion annually over the next 3 years to provide for farm ownership and farm operating loans to FmHA borrowers. In addition, the Secretary of Agriculture is required to operate a $490 million program through September 1988, which USDA and private lenders would share equally the cost of reducing interest rates to FmHA borrowers.

Farm ownership loans are set at $520 million annually with half being direct loans and the other being guaranteed. By 1988 direct farm ownership loans will be at $130 million and with guaranteed loans will be at $390 million. In reference to farm operating loans, $3.48 billion will be divided equally between direct and guaranteed loans in 1986. By 1988 direct farm operating loans will be $870 million while guaranteed operating loans will be more than $2.6 billion.

Also included in the credit title is the "clear title" provision introduced by Mr. STENHOLM and myself. The clear title provision would protect buyers of agricultural products from a legal loophole that can force buyers to pay twice for a product when there is a lien against the seller. While the clear title provision has changed from when it was introduced it gives States a choice of implementing a central filing system or the prenotification system as in the original clear title bill. States will have 12 months to decide between a central filing system or prenotification system. If a central filing system is not in place in a year, the prenotification system will have to be implemented.

Due to the fact that the prenotification system has been around for nonagricultural products for many years, it is only fitting that buyers of agricultural products be adequately protected as well.

FEED GRAINS

In the wheat and feed grains sections the same concern over maintaining farm income was exhibited by the freezing of target prices at current levels for the first 2 years of the bill. Decreases of 2, 3, and 5 percent of the target price will be in effect in the last 3 years of the bill. This type of policy adopted by the conferees should make U.S. grains more attactive in the international market but at the same time give farmers target price protection.

In 1986 and 1987 the target price for feed grains will be set at $3.03 per bushel with gradual reductions beginning in 1988. The loan rate for feed grains is set at $2.40 per bushel in 1986 and may be reduced as much as 5 percent annually. The Secretary of Agriculture is given discretionary authority to reduce loan rates up to 20 percent annually if market prices in the previous year fail to top 110 percent of the previous years loan rate or if the Secretary determines that a further cut is needed to compete in world markets.

In the title, the Secretary of Agriculture is given discretionary authority to allow the repayment of loans at levels which could be as low as 70 percent of the loan rate. He could also give producers one of two types of marketing certificates to help promote exports.

Feed grain producers with a desire to get into the Government program would have to idle a maximum of 20 percent of their base in 1986 if stocks are to be over 2 billion bushels. Of the 20 percent set-a-side, 12.5 percent would be a mandatory minimum, 5 percent would be discretionary with the Secretary and 2.5 percent would receive an in-kind payment. For 1987 through 1990 the maximum acreage reduction would be 20 percent with a mandatory minimum of 12.5 percent and 7.5 percent at the Secretary of Agriculture's discretion.

The Soybean Program continues with a $5.02 loan rate for 1986 and 1987. In the remaining years of the bill the loan rate can be reduced by as much as 5 percent; however, there is a floor of $4.50 per bushel. The Secretary of Agriculture has discretionary authority to allow repayment of loans for less than the original rate to encourage exports instead of adding to Government stockpiles.

A MIRACLE

Looking at the various titles that affect Wisconsin farmers directly, I am pleased that this bill protects farm income in the short run then phasing into a more market orientated approach in later years. The incorporation of the Whole Herd Buy-Out Program gives us a chance to cull cows and not farmers. Programs within the wheat and feed grain sections protect farm income yet send out the signal that America is coming back strong in the export market. The conservation title with its sodbuster, swampbuster and conservation reserve provisions directly address the concerns of millions of Americans and finally the credit title provides credit to FmHA borrowers and at the same time offers them a means to get their interest payments at reasonable rates.

No one who has spent an extraordinary amount of time on this bill is completely happy with the outcome of all of its titles; but when you consider commodity, regional, market, philosophical and personal differences, it is nothing less than a miracle that we have a farm bill at all.

Mr. DE LA GARZA. Mr. Speaker, I yield 1 minute to our distinguished colleague and friend, the gentleman from New York [Mr. RANGEL].

Mr. RANGEL. I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in strong support of the conference report. It is not that those of us from New York and other urban communities fully appreciate and understand the problems that our farmers are having, but we do know that the farmers are having serious problem, and KIKA DE LA GARZA was kind enough to have several meetings with those of us from urban communities to explain some of the complex problems that the farmers are facing.

We truly realize that many of our colleagues believe that many of those problems are not resolved in this legislation, but I do hope and am looking forward next year to working very closely with the farm community, hoping that we can work out a farm policy that more Members of the Congress can understand and, therefore, more of us can support.

I think the Gramm-Rudman, in and of itself, means that we should expect less Federal funds for many of the projects that those of us who come from communities that need Federal support, maybe if we tried to reach out and understand each other's problems a little better that we will be able to have a more effective Congress and do the best we can for the people who voted to put us here.

So I think this bill goes a long way to bring some support for the farmers who so sorely need help.

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Mr. MADIGAN. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. SCHUETTE].

Mr. SCHUETTE. Mr. Speaker, I rise in support of the conference report.

Mr. Speaker, I want to again commend the chairman of the Agriculture Committee, Mr. DE LA GARZA, and my ranking minority member, Mr. MADIGAN, for their sterling leadership and guidance on this farm bill. And, I want to express my profound appreciation for the opportunity to work alongside my Agriculture Committee colleagues on both sides of the aisle for the long hours it took to write this bill.

There is no need for us to recite the problems faced by farmers and their families today. I think by now we are all aware of the serious situation faced by producers: Falling prices, plummeting land values, the evaporation of our export markets, just to name a few. But although we in Congress may be familiar with the problems, I suggest that it is time we strip away the statistics and see the real human suffering that is occurring in farm country. We are not talking about numbers: We are talking about living, breathing individuals who have bills that they want to pay but can't because the land into which they have put their sweat and toil is not returning enough for them to live on. And no one knows this better than farmers themselves.

This bill is not perfect; farmers know and understand that. If I were to write a farm bill just for mid-Michigan, it would be different in many respects. But this bill must address the needs of a wide variety of producers across the Nation, and there are no simple, easy answers to the stress farm families face.

What we have tried to do in this bill is to provide profits in agriculture by providing markets for farm products. The thrust of this bill is to maintain much-needed income bridges for farmers and to provide income protection: It does this by essentially freezing target prices for the next 3 years at current levels and maintaining the dairy price support at the current level through next year. The whole-herd buyout, very popular in farm country, will help those farmers who have not been able to afford either to stay in the dairy business nor to leave it, to get a start in another area. This bill has the strongest conservation program of any farm bill in history, protecting our fragile lands through the conservation reserve, sodbuster and swampbuster provisions. Farm exports, so vital to improving commodity prices, receive a boost through the bakers dozen and other initiatives in the bill. And, I am very pleased that the bill maintains our sugar program intact, and at no net cost to the taxpayers.

Yes, this is a bill that will help our farmers get through the tough times they are experiencing. It is long past time that Congress produces a farm bill, and I am pleased that we have produced such an encouraging one. I urge my colleagues to pass this bill without delay.

Mr. DE LA GARZA. Mr. Speaker, I yield 1 minute to our distinguished colleague and friend, the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. Mr. Speaker, I rise in opposition to the 1985 conference farm bill.

I realize the development of the 1985 farm bill has been a long and arduous process, complicated by the severely depressed economic conditions in agriculture. I believe most would agree that our present farm policies have failed. Within the last 5 years, net family farm income has declined, farm debt has drastically risen, and farm exports have plunged downward. Yet, with the adoption of this bill, the taxpayers will be spending too much on the wrong kind of farm program and family farmers will receive too little.

In recent years, farm programs have not worked because they waste funds on corporate agriculture while ignoring the family-sized farm. Yet, as I have repeatedly stated throughout the past year, this farm bill can easily be viewed as "less of the same" current policy. It's a flawed bill, one which will not work.

We need a price support system that really does what it is supposed to do; provide a bridge over price depressions; a bridge over which family farmers can move during periods of sustained low commodity prices.

We don't need a price support under every gallon of milk produced by the 3,000 milk cows in the morning on the largest dairy operation in the country. We don't have to place a loan rate under every bushel of wheat, barley, or corn produced by the largest producers in America. We do need a basic price support on which family farmers can depend when market prices don't keep pace with the costs of production.

Why did Congress fail to chart a new course? It's simple. Those who now get the bulk of the benefits in the farm program fight hard to keep them. Under our supply management farm program, the biggest producers get the biggest benefits. For example, in 1984, less than 20 percent of all direct Government agricultural benefits went to financially stressed farmers. So, in order to give $1 to a struggling farmer, we will be giving $4 to his prosperous neighbor—and competitor.

For more than a decade, Federal farm programs have forced America's farmer to overproduce in a hopeless effort to meet rising costs in the disastrously low crop prices. The family farmer and the whole agricultural system that the farmer supports confronts the darkest financial crisis to grip rural America since the Great Depression. If current trends are not reversed, many experts believe that one of every three farms in America today will be bankrupt or beyond help within 2 to 3 years.

Farmers have suffered 4 consecutive years of negative return on equity, averaging a loss of 7 percent per year. Since January of 1981, approximately 28,000 farmers have gone out of business in the United States and we now are losing them at a rate of nearly 1,600 every week. In addition, USDA analysts report that net farm income could fall by 10 percent, from $29 billion this year to as low as $22 billion next year. Just 2 years ago, net farm income stood at $34.5 billion.

If we're going to save family farmers, we're going to have to take control of agricultural production from the hands of centralized, integrated food conglomerates. We have to wean the big corporate farms from the public trough and utilize the available money to provide a stronger target price for first increment of production for family farmers.

In closing, I must remind everyone that our best farmers are going out of business because they cannot pay their bills with their current income. They—the American family farmers—must be given a fighting chance to hold on until improvements are made in monetary, fiscal, tax, trade, and foreign policies. Changes within these areas coupled with a subsequent increase in commodity prices and world demand for American exports, is what is needed today.

Mr. Speaker, I must sadly conclude that this 1985 farm bill does not move in that direction. It is the same old approach—just less of it—and that's not enough for the family farmers in trouble in America.

I intend to keep fighting for the right kind of help for our farmers.

Mr. MADIGAN. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. COMBEST] a member of the committee.

Mr. COMBEST. Mr. Speaker, for nearly a year now, I have been telling the people in my district who are concerned about agriculture that the farm bill has to meet three things: It has to be a bill that can be signed, it has to be a bill that provides income protection, and it has to be a bill that is within budget.

I think we have met those three things. And the fact that it was such a difficult time, I want to highly commend the chairman of the committee, the ranking member of the committee, and every member of the committee.

There may have been some differences on exact philosophy. I do not believe there were any differences on where we were trying to go in a farm bill, and that was to provide some income stability to agriculture and to try to help out agriculture in probably the most difficult times they have ever faced.

I believe it is important to note that we have in this bill some opportunities that I think will provide income protection, that I think will provide the opportunity for us to be competitive in world markets, and certainly be able to get us to a position to regain some of the markets that we have lost. At the same time, the income of that farmer will be protected, and the brunt of us being competitive in world markets will not be left on the back of the farmer.

I think there are some good parts, there are some bad parts, but I would certainly say that given the constraints we have, I highly recommend that Members vote for the farm bill.

Mr. de la GARZA. Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia [Mr. Ray].

Mr. RAY. Mr. Speaker, I rise in support of the 1985 farm bill and urge my colleagues to vote for adoption of this conference report.

Everyone recognizes that this bill is not perfect. It does not provide a remedy for the agricultural ills of this country.

This bill is the result of much compromise, which was reached only after many months of diligent negotiation. Such accommodation is a natural part of the normal legislative process, and I commend my colleagues on the Agriculture Committee for their hard work in molding this legislation.

This bill does allow our farmers to hang on until a real solution can be found.

One particular provision in the bill which I would like to highlight is the establishment of a National Commission on Agricultural Policy. I have been advocating the creation of this type of study group for many months.

Early this year, in one of my regular meetings with an advisory group of farmers and agribusiness from my district, I was told that those in the agricultural community are going to have to set aside their differences which divide them by region and commodity. They need to unite in an effort to find ways to reverse the desperate farm situation in this country.

A national commission will bring together various agricultural elements and provide the mechanism for finding long-term answers for a very disturbing situation.

The future security of the United States is jeopardized if we allow our great agricultural machinery to deteriorate and do not maintain the necessary means for feeding and clothing our own people. We have to find some answers soon.

Mr. de la GARZA. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. Seiberling].

Mr. SEIBERLING. Mr. Speaker, I rise in order to engage in a colloquy with the chairman of the Agriculture Committee in order to clarify the meaning and intent of a provision of this bill.

Mr. de la GARZA. Mr. Speaker, if the gentleman will yield, which title and section is it to which the gentleman from Ohio refers?

Mr. SEIBERLING. It is the provision entitled "Control of grasshoppers and Mormon crickets on public land," in the general provisions portion of the bill. As chairman of the Public Lands Subcommittee of the Committee on Interior and Insular Affairs, I am concerned about this provision, which would allow the U.S. Department of Agriculture to use funds appropriated by the Congress for use of the U.S. Department of the Interior.

I would ask the gentleman if my understanding of this provision is correct in that the Agriculture Department must first use its own appropriated funds for grasshopper control before asking for funds from the Interior Department?

Mr. de la GARZA. Yes; that is correct. I would also like to point out that the continuing resolution will increase the funding of this Agriculture Department program substantially. However, we felt that this provision of the farm bill was needed to insure that no matter what the status of Agriculture Department funds, money would be available for grasshopper control on Department of Interior rangelands if and when it is needed.

Mr. SEIBERLING. Am I correct in saying that any funds derived from appropriations for the Interior Department pursuant to this provision will be used on Interior Department rangelands?

Mr. de la GARZA. Yes; that is correct.

Mr. SEIBERLING. And is it the intent of the gentleman that the Department of the Interior look to funds appropriated for management of BLM lands as the proper source of funding for grasshopper control on BLM lands?

Mr. de la GARZA. Yes; that is our intent.

Mr. SEIBERLING. And is my understanding correct that this provision is not intended to override existing laws or regulations, including those pertaining to the management of public lands, to authority over those lands, or to the protection of the environment?

Mr. de la GARZA. Yes; that is correct.

Mr. SEIBERLING. I thank the gentlemen and the distinguished chairman for their reassurances on these points.

Mr. MADIGAN. Mr. Speaker, I yield 1 minute to the gentlewoman from Nebraska [Mrs. Smith] who has been very helpful.

Mrs. SMITH of Nebraska. Mr. Speaker, I rise in support of the conference report on H.R. 2100, the Food Security Act of 1985, the most important piece of legislation this year to my congressional district, the second most agricultural in the Nation.

I would like to take this opportunity to commend and congratulate the leadership of the House Agriculture Committee; namely, Chairman de la Garza, and ranking minority member Madigan, for their persistence in finally bringing the most complex farm legislation in the Nation's history next door to its legislative home; namely, signature into final law.

My support for this measure is predicated on the fact that this Nation's farmers and ranchers need a farm bill. Continued price and income supports, although not at levels satisfactory or necessary to the survival of thousands of farmers in Nebraska and across the country, are needed in final law as soon as possible to provide assurance to lenders.

In the last 24 hours, I have called top officials of every agricultural organizaiton in Nebraska. They don't like the proposal before the House today, but almost unanimously, they recommend that I vote for it because agriculture must have a bill with which to work.

Let me briefly list provisions of greatest importance in this legislation to my congressional district:

Loan and target price programs for wheat and feed grains are continued, including a 2-year freeze on target prices. Although I would have preferred a 5-year freeze, as in the House version, this provides minimum assurance over the next 24 months of income security to our farmers.

The sugar program is continued with a freeze of the loan rate at 18 cents per pound, while making provisions that should provide for the continued operation of the program at no net cost to the U.S. Treasury. In addition, growers whose financial status has been imperiled by the bankruptcy of the Great Western Sugar Co. or other firms will receive fulfillment of their contractual entitlements for sugar delivered under this bill.

Beef and pork promotion programs are included. These self-help provisions are intended to help address recent declines in retail demand for nutritious red-meat products.

The export title is very strong and shows the recognition of the Congress that agricultural exports are essential to the revitalization of rural America. The export commodity bonus program, plus the export credit/credit guarantee programs, should stimulate American agricultural exports in areas of growing demand for our food.

I was pleased that the conference committee adopted language to exempt commercial export programs, including blended credit, from cargo-preference requirements, although I personally oppose the expansion of the cargo-preference requirement to 75 percent on food aid shipments. I also oppose the so-called snapback provision that would set aside this agreement if sufficient funds are not available from the Department of Transportation.

I strongly support the conservation title of this bill, including the sodbuster and conservation reserve provisions. These provisions are essential to preserve our most valuable soil and water resources.

Provisions are also included to extend USDA credit, rural development, research, extension, and food programs. Also, grain quality standards, a topic of great interest and concern in Nebraska, will be carefully reviewed under the provisions of this bill.

Mr. Speaker, this isn't a perfect bill. Many say this bill isn't enough. It's not as much as I would like. But it is the bill we will get this year, and we can continue to work on it to make it a better piece of legislation. I encourage my colleagues to join me in supporting it.

Mr. DE LA GARZA. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. PANETTA], our distinguished chairman of the Subcommittee on Nutrition.

Mr. LUNDINE. Mr. Speaker, will the gentleman yield?

Mr. PANETTA. I yield to the gentleman from New York.

Mr. LUNDINE. Mr. Speaker, I rise in support of the conference report in spite of the provision on peanuts.

I rise in support of the conference report on the 1985 farm bill, H.R. 2100. While I do not agree with every aspect of this piece of legislation, I commend the conferees for their efforts on behalf of the farm sector of the economy.

I am much happier with the dairy provisions in the conference report than those in the farm bill which the House passed in October. In the southern tier of New York dairy farmers do not sell their product to the Federal Government. We have a milk shortage in our area which forces processors such as Cuba Cheese, Leprino Cheese, and Dunkirk Ice Cream to ship milk in from Ohio and Pennsylvania. Because my farmers do not contribute to the national dairy surplus problem, I am pleased that they will not have to pay to finance a dairy diversion program which benefits only those large farmers who can afford to cut back on their production. While the dairy diversion program was designed to help address the dairy surplus problem, I do not believe that the 18-month diversion program did so effectively, and am therefore pleased that the conferees have removed this section from the farm bill.

I support the dairy provisions in the conference report primarily because of the whole-herd buyout provision, and the freeze in the milk support price for 1986. I firmly believe the buyout mechanism will allow some of America's dairy farmers to get out of the dairy business with both their dignity and their assets intact. I was also pleased to see that the compromise retains the increase in the class 1 differential, which will help processors reduce their transportation costs for hauling fluid milk.

This farm bill begins to move our farm programs in the right direction. We must begin to wean farmers off Government price supports and move toward a more free market farm economy. I believe that the dairy provisions of the Food Security Act of 1985 takes the necessary first steps toward such an economy.

However, I am very disappointed that the conferees failed to alter significantly the peanut and sugar provisions. These two programs force consumers to pay artificially inflated prices for food staples such as peanut butter. I proposed phasing out the peanut program when the House first took up the farm bill because it is an antiquated and unnecessary quota system. This peanut price support forces consumers to pay more for American peanuts than our Canadian neighbors. I will continue to oppose the authorization of these boondoggles that my colleagues call farm programs.

And yet, while I disagree with these provisions, I think that the conferees showed foresight in their adoption of a 2-year freeze on wheat and corn target prices. Wheat and corn farmers are among the hardest hit by the declining farm economy and this freeze will begin to help these farmers stabilize their lives and businesses.

American farmers have experienced tremendous difficulties over the last 5 years. Some of their problems have been a direct result of Government programs that were orginally intended to make their lives better. Farmers in my district know how the Federal Government has tried to help and they know how it has failed. I support this legislation not because it is an answer to all the problems that American farmers face, but because it is clearly a step in the right direction—a step toward a free market farm economy.

Mr. PANETTA. Mr. Speaker, first of all, I want to thank the chairman of the committee and the ranking member on the Republican side for the help and assistance in putting together one of the titles that sometimes few people pay attention to, but it is the title on food assistance and nutrition which impacts on millions of American citizens in this country.

Mr. Speaker, H.R. 2100, the Food Security Act of 1985, is the constructive and responsible product of months of hard work by both the House and Senate. It is a bill that strikes a balance between the pressing needs of our agricultural sector and the need for budgetary restraint. I urge my colleagues to support its passage.

There are many reasons why this bill is worthy of widespread support. As chairman of the Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition, I would like to highlight several areas that are of particular concern to me. I hope the following discussion will influence Members, particularly those from nonagricultural districts, to support this bill.

DOMESTIC HUNGER

Title XV of H.R. 2100 relates to domestic food assistance and nutrition programs. It would take affirmative steps to address the current domestic hunger problem by reauthorizing and improving the Food Stamp Program, the Temporary Emergency Food Assistance Program [TEFAP], and the Commodity Supplemental Food Program. Title XV would also augment these efforts by strengthening current programs for nutrition education and nutrition monitoring for low income households.

I am very pleased that the bill that has emerged from conference with the Senate includes several key food stamp benefit enhancements. In my view, this is the best package of food stamp changes since 1977. As I have stated to this body many times over the past 3 years, we have a serious and growing problem of hunger in America. The Food Stamp Program is this Nation's bulwark against hunger. If we want to ease the hunger pangs of our most vulnerable citizens, the Food Stamp Program is the best way to reach them.

I regret that all of the program improvements approved by the House did not survive the conference committee. H.R. 2100 restores only a small portion of the deep cutbacks mandated in 1981 and 1982. However, it does include important changes to: First, restore the earned income deduction from 18 to 20 percent; second, establish a separate child care deduction; third, raise the ceiling on the excess shelter deduction from $139 to $147; fourth, increase the liquid assets limitations from $1,500 to $2,000 for nonelderly households and from $1,500 to $3,000 for single elderly households; and fifth, eliminate the sales tax that about 20 States and localities impose on food stamp purchases.

Many of these changes are targeted on the working poor. Not only do they increase work incentives but they result in fairer treatment for those who work. In combination with the innovative Employment and Training Program mandated by this legislation, these provisions will greatly strengthen the Food Stamp Program's approach to work requirements and incentives.

The principal author of the Employment and Training Program adopted by the conferees was Representative BILL EMERSON. Much credit belongs to Mr. EMERSON for crafting a reasonable compromise between the House and Senate provisions. I was pleased to be involved in developing this proposal.

My understanding of the adopted proposal, as reflected both in legislation and the Joint Explanatory Statement of Conference, is that it calls for maximum State flexibility in designing employment and training programs. While the Secretary would exercise approval power over each State's plan and could refuse to approve plans that are unworkable, the Secretary would not be expected to substitute his judgment for that of the States in designing the various aspects of the plan. For instance, the Secretary would be expected to ussue broad guidelines on how to operate job finding clubs but not tell the States precisely how to run them. The details of who would participate for how many hours or weeks would be a matter of State discretion.

Furthermore, States would be afforded great flexibility in determining which categories of participants and which individuals would be exempt from the employment and training program. So long as a State has a rational basis for exemptions—and does not reduce the pool of persons involved to the point that virtually no one is served—these exemptions should be approved. The Secretary should approve a State's request to exempt persons who have participated in the Food Stamp Program 30 days or less so long as a logical reason for doing so—such as the desire to target limited resources on longer term recipients—has been provided.

In establishing numerical performance standards for the States, the Secretary would be required to consider the costs to each State of the standard developed for that State. If meeting the standard would entail large additional State expenditures, it would be a sign that the Secretary has developed unreasonable and unrealistic performance standards.

Furthermore, the Secretary is expected to vary the performance standards from State to State since he must consider the differing approaches chosen by States and the differing nature of the populations to be served. The Secretary would be well advised, in my view, to forgo any numerical performance standards until fiscal year 1989, as the legislation explicitly authorizes, in order to have the benefit of the actual experience of States in operating programs. This would provide a more informed basis for setting standards.

I hope that in regulating the employment and training programs, the Secreatry has the wisdom to avoid the pitfalls that have plagued earlier attempts at enforcing work requirements. Above all, Congress does not want a paperwork shuffle where States engage in perfunctory compliance with arbitrary numerical standards. We really want meaningful programs that will result in constructive changes in people's lives. If States wish to target their resources on a minority of employable recipients in order to provide a more intensive—and possibly more expensive—program for these people, they should be able to do so. We want positive results that are most likley to emerge from cooperative Federal and State efforts in operating these programs.

There are many other positive aspects of the bill:

The Food Stamp Program is reauthorized for 5 years with spending ceilings that should prove adequate barring unforeseen increases in unemployment or inflation.

The treatment of low-income home energy assistance [LIHEA] benefits in the Food Stamp Program has been clarified. The Department's policy memorandum disallowing standard utility allowances for recipients of vendor payments has been overruled. These recipients, as well as other energy assistance beneficiaries, generally can now receive the same standard utility allowance as all other households.

Categorical eligibility has been established for households composed exclusively of AFDC or SSI participants. This should provide significant relief in administering the program.

Additional projects to test standardized benefits and simplified applications would be authorized.

Many antifraud measures and improvements in program management have been mandated, including fraud detection units, increased verification, enhanced use of computers, better targeting of monthly reporting and retrospective budgeting, and tougher sanctions against stores violating the Food Stamp Act.

Reasonable timeframes have been provided for State and local administrators to implement food stamp changes. The nightmare of implementing the 1982 law will not be repeated since the Secretary has been given flexibility for orderly implementation.

Major improvements in the Commodity Supplemental Food Program are provided. Not only would local programs be able to serve elderly persons—if there is caseload available after women and children are served—but new program sites should find it easier to join the program. Administrative funding has also been strengthened.

The TEFAP Program would be strengthened, with administrative funding to be provided in advance to States and emergency feeding organizations. Although States would be subject to a matching requirement for Federal administrative funds, it should be one that is relatively easy to satisfy. In-kind contributions will be considered and the State would not have to match any funds passed on to the local level or expended by the State for local level activities.

Funding for the Puerto Rico block grant would be increased to reflect anticipated increases in the cost of food.

A new program of nutrition education for low-income persons would be authorized and nutrition monitoring of this population would be improved.

Altogether, these and other provisions comprise a very positive step forward for domestic nutrition programs. This bill constitutes one of the few legislative bright spots for our Nation's poor in recent years.

WORLD HUNGER

I am most pleased that the conference committee approved the essential elements of an amendment I authored, and introduced with Representative COOPER EVANS, to provide surplus commodities oversees via section 416 of the Agricultural Act of 1949. For the first time, minimum tonnages of grains, oilseeds, and dairy products would be mandated for overseas distribution. For each of the next 5 years, no less than 500,000 metric tons of grains and oilseeds and 150,000 metric tons of dairy products will be made available through private voluntary organizations, cooperatives, and others.

While worldwide attention on famine appears to be waning, a food crisis remains in many areas of the globe. Section 416 can be a valuable tool in meeting the demand for emergency food assistance. By mandating that 5 percent of the commodities provided under this program must be monetized, the bill will greatly improve the effectiveness with which it will be distributed.

MARKETING ORDERS

H.R. 2100 includes several amendments that will improve the operation of marketing orders. By increasing the potential penalties that marketing order violators may face, H.R. 2100 will improve the enforcement and administration of marketing orders.

The bill also overturns a recent arbitrary decision by USDA to terminate the marketing order for hops. While the hops order certainly can and should be improved, its mandated dissolution by the Secretary—against the wishes of the industry—was not warranted. H.R. 2100 includes safeguards that should discourage similar arbitrary activity by the Secretary in the future.

A third marketing order amendment would reaffirm the confidentiality of information provided by growers and handlers subject to an order. While the final bill is not as strong as I had hoped, I believe it sends a clear message to the Department not to freely release the names and addresses of growers and handlers nor provide a mailing service for private parties who seek to express their views to such handers and growers. The amendment also reinforces the confidentiality of many other types of information—such as acreage, production, and other commercial data.

CONCLUSION

This bill is a positive step forward in many areas. In these times, it is difficult to frame legislation that meets the many competing policy concerns. I believe that Agriculture Chairman de la Garza and ranking minority member Madigan merit high praise for their cooperative effort to bring this constructive legislation to this jucture. I urge the House to enact H.R. 2100.

Mr. MADIGAN. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin [Mr. Roth].

Mr. ROTH. Mr. Speaker, I thank my good friend from Illinois for yielding me this time.

No one is entirely satisfied with this bill, but I do want to congratulate the chairman of the Agriculture Committee and the ranking member and all of the people who have worked so hard on this legislation. It is not easy legislation and we appreciate the job you have done on it.

The real issue here is either we are going to have a bill or we are not, and I think the worst possible position for our Congress and our farmers to be in would be to not have a bill.

I feel there is a real defect in this bill in the sense that we do not have a diversion program. Diversion in the area of dairy, which got our inventory down by 3 percent last year, was a good step in the right direction, and the diversion program proved right. We do not have it in this bill, but we cannot have everything we want.

But this bill does have some real pluses, and in the area of trade is where we find a real plus. Either we are going to export more, import less or produce less. Those are the only three avenues we have.

This avenue of exporting more is one that is really emphasized in this legislation. We are going to open up more markets overseas, we are going to internationalize our markets, we are going to GATT and ask for a better agreement so that we have agriculture and many factory products on the same level in our GATT negotiations. So I think we are making some real progress in this area.

Last week, we heard that agriculture exports were at their very lowest.

Mr. de la GARZA. Mr. Speaker, I yield such time as he may consume to the gentleman from Tennessee [Mr. Jones] our very distinguished chairman of the Subcommittee on Conservation and Credit who has done yeoman work in this endeavor.

Mr. JONES of Tennessee. Mr. Speaker, at this point I want to say to this body that the gentleman from Texas, Chairman de la Garza, deserves much credit, as does the ranking member of this full committee for the great job that they have done in over 2 years in putting together a farm bill that I think is commendable and very helpful, and that this body, without a doubt, appreciates, just as the previous speaker said, and we need so badly.

Mr. Speaker, after nearly 2 years of earnest, hard work, the Congress is finally ready to adopt a new long-term farm bill. Although we have missed our deadline for enacting this bill by nearly 3 months—and few people believe this truly will be a long-term bill—we, nevertheless, have a conference report that, in my opinion, deserves the support of this House.

I will be the first to admit that this farm bill could be better in some respects, and I certainly wish it did more to improve farm income. However, there comes a time when we finally have to accept the realities of the budget process and the political process. If I didn't think this was the best we could do at this time I would not support this bill. But I am convinced we fought a good battle, and now is the time to move on.

Without a doubt, interim changes will have to be made in agriculture policy before this bill expires 5 years from now, whether due to the recently enacted more rigorous budget constraints, or a further deepening of the already severe economic depression across our Nation's Farm Belt.

If for no other reason, I urge my colleagues to support this bill because of its soil and water conservation provisions. This bill is the most significant achievement in the field of resource conservation since the 1930's. The "sodbuster," "swampbuster," and conservation reserve programs established by this farm bill will change the face of rural America.

Five years from now I predict the American people will look back on this legislation and remember it for one reason: The foresight we will demonstrate today when we adopt a new, enlightened national policy of stewardship for our most precious natural resources.

Again, I urge my colleagues to support this bill and remove the uncertainty so our Nation's farmers will finally know what programs they will operate under in this crop year.

Mr. MADIGAN. Mr. Speaker, I yield 1 minute to the gentleman from Minnesota [Mr. Stangeland].

Mr. STANGELAND. Mr. Speaker, I rise in strong support of this conference report and just stand here to plead with all of my colleagues to vote for this conference report and pass it. It is not the best bill in the world, it is not everything that I would like to see in a farm bill. But it is the best we can do.

Let me tell my colleagues I am very saddened to hear some of my colleagues who represent agricultural districts stand and say they cannot support this conference report. I would like to remind them all that we have tried everything, and if they are going to vote against this, what is their alternative? We have done the best we could. We have fought the fight, and I want to commend the chairman of the committee and the ranking member and the chairmen of the subcommittees, the Democratic chairmen of the subcommittees. We had the best philosophical farm debate in the Agriculture Committee that anybody can recall. It was not partisan, but it was philosophical, and we tried everything.

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We tried everything on this floor, from high price supports, rigid controls, to what the House committee passed, and the House turned those other alternatives down.

If the House turned those alternatives down, then I think we have done the best job possible. This conference report is as close to the House bill as you can get, without actually having the House bill that we passed here before it went to conference.

So I say, I plead with the Members of this body, pass this conference report.

Mr. Speaker, this is not a great bill and it certainly will not, in and of itself, solve all of agriculture's problems. But that should not come as any surprise to any of us because I cannot recall any farm bill that has guaranteed a profitable farm sector.

I am disappointed that this conference report does not include a mandatory marketing loan which would permit farmers to repay their Government loans at the price they receive in the marketplace. But it does contain discretionary authority for the Secretary and I am one Member who will be doing everything in my power to encourage the administration to implement the marketing loan and offer farmers some hope for the future.

H.R. 2100 does not do nearly for farmers what I or many of my colleagues think needs to be done. But it does offer some short-term stability in the way of target price protection that, hopefully, will sustain our financially squeezed producers until market prices are bolstered.

This bill also contains significant conservation provisions that will remove from production at least 40 million acres of highly erodible land and discourage fragile soils from being exposed in future years. It also maintains the present sugar program that generates $1 billion in the Red River Valley economy which borders my congressional district.

One other point, having been personally involved in the farm bill conference's work on the cargo preference issue, I know that we have made some significant changes in the manner in which our Nation's cargo preference laws will be applied. I would emphasize, however, one thing that was not changed by the conference, and that is the preexisting statutory requirements regarding the "availability" of U.S.-flag ships. Nothing in the conference report makes any attempt to define the "availability" of U.S.-flag ships or to affect pending litigation relating to this issue.

In conclusion, this is not a great bill and, in some instances, may not even be characterized as a good bill. But it is the best we have been able to come up with after a full year of congressional deliberations.

I know I will be joining many here today in fighting for improvements when we return next year. But we need to pass a bill now and I urge my colleagues to support the 1985 farm bill conference report.

Mr. de la GARZA. Mr. Speaker, I yield such time as he may consume to the distinguished vice chairman of the committee, our distinguished whip, the gentleman from Washington [Mr. Foley].

Mr. FOLEY. Mr. Speaker, I rise in support of the conference report, and commend the chairman and the ranking members, and all members of the committee for this product which I think is an excellent one, and I urge support of the conference report.

Mr. de la GARZA. Mr. Speaker, I yield such time as he may consume to our colleague, the gentleman from Michigan [Mr. Conyers].

Mr. CONYERS. I thank the chairman. I want to commend everybody that worked on this.

Mr. Speaker, I rise in opposition to the conference report. I cannot support a bad 5-year bill that, by lowering loan and target price rates, guarantees a lower net farm income from 18 to 20 percent according to the numerous credible econometric studies. The Congressional Budget Office [CBO] puts the figure at 25 percent. It is bad for our farmers and ultimately for consumers because production will be concentrated in fewer hands. It is bad for interest rates. It is bad for farm employment and bad for urban employment because demand for machine tools will be substantially suppressed. We can and should do more for farmers.

Farm income is the lowest since the Great Depression. The committee bill will make it lower by lowering price supports. The Board of Governors of Federal Reserve has reported that there is a $111 billion negative cash flow annually in the farm industry. Rather than gaining assets they are losing them at this incredible rate.

Two hundred thousand jobs have already been lost as a direct result of the declining farm economy including 80,000 in the manufacturing of farm equipment alone. At the current pace, 270,000 additional jobs can be expected to be lost in the next 5 years. Ultimate jobs lost could be as high as 800,000 which in itself imposes staggering economic costs.

Farmers will not be the only ones to suffer if the 1985 farm bill reduces net farm income. Wharton Econometrics Forecasting Associates of Philadelphia, the Farm Journal, the Food and Agricultural Policy Research Institute at Iowa State University and the University of Missouri study commissioned by the National Corngrowers Association, as well as other documentation all agree on the agregate catastrophic economic effect an impact of lower farm income on the economy as a whole.

The Wharton study shows that every American will be affected. Consumer interest rates alone are predicted to increase by as much as 1 to 2 percent by 1987 depressing other industries such as automotive production and housing; 270,000 jobs outside agriculture could be lost at a rate of three times the job loss for farmers according to the figures. The study indicates the national debt could swell an additional $20 billion before 1990.

The Reagan administration is no friend of the farmer. The administration and the Farm Bureau claim that prices must drop to "market clearing levels" if farmers are to regain lost export markets. This argument does not hold water today.

Lower prices will not regain export markets. Lower prices will only throw our Nation into a sever depression that, in the words of my distinguished colleague from Oregon Jim Weaver, will "make the 1930's look like a garage sale."

If the administration argument had any basis in fact, our exports would be booming today. Comparing our export performance thus far, for the 1985–86 marketing year for wheat sheads some light. Those on the low-price bandwagon say that the export volume is supposed to rise 1 percent for every 1 percent decline in prices. Wheat exports have declined 37 percent compared to a year ago and the U.S. export price is down by 13.5 percent. Actual export volume has dropped 2.74 percent for each 1 percent drop in export prices.

Dan McGuire, director of the Nebraska Wheat Board, may have put it best when he said that "if the United States Government allows itself to be used by millers, bakers, international trading companies, and multilateral corporations to take the lead in lowering world grain prices, this country will deserve the corresponding decline in world prestige that goes along with it."

Rural Americans have a right to life. This bill takes away that right. Its bad policy. I urge my colleagues to vote against it.

Mr. MADIGAN. Mr. Speaker, I yield 1 minute to the gentleman from Washington [Mr. Morrison], a very valuable member of the committee.

Mr. MORRISON of Washington. Mr. Speaker, this farm bill attempts to do two things at once, and it might well succeed. First of all, it provides income protection for farmers growing these supported crops to the extent that we can afford under budget pressures.

The second thing it does is it is market oriented. It gradually tells the world that we are going to compete, and the trade provisions provide support from the U.S. Department of Agriculture in making that statement to the world.

The conference report is a balance, and it is worthy of your support. I feel that it is fiscally responsible, and it includes new policy, of which we can be proud.

I commend the chairman, Mr. de la Garza; our ranking member, Mr. Madigan, for the finesse in finding this balance, and the courtesies they have extended to all of us as Members of this body.

Mr. de la GARZA. Mr. Speaker, I yield such time as he may consume to our distinguished colleague from Oregon [Mr. Weaver].

Mr. WEAVER. Mr. Speaker, contained in the conference report is the organic farm bill which I sponsored and which passed a a freestanding bill in the House earlier in this session. This is landmark legislation which will start us on the path toward a more fundamentally sound agriculture without degradation of our soils and water and will help us produce cleaner, cheaper food and to feed ourselves and others in the future. I vote today for that organic farm bill.

Mr. OBERSTAR. Mr. Speaker, I rise to address the cargo preference subtitle of this legislation. This provision exempts certain export commodities from cargo preference entirely, while requiring 75 percent of Public Law 480 and section 416 commodities principally, to be carried on U.S.-flag vessels.

This provision could be administered in such a way as to be extremely detrimental to the ports of the Great Lakes.

Mr. Speaker, Great Lakes ports are heavily dependent on Food for Peace, or Public Law 480 title II, cargoes, as well as those exported under section 416 of the Agricultural Act of 1949. These cargoes act as magnets, encouraging vessels to enter the Great Lakes/St. Lawrence system, pick up these commodities, and while they are in the system, pick up other cargoes at other ports.

Without these Food-for-Peace magnet cargoes, Great Lakes ports would be hard-pressed to survive, financially.

The requirement that 75 percent of these cargoes be transported on U.S.-flag vessels, which choose not to serve the lakes, has the potential to destroy Great Lakes ports and the port-related sectors of our Great Lakes economy.

Faced with that potential for disaster, the Senate added a provision guaranteeing a minimum percentage share, or metric tonnage, whichever is lower, of bagged, processed or fortified commodities for Great Lakes ports for the next 4 years. That share is based on the 1984 shipping figures.

This provision is absolutely essential for the lakes, within the context of a 75-percent reservation for U.S.-flag vessels. We are appreciative of the efforts of those Senators who were able to include this minimal protection in the Senate version of the forum bill.

In conference we asked whether House conferees representing the Merchant Marine and Fisheries Committee, that figure is a floor and not a ceiling. We were assumed that the reference is a minimum. As a conferee, I reaffirm that intent and insist that the provision be administered in such a way that Great Lakes ports are not frozen at the 1984 shipping level, because that was a poor cargo year for the lakes.

However, other ports ranges expressed concern that this provision, minimal as it is, would cause cargoes to be diverted from their ports.

That is not the intent of this language.

Virtually the only cargoes our ports handle are the bagged, processed and fortified commodities of title II, Public Law 480, and section 416. If the Department of Agriculture fails to properly interpret and apply the availability concept contained in the Cargo Preference Act, then, under this legislation, the lakes will be eligible to bid on less than 5 percent of all grains shipped under Public Law 480, titles I, II, and III, and are more likely to successfully bid on a mere 3 percent.

There is no question in my mind that the administration can, as it must, administer the entirety of this provision of the farm bill in such a way that no port range suffers any loss of preference cargoes under this provision.

I also want to put my colleagues and the USDA on notice that, should any port range be discriminated against in the administration of this subtitle, there will be that much added pressure to see the entire provision self-destruct at the earliest possible moment.

Mr. de la GARZA. Mr. Speaker, I yield 2 minutes to our distinguished colleague the gentleman from Texas [Mr. Stenholm].

Mr. STENHOLM. Mr. Speaker, I rise in support of the conference report we have before us today. We have not yet found the magic wand of the improved farm income so vitally necessary, but in this bill we have laid a foundation that will move us in that direction.

It also moves us in the direction that we must go for budget reasons. The bill before us today is some $3 billion below the bill that was reported from the House a few weeks ago. The trendlines are in the direction that it must go if we are to meet the commitments of Gramm-Rudman, as tough as they will be.

In this bill we have a title called the Clear Title Act. In this case, we do not have a better bill; we have a conference bill. We have a conference, a disagreement between the House and Senate concerning what clear title should be.

There is substantial agreement that the buyer of farm products should be removed from liability, from those actions that he has no knowledge about. The House version provided for prenotification of those individual buyers. The Senate, in their bill, had central filing.

The conference committee action on clear title, or during conference committee action on this, I commended Senator Cochran of Mississippi, the prime sponsor of the Senate version, for his statements. In his statement he said, because the buyer would have to rely completely upon the accuracy of data when he searches the State-compiled list prior to purchase, it is only appropriate to place the risk of any error that might escape the attention of a reasonably diligent buyer on the lender.

I completely concur with the distinguished Senator from Mississippi; buyers have enough of a risk of their ordinary daily operations without being saddled with the additional concerns of accuracy and verification of lien notices generated by a central file, and I hope that the actions of this conference will work that problem out.

Mr. MADIGAN. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. Martin].

Mr. MARTIN of New York. Mr. Speaker, I thank the ranking member, and I rise in support of the conference report.

Mr. Speaker, I rise in support of this conference report and want to take this opportunity to commend the House conferees on H.R. 2100 for their diligence in crafting a farm bill which lends at least some degree of certainty to the rules under which our dairy farmers will be operating for the next 4 years.

I also want to thank the farmers of the 26th Congressional District of northern New York who spent hours and hours of their time in discussion with my office in order that we might fashion a bill with which we could all live. We realize there are imperfections, but considering the herculean problems we were all attempting to solve. I believe the conference report addresses many of the concerns which were expressed.

As I have said in the past, I am not enamored with the prospect of an assessment on our farmers. However, I am proud that the dairy industry, as always, is willing to make the sacrifice and take the necessary steps toward solving the suplus problem we are facing. I hope the whole-herd buyout program is successful in addressing the situation and reducing the glut which has been created. I am skeptical, however, that further spot shortages could occur in the Northeast as they did under the dairy diversion program.

I am pleased that the mandatory diversion program was dropped in conference. I am also encouraged the provisions relating to casein have been retained, since I believe that foreign imports of Casein have contributed to the situation we are trying to resolve. The increase in the milk-marketing order differentials will also be beneficial to the Northeast.

In conclusion Mr. Speaker, I can in good conscience lend my support to the conference report. It is a carefully crafted compromise which I believe our farmers can live with and which deserves a chance.

Mr. MADIGAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Iowa [Mr. Lightfoot].

Mr. LIGHTFOOT. Mr. Speaker, I rise in support of the legislation.

After months of debate and delay the House and Senate have reached tentative agreement on a new farm bill.

We have put this off long enough. Farmers in Iowa and across the country need an answer. We have already passed the fall fertilizer season in my State and many farmers are beginning to talk to their lenders about arranging financing for next year's crop. No lender is going to give them an answer one way or another without knowing what our farm policy is going to be for the coming years and the near future. Our farmers have been left in the dark long enough.

I think we must pass this legislation today, but as you are all aware, this bill or any other farm bill will not provide the sole answer to the problems in our rural economies. But a responsible farm bill is a major factor in the effort to regain some stability for farmers in Iowa and across the country.

This farm bill provides a measure of that much needed stability. Under the bill, target prices are protected over the life of the bill giving farmers the opportunity to plan their operations with some confidence in their longer range projections. I supported the House bill's freeze over the 5-year life of the bill, but the Conference Committee was unable to reconcile themselves to that and have provided a 2-year freeze with modest declines in the out years. Nevertheless, this is a somewhat of a victory in itself, in light of the fact that the administration wanted to cut the farmer off at the knees in a few short years.

Now that we've dodged that bullet of a 1-year freeze on target prices, we have to turn our attention to the forces that prey upon profit prospects of our farmers. One great culprit in that category is a Federal deficit that feeds our high interest rates and our still too strong dollar. We've taken decisive action against that problem by passing legislation mandating a balanced budget by 1991. Now Congress must demonstrate the political courage to pull the reins in on federal spending and restore fiscal responsibility.

As I said, these actions are all a part of more comprehensive approach to address the problems in rural America. In addition to deficit reduction measures we're on the verge of passing long overdue legislation which will reorganize the farm credit system and make it more accountable to its owner/borrowers.

Now that we know where we stand with respect to some protection of farm income, we must begin investigating ways to bring our production costs toward some synch with those numbers. And I believe we should start with one of farmers' greatest input costs, high interest rates. Declines of a point or two in this regard will, in many cases, make the difference between going out of business and staying on the farm. We must do what we can to begin to address the farm problem from this angle.

In addition to commodity price protection, the bill will give Iowa farmers and others a conservation program with some teeth and the most comprehensive trade title we've had in a farm bill.

There's a tough road ahead and this bill will not answer all of our concerns. But by providing our farmers some stability and a measure of predictability we can begin to address the other forces and problems that so directly affect our agricultural economy.

Mr. MADIGAN. Mr. Speaker, I yield 45 seconds to the gentleman from New York [Mr. Gilman].

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of the conference report on H.R. 2100, the Food Security Act of 1985 and commend the distinguished chairman, the gentleman from Texas [Mr. de la Garza], and the ranking minority member, the gentleman from Illinois [Mr. Madigan] for guiding this bill to the House floor. As a member of the conference for foreign affairs portions of the bill, I can attest to this being one of the hardest-working conferences I have ever attended. Chairman de la Garza and Chairman Helms, and their staffs, are to be commended for their unflagging effort to get this important measure before the Congress before the end of the 1985 session.

There are a number of provisions in this report which are particularly meritorious. I am pleased that the Public Law 480 title II minimums were increased, that there is a mandatory 5-percent minimum for monetization, and that section 416 provisions were adopted which are beneficial for private voluntary organizations. It was important too to that we increased child immunization activities in connection with Public Law 480. As an author in 1980 of the legislation for a 4 million ton food security wheat reserve, for use as a Public Law 480 backup in case of serious food shortages, I am pleased that the conferees agreed to extend this humanitarian food reserve for another 5 years.

Several new initiatives in the export title of the conference report deserve special mention:

The new Food for Progress Program, under which food aid is to be provided on grant or highly concessional terms to countries committed to moving their agricultural activities toward a free market system I was proud to have sponsored that proposal, which was proposed by the President, in the House.

Also the new program for promotion of private enterprise abroad under which foreign currencies, derived from Public Law 480 aid are to be loaned to banks, cooperatives, and other intermediaries in the developing countries; which will in turn use the money for loans to nongovernmental businesses, small farmers, and other private entities for productive private enterprise activities. I was pleased we could reach accommodation with Chairman Helms who was also sponsoring Food for Progress and private enterprise promotion legislation in the Senate.

Another new initiative is a Special Assistant to be appointed by the President who shall serve in the White House as an advisor, a recommender, an ombudsman, and in particular as an expediter Governmentwide for our foreign food aid and agricultural trade promotion programs.

Upon the whole, this is a good report and I urge its adoption.

Mr. de la GARZA. Mr. Speaker, I yield 1½ minutes to the distinguished chairman of the Subcommittee on Livestock and Dairy, the gentleman from California [Mr. Coelho].

Mr. LEHMAN of California. Mr. Speaker, will the gentleman yield?

Mr. COELHO. I yield to the gentleman from California.

Mr. LEHMAN of California. Mr. Speaker, I rise in support of this legislation. I would like to especially congratulate the gentleman from Texas [Mr. de la Garza] for the good work he has done, and most especially, my colleague from California for crafting a dairy compromise that is in the best interest of all dairymen in this country.

Mr. COELHO. Mr. Speaker, I rise in strong support of the conference report and all its different provisions. I would like to specifically speak to the dairy provisions, which are a compromise, and I think address the problems of all the dairy interests throughout the United States.

We were concerned about maintaining a support price that would keep our dairy farmers alive financially. What we have here is a price that is guaranteed for the 1986 year; we have a supply program, a whole-herd buyout that I think will work over an 18 month period; the dairy farmers are willing to pay for it themselves.

We have a situation where we are cutting the taxpayers by their costs of this program, by $3.7 billion; and we have a situation where, if this program works that we will have at the end of 18 months the effective dairy price being above the price support price, so that the dairy farmer does not have to worry about the price support cuts that the administration and others would like to see occur.

I think it will work; I think it is an effective program, and I applaud and congratulate those that have worked hard for it.

Mr. KASTENMEIER. Mr. Speaker, it is with a sense of regret that I cast my vote today in opposition to the conference report on the 1985 farm bill.

Some have argued that we should support this bill because it is a miracle that we have any farm bill at all and that this bill is the best we could do. While I agree that this bill is somewhat better than President Reagan's original proposal to simply cut loan and target prices for grains and the support price for milk, I cannot bring myself to vote for this bill because it so blatantly misses the point.

The point is that American farmers and rural counties are facing the absolute worst of times. Farmers need income. This bill will lower the prices they receive.

Ultimately I have to ask myself if I can defend this bill to farmers who are facing the imminent loss of their farms, if I can assure them that it will help them to survive. Since I cannot give that assurance, I must vote against the bill.

I voted for the 1985 farm bill when it passed the House in October because it at least contained a dairy diversion program. That program would have spread the reduction in surplus production around so that no section of the country and no individual farmers would be asked to give up too much.

In the conference report, however, the diversion program was replaced by the whole herd buy out. This program will reduce milk production. But it will do so by speeding up the exodus from dairy farming. It requires farmers to submit bids to USDA on how much per hundredweight they need to get out of dairying and how much their production would be if they stayed in. There are going to be inequities resulting from this bidding process.

Wisconsin dairy farmers may be more inclined than others to take part in the program. This is because the terms of the bill are much more beneficial to farmers the further away you get from Wisconsin, thanks to the increases in class I differentials included in the bill. Some estimate that Florida dairy farms will gain over $50,000 a year because of those increases. Our farmers gain almost nothing.

Finally, although the bill purports to accomplish a price freeze for dairy farmers, there will be decreases. The 15-cent promotional deduction and the 40-cent deduction to pay for the whole herd buyout will reduce the effective price to $11.05. In 1987 we are likely to see two cuts of 25 cents each. Those cuts can be followed by more cuts at 50 cents each.

Grain loan and target prices will decline over the life of the bill. I had supported efforts to pass legislation controlling grain supplies and prices. It certainly would have been possible to work out the details to fine tune a certificate program—similar to that introduced by Mr. Bedell—for grains that would have allowed domestic prices to rise by controlling supply, allowed farmers to produce extra grain for export, and still would have honored existing import/export commitments. The President, however, made clear his intention to veto any such approach and the Congress narrowly turned its back on farmers. We apparently just missed the point on how serious our agricultural crisis is.

There is one component of the bill which I do regret not voting for. The bill includes a soil conservation section which contains a sodbuster/swampbuster provision to stop the spread of farming to erodible lands, a conservation reserve to remove such lands which are already being farmed from production, and a longer term program which will encourage farmers to develop soil conservation plans which will keep such lands out of production. Unlike certain parts of the bill, this is a provision we can be proud of.

Mr. DREIER of California. Mr. Speaker, America's farmers have been sending the Congress a long and loud SOS, signaling the utter failure of our farm policies. Unfortunately, we are responding with our own SOS: the "same old subsidies."

This legislation may show compassion, but it shows little foresight or, for that matter, hindsight. The billions we've directed at farmers to help them over the past decade has not helped avoid the current crisis: Indeed, some say it has helped precipitate it. And here we go with another dose of SOS.

What will the farmer and the taxpayer get for the 50-odd billion dollar price tag of this bill? Commodity prices lower than the ones that have led farmers into the poor house, for one. And a price structure too rigid to give American farmers a fighting chance on world markets, for another.

We have spent countless hours in this chamber this year bemoaning two national crises, in our farm and trade policies, without giving much attention to any link between the two. This is a monumental mistake.

Does anyone of us really expect that the woes of American agriculture will be truly solved 5 years from now when this authorization expires? I hope we will find time during that span to develop a new agricultural trade policy, not as an afterthought to a subsidy bill, but as part of a real solution to the farm income problem.

Mr. SENSENBRENNER. Mr. Speaker, on Saturday, December 14, House and Senate conferees broke an impasse and approved a fundamental change in the Federal program to subsidize dairy prices. Missing from the program is a dairy diversion plan which would pay the dairy farmer to cut production, and was contained in the House version.

Mr. Speaker, I cannot support any farm legislation which does not include a diversion plan, since dropping the paid diversion will not save money and will ruin the family farmer.

The dairy diversion program, established to help stabilize the supply and demand for milk, was in effect from January 1984 through March 1985. The program resulted in a reduction of 1984 milk production by about 3.74 to 4.11 billion pounds. The General Accounting Office directly attributes a $650 million savings to the program. However, evidence suggests that milk production, and therefore the Department of Agriculture's price—support purchases, will increase after the program's end. A dairy diversion program works for both the taxpayer and Federal Government. This has been rejected by the conferees for another, untried program.

Without a diversion program the family farmer in the Midwest will be ruined, while the corporate conglomerate farms in other areas of the country will benefit. The Congressional Budget Office estimates that any price cuts will decrease net farm income by 30 percent. For Wisconsin farmers, declining profitability will result in lower land prices, reducing the value of the collateral on some loans, creating further financial difficulties. Additionally, as many as 45 regional marketing-order districts restricting the sale of milk from region to region will be designed primarily to benefit Southeastern producers. This limits the Wisconsin farmer's ability to sell his product to a small area.

Mr. Speaker, like many other Midwest States, Wisconsin's agriculture truly is Americana. The drive to succeed is there, but the small farmer is threatened and with him the farm economy as the backbone of America.

Mr. SMITH of Iowa. Mr. Speaker, it became obvious early this year when we could not override a veto of a very modest credit bill that essentially what is in this bill is the very most which we could pass and he signed. It is essentially an extension of existing programs with reductions in loan rates mostly offset by higher deficiency payments.

I had high hopes we would also be able to secure a good long term conservation reserve removing a large share of the 60 million acres of highly erodible land. However, I am really sorry to say that the conservation reserve section of this farm bill represents a waste of the best opportunity we have had and perhaps the best we will ever have to make some real progress toward removing 60 million acres of highly erodible land out of production in this country.

This bill sets up conditions for enrolling land in the conservation reserve which those who pay the cost of carrying the land cannot meet. It would require an owner and the mortgagor to give a permanent easement in return for rent payments received for only 10 years. No owner would give a permanent easement in return for a few years of annual payments unless the annual payments were a great deal higher than the $50 per acre they intend to pay. The result is that the conservation reserve approved in that bill will attract only a small portion of the amount of the highly erodible land we need out of production.

The bill also prohibits owners who farm any erodible land after 1990 from participating in soil conservation programs or the annual-set-aside programs. To avoid disqualification, owners would be required to erect soil conservation structures and fully comply with an approved plan. Even if sufficient Federal matching money were available (and it is not) to terrace and bring that much land into compliance in a few years, it would cost more than seven times as much per year for each of the next 10 years as farmers have been able to match.

Since the majority of farmers will have some such erodible land which they cannot possibly afford to idle without a payment and will therefore be disqualified for the annual control program after 1990, they will have no set-aside acres and will also put all their erodible land in grain crops and perhaps plow up any remaining land which could be tilled. With the majority of producers out of the annual production control program, production will increase instead of being reduced and the annual program will not control supplies after 1990 either.

The effect of these provisions is to largely defeat the purpose of the conservation reserve section and the bill will be a flop if it is not amended. It will result in more erodible land being farmed instead of less.

Mr. EVANS of Illinois. Mr. Speaker, I rise in opposition to the conference report. I recognize the hard work of the conferees and commend them for their efforts to improve the farm bills produced by both bodies.

However, I cannot in good conscience tell farmers in my district or across this Nation, that the proposal being offered here tonight is good farm policy for 1985 or for the next 4 years. The agreement falls short of addressing the urgent needs of our farmers, and most importantly, does nothing to enable farmers to increase their income. Without such an increase, banks and businesses in our rural communities will suffer and unemployment will continue in our manufacturing centers.

If this program becomes law, I fully expect the Congress to be back here in 1986 and 1987 facing a deepened depression in the farm belt of this Nation. Our farmers and our Nation deserve and demand better.

Mr. DAUB. Mr. Speaker, I rise to support the conference report on the farm bill. Although there are still problems with this legislation, it is in many ways an improvement over the version the House sent to conference last October.

There is a very real danger that by the next decade America could become a net food importer. Since we enacted the last farm bill, American commodity exports have fallen 25 percent. Although other factors such as the high dollar were significant in this decline, our inflexible farm programs inducing storage, rather than sale, of farm products was certainly one important factor in this trend.

The 1981 bill with its rigid loan rate structure made mounting surpluses almost a certainty. It told our competitors in advance how much to plant and how much of our markets they can take. As a result, exports have fallen and the American farmer is swimming in a sea of grain.

It has been estimated that wheat and corn exports could fall another 20 percent next year.

Argentina, Paraguay, and Uruguay have 215 million acres of very fertile soil which are as yet unplowed. This is nearly half of all cropland in the United States. Unless we do something about inflexible loan rates the signal those countries will get is: Gentlemen start your plows.

The most significant change that the conference report makes over the House bill and current law is its recognition of our competitive problem and the inclusion of more flexible loan rates to address it. This bill signals that the United States will not continue to tell our competitors in advance the prices at which we sell and how much of the world markets we are willing to give them.

Furthermore, the conference report contains important and innovative programs for export assistance. It contains $500 million for a badly needed intermediate credit program, $2 billion worth of commodities for an export bonus program, $5 billion for short term credit and $325 million for "blended credit" export programs.

The House bill continued cargo preference requirements that force federally generated exports to be shipped on uncompetitive American flagships. Although an improvement over the House provisions, the conference report does not completely solve the problem. In fact, cargo preference requirements are increased from 50 to 75 percent for food donation programs, but the cost of to the Agriculture Department will not be over the current level of 50 percent.

Importantly, the conference report exempts export and blended credit programs from the cargo preference requirements. Current provisions, preserved in the House bill led to suspension of the blended credit program to the great detriment of our commodity exports. The conference version should resolve this problem.

At the same time, the bill maintains income supports for farmers with a 3-year target price freeze spread over 4 years for wheat and feed grains. While not as generous as the original House bill, and not directed at the farmers who are in most need which I would like to see, these provisions will maintain an income safety net for farmers in these difficult times.

This bill represents a milestone in our efforts to conserve the most important natural resource agriculture has: our soil. I have been trying for a long time to get many of the conservation measures in this bill enacted. The conservation reserve and the sodbuster and swampbuster provisions are significant steps toward these worthy conservation goals.

The tax reform bill passed yesterday contains conservation provisions that I offered in the Ways and Means Committee. This legislation puts the sodbuster and swampbuster provisions in the Tax Code and denys the deduction for clearing land to add to unneeded production. These provisions will compliment the farm bill conservation section.

This farm bill is projected to cost about $53 billion over the next 3 years. This is a record amount of farm spending and with it the Congress has demonstrated its concern for the plight of rural American. Despite this record spending, we should be candid enough to admit that we don't have all the answers for the complicated farm problems.

Perhaps the best thing that can be said about recent actions Congress has taken is that, on the whole, Congress has apparently done more for farmers than to them. Two actions justify this conclusion.

First, the farm bill will reform inflexible price supports which has lead to record grain supplies and provide income maintenance needed in the Midwest.

Second, the Gramm-Rudman balanced budget bill should reduce the overvalued dollar also making farm products more competitive overseas. Real control of Federal spending will provide vital interest payment relief for farmers.

Finally, it should be noted that the ratio of urban to rural members in Congress is declining. Without Farm State members sticking together on the farm bill, we may not get one at all and that would be tragic. We need a farm bill this year, not a continuation of the 1981 bill farmers have suffocated under the last 4 years.

I urge adoption of the conference report.

Mr. BIAGGI. Mr. Speaker, I rise to urge support of H.R. 2100, the farm bill. The House conferees are hopeful this legislation will help resolve a serious dispute that has created tremendous resentment and hostility between two important industries. I am, of course, alluding to the issue of cargo preference. The 1954 cargo preference law provides that U.S.-flag vessels will carry at least 50 percent of goods given away—and sales subsidized—by the Government. Newly developed promotional export programs sponsored by the U.S. Department of Agriculture have raised the issue of the scope of the cargo preference laws.

The Department of Agriculture emphasized the "commercial" nature of the export programs and felt that cargo preference should not apply. The Department of Transportation viewed at least one of these programs, blended credit, as subject to cargo preference because of the extensive Government assistance that made the sales competitive on the world market. Finally, the Department of Transportation agreed that though cargo preference was legally binding, it would not be applied in this case because to do so would undermine USDS's export program.

After the agencies resolved their difference the matter was taken to Federal court, where the judge found that the export program in question fell within the scope of cargo preference.

Shortly after the court decision, Secretary Block terminated all sales under the blended credit program. This action caused great harm to both our farmers and seafarers.

In the aftermath of the court action and Secretary Block's termination of the program, representatives of the maritime and agricultural industries met to see if there was any possibility of a compromise to resolve the problems. After numerous meetings, spanning almost 6 months, hard negotiations, and a great deal of blood, sweat, and tears, an agreement was reached. This compromise was adopted by the Senate and with minor improvements became the language adopted by the conferees.

The compromise provides that subsidized sales will be exempt from cargo preference. In exchange for this concession, donational programs will be subject to a 75-percent cargo preference requirement. I would point out that this increase in cargo preference will have absolutely no impact on agricultural spending. The added costs associated with the use of U.S.-flag vessels will be paid by the Department of Transportation.

The compromise reached with the Senate assures the agriculture industry that promotional export programs will not be subject to cargo preference and will not be delayed or interrupted by administrators and courts debating the applicability of cargo preference.

The maritime industry will enjoy an increase in cargo because of the 75-percent cargo preference requirement on donational sales.

Under the compromise, neither side can claim a complete victory. There are substantial risks for the maritime industry in entering into this agreement with agricultural interests. USDA has a history of noncompliance with cargo preference, some programs seem particularly designed to circumvent the letter of the cargo preference law. These factors, among others, forced me to be cautious in accepting the compromise.

I know that both industries are sanguine that this compromise will be beneficial to all parties by eliminating uncertainty and ending this harmful dispute between two crucial American industries. I, quite frankly, am not so optimistic. Cargo preference is essential to the merchant marine, and the merchant marine is indispensible to national security and economic independence. Whatever happens, I hope the future of the maritime fleet is safe.

Mr. MADIGAN. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, let me tell you what this bill is not; it is not a magic carpet upon which farmers are going to glide through the balance of the 1980's. It is a compromise between the economic problems on American farms and the budget deficit problems of our Government.

It maintains the safety net for farmers, but it moves us in the direction of becoming more competitive in world markets.

I want to take the balance of my time to say to all of the members of the committee, including those who

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did not get everything they wanted, that you were all gentlemen, and I congratulate you on your demeanor; and to the staff that undertook the Herculean task of putting this report together over the weekend, I express my personal thanks, my personal thanks to the chairman for his good humor and intelligence throughout this process.

Ladies and gentlemen, this is a reasonable product; it deserves your support. I hope you will cast a favorable vote for it.

Mr. Speaker, I yield back the balance of my time.

Mr. de la GARZA. Mr. Speaker, I yield one-half minute to our distinguished colleague, the gentleman from Virginia [Mr. Olin].

Mr. OLIN. Mr. Speaker, I rise in strong support of the conference report, and commend the work of the conferees; particularly the chairman, Mr. de la Garza, the ranking minority member, Mr. Madigan, and all the others.

Mr. Speaker, there is much to be commended in the conference report on H.R. 2100, Food Security Act of 1985. The conferees worked hard and have delivered a bill that is much improved over the one passed by the House. I especially appreciate the leadership of our committee chairman, Mr. de la Garza, and the ranking minority member, Mr. Madigan, in insisting that a farm bill must be completed and acted upon before adjournment.

Even the dairy provisions, which I strongly opposed when the House considered the bill, are now improved. Gone is the mandatory diversion program which would have paid farmers for not producing milk. Gone is the cost-of-production formula which would have pushed up milk support prices and further encouraged production.

The whole-herd buyout provisions, which I initially opposed, now seem to offer the best opportunity to make an immediate—and economical—impact on the soaring increases in mik production. Support price cuts alone would have taken too long to achieve the results we must have.

The combination—whole-herd buy out for a limited period of time coupled with scheduled decreases in the support price as long as there are immense surpluses—is an acceptable plan.

It starts us in the right direction.

It is budget responsive.

It provides the long-term policy statement our dairymen need and deserve.

I do continue to have some reservations, however. I was surprised and disappointed to learn that the conference recommended discretionary authority for the Secretary of Agriculture to impose a diversion program or extend the whole-herd buyout if the initial 18-month buyout does not achieve the necessary decrease in production.

It is imperative that the initial 18-month buyout achieve its goals—the reduction of our national dairy herd by an estimated 935,000 cows and a reasonable balance between milk production and consumption. If we achieve that balance, the reduction of price supports established in the bill will be adequate to maintain an equilibrium.

The Agriculture Committee must monitor the buyout closely to be sure it achieves the necessary reductions and be prepared to take corrective legislative action if it does not. Neither another diversion program nor an extension of the whole-herd buyout will be a satisfactory response if this experiment fails. It must be a one-time action; it must get the surplus down to about 5 billion pounds. We can accept no other answer.

I also am disappointed that an assessment will be imposed on all dairy farmers. I had hoped it would not be necessary, but I now recognize that the fiscal realities of meeting a budget target mandate the assessment. Another note of caution, however. The initial 40-cent assessment, followed by a 25-cent assessment, may not be sufficient to pay for the buyout that will be needed. Careful scrutiny of the costs and revenue of the program will be required of the Agriculture Committee.

Retaining the legislated class I differentials is unfortunate. Some States will benefit; others may be penalized. Assuming legislative control of the differentials was politically inspired, and the levels set do not necessarily relate to the actual cost of transporting and handling of milk. I fear that regional imbalances may result because of this action and ask that the Agriculture Committee be prepared to offer a prompt remedy before the imbalances severely impair regional milk production.

Although the dairy title is not perfect, it is an acceptable improvement, and one of many parts of H.R. 2100 now worthy of our support.

I strongly support the emphasis on conservation that is included in the bill. The recent floods in western Virginia, invading the full length of the congressional district I represent, impresses even further the need for scrupulous care of the soil. We can no longer ignore the damage—and the potential tragedy—of the abuse of our resources. H.R. 2100 goes a long way in enforcing the necessary stewardship of our farmland.

I also joined in the effort by the gentleman from Texas [Mr. Stenholm] and others in removing the double standard that has been in effect for buyers of farm products. The inclusion of clear title provisions in the farm bill is a necessary improvement in agricultural business transactions.

The bill continues to recognize the wisdom of investment in research; it continues support of our land-grant colleges. It boosts our commitment to both domestic and international nutrition programs. It provides the goundwork for an improvement in trade—a vital issue if our immensely productive and efficient farm community is going to regain its role as an active exporter of quality food and fiber.

Just as importantly, H.R. 2100 recognizes the necessity that any farm bill we pass must be sensitive to the overall economy of this country. We are trying to control the deficit. We simply cannot afford to provide all of the income support needed to guarantee the profitability of every farmer. H.R. 2100 offers the assurance of a reasonable, market-oriented floor under farm prices. It is a healthy, feasible, economical plan. Unless we subdue the raging deficits, no farm policy can by itself be the salvation of American agriculture.

Mr. Speaker, the work, of the last year has been intense. The House Agriculture Committee labored over this bill; we debated, we discussed, we may even have argued at times. But each of us wanted the best possible long-term policy for our country's farmers. The conference report on H.R. 2100 is the best effort for these times. I urge my colleagues' support.

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Mr. de la GARZA. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore. The gentleman from Texas has 1 minute remaining.

Mr. de la GARZA. Mr. Speaker, the end result of what we do here today is a credit to our Nation and to our people. It is our system of government which allows us to be truly representatives of the people. We want the world to know that we care, that within the framework of the art of the possible we were responsible and yet compassionate. This is the most important thing we do here today, telling American agriculture that we care.

We cannot delay any longer. The future is now, the place is here, the vote is "yes."

Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FRENZEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The **SPEAKER** pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 325, nays 96, not voting 13, as follows:

[Roll No. 474]

YEAS—325

Ackerman
Addabbo
Akaka
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Barnard
Barnes
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Biaggi
Bilirakis
Boehlert
Boggs
Boland
Boner (TN)
Bonior (MI)
Bonker
Borski
Bosco
Boucher
Boulter
Boxer
Breaux
Brooks
Broomfield
Brown (CA)
Brown (CO)
Broyhill
Bruce
Burton (CA)
Burton (IN)
Bustamante
Byron
Callahan
Campbell
Carper
Carr
Chapman
Chappell
Chapple
Clay
Clinger
Coats
Cobey
Coble
Coelho
Coleman (TX)
Collins
Combest
Conte
Cooper
Courter
Coyne
Craig
Crockett
Daniel
Darden
Daub
Davis
de la Garza
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dowdy
Duncan
Durbin
Dwyer
Dyson
Early
Eckart (OH)
Eckert (NY)
Edgar
Edwards (CA)
Emerson
Erdreich
Evans (IA)
Fascell
Fazio
Feighan
Fiedler
Fish
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Fowler
Franklin
Frenzel
Frost
Fuqua
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gilman
Gingrich
Gonzalez
Goodling
Gordon
Gray (PA)
Grotberg
Guarini
Gunderson
Hall (OH)
Hamilton
Hammerschmidt
Hartnett
Hatcher
Hawkins
Hayes
Hefner
Hendon
Henry
Hiler
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Jeffords
Jenkins
Johnson
Jones (NC)
Jones (TN)
Kanjorski
Kaptur
Kasich
Kemp
Kennelly
Kildee
Kindness
Kleczka
Kolbe
Kolter
Kostmayer
Kramer
LaFalce
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lewis (FL)
Lightfoot
Livingston
Lloyd
Loeffler
Long
Lott
Lowery (CA)
Lowry (WA)
Lujan
Lundine
MacKay
Madigan
Manton
Marlenee
Martin (IL)
Martin (NY)
Matsui
Mavroules
Mazzoli
McCain
McCandless
McCloskey
McDade
McEwen
McHugh
McKernan
McMillan
Meyers
Mica
Michel
Mikulski
Miller (OH)
Mineta
Mitchell
Moakley
Molinari
Mollohan
Montgomery
Moore
Morrison (CT)
Morrison (WA)
Murtha
Myers
Natcher
Neal
Nielson
O'Brien
Oakar
Olin
Ortiz
Owens
Oxley
Panetta
Parris
Pashayan
Pease
Pepper
Perkins
Pickle
Pursell
Quillen
Rahall
Rangel
Ray
Regula
Reid
Richardson
Ridge
Rinaldo
Roberts
Robinson
Rodino
Roe
Roemer
Rogers
Rose
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Rudd
Savage
Saxton
Scheuer
Schuette
Schulze
Seiberling
Sharp
Shaw
Shelby
Shumway
Shuster
Siljander
Sisisky
Skeen
Skelton
Slaughter
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Denny (OR)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stenholm
Stokes
Strang
Stratton
Studds
Sundquist
Sweeney
Swift
Swindall
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vander Jagt
Visclosky
Walgren
Walker
Waxman
Weaver
Weiss
Wheat
Whitehurst
Whitley
Whittaker
Whitten
Wilson
Wise
Wolf
Wolpe
Wortley
Wright
Wylie
Yatron
Young (AK)
Young (FL)

NAYS—96

Alexander
Anderson
Archer
Armey
Bartlett
Bates
Bedell
Bliley
Bryant
Carney
Chandler
Cheney
Coleman (MO)
Conyers
Coughlin
Crane
Dannemeyer
Daschle
DeLay
DioGuardi
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Edwards (OK)
English
Evans (IL)
Fawell
Fields
Frank
Gibbons
Glickman
Gradison
Green
Gregg
Hall, Ralph
Hansen
Hertel
Holt
Hunter
Ireland
Jacobs
Jones (OK)
Kastenmeier
Lagomarsino
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lipinski
Luken
Lungren
Mack
Markey
McCollum
McCurdy
Miller (CA)
Miller (WA)
Monson
Moody
Moorhead
Mrazek
Murphy
Nowak
Oberstar
Obey
Packard
Penny
Petri
Porter
Ritter
Rostenkowski
Russo
Sabo
Schaefer
Schneider
Schroeder
Schumer
Sensenbrenner
Sikorski
Slattery
Smith, Robert (NH)
Snyder
Stark
Stump
Synar
Vento
Volkmer
Vucanovich
Watkins
Weber
Williams
Wirth
Wyden
Yates
Zschau

NOT VOTING—13

Badham
Dymally
Gephardt
Gray (IL)
Heftel
Hillis
Martinez
McGrath
McKinney
Nelson
Nichols
Price
Young (MO)

□ 1335

The Clerk announced the following pair:

On this vote:

Mr. Gray of Illinois for, with Mr. Nelson of Florida against.

Mr. LENT and Mrs. SCHNEIDER changed their votes from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. de la GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment bills and a joint resolution of the House of the following titles:

H.R. 1603. An act to amend the Securities Exchange Act of 1934 to authorize the Securities and Exchange Commission to subject banks, associations, and other entities that exercise fiduciary powers, to the same regulations as broker-dealers, pursuant to section 14(b) of the Securities Exchange Act of 1934;

H.R. 2391. An act to authorize the Administrator of General Services to collect additional contributions of money provided to him by private individuals or organizations for the Nancy Hanks Center;

H.R. 2542. An act designating the building located at 125 South State Street, Salt Lake City, UT, as the "Wallace F. Bennett Federal Building";

H.R. 2903. An act to designate the Federal Building and U.S. Post Office located in Philadelphia, PA, as the "Robert N.C. Nix, Sr., Federal Building and United States Post Office";

H.R. 2962. An act to remove certain restrictions on the availability of office space for former Speakers of the House;

H.R. 3608. An act to amend the Small Business Investment Act of 1958; and

H.J. Res. 485. Joint resolution waiving the printing on parchment of enrolled bills and joint resolutions during the remainder of the 1st session of the 99th Congress.

The message also announced that the Senate had passed bills and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 1437. An act to amend the Controlled Substances Act to create new penalties for the manufacture with intent to distribute, the possession with intent to distribute, the possession or the distribution of 'controlled substance analogs', and for other purposes;

S. 1740. An act to designate Bloomington Lake located on the North Branch of the Potomac River, near Bloomington, MD, and Keyser, WV, as the "Jennings Randolph Lake";

S. 1896. An act to designate the General Services Administration building known as the "United States Appraiser's Stores Building" in Boston, Massachusetts as the "Captain John Foster Williams Coast Guard Building";

S. 1956. An act to amend title 5, United States Code, to authorize temporary family housing for certain dependents of deceased members of the Armed Forces; and to amend title 37, United States Code, to authorize temporary payment of an allowance for quarters for certain dependents of deceased members of the uniformed services; and

S. Con. Res. 98. Concurrent resolution to recognize the historical significance of the former Presidential yacht Sequoia, and express support for her donation to the United States Navy by the Presidential Yacht Trust.

FARM CREDIT SYSTEM RESTRUCTURING AND REGULATORY REFORM ACT OF 1985

Mr. de la GARZA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1884) to amend the Farm Credit Act of 1971, to restructure and reform the Farm Credit System, and for other purposes, with Senate amendments to the House amendment thereto, and concur in the Senate amendments to the House amendment.

The Clerk read the title of the Senate bill.

The Clerk read the Senate amendments to the House amendment, as follows:

Page 7, strike out all after line 23 over to and including line 25 on page 8 and insert:

"Sec. 4.28C. Board of Directors of the Capital Corporation.—(a)(1) The Board of Directors of the Capital Corporation shall consist of five members, of which—

"(A)(i) three members shall be elected by the farm credit banks that own the voting stock in the Corporation, with—

"(I) one such member being elected from an institution and a district that, at the time of such election, is or is projected to be a net contributor of capital to the Corporation;

"(II) one such member being elected from an institution and a district that, at the time of such election, is or is projected to be a net recipient of capital (other than through the sale of loans or other assets at fair market value) from the Corporation; and

"(III) one such member being elected without regard to the restrictions in clause (i) and (ii).

"(ii) Each such bank shall have the right to cast one vote to fill each such vacancy without regard to the number of voting shares owned by such bank.

"(B) two members shall be appointed by the Chairman of the Farm Credit Administration Board.

"(2) Members appointed by the Chairman under paragraph (1)(B) shall be selected from United States citizens—

"(A) who are not borrowers from, shareholders in, or employees or agents of any institution of the Farm Credit System; and

"(B) who are experienced in financial services and credit.

"(3) The Farm Credit Administration Board shall, in its sole discretion and for purposes of the election of directors to the Capital Corporation only, project whether—

"(A) institutions within a district are or will be a net contributor of capital to the Corporation, or

"(3) the institutions within a district are or are expected to become net recipients of capital from the Corporation.

"(4) The Farm Credit Administration Board shall issue regulations providing for fair and equitable representation of all public and private interests on the Board of Directors of the Capital Corporation. The bylaws of the Corporation shall prescribe the procedures, established pursuant to regulations issued by the Board, under which directors of the Corporation will be nominated and elected.

"(5) Notwithstanding paragraph (1), in the event the Secretary of the Treasury purchases any obligation of the Farm Credit System Capital Corporation under section 4.28J, and for so long as such obligation remains outstanding, the Board of Directors of the Capital Corporation shall be expanded by two members, of which—

"(A) one member shall be appointed by the Secretary of Agriculture; and

"(B) one member shall be selected by the other members of the Board of the Capital Corporation, including the appointee of the Secretary of Agriculture, which member shall not be a—

"(i) borrower from, shareholder in, or employee or agent of any institution of the Farm Credit System; or

"(ii) a government employee.

"(b) Members of the Board of Directors shall serve two-year terms, except that, of the members first elected or appointed to the Board of Directors, one elected member and one appointed member shall serve initial terms of one year.

"(C) The Board of Directors shall elect, on an annual basis, a Chairman from among the members of the Board.

"(d)(1) Members of the Board may succeed themselves and may serve until their successors are duly seated.

"(2) Vacancies on the Board shall be filled in the same manner as the vacant position was previously filled.

Page 14, lines 10 and 11, strike out "of the loss of the use of the accumulated net worth of their institution".

Page 14, line 22, strike out all after "terms" down to and including "Corporation" in line 24.

Page 20, strike out lines 15 and 16, and insert "System institutions, (3) the salaries and benefits of the senior executive officers of System institutions (except associations) will be frozen, such freeze to remain in".

Page 21, line 10, strike out "fective only" and insert "fective for any fiscal year only".

Page 22, line 17, strike out "prescribe."." and insert "prescribe.".

Page 22, after line 17 insert

"Sec. 4.28L. Tax Status of Consolidated Obligations.—Consolidated notes, bonds, debentures, or other obligations, the issuance of which is joined in by the Capital Corporation pursuant to paragraph (13) of section 4.28G, shall have the same tax status as provided by this Act with respect to such obligations issued by the banks.".

Page 33, line 13, after "charters" insert "and certificates of territory".

Page 33, line 21, after "territory" insert ", unless subsequently agreed to by the board of directors of such association or associations".

Page 33, line 25, after "ties." Such associations shall not be (i) charged any assessment under this Act at a rate higher than that charged other like associations in the district or (ii) discriminated against in the provision of any financial service and assistance (including, but not limited to, access to credit and rates of interest on loans and discounts) by a district Farm Credit bank to the association and its member-borrowers.

Page 35, line 12, after "and" insert "regulate".

Page 37, line 5, strike out "employees."." and insert "employees.".

Page 37, after line 5, insert:

"(15) Except for associations, approve the salary scale for employees of the institutions of the System, and approve the compensation of the chief executive officer of such institutions: provided, That no salary scale or rate of compensation shall be approved under this provision unless determined to be fair and reasonable.".

Page 38, lines 11 and 12, strike out "other than national banks," and insert "other than federally regulated financial institutions,".

Page 76, lines 24 and 25, strike out "System institution shall establish from among such board's members a credit review committee" and insert "System institution shall establish one or more credit review committee(s), which shall include farmer board representation.".

Page 77, line 4, after "committee." insert "when a loan applicant requests review of an adverse credit decision, a majority of persons serving on such reviews committee must be persons who were not involved in making the adverse decision.".

Page 79, after line 2, insert:

LOAN REVIEW

Sec. 307. Each local landing institution of the Farm Credit System established under the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) shall—

(1) review each loan that has been placed in non-accrual status by such institution to determine whether such loan may be restructured based on changes in the circumstances of such institution as the result of this Act and the amendments made by this Act; and

(2) notify in writing the borrower of each such loan of the provisions of this section.

Page 80, after line 4, insert:

(c) In carrying out the duties and functions specified in subsections (a) and (b), the Governor of the Farm Credit Administration shall serve at the pleasure of the President.

Page 80, line 5, strike out "(c)" and insert "(d)".

Page 84, after line 14, insert:

Sec. 607. Section 5.2 of the Farm Credit Act of 1971 (12 U.S.C. 2223) is amended—

(1) by striking out "; APPOINTMENT" in the caption;

(2) in subsection (a)—

(A) by designating the first and second sentences as paragraphs (1) and (2), respectively; and

(B) by amending paragraph (2) (as so designated) to read as follows:

"(2)(A) The seventh member shall be elected by the borrowers at large in a district.

"(B) For purposes of this section, the term 'borrowers at large in a district' means—

"(i) a voting shareholder of a Federal land bank association and a direct borrower, and a borrower through an agency, from a Federal land bank;

"(ii) a voting shareholder of a production credit association; and

"(iii) a voting shareholder or subscriber to the guaranty fund of a bank for cooperatives.";

(3) in the second sentence of subsection (b)—

(A) by striking out "and" before "in the case"; and

(B) by inserting before the period at the end thereof the following: "; and in the case of an election by the borrowers at large, such notice shall be sent to all borrowers at large in the district"; and

(4) by inserting after the fifth sentence of subsection (c) the following new sentence:

"Each borrower at large shall be entitled to cast one vote.".

Mr. de la GARZA (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments to the House amendment be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. MADIGAN. Mr. Speaker, reserving the right to object, I do so for the purpose of allowing the chairman of the Committee on Agriculture to explain to the Members assembled here exactly what is contained in the Senate amendments to the House bill.

Mr. de la GARZA. Mr. Speaker, if the gentleman will yield, this is the farm credit legislation, and it is basically the House bill as approved by this Chamber, with certain amendments that were added in the Senate. Most of the amendments were technical in nature or were to correct a specific problem in one area or another of our Nation.

The main amendment was one where the configuration of the Capital Corporation Board was changed from what we had in the House, and I think for the better, that we now have a board that will encompass members of contributing banks, members appointed, and when and if there is an infusion of funds from the Federal Government, then there will be members of the board appointed by the Secretary of Agriculture and by the chairman of the board.

Mr. Speaker, I think that is the main amendment. Beyond that, it was basically the House legislation with minor amendments.

Mr. Speaker, I would like to address my remarks to certain minor changes made in the other body to the Farm Credit Act Amendments of 1985, specifically section 4.28G(15). This critical section of the legislation contains criteria intended to govern and regulate the transfer of funds among farm credit institutions as required by this act. It was the intent of our committee in drafting this legislation that there be specific criteria to prevent the depletion of the assets of healthy farm credit institutions in the systemwide effort to aid financially troubled farm credit institutions. In our view, it would be totally counterproductive to weaken financially healthy institutions in the process of attempting to strengthen those currently experiencing economic difficulties. If this were to occur, the system's farmer and cooperative borrowers served by healthy institutions would be faced with skyrocketing interest rates that would seriously impair their economic viability and would result in serious economic hardship. Moreover, weakened farm credit institutions will be unable to compete with the commercial lending sector, thus depriving farmers of badly needed benefits from interest rate competition.

In not quantitatively restricting contributions by farm credit institutions to the Capital Corporation, the committee granted more flexibility to that Corporation. However, it was the committee's intent that contributions to the Capital Corporation not erode accumulated net worth of the contributing institutions to the point that the cost of credit to farmers would no longer be competitive and that the contributors would be placed in financial jeopardy. I believe that it is important to recognize that institutions will need to borrow against the value of their accumulated net worth to make contributions to the Capital Corporation. The costs of this borrowing will inevitably cause interest rate increases to farmer and cooperative borrowers of healthy farm credit institutions. The criteria are intended to limit such increases. And they are needed to safeguard the economic strength of sound farm credit institutions against future downturns in the agricultural economy.

Mr. MADIGAN. Mr. Speaker, I thank the gentleman for his explanation. I understand the explanation and would comment that neither the administration nor the leadership on this side of the aisle has any objection to the Senate amendments.

Mr. de la GARZA. Mr. Speaker, I would appreciate it if the gentleman, under his reservation of objection, would yield briefly to the gentleman from Tennessee [Mr. Jones], the chairman of the subcommittee.

Mr. MADIGAN. Mr. Speaker, under my reservation of objection, I yield to the gentleman from Tennessee [Mr. Jones].

Mr. JONES of Tennessee. I thank the gentleman for yielding, and I want to say to my dear friend, the gentleman from Illinois [Mr. Madigan], the ranking minority member, and to Mr. Coleman, also, that we do appreciate the splendid cooperation we have had from all of you and for the good job that has been done on your side of the aisle.

You have done a very splendid job. Had it not been for good help that we have had from you, we might not be this far along.

Mr. MADIGAN. Mr. Speaker, I thank the gentleman from Tennessee [Mr. Jones] for his comments and for his friendship.

Mr. Speaker, further reserving the right to object, I yield to the gentleman from Texas [Mr. Stenholm].

Mr. STENHOLM. I thank the gentleman for yielding.

Mr. Speaker, I would like to pose a question to the chairman of the Committee on Agriculture concerning the effect of the report of that committee concerning this legislation. The bill we are considering on the floor today is, except for certain amendments made by the other body, the bill reported by our committee on December 6, 1985. Is it the chairman's understanding that the committee's report on this legislation, House Report 99-425, expresses the intent of Congress with respect to the provisions of the bill?

Mr. MADIGAN. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Texas [Mr. de la Garza] to comment.

Mr. de la GARZA. Mr. Speaker, it is our intention that it so do.

Mr. STENHOLM. I thank the gentleman.

Mr. COLEMAN of Missouri. Mr. Speaker, will the gentleman yield?

Mr. MADIGAN. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Missouri.

Mr. COLEMAN of Missouri. I thank the gentleman for yielding.

Mr. Speaker, it is my understanding that by utilizing the procedure we are following now that we would accept the Senate amendments and therefore avoid a conference that might bog this legislation down. As the gentleman from Illinois and the gentleman from Texas have both worked hard, with the gentleman from Tennessee [Mr. Jones] and myself, we certainly would want to avoid that situation and expedite this along the way to the President for his signature. Is that the procedure we are using here today, and to make sure that we pass this before we adjourn here this week?

Mr. MADIGAN. The unanimous-consent request of the gentleman from Texas is to agree to the Senate amendments to the House bill, which are supported by the Republican leadership, the Democratic leadership and the administration.

If the unanimous-consent request is granted, the bill goes directly to the President. We are hoping that he will approve it. We are hoping that the consequence of that will be a reduction in the interest rate being paid on bonds by the Farm Credit Administration.

Mr. COLEMAN of Missouri. I certainly join the gentleman in that regard, and I appreciate the gentleman's yielding to me.

Mr. MADIGAN. I thank the gentleman for all of his hard work.

Mr. Speaker, further reserving the right to object, I yield to the gentleman from Vermont [Mr. Jeffords].

□ 1350

Mr. JEFFORDS. I thank the gentleman for yielding to me.

Mr. Speaker, I would like to point out as to why these colloquies are necessary in that the other body held no committee hearings on this bill, and it is important that we put into the Record our understanding on some of these critical issues.

Mr. Speaker, I would like to address my remarks to the distinguished chairman of the Agriculture Committee with respect to the interpretation of a change which was made in the bill by the other body. As originally reported by our committee and passed by the full House of Representatives on December 6, section 5.12(d)(6) of the bill gave the FCA authority to establish standards for farm credit institutions with respect to loan security requirements and the borrowing repayment and transfer of funds and equities between institutions. The provision was amended in the Senate to include the authority to "regulate" these transfers of funds among system institutions. Sections 4.28(g) (14) and (15) of the bill also address the subject of the transfer of funds and administration of financial assistance to system institutions by the Capital Corporation. The provisions of these sections contain very important criteria that are intended to govern transfers of funds which may be required under the act. Regulations which the Farm Credit Administration is authorized to promulgate under these provisions must be consistent with these specific statutory criteria.

I believe that any exercise of the regulatory authority provided for in section 5.12(a)(6) as amended by the Senate must be strictly in accordance with the criteria so carefully crafted by our committee and passed upon now by both bodies of Congress. Is it also the chairman's understanding that the exercise of regulatory authority by the FCA relative to contributions to the Capital Corporation and the transfer of funds and equities among system institutions be consistent with the criteria set forth in sections 4.28(G) (14) and (15) and explained in the House Agriculture Committee report (99-425) to the legislation?

I yield to the gentleman for his response.

Mr. DE LA GARZA. I thank the gentleman for yielding. I would say to the gentleman, yes, I agree with the interpretation as enunciated by our distinguished colleague, and I would so attest that as far as being chairman of the committee, I would attest to the fact that this would be the legislative intent as far as our Chamber is concerned.

Mr. JEFFORDS. I would like to address my remarks to the distinguished chairman of the Agriculture Committee. With regard to the composition of the Board of Directors of the Capital Corporation, it is my understanding that two of the members should be elected from districts in which all three financial institutions—the Bank for Cooperatives, the Federal Land Bank and the Federal Intermediate Credit Bank—are net contributors to the Capital Corporation. Net contributors means that each institution as a whole contributes more funds to the Capital Corporation than it receives from that entity. This ensures that those districts which bear the greatest burden in assisting troubled institutions are appropriately represented on the Capital Corporation Board. I would point out that this was an important dialog, at least between the two bodies, and I would ask the chairman if his understanding is the same as mine.

I yield to the gentleman for his response.

Mr. DE LA GARZA. Yes, it is.

Mr. JEFFORDS. I thank the gentleman.

Mr. GLICKMAN. Mr. Speaker, will the gentleman yield?

Mr. MADIGAN. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Kansas.

Mr. GLICKMAN. I thank the gentleman for yielding.

Mr. Speaker, I would just ask the chairman a quick question. In the House consideration of this bill, we agreed to an amendment which froze the salaries of executive officers of the Farm Credit System during the period of time that a Federal line of credit was in effect. As far as the chairman is aware, does that language remain in the bill, and that the Senate has approved and sent over here?

Mr. DE LA GARZA. Mr. Speaker, if the gentleman will yield, yes, they are. Plus a further amendment that would make the salaries subject to FCA approval.

Mr. GLICKMAN. I thank the chairman.

Mr. MADIGAN. I thank the gentleman from Kansas and I yield to the gentleman from New York [Mr. LAFALCE].

Mr. LAFALCE. I thank the gentleman for yielding.

Mr. Speaker, it is not my intention to object to this unanimous-consent request. However, I do have, as you know, some reservations about the bill; not with the procedure calling for unanimous consent, but with the substance of the bill itself.

I would hope that the Treasury Department, before it exercises its legal right now to provide financial assistance, would call upon the full resources of the Farm Credit System first prior to resorting to the taxpayers' money. Further, I would hope that prior to submission to the Congress of an appropriations bill in order to implement this legislation if need be, that they would come forth with a plan that would require shared sacrifices on all those that would benefit from such Federal financial assistance, such as the shared sacrifices that were called for in the Chrysler Loan Guarantee legislation. Shared sacrifices from labor, management, the financial institutions with an interest in Chrysler, the stockholders, the workers, et cetera.

Mr. MADIGAN. I thank the gentleman for his comments and I now yield to the gentleman from Oklahoma [Mr. ENGLISH].

Mr. ENGLISH. I thank the gentleman for yielding to me.

If the chairman would respond to a question with regard to this measure, I would simply like to ask: When the measure left the House of Representatives there were two provisions, one prohibiting the Farm Credit Administration from providing a charter to a competing PCA or Federal land bank in a case in which the Production Credit Office or a Federal land bank voted against a merger. There was also protection in the bill to investigate any reports of threats, intimidation, any type of retaliation against voting for mergers in the recent elections.

I would ask if those provisions are still within the bill.

Mr. DE LA GARZA. If the gentleman will yield, yes, I am happy to report to the gentleman that his provision is still in the bill and additional language was added by Senators BOREN and MCCLURE.

Mr. ENGLISH. I thank the gentleman very much.

Mr. MADIGAN. Mr. Speaker, I support the unanimous-consent request, and I withdraw my reservation of objection.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. STANGELAND. Mr. Speaker, reserving the right to object, I will not object. I would like the attention of the chairman of the subcommittee and the chairman of the full committee for just a moment for a brief discussion and colloquy.

Mr. Speaker, let me just advise the Members of the body that I intend to support this motion and support passage of this bill. However, I am very concerned because this has been done, through necessity, in great haste. That is no reflection on the chairman of the committee or the chairman of the subcommittee. It had to be done.

I just want to remind the Members of the body that the Farm Credit Administration, the Farm Credit System, belongs to the farm borrowers. It was structured that way, they were the ones who controlled it, they were the ones who elected their board of directors, and they were the ones who hired their administrators.

For years this Congress has attempted to take control of the Farm Credit System, and with this bill, we are effectively doing that. I would like to engage in a brief discussion with the chairman and the chairman of the subcommittee for purposes of some legislative history. What I would urge and request of the two distinguished chairmen is that when we come back next year, in an atmosphere of more time and ability to pause and reflect on what we have done, that we continue to review and hold hearings on the Farm Credit System.

I would also request that at time that we maybe take some field trips so that we can hear from some of the leaders among the farm borrowers as to what they see as a future for the Farm Credit System.

This fix had to be done now; it had to be done in haste. I understand that. But I think we want to review and reflect on what we have done today and maybe next year, if we have made some errors, that we might want to look at some corrections.

Mr. Speaker, under my reservation of objection, I yield to the gentleman from Tennessee [Mr. JONES].

Mr. JONES of Tennessee. I thank the gentleman for yielding to me.

Mr. Speaker, let me say to the gentleman before I engage in the answer to the question that the gentleman has just given me, that we started hearings this year in March. We have held a number of days of hearings and we have had many detailed hearings.

I must insist that what has been done here has not been done in haste, because I have never seen a subcommittee spend as many hours, and staff as many hours on working and putting together a piece of legislation as they have this farm credit proposal that we have before the Members.

As far as next year's concern, the answer of course is yes. We expect to have an oversight over this proposal from here on out because it is going to be our duty to do so.

Mr. Speaker, as an original cosponsor of this legislation, and as one who stands behind it with my full support, I urge speedy adoption by the House.

The committee has worked diligently for nearly a year establishing an in-depth record of unquestioned need for this bill. We have operated in a completely open, bipartisan process, involving the Departments of Agriculture and the Treasury, the Farm Credit Administration, the Farm Credit System, commercial lenders, general farm organizations, and rural advocacy groups from throughout the country.

This bill is vitally important to our Nation's agriculture industry. It provides a number of tools critically needed by the Farm Credit System to enable it to survive the current—and as yet unyielding—depression in our farm economy. More importantly, however, by throwing a lifeline to the Farm Credit System we can help stave off the avalanche of farm foreclosures and an even more severe crash in farmland values which would inevitably result if the Farm Credit System were to fail to meet its legal obligations to its bond holders.

Again, I strongly urge adoption of this bill.

Mr. Speaker, because we are considering S. 1884 for final passage, I would like to clarify a number of issues for the record.

One issue of concern is the interpretation of section 201 of the bill as it amends section 5.16(a)(2) of the Farm Credit Act. This portion of the bill comes into play when one or more associations in a district rejects a proposed district wide merger of PCA's or FLBA's in that district.

We realize that some mergers have already taken place. It was never our intent that the language of the House amendment to S. 1884 serve to invalidate the disclosure upon which the merger-votes were based nor the actions of the farmer-stockholders who approved their association's participation in these districtwide mergers. The action of the Congress at this point in time regarding the merger and overchartering issue could not have been anticipated at the time the disclosures were made to stockholders.

The language of the bill before us simply means that FCA will not be authorized to issue a charter to a merger association which would include the territory served by those associations which did not approve the merger, with one exception, and that is in the case of any charters issued during 1985 for districtwide new or merged associations. The Senate amendment will permit overchartering in this latter situation provided that the board of directors of the association to be overchartered approves that action. Under no circumstances should this section be interpreted as invalidating a merger that was approved by the other associations whose territories comprise the balance of the district.

One further point regarding this section of the bill. At several points the language of this section refers to "a majority vote of the voting stockholders." Although this language differs from the traditional language of the statute on voting procedures, that being "a majority of the stockholders present and voting and voting by written proxy," it was not intended to change the election process or the level of majority required. The issue here is specifically whether the preceding provision conflicts with another section of the act which is not being amended. This section permits associations to voluntarily merge with other like associations upon the vote of a majority of each of their stockholders present and voting or voting by written proxy at duly authorized meetings. Again, it was not our intent to revise the existing voting procedure by which borrower-shareholders would approve such actions.

Another of the issues which must be clarified involves the new section 4281 dealing with the limitation on the powers of the Capital Corporation. Of specific concern are the restrictions on the sale of real property which had secured a liquidated loan.

The restriction reads in part "Previous owners shall be advised of the pending sale and shall not be precluded from purchasing their former property." It is essential that these restrictions not be interpreted to require the Capital Corporation to conduct an extensive manhunt for the previous owner of property prior to the sale of any real property. The Capital Corporation should make a reasonable effort to notify the previous owner of property by at least writing to that owner at his last known address. Once a reasonable effort has been made, the requirements of this selection will be satisfied. Further, this provision should not be interpreted as giving the previous owner a preferential right to repurchase the property. It was never our intent, by way of this provision, to place a cloud over the title of property sold by the Corporation. Buyers of property from the Corporation should receive clear title and not have to worry that at some point in the future a previous owner would claim that he was never notified of the sale of his property and now has a right to reclaim it.

On the issue of financial reporting requirements by System institutions, specifically referred to in section 5.19(b), it is our intent that each institution of the Farm Credit System should make and publish an annual report of condition, but not preclude the Farm Credit Administration from accepting a consolidated report in lieu of hundreds of separate reports.

Finally the bill provides for a salary freeze for certain System officials. It was our intent, as was previously discussed on the House floor, that the salaries of certain System officials should be frozen only when Federal financial assistance is provided to the System and then only for those senior bank management officials—the CEO and those senior executive officers who report directly to the CEO. This restriction was not intended to apply to association personnel. The Senate amendment clarified the bill language originally approved by the House to conform to this position.

We believe that this is a reasonable position in that it will not discourage or demoralize current employees of Farm Credit banks, and should help ensure that the banks are able to attract competent, quality staff to work through this most difficult period. Most importantly, it will ensure that essential credit delivery services to farmers are not adversely affected.

This should clarify our intent on these issues.

□ 1400

I will be happy, indeed happy to go into any area of the country where we are needed or where we are wanted and do any type of a hearing that is necessary as far as farm credit is concerned.

Mr. STANGELAND. Mr. Speaker, I thank the chairman of the subcommittee, and I just want to reiterate that my comments were not meant to reflect on the gentleman or his committee.

I know that you have done a yeoman job, but I think it is safe to say that while you started hearings in March, the Governor of the Farm Credit Administration would never ever admit to the seriousness of the problem until late September or early October. It was not the committee's fault, it was not your fault, it was their fault, and that is what forced you to act in haste. I apologize if the gentleman dislikes the word, "haste." I do not mean it as a reflection. But I do want it to be in the RECORD that there are some of us who are concerned about what we are doing and have done, and I want to be sure about this. I know you are a reasonable man and will come back and correct the things next year that can be corrected.

Mr. Speaker, I thank the gentleman very much.

Mr. JONES of Tennessee. Mr. Speaker, will the gentleman yield to me once more?

Mr. STANGELAND. I am more than happy to yield to the gentleman from Tennessee.

Mr. JONES of Tennessee. Mr. Speaker, I appreciate that very much.

I will say to the gentleman that I am aware of the fact we have had our problems with the farm credit group as much as anybody else because I was here for the 1970 update of the program, and then again in 1980, and history shows, especially in 1980, that we barely got a bill signed due to the fact that the Farm Credit Administration would not agree to what this subcommittee and what this Congress thought was right. They would not agree to it. They finally did succumb to what we wanted to do, and that is where we are today.

Mrs. SMITH of Nebraska. Mr. Speaker, will the gentleman yield?

Mr. STANGELAND. I am happy to yield to the gentlewoman from Nebraska.

Mrs. SMITH of Nebraska. Mr. Speaker, I thank the gentleman for yielding.

I appreciate this opportunity to make a brief statement on behalf of my constituents out in the Third District of Nebraska. They have more concern about farm credit than about any other issue at the present time, and they are going to have a far happier Christmas if we can get this bill sealed, signed, and delivered.

Let me say that the chairman of the subcommittee, the gentleman from Tennessee [Mr. JONES], the chairman of the full committee, the gentleman from Texas [Mr. DE LA GARZA], the gentleman from Illinois [Mr. MADIGAN], and the gentleman from Missouri [Mr. COLEMAN] have been great in the way they have worked so hard to bring this bill to the floor. I talked to the President by phone the other day, and he said he is eager to sign it. So again I thank my colleagues.

Mr. Speaker, I rise in support of this legislation designed to assist and reform the Farm Credit System.

As members of the 99th Congress, we need to take necessary action to pass farm credit legislation before Christmas adjournment.

This bill, S. 1884, is vital to American agriculture. Thousands of farm and ranch families will have a much merrier Christmas if they know that the farm credit bill has been signed, sealed, and delivered.

The quicker Congress acts on farm credit, the faster investors will gain confidence in the System, thereby lowering interest rates to hard-pressed borrowers.

Our President has agreed to sign this most important piece of legislation.

Last night, by unanimous approval, our other body approved this legislation. It is now up to us to keep the ball rolling for all of American agriculture.

This bill will do the following:

First, S. 1884 will stabilize the FCS, reducing the System's cost of funds in the money markets and thereby reducing interest rates to borrowers.

Second, this bill will require new protections for FCS member-borrowers through improved access to individual borrower information, loan appeal procedures, and foreclosure forbearance policies.

Third, this legislation is needed to help prevent continuing deterioration of land values across our country which would further exacerbate current problems.

Fourth, access to Treasury funds is allowed only when need is established, and is entirely discretionary with the Treasury Secretary.

Fifth, exhaustive congressional hearings by numerous committees have determined as immediate need for action—time is of the essence!

Sixth, the Senate has passed a companion bill, and the administration has voiced support for farm credit legislation.

Seventh, if the System should default on their bond issues, severe repercussions would be felt by commercial banks, savings and loan associations, credit unions, insurance companies, States and municipalities, pension funds, and individuals located throughout the United States.

Nebraska has been one of the hardest hit States when it comes to farm credit. All of us have read and heard countless statistics concerning this problem. But they bear repeating, for they drive home so well the seriousness of the disaster confronting us. The farm debt picture is vividly frightening:

Widespread occurrences of insolvency;

USDA data shows that one out of every three commercial farms is experiencing severe financial stress;

One of five commercial farms has a negative cash flow;

In Nebraska, our farmers are faced with the highest average debt-to-asset ratio of any State.

And we must keep in mind that since these figures were gathered, there has been a disastrous downslide in livestock and grain prices;

Cattle prices are at their lowest levels in 7 years;

Cattlemen in Nebraska and across the Nation are losing around $150 per head on fed cattle;

Wheat and corn prices are below many farmer's production costs;

Corn has sold for less than $2 for fall delivery in many Nebraska towns.

The downward pressure on prices has intensified as this year's harvest was brought in. The USDA forecasts bumper crops for 1985:

This includes a record-setting corn crop of 8.72 billion bushels or 221 metric tons;

Total feed grain production for 1985 that is expected to total 271 million metric tons, 35 million above last year.

Prices of many commodities have already plunged to their lowest levels since 1978, about 15 percent lower than 1984 levels. And with this economists are predicting a drop in farm income—to between $25 and $29 billion, down from an estimated $34.5 billion in 1984. Obviously, when this income shrinks, farmers cannot pay their obligations and face ruin. USDA estimates that about one in three commercial farmers cannot pay his bills.

Already 6.5 percent of the farmers in the 7-state region of the Kansas City Federal Reserve District (which includes Nebraska) went out of business between October 1984 and March of 1985. This is an annual rate of 13 percent. With about 57,000 farms left in Nebraska, this is 7,410 per year or 20.3 per day—nearly 1 per hour! This is the most liquidations since the 1930's. Charles Schroeder, director of Nebraska's Agriculture Department, has predicted that "10-15 percent—6,000 to 9,000—of Nebraska's farmers will be displaced by liquidation, bankruptcy, or foreclosure in the next 6 to 9 months.' "

Add to this the high value of the U.S. dollar, which has placed a prohibitive "tax" on our export commodities; the worst grasshopper infestation in decades; the most severe drought in parts of Nebraska in 80 years; the most State bank failures since the Great Depression (113 as of December 13, 1985, compared to 79 in all last year and 48 the year before); and the largest decline in land values in the history of the State (down over 48 percent).

The list of variables goes on and on. Yet these are only the cold, hard numbers—the facts and figures. There are other more disturbing realities of this urgent situation—the human drama that surrounds farm families when they are forced to leave agriculture—or try to hang on.

A self-sacrificing farm family comments. We are "depriving ourselves of most of life's offerings * * * to pay for those who have failed. God only knows how we are trying. Everything we buy is high. Everything we sell we take what we can get."

A Nebraska farm wife observes her husband. I "looked across the table this noon and my husband's hands looked more like a piece of leather rather than skin. Has lost weight too, will be glad when this slaughter is over * * *."

And the excerpts of a letter I received from RaeJean Skalicky, a young girl from Verdigre, NE: "If it weren't for the food pantry in Verdigre we would have to sell out and move * * *. This is because the FDCI takes everyone's money and then gives them nothing to live on * * *."

These are the very people who have built the foundation of this great country of ours. Many of these families are the descendants of pioneer homesteaders who earned their land the hard way. They came to depend on the financial judgment and guidance of the FCS. We are now finding out that even the FCS has feet of clay.

This bill is essential to the future of agriculture and I ask my colleagues to vote for this bill.

Mr. STANGELAND. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas [Mr. DE LA GARZA]?

There was no objection.

A motion to reconsider was laid on the table.

PARLIAMENTARY INQUIRIES

Mr. HARTNETT. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. HARTNETT. Mr. Speaker, I would beg the indulgence of the Chair. I would like to inquire parliamentarily and procedurally, what will be the parliamentary and procedural manner by which we will handle the continuing resolution if and when it should arrive here?

The SPEAKER pro tempore. The Chair will state to the gentleman in response to his question that there are no procedures in place at this time to consider that question. As soon as the Chair finds out the procedures, I could respond, but not at this time.

Mr. HARTNETT. Mr. Speaker, the reason for my procedural and parliamentary inquiry is that this Member understands that there has been some agreement made among the majority, among the leaders of the majority party, that there will be no recorded votes even if the continuing resolution is made available within the next few hours, that there will be no recorded votes by this body until tomorrow after 12 o'clock noon when the shuttle comes back from Florida. I just wondered whether or not the Chair was aware of that or whether the leadership would comment on that.

The SPEAKER pro tempore. The Chair is not aware of that at all. The Chair is not in a position to respond to that inquiry.

Mr. HARTNETT. Mr. Speaker, could I make a unanimous-consent request to make a request of the leader to vary from the schedule for the purpose of inquiring of the majority leader the balance of the day's schedule of legislation and the schedule perhaps for the balance of the week?

The SPEAKER pro tempore. There is no one here that the Chair sees to respond to that at this time.

Mr. HARTNETT. Mr. Speaker, I just wanted to make that unanimous-consent request to inquire of the leadership what the schedule for the balance of the week might be for legislation today and tomorrow. But there is no one here that would respond? Is that what the Chair said?

The SPEAKER pro tempore. The Chair will attempt to accommodate all Members as soon as the schedule is made available to myself.

Mr. HARTNETT. I thank the Chair.

Mr. Speaker, I would like to reserve the right to object, and I would like to ask the gentleman from Texas [Mr. DE LA GARZA] if he has any information as to what the legislation might be for the balance of the day and for tomorrow, if that is possible.

Mr. DE LA GARZA. Mr. Speaker, the gentleman kept looking at me when he mentioned "majority leader," and I regret to inform him that I am not the majority leader; I only deal in agriculture, and I know of no deals or no arrangements. I will be here with the gentleman when and if a vote is called.

Mr. HARTNETT. I thank the gentleman and I thank the Chair.

GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the adoption of the Senate amendments to the House amendment to the Senate bill, S. 1884.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

REPRESENTATIVE BILL NELSON IS FIRST HOUSE MEMBER TO ENGAGE IN A SPACE MISSION

(Mr. BONKER asked and was given permission to address the House for 1 minute.)

Mr. BONKER. Mr. Speaker, as we meet today one of our distinguished colleagues is at the Kennedy Space Center preparing for lift-off on board the space shuttle *Columbia*. I know all of us are proud and pleased that Representative BILL NELSON will be the first Member of the House of Representatives to be a crew member on a NASA space mission.

The *Columbia* space shuttle will be launched Thursday morning and will spend 5 days in outer space.

As chairman of the Subcommittee on Space Science and Applications with jurisdiction over this Nation's space programs and because he represents the 11th Congressional District of the State of Florida, which include the Kennedy Space Center, BILL NELSON is a unique choice for this mission. He is also in superb physical condition and has met the demands and rigorous training required of today's astronaut.

In flight, BILL will be learning firsthand how the Space Program operates and how the acquired knowledge will contribute to developing a permanent U.S. space station. He certainly will return better informed about our Space Program and better equipped to deal with his responsibilities as chairman of the subcommittee that oversees the Space Program.

To Representative BILL NELSON and his fellow astronauts on the space shuttle *Columbia*, we wish them a safe and successful journey.

PERMISSION FOR COMMITTEE ON FOREIGN AFFAIRS TO HAVE UNTIL MIDNIGHT, JANUARY 10, 1986, TO FILE A PRIVILEGED REPORT

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that the Committee on Foreign Affairs may have until midnight, January 10, 1986, to file a privileged report.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. FRANKLIN. Mr. Speaker, reserving the right to object, I will not object; I simply wish to ask the chairman of the committee, has this been cleared with the minority?

Mr. FASCELL. Mr. Speaker, if the gentleman will yield, does the gentleman refer to the filing of the report?

Mr. FRANKLIN. Yes.

Mr. FASCELL. Yes; it was approved by the entire committee.

Mr. FRANKLIN. Mr. Speaker, I do not object.

Mr. FASCELL. Mr. Speaker, that is not as far as the date is concerned. I do not want the gentleman to misunderstand me. I have been directed by the Committee on Foreign Affairs by a vote of that committee to file this report, and that is what I am trying to do.

Mr. FRANKLIN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

OPPOSING THE SOVIET UNION'S INVASION AND 6-YEAR OCCUPATION OF AFGHANISTAN

Mr. SOLARZ. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate joint resolution (S.J. Res. 240) opposing the Soviet Union's invasion and 6-year occupation of Afghanistan against the national will of the Afghan people, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. LAGOMARSINO. Mr. Speaker, reserving the right to object, I yield to the gentleman from New York [Mr. SOLARZ] so he can explain to us what this resolution does.

Mr. SOLARZ. Mr. Speaker, I will be very brief.

This resolution has already been adopted by the other body. It condemns the Soviet Union for its invasion of Afghanistan as we approach on December 27, 1985, the sixth anniversary of that day which will truly live in infamy.

Over the course of the last 6 years, as a result of the Soviet invasion of Afghanistan, a quarter of the Afghan people have been driven into exile. Hundreds of thousands of Afghans have been killed. The Soviet Union's Army of occupation has engaged in the carpet bombing of the countryside and has waged war in the most cruel and barbarous fashion.

This resolution not only condemns the Soviet Union for its invasion and occupation of Afghanistan, but it also pays tribute to the heroism of the Afghan people in their just struggle against the occupation of their country by the Red army.

□ 1410

The resolution also takes note of the fact that the Soviet invasion of Afghanistan has repeatedly been condemned by the United Nations, the Nonaligned Movement, the European Parliament, the Islamic Conference, and the Association of Southeast Asian Nations.

It expresses the sense of the Congress that the United States should in addition to condemning the invasion of Afghanistan express its support for a negotiated political settlement of that conflict which would be based on the complete and total withdrawal of Soviet forces from that country and the restoration of the independence and nonaligned status of Afghanistan, the self-determination of the Afghan people and the return with honor of the Afghan refugees to their own nation.

I particularly want to pay tribute, Mr. Speaker, to my very good friend and colleague on the Foreign Affairs Committee, the gentleman from California [Mr. LAGOMARSINO] who has been waging a heroic struggle of his own to focus attention here in the Congress and around the country on the depredations of the Soviet Union in Afghanistan. It was particularly at his urging that I agreed to seek unanimous consent to consider this resolution today before the House adjourned for the year.

I know there are many other Members who share our views about the need to continue focusing attention on this problem lest we forget about the heroic struggle which continues to be waged at this very moment.

Mr. LAGOMARSINO. Mr. Speaker, further reserving the right to object, I yield to the chairman of the Foreign Affairs Committee, the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Speaker, I rise in support of Senate Joint Resolution 240. This resolution marks the sixth anniversary of the Soviet invasion and occupation of Afghanistan. More importantly it justly honors the forces of the Afghan people who have been valiantly opposing the Soviet aggression.

The Soviet invasion of Afghanistan and the Soviet refusal to withdraw—despite repeated urging that they do so—remain the most flagrant violations of international law. The Soviet Union refuses to accept reasonable political settlement, despite repeated condemnation by the Nonaligned Movement, the United Nations, and many other international organizations. Settlement is available through the United Nations. Yet, the Soviet Union has ignored opportunities to secure peace.

For 6 years now, the Afghan people have endured tremendous suffering. Noncombatants, women, and children, have not been spared. The most basic necessities of the civilian population—their crops and livestock—have been targets in the Soviet war against innocent people.

Particularly because of this human suffering, it is important that the world continue to oppose the Soviet war in Afghanistan. With this resolution, the United States will be clearly reminding the Soviet leadership of the firmness of the opposition of the American people to the Soviet actions.

I urge adoption of the resolution.

Mr. LAGOMARSINO. Mr. Speaker, I want to pay tribute to the chairman of the subcommittee, the gentleman from New York [Mr. SOLARZ] and the chairman of the full committee, the gentleman from Florida [Mr. FASCELL] for helping to bring this matter to the floor today. It did require asking for unanimous consent and I appreciate both gentlemen being willing to do that.

Mr. Speaker, once again we approach the Christmas season and, once again, we struggle to complete all the necessary and pending business of the Congress. Yet, in our rush to adjournment, we cannot and should not forget those for whom there is no peace; there is no joy; there is no solace. We cannot forget, especially, the brave and courageous people of Afghanistan.

It is for this reason that I, along with Senator HUMPHREY in the Senate, have introduced legislation to condemn the 6 years of aggression waged against the independent country and people of Afghanistan; to support continued aid for the Afghan population, both inside and outside Afghanistan; and to urge the expeditious conclusion of a negotiated settlement based on—

The complete withdrawal of all foreign troops;

Restoration of the independent and nonaligned status of Afghanistan;

Self-determination for the Afghan people; and

The return of the Afghan refugees with safety and honor.

Mr. Speaker, Senate Joint Resolution 240 is simple and straightforward. It seeks not only to condemn the Soviet Union, under Mikhail Gorbachev, for its brutal, illegal, and immoral subjugation of the Afghan people, but also to insure that the people and nations of the world know that this Congress still cares about the plight of the people and culture of Afghanistan.

Let me for a moment, Mr. Speaker, read from a recent Washington Post editorial, in part, the editorial entitled "Afghanistan: This Is Genocide," reads:

> Soviet troops with their Afghan clients have driven 4 million people out of the country and perhaps another 2 million out of their homes. Massively and indiscriminately, they bomb civilians—they bomb funerals. They destroy villages, crops and agricultural facilities. For the children, they drop cute, limb-shattering booby traps disguised as harmonicas and birds. Torture [according to the recent United Nations-sponsored "Ermacora Report" on human rights inside Afghanistan] is "commonplace" and the operation of the judicial system "creates an atmosphere of insecurity and anguish." "There is apparently no health care for the majority of the population. As a consequence, the infant mortality rate has reached 300 and 400 per 1,000." Civilian deaths number "approximately 500,000."

Furthermore, Mr. Speaker, the editorial states:

> When half the population is uprooted and a third driven into exile, when infant mortality reaches plague levels, when half a million civilians die and uncounted millions of others are maimed and malnourished, when, as Professor Ermacora reports, the situation is getting worse, all this moves Soviet conduct well beyond what is ordinarily called "human rights violations." The word that comes to mind when one reads this report is genocide.

I also will enclose a New York Times editorial entitled "Soviet Toys of Death."

Mr. Speaker, there can be no denying that a genocide is truly underway today in the Afghanistan. The Soviets have planned it that way, just as they planned the forced famine of the Ukraine in the early 1930's. How can we do anything but condemn this blatant and savage attack on, as the U.S. Ambassador to the United Nations, Vernon Walters, says, "everything Afghan"?

Mr. Speaker, the resolution before the House today must be approved, in order to send a very clear and very strong statement to the Soviet Union, and to the rest of the world. That message reads simply: We refuse to accept that the Afghan nation has been conquered, we refuse to allow the plight of Afghanistan to fade from memory; we refuse to accept the illegal and immoral occupation of that south Asian nation; in essence, we refuse to let Afghanistan die.

Very rarely in the course of human events does one confront such a tragedy as the invasion and continued occupation of Afghanistan. The evidence in this case is clear cut and available to the world, despite the fact that the Soviets continue to try to hide their crimes against the Afghans from the rest of humanity. The events unfolding in Afghanistan are probably the greatest threat to world order today.

And, Soviet imperialism, Mr. Speaker, is the greatest danger to world peace. All we need to do is to look at the events unfolding in Afghanistan. Despite their historical claims to the future of mankind, there is Afghanistan. Despite their continued professions of peaceful intentions, there is Afghanistan. Despite their statements that it is the United States which is responsible for the "dangerous world situation," there is Afghanistan. Despite their claims of the need for a world alliance against "western imperialism," there is Afghanistan.

Mr. Speaker, I cannot help but be moved by the reports I read emanating from the refugee camps along the Pakistan-Afghan border region. I am certain that most of my colleagues are also moved by such tragic events. For further information on this crucial foreign policy and humanitarian matter. I call to the attention of my colleagues the work of the Congressional Task Force on Afghanistan, which I cochair, as well as the recent report in the United Nations on human rights abuses in Afghanistan by a dedicated international civil servant, Prof. Felix Ermacora—who the Soviets, incidentally, now call a Nazi. There is certainly no lack of solid information on the tragic plight of the Afghan nation if one is interested in discovering the truth about the Soviets barbarous policies there.

In sum, Mr. Speaker, I urge my colleagues to review the facts about Afghanistan. They will undoubtedly come to the conclusion I reached: There is a brutal war under there, claiming millions of innocent victims, and destroying what was once a peaceful and harmonious balance between tribal customs, rugged mountainous terrain and Islamic faith. Clearly, the global ambitions of the Soviet Union has destroyed that delicate balance, Mr. Speaker. It is up to us to condemn the Soviets for this. The people of Afghanistan and the world demand nothing less.

I appreciate the support of the cosponsors of this important resolution, and urge the adoption of House Joint Resolution 469. Thank you, Mr. Speaker.

[From the New York Times, Dec. 10, 1985]

Soviet Toys of Death

A powerful antiwar poster that Americans saw everywhere in 1970 showed bodies heaped in the Vietnamese village of My Lai. The caption was terse, taken from an inquiry into that massacre perpetrated by Americans: "Q. And babies? A. And babies."

No such posters draw attention to the ghastly, deliberate crippling of children by Soviet invaders in Afghanistan. Indeed, having grown skeptical of Presidential anecdotes, some Americans may wonder if Ronald Reagan was talking through his evil-empire hat when the accused Russians of sowing insurgent areas with bombs disguised as toys. The evidence isn't anecdotal. The evil is real.

It lies exposed in a report to the United Nations Commission on Human Rights. This inquiry, the first ever by the U.N. into abuses charged against a Communist state, seems to have been scrupulously conducted by an Austrian legal expert, Felix Ermacora. Barred from Afghanistan, he gathered incontrovertible testimony of the slaughter of civilians from Afghans who fled to Pakistan.

The report asserts: "The most horrible type of incident was that caused by the explosion of antipersonnel mines and especially of children's 'toys.' Many witnesses testified that children had been very seriously wounded, having their hands or feet blown off, either by handling booby-trap toys they had picked up along the roadway, or by stepping on them. . . .

"The types of booby-trap toys encountered include those resembling pens, harmonicas, radios or matchboxes, and little bombs shaped like a bird. This type of bomb, consisting of two wings, one flexible and the other rigid, in the shape and colors of a bird, explodes when the flexibile wing is touched.

"The Special Rapporteur was also able to obtain a number of photographs, especially those of children between 8 and 15 years of age, with hands or legs blown off, either by handling booby-trap toys or during the explosion of mines."

To the generalized horror of a war that has claimed 500,000 lives since 1979, there is thus added the special horror of toys of death. No wonder the Soviet bloc tries to defame the messenger. It contends that Mr. Ermacora is pro-Nazi because he served Hitler's army, as a private. Tellingly, the Soviet Union found nothing wrong with his credentials when he presented reports about human rights abuses in Chile and South Africa.

The issue isn't Mr. Ermacora, but the validity of his charges. If they are false or exaggerated, why not open Afghanistan to independent observers? As long as this dirty war is sealed from sight, someone should photograph those maimed youngsters and plaster posters everywhere, with the caption: "Q. And children? A. Yes, especially children."

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding. I want to join the gentleman in his remarks.

The gentleman from California [Mr. Lagomarsino] has been a leader in the Congress in focusing attention on this brutal invasion and occupation of Afghanistan by the Soviet Union.

I want to commend our distinguished subcommittee chairman, the gentleman from New York [Mr. Solarz] for helping to bring this measure to the floor at this time.

When we talk with the Soviets about human rights, they say they have a different definition of human rights than we do and they continually remind us of our homeless, our blacks, and our Indians.

I think it is appropriate that we remind them with regard to human rights violations of the manner in which they are violating millions of people in Afghanistan, forcing them to leave their homes, to flee to Pakistan.

Along with the gentleman from California [Mr. Lagomarsino], our delegation visited some of those refugee camps in Pakistan and saw the millions of people who are living in tragic circumstances because of the war and bloodshed that continually is inflicted upon them in their homeland.

I hope that eventually we will see a peaceful negotiation of this occupation by the Soviet Union, this ruthless occupation. Certainly this resolution helps to focus our attention on the need to do just that and to continue to assist those refugees.

Mr. Speaker, I urge my colleagues to support the measure.

Mr. MOODY. Mr. Speaker, will the gentleman yield?

Mr. LAGOMARSINO. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Wisconsin [Mr. Moody].

Mr. MOODY. Mr. Speaker, I thank the gentleman for yielding me this time.

I simply rise to express my strong support for this resolution. As someone who has lived and worked in two adjacent countries of Afghanistan and who knows the frontier region quite well, I want to express myself strongly for this measure.

Mr. Speaker, I rise today in support of this important legislation opposing the Soviet invasion of Afghanistan. For 6 long years, the Soviets and the puppet government of Babrak Karmal have been waging a brutal, bloody, and senseless war of attrition against the Afghan people. The United Nations has repeatedly condemned the Soviet presence and called for the complete removal of all Soviet troops from Afghanistan. But in an all too-familiar a pattern, the Soviets turn a deaf ear to world outcry.

Some years ago, I worked in two countries adjacent to Afghanistan, Pakistan and Iran, and feel strongly on this subject. The continuing tragedy of Afghanistan has deeply affected Pakistan in particular hundreds of thousands of refugees have fled to that country. Millions of other Afghans have been displaced within their own country.

The United States must continue to press for a withdrawal of Soviet troops. Yet, we must also realize that the Soviets need an incentive to settle the problems of Afghanistan. Until that happens, the United States should continue to supply much-needed military equipment and supplies to the mujahidin freedom fighters.

This struggle goes on, and even the most optimistic observers acknowledge that there is no end in sight. Thousands of Afghans have been killed, hundreds of villages burned or totally devastated by Soviet "carpet bombing."

Thousands of Afghan children have been sent to the Soviet Union for "schooling and brain washing." Perhaps this is the most tragic consequence of the Soviet invasion, because even when the Soviets eventually pull out of Afghanistan, it will have set the stage for future subversion, tyranny and control.

We must do everything possible to press for a negotiated settlement now so as to avoid the complete destruction of another freedom loving and once independent nation.

Mr. LAGOMARSINO. Mr. Speaker, further reserving the right to object, I just want to point out that it has been almost 6 years, next week it will be 6 years since the Soviets invaded Afghanistan. That genocidal war has gone on long enough. I think it is entirely appropriate that we continue to focus attention on it.

Mr. RUDD. Mr. Speaker, today, we are considering House Joint Resolution 469—opposing the Soviet Union's invasion of Afghanistan and the 6-year occupation. This is a commemorative of sorts, although a grisly one. It marks Soviet oppression in its most vile form. Where besides the filling, thousands of children are sent to the Soviet Union for reeducation. The children's ties with their culture and their families are severed. Then they are later returned to spy on their former loved ones, those still alive.

Afghanistan is also the country where the Soviets practice and experiment with chemical weapons. People die horrible and agonizing deaths just to satisfy a few scientists in the Soviet Union's quest to wage effective chemical warfare. No wonder 25 percent of the population has fled the country. But fleeing terror is customary when Communists take power. But the Soviets underestimated the strength and the spirit of the Afghani people. They had thought that by replacing one puppet with another they might win the confidence of the people. They had thought that an ill-armed and disorganized resistance would not be able to stand against their mighty array. They had expected the Afghans to build a minaret to the memory of 100,000 armed guests.

But nothing of that sort happened. They were faced with bullets. Many of the ordinary soldiers were surprised to find that the Afghans had turned to shooting at them—a clear breach of the Afghan tradition of hospitality.

I say to the Soviet apologists of this world that they suffer from historical ignorance and moral blindness. They have not shouted the plight of the Afghans from the rooftops. And the only way the free peoples of Afghanistan will survive is through our help.

The whole problem in Afghanistan is the presence of Soviet troops. All the other problems take root from that one central difficulty. Therefore, any solution to this problem must include total withdrawal of the Soviet forces from Afghanistan.

How do we achieve this? The answer is both aid and negotiation. We must supply enough aid to the freedom fighters to make it in the best interest of the Soviets to negotiate, and if there were no resistance in Afghanistan, then the world would soon forget their cause—as they have done in other places.

This resolution we are considering today, accomplishes these goals. It calls for continued aid to the Afghan population and it urges a political settlement based on the withdrawal of Soviet troops. I commend this legislation to my colleagues. Thank you, Mr. Speaker.

Mr. BROOMFIELD. Mr. Speaker, on December 27, 1979, the Soviet Union launched its brutal invasion of Afghanistan. Since that day, the Soviets have sought to consolidate their control over the country with a repressive and ruthless occupation force. As a result, over one-fourth of the prewar population has fled the country and now constitutes the largest refugee population in the world. The Soviets and their puppet regime in Kabul have stepped up their military campaign against civilians in an apparent attempt to depopulate the country.

The Soviet invasion of Afghanistan and the continued murderous occupation of that country has been repeatedly condemned by the Non-Aligned Movement, the United Nations, and European Parliament, the Islamic Conference Organization, and the Association of Southeast Asian Nations. This important resolution expresses congressional condemnation of 6 years of Soviet aggression in Afghanistan, urges continued aid to Afghans both inside and outside the borders of their native land, and urges expeditious conclusion of a negotiated political settlement in that country which would ensure self-determination for the Afghan people.

I want to commend the gentleman from California [Mr. Lagomarsino] for sponsoring this legislation in the House and I urge my colleagues to give it their full support.

Mr. LAGOMARSINO. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York [Mr. Solarz]?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. Res. 240

Whereas December 27, 1985, will mark six years since the Soviet Union invaded the independent nation of Afghanistan;

Whereas, as a result of said invasion, over one-fourth of the prewar population has fled the country and now constitutes the largest refugee population in the world;

Whereas Soviet and Kabul regime forces have stepped up their military campaign against the civilian population, including attacks on Pakistan's territory;

Whereas Afghan freedom fighters have frustrated all Soviet attempts to suppress them and withstood unrelenting attacks by Soviet forces with unmatched courage and sacrifice and with high morale; and

Whereas the Soviet invasion and repression of the Afghan nation and people has been repeatedly condemned by the Nonaligned Movement, the United Nations, the European Parliament, the Islamic Conference Organization, and the Association of Southeast Asian Nations; Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Senate of the United States of America—

(1) condemns the six years of aggression waged against the independent country and people of Afghanistan;

(2) urges expeditious conclusion of a negotiated political settlement based on—

(A) the complete withdrawal of all foreign troops;

(B) restoration of the independent and nonaligned status of Afghanistan;

(C) self-determination for the Afghan people; and

(D) the return of the Afghan refugees with safety and honor.

AMENDMENT OFFERED BY MR. SOLARZ

Mr. SOLARZ. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Solarz: In the resolved clause, following the words "Congress assembled, That", delete the words "the Senate of".

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from New York [Mr. Solarz].

The amendment was agreed to.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SOLARZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate joint resolution just passed.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

CORRECTING THE ENROLLMENT OF HOUSE JOINT RESOLUTION 187

Mr. **SEIBERLING**. Mr. Speaker, I ask unanimous consent from the immediate consideration of the concurrent resolution (H. Con. Res. 262) correcting the enrollment of House Joint Resolution 187.

The Clerk read the title of the concurrent resolution.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. **LAGOMARSINO**. Mr. Speaker, reserving the right to object, I have discussed this matter with the gentleman. It is a necessary and technical change, and I hope it is approved.

I yield to the gentleman from Ohio.

Mr. **SEIBERLING**. Mr. Speaker, I thank the gentleman for yielding.

The Senate is holding up the enrollment of House Joint Resolution 187 until this correction is made in order that when the resolution goes to the White House it will be technically correct in every respect. This is a minor omission that occurred during the final markup of the legislation.

Mr. **LAGOMARSINO**. Mr. Speaker, I thank the gentleman for his explanation, and I withdraw my reservation of objection.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. Con. Res. 262

In enrolling the joint resolution (H.J. Res. 187) to approve the "Compact of Free Association" and for other purposes, the enrolling clerk is directed to make the following change:

In the second sentence of subsection (l) of section: 106, after the words" Fish and Wildlife Service" insert "the National Marine Fisheries Service,".

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

IF THE REPUBLICAN COMMITTEE IS SERIOUS, HERE IS A GOLDEN OPPORTUNITY FOR DISCLOSURE

(Mr. **ST GERMAIN** asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and to include extraneous material.)

Mr. **ST GERMAIN**. Mr. Speaker, the National Republican Congressional Committee claims to be beating a hasty retreat from its expensive media campaign to promote the release of income tax returns.

Faced with my bill, H.R. 3935, which would put their announced disclosure program into law, the National Republican Congressional Committee now says that there are questions about the "tax problems" of only one of the House's 435 Members.

With the presumed sanctity of IRS records, the statement of NRCC official, Russ Schriefer, is indeed interesting. Mr. Schriefer has either pierced the confidentiality of the IRS, or he is a visionary.

☐ 1425

For the information of the National Republican Congressional Committee, I have a signed statement that I now offer and publish in the CONGRESSIONAL RECORD from my tax accountant, who confirms that my returns are not being audited or questioned for the years 1979 through 1984 except for the issue of one deduction that I have long since publicly disclosed.

Now all stout-hearted Republican Members of the House and Senate who march to the tune of their National Republican Congressional Committee must do two things, cosponsor my disclosure things, put their taxes in the RECORD—when you do I will—as a result of a legislative action of the Congress, and publish in the CONGRESSIONAL RECORD a statement from their tax accountants about the status of their returns, the returns of the Republican Members of Congress, for 1979 through 1984, to prove they are not being audited or questioned.

The voters of Rhode Island, the target of the NRCC media blitz about income tax returns, will be watching with interest.

The statement referred to follows:

MEMORANDUM FROM KAPLAN, MORAN & ASSOCIATES, LTD., CERTIFIED PUBLIC ACCOUNTANTS, PROVIDENCE, RI

To: Congressman F. St Germain.
From: Richard A. Kaplan, CPA, JD.
Date: November 25, 1985.
Subj: Summary of Investment in Coal Partnerships.

During the period 1978-1981, when the world-wide oil shortage reached serious proportions, coal was being promoted as an alternative source of energy. In this environment, many partnerships were organized and promoted to acquire or lease property for the mining of coal. You, along with hundreds of others, were solicited for and invested in such partnerships organized by Swanton Corporation. Thousands of other individuals invested in similar partnerships organized by other syndicators.

Traditionally, partnerships in the business of developing energy resources are structured to utilize tax incentives established to attract investment into this high-risk field. The development, mining, and sale of coal resources, like oil and gas, is a business that requires substantial risk capital. Generally, investors in this field are provided with significant tax deductions in the initial years (during the development period) and are subject to the payment of income taxes in later years, if and when the development operations produce oil, gas, or coal saleable at competitive prices.

As we all know, the energy crisis has eased and gas prices have fallen; accordingly, the market for coal has not materialized as expected. As a result, the partnerships in which you invested have not been successful and have developed serious financial difficulties. Consequently, the partnerships and the developer, Swanton Corporation, have been petitioned into bankruptcy.

In addition, the IRS has audited the tax returns of the partnerships and is claiming that certain deductions reported to the partners were not allowable. The partnerships have engaged tax counsel to represent them and protests have been filed with the IRS. Settlements are being discussed between the IRS and tax counsel; however, because the issues are extremely technical, at this time it is not possible to determine the outcome.

If the IRS prevails with its claims, the partners will be liable for prior years' income taxes and related interest.

Your tax returns have been prepared accurately, and in accordance with the instructions submitted to you by the partnerships' accountants. As a limited partner, you had no control over the recordkeeping or tax accounting for the partnerships; and, as required by IRS rules, we included on your returns the tax information reported to you by the partnerships on Form K-1.

These K-1 forms were prepared by independent CPA's engaged by the general partners and were relied upon by you and us to be in compliance with existing tax law, and supported by the tax opinions issued by the partnerships' legal counsel.

Your last acquisition of an interest in a coal partnership was in 1981, a year before the IRS notified you and the other partners that they were questioning the tax deductions.

Your tax returns are not being audited or questioned, except for the deductions related to the coal partnerships.

If I can be of further assistance with this matter, please let me know.

RICHARD KAPLAN.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The **SPEAKER** pro tempore. The Chair will entertain 1-minute requests and special orders at this time, after which the House will recess and return later to conduct regular business.

NOT A PENNY FOR HOUSING THE HOMELESS

(Mr. **KANJORSKI** asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. **ST GERMAIN**. Mr. Speaker, will the gentleman yield?

Mr. **KANJORSKI**. I yield to the gentleman from Rhode Island.

Mr. **ST GERMAIN**. I thank the gentleman for yielding.

Mr. Speaker, as the gentleman from Pennsylvania is a member of our Committee on Banking, Finance and Urban Affairs, I would like to state that it has come to my attention that the other body has placed in the continuing resolution some special legislation for special people. There is a Member of the other body who, in 1983, fought tooth and nail to prevent a housing bill from being adopted in the Congress.

Again this year, Members will recall we put our housing bill into reconciliation. Once again, the same individual Member of the other body is saying, "No, no, no. He is using parliamentary chicanery to deny the people of this Nation safe, decent, sanitary housing."

The SPEAKER pro tempore. The gentleman should not refer to the other body and he is skirting very closely on offensive language.

Mr. ST GERMAIN. We shall not skirt offensively. We were just thinking of the homeless of this Nation, the people who are being evicted from buildings built with tax dollars for the profits of developers.

I am told that in that particular piece of legislation, the continuing resolution, will be over $1 billion for a project for synfuels. A billion dollars for synfuels is fine, is it not? But not one penny for the homeless. I think that is a tragedy.

FORTHCOMING TRIBUTE TO PETER RODINO

(Mr. RANGEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RANGEL. Mr. Speaker, I would like to take this opportunity to advise my House colleagues that some time this afternoon, as soon as possible, we will be paying tribute to our great friend and colleague, the gentleman from New Jersey, Mr. Peter Rodino.

A TRIBUTE TO THE HONORABLE PETER W. RODINO, JR.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. Rangel] is recognized for 60 minutes.

Mr. RANGEL. Mr. Speaker, this is the 20th anniversary year of what may be our Nation's most significant civil rights law, the Voting Rights Act of 1965. More than any other piece of legislation, the Voting Rights Act symbolizes this Nation's commitment to include the excluded and give voice to the voiceless.

But laws, commitments, and ideals do not come about on their own—they are nurtured by legislators and inspired by leaders. For this reason, as we conclude the 20th anniversary year of this momentous legislation, it is only fitting that we pay tribute to a particular legislator and leader. This is a man who—more than anyone else—has spent his career shepherding virtually every civil rights bill through Congress and thus breathing equality and justice into the laws of this Nation. Mr. Speaker, I am referring to my good friend and distinguished colleague, Peter W. Rodino.

Twenty years ago, when the ink dried on the Voting Rights Act and it became law, it seemed—to borrow a phrase from Martin Luther King—that we had reached the mountaintop and were in sight of the promised land. At the time we thought that the uphill battles were behind us. We now know, however, that there are many peaks and valleys to cross.

But at each step in the struggle for social justice, Peter Rodino has been there. When hard work had to be done, Peter Rodino did it. When principle needed an advocate, Peter Rodino spoke it. For Peter Rodino, it is not the popularity of a cause that counts—it is the principle.

These days our task is more difficult. We are faced with an administration that offers tax breaks to segregated schools and tried to gut effective affirmative action programs. But one thing is reassuring: We can count on Peter Rodino to fight for justice. As chairman of the Judiciary Committee, Peter has said over and over that he will not tolerate any attempts to turn back the clock on civil rights. And his word is as good as his deed.

In the dark days of the last 5 years, Peter Rodino has been a guiding light. He led the fight to extend the Voting Rights Act. He was an original sponsor of the Martin Luther King holiday bill. He is working to prevent tax dollars from going to institutions that discriminate. He has stood up for jobs and housing, fought cuts in education, and stymied administration attempts to eliminate affirmative action and legal services for the poor. He is, in short, a watchdog and champion of the people.

Peter's commitment to social justice dates back long before it became a popular cause. By the time the Supreme Court struck down "separate but equal" In the landmark Brown against Board of Education case in 1954, Peter Rodino was already on record opposing that dehumanizing doctrine. In 1949—his first term in Congress—he voted to integrate the Women's Auxiliary of the Coast Guard. The following term he battled a bill that would have authorized the building of a segregated veterans' hospital.

A member of the Judiciary Committee since 1950, he fought injustice early and effectively. He was instrumental in gaining passage of every major civil rights bill—in 1957, 1960, 1964, 1965, 1966, and 1968—drafting key provisions and managing them on the floor of the House. His leadership is tested and true.

For Peter, civil rights is not just a legislative struggle. It is a human struggle. He is sensitive to the way dignity has been denied, and the way it needs to be restored—which is what he did when he joined with me in helping to obtain a Federal charter for the all-black 369th Infantry Veterans Association, whose service to this Nation had all too long been ignored.

Over the years I have worked closely with Peter on the Select Committee on Narcotics Abuse and Control. It pains him to see young people on the outs, trapped and broken by drugs, and he is determined to change it. His reason is simple: opportunities should be opened, not closed—everyone, regardless of race, creed, or station in life, deserves an equal chance. No one should be excluded, for any reason.

For Peter, that is the essence of American life. It is why he has dedicated his career to civil rights and social justice. It is why his record reads like a testament to the promise of equality and fairness as inscribed in our Constitution.

I am proud to be a colleague and friend of Peter W. Rodino—a man of integrity and vision, and a leader among peers. As for the hopes crystallized 20 years ago by the Voting Rights Act—because of Peter Rodino, I know they will be protected and fulfilled.

□ 1435

Mr. Speaker, I yield to the gentleman from California [Mr. Edwards] one of the outstanding civil rights advocates and chairman of the subcommittee that involves itself with the protection of our Constitution on the Judiciary Committee.

Mr. EDWARDS of California. Mr. Speaker, I'm pleased that the gentleman from New York [Mr. Rangel] has arranged this opportunity for us to talk about our dear friend, and my chairman and leader, Peter Rodino.

It's going on a quarter of a century that I've had the privilege of having Peter as a close friend and fellow member of the Committee on the Judiciary.

I became a member of the Judiciary Committee in mid-1963. Emmanuel Celler was the chairman, and a fine one, and Peter Rodino was the No. 2 Democrat. This was the beginning of the era of the civil rights battles, so beautifully referred to by my friend, the gentleman from New York [Mr. Rangel] when the United States finally discovered its conscience with regard to the 10th of our population which is black.

Chairman Celler needed a lot of help in those years. Fortunately in 1963 John F. Kennedy was President only to be cruelly assassinated in November of that year. But the seeds had been sown, and in 1964 the omnibus civil rights law was enacted, authorized chiefly by Chairman Celler and Congressman Rodino, his right hand, and supported enthusiastically by President Lyndon Johnson.

This landmark 1964 civil rights bill was followed by others in that proud period of American history, and Peter Rodino was the key leader in each and every one, even more so when he became Judiciary chairman in January 1973.

This steady devotion to civil rights and to fair play continues to this day. If anything, the flame burns brighter. I know this because I chair the Judiciary subcommittee that handles civil rights matters, and never, I repeat, never, have I not had the enthusiastic support of my chairman when action to protect civil rights was needed.

Mr. Speaker, the many millions of Americans who are minorities, whether black, Hispanic, disabled, handicapped, or old, have found their champion in Peter Rodino. They trust him because he is trustworthy. He is always there when he sees discrimination or unfair treatment. His door is always open to the most lowly person, not only to the rich and famous.

I was also privileged to be a member of the Judiciary Committee chaired by Peter Rodino during the impeachment proceedings relating to President Nixon. If there was any time in Peter's career which might be described as his finest hour, it was surely then, because it was he who was totally responsible for directing this awesome proceeding, as referred to by the gentleman from New York, one that dealt with the very foundations of our American civilization.

The history books of the Nixon impeachment inquiry have been written. The books are remarkable and unique because there is nothing in them that is not in praise of Chairman Rodino. Nothing, Mr. Speaker, not one word of criticism. There was no moment in history when the House of Representatives did not stand higher in the affection and esteem of America and the world.

For example, it was generally understood that the impeachment inquiry would be in the nature of a grand jury considering an indictment, in which case President Nixon would not be entitled to have his lawyer always present and authorized to cross-examine the witnesses.

Well, Mr. Rodino said, "No, this is not a grand jury proceeding. President Nixon should of course have an attorney present at all times, with the right to cross-examine the witnesses."

So that's the way the inquiry was established. James St. Clair was Nixon's attorney, and due process was guaranteed to the President.

My experience in the impeachment inquiry, Mr. Speaker, was typical of every relationship I have had with Peter Rodino.

I don't know how old Peter Rodino is. By my standards he is still very young. He still hears the call to battle for justice with vigor and eagerness. Each year he seems more anxious and more skillful in meeting the challenges of injustice and inequality.

Mr. RANGEL. I thank the gentleman from California. He certainly has the credentials that make him a leader in the civil rights family.

Mr. Speaker, I yield to the gentleman from Texas [Mr. Leland].

Mr. LELAND. Mr. Speaker, I thank the gentleman from New York for allowing me to participate in this great, great expresssion of our gratitude to a great American. And let me say to the gentleman from New York that today he has done another great thing, as he does every day, and I really appreciate it.

Let me say to the gentleman also that as chairman of the Congressional Black Caucus, not officially speaking here today, but as chairman of the Congressional Black Caucus, I know that our Members would like to express themselves in this matter of honoring this great American who has done so much in the cause of helping not only black people, but people of ethnic minorities everywhere.

Mr. Speaker, on this the 20th anniversary year of the Voting Rights Act of 1965, I would like to pay tribute to a colleague who—as a legislator and leader—has singularly exemplified the democratic spirit of that law.

The Voting Rights Act was the legislative culmination of the civil rights movement. By guaranteeing the right to vote, it gave substance to the constitutional compact that "we the people"—all the people—do indeed make up this Government.

However, until this act was signed into law, this constitutional compact—so central to our democratic system of government—had all too long been denied. But fortunately, there were a few brave souls—early on—who had the courage and determination to challenge injustice and make this compact a reality. I am here today to honor one of them—my good friend and colleague, the distinguished chairman of the Judiciary Committee, Peter W. Rodino.

"We the people"—the social compact of our Constitution—has long been a guiding principle for Peter W. Rodino. He has always believed in a generous government, an inclusive government, one that does not turn a cold shoulder to the cries for help from its citizens. When one American suffers, Peter W. Rodino feels the pain. For him, a community is much greater than a collection of individuals—it is the vigorous pursuit of the common good for everyone.

For the poor and hungry, Peter W. Rodino protects programs to restore dignity.

For minorities, Peter W. Rodino champions laws to ensure equal and adequate opportunities.

For the urban dweller, he battles drugs and crime with tough-minded legislation.

For all Americans, he promotes laws to aid education, the elderly, consumers, and taxpayers.

The bottom line in his philosophy of government is really a circle—one large enough to ensure that every American from every background has an opportunity to participate in the advantages of our society.

Today, with an administration in power which seeks to overturn 25 years of civil rights progress, Peter Rodino is in the trenches fighting to ensure that our government not forget the have-nots of our society. It is a difficult struggle—against those elusive and powerful forces of apathy, indifference, and insensitivity—but Peter is there, working hard, building coalitions with likeminded colleagues.

As chairman of the Judiciary Committee, he has fought proposals to erode our antidiscrimination laws, blocked attempts to limit the power of the Federal courts, preserved legal aid for the poor, and extended the Voting Rights Act.

As a defender of the have-nots, he supports jobs for young people, security for the elderly, housing for the dispossessed, and benefits for veterans. His commitment to civil rights is profound and real, and he expects no less from the government—which is why he pushed so hard for the Martin Luther King holiday bill, as an expression of that national commitment.

But then again, as the son of an Italian immigrant, he knows what it's like to be outside the mainstream. We must remember that there were laws on the books for much of this century which set national quotas for immigration to America—all based on ethnic origin. These laws were aimed at keeping out Italians, Jews, Slavs, and the many peoples of Eastern Europe. And they stayed on the books—until Peter Rodino changed that, with the passage of the immigration reform law of 1965, which he singlehandedly guided through Congress. For him, America is synonymous with opportunity for all—and he is determined to see that prejudice of any kind will never again be an obstacle to individual advancement.

If, as Thomas Jefferson said, eternal vigilance is the price of liberty, we are fortunate to have Peter Rodino as our guardian of the Constitution. Because when the Constitution says "We the people," Peter Rodino will do everything to ensure that the true meaning of that expression is fulfilled.

1450

Mr. RANGEL. I thank the gentleman from Texas [Mr. Leland] who has said so eloquently what so many Americans wish that they would have the opportunity to say in this august House.

I yield to the gentleman from Connecticut [Mr. MORRISON].

Mr. MORRISON of Connecticut. I thank the gentleman for yielding, and I first want to commend the gentleman for taking this opportunity, and giving us all the opportunity to speak about the achievements on behalf of the American people by our distinguished chairman of the committee on the Judiciary, PETER RODINO, and to celebrate and to renew our commitment to the Voting Rights Act; 20 years in service to making America's promise real rather than imagined for many who have suffered discrimination in our history.

I want to associate myself with the remarks of the gentleman from Texas [Mr. LELAND]. I think his remarks were eloquent and really gave a unifying theme to what we all believe about PETER RODINO which is, he treats the words of the Constitution as a promise to be realized, not a promise to be deferred or ignored.

He ties that together as the chairman of our Judiciary Committee. I am honored to be a member of that committee. I have served on that committee for the 3 years that I have been in the Congress, and it was a special thrill, as a new Member of Congress, to have the opportunity to serve under PETER RODINO on his committee.

He has distinguished himself throughout his career in the House, and his name is synonymous with notions of fairness, fair play, opportunity, fighting against discrimination, and opening up our country to those who would like to come and share in its promise and help to build that promise for the future.

In my district, he is known as Mr. Immigration. He is known as the person that we all know who fought to abolish the quota system; to do away with ethnic discrimination in our immigration laws, and to allow the idea of coming to America to be much more fully realized around the world.

It is a record that all of us hope, in our service in the House, we could have just one small part of in looking back over our careers. Here is a man who has been in the forefront of civil rights, in the forefront of immigration, who stood tall for the Constitution and the impeachment inquiry in the early seventies; who was always thought of as the bulwark of constitutional rights, willing to take an unpopular stand if necessary to see to it that constitutional rights of people, no matter how unpopular, no matter how controversial, will be respected.

That is what has made this country great, the ideas and the ideals that PETER RODINO makes a part of his work day every day, he is someone that we all look up to and the American people should honor and be thankful for, and I thank the gentleman from New York [Mr. RANGEL] for the opportunity to participate.

Mr. RANGEL. I thank the gentleman from Connecticut, and I know exactly what he is talking about when he says he spent his freshman years starting off on the Judiciary Committee, because all of my adult life in politics I knew of PETER RODINO, and never even dreamed that I would have the opportunity to come here and to be working with him as a Member of this Congress; and then to serve on that committee at a time where his mere presence there gives so much hope to people that cannot possibly come to Congress, but those who are looking for citizenship, those who are seeking to rid our streets of drugs and certainly those who thought that the Nation was in far more serious trouble before he was able to steer the ship through those waters; that serving on the Judiciary Committee sort of makes each member a part of history.

So I know exactly how the gentleman felt when he first met with him on the committee on the Judiciary.

I yield to the gentleman from Texas [Mr. BUSTAMANTE].

Mr. BUSTAMANTE. Mr. Speaker, Congressman PETER RODINO, the distinguished chairman of the Judiciary Committee, is today being honored for his 36 years of service. There must be a great many Members of this body who have benefited from his counsel, his patience, and his sure-handed capacity as a legislator over the years. As a recently arrived colleague, I have appreciated his management of some of the most controversial business to come before the House this session. As an admirer in years past, I welcomed his persistence in managing the Civil Rights Act of 1966. Because of his efforts, America is a better place to live.

But I suspect that whatever debts we in the House owe Mr. RODINO, and they are many, his constituents in Essex County, NJ, have even more reason to stop and pay tribute to him. He has been an advocate of positions long before they became comfortable. He has insisted on a careful review of the most controversial legal issues of the post-war era. That even-handedness has earned him the respect of families as far away as south Texas and as close as the north ward of Newark. I salute Mr. RODINO and wish him well.

Mr. RODINO. I thank the gentleman for his eloquent contribution to Mr. RODINO.

I yield to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. I thank the gentleman for allowing me to participate. I want to commend him for taking the initiative to pay this very worthy tribute to one of our most distinguished colleagues.

I am sure there is a part of all of us that fancies ourselves as having a real impact on our Nation's glorious history, but in reality, very few of us have made our presence felt in the fashion that the honoree of your special order has made throughout the country.

Mr. Speaker, long before I ever came to Congress or even dreamed of coming to Congress, PETER RODINO was one of those few Members of this institution that I had heard of who had so clearly affected the lives of so many millions of Americans that his name was known to all of us.

I think Chairman RODINO's particular contribution, his understanding that in a system where democratic principles are so valued and must be responded to, there is also a special place for those who understand the careful balance of our Constitution and the importance of the protections of the rights of individuals and minorities against what might happen to be the particular whims of the majority at any given time, and no one has stood taller than Chairman RODINO in fighting to protect those constitutional principles, those fundamental rights that our Constitution and Bill of Rights give to individuals.

Mr. Speaker, to come here many years after I had known of Chairman RODINO's work and to see him acting up close as a member of the committee which he so ably chairs is a very special honor for me.

Just last week, once again as he has done in the area of civil rights and immigration and in that constitutional crisis of the impeachment proceedings in 1973 and 1974, the chairman went to the well to speak with respect to the constitutional implications of the Gramm-Rudman legislation and to remind us of the very carefully balanced system that was designed in this Constitution, our coequal branches of government, and to warn us of his fear that that particular proposal would give away and tilt that balance improperly.

I suspect that, at some point in the near future, his prophecy on that evening that we passed this legislation will once again be proven to have been correct.

I am happy to be a part of this special order and to be part of a process where I get to work so closely with this fine gentleman.

Mr. RANGEL. The country thanks you for your contribution on behalf of your testimony for PETER RODINO.

I yield to the gentleman from New Jersey [Mr. TORRICELLI].

Mr. TORRICELLI. I thank the gentleman from New York, and congratulate him for giving us all this opportunity.

Mr. Speaker, as the youngest member of the Democratic delegation from New Jersey, I am often surprised by the extent of the influence and the leadership by our relatively small delegation: Mr. Howard in Transportation, Mr. Roe in Public Works, Mr. Florio with the environment, Mr. Hughes, with law enforcement.

Bringing this unique delegation together, these very skilled individuals, has been Peter Rodino. Ours, like many, could have been a delegation of a few powerful people. Instead, it is a combination of effective leaders, and a real fighting team; a team which has been led through all these years by Peter Rodino.

I know it is common to see Chairman Rodino in terms of this leadership; it is how we see him most in the House, but it is also, I would suggest, not enough. It is not the entire story of Peter Rodino, the story of a chairman of a powerful committee, an important delegation.

You see, for some of us, he is more than just an influence when we got to the House; he is part of the story of bringing us to the House of Representatives.

□ 1500

He has made this institution a place where people want to serve. He has made this a place, even a profession, that people want to be a part of. He has made it a noble, dignified, and a special place. That is an important part of this story, a very important part for the young people in my State, indeed throughout the country, who will look to be a part of this institution because of what Peter Rodino has made the Congress. There are, in fact, many aspects of the Rodino story: pride in the institution, a symbol, too, for the Italian-American people in New Jersey and throughout America who look to him with a special pride as an example to us of what we have become now in the American family, the special role that we can have.

I suppose as we all look at the story of Peter Rodino and his career we have our own stories: pride in the institution, an ethnic pride, a memory of his defense of the Constitution.

I want to add another, a new chapter. Unfortunately, we also live in a time of intolerance, a time of radical politics, most recently, I would submit, from the Radical Right. It has brought to mind the efforts to deregulate guns or to roll back the progress on civil rights. It has been, unfortunately, a time of intolerance. Standing against what might be popular for the moment, what might be captured by some new elements in a new popular political wave, has been Peter Rodino.

Often, I am afraid, the only thing that has stood between the radical politics of the moment and the defense of common sense and our Constitution has been Peter Rodino. That has made him important for our country. It means that Peter Rodino has been more than just another Member of this institution. He has been the pride of Newark for so many years, he has been the pride of America for these last 10 years, but he is also representing something special in this decade as we have confronted this new element in American politics.

I congratulate the gentleman from New York for taking this special order, and I thank him for yielding this time to me so that I may participate in this tribute to our colleague.

Mr. RANGEL. I thank the gentleman. I share what the gentleman says of the contribution that Peter Rodino has made in terms of the prestige and respectability of the Congress. I think it is adequately and accurately recorded that after the impeachment proceedings that we had that the prestige of the Congress had never been higher than when Peter Rodino chaired the Committee on the Judiciary.

I yield to the gentleman from Minnesota [Mr. Vento].

Mr. VENTO. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise to join with our able colleague, the gentleman from New York [Mr. Rangel] to recognize the contributions of the distinguished chairman of the Committee on the Judiciary, Peter Rodino. It has been my honor to serve with Chairman Rodino these past 9 years in the House. This House is a great institution, but it is Members like Peter Rodino that make it shine. He has been a counselor to me and to many Members, a friend who is always ready to spend time with any Member who has a problem or seeks his counsel. He has worked his way for 36 years through the ranks of this institution speaking out and providing leadership on a range of issues important to our Nation and important to the people: Immigration reform, civil rights laws, voters' rights, antitrust issues are some of the landmark contributions that Peter Rodino has built. He has worked with the public interest foremost in mind, the rights of minorities, the rights of the needy, the downtrodden, a champion of those who otherwise were without power and a voice in the centers of power.

Congressman Rodino was that voice first, and, working with others like Minnesota's beloved leader, Hubert Humphrey, they turned the voices in the wilderness of indifference into a chorus and overwhelming chorus of support for justice and for equity.

Chairman Peter Rodino has rightly received national recognition for his historic role when a dark shadow was cast over our Nation during the Watergate proceedings. Chairman Rodino led the way with those who served this House and our Nation superbly. I am, of course, proud of Chairman Rodino because we obviously share a common American-Italian heritage, but his early service led the way so that today a candidate's or Member's nationality is not a factor, rather, it is a question of competence and the competition of ideas, fairness and doing the job well for the American people.

Chairman Rodino, we who serve with you understand and know the tremendous sacrifices that you have made to work in this House. We appreciate your efforts. We hope to complement and emulate your role and maintain the humaneness and commonsense that has characterized your actions these many years.

I thank the gentleman for yielding.

Mr. RANGEL. I yield to the gentleman from Massachusetts. [Mr. Frank].

Mr. FRANK. I want to thank the gentleman from New York for taking out this special order and giving all of us an opportunity to pay tribute to Peter Rodino. I have, myself, like many others, a special personal reason for being so happy about the role he plays. As I enter middle age, Peter Rodino takes me back to my youth because he was elected to Congress when I was 8 years old, then living in New Jersey about 3 miles across Newark Bay, which was not that far because you could walk across Newark Bay in the hottest of weather at that point, that is, if your nasal passages were somewhat insulated.

For me to have gone off to Massachusetts to start out on a political career and 32 years later to have arrived in the Congress, and who do I come across there? Not suprisingly, of course, chairing the Committee on the Judiciary on which I enjoyed serving, the same Peter Rodino.

So for that continuity I am grateful.

For even more things I am grateful, however. I think the central contribution that he has made has been an enormous one, the decency in American politics is the extent to which he has transcended race. We have in this country since our founding been cursed with racism. The stain of racism is a flaw in our constitutional democracy from an original document which embraced slavery up until today when we still have far to go in eradicating racism and its consequences from our society.

Peter Rodino has been for more years than almost anybody in this country can remember a major force who insists there can be no compromise with racism, that the democratic ideals that we profess, and of which we are so proud, and which indeed distinguish this country among most of the rest of the world because we profess and, to a great extent, live up to those ideals; Peter Rodino has been a champion of insisting that we apply them without regard to race.

Racism has been, as I say, the major obstacle.

It is interesting to note that that ability to transcend racism, because of his obvious and sincere and nonpolitical commitment to that goal of democracy, has been a two-way street, because as Peter Rodino's district has changed it is American history for an individual often to represent the ethnic composition of the district he or she comes from. That is part of the American tradition. People who have been discriminated against, whether black, Hispanic, Portuguese-Americans, Jewish-Americans, Greeks, Irish, Italian-Americans, they have wanted to send one of their representatives to Congress to fight for them. That is how Peter Rodino originally came here. As his district has evolved, as it moved to a point where there is now a majority of black people, his majority has increased because his ability to transcend and confront racism everywhere is clear to everyone. Having a Pete Rodino who started out representing a constituency in which Italo-Americans looked to him to combat the discrimination that they faced and now to have him continually returned here by a majority black district, that is a kind of example of an ability to transcend race that we need more of.

He and his constituents both, I think, are to be congratulated for their partnership against racism which they have.

One other point that I will make, because I know there are many people who will want to join in the tribute to this genuinely great man.

His commitment to democracy, his protection of the Constitution in times of great crisis, have been commented on. Let me add one other thing. As a member of the Committee on the Judiciary for the 5 years that I have been in the House, he is superb parliamentarian. Those of us who serve in this House, I think, have a justifiable sense of the importance of good parliamentarians, people who can come into this Chamber of conflict, which is what it is, where people fight about very important ideas and can, without giving up their idealism, understand how to make things work, how to reach agreements, how to move things forward; not compromising on essentials but showing a degree of conciliation, a sense of respect for the people with whom you disagree, a sense of civility. Peter Rodino combines a zeal for the principles of democracy with a civility and personal relations that makes him a very unique asset.

We are indeed lucky to have him chairing the Committee on the Judiciary of the House of Representatives during this time, and I want to thank the gentleman from New York. This is typical of the kind of leadership that the gentleman from New York has shown that he would have taken out this special order and given us a chance not just to pay tribute to Peter Rodino, no, but by paying tribute to Peter Rodino reaffirm our commitments to the principles of constitutionalism, of democracy, of fairness, and opposition to racism that he embodies.

So I thank the gentleman from New York.

Mr. RANGEL. Mr. Speaker, we are lucky to have people like the gentleman from Massachusetts to respect the leadership of our Peter Rodino.

I yield to the gentleman from New York [Mr. Towns].

Mr. TOWNS. First of all, Mr. Speaker, let me thank the gentleman for setting aside this time to talk about a person who has done so much for this country, Peter Rodino. I remember as a young activist many, many years ago in my college days there was always one name we could get in the room that we could talk about, if we could get a message to Peter Rodino, I am certain he would be able to hear and to understand the fight and the plight that we were going through. As we moved through the years and heard more about the work of Peter Rodino, I think everywhere you go when you talk about civil rights you have to add the name Peter Rodino because he has been one for fairness and he has been out there when it was not even popular to talk about those kinds of issues, that Peter Rodino felt free to do just that.

The people of New Jersey and the people of the United States of America have to be very proud of this man. He has been a real champion of all these causes.

He is a person who does not waste words. You know, some people get involved in a tremendous amount of rhetoric, say a lot of things. But Peter Rodino does not waste words. He feels in terms of the fact that all people should be treated the same, and as a result of that his actions throughout his life have demonstrated that.

I was happy to come here and finally meet Peter Rodino. I used to see his picture in the paper, and I used to watch him on television and hear him on radio from time to time, and I always thought he was a big, big man. And to come here and find out that in size or stature he is not that big, but when it comes to heart, and commitment, and dedication to fairness Peter Rodino stands tall among all.

So I thank the gentleman for taking out this special order and yielding this time to me.

Mr. RANGEL. I thank the gentleman. And I think the gentleman says it well when Peter Rodino turns out to be a hero even to those people who are privileged to serve with him in this House.

Mr. Speaker, I yield to the gentleman from Wisconsin [Mr. Kastenmeier].

Mr. KASTENMEIER. I thank the gentleman for yielding.

Mr. Speaker, it gives me great pleasure to join with my colleagues in paying tribute to my chairman, Peter Rodino.

I have served with Chairman Rodino on the Judiciary Committee since I first came to Congress in 1959. It has been a pleasure and privilege to work with the gentleman from New Jersey on some landmark legislation through the years, most notably the historic civil rights laws of the 1960's, the difficult but important revision of the immigration laws in 1965, and more recently the successful ongoing efforts to preserve the Legal Services Corporation and the Voting Rights Act.

Those who know Chairman Rodino know him to be a man of ultimate integrity and commitment, a man dedicated to the pursuit of justice. No event more exemplifies those characteristics than his leadership during the difficult impeachment hearings in 1974. Perhaps more than any other figure involved in that unfortunate period in our history, Peter Rodino showed the American people how our system was meant to work. He became the symbol for millions of Americans of the honest, fair public servant whom many thought no longer existed. He restored for so many their faith in Government.

And, justifiably so. For Peter Rodino is a sterling example of what public service should be all about: hard work, dedication, commitment, compassion, a sense of fair play, integrity, humility, strength of conviction, and an abiding relief that ours is still the best system of government devised.

Mr. Speaker, when the history of the last 36 years of the U.S. Congress is written Peter Rodino will surely stand out as a Member of the House of Representatives who truly made a difference. I am pleased to join with his many friends and admirers today in honoring him for his exceptional service to this body and to the country.

□ 1515

I thank the gentleman from New York.

Mr. RANGEL. Well, it is really beautiful for the record and for the Nation when warriors such as yourself would take time out to congratulate our leader, Mr. Rodino.

The Speaker, I yield to the gentleman from Michigan [Mr. Conyers], a member of the Committee on the Judiciary, who has worked with the honoree.

Mr. CONYERS. I thank the gentleman.

Mr. Speaker, to my colleague from New York, Charlie Rangel, I want to thank him for his thoughtfulness in taking this commemorative special order for 36 years of service and dedication.

I would just like to pick up where my colleague from Wisconsin [Mr. Kastenmeier] has left off. When I got here for the Voter Rights Act of 1965, there was a history of unsuccessful struggles about voting rights and civil rights in America. Emanuel Celler, of your city, and Peter Rodino, of Newark, NJ, were then leaders. The late Clarence Mitchell was the chief lobbyist for the NAACP. And I remember that, with Congressman Edwards and myself and a few others, we were not a very large group in the Congress, trying to blaze this historic trail of picking up the civil rights struggle from 1865 and bringing it into the last half of the 20th century.

Pete Rodino was at the forefront of that battle, and he has never left the helm. Even now, where the civil rights struggle has taken a completely different tone and has moved on to far more complex issues, it is still the chairman of the Judiciary Committee who puts in the strategy sessions, the meetings behind the hearings that develop the legislation, the amendments, that keep moving us forward, even in this period of adversity.

Now, in a reflecting mood, too, let me tell you about the most moving part of my career with the chairman of the Judiciary Committee, and that was during the impeachment process. And you know, like so many things in history, it is easy to forget how fragile the times and the circumstances were around impeachment. When we first began that process, there was open speculation whether the country could stand the first attempt at an impeachment of a President in American history, the first serious attempt. And the question that floated around Washington was: Can Peter Rodino handle being the chairman of an impeachment process? Does he have the ability to not pull the Judiciary Committee together but to pull the Government together, to keep the American people from dividing into perhaps irreconcilable factions over this question that was really very, very emotional.

We were working under a charged atmosphere, I say to my brother from New York, that was unlike any I have ever worked in, in the legislative process. It was night and day, it was touch and go. No one had any idea what the outcome would be.

But to borrow a phrase from my colleague from Wisconsin, Rodino guided us in a way that led people to a fair and honest conclusion that they could arrive at themselves. And, believe me, around the impeachment process that was quite a feat.

Now, what is not known about Peter Rodino needs to be revealed by this Member, and I want to just say this to you in the confidences of our discussion here in this room. This man has artistic qualities. He is a musician, a composer, he has written and produced songs. His demeanor is so judicial that it belies the fact that here lies the heart and soul of an artist. And this warms the cockles of my heart, Charlie; I mean it makes me feel good to know that my chairman has a little soul and a great spirit as well, and it is out of those feelings that I am very happy to join you in this special order.

Mr. RANGEL. I hope that one day the gentleman from Michigan might share his artistic ability on the bass fiddle with all of his colleagues.

The Chair would like to recognize the gentlewoman from Louisiana [Mrs. Boggs].

Mrs. BOGGS. I thank the gentleman very much.

Mr. Speaker, I am very pleased that the gentleman has taken this special order to honor a very special person, one who has meant a great deal to the United States of America and especially to the institution of the House of Representatives.

I feel very strongly that I stand here today not only as myself but as the wife of my husband, Hale Boggs, who had such admiration and devotion to Peter Rodino, and also to represent my daughter, Barbara Sigmund, who is a politician in New Jersey, who feels so strongly that Peter is one of her mentors and one who inspires her to keep working in the political vineyards for the good of all of the people of New Jersey.

So I suppose I have a triple-threat tribute to Chairman Rodino. I would like especially to thank him for his true love of the Constitution of the United States. And the fact that he recognizes that we fought a revolution, as many countries since us have done, and when we did, we toppled a government. But between 1781 and 1787, we built a new one, deliberately, thoughtfully, and we codified into the Constitution of the United States those principles that the Revolutionary War had been fought over.

Peter recognizes all of this, and it gives me tremendous pleasure to say that he is a member of the House Commission on the Bicentennary of the House, which will occur in 1989. I can think of no greater celebration of the breadth of the institution of the House of Representatives as we know it than to have Peter Rodino helping to preside over the festivities that will be incumbent to that celebration.

I salute him as a friend, I salute him as Hale's old and trusted ally, and I salute him as my daughter's mentor and inspiration. I thank you very much [Mr. Rangel] for allowing me the privilege of saying so.

Mr. RANGEL. The House is privileged that you and your family would take the time to pay that kind of tribute to Peter Rodino.

The Chair recognizes the gentleman from California [Mr. Lantos].

Mr. LANTOS. Mr. Speaker, I want to thank my friend and colleague from New York for arranging this and for giving me an opportunity to express my feelings about Pete Rodino.

As you know, I am neither an attorney nor a member of the Judiciary Committee, but I have come to learn and admire and love Chairman Rodino.

There is one specific episode which I would like to relate, because I think it depicts the fundamental decency and humanity of this extraordinary individual.

As you may recall, Mr. Speaker, 5 years ago I was attempting to gain recognition for one of the great heroes of the Second War, Raoul Wallenberg, another great humanitarian. We had legislation moving to bestow upon him the second honorary citizenship that we as the Congress have bestowed on anyone, the first one having been bestowed upon Winston Churchill. And there was a lot of support for my legislation, but there were also some legal obstacles; and one of the legal obstacles that I learned was that honorary citizenship really cannot be bestowed upon anybody who may still be alive. And, of course, our hope was in 1981, and it is to a lesser extent today, that Wallenberg may still be alive in the Gulag Archipelago. And this seemed to be an insurmountable obstacle, how do we get over the fact that everything was in place, we had the votes, but we really could not move to get the legislation to the floor because there was a legitimate legal objection?

My, wife, Annette, and I went to see Chairman Rodino in his office. And he said, "Well, Tom, I want to see this tremendous man honored and recognized, but we have very serious difficulty. Can you state that he is no longer alive? Because if you can state that, we will have no problem."

I said, "Mr. Chairman, in good conscience, I cannot do so. I do not know. I think the probability is that he is no longer alive, but he may be."

He said, "Well, I simply will have to work long and hard to find the proper legal mechanisms that will allow me to let the legislation go through, because we simply cannot allow a legal obstacle to stand in the way of honoring one of the great heroes of World War II."

Had it not been for Peter Rodino—and no one knows about this story, no one did until now, because he did not want to get credit, he just shared it with my wife and me in the privacy of his study—the Raoul Wallenberg legislation would not have come before the House and he would never have been honored by the Congress and by the President and by the American people as a great hero, saving innocent lives during the Second World War.

Chairman Rodino is a renaissance man. We have just heard he is a musician and artist. But he is quintessentially a warm, humble human being.

As you know, Mr. Speaker, every year we have a dinner for those of us who belong to the gymnasium, and it is a very informal occasion. And I always seek out Pete Rodino during those occasions, because people let their hair down, sit around for several hours and talk and reminisce. And I must say I have learned more about this body, the values of our society, what democratic free people are all about, during those informal, off the record tutorials with Peter Rodino than probably through any other means.

He is a man who represents the finest values of our society. He has no prejudices. He is filled with compassion. He is a humanitarian of the highest order, and I believe it is fitting indeed that this tremendous spectrum of his colleagues from both sides of the aisle, representing all views, all attitudes, all opinions, pay tribute to a man and hope and pray that his service to the Nation will continue for many, many more years to come.

Mr. RANGEL. Thank you, Tom, for sharing these very sensitive experiences with our colleagues.

The Chair recognizes the gentleman from New York [Mr. Scheuer].

Mr. SCHEUER. Mr. Chairman, it is a great privilege for me to have the chance to rise and pay my respects to Chairman Rodino. And, Mr. Chairman, I wish to express to you my appreciation for the leadership you took in arranging this opportunity so that I and a number of my colleagues could express our appreciation and admiration and true devotion to Peter Rodino and everything that he stands for. You have rendered us a wonderful service in having taken the initiative and the leadership to arrange for this opportunity for us, and I wish to thank you for that.

□ 1530

I notice that there is quite a diversity of people here; races, colors, creeds, committee assignments. We are not all on the Judiciary Committee. As a matter of fact, none of the people on the floor now are on the Judiciary Committee, and that bespeakes something great about Pete. What it means is that he is the man of all seasons. It is not just the people he works with, not just the Members he works with on the Judiciary Committee who have come to appreciate his truly noble qualities, but the vast spectrum of the Congress. Of course, that is because each of us shares with him one thing that we all have in common: That is a love and devotion to that great, wonderful, magnificent document that undergirds American life, the Constitution of the United States.

Each of us in our own way is determined to preserve it and enhance it so that the next generation will inherit a democratic system even stronger and more vibrant and richer than the one that we inherited from our forefathers. So we all have a common thread in our devotion to Pete because we all have the same love and veneration of that Constitution. And we look upon him as the protector of that Constitution and the patron saint of the Constitution.

ORDER OF BUSINESS

Mr. MITCHELL. Mr. Speaker, I ask unanimous consent to address the House for 1 hour.

The SPEAKER pro tempore. Without objection, the gentleman from Maryland is recognized for 60 minutes.

There was no objection.

A TRIBUTE TO THE HONORABLE PETER W. RODINO, JR.

Mr. MITCHELL. Mr. Speaker, I yield to the gentleman from New York [Mr. Scheuer].

Mr. SCHEUER. I thank the gentleman.

So we all share this common love and devotion of the Constitution. That is the one binding, golden thread that links every Member of this Congress with every other Member of this Congress. Whatever else we may think about the broad range and breadth of economic and social and political issues facing this country, we are as one in our determination to protect and enhance that glorious document known as the Constitution of the United States.

We look upon Pete Rodino as primus inter pares, as first among equals in his devotion to that instrument and his feeling of responsibility. He represents us all in his devotion and his caring for that document and the principles that is represents.

We have had 200 years of American history, Mr. Speaker, but it fell to the era of Peter Rodino to be in stewardship of that Constitution and our Judiciary Committee at the time of the greatest constitutional crisis this country has ever seen. Namely, the feeling on the part of many Members of this House that the time had come, the awesome time had come for the Constitution to begin unrolling its procedures, its scenarios on an issue that it had never had to face before in 200 years of American history: The unseating of an American President who had committed legal, indeed, criminal wrongdoing during his term of office. We had never faced that procedure before. We had never faced that challenge before. The Constitution had never been tested before. We were all groping our way.

Pete Rodino, I suppose, is a politician like the rest of us; he is not a great constitutional scholar. I suppose he would be the first to presume that he is not a constitutional scholar any more than any of us are constitutional scholars. We are working politicans. But Pete Rodino, with his legal acumen, his depth of legal learning, with his feeling, his deep feeling for the meaning of the Constitution, his respect for its processes, his capacity to reach out to his colleagues, his utter cool under the most incredible pressure I think that any Member of this House within living memory has ever felt, Pete Rodino, during that incredibly awesome period when the House was making demands on the Constitution and when the Constitution was making demands on the House, absolutely unparalleled in our history, unprecedented in our history, as luck would have it, we had among us a prince of men. The best that our House ever produces in terms of character, integrity decency, credibility, in that role, at that uniquely critical time in history. There is not a man or a woman in this body, who, during those awesomely critical days, was not deeply proud, intensely proud of the cool, the calm, the character, the leadership that Pete Rodino diplayed hour after hour, day after day, week after week, in that awesome constitutional crisis that our country faced unique in our history.

So I want to express to Pete Rodino my thanks to him to the invaluable service that he gave to his country, the sense of pride that he gave to each one of us. It seems that at that time, certainly, all of us rose to the hour, but none of us rose more than Pete Rodino. There is no way we could have had a finer, more exemplary figure of a man for all seasons, a man of character, strength, integrity, calm leadership in that critical role at that critical hour.

I want to pay my respects to Pete, my gratitude to Pete for extraordinary service that he has rendered us and wish him health and happiness and a continuingly productive career for many, many, many years to come.

I want to thank the gentleman for his opportunity.

Mr. MITCHELL. Mr. Speaker, I think most of white America today does not remember or does not choose to remember that just a few short years ago I and people of my color were branded as inferior, as second-class citizens in this country. America does not remember or perhaps it does not choose to remember that a black

Member of Congress some several decades ago faced the indignity of going into the Members' Dining Room only to have most of the Members walk out because he was black.

White America does not remember or perhaps it does not choose to remember that this branding of me and others of my color was done under the law, and the signs were visible all over this country to ensure that that law of segregation was carried out, and at the same time attempt to instill in me and other black Americans the idea that we were, indeed, inferior.

If we were allowed to vote, we had to pay a poll tax. If we wanted a drink of water, you had to go to the water fountain marked "colored." There were few, if any, places of public accommodation in which we could eat. No hotels in which we could stay, for the most part. We had a system of apartheid in this Nation or in parts of this Nation that was as grim and ugly as anything that presently exists in South Africa today.

What most people do not remember was that the struggle to break that law which branded me inferior did not begin with the civil rights decade in the sixties. It began in the fifties and in the forties and in the thirties. But in the fifties there were few, if any, whites who were willing to address that issue. We were so caught up with fighting communism and all other kinds of things only a handful of whites, comparatively, were willing to speak out against the indignities heaped on me and others of my race by law.

□ 1540

Among that handful was PETER RODINO, the chairman of the House Judiciary Committee. For it was in the early fifties he started his remarkable record of voting against and crafting legislation against the poll tax and the segregated facilities.

He and Adam Powell worked very hard, close together, in order to try to break that system. I repeat, I reiterate, there were not many whites who had the courage to do this. PETER RODINO was one of them.

As the struggle heated up in the sixties, remarkably akin to what is going on in South Africa, more and more whites began to join our common struggle for freedom in this Nation. But PETER RODINO seized that opportunity to start moving legislation to end the unjust laws, to end the unjust thing, "That some tamed into mercy being wise, But could not starve the tiger from its eyes."

It was RODINO who crafted legislation—civil rights legislation—often working with my brother, Clarance Mitchell, Jr., of the NAACP. As a result, I stand here today as a Member of this distinguished, historic body. That is a personal debt I owe to PETER RODINO.

For all the other blacks who, when they are able to, move around this country with some sense of dignity, some sense of personhood, some sense of manhood and womanhood, that is an enormous debt that we owe to PETER RODINO.

I too remember the impeachment process. I too remember how we often looked to PETER RODINO to guide us in moving toward the impeachment of a President, and that is an awesome thing to even consider, but with his judicious temperament he guided us and held this body together, and held the Nation together.

So as I pay tribute to Chairman RODINO, I want to stress that it is now more than ever that he is needed, now more than ever he needs to be the chairman of the Judiciary Committee, Mr. Speaker, because there are forces in this Nation who would roll back the clock; there is no doubt in my mind that there are forces unleashed in this Nation over the last 5 to 8 years who would willingly see blacks stripped of all the gains that we have made.

Mr. Speaker, I say to the Members of the House that there are people in the administration who have no consideration for civil rights or for blacks of for poor or for other minorities, and there PETER RODINO stands as chairman of the Judiciary Committee, blocking the attempts of the forces of the administration and the other external forces that would almost seek to reduce us to second-class citizenship again.

I could not live with myself if I had not come over to pay tribute to this man, a giant to whom we owe so much, not just black people, but the Nation owes him so much, because the Nation is the better off in my opinion because of the second emancipation of black people such as myself.

I salute him and wish him Godspeed, and pray that he will forever continue to work in this House on behalf of that which is just and right and decent.

Mr. Speaker, this great Nation of ours could not have been built without the courage certain Americans have shown in the face of adversity. Twenty years ago, our Nation's leaders braved the sweltering heat of injustice and passed a series of laws—culminating in the Voting Rights Act of 1965—which guaranteed all Americans their basic constitutional rights. To choose the cool breeze of justice—and not to succumb to the oppressive heat of injustice—took courage in those days. Courage in the face of adversity.

Today, I stand before you to honor a colleague who has shown this type of courage throughout his entire congressional career. He has fought for civil rights—with courage. He has battled the forces of reaction—with courage. And he held a standing President accountable to the Constitution—with courage. I am speaking of my trusted colleague and friend, the respected chairman of the Judiciary Committee, PETER W. RODINO, Jr.—a man of principle, a profile in courage.

For much of PETER RODINO'S career in Congress, civil rights was not among the more popular of causes. In the early 1950's, when our Nation was consumed with protecting the American way of life from communism, too few Americans were willing to admit that injustice from within our system was as much of a threat as tyranny from without.

But PETER RODINO was not part of the complacent majority. He spoke out early against discrimination, and often—taking Edmund Burke's comment to heart, that "bad laws are the worst form of tyranny." With his votes against poll tax, against segregated hospitals, and for public housing—all in the early fifties—he planted the seeds of conscience early in his public record. And his impact would grow.

By the late 1950's—as our Nation grudgingly began to open its eyes to racial discrimination—momentum for civil rights remedies slowly began to gather steam. At that time, PETER RODINO joined with the original civil rights advocate in Congress—Adam Clayton Powell, Jr.—and helped fashion the 1957 civil rights bill, which created the U.S. Civil Rights Commission to monitor racial injustice in America. Thus, PETER RODINO was in on the beginning—working on the first civil rights bill of its kind.

PETER continued to work closely with Adam Clayton Powell on subsequent antidiscrimination amendments—championed by Powell. And in those trying days, when the hot lamp of scrutiny focused on Adam Clayton Powell—his good friend PETER RODINO stood by him, weathering the storm in his nation and his district, unswerving in his belief that justice can never prevail if it is forced to answer to public opinion.

This is an admirable pattern in PETER'S career—advocating issues before they were popular, and even when they are not.

Consider his work for women's rights and the ERA—before it was popular. Or his support for social justice in an age of defense spending and budget cuts. Or his efforts to keep guns out of the hands of criminals despite the overwhelming power of the gun lobby.

Today, as chairman of the Judiciary Committee, he is in a unique position—a bulwark against this administration's attempt to roll back civil rights progress, refusing to be stampeded on legislation to dismantle affirmative action or strip the courts of their ability to enforce the law. It is a time to appreciate PETER RODINO, now more than ever.

Mr. Speaker, one of the great ironies of modern culture is that it is easier to expound one's love for humanity as a whole, than to show that love for one's neighbor. But not for PETER RODINO. This is civil rights at its most basic—and it is what

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makes PETER RODINO a man of principle, an American profile in courage.

Mr. BIAGGI. Mr. Speaker, will the gentleman yield?

Mr. MITCHELL. I yield to the gentleman from New York [Mr. BIAGGI].

Mr. BIAGGI. Mr. Speaker, I thank the gentleman for yielding.

I would like to take this opportunity to congratulate the gentleman from New York [Mr. RANGEL] for displaying the kind of initiative that has so characterized his service in the community as well as in the House. It is that kind of leadership that has clearly distinguished him over the years and has earned for him the respect of so many of his colleagues because of it.

One might ask, what manner of man is PETER RODINO? If you are a newcomer to the Congress and have no sense or knowledge of history, you watch him function—very quietly, very effectively, and very unassumedly. But that would hardly give you any insight to the nature or the history of the man. For those of us who have had the privilege—and it is a genuine privilege indeed—of having served with him over the years and who have gone further into the history of this very, very genuine individual whose concern for all human beings has been manifest throughout his entire career, well, we know better.

I think it is important that we recognize that on an occasion like this, this initiative gives us an opportunity to express our views, our different perspectives, and it becomes a learning process. And it is even more significant that we say these kind words and repeat the performances and recall the experiences while Mr. RODINO is still with us to hear them and to read them, and in the process we educate ourselves.

It has been said that he was among a handful of white men who spoke up for human rights. That really comes as no surprise to me because I know about PETER RODINO. I knew about him long before I came to Congress. I admired him from a distance, I read a great deal about him, I knew of his activities in Jersey, I knew of his family, and I knew from whence the man was born. He has the very spirit of equity and fairness inculcated into his very bones, as a result of the teaching and the conduct of his own parents who came from the common land of my forebears. They came here seeking justice and opportunity, and to a large extent they found it, but not without difficulty.

But you might expect that for those who come from another land. Ordinarily people might be satisfied and say, "Well, I've made it, I'm doing well, and why should I be concerned?" But PETER's grasp of the entire picture was much more comprehensive, certainly more broad, and he knew that the question of opportunity was one that all man had the right to have, especially in this Nation of ours which was founded and based on the Constitution of the United States.

He expected difficulties, and I guess both his parents did. But he found that those over here before him were confronted with similar difficulties, even more so, more profound, more grievous, and there were very few voices speaking out for them at that time. He designated himself as a crusader, but with no fanfare and no public announcement. It was just his own commitment to see if he could make things right.

To embark on that kind of an undertaking in those days was not without some peril, and it was not without being subjected to some criticism and abuse. But as he persisted in the goal that he established to see that all men were given an opportunity to be treated equally, he would then ask himself, is the cause just? When people would confront him and question his conduct, of course, their response was, "Yes, but—." He would not countenance the "but." The "yes" was sufficient. Oh, he did not need their affirmative response. He knew in his own mind and heart that he was right, and he went on.

He came to the Congress and worked his will in a slow-moving Congress. In that slow-moving Congress never did he expect 1 day to assume the position of leadership he now enjoys nor to acquire the degree of respect and effectiveness he built up en route to this day. But as a result of his efforts in and out of the Congress, there was a great contribution and there was great change in our Nation, and today we are looking at a different world. It is not the pure world that we would like, with equality and justice for all, but we made substantial progress.

□ 1550

And notwithstanding the monumental achievements legislatively and in our society through court decisions and change of attitudes, he still persists. He persists. And it is that constancy of effort that distinguishes him in a very quiet fashion, effective fashion. In fact, he does not engage in diatribe. He does not engage in inflammatory rhetoric. He deals with the facts and he deals with the possible.

Something progress is slow. Sometimes it moves at an accelerated pace. But there is always progress; there is never retreat. There is always constancy. There is always commitment. There is always indefatigable effort to make things right.

I and he share a common heritage. He does not suffer from tunnel vision. He understands that in order for his world to be better, all people should be given that opportunity that our Founding Fathers provided and on the basis which this country was founded. He fights discrimination. He fights obstacles and barriers for all people.

When we take this day to pay special tribute to PETER RODINO, we are doing something very unusual

In the 17 years I have served in the Congress, I have never seen this happen before. I do not know about the years before that. He is a very unusual man.

From my perspective, he has made his mark, clearly has made his mark as a champion of human and civil rights, undeniable. If he were to stop there, it would be more than enough. But he went on. He went on to preserve the stability of this Nation at a time of crisis, where any other country in the world may have had governments toppling, may have had bloodshed, may have had consternation and confusion and chaos. Because he as chairman of the Judiciary Committee functioned in a fair, universally accepted fairness, he was under careful scrutiny throughout the world, and no one every questioned his fair approach to a very serious, serious situation, the impeachment, a possible impeachment of the President of the United States of America.

And here we are, we have this once a young man, now mature in his days, acquiring the wisdom, the patience, the tolerance, the understanding of responsibility and equity, holding in his hand the fate of a nation, the fate of a President.

He discharged himself in an extraordinary fashion, universally acclaimed. We as Members of the House or Representatives should feel proud and privileged to have served with a man and to serve with a man who has deported himself in such glorious, glorious fashion.

For myself, as a Member of the House, I so feel. As a dear friend of PETER RODINO for many years, I am just jubilant and overwhelmed at the notion that we take time out on this day to pay tribute to the extraordinary man who will make a mark in history for a series of events, but in the end he will be indelibly impressed in the minds and hearts of those who have benefited as a result of his crusade of a lifetime.

Mr. Speaker, I thank the gentleman for yielding.

Mr. MITCHELL. Mr. Speaker, I yield to the distinguished gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Speaker, I thank my friend, the gentleman from Maryland, for yielding. I thank my colleague, the gentleman from New York [Mr. RANGEL] for having scheduled this special order.

Let me say that I am looking at my friend with great regret, because he, of course, at some point, probably in 1986, will be sitting in this Chamber hearing the encomiums that others will deliver to him, because he is about to leave our presence, and that will be a distinct loss to this body. But we will reserve our comments about our friend from Baltimore for a later day.

But for now, we are talking about our colleague and friend, PETER RODINO, who is my chairman in the Judiciary Committee.

I have just two or three very brief reminiscences.

One, when I was first elected and, of course, the gentleman and I came to Congress the same year, 1971, one of the very first people who called me to welcome me to the Congress was Congressman RODINO, then the ranking member, the ranking Democrat, on the Judiciary Committee. He was not only very gracious and warm about welcoming me to the Congress, as I guess he did to every new Member, but perhaps with a little additional warmth because of the fact that, as we jokingly say, my name ends with a vowel and that obviously indicated to the chairman that the number of Italo-Americans in the Congress was expanding.

Another reminiscence that I have very vividly in my memory is playing with the chairman in paddle ball, as we call it down in the House gym. As we know, sometimes in the off moments away from the panoply of the House and its decorum and its protocol, that is sometimes the way you really get to learn and know someone well. And it was my privilege to be partners with the chairman in several matches, and I learned there that, while he might have been, as they say in the trade, one step slower than he used to be, he more than made up for it with a knowledge of the game and the angles of the board and a certain bit of cunning, I guess you might say.

My next reminiscence very quickly is, of course, what we all experienced back in 1974 when the chairman conducted the very difficult hearings on the question of impeachment. We heard from our colleagues today and we will hear for years to come—probably forever—the excellent way in which he conducted himself, the excellent way in which he led that committee, and the excellent work product that was developed as a result of his leadership and his knowledge of the Constitution of the United States.

I think it did all of us proud even at a time of great trauma and great strain.

The next, of course, and last is the fact that I have worked now with the chairman for many years on the Judiciary Committee with respect to many pieces of legislation, some of which my friend, the gentleman from Maryland, has earlier said, those which protect the minorities of the United States, which guarantee opportunity, which keep the Constitution alive and strong with respect to people, and the chairman has been in the forefront of all those efforts. On the committee, I have had a chance to see him operating on a very close basis.

At times, the chairman can be stern. He can be extremely available and warm. He can be demanding. He can be forebearing. It depends on the nature of what needs to be done, and that determines the tactics and the techniques that the chairman brings to bear.

So he has shown in every way, I would say to our colleagues and to the country, the best of what the House of Representatives and the Congress seeks in its Members, and that is intelligence, determination, leadership instinct, but most of all, a compassion for the people and a willingness to try to help them.

So I want to thank my friend from Maryland for yielding me this time. I thank the gentleman and our congressional classmate, the gentleman from New York [Mr. RANGEL] for having developed this. I think we saluted the 20th anniversary of the Civil Rights Act, an important moment in American history, and the man that played a very pivotal role in that piece of history is the one whom we celebrate today, Mr. RODINO.

The only misgiving I had when I watched this on television a minute ago was the fact that this typically takes place when a Member is retiring or leaving. I am glad to know from earlier comments that this is not the case with the chairman, that this is just simply a unique way to celebrate him and the Civil Rights Act at the same moment.

So I want to thank the gentleman and would wish him well, and wish our chairman many more years of performance and good health.

A TRIBUTE TO HON. PETER RODINO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. STOKES] is recognized for 60 minutes.

Mr. STOKES. Mr. Speaker, at the outset, let me take this opportunity to express my appreciation to our colleague from New York [Mr. RANGEL] for having taken out this special order this afternoon and to have afforded all of us an opportunity to pay respect and honor to one of the most esteemed Members of this body.

I deem it a great pleasure and, in fact, an honor to participate in this special order and to be able to say a few words about a man whom I have come to admire and respect and indeed love for what he stands in this body.

I think all of us who have served with PETER RODINO not only refer to him as the Chairman, but very fondly oftentimes refer to him as PETE, because of the very special relationship that we have with PETER RODINO.

As I think back over many of the things that have occurred over the years that have made him stand out in this body, I suppose at the top of the list would be the great leadership he provided for this body during the time of the impeachment hearings. I think all Americans watched their TV sets intently every night watching those proceedings while the fate of a President of the United States hung in the balance and while the U.S. Constitution hung in the balance, and when the three parts of our Government were in a crisis such as we have never known before.

I think all of us who serve in this body were proud of the judicious manner in which he conducted those hearings. And when the hearings were over, a great service had been rendered, not only to the Congress and to the House, but to the entire Nation.

It was out of that hearing in which he conducted himself with such dignity and legal acumen that the Nation took a good hard look at this man who was then being considered as one of the persons whom this Nation wanted to offer himself to run for the Presidency of the United States. Being the humble individual he is, he declined this type of an opportunity, offering to the American people the fact that he had merely done the job that he felt should be done and had to be done in the way in which he had done it, but he had no aspirations for the highest office in the land.

But out of that special occasion when he conducted those hearings, I think all of us realized the greatness of this man with whom we serve.

I had occasion shortly after he had completed the impeachment hearings to sit down with him and to ask for his support and his guidance and his advice when the House called upon me to chair the House Select Committee on Assassinations, a task that I realized I needed some additional counsel for if I was going to be able to undertake that tremendous responsibility on behalf of the House.

I recall sitting down with PETE and asking for his advice and his wise counsel, and I was the beneficiary of it. As a consequence of it, oftentimes during the course of those hearings, I would go back and sit down with him and ask for further advice and counsel. And he was always there and always willing to take the time to help me or any other Member in any manner in which we needed the benefit of his advice and counsel.

We have heard today tremendous accolades being given this outstanding statesman and Member of this body, particularly his accomplishments and his feats in the area of civil rights. But I think his contributions to this Congress and to this Nation extend far beyond the field of civil rights.

We cite his civil rights legislation because it has been so far-reaching. As I sat here a few moments ago and discussed the special order with my colleague, the gentleman from New York, CHARLES RANGEL, he mentioned to me that great contribution that PETE has made in the area of voting rights and the accomplishment of his voting rights legislation in this House, how many additional minorities and black Members of Congress sit here today because of the far-reaching effect of that legislation which he shepherded through the Congress many years ago.

But beyond that, as we look around the Nation, as we look at the city councils and the State legislatures and in the house and senate of many of the States around the Nation, we find many minorities and blacks sitting there today because of the unique leadership that he gave this body during a period in which minorities and blacks did not have the right and privilege of being able to vote or to be able to run for and become elected to public office in the way in which they can do that all over our Nation today.

□ 1605

I had occasion a few years ago to go into PETE's district and campaign with him during a period in which he was campaigning in what we thought at that time was going to be a relatively close race for him. I was proud to be one of the persons here in the House whom he had asked to come into his district and campaign with him.

But one of the greatest experiences I have had was to be able to walk up and down the street and go in and out of various places of business and to other affairs with PETE RODINO. The esteem with which he is held in his own congressional district is something to behold. He is totally revered and respected and admired by the people who have elected and reelected him to Congress for so many years. It was indeed a pleasure to be able to see the love and respect and admiration that they have for him.

I want to mention just a little special human touch that has always meant a great deal to me about PETE RODINO. I think all of us who know him knew of the great love that existed between him and his late wife, who passed a few years ago. The thing I remembered and admired so very much was that all of us knew that every Friday night was reserved for a date with his wife. He never put anything above that. Every Friday night was reserved for her, and these two people who had been married for so many, many years always had that special date every Friday night. It is something which I have always thought of because I have never been able to find the time to do that in my own relationship with my own wife, and I just have to admire a man who kept that special date with his wife all of those years in a great love affair which they shared until she passed.

So in closing, Mr. Speaker, I just want to say that oftentimes we do something in this body that makes you proud to be a Member of the body, and this is one of those days, when we can take time out of our busy schedules to pin the flowers and the roses on one of our colleagues while he is still with us. Sometimes we have occasion and a tendency to wait until something has happened to someone and then oftentimes they are not able to smell the flowers and see the flowers that are being pinned upon them.

I think the House does itself honor today by paying honor and tribute to a man who has become a legend in his own time. PETER RODINO, whenever he leaves the House—and we hope he is going to be with us many, many more years—will leave here a great tradition and with a great reputation.

I recall one of the greatest fights that we had here on the floor was when a former colleague of this House attempted to amend the Constitution to prohibit busing of children pursuant to court order desegregation cases. I will never forget the high tension in the House and the high emotion as that particular issue was debated here in the House. I will never forget the long hours that PETE spent with the Congressional Black Caucus and other Members of the House on both sides of the aisle who were determined not to turn back the clock in terms of the progress that we were making in desegregating segregated schools throughout this Nation in providing young children, black and white, an opportunity to gain the education that they are entitled to under our Constitution.

But that has been his life. He is a person who has added new dimensions to the preservation of the constitutional guarantees that are given to every American, whether it be an American adult or an American child. He has added a new dimension to protecting those rights under the Constitution that are so precious to each and every one of us.

Once again, I deem it a great honor to have been able to participate here this afternoon.

Mr. Speaker, at this time I am pleased to yield to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. I thank the gentleman for yielding.

Mr. Speaker, I would like to add my thanks to the gentleman from New York [Mr. RANGEL] for providing this opportunity for us.

Much has been said about Chairman RODINO, all of it praiseworthy, all of it worthwhile, and all of it true. I would like to add to it, Mr. Speaker.

Since I have been in this body 5 years, being here has made me a patriot, or more of a patriot, seeing the people from all different parts of America, from all different walks of life; coming here gives you a real window view of what America is all about.

What is America all about? It is about her people, the people of this country, from all different backgrounds and all different ideas and all different personalities, and they come to this Chamber and they work together and they push and they pull and they try the best they can to govern this country. The more people you see here, and the more people that one gets to know, the prouder one is to be an American.

I would like to add my thanks, really, to Chairman RODINO, to him for his kindness and for being my friend and one of my mentors in this body. He is one of the people who, when I sit back at home and think about why I love this Congress and why we all love this Congress, is one of the reasons, a man who has made his mark on history. The United States of America will forever be a better country because of what PETER RODINO has done in passing landmark civil rights legislation, in chairing the Committee on the Judiciary during Watergate.

PETER RODINO can sit back with pride and satisfaction. He is one of the few lucky individuals able to point at history and say, "I have indeed made a difference, a positive difference." He is a man who is tough. He is not tough in the conventional sense. He does not go around and swagger. In fact, he is a very polite and kind gentleman. But in his gut, he is tough. When it came time to pass civil rights legislation, with all the opposition and vituperation that was thrown upon those who worked for its passage, when it came time to defend the Constitution of the United States under Watergate, we needed a tough person, and Chairman RODINO was tough.

But Chairman RODINO was also fair. If one had to characterize the way the American people regard Chairman RODINO, I think it would be both of those—tough and fair; tough in being unrelenting but fair in not pushing his advantage too far. In every move we make even today in the 3 years that I have been on the Committee on the Judiciary, the paramount concern of the chairman is: Are we being fair? Are we not just taking our own viewpoint into account, but listening to the viewpoints of others and giving them a fair shake? He has been eminently fair. He is a kind gentleman. As my good colleague from Ohio mentioned, he is a family man.

There are many different attributes that one can, with pride and with justification, point to about Chairman

Rodino, but I would like to simply underscore that difficult combination of toughness and fairness. There are many who are tough and many who are fair, but there are few who combines that in the right proportion to become outstanding servants to this Nation. Peter Rodino has been such. I am a better person for having served under him and from knowing him. America is a better place, a much better place, that he took his call to public service and has done such an outstanding and remarkable job.

☐ 1615

Mr. STOKES. Mr. Speaker, I thank the gentleman for his great contribution to the special order.

I am pleased to yield to the gentleman from Florida [Mr. Smith].

Mr. SMITH of Florida. Mr. Speaker, I thank the gentleman for yielding and commend him for the remarks which he has entered into the Record this day. I want to also take this time to commend the gentleman from New York [Mr. Rangel] who has arranged for this special order. In addition to what I personally am about to say in tribute to our good friend, Peter Rodino, since the gentleman from New York [Mr. Rangel] is also here on the floor, I want to tell him I think in many ways a lot of what is going to be said today about Peter Rodino could very well be said about Charlie Rangel. I think it is important for us to recognize that Peter Rodino has really generated new Peter Rodino's. Each year that he is here, someone else comes up to begin to fight the battles that Peter has been at the forefront of fighting, and Charlie Rangel is one of those people and has respresented his people in New York very well for so many years.

As I said, I rise today to honor a man whose accomplishments in the House of Representatives have been an inspiration to us all, a man who for 36 years has worked to protect and defend not only the letter, but the spirit of the U.S. Constitution as well. As an able and well-respected lawmaker, this man, our colleague, is one of the most important gears which keeps the legislative process running. I speak, of course, of Congressman Peter Rodino.

I feel privileged to have had the opportunity to serve under Chairman Rodino on the Judiciary Committee as a member of the Crime Subcommittee and on his own Monopoly Subcommittee. I have observed his lead role in a number of issues close to my heart, particularly in the area of crime and drugs. He has worked long and hard to toughen our anticrime laws as well as rid the Nation of illegal drugs.

Chairman Rodino has a stunning record of contributions in the area of civil rights and legislation, and all of us remember how he saved our system of Government in 1974 with this fair and impartial handling of President Nixon's impeachment hearings. You have heard today the tributes being paid to him, not only in his role as a leader for civil rights, but in his role as a leader for the implementation of civil rights, for the quotas being abolished, for fair, tough, legitimate but compassionate immigration laws for the people of this country, for the people of the world who want to make America their home.

This is what Peter Rodino has stood for all of his life, in addition to just those years that he has served in the legislative body.

I would like to just for a very short time take a little bit of a different tact. In the 3 years since I have been here and have served on the Judiciary Committee, I have gotten to know him not only as a man whom I respected before I came to this body, as a man whose name was known to many of us as young lawyers, as a leading lawyer in the United States, but I have gotten to know him as an individual, and I think many people forget, even as we, our own body, the colleagues of Peter Rodino pay tribute to him those people that are listening here today may not understand that Peter Rodino is not only a symbol, and not only a hard-working individual, but a friend to many and a warm, personable human being. The time that I have spent here I have found him to be willing to listen to people, not only those who come from the outside and have a problem about immigration, or a problem about law enforcement, or a problem about antitrust matters, but right here, the people, his colleagues who have questions, who are new, who need to be schooled in some of the more difficult issues, who need to understand the process. He always has the time to sit down right here on this floor or in his office and talk to you about the issues, explain what he is doing, what he has done, what he thinks about an issue. That has been of great help and of great importance to myself and a large number of my colleagues, especially the younger colleagues who have only been in this body for a short time. But in that short time, we have learned to respect him, not only for what he has done, but for who he is and for his dedication to the individual as well as for his dedication to the law, to the Constitution, and to the United States.

I can tell you, stretching my memory back over 20 years and more, I have a vivid picture of Peter Rodino. But since I have been in this Congress, that picture, that mental image you get of people you hear about and read about and talk about and admire from afar, has been embellished by personal knowledge of the individual. I am sorry that everyone out there in this country cannot get the same experience that we have had of being able to know him personally. If they would, they would find that they would have an admiration, a respect, even in a way a love for this man that goes beyond what they might have already, in terms of their knowledge of him through the printed and the spoken and the written media.

He is truly a leader of this body. He is truly a 20th century renaissance man in his devotion to those things that make life better for individuals and for his country, and I am very, very proud of him. But more so, grateful for the opportunity to be able to serve with a gentleman of his caliber, a lawyer of his stature, and a legislator of his respect.

I know I speak for all of my colleagues when I say, Peter, many, many more good years of leading the United States for equality, for democracy and for justice, not only for this country, but for all of the free people of the world.

I thank the gentleman once again for sharing some of his time with me.

Mr. STOKES. Mr. Speaker, we thank the gentleman from Florida for those observations he has made here and his contribution.

I also want to concur not only in the gentleman's remarks regarding Peter Rodino, but also his very fine remarks regarding our good friend, the gentleman from New York, Charlie Rangel. I agree that anyone sitting on the Judiciary Committee, and particularly at the time that Charlie Rangel sat on that committee and his seniority, having sat through the Watergate impeachment hearings under the chairmanship of Peter Rodino, that has to rub off in terms of the manner in which this man serves in the Congress. I agree with the gentleman that Charlie Rangel certainly exemplifies many of the fine qualities that are exemplified through our colleague, Peter Rodino.

Mr. Speaker, I am pleased at this time to yield to the gentleman from New York, our friend [Mr. Garcia].

Mr. GARCIA. I thank my colleague from Ohio [Mr. Stokes] for giving me these few minutes to talk about not only a fine Congressman, bur a personal friend.

Many of my black colleagues, when it comes to talking about the Voting Rights Act, think that they are the only minority group that has a franchise on what the Voting Rights Act is all about. I stand here today as a Hispanic, a person born and raised in the community that I represent today, the South Bronx. I am one of those persons who in 1965 was elected to the New York State Legislature because of Peter Rodino's work on the Voting Rights Act. I know that he and Martin Luther King walked side by side during those battles.

One of the magnificent opportunities that we have here in this legislative body is that many times we lobby, and we work very hard to generate the votes that are necessary to pass legislation and we do not always know who the recipients are going to be of that legislation. I am sure that when they were working, Martin Luther King and PETER RODINO, side by side, to pass the Voting Rights Act, that they did not know that a BOB GARCIA existed on 138th Street in the South Bronx, and that I would be elected.

We have tried to do some research and find whether there are any other legislators still in public office who were elected in that very first historic year of 1965. As hard as I have tried, we still have not found anybody. I think I may be the last one of that group.

But PETER RODINO is a person who I am sure many people who are listening today never knew. They got to know him during the Nixon trials and during those terrible years in the 1970's when we were not sure of what the outcome would be in terms of the Presidency. But PETER RODINO then became a national and an international personality.

I have always prided myself in saying that those of us who come out of communities like Newark, of immigrant families, immigrant parents, like the gentleman from New Jersey [Mr. RODINO] can govern and rule in this great country as well as anybody else. It just seems to me that based upon all that he has done for so many, that this special order put together by my colleague, the gentleman from New York [Mr. RANGEL] who, by the way, served during those years in which the impeachment of a President was taking place—I would like everybody to know that I do not talk about that in any sense politically. I talk about that as probably a magnificent moment in history only because it tested our own ability to judge each other, and that we came out the stronger for it. I think it was that quiet assertiveness of the gentleman from Newark, NJ [Mr. RODINO] who gave a certain tranquility to this Nation, and there are times that we may disagree. I must tell you that I am amongst those who, on the question of the immigration bill has disagreed with PETER RODINO, but I have never disagreed because of the fact that I felt that he was being underhanded. Not at all, he has always been above-board, and always a person that you know that when he gave his word, as he did during the immigration battle that there are certain portions of that legislation that under no circumstances would he surrender to the opposition, and he did not. He held fast, a man of his word. That is Congressman PETER RODINO.

I am delighted that my colleague and my friend for many years, the gentleman from New York [Mr. RANGEL] has given me this opportunity and has taken this special order celebrating the 20th anniversary of the Voting Rights Act.

□ 1630

I thank him very much for giving me these few moments to thank a good friend, a person who will always be a friend; a person who is what is great about America, a person who will continue to serve because the spirit is so strong, that I would like to not only ask permission to revise and extend my remarks, because there is so much more we can say about PETER RODINO, but I would like to associate myself with all of the remarks that have been made today.

Mr. STOKES. I thank the gentleman for his valuable contribution.

Mr. SYNAR. Would the gentleman yield?

Mr. STOKES. I yield to the gentleman.

Mr. SYNAR. Mr. Speaker, I just want to add my remarks to all those that people have spoken today. I have grown to admire, over the 7 years that I have been in the U.S. Congress the determination and hard work of PETER RODINO. We have not always agreed, but I will tell you this, he is a tough negotiator; he has always stood for those things and principles which I think all of us in this country admire; and I join with the accolades today.

Mr. STOKES. I thank the gentleman for his remarks.

At this time I am pleased to yield to the gentleman from Massachusetts [Mr. BOLAND].

Mr. BOLAND. Mr. Speaker, I take great pleasure in participating in this special order to honor PETER RODINO, one of the finest legislators that has ever served their country in Congress. I want to compliment my colleague from New York, Mr. RANGEL, for providing us the opportunity to commend PETE for his 36 years of distinguished service to this Nation.

PETE RODINO came to the House in 1948, after being elected by the citizens of the 10th Congressional District of New Jersey. In the almost four decades since, he has consistently honored his commitment to his constituents and the State of New Jersey and, in so doing, has earned the admiration of all his colleagues in Congress.

PETE RODINO'S list of legislative achievements, as chairman of the House Judiciary Committee, and international, national, and local awards, and honorary degrees, which reflect those accomplishments are so extensive, as to preclude my mentioning them all. He has served on Presidential Commissions and his name was frequently mentioned in connection with national office. In addition, he is a decorated veteran, having earned a Bronze Star while serving with the 1st Armored Division in Italy during World War II and special recognition for his service by the Italian Government.

For all PETE RODINO has done in service to the Nation, be it on the battlefields of Europe, or in the Halls of Congress, he will leave no greater legacy to his country than the landmark civil rights legislation he authored and fought for in the early to mid-1960's. He also earned a special place in history for his chairmanship of the Judiciary Committee, as it undertook the first Presidential impeachment inquiry in over 100 years during the tumultuous Watergate period. His calm, measured stewardship during the many hearings and investigations insured orderly and objective proceedings.

As a scholar of the Constitution, he has been especially careful to craft laws which affect our judicial system, and our society, in a manner consistent with the dictates of our most basic legal document. His work in that area will be felt for generations to come. We are most fortunate that that work, is not yet complete. He is richly deserving of this tribute. It has been, and continues to be, an honor to serve the Nation with an individual of Congressman RODINO'S caliber. I want to wish him continued success in the Congress, good health, and best wishes for a happy holiday season.

Mr. STOKES. I thank the distinguished gentleman from Massachusetts for his contribution to the special order.

At this time I want to once again express the appreciation of all of us here in the House to our distinguished colleague, the gentleman from New York [Mr. RANGEL] for having taken out this special order this afternoon; and to have afforded all of us in the House an opportunity to be able to pay tribute to one of the great Members of this House.

It was certainly thoughtful of the gentleman, and considerate, to not only take out the special order but to invite all of us to participate. It is only fitting now that you be recognized to close the special order. I yield to the gentleman from New York.

Mr. RANGEL. I thank the gentleman from Ohio.

Mr. Speaker, this has been a very unusual special order in that there have been so many Members that wanted to pay tribute to PETER RODINO and for you to be able to come and to ask unanimous consent to continue this tribute. I want to thank the gentleman for it.

I also want to thank my dear friend and colleague, the gentleman from Georgia [Mr. RAY] who had time scheduled but because there were so many people, he yielded to those Members to pay this special tribute; and to the gentleman from Texas [Mr. GONZALEZ], who was here, too.

I thank the Chair for this wrapping up of a tribute to PETER RODINO, a tribute to the 20th anniversary of the Voting Rights Act.

Mr. RANGEL. Mr. Speaker, I submit at this point in the record various statements and letters from civil rights and community organizations that wanted to say on their behalf, for making a stronger Voting Rights Act and therefore a stronger country, "Thank you, Chairman PETER RODINO":

A. PHILIP RANDOLPH INSTITUTE,
New York, NY, December 12, 1985.

Hon. CHARLES B. RANGEL,
Rayburn House Office Building,
Washington, DC.

DEAR CONGRESSMAN RANGEL: I am delighted to join the voices honoring Judiciary Committee Chairman Peter Rodino through a Special Order on December 16, 1985. Congressman Rodino has uniquely championed the cause for the protection of civil rights in our country, for the protection of fundamental human rights around the world, and for the protection of refugees forced to flee from their native lands.

Most of our citizens are aware of Chairman Rodino's enduring contributions to the fundamental civil rights legislation that still exists as a beacon to the most disadvantaged and oppressed in our society. Perhaps fewer people are aware of the debt of gratitude that we all owe to Congressman Rodino for his commitment to bringing justice and humanity to the refugee laws of our country.

Recently, Chairman Rodino has led the effort to achieve through legislation an end to the tragic plight of the Haitian and Cuban refugee boat people. He has not only introduced this legislation but he has actively rallied support for this basic humanitarian issue. When many of these refugees were recently threatened with deportation, Congressman Rodino swiftly initiated a campaign of concern to halt these unjust deportations until Congress can act on remedial legislation early next year.

In conclusion, Chairman Rodino is a most effective leader and he is a cherished friend.

Sincerely,

BAYARD RUSTIN,
President.

AMERICAN CIVIL LIBERTIES UNION
Washington, DC, December 12, 1985.

Hon. CHARLES B. RANGEL,
Rayburn House Office Building,
Washington, DC.

DEAR REPRESENTATIVE RANGEL: The civil rights and personal freedoms of many Americans have come under an unprecedented assault in recent years, from many quarters including the Reagan Administration. Too infrequently during this period have we had the opportunity to reflect on where we have been or to examine where we are headed as a nation under law.

Today's tribute to Rep. Peter W. Rodino provides a fitting opportunity both to acknowledge the many contributions of a great defender of civil rights and liberties, and to rededicate ourselves to the constitutional principles for which his illustrious career in Congress has come to symbolize. Let us also use this occasion to reaffirm our commitment to the full restoration of civil rights protection for all Americans.

The ACLU is honored to have been a part of this acknowledgement.

Sincerely

MORTON H. HALPERIN.

AMERICAN FEDERATION OF LABOR
AND CONGRESS OF INDUSTRIAL ORGANIZATIONS,
Washington, DC, December 12, 1985.

Hon. CHARLES RANGEL,
House of Representatives,
Rayburn House Office Building,
Washington, DC.

DEAR REPRESENTATIVE RANGEL: On behalf of the AFL-CIO and its constituent working men and women, I would feel privileged to be associated with the Special Order for Chairman Peter Rodino on Thursday, December 12, 1985 in the U.S. House of Representatives.

The Honorable Peter W. Rodino has few, if any, equals as a Congressional leader. The legislation which he has helped enact into law contains some of the most important new policy directions for this Nation and its citizenry. The elimination of national origin quotas as a basis of U.S. immigration policy comes vividly to mind, even though 20 years have since passed. His current efforts to further reform our immigration laws indicates his long-lasting commitment to this issue. His floor management of the 1966 Civil Rights bill also comes to mind. And we know of his work on behalf of the Civil Rights Restoration Act of 1985 to correct the *Grove City* Supreme Court decision which weakened many of the rights established in the 1966 law.

In all of our association with Chairman Rodino, we have found him to be a man of quiet temperament, fair-minded spirit, sensitive political judgment and legislative expertise. His hand in legislation, while not always the most visible hand, is the strong and effective one. And when visibility was most necessary to ease the impact of a major Constitutional crisis, we remember how Chairman Rodino carefully and calmly, for all the Nation to observe, led the House Judiciary Committee through its deliberations in 1973 and 1974 of the first Presidential Impeachment inquiry in over 100 years. It was masterful and, alone, worthy of our admiration, respect, and gratitude.

Protecting and advancing the rights of minorities and women, the vulnerable and the victim, is the consistent theme of Peter Rodino's public career. The AFL-CIO has been, and continues to be, a strong supporter of these public policy initiatives and we look forward to working with Chairman Rodino in future Congressional efforts in these areas.

The tribute of his colleagues is well occasioned.

Sincerely,

LANE KIRKLAND,
President.

THE AMERICAN
JEWISH COMMITTEE,
Washington, DC, December 10, 1985.

For almost four decades in Washington I have seen literally thousands of members of the Congress come and go—and have observed their work closely. In my opinion Peter Rodino must be included in no more than a handful of members whose character and leadership and achievements place them in a special category of Congressional superstars. Whether it be in the field of civil rights or civil liberties or international human rights or immigration or social justice, Pete Rodino has made historic contributions.

HUMAN BOOKBINDER,
Washington Representative.

CENTER FOR NATIONAL
POLICY REVIEW, INC,
Washington, DC, December 12, 1985.

Hon. CHARLES B. RANGEL,
Rayburn House Office Building,
Washington, DC.

DEAR REPRESENTATIVE RANGEL: It is a privilege for us at the Center for National Policy Review to join with you in honoring Congressman Peter W. Rodino.

From his authorship of the House majority report on the Civil Rights Act of 1957 (the very first civil rights bill in this century) to his leadership role in passage of the historic Civil Rights Act of 1964 and the Fair Housing Act of 1968 to his authorship and the indispensable part he played in enactment of the Voting Rights Act Extension of 1982, Peter Rodino has been a stalwart in the battle against discrimination.

As one who has been privileged to work with Mr. Rodino on many of these efforts, I can testify to the personal qualities that have enable him to achieve such a remarkable record—an ability to place himself in another persons's shoes and feel the sting of injustice, a willingness to persist in the face of adversity, the leadership, drafting and tactical skills to bring his ideas to fruition, an understanding heart. For us who work in the Leadership Conference on Civil Rights, it was not a difficult decision at all to select Mr. Rodino as a recipient of the first Hubert M. Humphrey Award in 1978. What is all the more remarkable is that civil rights is only one of the areas in which he has advanced the cause of fairness and opportunity for all Americans.

In these days of preoccupation with the mounting national deficit, it may be well to recognize that there are some debts that can never be fully repaid. Preeminent among these is the debt that all of us as Americans owe Peter Rodino for helping us to become a better nation.

Sincerely,

WILLIAM L. TAYLOR.

NATIONAL COUNCIL OF LA RAZA,
Washington, DC, December 11, 1985.

Hon. CHARLES B. RANGEL,
Rayburn Office Building, House of Representatives, Washington, DC.

DEAR REPRESENTATIVE RANGEL: It was with great pleasure that I received word of your intention to conduct a Special Order in recognition of the invaluable work of Representative Peter Rodino. On behalf of the National Council of La Raza. I wish to express deep appreciation of his tireless commitment to protection of the civil rights of persons throughout the nation.

Representative Rodino has played a central role in the formulation and passage of major civil rights initiatives for nearly three decades. He has forcefully confronted problems of discrimination long-felt by minorities, securing employment and voting rights for Hispanics and other disadvantaged groups and fighting to protect those rights. In doing so, Representative Rodino has earned the respect of his colleagues, his constituents, and all members of the civil rights community.

For these reasons and many others, Representative Rodino deserves the highest praise. We commend you for your efforts, and fully support the Special Order in his honor.

Sincerely,

Raul Yzaguirre,
President.

Leadership Conference
on Civil Rights,
Washington, DC, December 12, 1985.

Hon. Peter W. Rodino, Jr.,
Chairman, House Judiciary Committee, Rayburn House Office Building, Washington, DC.

Dear Mr. Chairman: On behalf of the 185 national organizations in the Leadership Conference on Civil Rights, representing minorities, women, the disabled, labor, senior citizens and religious organizations, we want to express our deepest appreciation for your leadership on civil rights issues.

Over the past several decades, the Leadership Conference has turned to you time and again on all the crucial civil rights issues before the Congress. And without fail, your commitment, your knowledge, and your integrity have produced overwhelming bipartisan victories. Indeed, every civil rights measure that has been enacted into law bears the indelible imprint of Chairman Peter Rodino.

Among your most important legislative achievements in recent years has been your zealous protection of the Constitution against the assaults of the Radical Right. No civil rights law has been immune from the Right's attack. However, you have prevented the Radical Right from enacting one single item on its legislative agenda.

There is no question that history will smile very favorably on your outstanding contributions to our Nation. And we will remain forever indebted to you for your effective leadership.

We in the Leadership Conference look forward to working with you to further our Nation's irrevocable commitment to providing equality of opportunity for all Americans.

With warmest personal regards,

Sincerely,

Ralph G. Neas,
Executive Director.
Benjamin L. Hooks,
Chairperson.

Legal Defense Fund,
New York, NY, December 12, 1985.

Hon. Peter W. Rodino, Jr.,
Rayburn House Office Building,
Washington, DC.

Dear Chairman Rodino: The NAACP Legal Defense and Educational Fund, Inc. wishes to express to you our sincere appreciation for your legislative effort over the past thirty-eight years on behalf of poor people and Black people in our nation. You have understood the vital need in a democracy for the majority to establish and protect the rights of the minority.

Your contributions to making available opportunities for Black Americans in the labor market have been far-reaching and effective. In drafting and shepherding to passage the fair employment divisions of the Civil Rights Act of 1964, you are responsible for a law that has played a significant role in removing many of the vestiges of a legacy of slavery.

The passage of the Voting Rights Act of 1965, the subsequent extensions to that act, including the Voting Rights Act of 1982 is legislation that become law because you have cared. Across the years in your work as a member for the Judiciary Committee and in your Chairmanship of that Committee, you have demonstrated time and time again your commitment to the meaningful inclusion of Black Americans in the benefits, rights, privileges, and opportunities of this land.

Thank you, Mr. Chairman, for your steadfastness and your commitment. It has truly made a tremendous difference.

Sincerely,

Julius L. Chambers,
Director-Counsel.
Elaine R. Jones, Esq.,
Washington Office.

National Association for the
Advancement of Colored People,
Washington, DC, December 11, 1985.

Hon. Charles B. Rangel,
House of Representatives, Rayburn House Office Building, Washington, DC,

Dear Mr. Rangel: The National Association for the Advancement of Colored People strongly supports the Special Order for Congressman Peter W. Rodino. We appreciate your submitting the enclosed statement to the Congressional Record.

As you know, Congressman Rodino has made many significant contributions to civil rights and he is very respected in the civil rights community. The NAACP considers it an honor to have this opportunity to express our thanks and appreciation to this great public servant.

Sincerely yours,

Althea T. L. Simmons,
Director.

National Association for the
Advancement of Colored People,
Brooklyn, NY, December 12, 1985.

Statement of the National Association for the Advancement of Colored People in Support of the Special Order for Congressman Peter W. Rodino

The National Association for the Advancement of Colored People is proud to honor its long-time friend, Representative Peter W. Rodino. He has been a staunch supporter and leader in the struggle for equality and civil rights.

To accurately portray Representative Rodino's contribution to civil rights it is important to consider the social and political climate of the nation which led to the consideration of major civil rights legislation. The first civil rights measure since Reconstruction was enacted into law in 1957 three years after the landmark decision in *Brown v. Board of Education* and black Americans were raising the conscience of the nation by their insistence that they were citizens too and that the nation live up to its promise of democracy.

Peter W. Rodino authored the majority report on the Civil Rights Act of 1957 which created the U.S. Commission on Civil Rights, authorized the Attorney General to prosecute persons interfering with the right to vote and established the civil rights division of the U.S. Department of Justice. Mr. Rodino authored the majority report on the 1960 Civil Rights Act which enabled Federal agents to enroll voters in areas where blacks were being denied the right to vote. These two measures were the cornerstones for future civil rights legislation.

Again in 1964, Representative Rodino led the U.S. House of Representatives in passing the historic Civil Rights Act of 1964 which prohibits racial or religious discrimination in public accommodations; prohibits race, color, sex, religion or national origin in employment practices among other civil rights protections.

Representative Rodino has shown consistency in his efforts to further civil rights. He has the enviable record of maintaining a consistent 100 per cent voting record on civil rights legislation as reflected on the NAACP Civil Rights Report Card. Mr. Rodino was the floor manager of the Civil Rights Act of 1966; authored the Voting Rights Act Extension of 1982 and was a leader and strong supporter of the years of effort to pass legislation establishing Martin Luther King's birthday as a national holiday.

Mr. Rodino wrote the majority report for the fourth civil rights act in 1968.

Representative Rodino's commitment to and perseverance and persistence in civil rights action, his unflinching support of the goals of equality—a birthright of American citizens—is helping to move our nation toward a positive affirmation of justice for all.

Peter W. Rodino has a vision of what this country should be. A vision that reaches far beyond where we were then in 1957 and where we are now in 1985. He realizes that even now, in 1985, twenty years after the passage of the Voting Rights Act, that there is still yeoman work to be done in achieving equal and civil rights for all.

As we move forward in our attempts to complete the unfinished civil rights agenda, the civil rights community, inclusive of the 2100 branches, 38 state and area conferences and 600 youth and college units of the NAACP, is grateful that it has a friend in Representative Rodino. As a member of the National Association for the Advancement of Colored People, Mr. Rodino continues to be a ardent advocate of equality for all.

We join members of the Congress and others who acknowledge the many accomplishments of Representative Peter W. Rodino in this Special Order.

Benjamin L. Hooks,
Executive Director.

National Coalition
for Haitian Refugees,
New York, NY, December 12, 1985.

Hon. Charles B. Rangel,
Rayburn House Office Building,
Washington, DC.

Dear Congressman Rangel: We are priviledged to have this opportunity to honor House Judiciary Chairman Peter Rodino for his unparalleled achievements in protecting and advancing fundamental civil and human rights.

Our 34 national member organizations have an immediate reason to thank Congressman Rodino. In 1983 he singlehandedly initiated legislative efforts to end the tragic plight and legal limbo of a deserving group of Haitian and Cuban refugee boat people.

This cause that he championed has now produced legislation that will provide for the protection of these refugees and the adjustment of their status. Chairman Rodino has not contented himself with crafting legislative relief, rather he has also joined the chorus of voices urging an immediate halt to the deportation of any otherwise eligible beneficiaries of this legislation until Congress has concluded its deliberations.

We are proud of Rep. Rodino. His work on behalf of the underprivileged and his concern for their plight is unique and merits the gratitude of the entire country.

Sincerely,

Bayard Rustin,
President, A. Philip Randolph Institute.
Michael S. Hooper,
Executive Director.

Anthony J. Bevilacqua,
Bishop of Pittsburgh.
Jay Mazur,
General Secretary-Treasurer, ILGWU.

National Council of the
Churches of Christ in the U.S.A.,
New York, NY, December 12, 1985.
Hon. Charles B. Rangel,
House of Representatives,
Washington, DC.

Dear Congressman Rangel: We write in support of the special order which you have requested in the U.S. House of Representatives to honor Chairman Peter W. Rodino. It is appropriate that Members of Congress, as well as the nation at large, be given the opportunity to pause and recognize the many major contributions which Chairman Rodino has made to our country, especially in the area of civil rights.

At every critical juncture in civil rights legislation over the past four decades, Chairman Rodino has been a key actor. His active involvement in the passage of civil rights bills in 1957, 1960, 1964, and 1968, and his pivotal role as floor manager of the 1966 civil rights bill have beyond a doubt improved the lives of millions of Americans previously denied their rightful place in our society. His authorship in 1982 of the Voting Rights Act Extension is further testament to his lasting commitment to ensuring the participation of all Americans in our democracy.

The National Council of Churches, through the Immigration and Refugee Program of its Division of Church World Service, has also enjoyed a special relationship with Chairman Rodino on immigration and refugee matters. This dates to the chairman's role in the mid-1960s in eliminating the discriminatory national origins quota system which until that time existed in our immigration laws. As sponsor of the Refugee Act of 1980, Chairman Rodino also saw to it that United States laws encompassed legitimate refugees from persecution, regardless of their country of origin.

Most recently, Chairman Rodino's championing of the rights of Haitian and Cuban refugees, through his pending bill H.R. 23, is an activity which enjoys the broad support of the religious community. Chairman Rodino, as the experienced Chairman of the Committee on the Judiciary, is in a key position to ensure enactment of this critically important legislation, as well as to assure fair and equitable immigration reform in the 99th Congress.

We appreciate your efforts, Congressman Rangel, in requesting this important and most appropriate special order. The distinguished history of responsible and compassionate leadership of Chairman Rodino should be made a matter of public record.

Sincerely,
Rev. Dr. Arie Brouwer,
General Secretary.

National Urban League, Inc.,
Washington, DC, December 12, 1985.
Hon. Charles B. Rangel,
House of Representatives, Rayburn House Office Building, Washington, DC.

Dear Congressman Rangel: On behalf of the National Urban League, it is a genuine pleasure to support the Special Order honoring Congressman Peter Rodino. By every standard of measurement, Mr. Rodino has earned this special recognition from his colleagues in the House of Representatives. I am delighted that the National Urban League Movement has this opportunity to express its sincere appreciation for his outstanding contributions and continuing commitment to civil rights enforcement in this nation.

We also applaud the Congressman's enduring support of the Voting Rights Act. In almost four decades as a Member of Congress, Mr. Rodino has proven himself a dedicated and effective lawmaker.

Sincerely,
Douglas G. Glasgow,
Vice President, Washington Operations.

National Women's Political Caucus,
Washington, DC, December 11, 1985.
Hon. Charles B. Rangel,
Member of Congress, Longworth House Office Building, Washington, DC.
(Attention of Kevin Cullather).

Dear Congressman Rangel: I heartily endorse your request for a Special Order on Thursday to honor Congressman Peter W. Rodino, Jr.

His record is one of consistent and strong advocacy for human rights. We particularly appreciate his staunch support of the Equal Rights Amendment, the Civil Rights Act of 1964, and the Civil Rights Restoration Act.

We hope he continues in the Congress for many years.

Sincerely yours,
Irene Natividad,
National Chair.

State of New Jersey,
Department of the Public Advocate,
Trenton, NJ, December 11, 1985.
Re: Special order—Honorable Peter Rodino.
Hon. Charles Rangel,
Rayburn House Office Building,
Washington, DC.

Dear Congressman Rangel: I am pleased to write this letter in support of your special order of Thursday, December 12, 1985, honoring my long-time friend and associate, Congressman Peter Rodino, for his years of leadership in the area of civil rights. As a native Newarker and, therefore, a constituent of Congressman Rodino, I am proud of his contributions to the movement for equal opportunity in all sectors of American society. Congressman Rodino has consistently demonstrated an admirable level of integrity and leadership in seeking to inspire the federal government to fulfill its mandate to preserve and protect the rights of all people. He has overcome great obstacles in this struggle, but has persevered. As a member and later as Chairman of the House Judiciary Committee, he has been forthright in directing that Committee through difficult legislative battles which have resulted in improving the lot of the underprivileged throughout American society. On this day I am honored to join with you and the many others who will salute Peter Rodino for his leadership, courage and dedication to purpose.

Sincerely,
Alfred A. Slocum,
Public Advocate.

Mr. CONTE. Mr. Speaker, I would like to thank my good friend from New York, Charlie Rangel, for taking out this special order for the distinguished chairman of the Judiciary Committee, my paisan, Peter Rodino.

It is very appropriate that we're holding this special order in 1985, the 20th anniversary of the passage of the Voting Rights Act. As a member of the Judiciary Committee back in 1965 when that landmark legislation was passed, Peter Rodino can take a great deal of credit for actually shaping the form of that bill. As a strong supporter of that legislation myself, back in 1965, I'm pleased to be standing in the well today.

The Voting Rights Act was a bill that said to a watching world that all of our citizens—whatever the color of their skin, whatever their religion, would have the right to vote without harassment or fear. Because of Peter Rodino's work, those noble challenges became the law of our Nation.

As chairman of the Judiciary Committee, Pete became known to the Nation as the man who conducted the Watergate hearings with fairness, with openness, and with candor. At times, back in the 1970's it seemed as though the future of our great Republic rested on his shoulders. He faced the challenges of those hearings in a responsible, nonpartisan fashion.

His 36 years in Congress are marked by Peter's love and concern for the Constitution, which he reveres and defends with passion. He is a credit to the Italian-American community, a credit to this institution, and a credit to this Nation. I am proud to have served, and to serve, in the House with this great American.

Mr. DINGELL. Mr. Speaker, it is indeed an honor to pay tribute to my good friend and colleague from New Jersey. In the 30 years that I have served as a Member of this body, I have always found Pete Rodino to be a man of integrity and a public servant who charges ahead until he finds the truth.

Everyone remembers Watergate—the scandal, the humiliation of many public officials and the very difficult actions the legislative branch had to take in Watergate's aftermath.

Let me tell you about the Judiciary chairman's latest stellar accomplishment. When my Investigation's Subcommittee and other subcommittee's were uncovering the EPA scandal in 1982 and 1983, we were stonewalled by the Justice Department. The leadership of the House requested Mr. Rodino to investigate the strange, if not illegal, conduct of the Department during that period.

After 2½ years of indepth investigation, which was needlessly prolonged by struggles with the Justice Department, the committee has now issued its report—a report that would not have been possible under a chairman of less integrity and tenacity. I believe the report is a monument to Pete Rodino's thoroughness and fairness.

The report confirmed our worst suspicions. In withholding Superfund documents from the committee under the ruse of executive privilege, senior officials at the Department of Justice and the White House were deliberately keeping the Congress and the American people from learning about this administration's failure to enforce laws designed to protect the public health and the environment. The compelling evidence amassed during this investigation clearly justified the committee's vote to refer the report to the Attorney General with a request for the appointment of an

independent counsel and the referral to the U.S. district court.

PETER RODINO has been the driving force of this and other investigations where it was necessary that the public be informed of wrongdoing and impropriety.

PETE RODINO will be remembered as a true friend of this body, its members and the public trust.

Mr. FISH. Mr. Speaker, I am delighted to join my colleagues today to honor a good friend and a great legislator, the Chairman of my Judiciary Committee, Congressman PETER W. RODINO, I have served with the chairman since my first days in the Congress in 1969 as a member of the Judiciary Committee, and for the past 4 years as ranking minority member, our differences on legislation have often been overcome by the fundamental nature of the committee's work and the important national goals we have pursued in the committee. The chairman has always tried to be accommodating and appreciative of the views of the minority. I am proud to call him friend.

Congressman RODINO has been one of the most effective legislators in the history of the Congress. He has led the Judiciary Committee through radically changing times.

He was involved in the early days of the civil rights movement in writing reports on landmark bills in 1957, 1960, 1964, and 1968. He was the floor manager of many of these bills, and when he was not the manager, he was on the floor to insure passage of civil rights legislation. He also pushed for and succeeded in passage of the Voting Rights Act of 1965 and subsequent extensions of this vital legislation. He is the House expert on immigration.

I served on the committee during the Watergate impeachment inquiry, and recognized the chairman's firm leadership and his fairness and thoroughness throughout 7 long months of our consideration. The impeachment hearings were a special time to those of us who participated, and I will not forget his critical role.

Mr. KILDEE. Mr. Speaker, I wish to join my colleagues in honoring Congressman PETER W. RODINO, Jr., for his service in Congress. Congressman RODINO'S record in Congress is one of honorable service to his constituents and to the country. When we review his accomplishments, we see a clear record of caring and concern for the people of this country. His efforts in civil rights were instrumental in passage of many of our Nation's most important pieces of civil rights legislation. He was the author of the Voting Rights Act Extension in 1982, and he authored majority reports on civil rights in 1957, 1960, 1964, and 1968.

Congressman RODINO's accomplishments in civil rights alone are worthy of great praise, but he has done so much in so many different areas. He authored the Victim and Witness Protection Act of 1982. He kept the Nation together during our gravest constitutional crisis when he chaired the Watergate impeachment inquiry. He led the efforts to cut off aid to countries that do not help in the eradication of illegal narcotics. He was a leader in ending the unfair national origin quotas as the basis for immigration policy in 1965. This is just a small sample of what he has done while in Congress.

James Madison wrote in the Federalist Papers that the purpose of government was to protect the rights of all its citizens from ". . . some common impulse . . . adverse to the rights of other citizens, or to the permanent and aggregate interests of the community." Congressman RODINO has learned this valuable lesson well. His whole career in Congress is one of making sure that the rights of the community and its citizens were not sacrificed for the benefit of special interests. His accomplishments exemplify what is best about government. He has shown that government works for the people. His great concern, compassion, and commitment have brought honor to this great legislative body. For these reasons, I am proud to join my colleagues in honoring Congressman PETER W. RODINO, Jr., and all that he has done, and I look forward to serving with him for many more years.

Mr. ADDABBO. Mr. Speaker, I am pleased to join my colleagues in paying tribute to my good friend PETER RODINO. I would also like to compliment my colleague from New York [CHARLES RANGEL], for calling for a special order in honor of a man who has served in Congress with distinction for 36 years.

Congressman RODINO earned the respect and admiration of the country with his handling of the Watergate inquiry. In one of our Nation's most difficult periods, he was entrusted with the special responsibility of guiding the country through one of its most trying crises. Because of his leadership and the innate strength of our Constitution, our Republic emerged from this crisis a stronger and more just democracy.

Though his name is most often associated with the Watergate hearings, it is by no means his only significant accomplishment in his 36 years on Capitol Hill. PETER RODINO was at the vanguard of the civil rights movement in this country, long before it was commonly recognized as an important moral issue. It was the leadership and initiative of people like Congressman RODINO, that brought the national disgrace of segregation to the forefront of public consciousness. The true test of leadership is the ability to recognize an important issue and successfully change public attitudes about it. Defined in these terms, PETER RODINO was one of the leaders of the civil rights movement in this country.

In his important role of chairman of the House Judiciary Committee, he continues to take a leading role in defining and shaping national priorities and promoting justice. His efforts to make narcotics control a component of U.S. foreign policy could once and for all give our Government the leverage it needs in dealing with countries that permit drug growers and exporters to operate openly within their borders.

His name is also on a landmark piece of legislation now pending before this body, one that addresses the very difficult question of immigration policy. As one of the leading proponents of the move that eliminated national origin quotas, he is now fighting to ensure that people of all races and ethnic backgrounds have an equal opportunity to come to America without fear of discrimination or exploitation.

PETER RODINO has always been somewhat of a pioneer in Congress. He has often been the first to speak out on important issues. His hard work and determination has opened doors for other ethnic-Americans, myself included. The greatest tribute that we can pay him is to continue to work for a society in which all Americans can pass through the doors of opportunity that he helped open.

Mr. HUGHES. Mr. Speaker, I rise tonight to honor my respected colleague from New Jersey, the Honorable PETER RODINO.

As the chairman of the House Judiciary Committee, Congressman RODINO has shown remarkable leadership in a number of important legislative areas, including civil rights and immigration reform; bankruptcy, commercial law, and antitrust policy; and protecting and preserving the constitutional rights of all Americans.

Even before assuming the Judiciary Chair in 1973, PETER RODINO carved out a record of accomplishment in the civil rights area and was instrumental in congressional passage of the Civil Rights Act of 1964. As the former chairman of the Immigration Subcommittee and prime sponsor of the Refugee Act of 1980, Congressman RODINO has played an important role in shaping our immigration laws.

Few members can match the tremendous record of legislative accomplishments which Congressman RODINO has achieved since he was elected to the 81st Congress in November 1948. His hardwork and leadership led to the congressional enactment of the Omnibus Crime Control and Safe Streets Act of 1968, the Voting Rights Act Extension in 1982, and, in 1984, legislation making Martin Luther King's Birthday a national holiday.

The distinguished "Dean" of the New Jersey delegation has continued to pursue his fundamental interests in these areas in the 98th and 99th Congress. As an original sponsor of the Civil Rights Restoration Act of 1985, he has been instrumental in efforts to protect the civil rights of all Americans by ensuring that the Federal Government does not support discrimination based on race, gender, age, or physical handicap. As the prime sponsor of the Immigration Control and Legalization Amendments Act of 1985, Chairman RODINO has continued to provide tremendous leadership in updating our immigration laws.

Mr. Speaker, Congressman RODINO has been an inspiration to all of us who have the honor of serving in Congress. As a member of the New Jersey delegation and Chairman of the Judiciary Subcommittee on Crime, I have had the real privilege of working with Congressman RODINO. His leadership continues to be invaluable to all of us. He is truly a remarkable man deserving of this special recognition. Thank you.

Mr. BENNETT. Mr. Speaker, I rise to pay tribute to Representative PETER RODINO, chairman of the House Judiciary Committee. He was elected to Congress in 1948, as was I, and so we have been colleagues and good friends now for almost 40 years. Those have been years of outstanding achievement for Congressman RODINO as he has succeeded in passing outstanding legislation in the fields of: civil rights, law enforcement, narcotics control, immigration, copyright, bankruptcy and other major legislative concerns. He is a man of compassion and idealism and yet with a steady and uncommon wisdom. I treasure his friendship and wish many more years here in constructive leadership for our country.

Mr. HOWARD. Mr. Speaker, I would like to join my colleagues in recognizing the outstanding contributions and accomplishments of the chairman of the House Judiciary Committee, the gentleman from New Jersey [Mr. RODINO].

My relationship with PETER RODINO dates back to 1964 when I was first elected to Congress from the Third Congressional District of New Jersey. As a freshman Congressman, I looked to PETER RODINO for guidance and assistance, which he never failed to provide. To this day, as the dean of the New Jersey delegation, he offers inspired leadership on matters of critical importance to our State. Because of the example he sets, I believe we have one of the most cohesive delegations in the country.

PETER RODINO has also provided strong, enlightened leadership as chairman of the Judiciary Committee. His brilliant performance during the Watergate impeachment proceedings is what most people recall about Mr. RODINO. But in many ways, the courageous stands he has taken on a host of controversial issues before his committee could have an even greater long-term impact on our society.

PETER RODINO may be the single most effective protector and defender of the Constitution in Government today. In an era subject to frequent shifts of public opinion, PETER RODINO stands firm in his refusal to tamper with the Constitution to satisfy vocal minorities. This is the mark of a responsible legislator and indeed, a statesman.

I thank PETER RODINO for his courageous leadership and wish him many more years of service in the public interest.

Mr. GREEN. Mr. Speaker, today I rise to join my colleagues in this special order to honor one of our own colleagues, Congressman PETER W. RODINO.

In a career that has spanned almost four decades, Congressman RODINO has been elected to the U.S. House of Representatives for 19 successive terms. He has represented a district in New Jersey which has gone through many changes in his years of service. Despite a changing constituency and growing urban problems, the 10th Congressional District has consistently voted to return him to Congress.

In his years as a House Member, Congressman RODINO has proven himself to be a skillful legislator. As chairman of the House Judiciary Committee, Congressman RODINO has played a central role in moving important bills to the floor, including measures to consider the Equal Rights Amendment, extension of the 1965 Voting Rights Act, fair housing, and immigration reform.

Among his many accomplishments, Congressman RODINO may best be remembered for his role in conducting House Judiciary Committee impeachment proceedings against President Nixon in 1974. A man of conscience and a faithful observer of the constitution, Congressman RODINO directed Watergate hearings in the House with caution and a sense of commitment to the spirit of the Constitution. He opened up the hearings by firmly stating that the committee must faithfully live up to its constitutional responsibility in the proceedings. Congressman RODINO held that "the real security of this Nation lies in the integrity of its institutions and the trust and informed confidence of its people." His skillful and patient work in the committee resulted in three articles of impeachment approved overwhelmingly by committee members. Only the President's resignation prevented any further action by the full House.

His adherence to the basic tenets of the Constitution is probably best illustrated by his contribution to civil rights. Congressman RODINO has expressed his concern for civil rights by consistently supporting major civil rights bills in 1957, 1960, 1964, 1965, 1966, and 1968. He has also produced legislation to extend enforcement of the Voting Rights Act.

Congressman RODINO has shown his dedication to preserving our present system of government and to insuring that basic rights guaranteed by the Constitution are not abused. I thank Representative RANGEL for bringing this special order to recognize Congressman RODINO's service to the people—recognition that is long-awaited but deserved.

Mr. CLAY. Mr. Speaker, I rise today to pay homage to one of America's most distinguished jurists and civil libertarians, the Honorable PETER RODINO. In 36 years service in the U.S. House of Representatives Congressman RODINO has fought to guarantee justice for all Americans.

As the chairman of the House Judiciary Committee, Representative RODINO has been a leader in the battle against time-honored legal inequities which were once believe inherent in our democratic system. PETER RODINO authored the reports on the civil rights bills of 1957, 1960, 1964, and 1968; and served as the floor manager of the landmark Civil Rights Act of 1964. Later, Chairman RODINO directed the Watergate impeachment inquiry and established the Law Enforcement Assistance Administration. More recently, Congressman RODINO has worked to improve U.S. immigration policy and revise U.S. bankruptcy, copyright, and antitrust laws. Always maintaining his penchant for the interests of ordinary people, Congressman RODINO is a proven spokesman for the interests of women, minorities, and working people, and has demonstrated an unyielding respect for justice as well as the law.

Through his work on the House Judiciary Committee, Congressman RODINO has profoundly influenced the field of jurisprudence and earned a preferred position in the history of the United States Congress. Never losing sight of the singular importance of civil liberties, Congressman RODINO has maintained an unyielding respect for the same values as those great men who founded our Nation.

Mr. Speaker, our Nation is much better off for the contributions of our distinguished colleague from New Jersey. Congressman PETER RODINO has played an instrumental role in shaping the fabric of our national life and in so doing he has touched the lives of generations of American citizens. It is my pleasure to serve with PETER RODINO in the U.S. House of Representatives and it is my honor to join my colleagues in this special tribute to a masterful lawmaker, the very honorable—Congressman PETER RODINO.

Mr. GILMAN. Mr. Speaker, I rise today to join my colleagues in honoring and commending my dear friend and colleague, PETER RODINO. I am pleased to be able to voice my high regard for PETER RODINO because it is not often that we in Congress are afforded the opportunity to recognize and praise the important contributions of our fellow Members. PETER is particularly deserving of recognition, having worked so diligently in his 36 years as a Congressman to improve the quality of life for all Americans.

As many of us know, PETER RODINO has been a champion of equality and a leader in the civil rights campaign. He was a major figure in fighting for the adoption of the civil rights bills of 1957, 1960, 1964, and 1968. He was also the author of the Voting Rights Act Extension, and was the floor manager of the landmark Civil Rights Act of 1966. PETER continues to fight for the enforcement of civil rights. Last Congress, the long-held dream to make Dr. Martin Luther King's birthday a national holiday was finally realized, with the help of PETER RODINO. Earlier this year, I joined with PETER and many more of our colleagues in urging the President to avoid action on proposals to amend Executive Order 11246, which lays the legal groundwork for affirmative action programs. PETER RODINO helped enact laws to protect the civil rights of all U.S. citizens, and he continues to staunchly defend those laws to this day.

During my 13 years as a Member of Congress, my respect and admiration for PETER RODINO has only grown. I have often turned to our chairman of the Judiciary Committee for guidance on the many matters relating to our Constitution, to the courts, and to our fight against crime. As a fellow member of the Select Committee on Narcotics Abuse and Control, I commend him for helping to make narcotics control an integral part of our U.S. foreign policy. PETER was instrumental in directing the Watergate impeachment inquiry in a fair and forthright manner. He has significantly contributed to immigration reform and he has helped to revise U.S. bankruptcy, copyright, and antitrust laws.

PETER whose congressional district in New Jersey is quite close to my own in New York, is always cooperative in working with others in matters of mutual concern. He is a pleasure to work with and a credit to the Congress—always bearing in mind what can be so easily forgotten by others: that our Government is for the people.

PETER RODINO has labored continually these last 36 years to protect the people and improve the way of life for all Americans. I am therefore grateful to our colleague, the gentleman from New York, CHARLIE RANGEL, for holding this special order.

Accordingly, I am honored to be able to state for the record how proud I am to be able to work with such a dedicated and skillful lawmaker, and to have as a friend and colleague such a talented leader.

Mr. GLICKMAN. Mr. Speaker, when we speak of PETER RODINO, many Americans remember their first acquaintance with him as the individual who chaired the hearings on the impeachment of Richard Nixon. Remembering those somber days, we think of the even-handed and fair manner in which Chairman RODINO conducted those hearings. His stewardship of those hearings only serve as an example of his commitment to the preservation of our Constitution which has been a hallmark of his career in the House for over a third of a century.

Chairman RODINO'S commitment to desegregation and civil rights in general, predates his years in the House. One of the first votes he cast upon entering the House was to desegregate the Armed Forces. Each piece of civil rights legislation from that time to this bears his mark and in many cases enactment was due in no small part to his stewardship and dedication to open access and participation in society for all citizens of our country regardless of race, creed, or color.

Chairman RODINO'S imprint on our Nation's laws is not only felt in the very important and fundamental area of civil rights. He has also been a leader in the areas of crime prevention and control, victims compensation, immigration reform, antitrust legislation, drug and narcotics control, and the often unheralded area of bankruptcy. In each instance, his sense of commitment to justice and improvement in the quality of life for all citizens is what each of us thinks of when we think of PETER RODINO.

I am proud to serve on the Judiciary Committee under his chairmanship, and stand with pride today to honor PETER RODINO's outstanding accomplishments. I look forward to continuing to work with him in the years to come.

Mr. GUARINI. Mr. Speaker, it is an honor for me to speak about a man whose far-reaching accomplishments in the field of public service serve as an example to all legislators and lawmakers. As dean of the New Jersey congressional delegation, Chairman RODINO provides the elected Representatives from our State with a model of legislative initiative, legal prowess and dedication to human welfare. I am proud to highlight some of this man's great accomplishments today.

Since his election to the 81st Congress in 1948, Congressman RODINO has dutifully served New Jersey's 10th District. Greater Newark, beset with a host of urban maladies, has benefited from his tenure in office. During the past three decades, demographic changes, which caused many to abandon this city, called Mr. RODINO to battle for the rights of a disenfranchised urban poor. The monumental task of providing adequate representation to such a complex, diverse district has been achieved successfully through this man's untiring efforts.

As the author of the majority reports on civil rights legislation in 1957, 1960, 1964, and 1968, Mr. RODINO has established himself as a leader with a demonstrated commitment to equality for all of America's citizens. His timely recognition of the minority right to vote, and his fight against established policies of segregation, paved the way for an entire generation of blacks to fully participate in our Nation's legislative process. His outstanding record in the field of civil rights has not been limited to a period of our country's history when national consciousness was drawn to these issues. As exemplified by his authorship of the Voting Rights Act Extension of 1982, considered to be one of the most significant civil rights bills of our time, Chairman RODINO has continued to act as a watchdog for the vigilant preservation of minority rights.

With Chairman RODINO at its helm since 1973, the House Committee on the Judiciary has been the source of a vigorous campaign against crime. Again, in the forefront of legislative initiative, he cosponsored the Omnibus Crime Control and Safe Streets Act of 1968, as statistics of handgun violence and assault rose to epidemic proportions. Mindful of the many people who have suffered at the hands of criminals. Chairman RODINO authored the Victim and Witness Protection and Assistance Act of 1982. Through his efforts to provide judicial equity to all citizens, the needs of victims are not considered secondary to our legal responsibility for punishing criminals.

As director of the first Presidential Impeachment inquiry in over 100 years, Congressman RODINO's dedication to the principles of the U.S. Constitution was brilliantly manifested during the Watergate era. As America was plunged into a trying period of self-doubt and low national morale, his legal expertise and vitality added new life to the Constitution and pulled the United States through a crisis which threatened to undermine our precious system of laws. Only a man of exceptional character could have defended his country so well.

Congressman RODINO demonstrated this exceptional character during 5 years of dedicated military service. As a volunteer for service in World War II, he was commissioned overseas and achieved the rank of captain after a successful naval career. His honors include the Bronze Star.

He has an outstanding reputation as a dedicated family man. His two children reflect some of this man's admirable qualities. Peter, his son, enjoys a successful career as an attorney. Margaret, his daughter, shares Congressman RODINO's musical ability to compose song lyrics. One of his most treasured hobbies is playing with the use of words in poetry, prose and music.

Congressman RODINO's multifaceted abilities and experiences augment his brilliant career in public service. As a humanitarian, patriot, family man and legislator, he continues to be an inspiration for all those interested in serving as an elected official. At a time when our Nation's young people are in desperate need of an example, Congressman RODINO's commitment to social justice, civil rights and the common good provide an ideal for America's youth. Today, I salute this man who has acted as a defender of his country and as a defender of his country's Constitution.

Mr. SEIBERLING. Mr. Speaker, it has been my privilege and pleasure to serve on the Judiciary Committee with PETER RODINO throughout my 15 years in the House, 13 of them with him as chairman of the full committee. His courage and dedication have been an inspiration to me as they have been to not only his colleagues on the committee and in the House but to millions of people all over America and indeed the world.

His commitment to our Constitution has been absolute. His dedication to the cause of human rights, civil rights, and civil liberties has been unequivocal. His record in protecting the rights of minorities has been unsurpassed.

Mr. Speaker, we honor PETER RODINO tonight because he has brought great honor to us all.

Mr. FLORIO. Mr. Speaker, today I join in honoring our colleague, PETER W. RODINO, JR., for his distinguished record as New Jersey's Congressman from the 10th district.

The House career of PETER RODINO is marked by his fairness and deep sense of justice in our society. He was elected to the House of Representatives in 1948 representing a large part of Newark. A well-liked and trusted member of Congress, he rose steadily through the ranks of the Committee on the Judiciary. During the years before his chairmanship, Mr. RODINO was a decisive force in drafting and passing many civil rights bills.

The passage of the fair employment practices provision in the 1964 Civil Rights Act and the 1966 housing bill were crucial bills in which Mr. RODINO played an instrumental role. Mr. RODINO also displayed his skill by being the chief floor manager of the Johnson administration's Immigration Reform Law which ended national origin quotas.

Chairman RODINO's most famous public achievements was his chairmanship of the Judiciary Committee in the impeachment of President Nixon in 1974. There is no question that the cautious and fair way PETER RODINO conducted that proceeding brought great credit to himself and to the integrity of the House of Representatives.

Today, PETER RODINO is regarded as one of the most respected and influential Members of Congress. I take great pride in serving with him in the New Jersey delegation, of which he is dean. PETER RODINO's contributions have helped build a Nation dedicated to civil liberties for all and I am pleased to join in commending and thanking him.

Mr. BEVILL. I am proud to join my colleagues today in recognition of the many fine achievements of Congressman PETER W. RODINO of New Jersey. PETE has served 36 years in Congress and has been chairman of the House Judiciary Committee since 1973. In that role, he presided over the Watergate impeachment proceedings. During that time, I believe that PETE did more to preserve the integrity and improve the image of the House of Representatives than anyone else has ever done.

I remember being in Speaker Carl Albert's office the day PETE came in and asked Albert how he planned to handle the impeachment proceedings. There was no precedent for this because no one knew how it had been handled in Andrew Johnson's era. Albert had decided it would be best for PETE to handle it in the Judiciary Committee and told him so. I believe that was a wise decision. PETE is dedicated to justice, honesty and fairness. I don't think anyone could have done a better job than he did during a difficult time in our Nation's history.

Watergate was not the only sensitive issue which PETE has handled. He took a leadership role during another tumultuous time. In the 1960's, he authored civil rights legislation and guided it through Congress.

PETE RODINO has truly make his mark on history and he will always be remembered as a great statesman and an influential lawmaker. I am proud to say I serve in Congress with PETE RODINO.

Mr. HOYER. Mr. Speaker, I appreciate the gentleman from New York taking the time to honor our colleague, Congressman PETER RODINO. It is infrequent that we take the time to honor a colleague who has such a record of service, and who, happily, is not retiring.

Mr. Speaker, 1974 was a tragic year for our country. In that year, we saw our President resign in shame, the first to do so in our Nation's history. Ironically, it was also a year in which the House of Representatives experienced one of its finest hours.

As the television cameras captured every word and our Nation tuned into watch, the House Judiciary Committee carefully navigated its way through the impeachment hearings. At the helm was our colleague, PETER RODINO; who, up to that time was not well known throughout the country, though respected by his colleagues and exceedingly popular in his own 10th Congressional district of New Jersey. The men and women who served on the Judiciary Committee and Chairman RODINO through their conduct assured the Nation of the stability of our Government.

It is for his key role and delicate handling of the Watergate crisis that Congressman RODINO will be most remembered. However, even before that historic summer, his place in history was assured, for PETER RODINO has been one of the great congressional leaders on the cause of civil rights. His mark is on every major piece of civil rights legislation of the past 3 decades. Ranging from his authorship of the majority committee reports on four civil rights bills, to his serving as floor manager of the 1966 Civil Rights Act and his authorship of the 1981 Voting Rights Act extension, PETER RODINO has played an indispensable role in bringing about equal rights under the law for all Americans.

For every Member who has served with Congressman RODINO during his 36 years in this House, it has been a great privilege. One of the truly historic figures of American Government, PETER RODINO has much still to contribute. I hope that the Members of this House and the people of our Nation will continue to benefit from his high integrity, intelligence and compassion for many years to come.

Mr. LAFALCE. Mr. Speaker, many distinguished Americans have served in the Congress of the United States. Few have had the impact of PETER RODINO, who for 36 years, has been making significant contributions to the people of the United States as a Member of the House of Representatives.

We are all aware of Congressman RODINO's masterful handling of the Judiciary Committee's impeachment hearings. Confronted with a constitutional crisis, he performed with distinction and the country which he so loves emerged unscathed, with its constitutional institutions stronger than ever. What is, perhaps, less known are the contributions which Congressmen RODINO, has made in the field of civil rights. As Chairman of the Judiciary Committee, he is, of course, at the heart of the legislative arena in the civil rights area. His achievements are legion: the civil rights bills in 1957, 1960, 1964, and 1968; author of the Voting Rights Act Extension; and floor manager of the Civil Rights Act of 1966. Millions of Americans have PETE RODINO to thank for the civil rights which they now enjoy, but which were for so long denied.

In recent years there have been efforts to engineer a retreat from the great civil rights triumphs of the sixties. We, in Congress, can rest assured that with PETER RODINO at the helm of the House Judiciary Committee there will be no substantial retreat in the area of civil rights. Rather, he will continue his efforts to make the American dream come true for all of us. PETER RODINO, we salute your career and your achievements.

Mr. HAMMERSCHMIDT. Mr. Speaker, throughout my 19 years in the House of Representatives I have had the pleasure of serving with one of the best lawmakers ever to be a membr of this Chamber, the distinguished chairman of the Judiciary Committee, PETER RODINO. He has served his New Jersey district with integrity and determination for 36 years now.

Although PETE and I don't always see eye to eye on certain issues, I have nothing but the greatest respect for his skill as a legislator. As the chairman of the Judiciary Committee, he has addressed a wide range of controversial issues, and skillfully led the committee through one of the most turbulent periods in this Nation's history. Through his dedicated work on civil rights enforcement legislation, he has helped innumerable Americans. In fact, PETE wrote the majority reports on civil rights bills in 1957, 1960, 1964 and 1968, and also authored the Voting Rights Act Extension.

Civil Rights isn't his only area of expertise, however. Chairman RODINO also has a keen interest in immigration legislation, and was instrumental in leading the successful effort to eliminate national origin quotas as the basis of our country's immigration policy. In this Congress, he is the coauthor of immigration reform legislation that has already been approved by the Immigration Subcommittee. Among his other outstanding legislative accomplishments are revisions of U.S. bankruptcy, copyright, and antitrust laws.

All of these achievements are impressive, but there is still another outside the sphere of the Judiciary Committee that cannot be omitted. PETE serves as a senior member of the Select Committee on Narcotics Abuse and Control, where he has worked to make narcotics control and integral part of U.S. foreign policy, and to find solutions to the tragedy of drug abuse.

In closing, I would just like to express my thanks to this great statesman for his tireless work and high principles, and say that I hope to continue to see him across the aisle for some time to come.

Mr. DINGELL. Mr. Speaker, it is indeed an honor to pay tribute to my good friend and colleague from New Jersey. In the 30 years that I have served as a Member of this body, I have always found PETE RODINO to be a man of integrity and a public servant who charges ahead until he finds the truth.

Everyone remembers Watergate—the scandal, the humiliation of many public officials and the very difficult actions the legislative branch had to take in Watergate's aftermath.

Let me tell you about the Judiciary chairman's latest stellar accomplishment. When my Investigation's Subcommittee and other subcommittees were uncovering the EPA scandal in 1982 and 1983, we were stonewalled by the Justice Department. The leadership of the House requested Mr. RODINO to investigate the strange, if not illegal, conduct of the Department during that period.

After 2½ years of indepth investigation, which was needlessly prolonged by struggles with the Justice Department, the committee has now issued its report—a report that would not have been possible under a chairman of less integrity and tenacity. I believe the report is a monument to PETE RODINO's thoroughness and fairness.

The report confirmed our worst suspicions. In withholding Superfund documents from the committee under the ruse of executive privilege, senior officials at the Department of Justice and the White House were deliberately keeping the Congress and the American people from learning about this administration's failure to enforce laws designed to protect the public health and the environment. The compelling evidence amassed during this investigation clearly justified the committee's vote to refer the report to the Attorney General with a request for the appointment of an independent counsel and the referral to the U.S. district court.

PETER RODINO has been the driving force of this and other investigations where it was necessary that the public be informed of wrongdoing and impropriety.

PETE RODINO will be remembered as a true friend of this body, its Members, and the public trust.

Mr. MATSUI. Mr. Speaker, I rise today to join with my colleagues from both sides of the aisle to pay tribute to a man of great accomplishment, Congressman PETER RODINO.

My admiration for PETER RODINO dates to my college years when Congressman RODINO stood in the forefront of legislative action on behalf of civil rights. He helped to lead the fight for the great civil rights bills of our time including the Voting Rights Act, the Civil Rights Act and open housing legislation. He made us proud of our Government and our Constitution during the trying months of the Watergate impeachment hearings.

As a freshman Member of the House of Representatives I had the great honor of serving on the Judiciary Committee under Chairman RODINO. I was most fortunate to have the opportunity to learn about the legislative process at the hand of a master.

Chairman RODINO is also a man of great compassion. He kindly agreed to be interviewed by my 13-year-old son, Brian, and patiently answered questions about Watergate.

Mr. Speaker, for his leadership, his compassion and his steadfast defense of our Constitution, every Member of this body and every American owes Congressman PETER RODINO a debt of gratitude.

Mrs. COLLINS. Mr. Speaker, I am here today to honor my distinguished colleague PETER W. RODINO, whose 36 years in Congress stand for one proposition: one man can and has made a difference.

What is that difference? One aspect of it is civil rights. PETER RODINO authored the majority reports of civil rights bills in 1957, 1960, 1964, and 1968. He wrote the voting rights extension of 1982. He was the floor manager of the Civil Rights Act of 1966. He was a leader in making Martin Luther King's birthday a national holiday.

When minority men and women across this Nation needed PETER RODINO, he was always there fighting the hard fight for racial equality and justice, and doing so before many others had signed on to the cause.

Indeed, Mr. RODINO has never shied away from tough challenges. When a President placed himself above the law, PETER RODINO marshaled his Judiciary Committee in voting for impeachment.

In addition, the Congressman has used his judiciary post to push for the important Victim and Witness Assistance Act, to eliminate national origin quotas as the basis of U.S. immigration policy, and to cut off aid to nations that do not cooperate with the United States in curbing the flow of narcotics into this Nation.

These and his other achievements, too numerous to discuss in this short amount of time, indicate the magnitude of the difference that Mr. RODINO has made to this Nation. While he will be sorely missed when he retires at the end of this Congress, his remarkable accomplishments will be with us, and this Nation, for many, many years to come.

Thank you, Mr. Speaker, and thank you, PETER RODINO.

Mr. WEISS. Mr. Speaker, it is my pleasure to join in this special order to honor one of the most respected Members of the House, our friend and colleague from New Jersey, Congressman PETER RODINO, chairman of the Committee on the Judiciary. It is eminently appropriate that we honor him on the 20th anniversary of the passage of the Voting Rights Act of 1965.

For more than 37 years, the House of Representatives has been graced by the extraordinary skill, the quiet determination, and the superlative sense of justice of PETER RODINO. A glance at his legislative accomplishments looks like a list of Congress' proudest moments. He managed the Voting Rights Act of 1965, and played a vital role in its extension in the 98th Congress; he guided House consideration of the immigration reform law in 1965, which eliminated the discriminatory national origin quotas that had formed the basis of 40 years of immigration policy; he was floor manager of the open housing bill of 1966; and he was a key player in establishing Martin Luther King's birthday as a national holiday.

Chairman RODINO is also well remembered for his masterful leadership during the impeachment hearings of President Richard Nixon in 1974, which took place only shortly after he had assumed the chairmanship of the Judiciary Committee. His patience, wisdom, and fair-mindedness helped reassure our country, in that troubled time, that justice was in good hands in Congress.

The eighties have been trying times for the proponents of civil rights and fairness in Federal policies. Yet no one has more deftly coped with the exigencies of the eighties than PETER RODINO. Faced with issues like school prayer, abortion, gun control, and school busing, he has unapologetically used his considerable influence to stop pernicious legislation, and promote important initiatives on issues such as women's rights.

We in this body only constitute a small portion of PETER RODINO's innumerable admirers. He has been a hero and a role model to millions of Americans, and a popular and deeply respected representative from the city of Newark, whose citizens have elected him to office 19 consecutive times. Citizens everywhere concerned about the protection of civil and constitutional rights have cause for deep appreciation of Chairman RODINO and his work in Congress.

When James Madison served in Congress in the early 19th century, he was lauded by his colleagues as "the conscience of the Senate." Mr. Speaker, PETER RODINO has served as the conscience of the House over the last three decades. We in Congress, together with the people of our Nation look forward to the continued exercise of that conscience for many years to come.

Mr. DELLUMS. Mr. Speaker, it seems hard to believe that when PETER RODINO first came to the 81st Congress I was a student in junior high school. But that observation reinforces in my mind the duration and durability of his service to the Congress, the people of New Jersey, this Nation and millions of non-Americans as well.

We and they have truly benefited from his devotion to duty and his commitment to open up doors of opportunity for all Americans, regardless of national origin, race, gender, age, or economic status.

For 37 years PETER RODINO has been in the forefront of the struggle for human rights, civil rights, social justice, peace and the termination of the arms race, both nuclear and conventional. He played a key role in drafting civil rights legislation, from the Civil Rights Act of 1957 through the extension of the Voting Rights Act in 1982. He forced a showdown with this administration over making Martin Luther King, Jr.'s birthday a national holiday.

In 1965 he led the legislative struggle to eliminate national origins' quotas as the basis for U.S. immigration policy. He was a dominant force in the passage of the Refugee Act of 1980.

For 15 years he has stood with me in opposing the madness of the nuclear arms race, in opposing an ever-escalating Pentagon budget, and in opposing U.S. intervention in Third World countries. He has been an outspoken champion of oppressed people everywhere, and people everywhere should be in his debt because of that commitment, courage, and determination to have this Nation live out the principles proclaimed in our own Declaration of Independence.

So, on this special day of tribute to a distinguished colleague, I applaud his record of public service, I proclaim respect and admiration for his record of real achievement—but, most of all, I am proud to call him friend and brother in the struggle for peace and social justice.

Mr. FEIGHAN. For almost four decades, Congressman PETER RODINO has been one of America's outstanding civil rights legislators. First as a freshman Member, and later as chairman of the House Judiciary Committee, he has consistently and effectively pressed for increased civil and economic rights for all Americans.

Since coming to the House of Representatives in 1949, Congressman RODINO has been in the forefront for the fight for civil rights. Well before the Supreme Court decision in Brown against Board of Education Congressman RODINO was concerned about equal rights for all Americans. In his first year in Congress, he fought to end the poll tax and other insidious forms of segregation.

Congressman RODINO's continued commitment to equal rights helped shape the major antidiscrimination laws which now protect all Americans. He drafted and managed key portions of all the civil rights legislation which became law between 1957 and 1968. This House has seldom seen such a tireless crusader for equal opportunity in housing, employment, and education.

In 1984, when the Supreme Court unceremoniously overturned two decades of civil rights law, the country turned once again to Chairman RODINO. As he did so many times in the past, once again the gentleman from New Jersey spearheaded the fight to restore those laws.

In short, Congressman RODINO's outstanding civil rights record, his integrity and his commitment are examples for us all.

Mr. DYMALLY. Mr. Speaker, it is clear even to the casual observer that for some of us, this podium serves as a "bully pulpit" from which we try to impart what wisdom we have to our colleagues, and, if the timing is right, to the Nation. One person who does not take the pulpit often is our colleague PETER RODINO. And from him, we have much to learn. Here is a man who is quiet. Some have even described him as shy in public. But PETER RODINO's craftsmanship has given shape to nearly every landmark piece of civil rights legislation signed into law during the third of a century that he has represented the 10th District of New Jersey in the House of Representatives. He is the kind of legislator we all wish to be: knowledgeable, competent, and effective.

PETER RODINO holds a chair that often places him in an uncomfortable position with respect to his colleagues and with respect to certain sectors of the American public. Given that often uncomfortable position, it is a testament to the skill and wisdom of Judiciary Committee Chairman PETER RODINO that he is among the most respected members of this body. And I mean respected on both sides of the aisle. If any single thing can be pointed to as being the basis for that respect which we all have for our colleague, I think it is his sense of fairness. The body of civil rights legislation for which he has been in large part responsible is one manifestation of that sense of fairness. But most people will have to admit that it was his conduct of the Nixon impeachment hearings that forever established Mr. RODINO's single-minded fairness.

As a man of liberal political philosophy presiding over the impeachment of a President of conservative political philosophy, his opportunity for unfair political advantage was obvious. But PETER RODINO was unswerving in his intention to see that this onerous proceeding was carried out with the soberness and the fairness that deliberation over the decision to remove a sitting President of the United States from office deserves. Throughout those hearings, PETER RODINO showed the Nation the best that a representative of the citizens of this country has to give. He brought honor to himself and honor to this body through his role in that sad incident in our Nation's history.

I wish to commend Congressman RANGEL for calling this special order to honor PETER RODINO. I believe that in recognizing PETER RODINO's accomplishment we also make a statement about what we want this body to be: a place where the rights of the citizens of this country will be upheld with strict fairness, where the common good is valued above political advantage. PETER RODINO has done much to make that ideal vision of the Congress a reality.

Mr. DWYER of New Jersey. Mr. Speaker, it is a privilege to join in this special order paying tribute to one of the most distinguished Members of this body, and the dean of our New Jersey delegation, PETER RODINO.

I know that the people of New Jersey take great pride in having our interests so expertly represented on the Judiciary Committee which he has chaired for 12 years. Chairman RODINO has been a staunch protector of our constitutional freedoms in his leadership role on the Judiciary Committee, and is distinguished for his fairness and courage in promoting civil rights.

The chairman has also been a powerful force in our national efforts to control crime and crack down on illicit drug trafficking, and he wrote the 1982 legislation providing assistance and protection for crime victims and witnesses.

His constituents in New Jersey's 10th Congressional District know they have a steadfast advocate for their interests in Congressman RODINO, who has been their able representative for 36 years. He has shown time and time again his concerns for the people of his district and the State of New Jersey. As members of the New Jersey congressional delegation, we are proud to have him as our dean.

The chairman's many accomplishments, and his skills as a legislator and statesman, were brought to the attention of the entire Nation when he presided over the historic Watergate impeachment hearings in 1974. These were sensitive, difficult times for our nation, and Chairman RODINO showed how well our democratic system of governance works when thoughtful, experienced, and fair-minded leaders are at the helm. His leadership gave Americans confidence in our legislative process at this critical juncture in our history; it is a feeling of security in our institutions and constitutional freedoms that has endured under Chairman RODINO's continuing leadership.

Above all, the chairman is respected for his courageous work in behalf of America's minority citizens, working tirelessly for equal rights and equal opportunities. He realizes that there is still a long way to go, and has been undaunted in his work in behalf of America's disadvantaged citizens.

Chairman RODINO's vision and wisdom has served as an inspiration to all of us in our work toward a better and more just America. It is a fight we must continually undertake to safeguard our freedoms and improve our society.

I thank my distinguished colleague from New York, Mr. RANGEL, for calling this special order. It is truly an honor to take part in a tribute to a man who has given so much to this institution and to the country, and who will continue to serve as a guiding force for justice and equality for all Americans.

Mr. ROE. Mr. Speaker, it is a great honor for me to rise today and join in this well-deserved tribute to our colleague and my good friend PETER RODINO, the dean of the New Jersey congressional delegation.

In his 36 years of service in this body PETE RODINO has clearly established himself as an outstanding legislator whose accomplishments have been an inspiration to us all.

America is truly a better place thanks to PETE RODINO. As both a member and later chairman of the powerful House Judiciary Committee, he was responsible for both writing and securing passage of most major civil rights bills approved by Congress. He drafted the fair employment practices provision of the historic 1964 Civil Rights Act and a year later was chief House manager of the Johnson administration's immigration and reform law that eliminated the national origin quota system that had been the basis of American immigration policy for more than 30 years. In 1966 he served as floor manager of this landmark Civil Rights Act of 1966.

To many Americans, PETE RODINO reached the zenith of his distinguished career during the turbulent time of the Nixon impeachment proceedings. Those were indeed troubled times for all Americans. There was doubt in the land. The very pinnacle of American Government, the Presidency, was shaken by scandal. But a calming voice, filled with both authority and fatherly kindness was heard. And that voice belonged to PETE RODINO.

His fairness and professionalism in handling the impeachment inquiry gave the public new confidence that, indeed, the American system of government does work and that it will endure.

As dean of the New Jersey congressional delegation, PETE RODINO has utilized those same leadership skills he demonstrated during the Watergate impeachment proceedings. His bipartisan approach in dealings with both Democratic and Republican Members from our State has helped make the New Jersey delegation the powerful force it is in the House today.

But first and foremost, PETE RODINO is a champion to the people he represents in the 10th Congressional District of New Jersey. The 10th District is representative of many troubled older inner-city areas around the Nation. But thanks mainly to the efforts of

PETE RODINO that area is rebounding from the problems of the past. There is hope and optimism for the future.

PETE, serving with you in the House for the past 16 years has indeed been an honor. I join with our colleagues, the members of your fine family and the people of America in saluting your contributions to our great Nation. It is my hope that you will choose to serve with us for many more years.

Let me conclude by stating that PETE, I am proud to call you my friend.

Mr. ANNUNZIO. Mr. Speaker, I rise to join with my colleague, CHARLES B. RANGEL, in paying tribute to the distinguished Chairman of the House Judiciary Committee, and my very good friend, the Honorable PETER W. RODINO, JR., on the occasion of the 20th anniversary of the Civil Rights Act of 1966.

PETE has championed many causes in the past, and oftentimes, his efforts and his support have meant the difference between success and failure. He was the floor manager of the landmark Civil Rights Act of 1966, and his steadfastness and dedication to civil rights enforcement is demonstrated in his authoring of the civil rights bills of 1957, 1960, 1964, and 1968, and the Voting Rights Act Extension, and his support for numerous bills relating to this subject.

As the Congressman for the 10th District of New Jersey, and a veteran of 36 years of service in the House of Representatives, PETE has distinguished himself time and again—as chairman of the House Judiciary Committee; as a delegate to the North Atlantic Assembly; as an assistant to the majority whip and a member of the House steering committee; and as a former chairman of the Immigration and Nationality Subcommittee as well as chairman of the Monopolies and Commercial Law Subcommittee of the House Judiciary Committee. In every endeavor, he has labored diligently and with devotion to the highest standards of excellence.

His exemplary performance and commitment to fairness during the impeachment hearings demonstrated boundless proof of his skill and concern for our great Nation and its people. In addition, PETE was instrumental in insuring the beginning of a totally new and more democratic concept in American immigration policy, because it was largely through his leadership that the Immigration and Nationality Act Amendments of 1965 became law, doing away with the national origins quota system which discriminated against every nationality and ethnic group.

PETER RODINO is a legislator of extraordinary abilities, and has dedicated his career in public service to equal justice under the law, fairness, and an end to all forms of discrimination. His dedication to these high standards are an inspiration to all Members of Congress, and to all citizens in this country. On the 20th anniversary of the Civil Rights Act of 1966, I am proud to join with my colleagues in saluting this great American, PETER W. RODINO, JR., as he continues in his efforts as chairman of the House Judiciary Committee to secure civil rights and justice for all citizens in our Nation.

Mr. FORD of Michigan. Mr. Speaker, I am pleased to be able to join my colleagues in this Special Order honoring the distinguished gentleman from New Jersey, PETER RODINO. Throughout his career, PETER has been a leader on civil rights issues. We choose this day to honor him because it is the 20th anniversary of one his proudest accomplishments, the passage of the Civil Rights Act of 1966.

During his 36 years in Congress PETER RODINO has been a most effective and diligent representative of his constituents. He has been a masterful lawmaker and a leader on such historic legislation as the Voting Rights Extension Act, and the 1965 Immigration Act which reformed the U.S. policy on immigration.

As chairman of the Judiciary Committee he was called upon to oversee the investigation into the impeachment of our 37th President. During a time when caution and integrity were needed he displayed both. His careful investigation of all the evidence drew bipatisan support and helped to bring to a close one of the most trying times in our history. His career has been marked with many other milestones that are too numerous to mention here. I know all of us join in congratulating PETE on his peerless service to the public good and wish him continued success and happiness in the years ahead.

Mr. RUSSO. Mr. Speaker, I'm delighted to have the opportunity to say a few words in honor of one of the most respected and effective Representatives in the history of this body. Actually, you could say a great many words about a man like PETER RODINO, but I want to keep this simple and clear because it doesn't require a great deal of fancy talking to describe this man. He is honest, he is good, he is wise, he is compassionate and he knows his job and does it with a degree of excellence and dedication that serves as a model for us all.

As an Italian-American, I must say that I take special pride in what Chairman RODINO has accomplished. He can take the seemingly impossible issues and legislatively make an impact—on immigration, narcotics, antitrust laws, to cite a few. The Nation will not forget with what delicate skill he handled the impeachment hearings, or the minorities his tremendous work on civil rights legislation.

So I am among the many who stand in awe of this man's ability to see us through our rough times and provide a calm and judicious presence at all times. The distinguished gentleman from New Jersey also has a way of guiding you that acknowledges your own need to participate and make your own contribution. I know this from firsthand experience because he was my first chairman when I arrived here, wet-behind-the-ears, from Chicago. This generous man taught me in the kindest of ways and trusted me to handle a major bill for the Judiciary Committee. I've never forgotten his confidence in me, and it is such a chairman who inspires you to develop your own confidence and legislative bill.

I'm indebted to Chairman RODINO for all I learn from him, and this country owes a continuing debt of gratitude to him. Despite the fact that he is a senior U.S. Congressman, with power and influence, he does not lose his perspective and simply goes about the business of working on justice for all. I respect him and I trust him. PETE, keep up the good work.

Mr. WHEAT. Mr. Speaker, it is truly an honor to say a few words about Chairman PETER RODINO, a colleague with whom I am privileged to work in the U.S. House of Representatives, and who I respect tremendously, as a great citizen.

Chairman RODINO has been an inspiration to me since 1964, when he displayed unrelenting diligence to ensure the passage of the Civil Rights Act of that year. In fact, he has been a principal proponent in the passage of all major civil rights legislation during his long tenure in Congress.

Mr. Speaker, this year marks the 20th anniversary of the Voting Rights Act of 1965, a bill that passed the Congress in large part due to Chairman RODINO's determined effort. It was his leadership in the House on this issue that has enabled this country to live up to the democratic concepts of our Constitution and ensure that all men who are created equal may have an equal vote. And since that year, he has continued to exhibit courage and determination in ensuring fair and equal rights for all citizens of this great country.

Time and time again, Congressman RODINO's legislative expertise has resulted in laws that have improved the quality of life for the Nation's needy people. More importantly, the principles embodied in those laws have improved the lives of all people of this Nation. It was Chairman RODINO who noted with both sense and sensitivity that civil rights bills are not just for blacks, but rather they are for all of us. His work has improved the opportunities of minorities to vote and has hastened the desegregation of public schools and public facilities. Most importantly, he has helped all Americans to demonstrate to the world that we are what we say we are; a democratic society, based on the principle of equality for all men.

I hope that my colleagues will join with me in applauding Chairman PETER RODINO. He has continued to protect the principles of human dignity and concepts of individual liberty that make America such a strong, and unique Nation.

Mr. FASCELL. Mr. Speaker, I am delighted to pay tribute today to my friend and our colleague from New Jersey, PETER RODINO, with whom I have had the honor and pleasure of serving in the U.S. Congress for over 30 years.

Three words aptly describe his efforts throughout his congressional service: respect, wisdom and fortitude. During his 36 years in the U.S. House of Representatives, PETER RODINO has been the champion of the downtrodden, the forgotten, and the abused. He is a man of vision who has taken a stand, who has heralded unpopular causes because it was the right thing to do.

Our colleague's able leadership of the House Judiciary Committee is legend. I am ever thankful that it was PETER RODINO who was at the helm during the Nixon impeachment hearings and I will always remember his grace and wisdom at that difficult time in our history. For years, and most recently this year, he has been at the intellectual forefront of the immigration reform debate, sharing his respect for the Constitution and for human rights with others as he has struggled to make the necessary changes in our immigration laws. He has also fought tirelessly for the cause of civil rights for all people of this country and for this he has the respect and admiration of a nation.

Our colleague from New Jersey is a friend to the friendless, a light of hope to the disenfranchsied, a man of courage and strength. I am glad to have this opportunity to express my appreciation, admiration and respect for this exemplary public servant. I thank my friend for his extraordinary dedication to his country and I wish him continued success in all of his efforts.

Mr. CROCKETT. Mr. Speaker and my colleagues: I am both pleased and honored to be able to share in this well-deserved tribute to my chairman, PETER RODINO.

It has been my honor and privilege to serve under Chairman RODINO on the Judiciary Committee since March 1982. In the almost 4 years since I joined the committee, I have watched as Chairman RODINO fairly and thoroughly approached the business of the committee, and tackled some of the thorniest problems facing our society today.

He has led the committee through examinations of U.S. immigration policy; of reorganization of courts; or revisions of bankruptcy, copyright, and antitrust laws; and strengthening of civil rights legislation. He has fought the administration's efforts to weaken law enforcement and equal opportunity guidelines, and efforts by others to weaken or abandon the Government's commitment to civil and voting rights in our country. He was a strong support of the Martin Luther King Birthday bill, as well as many other pieces of legislation which evidence his strong and firm commitment to equal justice.

It would be hard for anyone to summarize in a few minutes what Chairman RODINO has meant to minorities and disadvantaged in this country. Over his 36 years in the House of Representatives, his record stands alone among his peers in his defense of the constitutional rights of all our citizens. From his oversight and leadership in the impeachment hearings over Watergate, to his primary role in establishing and maintaining Federal programs to assure equal access to legal services, PETER RODINO has been the champion of those whose rights are in jeopardy,

When the history of the past half century of progress in civil rights and constitutional guarantees is written, PETER RODINO's name will rightly figure prominently in it.

I am proud to have the opportunity to serve with him in the Congress.

Mr. UDALL. Mr. Speaker, there's an ancient political slogan, first used, I think, by Tiberius Caesar, or was it Grover Cleveland, that said, "Public office is a public trust."

And, Mr. Speaker, no man in public office today better embodies the spirit of that old, and very appropriate, adage than the gentleman from New Jersey, my friend PETER RODINO.

At a time when confidence in the very foundations of our political system was being undermined; at a time when confidence in those in public office was being assaulted; at a time when the Nation looked for strength and integrity, PETER RODINO, the chairman of the House Committee on the Judiciary, provided that strength and that integrity.

We often hear that "The office makes the man." Well in this case, the office didn't make the man. In this case the man made the office. Well, Mr. Speaker, we all were fortunate that we had such a man as PETER RODINO in that office. As the newly elected chairman of the House Judiciary Committee in 1973, he did not bend to the tremendous pressures exerted by the most powerful office in the world. He did not succumb to temptations to take the easy way out, to rush to judgement, to be politically expeditious. The stewardship of Chairman RODINO in the matter involving the impeachment proceedings of Richard Milhous Nixon was arguably the finest hour of the U.S. House of Representatives.

We saw, on both sides of the aisle, the dignity and the restraint and the courage of a truly great legislative and deliberative body.

And it is to the everlasting credit of PETER RODINO that the impeachment proceedings were perceived around the world as careful, fair, and judicial.

And though his great fame came primarily from those dramatic and exhausting days of 1973 and 1974, let us not forget, Mr. Speaker, Chairman RODINO's outstanding service to his district, his great State of New Jersey, and to his country. His career in the House of Representatives has been marked by tireless effort, compassion, and skill.

Yes, public office, is a public trust. And PETER RODINO is proving that to be true every day of his career in public office.

Mr. Speaker, I say this with all sincereity: I feel honored and privileged to have served with him since I came to the Congress in 1961 and to be able to call him a colleage and a friend.

Mr. BROWN of Colorado. Mr. Speaker, For a decade, PETER RODINO has presided over a committee whose charges includes the administration of justice, the war against crime, the legal rules governing the economy, and the defense of the Constitution.

As chairman of the Judiciary Committee, PETER RODINO has left his stamp on legislation covering diverse areas affecting every American citizen. When Mr. RODINO entered Congress in 1948, black Americans were not able to vote in many areas. The crucial legislation to change this situation—the Voting Rights Act—is now 20 years old. As the driving force behind this and other historic civil rights measures, PETER RODINO has served all Americans. He helped to bring the benefits of democracy to people previously disenfranchised. He helped to make this a "more perfect union."

PETER RODINO won an enduring place in American history when he chaired the Judiciary Committee's deliberation on the impeachment of the President. At a time of grave constitutional crisis, Mr. RODINO served with distinction.

As a new member of the Judiciary Committee this year, I have appreciated his courtesy and fairness in the conduct of the committee's business. Mr. RODINO has worked diligently and skillfully to advance his vision of the public interest. While candid in the defense of his own point of view, he is more than willing to let other Members defend theirs. It has been a pleasure and an education to have him as my chairman. It has been an honor to serve with a man who, as author of the Voting Rights Act, contributed so much to make this a more just society.

Mrs. BURTON of California. Mr. Speaker, today, as we honor our colleague PETER RODINO, his accomplishments during his long and distinguished career will be described and praised by all of us who hold him in such high regard.

Chairman RODINO'S achievements and his courageous stands on the great civil rights issues of the past decades are well-known. We were all reminded this year, the 20th anniversary of the passage of the Voting Rights Act, of his great contributions to the political rights of Amercians. He led the fight recently for the extension of that landmark legislation. That the rights of all Americans today are secure and that this is truly a nation with freedom of opportunity is in large part due to the efforts of PETER RODINO.

I would like to focus on one chapter in the history of this fine gentleman. During one of the darkest periods for this Government, the Watergate crisis, PETER RODINO brought respect to this institution and reassured all of us that our system of government can withstand concerted efforts to undermine it. His leadership on the Judiciary Committee, his skillful and judicious guidance of the impeachment process was instrumental in bringing Congress and the Nation through that difficult period.

I thank my friend CHARLIE RANGEL for arranging this special order and giving us the opportunity to honor PETER RODINO.

Mr. RINALDO. Mr. Speaker, it gives me a great deal of pleasure to participate in this special order today to honor a close friend, Congressman PETER W. RODINO.

I have known PETE since before I came to Congress in 1972, but over the years I have come to respect him as a colleague and an influential Member in the House of Representatives. PETE RODINO is the dean of the New Jersey congressional delegation, and he is a leader in every sense of the word. The qualities of character, fairness,

and integrity which the country saw in 1974 as he presided over the impeachment inquiry of the House Judiciary have been known to people in New Jersey for years. While many people say it was his finest hour, they ought to know that out of the cameras and the lights, Pete Rodino is just as fair, honest, and forthright. That is why he has been reelected to Congress for the last 36 years with overwhelming margins and why we in the New Jersey delegation and the House as a whole hold him in such high esteem.

There are many qualities that go into making a good Representative. He must be intelligent, politically astute, have firm principles but also be willing to compromise and negotiate when that is in the Nation's interests. Pete Rodino has all these qualities. He is a great believer in the legislative process and as my colleagues know he has helped steer through Congress landmark legislation on civil rights, crime, immigration, the judicial system, bankruptcy, copyright, and antitrust laws.

Mr. Speaker, our Nation has always depended on people like Pete Rodino. Individuals who have a strong sense of tradition, who dedicate themselves to careers in public service the way he has, and who are willing to make the kinds of sacrifices he has made in order to make America a better and more just nation.

It is a pleasure for me to join my colleagues today in honoring Pete Rodino, and I want to extend my best wishes to him for many more fruitful years in the House of Representatives.

Mr. STOKES. Mr. Speaker, I yield back the balance of my time.

GENERAL LEAVE

Mr. RANGEL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on the subject of my special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

FRANK ABUSE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. Ray] is recognized for 5 minutes.

Mr. RAY. Mr. Speaker, I rise today to focus attention on the issue of the abuse of the franking and postal patron mail service which has been recently publicized in the national news. I would like to applaud a gentleman in the other body, Senator Mathias, for his initiative in this area. Senator Mathias, chairman of the Rules Committee, initiated the recent disclosure of the amounts of money spent on mass mailings. He felt that this type of disclosure would cause an increased awareness that these mailings were not free. The disclosure found hundreds of thousands of dollars being spent on these mailings at a time when the interest on the deficit is projected to be in excess of $140 billion for 1986. I'm surprised somebody hasn't received the golden fleece award for this excessive expenditure of public funds.

Official mail has become the fastest growing cost of running Congress. The awareness by the public and Congress that is resulting from this disclosure should serve as a conscience and curtailment within itself, and I hope that it does. In my opinion the Members of the House of Representatives should take the initiative and disclose House expenses. Why should any congressional expenses be kept private from the taxpayers?

Although Members must maintain communication with their constituents, I feel that this extensive mailing should be minimized. Members should have the freedom of using the franking privilege to answer constituents' letters. Constituents' questions and concerns are of utmost importance. The problem arises though with mass "blanket" mailings. The number of postal-patron publications such as newsletters must be decreased. I support correspondence that serves information gathering purposes and that which responds to constituent needs. Otherwise, I feel that moderation is of the essence. We need to set an example for the American people. In a time when we are encouraging moderation in spending, we should be practicing what we are preaching. After all, franking isn't free. Congress has to write a check to the Postal Service for every letter or newsletter that we send.

I commend the other body and encourage my colleagues to examine the issue and move in that direction also.

☐ 1640

TRIBUTE TO PETER RODINO AND THE VOTING RIGHTS ACT

(Ms. OAKAR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. OAKAR. Mr. Speaker, I was not able to be here earlier when the distinguished Members were paying tribute to Congressman Rodino, but I wanted to add my voice to those tributes by my colleague, Lou Stokes and others.

Mr. Rodino is certainly symbolic of what the Voting Rights Act means to all Americans because of his great work. That act, in and of itself, ensured that Americans have access to participate in our democracy. So we commend him for that. But to me, I think of Peter Rodino as, in a way, a contemporary Mr. Constitution. He is the protector of the Constitution in this Congress.

When I was running for office 9 or so years ago, the national figure that I wanted to appear in my literature more than anyone else was Peter Rodino. He consented to do that. I remember how thrilled I was and how all my campaign supporters were to have him appear.

In my district, beyond that, he is very, very important for other reasons besides civil rights legislation. He is, in fact, very responsible, if not the most responsible person, for reform in immigration laws. So many people who have seen the quota system with respect to different countries being discriminated against in the past saw a big change in the law thanks to Peter Rodino's action and that Immigration Act that passed some years ago. So I think we remember him for these and other reasons, but I just wanted to pay tribute to a wonderful American. We wish him many, many more years of service in this body and certainly to our great country.

DEMOCRACY ENDOWMENT INTERFERES IN FRANCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado [Mr. Brown] is recognized for 5 minutes.

Mr. BROWN of Colorado. Mr. Speaker, last year funds from the National Endowment for Democracy were secretly funneled to the military-backed candidate in Panama's Presidential election. By secretly interfering in another country's free elections, NED was undermining democracy, not promoting it.

After that incident, NED promised to operate openly and to stop meddling in the internal politics of other countries. In spite of those promises, it has come to light that NED has secretly been channeling funds to groups actively opposed to the democratically elected Government of France.

NED gave $830,000 to a labor union engaged in anti-Mitterrand activities. It also provided $575,000 to a student group that has been named as the youth arm of an outlawed paramilitary organization. NED's interference in French domestic politics is documented in an article by Mark Schapiro and Annette Levy in the December 23, 1985, New Republic, which I would like to submit for the Record.

NED's French involvement raises serious questions about NED's ability to operate openly and to avoid meddling in the domestic politics of other democracies. Once again, NED has done more to undermine democracy than to promote it.

This Congress has authorized the use of funds to promote democracy around the world. We have not authorized the use of funds to interfere in existing democracies.

To institute an international political action committee that interferes with existing democracies makes a sham out of our efforts to advance self-government. For those who have forgotten, America's holding high the torch of freedom means something far different than NED's efforts to manipulate foreign democracies or waste taxpayers dollars.

Mr. Speaker, NED is a loose cannon. It has shot more holes in our ship of state than any other. It is time to redirect its efforts to promoting democracy—not subverting it.

NED TO THE RESCUE

(By Mark Schapiro and Annette Levy)

(Mark Schapiro is a writer based in Washington, D.C., and an associate of the Center for Investigative Reporting. Annette Levy is a staff writer for the Paris newspaper Liberation.)

The National Endowment for Democracy seeks to "strengthen democratic ideas and institutions," President Reagan proclaimed in France last May. The mission of the Endowment, established in 1983 by the administration and Congress, is to promote democracy by giving money to citizens' groups, trade unions, scholars, and others in foreign countries. Critics of NED have asked why the U.S. should be interfering in the politics of foreign countries, but the Endowment's supporters argue that in most of the world democratic forces need all the help they can get.

The members of the European Parliament who warmly applauded Reagan's speech might have been surprised to learn that one country where NED officials have decided democratic institutions are in dire need of such aid is France. Two of the biggest beneficiaries of Endowment funding—receiving a total of almost $1.4 million in the last 19 months—are a French white-collar workers' union and a small right-wing student group in Paris. The two organizations have been in the forefront of opposition to the policies of President François Mitterrand.

This is exactly the kind of situation NED skeptics have worried about since the beginning. After all, imagine the fuss if the French government were to give financial support to liberal groups active in opposing President Reagan. Indeed, NED's subsidy is even stranger because the French student group is the offshoot of a paramilitry organization that was outlawed in 1982 because of alleged involvement in bombings, drug smuggling, and gangland-style killings.

Funds for the Endowment are channeled into France through the Free Trade Union Institute, which coordinates worldwide activities for the AFL-CIO. The Institute, whose headquarters are in Paris, was designated by Congress to receive more than two-thirds of NED's $18 million budget in each of the last two years. (Congress has since dropped the requirement.) Most of the Institute's funds are distributed to anticommunist unions in Latin America and Asia. But about ten percent of the U.S. aid stays in Paris.

In April 1984 the Institute gave two-year grants totaling $575,000 to the L'Union Nationale Inter-Universitaire (UNI), a student activist group that reportedly has less than 1,000 members. At the same time the Institute gave $830,000 to the Force Ouvrière (F. O.), a nationwide union with an annual budget of roughly $5.4 million. Defenders of the grant say it was used to resettle political refugees, but the evidence suggests otherwise. The F.O. is a rival to France's largest labor union, the Confédèration Générale du Travail (CGT), which is controlled by the French Communist Party. Only the Philippines, whose democratic institutions are in somewhat more danger than France's, received more assistance from the Institute.

The student organization's credentials as a "democratic institution" are suspect. According to a 1982 French Parliamentary Inquiry Commission, UNI is a "satellite movement" of the Service d'Action Civique, an organization of French Algerians created in 1962 to serve as a security force for right-wing politicians. Over the next two decades SAC evolved into a paramilitary organized crime ring and became more violent. The top SAC official in Marseilles was assassinated along with five family members in 1981, apparently for refusing to turn over incriminating documents to his colleagues. SAC established UNI in 1968 in response to left-wing activism on French campuses. The chief of the Paris branch of SAC told the parliamentary commission, "In fact, we could not use young people of 18 to 19 years of age, they are too uncontrollable. SAC didn't 'move' enough for them when they were introduced [at that age], so we sent them to UNI."

Carl Gershman, the president of the Endowment and former assistant to U.N. Ambassador Jeane Kirkpatrick, defended the aid to the two groups. "We intervene in a democratic country to encourage the democratic debate. We support institutions involved in that process." The F.O., he said, "is competing with an organization [the CGT] that has a nondemocratic orientation." Gershman said that he did not know about UNI's connection to SAC until late November, and said the grant has been suspended until an investigation of UNI's history is completed. But Irving Brown, who oversees activities of the Free Trade Union Institute, admitted he knew about UNI's controversial parent organization when he disbursed the Endowment funds. "I know you will tell me about SAC and everything," he said. "There is a little bit of everything in UNI. We have to help the democratic forces which fight against the Russians."

Asked why it is necessary to bolster democratic institutions in country with one of the longest and most stable democratic traditions in the world, Gershman responded by citing NED's activities in Guatemala, where the Endowment supported voter education efforts prior to the November 3 elections. "All sides observing the voting there praised the efforts we made to encourage voting, the democratic process," Gershman said.

What is the similarity between France and Guatemala? "It's not France in terms of being a new democracy," he explained. "But they are both sovereign states; they are both sovereign nations." We apply our consistent principles across the board."

The apparent importance of supporting groups operating freely in democratic Western European nations was not mentioned when Reagan persuaded Congress to establish the Endowment in 1983. Rather, the administration portrayed NED as a way to provide support for democratic institutions countries such as Argentina or in dissatisfied Soviet bloc countries such as Poland.

Supporters also insisted that NED's activities would be completely aboveboard. The revelations of covert funding of operations abroad that plagued the CIA in the 1960s and 1970s would be avoided. The United States would be proud to assist people struggling for democracy. To insulate itself from the CIA, NED even refuses to hire current CIA or other intelligence agency employees. Gershman asserts that "what we do has to be also to stand the light of day."

The Endowment has not been completely open about its activities in France. Its most recent annual report did list the grant to the Force Ouvrière. The report described UNI's publishing efforts ("A comprehensive program to provide an effective counterweight to the propaganda efforts of leftwing organizations of professors"), which NED funded, but did not identify the group by name. Gershman says that all recipient will be listed by name from now on. Nor did NED formally notify the Mitterrand government—which the State Department has called "our best anti-Soviet ally in Western Europe"—of its support for two organizations that have been in the forefront of the French opposition. The French governments has refused to comment.

Eugenia Kemble, the executive director of the Free Trade Union Institute, has advocated that NED be less forthcoming about its funding. She proposed last April that NED projects in France and eight other countries be secretly funded. In a confidential memo to Gershman, Kemble said that recipients might "either be endangered or embarrassed if specific budgets were published or announced." Kemble noted that "either repressive governments or Communist front groups could use the information to hurt individuals or unions we are seeking to help." This is probably true in Chile, Poland, Paraguay, Nicaragua, and the other countries she listed. But France? Democratic groups there face no repressive government. The CGT is communist-dominated, but the Force Ouvrière and other anticommunist unions are perfectly free to challenge it. If their activities are legitimate, they should welcome public disclosure of their funding and activities. Ironically, the CGT has come to the Force Ouvrière's defense, perhaps because it too is said to receive foreign funding—presumably from Moscow—which it prefers not to disclose.

Gershman claims that he responded to Kemble's memo verbally. "I don't like doing memos like this that some reporter from some crazy French newspaper can get ahold of. I indicated to her my view on this—Don't come here thinking you can keep these projects from the public. These relationships are subject to full disclosure.'" Gershman says that all such "sensitive" projects would be halted in the future or made public. The House Subcommittee on International Operations has been informed about the "sensitive" operations abroad, according to Richard McBride, a subcommittee aide, but has agreed with Kemble not to release details of the operations to the public. Kemble refused to comment.

Gershman's commitment to "full disclosure" is not shared by the recipients of NED's largess. Gershman, Brown, and Kemble have all confirmed the Endowment's financial support of UNI. Nevertheless, a spokesman for the group still denies it, calling statements that the organization has received funding from the Endownment "a fantasy of journalists."

André Bergeron, president of the Force Ouvrière, said, "I'm not going to confirm of deny it. We have funds that are being used to help people obliged to leave their countries—in southeast Asia, in Chile, in Poland." Bergeron added, "I don't know the Free Trade Union Institute. I have never heard of this Endownment for Democracy." Irving Brown, the director of the Institute, says he has known Bergeron since 1947.

Nor is it entirely clear how the grant to the Force Ouvrière has been spent. Gershman says the money was used for organizing immigrant laborers. Brown and Bergeron say it paid for the resettlement of political exiles and nothing else. But the only specifics they provide are a grant of 80,000 francs (slightly more than $10,000) for the Paris office of Solidarity, the Polish trade union. An internal NED document says the Endowment money supports "education on parliamentary procedure, combatting antidemocratic forces, factional organizing, education on how to organize, how to demonstrate, how to service members, and publication and dissemination of materials."

The truth is that Endowment grants to groups in countries where democratic institutions are already functioning will inevitably violate the Endowment's rules. These guidelines prohibit any funds from being used on behalf of political candidates. The F.O. and UNI grants were not specifically intended for partisan purposes. But Gershman conceded that Endowment support could have freed the groups to use other funds for more explicitly political purposes.

"You cannot control the individuals involved," he said. "The Endowment is committed to supporting pluralism. The Free Trade Union Institute, which the Endowment supports, enjoys the benefits of freedom. The organizations the Institute supports are engaged in nonviolent acts common to a democracy. The fact that the Endowment supports a project engaging in nonviolent democratic activity—I don't see anything wrong with that."

Of course, there's nothing wrong with "nonviolent democratic activity." But it is not terribly democratic for any government to fund partisan political organizations in another democratic country. The Endowment should have learned this lesson before. Last year, for example, it was revealed that a labor institute in Panama, funded by NED, had contributed approximately $20,000 to the campaign of the military-backed presidential candidate, who won the election by all of 1,700 votes. The U.S. ambassador in Panama sent a classified cable to the State Department urging that "this harebrained project be abandoned before it hits the fan."

MY ADVICE TO THE PRIVILEGED ORDERS

The **SPEAKER** pro tempore. Under a previous order of the House, the gentlemen from Texas [Mr. GONZALEZ] is recognized for 30 minutes.

Mr. GONZALEZ. Mr. Speaker, the aircraft disaster that took the lives of 248 U.S. soldiers and 8 civilian aircraft crew members last week is a shocking, sad event. But it is not enough to mourn and bury the dead; there are lessons to be learned. Not just how and why it happened, but what might have happened if the disaster had taken another form—such as an attack on these soldiers while they were on duty as members of the almost unknown Multinational Force and Observers, those forgotten forces who guarantee the Camp David accord that followed the last war between Egypt and Israel. And we must also ask ourselves another question: Why do we not only expose these troops to forgotten corners of the world on missions of dubious but supremely dangerous import; but also expose them to the questionable virtues of flying on unknown airlines whose rates are cheap, but whose safety is dubious?

We know nothing about why the Arrow Air DC-8 crashed at Gander, NF. We may never know. But it is a supreme irony that the Department of Defense today, as it did in Vietnam, flies living soldiers on private charters; the dead return on military aircraft. The Department of Defense claims that it can't provide the aircraft to fly its troops; that it is cheaper and more efficient to use commercial airlines. So the Department of Defense spends about $450 million a year on commercial transportation.

I doubt that the Government would ask commercial carriers to ferry troops into combat zones. Certainly not; this would be too risky. Carrying passengers, it seems, is a commercial function. Therefore, troops who are on their way to a combat area will be flown by commercial carrier—but only to a safe point. After that, it is a military mission. And today, as in the days of Vietnam, the dead come back on military aircraft. The dead are not passengers, but freight, and the military carries its own freight. What a travesty this is; what a commentary on the state of our thinking. War can be commercialized, but the ashes of war are the business of the Government. So it is that these fine soldiers traveled on an airline unheard of by anyone outside the charter business, on an aircraft that some allege was falling apart; on an airline that seems to have had problems retaining pilots, because of pilot concerns about the safety of the aircraft they flew.

The least we can do is determine just what kind of standards it is that the Government expects of charter carriers that carry our soldiers around the world. It would be far better if the Government used its own aircraft; let us at least be responsible for our own soldiers: Surely that is not too much to ask.

But there is another, deeper, and more urgent question to ask: Why were they where they were in the first place? What if their deaths had come about not because of a grisly, ghastly accident, but a surprise attack? We would not then be only mourning the dead; we would be pondering the far greater issue of whether we would be drawn into war against the enemy that attacked them.

Hardly anyone knew that the Multinational Force and Observers even existed, before last week's accident. I doubt that very many people know what it is, even today, let alone what it does. Fewer still have asked why it exists and what it would mean if that force were attacked. My own attempts to raise these questions, time after time, have gone ignored.

The Multinational Force is supposed to inspect the Sinai frontier between Egypt and Israel, and assure that neither side is about to mount an attack. They are thus to guarantee the peace between these two countries. But if there is peace, why is there a need for this armed force? Genuine peace does not call for a third-party force of armed personnel to separate the sides. They are there, in other words, because what is called peace is not peace; it is only a suspended war.

What could this tiny force do if it were attacked? It was no armor, no air force, no artillery.

I gave the composition of this force at the time and said that the second greatest number component is the Fiji Island component. West Germany does not have any there, Britain and France and Italy have token forces about 10 or 11, and Colombia has 500 now. They originally had 1,000, but since then they had trouble back home and called back 500 of the 1,000. So it could, in fact, do almost nothing to resist an attack. It would have to stand aside or be obliterated, just as a similar UN force had to stand aside or be obliterated when Israel decided to invade Lebanon. Militarily then the force becomes insignificant.

What then is the purpose of the force? It is to serve as a token; truthfully it is to serve as a hostage, just as hostages were taken in ancient days, by warring feudal barons. If either side to an agreement showed bad faith, the hostages would die and war ensue. In this case, the United States soldiers are hostages; if either Egypt or Israel were to kill them, there would be fearful consequences—or would there? Would it merely be another Beirut disaster, mourned and soon forgotten? In either case, the mission would prove futile. If the force were attacked and obliterated, it would have failed. If the United States were then drawn into war, it would be a war against either a close ally or an ally we have tried to court for many years. If the fatalities were mourned and forgotten, their lives would have been wasted, just as an almost equal number of marines were wasted in Lebanon in 1983.

Let us suppose that our intelligence sources revealed a military buildup in the Sinai, by one side or another; would the U.S. forces stay in place, in the middle? Would they pull out? Would our Government communicate the possibility of impending war to one side or the other, thus assuring enmity from an ally—since both contenders are our allies?

☐ 1655

The presence of U.S. troops in the Multinational Force creates a dilemma of immense proportions. In any kind of military or political crisis, it becomes an insurmountable obstacle to a happy and a solicitous resolution from the standpoint of the safety of our troops.

Yet we go on, as if the dilemma does not exist, that it cannot happen, or that it will not happen. We go on as if the unfolding disasters in Lebanon had not happened, a disaster that came about, in part, because of what? Military unpreparedness? Well, I could hardly say that. I stood on this floor over a period of 14 months, asking the question that I am raising now of President Reagan.

About some 6 months before October 1983, I found out that the Joint Chiefs of Staff had been unanimously advising the President against that decision. Yet the Commander in Chief willfully continued. As a matter of fact, on the Thursday when this House was adjourning, before the weekend of October 24, the last words printed in the RECORD were mine, and they were addressed to the President and my colleagues, reminding them that as they took off to a nice, good, comfortable supper, and the President would retire to his dining room in the White House, to stop and think of the marines who were in the shadow of death in Beirut. I felt extremely sad, distressed, when, back home that weekend, on Sunday morning, the terrible news broke about the murder of those 241 marines in their sleep.

I say that we have the duty on this case, that is, the so-called Multinational Peacekeeping Force in the Sinai, more so than the President did, even though it should be a shared responsibility and particularly assumed by the Commander in Chief, because for the first time, as I said before and have said ad infinitum, beginning with the day that this House passed the resolution my voice was raised, and I asked this specific question: "Was this unprecedented?" And, of course, it was.

Never since 1789, in the first Congress, has the Congress mandated a deployment of a service component of our armed services. And we did. We have. And so I have asked the leaders in the committees that have responsibility to have oversight.

I have been doing this now off and on since December 1981. And it is very distressing to see these concerns, these apprehensions, not groundless, but they have been fulfilled by these direful consequences. We do have to consider what would happen in case of an outbreak of hostilities between Egypt and Israel, what would happen in the case we knew that war was about to break out, what would happen in the case of a surprise attack, what could happen in the case, even, of a buildup of a crisis. Examine all of these cases, and in every one we see not only an inexcusable military folly in committing lightly armed forces to one of the most heavily armed areas of the world, we can foresee, as well, a political catastrophe. We cannot afford the luxury of saying that it cannot happen. Such disasters do happen and have. We cannot assume the best case. We must consider what would happen in the worst case. And that has not been done and is not being done.

We cannot rest on our complacent assumption that because we say we have good will we will be believed or that others filled with anger and ambition would be deterred by a handful of forces set out there as a token of our good will. If the deaths of these young people ever means anything, it must mean that at the very least we will at long last take commercial profit out of military functions like transporting troops to and from war zones, to and from military missions, that we will at least put military missions above commercial profit. That is the least, my colleagues. But far more important, it should also cause us to ask: What were they doing there in the first place? Did their mission make or does it continue to make any sense? Does it make sense? What if there is a disaster of a military nature?

The time to ask those questions is now, as I have been trying to say, not after a disaster. It is too late then, just as it has been in Lebanon and in Gander.

Let us honor these young people, honor them by accepting our responsibility. Surely, that is not too much to ask in this case.

Mr. Speaker, I yield back the balance of my time.

PERSONAL EXPLANATION

Mr. BOLAND. Mr. Speaker, during yesterday's House proceedings on H.R. 3838, the gentleman from New York [Mr. MCHUGH] offered an amendment relating to campaign financing. I was absent and not recorded.

I was detained in a discussion on the continuing resolution in another part of the Capitol.

Had I been present, I would have voted "aye."

Mr. Speaker, in the Democratic caucus, of December 10, there was a record vote on an identical McHugh amendment. I supported it at that time and I am so recorded in the records of that caucus.

RETIREMENT OF DAVID POGOLOFF, CHIEF HOUSE VA LIAISON STAFF

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. BOLAND] is recognized for 10 minutes.

Mr. BOLAND. Mr. Speaker, one of the primary responsibilities of the Federal Government is to assist those who have served in their country's Armed Forces. The Congress has sought to discharge that responsibility by creating and funding programs to provide medical care, education assistance, and opportunities for homeownership to our Nations veteran's and their families. We all know, however, that those programs only do what Congress intended them to do when they are adminstrated by people of compassion, skill, and resourcefulness.

Today, I want to pay tribute to one of those people, Dave Pogoloff, who has devoted the last 41 years of his life to ensuring that our veterans programs work I doubt that there is a Member of this House who doesn't know Dave personally, or whose VA caseworker has not benefited from Dave's sage counsel and extraordinary dedication. He has served as the Chief of the House VA liaison team for the last 20 years, and it would be impossible even to estimate how many seemingly unresolvable VA cases have been straightened out due to his efforts. Others have received the credit for those efforts, most notably the Members of the House who could convey to their constituents the good news that their VA problems had been solved. But all of us know, Mr. Speaker, that our "success" with the VA was merely a reflection of the resolved that Dave made a long time ago to do all that he could to guarantee that veterans received all to which they were entitled from the programs that had been designed for them.

Dave will soon be retiring after serving under seven Presidents and nine VA Administrators. His retirement will conclude a career in service to the Nation that began on the battlefields of World War II. Dave carries with distinction a visible remembrance of that combat experience, an experience that gave him special insights into the needs of our veterans. He has labored tirelessly to meet those needs and his labors have been immeasureable value. We will miss his experience and his ability in the months ahead, but I know that none of us would deny Dave the chance to spend more time with his wife, Florence and their children and grandchildren.

Congratulations, Dave, on your distinguished career and best wishes for a long and happy retirement.

RECESS

The SPEAKER pro tempore. Pursuant to the order of the House of Tuesday, December 17, 1985, the Chair declares the House in recess subject to the call of the Chair.

Bells will be rung 15 minutes before the House reconvenes.

Accordingly (at 5 o'clock and 5 minutes p.m.), the House stood in recess subject to the call of the Chair.

BEST COPY AVAILABLE

□ 1835

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 6 o'clock and 46 minutes p.m.

PERMISSION TO FILE FURTHER CONFERENCE REPORT ON HOUSE JOINT RESOLUTION 465, FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1986

Mr. BOLAND. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a further conference report on the joint resolution (H.J. Res. 465) making appropriations for the further continuing resolution for the fiscal year 1986, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

Mr. CONTE. Mr. Speaker, reserving the right to object, I yield to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. I thank the gentleman for yielding.

Mr. Speaker, I am just wondering, while the gentleman is on the floor with the request, whether we could get some idea from the members of the conference committee where we stand on the conference report, whether or not the issues are being resolved, what issues are still outstanding, so that the Members could get some idea as to where we are on the issues involved.

Mr. CONTE. Mr. Speaker, further reserving the right to object, we have been meeting all day. We have resolved all problems and issues in the conference except one—defense—and we are almost on the verge, on the threshold, of resolving that; and we hope we can resolve that by 7 o'clock tonight.

Mr. WALKER. If the gentleman will further yield under his reservation of objection, have we cut back on some of the spending areas in the domestic programs that were giving some Members of the House some problems the other day?

Mr. CONTE. We made cuts on Interior, we made cuts on the agricultural section, we made cuts on the transportation section.

Mr. WALKER. Where does that bring us in terms of the $600 million overage that OMB was talking about on the previous bill?

Mr. CONTE. When we come back in, I will have those figures. Counsel will be working on it. But I can say that we have been in close contact with OMB, and they will recommend signing this continuing resolution if we hold at this figure.

Mr. WALKER. With those figures. And, finally, I just had a conversation with the gentleman. I understand that the Senate is determined to hold firm on their position to grant themselves a 40-percent outside honorarium figure, which would, as the gentleman points out, not affect the House because of our rules, but is an item of some controversy. Is it my understanding that the Senate is determined to hold firm on that issue?

Mr. CONTE. The House held very firm on that issue, based on the debate we had the other night, and the Senate voted late this afternoon to retain the 40 percent, a 10-percent increase, $7,500 they can earn more in honorariums. That will not apply to the House of Representatives.

Mr. WALKER. Will that come back as an amendment in disagreement so there can be a separate vote on it?

Mr. CONTE. I think that will be part of the conference. I am not sure.

Mr. WALKER. I thank the gentleman. He has been very helpful.

Mr. CONTE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

□ 1850

Mr. SEIBERLING. Mr. Speaker, reserving the right to object, I wonder if the gentleman from Massachusetts can tell me whether the Symms amendment which would transfer the Animal Damage Control Program from the Interior Department to the Agriculture Department, which of course is a legislative act that is within the jurisdiction of two House legislative committees.

Will it be reported in technical disagreement or will it be accepted by the House conferees?

Mr. CONTE. If the gentleman will yield, I certainly cannot answer that question. I cannot recall. Do you recall whether that was in technical disagreement in the original continuing resolution that came here the other night?

Mr. SEIBERLING. I am informed that it is in technical disagreement in the Agriculture appropriation bill, and the continuing resolution incorporates the Agriculture appropriation bill by reference. But I am not clear as to whether with doing it that way a vote could be called when the agriculture part gets to the House in the continuing resolution since it simply incorporates the Agriculture bill by reference.

If it is not in a form where we can have a separate vote on it in the House, then I will object to the unanimous-consent request at this time.

Mr. CONTE. The gentleman and I have worked together very closely on many of these issues. I hope the gentleman will not object. You can bring that out when we come back in. Otherwise, we can be here Saturday night. This is merely a unanimous consent to file a report, that is all.

Mr. SEIBERLING. I have already informed the distinguished gentleman from Mississippi that an objection will probably be raised by me or by the gentleman from Michigan [Mr. DINGELL] unless we can have an opportunity to vote on that, or unless the conferees remove it from the conference report.

The House Agriculture Committee had a similar amendment offered by the same Member of the other body which they removed from the Agriculture bill which we approved today. I think that since it has been removed from the legislative bill, it is legislation that should not be in the appropriation bill. It would change an existing responsibility of the Interior Department that has been in effect since 1939, and we cannot allow the Members of the other body to lightly do that sort of thing and take advantage of the nuisance value of having to resist it in conference; just take it lying down.

So I feel at this time that I have to reserve our rights in the Interior Committee and Merchant Marine Committee to, we have to protect our rights and the only way I know is to object.

Mr. CONTE. I would hope that the gentleman will withhold any objection. Let me tell him what the scenario is.

First of all, you and I agree on the issue. I do not believe it should go over to Agriculture, but I hope you will not object. All you are doing, is we will have to get the Rules Committee back in session right now; go before the Rules Committee and get a rule and come back down here and you are going to be here until 10 or 11 o'clock. Your are holding up the whole House, and the end result is not going to be any different.

I promise you this: That I will go back to that conference and raise that issue immediately.

Mr. SEIBERLING. I appreciate that, but all I can say is that we are being asked to approve, by unanimous consent, the filing of a conference report which has not even been completed yet, and we do not know what is in it, and we do not know whether we are going to have any right to raise this issue.

Mr. CONTE. If the gentleman will yield, that is a normal procedure. The only thing you file the conference report for, it does not mean that the House has accepted it. We will have to take the conference report here to the House and debate the conference report.

Mr. SEIBERLING. Let me ask the gentleman, when the conference report comes before the House, will it either be brought before the House by unanimous consent in order to take it up, or by a rule, because my concern is that by giving this unanimous consent there will not have to be any further consent to taking up the conference report. Am I correct in that?

Mr. CONTE. The gentleman from Ohio will have the opportunity, if this unanimous consent is granted, will have the opportunity when we come here tomorrow, whatever the Speaker says, to debate the conference report. At that time we can discuss it. But before that, I will rush over to the Senate and bring this issue up and see if we can clarify this issue and see if there is some way of bringing it in technical disagreement outside the conference report.

Mr. SEIBERLING. Well, it is one thing to debate the conference report and it is another thing to have the power to knock out something that is a nongermane piece of legislation that the other body introduced.

Mr. CONTE. I will do my best on it.

Mr. BOLAND. Mr. Speaker, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman.

Mr. BOLAND. The only reason we make this unanimous-consent request now is so that the House will not be kept in recess. If we make this unanimous-consent request and it is agreed to, then the Members can leave. But a failure on the part of any Member to object to the unanimous consent will signify that we have got to stay here in recess until the House convenes, and then we can make that request on the floor, and of course, as the gentleman knows, you could make that without a unanimous-consent request.

Mr. SEIBERLING. The majority leader advised me that if necessary they would ask for a rule in order to make in order an objection to that particular feature of the bill.

Mr. BOLAND. You could make that request of the Rules Committee; that is correct.

Mr. SEIBERLING. I would like to make that request of the Rules Committee if the rule is being sought, but at this point, we do not know whether a rule will be sought. I just feel that unless we resist these efforts at the 11th hour, these midnight raids that the other body is in the habit of making on our legislative committees, they are going to walk over us every time.

Mr. CONTE. If the gentleman will yield, and I may stand corrected, I do not think it is in the prerogative of the Rules Committee to make that kind of a rule in order for a conference report. You are either going to vote for the conference report——

Mr. SEIBERLING. Not unless the rule is sought at which point they could condition the granting of the rule on certain features being open for challenge on the floor.

Mr. CONTE. I doubt it. The only thing you are going to do here, as Mr. BOLAND said, is keep the House in session and recess until we come back here and file which could be, you are doing a disservice to everybody else in the House because the end result is not going to be any different. It is going to be later, 10, 11 o'clock tonight.

Mr. SEIBERLING. The disservice is that those gentlemen on the other side of the Capitol use this technique as a kind of blackmail to force us to swallow things that we would not otherwise take. Somebody has to get their back up sometime; we cannot always be in an appeasement mode. That is the reason why I am raising this point.

I will say this: Based on the assurance the gentleman has given me that he will make an effort to try to see that this is either eliminated or brought back here in a form where we can challenge it and have a vote on it or the assurance of the majority leader that if a rule is sought we will have an opportunity to request a similar vote to be made in order on the rule, I will withdraw my reservation. I hope the gentleman will make a serious effort because we cannot be put in this position every time, just before we are ready to adjourn and everybody wants to go home for Christmas; I do, too.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

REQUEST FOR CONSIDERATION OF H.R. 3979, EXTENSION OF CERTAIN INTERNAL REVENUE CODE TAX PROVISIONS FOR A TEMPORARY PERIOD

Mr. GIBBONS. Mr. Speaker, I ask unanimous consent for the immediate consideration in the House of the bill (H.R. 3979) to amend the Internal Revenue Code of 1954 to extend for a temporary period certain tax provisions which would otherwise expire at the end of 1985, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

Mr. BREAUX. Mr. Speaker, reserving the right to object, I reserve the right to object and would like to ask the distinguished gentleman from Florida is the legislation that he is seeking to bring up by unanimous consent, how does it affect or what are the implications with regard to the revenue provisions of the so-called Superfund legislation? How does it affect that?

I yield to the gentleman for his response.

Mr. GIBBONS. It does not legislate in the area of the Superfund; it does legislate in the area of a number of major taxes that the Government levies and some exceptions, and if the gentleman will yield further, I will be glad to run over those items so that all of us know what is at stake here.

Mr. BREAUX. I ask the gentleman under my reservation, Is the gentleman telling this body that there are no provisions with regard to any funding programs for the Superfund legislation in the gentleman's legislation?

□ 1900

Mr. GIBBONS. There is none in here concerning Superfund. No, sir, that is correct. There is nothing in here that concerns Superfund.

Mr. BREAUX. Reserving the right to object, Mr. Speaker, I think it would be helpful to the Members if the gentleman from Florida would cover the areas that are in fact covered under his legislation.

Mr. GIBBONS. I would be happy to do that if the gentleman will yield.

Mr. BREAUX. I yield to the gentleman from Florida.

Mr. GIBBONS. Mr. Speaker, this bill is an important piece of legislation, and, of course, it is very critical for the functioning of the Government.

The first thing this bill would do is extend the research and development tax credit that has been so important to so many Members.

The second thing it would do, it would extend the targeted jobs credit that expires very shortly.

It extends the research expense allocation rules and the solar and geothermal tax credit. The legislation would also extend the tax-free employer-provided educational assistance programs and the qualified employer-provided group legal services program. It covers the expense of up to $35,000 annually for the cost of removing architectural barriers for the handicapped.

It would extend the current moratorium on the net operating loss carryover rules. It would extend the present-law provisions for the award of attorney fees in tax litigation. It would extend the tax-relief provisions of the Vietnam MIA's and their spouses from tax consequences.

It would extend—and this is most important, Mr. Speaker—the 16-cent cigarette excise tax which was recently extended to midnight tonight. It would also extend the 4-cent-per-gallon exemption for taxicabs relative to the gasoline tax.

Mr. Speaker, if the gentleman will yield further, these are all important, but the most important one is the research and development tax credit which will expire. And then, of course, there is the cigarette tax that will jump up tonight in many States unless it is extended.

I am aware of the gentleman's concern about the Superfund Program, and I am trying in my own individual way to cooperate and find a solution to that. I frankly do not have a solution, but my deepest sympathies are with trying to find a solution for that and I will continue to work toward that purpose.

Mr. Speaker, I hope that no one will object to this request.

Mr. THOMAS of California. Mr. Speaker, will the gentleman yield?

Mr. BREAUX. Further reserving the right to object, I yield to the gentleman from California.

Mr. THOMAS of California. Mr. Speaker, I thank the gentleman for yielding.

I would say to my distinguished colleagues on the Ways and Means Committee right now that minutes and hours are precious, and days are a long, long time. The gentleman indicated a number of provisions that are going to expire. For example, that very important research and development tax credit, when does that in fact expire? Is it tonight? Is it tomorrow? I mean is it imminent?

Mr. GIBBONS. December 31.

Mr. THOMAS of California. It expires on December 31?

Mr. GIBBONS. Yes.

Mr. THOMAS of California. Well, that clearly indicates to me there is some time.

Is there anything in this bill of an extreme urgency nature that would make it necessary for us to have to act now at the 11th hour, making it literally the 11th hour, rather than something like 2 weeks or 3 weeks?

Mr. GIBBONS. Some of the Medicare freezes will be unfrozen as of midnight tonight, and the cigarette tax will, of course, jump in many States tonight and will not automatically come back down if the Congress acts after that.

I would say to my good friend and very conscientious colleague, the gentleman from California [Mr. THOMAS], that I want to solve the problem. The gentleman and I were in that conference together today trying to solve the problem on the Superfund excise matter, and I realize that the gentleman wants to use every bit of leverage that he has to solve this problem.

But I would hope and pray that the gentleman would not object. I have tried to analyze it as best I can. I do not think it really helps to solve the problem. There are a very few hours left in this session, and hopefully tomorrow we could get some movement on the excise tax. But I would hate to have ill tempers caused by any objection that might be brought up now.

Mr. THOMAS of California. Mr. Speaker, will the gentleman from Louisiana continue to yield?

Mr. BREAUX. I yield to the gentleman from California.

Mr. THOMAS of California. Mr. Speaker, I would tell my friend, the gentleman from Florida, that it is sometimes substantive, and also sometimes there is a degree of comity, and one of the things I think we have to do around here is put in proper priorities. It seems to me that if we are going to move this rather large comprehensive bill dealing with matters which expire at midnight tonight and clear on to the end of the year, this Member would be constrained to object.

However, if we met the most extreme needs, which I believe we ought to be using these kinds of circumstances to cover, my understanding is that on the cigarette tax consequences would occur which probably could not be unraveled, and that would not be true on the Medicare provisions. So if the gentleman persists in pushing the entire package, this gentleman will be constrained to object. If we could have an agreement that will move only that item which is necessary to be moved, for example, a 24-hour provision for the cigarette tax, then I certainly would feel that the procedure we are undertaking now would be appropriate.

Mr. ANTHONY. Mr. Speaker, will the gentleman yield?

Mr. BREAUX. Further reserving the right to object, I yield to the gentleman from Arkansas.

Mr. ANTHONY. Mr. Speaker, I thank the gentleman from Louisiana for yielding.

If there is an objection—and it appears there will be an objection to the bill as introduced—and if the acting chairman of the Ways and Means Committee, the gentleman from Florida [Mr. GIBBONS], does not ask unanimous consent to extend for at least 24 hours section 106, which would be an extension of the increase in the cigarette tax, this Member would ask this body by unanimous consent to extend the collection of that cigarette tax, which is presently at 16 cents, which would reduce down to 8 cents and would trigger in some 12 States automatically.

I would ask unanimous consent, if the gentleman from Florida [Mr. GIBBONS] does not, for 24 additional hours. That would allow the Rules Committee an opportunity to meet tonight and bring a rule to the floor tomorrow, and then the body could work its will on this broad extension on the expiring of tax credits that personally I feel do need to be extended.

Mr. THOMAS of California. Mr. Speaker, will the gentleman continue to yield?

Mr. BREAUX. Further reserving the right to object, I yield to the gentleman from California.

Mr. THOMAS of California. Mr. Speaker, may I ask the gentleman from Florida if he is interested in restricting the request to section 106?

Mr. GIBBONS. I am sorry, I did not hear the question.

Mr. THOMAS of California. Would the gentleman be interested in restricting his request to section 106 and make that the entire provision?

Mr. GIBBONS. Mr. Speaker, I guess if there is an objection, I would reluctantly do so. I would hope there would not be an objection.

I really think this, if the gentleman would yield further—I have been through these closing sessions of Congress before, and all of us try to use the greatest amount of leverage that we can, but sometimes in the use of that leverage we get some ill feelings started, and that, bearing upon my experience, has not been productive to solving problems. The gentleman and I are interested in solving the same problem. I want to solve the problem of the Superfund tax, and I want to continue working with the gentleman and, under any circumstances, will continue working with him. But there are a lot more people involved in this.

It is so easy to object. I have found that some people will not be as patient as the gentleman from California has been in this, and we are going to have to really rely from hereon on comity and the kind of restraint that is necessary to get legislation passed.

Mr. THOMAS of California. Mr. Speaker, will the gentleman yield further?

Mr. BREAUX. Further reserving the right to object, I yield to the gentleman from California.

Mr. THOMAS of California. Mr. Speaker, I thank the gentleman for yielding, and this will be the last statement on the part of the gentleman from California. If the gentleman from Florida does not wish to offer only section 106, the gentleman knows well that we just had a Ways and Means Committee meeting in which, in speaking among ourselves, we got a little carried away in terms of even creating new tax law in extending programs beyond H.R. 3838 that we already passed.

□ 1910

We passed a nonbinding resolution on the floor which folks talked about in terms of key dates within the tax bill. We are already now beginning to shift dates around.

It just seems to me that what we ought to do is use emergency procedures in emergency situations. The only emergency that I see in this entire package is section 106. Certainly I would not oppose utilizing emergency procedures for an emergency purpose. The entire package is not such and therefore I feel constrained to object.

The SPEAKER. Is there objection to the request of the gentleman from Florida [Mr. GIBBONS]?

Mr. THOMAS of California. Mr. Speaker, I said that I object.

The SPEAKER. Objection is heard.

EXTENDING UNTIL DECEMBER 19, 1985, APPLICATION OF CERTAIN TOBACCO EXCISE TAXES

Mr. GIBBONS. Mr. Speaker, I ask unanimous consent for the immediate consideration in the House of the bill (H.R. 3981) to extend until December 19, 1985, the application of certain tobacco excise taxes.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

Mr. STARK. Reserving the right to object, Mr. Speaker, I reserve the right to object to inquire of the distinguished acting chairman of the Ways and Means Committee if the gentleman would have any objection—it is my understanding that the bill the gentleman is now offering extends the cigarette tax for 24 hours.

There are two other provisions which expire at midnight tonight, the physician freeze and the hospital freeze, both of which would cost beneficiaries under Medicare a great deal of money.

I would ask unanimous consent later to include those two provisions for 24 hours in this unanimous-consent request.

Mr. CAMPBELL. Mr. Speaker, will the gentleman yield?

Mr. GIBBONS. I am glad to yield to the gentleman from South Carolina.

Mr. CAMPBELL. Mr. Speaker, this member of the Ways and Means Committee and one who is interested, of course, in not losing the revenue from the cigarette tax, would have no objection at all to the request of the gentlemen.

I do believe that we have accommodated this situation before. This is similar and I would have no objection to those being included.

Mr. PICKLE. Mr. Speaker, will the gentleman yield?

Mr. STARK. I yield to the gentleman from Texas.

Mr. PICKLE. Mr. Speaker, I can understand why the gentleman would want to add one or two more expiring provisions to the extension of the tobacco tax, but I also want to point out there are other expiring provisions in the longer extender bill that to me are equally important, particularly the credits that we would extend for research and development.

Now 240 different Members have cosigned this R&D bill and we have provided in the tax reform bill for an extension of the credit on a 3-year basis. We ought to have those credits in place.

I am willing to go with the gentlemen for 24 hours for these two or three little short ones, but the problem that we have got is that we ought to move forward on reconciliation and if in the next 24 hours we cannot get some accommodation, I think those of us who are interested in doing reconciliation are going to have to take whatever means we can to advance it, because that is the problem we have.

I am concerned about research and development. I am not going to object to the 24 hours. I can understand that, but by another 24 hours I am going to come in here with some guns blazing, too.

Mr. STARK. Mr. Speaker, I appreciate what the distinguished gentleman from Texas has said. I was a cosponsor with the gentleman of those research and development issues and the gentleman is quite correct. If they were expiring in 24 hours, I would indeed urge my colleagues to include them.

I understand under my reservation that there is a bill that has been introduced that will extend the two Medicare provisions for 24 hours. It is my understanding there would be no objection.

Mr. DAUB. Mr. Speaker, will the gentleman yield under his reservation?

Mr. STARK. I am glad to yield to the distinguished gentleman from Nebraska.

Mr. DAUB. So that the additional two items that the distinguished gentleman and chairman of the subcommittee, the gentleman from California [Mr. STARK] offers to the motion before us, would be an extension for 24 hours on current law as it applies to Medicare, physicians' freeze and reimbursement, not any of the other things we have done that would be subject to reconciliation. This is an extension of current law only. Do I understand the gentleman correctly?

Mr. STARK. The reservations that I discussed were for Medicare. There are also two other provisions which I have not discussed previously, but if I were to ask unanimous consent to introduce H.R. 3982, they would include railroad unemployment compensation and trade adjustment, for 24 hours, both of which expire tonight. Those are current law and just for 24 hours.

Mr. DAUB. Mr. Speaker, will the gentleman continue to yield?

Mr. STARK. I am glad to yield to the gentleman.

Mr. DAUB. We in no way by adding these four provisions to the main cigarette tax extension for 24 hours intend to do anything more than extend current law.

Mr. STARK. That is absolutely correct.

Mr. DAUB. I thank the gentleman.

Mr. GRAY of Pennsylvania. Mr. Speaker, will the gentleman yield?

Mr. STARK. I am delighted to yield to the gentleman from Pennsylvania.

Mr. GRAY of Pennsylvania. Mr. Speaker, I would like to ask the gentleman a question. I know that the committee has been working very hard, particularly after Gramm-Rudman and tax reform, to deal with some of these issues that the Committee on Ways and Means has jurisdiction of. I know all the other committees on reconciliation have worked hard.

At this time I am informed by my staff of the Budget Committee that we are now down basically to the Ways and Means issues.

I have basically two questions that I would like to direct to the gentleman if I could.

One, at this point is the only major item that remains in disagreement, in wide disagreement, the Superfund issue?

Mr. STARK. Mr. Speaker, I would be glad to yield to the distinguished gentleman from Florida for that. It is my understanding that this is a major item of disagreement. In the absence of the chairman of the Ways and Means Committee, I would be constrained not to speak for anyone but myself; but I would feel that certainly is one of the items that this gentleman is concerned about.

I would be glad to yield to the gentleman from Florida if he would like to respond.

Mr. GRAY of Pennsylvania. Could I ask a second question and maybe the gentleman from Florida or the gentleman from California might reply.

Mr. STARK. I am delighted to yield for the gentleman's inquiry.

Mr. GRAY of Pennsylvania. Has there also been a vote on that issue within the subgroup in the conference?

Mr. STARK. To my knowledge, there has not.

Mr. GIBBONS. Mr. Speaker, will the gentleman yield?

Mr. STARK. I am delighted to yield to my distinguished colleague, the gentleman from Florida.

Mr. GIBBONS. Mr. Speaker, let me say, I would be happy to accept amendments proposed by the gentleman from California [Mr. STARK] to only extend current law in the field of the Medicare expiring provisions and the trade adjustment assistance expiring provisions and the railroad retirement expiring provisions, but——

Mr. PICKLE. Mr. Speaker, will the gentleman yield?

Mr. STARK. I yield to the gentleman from Texas.

Mr. PICKLE. Mr. Speaker, when the gentleman says railroad retirement, he is talking about the benefits.

Mr. STARK. Railroad unemployment.

Mr. GIBBONS. Railroad unemployment.

Mr. GRAY of Pennsylvania. Mr. Speaker, would the gentleman from Florida be able to answer the question that I asked?

Mr. GIBBONS. Mr. Speaker, if the gentleman will yield further, there have been no votes in the conference of the subcommittee that the gentleman referred to on any of these matters that are under discussion, such as the Superfund.

Mr. GRAY of Pennsylvania. Would that be the major issue?

Mr. GIBBONS. That is the major issue, that is the one causing all the heat here tonight.

Mr. GRAY of Pennsylvania. Well, I will certainly say to the gentleman in conclusion, I would hope that there would be some way before we depart for adjournment that we could reach an accommodation on reconciliation.

I think there are many Members who worked very hard and who would like to be able to say as we go back that we have achieved some of the savings of reconciliation. Perhaps if there is no way to reach agreement on that one major item, there might be mutual agreement between the conferees of the House and the Senate to delay that until we return, but go forward with the rest of the savings of reconciliation, so that the American people will know as we adjourn that all of the other savings that have already been achieved by the working subgroups could be packaged and could be brought to the floor for a vote.

I would hate to see us adjourn with no reconciliation savings, because every day we are losing money on those savings.

Mr. STARK. Mr. Speaker, the distinguished gentleman is absolutely correct, in the opinion of this gentleman. I share the gentleman's concern. I am aware of the good work the gentleman has done.

There are many items of the reconciliation bill which were agreed by both sides on a bipartisan basis in the House.

I would share the gentleman's hope that we are able to go forward.

Mr. FROST. Mr. Speaker, will the gentleman yield?

Mr. STARK. I yield to the distinguished gentleman from Texas, a member of the Rules Committee.

Mr. FROST. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I share the concern of my chairman on the Budget Committee about the fate of the remaining items in this reconciliation package, that we may be losing a tremendous number of potential savings by not acting.

I am sorry, but I feel constrained, I am going to feel constrained to object to anything other than the cigarette tax 24-hour extension.

Mr. CAMPBELL. Mr. Speaker, will the gentleman yield?

Mr. STARK. I yield to the gentleman from South Carolina.

Mr. CAMPBELL. Mr. Speaker, I would like to point out to the gentleman that the cigarette tax, of course, causes a loss of revenue. There are only four items that expire in 24 hours. We are extending 24 hours. All of them expire at midnight. Everything else expires on December 31. None of those are being carried over. That strictly has to do with the Railroad Employment Fund, which will cause us a loss, so will the cigarette tax, the Medicare provisions, which will cause an increase to some of the recipients there that we do not want to have happen, and the trade adjustment assistance, which is helping people because of that particular program, that is all that is being extended, nothing more. The rest of it has to come back tomorrow. So the gentleman would have every opportunity to pursue this.

Mr. STARK. Mr. Speaker, further reserving the right to object, I would like to enter into a dialog with the distinguished gentleman from Texas [Mr. FROST].

My initial reason for wishing to add these would be that the expiration, if we do not extend for 24 hours, could cause some permanent increases to beneficiaries. The other items might have a budget impact.

By inaction in that area, we are costing the average Medicare beneficiary substantial increases over the year, which we would wish to change later.

Mr. FROST. Mr. Speaker, will the gentleman yield?

Mr. STARK. I yield to the gentleman from Texas.

Mr. FROST. Mr. Speaker, I understand the point the gentleman has made. I think it is very important that Members realize what is at stake here in terms of the reconciliation package. I would hope that we would have the assurance of all the members of the Ways and Means Committee who are here that everything would be done to wrap up the entire reconciliation package, perhaps along the lines suggested by the chairman, the gentleman from Pennsylvania [Mr. GRAY] tomorrow, and that we not lose all these other items.

Mr. STARK. Mr. Speaker, further under my reservation of objection, I would assure the gentleman that I would tonight along the lines the chairman, the gentleman from Pennsylvania [Mr. GRAY] has suggested, give the gentleman my proxy, if the gentleman would be constrained to withdraw his objection. The gentleman has this gentleman's assurance that that is exactly what I would like to see accomplished.

Mr. GIBBONS. Mr. Speaker, will the gentleman yield further?

Mr. STARK. I yield to the gentleman from Florida.

Mr. GIBBONS. Mr. Speaker, I would go even further than that. I have already signed the conference report documents. I cannot do any more than that. We have not been able to reach agreement. I realize what the gentleman says is very true. There is a lot of money hanging here, a lot of savings. I hope we are going to get them. I am going to try to get them.

The SPEAKER. Is there objection to the request of the gentleman from Florida [Mr. GIBBONS]?

PARLIAMENTARY INQUIRY

Mr. LOTT. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. LOTT. Mr. Speaker, I would like to understand what the request is, because there was a lot of discussion back and forth.

The SPEAKER. It contains the extension of the cigarette tax.

Is there objection to the request of the gentleman from Florida [Mr. GIBBONS]?

The Chair hears none on that matter.

Mr. WALKER. Reserving the right, Mr. Speaker, when it was announced from the Chair, it said "certain excise taxes." The cigarette tax is the only thing covered in it? There are no other excise taxes covered, is that correct?

The SPEAKER. The gentleman's statement is correct.

Mr. WALKER. Mr. Speaker, I thank the Chair and I withdraw my reservation of objection.

Mr. GIBBONS. Mr. Speaker, I have asked unanimous consent to take it up right now, have I not?

The SPEAKER. That is the only thing pending before us right now.

Mr. GIBBONS. Mr. Speaker, is it on second reading, is it amendable?

The SPEAKER. The gentleman is entitled to time or the Chair can put the question.

Mr. GIBBONS. Mr. Speaker, I was going to yield to the gentleman from California for an amendment which would include the other things that we have discussed.

Mr. Speaker, I yield only for the gentleman's amendment.

Mr. STARK. Mr. Speaker, will the gentleman yield?

Mr. GIBBONS. I yield to the gentleman from California.

Mr. STARK. Mr. Speaker, I ask unanimous consent that the provisions in H.R. 3982, which are merely the 24-hour extension of the Medicare provisions, the railroad unemployment compensation provisions, and the trade readjustment assistance provisions, as was discussed previously under my reservation, be amended to the gentleman's unanimous-consent request, the bill being considered under unanimous consent.

The **SPEAKER.** Does the gentleman offer an amendment? The gentleman does not at this particular time have to ask unanimous consent. Is the gentleman offering an amendment?

Mr. STARK. I did, Mr. Speaker, I asked unanimous consent.

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Mr. STARK. Mr. Speaker, I withdraw my reservation of objection.

The **SPEAKER.** There is no objection. The question is on the amendment offered by the gentleman from California [Mr. STARK].

Mr. CAMPBELL. I thought he asked unanimous consent, Mr. Speaker.

The **SPEAKER.** The amendment is in order once we get unanimous consent on the request made by the gentleman from Florida [Mr. GIBBONS].

Is there objection to the request of the gentleman from Florida?

There was no objection.

The Clerk read the bill, as follows:

H.R. 3981

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF INCREASE IN TAX ON CIGARETTES.

Subsection (c) of section 283 of the Tax Equity and Fiscal Responsibility Act of 1982 (relating to increase in tax on cigarettes) is amended by striking out "December 19, 1985" and inserting in lieu thereof "December 20, 1985".

AMENDMENT OFFERED BY MR. STARK

Mr. STARK. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STARK:

SECTION 1. EXTENSION OF TRADE ADJUSTMENT ASSISTANCE PROGRAM.

Section 285 of the Trade Act of 1974 (19 U.S.C. note preceding section 2271) is amended by striking out "December 18, 1985" and inserting in lieu thereof "December 20, 1985".

SEC. 2. EXTENSION OF BORROWING AUTHORITY UNDER THE RAILROAD UNEMPLOYMENT INSURANCE ACT.

Section 10(d) of the Railroad Unemployment Insurance Act is amended by striking out "December 18, 1985" each place it appears and inserting in lieu thereof "December 20, 1985".

SEC. 3. EXTENSION OF MEDICARE HOSPITAL AND PHYSICIAN PAYMENT PROVISIONS.

Section 5(c) of the Emergency Extension Act of 1985 (Public Law 99-107) is amended by striking out "December 18, 1985" and inserting in lieu thereof "December 20, 1985".

Mr. WALKER (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The **SPEAKER.** Is there objection to the request of the gentleman from Pennsylvania?

Mr. CAMPBELL. Mr. Speaker, reserving the right to object, I do so strictly to ask the question of the author of the amendment, the gentleman from California, if this is the same 24-hour period and these are only the expiring provisions that would expire if this were not extended for 24 hours? Is that correct?

Mr. STARK. If the gentleman would yield, I would respond that it is a 24-hour extension, the same 24-hour period on provisions in current law, and just those that were previously discussed.

Mr. CAMPBELL. I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

The **SPEAKER.** Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

POINT OF ORDER

Mr. WALKER. Mr. Speaker, I reserve a point of order against the amendment.

The **SPEAKER.** The gentleman reserves a point of order against the amendment.

Does the gentleman from California [Mr. STARK] wish time? Apparently the gentleman does not.

The gentleman from Pennsylvania will have to make his point of order now.

Mr. WALKER. Mr. Speaker, the point of order that I reserved was that the germaneness of this particular amendment to the bill under consideration, I think, is in question. The main reason for reserving the point of order is that, as I understand it, the gentleman is substituting the language of a particular bill at this point, or adding as an amendment the language of a bill.

My question is whether or not the language in that bill says 24 hours.

Mr. STARK. As I speak to the distinguished gentleman, 24 hours is being written in the amendment.

If the gentleman will yield further, it is the clear understanding of this gentleman that it is 24 hours as an amendment to the bill offered by the gentleman from Florida.

Mr. WALKER. Further under my point of order, Mr. Speaker, that is not, then, the language that was announced by the Clerk a moment ago because if that is just being written in at the present time, we have different language than was announced by the Clerk. I think the gentleman is going to have to withdraw the amendment that was previously offered and put the new amendment at the desk, if that is the case.

Mr. STARK. If the gentleman will yield, it is my understanding that there was a typographical error in the amendment sent to the desk. It is the intention of this gentleman that it be 24 hours. It was clearly understood with the gentleman from Florida that the amendment was to be 24 hours.

The **SPEAKER.** The Chair would state that the gentleman is correct that the Clerk read the date of December 20 with all the extensions.

Mr. WALKER. Perhaps the gentleman would ask unanimous consent that the amendment previously announced would be withdrawn so that we could announce the proper amendment at the desk at the present time.

AMENDMENT OFFERED BY MR. STARK, AS MODIFIED

Mr. STARK. Mr. Speaker, I offer a modified amendment.

The Clerk read as follows:

Modified amendment offered by Mr. STARK: At the end of the bill add the following:

SEC. 2. EXTENSION OF TRADE ADJUSTMENT ASSISTANCE PROGRAM.

Section 285 of the Trade Act of 1974 (19 U.S.C. note preceding section 2271) is amended by striking out "December 18, 1985" and inserting in lieu thereof "December 19, 1985".

SEC. 3. EXTENSION OF BORROWING AUTHORITY UNDER THE RAILROAD UNEMPLOYMENT INSURANCE ACT.

Section 10(d) of the Railroad Unemployment Insurance Act is amended by striking out "December 18, 1985" each place it appears and inserting in lieu thereof "December 19, 1985".

SEC. 4. EXTENSION OF MEDICARE HOSPITAL AND PHYSICIAN PAYMENT PROVISIONS.

Section 5(c) of the Emergency Extension Act of 1985 (Public Law 99-107) is amended by striking out "December 18, 1985" and inserting in lieu thereof "December 19, 1985".

Mr. WALKER (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The **SPEAKER.** Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. GIBBONS. Mr. Speaker, we agree to the amendment.

The **SPEAKER.** Without objection, the amendment, as modified, is agreed to.

There was no objection.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to extend until December 19, 1985, the application of certain tobacco excise taxes, trade adjustment assistance, certain medicare reimbursement provisions, and borrowing authority under the railroad unemployment insurance program."

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON RULES TO FILE PRIVILEGED REPORT ON HOUSE JOINT RESOLUTION 465, FURTHER CONTINUING APPROPRIATIONS, 1986

Mr. PEPPER. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file a privileged report providing for the consideration of a conference report on the joint resolution (H.J. Res. 465) making further continuing appropriations for the fiscal year 1986, and for other purposes.

The **SPEAKER.** Is there objection to the request of the gentleman from Florida?

Mr. **LOTT.** Mr. Speaker, reserving the right to object, and I do not intend to object, but I just want to make sure I understand. This is just for a late filing of the rule on the continuing resolution; is that correct?

The **SPEAKER.** The Chair will answer in the affirmative. It is for the purpose of a late filing of a rule on the continuing appropriations resolution.

Mr. **LOTT.** Mr. Speaker, I withdraw my reservation of objection.

The **SPEAKER.** Is there objection to the request of the gentleman from Florida?

There was no objection.

REQUEST FOR PERMISSION FOR COMMITTEE ON RULES TO FILE PRIVILEGED REPORT ON H.R. 3979

Mr. **PEPPER.** Mr. Speaker, I ask unanimous consent that the Committee on Rules have until midnight tonight to file a privileged report on the bill, H.R. 3979, from the Committee on Ways and Means.

The **SPEAKER.** Is there objection to the request of the gentleman from Florida?

Mr. **LOTT.** Mr. Speaker, reserving the right to object, if I could, I would like to make sure we understand exactly which bill this is and what this rule might be.

The gentleman is asking for late filing on the rule on the bill from Ways and Means that has been discussed here earlier where there was an indication there would be an objection?

Mr. **PEPPER.** Other than the matter that has already been without objection.

Mr. **LOTT.** I would ask the chairman if we have some idea what that rule would be?

Mr. **PEPPER.** We would have the meeting this evening, as soon as the membership can be convened. We were going to meet at 6:30, but there was a delay in the matter here on the floor, so we will have the meeting in the next half hour.

Mr. **LOTT.** Mr. Speaker, I believe at this time we would have to object to that.

The **SPEAKER.** Objection is heard.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 3981. An act to extend until December 19, 1985, the application of certain tobacco excise taxes, trade adjustment assistance, certain medicare reimbursement provisions, and borrowing authority under the railroad unemployment insurance program.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 3974. An act to amend title 10, United States Code, to include in the death gratuity payable to survivors of a member of the Armed Forces who dies on active duty an amount equivalent to two months' housing allowances.

HOUR OF MEETING ON TOMORROW

Mr. **WRIGHT.** Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 11 a.m. tomorrow.

The **SPEAKER.** Is there objection to the request of the gentleman from Texas?

There was no objection.

REQUEST TO AUTHORIZE THE SPEAKER TO DECLARE RECESSES AT ANY TIME ON THE LEGISLATIVE DAY OF THURSDAY, DECEMBER 19, 1985

Mr. **WRIGHT.** Mr. Speaker, I ask unanimous consent that it may be in order for the Speaker to declare recesses at any time on the legislative day of Thursday, December 19, 1985, subject to the call of the Chair.

The **SPEAKER.** Is there objection to the request of the gentleman from Texas?

Mr. **WALKER.** Mr. Speaker, reserving the right to object, I suggest that perhaps with the schedule becoming a little confusing, it might be better to wait until tomorrow to make that request so that members have a little bit better idea as to what we are going to be doing, where we are going to be going before granting that recess authority.

It may well be appropriate at some point during the day to do that, but right now I sense that there is a good deal of confusion as to what we might be facing tomorrow and that that recess authority is something that we might want to consider in light of understanding the schedule tomorrow.

Mr. **WRIGHT.** If the gentleman would withhold his objection, let me see if I can clarify any of that which may be in question in his mind.

It is our thought that immediately we will take up some commemorative resolutions that the gentleman from New York [Mr. GARCIA] will seek to bring up under unanimous consent.

□ 1935

Following that, there would be no votes today, none at all.

We will adjourn then, pursuant to the request that has already been granted to the Rules Committee, to file a rule by midnight tonight until 11 tomorrow. At that time, we expect to have the continuing resolution for Members to vote upon.

It might become necessary, however, for the Speaker to declare a recess, and let us wait for some period of time in order for the continuance of these things in the reconcilation bill that have to be continued to be brought before us, and unless the Chair has the authority to declare recesses, then Members are compelled to sit around interminably, and there is no way for us to accurately foretell how long this process may take.

But it is our hope that if this flexibility is granted in a routine way, as it always usually is, at least to the Chair, then we will be able to finish tomorrow and Members can expect to go home late tomorrow.

Mr. **WALKER.** Reserving the right to objection, I certainly share with the gentleman that goal. The point this gentleman was making is that by the time that we finish with the continuing tomorrow morning or tomorrow afternoon, we will have a better idea where we stand, and it seems to me at that point the gentleman could renew this request and we would know a little more where we are and it might be entirely appropriate. But nevertheless, it seems to me given where we are and the situation tomorrow that we may be granting rather board authority on something where the schedule is very fluid, and somewhat nebulous.

I just wonder if the gentleman might withhold that request until we get past the first business of the day tomorrow, and where we have a little bit better idea what we will be facing.

Mr. **WRIGHT.** Well, if the gentleman insists, since it takes unanimous consent, surely we will wait until that time, if it accommodates the gentleman.

Mr. **WALKER.** I thank the gentleman.

NATIONAL FETAL ALCOHOL SYNDROME AWARENESS WEEK

Mr. **GARCIA.** Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 189), designating the week beginning January 12, 1986, as "National Fetal Alcohol Syndrome Awareness Week," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The **SPEAKER** pro tempore (Mr. Mineta). Is there objection to the request of the gentleman from New York?

Mr. **HANSEN**. Mr. Speaker, reserving the right to object, I do not object, but simply like to inform the House that the minority has no objection to the legislation now being considered.

Mr. GILMAN. Mr. Speaker, I rise in strong support of House Joint Resolution 375, designating the week of January 12, 1985, as "National Fetal Alcohol Syndrome Awareness Week." I want to thank the gentleman from Indiana [Mr. Coats] for introducing this legislation and for bringing it before the House in such an expedient manner.

The purpose of this resolution is to draw attention to the tragic cause of mental retardation among our Nation's newborns—a tragic cause that, in the case of fetal alcohol syndrome, can be entirely preventable. All expectant women need to made aware of the dangers of alcohol consumption and abuse during pregnancy, and of the possible long-term effects that alcohol consumption can have on their unborn child.

As ranking minority membere of the Select Committee on Narcotics Abuse and Control, I share the deep concern of my colleagues that we address the many issues surrounding alcohol and substance abuse. As little as two drinks per day have been associated with an increase in the incidence of low birth weight babies. Two drinks, twice a week has been shown to significantly increase the possibility of miscarriage. Since no specific amount of alcohol has been determined as safe for pregnant women, the Surgeon General has recommended that all pregnant women, and all women considering becoming pregnant, abstain from all alcohol consumption.

Conservative figures estimate that between 1,500 and 2,000 children are born each year suffering from fetal alcohol syndrome. Approximately 36,000 are born suffering with the less severe problem of fetal alcohol effects. By designating the week of January 12, 1986, as "National Fetal Alcohol Syndrome Awareness Week," we will be increasing the public's awareness of the dangers of drinking while pregnant. By doing so we hope we will be able to reduce and prevent the occurrence of fetal alcohol syndrome. I hope that my colleagues will join in support of this important resolution.

Mr. **HANSEN**. Mr. Speaker, I withdraw my reservation of objection.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. Res. 189

Whereas fetal alcohol syndrome is one of the three major known causes of birth defects with accompanying mental retardation in the United States;

Whereas fetal alcohol syndrome can result in such serious health problems as: deficiencies in prenatal and postnatal growth that are associated with mental retardation; developmental disabilities that may cause an infant to experience delays in learning to walk and speak; and heart defects, including defects in the wall between the pumping chambers of the heart;

Whereas in cases in which fetal alcohol syndrome is avoided, infants may still experience alcohol-related birth effects, known as fetal alcohol effects, which are a series of health problems that include increased irritability during the newborn period and hyperactivity;

Whereas the discovery of fetal alcohol syndrome as a major health problem is a recent occurrence, and many questions regarding the illness remain unanswered;

Whereas there has never been an infant born with fetal alcohol syndrome whose mother did not consume alcohol during pregnancy;

Whereas fetal alcohol syndrome can be prevented if pregnant women and women considering pregnancy abstain from alcohol consumption; and

Whereas the Surgeon General of the Public Health Service has issued an advisory stating that pregnant women and women considering pregnancy should not consume alcohol: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning January 12, 1986, hereby is designated "National Fetal Alcohol Syndrome Awareness Week", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

SESQUICENTENNIAL YEAR OF THE NATIONAL LIBRARY OF MEDICINE

Mr. **GARCIA**. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 198), to designate the year of 1986 as the "Sesquicentennial Year of the National Library of Medicine," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from New York?

Mr. **HANSEN**. Mr. Speaker, reserving the right to object, I do not object, but simply would like to inform the House that the minority has no objection to the legislation now being considered.

Mr. Speaker, I withdraw my reservation of objection.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. Res. 198

Whereas the National Library of Medicine houses the world's largest and most distinguished collection of health science literature in the world;

Whereas the National Library of Medicine has pioneered in developing the renowned MEDLARS system that provides worldwide access to this literature;

Whereas American health professionals, in research, education, and practice, have reaped great benefits from the communications systems and services provided by the National Library of Medicine;

Whereas the health of American citizens has been improved as a result of the rapid access to biomedical information enjoyed by health practitioners utilizing the services of the National Library of Medicine; and

Whereas the long and distinguished history of the National Library of Medicine is worthy of special commemoration by the people of the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the year of 1986 is designated as the "Sesquicentennial Year of the National Library of Medicine" and that in recognition of the occasion of the one hundred fiftieth anniversary of the founding of the National Library of Medicine, the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such year with appropriate ceremonies, programs, and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

TRUCK AND BUS SAFETY WEEK

Mr. **GARCIA**. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 235), to designate the week of January 26, 1986, to February 1, 1986, as "Truck and Bus Safety Week," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from New York?

Mr. **HANSEN**. Mr. Speaker, reserving the right to object, I do not object but would like to inform the House that the minority has no objection to the legislation now being considered.

Mr. Speaker, under my reservation of objection, I yield to the distinguished gentleman from California [Mr. Anderson] who is the chief sponsor of House Joint Resolution 445, to designate the week of January 26 through February 1, 1986, as Truck and Bus Safety Week.

Mr. **ANDERSON**. Mr. Speaker, I thank the gentleman for yielding and want to thank both the chairman of the subcommittee and the ranking member for bringing this matter up on rather short notice.

I would like to share just a little history on this resolution so that our colleagues know the importance of this. Many of us in Government, industry, and labor want to help enhance public awareness of the need for improved truck and bus safety, and so it was decided to help publicize the matter throughout the country, by designating a week as Truck and Bus Safety Week, and the week of January 26 to February 1 was chosen. If we were to wait until we came back on January 21, to pass this, then there would not be adequate time to do a proper job of publicizing this. It is hoped that schools will become involved with posters and contests. The American Trucking Association is expected to participate in the same manner, they are behind this, and so is the American Bus Association.

Along with other organizations such as the Motor Vehicle Manufacturers Association, the Highway Users Federation, the American Association of Motor Vehicle Administrators, the National Association of Manufacturers, and other major industry and labor groups, they want to get people's attention, everyone's attention, to the needs of improving truck and bus safety.

So, that is whct this is all about. I am particularly interested, since I am chairman of the subcommittee that has jurisdiction over such matters. The gentleman from Pennsylvania [Mr. SHUSTER] is the major cosponsor of this legislation, and we have been joined by over 150 others who have also cosponsored House Joint Resolution 445.

So I want to thank the gentleman for bringing the resolution up under such short notice.

Mr. HANSEN. Mr. Speaker, I appreciate the comments made by the gentleman from California and concur with them.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 235

Whereas trucks and buses provide essential transportation services to all Americans;

Whereas five million trucks travel more than one hundred and thirty-eight billion miles each year, bringing raw materials, finished goods, food, and other essential products to market;

Whereas the trucking industry along employs more than seven million four hundred thousand Americans and generates annual revenues in excess of $200,000,000,000;

Whereas the bus industry employs approximately fifty thousand people and provides service to over ten thousand cities and communities;

Whereas the safe maintenance and operation of trucks and buses is vital to the health and safety of motorists, pedestrians, and other users of the Nation's highways, roads, and streets;

Whereas the safe maintenance and operation of trucks and buses is also vital to the companies and individuals directly involved in the provision of such transportation services;

Whereas the safe maintenance and operation of trucks carrying hazardous materials is essential not only to the safety of the immediate highway environment, but often to the surrounding environment as well;

Whereas State governments are increasing their efforts to improve safety compliance both on their own and with funding assistance provided by the Federal Government;

Whereas there is a continuing need for congressional inducement to improve highway safety; and

Whereas improvements in the safe operation of trucks and buses result from activities undertaken by management and labor, including activities to ensure driver professionalism: Now, therefore, be it

Resolved by the Senate and House of Representives of the United States of America in Congress assembled, That the President is authorized and requested to designate the week of January 26, 1986, to February 1, 1986, as "Truck and Bus Safety Week" and to call upon Federal, State, and local government agencies and the people of the United States to observe such week with appropriate programs, ceremonies, and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate joint resolutions just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

RECESS

The SPEAKER pro tempore. Pursuant to the order of the House of Tuesday, December 17, 1985, the Chair declares the House in recess, subject to the call of the Chair.

Bells will be rung 15 minutes before the House reconvenes if there is business to transact.

Accordingly (at 7 o'clock and 44 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 2100

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 9 o'clock p.m.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2100) "An act to extend and revise agricultural price support and related programs, to provide for agricultural export, resource conservation, farm credit, and agricultural research and related programs, to continue food assistance to low-income persons, to ensure consumers an abundance of food and fiber at reasonable prices, and for other purposes."

The message also announced that pursuant to the provisions of sections 1928–1928d, title 22, United States Code, as amended, the Vice President appoints Mr. ROTH as a member and chairman, on the part of the Senate, of the North Atlantic Assembly during the 99th Congress.

The message also announced that pursuant to the provisions of Public Law 94–118, the President pro tempore appoints Mr. ROTH as a member, on the part of the Senate, of the Japan-United States Friendship Commission.

The message also announced that pursuant to the provisions of Public Law 83-420, the Vice President appoints Mrs. KASSEBAUM as a member, on the part of the Senate, of the Board of Directors of Gallaudet College.

The message also announced that pursuant to Executive Order 12131, signed by the President on May 4, 1979, as extended, the Vice President appoints Mr. KASTEN as a member, on the part of the Senate, of the President's Export Council, vice Mr. ROTH.

The message also announced that pursuant to the provisions of Public Law 99–83, the Vice President appoints Mr. COCHRAN as a member, on the part of the Senate, of the International Advisory Commission for the Caribbean Region.

The message also announced that pursuant to the provisions of Public Law 98–459, the President pro tempore appoints Mr. Russell Mills, Ph.D., of Kansas, as a member, from private life, to the Federal Council on the Aging.

The message also announced that pursuant to the provisions of Public Law 99–93, as amended by Public Law 99–151, the Vice President appoints Mr. MURKOWSKI, Mr. SPECTER, and Mr. ABDNOR as members, on the part of the Senate, of the U.S. Senate Caucus on International Narcotics Control.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. McKINNEY (at the request of Mr. MICHEL), for today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. STOKES, for 60 minutes, today.

Mr. MITCHELL, for 60 minutes, today.

(The following Members (at the request of Mr. KLECZKA) to revise and extend their remarks and include extraneous material:)

Mr. RAY, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. RANGEL, for 60 minutes, today.

(The following Members (at the request of Mr. BROWN of Colorado) to revise and extend their remarks and include extraneous material:)

Mr. BROWN of Colorado, for 5 minutes, today.

Mr. GONZALEZ, for 30 minutes, today.

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. BOLAND, for 10 minutes, today.

Mr. CROCKETT, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. DAUB, prior to the vote on the conference report on H.R. 2100, today.

Mr. LEWIS of Florida, following the vote on House Resolution 345, today.

(The following Members (at the request of Mr. FRANKLIN) and to include extraneous matter:)

Mr. GILMAN in four instances.

Mr. LAGOMARSINO.

Mr. LEWIS of Florida.

Mr. CHANDLER.

Mr. BROOMFIELD.

Mr. PORTER.

Mr. GREEN in two instances.

Mr. KINDNESS.

Mr. DUNCAN.

(The following Members (at the request of Mr. KLECZKA) and to include extraneous matter:)

Mr. BARNES in two instances.

Mr. DYMALLY.

Mrs. KENNELLY.

Mr. CLAY.

Mr. WILLIAMS.

Mr. OBERSTAR.

Mr. McHUGH.

Mr. WIRTH.

Mr. LEVINE of California in two instances.

Mr. MOAKLEY.

Mr. CROCKETT in two instances.

Mr. ROE in two instances.

Mr. STOKES in two instances.

Mr. WILSON.

Mr. GAYDOS.

(The following Members (at the request of Mr. HANSEN) and to include extraneous matter:)

Mr. MADIGAN.

Mr. BROYHILL.

Mr. PORTER.

Mr. COURTER.

Mr. McKERNAN.

Mr. THOMAS of California.

Mr. ROGERS.

Mr. CONTE.

SENATE BILLS AND CONCURRENT RESOLUTION REFERRED

Bills and a concurrent resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 86. An act to amend the laws of the United States to eliminate gender-based distinctions; to the Committee on the Judiciary.

S. 1437. An act to amend the Controlled Substances Act to create new penalties for the manufacture with intent to distribute, the possession with intent to distribute, the possession or the distribution of "controlled substance analogs", and for other purposes; to the Committees on Energy and Commerce and the Judiciary.

S. 1740. An act to designate Bloomington Lake located on the North Branch of the Potomac River, near Bloomington, MD, and Keyser, WV, as the "Jennings Randolph Lake"; to the Committee on Public Works and Transportation.

S. Con. Res. 96. Concurrent resolution to recognize the historical significance of the former Presidential yacht *Sequoia*, and express support for her donation to the U.S. Navy by the Presidential Yacht Trust; to the Committee on Armed Services.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and joint resolutions of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 3914. An act to preserve the authority of the Supreme Court Police to provide protective services for Justices and Court personnel;

H.R. 3981. An act to extend until December 19, 1985, the application of certain tobacco excise taxes, trade adjustment assistance, certain medicare reimbursement provisions, and borrowing authority under the railroad unemployment insurance program;

H.J. Res. 436. Joint resolution to designate 1986 as "Save for the U.S.A. Year," and for other purposes; and

H.J. Res. 485. Joint resolution waiving the printing on parchment of enrolled bills and joint resolutions during the remainder of the 1st session of the 99th Congress.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1728. An act to authorize the Cherokee Nation of Oklahoma to lease certain lands held in trust for up to 99 years.

BILLS AND JOINT RESOLUTIONS PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on the following days present to the President, for his approval, bills of the House of the following title:

On December 17, 1985:

H.J. Res. 491. Joint resolution making further continuing appropriations for fiscal year 1986;

H.J. Res. 450. Joint resolution to authorize and request the President to issue a proclamation designating April 20 through April 26, 1986, as "National Organ and Tissue Donor Awareness Week";

H.R. 2694. An act designating the U.S. Post Office Building located at 300 Packerland Drive, Green Bay, WI, as the "John W. Byrnes Post Office and Federal Building"; and

H.R. 3003. An act to authorize the Secretary of the Interior to convey certain land located in the State of Maryland to the Maryland National Capital Park and Planning Commission.

On December 18, 1985:

H.J. Res. 485. Joint resolution waiving the printing on parchment of enrolled bills and joint resolutions during the remainder of the 1st session of the 99th Congress; and

H.J. Res. 436. Joint resolution to designate 1986 as "Save for the U.S.A. Year," and for other purposes.

ADJOURNMENT

Mr. ANDERSON. Mr. Speaker, I move that the House to now adjourn.

The motion was agreed to; accordingly (at 9 0'clock and 1 minute p.m.), under its previous order, the House adjourned until tomorrow, Thursday, December 19, 1985, at 11 a.m.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports of various House committees concerning the foreign currencies and U.S. dollars utilized by them during the fourth quarter of calendar year 1984 and the second and third quarters of calendar year 1985 in connection with foreign travel pursuant to Public Law 95-384 are as follows:

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON WAYS AND MEANS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 1984

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Beryl Anthony, Jr	11/18	11/21	Italy						4.71		4.71
Hon. John J. Duncan	11/18	11/21	Italy						4.71		4.71
Hon. Bill Frenzel	11/18	11/21	Italy						4.71		4.71
Hon. Willis D. Gradison	11/18	11/21	Italy						4.71		4.71
Hon. Barbara B. Kennelly	11/18	11/21	Italy						4.71		4.71
Hon. W. Henson Moore	11/18	11/21	Italy						4.71		4.71
Hon. Donald J. Pease	11/18	11/21	Italy						4.71		4.71
Hon. Charles B. Rangel	11/18	11/21	Italy						4.71		4.71
Hon. Dan Rostenkowski	11/18	11/21	Italy						4.71		4.71
Hon. Richard T. Schulze	11/18	11/21	Italy						4.71		4.71
Hon. Guy Vander Jagt	11/18	11/21	Italy						4.71		4.71
Thelma J. Askey	11/18	11/21	Italy						4.71		4.71
Joseph K. Dowley	11/18	11/21	Italy						4.71		4.71
James C. Healey	11/18	11/21	Italy						4.71		4.71
Robert J. Leonard	11/18	11/21	Italy						4.71		4.71
John J. Salmon	11/18	11/21	Italy						4.71		4.71
Arthur L. Singleton	11/18	11/21	Italy						4.71		4.71
Rufus Yerxa	11/18	11/21	Italy						4.71		4.71
Committee total									84.78		84.78

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

DAN ROSTENKOWSKI, Chairman, Nov. 15, 1985.

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON WAYS AND MEANS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1985

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Guy Vander Jagt	4/8	4/11	Italy				385.77				385.77

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

Note.—Amended report to show additional transportation expense.

DAN ROSTENKOWSKI, Chairman, Dec. 4, 1985.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON THE JUDICIARY, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1985

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Peter W. Rodino, Jr., MC	8/18	8/21	Hong Kong		456.00		74.51		97.49		628.00
	8/21	8/24	China		396.00				42.73		438.73
	8/24	8/28	Thailand		540.00		111.84				651.84
	8/26	8/26	Burma						14.07		14.07
	8/28	8/30	India		238.00						238.00
	8/30	8/30	Pakistan								
	8/30	9/3	Italy		522.00		406.43		63.26		991.69
Military transportation							7,781.54				7,781.54
William J. Hughes, MC	8/18	8/21	Hong Kong		456.00		74.51		97.49		628.00
	8/21	8/24	China		396.00				42.73		438.73
	8/24	8/28	Thailand		540.00		111.84				651.84
	8/26	8/26	Burma						14.07		14.07
	8/28	8/30	India		238.00						238.00
	8/30	8/30	Pakistan								
	8/30	9/3	Italy		522.00		406.43		63.26		991.69
Military transportation							7,781.54				7,781.54
Patricia Schroeder, MC	8/18	8/21	Hong Kong		456.00		74.51		97.49		628.00
	8/21	8/24	China		396.00				42.73		438.73
	8/24	8/28	Thailand		540.00		111.84				651.84
	8/25	8/25	Vietnam								
	8/26	8/26	Burma						14.07		14.07
	8/28	8/30	India		238.00						238.00
	8/30	8/30	Pakistan								
	8/30	9/3	Italy		522.00		406.43		63.26		991.69
Military transportation							8,608.47				8,608.47
Frederick C. Boucher, MC	8/18	8/21	Hong Kong		456.00		74.51		97.49		628.00
	8/21	8/24	China		396.00				42.73		438.73
	8/24	8/28	Thailand		540.00		111.84				651.84
	8/25	8/25	Vietnam								
	8/26	8/26	Burma						14.07		14.07
	8/28	8/30	India		238.00						238.00
	8/30	8/30	Pakistan								
	8/30	9/3	Italy		522.00		406.43		63.26		991.69
Military transportation							8,608.47				8,608.47
Carlos J. Moorhead, MC	8/18	8/21	Hong Kong		[illegible]		74.51		97.49		[illegible]

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
	8/21	8/24	China		396.00				42.73		438.73
	8/24	8/28	Thailand		540.00		111.84				651.84
	8/25	8/25	Vietnam						14.07		14.07
	8/26	8/26	Burma								
	8/28	8/30	India		238.00						238.00
	8/30	8/30	Pakistan		522.00		406.43		63.26		991.69
	8/30	9/3	Italy								
Military transportation							8,608.47				8,608.47
Henry J. Hyde, MC	8/18	8/21	Hong Kong		456.00		74.51		97.49		628.00
	8/21	8/24	China		396.00				42.73		438.73
	8/24	8/28	Thailand		540.00		111.84				651.84
	8/25	8/25	Vietnam						14.07		14.07
	8/26	8/26	Burma								
	8/28	8/30	India		238.00						238.00
	8/30	8/30	Pakistan		522.00		406.43		63.26		991.69
	8/30	9/3	Italy								
Military transportation							8,608.47				8,608.47
Bill McCollum	8/18	8/21	Hong Kong		456.00		74.51		97.49		628.00
	8/21	8/24	China		396.00				42.73		438.73
	8/24	8/28	Thailand		540.00		111.84				651.84
	8/25	8/25	Vietnam						14.07		14.07
	8/26	8/26	Burma								
	8/28	8/30	India		238.00						238.00
	8/30	8/30	Pakistan		522.00		406.43		63.26		991.69
	8/30	9/3	Italy								
Military transportation							8,608.47				8,608.47
Garner J. Cline, staff	8/18	8/21	Hong Kong		456.00		74.51		97.49		628.00
	8/21	8/24	China		396.00				42.73		438.73
	8/24	8/28	Thailand		540.00		111.84				651.84
	8/25	8/25	Vietnam								
	8/28	8/30	India		238.00						238.00
	8/30	8/30	Pakistan		522.00		406.43		63.26		991.69
	8/30	9/3	Italy								
Military transportation					8,325.30		25.30				8,325.30
Arthur P. Endres, Jr., staff	8/18	8/21	Hong Kong		456.00		74.51		97.49		628.00
	8/21	8/24	China		396.00				42.73		438.73
	8/24	8/28	Thailand		540.00		111.84				651.84
	8/25	8/25	Vietnam								
	8/28	8/30	India		238.00						238.00
	8/30	8/30	Pakistan		522.00		406.43		63.26		991.69
	8/30	9/3	Italy								
Military transportation							8,325.30				8,325.30
Hayden Gregory, staff	8/18	8/21	Hong Kong		456.00		74.51		97.49		628.00
	8/21	8/24	China		396.00				42.73		438.73
	8/24	8/28	Thailand		540.00		111.84				651.84
	8/26	8/26	Burma						14.07		14.07
	8/28	8/30	India		238.00						238.00
	8/30	8/30	Pakistan		522.00		406.43		63.26		991.69
	8/30	9/3	Italy								
Military transportation							7,781.54				7,781.54
Thomas M. Boyd, staff	8/18	8/21	Hong Kong		456.00		74.51		97.49		628.00
	8/21	8/24	China		396.00				42.73		438.73
	8/24	8/28	Thailand		540.00		111.84				651.84
	8/25	8/25	Vietnam						14.07		14.07
	8/26	8/26	Burma								
	8/28	8/30	India		238.00						238.00
	8/30	8/30	Pakistan		522.00		406.43		63.26		991.69
	8/30	9/3	Italy								
Military Transportation							8,608.47				8,608.47
Charlene Vanlier Heydinger, staff	8/18	8/21	Hong Kong		456.00		74.51		97.49		628.00
	8/21	8/24	China		396.00				42.73		438.73
	8/24	8/28	Thailand		540.00		111.84				651.84
	8/26	8/26	Burma						14.07		14.07
	8/28	8/30	India		238.00						238.00
	8/30	8/30	Pakistan		522.00		406.43		63.26		991.69
	8/30	9/3	Italy								
Military Transportation							7,781.54				7,781.54
Sandra Sincavitz, staff	8/18	8/21	Hong Kong		456.00		74.51		97.49		628.00
	8/21	8/24	China		396.00				42.73		438.73
	8/24	8/28	Thailand		540.00		111.84				651.84
	8/26	8/26	Burma						14.07		14.07
	8/28	8/30	India		238.00						238.00
	8/30	8/30	Pakistan		522.00		406.43		63.26		991.69
	8/30	9/3	Italy								
Military Transportation							7,781.54				7,781.54
Gail Higgins Fogarty, staff	8/25	9/7	Italy		1,664.00						1,664.00
Commercial transportation							1,951.87				1,951.87
Committee total					29,640.00		116,867.13		2,800.01		149,307.14

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

Note.—Local tranportation for Vietnam, India, and Pakistan will be reported at a later date.

PETER W. RODINO, JR., Chairman.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON MERCHANT MARINE AND FISHERIES, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1985

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Bowen, Brooks	9/21	9/29	England	767.77	1,048.00	54	1,879.47 [3] 73.71				3,001.18
Cassani, Rudolph V.	7/12	7/20	Switzerland		1,554.72		840.50 [4] 319.00				2,714.22
Lent, Norman, MC	8/3	8/6	Colombia		458.00		[3] 1,355.00		65.57		

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON MERCHANT MARINE AND FISHERIES, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1985—Continued

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
	8/7	[illegible]	[illegible]		216.00						
	[illegible]	8/12	Peru		432.00		[4] 218.87				
	8/13	8/14	Brazil		216.00				100.86		
	8/15	8/17	Argentina		372.00				186.62		
	8/18	8/19	Brazil		216.00		[3] 41.47		84.52		
							[5] 7,536.10				10,522.92
McKernan, John R., MC	8/13	8/14	Canada	213.74	158.00		546.22				[illegible]
Seifert, Gerald	7/7	7/20	Switzerland		1,027.00		1,223.00				2,250.00
Stolle, William	9/22	9/26	England		[illegible]		[illegible]				
							[3] 25.00				2,231.00
Sullivan, Mary Beth	9/14	9/21	France		[illegible]		1,342.02				
							[3] 46.21				2,078.23
Westcott, Jacquelyn M	7/12	7/21	England	1,581.43	804.00		1,846.49				
							[3] 112.29				2,762.78
Committee total					7,715.72		18,087.35		461.48		26,264.55

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] Ground transportation.

[4] Requested additional airfare—returned to United States earlier.

[5] Air Force transportation provided $7,536.10 per person.

WALTER B. JONES, Chairman, Nov. 14, 1985.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2412. A communication from the Acting Comptroller General of the United States, transmitting a report on the status of budget authority proposed for rescission under the Impoundment Control Act, for which Congress failed to pass a rescission bill (H. Doc. No. 99-138); to the Committee on Appropriations and ordered to be printed.

2413. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Department of the Army's proposed Letters of Offer to Turkey for defense acticles estimated to cost $50,000,000 or more, pursuant to 10 U.S.C. 133b (96 Stat. 1288); to the Committee on Armed Services.

2414. A letter from the General Counsel, Department of Defense, transmitting a draft of proposed legislation to amend title 10, United States Code, to revise and standardize the provisions of law relating to appointment, promotion, and separation of commissioned officers of the reserve components of the Armed Forces, and for other purposes; to the Committee on Armed Services.

2415. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Department of the Army's proposed Letters of Offer to Turkey for defense articles and services, pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. KASTENMEIER. Committee on the Judiciary. H.R. 2468. A bill to amend the Legal Services Corporation Act to authorize appropriations for additional fiscal years, and for other purposes, with an amendment (Rept. 99-448). Referred to the Committee of the Whole House on the State of the Union.

Mr. BEILENSON. Committee on Rules. H. Res. 348. A resolution waiving certain points of order against the conference report on House Joint Resolution 465, a joint resolution making further continuing appropriations for the fiscal year 1986, and for other purposes (Rept. 99-449). Referred to the House Calendar.

SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of rule X, the following action was taken by the Speaker:

The Committee on Appropriations discharged from further consideration of H.R. 2851; H.R. 2851 referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ROSTENKOWSKI:

H.R. 3979. A bill to amend the Internal Revenue Code of 1954 to extend for a temporary period certain tax provisions which would otherwise expire at the end of 1985, and for other purposes; jointly, to the Committee on Ways and Means, and Energy and Commerce.

By Mr. DUNCAN:

H.R. 3980. A bill entitled: The Unitary Tax Bill of 1985; to the Committees on Ways and Means.

By Mr. GIBBONS:

H.R. 3981. A bill to extend until December 19, 1985, the application of certain tobacco excise taxes; to the Committee on Ways amd Means.

By Mr. STARK:

H.R. 3982. A bill to extend until December 20, 1985, the trade adjustment assistance, certain medicare reimbursement provisions, and borrowing authority under the railroad unemployment insurance program; jointly, to the Committees on Ways and Means, and Energy and Commerce.

By Mr. BERMAN:

H.R. 3983. A bill to amend the Export Administration Act of 1979 to prohibit certain exports to countries supporting international terrorism; to the Committee on Foreign Affairs.

By Mr. BROWN of Colorado:

H.R. 3984. A bill to amend the National Endowment for Democracy Act to prohibit grants to organizations affiliated with any member of the Board of Directors of the Endowment; to the Committee on Foreign Affairs.

By Mr. CONYERS:

H.R. 3985. A bill to amend chapter 96 of title 18, United States Code; to the Committee on the Judiciary.

By Mrs. KENNELLY:

H.R. 3986. A bill to ensure timely action under the provisions of the trade laws safeguarding national security; to the Committee on Ways and Means.

By Mr. LEVINE of California:

H.R. 3987. A bill to provide for multilateral limitations on arms sales, and for other purposes; to the Committee on Foreign Affairs.

By Mr. McKERNAN (for himself, Mr. STUDDS, and Mrs. SCHNEIDER):

H.R. 3988. A bill to enhance the enforcement of laws conserving American lobster; to the Committee on Ways and Means.

By Mr. SWEENEY:

H.R. 3989. A bill to amend the Communications Act of 1934 to prohibit the encoding of satellite-transmitted television programming until decoding devices are fully available at reasonable prices; to the Committee on Energy and Commerce.

H.R. 3990. A bill to provide comprehensive reform of the trade laws, and for other purposes; jointly, to the Committees on Ways and Means and Banking, Finance and Urban Affairs.

By Mr. ACKERMAN:

H.R. 3991. A bill to amend the Federal Aviation Act of 1958 to require air carrier employees and ticket agents to provide the details of any scheduled stopover to any person who makes a reservation or purchases a ticket for a flight which will involve any such stopover; to the Committee on Public Works and Transportation.

By Mr. KEMP (for himself, Mr. Stratton, and Mr. Broomfield):

H.J. Res. 494. Joint resolution to authorize the establishment of a memorial to honor Prince Volodymyr the Great of the Ukraine; to the Committee on House Administration.

By Mr. SEIBERLING:

H. Con. Res. 262. Concurrent resolution correcting the enrollment of House Joint Resolution 187; considered and agreed to.

By Mr. EDWARDS of Oklahoma (for himself, Ms. Fiedler, Mr. Horton, Mr. Crane, Mr. Barton of Texas, Mr. Boulter, Mr. Walker, Mr. Monson, Mr. Weber, Mr. Gingrich, Mr. Pursell, Mr. Fawell, Mr. Lungren, Mr. Tauke, Mr. Smith of New Hampshire, Mr. DioGuardi, Mr. Siljander, Mr. Armey, Mr. Mack, Mr. Kolbe, Mr. Denny Smith, Mr. Craig, Mr. Moorhead, Mr. Gallo, Mr. Callahan, Mr. DeLay, Mr. Eckert of New York, Ms. Snowe, Mr. McMillan, Mr. Dickinson, Mr. Ridge, Mr. McCollum, Mr. Hendon, Mr. Hartnett, Mr. Vander Jagt, Mr. Hammerschmidt, Mr. Thomas of California, Mr. Lewis of California, Mr. Hiler, Mr. Oxley, Mr. Zschau, Mr. Dannemeyer, Mr. Lowery of California, Mr. Gunderson, Mr. Courter, Mr. McCain, Mr. McEwen, Mr. Clinger, Mr. Combest, Mr. Burton of Indiana, Mr. Marlenee, Mr. Shaw, Mr. Spence, Mr. Skeen, Mr. Martin of New York, Mr. Campbell, Mrs. Roukema, Mr. Brown of Colorado, Mr. Duncan, Mrs. Holt, Mr. Stump, Mr. Loeffler, Mr. Goodling, Mr. O'Brien, Mr. Lott, Mr. Archer, Mr. Dornan of California, Mr. Bliley, Mr. Wylie, Mr. Lewis of Florida, Mr. Boehlert, Mr. Rogers, Mr. Nielson of Utah, Mr. Smith of New Jersey, Mr. Cobey, Mr. McKernan, Mr. Grotberg, Mr. Schuette, Mr. McCandless, Mr. Coats, Mr. Hopkins, Mr. Lightfoot, Mr. Slaughter, and Mr. Shuster):

H. Res. 347. Resolution to amend the Rules of the House of Representatives to require a rollcall vote on passage of any measure making appropriations or providing revenue; to the Committee on Rules.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 808: Mr. McKinney and Mr. Pursell.

H.R. 945: Mr. McCandless, Mr. Brown of Colorado, and Mr. Callahan.

H.R. 1169: Mr. Moody.

H.R. 1435: Mr. Wise, Mr. Gallo, Mr. Saxton, Mr. Chandler, and Mr. Nielson of Utah.

H.R. 1508: Mr. Carper.

H.R. 1946: Mrs. Martin of Illinois.

H.R. 2280: Mr. Thomas of Georgia, and Mr. Visclosky.

H.R. 2440: Mr. Sisisky.

H.R. 2451: Mr. Neal.

H.R. 2489: Mr. Wolpe.

H.R. 2684: Mr. Walgren, Mr. Roe, and Mr. Gordon.

H.R. 2752: Mr. Rose, Mr. Matsui, Mr. Owens, and Mr. Penny.

H.R. 2887: Mr. Kolter, Mr. Saxton, Mr. Sikorski, and Mr. Robinson.

H.R. 2943: Mr. Luken, Mr. Howard, and Mr. Livingston.

H.R. 2952: Mr. Durbin, Mrs. Schneider, Mr. Jeffords, Mr. Schumer, and Mr. Weiss.

H.R. 3035: Mr. Visclosky.

H.R. 3260: Mr. MacKay, Mr. Solomon, Mr. Rangel, Mr. Dwyer of New Jersey, and Mr. Jones of North Carolina.

H.R. 3281: Mr. Rangel and Mr. Akaka.

H.R. 3521: Mr. English.

H.R. 3593: Mr. Dornan of California and Mr. Roe.

H.R. 3594: Mr. DioGuardi.

H.R. 3616: Mr. Gray of Pennsylvania and Mrs. Boxer.

H.R. 3626: Mr. Hartnett and Mr. Siljander.

H.R. 3630: Mr. Lehman of California.

H.R. 3655: Mr. Applegate, Mr. Crockett, Mr. Gaydos, Mr. Howard, Mr. Kolter, Mr. Lipinski, Mrs. Lloyd, Mr. Manton, Mr. Quillen, Mr. Rangel, Mr. Saxton, Mr. Traficant, Mr. Volkmer, and Mr. Wilson.

H.R. 3710: Mr. Beilenson, Mr. Hyde, Mr. Bevill, Mr. Kindness, Mr. Franklin, Mrs. Bentley, Mr. Porter, Mr. Bliley, Mr. Wilson, Mr. Montgomery, Mr. DeWine, Mr. Nielson of Utah, Mr. Gingrich, Mr. Smith of New Hampshire, Mr. Edwards of Oklahoma, and Mr. Saxton.

H.R. 3723: Mr. Glickman.

H.R. 3907: Mr. McCollum.

H.J. Res. 316: Mr. Denny Smith, Mr. Kramer, Mr. Vento, Mr. Duncan, Mr. Lundine, Ms. Snowe, Mr. Evans of Illinois, Mr. Petri, Mr. Chandler, Mr. Lott, Mr. Lowry of Washington, Mr. Mica, Mrs. Martin of Illinois, Mr. Applegate, and Mr. Natcher.

H.J. Res. 376: Mr. Panetta.

H.J. Res. 421: Mr. Livingston.

H.J. Res. 439: Mr. Lantos, Mr. Towns, Mr. Chappie, Mr. Durbin, and Mr. Hughes.

H.J. Res. 445: Mr. Bartlett, Mr. Denny Smith, Mr. Bliley, Mr. Broyhill, Mrs. Meyers of Kansas, Mr. Young of Florida, Mr. Mrazek, Mr. Anthony, Mr. Livingston, Mr. Whitten, Mr. Boulter, Mr. Daub, Mr. Traxler, Mr. Frost, Mr. Addabbo, Mr. Shumway, and Mrs. Long.

H.J. Res. 451: Mr. Guarini, Mr. St Germain, Mr. Edwards of Oklahoma, Mr. Staggers, Mr. Sikorski, Mr. Hartnett, and Mr. Nielson of Utah.

H.J. Res. 479: Mr. Gunderson, Mr. DioGuardi, Mr. Saxton, Mr. Rinaldo, Mr. Clay, Mr. Edwards of Oklahoma, Mr. Wilson, Mr. Levine of California, Mr. Loeffler, Mr. Rangel, Mr. Kastenmeier, Mr. Morrison of Connecticut, Mr. Hutto, Mr. Kleczka, and Mr. Leland.

H. Con. Res. 36: Mr. Kostmayer.

H. Con. Res. 175: Mr. Rahall.

H. Con. Res. 224: Mr. Burton of Indiana.

H. Con. Res. 241: Mr. Martin of New York, Mr. Horton, and Mr. Ortiz.

H. Res. 39: Mrs. Bentley and Mr. Lagomarsino.

H. Res. 60: Mr. Siljander.

H. Res. 194: Mr. Bliley.

H. Res. 245: Mr. Burton of Indiana, Mr. Coats, Mr. Coleman of Texas, Mr. Coughlin, Mr. Flippo, Mr. Kolter, Mr. Moody, Mr. Nielson of Utah, Mr. Regula, Mr. Schulze, and Mr. Williams.

H. Res. 346: Mrs. Byron, Mr. Ackerman, Ms. Mikulski, Mr. McCain, Mr. Lantos, Mr. Udall, Mr. Lent, Mr. Mavroules, Mr. Kostmayer, Mrs. Schroeder, and Mr. Lehman of Florida.

EXTENSIONS OF REMARKS

FLORA LEWIS ON UNFPA

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. GREEN. Mr. Speaker, I would like to bring to my colleagues' attention an article by Flora Lewis on the international population dilemma. As a coparticipant—along with Representative PETER KOSTMAYER and the Population Council—in the lawsuit discussed in the article, I highly recommend this insightful article by this renowned journalist who was just recently presented with the Fourth Estate Award for excellence in journalism.

The article follows:

[From the New York Times, Dec. 13, 1985]

FOREIGN AFFAIRS—THE SURVIVAL QUESTION

(By Flora Lewis)

WASHINGTON.—A Federal appeals court here has made a foreign policy decision on a technically that highlights the peculiar means some conservatives are using to force their views of morality on the rest of the world.

The court rules that the Agency for International Development may release $10 million to certain countries after the money was withdrawn from the United Nations Fund for Population Activities. Werner Fornos, president of the Washington-based Population Institute, had sued to freeze the money in an effort to restore it to the important U.N. agency.

All this legal wrangling is really about abortion and sterilization in countries struggling against explosive birth rates, which menace not only their own hopes for the future but the fate of the world. Specifically, it is about the charge that China forces some people to undergo these operations, or offers financial incentives.

Evidence that China does so was not even offered, but the Administration position was that it is up to China to prove it has punished anybody who has forced such an "abuse" on its citizens. Nor is there evidence that the Administration really wants to poke into China's one-family, one-child program, or its legal system.

A remarkable letter from President Reagan to Senator Jesse Helms, dated Oct. 6, explains the political trade-off that Mr. Helms extracted.

The "Dear Jesse" letter starts off saying how much the President wants confirmation of Winston Lord as U.S. Ambassador to China. Then it switches to a lengthy assurance that China will not get any American funds through the U.N. program to help its population control efforts. Then it repeats the urgency of speeding Mr. Lord to Peking, where he has now taken up his assignment.

The connection isn't drawn explicitly, but it's perfectly obvious. It is also obvious that by holding up dozens of diplomatic confirmations until he got his way, and threatening to do it again, Senator Helms has cowed the State Department into an embarrassing and counterproductive stand.

The $10 million China was receiving was a drop in the bucket compared with the $1 billion it spends to try to stabilize its population at the projected 1.3 billion by the year 2000. But it was an important symbol of U.S. support for an excruciatingly difficult national effort, and the prohibition was an insult.

It is ironic, furthermore, that the U.S. won't take China's word on the population control measures that it uses, but accepts more dubious assurances that China won't alow billions of U.S. dollars in nuclear technology aid to seep out and thwart nuclear nonproliferation.

But it is even more hypocritical to cut off birth control support in the name of a U.S.-legislated definition of morality in a world of spreading famine and strained resources. This is a mouth race, alongside the arms race, because there is no way economic development can even keep up with unlimited demographic growth in most of the poor countries. The choice is between "natural" population control, that is Malthusian tragedy, and human responsibility.

As Werner Fornos notes, undermining the U.N. fund will make only a token difference to China. But it will really hurt up to a hundred other countries that are just beginning to understand that age-old attitudes mean disaster in the world's new circumstances. The dominant official view in Africa had been that more people mean more power, and the only way to catch up with better off countries is to outnumber them.

At present rates, by the middle of the 21st century Nigeria will have the population that China has now, and Kenya double the present U.S. population. There are many more factors in braking population growth than birth control—including education, better health care, better agricultural policies.

But there has to be recognition that how many people there are in the world and how they live are directly related. Until about a century and a half ago, the world population had been almost stable over two millennia. The biblical injunction to reproduce was needed to assure human survival.

Now science has changed the survival question, requiring human care to protect nature's ability to support our numbers. It is incredible that a privileged group in the U.S. should presume to punish others trying to face this dilemma, and in the name of morality. Survival remains the issue, though in different terms. Mr. Helms' dictated position is not only bad policy, it is immoral in the most profound human sense.

THE LATIN AMERICAN DEBT CRISIS

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. GARCIA. Mr. Speaker, yesterday's New York Times ran an article on the Latin American debt crisis by Pedro-Pablo Kuczynski which I am inserting in the RECORD.

Mr. Kuczynski offers a number of concrete possibilities for aiding Latin nations. No matter what we may think of his suggestions, it is important to continue to examine all possibilities for solving this crisis. Its effects are potentially as devastating for us as for the nations of the region.

The article follows:

[From the New York Times, Dec. 16, 1985]

AT THE LATIN DEBT HOSPITAL

(By Pedro-Pablo Kuczynski)

The high occupancy rate in the Latin American debt hospital continues. Argentina has left the emergency room, but another debtor, Mexico, is showing symptoms that it may have to return unless it gets a massive injection of funds to pay interest. These two countries plus Brazil account for two-thirds of the nearly $400 billion Latin American external debt, of which about $280 billion is owed to international commercial banks, 40 percent of them in the United States.

Two statistics are worth remembering about this debt: It is equivalent to almost four times the exports of the region. And the interest, most of it at floating rates, absorbs close to 40 percent of annual export earnings. The debtor countries and their creditors are thus perilously exposed to a run-up in international interest rates. When Latin debtors could not make ends meet in 1982 and banks cut back new lending, debt amortization payments had to be postponed. A similar crunch now would jeopardize interest payments, a far more serious problem for lenders.

In the last three years, Latin America has paid the interest on its external debt by cutting back imports. It has thereby built up a large trade surplus but at the cost of very depressed economies. The modest lending that has come from banks has been offset by cutbacks in trade credit and by the flight of capital. Large trade surpluses and negligible capital inflows are obviously not sustainable much longer. Latin America's economies have to grow again and they need external capital to do so. To think otherwise is to ignore economic history.

What can be done?

First, Treasury Secretary James Baker has called for $9 billion a year in multilateral bank lending, mainly by the World Bank, to 15 high-debt countries, as well as for some $20 billion in commercial bank lending over three years to the same 15. There is much work to be done to translate this initiative into concrete cooperation between lenders and debtors.

Second, while it may be unrealistic to expect large international organizations to make major new loan commitments now, they do have money for immediate disbursement. The World Bank and the Inter-American Development Bank have almost $25 billion of committed but undisbursed loans to Latin American countries. Meanwhile,

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member of the Senate on the floor.
Boldface type indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

public works are virtually paralyzed and unemployment is rampant.

Why wait? The programs are ready, the workers are ready, the money is there. It should not be impossible for the World Bank, for a temporary period, to increase its share of development projects to which it is already committed.

We should think too of privatizing sluggish state enterprises. Recently, I met in Buenos Aires with the minister of the newly created Secretariat of Privatization, Manuel Tanoira, who like a late 20th century shepherd keeps his flock of state enterprises on their toes. The biggest threat he has over them is that he might sell them, which would do wonders for the inefficient ones. There are recent precedents for this. In Brazil, the state oil company has successfully sold shares worth $400 million to the public. Mexico recently sold the state hotel chain.

These are good signs. While public initiatives such as Mr. Baker's are necessary to prevent the collapse of high-debt economies, private initiative is needed to carry them back to growth and avoid the excesses of the past.

A balanced approach is needed. The worst that could happen is to think that business-as-usual will be enough, especially at a time when real interest rates are still relatively high and commodity prices are at record low levels.

A HOMETOWN VIEW OF A HEARTLAND TRAGEDY

HON. COOPER EVANS

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. EVANS of Iowa. Mr. Speaker, on Sunday, December 15, the New York Times published a commentary, which originally appeared in the Iowa City Press-Citizen, about the current crisis in rural America.

We commend this article to the attention of our colleagues for its especially insightful and moving treatment of the human dimension to the problems facing Iowa agriculture today.

THE HANDS OF ANGER, FRUSTRATION, HUMILIATION

Imagine for a minute that tomorrow, your boss tells you that for the next 12 months, you're going to earn only two-thirds of your salary. You can't quit your job.

What would you do? Quick.

The mortgage payment is already a week overdue. The kids need boots, and it's snowing. Quick.

The last two checks you wrote bounced, and the bank wouldn't pay them. The pediatrician's bill is overdue. The corner grocery store won't let you put anything on your charge account. Quick.

Your spouse is angry; you're not holding up your end of the deal. What are you going to do? Quick.

Your father and grandfather have done the same job as you're doing now. They went through the Depression. They lived on pork and potatoes, and they made it. You are the third generation. You're blowing it. Think fast. You don't have much time. Weeks, maybe months.

The pressure builds, the stress is stronger. You keep going to work, hanging on. It doesn't matter. Nothing you do matters. You are powerless.

This the kind of thing Dale Burr probably felt. And it is the kind of thing many other Iowa farmers feel every day.

There are accounts of bank transactions and economic explanations and other hypotheses as the murder and suicide story unravels. But that's not what it is really all about. It's about people—alone, desperate and powerless with nowhere to turn.

Once the Burrs were one of the wealthier families in the county. They were well-thought-of people. Salt of the earth. Churchgoers. A family of farmers carrying on a tradition. That was a year or two ago. That's how fast things crumble.

Target prices, price supports, ceilings, sealing crops. The terminology doesn't matter. It's welfare. Farmers know it. And farmers are proud people. Nobody really wants to live that way. But for now, there is no choice.

Many Iowa farmers already have taken deep pay cuts. They've scaled down operations. They've swallowed their pride—gone to stress clinics, sought therapy, stood in line at the market with food stamps in their pockets.

Some of it was bad judgment. Some of it was bad luck. The mid-1970's was a boom time for Iowa agriculture, but everyone else caught on. Physicians' fees rose, hospital costs rose, the cost of cars and homes and tractors and loans and mortgages and a college education rose. Then the bottom fell out—for farmers. Now things are so out of kilter that people who once were pillars of their communities are falling into poverty, depression and disrepute.

This is the farm crisis—the people who are alive and hanging on, and those who have died at the hands of anger, frustration, humiliation. And they are here.

Politicians tell us it is only a matter of balancing the books. That if we can reduce the deficit, deflate the value of the dollar, increase exports and give the free market reign—then, everything will be all right.

But if there's one thing that is clear from Mondays tragic series of murder and suicide, it is that the farm crisis is not numbers and deficits and bushels of corn. It is people and pride and tears and blood.

The time has come for the state and the county to reach out to farmers who are suffering—not because they are failed businessmen and women, but because they are human beings whose lives are falling apart—fast.

NATIONAL NEIGHBORHOOD HOUSING SERVICES WEEK

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. MINETA. Mr. Speaker, I call upon my colleagues to join me in support of a resolution to designate the week beginning June 1, 1986, as National Neighborhood Housing Services Week. The purpose of this resolution is to generate increased private sector awareness of and support of NHS' efforts in revitalizing America's neighborhoods. Further, this resolution would recognize the thousands of volunteers who are contributing so much to NHS' success, both in terms of their time and financial resources.

For the past 14 years, NHS partnerships of residents, businesses, and local governments have been working together to combat neighborhood deterioration and preserve and produce decent affordable housing for the benefit of the current NHS residents. The NHS track record of achievement, whether it is a rural community or the most urban of cities, is impressive. Today, scores of NHS neighborhoods, once written off as as destined to become slums, are healthy self-reliant communities, and the NHS' have been able to move on to serve other neighborhoods of need in their cities.

The Congress' role in assisting this grassroots effort is through the work of the Neighborhood Reinvestment Corporation which we created to help local communities establish new NHS's and provide technical services to the existing NHS's. The success of this effort is impressive. A total Federal cost of $109 million over the past 15 years has been leveraged into approximately $3.5 billion in reinvestment in NHS neighborhoods. But no numbers can capture the renewed sense of pride and confidence the residents of these neighborhoods have in their futures, the majority of whom are lower income, elderly, and minority.

The operating costs of these local efforts are provided largely through private contributions from local business. Keeping NHS's strong and enabling them to serve additional neighborhoods requires a steady broadening of this contributions base. "National NHS Week," in drawing attention and giving recognition to NHS's work, will significantly aid every local NHS in strengthening its private sector base of support.

I hope my colleagues will join me in designating the week of June 1, 1986, as "National NHS Week." Passage of this resolution will not mandate an outlay of Federal funds. It will, however, significantly enhance a national grassroots effort which is saving hundreds of neighborhoods across America, a priceless resource which billions of dollars could not replace.

The resolution follows:

RESOLUTION TO DESIGNATE THE WEEK BEGINNING ON JUNE 1, 1986, AS "NATIONAL NEIGHBORHOOD HOUSING SERVICES WEEK"

Whereas America's neighborhoods contain the ethnic, social and economic relationships which are fundamental to a strong and diverse nation;

Whereas, when the physical, economic and social structure of a neighborhood deteriorates, it causes great harm to the homes, businesses, and residents of the neighborhood, particularly for the elderly and poor;

Whereas, the reversal of such deterioration is essential to the strength of America's families, neighborhoods and businesses;

Whereas, throughout the United States, NHS programs which are partnerships of local residents, business leaders and government officials, are working to revitalize more than 200 neighborhoods;

Whereas, NHS programs have generated more than three billion dollars in reinvestment funds to revitalize America's neighborhoods; and

Whereas, to accomplish their aims, such programs utilize primarily local and private resources and the assistance of hundreds of volunteers who contribute countless hours of volunteer work: Now, therefore, be it

Resolved by the House of Representatives of the United States of America in Congress assembled, That the week beginning on June 1, 1986, is hereby designated as "National NHS Week", and the President is authorized and requested to issue a proclamation calling upon local and State jurisdictions, appropriate Federal agencies, and the people of the United States to observe such week with appropriate ceremonies and activities.

BILL McCARTHY

HON. HAROLD E. FORD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. FORD of Tennessee. Mr. Speaker, I'd like to take this time to say, "Thanks for a job well done to a departing legis fellow, Mr. Bill McCarthy. Bill, a 25-year veteran of the Social Security Administration, will return to his Baltimore office where he presently serves as the Director of Policies and Procedures for the Office of Assessment.

If Bill is half as good in Baltimore as he was over the past year in my office, those recipients of Social Security checks can rest easy about the way that Agency is being run. His record at Social Security speaks for itself. Back in 1960, he started as a claims representative in the New York region. In 1967, he moved to Baltimore, and began 10 years of distinguished service at the Bureau of Health Insurance—now known as the Health Care Finance Administration. While at work at BHI, he helped develop a system of onsite visits to providers of health care. In his current position, he was instrumental in designing a quality measurement system for all cash payment programs. Today, he is involved in quality measurement of SSI programs. Mr. McCarthy is also the recipient of several Social Security achievement awards.

However, while he has spent 25 illustrious years serving the American public, it will be this last year that my staff and I remember best. His experience, leadership, wit, and professional attitude brought from Baltimore were invaluable assets to my office. He provided us with answers to a variety of health-related issues, ranging from the particulars of the Medicaid and Medicare programs, to whether or not the Baltimore Orioles would survive the rigorous competition of the America League East. He always took the time to carefully answer the questions of the staff. It was easy to see the care that went into all of Bill's work. I only wish that each of the other 434 Members of this body had the special opportunity that my office was able to enjoy.

While testimonials are often employed on posthumous occasions, or on the eve of retirement, let me happily announce that this Bill is not about to be tabled. Still a few years short of his 50th birthday, Bill McCarthy will undoubtedly be closing in on Social Security longevity records, if he so chooses. For a man so young, he has accomplished so much.

Bill's caring about whatever he does is quite evident by the numerous community activities he has participated in. To Bill, his wife, Marie, and children Bill Jr., Nancy, and Kathleen, I wish all the continued success in the world. Though he returns to Baltimore, I am convinced that someone with his kind of credentials will be assisting House Members once again in the very near future.

HANDBOOK OF ELECTRONICS INDUSTRY COST ESTIMATING DATA

HON. RAYMOND J. McGRATH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. MCGRATH. Mr. Speaker, I would like to bring to the attention of my colleagues the existence of a recently published book entitled "Handbook of Electronics Industry Cost Estimating Data." The book was written by Theodore Taylor and is a carefully revised version of earlier works describing cost factors which must be considered to complete a wide variety of tasks at all stages of a manufacturing and production process.

I was pleased to see that the Defense Logistics Agency cooperated with the author and publisher to produce this comprehensive volume. With accepted standards for production of electronic equipment, many arms of the executive and legislative branches can improve planning and avoid errors and overcharges, which have undermined public confidence in Government management.

Projects on the cutting edge of technology are, by their nature, prone to unforeseen difficulties. At the same time, projections can be made accurately for many routine activities. This increases certainty in cost estimates and other information that legislators, military personnel, and other Government officials need to make policy decisions and purchases.

I congratulate Mr. Taylor and his collaborators for their contribution to technical literature.

A copy of the handbook was given to me by a constituent, Mr. George Telecki, of Malverne, NY, who is an editor for the book's publisher. I would be happy to make my copy available for review by Members or staffs dealing with procurement issues or the budget process.

COMMEMORATING A CHAMPION

HON. MATTHEW F. McHUGH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. MCHUGH. Mr. Speaker, the breeding and racing of horses has long been a part of New York State's heritage, and I would like to take a moment to note that this year has marked the 70th birthday of Exterminator, the greatest of all New York State racehorse champions. This magnificent competitor, who died in 1945 and was buried in Broome County, NY, is believed by many to be the best all-around racehorse America ever produced.

Earlier this year, the New York State Legislature honored Exterminator by passing a special resolution. One passage of that May 30 resolution notes Exterminator's accomplishments:

> Exterminator won 34 stake races, thereby establishing an American record that has stood intact for over 60 years, including among others the Kentucky Derby, the Travers in Saratoga, and the Pimlico in 1918; the Saratoga Cup in 1919; the Autumn Gold Cup at Belmont in 1920; the Frontier at Windsor in 1921; and the Brooklyn Handicap at Aqueduct in 1922, earning over $250,000 during his lifetime, and ultimately winning 49 races in 99 starts.

I might add that some racing historians believe that Exterminator's 1922 victory in the Brooklyn Handicap was the greatest horse race ever run.

The same New York State Legislature resolution puts Exterminator's illustrious career in the context of some important facts about New York State racing which I would like to share with my colleagues:

> The racing industry in New York State has resulted in an annual attendance of more than 11 million patrons while over $3 billion is wagered annually in New York, representing more than 15 percent of total nationwide attendance and over 28 percent of total wagers; and out of this amount, local and State governments receive over $270 million and total employment exceeds 7,900, generating a total payroll of over $68 million. The breeding industry is one of the fastest growing industries in New York State, resulting in the care of over 63,000 horses on breeding farms, which directly generate more than $120 million and over 7,000 jobs for the economy of New York State.

Exterminator, the most famous New York State racehorse champion of all time, was the horse that helped the most, in those critical years immediately following World War I, to make racing the immensely popular industry it has become in my State.

As always, stories of special horses also involve special people. In this case, the special person is Jules Levitt, of Binghamton, NY. Mr. Levitt has devoted much energy to bringing Exterminator's exploits before the public, and is active in soliciting support for an appropriate memorial for Exterminator. I am pleased to acknowledge his dedicated efforts.

CONGRESSIONAL SALUTE TO THE HONORABLE FRANK W. MURPHY OF NEW JERSEY ESTEEMED POSTMASTER, COMMUNITY LEADER AND GREAT AMERICAN

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. ROE. Mr. Speaker, on Sunday, January 19, 1986, the people of the city of Paterson, my Congressional District and State of New Jersey will join together in testimony to a distinguished citizen, outstanding community leader and good friend, Hon. Frank W. Murphy of New Jersey, who announced his retirement from his high office of public trust as Postmaster and Sectional Center Manager of the Northern New Jersey District of the U.S. Postal Service effective October 2, 1985. I know that you and our colleagues here in the Congress will want to join with me in deep appreciation of all of his good works and share great pride in the success of his achievements with his good wife Mary; son Frank W. Jr. of Ramsey, NJ; daughters and sons-in-law: Mary Frank Verrone of Park City, UT; Maureen and husband Louis Morelli of Malibu Beach, CA; Sharon and husband John Borino of Stanhope, NJ; and Kathleen of North Haledon, NJ; and grandsons Craig and Keith Murphy; Mark, Glenn and Scott Verrone; Ryan and Todd Morelli; and Sean M. Ryan Borino as they celebrate this milestone of achievement in their family endeavors.

As we gather together in tribute to Postmaster Murphy's standards of excellence throughout his lifetime and his outstanding public service during the past 31 years plus in the vanguard of our Nation's postal operations, there is much that can be said about Frank Murphy and his exemplary record of performance in providing postal services responsive to the needs of our people dedicated to swift and reliable distribution and delivery of mail—a highly significant and vital link in our national and international communications network.

Mr. Speaker, Frank Murphy was born on July 25, 1918, in the city of Paterson, NJ, the first son of John B. and Esther Murphy. He attained his elementary and secondary education at Our Lady of Lourdes Grammar School and St. John's Cathedral High School in Paterson, NJ. He received his B.A. degree from St. Bonaventure University in 1940 where he had also earned an R.O.T.C. commission as second lieutenant in the field artillery of the U.S. Army. His legal studies at Fordham Law School was interrupted on December 7, 1941, by the destructive attack by Japan on our U.S. Naval Base at Pearl Harbor, HI. He was the first member of the class of 1943 to depart for active duty with our Armed Forces after taking his physical examination on December 11, 1941 and accepting his active duty orders the week of December 15, 1941.

Frank Murphy served our country as a captain in the field artillery during World War II. He participated in many battles in the European Theatre of War receiving the highest commendations of merit for his military service including the U.S. Armed Forces medal of the Order of the Purple Heart which is awarded to servicemen wounded in action. He also received the five European Battle Stars, the Bronze Star, as well as the French Fourragere, Distinguished Unit citation, etc.

At the end of World War II he was selected by the VII Army Corps headquarters as Commanding Officer of two provisional military government detachment teams assigned to Halle, Germany. He served as Military Governor of this city of a quarter of a million population. Upon his return to the United states in October 1945 he continued in the U.S. Army Reserves until compulsory retirement in 1968 with the rank of lieutenant colonel.

Frank completed his legal education and attained his L.L.B. degree from Rutgers Law School in 1948. He served his law clerkship with the law firms of Peter Hofstra, Esquire and Wendell W. Furrey, Esquire, both of Paterson, NJ; passed the New Jersey Bar examination and was admitted to the practice of law in New Jersey and the Federal District Court in 1949.

Frank Murphy, esquire, established a law partnership with Edward F. Furrey, esquire, under the firm name of Furrey and Murphy, Esquires, Paterson, NJ and continued on a full and part-time basis until the dissolution of the partnership in 1969.

Mr. Speaker, Frank Murphy has been an active participant in many community improvement programs. He served the city of Paterson as exectuve secretary to Mayor Lester F. Titus (1952–54), Secretary to Paterson Board of Adjustment (1952–54), Chairman of Paterson Purchasing Commission (1952–54) and Paterson's first Director of Slum Clearance and Urban Development (1953–54).

In April, 1954, he was appointed Postmaster of the city of Paterson by President Eisenhower with the advice and consent of the U.S. Senate. It is interesting to note at that time he was the youngest postmaster in our Nation to have been appointed to a city as large as the size of Paterson, NJ.

Mr. Speaker, the U.S. Postal Service has over 700,000 employees and handles more than 131 billion pieces of mail annually. In addition to the national headquarters, there are regional, district and sectional center offices supervising almost 40,000 post office branches, stations and community-based offices throughout the United States.

Throughout his postal career, postmaster Murphy has forged ahead with dedication, devotion and sincerity of purpose in achieving efficient mail handling systems for the people of our region. We applaud his knowledge, training, hard work and personal commitment that has enabled him to achieve the fullest confidence and strongest support of the people of our community. He has always applied the most sophisticated and advanced techniques of his profession.

Over the course of his tenure as postmaster he vigorously pursued continuous updated training within the postal system in all managerial areas including scientific disciplines and studies involving specialized instruction and practice at the Postal Service Management Institute, Bethesda, MD where he received certificates of achievement in American Management and Associates Training. He also participated in various seminars and training courses at the University of Pennsylvania, Hobart College and the University of Southern California.

Among his many assignments as postmaster he was postmaster training officer for post offices located in New Jersey at Newark, Trenton, Jersey City, Hackensack, Clifton and Passaic and served on countless advisory promotion boards. He was past president of the Bergen-Passaic County Chapter of the National Association of Postmasters of the United States. He received many citations of merit for the quality of his service as a postmaster. In April 1969 he was the recipient of the Superior Accomplishment Award of the Post Office Department of the Philadelphia region. He was selected by Postmaster General Winton N. Blount as 1 of the 30 outstanding postmasters in the Postal System to serve on the newly formed five Postmaster Selection Boards in May 1969 and received letters of commendation from Postmaster Generals W.M. Blount and E.T. Klassen dated October 8, 1970 and February 5, 1974 respectively for his exemplary service spanning a period of 58 months for the Postmaster Selection Boards in both the Philadelphia and New York postal regions.

Upon enactment of the Postal Reorganization Act of 1971 which created the U.S. Postal Service as an independent establishment of the executive branch of our Federal Government, Postmaster Murphy was appointed Sectional Center Manager headquartering in Paterson, NJ. It is interesting to note that he was among 552 sectional center managers appointed within the United States and as of his retirement in October 1985 was numbered among a total 217 of these most prestigious postal management officers remaining in the organizational structure of the U.S. Postal Service.

Mr. Speaker, Postmaster Frank Murphy has been a staunch supporter and active participant in many charitable and civic endeavors. He was a charter member of the Bernard Armitage American Legion Post No. 360 where he served as Vice Commander, Judge Advocate, President and member of the Board of Trustees. He is a member, Catholic Lawyers Guild; Knights of Columbus, Council No. 240; St. Anthony's R.C. Church, Hawthorne, NJ; and the Paterson Rotary Club. We are especially proud of his highly compassionate fund-raising campaign efforts for charity on national, State, county and municipal levels in support of many most worthwhile eleemosynary organizations including Paterson Community Chest drives, St. Joseph's Hospital Building Development Fund drive; and his leadership service as annual chairman for 4 years on behalf of the March of Dimes.

Mr. Speaker, in reflecting upon the history of our great country and the good deeds of our people who have made our representative demonecracy second to none among all nations throughout the world, I appreciate the opportunity to call your attention to this distinguished gentleman and seek this national recognition of all of his good deeds. Frank Murphy's quality of leadership and sincerity of purpose dedicated to service to people have truly contributed to the quality of life and way of life here in America. As we commemorate his retirement as Postmaster and Sectional Center Manager of the United States Postal Service, we do indeed salute an esteemed Postmaster and great American—Hon. Frank W. Murphy, Esquire of New Jersey.

ADVANCING TAX REFORM

HON. JIM ROSS LIGHTFOOT

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. LIGHTFOOT. Mr. Speaker, since coming to Congress, I have voiced my support for tax reform—tax reform that is fair to the average American, tax reform that is simple, and tax reform that is truly a reform of our existing Tax Code.

During the past year, we in Congress have received hundreds of thousands of letters and postcards on every imaginable objection to the present Tax Code, as well as on many provisions of the various proposals which have been debated.

We must recognize that no matter how many objections we have with the bill before us today, the House Ways and Means Committee has devoted months of arduous debate to this massive project. Too much has gone into this effort to "throw the baby out with the bath water."

There are provisions in the bill which concern me greatly. The loss of the investment tax credit will be very hard on companies in my State of Iowa, as will limiting the use of tax-exempt municipal bonds. For this reason, I opposed considering this bill under a closed rule and I voted accordingly.

However, a number of good changes will come from this bill. It provides for a reduction of individual tax rates for the middle- to lower-income taxpayer. It protects employee benefits, which concerned many of my constituents. For the most part, it retains the deductibility of State and local taxes which otherwise would have been devastating to many small communities in Iowa which are already suffering from reduced tax bases brought on by the problems in agriculture. The bill also preserves the deduction for charitable contributions for those taxpayers who do not itemize. Also retained was the deduction for interest on the first and second mortgages for the homeowner.

With respect to small business, this bill also brings needed changes. H.R. 3838 reduces the tax burden on the small businesses which are an integral part of the economic activity in my district. Of considerable importance to me, as well, are the changes the bill makes in tax provisions affecting agriculture. In this bill we are recognizing the damage "tax loss" farming has done to farming as a livelihood and we are working to prevent further abuses in this area.

I was also fortunate to have included as a provision a bill I introduced, H.R. 2277, to exempt liquidating farmers from the alternative minimum tax. In this regard, I owe a great deal of thanks to the members of the committee for their sensitivity to the particular problem this tax has created for those farmers who would otherwise settle their debt and retire from farming without declaring bankruptcy.

While I hope this measure will be improved upon by the other body, I nonetheless remain supportive of the process and wish to see tax reform advanced.

REVITALIZING THE SUPERFUND

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. LANTOS. Mr. Speaker, those of us in the Congress who feel deeply about environmental issues achieved a major victory when the House of Representatives approved H.R. 2817 extending and strengthening the Superfund Program. Our action will hasten the cleanup of dangerous chemical waste dumps and will lead to faster and more effective cleanup of toxic and hazardous waste dumps all across our Nation.

Our legislation will solve problems that have plagued the Superfund in the past by providing additional resources and by requiring the Environmental Protection Agency to begin cleanup work on over 600 toxic waste dumps immediately. It also requires chemical companies and Government agencies to provide information about dangerous chemicals to communities located near chemical plants and dump sites.

The Superfund Program was enacted in 1980—in response to environmental disasters such as Love Canal. It soon became clear, however, that the $1.6 billion originally allocated for this program was woefully inadequate to cope with a problem of this scope and magnitude.

After 5 years of EPA effort, not a single site on the national priorities list of the most hazardous sites has been cleaned up. EPA's record on other aspects to this program is equally appalling. With the passage of this legislation, the Congress is sending a message to EPA that the American people want action, that we mean business. Our action in approving this legislation demonstrates our determination to do that.

The problem of toxic waste sites is one of alarming proportions. Recent reports indicate that there may be as many as 10,000 dangerous toxic waste dump sites that will need to be cleaned. The administration's proposal to fund Superfund at a level of $5.3 billion over the next 5 years is completely inadequate.

Our legislation goes much further toward providing an adequate response to this frightening environmental crisis. It authorizes $10 billion through the year 1990, which will ensure that many, many more hazardous waste sites are cleaned up. The measure also establishes a mandatory cleanup schedule and requires the Environmental Protection Agency to begin actual cleanup at roughly 600 sites during the next 5 years.

An important component of the legislation is a provision that communities located near chemical plants and hazardous waste sites and facilities would be given the right to know what chemicals are being handled or stored in those facilities. Companies would be required to provide information to help communities respond to emergencies caused by the sudden release of toxic chemicals.

The bill establishes the concept that the polluters must pay for the damage caused at these toxic sites. It provides for taxes on oil and chemical producers to help offset the cost of the cleanup. The tax on polluters provides a fair way to finance Superfund by placing the tax burden where it belongs.

Mr. Speaker, the Superfund is one of this Nation's most important environmental programs. Our legislation protects human health and the environment while ensuring that our cities are safer and cleaner. We have taken a major step forward in the fight for a clean and safe environment through the passage of this bill.

Approving this legislation, however, does not complete the involvement of the Congress. We must continue to fight to ensure that this program is administered properly and that the intent of Congress is followed. Those of us who are firmly committed to preserving and protecting our natural environment must work to insure that the cleanup of hazardous toxic waste sites is vigorously pursued. We owe this to our children and our children's children.

SPACE MISSION OF HON. BILL NELSON

HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. BILIRAKIS. Mr. Speaker, I wanted to take a moment to extend my very best wishes to my friend and colleague, Bill Nelson, on the eve of his momentous journey on the space shuttle *Columbia*.

I am certain that everyone shares the admiration and respect I feel for Bill as he undertakes this most courageous and extraordinary feat. The milestone which Bill Nelson will make is one that we, as Members of Congress, can share and participate in, for he will be representing this entire body in the annals of history. The gavel from the Speaker's rostrum which our colleague will carry into space with him is indicative of all that the House of Representatives stands for and, like the American flag which proudly stands on the Moon, will send a clear and distinct signal to the world of the pride we feel for the House of Representatives, the most free legislative body in the world.

An elected official's active participation in a space mission is, I am certain all will agree, truly outstanding. The significance and importance of this act cannot, and should not, be overlooked, for by sending the chairman of the Subcommittee on Space Science and Applications up on the shuttle, we will be simultaneously pronouncing the pride we feel for NASA and our continuing support for the maintenance of our excellent space program.

BILL NELSON'S journey, Mr. Speaker, is significant in that it truly brings to light the extraordinary gains that our space program has made. It was, after all, not all that long ago when space travel was no more than the dream of an administration and the fantasy of our society. We have, in a few short decades, not only safely landed and returned our astronauts on the Moon, but can now, thanks to American ingenuity and talent, boast the first space vehicle capable of repeated flights. Today, thanks to NASA, the dream of frequent space travel is a reality, and the fantasy of space flight availability to Americans in all walks of life is sounding and looking more and more possible.

Mr. Speaker, I am proud of the capability of our space shuttle and proud of NASA for making it possible. I am also proud that the *Columbia*'s next mission will carry a Member of the U.S. House of Representatives on board. Last but certainly not least, Mr. Speaker, I am proud that that Member will be my colleague, friend, and fellow Floridian, BILL NELSON. Congratulations BILL, and bon voyage!

TRIBUTE TO EMILIO J. LAGOMARSINO

HON. ROBERT E. BADHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. BADHAM. Mr. Speaker, I rise to pay tribute to the memory of E.J. "Red" Lagomarsino who died on November 3, 1985. He was the beloved father of our esteemed colleague, BOB LAGOMARSINO. E.J. was a leader in California and that is why his son, our colleague, is a leader in this body. I ask that the article from the Ventura County Star-Free Press be included in the permanent RECORD.

[From the Ventura County (CA) Star-Free Press, Nov. 4, 1985]

EMILIO J. LAGOMARSINO DIES

Emilio Joseph Lagomarsino, youngest and last of the legendary Lagomarsino brothers of Ventura and the father of Rep. Bob Lagomarsino, died Sunday. He was 81.

Death came at Community Memorial Hospital, Ventura, where he had been a patient only a few days, though he had been in declining health for some time because of a heart condition and malignancy.

Rep. Lagomarsino, summoned Friday from Washington, D.C., when his father's condition became grave, was at the bedside, as were Mr. Lagomarsino's wife of 60 years, Marjorie, and their other two children, Richard Lagomarsino and Catherine (Katy) Wood.

A private family mass was said this morning, and the family announced that no public services will be held. Memorial donations may be made to Californians for a Drug-Free Youth, care of American Commercial Bank, 304 E. Main St. Ventura 93001.

The three Lagomarsino brothers—John, William, and Emilio—figured prominently in the history and development of Ventura. Each made his mark in a different field: John in banking, William in ranching and Emilio in liquor wholesaling and property development.

They were the sons of John and Catherina Lagomarsino, who came to Ventura in 1896 and prospered with a liquor sales enterprise and two saloons.

Emilio Lagomarsino was born Feb. 2, 1904, in a two-story house on Santa Clara Street, where the now-closed Bank of America branch building now stands. He graduated from Ventura High School in 1922, and three years later won a degree from the school of commerce at the University of California, Berkeley.

Although trained in banking, he first tried his hand in the hardware business in Santa Paula, then joined the Title Insurance & Trust Co. staff in Ventura. (His wife is the daughter of the late A.C. Gates, who was manager of the Title Insurance Co. office.)

With repeal of Prohibition in 1933, Mr. Lagomarsino was made mindful of his father's success in the liquor business. He borrowed $2,500 and established Lagomarsino Wholesale Liquors, which has become the largest dealership of its kind in the Tri-counties.

He became involved in property ownership and management through the Ventura Realty Co., and he also acquired ranching interests in Somis, Simi Valley and Ojai.

Shortly after World War II, he joined with the late John Rizzo in spearheading organization of the former Ventura Savings & Loan Association. Its subsequent sale yielded an unexpected bonanza to shareholders. Later, Lagomarsino and Rizzo were among the largest shareholders of the Channel Islands State Bank, which was sold to Wells Fargo Bank.

In 1973, he again was attracted to a banking venture and became the founding chairman of the board of American Commercial Bank of Ventura. He and a former mayor of Ventura, the late Albert Albinger, were the principal movers to create the institution, which now has branches in Downtown Ventura, on South Mills Road and on Telephone Road.

Mr. Lagomarsino was familiarly known as "Red." In his youth, he had fiery red hair; the color faded in later years, but he remained fiery by nature.

"Sure, I shoot off my mouth a lot," he once told the Star-Free Press in an interview, "but I like to let people know where I stand."

He led the opposition in the 1970s against relocation of the County Courthouse from Downtown Ventura to the 80-acre tract that had been acquired at Victoria Avenue and Telephone Road. For the county government headquarters to move away would mean the death of Downtown, he feared, and he owned many parcels of property there. In later years, he somewhat grudgingly approved the Downtown renewal programs.

Although he was acclaimed as one of the county's wealthiest personages, Mr. Lagomarsino rarely relaxed from the day-to-day responsibilities of running his business. And while he was prideful of his son Bob's success in politics—as mayor of Ojai, state senator and U.S. congressman—he abstained almost totally from political activity.

"I don't interfere with Bob and he doesn't interfere with me," he once said in an interview.

He was a former Ventura planning commissioner, a director of California Mission Trails and had been active in support of Villanova School and St. Joseph's Convalescent Hospital of Ojai. He also was a director of the Constitution Life Insurance Co. of America.

Besides his wife, sons and daughter, he is survived by a sister, Nilda Lagomarsino of Ventura; 10 grandchildren; and seven great-grandchildren. Besides his brothers, a sister, Delvina Medley, preceded him in death. All of the family have their lifetime roots in Ventura.

Following today's private family mass at Our Lady of the Assumption Church, with Monsignor Donald Mulcahy officiating, burial was in the family plot at Ivy Lawn Cemetery, Ventura, under direction of Ted Mayr Funeral Home.

Rep. Lagomarsino, who was originally assigned to be a witness at Sunday's general election in Guatemala, was to return to Washington later in the day.

TRIBUTE TO TOMMY WINEBRENNER

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. RODINO. Mr. Speaker, I want to join my fellow Members in their tribute to Tommy Winebrenner, a gentleman who has looked after the interests of all Members. Tommy brought professionalism to the House floor in his handling of legislation from both sides of the House.

Tommy always knew what was going on or not going on in the House. He lent assistance to the rookies and took care of the senior Members when they needed to know the details of floor actions. He is an outstanding example of a dedicated public servant in "the people's House."

Tommy has been in the House for the past 30 years and has held the position of minority doorkeeper for the last 10. He is almost an inspiration up here on the Hill and we hate to see him leave. I would like to wish him the best of fortune in his new career and know that he will always be remembered here on the House floor.

BEST COPY AVAILABLE

SID YATES HONORED BY THE UNIVERSITY OF CHICAGO ALUMNI ASSOCIATION

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. LEHMAN of Florida. Mr. Speaker, recently our colleague SID YATES received another honor to add to the many he has gained since he was first elected to this House in 1948. In June, the Alumni Association of the University of Chicago awarded him its 1985 Alumni Medal. I would like to share with our colleagues the article from the fall 1985 issue of the University of Chicago magazine that discussed the award and its distinguished recipient. Mr. Speaker, the article follows:

ALUMNI MEDAL TO CONGRESSMAN YATES

"Life is strange," said Rep. Sidney R. Yates, PhB'31, JD'33, upon his receipt of the Alumni Association's 1985 Alumni Medal. "I had no inkling when I was on campus that I would wind up in Congress as my life's work. As a matter of fact, running for the House every two years, I'm kind of surprised that it turned out to be my life's work." Yates was one of seven alumni and ten graduating seniors on whom the Alumni Association bestowed awards at its annual assembly on June 1, Reunion Day, in the Oriental Institute's Breasted Hall.

Yates, a former assistant attorney general in Illinois, turned to politics in 1948. "I was trained as a lawyer and practiced for a while, but I never really enjoyed the practice," said Yates. "When I returned from service in the Navy in World War II, I looked around for a new way of life and decided I wanted to go to Congress. And thereby hangs a tale, for in Chicago—politics being what it is—the wish may be father to the thought but it's a long way from the thought to its realization."

In 1948 Democrats in the Illinois ninth Congressional District, which in a brief span of eight years had swung from Republican to Democrat and back again, were faced with the "monumental task" of defeating an incumbent Republican. Though Yates asked for the nomination ("In retrospect, I'm really surprised by my chutzpah," he told his audience) the district's ward committeemen decided, instead, on a candidate of German descent. As the year wore on and President Harry Truman's prospects for re-election seemed to plunge, the German candidate grew nervous. When the postmaster of Chicago died unexpectedly the candidate managed to be appointed in his place. And with six weeks to go Yates agreed to run for the House seat.

"The result is history," said Yates. "Today when young people ask me how to be elected to political office, I tell them to do what I did: find a ticket on which Harry Truman is running for president, Adlai Stevenson the elder is running for governor, and Paul Douglas is a candidate for the Senate. With such a ticket, one can be elected."

Yates' congressional career was interrupted in 1962 when he ran unsuccessfully for the Senate; the following year he was appointed ambassador to the United Nations on the Trusteeship Council by the late President John F. Kennedy. In 1964 Yates was re-elected to his former seat in the House, a position that he continues to hold today. In Congress he is perhaps best known for his role as chairman of the Subcommittee for the Department of the Interior and Related Agencies, which oversees funding for, among other federal agencies, the Smithsonian Institution and the National Foundation on the Arts and the Humanities. He is a senior member of the House Appropriations Committee, a member of the Foreign Operations Subcommittee, the Commission on Security and Cooperation in Europe, also known as the Helsinki Commission, and a congressional representative to the U.S. Holocaust Memorial Council.

In accepting the Alumni Medal, Yates credited the University for his political longevity. "The professors, the students, the activities, the athletic teams, the classes, the clash of ideas—the total ambience—fashioned my philosophy and my vision of America in a way that found favor in the political arena," he said. "I came out of the University a liberal Democrat and I remain one today. Some of my Democratic brethren are looking for a more attractive ship to board, but they haven't found any yet. As for me, I like the ship I'm on."

TRIBUTE TO A MEMBER OF THE 101ST AIRBORNE DIVISION

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. LEVIN of Michigan. The tragedy that struck so many families in our Nation was felt in my district in Michigan. Private Ricardo Guerra perished with his comrades last week in the air disaster which ended the lives of those members of the 101st who were on their way home to share the holiday season with their loved ones.

Rick Guerra was a resident of the city of Ferndale. He graduated from Ferndale High School in 1979 and attended Oakland Community College before entering the Army. Rick was an enthusiastic soldier who found his duties as a member of the international peace-keeping force fulfilling. His family and friends in the Ferndale community will miss him.

All of us who live in the 17th District of Michigan share the loss of Private Guerra and all of the other men and women who so proudly served as members of the famous 101st Airborne. Their loss is one that will be especially remembered as the holidays approach for many years to come. We will all recall the tragedy at Gander International Airport in the Newfoundland snows and keep the memory of these fallen soldiers in our minds and in our hearts.

IMPACT OF TAX REFORM ON STATE HOUSING PROGRAMS

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. RAHALL. Mr. Speaker, I am greatly concerned over two provisions of H.R. 3838, the tax reform bill, which in their present form may undermine the ability of States to finance housing programs, many of which are intended to aid low-income households and moderate-income first-time home buyers. The first of these provisions deals with the volume cap that would be imposed on a State's ability to issue tax-exempt bonds, while the second would impose stricter limitations on the use of mortgage revenue bonds.

Under the tax bill, a volume cap would be placed on the amount of tax-exempt bonds State and local governments may issue, while other restrictions on equity incentive provisions would be imposed as well. This volume cap would effectively limit the ability of States, including my home State of West Virginia, to issue tax-exempt bonds required to provide financing for their various housing programs. The West Virginia Housing Development Fund informs me that under H.R. 3838 their bond distributions would be so substantially reduced that virtually all such financing could be directed toward housing repair—to restore areas devastated by floods in both 1983 and this year—with little available for other equally necessary projects.

States must be allowed to issue bonds in a reasponsible manner, and above all, in the volume necessary to meet their respective needs. This basic premise is undermined by other limitations under the tax bill which would restrict the use of mortgage revenue bonds. The restrictions imposed may be so severe as to preclude their use in my State. The income and other targeting provisions involved are equally restrictive, acting effectively to eliminate the functioning of the vitally important housing programs toward which they are directed.

Mr. Speaker, I remain committed to modifying these provisions of the tax bill as congressional deliberations on tax reform continue.

HIGH TECH IN STEEL

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. WALGREN. Mr. Speaker, recently at my request, the House congressional steel caucus hosted a hearing on high technology in the steel industry. Many of us from steel-producing regions of the country believe that the health of the steel industry in the future depends very much on our ability to promote research and development at the highest levels for this industry.

Two of the witnesses come from my home area of Pittsburgh, and I have attached their remarks for the review of my colleagues. Dr. Richard K. Pitler is senior vice president for the Allegheny Ludlum Steel Corp. Dr. R.J. Fruehan is a Carnegie-Mellon University professor and director of CMU's Center for Iron and Steel Research.

I applaud their leadership in focusing attention on the importance of research and development in our steel industry.

Remarks of Richard K. Pitler for the Specialty Steel Industry of the United States Before the Congressional Steel Caucus

Mr. Chairman and Members of the Congressional Steel Caucus:

I am Richard K. Pitler, senior vice president technical director of Allegheny Ludlum Steel Corporation.

I appreciate the opportunity to talk to you this morning about research and development in behalf of the specialty steel industry. Since time is limited, I will touch only briefly on the record of the industry, current status of R&D, and the future for research and development in the industry.

Let me take a moment to define what we mean by specialty steels. I mean those materials which are broadly defined as stainless and corrosion-resistant alloys; tool and high speed steels; high-strength alloys; heat-resistant alloys, such as the superalloys; electrical steels for transformers and motors; and magnetic and controlled-expansion alloys used in electronics.

In short, specialty steels are the materials without which no modern economy and no modern defense system can function.

The state of technology in the specialty steel industry in this country is acknowledged even by our overseas competitors to be superior or fully equal to that of any offshore competitor. This view is confirmed by a number of studies by the Office of Technology Assessment, Commerce Department, and—most recently—the National Academy of Engineering.

The current advanced state of technology in the industry is a direct result of our long and continuous research-and-development efforts. Some examples of fruits of past R&D follow.

1. The use of argon/oxygen decarburization or vaccum oxygen decarburization for the production of most stainless and other specialty steels.

2. The almost exclusive use of continuous casting to produce stainless corrosion-resistant and some electrical steels. Almost all stainless steels for flat-rolled product are now continuously cast, and some companies have achieved continuous-casting ratios of 90 to 100 percent. Stainless billets also are being continuously cast—with continuous-casting ratios on the order of 30 to 50 percent.

3. The development and use of vacuum induction melting, vacuum arc remelting and electroslag remelting techniques for special-purpose alloys for high-technology applications. These techniques are used in superalloys for gas turbine engines, special tool steels, and some electrical alloys.

4. The development of powder techniques applied to superalloys and tool steels.

5. The use of new forging techniques for some of the superalloys and other special alloys, such as using large GFM forging machine.

6. The installation of modern computer-controlled gage-control systems on both flat-rolling and bar mills.

7. The development and use of new descaling systems that allow lower acid usage and minimize environmental problems with waste-water treatments.

These kinds of process-technology developments, which produce more uniform products more reliably, are continuing today. There is going on in the industry a major effort in the area of process control. This means the integration of sensors, computers, computer networks and manufacturing facilities to produce manufacturing systems which will improve productivity; improve product quality, uniformity, and reliability; reduce energy consumption; and improve yields. These efforts will enhance our ability to use statistical quality-control methods in our melt shops, rolling mills, and annealing and pickling facilities. These efforts are using substantial R&D resources for development of the sensors and for development of the software that goes into the computer programs which will control our processes.

One example is the four-level hierarchical control system that my company, Allegheny Ludlum Steel Corporation, uses in its melt shops. Another example of on-going R&D in this area is the cooperative pilot program being carried out by industry and Government at the Cytemp Specialty Steel Division of Cyclops Corporation to develop an automated, robotic work cell for a power-metallurgy facility. This facility has been developed to make improve superalloy "near-net shapes" through a unique method combining atmospheric-pressure consolidation followed by hot, isostatic-press consolidation. I have with me an example of the kind of part that is produced by this unique, R&D-developed power-metallurgy technique.

A further example of advanced process development being carried out by the industry is the direct casting of specialty steel strip. By this, I mean the production of a coilable, light-gage product made directly from melt. Here is a picture of the process as it's carried out in our laboratory and some stainless steel product that was cast by this process and, then, finished in our production cold-rolling operations to a light-gage product, which is being evaluated by some of our customers.

In the product area, research-and-development activities in the specialty steel industry have produced a host of new materials. There have been the superalloys for aircraft gas turbines, and, I've already mentioned that this work is continuing with the production of powder-metallurgy near-net shapes.

There is work being carried out on new intermetallic alloys for even higher temperature service. There have been developed special corrosion-resistant materials. Some are as resistant to seawater as titanium and more cost effective. These have found use in power-plant condensers and geothermal energy-generation systems. Some are being used in the new high-efficiency, home-heating furnaces where new corrosion problems have been encountered and where conventional materials are no longer adequate.

More energy-efficient electrical steels for transformers have been developed. In recent years, this development has accelerated with lighter-gage materials and laser-treatment techniques being applied to achieve even greater energy savings.

The specialty steel industry developed the low-cost stainless type 409 alloy, which helped make possible a reliable catalytic converter for automobiles. Now that manufacturers are starting to produce total exhaust systems from manifold through tailpipe out of stainless steels, the industry has developed a variety of relatively low-cost, heat-resistant, and corrosion-resistant materials—which have much better formability than the older alloys. Without improved formability, it would have been impossible to economically produce the tubular exhaust manifold which now is being specified on a number of engines and which saves weight as well as reduces exhaust emissions.

There are many, many other examples of past and present R&D results that have been implemented by the specialty steel industry in the United States. I have tired to touch on the major ones to give you the flavor, scope, and variety of the R&D that has gone, and is going, on in the industry.

It is difficult to speak about a single level of R&D expenditure in the industry since R&D expenditures vary considerably from one company to another within the specialty steel industry. However, I think we can make some general statements about the level of R&D spending. For most major producers in the industry, R&D expenditures vary from about 1½ to 2½ percent of sales. R&D expenditures for most of these companies have increased steadily over the last 5 to 10 years. However, it should be pointed out that, although R&D dollars have increased, the technical manpower supported by those dollars, unfortunately, has either remained the same or decreased. Because of inflation, more dollars are buying less effort. The net effect of this squeeze is that we have had to learn how to be more efficient in doing R&D. We are required to be more focused in the projects that we select. I believe the squeeze has reduced the number of long-term, high-risk R&D projects that we attempt while increasing the emphasis on shorter-range, quicker-payoff projects. Research and development is—after all—an investment in the future, and—like any investment—the probability of return has to be measured against the risks and availability of resources.

R&D is but one step toward a more cost-effective product for our customers. The other step required, often glossed over in public discussion, is the deployment of that R&D whether it be new technology or new equipment to produce better products. There has to be a balance between the resources we allocate to develop the new information by research and development and the resources we have available to commercially deploy in the marketplace the results of that research and development. As available resources decrease, we tend to decrease our research-and-development effort in proportion to our ability to use or deploy the results of that research-and-development effort.

Thus, I have to say that the future of R&D in the specialty steel industry is not clear. R&D has been healthy in the past. It's healthy today but there are indications that it is starting to bleed slowly. R&D is being injured, although not yet acutely or catastrophically and—perhaps—not even very visibly. Nevertheless, our ability to invest in the future is being injured.

If you're in the development business, you have to be an optimist; so, I have to say that the possibilities for the future are unlimited. However, R&D is only one part of a corporate organism. It will not be healthy unless the whole organism is healthy. That, to me, means our specialty steel companies must have an opportunity to make a profit when they are technically up to date and are effecient producers. This is the only way we will generate the resources to make investments in R&D and investments for the utilization of that R&D. This is the only route to maintaining our technical health, competitive position and favorable prospects for the rest of the 80's.

In the R&D area, I believe that Government does have a proper role in supporting fundamental studies which bear on the general needs of industry and to encourage efficient, intercompany, cooperative research on generic problems. As an example, I mention the need for data regarding mechanical and physical properties of materials at or near the melting point. This is the kind of information that would be very useful for people trying to develop a strip casting process and, perhaps, various forms of high-temperature, powder-compaction processes. Cooperative R&D on environmental problems is another area where Government could be helpful. We need recognition by the Government that capital generation and capital availability are vital requirements for the utilization of technologies in such capital-intensive industries as ours. Technology moves quickly throughout the world today, and those with the capital to install that new technology will be those who become the technological leaders in the production of specialty steels.

In closing, may I read a description of the specialty steel industry given November 16, 1982: "The speciality steel industry is an efficient, technologically up-to-date and export-oriented branch of the steel industry. Its output is used in a wide range of demanding applications critical to an industrial economy."

These were the words of President Reagan following an in-depth, 2-year study of our industry. They were true then. They are true still. And, we and our people are determined to keep them true in the future. With your support in fostering research, in sharpening trade-law enforcement, and in strengthening our basic economy, we can succeed.

Again, let me say that I appreciate the opportunity to share some of my thoughts with you today, and I hope this brief presentation has been helpful to your understanding our specialty steel industry.

SUMMARY OF PRESENTATION TO STEEL CAUCUS

Current Status in Industry: There has been a tremendous decrease in industrial research and development in the steel industry with less than half the number of people involved as compared with only five years ago. For example, at U.S. Steel the number of people was approximately 1500 in 1975, 1000 in 1980 and only 300 in 1985 in research. In some companies the cuts have been less drastic. Long term and basic research from which new technologies involve is almost nonexistent in industry at this time.

The government has never been a major sponsor of industrial research in steelmaking. The major exception would be the DOE thin slab casting project.

The government has never been a major sponsor of industrial research in steelmaking. The major exception would be the DOE thin slab casting project.

Current Status in Universities: University research in steelmaking is extremely small compared with other areas. Five years ago, AISI sponsored about $1M in research, for 1986-87 it will only be around $400,000. N.S.F., through the Engineering Directorate, sponsors about $1M and two Industry University Cooperative Centers at $125,000 each. These figures are extremely small compared to other areas. The Materials Directorate of N.S.F. sponsors 14MRL at $1.5M each and 5 "mini centers" at $500,000. The total budget on Materials is over $100M as compared to $1M in steelmaking. The Steel Centers should receive at least $500,000 per year from N.S.F. to have a major impact. A brochure describing the Center at Carnegie-Mellon is attached.

Improvements for Industrial Research: The government should allow and sponsor collaborative research by the industry; the individual companies cannot afford the high cost of some projects and collaboration is the only way. The "steel initiative" is a good example. The committee, which I am a member of, has put together research programs that are relevant and viable. They should also help sponsor other projects, such as, the K R demonstration program out of the DOE Clean Coal program.

There are industrial collaborative research efforts which have been coordinated by AISI and CMP(EPRI). The university Centers are also a form of collaborative research. The industy should consider taking these efforts a step further and explore the possibility of a national steelmaking research center. This center would be supported by all the companies doing research on problems and processes of mutual interest. The development and organization of such a center will not be easy but it may be the best answer for the long term problem of research in the industry and the government could aid in it's development.

Improvements in University Research: In order to do any long term basic research and train the personnel for a technically advanced steel industry, the government should support more university research.

1. At least double the individual grant program at N.S.F. to $2M per year.

2. Increase the N.S.F. funding at the existing Steel (Colorado School of Mines) and Steelmaking (Carnegie-Mellon University) Centers to at least $500,000. These Centers have signficant industrial backing and input. For example, at C-MU there are fourteen member companies contributing a total of about $280,000 per year which insures the programs that are truly relevant to the industry.

3. N.S.F. should consider additional Industry-University Centers. Possible areas include casting and computer aided manufacturers.

THE PROMISE OF A FUTURE IN GUATEMALA

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. GARCIA. Mr. Speaker, the Sunday edition of the New York Times ran two excellent articles on Guatemala, a nation which recently elected its first civilian ruler in 15 years.

Today, President-elect Marco Vinicio Cerezo Arevalo of Guatemala is visiting the United States as part of a goodwill tour he is making before his January 14 inauguration. While Guatemala has had a difficult history with respect to human rights in particular, and democratic principles in general, it is important that Mr. Cerezo is given a chance to establish democracy in his country. The building of democracy is part of a process. It does not hinge on a single event. As Mr. Cerezo has so clearly stated, we too stand to loose if democracy fails in Guatemala. It is, therefore, in our interest to help him, as long as we believe in his ability to achieve democracy in Guatemala.

Mr. Cerezo has asked that we give him time. That is the least we can do for him. I commend the two New York Times articles to my colleagues.

[The New York Times, Dec. 15, 1985]

GIVE GUATEMALA A CHANCE

(By J. Michael Luhan

SAN SALVADOR.—It isn't often that we hear good news from Guatemala. But the result of the election last week are exactly that—a glimpse of what may be the first genuine democratic opening in that tortured country since the Central Intelligence Agency toppled its last legitimate Government, in 1954.

One night in 1982, I was asked as a favor to deliver some documents to a residence in Bethesda, Md. Waiting for me on the front lawn was a small, haggard-looking man clad in dirty tennis shorts and T-shirt. When I pulled up at curbside, he emerged from the darkness of the shrubbery. Taking the documents, he asked that I tell no one the location of the house, for the sake of his family's safety.

Next month, that man, Marco Vinicio Cerezo Arevalo, will become the democratically elected civilian president of Guatemala. The dramatic change in his fortunes, from the hunted prey of his right-wing enemies to their constitutional chief, is the result of his own personal courage and a complex set of fortuitous circumstances.

The opening that led to his election is a slim one, indeed, with the pressures of economic collapse and a trigger-happy Guatemalan Army ready to seal it shut again. But Guatemalans are greeting the change with considerable hope, and for that reason it deserves the support of Guatemala's democratic allies.

I spent election day in a rural farm town that traditionally had been an electoral base for the National Liberation Movement, the right-wing group that calls itself the "party of organized violence." Last week, Mr. Cerezo's Christian Democratic Party swept the district.

What made its campaign a success? My Indian friends said it was the sickening violence, directed by the army, that had turned the town into a graveyard between 1980 and 1982—violence cheered on by the National Liberation Movement and its anti-Communist pronouncements. One Indian explained: "It's better to have a lawyer than a general as president, someone who understands the laws, who respects life."

One of the most important changes will involve the large labor organization that supported Mr. Cerezo's candidacy. For the first time in decades, the labor minister, who will probably come from this organization, will not be expected to betray the labor movement, and there is hope for a progressive new labor code.

On election night, as Mr. Cerezo's 70 percent victory margin was coming into focus, a social democratic intellectual appeared on Guatemalan television and hailed the results. In April, this man was in exile. Now, he is founding a new party of the left.

In 1980, Mr. Cerezo himself astonished Guatemalans by returning from the United States. Before he left, he had decried the violence of the Guatemalan Government in a press conference in Washington. It was taken as his swan song, for he had committed the cardinal sin of Guatemalan politics—showing its dirty laundry in public. Death nearly embraced him several weeks later in Guatemala in a hail of bullets from a passing police car. He miraculously survived—and, with him, Guatemala's frail hopes for civility.

Civility is a long way off—but it is now at least a dream. The local guerrillas have proved inept at changing the status quo by force, but the military has been unable to crush them, even with 30 years of unbridled violence. The business community, a longtime ally of the violent right, has pragmatically decided that violence and corrupt dictatorship are bad for business. The businessmen played a key role in turning the generals out.

What remains is a country struggling to emerging from chaos, and numbing violence that has taken the lives of 50,000 people since 1978.

The Reagan Administration must recognize how narrow and treacherous Mr. Cerezo's path will be. Washington must not force him to entangle himself in a regional conflict. It should not press him with unneeded military aid or urge him to adopt economic policies punishing to his country's poor. Nor should it burden him with an ambassador who cares more about President Reagan's ideology than Mr. Cerezo's perilous reality.

Guatemala deserves better. President Reagan, give President Cerezo a break. Let him decide, with your faith in him and your help, what Guatemala's destiny is to be.

[The New York Times, Dec. 15, 1985]

When a Landslide Is Not a Mandate

(By Stephen Kinzer)

Guatemala—Even with a landslide victory in last week's presidential election, Marco Vinicio Cerezo Arévalo must tread a fine line. He recognizes what he has called "the tremendous injustices" in Guatemala life. Yet he is also aware that his freedom to do something about them will be restricted not only by the country's faltering economy but also by the desire of some traditionally powerful people—particularly military officers, conservative businessmen and large landowners—to maintain a system that has brought them wealth and influence.

During the campaign, Mr. Cerezo carefully worded his proposals to convey a desire for change without unduly alarming his adversaries. He said, for example, that he favored "concerted development" rather than land reform, and that he would be willing to hold "conversations," but not dialogues, with Marxist insurgents. "Certain terms," he explained, "produce an emotional response in this country."

Although he will not be inaugurated for a month, Mr. Cerezo has disclosed his thinking on the critical issue of land tenure. He said he would not seek to confiscate or even to buy land from families that own huge estates, but at his first news conference as President-elect he announced a proposal that might have a similar effect: a new tax on unused land. Many wealthy owners use only part of their sprawling plantations, allowing vast areas to lie fallow. If the new Congress approves a heavy tax on such land, some owners could be forced to sell part of their holdings or allow peasants to lease them. The measure would also represent the first serious attempt in years to force landowners to pay their share of taxes, itself a radical departure in Guatemalan politics.

The proposal was the first step in what is likely to be an extended minuet between Mr. Cerezo's reformist Government and the entrenched centers of power. Guatemala's extremes of wealth and poverty are most visible in rural areas, where hundreds of thousands of workers migrate with the seasons, following the coffee and cotton harvests. In the past, landowners have opposed measures that would give peasants their own land for fear many would drop out of the migrant labor force. But experts say no substantial progress can be made against poverty as long as no land is available for the 75 percent of the population that, according to Mr. Cerezo's figures, live without access to life's basic necessities.

Several weeks before the election, Mr. Cerezo held a private meeting with some of the country's most recalcitrant businessmen and landowners. "He said he didn't like the landowners and had no use for them," said one businessman who was present. "He said he knew they felt the same way about him. But he said we all needed each other at this moment, and he appealed for an attitude of understanding."

And the new President must worry about more than the fears of the rich. He is assuming leadership of a country in which nearly half the people are illiterate and two-thirds have no access to safe drinking water. The problems of health care and housing are acute. He was elected to bring change, and many Guatemalans will be disillusioned if he moves too cautiously. "He is going to have to take the interests of the private sector into account," said Leonel Sisniega Otero, a rightist politician, "and that will undoubtedly cause problems with members of his own party."

In addition, to the needs of landless peasants, Mr. Cerezo will face rising demands from the urban poor. Many work in factories for subsistence level wages, and labor organizing has been punished with dismissal or worse. Mr. Cerezo said last week that he would allow unions to organize and would not repress strikes, both radical departures in a country where, according to Christian Democratic figures, only 211 collective bargaining agreements have been signed in 50 years.

Because salaries have been held very low despite surging inflation, some fear an outbreak of labor protests soon after the inauguration. "I hope the schoolteachers and other workers will take a reasonable attitude," the President-elect said. "They have to realize that they can't kill the goose before it starts laying eggs."

As he searched for allies, Mr. Cerezo could not help but be encouraged by the support of the man he defeated at the polls, Jorge Carpio Nicolle, whose National Union of the Center will hold the second largest bloc of votes in the new Congress. "We know that our role is to be in the vanguard of defending the new democratic system," Mr. Carpio said after conceding defeat.

The outgoing chief of State, General Oscar Mejía Víctores, has also wished the civilian Government well. He says he does not object to Mr. Cerezo's plan to disband the feared Technicial Investigations Directorate, which has been accused of involvement in political kidnapping and torture. He hinted, however, that officers would continue to follow political developments with interest.

"I am not God," Mr. Cerezo warned after his victory, "and I am not going to perform miracles in this country." The new leader went on to say that he was taking at face value the army's pledges not to obstruct his Government. "If I finish my term, it will be because they obeyed," he told reporters, "and if I do not, it will be because they did not obey, in which case we will talk in Miami."

LABOR IN SOUTH AFRICA

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. RANGEL. Mr. Speaker, I rise to bring the plight of South Africa's unions to the attention of my colleagues.

The freedom of association is a privilege which many Americans take for granted. Our workers are permitted to choose whether they wish to be represented by a union, or whether they wish to maintain an open shop. This choice is made without government harassment, and is protected by Federal statute.

South African workers do not enjoy this privilege. They live in a country which officially suppresses any expression of opposition to the status quo. Black miners who are building a growing union movement are closely watched by the government, and many have been arrested for their antiapartheid sentiments. However, this National Union of Mineworkers continues to grow rapidly. As its strength grows, so does its influence. Considering that the vast majority of workers are black, it is very likely that the trade union movement will soon be at the forefront of the freedom movement.

Mr. Speaker, we must understand that freedom will come to South Africa. Time is running out for apartheid, and leaders who advocate change are being heard more and more by young activists. A truly free labor movement would be a gigantic step in the right direction. We must encourage them if we are to bring about a peaceful demise of apartheid.

I would like to submit the following article for inclusion in the CONGRESSIONAL RECORD. It was written by William Lucy, the International Secretary-Treasurer of AFSCME. I urge my colleagues to read it closely.

Links of Freedom

(By William Lucy)

The Free South Africa Movement is making "Voodoo II"—the second term sequel of Ronald Reagan's presidency—anything but a re-run. That's bad news for the government in Pretoria, which has found refuge in the administration's southern Africa policy of "constructive engagement." It's bad news too for companies and banks that exploit cheap black labor in South Africa but say they abhor the social system of legalized discrimination that makes their fat profit margins possible. But it's good news in the townships, in the squatter camps, in the mines and in the schools of South Africa, where the institutions of apartheid are most oppressive and most despised.

Reverberations of the Free South Afica Movement have also reached the black trade unions in that county. Very appropriate, because it was the arrest and detention of twenty-one black South African trade union leaders last November that ignited the mass public demonstrations in the U.S. against both apartheid and the administration's policy in the region.

In an era of single issue campaigns, the Free South Africa Movement is not just another "cause." It is a direct and creative political tactic, one rooted in the long tradition of conscientious dissent. The Free South Africa Movement has been an antidote for the state of political comatose that has threatened to seize the opponents of a teflon President. It has recruited new cadres of activists and inspired veterans in all other movements for social change in the U.S.

Perhaps the Free South Africa Movement's most valuable contribution has been to focus national and local attention on the shameless bankruptcy of American foreign policy toward people of color who are fighting for peace and their right to self determination. But once again, the administration has tried to walk away from its own policy failure, this time by closing the American liaison office in the Namibian capital of Windhoek, which was set up to monitor the South African troop withdrawal from Angola

But U.S. policy in Southern Africa is being regularly exposed to an American audience that is repulsed by what is sees as ugly flashbacks to the days of Bull Conner, to the days when black American citizens were routinely beaten, tortured, murdered, jailed and denied their civil rights. One opinion poll has found that nearly 41 million adults who know about the daily demonstrations in front of the South African embassy supported them. Divestment campaigns have mushroomed throughout the country, buoyed by this groundswell of opposition to aparthied and our own government's cozy relationship with such a racist and undemocratic regime.

This upsurge clashes with those who believe that apartheid can and is, indeed, withering away. Some paternalistically point to the alleged harm that disinvestment by U.S. companies operating in South Africa would have on black workers there. Better to rely on economic growth or the Sullivan Principles, or more unions for black workers. Better for black South African unionists and workers to stick solely to economic reform, leaving the racist social order of apartheid intact. This kind of strategy is both reactionary and untenable, and merely serves to camouflage support for an unjust and oppressive status quo. It is also being articulated at a time when black South African workers and their unions have emerged as a strategic and unified political force, one increasingly empowered to cripple or shut down the economy. The Two Day Stay Away, which was organized last November in less than a week by a coalition of trade unions, student groups and community and political groups, paralyzed South Africa's industrial heartland. This explicitly political strike drew the support of one million workers, even though union members number only about 300,000.

The working class movement in South Africa now has reached the point where black unions have grown five times more rapidly than white unions since the government was forced to offer limited recognition to black unions in 1979. The fact is that the entire South African economy would collapse if all black workers were to go on strike for about three days. The leadership role of black trade unions, therefore, is critical. It is also the reason why more than 400 black trade unionists were detained by South African authorities between 1981 and 1983.

But it is too late. Our union brothers and sisters are already clutching the jugular vein of the South African economy: the mineral-rich sector. Only seven weeks before the 5-6 November 1984 general strike, the National Union of Mineworkers (NUM) shook the industry and the government to their roots, with the first legal strike by black mineworkers in South African history. Although the strike was settled within three days—after seven miners were killed, 500 injured and mine property worth millions of dollars destroyed—the tremor remains alive.

Nearly 40 percent of South Africa's GNP is derived from foreign trade, gold accounts for about 50 percent of the nation's export earnings, and the mining sector is by far the largest single source of government tax revenues. The fact that black mineworkers' wages average only one-sixth ($160 per month) of white workers' wages may—just may—have something to do with this profit bonanza.

But then there is the other side of the ledger. The NUM, which was formed only three years ago, represented four percent of the mining workforce in 1983. Last year that percentage shot up five-fold to 20 percent of South Africa's half million black miners.

Under the banner of the Free South Africa Movement, organized labor in the U.S. will continue to step-up its anti-apartheid campaign. Since day one when this movement began, organized labor has grown with it, marched in it and celebrated each blow struck for freedom and self-determination in South Africa.

Apartheid is seen as an enemy of American workers. Strategic minerals imported from South Africa help satiate the Pentagon's nuclear weapons orgy, while social programs are strangled to death. South African steel imports have been increasing 5,000 percent in the last ten years, while hundreds of thousands of American steelworkers have been especially hard hit by apartheid exports. A major study by Steelworkers Local 65 in Chicago found that 30 percent of the white former steelworkers laid off from U.S. Steel Corporation's South Works plant in 1979 are still unemployed; among black workers the rate of joblessness is at 61 percent after five years. This tragedy is even more bitter because the South Works plant produces steel beams identical to those imported from South Africa to construct a new state building in Chicago—in their city and paid for with their state tax dollars.

Thus, as the spotlight of anti-apartheid resistance sprays out from the success of the Free South Africa Movement, the American labor community will continue to bring to light to its members the deep connections between the fight against Reagan's "constructive engagement" foreign policy and his anti-worker policies at home, and the fight for freedom and self-determination in South Africa.

Yet our responsibility is much, much greater than our economic self-interests. We must be equal to the challenge of upholding our own integrity. The ripened wisdom of the late Amilcar Cabral must serve as our mandate. It was he who said: ". . . In the modern world, to support those who are suffering and fighting for their liberation, it is not necessary to be courageous; it is enough to be honest."

NEW TRADE AGREEMENT WITH CHINA

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. BONKER. Mr. Speaker, just over 2 years ago, I stood before this body to commend the executive branch's then-new guidelines for exports of advanced technology to the People's Republic of China. Today, I again rise to commend the executive branch for its most recent efforts to liberalize trade with the People's Republic of China. Yesterday, Secretary Baldrige announced a new multilateral agreement on exports of certain high technology exports to the People's Republic of China. After 10 months of negotiations with our allies in the Coordinating Committee on Multilateral Export Controls [Cocom], agreement has finally been reached on a new set of procedures which will eliminate multilateral and interagency review for up to 75 percent of all United States exports to the People's Republic of China.

As many Members will recall, the export control policy announced in November 1983 transferred China from a restrictive export control country group to a less restrictive group composed of other friendly, nonaligned nations, and established a three-tiered technology zone system to guide licensing decisions in seven commodity control list categories. While the 1983 policy helped to expedite United States consideration of export licenses, problems within Cocom have steadily grown, due in large part to the tremendous increase in the number of China cases. Exporters routinely experience delays in excess of 6 to 9 months, which frustrates United States businessmen and Chinese customers, hinders the growth of United States-China trade, and creates friction in United States-China relations. At a time of burgeoning trade deficits, the United States can ill afford delays in export license approvals, particularly to an export market such as China, which was worth almost $6 billion in 1985.

Confronted with these excessive delays, the Commerce Department initiated multilateral discussions in February on ways to expedite China case processing. An agreement among Cocom members was tentatively reached this fall, fully approved last week, and made effective as of December 15. The new procedures would expedite exports to the People's Republic of China by eliminating Cocom review for export licenses falling within the new technical boundaries in 27 commodity control list categories, and by requiring only postshipment notification. Among the CCL categories covered by the new agreement are computers, machine tools, fiber optics, telecommunications switching equipment, ocilliscopes, semiconductor manufacturing equipment, and electronic instruments. Commerce Department officials estimate that over 75 percent of the exports which previously required multilateral and interagency review will now receive expedited U.S. consideration. Those applications falling within the new technical parameters should be processed by the Department of Commerce within 30 days.

The agreement requires that a Chinese end-user certificate accompany each export license application. The administration announced yesterday that the Technology Import/Export Bureau of the People's Republic of China Ministry of Foreign Economic Relations and Trade [MOFERT] will issue and validate end-user certificates, and in fact already has an end-user certificate program in place. While the new licensing procedures are effective now, a cutoff date of February 15, 1986, has been established, after which all new license applications to the People's Republic of China falling within the agreement's parameters, must be accompanied by Chinese end-user certificates. Commerce Department officials announced that export administration regulations specifying the details of the new guidelines and indicating interim procedures will be published later this week.

Mr. Speaker, I applaud the long hours of negotiations devoted to this effort by the Departments of Commerce, State, Defense, the Joint Chiefs of Staff, and others. The new Cocom agreement represents a much-needed step forward in expediting export license applications to the People's Republic of China for certain adavanced technology, while maintaining careful procedures for reviewing, and possibly denying, items which may present national security risks. I am encouraged by this new agreement, and hope that it serves as further inducement for the U.S. companies to market their products in China. I urge my colleagues to bring this new policy to the attention of their high technology constituents.

FOREIGN INVESTMENT COMPANY PROVISIONS CONTAINED IN SECTION 625 OF H.R. 3838

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. CRANE. Mr. Speaker, I would like to express my concern over the Foreign Investment Company [FIC] provisions contained in the foreign tax provisions, section 625 of H.R. 3838, the Tax Reform Act of 1985. These provisions will have potentially severe impact on the extension of U.S. business activity abroad, and can be interpreted to penalize legitimate investments abroad which do not involve abuses or evasion of taxation. Further, a number of the foreign provisions contained in H.R. 3838, including the FIC provisions, were adopted by the Ways and Means Committee with no public participation or comment. Indeed, neither the President's proposals nor the earlier Treasury Department recommendations to the President contained these provisions. Such a procedure raises important concerns about the fairness of the tax reform process not to mention the wisdom of these provisions.

Prior to September 26, when the Ways and Means Committee went into closed session, there had been no proposal to modify the current FIC provisions. However, among the options placed before the committee at that time was a drastic departure in current tax policy governing the taxation of FIC's. This change, as well as other options in the foreign tax area, was not among those changes proposed by either the President or the Treasury Department. Most importantly, this proposal was never the subject of public hearings. The Ways and Means Committee ultimately adopted this proposal in modified form.

The proposed new FIC provisions would require U.S. investors in a FIC to recognize currently their portion of the annual earnings and profits of the FIC, regardless of the fact that they have not received a dividend from the FIC and are not in a position to compel the FIC to declare a dividend. Stated differently, this proposal would radically alter current tax policy by penalizing U.S. investors for undistributed earnings and profits in situations in which they cannot, as a group, compel distributions of those profits. They are thus faced with the unwelcome prospect of paying tax on income they have not received.

The proposed FIC provisions purport to ameliorate the unfairness of this requirement by permitting payment ot tax to be deferred—provided a penalty, in the form of interest, is paid. The Ways and Means Committee itself recognized this unfairness in their report at page 409. However, the purpose of this tax reform effort was not to create unfairness and then ameliorate it, but rather, to make the tax system fairer than it was before. On this measure, alone, the changes proposed by the committee in the treatment of investments in FIC's should be rejected.

A taxpayer should not be required to pay tax on imputed income which he doesn't receive and which he couldn't compel to be paid to him. Present law concerning FIC's is premised on the concept that the U.S. taxpayer is using a foreign corporation to defer current taxation of the income from his overseas business operations. Accordingly, it is appropriate to tax such deferred income as though it were constructively received as dividends, on the theory that the taxpayer could have compelled the payment of dividends and, instead, used his control over the foreign corporation to avoid such payment.

However, where the U.S. taxpayer does not have, either alone or with other U.S. taxpayers, the ability to compel dividend payments, it is fundamentally inequitable to, in effect, penalize him for not doing something he cannot do, that is compel dividend payments. The taxpayer is forced to pay tax without the ability to compel the income with which to pay the tax, thus violating the ability to pay principle.

Congress wrestled with this problem when it drafted the current subpart F rules in 1961 and 1962. The Treasury Department initially proposed that U.S. shareholders of foreign corporations be taxed currently on undistributed earnings of foreign corporations, regardless of the extent of U.S. ownership. The Committee on Ways and Means rejected this approach as overreaching. An important memorandum prepared by the staff of the Joint Committee on Taxation for members of the Ways and Means Committee on this fundamental question noted that such a proposal raises certain basic questions as to whether or not the shareholder has income within the meaning of the 16th amendment when he has received nothing and does not have the right and power to demand payment.[1]

The staff memorandum concluded that there was serious constitutional problems with the proposal and, accordingly, adopted the view that only if the U.S. shareholders possessed the power to declare a dividend would there be any basis for taxing them on undistributed income of a foreign corporation. The FIC provisions as enacted, and as contained in present law, reflect this conclusion and subject the taxpayer to dividend taxation only where the shareholders who are U.S. taxpayers have the power to require payment of dividends via ownership of at least 50 percent control of the FIC.

The proposed FIC provisions would violate the long standing ability to pay principle and would raise the same constitutional issues today as in 1961 and 1962. Accordingly, this aspect of the proposed provisions needs to be explored thoroughly before any precipitate action is taken in the name of tax reform, especially where such reform might be unconstitutional.

Nevertheless, this proposal has never been publicly examined or discussed during the process of tax reform. When the Committee on Ways and Means held hearings on proposals to reform the foreign tax provisions of the Code on July 11 and 12, 1985, none of the testimony given, or the statements presented to the committee, touched on this proposal. There was no reason to, inasmuch as no one, including the Ways and Means Committee itself, has been apprised of this tax reform. Accordingly, though it would appear that major initiatives to sell U.S. financial services abroad would be severely compromised by this proposal, there was no opportunity for the committee to develop facts to support the proposed change. Simply put, this proposal may have negative impacts on U.S. competitiveness abroad, and be deleterious to our economy. But the committee had no way of determining such facts.

The foregoing changes in the FIC rules are radical changes in current tax policy that have not been subject to the full consideration and debate necessary to determine the wisdom of adopting them. Such full consideration is critical to effective legislation, and, particularly where the tax law is concerned, is necessary to preserve public confidence in our tax system.

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[1] Hearings on the Tax Recommendations of the President Contained in His Message Transmitted to Congress Before the House Committee on Ways and Means, 87th Cong., 1st Sess., Vol. 1, p. 311 (1961). Hearings and the critical Joint Committee Staff memo are attached hereto.

Clearly, this House should consider carefully whether to adopt a measure as poorly and thoughtlessly crafted as is the bill proposed by the Ways and Means Committee. It is not enough to say that such deficiencies can be cured in the Senate. It is our responsibility to accept or reject this measure as it is now, for it may well become law, notwithstanding the wisdom of our Senate colleagues.

HOUSE PASSES STRONG SUPERFUND REAUTHORIZATION

HON. JAMES T. BROYHILL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. BROYHILL. Mr. Speaker, on Tuesday, December 10, the House moved boldly forward to ensure that the American people are protected from the dangers posed by hazardous waste dump sites. We did this by passing H.R. 2817, the Superfund Amendments of 1985, by a vote of 391 to 33. This bill, of which I was an original cosponsor, greatly expands and strengthens the Superfund Program while reauthorizing the effort for 5 years at a level of $10 billion, a six-fold increase over current levels.

Mr. Speaker, a thorough review of this legislation demonstrates why the legislation was approved so decisively by the House. H.R. 2817 creates uniform cleanup standards and places emphasis on permanent solutions to eliminate the toxic characteristics of waste. The bill allows States to impose more stringent State standards during cleanup. It also creates a workable settlement policy which will encourage private parties to step forward and clean up waste sites rather than tying the program up endlessly in the courts.

The bill expands opportunities for citizens to obtain technical information about site health risks and response action plans, to participate in the decisionmaking process, and to challenge certain EPA decisions regarding cleanup plans. Furthermore, it establishes a program and fund to address leaking underground storage tanks. Finally, the bill establishes a new and effective program to ensure that our citizens are aware of the presence of dangerous chemicals in their communities and the hazards associated with those chemicals, as well as a program to ensure that localities can respond to chemical emergencies in a timely fashion.

Mr. Speaker, my only regret with regard to this legislation is that the House adopted an amendment offered by our colleague from Pennsylvania which would require anyone who manufactures, uses or stores chemicals to report any "release" of that chemical on an annual basis. The Administrator of EPA tells us that this amendment could force most of our small businesses, hospitals, schools and farmers to file emissions inventories, and that for most, it will be extremely difficult or impossible to do this. H.R. 2817 contains a 2-year pilot project to determine if such inventories can be compiled efficiently and to determine if there would be a commensurate benefit. We should wait for the results of this pilot project before we impose such a requirement on our Nation's small businesses. It is my hope that this amendment will be altered in the House-Senate conference on Superfund.

Regardless of this, Mr. Speaker, I believe that the House has passed a comprehensive Superfund reauthorization bill that strengthens our Nation's program to clean up hazardous waste dump sites. I hope that we can move quickly to conference with the Senate and place a bill on the President's desk as soon as possible.

CREATION OF INTERNATIONAL LAW COMMISSION

HON. MARVIN LEATH

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. LEATH of Texas. Mr. Speaker, last week amid all the furor of the Congress seeking to finish business and recess, a little-noticed event occurred which should be brought to the attention of my colleagues. A distinguished group of international legal specialists announced here in Washington the creation of an Independent Commission on Respect for International Law to monitor the actions of relevant governments regarding the rule of law. Under the leadership of Dr. Burns Weston of the University of Iowa and with such eminent legal scholars as our former colleague Father Robert F. Drinan of Georgetown University and Richard A. Falk of Princeton University, the new Commission is well qualified to examine international relations from an international law perspective and help to clarify these issues for the public in the United States and abroad.

I believe that the two most fundamental issues of world politics today are, in the first instance, how we contain and constrain weapons of mass destruction, and in the second, how we can best advance the rule of law. It is my hope that the formation of the Independent Commission on International Law will play a key role in the achievement of this second objective.

TURKEY AND FRESNO STATE

HON. RICHARD H. LEHMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. LEHMAN of California. Mr. Speaker, I would like to share with the House of Representatives this commendable editorial from the McClatchy News Service which publishes three California newspapers, the Fresno Bee, Modesto Bee, and Sacramento Bee. The comments expressed in this editorial shed light on the discriminating and misconstrued attacks against the Armenian community by Turks committed to bury the issue of the Armenian Genocide—forever.

TURKEY AND FRESNO STATE

The siege mentality of the Turkish government on the subject of the massacres of Armenians during World War I was detailed faithfully in an article about Fresno State University in a mass-circulation Istanbul newspaper.

The article, as reported in The Bee, accused Gov. Deukmejian of "introducing Armenian terrorism in universities." Exhibit A was Fresno State's Armenian studies program, in which Professor Dickran Kouymjian, according to the Turkish newspaper, "speaks about Armenian rights and tries to justify the murder of Turkish diplomats by Armenian terrorist organizations." There was more, all of it unfair and distorted.

The question was raised whether The Bee should have carried news about such a mendacious article, thereby perhaps enhancing its impact. However, the report, carried in Turkey's largest daily, is worth review and comment for two reasons:

First, it gives discouraging proof of the lasting power of the official Turkish line on the massacres—the revisionist history that rejects the whole idea that calculated massacres occurred, and claims that efforts by Armenians around the world to keep the memory green are provocative and vengeful.

It's the same defensive that the U.S. State Department panders to by opposing attempts to memorialize the massacres by congressional resolution.

The rationale is that we shouldn't ruffle our Turkish allies by reminding them of an unpleasant episode from that nation's past. This official Turkish failure to acknowledge what is demonstrably true compounds the anguish of those who remember, and their descendants.

The acts of a murderous few who invoke the grievances of Armenians give the Turkish government an excuse for claiming that all references to the massacres and the need for remembrance just give terror a protective cloak.

That a major organ of Turksh news and opinion is singling out Fresno State while peddling this line is disheartening and outrageous, but it's worth knowing about.

Which brings up the second point. The newspaper's accusation underlines how the terrorist fringe holds Armenians hostage. All but a handful reject violence unequivocally; they just want the redress of remembrance. Yet the chance of Turkey's setting the record straight, slight as it may be, is diminished further each time the killers kill and Turkish paranoia grows.

So what are Armenians in the disaspora to do? They can't be immobilized by the terror, they can't retreat to muteness about the need for remembrance. Academics like Kouymjian should not be intimidated: They have a right to explore all aspects of Armenian-Turkish relations, including the roots of violence.

The only response is to continue to call for what's right—but at the same time to condemn violence clearly and repeatedly and to isolate the killers in every way possible. Some members of the Armenian community find this insulting and gratuitous: Why should they have to keep declaring that good ends don't justify violent means?

It's hard to answer that. But it's one of the pernicious effects of terrorism—good people who may share some of the terrorists' stated goals have to keep taking their distance from any evil that is done to achieve those goals.

TRANE CO. TO PRODUCE A NEW STATE OF THE ART LINE OF AIR-CONDITIONERS IN TYLER, TX

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. HALL of Texas. Mr. Speaker, at this time when new technology is needed to bolster the economy, the Trane Co. a leading supplier of air-condition products, will spend more than $43 million over the next 2 years to develop and manufacture a new line of residential central air-conditioning products at their Tyler, TX, facility; $36 million will go toward the purchase of high-technology, state-of-the-art production equipment for improved design and manufacture of compressors and cabinet configuration for the new product line and more than $7 million will be spent for engineering design and development and on a marketing introduction plan for the new line of products.

This project, called BolDesign, will introduce into the marketplace a totally new line of residential central air-conditioners ranging from 1 through 6 tons of capacity. Advantages of the BolDesign are improved design standardization, faster turnaround of inventories, shorter engineering redesign time and greater ease of servicing Trane products.

If we are going to address the deficit constructively, we have to do it through productivity. I laud the efforts of the Trane Co. in Tyler. TX, and look forward to a successful operation.

AN EXTRAORDINARY ACT OF HEROISM

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. LANTOS. Mr. Speaker, I would like to bring to the attention of my colleagues an act of extraordinary heroism—one man's fight against violence and desecration of religious buildings and sacred objects.

On Saturday December 7, Buzz Cody, the 55-year-old sexton of Congregation Emanu-El B'Ne Jeshurun in Milwaukee, was beaten and burned with a caustic chemical after he refused to turn over the temple's holy scrolls to three vicious hoodlums.

This brave and extraordinary man now lies in a hospital suffering from second-degree burns, which he received when he was assaulted by these vandals. Buzz Cody refused to comply with the assailants demand that he open the holy ark where the sacred Torahs were kept. The terrorists punched, kicked and burned him, cut him on one hand with a sharp instrument, tied and gagged him and then dragged him into a storage room. He was found there by a janitor many hours later.

The Rabbi of the synagogue, Rabbi Francis Barry Sillberg, described Buzz Cody's amazing courage: "He (Buzz Cody) was willing to sacrifice himself for his duty. This is an extraordinary, noble thing. In my view this is the supreme sacrifice a human being can make, to refuse to allow the scrolls of the Torah or any sacred object to be desecrated."

Mr. Speaker, all of us who are concerned with freedom of religious belief can never condone such examples of bigotry, intollerance, and violence. Mr. Cody risked his life to preserve these religious objects. Men of such courage are too rare today. I am certain that my colleagues in this House share my outrage at such appalling acts of religious intolerance and vandalism. And I am equally certain that they join me in praising and commending the courage and bravery of Buzz Cody.

TRIBUTE TO WILLIAM H. VILLINES, JR.

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. HUBBARD. Mr. Speaker, today I would like to pay tribute to William H. Villines, Jr., of Benton KY, who died Wednesday, December 4, 1985, at the age of 66 years.

"Keg" Villines was a longtime, close friend of mine and was indeed a dear friend to many in western Kentucky. A retired electrician and a veteran of World War II, he was a very active member of several organizations throughout western Kentucky, including the Symsonia Masonic Lodge No. 917, the Scottish and York rites, Rizpah Shrine Temple of Madisonville, Veterans of Foreign Wars Post No. 5484 in Providence, and the Benton Veterans of Foreign Wars Post.

"Keg" Villines was very helpful to me in my campaigns for State senator in Kentucky and for the U.S. House of Representatives.

He is survived by his wife, Mrs. Virginia Villines; a daughter, Barbara Blagg of Benton; four sons, Chris Villines, the mayor Providence, KY., Herbie K. Villines of Alameda, CA, Wiliam H. Vilines III of Benton, and Roy H. Villines of Norris City, IL, a brother, Melvin Villines of Gilbertsville, KY.; four sisters, Watseka Archibald of Middletown, KY., Nevelyn Fritz of Providence, KY., Roberta Johnson of Evansville, ID, and Sue Villines of Henderson, KY., and seven grandchildren.

I join with the many friends of this outstanding Kentuckian in extending my sympathy to the family of William H. Villines, Jr.

A LOOK AT PRESIDENT ALFONSIN

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1985

Mr. GARCIA. Mr. Speaker, on Sunday, the New York Times Magazine ran a story on President Raul Alfonsin of Argentina. Since taking office, President Alfonsin and his government have stood as symbols of the democratic renaissance of Latin America.

He has successfully brought to trial former military leaders in his country. He is making a concerted effort to deal with his nation's considerable economic problems. But perhaps most important, he is working to institutionalize democracy in Argentina. This is no small feat when one considers the state of affairs in Argentina a few short years ago.

I am submitting the Times Magazine article for the RECORD.

ALFONSIN'S ONE-MAN SHOW

(By Lydia Chavez)

One recent morning, President Raul Alfonsin of Argentina sat in a cramped, book-lined study at the 93-acre presidential compound in a suburb of Buenos Aires to talk about his first two years in office. The 58-year-old leader was thinner and more relaxed than he was a year ago. Up at 7 A.M., he had already read the newspapers and held a long meeting with Dante Caputo, his Foreign Minister. Technicians worked outside setting up cameras for the arrival of some foreign guests. Mr. Alfonsin, who answers questions briefly rather than taking the opportunity to launch into a monologue, was unruffled by the activity. He spoke in the soft tone of his provincial hometown of Chascomus, rather than in the harsh, distinct accent of the capital with which most Argentines speak.

One of the more difficult moments of his presidency, he said, occurred last spring, when he spoke before 140,000 people in the Plaza de Mayo. I had a vivid memory of that evening. The crowd waved banners and chanted "Alfonsin, Alfonsin." The air smelled of barbecued sausage. The political banter was friendly, relaxed. Argentines were comfortable with being "called to the plaza." The rectangular park of green lawns in front of the pink granite presidential palace—the Casa Rosada—is the place where dictators and tyrants as well as elected civilians have all promised to take care of the people, to give them jobs.

Mr. Alfonsin appeared on the balcony. His dark suit fit badly. The usual bags under his eyes were particulary prominent. He started slowly, but picked up speed. His hands pounded the air for emphasis. The scene was so familiar that it took a moment for the crowd to comprehend what he was saying. When it did, people booed.

Instead of promising jobs, as so many before him had done, the President talked for 45 minutes about suffering, no growth and less public spending. The crowd was stunned.

"It was a difficult speech," Mr. Alfonsin acknowledged as I recalled the tension. "Especially because I was harassed. I believe that what people expect from me is sincerity, that I tell them what I think, that I do not cheat them. Therefore, there might have been some confusion that night, but then they analyzed and saw that the President does not fail them, that he really tells them what he thinks."

Mr. Alfonsin's first 24 months in office have been the most turbulent early term of office experienced by any of the many new Latin American presidents who have led their countries into democracy during the 1980's. Twice, he has gone on nationwide television to warn coup plotters against conspiring to destabilize his Government. In the last four decades, Argentine civilian presidents have been able to hold onto office for only half the six-year term. Generally, the military returned during an economic crisis. Perhaps Mr. Alfonsin's greatest advantage over his civilian predecessors is that never before in the country's history has the military been so discredited.

Mr. Alfonsin, who, according to his aides, runs basically a one-man show, has before him the daunting tasks of reversing four decades of economic instability and winning the military's backing. For now, the economic crisis has subsided, but it has done so before, only to explode again. As he searches for a long-term solution to inflation, Mr. Alfonsin must modernize the military's role. The armed forces must be brought under the wing of the new democracy—not allowed to regain its historical prestige as the alternative government. So far, Mr. Alfonsin has confronted the economic crisis by leaving the solution to his able ministers and then backing them with all the weight of his popularity. He has managed the military by asserting his control. He has yet to confront the larger issue of making the country's 80,000 troops contented participants in the new democracy.

The speech in the Plaza de Mayo was a dramatic break with the past; it was an end to the days when the Government meant secure jobs. It also represented a sharp reversal from Mr. Alfonsin's own early promises and dreams as a candidate and first-year President. Then, he vowed to improve wages and generate growth; to bring this once rich country of 30 million people out of nearly a decade of nightmarish military rule and into a democracy rich with material as well as spiritual promise.

Many times during his first two years Mr. Alfonsin's dreams have confronted an inhospitable reality. At times his response has been belated, confused or even reactionary, reaching back to the legal traditions of despots. It has never been weak. When the military refused private courts-martial for leaders, the case went to a civilian court and a public trial. When inflation raged at more than 1,000 percent, the civilian leader clamped on wage and price controls and pledged on nationwide television what no Argentine President had ever dared to promise: the Government would no longer print money unbacked by revenues. When a wave of terrorism seemed to be gaining force, he risked international criticism and imposed a state of siege.

"When he comes to terms with something, he does it," said Jacobo Timerman, the newspaper editor.

Argentina's natural resources rival those of most developed countries, and its population is highly educated, compared with other Latin American countries. Yet despite these riches, it has been more than 50 years since it has fulfilled its promise of enjoying one of the world's highest living standards. As Marcelo E. Aftalión, a sociologist and lawyer, said in an interview, the country's great natural wealth has been more of a hindrance than a help. Argentines always know they can count on the nation's rich farmland to bail them out of a crisis, he said.

Argentine history focuses on personalities and events, rather than traditions, laws or ideas. It is propelled by dramatic emotional swings. It is broadly viewed as the "Europe" of Latin America, but it is in fact not much more stable than its remote, backward northern neighbor, Bolivia. Examples of the country's emotionalism abound. When the military Government invaded the Falkland Islands in 1982, the country cheered wildly. Little more than three months later, Argentines turned against the war. Their new animosity seemed to spread like a brush fire, sociologists said. "We are led quickly from enthusiasm to disappointments because neither if founded in reason," Mr. Aftalión said. "People here believe more in magic than in reason."

The writer V.S. Naipaul has said that "Argentine political life is like the life of an ant community or an African forest tribe: full of events, full of crisis and deaths, but life is always cyclical, and the year ends as it begins."

Mr. Alfonsin, a country lawyer from the small town of Chascomus; 70 miles east of the capital, has been a master at harnessing and containing that emotionalism to lead a populist bandwagon in directions his countryment never imagined. A member of Congress, he rose to office at a time when Argentina was ready for change. The grim details of the armed forces' campaign against a group of urban guerrillas were just beginning to emerge. The debacle of the military's 1982 decision to invade the Falklands—a decision Mr. Alfonsin questioned—had left it without the authority or money to govern.

Mr. Alfonsin's credentials as a new type of leader were impeccable. He had risked his life by investigating the disappearance of many citizens. As a candidate, he boldly attacked the Peronist leaders, whose party had not lost an election in four decades, charging that they were making a pact with the military to assure their election.

Many of his early presidential speeches played to the Argentine ego and the working-class ear. The former military rulers would be tried, wages would rise, the foreign debt would be paid on easier terms, and the country's foreign policy would be sympathetic to others seeking liberation. In the last two years, however, the civilian leader has tamed and changed the aspirations of the Argentines. Instead of leading a debtors' cartel, as American bankers feared, the Argentines are one of the major debtors in compliance with their International Monetary Fund accord. Instead of barring foreign investment, Mr. Alfonsin welcomes it. Instead of criticizing American foreign policy in Nicaragua, the Argentines are taking a second look at their own.

With the breathing space in the economic crisis assured by Mr. Alfonsin's tactics, the President's mind, his aides say, is now preoccupied by the military. The dishonored men he followed into office, a Western diplomat said, have turned into Mr. Alfonsin's most vexing problem.

On the one hand, Mr. Alfonsin said, the military's former leaders and some of its active officers must be punished for the counterinsurgency campaign in the late 1970's that wiped out the guerrilla threat but resulted in the deaths of more than 9,000 innocent civilians, including women and children. At the same time, the military must be won over, or at least controlled. Without its cooperation, Mr. Alfonsin's Government, like six others in the last 30 years, could be ousted. "We have to realize that to make the country we want, we have to count on the military," he said. "What we have to put an end to are the differences that make no sense." So far, however, he has been unable to mend those differences.

Mr. Alfonsin has managed the military primarily by cracking down on any signs of discontent or insubordination. He began his term hoping the military would try itself. When it refused, the case passed to the civilian courts. In a 20-week public trial this year, the testimony detailed how army posts became torture centers, how pregnant women were killed, how children disappeared. The Government has stressed that nine former officers are on trial, not the institution, but the distinction blurred to anyone listening to the testimony and reading the newspapers and magazines. The military's reaction was to unite.

Mr. Alfonsin says now: "We could have [illegible]d up all this if what we had planned had been accomplished. In no way is it a trial of the institution, but I suppose there has to be some sort of spiritual pressure."

The President lacks rapport with the country's officers. A high-ranking official from the Defense Ministry described it as "an institutional relationship." Mr. Alfonsin has purged the high command three times in the last two years, and cut their budget by 35 percent. Most of the officers have nothing to do, said one retired captain. These budget cuts, as well as the country's attacks on the military's human-rights record, have strengthened the institution's unity, said Andres Fontana, who studies the military for the Center for the Study of State and Society. But it has not made the military feel very good about democracy.

Dante Giadone, who advised Mr. Alfonsin on the military during his first year in office, said the President was reluctant to enforce any dramatic reforms at the beginning of his term.

"Civilians have an exaggerated sense of the military's power," he said. "It is just an institution, but Alfonsin wanted to wait. He could be right, because he has this political smell, this sense of when it is right to do something."

Mr. Alfonsin has been guided by this political sense to take actions that appear undemocratic. When the public trials of nine former military rulers ended in October, Buenos Aires became engulfed in a wave of bomb threats and explosions. Government officials immediately suspected the military. Mr. Alfonsin, wanting to act quickly, arrested six officers and six civilians. When legal complications arose, he declared a state of siege to keep them in custody. Foreign diplomats worried about the reaction abroad. At home, the support for the beleaguered President was overwhelming. Few people, and no human-rights groups, questioned whether those arrested were guilty. The evidence against some of them, according to Government officials, amounted to incriminating telephone conversations. A further investigation has yet to turn up enough evidence to press charges.

But the arrests produced the desired effect. The nearly daily bomb incidents, which actually increased after the state of siege was imposed, have diminished. The front pages of the newspaper are no longer filled with stories about hundreds of schoolchildren being evacuated because of bomb threats. Already, the Government is more relaxed, and there is little chance the state of siege will be extended beyond this month.

The President and his aides hope the tension with the military will ease after the trial of their former leaders has ended and the verdicts are announced. Five of the former military leaders—including the three Presidents—could be sentenced to long terms. Harsh sentences are also predicted for the commanders who are being court-martialed for the disastrous 1982 war with Britain. The verdicts in both trials are expected before the end of this year. Even after the shock of these trials is over, however, the military will continue to be under legal scrutiny. More than 1,700 cases are pending against other officers.

Although the President's public speeches talk more about reconciliation, human-rights groups are pressing for the trials to continue. Most political scientists believe the military is so discredited that it would take considerable time and a major crisis in Mr. Alfonsin's administration before the armed forces posed a serious threat. Historically, the economy has always provided the crisis. Aides say Mr. Alfonsin sensed danger last year, when the country began to spin into hyperinflation. At that time, he successfully contained the problem, but nearly every businessman and economist believes much more must be done to turn the respite into a lengthy period of stability.

Argentina's inflation rate had climbed to almost 700 percent a year by January 1985, the powerful unions were threatening strikes, and Argentine ministers were arguing over how to repay the country's $50 billion in foreign debt. The President's promise to improve the country's standard of living was impossible to fulfill: Argentina was broke. the Government was adding to the inflation, printing nearly 20 percent of its budget of $9 billion a year. As inflation sped toward 1,000 percent by last June. banks began to file for bankruptcy, and rumors of a coup spread.

All Mr. Alfonsin had done by that point was to replace his Economics Minister and old friend Bernardo Grinspun, whom bankers dreaded because of his crotchety, combative style. The new Minister was Juan V. Sourrouille, a Harvard-trained economist with a reputation as an able technocrat. Unknown to the public, Mr. Sourrouille was preparing a major economic plan. In June it was ready, Mr. Alfonsin dramatically imposed wage and price controls and halted the Government's printing presses.

Argentines fell in step so quickly that Government officials were amazed. The powerful union bosses attacked the measures, but the traditional Peronist leaders won few votes in the recent elections. Inflation has slowed dramatically, to about 2 percent a month. Mr. Alfonsin predicts inflation will settle down to 20 percent next year, the lowest since 1969. And, although the value of real wages has declined 30 percent, the measures retain broad public support.

Nearly overnight, Argentina went from being one of the most troubled of the world's debtors to one of those in the region able to make its interest payments. "Economists from all over the world come to see how we function. because they are in awe of how this is being carried through," Mr. Alfonsin said recently, obviously enjoying the country's new status.

But the serious, structural changes have yet to be made, Government officials, bankers and economists say. "So far, it is a miracle, but they are not finished," said Franco Modigliani of the Massachusetts Institute of Technology, a winner of the Nobel Memorial Prize in Economic Science, who visited Argentina recently. "They have to put an end to the wage and price freeze and find a more permanent settlement with the budget by making more permanent cuts to replace the temporary ones."

Mario S. Brodersohn, the Treasury Secretary, is adamant about making those permanent changes. The public sector, which accounts for 20 percent of all employment, will be restructured, he said, and new foreign investment will be sought. But the President has pulled back somewhat from his plans to streamline the government and to sell the companies, and this stage of reform is not progressing as rapidly as the June measures.

The President's goals of modernizing the country's industrial base with new foreign investment and restructuring the bureaucracy run up against a strong socialist tradition in the nation and in his party. Foreign investment here means Argentine products have to compete, and Argentines have a reputation for not liking to sell.

Another obstacle to the Government's plan to turn the public companies over to the private sector comes from the private sector itself, according to César Jaroslavsky, the president of the Radical bloc in the lower house. Many private companies live happily from Government contracts, he said. Businessmen here freely acknowledge that such contracts are fairly easy to get, that all it requires is to take some public employee to lunch, suggest picking up his life-insurance payment, or even giving him a salary. Argentines are accustomed to looking to the Government and their President to take care of them economically, despite the experience of the counterinsurgency period. Mr. Alfonsin's speech in the Plaza de Mayo broke with tradition, but Argentines are set in the way they perceive their Government or make their money.

In Mr. Alfonsin's Government, his aids say, there is no trio of advisers, as in Washington, that manages the administration. The two men who are most often at his side are Dante Caputo, the Foreign Minister, and José Ignacio López, a former journalist with close ties to the powerful Roman Catholic Church. There is, however, no inner circle. Mr. Alfonsin is always reaching out. "It seems like there are always at least 10 people around the President," one minister said. In a week's time, he will meet with more than 40 groups. He seems to love talking with middle-class Argentines and has a special, fatherly rapport. "He has a very personal style, people identify with him," Mr. Brodersohn said.

Mr. Alfonsin takes little time for himself, and likes to maintain a rigorous schedule, aides said. A more adventurous, less disciplined tendency, however, sometimes emerges. A lover of good food, especially desserts, he will watch his eating studiously at lunch and then splurge in the evening. He has been known to drop into an Italian restaurant near the presidential residence and order mushrooms sautéed in garlic. If he catches a group of children touring through the Casa Rosada, he will stop and chat. His rare leisure time is spent with his grandchildren.

Mr. Alfonsin used to be an avid reader, but with all the interruptions, he has since taken up watching movies on his home video set. He loves police films and comedies. One recent Saturday, after his guests had left, he stayed up until 4 A.M. watching movies.

Among well-known Argentine businessmen, it is difficult to meet one who has not talked with the President. "Every four months or so we go to see Alfonsin," said one prominent businessman. "He is very pluralistic. This is how he has gained the good will of so many of us." His personal style disarms his strongest critics. At a dinner for businessmen, one aide said, the President will ask the most hostile guest to sit next to him. After rushing through a meeting, he will take a visitor's hand in both of his and pause unhurriedly to chat. A wealthy Argentine businessman said, "You know, I wasn't one of those who voted for Mr. Alfonsin, but he has surprised me."

Most Latin officials and businessmen think nothing of keeping someone waiting for an hour, but Mr. Alfonsin detests tardiness, his aides say. He eats a light lunch, takes a quick siesta, and is back in the office by 3 p.m. Three days a week, Mr. Alfonsin works at the Casa Rosada. One minister said Mr. Alfonsin often called unexpectedly during the day to invite officials over for a chat. "He gets angry when any of us travels; he feels like we should be back here," the minister said.

If someone comes unprepared to a meeting, the President will let it be known. He listens to a multitude of advisers, then makes his decision. The President's strongest trait is an incredible will, aides and friends said. All agree that he has supreme, almost serene confidence in his own abilities. Once his mind is made up, aides say, he is anxious to get on with an announcement. Some people are frustrated by his management style, and say the Government depends too much on the President. When his attention turns from a problem, progress on finding a solution slows, a former aide said. So far, however, Mr. Alfonsin's style has appeared to work successfully.

Argentine politics have always contained a current of anti-Americanism and anti-imperialism. Argentines are sensitive about being exploited by the northern superpower. Foreign investment is viewed suspiciously. In his speeches, Mr. Alfonsin has slowly chipped away at these sentiments. He talks of respect, nonintervention and independence, but also of new possibilities with the United States. After criticizing American and European trade policies in a recent interview, Mr. Alfonsin said Argentina was unlikely to "change the philosophy" of the European Economic Community. The United States, however, better understands the need to open its markets to Argentine goods, he says. One close friend said Mr. Alfonsin admired American democracy tremendously. Aides say he is "passionate" about studying English, and when he was in the United States last year, he insisted that for his benefit his bilingual ministers speak English instead of Spanish. He is also said to be fascinated with the way in which American democracy produces leaders as different as Ronald Reagan and Jimmy Carter.

United States officials have also come to admire Mr. Alfonsin's approach to foreign policy, which is less radical than they expected. Little was known about Mr. Alfonsin when he took office, and his speeches had what American officials considered a leftist touch. He criticized the American role in Nicaragua and scolded American bankers as mercenary. Nowadays, however, the Argentines are repaying their debt and taking a second look at Nicaragua. Although they have extended a small credit line to the Sandinista Government, and are active in the movement to seek a negotiated settlement, their support is more cautious. "We believe that now in Nicaragua a very important process will unfold whereby they will have to choose and everyone will then see what to do," Mr. Alfonsin said. "They are heading toward a constitutional reform, and if they establish a pluralistic democratic system, then we will be with them not only politically but economically. If they choose a different system, we will continue to defend the principles of self-determination and nonintervention, but we will not feel as bound in other areas.

Mr. Alfonsin has also had a profound effect on the way in which the United States Government views Latin America. American officials appreciate the risk Mr. Alfonsin took in imposing wage and price controls, and, albeit baffled by the state of siege, which would appear to undermine the image of stability being sought, they admire his political acumen in knowing that the controls would produce the desired effect. Most importantly, the United States has taken a second look at the debt problem. For the first time, Mr. Alfonsin said, American officials are seriously considering Latin America's call for debt-repayment schedules that permit growth.

Raúl Alfonsin has four more years in office. If he endures, it will be the first time a civilian Argentine President has completed a term since Peron was re-elected in 1952. The odds appear strong that he will. Political scientists are beginning to believe a new political sanity and patience is gaining strength in Argentina. They point to the recent elections as proof of that. Although Mr. Alfonsin polls favorable ratings of 73 percent, his Radical Party won only 43 percent of the vote in last month's elections. In the past, such a popular leader would insure his party a sweep, and would begin a new "movement," Hipolito Yrigoyen, the Radical President, did that in the 1920's. Mr Peron did the same in the 1940's. Until recently, the country chose between a movement or the military. The opposition political parties hardly mattered.

In the November congressional elections, however, Argentines showed restraint. They rejected making Mr. Alfonsin the leader of a new movement, as many had predicted, and instead spread their votes among the different parties. Moreover, the Peronist leaders who won were not the old-line union cronies, but the new "renovators" who preach democracy. Mr. Alfonsin dreams, he said, of successive Governments in which democracy becomes more than a notion to Argentines.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, December 19, 1985, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JANUARY 28

9:30 a.m.
Governmental Affairs
Intergovernmental Relations Subcommittee
To hold oversight hearings on regulatory activities of the Office of Management and Budget.
SD-342

CANCELLATIONS

DECEMBER 19

9:30 a.m.
Labor and Human Resources
Aging Subcommittee
To hold hearings to examine the participation of older workers in the Job Training Partnership Act (P.L. 97-300).
SD-430

10:00 a.m.
Labor and Human Resources
Education, Arts, and Humanities Subcommittee
Business meeting, to resume markup of proposed legislation authorizing funds for programs of the Higher Education Act.
SD-430

HOUSE OF REPRESENTATIVES—*Thursday, December 19, 1985*

The House met at 11 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

O God, as the heavens are high above the Earth, so great is Your love to us and to all who hear Your Word. We thank You, gracious God, in all the blessings and gifts of this life, and we ask Your blessing upon this place and all who labor here. As we celebrate the joy of this holiday season our hearts are filled with gratitude for the wonders of life—for faith and friendship and family, for responsibilities and hopes, for deeds of sharing and words of comfort. May Your benediction be with the people of our land and of our world that there may be peace on Earth and good will to all. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. SOLARZ. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. Does the gentleman appreciate the fact that there are a lot of Members who would like to get home for Christmas?

Mr. SOLARZ. I appreciate that fact, Mr. Speaker, but this is for an important purpose.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. SOLARZ. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 241, nays 130, answered "present" 4, not voting 59, as follows:

[Roll No. 475]

YEAS—241

Addabbo
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Aspin
Atkins
AuCoin
Barnard
Barnes
Bateman
Bates
Bedell
Beilenson
Bennett
Berman
Bevill
Boland
Boner (TN)
Bonior (MI)
Borski
Bosco
Boucher
Boxer
Breaux
Brooks
Broyhill
Bruce
Bryant
Bustamante
Callahan
Carper
Carr
Coelho
Coleman (TX)
Collins
Combest
Conyers
Cooper
Coyne
Craig
Crockett
Darden
Daschle
de la Garza
Dellums
Derrick
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Downey
Duncan
Dwyer
Dyson
Eckart (OH)
Eckert (NY)
Edgar
Edwards (CA)
English
Evans (IL)
Fascell
Fazio
Feighan
Fish
Foglietta
Foley
Ford (TN)
Fowler
Frank
Frost
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Gradison
Gray (PA)
Green
Guarini
Hall, Ralph
Hamilton
Hammerschmidt
Hartnett
Hatcher
Hawkins
Hayes
Hefner
Hertel
Hillis
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jenkins
Johnson
Jones (OK)
Jones (TN)
Kanjorski
Kaptur
Kemp
Kennelly
Kildee
Kolter
Kostmayer
Lantos
Leath (TX)
Lehman (FL)
Levin (MI)
Levine (CA)
Livingston
Long
Lowry (WA)
Lujan
Luken
Lundine
MacKay
Manton
Markey
Matsui
Mazzoli
McCloskey
McCurdy
McDade
McEwen
McHugh
McMillan
Mica
Miller (CA)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moore
Morrison (CT)
Mrazek
Murphy
Murtha
Myers
Natcher
Neal
Nielson
Nowak
Oakar
Oberstar
Olin
Panetta
Pease
Pepper
Perkins
Petri
Pickle
Porter
Pursell
Quillen
Rahall
Rangel
Ray
Regula
Reid
Rinaldo
Robinson
Rodino
Roe
Rose
Rostenkowski
Rowland (GA)
Roybal
Rudd
Sabo
Savage
Scheuer
Schneider
Schulze
Schumer
Shelby
Shumway
Shuster
Sisisky
Skelton
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Snyder
Solarz
Spratt
St Germain
Staggers
Stallings
Stark
Stokes
Stratton
Studds
Sweeney
Swift
Synar
Tallon
Tauzin
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Udall
Valentine
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Watkins
Weiss
Wheat
Whitley
Whitten
Williams
Wise
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron

NAYS—130

Armey
Badham
Bartlett
Barton
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boulter
Brown (CO)
Burton (IN)
Campbell
Carney
Chandler
Chappie
Cheney
Clay
Clinger
Coats
Cobey
Coble
Coleman (MO)
Conte
Coughlin
Courter
Crane
Dannemeyer
Daub
Davis
DeWine
Dickinson
Dreier
Durbin
Edwards (OK)
Emerson
Evans (IA)
Fawell
Fiedler
Fields
Flippo
Franklin
Frenzel
Gallo
Gekas
Gingrich
Goodling
Gregg
Grotberg
Gunderson
Hansen
Hendon
Henry
Hiler
Holt
Hunter
Hyde
Ireland
Jacobs
Kasich
Kolbe
Kramer
Lagomarsino
Latta
Leach (IA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lloyd
Loeffler
Lott
Lungren
Mack
Martin (IL)
Martin (NY)
McCain
McCandless
McCollum
McKernan
Meyers
Michel
Mitchell
Moorhead
Morrison (WA)
Ortiz
Oxley
Parris
Pashayan
Penny
Ridge
Roberts
Roemer
Rogers
Roth
Roukema
Rowland (CT)
Saxton
Schaefer
Schroeder
Schuette
Sensenbrenner
Shaw
Sikorski
Siljander
Skeen
Slaughter
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Stangeland
Stenholm
Strang
Stump
Sundquist
Swindall
Tauke
Taylor
Thomas (CA)
Vander Jagt
Walker
Weber
Whitehurst
Whittaker
Young (AK)
Young (FL)
Zschau

ANSWERED "PRESENT"—4

Dymally
Kastenmeier
Obey
Ritter

NOT VOTING—59

Ackerman
Biaggi
Boggs
Bonker
Broomfield
Brown (CA)
Burton (CA)
Byron
Chapman
Chappell
Daniel
DeLay
Dowdy
Early
Erdreich
Florio
Ford (MI)
Fuqua
Garcia
Gordon
Gray (IL)
Hall (OH)
Heftel
Jeffords
Jones (NC)
Kindness
Kleczka
LaFalce
Lehman (CA)
Leland
Lipinski
Lowery (CA)
Madigan
Marlenee
Martinez
Mavroules
McGrath
McKinney
Mikulski
Miller (OH)
Monson
Nelson
Nichols
O'Brien
Owens
Packard
Price
Richardson
Russo
Seiberling
Sharp
Slattery
Traxler
Waxman
Weaver
Wilson
Wirth
Wolf
Young (MO)

☐ 1115

So the Journal was approved.

The result of the vote was announced as above recorded.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment bills and a concurrent resolution of the House of the following titles:

H.R. 2698. An act to designate the U.S. Courthouse in Tucson, AZ, as the "James A. Walsh United States Courthouse";

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Boldface type indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

H.R. 3837. An act to extend the deadline for the submission of the initial set of sentencing guidelines by the U.S. Sentencing Commission, and for other purposes; and

H. Con. Res. 262. Concurrent resolution correcting the enrollment of House Joint Resolution 187.

The message also announced that the Senate agrees to the amendments of the House to the amendments of the Senate numbered 3, 7, and 10 to the bill (H.R. 1890) "An act to provide for an equitable waiver in the compromise and collection of Federal claims."

The message also announced that the Senate had passed a joint resolution of the following title, in which the concurrence of the House is requested:

S.J. Res. 231. Joint resolution to designate the period commencing January 1, 1986, and ending December 31, 1986, as the "Centennial Year of the Gasoline Powered Automobile."

ANNOUNCEMENT BY THE SPEAKER

The **SPEAKER**. The Chair will not accept 1-minute speeches at this particular time.

CONFERENCE REPORT ON HOUSE JOINT RESOLUTION 465, FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1986

Mr. **WHITTEN** submitted the following conference report and statement on the joint resolution (H.J. Res. 465) making further continuing appropriations for the fiscal year 1986, and for other purposes.

CONFERENCE REPORT ON HOUSE JOINT RESOLUTION 465, FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1985

Mr. **WHITTEN** submitted the following conference report and statement on the concurrent resolution (H.J. Res. 465) making further continuing appropriations for the fiscal year 1986, and for other purposes:

CONFERENCE REPORT (H. REPT. 99-450)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.J. Res. 465) making further continuing appropriations for the fiscal year 1986, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 3, 5, 11, 15, 16, 27, 28, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 48, 52, 53, 54, 55, 59, 63, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 106, 116, 121, 122, and 134.

That the House recede from its disagreement to the amendments of the Senate numbered 9, 12, 17, 18, 19, 20, 21, 25, 61, 118, 119, and 120, and agree to the same.

Amendment numbered 1:

That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert the following:

(a) Such amounts as may be necessary for programs, projects, or activities provided for in the Agriculture, Rural Development, and Related Agencies Appropriations Act, 1986 (H.R. 3037), to the extent and in the manner provided for in the conference report and joint explanatory statement of the Committee on Conference (House Report Numbered 99-439), as filed in the House of Representatives on December 12, 1985, as if such Act had been enacted into law.

Notwithstanding any other provision of this Joint Resolution, each appropriation item in the referenced bill (H.R. 3037) made available under this subsection may be reduced by six-tenths of one percentum, if applied to every appropriation item, rounded to the nearest thousands of dollars, except for the following appropriations: Child Nutrition Programs and Special Milk Program which are true entitlements: Provided, That such reductions if made shall be applied proportionally to each program, project, and activity as set forth in the conference agreement (H. Rept. 99-439).

And the Senate agree to the same.

Amendment numbered 2:

That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment, as follows:

Delete the matter proposed by the House and stricken by the Senate and delete the matter proposed by the Senate; and the Senate agree to the same.

Amendment numbered 4:

That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

(b) such amounts as may be necessary for programs, projects or activities provided for in the Department of Defense Appropriations Act, 1986, at a rate of operations and to the extent and in the manner provided as follows, to be effective as if it had been enacted into law as the regular appropriation Act:

An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1986, and for other purposes

TITLE I

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Army on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund; $21,078,169,000.

MILITARY PERSONNEL, NAVY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Navy on active duty (except members of the Reserve provided for elsewhere), midshipmen, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund; $15,917,144,000.

MILITARY PERSONNEL, MARINE CORPS

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Marine Corps on active duty (except members of the Reserve provided for elsewhere); and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund; $4,870,016,000.

MILITARY PERSONNEL, AIR FORCE

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Air Force on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund; $17,744,770,000.

RESERVE PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army Reserve on active duty under sections 265, 3019, and 3033 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $2,178,564,000.

RESERVE PERSONNEL, NAVY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Naval Reserve on active duty under section 265 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $1,267,734,000.

RESERVE PERSONNEL, MARINE CORPS

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Marine Corps Reserve on active duty under section 265 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, *United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Marine Corps platoon leaders class, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $272,250,000.*

RESERVE PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air Force Reserve on active duty under sections 265, 8019, and 8033 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Air Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $584,430,000.

NATIONAL GUARD PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army National Guard while on duty under section 265, 3033, or 3496 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 672(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $3,066,568,000.

NATIONAL GUARD PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air National Guard on duty under section 265, 8033, or 8496 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 672(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $926,716,000.

TITLE II

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Army, as authorized by law; and not to exceed $12,642,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Army, and payments may be made on his certificate of necessity for confidential military purposes; $18,975,507,000, of which not less than $1,471,600,000 shall be available only for the maintenance of real property facilities.

OPERATION AND MAINTENANCE, NAVY

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Navy and the Marine Corps, as authorized by law; and not to exceed $3,787,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Navy, and payments may be made on his certificate of necessity for confidential military purposes; $24,477,071,000, of which not less than $770,000,000 shall be available only for the maintenance of real property facilities, and of which $100,000,000 shall be available only to reimburse United States Coast Guard Operating Expenses for operations and training relating to the Coast Guard's defense and military readiness missions: Provided, That of the total amount of this appropriation made available for the alteration, overhaul, and repair of naval vessels, not more than $3,650,000,000 shall be available for the performance of such work in Navy shipyards: Provided further, That from the amounts of this appropriation for the alteration, overhaul and repair of naval vessels, funds shall be available for a test program to acquire the overhaul of four or more vessels by competition between public and private shipyards. The Secretary of the Navy shall certify, prior to award of a contract under this test, that the successful bid includes comparable estimates of all direct and indirect costs for both public and private shipyards. Competition under such test program shall not be subject to section 502 of the Department of Defense Authorization Act, 1981, as amended, or Office of Management and Budget Circular A-76: Provided further, That funds herein provided shall be available for payments in support of the LEASAT program in accordance with the terms of the Aide Memoire, dated January 5, 1981: Provided further, That obligations incurred or to be incurred hereafter for termination liability and charter hire in connection with the TAKX and T-5 programs, for which the Navy has already entered into agreement for charter and time charters including conversion or construction related to such agreements or charters shall, for the purposes of title 31, United States Code, (1) in regard to and so long as the Government remains liable for termination costs, be considered as obligations in the current Operation and Maintenance, Navy, appropriation account, to be held in reserve in the event such termination liability is incurred, in an amount equal to 10 per centum of the outstanding termination liability, and (2) in regard to charter hire, be considered obligations in the Navy Industrial Fund with an amount equal to the estimated charter hire for the then current fiscal year recorded as an obligation against such fund. Obligations of the Navy under such time charters are general obligations of the United States secured by its full faith and credit.

OPERATION AND MAINTENANCE, MARINE CORPS

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Marine Corps, as authorized by law; $1,612,050,000, of which not less than $238,000,000 shall be available only for the maintenance of real property facilities.

OPERATION AND MAINTENANCE, AIR FORCE

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Air Force, as authorized by law, including the lease and associated maintenance of replacement aircraft for the CT-39 aircraft to the same extent and manner as authorized for service contracts by section 2306(g), title 10, United States Code; and not to exceed $5,556,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Air Force, and payments may be made on his certificate of necessity for confidential military purposes; $19,536,813,000, of which not less than $1,385,000,000 shall be available only for the maintenance of real property facilities.

OPERATION AND MAINTENANCE, DEFENSE AGENCIES

For expenses, not otherwise provided for, necessary for the operation and maintenance of activities and agencies of the Department of Defense (other than the military departments), as authorized by law; $7,432,569,000, of which not to exceed $11,117,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of Defense, and payments may be made on his certificate of necessity for confidential military purposes: Provided, That not less than $91,147,000 shall be available only for the maintenance of real property facilities.

OPERATION AND MAINTENANCE, ARMY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Army Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $780,100,000, of which not less than $49,865,000 shall be available only for the maintenance of real property facilities.

OPERATION AND MAINTENANCE, NAVY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Navy Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $894,950,000, of which not less than $37,100,000 shall be available only for the maintenance of real property facilities.

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Marine Corps Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $57,200,000, of which not less than $2,850,000 shall be available only for the maintenance of real property facilities.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Air Force Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $902,700,000, of which not less than $22,200,000 shall be available only for the maintenance of real property facilities.

Operation and Maintenance, Army National Guard

For expenses of training, organizing, and administering the Army National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; hire of passenger motor vehicles; personnel services in the National Guard Bureau; travel expenses (other than mileage), as authorized by law for Army personnel on active duty, for Army National Guard division, regimental, and battalion commanders while inspecting units in compliance with National Guard regulations when specifically authorized by the Chief, National Guard Bureau; supplying and equipping the Army National Guard as authorized by law; and expenses of repair, modification, maintenance, and issue of supplies and equipment (including aircraft); $1,652,800,000, of which not less than $57,300,000 shall be available only for the maintenance of real property facilities.

Operation and Maintenance, Air National Guard

For operation and maintenance of the Air National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, repair, and other necessary expenses of facilities for the training and administration of the Air National Guard, including repair of facilities, maintenance, operation, and modification of aircraft; transportation of things; hire of passenger motor vehicles; supplies, materials, and equipment, as authorized by law for the Air National Guard; and expenses incident to the maintenance and use of supplies, materials, and equipment, including such as may be furnished from stocks under the control of agencies of the Department of Defense; travel expenses (other than mileage) on the same basis as authorized by law for Air National Guard personnel on active Federal duty, for Air National Guard commanders while inspecting units in compliance with National Guard regulations when specifically authorized by the Chief, National Guard Bureau; $1,806,200,000, of which not less than $37,000,000 shall be available only for the maintenance of real property facilities.

National Board for the Promotion of Rifle Practice, Army

For the necessary expenses, in accordance with law, for construction, equipment, and maintenance of rifle ranges; the instruction of citizens in marksmanship; the promotion of rifle practice; and the travel of rifle teams, military personnel, and individuals attending regional, national, and international competitions; not to exceed $920,000, of which not to exceed $7,500 shall be available for incidental expenses of the National Board; and from other funds provided in this Act, not to exceed $680,000 worth of ammunition may be issued under authority of title 10, United States Code, section 4311: *Provided*, That competitors at national matches under title 10, United States Code, section 4312, may be paid subsistence and travel allowances in excess of the amounts provided under title 10, United States Code, section 4313.

Claims, Defense

For payment, not otherwise provided for, of claims authorized by law to be paid by the Department of Defense (except for civil functions), including claims for damages arising under training contracts with carriers, and repayment of amounts determined by the Secretary concerned, or officers designated by him, to have been erroneously collected from military and civilian personnel of the Department of Defense, or from States, territories, or the District of Columbia, or members of the National Guard units thereof; $143,300,000.

Court of Military Appeals, Defense

For salaries and expenses necessary for the United States Court of Military Appeals; $3,200,000, and not to exceed $1,500 can be used for official representation purposes.

Tenth International Pan American Games

For logistical support and personnel services (other than pay and nontravel related allowances of members of the Armed Forces of the United States, except for members of the Reserve components thereof called or ordered to active duty to provide support for the Tenth International Pan American Games) provided by any component of the Department of Defense to the Tenth International Pan American Games; $10,000,000.

Environmental Restoration, Defense

For the Department of Defense; $379,100,000, to remain available until transferred: *Provided*, That the Secretary of Defense shall, upon determining that such funds are required for environmental restoration and hazardous waste disposal operations, reduction and recycling of hazardous waste, research and development associated with hazardous wastes and removal of unsafe buildings and debris of the Department of Defense, or for similar purposes (including programs and operations at sites formerly used by the Department of Defense), transfer the funds made available by this appropriation to other appropriations made available to the Department of Defense as the Secretary may designate, to be merged with and to be available for the same purposes and for the same time period as the appropriations of funds to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred pursuant to this provision are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

TITLE III

PROCUREMENT

Aircraft Procurement, Army

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $3,524,200,000, to remain available for obligation until September 30, 1988.

Missile Procurement, Army

For construction, procurement, production, modification, and modernization of missiles, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, as follows:

Chaparral program, $57,500,000;
Other Missile Support, $5,000,000;
Patriot program, $963,400,000;
Stinger program, $258,500,000;
Laser Hellfire program, $234,200,000;
TOW program, $190,500,000;
Pershing II program, $236,300,000;
MLRS program, $531,900,000;
Modification of missiles, $196,800,000;
Spares and repair parts, $312,000,000;
Support equipment and facilities, $56,632,000;

In all: $2,904,332,000, to remain available for obligation until September 30, 1988: *Provided*, That within the total amount appropriated, the subdivisions within this appropriation shall be reduced by $138,400,000.

Procurement of Weapons and Tracked Combat Vehicles, Army

For construction, procurement, production, and modification of weapons and tracked combat vehicles, equipment, including ordnance, spare parts and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $4,684,800,000, to remain available for obligation until September 30, 1988.

Procurement of Ammunition, Army

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized in military construction authorization Acts or authorized by section 2854, title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $2,497,200,000, to remain available for obligation until September 30, 1988: *Provided*, That none of the funds provided herein may be obligated or expended for production base projects until the Secretary of the Army has submitted to the Committees on Appropriations of the House of Representatives and the Senate a specific funding and program plan for RDX modernization which responds to congressional requirements on program phasing and direction concerning full funding, and which provides for initiation of site specific work at Louisiana Army Ammunition Plant not later than June 30, 1986.

Other Procurement, Army

For construction, procurement, production, and modification of vehicles, including tactical, support, and nontracked combat vehicles; the purchase of not to exceed two thousand four hundred and sixty-four passenger motor vehicles for replacement only; communications and electronic equipment; other support equipment; spare parts, ordnance, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, as follows:

Tactical and support vehicles, $965,397,000;

Communications and electronics equipment, $2,868,859,000;

Other support equipment, $1,341,000,000;

Non-centrally managed items, $105,300,000;

In all: $5,275,556,000, to remain available for obligation until September 30, 1988: Provided, That within the total amount appropriated, the subdivisions within this appropriation shall be reduced by $5,000,000.

AIRCRAFT PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; $11,175,678,000, to remain available for obligation until September 30, 1988: Provided, That $322,871,000 shall be available only for the procurement of nine new P-3C anti-submarine warfare aircraft: Provided further, That six P-3C aircraft shall be for the Naval Reserve.

WEAPONS PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of missiles, torpedoes, other weapons, and related support equipment including spare parts, and accessories therefor; expansion of public and private plants, including the land necessary therefor, and such lands and interest therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, as follows:

Poseidon, $5,001,000;

TRIDENT I, $36,226,000;

TRIDENT II, $581,986,000;

Support equipment and facilities, $17,107,000;

Tomahawk, $724,804,000;

AIM/RIM-7 F/M Sparrow, $359,200,000;

AIM-9L/M Sidewinder, $125,800,000;

AIM-54A/C Phoenix, $343,600,000;

AIM-54A/C Phoenix advance procurement, $24,800,000;

AGM-84A Harpoon, $314,873,000;

AGM-88A HARM, $236,000,000;

SM-1 MR, $20,300,000;

SM-2 MR, $509,719,000;

SM-2 ER, $303,200,000;

Sidearm, $30,500,000;

Hellfire, $51,768,000;

Laser Maverick, $173,458,000;

IIR Maverick, $27,809,000;

Aerial targets, $105,600,000;

Drones and decoys, $29,400,000;

Other missile support, $12,309,000;

Modification of missiles, $64,933,000;

Support equipment and facilities, $86,210,000;

Ordnance support equipment, $16,289,000;

MK-48 ADCAP torpedo program, $417,437,000;

MK-46 torpedo program, $125,115,000;

MK-60 CAPTOR mine program, $59,600,000;

MK-30 mobile target program, $18,600,000;

MK-38 mini-mobile target program, $3,499,000;

Antisubmarine rocket (ASROC) program, $15,551,000;

Modification of torpedoes, $115,055,000;

Torpedo support equipment program, $70,575,000;

MK-15 close-in weapons system program, $150,146,000;

MK-75 gun mount program, $17,905,000;

MK-19 machine gun program, $1,196,000;

25mm gun mount, $5,501,000;

Small arms and weapons, $11,305,000;

Modification of guns and gun mounts, $58,117,000;

Guns and gun mounts support equipment program, $1,200,000;

Spares and repair parts, $166,601,000;

In all: $5,227,795,000, to remain available for obligation until September 30, 1988: Provided, That within the total amount appropriated, the subdivisions within this appropriation shall be reduced by $210,500,000.

SHIPBUILDING AND CONVERSION, NAVY

For expenses necessary for the construction, acquisition, or conversion of vessels as authorized by law, including armor and armament thereof, plant equipment, appliances, and machine tools and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; procurement of critical, long leadtime components and designs for vessels to be constructed or converted in the future; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, as follows:

TRIDENT ballistic missile submarine program, $1,354,700,000;

SSN-688 attack submarine program, $2,609,600,000;

Battleship reactivation program, $469,000,000;

Aircraft carrier service life extension program, $52,000,000;

CG-47 cruiser program, $2,652,500,000;

DDG-51 destroyer program, $74,000,000: Provided, That the Secretary of the Navy shall select a second source, by the most expeditious means available, for the CG-47 and DDG-51 SPY-1 radar; AEGIS production test center, shipyard and shipboard combat system integration; AEGIS color graphic display systems; solid state frequency converters; and propellors in order to begin competition between the current contractors and the second source contractors in fiscal year 1988: Provided further, That any such selection shall not adversely affect the CG-47 and DDG-51 shipbuilding program schedule and costs;

LSD-41 landing ship dock program, $403,400,000;

LHD-1 amphibious assault ship program, $1,313,600,000;

MCM mine countermeasures ship program, $197,200,000;

MSH coastal mine hunter program, $184,500,000;

T-AO fleet oiler program, $278,500,000;

T-AGOS ocean surveillance ship program, $115,100,000;

T-AG acoustic research ship program, $57,000,000;

ARTB nuclear reactor training ship conversion program, $175,400,000;

T-ACS auxiliary crane ship conversion program, $82,500,000;

T-AVB logistic support ship program, $26,900,000;

LCAC landing craft program, $307,000,000;

Strategic sealift program, $228,400,000;

For craft, outfitting, post delivery, and cost growth, $500,800,000;

In all: $10,840,400,000, to remain available for obligation until September 30, 1990: Provided, That within the total amount appropriated, the subdivisions within this appropriation shall be reduced by $241,700,000: Provided further, That additional obligations may be incurred after September 30, 1990, for engineering services, tests, evaluations, and other such budgeted work that must be performed in the final stage of ship construction; and each Shipbuilding and Conversion, Navy, appropriation that is currently available for such obligations may also hereafter be so obligated after the date of its expiration: Provided further, That none of the funds herein provided for the construction or conversion of any naval vessel to be constructed in shipyards in the United States shall be expended in foreign shipyards for the construction of major components of the hull or superstructure of such vessel: Provided further, That none of the funds herein provided shall be used for the construction of any naval vessel in foreign shipyards: Provided further, That of the funds appropriated in fiscal year 1983 for the FFG-7 guided missile frigate program, $40,000,000 previously available only for an X-band phased array radar shall be available for the fiscal year 1984 guided missile frigate program (FFG-61). The FFG-61 shall be equipped with the MK-92 fire control system, Phase II update.

OTHER PROCUREMENT, NAVY

For procurement, production, and modernization of support equipment and materials not otherwise provided for, Navy ordnance and ammunition (except ordnance for new aircraft, new ships, and ships authorized for conversion); the purchase of not to exceed nine hundred and twenty-four passenger motor vehicles of which eight hundred and twenty-five shall be for replacement only; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, as follows:

Ship support equipment, $923,806,000;

Communications and electronics equipment, $2,096,302,000;

Aviation support equipment, $1,133,019,000;

Ordnance support equipment, $1,349,747,000;

Civil engineering support equipment, $232.558.000;

Supply support equipment, $58.917.000;

Personnel and command support equipment, $434.143.000:

Spares and repair parts, $279,838,000;

Non-centrally managed items, $125.300.000;

In all: $6.377.630.000, to remain available for obligation until September 30, 1988: Provided, That within the total amount appropriated, the subdivisions within this appropriation shall be reduced by $256,000,000.

COASTAL DEFENSE AUGMENTATION

For the augmentation of United States Coast Guard inventories to meet national security requirements, $235,000,000, to remain available until expended: Provided, That these funds shall be for the procurement by the Department of Defense of vessels, aircraft, and equipment and for modernization of existing Coast Guard assets, to be made available to the Coast Guard for operation and maintenance.

PROCUREMENT, MARINE CORPS

For expenses necessary for the procurement, manufacture, and modification of missiles, armament, ammunition, military equipment, spare parts, and accessories therefor; plant equipment, appliances, and machine tools, and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; vehicles for the Marine Corps, including purchase of not to exceed two hundred and three passenger motor vehicles for replacement only; and expansion of public and private plants, including land necessary therefor, and such lands, and interests therein, may be acquired and construction prosecuted thereon prior to approval of title; $1,660,766,000, to remain available for obligation until September 30, 1988.

AIRCRAFT PROCUREMENT, AIR FORCE

For construction, procurement, and modification of aircraft and equipment, including armor and armament, specialized ground handling equipment, and training devices, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things; $23,255,424,000, to remain available for obligation until September 30, 1988, of which $200,000,000 shall be available only to initiate the air defense aircraft competition authorized by law: Provided, That of the amounts appropriated not to exceed $280,000,000 shall be available for competitive procurement of Air Force One mission replacement aircraft: Provided further, That none of the funds in this Act may be obligated on B-1B bomber production contracts if such contracts would cause the production portion of the Air Force's $20,500,000,000 estimate for the B-1B bomber baseline costs expressed in fiscal year 1981 constant dollars to be exceeded: Provided further, That funds appropriated by this Act may be applied to a follow-on multiyear contract for F-16 production in which contract options shall be included to adjust the multiyear contract to accommodate the results of the air defense aircraft competition; such competition shall be completed no later than July 1, 1986, and a contract awarded within sixty days thereafter.

MISSILE PROCUREMENT, AIR FORCE

For construction, procurement, and modification of missiles, spacecraft, rockets, and related equipment, including spare parts and accessories therefor, ground handling equipment, and training devices; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things; $8,312,442,000, to remain available for obligation until September 30, 1988.

OTHER PROCUREMENT, AIR FORCE

For procurement and modification of equipment (including ground guidance and electronic control equipment, and ground electronic and communication equipment), and supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed eight hundred and forty-nine passenger motor vehicles of which eight hundred and one shall be for replacement only; and expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon, prior to approval of title; reserve plant and Government and contractor-owned equipment layaway, as follows:

Munitions and associated equipment, $1,239,877,000;

Vehicular equipment, $340,869,000;

Electronics and telecommunications equipment, $2,608,650,000;

Other base maintenance and support equipment, $4,626,287,000;

Non-centrally managed items, $54,700,000;

In all: $8,571,383,000, to remain available for obligation until September 30, 1988: Provided, That within the total amount appropriated, the subdivisions within this appropriation shall be reduced by $299,000,000: Provided further, That no obligation may be incurred for the procurement of 30mm armor piercing ammunition unless there is component breakout for the depleted uranium penetrator.

NATIONAL GUARD AND RESERVE EQUIPMENT

For procurement of aircraft, missiles, tracked combat vehicles, ammunition, other weapons, and other procurement for the reserve components of the Armed Forces, as follows:

Army Reserve, $365,000,000;

Army National Guard, $531,800,000, of which, subject to enactment of authorizing legislation, not more than $40,000,000 may be used for minor projects to facilitate the delivery, storage, training and maintenance of Army National Guard equipment;

Air National Guard, $255,000,000;

Naval Reserve, $100,000,000;

Marine Corps Reserve, $70,000,000;

Air Force Reserve, $180,000,000;

In all: $1,501,800,000, to remain available for obligation until September 30, 1988.

PROCUREMENT, DEFENSE AGENCIES

For expenses of activities and agencies of the Department of Defense (other than the military departments) necessary for procurement, production, and modification of equipment, supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed four hundred and ninety passenger motor vehicles of which two hundred and fifty-one shall be for replacement only; expansion of public and private plants, equipment, and installation thereof in such plants, erection of structures, and acquisition of land for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; $1,302,740,000, to remain available for obligation until September 30, 1988.

DEFENSE PRODUCTION ACT PURCHASES

For purchases or commitments to purchase metals, minerals, or other materials by the Department of Defense pursuant to section 303 of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2093); $31,000,000, to remain available for obligation until September 30, 1988.

NATO COOPERATIVE DEFENSE PROGRAMS

For acquisition of point air defense of United States airbases and other critical United States military facilities in Italy; $15,000,000, to remain available for obligation until September 30, 1988.

TITLE IV

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, ARMY

For expenses necessary for basic and applied scientific research, development, test, and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $4,798,172,000, of which $17,000,000 is available only for completing development, transitioning into low-rate initial production, and initial procurement of shipsets required to arm UH-60 Blackhawk helicopters with Hellfire missiles, to remain available for obligation until September 30, 1987.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY

For expenses necessary for basic and applied scientific research, development, test, and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $10,065,239,000, of which $17,523,000 is available only for the Low Cost Anti-Radiation Seeker Program and $5,500,000 is available only for the Laser Articulating Robotic System, to remain available for obligation until September 30, 1987.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, AIR FORCE

For expenses necessary for basic and applied scientific research, development, test, and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $13,718,208,000, of which $17,613,000 is available only for the Low Cost Seeker Program and $5,000,000 is available only for the purpose of carrying out a research program to develop new and improved verification techniques to monitor compliance with any antisatellite weapon agreement that may be entered into by the United States and the Soviet Union, to remain available for obligation until September 30, 1987.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, DEFENSE AGENCIES

For expenses of activities and agencies of the Department of Defense (other than the military departments), necessary for basic and applied scientific research, development, test, and evaluation; advanced research projects as may be designated and determined by the Secretary of Defense, pursuant to law; maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $6,637,386,000, of which $700,000 shall be available only for the purpose of carrying out, through the Office of Technology Assessment, a comprehensive classified study to be submitted to the Appropriations Committees of the House of Representatives and the Senate, together with an unclassified version, no later than August 30, 1987, to determine the technological feasibility and implications, and the ability to survive and function despite a preemptive attack by an aggressor possessing comparable technology, of the Strategic Defense Initiative Program; and $8,287,000 shall be available only for the joint Department of Defense-Department of Energy Conventional Munitions Technology Development Program, to remain available for obligation until September 30, 1987: Provided, That such amounts as may be determined by the Secretary of Defense to have been made available in other appropriations available to the Department of Defense during the current fiscal year for programs related to advanced research may be transferred to and merged with this appropriation to be available for the same purposes and time period: Provided further, That such amounts of this appropriation as may be determined by the Secretary of Defense may be transferred to carry out the purposes of advanced research to those appropriations for military functions under the Department of Defense which are being utilized for related programs to be merged with and to be available for the same time period as the appropriation to which transferred.

DIRECTOR OF TEST AND EVALUATION, DEFENSE

For expenses, not otherwise provided for, of independent activities of the Director of Defense Test and Evaluation in the direction and supervision of test and evaluation, including initial operational testing and evaluation; and performance of joint testing and evaluation; and administrative expenses in connection therewith; $118,500,000, to remain available for obligation until September 30, 1987.

TITLE V

SPECIAL FOREIGN CURRENCY PROGRAM

For payment in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States for expenses in carrying out programs of the Department of Defense, as authorized by law; $2,100,000, to remain available for obligation until September 30, 1987: Provided, That this appropriation shall be available in addition to other appropriations to such Department, for payments in the foregoing currencies.

TITLE VI

REVOLVING AND MANAGEMENT FUNDS

ARMY STOCK FUND

For the Army stock fund; $393,000,000.

NAVY STOCK FUND

For the Navy stock fund; $638,500,000.

MARINE CORPS STOCK FUND

For the Marine Corps stock fund; $37,700,000.

AIR FORCE STOCK FUND

For the Air Force stock fund; $415,900,000.

DEFENSE STOCK FUND

For the Defense stock fund; $149,700,000.

ADP EQUIPMENT MANAGEMENT FUND

For the purchase of automatic data processing (ADP) equipment; $100,000,000.

TITLE VII

RELATED AGENCIES

CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM FUND

For payment to the Central Intelligence Agency Retirement and Disability System Fund, to maintain proper funding level for continuing the operation of the Central Intelligence Agency Retirement and Disability System; $101,400,000.

INTELLIGENCE COMMUNITY STAFF

For necessary expenses of the Intelligence Community Staff; $22,083,000.

TITLE VIII

GENERAL PROVISIONS

SEC. 8001. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 8002. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 8003. During the current fiscal year, the Secretary of Defense and the Secretaries of the Army, Navy, and Air Force, respectively, if they should deem it advantageous to the national defense, and if in their opinions the existing facilities of the Department of Defense are inadequate, are authorized to procure services in accordance with section 3109 of title 5, United States Code, under regulations prescribed by the Secretary of Defense, and to pay in connection therewith travel expenses of individuals, including actual transportation and per diem in lieu of subsistence while traveling from their homes or places of business to official duty stations and return as may be authorized by law: Provided, That such contracts may be renewed annually.

SEC. 8004. During the current fiscal year, provisions of law prohibiting the payment of compensation to, or employment of, any person not a citizen of the United States shall not apply to personnel of the Department of Defense.

SEC. 8005. Appropriations for the Department of Defense for the current fiscal year and hereafter shall be available for: (a) expenses in connection with administration of occupied areas; (b) payment of rewards as authorized for the Navy by section 7209(a) of title 10, United States Code, for information leading to the discovery of missing naval property or the recovery thereof; (c) payment of deficiency judgments and interests thereon arising out of condemnation proceedings; (d) leasing of buildings and facilities including payment of rentals for special purpose space at the seat of government, and in the conduct of field exercises and maneuvers or, in administering the provisions of the Act of July 9, 1942 (56 Stat. 654; 43 U.S.C. 315q), rentals may be paid in advance; (e) payments under contracts for maintenance of tools and facilities for twelve months beginning at any time during the fiscal year; (f) maintenance of defense access roads certified as important to national defense in accordance with section 210 of title 23, United States Code; (g) the purchase of milk for enlisted personnel of the Department of Defense heretofore made available pursuant to section 202 of the Agricultural Act of 1949 (7 U.S.C. 1446a), and the cost of milk so purchased, as determined by the Secretary of Defense, shall be included in the value of the commuted ration; (h) payments under leases for real or personal property, including maintenance thereof when contracted for as a part of the lease agreement, for twelve months beginning at any time during the fiscal year; (i) the purchase of right-hand-drive vehicles not to exceed $12,000 per vehicle; (j) payment of unusual cost overruns incident to ship overhaul, maintenance, and repair for ships inducted into industrial fund activities or contracted for in prior fiscal years: Provided, That the Secretary of Defense shall notify the Congress promptly prior to obligation of any such payments; (k) payments from annual appropriations to industrial fund activities and/or under contract for changes in scope of ship overhaul, maintenance, and repair after expiration of such appropriations, for such work either inducted into the industrial fund activity or contracted for in that fiscal year; and (l) payments for depot maintenance contracts for twelve months beginning at any time during the fiscal year.

SEC. 8006. Appropriations for the Department of Defense for the current fiscal year and hereafter shall be available for: (a) military courts, boards, and commissions; (b) utility services for buildings erected at private cost, as authorized by law, and buildings on military reservations authorized by regulations to be used for welfare and recreational purposes; and (c) exchange fees, and losses in the accounts of disbursing officers or agents in accordance with law.

SEC. 8007. The Secretary of Defense and each purchasing and contracting agency of the Department of Defense shall assist American small and minority-owned business to participate equitably in the furnishing of commodities and services financed with funds appropriated under this Act by increasing, to an optimum level, the resources and number of personnel jointly assigned to promoting both small and minority business involvement in purchases financed with funds appropriated herein, and by making available or causing to be made available to such businesses, information, as far in advance as possible, with respect to purchases proposed to be financed with funds appropriated under this Act, and by assisting small and minority business concerns to participate equitably as subcontractors on contracts financed with funds appropriated herein, and by otherwise advocating and providing small and minority business opportunities to participate in the furnishing of commodities and services financed with funds appropriated by this Act.

SEC. 8008. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 8009. During the current fiscal year and hereafter:

(a) The President may exempt appropriations, funds, and contract authorizations, available for military functions under the Department of Defense, from the provisions of section 1512 of title 31, United States Code, whenever he deems such action to be necessary in the interest of national defense.

(b) Upon determination by the President that such action is necessary, the Secretary of Defense is authorized to provide for the cost of an airborne alert as an excepted expense in accordance with the provisions of section 3732 of the Revised Statutes (41 U.S.C. 11).

(c) Upon determination by the President that it is necessary to increase the number of military personnel on active duty subject to existing laws beyond the number for which funds are provided in this Act, the Secretary of Defense is authorized to provide for the cost of such increased military personnel, as an excepted expense in accordance with the provisions of section 3732 of the Revised Statutes (41 U.S.C. 11).

(d) The Secretary of Defense shall immediately advise Congress of the exercise of any authority granted in this section, and shall report monthly on the estimated obligations incurred pursuant to subsections (b) and (c).

SEC. 8010. No part of the appropriations in this Act shall be available for any expense of operating aircraft under the jurisdiction of the armed forces for the purpose of proficiency flying, as defined in Department of Defense Directive 1340.4, except in accordance with regulations prescribed by the Secretary of Defense. Such regulations (1) may not require such flying except that required to maintain proficiency in anticipation of a member's assignment to combat operations and (2) such flying may not be permitted in cases of members who have been assigned to a course of instruction of ninety days or more.

SEC. 8011. No part of any appropriation contained in this Act shall be available for expense of transportation, packing, crating, temporary storage, drayage, and unpacking of household goods and personal effects in any one shipment having a net weight in excess of eighteen thousand pounds.

SEC. 8012. During the current fiscal year and hereafter, vessels under the jurisdiction of the Department of Transportation, the Department of the Army, the Department of the Air Force, or the Department of the Navy may be transferred or otherwise made available without reimbursement to any such agencies upon the request of the head of one agency and the approval of the agency having jurisdiction of the vessels concerned.

SEC. 8013. Not more than 20 per centum of the appropriations in this Act which are limited for obligation during the current fiscal year shall be obligated during the last two months of the fiscal year: Provided, That this section shall not apply to obligations for support of active duty training of civilian components or summer camp training of the Reserve Officers' Training Corps, or the National Board for the Promotion of Rifle Practice, Army, or to the appropriations provided in this Act for Claims, Defense.

SEC. 8014. During the current fiscal year the agencies of the Department of Defense may accept the use of real property from foreign countries for the United States in accordance with mutual defense agreements or occupational arrangements and may accept services furnished by foreign countries as reciprocal international courtesies or as services customarily made available without charge; and such agencies may use the same for the support of the United States forces in such areas without specific appropriation therefor.

In addition to the foregoing, agencies of the Department of Defense may accept real property, services, and commodities from foreign countries for the use of the United States in accordance with mutual defense agreements or occupational arrangements and such agencies may use the same for the support of the United States forces in such areas, without specific appropriations therefor: Provided, That the foregoing authority shall not be available for the conversion of heating plants from coal to oil at defense facilities in Europe: Provided further, That within thirty days after the end of each quarter the Secretary of Defense shall render to Congress and to the Office of Management and Budget a full report of such property, supplies, and commodities received during such quarter.

SEC. 8015. During the current fiscal year and hereafter, appropriations available to the Department of Defense for research and development may be used for the purposes of section 2353 of title 10, United States Code, and for purposes related to research and development for which expenditures are specifically authorized in other appropriations of the Service concerned.

SEC. 8016. No part of any appropriation contained in this Act, except for small purchases in amounts not exceeding $10,000 shall be available for the procurement of any article of food, clothing, cotton, woven silk or woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, or wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured articles), or specialty metals including stainless steel flatware, or hand or measuring tools, not grown, reprocessed, reused, or produced in the United States or its possessions, except to the extent that the Secretary of the Department concerned shall determine that satisfactory quality and sufficient quantity of any articles of food or clothing or any form of cotton, woven silk and woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, wool, or specialty metals including stainless steel flatware, grown, reprocessed, reused, or produced in the United States or its possessions cannot be procured as and when needed at United States market prices and except procurements outside the United States in support of combat operations, procurements by vessels in foreign waters, and emergency procurements or procurements of perishable foods by establishments located outside the United States for the personnel attached thereto: Provided, That nothing herein shall preclude the procurement of specialty metals or chemical warfare protective clothing produced outside the United States or its possessions when such procurement is necessary to comply with agreements with foreign governments requiring the United States to purchase supplies from foreign sources for the purposes of offsetting sales made by the United States Government or United States firms under approved programs serving defense requirements or where such procurement is necessary in furtherance of the standardization and interoperability of equipment requirements within NATO so long as such agreements with foreign governments comply, where applicable, with the requirements of section 36 of the Arms Export Control Act and with section 2457 of title 10, United States Code: Provided further, That nothing herein shall preclude the procurement of foods manufactured or processed in the United States or its possessions: Provided further, That no funds herein appropriated shall be used for the payment of a price differential on contracts hereafter made for the purpose of relieving economic dislocations: Provided further, That none of the funds appropriated in this Act shall be used except that, so far as practicable, all contracts shall be awarded on a formally advertised competitive bid basis to the lowest responsible bidder.

SEC. 8017. During the current fiscal year, appropriations available to the Department of Defense for pay of civilian employees shall be available for uniforms, or allowances therefor, as authorized by section 5901 of title 5, United States Code.

SEC. 8018. Funds provided in this Act for legislative liaison activities of the Department of the Army, the Department of the Navy, the Department of the Air Force, and the Office of the Secretary of Defense shall not exceed $13,334,000 for the current fiscal year: Provided, That this amount shall be available for apportionment to the Department of the Army, the Department of the Navy, the Department of the Air Force, and the Office of the Secretary of Defense as determined by the Secretary of Defense: Provided further, That costs for military retired pay accrual shall be included within this limitation.

SEC. 8019. Of the funds made available by this Act for the services of the Military Airlift Command, $100,000,000 shall be available only for procurement of commercial transportation service from carriers participating in the civil reserve air fleet program; and the Secretary of Defense shall utilize the services of such carriers which qualify as small businesses to the fullest extent found practicable: Provided, That the Secretary of Defense shall specify in such procurement, performance characteristics for aircraft to be used based upon modern aircraft operated by the civil reserve air fleet.

(TRANSFER OF FUNDS)

SEC. 8020. Upon determination by the Secretary of Defense that such action is necessary in the national interest, he may, with the approval of the Office of Management and Budget, transfer not to exceed $950,000,000 of working capital funds of the Department of Defense or funds made available in this Act to the Department of Defense for military functions (except military construction) between such appropriations or funds or any subdivision thereof, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: Provided, That such authority to transfer may not be used unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which funds are requested has been denied by Congress: Provided further, That the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority.

(TRANSFER OF FUNDS)

SEC. 8021. During the current fiscal year, cash balances in working capital funds of the Department of Defense established pursuant to section 2208 of title 10, United States Code, may be maintained in only such amounts as are necessary at any time for cash disbursements to be made from such funds: Provided, That transfers may be made between such funds in such amounts as may be determined by the Secretary of Defense, with the approval of the Office of Management and Budget, except that transfers between a stock fund account and an industrial fund account may not be made unless the Secretary of Defense has notified the Congress of the proposed transfer.

Except in amounts equal to the amounts appropriated to working capital funds in this Act, no obligations may be made against a working capital fund to procure war reserve material inventory, unless the Secretary of Defense has notified the Congress prior to any such obligation.

SEC. 8022. None of the funds available to the Department of Defense shall be utilized for the conversion of heating plants from coal to oil at defense facilities in Europe.

SEC. 8023. No part of the funds in this Act shall be available to prepare or present a request to the Committees on Appropriations for reprograming of funds, unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which reprograming is requested has been denied by the Congress.

SEC. 8024. None of the funds contained in this Act available for the Civilian Health and Medical Program of the Uniformed Services under the provisions of section 1079(a) of title 10, United States Code, shall be available for reimbursement of any physician or other authorized individual provider of medical care in excess of the eightieth percentile of the customary charges made for similar services in the same locality where the medical care was furnished, as determined for physicians in accordance with section 1079(h) of title 10, United States Code.

SEC. 8025. No appropriation contained in this Act may be used to pay for the cost of public affairs activities of the Department of Defense in excess of $43,563,000: Provided, That costs for military retired pay accrual shall be included within this limitation.

SEC. 8026. None of the funds provided in this Act shall be available for the planning or execution of programs which utilize amounts credited to Department of Defense appropriations or funds pursuant to the provisions of section 37(a) of the Arms Export Control Act representing payment for the actual value of defense articles specified in section 21(a)(1)(A) of that Act: Provided, That such amounts shall be credited to the Special Defense Acquisition Fund, as authorized by law, or, to the extent not so credited shall be deposited in the Treasury as miscellaneous receipts as provided in section 3302(b) of title 31, United States Code.

SEC. 8027. No appropriation contained in this Act shall be available to fund any costs of a Senior Reserve Officers' Training Corps unit—except to complete training of personnel enrolled in Military Science 4—which in its junior year class (Military Science 3) has for the four preceding academic years, and as of September 30, 1983, enrolled less than (a) seventeen students where the institution prescribes a four-year or a combination four- and two-year program; or (b) twelve students where the institution prescribes a two-year program: Provided, That, notwithstanding the foregoing limitation, funds shall be available to maintain one Senior Reserve Officers' Training Corps unit in each State and at each State-operated maritime academy: Provided further, That units under the consortium system shall be considered as a single unit for purposes of evaluation of productivity under this provision: Provided further, That enrollment standards contained in Department of Defense Directive 1215.8 for Senior Reserve Officers' Training Corps units, as revised during fiscal year 1981, may be used to determine compliance with this provision, in lieu of the standards cited above.

SEC. 8028. None of the funds appropriated by this Act for programs of the Central Intelligence Agency shall remain available for obligation beyond the current fiscal year, except for funds appropriated for the Reserve for Contingencies, which shall remain available until September 30, 1987.

SEC. 8029. None of the funds appropriated by this Act may be used to support more than 9,901 full-time and 2,603 part-time military personnel assigned to or used in the support of Morale, Welfare, and Recreation activities as described in Department of Defense Instruction 7000.12 and its enclosures, dated September 4, 1980.

SEC. 8030. All obligations incurred in anticipation of the appropriations and authority provided in this Act are hereby ratified and confirmed if otherwise in accordance with the provisions of this Act.

SEC. 8031. None of the funds appropriated by this Act or heretofore appropriated by any other Act shall be obligated or expended for the payment of anticipatory possession compensation claims to the Federal Republic of Germany other than claims listed in the 1973 agreement (commonly referred to as the Global Agreement) between the United States and the Federal Republic of Germany.

SEC. 8032. During the current fiscal year the Department of Defense may enter into contracts to recover indebtedness to the United States pursuant to section 3718 of title 31, United States Code.

SEC. 8033. None of the funds appropriated by this Act shall be available for a contract for studies, analyses, or consulting services entered into without competition on the basis of an unsolicited proposal unless the head of the activity responsible for the procurement determines:

(a) as a result of thorough technical evaluation, only one source is found fully qualified to perform the proposed work, or

(b) the purpose of the contract is to explore an unsolicited proposal which offers significant scientific or technological promise, represents the product of original thinking, and was submitted in confidence by one source, or

(c) where the purpose of the contract is to take advantage of unique and significant industrial accomplishment by a specific concern, or to insure that a new product or idea of a specific concern is given financial support:

Provided, That this limitation shall not apply to contracts in an amount of less than $25,000, contracts related to improvements of equipment that is in development or production, or contracts as to which a civilian official of the Department of Defense, who has been confirmed by the Senate, determines that the award of such contract is in the interest of the national defense.

SEC. 8034. None of the funds appropriated by this Act shall be available to provide medical care in the United States on an inpatient basis to foreign military and diplomatic personnel or their dependents unless the Department of Defense is reimbursed for the costs of providing such care: Provided, That reimbursements for medical care covered by this section shall be credited to the appropriations against which charges have been made for providing such care, except that inpatient medical care may be provided in the United States without cost to military personnel and their dependents from a foreign country if comparable care is made available to a comparable number of United States military personnel in that foreign country.

SEC. 8035. None of the funds appropriated by this Act shall be obligated for the second career training program authorized by Public Law 96-347.

SEC. 8036. None of the funds appropriated or otherwise made available in this Act shall be obligated or expended for salaries or expenses during the current fiscal year for the purposes of demilitarization of surplus nonautomatic firearms less than .50 caliber.

SEC. 8037. None of the funds provided in this Act shall be available to initiate (1) a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any one year of the contract or that includes an unfunded contingent liability in excess of $20,000,000, or (2) a contract for advance procurement leading to a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any one year, unless the Committees on Appropriations and Armed Services of the Senate and House of Representatives have been notified at least thirty days in advance of the proposed contract award: Provided, That no part of any appropriation contained in this Act shall be available to initiate a multiyear contract for which the economic order quantity advance procurement is not funded at least to the limits of the Government's liability: Provided further, That no part of any appropriation contained in this Act shall be available to initiate multiyear procurement contracts for any systems or component thereof if the value of the multiyear contract would exceed $500,000,000 unless specifically provided in this Act: Provided further, That the execution of multiyear authority shall require the use of a present value analysis to determine lowest cost compared to an annual procurement. Funds appropriated in title III of this Act may be used for multiyear procurement contracts as follows:

T-700 series aircraft engines;
MK-46 torpedo program;
Bradley Fighting Vehicle transmission;
M-1 tank chassis;
M-1 tank engine;
M-1 tank fire control components; and
LHD-1 amphibious assault ships.

SEC. 8038. None of the funds appropriated by this Act which are available for payment of travel allowances for per diem in lieu of subsistence to enlisted personnel shall be used to pay such an allowance to any enlisted member in an amount that is more than the amount of per diem in lieu of subsistence that the enlisted member is otherwise entitled to receive minus the basic allowance for subsistence, or pro rata portion of such allowance, that the enlisted member is entitled to receive during any day, or portion of a day, that the enlisted member is also entitled to be paid a per diem in lieu of subsistence.

SEC. 8039. None of the funds appropriated by this Act shall be available to approve a request for waiver of the costs otherwise required to be recovered under the provisions of section 21(e)(1)(C) of the Arms Export Control Act unless the Committees on Appropriations have been notified in advance of the proposed waiver.

SEC. 8040. None of the funds appropriated by this Act shall be available for the transportation of equipment or materiel designated as Prepositioned Materiel Configured in Unit Sets (POMCUS) in Europe in excess of four division sets: Provided, That the foregoing limitation shall not apply with respect to any item of equipment or materiel which is maintained in the inventories of the Active and Reserve Forces at levels of at least 70 per centum of the established requirements for such an item of equipment or

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materiel for the Active Forces and 50 per centum of the established requirement for the Reserve Forces for such an item of equipment or materiel: Provided further, That no additional commitments to the establishment of POMCUS sites shall be made without prior approval of Congress.

SEC. 8041. (a) None of the funds in this Act may be used to transfer any article of military equipment or data related to the manufacture of such equipment to a foreign country prior to the approval in writing of such transfer by the Secretary of the military service involved.

(b) No funds appropriated by this Act may be used for the transfer of a technical data package from any Government-owned and operated defense plant manufacturing large caliber cannons to any foreign government, nor for assisting any such government in producing any defense item currently being manufactured or developed in a United States Government-owned, Government-operated, defense plant manufacturing large caliber cannons.

(TRANSFER OF FUNDS)

SEC. 8042. None of the funds appropriated in this Act may be made available through transfer, reprograming, or other means for any intelligence or special activity different from that previously justified to the Congress unless the Director of Central Intelligence or the Secretary of Defense has notified the House and Senate Appropriations Committees of the intent to make such funds available for such activity.

SEC. 8043. Of the funds appropriated by this Act for strategic programs, the Secretary of Defense shall provide funds for the Advanced Technology Bomber program at a level at least equal to the amount provided by the committee of conference on this Act in order to maintain priority emphasis on this program.

SEC. 8044. None of the funds available to the Department of Defense during the current fiscal year shall be used by the Secretary of a military department to purchase coal or coke from foreign nations for use at United States defense facilities in Europe when coal from the United States is available.

SEC. 8045. None of the funds available to the Department of Defense shall be available for the procurement of manual typewriters which were manufactured by facilities located within states which are Signatories to the Warsaw Pact.

SEC. 8046. None of the funds appropriated by this Act may be used to appoint or compensate more than 37 individuals in the Department of Defense in positions in the Executive Schedule (as provided in sections 5312–5316 of title 5, United States Code).

SEC. 8047. None of the funds appropriated by this Act shall be available to convert a position in support of the Army Reserve, Air Force Reserve, Army National Guard, and Air National Guard occupied by, or programed to be occupied by, a (civilian) military technician to a position to be held by a person in an active Guard or Reserve status if that conversion would reduce the total number of positions occupied by, or programed to be occupied by, (civilian) military technicians of the component concerned, below 66,086: Provided, That none of the funds appropriated by this Act shall be available to support more than 43,157 positions in support of the Army Reserve, Army National Guard or Air National Guard occupied by, or programed to be occupied by, persons in an active Guard or Reserve status: Provided further, That none of the funds appropriated by this Act may be used to include (civilian) military technicians in computing civilian personnel ceilings, including statutory or administratively imposed ceilings, on activities in support of the Army Reserve, Air Force Reserve, Army National Guard or Air National Guard.

SEC. 8048. (a) The provisions of section 138(c)(2) of title 10, United States Code, shall not apply with respect to fiscal year 1986 or with respect to the appropriation of funds for that year.

(b) During fiscal year 1986, the civilian personnel of the Department of Defense may not be managed on the basis of any end-strength, and the management of such personnel during that fiscal year shall not be subject to any constraint or limitation (known as an end-strength) on the number of such personnel who may be employed on the last day of such fiscal year.

(c) The fiscal year 1987 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 1987 Department of Defense budget request shall be prepared and submitted to the Congress as if subsections (a) and (b) of this provision were effective with regard to fiscal year 1987.

(TRANSFER OF FUNDS)

SEC. 8049. Appropriations or funds available to the Department of Defense during the current fiscal year may be transferred to appropriations provided in this Act for research, development, test, and evaluation to the extent necessary to meet increased pay costs authorized by or pursuant to law, to be merged with and to be available for the same purposes, and the same time period, as the appropriation to which transferred.

SEC. 8050. None of the funds available to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States involved in intelligence activities may be obligated or expended during fiscal year 1986 to provide funds, materiel, or other assistance to the Nicaraguan democratic resistance unless in accordance with the terms and conditions specified by section 105 of the Intelligence Authorization Act (Public Law 99–169) for fiscal year 1986.

(TRANSFER OF FUNDS)

SEC. 8051. In addition to any other transfer authority contained in this Act, amounts from working capital funds may be transferred to the Operation and Maintenance, Army, Navy, and Air Force appropriations contained in this Act to be merged with and to be available for the same purposes and for the same time period as the appropriation to which transferred: Provided, That such transfers shall not exceed $168,200,000 for Operation and Maintenance, Army; $420,300,000 for Operation and Maintenance, Navy; and $164,000,000 for Operation and Maintenance, Air Force.

SEC. 8052. None of the funds made available by this Act shall be used in any way for the leasing to non-Federal agencies in the United States aircraft or vehicles owned or operated by the Department of Defense when suitable aircraft or vehicles are commercially available in the private sector: Provided, That nothing in this section shall affect authorized and established procedures for the sale of surplus aircraft or vehicles: Provided further, That nothing in this section shall prohibit the leasing of helicopters authorized by section 1463 of the Department of Defense Authorization Act of 1986.

SEC. 8053. None of the funds made available by this Act shall be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before the Congress.

SEC. 8054. No funds available to the Department of Defense during the current fiscal year may be used to enter into any contract with a term of eighteen months or more or to extend or renew any contract for a term of eighteen months or more, for any vessel, aircraft or vehicles, through a lease, charter, or similar agreement without previously having been submitted to the Committees on Appropriations of the House of Representatives and the Senate in the budgetary process. Further, any contractual agreement which imposes an estimated termination liability (excluding the estimated value of the leased item at the time of termination) on the Government exceeding 50 per centum of the original purchase value of the vessel, aircraft, or vehicle must have specific authority in an appropriation Act for the obligation of 10 per centum of such termination liability.

SEC. 8055. None of the funds appropriated in this Act may be obligated or expended in any way for the purpose of the sale, lease, rental, or excessing of any portion of land currently identified as Fort DeRussy, Honolulu, Hawaii.

SEC. 8056. None of the funds made available by this Act shall be available to operate in excess of 247 commissaries in the contiguous United States.

SEC. 8057. None of the funds provided in this Act shall be used to procure aircraft ejection seats manufactured in any foreign nation that does not permit United States manufacturers to compete for ejection seat procurement requirements in that foreign nation. This limitation shall apply only to ejection seats procured for installation on aircraft produced or assembled in the United States.

SEC. 8058. No more than $166,766,000 of the funds appropriated by this Act shall be available for the payment of unemployment compensation benefits.

SEC. 8059. None of the funds appropriated by this Act should be obligated for the pay of any individual who is initially employed after the date of enactment of this Act as a technician in the administration and training of the Army Reserve and the maintenance and repair of supplies issued to the Army Reserve unless such individual is also a military member of the Army Reserve troop program unit that he or she is employed to support. Those technicians employed by the Army Reserve in areas other than Army Reserve troop program units need only be members of the Selected Reserve.

SEC. 8060. None of the funds appropriated by this Act shall be used for the transfer of the Department of Defense Dependents Schools (DODDS) to the Department of Education.

SEC. 8061. None of the funds appropriated by this Act shall be used to purchase dogs or cats or otherwise fund the use of dogs or cats for the purpose of training Department of Defense students or other personnel in surgical or other medical treatment of wounds produced by any type of weapon: Provided, That the standards of such training with respect to the treatment of animals shall adhere to the Federal Animal Welfare Law and to those prevailing in the civilian medical community.

SEC. 8062. None of the funds made available by this Act shall be used to initiate full-scale engineering development of any major defense acquisition program until the Secretary of Defense has provided to the Committees on Appropriations of the House and Senate—

(a) a certification that the system or subsystem being developed will be procured in quantities that are not sufficient to warrant development of two or more production sources, or

(b) a plan for the development of two or more sources for the production of the system or subsystem being developed.

Sec. 8063. None of the funds appropriated by this Act shall be available to pay any member of the uniformed services for unused accrued leave pursuant to section 501 of title 37, United States Code, for more than sixty days of such leave, less the number of days for which payment was previously made under section 501 after February 9, 1976.

Sec. 8064. Within funds available under title II of this Act, but not to exceed $100,000, and under such regulations as the Secretary of Defense may prescribe, the Department of Defense may, in addition to allowances currently available, make payments for travel and transportation expenses of the surviving spouse, children, parents, and brothers and sisters of any member of the Armed Forces of the United States, who dies as the result of an injury or disease incurred in line of duty to attend the funeral of such member in any case in which the funeral of such member is more than two hundred miles from the residence of the surviving spouse, children, parents or brothers and sisters, if such spouse, children, parents or brothers and sisters, as the case may be, are financially unable to pay their own travel and transportation expenses to attend the funeral of such member.

Sec. 8065. None of the funds available to the Department of Defense may be used for the floating storage of petroleum or petroleum products except in vessels of or belonging to the United States.

Sec. 8066. Of the funds made available to the Department of the Air Force in this Act, not less than $3,000,000 shall be available for the Civil Air Patrol.

Sec. 8067. Funds available to the Department of Defense may be used by the Department of Defense for the use of helicopters and motorized equipment at Defense installations for removal of feral burros and horses.

Sec. 8068. So far as may be practicable, Indian labor shall be employed, and purchases of the products of Indian industry may be made in open market in the discretion of the Secretary of Defense: Provided, That the products must meet pre-set contract specifications.

(TRANSFER OF FUNDS)

Sec. 8069. Not to exceed $100,000,000 may be transferred from the appropriation "Operation and Maintenance, Defense Agencies" to operation and maintenance appropriations under the military departments in connection with demonstration projects authorized by section 1092 of title 10, United States Code: Provided, That the Secretary of Defense shall promptly notify the Congress of any such transfer of funds under this provision: Provided further, That the authority to make transfers pursuant to this section is in addition to the authority to make transfers under other provisions of this Act.

Sec. 8070. None of the funds available for Defense installations in Europe shall be used for the consolidation or conversion of heating facilities to district heating distribution systems in Europe: Provided, That those facilities identified by the Department of the Army as of April 11, 1985, as being in advanced stages of negotiations shall be exempt from such provision: Provided further, That nothing in this section shall prohibit the conversion or consolidation of heating facilities to district heating distribution systems at Bad Kissingen, Hessen, in the Federal Republic of Germany.

Sec. 8071. None of the funds appropriated by this Act shall be available to compensate foreign selling costs as described in Federal Acquisition Regulation 31.205-38(b) as in effect on April 1, 1984.

Sec. 8072. Of the funds appropriated for the operation and maintenance of the Armed Forces, obligations may be incurred for humanitarian and civic assistance costs incidental to authorized operations, and these obligations shall be reported to Congress on September 30, 1986: Provided, That funds available for operation and maintenance shall be available for providing humanitarian and similar assistance in the Trust Territories of the Pacific Islands by using Civic Action Teams.

Sec. 8073. Notwithstanding any other provision of law, the Secretaries of the Army and Air Force may authorize the retention in an active status until age sixty of any officer who would otherwise be removed from an active status and who is employed as a National Guard or Reserve technician in a position in which active status in a reserve component of the Army or Air Force is required as a condition of that employment.

Sec. 8074. None of the funds available to the Department of Defense may be used to transport any chemical munitions into the Lexington-Blue Grass Army Depot for purposes of future demilitarization.

Sec. 8075. None of the funds appropriated by this Act may be obligated or expended for the purposes delineated in section 1002(e)(2) of the Department of Defense Authorization Act, 1985, without the prior notification to the Committees on Appropriations of the House of Representatives and the Senate.

Sec. 8076. It is the sense of the Congress that the Secretary of Defense should formulate and carry out a program under which contracts awarded by the Department of Defense in fiscal year 1986 would, to the maximum extent practicable and consistent with existing law, be awarded to contractors who agree to carry out such contracts in labor surplus areas (as defined and identified by the Department of Labor).

Sec. 8077. It is the sense of the Congress that competition, which is necessary to enhance innovation, effectiveness, and efficiency, and which has served our Nation so well in other spheres of political and economic endeavor, should be expanded and increased in the provision of our national defense.

Sec. 8078. Notwithstanding any other provision of law, each contract awarded by the Department of Defense in fiscal year 1986 for construction or services to be performed in whole or in part in a State which is not contiguous with another State and has an unemployment rate in excess of the national average rate of unemployment as determined by the Secretary of Labor shall include a provision requiring the contractor to employ, for the purpose of performing that portion of the contract in such State that is not contiguous with another State, individuals who are residents of such State and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills: Provided, That the Secretary of Defense may waive the requirements of this section in the interest of national security.

Sec. 8079. None of the funds appropriated by this Act shall be available to pay a dislocation allowance pursuant to section 407 of title 37, United States Code, in excess of one month's basic allowance for quarters.

Sec. 8080. None of the funds available to the Department of Defense shall be obligated or expended to contract out any activity currently performed by the Defense Personnel Support Center in Philadelphia, Pennsylvania: Provided, That this provision shall not apply after notification to the Committees on Appropriations of the House of Representatives and the Senate of the results of the cost analysis of contracting out any such activity.

Sec. 8081. None of the funds appropriated by this Act shall be used to make contributions to the Department of Defense Education Benefits Fund pursuant to section 2006(g) of title 10, United States Code, representing the normal cost for future benefits under section 1415(c) of title 38, United States Code, for any member of the armed services who, on or after the date of enactment of this Act, receives an enlistment bonus under section 308a or 308f of title 37, United States Code; nor shall any amounts representing the normal cost of such future benefits be transferred from the Fund by the Secretary of the Treasury to the Administrator of Veterans' Affairs pursuant to section 2006(d) of title 10, United States Code; nor shall the Administrator pay such benefits to any such member.

Sec. 8082. Notwithstanding any other provision of this Act, no funds appropriated by this Act shall be expended for the research, development, test, evaluation or procurement for integration of a nuclear warhead into the Joint Tactical Missile System (JTACMS).

Sec. 8083. Under regulations prescribed by the Secretary of Defense, the Department of the Air Force and the Defense Logistics Agency may test a flat rate per diem system for military and civilian travel allowances: Provided, That per diem allowances paid under a flat rate per diem system shall be in an amount determined by the Secretary of Defense to be sufficient to meet normal and necessary expenses in the area in which travel is performed, but in no event will the travel allowances exceed $75 for each day in travel status within the continental United States: Provided further, That the test approved under this section shall expire upon the effective date of permanent legislation establishing a flat rate per diem system for both military and civilian personnel.

Sec. 8084. Notwithstanding any other provision of law, during fiscal year 1986, the Department of Defense is to conduct a pilot test project of providing home health care to dependents entitled to health care under section 1076 of title 10, United States Code: Provided, That such care is medically necessary or appropriate, more cost effective than to continue paying for otherwise authorized CHAMPUS benefits in medical facilities, and the beneficiary is not covered for such care under any other public or private health insurance plan.

Sec. 8085. Not more than $2,744,293,000 of the funds appropriated by this Act may be obligated for permanent change of station travel (including all expenses of such travel for organizational movements): Provided, That assignments for temporary duty may not be increased in order to circumvent this limitation: Provided further, That this limitation may be exceeded only upon a determination and notification to the Congress by the Secretary of Defense that such action is necessary to meet national security requirements.

SEC. 8086. Funds appropriated in this Act shall be available for the payment of not more than 75 percent of the charges of a postsecondary educational institution for the tuition or expenses of an officer in the Ready Reserve of the Army National Guard or Army Reserve for education or training during his off-duty periods, except that no part of the charges may be paid unless the officer agrees to remain a member of the Ready Reserve for at least four years after completion of such training or education: Provided, That notwithstanding any other provision of law, those individuals who received assistance under the Army National Guard Assistance for Military Professional Development program and who forfeited money as a result of its cancellation on July 22, 1985, and who could not continue in this program, shall be reimbursed for the moneys they forfeited: Provided further, That no interest shall be paid on the amounts reimbursed.

SEC. 8087. None of the funds appropriated in this Act shall be used for professional surveying and mapping services performed by contract for the Defense Mapping Agency unless those contracts are procured in accordance with the selection procedures outlined pursuant to section 2855 of title 10, United States Code.

SEC. 8088. During the current fiscal year, effective January 1, 1985, the rate of the basic allowance for quarters authorized by section 403(a) of title 37, United States Code, which is payable to a member of the uniformed services who was entitled to that allowance on December 31, 1984, shall not be less than the rate of the basic allowance for quarters that was in effect for that member on December 31, 1984 (unless the member holds a lower grade than he held on that date or has had a change in dependent status from a "with dependents" status to a "without dependents" status).

SEC. 8089. None of the funds appropriated by this Act shall be available to convert to contractor performance an activity or function of the Department of Defense that, on or after the date of enactment of this Act, is performed by more than ten Department of Defense civilian employees until a most efficient and cost-effective organization analysis is completed on such activity or function and certification of the analysis is made to the Committees on Appropriations of the House of Representatives and the Senate.

(TRANSFER OF FUNDS)

SEC. 8090. Upon a determination by the Secretary of Defense that such action will result in a more economical acquisition of automatic data processing equipment, funds provided in this Act under one appropriation account for the lease or purchase of such equipment may be transferred through the Automatic Data Processing Equipment Management Fund to another appropriation account in this Act for the lease or purchase of automatic data processing equipment to be merged with and to be available for the same purposes, and for the same time period, as the appropriation to which transferred: Provided, That within thirty days after the end of each quarter the Secretary of Defense shall report transfers made under this section to the Committees on Appropriations of the Senate and the House of Representatives: Provided further, That the authority to transfer funds under this section shall be in addition to any other transfer authority contained in this Act.

SEC. 8091. Appropriations available to the Department of Defense during the current fiscal year shall be available, under such regulations as the Secretary of Defense may deem appropriate, to exchange or furnish mapping, charting, and geodetic data, supplies or services to a foreign country pursuant to an agreement for the production or exchange of mapping, charting, and geodetic data.

SEC. 8092. The lands described in Bureau of Land Management casefile AA-57372 shall be conveyed to the Municipality of Anchorage pursuant to the public interest land provisions of the North Anchorage Land Agreement if such lands are declared excess to the needs of the Army in Alaska.

SEC. 8093. Section 1411 of the Department of Defense Authorization Act, 1986, (Public Law 99-145) is amended to read as follows:

"SEC. 1411. CONDITIONS ON SPENDING FUNDS FOR BINARY CHEMICAL MUNITIONS.

"(a) LIMITATION ON FISCAL YEAR 1986 FUNDS.—Funds appropriated pursuant to authorizations of appropriations in title I may not be used—

"(1) for procurement or assembly of binary chemical munitions (or components of such munitions); or

"(2) for establishment of production facilities necessary for procurement or assembly of binary chemical munitions (or components of such munitions), except in accordance with subsections (b), (c), (d), and (e).

"(b) NATO CONSULTATION.—Subject to subsections (c), (d), and (e), funds referred to in subsection (a) may be used for procurement or assembly of binary chemical munitions or for the establishment of production facilities necessary for the procurement or assembly of binary chemical munitions (or components of such munitions) if the President certifies to Congress that the United States—

"(1) has submitted to the North Atlantic Treaty Organization, a force goal stating the requirement for modernization of the United States proportional share of the NATO chemical deterrent with binary munitions and said force goal has been formally adopted by the North Atlantic Council;

"(2) has developed in coordination with the Supreme Allied Commander, Europe, a plan under which United States binary chemical munitions can be deployed under appropriate contingency plans to deter chemical weapons attacks against the United States and its allies; and

"(3) has consulted with other member nations of the North Atlantic Treaty Organization (NATO) on that plan.

"(c) CONDITIONS FOR FINAL ASSEMBLY.—Funds referred to in subsection (a) may not be used for the final assembly of complete binary chemical munitions before October 1, 1987, and, subject to subsections (d) and (e), may only be used for such purpose on or after that date if—

"(1) a mutually verifiable international agreement concerning binary and other similar chemical munitions has not been entered into by the United States by that date;

"(2) the President, after that date, transmits to Congress a certification that—

"(A) final assembly of such complete munitions is necessitated by national security interests of the United States and the interests of other NATO member nations;

"(B) handling and storage safety specifications established by the Department of Defense with respect to such munitions will be met or exceeded;

"(C) applicable Federal safety requirements will be met or exceeded in the handling, storage, and other use of such munitions; and

"(D) the plan of the Secretary of Defense for destruction of existing United States chemical warfare stocks developed pursuant to section 1412 (which shall, if not sooner transmitted to Congress, accompany such certification) is ready to be implemented;

"(3) final assembly is carried out only after the end of the 60-day period beginning on the date such certification is received by the Congress;

"(4) the plan of the Secretary of Defense for land-based storage of such munitions within the United States during peacetime provides that the two components that constitute a binary chemical munition are to be stored in separate States; and

"(5) the plan of the Secretary of Defense for the transportation of such munitions within the United States during peacetime provides that the two components that constitute a binary munition are transported separately.

"(d) RESTRICTIONS ON PRODUCTION OF THE BIGEYE BOMB.—Except as provided below, none of the funds appropriated pursuant to authorizations of appropriations in title I may be used for procurement or assembly of the BIGEYE binary chemical bomb or for procurement of components for the BIGEYE bomb until 60 days after the Secretary of Defense has submitted a report describing—

"(1) the specific operational requirements which must be achieved by the BIGEYE system; and

"(2) the actual performance of the system during operational testing with respect to each of the operational test criteria; and

"(3) any exceptions to the operational criteria deemed acceptable by the Department of Defense.

"Subject to subsection (b) nothing in this subsection will prohibit the procurement of BIGEYE production facilities and associated equipment.

"(e) RESTRICTION ON PRODUCTION OF THE GB-2 ARTILLERY PROJECTILE.—None of the funds appropriated pursuant to authorizations in title I for procurement or assembly of the GB-2 artillery projectile may be obligated or expended before October 1, 1986.

"(f) SENSE OF CONGRESS.—It is the sense of Congress that existing unitary chemical munitions currently stored in the United States and in European member nations of NATO should be replaced by modern, safer binary chemical munitions.

"(g) REPORT.—Not later than October 1, 1986, the President shall submit to Congress a report describing the results of consultations among NATO member nations concerning the organization's chemical deterrent posture. The report shall include descriptions of any consultations concerning—

"(1) efforts to provide key civilian workers at military support facilities in Europe—

"(A) with personal and collective equipment to protect against the use of chemical munitions; and

"(B) with the training required for the use of such equipment;

"(2) efforts to upgrade the chemical reconnaissance, decontamination, and protective capabilities of the military forces of each NATO member nation to a level adequate to meet the chemical threat identified in NATO intelligence estimates;

"(3) efforts to initiate a NATO-wide study of measures required to protect ports, airfields, logistics centers, and command and control facilities in European member nations of NATO against chemical attack; and

"(4) efforts to initiate a NATO-wide study of equitable and efficient sharing among NATO member nations of responsibilities with regard to deterring the use of chemical munitions in Europe.".

Sec. 8094. None of the funds appropriated in this Act may be obligated or expended for procurement of C-12 aircraft unless such aircraft are procured through competitive procedures (as defined in section 2302(2) of title 10, United States Code), which shall be restricted to turboprop aircraft.

Sec. 8095. None of the funds in this Act may be obligated for procurement of 120mm mortars or 120mm mortar ammunition manufactured outside of the United States: Provided, That this limitation shall not apply to procurement of such mortars or ammunition required for testing, evaluation, type classification or equipping the Army's Ninth Infantry Division (Motorized).

Sec. 8096. Appropriations made available to the Department of Defense by this Act may be used at sites formerly used by the Department of Defense for removal of unsafe buildings or debris of the Department of Defense: Provided, That such removal must be completed before the property is released from Federal Government control, other than property conveyed to State or local government entities or native corporations.

Sec. 8097. None of the funds appropriated by this Act or any other Act may be obligated or expended to carry out a test of the Space Defense System (anti-satellite weapon) against an object in space until the President certifies to Congress that the Soviet Union has conducted, after October 3, 1985, a test against an object in space of a dedicated anti-satellite weapon.

Sec. 8098. Of the funds made available by this Act to the Department of the Army, $7,200,000 shall be transferred to the Bureau of Land Management for the relocation of the district office at Fort Wainwright, Alaska.

Sec. 8099. None of the funds appropriated by this Act shall be used for the support of any nonappropriated fund activity of the Department of Defense that procures alcoholic beverages with nonappropriated funds for resale (including alcoholic beverages sold by the drink) on a military installation located in the United States, unless such alcoholic beverages are procured in the State, or in the case of the District of Columbia, within the District of Columbia, in which the installation is located: Provided, That in a case in which a military installation is located in more than one State, purchases may be made in any State in which the installation is located: Provided further, That not later than one year after the date of enactment of this Act, the Secretary shall transmit a report to the Congress concerning the implementation of this section.

(TRANSFER OF FUNDS)

Sec. 8100. The Secretary of Defense may transfer, not to exceed $468,000,000 from the Foreign Currency Fluctuation, Defense account to appropriations provided in title II of this Act: Provided, That the Secretary of Defense shall report to the Committees on Appropriations of the House of Representatives and Senate of transfers made under this authority: Provided further, That funds so transferred shall be made available for the same time period and purpose as the appropriation to which transferred: Provided further, That this transfer authority is in addition to any other transfer authority provided elsewhere in this Act.

Sec. 8101. Within the funds made available under title II of this Act, the military departments may use such funds as necessary, but not to exceed $4,700,000, to carry out the provisions of section 430 of title 37, United States Code.

Sec. 8102. The amendments made to section 7572(b)(3) of title 10, United States Code, and to section 3 of Public Law 96-357 (10 U.S.C. 7572 note) by section 606 of the Department of Defense Authorization Act, 1986, shall apply to reimbursement of expenses incurred on or after October 1, 1985, by a member of a uniformed service on sea duty.

Sec. 8103. (a) In addition to other funds made available by this Act, $6,306,906,000 shall be available for obligation and expenditure from prior year unobligated balances from the following accounts in the amounts specified:

	Prior Year Transfer
Aircraft Procurement, Army—1985/87	$117,900,000
Missile Procurement, Army—1984/86	10,100,000
Missile Procurement, Army—1985/87	[illegible]
Procurement of Weapons and Tracked Combat Vehicles, Army—1984/86	336,500,000
Procurement of Weapons and Tracked Combat Vehicles, Army—1985/87	253,800,000
Procurement of Ammunition, Army—1984/86	30,400,000
Procurement of Ammunition, Army—1985/87	147,700,000
Other Procurement, Army—1984/86	[illegible]
Other Procurement, Army—1985/87	176,500,000
Aircraft Procurement, Navy—1984/86	[illegible]
Aircraft Procurement, Navy—1985/87	[illegible]
Weapons Procurement, Navy—1985/87	15,000,000
Shipbuilding and Conversion, Navy—1982/86	391,600,000
Shipbuilding and Conversion, Navy—1983/87	691,300,000
Shipbuilding and Conversion, Navy—1984/88	[illegible]
Shipbuilding and Conversion, Navy—1985/89	517,800,000
Other Procurement, Navy—1984/86	75,790,000
Other Procurement, Navy—1985/87	200,693,000
Procurement, Marine Corps—1985/87	47,717,000
Aircraft Procurement, Air Force—1984/86	246,400,000
Aircraft Procurement, Air Force—1985/87	[illegible]
Missile Procurement, Air Force—1984/86	29,400,000
Missile Procurement, Air Force—1985/87	53,400,000
Other Procurement, Air Force—1984/86	94,127,000
Other Procurement, Air Force—1985/87	253,349,000
Procurement, Defense Agencies—1984/86	15,000,000
Procurement, Defense Agencies—1985/87	21,000,000
Research, Development, Test and Evaluation, Army—1985/86	96,130,000
Research, Development, Test and Evaluation, Navy—1985/86	[illegible]
Research, Development, Test and Evaluation, Air Force—1985/86	264,000,000
Research, Development, Test and Evaluation, Defense Agencies—1985/86	[illegible]
TOTAL	$6,306,906,000

(b) The foregoing unobligated balances in subsection (a) shall remain available for obligation only for the time period provided when originally appropriated, and may be transferred by the Secretary of Defense to appropriations in titles I, II, III, IV, VI and VII as may be required for only the military pay raise of October 1, 1985, payments to the military retirement trust fund including those requirements that may be establishment by subsequent acts of Congress, the Mariner Fund and the Coastal Defense Augmentation account, and for increased readiness of conventional forces in programs funded in the operation and maintenance accounts, including but not limited to flying hours, steaming hours, and training: Provided, That no funds may be transferred or obligated until 15 days after the Secretary of Defense notifies the Committees on Appropriations of the House and Senate of such transfers and obligations: Provided further, That $852,100,000 shall be available only for the Mariner Fund and may not be obligated or expended for any purpose until enactment of legislation establishing a Mariner Fund program for construction and lease of militarily useful vessels and until 60 days after notification to the Committees on Appropriations of the House and Senate of the intent to obligate from such Fund: Provided further, That notwithstanding any other provision of this section, after May 1, 1986, obligations from the Military Personnel accounts contained in this Act shall not exceed a rate in excess of the rate required to limit total obligations to the obligation ceilings established by law for such accounts for fiscal year 1986: Provided further, That in addition to funds appropriated elsewhere in this Act, $140,000,000 of the foregoing unobligated balances shall be for the Coastal Defense Augmentation account: Provided further, That none of the foregoing unobligated balances may be transferred, reprogramed, or otherwise applied to offset the impact of sequester orders required under the provisions of the Balanced Budget and Emergency Deficit Control Act of 1985: Provided further, That the transfer authority contained in this section shall be in addition to any other transfer authority contained in this Act.

Sec. 8104. None of the funds available to the Department of the Navy may be used to enter into any contract for the overhaul, repair, or maintenance of any naval vessel on the West Coast of the United States which includes charges for interport differential as an evaluation factor for award.

Sec. 8105. Notwithstanding any other provision of law, none of the funds appropriated by this Act shall be used for the installation, maintenance, and operation of a 22¾ x 36-inch perfecting web offset press with in-line folder procured by or for the Department of the Air Force under solicitation number F01600-85-B0021.

Sec. 8106. None of the funds made available by this Act may be used to alter the command structure for military forces in Alaska.

Sec. 8107. None of the funds appropriated in this Act may be obligated or expended to carry out a program to paint any naval vessel with paint known as organotin or with any other paint containing the chemical compound tributyltin until such time as the Environmental Protection Agency certifies to the Department of Defense that whatever toxicity as generated by organotin paints as included in Navy specifications does not pose an unacceptable hazard to the marine environment.

Sec. 8108. No funds appropriated under this Act for the Strategic Defense Initiative Program shall be earmarked by any agency of the United States Government or any contractor exclusively for contracts with non-United States contractors, subcontractors, or vendors, or exclusively for consortia containing non-United States contractors, subcontractors, or vendors, prior to source selection in order to meet a specific quota or allocation of funds to any allied nation. Furthermore, it is the sense of the Congress that, whenever possible, the Secretary of Defense and others should attempt to award Strategic Defense Initiative contracts to United States contractors, subcontractors, and vendors unless such awards would degrade the likely results obtained from such contracts: Provided, That allied nations should be encouraged to participate in the Strategic Defense Initiative research effort on a competitive basis and be awarded contracts on the basis of technical merit.

Sec. 8109. None of the funds appropriated pursuant to this Act to or for the use of the Department of Defense may be obligated or expended for any purpose unless such funds have been authorized to be appropriated for such purpose by law other than this Act: Provided, That the preceding sentence does not apply to funds appropriated in this Act for Coastal Defense Augmentation; $375,000,000.

Sec. 8110. Of the funds available in the Army Industrial Fund, $25,000,000 shall be *available to be used to implement immediately, or to transfer to another appropriation account in this Act to be used to implement immediately, the program proposed by the Department in its letter of August 30, 1985, from the Assistant Secretary of Defense for Acquisition and Logistics, to rehabilitate and convert current steam generating plants at defense facilities in the United States to coal burning facilities in order to achieve a coal consumption target of 1,600,000 short tons of coal per year above current consumption levels at Department of Defense facilities in the United States by fiscal year 1994: Provided, That anthracite or bituminous coal shall be the source of energy at such installations: Provided further, That during the implementation of this proposal, the amount of anthracite coal purchased by the Department shall remain at least at the current annual purchase level, 302,000 short tons.*

Sec. 8111. The Secretary of Defense and the Administrator of the National Aeronautics and Space Administration will jointly determine which payloads will be launched on Titan II launch vehicles and certify by notice to the Congress that such launches are cost-effective as compared to launches by the space shuttle and do not diminish the efficient and effective utilization of the space shuttle capability: Provided, That this section may be waived only upon certification by the Secretary of Defense that certain classified payloads must be launched on the Titan II launch vehicle as opposed to the space shuttle, for national security reasons.

Sec. 8112. (a) Revisions to Defense Contract Allowable Cost Provision.—Section 2324 of title 10, United States Code, is amended as follows:

(1) Subsection (e)(2) is amended—

(A) by inserting "(A)" after "(2)"; and

(B) by adding at the end thereof the following new subparagraph:

"(B) The Secretary shall submit to the committees named in subparagraph (C) and proposed regulations that would make substantive changes to regulations prescribed under the second sentence of subparagraph (A) before the publication of such proposed regulations in accordance with section 22 of the Office of Federal Procurement Policy Act (41 U.S.C. 418b).

"(C) The committees named in this subparagraph are—

"(i) the Committees on Armed Services and on Government Operations of the House of Representatives; and

"(ii) the Committees on Armed Services and on Governmental Affairs of the Senate.".

(2) Subsection (h)(2) is amended by inserting ", in an exceptional case," after "concerned may".

(3) Such section is further amended by redesignating subsection (j) as subsection (k) and inserting after subsection (i) the following new subsection (j):

"(j)(1) The Comptroller General shall periodically evaluate the implementation of this section by the Secretary of Defense. Such evaluation shall consider the extent to which—

"(A) such implementation is consistent with congressional intent;

"(B) such implementation achieves the objective of eliminating unallowable costs charged to defense contracts; and

"(C) such implementation (as well as the provisions of this section and the regulations prescribed under this section) could be improved or strengthened.

"(2) The Comptroller General shall submit to the committees named in subsection (e)(2)(C) a report on such evaluation within 90 days of publication by the Secretary of Defense in the Federal Register of regulations that make substantive changes in regulations prescribed under subsection (e) or (f) or in any other regulations of the Department of Defense pertaining to allowable costs under covered contracts.".

(b) Congressional Committee Review of Proposed Initial Regulations.—(1) The regulations required under section 911(b) of the Department of Defense Authorization Act, 1986 (Public Law 99-145), to be prescribed not later than 150 days after the date of the enactment of such Act shall be submitted to the committees named in paragraph (2) before the publication of such regulations in accordance with section 22 of the Office of Federal Procurement Policy Act (41 U.S.C. 418b).

(2) The committees named in this paragraph are—

(A) the Committees on Armed Services and on Government Operations of the House of Representatives; and

(B) the Committees on Armed Services and on Government Affairs of the Senate.

(c) Initial Comptroller General Evaluation and Report.—The Comptroller General shall submit to the committees named in subsection (b)(2) a report on the Comptroller General's initial evaluation under subsection (j)(1) of section 2324 of title 10, United States Code, as added by subsection (a). Such report shall be submitted within 180 days of the publication by the Secretary of Defense under section 911(b) of the Department of Defense Authorization Act, 1986 (Public Law 99-145), of the regulations referred to in such section.

This Act may be cited as the "Department of Defense Appropriations Act, 1986".;

And the Senate agree to the same.

Amendment numbered 6:

That the House recede from its disagreement to the amendment of the Senate numbered 6, and agree to the same with an amendment, as follows:

In lieu of the subsection named in said amendment insert: *(c)*; and the Senate agree to the same.

Amendment numbered 7:

That the House recede from its disagreement to the amendment of the Senate numbered 7, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

"(e) Such amounts as may be necessary for programs, projects or activities provided for in the Department of the Interior and Related Agencies Appropriations Act, 1986, at a rate of operations and to the extent and in the manner provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:".

An Act making appropriations for the Department of the Interior and Related Agencies for the fiscal year ending September 30, 1986, and for other purposes.

TITLE I—DEPARTMENT OF THE INTERIOR

Bureau of Land Management

MANAGEMENT OF LANDS AND RESOURCES

For expenses necessary for protection, use, improvement, development, disposal, cadastral surveying, classification, and performance of other functions, including maintenance of facilities, as authorized by law, in the management of lands and their resources under the jurisdiction of the Bureau of Land Management, including the general administration of the Bureau of Land Management, $398,566,000.

CONSTRUCTION AND ACCESS

For acquisition of lands and interests therein, and construction of buildings, recreation facilities, roads, trails, and appurtenant facilities, $1,403,000, to remain available until expended.

PAYMENTS IN LIEU OF TAXES

For expenses necessary to implement the Act of October 20, 1976 (31 U.S.C. 6901-07), $105,000,000, of which not to exceed $400,000 shall be available for administrative expenses.

LAND ACQUISITION

For expenses necessary to carry out the provisions of sections 205, 206, and 318(d) of Public Law 94-579 including administrative expenses and acquisition of lands or waters, or interest therein, $2,300,000, to be derived from the Land and Water Conservation Fund, to remain available until expended.

OREGON AND CALIFORNIA GRANT LANDS

For expenses necessary for management, protection, and development of resources and for construction, operation, and maintenance of access roads, reforestation, and other improvements on the revested Oregon and California Railroad grant lands, on other Federal lands in the Oregon and California land-grant counties of Oregon, and on adjacent rights-of-way; and acquisition of lands or interests therein including existing connecting roads on or adjacent to such grant lands; $56,114,000, to remain available until expended: Provided, That the amount appropriated herein for road construction shall be transferred to the Federal Highway Administration, Department of Transportation: Provided further, That 25 per centum of the aggregate of all receipts during the current fiscal year from the revested Oregon and California Railroad grant lands is hereby made a charge against the Oregon and California land grant fund and shall be transferred to the General Fund in the Treasury in accordance with the provisions of the second paragraph of subsection (b) of title II of the Act of August 28, 1937 (50 Stat. 876).

RANGE IMPROVEMENTS

For rehabilitation, protection, and acquisition of lands and interests therein, and improvement of Federal rangelands pursuant to section 401 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701), notwithstanding any other Act, sums equal to 50 per centum of all moneys received during the prior fiscal year under sections 3 and 15 of the Taylor Grazing Act (43 U.S.C. 315, et seq.), but not less than $10,000,000 (43 U.S.C. 1901), and the amount designated for range improvements from grazing fees and mineral leasing receipts from Bankhead-Jones lands transferred to the Department of the Interior pursuant to law, to remain available until expended: Provided, That not to exceed $600,000 shall be available for administrative expenses: Provided further, That the dollar equivalent of value, in excess of the grazing fee established under law and paid to the United States Government, received by any permittee or lessee as compensation for an assignment of a grazing permit or lease, or any grazing privileges or rights thereunder, and in excess of the installation and maintenance cost of grazing improvements provided for by the permittee in the allotment management plan or amendments or otherwise approved by the Bureau of Land Management, shall be paid to the Bureau of Land Management and disposed of as provided for by section 401(b) of the Federal

Land Policy and Management Act of 1976 (43 U.S.C. 1701): Provided further, That if the dollar value prescribed above is not paid to the Bureau of Land Management, the grazing permit or lease shall be canceled.

SERVICE CHARGES, DEPOSITS, AND FORFEITURES

For administrative expenses and other costs related to processing application documents and other authorizations for use and disposal of public lands and resources, for monitoring construction, operation, and termination of facilities in conjunction with use authorizations, and for rehabilitation of damaged property, such amounts as may be collected under sections 209(b), 304(a), 304(b), 305(a), and 504(g) of the Act approved October 21, 1976 (43 U.S.C. 1701), and sections 101 and 203 of Public Law 93-153, to be immediately available until expended.

MISCELLANEOUS TRUST FUNDS

In addition to amounts authorized to be expended under existing law, there is hereby appropriated such amounts as may be contributed under section 307 of the Act of October 21, 1976 (43 U.S.C. 1701), and such amounts as may be advanced for administrative costs, surveys, appraisals, and costs of making conveyances of omitted lands under section 211(b) of that Act, to remain available until expended.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Land Management shall be available for purchase, erection, and dismantlement of temporary structures and alteration and maintenance of necessary buildings and appurtenant facilities to which the United States has title; up to $10,000 for payments, at the discretion of the Secretary, for information or evidence concerning violations of laws administered by the United States Bureau of Land Management; miscellaneous and emergency expenses of enforcement activities authorized or approved by the Secretary and to be accounted for solely on his certificate, not to exceed $10,000: Provided, That appropriations herein made for the Bureau of Land Management expenditures in connection with the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands (other than expenditures made under the appropriation "Oregon and California grant lands") shall be reimbursed to the General Fund of the Treasury from the 25 per centum referred to in subsection (c), title II, of the Act approved August 28, 1937 (50 Stat. 876), of the special fund designated the "Oregon and California land grant fund" and section 4 of the Act approved May 24, 1939 (53 Stat. 754), of the special fund designated the "Coos Bay Wagon Road grant fund": Provided further, That appropriations herein made may be expended for surveys of Federal lands of the United States and on a reimbursable basis for surveys of Federal lands of the United States and for protection of lands for the State of Alaska: Provided further, That an appeal of any reductions in grazing allotments on public rangelands must be taken within thirty days after receipt of a final grazing allotment decision. Reductions of up to 10 per centum in grazing allotments shall become effective when so designated by the Secretary of the Interior. Upon appeal any proposed reduction in excess of 10 per centum shall be suspended pending final action on the appeal, which shall be completed within two years after the appeal is filed: Provided further, That appropriations herein made shall be available for paying costs incidental to the utilization of services contributed by individuals who serve without compensation as volunteers in aid of work of the Bureau.

Notwithstanding any other provision of this Act, in the event the sale, award, or operation of any timber sale or sales in the Medford (Oregon) District of the Bureau of Land Management is enjoined, stayed or otherwise delayed by reason of administrative appeal or judicial review, the Secretary of the Interior shall resell timber returned under provisions of the Federal Timber Contract Payment Modification Act to the extent necessary to achieve sale of the full annual allowable cut for fiscal years 1985 and 1986 in the Medford District. The Secretary shall determine the potential environmental degradation of timber sales returned pursuant to the Federal Timber Contract Payment Modification Act and shall characterize each sale's potential environmental impact as minimal, moderate, or serious. The Secretary must give resale priority to those sales with the least risk of potential environmental degradation. Sales that are reoffered may be modified, including minor additions. Any decision of the Secretary to resell such timber shall not be subject to judicial review.

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

For expenses necessary for scientific and economic studies, conservation, management, investigations, protection, and utilization of sport fishery and wildlife resources, except whales, seals, and sea lions, and for the performance of other authorized functions related to such resources; for the general administration of the United States Fish and Wildlife Service; and for maintenance of the herd of long-horned cattle on the Wichita Mountains Wildlife Refuge; and not less than $3,300,000 for high priority projects within the scope of the approved budget which shall be carried out by Youth Conservation Corps as if authorized by the Act of August 13, 1970, as amended by Public Law 93-408, $301,222,000, of which $4,420,000 to carry out the purposes of 16 U.S.C. 1535, shall remain available until expended; and of which $5,665,000 shall be for operation and maintenance of fishery mitigation facilities constructed by the Corps of Engineers under the Lower Snake River Compensation Plan, authorized by the Water Resources Development Act of 1976 (90 Stat. 2921), to compensate for loss of fishery resources from water development projects on the Lower Snake River, which will remain available until expended.

CONSTRUCTION AND ANADROMOUS FISH

For construction and acquisition of buildings and other facilities required in the conservation, management, investigations, protection, and utilization of sport fishery and wildlife resources, and the acquisition of lands and interests therein; $21,296,000, to remain available until expended, of which $2,000,000 shall be available for expenses to carry out the Anadromous Fish Conservation Act (16 U.S.C. 757a–757g).

MIGRATORY BIRD CONSERVATION ACCOUNT

For an advance to the migratory bird conservation account, as authorized by the Act of October 4, 1971, as amended (16 U.S.C. 715k–3, 5), $15,000,000, to remain available until expended.

LAND ACQUISITION

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l–4–11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the United States Fish and Wildlife Service, $40,670,000, to be derived from the Land and Water Conservation Fund, to remain available until expended.

NATIONAL WILDLIFE REFUGE FUND

For expenses necessary to implement the Act of October 17, 1978 (16 U.S.C. 715s), $5,645,000.

ADMINISTRATIVE PROVISIONS

Appropriations and funds available to the United States Fish and Wildlife Service shall be available for purchase of not to exceed 191 passenger motor vehicles of which 178 are for replacement only (including 67 for police-type use); purchase of 4 new aircraft for replacement only; acceptance of one donated aircraft as an addition; not to exceed $300,000 for payment, at the discretion of the Secretary, for information, rewards, or evidence concerning violations of laws administered by the United States Fish and Wildlife Service, and miscellaneous and emergency expenses of enforcement activities, authorized or approved by the Secretary and to be accounted for solely on his certificate; repair of damage to public roads within and adjacent to reservation areas caused by operations of the United States Fish and Wildlife Service; options for the purchase of land at not to exceed $1 for each option; facilities incident to such public recreational uses on conservation areas as are consistent with their primary purpose; and the maintenance and improvement of aquaria, buildings, and other facilities under the jurisdiction of the United States Fish and Wildlife Service and to which the United States has title, and which are utilized pursuant to law in connection with management and investigation of fish and wildlife resources.

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

For expenses necessary for the management, operation, and maintenance of areas and facilities administered by the National Park Service (including special road maintenance service to trucking permittees on a reimbursable basis), and for the general administration of the National Park Service, including not to exceed $410,000 for the Roosevelt Campobello International Park Commission, $490,000 for the Volunteers-in-the-Park program, not less than $3,300,000 for high priority projects within the scope of the approved budget which shall be carried out by Youth Conservation Corps as if authorized by the Act of August 13, 1970, as amended by Public Law 93-408, and $175,000 for the National Capital Children's Museum and $175,000 for the Arena Stage as if authorized by the Historic Sites Act of 1935 (16 U.S.C. 462(e)), $627,763,000 without regard to the Act of August 24, 1912, as amended (16 U.S.C. 451): Provided, That the Park Service shall not enter into future concessionaire contracts, including renewals, that do not include a termination for cause clause that provides for possible extinguishment of possessory interests excluding depreciated book value of concessionaire investments without compensation: Provided further, That hereafter appropriations for maintenance and improvement of roads within the boundary of Indiana Dunes National Lakeshore shall be available for such purposes without regard to whether title to such road rights-of-way is in the United States: Provided further, That $85,000 shall be available to assist the town of Harpers Ferry, West Virginia, for police force use: Provided further, *That the educational center to be located at the Boott Mill Complex, Building No. 6, in the Lowell National Historical Park, Massachusetts, is hereby designated and shall be known as the "Paul E. Tsongas Industrial History Center": Provided further, That $150,000 shall be available solely for the restoration and renovation of the Lonoke Depot in Lonoke, Arkansas.*

NATIONAL RECREATION AND PRESERVATION

For expenses necessary to carry out recreation programs, natural programs, cultural programs, environmental compliance and review, and grant administration, not otherwise provided for, $11,096,000.

HISTORIC PRESERVATION FUND

For expenses necessary in carrying out the provisions of the Historic Preservation Act of 1966 (80 Stat. 915), as amended (16 U.S.C. 470), $24,945,000 to be derived from the Historic Preservation Fund, established by section 108 of that Act, as amended, to remain available for obligation until September 30, 1987.

CONSTRUCTION

For construction, improvements, repair or replacement of physical facilities, without regard to the Act of August 24, 1912, as amended (16 U.S.C. 451), $114,121,000, to remain available until expended, of which $8,500,000 shall be derived by transfer from the National Park System Visitor Facilities Fund, including $3,168,000 to carry out the provisions of sections 303 and 304 of Public Law 95-290; including, subject to authorization, $8,100,000 be expended for engineering and construction of the Burr Trail National Rural Scenic Road in and adjacent to the Capitol Reef National Park and the Glen Canyon National Recreation Area and an interpretive center near the town of Boulder, Utah, such funds to be transferred to the State of Utah for accomplishment of these activities in accordance with the provisions of a cooperative agreement to be developed among the National Park Service, the Bureau of Land Management, Garfield County, and the State of Utah: Provided, That appropriations for maintenance and improvement of roads within Capitol Reef National Park and Glen Canyon National Recreation Area and construction and maintenance of an interpretive center shall hereafter be available for such purposes without regard to whether title to such road rights-of-way or lands for the interpretive center is in the United States: Provided further, That in the event the National Park Service fails to maintain the road as provided under the terms of said cooperative agreement, any rights-of-way which may be transferred to the National Park Service will revert to Garfield County: Provided further, That in the event of reversion of the road to Garfield County, the County shall provide payment to the United States of an amount based upon the depreciated value of the capital investment resulting from Federal funds expended on the road for construction purposes; and including $2,000,000 to assist local communities to protect Mammoth Cave National Park from groundwater pollution: Provided further, That the National Park Service share of the Mammoth Cave protection project shall not exceed 25 per centum: Provided further, That for payment of obligations incurred for continued construction of the Cumberland Gap Tunnel, as authorized by section 160 of Public Law 93-87, $10,300,000, to be derived from the Highway Trust Fund and to remain available until expended to liquidate contract authority provided under section 104(a)(8) of Public Law 95-599, as amended, such contract authority to remain available until expended: Provided further, That funds made available pursuant to this Act for the Cumberland Gap Tunnel shall only be available when the States of Kentucky and Tennessee have entered into an agreement with the National Park Service to operate and maintain all portions of U.S. Route 25E, including the Tunnel, within the boundaries of the Cumberland Gap National Historic Park.

LAND ACQUISITION AND STATE ASSISTANCE

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l-4-11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the National Park Service, $98,400,000, to be derived from the Land and Water Conservation Fund, to remain available until expended, of which $50,000,000 is for the State Assistance program including $1,650,000 to administer the program: Provided, That State administrative expenses associated with the State grant portion of the State Assistance program shall not exceed 15 percent: Provided further, That none of the State Assistance funds may be used as a contingency fund: Provided further, That of the amounts previously appropriated to the Secretary's contingency fund for grants to States, $852,000 shall be available in 1986 for administrative expenses of the State grant program.

JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

For expenses necessary for operating and maintaining the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts, $4,800,000.

ILLINOIS AND MICHIGAN CANAL NATIONAL HERITAGE CORRIDOR COMMISSION

For the operation of the Illinois and Michigan Canal National Heritage Corridor Commission, $250,000.

JEFFERSON NATIONAL EXPANSION MEMORIAL COMMISSION

For the operation of the Jefferson National Expansion Memorial Commission, $75,000.

ADMINISTRATIVE PROVISIONS

Appropriations for the National Park Service shall be available for the purchase of not to exceed 1 aircraft and 286 passenger motor vehicles, of which 242 shall be for replacement only, including not to exceed 174 for police-type use and 6 buses; to provide, notwithstanding any other provision of law, at a cost not exceeding $100,000, transportation for children in nearby communities to and from any unit of the National Park System used in connection with organized recreation and interpretive programs of the National Park Service; options for the purchase of land at not to exceed $1 for each option; and for the procurement and delivery of medical services within the jurisdiction of units of the National Park System: Provided, That any funds available to the National Park Service may be used, with the approval of the Secretary, to maintain law and order in emergency and other unforeseen law enforcement situations and conduct emergency search and rescue operations in the National Park System: Provided further, That none of the funds appropriated to the National Park Service may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: Provided further, That none of the funds appropriated to the National Park Service may be used to add industrial facilities to the list of National Historic Landmarks without the consent of the owner: Provided further, That the National Park Service may use helicopters and motorized equipment at Death Valley National Monument for removal of feral burros and horses: Provided further, That the loan ceiling established under section 4(b) of Public Law 97-310, the Wolf Trap Farm Park Act, as amended, is increased to $9,500,000. Notwithstanding the loan repayment provisions of Public Law 97-310, the dollar amount of items paid for by the Wolf Trap Foundation from funds provided by the additional loan authority in this section that is subsequently reimbursed to the Foundation by a court award or insurance settlement shall be repaid to the Secretary of the Interior by the Wolf Trap Foundation within 90 days of the date of the court award or insurance settlement.

GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

For expenses necessary for the Geological Survey to perform surveys, investigations, and research covering topography, geology, and the mineral and water resources of the United States, its Territories and possessions, and other areas as authorized by law (43 U.S.C. 31, 1332 and 1340); classify lands as to their mineral and water resources; give engineering supervision to power permittees and Federal Energy Regulatory Commission licensees; administer the minerals exploration program (30 U.S.C. 641); and publish and disseminate data relative to the foregoing activities; $431,961,000: Provided, That $52,324,000 shall be available only for cooperation with States or municipalities for water resources investigations: Provided further, That no part of this appropriation shall be used to pay more than one-half the cost of any topographic mapping or water resources investigations carried on in cooperation with any State or municipality: Provided further, That in fiscal year 1986 and thereafter, all amortization fees resulting from the Geological Survey providing telecommunications services shall be deposited in a special fund to be established on the books of the Treasury and be immediately available for payment of replacement or expansion of telecommunications services, to remain available until expended: Provided further, That the Geological Survey is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private.

ADMINISTRATIVE PROVISIONS

The amount appropriated for the Geological Survey shall be available for purchase of not to exceed 16 passenger motor vehicles, for replacement only; reimbursement to the General Services Administration for security guard services; contracting for the furnishing of topographic maps and for the making of geophysical or other specialized surveys when it is administratively determined that such procedures are in the public interest; construction and maintenance of necessary buildings and appurtenant facilities; acquisition of lands for observation wells; expenses of the United States National Committee on Geology; and payment of compensation and expenses of persons on the rolls of the Geological Survey appointed, as authorized by law, to represent the United States in the negotiation and administration of interstate compacts: Provided, That appropriations herein made shall be available for paying costs incidental to the *utilization of services contributed by individuals who serve without compensation as volunteers in aid of work of the Geological Survey, and that within appropriations herein provided, Geological Survey officials may authorize either direct procurement of or reimbursement for expenses incidental to the effective use of volunteers such as, but not limited to, training, transportation, lodging, subsistence, equipment, and supplies: Provided further, That provision for such expenses or services is in accord with volunteer or cooperative agreements made with such individuals, private organizations, educational institutions, or State or local governments.*

Minerals Management Service

LEASING AND ROYALTY MANAGEMENT

For expenses necessary for minerals leasing and environmental studies, regulation of industry operations, and collection of royalties, as authorized by law; for enforcing laws and regulations applicable to oil, gas, and other minerals leases, permits, licenses and operating contracts; and for matching grants or cooperative agreements; including the purchase of not to exceed 8 passenger motor vehicles for replacement only; $168,018,000, of which not less than $45,260,000 shall be available for royalty management activities including general administration: Provided, That notwithstanding any other provision of law, when in fiscal year 1986 and thereafter any permittee provides data and information to the Secretary pursuant to section 1352(a)(1)(C)(iii) of title 43, United States Code, the Secretary shall pay only the reasonable cost of reproducing such data and information: Provided further, That notwithstanding any other provision of law, funds appropriated under this Act shall be available for the payment of interest in accordance with 30 U.S.C. 1721(b) and (d).

Bureau of Mines

MINES AND MINERALS

For expenses necessary for conducting inquiries, technological investigations and research concerning the extraction, processing, use and disposal of mineral substances without objectionable social and environmental costs; to foster and encourage private enterprise in the development of mineral resources and the prevention of waste in the mining, minerals, metal and mineral reclamation industries; to inquire into the economic conditions affecting those industries; to promote health and safety in mines and the mineral industry through research; and for other related purposes as authorized by law, $134,255,000, of which $79,537,000 shall remain available until expended.

ADMINISTRATIVE PROVISIONS

The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private: Provided, That the Bureau of Mines is authorized, during the current fiscal year, to sell directly or through any Government agency, including corporations, any metal or mineral product that may be manufactured in pilot plants operated by the Bureau of Mines, and the proceeds of such sales shall be covered into the Treasury as miscellaneous receipts.

Office of Surface Mining Reclamation and Enforcement

REGULATION AND TECHNOLOGY

For necessary expenses to carry out the provisions of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, $85,153,000, including the purchase of not to exceed 14 passenger motor vehicles, of which 9 shall be for replacement only; and uniform allowances of not to exceed $400 for each uniformed employee of the Office of Surface Mining Reclamation and Enforcement; and notwithstanding 31 U.S.C. 3302, an amount equal to receipts to the General Fund of the Treasury from performance bond forfeitures, estimated at $500,000 in fiscal year 1986, to remain available until expended: Provided, That no funds shall be used to finalize or implement any proposed rule, or take any other action which would result in the adoption by the Office of Surface Mining Reclamation and Enforcement of a rule or regulation pursuant to section 507(a) of Public Law 95-87 which would require applicants to reimburse the Department of the Interior for costs incurred in the collection of application fees for permits to conduct surface coal mining and reclamation operations; for permits to conduct coal exploration; for processing mining plans; or for the review of surface coal mining and reclamation permits.

ABANDONED MINE RECLAMATION FUND

For necessary expenses to carry out the provisions of title IV of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, including the purchase of not more than 21 passenger motor vehicles, of which 15 shall be for replacement only, to remain available until expended, $207,385,000, to be derived from receipts of the Abandoned Mine Reclamation Fund: Provided, That pursuant to Public Law 97-365, the Department of the Interior is authorized to utilize up to 20 per centum from the recovery of the delinquent debt owed to the United States Government to pay for contracts to collect these debts: Provided further, That of the funds made available to the States to contract for reclamation projects authorized in section 406(a) of Public Law 95-87, administrative expenses may not exceed 15 per centum: Provided further, That none of these funds shall be used for a reclamation grant to any State if the State has not agreed to participate in a nationwide data system established by the Office of Surface Mining Reclamation and Enforcement through which all permit applications are reviewed and approvals withheld if the applicants (or those who control the applicants) applying for or receiving such permits have outstanding State or Federal air or water quality violations in accordance with section 510(c) of the Act of August 3, 1977 (30 U.S.C. 1260(c)), including failure to abate cessation orders, outstanding civil penalties associated with such failure to abate cessation orders or uncontested past due Abandoned Mine Land fees: Provided further, That the Secretary of the Interior may deny fifty percent of an Abandoned Mine Reclamation fund grant, available to a State pursuant to title IV of Public Law 95-87, when pursuant to the procedures set forth in section 521 of the Act, the Secretary determines that a State is systematically failing to adequately administer the enforcement provisions of the approved State regulatory program. Funds will be denied until such time as the State and the Office of Surface Mining Reclamation and Enforcement have agreed upon an explicit plan of action for correcting the enforcement deficiency. A State may enter into such agreement without admission of culpability. If a State enters into such agreement, the Secretary shall take no action pursuant to section 521(b) of the Act as long as the State is complying with the terms of the agreement: Provided further, That expenditure of moneys as authorized in section 402(g)(3) shall be on a priority basis with the first priority being protection of public health, safety, general welfare, and property from extreme danger of adverse effects of coal mining practices, as stated in section 403 of Public Law 95-87.

Bureau of Indian Affairs

OPERATION OF INDIAN PROGRAMS

For operation of Indian programs by direct expenditure, contracts, cooperative agreements and grants including expenses necessary to provide education and welfare services for Indians, either directly or in cooperation with States and other organizations, including payment of care, tuition, assistance, and other expenses of Indians in boarding homes, institutions, or schools; grants and other assistance to needy Indians; maintenance of law and order; management, development, improvement, and protection of resources and appurtenant facilities under the jurisdiction of the Bureau of Indian Affairs, including payment of irrigation assessments and charges; acquisition of water rights; advances for Indian industrial and business enterprises; operation of Indian arts and crafts shops and museums; development of Indian arts and crafts, as authorized by law; for the general administration of the Bureau of Indian Affairs, including such expenses in field offices, $891,312,000, of which not to exceed $54,556,000 for higher education scholarships and assistance to public schools under the Act of April 16, 1934 (48 Stat. 596), as amended (25 U.S.C. 452 et seq.), shall remain available for obligation until September 30, 1987, and the funds made available to tribes and tribal organizations through contracts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450 et seq.) shall remain available until September 30, 1987: Provided, That this carryover authority does not extend to programs directly operated by the Bureau of Indian Affairs: Provided further, That not to exceed $18,042,000 shall be obligated for automatic data processing in fiscal year 1986; and includes expenses necessary to carry out the provisions of section 19(a) of Public Law 93-531 (25 U.S.C. 640d-18(a)), $2,886,000, to remain available until expended; and an additional $6,000,000 which, notwithstanding any other law, is immediately available for obligation before January 18, 1986, by the Secretary of the Interior through the Bureau of Indian Affairs only for the emergency provision of hay to Indians using the distribution formula of the Indian Acute Distress Donation Program to aid in maintaining foundation cattle herds in Montana, North Dakota, and South Dakota. The Secretary may, but is not required to, enter into contracts under section 102 of the Indian Self-Determination Act (88 Stat. 2206; 25 U.S.C. 450f) in connection with the appropriation made in this paragraph and no indirect cost or overhead shall be allowed under any such contract from any appropriation. All costs incurred directly or indirectly by the Secretary in connection with the appropriation made in this paragraph for other than the direct cost of the hay and its transportation shall be met from other amounts appropriated for the operation of Indian programs. Any part of the appropriation made in this paragraph which is not expended by March 15, 1986, shall be deobligated and shall not be available for obligation or expenditure.

The Secretary of the Interior shall make a report or reports to Congress by September 1, 1986 on (1) the use of the appropriation in the preceding paragraph, (2) the impact of the drought disaster on the Indian reservations in Montana, North Dakota, and South Dakota, (3) long-term strategies to address the disaster on each of those reservations, and (4) the effectiveness of the carrying out of the roles (including resource management and the establishment, waiver, and collection of grazing fees and rents or other payments) of the Federal and tribal governments in ranching, agriculture, and other land use on Indian reservations throughout the United States with recommendations to improve that effectiveness.

None of the funds appropriated to the Bureau of Indian Affairs shall be expended as matching funds for programs funded under section 103(b)(2) of the Carl D. Perkins Vocational Education Act: Provided further, That no part of any appropriations to the Bureau of Indian Affairs shall be available to provide general assistance payments for Alaska Natives in the State of Alaska unless and until otherwise specifically provided for by Congress: Provided further, That notwithstanding any other provision of law, within fourteen days of the date of enactment of this Act the Snowflake Dormitory in Arizona shall be closed and thereafter no funds available to the Bureau of Indian Affairs shall be available to operate an educational or boarding program at that location: Provided further, That notwithstanding any law or regulation, in allocating funds for aid to public schools under the Act of April 16, 1934, as amended, the Secretary shall enter into contracts only for the provision of supplementary educational services for Indian children: Provided further, That the Secretary of the Interior shall transfer without cost to the Saint Labre Indian School of Ashland, Montana, the interests of the United States in the supplies and equipment acquired by or for the school during the period when it was financially aided by the Bureau of Indian Affairs.

CONSTRUCTION

For construction, major repair and improvement of irrigation and power systems, including architectural and engineering services by contract; acquisition of lands and interests in lands; preparation of lands for farming; and construction, repair, and improvement of Indian housing, $101,054,000, to remain available until expended: Provided, That no funds shall be expended for land acquisition on behalf of the Covelo Indian Community until the Community has sufficient non-Federal funds, which when combined with the Federal funds, will complete the land acquisition: Provided further, That such amount includes $22,000,000 for use by the Secretary to construct homes and related facilities for the Navajo and Hopi Indian Relocation Commission in lieu of construction by the Commission under section 15(d)(3) of the Act of December 22, 1974 (88 Stat. 1719; 25 U.S.C. 640d-14(d)(3)), and to ensure that a priority for the use of these funds is given to Navajo families who are actual, physical residents of the Hopi Partitioned Lands on the date of enactment hereof, and to expedite relocations and construction under this proviso (1) with respect to any lands acquired pursuant to section 11(a) of the Act of December 22, 1974 (25 U.S.C. 640d-10(a)), the Secretary shall not be required to enter into contracts under section 102 of the Indian Self-Determination Act (88 Stat. 2206; 25 U.S.C. 450f) in carrying out this proviso, (2) the Secretary's authority under section 106(a) of the Indian Self-Determination Act (88 Stat. 2210; 25 U.S.C. 450j(a)) shall apply for contracts for construction under this proviso without regard to the status of the contractors with respect to any lands acquired pursuant to section 11(a) of the Act of December 22, 1974 (25 U.S.C. 640d-10(a)), (3) the Secretary may carry out construction and lease approvals or executions under this proviso without regard to the Commission's regulations and under such administrative procedures as the Secretary may adopt without regard to the rulemaking requirements of any law, executive order, or regulation, (4) an action under this proviso is not a major Federal action for the purpose of the National Environmental Policy Act of 1969, as amended, and (5) after January 1, 1986, the Secretary may issue leases and rights-of-way for housing and related facilities to be constructed on the lands which are subject to section 11(h) of the Act of December 22, 1974, as amended (25 U.S.C. 640d-10(h)).

ROAD CONSTRUCTION

Not to exceed 5 per centum of contract authority available to the Bureau of Indian Affairs from the Federal Highway Trust Fund may be used to cover roads program management costs and construction supervision costs of the Bureau of Indian Affairs: Provided, That $3,200,000 of the contract authority available to the Bureau of Indian Affairs from the Federal Highway Trust Fund for road construction to serve the Navajo Reservation shall be used by the Secretary of the Interior for road construction projects to serve land transferred or acquired under the Act of December 22, 1974, as amended (88 Stat. 1712; 25 U.S.C. 640d et seq.): Provided further, That the foregoing shall not alter the amount of funds or contract authority that would otherwise be available for road construction to serve any Indian reservation or land other than the Navajo reservation.

ALASKA NATIVE ESCROW ACCOUNT

For the Federal contribution to the Alaska Native Escrow Account related to proceeds received by Federal agencies from lands or resources of lands after the date of withdrawal of the land for Native selection as authorized by Public Law 94-204, an amendment to the Alaska Native Claims Settlement Act (43 U.S.C. 1631-1641; 89 Stat. 1476), and Public Law 96-487, the Alaska National Interest Lands Conservation Act (94 Stat. 2497), $7,877,000: Provided, That those funds appropriated hereunder which represent proceeds received from lands which have been conveyed on or before the date of enactment of this Act shall be distributed to the appropriate Native corporations pursuant to Public Law 96-487 immediately upon receipt in the escrow account: Provided further, That those funds which represent proceeds received from lands withdrawn for Native Selection but not yet conveyed on the date of the enactment of this Act will be held in the escrow account and invested until conveyance, and shall, during the time that such funds are on deposit in the escrow account, be entitled to their share of the interest earned by the escrow account pursuant to the first proviso of section 2(b) of Public Law 94-204.

TRIBAL TRUST FUNDS

In addition to the tribal funds authorized to be expended by existing law, there is hereby appropriated not to exceed $4,000,000 from tribal funds not otherwise available for expenditure.

REVOLVING FUND FOR LOANS

During fiscal year 1986, and within the resources and authority available, gross obligations for the principal amount of direct loans pursuant to the Indian Financing Act of 1974 (88 Stat. 77; 25 U.S.C. 1451 et seq.), shall not exceed $16,300,000: Provided, That notwithstanding section 102 of the Indian Financing Act of 1974, as amended (25 U.S.C. 1462) and regulations restricting the purposes for loans under that Act, the Secretary may make a loan under title I of that Act to the Zuni Pueblo for the acquisition in trust for the Pueblo of private lands in the area known as Zuni Heaven in an amount not to exceed $1,470,000.

INDIAN LOAN GUARANTY AND INSURANCE FUND

For payment of interest subsidies on new and outstanding guaranteed loans and for necessary expenses of management and technical assistance in carrying out the provisions of the Indian Financing Act of 1974, as amended (88 Stat. 77; 25 U.S.C. 1451 et seq.), $2,210,000, to remain available until expended: Provided, That during fiscal year 1986, total commitments to guarantee loans pursuant to the Indian Financing Act of 1974 (88 Stat. 77; 25 U.S.C. 1451 et seq.), may be made only to the extent that the total loan principal, any part of which is to be guaranteed, shall not exceed resources and authority available.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Indian Affairs (except the revolving fund for loans and the Indian loan guarantee and insurance fund) shall be available for expenses of exhibits; and purchase of not to exceed 150 passenger carrying motor vehicles, of which 100 shall be for replacement only.

TERRITORIAL AND INTERNATIONAL AFFAIRS

ADMINISTRATION OF TERRITORIES

For expenses necessary for the administration of territories under the jurisdiction of the Department of the Interior, $80,376,000, of which (1) $77,903,000 shall be available until expended for technical assistance; repurchase premium, late charges, and payments of the annual interest rate differential required by the Federal Financing Bank, under terms of the second refinancing of an existing loan to the Guam Power Authority, as authorized by law (Public Law 98-454; 98 Stat. 1732); grants to the judiciary in American Samoa for compensation and expenses, as authorized by law (48 U.S.C. 1661(c)); grants to the Government of American Samoa, in addition to current local revenues, for support of governmental functions; $2,000,000 for a loan to the Government of the United States Virgin Islands, for construction of an extension to the Alexander Hamilton Airport runway, St. Croix: Provided, That issuance of such loan shall be contingent upon approval of a multiyear grant of Airport Improvement Program funds from the Federal Aviation Administration, and a written guarantee from the Government of the United States Virgin Islands as to the source of funds to be used for repayment of the loan; construction grants to the Government of Guam of $4,583,000, as authorized by law (Public Law 98-454; 98 Stat. 1732); direct grants to the Government of the Northern Mariana Islands as authorized by law (Public Law 94-241; 90 Stat. 272, and Public Law 98-454; 98 Stat. 1732); and (2) $2,473,000 for fiscal year 1986 for salaries and expenses of the Office of Territorial and International Affairs, of which not to exceed $1,000 shall be available during 1986 for official reception and representation ex-

penses: Provided further, That the territorial and local governments herein provided for are authorized to make purchases through the General Services Administration: Provided further, That all financial transactions of the territorial and local governments herein provided for, including such transactions of all agencies or instrumentalities established or utilized by such governments, shall be audited by the General Accounting Office, in accordance with the provisions of the Budget and Accounting Act, 1921 (42 Stat. 23), as amended, and the Accounting and Auditing Act of 1950 (64 Stat. 834): Provided further, That upon enactment of this Act the remaining balance of fiscal year 1985 funds provided in Public Law 98-473 for a grant to the College of the Virgin Islands Eastern Caribbean Center is released to the College of the Virgin Islands.

TRUST TERRITORY OF THE PACIFIC ISLANDS

For expenses necessary for the Department of the Interior in administration of the Trust Territory of the Pacific Islands pursuant to the Trusteeship Agreement approved by joint resolution of July 18, 1947 (61 Stat. 397), and the Act of June 30, 1954 (68 Stat. 330), as amended (90 Stat. 299; 91 Stat. 1159; 92 Stat. 495), grants for the expenses of the High Commissioner of the Trust Territory of the Pacific Islands; grants for the compensation and expenses of the Judiciary of the Trust Territory of the Pacific Islands; grants to the Trust Territory of the Pacific Islands, in addition to local revenues, for support of governmental functions; $80,372,000, of which $70,922,000 is for operations, and $9,450,000 is for construction, to remain available until expended: Provided, That all financial transactions of the Trust Territory, including such transactions of all agencies or instrumentalities established or utilized by such Trust Territory, shall be audited by the General Accounting Office in accordance with the provisions of the Budget and Accounting Act, 1921 (42 Stat. 23), as amended, and the Accounting and Auditing Act of 1950 (64 Stat. 834): Provided further, That the government of the Trust Territory of the Pacific Islands is authorized to make purchases through the General Services Administration.

DEPARTMENTAL OFFICES

OFFICE OF THE SECRETARY

For necessary expenses of the Office of the Secretary of the Interior, $43,411,000, of which not to exceed $10,000 may be for official reception and representation expenses: Provided, That notwithstanding any other provision of law, of the funds provided under this heading, not to exceed $300,000 shall be used to pay or repay the costs of development of alternative winter stock water supplies by water users who have been deprived of winter stock water from the main channel of Willow Creek, Idaho, below Ririe Dam and Reservoir because of the operation of the dam and reservoir (hereinafter in this account referred to as claimants).

Any payment to a claimant made under this section shall constitute full settlement and satisfaction of all claims such claimant may have against the United States relating to the loss of winter stock water from Willow Creek, Idaho. The provisions of this section shall not apply to any claim settled prior to the date of enactment of this Act.

The Secretary shall make a payment to a claimant only if—

(1) the claimant notifies the Secretary of his claim within six months after the date of enactment of this Act;

(2) the claimant provides an affidavit proving, to the satisfaction of the Secretary, his use of winter stock water from Willow Creek prior to December 31, 1979; and

(3) the claimant executes a waiver and release, in a manner satisfactory to the Secretary, of any and all claims against the United States relating to the loss of winter stock water from Willow Creek, Idaho. Such waiver and release shall be recorded in the county where the claimant's land is located.

Any claimant who has developed an alternate winter stock water supply since December 31, 1979, shall be eligible for a payment of an amount equal to the actual construction costs incurred by such claimant in the development of such supply, as determined by the Secretary.

Any claimant who has not developed an alternate winter stock water supply as of the date of enactment of this Act, shall be eligible for a payment of an amount equal to the funds necessary for the development of such supply, as determined by the Secretary. The Secretary's determination shall be based on the size and configuration of the claimant's land and on the size and type of the claimant's livestock operation.

Costs and expenses incurred by a claimant in the operation and maintenance of his alternate winter stock water supply shall not be reimbursable.

OFFICE OF THE SOLICITOR

SALARIES AND EXPENSES

For necessary expenses of the Office of the Solicitor, $20,378,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General, $16,214,000.

CONSTRUCTION MANAGEMENT

For necessary expenses of the Office of Construction Management, $780,000: Provided, That the Secretary of the Interior shall submit to the House and Senate Committees on Appropriations a revised Memorandum of Agreement between the Bureau of Indian Affairs and the Office of Construction Management, vesting the program direction and control of the facility design, construction, repair, operation and maintenance programs of the Bureau in the Office of Construction Management, and a detailed plan for implementation of said Agreement, within 60 days of the enactment of this Act.

OFFICE OF THE SECRETARY

(SPECIAL FOREIGN CURRENCY PROGRAM)

For payment in foreign currencies which the Treasury Department shall determine to be excess to the normal requirement of the United States, for necessary expenses of the United States Fish and Wildlife Service and the National Park Service as authorized by law, $1,000,000, to remain available until expended: Provided, That this appropriation shall be available, in addition to other appropriations, to such office for payment in the foregoing currencies (7 U.S.C. 1704).

ADMINISTRATIVE PROVISIONS

There is hereby authorized for acquisition from available resources within the Working Capital Fund, 5 additional aircraft, all of which shall be for replacement only: Provided, That no programs funded with appropriated funds in the "Office of the Secretary", "Office of the Solicitor", and "Office of Inspector General" may be augmented through the Working Capital Fund or the Consolidated Working Fund.

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

Sec. 101. Appropriations made in this title shall be available for expenditure or transfer (within each bureau or office), with the approval of the Secretary, for the emergency reconstruction, replacement, or repair of aircraft, buildings, utilities, or other facilities or equipment damaged or destroyed by fire, flood, storm, or other unavoidable causes: Provided, That no funds shall be made available under this authority until funds specifically made available to the Department of the Interior for emergencies shall have been exhausted.

Sec. 102. The Secretary may authorize the expenditure or transfer of any no year appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of forest or range fires on or threatening lands under jurisdiction of the Department of the Interior; for the emergency rehabilitation of burned-over lands under its jurisdiction; for emergency actions related to potential or actual earthquakes, floods or volcanoes; for emergency reclamation projects under section 410 of Public Law 95-87; and shall transfer, from any no year funds available to the Office of Surface Mining Reclamation and Enforcement, such funds as may be necessary to permit assumption of regulatory authority in the event a primacy State is not carrying out the regulatory provisions of the Surface Mining Act: Provided, That appropriations made in this title for fire suppression purposes shall be available for the payment of obligations incurred during the preceding fiscal year, and for reimbursement to other Federal agencies for destruction of vehicles, aircraft, or other equipment in connection with their use for fire suppression purposes, such reimbursement to be credited to appropriations currently available at the time of receipt thereof: Provided further, That funds transferred pursuant to this section must be replenished by a supplemental appropriation which must be requested as promptly as possible.

Sec. 103. Appropriations made in this title shall be available for operation of warehouses, garages, shops, and similar facilities, wherever consolidation of activities will contribute to efficiency or economy, and said appropriations shall be reimbursed for services rendered to any other activity in the same manner as authorized by sections 1535 and 1536 of title 31, U.S.C.: Provided, That reimbursements for costs and supplies, materials, equipment, and for services rendered may be credited to the appropriation current at the time such reimbursements are received.

Sec. 104. Appropriations made to the Department of the Interior in this title shall be available for services as authorized by 5 U.S.C. 3109, when authorized by the Secretary, in total amount not to exceed $300,000; hire, maintenance, and operation of aircraft; hire of passenger motor vehicles; purchase of reprints; payment for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; and the payment of dues, when authorized by the Secretary, for library membership in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members: Provided, That no funds available to the Department of the Interior are available for any expenses of the Great Hall of Commerce.

Sec. 105. Appropriations available to the Department of the Interior for salaries and expenses shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902 and D.C. Code 4-204).

Sec. 106. Appropriations made in this title shall be available for obligation in connection with contracts issued by the General Services Administration for services or rentals for periods not in excess of twelve months beginning at any time during the fiscal year.

Sec. 107. No funds provided in this title may be expended by the Department of the Interior for the preparation for, or conduct of, pre-leasing and leasing activities (including but not limited to: calls for information, tract selection, notices of sale, receipt of bids and award of leases) of lands within:

(a) An area of the Outer Continental Shelf, as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)), located in the Atlantic Ocean, bounded by the following line: from the intersection of the seaward limit of the Commonwealth of Massachusetts territorial sea and the 71 degree west longitude line south along that longitude line to its intersection with the line which passes between blocks 598 and 642 on Outer Continental Shelf protraction diagram NK 19–10; then along that line in an easterly direction to its intersection with the line between blocks 600 and 601 of protraction diagram NK 19–11; then in a northerly direction along that line to the intersection with the 60 meter isobath between blocks 204 and 205 of protraction diagram NK 19–11; then along the 60 meter isobath, starting in a roughly southeasterly direction; then turning northeast and north until such isobath intersects the maritime boundary between Canada and the United States of America, then north northeasterly along this boundary until this line intersects the 60 meter isobath at the northern edge of block 851 of protraction diagram NK 19–6; then along a line that lies between blocks 851 and 807 of protraction diagram NK 19–6 in a westerly direction to the first point of intersection with the seaward limit of the Commonwealth of Massachusetts territorial sea; then southwesterly along the seaward limit of the territorial sea to the point of beginning at the intersection of the seaward limit of the territorial sea and the 71 degree west longitude line.

(b) The following blocks are excluded from the described area: In protraction diagram NK 19–10, blocks numbered 474 through 478, 516 through 524, 560 through 568, and 604 through 612; in protraction diagram NK 19–6, blocks numbered 969 through 971; in protraction diagram NK 19–5, blocks numbered 1005 through 1008; and in protraction diagram NK 19–8, blocks numbered 37 through 40, 80 through 84, 124 through 127, and 168 through 169.

(c) The following blocks are included in the described area: In protraction diagram NK 19–11, blocks numbered 633 through 644, 677 through 686, 721 through 724, 765 through 767, 809 through 810, and 853; in protraction diagram NK 19–9, blocks numbered 106, 150, 194, 238, 239, and 283; and in protraction diagram NK 19–6, blocks numbered 854, 899, 929, 943, 944, and 987.

(d) Blocks in and at the head of submarine canyons: An area of the Outer Continental Shelf, as defined in section 2(a) of the Outer Continental Shelf Lands Act (45 U.S.C. 1331(a)), located in the Atlantic Ocean off the coastline of the Commonwealth of Massachusetts, lying at the head of, or within the submarine canyons known as Atlantis Canyon, Veatch Canyon, Hydrographer Canyon, Welker Canyon, Oceanographer Canyon, Gilbert Canyon, Lydonia Canyon, Alvin Canyon, Powell Canyon, and Munson Canyon, and consisting of the following blocks, respectively:

(1) On Outer Continental Shelf protraction diagram NJ 19-1; blocks 36, 37, 38, 42–44, 80–82, 86–88, 124, 125, 130–132, 168, 169, 174–176, 212, 213.

(2) On Outer Continental Shelf protraction diagram NJ 19–2; blocks 8, 9, 17–19, 51–52, 53, 54, 61–63, 95–98, 139, 140.

(3) On Outer Continental Shelf protraction diagram NK 19–10; blocks 916, 917, 921, 922, 960, 961, 965, 966, 1003–1005, 1009, 1011.

(4) On Outer Continental Shelf protraction diagram NK 19–11; blocks 521, 522, 565, 566, 609, 610, 653–655, 697–700, 734, 735, 741–744, 769, 778–781, 785–788, 813, 814, 822–826, 829–831, 857, 858, 866–869, 873–875, 901, 902, 910–913, 917, 945–947, 955, 956, 979, 980, 989–991, 999.

(5) On Outer Continental Shelf protraction diagram NK 19–12; blocks 155, 156, 198, 199, 280–282, 324–326, 369–371, 401, 413–416, 442–446, 450, 451, 489–490, 494, 495, 530, 531, 533–540, 574, 575, 577–583, 618, 619, 621–623, 626, 627, 662, 663, 665–667, 671, 672, 706, 707, 710, 711, 750, 751, 754, 755, 794, 795, 798, 799.

(e) Nothing in this section shall prohibit the lease of that portion of any blocks described in subsection (d) above which lies outside the geographical boundaries of the submarine canyons and submarine canyon heads described in subsection (d) above: Provided, That for purposes of this subsection, the geographical boundaries of the submarine canyons and submarine canyon heads shall be those recognized by the National Oceanographic and Atmospheric Administration, Department of Commerce, on the date of enactment of this Act.

(f) Nothing in this section shall prohibit the Secretary of the Interior from granting contracts for scientific study, the results of which could be used in making future leasing decisions in the planning area and in preparing environmental impact statements as required by the National Environmental Policy Act.

(g) References made to blocks, protraction diagrams, and isobaths are to such blocks, protraction diagrams, and isobaths as they appear on the map entitled Outer Continental Shelf of the North Atlantic from 39° to 45° North Latitude (Map No. MMS–10), prepared by the United States Department of the Interior, Minerals Management Service, Atlantic OCS Region.

Sec. 108. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance changing the name of the mountain located 63 degrees, 04 minutes, 15 seconds west, presently named and referred to as Mount McKinley.

Sec. 109. Notwithstanding any other provision of law, appropriations in this title shall be available to provide insurance on official motor vehicles, aircraft, and boats operated by the Department of the Interior in Canada and Mexico.

Sec. 110. No funds provided in this title may be used to detail any employee to an organization unless such detail is in accordance with Office of Personnel Management regulations.

Sec. 111. The Secretary of the Interior is hereby directed to make every effort during the balance of fiscal year 1986 to resolve the outstanding conflicts with respect to the future leasing and protection of lands on the California outer continental shelf for oil and gas exploration and development. To this end, the Secretary shall submit to the Congress once every 60 days following the date of enactment of this Act until the end of fiscal year 1986 a report summarizing the progress of negotiations carried out to resolve these outstanding conflicts. Such negotiations shall be conducted by the Secretary and the following Members of Congress to be designated by the Speaker of the House of Representatives and the Majority Leader of the Senate:

(1) The Chairmen and ranking minority members of the following committees and subcommittees of the Congress having jursidiction over these issues:

(A) The Subcommittee on the Interior of the Committee on Appropriations of the House of Representatives.

(B) The Subcommittee on Energy and the Environment of the Committee on Interior and Insular Affairs of the House of Representatives.

(C) The Subcommittee on the Panama Canal and Outer Continental Shelf of the Committee on Merchant Marine and Fisheries of the House of Representatives.

(D) The Subcommittee on the Interior of the Committee on Appropriations of the Senate.

(E) The committee on Energy and Natural Resources of the Senate.

(2) Two United States Senators from California.

(3) Seven members of the California delegation to the House of Representatives.

Sec. 112. None of the funds provided by this Act shall be expended by the Secretary of the Interior to promulgate final regulations concerning paleontological research on Federal lands until the Secretary has received the National Academy of Sciences' report concerning the permitting and post-permitting regulations concerning paleontological research and until the Secretary has, within 30 days, submitted a report to the appropriate committees of the Congress comparing the National Academy of Sciences' report with the proposed regulations of the Department of the Interior.

TITLE II—RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

Forest Service

FOREST RESEARCH

For necessary expenses of forest research as authorized by law, $126,283,000, of which $6,840,000 shall remain available until expended for competitive research grants, as authorized by section 5 of Public Law 95–307.

STATE AND PRIVATE FORESTRY

For necessary expenses of cooperating with, and providing technical and financial assistance to States, Territories, possessions, and others; and for forest pest management activities, $57,986,000, to remain available for obligation until expended, to carry out activities authorized in Public Law 95–313: Provided, That a grant of $3,000,000 shall be made to the State of Minnesota for the purposes authorized by section 6 of Public Law 95–495.

NATIONAL FOREST SYSTEM

For necessary expenses of the Forest Service, not otherwise provided for, for management, protection, improvement, and utilization of the National Forest System, and for liquidation of obligations incurred in the preceding fiscal year for forest fire protection and emergency rehabilitation, including administrative expenses associated with the management of funds provided under the heads "Forest Research", "State and Private Forestry", "National Forest System", "Construction", and "Land Acquisition", $1,054,629,000, of which $182,053,000, for reforestation, timber stand improvement, co-

operative law enforcement, and maintenance of forest development roads and trails shall remain available for obligation until September 30, 1987: *Provided*, That the unobligated balances available September 30, 1985 and funds becoming available in fiscal year 1986 under the Act of October 14, 1980 (16 U.S.C. 1606), shall be transferred to and merged with the National Forest System appropriation account as of October 1, 1985: *Provided further*, That notwithstanding any other provision of law, subsection (e) of section 303 of the Act of October 14, 1980, as amended by the Act of January 6, 1983, Public Law 97-424 (16 U.S.C. 1606), is repealed and subsection (d) of section 303 of the Act of October 14, 1980, as amended by the Act of January 6, 1983, Public Law 97-424 (16 U.S.C. 1606), is amended to read as follows:

"(d) The Secretary of Agriculture is hereafter authorized to obligate such sums as are available in the Trust Fund (including any amounts not obligated in previous fiscal years) for—

(1) reforestation and timber stand improvement as specified in section (3)(d) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1601 (d)); and

(2) properly allocable administrative costs of the Federal Government for the activities specified above.".

CONSTRUCTION

For necessary expenses of the Forest Service, not otherwise provided for, for construction, $223,865,000, to remain available until expended, of which $27,449,000 is for construction and acquisition of buildings and other facilities; and $196,416,000 is for construction of forest roads and trails by the Forest Service as authorized by 16 U.S.C. 532-538 and 23 U.S.C. 101 and 205: *Provided*, That funds becoming available in fiscal year 1986 under the Act of March 4, 1913 (16 U.S.C. 501), shall be transferred to the General Fund of the Treasury of the United States: *Provided further*, That road construction standards used to construct Forest Service roads, purchaser credit roads, or purchaser elect roads shall be applied, or other management initiatives or administrative cost-saving actions taken, including reductions in personnel or overhead charges, in fiscal year 1986 in a manner so as to achieve a 5 per centum reduction in the average cost per road mile as compared to fiscal year 1985: *Provided further*, That such actions shall be taken so as to achieve this 5 per centum reduction in each Forest Service region: *Provided further*, That notwithstanding any other provision of this Act or any other provision of law, $9,915,000 of the contract authority available in the Federal Highway Trust Fund and not otherwise appropriated shall be available to the Forest Service for road construction to Forest Development Road Standards to serve the Mount St. Helens National Volcanic Monument, Washington: *Provided further*, That the foregoing shall not alter the amount of funds or contract authority that would otherwise be available for road construction to serve any State other than the State of Washington.

LAND ACQUISITION

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l-4-11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the Forest Service, $28,300,000, to be derived from the Land and Water Conservation Fund, to remain available until expended: *Provided*, That of the amount appropriated, $3,900,000 shall be paid to Edwards Investments, an Idaho partnership, upon delivery of a quitclaim deed to the United States conveying acceptable title to all of Edwards Investments' interest in all of those portions of a former Chicago, Milwaukee, St. Paul, and Pacific Railroad right-of-way between Avery, Idaho and St. Regis, Montana that cross or adjoin Federal lands, including all of Edwards Investments' interests in all improvements on said right-of-way. Upon acquisition, some or all of the right-of-way may be used as a road and available for public travel where determined appropriate by the Chief of the Forest Service.

ACQUISITION OF LANDS FOR NATIONAL FORESTS, SPECIAL ACTS

For acquisition of land within the exterior boundaries of the Cache, Uinta, and Wasatch National Forests, Utah; the Toiyabe National Forest, Nevada; and the Angeles, San Bernardino, and Cleveland National Forests, California, as authorized by law, $782,000, to be derived from forest receipts.

ACQUISITION OF LANDS TO COMPLETE LAND EXCHANGES

For acquisition of lands in accordance with the Act of December 4, 1967, as amended (16 U.S.C. 484a), all funds deposited by State, county or municipal governments, public school districts or other public school authorities pursuant to that Act, to remain available until expended.

RANGE BETTERMENT FUND

For necessary expenses of range rehabilitation, protection, and improvement in accordance with section 401(b)(1), of the Act of October 21, 1976, Public Law 94-579, as amended, 50 per centum of all moneys received during the prior fiscal year, as fees for grazing domestic livestock on lands in National Forests in the sixteen Western States, to remain available until expended.

MISCELLANEOUS TRUST FUNDS

For expenses authorized by 16 U.S.C. 1643(b), $90,000, to remain available until expended, to be derived from the fund established pursuant to 16 U.S.C. 1643(b).

ADMINISTRATIVE PROVISIONS, FOREST SERVICE

Appropriations to the Forest Service for the current fiscal year shall be available for: (a) purchase of not to exceed 252 passenger motor vehicles of which 13 will be used primarily for law enforcement purposes and of which 233 shall be for replacement only; acquisition of 161 passenger motor vehicles from excess sources, and hire of such vehicles; operation and maintenance of aircraft, the purchase of not to exceed 2 for replacement only, and acquisition of 43 aircraft from excess sources; notwithstanding other provisions of law, existing aircraft being replaced may be sold, with proceeds derived or trade-in value used to offset the purchase price for the replacement aircraft; (b) services pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $100,000 for employment under 5 U.S.C. 3109; (c) uniform allowances for each uniformed employee of the Forest Service, not in excess of $400 annually; (d) purchase, erection, and alteration of buildings and other public improvements (7 U.S.C. 2250); (e) acquisition of land, waters, and interests therein, pursuant to the Act of August 3, 1956 (7 U.S.C. 428a); (f) for expenses pursuant to the Volunteers in the National Forest Act of 1972 (16 U.S.C. 558a, 558d, 558a note); and (g) for debt collection contracts in accordance with 31 U.S.C. 3718(c).

None of the funds made available under this Act shall be obligated or expended to change the boundaries of any region, to abolish any region, to move or close any regional office for research, State and private forestry, or National Forest System administration of the Forest Service, Department of Agriculture, without the consent of the House and Senate Committees on Appropriations and the Committee on Agriculture, Nutrition, and Forestry in the United States Senate and the Committee on Agriculture in the United States House of Representatives.

Any appropriations or funds available to the Forest Service may be advanced to the National Forest System appropriation for the emergency rehabilitation of burned-over lands under its jurisdiction. The Secretary of Agriculture may authorize the expenditure of any no year appropriation available to the Forest Service for emergency actions related to emergency flood repair needs at the Monongahela National Forest and at the Parsons, West Virginia, Research Laboratory: *Provided*, That funds made available for such emergency actions shall be available for the payment of obligations incurred during the preceding fiscal year and funds expended pursuant to this provision must be replenished by a supplemental appropriation which must be requested as promptly as possible.

Appropriations and funds available to the Forest Service shall be available to comply with the requirements of section 313(a) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1323(a)).

The appropriation structure for the Forest Service may not be altered without advance approval of the House and Senate Committees on Appropriations.

Funds appropriated to the Forest Service shall be available for assistance to or through the Agency for International Development and the Office of International Cooperation and Development in connection with forest and rangeland research, and technical information and assistance in foreign countries.

Funds previously appropriated for timber salvage sales may be recovered from receipts deposited for use by the applicable national forest and credited to the Forest Service Permanent Appropriations to be expended for timber salvage sales from any national forest: *Provided further*, That no less than $24,000,000 shall be made available to the Forest Service for obligation in fiscal year 1986 from the Timber Salvage Sale Fund appropriation.

Provisions of section 702(b) of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 2257) shall apply to appropriations available to the Forest Service only to the extent that the proposed transfer is approved by the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in House Report 97-942.

No funds appropriated to the Forest Service shall be transferred to the Working Capital Fund of the Department of Agriculture without the approval of the Chief of the Forest Service.

Not to exceed $900,000 shall be available from National Forest System appropriations or permanent appropriations for the specific purpose of removing slash and cull logs from the Bull Run, Oregon, watershed to preserve water quality and reduce fire hazards.

None of the funds made available under this Act shall be obligated or expended to adjust annual recreational residence fees to an amount greater than that annual fee in effect at the time of the next to last fee adjustment, plus 50 per centum. In those cases where the currently applicable annual recreational residence fee exceeds that adjusted amount, the Forest Service shall credit to the permittee that excess amount, times the number of years that that fee has been in effect, to offset future fees owed to the Forest Service.

Current permit holders who acquired their recreational residence permit after the next to last fee adjustment shall have their annual permit fee computed as if they had their permit prior to the next to last fee adjustment, except that no permittee shall receive an unearned credit.

Notwithstanding any delegations of authority provided for in regulations of the Department of Agriculture or in the Forest Service manual, the Chief of the Forest Service shall, personally and without aid of mechanical devices or persons acting on his behalf, execute (1) all deeds conveying federally owned land which exceeds $250,000 in value, (2) all acceptances of options on lands to be acquired which exceed $250,000 in value, (3) all recommendations that condemnation be initiated, (4) all letters accepting donations of land, (5) all decisions on appeals of decisions related to land transactions made by regional foresters, and (6) land related transmittals to the House or Senate Committees on Appropriations, including all proposals for congressional action such as the acquisition of lands in excess of the approved appraised value, condemnation actions, and other items covered in reprogramming guidelines.

Funds available to the Forest Service shall be available to conduct a program of not less than $3,400,000 for high priority projects within the scope of the approved budget which shall be carried out by Youth Conservation Corps as if authorized by the Act of August 13, 1970, as amended by Public Law 93-408.

DEPARTMENT OF THE TREASURY

ENERGY SECURITY RESERVE

(INCLUDING RESCISSION)

Of the funds appropriated to the Energy Security Reserve by the Department of the Interior and Related Agencies Appropriations Act, 1980, (Public Law 96-126) and subsequently made available to carry out Part B of title I of the Energy Security Act (Public Law 96-294) by Public Laws 96-304, 96-514, and 98-473, the amounts available to the Board of Directors of the United States Synthetic Fuels Corporation and not obligated as of the date of enactment of this Act are rescinded, except that this rescission shall not apply to (1) funds made available for Clean Coal Technology by this Act; (2) such amounts as may be necessary to make payments for synthetic fuels projects or modules for which legally binding awards or commitments for financial assistance were entered into under title I of the Energy Security Act before the date of enactment of this Act; and (3) $10,000,000 to be used to terminate the Corporation in accordance with subtitle J of the Energy Security Act: Provided, That to the extent that the Secretary of the Treasury may be required to take an action under section 131(q) of the Energy Security Act in connection with such awards or commitments, the Secretary shall complete such action within 30 days of enactment of this Act: Provided further, That the limitation in Public Law 98-473 on the initial use of $5,700,000,000 of such funds only for obligation to synthetic fuel projects with Letters of Intent authorized by the Board of Directors of the United States Synthetic Fuels Corporation on or before June 1, 1984, is hereby repealed: Provided further, That of the funds in the Energy Security Reserve prior to the date of enactment of this Act $400,000,000 shall be available for the Clean Coal Technology Program in the Department of Energy authorized under the Clean Coal Technology Reserve proviso of Public Law 98-473 for the purpose of conducting cost-shared Clean Coal Technology projects for the construction and operation of facilities to demonstrate the feasibility for future commercial applications of such technology, to remain available until expended, of which $100,000,000 shall be immediately available; (2) an additional $150,000,000 shall be available beginning October 1, 1986; and (3) an additional $150,000,000 shall be available beginning october 1, 1987: Provided further, That the proviso in Public Law 98-473 depositing and retaining in the Clean Coal Technology Reserve $750,000,000 of funds in the Energy Security Reserve rescinded by said Act is amended so as to reduce the current amount of such deposited and retained funds to $350,000,000: Provided further, That notwithstanding section 191 of the Energy Security Act (Public Law 96-294), effective the date of enactment of this Act, the Board may not make any legally binding awards or commitments for financial assistance (including any changes in an existing award or commitment) pursuant to the Energy Security Act for synthetic fuel project proposals, except that nothing in this Act shall impair or alter the powers, duties, rights, obligations, privileges, or liabilities of the Corporation, its Board or Chairman, or project sponsors in the performance and completion of the terms and undertakings of a legally binding award or commitment entered into prior to the date of enactment of the Act: Provided further, That (1) within 60 days of enactment of this Act, the Directors of the Synthetic Fuels Corporation shall terminate their duties under the Energy Security Act and be discharged; and (2) within 120 days of enactment of this Act, the Corporation shall terminate in accordance with Subtitle J of said Act: Provided further, That within 60 days of enactment of this Act (or earlier, in the event of absence of a Chairman of the Synthetic Fuels Corporation) the Secretary of the Treasury shall assume the duties of the Chairman: Provided further, That, notwithstanding any other provisions of law, the duties and responsibilities of the Secretary of the Treasury under Subtitle J of said Act or this Act may not be transferred to any other Federal department or agency: Provided further, That notwithstanding such termination, the Advisory Committee established under section 123 of the Energy Security Act (42 U.S.C. 8719) shall remain in effect to advise the Secretary of the Treasury regarding the administration of any contract or obligation of the Corporation pursuant to subtitle D of said Act: Provided further, That the Director of the Office of Personnel Management shall, before February 1, 1986, determine the amount of compensation rights which each Director, officer, or employee shall be legally entitled to under any contract in effect on the date of enactment of this Act: Provided further, That effective on the date of enactment of this Act, no change in any compensation or benefit in effect on the date of enactment of this Act shall be allowed or permitted, unless the Director of the Office of Personnel Management agrees that such change is reasonable: Provided further, That effective on the date of enactment of this Act, (1) no officer or employee of the Corporation shall receive a salary in excess of the rate of basic pay payable for level IV of the Executive Schedule under title 5 of the United States Code; and (2) the Corporation shall not waive any requirements in its By-Laws which are necessary for a Director, officer, or employee to qualify for pension or termination benefits under the By-Laws and written personnel policies and procedures in effect on the date of enactment of this Act: Provided further, That the Corporation, by September 15, 1986, shall transmit to the Committee on Energy and Natural Resources of the Senate and to the Committee on Energy and Commerce and Committee on Banking, Housing and Urban Affairs of the House of Representatives a report (1) containing a review of implementation of its Phase I Business Plan dated February 19, 1985 and (2) fulfilling the requirements of section 126(b)(3) of the Energy Security Act (42 U.S.C. 8722(c)(3)).

Of the funds available from the Energy Security Reserve to the Secretary of Energy for alcohol fuel loan guarantees under Public Law 96-304, as amended by Public Laws 96-514, 97-12 and 97-394, the Secretary shall provide a loan for odor abatement at an ethanol producing facility that has received financial assistance under title II of Public Law 96-294 and that was in operation on November 1, 1985: Provided, That—

(1) such loan shall not exceed 90 percent of the net cost of the odor abatement project and in no case shall the amount of such loan exceed $3,000,000,

(2) the Secretary shall not provide such loan until the Secretary has received satisfactory assurances that a non-Federal share in the amount of 10 percent of the net cost of the odor abatement project is available,

(3) payment of principal under the loan shall not be due until the repayment in full of permanent financing guaranteed by the Department of Energy for the construction of such ethanol producing facility,

(4) interest shall accrue immediately upon receipt of the loan and payment of interest shall be made at regular intervals established by the Secretary but not to exceed the current average rate of outstanding marketable obligations of the United States with comparable maturities,

(5) the Secretary shall not make such loan until the Secretary has received satisfactory assurances that any expenses of operating equipment installed using funds made available under this loan shall be paid by the New Energy Corporation of Indiana,

(6) principal and interest payments made under this loan shall be repaid into the Alcohol Fuels Loan Guarantee Reserve, and

(7) the Secretary shall establish such other terms and conditions as the Secretary considers appropriate.

DEPARTMENT OF ENERGY

CLEAN COAL TECHNOLOGY

Within 60 days following enactment of this Act, the Secretary of Energy shall, pursuant to the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901, et seq.), issue a general request for proposals for clean coal technology projects for which the Secretary of Energy upon review may provide financial assistance awards. Proposals for clean coal technology projects under this section shall be *submitted to the Department of Energy within 60 days after issuance of the general request for proposals. The Secretary of Energy shall make any project selections no later than August 1, 1986: Provided, That the Secretary may vest fee title or other property interests acquired under cost-shared clean coal technology agreements in any entity, including the United States: Provided further, That the Secretary shall not finance more than 50 per centum of the total costs of a project as estimated by the Secretary as of the date of award of financial assistance: Provided further, That cost-sharing by project sponsors is required in each of the design, construction, and operating phases proposed to be included in a project: Provided further, That financial assistance for costs in excess of those estimated as of the date of award of original financial assistance may not be provided in excess of the proportion of costs borne by the Government in the original agreement and only up to 25 per centum of the original financial assistance: Provided further, That revenues or royalties from prospective operation of projects beyond the time considered in the award of financial assistance, or proceeds from prospective sale of the assets of the project, or revenues or royalties from replication of technology in future projects or plants are not cost-sharing for the purposes of this appropriation: Provided further, That other appropriated Federal funds are not cost-sharing for the purposes of this appropriation: Provided further, That existing facilities, equipment, and supplies, or previously expended research or development funds are not cost-sharing for the purposes of this appropriation, except as amortized, depreciated, or expensed in normal business practice.*

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses in carrying out fossil energy research and development activities, under the authority of the Department of Energy Organization Act (Public Law 95-91), including the acquisition of interest, including defeasible and equitable interests in any real property or any facility or for plant or facility acquisition or expansion, $312,848,000, to remain available until expended, of which $535,000 is for the functions of the Office of the Federal Inspector for the Alaska Natural Gas Transportation System established pursuant to the authority of Public Law 94-586 (90 Stat. 2908-2909), and $8,230,000 to be derived by transfer from unobligated balances in the "Fossil energy construction" account, $2,010,000 to be derived by transfer from the account entitled "Alternative fuels production", of which $200,000 is derived from Public Law 98-146 for a wood pellet gasifier facility, and $2,775,000 to be derived by transfer from amounts derived from fees for guarantees of obligations collected pursuant to section 19 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended (42 U.S.C. 5919), and deposited in the "Energy security reserve" established by Public Law 96-126: Provided, That no part of the sum herein made available shall be used for the field testing of nuclear explosives in the recovery of oil and gas: Provided further, That notwithstanding any other provision of law, funds appropriated under this head in Public Law 97-394 for a Western Hemisphere alternative fuels facility feasibility study, which remain unobligated, shall be available for carrying out any fossil energy research and development activities: Provided further, That $15,000,000 of the sum provided under this heading shall be available for demonstration of the Kilngas coal gasification process, with the provision that the United States Treasury shall be repaid up to double the total Federal expenditure for such process from proceeds to the participants from the commercial sale, lease, manufacture, or use of such process.

Of the funds herein provided, $29,000,000 is for implementation of the June, 1984 multiyear, cost-shared magnetohydrodynamics program targeted on proof-of-concept testing: Provided further, That 10 per centum private sector cash or in-kind contributions shall be required for obligations incurred in fiscal year 1986, 20 per centum private sector cash or in-kind contributions shall be required for obligations in fiscal year 1987, and for each subsequent fiscal year's obligations private sector contributions shall increase by 5 per centum over the life of the proof-of-concept plan: Provided further, That existing facilities, equipment, and supplies, or previously expended research or development funds are not cost-sharing for the purposes of this appropriation, except as amortized, depreciated, or expensed in normal business practice: Provided further, That cost-sharing shall not be required for the costs of constructing or operating government-owned facilities or for the costs of Government organizations, National Laboratories, or universities and such costs shall not be used in calculating the required percentage for private sector contributions: Provided further, That private sector contribution percentages need not be met on each contract but must be met in total for each fiscal year.

NAVAL PETROLEUM AND OIL SHALE RESERVES

For necessary expenses in carrying out naval petroleum and oil shale reserves activities, including the purchase of not to exceed 3 passenger motor vehicles, for replacement only, $13,668,000, to remain available until expended.

ENERGY CONSERVATION

For necessary expenses in carrying out energy conservation activities, $449,418,000, to remain available until expended: Provided, That pursuant to section 111(b)(1)(B) of the Energy Reorganization Act of 1974, as amended, 42 U.S.C. 5821(b)(1)(B), of the amount appropriated under this head, $10,319,000 shall be available for a grant for basic industry research facilities located at Northwestern University without section 111(b)(2) of such Act being applicable: Provided further, That section 404 of Public Law 98-558 shall not be effective in any fiscal year in which the amount made available for low income weatherization assistance from appropriations under this head is less than 5 per centum above the amount made available in fiscal year 1985: Provided further, That $7,500,000 of the amount provided under this heading shall be available for a research and development initiative with the National Laboratories for new technologies up to proof-of-concept testing to increase significantly the energy efficiency of processes that produce steel: Provided further, That obligation of funds for these activities shall be contingent on an agreement to provide cash or in-kind contributions to the initiative or to other collaborative research and development activities related to the purpose of the initiative equal to 30 percent of the amount of Federal government obligations: Provided further, That existing facilities, equipment, and supplies, or previously expended research or development funds are not acceptable as contributions for the purposes of this appropriation, except as amortized, depreciated, or expensed in normal business practice: Provided further, That the total Federal expenditure under this proviso shall be repaid up to one and one-half times from the proceeds of the commercial sale, lease, manufacture, or use of technologies developed under this proviso, at a rate of one-fourth of all net proceeds.

ECONOMIC REGULATION

For necessary expenses in carrying out the activities of the Economic Regulatory Administration and the Office of Hearings and Appeals, $24,623,000.

EMERGENCY PREPAREDNESS

For necessary expenses in carrying out emergency preparedness activities, $6,044,000.

STRATEGIC PETROLEUM RESERVE

For expenses necessary to carry out the provisions of sections 151 through 166 of the Energy Policy and Conservation Act of 1975 (Public Law 94-163), $113,043,000, to remain available until expended.

SPR PETROLEUM ACCOUNT

Notwithstanding any other provision of law, the Secretary of Agriculture, at the request of the Secretary of Energy, may exchange agricultural products owned by the Commodity Credit Corporation for crude oil to be delivered to the Strategic Petroleum Reserve: Provided, That the Secretary of Energy shall approve the quantity, quality, delivery method, scheduling, market value and other aspects of the exchange of such agricultural products: Provided further, That if the volume of agricultural products to be exchanged has a value in excess of the market value of the crude oil acquired by such exchange, then the Secretary of Agricuture shall require as part of the terms and conditions of the exchange that the party or entity providing such crude oil shall agree to purchase, within six months following the exchange, current crop commodities or value-added food products from United States producers or processors in an amount equal to at least one-half the difference between the value of the commodities received in exchange and the market value of the crude oil acquired for the Strategic Petroleum Reserve.

ENERGY INFORMATION ADMINISTRATION

For necessary expenses in carrying out the activities of the Energy Information Administration, $60,682,000.

ADMINISTRATIVE PROVISIONS, DEPARTMENT OF ENERGY

Appropriations under this Act for the current fiscal year shall be available for hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; purchase, repair, and cleaning of uniforms; and reimbursement to the General Services Administration for security guard services.

From appropriations under this Act, transfers of sums may be made to other agencies of the Government for the performance of work for which the appropriation is made.

None of the funds made available to the Department of Energy under this Act shall be used to implement or finance authorized price support or loan guarantee programs unless specific provision is made for such programs in an appropriations Act.

The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, private, or foreign: Provided, That revenues and *other moneys received by or for the account of the Department of Energy or otherwise generated by sale of products in connection with projects of the Department appropriated under this Act may be retained by the Secretary of Energy, to be available until expended, and used only for plant construction, operation, costs, and payments to cost-sharing entities as provided in appropriate cost-sharing contracts or agreements: Provided further, That the remainder of revenues after the making of such payments shall be covered into the Treasury as miscellaneous receipts: Provided further, That any contract, agreement or provision thereof entered into by the Secretary pursuant to this authority shall not be executed prior to the expiration of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the receipt by the Speaker of the House of Representatives and the President of the Senate of a full and comprehensive report on such project, including the facts and circumstances relied upon in support of the proposed project.*

The Secretary of Energy may transfer to the Emergency Preparedness appropriation such funds as are necessary to meet any unforeseen emergency needs from any funds available to the Department of Energy from this Act.

The reporting requirement established by the last paragraph under the heading "Department of Energy Alternative Fuels Production" in an Act making appropriations for the Department of the Interior and Related Agencies for the fiscal year ending September 30, 1980 (42 U.S.C. 5915 note; Public Law 96-126), is hereby repealed.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

INDIAN HEALTH SERVICES

For expenses necessary to carry out the Act of August 5, 1954 (68 Stat. 674), the Indian Self-Determination Act, the Indian Health Care Improvement Act, and titles III and V and section 338G of the Public Health Service Act with respect to the Indian Health Service, including hire of passenger motor vehicles and aircraft; purchase of reprints; purchase and erection of portable buildings; payments for telephone service in private residences in the field, when authorized under regulations approved by the Secretary, $823,133,000: Provided, That funds made available to tribes and tribal organizations through grants and contracts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450), shall remain available until September 30, 1987. Funds provided in this Act may be used for one-year contracts and grants which are to be performed in two fiscal years, so long as the total obligation is recorded in the year for which the funds are appropriated: Provided further, That the amounts collected by the Secretary of Health and Human Services under the authority of title IV of the Indian Health Care Improvement Act shall be available until September 30, 1987, for the purpose of achieving compliance with the applicable conditions and requirements of titles XVIII and XIX of the Social Security Act (exclusive of planning, design, construction of new facilities, or major renovation of existing Indian Health Service facilities): Provided further, That funding contained herein, and in any earlier appropriations Acts, for scholarship programs under section 103 of the Indian Health Care Improvement Act and section 338G of the Public Health Service Act with respect to the Indian Health Service shall remain available for expenditure until September 30, 1987.

INDIAN HEALTH FACILITIES

For construction, major repair, improvement, and equipment of health and related auxiliary facilities, including quarters for personnel; preparation of plans, specifications, and drawings; acquisition of sites, purchase and erection of portable buildings, purchases of trailers and for provision of domestic and community sanitation facilities for Indians, as authorized by section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a), the Indian Self-Determination Act and the Indian Health Care Improvement Act, $46,947,000, to remain available until expended: Provided, That the Rosebud, South Dakota, hospital shall be designed and constructed with a capacity of 35 beds.

ADMINISTRATIVE PROVISIONS

INDIAN HEALTH SERVICE

Appropriations in this Act to the Indian Health Service, available for salaries and expenses, shall be available for services as authorized by 5 U.S.C. 3109 but at rates not to exceed the per diem equivalent to the rate for GS-18, and for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901-5902), and for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities: Provided, That none of the funds appropriated under this Act to the Indian Health Service shall be available for the initial lease of permanent structures without advance provision therefor in appropriations Acts: Provided further, That non-Indian patients may be extended health care at all Indian Health Service facilities, if such care can be extended without impairing the ability of the Indian Health Service to fulfill its responsibility to provide health care to Indians served by such facilities and subject to such reasonable charges as the Secretary of Health and Human Services shall prescribe, the proceeds of which shall be deposited in the fund established by sections 401 and 402 of the Indian Health Care Improvement Act: Provided further, That funds appropriated to the Indian Health Service in this Act, except those used for administrative and program direction purposes, shall not be subject to limitations directed at curtailing Federal travel and transportation: Provided further, That with the exception of service units which currently have a billing policy, the Indian Health Service shall not initiate any further action to bill Indians in order to collect from third-party payers nor to charge those Indians who may have the economic means to pay unless and until such time as Congress has agreed upon a specific policy to do so and has directed the Indian Health Service to implement such a policy: Provided further, That notwithstanding any other provision of law, to satisfy the outstanding judgment against the Seattle Indian Health Board resulting from termination of its occupancy of the Kobe Park building in Seattle, Washington, $180,000 shall be provided from the unobligated balance available to the Indian Health Service from prior years' appropriations. Such payment shall be made only if the owners of the Kobe Park Building Company accept the sum named as full satisfaction for current or future claims against the Seattle Indian Health Board and the individual members of the Board.

DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

INDIAN EDUCATION

For necessary expenses to carry out, to the extent not otherwise provided, the Indian Education Act, $67,476,000 of which $50,323,000 shall be for part A and $14,820,000 shall be for parts B and C: Provided, That the amounts available pursuant to section 423 of the Act shall remain available for obligation until September 30, 1987.

OTHER RELATED AGENCIES

NAVAJO AND HOPI INDIAN RELOCATION COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Navajo and Hopi Indian Relocation Commission as authorized by Public Law 93-531, $22,491,000 to remain available until expended, for operating expenses of the Commission: Provided, That notwithstanding any regulation to the contrary, the Commission shall notify the Secretary of the Interior by January 1, 1986, of those eligible relocatees who, as of November 30, 1985, were physically domiciled on the lands partitioned to the Hopi Tribe, who had applied by November 30, 1985, for relocation to the lands which are subject to section 11(h) of the Act of December 22, 1974, as amended (25 U.S.C. 640d-10(h)): Provided further, That none of the funds contained in this or any other Act may be used to evict any Navajo houshold who, as of November 30, 1985, is physically domiciled on the lands partitioned to the Hopi Tribe until such time as a new or replacement home is available for such household.

SMITHSONIAN INSTITUTION

SALARIES AND EXPENSES

For necessary expenses of the Smithsonian Institution, including research in the fields of art, science, and history; development, preservation, and documentation of the National Collections; presentation of public exhibits and performances; collection, preparation, dissemination, and exchange of information and publications; conduct of education, training, and museum assistance programs; maintenance, alteration, operation, lease (for terms not to exceed ten years), and protection of buildings, facilities, and approaches; not to exceed $100,000 for services as authorized by 5 U.S.C. 3109; up to 5 replacement passenger vehicles; purchase, rental, repair, and cleaning of uniforms for employees; $178,063,000 including not less than $777,000 to carry out the provisions of the National Museum Act, $175,000 to be made available to the trustees of the John F. Kennedy Center for the Performing Arts for payment to the National Symphony Orchestra and $175,000 for payment to the Washington Opera Society for activities related to their responsibilities as resident entities of the Center, and such funds as may be necessary to support American overseas research centers: Provided, That funds appropriated herein are available for advance payments to independent contractors performing research services or participating in official Smithsonian presentations: Provided further, That none of these funds shall be available to a Smithsonian Research Foundation.

MUSEUM PROGRAMS AND RELATED RESEARCH

(SPECIAL FOREIGN CURRENCY PROGRAM)

For payments in foreign currencies which the Treasury Department shall determine to be excess to the normal requirements of the United States, for necessary expenses for carrying out museum programs, scientific and cultural research, and related educational activities, as authorized by law, $2,500,000, to remain available until expended and to be available only to United States institutions: Provided, That this appropriation shall be available, in addition to other appropriations to the Smithsonian Institution, for payments in the foregoing currencies: Provided further, That none of these funds shall be available to a Smithsonian Research Foundation: Provided further, That not to exceed $500,000 may be used to make grant awards to employees of the Smithsonian Institution.

CONSTRUCTION AND IMPROVEMENTS, NATIONAL ZOOLOGICAL PARK

For necessary expenses of planning, construction, remodeling, and equipping of buildings and facilities at the National Zoological Park, by contract or otherwise, $5,551,000, to remain available until expended.

RESTORATION AND RENOVATION OF BUILDINGS

For necessary expenses of restoration and renovation of buildings owned or occupied by the Smithsonian Institution, by contract or otherwise, as authorized by section 2 of the Act of August 22, 1949 (63 Stat. 623), including not to exceed $10,000 for services as authorized by 5 U.S.C. 3109, $11,075,000, to remain available until expended: Provided, That contracts awarded for environmental systems, protection systems, and exterior repair or renovation of buildings of the Smithsonian Institution may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price.

CONSTRUCTION

For necessary expenses to construct, equip, and furnish the Center for African, Near Eastern, and Asian Cultures in the area south of the original Smithsonian Institution Building, $4,000,000, to remain available until expended.

NATIONAL GALLERY OF ART

SALARIES AND EXPENSES

For the upkeep and operations of the National Gallery of Art, the protection and care of the works of art therein, and administrative expenses incident thereto, as authorized by the Act of March 24, 1937 (50 Stat. 51), as amended by the public resolution of April 13, 1939 (Public Resolution 9, Seventy-sixth Congress), including services as authorized by 5 U.S.C. 3109; payment in advance when authorized by the treasurer of the Gallery for membership in library, museum, and art associations or societies whose publications or services are available to members only, or to members at a price lower than to the general public; purchase, repair, and cleaning of uniforms for guards, and uniforms, or allowances therefor, for other employees as authorized by law (5 U.S.C. 5901-5902); purchase, or rental of devices and services for protecting buildings and contents thereof, and maintenance, alteration, improvement, and repair of buildings, approaches, and grounds; and purchase of services for restoration and repair of works of art for the National Gallery of Art by contracts made, without advertising, with individuals, firms, or organizations at such rates or prices and under such terms and conditions as the Gallery may deem proper, $33,754,000, of which not to exceed $2,200,000 for the special exhibition program shall remain available until expended.

REPAIR, RESTORATION AND RENOVATION OF BUILDINGS

For necessary expenses of repair, restoration and renovation of buildings, grounds and facilities owned or occupied by the National Gallery of Art, by contract or otherwise, as authorized, $3,300,000, to remain available until expended: Provided, That contracts awarded for environmental systems, protection systems, and exterior repair or renovation of buildings of the National Gallery of Art may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price.

WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

SALARIES AND EXPENSES

For expenses necessary in carrying out the provisions of the Woodrow Wilson Memorial Act of 1968 (82 Stat. 1356), including hire of passenger vehicles and services as authorized by 5 U.S.C. 3109, $3,392,000.

ENDOWMENT CHALLENGE FUND

For the purpose of an endowment challenge fund for the Woodrow Wilson International Center for Scholars, $1,000,000, to remain available until September 30, 1988: Provided, That such sums shall become available only to the extent matched on a three-to-one basis by private funds: Provided further, That these funds may be invested in securities approved by the Board of Trustees and the income from such investments may be used to support programs of the Center deemed appropriate by the Trustees and by the Director of the Center.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

NATIONAL ENDOWMENT FOR THE ARTS

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, $137,260,000, of which $121,678,000 shall be available to the National Endowment for the Arts for the support of projects and productions in the arts through assistance to groups and individuals pursuant to section 5(c) of the Act, of which not less than 20 per centum of the funds provided for section 5(c) shall be available for assistance pursuant to section 5(g) of the Act, and $15,582,000 shall be available for administering the functions of the Act.

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, $29,400,000, to remain available until September 30, 1987, to the National Endowment for the Arts, of which $20,580,000 shall be available for purposes of section 5(1): Provided, That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the Chairman or by grantees of the Endowment under the provisions of section 10(a)(2), subsections 11(a)(2)(A) and 11(a)(3)(A) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.

ARTS AND ARTIFACTS INDEMNITY FUND

For payment of certified claims for losses or damages pursuant to the Arts and Artifacts Indemnity Act of 1975, $300,000, to remain available until expended: Provided, That such funds shall be available to the National Endowment for the Arts for obligation only for claims for losses or damages which the Federal Council on the Arts and Humanities has certified as valid and reported to the Speaker of the House of Representatives and the President pro tempore of the Senate, as provided by the Act.

NATIONAL ENDOWMENT FOR THE HUMANITIES

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, $110,818,000, of which $96,618,000 shall be available to the National Endowment for the Humanities for support of activities in the humanities, pursuant to section 7(c) of the Act, of which not less than 20 per centum shall be available for assistance pursuant to section 7(f) of the Act, and $14,200,000 shall be available for administering the functions of the Act.

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, $28,660,000, to remain available until September 30, 1987, of which $17,000,000 shall be available to the National Endowment for the Humanities for the purposes of section 7(h): Provided, That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the Chairman or by grantees of the Endowment under the provisions of subsections 11(a)(2)(B) and 11(a)(3)(B) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.

NATIONAL CAPITAL ARTS AND CULTURAL AFFAIRS

There is hereby authorized a program to support artistic and cultural programs in the Nation's Capital to be established under the direction of the National Endowment for the Humanities. Not to exceed $5,000,000 annually is authorized to provide grants for general operating support to eligible organizations located in the District of Columbia which are engaged primarily in performing, exhibiting and/or presenting arts.

Eligibility for grants shall be limited to not-for-profit, non-academic institutions of demonstrated national repute and is further limited to organizations having an annual operating budget in excess of $1,000,000 for each of the three years prior to receipt of a grant. The following organizations are deemed eligible to receive grants under this section: Folger Theater, Corcoran Gallery of Art, Phillips Gallery, Arena Stage, the National Building Museum, the National Capital Children's Museum, the National Symphony Orchestra, the Washington Opera Society, and Ford's Theater.

The Chairman of the National Endowment for the Humanities shall establish an application process and shall, along with the Chairman of the National Endowment for the Arts and the Chairman of the Commission on Fine Arts determine the eligibility of applicant organizations in addition to those herein named.

Of the funds provided for grants, 70 per centum shall be equally distributed among all qualifying organizations and 30 per centum shall be distributed based on the size of an organization's total operating budget compared to the combined total of the operating budgets of all eligible institutions. No *organization shall receive a grant in excess of $500,000 in a single year.*

An application process shall be established no later than March 1, 1986, and initial grants shall be awarded no later than June 1, 1986.

There is hereby appropriated $2,000,000, to remain available until expended, to carry out the provisions of this section.

INSTITUTE OF MUSEUM SERVICES

GRANTS AND ADMINISTRATION

For carrying out title II of the Arts, Humanities, and Cultural Affairs Act of 1976, as amended, $21,523,000: Provided, That none of these funds shall be available for the compensation of Executive Level V or higher positions.

ADMINISTRATIVE PROVISIONS

None of the funds appropriated to the National Foundation on the Arts and the Humanities may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: Provided, That none of the funds appropriated to the National Foundation on the Arts and the Humanities may be used for official reception and representation expenses.

COMMISSION OF FINE ARTS

SALARIES AND EXPENSES

For expenses made necessary by the Act establishing a Commission of Fine Arts (40 U.S.C. 104), $382,000.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

SALARIES AND EXPENSES

For expenses made necessary by the Act establishing an Advisory Council on Historic Preservation, Public Law 89-665, as amended, $1,585,000: Provided, That none of these funds shall be available for the compensation of Executive Level V or higher positions.

NATIONAL CAPITAL PLANNING COMMISSION

SALARIES AND EXPENSES

For necessary expenses, as authorized by the National Capital Planning Act of 1952 (40 U.S.C. 71-71i), including services as authorized by 5 U.S.C. 3109, $2,712,000.

FRANKLIN DELANO ROOSEVELT MEMORIAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Franklin Delano Roosevelt Memorial Commission, established by the Act of August 11, 1955 (69 Stat. 694), as amended by Public Law 92-332 (86 Stat. 401), $21,000, to remain available for obligation until September 30, 1987.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

SALARIES AND EXPENSES

For necessary expenses, as authorized by section 17(a) of Public Law 92-578, as amended, $2,329,000 for operating and administrative expenses of the Corporation.

PUBLIC DEVELOPMENT

For public development activities and projects in accordance with the development plan as authorized by section 17(b) of Public Law 92-578, as amended, $3,250,000, to remain available for obligation until expended.

UNITED STATES HOLOCAUST MEMORIAL COUNCIL

HOLOCAUST MEMORIAL COUNCIL

For expenses of the Holocaust Memorial Council, as authorized by Public Law 96-388, $2,125,000: Provided, That persons other than members of the United States Holocaust Memorial Council may be designated as members of committees associated with the United States Holocaust Memorial Council subject to appointment by the Chairman of the Council: Provided further, That any persons so designated shall serve without cost to the Federal Government.

TITLE III—GENERAL PROVISIONS

SEC. 301. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive Order issued pursuant to existing law.

SEC. 302. No part of any appropriation under this Act shall be available to the Secretaries of the Interior and Agriculture for use for any sale hereafter made of unprocessed timber from Federal lands west of the 100th meridian in the contiguous 48 States which will be exported from the United States, or which will be used as a substitute for timber from private lands which is exported by the purchaser: Provided, That this limitation shall not apply to specific quantities of grades and species of timber which said Secretaries determine are surplus to domestic lumber and plywood manufacturing needs.

SEC. 303. No part of any appropriation under this Act shall be available to the Secretary of the Interior or the Secretary of Agriculture for the leasing of oil and natural gas by noncompetitive bidding on publicly owned lands within the boundaries of the Shawnee National Forest, Illinois: Provided, That nothing herein is intended to inhibit or otherwise affect the sale, lease, or right to access to minerals owned by private individuals.

SEC. 304. No part of any appropriation contained in this Act shall be available for any activity or the publication or distribution of literature that in any way tends to promote public support or opposition to any legislative proposal on which congressional action is not complete.

SEC. 305. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 306. None of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency.

SEC. 307. Except for lands described by sections 105 and 106 of Public Law 96-560, section 103 of Public Law 96-550, section 5(d)(1) of Public Law 96-312, and except for land in the State of Alaska, and lands in the national forest system released to management for any use the Secretary of Agriculture deems appropriate through the land management planning process by any statement or other Act of Congress designating components of the National Wilderness Preservation System now in effect or hereinafter enacted, and except to carry out the obligations and responsibilities of the Secretary of the Interior under section 17(k)(1) (A) and (B) of the Mineral Leasing Act of 1920 (30 U.S.C. 226), none of the funds provided in this Act shall be obligated for any aspect of the processing or issuance of permits or leases pertaining to exploration for or development of coal, oil, gas, oil shale, phosphate, potassium, sulphur, gilsonite, or geothermal resources on Federal lands within any component of the National Wilderness Preservation System or within any Forest Service RARE II areas recommended for wilderness designation or allocated to further planning in Executive Communication 1504, Ninety-sixth Congress (House Document numbered 96-119); or within any lands designated by Congress as wilderness study areas or within Bureau of Land Management wilderness study areas: Provided, That nothing in this section shall prohibit the expenditure of funds for any aspect of the processing or issuance of permits pertaining to exploration for or development of the mineral resources described in this section, within any component of the National Wilderness Preservation System now in effect or hereinafter enacted, any Forest Service RARE II areas recommended for wilderness designation or allocated to further planning, within any lands designated by Congress as wilderness study areas, or Bureau of Land Management wilderness study areas, under valid existing rights, or leases validly issued in accordance with all applicable Federal, State, and local laws or valid mineral rights in existence prior to October 1, 1982: Provided further, That funds provided in this Act may be used by the Secretary of Agriculture in any area of National Forest lands or the Secretary of the Interior to issue under their existing authority in any area of National Forest or public lands withdrawn pursuant to this Act such permits as may be necessary to conduct prospecting, seismic surveys, and core sampling conducted by helicopter or other means not requiring construction of roads or improvement of existing roads or ways, for the purpose of gathering information about and inventorying energy, mineral, and other resource values of such area, if such activity is carried out in a manner compatible with the preservation of the wilderness environment: Provided further, That seismic activities involving the use of explosives shall not be permitted in designated wilderness areas: Provided further, That funds provided in this Act may be used by the Secretary of the Interior to augment recurring surveys of the mineral values of wilderness areas pursuant to section 4(d)(2) of the Wilderness Act and acquire information on other national forest and public land areas withdrawn pursuant to this Act, by conducting in conjunction with the Secretary of Energy, the National Laboratories, or other Federal agencies, as appropriate, such mineral inventories of areas withdrawn pursuant to this Act as he deems appropriate. These inventories shall be conducted in a manner compatible with the preservation of the wilderness environment through the use of methods including core sampling conducted by helicopter; geophysical techniques such as induced polarization, synthetic aperture radar, magnetic and gravity surveys; geochemical techniques including stream sediment reconnaissance and x-ray diffraction analysis; land satellites; or any other methods he deems appropriate. The Secretary of the Interior is hereby authorized to conduct inventories or segments of inventories, such as data analysis activities, by contract with private entities deemed by him to be qualified to engage in such activities whenever he has determined that such contracts would decrease Federal expenditures and would produce comparable or superior results: Provided further, That in carrying out any such inventory or surveys, where National Forest System lands are involved, the Secretary of the Interior shall consult with the Secretary of Agriculture concerning any activities affecting surface resources: Provided further, That funds provided in this Act may be used *by the Secretary of the Interior to issue oil and gas leases for the subsurface of any lands designated by Congress as wilderness study areas, that are immediately adjacent to producing oil and gas fields or areas that are prospectively valuable. Such leases shall allow no surface occupancy and may be entered only by directional drilling from outside the wilderness study area or other nonsurface disturbing methods.*

Sec. 308. None of the funds provided in this Act shall be used to evaluate, consider, process, or award oil, gas, or geothermal leases on Federal lands in the Mount Baker-Snoqualmie National Forest, State of Washington, within the hydrographic boundaries of the Cedar River municipal watershed upstream of river mile 21.6, the Green River municipal watershed upstream of river mile 61.0, the North Fork of the Tolt River proposed municipal watershed upstream of river mile 11.7, and the South Fork Tolt River municipal watershed upstream of river mile 8.4.

Sec. 309. No assessments may be levied against any program, budget activity, subactivity, or project funded by this Act unless such assessments and the basis therefor are presented to the Committees on Appropriations and are approved by such committees.

Sec. 310. Employment funded by this Act shall not be subject to any personnel ceiling or other personnel restriction for permanent or other than permanent employment except as provided by law.

Sec. 311. Notwithstanding any other provisions of law, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Energy, and the Secretary of the Smithsonian Institution, are authorized to enter into contracts with State and local governmental entities, including local fire districts, for procurement of services in the presuppression, detection, and suppression of fires on any units within their jurisdiction.

Sec. 312. None of the funds provided by this Act to the United States Fish and Wildlife Service may be obligated or expended to plan for, conduct, or supervise deer hunting on the Loxahatchee National Wildlife Refuge.

Sec. 313. No funds appropriated by this Act shall be available for the implementation or enforcement of any rule or regulation of the United States Fish and Wildlife Service, Department of the Interior, requiring the use of steel shot in connection with the hunting of waterfowl in any State of the United States unless the appropriate State regulatory authority approves such implementation.

Sec. 314. None of the funds provided in this Act may be used to establish new grizzly bear populations in any unit of the National Park System or the National Forest System where no verified grizzly bear population currently exists. None of the funds provided in this Act may be used for augmentation in occupied areas of grizzly bear habitat unless an augmentation plan has been developed and made available for public review and comment in full compliance with the National Environmental Policy Act by all participating federal agencies: Provided, That it is not intended to prohibit the preparation of proposals to augment existing grizzly bear populations in occupied grizzly bear habitat: Provided further, That such augmentation may be conducted only with funds specifically identified for such purpose in an agency budget justification and subsequently approved in a report accompanying an appropriation bill making appropriations for that agency, or with funds provided for through reprogramming procedures: Provided further, That notwithstanding any other provision of law, agencies included in this Act are authorized to reimburse permittees for such reasonable expenses as may be incurred as a result of moving permitted animals from one location to another, as may be required by the permitting agency, in order to prevent harassment and attacks by grizzly bears. Such expenses are to be determined by the agency responsible for the permitted action.

Sec. 315. Notwithstanding any other provision of law, section 8336(j)(3)(A) of title 5, United States Code is amended by striking "5 years" and inserting in lieu thereof "10 years".

Sec. 316. Section 317 of title III of the Act of December 30, 1982 (96 Stat. 1966), is amended by deleting the words "but before December 31, 1985".

Sec. 317. Funds available to the Department of the Interior and the Forest Service in fiscal year 1986 for the purpose of contracting for services that require the utilization of privately owned aircraft for the carriage of cargo or freight shall be used only to contract for aircraft that are certified as air-worthy by the Administrator of the Federal Aviation Administration as standard category aircraft under 14 CFR 21.183 unless the Secretary of the contracting department determines that such aircraft are not reasonably available to conduct such services.

Sec. 318. None of the funds made available to the Department of the Interior or the Forest Service during fiscal year 1986 by this or any other Act may be used to implement the proposed jurisdictional interchange program until enactment of legislation which authorizes the jurisdictional interchange.

Sec. 319. Notwithstanding any other provision of law, any lease for those Federal lands within the Gallatin and Flathead National Forests which were affected by case CV-82-42-BU of the United States District Court for the District of Montana, Butte Division, for which the Secretary has directed or assented to the suspension of operations and production pursuant to section 39 of the Act of February 25, 1920 (30 U.S.C. 184) shall be excepted from the limits on aggregate acreage set out in that Act: Provided, That any person, association or corporation receiving relief under this section shall bring its aggregate acreage into compliance with the provisions of the Act of February 25, 1920 (30 U.S.C. 184) within six months from the date the suspension of operation and production ends.

Sec. 320. The provisions of section 2(a)(2)(A) of the Mineral Lands Leasing Act of 1920 (41 Stat. 437), as amended by section 3 of the Federal Coal Leasing Amendments Act of 1976 (90 Stat. 1083) shall not take effect until December 31, 1986.

Sec. 321. (a) None of the funds available to the Bureau of Indian Affairs for the construction of housing on lands acquired pursuant to section 11 of Public Law 93-531, as amended, shall be expended until a report is submitted to the House and Senate Committees on Appropriations detailing the proposed uses of such funds on the lands acquired pursuant to section 11 of Public Law 93-531.

(b) In addition to plans for housing, the report shall include a description of other services intended to be provided including, but not limited to, water, sewers, roads, schools, and health facilities. If such services are not to be provided the report shall describe alternative services available. The report shall further identify the proposed sites to which households will be relocated, including the distance from the Joint Use Area to such sites. This report shall be submitted no later than February 15, 1986, by the Navajo and Hopi Indian Relocation Commission and shall include the views of the Secretary of the Interior on the provision of housing and roads on the new lands.

Sec. 322. Notwithstanding any other provision of law, the limitation placed on the Secretary of the Interior by the last sentence of section 319 of "An Act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1985, and for other purposes", as enacted into law by Public Law 98-473 (98 Stat. 1837), shall remain in effect until Congress determines otherwise.

Sec. 323. The Secretary of the Interior, acting through the Bureau of Indian Affairs and in consultation and cooperation with the Secretary of Health and Human Services and the Secretary of Education, shall develop and begin implementation of a program which provides instruction in health promotion and disease prevention to juvenile Indians enrolled in schools operated by, or on behalf of, the Bureau of Indian Affairs

And the Senate Agree to the same.

Sec. 324. Public Law 96-388, as amended (36 U.S.C. 1401 et seq.), is further amended as follows:

(1) The first sentence of section 36 U.S.C. 1401 is amended to read: "There is hereby established as an independent Federal establishment the United States Holocaust Memorial Council (hereinafter in this chapter referred to as the 'Council').";

(2) 36 U.S.C. 1407 is amended by adding the word "invest," after the word "administer," in the first sentence, and by adding the following new sentence as the penultimate sentence: "Funds donated to and accepted by the Council pursuant to this section are not to be regarded as appropriated funds and are not subject to any requirements or restrictions applicable to appropriated funds."; and

(3) By adding the following new sections at the end of 36 U.S.C. 1408:

"REPORT TO THE CONGRESS

The Executive Director shall make a full report annually to the Congress of his stewardship of the authority to construct, operate, and maintain the Holocaust Museum, including an accounting of all financial transactions involving donated funds.

AUDIT BY THE COMPTROLLER GENERAL; ACCESS TO RECORDS

Financial transactions of the Council, including those involving donated funds, shall be audited by the Comptroller General as requested by the Congress, in accordance with generally accepted auditing standards. In conducting any audit pursuant to this section, appropriate representatives of the Comptroller General shall have access to all books, accounts, financial records, reports, files and other papers, items or property in use by the Council, as necessary to facilitate such audit, and such representatives shall be afforded full facilities for verifying transactions with the balances."

Sec. 325. Each amount of budget authority provided in this Act, or made available in the Energy Security Reserve for the Clean Coal Technology Program, for payments not required by law, is hereby reduced by 0.6 per centum: Provided, That such reductions shall be applied ratably to each account, *program, activity, and project provided for in this Act;* and the Senate agree to the same.

Amendment numbered 8:

That the House recede from its disagreement to the amendment of the Senate numbered 8, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

(e) Such amounts as may be necessary for projects or activities provided for in the Department of Transportation and Related Agencies Appropriations Act, 1986, at a rate for operations and to the extent and in the manner provided for in the following Act; this subsection shall be effective as if it had been enacted into law as the regular appropriations Act:

AN ACT Making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1986, and for other purposes.

TITLE I—DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

Salaries and Expenses

For necessary expenses of the Office of the Secretary of Transportation, including not to exceed $30,000 for allocation within the Department of official reception and representation expenses as the Secretary may determine, $51,300,000, together with $500,000 of the unobligated balances available under this head at the beginning of fiscal year 1986, and of which $3,500,000 shall remain available until expended and shall be available for the purposes of the Minority Business Resource Center as authorized by 49 U.S.C. 332: Provided, That, notwithstanding any other provision of law, funds available for the purposes of the Minority Business Resource Center in this or any other Act may be used for business opportunities related to any mode of transportation.

Transportation Planning, Research, and Development

For necessary expenses for conducting transportation planning, research, and development activities, including the collection of national transportation statistics, and university research and internships, to remain available until expended, $3,500,000.

Working Capital Fund

Necessary expenses for operating costs and capital outlays of the Department of Transportation Working Capital Fund not to exceed $64,500,000 shall be paid, in accordance with law, from appropriations made available by this Act and prior appropriation Acts to the Department of Transportation, together with advances and reimbursements received by the Department of Transportation.

Payments to Air Carriers

For payments to air carriers of so much of the compensation fixed and determined under section 419 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1389), as is payable by the Department of Transportation, $28,000,000, to remain available until expended.

COAST GUARD

Operating Expenses

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for the operation and maintenance of the Coast Guard, not otherwise provided for; purchase of not to exceed eight passenger motor vehicles for replacement only; and recreation and welfare, $1,652,000,000, of which $10,000,000 shall be derived from unobligated balances of "Pollution fund" and of which $15,000,000 shall be expended from the Boat Safety Account: Provided, That, notwithstanding any other provision of law, of the funds available under this head $789,800,000 shall be available for compensation and benefits of military personnel: Provided further, That, of the funds available under this head, not less than $328,000,000 shall be available for drug enforcement activities: Provided further, That the number of aircraft on hand at any one time shall not exceed two hundred and ten, exclusive of planes and parts stored to meet future attrition: Provided further, That none of the funds appropriated in this or any other Act shall be available for pay or administrative expenses in connection with shipping commissioners in the United States: Provided further, That none of the funds provided in this Act shall be available for expenses incurred for yacht documentation under 46 U.S.C. 103 except to the extent fees are collected from yacht owners and credited to this appropriation.

Acquisition, Construction, and Improvements

For necessary expenses of acquisition, construction, rebuilding, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto; to remain available until September 30, 1990, $217,300,000: Provided, That the Secretary of Transportation shall issue regulations requiring that written warranties shall be included in all contracts with prime contractors for major systems acquisitions of the Coast Guard: Provided further, That any such written warranty shall not apply in the case of any system or component thereof that has been furnished by the Government to a contractor: Provided further, That the Secretary of Transportation may provide for a waiver of the requirements for a warranty where: (1) the waiver is necessary in the interest of the national defense or the warranty would not be cost effective; and (2) the Committees on Appropriations of the Senate and the House of Representatives are notified in writing of the Secretary's intention to waive and reasons for waiving such requirements: Provided further, That the requirements for such written warranties shall not cover combat damage.

Alteration of Bridges

For necessary expenses for alteration or removal of obstructive bridges, $5,200,000, to remain available until expended.

Retired Pay

For retired pay, including the payment of obligations therefor otherwise chargeable to lapsed appropriations for this purpose, and payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and for payments for medical care of retired personnel and their dependents under the Dependents Medical Care Act (10 U.S.C., ch. 55), $351,800,000.

Reserve Training

For all necessary expenses for the Coast Guard Reserve, as authorized by law; maintenance and operation of facilities; and supplies, equipment, and services, $61,502,000.

Research, Development, Test, and Evaluation

For necessary expenses, not otherwise provided for, for basic and applied scientific research, development, test, and evaluation; maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law, $21,000,000, to remain available until expended: Provided, That there may be credited to this appropriation funds received from State and local governments, other public authorities, private sources and foreign countries, for expenses incurred for research, development, testing, and evaluation.

Offshore Oil Pollution Compensation Fund

For necessary expenses to carry out the provisions of title III of the Outer Continental Shelf Lands Act Amendments of 1978 (Public Law 95-372), $1,000,000, to be derived from the Offshore Oil Pollution Compensation Fund and to remain available until expended. In addition, to the extent that available appropriations are not adequate to meet the obligations of the Fund, the Secretary of Transportation is authorized to issue to the Secretary of the Treasury notes or other obligations in such amounts and at such times as may be necessary: Provided, That none of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $60,000,000 in fiscal year 1986 for the "Offshore Oil Pollution Compensation Fund".

Deepwater Port Liability Fund

For necessary expenses to carry out the provisions of section 18 of the Deepwater Port Act of 1974 (Public Law 93-627), $1,000,000, to be derived from the Deepwater Port Liability Fund and to remain available until expended. In addition, to the extent that available appropriations are not adequate to meet the obligations of the Fund, the Secretary of Transportation is authorized to issue, and the Secretary of the Treasury is authorized to purchase, without fiscal year limitation, notes or other obligations in such amounts and at such times as may be necessary: Provided, That none of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $50,000,000 in fiscal year 1986 for the "Deepwater Port Liability Fund".

Boat Safety

(Liquidation of Contract Authorization)

For payment of obligations incurred for recreational boating safety assistance under Public Law 92-75, as amended, $30,000,000, to be derived from the Boat Safety Account and to remain available until expended: Provided, That none of the funds in this Act shall be available for the planning or execution of programs the obligations for which are in excess of $30,000,000 in fiscal year 1986 for recreational boating safety assistance: Provided further, That no obligations may be incurred for the improvement of recreational boating facilities.

FEDERAL AVIATION ADMINISTRATION

Headquarters Administration

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses, not otherwise provided for, of providing administrative services at the headquarters location of the Federal Aviation Administration, including but not limited to accounting, budgeting, personnel, legal, public affairs, and executive direction for the Federal Aviation Administration, $64,400,000: Provided, That the Secretary of Transportation is authorized to transfer appropriated funds between this appropriation and the Federal Aviation Administration appropriation for operations: Provided further, That this appropriation shall be neither increased nor decreased by more than 2 per centum by any such transfers: Provided further, That any such trans-

fers shall be reported to the Committees on Appropriations.

OPERATIONS

For necessary expenses of the Federal Aviation Administration, not otherwise provided for, including administrative expenses for research and development, and for establishment of air navigation facilities, and carrying out the provisions of the Airport and Airway Development Act, as amended, or other provisions of law authorizing obligation of funds for similar programs of airport and airway development or improvement; purchase of four passenger motor vehicles for replacement only, $2,694,600,000, of which not to exceed $446,000,000 shall be derived from the Airport and Airway Trust Fund: Provided, That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred in the maintenance and operation of air navigation facilities: Provided further, That none of these funds shall be available for new applicants for the second career training program.

FACILITIES AND EQUIPMENT (AIRPORT AND AIRWAY TRUST FUND)

For necessary expenses, not otherwise provided for, for acquisition, establishment, and improvement by contract or purchase, and hire of air navigation and experimental facilities, including initial acquisition of necessary sites by lease or grant; engineering and service testing including construction of test facilities and acquisition of necessary sites by lease or grant; and construction and furnishing of quarters and related accommodations of officers and employees of the Federal Aviation Administration stationed at remote localities where such accommodations are not available; to be derived from the Airport and Airway Trust Fund and to remain available until September 30, 1990, $993,000,000: Provided, That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred in the establishment and modernization of air navigation facilities: Provided further, That of the funds available under this head, $10,000,000 shall be available for the Secretary of Transportation to enter into grant agreements with universities or colleges to conduct demonstration projects in the development, advancement, or expansion of airway science curriculum programs, and such funds, which shall remain available until expended, shall be made available under such terms and conditions as the Secretary of Transportation may prescribe, to such universities or colleges for the purchase or lease of buildings and associated facilities, instructional materials, or equipment to be used in conjunction with airway science curriculum programs.

RESEARCH, ENGINEERING AND DEVELOPMENT (AIRPORT AND AIRWAY TRUST FUND)

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses, not otherwise provided for, for research, engineering and development, in accordance with the provisions of the Federal Aviation Act (49 U.S.C. 1301-1542), including construction of experimental facilities and acquisition of necessary sites by lease or grant, to be derived from the Airport and Airway Trust Fund and to remain available until expended, $190,000,000, together with $15,000,000 to be transferred from unobligated balances of "Facilities and equipment", of which $3,036,412 shall be available for icing and related next generation weather radar atmospheric research to be conducted by the University of North Dakota, $2,000,000 shall be available for the Center for Research and Training in Information-based Aviation and Transportation Management at Barry University and $2,000,000 shall be available for the Institute for Aviation Safety Research at Wichita State University: Provided, That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred for research, engineering and development.

GRANTS-IN-AID FOR AIRPORTS (LIQUIDATION OF CONTRACT AUTHORIZATION) (AIRPORT AND AIRWAY TRUST FUND)

For liquidation of obligations incurred for airport planning and development under section 14 of Public Law 91-258, as amended, and under other law authorizing such obligations, and obligations for noise compatibility planning and programs, $693,000,000, to be derived from the Airport and Airway Trust Fund and to remain available until expended: Provided, That none of the funds in this Act shall be available for the planning or execution of programs the commitments for which are in excess of $925,000,000 in fiscal year 1986 for grants-in-aid for airport planning and development, and noise compatibility planning and programs, notwithstanding section 506(e)(4) of the Airport and Airway Improvement Act of 1982.

OPERATION AND MAINTENANCE, METROPOLITAN WASHINGTON AIRPORTS

For expenses incident to the care, operation, maintenance, improvement, and protection of the federally-owned civil airports in the vicinity of the District of Columbia, including purchase of eight passenger motor vehicles for police use, for replacement only; purchase, cleaning, and repair of uniforms; and arms and ammunition, $34,100,000: Provided, That there may be credited to this appropriation funds received from air carriers, concessionaires, and non-federal tenants sufficient to cover utility and fuel costs which are in excess of $6,682,000: Provided further, That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, or private sources, for expenses incurred in the maintenance and operation of the federally-owned civil airports.

CONSTRUCTION, METROPOLITAN WASHINGTON AIRPORTS

For necessary expenses for construction at the federally-owned civil airports in the vicinity of the District of Columbia, $7,000,000, to remain available until September 30, 1988.

AVIATION INSURANCE REVOLVING FUND

The Secretary of Transportation is hereby authorized to make such expenditures and investments, within the limits of funds available pursuant to section 1306 of the Act of August 23, 1958, as amended (49 U.S.C. 1536), and in accordance with section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 9104), as may be necessary in carrying out the programs set forth in the budget for the current fiscal year for aviation insurance activities under said Act.

AIRCRAFT PURCHASE LOAN GUARANTEE PROGRAM

The Secretary of Transportation may hereafter issue notes or other obligations to the Secretary of the Treasury, in such forms and denominations, bearing such maturities, and subject to such terms and conditions as the Secretary of the Treasury may prescribe. Such obligations may be issued to pay any necessary expenses required pursuant to any guarantee issued under the Act of September 7, 1957, Public Law 85-307, as amended (49 U.S.C. 1324 note). The aggregate amount of such obligations during fiscal year 1986 shall not exceed $75,000,000. Such obligations shall be redeemed by the Secretary from appropriations authorized by this section. The Secretary of the Treasury shall purchase any such obligations, and for such purpose he may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force. The purposes for which securities may be issued under such Act are extended to include any purchase of notes or other obligations issued under the subsection. The Secretary of the Treasury may sell any such obligations at such times and price and upon such terms and conditions as he shall determine in his discretion. All purchases, redemptions, and sales of such obligations by such Secretary shall be treated as public debt transactions of the United States.

FEDERAL HIGHWAY ADMINISTRATION

LIMITATION ON GENERAL OPERATING EXPENSES

Necessary expenses for administration, operation, and research of the Federal Highway Administration, not to exceed $203,761,000, shall be paid, in accordance with law, from appropriations made available by this Act to the Federal Highway Administration together with advances and reimbursements received by the Federal Highway Administration: Provided, That not to exceed $48,415,000 of the amount provided herein shall remain available until expended: Provided further, That all unobligated amounts made available under this head in prior fiscal years for the establishment and implementation of a demonstration bonding program for economically and socially disadvantaged businesses shall remain available for such purposes until expended: Provided further, That, notwithstanding any other provision of law, there may be credited to this account funds received from States, counties, municipalities, other public authorities and private sources, for training expenses incurred for non-federal employees: Provided further, That none of the funds provided in this Act shall be used for the approval of, or to pay the salary of any person who approves projects to construct a landfill in the Hudson River as part of an Interstate System highway in New York City.

HIGHWAY SAFETY RESEARCH AND DEVELOPMENT (HIGHWAY TRUST FUND)

For necessary expenses in carrying out provisions of sections 307(a) and 403 of title 23, United States Code, to be derived from the Highway Trust Fund and to remain available until expended, $8,500,000.

HIGHWAY-RELATED SAFETY GRANTS (LIQUIDATION OF CONTRACT AUTHORIZATION) (HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out the provisions of title 23, United States Code, section 402, administered by the Federal Highway Administration, to remain available until expended, $9,000,000 to be derived from the Highway Trust Fund: Provided, That not to exceed $100,000 of the amount appropriated herein shall be available for "Limitation on general operating expenses": Provided further, That none of the funds in this Act shall be

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available for the planning or execution of programs the obligations for which are in excess of $10,000,000 in fiscal year 1986 for "Highway-related safety grants".

Highway Beautification

Funds appropriated and obligated to carry out sections 131 and 136 of title 23, United States Code, which have been deobligated subsequent to enactment of this Act shall remain available until expended.

Railroad-Highway Crossings Demonstration Projects

For necessary expenses of certain railroad-highway crossings demonstration projects as authorized by section 163 of the Federal-Aid Highway Act of 1973, as amended, to remain available until expended, $16,000,000, of which $10,666,667 shall be derived from the Highway Trust Fund: Provided, That the unobligated balance of funds appropriated in Public Law 93-98 for Wheeling, West Virginia, is hereby made available for allocation to carry out highway projects on the Federal-aid system in Wheeling, West Virginia at full federal expense.

Federal-Aid Highways (Liquidation of Contract Authorization) (Highway Trust Fund)

For carrying out the provisions of title 23, United States Code, which are attributable to Federal-aid highways, including the National Scenic and Recreational Highway as authorized by 23 U.S.C. 148, not otherwise provided, including reimbursements for sums expended pursuant to the provisions of 23 U.S.C. 308, $13,836,000,000 or so much thereof as may be available in and derived from the Highway Trust Fund, to remain available until expended: Provided, That none of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $12,750,000,000 for Federal-aid highways and highway safety construction programs for fiscal year 1986, except that this limitation shall not apply to obligations for emergency relief under section 125 of title 23, United States Code, obligations under section 157 of title 23, United States Code, projects covered under section 147 of the Surface Transportation Assistance Act of 1978, section 9 of the Federal-Aid Highway Act of 1981, subsections 131 (b) and (j) of Public Law 97-424, section 118 of the National Visitors Center Facilities Act of 1968, or section 320 of title 23, United States Code.

Right-of-Way Revolving Fund (Limitation on Direct Loans) (Highway Trust Fund)

During fiscal year 1986 and with the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed $50,000,000.

Motor Carrier Safety

For necessary expenses to carry out the motor carrier safety functions of the Secretary as authorized by the Department of Transportation Act (80 Stat. 939-940), $13,900,000, of which $953,000 shall remain available until expended, and not to exceed $1,601,000 shall be available for "Limitation on general operating expenses".

Motor Carrier Safety Grants

(Highway Trust Fund)

For necessary expenses to carry out provisions of section 402 of Public Law 97-424, $17,000,000, to be derived from the Highway Trust Fund and to remain available until September 30, 1989.

Access Highways to Public Recreation Areas on Certain Lakes

(including transfer of funds)

For necessary expenses of certain access highway projects, as authorized by section 155, title 23, United States Code, to remain available until expended, $10,000,000, of which $5,000,000 shall be derived from unobligated balances of "Research, training, and human resources".

Baltimore-Washington Parkway

(Highway Trust Fund)

For necessary expenses, not otherwise provided, to carry out the provisions of the Federal-Aid Highway Act of 1970, for the Baltimore-Washington Parkway, to remain available until expended, $3,000,000 to be derived from the Highway Trust Fund and to be withdrawn therefrom at such times and in such amounts as may be necessary: Provided, That, notwithstanding subsection (b) of section 146 of the Federal-Aid Highway Act of 1970 and any agreement entered into under such subsection, the Secretary of the Interior shall not be required to convey to the State of Maryland any portion of the Baltimore-Washington Parkway located in the State of Maryland, and the State of Maryland shall not be required to accept conveyance of any such portion: Provided further, That funds authorized by such section may be expended without regard to any requirement of such an agreement that such portion of the Baltimore-Washington Parkway be conveyed to the State of Maryland.

Waste Isolation Pilot Project Roads

For necessary expenses in connection with the upgrading of certain highways for the transportation of nuclear waste generated during defense-related activities, not otherwise provided for, $7,000,000, to remain available until expended.

Rail Line Consolidation Project

(transfer of funds)

For necessary expenses to carry out a project to consolidate two rail lines on a common alignment in the vicinity of Orange, Texas, that demonstrates methods by which a rail line consolidation project will reduce motor vehicle traffic congestion and increase employment, to remain available until expended, $4,000,000 to be derived from unobligated balances of "Research, training, and human resources".

Airport-Highway Demonstration Project

(transfer of funds)

For necessary expenses to carry out a highway project to depress a highway in Shawnee, Oklahoma, that demonstrates methods of improving air service to a small community by extension of a runway over a depressed road, to remain available until expended, $1,350,000 to be derived from unobligated balances of "Research, training, and human resources".

Expressway Gap Closing Demonstration Project

For necessary expenses to carry out a highway construction project along State Route 113 in north-central California that demonstrates methods of reducing motor vehicle congestion and increasing employment, there is authorized to be appropriated $23,500,000, to remain available until expended, of which $9,000,000 is hereby appropriated: Provided, That such funds shall be exempt from any limitation on obligations for Federal-aid highways and highway safety construction programs.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

Operations and Research

(including transfers of funds)

For expenses necessary to discharge the functions of the Secretary with respect to traffic and highway safety and functions under the Motor Vehicle Information and Cost Savings Act (Public Law 92-513, as amended), $88,851,000, of which $5,000,000 shall be derived from unobligated balances of "Research, training, and human resources", and of which $29,894,000 shall be derived from the Highway Trust Fund: Provided, That not to exceed $36,296,000 shall remain available until expended, of which $14,833,000 shall be derived from the Highway Trust Fund: Provided further, That, of the funds available under this head, $10,000,000 shall be available to implement the recommendations of the 1985 National Academy of Sciences report on trauma research: Provided further, That for the purpose of carrying out a national program to encourage the use of automobile passive restraints as authorized by 23 U.S.C. 403, an additional $500,000 is available to be derived from unobligated balances of "Carpool and vanpool projects".

Highway Traffic Safety Grants

(Liquidation of Contract Authorization)

(Highway Trust Fund)

For payment of obligations incurred in carrying out the provisions of 23 U.S.C. 402, 406 and 408, and section 209 of Public Law 95-599, as amended, to remain available until expended, $149,000,000, to be derived from the Highway Trust Fund: Provided, That none of the funds in this Act shall be available for the planning or execution of programs the total obligations for which are in excess of $126,500,000 in fiscal year 1986 for "State and community highway safety" authorized under 23 U.S.C. 402: Provided further, That none of these funds shall be used for construction, rehabilitation or remodeling costs or for office furnishings and fixtures for State, local, or private buildings or structures: Provided further, That none of the funds in this Act shall be available for the planning or execution of programs the total obligations for which are in excess of $28,800,000 for "Alcohol safety incentive grants" authorized under 23 U.S.C. 408: Provided further, That none of the funds in this Act shall be available for the planning or execution of programs authorized by section 209 of Public Law 95-599, as amended, the total obligations for which are in excess of $5,000,000 in fiscal years 1983, 1984, 1985, and 1986: Provided further, That not to exceed $5,000,000 shall be available for administering the provisions of 23 U.S.C. 402.

FEDERAL RAILROAD ADMINISTRATION

Office of the Administrator

For necessary expenses of the Federal Railroad Administration, not otherwise provided for, $10,120,000.

Railroad Safety

For necessary expenses in connection with railroad safety, not otherwise provided for, $27,764,000, of which $1,500,000 shall remain available until expended.

Railroad Research and Development

For necessary expenses for railroad research and development, $10,600,000, to remain available until expended.

Rail Service Assistance

For necessary expenses for rail service assistance authorized by section 5 of the R partment of Transportation Act, as amended, for Washington Union Station, as authorized by Public Law 97-125, and for necessary administrative expenses in connection with federal rail assistance programs not otherwise provided for, $20,200,000, to remain available until expended: Provided, That none of the funds provided under this Act shall be available for the planning or execution of a program making commitments to guarantee new loans under the Emergency Rail Services Act of 1970, as amended, and that no new commitments to guarantee loans under section 211(a) or 211(h) of the Regional Rail Reorganization Act of 1973, as amended, shall be made: Provided further, That none of the funds in this Act shall be available for the acquisition, sale or transference of Washington Union Station without the prior approval of the House and Senate Committees on Appropriations: Provided further, That, of the funds available under this head, $15,000,000 shall be available for allocation to the States under section 5(h)(2) of the Department of Transportation Act, as amended: Provided further, That, notwithstanding any other provision of law, a State may not apply for fiscal year 1986 funds available under section 5(h)(2) until such State has expended all funds granted to it in the fiscal years prior to the beginning of fiscal year 1981, other than funds not expended due to pending litigation: Provided further, That a State denied funding by reason of the immediately preceding proviso may still apply for and receive funds for planning purposes: Provided further, That, notwithstanding any other provision of law, of the funds available under section 5(h)(2), $10,000,000 shall be made available for use under sections 5(h)(3)(B)(ii) and 5(h)(3)(C) of the Department of Transportation Act, as amended, notwithstanding the limitations set forth in section 5(h)(3)(B)(ii).

Conrail Labor Protection

Such sums as may be necessary shall be made available for necessary expenses of administration of section 701 of the Regional Rail Reorganization Act of 1973 by the Railroad Retirement Board.

Northeast Corridor Improvement Program

For necessary expenses related to Northeast Corridor improvements authorized by title VII of the Railroad Revitalization and Regulatory Reform Act of 1976, as amended (45 U.S.C. 851 et seq.), $12,500,000, to remain available until expended: Provided, That, notwithstanding any other provision of law, the provisions of Public Law 85-804 shall apply to the Northeast Corridor Improvement Program: Provided further, That the Secretary may waive the provisions of 23 U.S.C. 322 (c) and (d) if such action would serve a public purpose: Provided further, That all public at grade-level crossings remaining along the Northeast Corridor upon completion of the project shall be equipped with protective devices including gates and lights.

Grants to the National Railroad Passenger Corporation

(INCLUDING TRANSFERS OF FUNDS)

To enable the Secretary of Transportation to make grants to the National Railroad Passenger Corporation for operating losses incurred by the Corporation, capital improvements, and labor protection costs authorized by 45 U.S.C. 565, to remain available until expended, $616,000,000, of which $23,000,000 shall be derived from unobligated balances of "Conrail labor protection" and $5,500,000 shall be derived from unobligated balances of "Rail labor assistance" as of September 30, 1985: Provided, That none of the funds herein appropriated shall be used for lease or purchase of passenger motor vehicles or for the hire of vehicle operators for any officer or employee, other than the president of the Corporation, excluding the lease of passenger motor vehicles for those officers or employees while in official travel status: Provided further, That the Secretary shall make no commitments to guarantee new loans or loans for new purposes under 45 U.S.C. 602 in fiscal year 1986: Provided further, That the incurring of any obligation or commitment by the Corporation for the purchase of capital improvements prohibited by this Act or not expressly provided for in an appropriation Act shall be deemed a violation of 31 U.S.C. 1341: Provided further, That no funds are required to be expended or reserved for expenditure pursuant to 45 U.S.C. 601(e): Provided further, That none of the funds in this or any other Act shall be made available to finance the rehabilitation and other improvements (including upgrading track and the signal system, ensuring safety at public and private highway and pedestrian crossings by improving signals or eliminating such crossings, and the improvement of operational portions of stations related to intercity rail passenger service) on the main line track between Atlantic City, New Jersey, and the main line of the Northeast Corridor, unless the Secretary of Transportation certifies that not less than 40 per centum of the costs of such improvements shall be derived from non-federal sources: Provided further, That, notwithstanding any other provision of law, the National Railroad Passenger Corporation shall not operate rail passenger service between Atlantic City, New Jersey, and the Northeast Corridor main line unless the Corporation's Board of Directors determines that revenues from such service have covered or exceeded 80 per centum of the short term avoidable costs of operating such service in the first year of operation and 100 per centum of the short term avoidable operating costs for each year thereafter: Provided further, That none of the funds provided in this or any other Act shall be made available to finance the acquisition and rehabilitation of a line, and construction necessary to facilitate improved rail passenger service, between Spuyten Duyvil, New York, and the main line of the Northeast Corridor unless the Secretary of Transportation certifies that not less than 40 per centum of the costs of such improvement shall be derived from non-Amtrak sources.

Railroad Rehabilitation and Improvement Financing Funds

The total commitments to guarantee new loans pursuant to sections 511 through 513 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94-210), as amended, shall not exceed $4,000,000 of contingent liabilities for loan principal during fiscal year 1986: Provided, That the Secretary of Transportation is authorized to issue to the Secretary of the Treasury notes or other obligations pursuant to section 512 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94-210), as amended, in such amounts and at such times as may be necessary to pay any amounts required pursuant to the guarantee of the principal amount of obligations under sections 511 through 513 of such Act, such authority to exist as long as any such guaranteed obligation is outstanding: Provided further, That the aggregate amount of such notes or other obligations during fiscal year 1986 shall not exceed $100,000,000.

Redeemable Preference Shares

Notwithstanding any other provision of law, the Secretary of Transportation is hereby authorized to expend proceeds from the sale of fund anticipation notes to the Secretary of the Treasury and any other moneys deposited in the Railroad Rehabilitation and Improvement Fund pursuant to sections 502, 505-507, and 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94-210), as amended, and section 803 of Public Law 95-620, for uses authorized for the Fund, in amounts not to exceed $33,500,000.

Conrail Commuter Transition Assistance

(TRANSFER OF FUNDS)

For necessary capital expenses of Conrail commuter transition assistance, not otherwise provided for, $5,000,000 to be derived from unobligated balances of "Research, training, and human resources" and to remain available until expended.

URBAN MASS TRANSPORTATION ADMINISTRATION

Administrative Expenses

For necessary administrative expenses of the urban mass transportation program authorized by the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), and 23 U.S.C. chapter 1, in connection with these activities, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, $30,000,000, of which not to exceed $650,000 shall be available for the Office of the Administrator.

Research, Training, and Human Resources

For necessary expenses for research, training, and human resources as authorized by the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), to remain available until expended, $17,400,000: Provided, That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities and private sources, for expenses incurred for training.

Formula Grants

For necessary expenses to carry out the provisions of sections 9 and 18 of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), $2,150,000,000, to remain available until expended.

Discretionary Grants

None of the funds in this Act shall be available for the implementation or execution of programs in excess of $1,045,500,000 in fiscal year 1986 for grants under the contract authority authorized in section 21(a)(2)(B) of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.).

Liquidation of Contract Authorization

For payment of obligations incurred in carrying out section 21(a)(2) of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), administered by the Urban Mass Transportation Administration, $775,000,000, to be derived from the Highway Trust Fund and to remain available until expended.

Interstate Transfer Grants—Transit

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out the provisions of 23 U.S.C. 103(e)(4) related to transit projects, to remain available until September 30, 1987, $218,750,000, of which $18,750,000 shall be derived from unobligated balances of "Research, training, and human resources".

WASHINGTON METRO

For necessary expenses to carry out the provisions of section 14 of Public Law 96-184, $227,000,000, to remain available until expended.

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

The Saint Lawrence Seaway Development Corporation is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to the Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the Corporation's budget for the current fiscal year except as hereinafter provided.

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $1,916,000 shall be available for administrative expenses which shall be computed on an accrual basis, including not to exceed $3,000 for official entertainment expenses to be expended upon the approval or authority of the Secretary of Transportation: Provided, That Corporation funds shall be available for the hire of passenger motor vehicles and aircraft, operation and maintenance of aircraft, uniforms or allowances therefor for operation and maintenance personnel, as authorized by law (5 U.S.C. 5901-5902), and $15,000 shall be available for services as authorized by 5 U.S.C. 3109.

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

RESEARCH AND SPECIAL PROGRAMS

For expenses necessary to discharge the functions of the Research and Special Programs Administration, for expenses for conducting research and development and for grants-in-aid to carry out a pipeline safety program, as authorized by section 5 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1674), $19,300,000, of which $6,975,000 shall remain available until expended.

OFFICE OF THE INSPECTOR GENERAL

SALARIES AND EXPENSES

For necessary expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, $27,600,000.

TITLE II—RELATED AGENCIES

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

SALARIES AND EXPENSES

For expenses necessary for the Architectural and Transportation Barriers Compliance Board, as authorized by section 502 of the Rehabilitation Act of 1973, as amended, $1,975,000.

NATIONAL TRANSPORTATION SAFETY BOARD

SALARIES AND EXPENSES

For necessary expenses of the National Transportation Safety Board, including hire of passenger motor vehicles and aircraft; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for a GS-18; uniforms, or allowances therefor, as authorized by law (5 U.S.C 5901-5902), $22,300,000, of which not to exceed $500 may be used for official reception and representation expenses.

INTERSTATE COMMERCE COMMISSION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Interstate Commerce Commission, including services as authorized by 5 U.S.C. 3109, and not to exceed $1,500 for official reception and representation expenses, $50,480,000, of which $2,300,000 shall be derived from unobligated balances of "Payments for directed rail service": Provided, That joint board members and cooperating State commissioners may use Government transportation requests when traveling in connection with their official duties as such.

PAYMENTS FOR DIRECTED RAIL SERVICE

None of the funds provided in this Act shall be available for the execution of programs the obligations for which can reasonably be expected to exceed $1,000,000 for directed rail service authorized under 49 U.S.C. 11125 or any other legislation.

PANAMA CANAL COMMISSION

OPERATING EXPENSES

For operating expenses necessary for the Panama Canal Commission, including hire of passenger motor vehicles and aircraft; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); not to exceed $10,000 for official reception and representation expenses of the Board; operation of guide services; residence for the Administrator; disbursements by the Administrator for employee and community projects; not to exceed $1,000 for official reception and representation expenses of the Secretary; not to exceed $25,000 for official reception and representation expenses of the Administrator; and to employ services as authorized by law (5 U.S.C. 3109); $400,284,000, to be derived from the Panama Canal Commission Fund: Provided, That there may be credited to this appropriation funds received from the Panama Canal Commission's capital outlay account for expenses incurred for supplies and services provided for capital projects.

CAPITAL OUTLAY

For acquisition, construction, replacement, and improvement of facilities, structures, and equipment required by the Panama Canal Commission, including the purchase of not to exceed forty-four passenger motor vehicles for replacement only (including large heavy-duty vehicles used to transport Commission personnel across the Isthmus of Panama, the purchase price of which shall not exceed $14,000 per vehicle); to employ services authorized by law (5 U.S.C. 3109); $25,500,000 to be derived from the Panama Canal Commission Fund and to remain available until expended.

DEPARTMENT OF THE TREASURY

OFFICE OF THE SECRETARY

INVESTMENT IN FUND ANTICIPATION NOTES

For the acquisition, in accordance with section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976, as amended, and section 803 of Public Law 95-620, of fund anticipation notes, $33,500,000.

UNITED STATES RAILWAY ASSOCIATION

ADMINISTRATIVE EXPENSES

For necessary administrative expenses to enable the United States Railway Association to carry out its functions under the Regional Rail Reorganization Act of 1973, as amended, to remain available until expended, $2,400,000, of which not to exceed $500 may be available for official reception and representation expenses.

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

INTEREST PAYMENTS

For necessary expenses for interest payments, to remain available until expended, $51,663,569: Provided, That these funds shall be disbursed pursuant to terms and conditions established by Public Law 96-184 and the Initial Bond Repayment Participation Agreement.

TITLE III—GENERAL PROVISIONS

SEC. 301. During the current fiscal year applicable appropriations to the Department of Transportation shall be available for maintenance and operation of aircraft; hire of passenger motor vehicles and aircraft; purchase of liability insurance for motor vehicles operating in foreign countries on official departmental business; and uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901-5902).

SEC. 302. Funds appropriated for the Panama Canal Commission may be apportioned notwithstanding section 3679 of the Revised Statutes, as amended (31 U.S.C. 1341), to the extent necessary to permit payment of such pay increases for officers or employees as may be authorized by administrative action pursuant to law which are not in excess of statutory increases granted for the same period in corresponding rates of compensation for other employees of the Government in comparable positions.

SEC. 303. Funds appropriated under this Act for expenditures by the Federal Aviation Administration shall be available (1) except as otherwise authorized by the Act of September 30, 1950 (20 U.S.C. 236-244), for expenses of primary and secondary schooling for dependents of Federal Aviation Administration personnel stationed outside the continental United States at costs for any given area not in excess of those of the Department of Defense for the same area, when it is determined by the Secretary that the schools, if any, available in the locality are unable to provide adequately for the education of such dependents and (2) for transportation of said dependents between schools serving the area which they attend and their places of residence when the Secretary, under such regulations as may be prescribed, determines that such schools are not accessible by public means of transportation on a regular basis.

SEC. 304. Appropriations contained in this Act for the Department of Transportation shall be available for services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for a GS-18.

SEC. 305. None of the funds appropriated in this Act for the Panama Canal Commission may be expended unless in conformance with the Panama Canal Treaties of 1977 and any law implementing those treaties.

SEC. 306. None of the funds provided in this Act may be used for planning or construction of rail-highway crossings under section 322(a) of title 23, United States Code, or under section 701(a)(5) or section 703(1)(A) of the Railroad Revitalization and Regulatory Reform Act of 1976 at the—

(1) School Street crossing in Groton, Connecticut; and

(2) Broadway Extension crossing in Stonington, Connecticut.

SEC. 307. None of the funds in this Act shall be used for the planning or execution of any program to pay the expenses of, or otherwise compensate, non-federal parties *intervening in regulatory or adjudicatory proceedings funded in this Act.*

Sec. 308. None of the funds in this Act shall be used to assist, directly or indirectly, any State in imposing mandatory State inspection fees or sticker requirements on vehicles which are lawfully registered in another State, including vehicles engaged in interstate commercial transportation which are in compliance with Part 396—Inspection and Maintenance of the Federal Motor Carrier Safety Regulations of the United States Department of Transportation.

Sec. 309. None of the funds contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

Sec. 310. Notwithstanding any other provision of law, total amounts of contract authority authorized for fiscal year 1986 in section 21(a)(2)(B) of the Urban Mass Transportation Act of 1964, as amended, shall be available for obligation through fiscal year 1989.

Sec. 311. None of the funds in this or any other Act shall be available for the planning or implementation of any change in the current federal status of the Transportation Systems Center.

Sec. 312. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive Order issued pursuant to existing law.

Sec. 313. (a) For fiscal year 1986 the Secretary of Transportation shall distribute the obligation limitation for Federal-aid highways by allocation in the ratio which sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to each State for such fiscal year bear to the total of the sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to all the States for such fiscal year.

(b) During the period October 1 through December 31, 1985, no State shall obligate more than 40 per centum of the amount distributed to such State under subsection (a), and the total of all State obligations during such period shall not exceed 25 per centum of the total amount distributed to all States under such subsection.

(c) Notwithstanding subsections (a) and (b), the Secretary shall—

(1) provide all States with authority sufficient to prevent lapses of sums authorized to be appropriated for Federal-aid highways and highway safety construction which have been apportioned to a State, except in those instances in which a State indicates its intention to lapse sums apportioned under section 104(b)(5)(A) of title 23, United States Code;

(2) after August 1, 1986, revise a distribution of the funds made available under subsection (a) if a State will not obligate the amount distributed during that fiscal year and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during that fiscal year giving priority to those States having large unobligated balances of funds apportioned under section 104 of title 23, United States Code, and giving priority to those States which, because of statutory changes made by the Surface Transportation Assistance Act of 1982 and the Federal-Aid Highway Act of 1981, have experienced substantial proportional reductions in their apportionments and allocations; and

(3) not distribute amounts authorized for administrative expenses and the Federal Lands Highway Programs.

Sec. 314. None of the funds in this Act shall be available for salaries and expenses of more than one hundred thirty-eight political appointees in the Department of Transportation.

Sec. 315. Not to exceed $1,700,000 of the funds provided in this Act for the Department of Transportation shall be available for the necessary expenses of advisory committees.

Sec. 316. The limitation on obligations for Federal-aid highways and highway safety construction programs for fiscal year 1986 shall not apply to obligations for the remaining approach and bridge removal work necessary to complete the new bridge alignment for the Zilwaukee Bridge.

Sec. 317. (a) Section 5(b)(2) of the Urban Mass Transportation Act of 1964 is amended by inserting after the first sentence the following new sentence: "Any funds apportioned for fiscal year 1982 or 1983 under subsection (a) for expenditure in an urbanized area with a population of less than 200,000 may be expended in an urbanized area with a population of 200,000 or more.".

(b) Section 5(c)(4) of the Urban Mass Transportation Act of 1964 is amended by striking the period at the end of the first sentence, and inserting the following: "except that any fiscal year 1982 funds made available to a Governor under section 5(b)(2) of the Urban Mass Transportation Act of 1964, as amended, that are unobligated as of October 1, 1985, or become unobligated thereafter, shall remain available for expenditure under section 5 until October 1, 1986.".

Sec. 318. Notwithstanding any other provision of law, within 60 days of the effective date of this Act the Urban Mass Transportation Administration shall reapportion under section 9 of the Urban Mass Transportation Act of 1964, as amended, those funds available for reapportionment pursuant to subsection (c)(4) of section 5 of that Act.

Sec. 319. None of the funds in this or any other Act shall be made available for the proposed Woodward light rail line in the Detroit, Michigan, area until a source of operating funds has been approved in accordance with Michigan law: Provided, That this limitation shall not apply to alternatives analysis studies under section 21(a)(2)(B) of the Urban Mass Transportation Act of 1964, as amended.

Sec. 320. The Secretary of Transportation shall enter into negotiations for full funding contracts with the appropriate local governmental authorities to construct (1) the minimum operable segment, MOS-1, of the downtown Los Angeles to San Fernando Valley Metro Rail project; (2) the north and south legs of the downtown component of metrorail in Dade County, Florida; and (3) the downtown transit project (bus tunnel) in Seattle, Washington: Provided, That the Secretary shall commence negotiations with appropriate local authorities to enter into such contracts no later than 30 days after enactment and shall conclude such negotiations no later than 90 days after enactment: Provided further, That such contracts shall cover total project costs including federal financial participation consisting of fiscal year 1984 and fiscal year 1985 discretionary grants funding made available pursuant to section 331 of this Act, fiscal year 1986 discretionary grants funding in accordance with the accompanying Joint Explanatory Statement of the Managers, and future funding as made available by the Congress.

Sec. 321. The Urban Mass Transportation Administration shall enter into a contract with the Southern California Rapid Transit District to conduct a study of the potential methane gas risks relating to the proposed alignment of the Metro Rail project beyond the Minimum Operable Segment, MOS-1. None of the funds described in section 320 may be made available for any segment of the downtown Los Angeles to San Fernando Valley Metro Rail project unless and until the Southern California Rapid Transit District officially notifies and commits to the Urban Mass Transportation Administration that no part of the Metro Rail project will tunnel into or through any zone designated as a potential risk zone or high potential risk zone in the report of the City of Los Angeles dated June 10, 1985, entitled "Task Force Report on the March 24, 1985 Methane Gas Explosion and Fire in the Fairfax Area". Funds for this study, in an amount not to exceed $1,000,000, shall be made available from funds previously allocated for the MOS-1 project, commencing within 30 days of enactment.

Sec. 322. The limitation on obligations for the Discretionary Grants Program of the Urban Mass Transportation Administration shall not apply to any authority under section 21(a)(2)(B) of the Urban Mass Transportation Act of 1964, as amended, previously made available for obligation.

Sec. 323. (a) Notwithstanding any other provision of law, the Secretary of Transportation may use not to exceed one-half of 1 percent of—

(1) the funds made available for fiscal year 1986 by section 21(a)(2)(B) of the Urban Mass Transportation Act of 1964, as amended, to carry out section 3 of such Act to contract with any person to oversee the construction of any major project under such section;

(2) the funds appropriated for fiscal year 1986 pursuant to section 21(a)(1) of the Urban Mass Transportation Act of 1964, as amended, to carry out section 9 of such Act to contract with any person to oversee the construction of any major project under such section;

(3) the funds appropriated for fiscal year 1986 pursuant to section 21(a)(1) of the Urban Mass Transportation Act of 1964, as amended, to carry out section 18 of such Act to contract with any person to oversee the construction of any major project under such section;

(4) the funds appropriated for fiscal year 1986 pursuant to section 4(g) of the Urban Mass Transportation Act of 1964, as amended, to contract with any person to oversee the construction of any major public transportation project substituted for an Interstate segment withdrawn under section 103(e)(4) of title 23, United States Code; and

(5) the funds appropriated for fiscal year 1986 pursuant to the National Capital Transportation Act of 1969 to contract with any person to oversee the construction of any major project under such Act.

(b) Any contract entered into under subsection (a) shall provide for the payment by the Secretary of Transportation of 100 percent of the cost of carrying out the contract.

(c) This section shall take effect on October 1, 1985, and shall cease to be in effect at the close of September 30, 1986.

Sec. 324. (a) General Rule.—Tolls collected for motor vehicles on any bridge connect-

ing the borough of Brooklyn, New York, and Staten Island, New York, shall only be collected for those vehicles exiting from such bridge in Staten Island.

(b) Enforcement.—The Secretary shall withhold 1 percent of the amount required to be apportioned to the State of New York under sections 104 and 144 of title 23, United States Code, on the first day of the fiscal year succeeding any fiscal year in which tolls collected for motor vehicles on the bridge referred to in subsection (a) are collected for those vehicles exiting from such bridge in the borough of Brooklyn.

(c) Period of Applicability.—This section shall apply on and after the 90th day following the date of enactment of this section, except that this section shall not apply after the date on which the Secretary publishes in the Federal Register a determination under subsection (d).

(d) Removal of Limitation.—

(1) Determination of Secretary.—Subsections (a) and (b) shall cease to be in effect if, upon petition by the Governor of New York under paragraph (2), the Secretary determines that—

(A) a substantial loss of revenues has resulted from the limitation imposed by subsection (a), or

(B) such limitation has resulted in significant traffic problems,

and the Secretary publishes such determination in the Federal Register.

(2) Petition.—The Governor of New York may petition the Secretary for a determination under paragraph (1) at any time after a period of six consecutive months in which tolls collected for motor vehicles on the bridge referred to in subsection (a) have been collected only for those vehicles exiting from such bridge in Staten Island.

Sec. 325. Notwithstanding section 127 of title 23, United States Code, the State of Wyoming may conduct a demonstration project for a period not to exceed two years in order to determine the effects on the National System of Interstate and Defense Highways located in Wyoming of the use of such highways by vehicles in excess of 80,000 pounds gross weight but meeting axle and bridge formula specifications in section 127 of title 23, United States Code.

Sec. 326. Section 18(e) of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following: "For the purpose of this subsection, the term 'Federal funds or revenues' does not include funds received by a recipient of funds under this section pursuant to a service agreement with a State or local social service agency or a private social service organization.".

Sec. 327. Section 119(d), 23 U.S.C. is amended by adding at the end of such section: "Notwithstanding any other provision of law, and for the purposes of this subsection, the phrase 'segments of the interstate system open to traffic' shall include a proposed four-lane, limited access highway, 6.4 miles in length, the construction of which will relocate to a southern alignment a portion of an existing interstate highway which was originally built without the aid of funds authorized by section 108(b) of the Federal-Aid Highway Act of 1956, as amended, and which connects to the east with an interstate highway on which tolls are charged. The construction of the proposed highway shall include a bridge over the Monongahela River.".

Sec. 328. (a) Title XI of the Federal Aviation Act of 1958 (49 App. U.S.C. 1501 et seq.) is amended by adding at the end thereof the following:

"AERONAUTICAL CHARTS AND MAPS

"Sec. 1118. Notwithstanding the provisions of section 1341 of title 31, United States Code, or any other provision of law, the United States Government shall enter into agreements to indemnify any person who publishes a chart or map for use in aeronautics from any claim, or portion of a claim, which arises out of such person's depiction on such chart or map of any defective or deficient flight procedure or airway, if such flight procedure or airway was—

"(1) promulgated by the Federal Aviation Administration;

"(2) accurately depicted on such chart or map; and

"(3) not obviously defective or deficient.".

(b) The table of contents of the Federal Aviation Act of 1958 is amended by inserting immediately after the item relating to section 1117 the following:

"Sec. 1118. Aeronautical charts and maps.".

Sec. 329. Notwithstanding section 108(b) of the Federal-Aid Highway Act of 1956, sums appropriated to the State of New York under 23 U.S.C. 104(b)(5)(A) during the fiscal year ending September 30, 1986, may be obligated for Interstate construction projects under section 108(b) of the Federal-Aid Highway Act of 1956 or for Interstate substitute highway projects under 23 U.S.C. 103(e)(4): Provided, That the withdrawal value for New York under 23 U.S.C. 103(e)(4) shall be reduced by the amounts obligated hereunder for Interstate highway substitute projects. The federal share of the cost to complete any such Interstate substitute highway projects to which this provision applies shall be 85 per centum. In carrying out this provision the State of New York and the Secretary of Transportation shall assign highest priority to the completion of Interstate construction projects. This section shall expire on October 1, 1986.

Sec. 330. Notwithstanding any other provision of law, none of the funds in this Act shall be available for the construction of the Central Automated Transit System (Downtown People Mover) in Detroit, Michigan: Provided, That the immediately preceding provision shall not apply to $10,000,000 apportioned to the Detroit Department of Transportation.

Sec. 331. The Congress disapproves the proposed deferral D86-21, pertaining to the Urban Mass Transportation Administration, as set forth in the message of October 1, 1985, which was transmitted to the Congress by the President. This disapproval shall be effective upon enactment into law of this Act and the amount of the proposed deferral disapproved herein shall be made available for obligation.

Sec. 332. Section 201 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 711) is amended—

(1) in the first sentence of paragraph (2) of subsection (d) by inserting "freight" before "railroad"; and

(2) in the first sentence of subsection (e) by striking out "1985" and inserting in lieu thereof "1987".

Sec. 333. The Act approved July 28, 1937 (50 Stat. 535), is amended by striking out in the first paragraph thereof, "and approaches thereto" and by inserting at the end thereof "The States of Maine and New Hampshire are authorized to assume all construction, maintenance, and operational authority over the approach roads and grade separation stuctures in their respective areas. As provided in Maine Private and Special Law, Chapter 38, 1985, and New Hampshire Statutes, Chapter 415, 1985, the respective States shall require the Authority to provide Authority funds for capital improvements.".

Sec. 334. Notwithstanding any other provision of law, the first sentence of section 125(b) of title 23, United States Code, is amended by inserting after "$30,000,000" the following: "($55,000,000 for projects in connection with disasters or failures occurring in calendar year 1985)".

Sec. 335. Notwithstanding any other provision of law or regulation, the Secretary of Transportation shall, within 30 days after enactment of this section, issue in the Federal Register a Notice of Intent to prepare an environmental impact statement for the construction of the north and south legs of the downtown component of metrorail in Dade County, Florida: Provided, That the absence of a federally-approved environmental impact statement for this project shall not preclude or delay the negotiations required under section 320 of this Act.

This Act may be cited as the "Department of Transportation and Related Agencies Appropriations Act, 1986"; and the Senate agree to the same.

Amendment Numbered 10:

That the House recede from its disagreement to the amendment of the Senate numbered 10, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by the House and stricken by the Senate, insert the following:

(h) For the purposes of Sec. 252(a)(6)(D)(i)(II) of Public Law 99-177, the section of the Statement of the Managers entitled "Definition of Program, Project, and Activity as provided by Public Law 99-177, the Balanced Budget and Emergency Deficit Control Act of 1985" shall be considered to be the reports filed by the Committees on Appropriations for the purpose of defining "Program, Project, and Activity".

And the Senate agree to the same.

Amendment numbered 13:

That the House recede from its disagreement to the amendment of the Senate numbered 13, and agree to the same with an amendment, as follows:

In lieu of the first sum named in said amendment insert: *$1,065,000,000;* and the Senate agree to the same.

Amendment numbered 14:

That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert:

(j) such amounts as may be necessary for projects or activities provided for in the Foreign Assistance and Related Programs Appropriations Act, 1986, at a rate for operations and to the extent in the following Act; this subsection shall be effective as if it had been enacted into law as the regular appropriation Act:

AN ACT making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1986, and for other purposes, namely:

TITLE I—MULTILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

International Financial Institutions

CONTRIBUTION TO THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

For payment to the International Bank for Reconstruction and Development by the Secretary of the Treasury, for the United States share of the paid-in share portion of the increase in capital stock, $109,720,549 for the General Capital Increase, as authorized by section 39 of the Bretton Woods Agreements Act, as amended (Public Law 79-171), to remain available until expended: Provided, That no such payment may be made while the United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the International Bank for Reconstruction and Development may subscribe without fiscal year limitation to the callable capital portion of the United States share of increases in capital stock in an amount not to exceed $1,353,220,096.

CONTRIBUTION TO THE INTERNATIONAL DEVELOPMENT ASSOCIATION

For payment to the International Development Association by the Secretary of the Treasury, $700,000,000, for the second installment of the United States contribution to the seventh replenishment, to remain available until expended: Provided, That no such payment may be made while the United States Executive Director to the International Bank for Reconstruction and Development is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

CONTRIBUTION TO THE SPECIAL FACILITY FOR SUB-SAHARAN AFRICA

For payment to the Special Facility for Sub-Saharan Africa by the Secretary of the Treasury, $75,000,000, to remain available until expended: Provided, That funds made available under this heading shall be paid to the Special Facility for Sub-Saharan Africa no later than December 31, 1985.

CONTRIBUTION TO THE INTERNATIONAL FINANCE CORPORATION

For payment to the International Finance Corporation by the Secretary of the Treasury, $29,077,390, for the United States share of the increase in subscriptions to capital stock, to remain available until expended.

CONTRIBUTION TO THE INTER-AMERICAN DEVELOPMENT BANK

For payment to the Inter-American Development Bank by the Secretary of the Treasury for the United States share of the increase in the resources of the Fund for Special Operations, $40,000,000, to remain available until expended; and $38,000,983 for the United States share of the increase in paid-in capital stock to remain available until expended; and $11,700,000 for the United States share of the capital stock of the Inter-American Investment Corporation to remain available until expended: Provided, That no such payment may be made while the United States Executive Director for the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director for the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the Inter-American Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of such increase in capital stock in an amount not to exceed $1,230,964,704.

CONTRIBUTION TO THE ASIAN DEVELOPMENT BANK

For payment to the Asian Development Bank by the Secretary of the Treasury, for the paid-in share portion of the United States share of the increase in capital stock, $11,909,408 to remain available until expended; and for the United States contribution to the increases in resources of the Asian Development Fund, as authorized by the Asian Development Bank Act, as amended (Public Law 89-369), $100,000,000 to remain available until expended: Provided, That none of the funds provided by the United States to the Asian Development Bank may be made available if the Republic of China (Taiwan) is denied any of the rights and privileges of full membership in the Asian Development Bank: Provided further, That no such payment may be made while the United States Director of the Bank is compensated by the Bank at a rate which, together with whatever compensation such Director receives from the United States, is in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while any alternate United States Director to the Bank in excess of the rate provided for an individual occupying a position at level V of the Evecutive Schedule under section 5316 of title 5, United States Code.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the Asian Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of such increase in capital stock in an amount not to exceed $226,230,498.

CONTRIBUTION TO THE AFRICAN DEVELOPMENT FUND

For payment to the African Development Fund by the Secretary of the Treasury, $62,250,000, for the United States contribution to the fourth replenishment of the African Development Fund, to remain available until expended.

CONTRIBUTION TO THE AFRICAN DEVELOPMENT BANK

For payment to the African Development Bank by the Secretary of the Treasury, for the paid-in share portion of the United States share of the increase in capital stock, $16,188,910, to remain available until expended: Provided, That no such payment may be made while the United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the African Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of such capital stock in an amount not to exceed $48,564,032.

PARTICIPATION IN INTERNATIONAL FINANCIAL INSTITUTIONS

(a) Titles I, II, and III of H.R. 2253 as reported on May 15, 1985, and section 3 of H.R. 1948 as introduced April 3, 1985, are hereby enacted.

(b) Section 102 of H.J. Res. 465 shall not apply with respect to the provisions enacted by this paragraph.

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

For necessary expenses to carry out the provisions of sections 301 and 103(g) of the Foreign Assistance Act of 1961, and of section 2 of the United Nations Environment Program Participation Act of 1983, $277,922,475: Provided, That no funds shall be available for the United Nations Fund for Science and Techology: Provided further, That the total amount of funds made available by this paragraph shall be available only as follows: $148,500,000 for the United Nations Development Program; $48,150,000 for the United Nations Children's Fund; $1,900,000 for the World Food Program; $900,000 for the United Nations Capital Development Fund; $250,000 for the United Nations Voluntary Fund for the Decade for Women; $1,282,500 for the International Convention and Scientific Organization Contributions; $1,800,000 for the World Meteorological Organization Voluntary Cooperation Program; $17,715,000 for the International Atomic Energy Agency; $9,000,000 for the United Nations Environment Program; $900,000 for the United Nations Educational and Training Program for South Africa; $1,429,975 for the United Nations Development Program Trust Fund to Combat Poverty and Hunger in Africa; $225,000 for the United Nations Institute for Namibia; $180,000 for the Convention on International Trade in Endangered Species; $250,000 for the World Heritage Fund; $90,000 for the United Nations Voluntary Fund for Victims of Torture; $225,000 for the United Nations Fellowship Program; $400,000 for the Center on Human Settlements; $14,725,000 for the Organization of American States; and $30,000,000 for the International Fund for Agricultural Development (except that the funds provided by this paragraph for the International Fund for Agricultural Development shall not be made available to such organization until a budget request has been received by the Congress and the United States has entered into an agreement to participate in the second replenishment of the organization and, notwithstanding sections 451, 492(b), or 614 of the Foreign Assistance Act of 1961, or any other provision of law, such funds may be made available only for the second replenishment of the International Fund for Agricultural Development, except that to the extent that these funds cannot be so utilized, they shall revert to the Treasury as miscellaneous receipts).

TITLE II—BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

For expenses necessary to enable the President to carry out the provisions of the Foreign Assistance Act of 1961, and for other *purposes, to remain available until September 30, 1986, unless otherwise specified herein, as follows:*

AGENCY FOR INTERNATIONAL DEVELOPMENT

Agriculture, rural development and nutrition, Development Assistance: For necessary expenses to carry out the provisions of section 103, $699,995,900: Provided, That not less than $5,000,000 shall be provided for new development projects of private entities and cooperatives utilizing surplus dairy products: Provided further, That not less than $8,000,000 shall be provided for the Vitamin A Deficiency Program.

Population, Development Assistance: For necessary expenses to carry out the provisions of section 104(b), $250,000,000: Provided, That none of the funds made available in this Act nor any unobligated balances from prior appropriations may be made available to any organization or program which, as determined by the President of the United States, supports or participates in the management of a program of coercive abortion or involuntary sterilization: Provided further, That none of the funds made available under this heading may be used to pay for the performance of abortion as a method of family planning or to motivate or coerce any person to practice abortions; and that in order to reduce reliance on abortion in developing nations, funds shall be available only to voluntary family planning projects which offer, either directly or through referral to or information about access to, a broad range of family planning methods and services: Provided further, That nothing in this subsection shall be construed to alter any existing statutory prohibitions against abortion under section 104 of the Foreign Assistance Act.

Health, Development Assistance: For necessary expenses to carry out the provisions of section 104(c), $200,824,200: Provided, That not less than $12,500,000 shall be provided for child survival programs and activities.

Child Survival Fund: For necessary expenses to carry out the provisions of section 104(c)(2), $25,000,000.

Education and human resources development, Development Assistance: For necessary expenses to carry out the provisions of section 105, $169,949,700: Provided, That of this amount not less than $4,000,000 shall be made available only for the International Student Exchange Program.

Energy and selected development activities, Development Assistance: For necessary expenses to carry out the provisions of section 106, $174,358,930: Provided, That not less than $5,000,000 shall be made available only for cooperative projects among the United States, Israel and developing countries: Provided further, That up to $2,280,000 may be made available for hybrid poplar energy farming in Nepal: Provided further, That up to $1,200,000 may be made available for the establishment of land use management system in Costa Rica if requested by the Government of Costa Rica.

Central America Development Assistance: Of the funds appropriated to carry out the provisions of sections 103 through 106, not more than $250,000,000 shall be available for Central America except as provided through the regular notification process of the Committees on Appropriations.

Private and Voluntary Organizations: None of the funds appropriated or otherwise made available in this Act for development assistance may be made available after January 1, 1986, to any United States private and voluntary organization, except any cooperative development organization, which obtains less than 20 per centum of its total annual funding for international activities from sources other than the United States Government: Provided, That the requirements of the provisions of section 123(g) of the Foreign Assistance Act of 1961 and the provisions on private and voluntary organizations in Title II of the "Foreign Assistance and Related Programs Appropriations Act, 1985" (as enacted in Public Law 98-473) shall be superseded by the provisions of this section.

Science and technology, Development Assistance: For necessary expenses to carry out the provisions of section 106, $10,790,000.

Private sector revolving fund: For necessary expenses to carry out the provisions of section 108 of the Foreign Assistance Act of 1961, as amended, not to exceed $18,000,000 to be derived by transfer from funds appropriated to carry out the provisions of chapter 1 of part I of such Act, to remain available until expended. During fiscal year 1986, obligations for assistance from amounts in the revolving fund account under section 108 shall not exceed $18,000,000.

Loan allocation, Development Assistance: In order to carry out the provisions of part I, the Administrator of the Agency responsible for administering such part may furnish loan assistance pursuant to existing law and on such terms and conditions as he may determine: Provided, That to the maximum extent practicable, loans to private sector institutions, from funds made available to carry out the provisions of sections 103 through 106, shall be provided at or near the prevailing interest rate paid on Treasury obligations of similar maturity at the time of obligating such funds: Provided further, That amounts appropriated to carry out the provisions of chapter 1 of part I which are provided in the form of loans shall remain available until September 30, 1987.

American schools and hospitals abroad: For necessary expenses to carry out the provisions of section 214, $35,000,000.

International disaster assistance: For necessary expenses to carry out the provisions of section 491, $22,500,000, to remain available until expended.

Sahel development program: For necessary expenses to carry out the provisions of section 121, $80,500,000, to remain available until expended: Provided, That no part of such appropriation may be available to make any contribution of the United States to the Sahel development program in excess of 10 percent of the total contributions to such program.

Payment to the Foreign Service Retirement and Disability Fund: For payment to the "Foreign Service Retirement and Disability Fund", as authorized by the Foreign Service Act of 1980, $43,122,000.

Operating expenses of the Agency for International Development: For necessary expenses to carry out the provisions of section 667, $376,350,000: Provided, That not more than $20,000,000 of this amount shall be for Foreign Affairs Administrative Support: Provided further, That except to the extent that the Administrator of the Agency for International Development determines otherwise, not less than 10 per centum of the aggregate of the funds made available for the fiscal year 1986 to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 shall be made available only for activities of economically and socially disadvantaged enterprises (within the meaning of section 133(c)(5) of the International Development and Food Assistance Act of 1977), historically black colleges and universities, and private and voluntary organizations which are controlled by individuals who are black Americans, Hispanic Americans, or Native Americans, or who are economically and socially disadvantaged (within the meaning of section 133(c)(5) (B) and (C) of the International Development and Food Assistance Act of 1977). For purposes of this section, economically and socially disadvantaged individuals shall be deemed to include women: Provided further, That not less than $2,500,000 shall be used to carry out the purposes of section 636(d): Provided further, That not less than $1,200,000 shall be available for the International Development Intern Program: Provided further, That none of the funds appropriated or made available (other than funds appropriated or made available by this paragraph) pursuant to this Act for carrying out the Foreign Assistance Act of 1961, may be used for the operating expenses of the Agency for International Development: Provided further, That none of the funds in this Act may be used to relocate the Regional Inspector General's Office in Cairo to another country: Provided further, That after February 28, 1986, none of the funds appropriated by this paragraph shall be available for the operating expenses of the International Development Cooperation Agency.

Operating expenses of the Agency for International Development Office of Inspector General: For necessary expenses to carry out the provisions of section 667, $21,050,000, which sum shall be available only for the operating expenses of the Office of the Inspector General notwithstanding sections 451 or 614 of the Foreign Assistance Act of 1961 or any other provision of law: Provided, That the full-time equivalent staff years for the Office of the Inspector General for fiscal year 1986 shall not be less than one hundred and ninety-three: Provided further, That up to three percent of the amount made available under the paragraph "Operating expenses of the Agency for International Development" may be transferred to and merged and consolidated with amounts made available under this paragraph.

Trade credit insurance program: During the fiscal year 1986, total commitments to guarantee or insure loans for the "Trade credit insurance program" shall not exceed $250,000,000 of contingent liability for loan principal.

Trade and development program: For necessary expenses to carry out the provisions of section 661, $18,900,000.

Housing and other credit guaranty programs: During the fiscal year 1986, total commitments to guarantee loans shall not exceed $152,000,000 of contingent liability for loan principal: Provided, That the President shall enter into commitments to guarantee such loans in the full amount by this paragraph, subject only to the availability of qualified applicants for such guarantees.

Economic support fund: For necessary expenses to carry out the provisions of chapter 4 of part II, $3,700,000,000: Provided, That of the funds appropriated under this paragraph, not less than $1,200,000,000 shall be available only for Israel, which sum shall be available on a grant basis as a cash transfer and shall be disbursed within 30 days of enactment of this Act or by October 31, 1985, whichever is later: Provided further, That not less than $815,000,000 shall be available only for Egypt, which sum shall be provided on a grant basis, of which not less than $115,000,000 shall be provided as a cash transfer in accordance with the provisions *of section 202(b) of Public Law 99-83, and not less than $200,000,000 shall be provided as a Commodity Import Program: Provided further, That it is the same sense of the Congress that the recommended levels assistance for Egypt and Israel are based in great measure upon their continued participation in the Camp David Accords and upon the Egyptian-Israeli peace treaty; and that Egypt and Israel are urged to continue their efforts to restore a full diplomatic relationship, including ambassadors, and achieve realization of the Camp David Accords: Provided further, That not less than $250,000,000 of the funds appropriated under this paragraph shall be available only for Pakistan: Provided further, That any of the funds appropriated under this paragraph for El Salvador which are placed in the Central Reserve Bank of El Salvador shall be maintained in a separate account and not commingled with any other funds, except that such funds may be obligated and expended notwithstanding provisions of law, which are inconsistent with the cash transfer nature of this assistance, or which are referenced in the Joint Explanatory Statement of the Committee of Conference accompanying House Joint Resolution 648(H. Rept. No. 98-1159): Provided further, That pursuant to section 660(d) of the Foreign Assistance Act of 1961 up to $1,000,000 of the funds appropriated under this paragraph shall be available to assist the Government of El Salvador's Special Investigative Unit for the purpose of bringing to justice those responsible for the murders of United States citizens in El Salvador: Provided further, That a report of the investigation shall be provided to the Congress: Provided further, That funds appropriated under this paragraph for Mozambique may be made available only for activities in support of the private sector: Provided further, That of the amounts made available by this paragraph for Mozambique, $5,000,000 may not be made available until a democratic election has been held in Mozambique: Provided further, That of the funds provided under this paragraph only $125,000,000 shall be made available for the Philippines: Provided further, That of the funds appropriated or otherwise made available under this heading, $15,000,000 shall be made available only for Cyprus (except that any offshore procurement must meet Agency for International Development procurement source and origin regulations): Provided further, That not less than $15,000,000 of the funds provided under this paragraph shall be made available only for Ecuador, which sum shall be disbursed within thirty days of enactment of this Act: Provided further, That up to $20,000,000 of the funds provided under this paragraph may be made available to carry out the Administration of Justice program pursuant to section 534 of the Foreign Assistance Act of 1961: Provided further, That not less than 35 percent of the funds allocated for the Human Rights Fund for South Africa shall be made available in accordance with section 802(d) of Public Law 99-83: Provided further, That the obligation of funds made available under this paragraph to finance tied all credits shall be subject to the regular notification procedures of the Committees on Appropriations.*

TRANSFER OF FUNDS

Transfer of funds: Of the unobligated funds remaining from funds appropriated for the "Economic support fund" for Lebanon in Public Law 98-63, $22,850,000 shall be tranferred as follows: (1) $12,500,000 to the "Child Survival Fund", (2) $5,350,000 to "Internal Organizations and Programs" for the United Nations Children's Fund, and (3) to "International Narcotics Control: Provided, that except for such transfers", amounts remaining unobligated as of September 30, 1985, from funds appropriated for the "Economic Support Fund" for Lebanon in Public Law 98-63 shall, notwithstanding sections 451, 492(b), and 614 of the Foreign Assistance Act of 1961, or any other provision of law, be made available only for Lebanon: Provided further, That, to the extent that these funds cannot be used to provide assistance for Lebanon, they shall revert to the Treasury as miscellaneous receipts.

RESCISSION

Deobligation and rescission of funds: $11,200,000 of the funds remaining in the "Syria Termination Account" created by Public Law 98-151 are deobligated and are rescinded: Provided, That the authority contained in sections 451, 492(b), and 614 of the Foreign Assistance Act of 1961, or any other provision of law, shall not be exercised to permit the use of funds remaining in the "Syria Termination Account" created by Public Law 98-151 for any other purposes that those for which the account was created.

INDEPENDENT AGENCIES

AFRICAN DEVELOPMENT FOUNDATIONS

For necessary expenses to carry out the provisions of title V of the International Security and Development Cooperation Act of 1980, Public Law 96-533, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 9104, title 31, United States Code, $3,872,000.

INTER-AMERICAN FOUNDATION

For expenses necessary to carry out the functions of the Inter-American Foundation in accordance with the provisions of section 401 of the Foreign Assistance Act of 1969, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 9104, title 31, United States Code, $11,969,000.

OVERSEAS PRIVATE INVESTMENT CORPORATION

The Overseas Private Investment Corporation is authorized to make such expenditures within the limits of funds available to it and in accordance with law (including not to exceed $35,000 for official reception and representation expenses), and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 9104 of title 31, United States Code, as may be necessary in carrying out the program set forth in the budget for the current fiscal year.

During the fiscal year 1986 and within the resources and authority available, gross obligations for the amount of direct loans shall not exceed $14,250,000.

During the fiscal year 1986, total commitments to guarantee loans shall not exceed $142,500,000 of contingent liability for loan principal.

PEACE CORPS

For expenses necessary to carry out the provisions of the Peace Corps Act (75 Stat. 612), $130,000,000: Provided, That none of the funds appropriated in this paragraph shall be used to pay for abortions.

DEPARTMENT OF STATE

INTERNATIONAL NARCOTICS CONTROL

For necessary expenses to carry out the provisions of section 481, $57,529,000.

MIGRATION AND REFUGEE ASSISTANCE

For expenses, not otherwise provided for, necessary to enable the Secretary of State to provide, as authorized by law, a contribution to the International Committee of the Red Cross and assistance to refugees, including contributions to the Intergovernmental Committee for Migration and the United Nations High Commissioner for Refugees; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1980, allowances as authorized by sections 5921 through 5925 of title 5, United States Code; hire of passenger motor vehicles; and services as authorized by section 3109 of title 5, United States Code; $338,930,000: Provided, That not less than $12,500,000 shall be available for Soviet, Eastern European and other refugees resettling in Israel: Provided further, That these funds shall be administered in a manner that ensures equity in the treatment of all refugees receiving Federal assistance: Provided further, That no funds herein appropriated shall be used to assist directly in the migration to any nation in the Western Hemisphere of any person not having a security clearance based on reasonable standards to ensure against Communist infiltration in the Western Hemisphere: Provided further, That no more than $8,150,396 of the funds appropriated under this heading shall be available for the administrative expenses of the Office of Refugee Programs of the Department of State: Provided further, That not more than $2,500,000 of the funds appropriated under this heading shall be available for the orderly movement of overland Vietnamese refugees presently located at the Dong Ruk (Site 2) refugee camp in Thailand to a safe haven either in Thailand or in another location more directly under the control of the United States where they may be joined with other Vietnamese refugees: Provided further, That each of the earmarks contained in section 108 of Public Law 99-93 shall be reduced by 1.7 percent.

ANTI-TERRORISM ASSISTANCE

For necessary expenses to carry out the provisions of chapter 8 of part II, $7,420,000.

PEACEKEEPING OPERATIONS

For necessary expenses to carry out the provisions of section 551, $34,000,000: Provided, That, notwithstanding sections 451, 492(b), or 614 of the Foreign Assistance Act of 1961, or any other provision of law, these funds may be used only as justified in the Congressional Presentation Document for fiscal year 1986: Provided further, That, to the extent that these funds cannot be used to provide for such assistance, they shall revert to the Treasury as miscellaneous receipts.

TITLE III—MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

MILITARY ASSISTANCE

For necessary expenses to carry out the provisions of section 503 of the Foreign Assistance Act of 1961, including administrative expenses and purchase of passenger motor vehicles for replacement only for use outside of the United States, $782,000,000: Provided, That of the funds made available under this paragraph only $40,000,000 shall be available for the Philippines: Provided further, That only $215,000,000 shall be made available for Turkey: Provided further, That the reports required by section 702 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83) shall also be provided to the Committees on Appropriations: Provided further, That these *reports shall supersede the reporting requirements relating to El Salvador contained in the last proviso of the paragraph under the heading "Military Assistance" contained in the joint resolution entitled "a joint resolution making urgent supplemental appropriations for the fiscal year ending September 30, 1984, for the Department of Agriculture", approved July 2, 1984 (Public Law 98-332) and section 533 of the Foreign Assistance and Related Programs Appropriations Act, 1985 (as enacted in Public Law 98-473); Provided further, That not less than $40,000,000 of the funds made available under this paragraph shall be available only for Tunisia.*

INTERNATIONAL MILITARY EDUCATION AND TRAINING

For necessary expenses to carry out the provisions of section 541, $54,489,500.

FOREIGN MILITARY CREDIT SALES

For expenses necessary to enable the President to carry out the provisions of section 23 of the Arms Export Control Act, $5,190,000,000, of which not less than $1,800,000,000 shall be available only for Israel, not less than $1,300,000,000 shall be available only for Egypt, and not less than $325,000,000 shall be available only for Pakistan: Provided, That if the Government of Israel requests that funds be used for such purposes, up to $150,000,000 of the amount of credits made available for Israel pursuant to this paragraph shall be available for research and development in the United States for the Lavi program, and not less than $300,000,000 shall be for the procurement in Israel of defense articles and services, including research and development, for the Lavi program and other activities if requested by Israel: Provided further, That during fiscal year 1986, gross obligations for the principal amount of direct loans, exclusive of loan guarantee defaults, shall not exceed $5,190,000,000: Provided further, That of the funds made available under this paragraph, only $427,852,000 shall be available for Turkey: Provided further, That of the funds made available under this paragraph, only $450,000,000 shall be available for Greece: Provided further, That of the funds provided under this paragraph only $15,000,000 shall be made available for the Philippines: Provided further, That none of the funds made available under this paragraph shall be available for Guatemala, unless the President makes the following certifications to the Congress:

(1) For Fiscal Year 1986, an elected civilian government is in power in Guatemala and has submitted a formal written request to the United States for the assistance, sales, or financing to be provided.

(2) For Fiscal Year 1986, the Government of Guatemala made demonstrated progress during the preceding year (A) in achieving control over its military and security forces, (B) toward eliminating kidnapings and disappearances, forced recruitment into the civil defense patrols, and other abuses by such forces of internationally recognized human rights, and (C) in respecting the internationally recognized human rights of its indigenous Indian population: Provided further, That not more than $553,900,000 of the funds made available under this paragraph shall be available at concessional rates of interest: Provided further, That all country and funding level changes in requested concessional financing allocations shall be submitted through the regular notification process of the Committees on Appropriations: Provided further, That not less than $27,000,000 of concessional credits shall be provided only for Tunisia.

SPECIAL DEFENSE ACQUISITION FUND

(LIMITATION ON OBLIGATIONS)

Not to exceed $325,000,000 may be obligated pursuant to section 51(c)(2) of the Arms Export Control Act for the purposes of the Special Defense Acquisition Fund during fiscal year 1986.

TITLE IV—EXPORT-IMPORT BANK OF THE UNITED STATES

The Export-Import Bank of the United States is authorized to make such expenditures within the limits of funds and borrowing authority available to such corporation, and in accordance with law, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 104 of the Government Corporation Control Act, as may be necessary in carrying out the program for the current fiscal year for such corporation: Provided, That none of the funds available during the current fiscal year may be used to make expenditures, contracts, or commitments for the export of nuclear equipment, fuel, or technology to any country other than a nuclear-weapon State as defined in article IX of the Treaty on the Non-Proliferation of Nuclear Weapons eligible to receive economic or military assistance under this Act that has detonated a nuclear explosive after the date of enactment of this Act.

LIMITATION ON PROGRAM ACTIVITY

During the fiscal year 1986 and within the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed $1,110,000,000: Provided, That during the fiscal year 1986, total commitments to guarantee loans shall not exceed $12,000,000,000 of contingent liability for loan principal.

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $18,357,000 (to be computed on an accrual basis) shall be available during the current fiscal year for administrative expenses, including hire of passenger motor vehicles and services as authorized by section 3109 of title 5, United States Code, and not to exceed $16,000 for official reception and representation expenses for members of the Board of Directors: Provided, That (1) fees or dues to international organizations of credit institutions engaged in financing foreign trade, (2) necessary expenses (including special services performed on a contract or a fee basis, but not including other personal services) in connection with the acquisition, operation, maintenance, improvement, or disposition of any real or personal property belonging to the Export-Import Bank or in which it has an interest, including expenses of collections of pledged collateral, or the investigation or appraisal of any property in respect to which an application for a loan has been made, and (3) expenses (other than internal expenses of the Export-Import Bank) incurred in connection with the issuance and servicing of guarantees, insurance, and reinsurance, shall be considered as nonadministrative expenses for the purposes of this paragraph.

TITLE V—GENERAL PROVISIONS

Sec. 501. None of the funds appropriated in this act (other than funds appropriated for "International organizations and programs") shall be used to finance the construction of any new flood control, reclamation, or other water or related land resource project or program which has not met the standards and criteria used in determining the feasibility of flood control, reclamation, and other water and related land resource programs and projects proposed for construction within the United States of America under the principles, standards and procedures established pursuant to the Water Resources Planning Act (42 U.S.C. 1962, et seq.) or Act amendatory of supplementary thereto.

Sec. 502. Except for the appropriations entitled " International disaster assistance", and "United States emergency refugee and migration assistance fund" not more than 15 per centum of any appropriation item made available by this Act for the current fiscal year shall be obligated during the last month of availability.

Sec. 503. None of the funds appropriated in this Act nor any of the counterpart funds generated as a result of assistance hereunder or any prior Act shall be used to pensions, annuities, retirement pay, or adjusted service compensation for any person heretofore or hereafter serving in the armed forces of any recipient country

Sec. 504. None of the funds appropriated or made available purusant to this Act for carrying out the Foreign Assistance Act of 1961, may be used for making payments on any contract for procurement to which the United States is a party entered into after the date of enactment of this Act which does not contain a provision authorizing the termination of such contract for the convenience of the United States.

Sec. 505. None of the funds appropriated or made available pursuant to this Act for carrying out the Foreign Assistance Act of 1961, may be used to pay in whole or in part any assessments, arrearages, or dues of any member of the United Nations.

Sec. 506. None of the funds contained in title II of this Act may be used to carry out the provisions of section 209(d) of the Foreign Assistance Act of 1961.

Sec. 507. Of the funds appropriated or made available pursuant to this Act, not to exceed $110,000 shall be for official residence expenses of the Agency for International Development during the current fiscal year: Provided, That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars.

Sec. 508. Of the funds appropriated or made available pursuant to this Act, not to exceed $10,000 shall be for entertainment expenses of the Agency for International Development during the current fiscal year.

Sec. 509. Of the funds appropriated or made available pursuant to this Act, not to exceed $100,000 shall be for representation allowances for the Agency for International Development during the current fiscal year: Provided, That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars: Provided further, That of the total funds made available by this Act under the headings "Military Assistance" and "Foreign Military Credit Sales", not to exceed $2,500 shall be available for entertainment expenses and not to exceed $70,000 shall be available for representation allowances: Provided further, That of the funds made available by this Act under the heading "International Military Education and Training", not to exceed $125,000 shall be available for entertainment allowances: Provided further, That of the funds made available by this Act for the Inter-American Foundation, not to exceed $2,500 shall be available for entertainment and representation allowances: Provided *further, That of the funds made available by this Act for the Peace Corps, not to exceed a total of $4,000 shall be available for entertainment expenses: Provided further, That of the funds made available by this Act under the heading "Trade and development program", not to exceed $2,000 shall be available for representation and entertainment allowances.*

Sec. 510. None of the funds appropriated or made available (other than funds for "International organizations and programs") pursuant to this Act, for carrying out the Foreign Assistance Act of 1961, may be used to finance the export of nuclear equipment, fuel, or technology.

Sec. 511. Funds appropriated by this Act may not be obligated or expended to provide assistance to any country for the purpose of aiding the efforts of the government of such country to repress the legitimate rights of the population of such country contrary to the Universal Declaration of Human Rights.

Sec. 512. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance or reparations to Angola, Cambodia, Cuba, Iraq, Libya, the Socialist Republic of Vietnam, South Yemen, or Syria.

Sec. 513. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance to any country whose duly elected Head of Government is deposed by military coup or decree.

Sec. 514. None of the funds made available by this Act may be obligated under an appropriation account to which they were not appropriated without the written prior approval of the Appropriations Committees of both Houses of the Congress.

Sec. 515. Amounts certified pursuant to section 1311 of the Supplemental appropriations Act, 1955, as having been obligated against appropriations heretofore made under the authority of the Foreign Assistance Act of 1961 for the same general purpose as any of the paragraphs under "Agency for International Development" are, if deobligated, hereby continued available for the same period as the respective appropriations in such paragraphs for the same general purpose and for the same country as originally obligated or for activities in the Andean region: Provided, That the Appropriations Committees of both Houses of the Congress are notified fifteen days in advance of the deobligation or reobligation of such funds.

Sec. 516. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes within the United States not authorized before the date of enactment of this Act by the Congress.

Sec. 517. No part of any appropriation contained in this Act shall remain available for obligation after the expiration of the current fiscal year unless expressly so provided in this Act.

Sec. 518. No part of any appropriation contained in this Act shall be used to furnish assistance to any country which is in default during a period in excess of one calendar year in payment to the United States of principal or interest on any loan made to such country by the United States pursuant to a program for which funds are appropriated under this Act.

Sec. 519. None of the funds appropriated or made available pursuant to this Act shall be available to any international financial institution whose United States governor or representative cannot upon request obtain the amounts and the names of borrowers for all loans of the international financial institution, including loans to employees of the institution, or the compensation and related benefits of employees of the institution.

Sec. 520. None of the funds appropriated or made available pursuant to this Act shall be available to any international financial institution whose United States governor or representative cannot upon request obtain any document developed by the management of the international financial institution.

Sec. 521. Section 620A(a) of the Foreign Assistance Act of 1961 is amended by inserting "the Export-Import Bank Act of 1945," after "the Peace Corps Act,".

Sec. 522. None of the funds appropriated or made available pursuant to this Act for direct assistance and none of the funds otherwise made available pursuant to this Act to the Export-Import Bank and the Overseas Private Investment Corporation shall be obligated or expended to finance any loan, any assistance or any other financial commitments for establishing or expanding production of any commodity for export by any country other than the United States, if the commodity is likely to be in surplus on world markets at the time the resulting productive capacity is expected to become operative and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity: Provided, That such prohibition shall not apply to the Export-Import Bank if in the judgment of its Board of Directors the benefits to industry and employment in the United States are likely to outweight the injury to United States producers of the same, similar, or competing commodity.

Sec. 523. The Secretary of the Treasury shall instruct the United States Executive Directors of the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the International Monetary Fund, the Asian Development Bank, the Inter-American Investment Corporation, the African Development Bank, and the African Development Fund to use the voice and vote of the United States to oppose any assistance by these institutions, using funds appropriated or made available pursuant to this Act, for the production of any commodity for export, if it is in surplus on world markets and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity.

Sec. 524. None of the funds made available under this Act for "Agriculture, rural development and nutrition, Development Assistance", "Population, Development Assistance", "Child Survival Fund", "Health, Development Assistance", "Education and human resources development, Development Assistance," "Energy and selected development activities, Development Assistance", "Science and technology, Development Assistance", "International organizations and programs", "American schools and hospitals abroad", "Sahel development program", "Trade and development program", "International narcotics control", "Economic support fund", "Peacekeeping operations", "Operating expenses of the Agency for International Development", "Operating Expenses of the Agency for International, Development Office of Inspector General", "Anti-terrorism assistance", "Military assistance", "International military education and training", "Foreign military credit sales", "Inter-American Foundation", "African Development Foundation", "Peace Corps", or "Migration and refugee assistance", shall be available for obligation for activities, programs, projects, type of material assistance, countries, or other operation not justified or in excess of the amount justified to the Appropriations Committees for obligation under any of these specific headings for the current fiscal year unless the Appropriations Committees of both Houses of Congress are previously notified fifteen days in advance.

Sec. 525. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order pursuant to existing law.

Sec. 526. None of the funds appropriated under this Act may be used to lobby for abortion.

Sec. 527. None of the funds appropriated or otherwise made available under this Act may be available for any country during any three-month period beginning on or after October 1, 1985, immediately following a certification by the President to the Congress that the government of such country is failing to take adequate measures to prevent narcotic drugs or other controlled substances (as listed in the schedules in section 202 of the Comprehensive Drug Abuse and Prevention Control Act of 1971 (21 U.S.C. 812)) which are cultivated, produced, or processed illicitly, on whole or in part, in such country, or transported through such country from being sold illegally within the jurisdiction of such country to the United States Government personnel or their dependents or from entering the United States unlawfully.

Sec. 528. Notwithstanding any other provision of law or this Act, none of the funds provided for "International organizations and programs" shall be available for the United States' proportionate share for any programs for the Palestine Liberation Organization, the Southwest African Peoples Organization, Libya, Iran, or, at the discretion of the President, Communist countries listed in section 620(f) of the Foreign Assistance Act of 1961, as amended.

Sec. 529. (a) Not later than January 31 of each year, or at the time of the transmittal by the President to the Congress of the annual presentation materials on foreign assistance, whichever is earlier, the President shall transmit to the Speaker of the House of Representatives and the President of the Senate a full and complete report which assesses, with respect to each foreign country, the degree of support by the government of each such country during the preceding twelve-month period for the foreign policy of the United States. Such report shall include, with respect to each such country which is a member of the United Nations, information to be compiled and supplied by the Permanent Representative of the United States to the United Nations, consisting of a comparison of the overall voting practices in the principal bodies of the United Nations during the preceding twelve-month period of such country and the United States, with special notes of the voting and speaking records of such country on issues of major importance to the United States in the General Assembly and the Security

Council, and shall also include a report on actions with regard to the United States in important related documents such as the Non-Aligned Communique. A full compilation of the information supplied by the Permanent Representative of the United States to the United Nations for inclusion in such report shall be provided as an addendum to such report.

(b) None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance to a country which the President finds, based on the contents of the report required to be transmitted under subsection (a), is engaged in a consistent pattern of opposition to the foreign policy of the United States.

SEC. 530. Notwithstanding any other provision of law, Israel may utilize any loan which is or was made available under the Arms Export Control Act and for which repayment is or was forgiven before utilizing any other loan made available under the Arms Export Control Act.

SEC. 531. In reaffirmation of the 1975 memorandum of agreement between the United States and Israel, and in accordance with section 1302 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83), no employee of or individual acting on behalf of the United States Government shall recognize or negotiate with the Palestine Liberation Organization or representatives thereof, as long as the Palestine Liberation Organization does not recognize Israel's right to exist, does not accept Security Council Resolutions 242 and 338, and does not renounce the use of terrorism.

SEC. 532. The Congress finds that progress on the peace process in the Middle East is vitally important to United States security interests in the region. The Congress recognizes that, in fulfilling its obligations under the Treaty of Peace Between the Arab Republic of Egypt and the State of Israel, done at Washington on March 26, 1979, Israel incurred severe economic burdens. Furthermore, the Congress recognizes that an economically and militarily secure Israel serves the security interests of the United States, for a secure Israel is an Israel which has the incentive and confidence to continue pursuing the peace process. Therefore, the Congress declares that it is the policy and the intention of the United States that the funds provided in annual appropriations for the Economic Support Fund which are allocated to Israel shall not be less than the annual debt repayment (interest and principal) from Israel to the United States Government in recognition that such a principle serves United States interests in the region.

SEC. 533. None of the funds made available in this Act shall be restricted for obligation or disbursement solely as a result of the policies of any multilateral institution.

SEC. 534. Ceilings and earmarks contained in this Act shall not be applicable to funds or authorities appropriated or otherwise made available by any subsequent act unless such act specifically so directs.

SEC. 535. The Secretary of the Treasury and the Secretary of State are directed to submit to the Committees on Foreign Affairs and the Committees on Appropriations by February 1, 1986, a report on the domestic economic policies of those nations receiving economic assistance, either directly or indirectly from the United States including, where appropriate, an analysis of the foreign assistance program conducted by these recipient nations.

SEC. 536. None of the funds appropriated or otherwise made available pursuant to this Act for "Economic Support Fund" or for "Foreign Military Credit Sales" shall be obligated or expended for Lebanon except as provided through the regular notification process of the Committees on Appropriations.

SEC. 537. Of the funds made available by this Act for Jamaica and Peru, not more than 50 per centum of the funds made available for each country shall be obligated unless the President determines and reports to the Congress that the Governments of these countries are sufficiently responsive to the United States Government concerns on drug control and that the added expenditures of the funds for that country are in the national interest of the United States: Provided, That this provision shall not be applicable to funds made available to carry out section 481 of the Foreign Assistance Act of 1961: Provided further, That assistance may be provided to Bolivia for Fiscal Year 1986, under chapter 2 (relating to grant military assistance), chapter 4 (relating to the economic support fund), and chapter 5 (relating to international military education and training) of part II of the Foreign Assistance Act of 1961, and under chapter 2 of the Arms Export Control Act (relating to foreign military sales financing), only under the following conditions:

For Fiscal Year 1986—

(A) up to 50 percent of the aggregate amount of such assistance allocated for Bolivia may be provided at any time after the President certifies to the Congress that the Government of Bolivia has enacted legislation that will establish its legal coca requirements, provide for the licensing of the number of hectares necessary to produce the legal requirement, and make unlicensed coca production illegal; and

(B) the remaining amount of such assistance may be provided at any time following a certification pursuant to subparagraph (A) if the President certifies to the Congress that the Government of Bolivia achieved the eradication targets for the calendar year 1985 contained in its 1983 narcotics agreements with the United States.

SEC. 538. None of the funds available in this Act may be used to make available to El Salvador any helicopters or other aircraft, and licenses may not be issued under section 38 of the Arms Export Control Act for the export to El Salvador of any such aircraft, unless the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate are notified at least fifteen days in advance in accordance with the procedures applicable to notifications.

SEC. 539. Funds provided in this Act for Guatemala may not be provided to the Government of Guatemala for use in its rural resettlement program, except through the regular notification procedures of the Committees on Appropriations.

SEC. 540. (a) The Secretary of the Treasury shall instruct the United States Executive Directors of the Multilateral Development Banks to—

(1) vigorously promote a commitment of these institutions to add or strengthen professionally trained staff to undertake environmental review of projects; or have development management plans to substantially increase the environmentally trained staff engaged in review of the ecological impacts of prospective projects;

(2) vigorously promote changes in these institutions in their preparation of projects and country programs that will encourage staff and borrower countries to—

(A) actively and regularly involve environmental and health ministers, or comparable representatives, in the preparation of environmentally sensitive projects and in bank-supported country program planning and strategy sessions;

(B) actively and regularly use the resources of available nongovernmental conservation and indigenous peoples' organizations, and consistent with international procurement policies, in the preparation of environmentally sensitive projects and in bank-supported country program planning and strategy sessions;

(3) vigorously promote a commitment of these institutions to increase the proportion of their lending programs supporting environmentally beneficial projects and project components, resource rehabilitation projects and project components, protection of indigenous peoples, and appropriate or light capital technology projects. Examples of such projects include small scale mixed farming and multiple cropping; agroforestry; programs to promote kitchen gardens; watershed management and rehabilitation; high yield woodlots; integrated pest management systems; dune stabilization programs; programs to improve energy efficiency; energy efficient technologies such as small scale hydro projects, rural solar energy systems, and rural and mobile telecommunications systems; and improved efficiency and management of irrigation systems.

(4) vigorously promote the establishment within the Economic Development Institute of the World Bank to institute a component which provides training in environmental and natural resource planning and program development;

(5) ensure that there is a thorough evaluation within the U.S. Government of the potential environmental problems, and the adequacy of measures to address these problems, associated with all proposed loans for projects involving large impoundments of rivers in tropical countries; penetration roads into relatively undeveloped areas; and agricultural and rural development programs; the potential environmental problems to be addressed in such evaluations shall include those relating to deterioration of water quality, siltation, spread of water borne diseases, forced resettlement, deforestation, threats to the land, health and culture of indigenous peoples, top soil management, water logging and salinization in irrigation projects, and pesticide misuse and resistance;

(6) call for, by May 31, 1986, separate and special meetings of each of the Boards of Executive Directors of these insitutions to discuss their environmental performance, and ways in which this performance can be improved, including alternative projects considered and alternative configurations of projects with specific attention to environmental problems associated with the following categories of projects: large impoundments of rivers in tropical countries; penetration roads into relatively undeveloped areas; agriculture and rural development projects; and

(7) in preparation for the meetings referred to in clause (6), the United States Executive Directors of the Multilateral Development Banks shall request the preparation of reviews by the International Bank for Reconstruction and Development and the Inter-American Development Bank from available information, of their environmental performance over the past decade with

respect to the categories of projects referred to in clause (6); the United States Executive Directors shall request that these reviews specifically discuss the environmental problems explicitly referred to in clause (5).

(b) The Secretary of the Treasury shall prepare and submit to the Committees on Appropriations by March 31, 1986, a report documenting the progress the Multilateral Development Banks have made in implementing the environmental reform measures described in clauses (1) through (4) of subsection (a).

(c) The Secretary of the Treasury and the Secretary of State shall undertake initiatives, in addition to those described in clause (6) of subsection (a) to discuss measures to improve the environmental performance of the Multilateral Development Banks with the representatives, and with the ministries from which they receive their instructions, of other donor nations to these institutions.

(d) In the report of the Secretary of the Treasury required by subsection (b) regarding the implementaion of staffing measures suggested in clause (1) of subsection (a), the Secretary of the Treasury shall specifically discuss the International Bank for Reconstruction and Development's progress in adding environmentally trained professionals, or in developing and implementing alternative plans for environmental staffing in each of the Bank's six regional offices to review projects for their prospective ecological impacts.

SEC. 541. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of involuntary sterilization as a method of family planning or to coerce or provide any financial incentive to any person to undergo sterilizations. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for any biomedical research which relates in whole or in part, to methods of, or the performance of, abortions or involuntary sterilization as a means of family planning. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be obligated or expended for any country or organization if the President certifies that the use of these funds by any such country or organization would violate any of the above provisions related to abortions and involuntary sterilizations. The Congress reaffirms its commitments to population, development assistance and to the need for informed voluntary family planning.

SEC. 542. Not less than $15,000,000 of the aggregate amount of funds appropriated by this Act to carry out the provisions of chapter 1 of part I of the Foreign Assistance Act of 1961 and chapter 4 of part II of that Act, shall be available for the provision of food, medicine, or other humanitarian assistance to the Afghan people, notwithstanding any other provision of law.

SEC. 543. None of the funds provided in this Act shall be available for the Sudan if the President determines that the Sudan is acting in a manner that would endanger the stability of the region, or the Camp David peace process.

SEC. 544. The President shall make available to the Cambodian non-communist resistance forces not less than $1,500,000 nor more than $5,000,000 of the funds appropriated by this Act for "Military Assistance" and for the "Ecomonic Support Fund", notwithstanding any other provision of law: *Provided*, That funds appropriated by this Act for this purpose shall be obligated in accordance with the provisions of section 906 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83).

SEC. 545. (a) SENSE OF CONGRESS.—It is the sense of Congress that no foreign military sales financing appropriated by this Act may be used to finance the procurement by Jordan of United States advanced aircraft, new air defense weapons systems, or other new advanced military weapons systems, and no notification may be made pursuant to section 36(b) of the Arms Export Control Act with respect to a proposed sale to Jordan of United States advanced aircraft, new air defense systems, or other new advanced military weapons systems, unless Jordan is publicly committed to the recognition of Israel and to negotiate promptly and directly with Israel under the basic tenets of United Nations Security Council Resolutions 242 and 338.

(b) CERTIFICATION.—Any notification made pursuant to section 36(b) of the Arms Export Control Act with respect to a proposed sale to Jordan of United States advanced aircraft, new air defense systems or other new advanced military weapons, must be accompanied by a Presidential certification of Jordan's public commitment to the recognition of Israel and to negotiate promptly and directly with Israel under the basic tenets of United Nations Security Council Resolutions 242 and 338.

SEC. 546. None of the funds appropriated or made available pursuant to this Act shall be available to a private voluntary organization which fails to provide upon timely request any document, file, or record necessary to the auditing requirements of the Agency for International Development.

SEC. 547. Of the amounts made available by this Act for military assistance and financing for El Salvador under chapters 2 and 5 of part II of the Foreign Assistance Act of 1961 and under the Arms Export Control Act, $5,000,000 may not be expended until the President reports, following the conclusion of the Appeals process in the case of Captain Avila, to the Committees on Appropriations that the Government of El Salvador has (1) substantially concluded all investigative action with respect to those responsible for the January 1981 deaths of the two United States land reform consultants Michael Hammer and Mark Pearlman and the Salvadoran Land Reform Institute Director Jose Rodolfo Viera, and (2) pursued all legal avenues to bring to trial and obtain a verdict of those who ordered and carried out the January 1981 murders.

SEC. 548. It is the sense of the Congress that all countries receiving United States foreign assistance under the "Economic Support Fund", "Foreign Military Credit Sales", "Military Assistance" program, "International Military Education and Training", Agricultural Trade Development and Assistance Act of 1954 (Public Law 480) development assistance programs, or trade promotion programs should fully cooperate with the international refugee assistance organizations, the United States, and other governments in facilitating lasting solutions to refugee situations. Further, where resettlement to other countries is the appropriate solution, such resettlement should be expedited in cooperation with the country of asylum without respect to race, sex, religion, or national origin.

SEC. 549. Any joint resolution introduced on or after February 1, 1986, which states that the Congress objects to the proposed sale to Jordan of advanced weapons systems, including advanced aircraft and advanced air defense systems (submitted to the Congress on October 21, 1985), shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

SEC. 550. (a) The Congress finds that—

(1) the United Nations Children's Fund (UNICEF) reports that four million children die annually because they have not been immunized against the six major childhood diseases: polio, measles, whooping cough, diphtheria, tetanus, and tuberculosis;

(2) at present less than 20 percent of children in the developing world are fully immunized against these diseases;

(3) each year more than five million additional children are permanently disabled and suffer diminished capacities to contribute to the economic, social and political development of their countries because they have not been immunized;

(4) ten million additional childhood deaths from immunizable and potentially immunized diseases could be averted annually by the development of techniques in biotechnology for new and cost-effective vaccines;

(5) the World Health Assembly, the Executive Board of the United Nations Children's Fund, and the United Nations General Assembly are calling upon the nations of the world to commit the resources necessary to meet the challenge of universal access to childhood immunization by 1990;

(6) the United States, through the Centers for Disease Control and the Agency for International Development, joined in a global effort by providing political and technical leadership that made possible the eradication of smallpox during the 1970's;

(7) the development of national immunization systems that can both be sustained and also serve as a model for a wide range of primary health care actions is a desired outcome of our foreign assistance policy;

(8) the United States Centers for Disease Control headquartered in Atlanta is uniquely qualified to provide technical assistance for a worldwide immunization and eradication effort and is universally respected;

(9) at the 1984 Bellagio Conference it was determined that the goal of universal childhood immunization by 1990 is indeed achievable;

(10) the Congress, through authorizations and appropriations for international health research and primary health care activities and the establishment of the Child Survival Fund, has played a vital role in providing for the well-being of the world's children;

(11) the Congress has expressed its expectation that the Agency for International Development will set as a goal the immunization by 1990 of at least 80 percent of all the children in those countries in which the Agency has a program; and

(12) the United States private sector and public at large have responded generously to appeals for support for national immunization campaigns in developing countries.

(b)(1) The Congress calls upon the President to direct the Agency for International Development, working through the Centers for Disease Control and other appropriate Federal agencies, to work in a global effort *to provide enhanced support toward achieving the goal of universal access to childhood immunization by 1990 by—*

(A) assisting in the delivery, distribution, and use of vaccines, including—

(i) the building of locally sustainable systems and technical capacities in developing countries to reach, by the appropriate age, not less than 80 per centum of their annually projected target population with the full schedule of required immunizations, and

(ii) the development of a sufficient network of indigenous professionals and institutions with responsibility for developing, monitoring, and assessing immunization programs and continually adapting strategies to reach the goal of preventing immunizable diseases; and

(B) performing, supporting, and encouraging research and development activities, both in the public and private sector, that will be targeted at developing new vaccines and at modifying and improving existing vaccines to make them more appropriate for use in developing countries.

(2) In support of this global effort, the President should appeal to the people of the United States and the United States private sector to support public and private efforts to provide the resources necessary to achieve universal access to childhood immunization by 1990.

Sec. 551. The foreign debt burdens of many Third World nations have contributed to their economic decline and inability to engage in a significant economic recovery;

The United States foreign military assistance loan programs, which have had very high interest rates in past years, have contributed to the security of our friends and allies, but also have played a contributing role in adding to the debt burdens of many of our friends and allies;

United States foreign aid has, among its major objectives, the enhancement of the military and economic security of our friends and allies and our own security;

A foreign assistance program which adds significantly to the debt burdens of our friends and allies by forcing the weaker of those nations to use funds which could be used for development for repayment of loans impairs their economic development unnecessarily and is not in either their or our interest;

The past few years have seen several positive legislative steps taken to alleviate the FMS loan-related debt burdens of our friends and allies by reducing interest rates, stretching out the repayment period of these loans, and by increasing the level of MAP grants and forgiven FMS credits;

These steps have helped to ease these problems in the short term, but the long-term debt servicing problems of our friends and allies remain;

It would be in the best interests of our friends and allies to alleviate their debt burdens brought about by past loans and to bring about a more streamlined and straightforward approach to their programs in this area;

Such streamlined, straightforward programs would make it easier to develop country programs and would ease current pressures on the United States to grant to aid recipients the most favorable terms on their military loan programs: Now therefore

(1) it is the sense of the Congress that a more simplified, streamlined, straightforward foreign military assistance program is in the national interest and in the interest of the military and economic security of our friends and allies throughout the world;

(2) that greater concessionality only to match economic need as appropriate should be incorporated into future military assistance programs;

(3) that FMS loan programs extending the repayment period beyond the useful life of the items to be purchased could tend to increase the long-term debt burdens of our friends and allies;

(4) that the FMS concessional loan program contains a significant grant element in the recipient nation and that the Congress should actively consider replacing this program with a more straightforward approach;

(5) the President is urged to propose, in the next formal Congressional Presentation for Security Assistance Programs, reforms and refinements in the foreign military assistance programs along these lines for consideration by the appropriate committees of the Congress.

Sec. 552. (a) Notwithstanding any other provision of law, the President is authorized—

(1) to deny nondiscriminatory (most-favored-nation) trade treatment to the products of Afghanistan and thereby cause such products to be subject to the rate of duty set forth in column number 2 of the Tariff Schedules of the United States, and

(2) to deny credit, credit guarantees, and investment guarantees to, or for the benefit of, Afghanistan under any Federal program.

*(b) If the President has not denied nondiscriminatory trade treatment to the products of Afghanistan before the date that is 45 days after the date of enactment of this joint resolution, the President shall submit to the Congress on such date * * *.*

This subsection may be cited as the "Foreign Assistance and Related Programs Appropriations Act, 1986".

And the Senate agree to the same.

Amendment numbered 22:

That the House recede from its disagreement to the amendment of the Senate numbered 22, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

Sec. 106. Notwithstanding any other provision of this joint resolution, and in addition to amounts appropriated elsewhere, there are appropriated $40,000,000, to remain available until expended, for "Watershed and Flood Prevention Operations" for emergency measures as provided in sections 401 and 403–405 of the Agricultural Credit Act of 1978 (16 U.S.C. 2201 and 2203-2205).

And the Senate agree to the same.

Amendment numbered 23:

That the House recede from its disagreement to the amendment of the Senate numbered 23, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

Sec. 107. Notwithstanding any other provision of this joint resolution, not to exceed an additional $9,549,000 (from assessments collected from farm credit system banks) shall be obligated during the current fiscal year for administrative expenses, as authorized under 12 U.S.C 2249: Provided, That hereafter the Comptroller General or his duly authorized representatives shall have access to and the right to examine all books, documents, papers, records, or other recorded information within the possession or control of the Federal land banks and Federal land bank associations, Federal intermediate credit banks and production credit associations and banks for cooperatives.

And the Senate agree to the same.

Amendment numbered 24:

That the House recede from its disagreement to the amendment of the Senate numbered 24, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

Sec. 108. (a) Notwithstanding any provision of title I of the Local Public Works Capital Development and Investment Act of 1976, as amended (Public Law 94-369) or any other provision of law, any funds authorized and appropriated under title I of such Act, as amended, in any fiscal year for projects in: (1) New York, New York but currently obligated and not disbursed, shall be obligated and expended during fiscal years 1986 and 1987 for any authorized project in New York, New York under title I of such Act, as amended or for any authorized project in New York, New York under title I of the Public Works and Economic Development Act of 1965, as amended; (2) New Jersey but currently obligated and not disbursed, shall be obligated and expended during fiscal years 1986 and 1987 for the rehabilitation and renovation of Buildings 1002, 1006 and such other structures at Camp Kilmer, Edison, New Jersey as may be agreed upon between Middlesex County and the Department of Defense for use as a shelter for the homeless in Middlesex County, New Jersey; (3) California but currently obligated and not disbursed, shall be obligated and expended during fiscal years 1986 and 1987 for infrastruoture projects and economic development activities at the site of the abandoned General Motors plant in the city of South Gate, California; (4) Alabama but currently obligated and not disbursed, shall be obligated and expended during fiscal years 1986 and 1987 for infrastructure projects and related economic development activities for the Jasper Industrial Park at Jasper, Alabama; and (5) Illinois but currently obligated and not disbursed, shall be obligated and expended during fiscal years 1986 and 1987 for (i) the restoration, rehabilitation and renovation of existing buildings and structures within the Illinois and Michigan Canal National Heritage Corridor, and (ii) a $400,000 grant to the Will County Development Company for the establishment of a revolving loan fund.

(b) The project for flood control, Red Rock Dam and Lake, Iowa authorized by the Flood Control Act approved June 28, 1938, is modified to authorize and direct the Secretary of the Army, acting through the Chief of Engineers to acquire from willing sellers fee simple interest in real property which is subject to periodic flooding in connection with the operation of the project, using funds heretofore and hereafter appropriated.

(c) In addition, for the Economic Development Administration, "Economic development assistance programs"; $8,500,000, to remain available until expended, of which $4,000,000 is for a grant to Lexington County, South Carolina, for all expenditures related to the development of a state-of-the-art fiber optics/medium power cable research and development facility in Lexington County; and of which $4,500,000 is for a grant to the City of Fort Worth for the continued renovation, construction, rehabilitation and establishment of economic development facilities and related infrastructure activities of the Fort Worth Stockyards project.

(d) In addition, for the United States Information Agency, "Educational and Cultural Exchange Programs"; $2,500,000 for re-

imbursement of expenses for international games for the handicapped as authorized by section 207 of Public Law 99-93: Provided, That reimbursement for each organization conducting such games shall not exceed the total amount of necessary and reasonable expenses incurred by such organization in excess of donations and government services furnished.

And the Senate agree to the same.

Amendment numbered 26:

That the House recede from its disagreement to the amendment of the Senate numbered 26, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 110. (a) Notwithstanding any other provision of this joint resolution, no funds made available to the Department of Justice during fiscal year 1986 shall be used to implement, or to adopt as a permanent rule, New Offense Example 363, providing coverage for "insider trading" offenses, of 28 C.F.R. section 2.20.

(b) This section shall become effective upon the date of enactment of this joint resolution and shall expire 180 days after the effective date of this joint resolution: Provided, That this section shall not apply to any case pending before the United States Parole Commission as of the effective date of this joint resolution.

And the Senate agree to the same.

Amendment numbered 29:

That the House recede from its disagreement to the amendment of the Senate numbered 29, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 111. (a) For an additional amount for the Commission on the Bicentennial of the United States Constitution, "Salaries and Expenses", authorized by Public Law 98-101 (97 Stat. 719-723), $12,000,000 to remain available until expended.

(b) Section 5 of Public Law 98-101 (97 Stat. 719) is amended—

(1) in section (b), by striking out "up to five persons,"; and

(2) in paragraph (2) of subsection (e), by striking out "the services" through the end of such paragraph and inserting in lieu thereof "services".

(c) Notwithstanding section 5(a) of Public Law 98-101 (97 Stat. 719), the rate of pay of the staff director of the Commission on the Bicentennial of the United States Constitution shall not exceed 95 per cent of the rate of basic pay for level I of the Executive Schedule pursuant to section 5312 of title 5, United States Code.

And the Senate agree to the same.

Amendment numbered 30:

That the House recede from its disagreement to the amendment of the Senate numbered 30, and agree to the same with amendment, as follows:

In lieu of the matter proposed by said amendment insert:

Sec. 112. None of the funds appropriated to the Legal Services Corporation for fiscal years prior to fiscal year 1986 and carried over into fiscal year 1986, either by the Corporation itself or by any recipient of such funds, may be expended, unless such funds are expended in accordance with all of the restrictions and provisions of Public Law 99-180 of December 13, 1985, except that such funds may be expended for the continued representation of aliens prohibited by said Act where such representation commenced prior to January 1, 1983, or as approved by the Corporation.

And the Senate agree to the same.

Amendment numbered 31:

That the House recede from its disagreement to the amendment of the Senate numbered 31, and agree to the same with an amendment, as follows:

In lieu of the section number named in said amendment insert: *113*; and the Senate agree to the same.

Amendment numbered 47:

That the House recede from its disagreement to the amendment of the Senate numbered 47, and agree to the same with an amendment, as follows:

Amend the matter inserted by said amendment to change the word "Senate" to "Congress" in subsection (a) and subsection (b); and the Senate agree to the same.

Amendment numbered 49:

That the House recede from its disagreement to the amendment of the Senate numbered 49, and agree to the same with an amendment, as follows:

In lieu of the first section number named in said amendment insert: *114*; and the Senate agree to the same.

Amendment numbered 50:

That the House recede from its disagreement to the amendment of the Senate numbered 50, and agree to the same with an amendment, as follows:

In lieu of the section number named in said amendment insert: *115*; and the Senate agree to the same.

Amendment numbered 51:

That the House recede from its disagreement to the amendment of the Senate numbered 51, and agree to the same with an amendment, as follows:

In lieu of the first section number named in said amendment insert: *116*; and the Senate agree to the same.

Amendment numbered 56:

That the House recede from its disagreement to the amendment of the Senate numbered 56, and agree to the same with an amendment, as follows:

In lieu of the section number named in said amendment, insert: *117*; and the Senate agree to the same.

Amendment numbered 57:

That the House recede from its disagreement to the amendment of the Senate numbered 57, and agree to the same with an amendment, as follows:

In lieu of the first section number named in said amendment insert: *118*; and the Senate agree to the same.

Amendment numbered 58:

That the House recede from its disagreement to the amendment of the Senate numbered 58, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 119. Notwithstanding any other provision of this joint resolution, up to $8,000,000 of the funds appropriated for the Veterans Administration under the heading "Medical care" in Public Law 99-160 may be transferred to and merged with the funds provided under the heading "General operating expenses".

SEC. 120. Notwithstanding any other provision of law or this joint resolution, the Administrator of Veterans Affairs shall delegate to hospital directors the authority to administer not less than 15 of the new fiscal year 1985 major construction projects and not less than 10 of the new fiscal year 1986 major construction projects in the manner and under the conditions established for the delegation of the nursing home care construction projects at Ann Arbor, Tampa, and Fresno. The Administration shall submit to the Committees on Appropriations of the House of Representatives and the Senate a list of the proposed delegations not later than 15 days after enactment of this joint resolution. The Administrator shall, within available resources, provide additional funds and personnel ceilings to each hospital director with a delegated project for necessary and adequate engineering, contracting, and other technical support. The delegation of authority for actual construction of said facilities shall be at the discretion of the selected hospital directors.

And the Senate agree to the same.

Amendment numbered 60:

That the House recede from its disagreement to the amendment of the Senate numbered 60, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

SEC. 121. None of the funds made available by this or any other Act for fiscal year 1986 to the Office of the Secretary, Department of the Interior, shall be expended to submit to the United States District Court for Eastern California any settlement with respect to Westlands Water District v. United States, et al., (CV-F-81-245-EDP) until: (1) April 15, 1986, and (2) until the Congress has received from the Secretary and reviewed for a period of 30 days a copy of the proposed settlement agreement which has been approved and signed by the Secretary.

And the Senate agree to the same.

Amendment numbered 62:

That the House recede from its disagreement to the amendment of the Senate numbered 62, and agree to the same with an amendment, as follows:

Delete the matter proposed by the House and stricken by the Senate and delete the matter proposed by the Senate in said amendment; and the Senate agree to the same.

Amendment numbered 64:

That the House recede from its disagreement to the amendment of the Senate numbered 64, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 122. Appropriations and funds available to the United States Fish and Wildlife Service shall be available for, and the Secretary of the Interior shall immediately resume preparation of, all environmental assessments and statements that are necessary prerequisites to the translocation of a portion of the existing population of Southern sea otters (Enhydra lutris nereis) to one or more locations within their historic range in accordance with the recovery plan for such species. In preparing such assessments and statements the Secretary shall consider section 10(j) of the Endangered Species Act (16 U.S.C. 1539(j)) as well as pending legislation that would amend such Act: Provided, That the Secretary of the Army is directed to accomplish emergency bank stabilization, shore protection, and flood control work to protect public-owned property in the vicinity of Jarvis Avenue, Fargo Avenue, North Shore Avenue, Rosemont Avenue, Burger Park, North Sheridan Road, and Lake Michigan in Chicago, Illinois, at full Federal expense using funds heretofore and hereafter appropriated at an estimated cost of $1,000,000.

And the Senate agree to the same.

Amendment numbered 102:

That the House recede from its disagreement to the amendment of the Senate numbered 102, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

Sec. 123. No penalty shall be applied nor any State or agency agreement terminated pursuant to sections 1512, 1515, or 1521 of the Public Health Service Act during fiscal year 1986, nor if appropriations under title XV of that Act are reauthorized by August 15, 1986, shall any agency be required to take action to anticipate termination of financial assistance under that title. Sums appropriated by the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act, 1986, for the award of grants under section 1516 of the Public Health Service Act may be used for grants under that section to State agencies that were authorized to receive grants for fiscal year 1982 under section 935(b) of the Omnibus Budget Reconciliation Act of 1981: Provided, That no sums may be obligated under the authority of this sentence after the date upon which a law is enacted to extend the authority to appropriate amounts to carry out title XV of such Act.

And the Senate agree to the same.

Amendment numbered 103:

That the House recede from its disagreement to the amendment of the Senate numbered 103, and agree to the same with an amendment, as follows:

In lieu of the first section number named in said amendment insert: *124*; and the Senate agree to the same.

Amendment numbered 104:

That the House recede from its disagreement to the amendment of the Senate numbered 104, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

Sec. 125. Notwithstanding any other provision of this joint resolution, the Secretary of Health and Human Services shall extend, for one additional year, approval of the municipal health services demonstration projects located in Baltimore, Cincinnati, Milwaukee, and San Jose authorized under section 402(a) of the Social Security Amendments of 1967.

And the Senate agree to the same.

Amendment numbered 105:

That the House recede from its disagreement to the amendment of the Senate numbered 105, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

Sec. 126. From the amounts awarded to a State from its allotment under section 2003 of the Social Security Act for fiscal year 1986, the State shall use to maintain and improve the availability and quality of training provided under section 401(b)(1), 98 Stat. 2196, such sums as the State may determine to be required.

And the Senate agree to the same.

Amendment numbered 107:

That the House recede from its disagreement to the amendment of the Senate numbered 107, and agree to the same with an amendment, as follows:

In lieu of the section number named in said amendment insert: *127*; and the Senate agree to the same.

Amendment numbered 108:

That the House recede from its disagreement to the amendment of the Senate numbered 108, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

Sec. 128. Notwithstanding any other provisions of this joint resolution or any other provision of law, any student residing in an area designated as a natural disaster area pursuant to a provision of Federal law may apply or reapply for a Pell Grant under subpart 1 of part A of title IV of the Higher Education Act of 1965 and be eligible for and receive a Pell award based on income earned in calendar year 1985 instead of 1984 if individuals whose incomes are taken into account in determining the student's eligibility for and amount of a Pell Grant have been unable to pursue normal income-producing activities in 1985 as a result of the natural disaster.

And the Senate agree to the same.

Amendment numbered 109:

That the House recede from its disagreement to the amendment of the Senate numberd 109, and agree to the same with an amendment, as follows:

In lieu of the matter sticken and inserted by said amendment, insert: *129*; and the Senate agree to the same.

Amendment numbered 110:

That the House recede from its disagreement to the amendment of the Senate numberd 110, and agree to the same with an amendment, as follows:

In lieu of the section number named in said amendment, insert: *130*; and the Senate agree to the same.

Amendment numbered 111:

That the House recede from its disagreement to the amendment of the Senate numbered 111, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

Sec. 131. Notwithstanding any other provision of this joint resolution, there is appropriated $150,000 for fiscal year 1986 for the establishment and operation of the Biomedical Ethics Board and the Biomedical Ethics Advisory Committee pursuant to section 381 of the Public Health Service Act.

And the Senate agree to the same.

Amendment numbered 112:

That the House recede from its disagreement to the amendment of the Senate numbered 112, and agree to the same with an amendment, as follows:

In lieu of the first section number named in said amendment: insert: *132*; and the Senate agree to the same.

Amendment numbered 113:

That the House recede from its disagreement to the amendment of the Senate numbered 113, and agree to the same with an amendment, as follows:

In lieu of the first section number named in said amendment, insert: *133*; and the Senate agree to the same.

Amendment numbered 114:

That the House recede from its disagreement to the amendment of the Senate numbered 114, and agree to the same with an amendment, as follows:

In lieu of the first section number named in said amendment, insert: *134*; and the Senate agree to the same.

Amendment numbered 115:

That the House recede from its disagreement to the amendment of the Senate numbered 115, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert the following:

Sec. 135. Notwithstanding any other provision of this joint resolution or any other Act, the Department of the Navy is authorized, within existing appropriations, to expend such sums as are necessary to effectuate a settlement with the State of Washington of back tax liabilities arising out of Federal construction and procurement projects in Washington State. Such settlement may be negotiated directly between the Department of the Navy and the State of Washington, notwithstanding the fact that the liability of the Department of the Navy may be derivative from persons contracting with the Department.

And the Senate agree to the same.

Amendment numbered 117:

That the House recede from its disagreement to the amendment of the Senate numbered 117, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

Sec. 136. Effective on and after January 1, 1986, section 908(b) of the Supplemental Appropriations Act, 1983 (2 U.S.C. 31-1), is amended by striking out "30 percent" in paragraphs (1) and (2) and inserting in lieu thereof "40 percent".

And the Senate agree to the same.

Amendment numbered 123:

That the House recede from its disagreement to the amendment of the Senate numbered 123, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *138*; and the Senate agree to the same.

Amendment numbered 124:

That the House recede from its disagreement to the amendment of the Senate numbered 124, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *139*; and the Senate agree to the same.

Amendment numbered 125:

That the House recede from its disagreement to the amendment of the Senate numbered 125, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *140*; and the Senate agree to the same.

Amendment numbered 126:

That the House recede from its disagreement to the amendment of the Senate numbered 126, and agree to the same with an amendment, as follows:

In lieu of the first section number named in said amendment insert: *141*; and the Senate agree to the same.

Amendment numbered 127:

That the House recede from its disagreement to the amendment of the Senate numbered 127, and agree to the same with an amendment, as follows:

In lieu of the first section number named in said amendment insert: *142*; and the Senate agree to the same.

Amendment numbered 128:

That the House recede from its disagreement to the amendment of the Senate numbered 128, and agree to the same with an amendment, as follows:

In lieu of the first section number named in said amendment insert: *143*; and the Senate agree to the same.

Amendment numbered 129:

That the House recede from its disagreement to the amendment of the Senate numbered 129, and agree to the same with an amendment, as follows:

In lieu of the first section number named in said amendment insert: *144*; and the Senate agree to the same.

Amendment numbered 130:

That the House recede from its disagreement to the amendment of the Senate numbered 130, and agree to the same with an amendment, as follows:

In lieu of the first section number named in said amendment insert: *145*; and the Senate agree to the same.

Amendment numbered 131:

That the House recede from its disagreement to the amendment of the Senate numberd 131, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

Sec. 146. Notwithstanding any other provision of law, the Administrator of the General Services Administration and the Secretary of Commerce are hereby authorized, for the purposes of supporting the United States' international trade position, to locate the International Trade Administration Boston District Office in the new World Trade Center, Boston, Massachusetts. A report shall be made to the Committees on Appropriations no later than February 1, 1986 detailing the steps taken and agreements reached to achieve this move.

And the Senate agreee to the same.

Amendment numbered 132:

That the House recede from its disagreement to the amendment of the Senate numbered 132, and agree to the same with an amendment, as follows:

In lieu of the first section number named in said amendment insert: *147*; and the Senate agree to the same.

Amendment numbered 133:

That the House recede from its disagreement to the amendment of the Senate numbered 133, and agree to the same with an amendment, as follows:

In lieu of the first section number named in said amendment insert: *148*; and the Senate agree to the same.

Amendment numbered 135:

That the House recede from its disagreement to the amendment of the Senate numbered 135, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *149*; and the Senate agree to the same.

For the entire resolution and Senate amendments:

Jamie L. Whitten
(except for amendment No. 4 only in regard to chemical weapons, strategic defense initiative, and unobligated balances setaside; and amendment No. 5),
Edward P. Boland
(except for amendment No. 4 and amendment No. 117),
William H. Natcher
(except for amendment No. 4 only in regard to chemical weapons),
Neal Smith,
Joseph P. Addabbo,
Sidney R. Yates
(except for amendment No. 4),
David R. Obey
(except for amendment No. 4 and amendment No. 117),
Edward R. Roybal
(except for amendment No. 4),
Tom Bevill,
Bill Chappell, Jr.,
William Lehman,
Julian C. Dixon,
Vic Fazio,
W. G. Hefner,
Silvio O. Conte
(except for amendment No. 4 and amendment No. 117),
Joseph M. McDade,
Lawrence Coughlin,
Ralph Regula,
Virginia Smith,
Joe Skeen,
Managers on the Part of the House.

Mark O. Hatfield
(except for amendment No. 4),
Ted Stevens,
Lowell Weicker, Jr.,
James A. McClure,
Thad Cochran,
Mark Andrews,
John C. Stennis,
Robert C. Byrd,
J. Bennett Johnston,
Quentin N. Burdick,
Frank R. Lautenberg,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the further conference on the disagreeing votes of the two Houses on the amendments of the Senate to the joint resolution (H.J. Res. 465) making further continuing appropriations for the fiscal year 1986, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

AGRICULTURE, RURAL DEVELOPMENT, AND RELATED AGENCIES

Amendment No. 1: Provides that programs, projects, or activities provided for in Agriculture, Rural Development, and Related Agencies Appropriation Act of 1986 (H.R. 3037) shall be available to the extent and in the manner provided for in the conference report and joint explanatory statement of the managers (H. Rept. 99-439), filed in the House of Representatives on December 12, 1985, as if such Act had been enacted into law. The House resolution provided for a rate of operations based on the House passed bill and the Senate amendment provided for a rate of operations based on the Senate passed bill.

The conference agreement provides that each appropriation item in the referenced bill (H.R. 3037) made available under Section 101(a) may be reduced by six-tenths of one percentum, if applied to every appropriation item, rounded to the nearest thousands of dollars, except for the following appropriations: Child Nutrition Programs and Special Milk Program which are true entitlements: *Provided*, That such reductions if made shall be applied proportionally to each program, project, and activity as set forth in the conference agreement (H. Rept. 99-439).

COMMERCE, JUSTICE, STATE AND JUDICIARY

Amendment No. 2: Deletes language proposed by the House and stricken by the Senate which would have funded the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies at the levels in H.R. 2965 as passed the House, and deletes language proposed by the Senate which would have funded these departments and agencies at the levels in the conference report on H.R. 2965. The President signed H.R. 2965 into law on December 13, 1985 (Public Law 99-180). Therefore, language specifying funding levels for these departments and agencies in this joint resolution is unnecessary.

Amendment No. 3: Deletes language proposed by the Senate that the conference report on H.R. 2965 be considered as including Senate Amendment No. 134.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT

Amendment No. 4: Section 101(b) of House Joint Resolution 465 provides appropriations for programs, projects and activities provided for in the Department of Defense Appropriations Act, 1986. The House version of the joint resolution provides appropriations for programs, projects and activities at a rate of operations and to the extent and in the manner provided for in H.R. 3629 as passed the House of Representatives on October 30, 1985. The Senate version of the joint resolution provides appropriations for these programs, projects and activities at the rate and in the manner provided for in H.R. 3629 as reported to the Senate on November 6, 1985, with certain additional provisions and exceptions provided for in the joint resolution.

The conference agreement on House Joint Resolution 465 incorporates some of the provisions of both the House and Senate versions of the Department of Defense Appropriations Act, 1986, and has the effect of enacting the Act into law. The language and allocations set forth in House Report 99-332 and Senate Report 99-176 should be complied with unless specifically addressed in this joint resolution and statement of the managers to the contrary. The Department of Defense Appropriations Act, 1986, put in place by this joint resolution incorporates the following agreements of the managers.

IMPACT OF EMERGENCY DEFICIT CONTROL ACT

The conferees agree that none of the funds appropriated by this Act shall be applied in a manner that would offset the impact of sequestration under provisions of the Balanced Budget and Emergency Deficit Control Act of 1985. This instruction, however, shall not prohibit the reprogramming of funds for the purposes of preventing breaks, stoppages or delays in funded programs, projects, and activities.

TITLE I—MILITARY PERSONNEL

The conferees agree to the following amounts for the Military Personnel accounts:

[In thousands of dollars]

	Budget	House	Senate	Conference
SUMMARY				
MILITARY PERSONNEL, ARMY	22,712,000	21,761,423	21,109,765	21,078,169
MILITARY PERSONNEL, NAVY	17,221,400	16,472,073	15,838,363	15,917,144
MILITARY PERSONNEL, MARINE CORPS	5,217,400	5,041,377	4,835,456	4,870,016
MILITARY PERSONNEL, AIR FORCE	19,187,900	18,341,185	17,688,587	17,744,770
RESERVE PERSONNEL, ARMY	[illegible]	2,159,254	2,203,014	2,178,564
RESERVE PERSONNEL, NAVY	[illegible]	1,297,123	1,264,334	1,267,734
RESERVE PERSONNEL, MARINE CORPS	[illegible]	278,842	277,200	272,250
RESERVE PERSONNEL, AIR FORCE	[illegible]	597,153	[illegible]	[illegible]
NATIONAL GUARD PERSONNEL, ARMY	[illegible]	3,238,217	[illegible]	[illegible]
NATIONAL GUARD PERSONNEL, AIR FORCE	[illegible]	[illegible]	876,516	926,716
TOTAL, MILITARY PERSONNEL	73,425,100	70,139,851	67,783,663	67,906,361

The following items represent language as agreed to by the conferees:

MILITARY PAY RAISE

The conferees agree to a reduction of $1,887,500,000 from requested amounts associated with the October 1, 1985, military pay raise. Funding for this requirement is discussed further under the heading Availability of Unobligated Balances later in the statement of the managers.

MILITARY/CIVILIAN WORKYEAR REDUCTIONS

The Senate reduced military personnel funding by $330,191,000 and civilian personnel funding by $477,500,000 as a result of its recommendation to hold workyears at fiscal year 1985 levels. The Senate recommendations are based on its contention that the Department is overstaffed in headquarters and administrative personnel. The conferees agree that reductions are available in these areas, but believe that levels recommended by the Senate would not be achievable in one fiscal year. The conferees agree to a reduction of $217,100,000 in the military personnel accounts. The conferees direct that any decreases in end strength below authorization as a result of this funding reduction must come from headquarters and administrative staff functions. In addition, the conferees recommended a reduction of $477,500,000 in Operation and Maintenance funding for improved productivity. The conferees encourage the Secretary of Defense to apply this adjustment by using sound management techniques that encourage productivity and quality improvement. The conferees agree that this reduction should be, but is not required to be, applied against civilian personnel workyears.

PERMANENT CHANGE OF STATION TRAVEL

The conferees agree to total funding of $2,744,293,000 for Permanent Change of Station (PCS) travel for fiscal year 1986. In addition the conferees have agreed to a general provision (Section 8085) which places a ceiling of a like amount on funds to be obligated by the Department for PCS Travel in fiscal year 1986. The funds provided for PCS Travel are sufficient to initiate all new PCS programs and allowances contained in the appropriation request. The conferees agree that the Department may initiate the PCS reimbursements which a newly authorized for fiscal year 1986, but only from within the funding ceiling allowed in this Bill. If additional funds are required to initiate these new programs, they should only be derived through a reduction in PCS moves or costs. The following chart identifies the funds requested and appropriated for specific new PCS initiatives in fiscal year 1986.

PCS REIMBURSEMENTS

[In thousands of dollars]

	Budget	Conference
Household Goods Weights	242,300	[illegible]
New PCS Reimbursements	[illegible]	0
Temporary Lodging Entitlement	132,472	132,472
Junior Enlisted Dependent Travel	21,051	17,556
Travel to Designated Place	15,325	12,781
Dependent Under 2 Mileage	[illegible]	8,423
All Other PCS Items	2,446,461	2,446,461.
Total PCS	2,867,709	2,744,293

Insofar as the increase to Household Goods Weight Allowances is concerned, the conferees agree that the Department may only increase weight allowances as follows: junior enlisted personnel with dependents to 5,000 pounds and junior enlisted with no dependents may increase up to 1,500 pounds in all situations. No other increases may be funded until the Department and GAO completed their respective reviews of the PCS program and the Congress has received and approved a funding request.

ARMY ENLISTMENT BONUS/NEW ARMY COLLEGE FUND DUPLICATION

The Senate included a general provision prohibiting payment of an Army College Fund kicker to any service member who also receives an enlistment bonus, and expressed concern that duplication of these two programs is excessive to the needs of the Army. This provision would apply only to these service members who contract to enlist on or after the date of enactment of this Act. The House did not address this issue. The Senate also reduced the Army's enlistment bonus request by $8,000,000, based on a lower accession mission due to increased retention. The conferees accept the Senate general provision but reduce the Army's enlistment bonus request by only $2,000,000, as proposed by the House, to allow additional funding flexibility which may be required as a result to this modification.

The conferees realize that the impact of such a change in the Army's overall enlistment benefits package cannot be quantified without data based on actual Army experience. The conferees expect to be kept fully informed regarding the Army's accession programs, and will continue to examine this issue during its consideration of the fiscal year 1987 budget request.

TUITION ASSISTANCE

The House included report language directing the Department of Defense to provide guidance to all Services to implement a uniform policy which would allow students under the DOD tuition assistance program to utilize any educational institutions accredited by the Department of Education and the Council on Postsecondary Accreditation. The Senate did not address this issue. The conferees agree with the House position.

GUARD/RESERVE FORCES

The conferees agree to a reduction of $195,530,000 from requested amounts resulting from authorization reductions in full-time reserve end strengths. The conferees also agree that the Department should make every effort within available resources to increase drilling reserve average strengths above the minimums required in the 1986 Defense Authorization. Additionally, the Civilian Technician strengths addressed below are the basis for the Technician floor as established in Section 8047.

The following table summarizes strength levels as agreed to by the conferees.

FISCAL YEAR 1986 GUARD/RESERVE STRENGTHS

	Budget	Authorization	Conference
Selected Reserve (average strength)			
Army Reserve	291,921	290,639	290,639
Navy Reserve	134,400	134,212	134,212
Marine Corps Reserve	41,900	41,900	41,900
Air Force Reserve	75,600	75,600	75,600
Army National Guard	444,000	440,025	440,025
Air National Guard	108,700	108,700	108,700
Total	1,096,521	1,091,076	1,091,076
Full-Time Reserve (end strength)			
Army Reserve	14,714	12,157	12,157
Navy Reserve	19,510	19,010	19,010
Marine Corps Reserve	1,475	1,475	1,475
Air Force Reserve	635	635	635
Army National Guard	30,679	23,731	23,731
Air National Guard	7,269	7,269	7,269
Total	74,282	64,277	64,277
Military (Civilian) Technicians.			
Army Reserve	7,623	7,623	7,623
Air Force Reserve	9,042	9,042	9,042
Army National Guard	24,129	26,629	26,629
Air National Guard	22,792	22,792	22,792
Total	63,586	66,086	66,086

MANAGEMENT OF RESERVE FORCES FULL-TIME SUPPORT PROGRAMS

The House included report language directing the Department of Defense not to allow further conversions of civilian technicians to AGR status until a report is submitted to the Committee outlining the Department's efforts to resolve the problems associated with the full-time support program and the House Appropriations Committee responds to such report. The Senate did not address this issue. The conferees agree to the House language.

MILITARY PERSONNEL, ARMY

The conferees agree to provide $21,078,169,000 instead of $21,761,423,000 as recommended by the House and $21,109,765,000 as recommended by the Senate. Details of the adjustments are as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
VHA WINDFALL		−8,000	−12,100	−10,000
MILITARY PAY RAISE	601,157	541,041		
RENT PLUS TO VHA IN ALASKA/HAWAII SAVINGS		−2,500		
DEPENDENT UNDER 2 MILEAGE	4,400		3,667	3,667
HOUSEHOLD GOOD WEIGHTS	95,000	43,700	79,207	48,600
RETIRED PAY ACCRUAL	5,650,951	4,833,690	4,748,551	4,748,551
OVERSEAS HOUSING ALLOWANCES	98,714	97,716	98,714	97,714
AVERAGE END STRENGTHS—GROWTH	44,000	22,000	44,000	22,000
SELECTIVE REENLISTMENT BONUS	158,703	149,203	135,504	140,504
ENLISTMENT BONUS	115,400	113,400	107,400	113,400
OFFICER AVERAGE PAY RATES	4,736,478	4,721,478	4,721,478	4,721,478
PCS REIMBURSEMENTS		42,500		
SUBSISTENCE IN-KIND	406,538	406,538	394,138	394,138
TEMPORARY LODGING EXPENSE	53,680	53,680	44,769	53,680
JUNIOR ENLISTED DEPENDENT TRAVEL	9,230	9,230	7,697	7,697
TRAVEL TO A DESIGNATED PLACE	6,075	6,075	5,066	5,066
ALL OTHER ITEMS	10,731,674	10,731,674	10,731,674	10,731,674
TOTAL, MILITARY PERSONNEL, ARMY	22,712,000	21,761,423	21,109,765	21,078,169

MILITARY PERSONNEL, NAVY

The conferees agree to provide $15,917,144,000 instead of $16,472,073,000 as recommended by the House and $15,838,363,000 as recommended by the Senate. Details of the adjustments are as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
VHA WINDFALL		−10,100	−19,650	−15,000
MILITARY PAY RAISE	429,483	386,535		
RENT PLUS TO VHA IN ALASKA/HAWAII SAVINGS		−2,300		
DEPENT UNDER 2 MILEAGE	2,100		1,754	1,754
HOUSEHOLD GOOD WEIGHTS	43,200	21,700	36,029	24,100
RETIRED PAY ACCRUAL	4,160,052	3,551,923	3,498,852	3,498,852
FUNDED TRAVEL—SHIP O/H		−1,900	−1,900	−1,900
MILITARY PERSONNEL ADJUSTMENTS	9,150,339	9,150,339	8,962,992	9,033,139
AUTHORIZED END STRENGTH GROWTH	162,400	115,400	162,400	162,400
SELECTIVE REENLISTMENT BONUS	269,554	268,804	228,740	238,740
AVERAGE STRENGTH GROWTH	37,000	22,000	37,000	37,000
TEMAC FUNDING	23,000		23,000	13,000
PCS REIMBURSEMENTS		25,400		
UNEMPLOYMENT COMPENSATION	31,980	31,980	28,980	28,980
SUBSISTENCE-IN-KIND	351,291	351,291	336,091	336,091
TEMPORY LODGING EXPENSE	35,621	35,621	29,708	35,621
JUNIOR ENLISTED DEPENDENT TRAVEL	3,300	3,300	2,752	2,752
TRAVEL TO A DESIGNATED PLACE	2,800	2,800	2,335	2,335
PCS MOVES—MANAGEMENT			10,000	
ALL OTHER ITEMS	2,519,280	2,519,280	2,519,280	2,519,280
TOTAL, MILITARY PERSONNEL, NAVY	17,221,400	16,472,073	15,838,363	15,917,144

MILITARY PERSONNEL, MARINE CORPS

The conferees agree to provide $4,870,016,000 instead of $5,041,377,000 as recommended by the House and $4,835,456,000 as recommended by the Senate. Details of the adjustments are as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
VHA WINDFALL		−3,000	−4,800	−4,000
MILITARY PAY RAISE	136,491	122,842		
DEPENDENT UNDER 2 MILEAGE	100		80	[illegible]
HOUSEHOLD GOOD WEIGHTS	15,600	7,700	13,009	[illegible]
RETIRED PAY ACCRUAL	1,297,896	1,106,022	1,090,896	1,090,896
FY 1985 RETENTION CARRYOVER		33,000		33,000
SELECTIVE REENLISTMENT BONUS	104,253	101,753	94,472	94,472
MILITARY PERSONNEL ADJUSTMENTS	2,828,524	2,828,524	2,814,811	2,818,624
AUTHORIZED END STRENGTH GROWTH	10,700	4,700	10,700	10,700
PCS REIMBURSEMENTS		16,000		
UNEMPLOYMENT COMPENSATION	17,614	17,614	14,614	14,614
SUBSISTENCE-IN-KIND	100,586	100,586	97,886	97,886
TEMPORARY LODGING EXPENSE	8,171	8,171	6,815	8,171
JUNIOR ENLISTED DEPENDENT TRAVEL	2,221	2,221	1,853	1,853
TRAVEL TO A DESIGNATED PLACE	750	750	626	626
ALL OTHER ITEMS	694,494	694,494	694,494	694,494
TOTAL, MILITARY PERSONNEL, MARINE CORPS	5,217,400	5,041,377	4,835,456	4,870,016

MILITARY PERSONNEL, AIR FORCE

The conferees agree to provide $17,744,770,000 instead of $18,341,185,000 as recommended by the House and $17,688,587,000 as recommended by the Senate. Details of the adjustments are as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
VHA WINDFALL		−5,900	−13,350	−9,500
MILITARY PAY RAISE	510,061	459,055		
RENT PLUS TO VHA IN ALASKA HAWAII SAVINGS		−2,500		
DEPENDENT UNDER 2 MILEAGE	3,500		2,922	2,922
HOUSEHOLD GOOD WEIGHTS	[illegible]	40,800	73,808	45,300
RETIRED PAY ACCRUAL	4,816,907	4,079,198	4,051,307	4,051,307
MILITARY PERSONNEL ADJUSTMENTS	10,446,035	10,446,035	10,316,904	10,356,035
AUTHORIZED PERSONNEL END STRENGTH GROWTH	100,500	49 500	100,500	100,500
SELECTIVE REENLISTMENT BONUS	100,283	97,783	91,284	94,284
RENTENTION LONGEVITY GROWTH	21,700	10,700	21,700	21,700
PCS REIMBURSEMENTS		66,100		
OFFICER MANYEARS			−27,900	
UNEMPLOYMENT COMPENSATION	39,021	39,021	27,021	27,021
SUBSISTENCE IN-KIND	141,809	141,809	137,609	137,609
TEMPORARY LODGING EXPENSE	35,000	35,000	29,190	35,000
JUNIOR ENLISTED DEPENDENT TRAVEL	6,300	6,300	5,254	5,254
TRAVEL TO A DESIGNATED PLACE	5,700	5,700	4,754	4,754
PCS MOVES MANAGEMENT			−5,000	
ALL OTHER ITEMS	2,872,584	2,872,584	2,872,584	2,872,584
TOTAL MILITARY PERSONNEL AIR FORCE	19,187,900	18,341,185	17,688,587	17,744,770

RESERVE PERSONNEL, ARMY

The conferees agree to provide $2,178,564,000 instead of $2,159,254,000 as recommended by the House and $2,203,014,000 as recommended by the Senate. Details of the adjustments are as follows:

[In thousand of dollars]

	Budget	House	Senate	Conference
SURPLUS FUNDING	50,000	30,000	[illegible]	30,000
MILITARY PAY RAISE	54,686	49,217		
RETIRED PAY ACCRUAL	603 447	443,820	513,247	513,247
AGR END STRENGTH GROWTH	80,661	29,261	35,061	29,261
BRANCH OFFICERS BASIC COURSE	32,451	27,451	32,451	27,451
RESERVE INCENTIVES		6,350		6 350
SUBSISTENCE IN-KIND			−900	−900
ALL OTHER ITEMS	1,573,155	1,573,155	1,573,155	1,573,155
TOTAL, RESERVE PERSONNEL, ARMY	2,394,400	2,159,254	2,203,014	2,178,564

RESERVE PERSONNEL, NAVY

The conferees agree to provide $1,267,734,000 instead of $1,297,123,000 as recommended by the House and $1,264,334,000 as recommended by the Senate. Details of the adjustments are as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
TAR END STRENGTH GROWTH	58,172	53,672	51,372	53,672
MILITARY PAY RAISE	29,366	26,429		
RETIRED PAY ACCRUAL	334,628	284,488	281,528	281,528
RESERVE INCENTIVES		1,100		1,100
ALL OTHER ITEMS	931,434	931,434	931 434	931,434
TOTAL, RESERVE PERSONNEL, NAVY	1,353,600	1,297,123	1,264,334	1,267,734

RESERVE PERSONNEL, MARINE CORPS

The conferees agree to provide $272,250,000 instead of $278,842,000 as recommended by the House and $272,200,000 as recommended by the Senate. Details of the adjustments are as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
MILITARY PAY RAISE	6,400	5,760		
RETIRED PAY ACCRUAL	71,450	60,882	60,050	60,060
RESERVE INCENTIVES		[illegible]		[illegible]
ALL OTHER ITEMS	212,150	212,150	212,150	212,150
TOTAL, RESERVE PERSONNEL, MARINE CORPS	[illegible]	278,842	272,200	272,250

RESERVE PERSONNEL, AIR FORCE

The conferees agree to provide $584,430,000 instead of $597,153,000 as recommended by the House and $583,330,000 as recommended by the Senate. Details of the adjustments are as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
MILITARY PAY RAISE	14,370	12,933		
RETIRED PAY ACCRUAL	155,531	130,521	130,731	130,73
RESERVE INCENTIVES		1,100		1,10
ALL OTHER ITEMS	452,599	452,599	452,599	452,59
TOTAL, RESERVE PERSONNEL AIR FORCE	622,500	597,153	583,330	584,43

NATIONAL GUARD PERSONNEL, ARMY

The Conferees agree to provide $3,066,568,000 instead of $3,238,217,000 as recommended by the House and $3,062,098,000 as recommended by the Senate. Details of the adjustments are as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
MILITARY PAY RAISE	79,802	71,822		
RETIRED PAY ACCRUAL	898,792	835,558	757,192	757,192
AGR END STRENGTH	203,942	64,312	60,042	64,312
DRILLING RESERVE AVG STRENGTH	1,698,925	1,716,986	1,698,925	1,698,925
RESERVE INCENTIVES		200		[illegible]
SUBSISTENCE-IN KIND			−3,400	−3,400
ALL OTHER ITEMS	549,339	549,339	549,339	549,339
TOTAL, NATIONAL GUARD PERSONNEL, ARMY	3,430,800	3,238,217	3,062,098	3,066,568

NATIONAL GUARD PERSONNEL, AIR FORCE

The Conferees agree to provide $926,516,000 instead of $953,204,000 as recommended by the House and $926,516,000 as recommended by the Senate. Details of the adjustments are as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
MILITARY PAY RAISE	25,684	23,116		
RETIRED PAY ACCRUAL	267,136	227,608	224,436	224,436
RESERVE INCENTIVES		200		[illegible]
SUBSISTENCE-IN-KIND			−200	−200
ALL OTHER ITEMS	702,280	702,280	702,280	702,280
TOTAL, NATIONAL GUARD PERSONNEL, AIR FORCE	995,100	953,204	926,516	926,716

TITLE II—OPERATION AND MAINTENANCE

The conferees agree to the following amounts for the Operation and Maintenance accounts:

[In thousands of dollars]

	Budget	House	Senate	Conference
OPERATION AND MAINTENANCE—SUMMARY				
ARMY	20,190,630	18,659,638	19,043,039	18,975,507
NAVY	25,797,700	23,862,002	24,528,310	24,477,071
MARINE CORPS	1,667,400	1,615,128	1,609,000	1,612,050
AIR FORCE	20,924,400	19,507,672	19,468,901	19,536,813
DEFENSE AGENCIES	7,568,900	7,340,076	7,479,956	7,432,569
ARMY RESERVE	779,600	774,980	793,100	780,100
NAVY RESERVE	954,500	896,415	[illegible]	[illegible]
MARINE CORPS RESERVE	61,600	57,120	57,200	57,200
AIR FORCE RESERVE	907,700	[illegible]	910,200	902,700
ARMY NATIONAL GUARD	1,605,200	1,646,305	1,656,500	1,652,800
AIR NATIONAL GUARD	1,830,100	1,803,862	1,806,200	1,806,200
NATIONAL BRD FOR THE PROMOTION OF RIFLE PRACTICE, ARMY	920	[illegible]	920	920
CLAIMS, DEFENSE	158,300	148,300	143,300	143,300
COURT OF MILITARY APPEALS	3,200	3,200	3,200	3,200
PAN AMERICAN GAMES		10,000	10,000	10,000
ENVIRONMENT RESTORATION, DEFENSE			429,100	379,100
(BY TRANSFER)		(329,100)		
GRAND TOTAL, OPERATION AND MAINTENANCE	82,450,150	77,222,362	78,835,626	78,664,480

The following items represent agreements of the conferees:

AUTHORIZATION COMPLIANCE

The amounts recommended by the conferees for each Operation and Maintenance appropriation are, for the most part, at or below the authorized level for those accounts. The exceptions to this compliance with authorization are in the Guard and Reserve accounts and result from the confer-

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ees' attempts to improve the capabilities of the reserve components. The conferees were able to fund some high priority readiness items which were not in the Authorization package by offsetting these readiness initiatives with reductions against lower priority or over-budgeted programs. The conferees agree not to apply all of the Authorization non-programmatic reductions in the Operation and Maintenance accounts, because this would have resulted in a "double-dip" against many of the specific program reductions agreed to by the conferees. The Department is directed, where appropriate, to consider the unspecified Authorization cuts when applying the conference reductions.

DRUG INTERDICTION

PATROL AIRCRAFT FOR CUSTOMS SERVICE

The conferees agree to provide $6,000,000 for modification of two patrol (P-3A) aircraft to be transferred to the Customs Service instead of $7,427,000 as provided by the Senate. Any additional funds required to complete modification of these aircraft should be provided within available resources.

DEPARTMENT OF DEFENSE DRUG INTERDICTION MISSIONS

The conferees provide nearly $300,000,000 to enhance drug interdicton efforts of the Department of Defense. The conferees strongly believe that the Department can and should play a major role in helping to minimize the importation of illegal drugs.

In addition to specific enhancements of drug interdiction contained in this conference report, the conferees provide an appropriation of $35,000,000 to Aircraft Procurement, Air Force, to initiate the formation of a drug interdiction element or elements within the Air Force. This level of funding will allow the Air Force to commence the configuration of one AC-130H-30 pressurized drug surveillance aircraft and to establish an appropriate command and control element for the drug interdiction mission within the Air Force.

The conferees believe that the Air Force special operations forces would be the appropriate choice to carry out this new mission. The conferees note that the provisions of the Posse Comitatus Act require that support to civilian law enforcement be provided with no degradation to service combat readiness. Although the Department has considered other approaches, the conferees strongly believe that the best balance of providing peacetime drug interdiction and building wartime combat capability is to purchase and configure the initial AC-130H-30 special operations aircraft for both missions. The conferees believe that this approach will be the most cost-effective in meeting both the drug interdiction and Posse Comitatus objectives of the Department.

To this end, the conferees believe that this new drug interdiction initiative is compatible with and addresses the need for the replacement of aging AC-130 gunships. The configuration of replacement AC-130 pressurized gunships can provide an ideal surveillance and detection aircraft with sensors, communications, and other equipment that is also compatible with the drug interdiction assistance mission. The conferees believe it is important for the Air Force to move promptly to establish this new drug interdiction program. Accordingly, the conferees direct the Air Force to take the necessary steps to ensure delivery of the first AC-130H-30 pressurized drug interdiction aircraft no later than January 31, 1987. The configuration and schedule for this initial aircraft is predicated on the use of a currently available C-130h-30 stretched variant, in order to permit a pressurized drug interdiction/gunship aircraft. Older gunship configurations are unpressurized and thereby unsuitable for the drug interdiction role and are severely limited in the gunship role. The first aircraft shall be a fully operational drug interdiction aircraft with maximum subsystems integration possible to permit contingency installation of remaining gunship-peculiar equipment in wartime or other national emergency.

The conferees recognize the contracted nature of this schedule and therefore direct the Air Force to immediately proceed with the contracting necessary to assure the needed priorities for the radar and subsystems, CFE airframes and equipment, and other such means of expediting delivery of the aircraft. The conferees strongly support the national consensus for a swift response to the need for DOD assistance against the drug threat. In this regard, the Department should consider budgeting for an additional nine pressurized drug surveillance aircraft in fiscal years 1987 and 1988, in order to allow the Air Force to perform its priority role in assisting the overall drug interdiction effort.

CUSTOMS SERVICE DRUG INTERDICTION PROGRAM

The conferees agree with the Senate position to allocate $7,900,000 in contract savings to purchase two additional Blackhawk helicopters to replace two older Blackhawk helicopters which the Senate directed the Army to transfer to the Customs Service Drug Interdiction Program.

STOCK FUNDS REFUNDS

The House refunded a total of $2,425,000,000 from Defense Department stock funds to the Operation and Maintenance accounts as a result of reduced fuel prices and excess cash balances. In addition, the House directed the Stock Funds to reduce cash reserves from 11 to 5 days. The Senate refunded a total of $1,774,900,000 for the same reasons; however, the Senate reductions were based on different assumptions. Additionally, the Senate directed the Departments to study the proposal to reduce cash reserves from 11 to 5 days.

The conferees agree to a total refund of $2,043,600,000 to the Operation and Maintenance accounts. This refund assumes that the Department has overestimated fuel prices by $435,500,000. The conferees also agree that the stock funds will experience cash excesses in fiscal year 1986 in an amount equal to the excess cash earned in fiscal year 1985 (above the amounts assumed when the fiscal year 1986 budget was prepared), and have reduced stock fund cash balances by $1,608,100. Included in this reduction is the Army Aviation spares refund addressed in the Senate report. The conferees did not agree to the House position to refund from the stock funds refunds directly to the Operation and Maintenance account for Navy real property maintenance, Marine Corps Reserve material readiness items, or Air Force depot maintenance. Finally, the conferees agree that the Department should study the House proposal to reduce stock fund cash reserves from 11 to 5 days and submit a report to the Committees by February 15, 1986.

INDUSTRIAL FUNDS

The House recommended refunds from Defense Department Industrial Funds to the Operation and Maintenance accounts of $940,000,000 based on net operating results in fiscal year 1985 in excess of estimates made by the Department in the fiscal year 1986 request. The Senate recommended reductions of $200,000,000 for the same reason, but based on the Department's latest estimates on net operating results. The conferees agree that the appropriate refund amount to the Operation and Maintenance accounts is $400,000,000. This refund is based on the Defense estimates for excess fiscal year 1985 net operating results of $200,000,000 but assumes that fiscal year 1986 rates are overpriced by a like amount and that the Industrial Funds will experience another $200,000,000 excess in net operating results in fiscal year 1986. The conferees do not agree to the House recommendation to refund $71,000,000 from the Industrial Funds directly to Navy Operation and Maintenance for Depot Maintenance.

REAL PROPERTY MAINTENANCE

The conferees agree to increase funding for Real Property Maintenance by $114,500,000 from the budget request instead of $175,500,000 as recommended by the Senate. The conferees further agree with the Senate language requiring all funding identified in the justification material for recurring maintenance projects be used for only that purpose. Further, the additional funding provided in excess of the budget request shall be used for recurring maintenance except that $5,928,000 shall be available for projects associated with Hurricane Elena damage as identified in the Senate report.

RECRUITING AND ADVERTISING

The conferees agree to a total reduction of $35,550,000 to recruiting and advertising resources. This is $13,450,000 below the Senate and $13,750,000 above the House amounts. The conferees question the Army's minimum desired goal of 59% of high quality non-prior service accessions, considering the minimum requirement of the Marine Corps is 35% and the two services are similar in their requirements for technical expertise. As such, the conferees direct the Office of the Secretary of Defense to examine whether the Army's minimum quality requirement should be higher than the Marine Corps and report its results to the Committees on Appropriations by May 1, 1986.

ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS) TESTING AND RESEARCH

The House provided $15,000,000 for the Army to begin testing recruits for Acquired Immune Deficiency Syndrome (AIDS). The Senate provided $67,600,000 for all the Services to begin testing all military for AIDS. The Senate also included $52,600,000 in Army Research and Development funds for research on AIDS. The conferees agree to provide a total of $55,100,000 for testing for AIDS, broken out as follow:

Army	$42,600,000
Navy	5,000,000
Air Force	5,000,000
Army National Guard	2,500,000
Total	55,100,000

The conferees agree that the Department of Defense must submit to the Committees on Appropriation a comprehensive AIDS Testing policy by February 1, 1986.

The conferees agree to provide $40,000,000 to the Army for research on AIDS. The conferees insist that the Department of Defense work, to the maximum extent possible, with the National Institutes of Health in developing AIDS testing and research programs.

PROFESSIONAL DEVELOPMENT EDUCATION ISSUES

The Senate reduced $13,923,000 from the various Services' professional education programs based on a Defense Inspector General report which cited serious problems with how education requirements are determined and how officers educated under this program are not effectively utilized. The House did not address this issue. The conferees agree to a reduction of $11,423,000, but direct that, to the extent possible, the cuts not be applied against in-house professional education programs, such as the Naval Post Graduate School.

FLAT RATE PER DIEM

The conferees agree to a reduction of $6,400,000 instead of the $11,800,000 as provided by the Senate. The conferees further agree to the Senate general provision (Sec. 8083) on flat rate per diem with the understanding this provision is intended to be in effect throughout the period covered by this Act.

PUBLIC AFFAIRS AND LEGISLATIVE LIAISON LIMITATIONS

The conferees agree with the Senate that public affairs and legislative liaison activities should not be held to fiscal year 1985 levels. However, the following public affairs and legislative liaison programs are reduced due to excessive program growth:

	Public Affairs	Legislative Liaison
Army	[illegible]	−$50,000
Defense Agencies	−$50,000	−50,000
Total	−50,000	−100,000

MEDICAL READINESS

The conferees agree to increase funding for medical readiness by $125,900,000 instead of $235,500,000 as proposed by the Senate. The conferees recognize the critical need for improving wartime medical readiness. Funds will provide for requirements for two Army MASH units, one combat support hospital, two medical evacuation units, two Navy fleet hospitals, and one Air Force 500 bed hospital. In addition, funding provides $20,000,000 to further reduce the backlog of Army maintenance and repair projects at medical facilities in Central Europe below the levels programmed in the fiscal year 1986 budget request.

The conferees direct that this funding is contingent upon the Assistant Secretary of Defense for Health Affairs submitting a plan and funding profile to the Committees on Appropriations by March 15, 1986, which describes the unfinanced requirement for wartime medical readiness and how the requirement will be satisfied.

The conferees further agree with the House report language on medical readiness in the European Command (EUCOM)

PREFINANCING NATO REPAIR PROJECTS

The conferees agree to permit the Defense Department to continue to prefinance NATO repair projects in fiscal year 1986. The conferees are concerned that by prefinancing repair projects, the United States is not reimbursed for projects that are eligible for and should be funded with NATO Infrastructure funds. The conferees direct the U.S. European Command (EUCOM) to submit a report to the Committees on Appropriations by May 1, 1986, to include for fiscal years 1983 through 1985 a list of repair projects and associated costs: (1) for which the Department has applied for NATO Infrastructure funding; (2) that were determined eligible for NATO Infrastructure funding; (3) that were prefinanced with operating funds; and (4) that were recouped by NATO Infrastructure funds. The conferees also direct EUCOM to report on the status of the fiscal year 1986 repair project and associated costs by May 1, 1986.

COMPETITIVE RATE PROGRAM

The conferees agree with the report language of the Senate regarding any future change in the existing rate system for Alaska and Hawaii.

PRICE OF TOBACCO PRODUCTS

The conferees agree to delete the Senate provision requiring the Department to increase the price of tobacco products and also have restored associated funding. The conferees are concerned about the health issues surrounding tobacco products and the military, and direct the Assistant Secretary of Defense for Health Affairs to submit a report on his recommendation concerning this vital issue by March 1, 1986. This report should include a study to determine the effects of cigarette prices on military consumption patterns, the health of military personnel, and the economic cost to the military and society. Additionally, the conferees direct the Defense Department to report on the economic impact of increasing the price of tobacco products in commissaries and exchanges, and of including state and local taxes in the price of tobacco products. Further, the Department should inform the Committees of the status of an internal Defense Department proposal to discontinue the sale of cigarettes in commissaries.

CONTRACTING OUT LIBRARIES

The House requested that the Department of Defense ensure that if contractors are used to provide technical library services, their practices take into account national security concerns. The Senate did not address this issue. The conferees accept the House position, with clarifying language as follows:

The conferees are concerned that the Department of Defense may be contracting with corporations, partnerships, associations or individuals who are not employees of the Department of Defense, for the management of technical libraries, including proprietary data and information that is classified or of a sensitive nature. The conferees request that if the Department considers the use of outside contractors in providing technical library services, it must ensure their practices take into account national security concerns.

REPORT ON COST SAVINGS UNDER CONTRACTING OUT PROCEDURES

The House requested the Secretary of Defense to submit a report on cost savings resulting from efforts contracted to the private sector since January 1, 1981. The Senate considered this reporting requirement excessive. The conferees agree the requirement for a report on the experience of the Department of Defense since October 1, 1983 on the conversion to contractor operation, commercial or industrial type functions which had previously been performed by Department of Defense personnel, is not excessive and is requested by April 15, 1985.

CONTRACTED ADVISORY AND ASSISTANCE SERVICES

The House directed the Department of Defense to revise the definitions of contracted advisory and assistance services and submit the fiscal year 1987 budget exhibits based on the new definitions. The Senate did not address this issue. The conferees agree with the House language and further agree that this requirement does not affect the execution of the fiscal year 1986 program. The language refers to the preparation and execution of fiscal year 1987 and future budgets.

NONREIMBURSABLE DETAILS OF DOD PERSONNEL

The conferees agree with the House position on limiting nonreimbursable details of Department of Defense personnel. While the conferees agree that, in general, nonreimbursable details are improper, there are limited circumstances in which they may still be allowed. If the detail is in fulfillment of a specific personnel development or career enhancement program, or to a headquarters or appropriate Office of the Secretary of Defense level, it would not be subjected to this limitation.

SPECIAL OPERATIONS FORCES

The conferees agree with the language included in the House report concerning Special Operations Forces, with the exceptions that (1) there to no personnel ceiling placed on the 23rd Air Force, (2) the reports requested by the House should be submitted to the Congress no later than March 1, 1986, and (3) the report addressing the feasibility of creating a single command structure for Special Operations should also address options other than creation of a subordinate command of JCS.

CIVILIAN WORKYEAR REDUCTIONS

Reductions made in reference to civilian workyear reductions are discussed in the Military Personnel section of this report.

OPERATION AND MAINTENANCE, ARMY

The conferees agree to provide $18,975,507,000 instead of $18,659,636,000 as recommended by the House and $19,043,039,000 as recommended by the Senate. Details of the adjustments are as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
OPERATION AND MAINTENANCE, ARMY				
STOCK FUND FUEL (REFUND)	441,237	400,237	412,537	406,387
STOCK FUND PRICE REESTIMATE	2,695,941	2,210,541	2,318,241	2,318,241
FOREIGN CURRENCY EXCHANGE RATE		−462,400	−418,400	−418,400
INDUSTRIAL FUND—REFUND	1,941,256	1,761,256	1,881,256	1,821,256

[In thousands of dollars]

	Budget	House	Senate	Conference
INFLATION REESTIMATE	322 599	311.599	311.599	311.599
DEPOT MAINTENANCE	[illegible]	1.699 000	1,699.000	1.699 000
EXPENSE/INVESTMENT CRITERIA CHANGE	164.100	31.000	31.000	31.000
REAL PROPERTY MAINTENANCE	1.607 400	1.632 400	1.657.400	1.632.400
CIVILIAN PAY REDUCTION RESTORATION	– 262.400	– 131.200		
UNEMPLOYMENT COMPENSATION (NAFE)	13.459	12.163	13.459	12.163
CLASSIFIED PROGRAMS		– 2,735	– 3,240	– 4,240
BASE OPERATING SUPPORT		– 30,000	– 30.000	– 30,000
FORCE MODERNIZATION	564.700	534.200	433.100	483.100
COMMAND AND CONTROL	917.600	922.600	922 600	922 600
COMMUNICATIONS		– 10,000	– 10.000	– 10.000
ADP MANAGEMENT		– 15.000		– 2,300
IMPROPER USE OF O&M FUNDS		– 15.000		
YEAR END SPENDING		– 6,000		
PERSONAL SERVICES CONTRACTING	19.000	16.000	19.000	19.000
CONTRACT STUDIES		– 5.000		– 2.500
ADMINISTRATION	658.700	638 700	638.700	638.700
PRODUCTIVITY	5,288 484	5.188.484	5,288.484	5.288 484
RECRUITING/ADVERTISING	[illegible]	273 800	266.800	273.800
ADMINISTRATION/SUPERVISION	7.000	4.000	7,000	7,000
OTHER COMBAT EQUIPMENT ACTIVITIES	154.600	152.600	154.600	154.600
MECHANIZATION OF THE CORPS OF ENGINEERS	3 400	2.400	2,400	2.400
DISPLACED EQUIPMENT	238.100	235.100	238.100	238.100
INFRASTRUCTURE SUPPORT	2 200	1.200	1.200	1.200
CONTRACTING INITIATIVES	5.000		5.000	5.000
CAPITAL EXPENSE EQUIPMENT	6 800	5.800	6.800	6.800
OTHER PERSONNEL ACTIVITIES	41.900	39.900	41.900	41.900
CIVILIAN TRAINING	6.000	5.000	6.000	6.000
OPERATIONAL SUPPORT	6.800	3.800	6.800	6.800
AREA ORIENTED DEPOT MODERNIZATION	6.000	4 000	6.000	6.000
AUDIT FOLLOW-UP		– 10.000		
AAFES LEASE PAYMENTS		– 1.000		
DESIGN COSTS OF NONAPPROPRIATED FUND PROJECTS		– 1.000		
FAMILY ACTION PROGRAMS		– 10.000	– 24.500	– 20,000
FINANCIAL MANAGEMENT		– 5.000		
EXCESS PROPERTY		– 5.000		
INVENTORY CONTROL		15 000		
BASE OPERATIONS—EUROPE HOMES	6 086	2.586	6.086	2.586
MORALE, WELFARE & RECREATION	503.586	479.086	503 586	499.086
REICHEL FACILITY—RUG AND SHOE FACTORY	15 300	14.800	15.300	14.800
WESTCOM HEADQUARTERS	2.041	305	2.041	305
WARTIME HOST NATION	8 800	4.400	8.800	8.800
AUTOMATIC TELEPHONE SWITCH	10 000		10.000	10.000
HISTORIAN PROGRAM	4.428	3.628	4.428	3.628
DRUG TESTING	9 800	11.300	9.800	11.300
SGT YORK OPERATING SUPPORT	69 800			
AIDS TESTING		15.000	42.600	42.600
MEDICAL ENHANCEMENTS		40 000		20 000
LEGISLATIVE LIAISON ACTIVITIES		– 140		– 50
PUBLIC AFFAIRS ACTIVITIES		– 385		
PROFESSIONAL EDUCATION			– 4,708	– 4,708
AVIATION SPARE REFUND			– 98 000	– 98 000
ARMY LIFE CYCLE SUPPORT SOFTWARE			– 1,143	– 1,143
ARMY DEPOT SYSTEM REORGANIZATION			– 1,200	– 1,200
AUDIOVISUAL ACTIVITIES TRANSFER			1 000	1 000
ENVIRONMENTAL RESTORATION			– 128.400	– 128 400
COMMISSARY SUBSIDY			– 32.700	
MEDICAL READINESS			63 100	39.200
DIVAD REPLACEMENT			4 800	4.800
READINESS INITIATIVES			1.87.000	137.000
CIVILIAN WORKYEAR REDUCTION			– 149 800	– 149 800
ALL OTHER ITEMS	2.717.613	2.717.613	2.717.613	2.717.613
TOTAL, ARMY	20.190.630	18.659.638	19.043.039	18.975.507

ARMY READINESS INITIATIVES

The conferees agree to provide $137,000,000 for Army readiness initiatives instead of $187,000,000 as recommended by the Senate. The conferees understand this funding will be used to enhance unit training, and provide for necessary equipment and supplies for force protection and organizational clothing and equipment.

MEDICAL ENHANCEMENTS

The conferees agree to provide $20,000,000 to the Army for the enhancement of medical staffing. Based on the recent review of Madigan Army Medical Center citing a severe shortage in nursing staff, the conferees direct that $7,700,000 of this funding be used to satisfy the shortage of nursing and ancillary staff at Madigan.

WARTIME HOST NATION SUPPORT

The conferees agree to provide $8,800,000 in operation and maintenance funding for Wartime Host Nation Support, $4,400,000 above the House level. The conferees agree with the direction included in the Senate report restricting the use of the funds only for the Host Nation Support program and instructing the Army to budget for operations in the fiscal year the units are activated.

ARMY REDUCTIONS FOR ADP MANAGEMENT

The conferees agree to a reduction of $2,300,000 for management of automatic data processing (ADP) to be applied to the Army's National Training Center Feedback System.

YUMA PROVING GROUNDS

The conferees agree to the Senate Report language contained in the continuing resolution which allows the Army to move forward with contract support functions at Yuma Proving Grounds under the conditions established in the Senate report accompanying H.J. Res. 465.

OPERATION AND MAINTENANCE, NAVY

The conferees agree to provide $24,477,071,000 instead of $23,862,002,000 as recommended by the House and $24,528,310,000 as recommended by the Senate. Details of the adjustments are as follows:

[In thousands of dollars]

	[illegible]	House	Senate	Conference
OPERATION AND MAINTENANCE NAVY				
STOCK FUND FUEL—REFUND	1,906,303	1,728,303	1,786,603	1,757,453
STOCK FUND PRICE REESTIMATE	3,440,203	2,651,303	2,759,803	2,707,803
INFLATION REESTIMATE	379,000	[illegible]	[illegible]	[illegible]
FOREIGN CURRENCY EXCHANGE RATE		−242,800	−198,800	−198,800
INDUSTRIAL FUND—REFUND	7,663,222	7,194,222	7,593,222	7,523,222
DEPOT MAINTENANCE (AIRCRAFT VEHICLES)	2,027,200	2,047,200	2,047,200	2,047,200
REAL PROPERTY MAINTENANCE	[illegible]	[illegible]	[illegible]	[illegible]
PRODUCTIVITY	2,880,708	2,831,308	2,880,708	2,880,706
PAY REDUCTION RESTORATION	−345,700	−172,850		
UNEMPLOYMENT COMPENSATION (NAFE)	2,500	2,175	2,500	2,175
EXPENSE INVESTMENT CRITERIA CHANGE	223,300	42,100	42,100	42,100
MILITARY PERSONNEL	30,000	10,900	10,900	10,900
CLASSIFIED PROGRAMS		−4,612	−4,612	−4,112
FLEET COMMANDS AND STAFF	105,623	97,919	104,623	103,523
SPECIALIZED TRAINING	166,300	165,300	165,300	165,300
INACTIVE SHIP REWORK	75,422	422	422	422
BASE OPERATING SUPPORT		−35,000	−35,000	−35,000
NAVAL SEA SYSTEMS COMMAND	1,766,697	1,736,697	1,736,697	1,736,697
TRAINING SUPPORT	376,900	375,900	375,900	375,900
CNO STAFF OFFICES	48,375	46,755	47,375	46,755
MILITARY PERSONNEL COMMAND	117,386	112,386	112,386	112,386
EXCESS PROPERTY		−5,000		
ADP MANAGEMENT		−25,000	−25,000	−25,000
IMPROPER USE OF O&M FUNDS		−20,000		
CONTRACT STUDIES		−10,000		−5,000
NAVAL SPACE COMMAND	17,857	16,857	16,857	16,857
CRUISE MISSILE	87,183	86,183	86,183	86,183
AUDIT FOLLOWUP		−10,000		
YEAR END SPENDING		−10,000		
SMALL CLUBS		−1,000		
FINANCIAL MANAGEMENT		−10,000		
SEALIFT	573,400	557,400	573,400	573,400
COMMAND AND CONTROL	651,600	[illegible]	[illegible]	[illegible]
COMMUNICATIONS		−11,000	−11,000	−11,000
SUBMARINE INACTIVATIONS	61.641	29,641	61,641	61,641
T AGOS OPERATIONS	38,232	33,232	38,232	38,232
MCM OPERATIONS	800		[illegible]	
AIRCRAFT MOD INSTALLATIONS	268,112	258,112		258,112
STATION HOSPITALS	165,406	165,294	165,406	165,294
MANPOWER ENGINEERING CENTER	20,353	[illegible]	20,353	[illegible]
NAVAL AUDIT SERVICE	26,346	25,846	26,346	25,846
COMMAND HEALTH CARE	519, 287	518,237	519,287	518,237
LAW ENFORCEMENT PERSONNEL ON NAVAL VESSELS		15,000	15,000	15,000
READY RESERVE FLEET DISPOSAL		3,600		3,600
LEGISLATIVE LIAISON ACTIVITIES		−65		
PUBLIC AFFAIRS ACTIVITIES		−135		
RECRUITING/ADVERTISING		−2,500	−4,000	−3,250
PROFESSIONAL EDUCATION			−3,585	−3,585
TRANSPORTATION			−13,000	−13,000
NAVY MATERIAL COMMAND			−20,040	−15,000
STEAMING HOURS			−85,000	−65,000
AUDIOVISUAL ACTIVITIES			1,000	1,000
ENVIRONMENTAL RESTORATION			−42,900	−42,900
COAST GUARD REIMBURSEMENT		100,000		[illegible]
AIDS			11,000	[illegible]
P-3A MODIFICATIONS			3,747	[illegible]
COMMISSARY SUBSIDY			−1,600	
CIVILIAN WORKYEAR REDUCTION			−54,900	−54,900
ALL OTHER ITEMS	1,703,044	1,703,044	1,703,044	1,703,044
TOTAL, NAVY	25,797,700	23,862,002	24,528,310	24,477.071

STEAMING HOURS

The conferees agree to reduce funding for steaming hours by $65,000,000 instead of $85,000,000 as provided by the Senate. The conferees further agree with the Senate report language which expresses concern with the Navy's continued overallocation of steaming hours to the deployed fleet. The conferees believe the Navy should make every attempt to stay within the budget request of 50.5 steaming days per quarter for the deployed fleet and the historical experience of 27.4 steaming days per quarter for the non-deployed fleet. If additional steaming days become available during fiscal year 1986, they should be allocated to the non-deployed fleet.

FLEET COMMANDS AND STAFF

The conferees agree to a reduction of $1,050,000 for the Navy's Fleet Commands and Staff based on the Navy's insistence on funding fiscal year 1985 audiovisual activities for the Fleet Commands and Staff after the Congress specifically reduced this program in fiscal year 1985.

While the conferees agree to restore $6,654,000 of the reduction made by the House, the conferees direct that funds shall not be moved into or out of this account without prior approval of Congress. Furthermore, the conferees wish to make it understood that the way in which the Navy internally reprograms and shifts funding in the administrative and associated activities account is of Congressional concern and will be monitored by the House and Senate Defense Appropriations subcommittee in fiscal year 1986.

SHIP REPAIR AND MAINTENANCE POLICY

The House included report language which opened up Selected Restricted Availabilities (SRAs) on a coast-wide basis. The Senate included a general provision which expressed the sense of the Senate to encourage competition while recognizing personnel impacts. The Senate provision also called for opening up repair work on Naval Reserve Ships to coast-wide bids.

The conferees agree with the intent of the sense of the Congress bill language proposed by the Senate to encourage competition while recognizing personnel impact. Since the language does not pertain to the use of funds, the conferees have included the intent of the discussion of ship maintenance policy in this statement of the managers.

The primary objection to expansion of ship repair work for short term maintenance projects is that the personnel impact could be substantial. The conferees understand that the nature of Navy service frequently requires personnel to spend extended periods of time away from their families which has become the most significant personnel retention impediment. Performance of short term maintenance in homeport permits Navy personnel to be with their families periodically. This consideration has driven Navy policy toward retention of such sort term ship work to homeport.

Although the conferees are understanding of the personnel concerns, there is also a recognition that expanded competition beyond the homeport is an effective means to instill competition in the industry, achieve lower costs, and retain the broadest possible industrial mobilization base. For shorter term maintenance work, the personnel and expanded competition objectives can be conflicting.

The conferees believe that the Navy should endeavor to maximize competition for ship repair with the objective of attaining lowest cost while remaining cognizant of personnel impact. In this regard, consideration of the competitive contract bidding methodology should be determined on the basis of the nature of the work to be performed, independent of duration.

The Navy has repeatedly testified to the critical need to retain the ship repair industrial base. The dearth of work planned for the current and future years for non-homeport yards will make it difficult to achieve the dual objectives of retaining industrial capacity and the current Navy personnel policy. As an interim measure, until the Navy has established a competitive contract bidding methodology for all forms of ship maintenance based on the nature and scope of the work to be performed, the Navy should endeavor to implement increased competition in short-term maintenance and repair contracts, where feasible, with a goal of competing twenty-five percent on a coastwide basis.

Since there is a marginal personnel impact for SRA and PMA Navy Reserve fleet ship repair conducted outside the homeport area, the Navy should contract for such work through coast wide bidding procedures. The exception to this approach would be for those Naval Reserve vessels which do not share a homeport with the active Navy fleet.

CERTIFICATION OF PRIVATE YARDS

The House included language which directed the Navy to cease providing the use of Navy piers and drydocks to private shipyards to perform ship maintenance and repair projects, unless no such facilities are available in other private shipyards. The Senate did not address this issue. The conferees agree that there are instances where, for operational, security or other mission reasons, the Navy desires to contract out ship repair work to be performed at Navy yards. The conferees agree that in these circumstances, the Navy may award contracts to ship repair facilities who do not own their own piers or drydocks. Additionally, the conferees agree that ship repair facilities which lease piers or docks from other concerns should be eligible for repair work.

PUBLIC/PRIVATE SHIP REPAIR COMPETITION

The House included language to provide for a test program to require the overhaul of two or more vessels by competition between public and private shipyards. The Senate language called for six or more ships. The conferees agree to a competition for overhaul of four or more ships.

COAST GUARD OPERATING EXPENSES

The House included a provision providing $100,000,000 to the Navy to transfer to Coast Guard operating accounts. The Senate did not address this issue. The conferees agree to add $100,000,000 to the Operation and Maintenance, Navy account. The conferees agree that these funds shall be used by the Navy to reimburse the Coast Guard for expenses related to training of the Coast Guard and maintenance by the Coast Guard of equipment which would be available to carry out missions determined by the Navy in the event of hostilities. The conferees also agreed to fund additional Coast Guard equipment as addressed in the Procurement section of the Conference Report and Statement of Managers.

ROTATION OF SES IN THE NAVY

The House requested the Secretary of the Navy to delay the implementation of his plan to rotate Senior Executive Service members throughout the Navy. The Senate did not address this issue. The conferees agree with the House position. The conferees believe this issue requires the benefit of hearings and further review by the cognizant congressional committees before implementation to determine its impact on program turbulence. The conferees would be greatly concerned if the Secretary of the Navy implemented a program to rotate Senior Executive Service members before hearings can be held.

OPERATION AND MAINTENANCE, MARINE CORPS

The conferees agree to provide $1,612,050,000 instead of $1,615,128,000 as recommended by the House and $1,609,000,000 as recommended by the Senate. Details of the adjustments are as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
OPERATION AND MAINTENANCE, MARINE CORPS				
STOCK FUND FUEL—REFUND	37.700	35.400	35.900	35.650
STOCK FUND PRICE REESTIMATE	240.790	212.790	212.790	212.790
FOREIGN CURRENCY EXCHANGE RATE		– 11.200	– 11.200	– 11.200
REAL PROPERTY MAINTENANCE	242.000	248.000	248.000	248.000
EXPENSE/INVESTMENT CHANGE	15.400	2.900	2.900	2.900
PAY REDUCTION RESTORATION	– 15.500	– 7.750		
PRODUCTIVITY	453.152	446.452	453.152	453.152
IMPROPER USE OF O&M FUNDS		– 2.000		
O&M OF NEW EQUIPMENT/INITIAL ISSUE EQUIPMENT	55.861	54.861	55.861	54.861
RECRUITING/ADVERTISTING		– 2.300	– 1.000	– 1.700
AUTHORIZATION ADJUSTMENT		– 22		
TRANSPORTATION			– 15.600	– 10.600
INFLATION			– 1.000	– 1.000
MILITARY END STRENGTH			– 1.400	– 1.400
CIVILIAN WORKYEAR REDUCTION			– 7.400	– 7.400
ALL OTHER ITEMS	637.997	637.997	637.997	637.997
TOTAL, MARINE CORPS	1.667.400	1.615.128	1.609.000	1.612.050

OPERATION AND MAINTENANCE, AIR FORCE

The Conferees agree to provide $19,536,813,000 instead of $19,507,672,000 as recommended by the House and $19,468,901,000 as recommended by the Senate. Details of the adjustments are as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
OPERATION AND MAINTENANCE, AIR FORCE				
STOCK FUND FUEL—REFUND	2.251.970	2 022.870	2 089.170	2 056 020
STOCK FUND PRICE REESTIMATE	1 950 768	1.614 268	1.751 968	1.701 968
FOREIGN CURRENCY EXCHANGE RATES		– 269 200	– 225 200	– 225 200
INDUSTRIAL FUND—REFUND	2 303.800	2 083 800	2.233 800	2.163 800
INFLATION REESTIMATE	191.239	178 239	178 239	178.239
REAL PROPERTY MAINTENANCE	1 500.300	1.535 300	1.535 300	1.535.300
PAY REDUCTION RESTORATION	– 201 900	– 100 950		

[In thousands of dollars]

	Budget	House	Senate	Conference
EXPENSE INVESTMENT CRITERIA CHANGE	82,100	15,500	15,500	15,500
UNEMPLOYMENT COMPENSATION (NAFE)	12,137	9,224	12,137	9,224
PRODUCTIVITY	4,122,192	4,041,792	4,122,192	4,122,192
MILITARY PERSONNEL	[illegible]	−240	−240	−240
SPACE OPERATIONS, ETC	972,240	922,240	922,240	[illegible]
INVENTORY CONTROL POINT	571,733	566,733	571,733	571,733
INVENTORY CONTROL AUDIT		−10,000		
LOGISTICS SUPPORT	205,415	203,415	205,415	205,415
BASE OPERATIONS SUPPORT		−30,000	−30,000	−30,000
CLASSIFIED PROGRAMS		−1,885	1,046	−785
ADMINISTRATION	596,300	591,300	596,300	596,300
TRAINING AND PERSONNEL	1,390,270	1,388,470	1,390,270	1,390,270
COMMUNICATIONS DIVESTITURE SAVINGS		−10,000		
NORTH WARNING RADAR	368,056	361,856	361,856	361,856
CONTRACTOR SUPPORT	37,720	17,720	17,720	17,720
STRATEGIC SUPPORT		−5,000		
SOFTWARE MODERNIZATION		−2,000		
MEDICAL	1,273,800	1,270,550	1,273,800	1,272,550
MANAGEMENT OF ADP		−25,000		−6,800
IMPROPER USE OF O&M FUNDS		−10,000		
AUDIT FOLLOW UP		−10,000		
YEAR END SPENDING		−4,000		
GOLF COURSES		−5,000		
TAC DEPLOYMENT COSTS	10,790	9,590	10,790	9,590
AIR BASE SURVIVABILITY	[illegible]	24,000	[illegible]	[illegible]
I.S.A AMPE	58,000		58,000	
TELEPHONE SYSTEM UPGRADES (SCOPE DIAL/SCOPE EXCHANGE)	10,800	[illegible]	10,800	[illegible]
HISTORIAN PROGRAM	6,634	5,634	6,634	5,634
SERVICE WIDE SUPPORT	376,239	373,139	376,239	373,139
DEPARTMENTAL HEADQUARTERS	104,992	102,312	104,992	102,312
COMMAND AND CONTROL		−20,000	−20,000	−20,000
LEGISLATIVE LIAISON ACTIVITIES		−120		
DRUG INTERDICTION			2,100	
MEDICAL READINESS			5,600	[illegible]
PROFESSIONAL EDUCATION			−5,000	−2,500
PUBLIC AFFAIRS ACTIVITIES		−130		
FLAT RATE PER DIEM			−10,800	−5,400
TRANSPORTATION			−28,000	−28,000
NATO AWACS			−4,486	
KC-135 FLYING HOURS			−86,700	−22,000
EDS			−4,500	−2,250
COMPTROLLER CONTRACT			−3,959	−2,759
COMMISSARY SUBSIDY			−43,400	
COMPONENT REPAIR			−334,000	−167,000
USAFE			−50,000	−25,000
AUDIOVISUAL TRANSFER			3,000	[illegible]
CIVILIAN WORKYEAR REDUCTION			−157,600	−157,600
RECRUITING AND ADVERTISING			−3,000	−1,500
AIDS			[illegible]	[illegible]
CIVILIAN TRAINING			[illegible]	3,000
NON-LETHAL AID TO AFGHANISTAN			10,000	10,000
ENVIRONMENTAL TRANSFER			−96,000	−96,000
STUDS			−20,000	−20,000
ALL OTHER ITEMS	2,669,945	2,669,945	2,669,945	2,669,945
TOTAL, AIR FORCE	20,924,400	19,507,672	19,468,901	19,536,813

AIRCRAFT ENGINE COMPONENT REPAIR

The conferees agree to reduce funding for aircraft engine component prepair by $167,000,000 instead of $334,000,000 as recommended by the Senate. The conferees further agree that the Air Force was not justified in requesting funding in fiscal year 1986 for a deficiency which was funded in fiscal year 1985, but have recommended the lower reduction so as not to create a depot maintenance backlog. The conferees direct the Air Force to provide more detailed and appropriate justification for depot maintenance activities in the fiscal year 1987 budget request.

KC-135 FLYING HOURS

The Senate, based on a Defense Inspector General report, reduced fiscal year 1986 KC-135 flying hours from 157,165 to 115,185 which resulted in a cut of $86,700,000 from Operation and Maintenance, Air Force. The House did not address this issue. The conferees, based on futher discussions with Defense Inspector General and Air Force personnel, have agreed to a reduction of $22,000,000 which equates to a flying hour decrease of 9,800. The conferees have concluded that KC-135 flying hour requirements have been overstated, especially in the overhead and training categories.

MANAGEMENT OF ADP

The House recommended a decrease of $25,000,000 as a result of a non-programmatic Authorization reduction of ADP management. The Senate did not address this decrease, but instead made other specific reductions. The conferees agreed to a specific reduction of $6,800,000 against ADP Management associated with the Command ADP Modernization Program (CAMP). Since CAMP procurement funds have been eliminated by the Department in the outyears, the conferees agree the fiscal year 1986 Operation and Maintenance funding is not required.

USAFE

The Senate reduced funding for USAFE by $50,000,000. The House did not address the issue. The conferees agree to a $25,000 reduction for USAFE to streamline administrative headquartes activities in Europe.

EUROPEAN DISTRIBUTION SYSTEM

The Senate reduced the European Distribution System (EDS) progrma by 4,500,000 based on the rationale that the Air Force has overstated the peacetime mission requirements of this wartime system. Additionally, the Senate questioned the fact that this system flies preset/predetermined routes on a regular basis, often with little or no cargo. Also, the Senate questioned whether the use of the system solely by the Air Force is the most efficient use of Government resources. The House did not address this issue. The conferees have agreed to a reduction of $2,250,000 which should still allow EDS crews to meet or exceed their minimum proficiency requirements. Furthermore, the conferees agree that the Air Force should not fly regularly scheduled routes, except on a short term basis for training purposes. Finally, the conferees agree that, in peacetime EDS should be available for use by all United States military components in the European theatre. In fiscal year 1986, this use should be on a space-available basis. In fiscal year 1987, the Air Force should develop an operational plan, in conjunction with the U.S. European Command to provide theatre airlift support. The conferees agree that the Air Force should not consider increases in EDS flying hours unless they are associated with this multi-service mission.

AIR FORCE COMPTROLLER CONTRACT SERVICES

The conferees agree to a reduction of $2,759,000 to the Air Force for comptroller contract services in fiscal year 1986. This is $1,200,000 above the Senate and $2,759,000 below the House. The conferees direct the Air Force to demonstrate the productivity improvements and how manpower can be streamlined as a result of this effort with a report to the Committees on Appropriations by May 1, 1986.

OPERATION AND MAINTENANCE, DEFENSE AGENCIES

The conferees agree to provide $7,432,569,000 instead of $7,340,076,000 as recommended by the House and $7,479,956,000 as recommended by the Senate. Details of the adjustments are as follows:

	Budget	[redacted]	Senate	Conference
OPERATION AND MAINTENANCE, DEFENSE AGENCIES				
FOREIGN CURRENCY EXCHANGE RATE		− 14,400	− 14,400	− 14,400
STOCK FUND PRICE REESTIMATE	130,203	41,203	116,203	116,203
OSD—GENERAL REDUCTION	134,756	133,756	134,756	134,756
OSD—CONTRACT STUDIES AND ANALYSIS	18,638	16,320	18,638	16,320
PAY REDUCTION RESTORATION	− 151,400	− 75,700		
ORGANIZATION OF JCS—SPECIAL FUND	50,000			
ORGANIZATION OF JCS—GENERAL REDUCTION	379,236	368,018	379,236	379,236
DEFENSE LOGISTICS AGENCY	1,701,770	1,694,504	1,701,770	1,701,770
WASHINGTON HEADQUARTERS SERVICES	94,004	88,304	94,004	88,304
YEAR END SPENDING		− 7,000		
ADP MANAGEMENT		− 10,000		
SMALL CLUBS		− 1,000		
BASE OPERATIONS SUPPORT	200,200	190,200	190,200	190,200
INVENTORY CONTROL	.. ..	− 5,000		
AMERICAN FORCES INFORMATION SERVICE	56,433	54,433	56,433	56,433
DOD DEPENDENT SCHOOLS	664,070	653,770	664,070	658,070
MEDICAL INFORMATION SYSTEMS	81,763	78,763	81,763	81,763
DEFENSE COMMUNICATION AGENCY/DCA	280,612	276,612	280,612	280,612
CLASSIFIED ACTIVITIES		− 18,048	− 20,526	− 16,653
PRODUCTIVITY		− 38 700		
CONTRACT STUDIES		− 10,000		
IMPROPER USE OF O&M FUNDS		− 2,000		....
EXPENSE/INVESTMENT CRITERIA CHANGE	16,000	3,000	3,000	3,000
REAL PROPERTY MAINTENANCE	83,800	83,800	103,800	83,800
STUDY OF JOINT DUTY CAREER SPECIALTY		100		100
DEFENSE AUDIOVISUAL AGENCY	21,936	11,936		
DEFENSE NUCLEAR AGENCY—TRAVEL	3,299	2,757	3,299	2,757
DEFENSE CONTRACT AUDIT AGENCY—HEADQUARTERS	173,082	172,882	173,082	172,882
AID TO AFGHANISTAN		10,000		
DLA—PROCUREMENT TECH ASSISTANCE PROGRAM	2,000	7 500	5,000	7,500
[redacted]		20,000	20,000	20 000
DEFENSE COMMUNICATIONS AGENCY—CINC INITIATIVES	4,182			
COMMAND AND CONTROL		− 10,000	− 10,000	− 10,000
LEGISLATIVE LIAISON ACTIVITIES		− 175		− 50
PUBLIC AFFAIRS ACTIVITIES		− 75		− 50
INFLATION			− 4,500	− 4,500
CHAMPUS			− 15,000	− 15,000
FLAT RATE PER DIEM			− 1,000	− 1,000
ENVIRONMENTAL TRANSFER			− 43,400	− 42,400
CIVILIAN WORKYEAR REDUCTION			− 107,800	− 107,800
RECRUITING AND ADVERTISING			− 7,100	− 7,100
FAMILY ADVOCACY			− 4,000	− 4,000
PEER REVIEW			7 500	7 500
QUALITY ASSURENCE			50,000	30,000
ALL OTHER ITEMS	3,624,316	3,624,316	3,624,316	3,624,316
TOTAL DEFENSE AGENCIES	7,568 900	7,340,076	7,479,956	7,432 569

DEPARTMENT OF DEFENSE DEPENDENT SCHOOLS

The House provided a total reduction of $10,300,000 to the Department of Defense Dependent Schools (DODDS). This was based on a reduction of $7,100,000 for the Master Teacher Program and $3,200,000 for a Department of Defense Inspector General report. The Senate did not address this issue. The conferees agree on a reduction of $6,000,000

Investigation into the reduction of $7,100,000 for the Master Teacher Program revealed that included in this number is $6,250,000 to purchase computers for classrooms. A classroom computer purchase was approved by the Defense Resources Board for fiscal year 1987. However, the conferees agree that $3,500,000 of the $7,100,000 reduced for the Master Teacher Program, should be reinstated to purchase computers for the classroom. The conferees believe the funding provided here is adequate for the total program requirements, and no funds to purchase computers for classrooms should be included in the fiscal year 1987 budget request.

AUDIOVISUAL ACTIVITIES

Based on the disestablishment of the Defense Audiovisual Agency (DAVA), the House reduced the DAVA budget by $10,000,000, leaving $11,936,000 for reprogramming to other services and Agencies receiving the DAVA workload. The Senate reduced the DAVA budget by $21,936,000 and provided a total of $5,000,000 to the Services for audiovisual activities.

The conferees agree to reduce the DAVA budget by $21,936,000 and provided a total of $10,000,000 to the Services for audiovisual activities, as follows:

Army	$1,000,000
Navy	1,000,000
Air Force	8,000,000
Total	10,000,000

The conferees believe the Services and the Armed Forces Information Service can provide the necessary audiovisual operations, at the same level provided by DAVA, within the funds provided in this Bill.

QUALITY ASSURANCE

The conferees agree to appropriate $30,000,000 to fund quality assurance and quality enhancement programs at the Defense Logistics Agency. This funding is to provide training for contract management and quality assurance personnel to ensure the Department receives quality products from commercial sources.

FAMILY ADVOCACY

The conferees agree to the Senate's position on the Department of Defense Family Advocacy Program. The conferees agree that the Family Advocacy Program is a health care program and should not be transferred to the force management and personnel directorate.

OPERATION AND MAINTENANCE, ARMY RESERVE

The conferees agree to provide $780,100,000 instead of $774,980,000 as recommended by the House and $793,100,000 as recommended by the Senate. Details of the adjustments are as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
OPERATION AND MAINTENANCE, ARMY RESERVE				
STOCK FUND FUEL—REFUND	24,730	23,630	23,630	23,630
STOCK FUND PRICE REESTIMATE	137,241	119,041	119,041	119 041
CIVILIAN PAY RESTORATION	−12,400	−3,100		
EXPENSE/INVESTMENT CRITERIA CHANGE	200			
ANTITERRORISM INITIATIVES		4,700	4,700	4,700
TRAINING ASSISTANCE BY READINESS GROUPS		1,000	1,000	1,000
UPGRADE OF COMMUNICATIONS		1,200	1,200	1,200
AGR END STRENGTH REDUCTION—O&M SUPPORT	8,389	7,069	8,389	8,389
MILITARY END STRENGTH			−5,400	−4,000
RECRUITING AND ADVERTISING	52,900	52,900	48,400	50,650
OVER 40 MEDICAL SCREENING			700	
FORCE STRUCTURE INITIATIVE			22,900	6,950
ALL OTHER ITEMS	568,540	568,540	568,540	568,540
TOTAL, ARMY RESERVE	779,600	774,980	793,100	[illegible]

Operation and Maintenance, Navy Reserve

The conferees agree to provide $894,950,000 instead of $896,415,000 as recommended by the House and $896,700,000 as recommended by the Senate. Details of the adjustments are as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
OPERATION AND MAINTENANCE, NAVY RESERVE				
STOCK FUND FUEL—REFUND	139 284	132 284	132 284	132 284
STOCK FUND PRICE REESTIMATE	233 679	193 079	193 079	193 079
EXPENSE/INVESTMENT CRITERIA CHANGE	17,700	3,400	3,400	[illegible]
REAL PROPERTY MAINTENANCE	37,381	40,881	44,381	40,881
PAY REDUCTION RESTORATION	−2,700	−675		
PRODUCTIVITY	67,051	65,351	65,351	65,351
AUTHORIZATION ADJUSTMENT		−10		
MILITARY END STRENGTH			−400	−400
RECRUITING AND ADVERTISING	17,100	17,100	13,600	15,350
ALL OTHER ITEMS	445,005	445,005	445,005	445,005
TOTAL, NAVY RESERVE	954,500	896,415	896,700	[illegible]

Operation and Maintenance, Marine Corps Reserve

The conferees agree to provide $57,200,000 as recommended by the Senate instead of $57,120,000 as recommended by the House. Details of the adjustment are as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
OPERATION AND MAINTENANCE, MARINE CORPS RESERVE				
STOCK FUND FUEL—REFUND	21,596	17,396	17,396	17,396
PAY REDUCTION RESTORATION	−200	−50		
PRODUCTIVITY	4,110	3,810	3,810	3,810
EXPENSE/INVESTMENT CRITERIA CHANGE	100			
AUTHORIZATION ADJUSTMENT		−30		
ALL OTHER ITEMS	35,994	35,994	35,994	35,994
TOTAL, MARINE CORPS RESERVE	61,600	57,120	57,200	57,200

Operation and Maintenance, Air Force Reserve

The conferees agree to provide $902,700,000 instead of $896,844,000 as recommended by the House and $910.200,000 as recommended by the Senate. Details of the adjustments are as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
OPERATION AND MAINTENANCE, AIR FORCE RESERVE				
STOCK FUND FUEL—REFUND	137,734	130,334	130,334	130,334
STOCK FUND PRICE REESTIMATE	71,055	64,055	64,055	64,055
EXPENSE/INVESTMENT CRITERIA CHANGE	1,000	200	200	200
PAY REDUCTION RESTORATION	−14,000	−3,500		
PRODUCTIVITY	330,174	317,674	317,674	317,674
SPECIAL OPERATIONS FORCES READINESS ENHANCEMENT	15,735	22,035	22,035	22,035
AUTHORIZATION ADJUSTMENT		44		
REAL PROPERTY MAINTENANCE			7,500	
F-4 UPGRADE			2,400	2,400
ALL OTHER ITEMS	366,002	366,002	366,002	366,002

[In thousands of dollars]

	Budget	House	Senate	Conference
TOTAL AIR FORCE RESERVE	[illegible]	[illegible]	910,200	902,700

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

The conferees agree to provide $1,652,800,000 instead of $1,646,305,000 as recommended by the House and $1,656,500,000 as recommended by the Senate. Details of the adjustments are as follows:

[In thousands of dollars]

	[illegible]	[illegible]	[illegible]	[illegible]
OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD				
STOCK FUND FUEL—REFUND	63,448	49,348	49,348	49,348
STOCK FUND PRICE REESTIMATE	434,795	[illegible]	406,795	406,795
EXPENSE INVESTMENT CRITERIA CHANGE	5,000	[illegible]	1,000	1,000
CIVILIAN TECHNICIANS	653,372	688,372	688,372	688,372
FEDERAL FUNDING FOR ARMORY OPERATIONAL COSTS		[illegible]		[illegible]
MOD & REPAIR OF OFFICE FOR FULL TIME NATL GUARD PER		[illegible]	6,000	6,000
PARTIAL FED FUNDING FOR MAJOR REPAIR & RENOVATION		[illegible]		7,000
PAY REDUCTION RESTORATION	−25,900	−6,475		
PRODUCTIVITY		−200	−200	−200
AUTHORIZATION ADJUSTMENT		−20		
MILITARY END STRENGTH			−7,700	−6,000
RECRUITING AND ADVERTISING	39,200	39,200	37,200	38,200
ROLAND MAINTENANCE			15,000	4,100
FORCE STRUCTURE INITIATIVE			20,000	4,100
AIDS			5,000	2,500
ENVIRONMENTAL PROJECTS			400	400
ALL OTHER ITEMS	435,285	435,285	435,285	435,285
TOTAL ARMY NATIONAL GUARD	1,605,200	1,646,305	1,656,500	1,652,800

NATIONAL GUARD ARMORY OPERATION AND MAINTENANCE

The House included $33,000,000 to fund the modification and repair of armory office and work space resulting from increased Federal missions, major repair and renovations to the armories, and to offset armory operating costs resulting from the influx of Federal equipment and full-time Federal personnel. The Senate included only $6,000,000 for this purpose. The conferees agree to the House position concerning funding, but direct the Department to request only such funds in fiscal year 1987 that are sufficient to match the growth in funding by the states over fiscal year 1986 levels for these purposes.

ENVIRONMENTAL PROJECTS

The conferees agree to the increase of $400,000 as recommended by the Senate for the continuation of the program to conduct engineering projects coordinated with State and other federal agencies at national or state parks and forests. To amplify on the parameters of the test, the conferees agree that such projects must be restricted within the United States and territories. The test projects selected must enhance military related training and must not compete with projects which would otherwise be performed by private concerns. The conferees agree that the Army National Guard should begin budgeting this important program in fiscal year 1987.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

The conferees agree to provide $1,806,200,000 as recommended by the Senate instead of $1,803,862,000 as recommended by the House. Details of the adjustments are as follows:

[In thousands of dollars]

	[illegible]	[illegible]	[illegible]	[illegible]
OPERATION AND MAINTENANCE, AIR NATIONAL GUARD				
STOCK FUND FUEL—REFUND	[illegible]	344,580	[illegible]	[illegible]
STOCK FUND PRICE REESTIMATE	140,361	[illegible]	124,961	124,961
PAY REDUCTION RESTORATION	−26,800	−6,700	−4,400	4 400
[illegible]	703,855	[illegible]	[illegible]	[illegible]
EXPENSE INVESTMENT CRITERIA CHANGE	[illegible]	[illegible]	900	[illegible]
AUTHORIZATION ADJUSTMENT		−38		
ALL OTHER ITEMS	[illegible]	[illegible]	643,304	643,304
TOTAL AIR NATIONAL GUARD	[illegible]	[illegible]	[illegible]	[illegible]

T-39 AIRCRAFT

The House and Senate have agreed that the Air Force must retire the Air National Guard's T-33 aircraft fleet in fiscal year 1986 and replace it with 45 T-39 aircraft. The conferees wish to clarify that this action is intended to provide an interim capability until such time that the Air Force budgets for and deploys a permanent replacement aircraft that fully meets the requirements of both the active and guard forces for electronic countermeasures training. As part of this interim measure, the Air Force should also phase out the T-33s in the active inventory as soon as possible, and either replace them with T-39 aircraft or provide the Guard with sufficient T-39s to accomplish the mission for the total force. The conferees further agree to the House language that allows transfer of leased C-21A aircraft to the Air National Guard for Detachment One, Andrews Air Force Base, Maryland, unless C-21A aircraft are purchased for this purpose in the Guard and Reserve equipment appropriation.

NATIONAL BOARD FOR THE PROMOTION OF RIFLE PRACTICE, ARMY

The conferees agree to provide $920,000 as recommended by the Senate instead of $820,000 as recommended by the House.

CLAIMS, DEFENSE

The conferees agree to provide $143,300,000 as recommended by the Senate instead of $148,300,000 as recommended by the House.

ENVIRONMENTAL RESTORATION, DEFENSE

The conferees agree to provide $379,100,000 in budget authority instead of $329,100,000 by transfer as recommended by the House or $429,100,000 as recommeded by the Senate.

TITLE III—PROCUREMENT

The conferees agree to the following amounts for the Procurement accounts:

[In thousands of dollars]

	Budget	House	Senate	Conference
SUMMARY				
ARMY				
AIRCRAFT	3,892,500	3,337,300	3,504,200	3,524,300
TRANSFER FROM OTHER ACCOUNTS		(217,600)	(101,800)	
MISSILES	3,386,700	2,939,232	3,056,050	2,904,332
TRANSFER FROM OTHER ACCOUNTS		(124,500)	(49,700)	
WEAPONS, TRACKED COMBAT VEHICLES	5,739,100	3,749,004	4,629,900	[illegible]
TRANSFER FROM OTHER ACCOUNTS		(806,896)	(240,800)	
AMMUNITION	2,635,000	1,858,200	2,588,213	2,497,200
TRANSFER FROM OTHER ACCOUNTS		(215,200)	(209,900)	
OTHER	5,712,800	[illegible]	5,214,730	5,275,556
TRANSFER FROM OTHER ACCOUNTS		(297,400)	(238,000)	
TOTAL, ARMY	21,366,100	16,693,722	18,993,093	[illegible]
TRANSFER FROM OTHER ACCOUNTS		(1,661,596)	(840,200)	
TOTAL FUNDING AVAILABLE	21,366,100	18,355,318	19,833,293	18,886,088
NAVY				
AIRCRAFT	12,062,600	10,446,400	10,289,651	11,175,678
TRANSFER FROM OTHER ACCOUNTS		(594,600)	(566,382)	
WEAPONS	5,627,900	5,093,733	5,372,563	5,227,795
TRANSFER FROM OTHER ACCOUNTS		(109,600)	(15,000)	
SHIPS	11,411,600	[illegible]	10,840,400	10,969,440
TRANSFER FROM OTHER ACCOUNTS		(2,058,500)	(1,057,600)	
OTHER	6,601,200	5,682,694	6,463,560	6,377,630
TRANSFER FROM OTHER ACCOUNTS		(312,762)	(221,000)	
COASTAL DEFENSE AUGMENTATION			[illegible]	[illegible]
MARINE CORPS	1,726,800	1,610,749	1,689,982	1,660,766
TRANSFER FROM OTHER ACCOUNTS		(85,717)	(31,056)	
TOTAL, NAVY	37,430,100	31,482,476	33,414,656	35,282,269
TRANSFER FROM OTHER ACCOUNTS		(3,161,179)	(1,891,038)	
TOTAL FUNDING AVAILABLE	37,430,100	34,643,655	35,305,694	35,282,269
AIR FORCE				
AIRCRAFT	26,165,500	20,722,700	24,142,651	23,255,424
TRANSFER FROM OTHER ACCOUNTS		(1,458,300)	(648,000)	
MISSILES	10,862,700	8,043,527	8,770,831	8,312,442
TRANSFER FROM OTHER ACCOUNTS		(155,000)	(64,400)	
OTHER	9,538,000	7,890,918	8,831,674	8,571,383
TRANSFER FROM OTHER ACCOUNTS		(347,476)	(282,000)	
TOTAL, AIR FORCE	46,566,200	36,657,145	41,745,156	40,139,249
TRANSFER FROM OTHER ACCOUNTS		(1,960,776)	(994,400)	
TOTAL FUNDING AVAILABLE	46,566,200	38,617,921	42,739,556	40,139,249
NATIONAL GUARD AND RESERVE COMPONENTS		[illegible]	2,063,800	1,501,800
TRANSFER FROM OTHER ACCOUNTS		(8,000)	(178,400)	
TOTAL FUNDING AVAILABLE		[illegible]	2,242,200	1,501,800
DEFENSE AGENCIES	1,391,900	1,181,869	1,426,914	1,302,740
TRANSFER FROM OTHER ACCOUNTS		(36,000)	(36,000)	
TOTAL FUNDING AVAILABLE	1,391,900	1,217,869	1,462,914	1,302,740
DEFENSE PRODUCTION ACT PURCHASES	59,000		31,000	31,000
NATO COOPERATIVE DEFENSE PROGRAMS			15,000	15,000
TOTAL NOA	106,813,300	86,597,212	98,064,619	97,393,146
TRANSFER FROM OTHER ACCOUNTS		(6,827,551)	(3,940,038)	
TOTAL FUNDING AVAILABLE	106,813,300	93,424,763	102,004,657	97,393,146

BINARY CHEMICAL MUNITIONS

The House bill included no funds for production of chemical weapons or for related production facilities. The House bill also included a general provision incorporating the restrictive language in the House-passed authorization bill. The Senate bill included the budget request of $65,346,000 for production of the GB-2 artillery projectile and the Bigeye bomb and $98,300,000 for production facilities and prove-out.

The conference agreement provides the following funding:

	Budget	House	Senate	Conference
Weapons				
GB-2 155mm Artillery Proj	$21,700,000		$21,700,000	$21,700,000
Bigeye Bomb				
Navy	21,531,000		21,531,000	[1] 3,000,000
Air Force	22,115,000		22,115,000	[1] 3,000,000

	Budget	House	Senate	Conference
Subtotal, Procurement	65,346,000		65,346,000	27,700,000
Production Facilities				
Bigeye QL Facility	48,000,000		48,000,000	48,000,000
Bigeye Fill/Lap Facility	28,300,000		28,300,000	28,300,000
Bigeye Metal Parts Facility	17,600,000		17,600,000	17,600,000
Components Prove-out	4,400,000		4,400,000	4,400,000
Subtotal, Production Facilities	98,300,000		98,300,000	98,300,000
Total	163,646,000		163,646,000	126,000,000

[1] Funded in Research, Development, Test and Evaluation, Navy

The conference agreement also includes a general provision (Sec. 8093) which amends Section 1411 of the Department of Defense Authorization Act, 1986 (P.L. 99-145). Section 1411 applies conditions on spending funds for binary chemical munitions. The conference agreement makes three substantive changes to the original Section 1411. First, obligation of all funds is made subject to an additional requirement (b)(1) that the President certify to the Congress that a force goal stating the requirement for modernization of the United States share of NATO chemical deterrent has been submitted to NATO and formally adopted by the North Atlantic Alliance.

Second, obligation of funds for Bigeye components is subject to the requirement (d) that the Secretary of Defense submit a report describing the operational requirements for Bigeye, actual performance of Bigeye during operational testing with respect to the requirements, and any exceptions deemed acceptable. Obligation for Bigeye components may occur no sooner than 60 days after submission of the report. The conferees agree that the report required by section 1411(d) will be submitted to the Comptroller General for review and certification. The conferees urge the Department to cooperate with the General accounting Office during Bigeye testing and to fully share data from prior tests so that this review and certification may be expedited. The $6,000,000 included in the bill for Bigeye, while authorized in title I of the Authorization Act (procurement), is appropriated in Research, Development, Test and Evaluation, Navy since it will be used for additional operational test and evaluation. The conferees agree that the restrictions included in the revised section 1411(d) shall apply to the $6,000,000 appropriated in RDT&E, Navy.

Third, none of the funds included for procurement of the GB-2 artillery projectile may be obligated before October 1, 1986, and then only when the provisions of subsection (b) ("NATO Consultation") are satisfied. Final Assembly of the GB-2 may not occur before October 1, 1987 and then only when the provisions of subsection (c) ("Conditions for Final Assembly") are satisfied. The conferees agree that the GB-2 artillery projectile be procured on a fully funded basis, consistent with Departmental policy.

The conferees agree that, by funding production facilities in the accompanying bill, the restrictions on the $10,800,000 for related construction in the statement of managers on the Military Construction Appropriation Act, 1986 are lifted.

Inflation Savings

The conferees recommend $1,036,000,000 in fiscal year 1985 inflation savings to adjust for the fact that actual inflation rates were lower than those originally estimated and funded for that year, as proposed by the House. Of this amount, $116,000,000 is reflected in agreed upon adjustments to individual Air Force aircraft procurement programs.

The conferees, in addition, recommend a $1,702,000,000 decrease in the fiscal year 1986, 30 percent, inflation premium budgeted for the major procurement accounts, as proposed by the House. The conferees understand that there is no consensus on the best index for accurately forecasting major procurement program inflation costs. That issue currently is under intensive review. The conferees strongly support the full funding principle to include the use of a properly adjusted inflation premium. The recommendation is intended to remove excess inflation adjustments for the major procurement accounts, but at the same time to ensure that adequate funds are included to cover future inflation costs.

Minority Business Participation

The conferees reiterate the House's concern and expectations regarding expanded opportunities for minority businesses and historically black colleges and universities. Additionally, the conferees agree with the House language requesting a detailed plan to meet the stated goal for expanded participation.

NAVSTAR Global Positioning System User Equipment

The conferees regard the successful operation of the Global Positioning System (GPS) Joint User Equipment Program as essential, and therefore direct the Department of Defense not to develop any GPS user equipment outside the sponsorship, direction, and coordination of the Joint Program Office. The intention of the conferees is to ensure the successful implementation of programs within the responsibility of the Office, and not to expand its responsibilities to cover management of equipment for special uses, such as range, advance technology, mapping, special forces, and classified applications.

Sources of Ball Bearings

High precision ball bearings are a necessity in the manufacture of jet engines and other high technology devices. The conferees are concerned over availability of ball bearings, and over the possible use of ball bearings of foreign manufacture in critical weapons systems and components. The conferees direct the Department to study and report not later than June 30, 1986 on this subject. The report is to include: an assessment of the criticality of the ball bearing industry to national defense; an assessment of the current strength and long term economic viability of the U.S. ball bearing industry; an analysis of the extent to which ball bearings of foreign manufacture are used in weapons systems and components procured by DOD; an assessment of the implications for readiness and sustainability of using ball bearings of foreign manufacture; and an analysis of the feasibility of restricting DOD to using ball bearings of domestic manufacture only.

Aircraft Procurement, Army

The conferees agree to the following amounts for the Aircraft Procurement, Army, account:

[In thousands of dollars]

	Budget	House	Senate	Conference
AIRCRAFT PROCUREMENT, ARMY				
AIRCRAFT				
FIXED WING				
C-12 CARGO AIRPLANE		12,000		12,000
ROTARY				
EH-60A HELICOPTER (QUICKFIX) (MYP)	118,600	37,500	54,300	110,200
EH-60A HELICOPTER (QUICKFIX) (MYP) (PY TRANSFER)		(64,300)	(64,300)	
EH-60A HELICOPTER (QUICKFIX) (MYP) (AP-CY)	24,400	24,400	24,400	24,400
AH-64 ATTACK HELICOPTER (APACHE)	1,178,200	1,137,300	1,143,200	1,137,300
AH-64 ATTACK HELICOPTER (APACHE) (AP-CY)	55,300	55,300	46,100	55,300
UH-60A (BLACK HAWK) (MYP)	[illegible]	220,800	260,900	228,700
UH-60A (BLACK HAWK) (MYP) (AP-CY)	199,000	[illegible]	199,000	199,000
TOTAL, AIRCRAFT	1,842,500	1,686,300	1,727,900	1,766,900

[In thousands of dollars]

	Budget	House	Senate	Conference
MODIFICATION OF AIRCRAFT				
OV-1 SURVEILLANCE AIRPLANE (MOHAWK)	27,700	22,700	22,700	22,700
RC-12D RECON AIRPLANE	500	500	[illegible]	500
RV-1 RECON AIRPLANE	[illegible]	500	500	500
AHIS ATTACK HELICOPTER (COBRA TOW)	124,500	104,500	114,500	134,500
AHIS ATTACK HELICOPTER (COBRA TOW) (PY TRANSFER)		(20,000)	(20,000)	
CH-47 CARGO HELICOPTER (MYP)	253,300	222,500	216,400	233,900
CH-47 CARGO HELICOPTER (MYP) (PY TRANSFER)		(11,200)	(17,500)	
CH-47 CARGO HELICOPTER (MYP) (AP-CY)	124,800	124,800	124,800	124,800
CH-54 CARGO HELICOPTER (TARHE)	500	[illegible]	500	[illegible]
UH-1 UTILITY HELICOPTER (IROQUOIS)	12,200	12,200	12,200	12,200
UH-60A (BLACK HAWK) MODS	15,400	14,200	15,400	14,200
ARMY HELICOPTER IMPROVEMENT PROGRAM (AHIP)	158,800	146,800	[illegible]	174,700
ARMY HELICOPTER IMPROVEMENT PROGRAM (AHIP) (AP-CY)	51,800	[illegible]	20,000	20,900
AIRBORNE AVIONICS	1,000	1,000	1,000	1,000
MODIFICATIONS UNDER $900,000 (AIRCRAFT)	[illegible]	100	[illegible]	100
ACFT 9WW	17,000	17,000	17,000	17,000
TOTAL MODIFICATION OF AIRCRAFT	788,100	717,300	629,400	757,500
SPARES AND REPAIR PARTS	949,700	849,700	849,700	849,700
Support Equipment and Facilities				
OTHER SUPPORT				
AVIONICS SUPPORT EQUIPMENT	67,800	51,700	57,800	67,800
AVIONICS SUPPORT EQUIPMENT (PY TRANSFER)		(16,100)		
COMMON GROUND EQUIPMENT	35,000	35,000	35,000	35,000
AIR TRAFFIC CONTROL	9,400	9,400	9,400	9,400
SYNTHETIC FLIGHT TRAINING SYSTEMS	131,600	122,100	131,600	122,100
INDUSTRIAL FACILITIES	61,900	61,900	61,900	61,900
WAR CONSUMABLES	6,500	6,500	6,500	6,500
UNDISTRIBUTED REDUCTION		−10,000		
TOTAL, SUPPORT EQUIPMENT AND FACILITIES	312,200	276,600	302,200	302,700
INFLATION REESTIMATES FOR FY86		−5,000	−5,000	−5,000
INFLATION PREMIUM FY86		−81,600		−81,600
PRIOR YEAR PROGRAM SAVINGS		−40,000		
(PY TRANSFER)		(40,000)		
FY85 INFLATION FAIRNESS ADJUSTMENT		−66,000		−66,000
(PY TRANSFER)		(66,000)		
TOTAL, AIRCRAFT PROCUREMENT, ARMY	3,892,500	3,337,300	3,504,200	3,524,200
TRANSFER FROM OTHER ACCOUNTS		(217,600)	(101,800)	
TOTAL FUNDING AVAILABLE	3,892,500	3,554,900	3,606,000	3,524,200

PRIOR YEAR SAVINGS

The conferees recognize $117,900,000 in prior year savings in Army Aircraft Procurement. The sources and uses of these savings are identified in this Statement of the Managers under the heading "Availability of Unobligated Balances."

AH-64 APACHE ATTACK HELICOPTER

The conferees acknowledge the late receipt of a proposal to procure the AH-64 airframe and target acquisition/designation system under multiyear contracts. No such multiyear procurement is approved at this time due to the continuing difficulties in achieving rate production and uncertainties about the total Ah-64 program and its stability. To preserve the option of having a multiyear contract, the conferees provide the full $55,300,000 for advance procurement as proposed by the House.

The conferees agree that a proposal to enter one or both of the proposed multiyear contracts may be considered as part of a 1986 supplemental or may be proposed as a new start in fiscal year 1987. Any such proposal should be substantiated by comparable, negotiated contract data.

The conferees agree that 18 AH-64s from the 1986 program will be provided for the Army National Guard as provided in the authorization legislation.

UH-60 BLACKHAWK

The conferees agree to provide $228,700,000 for 80 UH-60s which shall include two for the Customs Service drug interdiction program as proposed by the Senate. The conferees agree not to provide the $32,200,000 as budgeted and recommended by the Senate for special operations forces modifications. The conferees understand that additional research and development is required for the UH-60 as well as the CH-47 modifications proposed, and procurement is premature at this time.

The conferees agree to allocating $7,900,000 in contract savings to procure 2 additional helicopters to replace older ones which are to be transferred to the Customs Service Drug Interdiction program, as proposed by the Senate.

ARMY HELICOPTER IMPROVEMENT PROGRAM (AHIP)

The conferees agree to provide a total of $195,600,000 which includes $174,700,000 to fully fund 39 AHIPs and to extend the budgeted funded delivery period by 3 months, and $20,900,000 for advance procurement of 31 additional sets of long lead materiels. This advanced procurement funding level, combined with materiels currently on contract, will support production of 48 units in fiscal year 1987 as permitted by a recent Departmental decision memorandum.

The conferees note that the extra funding available by reducing the 1986 program from 56 to 39 will provide for procurement of maintenance sets and other support equipment associated with restricting the fielding to the field artillery aerial observer mission.

SYNTHETIC FLIGHT TRAINING SYSTEMS

The conferees agree to delete advance procurement funding which was improperly budgeted. The conferees agree, however, that this action shall not result in termination of any current contracts. If there is a demonstrated and justified need for advance procurement funds, the Committees agree that a new P-1 line may be established using internal reprogramming procedures with prior notification. The conferees are in agreement that all future simulator procurement be budgeted on a full-funding basis.

MISSILE PROCUREMENT, ARMY

The conferees agree to the following amounts for Missile Procurement, Army:

[In thousands of dollars]

	Budget	House	Senate	Conference
MISSILE PROCUREMENT, ARMY				
Other Missiles				
SURFACE-TO-AIR MISSILE SYSTEM:				
CHAPARRAL	110,400	37,200	110,400	57,500
OTHER MISSILE SUPPORT	5,000	5,000	5,000	5,000
PATRIOT	983,400	967,400	974,600	963,400
STINGER	304,100	244,100	258,500	258,500
PERSHING II	334,700	334,700	236,300	236,300
AIR-TO-SURFACE MISSILE SYSTEM:				
LASER HELLFIRE SYSTEM	250,700	250,700	234,200	234,200
ANTI-TANK/ASSAULT MISSILE SYSTEM:				
TOW 2	226,900	159,300	177,650	168,500
TOW 2 (AP-CY)	22,000	22,000	22,000	22,000
MULTIPLE LAUNCH ROCKET SYSTEM (MYP)	507,800	450,600	459,900	490,900
MULTIPLE LAUNCH ROCKET SYSTEM (MYP) (PY TRANSFER)		(46,300)	(24,700)	
MULTIPLE LAUNCH ROCKET SYSTEM (MYP) (AP-CY)	41,000	41,000	41,000	41,000
TOTAL, OTHER MISSILES	2,786,000	2,512,000	2,519,550	2,477,300
Modification of Missiles				
MODIFICATIONS:				
PATRIOT	17,200	17,200	17,200	17,200
CHAPARRAL	112,900	112,900	112,900	112,900
HAWK	54,100	54,100	49,300	49,300
TOW	37,800	37,800	17,400	17,400
TOTAL, MODIFICATION OF MISSILES	222,000	222,000	196,800	196,800
SPARES AND REPAIR PARTS	322,000	317,000	312,000	312,000
SUPPORT EQUIPMENT AND FACILITIES:				
AIR DEFENSE TARGETS	21,000	21,000	21,000	21,000
ITEMS LESS THAN $900,000 (MISSILES)	3,800	3,732	3,800	3,732
PRODUCTION BASE SPT	29,900	29,900	29,900	29,900
OTHER PRODUCTION CHARGES	2,000	2,000	2,000	2,000
TOTAL, SUPPORT EQUIPMENT AND FACILITIES	56,700	56,632	56,700	56,632
COMPONENT BREAKOUT		−10,000		−10,000
INFLATION REESTIMATES FOR FY86		−4,000	−4,000	−4,000
INFLATION PREMIUM, FY86		−71,400		−71,400
PRIOR YEAR PROGRAM SAVINGS		−25,000	−25,000	
(PY TRANSFER)		(25,000)	(25,000)	
FY85 INFLATION FAIRNESS ADJUSTMENT		−53,000		−53,000
(PY TRANSFER)		(53,000)		
TOTAL, MISSILE PROCUREMENT, ARMY	3,386,700	2,939,232	3,056,050	2,904,332
TRANSFER FROM OTHER ACCOUNTS		(124,500)	(49,700)	
TOTAL FUNDING AVAILABLE	3,386,700	3,063,732	3,105,750	2,904,332

PRIOR YEAR SAVINGS

The conferees recognize $66,500,000 in prior year savings in Army Missile Procurement. The sources and uses of these savings are identified in this Statement of the Managers under the heading "Availability of Unobligated Balances."

CHAPARRAL

The conferees agree to provide $57,500,000 for Chaparral, instead of $37,300,000 as proposed by the House or $110,400,000 as proposed by the Senate. These funds will allow continuation of the program, to include some of the non-recurring production costs of the new Rosette Scan Seeker (RSS). This reduction is without prejudice, in anticipation of completion of the scheduled testing later in the year. Accordingly, no recurring production funding is provided.

PATRIOT AIR DEFENSE SYSTEM

The Conferees agree to provide $963,400,000 instead of the $967,400,000 proposed by the House or the $974,600,000 proposed by the Senate. The Conferees agree that the separate savings identified by each Committee are achievable.

STINGER

The conferees agree to provide $258,500,000 as proposed by the Senate to procure at least 3,439 Stinger missiles, instead of $244,100,000 as proposed by the House. The conferees recognize that the agreed sum exceeds authorization, but are concerned over providing air defense assets, especially following cancellation of DIVAD. The Army is directed to obtain authorization before obligating or expending funds in excess of the sum currently authorized.

The conferees agree with the Senate position requiring a review of the continued sole source procurement of the Stinger missile.

The conferees agree to provide $168,500,000 for production of TOW-II, instead of $159,300,000 as proposed by the House or $177,650,000 as proposed by the Senate. The conferees direct the Army to procure the maximum possible number of missiles, with 14,000 as a goal.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

The conferees agree to the following amounts for Procurement of Weapons and Tracked Combat Vehicles, Army:

[In thousands of dollars]

	Budget	House	Senate	Conference
PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEH				
TRACKED COMBAT VEHICLES:				
CARRIER, COMMAND POST LIGHT, FT, M577A2	23,600	23,600	44,100	33,600
CARRIER, PERSONNEL, FT, ARM, M113A2	82,000	82,900	144,000	122,300
BRADLEY FIGHTING VEHICLES (MYP)	1,007,000	909,300	958,100	931,000
BRADLEY FIGHTING VEHICLES (MYP) (PY TRANSFER)		(21,700)		
BRADLEY FIGHTING VEHICLES (MYP) (AP-CY)	27,600	23,600	24,900	22,300
BRADLEY FVS TRAINING DEVICES	79,400	79,400	79,400	79,400
FIELD ARTILLERY AMMUNITION SUPPORT VEH	101,500	70,200	101,500	70,200

[In thousands of dollars]

	Budget	House	Senate	Conference
RECOVERY VEHICLE MED FT M88A1	215,800	181,600	215,800	211,400
RECOVERY VEHICLE MED. FT. M88A1 (PY TRANSFER)		(2,800)		
ABRAMS TANK SERIES ROLL (MYP)	1,749,600	1,478,400	1,348,200	1,556,300
ABRAMS TANK SERIES ROLL (MYP) (PY TRANSFER)		(77,900)	(77,900)	
ABRAMS TANK SERIES ROLL (MYP) (AP CY)	334,200	344,000	316,800	316,800
M60 SERIES TANK TRAINING DEVICES	26,400	20,400	26,400	20,400
M1 SERIES TANK TRAINING DEVICES	62,600	55,600	62,600	55,600
MODIFICATION OF TRACKED COMBAT VEHICLES				
CARRIER MOD	56,200	56,200	56,200	56,200
FIST VEHICLE (MOD)	80,000	76,100	80,000	76,100
BFVS SERIES (MOD)	19,000	5,300	19,000	12,000
HOWITZER MED SP FT 155MM M109 SER(MOD)	25,400	15,700	25,400	15,700
ARMORED VEH LAUNCH BRIDGE (AVLB) (MOD)	20,400	20,400	20,400	20,400
TANK CMBT FT 105MM GUN M60SER(MOD) (MYP)	130,600	113,600	119,600	110,600
105MM TANK GUN (MOD)	6,000			
TANK M1 SERIES (MOD)	70,100	47,500	64,200	64,200
TANK M1 SERIES (MOD) (PY TRANSFER)		(7,000)		
ROBOTIC OBST BREACHING ASSULT TANK (MOD)	17,800	9,600	9,600	9,600
SUPPORT EQUIPMENT AND FACILITIES				
SPARES AND REPAIR PARTS	649,000	618,000	679,000	628,000
VALUE ENGINEERING	1,000	1,000	1,000	1,000
ITEM LESS THAN $900,000 (TCV WTCV)	800	800	800	800
PRODUCTION BASE SUPPORT (TCV WTCV)	95,800	82,750	90,800	90,800
PRODUCTION BASE SUPPORT (TCV WTCV) (PY TRANSFER)		(6,600)		
TOTAL TRACKED COMBAT VEHICLES	4,905,500	4,335,400	4,425,600	4,515,300
WEAPONS AND OTHER COMBAT VEHICLES				
SERGEANT YORK DIVAD GUN	406,500			
SERGEANT YORK DIVAD GUN (GENERAL REDUCTION)		−256,517		
SERGEANT YORK DIVAD GUN (PY TRANSFER)		(256,517)		
SERGEANT YORK DIVAD GUN (AP-CY)	11,000			
SERGEANT YORK DIVAD GUN (AP CY) (GENERAL REDUCTION)		−104,479		
SERGEANT YORK DIVAD GUN (AP-CY) (PY TRANSFER)		(104,479)		
FOLLOW-ON AIR DEFENSE GUN				150,000
FOLLOW-ON AIR DEFENSE EQUIPMENT (PY TRANSFER)			(150,000)	
ARMOR MACHINE GUN, 7.62MM M240	27,100	27,100	27,100	27,100
SQUAD AUTOMATIC WEAPON (SAW) 5.56MM	14,500			
SQUAD AUTOMATIC WEAPON (SAW) 5.56MM (GENERAL REDUCTION)		−12,900	−1,900	
SQUAD AUTOMATIC WEAPON (SAW) 5.56MM (PY TRANSFER)		(12,900)	(12,900)	
GRENADE LAUNCHER, AUTO, 40MM, MK19-3	9,000	9,000	9,000	9,000
LAUNCHER SMOKE GRENADE	2,100	2,100	2,100	2,100
MORTAR 81MM XM252	6,100	6,100	6,100	6,100
MOTAR 120MM	5,000	5,000		5,000
M16 RIFLE	39,300	35,000	35,000	35,000
PERSONAL DEFENSE WEAPON, 9MM	7,500	7,500	7,500	7,500
VEH RAPID FIRE WPN SYS BUSHMASTER (MYP)	45,600	45,600	38,700	35,700
VEH RAPID FIRE WPN SYS-BUSHMASTER (MYP) (AP-CY)	8,300	3,700	5,000	5,000
TANK MUZZLE BORESIGHT DEVICE	4,600		4,600	4,600
MODIFICATION OF WEAPONS AND OTHER COMBAT VEH:				
DIVAD (MODS)	500			
HOWITZER, 155MM, M114A2 (MOD)	1,700	1,700	1,700	1,700
M16A1 RIFLE MODS	3,300	3,300	3,500	3,300
MODIFICATIONS UNDER $900,000 (WOCV-WTCV)	800	800	800	800
SUPPORT EQUIPMENT AND FACILITIES				
SPARES AND REPAIR PARTS	183,600	29,000	29,000	29,000
SPARES AND REPAIR PARTS (GENERAL REDUCTION)		−125,000		
SPARES AND REPAIR PARTS (PY TRANSFER)		(125,000)		
ITEMS LESS THAN $900,000 (WOCV-WTCV)	2,900	2,900	2,900	2,900
PRODUCTION BASE SUPPORT (WOCV-WTCV)	51,400	15,400	51,400	51,400
(PY TRANSFER)		(36,000)		
5.56 CARBINE XM4	2,800			
TOTAL, WEAPONS AND OTHER COMBAT VEHICLES	833,600	−304,696	211,300	376,200
INFLATION REESTIMATES FOR FY86		−7,000	−7,000	−7,000
INFLATION PREMIUM, FY86		−120,700		−120,700
PRIOR YEAR PROGRAM SAVINGS		−75,000		
(PY TRANSFER)		(75,000		
FY 85 INFLATION FAIRNESS ADJUSTMENT		−79,000		−79,000
(PY TRANSFER)		(79,000)		
TOTAL, PROCUREMENT OF WEAPONS AND TRACKED COMBATE VEH	5,739,100	3,749,004	4,629,900	4,684,800
TRANSFER FROM OTHER ACCOUNTS		(806,896)	(240,800)	
TOTAL FUNDING AVAILABLE	5,739,100	4,555,900	4,870,700	4,648,800

PRIOR YEAR SAVINGS

The conferees recognize $590,300,000 in prior year savings in Army Procurement of Weapons and Tracked Combat Vehicles. The sources and uses of these savings are identified in this Statement of the Managers under the heading "Availability of Unobligated Balances."

M-1 TANK

The conference agreement funds 840 tanks in fiscal year 1986 as proposed by the House. The conferees agree that no basic multiyear contract for the tank program may provide a procurement rate greater than 720 per year, but that options for higher annual procurement may be established. Beyond fiscal year 1986, exercising these contract options must be approved by the Committees on Appropriations of the House and Senate.

DIVAD FOLLOW-ON

The conferees agree to provide $150,000,000 to procure off-the-shelf air defense equipment to be identified later by the Department. Such procurement shall be subject to standard reprogramming procedures, as specified by the Senate.

PROCUREMENT OF AMMUNITION, ARMY

The conferees agree to the following amounts for Procurement of Ammunition, Army:

[In thousands of dollars]

	Budget	House	Senate	Conference
PROCUREMENT OF AMMUNITION, ARMY				
AMMUNITION				
ATOMIC MATERIEL				
NUCLEAR WEAPONS SUPPORT MATERIEL				
CONTROLLED ITEMS	5,200	[illegible]	[illegible]	[illegible]
CTG, 5.56MM, BALL M193				
CTG, 5.56MM, BLANK M200	18 100	18 100	18 100	18 100
CTG, 5.56MM, BLK M200, LKD F/SAW	12 000	12 000	12 000	12 000
CTG, 5.56MM, 4 BALL M855/1 TRCR M856 LKD	2.200	2,200	[illegible]	2 200
CTG, 5.56MM, BALL M16-A2	8 600	8 600	8 600	8 600
CTG, 5.56MM, TRACER M16-A2	25 000	25,000	25,000	25 000
GENERAL REDUCTION 5.56 MM	6.500	6,500	6,500	6,500
CTG, 7.62MM TRCR M62 LKD		–10,000		–10,000
CTG, 7.62MM, 4 BALL M80/1 TRCER M62 LKD	500	[illegible]	[illegible]	[illegible]
CTG, 7.62MM BALL M80 LKD/M13	25,000	25,800	25,800	25,800
CTG, 7.62MM, LKD 4 BALL ITRACER ONF	[illegible]	700	[illegible]	[illegible]
CTG, 7.62MM, SPEC BALL M118	1 4000	[illegible]	[illegible]	[illegible]
CTG, CAL .22, BALL LR	[illegible]	1,900	1.900	1,900
CTG, 9MM BALL	2 700	2 700	1,600	1 600
CTG, CAL .45, BALL M1911	1 400	1 400	1,400	1,400
CTG, CAL .45, MATCH GRADE	2,200	2 200	2 200	2,200
CTG, CAL .50, LKD 4 BALL/1 TRCR W/M15A2L	[illegible]	[illegible]	[illegible]	[illegible]
CTG, CAL .50, APIT, M20 LKD	[illegible]	11.300	11.300	11,300
CTG, CAL .50, BALL LKD	1,400	1,400	1 400	1,400
CTG, CAL .50, BLK, M1A1, LKD W/M9LK F/M2	2 400	3,800	3.800	3,800
CTG, CAL .50, LKD TRACER M17	15 000			
CTG, CAL .50, LKD 4 BALL/1 TRACER W/M9 L	4,100			
CTG, 20MM, LKD TP-1 M220 SERIES MLB M14A	44.400	48,000	48 000	48,000
CTG, 25MM, HEI-T M792 W/F	19.300	7.900	7 900	7 900
CTG, 25MM, APDS-T M791 W/M28 (MYP)	18 900	18,900	18 900	18,900
CTG, 25MM, TPT LKD M793 MLB M28	11,100	11.100	11.100	11.100
CTG, 30MM, LKD HEDP M789 W/FUZE (MYP)	37 700	37,700	37.700	37,700
CTG, 30MM, LKD TP M788 (MYP)	[illegible]	5,000	5,000	5 000
CTG, 40MM, TP-T M813 F/SGT YORK (MYP)	3 800	9.300	9.300	9.300
CTG, 40MM, HE W/PROX M822	11.300			
CTG, 40MM, HEDP M430	31.000			
CTG, 40MM, TP F/MK19	48 800	35 800	43 500	43,500
CTG, 40MM, PRAC M781	[illegible]	[illegible]	[illegible]	[illegible]
CTG, 75MM, BLANK, M337A1 F/HOWITZER	[illegible]	[illegible]	[illegible]	1,600
CTG, 81MM, ILLUM IUK XM853	[illegible]	2 800	[illegible]	2 800
CTG, 81MM, HE IUK W/FUZE	15.700		15.700	
CTG, 81MM, SMK RP IUK XM819	31.700		31,700	
CTG, 81MM, IMP 1/10 RANGE TNG XM880	12 400		12,400	
CTG, SUB CAL .22, PRACT CHG = 2 M745M	2 400		2 400	
MORTAR AMMO	1.100	1 100	1 100	1 100
CTG, 4.2-INCH, ILLUM, W/FUZE		96.200		96.200
CTG, 4.2-INCH, SMOKE, WP	27 300			
CTG, 105MM, HEAT MP T M456A2	6 700			
CTG, 105MM, TP-T, M490	47.200	41.600	41.600	41.600
CTG, 105MM, TRACE-P FOR M833	51.200	[illegible]	32 100	32.100
CTG, 105MM, DS-TP M724	2 300	[illegible]	2.300	2.300
CTG, 105MM, APFSDS-T M833	[illegible]	[illegible]	[illegible]	[illegible]
CTG, 120MM APFSDS-T M829	46 800	42 300	46 800	42 300
CTG, 120MM HEAT-MP-T, M830 (MYP)	59.700	75 000	75 000	75.000
CTG, 120MM TP-T XM831 (MYP)	27.300	31.000	27 300	31.000
CTG, 120MM TPCSDS-T, M865 (MYP)	29.600	29.600	29 600	29.600
CTG, 120MM, HE W/MULTI/OPTION FUZE	29.700	35 000	35,000	35 000
CTG, 120MM, ILLUM	30.300			
CTG, 120MM, SMOKE	4.000			
PROJ, 155MM, HE, ICM M483 (MYP)	11.200			
PROJ, 155M, SMK, WP, M825	299 800	181.100	299 800	269.800
PROJ, 155MM, HE, ADAM M731 (MYP)	16.300	10 000	16 300	13.100
PROJ, 155M, HE, RAAMS M741 (MYP)	26.500	14.600	26 500	20.600
PROJ, 155MM, HE, COPPERHEAD (EA)	71.600	45.800	71 600	48.700
(PY TRANSFER)	235.000	220.800		220.800
CHARGE, PROPELLING, 155MM, GREEN BAG M3			(167.613)	
CHARGE, PROPELLING, 155MM, WHITE BAG M4	27.700		24 400	12 200
CHARGE, PROPELLING, 155MM, RED BAG M203	30.400			
CHARGE, PROPELLING, 155MM, WHITE BAG M11	20 400	20 400	20 400	20.400
PROJ 8-INCH, HE, ICM (DP), M509	17.800	17 800		
PROJ 8-INCH, HE, RAP, M650		[illegible]	50 000	50,000
CHARGE, PROPELLING, 8-INCH WB, M188		10 000	10 000	10,000
FUZE, MTSQ M577/M577A1	29.200	29 200		
FUZE, MTSQ M582/M582A1	49 300	40 200	49 300	49 300
PRIMER PERC, M82	10 500	10.500	10 500	10.500
GROUND IMP MINE SCAT SYS AP M74 (MYP)	2 900	2 900	2.900	2 900
GROUND IMP MINE SCAT SYS AT M75 (MYP)	14.500			
CANISTER MINE PRACTICE XM88 (VOLCANO)	26 500			
CANISTER MINE (VOLCANO) XM87	1 500		1.500	
MINE, AT, BLU-91/8 (VOLCANO (MYP)	2 600		2.600	
MINE, AP, BLU-92/8 (VOLCANO) (MYP)	12 600		12 600	
	5,000		5,000	

[In thousands of dollars]

	Budget	[redacted]	Senate	Conference
MTR RKT 5 IN MK22 MOD 4 (EA)	5,400	5,400	5,400	5,400
LINE CHARGE M58A3 (MICLIC) (EA)	12,300	12,300	12,300	12,300
LINE CHARGE INERT M68A2 (MICLIC) (EA)	1,200	1,200	1,200	1,200
MODULAR PACK MINE SYSTEM	36,000		36,000	
DEMOLITION MUNITIONS & OTHER	16,500	16,500	16,500	16,500
DEMO KIT BANGALORE TORPEDO	3,000	3,000	3,000	3,000
LIGHTWEIGHT MULTI-PURPOSE SYSTEM	107,600	41,600	59,200	59,200
LIGHT WGT MULTI PURPOSE SYSTEM TRNR	3,100	3,100	3,100	3,100
HYDRA 70 RKT, MPSM HE M261 WHD (MYP)	28,900	28,900	28,900	28,900
HYDRA 70 RKT, MPSM PRAC M267 WHD	5,400	5,400	5,400	5,400
GRENADE, HAND, ALL TYPES	33,000	33,000	33,000	33,000
SIGNALS, ALL TYPES	33,500	14,900	14,900	14,900
SIMULATORS, ALL TYPES	28,700	19,900	19,900	19,900
GENERAL INCREASE/WAR RESERVE AMMO		162,100	[redacted]	200,000
MISCELLANEOUS				
AMMO COMPONENTS/SUPPORT, ALL TYPES	21,300	21,300	21,300	21,300
ITEMS LESS THAN $900,000 (MISC-AMMO)	3,700	3,700	3,700	3,700
SPARES AND REPAIR PARTS	1,000	1,000	1,000	1,000
AMMUNITION PECULIAR EQUIPMENT	5,200	5,200	5,200	5,200
NITROGUANIDINE (LB)	25,000	25,000	25,000	25,000
COMP A-5	9,100		9,100	
COMP C-4	9,000		9,000	
COMP B	4,400		4,400	
PBX 0280	1,600		1,600	
CYCLOTOL 70/30	2,800		2,800	
COMP LX-14	5,800		5,800	
AMMO 9WW/ELT	1,700	1,700	1,700	1,700
CLASSIFIED PROGRAMS	21,700		21,700	21,700
TOTAL, AMMUNITION	2,266,600	1,825,400	2,122,600	2,001,200
AMMUNITION PRODUCTION BASE SUPPORT				
PRODUCTION BASE SUPPORT				
PROVISION OF INDUSTRIAL FACILITIES	280,600	167,600	288,000	276,100
COMPONENTS FOR PROVE-OUT	14,000	9,600	14,000	14,000
LAYAWAY OF INDUSTRIAL FACILITIES	22,500	22,500	22,500	22,500
JEFFERSON PROVING GROUND MODERNIZATION	2,000	2,000	2,000	2,000
CHEMICAL DEMILITARIZATION PROGRAM	49,300	49,300	81,300	81,300
PRODUCTION BASE MODERNIZATION			103,100	103,100
TOTAL, AMMUNITION PRODUCTION BASE SUPPORT	368,400	251,000	510,900	499,000
INFLATION REESTIMATES FOR FY86		−3,000	−3,000	−3,000
GENERAL REDUCTION, PY TRANSFER			−8,387	
(PY TRANSFER)			(8,387)	
PRIOR YEAR INFLATION SAVINGS		−78,000		
(PY TRANSFER)		(78,000)		
PRIOR YEAR PROGRAM SAVINGS		−137,200	−33,900	
(PY TRANSFER)		(137,200)	(33,900)	
TOTAL, PROCUREMENT OF AMMUNITION, ARMY	2,635,000	1,858,200	2,588,213	2,497,200
TRANSFER FROM OTHER ACOUNTS		(215,200)	(209,900)	
TOTAL FUNDING AVAILABLE	2,635,000	2,073,400	2,798,113	2,497,200

PRIOR YEAR SAVINGS

The conferees recognize $178,100,000 in prior year savings in Army Ammunition Procurement. The sources and uses of these savings are identified in this Statement of the Managers under the heading "Availability of Unobligated Balances."

MORTAR AMMUNITION

The conference agreement provides a lump sum of $96,200,000 for motar ammunition, as proposed by the House. The conferees are in agreement that the Army shall submit a report to the Appropriations Committees for approval of the allocation of this sum. Such allocation shall include the two 81mm training rounds and 120mm mortar ammunition.

155MM ICM

The conferees agreement provides $269,000,000 for procurement of the 155mm Improved Conventional Munition. The Army has had serious start-up problems at the integrated production facility which manufactures this round which have resulted in delayed deliveries. The Army has turned top management attention to this problem and has made some progress; however, the conferees believe this effort must continue until the new plant is fully on-line. The conferees therefore direct that no more than $181,100,000 may be obligated until the Army conducts a thorough investigation of this situation and reports to the Appropriations Committees on specific problems, proposed solutions, and implementation plans and schedules.

COPPERHEAD

The conference agreement funds 6,900 projectiles for $220,800,000 as proposed by the House. The conferees are in agreement that the Department shall submit for approval a report to the Committees on Appropriations of the House and Senate on the cost effectiveness of establishing a second source for Copperhead prior to entering such a contract. The conferees are in agreement that the Committees will respond to such a report within thirty days after submittal of this report.

The Conferees agree that the $69,900,000 proposed for transfer to the 1986 program by the Senate may be used for the 1985 Copperhead program as requested by the Army.

MODULAR MINE PACK SYSTEM (MOPMS)

The conferees agree that no procurement funding for MOPMS in fiscal year 1986 is necessary because of program delays. Unobligated funds available in fiscal year 1985 ($16,500,000) may be used to initiate procurement in fiscal year 1986 when testing is complete, the item is type-classified, and the required report is submitted to the Committees. Additionally, a portion of the unallocated add-on may be used for MOPMS procurement if necessary. The conference action is taken without prejudice to the program.

LIGHTWEIGHT MULTIPURPOSE SYSTEM

The conference agreement provides sufficient funds in this program for the Army to exercise the second year production option for the AT-4 at the most economic production rate. The conferees agree that the DT/OT testing of the M72E4 be completed and the item be type-classified using available funds, with the understanding that this is done without expectation of subsequent procurement by the Department of Defense.

105MM TRAINING AMMUNITION

The conferees note that contracts for funds appropriated last year for the initial procurement of the XM-901 105mm tank training round have not yet been issued contract. This round has many advantages over the current round, including ballistic match.

In order to verify these advantages, the conferees direct that the Army procure at least 55,000 XM-901 105mm tank training rounds using available unobligated funds in fiscal years 1984 and 1985. The Army is further directed to report to the Committee on the results of operational experience and plans for procurement in the future.

PROVISION OF INDUSTRIAL FACILITIES

The conference agreement provides the following amounts for items in conference:

	House	Senate	Conference
Binary chemical facilities		[illegible]	[illegible]
Explosive stockpiling related project		3,200	
General reduction	$15,900		
Holston RDX HMX projects	7,600		[illegible]
RDX facility at Louisiana AAP		15,000	

BINARY CHEMICAL FACILITIES

The binary chemical munitions program is discussed at the beginning of the procurement section of this statement of managers.

RDX MODERNIZATION

The conferees are dissatisfied with the Army's response to previous direction to decide expeditiously on the number and location of additional RDX manufacturing facilities and to present a budget and program plan to accomplish this objective. The recently completed cost-benefit analysis explored alternatives, but the Army still has not submitted a plan which is responsive to Congressional requirements and direction. In order to expedite this effort, and get site specific work started at the first location (Louisiana Army Ammunition Plant), the conferees have agreed to bill language restricting the use of all production base projects funded in the bill. The language follows:

Provided, That none of the funds provided herein may be obligated or expended for production base projects until the Secretary of the Army has submitted to the Committees on Appropriations of the House and Senate a specific funding and program plan for RDX modernization which responds to Congressional requirements on program phasing and direction concerning full funding, and which provides for initiation of site specific work at Louisiana Army Ammunition Plant not later than June 30, 1986.

OTHER PROCUREMENT, ARMY

The conferees agree to the following amounts for Other Procurement, Army:

[In thousands of dollars]

	Budget	House	Senate	Conference
Other Procurement, Army				
Tactical and Support Vehicles				
Tactical vehicles				
Chassis trailer gen 2½ ton 2W M200A1	7,600	7,600	7,600	[illegible]
Dolly set trans shelter, 7½ t M1022 2	5,500	[illegible]	[illegible]	[illegible]
Motorcycle, GED 2W rough terrain	[illegible]	[illegible]		[illegible]
Semitrailer BB cont 34T M872 C.S	3,400	[illegible]	3,400	3,400
Semitrailer LB, 12T M270A1 M269A1	[illegible]	[illegible]	9,300	[illegible]
Semitrailer low bed, 40T M870 (C S)	12,200	12,200	[illegible]	12,200
Semitrailer low bed HET XM1000	11,200	11,200	[illegible]	
Semitrailer tank, 5000G	[illegible]	[illegible]	[illegible]	[illegible]
Trailer, cargo 3 4T 2W M101A2 W E	5,300	[illegible]	[illegible]	[illegible]
Trailer cargo, 1½ T, 2W M105A2	11,100	11,100	11,100	11,100
Trailer tank water 400G 1½T 2W M149A1	[illegible]	[illegible]	4,000	4,000
Hi mob multi-purpwhld veh (hmmwv) (myp)	[illegible]	313,914	326,000	313,914
Fast attack vehicle	3,100			
PY transfer reduction		−7,400		
(PY transfer)		(7,400)		
Small unit support vehicle (susv)	14,800	13,800	[illegible]	13,800
Truck, 5t, 6x6, abt (myp)	225,300	217,186	252,300	217,186
Truck, 10t, 8x8, abt (myp)	128,700	116,397	128,700	116,397
Truck, tractor, yard type M878 (C/S)	3,100	3,100	3,100	3,100
Modification of in-service equipment	[illegible]	[illegible]	[illegible]	[illegible]
Shop equipment, auto maint & rep	900	[illegible]	900	[illegible]
Items less than $900,000 (tac veh)	1,700	1,700	1,700	1,700
Non-tactical vehicles				
Passenger carrying vehicles	[illegible]	[illegible]	[illegible]	[illegible]
General purpose vehicles	39,900	[illegible]	[illegible]	[illegible]
Special purpose vehicles	13,000	[illegible]	[illegible]	13,000
Support equipment and facilities				
Spares and repair parts	135,200	135,200	135,200	135,200
Total, tactical and support vehicles	1,016,800	969,197	1,024,100	965,397
Communications and Electronics Equipment				
Telecomm equip—read comd comm				
JCSE equipment (USREDCOM)	[illegible]	[illegible]	[illegible]	[illegible]
Classified project 9ww	14,200	[illegible]	14,200	14,200
Telcomm equip—joint tactical comm prog				
Mod rcrd tfc term (mrtt)	39,900	[illegible]	[illegible]	[illegible]
DIG group multiplexer (DGM)	[illegible]	[illegible]	20,400	20,400
RPTR/term assmblys	15,700	15,700	15,700	15,700
Radio terminals an/trc-170	[illegible]	[illegible]	29,200	[illegible]
Unit level switches	31,400		10,800	10,600
Com sys con el an/tyq-16	15,900	[illegible]	15,900	15,900
DIG nsec vter ta-954	[illegible]	[illegible]	4,000	4,000
ANDVT tac term, cv-3591	[illegible]	[illegible]	[illegible]	[illegible]
Lightweight digital facsimile	7,400			
MOB subscriber eqp	335,300	335,300		335,300
(PY transfer)			(238,000)	
MOD of in-svc eq (tri-tac)	22,500	22,500	22,500	22,500
Telecomm equip-combat support comm				
Comm sys (hfld)	[illegible]		[illegible]	[illegible]
SINCGARS (roll)	231,300	172,951	[illegible]	[illegible]
SINCGARS (roll) (py transfer)		(22,100)		
[illegible]		[illegible]		15,400
Communications central, AN/TSC-99	11,700		11,700	
IMP hf radio family	[illegible]	[illegible]	[illegible]	[illegible]
PWR supply PP-6148/U	[illegible]	[illegible]	900	[illegible]
Radio set an/prc-70	11,600	11,600	11,600	11,600
Antenna group OE-254	2,500	2,500	2,500	2,500
Small unit trans an/prc-68	[illegible]	[illegible]	[illegible]	1,000
Teletypewriter terminal an/ugc-74	4,200		4,200	2,100

[In thousands of dollars]

	Budget	House	Senate	Conference
MOD of in-svc equip (csc)	26,000	11,800	26,000	18,900
RDF comm (s.w. Asia)	19,500	19,500	19,500	19,500
Items less than $900,000 (CSC-C-E)	10,100	7,100	10,100	7,100
Spec ops comm sup elmt	7,300	6,341	11,330	11,330
Telecomm Equip—NMCS Wide Support, Army				
Telecomm Equip—Starcom Non-DCS				
Ar Telecom auto pr (atcap)	9,200	9,200	9,200	9,200
C-E facilities/projects	19,500	17,100	20,500	18,800
Southcom C3 upgrade	26,900	26,900	13,800	13,800
Electromag comp prog (emcp)	600	600	600	600
Long-haul com (DCS)				
Autodin (DCS)	4,800	4,800	4,800	4,800
Defense data network (DDN)	6,500	8,500	6,500	6,500
Transmission media (eucom)	16,200	16,200	16,200	16,200
Transmission media (pacom)	30,900	30,900	30,900	30,900
WW tech con imp pr (WWTCIP)	5,300	5,300	5,300	5,300
Telecomm equip—satcom-grd environ				
Digital equipment (dscs)	40,000	40,000	40,000	40,000
Interconnect facility (dscs)	7,900	7,900	7,900	7,900
Jam resistant secure com (jrsc)	22,900	19,585	22,900	19,585
Med sat term an/gsc	62,100	62,100	62,100	62,100
Sprd spec mul acc (dscs)	23,000	17,970	23,000	17,970
Dscs operations control sys (docs)	60,600	27,281	40,600	31,300
Mod in-svc equip (dscs)	8,500	8,500	8,500	8,500
Mpk sat uhf term, an/psc-3	3,900	3,900	3,900	3,900
Veh sat uhf term, an/vsc-7	1,400	1,400	1,400	1,400
Single channel object tact term (scott)	83,400			
Mod in-svc equip (tac sat)	53,400	53,400	53,400	53,400
Telecomm equip-eucom C3 system				
Eucom C3 (nws)	98,600	18,700	98,600	98,600
Eucom alternate spt hq (ash)	11,500	7,700	11,500	7,700
Telecomm equip-comsec equipment				
Auto key dc kgx-93/tsec	4,300	4,300	4,300	4,300
Sec vo imprv prg (comsec)	8,400	8,400	18,400	12,000
Loop key gen tsec/kg-82	2,100	2,100	2,100	2,100
Key var gen tsec/kg-83	400	400	400	400
Ded loop encryp dev kg-84	21,800	21,800	19,800	21,800
Tnk encrp dev tsec/kg-93	2,700	2,700	2,700	2,700
Tsec/kg-94	7,800	7,800	7,800	7,800
Int lev 1 set tsec/st-34	800	800	800	800
Dig sub voice tsec/ky-68	7,000	2,000	7,000	7,000
Tsec/ky-90	5,400	5,400	5,400	5,400
Key generator, tsec/kg-87	7,000	7,000	7,000	7,000
Comsec module, tsec/kgv-13	5,100		5,100	3,800
Freq module, kgv-10/tsec	18,200	12,900	7,000	13,900
Elec tran dev kyk-13/tsec	1,500	1,500	1,500	1,500
Net con dev kyx-15/tsec	1,800	1,800	1,800	1,800
Speech secur eq tsec/ky-57	31,500	31,500	16,200	25,900
Tsec/kyv-5 (vactor) secure equip	900	900	900	900
Tempest (comsec)	1,100	1,100	1,100	1,100
Tsec/kgv-11/secure module	1,300	1,300	1,300	1,300
Umstead CC (ci-11-1)	3,000	3,000	3,000	3,000
Umstead RT (ci-11-2)	6,800	6,800	6,800	6,800
Batson II, tsec/ci-14	8,400	8,400	8,400	8,400
Items less than $900,000 (comsec)	4,500	4,500	4,500	4,500
Telecomm equip—base comm				
Base comm (conus)	34,600	34,600	34,600	34,600
Base comm (eucom)	6,800	6,800	6,800	6,800
Base comm (pacom)	4,000	4,000	4,000	4,000
Da comd + con sys (daccs)	10,300	10,300	10,300	10,300
Army opns ctr	5,000	5,000	5,000	5,000
Pentagon telecom ctr (ptc)	8,800	9,800	8,800	9,800
Tmde for telecomm				
Tmde modernization	27,000	27,000	27,000	27,000
Other elect sys/equip—intelligence support				
Trailblazer	38,400	19,700	19,700	19,700
Tac elec surv sys	15,800	15,800	15,800	15,800
Manpack radio df system (mrdfs)	7,000	7,000	7,000	7,000
Team pack	6,000	6,000	6,000	6,000
Mod in ser eq (int spt)	20,700	20,700	20,700	20,700
Reserve tactical intel enhancement	900	900	900	900
Items less than $900,000 (int spt-c-E)	4,700	4,700	4,700	4,700
Ft Devens training support	400	400	400	400
Trojan	5,300	5,300	5,300	5,300
Intelligence data handling system (idhs)	24,300	24,300	24,300	24,300
Tech recon and surv sys (tecras)	7,900	7,900	7,900	7,900
Items less than $900,000 (gdip—C–E)	4,600	4,600	4,600	4,600
Other Elect Sys Equip—Gen Def Intel Prog				
Other Elect Sys/Equip—AUTO DATA PROCESS SYS				
VERT INSTL AUTO BASELINE (VIABLE-BASOPS)	18,700	18,700	18,700	18,700
VERTICAL FORCE DEVELOP MIS	6,300	6,300	6,300	6,300
BATTERY COMPUTER SYSTEM	17,700	17,000	17,700	17,700
ARMY DATA DISTRIBUTION SYSTEM-ADDS	21,600	21,600	21,600	21,600
USAREUR TACTICAL AUTOMATION	2,200	2,200	2,200	2,200
LIFE CYCLE SOFTWARE SUP (ICSS)	3,500	3,500	3,500	3,500
ADPE FOR NON TAC MGT INFO SYS	8,600	22,700	33,000	32,900
ADPE FOR NON TAC MGT INFO SYS (PY TRANSFER)		(10,200)		
DIGITAL MESSAGE DEVICE	13,200			

[In thousands of dollars]

	Budget	House	Senate	Conference
FIRE SUPPORT TEAM DIGITAL MESSAGE				
MANUEVER CONTROL SYS	17,200	17,200	17,200	17,200
MOD IN-SVC CMD CONTROL (C2)	72,300	10,687	72,300	[illegible]
CORPS THEATER ADP SVC CTR (CTASC)	2,900	2,900	[illegible]	[illegible]
TACT ARMY CMBT COMPT SY (TACCS)	[illegible]		[illegible]	
COMPUTER BALLISTICS MORTAR XM 23	44,700	44,700	44,700	44,700
CSS LOG APPLC AUTO MARK READ SYMBS(LOG MA)	[illegible]	[illegible]	[illegible]	[illegible]
WW MIL COM & CONT SYS ADPE	10,600	10,600	[illegible]	[illegible]
UNIT LEVEL COMPUTER (ULC	7,100	7,100	7,100	7,100
ADV FA TACTICAL DATA SYSTEM	5,500	5,500	5,500	[illegible]
AUDIO VISUAL		25,574		25,574
AFRTS (AUDIO VISUAL				
DIG STRG & RTRVL ENGRG DATA SYS (DSREDS)	4,300	4,300	[illegible]	[illegible]
ITEMS LESS THAN $900,000 (A.V-C-E	25,300	[illegible]	24,300	24,300
OTHER ELECT SYS EQUP - ELECTRONIC WARFARE	14,300	11,300	14,300	11,300
COUNTERMEASURES SET AN TLQ-17A				
TACJAM AN/MLQ 34	5,700	5,700	5,700	5,700
EW (HTLD)	19,000	[illegible]	19,000	19,000
MOD IN SVC EQUIP (EW)	5,200	5,200	5,200	5,200
ITEMS LESS THAN $900,000 (EW-C-E)	2,100	2,100	2,100	2,100
OTHER ELECT SYS EQUP—TACTICAL ELECTRONIC	2,900	2,900	2,900	2,900
CHARGER RADIAC DETECTOR PP-4370 PD				
BATTERY CHARGER PP-7286 U	1,800			
POWER SUPPLY PP-6224	3,500	3,500	3,500	3,500
COMPUTER INDICATOR CP-696 PD	1,900	1,900	1,900	1,900
METEOROLOGICAL DATA SYS (FAMAS)	4,000	4,000	4,000	4,000
GROUND LASER LOCATOR DESIGNATOR (GLLD)	33,100	33,100	33,100	33,100
INTRUSION DETECTION DEVICES	45,100	45,100	45,100	45,100
NAVSTAR GLOBAL POSITIONING SYSTEM	16,600	16,600	16,600	16,600
NAVSTAR GLOBAL POSITIONING SYSTEM(PY TRANSFER)	9,700	2,400		9,700
POSITION AZIMUTH DETERMINING SYS (PADS)		(7,300)		
TAM-6 NIGHT SIGHT MAINTENANCE FACILITY	36,400		36,400	20,000
AN TAM-3 TEST SET NIGHT VISION SIGHT	4,200	4,200	4,200	4,200
NIGHT VISION GOGGLES	2,300	2,300	2,300	2,300
NIGHT VISION SIGHT INDIV WPN AN/PVS-4	65,000	65,000	65,000	65,000
POSITION LOCATION REPORTING SYS (PLRS)	9,900	9,900	9,900	9,900
RADIAC SET AN/VDR-2	45,100	45,100	45,100	45,100
REMBASS	2,000	2,000	2,000	2,000
RPV TA/DESIGN AERIAL RECON SYS (TADARS)	22,000	22,000	22,000	22,000
TACTICAL DOSIMETER, IM-185	134,600	[illegible]	[illegible]	66,000
MODIFICATION OF IN-SERVICE EQ (TAC EL)	2,400			
ITEMS LESS THAN $900,000 (TACT ELEC-C-E)	3,500	3,500	3,500	3,500
TMDE FOR TACTICAL ELECTRONICS	14,500	9,500	14,500	9,500
TEST STA. ELECTRONIC EQUIP. AN/USM-410				
TMDE FOR STE ICE	[illegible]	8,900	8,900	8,900
CORE ELECTRONIC AUTO TEST (STE-X)	5,600	5,600	5,600	5,600
OTHER ELECT SYS/EQUIP—SUP EQUIP AND FAC	8,500	8,500	8,500	8,500
SPARES AND REPAIR PARTS (TELECOM)				
SPARES AND REPAIR PARTS(COMESC)	215,400	189,400	200,300	189,400
SPARES AND REPAIR PARTS (OTHER)	14,600	14,600	14,600	14,600
WAR RESERVE SPARES	218,000	196,400	210,700	196,400
SPECIAL PROGRAMS	32,800	[illegible]	32,800	18,000
QUICK RETURN ON INVESTMENT (QRIP) PGM	95,000	95,000	95,000	95,000
PRODUCTIVITY INVESTMENT FUNDING	[illegible]	500	[illegible]	[illegible]
PROD ENHANCING CAP INVESTMENT PROG (PECIP)	40,700	40,700	40,700	40,700
PRODUCTION BASE SUPPORT (C-E)	1,000	1,000	1,000	[illegible]
	5,500	5,500	5,000	5,000
TOTAL, COMMUNICATIONS AND ELECTRONIC EQUIPMENT	3,306,300	2,731,789	2,639,630	2,868,859

Other Support Equipment

	Budget	House	Senate	Conference
CHEMICAL DEFENSIVE EQUIPMENT				
SIM DET CHEM AGENT AUTO ALARM XM81				
DECONTAMINATE APP PWR DR LT WT XM17	4,700	4,700	4,700	4,700
MASK, PROTECTIVE NBC	6,400	6,400	6,400	6,400
CHEMICAL AGENT MONITOR	30,300	30,300	30,300	30,300
SIMP COLL PROT EQUIP XM20	19,400	19,400	19,400	19,400
MODULAR/COLL PROT EQUIP FOR VV AND S	3,900	3,900	3,900	3,900
GEN SET, SMOKE, MECH PUL JET, XM157	3,100	3,100	3,100	3,100
BRIDGING EQUIPMENT	4,200	4,200	4,200	4,200
BOAT BRIDGE ERECTION, DE, 27 FT				
BRIDGE, FLOAT-RIBBON, INTERIOR BAY	25,400	25,400	25,400	25,400
BRIDGE, FLAT-RIBBON, RAMP	7,100	7,100	7,100	7,100
BRIDGE, FLOAT-RIBBON, TRANSPORTER	3,800	[illegible]	3,800	3,800
ITEMS LESS THAN $900,000 (BRIDGING)	18,000	[illegible]	18,000	18,000
ENGINEER (NON-CONSTRUCTION) EQUIPMENT	[illegible]	[illegible]	[illegible]	[illegible]
GEMSS AUX MINE DISPNSR XM138 (FLIPPER)				
DISPENSER MINE XM139	2,000	2,000	2,000	2,000
LAUCHER, MINE CLEARING LINE CHARGE	2,500		2,500	
MARKING SYCS, CLEAR LANE	1,400	1,400	1,400	1,400
E DET SET, MINE MET/NON-MET, AN/PRS-8	3,000	[illegible]	3,000	3,000
MINE CLEARING ROLLER	8,100	8,100	8,100	8,100
REMOTE CONTROL UNIT (MOPMS)	3,500	3,500	3,500	3,500
M-9 ARMORED COMBAT EARTHMOVER (ACE)	4,600	4,600	4,600	4,600
M-9 ARMORED COMBAT EARTHMOVER (ACE) (PY TRANSFER)	65,000	30,000	42,400	42,400
ITEMS LESS THAN $900,000 (ENG NON COSTR)		(12,400)		
COMBAT SERVICE SUPPORT EQUIPMENT	1,900	1,900	1,900	1,900
AIR CONDITIONERS VARIOUS SIZE/CAPACITIES				
FIELD KITCHENS, MOBILE, TRL MTD	19,100	19,100	19,100	19,100
DIVING EQUIPMENT	5,300	5,300	5,300	5,300
FIRETRUCKS	700	400	400	400
	[illegible]	[illegible]	[illegible]	8,600

[In thousands of dollars]

	Budget	House	Senate	Conference
TAG PRINTING AND BINDING EQUIPMENT	5,400	5,400	5,400	5,400
HALON RECHARGE SERVICE KIT	2,100	2,100	2,100	2,100
ITEMS LESS THAN $900,000 (CCS-EQ)	10,000	10,000	10,000	10,000
MODIFICATIONS OF IN SERVICE EQUIP (CSE)	3,800	3,800	3,800	3,800
PETROLEUM EQUIPMENT				
TANK ASSEMBLY FAB COLL POL 50000 G	5,100	5,100	5,100	5,100
TANK ASSEMBLY FAB COLLAPSIBLE POL 10000G	5,800	5,800	5,800	5,800
TANK UNIT TRLR MTD 600 GAL	1,900	1,900	1,900	1,900
PUMP ASSY LIQ GAS WHL 4 IN OUT 350 GPM	5,800	5,800	5,800	5,800
SWA PETROLEUM DISTRIBUTION SYSTEM	38,900	38,900	38,900	38,900
ITEMS LESS THAN $900,000 (POL)	1,600	1,600	1,600	1,600
LOG UNIT PRODUCTIVITY SYS (LUPS)			53,700	
WATER EQUIPMENT				
WTR PUR UNIT REV OS 200/3000 GPM TK MTD	14,000	14,000	14,000	14,000
WATER PUR UNIT REV OSMOSIS, 600GH	24,000	24,000	24,000	24,000
TACTICAL WATER DISTR SYS	8,300	8,300	8,300	8,300
TANK, FABRIC, COLL, WTR, SEMI-TRLR MTD	1,600	1,600	1,600	1,600
SMALL MOBILE WATER CHILLER (SMWC)	2,200	2,200	2,200	2,200
PUMP CENTRIFUGAL 65GPM	3,400	3,400	3,400	3,400
ITEMS LESS THAN $900,000 (WATER EQ)	1,900	1,900	1,900	1,900
MEDICAL EQUIPMENT:				
DEPOYABLE MEDICAL SYSTEM (DMS)	84,400	84,400	132,100	96,700
CBT SOP EQUIP MEDICAL	77,500	77,500	104,600	98,700
MEDICAL SUPPORT EQUIPMENT	83,900	83,900	83,900	83,900
MAINTENANCE EQUIPMENT				
SHOP EQ CONTACT MAINTENANCE TK MTD (MP)	27,000	27,000	27,000	27,000
WELDING SHOP, TRAILER MTD	9,800	9,800	9,800	9,800
SHOP EQ ELECTRRICAL RPR SEMI-TRL MTD	13,500	13,500	13,500	13,500
CALIBRATION SET SUPPORT	7,700	7,700	7,700	7,700
ITEMS LESS THAN $900,000 (MAIN EQUIP)	9,500	9,500	9,500	9,500
CONSTRUCTION EQUIPMENT				
TRACTOR FULL TRACKED LOW SPEED DD MED	26,400	26,400	26,400	26,400
SMALL EMPLACEMENT EXCAVATOR (SEE)	25,300	25,300	25,300	25,300
ITEMS LESS THAN $900,000 (CONSTRUCTION)	7,700	7,700	7,700	7,700
RAIL FLOAT CONTAINERIZATION EQUIPMENT				
LANDING, CRAFT, UTILITY	22,900	22,900	22,900	22,900
RO/RO DISCHARGE PLATFORM	11,800	11,800	11,800	11,800
CAUSEWAY SYSTEMS	13,400	13,400	13,400	14,400
MODIFICATIONS OF IN-SERV EQ (FLOAT/RAIL)	1,000	1,000	1,000	1,000
ITEMS LESS THAN $900,000 (FLOAT & RAIL)	4,200	4,200	4,200	4,200
GENERATORS				
GEN AND ASSOCIATED EQUIP	99,400	99,400	99,400	99,400
MATERIEL HANDLING EQUIPMENT				
TRUCK, FORK LIFT, GE, PT, 6000 LB	13,500	13,500	13,500	13,500
TRUCK, FORK LIFT, GE, SRT, 2000 LB	2,900	2,900	2,900	2,900
TRUCK, FORK, DE, PT, RT, 6000 LB	26,300	18,000		
TRUCK, FORK LIFT, ELEC, SRT, 6000 LB	4,600	4,600	4,600	4,600
TRUCK, FORK LFT, ELC, SRT, FRT/SIDE LDR	2,000	2,000	2,000	2,000
TRUCK, FORK LIFT, ELEC, SRT, 4000 LB	12,900	12,900	12,900	12,900
65 TON CRANE	6,200	6,200	6,200	6,200
ITEMS LESS THAN $900,000 (MHE)	6,000	6,000	6,000	6,000
SPARES AND REPAIR PARTS	37,700	37,700	37,700	37,700
AREA ORIENTED DEPOT UPGRADE	73,800	63,800	63,800	63,800
VALUE ENGINEERING(VE)	600	600	600	600
PROJECT RESHAPE (HQ DARCOM)	14,600	6,000	6,000	6,000
PRODUCTION BASE SUPPORT (OTH)	7,900	7,900	7,900	7,900
SPECIAL EQUIPMENT FOR USER TESTING	11,200	11,200	11,200	11,200
HOST NATION SUPPORT—EUROPE	58,200		58,200	41,000
NATIONAL TRAINING CTR SUP	13,300	13,300	13,300	13,300
SWA STAGING BASES	6,400	6,400	6,400	6,400
TRAINING DEVICES, NONSYSTEM	177,800	177,800	177,800	177,800
[illegible]		5,000		5,000
TOTAL OTHER SUPPORT EQUIPMENT	1,389,700	1,272,100	1,450,700	1,341,000
NON-CENTRALLY MANAGED ITEMS		105,300	105,300	105,300
INFLATION REESTIMATES FOR FY86		−5,000	−5,000	−5,000
PRIOR YEAR INFLATION SAVINGS		−174,000		
(PY TRANSFER)		(174,000)		
PRIOR YEAR PROGRAM SAVINGS		−89,400		
(PY TRANSFER)		(64,000)		
TOTAL, OTHER PROCUREMENT, ARMY	5,712,800	4,809,986	5,214,730	5,275,556
TRANSFER FROM OTHER ACCOUNTS		(297,400)	(238,000)	
TOTAL FUNDING AVAILABLE	5,712,800	5,107,386	5,452,730	5,275,556

PRIOR YEAR SAVINGS

The conferees recognize $257,500,000 in prior year savings in Army Other Procurement. The sources and uses of these savings are identified in this Statement of the Managers under the heading "Availability of Unobligated Balances."

FIVE TON TRUCKS

The conferees agree to the House allowance for procurement of five ton trucks and further agree that additional five ton trucks may be procured for the Army National Guard with funds appropriated under "National Guard and Reserve Equipment."

XM-1000 SEMITRAILER

The conferees deny without prejudice the budgeted procurement funding for the XM-1000 in recognition of program delays. If procurement can be justified in fiscal year 1986, after successful completion of testing, a reprogramming will be considered.

FREQUENCY MODULE, KGV-10/TSEC

The conferees agree to provide $13,900,000 as proposed by the House instead of the $1,000,000 proposed by the Senate. The conferees direct the Army to apply excess funds available from these funds due to schedule slippages in the SINCGARS program to the purchase of KY-57 (Vinson) devices to provide additional communications security capability for the existing VRC-12 series radios which will now be retained longer.

BEST COPY AVAILABLE

MODULAR RECORD TERMINAL

The conferees recommend $36,200,000 for a more cost effective alternative to the Single Subscriber Terminal, with the understanding that the Army already is evaluating such alternatives. The conferees direct that none of the recommended funds be obligated until the Army submits a report to the Defense Appropriations Subcommittees of each House including the results of the evaluation, a recommendation for a more cost effective program, and the rationale for such recommendation. The conferees agree that no funding is provided for modular tactical communications centers as proposed by the Senate.

MOBILE SUBSCRIBER EQUIPMENT

The conferees recommend $335,000,000 for Mobile Subscriber Equipment as proposed by the House.

The conferees are concerned about the capability of the Army to manage the frequency and power management problems associated with the equipment of a mobile, cellular phone system in rapidly changing tactical situations where large numbers of other critical electronic emitter and receivers are used. The conferees therefore direct the Army to report by May 1, 1986 to the Defense Appropriations Subcommittees of the House and Senate on its plans to develop, demonstrate, and employ a frequency management capability for its mobile subscriber equipment.

TELETYPEWRITER TERMINAL AN/UGC-74

The conferees recommend $2,100,000 for the Teletypewriter Terminal AN/UGC-74 Program and direct that none of these terminal be utilized in a program that proivides for their operation solely as a printer.

AN/USC-28 SATELLITE COMMUNICATIONS SET

The conferees agree to provide $19,585,000 for Jam Resistant Secure Communications and $17,970,000 for Spread Spectrum Multiple Access modems (AN/USC-28) as proposed by the House. The conferees understand that the 1986 program requirements have already been purchased using excess fiscal year 1985 funds.

The conferees are concerned about the Department's long term plans for the development of a universal modem, and therefore direct the Department to submit a report to the Defense Appropriations Subcommittees of the House and Senate by April 1, 1986, including its plan for procurement and fielding of a universal modem, which fully considers the sizable sunk costs in existing hardware and software.

COMSEC MODULE, TSEC/KGV-13

The conferees recommend $3,800,000 for COMSEC module, TSEC/KGV-13 with the understanding that a revised schedule will permit obligation of these funds in fiscal year 1986. The reduction from the budget request is based on an estimated downward revision in unit costs and is made without prejudice.

MANEUVER CONTROL SYSTEM

The conferees recommend $60,000,000 for the Maneuver Control System (MCS). The conferees are concerned about the relatively high cost of military standard equipment and direct that provision of military standard equipment be limited to the training base and to the forward deployed and early deploying active component forces for the European, Korean, and Southwestern Asian Theaters. The conferees intend that (1) military standard equipment for these forces will be supplemented with nondevelopmental (NDI) equipment, (2) other active forces will be equipped entirely with NDI equipment, and (3) military standard equipment will be redistributed to the reserve component forces when the active forces are re-equipped under the Army Command and Control System (ACCS) program. The conferees direct that, to achieve greatest economy, priority should be given to acquiring the remaining military standard equipment in fiscal year 1986. For the remainder of the program equipment, procedures should be established to ensure that procurement and the ability to field this equipment is synchronized.

The conferees direct the Army to report to the Defense Appropriations Subcommittees of the House and Senate prior to obligation, but no later than March 1, 1986, on its proposed procurement and distribution plans of both military standard and NDI equipment for this program.

The conferees are aware that the MCS program has been developed and tested on an evolutionary basis and intend that the continuing development of the MCS will provide critical learning experience for the follow-on ACCS program. The conferees therefore direct that procurement be planned for completion in fiscal year 1987 and that fielding of this equipment be done expeditiously. An aggressive test and evaluation program should be established to ensure maximum transfer of MCS experience to the follow-on ACCS program. The success of this program is of interest to the conferees. Reports on its status should therefore be made from time to time to the Defense Appropriations Subcommittees of the House and Senate.

FIRE SUPPORT SYSTEM MODERNIZATION

The conferees agree to provide $25,574,000 for maximizing the near fire support command and control fielded capabilities in accordance with a Congressionally-approved plan which will culminate in the ultimate system for the 1990's. However, the Army's Light Divisions are of primary and immediate concern. These Divisions have the unique mission requirement to deploy on short notice by air transport, fully prepared to carry out a variety of missions in low to high intensity conflicts. Since the Light Divisions currently have no automated fire support system, the conferees agree that these procurement funds are provided solely for the Light Divisions.

In response to repeated requests by Light Division Commanders for a Lightweight Fire Support System, the Army equipped the 9th Division with a system specifically designed for this mission in October 1985. This system will undergo Operational Testing between February and April 1986.

The Conferees direct the Army to report on the test results of the lightweight system test program, and submit a proposed overall transition plan for achieving near-term improvements to the fielded systems of both the Light and Heavy Divisions. Obligation of these funds is contingent on Congressional review of test results and approval of the transition plan.

POSITIONING/AZIMUTH DETERMINING SYSTEM

The conferees recommend $20,000,000 for the Positioning/Azimuth Determining System (PADS) with the intention that a mimimum production level for PADS be maintained for one year.

The conferees are concerned that the Army has no definite plan for the use of the various positioning/azimuth determining systems both currently in the inventory and in development. The conferees therefore direct the Army by March 1, 1986, to submit to the Defense Appropriations Subcommittees of the House and Senate a detailed and comprehensive report including a definition of the current and future roles of all positioning/azimuth determining systems in the inventory or underdevelopment, the procurement plans for each system by fiscal year, a cost-benefit analysis of life cycle costs suppporting the planned use of each system, and a description and justification of plans for transition from one system to its successor system.

HOST NATION SUPPORT

The conferees recommend $41,000,000 for Host Nation Support-Europe. This recommondation reflects the conferees' continued support of the Host Nation Support program, revised activation schedules, the offer of the German government to prefinance construction of facilities for activated units, and the availability of unobligated balances for this program appropriated in fiscal years 1984 and 1985.

The conferees agree with the Senate direction to restrict the use of funds only for the Host Nation Support program, and the House direction for the Army to submit a report on its plans to synchronize future estimates of requirements with activation schedules, and to include details in future budget requests on the relationship of requirements to activation and operational schedules.

AIRCRAFT PROCUREMENT, NAVY

The conferees agree to the following amounts for Aircraft Procurement, Navy:

[In thousands of dollars]

	Budget	House	Senate	Conference
AIRCRAFT PROCUREMENT, NAVY				
BA-1 COMBAT AIRCRAFT				
A-6E (ATTACK) INTRUDER	202,582	[illegible]		293,282
(PY TRANSFER)			(202,582)	
A-6E (ATTACK) INTRUDER (AP-CY)	11,600	20,900		20,900
(PY TRANSFER)			(11,600)	
EA-6B (ELECTRONIC WARFARE) PROWLER	[illegible]	[illegible]	436,098	436,098
EA-6B (ELECTRONIC WARFARE) PROWLER (PY TRANSFER)		(3,400)		
EA-6B (ELECTRONIC WARFARE) PROWLER (AP-CY)	[illegible]	33,000	24,800	24,800

[In thousands of dollars]

	Budget	House	Senate	Conference
AV-8B (V/STOL)	892,459	637,259	821,459	821,459
AV-8B (V/STOL) (PY TRANSFER)		(139,200)		
AV-8B (V/STOL) (AP-CY)	86,569	[illegible]	[illegible]	[illegible]
F-14A (FIGHTER) TOMCAT	653,615	553,615	[illegible]	[illegible]
F-14A (FIGHTER) TOMCAT (AP-CY)	148,200	124,200	124,200	124,200
F/A-18 (FIGHTER) HORNET	2,493,741	2,153,741	2,267,900	2,267,900
F/A-18 (FIGHTER) HORNET (PY TRANSFER)		(118,000)		
F/A-18 (FIGHTER) HORNET (AP-CY)	268,130	210,130	210,130	210,130
CH/MH-53E (HELICOPTER) SUPER STALLION (MYP)	260,053	235,053	235,053	235,053
CH/MH-53E (HELICOPTER) SUPER STALLION (MYP) (AP-CY)	33,300	[illegible]	[illegible]	33,300
AH-1T (HELICOPTER) SEA COBRA	201,982	[illegible]	[illegible]	[illegible]
SH-60B (ASW HELO) SEAHAWK	315,580	[illegible]	[illegible]	[illegible]
SH-60B (ASW HELO) SEAHAWK (PY TRANSFER)		(47,000)		
SH-60B (ASW HELO) SEAHWAK (AP-CY)	[illegible]	[illegible]	[illegible]	[illegible]
CV ASW HELO (AP-CY)	[illegible]	[illegible]	[illegible]	[illegible]
P-3C (PATROL) ORION (MYP)	329,871	322,871		322,871
P-3C (PATROL) ORION (MYP) (AP-CY)	156,600	[illegible]		[illegible]
E-2C (EARLY WARNING) HAWKEYE	328,360	316,460		[illegible]
E-2C (EARLY WARNING) HAWKEYE (PY TRANSFER)		(6,000)	(320,900)	
E-2C (EARLY WARNING) HAWKEYE (AP-CY)	31,300	31,300		31,300
(PY TRANSFER)			(31,300)	
SH-2F (ASW HELO) SEASPRITE	69,900	[illegible]	[illegible]	[illegible]
TOTAL, BA-1 COMBAT AIRCRAFT	7,048,040	6,145,140	5,482,979	6,578,732
BA-2 AIRLIFT AIRCRAFT				
UC-12B/CX	26,867	26,867	26,867	26,867
C-20A		40,000	40,000	[illegible]
C-2 (MYP)	134,936	134,936	134,936	134,936
C-2 (MYP) (AP-CY)	35,200	35,200	35,200	35,300
TOTAL, BA-2 AIRLIFT AIRCRAFT	197,003	237,003	237,003	237,003
BA-3 TRAINER AIRCRAFT				
T-34C	49,431	24,731	24,731	24,731
ADVERSARY (F-16)	115,673	115,673	115,673	115,673
TOTAL, BA-3 TRAINER AIRCRAFT	165,104	140,404	140,404	140,404
BA-4 OTHER AIRCRAFT				
E-6A	297,300	297,300		297,300
E-6A (AP-CY)	[illegible]	58,300		58,300
VH-60	102,800	102,800	102,800	102,800
TOTAL, BA-4 OTHER AIRCRAFT	458,400	458,400	102,800	458,400
BA-5 MODIFICATION OF AIRCRAFT				
A-3 SERIES	5,359	5,359	5,359	5,359
A-4 SERIES	16,972	10,272	10,272	10,272
A-6 SERIES	240,536	230,936	224,115	230,936
EA-6 SERIES	45,394	38,594	45,394	38,594
A-7 SERIES	29,983	10,783	7,569	7,569
AV-8 SERIES	8,123	8,123	8,123	8,123
F-4 SERIES	5,012	3,712	3,712	3,712
RF-4 SERIES	2,469	2,469	2,469	2,469
F-14 SERIES	158,752	158,752	158,752	158,752
F-8 SERIES	[illegible]	100	[illegible]	100
F-5 SERIES	1,682	1,682	1,682	1,682
OV-10 SERIES	51,506	51,506	51,506	51,506
F-18 SERIES	17,814	17,814	17,814	17,814
H-46 SERIES	136,995	134,995	134,995	134,995
H-53 SERIES	40,255	40,255	40,255	40,255
SH-60 SERIES	1,635	1,635	1,635	1,635
H-1 SERIES	75,419	75,419	75,419	75,419
H-2 SERIES	33,851	33,851	33,851	33,851
H-3 SERIES	97,990	96,690	[illegible]	[illegible]
EP-3 SERIES	38,531	38,531	38,531	38,531
P-3 SERIES	152,889	152,889	[illegible]	[illegible]
S-3 SERIES	284,291	293,591	284,291	293,591
E-2 SERIES	72,062	65,662	65,662	65,662
TRAINER A/C SERIES	5,283	4,983	4,983	4,983
EC-130 SERIES	6,471	6,471	6,471	6,471
C-130 SERIES	12,485	12,485	12,485	12,485
KC-TANKER CONVERSION			110,000	110,000
FEWSG	22,673	22,673	22,673	22,673
CARGO/TRANSPORT A/C SERIES	6,939	6,939	6,939	6,939
VARIOUS	15,625	15,625	4,625	4,625
POWER PLANT CHANGES	8,339	8,339	8,339	8,339
MISC FLT SAFETY/OPER NECESSITY CHANGES	4,334	4,334	4,334	4,334
COMMON ECM EQUIPMENT	242,021	242,021	165,368	192,021
COMMON AVIONICS CHANGES	23,927	23,927	23,927	23,927
UNDISTRIBUTED REDUCTION		−30,000		
TOTAL, BA-5 MODIFICATION OF AIRCRAFT	1,865,717	1,791,417	2,074,429	2,110,403
BA-6 AIRCRAFT SPARES				
SPARES AND REPAIR PARTS	1,463,662	1,325,162	1,425,162	1,325,162
SPARES AND REPAIR PARTS (PY TRANSFER)		(100,000)		
BA-7 AIRCRAFT SUPPORT EQUIPMENT AND FACIS				
COMMON GROUND EQUIPMENT	684,820	684,820	668,520	668,520
AIRCRAFT INDUSTRIAL FACILITIES	57,132	57,132	57,132	57,132
WAR CONSUMABLES	65,042	65,042	60,242	60,242

[In thousands of dollars]

	Budget	[illegible]	Senate	Conference
OTHER PRODUCTION CHARGES	57,680	55,980	55,980	55,980
UNDISTRIBUTED REDUCTION		−64,800		−67,000
TOTAL, BA-7 AIRCRAFT SUPPORT EQUIPMENT AND FACIS	864,674	798,174	841,874	774,874
INFLATION REESTIMATES FOR FY86	....	−15,000	−15,000	−15,000
INFLATION PREMIUM FY86	....	−253,300		−253,300
FY85 INFLATION FAIRNESS ADJUSTMENT	....	−181,000	....	−181,000
(PY TRANSFER)	....	(181,000)		
TOTAL AIRCRAFT PROCUREMENT NAVY	12,062,600	10,446,400	10,289,651	11,175,678
TRANSFER FROM OTHER ACCOUNTS		(594,600)	(566,382)	....
TOTAL FUNDING AVAILABLE	12,062,600	11,041,000	10,856,033	11,175,678

PRIOR YEAR SAVINGS

The conferees recognize $551,300,000 in prior year savings in Navy Aircraft Procurement. The sources and uses of these savings are identified in this Statement of the Managers under the heading "Availability of Unobligated Balances."

CH-53E HEAVY LIFT HELICOPTER

The conferees agree that the CH-53E engines be procured under a multiyear contract as proposed by the House.

P-3C ANTISUBMARINE WARFARE AIRCRAFT

The conferees agree to an allowance of $322,871,000 to procure nine P-3C aircraft and $106,600,000 for P-3C advance procurement. The conferees direct that six of the nine P-3C aircraft shall be for the Naval Reserve.

NAVY TANKER AIRCRAFT

The conferees agree with the Senate allowance of $110,000,000 for tanker aircraft modifications to support deployed carrier based fighter aircraft. The conferees believe the conversion of used commercial aircraft into tankers is substantially less costly than the procurement of new tanker aircraft. Accordingly, the conferees direct the Navy to request bids for used commercial aircraft that can be converted into aerial refueling tankers.

P-3C AIRCRAFT MODIFICATIONS

The conferees agree to the allowance of $396,089,000 for P-3C modifications. With respect to the P-3C modification program, the conferees direct the Department, with the available funds, to procure 33 additional update III modifications kits for a total of 48 aircrafts; to allot $27,500,000 to procure AN/AQA-7 systems with expanded channel capacity and compatibility with the planned advanced acoustic sensors. The conferees direct the Navy to procure sufficient test models of both the AN/AQA-7 improved processor system and improved display system in order to determine fleet operability and suitability. Upon completion of this evaluation, the Navy should obtain the technical data package and compete future procurements. Additionally, the conferees direct that $3,000,000 be made available to modify P-3A aircraft to be turned over to the Customs Service for drug interdiction.

WEAPONS PROCUREMENT, NAVY

The conferees agree to the following amounts to Weapons Procurement, Navy:

[In thousands of dollars]

	[illegible]	[illegible]	[illegible]	Conference
WEAPONS PROCUREMENT NAVY				
BA-1 BALLISTIC MISSILES				
BALLISTIC MISSILES				
UGM-73A (C-3) POSEIDON	5,001	5,001	5,001	5,001
UGM-96A (C-4) TRIDENT I	66,226	36,226	36,226	36,226
TRIDENT II	312,686	312,686	312,686	312,686
TRIDENT II (AP-CY)	259,300	269,300	269,300	269,300
MODIFICATION OF MISSILES				
UGM-73A (C-3) POSEIDON MODS	15,006			
SUPPORT EQUIPMENT AND FACILITIES				
MISSILE INDUSTRIAL FACILITIES	4,501	4,501	4,501	4,501
ASTRONAUTICS	12,606	12,606	12,606	12,606
TOTAL BA-1 BALLISTIC MISSILES	685,326	640,320	640,320	640,320
BA-2 OTHER MISSILES				
STRATEGIC MISSILES				
BGM-109 TOMAHAWK	670,204	670,204	670,204	670,204
BGM-109 TOMAHAWK (AP-CY)	64,600	54,600	54,600	[illegible]
TACTICAL MISSILES				
AIM-RIM-7 F/M SPARROW	359,200	345,379	359,200	359,200
AIM-RIM-7 F/M SPARROW (AP-CY)	9,500			
AIM-9L/M SIDEWINDER	[illegible]	125,800	125,800	125,800
AIM-9L/M SIDEWINDER (AP-CY)	8,000			
AIM-54A/C (PHOENIX)	343,600	250,700	343,600	343,600
AIM-54A/C (PHOENIX) (AP-CY)	38,300	24,800	24,800	24,800
AGM-84A HARPOON	314,873	314,873	314,873	314,873
AGM-88A HARM	258,000	236,000	242,214	236,000
SM-1 MR	26,438	17,738	20,300	20,300
SM-1 MR (AP-CY)	9,500			
SM-2 MR	509,719	509,719	509,719	509,719
SM-2 ER	312,235	312,235	303,200	303,200
RAM	44,713	15,000		
SIDEARM	20,500	20,500	30,500	30,500
HELLFIRE	55,068	55,068	51,768	51,768
LASER MAVERICK	194,258	173,458	173,458	173,458
IIR MAVERICK	27,809	27,809	27,809	27,809
AERIAL TARGETS	105,600	105,600	105,600	105,600
DRONES AND DECOYS	29,400	[illegible]	29,400	29,400
OTHER MISSILE SUPPORT	12,309	12,309	12,309	12,309
MODIFICATION OF MISSILES				
TOMAHAWK MODS	2,500	2,500	2,500	2,500
AIM-RIM-7E/F SPARROW MOD	2,302	2,302	2,302	2,302
AIM-9 SIDEWINDER MOD	30,317	20,317	25,271	20,317
AIM-54A/C PHOENIX MOD	13,205	13,205	13,205	13,205

[In thousands of dollars]

	Budget	House	Senate	Conference
AGM-84A HARPOON MOD	9,507	9,507	9,507	9,507
STANDARD MISSILES MOD	17,102	17,102	21,802	17,102
SUPPORT EQUIPMENT AND FACILITIES				
WEAPONS INDUSTRIAL FACILITIES	18,908	18,908	24,908	24,908
FLEET SATELLITE COMMUNICATIONS	56,300	56,300	56,300	56,300
DEFENSE METEOROLOGICAL SATELLITE PROGRAM	8,802	5,002	5,002	5,002
ORDNANCE SUPPORT EQUIPMENT				
ORDNANCE SUPPORT EQUIPMENT	71,889	16,289	16,289	16,289
TOTAL, BA 2 OTHER MISSILES	3,730,458	3,462,624	3,576,440	3,560,572
BA-3 TORPEDOES AND RELATED EQUIPMENT				
TORPEDOES AND RELATED EQUIPMENT				
TORPEDO MK-48 ADCAP	417,437	417,437	417,437	417,437
TORPEDO MK-46 (MYP)	105,515	101,515	101,515	101,515
TORPEDO MK-46 (MYP) (AP-CY)	23,600	23,600	23,600	23,600
MK-60 CAPTOR		59,600		59,600
MOBILE TARGET MK-30 (MYP)	20,600	16,600	18,600	18,600
MK 38 MINI MOBILE TARGET	3,499	3,499	3,499	3,499
ASROC	15,551	15,551	15,551	15,551
MOD OF TORPEDOES AND RELATED EQUIP				
MOBILE MINE MK-67	23,727		3,714	3,714
MOBILE MINE MK-67 (PY TRANSFER)		(22,600)		
TORPEDO MK-46 MODS (MYP)	91,935	85,735	85,735	85,735
TORPEDO MK-46 MODS (MYP) (AP-CY)	8,400	8,400	8,400	8,400
CAPTOR MODS	15,705	15,705	15,705	15,705
SWIMMER WEAPONS SYSTEM	1,501	1,501	1,501	1,501
SUPPORT EQUIPMENT				
TORPEDO SUPPORT EQUIPMENT	47,417	47,417	47,417	47,417
ASW RANGE SUPPORT	23,158	23,158	23,158	23,158
TOTAL, BA-3 TORPEDOES AND RELATED EQUIPMENT	798,045	819,718	765,832	825,432
BA 4 OTHER WEAPONS				
GUNS AND GUN MOUNTS				
MK-15 CLOSE IN WEAPONS SYSTEM	150,146	150,146	150,146	150,146
MK-75 76MM GUN MOUNT	20,005	15,005	17,905	17,905
MK-19/40MM MACHINE GUN	1,196	1,196	1,196	1,196
25MM GUN MOUNT	5,501	5,501	5,501	5,501
SMALL ARMS AND WEAPONS	11,305	11,305	11,305	11,305
MODIFICATION OF GUNS AND GUN MOUNTS				
CIWS MODS	37,111	37,111	37,111	37,111
5"/54 GUN MOUNT MODS	14,104	14,104	14,104	14,104
3"/50 GUN MOUNT MODS	700	700	700	700
MK 75 76MM GUN MOUNT MODS	4,201	4,201	4,201	4,201
MODS UNDER $900,000	2,001	2,001	2,001	2,001
SUPPORT EQUIPMENT				
GUN SUPPORT EQUIPMENT	1,200	1,200	1,200	1,200
TOTAL, BA-4 OTHER WEAPONS	247,470	242,470	245,370	245,370
BA-5 SPARES & REPAIR PARTS				
SPARES AND REPAIR PARTS	166,601	166,601	166,601	166,601
UNDISTRIBUTED REDUCTION		−25,000		−12,500
INFLATION REESTIMATES FOR FY86		−7,000	−7,000	−7,000
INFLATION PREMIUM, FY86		−119,000		−119,000
PRIOR YEAR PROGRAM SAVINGS		−15,000	−15,000	
(PY TRANSFER)		(15,000)	(15,000)	
FY85 INFLATION FAIRNESS ADJUSTMENT		−72,000		−72,000
(PY TRANSFER)		(72,000)		
TOTAL, WEAPONS PROCUREMENT, NAVY	5,627,900	5,093,733	5,372,563	5,227,795
TRANSFER FROM OTHER ACCOUNTS		(109,600)	(15,000)	
TOTAL FUNDING AVAILABLE	5,627,900	5,203,333	5,387,563	5,227,795

PRIOR YEAR SAVINGS

The conferees recognize $15,000,000 in prior year savings in Navy Weapons Procurement. The sources and uses of these savings are identified in this Statement of the Managers under the heading "Availability of Unobligated Balances."

PHOENIX

The conferees agree to provide $343,600,000 for Phoenix missiles as proposed by the Senate, instead of $250,700,000 as proposed by the House.

The House had deleted $92,900,000 requested in the budget for establishing a second source to produce Phoenix missiles. The Senate had included those funds. The conferees agree with the Senate position with the following provisos:

1. The results of the Phase II analysis of Phoenix second sourcing now being conducted by the Navy are to be submitted to the Committees on Appropriations of the House and Senate, supported by an OSD GAIG review of the analysis, and by written proposals from prospective second source suppliers.

2. The Secretary of Defense is to provide certification that the underlying procurement program for Phoenix is supportable in the current five-year defense plan.

3. No more than $60,000,000 of the $92,900,000 may be obligated or expended for long lead materials and test equipment associated with second sourcing. The remaining $32,900,000 may not be obligated or expended until pending reprogramming action FY 85-65PA has been approved by the Congress. Consideration of that reprogramming will be made following receipt of the documentation cited in points 1 and 2, above.

4. If the Phase II analysis does not clearly support the establishment of a second source, all materials purchased with the $60,000,000 hereby released shall be applied to fiscal year 1988 procurement, with corresponding reductions in the fiscal year 1987 request.

The conferees emphasize their agreement with, and commitment to, competition in defense procurements. On the other hand, it is reasonable to require study and analysis which firmly show that the considerable expense of establishing a second source will be more than offset by reductions in future prices.

STANDARD MISSILE

The conferees agree to provide $20,300,000 for Standard Missile-1, Medium Range as proposed by the Senate instead of $17,738,000 as proposed by the House. This includes funds for the final year of the SM-1 motor multiyear procurement. These motors will be used for the SM-1 modification program.

ROLLING AIRFRAME MISSILE

The conferees agree to provide no funds for Rolling Airframe Missile (RAM) as proposed by the Senate, instead of $15,000,000 as proposed by the House. The conferees note the availability of unobligated prior year funds in the RAM program which can be used for production preparation. As an indication of support for RAM, the conferees have agreed to provide the full budgeted amount for RAM development in the RDT&E, Navy, appropriation. The conferees also deleted, without prejudice, the initial production funding for RAM launchers and fire controls as proposed by the Senate.

MK-67 SUBMARINE LAUNCHED MOBILE MINE

The conferees agree to provide $3,714,000 for the MK-67 Submarine Launched Mobile Mine as proposed by the Senate. The conferees are concerned about the slippage in deliveries and the technical problems associated with this important program. The conferees are hopeful that the Navy will get this program back on track in the near future. Once this is accomplished, the conferees would consider a reprogramming action to maintain program continuity during the fiscal year 1986 delivery period.

SHIPBUILDING AND CONVERSION, NAVY

The conferees agree to the following amounts for Shipbuilding and Conversion, Navy:

[In thousands of dollars]

	Budget	House	Senate	Conference
SHIPBUILDING AND CONVERSION, NAVY				
BA-1 FLEET BALLISTIC MISSILE SHIPS				
TRIDENT (NUCLEAR)	[illegible]	[illegible]	1,196,600	1,196,600
TRIDENT (NUCLEAR) (PY TRANSFER)		(373,900)		
TRIDENT (NUCLEAR) (AP-CY)	748,200	748,100	158,100	158,100
TOTAL, BA-1 FLEET BALLISTIC MISSILE SHIPS	1,531,800	1,064,900	1,354,700	1,354,700
BA-2 OTHER WARSHIPS				
SSN-688 CLASS SUBMARINE (NUCLEAR)	2,123,200	1,954,000	2,123,200	2,123,200
SSN-688 CLASS SUBMARINE (NUCLEAR) (PY TRANSFER)		(159,200)		
SSN-688 CLASS SUBMARINE (NUCLEAR) (AP-CY)	585,200	585,200	[illegible]	[illegible]
BATTLESHIP REACTIVATION				[illegible]
BATTLESHIP REACTIVATION (PY TRANSFER)		(469,000)		
BATTLESHIP REACT (AP-CY)	53,500			
BATTLESHIP REACT (AP-CY) (PY TRANSFER)			(53,500)	
CV SLEP (AP-CY)	133,400	133,400	52,000	52,000
CG-47 AEGIS CRUSIER (MYP)	133,400	133,400	52,000	52,000
CG-47 AEGIS CRUSIER (MYP) (PY TRANSFER)		(585,200)		
CG-47 AEGIS CRUSIER (MYP) (AP-CY)	14,600	14,600	[illegible]	14,800
DDG-51 (AP-CY)	164,900		14,700	74,000
DDG-51 (AP-CY) (PY TRANSFER)		(124,000)		
TOTAL, BA-2 OTHER WARSHIPS	5,825,800	4,745,400	5,328,800	5,857,100
BA-3 AMPHIBIOUS SHIPS				
LSD-41 LANDING SHIP DOCK	414,400	[illegible]		[illegible]
LSD-41 LANDING SHIP DOCK (PY TRANSFER)		(18,900)	(404,600)	
LHD-1 AMPHIBIOUS ASSAULT SHIP	1,148,600	1,110,100	1,148,600	1,148,000
LHD-1 AMPHIBIOUS ASSAULT SHIP (PY TRANSFER)		(37,900)		
LHD-1 AMPHIBIOUS ASSAULT SHIP (AP-CY)	358,600	165,600	165,600	165,600
TOTAL, BA-3 AMPHIBIOUS SHIPS	1,921,600	1,660,200	1,314,200	1,717,000
BA-4 MINE WARFARE + PATROL SHIPS				
MCM MINE COUNTERMEASURES SHIP	334,100		197,200	197,200
(PY TRANSFER)			(80,600)	
MCM MINE COUNTERMEASURES SHIP (AP-CY)		15,000		
MSH-1 COASTAL MINE HUNTER	184,500	184,500	184,500	185,500
TOTAL, BA-4 MINE WARFARE + PATROLS SHIPS	518,600	199,500	381,700	381,700
BA-5 AUXILIARIES, CRAFT + PY PROG COSTS				
TAO FLEET OILER	328,500	197,900	263,300	278,500
TAO FLEET OILER (PY TRANSFER)		(80,600)		
TAGOS SURTASS SHIP	113,900	60,900	113,900	113,900
TAGOS SURTASS SHIP (PY TRANSFER)		(28,700)		
TAGOS SURTASS SHIP (AP-CY)	1,200		1,200	[illegible]
TAG ACOUSTIC RESEARCH SHIP	68,900		40,000	[illegible]
TAG ACOUSTIC RESEARCH SHIP (PY TRANSFER)		(40,000)		
ARTB NUCLEAR REACTOR TRAINING SHIP CONV	26,500	26,500	190,000	175,400
TACS CRANE SHIP (CONV)	[illegible]	74,000	74,000	82,500
TACS CRANE SHIP (CONV) (PY TRANSFER)		(8,500)	(8,500)	
TAVB (CONV)	76,900	76,900	[illegible]	[illegible]
LCAC LANDING CRAFT	276,200	276,200		[illegible]
(PY TRANSFER)			(276,200)	
LCAC LANDING CRAFT (AP-CY)	30,800	30,800		[illegible]
(PY TRANSFER)			(30,800)	
STRATEGIC SEALIFT	203,400	173,100		228,400
STRATEGIC SEALIFT	203,400	173,100		228,400
STRATEGIC SEALIFT (PY TRANSFER)		(55,300)	(203,400)	
SERVICE CRAFT	[illegible]	[illegible]	37,700	62,700
SERVICE CRAFT (PY TRANSFER)		(37,700)		
LANDING CRAFT	34,400		34,400	
LANDING CRAFT (PY TRANSFER)		(11,000)		
OUTFITTING	228,500	228,500	228,500	[illegible]
POST DELIVERY	112,600	84,000	[illegible]	[illegible]
POST DELIVERY (PY TRANSFER)		(28,600)		
COST GROWTH			97,000	[illegible]
TOTAL, BA-5 AUXILIARIES, CRAFT + PY PROG COSTS	1,613,800	1,220,600	1,219,500	1,771,600

[In thousands of dollars]

	Budget	House	Senate	Conference
INFLATION PREMIUM, FY86		−241,700		−241,700
TOTAL, SHIPBUILDING AND CONVERSION, NAVY	11,411,600	8,648,900	9,598,900	10,840,400
TRANSFER FROM OTHER ACCOUNTS		(2,058,500)	(1,057,600)	
TOTAL FUNDING AVAILABLE	11,411,600	10,707,400	10,656,500	10,840,400

PRIOR YEAR SAVINGS

The conferees recognize $1,999,300,000 in prior year savings in Navy Shipbuilding & Conversion. The sources and uses of these savings are identified in this Statement of the Managers under the hearing "Availability of Unobligated Balances."

CG-47 AEGIS CRUISER

The conferees agree to an allowance of $2,637,900,000 to procure three CG-47 AEGIS Cruisers.

The conferees also include bill language which directs the Navy to select a second source, by the most expeditious means available, for the SPY-1 radar, AEGIS combat system components, shipyard/shipboard and production test center integration, AEGIS color graphic display systems, solid state frequency converters and propellors.

It is the conferees' intention that the necessary funds be made available for the second source selection to be fully established in order to begin competition between the current sole source contractors and the second source contractors in fiscal year 1988 provided that any such selection shall not adversely affect the CG-47 and DDG-51 shipbuilding program schedule and costs.

It is also the conferees intention that this second source procurement direction include the DDG-51 destroyer program.

DDG-51 DESTROYER

The conferees agree to an allowance of $74,000,000 for DDG-51 advance procurement. The advance procurement funds shall be available only for acquisition of components which require excessive production lead times to support early delivery of the fiscal year 1987 DDG-51 ships. The Navy is optimistic that DDG-51 construction time will be shortened compared to the CG-47 ships. Consequently the outyear budget plan should be realigned to assure compliance with the full funding policy. To the extent that future advance funding estimates exceed the amount of this allowance, the Navy should revise its budget plan to reflect full funding instead of major component incremental financing. Adoption of this financial benchmark will demonstrate the validity of estimated construction schedule improvements.

In its review of prior year funds, the conferees learned that significant cost growth could be incurred on the DDG-51 lead ship due to propulsion system price increases. As a result of testing delays on the Rankine Cycle Energy Recovery System (RACER), the ship construction schedule could slip more than a year and cost increases may be incurred in excess of 15 percent of basic construction cost. In view of the cost and schedule impact, Navy should discontinue plans for RACER installation on the lead ship. Concurrent with the ongoing RACER test program, the Navy should continue development of RACER installation plans for future Navy ship construction programs.

MCM MINE COUNTERMEASURES SHIPS

The conferees agree to the allowance of $197,200,000 for the construction of two MCM mine countermeasures ships. The conferees, in accord with the Navy's revised program, direct the Department to utilize fiscal year 1985 MCM funds to permit a three ship acquisition progam in fiscal year 1986.

T-AGOS OCEAN SURVEILLANCE SHIPS

The conferees agree to the Senate position which approves the construction of one monohull vessel and one SWATH hull vessel provided that the contract obligation for engines will be deferred until the Navy has determined which ship type has been selected for the fiscal year 1986 and 1987 construction plans.

SERVICE CRAFT

The conferees agree to the allowance of $62,700,000 for service craft programs. The conferees also agree that $25,000,000 of the allotted service craft funds is intended to be the ceiling price for the torpedo range tender which is to be designed to commercial standards. The conferees also agree that the obligation of these funds is subject to authorization approval.

STRATEGIC SEALIFT

The conferees agree to the allowance of $228,400,000 for the Strategic Sealift program. Of the amounts avilable, the Navy may use funds to reengine and modernize vessels procured. Upon enactment of legislation authorizing a "Mariner Fund" for the construction and charter of commercial vessels, the conferees agree that the Navy may charter any vessels modernized through these strategic sealift funds, provided such authority is granted. It is the conferees intent to begin the charter program as soon as possible after authorization is enacted thereby generating early revenues to the Marine Fund. Approval for modernization of vessels procured under this section should be considered an exception, not a precedent.

COST GROWTH

The conferees agree to an allowance of $97,000,000 to cover the cost overruns associated with the MCM mine countermeasures ship program as proposed by the Senate.

FFG-7 GUIDED MISSILE FRIGATE

The conferees agree to the bill language proposed by the Senate which formally completes the funding transfer of $40,000,000 to the FFG-61 program and removes the legislative restriction.

OTHER PROCUREMENT, NAVY

The Conferees agree to the following amounts for Other Procurement, Navy:

[In thousands of dollars]

	Budget	House	Senate	Conference
OTHER PROCUREMENT, NAVY				
BA-1 SHIP SUPPORT EQUIPMENT:				
SHIP PROPULSION EQUIPMENT:				
LM-2500 GAS TURBINE	13,335	13,335	13,335	13,335
ALLISON 501K GAS TURBINE	15,534	15,534	15,534	15,534
LM2500 SPECIAL SUPPORT EQUIPMENT	940	940	940	940
STEAM PROPULSION IMPROVEMENT PROGRAM	6,830	6,830	6,830	6,830
OTHER PROPULSION EQUIPMENT	19,903	19,903	19,903	19,903
OTHER PROPULSION EQUIPMENT (PY TRANSFER)		(391)		
GENERATORS:				
OTHER GENERATORS	15,997	15,997	15,997	15,997
PUMPS:				
OTHER PUMPS	11,573	11,573	11,573	11,573
AIR COMPRESSORS:				
HIGH PRESSURE AIR COMPRESSOR	3,336	3,336	3,336	3,336
PROPELLERS:				
SUBMARINE PROPELLERS	3,018	3,018	3,018	3,018
OTHER PROPELLERS AND SHAFTS	11,492	11,492	10,492	10,492
NAVIGATION EQUIPMENT:				
ELECTRICALLY SUSPENDED GYRO NAVIGATOR	36,818	36,818	36,818	36,818
CARRIER NAVIGATION SYSTEM	9,499			6,296
CARRIER NAVIGATION SYSTEM (PY TRANSFER)		(6,296)		
OTHER NAVIGATION EQUIPMENT	16,070	16,070	16,070	16,070

[In thousands of dollars]

	[redacted]	[redacted]	[redacted]	[redacted]
UNDERWAY REPLENISH EQUIP				
UNDERWAY REPLENISHMENT EQUIPMENT				
[redacted]	8,457	8,457	8,457	8,457
TYPE 18 PERISCOPE				
TYPE 8 PERISCOPES	16,200	[redacted]	16,200	16,200
PERISCOPES AND ACCESSORIES	143	143	143	143
OTHER SHIPBOARD EQUIPMENT	5,399	5,399	5,399	5,399
FIREFIGHTING EQUIPMENT				
COMMAND AND CONTROL SWITCHBOARDS	5,093	5,093	5,093	5,093
POLLUTION CONTROL EQUIPMENT	10,585	10,585	10,585	10,585
SUBMARINE SILENCING EQUIPMENT	9,286	9,286	[redacted]	9,286
SURFACE SHIP SILENCING EQUIPMENT	18,032	18,032	18,032	18,032
SUBMARINE BATTERIES	3,379	3,379	3,379	3,379
STRATEGIC PLATFORM SUPPORT EQUIPMENT	8,267	8,267	8,267	8,267
DSSP EQUIPMENT	56,455	56,455	56,455	56,455
SEALIFT SUPPORT EQUIPMENT	11,262	11,262	11,262	11,262
MINESWEEPING CABLE	58,972	70,972	58,972	70,972
HM+E ITEMS UNDER 900K	5,669	5,669	5,669	5,669
[redacted]	10,752	10,752	10,752	10,752
RADIOLOGICAL CONTROLS	6,986	6,986	6,986	6,986
MINI/MICROMINI ELECTRONIC REPAIR	2,317	2,317	2,317	2,317
CHEMICAL WARFARE DETECTORS	1,028	1,028	1,028	1,028
SUBMARINE LIFE SUPPORT SYSTEM	15,386	15,386	15,386	15,386
SUBMARINE LIFE SUPPORT (PY TRANSFER)	13,429			6,500
HM&E ENGINEERED MAINTENANCE		(6,500)		
REACTOR PLANT EQUIPMENT	8,407	8,407	8,407	8,407
REACTOR POWER UNITS				
REACTOR COMPONENTS	163,368	163,368	[redacted]	[redacted]
OCEAN ENGINEERING	227,754	227,754	227,754	227,754
MAN IN THE SEA				
DIVING AND SALVAGE EQUIPMENT	868	868	[redacted]	868
DIVING AND SALVAGE EQUIPMENT (PY TRANSFER)	8,250	8,250	[redacted]	[redacted]
NAVAL SPECIAL WARFARE EQUIPMENT		(779)		
SMALL BOATS	30,797	30,797	30,797	30,797
[redacted]				
TRAINING EQUIPMENT	14,777	14,777	14,777	14,777
NEW SHIPS TRAINING EQUIP				
OTHER SHIPS TRAINING EQUIPMENT	19,572	19,572	19,572	19,572
PRODUCTION FACILITIES EQUIPMENT	10,876	10,876	10,876	10,876
CALIBRATION EQUIPMENT				
PRODUCTION SUPPORT FACILITIES	1,052	1,052	1,052	1,052
	5,794	5,794	5,794	5,794
TOTAL, BA-1 SHIP SUPPORT EQUIPMENT	922,957	910,840	898,619	923,806
BA-2 COMMUNICATIONS + ELECTRONICS EQUIPMENT				
[redacted]				
AN/SPS-67				
AN/SPS-40	9,207	6,138	9,207	9,207
AN/SPS-48	14,776	14,776	14,776	14,776
AN/SPS-49	67,484	67,484	67,484	67,484
AN/SYS-().	14,127	14,127	14,127	14,127
AN/SYS-() (PY TRANSFER)	13,073	[redacted]	10,648	12,256
MK 23 TARGET ACQUISITION SYSTEM		(1,608)		
[redacted]	19,934	19,934	19,934	19,934
[redacted]	24,989	[redacted]	[redacted]	24,989
AN/SQS-26/53/53a				
AN/SQS-53B	7,872	7,872	7,872	7,872
AN/BQQ-5	30,876	30,876	30,876	30,876
TB-16 TOWED ARRAY (MYP)	100,976	99,257	99,257	99,257
SURF SONAR WINDOWS AND DOMES	1,515	1,515	1,515	1,515
SONAR SUPPORT EQUIPMENT	8,535	8,535	8,535	8,535
SONAR SWITCHES AND TRANSDUCERS	11,843	11,843	11,843	11,843
SONAR SWITCHES AND TRANSDUCERS (PY TRANSFER)	40,320	[redacted]	38,994	40,320
[redacted]		(1,326)		
ASW ELECTRONIC EQUIPMENT	13,352	13,352	13,352	13,352
SUBMARINE ACOUSTIC WARFARE SYSTEMS				
AN/SLQ-25 (NIXIE)	10,434	10,434	10,434	10,434
ACOUSTIC COMMUNICATIONS	11,525	11,525	11,525	11,525
SSUBMARINE ADVANCED COMBAT SYSTEM	411	411	411	411
SOSUS	2,849			
AN/SQR-17 ACOUSTIC PROCESSOR	85,824	85,824	85,824	85,824
AN/SQR-18 TOWED ARRAY SONAR	15,249	22,049	15,249	22,049
AN/SQR-15 TOWED ARRAY SONAR	41,692	41,692	30,892	41,692
AN/SQR-19 TOWED ARRAY SONAR	1,918	1,918	1,918	1,918
SURTASS	146,507	146,507	146,507	146,507
ASW OPERATIONS CENTER	19,417	19,417	19,417	19,417
ASW OPERATIONS CENTER (PY TRANSFER)	[redacted]	[redacted]	27,408	27,608
CARRIER ASW MODULE		(200)		
CARRIER ASW MODULE (PY TRANSFER)	31,483	31,085	31,085	31,483
ELECTRONIC WARFARE EQUIPMENT		(398)		
AN/SLQ-32				
AN/SLQ-17	102,377	97,337	97,337	97,337
AN/WLR-1	14,229	14,229	14,229	14,229
AN/WLR-8	3,533	3,533	3,533	3,533
ICAD SYSTEMS	3,011	3,011	3,011	3,011
ICAD SYSTEMS (PY TRANSFER)	4,822			4,822
OFFBOARD DECEPTION DEVICES		(4,822)		
EW SUPPORT EQUIPMENT	22,163	22,163	22,163	22,163
FLEET EW SUPPORT GROUP	21,502	21,502	21,502	21,502
C3 COUNTERMEASURES	1,716	1,716	1,716	1,716
	[redacted]	8,458	8,458	8,458

[In thousands of dollars]

	[redacted]	[redacted]	Senate	Conference
RECONNAISSANCE EQUIPMENT	4,012	4,012	4,012	4,012
COMBAT CRYPTOLOGIC SUPPORT CONSOLE	25,071	25,071	25,071	25,071
COMBAT DF	36,381	36,381	[redacted]	36,381
[redacted]	15,624	15,624	15,624	15,624
NAVAL INTELLIGENCE PROCESSING SYSTEM				
SUBMARINE SURVEILLANCE EQUIPMENT	5,441	5,441	5,441	5,441
AN/WLQ-4 DEPOT	2,452	2,452	2,452	2,452
AN/WLQ-4 IMPROVEMENTS	12,774	12,774	12,774	12,774
AN/BRD-7/8/9		11,800	11,800	11,800
AN/BLD-1 (INTERFEROMETER)	4,481	4,481	4,481	4,481
SUBMARINE SUPPORT EQUIPMENT PROGRAM				
OTHER SHIP ELECTRONIC EQUIPMENT	130,869	[redacted]	[redacted]	[redacted]
NAVY TACTICAL DATA SYSTEM	[redacted]	[redacted]	[redacted]	[redacted]
TACTICAL FLAG COMMAND CENTER	3,494	3,494	3,494	3,494
MINESWEEPING SYSTEM REPLACEMENT	1,619	1,619	1,619	1,619
OMEGA SHIPBOARD EQUIPMENT	24,763	16,525	20,763	20,763
NAVSTAR GPS RECEIVERS		(4,238)		
NAVSTAR GPS RECEIVERS (PY TRANSFER)	3,862	3,862	3,862	3,862
HF LINK-11 DATA TERMINALS	6,943	[redacted]	6,943	6,943
ARMED FORCES RADIO AND TV	193,814	193,814	193,814	193,814
STRATEGIC PLATFORM SUPPORT EQUIPMENT				
TRAINING EQUIPMENT	132	132	132	132
OTHER NAVELEX TRAINING EQUIPMENT	4,639	4,568	4,568	4,639
OTHER NAVSEA TRAINING EQUIPMENT		(71)		
OTHER NAVSEA TRAINING EQUIPMENT (PY TRANSFER)				
AVIATION ELECTRONIC EQUIPMENT	16,320	16,320	16,320	16,320
MATCALS	13,330	13,330	13,330	13,330
SHIPBOARD AIR TRAFFIC CONTROL	9,176			
AUTOMATIC CARRIER LANDING SYSTEMS	4,831	4,831	4,831	4,831
TACAN	12,179	10,481	10,481	11,477
ARI STATION SUPPORT EQUIPMENT		(996)		
AIR STATION SUPPORT EQUIPMENT (PY TRANSFER)	7,355			
MICROWAVE LANDING SYSTEM	49,325	16,865	16,865	16,865
FACSFAC	1,494	1,494	1,494	1,494
RADAR AIR TRAFFIC CONTROL	2,737	2,737	2,737	2,737
MK XII AIMS IFF				
OTHER SHORE ELECTRONIC EQUIPMENT	3,060	[redacted]		
NAVAL SPACE SURVIELLANCE SYSTEM	2,133	2,133	2,133	2,133
SPACE SYSTEM PROCESSING	[redacted]	[redacted]	565	[redacted]
MULTOTS	34,978	34,978	34,978	34,978
NCCS ASHORE	8,624	8,624	8,624	8,624
RADIAC	1,578	1,578	1,578	1,578
REMOTE SENSORS	28,640	28,640	[redacted]	28,640
GPETE	5,260	5,260	5,260	[redacted]
INTEG COMBAT SYS TEST FACILITY	6,965	6,965	[redacted]	[redacted]
CALIBRATION STANDARDS	9,972	9,972	9,972	9,972
EMI CONTROL INSTRUMENTATION	5,142	5,142	5,142	5,142
SHORE ELECTRONIC ITEMS UNDER 900K				
SHIPBOARD COMMUNICATIONS	13,582	[redacted]	[redacted]	[redacted]
SHIPBOARD HF COMMUNICATIONS	7,283	7,283	7,283	7,283
SHIPBOARD UHF COMMUNICATIONS	6,227	6,227	6,227	6,227
FLIGHT DECK COMMUNICATIONS	3,693	3,693	3,693	3,693
PORTABLE RADIOS	15,967	11,367	15,967	15,967
SHIPBORAD COMMUNICATIONS AUTOMATION		(4,600)		
SHIP BOARD COMMUNICATIONS AUTOMATION (PY TRANSFER)	7,693	7,693	7,693	7,693
SHIP COMM ITEMS UNDER $900K	4,828	4,828	4,828	4,828
SEALIFT SHIP COMMUNICATIONS				
SUBMARINE COMMUNICATIONS	13,223	13,223	13,223	13,223
ELF COMMUNICATIONS	19,330	19,330	19,330	19,330
SHORE LF/VLF COMMUNICATIONS	16,096	16,096	16,096	16,096
VERDIN	1,695	1,695	1,695	1,695
SSN INTEGRATED COMMUNICATIONS	15,455	15,455	15,455	15,455
SUBMARINE COMMUNICATIONS ANTENNAS	979	979	979	[redacted]
DATA COLLECTION AND RECORD SYSTEM	254	254	254	254
CIRCUIT MAYFLOWER				
SATELLITE COMMUNICATIONS	46,175	42,747	42,747	46,041
SATCOM SHIP TERMINALS		(3,294)		
SATCOM SHIP TERMINALS (PY TRANSFER)	22,902	22,902	22,902	22,902
SATCOM SHORE TERMINALS				
SHORE COMMUNICATIONS	1,405	1,405	1,405	1,405
JCS COMMUNICATIONS EQUIPMENT	132	132	132	132
ELECTRICAL POWER SYSTEMS	29,995	29,995	29,995	29,995
SHORE HF COMMUNICATIONS	26,713	26,713	26,713	26,713
JOINT TACTICAL COMMUNICATIONS (TRI-TAC)	6,031	6,031	6,031	6,031
ASHORE MOBILE COMMUNICATIONS VANS	2,088	2,088	2,088	2,088
WORLDWIDE WIDEBAND COMMUNICATIONS	2,783	2,783	2,783	2,783
DEFENSE DATA NETWORK	1,099	1,099	1,099	1,099
WWMCCS COMMUNICATIONS EQUIPMENT	9,892	9,892	9,892	9,892
SHORE COMMUNICATIONS AUTOMATION	3,146	3,146	3,146	3,146
SHORE COMM ITEMS UNDER 900K				
CRYPTOGRAPHIC EQUIPMENT	18,153	18,153	18,153	18,153
SINGLE AUDIO SYSTEM	15,760	222	3,100	15,760
TSEC/KY-71/72 (STU-II/STU-IIM)				
TSEC/KY-71/72 (STU-[redacted]) (PY TRANSFER)	27,080	27,080	37,080	27,080
TSEC/KG-84	25,017	25,017	25,017	25,017
TSEC/KY-57/58 (VINSON)	4,629	4,629	4,629	4,629
TSEC/KYV-5 (ANDVT)	14,283	14,283	14,283	14,283
TSEC/KW-46	1,363	1,363	1,363	1,363
TSEC/KG-72/KGV-14 (FDCS)	5,251	5,251	5,251	5,251
TSEC/KG-81 (WALBURN)				

[In thousands of dollars]

	Budget	House	Senate	Conference
TSEC/KG-44 (DMSP)	7,893	7,893	7,893	7,893
TSEC/KG-58/KGV-6 (PLRS)	9,483	9,483	9,483	9,483
TRI-TAC CRYPTO (TENLEY)	11,978	11,978	11,978	11,978
TSEC/KY-67 (BANCROFT)	13,474	13,474	13,474	13,474
TSEC/KGV-11	4,455	4,455	4,455	4,455
COMMON FILL DEVICES	1,997	1,997	1,997	1,997
SIGNAL SECURITY	1,891	1,891	1,891	1,891
CRYPTOGRAPHIC ITEMS UNDER 900K	5,500	5,500	5,500	5,500
CRYPTOLOGIC EQUIPMENT				
CRYPTOLOGIC COMMUNICATIONS EQUIPMENT	4,871	4,871	4,871	4,871
SHIPS SIGNAL EXPLOITATION SPACE	4,771	4,771	4,771	4,771
CRYPTOLOGIC ITEMS UNDER 900K	8,016	8,016	8,016	8,016
CRYPTOLOGIC RESERVES EQUIPMENT	824	824	824	824
CRYPTOLOGIC FIELD TRAINING EQUIPMENT	2,065	2,065	2,065	2,065
SHORE CRYPTOLOGIC SUPPORT SYSTEM	2,273	2,273	2,273	2,273
OTHER ELECTRONIC SUPPORT				
ADVANCE BASE FUNCTIONAL COMPONENTS	76	76	76	76
ELEC ENGINEERED MAINTENANCE (NAVSEA)	5,339	5,339	5,339	5,339
ELEC ENGINEERED MAINTENANCE (NAVELEX)	2,128	2,128	2,128	2,128
5TH BATTALION C&E EGYPT			2,000	2,000
TOTAL, BA-2 COMMUNICATIONS + ELECTRONICS EQUIPMENT	2,153,996	2,057,202	2,063,327	2,096,302
BA-3 AVIATION SUPPORT EQUIPMENT				
SONOBUOYS				
AN/SSQ-36 (BT)	2,384	2,384	2,384	2,384
AN/SSQ-53 (DIFAR)	142,954	129,154	142,954	142,954
AN/SSQ-57 (SPECIAL PURPOSE)	3,137	3,137	3,137	3,137
AN/SSQ-62 (DICASS)	27,005	27,005	27,005	27,005
AN/SSQ-77 (VLAD)	82,104	59,404	82,104	82,104
AN/SSQ-86 (DLC)	3,036	3,036	3,036	3,036
SIGNAL UNDERWATER SOUND (SUS)	1,351	1,351	1,351	1,351
LOW COST SONOBUOY	11,000	46,000	46,000	46,000
AIR LAUNCHED ORDNANCE				
SKIPPER	27,616	27,616	27,616	27,616
GENERAL PURPOSE BOMBS	148,560	148,560	148,560	148,560
LASER GUIDED BOMB KITS	72,150		72,150	72,150
WALLEYE	37,595	37,595	37,595	37,595
ROCKEYE	8,829	8,829	8,829	8,829
ZUNI ROCKET	20,669	20,669	20,669	20,669
2.75 INCH ROCKET	27,997	27,997	27,997	27,997
PARACHUTE FLARES	2,052	2,052	2,052	2,052
MACHINE GUN AMMUNITION	27,042	21,042	13,800	13,800
PRACTICE BOMBS	76,527	60,077	60,077	60,077
CARTRIDGES + CARTRIDGE ACTUATED DEVICES	29,937	29,937	29,937	29,937
AIRCRAFT ESCAPE ROCKETS	8,055	8,055	8,055	8,055
AIRBORNE EXPENDABLE COUNTERMEASURES	91,848	91,848	82,588	82,588
MARINE LOCATION MARKERS	7,708	7,708	7,708	7,708
DEFENSE NUCLEAR AGENCY MATERIAL	2,186	2,186	2,186	2,186
BIGEYE CHEMICAL WEAPON	21,531		21,531	
JATOS	15,550	14,550	11,900	14,550
GATOR	44,662			
MISC AIR LAUNCHED ORDNANCE	186	186	186	186
WAR RESERVE MUNITIONS			75,000	50,000
AIRCRAFT SUPPORT EQUIPMENT				
WEAPONS RANGE SUPPORT EQUIPMENT	85,858	85,858	85,858	85,858
EXPEDITIONARY AIRFIELDS	2,876	2,876	2,876	2,876
AIRCRAFT REARMING EQUIPMENT	78,995	46,995	78,995	46,995
CATAPULTS AND ARRESTING GEAR	27,463	26,087	26,087	26,087
METEOROLOGICAL EQUIPMENT	2,364	2,364	2,364	2,364
OTHER PHOTOGRAPHIC EQUIPMENT	1,698	1,698	1,698	1,698
MISC SURVIVAL EQUIPMENT	17,705	16,817	16,817	16,817
AIRBORNE MINE COUNTERMEASURES	22,967	22,967	22,967	22,967
LAMPS MK III SHIPBOARD EQUIPMENT	47,683	47,683	47,683	47,683
REWSON PHOTOGRAPHIC EQUIPMENT	2,393	2,393	2,393	2,393
STOCK SURVEILLANCE EQUIPMENT	2,256	2,256	2,256	2,256
OTHER AVIATION SUPPORT EQUIPMENT	3,089	3,089	3,089	3,089
MOBILE VAN HOLD SPT. UNIT		4,300		4,300
TOTAL, BA-3 AVIATION SUPPORT EQUIPMENT	1,184,018	1,040,711	1,254,600	1,133,019
BA-4 ORDNANCE SUPPORT EQUIPMENT				
SHIP GUN AMMUNITION:				
5 /38 GUN AMMUNITION	4,490	4,490	4,490	4,490
5 /54 GUN AMMUNITION	67,018	67,018	67,018	67,018
5 INCH GUIDED PROJECTILE	104,294	104,294	104,294	104,294
16 INCH GUN AMMUNITION	2,940	2,940	2,940	2,940
CIWS AMMUNITION	35,247	35,247	35,247	35,247
76MM GUN AMMUNITION	17,343	17,343		
OTHER SHIP GUN AMMUNITION	18,445	17,745	17,745	17,745
SHIP GUN SYSTEM EQUIPMENT				
GUN FIRE CONTROL EQUIPMENT	34,799	34,799	34,799	34,799
COAST GUARD GUN SYSTEM	28,801	28,801	28,801	28,801
SHIP MISSILE SYSTEMS EQUIPMENT:				
MK 92 FIRE CONTROL SYSTEM	2,856	2,856	2,856	2,856
HARPOON SUPPORT EQUIPMENT	17,999	17,999	17,999	17,999
TERRIER SUPPORT EQUIPMENT	112,060	112,060	112,060	112,060
TARTAR SUPPORT EQUIPMENT	106,833	106,833	106,833	106,833
POINT DEFENSE SUPPORT EQUIPMENT (MYP)	43,842	43,842	11,842	11,842
AIRBORNE ECM/ECCM	1,044	1,044	1,044	1,044
AEGIS SUPPORT EQUIPMENT	61,785	61,785	61,785	61,785

[In thousands of dollars]

	Budget	House	Senate	Conference
SURFACE TOMAHAWK SUPPORT EQUIPMENT	86,572	86,572	86,572	86,572
SUBMARINE TOMAHAWK SUPPORT EQUIPMENT	19,071	19,071	19,071	19,071
VERTICAL LAUNCH SYSTEM	127,372	127,372	127,372	127,372
FBM SUPPORT EQUIPMENT:				
STRATEGIC PLATFORM SUPPORT EQUIPMENT	168,885	168,885	168,885	168,885
ASW SUPPORT EQUIPMENT				
MK 117 FIRE CONTROL SYSTEM	59,965	59,965	59,965	59,965
SUBMARINE ASW SUPPORT EQUIPMENT	25,724	25,724	25,724	25,724
SURFACE ASW SUPPORT EQUIPMENT	20,810	20,810	20,810	20,810
MK 116 FIRE CONTROL SYSTEM	25,652	25,652	25,652	25,652
ASW RANGE SUPPORT EQUIPMENT	7,035	7,035	7,035	7,035
OTHER ORDNANCE SUPPORT EQUIPMENT				
EXPLOSIVE ORDNANCE DISPOSAL EQUIP	11,043	8,436	8,436	10,175
EXPLOSIVE ORDNANCE DISPOSAL EQUIP (PY TRANSFER)		(1,689)		
SWIMMER WEAPONS SYSTEMS	1,151	1,151	1,151	1,151
UNMANNED SEABORNE TARGET	7,786	7,786	7,786	7,786
ANTI-SHIP MISSILE DECOY SYSTEMS	4,606	4,606	4,606	4,606
CALIBRATION EQUIPMENT	3,276	3,276	3,276	3,276
STOCK SURVEILLANCE EQUIPMENT	2,109	2,109	2,109	2,109
OTHER ORDNANCE TRAINING EQUIPMENT	1,492	1,492	1,492	1,492
OTHER EXPENDABLE ORDNANCE				
SMALL ARMS AND LANDING PARTY AMMO	18,768	18,768	18,768	18,768
PYROTECHNIC AND DEMOLITION MATERIAL	25,491	25,491	25,491	25,491
QUICKSTRIKE	50,482		35,679	35,679
(PY TRANSFER)		(35,679)		
FLEET MINE SUPPORT EQUIPMENT	25,184	25,184	25,184	25,184
MINE NEUTRALIZATION DEVICES	3,208	3,208	3,208	3,208
DEFENSE NUCLEAR AGENCY MATERIAL	7,892	7,892	7,892	7,892
SHIPBOARD EXPENDABLE COUNTERMEASURES	33,191	33,191	33,191	33,191
WAR RESERVE MUNITIONS			25,000	20,000
TOTAL, BA-4 ORDNANCE SUPPORT EQUIPMENT	1,396,511	1,337,722	1,349,058	1,349,747
BA-5 CIVIL ENGINEERING SUP EQUIPMENT:				
CIVIL ENGINEERING SUPPORT EQUIPMENT:				
PASSENGER CARRYING VEHICLES	10,059	10,059	10,059	10,059
ARMORED SEDANS	95	95	95	95
TRUCKS	38,126	38,126	38,126	38,126
TRAILERS	4,043	4,043	4,043	4,043
CRUSH, MIX, BATCH, PAVE EQUIPMENT	4,673	4,673	4,673	4,673
DRILLING AND BLASTING EQUIPMENT	2,654	2,654	2,654	2,654
EARTH MOVING EQUIPMENT	11,430	11,430	11,430	11,430
LIGHTING AND POWER GENERATING EQUIP	3,513	3,513	3,513	3,513
MISC CONSTRUCTION AND MAINTENANCE EQUIP	3,541	3,541	3,541	3,541
FIRE FIGHTING EQUIPMENT	7,093	7,093	7,093	7,093
WEIGHT HANDLING EQUIPMENT	13,241	13,241	13,241	13,241
AMPHIBIOUS EQUIPMENT	72,998	72,998	72,998	72,998
COMBAT CONSTRUCTION SUPPORT EQUIPMENT	9,571	9,571	9,571	9,571
MOBILE UTILITIES SUPPORT EQUIPMENT	2,978	2,978	2,978	2,978
FLEET MOORINGS	7,336	7,336	7,336	7,336
POLLUTION CONTROL EQUIPMENT	2,653	2,653	2,653	2,653
FLEET HOSPITALS	27,654	27,654	27,654	27,654
9TH BATTALION EGYPT			11,000	11,000
TOTAL, BA-5 CIVIL ENGINEERING SUP EQUIPMENT	271,558	271,558	232,558	232,558
BA-6 SUPPLY SUPPORT EQUIPMENT:				
SUPPLY SUPPORT EQUIPMENT:				
FORKLIFT TRUCKS	9,064	9,064	9,064	9,064
OTHER MATERIALS HANDLING EQUIPMENT	3,326	3,326	3,326	3,326
AUTOMATED MATERIALS HANDLING SYSTEMS	12,917	12,917	12,917	12,917
POLLUTION CONTROL EQUIPMENT	2,288	2,288	2,288	2,288
SPECIAL PURPOSE SUPPLY SYSTEMS	34,900	31,322	31,322	31,322
TOTAL, BA-6 SUPPLY SUPPORT EQUIPMENT	62,495	58,917	58,917	58,917
BA-7 PERSONNEL AND COMM SUPPORT EQUIPMENT:				
TRAINING DEVICES:				
SURFACE SONAR TRAINERS	40,492	40,492	40,492	40,492
SUBMARINE SONAR TRAINERS	6,923	6,923	6,923	6,923
SURFACE COMBAT SYSTEM TRAINERS	23,694	23,694	23,694	23,694
SUBMARINE COMBAT SYSTEM TRAINERS	11,916	11,916	11,916	11,916
SHIP SYSTEM TRAINERS	15,768	15,768	15,768	15,768
TRAINING SUPPORT EQUIP	2,353	2,353	2,353	2,353
TRAINING DEVICE MODIFICATIONS	6,666	6,666	6,666	6,666
COMMAND SUPPORT EQUIPMENT				
MEDICAL SUPPORT EQUIPMENT	17,223	17,223	105,623	61,423
INTELLIGENCE SUPPORT EQUIPMENT	56,905	53,071	53,071	53,071
ITEMS UNDER 900K	1,218	1,218	1,218	1,218
OCEANOGRAPHIC SUPPORT EQUIPMENT			14,000	14,000
PHYSICAL SECURITY EQUIPMENT	17,226	17,226	17,226	17,226
COMPUTER ACQUISITION PROGRAM				
COMPUTER ACQUISITION PROGRAM	176,523	176,523	176,523	176,523
PRODUCTIVITY PROGRAMS				
PRODUCTIVITY INVESTMENT FUND (PIF)	3,470	3,470	3,470	3,470
TOTAL, BA-7 PERSONNEL AND COMM SUPPORT EQUIPMENT	379,827	375,943	478,343	434,143
BA-8 SPARES & REPAIR PARTS:				
SPARES AND REPAIR PARTS	779,838	779,838	779,838	779,838

[In thousands of dollars]

	Budget	House	Senate	Conference
UNDISTRIBUTED REDUCTION		−495,000		−250 000
NON-CENTRALLY MANAGED ITEMS		125,300	125,300	125,300
INFLATION REESTIMATES FOR FY86		−6,000	−6,000	−6,000
PRIOR YEAR INFLATION SAVINGS		−168,000	−168,000	
(PY TRANSFER)		(168,000)	(168,000)	
PRIOR YEAR PROGRAM SAVINGS		−56,337	−53,000	
(PY TRANSFER)		(56,337)	(53,000)	
TOTAL, OTHER PROCUREMENT NAVY	6,601,200	5,682 694	6,463,560	6,377,630
TRANSFER FROM OTHER ACCOUNTS		(312,762)	(221,000)	
TOTAL FUNDING AVAILABLE	6,601,200	5,995,456	6,684,560	6,377,630

PRIOR YEAR SAVINGS

The conferees recognize $276,483,000 in prior year savings in Navy other Procurement. The sources and uses of these savings are identified in this Statement of the Managers under the heading "Availability of Unobligated Balances."

AN/SPS-67

The conferees direct the Navy to maximize savings in this program by beginning competitive procurement in fiscal year 1987.

AN/SQR-19 TOWED ARRAY SONAR

The conferees direct the Navy to conclude its testing of both versions of AN/SQR-19 systems currently being designed or produced to determine the acceptability of these towed array systems as soon as possible. Based on these determinations, the Navy should then proceed with its competitive procurement of the fiscal year 1986 AN/SQR-19 program.

NAVAL RESERVE ON-BOARD TRAINER

The conferees agree to the House position which provides $6,800,000 to procure three shipboard antisubmarine warfare training systems service test models of a modification to the AN/SQR-17A to provide onboard training capability for Naval Reserve Force ships. This procurement action should include the development of a technical data package in order that follow-on production can be competitively procured.

SQQ-89 ACOUSTIC VIDEO GENERATORS

The conferees are totally dissatisfied with the egregiously inadequate progress toward establishing competition for this equipment. The conferees expect full and immediate compliance with the December 11, 1985 Assistant Secretary of the Navy (Shipbuilding and Logistics) memorandum to the Commander, Naval Sea Systems Command which directs that an industry brief be made no later than the week of January 27, 1986; that Draft specifications be issued to industry for review prior to the aforementioned industry briefing; that contract award be made no later than September 1, 1986 and the procurement strategy include development of a second source.

The conferees agree in principle with the above mentioned memorandum direction. However, based upon the Department's failure to comply with the conferees' direction of fiscal year 1985, the conferees remain skeptical. Accordingly, the conferees additionally direct that the specifications for this program be reviewed simultaneously by both industry and the Specification Advocate General. Additionally, the conferees direct the contract award scheduled for September 1, 1986, include both the leader and the follower (second source).

Although the conferees agree not to place restrictions on the procurement of the SQQ-89, the conferees intend to closely monitor this program during the course of fiscal year 1986. Hopefully, this issue will be resolved and not have to be resurrected as it was during this year's appropriations process.

MK-92 UPGRADE (CORT)

The conferees agree that the Navy should proceed with MK-92 CORT upgrade production for the FFG-7 class frigate. Concurrent with the FFG-61 procurement, the Navy should proceed with both its test and evaluation plan and the contract option for six backfit alterations valued at a warranted fixed price of $9,000,000 per unit excluding spares and Navy support costs. Funds appropriated for this section are adequate to fund this program in fiscal year 1986.

SONOBUOYS

The conferees agree to the AN/SSQ-53 and AN/SSQ-77 sonobuoy funding as proposed by the Senate which includes $36,500,000 in "industrial surge" capability.

The conferees agree to the use of industrial surge for this program as an exception to their general belief that industrial surge should be used sparingly and only in special situations. The limited shelf life of these sonobuoys persuades the conferees that establishing the surge capability is a reasonable alternative to building war reserve inventories.

QUICKSTRIKE MINE

The conferees agree to an allowance of $39,679,000 for the Quickstrike mine program. The conferees commend the Navy's efforts to substantially reduce Quickstrike program costs through competition. In an effort to capitalize on these savings, the conferees agree to an appropriation of funds which will provide for the procurement of Quickstrike mines above the fiscal year 1986 budget request. In that regard, the conferees direct the Department to procure, with the funding provided, as many Quickstrike mines as possible by either renegotiating and exercising current contract options, since larger quantities are involved, or revising the current procurement strategy to obtain the most efficient and cost effective procurement.

COASTAL DEFENSE AUGMENTATION

The conferees agree to an allowance of $375,000,000 consisting of $235,000,000 in new obligational authority and $140,000,000 in unobligated fiscal year 1985 CG-47 AEGIS cruiser program funds, for procurement of vessels, aircraft, and equipment to be acquired by the Navy to augment the Coast Guard inventory. Authority for obligation of the $140,000,000 prior year funding is contained in Section 8103 of this Act. Funds shall be available for such procurements as determined by the Coast Guard, but shall include the following items:

Program	Quantity	Amount
Medium range recovery helicopter	3	$41,000,000
Bouy tender service life extension	5	70,000,000
C-130 aircraft	4	72,000,000
140 foot icebreaking tug	1	20,000,000
Forward looking airborne radar/C-130 modification	27	60,000,000
110 foot patrol boats to replace 95 foot PB's	16	112,000,000
Total Coastal Defense Augmentation		$375,000,000

The Navy should consider the procedure outlined in the Senate report pertaining to the use of this account in the future for the budgeting of alterations to Coast Guard aircraft, vessels, and equipment rather than the Navy other procurement account.

As reflected in the Navy Operation and Maintenance section, the conferees agree to $100,000,000, for Coast Guard Operating Expenses as recommended by the House. However such sums shall be paid by the Navy for expenses related to training of the Coast Guard and maintenance by the Coast Guard of equipment which would be available to carry out missions determined by the Navy to be necessary in the event of hostilities.

PROCUREMENT, MARINE CORPS

The Conferees agree to the following amounts for Procurement, Marine Corps:

[In thousands of dollars]

	Budget	House	Senate	Conference
PROCUREMENT, MARINE CORPS				
Ammunition				
LINEAR CHARGES				
LINEAR CHARGE HE C4/TRLR	3,194	3,194	3,194	3,194

[In thousands of dollars]

	Budget	House	Senate	Conference
SMALL ARMS AMMUNITION				
CTG 5 56MM BALL M855	9,648	9,648	9,648	9,648
CTG 5 56MM TRACER M856	741	741	741	741
CTG 9MM BALL XM882	643	643	643	643
MACHINE GUN AMMO				
CTG 5 56MM LINKED M855	5,958	5,958	5,958	5,958
CTG 25MM APDS-T M791	3,049	3,049	3,049	3,049
CTG 25MM HEI-T M792	6,053	6,053	6,053	6,053
CTG 40MM LINKED M430	15,320	15,320	15,320	15,320
CTG 7 62MM LINKED M80	4,552	4,552	4,552	4,552
MORTAR AMMUNITION				
CTG 60MM HE M888	11,662	11,662	11,662	11,662
CTG 60MM SMOKE WP M302	1,321	1,321	1,321	1,321
CTG 81MM HE M374	20,306	20,306	20,306	20,306
GRENADES				
GRENADE SMOKE SCREEN L8A3	1,160	1,160	1,160	1,160
SIGNAL ILLUM WSP M127	1,042	1,042	1,042	1,042
ROCKETS				
ROCKET SMAW	52,431	52,431	52,431	52,431
ROCKET 5 INCH MOTOR	4,075	4,075	4,075	4,075
LIGHT ANTI ARMOR WEAPON XM	733	733	733	733
TRAINING AMMUNITION				
CTG 25MM TP-T M793	4,835	4,835	4,835	4,835
ROCKET 83MM PRACTICE	13,405	13,405	13,405	13,405
CTG 5 56MM BLANK LKD (F/SAW) M200	3,258	3,258	3,258	3,258
CTG 5 56MM BLANK M200	3,052	3,052	3,052	3,052
CTG 7 62MM BLANK LINKED	1,993	1,993	1,993	1,993
CTG 105MM TPDS-T M724	2,423	2,423	2,423	2,423
155MM AMMUNITION				
PROJ 155MM ADAM-L M692	38,872	38,872	38,872	38,872
PROJ 155MM ADAM-S M731	41,835	41,835	41,835	41,835
PROJ 155MM RAAMS-L M718	13,960	13,960	13,960	13,960
PROJ 155MM RAAMS-S M741	15,645	15,645	15,645	15,645
PROJ 155MM SMK WP SCREENING	9,324	9,324	9,324	9,324
CHARGE PROP 155MM WHITE BAG M4A2	25,830	25,830	25,830	25,830
PROJ 155MM HE ICM (DP)M483	55,218	55,218	55,218	55,218
CHARGE PROP 155MM GREEN BAG M3A1	5,277	5,277	5,277	5,277
CHARGE PROP 155MM RED BAG M119A2	8,664	8,664	8,664	8,664
GENERAL INCREASE		25,000	25,000	25,000
ANTI-ARMOR AMMUNITION				
COPPERHEAD, 155MM PROJ	52,100	45,400	52,100	52,100
8 INCH AMMUNITION				
PROJ 8 INCH ICM	11,238	11,238	11,238	11,238
FUZES				
FUZE MECHANICAL TIME M577	19,615	19,615	19,615	19,615
FUZE MECHANICAL TIME M582	1,770	1,770	1,770	1,770
PRIMER PERCUSSION M82	1,569	1,569	1,569	1,569
FUZE PD M739A1	8,306	8,306	8,306	8,306
AMMO MODERNIZATION	5,718	5,718	5,718	5,718
OTHER SUPPORT				
ITEMS LESS THAN $900,000	3,123	3,123	3,123	3,123
TOTAL, AMMUNITION	488,918	507,218	513,918	513,918
Weapons and Tracked Combat Vehicles				
TRACKED COMBAT VEHICLES				
MODIFICATION KITS	1,093	1,093	1,093	1,093
M60 MINE PLOW	4,430		4,430	
GENERAL REDUCTION		−4,900		
(PY TRANSFER)		(4,900)		
RECOVERY VEHICLE	4,544	4,544	4,544	4,544
ARMORED VEHICLE LAUNCHED BRIDGE	8,640	8,640	8,640	8,640
ITEMS LESS THAN $900 000	1,479	1,479	1,479	1,479
ARTILLERY AND OTHER WEAPONS				
BATTERY COMPUTER SYSTEM AN/GYK-29	32,345	32,345	32,345	32,345
M198 HOWITZER, MEDIUM, TOWED 155MM	21,001	28,001	28,001	28,001
ITEMS LESS THAN $900,000	1,869	1,869	1,869	1,869
WEAPONS				
PERSONAL DEFENSE WEAPON (9MM)	2,970	2,970	2,970	2,970
MACHINE GUN, LIGHT, SQUAD, AUTO (SAW)	3,292			
GENERAL REDUCTION		−3,056	−3,056	
(PY TRANSFER)		(3,056)	(3,056)	
M16A2 RIFLE 5 56MM	14,093	14,093	14,093	14,093
MK-19 MACHINE GUN, 40MM	1,000	1,000	1,000	1,000
EOD EQUIPMENT	717	717	717	717
83MM LAUNCHER ASSAULT ROCKET (SMAW)	4,676	4,676	4,676	4,676
TOTAL, WEAPONS AND TRACKED COMBAT VEHICLES	102,149	93,471	102,801	101,427
Guided Missiles and Equipment				
GUIDED MISSILES				
HAWK	139,976	139,976	139,976	139,976
HAWK MOD	39,078	39,078	39,078	39,078
STINGER	59,397	59,397	59,397	59,397
TOW	44,505	44,505	34,505	39,505
OTHER SUPPORT				
MODIFICATION KITS	712	712	712	712
TOTAL GUIDED MISSILES AND EQUIPMENT	283,668	283,668	273,668	278,668

[In thousands of dollars]

	Budget	House	Senate	Conference
Communications and Electronics				
MANPACK RADIOS				
MANPACK RADIOS AND EQUIPMENT	12,656	12,656	12,656	12,656
VEHICLE MOUNTED RADIOS AND EQUIPMENT				
VEHICLE MTD RADIOS AND EQUIP	10,592	10,592	10,592	10,592
TELEPHONE AND TELETYPE EQUIPMENT				
UNIT LEVEL CIRCUIT SWITCH (UCLS)	[illegible]	12,600	11,950	12,600
UNIT LEVEL CIRCUIT SWITCH (ULCS) (PY TRANSFER)		(7,000)		
ULCS LIFE CYCLE SUPPORT	17,053		7,453	15,361
ULCS LIFE CYCLE SUPPORT (PY TRANSFER)		(11,761)		
AN/TGC-() TACTICAL COMM CENTER	3,970	3,970	3,970	3,970
REPAIR AND TEST EQUIPMENT				
AN/USM-323 ELECTRONIC GENERATOR SIGNAL	5,580	[illegible]	5,580	5,580
SHOP SETS ELECTRONIC	5,306	5,306	5,306	5,306
AUTOMATIC TEST EQUIPMENT SYSTEM	5,186	5,186	5,186	5 186
ELECTRONIC TEST EQUIPMENT	1,000	[illegible]	[illegible]	1,000
OTHER COMM/ELEC EQUIPMENT				
PP-7333 POWER SUPPLY	3,813	3,813	3,813	3,813
AN/GXC-7A FACSIMILE SET	6,725	6,725	6,725	6,725
ANDVT/TACTERM	1,513	1,513	1,513	1,513
OTHER SUPPORT (TEL)				
TEST CALIBRATION AND MAINT SUPPORT	[illegible]	[illegible]	[illegible]	
MODIFICATION KITS	3,600	[illegible]	[illegible]	[illegible]
ITEMS LESS THAN $900,000	927	927	927	927
COMMAND AND CONTROL SYSTEMS (NON-TEL)				
POSITION LOCATION REPORTING SYS (PLRS)	59,084	59,084	59,084	59,084
TACTICAL AIR OPS MODULE (TAOM)	[illegible]	75,300	75,300	75,300
RADAR AND EQUIPMENT (NON-TEL)				
AN/TPS-59 DECOY	9,109	9,109	9,109	9,109
AN PPN-19 RADAR TRANSPONDER BEACON	13,192	13,192	13,192	13,192
INTELL/COMM EQUIPMENT (NON-TEL)				
REMOTE SENSOR EQUIPMENT	691	[illegible]	691	691
AN/TMQ-31 METEROLOGICAL DATA SYSTEM (MDS)	13,338	13,338	13,338	13,338
REPAIR AND TEST EQUIPMENT (NON-TEL)				
ELECTRONIC TEST EQUIPMENT	1,000	[illegible]	[illegible]	[illegible]
OTHER COMM/ELEC EQUIPMENT (NON-TEL)				
AN/TAS-4 NIGHT VISION SIGHT (TOW)	10,473	10,473	10,473	10,473
PRODUCTIVITY INVESTMENT	516	516	516	516
AUTOMATED DATA PROCESSING EQUIPMENT	15,016	15,016	15,016	15,016
OTHER SUPPORT (NON-TEL)				
TEST CALIBRATION AND MAINT SUPPORT	1,582	1,582	1,582	1,582
MODIFICATION KITS	8,433	8,433	8,433	8,433
ITEMS LESS THAN $900,000	[illegible]	[illegible]	388	388
TOTAL, COMMUNICATIONS AND ELECTRONICS	316,643	282,590	282,393	297,951
Support Vehicles				
ADMINISTRATIVE VEHICLES				
COMMERCIAL PASSENGER VEHICLES	2,702	2,702	2,702	2,702
COMMERCIAL CARGO VEHICLES	21,121	20,121	21,121	20,121
TACTICAL VEHICLES				
HIGH MOB MULTI-WHEELED VEH (HMMWV) (MYP)	121,666	121,666	121 666	121,666
AIR-CRASH FIRE & RESCUE VEH	1,006	[illegible]	1 006	[illegible]
TRUCKS 5-TON (ALL TYPES)	39,689	39,689	39 689	39 689
5 TON RETROFIT	17,878	17,878	17,878	17,878
LOGISTICAL VEHICLE SYSTEM (LVS)	71,440	69 520	69,520	69,520
TRAILERS (ALL TYPES)	10,544	10 544	10,544	10,544
LUBRICATING AND SERVICING UNIT POWER	2,018	2,018	2,018	2,018
OTHER SUPPORT				
MODIFICATION KITS	4,339	4,339	4,339	4,339
ITEMS LESS THAN $900,000	1,410	1,410	1,410	1,410
TOTAL, SUPPORT VEHICLES	293,813	290,893	291 893	290,893
Engineer and Other Equipment				
ENGINEER AND EQUIPMENT				
ENVIRONMENTAL CONTROL EQUIP	2 653	2,653	2,653	2,653
MOTORIZED ROAD GRADER	8,370	8,370	8,370	8,370
TRACTORS (ALL TYPES)	20 560	20,560	17,560	17 560
RUNAWAY SWEEPER, VACUUM	2 268	2 268	2,268	2,268
SHOP EQUIP, GEN PUR, REPAIR, SEMI-TRLR	1,729	1,729	1 729	1,729
CONTAINER HANDLER, RT 50,0000LB	7,729	7,729	7,729	7,729
CH-53E HELICOPTER SLING	953	953	953	953
FORKLIFTS (ALL TYPES)	11,090	11,090	11 090	11,090
BATH SHOWER UNIT EXPEDITIONARY FIELD	2,349	2,349	2,349	2 349
REFRIGERATION UNIT, F/RIGID BOX	1,212	1,212	1,212	1,212
REFRIGERATOR, RIGID BOX	1,364	1,364	1,364	1,364
WATER PURIFICATION UNIT - REV OSMOSIS	20 612	20,612	20 612	20,612
FUEL, WATER, PUMP AND STORAGE MODULE	4 168	4,168	4,168	4,168
FUEL SYS AMPHB ASSAULT 60,000 GAL	5 882	5,882	5,882	5,882
HELICOPTER EXPEDIENT REFUELING SYSTEM	652	652	652	652
BOAT, BRIDGE ERECTION	5,220	5,220	5,220	5,220
MEDIUM GIRDER BRIDGE	11,122	11,122	11,122	11,122
POWER EQUIPMENT ASSORTED	8,526	8 526	8 526	8,526
ELECTRICAL POWER DISTRIBUTION SYSTEM	9 022	9,022	9 022	9,022
MATERIALS HANDLING EQUIPMENT				
COMMAND SUPPORT EQUIPMENT	788	788	788	788
GARRISON MOBILE ENGINEER EQUIP	6,331	6,331	6,331	6,331
TELEPHONE SYSTEM	4,300	4,300	4,300	4,300

[In thousands of dollars]

	Budget	House	Senate	Conference
MATERIEL HANDLING EQUIPMENT	1,509	1,509	1,509	[illegible]
GENERAL PROPERTY				
TRN DEVICES (AUDIO VISUAL)	1,635	1,635	1,635	1,635
TRN DEVICES (SIMULATORS)	10,408	10,408	10,408	[illegible]
SHELTER FAMILY	17,575	17,575	17,575	17,575
CONTAINER FAMILY	[illegible]	[illegible]	[illegible]	[illegible]
CHEMICAL ALARM SYSTEM	1,872	1,872	1,872	1,872
DECONTAMINATING APPARATUS	1,201	1,201	1,201	1,201
SANITATION SET, FIELD KITCHEN	1,166	1,166	1,166	1,166
OTHER SUPPORT				
MODIFICATION KITS	2,764	2,764	2,764	2,764
ITEMS LESS THAN 900 000	3,477	3,477	3,477	3,477
TOTAL, ENGINEER + OTHER EQUIPMENT	185,476	185,476	182,476	182,476
SPARES AND REPAIR PARTS	56,133	56,133	56,133	56,133
NON CENTRALLY MANAGED ITEMS		9,700	[illegible]	9,700
INFLATION REESTIMATES FOR FY86		−2,000	−[illegible]	−2,000
INFLATION PREMIUM FY 86		−37,400	—	−37,400
PRIOR YEAR PROGRAM SAVINGS		−28,000	−28,000	
(PY TRANSFER)		(28,000)	(28,000)	
FY85 INFLATION FAIRNESS ADJUSTMENT		−31,000		−31,000
(PY TRANSFER)		(31,000)		
TOTAL, PROCUREMENT, MARINE CORPS	1,726,800	1,610,749	1,689,982	1,660,766
TRANSFER FROM OTHER ACCOUNTS		(85,717)	(31,056)	
TOTAL FUNDING AVAILABLE	1,726,800	1,696,466	1,721,038	1,660,766

PRIOR YEAR SAVINGS

The conferees recognize $47,717,000 in prior year savings in Marine Corps Procement. The sources and uses of these savings are identified in this Statement of the Managers under the heading "Availability of Unobligated Balances."

UNIT LEVEL CIRCUIT SWITCHES (ULCS)

The conference agreement provides $15,361,000 in Procuremnt, Marine Corps, and $6,200,000 in Other Procurement, Air Force for only 4 baseline first article AN/TTC-42 switches and associated first article production and test costs. The conferees direct that no other TTC-42's be funded in fiscal year 1986, and that further procurement of this stitch should await successful completion of first article testing. The conference agreement also provides for procurement of the SB-3865 for the Army, Air Force, and Marine Corps as budgeted.

The conferees direct the Department of Defense to report to the Defense Appropriations Subcommittees on the systems competitively selected for procurement as the unit level circuit switches. This report, on the basis of contract award, should also outline the outyear procurement program and reationalize any differences from the Department's switch architecture report as requested by the House.

81MM MORTAR AMMUNITION

The conferees are in agreement with Senate report language allowing procurement of both the Improved 81mm high explosive mortar ammunition and the older version.

AIRCRAFT PROCUREMENT, AIR FORCE

The conferees agree to the following amounts for Aircraft Procurement, Air Force.

[In thousands of dollars]

	Budget	House	Senate	Conference
AIRCRAFT PROCUREMENT, AIR FORCE				
Combat Aircraft				
ACM INTEGRATION	122,800	[illegible]	[illegible]	[illegible]
B-1B (MVP)	5,461,800	4,861,800	5,261,800	5,161,800
(PY TRANSFER)		(300,000)		
TACTICAL FORCES				
F-15 C/D/ E	1,902,900	1,757,300	1,757,300	1,757,300
F-15 C/D/E (PY TRANSFER)		(2,300)		
F-15 C/D/E (AP-CY)	236,000	210,000	210,000	210,000
F-16 C/D/ (MYP)	2,386,700	2,485,100	2,583,500	2,596,400
F-16 (MYP) (PY TRANSFER)		(66,300)		
F-16 C/D/ (MYP) (AP-CY)	553,100	553,100	535,700	[illegible]
AIR DEFENSE COMPETITION		[illegible]	[illegible]	[illegible]
OTHER COMBAT AIRCRAFT				
KC-10A (ATCA) (MYP))	[illegible]	191,300	[illegible]	[illegible]
KC-10A (ATCA) (MYP) (PY TRANSFER)		(18,600)		
KC-10A (ATCA) (MYP) (AP-CY)	[illegible]	184,500	208,200	[illegible]
(PY TRANSFER)			(18,600)	
MC-130H	73,600	55,000	55,000	55,000
MC-130H (AP-CY)	5,900	5,900	[illegible]	[illegible]
TOTAL, COMBAT AIRCRAFT	11,639,800	10,604,000	11,116,200	11,053,700
Airlift/Tanker Aircraft				
STRATEGIC AIRLIFT				
C-5B	1,942,100	1,587,900	1,840,100	1,809,300
C-5B (PY TRANSFER)		(85,600)		
3C-58 (AP-CY)	326,000	311,900	326,000	326,000
Tactical Airlift				
OTHER AIRLIFT				
C-20A	168,800	154,000		154,000
(PY TRANSFER)			(160,800)	
TOTAL, AIRLIFT/TANKER AIRCRAFT	2,436,900	2,053,800	2,166,100	2,289,300

	Budget	[illegible]	Senate	Conference
Trainer Aircraft				
UPT TRAINERS				
T-46A (NGT)	142,800	125,300		130,600
T-46A (GT) (PY TRANSFER)		(5,300)	(125,300)	
T-46A (NGT) (AP-CY)	63,300	63,300		63,300
(PY TRANSFER)			(63,300)	
TOTAL, TRAINER AIRCRAFT	206,100	188,600		193,900
Other Aircraft				
HELICOPTERS				
HH-60	94,000	93,400	23,000	55,000
HH-60 (AP-CY)	22,000	12,000	12,000	12,000
MISSION SUPPORT AIRCRAFT:				
AIR FORCE ONE REPLACEMENT				280,000
AF ONE REPLACEMENT (PY TRANSFER)			(280,000)	
AC-130H DRUG INTERDICTION AIRCRAFT				35,000
AEROSTAT REPLACEMENT			4,500	
AURORA	80,100			
TR-1/U-2	343,900	[illegible]	290,656	300,200
TR-1/U-2 (AP-CY)		[illegible]	[illegible]	9,000
Total, OTHER AIRCRAFT	[illegible]	414,600	339,156	691,200
Modification on In-Service Aircraft				
SATRATEGIC AIRCRAFT				
B-52	463,600	416,500	459,500	451,200
B-52 (PY TRANSFER)		(8,000)		
Fb-111	13,200	13,200	13,200	13,200
B-1b	5,100			31,400
TACTICAL AIRCRAFT				
A-7	3,400	3,400	81,400	60,000
A-10	87,800	74,200	72,000	72,000
A-10 (PY TRANSFER)		(3,500)		
F/RF-4	174,200	168,200	194,300	190,100
F/RF-4 (PY TRANSFER)		(3,700)		
F-5	25,732	25,732	25,732	25,732
F-15	141,800	141,800	141,000	141,000
F-16	73,700	54,900	52,300	52,300
F-16 (PY TRANSFER)		(9,400)		
F-111	294,500	294,500	294,50	295,500
TR-1A	11,700	11,700	11,700	11,700
AIRLIFT AIRCRAFT				
C-5	9,800	9,800	9,800	9,800
C-141	2,100	2,100	2,100	2,100
TRAINER AIRCRAFT				
T-38	40,100	26,400	36,200	36,200
OTHER AIRCRAFT				
KC-10A (ATCA)	4,300	1,000	1,000	1,000
C-12	5,000	5,000	5,000	5,000
C-130	[illegible]	201,300	191,000	200,700
C-130 (PY TRANSFER)		(8,800)		
C-135	[illegible]	[illegible]	852,500	852,500
E-3	33,400	33,400	33,400	33,400
E-4	20,400	20,100	20,100	20,100
HH-53 AIRCRAFT	26,400	76,400	51,400	76,400
OTHER AIRCRAFT	133,200	133,200	133,200	133,200
ACP COMM UPGRADE			[illegible]	50,000
OTHER MODIFICATIONS				
CLASSIFIED PROJECTS	144,385	112,385	112,385	112,385
CIVIL RESERVE AIRLIFT FLEET (CRAF)				
CIVIL RESERVE AIRLIFT FLEET (CRAF)	164,900	164,000	158,800	158,800
DRUG INTERDICTION AIRCRAFT			47,900	
UNDISTRIBUTED REDUCTION		150,000		
TOTAL, MODIFICATON OF IN-SERVICE AIRCRAFT	2,917,817	2,692,617	3,050,417	3,034,717
SPARES AND REPAIR PARTS	4,934,581	3,412,281	4,560,181	3,975,000
AIRCRAFT SUPPORT EQUIPMENT AND FACILITIES:				
COMMON GROUND EQUIPMENT	630,997	506,297	630,997	556,297
COMMON GROUND EQUIPMENT (PY TRANSFER)		(50,000)		
INDUSTRIAL RESPONSIVENESS	89,200	[illegible]	74,200	54,200
WAR CONSUMABLES	[illegible]	[illegible]	86,400	86,400
OTHER PRODUCTION CHARGES	2,683,705	2,354,205	2,161,600	2,235,410
TOTAL, AIRCRAFT SUPPORT EQUIPMENT AND FACILITIES	3,490,302	2,987,702	2,953,197	2,932,307
ALR-74 RWR		−320,800		
ALR-74 RWR (PY TRANSFER)		(167,800)		
ENVIRONMENTAL FUND TRANSFER			−10,600	−10,600
INFLATION REESTIMATES FOR FY86		−32,000	−32 000	−32,000
INFLATION PREMIUM, FY86		−549,100		−549,100
PRIOR YEAR PROGRAM SAVINGS		−406,000		
(PY TRANSFER)		(406,000)		
FY85 INFLATION FAIRNESS ADJUSTMENT		−323,000		−323,000
(PY TRANSFER)		(323,000)		
TOTAL, AIRCRAFT PROCUREMENT, AIR FORCE	26,165 500	20,722 700	24,142,651	23,255,424
TRANSFER FROM OTHER ACCOUNTS		(1,458,300)	(648,000)	
TOTAL FUNDING AVAILABLE	26,165,500	22,181,000	24,790,651	23,255,424

PRIOR YEAR SAVINGS

The conferees recognize $1,110,400,000 in prior year savings in Air Force Aircraft Procurement. The sources and uses of these savings are identified in this Statement of the Managers under the heading "Availability of Unobligated Balances."

B-1B

The conferees agree to provide $5,161,800,000, a reduction of $300,000,000. No B-1B production funds in any fiscal year are to be used for retrofit modifications. Instead the conferees have provided a separate allowance of $31,400,000 in the modification program. The conferees further agree to the reprogramming and reporting requirements in the Senate report.

F-16

The conferees agree to provide $2,596,400,000, a reduction of $240,300,000. The conferees have included bill language which allows award of the F-16 multiyear contract and directs that it contain priced contract options which can accommodate the results of the air defense competition.

AIR DEFENSE COMPETITION

The conferees agree to both the House and Senate report language on the air defense competition for approximately 300 air defense fighters competitively selected from among the F-16, F-20, and any other candidate deemed suitable by the Air Force. The Air Force must follow the acquisition strategy required in the Senate report, using a common cost base for bids as required by the House. The conferees expect this competition to be expedited, and have included bill language which requires the Air Force to make a source selection by July 1, 1986, with contract award to follow within sixty days. The bill appropriates $200,000,000 for this purpose in fiscal year 1986. As mentioned in the F-16 section of this report, the conferees have also approved the F-16 multiyear initiative because of the expedited air defense aircraft competition. The Air Force is encouraged to consider innovative pricing approaches for any aircraft in the competition.

KC-10

The conferees agree to provide $204,800,000, a budget reduction of $34,000,000, and $226,800,000 for advance procurement. The Air Force should notify Congress if it proposes to extend the KC-10 production line for additional tankers to meet strategic bomber refueling requirements.

C-5B

The conferees agree to provide $1,809,300,000, a budget reduction of $132,800,000. This is $30,800,000 below the Senate allowance to reduce excessive engineering change order funding. The conferees also agree to the provision of $326,000,000 for advance procurement of 21 C-5B aircraft in fiscal year 1987. The conferees believe that $177,100,000 of C-5B contract reserves for inflation as documented by the Congressional Budget Office is excess to current cost projections. Due to the possible adverse impact on program execution if a reduction were made at this time, the conferees recommend that such reserves be retained in the C-5B program. The Director of the Office of Management and Budget should formally propose rescission of all excess budget authority in amounts equal to contract adjustments under the current C-5B economic price adjustment contract clause once such adjustments are made in any fiscal year.

T-46 AIRCRAFT

The Air Force has testified on the need to replace obsolete training aircraft operated by the Air Force Air Training Command. The Congress has responded to this need and ratified this requirement by providing over $600,000,000 in T-46A research and development and procurement funds to date. The conferees have agreed to provide not only full funding for the fiscal year 1986 T-46 procurement, except for a minor inflation adjustment, but have also fully funded the advance procurement needed to procure T-46 aircraft in fiscal year 1987. The conferees expect the Air Force to budget for and procure T-46 aircraft in fiscal year 1987, where firm fixed price contract options are available, and in subsequent years to meet this critical and well justified requirement.

HH-60 SEARCH AND RESCUE HELICOPTER

The conferees agree to an appropriation of $55,000,000 for production start-up costs and procurement of three helicopters to fill the combat search and rescue mission, instead of $93,400,000 recommended by the House or $23,000,000 recommended by the Senate. The amounts agreed to are sufficient to begin an austere version HH-60A production program to provide minimum capability with approximately 63 helicopters and a total cost of not more than $500,000,000. The Air Force should consider this to be a design-to-cost objective.

The initial funding level is intended for costs related to the airframe, engines, and navigation systems costs as well as nonrecurring engineering expenses. All production tooling expenses are to be assumed by the airframe prime contractor. The conferees expect the Navy to coordinate its search and rescue program with the Air Force to optimize commonality.

AIR FORCE ONE

The conferees agree to the Senate funding level and its conditions for Air Force One replacement aircraft and reiterate the procurement design-to-cost objective, which excludes future R&D expense. While also excluded from the design-to-cost objective, initial spares requirements should be accommodated from within appropriated spares funding levels. The Air Force should obtain approval from the House and Senate Armed Services Committees for this procurement program. The conferees also expect advance written notification to Congress prior to contract award.

B-1B MODIFICATIONS

The current Air Force plan would fund $186,200,000 for B-1B retrofit modifications within the B-1B production program. The conferees feel that such costs are more appropriately funded from the allowances for modification of in-service aircraft. Consequently, $31,400,000 is recommended for B-1B retrofit modifications based on analysis of the aircraft modification installation schedule.

OTHER MODIFICATIONS

The conferees agree to the following adjustments in various Air Force modification line items that were in conference:

[dollars in millions]

B-52 ALCM	−$4.1
B-52 Strategic Radar	−8.3
A-7 Guard/Reserve	+56.6
A-10 GAO Savings	−13.6
A-10 TEMS	−2.2
F-4 GAO Savings	−6.0
F-4 INS/HUD	+92.0
F-4E ALR-74	−10.9
RF-4E ALR-74	−55.0
F-4 Simulator, ALR-74	−4.2
F-15 Mark XII IFF	−.8
F-16 GAO Savings	−18.8
F-16 ALR-74	−2.6
T-38 GAO Savings	−3.9
C-130 GAO Savings	−10.6
MC-130H Remodification	+10.3
HH-53 SOF	+50.0
ACP Upgrade	+50.0

SPARES AND REPAIR PARTS

The conferees agree to provide $3,975,000,000, a budget reduction of $959,581,000 of which $158,700,000 relates to initial spares and $800,881,000 relates to replenishment spares. The conferees agree to the language in both the House and Senate reports. Future budgets to Congress should clearly identify valid unfunded requirements that would be satisfied if surplus spares funds became available after the budget was submitted. Such unfunded requirements should be reviewed and validated by the Office of the Secretary of Defense during the annual budget review process.

The primary deficiency of the Air Force centrally managed spares requirements determination system is the excessive budget lead time required for future program cost projections. Over the past several years, requirements and cost projections have varied significantly from the actual spares consumption data. Adoption of the financial technique of stock funding repairables would assign financial and requirements resonsibility to the spares consumer and significantly shorten budget lead time for cost estimates. Consequently, the conferees encourage the Air Force to consider stock funding of repairables to be managed at least at the major command level.

OTHER PRODUCTION CHARGES

The conferees agree to provide $2,235,410,000, a budget reduction of $448,295,000. The reduction includes $39,800,000 in the fiscal year 1986 ALQ-131 program, $59,000,000 related to production slip of the ALQ-184 ECM pod, $1,000,000 related to ALR-74, $43,000,000 related to PLSS, $44,000,000 related to ECM power management, and $261,495,000 related to classified programs.

ALR-74 RADAR WARNING RECEIVER

The conferees agree to the following reductions related to the ALR-74 production slip, which have been applied to the line items indicated:

FISCAL YEAR 1986

[dollars in millions]

F-16 Advance Procurement	$17.4
F-4E Modification	10.9
RF-4E Modification	55.0
F-4 Simulator Modification	4.2
F-16 Modification	2.6
Other Production Charges	1.0
Initial Spares	12.1
Total	103.2

The conferees recognize that approimately $56,900,000 in fiscal year 1984 appropriations will be used to repackage the ALR-56 radar warning receiver so that a competition between ALR-56M and ALR-74 may be conducted in the future.

ELECTRONIC COUNTER MEASURE (ECM) EQUIPMENT

The conferees have agreed to substantial funding reductions in the Airborne Self Protection Jammer (ASPJ), ALQ-119/184 pod, ALQ-131 pod, and ALR-74 radar warning reciever requipment due to inability to achieve production objectives. The budgets for these items were based on overly optimistic assessments of production capability in order to capitalize on emerging technologies. The conferees understand the need to counter the emerging threat, but future support for ECM programs will be contingent upon production feasibility. Consequently, the Air Force should realign its planning to achieve realistic production schedules for this equipment.

MISSILE PROCUREMENT, AIR FORCE

The conferees agree to the following amounts for Missile Procurement, Air Force:

[In thousands of dollars]

	[redacted]	[redacted]	[redacted]	[redacted]
MISSILE PROCUREMENT, AIR FORCE				
[redacted]				
STRATEGIC PEACEKEEPER (M-X)	3,037,280	1,746,000	1,746,000	1,746,000
FORCE MODERNIZATION MISSILE REPLACEMENT EQUIPMENT-STRAT	86,701	66,701	66,701	66,701
TOTAL, BALLISTIC MISSILES	3,123,981	1,812,701	1,812,701	1,812,701
OTHER MISSILES				
STRATEGIC AIR LAUNCH CRUISE MISSILE	33,440	33,440	33,440	33,440
TACTICAL				
AIM-7F/M SPARROW	[redacted]	[redacted]	[redacted]	[redacted]
AIM-9L/M SIDEWINDER	43,300	[redacted]	[redacted]	[redacted]
AGM-130 POWERED GBU-15	[redacted]	[redacted]	[redacted]	[redacted]
AGM-65D MAVERICK	[redacted]	[redacted]	393,989	[redacted]
AGM-88A HARM	470,107	438,107	448,407	438,107
RAPIER	7,581	3,581	7,581	7,581
AMRAAM	[redacted]		[redacted]	[redacted]
AMRAAM (AP-CY)	65,900		[redacted]	[redacted]
(PY TRANSFER)			(29,400)	
[redacted]	544,093	534,093	534,093	534,093
GRD LAUNCH CRUISE MISSILE (AP-CY)	9,772	9,772	9,772	9,772
TARGET DRONES: TARGET DRONES	35,898	[redacted]	[redacted]	35,898
TACTICAL DRONES				
INDUSTRIAL FACILITIES	12,926	12,926	12,926	12,926
MISSILE REPLACEMENT EQUIPMENT-TACT	14,451	14,451	14,451	14,451
CLASSIFIED PROGRAM	[redacted]	[redacted]	[redacted]	[redacted]
TOTAL, OTHER MISSILES	2,895,746	2,218,857	2,488,146	2,417,046
MODIFICATION OF IN-SERVICE MISSILES				
CLASS IV: CLASS IV	92,749	92,749	[redacted]	[redacted]
CLASS V: LGM-30F/G MINUTEMAN II/III	13,540	[redacted]	[redacted]	43,440
UPDATE				
AGM-88A HARM	[redacted]	[redacted]	[redacted]	3,000
UPDATED ALCM	[redacted]	[redacted]	16,498	16,498
GRD LAUNCH CRUISE MISSILE UPDATE	8,707	8,707	8,707	8,707
TOTAL, MODIFICATION OF IN-SERVICE MISSILES	134,494	129,394	202,545	162,445
MISSILE SPARES PLUS REPAIR PARTS: SPARES AND REPAIR PARTS	539,258	461,170	465,258	461,170
[redacted]				
[redacted]:				
SPACEBORNE EQUIP (COMSEC)	36,346	36,346	36,346	36,346
GLOBAL POSITIONING (MYP)	197,398	197,398	197,398	197,398
[redacted]	[redacted]	260,999	[redacted]	[redacted]
DEF METEOROLOGICAL SAT PROG (MYP)	53,979	53,979	43,379	43,379
[redacted]	131,282	131,282	131,282	131,282
DEFENSE SATELLITE COMM SYSTEM (MYP)	135,506	135,506	135,506	135,506
DEFENSE SATELLITE COMM SYSTEM (MYP) (AP-CY)	13,660	13,660	13,660	13,660
AF SATELLITE COMM SYSTEM	34,384	34,384	34,384	34,384
SPACE DEFENSE SYSTEM	83,016			
SPACE DEFENSE SYSTEM (AP-CY)	14,900			
SPACE BOOSTERS	126,894	6,894	[redacted]	[redacted]
SPACE BOOSTERS (AP-CY)		114,000	46,894	46,894
SPACE SHUTTLE	22,073	22,073	22,073	22,073
[redacted]				
[redacted]	170,024	170,024		
[redacted]	4,749	4,749	4,749	4,749
IONDS (MYP)	45,835	45,835	45,835	45,835
[redacted]	1,915,800	1,661,600	[redacted]	1,834,900
SPECIAL PROGRAMS (PY TRANSFER)		(1,000)		
SPECIAL UPDATE PROGRAMS	887,376	927,476	927,476	927,476
TOTAL, OTHER SUPPORT	4,169,221	3,816,205	3,850,181	3,814,881
GENERAL REDUCTION, PY TRANSFER		−4,000		
(PY TRANSFER		(−4,000)		
INFLATION REESTIMATES FOR FY86		−13,000	−13,000	−13,000
INFLATION PREMIUM, FY86		−227,800		−227,801
PRIOR YEAR PROGRAM SAVINGS		−35,000	−35,000	
(PY TRANSFER)		(35,000)	(35,000)	
FY85 INFLATION FAIRNESS ADJUSTMENT		−115,000		−115,000
(PY TRANSFER)		(115,000)		
TOTAL, MISSILE PROCUREMENT, AIR FORCE	10,862,700	8,043,527	8,770,831	8,312,442
TRANSFER FROM OTHER ACCOUNTS		(155,000)	(64,400)	
[redacted]	10,862,700	8,198,527	8,835,231	8,312,442

PRIOR YEAR SAVINGS

The conferees recognize $82,800,000 in prior year savings in Air Force Missile Procurement. The sources and uses of these savings are identified in this Statement of the Managers under the heading "Availability of Unobligated Balances."

ADVANCED MEDIUM RANGE AIR-TO-AIR MISSILE

The conferees agree to provide $149,989,000 for Advanced Medium Range Air-to-Air Missile (AMRAAM) and $59,400,000 for AMRAAM Advance Procurement as proposed by the Senate.

MINUTEMAN II/III

The conferees agree to provide $43,400,000 for Minuteman II/III modifications. This is an increase of $35,000,000 over the House allowance to extend the Minuteman Extended Survivable Power (MESP) program starting in 1986. No funds are provided for lead acid batteries.

COMPLEMENTARY EXPENDABLE LAUNCH VEHICLES

The conferees agree to funding levels and distributions proposed by the Senate. This includes $80,000,000 for procurement of 1 fully funded Complementary Expendable Launch Vehicle and $46,894,000 in advance procurement for 1987.

The conferees agree that the CELV program of no more than 10 Titan 34D7s shall be fully funded but may be executed as a multi-year procurement if proposed to and approved by Congress.

The conferees further agree that the Air Force should include a program profile and description with its multi-year justification to both the House and Senate Defense Appropriations Subcommittees and that it should incorporate the policy guidance provided in the House report to this bill to include holding four CELV's in reserve, and the Senate language in the report accompanying the Continuing Resolution (S. Rpt. 99-210). Contract restructuring should explicitly accommodate, using priced contract options, the requirement of holding four CELV's in reserve.

OTHER PROCUREMENT, AIR FORCE

The conferees agree to the following amounts for Other Procurement, Air Force:

[In thousands of dollars]

	Budget	House	[illegible]	[illegible]
OTHER PROCUREMENT, AIR FORCE				
MUNITIONS AND ASSOCIATED EQUIPMENT				
ROCKETS AND LAUNCHERS				
2.75 INCH ROCKET MOTOR	22,276	22,276	22,276	22,276
GTR-18 MISSILE SIMULATOR	1,987	1,987	1,987	1,987
ROCKET TRAINING 35MM	1,692	1,692	1,692	1,692
ITEMS LESS THAN $900,000	4,601	4,601	4,601	4,601
CARTRIDGES (THOUSANDS)				
9 MM PARABELLUM	1,178	1,178	1,178	1,178
5.56 MM	4,522	4,522	4,522	4,522
20 MM TRAINING	1,530	1,530	1,530	1,530
30 MM TRAINING	100,425	88,625	91,625	88,625
30 MM API	30,613	19,813	30,613	30,613
30 MM API (PY TRANSFER)		(10,800)		
40 MM TP GRENADES	3,533	3,533	3,533	3,533
40 MM HE GRENADES	16,613	16,613	16,613	16,613
CART CHAFF RR-170	17,823	17,823	17,823	17,823
CART CHAFF, RR-136	546	546	546	546
SIGNAL MK-4 MOD 3	1,681	1,681	1,681	1,681
MXU-4A/A ENGINE STARTER	4,972	4,972	4,972	4,972
CART IMP 3000 FT/LBS	4,281	3,181	3,181	3,181
ITEMS LESS THAN $900,000	8,650	8,650	8,650	8,650
BOMBS				
MK-82 INERT/BDU-50	13,386	13,386	13,386	13,386
DURANDAL	94,502	86,602	68,000	80,600
TIMER ACTUATOR FIN FUZE	1,963			
BSU-49 INFLATABLE RETARDER	34,703	31,233	34,703	31,233
BSU-50 INFLATABLE RETARDER	10,231	10,231	10,231	10,231
BOMB 2000 LB HIGH EXPLOSIVE	34,056	31,856	31,856	31,856
CLUSTER BOMB, MK-20 (ROCKEYE)	4,397	4,397	4,397	4,397
LASER BOMB GUIDANCE KIT	103,677			
GBU-15	127,894	37,902	106,700	85,000
BOMB PRACTICE 25 POUND	20,892	20,892	20,892	20,892
BOMB PRACTICE BDU-38	5,421	5,421	5,421	5,421
BOMB, PRACTICE MK-106	1,303	1,303	1,303	1,303
MK-84 BOMB—EMPTY	6,810	6,810	6,810	6,810
CBU-89 (TMD/GATOR)	202,015	172,015	172,015	172,015
CBU-87 (COMBINED EFFECTS MUNITION)	552,934	330,534	552,934	400,000
BIGEYE	22,115		22,115	
ITEMS LESS THAN $900,000	1,531	1,531	1,531	1,531
TARGETS				
AERIAL TOW TARGET	8,398	6,798	6,798	6,798
ITEMS LESS THAN $900,000	292	292	292	292
OTHER ITEMS				
FLARE IR MJU-7B	13,346	13,346	13,346	13,346
FLARE, PARA, LUU-4B	1,401	1,401	1,401	1,401
FLARE, IR MJU-2	3,109	3,109	3,109	3,109
M-206 CARTRIDGE FLARE	1,445	1,445	1,445	1,445
SIGNAL, SMOKE/ILLUM MK-6	1,959	1,959	1,959	1,959
SIGNAL, SMOKE AND ILLUMINATING	2,450	2,450	2,450	2,450
MC-3468, RETARD DEVICE	1,878	1,878	1,878	1,878
RAPID MUNITIONS ASSEMBLY	3,925	2,825	2,825	2,825
SPARES AND REPAIR PARTS	9,547	7,147	7,147	7,147
MODIFICATIONS	687	687	687	687
ITEMS LESS THAN $900,000	21,334	19,034	19,034	19,034
FUZES				
FMU-130	8,427			
FMU-112/FMU-139	61,725	41,725	41,725	41,725
ITEMS LESS THAN $900,000	184	184	184	184
OTHER WEAPONS				
M-203 GRENADE LAUNCHER	771	771	771	771
MACHINE GUN, 7.62MM, M-60	3,764	3,764	3,764	3,764
GAU-5 MACHINE GUN	1,367	1,367	1,367	1,367
40MM MACHINE GUN, MK-19	4,221	4,221	4,221	4,221
9MM HANDGUN	6,776	6,776	6,776	6,776
WAR RESERVE MUNITIONS			50,000	40,000

[In thousands of dollars]

	Budget	House	Senate	Conference
TOTAL, MUNITIONS AND ASSOCIATED EQUIPMENT	1,621,759	1,078,515	1,440,496	1,239,877
VEHICULAR EQUIPMENT				
PASSENGER CARRYING VEHICLES				
SEDAN, 4 DR 4×2	1,938	1,938	1,938	1,938
STATION WAGON, 4×2	2,183	2,183	2,183	2,183
BUS, 28 PASSENGER	4,818	4,818	4,818	4,818
BUS, INTERCITY	1,754	1,754	1,754	1,754
BUS, 44 PASSENGER	2,779	2,779	2,779	2,779
AMBULANCE, BUS	2,150	2,150	2,150	2,150
CARGO + UTILITY VEHICLES				
TRUCK, STAKE/PLATFORM	6,758	6,758	6,758	6,758
TRUCK, CARGO-UTILITY, ¾T, 4×4	4,503	4,503	4,503	4,503
TRUCK, CARGO-UTILITY, ½T, 4×2	4,446	4,446	4,446	4,446
TRUCK, PICKUP, ½T, 4×2	6,463	6,463	6,463	6,463
TRUCK, PICKUP, COMPACT	6,417	6,417	6,417	6,417
TRUCK, MULTI-STOP 1 TON 4×2	11,737	11,737	11,737	11,737
TRUCK, PANEL, 4×2	3,541	3,541	3,541	3,541
SHOP VAN 4×4	869	[illegible]	869	869
TRUCK, CARRYALL	7,541	7,541	7,541	7,541
COMMERCIAL UTILITY CARGO VEHICLE	3,610	3,610	3,610	3,610
TRUCK, CARGO, 2½T, 6×6, M-35	15,588	15,588	15,588	15,588
TRUCK, CARGO 5T M-923, M-925	17,088	17,088	17,088	17,088
SEMI-TRAILER, 20T	352	352	352	352
HIGH MOBILITY VEHICLE (MYP)	15,300	15,300	15,300	15,300
TRUCK, TRACTOR 5T M-932 (MYP)	[illegible]	[illegible]	[illegible]	978
TRUCK, TRACTOR, OVER 5T	4,382	4,382	4,382	4,382
TRUCK, WRECKER	369	369	369	369
TRUCK, WRECKER 5T M936 (MYP)	3,903	3,903	3,903	3,903
TRUCK, DUMP 5 TON	8,149	8,149	8,149	8,149
TRUCK, UTILITY	2,238	2,238	2,238	2,238
ITEMS LESS THAN $900,000	8,358	8,358	8,358	8,358
SPECIAL PURPOSE VEHICLES				
TRUCK, MAINT, 4×2	2,552	2,552	2,552	2,552
TRUCK, MAINT, 4×4	1,222	1,222	1,222	1,222
TRUCK, MAINT, HI-REACH	2,066	2,066	2,066	2,066
TRUCK, TELEPHONE MAINTENANCE	3,778	3,778	3,778	3,778
TRUCK, TANK, 1200 GAL	1,992	1,992	1,992	1,992
TRUCK, TANK FUEL R-9	23,645	23,645	23,645	23,645
TRUCK, TANK, FUEL, M-49	1,786	1,786	1,786	1,786
TRUCK, TANK, LIQ NIT, C-5	467	467	467	467
TRACTOR, A/C TOW, MB-4	2,854	2,854	2,854	2,854
TRACTOR, TOW, FLIGHTLINE	3,853	3,853	3,853	3,853
TRACTOR, WHEELED, INDUSTRIAL	1,915	1,915	1,915	1,915
TRACTOR, DOZER	2,443	2,443	2,443	2,443
VEHICLE, LAW ENFORCEMENT	2,342	2,342	2,342	2,342
TRUCK, DEMINERAL WATER, 2600 GAL	942	942	942	942
TRUCK, HI LIFT C5	119	119	119	119
TRUCK, HI LIFT 3T	186	186	186	186
TRUCK, HI LIFT, 9T	162	162	162	162
TRUCK, REFUSE	1,793	1,793	1,793	1,793
TRUCK, HYDRANT FUEL	3,877	3,877	3,877	3,877
TRAILER, WATER M149	153	153	153	153
TRAILER, FUEL A1B	201	201	201	201
SEMI TRAILER, COMPRESSED GAS	2,725	2,725	2,725	2,725
SEMI TRAILER, TANK UDMH	137	137	137	137
DOLLY M832	427	427	427	427
TRACTOR, WHEELED W DOZER	360	360	360	360
ITEMS LESS THAN $900,000	7,530	7,530	7,530	7,530
FIRE FIGHTING EQUIPMENT				
TRUCK, CRASH P-4/P-19	23,807	23,807	23,807	23,807
TRUCK, CRASH P-15	3,494	3,494	3,494	3,494
TRUCK, CRASH P-2	8,201	8,201	8,201	8,201
TRUCK, WATER P-18	3,866	3,866	3,866	3,866
TRUCK, PUMPER, P-8	1,852	1,852	1,852	1,852
TRUCK, PUMPER, P-12	205	205	205	205
TRUCK, CRASH P-10	406	406	406	406
TRUCK, CRASH P-13/P-20	494	494	494	494
ITEMS LESS THAN $900,000	839	[illegible]	839	839
MATERIALS HANDLING EQUIPMENT				
TRUCK, F/L 4,000 LB GED/DED 144"	2,188	2,188	2,188	2,188
TRUCK, F/L 6000 LB	4,934	4,934	4,934	4,934
TRUCK, F/L 10,000 LB	10,941	10,941	10,941	10,941
TRUCK, F/L LARGE CAPACITY AT	627	627	627	627
TRUCK, F/L 15000 LB	760	760	760	760
LARGE CAPACITY LOADER	4,250	4,250	4,250	4,250
25K A/C LOADER	6,279	6,279	6,279	6,279
TRACTOR, WHSE, 4,000 LB	849	849	[illegible]	849
CONTAINER, LIFT, TRUCK	4,453	4,453	4,453	4,453
ITEMS LESS THAN $900,000	2,658	2,658	2,658	2,658
BASE MAINTENANCE SUPPORT				
LOADER, SCOOP	3,601	3,601	3,601	3,601
LOADER, SCOOP, W/BACKHOE	699	[illegible]	699	699
DISTRIBUTOR, WATER 1500 GALLON	3,460	3,460	3,460	3,460
CLEANER, RUNWAY/STREET	6,032	6,032	6,032	6,032
ROLLER, VIBRATING	650	650	650	650
TRUCK, DUMP 22T	[illegible]	[illegible]	860	[illegible]
GRADER, ROAD, MOTORIZED	3,110	3,110	3,110	3,110
CRANE, 7-50 TON	3,133	3,133	3,133	3,133
EXCAVATOR, DED, PT	4,305	4,305	4,305	4,305

[In thousands of dollars]

	Budget	House	Senate	Conference
WATERCRAFT	4,295	4,295	4,295	4,295
SPARES AND REPAIR PARTS	4,512	4,512	4,512	4,512
MODIFICATIONS	197	197	197	197
ITEMS LESS THAN $900,000	7,173	7,173	7,173	7,173
UNDISTRIBUTED REDUCTION		−20,000		
TOTAL, VEHICULAR EQUIPMENT	340,869	340,869	[illegible]	[illegible]
ELECTRONICS AND TELECOMMUNICATIONS EQUIPMENT				
COMM SECURITY EQUIPMENT (COMSEC)				
SPACE SYSTEMS (COMSEC)	33,497	33,497	33,497	33,497
TEMPEST EQUIPMENT	546	546	546	546
TAC SECURE VOICE	13,201	13,201	13,201	13,201
DCS SECURE VOICE (COMSEC)	27,685	27,685	27,685	27,685
SECURE DATA	40,990	40,990	40,990	40,990
TRI-TAC (COMSEC)	28,633	28,633	28,633	28,633
SPARES AND REPAIR PARTS	7,563	7,563	7,563	7,563
MODIFICATIONS (COMSEC)	282	282	282	282
INTELLIGENCE PROGRAMS				
INTELLIGENCE DATA HANDLING SYS	29,427	29,427	29,427	29,427
INTELLIGENCE TRAINING EQUIPMENT	9,101	9,101	9,101	9,101
INTELLIGENCE COMM EQUIP	4,585	4,585	4,585	4,585
COBRA SHOE	2,973	2,973	2,973	2,973
ITEMS LESS THAN $900,000	6,375	6,375	6,375	6,375
ELECTRONICS PROGRAMS				
TRAFFIC CONTROL/LANDING	4,981	4,981	4,981	4,981
TACTICAL AIR CONTROL SYS IMPROVE	95,408	[illegible]	[illegible]	[illegible]
TACAN		[illegible]	[illegible]	[illegible]
WEATHER OBSERV/FORCAST	31,639	31,639	31,639	31,639
DEFENSE SUPPORT PROGRAM	117,825	117,825	117,825	117,825
OTH-B RADAR	237,036	167,036	167,036	167,036
SACDIN	1,129	1,129	1,129	1,129
SAC COMMAND AND CONTROL	11,123	11,123	11,123	11,123
CHEYENNE MOUNTAIN COMPLEX	61,039	54,136	54,136	54,136
PAVE PAWS/SLBM WARNING SYSTEMS	9,025	9,025	9,025	9,025
BMEWS MODERNIZATION	70,754	38,250	70,754	70,754
SPACETRACK	10,067	10,067	10,067	10,067
NAVSTAR GPS	7,351	7,351	7,351	7,351
USAFE COMMAND/CONTROL SYSTEM	12,076	12,076	[illegible]	[illegible]
PACAF COMMAND/CONTROL	9,897	9,897	9,897	9,897
DEFENSE METEOROLOGICAL SAT PROG	[illegible]	[illegible]	[illegible]	[illegible]
CARIBBEAN BASIN RADAR NETWORK	4,400	4,400	4,400	4,400
MARS/USAF-FAA RADAR UPGRADE	16,598	2,798	[illegible]	2,798
TAC SIGINT SUPPORT	34,671	34,671	34,671	34,671
DIST ERLY WARNING RDR/NORTH WARNING	8,858		[illegible]	[illegible]
DIST ERLY WARNING RDR/NORTH WARNING (PY TRANSFER)		(8,858)		
TRANSPORT GROUND INTERCEPT FACIL	17,464	17,464	17,464	17,464
TR-1 GROUND STATIONS	74,605	64,605	64,605	64,605
AIR BASE SURVIVABILITY	1,567	1,567	1,567	1,567
TEREC GROUND PROCESSOR	4,056	4,056	4,056	4,056
IMAGERY TRANS	37,460	[illegible]	[illegible]	[illegible]
TACTICAL WARNING SYSTEMS SUPPORT	[illegible]	[illegible]	390	[illegible]
NORTH ATLANTIC DEFENSE C3	22,362	22,362	22,362	22,362
SPECIAL COMM-ELECTRONICS PROJECTS				
AUTOMATIC DATA PROCESSING EQUIP	170,528	148,028	170,528	163,128
WWMCCS ADPE	36,361	36,361	36,361	36,361
MAC COMMAND AND CONTROL SUPPORT	13,320	13,320	13,320	13,320
GLCM COMMUNICATIONS	14,471	14,471	14,471	14,471
AIR BASE DEFENSE/AF PHYS SECURITY	52,508	52,508	52,508	52,508
WEAPONS STORAGE/SECURITY	2,944	2,944	2,944	2,944
RANGE IMPROVEMENTS	105,173	90,173	90,173	90,173
HF RADIO CONSOLIDATION	9,768	9,768	9,768	9,768
RADAR BOMB SCORER	9,100	9,100	9,100	9,100
PLSS	25,123	25,123	25,123	25,123
C3 COUNTERMEASURES	21,388	21,388	21,388	21,388
SPACE SHUTTLE	4,978	4,978	4,978	4,978
BASE LEVEL DATA AUTO PROGRAM	64,904	47,904	47,904	47,904
SATELLITE CONTROL FACILITY	66,262	66,262	66,262	66,262
CONSTANT WATCH	15,924	15,924	15,924	15,924
CONSOLIDATED SPACE OPS CENTER	17,613	17,613	17,613	17,613
CMD CENTER PROCESSING/DISPLAY SYS	2,552	2,552	2,552	2,552
HAMMER ACE	831	831	831	831
SAMTO TEST RANGES I&M	32,144	22,144	22,144	22,144
EMP HARDENING	12,685	12,685	12,685	12,685
AIR FORCE COMMUNICATIONS:				
PROGRAM 698AJ	1,965	1,965	1,965	1,965
INFORMATION TRANSMISSION SYSTEMS	5,748	5,748	5,748	5,748
TELEPHONE EXCHANGE	52,926	52,926	52,926	52,926
JOINT TACTICAL COMM PROGRAM	161,927	160,227	160,227	160,227
USREDCOM	2,971	2,971	2,971	2,971
[illegible]	26,063	26,063	26,063	26,063
AUTOMATED TELECOMMUNICATIONS PRG	19,114	19,114	19,114	19,114
TELETYPEWRITER EQUIPMENT	11,724	11,724	11,724	11,724
SATELLITE TERMINALS	65,071	65,071	65,071	65,071
DCA PROGRAMS				
WIDEBAND SYSTEMS UPGRADE	45,708	45,708	45,708	45,708
MINIMUM ESSENTIAL EMER COMM NET	14,385	14,385	14,385	14,385
DCS SECURE VOICE EQUIPMENT	18,380	18,380	18,380	18,380
ORGANIZATION AND BASE				
TACTICAL C-E EQUIPMENT	17,946	17,946	17,946	17,946

BEST COPY AVAILABLE

[In thousands of dollars]

	Budget	House	Senate	Conference
PRODUCTIVITY INV TELECOM	16,431	16,431	16,431	16,431
RADIO EQUIPMENT	38,609	38,609	38,609	38,609
FIBER OPTICS	1,430	1,430	1,430	1,430
TV EQUIPMENT (AFRTV)	4,493	4,493	4,493	4,493
CCTV/AUDIOVISUAL EQUIPMENT	4,657	4,657	4,657	4,657
E AND I REQUIREMENTS	10,795	10,795	10,795	10,795
SPARES AND REPAIR PARTS	398,494	364,644	383,494	370,000
ITEMS LESS THAN $900,000	15,468	15,468	15,468	15,468
MODIFICATIONS				
COMM-ELECTRONICS CLASS IV	39,446	39,446	39,446	39,446
TRAFFIC CONTROL/LANDING	3,418	3,418	3,418	3,418
TACTICAL EQUIPMENT	25,393	25,393	25,393	25,393
ANTIJAM VOICE	19,007	19,007	19,007	19,007
TOTAL, ELECTRONICS AND TELECOMMUNICATIONS EQUIPMENT	2,816,783	2,544,608	2,648,344	2,628,650
OTHER BASE MAINTENANCE AND SUPPORT EQUIPMENT				
TEST EQUIPMENT				
BASE A/C CALIBRATION PACKAGE	52,827	45,027	10,000	45,027
NEWARK AFS CALIBRATION PACKAGE	3,359	3,359	3,359	3,359
TEST EQUIPMENT—GEN PURP	39,744	34,544	34,544	34,344
ITEMS LESS THAN $900,000	42,000	35,000	35,000	35,000
PERSONAL SAFETY AND RESCUE EQUIP				
LIFE RAFT, 20 MAN	989	989	989	989
AUTOMATIC LIFE PRESERVER	3,681	3,681	3,681	3,681
NIGHT VISION GOGGLES	8,356	8,355	8,355	8,355
CHEMICAL/BIOLOGICAL DEF PROG	81,733	81,733	81,733	81,733
ITEMS LESS THAN $900,000	6,966	6,966	6,966	6,966
DEPOT PLANT AND MATERIALS HANDLING EQ				
BASE MECHANIZATION EQUIPMENT	37,499	37,499	37,499	37,499
AIR TERMINAL MECHANIZATION EQUIP	1,215	1,215	1,215	1,215
ITEMS LESS THAN $900,000	18,476	13,476	13,476	13,476
ELECTRICAL EQUIPMENT				
GENERATORS—MOBILE ELECTRIC	30,090	30,090	30,090	30,090
FLOOD LIGHTS	10,691	7,745	10,691	7,745
ITEMS LESS THAN $900,000	479	479	479	479
BASE SUPPORT EQUIPMENT				
MEDICAL/DENTAL EQUIPMENT	132,319	120,839	136,639	135,729
AIR BASE SURVIVABILITY	36,747	36,747	21,900	21,900
COB ESSENTIAL FACILITIES	11,642	11,642	11,642	11,642
BARRIER, AIRCRAFT ARRESTING SYSTEM	185	185	185	185
PALLET, AIR CARGO, 108" x 88"	2,730	2,730	2,730	2,730
NET ASSEMBLY, 108" x 88"	3,306	3,306	3,306	3,306
PUMPS AND COMPRESSORS	1,282	1,282	1,282	1,282
MOBILITY CONTAINERS	2,058	2,058	2,058	2,058
BLADDERS FUEL	2,710	2,710	2,710	2,710
TACTICAL SHELTER	17,822	17,822	17,822	17,822
PHOTOGRAPHIC EQUIPMENT	6,486	6,486	6,486	6,486
PRODUCTIVITY INVESTMENTS	928	928	928	928
MOBILITY EQUIPMENT	43,068	43,068	43,068	43,068
WARTIME HOST NATION SUPPORT	5,069	5,069	5,069	5,069
SPARES AND REPAIR PARTS	14,297	14,297	14,297	14,297
ITEMS LESS THAN $900,000	17,832	15,032	15,032	15,032
SPECIAL SUPPORT PROJECTS				
INTELLIGENCE PRODUCTION ACTIVITY	18,889	18,889	18,889	18,889
SCIENTIFIC/TECHNICAL INTELLIGENCE	4,588	4,588	4,588	4,588
TECH SURV COUNTERMEASURES EQ	4,939	4,939	4,939	4,939
DEFENSE DISSEMINATION SYSTEM	21,357	15,467	12,457	12,457
AF TECHNICAL APPLICATION CENTER	15,878	15,878	15,878	15,878
PHOTO PROC/INTERPRET SYS	11,301	10,001	10,001	10,001
SELECTED ACTIVITIES	3,933,131	3,707,651	3,896,381	3,865,051
SPECIAL UPDATE PROGRAM	86,482	86,482	86,482	86,482
INDUSTRIAL PREPAREDNESS	14,326	2,497	14,326	2,497
MISC EQUIPMENT	6,500	6,500	6,500	6,500
MODIFICATIONS	5,069	5,069	5,069	5,069
TOTAL, OTHER BASE MAINTENANCE AND SUPPORT EQUIPMENT	4,758,589	4,466,044	4,638,265	4,625,797
UNDISTRIBUTED REDUCTION		−237,000		−290,000
NON-CENTRALLY MANAGED ITEMS		54,700	54,700	54,700
INFLATION REESTIMATES FOR FY86		−9,000	−9,000	−9,000
PRIOR YEAR INFLATION SAVINGS		−242,000	−242,000	
(PY TRANSFER)		(242,000)	(242,000)	
PRIOR YEAR PROGRAM SAVINGS		−85,818	−40,000	
(PY TRANSFER)		(85,818)	(40,000)	
TOTAL, OTHER PROCUREMENT, AIR FORCE	9,538,000	7,890,918	8,831,674	8,571,383
TRANSFER FROM OTHER ACCOUNTS		(347,476)	(282,000)	
TOTAL FUNDING AVAILABLE	9,538,000	8,238,394	9,113,674	8,571,383

PRIOR YEAR SAVINGS

The conferees recognize $347,476,000 in prior year savings in Air Force Other Procurement. The sources and uses of these savings are identified in this Statement of the Managers under the heading "Availability of Unobligated Balances."

30MM API

The conferees agree to House bill language requiring component breakout of the depleted uranium penetrator for 30mm armor piercing ammunition.

COMBINED EFFECTS MUNITION

The conferees are in agreement that competition for CEM procurement shall be continued in fiscal year 1986 with the funding provided.

MAR USAF/FAA RADAR UPGRADE

The conferees agree to the House allowance of $2,798,000 for the joint USAF/FAA minimally attended radar upgrade due to contract award schedule delay beyond the current fiscal year. The Air Force is requested to report to the Appropriations Committees by March 1, 1986, on the requirements for the upgrade, revised acquisition plans, and an assessment of future program growth potential. The report should include an estimate of total program cost and a comparison of the life cycle of unattended versus minimally attended radar sites.

AUTOMATIC DATA PROCESSING EQUIPMENT

The conferees agree to provide $163,128,000, which includes reductions of $1,400,000 in the "MAJCOM Link" and $6,000,000 in the Air Staff "Improved Service Program". No funds in any Air Force appropriation should be obligated on the Improved Service Program or other Air Staff office automation until the Secretary of the Air Force has approved an Air Staff automation master plan which addresses requirements and funding for each major Air Staff organization.

NORTHEAST REGIONAL COMMUNICATIONS CENTER

The conferees agree that no funds are provided in this bill for construction at Hawley, Massachusetts, or other locations on privately owned land, of the Northeast Regional Communications Center. The conferees also agree that if further consideration is given to construct such a facility only land presently owned by the Federal Government should be considered as sites.

NATIONAL GUARD AND RESERVE EQUIPMENT

The conferees agree to the following amounts for Reserve and National Guard:

[In thousands of dollars]

	Budget	House	Senate	Conference
NATIONAL GUARD AND RESERVE EQUIPMENT, DEFENSE				
RESERVE, ARMY:			575,400	350,000
MISCELLANEOUS EQUIPMENT			15,000	15,000
TRUCK SLEP		−150,400		
PY PROGRAM SAVINGS			(150,400)	
(PY TRANSFER) (DWAD)			440,000	365,000
TOTAL, RESERVE ARMY				
RESERVE, NAVY:		20,000	230,000	75,000
MISCELLANEOUS EQUIPMENT		25,000	25,000	25,000
UH-60 HELICOPTER		45,000	255,000	100,000
TOTAL, RESERVE NAVY				
RESERVE, MARINE CORPS:		20,000	100,000	30,000
MISCELLANEOUS EQUIPMENT		40,000	40,000	40,000
TANKER AIRCRAFT		60,000	140,000	70,000
TOTAL, RESERVE MARINE CORPS				
RESERVE, AIR FORCE:			100,000	30,000
MISCELLANEOUS EQUIPMENT		120,000	130,000	150,000
C-130H AIRCRAFT			(20,000)	
(PY TRANSFER)		120,000	230,000	180,000
TOTAL, RESERVE AIR FORCE				
ARMY NATIONAL GUARD:		100,000	500,000	350,000
MISCELLANEOUS EQUIPMENT			58,400	58,400
CHAPARRAL MISSILE		15,000	28,200	28,200
IMPROVED TOW (MOD)			30,000	30,000
M198 HOWITZER, TOWED		50,000	50,000	50,000
TRAINING DEVICES, NONSYSTEM			32,000	32,000
TRUCK SLEP				−17,000
UNDISTRIBUTED REDUCTION		165,000	698,600	531,600
TOTAL, ARMY NATIONAL GUARD				
AIR NATIONAL GUARD:		30,000	150,000	75,000
Miscellaneous Equipment		150,000	150,000	150,000
C-130 AIRCRAFT		18,000		18,000
C-12J AIRCRAFT		2,000		12,000
C-131 AIRCRAFT MODIFICATIONS		−8,000		
GENERAL REDUCTION (C-131 MODS)		(8,000)	(8,000)	
C-131 MOD (PY TRANSFER)		192,000	300,000	255,000
TOTAL, AIR NATIONAL GUARD		582,000	2,063,600	1,501,600
TOTAL, NATIONAL GUARD AND RESERVE EQUIPMENT DEFENSE		(8,000)	(178,400)	
TRANSFER FROM OTHER ACCOUNTS		590,000	2,242,000	1,501,600
TOTAL FUNDING AVAILABLE				

ARMY NATIONAL GUARD

The conferees agree to provide language in the bill enabling the use of $40,000,000 provided to the Army National Guard for minor projects to facilitate delivery, storage, training and maintenance of National Guard equipment as proposed by the Senate. The conferees added bill language providing that the proposed projects are subject to authorization.

AIR NATIONAL GUARD

The conferees agree to provide $75,000,000 for procurement of miscellaneous equipment for the Air National Guard. Of the amount authorized and appropriated for the Air National Guard, $25,000,000 shall be used for an Air Combat Maneuvering System as identified in the Senate report.

C-131 MODIFICATIONS

The conferees agree to provide $12,000,000 to modify 3 C-131 aircraft in fiscal year 1986. The fiscal year 1985 funds are now available for transfer, as indicated elsewhere in this report. The conferees also agree to the Senate conditions for modification of C-131 aircraft for the Air National Guard. These three aircraft are to be assigned to units in the states of South Carolina, Indiana, and Oregon.

PROCUREMENT, DEFENSE AGENCIES

The conferees agree to the following amounts for Procurement, Defense Agencies:

[In thousands of dollars]

	Budget	House	Senate	Conference
PROCUREMENT, DEFENSE AGENCIES				
MAJOR EQUIPMENT, OSD MAJOR EQUIPMENT, OSD/WHS	59,439	59,439	59,439	59,439
MAJOR EQUIPMENT, DNA				
VEHICLES	220	220	220	220
OTHER CAPITAL EQUIPMENT	5,580	5,580	5,580	5,580
MAJOR EQUIPMENT, DCA				
WWMCCS ADP SYSTEMS	14,828	14,828	14,828	14,828
DEFENSE SWITCHING NETWORK	10,831	10,831	10,831	10,831
ITEMS LESS THAN $900,000 EACH	43,676	43,676	35,776	43,676
MAJOR EQUIPMENT, DLA				
MATERIALS HANDLING EQUIPMENT	13,634	10,634	10,634	10,634
VEHICLES	1,870	1,870	1,870	1,870
MECHANIZED MATERIALS HANDLING SYS	16,431	16,431	16,431	16,431
ADP EQUIPMENT	74,602	74,602	54,602	54,602
TELECOMMUNICATIONS EQUIPMENT	11,014	11,014	11,014	11,014
OTHER MAJOR EQUIPMENT	6,780	6,780	6,780	6,780
MAJOR EQUIPMENT, DMA				
ADP EQUIPMENT	16,767	16,767	16,767	16,767
VEHICLES	342	342	342	342
OTHER CAPITAL EQUIPMENT	26,639	26,639	26,639	26,639
AF PHASE IV COMPUTER	4,164	4,164	4,164	4,164
PASS REPLACEMENT	2,663	2,663	2,663	2,663
MAJOR EQUIPMENT, DIS				
VEHICLES	1,686	1,686	1,686	1,686
OTHER DIS EQUIPMENT		5,000	5,000	5,000
MAJOR EQUIPMENT, USUHS, ITEMS LESS THAN $900,000 EACH	743	743	743	743
MAJOR EQUIPMENT, DCAA, ITEMS LESS THAN $900,000 EACH	7,588	7,588	7,588	7,588
MAJOR EQUIPMENT, DAVA, ITEMS LESS THAN $900,000 EACH	481	481	481	481
MAJOR EQUIPMENT, DIG, ITEMS LESS THAN $900,000 EACH	45	45	45	45
CLASSIFIED PROGRAMS	1,071,877	886,846	1,159,791	991,717
NON-CENTRALLY MANAGED ITEMS		10,000	10,000	10,000
INFLATION REESTIMATES FOR FY86		−1,000	−1,000	−1,000
PRIOR YEAR INFLATION SAVINGS		−36,000	−36,000	
(PY TRANSFER)		(36,000)	(36,000)	
TOTAL, PROCUREMENT, DEFENSE AGENCIES	1,391,900	1,181,869	1,426,914	1,302,740
TRANSFER FROM OTHER ACCOUNTS		(36,000)	(36,000)	
TOTAL FUNDING AVAILABLE	1,391,900	1,217,869	1,462,914	1,302,740

PRIOR YEAR SAVINGS

The conferees recognize $36,000,000 in prior year savings in Defense Agencies Procurement. The sources and uses of these savings are identified in this Statement of the Managers under the heading "Availability of Unobligated Balances."

DCA CINC INITIATIVES

The conferees agree to restore the Senate reduction of $7,900,000 for the Defense Communications Agency CINC Initiatives program. The conferees understand there are a number of critical requirements that necessitate funding in fiscal year 1986. The conferees direct the Department of Defense to budget for these procurement and operations requirements in the appropriate service requests in fiscal year 1987 rather than budget for them in this account and as a contingency fund.

DEFENSE PRODUCTION ACT PURCHASES

The conference agreement provides $31,000,000 as proposed by the Senate.

NATO COOPERATIVE DEFENSE PROGRAMS

The conferees agree to provide $15,000,000 for the acquisition of point air defense of United States air bases and other critical United States military facilities in Italy as proposed by the Senate in the Continuing Resolution (H.J. Res. 465). Enabling bill language has been added.

TITLE IV—RESEARCH, DEVELOPMENT, TEST AND EVALUATION

The conferees agree to the following amounts for the Research, Development, Test and Evaluation accounts:

[In thousands of dollars]

	Budget	House	Senate	Conference
RECAPITULATION				
TOTAL, RDTE, ARMY	5,279,900	4,436,475	4,841,169	4,798,172
TRANSFER FROM OTHER ACCOUNTS		(110,530)	(265,000)	
TOTAL, RDTE, NAVY	11,264,300	9,462,631	10,104,594	10,065,239
TRANSFER FROM OTHER ACCOUNTS		(271,496)	(183,000)	
TOTAL, RDTE, AIR FORCE	15,578,500	13,217,177	13,861,113	13,718,208
TRANSFER FROM OTHER ACCOUNTS		(359,000)	(256,000)	
TOTAL, RDTE, DEFENSE AGENCIES	7,053,900	5,943,038	7,033,745	6,637,386
TRANSFER FROM OTHER ACCOUNTS		(179,112)	(51,000)	
TOTAL, RDTE, DIRECTOR OF TEST AND EVALUATION	103,500	93,500	143,500	118,500
TOTAL, RDTE	39,280,100	33,152,821	35,984,121	35,337,505
TRANSFER FROM OTHER ACCOUNTS		(920,138)	(755,000)	
TOTAL FUNDING AVAILABLE	39,280,100	34,072,959	36,739,121	35,337,505

The conferees agree to the following language:

INDEPENDENT RESEARCH AND DEVELOPMENT BID AND PROPOSAL

The conferees agree with the House proposal that the ceiling for fiscal year 1986 for Independent Research and Development (IR&D) and Bid and Proposal (B&P) be set at $5,200,000,000. The conferees agree that an independent review of the IR&D/B&P program is required, as proposed by the House, particularly in light of recent allegations of improper charges to IR&D and B&P accounts by a major contractor.

NATO COOPERATIVE R&D

The conferees agree to provide $125,000,000 for NATO Cooperative R&D and Testing programs, instead of $250,000,000 as proposed by the Senate and no funds as proposed by the House. These funds are to be equally divided among the Army; Navy; Air Force; Defense Agencies;

and Director, Test and Evaluation, Defense, RDT&E accounts.

The conferees note that the fiscal year 1986 Defense Authorization Act provided for a total of $250,000,000 in general authorization for this initiative. The conferees express their support for this important R&D program, and hope that it provides the basis for increased standardization and interoperability between the U.S. and our NATO allies in the field of armaments development and acquisition.

The Department of Defense should report back to the Committees on Appropriations of the House and Senate on the programs and projects initiated with the $125,000,000 fiscal year 1986 appropriation for NATO Cooperative R&D. Should the Department of Defense require additional funds, not to exceed the authorized amount, for this effort in fiscal year 1986, a prior approval reprogramming request must be submitted.

MANAGEMENT OF MEDICAL R&D

The conferees endorse the language of House Report 99-332, page 285, regarding Management of Medical R&D. The conferees direct that management responsibility for Infectious Disease and Combat Casualty Care be returned to USDR&E, effective immediately, with the sole exception that management responsibility for research on acquired immune deficiency syndrome shall lie with the Assistant Secretary for Health Affairs.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

The conferees agree to the following amounts for Research, Development, Test and Evaluation, Army:

[In thousands of dollars]

	Budget	House	Senate	Conference
RESEARCH DEVELOPMENT TEST AND EVAL. ARMY				
Technology Base:				
IN-HOUSE LAB INDEPENDENT RESEARCH	25,280	25,280	25,280	25,280
DEFENSE RESEARCH SCIENCES	236,869	220,180	235,000	234,500
UNIVERSITY RESEARCH INITIATIVES	6,126	6,126	6,126	6,126
MATERIALS	12,380	12,380	12,380	12,380
ATMOSPHERIC INVESTIGATIONS	6,896	5,000	6,396	5,500
NUCLEAR WEAPONS EFFECTS/FLUIDICS	8,461	8,461	8,461	8,461
AIRCRAFT WEAPONS TECHNOLOGY	3,321	3,321	3,321	3,321
AIRCRAFT AVIONICS TECHNOLOGY	9,766	9,000	9,000	9,000
AERONAUTICAL TECHNOLOGY	31,171	26,771	30,000	27,500
AIRDROP TECHNOLOGY	2,061	2,061	2,061	2,061
MISSILE TECHNOLOGY	31,504	26,504	31,504	29,000
LASER WEAPON TECHNOLOGY	21,392	21,392	21,392	21,392
TANK AND AUTOMOTIVE TECHNOLOGY	22,226	22,226	22,226	22,226
SMALL CAL AND FIRE CNTRL TECHNOLOGY	12,794	11,294	12,044	11,500
BALLISTICS TECHNOLOGY	48,424	43,424	47,424	43,424
CHEMICAL AND SMOKE MUNITIONS	14,062	14,062	14,062	14,062
JOINT SERVICE SMALL ARMS PROGRAM (JSSAP)	6,542	5,542	6,542	5,542
COMMUNICATIONS TECH	21,403	16,403	19,403	17,403
COMBAT SURVEILL TARGET ACQUIS & IDENT	4,407	4,407	4,407	4,407
MIL ENVIRONMENTAL CRITERIA DEV	3,096	3,096	3,096	3,096
ELECTRICAL AND ELECTRONIC DEVICES	22,871	21,371	21,247	21,247
CHEM BIOLOGICAL DEF/GEN INVEST	41,724	39,724	39,724	39,724
MAPPING—GEODESY	10,364	8,864	9,635	8,864
NIGHT VISION INVESTIGATIONS	22,077	20,577	22,077	21,000
HUMAN FACTORS ENG SYS DEV	15,269	14,269	14,000	14,000
HUMAN PERFORMANCE EFFECT/SIMULATION	6,788	5,288	5,323	5,288
MOBILITY AND WEAPONS EFFECTS TECH	13,363	12,300	12,000	12,000
ENVIRONMENTAL QUALITY TECH	8,912	8,912	8,912	8,912
MANPOWER/PERSONNEL/TRAINING	8,016	7,516	8,016	7,516
CLOTHING EQUIP AND SHELTER TECH	10,537	10,537	9,023	9,023
JT SVC FOOD SYS TECH	6,432	5,932	6,432	5,932
COMPUTER AND INFORMATION SCIENCE	2,216	2,216	2,216	2,216
MONSYSTEMS TRAINING DEVICES TECH (NSTD)	5,103	5,103	5,103	5,103
COLD REGIONS ENGINEERING TECHNOLOGY	6,819	6,819	6,819	6,819
MILITARY FACILITIES ENGINEERING TECHNOLOGY	5,253	5,253	5,253	5,253
MOBILITY EQUIPMENT TECHNOLOGY	13,627	13,627	13,627	13,627
MED DEFENSE AGAINST CHEM AGENTS	32,309	30,309	32,309	31,309
TACTICAL ADP TECH	9,066	7,500	6,066	6,500
MILITARY DISEASE HAZARDS TECH	28,990	24,490	26,490	27,490
COMBAT CASUALTY CARE TECH	8,892	8,892	8,892	8,892
COMBAT MAXILLOFACIAL INJURY	2,167	2,167	2,167	2,167
SYSTEMS HEALTH HAZARD PREVENT TECH	19,461	19,461	19,461	19,461
ENERGY TECH APPL FOR MILITARY FACIL	2,230	2,230	2,230	2,230
CLASSIFIED PROGRAMS	45,765	42,265	42,265	42,265
TOTAL, TECHNOLOGY BASE	876,432	812,552	849,412	833,019
Advance Technology Development:				
MATERIALS AND STRUCTURES ADVANCED DEVELOPMENT	14,437	14,437	14,437	14,437
FUELS AND LUBRICANTS ADVANCED DEVELOPMENT	3,384	3,384	3,384	3,384
AIRCRAFT POWER PLANTS AND PROPULSION	21,833	19,833	19,833	19,833
AIRCRAFT WEAPONS	6,946	6,946	6,946	6,946
AIRCRAFT AVIONICS EQUIPMENT	10,970	10,970	10,970	10,970
ROATRY WING CONTROLS/ROTORS/STRUCTURES	31,104	17,104	17,104	17,104
SYNTHETIC FLIGHT SIMULATORS DEVELOPMENT	12,613	12,613	12,613	12,613
AIRDROP ADVANCEMENT	3,854	3,854	3,854	3,854
NOE AVIATION AND NAVIGATION EQUIPMENT	3,089	3,089	3,089	3,089
TERMINALLY GUIDED PROJECTILES	17,409	15,000	11,000	15,000
MSL/ROCKET COMPONENTS	42,836	18,912	34,872	18,912
BATTLEFIELD ENVIRONMENT SIMULATION	2,570	2,570	1,000	1,000
ARMY DEVEL & EMPLOYMENT ACTIVITY-ADEA	9,705	9,705	9,705	9,705
ADVANCED LAND MOB SYSTEMS CONCEPTS	16,474	16,474	16,474	16,474
LANDMINE WARFARE/BARRIER DEV	11,267	11,267	11,267	11,267
JOINT SERVICE SMALL ARMS PROGRAM (JSSAP)	3,463	3,463	3,463	3,463
COMBAT VEHICLE PROPULSION SYS	14,967	11,697	11,697	11,697
CMBT VEH TURRET AND CHASSIS SYBSYS	17,036	17,036	17,036	17,036
COMBAT VEHICLE ARMOR/ANTI ARMOR	11,363	11,363	11,363	11,363
ADV PROPULSION/LAUNCH SYS FOR MUN	8,233	8,233	8,233	8,233
AMMUNITION LOGISTICS	2,035	2,035	1,000	1,500
NIGHT VISION ADVANCED DEVELOPMENT	33,622	30,622	33,622	31,622

[In thousands of dollars]

	Budget	House	Senate	Conference
TAC CMD COMMO & COMPUTER (C4) INTEGRATN	31,774	29,774	[illegible]	26,529
MANPOWER AND PERSONNEL	16,938	12,938	15,000	14,000
ENGINEERING SYSTEMS	3,450	3,450	1,950	1,950
HUMAN FACTORS ENGINEERING APPLICATIONS	1,961	1,961		—
HUMAN FACTOR IN TNG/OPER EFFECT	11,511	9,011	11,000	9,011
ADV ELECTRONIC DEVICES DEV	9,730	9,730	9,730	9,730
EDUCATION AND TRAINING	11,846	11,846	11,846	11,846
TRAINING SIMULATION	5,494	5,494	5,494	5,494
TEST MEASUREMENT & DIAGNOSTIC EQUIPMENT DEVEL	7,235	7,235	5,411	5,411
TECHNICAL VULNERABILITY REDUCTION	4,305	4,305	4,305	4,305
DEMILITARIZATION CONCEPTS	9,575	9,575	9,575	9,575
DOD SOFTWARE INITIATIVES (STARS)	[illegible]	[illegible]	[illegible]	42,000
TACTICAL ROBOTIC SYSTEMS	[illegible]	[illegible]	[illegible]	[illegible]
CB DEF/SMK ADV TECHNOLOGY DEMONSTRATIONS	3,045	3,045	3,045	3,045
ELECTRONIC WARFARE FEASIBILITY DEVELOPMENT	8,643	8,643	7,243	7,243
NONSYSTEMS MEDICAL MATERIAL DEVELOPMENT	16,221	16,221	16,221	16,221
MEDICAL CHEM DEFENSE LIFE SUPPORT MAT	22,612	22,612	22,612	22,612
NONTACTICAL ADP TECHNOLOGY	218	218		
CLASSIFIED PROGRAMS	51,084	19,328	19,284	19,328
TOTAL, ADVANCE TECHNOLOGY DEVELOPMENT	593,348	484,792	484,477	470,072
Strategic Programs:				
WORLDWIDE MILITARY CMD&CNT SYS INF SYS	30,914	30,914	30,914	30,914
CLASSIFIED PROGRAMS	204,743	198,743	198,743	198,743
TOTAL, STRATEGIC PROGRAMS	235,657	229,657	229,657	229,657
Tactical Programs:				
AIR MOBILITY SUPPORT	15,472	11,472	8,379	3,379
JOINT SURVIVABILITY INVESTIGATIONS	[illegible]	[illegible]	900	[illegible]
ADVANCED ROTORCRAFT TECH INTEGRATION/LHX	75,528	[illegible]	55,528	[illegible]
AIRDROP EQUIPMENT SYSTEMS	1,877	1,877	[illegible]	1,000
ANTI-TACTICAL MISSILE (ATM)	67,760	57,760	67,760	62,760
SURF-TO-SURF MSL ROCKET SYS	30,622	30,622	30,622	30,622
WEAPONS AND AMMUNITION	[illegible]	[illegible]	[illegible]	[illegible]
ADVANCED ANTI TANK WEAPON	81,077	61,077	61,077	61,077
LETHAL CHEMICAL MUNITIONS CONCEPTS	20,387		20,387	20,387
LANDMINE/BARRIER SYS	28,424	25,424	23,000	[illegible]
SMOKE MUNITIONS AND MATERIEL CONCEPTS	12,672	11,672	8,672	8,672
ARTILLERY/MORTAR AMMO DEVELOPMENT	10,157	10,157	10,157	10,157
TANK/FIGHTING VEHICLE AMMO DEVELOPMENT	5,734	5,734	5,734	5,734
MOBILE PROTECTED GUN PROGRAM	9,802			
ELECTRIC POWER SOURCES	11,258	11,258	11,258	11,258
PHYSICAL SECURITY	4,416	4,416	4,416	4,416
IDENTIFICATION FRIEND OR FOE EQUIP DEVEL	20,693	18,693	18,693	18,693
AIRCRAFT SURVIVABILITY EQUIPMENT	8,611	8,611	8,611	8,611
ARMY DATA DISTRIBUTION SYSTEM (ADDS)	38,016	38,016	38,016	38,016
ELECT WRFR VULNERABILITY/SUCEPTIBILITY	23,791	23,791	22,791	22,791
CHEMICAL/BIO DETECTION WARM/SAMP MAT CONCEPTS	15,192	15,192	15,192	15,192
CML BIO PROTECTIVE MATERIEL CONCEPTS	9,341	9,341	9,341	9,341
REMOTELY PILOTED VEHICLES/DRONES	20,977	16,000	16,000	[illegible]
COMBAT SUPPORT EQUIPMENT	28,363	28,363	25,363	25,363
COMBAT MEDICAL MATERIAL	9,379	9,379	9,379	9,379
SINGLE CHANNEL GRD/ABN RADIO SUB-SYS	2,265	2,265	2,265	2,265
SOLDIER SUPPORT/SURVIVABILITY	6,657	[illegible]	[illegible]	[illegible]
DRUG AND VACCINE DEVELOPMENT	16,932	16,932	16,932	16,932
MEDICAL DEFENSE AGAINST CHEM WARFARE	31,019	31,019	31,019	31,019
COMBAT SERVICE SUPPORT CONTROL SYS	[illegible]	980	980	[illegible]
AIRCRAFT WEAPONS	12,672	12,672	12,672	12,672
AIR MOBILITY SUPPORT EQUIPMENT	2,600	2,600	2,600	2,600
ADVANCED ATTACK HELICOPTER (AH-64)	17,506		17,506	[illegible]
AIRCRAFT PROPULSION SYSTEMS	70,791	70,791	50,791	70,791
SYNTHETIC FLIGHT TRAINING SYSTEMS	7,863	7,863	7,863	7,863
AIRDROP EQUIP DEVELOPMENT	3,141	3,141	3,141	3,141
ARMY HELICOPTER IMPROVEMENT PROG	6,802	6,802	6,802	6,802
AIRCRAFT COMPONENT IMPROVEMENT PROGRAM	16,158	16,158	16,158	16,158
STINGER	18,583	23,583	18,583	23,583
PATRIOT (SAM-D)	53,070	53,070	53,070	53,070
HELIBORNE MISSILE-HELLFIRE	6,213	6,213	3,392	[illegible]
HELLFIRE ON BLACKHAWK		20,000		17,000
[illegible]	10,878	10,878	10,878	10,878
DIVISION AIR DEFENSE GUN	43,176			
JOINT TACTICAL MISSILE SYSTEM-ARMY (JTACMS-A)	154,805	130,000	130,000	130,000
INFANTRY SUPPORT WEAPONS	24,003	18,603	24,003	24,003
INFANTRY SUPPORT WEAPONS (PY TRANSFER)		(5,400)		
MOBILITY	15,486	5,486	1,000	1,000
SMOKE MUNITIONS & MATERIEL	6,024	6,024	6,024	6,024
COUNTERMINE AND BARRIERS	10,417	6,870	5,617	8,000
COUNTERMINE AND BARRIERS (PY TRANSFER)		(1,130)		
FIGHTING VEHICLE SYS	2,228	2,228		
LANDMINE WARFARE	7,954	7,954	7,954	7,954
M1 E1 DEVELOPMENT PROGRAM	3,898	3,898	18,898	18,898
FIELD ARTILLERY AMMUNITION	62,590	27,722	52,790	27,722
105MM TANK AMMUNITION	1,543	1,543	1,543	1,543
COMM ENGINEERING DEV	10,716	10,716	10,716	10,716
JT TAC INFO DIST SYS (JTIDS)	12,243	12,243	12,243	12,243
UNATTENDED GROUND SENSORS	2,940	1,000		500
MODULAR INTEGRATED COMM AND NAVIGATION SYS	5,007	5,007	5,007	5,007
RADIOLOGICAL DEFENSE EQUIPMENT	664	664	664	664
NIGHT VISION DEVICES	14,567	14,567	14,567	14,567

[In thousands of dollars]

	Budget	House	Senate	Conference
AIRCRAFT SURVIVABILITY EQUIPMENT	24,777	22,500	22,000	22,500
ARMY CMD AND CONTROL SYSTEM (ACCS) SYS ENGR	9,896	9,896	9,896	9,896
COMBAT FEEDING, CLOTHING AND EQUIPMENT	6,461	3,461	5,000	4,000
TACTICAL ELECTRIC POWER SOURCES	10,122	10,122	10,122	10,122
GENERAL COMBAT SUPPORT	14,822	14,822	14,298	14,298
PHYSICAL SECURITY	6,496	6,496	6,496	6,496
EDUCATION AND TRAINING	6,611	6,611	6,611	6,611
SPECIAL PURPOSE DETECTORS	3,256	3,256	3,256	3,256
CMC BIO DETECTION WARNING & TRG MATERIAL	23,081	23,081	23,081	23,081
CHEM BIO PROTECTIVE MATERIEL	15,585	15,585	15,585	15,585
COMMAND AND CONTROL	5,799	5,799	5,799	5,799
REMOTELY PILOTED VEHICLES	30,014	23,114	23,114	23,114
DIVISION AIR DEFENSE COMMAND AND CONTROL	33,040	33,040	33,040	33,040
AUTOMATIC TEST EQUIPMENT DEVELOPMENT	21,310	21,310	16,310	18,310
SINGLE CHANNEL GRD/ABN RADIO SUB ENG	12,874	12,874	12,874	12,874
MEDICAL CHEMICAL DEFENSE LIFE SPT MAT	7,500	7,600	7,600	7,600
DRUG AND VACCINE DEVELOPMENT	10,497	10,497	10,497	10,497
JOINT SURVEILLANCE/TARGET ATTACK RADAR SYSTEM	43,818	33,818	43,818	43,818
JT INTEROP OF TAC CMD & CONT SYS (JINTACCS)	8,381	8,381	6,481	7,000
JT CB CONTACT POINT TEST AND ASSESSMENT	2,402	2,402	2,402	2,402
HV ANTI-TANK ASSAULT WPN SYS (TOW)	11,836	11,836	11,836	11,836
ADV FIELD ARTILLERY TACTICAL DATA SYSTEM	35,574	10,000	35,574	20,000
MED ANTI-TANK ASSAULT WPN (H)	3,842	1,000	7,000	2,500
CHAPARRAL	17,666	17,666	17,666	17,666
SAM HAWK/HAWK IMP PROG	5,212	5,212	5,212	5,212
COMBAT VEHICLE IMPROVEMENT PROGRAM	72,743	60,000	65,000	65,000
MANEUVER CONTROL SYSTEM (MCS)	8,836	8,836	8,636	8,836
155MM SELF-PROPELLED HOWITZER IMPROVEMENTS	26,105	26,105	26,105	26,105
EQUIPMENT UPGRADE	30,805	30,805	30,805	30,805
JOINT TACTICAL COMMO PROGRAM (TRI-TAC)	30,560	31,560	30,560	30,560
EUCOM C3 SYSTEMS	1,961	1,961	1,961	1,961
CLASSIFIED PROGRAMS	377,967	228,650	322,737	296,137
CLASSIFIED PROGRAMS	237,899	201,291	217,319	209,305
DIVAD ALTERNATIVES				41,000
DIVAD ALTERNATIVES (TRANSFER)			(176,000)	
ADV COMPOSITE AIRFRAME PROG			2,500	
TOTAL, TACTICAL PROGRAMS	2,366,366	1,880,512	2,076,023	2,069,243
TRANSFER FROM OTHER ACCOUNTS		(6,530)	(176,000)	
Intelligence & Communications				
MAPPING AND GEODESY	4,205	4,205	3,225	3,225
AIRCRAFT AVIONICS	2,238	2,238	2,238	2,238
MAPPING AND GEODESY	3,430	3,430	2,254	2,254
NAVSTAR GLOBAL POS SYS (USER EQ)	11,271	11,271	11,271	11,271
LONG-HAUL COMMUNICATIONS (DCS)	4,312	4,312	4,312	4,312
SATCOM GROUND ENVIRONMENT	26,755	26,755	59,555	59,555
CLASSIFIED PROGRAMS	16,280	16,280	16,780	16,780
TOTAL, INTELLIGENCE AND COMMUNICATIONS	68,491	68,491	99,135	99,135
Defensewide Mission Support				
TARGET MISSILES	6,051	5,000	4,000	4,000
NONSYSTEMS TRAINING DEVICES (NSTD) DEV	5,863	5,863	4,901	4,901
NON-SYSTEM TNG DEVICES ENGR	43,636	43,636	42,636	42,636
METEOROLOGICAL EQUIPMENT SYSTEMS	6,447	6,447	4,859	4,859
AVIATION ENGINEERING FLIGHT ACTIVITY	11,720	9,720	9,720	9,720
KWAJALEIN MISSILE RANGE	161,624	154,024	154,024	154,024
SUPPORT OF DEVELOPMENT TESTING	58,671	56,671	56,671	56,671
MATERIEL SYSTEMS ANALYSIS	15,930	15,930	15,930	15,930
EXPLOITATION OF FOREIGN ITEMS	3,569	3,569	3,569	3,569
SUPPORT OF OPERATIONAL TESTING	54,855	54,855	52,000	52,000
THREAT SIMULATORS FOR TESTING	36,149	33,000	30,149	33,000
PROGRAM-WIDE ACTIVITIES	183,766	173,766	165,000	170,000
INTL COOPERATIVE RESEARCH AND DEV	947	947	947	947
TECHNICAL INFO ACTIVITIES	6,265	6,265	6,265	6,265
DARCOM MAJOR RANGE/TEST FACIL	373,054	357,054	350,000	354,000
MUNITIONS-NATO STDZN DOD EFFEC SAFETY STDS	11,626	11,626	11,626	11,626
DOD HIGH ENERGY LASTER SYSTEMS TEST FAC	20,184	20,184	20,184	20,184
PRODUCTIVITY INVESTMENTS	23,335	21,000	21,000	21,000
MTG HQ (RESEARCH/DEVELOPMENT)	11,852	11,852	11,852	11,852
INDUSTRIAL PREPAREDNESS	104,062	92,062	92,062	92,062
TOTAL, DEFENSEWIDE MISSION SUPPORT	1,139,606	1,083,471	1,055,395	1,069,246
CERAMIC ROTARY VALVES			870	
CONSULTANTS, STUDIES & ANALYSES		−10,000	−2,000	−10,000
RESTORATION OF CIVILIAN PAY REDUCTION			33,600	16,800
MEDICAL RESEARCH/AIDS			52,600	40,000
GUARD/RESERVE UNIQUE R&D		5,000	5,000	5,000
GENERAL REDUCTION		−10,000		−45,000
PRIOR YEAR INFLATION SAVINGS		−40,000	−40,000	
(PY TRANSFER)		(40,000)	(40,000)	
INFLATION ESTIMATES FOR FY 1986		−4,000	−4,000	−4,000
PRIOR YEAR PROGRAM SAVINGS		−45,000	−49,000	
(PY TRANSFER)		(45,000)	(49,000)	
REPROGRAMMING DENIALS		−19,000		
(PY TRANSFER)		(19,000)		
NATO COOPERATIVE R&D PROGRAMS			16,000	15,000
TOTAL, RESEARCH DEVELOPMENT TEST AND EVAL, ARMY	5,279,900	4,436,475	4,841,169	4,798,172

[In thousands of dollars]

	Budget	House	Senate	Conference
TRANSFER FROM OTHER ACCOUNTS		(110,530)	(265,000)	
TOTAL FUNDING AVAILABLE	5,279,900	4,547,005	5,106,169	4,798,172

DEFENSE RESEARCH SCIENCES

The conferees agree to provide $234,500,000 for Defense Research Sciences, of which $5,000,000 shall be used only for aviation research at Wichita State University, and $3,500,000 shall be used only for computer research and related purposes at the University of Nevada, Las Vegas.

MILITARY DISEASE HAZARDS TECHNOLOGY

The conferees agree to provide $27,490,000 for Military Disease Hazards Technology, of which $2,000,000 shall be used only for neurotoxin research at the University of Kansas.

TERMINALLY GUIDED PROJECTILES

The conferees agree to provide $15,000,000 for Terminally Guided Projectiles as proposed by the House, instead of $11,000,000 as proposed by the Senate. The funds provided are to be used solely for the SADARM project; requests for funds for the CGSP and Guidance & Control Production projects are denied.

The conferees also agree to provide $21,000,000 in the Field Artillery Ammunition program for SADARM, for a total of $36,000,000. The conferees share the reservations expressed by the House concerning SADARM's technical maturity and readiness to enter full-scale engineering development (ED). It is noted that the issuance of a Request for Proposals (RFP) for ED of SADARM has been delayed, and the program schedule has slipped accordingly. Consequently, the conferees direct the Army to fashion the forthcoming RFP to provide for an ED program which is augmented in the early phases by concurrent gun firings of modified advance development (AD) hardware. Said modifications are to be those related to improvement of reliability and to refinement of algorithms for improvement of single shot probability of kill. Simultaneously with conduct of these gun firings, ED may proceed through component and subsystem development and qualification, and demonstration of the full-up ED system. Completion of a program of well instrumented gun firings of modified AD hardware before the end of ED subsystem qualification will significantly reduce the risks associated with the remainder of development, as will full consideration of the results and implications of the current Air Force testing program known as Chicken Little. The conferees direct that no funds be obligated or expended for materials required for the final phase of ED, system qualification in DT/OT II, until approved by the Committees on Appropriations of the House and Senate. Such approval will be contingent upon a satisfactory Critical Design Review (CDR) conducted by the Army at the end of demonstration of the full-up ED system. A satisfactory CDR will have addressed, among other issues, reliability, single shot probability of kill, resistance to countermeasures, accuracy of delivery methods, and lethality at required ranges. Transition to DT/OT II shall be made on the basis of specific technical accomplishment and risk reduction, rather than on an arbitrary calendar date.

The conferees direct that at least two prime competing contractors shall be involved in the two phase process described above, and that the Army plan for eventual production by at least two prime contractors.

The conferees agree that integration of SADARM with both the MLRS and the 155mm howitzer may be pursued with fiscal year 1986 funds.

The conferees recognize that the foregoing directives may add to the cost, and lengthen the duration, of the ED program currently planned by the Army. By the same token, continuing to support at least two competing prime contractors through development and into production may increase funding needs. On the other hand, these increased costs are viewed as a prudent investment which will be recouped through lower procurement costs and lower technical and financial risks. Further, the conferees insist that the program schedule be structured realistically and prudently managed.

MISSILE/ROCKET COMPONENTS

The conferees agree to provide $18,912,000 for Missile/Rocket Components as proposed by the House, instead of $34,872,000 as proposed by the Senate. The funds are specified for projects within the program as follows:

D085—Demonstration of Advanced Radar Techniques	$1,412,000
D087—Missile Rocket Components	192,000
D261—Fiber Optics Guidance	6,450,000
D263—Kinetic Energy Missile	5,858,000
D271—Multirole Survivable Missile	5,000,000

Funds for D272, Joint Service Imaging Infrared Seeker, are specifically denied.

ADVANCED ROTORCRAFT TECHNOLOGY INTEGRATION/LHX

The conferees agree to provide $45,000,000 for Advanced Rotorcraft Technology Integration (ARTI)/LHX, instead of $15,000,000 as proposed by the House or $55,528,000 as proposed by the Senate. The conferees emphasize that the funds provided are for advanced development only, and that no funds will be provided in the future for full scale development until the Army has better justified the LHX program. The funds are provided with the understanding that the program will be continued in fiscal year 1986 as presently structured by the Army with a reasonable level of competition being maintained in both elements of the program.

The conferees are concerned that the program is not well defined and that its cost could be significantly underestimated. For these reasons, the Army is directed to prepare for submission to the Committees on Appropriations of the House and Senate by August 1, 1986, a complete report on the program, describing the concept of operation, procurement strategy, quantities of aircraft to be procured, schedule, and program cost.

The Secretary of Defense, for his part, is to submit a separate report to the Committees on Appropriations of the House and Senate by August 1, 1986, certifying the accuracy of the Army's cost estimates. That report should be based on an independent assessment of Army cost estimates for the LHX helicopter as well as for potential alternative programs and should be conducted by the Cost Analysis Improvement Group within the Office of the Secretary of Defense. This analysis should verify whether the LHX can be procured for an average unit flyaway cost of $5,300,000 in fiscal year 1984 dollars as currently projected by the Army.

The Army should also reexamine its plan to retain two airframe design teams for 18 months during the full scale development phase, should that phase be funded. The conferees agree that steps should be taken to determine the most efficient and cost effective means to design the competitive airframes in less time and to include this plan in the August 1, 1986 report.

Further Congressional approval of this program may be contingent on the establishment of a cost ceiling for the LHX to be derived from the data provided by August 1, 1986. If the Army fails to present a cost estimate that is attainable, the Committees will consider terminating the program in acting on the fiscal year 1987 request.

AIRCRAFT PROPULSION SYSTEMS

The conferees agree to provide $70,791,000 for Aircraft Propulsion Systems, as proposed by the House instead of $50,791,000 as proposed by the Senate.

The funds provided are for continued development of the T-800 engine. Army plans envision funding two contractor teams through the preliminary flight rating stage of LHX full-scale development. The Senate report directed that the down selection to one team should be made in fiscal year 1986. While sympathetic to the Senate view that this will reduce development costs, the conferees agree that insufficient data will be available for the Army to make an informed decision. The potential for far larger savings in the production phase will be increased by continuing competition for as long as possible in the development phase. Therefore, the conferees agree that the Senate directive is rescinded, and that down selection will not be required to take place in fiscal year 1986.

HELLFIRE ON BLACKHAWK

The conferees agree to provide $17,000,000 for Hellfire on Blackhawk, instead of $20,000,000 as proposed by the House or no funds as proposed by the Senate. The funds provided are to be used to complete remaining development tasks for arming Blackhawk helicopters with Hellfire missiles, to transition into low-rate initial production, and to procure the first lot of shipsets. Subsequent funding for procurement is to be included in the Aircraft Procurement, Army account.

Language has been provided in the bill specifying that $17,000,000 of Army RDT&E funds are available only for the purposes stated above.

FIELD ARTILLERY AMMUNITION

The conferees agree to provide $27,722,000 for Field Artillery Ammunition as proposed by the House, instead of $52,790,000 as proposed by the Senate. The funds are specified for projects within the program as follows:

D175—Field Artillery Fuzes	$6,501,000
D286—Field Artillery Ammunition (NATO)	221,000
D644—Generic SADARM	21,000,000

Funds for D652, Light Artillery Guided Projectile, are specifically denied.

Language concerning SADARM is provided above under Terminally Guided Projectiles.

ADVANCED FIELD ARTILLERY TACTICAL DATA SYSTEM

The Army has requested $35,574,000 for the continued development of the Advanced Field Artillery Tactical Data System (AFATDS). The conferees are fully supportive of the effort to upgrade Army's fire support command and control posture. However, improvements in the fielded systesm are of more immediate and primary concern.

As specified in the Defense Department-approved Mission Element Needs Statement (MENS), such improvements are to be accomplished in gradual step progression with proven technology toward the ultimate aim of achieving the advanced capabilities of the ultimate system. Plans to accomplish these goals must maximize the near-term capabilities of the Light Divisions in parallel with block improvements in the fielded systems of the Heavy Divisions. The current program therefore, must be returned to a more equitable balance between near term and long term objectives.

Accordingly, the conferees agree to provide $20,000,000 in RDT&E for the continued development of AFATDS, and $25,574,000 in procurement to maximize the fielded capability of the Light Divisions. The conferees support the on-going AFATDS software program through completion of the Concept Evaluation Phase (CEP) within the $49,500,000 contract ceiling established by the Army. The Army is directed to submit for approval of the Committees on Appropriations of the House and Senate a comprehensive program status report, detailed plans for achieving the objective system requirements, and a schedule for bringing AFATDS under the required ASARC/DSARC review process by August 1, 1986.

DIVAD ALTERNATIVES

The conferees agree to provide $41,000,000 for examination of alternatives for DIVAD instead of no funds as proposed by the House or the transfer of $176,000,000 of prior year funds as proposed by the Senate. Information provided by the Army indicated that evaluation of off-the-shelf alternatives would require $41,000,000. The conferees agree that such evaluation should take place as rapidly as possible, and direct the Army to complete that evaluation expeditiously.

ADVANCED COMPOSITE AIRFRAME PROGRAM

The conferees agree to provide no additional funds for the Advanced composite Airframe Program (ACAP) as proposed by the House, instead of $2,500,000 as proposed by the Senate. The conferees believe that ACAP is adequately funded under the Advanced Structures project, and note that ACAP funding will receive a considerable increase in FY 1987.

Should the Army desire to accelerate ACAP static and fatigue testing as proposed by the Senate during fiscal year 1986, it should submit a prior approval reprogramming.

CERAMIC ROTARY VALVES

The conferees agree to provide no funds for Ceramic Rotary Valves, but agree that the Army may use $870,000 of available RDT&E funds to initiate in fiscal year 1986 a follow-on test of a multi-cylinder engine using ceramic elements for rotating valves, provided that evaluation of the single-cylinder engine is favorable.

PRIOR YEAR SAVINGS

The conferees recognize $96,130,000 in prior year savings in Research, Development, Test and Evaluation, Army. The sources and uses of these savings are identified in this Statement of Managers under the heading "Availability of Unobligated Balances."

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

The conferees agree to the following amounts for Research, Development, Test and Evaluation, Navy:

[In thousands of dollars]

	Budget	House	Senate	Conference
RESEARCH DEVELOPMENT TEST AND EVAL. NAVY				
TECHNOLOGY BASE				
UNIVERSITY RESEARCH	6,250	6,250	6,250	6,250
IN-HOUSE INDEPEND LAB RES	26,277	26,277	26,277	26,277
DEFENSE RESEARCH SCIENCES	339,176	329,071	333,208	333,208
TACT DIRECTED ENERGY TECH	10,834	7,000	7,000	[illegible]
AIRCRAFT TECHNOLOGY	23,102	23,102	23,102	23,102
MISSILE PROPULSION TECH	10,503	10,503	10,503	10,503
SURF/AEROSPACE WPNRY TECH	27,218	27,218	27,218	27,218
NUCLEAR PROPULSION TECH	49,018	49,018	49,018	49,018
SHIP AND SUBMARINE TECH	25,272	25,272	25,272	25,272
UNDERSEA WARFAR WPNRY TECH	44,181	44,181	37,000	44,181
U/S TARGET SURV TECH	44,495	44,495	44,495	44,495
SURF/AEROSP TGT SURV TECH	32,240	32,240	32,240	32,240
COMMAND AND CONTROL TECH	28,943	24,443	24,443	24,443
COUNTERMEASURES TECH	27,005	27,005	25,000	[illegible]
M C AIR-GROUND TECHNOLOGY	18,499	14,499	14,499	14,499
HUMAN FACTORS&SIM TECH	7,652	7,652	7,652	7,652
BIOMEDICAL TECH	[illegible]	[illegible]	[illegible]	[illegible]
OCEAN AND ATMOS SUPT TECH	27,095	27,095	27,095	27,095
LOGISTICS TECH	13,311	13,311	13,311	13,311
MATERIALS TECH	33,004	33,004	33,004	33,004
ELEX DEVICE TECH	24,898	24,898	24,898	[illegible]
PERSONNEL & TRNG TECH	5,062	5,062	5,062	5,062
CHEM/BIOL/&RADIOL DEF TECH	4,765	4,765	4,765	4,765
LAB INDEP EXPLORATORY DEV	15,463	15,463	14,500	14,500
TOTAL, TECHNOLOGY BASE	853,169	830,730	824,718	[illegible]
ADVANCE TECHONOLGY DEVELOPMENT.				
AVIONICS	4,909	....	3,500	1,750
AIR/OCEAN TACT APPLIC	8,946	5,819	8,946	6,750
ADV A/C PROPUL SYS	8,841	[illegible]	3,000	[illegible]
AVIATION LIFE SUPT SYS	1,377	[illegible]	1,377	1,377
ADV A/C SUBSYSTEMS	4,684	4,684	4,684	4,684
ERASE	10,149	10,149	10,149	10,149
ASM TECH	8,973	1,973	....	
SHIP PROP SYS (ADV)	30,664	30,664	27,664	30,664
ADV COMPUTER TECH	14,555	12,055	10,547	10,547
ELECTRIC DRIVE	9,762	9,762	9,762	9,762
CONVENTIONAL MUNITIONS	30,334	20,168	25,334	22,000
JOINT SERV EOD DEV (ADV)	10,898	7,898	10,898	9,398
HUMAN FACTORS ENG DEVEL	2,116	2,116	2,116	2,116
ASW OCEANOGRAPHY	6,376	6,376	6,376	6,376
MEDICAL DEVELOPMENT (ADV)	14,653	12,719	14,653	12,719

[In thousands of dollars]

	Budget	House	Senate	Conference
MNPWR CONTROL SYST DEV	4,099	4,099	3,599	3,599
ADV MARINE BIOLOGICAL SYS	5,477	5,477	5,477	5,477
GENERIC LOGISTICS R&D	[illegible]	5,000		1,000
OCEAN ENG TECH DEVELOP	13,083	13,083	13,083	13,083
EDUCATION & TRAINING	4,667	[illegible]	3,667	[illegible]
ENVIRONMENTAL PROTECTION	8,347	8,347	8,347	8,347
NAVAL SPECIAL WARFARE	11,862	9,554	[illegible]	9,554
ADV MANPOWER TRAINING SYS	6,144	2,933	6,144	2,933
TRAINING DEVICE TECH	8,679	7,567	8,679	[illegible]
NAV LOGISTICS PRODUCTIVITY	968	[illegible]	468	800
TOTAL, ADVANCE TECHNOLOLGY DEVELOPMENT	239,449	188,071	198,332	191,085
STRATEGIC PROGRAMS				
SPACE TECHNOLOGY	14,002	14,002	14,002	14,002
TRIDENT II	2,165,615	2,103,597	2,130,615	2,117,106
STRATEGIC TECH SUPPORT	3,882	3,882	3,882	3,882
FBM SYSTEM	33,550	33,550	33,550	33,550
SSBN SECURITY PROGRAM	38,591	38,591	38,591	38,591
TRIDENT I	47,195	38,195	38,195	38,195
ELF COMMUNICATIONS	28,283	28,283	28,283	28,283
NAVY STRATEGIC COMM	125,839	119,161	125,839	125,839
NAV SPASUR	954	954	954	954
[illegible]	1,615	1,615	1,615	1,615
WIS MODERNIZATION	22,504		15,000	15,000
TOTAL, STRATEGIC PROGRAMS	2,482,030	2,381,830	2,430,526	2,417,017
TACTICAL PROGRAMS				
ABN ELECTRONIC WARFARE EQ	61,587	61,587	61,587	61,587
T45–TS	114,128	114,128	114,128	114,128
CV ASW MODULE	5,022	4,259	4,259	4,259
A/C SYSTEMS (ADV)	5,894	5,894	5,894	[illegible]
AIR ASW	6,778	4,778	4,778	4,778
JVX	603,743	583,743	583,743	[illegible]
A-6E IMPROV	237,952	232,052	187,952	232,052
ABN MINE COUNTERMEASURES	14,148	14,148	14,148	14,148
TAC AIR RECON	[illegible]	[illegible]	2,317	2,377
A/C SURVIV & VULNER	14,825	14,825	14,825	14,825
RETRACT YELLOW	25,728	[illegible]	[illegible]	[illegible]
ADV SUR/AIR MSSLE (ASAM)	41,510	[illegible]	[illegible]	[illegible]
LOW COST ANTI-RADIATION SEEKER	16,523	17,523	16,523	17,523
SUBMARINE ASW STDOFF WPN	75,328	75,328	75,328	75,328
BGAAWC	11,183	[illegible]	11,183	[illegible]
SURFACE MCM	24,908	[illegible]	[illegible]	[illegible]
SUB SONAR DEVEL (ADV)	22,414	[illegible]	12,506	12,506
SURFACE SHIP TORP DEF	45,199	40,199	40,199	40,199
CATAPULTS	3,418			
SHIPBD SYS COMP DEV	21,427	15,427	15,427	15,427
SHIPBOARD DAMAGE CONTROL	32,320	23,606	25,000	23,606
ADV COMMAND DATA SYS	2,595			
SUB ARCTIC WF/SPT EQUIP PR	9,748	9,748	9,748	9,748
PILOT FISH	93,964	93,964	93,964	93,964
NON ACOUSTIC ASW	22,104	22,104	22,104	22,104
ADV ASW TARGET	12,646	7,550	12,646	[illegible]
SHIP SYS ENGR STDS	4,673		[illegible]	[illegible]
RETRACT JUNIPER	25,368	25,368	25,368	25,368
RADIOLOGICAL CONTROL	3,585	2,196	2,196	2,196
LINK DOGWOOD	26,247	26,247	26,247	26,247
SURFACE ASW	17,649	17,649	17,649	17,649
SUB HULL ARRAY DEV (ADV)	13,206	8,211	8,211	8,211
ADV SUB SYS DEVEL	[illegible]	[illegible]	[illegible]	170,000
SUB TAC W/F SYS (ADV)	23,171	23,171	23,171	23,171
SHIP DEVELOPMENT (ADV)	14,639	13,657	13,657	13,657
SURF SHIP NAVIG SYS	2,841		[illegible]	[illegible]
ATTACK SUBMARINE DEV	33,139	33,139	33,139	33,139
ADV NUC REACT COMP SYS DEV	120,175	120,175	120,175	120,175
SHIBD PHYSICAL SECURITY	3,703	3,703	3,703	3,703
CHALK EAGLE	[illegible]	[illegible]	[illegible]	[illegible]
A4W/A1G NUC PROP PLNT	3,327	3,327	3,327	3,327
COMBAT SYSTEM INTEGRATION	22,383	22,383	22,383	22,383
DDG–51	100,836	[illegible]	[illegible]	[illegible]
JOINT ADV SYS	132,348			
MINE DEVELOPMENT	1,964	4,464	4,464	4,464
ALWT (ADV)	10,113		7,000	
MC ASSAULT VEHICLES	10,407	10,407	10,407	10,407
TAC NUC DEVELOPMENT	9,721	7,846	9,721	8,300
GRD COMBAT/SUPP ARMS SYS	17,129	16,129	13,129	13,129
OCEAN ENGR SYS DEV	1,380	1,380	[illegible]	1,380
ANTI SUB W/F SIGN PROC	15,535	15,535	15,535	15,535
FLEET TAC D&E PROGRAM	[illegible]	2,000	2,000	2,000
COMMAND & CONTROL SYS (ADV)	42,973	30,473	30,473	30,473
CONTAINER OFFLOAD & TRNSFR SYS	1,515	1 515	1,515	1,515
NAVY ENERGY PROGRAM (ADV)	18,576	18,576	18,576	18,576
FACILITIES IMPROV	7,279	7,279	7,279	7,279
MERSHIP NAV AUX PROG	6,031	6,031	6,031	6,031
COMBAT SERVICES SUP (ADV)	9,356	9,356	9,356	9,356
MC INTELL/ELEC WARFARE SYS	70	70	70	70
CHALK CORAL	3,039	3,039	3,039	3,039
LINK HAZEL	23,564	23,564	23,564	23,564
LINK LAUREL	35,345	35,345	35,345	35,345

[In thousands of dollars]

	Budget	House	Senate	Conference
	2,185	2,185	2,185	2,185
ARIADNE	67,352		35,000	[illegible]
LINK SPRUCE	8,247	8,247	9,747	9,747
RETRACT MAPLE	7,181	7,181	7,181	7,181
NCCS SE&I	19,458	17,458	17,458	17,458
ASW SURVEILLANCE	15,678	15,678	15,678	15,678
LRAP	49,532	49,532	49,532	49,532
SPECIAL PROCESSES	15,380			
RDSS	14,965	14,965	14,965	14,965
AVIONICS DEV	17,477	17,477	17,477	17,477
IFF SYS DEV	[illegible]	14,100	[illegible]	14,100
LAMPS III	7,902	7,902	7,902	7,902
HELICOPTER DEVELOPMENT	72,078	55,178	72,078	[illegible]
AV8B (ENG)	16,428	13,128	14,494	16,428
SUPPORT EQUIPMENT		(3,300)		
SUPPORT EQUIPMENT (PY TRANSFER)	15,955	15,955	15,955	15,955
S-3 WPN SYS IMP S-3( )	2,468	2,468	2,468	[illegible]
AIR OCEAN EQUIP ENG	6,136	6,136	6,136	6,136
ABN ASW DEVELOPMENTS	3,945	[illegible]	[illegible]	[illegible]
A/C IR SIGN SUPPRESSION	48,725	48,725	31,295	37,000
P-3 MODERNIZATION PROG	62,198	[illegible]	[illegible]	[illegible]
ABN EW ENG	24,985	19,169	24,985	21,000
ASPJ	12,722	12,722	12,722	12,722
CV IZ ASW HELO	44,866	44,866	44,866	[illegible]
A/C PROPULSION (ENG)	40,275	[illegible]	[illegible]	[illegible]
EW SIMULATOR DEV	2,300	[illegible]	2,300	2,300
C/MH-53E		(800)		
C/MH-53E (PY TRANSFER)	42,630	30,630	30,630	30,630
ACOUSTIC SRCH SENSRS (ENG)	[illegible]	[illegible]	[illegible]	27,500
AVIATION LIFE SUPRT SYS	65,843	64,943	65,843	65,843
A/C ENGINES COMP IMP PROG		(900)		
A/C ENGINES COMP IMP PROG (PY TRANSFER)	13,326	13,326	13,326	13,326
MK92 PCS UPGRADE	11,081	9,927	11,081	11,081
AEGIS AREA AIR DEF		(1,154)		
AEGIS AREA AIR DEF (PY TRANSFER)	48,506	[illegible]	44,506	[illegible]
CG-47 PRODUCT IMPROVEMENT	13,636	13,636	13,636	13,636
LINK ASH	17,051	[illegible]	[illegible]	5,000
AMRAAM	29,566	29,566	29,566	[illegible]
VERTICAL LAUNCHING SYS	13,589	13,589	10,000	13,589
AAM SYSTEMS ENGINEERING	37,444	37,444	37,444	37,444
VLS ASROC	7,612	7,612	4,771	4,771
CIWS (PHALANX)	8,047	3,047	3,047	3,047
NATO SEA SPARROW	9,756		7,256	3,000
SM-2 (N)	47,185	47,185	47,185	47,185
STANDARD MSL IMPROVEMENTS	68,798	[illegible]	[illegible]	[illegible]
TOMAHAWK	10,948	10,948	3,948	10,948
5" ROLLING AIR FRAME MSLE	25,699	25,699	25,699	25,699
SSN-688 VLS	54,034	54,034	54,034	54,034
NEW THREAT UPGRADE	4,426	4,426	4,426	4,426
SUBMARINE COMM	40,299	40,299	40,299	40,299
SUB SONAR DEVELOP (ENG)	20,335	20,335	20,335	20,335
AIR CONTROL ENG	6,079	6,079	6,079	6,079
BR/CW COUNTERMEASURES	99,277	91,912	99,277	95,500
EMSP	6,330	6,330	6,330	6,330
RADAR SURVEILLANCE EQUIP	2,909			
ADV TACT RAD	901	901	901	901
INTELLIGENCE SYSTEMS	19,429	13,747	15,429	13,747
SUB SURV EQUIP PROG (ENG)	5,904	5,904	5,904	5,904
SHIP SURVIVABILITY	29,204	29,204	29,204	29,204
CIC CONVERSION	25,974		25,974	13,000
SUB HULL ARRAY DEV (ENG)	205,205			
SUBACS (ENG)		60,000	200,000	[illegible]
SSN-21 COMBAT SYSTEMS (A-E)	49,798	37,798	37,798	37,798
SUB TAC W/F SYSTS (ENG)	4,617	4,617	3,617	3,617
SHPBD PHYS SECURITY (ENG)	89,418	[illegible]	120,000	[illegible]
SHIP SYBSYS DEV/LBTS	2,284	2,284	2,284	2,284
NATO SEA GNAT	63,776	63,776	63,776	63,776
SHPBD EW IMPROV	19,169	9,169	9,169	9,169
TACT EMBEDDED COMP PROG	37,713	37,713	37,713	37,713
AN/SQS-53C	4,078	4,078	4,078	4,078
LINK BIRCH	9,367	9,367	9,367	9,367
MINE DEVEL (ENG)	15,870	9,870	9,870	9,870
NAVAL GUNNERY IMPROVEMENT	4,678	4,678	4,678	4,678
UNGUIDED CONVENT A/L WPNS	48,717	44,717	44,717	44,717
SAL GP/EOI SENS DEVEL	5,672	5,672	5,672	5,672
BOMB-FUZE IMPR	158,290	158,290	158,290	158,290
MK 50 TORP (ALWT)	4,405	4,405	4,405	4,405
JOINT SERV EOD DEV (ENG)	45,653	16,802	16,802	16,802
MC ASSAULT VEHICLES	8,686	8,686	7,186	7,186
GRD COMBAT/SUP ARMS SYS	63,470	63,470	63,470	63,470
MK 48 ADCAP (ENG)	[illegible]	[illegible]	[illegible]	[illegible]
ASW OCEANOGRAPHIC EQUIP	5,826	5,826	5,826	5,826
CHALK BANYAN	9,799	9,799	9,799	9,799
NAVY ENERGY PROGRAM (ENG)	66,173	49,173	49,173	49,173
COMMAND & CONTROL SYS (ENG)	16,200	10,000	10,000	10,000
TACTAS (AN-SQR-19)	25,821	23,410	23,274	23,274
SURFACE W/F TRAINING DEV		(2,142)		
SURFACE W/F TRAINING DEV (PY TRANSFER)	3,638	3,638	3,638	3,638
COMBAT SERVICES SUPP	14,159	14,159	14,159	14,159
INTELL/ELECT W/F SYS	[illegible]	18,906	18,906	[illegible]
COMMAND/CONT/COMM SYS				

[In thousands of dollars]

	Budget	House	Senate	Conference
REGIONAL TACTICAL SURV	56,225	56,225	56,225	56,225
INTELLIGENCE (ENG)	12,421	12,421	9,921	9,921
MEDICAL DEV (ENG)	1,380	1,380	1,380	1,380
JINTACCS	5,622	2,480	5,622	2,480
JINTACCS MC	2,945	1,668	2,945	[illegible]
FLT TACT D&E	17,197	14,197	14,197	14,197
EMI AND SPECTRUM CONTROL	3,870	2,297	3,870	[illegible]
MANAG & TECH SUPPORT	11,063	[illegible]	[illegible]	[illegible]
C2 SURV RECONN SPT	3,979	3,979	3,979	3,979
MC TAC EXPLOIT NAT CAP	415	415	415	415
[illegible]	19,205	[illegible]	12,196	[illegible]
F/A-18 SQUADRONS	58,314	58,314	[illegible]	58,314
EARLY WARNING ACFT SQDNS	23,666	23,666	23,666	23,666
AVIATION SUPPORT CVW	1,785	1,785	1,785	1,785
FLT TELECOM (TAC)	72,697	41,000	41,000	41,000
SUBMARINES	3,756		3,756	
UNDERSEAS SURVEILLANCE SYS	25,217	25,217	25,217	25,217
SURTASS	2,186	2,186	2,186	2,186
SPECIAL PROJECTS	20,513	14,002	20,513	17,000
NAVY COVER & DECEPT PROG	25,585	25,584	25,584	25,584
ELECTRONIC WARFARE SPT	8,573	8,573	8,573	8,573
COUNTER C3 DEV	22,563	22,563	22,563	22,563
HARM IMPROVEMENT	2,636	2,636	2,636	2,636
JTIDS	184,646			
ASW COMBAT SYS INTEG	12,271	12,271	12,271	12,271
ACFT EQ REL MAINT PROG	7,852	7,852	7,852	7,852
SUBMARINE SILENCING	31,638	31,638	31,638	31,638
MODULAR GUIDED WPN IMPR	7,682			
LAB FLEET SUPPORT	6,158	6,158	6,158	6,158
F-14 D	348,065	348,065	345,000	348,065
TACTICAL INTELL PROC SUP	1,456	1,456	1,456	1,456
EW COUNTER RESPONSE	[illegible]	80,168	78,204	78,204
OPERATIONAL REACTOR DEV	12,719	12,719	12,719	12,719
MARINE CORPS TELECOM	3,587	3,587	3,587	3,587
GRD COMBAT/SUP ARMS SYS	43,600	41,800	41,800	41,800
COMBAT SERVICES SUP	1,449	1,449	1,449	1,449
INTELL/ELECT WARFARE SYS	1,163	1,163	1,163	1,163
COMMAND/CONT/COMM SYS	39,064	39,064	39,064	39,064
M/C TECH SUPT C/C SYS	4,094	4,094	4,094	4,094
TRI-TAC-MC	11 939	11,939	6,057	9,000
HY130 STEEL			5,000	
NAVAL OCEANOGRAPHY			5,900	5,900
WHITEHALL QUICK REACTION SURV SYS		20,000		20,000
WALLOPS ISLAND TEST RANGE		4,000		4,000
[illegible]		10,000		10,000
GENERAL REDUCTION, EW PROGRAMS		−30,000		−15,000
TAIL CONTROL SPARROW		5,000		5,000
CLASSIFIED PROGRAM		1,500		
[illegible]		2,500		2,500
TOTAL, TACTICAL PROGRAMS	6,160,962	5,109,983	5,385,043	5,389,900
INTELLIGENCE AND COMMUNICATIONS				
ADV NAVIG DEVELOPMENT	1,941	1,941	1,541	1,541
NAVIGATION SYSTEMS	920	920	[illegible]	[illegible]
EHF SATCOM	45,437	[illegible]	39,700	39,700
NAVSTAR GPS	70,079	62,079	62,079	62,079
C2 SYSTS PLAN/ENG SUPP	5,466	5,466	5,466	5,466
SATELLITE COMMUNICATIONS	17,973	17,973	17,973	17,973
MILSTAR JOINT PROJ OFFICE	4,418	4,418	4,418	4,418
CLASSIFIED PROGRAMS	557,773	380,973	517,773	450,973
(PY TRANSFER)		(27,200)		
TOTAL, INTELLIGENCE & COMMUNICATIONS	704,007	513,470	649,870	583,070
DEFENSEWIDE MISSION SUPPORT				
RANGE INST & SYS DEV	8,382	[illegible]	[illegible]	8,382
TARGET SYSTEMS DEV	109,012	99,012	99,012	99,012
TRNG & PERS SYS DEV	3,086	[illegible]	3,086	[illegible]
STUDIES & ANAL SUP/MC	1,785	1,785	1,785	1,785
STUDIES & ANAL SUP/NAVY	3,977	[illegible]	3,977	[illegible]
MCOAG	3,714	3,078	3,714	3,714
CENTER FOR NAVAL ANAL/NAVY	21,813	15,563	19,813	17,500
MC OPERATIONAL T&E	2,317	2,317	2,317	2,317
TECH INFO SERVICES	2,744	2,244	2,244	2,244
AUTEC	51,914	43,197	43,197	43,197
DEVELOPMENT CENTER SUPPORT	3,958	3,958	3,958	3,958
INTERNATIONAL RDT&E	2,436	1,836	1,836	1,836
MOBILE SEA RANGE	[illegible]	[illegible]	5,268	[illegible]
RDT&E LAB & FAC MGMT SPT	66,278	[illegible]	57,978	57,978
RDT&E INSTRUM & MATL SPT	20,321	19,321	19,321	19,321
RDT&E SHIP & AIRCRAFT SPT	[illegible]	78,293	78,293	78,293
TEST AND EVAL SPT	[illegible]	[illegible]	[illegible]	292,000
OT&E CAPABILITY	6,503	6,503	[illegible]	6,503
PRODUCTIVITY IMPROVEMENT	2,855			
WEATHER SERVICE	1,146	1,146	1,146	1,146
DEF METEOROLOG SATELL PROG	55,975	40,975	55,975	45,975
MANUFACTURING TECH	72,426	52,000	52,000	52,000
TOTAL, DEFENSEWIDE MISSION SUPPORT	[illegible]	743,047	761,805	748,118

[In thousands of dollars]

	Budget	House	Senate	Conference
GENERAL REDUCTION		−37,500		−97,500
RESTORATION OF CIVILIAN PAY REDUCTION			3,300	1,650
GENERAL REDUCTION CONSULTANTS/STUDIES ANALYSIS		−20,000	−5,000	−20,000
PRIOR YEAR INFLATION SAVINGS		−60,000	−60,000	
(PY TRANSFER)		(60,000)	(60,000)	
INFLATION ESTIMATES FOR FY 1986		−11,000	−11,000	−11,000
PRIOR YEAR PROGRAM SAVINGS		−176,000	−123,000	
(PY TRANSFER)		(176,000)	(123,000)	
NATO COOPERATIVE R&D PROGRAMS			50,000	[illegible]
BIGEYE OPERATIONAL TESTING				[illegible]
TOTAL, RESEARCH DEVELOPMENT AND EVAL. NAVY	11,264,300	9,462,631	10,104,594	10,065,239
TRANSFER FROM OTHER ACCOUNTS		(271,496)	(183,000)	
TOTAL FUNDING AVAILABLE	11,264,300	9,734,127	10,287,594	10,065,239

MEDICAL DEVELOPMENT (ADVANCED)

The conferees agree to provide $12,719,000 for Medical Development (Advanced) as proposed by the House instead of $14,653,000 as proposed by the Senate. The conferees note that Project M0097, Air Crew Impact Injury Prevention, continues to be of special interest to the Congress, and therefore the Navy is directed to allocate no less than $2,350,000 of this appropriation to this project in fiscal year 1986.

ORGANOTIN ANTI-FOULING PAINT

The conferees agree that no less than the budgeted amount of $1,695,000 be allocated by the Navy in fiscal year 1986 for continued research into the environmental and public health effects of organotin anti-fouling paint, as proposed by the House. The conferees believe that the effects of organotin on marine life have not been adequately determined, and consequently agree to a provision in the bill, as proposed by the Senate, which prohibits the navy from using such paints until the Environmental Protection Agency certifies that the environmental and public health risks are at an acceptable level.

TRIDENT II

The conferees agree to provide $2,117,106,000 for the Trident II/D-5 Weapon System program instead of $2,103,597,000 as proposed by the House and $2,130,615,000 as proposed by the Senate. The Navy is directed to allocate the reduction in such a way as to maintain the current schedule for missile flight testing. If this cannot be accomplished with available funds, the Navy should submit a reprogramming request.

The conferees endorse the proposal by the Senate to consolidate Navy and Air Force penetration aids research into a single, joint program. The conferees direct OSD to re-examine the feasibility of a joint Navy/Air Force penetration aids research program, and report to the Appropriations Committees of the House and Senate no later than June 1, 1986.

NAVY STRATEGIC COMMUNICATIONS

The conferees agree to provide $125,839,000 for Navy Strategic Communications as proposed by the Senate, instead of $119,161,000 as proposed by the House. The Navy is to allocate no less than $12,678,000 of this amount for the Strategic Survivable and Enduring Communications (STRATSEC) project.

WIS MODERNIZATION

The confereees agree to provide $15,000,000 for Navy participation in modernization of the Worldwide Military Command and Control System Information System (WIS) as proposed by the Senate instead of no funds as proposed by the House. The conferees also grant approval to Reprogramming No. 85-62PA, which proposed to use $14,000,000 from fiscal year 1985 apapropriated funds to initiate Navy participation in the program.

V-22 OSPREY

The conferees agree to provide $580,000,000 for the V-22 Osprey program, instead of $569,543,000 as proposed by the House and $583,743,000 as proposed by the Senate. Furthermore, the conferees understand that the Navy is considering the use of a fixed-price type contract for this work. The conferees endorse House language which concludes that significant technical risk remains in the V-22 program, and therefore urge the Navy to weigh carefully the risks involved in using a fixed-price contract in this case.

LOW COST ANTI-RADIATION SEEKER

The conferees agree to provide $17,523,000 as proposed by the House, instead of $16,523,000 as proposed by the Senate, for Low Cost Anti-Radiation Seeker (LCS) in Navy RDT&E, and $17,613,000 for Low Cost Seeker in Air Force RDT&E. The combined sum shall be applied only to the LCS development now being pursued by the Naval Weapons Center (NWC), China Lake, California. Language to this effect has been provided in the bill.

The conferees specifically endorse the language of House Report 99-332, page 308, pertaining to the LCS program. In addition, the conferees note with approval that the original program plan required the involvement of two competing contractors. It is clear that rapid technical progress and lower future costs demand continued competition. Accordingly, the conferees direct that NWC continue to execute a program involving two competing contractors.

AAAM/ASAM

The conferees agree to provide $25,000,000 for the Advanced Air-to-Air Missile/Advanced Surface-to-Air Missile program. The conferees also agree that the allocation of these funds should be as directed in the Senate report.

ADVANCED ASW TARGET

The conferees agree to provide $9,400,000 for Advanced ASW Target instead of $7,550,000 as proposed by the House and $12,646,000 as proposed by the Senate. The conferees endorse House language which emphasizes the need to accelerate development of an advanced torpedo testing target, and therefore direct that $3,000,000 of these funds be applied to accelerate development of the Advanced Stored Chemical Energy Propulsion System (AD-SCEPS).

SHIPBOARD DAMAGE CONTROL

The conferees recommend $23,606,000 for Shipboard Damage Control as proposed by the House, rather than $25,000,000 as proposed by the Senate. Further, the conferees endorse the Senate position on the EMPRESS II project (electromagnetic pulse radiation environment simulator for ships). The conference recommendation will fund EMPRESS II at the fiscal year 1985 level of effort.

SSN-21 BUDGETING

The conferees agree to House language directing the consolidation of program elements for the SSN-21 attack submarine, with the proviso that reactor development work may be excepted from the consolidation.

SHIP DEVELOPMENT (ADVANCED)

The conferees agree to provide $13,657,000 for Ship Development (Advanced), as proposed by both the House and the Senate. This amount involves a reduction of $982,000 as directed by the Department of Defense Authorization Act, 1986. However, the conferees do not agree to Senate languge directing that the reduction be applied specifically toward termination of the EMSEDE project, but instead allow the Navy flexibility to allocate the reduction.

ADVANCED LIGHTWEIGHT TORPEDO (ADVANCED)

The conferees agree to provide no funds for Advanced Lightweight Torpedo (Advanced) as proposed by the House, instead of $7,000,000 as proposed by the Senate. The ALWT (Advanced) program was proposed in fiscal year 1986 to initiate certain classified improvements to the ALWT warhead.

While the conferees are not opposed to incremental improvements to the ALWT, they are not inclined to start them in fiscal year 1986. The Navy should resubmit this program for funding in future years, and clearly define why ALWT warhead improvement is required for advanced threats.

TOMAHAWK THEATER MISSION PLANNING CENTER

The conferees agree to House language directing that the Tomahawk Theatre Mission Planning Center by fully funded at the budget level of $14,967,000, and that programming changes as described in the House report be instituted in the fiscal year 1987 budget.

AV-8B

The conferees agree to provide $66,000,000 for AV-8B instead of $55,178,000 as proposed by the House and $72,078,00 as proposed by the Senate. This reduction should be applied solely against the night attack project and not against the TAV-8B or other efforts. Should the Navy require additional funds to execute this project during fiscal year 1986, the conferees would consider a reprogramming request.

CG-47 PRODUCT IMPROVEMENT

The conferees agree to provide $35,000,000 for CG-47 Product Improvement instead of $29,006,000 as proposed by the House and $44,506,000 as proposed by the Senate. The conferees also support House language which expresses concern over increase in cost and scope in the program. It appears that this expansion of effort is due to the Navy's desire to transition a number of improvements in the DDG-51 AEGIS Combat System to the CG-47. The conferees support the introduction of VLS, the SPY-1B radar, UYQ-21 consoles, and UYK-43B computers to the CG-47 class, and direct the Navy to allocate the reduction so that these programs are unaffected.

SUBMARINE HULL ARRAY DEVELOPMENT (ENGINEERING)

The conferees agree to provide $13,000,000 for Submarine Hull Array Development (Engineering) instead of no funds as proposed by the House and $25,974,000 as proposed by the Senate. The Navy is directed to apply the majority of these funds to continue advanced development; however, some funds may be used for full scale development (FSD) preparation. The conferees share the concerns expressed by the House that commitment to FSD should not occur prior to approval by the Defense Acquisition Review Council at Milestone II.

SSN-21 COMBAT SYSTEM

The conferees agree to provide $200,000,000 for the SSN-21 Combat System as proposed by the Senate instead of $60,000,000 as proposed by the House. This level of funding is proposed for the authorized program due to Navy concerns that funding reductions might cause shipbuilding delays.

The conferees strongly criticize both the Navy and the Office of the Secretary of Defense for the weak management evidenced in this program, and insist that the Department of Defense incorporate whatever changes are necessary to ensure that these problems do not recur in the future. The conferees expect stronger performance particularly in the areas of financial management and technical risk management.

SHIP SUBSYSTEMS DEVELOPMENT/LBTS

The conferees agree to provide $109,000,000 for Ship Subsystems Development/LBTS, instead of $80,000,000 as proposed by the House or $120,000,000 as proposed by the Senate. The Senate added $40,000,000 to continue competitive contract design for the SSN-21 New Design Attack Submarine program. The additional $29,000,000 provided for this program element above the authorization is solely for continuation of competitive contract design for the SSN-21 through the first three quarters of fiscal year 1986.

The Navy should submit a reprogramming during fiscal year 1986 to cover the balance of the funding requirement for this effort. Funds budgeted for other ship contract design programs are to be used solely for those programs, and not diverted to support SSN-21 competitive contract design, unless those ships are not included in the fiscal year 1987 budget submission.

The conferees agree to the Senate language directing that at least $5,000,000 be provided for an AO oiler design project. This will provide five AO-177 class oilers with a design enlargement from a 120,000-barrel capacity to a 180,000-barrel capacity.

SURFACE WARFARE TRAINING DEVICES

The conferees agree to provide $23,274,000 for Surface Warfare Training Devices as proposed by the Senate instead of $23,410,000 as proposed by the House. However, the conferees do not endorse Senate language specifically directing the deletion of funding for the Surface Tomahawk Trainer project. The Navy is provided the flexibility to allocate the reduction.

MARINE CORPS LIGHTWEIGHT BATTLEFIELD SURVEILLANCE RADAR

With regard to the Lightweight Battlefield Surveillance Radar (LBSR), the conferees direct that the Marine Corps review the suitability of the Air Force's in-development PPS-22 Intruder Detection System and report to the House and Senate Committees on Appropriations by June 15, 1986. The PPS-22 development is being managed by the Army and it appears that the PPS-22 modified would provide the Marine Corps with an earlier capability plus providing interservice interoperability and hardware commonality.

HY-130 STEEL

The conferees agree to provide no funds for HY-130 Steel as proposed by the House instead of $5,000,000 as proposed by the Senate. The conferees will consider a reprogramming if the Navy determines that acceleration would be desirable.

WALLOPS ISLAND TEST RANGE

The conferees agree to provide $4,000,000 for the Wallops Island Test Range as proposed by the House, instead of no funds as proposed by the Senate. However, the conferees believe that the Wallops Island Test Range could be more efficiently utilized to support Navy test and evaluation activities. Prior to the obligation or expenditure of these additional funds, the Navy and NASA should submit to the Committees on Appropriations of the House and Senate a utilization plan for this expansion in Navy test and evaluation activity.

TAIL CONTROL SPARROW

The conferees agree to provide $5,000,000 for the Tail Control Sparrow as proposed by the House, instead of no funds as proposed by the Senate. These funds are to be used for guidance and ECCM improvements to the Sparrow missile.

The conferees acknowledge the potential application of generic low cost radiation seeker technology to the Sparrow airframe, for use of Sparrow as a dual-role anti-radiation missile. The conferees are willing to entertain a fiscal year 1986 reprogramming action to initiate such a program.

WHITEHALL QUICK REACTION SURVEILLANCE SYSTEM

The conferees agree to provide $20,000,000 for Whitehall Quick Reaction Surveillance System as proposed by the House instead of no funds as proposed by the Senate. These funds are for the first year of a three year lease, on a turnkey basis, of four systems together with vessels and crews. The conferees direct the Navy to enter into a lease arrangement not later than February 28, 1986, instead of December 31, 1985 as originally directed by the House.

CENTER FOR NAVAL ANALYSES

The conferees agree to provide $17,500,000 for the Center for Naval Analyses, instead of $15,563,000 as proposed by the House or $19,813,000 as proposed by the Senate. The conferees also agree that the Navy should submit a prior approval reprogramming to Congress should this level of funding prove inadequate.

ADVANCED CHEMICAL WEAPONS RESEARCH

The conferees direct the Navy and Air Force to report to the House and Senate Committees on Appropriations on their plans for undertaking research into future binary chemical munitions delivery mechanisms by March 15, 1986. After that date, the Committees would entertain a reprogramming request to implement such a plan.

PRIOR YEAR SAVINGS

The conferees recognize $188,000,000 in prior year savings in Research, Development, Test and Evaluation, Navy. The sources and uses of these savings are identified in this Statement of Managers under the heading "Availability of Unobligated Balances."

MANUFACTURING TECHNOLOGY

LASER ARTICULATING ROBOTIC SYSTEM

The conferees agree with the House directives concerning the Laser Articulating Robotic System (LARS), and agree that of the funds provided for P.E. 7.80.11N, Manufacturing Technology, a total of $5,500,000 be provided for the LARS program. Language has been provided in the bill to this effect.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

The conferees agree to the following amounts for Research, Development, Test and Evaluation, Air Force:

[In thousands of dollars]

	Budget	House	Senate	Conference
RESEARCH DEVELOPMENT TEST AND EVAL, AF				
TECHNOLOGY BASE				
IN-HOUSE LAB INDEPENDENT RESEARCH	17,444	[illegible]	[illegible]	16,000
DEFENSE RESEARCH SCIENCES	[illegible]	[illegible]	201,334	[illegible]
UNIVERSITY RESEARCH	[illegible]	6,250	6,250	6,250
GEOPHYSICS	38,614	38,614	38,614	38,614
MATERIALS	54,769	52,269	[illegible]	[illegible]
AEROSPACE FLIGHT DYNAMICS	67,545	67,545	67,545	67,545
AEROSPACE BIOTECHNOLOGY	[illegible]	47,340	[illegible]	47,500

[In thousands of dollars]

	Budget	House	Senate	Conference
AEROSPACE PROPULSION	[illegible]	[illegible]	[illegible]	[illegible]
AEROSPACE AVIONICS/VHSI CIRCUITS	74,806	60,000	[illegible]	[illegible]
TRAINING/SIMULATION TECH	25,236	25,236	25,236	25,236
CIVIL ENGINEERING & ENVIRONMENTAL QA	7,125	7,125	7,125	7,125
ROCKET PROPULSION	41,661	39,661	39,661	39,661
ADVANCED WEAPONS	37,020	35,500	[illegible]	[illegible]
CONVENTIONAL MUNITIONS	44,819	40,819	44,819	40,819
COMMAND/CONTROL/COMMUNICATION	[illegible]	76,720	76,720	76,720
PERS UTILIZATION TECH	9,421	8,421	9,421	8,421
TOTAL TECHNOLOGY BASE	825,213	782,109	792,834	[illegible]
ADVANCE TECHNOLOGY DEVELOPMENT				
LOGISTICS RESEARCH & DEV RQMTS	12,736	9,736	9,736	9,736
AUTOMATION OF TECHNICAL INFORMATION	5,382			
ACFT PROPULSION SUBSYS INTEGRATION	27,493	27,493	27,493	27,493
ADV AVIONICS FOR ACFT	22,651	22,651	21,651	21,651
FLT VEHICLE TECHNOLOGY	22,884	16,884	22,334	20,000
RECON SENSORS/PROCESSING TECHNOLOGY	9,182	6,000	6,000	6,000
AEROSPACE STRUCTURES/MATERIALS	23,596	18,596	18,596	18,596
AVIATION TURBINE FUEL TECHNOLOGY	4,671	3,671	4,671	3,671
ADV TURBINE ENGINE GAS GENERATOR	29,656	27,656	27,656	27,656
WEAPON SYSTEM POWER	1,947	1,947	1,267	1,267
DOD COMMON PROG LANGUAGE (ADA) ADV DEV	7,460	7,460	7,460	7,460
ADVANCED SIMULATOR TECHNOLOGY	4,410	4,410	4,410	4,410
CREW SYSTEMS TECHNOLOGY	12,754	11,000	12,054	11,500
ACFT NON-NUCLEAR SURVIVABILITY	3,278	3,278	3,278	3,278
ADV FIGHTER TECH INTEGRATION	22,276	19,776	19,776	19,776
LINCOLN LABORATORY	26,363	22,000	25,000	23,000
ADVANCED SYSTEM INTEGRATION DEMO	36,327			
INEWS/ICNIA		60,000	32,767	45,000
CARTOG APPLICATIONS-TAC & STRAT SYS	1,409	1,409	1,409	1,409
SPACE & MSL ROCKET PROPULSION	8,381	3,381	3,381	3,381
ADV MSL SUBSYSTEM DEMONSTRATION	1,209			
ADVANCED TECHNOLOGY CRUISE MISSILE	7,677	7,677	7,677	7,677
HYPERVELOCITY MISSILE	10,763	10,763	10,763	10,763
ADVANCED SPACECRAFT TECH	9,700	7,000	7,000	7,000
ADV MILITARY SPACEFLIGHT TECHNOLOGY	916			
APACE SYS ENVIRON INTERACTIONS TECH	4,954	3,954	3,954	3,954
MSL SURVEILLANCE TECH	11,550	11,550	11,550	11,550
VERY HIGH SPEED INTEGRATED CIRCUITS	193,776	211,276	175,500	207,276
NON-DESTRUCTIVE INSPECTION AD DEV	[illegible]			
CONVENTIONAL WEAPONS	28,590	26,590	25,590	25,590
ADVANCED RADIATION TECH	19,749	9,749	19,749	14,749
MANPOWER & PERSONNEL SYS TECH	2,199	2,199	2,199	2,199
WEATHER SYSTEMS	3,963	3,963	3,463	3,463
ELECTRONIC WARFARE TECHNOLOGY	29,436	29,436	29,436	29,436
CIVIL/ENVIRONMENTAL ENGR TECH	11,488	11,488	11,485	11,485
FIBER OPTICS DEVELOPMENT	3,861	3,861	3,461	3,461
ADVANCED COMMUNICATIONS TECHNOLOGY	4,895	4,895	4,895	4,895
ADVANCED COMPUTER TECHNOLOGY	8,643	7,500	7,500	7,500
ELECTRO/OPTICAL WARFARE	15,818	15,818	15,818	15,818
CHEMICAL WARFARE DEFENSE	6,165	6,165	[illegible]	[illegible]
COUNTER/COUNTERMEASURES /ADV DEV	14,444	13,444	13,444	13,444
TRAINING SYSTEMS TECHNOLOGY	2,324	2,324	2,324	2,324
DOD SOFTWARE ENGINEERING INSTITUTE	11,742	11,742	11,742	11,742
COMD/CNTRL/COMM ADV DEV	26,273	16,273	16,273	16,273
TOTAL ADVANCE TECHNOLOGY DEVELOPMENT	713,971	685,015	637,762	670,883
STRATEGIC PROGRAMS				
ADVANCED STRATEGIC MISSILE SYSTEMS	173,934	163,934	163,934	163,934
SRAM II	78,958	35,000	35,000	35,000
ATMOSPHERIC SURVEILANCE TECH	4,978	4,978	4,978	4,978
WWMCCS ARCHITECTURE	8,036	8,036	8,036	8,036
B-1B	367 438	280,438	280,438	280,438
COMMON STRATEGIC ROTARY LAUNCHER	72,629	72,629	72,629	72,629
ICBM MODERNIZATION	1,580,824	1,483,600	1,274,824	1,480,800
(PY TRANSFER) TO SMALL ICBM			(256,000)	
STRAT CONV STANDOFF CAPA (SCSC)	71,787	36,000	[illegible]	35,000
AIR LAUNCHED CRUISE MISSILE	14,179	11,179	11,179	11,179
SPACE DEFENSE SYS	149,934	149,934	182,834	165,000
SYSTEMS SURVIVABILITY (NUC AFFECTS)	7,927	7,927	7,927	7,1927
B-52 SQUADRONS	16,047	14,347	13,207	13,207
KC-135 SQUADRONS	968	[illegible]	[illegible]	968
MINUTEMAN SQUADRONS	31,203	6,003	6,000	6,000
PACCS/WWABNCP SYS EC-135 CL V MODS	5,163	4,163	4,163	4,163
SAC COMMUNICATIONS	10,625	10,625	7,589	7,589
NCMC - TW/AA SYSTEMS	57,445	52,445	52,445	52,445
NCMC - SPACE DEFENSE SYSTEMS	72,996	57,996	62,996	57,996
BALLISTIC MSL TAC WNG/ATK ASSES SYS	2,655	2,155	2,155	2,155
TW/AA INTERFACE NETWORK	1,468	1,468	1,468	1,468
JOINT SURVEILLANCE SYSTEM	3,069	3,069	2,069	2,069
SURVEILL RADAR STATIONS/SITES	20,215	20,215	20,215	20,215
DEW RADAR STATIONS	40,914	40,914	40,914	40,914
CONUS OVER-THE-HORIZON RADAR	67,457	67,457	67,457	67,457
BALLISTIC MSL EARLY WNG SYSTEM	12,966	12,966	12,966	12,966
SPACETRACK	9,613	9,613	9,613	9,613
DEFENSE SUPPORT PROGRAM	79,592	79,592	79,568	79,568
SLBM RADAR WARNING SYSTEMS	8,235	8,235	8,235	8,235
INTEGRATED OPER NUDETS DETECT SYS	20,538	20,538	20,538	20,538

[In thousands of dollars]

	Budget	House	Senate	Conference
COMD CTR PROCESS/DISPLAY SYS	14,807	14,807	14,807	14,807
MINIMUM ESSENTIAL EMER COMM NETWORK	97,199	97,199	187,199	[illegible]
WWMCCS INFORMATION SYSTEM	[illegible]	[illegible]	[illegible]	[illegible]
WWMCCS INFORMATION SYSTEM - JPMO	[illegible]	78,721	63,721	63,721
MILSTAR SAT COMM SYS (AF TERMINALS)	132,095	132,095	128,095	132,000
MILSTAR COMM SAT SYSTEM	345,696	345,696	345,696	345,696
THEATER NUC WPN STORAGE&SEC SYS	1,045	1,045	1,045	1,045
AIR FORCE ONE			25,000	25,000
CLASSIFFIED PROGRAMS	2,049,652	2,049,652	2,049,652	2,049,652
CLASSIFIED PROGRAMS	14,677	14,677	14,677	14,677
TOTAL, STRATEGIC PROGRAMS	5,743,785	5,395,316	5,320,237	5,420,284
Tactical Programs				
ADVANCED TACTICAL FIGHTER	242,852	169,852	140,000	169,852
ADV TACTICAL AIR RECONNAISSANCE SYS	20,339	10,000	10,000	10,000
JNT SERVICE ADV VERT LIFT ACFT (JVX)	4,901	2,500	2,500	2,500
AIR BASE SURVIVABILITY & RECOVERY	6,178	6,178	5,011	5,011
LOW COST SEEKER	17,613	17,613	17,613	17,613
ADV ATTACK WEAPONS	19,113	19,113	19,113	19,113
DOD PHYSICAL SECURITY EQ-EXTERIOR	1,010	1,010	1,010	1,010
COMBAT IDENTIFICATION TECHNOLOGY	8,763	8,763	8,763	8,763
C3CM ADVANCED SYSTEMS	3,463	3,463	2,000	2,000
JT SURV TGT ATK RADAR SYS (JSTARS)	3,200	3,200	3,200	3,200
ACFT AVIONICS EQUIPMENT DEVELOPMENT	29,397	29,397	29,397	29,397
F-100 DURABILITY	2,899	2,899	2,899	2,899
AIRCRAFT EQUIPMENT DEV	8,779	8,779	8,799	8,779
ENGINE MODEL DERIVATIVE PROG	122,854	62,854	62,854	62,854
INTEGRATED DIGITAL AVIONICS	11,763	8,000	8,000	8,000
EW COUNTER RESPONSE	37,193	30,000	30,000	30,000
NUCLEAR WEAPONS SUPPORT	2,035	2,035	2,035	2,035
ALTERNATE FIGHTER ENGINE	33,353	33,353	33,353	33,353
C-17 PROGRAM	453,681	383,681	383,681	383,681
INFRARED SEARCH & TRACK SYS	23,657	23,657	23,657	23,657
MODULAR AUTOMATIC TEST EQUIPMENT	9,962	9,962	9,962	9,962
NIGHT PRECISION ATTACK	40,849	40,849	40,849	40,849
ACFT ENGINE COMPONENT IMPROVE PROG	138,574	110,144	138,574	125,000
T-46A	54,287	54,287	54,287	54,287
ADV MED RANGE AIR-TO-AIR MSL	101,382	101,382	101,382	101,382
JOINT TACTICAL FUSION PROGRAM	26,920	20,520	26,920	23,720
GRD LAUNCHED CRUISE MSL	685	685	685	685
C/B DEFENSE EQUIPMENT	22,488	22,488	22,488	22,488
ARMAMENT ORDNANCE DEVELOPMENT	17,563	17,563	17,563	17,563
MUNITIONS	43,910	38,910	38,910	38,910
WIDE AREA ANTI ARMOR MUNITION	15,811	12,558	12,558	12,558
AIR BASE SURVIVABILITY & RECOVERY	21,900	21,900	19,900	19,900
AEROMEDICAL SYSTEMS DEVELOPMENT	8,049	8,049	8,049	8,049
LIFE SUPPORT SYSTEM	16,779	16,779	15,672	15,672
OTHER OPERATIONAL EQUIPMENT	17,087	17,087	16,939	16,939
RECONNAISSANCE EQUIPMENT	7,820	7,820	7,820	7,820
DOD PHYSICAL SECURITY EQ-EXTERIOR	15,733	15,733	15,733	15,733
TAC C3 COUNTER-MEASURES	17,441	17,441	16,462	16,462
COMBAT IDENTIFICATIONS SYSTEMS	13,164	13,164	13,164	13,164
SURFACE DEF SUPPRESSION	54,980	30,000	30,000	30,000
AIRBORNE SELF PROTECTION JAMMER	11,220	5,000	5,000	5,000
PROTECTIVE SYSTEMS	65,792	50,792	65,792	65,792
TACTICAL PROTECTIVE SYSTEMS	75,709	55,709	55,709	55,709
COMPUTER RESOURCES MGT TECH	14,011	14,011	12,011	12,011
PRECISION LOCATION STRIKE SYSTEM	63,081	53,081	63,081	63,081
INTELLIGENCE EQUIPMENT	13,481	13,481	13,481	13,481
COMBAT HELICOPTER MODERNIZATION	14,100	14,100		10,000
JT TAC INFO DIST SYS	91,675			
SIDE LOOKING AIRBORNE RADAR (SLAR)	20,667	20,667	20,667	20,667
JSTARS	260,221			
JT INTEROPERABILITY TAC COMB/CNTRL	9,141	9,141	9,141	9,141
F-111 SQUADRONS	54,535	48,500	48,500	48,500
F-15 SQUADRONS	252,142	237,142	237,142	237,142
A-10 SQUADRONS	3,102	3,102	2,000	3,102
F-16 SQUADRONS	94,859	84,000	68,459	68,459
F-4G WILD WEASEL SQUADRONS	36,707	28,707	36,707	36,707
F-4G WILD WEASEL SQUADRONS (PY TRANSFER)		(8,000)		
TACTICAL AGM MISSILES	3,926	2,000	2,000	2,000
AIR FORCE TENCAP	250	250	250	250
OVERSEAS AIR WEAPON CONT SYS	3,068	3,068	3,068	3,068
TACTICAL AIR CONTROL SYSTEM	20,075	20,075	15,075	15,075
AIR BORNE WARNING & CONTROL SYS	137,302	122,000	122,000	122,000
TACTICAL AIRBORNE CMD & CONTROL SYS	8,151	8,151	5,000	8,151
ADV COMM SYS	123,785	113,785	113,785	113,785
TAC AIR INTELL SYS ACTYS	2,191	2,191	2,191	2,191
TACTICAL RECON IMAGERY EXPLOITATION	7,691	7,691	7,691	7,691
BASE COMM—TACTICAL AIR FORCES	899	899	899	899
JT TACTICAL COMM PROG (TRI-TAC)	4,947	4,947	4,947	4,947
SATELLITE COMMUNICATIONS TERMINALS	7,569	7,569	5,000	5,000
ELECTRIC COMBAT INTEL SPT	1,593	1,593	1,593	1,593
MAC COMMAND/CONTROL SYS	11,441	11,441	8,000	8,000
SPECIAL OEPRATIONS FORCES	13,993	10,000	10,000	10,000
F-4 AIR DEFENSE		22,000		15,000
CLASSIFIED PROGRAMS	666,386	339,755	402,700	411,555
LIQUID SYNTHETIC FUEL			4,500	4,500
PAVE TIGER (RPV)		15,000		15,000

[In thousands of dollars]

	Budget	House	Senate	Conference
GENERAL REDUCTION, EW PROGRAMS		−30,000		−30,000
TOTAL, TACTICAL PROGRAMS	3,792,137	2,703,516	2,748,171	2,784,357
INTELLIGENCE AND COMMUNICATIONS				
SPACE COMMUNICATIONS	45,012	43,012	43,012	43,012
DEF SATELLITE COMM SYS	6,930	6,930	6,930	6,930
AIR FORCE COMMUNICATIONS	978			
LONG-HAUL COMMUNICATIONS (DCS)	11,543	11,543	11,543	11,543
ELECTROMAG COMPATIBILITY ANAL CTR	7,191	7,191	7,191	7,191
TRAFFIC CNTRL/APPROACH/LANDING SYS	29,517	21,714	21,714	21,714
PRECISION TACTICAL APPROACH GUIDANCE (PTAG)			3,000	3,000
NAVSTAR GLOBAL POS SYS (USER EQ)	28,691	28,691	28,691	28,691
NAVSTAR GPS (SPACE/GRD SEGMENTS)	48,527	45,527	45,527	45,527
GEN INTELLIGENCE SKILL TNG	5,300	5,300	5,300	5,300
CLASSIFIED PROGRAMS	2,091,755	1,772,955	2,085,171	1,972,155
(PY TRANSFER)		(5,000)		
CLASSIFED PROGRAMS	107,388	107,388	107,388	107,388
I-S/A AMPE DEVELOPMENT		31,400		31,400
TOTAL, INTELLIGENCE & COMMUNICATIONS	2,382,832	2,081,651	2,365,467	2,283,851
DEFENSEWIDE MISSION SUPPORT				
CONCEPT DEVELOPMENT	3,028	3,028	2,000	2,000
SPACE TEST PROGRAM	70,434	68,434	68,434	68,434
SATELLITE SYS SURVIVABILITY	4,273	4,273	4,273	4,273
ADV AERIAL TARGETS DEV	13,505	13,505	13,505	13,505
FLIGHT SIMULATOR DEVELOPMENT	155,315	132,000	132,000	132,000
VARIABLE IN-FLT TEST ACFT (VISTA)	391	391		391
SPACE SHUTTLE	132,007	132,007	132,007	132,007
LOGISTICS TECH FOR WEAPONS SYSTEMS	6,750	6,750	6,750	6,750
WEATHER SYSTEMS	13,078	10,578	8,078	8,078
RANGE IMPROVEMENT	62,166	54,000	54,000	54,000
ELECTROMAC RADIATION TEST FACIL	3,376	3,376	3,376	3,376
IMPROVED CAPABILITY FOR RDT+E	46,417	46,417	46,417	46,417
PROJECT AIR FORCE	17,445	17,445	18,245	18,245
SCQ/COMD SPT—TELECOM	6,550	6,550	6,550	6,550
RANCH HAND II EPIDEMIOLOGY STUDY	4,695	4,695	4,695	4,695
NAV/RADAR/SLED TRACK TEST SPT	28,319	20,319	20,319	20,319
ACQUISITION AND COMMAND SUPPORT	366,620	346,620	346,620	346,620
TEST AND EVALUATION SPT	431,594	421,594	421,594	421,594
ADV SYS ENGINEERING/PLAN	3,895	2,000	2,000	2,000
RDT&E AIRCRAFT SUPPORT	59,820	57,000	57,000	57,000
PRODUCTIVITY INVESTMENTS	7,009	3,009	3,009	3,009
PRODUCT PERFORMANCE AGMT CNTR (PPAC)	975	975		
SATELLITE CONTROL FACILITY	83,122	73,122	73,122	73,122
SPACE BOOSTERS	221,393	214,193	221,393	221,393
CONSOLIDATED SPACE OPERATORS CENTER	87,415	87,415	87,415	87,415
DEF METEOROLOGICAL SATELLIE PROG	71,309	56,309	61,309	56,309
SPACE LAUNCH SUPPORT	79,232	79,232	79,232	79,232
INVENTORY CONTROL POINT OPERATIONS	4,034	4,034	3,000	3,000
DEPOT MAINTENANCE (NON-IF)	489			
INDUSTRIAL PREPAREDNESS	104,540	64,540	64,540	64,540
PRODUCT/RELIABLE/AVAIL/MAINTAIN PROG	17,365	14,365	14,365	14,365
LOGISTICS C3I SYSTEM	9,933	8,500	8,500	8,500
SERVICE-WIDE SUPPORT	196			
PRODUCTIVITY INVESTMENTS	978			
INTERNATIONAL ACTIVITIES	2,894	2,894	2,894	2,894
TOTAL, DEFENSEWIDE MISSION SUPPORT	2,120,562	1,959,570	1,966,642	1,962,033
CONSULTANTS, STUDIES & ANALYSES		−25,000	−25,000	−25,000
UNDISTRIBUTED REDUCTION "ASSESSMENTS"		−25,000		−10,000
ENVIRONMENT RESTORATION FUND TRANSFER			−5,400	
RESTORATION OF CIVILIAN PAY REDUCTION			24,400	12,200
GENERAL REDUCTION		−70,000		−182,000
PRIOR YEAR INFLATION SAVINGS		−100,000		
(PY TRANSFER)		(100,000)		
INFLATION ESTIMATES FOR FY 1986		−14,000	−14,000	−14,000
PRIOR YEAR PROGRAM SAVINGS		−156,000		
(PY TRANSFER)		(246,000)		
NATO COOPERATIVE R&D PROGRAMS			50,000	25,000
TOTAL, RESEARCH DEVELOPMENT TEST AND EVAL, AF	15,578,500	13,217,177	13,861,113	13,718,208
TRANSFER FROM OTHER ACCOUNTS		(359,000)	(256,000)	
TOTAL FUNDING AVAILABLE	15,578,500	13,576,177	14,117,113	13,718,208

DEFENSE RESEARCH SCIENCES

The conferees agree to provide $206,000,000 for Defense Research Sciences, of which $6,500,000 shall be used only for research and related purposes at Iowa State University.

VERY HIGH SPEED INTEGRATED CIRCUITS

The conferees agree to provide $207,276,000 for Very High Speed Integrated Circuits, of which $13,500,000 shall be used only for engineering research and related purposes at Northeastern University in Massachusetts.

ICBM MODERNIZATION

The conferees agree to provide $1,480,800,000 for ICBM Modernization, instead of $1,483,600,000 as proposed by the House and $1,274,824,000 as proposed by the Senate. The approved distribution of ICBM modernization funds is provided below:

Peacekeeper	$734,100,000
Small ICMB	624,500,000
Hard Silo Technology	102,200,000
Deep Basing	20,000,000

The conferees direct the Air Force to submit to the Appropriations Committees of the House and Senate a full accounting of all small ICBM guidance funds and contracts, and also the report requested by the Senate on the requirement for maintenance of three alternative guidance contracts during FY 1986. Senate language prohibiting the obligation or expenditure of funds on one of the three alternate guidance systems is modified to permit obligation, but not expenditure, of such funds until this report is submitted.

The conferees agree to provide $102,200,000 for Hard Silo Technology, as proposed by the Senate, instead of $70,000,000 as proposed by the House. Of the additional $32,200,000 provided for Hard Silo Technology above the House allotment, $17,200,000 is for additional risk reduction and test bed restoration tasks described in the Senate report. A total of $15,000,000 is solely for construction, test and evaluation of a double-walled cofferdam constructed of reinforced slipform concrete, as described in the House report. The evaluation effort should be conducted in accordance with the direction provided in the House report, except that the Air Force shall be the planing and management agent for the program. No funds for this project are to be drawn from the Defense Nuclear Agency appropriation.

NCMC/SPACE DEFENSE SYSTEMS

The conferees agree to provide $57,996,000 for NCMC/Space Defense Systems as proposed by the House, instead of $62,996,000 as proposed by the Senate. This program funds both the Mission Control Center (MCC) for the U.S. Anti-Satellite (ASAT) system and also the operation of the Prototype Mission Operations Center (PMOC) which supports the U.S. ASAT test program.

The conferees agree that this reduction shall be applied against the mission control center, and that the MCC should not be funded at this time.

ASAT TESTING

The conferees agree to the House position that no fiscal year 1986 funds are to be used for testing of anti-satellite weapons against objects in space. Bill language has been provided which further prohibits obligation or expenditure of funds provided by this or any other Act for such testing until the President certifies to Congress that the Soviet Union has conducted after October 3, 1985, a test against an object in space of a dedicated anti-satellite weapon.

ADVANCED TACTICAL FIGHTER

INEWS/ICNIA PROGRAM

The conferees agree to provide $169,852,000 for the Advanced Tactical Fighter (ATF) as proposed by the House, instead of $140,000,000 as proposed by the Senate. The confereees agree to provide $140,000,000 for the Joint Advanced Fighter Engine (JAFE) program, $16,852,000 for the airframe demonstration/validation effort and $13,000,000 for avionics development, to include PAVE PILLAR and VHSIC technology insertion.

The conferees endorse the position of the Senate that cost, as well as technology, must be given priority attention in the development of the ATF. The conferees support the decision of the Air Force to adopt a unit flyaway cost goal of $35,000,000 for ATF, expressed in 1985 dollars, and admonish the Air Force to hold to that goal. The conferees agree to the Senate position directing the submission of an annual report on ATF developmental and total acquisition costs, beginning with the FY 1987 budget submission.

Following completion of the defense authorization, the Air Force informed the appropriations committees that it intended to fund ATF avionics devleopment (including Pave Pillar and VHSIC technology insertion) out of the newly created INEWS/ICNI program, rather than from the ATF program. Further, it was learned that the Air Force proposed funding two new projects within the ATF authorization not previously identified as requirements in the FY 1986 budget submission—AMRAAM Compressed Carriage Demonstration (ACCD) and radar/EO sensor, at $4,000,000 each.

The conferees object to the Air Force's funding ATF avionics development outside the ATF line item. The conferees direct that $13,000,000 for ATF avionics development be funded out of the ATF line item, and that no funds be provided for the ACCD and radar/EO projects.

The conferees have funded INEWS/ICNIA at $45,000,000 instead of $60,000,000 as proposed by the House and $32,767,000 as proposed by the Senate. The change from the authorized level of funding reflects the transfer of ATF avionics development funds back to the ATF line item.

The conferees agree to a general reduction of $30,000,000 against Air Force electronic warfare programs, as authorized, and a general reduction of $15,000,000 against Navy electronic warfare programs. The conferees note that the authorization made no provision for a Navy portion of INEWS/ICNIA funds. In light of that oversight, the conferees recommend a smaller general reduction against Navy electronic warfare programs of $15,000,000.

F-4 AIR DEFENSE

The conferees agree to provide $15,000,000 for F-4 Air Defense, instead of $22,000,000 as proposed by the House or no funds as proposed by the Senate. These funds are to be used only for developing F-4 avionics upgrades. The conferees direct the Air Force to study and report on the cost effectiveness of reengining the F-4. Should the results be favorable, the Committees on Appropriations will entertain a reprogramming request.

DEFENSE METEOROLOGICAL SATELLITE PROGRAM

The conferees agree to provide $56,309,000 for the Defense Meteorological Satellite Program (DMSP) as proposed by the House, instead of $61,309,000 as proposed by the Senate. The conferees understand that the full authorization for the program is required to deliver DMSP satellite S-15 in FY 1990, the prototype Block 5D-3 satellite.

Should the Air Force insist that the survivability upgrades proposed for DMSP are essential, and that its outyear space launch program will include the transition of the DMSP from the Atlas E to the Titan II launch vehicle, the conferees would be willing to entertain a reprogramming to keep the S-15 available for launch in FY 1990 on a Titan II.

"ASSESSMENTS" IN RDT&E

DEVELOPMENT PLANNING ACTIVITIES

The conferees agree to a general reduction of $10,000,000 against "assessments" made by the Air Force against RDT&E programs to fund development planning activities, instead of $25,000,000 as proposed by the House. The conferees direct the Air Force to place the balance of $15,000,000 which would have been "assessed" into a new separate program element for development planning activities. These activities must be budgeted and justified on their merits in future years. The conferees concur in the House directive which requires a report on the distribution of pro rata reductions.

I-S/A AMPE

The conferees agree with the House funding level of $31,400,000 for Inter-Service/Agency Automated Message Processing Equipment (I-S/A AMPE), and the transfer of the program from Operation and Maintenance to RDT&E, Air Force. The Senate report expressed concern with the Air Force decision to award only one contract for this program. Therefore, the conferees direct the Department of Defense Inspector General to conduct a thorough review of the propriety of the Air Force's action, and the feasibility and life-cycle cost effectiveness of awarding a second contract. The findings of this study should be reported to the Committees on Appropriations of the House and the Senate no later than March 15, 1986. The conferees further direct the Secretary of Defense to develop a firm I-S/A AMPE 8-year funding profile to be submitted by March 15, 1986. The conferees agree that these directives shall not impact upon the ongoing contract efforts.

PRIOR YEAR SAVINGS

The conferees recognize $264,000,000 in prior year savings in Research, Development, Test and Evaluation, Air Force. The sources and uses of these savings are identified in this Statement of Managers under the heading "Availability of Unobligated Balances."

ADVANCED CHEMICAL WEAPONS RESEARCH

The conferees direct the Navy and Air Force to report to the House and Senate Committees on Appropriations on their plans for undertaking research into future binary chemical munitions delivery mechanisms by March 15, 1986. After that date, the Committees would entertain a reprogramming request to implement such a plan.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE AGENCIES

The conferees agree to the following amounts for Research, Development, Test and Evaluation, Defense Agencies:

[In thousands of dollars]

	[illegible]	[illegible]	[illegible]	Conference
RESEARCH DEVELOPMENT TEST AND EVAL DEF AGENCIES				
TECHNOLOGY BASE				
DEFENSE RESEARCH SCIENCES	92,600	84,000	86,600	92,000
IN-HOUSE LAB INDEPENDENT RESEARCH	1,981	1,791	1,981	1,850
UNIVERSITY RESEARCH	6,250	6,250	6,250	6,250

[In thousands of dollars]

	Budget	House	Senate	Conference
UNIVERSITY RESEARCH INITIATIVES			75,000	75,000
TECHNICAL STUDIES	1,800	1,500	1,500	1,500
STRATEGIC TECHNOLOGY	254,400	247,900	259,900	259,900
TACTICAL TECHNOLOGY	102,000	102,000	102,000	[illegible]
PARTICLE BEAM TECHNOLOGY	21,500	21,500	21,500	21,500
INTEGRATED COMD/CONTROL TECH	53,000	53,000	[illegible]	53,000
MATERIALS PROCESSING TECH	33,000	33,000	31,000	31,000
NUCLEAR MONITORING	19,400	19,400	22,400	[illegible]
DEFENSE NUCLEAR AGENCY	384,361	325,214	374,361	373,550
POLYGRAPH		[illegible]	[illegible]	590
TOTAL, TECHNOLOGY BASE	970,292	896,145	1,036,082	1,039,040
ADVANCE TECHNOLOGY DEVELOPMENT				
SURVEILLANCE, ACQSM, TRACK & KILL ASSESSMENT	1,386,344	1,386,344	1,386,344	1,386,344
DIRECTED ENERGY WEAPONS	965,441	965,441	965,441	965,441
KINETIC ENERGY WEAPONS	859,724	859,724	859,724	859,724
SYSTEMS CONCEPTS AND BATTLE MANAGEMENT	243,300	243,300	243,300	243,300
SURVIVABILITY, LETHALITY & KEY SPT TECHNOLOGY	258,153	258,153	258,153	258,153
SDI—GENERAL REDUCTION		−1,212,962	−750,000	−962,962
JOIN DOD-DOE MUNITIONS TECH DEV	8,413	5,000	10,000	8,287
EXP EVAL OF MAJOR INNOVATIVE TECH	175,249	161,349	203,249	183,249
SPECIAL TECHNOLOGY OFFICE/USDR&E	4,177	4,177	4,177	4,177
COUNTER INSURGENCY & SPECIAL TECHNOLOGY	11,421	11,421	11,421	11,421
COMMAND AND CONTROL RESEARCH	2,313	2,313	2,313	2,313
TOTAL, ADVANCE TECHNOLOGY DEVELOPMENT	3,914,535	2,684,260	3,194,122	2,959,447
STRATEGIC PROGRAMS				
ISLAND SUN	17,000	17,000	14,500	14,500
NMCS-WIDE SUPPORT	43,498	38,498	38,498	38,498
WWMCCS SYSTEM ENGINEER	21,254	21,254	21,254	21,254
MINIMUM ESSENTIAL EMER COMM NETWORK	12,398	12,398	12,398	12,398
TOTAL, STRATEGIC PROGRAMS	94,150	89,150	[illegible]	[illegible]
TACTICAL PROGRAMS				
CINC C2 INITIATIVES	2,083	2,083	2,083	2,083
C3 INTEROPERABILITY (JOINT TACTICAL C3 AGCY)	72,152	62,152	62,152	62,152
MANAGEMENT HEADQUARTERS (JTC3A)	1,472	1,472	772	772
JOINT ADVANCED SYSTEMS		[illegible]	100,000	[illegible]
COMMON JTIDS		[illegible]	200,000	[illegible]
JSTARS		[illegible]	240,221	200,221
TOTAL, TACTICAL PROGRAMS	75,707	625,707	[illegible]	765,228
INTELLIGENCE & COMMUNICATIONS				
MAP/CHART/GEODESY	975	975	975	975
MAP/CHART/GEODESY INV/PROTOTYPE DEV	20,197	18,197	18,197	18,197
MAP/CHART/GEODESY ENGR DEV/TEST	3,092	3,092	3,092	3,092
SUPPORT OF THE NCS	5,686	5,686	5,686	[illegible]
LONG-HAUL COMMUNICATION (DCS)	18,935	16,935	16,935	16,935
CLASSIFIED PROGRAMS	1,089,730	933,054	1,042,098	1,039,227
CLASSIFIED PROGRAMS	737,118	695,318	719,718	735,318
(PY TRANSFER)		(101,112)		
TOTAL, INTELLIGENCE & COMMUNICATIONS	1,875,733	1,673,257	1,806,701	1,819,430
DEFENSEWIDE MISSION SUPPORT				
TECHNICAL SUPPORT TO USDR/E	23,593	23,093	23,093	23,093
GENERAL SUPPORT FOR PA/E	3,489	[illegible]	2,489	2,489
SUPPORT TO POLICY	6,445	[illegible]	[illegible]	[illegible]
GENERAL SUPPORT FOR NET ASSESSMENT	4,032	4,032	4,032	4,032
GENERAL SUPPORT FOR MRA/L	3,117	3,117	[illegible]	3,000
CRITICAL TECHNOLOGY	2,792	2,792	2,792	2,792
TECHNICAL ANALYTICAL SUPPORT	16,001	15,001	15,001	15,001
TAPISTRY	2,793		2,793	
BLACKLITE	[illegible]	4,000	4,000	4,000
DEFENSE TECHNICAL INFO CENTER	21,656	20,000	19,056	19,056
INFORMATION ANALYSIS CENTERS	6,550	4,500	[illegible]	4,500
MANAGEMENT HEADQUARTERS SDI	9,222	9,222	9,222	9,222
MGT HQ (RESEARCH/DEVELOPMENT)	13,148	12,148	12,148	12,148
INDUSTRIAL PREPAREDNESS	[illegible]	2,080	[illegible]	[illegible]
TECHNOLOGY TRANSFER FUNCTIONS	1,645	1,645	1,645	1,645
TOTAL, DEFENSEWIDE MISSION SUPPORT	123,483	110,919	116,349	111,978
CONSULTANTS, STUDIES & ANALYSES		−10,000	−10,000	−10,000
GENERAL REDUCTION		−42,000	−1,587	−153,587
RESTORATION OF CIVILIAN PAY REDUCTION			1,200	600
FY-1986 INFLATION SAVINGS		−6,400		−6,400
PRIOR YEAR PROGRAM SAVINGS		−47,000	−51,000	
(PY TRANSFER)		(47,000)	(51,000)	
PRIOR YEAR INFLATION SAVINGS		−31,000		
(PY TRANSFER)		(31,000)		
NATO COOPERATIVE R&D PROGRAMS			50,000	25,000
TOTAL, RESEARCH DEVELOPMENT TEST + EVAL, DEF AGENCIES	7,953,900	5,943,038	7,033,745	6,637,386
TRANSFER FROM OTHER ACCOUNTS		(179,112)	(51,000)	
TOTAL FUNDING AVAILABLE	7,053,900	6,122,150	7,084,745	6,637,386

[In thousands of dollars]

	Budget	House	Senate	Conference
DIRECTOR OF TEST AND EVALUATION, DEFENSE FOREIGN WEAPONS EVALUATION	17,010	17,010	17,010	17,010
NATO COOPERATIVE R&D TESTING			[illegible]	25,000
TEST AND EVALUATION	86,490	76,490	76,490	76,490
TOTAL, DIRECTOR OF TEST & EVALUATION, DEFENSE	103,500	[illegible]	143,500	118,500

DEFENSE RESEARCH SCIENCES

The conferees agree to provide $92,000,000 for Defense Research Sciences, of which $1,000,000 shall be used only for advanced semiconductor research at the Oregon Graduate Center, $1,000,000 shall be used only for research at Oklahoma State University, and $5,000,000 shall be used only for development and acquisition, and related activities, of a supercomputer with capabilities equal to or better than those of the Tesseract model parallel supercomputer, being developed by Floating Point Systems for use in basic research at Cornell University.

DEFENSE NUCLEAR AGENCY

The conferees agree to provide $373,550,000 for Defense Nuclear Agency, of which $5,000,000 is to be used for development and acquisition, and related activities, of a supercomputer with capabilities equal or better than those of the Tesseract model parallel supercomputer, being developed by Floating Point Systems for use in basic research at Cornell University; and of which $11,100,000 shall be used only for microelectronic engineering and imaging sciences, and related purposes, at the Rochester Institute of Technology, Rochester, New York.

STRATEGIC AND TACTICAL TECHNOLOGY

The conferees believe strategic air and cruise missile (SACM) defense and integrated ASW are important to a balanced strategic defense. Requested resources for these efforts outlined in DARPA descriptive summaries for program elements 62301E and 62702E are to be used only for those purposes and should not be shifted to any competing SDI priorities. The conferees believe as much as $10,000 additional could be effectively utilized for SACM and integrated ASW should resources be available and should be continued at the level in fiscal year 1987.

STRATEGIC DEFENSE INITIATIVE

The conferees agree to provide $2,750,000,000 for the Strategic Defense Initiative (SDI) instead of $2,500,000,000 as proposed by the House and $2,962,962,000 as proposed by the Senate. The conferees also agree to provide, separate from these amounts, $9,222,000 for SDI Headquarters Management as proposed by the House instead of $9,000,000 as proposed by the Senate.

In addition, the conferees agree that the Department of Defense should not establish quotas, goals, or allocations as funding set-asides for offshore vendors concerning SDI research, and that whenever possible, SDI contracts should be awarded to U.S. contractors, subcontractors, and vendors, subject to the merit of these proposals. However, it is the sense of the Congress to encourage Allied participation in the SDI program on a competitive basis. These provisions, as proposed by the Senate, have been included in the bill.

SDI STUDIES AND ANALYSIS

The conferees note that the Office of Technology assessment (OTA) has been conducting studies and analysis on the Strategic Defense Initiative at the request of the Congress. OTA has conducted reviews of the SDI research program, and issued reports on their findings pursuant to Congressional direction.

OTA will continue to study and review the SDI program, and is funded to do so under legislative branch appropriations. The conferees encourage OTA to continue the valuable work they are providing the Congress on the SDI research program.

The conferees agree to amend the House requirement for a study on SDI to be conducted by the National Academy of Sciences, and instead direct OTA to conduct this study. The study shall include an analysis of the feasibility of meeting SDI computer software requirements. Language has been provided in the bill specifying that $700,000 for this study shall be made available from funds provided for RDT&E, Defense Agencies.

MANAGEMENT SAVINGS BY SECRETARY OF DEFENSE

On May 14, 1985 the Secretary of Defense recommended a reduction of $100,000,000 to the Research, Development, Test and Evaluation, Defense Agencies funding already available in fiscal year 1985 as an offset against his fiscal year 1986 request. The Secretary stated that "savings of this nature are usually identified in the normal course of consideration of the Department's budget by the Congress and are reflected as legitimate financing adjustments in the appropriation bill."

The Secretary has since indicated that the allocation of this reduction to the National Security Agency by the House is incorrect. The conferees therefore agree that the reduction is not to be applied to NSA funding. Rather, it is reflected temporarily as a general reduction to the Research, Development, Test and Evaluation, Defense Agencies account with the understanding that the Secretary must submit a prior approval reprogramming specifying the source of the appropriations and management savings which will offset this unallocated cut to the Research, Development, Test and Evaluation, Defense Agencies account.

PRIOR YEAR SAVINGS

The conferees recognize $82,000,000 in prior year savings in Research, Development, Test and Evaluation, Defense Agencies. The sources and uses of these savings are identified in this Statement of Managers under the heading "Availability of Unobligated Balances."

TITLE VI—REVOLVING AND MANAGEMENT FUNDS

The conferees agree to the following amounts for the revolving and management fund accounts:

[In thousands of dollars]

	Budget	House	Senate	Conference
Revolving and Management Funds:				
ARMY STOCK FUND	442,000	393,000	393,000	393,000
NAVY STOCK FUND	716,500	616,500	638,500	638,500
MARINE CORPS STOCK FUND	42,700	37,700	37,700	37,700
AIR FORCE STOCK FUND	464,900	415,900	415,900	415,900
DEFENSE STOCK FUND	193,500	149,700	174,500	149,700
MARINER FUND			(852,100)	
ADP EQUIPMENT MANAGEMENT FUND			150,000	[illegible]
TOTAL, REVOLVING AND MANAGEMENT FUNDS	1,859,600	1,612,800	1,809,600	1,734,800
TRANSFER FROM OTHER ACCOUNTS			(852,100)	
TOTAL FUNDING AVAILABLE	1,859,600	1,612,800	2,661,700	1,734,800

The following items represent language as agreed to by the conferees:

ARMY STOCK FUND

The conferees agree to provide $393,000,000 as recommended by the House and the Senate.

NAVY STOCK FUND

The conferees agree to provide $638,500,000 as recommended by the Senate instead of $616,500,000 as recommended by the House.

The conferees agree with the Senate recommendation to make available $59,000,000 from within Navy Stock Fund peacetime inventory build funds to procure supplies for the Reserve Naval Construction Force.

MARINE CORPS STOCK FUND

The conferees agree to provide $37,700,000 as recommended by the House and the Senate.

DEFENSE STOCK FUND

The conferees agree to provide $149,700,000 as recommended by the House instead of $174,500,000 as recommended by the Senate.

AIR FORCE STOCK FUND

The conferees agree to provide $415,900,000 as recommended by the House and the Senate.

MARINER FUND

The conferees agree to delete the Mariner Fund account proposed by the Senate. Instead, Section 8103 dedicates $852,100,000 as a portion of the prior year unobligated balances, and makes obligations contingent upon enactment of authorizing legislation and subsequent review by the Appropriations Committees. This matter is further explored under the heading "Availability of Unobligated Balances" in the General Provisions section of this statement.

ADP EQUIPMENT MANAGEMENT FUND

The conferees agree to provide $100,000,000 instead of the $150,000,000 as recommended by the Senate. Details of the adjustments are as follows:

MANAGEMENT OF GENERAL PURPOSE AUTOMATIC DATA PROCESSING RESOURCES

The conferees agree that the House and Senate have identified persisting problems with the Defense Department's management of ADP resources. They stem from deficiencies of both a management and fiscal nature.

Management Reforms.—The conferees agree that management of general purpose automatic data processing resources, including those covered by the Warner amendment, should be immediately consolidated under the policy oversight of the Comptroller of the Defense Department. The Comptroller must demonstrate during the fiscal year 1987 appropriation hearings that aggressive action is being taken to address concerns raised by the Appropriations Committees related to the management of these resources. The conferees recognize that Department-wide participation is necessary, but the Comptroller should enforce standards and policies through the Major Automated Information System Review Council. The House agrees to waive the following Defense Department reporting requirements to the Congress since the Comptroller is expected to develop the necessary internal management tools to accomplish the objectives of the House report: delegation of oversight authority, new starts of major automated information systems, logistics systems, lease/purchase criteria, buyout of uneconomical ADP leases funded in operating appropriations, buyout of uneconomically leased office automation equipment, Pentagon automation, ADP acquisition training, local area networks, and software obsolescence. The Secretary of Defense should report by April 15, 1986 on the Defense Department's implementation of the management system to achieve these objectives.

The conferees agree to the House reporting requirements pertaining to automated logistics systems, collocation of ADP and telecommunications centers, and supercomputers. The conferees expect the Comptroller to make a good faith effort to improve ADP budget justification material submitted with the fiscal year 1987 budget, and to work with the Appropriations Committee staffs to achieve complete and standard justification for the fiscal year 1988 budget. The conferees also agree to the House language on TRIMIS, DEERS, ADPER, CAMIS, NALCOMIS, NICADMM, Phase IV, and AFLC Modernization.

Fiscal Reforms.—The Senate proposed establishment of a DoD ADP management fund in an attempt to redress financial disincentives which currently adversely affect cost effective acquisition of DoD ADP equipment. The conferees agree both to establishment of an ADP management fund, to be initially capitalized at $100,000,000, and to a general provision allowing DoD to move funds between appropriations in order to achieve the Congressional mandate that DoD general purpose ADP equipment be acquired in the most cost-effective manner. This DoD fund and attendant transfer authority in the general provision must be managed by the Office of the Secretary of Defense as envisioned by the Senate report. It cannot be delegated. The Department must ensure that a properly documented audit trail exists for all resources consumed using these authorities, to ensure strict internal control of resources and to facilitate future Congressional evaluation of the effectiveness of these initiatives. The Secretary of Defense should include a recommendation for continuation or termination of the management fund and its attendant transfer authority to accompany submission of the fiscal year 1989 budget to Congress.

The conferees direct that each service apply the necessary amount of procurement funds in fiscal year 1986 to meet programmed requirements of the Congressionally directed buyout of uneconomically leased ADP equipment funded in the Operation and Maintenance appropriations. Further, the conferees direct that no funds will be diverted from the buyout of uneconomical leases for other purposes or programs. The Department should also use the newly created ADP management fund and attendant transfer authority to ensure that uneconomical ADP leasing in any DoD appropriation or fund ceases.

TITLE VII—RELATED AGENCIES

INTELLIGENCE COMMUNITY STAFF

The conferees agree to provide $22,083,000 for the Intelligence Community Staff as proposed by the House instead of $22,283,000 as proposed by the Senate.

TITLE VIII—GENERAL PROVISIONS

The conferees agree to the following language in the General Provisions:

RESTRICTIONS ON SUPPORT FOR MILITARY OR PARAMILITARY OPERATIONS IN NICARAGUA

The House bill contained a provision (Sec. 8050) prohibiting material assistance to the Nicaraguan democratic resistance by the Central Intelligence Agency, the Department of Defense, or any other entity of the United States government involved in intelligence activities. The House provision also stated that this prohibition did not impair or effect the authority of the Nicaraguan Humanitarian Assistance Office to administer humanitarian assistance to the Nicaraguan democratic resistance under the terms and conditions specified in the Supplemental Appropriations Act, 1985 (P.L. 99-88). The Senate bill did not include any type of prohibition concerning funds for Nicaragua, relying on restrictions in the authorizing Act.

The conferees have included new language (Sec. 8050) which prohibits the expenditure of any funds or the providing of any assistance to the Nicaraguan democratic resistance other than to the extent provided for and under the terms and conditions specified by Section 105 of the Intelligence Authorization Act (P.L. 99-169) for fiscal year 1986. This provision permits the exchange of information with the Nicaraguan democratic resistance and permits a specified classified amount of funds for communications equipment and related training for the Nicaraguan democratic resistance. The conferees also note that this section will not impair or affect the authority of the Nicaraguan Humanitarian Assistance Office to administer humanitarian assistance to the Nicaraguan democratic resistance.

FORT DERUSSY

The House included a provision prohibiting the sale, lease, rental or excessing of any portion of Fort DeRussy, Honolulu, Hawaii. The Senate included a provision permitting the sale of up to 45 acres of land on Fort DeRussy to the city or county of Honolulu or the state of Hawaii. The conferees agreed with the House provision (Sec. 8055).

However, the conferees agree that the Department of Defense should study the availability of excess land on Fort DeRussy and the possible civic (non-commercial) uses the property could support. The Department should report to the cognizant congressional committees by April 15, 1986, after which those committees are urged to take action on the sale of the property.

UNEMPLOYMENT COMPENSATION

The conferees agree to a general provision (Sec. 8057) that limits payments to the Department of Labor for unemployment compensation costs to $166,766,000, instead of the House limitation of $189,300,000 and the Senate limitation of $171,300,000.

DISTRICT HEATING

The conferees agree to the Senate provision on district heating (Sec. 8070). This provision provides an exception to allow the conversion or consolidation of heating facilities to district heating distribution systems at Bad Kissingen, Hessen, in the Federal Republic of Germany. The conferees reached the decision only with the understanding that the Department would immediately initiate the conversion of coal of steam plants in the CONUS, as discussed elsewhere in this report.

LOCAL HIRE

The conferees agree to the Senate general provision (Sec. 8078) with an amendment stating the provision should be in effect only in fiscal year 1986. Further, the conferees agree that on union contract jobs a worker released by the union should be considered a resident of Alaska.

CHAMPUS HOME HEALTH CARE

The conferees agree to the general provision (Sec. 8084) included in the House bill with clarifying language which stipulates this program will cover home health care when CHAMPUS determines it is more cost effective than care which would otherwise be covered by CHAMPUS in medical facilities.

The conferees want it to be clear the intent of the provision is to save funds by identifying the most cost effective means for health care coverage to be provided by the government. Further, the conferees agree this will be a two year test and should not be considered a permanent change in CHAMPUS benefits.

BEST COPY AVAILABLE

READY RESERVE TUITION ASSISTANCE

The conferees agree to the Senate provision (Sec. 8086) on tuition assistance for the Ready Reserve. The conferees agree that the purpose of this tuition assistance is to provide for part-time education and degree programs, and should not be used for full-time degree programs which are provided by the Veterans Administration through GI Bill benefits.

ARMY LANDS CONVEYANCE

The conferees agree to Senate bill language (Sec. 8092) which directs that a sanitary landfill site on Fort Richardson in Alaska be conveyed to the Municipality of Anchorage if the site is declared excess to the needs of the Army. The language agreed to by the conferees is intended only to ensure that the landfill site, if excessed, is conveyed to the Municipality of Anchorage as public interest land. It has no bearing on any dispute over the legal effect of other provisions of the public interest lands section of the North Anchorage Land Agreement (NALA)—including the allocation of subsurface revenues among various native corporations.

DEBRIS REMOVAL

The Senate included a general provision which allows the removal of unsafe and unsightly buildings and debris from sites formerly used by the Department of Defense. The House did not address this issue. The conferees agree to a general provision (Sec. 8096) that allows the removal of unsafe buildings or debris, provided that it is done before the property leaves federal government control, unless the property is owned by a state or local government or native corporations.

SALE OF ALCOHOLIC BEVERAGES

The conferees agree to the Senate provision (Sec. 8099) which requires the Department to procure alcoholic beverages from the states in which Defense installations are located.

DEPENDENT STUDENTS TRAVEL

The Senate included a general provision (Sec. 8101) which places a limitation on the amount of funds available for Dependent Student Travel, and also denies travel under this program in the continental United States. The House removed this provision from its bill. The Conferees agree to continue the limitation at $4,700,000, but have deleted the CONUS travel restrictions.

AVAILABILITY OF UNOBLIGATED BALANCES

The conferees agree to set aside prior year unobligated balances of appropriations and to designate them for known and anticipated requirements of the Department of Defense. Under prescribed procedures, these unobligated balances totaling $6,306,906,000 may be transferred by the Secretary of Defense to the major appropriation accounts and obligated only upon 15-day prior notification to the House and Senate Appropriations Committees only for the following purposes:

1. Payment of the October 1, 1985, military pay raise.
2. Payments to the military retirement trust fund as may be required, based on anticipated legislative changes, in excess of appropriations contained in the Military Personnel accounts.
3. Such obligations as may be authorized by Congress from the Mariner Fund program.
4. Obligations to supplement the Coastal Defense Augmentation account for which $235,000,000 is additionally appropriated elsewhere in the bill.
5. Additional obligations in support of conventional forces readiness in the military Operation and Maintenance accounts.

Section 8103 of the bill also provides that the availability of these unobligated balances is not extended beyond the time period specified when they were appropriated.

In notifying the Appropriations Committees of intent to transfer and obligate any prior year balances under this authority, the conferees instruct the Secretary to adhere to established reprogramming procedures. In this respect, full budget justifications should be submitted and, when required, additional time granted if needed by the Committees to permit adequate review and analysis and, if necessary, hearings on requirements and both programmatic and budgetary impacts.

The estimated costs of the October 1, 1985, military pay raise will be a clear requirement covered by the unobligated balances setaside. Estimated costs are $1,887,000,000, but the conferees will expect the Department of Defense to absorb as much of this cost as possible with the reduced budget resources available to it for fiscal year 1986—resources that will be reduced further under deficit reduction legislation just enacted by Congress.

The conferees recognize there may be substantial funding adjustments established by retirement reform legislation that may be enacted in the 99th Congress. Savings were anticipated by Congress in its passage of the fiscal year 1986 Defense Authorization Act based on proposals for these military retirement changes. That Act established ceilings on the military personnel accounts reflecting estimated cost savings, and funding in the accompanying Defense Appropriations Bill conforms to those limitations. It is not possible at this juncture to determine the cost effects of the eventual retirement reform legislation.

Accordingly, the conferees have included a provision as proposed by the Senate that requires a reduction in military personnel account obligations after May 1, 1985, to achieve a spending rate that will not exceed the obligation ceilings of the authorization act. Such reductions would require substantial personnel cuts in the absence of the anticipated legislation affecting retirement payment savings.

The conferees agree that none of the unobligated balances should be used in any manner to offset reductions applied to appropriations in compliance with the Balanced Budget and Emergency Deficit Reduction Act of 1985, and have included language in Section 8103 to accomplish that purpose.

The following table details the program sources of prior year unobligated balances:

Appropriation and Line Item	*Amount*
Aircraft Procurement, Army, 1985/1987:	
EH-60	$64,300,000
AH-1S	20,000,000
CH-47	17,500,000
GPS	16,100,000
Total	117,900,000
Missile Procurement, Army, 1984/1986:	
MLRS	10,100,000
Missile Procurement, Army, 1985/1987:	
MLRS	31,400,000
Prior Year Savings	25,000,000
Total	56,400,000
Procurement of Weapons and Tracked Combat Vehicles, 1984/1986:	
DIVAD	256,600,000
DIVAD DMPE	20,800,000
DIVAD Spares	2,100,000
DIVAD Adv. Proc.	4,400,000
M-1	52,600,000
Total	336,500,000
Procurement of Weapons and Tracked Combat Vehicles, 1985/1987:	
DIVAD Adv. Proc.	100,000,000
DIVAD Spares	46,500,000
DIVAD DMPE	36,000,000
M-1	25,300,000
SAW	12,900,000
BFV-ISU	21,700,000
M-88	2,800,000
M-60 PBS	8,600,000
Total	253,800,000
Procurement of Ammunition, Army, 1984/1986:	
Prior Year Inflation	30,000,000
DIVAD	400,000
Total	30,400,000
Procurement of Ammunition, Army, 1985/1987:	
DIVAD	37,700,000
Prior Year Inflation	48,000,000
120mm	28,100,000
Prior Year Savings	33,900,000
Total	147,700,000
Other Procurement, Army, 1984/1986:	
FAV	2,000,000
Prior Year Inflation	79,000,000
Total	81,000,000
Other Procurement, Army, 1985/1987:	
FAV	5,400,000
ADPE (CAMIS)	10,200,000
NAVSTAR GPS	7,300,000
M-9 ACE	12,400,000
Prior Year Inflation	95,000,000
Prior Year Savings	46,200,000
Total	176,500,000
Aircraft Procurement, Navy, 1984/1986:	
EA-6B	1,000,000
AV-8B	16,500,000
F/A-18	10,900,000
SH-2F	6,400,000
Mods	20,300,000
Aircraft Support Fac	1,500,000
Uncommitted	4,200,000
Total	60,800,000
Aircraft Procurement, Navy, 1985/1987:	
A-6E	4,700,000
EA-6B	4,200,000
AV-8B	139,200,000
F/A-18	176,200,000
CH-53E	6,500,000

	Amount
SH-60	49,300,000
E-2C	7,300,000
SH-2F	6,700,000
Mods	92,900,000
Aircraft Support Fac	3,500,000
Total	490,500,000
Weapons Procurement, Navy; 1985/1987: Prior Year Savings	15,000,000
Shipbuilding and Conversion, Navy, 1982/1986:	
SSN-688	66,300,000
CG-47	125,000,000
FFG	40,100,000
T-AO	19,000,000
Outfitting	3,800,000
Post Delivery	700,000
Escalation	136,700,000
Total	391,600,000
Shipbuilding and Conversion, Navy 1983/1987:	
Trident	134,900,000
Battleship	5,000,000
CVN	304,000,000
CG-47	163,200,000
FFG	20,100,000
T-AO	11,000,000
T-AH	5,800,000
Service Craft	3,900,000
Outfitting	5,600,000
Post Delivery	9,500,000
Escalation	28,300,000
Total	691,300,000
Shipbuilding and Conversion, Navy, 1984/1988:	
Trident	151,900,000
CG-47	94,600,000
LSD-41	6,000,000
LHD-1	37,900,000
T-AO	26,400,000
T-AH	2,200,000
T-AKR	12,600,000
Service Craft	44,000,000
Landing Craft	11,000,000
Post Delivery	12,000,000
Total	398,600,000
Shipbulding and Conversion, Navy, 1985/1989:	
Trident	133,400,000
CG-47	157,500,000
DDG-1	74,000,000
LSD-41	2,900,000
LPD SLEP	15,000,000
T-AO	53,100,000
T-AGOS	28,700,000
T-AGS	28,300,000
T-ACS	8,500,000
Post Delivery	6,400,000
Total	517,800,000
Other Procurement, Navy, 1984/1986:	
AN/SYS ( )	940,000
NAVSEA Tng Equip	71,000
Air Station Support	165,000
SATCOM Ship Terminals	3,294,000
Explosive Ord Disposal	1,320,000
Prior Year Inflation	70,000,000
Total	75,790,000
Other Procurement, Navy, 1985/1987:	
Other Propulsion Equip	391,000
Carrier Nav System	6,296,000
Sub Life Support	6,500,000
Diving/Salvage Equip	779,000
AN-SYS ( )	668,000
Sonar Switches	1,326,000
ASW Ops Center	200,000
Carrier ASW Module	398,000
ICAD Systems	8,159,000
NAVSTAR GPS	4,238,000
Air Station Spt Equip	831,000
TSEC/KY-71/72	15,538,000
Explosive Ord Disposal	369,000
Quickstrike	4,000,000
Prior Year Inflation	98,000,000
Prior Year Savings	53,000,000
Total	200,693,000
Procurement, Marine Corps, 1985/1987:	
PLOW	4,900,000
SAW	3,056,000
ULCS-LCS	11,761,000
Prior Year Savings	28,000,000
Total	47,717,000
Aircraft Procurement, Air Force, 1984/1986:	
B-1 Overtarget Res	100,000,000
Engine Costs	29,800,000
ALR-74	27,100,000
EPA Savings	14,500,000
DoD Revision	49,000,000
KC-10 EPA	6,000,000
C-130H	20,000,000
Total	246,400,000
Aircraft Procurement, Air Force, 1985/1987:	
B-1 Overtarget Res	200,000,000
F-15 DoD Revision	9,100,000
F-16 ASPJ	237,800,000
Engine Costs	30,000,000
ALR-74	34,100,000
EPA Savings	51,800,000
DoD Revision	53,000,000
KC-10 EPA	18,600,000
T-46 EPA	5,300,000
B-52 Mod DoD Rev	8,000,000
KC-135 Mod DoD Rev	36,400,000
Common Ground Equip	50,000,000
ALQ-131 ECM Pod	103,900,000
C-130H	18,000,000
C-131 Mod	8,000,000
Total	864,000,000
Missile Procurement, Air Force, 1984/1986: AMRAAM	29,400,000
Missile Procurement, Air Force, 1985/1987:	
Prior Year Savings	35,000,000
Reprogramming Denial	18,400,000
Total	53,400,000
Other Procurement, Air Force, 1984/1986:	
MARS Radar	8,127,000
Prior Year Inflation	86,000,000
Total	94,127,000
Other Procurement, Air Force, 1985/1987:	
30mm API	10,800,000
DEW Radar	30,758,000
MARS Radar	15,791,000
Prior Year Inflation	156,000,000
Prior Year Savings	40,000,000
Total	253,349,000
Procurement, Defense Agencies, 1984/1986: Prior Year Inflation	15,000,000
Procurement, Defense Agencies, 1985/1987: Prior Year Inflation	21,000,000
Research, Development, Test and Evaluation, Army, 1985/1986:	
Infantry Supt Wpns	5,400,000
Countermines & Barriers	1,130,000
Prior Year Savings	49,000,000
Prior Year Inflation	40,000,000
Reprogramming Denial	600,000
Total	96,130,000
Research, Development, Test and Evaluation, Navy, 1985/1986:	
Support Equipment	3,300,000
C/MH-53E	800,000
A/C Engines Comp Impr Pro	900,000
Prior Year Savings	123,000,000
Prior Year Inflation	60,000,000
Total	188,000,000
Research, Development, Test and Evaluation, Air Force, 1985/1986:	
F-4G Wild Weasel Squad	8,000,000
Prior Year Inflation	100,000,000
Prior Year Savings	156,000,000
Total	264,000,000
Research, Development, Test and Evaluation, Defense Agencies, 1985/1986:	
Prior Year Savings	51,000,000
Prior Year Inflation	31,000,000
Total	82,000,000

MARINER FUND

The conferees agree to designate within the set-aside for unobligated balances that $852,100,000 shall be available for a revolving Mariner Fund for the construction and lease of cargo vessels configured for the military sealift mission. No funds could be transferred to the Mariner Fund nor obligated for any purpose without enactment by Congress of legislation establishing the Mariner fund program. Further, no funds could be obligated without notice to the House and Senate Appropriations Committees and after a 60-day review period following that notification.

It is the conferees' intent that, in the event of enabling legislation, the Appropriations Committees will have ample time to conduct hearings and otherwise review and approve any obligations for ship construction under the Mariner Fund mechanism.

The conferees endorse the goal of establishing a modern sealift fleet, operating under revenue-producing charters and immediately available for military use in event of emergencies. However, full Congressional review at both the authorization and appropriations level is essential to assure the most cost-effective use of any funds made available to the Mariner Fund.

The concept of this build and charter program is patterned after President Eisenhower's Mariner program to construct ships for commercial operation which may be used for military sealift. This is a cost effective alternative to the construction of ships which are placed in an inactive status with the Ready Reserve Fleet. The Navy has been procuring used commercial vessels for retention in the inactive fleet, but the supply of militarily useful ships is dwindling. Although there is an excess of commercial tonnage on the world economy today, there is a severe shortage of vessels which are of the size, capacity and speed requirements for military sealift needs. Consequently, the Navy would be responsible for administering the Fund and selecting the types of vessels to be built under the Mariner Fund which maximize military utility while retaining commercial cost effectiveness features. Subsequent to the enactment of the authorizing legislation, but prior to obligation of funds, the Navy is required to provide a report to the Appropriations Committees on the types of vessels selected.

In addition to the $852,100,000 which may be made available, the authorizing legislation should identify the source of other revenues to maintain the program. Specifically, the legislation should provide for the lease of vessels constructed to the bidder of the highest competitive lease payment to the Fund. Similarly, construction contracts should be competitively awarded to the lowest bidder. In addition, such revenues as may accrue from repayment of construction differential subsidies should be permitted by the authorizing legislation to revert to the Mariner Fund. Consideration should also be given to the use of funds from the sale of such vessels constructed under the Mariner Fund, provided that the ships are at least five years old prior to sale.

After authorization is enacted, no funds shall be obligated until 60 days after notification to the House and Senate Appropriations Committees of the Navy's intent to incur contract obligations. The conferees direct that the following shipbuilding funds are not to be obligated without such approval. Although previously identified as a portion of the unobligated balances earlier in this statement, these funds are specifically earmarked for the Mariner Fund.

Shipbuilding and conversion, Navy

Fiscal Year 1983:	
Trident Submarine	$134,900,000
CVN Aircraft Carrier	304,000,000
CG-47 Cruiser	163,200,000
FFG-7 Frigate	20,100,000
Service Craft	4,000,000
Fiscal Year 1984: Trident Submarine	151,900,000
Fiscal Year 1985: DDG-51 Destroyer	74,000,000
Total	852,100,000

COASTAL DEFENSE AUGMENTATION

The conferees agree to designate $140,000,000 of the unobligated balances for the Coastal Defense Augmentation account, supplementing the $235,000,000 appropriated in that account. The total funding of $375,000,000 shall be applied as discussed in the Coastal Defense Augmentation section of the Statement of the Managers.

INTERPORT DIFFERENTIAL

The Senate continued the provision (Sec. 8104) first included in the fiscal year 1985 Supplemental which prohibits the Navy from considering charges for interport differentials as an evaluation factor for ship repair contract awards. The House did not include this provision. The conferees believe there is insufficient data available to determine whether the use of the differential is appropriate. The conferees direct the Department to initiate a test through fiscal year 1986 to determine the effects of the differential on competition and the cost of ship repair. To that end the conferees have agreed to apply the prohibition against use of the interport differential to the West coast only. This action will allow the Navy to compare results on the West coast, without the differential, against those of the East and Gulf coasts with the differential.

GUNTER AIR FORCE BASE PRINTING PRESS

The conferees agree with the Senate position and include a provision (Sec. 8105) prohibiting funding for the installation, maintenance and operation of the printing press recently purchased for the Guner Air Force Base. The conferees direct that the Air Force report to the House and Senate Appropriations Committees by February 1, 1986, on how it will dispose of the printing press.

COMMAND STRUCTURE

The conferees are concerned with recent decisions to reorganize headquarters commands without full congressional consultation prior to approval. This is especially disconcerting when it results in additional bureaucratic layers. However, the conferees agree to delete that portion of the Senate general provisions which restricts funding of the reorganized Atlantic Command because of the danger of disrupting operations of the Command. The conferees agree to prohibit the alteration of the present structure of U.S. military forces in Alaska as proposed by the Senate (Sec. 8107).

CONVERSION OF DOMESTIC MILITARY FACILITIES TO COAL-BURNING FACILITIES

The conferees agree to a new general provision (Sec. 8110) on the use of coal in the United States. Specifically, in order to fully promote greater reliance on domestic energy resources, the conferees direct the Department of Defense to implement immediately its proposal to rehabilitate and convert current steam generating plants at defense facilities in the United States to coal burning facilities. This is directed in order to achieve a coal consumption target of 1,600,000 short tons of coal per year above current consumption levels at DoD facilities in the United States by fiscal year 1994. Further, the conferees direct that anthracite or bituminous coal shall be the source of energy at such installations.

During the implementation of this proposal, the amount of anthracite coal purchased by the Department shall remain at least at the current annual purchase level, 302,000 short tons. In order to maintain this level, the Department shall begin immediate stockpiling within the continental United States, and it shall vigorously pursue those rehabilitation projects which can convert to anthracite coal usage.

The Conferees direct that $25,000,000 in the Army Industrial Fund shall be available to initiate this conversion proposal. Moreover, the Department shall have the authority to fund from within this amount any expenses incurred in the administrative support of this effort. The Conferees further direct the department to present a comprehensive plan for this coal conversion proposal and to include appropriate funding in future budget submissions.

TITAN II EXPENDABLE LAUNCH VEHICLES

The conferees agrees that the joint DOD-NASA determination of which Department of Defense payloads will be launched on Titan II expendable launch vehicles will be made and reported to the Congress within 180 days of enactment. (Sec. 8111)

PROCUREMENT REFORM

The House bill contained general provisions for procurement reforms in the areas of allowable costs, cost and price management ("should cost"), revolving door, and dual sourcing. The provisions were intended to expand upon and strengthen the legislation dealing with these issues that was passed by Congress in the fiscal year 1986 Department of Defense Authorization Act. The conferees agree with the goals of procurement reform legislation, which are to increase competition and lower the costs of defense acquisition. However, neither Committee conducted hearings on these issues during the year. While recognizing that there may be ways to improve the Authorization legislation as it was enacted this year, the conferees could not agree on specific approaches during the limited time that was available in the appropriations conference, except in the area of allowable costs.

The conferees agree with the Armed Services Committees that the Department of Defense needs to improve its management of allowable costs charged to defense contracts. The conferees further understand the Department's need for flexibility as it implements regulations to comply with the authorization legislation. The conferees have included bill language which strengthens the authorization legislation in two key areas. First, the conferees now require by law that the Department inform certain congressional committees on its definitions, exclusions, limitations, and qualifications pertaining to allowable costs prior to their publication in defense policy regulations. This allows the Congress to participate with the Department as it implements the new authorization legislation. Second, the conferees have directed the Comptroller General to actively evaluate on a recurring basis the effectiveness of the Department's policies in actually eliminating unallowable costs charged to defense contracts.

The conferees expect that the Defense Department, with Comptroller General participation, will be able to eliminate unfair and unallowable costs in defense procurements in the near term. The conferees strongly urge the Armed Services Committees at the earliest practical date to consider means for further strengthening the existing procurement reform legislation in the Authorization Act in light of the concerns addressed in the House passed appropriation bill.

The conferees stress that the acceptance of this legislative provision that had already been considered and dealt with in the normal authorization process shall not be considered a precedent. Appropriation bills should never be resorted to as a means of reconsidering matters that are the proper jurisdiction of other committees, particularly when such matters have already been acted on by those committees.

TITLE IX—COUNTER-TERRORISM CONTINGENCY FUND

In his Annual Report to the Congress, the Secretary of Defense stated that "the United States will continue to seek a more active defense against terrorist attacks throughout the world." The conferees fully support maintaining an active defense against terrorism and believe that counter-terrorism programs should be given a top priority since the terrorist threat is most likely one to be faced by the U.S. in the near term. Since the Secretary of Defense specifically requested that the $100,000,000 provided by the Senate not be appropriated, the conferees reluctantly agree to delete Title IX from the bill. However, in order to ensure that these critical programs are adequately financed, by March 31, 1986, the Secretary of Defense is directed to submit a report to the House and Senate Committees on Appropriations identifying what funds are included in the fiscal year 1987 budget request for contingency operations against the threat of or use of violence against United States personnel or property.

Amendment No. 5: Deletes Senate language which deleted sections 8097, 8098, 8099, and 8100 of the Department of Defense Appropriation Act, 1986 as passed the House on October 30, 1985 and section 8090 of the Act as reported to the Senate on November 6, 1985. These provisions pertain to the several procurement reform issues which were deleted from the Act.

DISTRICT OF COLUMBIA

Amendment No. 6: Changes subsection designation from "(d)" to "(c)" and provides that programs, projects, or activities provided for in the District of Columbia Appropriations Act for fiscal year 1986 (H.R. 3067) shall be available to the extent and in the manner provided for in the conference report and joint explanatory statement of the managers (H. Rept. 99-419), as filed in the House of Representatives on December 5, 1985, as if such Act had been enacted into law and provides that the appropriation for the Federal contribution to the District of Columbia for the "Criminal Justice Initiative" under Amendment No. 2 of H.R. 3067 shall be "$13,860,000" instead of "$14,010,000" as proposed by the Senate. The House bill provided for a rate of operations based on the House-passed bill.

APPROPRIATIONS FOR THE DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES

Amendment No. 7: Section 101(e) of House Joint Resolution 465 provides appropriations for programs, projects and activities provided for in the Department of the Interior and Related Agencies Appropriations Act, 1986. The House version of the joint resolution provides appropriations for programs, projects, or activities at a rate for operations and to the extent and in the manner provided for in H.R. 3011 as passed the House of Representatives on July 31, 1985. The Senate version of the joint resolution provides appropriations for these programs, projects, and activities at a rate for operations and to the extent and in the manner provided for in H.R. 3011 as reported to the Senate on September 24, 1985.

The conference agreement on House Joint Resolution 465 incorporates some of the provisions of both the House and Senate versions of the Department of the Interior and Related Agencies Appropriations Act, 1986, and has the effect of enacting the Act into law. The language and allocations set forth in House Report 99-205 and Senate Report 99-141 shall be complied with unless specifically addressed to the contrary in this joint resolution and accompanying statement of the managers. The Department of the Interior and Related Agencies Appropriations Act, 1986, put in place by this joint resolution, incorporates the following agreements of the managers:

TITLE I—DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

Appropriates $398,566,000 instead of $378,556,000 as proposed by the House and $403,998,000 as proposed by the Senate.

The net decrease from the amount proposed by the Senate includes: decreases of $600,000 in oil and gas leasing; $220,000 in oil shale and tar sands leasing; $348,000 in withdrawal processing and review; $4,748,000 in wild horse and burro management; $841,000 in grazing management; $1,000,000 in noxious weed control; $300,000 to restore FTE's to the fiscal year 1985 level in wildlife habitat management; $350,000 for the automated land and mineral record system in Alaska; $500,000 for building maintenance and $500,000 for transportation maintenance; and increases of $100,000 in the amount reduced by the Senate to complete cost recovery regulations; $1,000,000 to provide better protection of rare cultural resources; $750,000 to protect designated wilderness areas as well as wilderness study areas; $925,000 for recreation management and $1,200,000 for the lower 48 states cadastral survey.

The managers agree that the desert land entry activity is to continue at the fiscal year 1985 level. The increase over the budget request for additional FTE's in wildlife habitat management is for priority wildlife management projects.

There is $330,000 within available funds to support the President's Commission on Americans Outdoors.

Within available funds there is $50,000 for the Barstow Way Station; $25,000 for the Calico Early Man Site and $100,000 for Soda Springs. There is also $925,000 within available funds to implement resource management plans for Steese NCA and the White Mountains NRA.

Bill language relating to the proposed Bureau of Land Management/Forest Service interchange has been moved to title III.

The managers agree that an increase of $500,000 is provided within available funds for hazardous waste control activities.

CONSTRUCTION AND ACCESS

Appropriates $1,403,000 for construction and access as proposed by the Senate instead of $1,203,000 as proposed by the House.

PAYMENTS IN LIEU OF TAXES

Appropriates $105,000,000 for Payments in Lieu of Taxes as proposed by the Senate instead of $102,900,000 as proposed by the House.

LAND ACQUISITION

Appropriates $2,300,000 for land acquisition instead of $2,800,000 as proposed by the House and nothing as proposed by the Senate. The amount made available includes $1,000,000 for the Steens Mountain Recreation Area, $300,000 for acquisition management, $500,000 for the King Range Conservation Area and $500,000 for wilderness inholdings.

OREGON AND CALIFORNIA GRANT LANDS

Appropriates $56,114,000 for the Oregon and California Grant Lands instead of $66,140,000 as proposed by the House and $54,443,000 as proposed by the Senate. The changes from the House amount include a decrease of $8,355,000 related to Forest Service activities which are included under the Forest Service and a decrease of $1,671,000 from the amount included by the House to maintain the 1985 program level in all activities. Included in the appropriation is $500,000 for anadromous fish initiatives and $150,000 for restoring recreation projects in Western Oregon.

RANGE IMPROVEMENTS

The managers agree to provide $10,000,000 as proposed by the Senate.

The managers have agreed to retain House bill language concerning grazing subleasing. New regulations have been promulgated and the managers want to ensure that they provide adequate control. To that end, the managers have agreed to ask the GAO to review subleasing and advise the Committees on the extent of the practice and the adequacy of the regulations.

SERVICE CHARGES, DEPOSITS, AND FORFEITURES

The managers have agreed to delete bill language proposed by the House regarding recovery of costs associated with preparation of environmental impact statements. The managers encourage the authorizing committees to review this matter and propose an appropriate resolution.

ADMINISTRATIVE PROVISIONS

The managers have agreed to bill language that will allow the Secretary of the Interior to resell timber within the Medford, Oregon BLM District, without further judicial review, that has been returned pursuant to the Federal Timber Contract Payment Modification Act if, as a result of administrative appeal or judicial review, there is a delay in the sale or award of timber, and only to the extent necessary to achieve sale of the allowable cut.

The language directs that the Secretary consider the environmental consequences of each sale and categorize each sale's environmental impact as minimal, moderate, or serious. Sales made pursuant to this section shall be made according to their relative environmental impacts. Once reoffered sales are defined and their degree of environmental impact assigned, they shall be available for public review for a period of 30 days before being reoffered.

The managers believe this is an appropriate resolution of last resort but want to emphasize the importance of resolving, at the local level, the many complicated and controversial issues involving competing and best use. Therefore, the BLM is directed to continue the consensus-building process it has pursued with local environmental and industry organizations. Specifically, the BLM should consider continuing the citizen participation committee, or other similar forum, by which management, planning and analysis information might be shared in order to lay a foundation for the next planning cycle. The Bureau shall report the results of its community participation efforts to the House and Senate Committees on Appropriations prior to their fiscal year 1987 budget hearings.

U.S. FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

Appropriates $301,222,000 for resource management instead of $317,202,000 as proposed by the House and $303,522,000 as proposed by the Senate. The above amount includes decreases from the Senate of

$500,000 to expand public use programs on refuges, $1,500,000 from the accelerated refuge maintenance management program, $1,000,000 from hatchery maintenance, $250,000 for fishery management activities, $250,000 from operational and maintenance needs of the fishery research program, $750,000 for refuge operation and maintenance, $50,000 for law enforcement activities in the Caribbean, $50,000 for the CITES permitting process, $1,000,000 from administrative costs, $410,000 for endangered species recovery, and $110,000 from endangered species research; increases of $1,000,000 to study the relationship between avian disease outbreaks and environmental contaminants, $500,000 for Great Lakes Laboratory research as stated in the House report, $150,000 for additional staff at the Gainesville Research Laboratory, $70,000 for acid rain monitoring equipment at the Wellsboro National Fishery Research and Development Laboratory, $1,100,000 for a forensics laboratory, $500,000 for endangered species grants for the states, and $250,000 for endangered species listing.

The Wellsboro acid rain monitoring program is to be closely coordinated with those of other federal agencies such as the Forest Service. The managers agree that the Fish and Wildlife Service should submit to the House and Senate Committees on Appropriations its plans for the forensics laboratory prior to implementation so that the Committees may review the site plans and schedules.

Within the $6,926,000 provided for endangered species recovery there is $300,000 for the peregrine falcon, $50,000 for the grizzly bear, $150,000 for Hawaiian forest birds, $100,000 for the whooping crane, $20,000 for the California brown pelican and $200,000 for Upper Colorado River fish studies. The managers agree that within endangered species research there is $110,000 for the Puerto Rico aviary, $150,000 for black footed ferret research, $100,000 for whooping crane research, and $80,000 for Florida panther research.

The managers agree that the Fish and Wildlife Service should review the condition of the Nashua NH hatchery and make repairs as necessary. There is within available hatchery maintenance and operations funds $480,000 for Norfork NFH and $200,000 for Greers Ferry NFH. The managers agree that there is $120,000 within available funds for the Upper Colorado River Federal-State working group.

Although administrative savings cannot be accumulated to offset future year budget needs, the managers agree that the Fish and Wildlife Service should document its administrative savings and report to the Committees no later than May 15, 1986 its anticipated administrative savings for fiscal year 1986.

There is $330,000 with available funds to support the Presidential Commission on American Outdoors.

The managers agree that not less than $3,300,000 for high priority projects within the scope of the approved budget shall be carried out by the Youth Conservation Corps as if authorized by the Act of August 13, 1970, as amended by Public Law 93-408.

The funds provided for Great Lakes research are for research only and are not to be available for the Great Lakes Indian Treaty settlement.

The managers agree to provide no funding for the Animal Damage Control program. Instead, funds are provided to the Department of Agriculture. The managers anticipate that such a transfer will result in a more cost-effective program.

The managers agree with the Senate proposal for research on alternative non-toxic shot, including cost-sharing if feasible.

CONSTRUCTION AND ANADROMOUS FISH

Appropriates $21,296,000 instead of $18,209,000 as proposed by the House and $15,033,000 as proposed by the Senate. The net increase of $3,087,000 above the House position includes increases of $600,000 for construction at Cape Charles NWR, Va and $3,097,000 for high priority construction on Alaskan wildlife refuges; and a decrease of $610,000 for the Northeast Fishery Center laboratory.

Language is included to earmark $2,000,000 for Anadromous Fish Grants.

MIGRATORY BIRD CONSERVATION ACCOUNT

Appropriates $15,000,000 as an advance to this account instead of $10,000,000 as proposed by the House and $20,000,000 as proposed by the Senate. The Migratory Bird Conservation Commission (MBCC) should consider acquisitions in the Anderson-Tully, Cache, and White River areas.

LAND ACQUISITION

Appropriates $40,670,000 instead of $45,970,000 as proposed by the House and $32,570,000 as proposed by the Senate. The following table shows the allocation agreed to by the managers.

Acquisition management....	$1,600,000
American crocodile, FL	1,500,000
Bon Secour NWR, AL.........	1,000,000
Cape Charles NWR, VA	2,640,000
Coachella Valley/fringe-toed lizard, CA	5,000,000
Connecticut Coastal NWR, CN	1,030,000
Florida panther, Fakahatchee Strand NWR, FL.....	3,000,000
Great Swamp NWR, NJ	1,000,000
Hawaii forest birds, HI	6,000,000
Lower Rio Grande, TX.......	5,000,000
Lower Suwanee, FL............	2,500,000
Minnesota Valley NWR, MN	2,000,000
Minnesota Elk Wildlife Refuge, WY......................	1,400,000
National Key Deer, FL.......	2,000,000
Steigerwald Lake Wetlands (Kerr Estate), OR..	600,000
Willapa NWR, WA	3,400,000
Inholdings...........................	1,000,000
Total............................	40,670,000

Language proposed by the House to make the land acquisition at Cape Charles NWR, VA subject to authorization is deleted. The managers request that the Fish and Wildlife Service provide the House and Senate Committees on Appropriations assurance that the wildlife resource values of proposed land acquisitions in Puerto Rico at Cartegena and Tortuguero Lagoons will not be impaired if the Service does not proceed with the acquisition. The managers agree that within funds available for acquisition management there is $100,000 to undertake a survey of the exterior boundary of the Tensas River NWR.

ADMINISTRATIVE PROVISIONS

The managers have agreed to delete House proposed bill language mandating repayment of funds advanced to or spent by the Fish and Wildlife Service for costs of the Fish and Wildlife Foundation.

The managers understand that the Foundation and the Service are establishing an agreement as to what the Foundation may do with funds advanced by the Service. The managers request that that agreement be submitted to the Committees with the fiscal year 1987 budget together with an evaluation of the legal requirement for the Foundation to repay all funds transferred to the Foundation, such as land acquisition funds that may pass through the Foundation.

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

Appropriates $627,763,000 for Operation of the National Park System instead of $628,996,000 as proposed by the House and $619,548,000 as proposed by the Senate.

The change from the Senate includes increases of $500,000 for the Student Conservation Association; $320,000 for Illinois and Michigan Canal Corridor; $260,000 for interpretation and visitor services for Lowell National Historic Park; $200,000 so that a new Park Police rookie class may be conducted; $290,000 for Route 209 maintenance; $4,626,000 for maintenance to restore the fiscal year 1985 level; $1,088,000 to add nine parks to those where air quality monitoring is being conducted; $150,000 for an airplane and pilot in Alaska; $11,000 for U.S. ICOMOS; $175,000 for Folger Theater; $175,000 for Corcoran Gallery; $175,000 for Phillips Gallery; $175,000 for Arena Stage; $175,000 for the National Building Museum; $175,000 for the National Capital Children's Museum and $450,000 for repairs and rehabilitation of William McKinley's tomb; and decreases of $80,000 for restoration of bighorn sheep at Yosemite NP; $400,000 for Yosemite NP, Mariposa Grove and building removal; and $250,000 for Grand Canyon NP trail maintenance.

The managers agree that within available funds there is $46,000 for Allegheny Portage NHS; $250,000 for trail maintenance at Grand Canyon NP; $400,000 for Yosemite NP for Mariposa Grove and for building removal; and $100,000 to remove non-salvageable structures at Delaware Water Gap.

There is $330,000 within available funds to support the Presidential Commission on Americans Outdoors.

The managers agree that improvements can be made in the allocation of cyclic maintenance and other funds appropriated to regional offices for distribution to various park units. The Park Service has acknowledged this in a letter to the Chairmen of the Interior and Related Agencies appropriations subcommittees. In part, the letter reads as follows:

> I would like to take the opportunity to comment on language included in the Senate Report on the Department of the Interior and Related Agencies Appropriation Bill for fiscal 1986 relating to the Cyclic Maintenance Program of the National Park Service.
>
> Specifically, the Committee expressed its view that the Service has used cyclic maintenance funds for work that is inconsistent with the criteria established for the program. In addition, the Committee concluded that part of this problem stemmed from management of the program by the Regional Offices. The Committee recommended that $40 million from Regionally managed programs be allocated to park base budgets.
>
> These are serious concerns, and I have taken steps to determine to what extent they represent the exception rather than the rule. Our examination of the cyclic maintenance projects programmed in fiscal 1985 shows that the Service did redirect cyclic funds to construct several small maintenance structures in two parks, and in

other instances used funds for work which would be more appropriately categorized as repair and rehabilitation. Although this work was accomplished within available authorities and did represent high priority needs, I acknowledge that improvements are needed in the definition and management of the Cyclic Maintenance Program.

To this end, I am directing that several steps be taken by field managers. Currently, the budget formulation process for the Cyclic Maintenance Program varies from Region to Region. In the near future, we will update guidelines and instructions for developing and executing the Cyclic Maintenance Program that will ensure consistency among Regions. Project requirements, based on strict program criteria, will be projected over a 10-year cycle and form the basis for annual funding allocations. Execution of the program will be closely monitored and appropriate reports submitted to the Appropriations Committees. Finally, we will more clearly differentiate the amounts budgeted for those projects which are cyclic in nature and those projects which are intended to repair and rehabiliate structures. The fiscal 1987 budget will reflect these improvements.

The Committee will monitor the Service's progress in improving the distribution of funds to the individual units.

The managers agree to the addition of an airplane and pilot for Alaska with the understanding that they will not be used to interfere with legal subsistence users.

The managers agree to a continuation of the Youth Conservation Corps program from within available funds at a level of $3,300,000.

The managers agree within available park operating funds there are increases of $157,000 for Jean Lafitte NP; $150,000 for Saguaro NM; $600,000 for Glen Canyon NRA; and $150,000 for New River Gorge NR. Further, not to exceed $150,000 shall be available to study the feasibility of several management alternatives to protect and interpret resources near Almo, Idaho, and $150,000 shall be available for the completion of a historic structures report for the New River Gorge NR.

NATIONAL RECREATION AND PRESERVATION

Appropriates $11,096,000 instead of $11,467,000 as proposed by the House and $10,828,000 as proposed by the Senate. The managers agree that in addition to the amount proposed by the Senate there is $168,000 for the recreation programs and $100,000 for a national inventory of trails. The Park Service is encouraged to seek private sources of funds to assist in developing the national inventory of trails.

HISTORIC PRESERVATION FUND

The managers have agreed to provide $20,535,000 for state historic preservation grants and $4,410,000 for the National Trust for Historic Preservation.

VISITOR FACILITIES FUND

The managers have agreed to transfer the Visitor Facilities Fund amounts to the National Park Service, to be managed as part of the normal construction program. Despite the best efforts of all involved, the managers have concluded that the projects can be managed more effectively through the Service. The National Park Foundation is invited to continue to participate in the project selection process.

CONSTRUCTION

Appropriates $114,121,000 instead of $104,069,000 as proposed by the House and $86,220,000 as proposed by the Senate.

The managers agree on the following increases to the budget request:

Boston NHP, MA (Bldg. 28)	$1,333,000
Cuyahoga Valley NRA ($1,287,000):	
Erosion control	500,000
Everett road covered bridge	15,000
Coonrad ranger station and communications center	87,000
Everett village structures stabilization	235,000
Construction of three bridges	450,000
Delaware Water Gap NRA	1,700,000
Faneuil Hall, Boston NHP (planning)	600,000
Gateway NRA, NY—Great Kills seawall repairs and new bath house	5,100,000
Golden Gate NRA, CA—Phil Burton Memorial	750,000
Gulf Islands NS, FL—visitor center	2,800,000
Hot Springs NP, AR—Fordyce bath house	2,100,000
Johnstown Flood NM, PA—visitor center planning	429,000
Lowell NHS, MA—Boott Mill complex, bldg. No. 6	3,360,000
Lowell Historic Preservation Commission	3,168,000
Mammoth Cave NP, KY—(water project)	2,000,000
Voyageurs NP, MN—Kettle Falls Hotel, phase II, utilities for new units	1,065,000
William Howard Taft home, restoration	850,000
Yellowstone National Park—rehabilitation of visitor facilities	6,540,000
Grand Canyon, AZ, power system—North Rim	3,900,000
Apostle Islands NL, WI	458,000
Burr Trail Scenic Road—Glen Canyon NRA and Capitol Reef NP, UT	8,100,000
Kenai Fjords, AK, visitor facility and storage/maintenance facility	750,000
Sitka NP, Russian Bishop's House	742,000
Klondike Gold Rush NHP—buildings restoration	820,000
Federal Hall National Memorial, NY	1,000,000
Jean Lafitte NP, LA:	
Eunice cooperative unit—A&E	250,000
Chalmette and Barataria—Interpretive exhibits and A/V programs	561,000
Natchez Trace Parkway—Palmetto crossing ($1,180,000) and the Bay Springs area access ($300,000)	1,480,000
Buffalo National River	900,000
Fort Larned NHS, KS—Blockhouse reconstruction	262,000
Project planning	3,850,000
Advance planning	1,900,000
Visitor facilities fund	8,500,000

Within available planning funds there is $350,000 for Women's Rights NHP and $988,000 for Fort Union Trading Post in North Dakota. No funds are provided for the Arctic NP, AK. The funds for the Burr Trail are provided subject to authorization. The managers are confident that the authorizing committees will consider and resolve the authorization issue in a timely manner.

The Visitor Facility Fund projects provided for by transfer are as printed in the Senate Report.

The managers have agreed to continue development at Buffalo National River next year.

LAND ACQUISITION AND STATE ASSISTANCE

Appropriates $98,400,000 instead of $115,762,000 as proposed by the House and $75,400,000 as proposed by the Senate. The following table shows the allocation agreed to by the managers:

Assistance to States:	
Matching grants	$48,350,000
Administrative expenses	1,650,000
Total, assistance to States	50,000,000
National Park Service:	
Acquisition management	5,000,000
Appalachian Trail	7,000,000
Big Cypress NP	2,000,000
Big Thicket NP	2,000,000
Cuyahoga Valley NRA	4,500,000
Delaware Water Gap NRA	3,500,000
Golden Gate NRA (Marin County)	2,000,000
Lake Clark NPP, AK	1,500,000
New River Gorge NP, WV	300,000
North Cascades, WA	1,000,000
Olympic NP	1,000,000
Point Reyes NS	1,000,000
Salinas NM, NM	600,000
San Antonio Missions NHS	2,000,000
Santa Monica Mountains NRA	8,000,000
Sleeping Bears Dunes NL	1,500,000
Inholdings	3,000,000
Emergencies, hardships, deficiencies, and relocations	2,500,000
Subtotal NPS	48,400,000
Total, National Park Service	98,400,000

JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

Appropriates $4,800,000 for the John F. Kennedy Center for the Performing Arts as proposed by the Senate instead of $4,529,000 as proposed by the House.

JEFFERSON NATIONAL EXPANSION MEMORIAL COMMISSION

Appropriates $75,000 for the Jefferson National Expansion Memorial Commission as proposed by the House instead of nothing as proposed by the Senate.

GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

Appropriates $431,961,000 for surveys, investigations, and research instead of $428,098,000 as proposed by the House and $437,655,000 as proposed by the Senate. The decrease below the amount proposed by the Senate consists of increases of $500,000 for Geographic Information Systems (GIS); $600,000 for the geothermal program; and $2,500,000 for beginning a National water quality assessment; and decreases of $2,000,000 for SLAR; $1,500,000 for earthquake hazards investigations; $1,800,000 for mineral resource surveys in Alaska; $1,500,000 for study of erosion of coastal barriers in Louisiana; and $2,494,000 for research and technical development grants under the Water Resources Research Act of 1984.

The managers agree that $600,000 provided for mineral resource surveys in the

Steese and White Mountain areas of Alaska is to be used for State of Alaska assistance to the Geological Survey and that the Geological Survey will complete the studies within available funds and in time for the Bureau of Land Management to meet the 1988 deadline for land-use decisions for these areas.

The managers agree that the Survey is to proceed within available funds to prepare a new estimate of offshore oil and gas resources in cooperation with the Minerals Management Service.

The managers agree that $750,000 included for the core hydrologic program is for ground water research at the Oregon Graduate Center.

The managers agree to provide $2,500,000 to begin a National water quality assessment program with the understanding that the Survey, and the Department, will endeavor to redirect existing water programs, strengthen existing programs that support water quality assessment, and obtain significant funding from other Federal agencies with water quality interests and responsibilities so that incremental increased funding for this important program can be kept to the lowest possible levels.

Bill language is included establishing a special fund in the Treasury for replacement and expansion of telecommunications facilities, as proposed by the Senate.

MINERALS MANAGEMENT SERVICE

LEASING AND ROYALTY MANAGEMENT

Appropriates $168,018,000 for leasing and royalty management instead of $165,118,000 as proposed by the House and $170,267,000 as proposed by the Senate. The decreases under the amount proposed by the Senate consist of $2,014,000 for geological and geophysical data acquisition and $235,000 for the Royalty Management Advisory Committee. The managers agree that if the Secretary of the Interior determines the need for an advisory committee it should be funded from within available resources. The managers expect MMS to be the lead agency and to cooperate fully with the Geological Survey in the estimating of offshore oil and gas resources. Further, the managers expect the MMS to use Geological Survey expertise to the maximum extent feasible on issues involving OCS research, including allowing the Survey to bid on proposed work. Available "in-house" expertise should be considered before outside contractors are used.

Bill language is also included which requires permittees to supply geological and geophysical data to the Secretary of the Interior as a condition of the permit. The managers have agreed to delete bill language proposed by the House requiring the deduction of the cost of production, collection and distribution of revenues from Federal onshore mineral leasing operations before they are distributed to the States.

No additional funds are provided for late interest payments to States as proposed by the House. The managers agree that within available funds the Minerals Management Service should pay the penalties for late payments to States and Indian allottees. If the new Minerals Management computer system and upgrades outlined in the reprogramming request in 1984 do not result in timely payments of royalties to States and Indian allottees, consideration will be given to a supplemental request for such funds. Due to this action the bill language providing the authority for late interest payments to States has been revised and is included under Leasing and Royalty Management.

Bill language is included under Administrative Provisions which prohibits the use of funds for leasing in the North Atlantic-Georges Bank planning area as proposed by the House.

The managers have agreed that negotiations should continue between the Secretary and members of the California delegation and members from the appropriate committees of jurisdiction. The managers hope that these negotiations provide the appropriate range of advice to the Secretary as he strives to seek consensus. The outgoing negotiations process must continue so this longstanding dispute can be resolved.

If after a reasonable period there is no agreement between the parties, Congress may reconsider this matter. During negotiations and for the balance of fiscal year 1986, the Department of the Interior may proceed with preliminary sales steps including a Call for Information, and Nominations for OCS lease sales in the Southern, Central and Northern California Planning Areas.

BUREAU OF MINES

Appropriates $134,255,000 for mines and minerals instead of $122,298,000 as proposed by the House and $131,445,000 as proposed by the Senate.

The change from the amount proposed by the Senate in health and safety technology consists of increases of $600,000 for respirable dust research resulting in a total increase of $2,200,000 over the budget request for respirable dust research to be conducted at Pennsylvania State University, West Virginia University, University of Minnesota, and the Massachusetts Institute of Technology ; $1,250,000 for work in ground control to accelerate mountain bump research and accelerate work in tomography; $1,000,000 for post-disaster research; $1,000,000 for industrial hazards for research in robotics; and $1,000,000 for methane control. The managers agree that within available funds $300,000 is to be used for a Coal Mine Injury Analysis Study at Pennsylvania State University.

In mining technology the change from the Senate recommendation consists of an increase of $1,000,000 for proof-of-concept validation and a decrease of $500,000 for research in in-situ leaching.

In minerals and materials the change from the Senate recommendation consists of decreases of $1,000,000 for research at the Idaho National Engineering Laboratory and $500,000 for additional minerals and materials research.

In minerals information and analysis the change from the Senate recommendation consists of decreases of $500,000 for the Alaska Field Operations Center; $500,000 for data analysis; and a $40,000 technical adjustment. The managers agree that within the funds available to the Alaska Field Operations Center, $185,000 will be used for field testing of a Bureau-developed polymer-screen-dewatering technique at placer mining sites in Alaska.

The managers agree that the Bureau of Mines should continue to fund the 31 Mineral Institutes. The $8,000,000 provided includes $4,650,000 to be divided equally among the 31 Mineral Institutes; $350,000 for administration and $3,000,000 for a competitive research program among the institutes. In respect to the competitive research program, it is the managers' expectation that there will be open competition among all 31 Mineral Institutes for these funds with the focus being on the highest priority research problems.

Language is included which earmarks $79,537,000 to remain available until expended.

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

REGULATION AND TECHNOLOGY

Appropriates $85,153,000 for regulation and technology instead of $85,538,000 as proposed by the House and $85,038,000 as proposed by the Senate. The change from the amount proposed by the Senate is for an increase of $115,000 for 2 additional FTE's, resulting in a total of 10 additional FTE's, to be used to assist States when their programs falter. Of the 10 FTE's, no more than 6 are to be stationed in Oklahoma to ensure a smooth transition for Federal primacy to State primacy. The remaining FTE's are to be divided between the Eastern and Western field centers. The managers expect OSM to utilize some of these individuals to conduct special studies and to notify the Congress on a quarterly basis on the location of the 10 FTE's and the tasks for which they are responsible.

The managers agree that in respect to the development of the applicant/violator computer system, OSM is to report to the appropriate Committees of the House and Senate on the milestones established for computer development and the progress made in meeting these milestones. OSM is to utilize the guidelines for computer development printed in the House report to the maximum extent feasible.

Bill language is included which prohibits OSM from using funds to finalize or implement any proposed rule or regulation which would require operators to reimburse the Interior Department for the cost of processing applications. The managers agree that study of this area is necessary and request that OSM report to Congress on its findings from the planning, development, and review of such rule or regulation.

ABANDONED MINE RECLAMATION FUND

Appropriates $207,385,000 for the Abandoned Mine Reclamation Fund instead of $233,585,000 as proposed by the House and $191,295,000 as proposed by the Senate. The change from the amount proposed by the Senate consists of increases of $10,000,000 for State Reclamation Program Grants; $6,000,000 for the Rural Abandoned Mine Program; $94,000 to restore the 5 percent pay reduction for General Administration; and a decrease of $4,000 for the undistributed reduction in the budget request.

The managers agree that within available funds in Federal Reclamation Projects $330,000 is to be used to maintain 40 FTE's in Wilkes-Barre, PA. The Office of Surface Mining is to focus attention on processes which have demonstrated possible long-term or permanent control of bacterial action and acid formation on lands to be reclaimed under the AML program. In this regard, OSM is to report to the Committees on its findings as they relate to the administration of these bacterial control processes.

The managers have deleted bill language which would have stipulated that no State would receive a reclamation grant if its prior year unobligated balances of the amount granted was not less than the amount of the grant obligated in the immediately preceding year. Due to the reduced amount for State Reclamation Grants, the managers agree that OSM should use State obligation rates as one of the criteria for determining the fiscal year 1986 grants to the States. OSM is to keep updated obligation records of the States and report to the Committees on a quarterly basis on the progress made by States in obligating prior year unobligated balances. In order to accurately reflect State obligation rates, this report should contain information on date of request for such funds by the State and date of issuance of such funds by OSM. The managers agree that if the States can demonstrate a capability to use additional funds, the Committees will consider providing these funds in the next relevant appropriations bill.

Bill language is included which restricts the use of funds for a reclamation grant to any State if it does not agree to participate in a nationwide data system established by the Office of Surface Mining Reclamation and Enforcement. This language is in no way contrary to the decision in *Save Our Cumberland Mountain Inc., et al.* v. *Hodel, et al.*, Civil Action No. 81-2134 (D.D.C.) (Parker, J.), or otherwise affects the substance and scope of action required under Section 510(c) of the Act of August 3, 1977. The bill also provides that the Secretary of the Interior may deny fifty percent of an Abandoned Mine Reclamation Fund grant to a State when it is inadequately enforcing the Surface Mining Act or its approved State regulatory program. States are provided the opportunity of entering into an agreement with the Office of Surface Mining to correct these deficiencies with the understanding that entering into such agreement is not an admission of culpability and the Secretary will not take action pursuant to section 521(b).

The bill does not include language which would require the Secretary's discretionary fund to be apportioned based on the Abandoned Mine Lands Inventory. The managers direct the Office of Surface Mining to submit an analysis of the merits of all allocation formulas which have been generally discussed to date or which it wishes to propose prior to hearings on the fiscal year 1987 OSM budget. During this review, OSM should consider a formula which would give priority to States that have good obligation rates.

Bureau of Indian Affairs

OPERATION OF INDIAN PROGRAMS

Appropriates $897,312,000 for operation of Indian programs instead of $857,303,000 as proposed by the House and $877,780,000 as proposed by the Senate. The changes from the amount proposed by the Senate include: increases of $400,000 for weighted student unit enhancement, $540,000 for school program expansions, $450,000 for institutionalized handicapped ($300,000 in education and $150,000 in social services), $500,000 for student transportation, $3,183,000 for Johnson-O'Malley educational assistance, $100,000 for special higher education, $100,000 for upgrading equipment at Southwestern Indian Polytechnic Institute, $122,000 for tribal courts, $500,000 for general assistance payments, $500,000 for training and technical assistance, $500,000 for Navajo and Hopi relocation, $236,000 for reforestation, $449,000 for forest inventories and plans, $400,000 for timber sales administration, $1,600,000 for high priority water resource studies (including $364,000 for the Flathead Tribe), an additional $390,000 for U.S.-Canada Pacific Salmon Treaty (for a total of $1,400,000), $347,000 for tribal hatchery operations, including $17,000 for the Mescalero hatchery, $48,000 for the Quinault NFH, $145,000 for the Klamath conservation program, $1,000,000 for Phase II mineral assessments, $100,000 for the Hopi Tribe's renegotiation of a coal lease, $1,340,000 for litigation support, $500,000 for Area Office facilities management staffing (to maintain the twenty positions proposed to be cut), $2,000,000 related to quarters rentals, and $247,000 for facilities operation and maintenance; and decreases of $746,000 for school board expenses, $100,000 for declining enrollment adjustment, $100,000 for education base adjustment, $500,000 for other social services, $400,000 for Choctaw land acquisition (transferred to the land acquisition account), $200,000 to the one-time grant to the Crownpoint Institute of Technology, $17,000 for the Mescalero hatchery, and $102,000 to management and administration.

With regard to the Klamath conservation program, the Bureau is directed to submit to the House and Senate Appropriations Committees within 30 days a report detailing what the required program is for the existing treaty rights program, not including the 700,000 acres of ceded land in dispute.

The managers agree the within available trust responsibility funds, $315,000 is to be used to conduct a survey of hazardous waste sites.

Bill and report language are included under the Office of Construction Management regarding the BIA facilities program.

Bill language is included providing that Johnson-O'Malley funds shall be used for supplementary educational services only. The managers expect the regulations to be revised accordingly, and the Bureau to report on any savings incurred as a result, after the initial year of operation under such revised regulations.

The managers expect the National Ironworker Training Program to be funded at $440,000, and the program to continue to be operated as it has in the past. The Alchesay/Williams Creek complex should be maintained at the 1985 level. The facilities management area office staffing is to be removed from the priority system.

The Bureau is directed to provide the amount required for tribal contractor employee pay raises from available funds.

The Bureau is requested to review the proposed distribution of school board expenses. The managers direct that other education funds shall not be used to pay school board legal fees. The Bureau should ensure that all school boards are aware of and abide by 18 U.S.C. 1913.

All contract support costs associated with pass-through funds from the Department of Education should be supported from Department of Education resources.

Once the Pinon, AZ public school expansion is completed, and assuming it then has adequate space for all local students, the managers agree that the Bureau shall operate the Pinon Boarding School only as a peripheral dormitory.

The managers agree that $500,000 of central office law enforcement funds shall be redistributed as directed in the Senate report. Within employment development, $1,238,200 is provided to continue the United States Educational Technical Center, and $100,000 for the United Sioux Tribes' employment assistance contract.

Within general administration funds, $270,000 is provided for the Congressional and Legislative Affairs office.

The managers disagree with the Bureau's directive grandfathering all contract support funds on an individual contract basis, and expect the Bureau and Inspector General's office to review these costs, determine new rates, recover overpayments from prior years, and carry out any other requirements with respect to contract support.

Bill language is included providing a cap on ADP expenditures. The managers repeat their direction, which evidently was not understood by the Bureau, that no other funds or "assessments" are to be made for ADPL expenditures.

Bill language is included mandating closure of the Snowflake dormitory in Arizona.

Bill language proposed by the Senate regarding a limitation on general assistance funds has not been included. However, the managers agree that this is not an entitlement program and the Bureau is directed to take every reasonable step to ensure that general assistance payments do not exceed the budgeted amount.

Bill language is included, as proposed by the Senate, providing $6,000,000 for obligation before January 18, 1986, for the emergency provision of hay in Montana, North Dakota, and South Dakota.

No further contract for law enforcement shall be made by the Bureau with the Navajo Tribe unless the tribe agrees to provide required law enforcement services on the new lands taken into trust for the Navajo Tribe under the Navajo and Hopi Indian Relocation Act.

CONSTRUCTION

Appropriates $101,054,000 for construction instead of $45,195,000 as proposed by the House and $141,254,000 as proposed by the Senate. The net decrease below the Senate consists of increases of $400,000 for advance planning and design for the St. Francis School and $2,400,000 for land acquisition, and a decrease of $43,000,000 for housing associated with the Navajo and Hopi Indian Relocation program.

The managers have included bill language and report language under the Office of Construction Management with respect to reorganization of the Bureau's construction program.

For all new school construction projects, the managers direct that the Bureau provide cost estimates based on modular as well as conventional construction. The Bureau should expedite redesign of the Two Eagle River and Rocky Boys high schools, assuming at least partial use of modular facilities. The managers agree that a modular multipurpose room is provided for the Bullhead school from available facility improvement and repair funds. The Bureau shall submit a report to the Committees on Appropriations on the Oglala community school. Such report shall include a full discussion of the current facility, repairs made to date, the feasibility of further repairs to standard, and the disposition of the current facility should new construction be proposed rather than renovation.

Due to the late release of funds appropriated in fiscal year 1985 for continued construction of the Navajo Indian Irrigation project, the managers have not provided additional funds for this year. The managers remain committed to completion of this project and urge the Department to request funds in fiscal year 1987 so that the project may proceed without interruption. The managers agree with the statements in the Senate report with respect to the Milk River irrigation project and the Miner Flat Dam and Canyon Day irrigation project.

The allocation for housing includes the reduction in contract support proposed by the Senate. The managers agree that overhead costs directly associated with housing construction or repair are allowable charges to the contract, but that other items allowed in general contract support are not permissible.

Language is included which provides $22,000,000 for use by the Secretary of the Interior to construct homes and related facilities for the Navajo and Hopi Indian Relocation Commission in lieu of construction by the Commission. This language ensures that a priority for the use of these funds is given to Navajo families who are actual, physical residents of the Hopi Partitioned Land. In addition, with respect to lands acquired pursuant to section 11(a) of the Act of December 22, 1974, the Secretary shall not be required to enter into contracts under section 102 of the Indian Self-Determination Act and the Secretary's authority under section 106 of said Act also shall apply. The language provides that the Secretary is not constrained in carrying out construction, lease approvals, or executions by the Commission's regulations. The managers expect that the Secretary will use the plans developed by the Commission for the new lands and work with the Commission to ensure swift execution of the development of the new lands. The bill language also states that any action under this proviso is not a major action with respect to the National Environmental Policy Act of 1969, as amended, in order to facilitate an orderly development of the new lands. Authority is provided for the Secretary to issue leases and rights-of-way for housing and related facilities to be constructed on the new lands only. Language has also been included in this Act requiring a report by February 15, 1986 from the Navajo and Hopi Indian Relocation Commission, with the review and comment of the Secretary of the Interior, on how the BIA construction monies will be spent in respect to lands acquired pursuant to section 11(a) of the Act of December 22, 1974. The requirement for this report will not delay relocation to the new lands because it is a document that the Commission has been developing for some time and the managers understand that it can be submitted within the time requirement.

The BIA shall ensure that the Blackfeet Housing Improvement Program, within its regular allocation, builds at least three houses this year and two next year for the victims of the 1974 flood.

With respect to the Covelo Indian Community land acquisition, bill language has been included requiring that the tribe obtain sufficient funds from non-Federal sources to meet the remainder of the cost before the Federal funds are committed. An amount of $400,000 is included for land acquisition for the Mississippi Band of Choctaw Indians.

ROAD CONSTRUCTION

Appropriates no funds as proposed by the Senate instead of $785,000 proposed by the House.

The managers have included bill language earmarking $3,200,000 of the funds available to the Navajo area under the Federal Lands Highway Program for use on the new lands.

The managers do not agree to reprogramming funds provided for construction of a road from AZ Route 264 toward Hard Rocks via Rocky Ridge. Neither do the managers agree to any use of the funds for other than the specified route.

ALASKA NATIVE ESCROW ACCOUNT

Appropriates $7,877,000 for the Alaska Native Escrow Account as proposed by the Senate instead of no funds as proposed by the House.

The managers expect that in accordance with the policy of making the Native corporations whole as proposed by the 1980 amendment to the Alaska Native Claims Settlement Act, the Department of the Interior will calculate interest on the principal owed under the amendment as if the principal had been invested in short-term public debt obligations of the United States in accordance with the established practices of the Bureau of Indian Affairs pursuant to the Act of June 24, 1938. The BIA approach includes the periodic addition of accrued interest to principal. The Secretary is directed to report on the progress toward resolving the interest issue by May 31, 1986.

REVOLVING FUND FOR LOANS

Permits the award of $1,470,000 for a loan to the Zuni Pueblo instead of no funds as proposed by the House and an unspecified amount as proposed by the Senate.

The managers agree that the Zuni Pueblo must be able to demonstrate to the satisfaction of the Secretary the ability to repay the loan prior to any loan approval.

Territorial and International Affairs

ADMINISTRATION OF TERRITORIES

Appropriates $80,376,000 for administration of territories instead of $74,752,000 as proposed by the House and $80,366,000 as proposed by the Senate. The changes from the amount proposed by the Senate include an increase of $500,000 for hospital equipment for the Northern Marianas hospital, and a decrease of $490,000 for a grant to the Eastern Caribbean Center, College of the Virgin Islands.

Bill language is included directing the Secretary to release immediately the remaining fiscal year 1985 grant funds for the Eastern Caribbean Center, College of the Virgin Islands.

The managers agree that within technical assistance funds, up to $500,000 may be used for maintenance of the existing power plant in Palau. The $1,500,000 provided for the American Samoa administration building will be the final contribution from the Federal government for this purpose.

With regard to the loan to the Virgin Islands government for construction of the extension of the Alexander Hamilton airport runway on St. Croix, the managers expect the terms of the loan to be negotiated by the Department of the Interior and the government of the Virgin Islands. The managers do not expect to fund the entire cost of this project, and expect the government of the Virgin Islands to continue to seek other funding, including FAA funds.

TRUST TERRITORY OF THE PACIFIC ISLANDS

Appropriates $80,372,000 instead of $107,972,000 as proposed by the House and $78,172,000 as proposed by the Senate.

The net increase from the amount proposed by the Senate includes: increases of an additional $300,000 for the College of Micronesia; $250,000 for Trust Territory general administration; $142,000 for prior service benefits; $408,000 for the Federated States of Micronesia operations; $3,000,000 for Phase I of the Palau hospital; $1,500,000 for the Bikini Atoll Rehabilitation Committee; $250,000 for design and planning of the base camp for the clean up of Bikini Atoll; and decreases of $250,000 for contract management, operation and training of the Palau hospital, $400,000 for the operation, maintenance, and purchase of a temporary generator for Palau, $2,500,000 for a prior service benefit trust fund, and $500,000 from the funds provided for the FSM power upgrade project. The managers agree that $250,000 for contract management, operation and training for the Palau hospital are included within available funds. The funds for maintenance of the existing powerplant in Palau shall be provided from technical assistance funds.

The total cost for the Palau hospital will be $10,000,000 with the remaining $5,000,000 for Phase II to be provided in subsequent appropriations Acts.

The managers remain committed to providing funds for capitol relocation for the Federated States of Micronesia, the Marshall Islands and Palau. The Federated States of Micronesia is ready to proceed with construction of its capitol and the managers expect budget requests for the capitols to be submitted pursuant to implementation of the Compact of Free Association.

The sum of $1,500,000 is provided for the Bikini Atoll Rehabilitation Committee. The managers expect the Committee to complete its work and make a final recommendation so cleanup plans can proceed. $250,000 is provided for the Secretary to contract for initial planning for a base camp on Eneu Island for the eventual cleanup of Bikini. No funds have been provided for the Enjebi Trust Fund or the Prior Service Benefit Trust Fund. The managers remain committed to the eventual resettlement of Enjebi Islands, and to providing for future costs of the prior service benefits program, and will address these items again when the Compact is implemented.

DEPARTMENTAL OFFICES

OFFICE OF THE SECRETARY

Appropriates $43,411,000 instead of $40,856,000 as proposed by the House and $44,673,000 as proposed by the Senate.

The managers have agreed to the following distribution of funds:

Secretary's office	$1,435,000
Executive Secretary	211,000
Congressional and Legislative Affairs	1,100,000
Equal opportunity	1,300,000
Public Affairs	700,000
Small and Disadvantaged Business Utilization	400,000
A/S Water and Science	750,000
A/S Lands and Minerals	790,000
A/S Fish and Wildlife and Parks	771,000
A/S Indian Affairs	743,000
A/S Territorial and International Affairs	551,000
A/S Policy, Budget and Administration	795,000
Environmental Project Review	1,500,000
Acquisition and property management	1,350,000
Office of Personnel	1,620,000
Administrative Services	3,250,000
Information resources management	4,700,000
Policy analysis	2,300,000
Office of Budget	1,525,000
Financial management	1,020,000
Hearings and Appeals	5,800,000
Aircraft Services	1,900,000
Central Services	8,900,000
Total	43,411,000

Bill language is included to permit up to $300,000 to be used to pay or repay the costs of development of alternative winter stock water supplies by water users who have been deprived of winter stock water from the main channel of Willow Creek, Idaho.

The managers are concerned about the billing practices of the Office of the Secretary for central administrative services provided to small independent agencies. The managers agree these charges must reflect actual cost of the services provided, and not be arbitrarily established.

OFFICE OF THE SOLICITOR

Appropriates $20,378,000 for the Office of Solicitor as proposed by the Senate instead of $20,266,000 as proposed by the House.

OFFICE OF THE INSPECTOR GENERAL

Appropriates $16,214,000 instead of $15,117,000 as proposed by the House and $16,908,000 as proposed by the Senate.

CONSTRUCTION MANAGEMENT

Appropriates $780,000 for the Office of Construction Management instead of $87,890,000 as proposed by the House and $660,000 as proposed by the Senate.

Bill language has been included directing the Secretary of the Interior to submit a new memorandum of agreement (MOA) between the Bureau of Indian Affairs (BIA) and the Office of Construction Management (OCM) to the House and Senate Appropriations Subcommittees on Interior for their approval. The MOA should state that OCM shall have complete control over the BIA facilities management and construction programs, as specified in the 1978 memorandum of agreement between OCM and BIA. This control shall include approval over the apportionment and allocation of funds and FTE's for the BIA facilities programs, including the Albuquerque and Area office staffs as well as facilities operations and maintenance and facilities improvement and repair programs. The MOA shall also state that OCM shall have the primary responsibility for planning and directing the necessary reorganization of the BIA facilities programs to permit implementation of management improvements developed to date. Along with the MOA, the Secretary shall submit for the Subcommittees' approval a detailed plan for completing the facilities program reorganization, and for turning control of the program back to BIA, with specific dates for accomplishment of all goals. The Secretary shall also submit quarterly written status reports on implementation of the plan and the MOA to the Subcommittees, within ten calendar days of the end of each quarter. The MOA and plan shall be submitted to the Subcommittees no later than 60 days after enactment of this Act.

If the Secretary, BIA or OCM fail to meet any of these requirements, the Committees will take action at the earliest possible opportunity to eliminate funding for the appropriate Secretarial staff, BIA facilities staff and OCM staff, establish a new office to carry out the Committees' directives, and transfer all BIA facilities funding to that office until the Committees' directives are accomplished.

OFFICE OF THE SECRETARY

(SPECIAL FOREIGN CURRENCY PROGRAM)

Provides $1,000,000 for payment in foreign currencies for the U.S. Fish and Wildlife Service and the National Park Service as proposed by the Senate.

DEPARTMENT-WIDE PROVISIONS

Language proposed by the House prohibiting exchanges of National Park System or United States Fish and Wildlife Refuge System lands has been stricken.

The managers agree that the required consultation process regarding land exchanges in units of the National Wildlife Refuge and Park systems agreed to last year should be done in a satisfactory manner. It is the intent of the consultation requirement that the appropriate Committees have a meaningful opportunity to review and oversee land exchange proposals involving these two systems. Notification of the Committees at an early stage of a land exchange proposal is required to achieve this intent.

The managers have agreed to maintain the House proposed language relating to Mount McKinley. Section 112 is included to prevent final regulations concerning paleontological research on Federal lands until the Secretary has received a National Academy of Sciences report on regulations concerning paleontological research.

TITLE II—RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

FOREST RESEARCH

Appropriates $126,283,000 for forest research instead of $124,989,000 as proposed by the House and $125,420,000 as proposed by the Senate. The changes from the amount proposed by the House are: an increase of $2,840,000 for competitive grants; and decreases of $488,000 to renewable resource economics, $1,000,000 to acid rain research, and $58,000 to recreation research.

The managers agree the following specific amounts are included within the available funds: within trees and timber management, an additional $150,000 for the FIR project, $250,000 for the Institute of Tropical Forestry, Puerto Rico, $98,000 for Sewanee, TN, and $75,000 for Moscow, ID; within watershed management and rehabilitation, $250,000 for the Institute of Tropical Forestry, P.R.; within recreation research, a $100,000 increase for urban forestry; and within forest products and harvesting, $250,000 for tropical harvest and utilization research, Madison, WI. The managers also agree that within the amount provided for forest inventory and analysis, there is an increase of $209,000 for Anchorage, AK, and in the wildlife, range, and fish habitat research program, the range evaluation project is restored to $590,000; there is $75,000 for the Skagit River Bald Eagle Natural Area; and the anadromous fish research program at Juneau, AK will remain intact.

The Forest Service is directed to develop a program plan to shift funding from the FIR program when it is completed to the COPE program.

In the acid rain research program, the managers expect the Forest Service to ensure that high altitude, western and midwestern areas receive adequate attention.

The authority to administer the $6,840,000 Competitive Research Grants program included in this Appropriations Act for fiscal year 1986 shall be carried out by the Office of Competitive Grants which currently is part of the Office of Grants and Program Systems. The $6,840,000 for conducting this program will be available until expended. Forest Service employees are to be eligible to compete for these funds. There are over 60 forestry schools and all of the land grant universities in the United States that can also compete for these grants.

The Committee recommends that these grants be targeted to mission oriented basic research in the following areas: (1) improved harvesting, processing, and utilization of the timber resource, with special emphasis on the chemical, mechanical, and engineering properties of wood and wood materials; and (2) forestry biology including biotechnology. Funds are to be divided equally between these two areas.

STATE AND PRIVATE FORESTRY

Appropriates $57,986,000 instead of $56,193,000 as proposed by the House and $55,786,000 as proposed by the Senate. The increases over the amount proposed by the Senate are $2,000,000 for urban forestry, and $200,000 for the Gifford Pinchot Institute.

Within the total of $495,000 provided for the Gifford Pinchot Institute, the Forest Service is expected to accomplish $30,000 in required scheduled maintenance.

NATIONAL FOREST SYSTEM

Appropriates $1,054,629,000 for the National forest system instead of $1,035,433,000 as proposed by the House and $1,070,146,000 as proposed by the Senate. The changes from the amount proposed by the House are as follows: increases of $237,000 for minerals, $574,000 for real estate management, $3,165,000 for land line location, $4,948,000 for fire protection, $7,000,000 for cooperative law enforcement, $2,619,000 for road maintenance, $500,000 for trail maintenance, $21,053,000 for timber sales (including $250,000 for Helistat, $6,640,000 for pay, $21,000 for the Alaska Land Use Council, $9,275,000 for the Oregon and California lands, and $4,867,000 for timber sales preparation), $7,375,000 for reforestation, $5,803,000 for timber stand improvement, $348,000 for nurseries, $1,142,000 for recreation use, $1,807,000 for wildlife and fish habitat improvement, $1,648,000 for range management, and $6,000,000 for forest level information processing; and decreases of $1,041,000 to soil, water and air management, $4,018,000 to general administration, $10,000,000 pay adjustment, and $30,000,000 for reforestation trust fund offset.

Within available funds in the soil, water and air management program, $240,000 is included for a National Academy of Sciences study of Mono Lake in California, pursuant to the California Wilderness Act of 1984.

Within National Forest System funds, $330,000 is available to support the Presidential Commission on Americans Outdoors.

The Forest Service is directed to work with groups such as Ducks Unlimited, Rocky Mountain Bighorn Society, Martin Marietta Corp., Bass Anglers Sportsman Society, Trout Unlimited, the Sport Fishing Institute, State fish and wildlife agencies, other Federal agencies such as Bonneville Power Administration and others, to match the $950,000 increase to the habitat improvement program. The funds should be devoted primarily to projects improving habitat on the ground. The Forest Service should report to the Committees no later than June 1, 1986, on the resulting program.

Bill language proposed by the Senate is included, extending indefinitely the authority of the Secretary of Agriculture to spend money from the reforestation trust fund, and merging the fund with the National Forest System account.

The allowance provides funding for a timber sales program of 11.4 bbf, essentially a continuation of the actual sales offerings from fiscal year 1985. For example, region 6 sales will be at a level of 4.9 bbf of net merchantable sawtimber, of which 2.45 bbf will be derived from timber volume returned pursuant to the Federal Timber Contract Payment Modification Act (FTCPMA), and regions 1 and 4 will continue at the approximate 1985 levels. The managers have been able to reduce program costs by providing for a higher level of reoffered volume (3.2 bbf nationwide) than was assumed in the budget and by providing for additional salvage volume. The remainder of the volume is to be distributed nationwide in a balanced manner by the Forest Service.

The managers direct the Forest Service to provide the Committees with detailed information for contracts returned under the FTCPMA, at least at the Forest level. The information should enable the Committees to assess the rate at which additional reoffer volume should continue and the related cost.

The managers agree that the Forest Service has until May 31, 1986, to complete its review of the minimum bid rate system and submit that to the Committees for review.

CONSTRUCTION

Appropriates $223,865,000 for construction instead of $183,785,000 as proposed by the House and $219,608,000 as proposed by the Senate. Changes from the amount proposed by the Senate include: increases of $2,740,000 for recreation facilities and $1,379,000 for recreation roads in the Clear Creek Recreation Area, AL, $561,000 for recreation facilities and $330,000 for recreation trails in the Mount St. Helens National Volcanic Monument, $600,000 for recreation facilities in the Mount Hood NF, OR, $3,427,000 for other high priority recreation facilities, and $3,270,000 for trail construction; and decreases of $350,000 for the Cradle of Forestry, NC, $100,000 for the Tonto NF, AZ sheep crossing bridge, and $7,600,000 related to the proposed timber sales program.

The amount provided for trail construction is for the highest priority projects and is not limited to foot trails only.

The three projects included in the budget in the Tongass NF, AK are included in the recommended amount.

Bill language is included providing that $9,915,000 for road construction in the Mount St. Helens National Volcanic Monument shall be derived from the Federal Highway Trust Fund.

The managers have provided Forest Service road construction and reconstruction funding to support the timber program level of 11.4, bbf sales offerings. The managers have been able to reduce the road budget by substituting additional reoffer volume for new sales volume and by directing the Forest Service to achieve a 5 percent reduction in the average cost per road mile as compared to fiscal year 1985. These anticipated savings are included in the managers' allowance.

LAND ACQUISITION

Appropriates $28,300,000 instead of $29,500,000 as proposed by the House and $18,025,000 as proposed by the Senate. The following table shows the allocation agreed to by the managers:

Acquisition management	$3,500,000
Forest Service acquisitions:	
Appalachian Trail	700,000
Columbia Gorge (Gifford Pinchot and Mount Hood NF)	1,200,000
Green Mountain NF, VT	6,700,000
Huron NF, MI-Au Sable River (Wakeley tract)	800,000
Lake Tahoe	3,000,000
Nantahala NF, NC	1,000,000
Sawtooth NRA, ID	2,000,000
Wayne NF	2,000,000
Wilderness inholdings	2,500,000
Endangered species habitat	1,000,000
Edwards Investments	3,900,000
Total	28,300,000

No funds are provided for "Weeks Act" acquisition in the Wayne NF. Within the amount available for wilderness inholdings, $350,000 is for the Strawberry Mountain Wilderness Area.

Bill language is included providing $3,900,000 in payment to Edwards Investments for its interest in a former railroad right-of-way, including all improvements thereon.

YOUTH CONSERVATION CORPS

Appropriates no funds for Youth Conservation Corps, as proposed by the Senate, instead of $10,000,000 as proposed by the House.

The managers have agreed to a $10,000,000 YCC program, to be provided from available funds in the Fish and Wildlife Service ($3,300,000), National Park Service ($3,300,000), and the Forest Service ($3,400,000).

ACQUISITION OF LANDS FOR NATIONAL FORESTS, SPECIAL ACTS

Appropriates $782,000 for acquisition of lands, as proposed by the Senate, instead of $780,000 as proposed by the House.

ADMINISTRATIVE PROVISIONS, FOREST SERVICE

A provision limiting increases in recreational residence fees has been included, as proposed by the Senate. However, the managers understand the Forest Service and the permit holders are close to agreeing on a new fee system. The managers expect both sides to cooperate fully in reaching an early agreement, and based on this expectation, the managers agree that this language will not be carried in next year's Act. However, if an agreement is not reached by that time, the managers will address this issue in order to resolve it as quickly as possible.

Language is included, as proposed by the Senate, requiring the Chief of the Forest Service to sign personally certain documents relating to land transactions.

Language is included, as proposed by the Senate, providing authority for $24,000,000 to be provided for the timber sales program from the timber salvage sale fund.

Language is included, providing authority for the Forest Service to use $3,400,000 in funds available to it to carry out a Youth Conservation Corps program as if authorized by law.

Language is included giving the Secretary of Agriculture authority to transfer $1,500,000 from no-year funds available to him in this Act for emergency flood repairs in the Monongahela NF and the Parsons, WV, Forest Research Laboratory. The managers expect a supplemental request to be forthcoming to replenish the amount extended pursuant to this authority.

DEPARTMENT OF THE TREASURY

ENERGY SECURITY RESERVE

(INCLUDING RESCISSION)

The managers agree to rescind all funds appropriated to the Energy Security Reserve except $400,000,000 for a clean coal technology program to be administered by the Secretary of Energy in the Department of Energy, and $10,000,000 for expenses incidental to the closing of the Synthetic Fuels Corporation (SFC). Of the $400,000,000, $100,000,000 will be immediately available, $150,000,000 will be available beginning on October 1, 1986, and $150,000,000 will be available beginning on October 1, 1987. The remaining funds in the "Clean Coal Technology Reserve" are reduced to $350,000,000.

With regard to the Synthetic Fuels Corporation, the managers agree to bill language that:

(1) rescinds all unobligated funds except those noted above for clean coal technology and SFC close-out costs, as of the date of enactment of this Act,

(2) the Board of Directors may not make any legally binding awards or commitments for financial assistance as of the date of enactment of this Act,

(3) the Directors must terminate their duties and be discharged within 60 days of enactment,

(4) the Corporation terminates within 60 days of enactment,

(5) within 60 days, the Secretary of the Treasury assumes the duties of Chairman,

(6) the Director of Office of Personnel Management shall determine compensation rights of each Director, officer, and employee by February 1, 1986,

(7) effective on enactment, no pay levels shall be above level IV of the Executive Schedule and no existing pension or termination benefits or personnel policies may be changed, and

(8) a final report is due to Congress within 60 days.

Language is also included as proposed by the Senate providing for a loan of up to $3,000,000 to an existing ethanol plant for odor abatement equipment. The facility has a current government loan guarantee under title II of the Energy Security Act, and funds would be provided from a loan guarantee reserve already available to the Secretary of Energy. The loan is for the purpose of protecting the government from a possible default payment of approximately $127 million if the plant cannot operate.

DEPARTMENT OF ENERGY

CLEAN COAL TECHNOLOGY

The managers have agreed to a $400,000,000 Clean Coal Technology program as described under the Department of the Treasury, Energy Security Reserve. Bill language is included which provides for the selection of projects no later than August 1, 1986. Within that period, a general request for proposals must be issued within 60 days and proposals must be submitted to the Department within 60 days after issuance of the general request for proposals. Language is also included allowing the Secretary of Energy to vest title in interests acquired under agreements in any entity, including the United States, and delineating cost-sharing requirements. Funds for these activities and projects are made available to the Clean Coal Technology program in the Energy Security program.

It is the intent of the managers that contributions in the form of facilities and equipment be considered only to the extent that they would be amortized, depreciated or expensed in normal business practice. Normal business practice shall be determined by the Secretary and is not necessarily the practice of any single proposer. Property which has been fully depreciated would not receive any cost-sharing value except to the extent that it has been in continuous use by the proposer during the calendar year immediately preceding the enactment of this Act. For this property, a fair use value for the life of the project may be assigned. Property offered as a cost-share by the proposer that is currently being depreciated would be limited in its cost-share value to the depreciation claimed during the life of the demonstration project. Furthermore, in determining normal business practice, the Secretary should not accept valuation for property sold, transferred, exchanged, or otherwise manipulated to acquire a new basis for depreciation purposes or to establish a rental value in circumstances which would amount to a transaction for the mere purpose of participating in this program.

The managers agree that, with respect to cost-sharing, tax implications of proposals and tax advantages available to individual proposers should not be considered in determining the percentage of Federal cost-sharing. This is consistent with current and historical practices in Department of Energy procurements.

It is the intent of the managers that there be full and open competition and that the solicitation be open to all markets utilizing the entire coal resource base. However, projects should be limited to the use of United States mined coal as the feedstock and demonstration sites should be located within the United States.

The managers agree that no more than $1,500,000 shall be available in FY 1986 and $2,000,000 each year thereafter for contracting, travel, and ancillary costs of the program, and that manpower costs are to be funded under the fossil energy research and development program.

The managers direct the Department, after projects are selected, to provide a comprehensive report to the Congress on proposals received.

The managers also expect the request for proposals to be for the full $400,000,000 program, and not only for the first $100,000,000 available in fiscal year 1986.

Fossil Energy Research and Development

(INCLUDING TRANSFER OF FUNDS)

Appropriates $312,848,000 for fossil energy research and development instead of $299,534,000 as proposed by the House and $292,228,000 as proposed by the Senate. In addition to the new appropriations, $8,230,000 is transferred from fossil energy construction as proposed by the Senate instead of $12,760,000 as proposed by the House, and $2,010,000 is transferred from alternative fuels production as proposed by Senate instead of $2,137,000 as proposed by the House. The increase in the new appropriation amount above the Senate amount consists of increases of $1,500,000 for Carbondale Coal Technology Laboratory; $620,000 for Ames Laboratory (for a total of $1,240,000 for Ames); $1,000,000 for advanced combustors in advanced combustion technology; $11,000,000 for the 7.5 megawatt phosphoric acid fuel cell technology; $1,000,000 for solid oxide fuel cells; $9,000,000 for testing of gas clean-up systems at the Waltz Mill, PA, gasifier; $1,000,000 for eastern oil shale; and $6,000,000 for deletion of management initiative savings; and decreases of $3,000,000 for on-site fuel cell technology; $1,500,000 for turbine technology in heat engines; $3,000,000 for the ash agglomerating gasifier PDU; $2,000,000 for eastern Devonian shales gas recovery; and $1,000,000 for general plant construction projects.

The managers agree not to earmark additional funds from within available funds for Ames laboratory, the consortium for fossil fuel liquefaction, or for liquefaction by pyrolysis, as originally proposed by the Senate.

The managers agree that an addition $4,000,000 is to be provided from available funds for the University of North Dakota Energy Research Center (UNDERC) for a total funding levels of $6,165,000 and that none of these additional funds should be from coal preparation technology.

Further, the managers agree that new cooperative agreements for UNDERC and Western Research Institute (WRI) should be negotiated to extend through the end of fiscal year 1992 as proposed by the Senate at the levels indicated in the Senate report (Senate Report 99-141). These levels are in addition to any funds provided by the Department in competitive processes.

The managers agree that $2,000,000, in addition to currently unobligated fiscal year 1985 funds, should be provided for the 11 megawatt fuel cell program to continue inverter and stack technology work through the development of stack configuration "B". This funding is a continuation of existing efforts to develop the system and the Department should promptly modify the existing contract with International Fuel Cells (IFC) to include FY 1985 funds already appropriated and FY 1986 funds provided in this Act.

The managers agree that of the $3,000,000 added above the budget for the oil shale program, $2,000,000 is to augment the eastern oil shale technology base and $1,000,000 is for oil shale extraction research to be administered by the Idaho Operations Office. The Department, through the Morgantown Energy Technology Center, is directed, within available funds, to study and report to the Committees on the feasibility of establishing and operating a generic oil shale test facility.

Language is included in the bill deriving $200,000 of transferred funds from a wood pellet gasifier facility as proposed by the Senate.

Language is also included in the bill providing that funds made available for demonstration of the Kilngas coal gasification process be repaid up to double the amount appropriated. The Department should move promptly to provide funds necessary to continue the Kilngas project.

Bill language is included providing for implementation of the multiyear plan for magnetohydrodynamics (MHD) which includes cost-sharing by private industry. The managers agree that if the Department's multiyear plan is significantly delayed because of failure to provide adequate and timely funding at a level approximately the same as that in this Act, modifications will be made in cost-sharing requirements. The managers also agree that the costs of fabricating equipment to be tested in government-owned facilities and not intended to be installed as a permanent part of the facility are to be included in amounts that require cost-sharing and that the costs of installing and testing such equipment shall be costs of the government-owned facility and not subject to cost-sharing.

ENERGY CONSERVATION

Appropriates $449,418,000 for energy conservation instead of $468,326,000 as proposed by the House and $436,587,000 as proposed by the Senate. The increase above the amount proposed by the Senate consists of increases of $200,000 for windows and daylighting in building systems; $2,000,000 for the Urban Consortium; $500,000 for heat pumps in tehnology and consumer products; $900,000 for mercury isotope separation; $7,500,000 for a cost-shared steel industry initiative; $250,000 for nickel-cadmium battery research; $500,000 for the electric vehicle users group; $500,000 for territories energy projects; $750,000 for tribology research at Argonne National Laboratory; $10,319,000 for the basic industries research facility at Northwestern University; $4,000,000 for deletion of management initiative savings; and $3,639,000 to restore funding for employment floors; and decreases of $350,000 for the Rural Housing Act study; $250,000 for outside contractor support in waste energy reduction in industrial conservation; $8,000,000 for the Stirling engine; $630,000 for technology transfer in vehicle propulsion R&D; $100,000 for electric vehicle battery research; $250,000 for technology transfer in transportation systems utilization; $3,182,000 for State energy policy and conservation grants; $1,159,000 for the Energy Extension Service; $250,000 for program direction travel in State and local programs; $500,000 for biocatalysis; and $3,556,000 for increased use of prior year unobligated balances.

The managers have not agreed to include $8,000,000 proposed by the Senate for fiscal year 1987 requirements for the Stirling engine. That amount and $4,000,000 to come from private contributions would complete the project and the managers defer such funds without prejudice, to be reconsidered in the fiscal year 1987 budget process.

The managers agree that the increase of $1,500,000 over the budget for electric vehicle batteries should be for research on lead-acid, zinc-bromine, nickel-zinc, and iron-air battery concepts.

The managers also agree with the position stated in the House report (House Report 99-205) with regard to recognition of the Government's support for nickel-cadmium battery development in contracts using the technology.

The managers agree that $2,500,000 becoming available from the electric vehicle loan program and other unobligated electric vehicle research funds is to be used to develop an advanced vehicle propulsion system, the ETX-II.

Language is included in the bill specifying the amount for the basic industrial research facilities as proposed by the House.

Language is also included, as proposed by the House, providing that a weatherization "performance fund" not be implemented unless funding levels are at least 5 percent above fiscal year 1985 levels.

Bill language is included providing $7,500,000 in Federal funding for a steel initiative to develop new technologies which will increase the energy efficency of steel production processes will be cost-shared by the U.S. steel industry in cooperative R&D efforts, starting with 30 percent cash and/or in-kind contributions for Federal government obligations made in fiscal year 1986. This initiative should be modeled after, but not exclusively follow, the April 1985 Field Task Proposal prepared by the Argonne National Laboratory.

EMERGENCY PREPAREDNESS

Appropriates $6,044,000 for emergency preparedness instead of $6,754,000 as proposed by the Senate and $3,989,000 as proposed by the House. The decrease from the Senate proposal is $710,000. The managers agree that analysis of risks to energy supplies and meeting defense energy requirements are higher priority activities than general energy awareness activity.

STRATEGIC PETROLEUM RESERVE

Appropriates $113,043,000 for the Strategic Petroleum Reserve as proposed by the Senate instead of $199,017,000 as proposed by the House. The appropriated amount, is the net budget authority required based on a reestimate by the Department of requirements for continuing construction of storage capacity as directed by the fiscal year 1985 Supplemental appropriations Act (P.L. 99-88). Total funds expected to be required are summarized in the following table:

Fiscal year 1986 requirements

Planning	$4,552,000
Phase III construction	156,691,000
Non-phase specific construction	210,737,000
Program direction	11,747,000
Total	383,727,000
Less: carry-over funds available	270,684,000
New budget authority for FY 1986	113,043,000

The managers agree that carry-over funds may be used to support stated FY 1986 requirements instead of those areas for which they were originally provided.

Bill language proposed by the House specifying minimum required fill rates for the Reserve has been deleted.

SPR PETROLEUM ACCOUNT

Provides for no rescission of SPR petroleum funds as proposed by the House instead of $160,000,000 as proposed by the Senate. The Department of Energy has adequate funds available to fill the reserve to 500 million barrels. Bill language is included to authorize the Secretary of Energy, in cooperation with the Secretary of Agriculture, to barter surplus Commodity Credit Corporation commodities for crude oil.

ENERGY INFORMATION ADMINISTRATION

Appropriates $60,682,000 for the Energy Information Administration as proposed by the Senate instead of $60,782,000 as proposed by the House. The managers agree that within available funds $100,000 is to be available for the State energy data system/energy price and expenditure data system and $200,000 is to be available for State heating oil price and inventory grants.

ADMINISTRATIVE PROVISIONS

Language is included which deletes the reporting requirements for the completed Alternative Fuels Production program, as proposed by the Senate.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES ADMINISTRATION

INDIAN HEALTH SERVICES

Appropriates $823,133,000 for Indian health services instead of $836,483,000 as proposed by the House and $802,684,000 as proposed by the Senate.

The decrease below the amount proposed by the House consists of: $3,000,000 for mandatory cost increases, $500,000 for emergency medical services, $2,000,000 for indirect costs, $1,000,000 for alcoholism, $4,800,000 for contract care, $412,000 for sanitation, $372,000 for public health nursing, $116,000 for health education, $200,000 for urban health programs, $450,000 for tribal management, and $500,000 for program management.

The managers agree that $1,900,000 is provided for the model diabetes program and $100,000 is provided for fetal alcohol syndrome research at the University of Washington.

The increase of $3,000,000 included for tribal contract indirect costs is for all tribal contracts, existing as well as new.

INDIAN HEALTH FACILITIES

Appropriates $46,947,000 for Indian health facilities instead of $61,483,000 as proposed by the House and $35,888,000 as proposed by the Senate.

The net decrease below the amount proposed by the House consists of an increase of $650,000 for repairs at Ft. Defiance, AZ and decreases of $1,000,000 for sitework for the Pine Ridge, SD hospital, $1,740,000 for planning and design of the Shiprock, NM hospital, and $12,446,000 for construction of the Sacaton, AZ hospital.

Bill language has been included directing that the Rosebud, SD hospital be designed and built with a capacity of 35 beds. The managers believe that there is a need for a surgical suite at either Rosebud or Pine Ridge to provide improved health care in that area. The Indian Health Service shall submit a report to the House and Senate Committees on Appropriations with recommendations as to the better location for a surgical unit within 90 days of enactment of this Act.

The managers must again express their dissatisfication with the slow progress made by HHS, PHS, HRSA and IHS in moving ahead with construction projects for which funds have been provided. Initial planning funds were provided for the Sacaton, AZ hospital in fiscal year 1982 and the design for this project has yet to be completed despite continued funding and support from the Congress. IHS is directed to expedite this project and to notify the Committees on Appropriations as soon as the design is complete and the project is read for bid.

The managers have not provided funds for sitework at Pine Ridge, SD, and design of the major modernization of the Shiprock, NM hospital only because of delays in schedules and the need to complete other projects already under construction before proceeding with additional projects. However, the managers are committed to proceeding with these projects at the earliest possible opportunity.

At the request of the subcommittees, the Office of Technology Assessment conducted a limited survey of the methodology employed by the Indian Health Service to determine if surgical capacity should be provided in new and replacement facilities. The survey identified several shortcomings in the current IHS application of the planning procedure. The Indian Health Service shall submit a report to the Interior appropriations subcommittees detailing the present system and any proposed changes to the system by March 31, 1986. Further, IHS is directed to employ the methodology uniformly with respect to all hospital construction projects.

The managers agree that within the amount provided for sanitation, $5,000,000 is available for construction of water and sewer facilities on the new lands acquired pursuant to the Navajo and Hopi Indian Relocation Act.

The managers agree that the IHS shall report to the Committees any unobligated balances remaining available at the completion of a construction project before using such balances for other projects.

ADMINISTRATIVE PROVISIONS

Earmarks $180,000 of prior year funds to settle a claim against the Seattle Indian Health Board as proposed by the Senate instead of $270,000 plus interest as proposed by the House.

The managers agree that the bill language limitation on the initial leasing of facilities does not apply to newly recognized tribes who contract with IHS and who require facilities in which to begin a health delivery program. Such lease costs shall be paid from funds otherwise available for such contract.

DEPARTMENT OF EDUCATION

OFFICE OF SECONDARY AND ELEMENTARY EDUCATION

INDIAN EDUCATION

Apppropriates $67,476,000 for Indian Education instead of $67,656,000 as proposed by the House and $67,356,000 as proposed by the Senate.

Within this amount $14,820,000 is for parts B and C instead of $15,000,000 as proposed by the House and $14,700,000 as proposed by the Senate. The change from the amount proposed by the Senate is for an increase of $120,000 for part B for educational personnel development to provide additional training for student teachers and educational personnel.

The managers agree that administrative actions to remedy problems in the part C program must be taken.

Language is included to allow funding for section 423 of the part B program to remain available until September 30, 1987 as proposed by the Senate.

OTHER RELATED AGENCIES

NAVAJO AND HOPI INDIAN RELOCATION COMMISSION

Appropriates $22,491,000 for salaries and expenses instead of $20,442,000 as proposed by the House and $22,241,000 as proposed by the Senate. The increase over the Senate recommendation is $250,000 for post-move counseling services.

Language is included which states that the Commission shall notify the Secretary of the Interior by January 1, 1986 of those eligible relocatees who as of November 30, 1985 were still physically domiciled on the Hopi Partitioned Land who had applied for relocation to the new lands as well as those who were physically domiciled on the lands partitioned to the Hopi Tribe who had not selected a site for relocation. The Commission shall designate these individuals for relocation to the lands selected in accordance with section 11(a) of the Act of December 22, 1974 after the Secretary has granted a homesite lease for the "new lands". Neither the Secretary of the Interior nor the Bureau of Indian Affairs shall grant homesite leases on behalf of relocatees onto the existing Navajo reservation. The bill also contains language prohibiting evictions of Navajo households which were physically domiciled on the lands partitioned to the Hopi Tribe as of November 30, 1985 until such time as a new or replacement dwelling is available for such household.

Approximately $48,000,000 will be available in fiscal year 1986 for the provision of housing and related facilities for relocatees. The reduction below the amount proposed by the Senate for the entire program does not reflect a desire to delay relocation, but is merely recognition of the fact that the full amount provided by the Senate could not be spent in a single year.

It is the managers' expectation that the Navajo and Hopi Tribal Chairmen will continue to meet and seek to negotiate a comprehensive settlement as suggested in the Clark/Morris report.

SMITHSONIAN INSTITUTION

SALARIES AND EXPENSES

Appropriates $178,063,000 for salaries and expenses instead of $182,599,000 as proposed by the House and $176,218,000 as proposed by the Senate.

The net increase over the Senate consists of increases of: $165,000 to the National Museum of American Art for the Bicentennial of the Constitution, $31,000 for asbestos removal at Silver Hill, $98,000 for storage and conservation for the National Portrait Gallery, $120,000 to the Archives of American Art for collections management and conservation, $360,000 for the inaugural exhibit of the Center for Asian Art, $250,000 for the Museum of African Art, $45,000 for the Conservation Analytic Laboratory, $350,000 for grants to the National Symphony Orchestra and the Washington Opera, and $676,000 for an inflation adjustment; and a decrease of $250,000 for Plant Services.

$777,000 is provided for the National Museum Act as proposed by the Senate rather than $793,000 as proposed by the House.

$175,000 each is earmarked for grants to the National Symphony Orchestra and the Washington Opera instead of $350,000 each as proposed by the House and no funds as proposed by the Senate.

Bill language is included, as proposed by the Senate, allowing the Secretary to support American overseas research centers.

CONSTRUCTION AND IMPROVEMENTS, NATIONAL ZOOLOGICAL PARK

Appropriates $5,551,000 as proposed by the Senate instead of $4,851,000 as proposed by the House.

RESTORATION AND RENOVATION OF BUILDINGS

Appropriates $11,075,000 as proposed by the House instead of $12,375,000 as proposed by the Senate.

Bill language is included, as proposed by the Senate, restoring language carried in prior years providing for funds to remain available until expended, and providing that the Secretary may negotiate and award contracts on the basis of qualifications as well as price.

NATIONAL GALLERY OF ART

SALARIES AND EXPENSES

Appropriates $33,754,000 for salaries and expenses, instead of $34,379,000 as proposed by the House and $33,934,000 as proposed by the Senate. The decrease from the amount proposed by the House includes $225,000 for conservation positions and related equipment, and $400,000 from operation and maintenance of buildings, for transfer to the repair, restoration and renovation account.

REPAIR, RESTORATION, AND RENOVATION OF BUILDINGS

Appropriates $3,300,000 instead of $2,900,000 as proposed by the House and $4,000,000 as proposed by the Senate.

Language is included, as proposed by the Senate, adding the words "grounds and facilities".

WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

SALARIES AND EXPENSES

Appropriates $3,392,000 for salaries and expenses instead of $2,902,000 as proposed by the Senate and $3,342,000 as proposed by the House. The increase over that amount proposed by the Senate is $490,000 for conference planning.

ENDOWMENT CHALLENGE FUND

Bill language is provided which establishes an endowment challenge fund for the Woodrow Wilson International Center for Scholars, to remain available until September 30, 1988. The managers agree to appropriate $1,000,000 for this endowment challenge with the stipulation that the Federal funds are to be matched on a 3:1 basis with new and increased sources of private support.

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

NATIONAL ENDOWMENT FOR THE ARTS

GRANTS AND ADMINISTRATION

Appropriates $137,260,000 as proposed by the House instead of $132,900,000 as proposed by the Senate. This includes $121,678,000 for program and state grants as proposed by the House instead of $116,900,000 as proposed by the Senate; and $15,582,000 for administrative programs as proposed by the House instead of $16,000,000 as proposed by the Senate.

The managers agree on the following allocation of funds:

Program grants:	
Artists-in-Schools	5,341,000
Educational program	98,000
Dance	8,900,000
Design Arts	4,312,000
Expansion Arts	6,713,000
Folk Arts	3,000,000
Inter Arts	4,000,000
Literature	5,145,000
Media Arts	12,065,000
Museums	11,370,000
Music	12,310,000
Opera/Musical Theatre	4,267,000
Locals Test	2,200,000
Theatre	10,880,000
Visual Arts	6,272,000
Advancement	200,000
Subtotal, program grants	97,073,000
State Programs	24,605,000
Subtotal, grants	121,678,000
Administration area:	
Policy Planning and Research	980,000
Administration	14,602,000
Subtotal, administrative area	15,582,000
Total, grants and administration	137,260,000

The managers agree that the increase over fiscal year 1985 for the media program includes $2,000,000 for the purpose of television programming in the arts and the sum of $1,000,000 for programming on National Public Radio.

MATCHING GRANTS

Appropriates $29,400,000 as proposed by the House instead of $30,000,000 as proposed by the Senate. This includes $8,820,000 for Treasury funds and $20,508,000 for challenge grants.

ARTS AND ARTIFACTS INDEMNITY FUND

Appropriates $300,000 for the Arts and Artifacts Indemnity Fund as proposed by the Senate.

NATIONAL ENDOWMENT FOR THE HUMANITIES

GRANTS AND ADMINISTRATION

Appropriates $110,818,000 instead of $111,549,000 as proposed by the House and $108,978,000 as proposed by the Senate. This includes $96,618,000 for program and state grants instead of $98,429,000 as proposed by the House and $94,650,000 as proposed by the Senate; and $14,200,000 for administrative programs instead of $13,120,000 as proposed by the House and $14,328,000 as proposed by the Senate.

The managers agree on the following allocation of funds:

Program grants:	
Media Grants	$8,918,000
Museums and Historical Organizations	8,820,000
Humanities programs for youth	750,000
Humanities programs for adults	1,900,000
Humanities projects in libraries	2,940,000
Education programs	16,500,000
Fellowships and seminars	15,077,000
Research grants	16,500,000
Subtotal, program grants	71,405,000
State programs	21,213,000
Office of Preservation	4,000,000
Subtotal, grants	96,618,000
Administrative area: Administration	14,200,000
Total, grants and administration	110,818,000

MATCHING GRANTS

Appropriates $28,660,000 instead of $27,929,000 as proposed by the House and $30,500,000 as proposed by the Senate. This includes $11,660,000 for Treasury funds and $17,000,000 for challenge grants.

NATIONAL CAPITAL ARTS AND CULTURAL AFFAIRS

Appropriates $2,000,000 for grants.

The managers have included bill language authorizing a grant program for artistic and cultural organizations of national repute which are located in the District of Columbia. For fiscal year 1986, the managers agree that the amounts provided to eligible organizations through the National Park Service and the Smithsonian Institution shall be counted against the $500,000 annual limit on grants contained in this section.

INSTITUTE OF MUSEUM SERVICES

Appropriates $21,523,000 for the Institute of Museum Services instead of $21,560,000 as proposed by the House and $15,870,000 as proposed by the Senate. The reduction below the amount proposed by the House consists of a decrease of $33,000 in administration and a decrease of $4,000 for the Museum Services board.

The managers agree that the Institute should clarify application packets with respect to the financial information which should accompany grant applications.

COMMISSION OF FINE ARTS

Appropriates $382,000 for salaries and expenses as proposed by the Senate instead of $377,000 as proposed by the House.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

The managers agree that the Council's administration of section 106 with principal reliance on consultation to accommodate historic preservation objectives with Federal project needs is sound and consistent with the intent of Congress underlying section 106. The managers further endorse the active role conferred upon the State Historic Preservation Officer in the consultation process.

NATIONAL CAPITAL PLANNING COMMISSION

Appropriates $2,712,000 for salaries and expenses instead of $2,721,000 as proposed by the House and $2,703,000 as proposed by the Senate. The increase of $9,000 from the amount proposed by the Senate is to restore funding for salaries and expenses reduced by the pay reduction proposed by the Administration.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

Appropriates $2,329,000 for salaries and expenses as proposed by the Senate instead of $2,316,000 as proposed by the House.

UNITED STATES HOLOCAUST MEMORIAL COUNCIL

Appropriates $2,125,000 for the Holocaust Memorial Council as proposed by the Senate instead of $2,119,000 as proposed by the House.

Language is included which provides the authority for the Chairman of the United States Holocaust Memorial Council to appoint persons who are not members of the Council to committees associated with the Council. If expenses are incurred by these designees they are to be paid out of the private funds of the Council.

Bill language is also included which clarifies that the Holocaust Memorial Council is an independent Federal establishment, in addition to amending 36 U.S.C. 1407 to make it clear that the Congress regards the funds donated to the Council for the construction of the Holocaust Memorial Museum as nonappropriated funds notwithstanding other provisions of law which treat such funds as trust funds permanently appropriated for Government purposes. The managers agree that it is important that the Council be free to invest the donations in interest-bearing securities so as to provide an adequate endowment for operation and maintenance needs once the Museum is constructed. The Council may expend its donations in accordance with its statutory purpose but without regard to procurement-related statutes and regulations or other restrictions or requirements applicable to the expenditure of appropriated funds.

So as to ensure sufficient congressional oversight over the Council's nonappropriated fund activities and expenditures, two new sections are added to the end of 36 U.S.C. 1408 requiring an annual report to the Congress on the use of the funds donated for museum construction, and authorizing the Comptroller General of the United States to audit the Council's financial transactions using donated funds by granting access to all Council records required to facilitate such audit.

TITLE III—GENERAL PROVISIONS

Sec. 307. Continues unchanged the existing prohibition on the use of funds to process or issue leases for coal, oil, gas, oil shale, phosphate, potassium, sulfur, gilsonite, or geothermal resources on wilderness lands and Forest Service RARE II further planning and Bureau of Land Management study areas rather than providing new language as proposed by the House.

Sec. 312. Provides no dear hunting on Loxahatchee NWR as proposed by the House.

The managers agree that the refuge will support the current deer population and that at this time there is no biological or ecological basis to support a deer hunt.

Sec. 314. Provides certain restrictions on the use of funds for the management or enhancement of grizzly bear habitat on National Park System or National Forest System lands.

Sec. 315. Provides a five year extension of the deadline for benefits to certain nonpreference employees of the Indian Health Service and the Bureau of Indian Affairs.

Sec. 316. Provides an indefinite waiver of the requirement for Alaskan utilities to provide environmental information when requesting exemptions under the Fuel Use Act.

Sec. 317. Provides that the Department of the Interior and the Forest Service, when contracting for private air services, must use FAA certified aircraft unless the Secretary determines such aircraft are not available.

Sec. 318. Provides that no funds available to the Department of the Interior or to the Forest Service may be used to implement a jurisdictional interchange program until enactment of authorizing legislation.

Sec. 319. Provides temporary exceptions for certain acreage limitations for leaseholders on Federal lands within the Gallatin and Flathead National Forests.

Sec. 320. Provides an extension of the date on which certain provisions of the Mineral Lands Leasing Act of 1920, as amended by the Federal Coal Leasing Amendments, become effective. The managers agree that this is a one-time extension.

Sec. 321. Provides a requirement that the Navajo and Hopi Indian Relocation Commission submit a report to Congress by February 15, 1986, on plans for development of the new lands and requires review and comment on the plan by the Secretary of the Interior.

Sec. 322. Provides clarification that the current prohibition on geothermal leasing in the area of Yellowstone National Park is effective until action by Congress to the contrary.

Sec. 323. Provides for a coordinated program of health promotion and disease prevention in schools operated by the Bureau of Indian Affairs.

Sec. 324. Provides clarification in respect to donations utilized for the Holocaust Museum. This language requires an annual report to the Congress on the use of such funds and authorizes the Comptroller General of the United States to audit the Council's financial transactions involving donated funds.

A new section 325 is included which provides a 0.6 percent reduction for budget authority included in the bill for payments not required by law, and for amounts available for the Clean Coal Technology Program in the Energy Security Reserve. The reduction must be taken ratably for each program, activity, and project provided for in the Act.

Department of Transportation and Related Agencies Appropriation Act

Amendment No. 8: Deletes language proposed by the House and Senate and inserts new language relating to the rate for operations for projects or activities provided for in the Department of Transportation and Related Agencies Appropriation Act, 1986.

The House version of H.J. Res. 465 provides appropriations for activities of the Department of Transportation and related agencies at a rate for operations and to the extent and in the manner provided for in H.R. 3244 as passed by the House of Representatives on September 12, 1985. The Senate version of the joint resolution provides appropriations for these activities at a rate for operations and to the extent and in the manner provided for in H.R. 3244 as passed by the Senate on October 23, 1985, amended to provide $1,752,000,000, including transfers, for Coast Guard, operating expenses and $2,714,400,000 for Federal Aviation Administration, operations. The conference agreement incorporates some of the provisions of both the House and Senate versions of the Joint Resolution and has the effect of enacting the Department of Transportation and Related Agencies Appropriation Act, 1986, into law. The conferees agree that the language and allocations set forth in House Reports 99-256 and 99-403 or Senate Reports 99-152 and 99-210 shall be complied with unless specifically addressed to the contrary in the statement of the managers.

The conferees agree that for the purpose of section 252(a)(6)(D)(i)(II) of the Balanced Budget and Emergency Deficit Control Act of 1985 (H.J. Res 372,) with respect to appropriations contained in the Department of Transportation and Related Agencies Appropriation Act, 1986 (H.R. 3244) the terms "program, project, and activity" shall mean any item for which a dollar amount is contained in an appropriation Act (including joint resolutions providing continuing appropriations) or accompanying reports of the House and Senate Committees on Appropriations, or accompanying conference reports and joint explanatory statements of the committee of conference. The conferees agree that this definition shall apply to all programs for which new budget (obligational) authority is provided, as well as to Discretionary grants, Urban Mass Transportation Administration and Interstate transfer grants-highways, Federal Highway Administration. In addition, the percentage reductions made pursuant to section 252(a)(6)(D)(i)(II) of the Balanced Budget and Emergency Deficit Control Act of 1985 to funds appropriated for Facilities and equipment, Federal Aviation Administration and for Acquisition, construction, and improvements, Coast Guard, shall be applied equally to each "budget item" that is listed under said accounts in the budget justifications submitted to the House and Senate Committees on Appropriations as modified by subsequent appropriation Acts and accompanying committee reports, conference reports, or joint explanatory statements of the committee of conference.

The conference agreement incorporates the provisions of H.R. 3244 in accordance with the following agreements:

TITLE I—DEPARTMENT OF TRANSPORTATION

Office of the Secretary

SALARIES AND EXPENSES

Appropriates $51,300,000 together with $500,000 from prior year unobligated balances as proposed by the Senate instead of $50,500,000 together with $330,000 derived by transfer as proposed by the House. The conference agreement distributes these funds as follows:

	Allocation
Immediate Office of the Secretary	$980,000
Immediate Office of the Deputy Secretary	490,000
General Counsel	5,560,000
Policy and International Affairs	7,800,000
Budget and Programs	2,180,000
Governmental Affairs	2,600,000
Administration	20,930,000
Public Affairs	1,490,000
Executive Secretariat	780,000
Contract Appeals Board	400,000
Office of Civil Rights	1,300,000
Office of Commerical Space Transportation	500,000
Office of Small and Disadvantaged Business Utilization	[1] 4,400,000
Office of Essential Air Service	1,800,000
Regional Representatives	590,000

[1] Includes $500,000 in carryover funds.

Any deviation from the above allocation shall be requested through the normal reprogramming process.

TRANSPORTATION PLANNING, RESEARCH, AND DEVELOPMENT

Appropriates $3,500,000 instead of $3,000,000 as proposed by the House and $4,000,000 as proposed by the Senate.

PAYMENTS TO AIR CARRIERS

Appropriates $28,000,000 as proposed by the Senate instead of $36,000,000 as proposed by the House.

COAST GUARD

OPERATING EXPENSES

Appropriates $1,652,000,000 including $10,000,000 to be derived by transfer instead of $1,752,000,000 including $25,000,000 to be derived by transfer as proposed by the Senate and $1,785,200,000 including $23,000,000 to be derived by transfer as proposed by the House.

In addition, $100,000,000 has been made available by transfer from the Defense Appropriation Act, 1986, to be used in support of the Coast Guard's military readiness missions, and $15,000,000 has been appropriated to the Navy for the support of Coast Guard drug interdiction activities.

The conference agreement provides that $789,800,000 shall be available for compensation and benefits of military personnel instead of $786,800,000 as proposed by the House and $792,800,000 as proposed by the Senate.

The conference agreement delates position levels proposed by the Senate.

The conference agreement also provides that not less than $328,000,000 shall be available for drug enforcement activities as proposed by the Senate instead of $325,000,000 as proposed by the House.

The conferees direct the Coast Guard to construct a harbor office at Morro Bay, California, and to continue to operate the Great Lakes search and rescue facilities proposed for consolidation in the budget.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

Appropriates $217,300,000 instead of $267,300,000 as proposed by the House instead of $276,300,000 as proposed by the Senate. The Coast Guard is directed to submit within 30 days after enactment a spending plan for all acquisition, construction, and improvements projects to be funded with fiscal year 1986 funds (including those funded in the Defense Appropriation Act). Such plan shall be formulated using the guidance provided in House Report 99-256 and Senate Reports 99-152 and 99-176.

The conferees also direct the Coast Guard to proceed with completion of Phase III of the Boston Shore Support Facility, for which $6,850,000 was appropriated in fiscal year 1985. Phase III shall include construction of office and related support facilities, as originally proposed to and approved by the Congress.

ALTERATION OF BRIDGES

Appropriates $5,200,000 as proposed by the Senate instead of $7,195,000 as proposed by the House. Funds provided in the conference agreement together with available unolbligated funds should be sufficient to provide for the fiscal year 1986 costs of altering the Willamette River Bridge in Portland, Oregon and the Trent River Railroad Bridge in New Bern, North Carolina.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Appropriates $21,000,000 as proposed by the Senate instead of $23,000,000 as proposed by the House.

BOAT SAFETY

Limits obligations for recreational boating safety assistance to $30,000,000 in fiscal year 1986 and provides a liquidating cash appropriation of $30,000,000 as proposed by the Senate instead of appropriating $13,625,000 as proposed by the House.

The conferees have approved a funding level of $30,000,000 for state recreational boating safety assistance programs, the authorized amount. The conferees have also continued a restriction on these funds so that no obligations may be incurred for the improvement of recreational boating facilities. However, the conferees note that acquiring, constructing, or repairing public access sites used primarily by recreational boaters, and establishing and maintaining facilities for and providing emergency search and rescue assistance, are specific purposes for which the states may use these funds pursuant to Public Law 92-75, as amended. The conferees expect the Coast Guard to promulgate complete and adequate guidelines so that the public access and search and rescue purposes of Public Law 92-75, as amended, may be fully implemented subject to the restriction noted above.

The conferees intend to fully review during the fiscal year 1987 hearings the use of recreational boating safety funds by the states, and will expect the Coast Guard to be prepared to discuss in detail the effectiveness of the Coast Guard's boating safety program.

The conference agreement deletes language proposed by the House exempting Coast Guard training travel expenses from section 2901(a)(1) of the Deficit Reduction Act of 1984.

FEDERAL AVIATION ADMINISTRATION

HEADQUARTERS ADMINISTRATION

Provides transfer authority of up to two percent between the appropriations for Headquarters Administration and Operations as proposed by the Senate.

OPERATIONS

Appropriates $2,694,600,000 as proposed by the House instead of $2,714,400,000 as proposed by the Senate. The conferees direct the Federal Aviation Administration to submit a report to the House and Senate Committees on Appropriations within 15 days after enactment describing the adjustments to the fiscal year 1986 operations funding plan presented in its detailed budget justifications needed to meet the funding level provided in the conference agreement. Such report shall include dollar and position breakdowns by activity. In making this revised distribution, the conferees expect the FAA to use the House and Senate Committee reports as guidance and to include funding for an additional 300 aviation safety inspection positions above the original budget request. The additional inspection positions shall include additional support personnel as well as field inspectors. The conferees also assume that this funding level will support 14,306 air traffic control positions, the level reached in February 1985, plus an additional 500 positions announced by the Department on September 19, 1985. Any deviation from these staffing levels is to be reported promptly to the House and Senate Committees on Appropriations. The conferees expect the FAA to make special efforts to reach these staffing levels by July 31, 1986. The conferees also expect that any potential shortfalls in safey programs resulting from this distribution will be promptly reported to the House and Senate Committees on Appropriations.

The conferees object to restrictive Canadian policies toward aerial survey operations by U.S. affiliated companies in Canada. Canadian operators have established U.S. subsidiaries and obtained Federal Aviation Administration licenses that allow aerial survey aircraft to be used in the United States, and such subsidiary companies compete against U.S.-based corporations for United States government geological survey work. Although this side-looking airborne radar (SLAR) work is bid competitively by the geological survey, no reciprocity is practiced in Canada for U.S. firms.

The conferees expect the FAA to consider changes to 14 CFR Part 375 previously proposed by the Civil Aeronautics Board and published in the Federal Register of October 25, 1984, which would help assure reciprocity for foreign aircraft operating in U.S. airspace. Within 60 days after enactment of this Act the conferees expect the FAA to report to the House and Senate Committees on Appropriations on the status of the previously proposed rule changes and any plans to make other regulatory changes to assure reciprocity. The conferees urge the FAA to adopt rule changes that assure consideration of reciprocity or define foreign and U.S. ownership or control more precisely.

The conference agreement also provides that $446,000,000 of the amount provided for operations shall be derived from the Airport and Airway Trust Fund as proposed by the Senate instead of $548,000,000 as proposed by the House.

The conferees note with concern the two recent aircraft accidents involving air cargo planes at the Tri-State Airport serving West Virginia, Kentucky, and Ohio. One of those accidents involved the loss of life, and both occurred this year during the hours that the air traffic control tower was closed. It is the conferees' understanding that commercial flights carrying over 100 passengers arrive at this airport after the tower has been closed. In view of safety considerations, the Federal Aviation Administration is directed to operate this tower on a 24-hour basis.

FACILITIES AND EQUIPMENT

(AIRPORT AND AIRWAY TRUST FUND)

Appropriates $993,000,000 as proposed by the Senate instead of $1,044,000,000 as proposed by the House. The conference agreement includes the following amounts:

Air route traffic control centers	$231,720,600
Airport traffic control towers and terminal equipment	452,412,400
Flight service stations	–10,000,000
Air navigation facilities	158,079,300
Housing, utilities and miscellaneous facilities	174,871,700
Aircraft and related equipment	2,775,000
Development, test, and evaluation	10,141,000

The conferees expect the FAA to comply with the project distribution outlined in House Report 99-256 as modified by Senate Report 99-152. The conferees recognize that delays in some projects might necessitate adjustments to the above allocations and expect these adjustments, if required, to be accomplished through the normal reprogramming process. Within the amount provided for airport traffic control towers and terminal equipment, the conference agreement includes up to $40,000 to initiate design work for an air traffic control tower at Obyan, Saipan. In addition to the instrument landing systems identified in the House and Senate Committee reports, the conferees direct the FAA to install an instrument landing system for Runway 11 at Minneapolis-St. Paul International Airport.

The conferees continue to be concerned about both the adequacy and cost effectiveness of automated equipment for consolidated flight service station facilities. House Report 99-256 contains language requiring FAA to report on the relative cost, performance, availability, and eligibility for airport grant funds of commercial and government direct user access terminal (DUAT) systems. Until both the House and Senate Appropriations Committees have evaluated and approved FAA's reported DUAT comparison and selection process, the conferees direct that funding for development of the Model 2 automated flight service station be suspended.

In addition, Senate Report 99-152 required certification of Model 1 equipment and a revised facility consolidation plan to be submitted by December 1, 1985. Until the Committees have received and reviewed these reports, the conferees continue to disapprove fiscal year 1986 consolidations.

The conference agreement also provides that $10,000,000 shall be available to continue the airway science curriculum program as proposed by the Senate instead of $5,000,000 as proposed by the House. The conference agreement includes the following amounts:

University of North Dakota	$4,000,000
Florida Memorial College	3,000,000
Delta State University	2,300,000

RESEARCH, ENGINEERING, AND DEVELOPMENT

(AIRPORT AND AIRWAY TRUST FUND)

Appropriates $190,000,000 together with $15,000,000 to be derived by transfer, instead of $190,000,000 as proposed by the House and $192,000,000 together with $15,000,000 to be derived by transfer as proposed by the Senate. The conference agreement provides that $3,036,412 shall be available for icing and related next generation weather radar atmospheric research to be conducted by the University of North Dakota, $2,000,000 shall be available for the Center for Research and Training in Information-based Aviation and Transportation Management at Barry University, and $2,000,000 shall be available for the Institute for Aviation Safety Research at Wichita State University.

The FAA should perform a thorough, objective, and well documented, benefit-cost analysis to support its Advanced Automation System (AAS) acquisition phase appropriation request. This analysis should include a clear definition of the objective of each element of the AAS program, an identification of all feasible ways of achieving each objective, and a detailed analysis of the costs and benefits expected from each alternative. The analysis should (1) be based on a sound and credible methodology, (2) use as a baseline for comparison an analytical evaluation of the level of effectiveness provided in the ATC system with Host and other pre-AAS enhancements, (3) identify all significant assumptions and models and include an analysis of the sensitivity of results to changes in significant assumptions or variables such as air traffic growth, and (4) be fully documented to facilitate an independent evaluation. FAA should also conduct a full assessment of the technical risks associated with its current acquisition strategy and with alternative strategies. This assessment should clearly identify the technical risks associated with the AAS and each subsystem (including all major software components) and the potential cost, schedule, and performance impacts associated with these risks. Finally, FAA should validate its AAS cost estimates with an independent cost analysis.

The conferees believe these studies are necessary to support this multi-billion dollar investment decision and allocate up to $4,000,000 of this appropriation for FAA to complete them. If additional funding is needed, a supplemental request will be considered. All of these studies should use inputs as necessary from the program office, but should be conducted independent of the program management.

GRANTS-IN-AID FOR AIRPORTS

(AIRPORT AND AIRWAY TRUST FUND)

In addition to the specific projects identified in the House and Senate Committee reports, the conferees direct that priority consideration also be accorded to Mahlon Sweet Airport, Eugene, Oregon.

OPERATION AND MAINTENANCE, METROPOLITAN WASHINGTON AIRPORTS

Appropriates $34,100,000 as proposed by the Senate instead of $35,400,000 as proposed by the House.

CONSTRUCTION, METROPOLITAN WASHINGTON AIRPORTS

Appropriates $7,000,000 as proposed by the Senate instead of $12,000,000 as proposed by the House.

AIRCRAFT PURCHASE LOAN GURARANTEE PROGRAM

Limits the total amount that can be borrowed from the Secretary of the Treasury during fiscal year 1986 to pay off defaulted loans to $75,000,000 instead of $10,000,000 as proposed by the House and $125,000,000 as proposed by the Senate.

FEDERAL HIGHWAY ADMINISTRATION

(LIMITATION ON GENERAL OPERATING EXPENSES)

Limits operating expenses tc $203,761,000 as proposed by the Senate instead of $204,500,000 as proposed by the House.

Provides that $48,415,000 of the amount provided for general operating expenses shall remain available until expended as propsed by the Senate instead of $48,589,000 as proposed by the House.

The conference agreement inserts language providing that all unobligated amounts made available under this head in prior fiscal years for the establishment and implementation of a demonstration bonding program for economically and socially disadvantaged businesses shall remain available for such purposes until expended.

The conference agreement does not include the additional fiscal year 1986 funding for the minority business demonstration bonding program proposed by the House. Funds carried over from fiscal year 1985 should be adequate to implement this program in fiscal year 1986. The conferees remain fully supportive of this particular effort, and are concerned about the Department's lack of progress in implementing this program. Bonding capacity for disadvantaged firms has been and continues to be a major impediment to their full participation in contract opportunities. The conferees fully expect the fiscal year 1985 funds made available for this program to be obligated promptly for bonding and bonding assistance programs in Florida, New York, and Pennsylvania. The Department is directed to report to the House and Senate Committees on Appropriations by Feburay 15, 1986, regarding its progress in implementing this program and obligating these funds.

The conference agreement also includes bill language proposed by the House prohibiting the use of the funds in the bill to approve projects to construct a landfill in the Hudson River as part of the Interstate highway system.

RAILROAD-HIGHWAY CROSSING DEMONSTRATION PROJECTS

Appropriates $16,000,000 instead of $38,700,000 as proposed by the House. The Senate bill contained no funds for this program.

The conference agreement includes the following amounts:

Lincoln, Nebraska	$3,000,000
Pine Bluff, Arkansas	1,000,000
Augusta, Georgia	1,000,000
Carbondale, Illinois	3,000,000
Brownsville, Texas	2,500,000
Lafayette, Indiana	5,500,000

Includes language proposed by the Senate providing that the funds made available under this heading for Wheeling, West Virginia highway projects be available at full federal expense.

FEDERAL-AID HIGHWAYS

(LIMITATION ON OBLIGATIONS)

Limits obligations for the federal-aid highways and highway safety construction programs to $12,750,000,000 as proposed by the Senate instead of $13,250,000,000 as proposed by the House.

The conference agreement includes the following allocations of interstate transfer-highways discretionary funds:

Arizona	$1,128,228
Colorado	25,500,000
Illinois	48,646,772
Indiana	2,500,000
Iowa	6,125,000
Maryland	31,600,000
Minnesota	8,000,000
Duluth	(6,000,000)
Minn.-St. Paul	(2,000,000)
New Jersey	10,000,000
New York	6,050,000
Ohio	16,500,000
Oregon	11,350,000
Pennsylvania	7,050,000
Virginia	6,800,000

The conferees are aware of the recent severe flooding that has caused extensive damage to roads and bridges in West Virginia, Virginia, and Pennsylvania. Initial reports indicated that 47 bridges have been destroyed in West Virginia alone and extensive road damage has occurred isolating many communities from essential food supplies, health care, employment centers and markets. Recognizing the urgent need for assistance, the conferees direct the Secretary to give priority consideration to those states for monies from the emergency relief fund for road and bridge repair and reconstruction. These funds are to be used only in those counties declared federal disaster areas.

In addition to those projects identified in the Senate Report 99-152 to receive priority consideration for discretionary bridge funding, the conferees direct that the Denver, Colorado 23rd Street Viaduct project also receive the same consideration.

MOTOR CARRIER SAFETY

Appropriates $13,900,000 as proposed by the House instead of $13,902,000 as proposed by the Senate.

MOTOR CARRIER SAFETY GRANTS

Appropriates $17,000,000 instead of $14,000,000 as proposed by the House and $20,000,000 as proposed by the Senate.

ACCESS HIGHWAYS TO PUBLIC RECREATION AREAS ON CERTAIN LAKES

Appropriates $10,000,000 of which $5,000,000 shall be derived by transfer instead of $10,000,000 proposed by the Senate. The House bill contained no funds for this program.

BALTIMORE-WASHINGTON PARKWAY

Appropriates $3,000,000 instead of $6,500,000 as proposed by the House.

WASTE ISOLATION PILOT PROJECT ROADS

Appropriates $7,000,000 for the waste isolation pilot project roads in New Mexico instead of $16,260,000 proposed by the Senate. The House bill contained no funds for this program.

RAIL LINE CONSOLIDATION PROJECT

Provides $4,000,000 by transfer instead of $5,000,000 by transfer as proposed by the House.

AIRPORT-HIGHWAY DEMONSTRATION PROJECT

Provides $1,350,000 by transfer instead of $2,700,000 by transfer as proposed by the House.

EXPRESSWAY GAP CLOSING DEMONSTRATION PROJECT

Inserts language authorizing an expressway gap closing project and appropriates $9,000,000 for such project.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

OPERATIONS AND RESEARCH

Appropriates $88,851,000, of which $5,000,000 shall be derived by transfer instead of $78,851,000 as proposed by the Senate and $89,365,000 as proposed by the House. The conference agreement includes the following distribution:

Rulemaking	$7,040,000
Enforcement	11,400,000
Highway safety	13,200,000
Research and analysis	48,261,000
General administration	6,600,000
Office of the administrator	2,350,000

Provides that $29,894,000 shall be derived from the Highway Trust Fund instead of $25,120,000 as proposed by the House and $25,455,000 as proposed by the Senate.

Provides that $36,296,000 shall remain available until expended instead of $36,624,000 as proposed by the Senate and $42,174,000 as proposed by the House.

Provides that $14,833,000 of the amount available until expended shall be derived from the Highway Trust Fund instead of $10,180,000 as proposed by the House and $13,729,000 as proposed by the Senate.

Inserts language proposed by the House requiring that $10,000,000 of the amount provided under this head be available only for the purpose of implementing the recommendations of the 1985 National Academy of Sciences report on trauma research.

Inserts language proposed by the Senate providing $500,000 by transfer for a national program to encourage the use of automobile passive restraints.

Deletes language proposed by the Senate prohibiting any manufacturer from earning credits for exceeding the corporate average fuel economy standard for any model year in which the Secretary has reduced the standard below that originally established by Congress, unless the manufacturer also exceeds the original standard.

FEDERAL RAILROAD ADMINISTRATION

RAILROAD SAFETY

Appropriates $27,764,000 as proposed by the Senate instead of $28,000,000 as proposed by the House.

The conference agreement includes the following amounts:

Federal enforcement	$22,564,000
(Positions)	(379)
Automated track inspection	100,000
Safety regulations/administration	3,600,000
(Positions)	(64)
State grants	1,500,000

In addition, the conferees expect an additional $1,000,000 in unobligated funds to be made available for state safety grants.

Provides that $1,500,000 shall remain available until expended as proposed by the Senate instead of $1,300,000 as proposed by the House.

RAILROAD RESEARCH AND DEVELOPMENT

Appropriates $10,600,000 instead of $10,384,000 as proposed by the Senate and $11,200,000 as proposed by the House.

The conference agreement includes $200,000 to support the development of cooperative efforts between the states, railroads, community groups, and other public service groups to reduce accidents at grade crossings, and up to $100,000 for research into corrosion and surge problems associated with tank car rupture disks that have recently experienced an increased incidence of uncontrolled release of hazardous materials.

The conference agreement also includes $320,000 for the Oregon Graduate Center's research into maintenance and repair of railroad-related components.

RAIL SERVICE ASSISTANCE

Appropriates $20,200,000 as proposed by the House instead of $20,200,000 as proposed by the Senate.

In addition to the Chaplene Tunnel project on the Wheeling Terminal Industrial line identified in the Senate Report to receive priority consideration for local rail service assistance, the conferees urge that priority consideration also be given to a railroad rehabilitation project in Massachusetts and Vermont.

CONRAIL LABOR PROTECTION

Deletes rescission of $8,000,000 proposed by the House.

NORTHEAST CORRIDOR IMPROVEMENT PROGRAM

Of the $12,500,000 provided in the bill for the northeast corridor improvement program, the conferees direct that such funds be allocated according to the distribution in House Report 99-256. The conferees expect Amtrak to submit a reprogramming request to the House and Senate Committees on Appropriations in accordance with standard procedures, if any revisions to this distribution are contemplated.

GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

Provides a total of $616,000,000 for Amtrak operations, capital improvements, and labor protection costs as proposed by the Senate instead of $603,500,000 as proposed by the House.

The conference agreement also provides that, of the total amount available for Amtrak grants, $23,000,000 shall be derived by transfer as proposed by the Senate instead of $15,000,000 by transfer as proposed by the House. These funds are to be derived from the Conrail labor protection account. The conferees have made this recommendation in light of recent reports of the United States Railway Association concluding that "Conrail credibly and reasonably projects that it can weather future economic cycles even while paying 'normalized' expenses such as wage rates, state taxes, and job protection benefits". The United States Railway Association has also endorsed Conrail's five-year outlook that projects healthy net income for the years 1985 to 1989. Therefore to ensure an adequate and necessary employee protection plan, the conferees direct the Secretary to conduct discussions with Conrail's Board of Directors and management to make all necessary arrangements for Conrail to assume full financial responsibility for payments due its employees under sections 701 and 702 of the Regional Rail Reorganization Act of 1973, as amended. The Secretary shall report on the progress of such discussions to the House and Senate Committees on Appropriations no later than March 1, 1986.

Inserts language proposed by the Senate providing $5,500,000 by transfer from unobligated balances of "Rail labor assistance".

RAILROAD REHABILITATION AND IMPROVEMENT FINANCING FUNDS

Limits new loan guarantee commitments under sections 511 through 513 of the Railroad Revitalization and Regulatory Reform Act of 1976 to $4,000,000 during fiscal year 1986 as proposeed by the Senate. The Senate amendment also deletes House language providing that no new loan guarantee commitments shall be made during fiscal year 1986.

REDEEMABLE PREFERENCE SHARES

Authorizes the expenditure of $33,500,000 as proposed by the Senate instead of $35,500,000 as proposed by the House.

The conference agreement includes the following amounts:

Columbus and Greenville Railroad	$1,900,000
Gulf and Mississippi Railroad	8,000,000
Miami commuter rail	12,500,000
Ann Arbor Railroad	2,600,000
Bangor and Aroostook Railroad	3,000,000
Chicago North Western Railroad	5,500,000

An appropriation of $5,500,000 of section 505 funds is earmarked for the Chicago North Western Railroad only for use in upgrading of trackage in North Dakota and South Dakota. The most pressing need is for the lines between Pierre and Rapid City and Aberdeen in South Dakota to Oakes in North Dakota. Both lines have previously been subjects of abandonment proceedings but provide important service to local shippers and it is therefore in the public interest that rail service continue.

A significant amount of this trackage is in need of work in excess of typical maintenance, including tie renewal, relay rail, surfacing, and bridge rehabilitation. Such work would enhance safe operations and improve service to shippers. The major beneficiaries of this upgrading would be the agricultural communities of North Dakota and South Dakota.

The conferees expect that under this program the Secretary, after complying with the above listed allocations, will give priority consideration to a rail rehabilitation project in Massachusetts and Vermont. It is also the intent of the conferees that priority consideration will be given to the additional needs of the Tri-County Commuter Rail project for a station connection with the Dade County metrorail for not to exceed $4,000,000, and for the Delaware-Otsego system for rehabilitation of a line between Warwick, New York and Butler, New Jersey. Furthermore, it is the intent of the conferees that Federal Highway Administration "maintenance of traffic" funding shall be available for the operation of the Tri-County commuter rail project.

Deletes the language proposed by the House providing that $5,500,000 shall be derived from unobligated balances of "Rail labor assistance".

Deletes the language proposed by the Senate providing that $17,000,000 shall be derived from unobligated balances of "Redeemable preference shares" as of Spetember 30, 1985.

CONRAIL COMMUTER TRANSITION ASSISTANCE

Provides $5,000,000 by transfer instead of an appropriation of $10,000,000 as proposed by the House.

The conferees are aware of the unusual bridge repair funding needs of the Philadelphia-area commuter rail system that have been brought about by the federally-mandated transfer of ownership of Conrail commuter rail property. In addition to the $5,000,000 provided in the conference agreement to make such repairs, the conferees direct that UMTA make available to the Southeastern Pennsylvania Transportation Authority (SEPTA) an additional sum of $5,000,000 from Discretionary Grant program rail modernization funds for such commuter rail bridge repairs. The conferees expect these funds to be made available in addition to funds SEPTA could otherwise expect to receive from the rail modernization program based on its historical percentage share of program funds for the fiscal year 1981 to fiscal year 1985 period. In addition, to the maximum extent feasible, it is expected that minority businesses will be given every opportunity to perform the work resulting from this appropriation. However, the Department, in implementing such a plan, should not reduce its quality assurance criteria or lessen its standards of contract responsibility.

URBAN MASS TRANSPORTATION ADMINISTRATION

ADMINISTRATIVE EXPENSES

Appropriates $30,000,000 as proposed by the Senate instead of $31,000,000 as proposed by the House.

Limits funding for the Office of the Administrator to $650,000 instead of $350,000 as proposed by the House. The conferees expect all salaries and expenses associated with the immediate offices of the administrator, deputy administrator, and executive director to be financed from this account.

The conferees agree that the extent of private sector involvement in the provision of public transit is best decided at the local level. The federal policy under the existing Urban Mass Transportation Act relating to the choice of service providers is one of neutrality. The conferees expect that explicit policy on privatization in the transit industry should be explored by Congress and decided only after appropriate rulemaking with the opportunity for public comment. While such rulemaking is underway, it is the conferees' view that conditioning the release, allocation, or level of federal transit grant funding on a showing by applicants of a certain level of involvement of private sector providers in the provision of mass transportation services is not consistent with the Urban Mass Transportation Act of 1964, as amended.

RESEARCH, TRAINING, AND HUMAN RESOURCES

Appropriates $17,400,000 as proposed by the Senate instead of $28,103,000 as proposed by the House.

The conference agreement includes $7,700,000 for the integrated transportation center, $250,000 for the Michigan state assistance model, and $2,500,000 to continue the existing cold weather transit technology program. The conferees direct the Department's Transportation Systems Center to evaluate the cold weather transit technology program and to report to the House and Senate Committee on Appropriations regarding the applicability of this technology to transit operations that are affected by severe cold weather.

FORMULA GRANTS

Appropriates $2,150,000,000 instead of $2,100,000,000 as proposed by the Senate and $2,210,000,000 as proposed by the House.

DISCRETIONARY GRANTS

Limits obligations to $1,045,000,000 instead of $1,010,000,000 as proposed by the House and $1,100,000,000 as proposed by the Senate.

The conference agreement includes the following amounts:

Bus and bus facilities	$145,000,000
Rail modernization and extensions	430,000,000
New systems and new extensions	385,000,000
Portland	(8,950,000)
Seattle	(24,650,000)
Miami	(38,000,000)
Santa Clara	(65,000,000)
Atlanta	(69,000,000)
Los Angeles	(101,000,000)
Houston	(54,750,000)
St. Louis	(13,500,000)
Buffalo	(850,000)
San Diego	(9,300,000)
Planning	50,000,000
Elderly and handicapped	30,500,000
Innovative techniques and technology introduction	5,000,000

The conferees intend that the $850,000 included under new systems for Buffalo shall be used only for light rail construction on the Naval Park Station.

The conferees expect UMTA to be fully responsive to report language in the Senate Report 99–152 directing UMTA to credit certain funds beyond the local contribution, provided by local governments and downtown business towards the local match for additional federal monies on the Banfield project in Portland, Oregon.

LIQUIDATION OF CONTRACT AUTHORIZATION

Appropriates $775,000,000 as proposed by the Senate instead of $720,000,000 as proposed by the House.

INTERSTATE TRANSFER GRANTS-TRANSIT

Appropriates $218,750,000, of which $18,750 000 shall be derived by transfer, instead of $200,000,000 as proposed by the Senate and $237,500,000 as proposed by the House.

The conference agreement includes the following discretionary allocations:

Sacramento	$10,855,500
Chicago	67,187,779
Boston	11,875,000
Duluth	237,500
New Jersey	4,201,721
Cleveland	14,125,000
Indianapolis	892,500

The conferees recognize that delays in some regions' projects might necessitate adjustments to the above allocations. The conferees expect these adjustments, if required, to be accomplished through the normal reprogramming process.

WASHINGTON METRO

Appropriations $227,000,000 instead of $187,500,000 as proposed by the Senate and $237,500,000 as proposed by the House.

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

LIMITATION ON ADMINISTRATIVE EXPENSES

Limits administrative expenses to $1,916,000 instead of $1,890,000 as proposed by the House and $1,942,000 as proposed by the Senate.

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

RESEARCH AND SPECIAL PROGRAMS

Appropriates $19,300,000 instead of $19,200,000 as proposed by the Senate and $19,400,000 as proposed by the House.

The conference agreement includes three positions for a new special hazardous materials enforcement team and four positions to continue the essential air service information program. The conferees direct the Secretary to submit a report to the House and Senate Committee on Appropriations by March 1, 1986, describing the Research and Special Programs Administration's implementation plan for the new special enforcement team.

The conference agreement also deletes language proposed by the Senate allowing the research and special programs appropriation to be credited for training fees received from non-federal entities.

OFFICE OF THE INSPECTOR GENERAL

SALARIES AND EXPENSES

Appropriates $27,600,000 instead of $27,250,000 as proposed by the Senate and $27,950,000 as proposed by the House. The conference agreement provides funding for an additional 10 positions over the budget request to continue essential air service audits.

TITLE II—RELATED AGENCIES

ARCHITECTURAL AND TRANSPORTATION BARRIERS

COMPLIANCE BOARD

SALARIES AND EXPENSES

Appropriates $1,975,000 as proposed by the Senate instead of $2,000,000 as proposed by the House.

NATIONAL TRANSPORTATION SAFETY BOARD

SALARIES AND EXPENSES

Appropriates $22,300,000 instead of $22,200,000 as proposed by the Senate and $22,000,000 as proposed by the House.

Limits funds for official reception and representation expenses to $500 as proposed by the Senate instead of $300 as proposed by the House.

INTERSTATE COMMERCE COMMISSION

SALARIES AND EXPENSES

Provides a total of $50,480,000 of which $2,300,000 shall be derived by transfer as proposed by the House instead of a total of $49,300,000 including $2,300,000 by transfer as proposed by the Senate.

The conference agreement includes the following amounts:

Chairman	$500,000

(Staff years)	(7)
Commissioners	1,825,000
(Staff years)	(27)
Satellite offices	1,050,000
(Staff years)	(22)
Secretary	3,100,000
(Staff years)	(85)
General Counsel	1,800,000
(Staff years)	(27)
Proceedings	8,600,000
(Staff years)	(150)
Hearings	570,000
(Staff years)	(8)
Special Counsel	525,000
(Staff years)	(7)
Transportation analysis	2,400,000
(Staff years)	(30)
Accounts	6,910,000
(Staff years)	(100)
Traffic	3,800,000
(Staff years)	(81)
Compliance and Consumer Affairs	14,400,000
(Staff years)	(257)
Managing Director	5,000,000
(Staff years)	(88)

The conferees expect the Interstate Commerce Commission to use normal reprogramming procedures should it propose to deviate in any way from the staffing allocations or by more than five percent from the funding allocations listed above.

Panama Canal Commission

OPERATING EXPENSES

Limits funds for official reception and representation expenses of the Secretary to $1,000 instead of $5,000 as proposed by the House.

Appropriates $400,284,000 as proposed by the Senate instead of $401,284,000 as proposed by the House.

The conference agreement also deletes language proposed by the Senate requiring transfer of capital investment interest to the General fund.

Capital Outlay

Provides for the purchase of 44 passenger motor vehicles as proposed by the Senate instead of 47 passenger motor vehicles as proposed by the House.

Appropriates $25,500,000 as proposed by the Senate instead of $26,500,000 as proposed by the House.

Department of the Treasury

OFFICE OF THE SECRETARY

INVESTMENT IN FUND ANTICIPATION NOTES

Appropriates $33,500,000 as proposed by the Senate instead of $35,500,000 as proposed by the House.

United States Railway Association

ADMINISTRATIVE EXPENSES

Appropriates $2,400,000 as proposed by the Senate instead of $2,100,000 as proposed by the House.

TITLE III—GENERAL PROVISIONS

Restores House language prohibiting the use of funds for the planning or implementation of any change in the current federal status of the Transportation Systems Center.

Prohibits funds for salaries and expenses of more than 138 political appointees in The Department of Transportation instead of 105 political appointees as proposed by the House.

Limits funds for the Department of Transportation for expenses of advisory committees to $1,700,000 instead of $1,000,000 as proposed by the House.

The conferees have deleted the statutory requirement for letters of intent for Seattle, Los Angeles and Miami. However, the conference agreement includes languages requiring the Secretary to commence negotiations with appropriate local authorities to execute full funding contracts for Seattle, Los Angeles and Miami based upon past-years' funding and the available fiscal year 1986 funding identified elsewhere in the statement of the managers. Future years' funding will be considered in subsequent appropriation Acts. Such contracts shall provide for completion of these projects according to the following distribution:

Total Federal funding

Project	*Amount*
Los Angeles, MOS 1	$429,000,000
Miami, DCM (north and south legs)	180,000,000
Seattle, bus tunnel	175,000,000

In directing the Secretary to enter into negotiations of full funding contracts, the conferees expect that at least the following conditions will be included in such contracts. Each contract shall provide for a stable and reliable financial plan, agreed upon by both parties. The financial plan required should also identify actions to be taken if revenue forecasts prove to be inadequate with reference to capital and operating costs.

In setting a limit in UMTA's financial participation in these projects, the conferees do not intend to include cost overruns in excess of agreed upon extraordinary costs under the full funding contracts. The contracts shall contain language to provide that such cost overruns will be paid for from non-federal sources of funds. Also, assurances should be provided for adequate bus operations to support each system and other transit needs.

The conferees fully expect the Secretary and the designated cities to reach agreement within the 90-day time limit. This deadline may only be extended upon agreement by both parties. If the deadline is not met, the conferees expect the parties to report to the House and Senate Committees on Appropriations on the reason for any delays and to continue reporting on the status of the negotiations at regular intervals until each contract is executed.

In the absence of good faith negotiations by either party, the conferees intend to revisit the necessity for further legislative action regarding full funding contracts for these three projects.

Restores House language requiring the Urban Mass Transportation Administration to enter into a contract with the Southern California Rapid Transit District to conduct a study of the potential methane gas risks relating to the proposed alignment of the Metro Rail Project beyond the Minimum Operable Segment, MOS-1. An environmental impact statement (EIS) must be prepared in accordance with the National Environmental Policy Act and UMTA procedures. In addition to the already completed EIS, the Southern California Rapid Transit District must assess the geological risks of the project and methods for mitigating them. Such assessment must be conducted according to the language outlined in the resolution.

Restores House language providing that tolls collected for motor vehicles on any bridge connecting the borough of Brooklyn, New York, and Staten Island, New York, shall only be collected for those vehicles exiting for such bridge in Staten Island.

Inserts language proposed by the Senate allowing the State of Wyoming to conduct a 2-year demonstration project to determine the effects on the Interstate system of trucks that exceed the 80,000 pounds gross vehicle weight limit.

The conferees expect that after the completion of the demonstration project, the State of Wyoming will transmit to the Secretary of Transportation any study which the State of Wyoming conducts regarding such demonstration project. Within 30 months after the date of enactment of the accompanying resolution, the Secretary of Transportation shall submit to the Congress an evaluation of such demonstration project. Such evaluation shall include an assessment of the safety performance of such vehicles, and the effects of such vehicles on the condition of the highways over which they were operated.

Inserts language proposed by the Senate exempting funds received by a recipient of funds under section 18 pursuant to a service agreement with a State or local social service agency or a private social service organization from the definition of the term "Federal funds or revenues".

Deletes language proposed by the Senate requiring the Secretary to release all funds made available for fiscal year 1986 and prior years for grants under the contract authority authorized by section 21(a)(2)(B) of the Urban Mass Transportation Act of 1964, as amended, within 90 days.

Inserts language proposed by the Senate categorizing the proposed Belle Vernon Bypass as an open-to-traffic segment rather than an essential gap and enabling Pennsylvania to transfer an amount equivalent to the cost to complete the segment from its Interstate construction apportionment to Interstate 4R.

Inserts language proposed by the Senate requiring the United States government to indemnify any person who publishes aeronautical charts or maps under certain circumstances.

The conference agreement requires the United States to enter into agreements to indemnify the publishers of aeronautical charts or maps who incur liability for accurately depicting defective or deficient flight procedures promulgated by the Federal Aviation Administration, except where the defect or deficiency is obvious.

This section is not intended to impose a general duty on the publishers to verify independently the accuracy or safety of Federal Aviation Administration flight procedures or airways, or to imply that the publishers have the means to do so, except where there are obvious defects or deficiencies in such flight procedures or airways. It is not the conferees' intention to impose an unreasonable burden on the publisher.

The conferees have agreed to the Senate language because of the unusual conditions involved in the publication of such charts. It is therefore the intention of the conferees that this indemnification provision is not to be treated as a precedent for any other situation involving potential federal tort liability.

Inserts language proposed by the Senate permitting New York State to obligate interstate construction funds apportioned during fiscal year 1986 for both interstate construction projects and interstate substitute highway projects.

The conference agreement also includes language prohibiting the use of certain mass transportation section 9 grant funds to cover cost overruns of the Detroit central automated transit (peoplemover) system.

BEST COPY AVAILABLE

Inserts language proposed by the Senate disapproving the proposed deferral (D86-21) of $223,600,000 in UMTA section 3 funds for new start projects in five cities which would be distributed as follows:

Los Angeles	$129,000,000
Miami	71,500,000
San Diego	11,300,000
Jacksonville	10,000,000

Inserts language proposed by the Senate extending the term of the current United States Railway Association Chairman from 1985 to 1987 and requiring that the Chairman not have any financial relationship with any freight railroad.

Inserts language proposed by the Senate authorizing a transfer of the authority of the Maine-New Hampshire interstate bridge authority to the States of Maine and New Hampshire.

Deletes language proposed by the Senate providing a 1.6 percent reduction in "each dollar amount contained in this Act which is provided for non-defense discretionary programs and activities", excluding Panama Canal appropriations, and a reduction in transit operating assistance to $856,000,000.

Includes language increasing the State limitation for receipt of federal-aid highway emergency relief funds from $30,000,000 to $55,000,000 for grants associated with disasters that occurred in calendar year 1985.

Inserts language requiring the Secretary of Transportation to issue in the Federal Register a notice of intent to prepare an environmental impact statement (EIS) for the construction of the north and south legs of the downtown component of Metrorail in Dade County, Florida. The conferees expect the EIS for the construction of the north and south legs of the downtown component of metrorail to consider appropriate alignment options and the cost-effectiveness of each leg. In addition the conferees reiterate the language contained in House Report 99-403.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES AND EDUCATION AND RELATED AGENCIES

RATE FOR OPERATIONS

Amendment No. 9: Inserts language proposed by the Senate changing the rate for operations for the Departments of Labor, Health and Human Services and Education and Related Agencies to the rate provided in the conference report on H.R. 3424 as adopted by the House of Representatives on December 5, 1985. The House bill provided for the rate as filed in the House of Representatives on November 21, 1985.

DEFINITION OF PROGRAM AND PROJECT, AND ACTIVITY

Amendment No. 10: Inserts a provision which identifies the part of the statement of the managers entitled "Definition of Program, Project, and Activity as provided for by Public Law 99-177, the Balanced Budget and Emergency Deficit Control Act of 1985" as the report filed by the House and Senate Committees on Appropriations defining "program, project and activity" pursuant to section 252(a)(6)(D)(i)(II) of Public Law 99-177.

The House language, which was stricken by the Senate, provided for the Military Construction Appropriations Act, 1986, (H.R. 3327) at the rate specified in the conference report. The President signed H.R. 3327 into law on December 10, 1985. Therefore, the language specifying funding levels has been delated.

The following section provides the definition of "program, project, and activity" as provided for in the Balanced Budget Act and is arranged in appropriations bill order.

DEFINITION OF "PROGRAM, PROJECT, AND ACTIVITY" AS PROVIDED FOR BY PUBLIC LAW 99-177, THE BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985

The balanced budget act provides that when funds provided in annual appropriations Acts are sequestered, it shall be done from each affected program, project, and activity as set forth in the most recently enacted applicable appropriations Acts and accompanying committee reports including joint resolutions providing continuing appropriations and accompanying reports for the program, project, or activity in question.

Since most appropriations Acts were already reported by the time the balanced budget legislation was considered, a special provision was included in Public Law 99-177 to allow the Appropriations Committees to define for fiscal year 1986 "programs, projects, and activities." The provision is as follows:

"The Committees on Appropriations of the House of Representatives and the Senate may, after consultation with each other, define the term program, project, and activity, and report to their respective Houses, with respect to matters within their jurisdiction, and the order issued by the President shall sequester funds in accordance with such definition."

The following report is submitted by the managers on behalf of the Committees on Appropriations to their respective Houses for the purposes of Sec. 252 (a)(1)(B)(i) and Sec. 252 (a)(6)(D)(i)(II) of Public Law 99-177:

AGRICULTURE, RURAL DEVELOPMENT AND RELATED AGENCIES

During fiscal year 1986, for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177), the following information provides the definition of the term "program, project, and activity" for departments and agencies under the jurisdiction of the Agriculture, Rural Development and Related Agencies Subcommittee. The term "program, project, and activity" shall include the most specific level of budget items identified in the Agriculture, Rural Development, and Related Agencies Appropriations Act, 1986 (H.R. 3037), the House and Senate Committee reports (H. Rept. 99-211 and S. Rept. 99-137), and the conference report and accompanying joint explanatory statement of the managers of the committee of conference (H. Rept. 99-439).

In implementing the Presidential Order, departments and agencies shall apply the percentage reduction required for fiscal year 1986 pursuant to the provisions of Public Law 99-177 to all items specified in the explanatory notes submitted to the Committees on Appropriations of the House and Senate in support of the fiscal year 1986 budget estimates, as amended, for such departments and agencies, as modified by Congressional action, and in addition:

For the Agricultural Research Service the definition shall include specific research locations as identified in the explanatory notes and lines of research specifically identified in the reports of the House and Senate Appropriations Committees.

For the Soil Conservation Service the definition shall include individual flood prevention projects as identified in the explanatory notes and individual operational watershed projects as summarized in the notes.

For the Farmers Home Administration the definition shall include individual State, district and county offices.

For the Agricultural Stabilization and Conservation Service the definition shall include individual State and county offices.

DEPARTMENTS OF COMMERCE, JUSTICE, STATE, THE JUDICIARY AND RELATED AGENCIES

During the fiscal year 1986, for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177), the following information provides the definition of the term "program, projects, and activity" for departments and agencies under the jurisdiction of the Commerce, Justice, State, the Judiciary and Related Agencies Subcommittee. The term "program, project, and activity" shall include the most specific level of budget items identified in the Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, 1986 (P.L. 99-180), the House and Senate Committee reports (H. Rept. 99-197 and S. Rept. 99-150), and the conference report and accompanying joint explanatory statement of the managers of the committee of conference (H. Rept. 99-414).

In implementing the Presidential Order, departments and agencies shall apply the percentage reduction required for fiscal year 1986 pursuant to the provisions of Public Law 99-177 to each program, project, activity and subactivity specific in the budget justification documents submitted to the Committees on Appropriations of the House and Senate in support of the fiscal year 1986 budget estimates, as amended, for such departments and agencies, as modified by Congressional action. In addition, the departments and agencies in implementing the Presidential order, shall not (1) eliminate any program, project or activity; (2) reorder priorities or funds; or (3) initiate any program, project or activity that was not funded in P.L. 99-180. However, for purposes of program extention these departments and agencies may propose reprogrammings between programs, projects, and activities pursuant to the provisions of P.L. 99-180 after they implement the reductions required under the Balanced Budget Act.

DEPARTMENT OF DEFENSE

For the purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177), the following information provides the definition of the term "program, project, and activity" for appropriations contained in the Department of Defense Appropriations Act. The term "program, project, and activity" shall include the most specific level of budget items identified in the Department of Defense Appropriations Act, 1986 (H.R. 3629), as passed the House on October 30, 1985 and as reported by the Senate on November 6, 1985, the House and Senate Appropriations Committee reports (H. Rept. 99-332 and S. Rept. 99-176 and the related classified annexes), the conference report and the accompanying joint explanatory statement of the managers of the committee of conference on the Further Continuing Resolution, 1986 (H.J. Res. 465, including the related classified annexes), and the P-1 and R-1 budget justification documents as subsequently modified by Congressional action.

In carrying out the Presidential sequestration order, the Department and agencies shall conform to the definition for "program, project, and activity" as set forth above, and in addition:

For the Military Personnel accounts, the definition shall include the appropriation accounts identified in the Department of Defense Appropriations Act, 1986, the Further Continuing Resolution, 1986 (H.J. Res. 465), and the accompanying House, Senate, and conference reports and accompanying statements of the managers, and further delineated in the program and financing schedules set forth in the Appendix to the Budget of the United States Government for fiscal year 1986, as modified by subsequent Congressional action.

For the Operation and Maintenance accounts, the definition shall include the appropriations accounts identified in the Department of Defense Appropriation Act, 1986, the Further Continuing Resolution, 1986 (H.J. Res. 465), and the accompanying House, Senate, and conference reports and the accompanying statements of the managers and further delineated in the program and financing schedules set forth in the Appendix to the Budget of the United States Government for fiscal year 1986, as modified by subsequent Congressional action.

For the National Foreign Intelligence Program, the definition shall further include the expenditure centers identified in the Congressional budget justification documents for fiscal year 1986, as modified by subsequent Congressional action.

The Department and agencies should carry forth the Presidential sequestration order in a manner that would not adversely affect or alter Congressional policies and priorities established for the Department of Defense and related agencies.

DISTRICT OF COLUMBIA

For purposes of sequestering new budget authority for Federal funds provided in the District of Columbia Appropriations Act, 1986 (H.R. 3067) under the terms prescribed in the Balanced Budget and Emergency Deficit Control Act of 1985, Public Law 99-177, the term "program, project and activity" shall be defined as any items specifically identified in written material set forth in enacted appropriations Acts and accompanying committee reports, including joint resolutions providing continuing appropriations and committee reports accompanying Acts referred to in such resolutions.

ENERGY AND WATER DEVELOPMENT

During fiscal year 1986, for purposes of section 252 of Public Law 99-177, the Balanced Budget and Emergency Deficit Control Act of 1985, "program, project and activity" as related to the Energy and Water Development Appropriation Act, 1986 (P.L. 99-141) and subsequent continuing resolutions for fiscal year 1986 affecting Energy and Water Development program, shall be defined for the purposes of deficit reduction and sequestration to include items in the fiscal year 1986 budget submission of the President as subsequently altered, modified or changed by Congressional action and identified in the Energy and Water Development Appropriations Act, 1986, House and Senate committee reports (H. Rept. 99-195 and S. Rept. 99-110), the conference report and accompanying joint explanatory statement of the managers of the committee of conference (H. Rept. 99-307).

It is the intention that, for purposes of the Balanced Budget Act, each of the programs, projects and activities, as defined above, shall be appropriately funded and subsequently all reductions shall be made proportionately by applying the same reduction percentage as the percentage by which the account is reduced overall. For the purpose of program execution, it is not intended that normal reprogramming between programs, projects and activities necessitated by unforeseen circumstances beyond the control of the agency or required flexibility for normal operation and maintenance, or needed for the efficient prosecution and completion of scheduled work, or for other programmatic needs be precluded. In carrying out the Presidential Order, the agencies shall apply this definition and shall include additionally any and all individual items or line items listed, discussed, described, included in or in any way identified or referred to in narrative or tabular documentation or references including the supporting justification material submitted by the agencies. It is not intended that this be used (1) to eliminate programs, projects or activities, (2) to disproportionately reduce personnel, (3) to otherwise reorder funds or priorities, or (4) to initiate unfunded new programs, projects or activities. It is also the intention that reductions apply to budget authority after the normal application of general reductions and savings and slippage.

FOREIGN ASSISTANCE AND RELATED PROGRAMS

For the purpose of the Foreign Assistance and Related Programs Appropriations Act, (H.R. 3228) "program, project, and activity" shall be defined at the appropriations Act account level and shall include all appropriations Act earmarks, ceilings, and limitations with the exception that for the following accounts: Economic Support Fund; Military Assistance; and, Foreign Military Credit Sales; "program, project, and activity" shall also be considered to include country, regional, and central program level funding within each such account, for the functional development assistance accounts of the Agency for International Development "program, project, and activity" shall also be considered to include central program level funding, either as (1) justified to the Congress, or (2) allocated by the Executive Branch in accordance with a report, to be provided to the Committees on Appropriations within thirty days of enactment of a Foreign Assistance and Related Programs Appropriations Act or of enactment of a continuing resolution containing funding for these programs for the balance of the fiscal year, as required by Sec. 653(a) of the Foreign Assistance Act of 1961, as amended, whichever is the more recent action. In addition, no "program, project, or activity", which has been justified to the Congress may be eliminated through the sequestering process.

HUD-INDEPENDENT AGENCIES

During the fiscal year 1986, for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985, (Public Law 99-177), the following information provides the definition of the term "program, project and activity" for departments and agencies under the jurisdiction of HUD-Independent Agencies Subcommittee. The term "program, project and activity" shall include the most specific level of budget items identified in the Housing and Urban Development-Independent Agencies Appropriations Act, 1986 (Public Law 99-160), the House and Senate Committee reports (H. Rept. 99-212 and S. Rept. 99-129), and the conference report and accompanying joint explanatory statement of the managers of the committee of conference (H. Rept. 99-363).

In implementing the Presidential Order, departments and agencies shall apply the percentage reduction required for fiscal year 1986 pursuant to the provisions of Public Law 99-177 to each program, project, activity and subactivity contained in the budget justification documents submitted to the Committees on Appropriations of the House and Senate in support of the fiscal year 1986 budget estimates, as amended, for such departments and agencies as have been subsequently altered, modified or changed by Congressional action identified by the aforementioned acts, resolutions and reports. Further, it is intended that in implementing the Presidential Order, (1) no program, project or activity should be eliminated, (2) no re-ordering of funds or priorities occur, and (3) no unfunded program, project or activity be initiated. However, for the purposes of program execution, it is not intended that normal reprogramming between programs, projects and activities be precluded *after* reductions required under the Balanced Budget Act are implemented.

INTERIOR AND RELATED AGENCIES

As provided for by Section 252(a)(6)(D)(i)(II) of Public Law 99-177 and for the purposes of a President Order issued pursuant to section 252 of said Act, the term "program, project, and activity" for items under the jurisdiction of the Appropriations Subcommittees on Interior and Related Agencies of the House of Representatives and the Senate is defined as (1) any item specifically identified in tables or written material set forth in the Interior and Related Agencies Appropriations Act, 1986 (H.R. 3011) and accompanying committee reports (H. Rept. 99-205 and S. Rept. 99-141), and the joint resolution providing continuing appropriations (H.J. Res. 465) and the conference report and accompanying joint explanatory statement of the managers of the committees of conference; (2) any Government-owned or Government-operated facility, and (3) management units, such as national parks, national forests, fish hatcheries, wildlife refuges and the like, for which funds are provided in fiscal year 1986.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES AND EDUCATION AND RELATED AGENCIES

During fiscal year 1986, for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177), the following information provides the definition of the term "program, project and activity" for departments and agencies under the jurisdiction of the Labor, Health and Human Services, and Education and Related Agencies Subcommittee. The term "program, project and activity" shall include the most specific level of budget items identified in Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1986 (Public Law 99-178), the House and Senate Committee reports (H. Rept. 99-289 and S. Rept. 99-151), the conference report and accompanying joint explanatory statement of the managers of the committee of conference (H. Rept. 99-402) and the table inserted on pages H10915 through H10940 of the Congressional Record of December 5, 1985.

LEGISLATIVE BRANCH

For purposes of sequestering new budget authority and reducing obligation limitations for funds provided in the Legislative Branch Appropriations Act, 1986 (Public Law 99-151), under the terms prescribed in the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177), the term "program, project, and activity" shall be synonomous with each appropriation account in the Act. Thus, the base which each sequestration or reduction is taken shall be the appropriation account specified in the Act. The sequestration and reduction so ordered will be administered by each Congressional operation or agency as follows: in the case of items for the House of Representatives and Joint Items disbursed by the House of Representatives, the Clerk of the House; in each case of items for the Senate and Joint Items disbursed by the Senate, by the Secretary of the Senate; in the case of the Library of Congress, including the Congressional Research Service, by the Librarian of Congress; and the heads of each of the following: Architect of the Capitol; Office of Technology Assessment; Congressional Budget Office; Government Printing Office; Botanical Garden; Copyright Royalty Tribunal; General Accounting Office; and the Railroad Accounting Principles Board. In administering such sequestrations and reductions, the normal reprogramming procedures of the House and Senate Committees on Appropriations shall apply.

MILITARY CONSTRUCTION

For the purposes of the Military Construction Appropriations for fiscal year 1986 the term "program, project and activity" is defined as any item identified as a project activity or line item listed in the conference report and joint explanatory statement of the managers (H. Rept. 99-380) and reflected in the table inserted on pages H10336 through H10380 of the CONGRESSIONAL RECORD of November 20, 1985. It is also the intention that sequestration apply to budget authority after the application of the general reductions shown in the tables accompanying the Military Construction Appropriations conference report.

TRANSPORTATION AND RELATED AGENCIES

For purposes of section 252(a)(6)(D)(i)(II) of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177), with respect to appropriations contained in the Department of Transportation and Related Agencies Appropriation Act, 1986 (H.R. 3244) the term "program, project, and activity" shall mean any item for which a dollar amount is contained in an appropriation Act (including joint resolutions providing continuing appropriations), accompanying reports of the House and Senate Committee on Appropriations (H. Rept. 99-256 and S. Rept. 99-152, and accompanying conference reports and joint explanatory statements of the committee of conference. This definition shall apply to all programs for which new budget (obligational) authority is provided, as well as to Discretionary grants, Urban Mass Transportation Administration and Interstate transfer grants-highways, Federal Highway Administration. In implementing the Presidential Order, departments and agencies shall apply the percentage reduction required for fiscal year 1986 pursuant to the provisions of Public Law 99-177 to funds appropriated for facilities and equipment, Federal Aviation Administration and for Acquisition, construction, and improvements, Coast Guard, equally to each "budget item" that is listed under said accounts in the budget justifications submitted to the House and Senate Committees on Appropriations as modified by subsequent appropriation Acts and accompanying committee reports, conference reports, or joint explanatory statements of the committee of conference.

TREASURY, POSTAL SERVICE AND GENERAL GOVERNMENT

During fiscal year 1986, for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177), the following information provides the definition of the term "program, project and activity" for departments and agencies under the jurisdiction of the Treasury, Postal Service and General Government Subcommittee. The term "program, project and activity" shall include the most specific level of budget items identified in the Treasury, Postal Service and General Government Appropriations Act, 1986 (H.R. 3036), the House and Senate committee reports (H. Rept. 99-210 and S. Rept. 99-133), and the conference report and accompanying joint explanatory statement of the managers of the committee of conference (H. Rept. 99-349). (Under the above definition, the Federal Buildings Fund, the Bureau of Engraving and Printing Fund and other intragovernmental funds are exempt under section 255(g)(1) of Public Law 99-177.)

WITHHOLDING OF FUNDS

The question frequently arises as to when and under what conditions Federal funds may be withheld.

Various federal statutes govern the obligation of federal funds after they have been appropriated by Congress. After the President has signed an appropriations measure, these laws require the funds be made available for obligation for the purpose for which they were appropriated. In a limited number of circumstances funds may be withheld pursuant to provisions enacted into law. The conferees stress that funds made available under this resolution should be obligated pursuant to law. When any law is used to withhold funds, the funds are to be available for obligation until the message proposing withholding is transmitted to the Congress. This applies additionally to projects that have been planned and are ongoing in nature and involve commitments made over a period of time to assure continuation through completion of such projects.

TREASURY, POSTAL SERVICE AND GENERAL GOVERNMENT

Amendment No. 11: Restores subsection letter (i) as proposed by the House.

Amendment No. 12: Inserts language proposed by the Senate which makes a technical change by inserting the words "and the Senate". The Senate passed the Conference Report on H.R. 3036 on November 7, the same day the Conference Report passed the House.

Amendment No. 13: Inserts a provision proposed by the Senate amended to appropriate $1,065,000,000 for processing tax returns by the Internal Revenue Service of $1,019,391,000 as proposed by the Senate and $1,103,041,000 as proposed by the House. This provision also appropriates $1,419,451,000 for the examinations and appeals activity of the Internal Revenue Service and $748,000,000 for Payment to the Postal Service Fund as proposed by the Senate. The conferees understand that the Administration will not request a supplemental for the revenue forgone subsidy. The conferees direct the Postal Service to meet the liabilities of the former Post Office Department to the Employees' Compensation Fund.

The conferees direct the Secretary of the Treasury to study the feasibility of transfering jurisdiction over Customs Bonded Warehouses used exclusively for the storage of imported alcohol beverages to ATF, and to report its findings to the Committees by March 1, 1986.

FOREIGN ASSISTANCE AND RELATED PROGRAMS

Amendment No. 14: Provides for funding for foreign assistance programs for fiscal year 1986. The amendment inserts the conference agreement for Foreign Assistance and Related Programs for fiscal year 1986. House language would have provided for foreign assistance programs at the level and terms and conditions of H.R. 3228 as reported to the House of Representatives on August 1, 1985 and modified by H.J. Resolution 465. Senate language would have provided for similar programs contained in S. 1816 as reported to the Senate on October 31, 1985 and modified by H.J. Resolution 465.

A summary of the title totals of the bill follows:

	FY 1986 estimates	House	[redacted]	Conference
Title I—MULTILATERAL ECONOMIC ASSISTANCE				
Contributions to International Financial Institutions	1,347,623,934	1,293,409,287	816,973,886	1,193,847,240
International organizations and programs	196,211,000	298,364,800	287,360,000	277,922,475
Total, contribution for Multilateral Economic Assistance	1,543,834,934	1,591,774,087	1,104,333,886	1,471,769,715
TITLE II—BILATERAL ECONOMIC ASSISTANCE				
Bilateral Development Assistance	2,7867,407,000	2,662,342,530	2,818,136,000	2,717,060,730
Economic support fund	4,024,000,000	3,689,386,666	3,745,000,000	3,700,000,000
Total Bilateral Economic Assistance	6,791,407,000	6,351,629,196	6,563,136,000	6,417,060,730
TITLE III—MILITARY ASSISTANCE				
Military Assistance	[redacted]	[redacted]	805,100,000	782,000,000
Foreign Military Credit Sales	5,655,000,000	5,058,983,333	5,371,000,000	5,190,000,000
[redacted]	[redacted]	[redacted]	106,221,000	54,489,500
Total, Military Assistance Programs	6,697,000,000	5,878,120,833	6,282,321,000	6,026,489,500

	FY 1986 estimates	House	Senate	Conference
TITLE IV—EXPORT-IMPORT BANK OF THE UNITED STATES				
Budget authority effect of Ex-Im limitations		783,879,167	1,800,000,000	1,110,000,000
Total NBOA (including Ex-Im)	15,032,241,934	14,605,403,283	15,749,790,886	15,025,319,945

TITLE I

MULTILATERAL ECONOMIC ASSISTANCE

The following table shows the conference agreement for Title I, Multilateral Economic Assistance:

	FY 1986 estimates	House	Senate	Conference
TITLE I—MULTILATERAL ECONOMIC ASSISTANCE				
FUNDS APPROPRIATED TO THE PRESIDENT				
International Financial Institutions				
Contribution to the International Bank for Reconstruction and Development	182,870,597	151,782,596	109,720,549	109,720 549
Paid-in capital	750,000,000	750,000,000	375,000,000	700,000 000
Contribution to the International Development Association (IBA VI)	35,033,000	29,077,390	35,033,000	29,077,390
International Finance Corporation				75,000,000
Contribution to the Special Facility for Sub Saharan Africa				
Contribution to the Inter-American Development Bank	72,500,000	72,500,000	40 000,000	40 000,000
Fund for special operations	58,000,983	58,000,983	38,000,983	38,000 983
Inter = regional paid-capital	13,000,000	11,700,000	13,000,000	11,700,000
Inter = American Investment Corporation				
Contribution to the Asian Development Bank	13,232,676	11,989 408	13,232,676	11,909 408
Paid-in capital	130,000,000	130,000,000	100,000 000	100 000,000
Development fund	75,000,000	62,250,000	75 000,000	62,250,000
Contribution to the African Development Fund				
Contribution to the African Development Bank	17 986,678	16,188,910	17,986,678	16,188,910
Paid-in capital				
Total Contributions to International Financial Institution	11,347,623,934	1,293,409,287	816,973,886	1,193,847,240
Department of State				
International organizations and programs	196,211,000	298,364,000	287,360,000	277,922,475
Totals Contribution for Multilateral Economic Assistance	1,543,834,934	1,591,774,087	1,104,333,886	1,471,769,715

SPECIAL FACILITY FOR SUB-SAHARAN AFRICA

The Conferees agree to provide $75,000,000 for the Special Facility for Sub-Saharan Africa under Title I, Multilateral Economic Assistance. The House had originally funded the contribution to this facility under the Economic Support Fund in Title II. The Senate had provided no funding for the facility.

ASIAN DEVELOPMENT BANK

The Conferees agree that support of the Asian Development Bank will be discontinued if the Republic of China (Taiwan) is prevented from remaining as a full member of the Bank. Its status and designation within the Asian Development Bank must remain unaltered notwithstanding how the issue of the People's Republic of China's application for membership is finally determined.

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

The following table shows the conference agreement for the International Organizations and Programs account.

Organization	*Conference Agreement*
UNDP	$148,500,000
UNICEF	48,150,000
World Food Program	1,900,000
U.N. Capital Development Fund	900,000
U.N. Decade for Women	250,000
International Convention and Scientific Organization Contributions	1,282,500
World Meteorological Organization Voluntary cooperation	1,800,000
International Atomic Energy Agency	17,715,000
U.N. Environment Program	9,000,000
U.N. Education and Training Program for South Africa	900,000
UNDP Trust Fund to Combat Poverty and Hunger in Africa	1,429,975
Institute for Namibia	225,000
U.N. Trust Fund for South Africa	0
Convention on International Trade in Endangered Species	180,000
UNIDO Investment Promotion Service	[illegible]
U.N. Fellowship Program	225,000
World Heritage Fund	250,000
U.N. Voluntary Fund for Victims of Torture	90,000
Center on Human Settlements	400,000
International Fund for Agricultural Development	30,000,000
Organization of American States	14,725,000
	$277,922,475

INTERNATIONAL FUND FOR AGRICULTURAL DEVELOPMENT

The House and Senate versions of the Continuing Resolution each provided $50 million in FY 1986 for the International Fund for Agricultural Development (IFAD). This amount was for a U.S. contribution to IFAD's Second Replenishment and, in the House version, to IFAD's Special Program for Africa as well.

The Conferees agree to provide $30 million for an FY 1986 contribution to IFAD's Second Replenishment, without prejudice to a contribution to IFAD's Special Program for Africa. It is noted that since U.S. participation in IFAD is authorized under Section 103 of the Foreign Assistance Act, funds may be made available, under established procedures, from the Agriculture, rural development and nutrition account.

TITLE II

BILATERAL ECONOMIC ASSISTANCE

The following table shows the conference agreement for Title II, Bilateral Economic Assistance:

	FY 1986 estimates	House	Senate	Conference
TITLE II—BILATERAL ECONOMIC ASSISTANCE				
FUNDS APPROPRIATED TO THE PRESIDENT				
Agency for International Development				
Agriculture, rural development, and nutrition, Development Assistance	792,352,000	679,995,000	760,000,000	699,995,900
Population, Development Assistance	250,017,000	261,000,000	250,000,000	250,000,000
Health, Development Assistance	146,427,000	200,824,200	205,000,000	200,824,200

	FY 1986 estimates	House	Senate	Conference
Child Survival Fund		22,500,000	25,000,000	[illegible]
Education and human resources development, Development Assistance	18? 533,000	169,949,700	[illegible]	169,949,700
Energy and selected development activities, Development Assistance	210,071,000	174,358,930	[illegible]	174,358,930
Science and technology, Development Assistance	13,000,000	10,790,000	13,000,000	[illegible]
Private sector revolving fund (by transfer)	(20,000,000)	(18,000,000)	(18,000,000)	(18,000,000)
Subtotal, functional development assistance	1,595,400,000	1,519,418,730	1,623,000,000	1,530,918,730
American schools and hospitals abroad	[illegible]	27,000,000	35,000,000	35,000,000
International disaster assistance	25,000,000	22,500,000	25,000,000	22,500,000
Sahel development program	80,500,000	87,750,000	80,500,000	80,500,000
Overseas training and special development activities (foreign currency program)				
Payment to the Foreign Service Retirement and Disability Fund	43,122,000	43,122,000	43,122,000	43,122,000
AID deobligate/reobligate reappropriation		[illegible]	[illegible]	[illegible]
Deobligate and rescind Sunan termination account		−26,200,000		
Operating expenses of the Agency for International Development	393,700,000	[illegible]	372,200,000	376,350,000
Operating expenses of the Office of the Inspector General			25,200,000	21,050,000
Trade credit insurance program	(200,000,000)	(200,000,000)	(300,000,000)	(250,000,000)
Trade and development	20,034,000	[illegible]	20,034,000	[illegible]
Housing and other credit guaranty programs				
Loan reserve				
(Limitation on guaranteed loans)	(45,000,000)	(144,000,000)	(160,000,000)	(152,000,000)
Subtotal, Agency for International Development	2,167,756,000	2,084,490,730	2,229,056,000	2,133,340,730
Economic support fund	4,024,000,000	3,689,286,666	3,745,000,000	3,700,000,000
Total, Agency for International Development	6,191,756,000	5,773,777,396	5,974,056,000	5,833,340,730
African Development Foundation				
Appropriations [1]	1,012,000	4,000,000	1,012,000	3,872,000
Inter-American Foundation				
Appropriations	[illegible]	10,792,800	11,969,000	11,969,000
Overseas Private Investment Corporation				
(Limitation on direct loans)	(15,000,000)	(13,500,000)	(15,000,000)	(14,250,000
(Limitation on guaranteed loans)	(150,000,000)	(135,000,000)	(150,000,000)	(142,500,000)
Total, Funds appropriated to the President	6,201,568,000	5,788,570,196	5,987,037,000	5,849,181,730
Independent Agency				
Peace Corps	125,200,000	128,600,000	130,000,000	130,000,000
Department of State				
International narcotics control	57,709,000	57,529,000	57,529,000	57,529,000
Migration and refugee assistance	337,930,000	337,930,000	344,730,000	338,930,000
Anti-terrorism assistance	32,000,000	[illegible]	9,840,000	7,420,000
Peacekeeping operations	37,000,000	[illegible]	34,000,000	[illegible]
Total, Department of State	464,639,000	434,459,000	446,099,000	434,879,000
Total, Bilateral Economic Assistance	6,791,407,000	6,351,629,196	6,563,136,000	6,417,060,730

[1] African Development Foundation had additional funds available to be obligated in FY 1985 due to carry over provisions in the FY Continuing Resolution and no year Sahel programs funds

HEALTH, DEVELOPMENT ASSISTANCE AND CHILD SURVIVAL FUND

The Conferees agree to fund Health, Development Assistance at the House proposed level of $200,824,200 instead of the Senate level of $205,000,000. The Conferees agree to earmark $12,500,000 within the Health, Development Assistance account for child survival programs and activities instead of the original Senate earmark of $25,000,000.

The Conferees also agree to fund the Child Survival Fund at the Senate proposed level of $25,000,000 instead of the House proposed level of $22,500,000. The Conferees further agree to transfer $12,500,000 in prior year unobligated funds from the amount for Lebanon in the Economic Support Fund to the Child Survival Fund.

AMERICAN SCHOOLS AND HOSPITALS ABROAD

The Conferees have been favorably impressed by the programs of the American University of Beirut and Project ORBIS. The American University of Beirut, particularly, has played an important role in an area of the world which has been constantly torn by strife over the last ten years. The Conferees are concerned that these two programs be sufficiently funded and strongly urge the Agency for International Development to fully fund their requests for assistance.

OPERATING EXPENSES OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT

IDCA

The Conferees agree to the Senate provision prohibiting the use of AID operating expenses to pay for the operating expenses of the International Development Cooperation Agency. This provision recognizes that relevant IDCA functions can continue to be carried out by the AID Administrator pursuant to existing delegations of authority. This provision does not repeal or otherwise affect existing authorization legislation relating to IDCA.

ACCOUNT CHANGES

The Conferees agree that for the purpose of funds made available by this act for FY 1986, the Agency for International Development may charge program-related overseas in-country travel to the relevant program (as opposed to the operating expenses) account. Similarly, for FY 1986, the cost of foreign service nationals who carry out program-related functions may also be charged against the relevant program account.

AID INSPECTOR GENERAL

The Conferees agree to provide a new account for the Inspector General of the Agency for International Development. The Conferees agree to include a provision allowing for the transfer of some funds from AID operating expenses to the Inspector General's office if necessary. Additionally, within the amount provided for the Inspector General, the Conferees agree to provide $1,600,000 for security purposes.

AID BUREAU OF EXTERNAL AFFAIRS

The Conferees agree to drop Senate language which would have limited the number of personnel assigned to AID's Bureau of External Affairs office, to nineteen. The Conferees direct that the Agency for International Development reduce personnel in that office to a level of thirty-four.

NATIONAL UNIVERSITY IN COSTA RICA

The Conferees agree to drop the Senate language under the Education and Human Resources Development account, which would have earmarked $340,000 to support a scholarship program at the National University in Costa Rica. The Conferees also have agreed to drop a provision under the Economic Support Fund account which would have earmarked $840,000 equivalent in Costa Rican currency for the same project. The Conferees agree however, that this program deserves to be closely considered for funding by AID. This program would support the very worthwhile goal of providing scholarships for young Costa Ricans in the United States as called for by the Kissinger Commission.

LIMITATION ON DEVELOPMENT ASSISTANCE IN CENTRAL AMERICA

The Conferees have set a limitation on development assistance activities in Central America at a total of not more than $250,000,000. Additional funds, if required, may be requested through the notification process of the Committees on Appropriations.

The Conferees strongly support development assistance programs in Sub-Saharan Africa, a region which is relatively worse off by most demographic and economic measures than several other regions. The Conferees strongly encourage the Administration to fund these programs at their full 1986 budget request levels.

PRIVATE AND VOLUNTARY ORGANIZATIONS

The Conferees agree that it is appropriate to require that private and voluntary organizations obtain a minimum of twenty percent of their funding from private, non-governmental sources in order to be eligible for participation in programs funded under the Agency for International Development. Further, the Conferees agree that, in implementing this twenty percent rule for the private and voluntary agencies, AID shall not include in the determination of the amount of Government support for an organization the value of commodities (including related transportation) made available to that organization for overseas distribution. It is also the intent of the Conferees that the value of contracts for services and grants for AID-initiated activities shall not be included in determining Government support for such an organization. Lastly, it is further the intent of the Conferees that any application of this rule not interrupt fiscal year 1986 support for ongoing PVO programs of assistance for which Congress has been notified.

ECONOMIC SUPPORT FUND

COMMODITY IMPORT PROGRAM

The Conferees agree to earmark not less than $200 million for Commodity Import Program activities in Egypt during FY 1986 as proposed by the Senate. This proposal can include the activities being financed under the ongoing Commodity Import Program as well as those financed by the newly proposed Private Enterprise Commodity Import Program.

GUATEMALA

In agreeing to remove the ceiling on the amount of Economic Support Fund assistance which can be made available for Guatemala, the Conferees are acting in light of the continuing progress Guatemala is making toward democracy and respect for human rights. The selection of a Congress and a civilian president in free and fair elections is a significant step forward in constitutional government in Guatemala. The Conferees will continue to watch closely the human rights situation in Guatemala. However, at this time, the Conferees believe that the United States should move quickly to support Guatemala's decisive steps toward democracy and to support the efforts of the newly elected president to address the serious economic difficulties confronting that nation.

PHILIPPINES

The Conferees agree to provide FY 1986 assistance to the Philippines, as follows:

	House	Senate	Conference agreement
ESF	([1])	$110,000,000	$125,000,000
MAP	$25,000,000	50,000,000	40,000,000
FMS	0	20,000,000	15,000,000

[1] No amount specified.

TIED AID CREDIT PROGRAM

The FY 1986 International Security and Development Cooperation Act (P. L. (99-83) contains an earmark of $50,000,000 in Economic Support Fund monies to carry out a tied aid credit program for U.S. exports. Since the passage of this Act, the Administration has proposed a $300 million "war chest" to combat unfair trade practices. Therefore, in order to consider both issues, the Conferees agree that obligation of funds for the tied aid credit program be subject to the normal notification process.

SOUTHERN AFRICA REGIONAL PROGRAM

Under existing law, $30 million of the funds made available under the Economic Support Fund are earmarked for Southern Africa regional programs. That same law also provides that 50 percent of this earmark shall be allocated for sector projects supported by the Southern Africa Development Coordination Conference (SADCC). SADCC is a regional organization comprised of the nine so-called "front line" states. The Conferees support development assistance and Economic Support Fund projects in Southern Africa, but are concerned that this particular provision of the law may result in U.S. foreign assistance financing of projects in Angola and Mozambique which would otherwise be prohibited by law. The Conferees agree that this particular program will be examined carefully.

LEBANON

The Conferees have included a provision which redistributes funds previously appropriated but currently unobligated for Lebanon. This provision transfers $5,350,000 to UNICEF, $12,500,000 to the Child Survival Fund, and $5,000,000 to International Narcotics Control. Following this transfer, approximate $20,000,000 remains in this fund. The Conferees have included language which tightly restricts the use of these remaining funds solely for Lebanon as proposed by the Senate.

SYRIA

The Conferees agree to deobligate and rescind $11,200,000 from the Syria Termination Account instead of the $26,200,000 proposed by the House. The Conferees agree that the $15,000,000 remaining in the account be used only to pay costs associated with the termination of the Syrian economic assistance program in accordance with the original Senate proposal.

TITLE III—MILITARY ASSISTANCE

The following table shows the conference agreement for Title III, Military Assistance:

	FY 1986 Estimates	House	Senate	Conference
TITLE III—MILITARY ASSISTANCE				
Funds appropriated to the President				
Military Assistance	976,350,00	764,648,000	805,100,000	782,000,000
International Military Education and Training	65,650,000	54,489,500	56,221,000	54,489,500
Foreign Military Credit Sales	5,655,000,000	5,058,983,333	5,371,000,000	5,190,000,000
Direct credits and forgiven loans	(345,000,000)	(325,000,000)	(345,000,000	(325,000,000)
Special Defense Acquisition Fund (limitation on obligations)				
Guarantee Reserve Fund				
Total Military Assistance Programs	6,697,000,000	5,878,120,833	6,282,321,000	6,026,489,500

GREECE AND TURKEY

The Conferees direct that military assistance for Greece and Turkey be provided only in accordance with a seven to ten ratio. The Conferees have earmarked military assistance to Greece and Turkey at a level which reflects both the seven to ten ratio and a ten percent reduction from the levels provided in the Senate bill as follows: $450,000,000; Turkey $427,852,000; Military Assistance programs—$215,000,000.

	[illegible]	MAP	[illegible]
Greece	$450,000,000	0	$450,000,000
Turkey	427,852,000	215,000,000	642,852,000

TITLE IV—EXPORT-IMPORT BANK OF THE UNITED STATES

The following table shows the conference agreement for Title IV, Export-Import Bank:

TITLE IV—EXPORT BANK OF THE UNITED STATES

Limitation of Program Activity				
(Limitation on direct loans)		(783,879,167)	(1,800,000,000)	(1,110,000,000)
(Limitation on guaranteed loans)	(12,000,000,000)	(12,000,000,000)	(12,000,000,000)	(12,000,000,000)

TITLE IV—EXPORT BANK OF THE UNITED STATES—Continued

Limitation on administrative expenses	(18,357,000)	(18,000,000)	(18,000,000)	(18,357,000)
Total Export-Import Bank of the United States (limitations on use of corporate funds	(12,018,357,000)	(12,801,879,167)	(13,818,000,000)	(13,128,357,000)

TITLE V—GENERAL PROVISIONS

DRUG CONTROL

The Conferees agree to include a modified version of a House provision relating to drug control. The House provision was modified by deleting Colombia from the General Provision, section 537, which required that 50 percent of the funds (excluding International Narcotics Control funds) for Colombia, Jamaica and Peru be withheld from obligation unless the President determines and reports to Congress, that these Governments are "sufficiently responsive to the United States Government concerns on drug control and that the added expenditures of the funds for that country are in the national interest of the United States".

The Conferees removed Colombia from the restriction because of the progress that country has made during the past year in its drug control program. The Conferees believe that these efforts should be accelerated in order to avoid U.S. foreign assistance restrictions in the future.

The Conferees agree to retain the second section of this provision which placed additional requirements on the release of funds to Bolivia.

DEOBLIGATION-REOBLIGATION AUTHORITY

The Conferees agree to provide deob-reob authority to the Agency for International Development. Funds which are deobligated remain available for reobligation for one calendar year from the date of deobligation.

CESSATION OF ASSISTANCE FOLLOWING MILITARY COUPS

The Conferees agree to Senate language which provides that funds made available under this Act may not be obligated or expended for assistance to any country whose duly elected head of government is deposed by military coup or decree. This provision is in lieu of two separate House provisions which applied this restriction to El Salvador and Guatemala. The provision agreed to covers El Salvador, Guatemala, and any other country whose duly elected head of government is deposed by military coup or decree.

Amendment No. 15: Restores subsection letter proposed by the House.

TRADE ACT—ADMINISTRATIVE COSTS

Amendment No. 16: Deletes appropriation of $4,588,000 proposed by the Senate for State administrative costs related to the Trade Act. The House resolution contained no funds for this purpose.

The conferees are concerned that some States will not have sufficient unexpended carryover funds from prior allotments under the Dislocated Workers Assistance Program to maintain ongoing levels of job retraining and support services in program year 1986. Therefore, the conferees direct that in reviewing applications submitted by States for discretionary funds the Secretary of Labor shall give first priority to those applications submitted by States with insufficient unexpended carryover funds from prior year obligations to maintain ongoing expenditure levels throughout program year 1986. This should provide the desired assistance to those States which have utilized funds provided in prior years while also maintaining the Secretary's responsibility under the Job Training Partnership Act to consider throughout the year proposals submitted by States for special projects that could otherwise not be financed. The Secretary shall report to the House and Senate Appropriations Committees on the amount of carryover funds which are available to each State under section 301(b) of the Act and if additional appropriations are necessary to maintain current program levels in all States.

FOSTER CARE—RATE OF OPERATIONS

Amendment No. 17: Inserts language propsoed by the Senate which has the effect of providing the current rate of spending for certain expired sections of Title IV-E of the Social Security Act relating to foster care and adoption assistance. The House resolution contained no similar provision.

PUBLIC BROADCASTING

Amendment No. 18: Deletes reference to Corporation for Public Broadcasting proposed by the House. An appropriation of $214,000,000 for the Corporation is included in the regular apropriation Act.

Amendment No. 19: Deletes House language as proposed by the Senate. The House language reads as follows:

SEC. 105. In view of the financial crisis facing many farmers, resulting from embargoes and suspension of exports in 1973, 1974, 1975, and 1980, and failure to use the Commodity Credit Corporation for a loan program which led to a fair price from the user, the Secretary of Agriculture shall use his authority under existing law to provide for nonrecourse loans on basic agricultural commodities at such levels as will reflect a fair return to the farm producer above the cost of production, and to issue such regulations as will carry out this provision and as will provide for payment by the purchaser, rather than by appropriation, for basic commodities sold for domestic use and the Secretary of Agriculture shall issue such regulations as will enable producers of any basic agricultural commodity to produce the amount needed for domestic consumption, to maintain the pipeline, and to regain and retain by competitive sales our normal share of the world market.

The House provisions directed the Secretary to carry our existing law. The House receded to Senate position since the authority to the Secretary continues to exist.

Amendemnt No. 20: Deletes House language as proposed by the Senate. The House language reads as follows:

SEC. 106. Public Law 99-88 funded a study by the Department of Agriculture to determine the losses suffered by United States farm producers of agricultural products during the last decade as a result of embargoes on the sale of United States agricultural products and the failure to offer for sale in world markets commodities surplus to domestic needs at competitive prices, for use in determining what part of existing indebtedness of farmers should be canceled as a result of such foreign policy. Pending the completion of the study, the Secretary shall determine, on a case-by-case basis, which borrowers are unable to continue making payments of principal and interest due to embargoes or the failure to sell competitively in world trade and, thereby, qualify for an adjustment of principal and interest due to prevent bankruptcy of foreclosure, all as authorized by existing law.

Upon presentation of substantial evidence to the Secretary that a borrower qualifies, payment of principal and interest shall be suspended and the Secretary shall forego foreclosure of loans owed to the Federal Government, as authorized by law, for 12 months or until an adjustment is agreed upon. Other creditors shall be requested by the Secretary to postpone payments due on the same basis.

The House provision directed the Secretary to take action authorized by existing law. The House receded to the Senate position, since authority to do as the language directs continues to exist.

RUIDOSO AIRPORT

Amendment No. 21: Makes a technical correction to the authority included in Public Law 99-98 for the relocation of the Fort Stanton Experiment Station in order to make room for a new Ruidoso airport as proposed by the Senate.

SOIL CONSERVATION SERVICE

WATERSHED AND FLOOD PREVENTION OPERATIONS

EMERGENCY WATERSHED PROTECTION MEASURES

Amendment No. 22: Appropriates $40,000,000 for emergency assistance to repair watersheds that were damaged by Hurricane Juan and torrential rains this fall, as proposed by the Senate. The conference agreement also amends a U.S. Code citation to clarify that rehabilitation measures are funded.

The conferees agree that there is an urgent need for supplemental funds and that these funds should be used to (a) continue to remove debris from drains, streams, and structure openings to prevent further devastating floods and the resulting hazards to life and property; (b) restore the $5,000,000 emergency contingency fund; and (c) restore the $10,000,000 operating funds that have been redirected to provide immediate emergency assistance.

FARM CREDIT ADMINISTRATION

Amendment No. 23: Provides an increase in the limitation on administrative expenses of $9,549,000 (from assessments collected from farm credit system banks) for fiscal year 1986 as proposed by the Senate. The conference agreement also provides that the Comptroller General or his duly authorized representatives shall have access to and the right to examine all books, documents, papers, records, or other recorded information within the possession or control of the Federal land banks and Federal land bank associations, Federal intermediate credit banks and production credit associations and banks for cooperatives.

EDA BALANCES NOT DISBURSED

Amendment No. 24: Inserts language proposed by the Senate concerning the use of obligated and undisbursed funds in New York, New York, amended to include the following: similar provisions for funds for

New Jersey, California, Alabama and Illinois; clarifying language concerning Red Rock Dam and Lake, Iowa; two grants totalling $8,500,000 for the Economic Development Administration; and $2,500,000 for the United States Information Agency to reimburse organizations for expenses related to international games for the handicapped. The House bill contained none of these provisions.

The conference agreement provides that obligated but undisbursed balances from the appropriations pursuant to the Local Public Works Capital Development and Investment Act of 1976 be made available to the locations and for the purposes designated in the Joint Resolution in the following amounts: (1) New York, New York, $14,100,000; (2) New Jersey, $1,069,861; (3) California, $431,012; in addition, the conferees intend that his contribution toward the South Gate project is in addition to, and not in any way in lieu of, other fiscal year 1986 EDA funds to be applied to this important project; (4) Alabama, $470,224; (5) Illinois, $819,650; the conferees intend that $400,000 will be for a grant to the Will County Local Development Company and the balance of these funds will be allocated to the Illinois and Michigan Canal Commission for the purpose of achieving the objectives set forth in establishing the Corridor, for improving economic conditions in the area, engendering long-term, sustainable economic development for the creation of permanent jobs, and to meet additional administrative demands created through the provision of these funds.

The conference agreement also includes language to facilitate activities related to an existing flood control project at Red Rock Dam and Lake, Iowa. When the Red Rock Project was established, some owners were forced to sell flowage easements and not given the opportunity to sell the land instead. This was not the policy on projects since that time. Flooding has been more frequent than anticipated and caused great loss to some owners. Selling land subject to such an easement is very difficult and it would be in the interest of both the government and the owners to purchase the remaining interest where owners desire to sell it. The appraisal of the interests in the real estate involved shall be in accordance with usual appraisal principles, recognizing the percentage of the total fair market value paid for the flowage easement rights presently owned by the United States.

The conference agreement also provides two grants for economic development assistance purposes: (1) Lexington County, South Carolina, and (2) Fort Worth Stockyards. In addition, the conferees direct that, within available funds, the Secretary of Commerce make payment as expeditiously as possible to the City of East Grand Forks, Minnesota, in connection with the City's application for assistance under title I of the Public Works and Economic Development Act as approved by the Economic Development Administration in September, 1983. This is a unique case in that the project qualifies under recently revised regulations concerning the relocation of grantees.

The conference agreement provides $2,500,000 to the United States Information Agency for reimbursement of expenses associated with the exchange of athletes, coaches and officials for international games for the handicapped held in the United States as authorized by Public Law 99-93. The agreement also provides that reimbursement for each organization conducting such games shall not exceed the total amount of necessary and reasonable expenses incurred by the organization in excess of donations and government services furnished. The organizations which are expected to apply for reimbursement and the anticipated amounts of their claims are: The XV International Games for the Deaf (not to exceed $1,977,600); the Fifth National Amputee Championships (not to exceed $250,000); the 1985 National Cerebral Palsy/Les Autres Games (not to exceed $330,000); the Ninth Annual National Championship for Blind Athletes (not to exceed $50,000); the National Wheelchair Athletic Association (not to exceed $40,000); National Handicapped Sports and Recreation Association (not to exceed $75,000); and the International Summer Special Olympic Games (not to exceed $25,000).

The conferees are agreed that the United States Information Agency shall carefully review each claim submitted under this program and provide reimbursement directly to claimants in accordance with the provisions of Public Law 99-93 and this conference agreement. Disbursements to the qualified claimants shall be made within 30 days after claims are submitted to the United States Information Agency. The conferees are further agreed that the United States Information Agency will submit a report to the House and Senate Appropriations Committees by April 1, 1986 concerning reimbursements made under this program and quarterly thereafter to the extent that any unobligated funds remain.

INTEGRATED FLOOD OBSERVING AND WARNING SYSTEM

Amendment No. 25: Appropriates $3,000,000 for the Integrated Flood Observing and Warning System (IFLOWS) as proposed by the Senate.

DEPARTMENT OF JUSTICE—"INSIDER TRADING"

Amendment No. 26: Inserts language which prohibits the Department of Justice, for a period of six months, from implementing or adopting as a permanent rule, New Offense Example 363, providing for "insider trading" offenses with the proviso that this language shall not apply to any case pending before the U.S. Parole Commission as of the effective date of this joint resolution. This language is the same as the Senate proposal except for the addition of the proviso. The House bill did not contain any provision on this matter.

The conference agreement is not intended to change the result in any case pending before the United States Parole Commission in which an initial hearing has been held.

COMPREHENSIVE CRIME COUNTER ACT

Amendment No. 27: Deletes Sec. 111 proposed by the Senate which would have amended the Comprehensive Crime Control Act of 1984 to permit the deputizing of local law enforcement officers for Federal investigations. This provision, along with the provision in Amendment No. 28, are part of a technical corrections legislative package to the Comprehensive Crime Control Act that the authorizing committees are expected to consider in the second session of the 99th Congress.

Amendment No. 28: Deletes Sec. 112 proposed by the Senate which would have amended the Comprehensive Crime Control Act of 1984 to impose a minimum mandatory five-year prison sentence for a conviction for carrying a firearm during the commission of a serious drug offense.

COMMISSION ON THE BICENTENNIAL OF THE CONSTITUTION

Amendment No. 29: Appropriates $12,000,000 for the Commission on the Bicentennial of the Constitution, removes the limitations in current law on the number of staff and details to the Commission, and provides that the salary of the director of the Commission shall not exceed 95 percent of level I of the Executive Schedule. The Senate had proposed an appropriation of $20,000,000 and language to remove the limitations on the number of staff and details to the Commission. The House bill did not contain any provision on this matter.

LEGAL SERVICES CORPORATION

Amendment No. 30: Inserts language which prohibits unobligated balances for the Legal Services Corporation which are carried over into fiscal year 1986 either by the Corporation or by any of its recipients from being expended unless such funds are expended pursuant to the restrictions and provisions of P.L. 99-180, except that such funds may be expended for continued representation of aliens commenced prior to January 1, 1983, or as approved by the Corporation. The Senate had proposed language which would have prohibited funds appropriated to the Legal Services Corporation and made available to grantees from being expended until such grantees had expended all funds carried over from previous fiscal years unless the failure to expend such funds had been approved by the Legal Services Corporation. The House bill contained no provision on this matter.

The conferees are agreed that attorneys in local legal services programs should not be put in the position of violating a judicial decree or the Code of Professional Responsibility because of the restrictions in the conference agreement. Therefore, the conferees have included a provision in the agreement which would permit the Corporation to waive these restrictions in order to preclude either of these situations.

SMALL BUSINESS ADMINISTRATION

Amendment No. 31: Inserts language as proposed by the Senate, with a section number change, which transfers $10,000,000 from the Disaster Loan Fund to the Salaries and Expenses account of the Small Business Administration for disaster loan making activities, including loan servicing.

NUCLEAR TRANSFERS TO CHINA

Amendment No. 32: Deletes language proposed by the Senate which would have prohibited the availability of funds for the issuance of any license for export to, or for any approval for the transfer or retransfer to, the People's Republic of China of any nuclear equipment, materials, or technology subject to the Agreement for Cooperation Between the Government of the United States of America and the Government of the People's Republic of China Concerning Peaceful Uses of Nuclear Energy, until the President certifies that standard methods of accounting and inspection have been established for verification.

DEPARTMENT OF DEFENSE—MISCELLANEOUS PROVISIONS

Amendment No. 33: Deletes Senate language requiring the Secretary of Defense, beginning on May 1, 1986, to reduce the rate of obligations from the individual military personnel accounts to insure that none will exceed the appropriation ceiling for fiscal year 1986. This provision is included in the

Department of Defense Appropriation Act, 1986 set forth in amendment number 4.

Amendment No. 34: Deletes Senate language limiting Department of Defense obligations and expenditures for consultants and related services for fiscal year 1986 to $1,277,793,000. The conferees agreed to remove this provision and it is not included in amendment number 4.

Amendment No. 35: Deletes Senate language raising the limitation for emergencies and extraordinary expenses by $708,000. This issue was agreed to and is addressed in amendment number 4.

Amendment No. 36: Deletes Senate language preventing the Department of Defense from using any paint containing the chemical compound tributyltin to paint naval vessels until the Environmental Protection Agency makes a certification to the Department. This provision was agreed to and is addressed in amendment number 4.

Amendment No. 37: Deletes Senate language appropriating an additional $400,000 to the Operation and Maintenance, Army National Guard account for the environmental projects program. This addition was agreed to and is addressed in amendment number 4.

Amendment No. 38: Deletes Senate language appropriating an additional $42,400,000 to the Other Procurement, Army account for the procurement of the M-9 Armored Combat Earthmover. This issue is addressed in amendment number 4 under the Other Procurement, Army account.

Amendment No. 39: Deletes Senate language appropriating an additional $126,894,000 to the Missile Procurement, Air Force account for Titan 3407 missile procurement. This issue is addressed in amendment number 4 under the Missile Procurement, Air Force account.

Amendment No. 40: Deletes Senate language prohibiting the earmarking of Strategic Defense Initiative funds for contracts with non-U.S. contractors prior to source selection in order to meet a specific allocation of funds to any allied nation. This provision was agreed to and is addressed in amendment number 4.

Amendment No. 41: Deletes Senate language earmarking $5,000,000 for a research program to develop new and improved verification techniques to monitor compliance with a possible anti-satellite weapons agreement from the RDT&E, Air Force account. This issue was agreed to and is addressed in amendment number 4.

Amendment No. 42: Deletes Senate language earmarking $10,000,000 for the Department of Defense/Department of Energy Conventional Munitions Technology Development Program for the RDT&E, Defense Agencies account. The earmarking was adjusted and is addressed in amendment number 4.

Amendment No. 43: Deletes Senate language earmarking $10,000,000 out of the Research, Development, Test and Evaluation, Defense Agencies account for research, devlopment and acquisition of an advanced super computer. This addition was agreed to and is addressed in amendment number 4.

Amendment No. 44: Deletes Senate language requiring that funds appropriated to or for the use of the Defense Department may not be obligated or expended until they have been authorized by law but exempting the Coastal Defense Augmentation appropriation form this requirement. This provision was agreed to and is addressed in amendment number 4.

Amendment No. 45: Deletes Senate language appropriating $15,000,000 for acquisition of point air defense in Italy. This addition was agreed to and is addressed in amendment number 4.

Amendment No. 46: Deletes Senate sense of the Congress provision regarding competition for ship maintenance and repair contracts. This issue is addressed in amendment number 4 under the Operation and Maintenance, Navy account.

Amendment No. 47: Amends the section inserted by the Senate to change the language making it a sense of the Congress provision instead of a sense of the Senate provision. The provision addresses fraudulent defense contractor billing and other practices and encourages increased United States Government efforts to expose such practices and to punish offenders.

Amendment No. 48: Deletes Senate language adding the words "authorizing such expenditures and". This language concerns the need to enact authorizing legislation to establish a Mariner Fund and is addressed in amendment number 4.

ENERGY AND WATER DEVELOPMENT PROVISIONS

Amendment No. 49: Inserts language proposed by the Senate which amends Section 1302 of Public Law 98-181 to substitute in the first sentence "period of two years" with "period ending January 1, 1989" and conforms section number.

Amendment No. 50: Inserts language proposed by the Senate which directs the Secretary of the Army to accomplish emergency bank stabilization work at Bethel, Dillingham, and Galena, Alaska, and conforms section number.

Amendment No. 51: Inserts language proposed by the Senate which provides that the Secretary of the Army shall include as part of the non-Federal contribution for the Fairfield Vicinity Streams, California, project the cost of any work carried out by non-Federal interests on the project after December 31, 1973, and conforms section number.

FOREIGN ASSISTANCE AND RELATED PROGRAMS APPROPRIATIONS MISCELLANEOUS PROVISIONS

Amendment No. 52: Deletes a Senate provision concerning refugee situations. The Conferees agree to include the Senate language in its entirety as part of the conference agreement inserted in Amendment No. 14.

Amendment No. 53: Deletes Senate provision concerning Jordan Arms Sales notification. The Conferees agree to include the Senate language in its entirety as part of the conference agreement inserted in Amendment No. 14.

Amendment No. 54: Deletes a Senate provision concerning child immunization. The Conferees agree to include the Senate language in its entirety as part of the conference agreement inserted in Amendment No. 14.

Amendment No. 55: Deletes a Senate provision concerning Foreign Military Sales concessional loans. The Conferees agree to include the Senate language in its entirety as part of the conference agreement inserted in Amendment No. 14.

Amendment No. 56: Adds Senate language, with a new section number, concerning the denial of most-favored-nation treatment to the products of Afghanistan.

Environmental Protection Agency

Amendment No. 57: Inserts language proposed by the Senate appropriating $2,400,000,000 for construction grants, and amends the section number accordingly. To prevent serious disruption and delays to construction projects, $600,000,000 is made available immediately. These funds are to be made available and expended only under the formula and other statutory provisions in effect during fiscal year 1985, without earmarkings or set-asides for specific projects. In addition, these funds are to be made available for all eligible projects and categories and shall not be limited to existing phased or segmented projects through the apportionment process or other means. The conferees expect to make the remaining $1,800,000,000 available in a subsequent appropriations Act at the earliest opportunity *after* enactment of the Clean Water Act amendments.

Veterans Administration

Amendment No. 58: Inserts language proposed by the Senate transferring up to $8,000,000 to the general operating expenses appropriation from the medical care account, amended to change the section number and to delegate the authority to administer certain major construction projects to hospital directors. In providing that up to $8,000,000 of the 1986 medical care appropriation may be transferred to and merged with the 1986 general operating expenses appropriation, the conferees have received assurance from the Administrator of Veterans Affairs that the VA would reprogram to personnel compensation and benefits from other object classifications, such as equipment or maintenance and repair projects, such funds as may be necessary to support 193,941 full-time equivalent employees (FTEEs). This FTEE level does not include an estimated 589 in common services employment which must also be funded from the medical care account. Further, the VA has agreed that any funds reprogrammed would not reduce the number of patients treated, either in-house or by contract.

DELEGATION OF CERTAIN MAJOR CONSTRUCTION PROJECTS

In the conference report accompanying the 1982 HUD-Independent Agencies Appropriation Act (House Report 97-222), the Committee of Conference agreed that the nursing home care construction projects at Ann Arbor, Fresno, and Tampa would be administered by the hospital directors. The hospital directors were delegated authority to select the architect/engineer to design and/or supervise the construction of the projects. It was hoped that the experiment involving the three nursing home care units would result in more effectively and efficiently managed construction projects.

Pursuant to the conference report, the authority to administer nursing home care construction projects was delegated to the hospital directors. The projects were completed on or ahead of schedule and under budget. Further, there were very positive comments made by the hospital directors involved concerning the benefits derived from delegation during the construction process.

In fiscal year 1985, the Congress further expanded the delegation process to 21 construction projects. It was also understood that the VA had begun a modified delegation process with most other 1985 and 1986 projects. Recently, however, the conferees learned that the VA central office acted to withdraw the delegation program. The conferees do not agree with this decision. Therefore, the Committee of Conference has included language in the joint resolution to continue the delegation of selected projects.

It is the intent of the conferees that the Administrator of Veterans Affairs, in consultation with the Committees on Appropriations, choose 15 fiscal year 1985 and 10 fiscal year 1986 major construction projects to be delegated to the respective hospital directors. The terms and conditions of the delegation are to be those granted to the hospital directors for the nursing home care construction projects at Ann Arbor, Fresno, and Tampa. Those conditions are delineated as follows:

1. The hospital directors are authorized to delegate the authority further as appropriate.

2. The authority delegated includes, but is not limited to, full responsibility for supervising the site selection, design, and construction of the respective projects, and the making of monthly and final payments to contractors. The Office of Construction and the Department of Medicine and Surgery will provide advice to hospital directors regarding these projects when so requested by the hospital directors or their staffs.

3. The administration of these projects will be in compliance with all applicable statutes and regulations, including the National Fire Protection Code (which includes the National Electric Code), State codes where appropriate, and VA construction criteria. The projects should make an effort to comply with seismic standards.

4. The design will conform to the standards set out in VA handbook H 08-3, VA Construction Standards. The hospital directors may authorize deviations from such construction standards, but must advise the Administrator in writing prior to authorizing such actions.

Further, the VA is urged to delegate planning and design of all future major construction projects to the hospital directors. Delegation of the construction phase is to be determined by the Administrator. This process will insure that hospital construction projects will benefit from the views of the employees who must utilize the projects when completed. Above all, this process will be beneficial to veteran patients and provide for a more effective and efficient construction program.

Amendment No. 59: Deletes language proposed by the Senate appropriating $55,000,000 for a veterans job training program.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES

MISCELLANEOUS PROVISIONS

Amendment No. 60: Provides that no funds shall be expended by the Secretary of the Interior to implement any Westlands settlement agreement prior to April 15, 1986 and until Congress has had 30 calendar days to review the proposed settlement agreement instead of no action until enactment of authorizing legislation as proposed by the House and a 120 day period for Congressional review as proposed by the Senate.

Amendment No. 61: Strikes House proposed Section 108, as proposed by the Senate. Section 108 would have provided $2,500,000 for renovation of the Freer Gallery of Art.

Amendment No. 62: Provides that persons appointed to committees of the Holocaust Memorial Council shall serve without cost to the Federal Government. This matter is addressed in Amendment No. 7.

Amendment No. 63: Reduces land acquisition in the Forest Service by $600,000 and increases land acquisition in the U.S. Fish and Wildlife Service by $600,000. This matter is addressed in Amendment No. 7.

Amendment No. 64: Provides that funds for the United States Fish and Wildlife Service shall be available for environmental work necessary to translocate a portion of the existing Southern sea otter population, as proposed by the Senate. The amendment also provides for emergency flood control work near Lake Michigan.

Amendment No. 65: Provides $1,700,000 for construction of a fish hatchery on the Nisqually River in Washington. This matter is addressed in Amendment No. 7.

REMOVAL OF THE "A. REGINA"

Amendment No. 66: Deletes language proposed by the Senate providing for the removal of the wreck of the "A. Regina."

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES

MISCELLANEOUS PROVISIONS

Amendment No. 67: Provides $80,000 for a study of the Florida panther. This matter is addressed in Amendment No. 7.

Amendment No. 68: Deletes provision in H.R. 3011 relating to costs of the National Fish and Wildlife Foundation. This matter is addressed in Amendment No. 7.

Amendment No. 69: Provides $80,700,000 for the Burr Trail National Rural Scenic Road. This matter is addressed in Amendment No. 7.

Amendment No. 70: Designates the educational center at Lowell National Historical Park the "Paul E. Tsongas Industrial History Center". This matter is addressed in Amendment No. 7.

Amendment No. 71: Increases the loan ceiling for Wolf Trap Farm Park for the Performing Arts in National Park Service, Administrative Provisions, and provides $150,000 for the restoration and renovation of the Lonoke Depot in Lonoke, Arkansas. These matters are addressed in Amendment No. 7.

Amendment No. 72: Provides that $2,000,000 be available to protect Mammoth Cave National Park. This matter is addressed in Amendment No. 7.

Amendment No. 73: Prohibits use of funds for establishing grizzly bear populations in the National Park System and the National Forest System where none currently exist. This matter is addressed in Amendment No. 7.

Amendment No. 74: Prohibits the Secretary of the Interior from promulgating final regulations concerning paleontological research on Federal lands pending a National Academy of Science report. This matter is addressed in Amendment No. 7.

Amendment No. 75: Provides $850,000 for restoration of the William H. Taft home. This matter is addressed in Amendment No. 7.

Amendment No. 76: Establishes a special fund in the Treasury for deposit of telecommunications fees received by the U.S. Geological Survey. This matter is addressed in Amendment No. 7.

Amendment No. 77: Deletes language in H.R. 3011 relating to the Abandoned Mine Reclamation Fund. This matter is addressed in Amendment No. 7.

Amendment No. 78: Revises language in H.R. 3011 to limit application of Johnson-O'Malley funds. This matter is addressed in Amendment No. 7.

Amendment No. 79: Provides for the no-cost transfer of supplies and equipment to the Saint Labre Indian School, Montana. This matter is addressed in Amendment No. 7.

Amendment No. 80: Requires the Secretary of the Interior to begin a program in BIA schools. This matter is addressed in Amendment No. 7.

Amendment No. 81: Strikes language in H.R. 3011 relating to terms of a loan for an airport in the Virgin Islands. This matter is addressed in Amendment No. 7.

Amendment No. 82: Provides $6,000,000 in emergency hay relief. This matter is addressed in Amendment No. 7.

Amendment No. 83: Provides for payment of up to $300,000 from the Office of the Secretary of the Interior, to certain water users for development of water supplies in Willow Creek, Idaho. This matter is addressed in Amendment No. 7.

Amendment No. 84: Allows the Secretary of the Interior to expend funds for emergency activities related to floods. This matter is addressed in Amendment No. 7.

Amendment No. 85: Provides language merging the Reforestation Trust Fund with the National Forest System account. This matter is addressed in Amendment No. 7.

Amendment No. 86: Provides $24,000,000 from the Timber Salvage Sale Fund instead of the National Forest System account. This matter is addressed in Amendment No. 7.

Amendment No. 87: Earmarks funds for emergency flood repairs in the Monongahela National Forest and Parsons, WV, Forest Research Laboratory. This matter is addressed in Amendment No. 7.

Amendment No. 88: Increases to $186,433,000 the amount for Forest Service reforestation, timber stand improvement, cooperative law enforcement and maintenance of forest development roads and trails. This matter is addressed in Amendment No. 7.

Amendment No. 89: Permits resale of timber in the Medford, Oregon district of the Bureau of Land Management under certain conditions. This matter is addressed in Amendment No. 7.

Amendment No. 90: Provides that road construction and related facilities of the Mt. St. Helens National Volcanic Monument, Washington, be derived from the Federal Highway Trust Fund. This matter is addressed in Amendment No. 7.

Amendment No. 91: Provides for certain exceptions related to mineral leasing on the Flathead and Gallatin National Forests. This matter is addressed in Amendment No. 7.

Amendment No. 92: Rescinds $3,000,000,000 of Synthetic Fuels Corporation funds and terminates the Corporation by 1992. This matter is addressed in Amendment No. 7.

Amendment No. 93: Provides a loan of up to $3,000,000 from an existing reserve to be used for odor abatement at an operating ethanol plant. This matter is addressed in Amendment No. 7.

Amendment No. 94: Rescinds $160,000,000 of Strategic Petroleum Reserve oil acquisition funds and provides for the exchange of agricultural products for crude oil. This matter is addressed in Amendment No. 7.

Amendment No. 95: Provides $180,000 from unobligated balances available to Indian Health Service to satisfy an outstanding judgment against the Seattle Indian Health Board. This matter is addressed in Amendment No. 7.

Amendment No. 96: Provides for funds under the Smithsonian Institution for American overseas research centers. This matter is addressed in Amendment No. 7.

Amendment No. 97: Provides that certain provisions of the Mineral Leasing Act shall not take effect until December 31, 1986.

This matter is addressed in Amendment No. 7.

Amendment No. 98: Deletes language proposed by the Senate extending the termination date for conditional loan guarantees under the Biomass Energy and Alcohol Fuels Act of 1980. A similar provision is contained in Amendment No. 1.

Amendment No. 99: Requires the Navajo and Hopi Indian Relocation Commission to submit a report to Congress no later than January 15, 1986, on how relocation housing funds are to be used. This matter is addressed in Amendment No. 7.

Amendment No. 100: Prohibits geothermal leasing in the area of Yellowstone National Park. This matter is addressed in Amendment No. 7.

DISADVANTAGED ASSISTANCE

Amendment No. 101: Deletes language proposed by the Senate which would have appropriated $500,000 for activities under section 787 of the Public Health Service Act. The House resolution contained no similar provision.

HEALTH PLANNING

Amendment No. 102: The conference agreement changes section number and includes language proposed by the Senate to prohibit penalties under sections 1512, 1515, or 1521 of the Public Health Service Act and to allow awards to State agencies authorized to receive grants under section 935(b) of the Omnibus Budget Reconciliation Act of 1981. Similar language has been included in prior continuing resolutions for fiscal years 1983, 1984 and 1985. The conference agreement modifies language inserted by the Senate which prohibits actions in anticipation of the closure of health planning agencies due to a failure to reauthorize the program. The conference agreement prohibits such actions prior to August 15, 1986 instead of July 1, 1986 as proposed by the Senate. The House resolution included no similar provisions.

HEALTH EDUCATION ASSISTANCE LOANS (HEAL)

Amendment No. 103: Changes section number and inserts language proposed by the Senate making loan guarantees under the Health Education Assistance Loan program (HEAL) available without regard to any apportionments or other administrative limitations not specifically authorized under title VII. The House resolution included no similar provision of the Public Health Service Act.

MEDICARE DEMONSTRATIONS

Amendment No. 104: The conference agreement changes section number and modifies language proposed by the Senate to direct the Secretary of the Department of Health and Human Services to extend *for one year only* four municipal health service demonstration projects under Medicare. The Senate language directed that these grants be extended for three years. The House resolution included no similar provision. This agreement provides additional time for the authorizing committees to complete action on legislation currently in conference regarding the future of these projects.

CHILD CARE AND CHILD ABUSE PREVENTION

Amendment No. 105: Changes section number, deletes appropriations of $25,000,000 and modifies language proposed by the Senate relating to allocations to States for child care and child abuse prevention training. The House resolution contained no similar provision. The conferees view such training as a high priority and expect the States to use a portion of their 1986 allocation under Title XX of the Social Security Act for the training and retraining (including training in the prevention of child abuse in child care settings) of: providers of licensed or registered child care services; operators and staffs (including those receiving in-service training) of facilities where licensed or registered child care services are provided; State licensing and enforcement officials; and, parents.

MEDICARE HOSPITAL DEDUCTIBLE

Amendment No. 106: Deletes language proposed by the Senate. This language expressed the sense of the Senate regarding Medicare hospital deductible charges. The House resolution contained no similar provision.

SCIENCE AND MATHEMATICS EDUCATION

Amendment No. 107: Changes section number and inserts language proposed by the Senate making the 1986 appropriation for the Secretary of Education's discretionary fund under Title II of the Education for Economic Security Act immediately available upon enactment of the 1986 education appropriation bill, rather than July 1, 1986 as now provided in that bill. The House resolution contained no similar provision.

ELIGIBILITY FOR PELL GRANTS

Amendment No. 108: Changes section number and modifies language proposed by the Senate designed to assure that college students residing in areas designated as natural disaster areas may qualify for a Pell Grant for academic year 1985-86 without regard to the current 10 week limitation on the loss of income in determining expected family income. The conferees have modified the Senate language simply for the purpose of clarification.

The House resolution contained no similar provision.

Amendment No. 109: Changes section number.

LEGISLATIVE BRANCH MISCELLANEOUS PROVISIONS

Amendment No. 110: Conforms the section number and provides that the Federal Law Enforcement Training Center in the Treasury Department continue to provide basic training within available funds for the Capitol Police, as proposed by the Senate.

Amendment No. 111: Conforms the section number and appropriates $150,000 for the establishment and operation of the Biomedical Ethics Board and the Biomedical Ethics Advisory Committee, instead of $1,000,000 as proposed by the Senate. In providing these funds the conferees expect that the only activities that can be accomplished over the next several months will be the development of a work program together with budget estimates in sufficient detail to be examined by the Committees on Appropriations during the next appropriations hearings. Further, during those hearings the Committees on Appropriations will also explore the availability of options in carrying out the import objectives set out for the Board and Committee in the Public Health Services Act.

Amendment No. 112: Conforms the section number and amends the Legislative Reorganization Act to provide that the budget estimates of the Congressional Research Service will be submitted to the Librarian of Congress, as proposed by the Senate.

Amendment No. 113: Conforms section number and amends the authorization for the Commission on Security and Cooperation in Europe to allow printing and binding costs of the Commission to be charged to the Congressional printing and binding appropriation, as proposed by the Senate.

Amendment No. 114: Conforms the section number and amends the Federal Salary Act in accordance with the findings of the Department of Justice and the recommendations of the Quadrennial Commission, as proposed by the Senate.

BACK TAX LIABILITY—NAVY

Amendment No. 115: Inserts language as proposed by the Senate with an amendment which authorizes the Navy to enter into direct settlement with the State of Washington on back tax liabilities arising out of Federal construction and procurement projects in Washington State. Amendment also changes the Section number to 135.

BRIGADE ACTIVITY CENTER—NAVAL ACADEMY

Amendment No. 116: Deletes language added by the Senate which appropriates $16,600,000 for a Brigade Activity Center at the United States Naval Academy, Annapolis, Maryland. The Conferees agreed to deny funding of the Brigade Activity Center at the U.S. Naval Academy because of budget constraints. However, the Department is urged to submit a reprogramming request for this project using available savings.

Amendment No. 117: Provides that honorarium income shall be limited to 40 percent of salary, instead of adjusting rules regarding compensation for professional services and affiliations with business entities as proposed by the Senate. The increase from 30 percent to 40 percent only affects Members of the Senate since rule XLVII of the Rules of the House of Representatives, which imposes a 30 percent cap, will continue to be in effect for Members of the House.

DADE COUNTY, FLORIDA METRORAIL

Amendment No. 118: Deletes language proposed by the House and stricken by the Senate requiring the Secretary of Transportation to issue in the Federal Register a notice of intent to prepare an environmental impact statement for the construction of the north and south legs of the downtown component of metrorail in Dade County, Florida. The conferees have deleted the House language because it is addressed in connection with the amendment numbered [illegible]

EXPRESSWAY GAP CLOSING PROJECT

Amendment No. 119: Deletes language proposed by the House and stricken by the Senate appropriating $23,500,000 for a highway construction project to close an expressway gap on California Route 113. The conferees have deleted the House language because it is addressed in connection with the amendment numbered 8.

DETROIT TRANSIT SYSTEM

Amendment No. 120: Deletes language proposed by the House and stricken by the Senate prohibiting the use of certain mass transportation section 9 grant funds to cover cost overruns of the Detroit Central Automated Transit (peoplemover) system. The conferees have deleted the House language because it is addressed in connection with the amendment numbered 8.

EMERGENCY RELIEF HIGHWAY FUNDS

Amendment No. 121: Deletes language proposed by the Senate increasing the state limitation for receipt of Federal-aid highway emergency relief funds from $30,000,000 to $55,000,000 for grants associated with disasters that occurred in calendar year 1985. The conferees have deleted the Senate language because it is addressed in connection with the amendment numbered 8.

MINIMUM DRINKING AGE

Amendment No. 122: Deletes language proposed by the Senate making permanent the withholding provisions contained in Public Law 98-363. The House resolution contained no similar provision.

Amendment No. 123: Inserts Sec. 138 instead of Sec. 114 as proposed by the House and Sec. 203 as proposed by the Senate.

Amendment No. 124: Inserts Sec. 139 instead of Sec. 115 as proposed by the House and Sec. 204 as proposed by the Senate.

Amendment No. 125: Inserts Sec. 140 instead of Sec. 116 as proposed by the House and Sec. 205 as proposed by the Senate.

TREASURY POSTAL SERVICE MISCELLANEOUS PROVISIONS

Amendment No. 126: Changes section number and inserts a provision proposed by the Senate which would permit the Secretary of the Treasury to continue to have two Under Secretaries, but it would not require that one of those Under Secretaries be for Monetary Affairs. This provision permits the Secretary to have more flexibility in the assignment of duties to Under Secretaries in Treasury.

Amendment No. 127: Changes section number and inserts a provision proposed by the Senate which increases from 4 to 20 the number of airports at which reimbursable Customs Services may be provided. Small airports throughout the country are being provided with Customs Service on a reimbursable basis and this provides for an expansion of that program.

Amendment No. 128: Changes section number and inserts a provision proposed by the Senate which would permit the U.S. Secret Service to expend up to $75,000 for installation of security devices and construction related to the providing of security on certain residences of protectees. The current limitation is $10,000.

Amendment No. 129: Changes section number and inserts a provision proposed by the Senate which permits the Board of Governors of the U.S. Postal Service to meet for 42 days per year instead of 30 days as is provided for in current law.

Amendment No. 130: Changes section number and inserts a provision proposed by the Senate which prohibits the Office of Management and Budget from amending the administrative or regulatory methodology employed by the Bureau of Alcohol, Tobacco and Firearms to assure compliance with the Federal Alcohol Administration Act. This prohibits OMB from eliminating the form by which labels are approved for use on alcoholic beverages.

Amendment No. 131: Changes section number and inserts a provision proposed by the Senate amended to authorize the relocation of the International Trade Administration in Boston, MA. The Conferees direct that the General Services Administration take into account all the cost and other factors involved in this proposed relocation and take whatever action is most advantageous to the government and report back to the Committees on Appropriations by February 1, 1986.

Amendment No. 132: Changes section number and inserts a provision proposed by the Senate which temporarily extends the Current law regarding the retirement contributions which new federal employees are required to make the Civil Service retirement fund. The federal retirement program for new federal employees has not yet been enacted into law. Pending the enactment of that law, temporary adjustments have been made in employee contributions. That temporary legislation expires January 1, 1986. This provision extends that temporary legislation.

Amendment No. 133: Changes section number and inserts a provision proposed by the Senate which modifies the Ethics in Government Act of 1978. It inserts a new provision of permanent law which authorizes the President to require certain federal employees to file a confidential financial disclosure report.

Amendment No. 134: Deletes language proposed by the Senate which would have increased the limit on certain distilled spirit plants exempt from bond requirements when producing alcohol fuels.

Amendment No. 135: Inserts Sec. 149 instead of Sec. 117 as proposed by the House and Sec. 215 as proposed by the Senate.

For the entire resolution and Senate amendments:

JAMIE L. WHITTEN
(except for amendment No. 4 only in regard to chemical weapons, strategic defense initiative, and unobligated balances setaside; and amendment No. 5),
EDWARD P. BOLAND
(except for amendment No. 4 and amendment No. 117),
WILLIAM H. NATCHER
(except for amendment No. 4 only in regard to chemical weapons),
NEAL SMITH,
JOSEPH P. ADDABBO,
SIDNEY R. YATES
(except for amendment No. 4),
DAVID R. OBEY
(except for amendment No. 4 and amendment No. 117),
EDWARD R. ROYBAL
(except for amendment No. 4),
TOM BEVILL,
BILL CHAPPELL, Jr.,
WILLIAM LEHMAN,
JULIAN C. DIXON,
VIC FAZIO,
W.G. HEFNER,
SILVIO O. CONTE
(except for amendment No. 4 and amendment No. 117),
JOSEPH M. MCDADE,
LAWRENCE COUGHLIN,
RALPH REGULA,
VIRGINIA SMITH,
JOE SKEEN,
Managers on the part of the House.

MARK O. HATFIELD
(except for amendment No. 4),
TED STEVENS,
LOWELL WEICKER, Jr.,
JAMES A. MCCLURE,
TAD COCHRAN,
MARK ANDREWS,
JOHN C. STENNIS,
ROBERT C. BYRD,
J. BENNETT JOHNSTON,
QUENTIN N. BURDICK,
FRANK R. LAUTENBERG,
Managers on the part of the Senate.

COMMUNICATION FROM TOMMY LEE WINEBRENNER

The **SPEAKER** laid before the House the following communication from Mr. Tommy Lee Winebrenner, floor assistant to the minority, which was read:

HOUSE OF REPRESENTATIVES,
Washington, DC, December 10, 1985.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: Please accept my resignation as Floor Assistant to the Minority to be effective at the close of business December 31, 1985.

As I leave this great and unique institution, I will take with me many fond memories of history being made.

It has been an honor and a privilege for me to work for the House of Representatives for over thirty two years. I shall greatly miss the many friends I have come to know and trust.

Thank you for your kindnesses.

With every good wish, I am,

Sincerely,

TOMMY LEE WINEBRENNER.

The **SPEAKER**. Under the rules, the letter will be printed in the Journal.

TOMMY LEE WINEBRENNER

(Mr. **MICHEL** asked and was given permission to address the House for 1 minute.)

Mr. **MICHEL**. Mr. Speaker and my colleagues, this House of Representatives could not function as an institution if it were not for some of the wonderful, great people that help us make it what it is.

For the last 32 years, one of those individuals has been Tommy Winebrenner, who came to this body sponsored by one Charlie Halleck, who some of you older Members knew very well from that great State of Indiana.

Tommy's resignation was just laid down and without my even saying a word, we have witnessed an outward manifestation from this House of the love and affection we have for you Tommy. The standing ovation and applause speak much better than any words I might say.

Tommy Winebrenner, we wish you well. You have served this institution with distinction. We are all proud of your service and we wish you all the best in the future.

FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1986

Mr. **BEILENSON**. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 348 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 348

Resolved, That upon the adoption of this resolution it shall be in order to consider the conference report on the joint resolution (H.J. Res. 465) making further continuing appropriations for the fiscal year 1986, and for other purposes, all points of order against the conference report and against its consideration are hereby waived, and the conference report shall be considered as having been read if it has been available to Members for at least one hour before it is called up for consideration.

The **SPEAKER**. The gentleman from California [Mr. Beilenson] is recognized for 1 hour.

□ 1130

Mr. **BEILENSON**. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Missouri [Mr. Taylor] for the purpose of debate only, pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 348 provides for the consideration of the conference report on House Joint Resolution 465, the continuing appropriations bill for fiscal year 1986. The rule waives all points of order against the conference report and against its consideration. The rule further provides that the reading of the conference report is dispensed with if it has been available to Members at least 1 hour prior to its consideration.

As my colleagues are aware, earlier this week the House rejected a conference report on the continuing resolution, necessitating another conference with the other body. This rule provides for the expeditious consideration of the second conference report on House Joint Resolution 465. Mr. Speaker, this conference report is similar to the conference report rejected earlier this week. But there are some major differences as follows: the conference report contains an overall reduction of $300 million in domestic programs; new budget authority for defense is reduced by $1.3 billion below the previous level of $282.5 billion; there is no provision relating to minimum drinking age and Federal aid highway funds; and, the conference report clarifies that the honorarium language included in the conference report applies only to the Senate—House rules remain the same.

Mr. Speaker, this further conference agreement addresses the concerns expressed by the House last Monday. The bill provides full year funding for seven appropriation bills, four of them in their entirety: Defense, foreign aid, Interior, and Transportation. Three bills are covered by reference: Agriculture, District of Columbia and Treasury-Postal Service. The other six appropriations bills have been signed into law.

Mr. Speaker, it is imperative that the House move to the consideration of this conference report. Funding for the programs whose appropriations have not been provided through the normal appropriations process is set to expire, as Members know, at midnight tonight.

Mr. **TAYLOR**. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is the rule by which the Committee on Rules hopes to make this a merry Christmas for all of us and for the rest of the Government.

This rule provides for the consideration of the new conference report on House Joint Resolution 465, making continuing appropriations for the rest of the year 1986.

The rule is the vehicle by which the Appropriations Committee comes to the floor, and in accord with the spirit of the season the rule should be adopted.

Mr. Speaker, when the House failed to agree to the first conference report on Monday night, many of us worried that the Congress would be forced to remain in session until Christmas Eve or even Christmas Day in order to finance the operations of Government that have not received their appropriations.

The adoption of this rule will not guarantee that today will be our last day, but it will move us one step closer to adjournment.

Mr. Speaker, the gentleman from California [Mr. Beilenson] has explained that this rule waives all points of order against the conference report and against its consideration.

These provision of the rule make it possible for the House to proceed with timely consideration of the conference report. Some of the provisions of rule XXVIII relating to conference reports could well delay consideration of this conference report, and the Committee on Rules felt these waivers were necessary.

Mr. Speaker, the primary aspect of rule XXVIII that is waived by this rule is the 3-day layover requirement. The rule provides that the reading of the conference report shall be dispensed with if it has been available to Members for at least 1 hour before it is called up for consideration.

When the Committee on Rules met last night, the gentleman from Mississippi [Mr. Whitten] and the gentleman from Massachusetts [Mr. Conte], the ranking Republican member of the committee, indicated that they had reached a new agreement with their counterparts in the other body, and that they would be prepared to file their report this morning.

According to the two gentleman, the conferees have addressed the concerns voiced by the Members of the House last Tuesday by making further reductions of $300 million in domestic spending and by making further reductions of $1.3 billion in defense spending.

Mr. Speaker, the two gentleman also told us that the conferees also removed two nongermane Senate amendments from the report. Members will recall that the other body insisted on language regarding the withholding of Federal-aid highway funds from States that have not adopted the age of 21 as a minimum drinking age. In addition, the other body's conferees tried to change the rules of the House regarding honorariums.

The conference report that will be brought to the House under this rule leaves out these two nongermane amendments, according to the committee chairman and the ranking member of the Appropriations Committee.

Mr. Speaker, enactment of this conference report is needed to continue funding for several major Government agencies that will run out without the budget authority at midnight tonight.

Mr. Speaker, I yield 5 minutes to the gentleman from Illinois [Mr. Porter], a member of the Committee on Appropriations.

Mr. **PORTER**. Mr. Speaker, let me first commend our conferees on the House side. I think they fought the good fight yesterday, and the fact that the other body largely prevailed does not reflect adversely on them. Time, of course, at this point in the process is a weapon. We are at the end, everyone is tired, we want to go home, and certainly our conferees did their very best to have the House provisions prevail.

Largely, however, they did not prevail. They did not prevail on something that has been of great concern to me since I was elected to Congress 6 years ago and on which I have worked very hard, and that is the issue of funding for the production of chemical weapons.

Members of the House will recall that while we authorized chemical weapons production earlier in the year, it was fenced. It was fenced in such a way that our NATO allies would have had to agree to accept and deploy these weapons on their soil, something they would never do, and it was further fenced for a period of 2 years. On the funding side, the House appropriated not 1 cent for chemical weapons production. The Senate, of course, authorized and appropriated the entire $163.5 million for facilities construction and production. When the conferees first met, Mr. Speaker, the agreement was that there would be production at $21.7 million of the 155mm chemical weapons projectile only, there would be no production for the Bigeye bomb, and the 155mm production money would be fenced in any case until October 1, 1986 so that there would be no production funding in this fiscal year.

This provision, which was in the fourth continuing resolution that was defeated, is exactly the same in this fifth continuing resolution. I do not agree with it, and I hope the Members will vote against this continuing resolution. The fact is that with this continuing resolution the foot is in the door and the historic commitment that the United States made to not produce these terrible weapons 16 years ago will in fact be broken.

Mr. Speaker, the fight on chemical weapons will continue. I, for one, am not going to stand idly by while the United States wastes $20 billion or more on new weapons we do not need.

Mr. Speaker, let me address one other subject. Seeing this process up close as I have, there is something that this House and the other body must do. The thing that we must do is to terminate the use of the continuing resolution. It is a terrible, unconscionable, irresponsible way to legislate, and it is something that none of us should have any part of.

This is the fifth continuing resolution, Mr. Speaker. It is the sixth if we count the one that failed. Our deadline of September 30 has long since passed. It has been pushed back five times, and here we are on December 19 with our work still not finished.

And here we are, lumping $370 billion worth of spending into one bill on one vote, and while we can largely blame the other body for its failure to move the appropriations process forward in a responsible manner, the fact is that this is no way to do business.

I will be working in the second session of this Congress to see that we do not have these kinds of continuing resolutions in the future. We should be handling each of the 13 appropriation bills one at a time, letting them stand on their own, letting them be amended and discussed, letting the conference reports be considered separately, and getting them out and on the President's desk on time. This is my commitment and I invite all my colleagues who care about fairness and fiscal responsibility to join my next year in this effort.

☐ 1140

Mr. Speaker, it is high time that responsibility worked its way into this process and that we act in an up-front and equitable manner.

I will not support this CR. I am not satisfied with the provisions. I imagine that other Members, anxious to go home, will. But, Mr. Speaker, the fact is we did not prevail in the conference, the report is substantially the same as the one we defeated on Monday and still deserves a "no" vote.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Washington [Mr. Dicks].

Mr. DICKS. Mr. Speaker, I rise in strong support of this rule and the conference report.

I think on one major arms control issue, the banning of testing of anti-satellite weapons, this conference report sticks very strongly with the House position.

I want to say to my friend, the gentleman from Illinois [Mr. Porter] who has fought this valiant fight on chemical weapons, that the money in this bill for the 155mm shell is fenced until 1987. I hope during this next 9 months that we will get meaningful negotiations between the United States and the Soviet Union on chemical weapons and then this Appropriations Committee can take another look at this issue, because the money is in fact fenced until fiscal year 1987 for production.

I want to compliment the conferees for a very valiant job.

I want to say to my friend, the gentleman from Massachusetts, Mr. Barney Frank, that I think the fact this bill went down once did strengthen the conferees' hands. They were able to reduce $1.3 billion from defense. They were able to tie down the use of the $6.3 billion transfer fund.

They also have achieved a procurement reform, all the things that were desired by the majority in the House of Representatives.

I want to say to the distinguished chairman of the Appropriations Committee, the gentleman from Mississippi [Mr. Whitten], that on behalf of the younger members of the full committee, we appreciate our ability to participate in the continuing resolution. I want to compliment the gentleman for his leadership on this important legislation as chairman of our conferees. I think all our conferees did a good job.

Mr. Speaker, I urge the House to support this rule and to support this conference report.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Oregon [Mr. AuCoin].

Mr. AuCOIN. Mr. Speaker, this continuing resolution contains the only arms control of this decade.

It cuts $25 billion in military spending off the President's request, it cuts $1.3 billion off the bill we rejected Monday, it fences the $6.3 billion in previously obligated funds to help keep it from being used as a Gramm-Rudman cushion. It adds some meaningful procurement reform and some restrictions on nerve gas. Not as much as I'd like, and not as much as we've going to get next year, but a good start.

All that's terrific. But what I'm going to talk about now is the arms control we can create here today.

Not arms control negotiations. Arms control. Period.

In 60 minutes, we here can make more progress in preventing nuclear war than anybody has made in 6 years.

We can stop Asat testing on both sides. That's what this resolution does. No "ifs," "ands," or "buts." No hokey escape clauses that let the President test if he certifies he's thinking about attempting to consider negotiating about when to have the next arms control talks.

Just clear, cold turkey no testing. We block not just two tests, but all tests of this weapon in any fiscal year.

But we have to pass this resolution. We're not likely to get another chance. Right now there are two Asat targets up there. If we don't block the tests, now, they'll happen and they'll provoke the Russians to do their first test since 1982. Then there won't be any Asat control.

For America's sake, let's do it now. Let's control arms by voting "yes."

Mr TAYLOR. Mr. Speaker, I yield 30 seconds to the gentleman from Illinois [Mr. Hyde].

Mr. HYDE. Mr. Speaker, I thank my friend for yielding.

I am pleased to learn that this continuing resolution and its arms control provisions will have extraterritorial application and will prevent the Soviets from further testing. And, if you believe that, I have some costume jewelry I'd like to sell you.

Mr. TAYLOR. Mr. Speaker, I yield 2 minutes. to the gentleman from Vermont [Mr. Jeffords].

Mr. JEFFORDS. Mr. Speaker, I rise just to thank the gentleman from Mississippi, the chairman of the Appropriations Committee, and the gentleman from Massachusetts [Mr. Conte] for taking out of the continuing resolution the provision which would have made permanent the law regarding the enforcement of a 21-year-old drinking law around the country. It is out of here, but I also want to raise the awareness of this body that it somehow has worked its way into the reconciliation package. Those of us who voted against the continuing resolution because it was in there will continue our fight against the reconciliation package, unless we are afforded at least an opportunity to vote on that issue and to debate that issue.

I will not reiterate what I said before, but this is no way to legislate such an important and such a critical issue to the young people of this country. Not only with respect to the young people and their privileges of adulthood, but also there is strong evidence that the number of alcohol-related accidents for young people in States that have raised their drinking ages is increasing, not decreasing. We ought to get these facts before this body and be on record how we feel about this critical issue. I do not need to say again how this issue runs a huge fast track truck over States rights and the 21st amendment.

Again, I thank the two members of the Appropriations Committee for taking the issue out of the continuing resolution.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Speaker, let me say at the outset that I rise in support of the continuing resolution and the rule which is being offered today. Although I voted against it several days ago, I will vote for it today.

I am disappointed with the disposition of the Synthetic Fuels Corporation, but I understand that die has been cast.

I salute Chairman WHITTEN and his Republican counterparts for the fine job they have done in resolving very many difficult issues.

I would like to speak to one issue today which has been addressed by the gentleman from the other side of the aisle.

Members should be advised that when they return to their districts and speak to the issue of drunk driving that the compromise reached on the continuing resolution removes language offered by the gentleman from New Jersey in the other body. In 1984 we established a national uniform drinking age. The amendment offered by the gentleman in the other body would have prevented States from lowering their minimum drinking age when the current Federal withholding of highway funds ends.

Unless and until we adopt that language, we are inviting a patchwork quilt of minimum drinking ages across our Nation; nightly treks by our children across State borders to get drunk and the carnage and suffering which necessarily follow.

Mr. Speaker, let me refer to a study in my own home State of Illinois. According to the Illinois Secretary of State, in the first 3 years after Illinois increased its drinking age, total statewide alcohol-related fatalities decreased 7.4 percent—decreased 7.4 percent. In the counties which border Wisconsin, which has a lower drinking age, where our children would go in the evening to drink and come back drunk to Illinois, alcohol-related fatalities increased—increased 25 percent.

A study by the Wisconsin Department of Transportation concluded that Wisconsin is an island that causes disproportionate alcohol-related accidents by out-of-State youthful drivers in their border counties.

I do not mean to isolate any criticism to the State of Wisconsin. What we have found in Illinois, unfortunately, can be found to be true across the country where States have different drinking ages and border one another.

Mr. Speaker, our refusal to set and enforce a national standard for a minimum drinking age betrays our pledges at home to take the issue of drunk driving seriously. Those Members who choose to lurk in the shadows of States rights must accept the responsibility for their positions. A continuing resolution may be no place to fight this battle, but I pledge my support to continue this battle to end this needless slaughter of our children.

Mr. TAYLOR. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding.

The rule, of course, does make in order the approval of the continuing resolution. When the previous continuing resolution passed the House, it was characterized in the Washington Post as having a provision for amendment No. 114, which did "pave the way for possible congressional pay increase by making it more difficult for Congress to block proposed pay hikes."

That provision remains in the continuing resolution.

The bill also had amendment No. 117 in it, that previously failed in the House. That particular provision was characterized by Common Cause as "a proposal on raising the honoraria limit, which was a Christmas bonus for Members of Congress."

That has not changed substantively. It has, in fact, been narrowed to some degree and made clear that the Members of the other body will be those who will receive this Christmas bonus, however, it does seem to me that it is one of those cases where it is an amendment that should be brought back in disagreement. I think there is a good deal of disagreement with passing that Christmas bonus on to the other body. At the very least, the membership in this body should have a chance to vote on that matter before it is sent out of this House and given to the other body.

So on those two issues, it seems to me we still have some cause for opposing the continuing resolution that will come to us as a result of this rule.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 6 minutes to the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Speaker, I rise at this point to address some concerns of Members on the defense portion, particularly related to the bill as it came to us the first time in the conference report relating to the $6.3 billion and the concern that this could be used as a way to avoid the impact of Gramm-Rudman.

There were several concerns; one, that the $6.3 billion was taken out of unobligated balances and handed as a pot to the Secretary to be able to disburse to various areas in the reprogramming process. The concern was that it would be used as a way to pad certain accounts when it came to sequestration.

Second, that it provided a great deal of flexibility to the Secretary in terms of the areas that he wanted to focus on.

Third, we were concerned generally about the level of budget authority contained in the bill.

Last, the fact that there were no procurement reforms that were included in the final package.

I must say that with the cooperation of the gentleman from Florida [Mr. CHAPPELL] and the gentleman from New York [Mr. ADDABBO], chairman of the subcommittee, and some very difficult negotiations with the other body, that we achieved, I think, some important modifications on those provisions.

Let me just list those for the benefit of the Members.

The first point is that we were able to reduce overall budget authority by $1.3 billion to $281.2 billion.

Second, that the $6.3 billion that was in a general unobligated balance account is now specifically targeted at areas so that there is no flexibility. It will be targeted to military pay, to retirement savings, to the mariners fund, to coastal defense account, and to readiness in defined numbers.

☐ 1155

In addition to that, we were able to add language that none of these balances may be transferrred, reprogrammed or otherwise applied to offset the impact of sequestration under the Gramm-Rudman bill.

Fourth, we were able to obtain general language in the conference report that says that the conferees agree that none of the funds appropriated by this act shall be applied in a manner that would offset the impact of sequestration under the Balanced Budget and Emergency Deficit Control Act.

Last, we were able to obtain one of the procurement reforms on allowable costs.

Obviously, it is not what everyone would desire, but I think it is a significant improvement over the conference as it came here, and I am prepared to support the conference on that basis.

Mr. ASPIN. Mr. Speaker, will the gentleman yield?

Mr. PANETTA. I yield to the chairman of the Committee on Armed Services, the gentleman from Wisconsin [Mr. ASPIN].

Mr. ASPIN. I thank the gentleman for yielding.

Mr. Speaker, there is one part of this package that the gentleman in the well has presented, and I would compliment the members of the committee for their work on this bill and on this package and what has happened here.

But I think it is very important, since we are establishing legislative history and dealing with this amazing thing called Gramm-Rudman and the sequestration process, that we nail down one thing very, very specifically. In this bill we have some appropriations that were not authorized. They have occurred mostly in the Senate, and the conference has cut down some of those. The conference does include language that says that none of these moneys that have been appropriated but not authorized can be spent until they are authorized.

My question to the gentleman in the well is: For the purposes of Gramm-Rudman, is money that has been appropriated but not authorized, is that in the base for the Gramm-Rudman sequestration or not? I ask the gentleman because, obviously, if it is in the base, that is a way to pad the base and to prevent Gramm-Rudman from biting so heavily on defense, by appropriating things, bringing it back in a continuing resolution and not allowing it to be authorized or anybody to vote on it, and padding and protecting against the effects of Gramm-Rudman.

Mr. PANETTA. I share the gentleman's concern on that. We discussed this during the negotiations. It is my understanding on Gramm-Rudman that sequestration would apply only to budget authority and unobligated balances. Accordingly, therefore, it is my belief that funds that are not authorized do not count for purposes of sequestration.

Mr. FRANK. Mr. Speaker, will the gentleman yield?

Mr. PANETTA. I yield to the gentleman from Massachusetts.

Mr. FRANK. I thank the gentleman for yielding.

Mr. Speaker, I want to express my appreciation for the work done by the gentleman from California, the gentleman from Florida, and others who came together to try and work this out.

I intend now to vote for this continuing resolution, although it clearly has a long way to go. What we were confronted with Monday was a situation where, partly by some intent in the other body, partly by some other practices, we had a situation where every department of Government was going to get a haircut, so they bought a wig for the Pentagon so not a hair on its head would have been touched. I think we have substantially diminished the wig, but I want to make sure that we have done the maximum possible.

The $1.3 billion is clearly a savings. This is $1.3 less in defense, and there are some savings elsewhere. The procurement reform is an important improvement. Nailing down the $6.3 billion, as I understand it now, if those moneys cannot be spent or need not be spent for appropriated purposes, they will not be spent. They will stay there.

I also understand from the chairman of the subcommittee, the acting chairman, who is here and who I understand will speak, that this will probably mean that we will not need a supplemental which we might otherwise have needed.

Mr. CHAPPELL. Mr. Speaker, will the gentleman yield?

Mr. PANETTA. I would be pleased to yield to the gentleman from Florida.

Mr. CHAPPELL. I thank the gentleman for yielding.

Mr. Speaker, the gentleman is correct. It was our intention to handle these moneys in this fashion, because we knew there would be expenditures necessary not only for retirement but on the pay increase and on certain other items which we specified, If we went ahead and put them in in this fashion, we anticipate that we would not need a supplemental. We do not know what could happen, but barring unknown circumstances, that is our intent.

The SPEAKER. The time of the gentleman from California [Mr. PANETTA] has expired.

Mr. BEILENSON. Mr. Speaker, I yield 2 additional minutes to the gentleman from California.

Mr. PANETTA. I thank the gentleman for yielding this additional time to me.

Mr. FRANK. If the gentleman will yield further to me, I will be very brief.

The key point was that raised by the gentleman from Wisconsin. There is some money in here that was appropriated which cannot be legally spent without an authorization. Some may get an authorization. That remains for the legislative process. But the key point that the gentleman from California stressed, and I realize it is not yet nailed down one way or the other, but I thank him for his expression.

I gather his intent, on behalf of the leadership, is to say that if that money that is appropriated is ultimately unspent because there is not an authorization, we will endeavor to take the necessary steps to see that it is not counted as part of the money sequestered under Gramm-Rudman, and I gather the gentleman from Florida also had some views on that.

Mr. PANETTA. I would yield to the gentleman from Florida [Mr. CHAPPELL] on that point.

Mr. CHAPPELL. The gentleman is correct, we have stated time and time again, both from the standpoint of the Senate conferees and the standpoint of the House conferees that there is no intent to permit under any circumstances, by any method, the building of any kind of a pot which would be used to offset Gramm-Rudman.

Mr. FRANK. I thank the gentleman from California and the gentleman from Florida.

Mr. TAYLOR. Mr. Speaker, I reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. I thank the gentleman for yielding this time to me.

Mr. Speaker, this is the first appropriation bill that comes before us since the passage of Gramm-Rudman, so it takes on an added importance because it will establish the base for both defense and domestic spending with which we must live for these coming years. So let us be careful about what we are doing here today.

This bill is improved from the one that we sent back to conference and many Members wish to vote for it, but do it understanding this: Last year in defense we spent, as a nation, $275.4 billion for those defense items that are in this bill; $275 billion. Under this bill we will spend $281 billion, an increase of $5.8 billion, or 2.1 percent.

What about the domestic side? Last year for those domestic programs that are covered under this bill, this Nation spent $94.4 billion. Under this bill that is not being increased but reduced from $94 billion to $87 billion, a cut of $6.7 billion in the domestic programs covered by this bill.

So while defense is being increased almost $6 billion, domestic programs are being decreased—decreased—almost $7 billion. Other appropriation bills already passed the Congress, and although I was unable to get the totals from CBO, I can tell my colleagues that in the very important areas of education, health, and human services, the Congress has already accepted cuts of $500 million.

So let us be clear with the American people. This year this Congress, in preparation for the cuts in Gramm-Rudman, have increased defense spending, increased dollars for the Pentagon, by many billions. We have decreased dollars to be spent here at home on the education, the health and the services that the American people demand, and we have decreased them by many billions of dollars. This bill does not prepare us, as I would like to be prepared, for facing the dramatic cuts that will come off of this base under this thing called Gramm-Rudman.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Michigan [Mr. WOLPE].

Mr. WOLPE. I thank the gentleman for yielding this time to me.

Mr. Speaker, I intend to support this continuing resolution, and I want to particularly commend the House conferees on both sides of the aisle for the decision they have made within that continuing resolution to terminate one of the most wasteful and mismanaged programs in the entire Federal Government. I am referring, of course, to the Synthetic Fuels Corporation.

That decision to terminate the Synthetic Fuels Corporation was not an easy one to make for many Members of this body and of the other body. We make cuts in programs all the time, but it is quite another matter to terminate an entire bureaucracy. But that decision is indeed a beautiful Christmas present for the American taxpayer. It represents, in combination with the decision that we took in the last session of Congress, a cumulative savings to American taxpayers of some $12 billion.

Let me say that there is no bureaucracy more deserving of termination. There is no bureaucracy in the Federal Government that has been more consistently arrogant in the conduct of its business. Even today, as we are debating this continuing resolution, the Synthetic Fuels Corporation is trying to find a means of pushing out the door another half billion dollars in subsidies, absolutely wasteful subsidies, trying to take advantage of the time gap that they claim will exist between the termination of the short continuing resolution and the one we are now discussing.

□ 1205

I hope the SFC will reconsider that effort. I doubt that it will. This most recent initiative on the part of the arrogant bureaucrats over at the Corporation highlights the importance of the decision we are making today to terminate once and for all the Synthetic Fuels Corporation.

I urge adoption of the continuing resolution.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Texas [Mr. Bryant].

Mr. BRYANT. Mr. Speaker, I thank the gentleman for yielding me this time and I take the time only to engage the gentleman from Florida [Mr. Chappell] in a brief colloquy with regard to the procurement reforms.

First, I want to express my thanks to the committee members for reincluding these provisions in the bill, and second, to ask with regard to one of the reforms a question.

Originally when we asked the committee to include language requiring the Defense Department to consult with congressional committees in establishing their definitions with regard to exclusions, limitations, and qualifications on what they can spend and buy, that is allowable costs, that was agreed to, but only with the provision that that be kept secret, that that not be public prior to its publication.

My understanding is that that provision with regard to secrecy is now out of the bill and it was not contemplated by those who drafted this provision that it be secret. Is that correct?

Mr. CHAPPELL. Mr. Speaker, will the gentleman yield?

Mr. BRYANT. I yield to the gentleman from Florida.

Mr. CHAPPELL. The gentleman is correct.

Mr. BRYANT. I thank the gentleman and I yield back the remainder of my time.

Mr. TAYLOR. Mr. Speaker, I yield 4 minutes to my moderate friend, the gentleman from California [Mr. Dannemeyer].

Mr. DANNEMEYER. Mr. Speaker, one of the things that Government requires for consumers of this country is that we have a Truth-in-Lending Act. One of the things that we should follow ourselves is a truth-in-legislating act.

This bill that is before us, it is about an inch thick, is called joint resolution making further continuing appropriations for the fiscal year 1986 and for other purposes. The problem with its title is that it is really not being honest with all of us. What we should call this tome is an act to deny the Chief Executive the ability to exercise the power given to that person by the Constitution; namely, the veto.

When we send to the White House roughly a third of the Federal spending in 1 year in one document, virtually on the eve of Christmas, we are severely limiting the options of our President with respect to controlling runaway spending. We should not lose sight of the fact that the resort to the CR is not an accident. It is a deliberate result from the political processes of this country, whereby one of the three institutions of Government, the White House, can be controlled by one party, the Republicans in this instance, and one or both Houses of Congress can be controlled by another party, the Democrats. The Democrats control this House and have continuously for the last 30 years.

Their remedy for the ills of America is to increase social spending anytime they get the chance, and the means by which they have asserted their leverage is to combine in this continuing resolution tempting morsels for defense along with sensitive increases for domestic program spending. And then to give to the President the uneviable choice of whether or not to criticize the increases in social spending that are out of control in this country, and in so doing, limit the ability that he, as our Chief Executive, believes we need in the area of increased defense spending.

That is the game that is being played.

I do not choose to give this Member's vote from California in the way of approval of this subterfuge undermining the use of the Chief Executive asserting a veto. In the last 4 years since President Reagan was elected, the CR, has been too often used. In fact, it has become commonplace.

I think we should just reject this as an unreasonable attempt to undermine the ability of a Chief Executive to exercise a veto should he choose to do so.

Another element of the CR that I find particularly reprehensible relates to the ability of any of us to offer any amendments to any of the measures that are contained in it. None are made in order. It is said that if we had the ability to amend any of the provisions, if this Member had the ability, other Members would want that, and so we do not allow any.

This is a subversion of the legislative process, and I think we should give it the fate it justly deserves and reject it.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentleman from California [Mr. Miller].

Mr. MILLER of California. Mr. Speaker, I think we should support this continuing resolution. It is all that we can get. I think it is a major step forward from the resolution that we had before.

I would like to commend my colleague, the gentleman from Oregon [Mr. AuCoin] for the efforts that he made on behalf of getting the restrictions of Asat testing. I would like to commend my colleagues, the gentleman from Texas [Mr. Bryant] and the gentlewoman from California [Mrs. Boxer], for the efforts they made that led to the successful inclusion of at least one of the procurement reforms that this House has spoken on now several times overwhelmingly to see that we change the manner in which the Pentagon procures and lets contracts so that we will not have the wasteful system that we have today, and I think that that single reform is an important step forward in that effort.

I would, however, say that I think that those people who do not work with the Pentagon on a day-to-day basis ought to understand what we are doing here today, because I think this is the first effort in starting to pad the books to try and insulate the Pentagon from the full force of the effects of Gramm-Rudman, and I would hope that those who are concerned with the domestic side of the ledger will understand what is going on here when we meet sequestration in the months ahead.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the distinguished gentleman from New York [Mr. Addabbo].

Mr. ADDABBO. Mr. Speaker, I rise in support of the rule and the continuing resolution.

Mr. Speaker, the conferees on the Department of Defense Appropriations Act portion of the continuing resolution bring back a very delicately balanced agreement on the defense issues. This further conference agreement is even more fragile. We were faced with some extremely difficult issues which had to be weighed against each other and a final agreement crafted. These issues included the total funds provided for the defense programs, the funds allowed and the restrictions imposed on these funds for chemical weapons and facilities, the restriction on antisatellite weapons testing, the amounts approved for the strategic defense initiative [SDI], and many other important issues. Not all Members are satisfied with the conference agreement. I have difficulty with portions of the agreement myself, but this is a compromise and I think basically a good bill.

The conference agreement appropriates $281.2 billion in new budget authority some $1.3 billion below the original conference settlement and we include a procurement reform provision relating to allowable costs which involved extremely difficult negotiations. This provision is a compromise, but it is the best your conferees could extract from the Senate. We negotiated for days on this one issue and you can rest assured we got the best compromise that was possible under the circumstances.

We can all claim a victory on this compromise language because it puts Congress in the process of reviewing DOD's policy of allowable costs allowance which is a first.

There was some concern regarding the treatment of unobligated balances of $6.3 billion in the original conference agreement. While the conferees did not give the Defense Department a great deal of flexibility on the use of the funds in the first instance, we have specifically set forth in the law the allocations of these set-asides. These funds can be used only to finance the military pay raise, the payments to the retirement trust fund, the mariner fund, the coastal defense augmentation account, and increased readiness of conventional forces. The conferees also included bill language that would prohibit the funds set aside in this provision from being used to offset any Gramm-Rudman reductions. The original conference agreement subjected these same funds to the reprogramming process and we continue this requirement.

There was not much flexibility before on the use of these funds, but there is none whatsoever now.

The conference agreement provides $126 million for binary chemical weapons and facilities. This includes $98.3 million for the Bigeye bomb production facilities, $6 million for Bigeye operation testing, and $21.7 million for the production of the 15mm chemical projectile. Of course, there are a number of restrictions on the use of these funds.

First, obligation of all funds is made subject to an additional requirement that the President certify to the Congress that a force goal stating the requirement for modernization of the United States share of NATO chemical deterrent has been submitted to NATO and formally adopted by the North Atlantic Alliance.

Second, obligation of funds for Bigeye components is subject to the requirement that the Secretary of Defense submit a report describing the operational requirements for Bigeye, actual performance of bigeye during operational testing with respect to the requirements, and any exceptions deemed acceptable. Obligation for Bigeye components may occur no sooner than 60 days after submission of the report.

Third, none of the funds included for procurement of the GB-2 artillery projectile may be obligated before October 1, 1986, and then only when the provisions on NATO consultation are satisfied. Final assembly of the GB-2 may not occur before October 1, 1987, and then only when the provisions on conditions for final assembly are satisfied.

The conference agreement includes a prohibition on the use of funds in this act or any other act to carry out a test of an antisatellite weapon against an object in space until the President certifies that the Soviet Union has conducted, after October 3, 1985, such a test against an object in space of a dedicated antisatellite weapon. This was a difficult position to hold but your House conferees worked hard on this matter. Let me point out that if this conference agreement is not approved, Asat testing can go forward now.

The conference agreement provides $2.750 billion for strategic defense initiatives some $250 million above the House but $213 million below the Senate and roughly $1 billion below the budget request.

This conference report appropriates over $146 billion for the military personnel and operation and maintenance account which includes many billions of dollars to improve the quality of life of our troops and to improve the readiness of our forces.

The conference agreement provides approximately $20 billion for the Guard and Reserve Forces including over $1.5 billion above the budget request for a separate Guard and Reserve equipment account.

This is a good agreement and I urge its adoption.

Insert a table in the RECORD setting forth the Defense conference agreement:

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY

	Fiscal year 1985 enacted [1]	Fiscal year 1986 estimates [2]	House	Senate [3]	[redacted]	Conference compared with—			
						[redacted]	[redacted]	[redacted]	Senate
TITLE I—MILITARY PERSONNEL									
Military Personnel, Army	21,437,593,000	22,712,000,000	21,761,423,000	21,109,765,000	21,078,169,000	−359,424,000	−1,633,831,000	−683,254,000	−31,596,000
(Transfer from other accounts)	(25,000,000)					(−25,000,000)			
Military Personnel, Navy	15,660,246,000	17,221,400,000	16,472,073,000	15,838,363,000	15,917,144,000	+256,898,000	−1,304,256,000	−554,929,000	+78,781,000
(Transfer from other accounts)	(339,633,000)					(−339,633,000)			
Military Personnel, Marine Corps	4,910,206,000	5,217,400,000	5,041,377,000	4,835,456,000	4,870,016,000	−40,190,000	−347,384,000	−171,361,000	+34,560,000
(Transfer from other accounts)	(10,000,000)					(−10,000,000)			
Military Personnel, Air Force	17,826,830,000	19,187,900,000	18,341,185,000	17,688,587,000	17,744,770,000	−82,060,000	−1,443,130,000	−596,415,000	+56,183,000
(Transfer from other accounts)	(112,854,000)					(−112,854,000)			
Reserve Personnel, Army	2,084,100,000	2,394,400,000	2,159,254,000	2,203,014,000	2,178,564,000	+94,464,000	−215,836,000	+19,310,000	−24,450,000
Reserve Personnel, Navy	1,132,319,000	1,353,600,000	1,297,123,000	1,264,334,000	1,267,734,000	+135,415,000	−85,866,000	−29,389,000	+3,400,000
(Transfer from other accounts)	(22,000,000)					(−22,000,000)			
Reserve Personnel, Marine Corps	271,778,000	[redacted]	278,842,000	272,200,000	272,250,000	+472,000	−17,750,000	−6,592,000	+50,000
Reserve Personnel, Air Force	567,476,000	622,500,000	597,153,000	583,330,000	584,430,000	+16,954,000	−38,070,000	−12,723,000	+1,100,000
National Guard Personnel, Army	2,926,100,000	3,430,800,000	3,238,217,000	3,062,098,000	3,066,568,000	+140,468,000	−364,232,000	−171,649,000	+4,470,000
National Guard Personnel, Air Force	886,110,000	995,100,000	953,204,000	926,516,000	926,716,000	+40,606,000	−68,384,000	−26,488,000	+200,000
Total, title I, Military Personnel: New budget (obligational) authority	67,702,758,000	73,425,100,000	70,139,851,000	67,783,663,000	67,906,361,000	+203,603,000	−5,518,739,000	−2,233,490,000	+122,698,000
(Transfer from other accounts)	(509,487,000)					(−509,487,000)			
TITLE II—OPERATION AND MAINTENANCE									
Operation and Maintenance, Army	18,421,544,000	20,190,630,000	18,659,638,000	19,043,039,000	18,975,507,000	+553,963,000	−1,215,123,000	+315,869,000	−67,532,000
(Transfer from other accounts)	(119,300,000)					(−119,300,000)			
Operation and Maintenance, Navy	25,123,360,000	25,797,700,000	+ 23,862,002,000	+24,528,310,000	24,477,071,000	−646,289,000	−1,320,629,000	+615,069,000	−51,239,000

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY—Continued

	Fiscal year 1985 enacted [1]	Fiscal year 1986 [redacted] [2]	[redacted]	Senate [3]	[redacted]	Conference compared with—			
						[redacted]	Estimates	[redacted]	[redacted]
(Transfer from other accounts)	(180,829,000)					(−180,829,000)			
Operation and Maintenance, Marine Corps	1,640,294,000	1,667,400,000	1,615,128,000	1,609,000,000	1,612,050,000	−28,244,000	−53,350,000	3,078,000	+3,050,000
(Transfer from other accounts)	(8,488,000)					(−8,488,000)			
Operation and Maintenance, Air Force	19,093,265,000	20,924,400,000	19,507,672,000	19,468,901,000	19,536,813,000	+443,548,000	−1,387,587,000	+29,141,000	+67,912,000
(Transfer from other accounts)	(90,346,000)					(−90,346,000)			
Operation and Maintenance, Defense Agencies	7,148,699,000	[redacted]	7,340,076	7,479,956,000	7,432,569,000	+283,870,000	−136,331,000	+92,493,000	−47,387,000
(Transfer from other accounts)	(8,000,000)					(8,000,000)			
Operation and Maintenance, Army Reserve	731,736,000	[redacted]	774,980,000	793,100,000	[redacted]	+48,364,000	+500,000	+5,120,000	−13,000,000
Operation and Maintenance, Navy Reserve	[redacted]	[redacted]	896,415,000	[redacted]	[redacted]	+66,369,000	−59,550,000	−1,465,000	−1,750,000
Operation and Maintenance, Marine Corps Reserve	[redacted]	[redacted]	57,120,000	[redacted]	[redacted]	−1,592,000	−4,400,000	+80,000	
Operation and Maintenance, Air Force Reserve	879,761,000	[redacted]	[redacted]	[redacted]	[redacted]	+22,939,000	−5,000,000	+5,856,000	−7,500,000
Operation and Maintenance, Army National Guard	1,437,487,000	[redacted]	1,646,305,000	[redacted]	[redacted]	+215,313,000	+47,600,000	+6,495,000	−3,700,000
Operation and Maintenance, Air National Guard	1,825,439,000	[redacted]	[redacted]	[redacted]	[redacted]	−19,239,000	−23,900,000	+2,338,000	
National Board for the Promotion of Rifle Practice, Army	[redacted]	[redacted]	820,000	[redacted]	[redacted]	−6,000		+100,000	
Claims, Defense	[redacted]	[redacted]	[redacted]	143,300,000	143,300,000	−14,600,000	−15,000,000	−[redacted]	
Court of Military Appeals, Defense	2,870,000	3,200,000	[redacted]	[redacted]	[redacted]	+330,000			
Tenth International Pan American Games			[redacted]	[redacted]	[redacted]	+10,000,000	+10,000,000		
Environmental Restoration, Defense	314,000,000			429,100,000	379,100,000	+65,100,000	+379,100,000	+379,100,000	−50,000,000
(Internal O&M transfer account)			[8] (329,100,000)					(−329,100,000)	
Total, title II, Operations and Maintenance New budget (obligational) authority	77,664,654,000	82,450,150,000	77,222,362,000	78,835,626,000	78,664,480,000	+999,826,000	−3,785,670,000	+1,442,118,000	−171,146,000
(Transfer from other accounts)	(406,963,000)					(−406,963,000)			
TITLE III—PROCUREMENT									
Aircraft Procurement, Army	3,940,900,000	3,892,500,000	3,337,300,000	3,504,200,000	3,524,200,000	−416,700,000	−368,300,000	+186,900,000	+20,000,000
(Transfer from other accounts)			(217,600,000)	(101,800,000)				(−217,600,000)	(−101,800,000)
Missile Procurement, Army	3,167,000,000	3,386,700,000	2,939,232,000	3,056,050,000	2,904,332,000	−262,668,000	−482,368,000	−34,900,000	−151,718,000
(Transfer from other accounts)			(124,500,000)	(49,700,000)				(−124,500,000)	(−49,700,000)
Procurement of Weapons and Tracked Combat Vehicles, Army	4,548,100,000	5,739,100,000	3,749,004,000	[redacted]	[redacted]	+136,700,000	−1,054,300,000	+935,796,000	+54,900,000
(Transfer from other accounts)			(806,896,000)	(240,800,000)				(−806,896,000)	(−240,800,000)
Procurement of Ammunition, Army	2,646,300,000	2,635,000,000	1,858,200,000	2,588,213,000	2,497,200,000	−149,100,000	−137,800,000	+639,000,000	−91,013,000
(Transfer from other accounts)			(215,200,000)	(209,900,000)				(−215,200,000)	(−209,900,000)
Other Procurement, Army	5,122,450,000	5,712,800,000	[redacted]	5,214,730,000	5,275,556,000	+153,106,000	−437,244,000	+465,570,000	+60,826,000
(Transfer from other accounts)			(297,400,000)	(238,000,000)				(−297,400,000)	(−238,000,000)
Aircraft Procurement, Navy	10,903,798,000	12,062,600,000	10,446,400,000	10,289,651,000	11,175,678,000	+271,880,000	−886,922,000	+729,278,000	+886,027,000
(Transfer from other accounts)			(594,600,000)	(566,382,000)				(−594,600,000)	(−566,382,000)
Weapons Procurement, Navy	4,353,611,000	5,627,900,000	5,093,733,000	5,372,563,000	5,227,795,000	+874,184,000	−400,105,000	+134,062,000	−144,768,000
(Transfer from other accounts)			(109,600,000)	(15,000,000)				(−109,600,000)	(−15,000,000)
Shipbuilding and Conversion, Navy	11,736,000,000	11,411,600,000	[redacted]	[redacted]	10,840,400,000	−[redacted]	−571,200,000	+2,191,500,000	+1,241,500,000
(Transfer from other accounts)	(36,300,000)		(2,058,500,000)	(1,057,600,000)		(−36,300,000)		(−2,058,500,000)	(−1,057,600,000)
Other Procurement, Navy	5,341,614,000	6,601,200,000	5,682,694,000	6,463,560,000	6,377,630,000	+1,036,016,000	−223,570,000	+694,936,000	−85,930,000
(Transfer from other accounts)			(312,762,000)	(221,000,000)				(−312,762,000)	(−221,000,000)
Coastal Defense Augmentation				[redacted]	235,000,000	+235,000,000	+235,000,000	+235,000,000	−140,000,000
Procurement, Marine Corps	1,836,722,000	1,726,800,000	1,610,749,000	1,689,982,000	1,660,766,000	−175,956,000	−66,034,000	+50,017,000	−29,216,000
(Transfer from other accounts)			(85,717,000)	(31,056,000)				(−85,717,000)	(−31,056,000)
Aircraft Procurement, Air Force	26,188,266,000	26,165,500,000	20,722,700,000	24,142,651,000	23,255,424,000	−2,932,842,000	−2,910,076,000	+2,532,724,000	−887,227,000
(Transfer from other accounts)			(1,458,300,000)	(648,000,000)				(−1,458,300,000)	(−648,000,000)
Missile Procurement, Air Force	6,909,245,000	10,862,700,000	8,043,527,000	8,770,831,000	8,312,442,000	+1,403,197,000	−2,550,258,000	+268,915,000	−458,389,000
(Transfer from other accounts)	(1,500,000,000)		(155,000,000)	(64,400,000)		(−1,500,000,000)		(−155,000,000)	(−64,400,000)
Other Procurement, Air Force	8,861,697,000	9,538,000,000	7,890,918,000	8,831,674,000	8,571,383,000	−290,314,000	−966,617,000	+680,465,000	−260,291,000
(Transfer from other accounts)			(347,476,000)	(282,000,000)				(−347,476,000)	(−282,000,000)
National Guard and Reserve Equipment	[redacted]		[redacted]	2,063,800,000	1,501,800,000	+1,121,800,000	+1,501,800,000	+919,800,000	−562,000,000
(Transfer from other accounts)			(8,000,000)	(178,400,000)				(−8,000,000)	(−178,400,000)
Procurement, Defense Agencies	1,165,701,000	1,391,900,000	1,181,869,000	1,426,914,000	1,302,740,000	+137,039,000	−89,160,000	+120,871,000	−124,174,000
(Transfer from other accounts)			(36,000,000)	(36,000,000)				(−36,000,000)	(−36,000,000)
Defense Production Act Purchases	10,000,000	[redacted]		31,000,000	31,000,000	+21,000,000	−28,000,000	+31,000,000	
NATO Cooperative Defense Programs				15,000,000	15,000,000	+15,000,000	+15,000,000	+15,000,000	
Total, title III, Procurement New budget (obligational) authority	97,111,404,000	106,813,300,000	86,597,212,000	98,064,619,000	97,393,146,000	+281,742,000	−9,420,154,000	+10,795,934,000	−671,473,000
(Transfer from other accounts)	(1,536,300,000)		(6,827,551,000)	(3,940,038,000)		(−1,536,300,000)		(−6,827,551,000)	(−3,940,038,000)
TITLE IV—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION									
Research Development, Test, and Evaluation, Army	4,349,015,000	5,279,900,000	4,436,475,000	4,841,169,000	4,798,172,000	+449,157,000	−481,728,000	+361,697,000	42,997,000
(Transfer from other accounts)			(110,530,000)	(265,000,000)				(−110,530,000)	(−265,000,000)
Research, Development, Test, and Evaluation, Navy	9,172,622,000	11,264,300,000	9,462,631,000	10,104,594,000	10,065,239,000	+892,617,000	−1,199,061,000	+602,608,000	−39,355,000
(Transfer from other accounts)			(271,496,000)	(183,000,000)				(−271,496,000)	(183,000,000)
Research, Development, Test, and Evaluation, Air Force	13,424,147,000	15,578,500,000	13,217,177,000	13,861,113,000	13,718,208,000	+294,061,000	−1,860,292,000	+501,031,000	−142,905,000
(Transfer from other accounts)			(359,000,000)	(256,000,000)				(−359,000,000)	(−256,000,000)
Research, Development, Test, and Evaluation, Defense Agencies	4,182,287,000	7,053,900,000	5,943,038,000	7,033,745,000	6,637,386,000	+2,455,099,000	−416,514,000	+694,348,000	−396,359,000
(Transfer from other accounts)			(179,112,000)	(51,000,000)				(−179,112,000)	(−51,000,000)
Director of Test and Evaluation, Defense	59,000,000	103,500,000	93,500,000	143,500,000	118,500,000	+59,500,000	+15,000,000	+25,000,000	−25,000,000
Total, title IV, Research, Development, Test, and Evaluation New budget (obligation) authority	31,187,071,000	39,280,100,000	33,152,821,000	35,984,121,000	35,337,505,000	+4,150,434,000	−3,942,595,000	+2,184,684,000	−646,616,000
(Transfer from other accounts)			(920,138,000)	(755,000,000)				(−920,138,000)	(−755,000,000)
TITLE V—SPECIAL FOREIGN CURRENCY PROGRAM									
Special foreign currency program	[redacted]	2,100,000	2,100,000	2,100,000	2,100,000	−6,550,000			
TITLE VI—REVOLVING AND MANAGEMENT FUNDS									
Army Stock Fund	366,448,000	442,000,000	393,000,000	[redacted]	393,000,000	+26,552,000	−49,000,000		
Navy Stock Fund	473,307,000	716,500,000	616,500,000	638,500,000	638,500,000	+165,193,000	−78,000,000	+22,000,000	
Marine Corps Stock Fund	34,908,000	42,700,000	37,700,000	[redacted]	37,700,000	+2,792,000	−5,000,000		
Air Force Stock Fund	548,593,000	464,900,000	415,900,000	[redacted]	415,900,000	−132,693,000	−49,000,000		
[redacted]	130,700,000	193,500,000	149,700,000	174,500,000	149,700,000	+19,000,000	−43,800,000		−24,800,000
Marine Fund (Transfer from other accounts)				(852,100,000)					(−852,100,000)
[redacted]				[redacted]	100,000,000	+100,000,000	+100,000,000	+100,000,000	−50,000,000
Total, title VI, Revolving and Management Funds New budget (obligational) authority	1,553,956,000	1,859,600,000	1,612,800,000	1,809,600,000	1,734,800,000	+180,844,000	−124,800,000	+122,000,000	−74,800,000
(Transfer from other accounts)				(852,100,000					(−852,100,000)
TITLE VII—RELATED AGENCIES									
Intelligence Community [redacted]	20,971,000	22,283,000	22,083,000	22,283,000	22,083,000	+1,112,000	−200,000		−200,000
[redacted] Intelligence Agency Retirement and Disability System Fund	[redacted]	101,400,000	101,400,000	101,400,000	101,400,000	+2,100,000			

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY—Continued

	Fiscal year 1985 enacted [1]	Fiscal year 1986 estimates [2]	House	Senate [3]	Conference	Conference compared with— Enacted	Estimates	House	Senate
Enhanced security countermeasures capabilities	35,000,000					−35,000,000			
Total, title VII, Related Agencies New budget (obligational) authority	155,271,000	123,683,000	123,483,000	123,683,000	123,483,000	−31,788,000	−200,000		−200,000
TITLE VIII—GENERAL PROVISIONS									
(Additional transfer authority, sec 8020)	(1,200,000,000)	(1,200,000,000)	(1,200,000,000)	(950,000,000)	(950,000,000)	(−250,000,000)	(−250,000,000)	(−250,000,000)	
TITLE IX									
Counter-terrorisa Contingency fund				100,000,000					−100,000,000
Title I—Military Personnel	67,702,758,000	73,425,100,000	70,139,851,000	67,783,663,000	67,906,361,000	+203,603,000	−5,518,739,000	−2,233,490,000	+122,698,000
(Transfer from other accounts)	(509,487,000)					(−509,487,000)			
Title II—Operation and Maintenance	77,664,654,000	82,450,150,000	77,222,362,000	78,835,626,000	78,664,480,000	+999,826,000	−3,785,670,000	+1,442,118,000	−171,146,000
(Transfer from other accounts)	(406,963,000)					(−406,963,000)			
Title III—Procurement	97,111,404,000	106,813,300,000	86,597,212,000	98,064,619,000	97,393,146,000	+281,742,000	−9,420,154,000	+10,795,934,000	−671,473,000
(Transfer from other accounts)	(1,536,300,000		(6,827,551,000)	(3,940,038,000)		(−1,536,300,000)		(−6,827,551,000)	(−3,940,038,000)
Title IV—Research, Development, Test, and Evaluation	31,187,071,000	39,280,100,000	33,152,821,000	35,984,121,000	35,337,505,000	+4,150,434,000	−3,942,595,000	+2,184,684,000	−646,616,000
(Transfer from other accounts)			(920,138,000)	(755,000,000)				(−920,138,000)	(−755,000,000)
Title V—Special foreign currency program	8,650,000	2,100,000	2,100,000	2,100,000	2,100,000	−6,550,000			
Title VI—Revolving and management funds	1,553,956,000	1,859,600,000	1,612,800,000	1,809,600,000	1,734,800,000	+180,844,000	−124,800,000	+122,000,000	−74,800,000
(Transfer from other accounts)				(852,100,000)					(−852,100,000)
Title VII—Related agencies	155,271,000	123,683,000	123,483,000	123,683,000	123,483,000	−31,788,000	−200,000		−200,000
Title VIII—General provisions (additional) transfer authority, sec 8020)	(1,200,000,000)	(1,200,000,000)	(1,200,000,000)	(950,000,000)	(950,000,000)	(−250,000,000)	(−250,000,000)	(−250,000,000)	
Title IX—Counter-terrorism Contingency fund				100,000,000					−100,000,000
Total, Department of Defense (NOA)	275,383,764,000	303,954,033,000	268,850,629,000	282,703,412,000	281,161,875,000	+5,778,111,000	−22,792,158,000	+12,311,246,000	−1,541,537,000
(Transfer from other accounts)	(2,452,750,000)		(7,747,689,000)	(5,547,138,000)		(−2,452,750,000)		(−7,747,689,000)	(−5,547,138,000)
Total funding available	277,836,514,000	303,954,033,000	276,598,318,000	288,250,550,000	281,161,875,000	+3,325,361,000	−22,792,158,000	+4,563,557,000	−7,088,675,000
(Transfer authority)	(1,200,000,000)	(1,200,000,000)	(1,200,000,000)	(950,000,000)	(950,000,000)	(−250,000,000)	(−250,000,000)	(−250,000,000)	
Distribution by organizational component									
Army	71,179,699,000	78,201,550,000	69,763,834,000	72,095,698,000	71,809,888,000	+630,189,000	−6,391,662,000	+2,046,054,000	−285,810,000
(Transfer from other accounts)	(144,300,000)		(1,772,126,000)	(1,105,200,000)		(144,300,000)		(−1,772,126,000)	(−1,105,200,000)
Navy	93,478,158,000	102,017,200,000	91,119,387,000	93,872,013,000	95,627,123,000	+2,148,965,000	−6,390,077,000	+4,507,736,000	+1,755,110,000
(Transfer from other accounts)	(597,250,000)		(3,432,675,000)	(2,074,038,000)		(−597,250,000)		(−3,432,675,000)	(−2,074,038,000)
Air Force	97,010,829,000	107,077,300,000	92,390,142,000	97,405,903,000	95,774,986,000	−1,235,843,000	−11,302,314,000	+3,384,844,000	−1,630,917,000
(Transfer from other accounts)	(1,703,200,000)		(2,319,776,000)	(1,250,400,000)		(−1,703,200,000)		(−2,319,776,000)	(−1,250,400,000)
Defense Agencies/OSD	13,179,807,000	16,534,300,000	14,871,783,000	17,142,315,000	16,324,595,000	+3,144,788,000	−209,705,000	+1,452,812,000	−817,720,000
(Transfer from other accounts)	(8,000,000)		(215,112,000)	(939,100,000)		(−8,000,000)		(−215,112,000)	(−939,100,000)
Reserve and National Guard (procurement)	380,000,000		582,000,000	2,063,800,000	1,501,800,000	+1,121,800,000	+1,501,800,000	+919,800,000	−562,000,000
(Transfer from other accounts)			(8,000,000)	(178,400,000)				(−8,000,000)	(−178,400,000)
Related agencies	155,271,000	123,683,000	123,483,000	123,683,000	123,483,000	−31,788,000	−200,000		−200,000
Total, Department of Defense (NOA)	275,383,764,000	303,954,033,000	268,850,629,000	282,703,412,000	281,161,875,000	+5,778,111,000	−22,792,158,000	+12,311,246,000	−1,541,537,000
(Transfer from other accounts)	(2,452,750,000)		(7,747,689,000)	(5,547,138,000)		(−2,452,750,000)		(−7,747,689,000)	(−5,547,138,000)
Total funding available	277,836,514,000	303,954,033,000	276,598,318,000	288,250,550,000	281,161,875,000	+3,325,361,000	−22,792,158,000	+4,563,557,000	−7,088,675,000
(Transfer authority)	(1,200,000,000)	(1,200,000,000)	(1,200,000,000)	(950,000,000)	(950,000,000)	(−250,000,000)	(−250,000,000)	(−250,000,000)	

[1] Includes amounts in Supplemental Appropriation Act, 1985

[2] Includes $383,000 for the Intelligence Community Staff (H Doc 99-89)

[3] As amended on the Senate Floor during consideration of H J Res. 465.

[4] Includes $100 million for Coast Guard (House section 8101)

[5] Funds are included in individual appropriation accounts.

SCORING AGAINST THE BUDGET RESOLUTION NATIONAL DEFENSE FUNCTION 050 NEW BUDGET AUTHORITY

[In billions of dollars]

	Fiscal year 1986 budget request	Budget resolution	Conference I	Conference II
DOD appropriation bill	304.0	NA	282.5	281.2
Military Construction and Nuclear Warhead Program, Department of Energy	18.7	NA	16.3	16.3
National defense function (050)	322.7	302.5	298.8	297.5
Below budget request	−25.2			
Below budget resolution		−5.0		
Below conference I			−1.3	

Mr. BEILENSON. Mr. Speaker, I have no further requests for time.

Mr. TAYLOR. Mr. Speaker, I yield 3 minutes to the gentleman from Colorado [Mr. STRANG].

Mr. STRANG. Mr. Speaker, I thank the gentleman for yielding me this time.

My colleagues, I have a very brief statement to make to put your fears at rest about some of the charges made about the proposed uses for synfuels in Colorado, and I think it is time that you knew some facts.

The facts are these: The combination of the current loan guarantees and the additional moneys proposed, bonus payments or payments for fuel can never exceed $500 million, never exceed $500 million. Any statement to the contrary is false.

I think you should understand that we all need that production, that kind of protection from this program becoming a boondoggle. The product goes to the Department of Defense. When the program has been proven, it is over. It is not a national oil shale production program and was never intended to be, as most of the Members in this House realize.

Additionally, Mr. Speaker, in order to qualify for payments, Union Oil Corp. has to produce at a sustained rate of 6,000 barrels a day for 30 days or they do not get a check.

Those facts have to be kept in mind as we attempt a small-scale effort to know that the Defense Department and this country can have one additional source of commercial oil production when we need it.

When that experiment is over, however, Mr. Speaker, it is over. Any statements to the contrary are misstatements of fact, and I thank the gentleman for yielding.

Mr. TAYLOR. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BEILENSON. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. WHITTEN. Mr. Speaker, pursuant to the rule just adopted, I call up the conference report on the joint resolution (H.J. Res. 465) making further continuing appropriations for the fiscal year 1986, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER. Pursuant to House Resolution 348, the conference report is considered as having been read.

(For conference report and statement, see prior proceedings of the House of today.)

BEST COPY AVAILABLE

The gentleman from Mississippi [Mr. Whitten] will be recognized for 30 minutes and the gentleman from Massachusetts [Mr. Conte] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. Whitten].

GENERAL LEAVE

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on the conference report to accompany House Joint Resolution 465, making further continuing appropriations for fiscal year 1986, and that I be allowed to include extraneous and tabular matter.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

☐ 1220

Mr. WHITTEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, at the outset I wish to thank the Committee on Rules today, and particularly the gentleman from California [Mr. Beilenson] and the gentleman from Missouri [Mr. Taylor]. I appreciate their cooperation and giving time to our colleagues with whom we had arranged to give time in case we did not have the time to use.

Mr. Speaker, it is a pleasure for me to come to you today and bring before you the continuing resolution, on which our committee has been working for some time.

May I also add that I do not believe we could handle our job here like we do, except for the very fine staff that we have. I do not know whether you realize just how much of a job our committee faced.

There were 29 conferees from the Senate, 22 full-time conferees on the part of the House. We bring you a bill in which I take great pride because we have not a single amendment in controversy, not even a technical amendment.

Now when I say that, I am proud that you have trusted us to do the very best we could. I have in all candor to say that the fact that everybody wants to go home may have contributed somewhat to that and enabled us to be granted a rule which made this possible.

In the interests of time let me tell you, and I repeat, your Committee on Appropriations through the years has held appropriation bills below the budget. It is those things that go around our review which causes our problem.

May I say when I talk about how proud we are to have the overall support that is shown here, I have had delivered to me a statement of administration policy, December 19, 1985:

> H.J. Res. 465, making continuing appropriations for fiscal year 1986, Whitten, Democrat of Mississippi: The Administration supports House passage of the conference report to accompany H.J. Res. 465.

So, to have the support that has been shown here and the support in the committee, at least it gives me great confidence that they have believed that we have done the very best we could; and we have.

We have considered every viewpoint, we have listened to all those that wish to testify, we have tried to include all branches, and we brought you the results.

For your information and most folks that know it but have not paid attention to it, in 1981, your Committee on Appropriations authorized and directed an investigation of procurement policies and practices. Policies is what they say they do; practices is what they do.

These results have been made available to the public for quite a long time, and I hope we are on the road to cleaning up some of the things that seem to be going on.

Again, the Senate conferees, House conferees, and the executive branch have gone along to where we bring you a bill without a single amendment in disagreement, not even a technical amendment. In all candor, I have to admit perhaps it is because we are ready to go home.

We have a good resolution; I hope we may enjoy your support, and its passage.

Mr. Speaker, after some very difficult negotiations with the Senate and the administration, we have now been able to develop a further continuing resolution conference report which I believe should receive your approval.

Our original resolution was $18.5 billion below the budget requests and $2.9 billion below the fiscal year 1985 level. Basically two broad changes have been made here. First, some $300 million of additional reductions were made in domestic spending to help solve OMB's problems which are mainly related to scorekeeping issues.

Second, $1.3 billion was reduced in defense and other changes made such as procurement reform to meet objections of House Members. The specifics are as follows:

DOMESTIC REDUCTIONS

Agriculture: Six-tenths of 1 percent reduction—approximately $200 million from all accounts in the bill excluding child nutrition and special milk.

Transportation: $50 million reduction in U.S. Coast Guard.

Interior: Six-tenths of 1 percent reduction—approximately $50 million from all accounts in the bill.

MILITARY SPENDING

Reduces new budget authority by $1.3 billion below the previous level of $282.5 billion.

Unobligated balances set aside would be for specific purposes only:

Military retired pay.

Active duty pay.

The mariner fund, subject to authorization.

Coastal defense augmentation account.

Readiness accounts subject to reprogramming practices.

Provides for procurement reform on allowable costs.

Language dealing with defense contractor issues was agreed to.

Mr. Speaker, we need a strong defense, and no one has supported sufficient funds for defense longer than I. But what we are engaged in now is military spending.

In fact, I personally made exception to parts of amendments—in defense amendment No. 4 in regard to chemical weapons, the Strategic Defense Initiative, and unobligated balances set aside; amendment No. 5.

In addition, the Senate receded from its insistence on amendment No. 122 holding up Federal Aid Highway Funds from a number of States until their legislatures passed laws on minimum drinking age.

We also made clear amendment No. 117 dealing with honorarium language applies only to the Senate and not the House.

The provisions in the resolution passed by the House directing the Secretary of Agriculture to use existing law on basic commodities and to suspend for 12 months and foreclosure by the Farmers Home Administration were objected to by the Senate. The law remains and I repeat there is no requirement that supports be reduced in order to sell competitively in world trade. Any statements that supports must be reduced in order to sell are absolutely incorrect.

Such provisions are:

> Sec. 105. In review of the financial risks facing many farmers, resulting from embargoes and suspension of exports in 1973, 1974, 1975, and 1980, and failure to use the Commodity Credit Corporation for a loan program which led to a fair price from the user, the Secretary of Agriculture shall use his authority under existing law to provide for nonrecourse loans on basic agricultural commodities at such levels as will reflect a fair return to the farm producer above the cost of production, and to issue such regulations as will carry out this provision and as will provide for payment by the purchaser, rather than by appropriation, for basic commodities sold for domestic use and the Secretary of Agriculture shall issue such regulations as will enable producers of any basic agricultural commodity to produce the amount needed for domestic consumption, to maintain the pipeline, and to regain and retain by competitive sales our normal share of the world market.
>
> Sec. 106. Public Law 99-98 funded a study by the Department of Agriculture to determine the losses suffered by United States farm producers of agricultureal products during the last decade as a result of embar-

goes on the sale of United States agricultural products and the failure to offer for sale in world markets commodities surplus to domestic needs at competitive prices, for use in determining what part of existing indebtedness of farmers should be canceled as a result of such foreign policy. Pending the completion of the study, the Secretary shall determine, on a case-by-case basis, which borrowers are unable to continue making payments of principal and interest due to embargoes or the failure to sell competitively in world trade and, thereby, qualify for an adjustment of principal and interest due to prevent bankruptcy or foreclosure, all as authorized by existing law.

Upon presentation of substantial evidence to the Secretary that a borrower qualifies, payment of principal and interest shall be suspended and the Secretary shall forego foreclosure of loans owed to the Federal Government, as authorized by law, for 12 months or until an adjustment is agreed upon. Other creditors shall be requested by the Secretary to postpone payments due on the same basis.

We take note again that these actions can be taken under existing law. What we lost was the directive to use this law. It is to be hoped that the Secretary of Agriculture will use such law to require the purchaser to pay the cost of a fair price instead of having to depend upon appropriations; that he will suspend foreclosures for 12 months—and determine the damage to the farmers by the restrictive and partial embargoes in 1973, 1974, 1975, and 1980—and the virtual embargo since—by a failure to sell competitively.

WITHHOLDING OF FUNDS

The question frequently arises as to when and under what conditions Federal funds may be withheld. The daily press regularly carries stories of various departments and agencies holding up funds, in most cases without legal authority.

After the President has signed an appropriations measure, the law requires the funds be made available for obligation for the purpose for which they were appropriated. In a limited number of circumstances, funds may be withheld if done in strict compliance with the provisions authorizing such action. The conferees stress that funds made available under this resolution should be obligated pursuant to law. When any law is used to withhold funds, the funds are to be available for obligation until the message proposing withholding is transmitted to the Congress. This applies additionally to projects that have been planned and are ongoing in nature and involve commitments made over a period of time to assure continuation through completion of such projects.

Many questions have been asked about Gramm-Rudman. May I point out that it includes language that prevents programs, projects, or activities from being eliminated,

Mr. Speaker, it is essential that this bill be enacted. It is a bill that can be supported, and importantly, can be signed.

I have here a letter from OMB which indicates it supports enactment of the resolution.

As was the case with the other conference report, it is below the budget request and below the fiscal year 1985 level.

Compared to the President's requests, the continuing resolution is $18,377 million below in new budget authority, and compared to the fiscal year 1985 level it is $2,929 million below.

It provides full year funding for seven appropriations bills, four in their entirety: Defense, foreign aid, Interior, and Transportation. Three bills are covered by reference: Agriculture, District of Columbia, and Treasury-Postal Service with modification.

Mr. Speaker, before I close let me express my appreciation to all the conferees on both this bill and on the other conference report, and particularly the ranking minority member, Sil Conte for his help and hard work.

Mr. Speaker, for the first conference, in addition to the subcommittee chairmen and appropriate ranking members, we had as conferees all the members of each subcommittee that had not been to conference on their bills, as follows:

Members for the entire resolution and Senate amendments: Mr. Whitten, Mr. Boland, Mr. Natcher, Mr. Smith of Iowa, Mr. Addabbo, Mr. Yates, Mr. Obey, Mr. Roybal, Mr. Bevill, Mr. Chappell, Mr. Lehman, Mr. Dixon, Mr. Fazio, Mr. Hefner, Mr. Conte, Mr. McDade, Mr. Myers, Mr. Coughlin, Mr. Kemp, Mrs. Smith, and Mr. Skeen.

As additional conferees in addition to the above:

For the Agriculture appropriations bill: Mr. Traxler, Mr. McHugh, Mr. Akaka, Mr. Watkins, Mr. Durbin, and Mr. Rogers.

For the Defense appropriations bill: Mr. Murtha, Mr. Dicks, Mr. Wilson, Mr. AuCoin, Mr. Young, Mr. Miller, and Mr. Livingston.

For the Interior appropriations bill: Mr. Murtha, Mr. Dicks, Mr. AuCoin, and Mr. Loeffler.

For the Transportation bill: Mr. Sabo, Mr. Gray, Mr. Carr, Mr. Durbin, Mr. Mrazek, Mr. Pursell, and Mr. Wolf.

For the foreign assistance appropriation bill: Mr. McHugh, Mr. Wilson, Mr. Gray, Mr. Mrazek, Mr. Edwards, Mr. Lewis, and Mr. Porter.

After that conference was concluded and all bills had been through the conference process, and the conference report was defeated, it was necessary to appoint conferees on the further conference. To work out the hitches that had developed, much like a supplemental, the subcommittee chairmen and appropriate minority members were appointed, as follows:

Further continuing appropriations, fiscal year 1986: Mr. Whitten, Mr. Boland, Mr. Natcher, Mr. Smith of Iowa, Mr. Addabbo, Mr. Yates, Mr. Obey, Mr. Roybal, Mr. Bevill, Mr. Chappell, Mr. Lehman, Mr. Dixon, Mr. Fazio, Mr. Hefner, Mr. Conte, Mr. McDade, Mr. Myers, Mr. Coughlin, Mr. Kemp, Mr. Regula, Mrs. Smith, and Mr. Skeen.

Mr. Speaker, I urge adoption of the conference report and also wish everyone a happy holiday.

Mr. CONTE. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois [Mr. Porter].

The SPEAKER. The Chair recognizes the gentleman from Massachusetts, and desires that he would take the well so everybody can have a look at him.

Mr. CONTE. I will later on, Mr. Speaker.

The SPEAKER. He looks like Christmas Eve in Pittsfield.

Mr. CONTE. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois [Mr. Porter].

Mr. PORTER. Mr. Speaker, if the continuing resolution we defeated earlier this week was a poor one, then this one is also a poor one and should be defeated.

I do not blame our conferees for this; they worked very hard. I blame the process through which they had to work.

If you look at the work product on chemical weapons it is unchanged from Monday's continuing resolution. Production is authorized, although it is fenced until fiscal year 1987. Our conferees fought for the House position. The Senate simply overwhelmed us. I commend our House conferees for doing their best and particularly those seven who excepted the chemical weapons funding section from their approval of the conference report.

If you look at the amount of spending on defense, the conference brought it down less than 1 percent.

It is almost the same figure as the earlier continuing resolution. I said previously this year what we ought to do to address our Nation's severe deficit problem is to freeze every appropriations including defense. Unfortunately, while almost all other appropriations have held the line, this certainly is not a freeze in the defense account.

If you look at procurement reforms, largely unchanged, one small token change is made. Otherwise it is the same as Monday's continuing resolution. If you look at outside earned income for the Senate, which upset so many members, it is exactly the same as it left the House in the other continuing resolution.

If you look at Federal aid for highway funds to ensure that we have a uniform minimum drinking age of 21 in the United States, no change there, either.

All in all, this continuing resolution is almost as bad as the one that we defeated. I will vote "no." I urge my colleagues to vote no. Seven of the thirteen appropriation bills are in this one vote, yes or no up or down, on $370 billion of spending. Mr. Speaker, this is a lousy way to do business.

Mr. FASCELL. Will the gentleman yield?

Mr. PORTER. I yield to the distinguished Chairman.

Mr. FASCELL. Mr. Speaker, I want to express my appreciation for the hard work he did on the chemical warfare issue, and I am as disappointed as he is that it was not resolved the way we felt it should be.

I want to join him in expressing our appreciation to the House conferees for fighting long and hard to sustain the House position on that issue, and not withstanding the fact that it was not resolved entirely the way we thought it should be, I intend to support this conference report.

The conference report upholds the House ban on Asat testing.

The prohibition on Asat testing extends for as long as the Soviets refrain from similar Asat testing. Such a mutual moratorium represents a major step toward averting an arms race in space and demonstrates congressional support toward improving the climate of negotiation between the United States and the Soviet Union in the space area.

For the past several years, the Committee on Foreign Affairs has monitored and evaluated the President's antisatellite [Asat] weapons policy. Under my chairmanship, the Subcommittee on Arms Control, International Security and Science has conducted an extensive series of hearings to investigate the arms control implications of the Asat testing program. The subcommittee, 2 years ago, issued an interim report which included an evaluation of the administration's Asat policy. It was evident to us at that time and remains so today, that Asat's, which are specifically designed to destroy satellites, would seriously inhibit our ability to verify current and prospective arms control agreements.

Specifically, the conference language provides that no funds can be expended for testing an Asat against an object in space unless the President certifies to the Congress that the Soviets have conducted a similar Asat test. The fact that the conferees retained the House position banning Asat testing marks a congressional commitment to strengthen the President's hand at the Geneva arms control negotiations. By making the suspension of United States Asat testing contingent upon the continued suspension of Soviet Asat testing, we foster an environment in Geneva conducive to averting an extension of the arms race into space.

Regarding the issue of binary nerve gas weapons, the conferees agreed not to approve funds for the production and procurement of these weapons during fiscal year 1986.

The original House appropriations position not only eliminated funds from being spent on binary weapons production but also eliminated funds from being spent on military construction of chemical weapons production facilities. However, the conference compromise allows funds to be spent for military construction of facilities related to the chemical weapons program.

The conferees eliminated funding for the production of the Bigeye bomb because of persistent failures in the testing program resulting in the GAO, as recently as last week, recommending again that Congress not fund the Bigeye binary production program.

The conference compromise also prohibits all funds for the production of the 155-millimeter binary nerve gas artillery shell during fiscal year 1986. The compromise, however, allows $21.7 million for production of this artillery shell after fiscal year 1986 with the condition that our NATO allies formally approve the need for the production of such a weapon. This means that binary production after fiscal year 1986 is not final or automatic. Ultimately, actual binary production is dependent upon:

NATO agreement to base binary weapons on the soil;

Independent assessment by GAO that binary weapons are technically ready for production and operationally safe; and

Assurances that chemical weapons nonproliferation and arms control objectives are not undermined.

This last point takes on added significance in view of the joint pledge made at the summit last month by President Reagan and Secretary-General Gorbachev to actively seek an agreement on the nonproliferation and elimination of chemical weapons.

While not as conclusive as many of us would like, the conference position on chemical weapons reaffirms Congress position that we should not be funding a weapons system that does not work, is not proven safe for our troops, needlessly adds billions of dollars to the deficit, disrupts the NATO alliance, and undermines joint efforts of the superpowers to eliminate chemical weapons.

Mr. PORTER. I thank the gentleman for his remarks. Our House conferees took a vote in the conference. By 15 to 6, they sent a message to the Senate that they insisted on the House position against funding of chemical weapons production. It is the intransigence of the other body that is the cause of this problem, and prevailed over the responsible House position, refusing to spend for a new weapon that clearly is not needed.

Mr. CONTE. Will the gentleman yield?

Mr. PORTER. I yield to my good friend and ranking member.

☐ 1230

Mr. CONTE. Mr. Speaker, I want to take this opportunity also to commend the gentleman from Illinois.

I was 1 of the 15 who voted that way. As you will notice in the conference, I excepted on that provision. Unfortunately, we did not prevail, but tomorrow is another day.

Mr. PORTER. I thank the gentleman for his fight on that issue. He certainly did a marvelous job, as all our House conferees did in behalf of the House position.

Mr. WHITTEN. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. LEHMAN], a member of the committee.

Mr. LEHMAN of Florida. Mr. Speaker, I rise in support of the conference report.

Mr. Speaker, I rise in support of the conference report. The transportation section of this conference report would provide a total spending level of $25.483 billion for transportation programs for fiscal year 1986. This is comprised of $10.456 billion in new budget authority and $15.027 billion in contract authority obligation limitations.

Mr. Speaker, this total spending level is $1.778 billion, or about 6.5 percent, below the fiscal year 1985 level. It is a reduction that I wish we did not have to make, but I think is necessary given the fiscal realities of our budget. And let me add that unlike the transportation budget submitted by the President, the "pain" is distributed as fairly and evenly as possible—aviation, maritime, and highway programs have all shared the burden with mass transit, Amtrak, and Federal workers.

I know the Members are interested to know about the minimum drinking age amendment added by the Senate. The conferees agreed to strike that provision—it is not in this conference report.

Mr. Speaker, the transportation section of the conference report also is substantially under the committee's section 302(b) allocation made pursuant to the budget resolution. We have gone the extra mile to continue our vital transportation programs and still contribute toward overall fiscal restraint. It deserves your support.

I insert at this point in the RECORD a table giving the conference figures in detail:

Comparative Statement of New Budget (Obligational) Authority

	FY 1985 Enacted	FY 1986 Estimates	House	Senate	Conference	Conference compared with Enacted	Conference compared with Estimates	Conference compared with House	Conference compared with Senate
TITLE I - DEPARTMENT OF TRANSPORTATION									
Office of the Secretary									
Salaries and expenses	50,000,000	51,995,000	50,500,000	51,300,000	51,300,000	+1,300,000	-695,000	+800,000	---
(By transfer)	(65,000)	---	(330,000)	---	---	(-65,000)	---	(-330,000)	---
Transportation planning, research, and development	5,700,000	5,550,000	3,000,000	4,000,000	3,500,000	-2,200,000	-2,050,000	+500,000	-500,000
(Limitation on working capital fund)	(64,500,000)	(67,033,000)	(64,500,000)	(64,500,000)	(64,500,000)	---	(-2,533,000)	---	---
Payments to air carriers	---	---	36,000,000	28,000,000	28,000,000	+28,000,000	+28,000,000	-8,000,000	---
Total, Office of the Secretary	55,700,000	57,553,000	89,500,000	83,300,000	82,800,000	+27,100,000	+25,247,000	-6,700,000	-500,000
Coast Guard									
Operating expenses	1,755,000,000	1,788,600,000	1,777,200,000	1,742,000,000	1,642,000,000	-113,000,000	-146,600,000	-135,200,000	-100,000,000
Appropriation for debt reduction	-202,861	---	---	---	---	+202,861	---	---	---
(By transfer)	(13,775,000)	---	(8,000,000)	(10,000,000)	(10,000,000)	(-3,775,000)	(+10,000,000)	(+2,000,000)	---
Total, operating expenses	1,754,797,139	1,788,600,000	1,777,200,000	1,742,000,000	1,642,000,000	-112,797,139	-146,600,000	-135,200,000	-100,000,000
Acquisition, construction, and improvements	374,200,000	303,050,000	267,300,000	276,300,000	217,300,000	-156,900,000	-85,750,000	-50,000,000	-59,000,000
(By transfer)	(6,240,000)	---	---	---	---	(-6,240,000)	---	---	---
Alteration of bridges	13,600,000	5,200,000	7,195,000	5,200,000	5,200,000	-8,400,000	---	-1,995,000	---
Retired pay	330,000,000	351,000,000	351,000,000	351,000,000	351,000,000	+21,000,000	---	---	---
Reserve training	58,833,000	61,502,000	61,502,000	61,502,000	61,502,000	+2,669,000	---	---	---
(By transfer)	(1,025,000)	---	---	---	---	(-1,025,000)	---	---	---
Research, development, test, and evaluation	23,000,000	23,000,000	23,000,000	21,000,000	21,000,000	-2,000,000	-2,000,000	-2,000,000	---
Offshore oil pollution compensation fund	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	---	---	---	---
(Limitation on obligations)	(60,000,000)	(60,000,000)	(60,000,000)	(60,000,000)	(60,000,000)	---	---	---	---
Deepwater port liability fund	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	---	---	---	---
(Limitation on obligations)	(50,000,000)	(50,000,000)	(50,000,000)	(50,000,000)	(50,000,000)	---	---	---	---
Boat safety	13,625,000	13,625,000	13,625,000	---	---	-13,625,000	-13,625,000	-13,625,000	---
(Limitation on obligations)	(13,750,000)	---	---	(30,000,000)	(30,000,000)	(+16,250,000)	(+30,000,000)	(+30,000,000)	---
Total, Coast Guard	2,570,055,139	2,547,993,000	2,502,822,000	2,459,002,000	2,300,002,000	-270,053,139	-247,991,000	-202,820,000	-159,000,000
Federal Aviation Administration									
Headquarters administration	66,900,000	66,570,000	64,400,000	64,400,000	64,400,000	-2,500,000	-2,170,000	---	---
Operations	2,624,600,000	2,749,870,000	2,694,600,000	2,714,400,000	2,694,600,000	+70,000,000	-55,270,000	---	-19,800,000
(By transfer)	(18,112,000)	---	---	---	---	(-18,112,000)	---	---	---
Subtotal, Operations and headquarters administration	2,691,500,000	2,816,440,000	2,759,000,000	2,778,800,000	2,759,000,000	+67,500,000	-57,440,000	---	-19,800,000
Facilities and equipment (Airport and Airway Trust Fund)	1,358,000,000	1,146,500,000	1,044,000,000	993,000,000	993,000,000	-365,000,000	-153,500,000	-51,000,000	---
Research, engineering and development (Airport and Airway Trust Fund)	265,000,000	197,925,000	190,000,000	192,000,000	190,000,000	-75,000,000	-7,925,000	---	-2,000,000
(By transfer)	---	---	---	(15,000,000)	(15,000,000)	(+15,000,000)	(+15,000,000)	(+15,000,000)	---
Grants-in-aid for airports:									
(Liquidation of contract authorization) (Airport and Airway Trust Fund)	(810,000,000)	(693,000,000)	(693,000,000)	(693,000,000)	(693,000,000)	(-117,000,000)	---	---	---
(Limitation on obligations)	(925,000,000)	(1,017,000,000)	(925,000,000)	(925,000,000)	(925,000,000)	---	(-92,000,000)	---	---
Operation and maintenance, Metropolitan Washington Airports	35,931,500	36,175,000	35,400,000	34,100,000	34,100,000	-1,831,500	-2,075,000	-1,300,000	---
(By transfer)	(505,000)	---	---	---	---	(-505,000)	---	---	---
Construction, Metropolitan Washington Airports	13,000,000	13,000,000	12,000,000	7,000,000	7,000,000	-6,000,000	-6,000,000	-5,000,000	---
Aircraft purchase loan guarantee program (borrowing authority)	(125,000,000)	(125,000,000)	(10,000,000)	(125,000,000)	(75,000,000)	(-50,000,000)	(-50,000,000)	(+65,000,000)	(-50,000,000)
Total, Federal Aviation Administration	4,363,431,500	4,210,040,000	4,040,400,000	4,004,900,000	3,983,100,000	-380,331,500	-226,940,000	-57,300,000	-21,800,000
Federal Highway Administration									
(Limitation on general operating expenses)	(204,452,000)	(203,761,000)	(204,500,000)	(203,761,000)	(203,761,000)	(-691,000)	---	(-739,000)	---
Highway safety research and development	8,500,000	8,500,000	8,500,000	8,500,000	8,500,000	---	---	---	---
Highway-related safety grants:									
(Liquidation of contract authorization) (Trust Fund)	(5,000,000)	(9,000,000)	(9,000,000)	(9,000,000)	(9,000,000)	(+4,000,000)	---	---	---
(Limitation on obligations)	(10,000,000)	(10,000,000)	(10,000,000)	(10,000,000)	(10,000,000)	---	---	---	---
Railroad-highway crossings demonstration projects	29,640,000	---	38,700,000	---	16,000,000	-13,640,000	+16,000,000	-22,700,000	+16,000,000
Intermodal Urban Demonstration Project	2,750,000	---	---	---	---	-2,750,000	---	---	---
Highway safety separations demonstration project	12,000,000	---	---	---	---	-12,000,000	---	---	---
Auto-Pedestrian separation demonstration project	1,750,000	---	---	---	---	-1,750,000	---	---	---
Federal-aid highways:									
(Liquidation of contract authorization) (Trust Fund)	(12,800,000,000)	(13,836,000,000)	(13,836,000,000)	(13,836,000,000)	(13,836,000,000)	(+1,036,000,000)	---	---	---
(Limitation on obligations)	(13,250,000,000)	(13,250,000,000)	(13,250,000,000)	(12,750,000,000)	(12,750,000,000)	(-500,000,000)	(-500,000,000)	(-500,000,000)	---
Right-of-way Revolving Fund (limitation on direct loans) (Trust fund)	(50,000,000)	(50,000,000)	(50,000,000)	(50,000,000)	(50,000,000)	---	---	---	---
Motor carrier safety	13,902,000	13,993,000	13,900,000	13,902,000	13,900,000	-2,000	-93,000	---	-2,000
Motor carrier safety grants	14,000,000	14,000,000	14,000,000	20,000,000	17,000,000	+3,000,000	+3,000,000	+3,000,000	-3,000,000
Access highways to public recreation areas on certain lakes	5,000,000	---	---	10,000,000	5,000,000	---	+5,000,000	+5,000,000	-5,000,000
(By transfer)	---	---	---	---	(5,000,000)	(+5,000,000)	(+5,000,000)	(+5,000,000)	(+5,000,000)
Waste isolation pilot project roads	16,400,000	---	---	16,260,000	7,000,000	-9,400,000	+7,000,000	+7,000,000	-9,260,000
Baltimore-Washington Parkway	---	---	6,500,000	---	3,000,000	+3,000,000	+3,000,000	-3,500,000	+3,000,000
Rail Line Consolidation project (by transfer)	---	---	(5,000,000)	---	(4,000,000)	(+4,000,000)	(+4,000,000)	(-1,000,000)	(+4,000,000)
Airport Highway Demonstration project (by transfer)	---	---	(2,700,000)	---	(1,350,000)	(+1,350,000)	(+1,350,000)	(-1,350,000)	(+1,350,000)
Expressway gap closing project	---	---	23,500,000	---	9,000,000	+9,000,000	+9,000,000	-14,500,000	+9,000,000
Total, Federal Highway Administration	103,942,000	36,493,000	105,100,000	68,662,000	79,400,000	-24,542,000	+42,907,000	-25,700,000	+10,738,000

Comparative Statement of New Budget (Obligational) Authority

	FY 1985 Enacted	FY 1986 Estimates	House	Senate	Conference	Conference compared with— Enacted	Estimates	House	Senate
National Highway Traffic Safety Administration									
Operations and research	81,542,000	81,101,000	89,265,000	78,651,000	83,651,000	+2,109,000	+2,550,000	-5,614,000	+5,000,000
(By transfer)	---	(17,000,000)	---	(500,000)	(5,500,000)	(+5,500,000)	(-11,500,000)	(+5,500,000)	(+5,000,000)
Highway traffic safety grants:									
Rescission	-250,000	---	---	---	---	+250,000	---	---	---
(Liquidation of contract authorization) (Trust fund)	(125,000,000)	(109,000,000)	(109,000,000)	(109,000,000)	(109,000,000)	(-16,000,000)	---	---	---
State and community highway safety (limitation on obligations)	(126,000,000)	(126,000,000)	(126,000,000)	(126,000,000)	(126,000,000)	---	---	---	---
Alcohol safety incentive grants (limitation on obligations)	(50,000,000)	(25,000,000)	(25,000,000)	(25,000,000)	(25,000,000)	(-25,000,000)	---	---	---
Total, National Highway Traffic Safety Administration	81,292,000	81,101,000	89,265,000	78,651,000	83,651,000	+2,359,000	+2,550,000	-5,614,000	+5,000,000
Federal Railroad Administration									
Office of the Administrator	10,700,000	10,860,000	10,420,000	10,420,000	10,420,000	-280,000	-440,000	---	---
Railroad safety	26,061,000	27,975,000	28,000,000	27,764,000	27,764,000	+1,703,000	-211,000	-236,000	---
Railroad research and development	15,335,000	10,410,000	10,200,000	10,384,000	10,600,000	-4,735,000	+190,000	+400,000	+216,000
Rail service assistance	92,042,000	3,762,000	20,200,000	20,220,000	20,200,000	-71,842,000	+16,438,000	---	-20,000
Appropriation for debt reduction	-60,281,000	---	---	---	---	+60,281,000	---	---	---
Settlements of railroad litigation	6,320,000	---	---	---	---	-6,320,000	---	---	---
Appropriation for debt reduction	-4,223,000	---	---	---	---	+4,223,000	---	---	---
Conrail labor protection	15,000,000	---	---	---	---	-15,000,000	---	---	---
Conrail labor protection (rescission)	---	---	-8,000,000	---	---	---	---	+8,000,000	---
Northeast corridor improvement program	27,600,000	---	12,500,000	12,500,000	12,500,000	-15,100,000	+12,500,000	---	---
Grants to the National Railroad Passenger Corporation	684,000,000	---	588,500,000	587,500,000	587,500,000	-96,500,000	+587,500,000	-1,000,000	---
(By transfer)	---	---	(15,000,000)	(20,500,000)	(20,500,000)	(+20,500,000)	(+20,500,000)	(+5,500,000)	---
Railroad Rehabilitation and Improvement Financing Funds (limitation on new loan guarantees)	(6,500,000)	---	---	(4,000,000)	(4,000,000)	(-2,500,000)	(+4,000,000)	(+4,000,000)	---
Redeemable preference shares	---	---	20,000,000	16,500,000	33,500,000	+33,500,000	+33,500,000	+13,500,000	+17,000,000
(By transfer)	---	---	(5,500,000)	---	---	---	---	(-5,500,000)	---
Conrail commuter transition assistance	---	---	10,000,000	---	---	---	---	-10,000,000	---
(By transfer)	---	---	---	---	(5,000,000)	(+5,000,000)	(+5,000,000)	(+5,000,000)	(+5,000,000)
Total, Federal Railroad Administration (net)	810,562,000	54,715,000	702,520,000	684,988,000	702,184,000	-108,378,000	+647,469,000	-336,000	+17,196,000
Urban Mass Transportation Administration									
Administrative expenses	31,000,000	27,605,000	31,000,000	30,000,000	30,000,000	-1,000,000	+2,395,000	-1,000,000	---
Research, training and human resources	29,000,000	---	28,103,000	17,400,000	17,400,000	-11,600,000	+17,400,000	-10,703,000	---
Formula grants	2,449,500,000	---	2,210,000,000	2,100,000,000	2,150,000,000	-299,500,000	+2,150,000,000	-60,000,000	+50,000,000
Formula capital grants:									
(Limitation of obligations)	---	(1,100,000,000)	---	---	---	---	(-1,100,000,000)	---	---
(Liquidation of contract authorization)	---	(55,000,000)	---	---	---	---	(-55,000,000)	---	---
Discretionary grants:									
(Limitation on obligations)	(1,120,000,000)	---	(1,010,000,000)	(1,100,000,000)	(1,045,500,000)	(-74,500,000)	(+1,045,500,000)	(+35,500,000)	(-54,500,000)
(Liquidation of contract authorization)	(450,000,000)	(720,000,000)	(720,000,000)	(775,000,000)	(775,000,000)	(+325,000,000)	(+55,000,000)	(+55,000,000)	---
Interstate transfer grants-transit	250,000,000	---	237,500,000	200,000,000	200,000,000	-50,000,000	+200,000,000	-37,500,000	---
(By transfer)	---	---	---	---	(18,750,000)	(+18,750,000)	(+18,750,000)	(+18,750,000)	(+18,750,000)
Washington Metro	250,000,000	250,000,000	237,500,000	187,500,000	227,000,000	-23,000,000	-23,000,000	-10,500,000	+39,500,000
Total, Urban Mass Transportation Administration	3,031,500,000	277,605,000	2,744,103,000	2,534,900,000	2,624,400,000	-407,100,000	+2,346,795,000	-119,703,000	+89,500,000
Saint Lawrence Seaway Development Corporation									
(Limitation on administrative expenses)	(1,792,000)	(1,942,000)	(1,890,000)	(1,942,000)	(1,916,000)	(+124,000)	(-26,000)	(+26,000)	(-26,000)
Research and Special Programs Administration									
Research and special programs	18,900,000	19,353,000	19,400,000	19,200,000	19,300,000	+400,000	-53,000	-100,000	+100,000
(By transfer)	(950,000)	---	---	---	---	(-950,000)	---	---	---
Office of the Inspector General									
Salaries and expenses	27,900,000	27,492,000	27,750,000	27,250,000	27,400,000	-500,000	-92,000	-350,000	+150,000
Total, title I, Department of Transportation:									
New budget (obligational) authority (net)	11,064,102,639	7,313,153,000	10,321,960,000	9,961,853,000	9,903,437,000	-1,160,665,639	+2,590,284,000	-418,523,000	-58,416,000
Appropriations	(11,128,809,500)	(7,313,153,000)	(10,329,960,000)	(9,961,853,000)	(9,903,437,000)	(-1,225,372,500)	(+2,590,284,000)	(-426,523,000)	(-58,416,000)
Appropriations for debt reduction	(-64,706,861)	---	---	---	---	(+64,706,861)	---	---	---
Rescission	---	---	(-8,000,000)	---	---	---	---	(+8,000,000)	---
(By transfer)	(40,672,000)	(17,000,000)	(34,530,000)	(54,000,000)	(93,100,000)	(+52,428,000)	(+76,100,000)	(+58,570,000)	(+39,100,000)
(Limitations on general operating and administrative expenses)	(286,244,000)	(285,703,000)	(286,390,000)	(285,703,000)	(285,677,000)	(-567,000)	(-26,000)	(-713,000)	(-26,000)
(Limitations on obligations)	(15,605,250,000)	(15,642,300,000)	(15,460,300,000)	(15,080,300,000)	(15,025,800,000)	(-579,450,000)	(-616,500,000)	(-434,500,000)	(-54,500,000)
(Limitations on direct loans)	(50,000,000)	(50,000,000)	(50,000,000)	(50,000,000)	(50,000,000)	---	---	---	---
(Limitations on new loan guarantees)	(6,500,000)	---	---	(4,000,000)	(4,000,000)	(-2,500,000)	(+4,000,000)	(+4,000,000)	---
(Limitation on working capital fund)	(64,500,000)	(67,033,000)	(64,500,000)	(64,500,000)	(64,500,000)	---	(-2,533,000)	---	---
(Liquidation of contract authorization)	(14,190,000,000)	(15,462,000,000)	(15,407,000,000)	(15,462,000,000)	(15,462,000,000)	(+1,272,000,000)	---	(+55,000,000)	---
(Appropriations for debt reduction)	(64,706,861)	---	---	---	---	(-64,706,861)	---	---	---
(Borrowing authority)	(125,000,000)	(125,000,000)	(10,000,000)	(125,000,000)	(75,000,000)	(-50,000,000)	(-50,000,000)	(+65,000,000)	(-50,000,000)

TITLE II - RELATED AGENCIES									
Architectural and Transportation Barriers Compliance Board									
Salaries and expenses	2,000,000	1,975,000	2,000,000	1,975,000	1,975,000	-25,000	---	-25,000	---
National Transportation Safety Board									
Salaries and expenses	21,899,000	22,087,000	22,400,000	22,200,000	22,300,000	+401,000	+213,000	-100,000	+100,000
Civil Aeronautics Board									
Salaries and expenses	5,600,000	---	---	---	---	-5,600,000	---	---	---
Payments to air carriers	52,000,000	---	---	---	---	-52,000,000	---	---	---
Total, Civil Aeronautics Board	57,600,000	---	---	---	---	-57,600,000	---	---	---
Interstate Commerce Commission									
Salaries and expenses	51,100,000	52,637,000	48,260,000	47,080,000	48,260,000	-2,840,000	-4,377,000	---	+1,180,000
(By transfer)	---	---	(2,300,000)	(2,300,000)	(2,300,000)	(+2,300,000)	(+2,300,000)	---	---
Payments for directed rail service (limitation on obligations)	(1,000,000)	(1,000,000)	(1,000,000)	(1,000,000)	(1,000,000)	---	---	---	---
Panama Canal Commission									
Operating expenses	406,346,000	420,204,000	401,204,000	400,204,000	400,204,000	-6,142,000	-20,000,000	-1,000,000	---
Capital outlay	23,500,000	26,500,000	26,500,000	25,500,000	25,500,000	+2,000,000	-1,000,000	-1,000,000	---
(By transfer)	(1,700,000)	---	---	---	---	(-1,700,000)	---	---	---
Payments to the Republic of Panama (by transfer)	(2,705,000)	---	---	---	---	(-2,705,000)	---	---	---
Total, Panama Canal Commission	429,846,000	446,704,000	427,704,000	425,704,000	425,704,000	-4,142,000	-21,000,000	-2,000,000	---
United States Railway Association									
Administrative expenses	2,100,000	---	2,100,000	2,400,000	2,400,000	+300,000	+2,400,000	+300,000	---
Washington Metropolitan Area Transit Authority									
Interest payments	46,175,945	51,663,569	51,663,569	51,663,569	51,663,569	+5,487,624	---	---	---
Total, title II, related agencies:									
New budget (obligational) authority	610,720,945	575,066,569	554,127,569	551,022,569	552,302,569	-58,418,376	-22,764,000	-1,825,000	+1,280,000
(Limitation on obligations)	(1,000,000)	(1,000,000)	(1,000,000)	(1,000,000)	(1,000,000)	---	---	---	---
General Provision									
General reduction	---	---	---	-147,606,281	---	---	---	---	+147,606,281
(By transfer)	---	---	---	(-1,140,000)	---	---	---	---	(+1,140,000)
(Limitations on general operating and administrative expenses)	---	---	---	(-3,291,240)	---	---	---	---	(+3,291,240)
(Limitations on obligations)	---	---	---	(-241,300,000)	---	---	---	---	(+241,300,000)
(Limitations on direct loans)	---	---	---	(-800,000)	---	---	---	---	(+800,000)
(Limitations on new loan guarantees)	---	---	---	(-64,000)	---	---	---	---	(+64,000)
(Limitation on working capital fund)	---	---	---	(-1,032,000)	---	---	---	---	(+1,032,000)
(Appropriations to liquidate contract authorizations)	---	---	---	(-247,392,000)	---	---	---	---	(+247,392,000)
RECAPITULATION									
Grand total:									
New budget (obligational) authority (net)	11,674,823,584	7,888,219,569	10,876,087,569	10,365,269,288	10,455,739,569	-1,219,084,015	+2,567,520,000	-420,348,000	+90,470,281
Appropriations	(11,739,530,445)	(7,888,219,569)	(10,884,087,569)	(10,365,269,288)	(10,455,739,569)	(-1,283,790,876)	(+2,567,520,000)	(-428,348,000)	(+90,470,281)
Appropriations for debt reduction	(-64,706,861)	---	---	---	---	(+64,706,861)	---	---	---
Rescission	---	---	(-8,000,000)	---	---	---	---	(+8,000,000)	---
(By transfer)	(45,077,000)	(17,000,000)	(38,830,000)	(55,160,000)	(95,400,000)	(+50,323,000)	(+78,400,000)	(+56,570,000)	(+40,240,000)
(Limitations on general operating and administrative expenses)	(206,244,000)	(205,703,000)	(206,390,000)	(202,411,752)	(205,677,000)	(-567,000)	(-26,000)	(-713,000)	(+3,265,248)
(Limitations on obligations)	(15,606,250,000)	(15,643,300,000)	(15,461,300,000)	(14,839,999,200)	(15,026,800,000)	(-579,450,000)	(-616,500,000)	(-434,500,000)	(+186,800,800)
(Limitations on direct loans)	(50,000,000)	(50,000,000)	(50,000,000)	(49,200,000)	(50,000,000)	---	---	---	(+800,000)
(Limitations on new loan guarantees)	(6,500,000)	---	---	(3,936,000)	(4,000,000)	(-2,500,000)	(+4,000,000)	(+4,000,000)	(+64,000)
(Limitation on working capital fund)	(64,500,000)	(67,033,000)	(64,500,000)	(63,468,000)	(64,500,000)	---	(-2,533,000)	---	(+1,032,000)
(Borrowing authority)	(125,000,000)	(125,000,000)	(10,000,000)	(125,000,000)	(75,000,000)	(-50,000,000)	(-50,000,000)	(+65,000,000)	(-50,000,000)
Memoranda:									
(Appropriations to liquidate contract authorizations)	(14,190,000,000)	(15,462,000,000)	(15,407,000,000)	(15,214,608,000)	(15,462,000,000)	(+1,272,000,000)	---	(+55,000,000)	(+247,392,000)
(Appropriation for debt reduction)	(64,706,861)	---	---	---	---	(-64,706,861)	---	---	---
Total, appropriations including appropriations to liquidate contract authorization and appropriations for debt reduction	(25,929,530,445)	(23,350,219,569)	(26,283,087,569)	(25,579,877,288)	(25,917,739,569)	(-11,790,876)	(+2,567,520,000)	(-365,348,000)	(+337,862,281)
Total, New budget (obligational) authority and limitation on obligations	27,281,073,584	23,531,519,569	26,337,387,569	25,205,268,488	25,482,539,569	-1,798,534,015	+1,951,020,000	-854,848,000	+277,271,081

Mr. DIXON. Mr. Speaker, will the gentleman yield?

Mr. LEHMAN of Florida. I yield to the gentleman from California.

Mr. DIXON. I thank the gentleman for yielding.

Mr. Speaker, on December 16 the gentleman from Florida [Mr. Lehman] and I engaged in a colloquy concerning Metrorail. I wonder if the interpretation of the gentleman of those remarks is still the same.

Mr. LEHMAN of Florida. Yes, they certainly are.

Mr. Speaker, I yield back the balance of my time.

Mr. CONTE. Mr. Speaker, I yield 3 minutes to the gentleman from Louisiana [Mr. Livingston].

Mr. LIVINGSTON. I thank the gentleman for yielding.

Mr. Speaker, I would like to just address the defense issue alone in the CR. First of all, I would like to pay tribute to Chairman Addabbo, acting Chairman Chappell who did an outstanding job in Mr. Addabbo's absence, ranking member Joe McDade, and all the members of the subcommittee who participated in the conference in its initial stages. Of course some of us were left off in the later part. But actually I felt that we had brought together a magnificently crafted compromise on Monday night. I was very disappointed when the House voted it down overwhelmingly and sent it back to conference. I tried to get those who believed in the compromise we had crafted, tried to inform the Members that it was indeed a very delicate compromise, and for those people truly concerned about defense we tried to tell them that it was not going to get any better when it went back to the new conference. In fact, it did not. The whole issue for the people who believe in a strong national defense can be disappointed that the bill that we have now is not as good as it was Monday night. But unfortunately we were defeated. The process worked its will. The conference went back in without some of us as members of the conference, and we come back with a new compromise. It is not as good as it was. There is no Asat prohibition on the moratorium, and the provison is not any more improved than it was Monday night. Some of us warned, as I said, that the bill would not get any better. It has not because the budget authority is now $1.3 billion less than it was Monday night. The Pentagon reserves of $6.3 billion are now fenced whereas they were not before. There is a defense procurement provision in the bill where none existed. I happen to believe that is an unwise provision.

Again there is still no Asat change in what the bill provided on Monday night.

On the positive side, however, and this is the reason why I support the bill today, there is still $4 billoin more than the 1985 levels. That represents almost a complete zero growth, actually it is 1 percent less than zero real growth when you count inflation. This is $2.75 billion for SDI; $126 million for facilities for starting up the production of chemical weaponry even though production is fenced until 1987. There is $20 billion for increased National Guard and Reserve strength and $475 million extra for Coast Guard and drug interdiction facilities. The administration has signed off on this compromise even though it is not as good as we had on Monday.

Mr. Speaker, I would urge Members on the conservative side of the aisle to go ahead and adopt this bill because if we do not, if it goes back to conference, sure as heck it is going to be worse than it is from our perspective.

I urge adoption of this CR.

Mr. WHITTEN. Mr. Speaker, I yield 3 minutes to the gentleman from Iowa [Mr. Smith], a member of the committee.

Mr. SMITH of Iowa. Mr. Speaker, here we are at the end of another year and there is criticism about a great big continuing resolution, and there should be. Perhaps this is a good time to examine why we are here. Most of the criticism is centered on the defense part of this continuing resolution. That was the main criticism Monday night when the resolution failed to pass.

Well, why do we come here at the end of the year with the defense bill in this continuing resolution? To start with, the authorizing committee of the Congress did not start working on an authorization for fiscal year 1986 until the beginning of this year. The authorization should have been adopted before October 1, 1984. The Department of Defense, therefore, was permitted to submit an appropriation request that was based on their idea of what an authorization ought to be. They were not required to abide by guidelines that had been established by the Congress.

They do not yet have an authorization for fiscal year 1987. Therefore, the Department of Defense is preparing a budget request for fiscal year 1987 based on their own ideas, with no guidelines in an authorization developed and passed by Congress.

The Congress was supposed to have adopted a budget resolution by last May 15. There was no agreement with the Senate on a budget resolution by that date so instead of going ahead with the House-passed resolution, the House waited for a month with the idea that such a delay was going to help get a joint budget resolution agreed to when an agreement with the Senate was not accomplished by July, we finally proceeded on the basis of the House-passed resolution, and that was working pretty well with appropriation bills advancing on a basis of a freeze overall, including defense. However, on August 1 we were presented with a budget resolution from the conference committee that was not based upon the House-passed budget resolution. Instead, it increased the military function by $10 billion over the level in the House-passed resolution and over last year's level. At that time 50 or 60 Members supported that joint resolution to increase the military $10 billion, who came in here Monday night and complained and voted against the continuing resolution because the Appropriations Committee had only been able to cut the increase they had voted for to a $5 billion increase. That is inconsistent.

Let us learn a lesson from what happened this year.

The authorization committee for the Department of Defense should start their hearings as soon as possible for the fiscal year starting next October. They are already a year late for fiscal year 1987. They should have a bill on the floor by May 1. If it is not passed by May 1, how can they expect the Appropriations Committee to do its job and have a bill on the floor in June? It cannot be done. The authorization should be the first thing. Then in May and June we should finish the appropriation bills in the House. If we will follow the procedures that are laid down in the Budget Act and in the House rules instead of delaying and delaying and delaying, waiting on authorization bills, we can avoid a big continuing resolution, including defense next year. If we do not meet the prescribed procedures, we will be back here again a year from now in the same kind of situation.

Mr. CONTE. Mr. Speaker, I yield 2 minutes to my good friend, the gentleman from Ohio [Mr. Regula].

Mr. REGULA. I thank the gentleman for yielding.

My colleagues, I just want to say to you that while there may be things in this continuing resolution that each of us can find fault with, on balance it is a good compromise. It represents a balanced approach to our responsibilities.

It is about $4 billion under 1985 levels. This is, I think, a substantial achievement to reduce spending levels under 1985 and certainly is going in the right direction.

On the Interior section, I would point out that the House prevailed in the sense that on the clean coal provision we have provided for a $400 million 3-year program to develop clean-coal technologies. In the original bill the House supported this by a vote of 3 to 1. So we are pleased that we could retain it.

I think it is a good provision. Coal is the greatest energy resource this Nation has.

Under this provision, those that want to participate with the Federal Government in programs have to put up a 50-percent match. That means that of course they will have to commit a lot of their own resources to address this problem. But it will help us in burning coal to avoid the acid rain problem that confronts many areas of the country, and confronts our relationship with Canada. I think that is a very important element in the bill. Many will be thankful in the years to come that we have taken the initiative to make our resource of coal available as a primary energy source in an environmentally safe way. This bill provides

The other thing I would mention is that there is $7.5 million in here for a cost-shared steel initiative, and it will again motivate research to allow steel to be produced in a more energy-efficient way. Again, this is one of the great areas of potential progress in our industrial economy, in terms of conserving energy to develop ways to use it more efficiently.

We have dealt with the problem of parks, public lands, and the national forests in a very responsible way.

Mr. WHITTEN. Mr. Speaker, I yield 4 minutes to the gentleman from Illinois [Mr. YATES], a member of the committee.

Mr. YATES. Mr. Speaker, this is a good conference report. I urge the House to accept it.

Mr. Speaker, I am pleased to bring to the floor the conference report on the Interior and Related Agencies Appropriations bill for fiscal year 1986 as contained in House Joint Resolution 465. As you know, when the conference committee reconvened on December 18, 1985, we were informed of the administration objections to the Interior bill. As a result of these objections, and in order to maintain operation of the Government, I reluctantly agreed to an across-the-board reduction of $51,000,000 or 0.6 percent of the total bill.

The total of the bill, when reflecting this reduction, is $8,097,121,000. This is $140,976,000 less than the House passed version of this bill and $22,013,000 lower than the bill as reported by the Senate Appropriations Committee. This bill is approximately $400,000,000 below the 302(b) allocation.

I know an issue of importance to many of you is the disposition of the Synthetic Fuels Corporation. Although changes to the original conference agreement with respect to the Synthetic Fuels Corporation were discussed, absolutely no changes were made.

This means that with the exception of funds for clean coal technology and SFC closeout costs, all SFC funds are rescinded. The Board of Directors may not make any additional legally binding awards or commitments for financial assistance as of the date of enactment of this act. The Directors must terminate their duties and be discharged within 60 days of enactment.

It should be noted that the managers have included $500,000 for planning for the Playalinda Beach Road at Canaveral National Seashore. The funds are to be derived from the Federal Highway Lands Program.

Mr. Speaker, this conference report continues important programs necessary for the protection and enhancement of our unsurpassed natural resources to pass along to our children and the coming generations, while maintaining fiscal responsibility and providing substantial return to the Treasury. I urge the adoption of this conference report presented to you today. I am inserting a table which reflects the across-the-board reduction on the programs contained in the Interior bill.

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	New BA Enacted F.Y. 85 --21--	New BA Estimates F.Y. 86 --22--	New BA House F.Y. 86 --23--	New BA Senate F.Y. 86 --24--	New BA Enacted F.Y. 86 --25--	Recommended Less 0.6% --28--	Difference
TITLE I - DEPARTMENT OF THE INTERIOR							
BUREAU OF LAND MANAGEMENT							
Management of Lands and Resources							
Onshore Energy and Minerals Management							
Energy Resources							
Coal Leasing	18,432	19,455	19,455	19,455	19,455	19,338	-117
Oil & Gas Leasing	42,363	45,414	44,814	45,414	44,814	44,545	-269
Geothermal leasing	3,227	2,775	2,775	2,775	2,775	2,758	-17
Oil Shale and Tar Sands leasing	2,307	2,331	2,111	2,331	2,111	2,098	-13
Subtotal, Energy onshore	66,329	69,975	69,155	69,975	69,155	68,739	-416
Non-Energy Minerals							
Mineral Material Sales	2,327	2,197	2,197	2,197	2,197	2,184	-13
Mining Law Administration	7,920	8,200	8,200	8,200	8,200	8,151	-49
Mineral Leasing	4,141	4,233	4,233	4,233	4,233	4,208	-25
Uranium operations	617	625	625	625	625	621	-4
Subtotal, Non-Energy Minerals	15,005	15,255	15,255	15,255	15,255	15,164	-91
Subtotal, Energy and Minerals Management	81,334	85,230	84,410	85,230	84,410	83,903	-507
Lands and Realty Management							
Realty Operations							
Energy Realty	6,715	5,188	5,188	7,823	7,823	7,776	-47
Non-Energy Realty	17,913	17,885	17,885	16,800	16,900	16,799	-101
Alaska Lands program	13,172	12,479	12,422	13,479	13,479	13,398	-81
Subtotal, Realty operations	37,800	35,552	35,495	38,102	38,202	37,973	-229
Withdrawal Processing and Review	4,034	3,767	3,767	4,115	3,767	3,744	-23
Subtotal, Lands and Realty Management	41,834	39,319	39,262	42,217	41,969	41,717	-252
Renewable Resources Management							
Forest Management							
Public Domain	6,710	6,455	6,455	6,855	6,855	6,814	-41
Western Oregon	920	---	920	920	920	914	-6
Subtotal, Forest Management	7,630	6,455	7,375	7,775	7,775	7,728	-47
Range Management							
Wild Horse & Burro Management	17,239	6,167	7,547	21,814	17,066	16,964	-102
Grazing Management	31,594	29,980	29,980	32,662	30,821	30,636	-185
Subtotal, Range Management	48,833	36,147	37,527	54,476	47,887	47,600	-287
Soil, Water, & Air Management	16,544	13,959	14,709	16,490	16,490	16,391	-99
Wildlife Habitat Management	15,783	13,801	15,551	16,451	16,151	16,054	-97
Recreation Management							
Cultural Resources Management	5,083	5,078	6,078	5,078	6,078	6,043	-35
Wilderness Management	6,519	6,574	7,074	6,574	7,324	7,280	-44
Recreation Resources Management	6,750	7,198	7,373	7,198	8,123	8,074	-49
Subtotal, Recreation Management	18,352	18,850	20,525	18,850	21,525	21,397	-128
Fire Management	7,340	8,877	8,877	8,877	8,877	8,824	-53
Subtotal, Renewable Resources Management	114,482	98,089	104,564	122,919	118,705	117,994	-711
Planning and Data Management							
Planning	9,282	9,510	9,510	9,510	9,510	9,453	-57
Data Management	13,463	13,420	13,420	14,128	13,778	13,695	-83
Subtotal, Planning and Data Management	22,745	22,930	22,930	23,638	23,288	23,148	-140
Cadastral Survey							
Alaska	13,630	11,674	11,674	15,174	15,174	15,083	-91
Other States	11,196	10,542	11,742	10,542	11,742	11,673	-69
Subtotal, Cadastral Survey	24,826	22,216	23,416	25,716	26,916	26,756	-160

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	New BA Enacted F.Y. 85 -21-	New BA Estimates F.Y. 86 -22-	New BA House F.Y. 86 -23-	New BA Senate F.Y. 86 -24-	New BA Enacted F.Y. 86 -25-	Recommended Less 0.6% -26-	Difference
Fire control							
Firefighting & Presuppression	118,513	3,513	3,513	3,513	3,513	3,492	-21
Rehabilitation	588	588	588	588	588	584	-4
Subtotal, Fire Control	119,101	4,101	4,101	4,101	4,101	4,076	-25
Technical Services							
Resource Protection	2,328	3,340	3,340	3,340	3,340	3,320	-20
Maintenance and engineering service							
Buildings	3,100	3,442	3,442	3,942	3,442	3,421	-21
Recreation	4,049	3,621	4,121	4,121	4,121	4,096	-25
Transportation	3,454	3,504	3,504	4,004	3,504	3,483	-21
Engineering services	1,138	1,167	1,167	1,167	1,167	1,160	-7
Subtotal, Maintenance and engineering services	11,741	11,734	12,234	13,234	12,234	12,160	-74
Subtotal, Technical Services	14,069	15,074	15,574	16,574	15,574	15,480	-94
General Administration							
Executive and managerial direction	5,785	5,601	5,601	5,601	5,601	5,567	-34
Equal employment opportunity	2,089	2,076	2,076	2,076	2,076	2,064	-12
Administrative services support	33,262	32,087	32,087	32,087	32,087	31,894	-193
Bureauwide fixed costs	41,945	44,527	44,527	43,839	43,839	43,576	-263
BLM/Forest Service Adjustments	---	1,820	---	---	---	---	---
Subtotal, General Administration	83,081	86,111	84,291	83,603	83,603	83,101	-502
Pay restoration	---	---	(8,554)	---	---	---	---
Pay supplemental	2,000	---	---	---	---	---	---
Section 2901 Rescission	-2,900	---	---	---	---	---	---
Total, Management of Lands and Resources 1/	500,572	373,078	378,556	403,998	398,566	396,175	-2,391
Construction and Access							
Access	1,203	1,203	1,203	1,403	1,403	1,395	-8
Construction	825	---	---	---	---	---	---
Payments in Lieu of Taxes							
Payments to Local Governments	102,900	105,000	102,900	105,000	105,000	104,370	-630
Land Acquisition							
Bureau of Land Management:							
Acquisitions	2,401	---	2,500	---	2,000	1,988	-12
Acquisition Management	294	---	300	---	300	298	-2
Total, Land Acquisition	2,695	---	2,800	---	2,300	2,286	-14
Oregon & California Grant Lands							
Construction and Acquisition	514	---	1,238	531	531	528	-3
Maintenance	4,005	---	3,919	4,005	4,005	3,981	-24
Renewable Resource Management	49,510	---	60,233	49,510	51,181	50,873	-308
Planning and Data Management	260	---	750	397	397	395	-2
Section 2901 Rescission	-350	---	---	---	---	---	---
Total, Oregon & California Grant Lands	53,939	---	66,140	54,443	56,114	55,777	-337
Special Acquisition of Lands and Minerals							
Cranberry wilderness area	14,700	---	---	---	---	---	---
Range Improvement Fund							
Improvement to Public Lands	8,000	8,000	7,407	8,000	8,000	8,000	---
Farm Tenant Act Lands	1,400	1,400	1,400	1,400	1,400	1,400	---
Administrative expenses	600	600	600	600	600	600	---
Total, Range Improvements	10,000	10,000	9,407	10,000	10,000	10,000	---

1/ Reflects transfer in FY 1985 of $119,000 to Office of the Solicitor.

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	New BA Enacted F.Y. 85 -21-	New BA Estimates F.Y. 86 -22-	New BA House F.Y. 86 -23-	New BA Senate F.Y. 86 -24-	New BA Enacted F.Y. 86 -25-	Recommended Less 0.6% -28-	Difference
Service Charges, Deposits, and Forfeitures							
Rights-of-way Processing	1,700	3,550	3,550	1,700	1,700	1,690	-10
Adopt-a-horse program	870	870	870	870	870	865	-5
Repair of Damaged Lands	1,350	1,150	1,150	1,350	1,350	1,342	-8
Cost recoverable realty cases	150	150	150	150	150	149	-1
Total, Service Charges, Deposits, and Forfeitures	4,070	5,920	5,920	4,070	4,070	4,046	-24
Miscellaneous Trust Funds							
Base Program	100	100	100	100	100	100	---
Working Capital Fund							
Section 2901 Rescission	-2,951	---	---	---	---	---	---
Total, Bureau of Land Management	[illegible]	495,301	567,026	579,014	577,553	574,149	-3,404
U.S. FISH AND WILDLIFE SERVICE							
Resource Management							
Habitat Resources							
Field Operations	23,767	21,770	22,450	22,450	22,450	22,315	-135
National Wetlands Inventory	5,393	5,388	5,388	5,388	5,388	5,355	-33
Research and Development	15,409	15,570	15,570	15,570	15,570	15,477	-93
Cooperative units	4,679	4,693	4,693	4,693	4,693	4,665	-28
Subtotal	[illegible]	47,421	48,101	48,101	48,101	47,812	-289
Wildlife Resources							
Refuge operations and maintenance	100,741	101,198	103,646	110,131	107,381	106,737	-644
Law enforcement and protection	10,045	10,064	10,064	10,064	10,064	10,004	-60
Population management	22,527	22,693	23,193	7,281	7,281	7,237	-44
Research and Development	12,291	13,505	14,700	9,217	10,217	10,156	-61
Alaska subsistence	980	980	980	980	980	974	-6
Subtotal	146,584	148,440	152,583	137,673	135,923	135,108	-815
Fishery Resources							
Hatcheries operations and maintenance	24,532	24,532	[illegible]	27,532	26,532	26,373	-159
Lower Snake River Compensation Fund	4,499	5,665	5,665	5,665	5,665	5,631	-34
Refuge operations and maintenance	2,173	2,177	2,177	2,427	2,177	2,164	-13
Law enforcement and protection	2,143	2,166	2,166	2,166	2,166	2,153	-13
Population management	1,723	1,762	1,762	2,162	2,162	2,149	-13
Research and Development	11,119	11,230	12,100	11,730	12,200	12,127	-73
Subtotal	46,189	47,532	50,152	51,682	50,902	50,597	-305
Endangered Species							
Listing	2,967	2,994	3,494	2,994	3,244	3,225	-19
Law enforcment and protection	7,363	7,500	8,600	7,700	8,700	8,648	-52
Consultation	2,593	2,630	2,630	2,630	2,630	2,614	-16
Recovery	5,985	5,966	6,516	7,336	6,926	6,884	-42
Research and Development	4,237	4,322	4,322	4,682	4,572	4,545	-27
Cooperation with states	3,920	3,920	5,000	3,920	4,420	4,393	-27
Subtotal	27,065	27,332	30,562	29,262	30,492	30,309	-183
General Administration							
Executive Direction	7,214	7,350	7,350	7,350	7,350	7,306	-44
Administrative services	11,762	10,313	10,313	11,313	10,313	10,251	-62
Related support services	17,076	16,941	16,941	16,941	16,941	16,839	-102
Pay Restoration	---	---	(6,594)	---	---	---	---
Unemployment Compensation	1,200	---	1,200	1,200	1,200	1,193	-7
Subtotal	37,252	34,604	35,804	36,804	35,804	35,589	-215
Youth Conservation Corps	(3,300)	---	---	---	---	---	---
Pay supplemental	[illegible]	---	---	---	---	---	---
Section 2901 Rescission	-1,900	---	---	---	---	---	---
Total, Resource Management	[illegible]	305,329	317,202	303,522	301,222	299,415	-1,807

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	New BA Enacted F.Y. 85 -21-	New BA Estimates F.Y. 86 -22-	New BA House F.Y. 86 -23-	New BA Senate F.Y. 86 -24-	New BA Enacted F.Y. 86 -25-	Recommended Less 0.6% -28-	Difference
Construction and Anadromous Fish							
Construction and rehabilitation							
Refuges	14,180	1,359	1,959	6,656	5,656	5,622	-34
Hatcheries	167	1,156	10,416	1,156	10,416	10,354	-62
Fishery research facilities	1,421	---	736	123	126	125	-1
Dam safety	3,532	2,029	2,029	2,029	2,029	2,017	-12
Wildlife research facility	---	75	75	75	75	75	---
Anadromous fish grants	4,018	---	2,000	4,000	2,000	1,988	-12
Capital development & maintenance management	980	994	994	994	994	987	-7
Section 2901 Rescission	-40	---	---	---	---	---	---
Total, Construction and Anadromous Fish	24,258	5,613	18,209	15,033	21,296	21,168	-128
Migratory Bird Conservation Account							
Advance Appropriation	21,266	---	10,000	20,000	15,000	14,910	-90
Land Acquisition							
Fish and Wildlife Service:							
Acquisitions - Federal refuge lands	62,748	---	44,470	30,570	39,070	38,836	-234
Acquisition Management	1,470	1,500	1,500	2,000	1,600	1,590	-10
Total, Land Acquisition	64,218	1,500	45,970	32,570	40,670	40,426	-244
National Wildlife Refuge Fund							
Payments in Lieu of Taxes	5,645	5,645	5,645	5,645	5,645	5,611	-34
Sport Fish Restoration Account							
Payments to States	---	41,389	---	---	---	---	---
Administration	---	2,611	---	---	---	---	---
Total, Sport Fish Restoration Account	---	44,000	---	---	---	---	---
Total, Fish and Wildlife Service	423,825	362,087	397,026	376,770	383,833	381,530	-2,303
NATIONAL PARK SERVICE							
Operation of the National Park System							
Park Management							
Management of park areas	62,470	61,427	61,886	61,175	61,915	61,544	-371
Concessions management	3,489	3,569	3,569	3,569	3,569	3,548	-21
Interpretation and Visitor Services	63,625	65,252	65,517	65,252	65,512	65,119	-393
Visitor protection and safety	78,717	81,510	81,960	81,510	81,710	81,220	-490
Maintenance	235,064	218,223	240,613	236,247	240,513	239,070	-1,443
Resources management	95,712	94,056	96,382	94,980	96,218	95,641	-577
Information publications	2,886	2,909	2,909	2,909	2,909	2,890	-19
International Park Affairs	518	406	526	765	776	771	-5
Volunteers-in-parks	490	490	490	490	490	487	-3
Subtotal	542,971	527,842	553,852	546,897	553,612	550,290	-3,322
Forest Fire Suppression and Presuppression	5,076	1,176	1,176	1,176	1,176	1,169	-7
Park Recreation and Wilderness Planning							
Water resources	1,908	1,921	1,921	1,921	1,921	1,909	-12
General management plans	2,358	2,346	2,346	2,346	2,346	2,332	-14
Subtotal	4,266	4,267	4,267	4,267	4,267	4,241	-26

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

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Statutory or Contractual Aid for Other Activities							
Roosevelt Campobello International Park Commission	410	410	410	410	410	408	-2
Ice Age National Scientific Reserve	526	576	576	576	576	573	-3
Lowell Historic Preservation Canal Commission	526	540	540	540	540	537	-3
Folger Theater	343	348	350	---	175	174	-1
Corcoran Gallery	343	343	350	---	175	174	-1
Mary McLeod Bethune NHS	90	---	100	---	195	194	-1
Martin Luther King, Jr. Center	198	98	200	200	200	199	-1
Phillips Gallery	343	---	350	---	175	174	-1
Arena Stage	343	---	350	---	175	174	-1
National Building Museum	343	---	350	---	175	174	-1
National Capital Children's Museum	343	---	350	---	175	174	-1
William McKinley Tomb	---	---	450	---	250	247	-3
Fisk University, Jubilee Hall	---	---	169	169	169	168	-1
Subtotal	3,866	2,310	4,545	1,995	3,495	3,475	-20
General administration:							
Central office	6,426	5,855	5,855	5,855	5,855	5,820	-35
Regional offices	16,389	15,084	15,084	15,084	15,084	14,993	-91
Automatic data processing	4,789	4,856	4,856	4,856	4,856	4,827	-29
Service wide administrative support	6,601	6,608	6,601	6,601	6,601	6,561	-40
General services	392	392	392	392	392	390	-2
Employee compensation payment	3,871	4,371	4,371	4,371	4,371	4,345	-26
Unemployment compensation for federal employees	[illegible]	7,940	7,940	7,940	7,940	7,892	-48
GSA space rental	11,101	11,767	11,767	11,767	11,767	11,696	-71
Executive direction	6,448	6,583	6,583	6,583	6,583	6,544	-39
Public Affairs	1,722	1,764	1,764	1,764	1,764	1,753	-11
Alaska Land Use Council	---	---	-57	---	---	---	---
Subtotal, General Administration	66,239	65,213	65,156	65,213	65,213	64,821	-392
Youth Conservation Corps	(3,400)	---	---	---	(3,300)	(3,300)	---
Pay restoration	---	---	(15,123)	---	---	---	---
Pay supplemental	8,700	---	---	---	---	---	---
Section 2901 Rescission	-4,300	---	---	---	---	---	---
Total, Operation of the National Park System	686,810	[illegible]	[illegible]	619,548	627,763	623,996	-3,767
NATIONAL RECREATION AND PRESERVATION							
Recreation Programs	625	231	631	463	631	627	-4
Natural Programs	1,712	541	1,991	1,563	1,663	1,653	-10
National Register	6,667	6,885	6,085	6,885	6,085	6,043	-42
Environmental and Compliance Review	392	402	402	402	402	400	-2
Grant administration	1,715	1,488	1,550	1,515	1,515	1,506	-9
Pay Restoration	---	---	(288)	---	---	---	---
Total, National Recreation and Preservation	11,111	9,547	11,467	10,828	11,096	11,029	-67
Historic Preservation Fund							
Grants-in-aid	21,070	---	20,000	21,070	20,535	20,411	-124
National Trust for Historic Preservation	4,410	---	4,410	4,410	4,410	4,384	-26
Total, Historic Preservation Fund	25,480	---	24,410	25,480	24,945	24,795	-150
Visitor Facilities Fund							
Visitor facilities fund	5,000	2,500	7,070	---	---	---	---
Construction							
Buildings and Utilities							
Emergency and Unscheduled (Lump Sum) Projects	2,940	3,000	3,000	3,000	3,000	2,981	-19
Advance Planning	5,390	3,900	5,400	3,500	5,400	5,368	-32
Project Planning	8,934	5,500	9,350	6,838	9,350	9,294	-56
Line Item Construction Projects	94,158	37,456	86,319	72,882	96,371	95,793	-578
Total, Construction	111,442	49,456	104,069	86,220	114,121	113,436	-685
Federal Highway Administration							
Federal-aid highways (liquidation of contract authorization) (trust fund)	(28,000)	---	(10,300)	(10,300)	(10,300)	(10,300)	---

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	New BA Enacted F.Y. 85 -21-	New BA Estimates F.Y. 86 -22-	New BA House F.Y. 86 -23-	New BA Senate F.Y. 86 -24-	New BA Enacted F.Y. 86 -25-	Recommended Less 0.6% -26-	Difference
Land Acquisition and State Assistance							
Assistance to States							
Matching grants	71,853	---	48,350	48,350	48,350	48,060	-290
Administrative expenses	1,647	1,275	1,650	1,650	1,650	1,640	-10
National Park Service							
Acquisitions	88,797	5,000	60,762	20,400	43,400	43,140	-260
Acquisition management	6,919	5,000	5,000	5,000	5,000	4,970	-30
Section 2901 Rescission	-52	---	---	---	---	---	---
Total, Land acquisition and state assistance	169,164	11,275	115,762	75,400	98,400	97,810	-590
John F. Kennedy Center for the Performing Arts							
Base program	4,529	4,600	4,529	4,800	4,800	4,771	-29
National Capital Region Arts and Cultural Affairs Prog							
Base program (1986 funding) 1/	(4,900)	---	---	---	---	---	---
Illinois and Michigan Canal National Heritage Corridor							
Base program	249	---	250	250	250	248	-2
Jefferson National Expansion Memorial Commission							
Base program	73	---	75	---	75	75	---
Total, National Park Service	954,742	604,186	896,620	822,526	881,450	876,160	-5,290
GEOLOGICAL SURVEY							
Surveys, Investigations, and Research							
National Mapping, Geography and Surveys							
Primary mapping and revision	37,595	37,863	37,863	37,863	37,863	37,642	-221
Digital cartography	11,101	13,530	13,530	13,530	13,530	13,449	-81
Receipts for printing and distribution	9,000	9,500	9,500	9,500	9,500	9,443	-57
Small intermediate and special mapping	16,230	14,116	15,116	14,116	14,616	14,532	-84
Advanced cartographic systems	4,700	7,451	7,451	7,451	7,451	7,406	-45
Earth resources observation system	9,537	9,425	9,425	9,425	9,425	9,371	-54
Cartographic and geographic information	3,517	3,543	3,543	3,543	3,543	3,522	-21
Side looking airborne radar	1,960	---	2,000	4,000	2,000	1,988	-12
Subtotal	93,640	95,428	98,428	99,428	97,928	97,353	-575
Geologic and Mineral Resource Surveys and Mapping							
Earthquake hazards reduction	36,554	35,092	36,092	37,592	36,092	35,880	-212
Volcano Hazards	11,396	10,682	10,682	10,682	10,682	10,618	-64
Landslide hazards	3,069	2,049	3,049	3,000	3,000	2,982	-18
Geologic framework	17,109	19,089	19,589	19,589	19,589	19,475	-114
Geomagnetism	2,173	2,159	2,159	2,159	2,159	2,146	-13
Climate change	1,004	994	994	994	994	988	-6
Mineral resource surveys	45,416	46,259	46,259	48,659	46,859	46,585	-274
Energy geologic surveys	30,024	27,494	28,744	27,494	28,094	27,930	-164
Offshore geologic surveys	21,129	25,089	26,089	28,089	26,589	26,432	-157
Subtotal	167,874	168,907	173,657	178,258	174,058	173,036	-1,022
Water Resources Investigations							
Federal Program	71,779	72,759	72,759	74,109	74,109	73,675	-434
Water resources research institutes	8,820	7,664	7,664	15,270	12,776	12,699	-77
Federal-State program	51,025	52,324	52,324	52,324	52,324	52,018	-306
National water quality assessment	---	---	5,000	---	2,500	2,485	-15
Subtotal	131,624	132,747	137,747	141,703	141,709	140,877	-832

1/ $4,900,000 proposed for transfer to BIA Construction in FY 1986.

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

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General Administration	[illegible]	13,503	13,503	13,503	13,503	13,426	-77
Facilities	13,004	14,263	14,263	14,263	14,263	14,177	-86
Map sales receipts	-9,000	-9,500	-9,500	-9,500	-9,500	-9,500	---
Transfer from Minerals Management Service	922	---	---	---	---	---	---
Pay restoration	---	---	(8,678)	---	---	---	---
Pay supplemental	4,464	---	---	---	---	---	---
Section 2901 Rescission	-1,309	---	---	---	---	---	---
Total, Surveys, Investigations & Research	416,360	415,348	428,090	437,655	431,961	429,369	-2,592
Total, Geological Survey	416,360	415,348	428,090	437,655	431,961	429,369	-2,592
MINERALS MANAGEMENT SERVICE							
Minerals and Royalty Management							
Leasing Outer Continental Shelf Lands and environmental program	43,903	42,644	43,924	43,924	43,924	43,660	-264
Resource evaluation	[illegible]	21,249	21,249	26,163	24,149	24,004	-145
Regulatory program	30,519	32,095	32,095	32,095	32,095	31,902	-193
Subtotal, Minerals and Royalty Management	100,341	95,988	97,268	102,182	100,168	99,566	-602
Mineral Revenue Collection (onshore royalty)	11,294	13,850	15,170	15,170	15,170	15,079	-91
Mineral Revenue Compliance (offshore royalty)	[illegible]	10,536	10,526	10,526	10,526	10,463	-63
Systems development and maintenance	14,748	18,164	19,564	19,799	19,564	19,448	-116
Subtotal, royalty management	39,092	42,550	45,260	45,495	45,260	44,990	-270
Executive direction	3,293	3,279	3,279	3,279	3,279	3,259	-20
Administration operations	10,845	9,465	9,465	9,465	9,465	9,408	-57
General support services	9,009	9,846	9,846	9,846	9,846	9,787	-59
Section 2901 Rescission	-1,784	---	---	---	---	---	---
Subtotal, general administration	21,463	22,590	22,590	22,590	22,590	22,454	-136
Pay restoration	---	---	(2,677)	---	---	---	---
Total, leasing and royalty management 1/	160,796	161,118	165,118	170,267	168,018	167,010	-1,008
Payments to States from receipts under Mineral Leasing	800	800	---	800	---	---	---
Total, Minerals Management Service	161,596	161,918	165,118	171,067	168,018	167,010	-1,008
BUREAU OF MINES							
Mines and Minerals							
Minerals Research:							
Health and Safety Technology	33,931	25,219	36,819	28,819	33,669	33,470	-199
Mining Technology:							
Advanced Mining Technology	11,552	8,112	11,612	8,112	10,112	10,052	-60
Resource Conservation Technology	1,974	1,548	1,548	4,548	3,048	3,030	-18
Subtotal, Mining Technology	13,526	9,660	13,160	12,660	13,160	13,082	-78
Minerals and Materials Research	32,761	25,508	27,001	34,208	32,708	32,515	-193
Subtotal, Minerals Research	80,218	60,387	76,980	75,687	79,537	79,067	-470
Minerals Information and Analysis:							
Minerals Information	12,854	10,617	10,617	10,617	10,617	10,554	-63
Mineral Data Analysis	16,950	17,141	17,141	19,581	18,541	18,431	-110
Subtotal	29,804	27,758	27,758	30,198	29,158	28,985	-173

1/ Reflects transfer of 15 FTEs, $922,000 to U.S.G.S.

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

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Mineral Institutes	7,842	---	---	8,000	8,000	7,950	-50
General Administration	20,168	18,915	18,915	18,915	18,915	18,802	-113
Bruceton facility/Construction and rehabilitation	-1,667	---	---	---	---	---	---
Pay restoration	---	---	(2,747)	---	---	---	---
Program offset	---	---	-1,355	-1,355	-1,385	-1,385	---
Total, Bureau of Mines	136,959	107,060	122,290	131,445	134,255	133,449	-806
OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT							
Regulation and Technology							
State Regulatory Program Grants	36,734	38,100	37,200	37,200	37,200	36,977	-223
Federal Regulatory Programs							
Program operations and inspections	23,578	23,030	27,630	27,130	27,245	27,082	-163
Technical services and research	12,833	12,310	13,018	13,018	13,018	12,940	-78
Subtotal	36,411	35,340	40,648	40,148	40,263	40,022	-241
General Administration	6,747	7,348	7,690	7,690	7,690	7,643	-47
Pay supplemental	455	---	---	---	---	---	---
Pay restoration	---	---	(867)	---	---	---	---
Total, Regulation and Technology	80,347	80,788	85,538	85,038	85,153	84,642	-511
Abandoned Mine Reclamation Fund							
State Reclamation Program Grants	257,740	211,200	186,200	150,000	160,000	159,056	-944
Federal Reclamation Programs							
Fund management	6,599	6,979	6,979	6,979	6,979	6,938	-41
Federal reclamation projects	18,426	21,513	26,513	26,513	26,513	26,357	-156
Rural lands reclamation program	9,800	3,480	9,480	3,480	9,480	9,424	-56
Subtotal	34,825	31,972	42,972	36,972	42,972	42,719	-253
Small Operator Assistance	---	3,100	3,100	3,100	3,100	3,082	-18
General Administration	4,376	4,550	4,550	4,456	4,550	4,521	-29
Undistributed reduction	---	-4	-4	---	-4	-4	---
Pay restoration	---	---	(498)	---	---	---	---
Program offset	---	---	-3,233	-3,233	-3,233	-3,233	---
Total, Abandoned Mine Reclamation Fund	296,941	250,818	233,585	191,295	207,385	206,141	-1,244
Total, Office of Surface Mining Reclamation and Enforcement	377,288	331,606	319,123	276,333	292,538	290,783	-1,755
BUREAU OF INDIAN AFFAIRS							
Operation of Indian Programs							
Education							
School Operations	177,265	194,093	192,820	189,726	190,520	189,378	-1,142
Johnson O'Malley Educational Assistance	25,674	---	23,183	20,000	23,183	23,044	-139
Continuing Education	53,256	56,279	57,229	56,579	56,779	56,438	-341
Contract support	13,073	---	---	---	---	---	---
Subtotal, Education	269,268	250,372	273,232	266,305	270,482	268,860	-1,622
Indian Services							
Tribal Government Services	25,936	32,306	32,428	32,306	32,428	32,233	-195
Social Services	104,984	114,332	114,332	113,732	113,882	113,199	-683
Law Enforcement	44,354	48,863	48,863	48,863	48,863	48,570	-293
Self-Determination Services	24,162	21,607	21,607	20,966	21,466	21,337	-129
Navajo-Hopi Settlement Program	2,773	2,949	2,949	2,449	2,949	2,931	-18
Contract support	14,935	---	---	---	---	---	---
ADP transfer	(-3,435)	---	---	---	---	---	---
Subtotal, Indian Services	217,144	220,057	220,179	218,316	219,588	218,270	-1,318

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

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Economic Development and Employment Programs							
Employment Development	25,414	26,359	26,359	27,059	26,859	26,698	-161
Business Enterprise Development	14,300	15,658	14,933	14,258	13,858	13,775	-83
Road Maintenance	21,090	23,208	23,208	23,208	23,208	23,069	-139
Contract support	2,675	---	---	---	---	---	---
Subtotal, Economic Development and Employment Programs	74,367	65,225	64,500	64,525	63,925	63,542	-383
Natural Resources Development							
Natural Resources, General	1,854	2,422	2,422	2,422	2,422	2,407	-15
Agriculture	23,816	23,399	23,859	23,399	23,399	23,259	-140
Forestry	32,315	32,195	33,004	32,499	33,504	33,302	-202
Water Resources	7,705	9,248	11,512	9,248	10,848	10,783	-65
Wildlife & Parks	19,672	23,004	26,569	25,026	25,939	25,783	-156
Fire Suppression	13,277	422	422	422	422	419	-3
(By transfer)	(4,000)	---	---	---	---	---	---
Minerals and Mining	12,801	8,547	10,747	8,547	9,647	9,589	-58
Irrigation and Power	7,987	7,988	7,988	7,988	7,988	7,940	-48
Contract support	4,460	---	---	---	---	---	---
ADP transfer	(-275)	---	---	---	---	---	---
Subtotal, Natural Resources Development	123,550	108,029	117,403	109,551	114,249	113,562	-687
Trust Responsibilities							
Rights Protection	18,550	19,447	23,192	20,197	21,537	21,408	-129
Real Estate and Financial Trust Services	29,301	31,870	31,032	30,032	30,032	29,852	-180
Contract support	797	---	---	---	---	---	---
ADP transfer	(-600)	---	---	---	---	---	---
Subtotal, Trust Responsibilities	48,048	51,317	54,224	50,229	51,569	51,260	-309
Facilities Management	88,380	91,699	47,449	89,102	91,849	91,298	-551
General Administration							
Management and Administration	48,260	50,306	50,204	49,640	49,538	49,240	-298
ADP Services	17,740	18,042	18,042	18,042	18,042	17,934	-108
Program management	4,805	4,547	4,547	4,547	4,547	4,520	-27
Employee compensation payments	6,866	7,523	7,523	7,523	7,523	7,478	-45
Subtotal, General Administration	77,671	80,418	80,316	79,752	79,650	79,172	-478
Pay supplemental	5,000	---	---	---	---	---	---
Section 2901 Rescission	-2,800	---	---	---	---	---	---
Pay restoration	---	---	(11,430)	---	---	---	---
Emergency hay relief	---	---	---	6,000	6,000	5,964	-36
Total, Operation of Indian Programs	902,316	867,117	857,303	883,780	897,312	891,928	-5,384
Construction							
Buildings and Utilities	56,509	37,490	---	38,190	38,590	38,365	-225
Irrigation Systems	25,853	15,828	23,459	18,328	18,328	18,221	-107
Housing	22,736	17,092	22,736	87,736	44,736	44,476	-260
Land acquisition	2,394	---	2,000	---	2,400	2,386	-14
Program offset	---	---	-3,000	-3,000	-3,000	-3,000	---
Proposed transfer 1/	---	(4,900)	---	---	---	---	---
Total, Construction	107,492	70,410	45,195	141,254	101,054	100,448	-606
Road Construction							
Base Program	5,000	---	785	---	---	---	---
Utah Paiute Trust Fund							
Trust fund	2,500	---	---	---	---	---	---
Alaska Native Escrow Account	---	7,077	---	7,077	7,077	7,030	-47
Trust Funds							
Definite	4,000	4,000	4,000	4,000	4,000	4,000	---
Indefinite	60,000	---	---	---	---	---	---
Total	64,000	4,000	4,000	4,000	4,000	4,000	---

1/ Proposed for transfer from National Capital Region Arts and Cultural Affairs program.

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	New BA Enacted F.Y. 85 -21-	New BA Estimates F.Y. 86 -22-	New BA House F.Y. 86 -23-	New BA Senate F.Y. 86 -24-	New BA Enacted F.Y. 86 -25-	Recommended Less 0.6% -26-	Difference
Revolving Fund for Loans							
Limitation on direct loans	(16,600)	(16,300)	(16,300)	(16,300)	(16,300)	(16,200)	---
Indian Loan Guaranty and Insurance Fund							
Base program	---	1,485	2,210	2,210	2,210	2,197	-13
Limitation on guaranteed loans	---	(20,000)	---	---	---	---	---
Total, Bureau of Indian Affairs	1,082,000	950,869	909,493	1,039,121	1,062,463	1,056,403	-6,060
TERRITORIAL AFFAIRS							
Administration of Territories							
Guam							
Construction grants	5,610	1,650	5,393	4,583	4,583	4,556	-27
American Samoa							
Operations grants	20,776	20,776	20,776	20,776	20,776	20,651	-125
Construction grants	6,054	3,746	6,722	5,922	5,922	5,886	-36
Subtotal, American Samoa	26,830	24,522	27,498	26,698	26,698	26,537	-161
Northern Marianas							
Covenant grants	28,723	27,726	27,726	27,726	27,726	27,560	-166
Construction grants, other	8,330	2,850	4,850	2,850	3,350	3,330	-20
Subtotal, Northern Marianas	37,053	30,576	32,576	30,576	31,076	30,890	-186
Virgin Islands							
College of the Virgin Islands Development Grant	490	---	---	490	---	---	---
Loan	---	---	2,000	2,000	2,000	1,988	-12
Subtotal, Virgin Islands	490	---	2,000	2,490	2,000	1,988	-12
Territorial Administration							
Office of Territorial Affairs	2,473	2,473	2,385	2,473	2,473	2,458	-15
Technical Assistance	4,900	2,200	4,900	4,900	4,900	4,871	-29
Guam Power Authority Loan Assistance	---	8,646	---	8,646	8,646	8,594	-52
Section 2906 Rescission	-107	---	---	---	---	---	---
Subtotal, Territorial Administration	7,266	13,319	7,285	16,019	16,019	15,923	-96
Total, Administration of Territories	77,444	70,067	74,752	80,366	80,376	79,894	-482
Trust Territory of the Pacific Islands							
Trust Territory operations	12,722	2,900	7,672	4,730	8,422	8,389	-33
Federated States of Micronesia	40,342	---	40,750	40,342	37,750	37,505	-245
Republic of the Marshall Islands	11,457	---	11,500	11,500	11,500	11,432	-68
Republic of Palau Operations	10,446	10,600	10,600	10,600	10,600	10,537	-63
Prior service benefit trust fund	---	---	---	2,500	---	---	---
Subtotal, Operations	74,967	13,500	70,522	69,672	68,272	67,863	-409
Construction							
Capital Improvements	17,150	---	10,950	7,600	9,450	9,393	-57
Capitol Relocations	3,940	---	12,000	---	---	---	---
Subtotal, Construction	21,090	---	22,950	7,600	9,450	9,393	-57
Enewetak support	862	---	900	900	900	895	-5
Enjebi Trust Fund	---	---	2,500	---	---	---	---
Bikini resettlement	1,876	---	11,100	---	1,750	1,739	-11
Total, Trust Territory of the Pacific Islands	98,795	13,500	107,972	78,172	80,372	79,890	-482
Total, Territorial Affairs	176,239	83,567	182,724	158,538	160,748	159,784	-964

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	New BA Enacted F.Y. 85 -21-	New BA Estimates F.Y. 86 -22-	New BA House F.Y. 86 -23-	New BA Senate F.Y. 86 -24-	New BA Enacted F.Y. 86 -25-	Recommended Less 0.6% -26-	Difference
DEPARTMENTAL OFFICES							
Office of the Secretary							
Departmental Direction							
Secretary's immediate office	1,439	1,470	1,415	1,470	1,435	1,426	-9
Executive Secretariat	203	211	211	211	211	210	-1
Cong. & Legis. Affairs	1,155	1,102	1,052	1,155	1,100	1,093	-7
Equal Opportunity	1,414	1,229	1,229	1,414	1,300	1,292	-8
Public Affairs	709	687	687	709	700	696	-4
Small & Disadvantaged Business Utilization	431	396	396	431	400	398	-2
Subtotal, Departmental Direction	5,351	5,095	4,990	5,390	5,146	5,115	-31
Program Direction and Coordination							
A/S Water and Science	766	699	699	766	750	745	-5
A/S Land and Minerals Management	806	732	732	806	790	785	-5
A/S Fish and Wildlife and Parks	789	713	713	789	771	766	-5
A/S Indian Affairs	784	707	707	754	743	739	-4
A/S Territorial and International Affairs	561	520	466	581	551	548	-3
A/S Policy, Budget & Administration	801	744	744	810	795	790	-5
Subtotal, Program Direction and Coordination	4,507	4,115	4,061	4,506	4,400	4,373	-27
Administration							
Environmental Project Review	1,534	1,394	1,394	1,534	1,500	1,491	-9
Acquisition & Property Management	1,401	1,333	1,333	1,401	1,350	1,342	-8
Office of personnel	1,624	1,616	1,616	1,624	1,620	1,610	-10
Administrative Services	3,291	3,302	3,222	3,291	3,250	3,230	-20
Information Resources Management	4,786	4,455	4,455	4,786	4,700	4,672	-28
Policy Analysis	2,365	1,914	2,014	2,365	2,300	2,286	-14
Office of Budget	1,546	1,446	1,446	1,546	1,525	1,516	-9
Financial Management	1,032	1,013	1,013	1,032	1,020	1,014	-6
Subtotal, Administration	17,579	16,473	16,493	17,579	17,265	17,161	-104
Hearings and Appeals	6,178	5,323	5,323	6,178	5,800	5,766	-34
Aircraft Services	1,982	1,833	1,833	1,982	1,900	1,889	-11
Central Services	9,036	8,156	8,156	9,036	8,900	8,847	-53
Pay restoration	---	---	(1,056)	---	---	---	---
Total, Office of the Secretary	44,633	40,995	40,856	44,673	43,411	43,151	-260
Office of the Solicitor							
Legal Services	17,562	15,968	17,368	17,314	17,314	17,210	-104
General Administration	2,575	3,010	2,898	3,064	3,064	3,046	-18
Pay Restoration	---	---	(561)	---	---	---	---
Pay supplemental	306	---	---	---	---	---	---
Total, Office of the Solicitor	20,443	18,978	20,266	20,378	20,378	20,256	-122
Office of the Inspector General							
Audit	13,478	12,350	12,050	13,368	13,000	12,922	-78
Investigations	2,536	2,287	2,217	2,557	2,273	2,260	-13
Administration	894	941	850	983	941	935	-6
Total, Office of the Inspector General	16,908	15,578	15,117	16,908	16,214	16,117	-97
Construction Management							
Salaries and Expenses	785	678	900	660	780	775	-5
Facilities Operations and Maintenance							
Base Program	---	---	45,000	---	---	---	---
Construction							
Buildings and utilities	---	---	41,990	---	---	---	---
Total, Construction Management	735	678	87,890	660	780	775	-5

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	New BA Enacted F.Y. 85 -21-	New BA Estimates F.Y. 86 -22-	New BA House F.Y. 86 -23-	New BA Senate F.Y. 86 -24-	New BA Enacted F.Y. 86 -25-	Recommended Less 0.6% -26-	Difference
Special Foreign Currency Program							
Salaries and Expenses	1,960	---	---	1,000	1,000	994	-6
Total, Secretarial Offices	84,679	76,229	164,129	83,619	81,783	81,293	-490
Grand Total, Department of the Interior	4,500,837	3,668,191	4,151,663	4,076,088	4,124,592	4,099,930	-24,662
TITLE II - RELATED AGENCIES							
DEPARTMENT OF AGRICULTURE							
FOREST SERVICE							
Forest Research							
Fire and atmospheric science	7,926	7,514	8,112	8,112	8,112	8,043	-69
Forest insect and disease	21,086	19,922	21,220	21,220	21,220	21,093	-127
Forest inventory and analysis	17,079	13,230	17,152	17,152	17,152	17,049	-103
Renewable resources economics	4,482	4,594	5,082	4,594	4,594	4,566	-28
Trees and timber management	22,061	21,206	22,603	23,229	22,603	22,467	-136
Forest watershed management and rehabilitation	11,196	11,094	16,611	12,394	15,611	15,517	-94
Wildlife, range and fish habitat	8,876	8,867	9,537	9,537	9,537	9,480	-57
Forest recreation	2,071	2,054	2,212	2,054	2,154	2,141	-13
Forest products and harvesting	18,370	18,488	18,460	19,288	18,460	18,349	-111
Competitive grants	7,840	---	4,000	7,840	6,840	6,800	-40
Pay supplemental	1,164	---	---	---	---	---	---
Section 2901 Rescission	-462	---	---	---	---	---	---
Total, Forest Research	121,666	106,971	124,989	125,420	126,283	125,525	-758
State and Private Forestry							
Forest Pest Management							
Federal lands	20,125	18,385	20,501	20,835	20,835	20,710	-125
Cooperative lands	8,746	676	8,776	8,776	8,776	8,723	-53
Subtotal, Forest pest management	28,871	19,061	29,277	29,611	29,611	29,433	-178
Fire protection	13,720	3,263	13,700	13,700	13,700	13,618	-82
Forest Management and Utilization							
Forest resource management	5,130	3,636	5,150	5,236	5,236	5,205	-31
Wood utilization	951	1,022	596	960	960	954	-6
Seedlings, nursery and tree improvement	1,730	809	800	1,809	1,809	1,798	-11
Urban forestry	1,960	---	2,000	---	2,000	1,988	-12
Management improvement	980	---	---	---	---	---	---
Subtotal	10,751	5,067	8,546	8,005	10,005	9,945	-60
Special projects							
Boundary Waters Canoe Area	2,940	3,000	3,000	3,000	3,000	2,982	-18
Gifford Pinchot Institute	205	---	200	---	200	199	-1
Lake Tahoe	1,470	---	1,470	1,470	1,470	1,461	-9
Disabled veterans recreation	318	---	---	---	---	---	---
Subtotal	4,973	3,000	4,670	4,470	4,670	4,642	-28
Pay supplemental	209	---	---	---	---	---	---
Section 2901 Rescission	-232	---	---	---	---	---	---
Total, State and Private Forestry	58,292	30,391	56,193	55,786	57,986	57,638	-348
National Forest System							
Minerals and General Land Activities							
Minerals	26,465	29,379	28,373	29,379	28,610	28,443	-167
Real estate management	20,787	21,009	20,435	21,009	21,009	20,887	-122
Land Line Location	16,954	29,120	25,655	28,820	28,820	28,652	-168
Maintenance of Facilities	14,754	14,857	14,498	14,857	14,857	14,771	-86
Subtotal	78,970	94,365	88,961	94,065	93,296	92,753	-543

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INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	New BA Enacted F.Y. 85 21	New BA Estimates F.Y. 86 22	New BA House F.Y. 86 23	New BA Senate F.Y. 86 24	New BA Enacted F.Y. 86 25	Recommended Less 0.6% 26	Difference
Resource Protection and Maintenance							
Fire protection	156,270	147,507	154,612	160,291	159,560	158,632	-928
Fighting forest fires	62,227	1,000	1,000	1,000	1,000	994	-6
Cooperative law enforcement	7,161	---	---	7,000	7,000	6,959	-41
Road maintenance	54,562	65,125	57,806	65,025	65,025	64,647	-378
Trail maintenance	9,189	9,416	9,526	10,416	10,026	9,968	-58
Subtotal	299,709	223,048	227,944	243,732	242,611	241,200	-1,411
Timber Sales							
Timber resource inventory	10,707	13,321	12,955	13,321	13,321	13,243	-78
Silvicultural examination	22,566	20,564	19,757	20,564	20,564	20,445	-119
Sales preparation and harvest administration	160,014	155,368	129,546	158,430	149,426	148,556	-870
Subtotal	194,087	189,253	162,258	192,315	183,311	182,244	-1,067
Reforestation and Stand Improvement							
Reforestation	40,792	48,192	46,817	58,192	54,192	53,877	-315
(Reforestation trust fund)	(22,300)	---	---	---	---	---	---
Stand improvement	12,414	25,518	24,715	30,518	30,518	30,340	-178
(Reforestation trust fund)	(8,675)	---	---	---	---	---	---
Nurseries	13,575	16,292	14,944	15,292	15,292	15,203	-89
Subtotal	66,781	90,002	86,476	104,002	100,002	99,420	-582
Recreation use							
Recreation management	84,432	82,476	85,776	82,576	86,559	86,056	-503
Wilderness	7,717	8,030	7,891	8,030	7,891	7,845	-46
Cultural resources	9,335	10,034	9,739	10,034	9,739	9,683	-56
Subtotal	101,484	100,540	103,406	100,640	104,189	103,584	-605
Wildlife and Fish habitat management							
Wildlife and fisheries support	22,297	24,556	23,070	24,556	23,927	23,787	-140
Habitat improvement	14,310	12,453	14,150	16,453	15,100	15,012	-88
Subtotal	36,607	37,009	37,220	41,009	39,027	38,799	-228
Range management							
Grazing	23,606	26,227	24,606	25,227	24,467	24,324	-143
Range improvements	3,312	1,195	1,127	2,195	2,195	2,182	-13
Wild horse and burro management	175	276	271	276	276	274	-2
Noxious weed control	980	653	624	1,153	1,374	1,366	-8
Subtotal	28,073	28,351	26,628	28,851	28,312	28,146	-166
Soil, water and air management							
Soil, water and air administration	21,467	23,773	23,418	22,673	22,377	22,247	-130
Soil and water resource improvements	3,025	2,016	3,135	3,116	3,135	3,117	-18
Soil and water resource inventories	6,486	5,485	6,611	5,485	6,611	6,572	-39
Subtotal	30,978	31,274	33,164	31,274	32,123	31,936	-187
General Administration	257,958	276,277	268,276	264,258	264,258	262,719	-1,539
Forest level information processing system	(-2,500)	---	-2,500	---	-2,500	-2,500	---
FS/BLM interchange	---	14,400	---	---	---	---	---
Oregon and California grant lands	---	51,160	---	---	---	---	---
Pay Restoration	---	---	10,000	---	---	---	---
Youth Conservation Corps	(3,300)	---	---	---	---	---	---
Restoration trust fund transfer	---	---	---	-30,000	-30,000	-30,000	---
Pay supplemental	10,688	---	---	---	---	---	---
Section 2901 Rescission	-6,067	---	---	---	---	---	---
Total, National Forest System	1,111,548	1,135,679	1,035,433	1,070,146	1,054,629	1,048,301	-6,328
Construction							
Facilities	27,952	15,871	25,649	20,571	27,449	27,284	-165
Roads and trails							
Direct road construction	229,759	195,562	151,293	195,562	189,341	188,205	-1,136
Trail construction	7,110	3,475	8,343	3,475	7,075	7,033	-42
Subtotal, Construction	264,821	214,908	185,285	219,608	223,865	222,522	-1,343

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	New BA Enacted F.Y. 85 -21-	New BA Estimates F.Y. 86 -22-	New BA House F.Y. 86 -23-	New BA Senate F.Y. 86 -24-	New BA Enacted F.Y. 86 -25-	Recommended Less 0.6% -26-	Difference
Timber Receipts Transfer (transfer to General Fund)	(-82,604)	(-102,765)	(-102,765)	---	(-102,768)	(-102,768)	---
Timber Purchaser Credits	(193,301)	(190,300)	---	(190,300)	---	---	---
Purchaser deposit transfer	-226,290	---	---	---	---	---	---
Forest level information processing systems	---	---	-1,900	---	---	---	---
Section 2901 Rescission	-961	---	---	---	---	---	---
Total, Construction	37,579	214,900	183,785	219,600	223,866	222,522	-1,343
Land Acquisition							
Forest Service:							
Acquisitions	87,109	---	26,000	15,025	25,800	25,651	-149
Acquisition Management	3,494	2,392	3,500	3,000	3,500	3,479	-21
Section 2901 Rescission	-68	---	---	---	---	---	---
Total	90,535	2,392	29,500	18,025	29,300	29,130	-170
Youth Conservation Corps							
Base program	---	---	10,000	---	---	---	---
Acquisition of Lands for National Forests, Special Acts							
Base Program	766	782	780	782	782	777	-5
Acquisition of Lands to Complete Land Exchanges							
Base Program	20	20	20	20	20	20	---
Range Betterment							
Base program	3,966	3,992	3,900	3,992	3,992	3,968	-24
Miscellaneous Trust Funds							
Miscellaneous trust fund	90	90	90	90	90	89	-1
Total, Forest Service	1,304,460	1,495,215	1,444,698	1,493,869	1,495,947	1,486,970	-8,977
DEPARTMENT OF THE TREASURY							
Energy Security Reserve (rescission) 1/	(-5,375,000)	---	(-6,900,000)	---	(-6,900,000)	(-6,900,000)	---
DEPARTMENT OF ENERGY							
Clean Coal Technology Reserve							
Base program FY 1986	---	---	---	100,000	---	---	---
1/	---	---	(100,000)	---	(100,000)	(99,400)	(-600)
Base program FY 1987	---	---	---	(175,000)	---	---	---
1/	---	---	(200,000)	---	(150,000)	(149,100)	(-900)
Base program FY 1988	---	---	---	(300,000)	---	---	---
1/	---	---	(200,000)	---	(150,000)	(149,100)	(-900)
Base program FY 1989	---	---	---	(175,000)	---	---	---
Total, Clean Coal Technology Reserve	---	---	---	100,000	---	---	---
1/	---	---	(500,000)	---	(400,000)	(397,600)	(-2,400)
Fossil Energy Research and Development							
Coal							
Control technology and coal preparation							
Coal preparation and analysis	10,965	10,333	13,203	11,083	13,203	13,135	-68
Flue gas cleanup	14,800	10,155	12,355	11,355	11,355	11,296	-59
Gas stream cleanup	7,351	5,641	7,341	7,341	7,341	7,303	-38
Waste management technology	1,967	1,216	1,216	1,216	1,216	1,209	-7
Subtotal	35,083	27,345	34,115	30,995	33,115	32,943	-172

1/ FY86 amount is an est. of an indefinite rescission.

2/ Proposed in Energy Security Reserve (Synthetic Fuels Corporation).

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	New BA Enacted F.Y. 85 -21-	New BA Estimates F.Y. 86 -22-	New BA House F.Y. 86 -23-	New BA Senate F.Y. 86 -24-	New BA Enacted F.Y. 86 -26-	Recommended Less 0.5% -28-	Difference
Advanced Research & Technology Development	40,011	32,946	32,946	35,146	35,146	34,971	-175
Coal Liquefaction							
Advanced research	---	5,097	5,097	5,097	5,097	5,070	-27
Advanced process development	12,932	5,659	12,159	13,159	13,159	13,092	-67
Indirect liquefaction	7,179	4,428	9,528	9,528	9,528	9,478	-50
Support studies and engineering evaluations	5,704	4,302	4,302	4,302	4,302	4,280	-22
Subtotal	25,815	19,486	31,086	32,086	32,086	31,920	-166
Combustion systems							
Atmospheric fluidized beds	10,737	17,326	17,326	17,326	17,326	17,235	-91
Pressurized fluidized beds	10,450	5,259	5,259	5,259	5,259	5,231	-28
Advanced combustion technology	1,967	2,539	3,539	2,539	3,539	3,518	-21
Alternate fuel utilization	7,064	4,182	5,182	4,182	4,182	4,162	-20
Subtotal	30,218	29,306	31,306	29,306	30,306	30,146	-160
Fuel cells							
Phosphoric acid systems	28,912	---	25,300	13,300	21,300	21,187	-113
Molten carbonate systems	8,051	6,400	10,900	10,400	10,400	10,338	-62
Advanced concepts	3,048	2,942	3,942	2,942	3,942	3,924	-18
Subtotal	40,011	9,342	40,142	26,642	35,642	35,449	-193
Heat engines	11,988	11,386	11,386	14,386	12,886	12,817	-69
Underground coal gasification	5,753	4,260	4,260	4,260	4,260	4,238	-22
Magnetohydrodynamics	30,977	—	32,000	29,000	29,000	28,850	-150
Surface Coal Gasification							
Advanced research	---	3,505	3,505	3,505	3,505	3,487	-18
Advanced Process Development	4,376	3,345	5,345	5,345	5,345	5,317	-28
Systems engineering concepts	21,119	3,243	13,743	23,243	29,243	29,091	-152
Environmental and engineering analyses	3,516	2,212	2,212	2,212	2,212	2,199	-13
Great Plains gasification project	3,000	2,775	2,775	2,775	2,775	2,761	-14
Subtotal	32,011	15,080	27,580	37,080	43,080	42,855	-225
Subtotal, Coal	252,627	149,151	244,021	238,901	255,521	254,189	-1,332
Petroleum							
Advanced Process Technology							
Advanced exploratory research	4,425	4,692	4,692	4,692	4,692	4,669	-23
Arctic and offshore research	984	1,086	1,086	1,086	1,086	1,079	-7
Subtotal	5,409	5,778	5,778	5,778	5,778	5,748	-30
Enhanced Oil Recovery							
Heavy oil	2,557	2,886	2,886	2,886	2,886	2,869	-17
Light oil	8,064	7,721	7,721	7,721	7,721	7,683	-38
Tar sands	1,180	1,379	1,379	1,379	1,379	1,371	-8
Subtotal	11,801	11,986	11,986	11,986	11,986	11,923	-63
Oil shale	14,751	9,699	11,699	11,699	12,699	12,632	-67
Subtotal, Petroleum	31,961	27,463	29,463	29,463	30,463	30,303	-160
Gas							
Unconventional gas recovery	10,227	8,896	10,896	10,896	8,896	8,850	-46
Equipment not related to construction	4,425	3,000	3,000	3,000	3,000	2,982	-18
Fossil Energy Construction							
Wastewater treatment facility, Morgantown, W. Va.	2,458	---	---	---	---	---	---
General plant projects	2,458	3,985	2,485	4,485	3,485	3,469	-16
Subtotal, Fossil Energy Construction	4,916	3,985	2,485	4,485	3,485	3,469	-16

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	New BA Enacted F.Y. 85 -21-	New BA Estimates F.Y. 86 -22-	New BA House F.Y. 86 -23-	New BA Senate F.Y. 86 -24-	New BA Enacted F.Y. 86 -25-	Recommended Less 0.6% -26-	Difference
Headquarters program direction	8,273	13,478	13,478	13,478	13,478	13,407	-71
Energy Technology Center program direction	37,907	38,198	38,198	38,198	38,198	37,996	-202
Use of prior year deferrals - OE	-9,493	-52,240	-15,972	-18,015	-18,015	-18,015	---
Advance appropriation made in FY 1984	-15,000	-15,000	-15,000	-15,000	-15,000	-15,000	---
By transfer	-47,496	-6,165	-14,897	-10,240	-10,240	-10,240	---
Program offset	-400	---	---	---	---	---	---
Transfer from Energy Security Reserve	-3,000	-2,775	-2,775	-2,775	-2,775	-2,775	---
Savings from Management Initiatives	---	-6,000	---	-6,000	---	---	---
Employment floors	---	---	5,302	5,302	5,302	5,274	-28
Pay restoration	---	---	(1,500)	(1,500)	(1,500)	(1,500)	---
Federal Inspector for the Alaska Gas Pipeline	---	---	535	535	535	532	-3
Total, Fossil Energy Research and Development	274,947	161,991	299,534	292,228	312,848	310,971	-1,877
Naval Petroleum and Oil Shale Reserves							
Naval petroleum reserves Nos. 1 & 2	171,188	130,800	130,800	130,800	130,800	130,736	-64
Naval petroleum reserve No. 3	17,869	29,184	29,184	29,184	29,184	29,170	-14
Program direction (headquarters)	5,539	5,668	5,668	5,668	5,668	5,665	-3
Subtotal	194,596	165,652	165,652	165,652	165,652	165,571	-81
Shale oil development program							
Shale reserves development	1,328	3,864	3,864	3,864	3,864	3,863	-1
Use of prior year balance	-39,050	-155,667	-155,848	-155,848	-155,848	-155,848	---
Pay restoration	---	---	(200)	---	---	---	---
Total, Naval Petroleum and Oil Shale Reserves	156,074	13,849	13,668	13,668	13,668	13,586	-82
Energy Conservation							
Buildings & community systems							
Building systems	14,897	12,900	13,300	12,800	13,000	12,922	-78
Community systems	5,390	2,000	4,000	2,000	4,000	3,980	-20
Urban waste	980	---	---	---	---	---	---
Technology and consumer products	9,997	9,400	11,300	9,400	10,800	10,737	-63
Analysis & technology transfer	980	3,400	2,750	3,100	2,750	2,733	-17
Appliance standards	2,450	2,000	2,000	2,000	2,000	1,990	-10
Federal energy management program	1,274	1,500	1,275	400	1,275	1,267	-8
Residential conservation service	1,274	400	400	1,275	400	398	-2
Capital equipment	1,225	2,200	2,200	2,000	2,000	1,990	-10
Program direction	2,895	3,639	3,389	3,200	3,200	3,181	-19
Subtotal, Buildings & community systems	41,362	37,439	40,614	36,175	39,425	39,198	-227
Industrial							
Waste energy reduction	11,859	12,256	11,756	12,256	12,006	11,934	-72
Process efficiency	9,556	13,500	23,500	13,500	21,000	20,881	-119
Cogeneration	4,116	4,700	4,700	4,700	4,700	4,675	-25
Implementation and deployment	2,450	3,200	3,200	3,200	3,200	3,181	-19
Program direction	1,807	1,927	1,927	1,927	1,927	1,915	-12
Capital equipment	2,156	---	---	---	---	---	---
Subtotal	31,944	35,583	45,083	35,583	42,833	42,586	-247
Transportation							
Vehicle Propulsion R&D	31,852	20,100	34,470	43,100	34,470	34,268	-202
Alternative fuels utilization	2,450	1,600	1,600	1,600	1,600	1,590	-10
Electric/hybrid vehicle program	8,429	8,075	9,425	8,575	9,225	9,170	-55
Transportation systems utilization	1,666	1,200	1,200	1,200	950	947	-3
Advanced materials development	6,076	9,290	9,290	9,290	9,290	9,234	-56
High temperature materials lab	6,469	3,010	3,010	3,010	3,010	2,995	-15
Program direction	1,913	1,775	1,775	1,775	1,775	1,765	-10
Capital equipment	2,940	---	---	---	---	---	---
Subtotal	61,795	43,050	60,770	68,550	60,320	59,969	-351
State/Local programs							
Energy policy and conservation grants (EPCA)	23,522	18,818	18,818	22,000	18,818	18,689	-129
Energy extension service	9,801	7,841	7,841	9,000	7,841	7,794	-47
Schools & hospitals	47,043	37,634	47,134	47,134	47,134	46,859	-275
Weatherization	191,113	152,890	200,000	191,200	191,200	190,080	-1,120
Evaluation of state/local energy savings	1,960	---	---	---	---	---	---
Territories assistance	---	---	1,500	---	500	497	-3
Program Direction	9,961	8,744	8,494	8,744	8,494	8,443	-51
Subtotal	283,400	225,927	283,787	278,078	273,987	272,362	-1,625

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

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Multi Sector							
Energy Conversion Technology	15,608	19,190	19,690	19,190	19,440	19,328	-112
Inventors program	4,900	5,000	5,000	5,000	5,000	4,970	-30
Program direction	292	535	535	535	535	532	-3
National Appropriate Technology Assistance Service	1,470	1,000	1,500	1,500	1,500	1,491	-9
Capital equipment	1,666	1,000	1,000	1,000	1,000	994	-6
Subtotal, Multi Sector	23,936	26,725	27,725	27,225	27,475	27,315	-160
Policy and Management							
Policy analysis	245	---	---	---	---	---	---
Program direction	1,747	2,633	1,333	1,300	1,300	1,292	-8
Subtotal	1,992	2,633	1,333	1,300	1,300	1,292	-8
Facilities	15,681	---	10,319	---	10,319	10,262	-57
(Use of prior year deferrals)	-1,500	-4,000	-5,772	-6,324	-9,880	-9,880	—
Savings from management initiatives	---	---	---	-4,000	---	---	---
Employment floors	---	---	4,467	---	3,639	3,617	-22
Pay restoration	---	---	(703)	---	---	---	---
Total, Energy Conservation	458,610	367,357	468,326	436,507	449,418	446,721	-2,697
Economic Regulation							
Compliance	15,010	15,012	15,012	15,012	15,012	14,922	-90
Fuels Conversion	1,308	---	1,200	1,200	1,200	1,193	-7
Natural gas and electricity operations	2,041	2,186	2,186	2,186	2,186	2,173	-13
Program administration	1,141	1,080	680	680	680	675	-5
Office of Hearings and Appeals	5,242	5,545	5,545	5,545	5,545	5,512	-33
Pay restoration	---	---	(731)	---	---	---	---
Section 2901 Rescission	-102	---	---	---	---	---	---
Total Economic Regulation	24,640	23,823	24,623	24,623	24,623	24,475	-148
Emergency Preparedness							
Emergency preparedness	6,096	6,044	3,989	6,754	6,044	6,008	-36
Pay restoration	---	---	(171)	---	---	---	---
Section 2901 Rescission	-51	---	---	---	---	---	---
Total, Emergency Preparedness	6,045	6,044	3,989	6,754	6,044	6,008	-36
Strategic Petroleum Reserve							
Planning	5,600	3,000	6,450	4,413	4,552	4,544	-8
Storage facilities development	441,300	160,736	257,151	112,707	367,428	366,779	-649
Program Administration	12,290	11,663	13,008	9,897	11,747	11,726	-21
Use of prior year funds	-459,190	-175,136	-77,592	-13,974	-270,684	-270,684	---
Pay restoration	---	---	(263)	—	---	---	---
Subtotal, Strategic Petroleum Reserve	---	263	199,017	113,043	113,043	112,365	-678
SPR Petroleum Account							
Petroleum acquisition and transportation	(2,049,550)	---	---	---	---	---	---
Energy Information Administration							
Collection, production and analysis	40,813	37,920	38,520	38,420	38,420	38,190	-230
Program services	10,793	14,143	14,143	14,143	14,143	14,058	-85
Policy and management	8,818	8,119	8,119	8,119	8,119	8,070	-49
Pay restoration	---	---	(1,282)	---	---	---	---
Pay supplemental	495	---	---	---	—	---	---
Total, Energy Information Administration	60,919	60,182	60,782	60,682	60,682	60,318	-364
Total, Department of Energy	982,035	633,509	1,069,939	1,047,585	980,326	974,444	-5,882

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

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DEPARTMENT OF HEALTH AND HUMAN SERVICES							
HEALTH SERVICES ADMINISTRATION							
Indian Health Services							
Clinical services							
IHS and tribal health delivery							
Hospital and health clinic programs	417,016	422,216	441,716	428,716	436,216	433,598	-2,618
Dental health program	24,923	26,035	26,035	25,215	26,035	25,879	-156
Mental health program	11,179	11,518	11,518	11,304	11,518	11,449	-69
Alcoholism program	24,482	24,776	25,776	24,776	24,776	24,627	-149
Maintenance and repair	8,570	8,673	8,673	8,673	8,673	8,621	-52
Contract care	163,956	165,866	175,866	165,866	171,066	170,040	-1,026
Subtotal, Clinical services	650,126	659,084	689,584	664,550	678,284	674,214	-4,070
Preventive health							
Sanitation	20,275	20,930	21,342	20,684	20,930	20,804	-126
Public health nursing	12,212	12,516	12,888	12,516	12,516	12,441	-75
Health education	3,576	3,636	3,752	3,636	3,636	3,614	-22
Community health representative program	25,480	---	26,000	20,000	26,000	25,844	-156
Immunization	3,626	2,721	2,721	2,721	2,721	2,705	-16
Subtotal, Preventative health	65,169	39,803	66,703	59,557	65,803	65,408	-395
Urban health projects	9,800	---	10,000	9,800	9,800	9,741	-59
Indian health manpower	6,499	6,499	6,499	6,499	6,499	6,460	-39
Tribal management	2,450	---	2,450	2,000	2,000	1,988	-12
Direct operations	59,484	58,747	61,247	60,278	60,747	60,383	-364
Indian health facilities	---	2,450	---	---	---	---	---
Medicare/Medicaid Reimbursements							
Hospital and clinic accreditation	(44,100)	(54,100)	(44,100)	(44,100)	(44,100)	(44,100)	---
Pay restoration	---	---	(13,040)	---	---	---	---
Pay supplemental	7,000	---	---	---	---	---	---
Section 2901 Rescission	-161	---	---	---	---	---	---
Total, Indian Health Services	800,567	766,583	836,483	802,684	823,133	818,194	-4,939
Indian Health Facilities							
Hospitals							
New and Replacement	19,843	---	25,907	1,990	12,461	12 386	-75
Modernization and repair	2,086	---	4,190	3,100	3,100	3,081	-19
Subtotal, Hospitals	21,929	---	30,097	5,090	15,561	15,467	-94
Outpatient Care Facilities	9,712	---	726	726	726	722	-4
Sanitation Facilities	24,500	---	25,000	28,000	25,000	24,850	-150
Hospital and health clinic programs							
Personnel Quarters	5,493	---	5 660	5,660	5,660	5,626	-34
Program offset	---	---	---	-3,588	---	---	---
Total, Indian Health Facilities	61,634	---	61,483	35,888	46,947	46,665	-282
Total, Indian Health	862,201	766,583	897,966	838,572	870,080	864,859	-5,221
DEPARTMENT OF EDUCATION							
Indian Education							
Part A-Payments to School Districts	50,323	50,323	50,323	50,323	50,323	50,021	-302
Part B-Special Projects for Indian Students	11,760	11,760	12,000	11,760	11,880	11,809	-71
Part C-Special Projects for Indian Adults	2,940	2,940	3,000	2,940	2,940	2,922	-18
Administration	2,381	2,333	2,333	2,333	2,333	2,319	-14
Pay restoration	---	---	(64)	---	---	---	---
Total, Indian Education	67,404	67,356	67,656	67,356	67,476	67,071	-405

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DEPARTMENT OF STATE							
Compact of Free Association	---	178.750	---	---	---	---	---
OTHER RELATED AGENCIES							
NAVAJO/HOPI INDIAN RELOCATION COMMISSION							
Salaries and Expenses							
Operation of the Commission	20.321	20.241	20.442	22.241	22.491	22.356	-135
SMITHSONIAN INSTITUTION							
Salaries and Expenses							
Science							
Assistant Secretary for Science	556	606	606	591	593	589	-4
National Museum of Natural History	20.050	21.890	21.890	21.337	21.417	21.289	-128
Astrophysical Observatory	8.387	8.966	8.966	8.701	8.777	8.724	-53
Tropical Research Institute	3.503	3.960	3.960	3.863	3.880	3.857	-23
Environmental Research Center	3.370	3.725	3.725	3.624	3.647	3.625	-22
National Air and Space Museum	8.133	8.779	8.779	8.552	8.589	8.538	-51
National Zoological Park	11.024	11.869	11.869	11.573	11.609	11.539	-70
Equipment	---	---	---	-250	-250	-250	---
Subtotal, Science	55.023	59.795	59.795	57.991	58.262	57.911	-351
History and Art							
Assistant Secretary for History and Art	420	457	457	446	446	443	-3
National Museum of American History	10.943	12.151	12.347	11.741	11.981	11.910	-71
National Museum of American Art	4.555	4.970	5.095	4.840	4.864	4.835	-29
National Portrait Gallery	3.300	3.620	3.718	3.523	3.643	3.621	-22
Hirshhorn Museum and Sculpture Garden	2.950	3.229	3.229	3.142	3.161	3.142	-19
Center for Asian Art	1.555	3.368	3.368	2.743	3.115	3.096	-19
Archives of American Art	726	819	939	800	922	917	-5
Cooper-Hewitt Museum	874	995	995	971	974	968	-6
Museum of African Art	1.216	2.945	2.945	2.410	2.667	2.651	-16
Anacostia Neighborhood Museum	846	914	914	889	895	890	-5
Automation	---	---	---	-217	-217	-217	---
Subtotal, History and Art	27.385	33.468	34.007	31.288	32.451	32.256	-195
Public Service							
Assistant Secretary for Public Service	610	1.278	1.278	1.245	1.250	1.243	-7
Smithsonian Institution Press	1.063	1.158	1.158	1.127	1.133	1.126	-7
Subtotal, Public Service	1.673	2.436	2.436	2.372	2.383	2.369	-14
Museum Programs							
Assistant Secretary for Museum Programs	886	755	755	733	739	735	-4
Office of the Registrar	97	102	102	99	100	99	-1
Conservation-Analytical Laboratory	978	2.197	2.197	1.988	2.045	2.033	-12
Smithsonian Institution Libraries	4.169	4.813	4.913	4.650	4.683	4.655	-28
Office of Exhibits Central	1.491	1.707	1.707	1.619	1.623	1.613	-10
Traveling Exhibition Service	304	446	446	379	381	379	-2
Smithsonian Archives	513	556	556	544	544	541	-3
National Museum Act	773	793	793	777	777	772	-5
Subtotal, Museum Programs	9.211	11.369	11.469	10.789	10.892	10.827	-65
Directorate of International Activities	---	605	605	462	464	461	-3
Special Programs							
American and Folklife Studies	675	731	731	709	716	712	-4
International Environmental Science Program	696	747	747	722	732	728	-4
Academic and Educational Programs	730	2.793	793	773	776	771	-5
Collections Management Inventory	840	1.147	1.147	1.122	1.128	1.121	-7
Museum Support Center	7.768	5.060	5.060	4.914	4.920	4.891	-29
JFK Center Trustee Grant	688	---	700	---	350	348	-2
Subtotal, Special Programs	11.397	10.478	9.178	8.240	8.622	8.571	-51
Administration	11.553	12.285	12.285	11.973	12.021	11.949	-72

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Support Activities							
Office of Design and Construction	1,995	2,159	2,159	2,104	2,112	2,099	-13
Office of Protection Services	16,134	18,896	18,896	18,191	18,254	18,145	-109
Office of Plant Services	28,044	34,099	33,432	32,808	32,602	32,407	-195
Subtotal, Support Activities	46,173	55,154	54,487	53,103	52,968	52,651	-317
Restoration of 2% reduction	---	---	-1,250	---	---	---	---
Reduction for extra work day	---	---	-413	---	---	---	---
Pay supplemental	1,906	---	---	---	---	---	---
Total, Salaries and Expenses	164,321	185,590	182,599	176,218	178,063	176,995	-1,068
Museum Programs and Related Research (SFCP)							
Grant Program	8,820	2,500	2,500	2,500	2,500	2,485	-15
Construction and Improvements National Zoological Park							
Base Program	4,851	4,851	4,851	5,551	5,551	5,518	-33
Restoration and Renovation of Buildings							
Base Program	13,475	14,875	11,075	12,376	11,075	11,009	-66
Construction							
South Quadrangle Development	---	4,000	4,000	4,000	4,000	3,976	-24
Total, Smithsonian	191,467	211,816	205,025	200,644	201,189	199,983	-1,206
NATIONAL GALLERY OF ART							
Salaries and Expenses							
Care and Utilization of Art Collections	12,664	11,383	11,833	11,513	11,608	11,538	-70
Operation and Maintenance of Buildings and Grounds	14,191	14,263	11,488	11,363	11,088	11,021	-67
Protection of Buildings, Grounds, and Contents	5,982	6,871	6,871	6,871	6,871	6,830	-41
General Administration	3,648	4,187	4 187	4,187	4,187	4,162	-25
Pay supplemental	363	---	---	---	---	---	---
Total, Salaries and expenses	36,848	36,704	34,379	33,934	33,754	33,551	-203
Repair, Restoration and Renovation of Buildings							
Base program	---	---	2,900	4,000	3,300	3,280	-20
Total, National Gallery of Art	36,848	36,704	37,279	37,934	37,054	36,831	-223
Woodrow Wilson International Center for Scholars							
Salaries and Expenses							
Fellowship Program	1,199	1,271	1,271	1,271	1,271	1,263	-8
Scholar Support	234	239	239	239	239	238	-1
Public Services	600	628	628	628	628	624	-4
General Administration	552	639	639	639	639	635	-4
Building Requirements	73	75	75	125	125	125	---
Conference Planning	---	---	490	---	490	487	-3
Pay supplemental	16	---	---	---	---	---	---
Total, Salaries and expenses	2,674	2,852	3,342	2,902	3,392	3,372	-20
Endowment Challenge Fund							
Base program	---	---	---	1,000	1,000	994	-6
Total, Woodrow Wilson Center	2,674	2,852	3,342	3,902	4,392	4,366	-26

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NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES							
National Endowment for the Arts							
Grants and Administration							
Program grants:							
Artists-in-Schools	5,341	5,100	5,341	5,400	5,341	5,309	-32
Educational program	98	100	98	100	98	97	-1
Dance	8,900	7,400	8,900	9,000	8,900	8,847	-53
Design Arts	4,312	3,900	4,312	3,900	4,312	4,286	-26
Expansion Arts	6,713	5,350	6,773	5,350	6,713	6,673	-40
Folk Arts	3,136	2,800	3,136	3,000	3,000	2,982	-18
Inter Arts	4,165	3,600	4,165	4,000	4,000	3,976	-24
Literature	5,145	[illegible]	5,145	4,600	5,145	5,114	-31
Media Arts	9,065	8,400	12,065	11,500	12,065	11,993	-72
Museums	11,270	9,100	11,370	[illegible]	11,370	11,302	-68
Music	12,201	9,750	12,310	11,750	12,310	12,236	-74
Opera / Musical Theatre	4,116	3,100	4,153	4,200	4,267	4,241	-26
Locals Test	2,254	2,200	2,254	2,200	2,200	2,187	-13
Theatre	10,780	9,300	10,880	11,000	10,880	10,815	-65
Visual Arts	6,272	5,500	6,272	5,500	6,272	6,234	-38
Advancement	[illegible]	200	200	200	200	199	-1
Subtotal, Program grants	94,374	80,300	97,374	92,300	97,073	96,491	-582
State Programs	24,304	21,350	24,304	24,600	24,605	24,457	-148
Subtotal, Grants	118,678	101,650	121,678	116,900	121,678	120,948	-730
Administrative area:							
Policy Planning & Research	[illegible]	1,000	980	1,000	980	975	-5
Regional Representatives	[illegible]	---	---	---	---	---	---
Administration	13,916	14,650	14,602	15,000	14,602	14,514	-88
Subtotal, Administrative areas	15,582	15,650	15,582	16,000	15,582	15,489	-93
Total, Grants and administration	134,260	117,300	137,260	132,900	137,260	136,437	-823
Matching Grants							
Matching Grants	8,820	9,000	8,820	9,000	8,820	8,767	-53
Challenge Grants	20,580	18,500	20,580	21,000	20,580	20,457	-123
Total, Matching Grants	29,400	27,500	29,400	30,000	29,400	29,224	-176
Total, Arts	163,660	144,800	166,660	162,900	166,660	165,661	-999
Arts and Artifacts Indemnity Fund							
Base program	---	---	---	300	300	298	-2
National Endowment for the Humanities							
Grants and Administration							
Program grants:							
Public Programs							
Media Grants	8,918	7,600	8,918	9,100	8,918	8,864	-54
Museums and Historical Organizations	8,820	5,420	8,820	8,000	8,820	8,767	-53
Humanities programs for youth	735	750	735	750	750	745	-5
Humanities programs for adults	1,421	1,750	1,421	2,000	1,900	1,889	-11
Humanities projects in libraries	2,940	1,200	2,940	1,200	2,940	2,922	-18
Subtotal, Public programs	22,834	16,720	22,834	21,050	23,328	23,187	-141
Education Programs							
Education programs	18,130	15,100	18,130	16,300	16,500	16,401	-99
Fellowships							
Fellowships and seminars	14,210	15,050	14,210	16,100	15,077	14,987	-90
Research Grants	18,620	15,400	18,620	16,700	16,500	16,401	-99
Subtotal, Program grants	73,794	62,270	73,794	70,150	71,405	70,976	-429

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	New BA Enacted F.Y. 85 -21-	New BA Estimates F.Y. 86 -22-	New BA House F.Y. 86 -23-	New BA Senate F.Y. 86 -24-	New BA Enacted F.Y. 86 -25-	Recommended Less 0.6% -26-	Difference
State Programs	21,413	16,820	21,413	19,500	21,213	21,086	-127
Office of Preservation	---	5,000	3,222	5,000	4,000	3,976	-24
Subtotal, Grants	95,207	84,090	98,429	94,650	96,610	96,030	-580
Administrative area:							
Administration	13,205	14,240	13,120	14,328	14,300	14,115	-85
Planning and assessment	686	---	---	---	---	---	---
Subtotal, Administrative areas	13,891	14,240	13,120	14,328	14,200	14,115	-85
Total, Grants and administration	109,098	98,330	111,549	108,978	110,810	110,153	-665
Matching Grants							
Matching Grants	10,780	11,500	9,286	14,000	11,660	11,590	-70
Challenge Grants	19,600	16,500	18,643	16,500	17,000	16,898	-102
Total, Matching Grants	30,380	28,000	27,929	30,500	28,660	28,488	-172
Total, Humanities	139,478	126,330	139,478	139,478	139,478	138,641	-837
National Capital Arts and Cultural Affairs							
Grants	---	---	---	---	2,000	1,988	-12
Institute of Museum Services							
Grants to Museums:							
Operating Support Grants	17,223	---	17,223	12,000	17,223	17,120	-103
Conservation Grants	3,430	---	3,430	3,000	3,430	3,409	-21
Museum Services Board	74	---	74	70	70	70	---
Subtotal	20,727	---	20,727	15,070	20,723	20,599	-124
Program Administration	833	294	833	800	800	795	-5
Total, Institute of Museum Services	21,560	294	21,560	15,870	21,523	21,394	-129
Total, National Foundation on the Arts and Humanities	324,698	271,424	327,698	318,548	329,961	327,982	-1,979
COMMISSION OF FINE ARTS							
Salaries and Expenses							
Base Programs	372	374	377	382	382	380	-2
Pay supplemental	2	---	---	---	---	---	---
Total, Salaries and expenses	374	374	377	382	382	380	-2
ADVISORY COUNCIL ON HISTORIC PRESERVATION							
Salaries and Expenses							
Advisory Services	1,546	1,239	1,585	1,585	1,585	1,575	-10
NATIONAL CAPITAL PLANNING COMMISSION							
Salaries and Expenses							
Base Program	2,670	2,703	2,721	2,703	2,712	2,696	-16
Pay supplemental	22	---	---	---	---	---	---
Total, Salaries and expenses	2,692	2,703	2,721	2,703	2,712	2,696	-16

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

	New BA Enacted F.Y. 85 -21-	New BA Estimates F.Y. 86 -22-	New BA House F.Y. 86 -23-	New BA Senate F.Y. 86 -24-	New BA Enacted F.Y. 86 -25-	Recommended Less 0.6% -28-	Difference
FRANKLIN DELANO ROOSEVELT MEMORIAL COMMISSION							
Salaries and Expenses							
Base Program	21	21	21	21	21	21	---
PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION							
Salaries and Expenses							
Salaries and Expenses	2.254	2.221	2.316	2.329	2.329	2.315	-14
Pay supplemental	18	---	---	---	---	---	---
Total, Salaries and expenses	2.272	2.221	2.316	2.329	2.329	2.315	-14
Public Development							
Public improvements	4.410	3.250	3.250	3.250	3.250	3.230	-20
Total, Pennsylvania Avenue Development Corporation	6.682	5.471	5.566	5.579	5.579	5.545	-34
FEDERAL INSPECTOR FOR ALASKA GAS PIPELINE							
Permitting and Enforcement							
Base program	1.401	882	---	---	---	---	---
UNITED STATES HOLOCAUST MEMORIAL COUNCIL							
Holocaust Memorial Council	1.990	1.990	2.119	2.125	2.125	2.112	-13
Pay supplemental	13	---	---	---	---	---	---
Total, United States Holocaust Memorial Council	2.003	1.990	2.119	2.125	2.125	2.112	-13
Total, Title II, Related Agencies	3.806.827	3.697.130	4.086.434	4.043.046	4.021.320	3.997.191	-24.129
TITLE I - DEPARTMENT OF THE INTERIOR							
Bureau of Land Management	[illegible]	495.301	567.026	579.014	577.553	574.149	-3.404
Fish and Wildlife Service	423.825	362.087	397.026	376.770	383.833	381.530	-2.303
National Park Service	954.742	684.186	896.620	822.526	881.450	876.160	-5.290
Geological Survey	416.360	415.348	428.090	437.655	431.961	429.369	-2.592
Minerals Management Service	161.596	161.918	165.110	171.067	168.018	167.010	-1.008
Bureau of Mines	135.959	107.060	122.298	131.445	134.255	133.449	-806
Office of Surface Mining Reclamation and Enforcement	377.280	331.606	319.123	276.333	292.538	290.783	-1.755
Bureau of Indian Affairs	[illegible]	[illegible]	909.493	1.039.121	1.012.453	1.006.403	-6.050
Territorial Affairs	176.239	83.567	182.724	158.538	160.748	159.784	-964
Secretarial Offices	84.679	76.229	164.129	83.619	81.783	81.293	-490
Total, Title I - Department of the Interior	4.500.837	3.668.191	4.151.663	4.076.088	4.124.592	4.099.930	-24.662
TITLE II - RELATED AGENCIES							
Forest Service	[illegible]	1.495.215	1.444.698	1.493.869	1.495.947	1.486.970	-8.977
Department of the Treasury	(-5.375.000)	---	(-6.900.000)	---	---	---	---
Department of Energy	(982.035)	(633.509)	(1.069.939)	(1.047.585)	(980.326)	(974.444)	(5.882)
Clean Coal Technology	---	---	---	100.000	---	---	---
(By transfer)	---	---	(500.000)	---	(400.000)	(298.200)	(-101.800)
Fossil Energy	274.987	161.991	299.534	292.228	312.048	310.971	-1.077
Naval Petroleum and Oil Shale Reserves	156.874	13.849	13.668	13.668	13.668	13.586	-82
Energy Conservation	[illegible]	367.357	468.326	436.587	449.418	446.721	-2.697
Economic Regulation	24.840	23.023	24.623	24.623	24.623	24.475	[illegible]
Emergency Preparedness	[illegible]	6.044	3.989	6.754	6.044	[illegible]	-36
Strategic Petroleum Reserve	---	363	199.017	113.043	113.043	112.365	-678
SPR Petroleum Account	(2.049.550)	---	---	---	---	---	---
Energy Information Administration	60.919	60.182	60.782	60.682	[illegible]	[illegible]	-364
Indian Health	[illegible]	766.503	897.966	830.572	870.080	864.859	-5.221
Indian Education	67.404	67.356	67.656	67.356	67.476	67.071	-405
Department of State	---	170.750	---	---	---	---	---
Navajo and Hopi Indian Relocation Commission	20.321	20.241	20.442	22.241	22.491	22.356	-135

INTERIOR SUPPORT TABLE (IN THOUSANDS OF DOLLARS)

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TITLE I - DEPARTMENT OF THE INTERIOR —Cont.							
Smithsonian	191,467	211,816	[illegible]	200,644	201,189	[illegible]	-1,296
National Gallery of Art	36,040	36,704	37,279	37,934	[illegible]	36,831	-283
Woodrow Wilson International Center for Scholars	2,674	2,052	[illegible]	3,902	4,392	4,366	-26
National Endowment for the Arts	163,660	144,000	166,660	162,900	166,660	[illegible]	-999
Arts and Artifacts Indemnity Fund	---	---	---	300	300	298	-2
National Endowment for the Humanities	139,470	126,330	139,470	139,470	[illegible]	138,641	-838
National Capital Arts and Cultural Affairs	---	---	---	---	2,000	1,988	-12
Institute of Museum Services	21,560	294	21,560	15,870	21,523	21,394	-129
Commission of Fine Arts	374	374	377	382	382	380	-2
Advisory Council on Historic Preservation	1,546	1,239	1,585	1,585	1,585	1,575	-10
National Capital Planning Commission	2,692	2,703	2,721	2,703	2,712	2,696	-16
Franklin Delano Roosevelt Memorial Commission	21	21	21	21	21	21	---
Pennsylvania Avenue Development Corporation	6,602	9,471	[illegible]	5,579	5,579	5,545	-34
Federal Inspector for the Alaska Pipeline	1,401	882	---	---	---	---	---
Holocaust Memorial Council	2,003	1,990	2,110	2,125	2,125	2,112	-13
Total, Title II - Related Agencies	3,806,027	3,697,130	[illegible]	4,043,046	4,021,320	3,995,191	-26,129
Grand total	8,387,664	7,365,321	[illegible]	8,119,134	8,145,912	8,097,121	-48,791
							- 2,400
							-51,191

Mr. Speaker, the gentleman from Ohio [Mr. SEIBERLING] has asked me to engage in a colloquy with him, and I yield to the gentleman for that purpose.

Mr. SEIBERLING. I thank the gentleman for yielding.

Mr. Speaker, I rise to speak on what I think is an unwise provision hidden in this legislation, and to engage my friend and colleague Mr. YATES in a brief colloquy about it.

I am speaking of the provision in this continuing resolution which was inserted by the other body and which would transfer the Animal Damage Control [ADC] Program from the U.S. Fish and Wildlife Service of the Department of the Interior to the Department of Agriculture.

This is clearly legislation in an appropriations bill. It has not had a hearing of any sort in the House. It was not considered by the relevant House legislative committees and subcommitees. When the other body tried to add it to authorizing legislation—the farm bill—the House conferees rejected it.

To the basic concern about failure to adhere to the normal legislative process must be added concern over this proposal's far-reaching substantive implications.

Over the years, the Congress has built a considerable body of law governing the management and control of a wide variety of wildlife, including occasionally depradating species. In 1939, the U.S. Fish and Wildlife Service of the Department of the Interior was made responsible for controlling depradating species through the ADC Program.

Though often beset with funding problems, the Fish and Wildlife Service has developed extensive programs, qualified personnel, special expertise, and appropriate policy on this subject matter. All of that will be put in jeopardy if the program is transferred.

We are unable to learn of any thought having been given to the legal or operational ramifications of this transfer, or to the impact it will have on wildlife. The mammals and birds that sometimes conflict with agriculture—the control of which is the purpose of the ADC program—are important components of natural ecosystems. Many of them are classified as game species and protected by the laws of various States. They include the bobcat and mountain lion, geese and ducks, and many others.

If done improperly, control of these animals endangers other species, including eagles, hawks, and many other species—including many that are rare and endangered, and migratory species that the Secretary of Interior is obligated to protect by international treaties with Canada and Mexico.

The sole agency in the Federal Government qualified by law, experience, and tradition to manage the ADC Program is the Fish and Wildlife Service. they are the only Federal agency that is immersed in the whole body of law affecting Federal management of wildlife. The Department of Agriculture has neither the personnel, experience, or the orientation to do this job and do it right.

Furthermore, the Fish and Wildlife Service has cooperative management agreements with State wildlife agencies to secure the assistance of the States in the ADC Program. Most States contribute funds as well as personnel. Does transferring the ADC Program abrogate those agreements? It's quite possible.

At this time, I would like to ask the distinguished gentleman from Illinois, Mr. YATES, if he can assure me—on behalf of the Appropriations Committee—that transfer of this program is not intended to result in short-cutting of environmental standards or wildlife management professionalism in the ADC Program:

Mr. YATES. Mr. Speaker, the answer to that question is "yes."

Mr. SEIBERLING. Mr. Speaker, if the gentleman will yield further, I thank the gentleman, and I will ask this question:

And can the gentleman assure me that the agency, as transferred, will be held strictly accountable for compliance with the Endangered Species Act, the Migratory Bird Treaty Acts, and the laws and regulations pertaining to the use of poisons?

Mr. YATES. The answer to that is "yes."

Mr. SEIBERLING. And will the gentleman give us his help in monitoring the agency, to make sure we do know what effect this transfer turns out to have, so that if it turns out to have reduced the professionalism, efficiency, or compliance with the law of this program, he can help see that it is transferred back to where it came?

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Mr. YATES. The gentleman has my complete assurance about that.

Mr. SEIBERLING. Mr. Speaker, I thank the gentleman very much for that assurance.

Mr. WHITTEN. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, may I say to my friend, the gentleman from Ohio, that on this matter that we have before us, we have two distinct types of areas. I would be the first to say that Interior and Agriculture should get together for a division of responsibility. Certainly we have no desire whatever to interfere with what my friends are for. By the same token, we have areas where it is entirely destructive to those engaged in agriculture. Certainly there should be a division of responsibility so that both ends may meet. I do not know what we can do about that, but I assure you I will cooperate.

Mr. YATES. Mr. Speaker, will the gentleman yield for a question on that?

Mr. WHITTEN. I yield to the gentleman from Illinois.

Mr. YATES. I thank the chairman for his clarification of the purpose. I think it would be well to split up the responsibilities and to maintain in the Department of the Interior certain of the responsibilities respecting these programs.

Mr. WHITTEN. The gentleman and I will work together.

Mr. YATES. We will work it out.

Mr. CONTE. Mr. Speaker, I yield such time as he may consume to the gentleman from New Mexico [Mr. Skeen].

Mr. SKEEN Mr. Speaker, I would like to join with the chairman, the gentleman from Mississippi [Mr. Whitten], and the gentleman from Illinois [Mr. Yates], and the gentleman from Ohio [Mr. Seiberling]. In also having a great interest in this particular issue, I assure you that I also would like to lend my good office, or whatever, and interest, in seeing that those objectives that you have outlined are reached and maintained in this change of administrative function. I would assure you that you certainly have my support in that regard, even though I was very much for it.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. SKEEN. I yield to the gentleman from Ohio.

Mr. SEIBERLING. It is my understanding that all of the funding for this program, that this resolution transfers it all from Interior to Agriculture; is that correct?

Mr. SKEEN. That is correct, in my understanding.

Mr. SEIBERLING. So what happens to the personnel who have been experienced in this field? Will they also be transferred?

Mr. SKEEN. I am assured that there will be a smooth transition. What that means I cannot tell you at this point.

Mr. SEIBERLING. How will they work together if they have no funds in the Interior Department for this purpose?

Mr. SKEEN. I would say to the gentleman that the best source of information for that would be the Department of the Interior and the Department of Agriculture.

Mr. SEIBERLING. I thank the gentleman.

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in response to the concerns raised by the gentleman from Ohio, I want to tell him that I tried to raise the issue of the Animal Damage Control Program once again with my fellow conferees. Unfortunately, I was unable to get agreement to reopen the debate on the issue of the program transfer.

As the gentleman knows, the transfer from Fish and Wildlife over to the Animal and Plant Health Inspection Service was requested by Secretary Hodel of Interior and Secretary Block of Agriculture. The Office of Management and Budget urged our conferees to accept the Senate language which provided $20 million and the transfer.

Our committees have heard from a number of organizations including the National Association of State Departments of Agriculture also in support of the move.

May I say to the gentleman that the U.S. Fish and Wildlife Service has no greater support than this Member, and the gentlemen who serve on the Interior Subcommittee overseeing its operations—Chairman Sid Yates and ranking member, Ralph Regula. We have been fighting for years to secure funds for this agency to enable it to continue its important work for the preservation, protection and cultivation of our precious natural resources.

The Service has done an outstanding job with the ADC Program—in fact they have been of invaluable assistance to the New England Farm Center in my own district, where work has been underway to protect livestock from predators like coyotes and the eastern timber wolf. This work will continue, let me assure the gentleman. The Department of Agriculture will continue this and all important animal damage control work. And I will work with the gentleman to ensure that they do so.

Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. Coughlin].

Mr. COUGHLIN. Mr. Speaker, here we are again, with a bill that is designed to resolve major differences between this body and the other body and the Chief Executive. That bill is called a continuing resolution. It is necessary every year. Of course, it is a compromise. That is what a continuing resolution is all about.

But I want to congratulate the gentleman from Mississippi, the chairman, and the distinguished ranking minority member, the gentleman from Massachusetts [Mr. Conte], for the long hours that they worked and that all of the conferees worked to craft this compromise. It is a good compromise and it is a good bill. It has things in it that are important to every single congressional district in this country and every single Member of this body.

In the transportation section, I want to say to the distinguished chairman, Mr. Lehman, we have crafted a good compromise. The funding is there for mass transit and to keep Amtrak running, to keep the Coast Guard Drug Interdiction Program going, for aviation safety, programs that are important to everyone in this country.

The defense section was particularly difficult, and I congratulate Chairman Addabbo, Acting Chairman Chappell, and my colleague, Joe McDade, for the work that they did in this area.

I am pleased that it includes a ban on the testing of antisatellite weapons against an object in space that was originally cosponsored by my colleague from California, Mr. Brown, and I, and passed this body and is included in this bill. I thank Messrs. AuCoin and Dicks for their labors in this area.

It is a good bill, Mr. Speaker, it is one that I hope all of you sitting here and that those of you who are watching this out there will support, because it is necessary to conclude the business of this body. It is a good bill because it is important to each and every one of your congressional districts and important to each and every person in this land.

The committee has done an outstanding job, in my belief, and I hope the bill will receive the hearty support of the House.

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. COUGHLIN. I yield to my distinguished colleague, the gentleman from Massachusetts.

Mr. CONTE. Mr. Speaker, the gentleman mentioned the Coast Guard. I fought very strenuously in the conference against cutting the Coast Guard another $50 million in procurement. But I want the House to know that the Coast Guard made out well out of that because we were able to put $140 million more into the Coast Guard procurement account in the defense bill, making that about $375 million in the defense bill for procurement for the Coast Guard. So even though they took $50 million out, we put another $140 million in defense.

Mr. COUGHLIN. I think we all owe a debt of gratitude to the gentleman from Massachusetts for making sure that our Coast Guard and our drug-interdiction program and that those programs that are so very necessary do continue on, as is true with aviation safety and so many other programs which are critical.

Mr. CONTE. I thank the gentleman.

Mr. WHITTEN. Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. CHAPPELL], and at this time I would like to compliment him on the fine job he has done, and also to say how proud we are to have our good friend, the gentleman from New York, JOE ADDABBO, back in action.

Mr. CHAPPELL. Mr. Speaker, I want to compliment the distinguished chairman and ranking minority member of the full committee and all of the subcommittee chairmen and their counterparts and all of the members of the conference for the tremendous support which they have given to the defense portion involved in this resolution. I also want to say, too, that we appreciate so much the excellent work of a tremendous staff in our endeavors. I especially want to commend our chairman, Mr. ADDABBO, for his participation under rather trying circumstances, and Mr. McDADE, especially, my counterpart in this endeavor, for all of his help.

I want to say, Mr. Speaker, this is a good bill, an outstanding bill. It is one of the most delicately balanced bills I have ever had the opportunity to work with. We brought this bill down to the point where if one major item fell out the whole resolution would fall. We put together a package on Asat where we have maintained the House position prohibiting the test of any weapon against an object in space. We fully funded the authorized level for SDI of $2.750 billion. We compromised at a funding level of $281.2 billion, and we included restricted provisions which I think everyone can live with regarding binary chemicals.

I want to take just a moment, if I might, on the binary chemical issue.

The conference agreement includes $126 million for production of binary chemical weapons and related production facilities. Of this amount: $21.7 million is for production of the GB-2 155mm artillery projectile; $6 million is appropriated in research, development, test, and evaluation for procurement of components for additional Bigeye bomb operational testing; $98.3 million is for Bigeye production facilities and components for prove out.

However, all of these funds are subject to legislative restrictions contained in section 8093 of the conference agreement.

None of the funds may be obligated until certain requirements are satisfied concerning NATO consultation, such as submission of a force goal to NATO and adoption of it by the North Atlantic Council; a deployment plan, developed in consultation with the Supreme Allied Commander, Europe; consultation with NATO allies on the deployment plan; and the President must certify to Congress that the above three requirements have been met.

Even after the above conditions have been met, none of the funds included for Bigeye testing components may be obligated until the Secretary of Defense submits a report to Congress describing Bigeye operational requirements; Bigeye performance with respect to these requirements; and any exceptions to the requirements which are deemed acceptable by the Department of Defense.

Report language will make it clear that GAO will review and certify this report and that the Department shall cooperate with GAO in reviewing and monitoring the Bigeye program.

None of the funds for GB-2 artillery projectile procurement may be obligated before October 1, 1986.

Final assembly of the GB-2 may not take place until October 1, 1987, and then only if the following conditions are met:

A mutually verifiable international agreement has not been entered into.

The President must certify that: Final assembly is necessitated by national security and NATO interests; handling and storage safety specifications of the Department will be met or exceeded; Federal safety requirements for handling storage and other use of the munition will be met or exceeded; and a plan for destroying the existing stockpile is ready for implementation.

The Secretary must have a plan for storing of the components in separate States.

The Secretary must have a plan for separate transportation of the components.

I must emphasize that the purpose of these restrictions is twofold:

To try to give every incentive and opportunity for serious negotiations on banning these weapons; and

To assure that if production is necessary it is done safely.

What we are trying to do here is to get the Soviets to the bargaining table where we can do something regarding chemical warfare. We must understand we are not talking about an issue of whether or not we favor chemical warfare. That is not the issue. All of us, of course, despise chemical warfare, as we do every other kind of war. But what we are trying to do in this resolution is to give us an opportunity to get the Soviets to the table and to give us a reasonably safe weapon system, when it does come, if we do get to that point.

Procurement reform was another issue we addressed.

After much debate, the conferees included a provision concerning allowable costs. The fiscal year 1986 Authorization Act substantially tightening the criteria under which costs are charged to DOD contracts. The act eliminated items like country club dues, alcoholic beverages, souvenirs, dog kennels, et cetera.

The appropriation conference strengthens the authorization in two key areas:

DOD is now required by law to have Armed Services and Government Operations Committees review its policy regulations prior to publication. The provision allows Congress to participate in the process. It ensures strict compliance with congressional intent.

GAO is required to evaluate DOD policies on a recurring basis to ensure total elimination of unallowable costs in DOD procurement. Reports are required to be submitted to Congress on effectiveness of DOD policies, actual elimination of unallowable costs, and recommendations for future policy or legislative changes. The provision keeps the heat on until the problem is solved.

The conferees considered, but did not adopt, a proposal to make the costs disallowed under one cost principle unallowable under all cost principles because DOD is already implementing this GAO policy recommendation.

Mr. Speaker, I urge the passage of this resolution.

Mr. CONTE. Mr. Speaker, I yield such time as he may consume to my good friend, the gentleman from Pennsylvania [Mr. McDADE].

Mr. McDADE. I thank my distinguished colleague from Massachusetts for yielding.

Mr. Speaker, I want to join with my distinguished colleague from Florida in urging the House to pass this bill. As we all know, it contains all the funding for the Department of Defense for the next fiscal year.

In my opinion, as my colleague from Florida has said, it is highly and delicately balanced. I have been a Member of the body for 12 terms now, and in all that time I have never been in a more arduous conference. I want to pay tribute to my friend from Florida for his stewardship of this committee as we tried to deal with those various interests. I want to pay tribute to my friend, JOE ADDABBO, and, of course, the senior member of the committee, the ranking chairman, JAMIE WHIT-

TEN, and my friend, the gentleman from Massachusetts. All of us worked together to bring back a bill that is eminently supportable.

How supportable is it? The administration supports this bill and has gone on record as doing so. Our colleagues on both sides of the aisle support this. All of the Members who are conferees support the bill and ask you to pass it.

Let me say to you if we are forced to go back to meet with the Senate, things are only going to get worse. From any aspect, things are only going to deteriorate. Those issues, delicate, difficult issues, Asat, SDI, chemical warfare, the level of funding for the next fiscal year, the impact of the transfers, all of them stand to come unraveled and may not once again be put back together. Let me remind you, those of you who were interested in Asat, that the Senate was that close to receding, which would have made funds available for testing in our fiscal year 1985 dollars.

Let me remind you that we had a one-vote margin, at one point, on the agreement that was reached on binary weapons. That could go back and fall apart without any difficulty. In my opinion, if we had not worked together as a committee, if we had not worked together as a group, this bill would not be here.

This is the last chance for all of us to coalesce and be around a bill that is supported broadly by both sides of the aisle. We have made reductions in numbers, we have nailed down the transfer acccount for you, and late last night my friend from Florida and I went up to the Senate gallery and met with Senator GOLDWATER and my dear friend from Indiana, Senator QUAYLE, and we persuaded them, finally, to give something to our colleagues on the other side of the aisle who were so interested in procurement reform. We accomplished all of that.

Mr. Speaker, I rise in strong support of the conference report.

Mr. Speaker, last night we completed the most difficult conference I have been involved with in my 12 terms in the House. This was not only because of the sheer volume of differences between the House and the other body on defense, which had taken days to work out, last week; but also, by the necessity of having to reopen the defense portion of the conference as a result of the House's action Monday night.

As we went back into the continuing resolution conference it was apparent that many Members, mostly from the majority, were not pleased with the conference agreement primarily due to several misunderstandings about our negotiations and our conference agreements.

It was clear that we had to address these misunderstandings, which concerned three issues: Our treatment of $6.3 billion worth of unobilgated balances, which incorrectly had been portrayed as some kind of a Gramm-Rudman slush fund, or cushion; second, our overall dollar figure; and finally, procurement reform.

We felt obliged to bring back a defense bill which addressed these problems, but by attempting to bring them up, we threatened to unravel the entire defense bill, as well as the entire conference, since our original package was very delicately crafted and negotiated.

Mr. Speaker, we nearly lost the entire defense agreement several times yesterday—but because of the strong voice of our chairman, JOE ADDABBO, and my good friend from Florida, BILL CHAPPELL, we kept the conference from falling apart and in doing so, brought a defense bill which more than addresses the concerns heard here Monday night.

The report before you contains $281.2 billion in new budget authority for the Defense Department. This is $4.3 billion below both the budget resolution and the defense authorization bill, and is a total of $1.3 billion less than the bill we brought to the floor on Monday. For those of you used to thinking of defense in terms of the 050 function, this equates to a total of $297.5 billion.

With respect to the transfer accounts—what has been unfairly and incorrectly called a honeypot, a slush fund, and heaven knows what else—I fully concur with the explanation given by my chairman. Let me just go on record as saying there was no subterfuge here, no games being played, despite all the accusations that we were building in a Gramm-Rudman hedge.

We had provided these moneys in order to provide for several important issues which in all likelihood would need funding early next year such as military pay and retirement. These funds were fenced—subject to subsequent congressional action. However, to address the concerns of the House we have, in essence, raised the fence and made it stronger—these funds are now even more specifically earmarked, in the bill, and cannot be used for Gramm-Rudman purposes.

Finally, a few words on procurement reform, my colleagues, our counterparts from the other body were not even authorized to negotiate on the subject, as they viewed it as an issue for the armed services committees. It was only after a direct appeal late yesterday to the chairman of the Senate Armed Services Committee, Senator GOLDWATER, that we were able to address this issue that the House feels so strongly about, as a result, our conference report contains the so-called allowable cost reform advocated by the House.

Mr. Speaker, like all conference reports there are some issues in this bill that did not turn out the way I would like. However, this is a good bill, which makes a strong contribution to our Nation's defense.

I strongly urge a yes vote on the conference report.

Mr. WHITTEN. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. OBEY], a member of the committee.

Mr. OBEY. I thank the chairman for the time.

Mr. Speaker, I simply rise to inform the Members of the foreign assistance levels in the bill. The Senate bill was $1.1 billion above the House bill. It was $700 million above the President. The conference held foreign operations spending to a figure $7 million below the President's budget and $3.4 billion below last year, which nets out at a 15-percent reduction below last year's overall level in the foreign aid section of the bill.

I think the reductions are fairly balanced.

I wish to briefly summarize the foreign assistance portion of the continuing resolution before us.

I believe that the House position has done very well in the final conference agreements.

The Senate position was $1.1 billion above the House and exceeded the President's request by over $700 million.

We have been successful in significantly decreasing those amounts.

The conference agreement now provides $724.5 million less than the Senate level and is below the President's request by $7 million.

This final total is $3,401.8 million below the 1985 levels—not including the one-time emergency assistance supplementals to Africa and the Middle East.

We have provided $1,110 billion for the Ex-Im Bank while still staying under the President's total for the entire foreign operators section.

The House has also prevailed in striking Senate section 523 which removed all authorization committee earmarks, ceilings, and unconditional prohibitions.

CONFERENCE COMPARED TO HOUSE AND SENATE LEVELS

In the area of military assistance, the conference added $148.4 million to the House level while cutting the Senate level $255.8 million. This result is $670.5 million below the President's request, while still providing full funding for Israel, Egypt, and Pakistan.

In the area of the economic support fund, the conference provided $10.7 million above the House level and $45 million below the Senate level. This result is $324 million below the President's request and is $126 million below 1985 levels.

In the area of the international financial institutions, the conference included the banking authorization provisions as they passed the House and we provided $75 million for the special facility for sub-Saharan Africa. In total, for the development banks, the conference provided $376.8 million above the Senate position and $99.6 million below the House position.

In the nonbank development assistance accounts, the conference provided $34.3 million above the House position and $110.5 million below the Senate level including full funding for the Peace Corps and the Inter-American Foundation.

ISRAEL AND EGYPT

The conferees have earmarked funds for Israel and Egypt at the fiscal year 1986 administration request level. Under the conference report, Israel will receive $1.8 billion in FMS and $1.2 billion in ESF for a total security assistance program of $3 billion. Egypt will receive $1.3 billion in FMS and $815 million in ESF for a total security assistance program of $2.15 billion.

PAKISTAN

The conferees have earmarked assistance to Pakistan at the fiscal year 1986 administration request level. Pakistan will receive $250 million in ESF and $325 million in FMS for a total security assistance program of $575 million in fiscal year 1986.

PHILIPPINES

The conferees have agreed, due to recent developments in the Philippines, to provide for military assistance program and foreign military credit sales assistance below the administration's request and below the amount proposed by the Senate. For economic support funds, we have provided more than requested by the administration and proposed by the Senate. I ask that a chart be placed in the record at this point indicating the funding included for the Philippines.

	Administration request	House	Senate	Conference agreement
ESF	$95,000,000	(1)	$110,000,000	$125,000,000
MAP	50,000,000	$25,000,000	50,000,000	40,000,000
FMS	50,000,000	0	20,000,000	15,000,000

[1] No amount specified

GREECE/TURKEY

The conferees have stated in report language that military assistance for Greece and Turkey shall be provided only in accordance with a 7-to-10 ratio. The conference agreement earmarks military assistance to Greece and Turkey at a level which reflects both the 7-to-10 ratio and 10-percent reduction from the ceilings set by the Senate. The reduction was made to reflect overall reductions made to the FMS and military assistance accounts. FMS funding for Greece is limited to $450,000,000 and for Turkey to $427,852,000. MAP funding for Turkey is $215,000,000. This will provide a total of $450,000,000 in FMS for Greece and $642,852,000 in FMS and MAP for Turkey.

GUATEMALA

The conferees reviewed several issues concerning United States foreign assistance for Guatemala.

First, the conferees agreed to remove the $12.5 million ceiling on economic support fund activities that had been proposed by the House.

Second, the conferees have agreed to follow the House approach in regard to foreign military sales credits for Guatemala. FMS Guatemala, therefore, will only be provided to Guatemala if: First, the President certifies to Congress that an elected civilian government is in power and has submitted a written request for FMS; and second, the Government of Guatemala has demonstrated progress in the control over military and security forces, in the elimination of kidnaping and disappearances and in the respecting of internationally recognized human rights of its indigenous Indian population. This conference action is consistent with action taken earlier on the Foreign Assistance Authorization Act for fiscal year 1986.

Finally, the conferees have agreed that there shall be no funding for the Rural Resettlement Program in Guatemala except as provided through the notification process of the Committees on Appropriations.

UNICEF

The conferees have provided a total of $53,500,000 to the United Nations Children's Fund [UNICEF], $48,150,000 from the international organizations and programs account and $5,350,000 in unobligated moneys from the economic support fund Lebanon account.

IFAD

The conferees have provided $30 million for a first-year contribution to the second replenishment for the international fund for agricultural development.

CHILD SURVIVAL ACTIVITIES

The conferees have provided a total of $50 million for child survival activities during fiscal year 1986, $25 million in the child survival fund, $12.5 million earmarked in the health, development assistance account and $12.5 million in unobligated moneys for the child survival fund from the economic support fund Lebanon account.

POPULATION

The conferees have provided $250 million for family planning activities overseas. In addition, the conferees directed that these funds be available only to voluntary family planning projects which follow the practice of "informed consent."

MIGRATION AND REFUGEE ASSISTANCE

The conferees have provided migration and refugee assistance at $1 million above the fiscal year 1986 administration request level, or $338,930,000.

LIMITATION ON DEVELOPMENT ASSISTANCE TO CENTRAL AMERICA

The conferees limited development assistance to Central America to $250 million in fiscal year 1986. This is a $25 million increase over the fiscal year 1985 limitation and is $18.5 million below the administration's request for Central America. Additional funds may be made available above this limit if approved through the notification process of the Committees on Appropriations.

This limitation was continued because of concern by the conferees that with a reduction in development assistance this year, Central America, because of security concerns, would receive a disproportionate share of development assistance at the expense of Africa.

JORDAN

The conferees reviewed the Senate amendments concerning Jordan. In the first, the conferees have removed the $95 million ceiling proposed by the Senate on FMS funds for Jordan.

Second, the conferees have agreed to a Senate amendment which states that any joint resolution introduced on or after February 1, 1986, which states that Congress objects to the proposed arms sale to Jordan shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

CAMBODIAN NON-COMMUNIST ASSISTANCE

The conferees have provided up to $5 million in economic support or military assistance funds for the Cambodian non-Communist resistance forces. Of the $5 million, the conferees agreed to an earmark of $1.5 million in funds that must be used for this purpose. The Senate had earmarked $2.5 million and the House had provided for no earmark.

Finally, Mr. Speaker, I ask that a chart listing the conference agreement be placed in the RECORD at this point.

CHANGE IN FUNDING LEVELS

	Final conference report	Compared with— Fiscal year 1985 level: Actual	Compared with— Fiscal year 1985 level: Percent	[illegible] Fiscal year 1986 request: Actual	[illegible] Fiscal year 1986 request: Percent	H R 1555 conference: Actual	H R 1555 conference: Percent
Military Assistance Program	$6,026.5	+$116.7	+.2	−$670.5	−10.0	−$205.8	−3.3
Economic support fund	3,700.0	−126.0	−3.3	−324.0	−8.1	−100.0	−2.6
Development assistance	4,188.8	−637.5	−13.2	−122.4	−2.8		
Subtotal	13,915.3	−646.8	−4.4	−1,116.9	−7.4		
Export-Import Bank	1,110.0	−2,754.0	−71.3	+1,110.0	NA		
Total	15,025.3	−3,401.8	−18.5	−6.9	−.0		

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	Fiscal year 1985 level	Fiscal year 1985— Request	Fiscal year 1985— House	Fiscal year 1985— Senate	Fiscal year 1985— Conference	Senate compared with House	Conference compared with— House	Conference compared with— Senate	Conference compared with— [illegible]
Military assistance programs.									
Military assistance	[illegible]	[illegible]	764,648,000	[illegible]	[illegible]	+40,452,000	+17,352,000	−23,100,000	−194,350,000
International military education and training	56,221,000	65,650,000	54,489,500	56,221,000	[illegible]	+1,731,500		−1,731,500	−11,160,500
Foreign military credit sales									
Direct credits and forgiven loans	4,939,500,000	5,655,000,000	5,058,983,333	5,371,000,000	[illegible]	+312,016,667	+131,016,667	−181,000,000	−465,000,000
Debt service reform									
Guarantee reserve fund	109,000,000			50,000,000		+ 50,000,000		−50,000,000	
Total, military assistance programs	5,909,821,000	[illegible]	5,878,120,833	6,282,321,000	6,026,489,500	+404,200,167	+148,368,667	−255,831,500	−670,510,500
Economic support fund	3,826,000,000	4,024,000,000	3,689,286,666	3,745,000,000	3,700,000,000	+55,713,334	+10,713,334	−45,000,000	−324,000,000
Development assistance									
International organizations and programs	358,676,500	196,211,000	[illegible]	[illegible]	277,922,475	−11,004,800	−20,442,325	−9,437,525	+81,711,475
Bilateral development assistance	2,919,426,250	2,767,407,000	2,662,342,530	2,818,136,000	2,717,060,730	+155,793,470	+54,718,200	−101,075,270	−50,346,270
Subtotal, nonbank development assistance	3,278,102,750	2,963,618,000	2,960,707,330	3,105,496,000	2,994,983,205	+144,788,670	+34,275,875	−110,512,795	+31,365,205
International financial institutions	1,548,177,322	1,347,623,934	1,293,409,287	816,973,886	1,193,847,240	−476,435,401	−99,562,047	+376,873,354	−153,776,694
Total, development assistance	4,826,280,072	4,311,241,934	4,254,116,617	3,922,469,886	4,188,830,445	−331,646,731	−65,286,172	+266,360,559	−122,411,489
Total, budget authority, titles I, II, and III	14,562,101,072	15,032,241,934	13,821,524,116	13,949,790,886	13,915,319,945	+128,266,770	+93,795,829	−34,470,941	−1,116,921,989
Budget authority effect of Ex-Im limitations	3,865,000,000		783,879,167	[illegible]	1,110,000,000	+1,016,120,833	+326,120,833	−690,000,000	+1,110,000,000
Total, budget authority (including Ex-Im)	18,427,101,072	15,032,241,934	14,605,403,283	15,749,790,886	15,025,319,945	+1,144,387,603	+419,916,662	−724,470,941	−6,921,989

Mr. Speaker, on another subject, I would simply like to reaffirm what others have said. I, for one, for instance, think that the Senate honoraria provision is outrageous, and I think that the military spending in this bill is too high, but I want to assure the Members especially on this side of the aisle that we got virtually everything we could have gotten out of that conference. We have tied down every dollar that we could tie down, and we did reduce spending in that portion of the bill by $1.3 billion.

On another subject, I do want to simply make the point on the issue of the 21-drinking-age mandate. Poor highways do not save lives; you do not save lives by denying the States the ability to improve their highways through Federal highway construction money. I would point out that there are five States in this Union who have a 21 drinking age, but they have absolutely no minimum mandatory penalties for drunk driving. Many of these States that do not have a 21 drinking age have far tougher driving laws than do the States which have a 21 drinking age. And I would urge the Members that if you are going to evaluate a State's performance in the area of highway safety, go across the board, take a look at everything that a State does to try to deal with that problem—do not just take a look at one small, irrelevant piece of the problem; namely, the age at which people can begin to drink.

Mr. CONTE. Mr. Speaker, I yield 2 minutes to the gentleman from Utah [Mr. NIELSON].

Mr. NIELSON of Utah. I thank the gentleman for yielding.

Mr. Speaker, in view of the assaults that have been made on the Synthetic Fuels Corporation in general and the Seep Ridge project in particular, I feel that it is necessary to say a little bit about that project.

First of all, let me say, regard to this continuing resolution, I object to putting $8.3 billion in defense and leaving it beyond the control of Gramm-Rudman-Hollings. I object to the foreign aid provisions being $450 million more than the House approved, and also the preferential treatment given to Isreal and also the Jordan arms restrictions.

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Most importantly, I object to the treatment of the Synthetic Fuels Corporation. I supported the move 2 years ago to cut $5.5 billion out of that project, and I admit some of the projects early on have been very expensive.

I would like to mention the Seep Ridge project, however. This $184 million project is in direct relationship with what the original intent of that bill was. The sponsors have spent several million dollars prosecuting its proposal before the Synthetic Fuels Corporation, and the Synthetic Fuels Corporation issued a letter of intent in June 1984 and had intended to award this early this year but, because of Indian jurisdiction programs, postponed that.

On December 11, they announced that they would give the intent to approve the Seep Ridge project at that time. This project is environmentally sound, and it is endorsed by several environmental groups. There is no need to dispose of spent shale because it encloses the shale below the surface and burns it, and oil is being produced. It is not an experimental program. Oil is now being produced. All they want to do is to have a production plan of 1,000 to 1,100 barrels per day.

The project does work. It can be applied to enough shale in the country to provide the United States with its total oil needs for 10 years.

Also, as a side issue, if we are talking about economic development, it does help in that area. My district, as I have mentioned, has lost the largest copper mine in the country, it is about to lose the largest western steel company, it has lost uranium business, and it has had serious accidents in the coal industry.

Mr. Speaker, for all these reasons, I support keeping that money in.

Mr. WHITTEN. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. BOLAND], the ranking member of the committee.

Mr. BOLAND. Mr. Speaker, the 1986 HUD-Independent Agencies Act was signed into law on November 25. We deferred action on one significant item in that bill—EPA's sewer construction grants—because the program was not authorized.

And the program is still not authorized. However, in order to protect essential projects from construction delays, this resolution provides funding for construction grants. The appropriation is $2.4 billion, $600 million of which is to be made available immediately under the current formula. After the Clean Water Act amendments are enacted, we will release the remaining $1.8 billion in a subsequent appropriations bill.

The bill language also directs that these funds be made available to the States immediately for all projects eligible under the law. This will protect the program from tinkering by OMB.

So, Mr. Speaker, this resolution does meet the critical funding needs of the construction grants program.

Mr. Speaker, I would like to engage the gentleman from Illinois [Mr. Yates], the chairman of the Interior Appropriations Subcommittee, in a colloquy. I strongly support the funds for clean coal and want to assure that these activities will be coordinated with the Environmental Protection Agency's work in Limestone Injection Multistage Burner [LIMB] technology. The 1986 HUD bill provided $5 million for EPA to demonstrate LIMB in a tangential boiler—which is about half the Federal cost of a 200-megawatt project. Because of the potential for overlap and duplication, I believe that close coordination is needed between EPA and DOE on any LIMB-related work.

Mr. YATES. Mr. Speaker, will the gentleman yield?

Mr. BOLAND. I yield to the subcommittee chairman.

Mr. YATES. LIMB technology is one concept which would be eligible under the Clean Coal Program, and I would agree that coordination is essential. In fact, I understand that DOE has already requested EPA consultation in the clean coal technology selection process.

Mr. BOLAND. Are there any restrictions on the clean coal funds in this resolution which would prohibit joint DOE-EPA projects in the LIMB area, including co-funding of demonstrations?

Mr. YATES. No; such joint activities are not precluded. In fact, if a joint demonstration is cost-effective and technically feasible, it should be encouraged.

Mr. BOLAND. I am concerned that independent EPA and DOE solicitations for a LIMB demonstration could establish different criteria, create confusion for industry proposals, and result in duplicated effort. Is there anything that would inhibit a coordinated solicitation or a joint solicitation?

Mr. YATES. No, that approach should be considered if it is appropriate.

Mr. BOLAND. I thank the gentleman and look forward to working with him through the 1987 hearing process to assure effective coordination between EPA and DOE in this area.

Mr. CONTE. Mr. Speaker, how much time do we have left on our side?

The SPEAKER. pro tempore. The gentleman from Massachusetts [Mr. Conte] has 12½ minutes remaining and the gentleman from Mississippi [Mr. Whitten] has 6 minutes remaining.

Mr. CONTE. Mr. Speaker, I yield myself 10 minutes.

Mr. MAVROULES. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I am glad to yield to my good friend, the gentleman from Massachusetts.

Mr. MAVROULES. Mr. Speaker, I thank the gentleman for yielding.

Being one of the Members the other evening who was critical of the conference report, I want to commend the gentleman from Massachusetts [Mr. Conte], along with the gentleman from Massachusetts [Mr. Boland], and certainly the gentleman from Florida [Mr. Chappell], for listening very carefully to the request that we had made relative to procurement reform and as it relates to the total numbers. The gentleman from Massachusetts [Mr. Conte], listened to us very carefully. I want to thank him, I congratulate him, and I am going to vote in support of this conference report.

Mr. CONTE. Mr. Speaker, I want to thank my good friend, the gentleman from Massachusetts [Mr. Mavroules].

Mr. Speaker, I rise in support of the conference agreement on the continuing resolution for fiscal year 1986. I predicted a while ago that we would be hearing "Jingle Bells" before this bill became law, and when the House defeated our first conference report the night before last, I couldn't help thinking about the "Night Before Chirstmas." But I believe that we have brought back a bill that all of my colleagues can support, and at this point, I only wish for a "Silent Night," a quick vote, and a rapid adjournment.

Mr. Speaker, we faced a number of difficult issues as we tried to hammer out a conference agreement yesterday. It was clear from the vote of the House on Monday that we needed to make some changes in the Defense section of the bill. In addition, it was clear that if we changed the Defense section, we would also need to make some reductions in the non-Defense sections of the bill in order to obtain the President's signature.

But I have to ask myself: What for? This agreement isn't worth the paper it is printed on. And do you know why that is? Because of that piece of work called Gramm-Rudman. As soon as the Members have digested their eggnog, we will be back here to cut the living day lights out of this agreement. And it is not going to be Silvio Conte or Jamie Whitten or others running the show—it is going to be R2D2. I don't know if you saw that picture in the paper this morning, with Gramm, Rudman, and Hollings holding up T-shirts which said, "In Texas, they call it Gramm-Rudman", "In New Hampshire, they call it Rudman-Gramm", and "In South Carolina, they call it Hollings-Gramm-Rudman." Well, Mr. Speaker, come February, the rest of the country, including Washington, DC, is going to be wearing T-shirts saying, "Who the hell got us into this mess?"

For all the work that is going into this CR, and all the battles over compromises, the end result, now that we have Gramm-Rudman, is that this CR is nothing more than computer fodder for a process that's going to shred this agreement to pieces, and tear up everything anyone thinks they've accomplished.

People think it is bad policy not to have the 1986 appropriations in place 3 months into the fiscal year. Well, now, with Gramm-Rudman, it's going to be March, halfway through the fiscal year, before these issues are settled. And that's the kind of "Good Government" that people are self-congratulating themselves on.

For what it's worth, let me describe the further accommodations in the second conference report: Christmas almost came early last Tuesday night when the Synfuels Board tried to shower gifts on their oil company friends—paid for by the American taxpayer. And in the spirit of Christmas, they tried to be as generous as possible and dole out almost $700 million in new subsidies for two projects.

One project—sponsored by the Union Oil Co. in Colorado—is a $900 million boondoggle that would put most water projects to shame. Even after $400 million in Government commitments, the project is a technological disaster. It hasn't worked in 2 years, and even when it was operational, the project couldn't run continuously for more than 30 hours. It's a multimillion "White Elephant," and the Synfuels Board wants to bail out Union Oil with another $500 million in subsidies. This is not energy security; it's corporate welfare at the expense of the taxpayer.

In an arrogant display of contempt for the will of Congress and the law, these bandits plotted to commit hundreds of millions of dollars before the President signed the short CR containing the Conte prohibition on future spending. Even more incredible is that this action had the approval of the Chief of Staff down at the White House. At a time when he was asking us to cut Coast Guard funding, low-income weatherization, and other important programs down to the bone, he was willing to give $700 million in Government subsidies to oil companies. This closed door dealmaking stinks, and it ruins the credibility of the White House to get spending under control. In my 27 years in this House, I've never seen such arrogance and disrespect on the part of a Federal agency and the White House. It's an insult to this Congress and the American people.

Fortunately, the spending moratorium is now in place, and this continuing resolution would prohibit any new commitments immediately upon enactment. I hope Don Regan has no ideas to delay the signing of the CR to allow the Synfuels Board to act on these projects. It would be morally and ethically wrong, and it would come close to breaking the law.

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Mr. BROYHILL. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I am glad to yield to my good friend, the gentleman from North Carolina.

Mr. BROYHILL. Mr. Speaker, I want to commend the gentleman for his speech. I want to talk to the gentleman a few minutes about the meaning of some language that was in the Conte prohibition, which says that there shall be no contracts until 12 post meridian tonight. Now, there may be some that feel that 12 post meridian means noon, but all the legislative history that was made in that colloquy refers to midnight. All references in both bodies refer to midnight. Would the gentlemen agree with that?

Mr. CONTE. That is absolutely right. As long as we have been making these continuing resolutions, and I think Chairman Whitten will agree, they mean always mean midnight.

Mr. BROYHILL. I also refer to the Government Printing Office Style Manual which was used by our legislative counsel in drafting, and on page 143 it says that 12 post meridian means midnight.

Mr. CONTE. The gentleman is absolutely right.

Mr. BROYHILL. I will insert that in the Record at this point, as follows:

Excerpt from the U.S. Government Printing Office Style Manual, March 1984, p. 143:

9.54. References to meridian in statements of time are abbreviated as follows:

10 a.m.	12 m. (noon)
2.30 p.m.	12 p.m. (midnight)

9.55. The word *o'clock* is not used with abbreviations of time. (See rule 12.9b.)

This Manual is used by House Legislative Counsel in drafting legislation. If the purpose of the Conte Motion to Recommit had been to ban Synfuel spending until noon, the language would have been written as "12 meridian."

Mr. CONTE. Let me say also to the gentleman from North Carolina, those waiting at the Synfuels Corporation and if they are listening, and I hope they are, will take this advice. If the corporation is to make awards this afternoon while the Conte prohibition is in effect, they had better be prepared to answer some questions in court. If awards are made today, we will send the marshals down to K Street because they will be breaking the law. It is my clear intention and the clear intention of this body that the Conte provision on the continuing resolution does not expire until midnight tonight.

Mr. SMITH of Iowa. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I am glad to yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Speaker, I want to compliment the gentleman from Massachusetts and the gentleman from Mississippi for their work on this bill.

While I am at it, I also want to compliment the gentleman from Massachusetts and say how much we thank him for visible and important help.

Mr. CONTE. Well, let me tell the gentleman, my good friend from Iowa, my classmate, that I thought maybe the folks downtown could not hear me down there. I wanted to make sure they could see me.

Mr. SYNAR. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to my good friend, the gentleman from Oklahoma.

Mr. SYNAR. Is it the gentleman's understanding that projects with legally binding contracts for financial aid from the U.S. Synfuels Corporation would not be affected by this legislation?

Mr. CONTE. Yes; that is my understanding of the conferees' intent.

Mr. SYNAR. What about a project for which the SFC had approved a package of loan guarantees and price supports, but for which no loan guarantee contract had yet been executed. Is it correct that under this legislation, such a project would not be deemed to have a legally binding contract.

Mr. CONTE. Yes; that is correct.

Mr. SYNAR. Finally, what about a project for which the SFC has approved a package of loan and price guarantees, but the sponsors of that project now wish to change the terms of the package previously approved by the SFC. My understanding is that no such changes could be made after the date of enactment of this legislation. Is that correct?

Mr. CONTE. Yes; that is correct.

Mr. SYNAR. I thank the gentleman for these clarifications.

Mr. DINGELL. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to my good friend, the gentleman from Michigan.

Mr. DINGELL. Mr. Speaker, I thank my dear friend, the gentleman from Massachusetts, for yielding to me.

First of all, I want to reinforce what was said. In colloquys on the House floor, the gentleman from Mississippi [Mr. Lott] who serves on the Rules Committee and who was one of the drafters of the amendment referred to, discussed 12 p.m. as meaning midnight.

Mr. CONTE. The gentleman is absolutely right.

The SPEAKER pro tempore. The time of the gentleman from Massachusetts [Mr. Conte] has expired.

Mr. CONTE. Mr. Speaker, I yield myself one additional minute and I yield to the gentleman from Michigan.

Mr. DINGELL. It is also true that Senator Hatfield, the chairman of the Appropriations Committee in the Senate, had a similar colloquy in which he referred to the period of 12 p.m. as midnight. Is that not correct?

Mr. CONTE. I am not familiar with the Hatfield colloquy, but I am sure, knowing Senator Hatfield and knowing that he is familiar with CR's, that he agrees that we always mean midnight.

Mr. DINGELL. I will reinforce the gentleman's statement, because it is a fact that Senator Hatfield did so refer.

Now, if the gentleman will continue to yield, I would like simply to advise that I have sent a lengthy letter to the Synthetic Fuels Corporation, to the chairman, Mr. Noble, in which I said this, which I think is important:

> In this connection, we would remind you that the fiduciary responsibility of the directors is to the U.S. taxpayer and not to the stockholders of companies desirous of 11-hour contract.

I asked them later in the same paragraph:

> Please provide the Subcommittee with a legal opinion on the potential civil or criminal liabilities which would be assumed by the Corporation's Directors, if the Board were to award a contract arbitrarily, with little or no basis for the decision.

I would simply observe that if that spending of public moneys occurs, it occasions the strong possibility of the assumption of liability under the law on the part of the persons so doing.

The SPEAKER pro tempore. The time of the gentleman from Massachusetts [Mr. Conte] has again expired.

Mr. CONTE. Mr. Speaker, I yield myself 1 additional minute and I yield to the gentleman from Michigan [Mr. Wolpe].

Mr. WOLPE. Mr. Speaker, I thank the gentleman for yielding.

I want to commend the gentleman in the well for his statement just now and I want to associate myself with his remarks with respect to the absolute arrogance that is being exemplified by the conduct of the Corporation.

One of the points that Members of the body should be alerted to is that the Corporation is absolutely exempt from even Gramm-Rudman, so that if we have any hope of any kind of equality in the treatment of the waste that is going on over there, it is going to be lost the moment those dollars are out the door.

Let me also just say that the Wall Street Journal today is indicating that the President himself is privately urging funding for these programs, at the same time that he is publicly supporting its termination. I hope that report is inaccurate. I think it is unconscionable that the President on the one hand is talking about the need for domestic cuts across the board in the Federal budget, and on the other hand urging privately support for these projects.

Mr. DINGELL. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Speaker, I ask unanimous consent to insert into the RECORD the correspondence between myself and Mr. Noble relative to this matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The correspondence follows:

SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS OF THE COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC, October 10, 1985.

Hon. EDWARD E. NOBLE,
Chairman, Synthetic Fuels Corporation,
Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your multiple and delayed responses to the August 26 request of the Subcommittee on Oversight and Investigations. This letter is to express our concern about the incomplete nature of your responses and the present course of business of the U.S. Synthetic Fuels Corporation.

The Subcommittee's request for specific project files was based upon our suspicion that the Corporation was planning to move quickly to make substantial financial commitments by finalizing contracts with several applicants. The speed appeared deliberate, so that contracts could be signed and financial commitments made—despite an overwhelming House vote to terminate the Corporation and a request by the Department of Energy that the Corporation hold off on further awards.

The Corporation fully confirmed that suspicion with its approval on September 24th of a $60 million contract for the Forest Hills Project, and preliminary approval of $184 million for the Seep Ridge Project and $500 million for the Union Oil Shale Project—over and above $400 million already committed. Moreover, those decisions strongly suggest that the Board intends to go right on issuing contracts, again despite stated objections from the Secretary of Energy and the House of Representatives—not to mention unprecedented budget deficits.

Documents which the Corporation did submit to the Subcommittee raise several serious questions about the basis upon which the Board is continuing to make contract decisions. The Corporation's file on the Seep Ridge Project, for example, indicates that in June, 1984 the Corporation awarded a letter of intent to the project's sponsors for a maximum of $45 million in Federal assistance. Less than a year later, in May, 1985, the sponsors had requested $129.55 million, a threefold increase, and "evidenced no willingness to negotiate or compromise on the $129.55 [million] figure." By August, a mere three months later, a draft Corporation assistance agreement specified an increase to $147.83 million, with no supporting documentation. Worse yet, and again with no supporting documentation, the Board approved a resolution enabling the Chairman to enter into a contract for $184.34 million. The rise from $45 million to $129 million to $147 million to $184 million amounts to a 300% increase in a scant 15 months! It is disturbing, but not surprising, that the Board would agree to these enormous increases of taxpayer exposure without the benefit of any evaluation or analysis.

The Union Oil Shale project is even more disturbing because of decisions based on a complete lack of credible analysis—at least according to the paucity of information provided to the Subcommittee so far. The Board resolved to amend the existing Union I contract to provide the sponsors an additional $500 million, for a total of $900 million in Federal assistance, and did so relying on 16 pages of staff documents. Nowhere in those few pages is there any evaluation or analysis of the project's technical or financial viability, nor is there any stated justification for a $900 million taxpayer exposure.

Other information provided to the Subcommittee indicates that other projects the directors have been considering for awards would receive subsidies three times greater than estimated project costs while guaranteeing product prices in excess of $150 per barrel! To date the Subcommittee has received no analysis of why such subsidies would be appropriate.

We understand that the Board intends to finalize the Seep Ridge and Union contracts on October 16. It appears that the Corporation is either planning to make commitments of funds with no information on which to base them or else that the Corporation is withholding from the Congress the information it may have.

Therefore, we request that you ensure the Subcommittee that its August 26 request has been fully met. Should additional staff documents "surface," please provide them to the Subcommittee for review prior to any action by the Board or its Chairman to finalize contracts. Please provide the Subcommittee with copies of all notes, memoranda, papers, and documents, including drafts prepared by or for the Corporation's board members with respect to projects for which the Board expects to award assistance during the next three months.

In this connection, we would remind you that the fiduciary responsibility of the directors is to the U.S. taxpayer and not to the stockholders of companies desirous of 11th hour contracts.

The lack of analysis supporting preliminary board decisions on such projects as Union and Seep Ridge, as well as proposed actions on other projects, raise serious questions about the propriety of these decisions. Please provide the Subcommittee with a legal opinion on the potential civil or criminal liabilities which would be assumed by the Corporation's Board Members Directors, if the Board were to award a contract arbitrarily, with little or no basis for the decision. Would such an action constitute a willful misapplication of taxpayer funds? Because of the billions of dollars involved in the potential awards, we request that the legal analysis be submitted to the Subcommittee prior to any action by the Board or its Chairman to finalize contracts.

Furthermore, one legislative proposal under consideration in Congress contains a provision which would result in the abrogation of any contracts the Corporation executes. Although not legally necessary to the workings of the provision, it is only fair to notify potential project sponsors that any contracts they execute with the Corporation could be abrogated without compensation. The attached memorandum outlines the legal basis for such action. We request that you immediately notify all private parties presently involved in negotiations with the Corporation of the possibility of such action and provide them copies of memorandum.

Finally, regardless of the decision of the Congress as to the fate of the Corporation, it is quite possible that the sponsors of individual synfuels projects will abandon those projects prematurely. (An example is the Great Plains project.) We request that before the Board or its Chairman finalizes any countracts, you provide the Subcommittee with information on the exposure of the Federal government in the event of a default by a project sponsor. In addition, we request that you provide a description of the provisions in the proposed contracts which would minimize the loss to the taxpayers in such an event.

If any questions arise, please contact Michael T. Woo at 225-2927.

Sincerely,

JOHN D. DINGELL,
Chairman, Subcommittee on Oversight and Investigations.

To: Honorable Philip R. Sharp, Chairman, Subcommittee on Fossil and Synthetic Fuels.
From: Subcommittee Staff.
Subject: Constitutionality of Synthetic Fuels Fiscal Responsibility Act of 1985.

Question presented: Is Section 111 of the Synthetic Fuels Fiscal Responsibility Act of 1985, as reported by the Committee on Energy and Commerce on September 18, 1985, constitutional?

Section at issue: The section prohibits the payment of any contract awards made by the Synthetic Fuels Corporation after July 31, 1985, and before enactment, and withdraws the consent of the United States to be sued on any claim arising out of such an award. One such award, to the Forest Hills project, has been made.

The language of the section is as follows:

"SEC. 111. RESTRICTIONS

"(a) USE OF FUNDS.—None of the funds appropriated by section 110 or any other provision of law may be used by the United States Synthetic Fuels Corporation, the Secretary of Energy, or any other agent or officer of the United States for making pay-

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ments with respect to obligations entered into by the United States Synthetic Fuels Corporation after July 31, 1985, and before the date of enactment of this Act.

"(b) Immunity From Suit.—The United States hereby withdraws any stated or implied consent for the United States, any officer or agent of the United States, or the United States Synthetic Fuels Corporation to be sued by any person with respect to any claim arising out of obligations described in subsection (a)."

Precedents: Among the leading precedents for the proposition that section 111 is constitutional, are *Lynch* v. *U.S.*, 292 U.S. 571 (1934), and *Maricopa County* v. *Valley National Bank of Phoenix*, 318 U.S. 357 (1943).

Equal authority lies in legislation enacted after the ruling in *Perry* v. *U.S.*, 294 U.S. 330 (1935), one of the so-called "gold clause" cases, which involved the retroactive breach by the United States of its "gold bond" contracts.

Following the decision in *Perry*, Congress withdrew the consent of the United States to be sued on any claim related to gold clause securities of the U.S. that had been issued in previous years. Despite numerous attacks on that legislation by gold bond holders, it was never held unconstitutional. *See, generally*, the cases and articles cited in Kauper, *Constitutional Law*, 1980 ed., pps. 818–819; and Freund, Sutherland, Howe, and Brown, *Constitutional Law, Cases and Problems*, 4th ed., 1977, pps. 128 et seq., and pps. 317–324, discussing *Perry* and subsequent cases brought by gold bond holders.

This memorandum reviews these decisions, as well as earlier and later rulings by the Federal courts on the same issue.

Conclusion: Under these rulings, a clear legislative assertion of sovereign immunity is constitutional—even in the face of claims that the assertion leaves a plaintiff with no remedy for a claimed violation of his constitutional rights. These precedents extend to claimed violations of the Fourth, Fifth, Seventh, and Tenth Amendments. I can find no contrary decisions holding unconstitutional a clear withdrawal of "consent to be sued."

Because Section 111 is a clear and unmistakeable assertion of sovereign immunity, and an indisputable withdrawal of the sovereign's previously-granted consent to be sued, it therefore is entirely constitutional, and will be upheld by the courts with respect to contracts such as the SFC's Forest Hills award.

A. Lynch: The Court's opinion, by Justice Brandeis, states:

"The rule that the United States may not be sued without its consent *is all embracing* . . .

"Although consent to sue was thus given when the policy [of insurance coverage that is the subject of this suit] issued, *Congress retained power to withdraw the consent at any time.* For consent to sue the United States is a privilege accorded; *not the grant of a property right protected by the Fifth Amendment.* The consent may be withdrawn, although given after much deliberation *and for pecuniary consideration.* The sovereign's immunity from suit exists *whatever the character of the proceeding or the source of the right sought to be enforced.* It applies alike to causes of action arising under acts of Congress, . . . *and to those arising from some violation of rights conferred upon the citizen by the Constitution* . . . The character of the cause of action—the fact that it is in contract as distinguished from tort—may be important in determining (as under the Tucker Act) whether consent to sue was given. Otherwise, it is of no significance. For immunity from suit is an attribute of sovereignty which may not be bartered away." (Citations omitted.)

B. Maricopa County: In his opinion for the Court (which favorably cites *Lynch*), Justice Douglas employs equally broad language in rejecting a claimed violation of the Fifth Amendment. The Court notes an earlier ruling that allowed the states to tax RFC shares, which:

". . . was rendered on February 3, 1936. *On March 20, 1936*, Congress enacted a statute providing that shares of preferred stock of national banks '*heretofore* or hereafter acquired by' the Reconstruction Finance Corporation *shall not*, so long as Reconstruction Finance Corporation shall continue to own the same, *be subject to any taxation by* the United States, by any Territory, dependency, or possession thereof, or the District of Columbia, or by *any State, county, municipality, or local taxing authority, whether now, heretofore, or hereafter imposed, levied, or assessed and whether for a past, present, or future taxing period.*'. . . On the authority of that Act, the District Court, issued a permanent injunction against the collection [of taxes on the U.S.' shares of RFC stock.]

"*Petitioners contend that the Act of March 20, 1936, violates the Fifth and the Tenth Amendments.* [The Court rejects the latter claim.]

"*The argument that the Act of March 20, 1936, violates the Fifth Amendment is based on its retrospective feature.* Petitioners contend that since the liens of the taxes were impressed *before the effective date of the Act, they were property rights which Congress could not destroy.* We need not consider the case where prior to the withdrawal of the privilege the tax had been collected or the tax lien foreclosed and the property reduced to the possession of the taxing authority.

"In the instant case the state taxing authorities are asserting rights which if recognized can be enforced by the maintenance of a suit to establish and foreclose a lien on property of a federal instrumentality, the Reconstruction Finance Corporation. . . . But even a 'proceeding against property in which the United States has an interest is a suit against the United States.'. . . *No such suit may be maintained without the consent of the United States. Such consent, though previously granted, has now been withdrawn. And the power to withdraw the privilege of suing the United States or its instrumentalities knows no limitations. Lynch v. United States*, 292 U.S. 571, 581–582, and cases cited." (Other citations omitted.)

C. Perry: "When the United States, with constitutional authority, makes contracts, it has rights and incurs responsibilities similar to those of individuals who are parties to such instruments. There is no difference . . . *except that the United States cannot be sued without its consent.*"

D. Additional Rulings:

1. *Laycoek v. United States*, 9th Cir., 230 F. 2d 848 (1956). Suit against the U.S. for unconstitutional taking of property in violation of the Fifth Amendment, dismissed in view of the Congressional withdrawal of consent to be sued that was enacted after the ruling in the *Perry* case:

"Upon dismissing appellant's action for want of jurisdiction, the District Court expressed the view that the complaint did not present a case of a taking of property within the purview of the Fifth Amendment.

"We do not reach that question, being of the opinion that consent previously given in the Tucker Act or otherwise to sue the Government on a claim such as asserted by appellant here was expressly withdrawn by the Act of August 27, 1935. . . . This Act provides that: 'Any consent which the United States may have given to the assertion against it of any right . . . in any proceeding of any nature whatsoever . . . upon any claim or demand arising out of any surrender, requisition, seizure, or acquisition of any . . . gold . . . and involving the effect or validity of any . . . regulation of the value of money is withdrawn . . .'

"It appears to us beyond question that in the complaint at bar appellant asserts a claim or cause of action arising out of an alleged 'surrender, requisition, seizure, or acquisition' by the Government of appellant's gold, and 'involving the effect or validity of . . . regulation[s] of the value money'."

"It is axiomatic that: 'Consent alone gives jurisdiction to adjudge against a sovereign.' *United States v. United States Fidelity & Guaranty Co.* This is so, *even in cases grounded upon alleged violations by the Government of Federal Constitutional rights.* . . And it is equally well settled that 'the power to withdraw the privilege of suing the United States or its instrumentalities *knows no limitations.*' *Maricopa County* v. *Valley National Bank.*" (Other citations omitted.)

2. *Wells* v. *United States*, 5th Cir., 214 F. 2d 380 (1954).

"The United States, in an exhaustive and excellent brief marshalling some of the many authorities uniformly supporting the principle that the United States may be sued only when, as, and in, the court in which it has expressly consented to be used, urges upon us that, absent such express consent, arguments from implications, from convenience and necessity, from considerations of reasonableness and justice, indeed arguments *of any kind*, except those based on pointing to an express consenting, will not do, that, indeed the very resort to them confesses away the jurisdiction contended for.

"*We agree that this is so* and that whatever may be said for or against the persistence of the idea of the absolute immunity of the sovereign from suit except on its own terms, the fact, of its persistence may not be questioned nor may its results be escaped." (Citations omitted.)

3. *Matya* v. *United States*, 8th Cir., 478 F. 2d 330 (1973), rejecting claimed violation of Fifth Amendment:

"The fundamental difficulty with the plaintiff's case is that she has sued the wrong party. The United States, as sovereign, is immune from suit without its consent . . . . No statute, regulation or order has been cited which shows that the United States has consented to being sued in the situation presented here. In *Buck* v. *United States*, 466 F.2d 481, 483 (10 Cir. 1972), the Tenth Circuit dismissed a similar cause of action for lack of jurisdiction saying:

'The United States, as sovereign, may not be sued without its consent and the terms of its consent define the court's jurisdiction. . . . Taxpayers present no claim that any assessment has been paid or that any application for refund has been filed.

'Taxpayers argue that if relief is not granted they will be unable to contest the validity of the penalties and will suffer irreparable harm in violation of their Fifth Amendment rights. *We need not explore what remedies the taxpayers might have had* *or now have because we are concerned with sovereign immunity.*'" (Citations omitted.)

4. *Pass.* v. *McGrath*, D.C. Cir., 192 F.2d 415 (1951), rejecting claim that taking of property was in violation of thie Fifth Amendment:

"In our opinion there is no merit in appellant's contentions that the statute does not mean what it says and that if it does it is unconstitutional. It is 'well established that suit may not be maintained against the United States in any case not clearly within the terms of the statute by which the terms of the statute by which it consents to be sued.' . . . 'And the power to withdraw the privilege of suing the United States or its instrumentalities knows no limitations, *Lynch*, and cases cited. *Maricopa County* v. *Valley National Bank of Phoenix*. . . . Affirmed."

(Other citations omitted.)

5. *Bryan* v. *United States*, 10th Cir., 99 F. 2d 549 (1938), citing *Lynch* and twenty-one other cases:

"Immunity from suit is an attribute of sovereignty. The United States can only be sued by its own consent clearly given by legislative act. When Congress gives its consent to be sued it does not grant a right, but merely accords a privilege. Statutes granting the right to sue the United States are to be strictly construed. Congress may impose such conditions and restrictions on the right to sue the United States as it deems proper. A suit may not be maintained against the United States in any case not clearly within the terms of the statute by which it consents to be sued. The courts cannot go beyond the letter of such consent.

"The provision of Section 1103, supra, that 'No suit or proceeding shall be maintained in any court for the recovery of any internal revenue tax . . . until a claim for refund or credit has been duly filed with the Commissioner of Internal Revenue, according to the provisions of law in that regard,' imposes a condition precedent to the right to maintain such a suit or proceeding. Such provision is not merely a statute of limitation, but a condition attached to the right to sue." (Citations omitted.)

6. *Pflueger* v. *United States*, D.C. Cir., 121 F. 2d 732 (1943), rejecting claim of Fifth Amendment violation:

"Even if we concluded that the Congressional limitation of remedy to the amount of 'net proceeds', instead of just compensation, was unconstitutional, the effect would be to invalidate the entire statute and to remove all of the provision for remedy under which appellant seeks to proceed. . . . But we need not pass on the point, for the immunity of the sovereign from suit *is paramount, even over rights founded on the Constitution.*

"'For consent to sue the United States is a privilege accorded, not the grant of a property right protected by the Fifth Amendment. The consent may be withdrawn, although given after much deliberation and for a pecuniary consideration. . . . The sovereign's immunity from suit exists whatever the character of the proceeding or the source of the right sought to be enforced. It applies alike to causes of action arising under acts of Congress, . . . and to those arising from some violation of rights conferred upon the citizen by the Constitution. . . . immunity from suit is an attribute of sovereignty which may not be bartered away.' *Lynch* . . .

"We are of opinion, therefore, that Congress having in express and unambiguous language declared that both relief and remedy should be limited to the property coming into the hands of the custodian or if disposed of by him, to its net proceeds and it appearing here that appellant has already received all that Congress said he might sue for and recover, his suit for more cannot be maintained *and the argument on constitutionality is beside the point. The Fifth Amendment to the Constitution does not, as appellant assumes in his complaint, of itself confer jurisdiction in the court below to entertain a suit against the sovereign.* See *Lynch* v. *United States, supra.*" (Other citations omitted.)

7. *Lichter* v. *United States*, 334 U.S. 742 (1948), rejecting claims that the U.S. could not unilaterally, by statute, rewrite contracts entered into *before* the enactment of the act which rewrote them. The chief holding:

"The Renegotiation Act is constitutional on its face as authority for the recovery by the United States of 'excessive profits" (less tax credits) realized by private parties in the circumstances of these cases on subcontracts for war goods in time of war with contractors who were also private parties—*even in the absence of contractual provisions for the renegotiation of such profits and even as applied to contracts entered into prior to the enactment of the Act*, provided final payments had not been made pursuant to such contracts prior to the date of enactment of the original Act. . . .

"The collection of renegotiated excessive profits on a war subcontract is not in the nature of a penalty and is not a deprivation of a subcontractor of his property without due process of law in violation of the Fifth Amendment. . . .

"The Government was entitled to recover excessive profits (less tax credits) from each of the subcontractors in these cases, whether they arose from contracts made before or after the passage of the Act, provided final payments had not been made pursuant to such contracts prior to the date of the original Act. . . .

8. *Mine Safety Appliances Co.* v. *Forrestal*, 326 U.S. 371 (1945), dismissing a government contract suit—based upon an "unconstitutional taking" argument—because the sovereign had not consented to the suit:

". . . we assume, as we must for the purpose of disposing of the jurisdictional issue, that appellant's allegations including the one that the Renegotiation Act is unconstitutional are true. . . . The sole purpose of this proceeding is to prevent the Secretary from taking certain action which would stop payment by the government of money lawfully in the United States Treasury to satisfy the government's and not the Secretary's debt to the appellant. The assumption underlying this action is that if the relief prayed for is granted, the government will pay and thus relinquish ownership and possession of the money. In effect, therefore this is an indirect effort to collect a debt allegedly owed by the government *in a proceeding to which the government has not consented.* The underlying basis for the relief asked is the alleged unconstitutionality of the Renegotiation Act and the sole purpose of the proceeding is to fix the government's and not the Secretary's liability. Thus, though appellant denies it, the conclusion is inescapable that the suit is essentially one designed to reach money which the government owns. Under these circumstances the government is an indispensable party, . . . even though the Renegotiation Act under which the Secretary proposed to act might be held unconstitutional. In short the government's liability cannot be tried 'behind its back.'"

9. *Haskins Bros. & Co.* v. *Morgenthau*, D.C. Cir. 85 F. 2d 577 (1936), terming the Fifth Amendment argument "of no consequence" in view of Congress' lack of consent to the suit:

"The bill prays that the court declare section 602½ unconstitutional and grant an injunction forbidding payment to the government of the Philippines and that the $26,000,000 be declared a trust fund and be ordered by the court to be paid to appellant and others similarly situated.

"The case for the appellant has been argued with great skill and ability, and we have given it careful consideration. But we think the conclusion is inescapable that the decree of the lower court dismissing the bill must be affirmed on either of two grounds.

"First. We think the suit is in effect one against the United States. It is brought against the Secretary of the Treasury, the Treasurer, and the Comptroller General in their official capacities. It seeks to compel the payment of money now deposited in the United States Treasury. In this view the United States are necessary parties and, *since they have not consented to be sued, the suit against the officers of the United States cannot be maintained. We know of no power in this or any other court to compel the Secretary of the Treasury or the Treasurer of the United States, in a suit brought against them in their official capacities, to pay out money in the treasury in a manner contrary to that directed by Congress.* We hold these general principles to be *axiomatic*:

"First, that an act of Congress is necessary for the withdrawal of money from the public treasury;

"Second, that no suit can be brought to enforce the making of an appropriation;

"Third, that the Secretary of the Treasury and the Treasurer are officers of the United States holding offices established by law; that their duties are to receive and preserve the public money and not to disburse it except conformably to law; . . .

"Fourth, that where an obligation is cast upon a principal and not upon his agent, a court cannot enforce it against the agent as long as he is acting wholly as agent.

"In the instant case it is therefore *of no consequence* whether the act under which the tax was collected be constitutional or unconstitutional. The fact that the tax has been collected and deposited in the treasury by the collecting officials of the government renders the custodian of the fund impotent to withdraw the money and disburse it unless and until directed to do so by an act of Congress or until the United States shall submit to be sued to determine its disposition."

10. *Robinson* v. *Deal*, D.C. Cir., 145 F. 2d 382 (1944), rejecting on the basis of sovereign immunity claims to funds paid by plaintiff cotton farmers under a concededly unconstitutional statute:

"In the facts properly found by the District Court in the trial on the merits it is obvious the suit is one against the United States and, that being true, the correct rule to apply is that stated by us in *Haskins Bros. & Co.* v. *Morgenthau*, . . . as follows:

"'In the instant case it is therefore of no consequence whether the act under which the tax was collected be constitutional or unconstitutional. The fact that the tax has been collected and deposited in the treasury by the collecting officials of the government renders the custodian of the fund impotent to withdraw the money and disburse it unless and until directed to do so by act of

Congress, or until the United States shall submit to be sued to determine its disposition.'

"The fact that the fund in the Haskins Bros. case was derived from the imposition of a tax, while here it was from the imposition by Act of Congress of a condition to the sale of cotton produced in excess of allotment, is of no consequence. The controlling principle is based upon the presence of the fund at the time of suit in the Treasury. The fact, found by the District Court, that 'there is no congressional authority for withdrawal of money from the Treasury under the pool appropriation account for paymnent to plaintiffs and intervenors,' *leaves the courts without power to interfere.*

"In reaching this conclusion, which we think is required by the facts to which we have referred, we are not unmindful of the hardship thus imposed on intervenors and others of their class. The record shows without denial that some hundred thousand or more cotton farmers paid into the Treasury of the United States approximately $22,000,000 *under an unconstitutional Act of Congress* and that, after a finding of unconstitutionality and a demand for return of the money, the Government denied return and continued to distribute it to other farmers who, in view of the invalidity of the law, had no legal claim to it."

11. *U.S., v. Transocean Airlines, Inc., 5th Cir., 386 F. 2d 79 (1967):* "The right to participate in a judgement *res* is altogether different from a cause of action directly against the judgment debtor, We are told that the law of Florida authorizes such a judgment, predicated upon a charging lien, directly against a private debtor. As against the United States, however, we are of the opinion that such a procedure *is precluded by the doctrine of sovereign immunity . . .*

"Transocean's claim against the United States was brought under the limited consent granted in the Tucker Act. Appellees' claim, on the other hand stems solely from their contract with Transocean, and is dependent upon the law of Florida which allows the transmutation of a lien against a judgment into a judgment against the debtor. The right to sue the United States cannot be granted by State law nor acquired through contractual relationships with third parties. The right can be acquired *only by the specific consent of Congress,* which is not present here."

12. *Young* v. *Anderson,* D.C. Cir. 160 F. 2d 225 (1947), in which the plaintiff unsuccessfully asserted the unconstitutionality of the 1911 Weeks Act, related to timber rights on watersheds of navigable rivers:

". . . we are in agreement with the court below that since the action is clearly one against the United States, it was properly dismissed. Appellant, however, insists that the charge that the Weeks Act is unconstitutional *goes to the very marrow of the case and should be decided before we reach the question* whether the United States are indispensable parties. But we think the rule is definitely established otherwise. . . ."

13. *Commers* v. *United States,* 66 F. Supp. 943 (1946), rejecting a Fith Amendment attack on the draft on the basis of sovereign immunity, *Lynch,* and the doctrine of the limited jurisdiction of Federal courts:

"In view of the unbroken line of decisions of the Supreme Court and of the Circuit Courts of Appeal from the inception of our government, *it does not appear how, at this date, it could be earnestly contended that consent on the part of the United States to be sued is not necessarily to the maintenance of this action.* In *Lynch,* . . . the Supreme Court said: 'The rule that the United States may not be sued without its consent is all-embracing . . . The sovereign's immunity from suit exists whatever the character of the proceeding or the source of the right sought to be enforced. It applies alike to causes of action arising under acts of Congress, . . . and to those arising from some violation of rights conferred upon the citizen by the Constitution, . . . "The United States cannot be sued in their courts without their consent, and in granting such consent Congress has an absolute discretion to specify the cases and contingencies in which the liability of the government is submitted to the courts for judicial determination. . . . *Schillinger*

"It is too well settled to be the subject of argument that the Federal District Courts have only such jurisdiction as the Congress may give them. All federal courts, other than the Supreme Court, derive their jurisdiction wholly from the exercise of the authority to 'ordain and establish' inferior courts, conferred on Congress by Article III, section 1 of the Constitution. Article III left Congress free to establish inferior federal courts or not as it thought appropriate . . .'"

14. *Best Bearings Co.* by *United States,* 7th Cir., 463 F. 2d 1177 (1972):

"*It is axiomatic* that the United States can be sued only with its consent and that Congress may specify the terms and conditions of such suits as it authorizes."

15. *Bailey* v. *United States,* D. Alaska, 201 F. Supp. 604 (1962), rejecting a breach of contract claim against the United States even though the dismissal left the plaintiff without a remedy:

"It is settled that obligations arising out of a contract with a Post Exchange are not liabilities of the United States upon which suit could be instituted. . . .

"These decisions are based upon the case of *Standard Oil Co. of California* v. *Johnson* (1942) . . . in which the Supreme Court held that Exchange contracts are solely the obligation of the Exchange, that they are not Government contracts, and that the Government assumes none of the financial obligations of the Exchange. Unfortunately it is also held that there is no right of action upon such contracts against the Exchange, for the reason that the United States has not waived its sovereign immunity as to contract obligations of the Exchange. For this anomaly there appears to be no present remedy."

16. *Swiff-Train Company* v. *United States,* 5th Cir., 443 F. 2d 1140 (1971), suit on a contract against a U.S. Army base "guest house", dismissed under the sovereign immunity doctrine, even though it did not involve "appropriated fund" activities:

"Legislative history of this action in the 91st Congress makes it plain that other nonappropriated funds, such as open messes and the guest house here involved, were *not* to be included along with the exchanges as to withdrawal of sovereign immunity.

". . . the House Judiciary Committee amended this bill to limit the waiver of sovereign immunity to only those contracts made by post exchanges, because as stated in its report, 'the complete removal of sovereign immunity for *all* (emphasis in original) non-appropriated fund activities would be undesirable . . .' One of the reasons given for the committee's report that the complete removal of sovereign immunity for *all* non-appropriated fund activities was that, whereas post exchanges are so operated as to have funds available to discharge all liabilities, 'since not every non-appropriated fund activities has sufficient assets to reimburse the United States, the cost of the judgment in some cases would be imposed on the tax payer—a result which is inconsistent with the very concept of non-appropriated fund activities.'. . .

"The statute just referred to, *and the clearly expressed Congressional intent,* were not available to the trial court at the time of its decision, because the amendment was passed later. We are satisfied that had this congressional expression been available to the trial court it would have decided differently with respect to the claim in issue."

17. *Stewart Sand* v. *Southeast State Bank,* W.D. Missouri, 318 F. Supp. 870 (1970), rejecting suit on a contract with the U.S. "implied in law":

". . . it must be concluded that the obligation of the United States on the endorsement of a check or money order, in cases like that at bar, is an implied-in-law contract of the type which is excluded from jurisdiction under the provisions of the Tucker Act. Express contracts and implied-in-fact contracts are agreements of a type wherein the assent of the Government to be sued is indirectly manifested. But a contract implied in law is not the same, and imports a contractual obligation in the absence of intention to be bound. To permit suit on such contracts detracts from the principles that the United States cannot be sued without its consent and that the consent must be express and not implied."

18. *Ponderendolph v. Derry Township,* 330 F. Supp. 1346 (1971), in which the alleged negligence of the United States assertedly caused the wrongful death of the plaintiff's husband; but plaintiff's action is dismissed:

"Thus, we have a case relating to the sovereign itself, which from early times was immune from any action or claim by an individual, except where the sovereign expressly consented to entertain such suit. The United States has evidently consented to many forms of actions and claims against it, but virtue of the Federal Tort Claims Act, 28 U.S.C. section 2671 et seq. Which broadly consented to persons instituting actions against the United States government as though it was an individual. But this consent to be sued is not absolute and irrevocable, *and the Government may as of any time withdraw or limit its consent in whole or in part.*

"In support of their motion [to dismiss], the movants [the U.S.] now rely on the Flood Control Act, and in particular to the immunity provided in section 3 thereof, 33 U.S.C. section 702c which provides 'No liability of any kind shall attach to or rest upon the United States for any damage from or by floods or flood waters at any place . . .'

"Thus, the determination to be made here is one of law. Where Congress has not consented to entertain suit against the United States, *the intent of the legislature must be followed.* In construing section 702c, the Court in National Mfg. Co., supra, 210 F.2d at page 271 stated:

'Tne language used shows Congressional anticipation that it will be claimed after the happening of floods that negligence of government employees was a proximate cause of damages where floods or flood waters have destroyed or damaged goods. But the section prohibits government liability of 'any kind' and at 'any place'. So that uniformly and throughout the country at any place where there is damage 'from' or 'by' a flood or flood waters in spite of and notwithstanding federal flood control works no liability of any kind may attach to or rest upon the United States therefor.'

"Suits against the United States to recover for flood damages have been rejected by the courts. [. . . and require dismissal of this suit.]" (Citations omitted.)

19. *Affiliated Ute Citizens v. United States*, 406 U.S. 128 (1972), finding no consent to be sued:

"The United States, of course, may not be sued without its consent. *United States v. Sherwood*, 312 U.S. 584, 586 (1941). This long-established principle has been applied in actions for the possession or conveyance of real estate. . . . It has been applied to Indian lands the title to which the United States holds in trust. . . . It has been applied, specifically, in a suit by an Indian who has a beneficial interest in land [and] therefore, controls the distribution aspect of the AUC case *unless the United States has consented to be sued.*

"The consent, it is claimed, exists in 25 U.S.C. section 345. This, however, is an allotment statute. Allotment is a term of art in Indian law. . . . It means a selection of specific land awarded to an individual allottee from a common holding. . . . Section 345 authorizes, and provides governmental consent for, only actions for allotment. . . .

"Although the interest in the mineral estate that AUC seeks to have conveyed pro rata to the individual mixed-bloods perhaps could be made the subject of an allotment, it has never been so subjected. Neither is it appurtenant to an allotment. The interest relates to the tribal land of the reservation. It remains tribal property. Further, section 10 of the 1954 Act . . . itself contemplates and provides specifically for the non-allocation of that interest.

"We therefore readily conclude that section 345 has no application here. Neither do 28 U.S.C. sections 1399 and 2409 afford a basis for jurisdiction; they have application only to partition suits where the United States is a tenant in common or a joint tenant. That is not this situation.

"The AUC action, therefore, was properly dismissed for want of jurisdiction." (Citations omitted.) 20. *Bruner v. United States*, 343 U.S. 112 (1952), upholding legislative repeal of the right to sue for compensation even *after* certiorari had been granted by the Supreme Court:

"In 1941, petitioner was appointed a civilian fire chief at Camp Wheeler, Georgia, by a local army commander acting under authority delegated by the Secretary of War. In 1948, petitioner brought this action in the District Court to recover overtime compensation allegedly due for his services as fire chief. . . .

"At the time this action was commenced, Congress had provided that nothing in the Tucker Act shall be construed as giving the District Court—

'jurisdiction of cases brought to recover fees, salary, or compensation for official services of *officers* of the United States or brought for such purpose by persons claiming as such officers or as assignees or legal representatives thereof; but no suit pending on the 27th day of June 1898 shall abate or be affected by this provision.'

"The District Court, holding that petitioner was an *'officer* of the United States,' entered judgment dismissing petitioner's complaint for want of jurisdiction. The Court of Appeals for the Fifth Circuit affirmed.

"In *Beal v. United States*, the Court of Appeals for the Sixth Circuit sustained jurisdiction of the District Court over a suit brought by another civilian fire fighter appointed by the War Department on the ground that he was only an *'employee'* and not an 'officer of the United States.' We granted certiorari in the case at bar to resolve the conflict of decisions. . . .

"After certiorari had been granted in this case, the Act of October 31, 1951, Pub. L. No. 248, became effective. Section 50(b) of that Act amended the applicable clause of the Judicial Code by inserting, immediately after 'officers' in such clause, the words *'or employees'*. . . ," *As a result of this amendment we are confronted at the threshold of this case with the question whether the Act of October 31, 1951, withdrawing the jurisdiction of the District Court over actions for compensation brought by 'employees,' applies to an action pending on the effective date of the Act. The power of Congress to withhold jurisdiction from the District Court* 'in the exact degrees and character which to Congress may seem proper for the public good' *is not challenged*. . . .

"In *Ritchie*, a case arising under the internal revenue laws, jurisdiction was based upon an Act of 1833 granting the circuit courts jurisdiction over all cases arising under the revenue laws. After decision in the Circuit Court and while an appeal to this Court was pending, an Act of 1866 withdrew the jurisdiction of the circuit courts over cases arising under the internal revenue laws without any reservation saving cases such as Ritchie's. This Court held:

'It is clear, that when the jurisdiction of a cause depends upon a statute the repeal of the statute takes away the jurisdiction. And it is equally clear, that where a jurisdiction, conferred by statute, is prohibited by a subsequent statute, the prohibition is, so far, a repeal of the statute conferring the jurisdiction.

"In another case arising under the same jurisdictional statutes, the Court, in following *Ritchie*, stated the applicable rule as follows:

'Jurisdiction in such cases was conferred by an act of Congress, and when that act of Congress was repealed the power to exercise such jurisdiction was withdrawn, and inasmuch as the repealing act contained no saving clause, all pending actions fell, as the jurisdiction depended entirely upon the act of Congress.' *The Assessors v. Osbornes*, 9 Wall. 567, 575 (1870h).

"This rule—that, when a law conferring jurisdiction is repealed without any reservation as to pending cases, all cases fall with the law—*has been adhered to consistently by this Court.*[*]

"This case is not affected by the so-called general savings statute which provided that 'repeal of any statute shall not have the effect to release or extinguish any penalty, forfeiture, or liability incurred under such statute.' Congress has not altered the nature or validity of petitioner's rights or the Government's liability but has simply reduced the number of tribunals authorized to hear and determine such rights and liabilities . . . *Lynch v. United States*, 292 U.S. 571 (1934)." (Other citations omitted.)

21. *Monolith v. Reconstruction Finance Corp.*, 9th Cir., 282 F.2d 439 (1960), rejecting a Fifth Amendment due process claim:

"Monolith contends in effect that the nature of this action is for just compensation for a taking under the Fifth Amendment. But this contention was in effect determined adversely to Monolith on the prior appeal. . . .

"Moreover, *even if the principle of just compensation is involved, it still must be established that the United States has consented to be sued for the recovery of such compensation.* The United States may withhold, withdraw, or condition that consent any way it chooses. *Laycock v. United States*, 9 Cir., 230 F.2d 848, 850. Here the United States had conditioned such consent upon compliance with the procedure prescribed in section 105. That procedure has not been followed.

"There has been no lack of due process." (Citations omitted.)

22. *Imhoff-Berg Silk Dyeing Co. v. United States*, 43 F. (2d) 836, D.C., N.J. (1930):

"This present action was begun prior to the enactment of the Revenue Act of 1928, but said act made no specific exception of pending suits, and in such case the withdrawal by the United States of its consent to be sued deprives the courts of jurisdiction to enter judgments, *even though such suits have been commenced before such withdrawal. United States v. Heinszen*, . . . (Other citations omitted.)

23. *Clark v. United States*, 6th Cir., 461 F.2d 781 (1972), rejecting claims of a Fifth Amendment taking of property and breach of contract by the U.S.:

"There is no necessity for us to transfer this case to a District Court because the Tort Claims Act, 28 U.S.C. section 2680, *expressly prohibits suits against the United States on:*

Section 2680. Exceptions.

The provisions of this chapter and section 1346(b) of this title shall *not* apply to—

(a) Any claim based upon an act or omission of an employee of the Government, exercising due care, in the execution of a statute or regulation, . . .

"It is fundamental that the government has sovereign immunity from suits unless such immunity has been waived by an Act of Congress. It cannot be sued without its consent. See *United States v. Shaw*, 309 U.S. 495, (1940) and *United States v. Sherwood*, 312 U.S. 584, (1941). There is no such consent with respect to plaintiffs' claims in the case before us.

"There is no merit to plaintiffs' claims that the government has deprived them of their property in violation of their rights under the Fifth Amendment to the Constitution. They have not shown that the government has taken any of their property within the meaning of the Fifth Amendment."

24. *Elmer G. Abbott, et al*, 125 Ct. of Claims 330 (1954): "Congress has, of course, the power to withdraw its consent that the United States be sued, *Christoffer Hannevig v. United States*, 114 C. Cls. 410,414 and cases there cited, and to withdraw jurisdiction from a court of its creation, even as to pending cases, *Bruner v. United States*, 343 U.S. 112."

25. *Thompson v. Whittier*, D.D.C., 185 F. Supp 306 (1960). The three-judge district court upholds a U.S. withdrawal of consent to sue, in the face of a constitutional attack, on the basis of *Lynch:*

"It is well settled that the Government may not be sued without its consent and that, therefore, it is under no obligation to accord a judicial remedy in respect to claims against itself. Therefore, *statutes either denying or withdrawing judicial remedies against the United States in respect to claims against it are constitutional. Lynch v. United States.*

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[*] Ex parte McCardle, 7 Wall. 506, 514 (1869).

26. *Louisiana v. McAdoo*, 234 U.S. 627 (1913), dismisses a suit against Treasury Secretary McAdoo:

"The State of Louisiana had appeared at the bar of this court, through its Attorney Genereal, for the purpose of obtaining permission to file this petition against the Honorable William Gibbs McAdoo, Secretary of the Treasury of the United States, and the Honorable C.S. Hamlin, Assistant Secretary of the Treasury of the United States. The United States, by its Solicitor General, has appeared in opposition contending that the suit is one against the United States and cannot, therefore be brought without its consent.

"*No principle is better established than that the United States may not be used in the courts of this country without its consent.* If, therefore, this be a suit against the United States, the State, though entitled as a State to appeal to the original jurisdiction of this court, *must show some authority from Congress* under which such a suit may be brought, or leave to file must be denied.

"That the United States is not named on the record as a party is true. But the question whether it is in legal effect a party to the controversy is not always determined by the fact that it is not named as a party on the record, but by the effect of the judgment or decree which can here be rendered. . . ."

[The court concludes the case is in reality against the United States; and accordingly, denies leave to file.]

27. *Gnotta v. United States*, 8th Cir., 415 F. 2d 1271 (1969). The opinion, by Circuit Judge Blackmun, states that:

"1. One cannot sue the United States without its consent and a court has no jurisdiction of a suit against the United States to which it has not consented . . .

"2. 'Congress has not constituted the [United States Civil Service] Commission a body corporate or authorized it to be sued *eo nominee;*' 'a suit involving the action of the Commission generally must be brought against the individual Commissioners as members;' and the Administrative Procedure Act is *not* 'to be deemed an implied waiver of all governmental immunity from suit.' . . ." (Citations omitted.)

28. *Buck v. United States*, 10th Cir., 466 F. 2d 481 (1972), upholding sovereign immunity in the face of a constitutional attack:

"The United States as sovereign, may not be sued without its consent and the terms of its consent define the court's jurisdiction. . . . To establish consent and jurisdiction, taxpayers and the trial court relied on 28 U.S.C. section 1346(a)(1). This section, as limited by 26 U.S.C. section 7422(a), gives consent *only* when the assessment has been paid. . . . and a claim for refund has been filed. . . . Taxpayers present no claim that any assessment has been paid or that any application for refund has been filed.

"Taxpayers argue that if relief is not granted they will be unable to contest the validity of the penalties and will suffer irreparable harm *in violation of their Fifth Amendment rights. We need not explore what remedies the taxpayers might have had or now have because we are concerned with sovereign immunity.* Whatever actions the taxpayers might have maintained against the Collector of Internal Revenue, . . . are unimportant because we have a suit against the United States, not against a collector."

29. *Minnesota v. United States*, 305 U.S. 382 (1938). The opinion by Justice Brandeis reaffirms his earlier conclusions in *Lynch:*

"First. The United States is an indispensable party defendant to the condemnation proceedings. A proceeding against property in which the United States has an interest is a suit against the United States. . . . It is confessedly the owner of the fee of the Indian allotted lands and holds the same in trust for the allottees. As the United States owns the fee of these parcels, the right of way cannot be condemned without making it a party.

"The exemption of the United States from being sued without its consent extends to a suit by a State. . . . Hence Minnesota cannot maintain this suit against the United States *unless authorized by some act of Congress.*

"Minnesota contends that the United States is not an indispensible party. [This contention is rejected.] . . .

"Second. Minnesota contends that Congress has authorized suit against the United States. [This contention is rejected] . . .

"Third. Minnesota contends that Congress authorized suit in a court of the State by providing in the second paragraph of section 3 of the Act of March 3, 1901, quoted above, for 'condemnation of' lands allotted in severalty to Indians 'in the same manner as land owned in fee.' But the paragraph contains no permission to sue. . . [And this final contention is rejected.]

30. *Schillinger v. United States*, 155 U.S. 163 (1894), which dismisses constitutional claims:

"The United States cannot be sued in their courts without their consent, and *in granting such consent Congress has an absolute discretion* to specify the case and contingencies in which the liability of the Government is submitted to the courts for judicial determination. *Beyond the letter of such consent, the courts may not go,* no matter how beneficial they may deem, or in fact might be, their possession of a larger jurisdiction over the liabilities of the Government.

"*It is said that the Constitution forbids the taking of private property for public uses without just compensation;* that therefore every appropriation of private property by any official to the uses of the government, no matter however wrongfully made, creates a claim founded upon the Constitution of the United States and within the letter of the grant in the act of 1887 of jurisdiction to the Court of Claims. If that argument be good, it is equally good applied to every other provision of the constitution as well as to every law of Congress. This prohibition of the taking of private property for public use without compensation *is no more sacred than that other constitutional provision that no person shall be deprived of life, liberty, or property without due process of law.* Can it be that Congress intended that every wrongful arrest and detention of an individual, or seizure of his property by an officer of the government, should expose it to an action for damages in the Court of Claims? *If any such breadth of jurisdiction was contemplated, language which had already been given a restrictive meaning would have been carefully avoided.*

31. *United States v. Sherwood*, 312 U.S. 584 (1941), rejecting a breach of contract claim against the U.S. because of sovereign immunity:

"The United States, as sovereign, is immune from suit save as it consents to be sued . . .; *Keifer & Keifer v. Reconstruction Finance Corp.*, 306 U.S. 381, 388, . . . and the terms of its consent to be sued in any court define that court's jurisdiction to entertain the suit . . ."

The Court of Claims is a legislative, not a constitutional, court. Its judicial power is derived not from the Judiciary Article of the Constitution, but from the Congressional power "to pay the debts . . . of the United States," which it is free to exercise through judicial as well as non-judicial agencies. It is for this reason, *and because of the power of the sovereign to attach conditions to its consent to be sued, that Congress despite the Seventh Amendment, may dispense with a jury trial* in suits brought in the Court of Claims.

Except as Congress has consented there is no jurisdiction in the Court of Claims more than in any other court to entertain suits against the United States, or for the review of its decisions by appellate courts.

[The Court then holds that the Congress has not consented to plaintiff's breach of contract claim; and in addition rejects the conclusion that "implied" consent is found in the new Federal Rules of Civil Procedure:]

"This conclusion presupposes that the United States, either by the rules of practice or by the Tucker Act or both, has given its consent to be used in litigations in which issues between the plaintiff and third persons are to be adjudicated. *But we think that nothing in the new rules of civil practice* so far as they may be applicable in suits brought in district courts under the Tucker Act *authorizes the maintenance of any suit against the United States to which it has not otherwise consented.* An authority conferred upon a court to make rules of procedure for the exercise of its jurisdiction *is not an authority to enlarge that jurisdiction;* and the Act of June 19, 1934, 48 Stat. 1064, 28 U.S.C. 723b, authorizing this Court to prescribe rules of procedure in civil actions gave it no authority to modify, abridge or enlarge the substantive rights of litigants or to enlarge or diminish the jurisdiction of federal courts. . . .

"*The matter is not one of procedure but of jurisdiction* whose limits are marked by the Government's consent to be sued."

32. *United States v. Shaw*, 309 U.S. 495 (1939).

"Whether that jurisdiction [over a cross-claim against the U.S.] exists depends upon the effect of the voluntary submission to the Michigan court by the United States of its claim against the estate. As a foundation for the examination of that question *we may lay the postulate that without specific statutory consent, no suit may be brought against the United States.* No officer by his action can confer jurisdiction. Even when suits are authorized they must be brought only in designated courts. The reasons for this immunity are imbedded in our legal philosophy. They partake somewhat of dignity and decorum, somewhat of practical administration, somewhat of the political desirability of an impregnable legal citadel where government as distinct from its functionaries may operate undisturbed by the demands of litigants."

33. *U.S. v. U.S. Fidelity Co.*, 309 U.S. 506 (1940).

"We are of the view, however, that the Missouri judgment is void in so far as it undertakes to fix a credit against the Indian Nations. . . . No statutory authority granted jurisdiction to the Missouri Court to adjudicate a cross-claim against the United States. The public policy which exempted the dependent as well as the dominant sovereignties from suit without consent continues this immunity even after dissolution of the tribal government. These Indian Nations are exempt from suit without Congressional authorization. It is as though the immunity which was theirs as sovereigns passed to the United States for their benefit, as their tribal properties did. . . .

"But, it is said that there was a waiver of immunity by a failure to object to the jurisdiction of the Missouri District Court over the cross-claim. It is a corollary to immunity from suit on the part of the United States and the Indian Nations in tutelage that *this immunity cannot be waived by officials.* If the contrary were true, it would subject the Government to suit in any court in the discretion of its responsible officers. This is not permissible. . . .

"The reasons for the conclusion that this immunity may not be waived govern likewise the question of res judicata. As no appeal was taken from this Missouri judgment, it is subject to collateral attack only if void. It has heretofore been shown that the suability of the United States and the Indian Nations, whether directly or by cross-action, *depends upon affirmative statutory authority. Consent alone gives jurisdiction to adjudge against a sovereign. Absent that consent, the attempted exercise of judicial power is void.* The failure of officials to seek review cannot give force to this exercise of judicial power. Public policy forbids the suit unless consent is given, as clearly as public policy makes jurisdiction exclusive by declaration of the legislative body. [The Court therefore rules that the res judicata doctrine] is inapplicable where the issue is the waiver of immunity."

34. *Kawananakoa v. Polyblank*, 205 U.S. 349 (1907): "Whatever the origin of the doctrine of sovereign immunity, the accepted rationalization of its continued existence is that 'there can be no legal right as against the authority that makes the law on which the right depends.'" Holmes, J., as quoted in Note, Sovereign Immunity in Suits to Enjoin the Enforcement of Unconstitutional Legislation, 50 Harv. L. Rev. 956 (1937).

F. Corpus Juris Secundum: These thirty-seven decisions, and several hundred more, are all briefly reviewed in the Corpus Juris Secundum treatise. See 91 C. J. S., "United States," sections 175-182, especially section 176 (consent of U.S. to be sued), and section 182 (withdrawal of consent). The treatise concludes that the U.S. "by reason of its sovereignty is immune from suit and can only be sued by its own consent," and that "consent to be sued may be withdrawn even though the suit was commenced before the withdrawal."

Mr. CONTE. Mr. Speaker, I yield myself the rest of the time.

AGRICULTURE, RURAL DEVELOPMENT AND RELATED AGENCIES AND INTERIOR

In the Agriculture chapter, as in Interior, we had a dispute with OMB over what is called basic math. Using the same numbers—1, 2, 3 and so on—we arrived at different totals. The House, Senate, and CBO determined our $33 billion bill to be several billions below our House 302(b) allocation. OMB's scorekeeping put us at $251 million out of the ballpark and over our own congressional budget resolution.

I'm not going to argue the fine points of addition and subtraction. But our conferees, led by the distinguished chairman of our committee, JAMIE WHITTEN, and the chairman of the Interior Subcommittee, my good friend SID YATES, who have been working so hard to get this bill to the President and signed into law, took out their calculators once again. After hours upon hours of negotiation with our able ranking members—RALPH REGULA and VIRGINIA SMITH—and with the other body, they agreed to make across-the-board cuts in order to reach levels that will be acceptable to the administration.

For Agriculture and Interior, we have cut all discretionary programs by six-tenths of 1 percent. Six-tenths of 1 percent for all the items in these two sections. This has reduced the totals in Interior from $8.145 billion to $8.094 billion. In Agriculture, we have gone from $33.26 billion to $33.06 billion. Total cuts in these two chapters made by our conferees last night are $250 million.

I have never believed in across-the-board cuts. While I support the conference report before us, I deeply regret the fact that we have been forced to agree to these inequitable programmatic cuts in order to reach a moving numerical target.

The distinguished chairman himself presided over more than 30 days of hearings in the Agriculture Subcommittee; 150 hours of oral and written testimony documented in eight volumes and 7,000 pages of hearing record. Our committee reported a bill to this House last July which contained our best recommendations for fiscal year 1986, based upon that testimony.

That bill, which passed by the overwhelming margin of 354 to 71, was $5 billion below fiscal year 1985 enacted levels and some $4 billion below our 302(b) allocation. Despite the effort that went into both the House- and Senate-passed bills, and the conference agreement which we filed less than a week ago, we've taken out the ax. And what have we done? What every across-the-board cut taken in this Congress has done—subsidize the bad programs with funds for the good ones.

We have taken money from low-income weatherization to protect clean coal. We have taken money from schools and hospitals to subsidize timber sales for some of the biggest corporations in this country. We have taken $9 million out of the WIC Program, $71 million out of food stamps, $4 million out of our title II Food for Peace Program, $24 million out of rural development assistance programs.

My friends, in an effort to get this bill signed into law, we have completed the first of many exercises with our President.

This is no Jane Fonda workout. This is the Gramm-Rudman exercise class, and we are already sweating and aching. These marathon sessions on the ropes are not going to put this country into shape—they are only going to turn whatever muscle we have into flab.

The sequestrations haven't even begun yet, and I can already hear the moaning and gnashing of teeth. We've got programs down to bare-bones levels, and the White House cuts are just ghosts of Christmases to come. Two months down the road, I don't want to hear a peep out of my 271 Gramm-Rudman colleagues. Two months from now, when they're sharpening the knives down on Pennsylvania Avenue, I don't want to hear about what is happening to your UDAG projects, your EDA projects, our housing for the elderly and handicapped. We've got $10 million in this CR for AIDS research, $193 million for the needy family and elderly feeding programs, and none of it is protected from the Gramm-Rudman cuts.

DEFENSE

In the Defense portion of the resolution, there are three significant changes to the resolution considered earlier this week.

First, the number has changed. The document before you today is $1.3 billion below the first resolution. Reductions were made to procurement and research accounts and the bill now is $281.2 billion, just $4 billion above the 1985 level, almost $23 billion below the request, $4.6 billion above the House-passed bill, and $6.9 billion below the Senate version.

Second, the Senate finally agreed to accept one of the procurement reforms too important to many of us in the House. We didn't get all we wanted, but it is a start. The language agreed to last night strengthened the current authorization language regarding costs allowed to be charged against a contract in two significant areas. The Department of Defense will now be required by law to inform Congress of the definitions, exclusions, limitations, and qualifications regarding allowable costs prior to the publication of the regulations. Congress now will be a participant in the process of tightening up on such costs allowed in order to stop country club dues, vacations, dog kennel charges, and other ridiculous charges from being passed on to the taxpayers by defense contractors.

The conferees also direct the Comptroller General to evaluate on a recurring basis the effectiveness of the Department's policies in eliminating unallowable costs to be charged against defense contracts.

The third major change has to do with what many members saw as a potential slush fund for use by defense as a hedge against Gramm-Rudman cuts.

That was never the intent of the conferees at the time we first fenced $6.3 billion in prior year unobligated balances. But, because of a combination of misinformation and misunderstanding, many Members weren't convinced the fence around the money was strong enough or high enough to keep the Department from playing games with us.

And so, the fence is stronger in the resolution now before you. The $6.3 billion remains, but the law is more specific.

That money may be used only to pay retirement costs which are required by current law but for which funding was reduced in anticipation of future legislation which may or may not be enacted by next summer.

The money may also be used, as spelled out in the bill, to cover the military pay raise which went into effect last October.

Money is fenced for the Mariner Fund—the build and charter proposal, should it ever be authorized.

The Coast Guard receives an additional $140 million to bring that service closer to meeting the requirements of its wartime mission. In all, $475 million is in the bill for that Coast Guard purpose.

And finally, the money is fenced to provided additional funds for conventional force readiness—training, flying hours, steaming hours, and the like, as we attempt to make conventional forces stronger reducing our reliance on nuclear forces to address a crisis.

In each category, the funds are subject to the usual reprogramming procedures of the Appropriations Committee.

Justification documents and supporting data must accompany each request for use of these moneys. In many cases, hearings will be held.

But in no case, as is spelled out in the bill, may the Department use any of the funds in this account, or any other funds made available in the bill, to offset the impact of sequester orders brought about by Gramm-Rudman.

Defense will take its share of the hits, and there is no cushion in this bill to soften the blow.

Mr. Speaker, the conferees on the Defense portion did a magnificent job in not only winning additional concessions from the Senate on three major points, they also somehow managed to keep the fragile agreements reached earlier this week, from coming completely apart although at times the conference showed signs of coming unstuck.

I repeat what I said with regard to the earlier agreement: It isn't all I would like it to be.

But the Defense sections are a little lower in dollars, a little tougher on contractors, and a little more restrictive on expenditures than the earlier version.

We made progress without having to give up a single point in other ways.

It isn't perfect, but conferences don't produce perfection. They produce compromise.

That is what we have before us as regards Defense. It is the best we could do, and far more than I would have thought we would get when we began the second round with the Senate.

It merits our support.

LEGISLATIVE

Mr. Speaker, first of all let me address the items in the legislative section of the bill. There was a great deal of concern expressed on the floor last Monday, and unfortunately a great deal of misinformation, about what we did on congressional salaries and honoraria.

In regard to honoraria, the Senate added language to the bill which, on the face of it, would deny to an elected Member of Congress the right to continue his or her profession or professional relationships after being elected to Congress. That language raised serious constitutional and practical questions about the ability or willingness of individuals to serve in this body, especially to serve only one or two terms.

The House allows its Members to continue such relationships with full disclosure required to the Ethics Committee, and the House conferees strongly objected to the Senate language. Not only do we require full disclosure, any income earned by such activities is limited, along with honoraria, to a total of 30 percent of our congressional salary.

But let us look at the real reason for this Senate amendment. I submit that this was but the latest spasm of Senate frenzy against any restraints on what they regard as an unlimited right to honoraria income earned because of their position as U.S. Senators.

This is not a new objective, only a new tactic. It is aimed at an amendment which I offered, along with 122 cosponsors, in 1983, limiting House and Senate income from honoraria for speeches, appearances, and articles to 30 percent of congressional salary. That amendment was enacted as part of the fiscal year 1983 supplemental, Public Law 98-63.

Using a perverted sense of compromise, the Senate hoped that the House conferees would eliminate the honoraria limit in current law, in exchange for knocking out the new total restriction on income from your profession or professional relationships. The House conferees refused, and rightly so.

The Senate amendment was poorly conceived and poorly drafted. Necessary definitions as to its provisions would presumably have been determined by the Attorney General of the United States. A notoriously political office in most of the administrations since I have been around here.

But the Senate adamantly refused, after 2 days of wrangling, to give up on relaxing the honoraria limitation. In one of the last agreements in the conference last night, the Senate conferees voted 7 to 5 to insist on raising the limitation from 30 percent of salary to 40 percent. House conferees refused to allow this provision to apply to the House, and that is what we have brought back.

While the Senate will be taking a 10-percent increase in their honoraria limitation, amounting to $7,510 per year, language in the statement of the managers stipulates that this only affects the Senate. House Members will continue to be bound by House Rule 47, which limits outside income from honoraria and other sources to 30 percent of salary.

The other body may be greedy, but we refuse to take this increase. I hope our friends in the press gallery are paying better attention than they did when this issue came up a couple of days ago.

Turning to the pay issue, even more misinformation is being spread about what is in this resolution than on the honoraria issue. The 6:30 newscast this morning on national public radio stated flatly that the continuing resolution included a pay increase for Members of Congress. By 7:30, this had been corrected, but many of your constituents may have left for work by that time.

Nothing in this resolution provides a pay raise for Members of Congress.

Are you listening up there?

Read my lips.

Nothing in this resolution provides a pay raise for Members of Congress.

That is what the resolution does not do. What does the resolution do?

The Senate amendment agreed to by the House conferees amends title II of the United States Code in regard to the procedures to be used in response to recommendations of the Commission on Executive, Legislative and Judicial Salaries. This Commission was established in 1967 to review the rates of pay of senior officials in all three branches of the Government. The Commission is composed of three members appointed by the President, two by the President of the Senate—in other words, the Vice President—two by the Speaker of the House, and two by the Chief Justice of the Supreme Court.

After reviewing pay rates, the Commission reports to the President any recommendations for changes. The President then reports such recommendations, along with his own recommendations as to exact rates of pay, to the Congress.

Under current law, such Presidential recommendations can be vetoed by a vote by either House. As you are all aware, this is now in violation of the Supreme Court's Chadha decision against one-House vetoes.

The changes proposed in this resolution to avoid the problem with the Chadha decision were proposed by the Commission itself. The major effect of the changes is the requirement that any Commission recommendations sent up by the President would be subject to disapproval by a joint resolution agreed to by the Congress—that is both Houses—and signed by the President.

That is all this amendment does. It meets the requirements of the Chadha decision. It is a technical but necessary change.

The next recommendations of the Commission are expected at the end of next year. Congress would consider any recommended changes sent up by President Reagan early in 1987. Given the current budgetary circumstances and the record of this President, it is at best uncertain whether any changes would be sent up—at least any changes of an upward nature.

In any event, Congress can vote to disapprove any such changes. That is the vote for or against a pay raise. The vote today is not a vote on that issue.

I hope that with these reassurances that nothing in this conference agreement affects salaries or honoraria for Members of the House of Representatives, that all Members of this body will be able to support this agreement in good conscience.

TRANSPORTATION

In the Transportation section of the CR, we made two changes. First of all, we dropped the Senate provision making permanent the temporary requirement that States adopt a drinking age of 21 years old, or face a percentage cut in their highway funds. As a Representative whose district includes a "blood border" with Vermont, I think we may have erred in dropping this provision. But because it was a matter of controversy, and obviously of great concern to a number of Members last Monday night, it was deleted.

In addition, we needed to cut approximately $50 million from the Transportation section of the bill. That cut came from the Coast Guard's procurement account. I opposed that cut, because I thought it should have been spread between the Coast Guard and other, larger, procurement programs with significant unexpended balance carryovers.

Fortunately, we were able to make up for this cut in the Defense section of the bill, where $140 million of the Defense Department's unobligated balances were earmarked for the Navy/Coast Guard Coastal Defense Augmentation effort.

This brings the Coastal Defense Augmentation Program up to the Senate's original level of $375 million, to be used for patrol boats, C-130's, advanced radar, medium-range helicopters, tugs, and related equipment. When added to the $217 million in the Coast Guard's regular procurement account, it amounts to a significant level of resources to give the Coast Guard the tools it needs to perform its many critical missions.

Although there was no change, I do want to stress for my colleagues who were concerned about Coast Guard operating expenses that we have provided a total of $1.752 billion—$1.652 billion in the Transportation section and $100 million resulting from my amendment to the Defense bill. That amount should be adequate to permit the continuation of all ongoing Coast Guard missions, as well as to prevent the closure of the Great Lakes stations that were slated for consolidation under the original Coast Guard budget.

Again, maybe I got carried away, but I want to get back to the focal point. I hope you will all vote for the CR. It is a good CR. We worked hard on it. There are a lot of things in here maybe you do not like and a lot of things that I do not like, but taken as a whole, it is a good CR. I hope we can pass it and you can all go home with your families and enjoy yourselves. Have a Merry Christmas and a Happy New Year.

Mr. WHITTEN. Mr. Speaker, I yield 1 minute to the gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Speaker, I rise to express concern over one provision in the CR. We have cleaned up some of the problems dealing with government procurement, but unfortunately, congressional procurement did not get reformed. So there is language in here that would permit the honoraria for the Senate Members to increase to 40 percent of income. I think that is pretty hard to swallow at a time when so many of our people are having trouble.

Then we get to another provision which says that the Quadrennial Commission that will meet next year to approve pay raises for Members of the Congress, in order for their recommendations to be disapproved, that is, not to go into effect, it will be necessary for a vote of both Houses of Congress in opposition and the President must sign that bill making in opposition. There is as much chance of that as me flying safely off the Capitol.

Finally, Mr. Speaker, I would just like to say that in this day of Gramm-Rudman, the theory has been that if you cannot agree on spending cuts, there will be automatic cuts. This goes the other way. Apparently if you cannot agree on pay increases, there will be automatic pay increases, and that concerns me greatly.

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. WISE. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Speaker, I just want to make one observation. In regard to the pay commission, that will not apply in the 99th Congress. It will be in the 100th Congress, a new Congress. There will be a new Congress coming in.

Mr. WHITTEN. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. FAZIO], a member of the committee.

Mr. FAZIO. Mr. Speaker, I appreciate the gentleman yielding me this time.

I simply would like to reiterate the point that the gentleman from Massachusetts was making. This is not a foolproof process. The Quadrennial Commission law needs reform. It violates the Constitution in the sense that we no longer can use the legislative veto after the Chadha decision was rendered by the Supreme Court. Consequently, there is the possibility that a new commission, which will be appointed sometime in 1986, may make recommendations covering the 3,150 top level personnel in the Government. Those recommendations, or alternative ones, may be forwarded to the Congress by the President early in the 100th Congress in 1987 and, depending on how the process works, they may go into effect.

But, there is no pay raise in this bill and the increase in honoraria will only affect the Senate.

Mr. Speaker, in general, let me simply say that we do not find ourselves here today in a state of anarchy that confronted us the other night when we defeated the conference report. We have worked on the bill and, I think, calmed down and realized that it is time that we go about the business of celebrating the holidays with our families, leaving these matters behind us here.

We are not proud of every item in this product, but most of them are worthy of our support. It is the best we can do and we need to pass it.

I would like to tell my colleagues that the difficulty of dealing with these omnibus measures is only going to be exacerbated by the Gramm-Rudman process. We are going to be here in this situation many times during the next several years unitl the plague leaves us.

I hope we will be able to work out our differences, because they are vast and wide, with the spirit of comity that the Appropriations Committee provides the House. There are many fine people in both parties who work together to resolve the problems that the whole Congress faces. We are not getting the help from the executive branch that we would like to have, but the committee serves this body well with its ability to reconcile differences and compromise what seem to be impossible issues.

I hope that we can continue to work together. I know we are going to come under even more pressure as we face Gramm-Rudman, but we do provide, I think, some hope for the Congress. I hope we come back in January, tackle the budget process, as the gentleman from Iowa urged earlier, with speed and diligence and let the Appropriations Committee do its work. As always we will serve you well if you will let us.

Mr. WHITTEN. Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Mrs. BOXER].

Mrs. BOXER. Mr. Speaker, I urge support for this continuing resolution.

Amazingly, we have a procurement reform, and I say amazingly because the other body was adamant that we would have none. It was only because of the tenacity of our House colleagues, Congressmen ADDABBO, CHAPPELL, MURTHA, MCDADE, FRANK, MILLER, FAZIO, AUCOIN, and DICKS, that we have prevailed.

Now, what have we won? We have won our allowable cost law. There will now be clarification of the definitions of the vast gray areas between allowable and unallowable cost. It is such gray areas that have contractors charging off on the taxpayers fancy parties and fancy lifestyles that should be prohibited.

For 25 years, the Pentagon has resisted requests to tighten up cost principles. The legacy of their neglect of those notorious revelations of boarding fees, for, first, the dogs, memberships, country clubs, and customized mattresses, all for contractor bigwigs.

Now, we did not win 75 percent of the reforms that we should have won, but we have prevailed in our efforts to win concessions of procurement reform from the other body. This is major. We have shown that we have the guts and the commitment to get the job done and we have walked tall. Even those of us who are 5 feet tall, we have walked tall, because we have made that other body come to grips with us.

We will continue our important work of procurement reform with the American people behind us.

Again, Mr. Speaker, I thank my colleagues for their incredible legislative skills. I go home to my family feeling that we have done a very good job.

Mr. WHITTEN. Mr. Speaker, to wind up the debate, may I express the hope that everyone will support us today. I wish everybody a merry Christmas and a happy holiday.

Mr. Speaker, I yield the remaining time to the gentleman from Florida [Mr. BENNETT], an outstanding member of the authorizing Committee on Armed Services.

Mr. BENNETT. Mr. Speaker, I thank the gentleman very much.

I congratulate the gentleman from Mississippi and the gentleman from Florida and the gentleman from New York and all the others that brought this forward.

I plan to vote for the passage of this bill, as I did before when it was before us, because there has to come an end eventually to legislation and we are at the end of the session.

Like the gentlewoman from California, I feel that great advances were made in the field of procurement reform. I think that was a difficult problem for the Appropriations Committee to have to handle. It is not logical that they have to handle it, but they did handle it, and I congratulate them upon it.

Of course, there are things we ought to do in the future. There are more procurement reforms that ought to be enacted, but I am sure that will happen in the next session, in the months to follow.

So to conclude my remarks, I want to say, I think I express on behalf of all Members of Congress that we congratulate this committee on the fine work that it did under very difficult circumstances. They brought forth, I think, a very good bill.

I would like to see more money for defense than was there, but I still feel it is the best we can do under the circumstances.

I congratulate the committee and hope we can all have a Merry Christmas.

Mr. BROWN of California. Mr. Speaker, I'd like to take this opportunity to extend my special appreciation for those members of the appropriations conference who worked so hard to obtain a bilateral antisatellite [Asat] test moratorium in the continuing resolution. This issue has been of particular concern to me for several years, but the need for such a moratorium has never been more important. On the eve of the conference agreement on the Asat moratorium language, the administration launched two new Asat target vehicles. Without this moratorium, additional Asat tests were imminent. With two more successful tests, the Air Force could have declared the system operational, and begun the process of full deployment.

This administration continues to flaunt the will of the Congress. Last year, the House and Senate agreed on a compromise in which the administration was required to submit a certification report to Congress prior to conducting a test. The President was required to certify four basic elements: First, that the United States is negotiating, in good faith, an Asat treaty with the Soviet Union; second, that the Asat test is necessary to our national security; third, that such a test would not impair prospects for negotiating on Asat's; and fourth, that the test is not a violation of the Anti-Ballistic Missile Treaty of 1972. In August, a report was submitted which was so flawed, and such a pious fraud, that it was indefensible. It seems clear to many in the Congress that this administration will undertake no arms control measures until the Congress mandates it by language such as we now have in the continuing resolution, or possibly takes even more forceful steps.

Today's action on the moratorium meets those four basic criteria set out in previous law in a simple, yet direct way, without damaging our national security. It states simply—and without complex diplomatic maneuverings—that the United States will not test an Asat system against objects in space as long as the Soviets refrain from doing so. No loopholes, no questionable language. It sends a clear and unequivocable message to the administration that the Congress intends to act in a responsible manner with regard to arms control, even if it refuses to do so.

The moratorium costs us nothing. There's no increase in Pentagon expenditures. Yet it insures that both the U.S. and the U.S.S.R. will be able to maintain survivable satellites systems—a key security element. The Soviet's present system, which has failed most of its tests, is probably less effective than the system which the United States dismantled 10 years ago. The moratorium will insure that neither superpower will have a modern effective Asat.

There's never been a plausible scenario for the use of Asat's, except as part of a first strike attack in an all-out nuclear war. In that scenario, all space assets on both sides will probably be destroyed by nuclear explosions in space anyway. Thus the United States, which has far more and far superior satellites, will be able to maintain its key intelligence gathering capability during peacetime without fear of attack. And the danger of nuclear war through accidental satellite malfunction will be substantially reduced.

The Asat test ban is true arms control at its best. It is unquestionably bilateral—we won't test if you don't. It is verifiable through the very technology—satellites—that Asat's are intended to destroy. And it not only saves billions of dollars for the weapon, it also protects our substantial investments in space.

Again, I express my deepest appreciation for all of those who have worked hard on this endeavor both in and out of the conference, and for that matter in and out of Congress. I have no grand illusion that this moratorium will insure anything more than what it states—a bilateral ban on Asat testing for the next year. Yet, as John Kennedy noted:

> Peace is a daily, a weekly, a monthly process, gradually changing opinion, slowly eroding old barriers, quietly building new structures. And however undramatic the pursuit of peace, the pursuit must go on.

The Asat ban is by no means the end—it is not even the beginning—but merely one of a series of those undramatic pursuits which of necessity must go on. Today, Congress has the opportunity to deliver a small package of hope to the American and Soviet people in this season of peace. Then it has an obligation to continue the pursuit of peace, and the end of the nuclear arms race, throughout the next year.

Mr. MONTGOMERY. Mr. Speaker, I just want to congratulate the conferees on their hard work.

In particular, I want to thank the conferees on the defense portion for retaining the language prohibiting the expenditure of funds unless they are authorized. The House and the Congress reviewed each of the defense programs carefully during the authorization process and this language will ensure that funds for every defense program will receive the necessary review before the money can be spent.

Mr. FORD of Michigan. Mr. Speaker, there has been some confusion over a Senate amendment to the continuing resolution. That amendment would revise the statute which provides for the so-called Quadrennial Commission so that the procedures under which recommendations made by that Commission are considered would meet the constitutional requirements enunciated in the Supreme Court's Chadha decision concerning legislative vetoes. The existing Quadrennial Commission legislation contains a legislative veto provision, a process declared unconstitutional in Chadha.

Mr. Speaker, some Members have expressed concern that the Senate amendment will result in an automatic pay increase for Members, and one Member even has gone so far as to say the increase would be to a rate close to $100,000. As chairman of the Committee on Post Office and Civil Service, the committee with jurisdiction over the Quadrennial Commission Act, I want to assure my colleagues that nothing could be further from the truth.

The act requires the appointment of a Commission of private citizens every 4 years to review the rates of pay for Members and other top Government officials and to recommend to the President appropriate changes in those rates. It then requires the President, after considering the Commission's recommendations, to submit his own recommendations to the Congress. Finally, it provides that these recommendations will go into effect only if approved by both Houses of Congress. There is no requirement that the congressional action be presented to the President for his signature.

The most recent Commission was appointed early this year. Recognizing that the procedure required by the act might be

unconstitutional under the Chadha decision, the Commission asked the Department of Justice for its opinion on the matter. On March 29, 1985, the Assistant Attorney General, Office of Legal Counsel, responded that the existing procedure was unconstitutional. According to the Assistant Attorney General:

> We believe that [the Act] contains a legislative veto device that is unconstitutional under the Court's rationale in Chadha. Approval by Congress of revised salary levels is clearly "legislative action" that has "the purpose and effect of altering the legal rights, duties and relations of persons * * * outside the legislative branch," 103 S. Ct. at 2784. Congress can therefore act only in accordance with the "single finely wrought and exhaustively considered, procedure" set forth in the Constitution for legislative action—passage by both Houses and submission of the legislation to the President. *Id.* Because [the Act] purports to authorize Congress to enact salary levels without presentment to the President, it falls squarely within the Court's reasoning in Chadha.

The Assistant Attorney General then addressed the question of the constitutionality of "a statute that delegates to the President the authority to establish new salary levels for the covered individuals, based on certain criteria, but that would also give Congress a certain time period before those salaries take effect to enact legislation disapproving the new levels." He concluded:

> Provided that such disapproval legislation would then be presented to the President for his signature or veto, in accordance with Art. 1, sec. 7 of the Constitution, such a scheme would satisfy the requirements of Chadha.

Mr. Speaker, because of the constitutional defect in existing law, last year's Commission was impotent to put into motion the machinery for a review of the pay rates for top level Government officials which would have any possiblity of resulting in appropriate changes in those rates. It did, however, recommend legislation which would cure the constitutional defect and which would mandate the appointment of an interim commission to make appropriate recommendations to the President—recommendations which then would be before the Congress in 1987. This recommended legislation was added to the continuing resolution by the Senate. It cures the constitutional defect in existing law. It does not preclude the Congress from working its will on any recommendations which may be forthcoming in the future.

Mr. Speaker, I again emphasize that the Senate amendment is not an "automatic pay raise." It does not specify or even suggest that changes in congressional pay are necessary or desirable. To characterize it as doing these things is wrong. What it does do is cure an unconstitutional statute by providing a mechanism for careful, constitutional reviews of pay rates for top Government officials in the future.

Mr. RICHARDSON. Mr. Speaker, the Appropriations Conference Committee adopted several amendments to the Department of the Interior appropriations bill provisions pertaining to the Navajo and Hopi relocation program. One of the amendments provides as follows:

> *Provided further,* That none of the funds contained in this or any other Act may be used to evict any Navajo household who, as of November 30, 1985, is physically domiciled on the lands partitioned to the Hopi Tribe until such time as a new or replacement home is available for such household.

It is my understanding of this amendment that it is intended to permit Navajo families to continue to reside on lands partitioned to the Hopi Tribe without fear of eviction after the July 7, 1986, deadline for completion of the relocation program. The conference committee has accurately recognized the fact that hundreds of Navajo families will not be relocated from Hopi lands by the July 7, 1986, the replacement homes and related facilities which are required to be provided to them by the mandate of Public Law 93-531, the Navajo and Hopi Settlement Act of 1974.

It is my understanding that the committee, by adopting this amendment, intends to ensure that all Navajo relocatees will receive the full measure of the benefits provided by Public Law 93-531 prior to their removal from Hopi lands. The benefits to be provided include compensation for their dwellings, replacement homes and "related community facilities such as water, sewer, roads, schools, and health facilities." Finally, I would like to note that the amendment in no way alters the duty of the Navajo and Hopi Indian Relocation Commission to minimize the adverse "social, economic, cultural and other impacts" of relocation of these Navajo families.

Mr. BEDELL. Mr. Speaker, I must reluctantly oppose this conference report on House Joint Resolution 465, the continuing appropriations resolution to fund the operations of several Government agencies through the end of this fiscal year. Last week, we entered a new budget era by passing the Gramm-Rudman balanced budget law. That law is intended to force hard budget choices and is based on the principle of sharing equally the pain of deficit reduction. This bill before us avoids the hard choices for the military and protects the military budget from its fair share of cuts. It is business as usual.

Those of us who oppose this bill today are told to wait until next year. We cannot wait until next year. Next year the Gramm-Rudman balanced budget law will require cuts elsewhere to make up for any increases in the deficit due to increased defense spending. The bigger the deficit next year, the bigger the required cuts. The mandatory cuts will come out of agriculture, education, community development and almost every other Federal program.

I appreciate the heroic efforts of the House conferees to obtain the best bill possible in the face of adamant intransigence on the part of the Senate conferees right up to what will probably be the last day of this year's session. But here we are, presented with a huge package bill appropriating hundreds of billions of dollars and allowed one yes-or-no vote on whether or not to keep the Government running. Some will say that there is nothing unusual about this, and that we do this every year. Unfortunately, this is true. This year, much of the fault lies with the Senate, since we in the House had acted on 12 of the 13 regular appropriations bills over 1 month ago, but they languished while the Senate failed to act.

Ultimately, however, I cannot accept the Senate's delay and intransigence up to the last minute as a reason to support a bill which must be judged on its own merits. Iowans of all political beliefs have told me again and again that they support an across-the-board budget freeze which applies to the military and does not allow any increases for inflation. They have also told me that they strongly support tough provisions to end defense contractor ripoffs.

The House affirmed these positions early this year. First, the House voted a budget resolution that would have frozen the total 1986 defense budget at the fiscal 1985 level of $292 billion. Second, the House upheld this position when it voted 301 to 115 to reduce the defense authorization bill by $10 billion in order to bring it in line with the House budget resolution figure of $302. This defense authorization bill also contained four strong provisions to end defense contract ripoffs and reform our procurement system. Third, the House voted October 30 for a defense appropriations bill that would have frozen total defense spending at $292 billion.

Ever since, we have been under constant pressure from the Senate to cave in, increase defense spending and throw out defense contractor procurement reforms.

First, House negotiators brought back to us the House-Senate compromise on the budget resolution. It allowed a maximum of $302 billion for defense, a $10 billion increase. But, we were told, that number was just a maximum planning number and, when we considered the actual defense spending bills, we could spend less. I voted against that budget resolution because I didn't believe we would spend a dime less.

Second, we considered the House-Senate compromise version of the defense authorization bill, which sets defense policy and spending levels. As the Senate insisted, the bill allowed a $10 billion increase for defense, which pushed total defense spending to $302 billion. Furthermore, all defense contract procurement reforms were thrown out. Those of us who protested were told that our concerns would be addressed in the defense appropriations bill, which actually lays out dollars.

Finally, here we are on the last day of the session considering a huge spending bill that includes the House-Senate compromise version of the defense appropriations bill. It obligates total defense spending of $303.9 billion, which is $11 billion more than originally approved by the House. In addition, it includes only one of the four defense contract procurement reforms we sought, and in a watered-down form. Those of us who protest are told to "wait until next year."

We cannot wait until next year to reduce the budget deficit, control defense spending or end defense contract ripoffs. I will vote against this bill today.

I would, however, like to again commend the negotiators for the House for obtaining the prohibition on flight testing of antisatellite weapons unless the President certifies that the Soviet Union has conducted a test of such a weapon. This effort toward mutual arms control is a crucial attempt to avoid a qualitative escalation of the arms race in space. In addition, although many important procurement reforms voted by the House were omitted from the final bill, I commend the conferees for obtaining a compromise version of the allowable cost procurement reform supported overwhelmingly by the House. This provision moves in the direction of ending the outrageous practice of certain defense contractors of charging the Government for costs such as that of boarding dogs.

Mr. LEVINE of California. Mr. Speaker, I rise in support of House Joint Resolution 465.

While I support House Joint Resolution 465, I have serious reservations about the Defense portions of this bill, even though I am pleased to see that the moratorium on Asat testing passed by the House has been retained in the conference report.

From a budgetary standpoint, the conference report on the continuing resolution provides the Department of Defense with additional billions of dollars over the house-passed appropriations level of $292.6 billion. This is the second time during the fiscal year 1986 spending cycle that a conference agreement has leaned toward the higher Defense spending levels of the other body. Certainly I applaud the conferees' actions yesterday to cut $1.3 billion from Defense and to fence in the $6.3 billion of previously unobligated funds.

Nonetheless, the spending level still exceeds that passed twice by the House. At a time of ever-increasing budget deficits, at a time when Congress has passed the Gramm/Rudman/Hollings balanced budget amendment—which will mandate across-the-board cuts in many vital domestic programs—and at a time when studies have shown that billions of dollars worth of waste can be cut out of the defense budget without harming national security, I find the conference action especially disturbing.

From a substantive and perhaps more important standpoint, this conference report practically ignores the House will on military procurement reform. This body has voted by overwhelming margins on several occasions to put into law reforms which would fundamentally change the way the Pentagon does business. Amendments on multiple sourcing, revolving door, allowable cost, and should cost would all help impose some fiscal discipline on the Pentagon, and would show the public that we in Congress are taking serious steps to combat waste, fraud, and abuse.

Sadly certain Members in the other body do not see these procurement reforms in such a positive light. Indeed, during the authorization conference, all four reforms were weakened to the point where they would have little, if any effect. During the continuing resolution conference, the other body did not even bother to weaken the reforms; they chose instead to throw them out. Mr. Speaker, this action calls into question the validity of a process in which the will of one body of Congress can be so blatantly ignored. I certainly applaud the diligent efforts of my colleagues Mr. CHAPPELL and Mr. ADDABBO to ensure that certain provisions of allowable cost made it into this continuing resolution, however, that alone is not enough.

Mr. Speaker, I did not choose to vote against the continuing resolution on Monday night, and I will not vote against it this time either. I do not believe that the wheels of government should come to a grinding halt because of procurement reforms or any other single issue with which I disagree, however important it may be. And certainly there is much that I support in this continuing resolution. However, this should not be taken as an indication that I, along with my reform colleagues who also voted for the continuing resolution, do not take procurement reforms seriously.

Mr. Speaker, let there be no mistake—we will be back next year.

Mr. KRAMER. Mr. Speaker, again we find ourselves debating important legislation which contains a provision portraying the Synthetic Fuels Corporation as a drain on our Federal Treasury.

If I agreed with that prognosis—that our synthetic fuels program was harming our Nation and that it was an obstacle in our struggle to balance the budget—I would be first in line calling for its abolition. But I am as committed as anyone here to cutting the deficit. I'm not afraid to make difficult choices, and my record will bear out my claim.

But in the case of synthetic fuels, we're not just talking about dollars and cents. We're talking about energy security. About the vulnerability of our country to the whims of a foreign government. And we're also talking about fairness, and the ability of our Government to keep its word.

The specifics are Cathedral Bluffs, an oil shale project which this resolution would destroy, and Parachute Creek, which would be severely harmed. These projects were part of the vision of an energy independent America—one which would never again be under the thumb of the OPEC cartel.

While I certainly do not condone mismanagement and the abuses that have taken place with the SFC, I believe that to abandon this protective shield against a future energy crisis—just because energy is plentiful today—would seem extremely shortsighted. Passage of this resolution would shatter any chance we might have had of developing a viable, and totally American fuel supply.

And to those of you claiming that a synthetic fuels program is unnecessary because oil is cheap, I would like to remind you of long lines at the gas stations just a few short years ago, of the factories shutdown because there was not enough energy to run them and of the farmers without sufficient fuel to plant and harvest their crops. The good times we're having today—plentiful, moderately priced fuel, sufficient energy to keep the fires of industry burning—will not last forever without vision.

Based on this vision and the word of the Federal Government, western Coloradans began to prepare for the development of the vast oil shale resources which stretch for miles across that part of the country. Private companies have invested an estimated $1 billion in the two Colorado projects. These same companies and local governmental units have invested an estimated $330 million on new housing, roads, schools, sewers, and water projects to meet the needs of the expected population growth.

But here we stand again, as Congress one more time tries to pull the rug out from under the citizens of western Colorado who have so faithfully taken their Government at its word. Abandoning them now will not only cause them great personal and community harm, but in the process harm the credibility and the reliability of our Government as well.

Again, I ask you, do not be shortsighted in the matter of synthetic fuels. I urge you to vote against the resolution.

Mr. ASPIN. Mr. Speaker, the status of unauthorized appropriations is an issue that has received substantial attention in both bodies in conjunction with the continuing resolution. This year, in particular, the problem was especially acute as a result of the inclusion by the other body of $7.2 billion of appropriations for defense programs that were not authorized.

Current law (section 138 of title 10, United States Code) requires that no funds be appropriated, obligated or expended unless previously authorized. The bill before us now does provide appropriations in excess of authorizations for some programs. I am disappointed that the conferees could not agree to eliminate all such instances; but I understand, as well, that information received subsequent to the consideration of the Defense Authorization Act could support requirements to fund certain programs that may be of higher priority than those authorized earlier in the year.

I am pleased, however, to note that the conferees adopted the amendment contained in the Senate bill that specifically prohibits the obligation and expenditure of funds for any purpose unless the funds have been otherwise authorized for that purpose. The floor debate in the other body suggested that the language of the provision referred to the account totals contained in the authorizing and appropriating legislation. However, as implied by the language regarding amendment 4 in the statement of managers, in order to determine the programs for which funds have been authorized and appropriated, reliance must be placed on the reports accompanying the authorization and appropriation bills, respectively.

This provision will permit the Committees on Armed Services to review those programs early next year and to provide authorization should the justification be sufficient to demonstrate that these programs merit a higher priority than others previously authorized. Until these programs are authorized, no funds may be obligated or expended on them.

I believe that the provision in the resolution before us affords an excellent procedural solution for addressing the problems caused by the period of time that elapses between the consideration of authorization and appropriation bills.

Mr. Speaker, I want to take this opportunity to express my sincere thanks to the members of the Defense Subcommittee on Appropriations for their invaluable assistance prior to and during the conference on the continuing resolution. In particular, I appreciate the time and energy devoted to this issue by the chairman, the gentleman from New York [Mr. ADDABBO]; the acting chairman, the gentleman from Florida [Mr. CHAPPELL]; and the ranking member, the gentleman from Pennsylvania [Mr. MCDADE]. They could not have been more supportive of our requests. I look forward to working closely with them in the future, not only on substantive matters, but to further promote our joint efforts to ensure the viability of the authorization-appropriation process.

Mr. WEISS. Mr. Speaker, I would like to take this opportunity to explain my support of the conference report on House Joint Resolution 465, making further continuing appropriations for fiscal year 1986.

Many of my colleagues voted against this legislation when it was considered on December 16 because they strongly objected to certain of its provisions relating to defense spending. Specifically, many Members expressed strong concern about the excessive defense spending levels provided for in the legislation, the approval of chemical weapons production, and the lack of procurement reform provisions that had been passed by the House of Representatives.

I strongly share these concerns and feel that they are justified. However, I believe that those who opposed the legislation for these reasons have underestimated the value of another provision that is contained in the conference report. This is the total ban on the testing of antisatellite [Asat] weapons approved by the conferees.

The issues of overall defense spending levels, chemical weapons, and procurement reform are highly important ones. However, if action in these areas is postponed for the next few months, the resulting delay is not likely to dramatically alter United States-Soviet relations or significantly detract from current arms control efforts.

The issue of Asat testing is quite different. The United States proceeded with an Asat test in September of this year, despite a Soviet moratorium on such tests and previously enacted restraints on these tests imposed by the Congress. We have already made significant preparations for two further tests next year.

If Asat testing is permitted to continue, it is likely that Soviet testing of Asats will resume in the near future. The early warning systems of both superpowers will become vulnerable to a surprise first-strike attack, and the danger of nuclear war will increase. We will have contributed to the initiation of an entirely new arms race in space and threatened the prospects for achieving an arms agreement with the Soviets.

On the other hand, if we act to ensure that the stiff new prohibition on Asat tests contained in the continuing resolution is preserved , it is likely that such an arms race can be successfully avoided. The conference committee language denies appropriations for Asat testing under "this or any act," meaing that Asat testing will not be allowed to resume unless specific language repealing the ban is enacted in the future.

This ban on Asat tests will help guarantee the survivability of our early warning and communication satellites, thus reducing the likelihood of a surprise first strike. It will prevent the expenditure of large sums for weaponry that will reduce the security of our Nation. It will aid us in negotiating comprehensive arms agreements with the Soviet Uinon.

Defense spending levels and procurement reforms are important matters that will be debated in the coming months, But the Asat test ban achieved by the conferees represents a golden opportunity to stop an entire arms race before it begins. We cannot let this opportunity slip away. It is for this reason that I voted in favor of the conference report on House Joint Resolution 465 when it was considered and defeated on December 16, and am doing so again today when its passage is likely.

Mr. HORTON. Mr. Speaker, I rise in strong support of the provision in the Defense chapter of the continuing resolution that provides $11.1 million for construction and all related development costs, including costs already incurred in conceptual design, architecture, engineering and other facility and site development activities, for the Microelectronic Engineering and Imaging Sciences Center at Rochester Institute of Technology. The conference agreement recognizes that RIT was forced to begin construction and development activities in order to retain a number of substantial financial pledges made toward construction of the center by private contributors. I commend the conferees for their efforts. The advances made by this facility will make significant contributions to our national security.

The SPEAKER pro tempore. All time has expired.

Mr. WHITTEN. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DANNEMEYER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 261, nays 137, answered "present" 1, not voting 35, as follows:

[Roll No. 476]

YEAS—261

Ackerman
Addabbo
Akaka
Alexander
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Badham
Barnard
Barnes
Bateman
Beilenson
Bennett
Bereuter
Berman
Bevill
Bliley
Boehlert
Boggs
Boland
Boner (TN)
Bonior (MI)
Bonker
Borski
Bosco
Boucher
Boxer
Breaux
Brooks
Brown (CA)
Bryant
Burton (CA)
Bustamante
Byron
Callahan
Carney
Carper
Carr
Chandler
Chappell
Cheney
Clay
Clinger
Coelho
Coleman (MO)
Coleman (TX)
Collins
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Darden
Daub
Davis
de la Garza
Derrick
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Downey
Duncan
Durbin
Dwyer
Eckert (NY)
Edwards (CA)
Emerson
Erdreich
Evans (IL)
Fascell
Fazio
Fish
Flippo
Foglietta
Foley
Ford (TN)
Fowler
Frank
Frost
Gallo
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Gingrich
Gonzalez
Goodling
Gradison
Gray (PA)
Green
Guarini
Hall (OH)
Hammerschmidt
Hatcher
Hawkins
Hefner
Hiler
Hillis
Holt
Horton
Howard
Hoyer
Huckaby
Hutto
Ireland
Jeffords
Jenkins
Johnson
Jones (NC)
Jones (TN)
Kanjorski
Kastenmeier
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
Leath (TX)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Livingston
Long
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
MacKay
Madigan
Manton
Markey
Martin (NY)
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McDade
McHugh
McKernan
Mica
Michel
Mikulski
Miller (CA)
Miller (OH)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moore
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Natcher
Nowak
O'Brien
Oakar
Oberstar
Obey
Olin
Ortiz
Oxley
Packard
Panetta
Parris
Pashayan
Pease
Pepper
Perkins
Petri
Pickle
Pursell
Quillen
Rahall
Rangel
Regula
Reid
Rinaldo
Robinson
Rodino
Roe
Roemer
Rogers
Rostenkowski
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Rudd
Sabo
Saxton
Schaefer
Schneider
Schulze
Schumer
Shaw
Shelby
Sikorski
Sisisky
Skeen
Skelton
Slaughter
Smith (FL)
Smith (IA)
Smith (NE)
Smith, Robert (OR)
Snowe
Solarz
Spratt
Stangeland
Stenholm
Stokes
Stratton
Studds
Sundquist
Swift
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Traxler
Udall
Valentine
Vander Jagt
Vento
Volkmer

Walgren
Waxman
Weiss
Wheat
Whitehurst
Whitley
Whitten
Wilson
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Young (AK)

NAYS—137

Anderson
Archer
Armey
Bartlett
Barton
Bates
Bedell
Bentley
Bilirakis
Boulter
Brown (CO)
Broyhill
Bruce
Burton (IN)
Campbell
Chappie
Coats
Cobey
Coble
Combest
Craig
Crane
Dannemeyer
Daschle
DeLay
Dellums
DeWine
Dorgan (ND)
Dornan (CA)
Dreier
Dymally
Dyson
Eckart (OH)
Edgar
Edwards (OK)
English
Evans (IA)
Fawell
Feighan
Fiedler
Fields
Franklin
Frenzel
Gekas
Glickman
Grotberg
Gunderson
Hall, Ralph
Hamilton
Hansen
Hartnett
Hayes
Hendon
Henry
Hertel
Hopkins
Hubbard
Hughes
Hunter
Hyde
Jacobs
Jones (OK)
Kasich
Kemp
Kolbe
Kramer
Lagomarsino
Lantos
Latta
Leach (IA)
Lewis (FL)
Lightfoot
Lloyd
Loeffler
Lungren
Mack
Martin (IL)
McCain
McCandless
McCurdy
McEwen
McMillan
Meyers
Miller (WA)
Mitchell
Moody
Moorhead
Morrison (CT)
Neal
Nielson
Owens
Penny
Porter
Ray
Ridge
Ritter
Roberts
Rose
Roth
Savage
Scheuer
Schroeder
Schuette
Seiberling
Sensenbrenner
Shuster
Siljander
Slattery
Smith (NJ)
Smith, Denny (OR)
Smith, Robert (NH)
Snyder
Solomon
Spence
St Germain
Staggers
Stallings
Stark
Strang
Stump
Sweeney
Swindall
Synar
Tallon
Tauke
Towns
Traficant
Visclosky
Vucanovich
Walker
Weber
Whittaker
Williams
Wise
Yatron
Young (FL)
Zschau

ANSWERED "PRESENT"—1

Crockett

NOT VOTING—35

Biaggi
Broomfield
Chapman
Daniel
Dowdy
Early
Florio
Ford (MI)
Fuqua
Garcia
Gordon
Gray (IL)
Gregg
Heftel
Kaptur
Kindness
LaFalce
Lehman (CA)
Lipinski
Marlenee
Martinez
McGrath
McKinney
Murtha
Nelson
Nichols
Price
Richardson
Russo
Sharp
Shumway
Watkins
Weaver
Wirth
Young (MO)

□ 1335

The Clerk announced the following pairs:

On this vote:

Mr. Nelson of Florida for, with Mr. Russo against.

Ms. Kaptur for, with Mr. Nichols against.

Mr. Gray of Illinois for, with Mr. LaFalce against.

Messrs. ROSE, GLICKMAN, McMILLAN, SWINDALL, CAMPBELL, WHITTAKER, GEKAS, KOLBE, ZSCHAU, TOWNS, DYMALLY, SCHEUER, NEAL, and GROTBERG changed their votes from "yea" to "nay."

Mr. STOKES and Mr. SCHEUER changed their votes from "nay" to "yea".

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. SHUMWAY. Mr. Speaker, when the legislative bells rang indicating the vote today at 1:26 p.m., on rollcall No. 476, on the conference report on the continuing resolution, there was evidently a malfunction in my congressional office. Thus, I was unaware of the pending vote and not present on the floor. Had I been present and voting, I would have voted "nay."

DESIGNATION OF HON. JIM WRIGHT TO ACT AS SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS UNTIL DECEMBER 31, 1985

The SPEAKER laid before the House the following communication from the Speaker:

WASHINGTON, DC,
December 19, 1985.

I hereby designate the Honorable JIM WRIGHT to act as Speaker pro tempore to sign enrolled bills and joint resolutions until December 31, 1985.

THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives.

Without objection, the designation is agreed to.

There was no objection.

APPOINTMENT AS MEMBERS OF U.S. DELEGATION OF THE CANADA-UNITED STATES INTERPARLIAMENTARY GROUP

The SPEAKER. Pursuant to the provisions of 22 U.S.C. 276d, the Chair appoints as members of the U.S. delegation of the Canada-United States Interparliamentary Group the following Members on the part of the House:

Mr. Barnes of Maryland, chairman;
Mr. Boland of Massachusetts, vice chairman;
Mr. Fascell of Florida;
Mr. Gibbons of Florida;
Mr. Hamilton of Indiana;
Mr. Oberstar of Minnesota;
Mr. Donnelly of Massachusetts;
Mr. Broomfield of Michigan;
Mr. Horton of New York;
Mr. Stangeland of Minnesota;
Mr. Martin of New York; and
Mr. Miller of Washington.

APPOINTMENT AS MEMBERS OF THE COMMISSION ON THE UKRAINE FAMINE

The SPEAKER. Pursuant to title V, Public Law 99-180, the Chair appoints as members of the Commission on the Ukraine Famine the following Members on the part of the House:

Mr. Mica of Florida, chairman;
Mr. Hertel of Michigan;
Mr. Broomfield of Michigan; and
Mr. Gilman of New York.

DEATH GRATUITY TO SURVIVORS OF MEMBERS OF ARMED FORCES

Mrs. SCHROEDER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3974) to amend title 10, United States Code, to include in the death gratuity payable to survivors of a member of the Armed Forces who dies on active duty an amount equivalent to 2 month' housing allowances, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments as follows:

Strike out all after the enacting clause and insert:

That section 403 of title 37, United States Code, is amended by adding at the end thereof the following new subsection:

(l)(1) The Secretary of Defense, or the Secretary of Transportation in the case of the Coast Guard when not operating as a service in the Navy, may allow the dependents of a member of the armed forces who dies in line of duty and whose dependents are occupying family housing provided by the Department of Defense, or by the Department of Transportation in the case of the Coast Guard, other than on a rental basis on the date of the member's death to continue to occupy such housing without charge for a period of 90 days.

"(2) The Secretary concerned may pay an allowance for quarters to the dependents of a member of the uniformed services who dies in line of duty and whose dependents are not occupying a housing facility under the jurisdiction of a uniformed service on the date of the member's death or are occupying such housing on a rental basis on such date, or whose dependents vacate such housing sooner than 90 days after the date of the member's death.

The amount of the allowance for quarters shall be the same amount that would be payable to the deceased member under sections 403, 403a, and 405 of this title if the member had not died. The payment of an allowance for quarters under this subsection shall terminate 90 days after the date of the member's death.".

SEC. 2. The amendments made by section 1 of this Act shall take effect December 12, 1985, and shall apply only with respect to housing for and payment of an allowance for quarters to dependents of members of the uniformed services who died on or after that date.

SEC. 3. SERVICEMEN'S GROUP LIFE INSURANCE PROGRAM.—Section 401 (c) of Public Law 99-166 is amended to read as follows:

"(c) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendments made by subsections (a) and (b) shall take effect on Janaury 1, 1986.

"(2) The amendment made by subsection (a)(1)(A) shall be deemed to have taken effect on December 12, 1985, with respect to membes who—

"(A) died after December 11, 1985, and before January 1, 1986; and

"(B) were, on the date of death, insured in the amount of $35,000 under subchapter III of chapter 19 of title 38, United States Code.".

Amend the title so as to read: "An act to provide for temporary family housing or temporary housing allowances for dependents of members of the Armed Forces who die on or after December 12, 1985, and for other purposes.".

Mrs. SCHROEDER (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. KILDEE). Is there objection to the request of the gentlewoman from Colorado?

Mr. DICKINSON. Mr. Speaker, reserving the right to object, under my reservation I would request the gentlewoman from Colorado [Mrs. SCHROEDER] to explain the resolution. I know it has come back from the other body, and I would ask the gentlewoman to explain the import of what she is offering at the present time.

Mrs. SCHROEDER. Mr. Speaker, will the gentleman yield?

Mr. DICKINSON. I yield to the gentlewoman from Colorado.

□ 1350

Mrs. SCHROEDER. I thank the gentleman from Alabama for yielding.

Mr. Speaker, yesterday morning we passed H.R. 3974 to help the surviving family members of the victims of the Gander crash by supplementing the death gratuity paid to survivors of deceased service members with 2 months' worth of housing allowances. Shortly after we acted, the other body passed legislation on the same subject. Their bill, however, made payments discretionary, not an entitlement.

After some discussions yesterday, we arrived at a compromise. Last evening, the other body took the House-passed bill, struck the text, and inserted the text of the compromise. That is what is before us now.

The compromise authorizes the Secretary of Defense—or the Secretary of Transportation for purposes of the Coast Guard—to permit dependents to remain in family housing for 90 days after the death of the member and to pay the basic allowance for quarters [BAQ] and variable housing allowance [VHA] to those who live off base. The House-passed measure only provided for 60 days worth of benefits.

To avoid creating an undesirable incentive for people to remain in free family housing for the full 3 months, the compromise tells the Secretary to pay the BAQ and VHA to survivors for the remaining time between the time they move out of family housing and the end of the 90 days. While we do not want to create a false incentive to have survivors remain in family housing longer than they otherwise would, we do not want commanding officers to push survivors out before the end of the 90 days. The intent is to be neutral: Let them stay as long as they want, up to 90 days, but don't encourage them, by financial incentives, to remain longer than they otherwise would.

The compromise does not provide for an entitlement. It permits the Secretary to deny those benefits only in the exceptional case where the death does not occur in the line of duty. This "line of duty" language has been in the United States Code since the Revolutionary War and has been interpreted very broadly. Clearly, the people on the flight that crashed in Gander died in the line of duty. An off-duty soldier killed by police while robbing a 7-Eleven would not be killed in the line of duty. The discretion of the Secretary to deny benefits under this compromise is very limited. I would be surprised if there was one denial every 10 years.

Moreover, once benefits are provided, they must be provided for the full 90 days. There is no discretion to provide them for a shorter period.

Under the compromise, people in family housing would continue to live there free. Those off base or in Government housing for which there is a rental charge would continue to pay rent but would continue to receive the BAQ and VHA to pay the rent for 90 days. Essentially, the compromise tries to preserve the status quo for the survivors. So, in the case of a service member who had no dependents and who was living in barracks or aboard ship at the time of death, there would be no additional payment to the estate.

Under the House-passed bill, the benefits were all payable promptly at the time of the service member's death because they were part of the death gratuity. Under the compromise, the benefits are payable just like the BAQ and VHA are now. However, I think it would be appropriate to permit advance payments in cases of special need.

The amendment offered by the gentleman from Mississippi [Mr. MONTGOMERY] was retained in the compromise with a technical correction. The new language specifies that the increased life insurance benefit applies only to those who had previously elected the maximum benefit and only to the Serviceman's Group Life Insurance Program. The Veterans' Affairs Committee agrees to those changes.

I think the compromise is reasonable. We strengthened the bill by extending the benefits from 60 days to 90 days but we weakened the bill by turning it from an entitlement into a discretionary program. I still think this bill is worthy of our strong support.

Mr. DICKINSON. I thank the gentlewoman, and if I might reiterate what I understood to be the answer, yesterday what we authorized was that when anyone is killed on active duty; instead of his housing allowance being immediately terminated, we authorize the Secretary of Defense to extend the housing allowance for his dependents for 2 months.

The Senate amended that, as I understand, by extending it from 2 months to 3 months; but that is the only substantive change within the bill. We are simply saying that if the Senate wants 3 months we will give them 3 months, and it is still discretionary.

Mrs. SCHROEDER. If the gentleman will yield further, there is one other technical provision which I think also makes sense. That is, the Senate says that it can be a payment even if they move out. They do not want to create a false incentive to fill up housing, with people feeling they should live there the entire 3 months, because we know how precious family housing is; and I think all of us would agree that that 3-month transition period is very critical.

So they did that also, and we wanted it to be an absolute entitlement; they made it a tad bit more discretionary, but I think it is so important that it get done that we move on it.

In essence, it is where we were.

Mr. DICKINSON. Well, this only covers the period from December 11 to 31 of this month anyway. A very nominal amount is involved. I think it is not only humanitarian, but it is common sense, and I would certainly urge support of it.

Mrs. SCHROEDER. I thank the gentleman.

Mr. GONZALEZ. Will the gentleman yield?

Mr. DICKINSON. Further reserving the right to object, I yield to the gentleman from Texas.

Mr. GONZALEZ. I really appreciate that, because really I should refer a mixture of a question and a statement to both Members.

As generous as this may sound, I think it is a heinous perversion of priorities. The Arrow private charter airline is still in business with the Defense Department.

The 248 who died were a battalion-size group. We are continuing to do what we did all during Vietnam—that is, we would ship the live soldier on a charter craft over to the receiving point at the scene of battle, and the only way we would use military craft would be to bring the ashes or the body of that dead soldier back. We continue to do that.

Mr. DICKINSON. All right——

Mr. GONZALEZ. Also——

Mr. DICKINSON. If I might reclaim my time, I think the gentleman might like to hear some facts.

Mr. GONZALEZ. Certainly.

Mr. DICKINSON. This was a peacekeeping group that was sent to the Sinai. It was part of the U.N. team. The U.N. made the contract; the United Nations. They chose from a list of certified, FAA-approved carriers, furnish by the Air Force. The State Department signed the contract.

Now, I have been in touch with the Secretary of Defense. This day I have sent him a letter, and I have assurances from him that not only is the FAA reviewing its certification procedures, but I have urged on him that no more American personnel, regardless of the contract by the United Nations, be allowed to be transported under contract by Arrow until the investigation is completed.

We cannot do more than that, and we have done that. Now, the gentleman can get up here and berate what has happened in the past, but I am telling the gentleman that is how it happened, that is where we are now; there is nothing else we can do about it.

Mr. GONZALEZ. Will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman.

Mr. GONZALEZ. Let me say this, though. This is just this one case, this one contract.

Mr. DICKINSON. Well, that is all we are dealing with, this one case.

Mr. GONZALEZ. No, but it may be——

Mr. DICKINSON. I am talking about the policy. The United Nations chartered this aircraft; the United Nations. We do not do it.

Mr. GONZALEZ. I know.

Mr. DICKINSON. Well, all right, we are making the FAA reexamine the certification——

Mr. GONZALEZ. I am addressing——

Mr. DICKINSON. And the State Department issued the contract. They are reexamining the whole thing.

Now we can sit here and beat the drum all day, without doing any good; we might make a little press, but that is it.

Mr. GONZALEZ. Well, if the gentleman will kindly yield again.

Mr. DICKINSON. Yes, briefly.

Mr. GONZALEZ. I think the gentleman has not caught the thrust of my inquiry. It has nothing to do with anything but American military; whether they are on the——

Mr. DICKINSON. Would you like them to fly in the belly of a C130 with no chairs in it, or a C5A with no chairs in it? They have to charter commercial aircraft in order to transport people. We do not have enough military aircraft within the Air Force to transport troops without using charter. It has to be.

Now, what else does the gentleman want?

Mr. GONZALEZ. What I want is a change in that policy so that the military will transport the military.

Mr. DICKINSON. I am telling the gentleman that it will—change in the policies; what else can I tell you?

Mr. GONZALEZ. Well, let us get the money in there.

Mrs. SCHROEDER. Will the gentleman yield?

Mr. DICKINSON. I yield to the gentlewoman.

Mrs. SCHROEDER. I thank the gentleman from Alabama for yielding. I think what we are doing is missing the point.

Yesterday, Mr. Speaker, when this came up, we talked to the distinguished chairman of the Investigations Subcommittee; he said they are doing everything they can. The distinguished gentleman from Alabama [Mr. DICKINSON] is pointing out what he is doing and basically what we are trying to do is correct this in the law so the families will not suffer anymore; and I think all the other things are on the burner, too, but this is the main thing that we have in front of us today, and it is very important.

Mr. DICKINSON. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Colorado?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentlewoman from Colorado?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mrs. SCHROEDER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3974, the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Colorado?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. WRIGHT asked and was given permission to address the House for 1 minute.)

Mr. WRIGHT. There is one remaining bill which must be passed; that being the reconciliation bill, which contains savings to which the Congress has committed itself, and the budget, and also extends certain programs which otherwise will expire.

I understand from the conferees that they are on the verge of an agreement, and that we can expect that bill back and a rule to accompany it by perhaps 4 o'clock this afternoon, and then it would be my purpose, therefore, to ask unanimous consent that, at the option of the Chair, a recess may be declared until 4 o'clock this afternoon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. WALKER. Mr. Speaker, reserving the right to object. At least as far as this gentleman understands, Mr. Speaker, it is our duty to originate the sine die adjournment resolution; that that is to be originated on this side of the Capitol.

Before granting recess authority, I am wondering if we could get some agreement that we will put that resolution for adjournment, sine die adjournment, on the floor at this point; get that business taken care of, so that the only remaining business that we have is the reconciliation bill?

Mr. WRIGHT. If the gentleman will yield.

Mr. WALKER. Be glad to yield under my reservation.

Mr. WRIGHT. It was the wish of the leadership, and I think perhaps it is agreeable to the leadership on your side as well, that we handle that after we have handled the vote upon the reconciliation. We would like for Members to understand that this is an important part of the agenda of the Congress, and rather than passing an adjournment resolution at this time which might convey the mistaken encouragement that Members should expect to go home without an action on the reconciliation bill, we think that it would be more appropriate to offer the reconciliation bill first and then act on our adjournment resolution, which I take it will not be controversial.

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Mr. ST GERMAIN. Mr. Speaker, will the gentleman yield to me under his reservation?

Mr. WALKER. Further reserving the right to object, I yield to the gentleman from Rhode Island.

Mr. ST GERMAIN. I thank the gentleman for yielding.

Mr. Speaker, I would like to point out that the Banking Committee is trying to get something resolved in the housing area, and until such time we still have pending a very important piece of legislation which has to be disposed of, which is an FHA extender.

So I would ask that we not forget the fact that we have to dispose of or take care of an FHA extender before we leave.

Mr. WALKER. That is exactly my point.

Mr. Speaker, all of a sudden we have not one bill but at least one more bill, and we are going to end up, it seems to me, getting several more unless we get on the record that we intend to adjourn sine die here. It seems to me this may be the appropriate time to bring that resolution to the floor, to adjourn the House sine die upon adjournment of the House today, and begin to move that process forward right now before we get a series of bills out here on the floor.

Mr. FRENZEL. Mr. Speaker, will the gentleman from Pennsylvania yield?

Mr. WALKER. I yield to the gentleman from Minnesota.

Mr. FRENZEL. I thank the gentleman for yielding.

If the House recesses, we are likely to be in recess for an extended period of time. All we will do is give the conference committee longer to do all of the wonderful things that it wants to do to put together some kind of a package. If the House stays in session, it will put some pressure on that committee to bring us something in a timely fashion, providing we have passed the adjournment resolution. The gentleman from the Banking Committee, the distinguished chairman, has a bill, Ways and Means Committee has some tax extensions, I am told, and other things.

I think it would be a real mistake to allow this committee to recess because we will run another one of these midnight routes.

Mr. WRIGHT. Mr. Speaker, I withdraw my unanimous-consent request.

SUPPORTING DONATION OF THE FORMER PRESIDENTIAL YACHT "SEQUOIA" TO THE U.S. NAVY

Mr. SISISKY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate concurrent resolution (S. Con. Res. 98) to recognize the historical significance of the former Presidential yacht *Sequoia*, and express support for her donation to the U.S. Navy by the Presidential Yacht Trust and ask for its immediate consideration in the House.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

Mr. LOWERY of California. Mr. Speaker, reserving the right to object, I shall not object, but I yield to the gentleman from Virginia so that he might explain to the House the details of this legislation.

Mr. Speaker, I yield to the gentleman from Virginia for that purpose.

Mr. SISISKY. I thank the gentleman for yielding.

Mr. Speaker, the former Presidential yacht *Sequoia* is not of great historical significance, but takes on its extraordinary uniqueness in that she is to be returned to service without expense to the American taxpayer.

Sequoia served eight Presidents of the United States over a period of 44 years, from Herbert Hoover to Gerald R. Ford, and a review of her role during that period is much like a synopsis of major world events—from President Roosevelt's shipboard planning of both war and domestic strategy, to President Truman's hosting of the first conference on nuclear controls, to President Nixon's meetings with Soviet President Brezhnev during the 1973 summit.

Following her disposal in 1977 by President Carter, *Sequoia* passed through several private owners before being acquired by the bipartisan, nonprofit Presidential Yacht Trust for historical preservation in 1981. Over the ensuing years, the Presidential Yacht Trust has undertaken informational and public service programs with *Sequoia*, including significant support for other charities and its much acclaimed 1984 national tour which took the *Sequoia* to over 100 cities in 16 States. Through these and other programs, tens of thousands of Americans have had the unique, personal opportunity to visit and demonstrate support for *Sequoia's* preservation and return to service.

In recent months, the Presidential Yacht Trust, in consultation with the Naval Historical Society, has determined that the proper future and role for the *Sequoia* is her return to service as the Presidential yacht. The trust has undertaken steps that would accomplish such a remarkable comeback of this truly historic vessel under the very best of circumstances.

First, the trust will donate *Sequoia* to the U.S. Navy no later than November 15, 1988, as a gift from the trust and American people.

Second, prior to her donation, *Sequoia* will be totally restored by the trust in preparation for her future service.

Third, at the time of donation, the trust will provide an endowment sufficient for *Sequoia's* future operations and maintenance.

The *Sequoia* project is first and foremost an effort of significant historical preservation—with the added benefit of her future service at no cost to American taxpayers.

We believe this resolution, endorsing the return of *Sequoia* to Government service, is an important step in assuring continued private financial support of the endowment fund and public awareness of this important project.

Under plans developed by the Presidential Yacht Trust and the Naval Historical Society, the former Presidential yacht *Sequoia* would be returned to service in the U.S. Navy as the Presidential yacht by November 15, 1988, under the following conditions:

First, *Sequoia's* return to service would be by donation from the Presidential Yacht Trust to the U.S. Navy.

Second, prior to her donation, *Sequoia* would be fully restored—at no cost to the Government—and in first-class operating condition suitable for her new use.

Third, prior to her donation, legislation would be sought to recognize *Sequoia's* historical importance and to protect her from future disposal.

Fourth, at the time of donation, the Presidential Yacht Trust would provide an endowment sufficient to cover costs of *Sequoia's* operations and maintenance in perpetuity.

These plans provide for *Sequoia's* return to active service under the very best of circumstances. This historical vessel, which served eight Presidents of the United States would be: First, restored; second, donated by the bipartisan, nonprofit Presidential Yacht Trust as a gift of the American people; and third, available for future service at no cost to the taxpayer.

Mr. LOWERY of California. Further reserving the right to object, as the gentleman from Virginia pointed out, the *Sequoia* is a national treasure. It has been the location of numerous summits. It is very important to our heritage. The Presidential Yacht Trust will turn over the U.S. Navy fully endowed so there will be no further costs to the American taxpayer, no further appropriations.

Mr. Speaker, this measure has been cleared with the minority on the Committee on Armed Services and likewise has been cleared by the Republican leadership, and the U.S. Navy has no objection to its adoption.

Mr. Speaker, I urge approval of this legislation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 98

Whereas the former Presidential yacht Sequoia served eight Presidents of the United States, from Herbert Hoover to Gerald R. Ford, over a period of forty-four years;

Whereas the Sequoia was the setting for Presidential meetings, negotiations and decisions of extraordinary significance for and effect on the history of the United States and the course of world events;

Whereas the Sequoia was disposed of in 1977 to reduce Federal expenditures;

Whereas in recognition of Sequoia's unique historical significance, the private, bipartisan, and nonprofit Presidential Yacht Trust was established in 1981 for the purpose of restoring and preserving Sequoia;

Whereas since 1981 many Americans have visited the Sequoia and demonstrated support for her preservation and return to service;

Whereas in response to this support, the Presidential Yacht Trust, in consultation with the United States Navy, has determined that the proper future of the Sequoia is her return to Government service in the United States Navy as the Presidential yacht; and

Whereas the Presidential Yacht Trust has taken steps to fully restore the Sequoia by November 15, 1988, to donate her to the Navy as a gift of the Presidential Yacht Trust and the American people, and to establish an endowment sufficient for her future operation and maintenance: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), that Congress—

(1) recognizes the unique significance of the former Presidential yacht Sequoia which has made her a symbol of American political heritage and the Office of the President;

(2) supports the plans of the Presidential Yacht Trust to donate the Sequoia, with an endowment sufficient for her operations and maintenance, to the United States Navy for service once again as the presidential yacht.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SISISKY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on Senate Concurrent Resolution 98, the Senate concurrent resolution just concurred in.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2451

Mr. SHAW. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of the bill, H.R. 2451.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

RESCINDING APPROVAL OF HOUSE CONCURRENT RESOLUTION 262, CORRECTING ENROLLMENT OF HOUSE JOINT RESOLUTION 187, DIRECTING THE CLERK TO MAKE CORRECTION IN ENROLLMENT OF HOUSE JOINT RESOLUTION 187

Mr. SEIBERLING. Mr. Speaker, I send to the desk a concurrent resolution (H. Con. Res. 263), and I ask unanimous consent for its immediate consideration in the House.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 263

Resolved by the House of Representatives (the Senate concurring), That the approval of H. Con. Res. 262, correcting the enrollment of H.J. Res. 187, is hereby rescinded and in lieu thereof the Clerk of the House of Representatives shall make the following correction in the enrollment of said H.J. Res. 187, to approve the "Compact of Free Association", and for other purposes:

In the second sentence of subsection (l) of section 105, after the words "Fish and Wildlife Service," insert "the National Marine Fisheries Service,".

Mr. SEIBERLING (during the reading). Mr. Speaker, I ask unanimous consent that the concurrent resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. WALKER. Mr. Speaker, reserving the right to object, do I understand this is the legislation that makes a correction in the correction that was made yesterday to the correction that was made several days before that?

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield under his reservation?

Mr. WALKER. Mr. Speaker, under my reservation I yield to the gentleman from Ohio.

Mr. SEIBERLING. I thank the gentleman for yielding.

No, this is a correction of the correcting resolution of yesterday which corrected the original bill, the Compact of Free Association.

Yesterday's resolution had a typographical error in it which we did not catch.

Mr. WALKER. Further reserving the right to object, may I inquire of the gentleman, the bill goes no further than that, making that correction?

Mr. SEIBERLING. If the gentleman will yield further, that is absolutely all that it does.

Mr. WALKER. I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Ohio?

There was no objection.

The concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the matter just acted upon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

PROVIDING FOR CONSIDERATION OF RESOLUTION REPORTED BY COMMITTEE ON RULES PROVIDING FOR CONSIDERATION OF CONFERENCE REPORT ON H.R. 3128, DEFICIT REDUCTION AMENDMENTS OF 1985

Mr. FROST. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 342 and ask for its immediate consideration.

The SPEAKER pro tempore. The Clerk will report the resolution.

The Clerk read the resolution, as follows:

H. RES. 342

Resolved, That during the remainder of the first session of the Ninety-ninth Congress, the requirement of clause 4(b) of rule XI for a two-thirds vote to consider a report from the Committee on Rules on the same day reported is hereby waived against any resolution reported from that committee providing for the consideration of a conference report, or any amendment reported from conference in disagreement, on the bill (H.R. 3128) to provide for reconciliation pursuant to section 2 of the first concurrent resolution on the budget for fiscal year 1986 (S. Con. Res. 32, Ninety-ninth Congress).

The SPEAKER pro tempore. The gentleman from Texas [Mr. FROST] is recognized for 1 hour.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Ohio [Mr. LATTA] pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 342 is a very simple and straightforward rule. It waives the rule of the House, clause 4(b) of rule XI, which requires that no resolution reported from the Committee on Rules can be considered in the House on the same day it is reported from the Committee on Rules unless the House by a two-thirds vote agrees to consider such resolution. This rule is waived solely for any resolution subsequently reported by the Committee on Rules providing for the consideration of a conference report, or any amendment reported from the conference in disagreement, on the bill H.R. 3128, the Deficit Reduction Amendments of 1985.

Under the provisions of clause 4(b) of rule XI, a two-thirds vote for consideration of a rule in the House on the same day it is reported from the Committee on Rules is not applicable during the last 3 days of the session of Congress. However, since we have not as of this date adopted an adjournment resolution for the 1st session of the 99th Congress, this provision of clause 4(b) had not become operative to negate the need for a two-thirds vote to consider a rule on the floor on the same day it is reported from the Committee on Rules.

Mr. Speaker, as my colleagues are aware, the conferees on H.R. 3128 are close to reaching agreement on a conference report. Disposition of the Deficit Reduction Amendments of 1985 should be completed before the 1st session of the 99th Congress adjourns. While it is unfortunate that the conference report must be brought forth for this 11th-hour consideration, failure to act would be a grave mistake. The conference report represents the commitment of the Congress to take positive action to implement the fiscal goals we set forth with adoption of the Budget Resolution on August 1. Failure to act will demonstrate that, in fact, we do not have the will to reduce the deficit.

The Rules Committee reported House Resolution 342 earlier this week in anticipation of a late agreement and filing on H.R. 3128. Later today, our committee will hold an emergency meeting and consider a rule waiving points of order against the conference report. Adoption by the House of the rule currently under consideration will permit the consideration of the rule on the conference report today without the requirement that two-thirds of Members present and voting agree to its consideration. The rule reported today would still need the concurrence of a majority of the House to make the conference report in order. Adoption of the resolution now under considering will serve to clear the way for the House to dispose of H.R. 3128 and finally allow the session to come to a close.

Mr. Speaker, I urge adoption of the rule.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, very briefly, this rule provides that you can bring up the reconciliation on the same day that the Rules Committee reports it out. The gentleman has indicated we will probably be going into the Rules Committee, if this rule is agreed to, about a quarter of 3. But there are some controversial matters in that conference report on reconciliation. I think that certainly if we are going to pass that conference report on reconciliation today the Rules Committee is going to have to take this under advisement and to make a couple of amendments to that conference report. I have reference to the value-added tax that this House voted on. They voted that they did not want to come up with a new system of taxation that could be added to every time you turn around or every time they needed money.

The chairman of the Committee on Ways and Means was unalterably opposed to it, but, unfortunately, he was rolled in committee.

We now have back, or will have back, before this House a matter that the House has expressed its will on, namely, the value-added tax.

Second, there is an item dealing with teenage pregnancies that the gentleman from Illinois [Mr. HYDE] is very much interested in.

Mr. Speaker, for that purpose I yield 2 minutes to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. I thank the gentleman.

Mr. Speaker and ladies and gentlemen of the House, this reconciliation bill is going to be very controversial. In addition to the value-added tax and other issues, the bill has within its confines a new program, a Teenage Pregnancy Program, which passed the House with an amendment which said none of the funds in this new program may be used to counsel for abortion or to refer teenage pregnant girls for abortion.

With that proviso, it passed. That was stripped in the conference by the gentlemen in the other body, and they have been intransigent in our efforts to get it back in.

So now we are going to have a new program that provides Federal funds for teenage girls who are pregnant, to counsel them and refer them for abortions.

That is something that I cannot stand idly by and let happen. I am going to resist it as much as I can. I think a defeat of this resolution will go a long way toward perhaps a reconsideration by the conferees at the unwisdom of their injecting this new program with this new proabortion dimension into this important legislation at this late hour.

Mr. Speaker, I yield back the balance of my time.

Mr. FROST. Mr. Speaker, does the gentleman from Ohio have any other requests for time?

Mr. LATTA. If the gentleman will yield, yes, I have three requests for time.

Mr. FROST. Mr. Speaker, I yield 5 minutes, for purposes of debate only, to the majority leader, the gentleman from Texas [Mr. WRIGHT].

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Mr. WRIGHT. Mr. Speaker, we are deciding right now whether we can consider the reconciliation bill today or not. If this resolution is voted down, it means one of two things. Either we leave without considering the reconciliation bill and, in so doing, betray the promise we made to make certain deficit reductions, or, on the other hand, it means that we have to be in session tomorrow.

I think everyone has operated upon the clear assumption that this was the last day of the session. We intend to adjourn at the end of the day. I think it would just doom any effort to have a reconciliation bill of any kind if we were to reject this amendment at this time. For that reason, I would plead with Members of all types and political persuasions, whatever their individual objection to any measure contained in the reconciliation bill may be, to weigh that alongside the importance of the House as an institution being able to fulfill its commitment to deficit reduction.

We boldly, and I think honestly and earnestly, made the commitment that we would make the specific reductions in the deficit. If we do not pass this bill, we will have betrayed that commitment. Therefore, it seems to me important that we at least grant the privilege to the Rules Committee of letting us have an opportunity to vote on whatever the conferees agree to, so that a judgment may be made at that time.

If the gentleman from Illinois or others have objections at that time, depending upon what is contained in the conference committee report, they certainly would be within their rights to vote against the conference committee report. But it seems plausible to me that if we were to reject this request, we would either be dooming the Congress to having to be in session tomorrow, which I do not think likely, or even possible, because I do not think we would be able to retain a quorum, or, on the other hand, dooming us to fail to make our commitment to deficit reduction.

Therefore, I would urge the gentlemen to reconsider and not to oppose this rule, but to let us at least consider the conference committee report in a timely way so that whatever happens, then we can adjourn this evening and go home.

Mr. LATTA. Mr. Speaker, I yield 2 additional minutes to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. I thank the gentleman for yielding.

Mr. Speaker, in response to the majority leader, I am the last person in the world who wants to cause discomfort or slow down the exodus from this city at this time of the year. But sometimes you run into a brick wall and people are, in my characterization, unreasonable. They inject controversial issues into otherwise important bills at the 11th hour, when you have no opportunity to debate them in a deliberative fashion. And so one uses what limited little tools one has. And this happens to be one limited little tool.

So being truthful to myself in what I believe in, I have to do what I can to get some reason to penetrate Mount Olympus where these gentleman reside, and I intend to do so.

Mr. BONIOR of Michigan. Mr. Speaker, will the gentleman yield?

Mr. HYDE. I yield to my friend, the gentleman from Michigan.

Mr. BONIOR of Michigan. Mr. Speaker, I understand and respect the views of my colleagues on this issue. While I think generally I have stood with my colleague on this issue, and plan to today in committee if this issue is brought up, I will tell him, I do not know where the votes will be in committee, quite frankly. I do not know who is left here this afternoon to vote. But I would hope we would be able to go through with this resolution and pass it and then take it as it comes within the next hour, I suspect, up in the Rules Committee. If we have the votes to sustain the position that both you and I hold to bring it to the floor, then so be it. I cannot assure you that we do, I cannot assure you that we do not. But I hope we would not delay the proceedings here.

Mr. HYDE. Would the gentleman give me some assurances that I would have an opportunity, then, as a result of the rule that is going to be issued shortly, to offer an amendment on the floor to restore the House language to this section?

Mr. BONIOR of Michigan. I would suggest to the gentleman that I will be helpful in trying to get that accomplished upstairs. I cannot guarantee you, though, that we are going to have the votes to do that.

Mr. HYDE. Have you any influence over Mr. Frost, who is sitting there?

Mr. BONIOR of Michigan. Well, he sits in front of me, so——

Mr. LATTA. Mr. Speaker, I yield myself 15 seconds.

Let me assure the gentleman from Illinois that I will do everything I possibly can to see that the House has an opportunity to vote on this matter.

Mr. Speaker, I yield 3 minutes to the gentleman from Nebraska [Mr. Daub].

Mr. DAUB. Mr. Speaker, may I inquire of either of the gentlemen on the Rules Committee if it is possible that this particular request be withdrawn at this time for the purpose of a Rules Committee meeting to, in fact, issue the rule, after which time I think all of us would then be comfortable waiving the two-thirds requirement but up until the time that we are aware of what that rule will contain, not only the concern of the gentleman from Illinois, but let me say this gentleman is most concerned about having to take the VAT, for the purpose of funding Superfund, out of a rule granted for the purpose of reconciliation.

I recognize that is not this body's wish that that particular predicament is posed to us by the other body; but, nonetheless, it is the problem.

So it seems to me we could solve all of this dilemma by knowing what the rule itself would contain and avoid the need for this rule to waive the two-thirds requirement, which is the only protection we have at this point.

I yield to a Rules Committee member for an answer.

Mr. FROST. In answer to the gentleman, the committee will not withdraw the request. The committee intends to proceed with the rule at this point.

Mr. WRIGHT. Mr. Speaker, will the gentleman yield?

Mr. DAUB. I yield to the majority leader.

Mr. WRIGHT. Mr. Speaker, let me just appeal to the gentleman's broader sense of responsibility.

I respect the view of the gentleman from Illinois with regard to the question of teenage pregnancies and abortion. I respect the view of the gentleman now in the well.

It is impossible to get total agreement on the part of all of our colleagues with regard to the content of a conference committee report. That is what we have conferees for. And I just ask anybody in this House to put against the overriding question his individual objection to something that may or may not be in the rule. If we do not adopt this rule at this time, we are not going to have a reconciliation bill.

Now, if we do not have a reconciliation bill, here is what it will cost the taxpayers of the United States every day of the year to come: It is going to cost $200 million a day.

Now, if you are willing to take that responsibility on your shoulders, vote against this rule. If you are willing to allow us to have the opportunity to adopt a rule when it comes and have a chance to vote in a majority fashion on the conference report, then vote for this rule.

Mr. DAUB. Let me say—and this may not be a direct enough response to the distinguished majority leader—if indeed we waive the two-thirds requirement now, get a rule that includes some of the things that are objectionable, pass that particular reconciliation bill with those matters contained therein, send it to the other body and their intransigence continues, we are still without reconciliation.

I say to the distinguished majority leader and to all of my colleagues that while I would wish reconciliation, I would not wish it at the expense of this body being pushed around on the last day of the session.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. Walker].

Mr. WALKER. I thank the gentleman for yielding.

Mr. Speaker, let us make it very clear: We can bring reconciliation to the floor even if we do not have this rule, because the rules of the House allow another rule to be brought out here that would commend a two-thirds vote.

What we are trying to do is get by the rules of the House which demand that if you are going to bring a rule on an emergency basis to the floor, that you get a two-thirds vote.

Well, what will that do? That will put some pressure on the Rules Committee to come up with a rule and make in order a reconciliation bill that has a chance of getting a two-thirds vote on the rule.

What does that mean? Well, it means that they are going to have to deal with the value-added tax issue, it means they are going to have to deal with the abortion issue.

It seems to me that is what we want to force at the present time; we want to have them deal with those two issues in a way that at least gives the Members of this House a chance to speak to those very important issues.

If we pass this rule and confine ourselves to a majority vote, what the majority leader seems to be telling us is, he will not bring reconciliation forward. Then it is his fault. It is not the fault of this House. It will be the fault of the Democratic leadership for not bringing reconciliation forward.

I say we ought to reject this rule and give ourselves the rights for the Members to take up the legislation under the order of the House. The order of the House would command that if we bring a rule to the floor today on this matter, it be passed by two-thirds of the membership. That is what we ought to operate under. There is no reason why the Rules Committee cannot craft a rule on this matter that will get a two-thirds vote here later this afternoon. That is what we ought to do. We ought to reject this rule, we ought to bring forward a rule later on which takes the two-thirds vote, and then we ought to move from there to the reconciliation bill which then would have the support obviously of a majority of the Members of this House.

That is the pattern that is going to get us reconciliation, that is the pattern that is going to save us the $200 million a day. We certainly are not going to get it if we go along with this particular process.

This particular process only assures that those people in the House who want to force down the throats of the American people unacceptable abortion language, and want to force down the throats of the American people a value-added tax, get their way. This particular rule should be rejected.

Mr. LATTA. Mr. Speaker, I yield 3 minutes to the gentleman from Minnesota [Mr. Frenzel].

Mr. FRENZEL. Mr. Speaker, if we pass this rule, the House will be conceding any leverage it has on the reconciliation bill.

It has already been pointed out that there are two issues which are dripping with controversy. One of them is the VAT tax which this House rejected very recently. Unless the Rules Committee exercises heroic measures, which I hope it will do, that VAT tax, the national sales tax, will be visited on the United States of America. A majority of this House has said by vote that it does not want that to happen.

Even though we believe that the Rules Committee will do its darndest to take care of the problem in its rules, we have no assurance that it will be able to do so. Without a guarantee, I, and many others, are going to vote against this rule because we don't know the shape of the rule that the Rules Committee will bring to us.

The other item in dispute deals with abortion counseling. I am a little surprised to find myself agreeing with my friend from Illinois [Mr. HYDE] on this subject, but I have no choice. He is dead right. He would be crazy if he gave up the leverage he has, because his uncertainty over abortion must be as great as mine with the VAT. He must protect his position against Senate language not in the House version. I agree with, and will support, that position.

Mr. JEFFORDS. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Vermont.

Mr. JEFFORDS. Mr. Speaker, I just want to point out that there is a third issue here about which I raised the awareness of the body before.

Mr. FRENZEL. Be my guest.

Mr. JEFFORDS. Also contained herein, somehow sneaking in, is that we should continue indefinitely the club over the States to raise the drinking age. I intend to vote against the rule for that reason.

Mr. FRENZEL. I thank the gentleman for his contribution. There are at least three highly controversial items, and perhaps more, in the reconciliation bill.

Mr. Speaker, the body ought to be able to see very readily that we have got a big problem here. Members are not going to give up their rights until we see the rule in question.

The problem, Mr. Speaker, is that this House and its leadership has been dilatory in bringing this bill to the floor. In 1981, we had reconciliation in August.

We are obligated by law to pass a budget resolution in May. We should be reconciled before the August recess. Instead, we have sat around and diddled, and picked our nose, and made pious statements, for 6 months. And still the bill was not brought to the floor.

After both Houses passed reconciliation bills we still sat and fiddled for 3 weeks before we went into conference. It is utterly ridiculous that we should sit around here for 6 months for political reasons, and then at the last moment have all of these controversial items dumped on us.

We are being asked to surrender whatever principles we have for the greater glory of saving a few bucks for the majority leader each day. For the record, after subtracting the effect of other bills, there is but $12 billion in savings over 3 years in the bill.

□ 1430

As far as I am concerned, the reconciliation bill was a cream puff to begin with. It is not going to do a great deal of good for our budget distress. It would be better if we went back and started over again.

Mr. Speaker, I urge a no vote on the rule.

Mr. LATTA. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, let me just point out one thing that we seem to be overlooking here. All this rule does is to provide that we will not have to have a two-thirds vote to bring up the rule that might come out in the Rules Committee, and as the majority leader has pointed out, we could be in session tomorrow, so we would not have to have a two-thirds vote if this goes down.

Mr. BONIOR of Michigan. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I am happy to yield to the gentleman from Michigan.

Mr. BONIOR of Michigan. Mr. Speaker, the gentleman is absolutely correct. I agree 100 percent with the position taken by the gentleman from Minnesota [Mr. FRENZEL]. I agree 100 percent with the position on the issue here as advocated by the gentleman from Illinois [Mr. HYDE]. If Members would work as hard on sustaining the majorities that they have sustained on a bad issue or on the abortion issue as the gentleman from Minnesota [Mr. FRENZEL] has challenged the leadership of this House to work, there would not be any problem.

If Members want to get out of here tomorrow, we have got to pass this resolution today, and we will bring a rule here to the floor which will give them, I believe, an opportunity to express themselves on both of these issues.

Mrs. SCHNEIDER. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentlewoman from Rhode Island.

Mrs. SCHNEIDER. Mr. Speaker, I must take issue with the whole procedure of acting expediently in order for us to move out of here. There is very little question of what we are doing insofar as working to assure that we not have a value-added tax, that we not have a consumer tax. The members of this party have worked exceedingly hard and members of the gentleman's own party have worked exceedingly diligently in assuring that.

It seems to me that this is a procedural opportunity we are entitled to. For the gentleman to say we ought to hurry up and get out of here because of Christmas, I think, is irresponsible when we are talking about the levying of a value-added tax that will assure us of an increased weight on the consumer for not only today but for years to come. I think this is the kind of a move that citizens should be up in arms about.

The SPEAKER pro tempore. The time of the gentleman from Ohio [Mr. LATTA] has expired.

Mr. LATTA. Mr. Speaker, I yield myself 1½ minutes.

Mr. Speaker, I am being led to believe from the majority side, especially by the members of the Rules Committee, that they will be agreeable to a rule, if this particular resolution we now have under consideration is agreed to, and that we will have a rule out of the Rules Committee that will provide an opportunity to vote on these two matters. Am I correct in that?

Mr. FROST. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I am happy to yield to the gentleman from Texas to answer the question.

Mr. FROST. Mr. Speaker, let me say to the gentleman from Ohio [Mr. LATTA] that I will respond to his question in this way:

There can be no assurance that there will be individual amendments made in order. There may well be, given the past voting patterns in the Rules Committee, as the gentleman knows, but until those votes are taken in the Rules Committee there can be no assurance.

However, if the gentleman is not successful in getting separate votes on these issues, then he obviously has a remedy; he can vote against the rule when it comes back and he may be able to defeat the rule if we do not take those matters in consideration.

Mr. BONIOR of Michigan. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Michigan.

Mr. BONIOR of Michigan. Mr. Speaker, I think the gentleman from Texas [Mr. FROST] has stated it well, given the past voting histories of members of the Rules Committee, and on the question the gentleman from Illinois [Mr. HYDE] raises and on the value-added tax we will be sustained.

The reason I cannot give the gentleman assurances is that I frankly do not know who is going to be around when we meet in an hour or so. But my position is very clear on this, as I believe is that of the gentleman from Ohio and other members of the committee. We will try to do the best we can to sustain the House with regard to the value-added tax.

BEST COPY AVAILABLE

Mr. SMITH of New Jersey. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from New Jersey.

Mr. SMITH of New Jersey. Mr. Speaker, I would just like to ask the gentleman from Michigan or the gentleman from Texas, is there anything to prevent postponing action on this rule following on with what the gentleman from Nebraska [Mr. DAUB] was suggesting, and then rolling this resolution into another rule that would be offered later on today with a VAT amendment in order and with language permitting the consideration of the Campbell amendment?

By way of background, let me advise Members that as approved by the House, section 302 of H.R. 3128 established a new $150 million teenage pregnancy program under title IV of the Social Security Act. That program passed the House without substantial debate only because it included a provision on abortion introduced by Representative CARROLL CAMPBELL and approved by the House Ways and Means Committee. The Campbell amendment forbids any part of this program from becoming involved in the performance of abortions, and forbids all counseling for abortions except where the life of the mother would be endangered if the fetus were carried to term.

Both parts of the Campbell amendment were vitally important. Certainly a program designed to help teenage mothers and their children to achieve self-sufficiency should not be engaged in the destruction of those children prior to birth. Certainly programs subsidized by Federal funds should not be advocating abortions for teenagers, particularly in circumstances where Congress so strongly opposes abortion that it forbids the use of Federal funds to support it through the Hyde amendment.

On December 12, the House-Senate conference dealing with this program suddenly deleted the Campbell amendment. This amounts to a blatant effort to force upon this body a policy which it would never approve on its merits: a policy of allowing federally funded programs to perform and promote abortions among young people. I urge my colleagues not to be forced into this intolerable situation by the pressure to complete consideration of this bill.

So, Mr. Speaker, I think it behooves the Rules Committee to give us our shot at it, as well as those including myself who oppose the VAT.

Mr. FROST. Mr. Speaker, if the gentleman will yield, in response to the gentleman's question, it cannot be rolled into one rule. There has to be a separate vote on the question of the two-thirds. They are two separate items.

The SPEAKER pro tempore. The time of the gentleman from Ohio [Mr. LATTA] has again expired.

Mr. LATTA. Mr. Speaker, I yield myself 1 additional minute.

Mr. SMITH of New Jersey. Mr. Speaker, will the gentleman yield further?

Mr. LATTA. I yield to the gentleman from New Jersey.

Mr. SMITH of New Jersey. Mr. Speaker, I would just ask the gentleman from Texas [Mr. FROST], what then prevents us from withdrawing the resolution right now and coming back at a later time?

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I am happy to yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding.

The point is, though, that what we could have is to have the Rules Committee come up with a rule and then bring down a separate rule waiving the two-thirds requirement, and then we could have a vote on the rule itself making in order the question of reconciliation, so that we would be operating from a real base of knowledge here, knowing what the rule is that we are waiving the two-thirds requirement on.

That was specifically refused as a procedure. It would have been a far better procedure, particularly since it is admitted that we do not even know what Rules Committee members are in town. We do not have any idea what they may be able to do and what they cannot do. It would be a far better procedure to proceed in that way than the way in which we are proceeding right now.

Mr. SMITH of New Jersey. Mr. Speaker, if the gentleman will yield, it is my understanding that the Rules Committee is going into session at 2:45. Why not hold this up now and go on and see what the Rules Committee produces?

The SPEAKER pro tempore. The time of the gentleman from Ohio [Mr. LATTA] has expired.

Mr. FROST. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, in response to the gentleman from Pennsylvania [Mr. WALKER], let me say that we cannot do what he has suggested because that would be a new rule coming out of the Rules Committee which in and of itself would have to lay over for 24 hours. The only procedure that we can follow is the procedure we are pursuing at this moment.

Mr. LATTA. Mr. Speaker, I yield myself 2 minutes.

Mr. LUNGREN. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from California.

Mr. LUNGREN. Mr. Speaker, I am somewhat confused by the last exchange. Is the gentleman telling us that the Rules Committee cannot withdraw this present rule and bring it back a little bit later, after we know what the rule is?

Mr. FROST. Mr. Speaker, if the gentleman will yield, in response to the gentleman's question and the question of the gentleman from Pennsylvania, under the rules of the House, any rule that comes out of the Rules Committee must lay over for 24 hours. If we withdrew this and brought back a new rule at a later time, we would then have to get a two-thirds vote for that.

Mr. LATTA. Mr. Speaker, let me clarify that. What the gentleman is saying is absolutely true, but that is not answering the question of the gentleman from California.

Mr. LUNGREN. My question is, why not withdraw this rule and then bring this rule back later? That is my question.

Mr. LATTA. There is not any question that they could do that, but the leadership does not want to do that.

Mr. LUNGREN. Mr. Speaker, will the gentleman yield further?

Mr. LATTA. I am happy to yield to the gentleman from California.

Mr. LUNGREN. Mr. Speaker, I have heard the expression of concern from the majority leader suggesting that we ought to act now and give up our principles here in the cause of the greater good, and it just seems to me that if we can hurl that argument one way, we can hurl it back and suggest that "you've got a problem here, folks."

It seems to me that if you are concerned about it, you can withdraw this rule until you show us what kind of a rule you are going to come up with, because you have said to us that you cannot give us a commitment that will cover the things people are concerned about, and at such time as you bring it back you can probably pass it and we can get this mess over with.

But right now you are telling us we should get rid of our leverage that we have about important issues, issues that we consider of the highest concern, because we are going to rush to get away for Christmas. We should have been out of here on October 3, and we are here now late in December.

The SPEAKER pro tempore. The time of the gentleman from Ohio [Mr. LATTA] has again expired.

Mr. LATTA. Mr. Speaker, I yield myself 1 additional minute.

Mrs. SCHNEIDER. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I am happy to yield to the gentlewoman from Rhode Island.

Mrs. SCHNEIDER. Mr. Speaker, I would just like to add briefly that if we are talking about the Christmas rush, I would like to remind my colleagues that the President has made it very clear in conference, in letters, and in various sectors that he will veto reconciliation if it contains the value-added tax. So we are going to be back where we are right now today unless we keep that in mind. There is no point in our rushing ahead with a faulty bill that includes the value-added tax.

Mr. FROST. Mr. Speaker, if the gentleman will yield, in response to the question just posed, the committee will not withdraw the rule. We will proceed on this rule at this time.

Mr. LATTA. Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, has the gentleman yielded back all of his time?

Mr. LATTA. I have reserved my time.

Mr. FROST. Mr. Speaker, the issue is very clear. The issue is whether we want to vote on reconciliation or not today. Those Members who do not want to vote on reconciliation today or who are not happy with the rule that is granted by the Rules Committee will have the opportunity to vote "no" on that rule when it is reported out later this day. They clearly have their remedy. All this does is to permit us to consider a rule on reconciliation today, and if that rule is passed, then we will vote on reconciliation today.

Mr. Speaker, I urge adoption of this rule.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. FROST. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 239, nays 136, answered "present" 1, not voting 58, as follows:

[Roll No. 477]

YEAS—239

Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Aspin
Atkins
AuCoin
Barnes
Barton
Bates
Bedell
Beilenson
Bennett
Berman
Bevill
Boggs
Boner (TN)
Bonior (MI)
Bonker
Borski
Bosco
Boucher
Boxer
Breaux
Brooks
Brown (CA)
Bruce
Bryant
Burton (CA)
Bustamante
Campbell
Carper
Carr
Chappell
Clay
Clinger
Coelho
Coleman (TX)
Collins
Conte
Cooper
Courter
Coyne
Darden
Daschle
Daub
Davis
de la Garza
Dellums
Derrick
Dickinson
Dicks
Dingell
DioGuardi
Donnelly
Dorgan (ND)
Duncan
Durbin
Dwyer
Dymally
Eckart (OH)
English
Erdreich
Evans (IL)
Fascell
Fawell
Fazio
Feighan
Fields
Foglietta
Foley
Fowler
Frank
Frost
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Glickman
Gradison
Gray (PA)
Green
Grotberg
Guarini
Hall (OH)
Hall, Ralph
Hamilton
Hatcher
Hawkins
Hayes
Hefner
Holt
Hopkins
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Jacobs
Jenkins
Johnson
Jones (NC)
Jones (OK)
Jones (TN)
Kanjorski
Kennelly
Kildee
Kolbe
Kolter
Kostmayer
Lagomarsino
Lantos
Latta
Leath (TX)
Leland
Levin (MI)
Levine (CA)
Lewis (FL)
Livingston
Lloyd
Long
Lowery (CA)
Lujan
Luken
Lundine
Lungren
MacKay
Madigan
Manton
Markey
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McHugh
Meyers
Mica
Mikulski
Miller (CA)
Mineta
Mitchell
Moakley
Mollohan
Moody
Moore
Morrison (CT)
Mrazek
Murphy
Murtha
Natcher
Neal
Nelson
Nowak
O'Brien
Oakar
Oberstar
Olin
Ortiz
Owens
Panetta
Pease
Pepper
Perkins
Pickle
Rahall
Rangel
Ray
Ridge
Rinaldo
Ritter
Robinson
Rodino
Roe
Roemer
Rogers
Rose
Rostenkowski
Rowland (GA)
Rudd
Sabo
Savage
Scheuer
Schroeder
Schumer
Seiberling
Shelby
Sikorski
Sisisky
Skeen
Slattery
Smith (FL)
Smith (NE)
Smith (NJ)
Snyder
Solarz
Spratt
St Germain
Staggers
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Swift
Synar
Tallon
Tauzin
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Udall
Valentine
Vander Jagt
Vento
Visclosky
Waxman
Weiss
Wheat
Whitley
Whittaker
Williams
Wilson
Wise
Wortley
Wright
Wyden
Yates
Yatron
Young (AK)

NAYS—136

Applegate
Archer
Armey
Badham
Bartlett
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boulter
Brown (CO)
Broyhill
Burton (IN)
Callahan
Carney
Chandler
Chappie
Cheney
Coats
Cobey
Coble
Coleman (MO)
Combest
Coughlin
Craig
Crane
Dannemeyer
DeLay
DeWine
Dornan (CA)
Downey
Dreier
Dyson
Eckert (NY)
Edgar
Emerson
Evans (IA)
Fiedler
Fish
Franklin
Frenzel
Gallo
Gekas
Gilman
Gingrich
Goodling
Gunderson
Hammerschmidt
Hansen
Hartnett
Hendon
Henry
Hertel
Hiler
Ireland
Jeffords
Kasich
Kemp
Kleczka
Kramer
Leach (IA)
Lent
Lewis (CA)
Lightfoot
Loeffler
Lott
Lowry (WA)
Mack
Martin (IL)
Martin (NY)
McCain
McCandless
McCollum
McKernan
McMillan
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morrison (WA)
Myers
Nielson
Obey
Oxley
Packard
Parris
Pashayan
Penny
Petri
Porter
Pursell
Regula
Reid
Roth
Roukema
Rowland (CT)
Saxton
Schaefer
Schneider
Schuette
Schulze
Shaw
Shumway
Shuster
Siljander
Skelton
Slaughter
Smith (IA)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Stallings
Stangeland
Strang
Sundquist
Sweeney
Swindall
Tauke
Taylor
Traficant
Volkmer
Vucanovich
Walgren
Walker
Weber
Wolf
Wolpe
Wylie
Young (FL)
Zschau

ANSWERED "PRESENT"—1

Gonzalez

NOT VOTING—58

Ackerman
Addabbo
Barnard
Biaggi
Boland
Broomfield
Byron
Chapman
Conyers
Crockett
Daniel
Dixon
Dowdy
Early
Edwards (CA)
Edwards (OK)
Flippo
Florio
Ford (MI)
Ford (TN)
Fuqua
Gordon
Gray (IL)
Gregg
Heftel
Hillis
Horton
Howard
Kaptur
Kastenmeier
Kindness
LaFalce
Lehman (CA)
Lehman (FL)
Lipinski
Marlenee
Martinez
McEwen
McGrath
McKinney
Monson
Montgomery
Nichols
Price
Quillen
Richardson
Roberts
Roybal
Russo
Sensenbrenner
Sharp
Traxler
Watkins
Weaver
Whitehurst
Whitten
Wirth
Young (MO)

□ 1455

Messrs. PASHAYAN, MILLER of Washington, KEMP, WOLPE, and PENNY changed their votes from "yea" to "nay."

Messrs. LATTA, MOLLOHAN, SMITH of New Jersey, MILLER of California, DAUB, LEWIS of Florida, HOPKINS, STUMP, GEJDENSON, and MADIGAN changed their votes from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

SHUTDOWN OF SHUTTLE FLIGHT TODAY

(Mr. NELSON of Florida asked and was given permission to address the House for 1 minute.)

Mr. NELSON of Florida. Mr. Speaker and my colleagues, I want you to know how much I appreciate your encouragement, your prayers.

We counted down all the way to "T" minus 14 seconds this morning. That is 7 seconds away from main ignition. At that point the automatic sequencer shut down the countdown because of a failure of one of the hydraulic pressure units in one of the solid rocket boosters, which are the big boosters that produce 2.9 million pounds of thrust, each one of them.

NASA made the decision that they have to change this out and replace it because of the failure of that unit, so they are going to give all of those folks who have been processing this so hard for the last several weeks Christmas off and they are going to recycle and we are going to launch on January 4.

I want to assure you that I have heeded the advice of my colleague, the gentleman from Florida, DANTE FASCELL when I get up there that I will not touch any buttons.

I want all my colleagues to know how grateful I am for your encouragement. It is an honor for me to represent this House and I will try to do you proud.

Merry Christmas.

PERMISSION FOR COMMITTEE ON GOVERNMENT OPERATIONS TO HAVE UNTIL 6 P.M., TUESDAY, DECEMBER 31, 1985, TO FILE LEGISLATIVE REPORT AND OVERSIGHT REPORTS

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that the Committee on Government Operations have until 6 p.m., December 31, 1985, to file one legislative report and four oversight reports, as follows:

Legislative report:

H.R. 3291, Federal Civilian Employee and Contractor Travel Expenses Act (per diem).

Oversight reports:

1. Human Food Safety and the Regulation of Animal Drugs.
2. Investigation of Civil Rights Enforcement by the Office for Civil Rights at the Department of Education.
3. Federal and State Roles in Economic Stabilization.
4. Opportunities for Self-Sufficiency for Women in Poverty.

This request has been cleared with the minority.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

PRAY FOR CAPTIVES IN BEIRUT

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute.)

Mr. DORNAN of California. Mr. Speaker, I ask my colleagues for their attention for just one brief moment.

From the launch pad at Kennedy to a small dungeon somewhere in Beirut, I ask for your thoughts for just 1 second. We are about to adjourn.

As many of you did at Thanksgiving time, over these holidays when you join with your families to pray, please remember our Americans and some fellow Europeans who are held in captivity in Beirut.

At this moment, Terry Waite, for all of us and for his Archbishop of Canterbury, is taking letters and some messages from this House back to the captors in Beirut. I ask all of you to join our Chaplain to pray for the success of Terry Waite so that our Americans in Beirut and the others know that we are thinking of them and praying for them during these blessed days and these happy holidays.

☐ 1505

PERSONAL EXPLANATION

Mr. FORD of Tennessee. Mr. Speaker, I would ask that the RECORD reflect that on House Resolution 342, the resolution we have just previously voted on, I inadvertently missed the vote. I was here on the House floor explaining to some of the Members on the other side of the aisle what was in the conference report on reconciliation and missed the vote myself.

I was present and I intended to vote "aye" on House Resolution 342.

PERLE PLEDGES FULL U.S. COMPLIANCE WITH THE ABM TREATY

(Mr. FASCELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FASCELL. Mr. Speaker, on December 10, 1985, the Subcommittees on Arms Control, International Security and Science, on Europe and the Middle East and on International Economic Policy and Trade, conducted an important hearing on "Technology Transfer and the SDI Research Agreements."

The purpose of the hearing was to examine the arms control implications of transferring SDI technology to our allies. Of particular note were the comments made by Richard Perle, Assistant Secretary of Defense for International Security Policy at the Defense Department, concerning the ABM Treaty.

Mr. Perle assured the subcommittees that "The United States is conducting the SDI Research Program in full compliance with the ABM Treaty * * * and that cooperative SDI research efforts undertaken with allied government institutions, industry and universities will be subject to continuing review for compliance with U.S. international obligations, including the ABM Treaty."

In response to a series of questions I asked of Mr. Perle during the hearing, he made it very clear that allied willingness to participate in SDI research was in no way indicative of allied commitment to deployment.

On this point, the ABM Treaty contains specific provisions relevant to the transfer of ABM technology to other states. Article 9 of the ABM Treaty states that "To assure the viability and effectiveness of this Treaty, each party undertakes not to transfer to other states, and not to deploy outside its national territory, ABM systems or their components limited by this Treaty." When asked how the United States was going to comply with this provision, Mr. Perle responded that "The provisions to which you refer, the noncircumvention provision, was negotiated in 1972 for a very specific purpose, and that is so that neither side could, by simply transferring to its allies capabilities that it was prohibited from having itself, circumvent the intent of that Treaty."

Agreed statement G clarifies this point further. It states that: "The parties understand that article IX of the treaty includes the obligation of the United States and the U.S.S.R. not to provide to other states technical descriptions or blueprints specifically worked out for the construction of ABM systems and their components limited by the treaty." In response to questioning on this point, Mr. Perle explained that this "phrase * * * is used in the context of a scenario in which one side—and I think the Soviets have the United States in mind and we had them in mind—might give to its allies the blueprints of technical data necessary to fabricate a prohibited system, and that we would not do."

According to the longstanding interpretation of the ABM Treaty, neither the United States nor the Soviet Union is permitted to develop, test, or deploy ABM systems or components of ABM systems prohibited by the ABM Treaty. Nor could such ABM systems or components of ABM systems legally be transferred to our allies. It therefore, remains to be clarified just what research will be conducted by our allies and how that complies with ABM Treaty requirements.

The subcommittees were reassured by Mr. Perle's comments and his reaffirmation of the ABM Treaty. However, despite this reaffirmation, several questions remain as to how in fact the administration will meet its requirements under the ABM Treaty in regard to technology transfer to our allies.

During his testimony, Mr. Perle did explain that the administration has "developed a set of guidelines and procedures to ensure that all exchanges of data and allied cooperative research efforts are in compliance with our obligations under the ABM Treaty." The committee looks forward to reviewing these guidelines which will help us to understand how the administration plans to meet its requirements under the ABM Treaty.

CONGRESSIONAL CREDIT UNION REDUCES CREDIT CARD RATES

(Mr. ANNUNZIO asked and was given permission to address the House for 1 minute.)

Mr. ANNUNZIO. Mr. Speaker, in recent weeks there has been a great deal said about the high interest rates charged consumers on credit cards. The national average on credit card interest rates is nearly 19 percent, even though the prime rate is only 9.5 percent, and the discount rate, the rate the Federal Reserve charges banks for loans, is only 7.5 percent.

As a member of the Wright Patman Congressional Federal Credit Union, the credit union which serves Members and employees of the House of Representatives, I am proud to report that the credit union has cut the rate it charges on credit card balances to 14.80 percent. This is the second time in the last 2 months that the credit union has reduced its rate, and it now has one of the lowest rates in the country.

I should also point out, Mr. Speaker, that the credit union does not charge an annual fee for its credit card as do most other financial institutions.

The new credit card interest rate will take effect on January 15, and will apply to old as well as new credit card balances. The credit union was prepared to put the rate into effect immediately, but because of a heavy workload on the part of the credit union's card processor, the changes could not be made until after the end of the year.

Mr. Speaker, I applaud the actions of the Wright Patman Congressional Federal Credit Union, and I think that its willingness to keep rates down is a credit not only to the officers of the credit union, but to the entire House of Representatives.

CONTRACTING FOR OUTSIDE LEGAL SERVICES BY U.S. POSTAL SERVICE

(Mr. PARRIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PARRIS. Mr. Speaker, this year, the U.S. Postal Service is staring straight in the face of a $500 million deficit. Similar deficits have been seen in past years as well, in spite of nearly $1 billion in annual Federal subsidies; in spite of two postal rate hikes in 1981 worth more than $4 billion; in spite of an additional rate hike in February of this year worth $1.8 billion.

In the past 5 years, particularly, we have continuously heard from the post office that times are tough, that they need this or that rate increase, that they are doing everything in their power to make the Postal Service a smooth, efficient, and financially conservative business. They continue to stand by this contention while the costs of running the Postal Service are rising at a rate three times that being experienced in other areas of the public and private sectors.

Now, however, we learn that in the last 5 years the Postal Service has paid Washington attorney Joseph Califano $2,634,514.90 in legal fees, and over two-thirds of a million dollars in this year alone—all for outside legal advice. This, on the face of it, is very hard to understand in view of the fact that the Postal Service already has 113 full-time in-house attorneys who are specialists in the area of postal law.

I would suggest in these times of fiscal responsibility, deficits, and shrinking budgets, that the Board should review its policy of contracting for services such as this and see if it can't get by with somewhat less outside legal advice in the future.

GRAMM/RUDMAN

(Mr. BRYANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRYANT. Mr. Speaker, as one who has worked since coming to Congress to bring our Federal budget into balance, I voted for passage of the Balanced Budget and Emergency Deficit Control Act, or as we have come to refer to it, "Gramm-Rudman-Hollings." By passing this measure we have put the Federal Government on course for a balanced budget in 1991, have set specific deficit reduction targets for each year between now and then, and have provided for a system of automatic mandatory cuts to make up any shortfall in the efforts of Congress and the President to reach those targets.

This bill does not balance the budget; it sets out a mandatory schedule for balancing the budget by 1991. It is no substitute for political courage, nor is it a method of budgeting which the framers of our Constitution had envisioned would be followed. In fact it is regrettable that we have come to the point that only a mandatory system of forced automatic cuts can accomplish what the President and the Congress should have accomplished alone. But nothing else has worked. This bill will force Congress and the President to get our budget back in the black and on a pay as you go basis. And because the cuts begin this year, no one can take political credit for the plan who doesn't have the courage to use it.

The final version of Gramm-Rudman-Hollings improves on the original Senate version by requiring that the actual budget cutting begins this year. The Senate version supported by the sponsors of the bill, would have made no cuts at all in this year's budget—in fact it would have led to a deficit increase by $10 billion over current limits. That's not my idea of budget balancing.

These Senate sponsors said, "it was "unrealistic" to make cuts this year. That attitude is why our Government finances are in this fix to begin with. It's not hard to support the idea of a balanced budget to be achieved at some future time, the hard part is making the choices necessary to get there. Some would apparently prefer to campaign on their votes for a hypothetical balanced budget, and leave the actual decisions until after the election. I for one am glad we didn't let them get away with it. It is time to put up or shut up.

The final version of this measure also improves on the original Senate version by requiring the Pentagon to take part in the across-the-board automatic cuts. The original Senate version subjected only domestic programs to serious across-the-board cuts leaving the defense budget—which has doubled in the past 5 years and is riddled with waste—with only minor cuts. Under this new provision the entire Government, with the exception of social security, veterans pensions, and a few other areas, would share equally in the across-the-board automatic cuts.

Mr. Speaker, I supported Gramm-Rudman-Hollings even though I know that another means of balancing the budget would be better. But nothing else has worked. We cannot allow our budget to plunge further and further into the red simply because Congress and the President refuse to agree on our national priorities, or soon we will not be able to pay for anything. Viewed responsibly, I believe that the Gramm-Rudman-Hollings bill can be a major factor in getting the Congress and the President to start making some choices; otherwise the choices will be made for us.

I will be working to see that the right choices are made.

CONSIDERATION OF CONFERENCE REPORT ON BUDGET RECONCILIATION

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, I think the record should show what finally happened on the last vote. As the House will remember, a number of us raised objections to the last rule because it would have an impact on some abortion language that we felt was in the bill, and also on the value-added tax.

As it turned out, in the course of the vote on the rule, there were agreements made by the majority leadership that those provisions would be stricken from the conference report before a rule is brought to the floor in the future, and it is my understanding that the Rules Committee is now meeting, that we will, in fact, have a rule, and we will have a process which will have neither the language on abortion nor the language with regard to a value-added tax come to the floor today.

For that reason, many who had said they were going to vote no on the rule ended up voting yes.

I still think it is a bad process to use, to strip the House of its rights using a rules procedure like that. But the fact is the vote turned around largely on the fact that certain guarantees were made about the rule that we will have up before us in the near future.

Mr. LUNGREN. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from California.

Mr. LUNGREN. Mr. Speaker, I would like to say I understand the gentleman's recitation of the facts to be accurate.

I also would say that the gentleman indicated the Rules Committee is now in session. I understand that is not true. They may not be until 4 or 4:30.

So I do not want any Members to think that somehow right away we are going to be dealing with this. It will be some passage of time, as I understand it.

ILL TRADE WINDS

(Mr. LEVIN of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVIN of Michigan. Mr. Speaker, on Friday, the Chrysler Corp. is going to idle about 3,000 workers, and this is part of an effort of the corporation and the workers to modernize the facilities.

But these efforts are not going to be very effective, or certainly not fully effective if unfair foreign competition is allowed to swamp American products.

It was announced a few days ago that the U.S. trade deficit will be $30.5 billion in the last quarter. This economy of ours is being blown by ill trade winds and a Presidential veto, like that of the textile bill, is not a trade policy.

The U.S. continues to slip in many basic industries, and it is time for this administration to get its act together on trade policy.

ANNOUNCMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will now entertain unanimous-consent requests for special orders, but we will come back to regular business later.

TRIBUTE TO JAMES F. DRING, ATTORNEY, JOINT COMMITTEE ON TAXATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ROSTENKOWSKI] is recognized for 5 minutes.

Mr. ROSTENKOWSKI. Mr. Speaker, I would like to pay tribute today to James F. Dring, deceased staff member of the Joint Committee on Taxation, of which I am chairman.

James Dring served with distinction as an attorney on the joint committee staff from September 1980, to his death on June 16, 1985, at age 63. As you know, the joint committee staff provides valuable technical assistance in the development of tax legislation.

James Dring was an academically and intellecutally able attorney. His areas of responsibility included some of the most difficult provisions of the Tax Code. He was an acknowledged expert on the taxation of corporate reorganizations and possessed a vast technical ability in the taxation of corporations, partnerships, consolidated returns, and most recently, commodity straddles and bond discount. During the pressure filled and sometimes difficult times during the development of tax legislation, Jim Dring's professionalism and patience was legend and earned him the respect of his colleagues and coworkers.

James Dring will be missed by members of the tax committee, congressional staff colleagues and associates from other committee staffs, as well as Treasury Department tax staff and others that Jim worked with during his years with the joint committee staff.

Before joining the joint committee staff, Jim Dring worked with the law firm of Cohen and Uretz from 1976 to 1980. Prior to that, he worked for the Chief Counsel's Office in the Internal Revenue Service as director of its Refund Litigation Division and later served as director of its Legislation and Regulations Division. Jim received his bachelor's degree from Providence College in 1946, his law degree from Catholic University in 1949, and a masters in law from Georgetown University in 1952. Jim Dring was also a Latin scholar and an avid runner.

Jim Dring was born on August 25, 1921, in Newport, R.I., and served 3 years in the U.S. Army during World War II.

Our sincere condolences and prayers go to his wife, Barbara, and his two children, James and Kathleen.

USE OF GOVERNMENT VEHICLES RESTRICTED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. BROOKS] is recognized for 5 minutes.

Mr. BROOKS. Mr. Speaker, today the Committee on Government Operations reported the bill H.R. 3614, to restrict the use of Government vehicles for transportation of officers and employees of the Federal Government between their residences and places of employment, and for other purposes. I introduced that bill, with Congressmen HORTON, SAXTON, and DIOGUARDI as cosponsors on Thursday, October 24, 1985. Congressman CLINGER has since been added as a cosponsor.

Legislation is needed now because the use of Government vehicles for home-to-work transportation of Government officers and employees has greatly expanded outside the scope of the law since it was passed in 1946. A 1982 survey indicated that at least 176 employees were receiving home-to-work transportation at Government expense, most of them illegally. A more recent survey, conducted just this year found that at least 78 employees are still using Government vehicles for home-to-work transportation outside the scope of the law.

In 1983, upon learning of what appeared to be an inordinate number of State Department officials who were receiving transportation between their homes and work, I requested the Comptroller General of the United States to review legal memoranda prepared by that Department and by the Department of Defense and to advise me whether they were consistent with the law. On June 3, 1983, the Comptroller General issued a decision refuting the arguments used in these memoranda to justify such transportation, and clarifying earlier decisions of the Comptroller General concerning the law. According to the Comptroller General, these earlier decisions may have, in fact, contributed to agency confusion as to the meaning of the law. Further, the Comptroller General suggested that since the general law governing use of Government vehicles for home-to-work transportation had not been updated since it was passed in 1946, it probably should be amended to reflect current needs of the Government.

In clarifying previous Comptroller General decisions concerning the use of Government vehicles for home-to-work transportation, the Comptroller General stated that they "only authorize the exercise of administrative discretion to provide home-to-work transportation for Government officials and employees on a temporary basis when (1) there is a clear and present danger to Government employees or an emergency threatens the performance of vital Government functions, or (2) such transportation is incident to otherwise authorized use of the vehicles involved."

Following receipt of the Comptroller General's decision, I wrote to the Director of the Office of Management and Budget on June 6, 1983, enclosing a copy of that decision and indicating that the administration might want to survey the current needs of the Government, and if necessary, recommend an amendment to the law. The Director forwarded to me the administration's proposed amendment 2 years later—on August 31, 1985.

H.R. 3614 is a bipartisan bill. It complies with the administration request for legislation in this area, but it is somewhat more restrictive than the administration proposal. Moreover, this bill would correct the confusion that surrounds current law. It spells out specifically who is authorized home-to-work transportation and establishes appropriate procedures for emergency conditions.

H.R. 3614 would specifically authorize home-to-work transportation for the President and Vice President, those officials compensated pursuant to 5 U.S.C. 5312 at level I of the Executive Schedule—the heads of the executive departments and the U.S. Trade Representative—and their deputies, when appropriate; the deputy and under secretaries of Defense, the Secretar-

ies of the Air Force, Army, and Navy, the Joint Chiefs of Staff and the Commandant of the Coast Guard; the Directors of the Federal Bureau of Investigation and the Central Intelligence Agency; the heads of U.S. diplomatic missions abroad and the U.S. Ambassador to the United Nations; and officers or employees performing field work requiring such transportation. Further the President would be authorized to name up to 16 additional officers and employees of the Government as needed, and, if a clear and present danger, an emergency, or similarly compelling considerations made such transportation essential, the head of an agency would be authorized to determine the need for such use up to 15 calendar days, which would be renewed for 90 days, if the need persisted. Any discretionary use of Government vehicles for home-to-work transportation would have to be reported promptly to the Congress each time it is authorized.

H.R. 3614 reduces the number of Government employees who are currently, though often illegally, using Government vehicles for home-to-work transportation. Moreover, in an effort to be both fair and consistent, it eliminates authorization for some officers and employees who are now authorized by law to receive this transportation; and, it provides the necessary flexibility to meet unforeseen, but compelling, situations so that artificial and ill-conceived restrictions will not hamper the efficient and effective operations of the Government.

This bill is needed to provide clear guidance to the agencies to eliminate misunderstandings and confusion under which some of them are currently operating, which has led to a proliferation in the number of Government employees receiving home-to-work transportation at Government expense.

I urge all Members to support this legislation.

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TRADE, INVESTMENT, AND ECONOMIC JUSTICE FOR ALL WORKERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. PEASE] is recognized for 60 minutes.

Mr. PEASE. Mr. Speaker, predictably, the scope of the current trade policy debate in Washington asks us to throw in with either the "free traders" or the "protectionists." We seemingly must choose between rejoicing as bargain-hunting consumers unleashed in a global department store or take to the barricades in defense of American jobs out of fear for our own.

But there is another dimension to the current dilemma. First, we need to understand how our country's competitive position has changed in relation to those of other trading nations. Then, we should move beyond abstract discussions about free trade and critically ask who is benefiting materially from our our rapid integration into the global economy and to what degree? Finally, we need to recall our heritage and work for specific changes in the international trading system that will promote economic justice abroad and at home, while helping to restore U.S. competitiveness in the world marketplace.

From 1945 to 1965, the American economy was largely self-reliant. Most Americans saw their standards of living go up as part of the general prosperity. American industries and manufacturing workers—producing primarily for the domestic marketplace—were not threatened by imports. Free trade was a high-sounding principle of academic interest, irrelevant to the day-to-day concerns of most Americans.

In the last 20 years, the American position in the global economy has changed dramatically. U.S. exports have not kept pace with the flood of imports pouring into the American marketplace. By 1980, 70 percent of all the goods produced in the United States were competing with foreign-made goods. America has gone from being acknowledged economic superpower in the world to being one of a pack of economic powerhouses engaged in very hard-nosed global competition to retain old markets and to open new ones.

We were not prepared for the onslaught of foreign goods given easy access to American markets in recent years by the administration's doctrinaire adherence to free trade principles. All across America, scores of communities, hundreds of plants, and millions of workers have been ravaged. Coming to terms with the new dynamics of international trade is proving to be very painful and costly for thousands of Americans who have lost their jobs to imports and have been denied means to retrain themselves for new jobs. Not only has the United States lost its economic preeminence, but it is apparent that many American consumers now prefer foreign-made products.

What those Americans who are hurt by what now passes as free trade often don't realize is that 20 percent of all U.S. goods now produced are exported. Growth in the American economy, as never before, depends upon further increases in exports made possible by open access to foreign markets.

At the same time, what currently passes as free trade among nations does not redound equally to everyone's benefit. Multinational corporations get the most from the development of "the global factory," as the capacity to market finished products from parts manufactured in several different countries is often called. Advances in transportation, communications, and information systems have greatly enhanced the ability of these corporate giants to take advantage of international wage, productivity, and unit labor cost differentials. As capital and technology move around the world with little regard for national boundaries, workers will continue to remain stationary and bound by national laws. This economic fact of life allows American-based multinational corporations to transfer production from the United States to countries lacking basic labor rights. The workings of global production in the 1980's undercut the rights of all workers. They contribute to lowering the conditions of American workers in the direction of the lowest common international denominator.

Put another way: Is it possible for American workers to compete with South Koreans working under the thumb of an authoritarian regime and receiving 10 percent of United States manufacturing wages? More importantly, is it right?

We have entered a new era in which America ought to use its far-reaching economic leverage to insist upon changes in the International trading system, for example, that will spread the benefits of free trade within nations as well as among them. Many U.S. industries and unions rightly protest unfair traded subsidies and the "dumping" of low-priced foreign goods on our shores. The same outcry would be heard and acted upon in protest of "social dumping"—unfair competition from corporations which pay low wages to foreign workers denied the free exercise of basic labor rights.

The rights of American workers will be more secure and U.S. competitiveness will be improved by a forward-looking, aggressive, coordinated strategy to extend basic labor rights, such as freedom of association, to workers in all countries. The threat by American-based multinational corporations to transfer domestic production and jobs to foreign countries in which there are no labor rights becomes an ever more common ploy to force American workers to relinquish legitimate rights and material benefits won through more than 200 years of personal hardship and struggle.

A first important step that Congress took in 1984 was to grant certain trade preferences only to countries that respect internationally recognized labor rights. This year a second important step is about to be taken with the passage in this House last week of the OPIC Amendments of 1985 which prohibit the overseas private investment corporation from asking American taxpayers to underwrite the investments of American-based multinational corporations in any foreign country that does not respect basic labor rights. Still, too many trade policymakers do not understand that while our Government turns a deaf ear to the exploitation of foreign workers, it does so at the expense of a growing number of American jobs and declining standards of living for many American workers.

One hundred years ago, the Knights of Labor spoke out for American workers in the belief that "an injury to one is of concern to all." In the era of the global factory, we should reaffirm this belief and act upon it for all working people.

Mr. Speaker, I yield to the gentleman from Ohio [Mr. FEIGHAN].

Mr. FEIGHAN. Mr. Speaker, new provisions in the 1984 trade law that link participation in the Generalized System of Preferences to protection for the rights of workers are of enormous importance. After a century of struggle to win basic rights in the workplace, American workers and communities today are increasingly subject to corporate threats to transfer production to places without strong labor unions or regulation of the work environment. Millions of jobs have been moved to countries where labor is cheaper, unions are weaker, and regulation is nonexistent. Highly mobile transnational corporations no longer are rooted in or responsible to individual communities or nations.

By the same token, workers in Third World countries which are anxious to attract foreign investment are being deprived of the most basic elements of human dignity, as the price of development. The rapid growth of export-oriented industrialization has been accompanied by an increased level of authoritarianism and suppression of human rights among some of the countries which are the most successful exporters, and the chief beneficiaries of the Generalized System of Preferences.

In short, American workers have been pitted against workers from Third World countries, and both have lost.

It is significant, therefore, that the U.S. Congress has recognized in the new trade law that there are basic international standards for protecting the rights of workers and has taken steps to strengthen respect for those standards by incorporating compliance with them as a condition for participation in the Generalized System of Preferences. While many ambiguities remain in the law, the significance of the principle that has been introduced ought not be overlooked: That protection for the American worker is inextricably linked to protection for all workers.

South Korea, which, in 1984, was the second largest beneficiary of the GSP Program, has prospered by its export-oriented development plan, and has already joined the ranks of the newly industrialized countries [NIC's]. Between 1962 and 1981, the economy grew in real terms at an average rate of 10 percent a year, one of the highest growth rates in the world. The number of mining and manufacturing jobs has risen dramatically. Since the instigation of the United States GSP Program, Korean gross national product per capita has more than tripled, jumping from $591 to $1,998 in 1984.

South Korea is also one of the top beneficiaries of the GSP Program, having exported $1.5 billion to the United States under the program in 1984, 13.5 percent of the world total. Such extraordinary economic success should contribute to the continued trend toward more open democracy in Korea, including an expansion of workers' rights.

Unfortunately, South Korean workers have experienced a steady deterioration in protection of their rights, almost in inverse production to the growth in the country's prosperity. Far from "taking steps to afford workers the internationally recognized rights of workers," as our trade law provides, the South Korean Government has, since 1971, been taking steps to limit rights of workers and curtail those rights earlier won.

Under an emergency decree promulgated by former President Park Chung Hee in 1971, collective bargaining was effectively suspended, while industrial actions such as strikes and demonstrations were prohibited. In 1981, this decree was lifted, but replaced by a new and equally restrictive labor law. In 1980, all labor unions were purged, many were dissolved, and the remainder reorganized under much more restrictive laws. What had been a growing Federation of Korean Trade Unions lost one-third of its members subsequent to these new laws.

Mr. Speaker, we were all encouraged to see some positive steps toward a more open society taken in Korea, particularly earlier this year. I regret that that trend appears to have changed. The restriction of labor unions, and the denial of essential workers' rights are but one aspect of a human rights record in South Korea that is troubling in the extreme.

Testimony presented to the United States Trade Representative's Office earlier this year by a coalition of groups working for greater human rights in Korea makes a compelling argument for suspending Korea's participation in the Generalized System of Preferences until the Korean Government restores the internationally recognized rights of workers in both law and practice. I ask that this testimony be included as a part of my statement at this point.

I would like to close by commending the initiative of my friend and colleague from Ohio, Mr. PEASE, for scheduling this special order, and especially for his earnest and vigilant leadership on the issue of workers' rights both in the United States and abroad.

LABOR RIGHTS VIOLATIONS IN THE REPUBLIC OF KOREA

(Submitted by the North American Coalition for Human Rights in Korea, the Department of Social and Economic Justice, Board of Church and Society, United Methodist Church, the Korea Support Committee, San Francisco, CA)

"Internationally recognized rights of workers" has been defined in Section 502(a) of the 1984 Trade Law to include:

1. the right to association;
2. the right to organize and bargain collectively;
3. a prohibition on the use of any form of forced or compulsory labor;
4. a minimum age for the employment of children; and
5. acceptable conditions of work with respect to minimum wages, hours of work and occupational safety and health.

For the purpose of this testimony, South Korean law and government practice will be examined in connection with each of these rights as defined by United Nations International Labor Organization (ILO) conventions.

Applying these international labor standards to South Korea is admittedly problematic, since it is not a member of the ILO and has therefore not ratified any of the ILO Conventions nor been the subject of any ILO investigation. However, for more than a decade South Korea has sought admittance into the ILO, and has been prevented from membership only by the political actions of allies of North Korea. It would seem fair therefore to judge South Korea's labor practices against the most commonly and broadly ratified standards of the organization it has sought to join, namely Conventions 87 on freedom of association and 98 on the right to organize and bargain collectively. Other conventions relating to forced labor, child labor, minimum wage-setting mechanisms and worker health and safety regulations may also be useful, if less authoritative as guides.

The fact that many countries at lower levels of development than South Korea have ratified these basic conventions of the ILO lends weight to the argument that they are genuinely international standards.

The forms of government infringement against labor rights in the Republic of Korea include: (1) laws which are not in keeping with ILO standards, that restrict freedom of association, organization or collective action; (2) failure to enforce laws which protect workers or provide for grievance procedures; and (3) interference in labor-management relations or labor union affairs by intelligence or police agents. These violations are outlined below according to each of the five categories of labor rights specified in the amended GSP legislation.

1. THE RIGHT OF ASSOCIATION

The ILO Convention on the Right of Association (No. 87) is clear and unequivocal:

> Workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organization concerned, to join organizations of their own choosing without previous authorization.

The 1980 Korean Constitution is not quite so clear. Article 31 states:

"To enhance working conditions, workers shall have the right to independent association, collective bargaining and collective action. However, the right to collective action shall be exercised in accordance with the provisions of law. . . . The right to collective action of workers employed by the central government, local governments, state-run enterprises, defense industries, public utilities or enterprises which have a serious impact on the national economy may be either restricted or denied in accordance with the provisions of law."

Article 35 adds that "the freedoms and rights of citizens may be restricted by law only when necessary for national security, the maintenance of public order or public welfare."

The "Provisions of Law" relating to the right of association refer primarily to the Labor Union Law, which was amended on December 31, 1980 in ways that considerably hamper the ability of workers to organize freely. The following restrictions of the right of association are presently incorporated in the amended labor statutes:

A. Labor unions can only be formed in individual workplaces where 30 or more workers, at least 20% of the work force, sign a petition which is submitted to the government for approval. This means that workers in all companies with less than 30 employees, approximately 80% of Korea's businesses, are excluded from union membership altogether.

It also means that because unions cannot now be formed beyond the level of a single company, some of Korea's most effective labor unions were forced to dissolve in 1981, on the grounds that multi-company unions were illegal. In January that year, the City of Seoul declared that the Chonggye Garment Workers Union was illegal and must disband. The Chonggye Garment Workers' Union had since 1971 represented the workers in one of Korea's most exploited industries, in downtown Seoul's crowded garment district where hundreds of tiny shops with from 5 to 10 workers, mostly underage girls, eked out an existence meager for owner and worker alike, under conditions of rampant tuberculosis and other occupational diseases. During the 1970s, with aid from the Asian-American Free Labor Institute (AAFLI) of AFL-CIO, the Chonggye workers had built a labor school on the rooftop of the factory building where the girls studied, operated a consumer cooperative and carried on union business. Incidence of tuberculosis declined and by the mid-70s, the union had succeeded in negotiating district-wide wage contracts and agreements that lowered working hours from 14 to 10 hours per day and established the right to one day off each week.

All this progress was reversed in 1981, when the city revoked the legal status of the Chonggye Union and closed the labor school. For the workers in Seoul's garment district, there was no more "right of association."

B. Another restriction on the right of association is the provision in the Labor Union Law forbidding political activities by unions. The amended law prohibits unions from any act in relation to election to any public office, in support of a specific political party or candidate, or in collecting or disbursing funds for political use. Employers are under no such restriction.

C. The right of association is further hampered by Article 12-2 of the labor union law which prohibits "intervention by a third party":

No person except for employees who have a direct employment relationship with the employer, the labor union concerned, or other persons duly authorized by laws or regulations shall manipulate, instigate, obstruct or intervene with the intent to influence the concerned parties in the establishment of dissolution of a labor union, joining or leaving a labor union, or in collective bargaining with the employer." (newly inserted on December 31, 1980.)

While this provision was reportedly written to prevent religious organizations such as the Young Catholic Workers or the Protestant Urban Industrial Mission from exercising any influence on workers, it also prevents national, provincial and city labor union officials from any involvement with local union organization.

Early in 1985 the South Korean government announced that it had approved certain changes in the implementation decrees of the Labor Union Law. These alterations include easing the ban on third-party intervention in the affairs of local unions (although the ban on third-party assistance to unorganized workers trying to organize a union remains in effect); allowing miners, deep-sea fishermen, and taxi drivers to form multi-enterprise unions; and easing the requirement that a percentage of union dues be used for welfare activities.

As AAFLI News noted, however, "despite these moderate reforms, the fact remains that unions are still prohibited from organizing unorganized workers."

D. In addition to provisions of the law, procedural difficulties serve to hamper greatly the right of association. For a union to be recognized, applications containing the names and addresses of thirty charter members must be submitted to the appropriate labor committee, which has absolute authority to act or delay indefinitely. In case after case, when workers have attempted to organize unions and filed their papers, company managers have either fired the workers prior to the recognition of the union or have organized a separate union which gained government recognition while the application of the workers languished on a bureaucrat's desk.

Once an application with signatures and by-laws attached is submitted, the law states with great ambiguity:

"If the by-laws of any labor union conflict with laws or regulations, or it is likely to become detrimental to the public interest, the administrative authority may, upon a resolution of the labor committee, order the cancellation of, or change to the by-laws." (Art. 16) Likewise, under identical conditions, "it may . . . order the dissolution of the labor union or order reelection of its officers." (Art. 32.)

During the summer of 1980, the martial law government of Gen. Chun Doo Hwan decimated the labor movement under the guise of "purification." The August 20, 1980 "martial law order for purification of labor unions and promotion of labor union purification movement and other supplementary measures" (Doc. 1354-21208) forced the resignation of 11 of the 17 national industrial union presidents, 106 province and regional labor union officers and 191 local union officers. All national, provincial and city level labor councils were closed down, the industrial unions downgraded to "associations."

Any union officers who refused to resign on August 20 were sent to Army purification camps where they were subjected to brutal punishment for periods of from several weeks to several months. Most were then blacklisted by the ROK Government to prevent their re-employment in other firms. It is estimated by human rights organizations in Korea that as many as 1,000 former labor union officers and activists remain blacklisted today, five years later.

When the amended labor union law was put into effect on December 31, 1980, the following provision was included: "all dissolved labor unions and dismissed or expelled union officers from the date of August 20, 1980, until the present shall be considered to have been dissolved or subject to reelection orders in terms of article 32 of this law." (Addenda, Law No. 3350, Dec. 31, 1980) This ex post facto provision made it impossible for any dismissed worker or union official to appeal the actions of the martial law command. Other provisions in the labor union law barred these same workers from union office for a period of three years.

One immediate effect of these purges and changes in the law was a drastic and rapid decrease in the membership of the Federation of Korean Trade Unions. From a peak of 1,194,000 members in 1979, the FKTU declined to 834,000 in 1981 and continued to decline at slower rates until 1984.

2. THE RIGHT TO BARGAIN COLLECTIVELY

Two aspects of ILO Convention No. 98 are matters of particularly grave abuse in the Republic of Korea. Article 1 declares that:

"Workers shall enjoy adequate protection against acts of anti-union discrimination . . . more particularly in respect of acts calculated to (a) make the employment of a worker subject to the condition that he shall not join a union or shall relinquish trade union membership; (b) cause the dismissal of or otherwise prejudice a worker by reason of union membership or because of participation in union activities outside working hours or, with the consent of the employer, within working hours."

Article 2 states:

"Workers' and employers' organizations shall enjoy adequate protection against any acts of interference by each other or each other's agents or members in their establishment, functioning or administration. . . . In particular, acts which are designed to promote the establishment of workers' organizations, . . . shall be deemed to constitute acts of interference within the meaning of this article."

Changes in the labor law in 1980, coupled with direct police intervention in labor affairs at the factory level, have destroyed the autonomy of labor unions in their bargaining with management. The transformation from industrial unionism to so-called "enterprise unionism", carried out by the legal reforms that isolated each company union from other unions or from "third parties", has been well characterized by the Far Eastern Economic Review:

"Although the new system theoretically allows more autonomy and democracy at the bottom, it has fragmented the whole union movement. 'The whole idea (of changing the system) is to break down the FKTU into many small, independent units so that it cannot function as a pressure group,' one activist claimed." (July 19, 1984.)

At the company level a full panoply of pressures is exerted to co-opt labor leadership where possible, and where that fails, to get rid of it. Cases of sexual harassment or physical abuse of female labor leaders by company officials or hired thugs are almost too numerous to mention, but some of the most memorable incidents involve the Dong-Il Textile Co (1978), the YH Wig Co. (1979) The Haitai Confectionery Co. (1978, 1983, 1985), The Control Data Co. (1982), Iu Bookbinding Co. (1984) Daewoo Apparel (1984), Korea Light Electric Co. (1985) Wuonpoong Textile Co. (1982), the Chonggye Garment Workers Union (1972-85) Hyup Jin Electronics (1984-5). (See Appendix II for summaries of these incidents.)

In South Korea, however, the threat to labor union autonomy comes not as much from management as from the direct intervention at the company level by police and intelligence officials, in the name of national security and political stability. "Many different levels of intervention can be considered," according to Ronald Rodgers of the University of Wisconsin. "Presently within the powerful Agency for National Security Planning [formerly the KCIA] there is a Committee to Counteract Labor Insurgency with agents throughtout the country. Local governmental units are also anxious to avoid labor disturbances in their districts, and so the police often play a role in monitoring union activities and union organizing. One practical effect that most union members are careful to choose as leaders only those persons who are acceptable to the government. Another effect is that, according to informed observers police and security agents play a greater role in the resolution of labor disputes than the official labor authorities do. However, the primary objective of the security agents is to suppress anything that would contribute to political instability, and not to simply facilitate the most appropriate resolution of the dispute. That was demonstrated in the much publicized Control Data (Korea) Corporation and Wuonpoong Textiles disputes, where security agents prohibited resolutions that would have included the reinstatement of dismissed union activists." ("Labor Relations Law and Labor Control in the Republic of Korea", 1983, p. 19)

While the right to take collective action is not specifically listed among the "internationally recognized rights of workers" in the GSP law, it is presumed by the ILO Freedom of Association Committee to be an extension of the rights to associate and to organize. The Committee's findings consistently cite limitations on the right to strike as violations of Convention No. 87.

The right to strike was prohibited by special security law from 1971 to 1981, when this law was replaced by amendments to the Labor Dispute Adjustment Law. The operative terms of this statute restrict "acts of dispute';' (defined as acts "including strikes, sabotage, lockouts, and other disruptive tactics through which the parties to labor relations intend to accomplish their aims, and the acts against such tactics, both of which hamper the normal operation of a business.") to "the pertinent workplace," following a majority vote of the members of the union and a thirty-day "cooling-off period." As in labor organizing and collective bargaining, no "third party" may intervene with intent to influence the dispute. Acts of dispute are prohibited for employees engaged in the State, local governments, the state-or-local government-run corporations, and defense industries.

Since the limit of location for a dispute was written into the law, all disputes have taken the form of sit-in strikes in which employees take over the factory or company facilities, rather than pickets or other more traditional forms of peaceful protest. This is reportedly due to the fact that the law has been interpreted as outlawing acts of dispute outside the factory, even at its gate. It is also, and perhaps more directly, due to the immediate use of riot police to break up any outdoor labor protest.

The most recent instance of the overriding of labor and management by police action was the Daewoo Motor Company strike in April, 1985, at the company's automobile plant in Pupyong, near Inchon. For more than a week, several hundred of the company's 3,000 workers occupied the factory, while some 8,000 police surrounded the plant preventing any food from reaching them. Only the workers' threats to set fire to the company computer delayed a police raid long enough to negotiate a compromise settlement with the company officials. When a contract had been signed, however, the police intervened to arrest the leaders of the strike. Seven workers now face criminal charges for leading the labor action.

3. PROHIBITION OF FORCED OR COMPULSORY LABOR

ILO Convention No. 29 concerning Forced or Compulsory Labor, ratified by 128 countries, defines "forced or compulsory labor" as "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself volunarily."

Workers in South Korea, according to ILO statitstics, worked an average of 54.4 hours per week in 1984, the world's longest work week. This record which has been maintained for some years and has actually grown longer, has been pointed to with pride by Korean managers as evidence of the zeal of the Korean worker. However, with the advent of somewhat bolder labor unions (mostly unrecognized) this year, one of the most frequent demands is shorter work weeks. One of the forms of labor strike this spring was refusal by workers at the Chinro distillery of Inchon to work overtime. These stirring of protest suggest that Korean workers may in fact be victims of forced compulsory labor on a fairly broad scale. The evidence, to be sure, is sketchy, but the issue bears study at the least.

Apart from this, forced labor does not appear as a major problem in Korea today.

4. MINIMUM AGE FOR THE EMPLOYMENT OF CHILDREN

South Korea's laws protecting children from labor exploitation are consistent with ILO guidelines. Until recently, however, those laws were widely violated, particularly in the garment and textile industry. Such violations, to judge from the literature from the human rights movement and from the trade unions, appear to have greatly lessened in recent years.

5. ACCEPTABLE CONDITIONS OF WORK WITH RESPECT TO MINIMUM WAGES, HOURS OF WORK AND OCCUPATIONAL SAFETY AND HEALTH

ILO Conventions 26, 99 and 131 require states to establish and maintain machinery for fixing minimum wage rates, but considerable latitude is given to each state to determine that machinery, with only the proviso that "workers' and employers' organizations are to be consulted before wage-fixing machinery is established." (26, art.3(2))

The Republic of Korea has no law governing minimum wages, although the government has been proclaiming its intent to establish such a law soon for the past ten years. An informal guideline, based on estimated cost of living for single persons or for families, however, has been published for a number of years, with an infrequent government campaign to persuade companies to come closer to the line. For example, in 1980, it was estimated that a family of five required 270,000 won per month to live in Seoul. A survey in 1985 showed that the cost to have risen to 450,000 ($523). In 1980 69% of workers earned less than 100,000 won per month. The equivalent percentage of workers significantly under the poverty line in 1985 is not available, but aggregate statistics on wage increases suggest that the situation has not improved. Whereas real wages increased from an index of 100.0 in 1975 to 194.7 in 1983, labor productivity increased during that same period from 100.0 to 235.1 and consumer prices rose from 100.0 to 297.0 (Source: Bank of Korea, Economic Statistics Yearbook, cited by Moo Ki Bai, "Economic Growth, Export Expansion, and Wages and Labor Conditions in Korea," Seoul National University, January 1985.)

In one labor conflict after another this year, workers are protesting daily wages of 2,100 to 3,400 won. (2,100 won = $2.44) At this rate, a family would have to have eight breadwinners to reach the poverty line!

It can be inferred from these references that South Korea is badly in need for a minimum wage. Instead, the government publishes maximum wage increase guidelines each year that are enforced by the withholding of credit to companies that increase wages too much.

South Korea does have legislation setting industrial safety standards, but without any enforcement mechanism. As a result, the industrial death and accident rates in Korea are among the world's highest. During the period of 1980 to 1983, for example, the ROK suffered a 0.358% industrial death rate. This compared to 0.172 in the Philippines and ranked significantly higher than any other Asian country except Malaysia (Sarawak).

These statistics point to the need for internal freedoms for Korean workers to organize to protect themselves through collective bargaining, political action and if necessary collective actions. They should be understood as barometer of the need for adequate labor relations and protection, rather than as rights that can be guaranteed in the absence of other organizational rights.

PROPOSED REMEDIES

The pattern of abuse of labor rights in the Republic of Korea is sufficiently intense, broadly experienced and rooted in unjust law and government practice to require remedies, which are in fact available to the Korean government. It is not an exaggerate to state that South Korea, by the exploitative labor control through which it maintains cheap export prices, is subsidizing exports unfairly. This practice should not be rewarded by tariff-free access to U.S. markets through the GSP program.

We firmly believe that the Republic of Korea should be suspended from the GSP program until such time as it has restored by law and government practice the basic rights of its workers to organize freely, to bargain collectively and to be free from forced labor, sub-minimum wages and dangerous and unhealthy working conditions. Compliance with these standards should be monitored closely, so that whenever these conditions improve sufficiently, the Republic of Korea can be readmitted to beneficiary status, within the financial and competitive need guidelines established elsewhere in the law.

As an agency without economic interest in Korea, but with a deep and abiding concern for the protection of basic rights for the Korean people, we will be happy to assist the Trade Representative's office in any way possible to monitor Korea's progress.

□ 1530

Mr. PEASE. Mr. Speaker, I thank the gentleman very much for his contribution and for his generous remarks.

Mr. Speaker, last summer a representative of the AFL-CIO made a precedent-setting appearance before the U.S. Trade Representative to request that several countries be denied duty-free access to the American marketplace because the governments of those countries have well-documented records of denying basic labor rights. I want to read excerpts from that testimony by the AFL-CIO to underscore the extent to which many countries to which we extend special trade preferences and other assistance exploit their workers in order to gain a competitive advantage in world commerce. After listening to this information, I hope more of my colleagues will agree that the United Trade Representative ought to make this a major focus of negotiations with these countries in seeking to level the playing field for America to compete in international trade.

The AFL-CIO welcomes the opportunity to testify before the U.S. Trade Representative at these public hearings concerning the recently renewed and amended Generalized System of Preferences. As you know, the Federation is critical of certain aspects of the renewed GSP. We also have testified in the past against the inclusion of countries such as the Republic of Korea, Taiwan and Hong Kong in the list of GSP Beneficiary Countries, primarily on the grounds that their economies were well developed and did not need such support.

Yet, despite our opposition to certain provisions in the GSP, we have welcomed the inclusion of labor rights provisions in Title 5 of the Trade and Tariff Act of 1984 and are particularly gratified that the observance of labor rights and standards outlined in the legislation is now strictly required for a country to be designated by the President as a beneficiary developing country.

Today the AFL-CIO is requesting that GSP beneficiary status be removed from a series of countries whose violation of labor rights are outlined in our full submission, pursuant to Section 502(b), which according to the Federal Register of 14 February 1985 allows for making such a request "at any time."

The amended law states that in extending preferences the President shall not designate any country a beneficiary developing country "if such country has not or is not taking steps to afford internationally recognized workers rights to workers in that country (including designated zones in that country)." The law, moreover, defines such rights in the following way: "For purposes of this title the term 'internationally recognized worker rights' includes: (a) the right of association; (b) the right to organize and bargin collectively; (c) a prohibition on the use of any form of forced or compulsory labor; (d) a minimum age for the employment of children; and (e) acceptable conditions of work with respect to minimum wages, hours of work and occupational safety and health."

In a letter to Ambassador Brock on February 12, 1985, AFL-CIO President Lane Kirkland urged that: "In order for the concept of 'internationally recognized workers rights' to be applied in a meaningful fashion, . . ." regulations now being developed by the USTR should "specifically reference appropriate International Labor Organization Conventions as a means of defining these most important criteria."

The AFL-CIO regards the inclusion in a trade act of such internationally recognized rights as freedom of association, the right to organize and bargain collectively, and the prohibition on forced and compulsory labor, as a potentially powerful instrument for the promotion of human rights.

The AFL-CIO believes that the fundamental rights of freedom of association, protection from forced labor and the guarantee of the right to organize and bargain collectively are universal and indivisible. We believe, consistent with the interpretations of the International Labor Organization, that such basic rights are not contingent upon the level of development or social system in particular countries.

The AFL-CIO disagrees with the view that fundamental human rights, associated with the democratic form of government, are somehow dependent upon the level of development of a particular society. We specifically reject the notion recently proposed by the Soviet bloc at the ILO that: "supervision of the application of international labor standards must be carried out in such a way that account is taken of the level of development and the social and economic realities of the member states."

We agree with the recent assertion of the U.S. Department of State that: "A fallacy about the democratic form of government is that it can only take hold in wealthy societies. Yet when Switzerland and the United States established democratic governments, both were poor agrarian countries. Today, while many democracies are advanced industrial states, some are not. That democracy issues from great wealth would surprise Indians or Barbadians or Botswanans! By freeing untapped social energies and providing opportunities for their exercise, democracy often facilitates the creation of wealth. Nothing indicates, however, that a wealthy society is an absolute precondition for the establishment of democracy."

This statement applies equally to basic worker rights. And it is about the violation of these fundamental worker rights that we are here to testify, today.

The AFL-CIO also welcomes the inclusion in the GSP of standards concerning workplace safety and health, minimum age for the employment of children, minimum wages, and hours of work. We regard these standards as being of paramount importance in providing basic protection to workers from exploitation. But we recognize that some of these important standards can be judged in accordance with the level of development of particular countries, and that such standards can be said to be relative.

We will be presenting a list of countries which are among the world's greatest offenders of the fundamental worker rights of freedom of association, including the right to strike or withhold labor; the right to organize and bargain collectively through free and independent worker associations; and the right to protection from forced or compulsory labor. We seek to use this forum to draw attention to some of the most blatant offenders of worker rights and to test the strength of the new GSP legislation which mandates the exclusion of countries from the list of GSP beneficiaries for such violations.

We know that there are real teeth in the new GSP trade union rights provisions. We very much hope that the President and your office will apply them forcefully. While there are a number of other GSP beneficiary states which violate worker rights, we are here to urge the USTR and the President to strike from the list of GSP countries the following states, which in recent years have been among the worst and most flagrant violators of fundamental principles of worker rights: Chile, Guatemala, Haiti, Republic of Korea, Nicaragua, Paraguay, the Philippines (case material to follow shortly), Romania, and Suriname. In the words of the law, these countries have not or are not "taking steps to afford internationally recognized workers rights . . ."

Indeed, these countries—from different continents and possessing different social, economic and political systems—are guilty of many or all of the following violations: a. the suppression of independent unions; b. legal restrictions on the freedom of association and collective bargaining; c. punishment of striking workers; d. denial of the right to strike; e. intimidation, arrest or the murder of union activists; f. the use of forced or compulsory labor; g. the torture and beating of imprisoned trade unionists.

On the basis of: 1) reports from our own extensive network of AFL-CIO international affairs specialists; 2) first-hand field reports by staffs of various AFL-CIO international institutes; 3) reports from the International Confederation of Free Trade Unions; 4) the investigations of the International Labor Organization; 5) reports in the news media; 6) studies by reputable human rights organizations; 7) the testimony of exiled trade unionists; 8) eyewitness testimony of victims of repression; and 9) our own government's State Department and Labor Department reports, we are submitting detailed, country-by-country case histories along with this testimony.

These case histories clearly indicate that Chile, Guatemala, Haiti, the Republic of Korea, Nicaragua, Paraguay, the Philippines, Romania, and Suriname are massive violators of the worker rights included in Title 5 of the Trade and Tariff Act of 1984 and as such by law should be denied the designation of GSP Beneficiaries.

Our nation's commitment to help spur the economic growth of less developed and underdeveloped countries has been strongly supported by the AFL-CIO. Indeed, in the long term, political freedom and such fundamental rights as freedom of association and the right to organize and bargain collectively, are a necessary prerequisite for economic development.

The existence of free and independent organizations of working men and women seeking improved wages and working conditions and participating in the political process creates the basis for a stable workforce and a solid middle class of consumers as well as an internal democratic base. Such a stable workforce helps produce the internal demand necessary for economic growth and self-sufficiency.

Thus the inclusion of worker rights provisions in legislation which seeks to promote economic development in less developed countries is particularly appropriate.

We attach great importance to this review of the eligibility of GSP Beneficiary countries and expect to continue to provide information concerning individual countries and products, throughout the process.

The law is explicit in its requirement that GSP Beneficiary Countries respect fundamental worker rights. We therefore call on the President and the U.S. Trade Representative to live up to the spirit and letter of Title 5 of the Trade and Tariff Act of 1984 and to send a message to the tyrants and dictators, authoritarians and totalitarians of this world; that the U.S. government and the American people will not subsidize the violation of the fundamental rights of working people.

We are well aware that there are other GSP beneficiaries that violate worker rights and we reserve the right to challenge their status as GSP beneficiaries pursuant to the mandatory provisions in Section 502 (b) of the law.

CHILE

Eleven years of Pinochet's dictatorship have seen the severe deterioration of trade union freedoms. His regime has used every means available to beat down the worker. The ICFTU report Trade Union Rights: Survey of Violation 1983-84, shows how labor legislation has been structured to weaken workers' rights.

"The Chilean labor legislation of 1979 was introduced with the clear aim of fragmenting and weakening the trade union movement and several of its provisions are contrary to the ILO standards on freedom of association and trade union rights. The ILO Committee on Freedom of Association noted in particular, the following infringements.

a) the requirement of too high a minimum of workers for setting up a trade union;

b) extensive powers without legal remedies for the Labour Inspectorate to deny a legal personality to a union;

c) restrictive rules concerning the number of trade union officers, the requirements for eligibility and electoral procedures;

d) excessive powers for the authorities to inspect trade union finances and to investigate internal trade union affairs at any time;

e) prohibition of trade union's participation in political activities;

f) exclusion of civil servants from the right to organize in trade unions;

g) restrictions on the establishment of federations and confederations of trade unions, these federations and confederations being forbidden to participate in collective bargaining, to sign collective agreements or call a strike;

h) prohibition of collective bargaining in state administrations, in companies or institutions whose budgets have been financed in the course of the past two years by the state to an extent exceeding 50% and in certain public utility services managed by private companies;

i) important restrictions on the right to strike in respect of the requirements for deciding to hold a strike, the duration of a strike, the exclusion of several enterprises and the power of the authorities to decree the resumption of work."

There are scores of examples of State interference in the unions, raids on their offices, harassments, arrests, torture, internal banishment, exile, and assasinations. One victim of this heinous system was Tucapel Jimenez, President of the National Federation of Government Employees and a true supporter of democracy. Days after calling for trade union unity he was murdered and left lying along the roadside next to the taxi he drove to supplement his living. His throat was cut to near decapitation and he was shot twice in the head. To date, there has been no progress by the government to locate and prosecute his murderers.

More recently, trade unionist Manuel Gerrero, President of the Metropolitan Council of Chile's National Association of Teachers, was kidnapped and found murdered in the same manner and close to the spot where Tucapel Jimenez was found. On March 28, 1985, eight armed men in civilian clothing burst into Chile's National Association of Teachers' headquarters and proceeded to destroy files and equipment and beat some of the teachers who were present. Five persons were taken who were later released. The next day, March 29, Manuel Guerrero and two other persons were abducted and the bodies with their throats cut were found on March 30.

For years, the AFL-CIO has called for the U.S. Government to withdraw support from Pinochet to put more pressure on him to recognize the trade union and human rights of the Chilean people.

GUATEMALA

Guatemala is flagrantly violating ILO Convention 87 concerning the Freedom of Association and Protection of the Right to Organize. Government workers do not have the right to organize or participate in politics. Unions are prohibited from participating in politics or party politics and are threatened with dissolution if they do so. (Sec. 207, Sec. 226(a) of the Labor Code and Sec. 51(12)(1) of Legislative Decree No. 24-82 of 1982.) Union activities come under strict supervision by the government. (Sec. 211(a) and (b) Labor Code).

The right of trade unions to further and defend the interests of workers has been severely limited in area of strikes:

Two thirds of the workers must vote in favor of a strike (Secs. 241(c); 222(f) and (m) Labor Code);

Prohibition of strikes and work stoppages by agricultural workers during the harvest with a few exceptions (Sec. 243(a) and 249);

Prohibition of strikes and work stoppages by those workers in sectors which the government deems as vital to the national economy (Sec. 243(d) and 249);

Intervention of the national police in illegal strikes (Sec. 255);

Imprisonment and trial of offenders (Sec. 257);

(Information for the two prior paragraphs comes from the ILO, Report of the Committee of Experts on the Application of Conventions and Recommendations, Convention 87, Guatemala, 1985.)

The Mejia government has reiterated on numerous occasions that there will be complete "freedom of association" and full guarantees of trade union rights in Guatemala. At the same time, government spokesmen have emphasized the point that their support is dependent on trade unions working "within the framework of the law". Union leaders have asserted that there are not sufficient government guarantees of trade union freedom for the reactivation of trade unionism in Guatemala. The absence of trade union liberty and freedom to organize workers is illustrated in management threats to dismiss workers and close plants when workers try to organize unions; in assasinations and abduction of trade union leaders; in the absence of many new unions and the dismantling of many of the old unions; and in military and civil defense opposition to trade union activities in the areas of conflict where the Marxist-Leninist insurgency operates. (Labor Trends in Guatemala—1984, prepared by American Embassy, Guatemala, Pg. 12, 13.)

According to our sources, it is a regular practice that from time to time a trade union leader is killed prior to signing a collective bargaining agreement. The purpose of those persons who perpetrate these heinous crimes is to intimidate and weaken the new leadership rather than thwart the negotiating process. Appended to this report is a list of names and brief details of disappearances and murders, some of whom are examples of the above practice.

In collected confidential testimony the AFL-CIO has learned that, at least twice in 1985, trade unionists have been abducted, tortured and questioned about their trade union activities and their unions' plans concerning the upcoming political elections and were then released. With the State's strict prohibition of union participation in politics, one can't help but wonder who is perpetuating these acts and why.

One good example of the danger trade unionists face occured in 1980. On June 21, 1980, 25 leaders of the Confederation Nacional de Trabajadores (CNT National Workers' Confederation), were arrested by plainclothed and uniformed members of the National police. They were meeting at the CNT headquarters in Guatemala City to plan the funeral of a fellow trade unionist. This individual had been arrested the previous day and his body was found the next day bearing marks of torture and gunshot wounds. None of the 25 has been heard from since then. Guatemalan authorities subsequently claimed both that the unionists were never detained and that they were released. Cars belonging to some of them were later seen in National Police garages. (Amnesty International Urgent Action, AMR 34/03/85, Jan. 25, 1985.)

Appendix

(This information comes from "Disappearances" in Guatemala Under the Government of General Oscar Humberto Mejia Victores, August 1983—January 1985, by Amnesty International, AMR 34/01/85, March 1985. The following list is condensed from "Partial List of "Disappearances" Reported to Amnesty International since General Oscar Humberto Mejia Assumed Power in August 1983" to include trade unionists only.)

1. Cecilio TEJAX COJ, Age 36, Profession: Day Laborer and trade unionist; Date and Place of Disappearance: 11/6/83 in Santa Lucia Cotzumalguapa, Escuintla; Details: He was taken from a bus in front of his wife and children by armed men who drove him away in a car with the number plates back to front. He was secretary of the union at the Finca Santa Rosa, Sutaman, Chimaltenango, where he also worked.

2. Jose Julio CERMENO, Age 38, Profession: Trade union leader; Date and Place of Disappearance: 11/12/83 in Guatemala City; Details: Precise circumstances not known but believed to have been abducted by members of the security forces. He is legal adviser of the trade union at the Pantaleon Sugar Mill. Dragged out of his home by seven armed men.

3. Jose Luis LOPEZ BRAN, Age 37, Profession: Electrician and trade unionist; Date and Place of Disappearance: 11/27/83 near Pantaleon Sugan Mill, Escuintla; Details: Set off for Guatemala City to do Christmas shopping but was stopped on the main road near the Pantaleon Sugar Mill where he worked, by plain clothed members of the security forces. He was a leader of the trade union at the sugar mill.

4. Miguel Angel GOMEZ, Profession: Trade unionist; the date, place and details of the disappearance in this case are exactly as No. 3, since they were both together at that particular time.

5. Alejandro DEL CID HERNANDEZ, Profession: Trade unionist; Date and Place

of Disappearance: 01/26/84 in Escuintla; Details: A trade union leader at the Mirandilla Sugar Mill in Escuintla, was taken by armed men from his home.

6. Jose Guillermo GARCIA, Profession: Trade unionist; the date, place and details are the same as above.

7. Amancio Samuel VILLATORO, Age 47, Profession: Trade unionist; Date and Place of Disappearance: 01/30/84 in Guatemala City; Details: Abducted as he was leaving his place of work in Zone 19 of the capital. The same day armed men went to his home and took away money and belongings. He was reportedly seen alive in a secret detention centre in the third week of March 1984 by escaped prisoner Alvaro Rene Sosa Ramos. Villatoro is ex-Secretary General of the union at the Adams' Products factory.

8. Alfonso ALVARADO PALENCIA, Profession: Trade unionist and trade union adviser; Date and Place of Disappearance: 01/31/84 in Guatemala City; Details: Abducted by armed men near Roosevelt Hospital after attending meeting with union at CAVISA glass factory. The Department of Technical Investigations of the police is believed to be responsible. Some reports indicated he was found dead four days later but these turned out to be untrue.

9. Edgar Fernando GARCIA, Age 25, Profession: Worker and trade union leader at the CAVISA glass factory; Date and Place of Disappearance: 02/18/84 in Guatemala City; Details: Abducted in Zone 11 of the capital by members of the Special Operations Brigade and the National Police, and taken away in a white and light blue mibrobus. Unconfirmed reports indicate that he is alive and being held in a secret detention centre.

10. Alejandro HERNANDEZ GONZALEZ, Age 27, Profession: Trade unionist and office worker; Date and Place of Disappearance: 05/13/84 in Guatemala

NICARAGUA

As soon as the Sandinistas gained power in 1979 they formed a new labor confederation, the Sandinista Center of Workers (Central Sandinista de Trabajadores, CST) and insisted that all trade unions s.ould belong to one labor center. This is a blatant violation of the freedom of association free from government control.

The Sandinistas proceeded to interfere with union elections, holding elections time and again until the results were to their liking. Unions which refused to affiliate, or once affiliated to disaffiliate from the CST, had their leaders arrested and jailed indefinitely, their members harassed and beaten and their offices attacked and destroyed.

Prior to the November, 1984 elections, Government officials informed certain union members that in return for their collaboration the Government would alleviate some of their financial problems. All they had to do was to convince the CUS (Confederacion de Unificacion Sindical—Confederation of Labor Unity) to leave the Democratic Coordinator, the democratic opposition within Nicaragua. The Democratic Coordinator refused to participate in the elections because of unfair campaign conditions. This subsequently led to the takeover of the CUS headquarters detailed below. For further information, we refer you to a complete report entitled "Sandinista Repression of Nicaraguan Trade Unions."

HAITI

Haiti's history of trade union rights has been a very poor one. The country suffers from corruption and extreme poverty, and the government-sponsored militia has suppressed the opposition. The system is characterized by political murders, imprisonment without trials, exiles and torture.

Article 43 of the Haitian Constitution states that workers have the right to organize trade unions. But other sections of the law limit the exercise of the freedom of association as follows:

Obligation to obtain the approval of the government on such conditions as may please the public authority, before establishing an association of more than 20 persons (Section 236 of the Penal Code);

Wide powers of supervision by the authorities over the trade unions (Section 34 of the Decree of 4 November 1983);

Imposition of compulsory arbitration by the Arbitration Board, automatically or at the demand of the Secretary of State for Labor or of only one of the parties to a dispute with view to ending a strike (Sections 185, 190, 199 and 200 of Amended Labor Code).

ILO Convention 87, in response to the above, requires:

The formation of unions, federations and confederations without prior authorization (Art. 2 & 5);

Public authorities should refrain from any interference that would restrict the rights of trade union organizations (Art. 3);

Compulsory arbitration is confined to cases of strikes in essential services in the strict sense of the term, those whose interruption would endanger the life, personal safety or health of the whole or part of the population and arbitration should be used when both parties call for it (Art. 3 & 10). (Report of the Commission of Experts in the Application of Conventions and Recommenations; Convention 87, Haiti, 1985.)

During the 1982-83 sugar harvest the Government of Haiti received $2,225,000 in recruitment fees for 19,000 Haitian workers from the State Sugar Board of the Dominican Republic. The ILO recommends that the Government of Haiti receives money for actual recruitment costs, and accounts for it in the public accounts of the Government of Haiti. (Ibid, Convention 105, Abolition of Forced Labour, Dominican Republic, and Haiti, 1985.

The Government has been very successful in eliminating any strong union leadership. In 1979-1980 there was a series of crackdowns aimed at eliminating the independent trade union movement. One telling example of this is the arrest of Ives Richard, Secretary General of the Centrale autonome des travailleurs haitiennes (Autonomous Confederation of Haitian Workers) and the murder of trade unionist Siméon Jean Baptiste as described by Ives Richard.

"I was arrested without warrant at 10:00 a.m. during a meeting I was holding at the office of the Salesian Fathers with 35 workers from the textile company NEDSAN. Without warning a group of tontons macoutes burst in, and without much ado, started beating up the workers. Fellow trade unionist Siméon Jean Baptiste was killed by a bullet from the guns of the tontons macoutes of Jean-Claude Duvalier. I was taken with the other workers to the Casernes Dessalines where we were interrogated under torture and for the first time accused of being arsonists and communists agitators. From that moment I was kept completely separate from the other workers and transferred to the underground cells hidden below the National Palace." (Amnesty International, Haiti Briefing, March 1985, Pg. 8)

Since this purge of 1979-80 Haiti now has a docile labor movement fearful of government repraisals if it steps out of line. One evidence of this is that few collective bargaining agreements have been signed because the unions' back has been broken.

REPUBLIC OF KOREA

Korean labor law revisions enacted after the 1980 coup have imposed severe constraints on workers' rights to organize, and to engage in collective bargaining and collective action. Although specifically guaranteed by the Constitution, these rights are systematically denied through enforcement of laws designed to keep workers unorganized and unions ineffectual. Enforcement combined with the assurance of a blacklisted name and intimidation tactics condoned by government officials have prevented all but the most desperate workers from seeking to exercise their constitutionally guaranteed worker rights.

With the promulgation of revised labor law, Korean President Chun arrested or took into custody several hundred officers of labor unions and coerced them into "retirement." Union membership plummeted by 140,000, due primarily to the expulsion of experienced leaders and to the forced dissolution of labor unions that failed to meet the criteria in the new law.

Provisions in the labor law narrowed greatly the latitude of unions in relating to workers and of workers in selecting unions.

The restructuring of labor law in 1980 effectively dissolved interaction between national unions and their local and regional sections and seriously undermined worker freedom of association.

The law severely impinged on the rights of workers by allowing unions to operate only in establishments of more than 30 workers. With 80 percent of Korean workplaces operating with fewer than 30 workers, the vast majority of Koreans are prohibited by legal statute from joining a union. A worker not affiliated with a particular business or worksite is denied his right of association.

Notwithstanding certain political liberalizations within Korea, the practice of industrial relations has seen no improvement and continues to subject workers to the systematic denial of the rights of association and organizing. Even when unions adhere to the spirit and letter of the law the government frequently does not apply the law. A successful effort on the part of the Metalworkers' Union to organize thousands of workers at Dongil Steel was thwarted when, after delivering all necessary registration papers, the Government refused to certify the union as the workers' representative. Mass protests by the local president of the Metalworkers' Union and by the headquarters' staff of the Federation of Korean Trade Unions drew public attention to the government's refusal to adhere to its own laws. The Dongil Steel case is merely the latest of more than ten similar cases of the government's refusal to certify duly organized unions. In one case the government has claimed that the union did not have properly elected leadership. In fact, the elected leaders had been dismissed by the company precisely for their organizing activities.

Despite the erratic and unjust application of labor law, workers continue to organize themselves. The demand for representation among garment workers erupted recently in the two cases of Chongkye and Daiwoo Apparel. Barred from legal recognition because their individual workplaces employ fewer than 30 employees, workers in the Chongkye garment district banded together to protest poor working conditions and inadequate wages and to demand recognition of their independent union, the Chongkye Garment Workers' Union. Organized outside the government-condoned Federation of Korean Trade Unions, the Chongkye Union represents to the government an uncontrollable and therefore hostile force. The Chongkye Employers' Association advocates the legal recognition of the union, but the government has officially managed to ignore the clamor.

Recently, while demonstrating their dissatisfaction with the FKTU's meager support in combatting the company's anti-union drive, 80 Daiwoo Apparel Union members locked themselves inside the FKTU headquarters building. Demands included reinstatement of six workers dismissed from union activities, a wage increase, and the signing of a collective bargaining agreement. An agreement with the company was reached the following day, but on their return to work after the demonstration, workers were ambushed and beaten by company goons. a subsequent sit-in at the Democratic Korean Party headquarters yielded no concrete results. Through all the attendant publicity, the Korean government response was to side with the employer, take no action and see to it that no FKTU or Textile Workers Union official visited the hospitalized Daiwoo unionists. Ultimately, the company reneged on its agreement, and the union activists were placed on trial.

The failure of the government to enforce the labor law and to hold employers responsible for their actions confounds the industrial peace that the government demands. In the process of dictating the industrial relations system and violating basic worker rights of collective bargaining and association, the government makes no provision for serious input from workers.

The sharp increase in the number of unfair labor practices failed by unions is directly attributable to the balance of legal superiority held by the employer. The strengthening of the employers' superiority as well as the impunity enjoyed by employers form an institutionalized barrier as effective as the official labor code in preventing workers from exercising their rights.

Registration of complaints or requests for action to the FKTU headquarters seldom result in affirmative action for workers' organizations. The autonomy of the FKTU is undermined at all levels by government interference which includes a large network of informers who are promised personal material gain in exchange for cooperation and information. Interference in the form of physical intimidation, such as at Daiwoo Apparel, has discouraged the emergence of local level, independent trade union activism.

Even the government of the Republic of Korea has admitted its denial of workers' rights and the inconsistency between the Constitution and the labor code. Even the censored Korean press regularly remarks on the need to revise the labor laws and improve working conditions: "Admitting that Korean economic conditions are different, . . . we cannot deny that there is a discontent among the people concerned because there have not been sufficient guarantees to protect workers' rights in terms of organizing unions, collective bargaining and collection action since revisions of the labor laws in 1980." The delay in Korea's application for membership in the International Labor Organization lends credence to the conjecture that the government is unwilling to subject its laws to the scrutiny of that international body. According to the U.S. Department of State Country Reports on Human Rights Practices for 1984, "The single national labor federation, the Federation of Korean Trade Unions (FKTU), and its national affiliate unions are not controlled by the government. Their freedom of action, however, is severely circumscribed by law . . . All local unions must be organized within individual enterprises, creating a structure of thousands of individual unions, most of them small and weak . . . Collective actions and strikes, though technically legal, are to all intents and purposes forbidden. Religious labor ministries such as the Catholic Young Christian Workers and the Protestant Urban Industrial Mission are also severely limited in the assistance, which they can provide the unions. Under these circumstances, government and employer influence has greatly exceeded that of unions in setting wages and resolving other major labor issues."

PARAGUAY

The Stroessner regime of Paraguay is the longest running dictatorship in this Hemisphere and has been in power since 1954.

A predominant characteristic of the dictatorship is constant interference in union affairs. The Confederation of Paraguayan workers is the only legally recognized union and is widely known to be at the service of the Stroessner government.

There are dozens of unions affiliated to the CPT, but most of them have only a few members. When they rarely try to deviate from party line and government policy, there is quick and harsh reprisal.

According to the U.S. State Department's Country Reports on Human Rights for 1984 the right to free association is particularly curtailed in the case of the Paraguayan labor force. Paraguayan workers are not permitted to organize freely, as demonstrated by the case described below. Strikes are not permitted by the Government, and efforts at collective bargaining by the few independent labor unions which are permitted to exist are sometimes frustrated, with the tacit backing of the Government.

The National Construction Workers Union (SINATRAC) replaced its government-stooge Secretary General with another who truly represents the rank and file. All attempts to get the new Executive Board recognized by the government failed. In spite of this, the dissidents conducts a successful organizing campaign of the Yacyreta Dam and proceeded to organize the construction site of a steel mill close to Asuncion. In retaliation for their action, the Army arrested the five organizers before a membership meeting outside the steel mill construction site. They were held for 18 days, August 18 to Sept. 4, 1984, without being charged with any crime.

Subsequent to their release, the five union officers were threatened with arrest and imprisonment if they were seen again in the vicinity of the steel mill. When SINATRAC planned union elections for October 14, 1984, as required by law, police informed them to either cancel the meeting for that day or be arrested again. Nevertheless, elections were held a week later, and the democractic slate won. To date the government has not recognized the legitimately and freely elected officers of SINATRAC.

This is just one of many examples of the blatant violations of ILO Conventions 87 and 98 by the Stroessner government.

□ 1600

Mr. LEVIN of Michigan. Mr. Speaker, will the gentleman yield?

Mr. PEASE. I am pleased to yield to my distinguished colleague, the gentleman from Michigan.

Mr. LEVIN of Michigan. Mr. Speaker, I thank the gentleman very much.

I am so pleased to join the distinguished gentleman from Ohio [Mr. PEASE] in his special order and to congratulate him for taking it, although I am sure he would not wish any congratulations at all to speak about the rights to organize freely,

I have listened with interest to the discussion regarding a number of countries, and I just wanted to say a few words about a situation that is often commented on, that of Solidarity in Poland. It just seemed that it was not appropriate for there to be a discussion of the rights to organize with trade unionism without having some reference to Solidarity.

A few days ago I saw a program on the MacNeil-Lehrer show. It was a documentary of about a half-hour, and it was a remarkable piece of journalism. It included interviews with Lech Walesa and others who are trying to keep the flame of Solidarity alive.

Poland has had a checkered history. It has had many proud moments, and it has had some moments of which, I think, one would be less proud. But today the Solidarity movement struggles to survive against the most formidable odds.

I sat there, I am sure, as did millions of other Americans, admiring the courage of people like Lech Walesa and others as they attempt to keep that flame still flickering. They are being prosecuted and they are being persecuted, and here we are in the comfortable environs of this country facing, we hope soon, another holiday season. But others are in the winter of that season, attempting to maintain just the basic human rights—not "maintain" them because they do not have them, but they are trying to win them.

I met with a representative of Solidarity at a human rights meeting in Ottawa some months ago, and there in Ottawa he described the efforts of their office in Paris to get across their methods, as well as the valiant efforts of people who remain in Poland and who are not going to leave their homeland while it is not free.

So today I would like to join my good friend, the gentleman from Ohio. I would like to stand with him, if I might, and I would, knowing his own feelings, like to add this moment of statement of continued commitment on our part to do whatever we can to help those who are trying to bring about freedom of trade unions through all these efforts in Poland today.

Mr. Speaker, I thank the gentleman very much.

Mr. PEASE. Mr. Speaker, I thank my colleague for his contribution.

I would note that, having been as interested in labor rights as I have been for a number of years, certainly I would have no greater ally in that endeavor than the gentleman from Michigan. I am grateful to him for his assistance in the past, for his solid support, and for his participation in this special order today.

Mr. LEVIN of Michigan. Mr. Speaker, I thank the gentleman very much.

Mr. PEASE. Mr. Speaker, now I would like to talk about Suriname. Suriname is a very small place, a very small place indeed. One would wonder why we should be concerned in this House or in this country about labor rights in Suriname. Yet if a number of women, especially those who would be shopping in stores during this Christmas season, would look at the labels on their blouses and dresses, they would find more often than they might think the label, "Made in Suriname."

What that means, of course, is that those products on the shelves in the stores are there competing with American-made products, products made by garment workers in South Carolina or Georgia, in North Carolina or Alabama, in New York or wherever. So I think it is worthwhile for us to realize what kind of working conditions the workers in Suriname face as they are making products which may well tend to put our own American workers out of a job.

□ 1610

Again, Mr. Speaker, this comes from AFL-CIO testimony last December:

SURINAME

In December 1982, Cyril Daal, President of De Moederbond (Suriname's Labor Federation) was killed, along with 14 other prominent leaders. One important event leading up to the murder was Cyril Daal's call for democratic elections. When Desi Bouterse came to power through a coup d'etat on February 25, 1980, he promised elections in 1982. When it became apparent he was not going to follow through on his promise, Cyril Daal and De Moederbond began to put pressure on him to do so. He lead protests against Bouterse's visit to Cuba and during Maurice Bishop's visit to Suriname, something that greatly embarrassed Bouterse.

On December 8, 1982, Cyril Daal was picked-up and taken to military headquarters called Fort Zeelandia, along with 14 others. The next day, Lt. Col. Bouterse claimed they were shot trying to escape, all 15. The real story which came out later was they were beaten, tortured and shot at close range. One eye-witness saw Bouterse personally castrate and then shoot Daal to death. So much for the treatment in Suriname of those who seek decent working conditions and decent wages for the working people.

Since the brutal murder of Cyril Daal, the labor movement has been very subdued in its activities. One must conclude that the Government has so intimidated trade unionists that they are fearful of demanding and exercising their rights as provided under ILO Conventions.

According to the International Confederation of Free Trade Unions' [ICFTU] report, "though legally speaking no limitation on the fundamental trade union rights has been imposed, the fact remains that trade union activities are close to paralyzed. No strike could therefore be organized since 8 December and the trade union leaders are extremely cautious. During a meeting with leaders of the unions belonging to the labor federation, *De Moederbond*, clear indications were made of the atmosphere of repression in which the trade union movement is developing its activities."

There is such fear of the Bourterse Government that unions are trying to find a middle ground to tread between not collaborating with the Government and not posing as a threat to it either.

Mr. RITTER. Mr. Speaker, will the gentleman yield on that point?

Mr. PEASE. I am happy to yield to my friend.

Mr. RITTER. Mr. Speaker, I thank the gentleman for yielding. I think he makes an interesting point with the example of Suriname of what happens in a country like Suriname and what happened in Grenada, what is happening putting the final touches on the situation in Nicaragua. In these Marxist-Leninist regimes there is at the beginning some vestige of free labor movement, but as the regime consolidates its power, it either co-ops all of the existing vestiges of free labor, or as in the case of Suriname, totally destroys that vestige.

I think we are seeing this today in Nicaragua with the recent changes brought about by the Sandinista regime. Labor unions, as we know them in this country, labor unions as they continue to struggle and exist in Guatemala, in Chile and other right wing dictatorships, have ceased to exist. If you take then the final stage of this consolidation, which is the Communist government, you find that all over the world there are still labor unions, that in no way, shape or form, do they have any resemblance to the kind of labor unions that we are familiar with and the kind of labor unions that the ILO is seeking to support worldwide.

In the Communist governments of Eastern Europe, outside of Poland, in the Soviet Union, in Cuba, in Vietnam, in North Korea, there are government-controlled labor unions, that these labor unions are strictly voices of the communist regime.

It is interesting that in the gentleman's presentation on the Western Hemisphere and the state of labor unions, the gentleman did not mention Cuba. Now, I am not criticizing the gentleman. The reason, and we both understand the reason, that Cuba was not mentioned is that there are no labor unions there in any way that we would understand the meaning of unions left in Cuba. They have been totally wiped out.

I just wanted to add that in addition to the countries that the gentleman is characterizing in the way they treat their labor unions, there are a number of countries around the world, they are Communist countries, that have totally destroyed any and all vestiges of labor unions as we know them. It is not possible even to get up and stand on the floor and describe the conditions of labor unions in these countries, like Cuba, like the Soviet Union, like Vietnam, like North Korea, like Bulgaria.

There is no ability to do that because there is absolutely no information on what is happening to workers in those countries. The only information we have is an occasional bit of intelligence about an illegal manifestation of union activity that somehow took place far off, far away somewhere, and we never hear about it again. So it does not make our newspapers. It does not make the ILO report. It does not make a special order on the floor because we have absolutely no information on the state of labor unions in these countries, because labor unions have ceased to exist.

I thought it was important to point that out and I think the gentleman is doing an excellant job in characterizing the state of affairs of labor movements in countries around the world. We should just for a moment consider the totally anti-union conditions, anti-labor conditions, that exist in the so-called workers paradise.

Mr. Speaker, I thank the gentleman for yielding.

Mr. PEASE. Mr. Speaker, I would like to thank the gentleman very much for his contribution.

Mr. Speaker, I would like to make the point that the gentleman from Pennsylvania has a long and distinguished record in this House of leadership in matters of concern about human rights. I value his participation in this special order. I think he makes a very, very valuable point. Labor unions are friends of workers. Labor unions try to help workers get better working conditions, better wages.

In country after country around the world, they are more than that. They are also friends of democracy and enemies of dictatorships, and the dictatorships understand that it is not possible to have a successful dictatorship and to allow freedom in any manifestation, including in the work place. That is why it is both right wing and dictatorships and Marxist-Leninist dictatorships alike repress labor unions whenever they appear.

Mr. RITTER. Mr. Speaker, if the gentleman will yield further on that point, it is an important one and I think we should all pay tribute to the work that the AFL-CIO has done around the world in this regard. They are not simply out to organize workers. They do have at heart the principles of democracy and freedom.

In particular, the AFL-CIO AFILD, has been very effective in Central America. Indeed, if you read William Doherty's recent report on conditions in Nicaragua, you realize that the Nicaraguans have gone the last step, have fully made their country into a totalitarian Communist state and have just about entirely destroyed those vestiges that up until very recently still existed, although very narrowly, in Nicaragua. They have virtually disappeared as of today.

Mr. Doherty and AFILD and the AFL-CIO have been very strong in pointing that out to us in the Congress and to their colleagues in the United States.

Again, I thank the gentleman for yielding.

Mr. PEASE. Mr. Speaker, I thank the gentleman.

Mr. Speaker, finally I would like to turn to the Philippines and I would emphasize that I do not pick on the Philippines. I am not selecting them because of the elections that are coming up soon. Indeed, labor rights violations have been going on for a long, long time. The Philippines, and I have been concerned about them for a long time. I would like to just cite a couple of case studies of individuals in the Philippines which I think my colleagues will find interesting.

Labor Conditions in the Philippines

Twenty three-year-old Tess sewed Barbie Doll clothes on the night shift for Mattel Corporation for five years. Each hour, she had to complete a quota of 300 tennis suits, or receive a disciplinary warning. Often, Tess and her co-workers were forced to work four or more hours overtime and many suffered breathing problems or anemia from exposure to cotton dust or other poor working conditions. Last April, Mattel suddenly closed down operations in the industrial zone, an area where labor unrest has grown dramatically in recent years. The company moved to nearby Manila, next door to a military encampment.

Bernie is a worker on a sugar plantation in southern island of Negros. His 28 peso daily wage is lower than the legal minimum, but his employer, like most, doesn't pay attention to minimum wage laws. Bernie's family lives in a bamboo hut without electricity or running water. Now the prospect of unemployment looms large for Bernie, his family and 200,000 other sugar workers as the sugar industry faces imminent collapse. He and his fellow workers asked the landowner for the use of land to grow subsistence crops, hoping to stave off hunger. Instead, the landowner, who fears an effort at land reform, responded by hiring military-trained security guards who often spy on, abuse and even kill workers, especially union leaders.

Tess and Bernie are typical Filipino workers. As members of the country's poor majority, they are being deeply affected by the current political, economic and military crisis. In the last two years, the human rights and economic situation has gone from bad for the country's 21 million workers. Nevertheless, many workers are playing an important role in the popular movement for justice and democracy in the country. What exactly are the key issues confronting Philippine workers today?

Trade union repression

Philippine workers risk imprisonment, torture, abduction and murder for engaging in legitimate union activities. The labor repression that became a hallmark of government rule during the martial law period in the 1970s has continued unabated since martial law ended in 1981. Selected statistics tell the grim story of labor repression: nine workers were killed in picketlines during three first three months of 1985; 42 workers and labor leaders have been killed since 1982; 77 workers or labor leaders participating in strikes or protests were arrested between 1983 and early 1985; and 31 workers and union leaders remain in jail as of August 1985, either without charges and with charges related to their union activity. Workers and unionists report that it is common for employers to hire "private armies"—security guards trained by the military who harass, intimidate, spy on and even violently attach workers and union leaders.

During the past several years, the government has also unleashed a series of attacks on the opposition union federation Kilusang Mayo Uno (KMU). The most serious crackdown was the September 1982 arrest of 69 KMU unionists on charges of "subversion," including most of the organization's top leadership. The military confiscated materials, files and equipment from KMU offices and the offices of four union affilates. The incident provoked a strong condemnation from the International Labor Organization Freedom of Association Committee, in response to a formal complaint filed by the KMU. However, the Philippine government ignored the ILO's recommendations for immediate remedial actions.

Anti-labor laws

Philippine workers get tangled in a myriad of legal restrictions when they attempt to exercize their rights to associate, organize and strike.

For example, most public employees, such as government workers, teachers, public hospital personnel and transportation workers, are not allowed to unionize at all. Among organized workers, those in a wide range of "essential" industries—e.g. public utilities, banks and companies producing for export—are prohibited from going on strike. Workers participating in such an "illegal" strike face a risk of six months imprisonment. Then, other strikes are not considered legal unless two-thirds of workers in a workplace elect to strike and file a notice of strike with the government 15 days in advance.

On top of these laws, the Minister of Labor and President Marcos can order striking workers back to work and enforce compulsory arbitration in labor disputes "adversely affecting the national interest." And most recently, President Marcos issued a order in May authorizing the use of police and military forces in enforcing back-to-work orders.

For many years, these and other legal measures have been strongly and repeatedly criticized by the International Labor Organization Committee of Experts in its annual reports and reviews. In addition, the International Confederation of Free Trade Unions (ICFTU) recently filed its own complaint with the ILD regarding public employees' lack of right to organize. The complaint followed a fairly critical report on legal restrictions and labor relations practices by a 1984 ICFTU fact-finding mission to the Philippines. (see ILO and ICFTU reports attached). However, the Philippine government has taken no steps toward reforming its labor legislation.

Economic crisis

The severe downturn of the Philippine economy, brought on by worldwide economic recession and exacerbated by austerity measures recommended by the International Monetary Fund, has taken its toll on workers jobs and income. The last few years have seen a pronounced trend of plant closings, a fall in real wages and growing unemployment. According to Philippine government figures, more than 86,000 workers were laid off in 1984, and other analyses suggest that the figure may actually be much higher. At least 200,000 sugar workers are out of work so far this year as the sugar industry, hit hard by the oversupply in world market and internal inefficiencies, has plunged headlong into an economic downspin. Unemployment and underemployment together approach 45 percent of the Philippine workforce, with two-thirds of the entire population living below the poverty threshold.

While average wages are rising steadily, the wage hikes are far outstripped by the rate of inflation. Thus while Philippine workers had 36 percent more money in their pockets at the end of 1984 than at the beginning of the year, they had to pay 55 percent more for basic food items, clothing and housing and transportation. The great majority of Philippine workers today earn only the minimum wage of $3.17 per day, less that normal food costs for an average family of six. However, the government exempts many companies from paying minimum wage, while others simply ignore the standard, pushing workers to strike for the wages legally owed them. And Philippine workers enjoy no retirement benefits, no unemployment compensation, and minimal medical benefits—a situation which understandably heightens workers' concern for job security.

How are Philippine workers responding to this crisis?

All these conditions combine to produce a rapidly polarizing conflict between workers, management and the government. Labor unrest stepped up dramatically last year, often leading to an open defiance of government labor laws and regulations. In 1984, lockouts and strikes, even in those industries where strikes are banned, happened more frequently, lasted twice as long and involved nearly twice as many workers on the average over the previous year, and these numbers increased again during early 1985. Tens of thousands of workers in major cities regularly turn out into the streets for protests and rallies. And more and more workers are participating in a new protest action known as the "people's strike," in which workers along with shopkeepers, housewives, students, teachers, farmers and others cease their normal activity, bringing local economies to a halt.

Union activity is also taking on a more openly political stance. In negotiations with management or government officials as well as in political rallies, workers not only press for economic demands, but raise political issues such as IMF austerity program, government plans economic development and the dominant role of foreign corporations in the economy.

Of course, the upsurge in labor activities has set off a new spate of clashes between workers and police and military forces at picketlines and protest rallies.

Why should U.S. unionists be concerned about the Philippines?

One link between U.S. workers and Philippine workers is that many share the same employers. At the same time, other U.S. workers have lost their jobs when U.S. companies shifted their plants to the Philippines in search of cheap, non-union labor—a trend set by U.S. electronics, apparel, toy and consumer appliance firms during the last decade. With its rich natural resources and low-cost and largely English-speaking workforce, Philippines has been one of the most attractive overseas investment sites for U.S. corporations. Before the recent economic crisis, which has cooled investors toward the country, Business International described Philippine labor as "one of the cheapest (employers prefer to call it competitive) in the world."

Some of the largest U.S. corporations in the Philippines include Mobil Oil, Pepsico, Colgate Palmolive, R.J. Reynolds, Procter and Gamble, Castle and Cook, Carnation International, Union Carbide, Advanced Micro Devices, Texas Instruments, Good Year Tire and Rubber, Firestone Tire and Rubber, Johnson and Johnson, General Foods, Kimberly Clark, IBM, Bank of America, Manufacturers Hanover Trust, Chemical Bank and Chase Manhattan.

What do Philippine workers gain when they get jobs taken away from U.S. workers? Along with jobs that offer no security, meager wages and sometimes dangerous working conditions, Philippine workers often face union-busting and labor repression under American employers. Following are several recent examples of labor repression at U.S. companies in the Philippines:

Two workers were killed and five family members wounded early last January when a jeepload of armed men fired on a picketline at Franklin Baker Company, a subsidiary of General Foods Corporation which processes dried coconut. The workers, who had been on strike for a week to protest the dismissal of several hundred union leaders and the company's failure to pay the minimum wage, have evidence suggesting that company managers instigated the attack.

Workers at Baxter Travenol Co., a U.S.-owned manufacturer of dextrose solution used for intravenous feeding, have picketed since February after they were locked out by American management, who claimed that economic difficulties forced them to close. Two months earlier, the workers had won a Supreme Court case arguing for legal recognition of their union, despite management's efforts to buy them off and threats to close the plant if the case succeeded. The workers suspect that the plant will reopen under a different name.

Job applicants at the Texas Instrument plant must submit to a battery of tests and interviews prior to hiring that are partially aimed at disclosing attitudes toward unions and history of union involvement. Applicants are told that Texas Instruments does not intend to have a unionized plant and those with union experience or union sympathies are not hired. The management reportedly keeps computerized records of test results and shares the information with other companies in the same industrial zone.

In pursuit of maximum profit, multinationals do pit workers against one another in a competition for jobs. But workers in the U.S. and the Philippines can only overcome this strategy and begin to wield control over these multinationals if they join together to address their common problems.

Excerpts from: The Philippines: Human Rights After Martial Law, Report of a Fact-Finding Mission by the International Commission of Jurists, Geneva, Switzerland, 1984

"The limitations on civil liberties referred to elsewhere in this report constitute serious limitations on the rights of workers. . . . Since significant infringements on (civil) rights exist in the Philippines, the right to freedom of association for trade union purposes is not satisfactorily guaranteed."

"The ILO Committee of Experts . . . has found the right to strike in Philippine legislation to be unduly restricted . . . the limitations on strikes in export industries, despite workers allegations of inadequate labor conditions, appears to result in workers becoming victims of the government's industrial policy."

"The comments of the respected Committee of Experts indicate that Philippine legislation, even following the lifting of martial law, contains serious violations of the fundamental principles of freedom of association and trade union rights."

"Arrests by Presidential orders and harassment of union leaders and members have been common since the termination of martial law. . . . The evidence is strong that the arrests of KMU leaders were intended to curb the militant labor activities of this union. The Economist reported in December 1983, that the KMU had been hobbled by the continued imprisonment of the leaders of subversion charges."

"The militant actions of the relatively small KMU are to be contrasted with the inaction of the large government sponsored union, the Trade Union Congress of the Philippines, which has generally maintained silence about the problems of workers."

"The present labor unrest in the Philippines appears to be caused by the legitimate demands of the workers."

"It is apparent . . . that labor conditions are unsatisfactory in the (Bataan Export Processing) Zone and that remedial measures are urgently needed. Harassment and suppression of labor activities are not the solution . . . conditions in the Zone require a change in the labor laws which would permit collective strike action over inadequate working conditions even in export-related industries."

"The appalling living and labor conditions on the sugar plantations in Negros should be a major concern of the government, (and) the planters. . . . Ultimately, however, it will only be by according sugar workers the right to organize freely without harassment and the right to protest against their conditions that improvement will take place. . . . Concerted efforts should also be made to provide alternative work for the numbers of sugar workers likely to be displaced by mechanization."

REPORT TO ICFTU MISSION TO THE PHILIPPINES

In August and September 1982, 69 trade unionists of the labor organization Kilusang Mayo Uno (KMU) were arrested. The International Confederation of Trade Unions (ICFTU) protested against the arrest, while the Trade Union Congress of the Philippines (TUCP), the ICFTU affiliate in the country, defended the government's action. As a result, the TUCP invited a fact-finding mission to the Philippines to investigate the labor union situation. The following are excerpts from the report of the fact-finding mission submitted to the ICFTU Executive Board in May 1984. Members of fact-finding team included:

J. Vanderveken, ICFTU General Secretary; Irving Brown, AFL-CIO; Cliff Dolan, Australian Council of Trade Unions; Moss Evans, Chairman of International Committee, British Trade Union Congress; Wim Kok, FNV Netherlands; Hans Fogestrom, LO Sweden; Toyojiro Noda, Zendentsu, Japan; Masao Aihara, Domei, Japan; V.S. Mathur, ARO General Secretary; and P.H. de Jonge, ICFTU Secretariat.

"The increasing unemployment, noticeable especially in industrial areas and therefore in the towns, and more particularly in the shanty towns and slums of the large urban centers, is adding substantially to the already widespread proverty."

"(The) Labour Code does not cover the public service, so that in this sector unions enjoying the protection of the Code cannot be formed. This . . . is of course a situation which, apart from it being contradictory to ILO established standards, is unacceptable to trade unions."

"The Labour Code as such is on the whole consonant with the ILO conventions . . . but the practice can be different . . . the majority of strikes have been declared illegal . . . the conclusion is that the right to strike is not observed as a matter of course, and thus from the trade union point of view constitutes a serious infringement of workers' rights."

"The mission heard of cases of workers (imprisoned) in Mindanao and Negros, as well as other parts of Luzon . . . The ICFTU should continue to demand their release."

"It is already clear that the general human rights situation causes grave concern, and the ICFTU would so well to watch developments very closely indeed and to take up appropriate cases and occurrences in a vigorous manner."

"In . . . reaction to the oft-heard assertion that the TUCP is pro-Marcos government . . . the TUCP should be judged on its record as a functioning trade union. It has constantly fought for increased wages and better conditions, and lest the relationship with the Ministry of Labour and Employment was deemed too cozy, (the TUCP president) reminded the mission of his fight with Labour Minister Blas Ople to remove the Assistant Minister Inciong, whom he thought inimical to workers' interests."

"It is to be expected that the Marcos regime will give way to a more democratic one, and that those who have been close to the previous regime will be reproached for their too docile attitude. Such a reproach is directed against some people in the leadership of the ICFTU affiliate, the TUCP. . . . The mission hopes and trusts that the TUCP will plainly show its distances from the regime, and work for the restoration of political democracy and show itself to be an active force within the democracy, which is going to be badly needed in the reconstruction after the Marcos period. . . The ability of the TUCP to act in this manner will largely determine its position and representativeness in the new era that is opening for the Philippines."

"Whenever there was a strike, employers often hired 'goons' (scabs) and/or called in the police and even the military, who very willingly cooperated. Thus violence erupted at strikes. . . . Police violence was an everyday occurrence, and this was very often caused by employers simply not implementing the wages as laid down in the Collective Agreements."

"It was often said that strikes were not necessary, as arbitration was available. However, arbitration before the labour courts took an interminable time—quite usual is a three-year period. . . . There was even a case that had dragged on for twelve years without a decision being reached. Is it to be wondered at that strikes were preferred!"

"The mission also met the special section of the Ministry of Defense charged with combating subversion. . . . What in general struck the mission was the virtual admission of the close involvement of the military, and that on an organized basis, in public affairs or at least in pursuance of the policies and actions of the Marcos government and its attempts to suppress opposition. The mission still wonders why such an activity on the part of the Ministry of Defence is at all permissible."

"Renewed attempts at the cooperation of all democratic trade unions should be pursued and trade union rights in their full extent guaranteed; we particularly refer to the right to strike which is far too hemmed in; the right to form unions in the public sector, and an end to the harassment unionists often face, especially in rural areas, when engaging in normal trade union action."

INTERNATIONAL CONFEDERATION
OF FREE TRADE UNIONS,
Brussels, Belgium, March 7, 1985.

COMPLAINT OF THE ICFTU AGAINST THE GOVERNMENT OF THE PHILIPPINES FOR VIOLATIONS OF TRADE UNION RIGHTS

MR. FRANCIS BLANCHARD,
Director General, International Labour Office, Geneva, Switzerland.

MR. DIRECTOR GENERAL, The ICFTU is greatly concerned about the trade union rights situation in the philippines, in particular the restrictions relating to the right to strike, the requirements for the registration of trade unions, the powers of inquiry conferred on the Department of Labour in respect of the financial management of trade unions and the harassment, arrest and detention of trade unionists, as reflected in the observations of the Committee of Experts and the reports of the Committee on Freedom of Association concerning Cases Nos. 1157 and 1192.

However, an important infringement of trade union rights by the Government of the Philippines has so far gone unnoticed, namely the denial of the right to organise in the public sector. While Article 244 of the Labour Code of the Republic of the Philippines guarantees the right to "self-organisation" to workers in commercial, industrial and agricultural enterprises, the workers in government and local government services, as well as workers in government-owned or controlled corporations, which are covered by the Civil Service Law and Rules, are excluded from the right to organise in trade unions. This constitutes a fundamental violation of one of the basic trade union rights recognised by Convention No. 87, viz. the right of workers, whoever their employer is, to establish and join organisations of their own choosing. It leaves a substantial proportion of the workers of the Philippines without the protection and furtherance of their interests by trade union organisations.

The ICFTU requests you to consider this communication as a formal complaint against the Government of the Philippines for violation of trade union rights and to transmit this complaint to the Committee on Freedom of Association of the ILO Governing Body.

Yours sincerely,

JOHN VANDEROEKEU,
General Secretary.

LABOR RIGHTS VIOLATIONS IN THE PHILIPPINES

(Submitted by the Institute for Policy Studies, Philippine Workers Support Group, Philippine Resource Center, Clergy and Laity Concerned)

THE GSP

In 1974, the United States enacted a piece of trade legislation of considerable significance for the Third World: the Generalized System of Preferences. The legislation permits billions of dollars worth of goods from developing countries duty free access to the U.S. market.

When the U.S. Congress renewed the GSP in late 1984, it enacted important new guidelines to help ensure that the legislation does not adversely affect the welfare of workers in the U.S. and in the Third World. Specifically, before the U.S. president declares a country eligible for GSP benefits, he must certify that it abides by the following internationally recognized rights of workers:

1. The right to association:

2. The right to organize and bargain collectively:

3. a prohibition on the use of any form of forced or compulsory labor:

4. A minimum age for the employment of children: and

5. acceptable conditions of work with respect to minimum wages, hours of work and occupational safety and health.

This new piece of legislation is of historic importance for trade deliberations in this country and indeed for the world. For the first time, the U.S. government is going to the heart of the factors that are undermining the well-being of workers everywhere. How?

We live in a world where large corporations are able to shift plants and resources around the globe with ease. A central factor involved in corporate decisions over where to locate factories is the cost of labor. If developing country governments exploit labor at below subsistence wages, U.S. corporations will gladly close down a U.S. plant and shift production overseas. The U.S. government has encouraged labor repression overseas by granting duty free treatment to imports produced under these gruelling conditions, imports which erode U.S. jobs and push down wages and living standards for U.S. workers.

The new GSP legislation offers, for the first time, an opportunity to remove a major incentive for labor repression overseas. It sends a loud signal that the U.S. will not reward the brutal suppression of labor rights with free access to our market.

THE PHILIPPINES AND THE GSP

The Philippines is one of the top 15 beneficiaries of the GSP, supplying 1.6 percent of the total goods imported by the U.S. under the trade agreement in 1982. The country has received these benefits despite longstanding government policies and practices that severely restrict workers rights. This testimony presents evidence that the Philippine government violates several of the labor standards specified in the 1984 legislation and argues that it therefore should be suspended from eligibility for GSP benefits.

Major Philippine products that receive duty free access to the U.S. under the GSP include sugar, furniture, and electronic products. (See Appendix) The general trend of labor repression in the Philippines affects these export industries as well as all others. Because of the government's desire to attract foreign investment with the promise of a docile, low-wage workforce, certain export industries suffer even greater labor union repression than most non-export industries. This fact will be explored in more detail in the following pages.

For the purposes of this testimony, the labor standards shall be defined and interpreted according to conventions adopted by the United Nations International Labor Organization (ILO). The Philippines is a member of the ILO and has signed more than 20 ILO conventions.

The Philippine government violates the abovementioned labor standards in essentially two ways: 1.) by promulgating laws that fail to conform with ILO conventions and 2.) by pursuing labor relations practices that conform neither to ILO conventions nor to its own laws. Some documentation for these charges is found in the form of official reviews of Philippine labor policies and practices by the ILO or other international bodies. Other evidence exists only in the form of personal testimony, media reports, or reports by unofficial organizations. We have provided as much documentation as possible for the following charges.

The Philippines' violations of the basic rights of workers are outlined below according to the five categories of labor rights specified in the amended GSP legislation.

1. THE RIGHT TO ASSOCIATION

A. Legal restrictions.—In 1953, the Philippines ratified ILO Convention No. 87, the Freedom of Association and Protection of the Right to Organize. This convention states that "workers and employers . . . have the right to establish and join organizations of their own choosing without previous authorization." Nevertheless, the Philippine government has a long history of placing legal restrictions on the right to association. Over the past decade, this has been done primarily through a series of presidential decrees and legislative amendments to the 1973 Philippine Labor Code, which originally protected the right to association. The labor code is now the operative body of labor law in the Philippines.

Although Philippine President Ferdinand Marcos formally ended martial law in 1981, government policies and practices have not changed substantially since then. Present day labor rights violations grow out of an atmosphere of intense labor repression that marked the martial law period from 1972 to 1981. During that time, Marcos declared a virtual ban on strikes, followed by tight restrictions on labor organizing. Some of the worst repression was directed at workers in export-oriented industries. Marcos's plan to steer the economy toward export-oriented industrialization depended largely on suppressing workers' economic and political demands. (Walden Bello et al., "Development Debacle: The World Bank in the Philippines," San Francisco, Institute for Food and Development Policy, 1982, pp. 142-144.)

The Philippine government's legal restrictions on workers' right to associate and right to organize have been the subject of review by the ILO Committee of Experts on the Application of Conventions and Recommendations in each of its yearly reports since 1978. In its 1984 report, the Committee cited the following sections of the Philippine Labor Code as incompatible with

Convention No. 87. (Note: The right to strike is not expressly included in the amended GSP legislation. However, the ILO Freedom of Association Committee and Committee of Experts clearly considers the right to strike an extension of the rights to associate and to organize.)

(1) Section 237, which requires approval by 30 percent of workers before a union can be recognized. This high quota, the Committee says, "may constitute an obstacle to the rights of workers to establish organizations of their own choosing."

(2) Section 264, as amended in 1982, which authorizes compulsory arbitration in labor disputes adversely affecting the national interest.

(3) Another article of the same section, as amended by national law 130 in 1982, which lists the industries that affect the national interest and are therefore non-strikeable. These include "but (are) not limited to public utilities, companies engaged in the generation or distribution of energy, banks, hospitals, and export-oriented industries including those within export processing zones." This amendment was adopted after the total ban on strikes was suspended with the lifting of martial law. As a result, most strikes are still declared illegal.

(4) The same section, which also requires that two-thirds of a union's members vote in favor of a strike in order for that strike to be valid. This requirement, according to the Committee, "hinders the normal exercise of the right to strike." Another article in this section not mentioned by the ILO demands that unions file a notice of strike with the government 15 to 30 days in advance.

(5) Section 270 of the Labor, Code, which prohibits foreigners from participating either directly or indirectly in any form of trade union activity.

(6) Section 273 of the Labor Code, as amended in 1982, which imposes six months imprisonment on workers who participate in strikes that are considered illegal.

(7) Presidential Decrees 1834 and 1835 of 1981, which state that any person participating in picketing or in similar group action who is deemed to be acting for propaganda purposes against the government shall be punished with life imprisonment.

For several years, the ILO Committee of Exports has reiterated essentially the same criticisms of labor legislation in the Philippines. Nevertheless, the Philippine government has made no efforts toward reform. As the International Commission of Jurists notes in its 1984 report, "The comments of the respected Committee of Experts indicate that Philippine legislation . . . contains serious violations of the fundamental principles of freedom of association and trade union rights." (The Philippines: Human Rights After Martial Law. The International Commission of Jurists, Geneva, Switzerland, 1984) The Committee's finding consistently cite bans or limitations on the right to strike as violations of Convention No. 87. The U.S. State Department also acknowledges the ILO's criticisms in its most recent country report on human rights. (Country Report on Human Rights, U.S. Department of State, 1984)

In addition to the legal restrictions cited by the ILO, there are at least two other legislative measures that infringe on the right of association. First, national law no. 227 permits employers to transport materials and products in and out of a workplace during a strike. This law renders ineffective workers right to strike. Second, public service workers such as teachers, government employees, and public hospital personnel are denied any right to associate or organize. This is a much broader restriction than exists in most other countries, which limit bans on unionization to truly essential public employees, such as military, police and top-ranking policy makers. A high-level mission from the International Confederation of Free Trade Unions which visited the Philippines in 1984 called this blanket prohibition "contradictory to established standards . . . (and) unacceptable to trade unions." (Report of ICFTU mission to Asia, presented before the Executive Board, May 24 and 25, 1984, Brussels, Belgium.)

B. Labor relations practice.—Legal restrictions aside, the Philippine government repeatedly engages in, or knowingly permits, practices that deny workers the right to association. As the ICFTU mission noted in its summary report, "the Labour Code as such is on the whole consonant with ILO conventions . . . but the practice can be quite different."

The general trend of repression in the Philippines directly infringes on workers' labor rights, the most fundamental of which is the right of association. Data compiled by the Task Force Detainees of the Philippines, a human rights organization, and the KMU, one of three national union organizations in the country, give a sense of the repression directed against workers and union leaders:

Seventy-seven workers were arrested between 1983 and early 1985 while engaging in such activities as protesting human rights abuses, participating in rallies, or waging a strike. Many have been tortured while in prison.

Thirty-one workers and union leaders remain in jail as of March 1985, either without charges or with charges related to their union activity.

Twelve workers or union leaders have been missing since 1977 after being arrested or abducted.

Eight workers were killed while on picketlines between April 1984 and March 1985.

Forty-two workers or labor leaders are confirmed killed since 1982 for reasons believed to be related to their union activity.

(Repression of Philippine Workers: A Dossier, II, KMU External Affairs Committee, 1985; Human Rights Situation and Militarization in the Philippines, Trends and Analysis 1984, Task Force Detainees et al.)

This repression occurs at the hands of the police, military and paramilitary units, sometimes in cooperation with employers. After raising the issue of human rights abuses with Ministry of Defense officials, the ICFTU mission made the following comment in its 1984 report: "What in general struck the mission was the virtual admission of the close involvement of the military . . . in public affairs, or at least in pursuance of the policies and actions of the Marcos government and its attempt to suppress opposition."

The military and the government justify their actions as necessary to counter "subversion." But rarely are workers afforded a fair and speedy trial to judge the truth of the subversion charges. Instead, the miitary often resorts to extra-judicial measures, such as torture, rape and murder. There are no known cases in which military officers have been prosecuted for these offenses.

In August and September 1982, 69 trade unionists were arrested on subversion charges, including much of the top leadership of the KMU, an opposition union organization. The offices of the KMU and those of four union affiliates were raided and materials, files, and office equipment were confiscated. In April 1983, the KMU filed a formal complaint against the Philippine government with the ILO Committee on Freedom of Association. The Philippine government delayed for more than a year in replying to the complaint, ignoring normal ILO procedure. In its final judgment issued June 1984, the Committee expressed "deep concern at (the) seriousness" of the charges and recommended that the Philippine government take immediate actions, including carrying out prompt and independent trials for the arrested unionists, restoring the confiscated property to the unions, investigating allegations of torture, and reforming its legislation. The Philippine government failed to act on these recommendations. ("Complaint presented by the Kilusang Mayo Uno against the Government of the Philippines, 234th Report of the Committee on Freedom of Association, ILO Governing Body, May 31–June 2, 1984).

The U.S. State Department notes in the Philippine section of its 1984 report on human rights that a dialogue between the government and opposition labor groups on the right to strike did not bring about changes in the law, although the government did issue stricter guidelines. It also notes the incidence of violent clashes between the military and strikers in 1984. Specific accounts of police brutality against striking workers are presented in the following section.

II. THE RIGHT TO ORGANIZE AND COLLECTIVELY BARGAIN

A. Legal restrictions.—ILO Convention 87, as mentioned earlier, establishes the broad principles of the right to organize, including "the right to join federations and to affiliate with international organizations of workers and employees." The Philippines has also ratified ILO Convention 98, the Right to Organize and Collective Bargaining, which extends workers "i) protection against having their employment conditioned on not joining or relinquishing trade union membership, and ii) protection against dismissal or other prejudice because of union membership or participation in union activities."

Because there is no sharp distinction between the right to associate and the right to organize, many of the legal restrictions on the latter have been discussed in the previous section. However, the ILO Committee of Exports has criticized certain provisions of the Philippine Labor Code that specifically relate to the right to organize. In its 1984 report, the Committee of Exports cited section 237(a) as incompatible with ILO standards on the right to organize. Section 237(a) restricts the establishment of federations or national unions to groupings of at least ten unions in the same industry. As Philippine economic professor E.M. Villegas has noted, the intent of this provision is "to insure a more effective overseeing by the government of the labor movement . . . and to control its direction." ("Notes on the Labor Code" by Edberto M. Villegas, The Philippines in the Third World, Paper Series No. 23, June 1980, University of the Philippines.)

Again, the Philippine government has ignored the Committee's judgment and has taken no steps toward legislative reform.

B. Labor relations practice.—Legal protections of the right to organize and bargain collectively have little meaning for Philippine workers since they are rarely enforced.

There exist numerous cases of workers denied employment because of their union sympathies, or dismissed or discriminately treated because of their union activity. According to statistics compiled by the Philippine Ministry of Labor and Employment, 54 percent of strikes in 1984 involved unfair labor practices such as illegal suspension, dismissal, or other punitive actions. In such cases, workers have little or no legal recourse.

The following is just a small sample of incidents in which workers have suffered discrimination due to their union activity. The cases selected refer to industries producing goods imported to the U.S. under the GSP. While official documentation exists for several of the examples, others rely on observations and interviews by visitors to the Philippines.

(1) In May 1984, the workers of InterAsia Container Industries, a corporation located in the Bataan Export Processing Zone which produces cloth sacks for export went on strike over the illegal termination of 11 union officials, and other issues. The picketline was twice brutally attacked by the military. The third time, about a hundred military and zone police forces attacked the picketline manned only by some twenty workers. This led to the first zone-wide strike in the Bataan Export Processing Zone when some 2,000 workers from nearby factories picketed in support of the InterAsia workers. (Philippine Trade Unionism: A Situationer by the Institute for Labor Research and Documentation, Manila, 1985; Philippine Labor Monitor, June 1984, pp. 10–12).

(2) In September 1983, workers at the British-owned Astec Electronics Company, a components manufacturer also in the export zone, won a certification election for a union. Two weeks later, the management laid off several hundred workers. Regarding the layoffs as a form of union-busting, the workers went on strike in early October. The zone police harassed and molested women on the picketline and used tear gas and truncheons to disperse them. In December, Astec management laid off all workers and closed the plant. Many of the strikers were blacklisted and unable to obtain work elsewhere in the zone. (International Commission of Jurists, 1984).

(3) In May 1984, workers at Lotus Corporation, a Korean manufacturer of NIKE shoes, went on strike to protest, among other things, the illegal termination of union leaders, the reshuffling of workers and other union-busting tactics. The workers eventually won many of their demands, but not before two workers were seriously injured when zone police attempted to break their picketline.

(4) In January 1985, nearly a third of the 1,500 workforce at Triumph International were dismissed, including most of the active union supporters. The workers considered the layoff retaliation for their active role in labor alliances and workers rallies and decided to strike. The German-owned company assembles women's underwear for sale to Germany, Japan and the U.S. On strike since January, the workers expect their strike to be declared illegal because the company is an "export-oriented industry." (KMU International Bulletin, March 1985; workers testimony relayed to a U.S. investigator, February 1985.)

(5) Workers at Franklin Baker Corporation, a U.S. subsidiary of General Foods Corporation which processes coconut for export, went on strike on January 1, 1985 to protest the dismissal of several hundred union supporters and the company's failure to pay the minimum wage. The workers experienced increasing harassment by military men and private security guards hired by management. On January 10, 1985, two workers were killed and seven injured when armed men fired at their picketline. Though the Ministry of Labor ordered the company to rehire all workers and pay back wages, the company ignored the order. It now continues operation through the use of scab labor. (Fact-finding Mission on Labor Repression and Militarization, February 21-23, 1985, report).

(6) Job applicants at Texas Instruments, Inc., the U.S.-owned electronics and semiconductor firm which produces for export, must submit to a battery of tests and interviews prior to hiring. The procedure is partially aimed at disclosing the applicant's attitude toward unions and history of union involvement. Applicants are told that Texas Instruments has no unionized plants and does not intend to have unionized plants in the future. Any applicant with union sympathies or union experience is not hired. Texas Instruments reportedly keeps computerized records of test results and shares this information with other companies in the Baguio Export Processing Zone, where the plant is located. (Workers testimony conveyed to a U.S. investigator, March 1985).

IV. A MINIMUM AGE FOR THE EMPLOYMENT OF CHILDREN

A. Legal restrictions.—Under the Philippine Child and Youth Welfare code, children under age 16 may perform light work which is not harmful to them and does not disrupt their education. This age restriction is basically consistent with ILO Convention 138, which sets workers' minimum age at 15 years or completion of compulsory schooling. (Most Filipino children complete compulsory elementary schooling by age 12 or 13.) However, the convention sets at 18 years the minimum age for work "likely to jeopardize the health, safety, and morals of young persons." Thus, on this score, there is a two year discrepancy between Philippine law and the ILO standard.

B. Labor practice.—Philippine government enforcement of child labor laws are at best lax, a fact that the government itself acknowledges. According to a recent study by the Philippine Council for the Welfare of Children, an agency of the Ministry of Social Services and Development, more than 2.8 million, or 18.7 percent of Filipino workers are between ages 10 and 19. The Council claims that young workers are often made to perform the most dangerous tasks, as their age makes them vulnerable to exploitation. The Council also notes the dangers faced by street children engaged as vendors, scavengers, and beggars. (Asia Labor Monitor, May 1984, p. 25). And, with the worsening economic crises, increasing numbers of children are drawn into prostitution.

One industry well known to employ 8- and 10-year-old children as full or part time plantation workers is the sugar industry. (Sugar, incidentally, ranks first in sales among Philippine products imported under the GSP.) These children quit school in order to contribute to the family income. However, they usually receive only several pesos per day, a fraction of the wages received by adult workers. (Personal observation and workers' testimony relayed to a U.S. investigator, March 1985: "Sugar: Honey for a Few" by the National Federation of Sugar Workers, 1984: International Commission of Jurists, 1984.)

V. ACCEPTABLE CONDITIONS OF WORK WITH RESPECT TO MINIMUM WAGES, HOURS OF WORK, AND OCCUPATIONAL SAFETY AND HEALTH

MINIMUM WAGE

A. Legal restrictions.—The most comprehensive of the several ILO conventions regarding minimum wage policies requires that countries consider the "needs of workers and their families, taking into account the general level of wages . . . the cost of living" and "economic factors, including . . . the desirability of attaining and maintaining a high level of employment." The Philippines has ratified only two of the half dozen minimum wage conventions: ILO convention 95, the Protection of Wages, and convention 99, which applies only to agricultural workers. However, Philippine minimum wage laws and policies do not begin to measure up to international standards set by these or other conventions.

The President of the Philippines sets the minimum wage level by means of executive order. During 1984, President Marcos issued three successive wage orders, raising minimum wages 36 percent over the course of the year. However, the cost of living far outstripped workers' earnings. Inflation averaged 55 percent during that same period. The government has not proven responsive to demands from a broad range of opposition groups that workers' wages keep pace with the rate of inflation.

The minimum wage for industrial workers currently stands at 57 pesos per day. But by the government's own estimates, the cost of basic necessities for an average family of six comes to 108 pesos per day. Food costs alone account for 65 pesos. And, with unemployment and underemployment together reaching 42 percent, a Filipino family rarely has more than one minimum wage earning member. Analyses of government income statistics estimate that 59 out of 100 Philippine households live below the poverty threshold. (IBON Facts and Figures, 153, December 31, 1984 and 161, April 30, 1985.) These are far from acceptable wage conditions.

The government's policy of holding wages at levels below inflation is a feature of the economic recovery program agreed to by the International Monetary Fund and the government. For workers and their families, the program means hunger and impoverishment.

B. Labor practice.—Notwithstanding the already substandard minimum wage levels, many workers do not receive even the legal minimum. The government grants exemption from minimum wage orders in a broad range of cases, including "financially distressed" firms, those with less than ten workers and export-oriented firms. Furthermore, many firms that cannot claim such exemptions nevertheless choose to ignore minimum wage laws. Failing enforcement by the government, workers often are pushed to strike for the wages legally owed them.

The government itself has found rampant violations of minimum wage and benefit laws. A 1981 government inspection revealed that 27.7 percent violated minimum wage laws and even greater percentages violated benefit laws. (The Philippine Labor Situation, Selected Statistics 1984 by the Center for Labor Statistics, p. 47) Other estimates range as high as 70 or 90 percent. (IBON Facts and Figures, 161, April 30, 1985; ICFTU Mission Report, 1984.) It appears that while the government recognizes the problem, it lacks either the will or the capability to make its minimum wage laws effective.

The following are several examples of wage violations in export-oriented industries:

(1) In April 1984, the 2,000 workers at Artex Corp. plant went on strike to demand their wages be raised by 19 pesos per day to bring them up to the legal minimum wage. Artex is a Chinese-Philippine company which manufactures plastic shoes for export. Soon after it began, the strike sparked widespread violence when the military attacked not only the striking workers but also the nearby slum community. As of February, 1985, the strike continues and the violence against the strikers has not been investigated. (WHO Magazine, July 25, 1984; Business Day, February 27, 1985).

(2) As mentioned earlier, the 1,400 workers of Franklin Baker Corporation, a U.S.-owned company which processes coconut for export, struck on January 1, 1985 after management refused to implement three separate wage orders at the time they were issued. Though two workers were killed and seven injured on the picketline, management still refuses to meet the workers' demands. (Report of fact-finding mission to Franklin Baker, March 1985)

(3) Although the legal minimum wage for agricultural plantation workers stands at 32 pesos per day, almost no sugar worker receives more than 28 pesos per day. (Far Eastern Economic Review, 18 April 1985) These exploitative conditions are made even worse by plantation owners' practice of hiring laborers at a "piece-rate" of 10 to 15 pesos per day. Efforts by workers to demand their rights are met with military harassment and violence. The present collapse of the Philippine sugar industry means unemployment for 200,000 to 300,000 sugar workers, who have no safety net to protect them. (International Commission on Jurists, 1984)

HOURS OF WORK

A. Legal restrictions.—The Philippine labor code specifies that, in accordance with ILO standards, workers are required to work only eight hours a day or 48 hours a week.

B. Labor relations practice.—There are occasional cases in which employers force their workers to work unreasonable numbers of hours overtime. This appears to occur primarily in export-oriented firms, where employers accumulate excess stock of finished goods through forced overtime, then lay off workers for short durations of time. This way, an employer avoids paying certain fixed daily benefits on those days employees do not work.

A recent survey conducted by the government Institute of Labor and Manpower Studies shows that 27 percent of businesses polled failed to pay the legally required premium for overtime work. ("Most Metro firms breaking labor laws—MOLE survey" Malaya, January 23, 1985.)

An investigator from the American Friends Service Committee discovered in 1976 that forced overtime was common among firms in the Bataan Export Processing Zone. A worker told her that "textile workers at Intercon (a Taiwanese-Filipino oufit) were worked overtime so much that a lot of them simply collapsed. Some of them also vomited . . . This is partly because they were not getting enough sleep, they had to work overtime." ("Rough Notes on a Visit to the Philippines, Feb. 20-Mar. 6, 1976" by Le Anh Tu).

In a comprehensive study of the Bataan Export Processing Zone in 1982, the Ministry of Labor found that forced overtime remained a chronic problem for zone workers. The study recommended dialogue between management and unions on this and other issues. But forced overtime continues today. Zone workers told a recent visitor to the Philippines that certain companies regularly force workers to work two to four hours overtime each day, and occasionally up to six or eight hours. Pregnant women or sick workers receive no special exemptions. (The Bataan Export Processing Zone, Ministry of Labor and Employment, 1982; workers' testimony relayed to a U.S. investigator, February 1985; Asia Labour Monitor, May 1984, p. 24).

OCCUPATIONAL SAFETY AND HEALTH

A. Legal restrictions.—ILO Standards on occupational safety and health are fragmented and noncomprehensive. Philippine law is even more so. Few legal measures protect workers from hazardous working conditions. The Philippine Labor Minister himself said that the Philippine labor code should be expanded to allow strikes over health and safety conditions on the job. Under the present code, workers can only legally strike over deadlocked collective bargaining negotiations and unfair labor practice. The minister was also quoted saying that the enforcement of labor standards is "an area of gross neglect." (Asia Labour Monitor, May 1984, pp. 24–25).

B. Labor relations practice.—The 1982 Philippine government study on the Bataan Export Processing Zone documents poor safety and health conditions in companies throughout the zone. It notes that work-related illnesses are "fairly common" in the zone: eye-irriation and hypertension in the electronics industry; conjunctivitis in plastics and metal fabrication; upper respiratory throat infections in garments and food industries; and sinusitis in footwear and leather industries. More recently, zone workers complained to a U.S. investigator of inadequate toilet facilities, insufficient safety devices or protective clothing, and a lack of the on-site medical personnel guaranteed by law. Aside from the illnesses already mentioned, many zone workers suffer from regular bouts of influenza and anemia and a few have contracted serious illnesses such as tuberculosis.

The following passage, excerpted from testimony by a former Filipino worker and union leader before the Permanent People's Tribunal Session on the Philippines, give a personal account of health conditions inside Philippine factories:

"Many of us were not paid our rightful sick leave benefit and we were even charged with being awol because we couldn't present such a certificate. But we couldn't present such a certificate for the simple reason that we couldn't afford to have ourselves examined by a doctor. Besides, those who did have such a certificate were still not accepted by the company doctor who wanted us to go exclusively to his clinic. But that would have meant additional expenses in exchange for superficial treatment, often just aspirin, no matter how serious our illness was.

Oftentime the doctor wouldn't authorize our going home even if we suffered from fever or over-fatigue in the middle of our shift. We had to finish the shift . . .

In labor-intensive companies the conditions are worse. Most garment workers complain of heat exhaustion. Fainting and dizziness are common among workers in Triumph International, a foreign-owned firm making brassieres. At Gelmart, a dress and glove firm owned by an American, a worker said: "The factory is very hot. Because of the suddent change in temperature when we go out, our bodies are prone to sickness." It was also in this factory that fire broke out and killed 11 workers, with 53 other injured."

(Testimony of Antonio de la Cruz in "Philippines: Repression and Resistance," Komite ng Sambayanang Pilipino, London, 1981).

CONCLUSIONS

In conclusion, the Philippine government is found in blatant violation of four of the five labor standards enumerated in the new GSP law. Indeed, conditions in each of these four areas are getting worse, not better.

The first three of these conditions: the right to association, the right to organize, and minimum age, are agreed to by the U.S. government to be among the inalienable rights of workers everywhere, no matter the level of development. The final condition, that in relation to conditions of work, is obviously related to the level of development of a country. In this realm, however, there can be no defense of Philippine conditions, which in many cases approach subhuman levels.

In the face of these conditions, what action should the U.S. government take? The U.S. government often complains of unfair trade subsidies by foreign governments that give their goods unfair advantages in world markets. Labor repression of the magnitude practiced in the Philippines can only be judged as the most blatant form of unfair trade subsidy available. They are an affront to the rights and dignity of working people in the Philippines and in all other countries.

Therefore, in accordance with U.S. law, we recommend that GSP benefits be discontinued for the Philippines until there is a fundamental improvement in labor conditions.

Mr. PEASE. Mr. Speaker, whatever time I have remaining, I yield to my good friend, the gentleman from Ohio [Mr. SEIBERLING].

Mr. SEIBERLING. Mr. Speaker, I think the gentleman has done a real service to the country and the Congress by laying this all out.

One of the things that impressed me as I was listening to this tragic litany was that the Third World countries are going through all the throes that the now advanced countries went through in the early days of the industrial revolution in the late 18th and early 19th centuries. They are being exploited in the very same manner and because they have not yet developed strong unions and laws to protect labor, we in this country are being brought down and have had our enlightenment and reforms reversed because of competition from these preenlightened era industrial conditions.

I would remind our colleagues that it was those very conditions that gave rise to Karl Marx and the Communist manifesto which ultimately produced communism.

I think we all would agree that the conditions in Communist countries are

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just as bad as some of those that were described here; but the point is that we have an obligation to insist that either foreign manufacturers conform to minimal standards, minimal decent standards of labor and wages, or else they should not be permitted to enter this country. I think that is the way to accelerate the experience that we as an advanced country went through and bring enlightened practices to the Third World countries, so we all can compete on the same level as the gentleman has suggested.

Mr. Speaker, I commend the gentleman for this exercise in laying out these facts for all to see.

□ 1625

Mr. PEASE. I thank the gentleman from Ohio [Mr. SEIBERLING] for his support on this matter and so many others that involve enlightened governmental policy. He is a very valuable Member of Congress and I am delighted to have him in the neighboring district to my own.

Mr. HALL of Ohio. Mr. Speaker, I commend the gentleman from Ohio [Mr. PEASE] for taking out this special order today on the subject of international labor rights. I am pleased to join with him in calling attention to the status of laboring men and women around the world, and the urgent need for international action against those countries that engage in labor rights violations.

As many of my colleagues know, I have joined with the gentleman from New Jersey [Mr. SMITH] and the gentleman from Virginia [Mr. WOLF] to sponsor H.R. 3599, a bill to suspend temporarily for 6 months the most-favored-nation treatment accorded to Romania. Our bill is a response to that nation's abusive internal practices, particularly its repression of religion. During the 6-month suspension of most-favored-nation status, the President would be directed to assess the status of civil liberties and human rights in Romania.

In the course of my study of human rights in Romania, it has come to my attention that labor rights are denied to Romanian workers. In testimony submitted to the U.S. Trade Representative, AFL-CIO stated:

> Fundamental worker rights are denied and those who seek to exercise such rights are brutally suppressed. Free trade union advocates languish in jails. Labor is compulsory, as statutes provide for punishment of those who choose not to work or are unemployed. Prisoners of conscience, including advocates of free trade unions are sentenced to forced labor.

This report went on to conclude:

> Recent years have seen no improvement in the status of workers rights in Romania. there is no evidence that the country has, in the words of the law, taken steps to afford internationally recognized workers rights to workers in that country.

Mr. Speaker, for the benefit of my colleagues, the full text of the statement prepared for the U.S. Trade Representative on June 24, 1985, by Eugenia Kemble of AFL-CIO follows:

ROMANIA

By any standard—be it existing legislation, the public utterances of government and Communist Party authorities, or government actions—Romania qualifies as among the worst offenders of the fundamental worker rights of freedom of association and the right to organize (ILO Convention No. 87), the right to bargain collectively (ILO Convention No. 98), and protection from compulsory and forced labor (ILO Conventions No. 29 and No. 105).

Although Article 27 of the Romanian Constitution provides for the right to associate in trade unions, Article 7 of the Constitution restricts the independence of such associations by establishing that the "leading political force in society is the Romanian Communist Party." Moreover, the Labor Code of Romania states in Section 164 that "unions are occupational organizations set up in virtue of the right of association laid down in the Constitution and operating on the basis of the bylaws of the General Trade of the Union Confederation, the federations for the different branches of activity, and the trade union organizations in the [economic] units." This section of the Labor Code, therefore, asserts that the officially enshrined General Trade Union Confederation's bylaws are the sole legitimate basis for all trade union activity.

A 1981 Report of the International Labor Organization's Committee of Experts on the Application of Conventions and Recommendations concluded that the Romanian Labor Code and Constitution restrict the right of workers to form organizations of their own choosing. In the view of the ILO, Romanian law establishes such a close link between the union and the Communist Party, that it is impossible for labor organizations to form or operate independently. During its 1984 deliberations, the ILO Committee of Experts once again criticized the restrictions on the freedom of Romanian unions to determine their constitution, activities or programs. It asserted that official Romanian unions are used mainly to "mobilize the masses for the accomplishment of the party program and policy."

Perhaps the best practical test of the right to freedom of association and organizing occurred in 1979 when the Free Trade Union of Workers in Romania, SLOMR, was launched by 20 workers and intellectuals.

A legitimate trade union grouping, SLOMR, based its activities on the Convenant on Economic, Social and Cultural Rights, signed by the Romanian government in 1974. The union's support grew to at least 2,000 workers.

But the Romanian authorities moved rapidly to suppress the fledgling free labor movement:

By April 1979, 15 SLOMR workers were given prison sentences of three to six months under Decree No. 153 prohibiting "parasitism".

Eugen Onescu and several other workers were interned in psychiatric hospitals.

Founder Dr. Ionel Cana, a physician, was sentenced to 5½ years of prison for "conspiracy and anti-government propaganda". Cana was eventually amnestied, but his request to emigrate has not been granted.

Co-founder Gheorge Brasoveanu, an economist, was arrested in March 1979, first confined to a psychiatric hospital, then imprisoned until November 1980. His request to emigrate has not been granted.

Nicolae Dascalu, another co-founder, was sentenced to 18 months of prison (reduced to 10 upon appeal) for violating a press law prohibiting the dissemination of information abroad without legal authorization. Dascalu was allowed to emigrate to the United States in 1981.

G. Grigoras was imprisoned for six months for "inciting an anarchic and parasitic group".

Vasile Paraschiv, a chemical worker from Ploesti, was detained and beaten in Bucharest in February 1979 for his support of SLOMR. Paraschiv had previously been interned three times in psychiatric hospitals for political reasons. In 1978 he had spent six months in France, where he held press conferences about his experiences of psychiatric abuse. After the break-up of SLOMR, Paraschiv disappeared for some time, and when he was seen in 1982, he appeared to have been the victim of police brutality. He and his wife are seeking an exit visa.

Carmen Popescu, 40, mother of a teenaged daughter and another co-founder of SLOMR, was imprisoned and released, then re-arrested in 1981 and sentenced to six years of imprisonment. She is still in prison and is in bad health.

Virgil Chender, a worker from Sighisoara, went to Bucharest in March 1979 to submit a collective statement of support for SLOMR from 1,487 workers in Tirgu-Mures. He was apprehended and is still missing.

The U.S. Department of State's *Country Reports on Human Rights Practices for 1984* provides a concise description of freedom of association in Romania:

"Free trade unions are not permitted. Membership in government-controlled unions is mandatory for workers in every economic sector . . . New government laws and regulations are read to the membership [at union meetings] generally without discussion, and highlights or recent political happenings are brought up. Topics such as wages, reduction of the workweek, and additional holidays are not discussed."

Provisions concerning compulsory or forced labor also are part of Romania's everyday reality. Article 5 of the Constitution, which describes work not simply as a right but as a "duty of honor," contains within it a clear element of compulsion. "Parasitism" laws make it a crime for Romanians to be idle or unemployed. Article 18 of the Constitution, which guarantees the right to work, says nothing about the workers' right to choice of work. In addition, the Constitution does not provide for freedom of movement or choice of residence. According to the State Department *Country Reports on Human Rights Practices for 1984* in Romania "the right of a citizen to change place of residence is extremely restricted."

Furthermore, Romanian law violates forced labor conventions. In 1973, for example, Law 3 for the Penal Code provided for "corrective labor without loss of liberty" as an alternative to imprisonment.

In conclusion, Romania is a closed society organized according to the tenets of totalitarianism, with every institution dominated by the party-state apparatus. Fundamental worker rights are denied and those who seek to exercise such rights are brutally suppressed. Free trade union advocates languish in jails. Labor is compulsory, as statutes provide for punishment of those who choose not to work or are unemployed. Prisoners of conscience, including advocates of free trade unions are sentenced to forced labor.

Recent years have seen no improvement in the status of workers rights in Romania. There is no evidence that the country has, in the words of the law, taken steps to afford internationally recognized workers rights to workers in that country.

GENERAL LEAVE

Mr. PEASE. Mr. Speaker, I ask unanimous consent that all Members may have permission to extend their remarks on the subject of this special order.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of further conference on the disagreeing votes of the two Houses on the amendments of the Senate to the joint resolution (H.R. Res. 465) "Joint resolution making further continuing appropriations for the fiscal year 1986, and for other purposes."

The message also announced, that the Senate agrees to the amendments of the House to the amendment of the Senate to the bill (H.R. 3384) "An act to amend title 5, United States Code, to expand the class of individuals eligible for refunds or other returns of contributions from contingency reserves in the Employees Health Benefits Fund; to make miscellaneous amendments relating to the Civil Service Retirement System and the Federal Employees Health Benefits Program; and for other purposes."

TEMPORARY EXTENSION OF CERTAIN PROGRAMS RELATING TO HOUSING AND COMMUNITY DEVELOPMENT

Mr. ST GERMAIN. I ask unanimous consent that the Committee on Banking, Finance and Urban Affairs be discharged from further consideration of the joint resolution, (H.J. Res. 495) to provide for the temporary extension of certain programs relating to housing and community development, and for other purposes and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Rhode Island?

Mr. WYLIE. Mr. Speaker, reserving the right to object—and I do not intend to object—I yield to the distinguished chairman of the Committee on Banking, Finance and Urban Affairs to explain the procedure.

Mr. ST GERMAIN. I thank the gentleman for yielding.

Mr. Speaker, House Joint Resolution 495 would extend the following programs to March 17, 1986: The Federal Housing Administration's mortgage insurance programs; the section 312 rehabilitation loan program; the Farmers Home rural housing authorities; the flood and crime insurance programs; the community development block grant entitlements; the section 202 interest rate limitation; and the Home Mortgage Disclosure Act.

Mr. Speaker, the conferees have been unable to resolve the housing authorization issues in the context of the reconciliation bill and this temporary extender is needed to keep these important programs alive until we have an opportunity to review them early in the next session.

Mr. WYLIE. Mr. Speaker, further reserving the right to object, what this does, as the chairman suggested, is simply extend the FHA authority, which expired last Sunday night, along with the Crime Insurance and the Flood Insurance Program, to March 17 of next year.

The exact same language is contained in the budget reconciliation bill which will be considered here later on, but in an abundance of precaution we felt we needed to pass House Joint Resolution 495 now. Of primary importance in the resolution, it does not contain any changes at all in the Housing Program. This is not H.R. 1. The housing bill will be considered next year under regular order. I regret that we were not able to put an FHA adjustable rate mortgage cap higher than the 10 percent, but what it is now is, it is a simple extension. We do need to extend it at this point in time. I would point out that it is a temporary extension. I respectfully agree with the chairman that we need it, and I urge adoption of the resolution.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. WYLIE. Under my reservation of objection, Mr. Speaker, I yield to the gentleman from Pennsylvania.

Mr. WALKER. I appreciate the gentleman's explanation.

If I understand correctly, none of the language of H.R. 1 is contained in this particular bill, and am I also to understand that this is not a bill now that will become a vehicle for the advancement of H.R. 1?

Mr. WYLIE. The gentleman's understanding is absolutely correct. There is no language from H.R. 1 in here. It will not become a vehicle. It is a simple extender. We really will not need to pass this if the budget reconciliation bill is passed.

Mr. WALKER. If the gentleman will yield further, am I correct, though, that the H.R. 1 language has been dropped out of the reconciliation bill, as well?

Mr. WYLIE. That is correct.

Mr. WALKER. So what we are going to have, whether we pass reconciliation or if we go the route of this resolution, is a simple extension of those programs presently in place under the current policy rules.

Mr. WYLIE. That is correct. The gentleman could not be more correct.

Mr. WALKER. I thank the gentleman.

Mr. WYLIE. I thank the gentleman for his contribution.

Mr. SCHUMER. Mr. Speaker, will the gentleman yield?

Mr. WYLIE. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from New York.

Mr. SCHUMER. I thank the gentleman for yielding. I just have a colloquy to engage in with the distinguished chairman of the committee, the gentleman from Rhode Island [Mr. ST GERMAIN].

The bill extends the Federal Crime Insurance Program through March 17, 1986. Am I right that this extension operates to suspend the effective date of the paragraph of Public Law No. 99-160 (fiscal year 1986 HUD and Independent Agencies appropriations act) concerning a one-time payment from the National Insurance Development Fund to States participating in the Federal Crime Insurance Program?

Mr. ST GERMAIN. If the gentleman will yield, the gentleman from New York is absolutely correct.

Mr. SCHUMER. I thank the gentleman.

Mr. WYLIE. Mr. Speaker, I urge adoption of the resolution, and I withdraw my reservation of objection.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 495

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF FEDERAL HOUSING ADMINISTRATION MORTGAGE INSURANCE PROGRAMS.

(a) TITLE I INSURANCE.—Section 2(a) of the National Housing Act is amended by striking out "prior to December 16, 1985" in the first sentence and inserting in lieu thereof "not later than March 17, 1986".

(b) GENERAL INSURANCE.—Section 217 of the National Housing Act is amended by striking out "December 15, 1985" and inserting in lieu thereof "March 17, 1986".

(c) LOW AND MODERATE INCOME HOUSING INSURANCE.—Section 221(f) of the National Housing Act is amended by striking out "December 15, 1985" in the fifth sentence and inserting in lieu thereof "March 17, 1986".

(d) SECTION 235 HOMEOWNERSHIP.—

(1) ASSISTANCE PAYMENTS AUTHORITY.—Section 235(h)(1) of the National Housing Act is amended by striking out "December 15, 1985" in the last sentence and inserting in lieu thereof "March 17, 1986".

(2) INSURANCE AUTHORITY.—Section 235(m) of the National Housing Act is amended by

striking out "December 15, 1985" and inserting in lieu thereof "March 17, 1986".

(3) Housing stimulus authority.—Section 235(q)(1) of the National Housing Act is amended by striking out "December 15, 1985" in the last sentence and inserting in lieu thereof "March 17, 1986".

(e) Co-Insurance.—

(1) General authority.—Section 244(d) of the National Housing Act is amended by striking out "December 15, 1985" and inserting in lieu thereof "March 17, 1986".

(2) Rental Rehabilitation and development projects.—Section 244(h) of the National Housing Act is amended by striking out "on or after December 16, 1985" in the last sentence and inserting in lieu thereof "after March 17, 1986".

(f) Graduated Payment and Indexed Mortgage Insurance.—Section 245(a) of the National Housing Act is amended by striking out "December 15, 1985" in the last sentence and inserting in lieu thereof "March 17, 1986".

(g) Reinsurance Contracts.—Section 249(a) of the National Housing Act is amended by striking out "December 15, 1985" in the second sentence and inserting in lieu thereof "March 17, 1986".

(h) Armed Services Housing Insurance.—

(1) Civilian employees of armed forces.—Section 809(f) of the National Housing Act is amended by striking out "December 15, 1985" in the last sentence and inserting in lieu thereof "March 17, 1986".

(2) Defense housing for impacted areas.—Section 810(k) of the National Housing Act is amended by striking out "December 15, 1985" in the last sentence and inserting in lieu thereof "March 17, 1986".

(i) Land Development Insurance.—Section 1002(a) of the National Housing Act is amended by striking out "December 15, 1985" in the last sentence and inserting in lieu thereof "March 17, 1986".

(j) Group Practice Facilities Insurance.—Section 1101(a) of the National Housing Act is amended by striking out "December 15, 1985" in the last sentence and inserting in lieu thereof "March 17, 1986".

SEC. 2. EXTENSION OF REHABILITATION LOAN AUTHORITY.

Section 312(h) of the Housing Act of 1964 is amended—

(1) by striking out "December 15, 1985" and inserting in lieu thereof "March 17, 1986"; and

(2) by striking out "prior to December 16, 1985" and inserting in lieu thereof "on or before such date".

SEC. 3. EXTENSION OF RURAL HOUSING AUTHORITIES.

(a) Rental Housing Loan Authority.—Section 515(b)(4) of the Housing Act of 1949 is amended by striking out "December 15, 1985" and inserting in lieu thereof "March 17, 1986".

(b) Rural Area Classification.—Section 520 of the Housing Act of 1949 is amended by striking out "December 15, 1985" in the last sentence and inserting in lieu thereof "March 17, 1986".

(c) Mutual and Self-Help Housing Grant and Loan Authority.—Section 523(f) of the Housing Act of 1949 is amended by striking out "December 15, 1985" and inserting in lieu thereof "March 17, 1986".

SEC. 4. EXTENSION OF FLOOD AND CRIME INSURANCE PROGRAMS.

(a) Flood Insurance.—

(1) General authority.—Section 1319 of the National Flood Insurance Act of 1968 is amended by striking out "December 15, 1985" and inserting in lieu thereof "March 17, 1986".

(2) Emergency implementation.—Section 1336(a) of the National Flood Insurance Act of 1968 is amended by striking out "December 15, 1985" and inserting in lieu thereof "March 17, 1986".

(3) Establishment of flood-risk zones.—Section 1360(a)(2) of the National Flood Insurance Act of 1968 is amended by striking out "December 15, 1985" and inserting in lieu thereof "March 17, 1986".

(b) Crime Insurance.—Section 1201(b)(1) of the National Housing Act is amended by striking out "December 15, 1985" in the matter preceding subparagraph (A) and inserting in lieu thereof "March 17, 1986".

SEC. 5. MISCELLANEOUS EXTENSIONS.

(a) Community Development Block Grant Classifications.—

(1) Metropolitan city.—Section 102(a)(4) of the Housing and Community Development Act of 1974 is amended by striking out "December 15, 1985" in the second sentence and inserting in lieu therefo "March 17, 1986".

(2) Urban county.—Section 102(a)(6) of the Housing and Community Development Act of 1974 is amended by striking out "December 15, 1985" in the second sentence and inserting in lieu thereof "March 17, 1986".

(b) Section 202 Interest Rate Limitation.—Section 223(a)(2) of the Housing and Urban-Rural Recovery Act of 1983 is amended by striking out "prior to December 16, 1985" and inserting in lieu thereof "not later than March 17, 1986".

(c) Home Mortgage Disclosure Act of 1975.—Section 312 of the Home Mortgage Disclosure Act of 1975 is amended by striking out "December 16, 1985" and inserting in lieu thereof "March 17, 1986".

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ST GERMAIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the joint resolution just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

SALUTE TO THE FIGHTIN' TEXAS AGGIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. Barton] is recognized for 5 minutes.

Mr. BARTON of Texas. Mr. Speaker, we have been considering several very serious subjects on this floor today and this week. We have considered tax reform, we have considered budget reconciliation, we have considered the farm bill, and a continuing resolution to keep the Government in operation. There is a subject down in my State of Texas that many people consider to be just as serious. That subject is football, and in particular Southwest Conference football.

The Southwest Conference is a conference that has a long and storied tradition, a long and storied history of providing excellent teams at the collegiate level of athletic competition. This year the champion of the Southwest Conference happens to be the Fightin' Texas Aggies, a school that I attended from 1968 to 1972, and a school that is in my congressional district.

This championship team, coached by head coach Jackie Sherrill, is the 13th Southwest Conference championship team from Texas A&M. It is their first championship team since 1975, when they shared the championship with the University of Texas and the University of Arkansas.

The 1985 Fightin' Texas Aggies won the championship in many ways. Obviously, they won it in the standings by winning seven games and losing only one game in conference play, that game to the Baylor Bears, coached by head coach Grant Taft. Their overall record was an outstanding nine wins and two losses. They also won it in many of the categories that the Southwest Conference keeps statistics in.

The 1985 Fightin' Texas Aggies were first in offense, averaging over 400 yards per game. They were first in defense, holding opponents under 285 yards per game. They were first in scoring offense as they scored over 30 points a game. They were led by several All-Southwest Conference players, on offense by their All-Southwest Conference quarterback, Kevin Murray; on defense by their All-American linebacker, Johnny Holland. Johnny Holland, is Texas A&M's 24th All-American since the school began playing intercollegiate athletics.

There are many other players, I think, worthy of mention on this team. On offense, they have All-Southwest Conference tackle Doug Williams; All-Southwest Conference center Randy Dausin; All-Southwest Conference running back Anthony Toney, All-Southwest Conference Jeff Nelson, who set a new career reception record for Texas A&M by catching 92 passes in his career; and fullback Roger Vick.

On defense they have such stalwarts as Jay Mueller, defensive tackle, who is from Conroe, TX; Rod Saddler from Georgia; Todd Howard, All-Southwest Conference defensive back Domingo Bryant, Darrel Austin, Kip Corrington, and nose guard Sammy O'Brient.

It is a very good team. They are going to be in the 50th annual Cotton Bowl. This will be the fourth time that Texas A&M has played in the Cotton Bowl. The last time was in 1968 when a team coached by Gene Stallings beat a Bear Bryant team from Alabama 20 to 16. That team back in 1968 had such players as All-American Edd Hargett; All-American Bob Long, Tommy Maxwell, Rolf Krueger, Bill Hobbs, Grady Allen, who was a captain, Larry Stegent, Steve O'Neil who later played for the New York Jets, Dan Schneider, who was a captain, and Robert Cortez, who was also a captain.

I would hope that as the current edition of the A&M team prepares for the Cotton Bowl on January 1, 1986, where they are going to play the Auburn Tigers, another fine team from Alabama headed by Heisman Trophy winner Bo Jackson, that the people in the country would focus on that game and hopefully many of the people in this Chamber will find the time to come to Dallas, TX, and participate with me and thousands of other Aggies in the festivities. I am sure it will be a good game. I am planning to be there. I hope that the result on January 1 turns out like it did back in 1968 where A&M beat another fine Alabama team; that this year we will defeat the Auburn Tigers in a contest of good, clean sportsmanship and athletic ability.

Mr. FIELDS. Mr. Speaker, will the gentleman yield?

Mr. BARTON of Texas. I would be happy to yield to the gentleman from Texas.

Mr. FIELDS. I thank the gentleman for yielding.

Mr. Speaker, first of all, as a trustee of Baylor University, of the Fighting Baylor Bears, I would like to congratulate the gentleman's alma mater, Texas A&M.

I was present when the Texas Aggies played the Texas Longhorns, and not only saw the famed 12th man, but saw the 13th, 14th, and 15th man in the stadium in way of the fans, and I want to congratulate the gentleman. I know he mentioned the Baylor Bears a while ago. We were honored that we had the opportunity to play Texas A&M this year and were successful on the field, and now we say congratulations and good luck.

Mr. BARTON of Texas. I thank the gentleman for his comments.

The 1985 Texas A&M roster follows:

Name	Position	Height	Weight	Cl-Exp.	Hometown High School
[illegible]	[illegible]	6-1	200	So	Friendswood (High)
Alford, Brad	OT	6-4	[illegible]	Jr	Waco (High)
Anthony, Rodney	[illegible]	6-4	190	Fr-HS	San Angelo (Central)
Ariens, Todd	[illegible]	6-5	235	Fr-HS	Austin (Westlake)
Armer, Gary	C	6-1	235	[illegible]	Baytown (Lee)
Asberry, Wayne	DB	5-9	187	Sr-3L	Palestine (High)
Austin, Darrell	DB	5-9	175	Sr-3L	Fort Worth (Wyatt)
Batiste, Dana	[illegible]	6-1	220	Fr-Sq	Spring (High)
Bernstine, Rod	TE	6-2	232	Jr-2L	Bryan (High)
Blahitka, Mike	LB	6-2	210	[illegible]	Richardson (High)
Bob, Adam	[illegible]	6-2	210	Fr-HS	Lafayette, La. (Northside)
Boutwell, Jeff	LB	6-1	[illegible]	[illegible]	Cameron (Yoe)
Bowie, Junior	[illegible]	6-1	220	Fr-Sq	Borger (High)
Brooks, Terrance	[illegible]	5-11	187	So-1L	Dallas (Carter)
Broom, Guy	[illegible]	6-5	267	So-1L	Galveston (O'Connell)
Brown, Tim	[illegible]	6-0	[illegible]	Fr-Sq	LaPorte (High)
Bryant, Domingo	[illegible]	6-3	178	Sr-3L	Garrison (High)
Bullitt, Steve	[illegible]	6-2	222	Jr-2L	El Paso (Andress)
Burleson, Jerry	LB	6-1	[illegible]	[illegible]	Odessa (Permian)
Burman, Jon	[illegible]	6-7	277	Fr-Sq	Carmel, Ind. (High)
Burnett, John	[illegible]	6-3	215	[illegible]	Rockwall (High)
Campbell, Tom	[illegible]	6-5	245	Fr-Sq	[illegible], La. (High)
Carr, David	[illegible]	6-6	[illegible]	Fr-HS	[illegible] (Nimitz)
Case, Frank	[illegible]	6-3	[illegible]	So-1L	North Mesquite (High)
Cheek, Louis	[illegible]	6-6	[illegible]	So-1L	Fairfield (High)
Chriestmon, Mark	RB	6-2	[illegible]	So	Houston (Yates)
Collins, Melvin	RB	6-0	218	Fr-Sq	Temple (High)
Coolidge, David	[illegible]	5-11	175	Jr	Houston (Westberry)
Corrington, Kip	DB	5-11	175	So-1L	College Station (A&M Con.)
Crowe, Norman	TE	6-5	225	[illegible]	LaMarque (High)
Drausin, Randy	[illegible]	6-4	[illegible]	Sr-2L	San Antonio (Roosevelt)
Dillon, Greg	WR	6-2	[illegible]	So-1L	Houston (Klein)
Dotson, James	NG	6-2	270	Fr-HS	Vicksburg, Miss. (Warren Cen)
Dowell, David	[illegible]	6-4	[illegible]	Sr-3L	Bryan (High)
Eddington, Ashley	[illegible]	5-9	170	Jr	San Antonio (East Central)
Elam, John	C	6-2	230	Fr-HS	Pasadena (Dobie)
Flowers, James	[illegible]	6-1	179	Jr-2L	Bryan (High)
Fontenot, Jerry	[illegible]	6-3	[illegible]	Fr-Sq	LaFayette, La. (High)
Ford, Chris	[illegible]	6-0	191	Fr-Sq	Angleton (High)
Franklin, Eric	[illegible]	5-8	[illegible]	Jr-1L	Levelland (High)
Gasper, Paul	[illegible]	5-11	[illegible]	So-Sq	Houston (Lamar)
Gilbert, O'Neill	[illegible]	6-2	241	Fr-Sq	Monroe, La. (Wossman)
Glenn, Ronnie	[illegible]	6-0	185	[illegible]	Houston (Scarborough)
Graham, B.J	[illegible]	6-4	225	[illegible]	Cameron (High)
Greene, Steve	RB	6-1	195	Fr-HS	Littlefield (High)
Gurley, Matt	[illegible]	5-11	[illegible]	Fr-Sq	Arlington (Lamar)
Hanks, Chris	[illegible]	6-5	[illegible]	[illegible]	Lafayette, La. (High)
Hargett, Kyle	WR	6-1	178	[illegible]	Louisville, Colo. (Centaurus)
Harris, Rod	FL	6-0	180	Fr-HS	Dallas (Carter)
Hartley, Wally	TE	6-5	215	Fr-HS	Baton Rouge, La. (Broadmoor)
Harvey, Karl	[illegible]	6-2	[illegible]	Jr-1L	Plano (High)
Haverda, Lance	[illegible]	6-1	180	Jr-2L	Marble Falls (High)
Hawkins, Jimmie	DB	5-10	192	Sr-3L	San Antonio (Holmes)
Hendrickson, Glen	OL	6-4	[illegible]	Sr-1L	Houston (Memorial)
Holland, Johnny	[illegible]	6-2	219	Jr-2L	Hempstead (High)
Holley, Jeff	WR	6-0	[illegible]	Jr-2L	McKinney (High)
Holmes, Mike	[illegible]	6-5	[illegible]	Fr-HS	Klein (Oak)
Howard, Todd	[illegible]	6-2	[illegible]	Jr-2L	Bryan (High)
Howse, James	[illegible]	6-0	185	Fr-HS	Murfreesboro, Tenn. (Oakland)
Jackson, Basil	[illegible]	6-2	215	Fr-HS	Hammond, La. (High)
Jackson, James	[illegible]	6-3	[illegible]	So-Sq	Houston (Yates)
Jackson, Lance	DB	5-10	[illegible]	Sr-2L	Temple (High)
Johnson, Harry	RB	6-0	[illegible]	Fr-Sq	Pasadena, Calif. (Blair)
Jones, Tony	RB	6-1	175	Fr-Sq	Houston (Sam Houston)
Jones, Troy	[illegible]	5-11	185	Fr-HS	Lafayette, La. (Acadiana)
Jordan, Jeff	[illegible]	6-0	225	So	Amarillo (High)
Keim, Larry	[illegible]	6-4	223	Jr-2L	Corpus Christi (King)
Land, Marshall	[illegible]	6-6	365	Jr-TR	Baytown (Sacramento, Ca.)
Landrum, Tim	[illegible]	6-0	212	Fr-Sq	Plano (High)
Lark, Scott	G	6-3	240	Fr-HS	Bay City (High)
Lanscombe, Corey	[illegible]	6-0	203	Jr	Converse (Judson)
Luedtke, Paul	[illegible]	6-1	195	So	Pflugerville (High)
Maham, Scott	[illegible]	6-4	[illegible]	Fr-Sq	Austin (Anderson)
Marks, Jared	[illegible]	6-0	[illegible]	Jr-1L	Houston (Dulles)
McGuire, Trace	[illegible]	6-4	260	Fr-Sq	Nederland (High)
Middleton, Bobby	[illegible]	6-1	212	Jr	Hillsboro (Bowling Green, Mo)
Miskovsky, Greg	C	6-2	[illegible]	So	Tulsa (Jenks)

Name	Position	Height	Weight	Cl-Exp	Hometown (High School)
Mitchell, Lawrence	[illegible]	5-9	171	So-Sq	Pasadena (High)
Moon, L B	[illegible]	6-6	257	Fr Sq	Tulsa, Okla (Jenks)
Morgan, Sylvester	TE	6-3	235	So-1L	Houston (Yates)
Morris, Alex	DB	6-2	[illegible]	Fr-Sq	Arlington (Sam Houston)
Motley, Mark	[illegible]	6-3	205	Fr-Sq	Ore City (High)
Mudd, Dennis	[illegible]	6-0	[illegible]	[illegible]	Yoakum (High)
Muller, Jay	DB	6-3	[illegible]	Jr-1L	Conroe (High)
Murray, Kevin	QB	6-2	[illegible]	So-2L	Dallas (North Dallas)
Neel, Trey	[illegible]	6-3	[illegible]	Fr-Sq	Brazoswood (High)
Nelson, Jeff	[illegible]	5-9	[illegible]	Sr-3L	Beaumont (Charlton-Pollard)
O'Brient, Sammy	NG	6-3	235	So-1L	Alief (Elsik)
Ogden, Joe	[illegible]	6-3	210	[illegible]	College Station (A&M Cons)
Polochek, Layne	[illegible]	6-3	233	Fr-Sq	Houston (St Thomas)
Roper, John	[illegible]	6-1	[illegible]	Fr-Sq	Houston (Yates)
Ross, Brian	TE	6-4	[illegible]	Fr-HS	San Angelo (Central)
Saddler, Rod	[illegible]	6-5	273	Jr-2L	Columbia, Ga. (High)
Scott, Chris	[illegible]	6-3	225	Fr-HS	Houston (Smiley)
Sellers, Greg	[illegible]	6-2	245	[illegible]	Santa Ana, CA (Foothill)
Siler, Rich	TE	6-3	242	Sr-2L	Miami, Fla (Fr Lopez)
Smith, Darrell	[illegible]	6-2	212	Sr-3L	Pasadena (Rayburn)
Slaton, Tony	[illegible]	5-11	187	Sr-3L	Decatur, Ga (Columbia)
Smith, Brent	[illegible]	6-1	[illegible]	Fr-Sq	LaPorte (High)
Stump, Craig	QB	5-11	[illegible]	So-1L	Port Arthur (Jefferson)
Taylor, Anthony	DB	6-1	[illegible]	Fr-HS	Kilgore (High)
Thompson, Tony	WR	6-0	172	Fr-Sq	Houston (Lamar)
Tolleson, Mike	LB	5-9	[illegible]	[illegible]	Celina (High)
Toney, Anthony	[illegible]	6-0	[illegible]	Sr-1L	Salinas, Cal (North Salinas)
Tschantz, Todd	P	5-11	[illegible]	So-1L	Richardson (Lake Highlands)
Turner, Lafayette	DB	6-2	195	Fr-HS	Dallas (Carter)
Valentine, Ira	[illegible]	6-0	205	Sr-3L	Marshall (High)
Vick, Roger	RB	6-3	221	Jr-2L	Tomball (High)
Walker, Shea	[illegible]	5-11	[illegible]	Jr-2L	Port Arthur (Jefferson)
Wallace, Aaron	[illegible]	6-4	210	Fr-HS	Dallas (Roosevelt)
Webb, Duncan	TE	6-3	247	Jr-2L	Nacogdoches (High)
Webb, Richmond	[illegible]	6-6	245	Fr-HS	Dallas (Roosevelt)
Whitfield, Calvin	[illegible]	6-1	267	So-1L	Dickinson (High)
Williams, Doug	[illegible]	6-6	[illegible]	Sr-1L	Cincinnati (Moeller)
Wilson, Matt	C	6-4	[illegible]	So-1L	Spring (High)
Wohlschlaeger, Steve	[illegible]	6-3	232	So-Sq	Mesquite (North)
Woodside, Keith	[illegible]	5-11	198	So-1L	Vidalia, La. (High)
Wurzbach, Mark	[illegible]	6-1	195	[illegible]	Byron (High)
Wylie, Randy	[illegible]	6-1	243	Sr-2L	Richardson (High)
Zachry, Ben	[illegible]	6-2	206	Jr-1L	San Antonio (Alamo Heights)

PARLIAMENTARY INQUIRIES

Mr. WALKER. Mr. Speaker, I have a parliamentary inquiry.

The **SPEAKER** pro tempore. The gentleman will state it.

Mr. WALKER. Mr. Speaker, it has been my understanding that as of last year the ruling of the Chair is that while we are proceeding on special orders that the entire Chamber of the House is to be shown at intervals while we are in the process of proceeding with those special orders.

It is my understanding that during the special orders that have taken place both yesterday and today, that particular ruling of the Chair has not been followed.

Can the Chair inform us whether or not this is another instance where we have changed the rules without informing the membership of the change, or just why it is that under these circumstances the special orders evidently have not followed the procedures of the Chair with regard to the television cameras?

The **SPEAKER** pro tempore (Mr. **KILDEE**). The Chair is not aware of any change in the Speaker's guidelines. I suppose the gentleman could address his comments to those who originally made that decision, but the Chair is not aware of any change in the application of the guidelines.

The Chair did announce that the House has not yet completed legislative business for the day and would return to legislative business.

Mr. WALKER. A further parliamentary inquiry, Mr. Speaker.

It is my understanding that the ruling of the Chair related to the time spent on special orders. I am not aware that it had any provision in it that if those special orders come before legislative business has been completed that at that point the cameras would not sweep the Chamber. My understanding was that once we go onto special orders that the cameras are supposed to be sweeping the entire House. That has not been happening.

The only thing I can assume is that we have had a change in policy that has taken place. If I understand the Chair correctly, there has been no change in policy, so then my question is: Why are the rules not being followed?

The **SPEAKER** pro tempore. The Clerk's interpretation of that change was that that was to be done after legislative business had been completed. The cameras have never panned the House until that time. The Speaker's guidelines provide that until such time as all legislative business has been completed with a crawl on the screen so indicating the cameras will not pan the House, and legislative business has not yet been completed today.

Mr. WALKER. A further parliamentary inquiry. It seems to me that that is a different interpretation from anything that the Members have ever been informed of, and that indeed, then, it sounds to me as though we are making another one of these changes that takes place without any information coming to the minority.

The **SPEAKER** pro tempore. The Chair will respond again.

This has been the practice, and the last 2 days have not been different than prior practice. Prior practice has been that at the end of legislative business when the House proceeds on special orders, the camera will pan the entire House.

The House has not completed legislative business today, nor had it yesterday.

Mr. WALKER. A further parliamentary inquiry, Mr. Speaker.

Then why, last Wednesday, when we had a similar circumstance on a special order that was taking place prior to legislative business being completed, that the Chamber was being swept? Am I to understand at that point, then, that the rules were not being obeyed?

The **SPEAKER** pro tempore. If there has been inconsistency, it has not been intentional and the Chair will look into that.

Mr. WALKER. A further parliamentary inquiry, Mr. Speaker.

Can we now, then, have a definitive statement of just what the policy is with regard to panning the Chamber during the time that special orders are under way?

The **SPEAKER** pro tempore. The Chair will refer the response to that question that the gentleman just asked again to the Speaker and not the Speaker pro tempore.

□ 1635

Mr. WALKER. A further parliamentary inquiry: Are we going to have a definitive statement made on that prior to the close of business today?

The SPEAKER pro tempore. The Chair will look into the matter and raise the gentleman's question with the Speaker.

Mr. WALKER. I thank the Chair.

CORRECTING ENROLLMENT OF H.R. 2100, FOOD SECURITY ACT OF 1985

Mr. DE LA GARZA. Mr. Speaker, I send to the desk a concurrent resolution (H. Con. Res. 264), to correct the enrollment of H.R. 2100, and ask unanimous consent for its immediate consideration.

The SPEAKER pro tempore. The Clerk will report the concurrent resolution.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 264

Resolved by the House of Representatives (the Senate concurring), That in the enrollment of the bill H.R. 2100, to extend and revise agricultural price support and related programs, to provide for agricultural export, resource conservation, farm credit, and agricultural research and related programs, to continue food stamp assistance to low income persons, to ensure consumers an abundance of food and fiber at reasonable prices, and for other purposes, the Clerk of the House shall make the following corrections:

In title XIII, after section 1304 insert the following section:

INTEREST RATES—WATER AND WASTE DISPOSAL FACILITY AND COMMUNITY FACILITY LOANS

SEC. 1304A. Section 307(a)(3)(A) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1927(a)(3)(A)) is amended by—

(1) striking out "where the median family income of the persons to be served by such facility is below the poverty line prescribed by the Office of Management and Budget, as adjusted under section 624 of the Economic Opportunity Act of 1964 (42 U.S.C. 2971d)" and inserting in lieu thereof "where the median household income of the persons to be served by such facility is below the higher of 80 per centum of the statewide nonmetropolitan median household income or the poverty line established by the Office of Management and Budget, as revised under section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))"; and

(2) inserting before the period at the end thereof the following: "; and not in excess of 7 per centum per annum on loans for such facilities that do not qualify for the 5 per centum per annum interest rate but are located in areas where the median household income of the persons to be served by the facility does not exceed 100 per centum of the statewide nonmetropolitan median household income".

Amend the table of contents in section 2 of bill accordingly.

Mr. DE LA GARZA (during the reading). Mr. Speaker, I ask unanimous consent that the concurrent resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. WALKER. Mr. Speaker, reserving the right to object, I would ask the gentleman from Texas if he would explain to the House what it is we are doing in this legislation?

Mr. DE LA GARZA. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am glad to yield to the gentleman from Texas.

Mr. DE LA GARZA. Mr. Speaker, I would be very happy to explain to the gentleman.

When the conference report on the farm bill was finalized, inadvertently two sections were left out by the staff, and this is to allow the enrolling clerk to insert the two sections that had been left out.

Mr. WALKER. If I understand the gentleman, we had a bill out earlier today to correct legislation that had been incorrectly enrolled. This is another bill to simply correct legislation that was previously incorrectly enrolled; is that my understanding?

Mr. DE LA GARZA. Technically, no. It was not incorrectly enrolled, but the mistake was ours. The copy that we gave to the Speaker had two sections that had been left out, and this is to allow them to insert them.

There are two sections in the credit section that were identical in the House bill and the Senate bill. The staff left them out, one thinking that the other had taken care of that.

Mr. WALKER. But we are making no substantive changes of legislation beyond which the House approved?

Mr. DE LA GARZA. None whatsoever. And it has been cleared with the minority. As always, my ranking member and I work closely together, and there is never any activity that is not in concurrence with both sides.

Mr. WALKER. I know the gentleman is very good about that, and I appreciate his explanation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Texas?

There was no objection.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

MILITARY AIRCRAFT CHARTERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes.

Mr. DORNAN of California. Mr. Speaker, in the spirit of Christmas, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from California.

Mr. DORNAN of California. Mr. Speaker, I would like to remind the gentleman, because he has fought so hard for all of his constituents, to please add to his family's prayers over the holidays our four Americans, one of them a Catholic priest, one of them a newspaperman, and two of them educators, administrators in the hospital and agricultural sections of the American University of Beirut. These four Americans, unless we get a big change in luck here, will be in Beirut during these holidays while we all enjoy our loved ones. So I hope they have your prayers. I know they do.

Mr. GONZALEZ. I want to thank the gentleman from California and to accede to that request and certainly join him in my prayers as I have been ever since I have raised the issue of captives, not only in Lebanon, but elsewhere. And I do think that this is the time to certainly, of course, never to forget that we have Americans that are in captivity, and particularly these the gentleman refers to.

Mr. DORNAN of California. And quite possibly alive in Southeast Asia. I believe they are. I cannot state it definitively.

Mr. GONZALEZ. Every bit of information that has been adducible, including the Anglican ministerial messenger of the Archbishop of Canterbury——

Mr. DORNAN of California. Terry Waite.

Mr. GONZALEZ. Yes, indicates that they are still alive.

Mr. DORNAN of California. I thank you, sir.

Mr. GONZALEZ. All of us, of course, are anxious to finish the business of this session. I certainly realize that. I am sure everybody else does.

I also realize that the House earlier this week rejected a conference agreement on the continuing resolution which has since been accepted.

I would have offered, if the rule under which the conference on the continuing resolution on appropriations had afforded it, a motion to recommit so that we would not go home without definitely changing the policy that directly needs change, that is accountable and directly, on the cause of, the result of 248 of our soldiers, plus a number of civilian pilots and aircraft attendants in Gander, Newfoundland.

Also, last night, I sent a telegram to the White House, to the President. That telegram reads as follows:

[Mailgram]

WASHINGTON, DC,
December 18, 1985.

This is a confirmation copy of the following message:

President RONALD REAGAN,
White House.

HON. RONALD REAGAN: Know you mourn loss of 248 soldiers but not enough to mourn. Can honor them by long last taking commercial profit out of military functions. Urge you mandate DOD utilize military aircraft transport troops platoon size up.

Transfer $450 million from executive discretionary funds to DOD insures implementation of mandate. Am seeking congressional appropriation reimburse executive fund.

HENRY GONZALEZ,
Member of Congress,
20th District, Texas.

That was why I intended to ask for a recommittal motion with instructions to the conferees, to place that sum in the telegram, to reimburse the President in case he should mandate, or in the event he would not but the Congress mandate such a sum. I believe we need to take action in order to protect the lives of servicemen who are today flying on commercially chartered aircraft, including, notwithstanding the distinguished gentleman and neighbor of mine from the great State of Alabama, the ranking minority member of the Committee on Armed Services, who earlier in a dialog with me stated that he had personally called to make sure the Arrow Transportation Co., based in Florida, would not be. But he was talking about what the commander of these forces known as the multinational peacekeeping forces in the Sinai ordered as of day before yesterday, and that was that no further movement of his contingent would be made by means of Arrow.

But the Arrow Airline has at least three other military contracts because that is what its whole life is, contracts with the military for transportation of troops. So I do not understand, and there is no information to confirm that Arrow has been deprived of transporting other troops in other areas from one point to the other. And even if that were done, the basic issue is changing the policy which, incidentally, remained true all during Vietnam, and also aroused my protest that I directed to then-President Johnson and subsequently to President Nixon, and in both instances, I was replied to just like the gentleman from Alabama replied, that there was no money, what did I want. Did I want these men to be lying down in the empty, chairless bottoms of C-130's?

Well, I had rather have them alive, even lying down in a C-130 than brought back in a coffin, because that is the only time we use military transportation, that is to bring our dead on military aircraft.

Mr. HENRY. Mr. Speaker, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from Michigan.

Mr. HENRY. Mr. Speaker, I appreciate the gentleman yielding. I was in my office and, on hearing the gentleman on his special order, I wanted to come over and commend him for the extraordinary effort he is making in focusing on this question.

Mr. GONZALEZ. I thank the gentleman.

Mr. HENRY. I wanted to advise Members of the House that it got only very minimal attention on the wires, but in my district in Grand Rapids, MI, the very craft that was involved in this very serious tragedy was chartered by the military from the Kent County International Airport ferrying troops, reserve troops in this case, and had to abort takeoff because of mechanical difficulties in the plane.

After aborting the takeoff, it did the rather unusual thing of ferrying all of the troops to the front rows of the airplane so that the airplane was physically able to lift off.

Mr. GONZALEZ. That is incredible.

Mr. HENRY. And at this point, we have questions as to whether or not appropriate reports were filed or not, either in terms of the military or in terms of the proper Federal civilian agencies. I just wanted to advise the gentleman and my fellow Members that I have forwarded this information to the Department of Defense, to the Armed Services Committee, the Energy and Commerce Committee, and any other committee that may have appropriate jurisdiction.

Clearly, not only has this particular charter airline had problems in the past, but the particular craft involved in this incident has a rather suspicious record.

I commend the gentleman and thank him for yielding.

Mr. GONZALEZ. I thank the gentleman very much and wish to say that I place myself at his disposal in any way that I can be helpful to him in his efforts to bring these things to the attention of the Defense Department and others. I do not know that I can add much to the gentleman, but certainly he can call on me anytime. I thank him because this is a very fundamental issue that should have been addressed years and years ago. I am sorry that I was not formidable enough to succeed. I tried; the record will so show. But now I think it is inescapable that we address it.

The idea that we would transport battalion-sized troop movements in nameless commercial aircraft that have no real viable standards of safety, upkeep, or maintenance, an aircraft company, for instance, that could not retain pilots because the pilots have refused to stay once they were hired, once they saw the faculty aircraft they were compelled to try to man. I believe that when troop units are being moved for any military purpose, that they should be moved on Government military aircraft, not no-name charter lines.

My motion simply would have instructed the conferees to reprogram the $450 million that today is used to pay for such charters. The Defense Department told me this week that they were using $450 million a year for this purpose.

The ranking minority member of the Armed Services Committee said earlier in the dialog I had with him that there was no money. It seems to me inconceivable that they would be passing this resolution, which it itself, I think, is almost perverse in its priority, where we are going to give 3 months of additional housing allowance to the dead; that is, the relatives of the dead.

□ 1650

Well, now, what great generosity. I introduced a bill before, and I reintroduced it after the death of the 241 marines in Beirut, which would have provided $50,000, like an insurance, such as we had in World War II, except that the figure then was $10,000, and I am allowing for inflation; $50,000, and I was denounced by some and was criticized by others, and I could never even get a committee hearing on that proposal.

But here we are thinking we are generous on Christmas Eve by saying to the poor surviving dependents of these 248 soldiers, "Well, we're going to give you 3 months of housing allowance over and above the period that it should have expired."

Now, if one of us dies, in the Congress, our spouses are entitled to 1 year's full pay, right off the bat. I just think that we have got to come back to basics. We have got to come back to fundamentals. And that is what? Looking out for the interests of our own first and foremost, and not indulge in these terrible splurges of false economy.

After all, we have MAC, the Military Airlift Command. There is no reason why MAC cannot perform this job; and we have every reason why it should do so.

Arrow Air Lines and others take it apparently that their sole business for existing is to exclusively acquire military transportation contracts. I know that these so-called supplemental carriers; that is the sophisticated word officialdom gives them, have for decades been used to ferry around military freight of all kinds, so that if the soldier comes back in the form of ashes in a coffin or a body in a coffin, then it is military freight, and he is allowed to be transported back to our country in a military craft.

But if he is alive and kicking, then we transport him in these flimsy, dangerous craft to some zone or mission area that we have mandated our military to participate in, at great danger, and yet in missions that are vaguely defined if defined at all.

For instance, the basic question here, I think should be—two basic questions. One, this method of transportation and the other, and I think just as important corollary question is, what was the mission of these 248? That represents about 25 percent; a little bit, perhaps a little bit more of the total American contingent in the Sinai.

Now, another misconception was revealed by the statement made by my distinguished colleague from Alabama earlier when he said that this was a U.N. matter. That is certainly really exaggerating the situation.

The whole peacekeeping unit in the Sinai was an initiation first brought forth in a letter from President Carter to the Egyptian leader then and the Israeli leader then after the Camp David agreement.

Now, the Camp David agreement has as party signatories Israel and Egypt, not the United States. President Carter wrote that letter in order to try to ensure that there would be some attempt to help both countries ensure the peace; but it called for military, armed.

So that the Congress, on December 12th or thereabouts, 1981; at least that is when the debate took place here, if such it was a debate, mandated for the first time in its history, the deployment of a military unit, not to exceed 2,000.

Never has that been done before. This is why I am taking the floor, because this is not a Presidential command. The Commander-in-Chief did not do this; he requested it, it is true, but it was the Congress that for the first time in its history since 1789, mandated the deployment of American soldiers.

Now, what is their mission? Well, the United States cannot win under any circumstances, because the mission is to be peacekeepers between whom? Two up to now friendly allies that we have. So that if ever that mission is called upon to be carried out, we will be offending one of the two allies.

But if they are military, they are not diplomats, they are not politicians, they are warriors; they are battle-equipped, but not fully. So that if they come under attack by anybody, they are not in a position to militarily defend themselves. They have no cannon, no artillery, they have no aircraft; so what are they going to do? What are we going to do?

So for several months, I have pleaded with the Members of the Congress that have leadership responsibilities to conduct reviews of these forces which, incidentally, would have included everything: Who was handling what in the transportation area; under what circumstances were soldiers being transported? But never has the Congress wanted to do that since the unit was formed sometime after December 1981.

What does the force consist of? We never have persuaded our major allies. For instance, West Germany does not have any; France and England have a handful, maybe a dozen or so; we have 500 Colombians, we have 500 Figi Islanders, and that is about it.

So we have about some 1,500 to 1,800, depending on when you take the count, of American soldiers in an increasingly hostile environment, because ever since the terrible crimes of the hijacking of the Italian ship, our diverting the Egyptian airliner, tensions have arisen among the Egyptian population that tend to be very severely anti-American.

So, what concerned me was what I addressed this House, will not repeat it now, in September. When I did, I was surprised at the number of my colleagues who said, "I did not even know we had troops in the Sinai." So that today it seems to me that we should not quit.

The 75 to 80 percent of the remainder of Americans are still out in that desert, as we break, hurry off to a nice and I hope joyful and I hope healthy and I hope very happy Christmas, dinners and all, we must never forget that these Americans are there, and they are under the shadow of death. And further than that, should anything happen in the way of violence there, we, that is the lawmaking as well as the executive branch, will have immediate questions to address.

How far are we willing to go to defend those men, if they are imperiled, or any component? Suppose the Figi component is attacked; are we going to leave them there or are we going to go to their rescue? And how far will we go?

Suppose that Egypt accuses Israel for breaching Camp David or otherwise Israel accuses Egypt, Egypt accuses Israel. Or, that through intelligence, this group discovers that there is a buildup on either side. If either side moves, what do we do? What does this group do? Well, we know that the U.N. peacekeeping troops, a similar group in Lebanon, once Israel moved in militarily, had to step aside. It could not confront the Israel armor; it was not equipped and it could not have, anyway.

What I am saying is, Mr. Speaker, we cannot depart here, I hope, and I hope that if we do that the President will take cognizance of this and show how we can honor these dead by seeing to it that the reason for their death is removed in any future undertaking that will risk the lives of our military.

□ 1700

The troop transportation done by these charter carriers is not competitive with scheduled airlines. It is commercial carriage only in the sense that a company can be created to do this kind of business exclusively. And it is a shameful thing we have thus allowed troop transportation to become an enterprise to be carried out by companies formed solely for that purpose and then call this a commercial enterprise. If the national purpose if served by patrols in the Sinai, let that be a Government function, not a commercial enterprise to generate profits for that vast litter feeding at the Pentagon trough. If we have to move troops around the world, let us do it as a Government, not as a largesse for contract carriers.

Why is it Government transportation is fit only for the dead of Gander, Beirut, or Saigon?

Let us say today that enough is enough, let us take the commercial profit out of essential military functions. That is all I propose to do, to have the Government perform the tasks essential to military transportation. It makes no more sense to transport troops by charter carrier than it would to contract the operations of the Navy carriers or to contract operations of Air Force missile silos. Surely the living should be honored as much as the dead. Surely the living should be entrusted to military transportation, not farmed out to no-name charter operators.

Mr. Speaker, I yield back the balance of my time.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. NELSON] is recognized for 5 minutes.

Mr. NELSON of Florida. Mr. Speaker, due to official business, I was unable to be present and voting on December 17 and 18, 1985, for certain rollcall votes. Had I been present, I would have voted in the following manner: "aye" on roll No. 462, passage of H.R. 3363, for the relief of Hamilton Jordan; "aye" on roll No. 463, the Conte motion to recommit House Joint Resolution 491, making further continuing appropriations for fiscal year 1986, with instructions; "aye" on roll No. 464, passage of House Joint Resolution 491; "aye" on roll No. 465, to suspend the rules and pass H.R. 3132, Law Officers' Protection Act; "aye" on roll No. 472, motion to approve the Journal; and, "aye" on roll No. 473, passage of House Joint Resolution 345, military plane crash victims.

ZERO TOLERANCE—THE NAVY'S MISGUIDED APPROACH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. FISH] is recognized for 10 minutes.

Mr. FISH. Mr. Speaker, it is reported that Secretary of the Navy John Lehman has cracked down on drug abuse by Navy personnel, successfully reducing the incidence of drug abuse from 48 percent to 3 percent. Urinalysis is required of all Navy personnel. Punishment followed positive findings; discharge for repeaters. However, those who admitted drug use before a test

have been offered amnesty and rehabilitation. This tough policy, therefore, has allowed an individual a chance for rehabilitation and continued useful service.

It has come to my attention that Secretary of the Navy Lehman has instituted an additional drug policy known as Zero Tolerance, resulting in court martial and possible dishonorable discharge for a first offense by senior enlisted and officer personnel.

Mr. Speaker, chemical dependence is a disease, recognized as such by the American Medical Association, the American Psychiatric Association, and all State medical associations and licensing boards. Rehabilitation, not punishment, is the accepted, recognized response. The Navy's policy is contrary to good medical practice, self-defeating and unnecessarily costly.

The zero tolerance policy is particularly disturbing as applied to Navy health care professionals. Talented individuals in whom the taxpayers have a substantial investment can be separated from the service in disgrace. This policy is not only costly, but it is not a deterrent to others. The particular vulnerability of physicians to chemical dependence is unquestioned. Those Navy physicians reluctant to seek help because of the harsh consequences, continue to practice to the jeopardy of patients in their care.

The zero tolerance policy is directly contradictory to the expressed goal to the Assistant Secretary of Defense for Health Affairs, Dr. William Mayer. In a publication "Health Matters", volume 1, No. 3, July 1985, entitled "Health Care Providers," Dr. Mayer cites PL-92-129 as requiring that DOD identify, treat and rehabilitate all military personnel who are considered chemically dependent. He supports the claim that physicians are a high risk to develop the disease and argues the folly of separating addicted health care professionals who could be successfully rehabilitated, and in their place recruiting from a population at equal risk. Despite the excellent rehabilitation programs provided by the Navy, current policy opts for court martial rather than rehabilitation.

The Army's program for impaired health care professionals is progressive, realistic, compassionate and provides a method of closely monitored reentry. The Navy would be well-advised to pursue the Army's policy of early intervention, which keeps the chemically dependent within the system.

Mr. Speaker, Dr. Mayer's memorandum entitled "Health Matters" follows in full:

HEALTH MATTERS

IMPAIRED HEALTH CARE PROVIDERS

This is another in a series of reports and commentaries on a wide range of issues in military medicine which concern and affect those of us who serve in DoD Health Affairs. Your own suggestions and input are welcomed in future issues.

The American Medical Association has stated ". . . it is the ethical responsibility of any physician who knows of an apparent problem in a colleague to take affirmative action to seek treatment or rehabilitation for his follow physician." Fifty State medical associations either have developed or are developing an impaired health care provider program. Public Law 92-129 requires that DoD identify, treat and rehabilitate all military personnel who are considered chemically dependent.

Physicians, as a result of their training and professional experience, have been shown to be particularly vulnerable to becoming addicted because of the propensity for self-diagnosis and self-medication. The daily accessibility of prescription drugs creates fertile ground for misuse. In addition, medical professionals are often no better educated about the disease of alcoholism and other addictive disorders than other professionals.

We must do more than simply eliminate people from the Services who become impaired emotionally or chemically. To separate physicians, nurses and other health care professionals who have become addicted but could be successfully rehabilitated, and then recruit from a population that will be at equal risk is shortsighted.

Prevention to reduce the incidence and occurrence of new cases, identification of impairment, and intervention and treatment of providers to eliminate the potentially destructive consequences of chemical dependency and emotional impairment are of the highest priority in our efforts to maintain quality of care. Guidance regarding impaired health care providers should be incorporated into service quality assurance programs.

Impairment can become progressive if ignored. Medical and professional societies across the country recognize that only with coercion and confrontation will treatment be effective. When legal action is not required, a nonpunitive approach with emphasis on confidentiality will help promote effective impaired health care provider programs.

It is important to publicize the legitimacy of prevention, identification and treatment. Impaired physicians, nurses and other health care professionals are sometimes reluctant to seek help on their own accord. Too often, we have failed to accept the ethical responsibility of an affirmative posture. Hesitancy to act fosters denial of the problem and could result in needless tragedy.

A DoD Directive providing further guidance will be developed by a Joint-Service group in the near future regarding incorporation of a health care provider program into MTF quality assurance programs. In the meantime, I am communicating through this medium to alert you to the importance of this issue and to enlist your help.

WILLIAM MAYER, M.D.,
Assistant Secretary of Defense
(Health Affairs).

Mr. Speaker, I urge Secretary Lehman, at the very minimum, in simple fairness, to put a hold on the continued implementation of the zero tolerance policy as it pertains to health professionals until the study alluded to Dr. Mayer is finalized.

HUMANITARIAN AID TO FREEDOM FIGHTERS WORLDWIDE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 10 minutes.

Mr. DORNAN of California. Mr. Speaker, I had occasion to visit with the President of the United States on Tuesday on matters involving our economy. I took advantage of our time together to ask that the spring of next year or late winter, in February and March, when this House will again turn its attention, as will the other body, to the foreign policy of our country and what we will do following up on the President's State of the Union message, on helping freedom fighter groups across the countries and reminding him of the appreciation by many Members of this House that he brought up the freedom fighter movements in at least 5 countries around the world to Mr. Gorbachev at the summit talks in Geneva last month and so reported to this great legislative body on the evening of November 21 when we and the other body met in joint session to see a President return to us without any signs of wear and tear from the nonending meetings in Geneva, the clamor of a very large, aggressive, and interested world press corps, and the long jet flights that brought the President from Switzerland back to his United States.

President Reagan told me Tuesday that he would appreciate meeting with members of his own party, with long discussions on which direction to take in this House, and that he would also like to meet with members of the majority party in this House, the minority party in the other body, on how we can come to some sort of bipartisan agreement on the extent and the type of aid to fighters, some of them, as I discussed with the President, very young in years, people that we could describe as boys and girls in their midteens, who are willing to die to offer their lives in the struggle for freedom in their countries.

And I told the President that I had right here in North America, on the border of Nicaragua, in very roughhewn infirmaries, in no way could they be called hospitals, talked to freedom fighters, young men and young women, who were healing from wounds received in battle with the forces of the Communist government of Managua, and told them through simultaneous translation that although we had lost the vote on April 24 to give these very young fighters in those infirmaries humanitarian aid, boots, uniforms, hospital care, medical care, and food, that we would return for another vote in this House and attempt to turn that negative vote of April 24 around. I was not so sure as I stood there with Congressman VIN WEBER at my side, also assuring them we would try and win that fight for them here in the House without any threat to our lives, I was not so sure we would be able to follow through on our promises to them. I told the President that when I mentioned his name, this is last Tuesday, I told the President that when I mentioned the name of

President Ronald Reagan to them, that he wanted to help them, that some of them began to cry. The tears rolled down the faces of these combat-hardened young freedom fighters. And when I told the President that, he was visibly moved. I have no witness to verify that because I was alone in the Oval Office with the President. But I give you my word of honor he is well aware that these young people fighting in the hills of Nicaragua, laying their lives down and, for all I know, some of those very people that I discussed with the President, and his intentions to help them in May, died in some of the major offenses against them by Daniel Ortega's forces out of Managua, flying that massive, effective Hind-D Soviet-made helicopter piloted by Cuban officers, maybe some of those very people I spoke to in May died in some of the assaults around Esteli in the month of August while we were all in our districts during our summer break.

And I told the President that we had promised them we would go back and turn the vote around, and we did on June 10. In July there was even a more stunning vote in this House where we won by even a bigger margin, those of us who want to help freedom fighters. That was when we removed the infamous Clark amendments named after a United States Senator long since defeated, that we would remove this last carryover from what I call the Vietnam syndrome that lasted almost 10 years, that the United States no longer had a role of leadership in the world except possibly to try and help people from starving, even if that starvation was caused by communist governments such as the one in Addis Ababa, Ethiopia, that we had no role anywhere in the world to help freedom fighters. And that vote in July that took away the Clark amendment, that although the Clark amendment applied specifically to Angola, had thrown a cloud over Afghanistan, Cambodia, Laos—and I have been meeting recently with Laotian freedom fighters. I met recently, in the last few weeks, with people who would still like to see a return to some form of freedom in South Vietnam. In Mozambique, in the northern provinces of Ethiopia; in these eight countries around the world we have no role at all to help people because of the Vietnam syndrome, although in the last decade we have seen a C change where the insurgent groups around the world are not flying red flags and using Russian Kaloshnikov assault rifles, unless they have been taken from Communist governments. But now, except for the insurgency in the Philippines and the one we do not hear about too much any longer, in El Salvador, because President Duarte has won several elections down there and the forces of freedom are winning, now we see insurgencies around the globe in the 8 aforementioned countries where the freedom fighters are aligning themselves with liberty and democratic pluralistic systems and the expansionism of the Soviet Union and their puppet mercenaries from Cuba are on the defensive.

So I would like to discuss with Angola, which, along with Nicaragua, will be part of what the President will propose to this body in late winter/early spring, February, March, April, some of the myths that surround Angola and the Communist government in Luanda.

Myth 1 is that the Cubans are in Angola to protect the Angolan people from the oppressive South African Government. The fact is, the Cuban forces are in Angola to protect the Communist government in Luanda from the Angolan poeple. There is no threat of invasion into Angola from South Africa from South African-administrated Namibia, and the Communists know it well. It is evident by the deployment of the Soviet-equipped Cuban troops. They are not deployed along the southern Angolan border near Namibia or South Africa; they are deployed in the north around the city of Luanda, and the Cubans are also in the north in the oil-rich enclave of Cabinda which, although separated by some land, is north of the northern border of Angola.

The Cubans in the past have desperately avoided all conflict with the South African forces, but they actively participate in every military action they can against the true representatives of freedom and the people of Angola, Jonas Savimbi's forces. Also, Castro intervened in Angola long before the South African forces came to the support of Savimbi within the country. South African military forces have entered Angola primarily because the Communist government has allowed the SWAPO organization, South West African People's Organization, a Communist front group, to use Angola as a sanctuary to carry out terrorist acts against Namibia which, for good or bad, has been administered by South Africa since the German governments were removed after World War II.

Myth No. 2, that U.S. aid will only make the Communists in Angola more dependent upon the Soviet Union and Cuba. The fact is that it is hard to imagine how the Angolans could become any more dependent on the Soviets and their satraps than they already are.

We have done nothing to help the democratic resistance in Angola for over 10 years since the Senator Clark amendment was enacted into law. Yet the Soviet and the Cuban presence, without any external threat, has continued to grow. There are now more than 35,000 Cuban forces inside this large and embattled African nation.

Soviet commanders are now directing battles while Cuban pilots, just as they do in Nicaragua, fly that large, effective, and dreaded Hind-D helicopter. The helicopters and the Mig-21's flown against the Angolan people are flown by Cuban pilots, North American people killing blacks in the name of communism.

President Reagan has publicly announced that he favors aiding Jonas Savimbi's anti-Communist forces, and there is strong congressional support for renewing aid to UNITA. But the blame America first crowd in determined to prevent the United States from helping Angolan freedom fighters. These myopic fear merchants are spreading myths designed to counteract conservative actions and reintroduce the worst effects of the Vietnam syndrome.

Myth 1: The Cubans are in Angola to protect the Angolan people from the South Africans.

The fact is that the Cuban forces are in Angola to protect the Communist government from the Angolan people. There is no threat of invasion of Angola from South African administered South-West Africa/Namibia and the Communists know it. It is evident by the deployment of Soviet-equipped Cuban forces. They are not deployed along the southern Angolan border, where they would be if there was any fear of invasion. The Cubans are in the north around the capital city of Luanda and in the oil rich Cabinda enclave north of Angola proper. The Cubans in the past have avoided clashes with South Africa; but they actively participate in military action against the true representatives of the Angolan people, Savimbis forces.

Also, Castro intervened in Angola long before South African forces came to the support of Savimbi within the country. South African military forces have entered Angola primarily because the communist government has allowed the South West African People's Organization [SWAPO] to use Angola as sanctuary to carry out terrorist acts against South-West Africa/Namibia.

Myth 2: U.S. aid will only make the communists in Angola more dependent on the Soviet Union and Cuba.

The fact is that it is hard to imagine how the Angolans could become any more dependent on the Soviets and their satraps. We have done nothing to help the democratic resistance in Angola for over 10 years, yet the Soviet and Cuban presence has continued to grow. There are more than 35,000 Cuban forces inside that embattled nation. Soviet commanders are now directing battles, while Cubans pilot the Soviet Hind helicopters and Mig fighters flying against the Angolan people.

While United States-owned Gulf/Chevron Oil has created more than 60 percent of the hard currency that pays for communist control of Angola, the Soviet Union has taken about $2 billion of these petro dollars for military equipment support. The

Soviet Union has given precious little in economic aid, and what little they did give is certainly not free.

Myth 3: Support for UNITA is support for Apartheid.

The fact is South African support for UNITA, like that of other African nations, stems from a common goal—riding Africa of the scourge of Soviet hegemony and of the economic stagnation that always accompanies communism. No one of conscience supports the machinations of apartheid, but why curse the Angolan people with a system that keeps them apart from freedom. Reform within South Africa is far too slow but will come to a stop if communism overwhelms Savimbi and takes over in all of Angola. It is the height of hypocrisy for liberals to denigrate South Africa's relationships with its neighbors. Not only do a number of black African nations support UNITA, and find no conflict, but even the so-called front line states recognize and accept South Africa's economic leadership in the region.

Myth 4: Savimbi is a Marxist.

The fact is Savimbi is not a Marxist. Savimbi stands for negotiated settlement and pluralism, the unification of his country, and the elimination of all foreign troops from Angola. It is true that prior to 1975, Savimbi did receive Chinese support from Mao, and advocated a socialist program along Chinese lines. But even John Stockwell, the former CIA Angolan task force officer, and now unfortunately is an ardent opponent of U.S. involvement anywhere because of frustration over weak policies, stated Savimbi was "neither a Marxist nor capitalist * * * but an Angolan patriot."

What is most interesting about this myth is the people who support it have made careers of endorsing or supporting Marxist governments elsewhere. All of a sudden, these dedicated liberals are now concerned that President Savimbi's political philosophy may be left of center. These same individuals show no such concern over Marxists in Mozambique, in Nicaragua, or in the Soviet Union.

Myth 5: The MPLA is negotiating a Cuban withdrawal.

The fact is that the MPLA is negotiating a permanent Cuban presence. It is the Cuban presence that is actually undermining U.S. efforts to bring peace and stability to the region.

Angola, like other Communist nations, uses negotiations as a tactical tool in support of its parochial interests. Communists do not enter negotiations as a means of compromise or for mutual problem solving.

For nearly 10 years the United States has been attempting to negotiate in good faith with the Luanda government. The U.S. State Department has again expressed hope over negotiations. But it is curious that this renewed dialogue only occurs in the wake of U.S. declarations of possible support for action against the Communist regime in Luanda.

Myth 6: The Democratic Resistance cannot win:

The simple fact is that UNITA forces are winning. This is the reason the Soviet and Cubans have stepped up their activities within Angola. The pro-Western forces today control a substantial portion of the Angolan countryside and enjoy considerable popular support. The area under their control is well managed and free. But these free areas come under regular attack by Soviet and Cuban manned aircraft and tanks.

The UNITA freedom forces have been fortunate in that, even without United States help, they have held their own against superior forces that are Soviet-equipped and Cuban-trained. The Communist forces have launched a major offensive in August against UNITA, with direct Soviet and Cuban assistance, direction and participation. The UNITA forces are managing with substantial loss of life to hold on to their territory, but reports indicate that they may not be able to hold on indefinitely in the face of superior Soviet weapons.

The forces of freedom are on the very edge of turning the struggle to bring down the Communist government in Luanda. We, the United States, can make the difference. As President Reagan correctly said in his speech before the United Nations last month, "America's moral and material support for struggling resistance forces must not and shall not cease." I will try in February and March to support our President resolve to do what is right. Join me.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 1083. An act to amend the Low-Level Radioactive Waste Policy Act to improve procedures for the implementation of compacts providing for the establishment and operation of regional disposal facilities for low-level radioactive waste, and for other purposes.

☐ 1715

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair is awaiting the arrival of the Interior and Insular Affairs Committee to make a unanimous-consent request.

The Chair, in the meantime, would entertain any 1-minute requests.

RECESS

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that the House stand in recess until 5:45 p.m.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The House stands in recess until 5:45 p.m.

Accordingly (at 5 o'clock and 20 minutes p.m.), the House stood in recess until 5:45 p.m.

☐ 1740

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. KILDEE] at 5 o'clock and 47 minutes p.m.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will recognize Members for 1-minute requests or for special orders.

BLESSED ARE THE PEACEKEEPERS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 5 minutes.

Mrs. BENTLEY. Mr. Speaker, on Thursday, December 12, 248 members of the 101st Airborne died on their way home from a vital peacekeeping mission in the Mideast. They died serving their country in the highest calling possible, keeping the peace.

Too often, when we hear of tragedies that involve many people, we hear only the numbers, we sometimes fail to understand the tragedy on its human level.

These servicemen and the crew of the plane had families and friends in almost every State—the loss is felt nationwide.

Last week, we lost two young service men with families from our district, seven all together from Maryland—the faces of tragedy are known in our neighborhoods.

One of the young men, Alexander Stearn, of Lutherville—my hometown—was aboard that plane. Five others, James Duckworth, David Heidecker, Robert Hoyer, Christopher Thornton, and Michael Whiteman, were from Maryland.

The next day, a young sailor, Seaman William E. Davis, whose grandparents live in Perry Hall, died in the hospital at Norfolk from injuries received in an accident while serving at Guantanamo Bay, Cuba. He was painting his ship and fell onto a barge from a Jacob's ladder.

Both young men were 21 years old. The beginning of their lives—but, like many soldiers and sailors and airmen before them—hopes and dreams will not be fulfilled.

As a memorial to all of these men and women, we should renew, redouble our efforts to achieve a meaningful peace in the Middle East. One that will not require our troops—our loved ones—to be stationed, at risk, in any foreign post; and, one that will not require them to, possibly, sacrifice their lives.

In the interim, many questions need to be answered about charter services which seem to be regularly used for transport by the military. I am aware that millions of air miles have been safely flown by military charters. However, when we ask our soldiers, sailors and airmen to place themselves in harm's way, it is only fitting that we provide them with the best and safest transportation to return them to their loved ones.

Our sympathy today goes not only to the relatives and friends of these men and women—to the Stearn family and the Davis family—but also to General Burton Patrick and the 101st Airborn Division at Fort Campbell.

Some of my staff visited Fort Campbell in August. They came back with reports of the fine training program being run down there by General "Pat" Patrick—how proud the troops were to be a part of the "Screaming Eagles."

I'm sure the troops lost in Gander felt that same pride. And the men and women at Fort Campbell feel their loss at the deepest level. Comrades have gone down.

We ask a lot of our soldiers and sailors in peace time. The danger many of them face daily is forgotten by the rest of us as we go about our busy lives—until a Gander occurs. Then we must pause and think about them all—the quick and the dead.

We must be grateful to them all for taking our place in some far off corner of the world—at great risk to themselves.

The Beatitudes say, "Blessed are the peacemakers: for they shall be called the children of God." In these days of turmoil in the world—I think Jesus would have also blessed the peacekeepers—so should we all.

□ 1755

RECESS

Mr. COELHO. Mr. Speaker, I move that the House recess until 6:30 p.m.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. Coelho].

The motion was agreed to.

Accordingly (at 5 o'clock and 55 minutes p.m.), the House stood in recess until 6:30 p.m.

□ 1830

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. Wright] at 6 o'clock and 32 minutes p.m.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 2466. An act to make miscellaneous changes in laws affecting the U.S. Coast Guard, and for other purposes; and

H.R. 3718. An act to waive the period of congressional review for certain District of Columbia acts authorizing the issuance of revenue bonds.

The message also announced that the Senate agrees to the amendments of the House to the bill (S. 1706) entitled "An act to authorize the Architect of the Capitol, in cooperation with the Union Station Redevelopment Corporation, to design a building or buildings adjacent to Union Station in Washington, DC."

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 1298. An act to coordinate and expand services for the prevention, identification, and treatment of alcohol an drug abuse among Indian youth, and for other purposes;

S. 1831. An act to amend the Arms Export Control Act to require that congressional vetoes of certain arms export proposals be enacted into law;

S. 1840. An act title 5, United States Code, to revise the authority relating to the payment of subsistence and travel allowances to Government employees for official travel; to prescribe standards for the allowability of the cost of subsistence and travel of contractor personnel under Government contracts; and for other purposes.

DISTRICT OF COLUMBIA REVENUE BOND ACT OF 1985

Mr. DELLUMS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3718) to waive the period of congressional review the certain District of Columbia acts authorizing the issuance of revenue bonds with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 2, strike out lines 20 to 23, inclusive.

Page 2, line 24, strike out "(3)" and insert "(2)".

Page 3, strike out lines 3 to 6, inclusive.

Page 3, after line 6, insert:

(3) The American University Revenue Bond Act of 1985 (Series A), District of Columbia act 6-111, transmitted to the Speaker of the House and the President of the Senate December 4, 1985.

(4) The George Washington University Revenue Bond Act of 1985 (Series A).

The provisions of subsections (a) and (b) shall not apply to the District of Columbia act described in clause (4) of this subsection unless such act is passed by the District of Columbia by December 31, 1985. If the District of Columbia act described in clause (4) is passed by the District of Columbia after the date of enactment of this Act but before January 1, 1986, the effective date of such act, notwithstanding subsection (b) of this section, shall be the date of passage by the District of Columbia.

Mr. DELLUMS (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. BLILEY. Mr. Speaker, reserving the right to object, I do so to ask the gentleman [Mr. Dellums] to explain the amendment, and I yield to the gentleman from California [Mr. Dellums] for that purpose.

Mr. DELLUMS. I thank my distinguished colleague for yielding.

First, Mr. Speaker and Members of the House, the purpose of the bill H.R. 3781, which passed the House several weeks ago was to waive the 30-day congressional review period required by section 6021(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act, euphemistically referred to as the Home Rule Act, for certain acts passed by the District of Columbia which authorized the issuance of revenue bonds.

Further, I would say to my colleague, the District of Columbia acts authorizing the issuance, sale, and delivery of revenue bonds referred to are as follows: the Georgetown University Higher Education Facilities Revenue Bond Act of 1985, the George Washington University Revenue Bond Act of 1985, Sibley Memorial Hospital Revenue Bond Act of 1985, and finally, the Washington Hospital Center Corporation Revenue Bond Act of 1985.

Those were the four issuances that passed the House of Representatives. The Senate amendment took out two of the bond issuances that passed the House that have now already become law as a result of time. They are specifically the George Washington University Revenue Bond Act of 1985, District of Columbia Act 6-76, and also the Washington Hospital Center Corporation Revenue Bond Act of 1985, District of Columbia Act 6-92.

So those two were deleted.

What the Senate included as their amendments were two additional issuances: George Washington University Bond Issuance, 1985, D.C. 6114, and American University Issuance DC6112.

So to summarize, the House of Representatives asked to waive the 30-day congressional review period for the purposes of the issuance of four bonds, two of them have now become law. What the Senate bill simply did was to strike the two that have already become law, leave the two that passed the House, and added the two that the gentleman just referred to.

The recommendation of this side of the aisle is that we accept the Senate amendments and concur in the Senate amendments.

Mr. BLILEY. Mr. Speaker, further reserving the right to object, the minority fully supports the bill and the Senate amendments, and I withdraw my reservation.

Mr. WALKER. Mr. Speaker, reserving the right to object, do I understand that the unanimous consent is for consideration only and that the question will be put on the bill?

The SPEAKER pro tempore. This is a unanimous-consent request to concur in the Senate amendments.

Mr. WALKER. Further reserving the right to object, Mr. Speaker, the original motion of the gentleman, was it for consideration?

The SPEAKER pro tempore. The original request of the gentleman was to concur in the Senate amendments. The request immediately pending is to waive further reading and to consider the Senate amendments as having been read.

Mr. WALKER. Further reserving the right to object, I wonder if the gentleman could revise his motion to allow unanimous consent for consideration so that we do not have to go through a rules process but would do so in a way that the Chair can, in fact, put the question on the legislation.

The SPEAKER pro tempore. The Chair would state that if the reservations are withdrawn, all that is agreed to at this moment is that the Senate amendment be considered as read. Later the Chair will ask if there is objection to the gentleman's request that the Senate amendment be agreed to.

Mr. WALKER. I thank the Chair. I understand the position we are in, and I certainly do not have any objection to the situation of no further reading. What I am seeking to do is to get a vote on the final passage of the resolution, and that would evidently demand a little different kind of motion from the gentleman. I do not want to stand in the way. I intend to vote for the legislation. But I would like to do it with a record vote at this point in the evening.

So if the gentleman [Mr. DELLUMS] could modify his request so that when we get to that point, the Chair puts the question on the legislation.

Mr. DELLUMS. Mr. Speaker, will the gentleman yield?

Mr. WALKER. Under my reservation, I yield to the gentleman from California.

Mr. DELLUMS. This gentleman understands what our unanimous consent request is. The gentleman is not in opposition to it. What the gentleman is attempting to do is simply bringing the Members of the body over here and using the vehicle of a rollcall vote in order to do it. This gentleman has no objection to that.

Mr. WALKER. The gentleman is correct.

Mr. Speaker, I withdraw my reservation to the pending unanimous consent request and then will assume that the gentleman will make a different unanimous consent request to the one which was made in the first instance.

The SPEAKER pro tempore. The gentleman withdraws his reservation of objection?

Mr. WALKER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

The Chair reads no objection to dispensing with further reading of the Senate amendments.

Now the gentleman from Pennsylvania apparently desires a recorded vote. The Chair would advise that one of two things might occur. The gentleman from California might withdraw his initial request and ask unanimous consent for immediate consideration of the Senate amendment in the House.

Mr. DELLUMS. Mr. Speaker, I would amend my request to reflect the recommendation of the Speaker.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. Does the gentleman now move to concur in the Senate amendments?

Mr. DELLUMS. I so move, Mr. Speaker.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. DELLUMS] to concur in the Senate amendments.

The question was taken, and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device; and there were—yeas 344, nays 3, answered "present" 2, not voting 85, as follows:

[Roll No. 478]

YEAS—344

Akaka
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
AuCoin
Badham
Barnes
Bartlett
Barton
Bateman
Bates
Bedell
Beilenson
Bennett
Bentley
Bereuter
Berman
Bilirakis
Bliley
Boehlert
Boggs
Boner (TN)
Bonior (MI)
Bonker
Borski
Bosco
Boucher
Boulter
Breaux
Brooks
Brown (CA)
Brown (CO)
Broyhill
Bruce
Bryant
Burton (CA)
Burton (IN)
Bustamante
Byron
Callahan
Campbell
Carney
Carper
Carr
Chandler
Chappell
Chappie
Coats
Cobey
Coble
Coelho
Coleman (MO)
Collins
Combest
Conte
Cooper
Courter
Coyne
Craig
Crane
Dannemeyer
Darden
Daschle
Daub
de la Garza
DeLay
Dellums
Derrick
DeWine
Dingell
DioGuardi
Donnelly
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Eckart (OH)
Eckert (NY)
Edgar
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Evans (IA)
Evans (IL)
Fascell
Fawell
Fazio
Feighan
Fiedler
Fields
Fish
Foglietta
Foley
Ford (TN)
Fowler
Frank
Frenzel
Gallo
Gejdenson
Gekas
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gradison
Gray (PA)
Grotberg
Guarini
Gunderson
Hall (OH)
Hall, Ralph
Hamilton
Hammerschmidt
Hansen
Hartnett
Hatcher
Hawkins
Hayes
Henry
Hertel
Hiler
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Johnson
Jones (NC)
Jones (OK)
Jones (TN)
Kanjorski
Kasich
Kastenmeier
Kemp
Kennelly
Kildee
Kleczka
Kolbe
Kostmayer
Kramer
Lagomarsino
Lantos
Latta
Leach (IA)
Leath (TX)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lloyd
Long
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
Lungren
Mack
MacKay
Madigan
Manton
Markey
Martin (IL)
Martin (NY)
Matsui
Mavroules
Mazzoli
McCain
McCandless
McCloskey
McCollum
McCurdy
McDade
McEwen
McHugh
McKernan
McMillan
Meyers
Michel
Mikulski
Miller (OH)
Miller (WA)
Mineta
Mitchell
Moakley
Molinari
Mollohan
Montgomery
Moody
Moore
Moorhead
Morrison (WA)
Mrazek
Murtha
Myers
Natcher
Neal
Nelson
Nielson
Nowak
O'Brien
Oakar
Oberstar
Ortiz
Owens
Oxley
Packard
Parris
Pease
Penny
Pepper
Perkins
Pickle
Porter
Pursell
Rahall
Rangel
Ray
Regula
Reid
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Roemer
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Sabo
Savage
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Shaw
Shelby
Shumway
Shuster
Sikorski
Siljander
Sisisky
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Snyder
Solarz
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Strang
Stratton
Studds
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)

Thomas (GA)
Torres
Torricelli
Towns
Traficant
Udall
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Waxman
Weber
Weiss
Wheat
Whitley
Whittaker
Wilson
Wise
Wolf
Wolpe
Wortley
Wright
Wyden
Yatron
Young (AK)

NAYS—3

Rudd
Solomon
Stump

ANSWERED "PRESENT"—2

Gephardt
Obey

NOT VOTING—85

Ackerman
Addabbo
Alexander
Aspin
Atkins
Barnard
Bevill
Biaggi
Boland
Boxer
Broomfield
Chapman
Cheney
Clay
Clinger
Coleman (TX)
Conyers
Coughlin
Crockett
Daniel
Davis
Dickinson
Dicks
Dixon
Dowdy
Early
Flippo
Florio
Ford (MI)
Franklin
Frost
Fuqua
Garcia
Gaydos
Gibbons
Gordon
Gray (IL)
Green
Gregg
Hefner
Heftel
Hendon
Hillis
Kaptur
Kindness
Kolter
LaFalce
Lehman (CA)
Lehman (FL)
Lipinski
Loeffler
Marlenee
Martinez
McGrath
McKinney
Mica
Miller (CA)
Monson
Morrison (CT)
Murphy
Nichols
Olin
Panetta
Pashayan
Petri
Price
Quillen
Richardson
Roybal
Russo
Seiberling
Sharp
Stokes
Traxler
Watkins
Weaver
Whitehurst
Whitten
Williams
Wirth
Wylie
Yates
Young (FL)
Young (MO)
Zschau

□ 1900

Mr. STUMP and Mr. RUDD changed their votes from "yea" to "nay."

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DELLUMS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the motion just agreed to.

The SPEAKER pro tempore (Mr. WRIGHT). Is there objection to the request of the gentleman from California?

There was no objection.

LOW-LEVEL RADIOACTIVE WASTE POLICY AMENDMENTS ACT OF 1985

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1083) to amend the Low-Level Radioactive Waste Policy Act to improve procedures for the implementation of compacts providing for the establishment and operation of regional disposal facilities for low-level radioactive waste, and for other purposes with Senate amendments thereto, concur in the Senate amendment to the title, and concur in the Senate amendment to the text with an amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendments and the House amendment to the Senate amendments as follows:

(Senate amendments appear in the Senate proceedings in Part III.)

House amendment to Senate amendments: Page 33, strike line 15 and all that follows through "actions"; on page 36, line 13.

Mr. UDALL (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments and the House amendment to the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. KILDEE). Is there objection to the request of the gentleman from Arizona?

Mr. LUJAN. Reserving the right to object, Mr. Speaker, I take this time simply to ask the chairman of the Committee on Interior and Insular Affairs to give us an explanation as to what is in this bill and what differences there might be between us and the Senate.

Mr. DINGELL. Mr. Speaker, I also reserve the right to object.

Mr. UDALL. Mr. Speaker, will the gentleman yield?

Mr. LUJAN. I yield to the chairman of the committee.

Mr. UDALL. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, the Senate has been involved in internal negotiations on the low-level radioactive waste compact legislation for a number of weeks. The bill they sent to us today is a tenuous settlement which we understand is acceptable both to States with low-level waste disposal capacity, and to those States needing disposal capacity until new sites can be developed. It is tough on the States that have to develop this capacity over the next 7 years, but there is a consensus that we should settle this legislation and approve the compacts this year so that the regional groups can move forward to build their new management capability.

We have agreed to accept the Senate proposal, with its substantially tougher milestones and tighter emergency exemption provision. Most significant, we have agreed to the Senate's requirement that the States take title to low-level waste generated in their territory in 1996. We believe all States will have developed management ability by that time. Although States are also liable for damages consequential to taking title to the waste, we intend this a very narrow liability limited to situations in which State actions are directly involved.

We believe the States will act responsibly to take care of low-level waste, and that waste obligations under the Atomic Energy Act.

I encourage support of this bill and congratulate my colleagues on their effort. Mr. DINGELL, Mr. MARKEY, Mr. LUJAN, Mr. BROYHILL, and particularly Mr. DERRICK who has so ably represented the interests of both his State and the Nation.

Mr. BONKER Mr. Speaker, I would like to express my support for H.R. 1083, the Low-Level Radioactive Waste Policy Act Amendments of 1985, and trust that in these final moments of this session, Congress will give final approval to this important legislation. If we fail to act on this bill in a timely manner, Congress will have lost an opportunity to avert a potential crisis, and the consensus that has developed in support of the measure could be pulled apart.

Currently, an intolerable situation exists with respect to the disposal of low-level radioactive waste—nuclear garbage which is slightly radioactive and generally decays within a matter of years. Three States, Washington, South Carolina and Nevada, now have the Nation's only commercial low-level disposal sites. My State of Washington took 52 percent of this waste last year.

Understandably, the people of these three States do not want to continue to be the dumping grounds for low-level radioactive waste from other States when those States could dispose of their own waste locally. Inaction has forced the Governors of the three receiving States to threaten to close their disposal sites by January 1 if Congress fails to approve this legislation, which would force other regions to handle their own waste by the end of 1992.

It appeared that Congress had solved the low-level waste problem in 1980 with the enactment of the Low-Level Radioactive Waste Policy Act. The act allows States to form regional disposal compacts and, upon congressional ratification, turn away all waste from outside their regions after January 1, 1986. Seven regional compacts have been sent to Congress for ratification. Unfortunately, delays have prevented the opening of any other commercial disposal sites and Congress has refused to ratify any of the compacts.

The amendments now under consideration are the result of a delicately crafted compromise which enjoys almost universal support. The House passed its version of the measure unanimously. In brief, the bill would continue nationwide access to the three commercial disposal sites through the end of 1992. In exchange, areas without waste sites would have to meet a series of interim deadlines for opening their own disposal sites. A State or region missing the deadlines would risk losing disposal access.

Without passage of this legislation, the three receiving States could decide to make good on their threat to close their sites to all outside waste. This would cause a low-level radioactive waste disposal crisis that would have an almost immediate impact on hospitals and research facilities, which typically have limited storage facilities. Nuclear powerplants, which produce most of

the Nation's low-level waste, usually have several month's storage capacity onsite. This disposal crisis can be averted by the passage of this vital measure.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent to revise and extend my remarks, and also that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of the legislation now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona that the amendments be considered as read and printed in the RECORD?

Mr. LUJAN. Mr. Speaker, further reserving the right to object, the bill we are acting upon tonight does not contain a particular provision which would straighten out some problems we have been having relating to the disposal of substances under the Hazardous Waste and Solid Waste Disposal Act at low-level radioactive disposal sites.

I am particularly concerned about this issue, and I note that the two versions of H.R. 1093 which this body has previously passed and sent to the other body contained a section relating to the disposal of mixed waste. In particular, each of these sections provided that the Administrator of EPA and the Nuclear Regulatory Commission would jointly revise and promulgate regulations relating to mixed waste as those regulations would be involved in the disposal of hazardous waste in a low-level-radiation waste disposal facility.

☐ 1910

In addition, these sections would provide for the consolidation of procedures for applications for permits under the Solid Waste Disposal Act and licenses under part 61 of title X, Code of Federal Regulations.

Thus, we are left with a big problem that we had spent weeks and weeks trying to solve. Earlier today, Chairman UDALL and the gentleman from Michigan [Mr. DINGELL] assured us that we would be having hearings on this sensitive issue early next year and that we would visit that issue. All of us have accepted that assurance, and while I am sure we would prefer to see Congress resolve the matter once and for all today, I and others have agreed to support this bill, even though this important section has been deleted.

So with that understanding, Mr. Speaker, I urge my colleagues to support this legislation.

Mr. BROYHILL. Mr. Speaker, will the gentleman yield?

Mr. LUJAN. Mr. Speaker, under my reservation, I yield to the gentleman from North Carolina.

Mr. BROYHILL. I thank the gentleman for yielding.

I merely want to say that congratulations are in order to my colleagues for their willingness to work out this bill. I think this is a good example of where Members can work together on a bipartisan basis to bring out a very complex bill. It took a great deal of hard work and a lot of good will and cooperation to bring the bill this far. I want to thank them for their efforts in bringing it this far.

The gentleman from Michigan, the gentleman from Massachusetts, the gentleman from California, the gentleman from New Mexico, the gentleman from South Carolina [Mr. DERRICK], and others have worked very hard on this bill. I urge my colleagues to vote in favor of it.

It is a fact that the concern the gentleman just brought up is one provision that has been struck from this bill, but as the gentleman knows, there are some differences of opinion on both sides. I think this is something we can resolve later, but we ought to go ahead and pass this bill tonight.

Mr. MOORHEAD. Mr. Speaker, will the gentleman yield?

Mr. LUJAN. I am happy to yield to the gentleman from California.

Mr. MOORHEAD. Mr. Speaker, I wish to congratulate my colleagues on both sides of the aisle for the tremendous job they have done in bringing this low-level waste bill to the House tonight in its present form.

Mr. Speaker, I am very happy that we are today accepting the Senate amendment to the House low-level radioactive waste bill. I believe this is a strong bill and I compliment my colleagues on their willingness to adopt the Senate version of H.R. 1083, with one change in order to adopt low-level radioactive waste legislation this year. The Senate version is based on the House version with a few changes. I believe my colleagues have handled a challenging situation quickly and well, and I want to thank them for all their efforts.

This bill responds positively to the needs of the three States in which disposal facilities are located and encourages other States to develop sites. It provides the three sited States with the authority to impose surcharges on generators from States which have failed to meet the milestones for the development of new sites. It also provides for a rebate of 25 percent of the surcharges changed for each of the milestones met.

Additionally, the bill provides emergency access to the existing three sites whenever necessary to address a threat to the public health and safety. Moreover, this bill limits the number of extensions to one, and conditions the emergency access upon a showing of diligence by the States who have failed to meet milestones.

Finally, in the interest of reaching agreement this year on low-level radioactive waste legislation, the House has agreed to address the question of how mixed waste—waste which is both hazardous and slightly radioactive—should be regulated early next year.

In sum, I believe the bill we have before us now is a good bill and should be approved.

Mr. LUJAN. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from South Carolina [Mr. CAMPBELL].

Mr. CAMPBELL. Mr. Speaker, I want to compliment the gentleman and those involved for bringing this to a head here at the 11th hour.

I would urge that all present here support the effort to send this back, to take the amendment and send it back to the Senate, and that we go ahead and pass this measure. I think it is extremely important, not only to the State of South Carolina, but to the entire Nation.

I thank the gentleman for yielding.

Mr. DERRICK. Mr. Speaker, will the gentleman yield?

Mr. LUJAN. I am happy to yield to the gentleman from South Carolina.

Mr. DERRICK. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, this is a problem that we as a nation have failed to deal with for the last 50 years. This is one of the first steps that we have made as a nation to take care of low-level nuclear wastes.

I want to commend the gentleman from Arizona [Mr. UDALL], Chairman DINGELL, Chairman MARKEY, the gentleman from North Carolina [Mr. BROYHILL], and many others who have spent thousands of hours in bringing this bill to this point.

I ask that you support it tonight. We need to pass it. We need to get it on the books to have a sane, low-level nuclear policy in this country.

Mr. LUJAN. Mr. Speaker, does the gentleman from Michigan [Mr. DINGELL] want me to yield, or does the gentleman want his own time?

Mr. DINGELL. Mr. Speaker, I will seek my own time, but I would certainly commend the gentleman for his contribution.

Mr. LUJAN. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, I support the action today as a reasonable compromise on the low-level waste issue. The Senate amendment is very similar to the House-passed bill. Matters that were dropped, in many cases, can and will be accomplished through existing laws.

The issue of the regulation of mixed waste, that is the waste in both hazardous waste and low-level waste, has been a highly controversial issue in this bill. There are strongly held views on both sides and, frankly, there is just not enough time to resolve the differences at this point. The Energy and Commerce Committee is committed to holding hearings on this issue early next year, and I understand that Chairman UDALL has agreed to make a similar commitment.

One issue which was addressed in the House bill and not included in the Senate bill concerns the question of class C waste.

The House provision required the NRC to review its disposal requirements for materials whose hazardous life exceeds the period of institutional control and to increase the stringency of such requirements by rule if necessary to protect the public health and safety.

The Senate contained a provision which requires the licensing of above class C waste. Given this provision, a separate provision relating to the regulation of class C waste was not necessary provided that the NRC carry out the mandate of the House provision under its existing authorities as well as its expanded authorities in the Senate bill. It is our intent that the NRC does conduct the review required in the House bill. The proper procedures for handling and disposing of class C waste is a matter of serious concern. As chairman of the Energy Conservation and Power Subcommittee, and as a manager of this legislation, I am committed to ensuring that the NRC carries out the mandate of the House provision.

It is our understanding that when the NRC shall consider waste streams on a case-by-base basis under the below regulatory concern section, they shall also consider the cumulative impact of such exemptions.

Let me make a few remarks about the emergency access provision.

There are several issues concerning the emergency access provision which I would like to clarify at this point.

First, the emergency access provision does not limit the number of grants of emergency access which a generator or Governor may request. While it is clear that a generator may only seek one extension of a grant of access, nothing in this provision would permit a generator from seeking more than one grant of emergency access.

Second, when the NRC is making a determination to grant emergency access on whether an alternative to access exists, the NRC shall consider not only the threat to the public health and safety if activities which lead to the production of waste were curtailed or stopped. For example, if the cessation of operations at a concern which produces medical devices would mitigate the need for access, but would at the same time impact the quality of medical care available to the public, requiring the concern to cease operation would not be an alternative consistent with the public health and safety.

One of the more controversial provisions in the Senate bill relates to States assuming title and liability for waste in 1996 and to require States to reimburse generators for surcharges. I have requested the Congressional Research Service to study the constitutionality of such a requirement. Their findings, in a study dated December 16, 1985, found that these provisions raise constitutional issues under the 10th and 11th amendments. I agree. I cannot recall any statute which has ever sought to impose such a liability on States. The provision may not pass a constitutional challenge and if it should, I would expect the interpretation of liabilities to be construed extremely narrowly, and not broadly as some may contend. It is upon such a narrow interpretation that I have agreed to this provision.

Because the provision comes in only 1996 or 1993, it is intended that the provision be severable from the rest of the act, should it be found unconstitutional. I further note that the provision requiring taking title is applicable to all States, not just those whose compact is conditionally consented. This fact raises further constitutional questions, raised by the Congressional Research Service, since it cannot be said that this requirement is a condition for consent.

In the House bill a clear statement was made that utilities are entitled to 11.9 million cubic feet and nonutility generators are entitled to 7.7 million. Under the Senate bill only mention is made as to the 11.9 million cubic feet allocated to the utilities. It is our understanding that nonutilities are entitled to 7.7 million cubic feet under this bill, that is, the remaining capacity under section 5(b). In addition, the section of this bill which authorizes the sited States to limit the acceptance of low-level radioactive waste to a total amount over the 7-year period requires those State to accept at the very least the aggregate amounts listed in section 5(b).

Mr. LUKEN. Mr. Speaker, will the gentleman yield?

Mr. LUJAN. I yield to the gentleman from Ohio.

Mr. LUKEN. Mr. Speaker, as the gentleman from Massachusetts was saying, the bill as it came out of the Energy and Commerce Committee included an amendment which would clarify that the Environmental Protection Agency has authority to regulate mixed wastes at facilities zoned by the Department of Energy.

This is very important to my district. I consider it a very important amendment.

Now, it is not my intention to hold this up, since the Senate has stripped it out and has taken the action at this late hour of taking it out. I will not insist upon this amendment and I will not object, but I am glad that the gentleman from Massachusetts has made it clear that there will be a series of hearings and I hope that we can include in those series of hearings the question of Federal facilities and the EPA control of such facilities.

Mr. MARKEY. Mr. Speaker, will the gentleman continue to yield?

Mr. LUJAN. I am happy to yield.

Mr. MARKEY. Mr. Speaker, I give assurances to the gentleman from Ohio that the issue to which he refers will be dealt with comprehensively in hearings before the Energy and Commerce Committee and that his interest in the issue is, in fact, the spurring motivation for those hearings.

Mr. LUKEN. Mr. Speaker, I thank the gentleman.

Mr. MARKEY. Mr. Speaker, I ask the gentleman from New Mexico if he will continue to yield.

Mr. LUJAN. I am happy to yield.

Mr. MARKEY. Mr. Speaker, while this compromise includes some provisions I am highly skeptical of and which may be of dubious constitutionality, such as the requirement relating to taking title by the State or reimbursing generators, it does include many important provisions from the House bill, and I think it will resolve a potential crisis that looms in this area; so I support this compromise.

Mr. Speaker, I would like to ask the indulgence of the gentleman from New Mexico if it would be possible for me to engage in a colloquy with either the gentleman from Arizona or the gentleman from Michigan as to the issue of so-called class "C" wastes.

Mr. Speaker, the House bill contained language, approved by both committees of jurisdiction, which instructs the NRC to undertake a review of its regulations concerning the disposal of so-called class C wastes, and, if necessary to enter a formal rulemaking to ensure that such disposal standards are adequate to minimize the threat to the public health and safety which may arise in connection with materials for which the hazardous life exceeds the period of institutional control established in present regulations.

The Senate bill, to which we are largely receding, does not contain such an explicit study provision. Rather, it is my understanding that it contains language which would establish a new requirement that the NRC license any disposal facility for so-called above class C wastes, for which the Federal Government is explicitly given management responsibility for the first time.

Am I correct in saying, that our decision to recede to the Senate provision on this point, and not to insist on the class C study provision contained in the House bill, is made in the belief that such a study will be necessary in order for the NRC to execute its responsibility to provide for licensing the entire so-called orphan waste category, which it is now responsible for under this act?

Mr. UDALL. Mr. Speaker, will the gentleman yield?

Mr. LUJAN. I am glad to yield.

Mr. UDALL. Mr. Speaker, I am glad to concur in the commitment the gentleman from Ohio [Mr. Luken] made 1 minute ago.

With regard to the question the gentleman just propounded, I would say yes, the gentleman is correct.

It is my belief that the language in the act, now contained in section 3, which requires the Federal Government to assume responsibility for disposing of all above class C wastes, and which requires that such disposal be accomplished in licensed facilities, gives the NRC all the authority necessary to accomplish the kind of review contemplated in the House language, and further, that such a review will, in my opinion, be found necessary in order for the NRC to discharge its responsibilities under section 3 of the bill now under consideration.

Mr. MARKEY. Mr. Speaker, I thank the gentleman very much for his assurances.

I compliment the gentleman from New Mexico and the chairman of the full Committee on Energy and Commerce and the Interior Committee, the ranking minority members of the relative committees, and especially the gentleman from California [Mr. Moorhead] who worked with me on our committee in the effort that he has put into this particular bill.

We have worked long and hard, along with the gentleman from Washington [Mr. Smith] and the gentleman from South Carolina [Mr. Derrick] and many others to make this bill in fact the success that it has become.

Mr. LUJAN. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Washington [Mr. Foley].

Mr. FOLEY. Mr. Speaker, I rise in support of the bill and the amendment and compliment all who have taken part in reaching this compromise.

Mr. LUJAN. Mr. Speaker, further reserving the right to object, I have two other requests for time. Under my reservation, I yield to the gentleman from Washington [Mr. Morrison].

Mr. MORRISON of Washington. Mr. Speaker, I thank the gentleman from New Mexico for yielding me this time.

Mr. Speaker, Congress made a promise back in 1980 on the subject of low-level wastes. This bill is a partial fulfillment of that promise, and a satisfying fulfillment. It approved seven regional compacts and a compromise plan for the future rquested by the current three host States.

The measure reflects excellent work done by the House, modified slightly by the Senate, and an agreement worked out, as we have heard in the colloquy between the two chairman.

I compliment the chairmen involved, the gentleman from Arizona [Mr. Udall], the gentleman from Michigan [Mr. Dingell], and the gentleman from Massachusetts [Mr. Markey] and the appropriate ranking Members.

We have this evening by the passage of this measure fulfilled a promise made a number of years ago and we put low-level nuclear waste in the difficult job of the "well done" column for the 99th Congress.

Mr. LUJAN. Mr. Speaker, further reserving the right to object, let me ask the chairman of the Energy Committee, does the gentleman want me to yield?

Mr. DINGELL. Yes; Mr. Speaker, will the gentleman yield?

Mr. LUJAN. I yield to the distinguished gentleman from Michigan.

Mr. DINGELL. Mr. Speaker, the gentleman is doing a splendid job of administering the time on this. I want to commend the gentleman for it, not only for his patience, but for the grace with which he does it in this matter.

Mr. Speaker, I commend all the Members who have worked on this, the gentleman from New Mexico [Mr. Lujan], who has been handling the time so well; our good friend, the gentleman from South Carolina [Mr. Derrick], to whom this legislation has been a matter of special concern; the gentleman from Washington [Mr. Swift] who has worked hard on this matter, as has the gentleman from Massachusetts [Mr. Markey] the distinguished chairman of the subcommittee, my old and esteemed friend, the gentleman from Arizona [Mr. Udall], who has provided such valuable leadership in this matter; and my special friend, the gentleman from North Carolina [Mr. Broyhill], the senior Republican member of our Committee on Energy and Commerce.

Senator Simpson and Senator Stafford in the other body deserve special praise, as does Governor Riley of South Carolina, who has worked extremely hard to get this matter to the point where it is, as has my own Governor, Governor Blanchard, to whom this was a matter of special interest.

I also compliment the gentleman from Massachusetts [Mr. Markey], the chairman of the subcommittee, who was very instrumental in this and deserves the appreciation and commendation of the house for this. In addition, I wish to commend the gentleman from California [Mr. Moorhead], the ranking Republican member of the subcommittee, for his constant attention to this matter.

Mr. Speaker, this bill, which was H.R. 1083, a measure passed by both the Committee on Energy and Commerce and the Committee on the Interior and Insular Affairs, chaired by my beloved friend, the gentleman from Arizona [Mr. Udall], and the bill we act on today is a fundamental compromise worked out by the two committees, that would be the subcommittees in the House, and also by our good friends in the Senate.

The legislative history, I believe, established in these committees is certain to apply. I know one provision adopted by the Senate and passed by the House, the provision states that in 1996 certain circumstances with regard to taking title of nuclear wastes and paying damages to generators. I would expect this provision to be construed narrowly and not in a fashion that would, for example, mean any generator should not have to mitigate damages for his actions.

This is not, as I understand it, a punitive provision. It is part, rather, of the teeth which are in this legislation to encourage the States to accept and to meet their responsibilities.

It is clear that Congress must recognize that the States of governmental bodies should be afforded the respect that is due to institutions of that kind.

Mr. Chairman, In addition, I note that while the "Emergency Access provision of the legislation (section 6) remains essentially as it first was passed by the House, the other body has added a provision specifying that the Nuclear Regulatory Commission (NRC), upon receiving a request for emergency access, also should determine whether the threat can be mitigated by "* * * ceasing activities that generate low-level radioactive waste." This is a matter which caused great debate within the Committee on Energy and Commerce. While the original House bill did not specify in statute that the NRC make such a determination, the committee report discusses how the NRC should act if a reduction in waste generation would lead to a significant curtailment of production activities in an industry. The report notes that in the case of a hospital or medical services company, or other entity affecting the public health, the NRC would not be expected to require such activities to cease if such cessation, in turn, would result in a public health emergency. As I read the bill now before us, such a determination certainly could continue to be made.

Finally, I would like to comment on the subject of "mixed waste"—those wastes which are both radioactive and "hazardous," as defined by the Solid Waste Disposal Act (RCRA). The House amendment to the Senate amendments made as part of the unanimous consent request of the gentle-

man from Arizona, Mr. Udall, would delete from the bill the section on "mixed wastes." I support this amendment. At this point in the session, there is not time for the House and Senate to work out the differences between the provisions passed by each body, and this provision alone should not stand in the way of our acting on this important bill. More importantly, however, I support this amendment because it is essential that the Congress be fully and accurately informed regarding the current disposal options for those who create these "mixed wastes," including the medical generators, and the environmental ramifications of adopting one proposed solution over another.

Over the past few weeks, I have heard a great deal from hospitals and other medical facilities which generate these "mixed wastes" about their concern that failure to include "mixed waste" provisions in this legislation—and specifically a 1-year extension for compliance with RCRA by those who dispose of "mixed wastes"—will leave them with no available disposal option and may force them to cease operation. In this regard, I would like to include in the Record a letter I received from a company called "Quadrex Corporation." That company claims to dispose of medical scintillation vials through a combination of decontamination, incineration and landfill disposal—all in a manner which complies with applicable environmental regulations. The letter attempts to correct misinformation regarding the availability of alternative means of disposal, and concludes by noting that even if the existing low level radioactive waste sites stop accepting liquid scintillation vials, "[t]here is every reason to expect that disposal of these vials can and will continue without interruption." On the basis of this and other information, I do not expect the medical facilities which generate these mixed wastes to be without disposal options when we delete the "mixed waste" provisions from this bill.

Quadrex Corporation,
Campbell, California, November 15, 1985.

Honorable John D. Dingell,
The U.S. House of Representatives, House Office Building, Washington, D.C.

Re: Low Level Radioactive Waste Policy Act Amendments of 1985

Dear Mr. Dingell: Quadrex is aware (i.e., RCRA hazardous waste and low level radioactive waste) has been an issue under debate during consideration of the Low Level Radioactive Waste Policy Act Amendments of 1985. Our understanding is that, in the course of that debate, some parties are asserting that disposal of mixed wastes may cease because of interagency jurisdictional and regulatory problems. This assertion has apparently been made with respect to liquid scintillation vials from hospitals, nuclear medicine facilities, research laboratories and the like.

This letter does not address any Quadrex position on how we believe government agencies and the Congress should handle the mixed waste issue in general. However, we believe it is important to know the true facts regarding some of the assertions made in the debate over mixed wastes. Quadrex has a facility in Gainesville, Florida which currently decontaminates and disposes of approximately 70 percent of the liquid scintillation vials in the United States This facility, with minor improvements, has the capability to handle disposal of 100 percent of the liquid scintillation vials. Our disposal process completely decontaminates the plastic or glass vials, which are crushed, rinsed with a proprietary solution, and then disposed of in a convenient landfill. The toluene and xylene from the vials and the solution we use to clean off the toxic and radioactive parts of the liquid scintillation cocktail from the vials, as well as the low level radioactive waste, are burned as waste fuel in an EPA-approved rotary kiln facility. Effluents from the kiln are monitored and are below allowable discharge levels. The whole process is carried out in compliance with all applicable environmental regulations.

Thus, we believe there is a misunderstanding over present ability to handle the mixed waste question as applied to liquid scintillation vials. There is every reason to expect that disposal of these vials can and will continue without interruption. To the extent that any of the existing low level waste disposal sites does not accept liquid scintillation vials, our Gainesville facility has the capacity to decontaminate and dispose of any such vials. There may even be economic incentive to decontaminate, as we do, over burial of these mixed wastes.

I hope this letter may have helped to clarify this issue.

Sincerely yours,

Sherman Naymark

Another reason we have dropped the "mixed waste" provision is to allow the committees in both bodies to examine the issue in greater detail. In this regard, I hope that the hearings will consider the record of environmental compliance by the operators of those low level radioactive waste disposal facilities which to date have accepted "mixed waste." I am deeply concerned by reports that one or more of these operators, on the basis of alleged regulatory "overlap and inconsistency," has failed to comply with regulations which are neither overlapping nor inconsistent. As we examine the record of the Federal and State agencies in attempting to coordinate their regulatory schemes, let us also examine the record of the licensees and determine whether they were taking all "practicable" steps to come into compliance with the regulations and protect the public health and safety.

It is fashionable in this time of "regulatory reform" to talk about streamlining the regulatory process and making the process more manageable for those subject to regulation by multiple agencies. At the same time, however, we must not lose sight of the reason why there is regulation, and why we established multiple agencies in the first place. With "mixed waste," multiple agencies are involved because multiple agencies have expertise—the NRC has expertise regarding the management of radioactive wastes, and the EPA regarding the management of "hazardous wastes." Any solution we adopt in the future must not remove one of these agencies without assuring the continued availability of the needed expertise to solve the problem at hand. I support streamlining the regulatory process, but not at the price of public health and safety and an avoidably high risk of future harm to the environment.

□ 1925

The legislation is, I believe, desirable and the amendment suggested by my dear friend, the gentleman from Arizona [Mr. Udall], is one which I believe is of great importance in terms of the legislation. The gentleman from Arizona will, I am sure, construe the amendment further according to its terms and, of course, I will have certain additional comments to make on it at an appropriate time.

Mr. REID. Mr. Speaker, will the gentleman yield?

Mr. LUJAN. I yield to the gentleman from Nevada.

Mr. REID. I thank the gentleman for yielding.

Mr. Speaker, on behalf of the Governor of the State of Nevada and the people of the State of Nevada, I would like to commend Chairman Dingell, Chairman Udall, the gentleman from Massachusetts [Mr. Markey], the chairman of the subcommittee, and the gentleman from New Mexico [Mr. Lujan] for the work that has been done.

I think the approach has been reasonable, and this has been exemplified by the work that has been done in the last 24 hours by you gentlemen.

Again, I appreciate very much taking into consideration the serious problems that the States of Washington, Nevada, and South Carolina have.

Mr. BARTON of Texas. Mr. Speaker, will the gentleman yield?

Mr. LUJAN. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Texas.

Mr. BARTON of Texas. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of this legislation. The State of Texas is going to be its own depository under the Low-Level Waste Act. There are several amendments in this bill that are very beneficial to our State, and I would commend Chairman Dingell, Chairman Udall, and the ranking minority members on my side of the aisle for their excellent efforts in the last 24 hours, and I would urge Members to support this bill.

Mrs. VUCANOVICH. Mr. Speaker, will the gentleman yield?

Mr. LUJAN. Mr. Speaker, further reserving the right to object, I yield to the gentlewoman from Nevada.

Mrs. VUCANOVICH. I thank the gentleman for yielding.

Mr. Speaker, I support this legislation. The issue of low-level waste is of prime concern to my State of Nevada, as well as the States of Washington and South Carolina.

I would like to commend the chairmen of all of the committees who have been involved, and also our ranking minority members who have worked very hard in a bipartisan fashion.

Mr. Speaker, at this moment we stand at an important juncture in resolving and defining policy with respect to low-level waste management.

As the only member on the Interior Committee who represents a State with an existing low-level waste site, I am well aware of the vital importance of this legislation for my State. I am anxious that this legislation become law as soon as possible, to avert the health and safety hazards caused by the closing of any existing sites, and the Governors of these States have threatened to do that if this is not resolved.

Beatty, NV, is one of only three sites that remains to accept all the low-level waste being generated commercially in the United States.

The Governors of the three sited States offered a compromise proposal extending the closing date for their sites in return for ratification of the regional compacts and many other guarantees.

There must be volume caps on the amount of waste accepted at Beatty, Hanford, and Barnwell, as well as an enforceable timetable for other States to license and construct new regional low-level waste facilities. Recent experience has shown that milestones must be met and penalties must be enforced against States which fail to comply with those milestones. If this is not made part of the law, another 6 years will pass and new low-level waste sites will still be under debate in State legislatures instead of under construction.

Mr. Speaker, Nevada, South Carolina, and Washington have done their fair share in bearing the full burden for this Nation's low-level nuclear waste, and it is now time for all States to enter into regional compact agreements or construct their own State facilities.

Mr. Speaker, Congress must not neglect its responsibility, and I urge immediate passage of this legislation.

Mr. NIELSON of Utah. Mr. Speaker, will the gentleman yield?

Mr. LUJAN. Further reserving the right to object, and this will be the last time I do so, I would yield to my friend, the gentleman from Utah [Mr. NIELSON].

Mr. NIELSON of Utah. I thank the gentleman for yielding.

Mr. Speaker, I would just add my congratulations to the chairmen and ranking members of all the committees involved, and I would also like to give special commendation to the gentleman from Massachusetts [Mr. MARKEY], the gentleman from California [Mr. MOORHEAD], and the gentleman from Washington [Mr. SWIFT] who fashioned this in the House Committee on Energy and Commerce, and I fully support it.

Mr. LUJAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona [Mr. UDALL]?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Arizona [Mr. UDALL]?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that all Members have 5 working days in which to revise and extend their remarks on H.R. 1083, the legislation just adopted.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I take this time for the purpose of inquiring of the distinguished majority leader where we are and where we are going and, more importantly, when are we quitting?

Mr. WRIGHT. Mr. Speaker, in response to the question of the minority leader, the situation is this:

As most Members probably know, the conferees have completed their work on the reconciliation bill. As some Members may not know, the other body either is now voting or has just completed voting on the adoption of the conference committee report.

Immediately upon its completion and its receipt in the House, the Committee on Rules is to begin meeting and prepare to report a rule. The rule will come forthwith immediately to the House Chamber and we will vote on the rule and then, presumably, upon the conference report itself.

I suppose, although this may not be completely parliamentary, I should disclose to our colleagues what I expect the rule will contain. In view of the earlier conversations on the House floor at the time we asked for the privilege of reporting the rule and having it considered on the same day, Members will be interested to know I expect that the rule will contain a self-enacting provision by which, upon agreement to the rule, it will be deemed that the conference committee report has excised out that provision with reference the financing of the Superfund. In regard to the other matter which was under discussion, it is my understanding that it is not necessary for the Committee on Rules to include any provision in its rule respecting the question of teenage pregnancies or the collateral question of abortion in that the conferees themselves, hearing of the controversy on the House floor, elected to exclude that provision in its entirety from the conference report.

That is all that I have to tell the Members. I think if we stuck around close, however, we might anticipate that there would be a vote on the House floor.

Looking one step further and anticipating the possible, if the House should agree to the rule as proposed by the Committee on Rules, and further, if the House should agree to the proposal contained in the rule, it would go to the Senate. If the Senate still is in session, as I would hope under those circumstances it would be, then it would be up to the Senate to decide whether to agree to the House position and pass that much of the reconciliation bill.

That is about all I can respond.

Mr. MICHEL. Is it not true that we are headed for a situation where both bodies will be having different versions of reconciliation and there still then will have to be a reconciliation of the two unreconciled bills, and that takes time around here, as I recall.

I would like to yield, if I might, to the gentleman from South Carolina [Mr. CAMPBELL]. There are four provisions which we just have to act upon, and maybe the gentleman from South Carolina would like to take us through those steps, if he will.

Mr. CAMPBELL. I thank the gentleman for yielding.

PARLIAMENTARY INQUIRY

Mr. CAMPBELL. If I might, first I would like to make a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. CAMPBELL. Under the circumstances we find ourselves in, if the Senate in fact does act and sends to us the reconciliation package, are we then subject to a severance in the Committee on Rules of the House, or do we have to take up the package as sent by the Senate?

The SPEAKER pro tempore. The Committee on Rules will meet and decide upon the reconsideration; otherwise, we would have a 3-day layover.

Mr. CAMPBELL. But the question that I pose to the Chair is that under a circumstance where the other body sends to us a conference report that they have agreed upon, do we then take up the conference report as passed by the other body, or do we operate as a separate unit and take it up under our own rule?

The SPEAKER pro tempore. Under the rules of the House, in that instance it would have to lay over 3 days. That is why the Committee on Rules would be meeting.

□ 1935

Mr. CAMPBELL. The Rules Committee would have to waive the law over the 3 days; is that correct?

The **SPEAKER** pro tempore. They would contain that in their rule for us to adopt.

Mr. CAMPBELL. Would they then have to take up all of the provisions in the bill or would they only be allowed to take up part?

The **SPEAKER** pro tempore. The Chair cannot speak for the Rules Committee. That would be up to the Rules Committee.

Mr. CAMPBELL. But it is the decision of the Rules Committee, and it is not a situation that we find ourselves in under regular parliamentary situations where we would have to take up a provision sent to us from the other body?

The **SPEAKER** pro tempore. The rule itself would have to address that situation. That would be under the jurisdiction of the Rules Committee and their judgment.

Mr. CAMPBELL. Would we ordinarily have to have a rule to take up a conference committee report from the other body?

The **SPEAKER** pro tempore. The Chair would answer the gentleman that unless the rule is laid over for 3 days, yes.

Mr. CAMPBELL. I thank the Chair very much and appreciate his answer to my inquiry.

Mr. MICHEL. I continue to yield to the gentleman from South Carolina.

Mr. CAMPBELL. Mr. Speaker, I have a bill here that would address the issues that are expiring. There is no question that there would be a loss of revenue. There is no question but I believe that in this House, we do not wish to have a loss of revenue.

I do think that the reconciliation matter should be addressed. But I do not think that we should take a risk of losing the type of revenue that we are speaking of should there be an expiration of these items.

I do not think we are interested in seeing the tobacco tax expire. I do not think we are interested in seeing people having to pay more for Medicare payments because of our inaction.

For that reason, we do have in hand legislation that we will be prepared to send forward. I am not offering that under any circumstances. I think that we should take up the reconciliation package, but we do stand ready to do that, and I thank the gentleman for yielding.

Mr. WRIGHT. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the gentleman from Texas.

Mr. WRIGHT. Mr. Speaker, I would like to suggest that it would be the purpose of the leadership, after we have acted upon the reconciliation bill, to entertain consideration of just those provisions.

Mr. CAMPBELL. But that would be after the consideration of reconciliation?

Mr. WRIGHT. That is the way we have it planned. In fact, we have a rule already recommended by the Rules Committee that will allow that to be done.

Mr. CAMPBELL. If the gentleman would yield, I would ask if I might inquire would that be an extension of current law or would there be an attempt to write new law under that circumstance?

Mr. WRIGHT. Perhaps the gentleman from Illinois, chairman of the Committee on Ways and Means, could respond to that question.

Mr. ROSTENKOWSKI. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Illinois.

Mr. ROSTENKOWSKI. Mr. Speaker, actually we have two bills, one the extension of the provisions until December 31, 1985, under current law. The other bill is the extension until March 15. I am not sure about the date, but I think it is March 15 under the provisions of the Tax Reform Act that was passed.

Mr. CAMPBELL. That would be, then, under the Tax Reform Act as passed, that would be a straight extension, if I may inquire, of the cigarette tax which would extend at 16 cents with no earmarking, but a straight extension?

Mr. ROSTENKOWSKI. That is correct.

Mr. CAMPBELL. Would the other provisions in that include the extension of the Trade Adjustment Assistance Program, and would the extension of borrowing authority under the Railroad Unemployment Insurance Act as passed be a part of that?

Mr. ROSTENKOWSKI. The gentleman is correct.

Mr. CAMPBELL. And an extension of Medicare hospital and physician payments, would that be extended as we have passed that?

Mr. ROSTENKOWSKI. The gentleman is correct.

Mr. CAMPBELL. I thank the gentleman for his answers.

Mr. ROSTENKOWSKI. If the gentleman will yield, I want to correct a statement that I just made to the gentleman from South Carolina [Mr. CAMPBELL].

As I understand it, the extension is as agreed under the reconciliation package, the extension on physician reimbursement.

Mr. CAMPBELL. That is not current law under that particular provision?

Mr. ROSTENKOWSKI. That is correct.

Mr. CAMPBELL. I thank the gentleman.

Mr. MICHEL. Mr. Speaker, I would like, if I might, before we go any further, to advise the House that the administration has taken a strong position in opposition to enactment of H.R. 3128 on the grounds of the Trade Adjustment Assistance Act tariff, the Offshore Lands Act, section 8(g), and AFDC, Medicaid and food stamps quality control revisions, and the first part of that is part of the amendment which I offered several years ago, and felt very strongly about implementing that particular provision and having it gutted. The expansion of Medicare programs, the elimination of Medicare cost saving regulations, Medicaid programs expansions which will increase State and Federal costs, and the value-added tax.

So those are reasons that the administration would give, if this thing were possibly to pass, for vetoing the legislation. It seems a little bit ridiculous, then, to be spending the time around here spinning our wheels.

Mr. LOTT. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the distinguished minority whip, the gentleman from Mississippi [Mr. LOTT].

Mr. LOTT. Mr. Speaker, following up on the gentleman's remarks, I just wonder how many Members really understand what is being said here. Do we realize that we are beginning now to head toward being in session tomorrow? We have a general mess on our hands.

How many of you think it is time to wrap this thing up and go home sine die? I just hope that if we are going to do anything further, we will do it very quickly and wrap this thing up and get out of here.

Mr. WRIGHT. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to my distinguished friend from Texas.

Mr. WRIGHT. Mr. Speaker, I think it is obvious that all of the Members are anxious to conclude our labors. I think it is important, however, that we take a stand right now whether we are willing to stay in just an hour or two longer and achieve the honest-to-God savings which are included in the reconciliation bill.

Now the other body has just now passed that conference report by a vote of 78 to 1. Surely the Members of the House, having marched up the hill talking about saving money and reducing deficits, are not now going to adjourn and leave that potential saving dangling without at least trying to pass what we can in the House.

Mr. MOORE. Mr. Speaker, Will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Louisiana [Mr. MOORE].

Mr. MOORE. I thank the gentleman for yielding.

BEST COPY AVAILABLE

A moment ago, the distinguished majority leader said that when the reconciliation conference report comes to the floor it will be under a rule that excises from that the Superfund revenue-raising provisions. I would like to ask the majority leader why that is. I happen to have heard, and the information I have received on what the conferees have agreed on on Superfund funding happens to be something that I strongly favor, and I think makes an awful lot of sense, and I am wondering why we are taking that out and cutting that off.

Mr. WRIGHT. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the gentleman from Texas.

Mr. WRIGHT. Mr. Speaker, in answer to the question, the reason for that is because agreeing to that seemed at the time to be the only way that we could get agreement to allow the consideration today of the conference committee report. Otherwise, Members are opposing the idea of the rule coming to us, and under those circumstances, I made the commitment, and I take the responsibility for having done so, to recommend to the Rules Committee that kind of a rule.

If the gentleman does not like that kind of rule, he is not obliged to vote for it. But that is the kind of rule that I am obliged to ask for. I think under the circumstances, we would be well advised to try as best we can to get some reconciliation bill passed.

Mr. MOORE. If the gentleman will yield further, I would simply say that I strongly support the reconciliation bill, and strongly support the provisions in there for many, many reasons. But I also support those provisions that are in the Senate version, I guess, or the conference report version on the Superfund, and I am really disappointed to see that excised. I do not understand why. I do not know who is that strong in preventing it being brought to the floor.

Mr. WRIGHT. The Rules Committee is meeting right now, and if the gentleman has a recommendation to make to the Rules Committee, I suppose they would be pleased to hear from him. But there are Members on both sides represented in the Rules Committee, and whatever rule they recommend we are going to bring to the floor, and at least give the Members an opportunity to adopt it or reject it.

I am advised that the message, even as we speak, is at the door and ready to be presented officially and formally.

The SPEAKER pro tempore. The Chair would ask the gentleman from Illinois [Mr. MICHEL] to yield at this time so that the Chair may receive a message.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the amendments of the Senate to the bill (H.R. 3128) "An act to make changes in spending and revenue provisions for purposes of deficit reduction and program improvement, consistent with the budget process."

LEGISLATIVE PROGRAM

The SPEAKER pro tempore. The gentleman from Illinois [Mr. MICHEL] has some time remaining of his 1 minute.

Mr. MICHEL. I thank the Chair and yield to the gentleman from Nebraska [Mr. DAUB].

Mr. DAUB. Mr. Speaker, let me say as well, following up on what the gentleman from Texas [Mr. WRIGHT] said a moment ago, I do believe and appreciate the expectation of a rule which, in fact, does excise or remove from reconciliation, which I otherwise would support, the consideration of the question of the method by which Superfund shall be financed, and it is for that reason, as I understand it, that indeed the matter ought to be considered in a conference on Superfund, and not otherwise, and I appreciate the gentleman's time.

Mr. MICHEL. I think the gentleman's comments are very appropriate.

Mr. JONES of Oklahoma. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Oklahoma.

Mr. JONES of Oklahoma. Mr. Speaker, first of all, I would like to clarify that the conference report that the other body passed by a 78-to-1 margin was totally agreed to. There are no items in disagreement in this conference on the House or the Senate side.

Second, I guess I would like to ask a question to follow on to what the gentleman from South Carolina [Mr. CAMPBELL] asked. Since the other body has passed the conference report, does the Rules Committee have the authority to excise one part of that conference report, or must they give us a rule that allows us to vote on that?

If the answer to that is that they can excise it, I would ask our leadership could the Rules Committee, in the interest of time, report out two rules so that if the first one fails, you do not have to go back to the Rules Committee to have a vote up or down on the conference report?

Mr. DERRICK. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the gentleman from South Carolina.

Mr. DERRICK. Mr. Speaker, the Rules Committee has just reported out a rule a moment ago that does excise the Superfund out automatically when the rule passes.

What I would suggest is that we deal with this rule, and if it becomes necessary to get another rule, we will do it at that time.

Mr. JONES of Oklahoma. Well, how long would that take?

Mr. MICHEL. Right.

Mr. DERRICK. We have been known to produce rules in 5 or 6 minutes sometimes.

Mr. MICHEL. Mr. Speaker, might I also inquire on that second rule, would it not take a two-thirds vote?

Mr. DERRICK. No, I do not think so.

Mr. MICHEL. On what grounds does the gentleman give me that kind of a response?

Mr. DERRICK. Mr. Speaker, we passed a resolution out of the Rules Committee last night that was voted on this morning that allowed us to do it by a majority. Which rule is the gentleman talking about?

Mr. MICHEL. I am happy to yield to the gentleman from Oklahoma [Mr. JONES] for a parliamentary inquiry.

PARLIAMENTARY INQUIRY

Mr. JONES of Oklahoma. Mr. Speaker, as a parliamentary inquiry, I would like to ask the Speaker if the rule reported out of the Rules Committee should fail, can a new rule be brought up immediately and be passed out by only a majority vote, or does it require a two-thirds vote?

Mr. DERRICK. I regret that I do not know the answer to that question right at the moment.

The SPEAKER pro tempore. Will the gentleman from Oklahoma please restate his inquiry.

Mr. JONES of Oklahoma. Mr. Speaker, the inquiry is if the rule is defeated, can you bring a new rule out immediately and pass it requiring only a majority vote?

The SPEAKER pro tempore. House Resolution 342 adopted earlier today provides that "During the remainder of the first session of the 99th Congress, the requirement of clasue 4(b) of rule XI for a two-thirds vote to consider a report from the Committee on Rules on the same day reported is hereby waived against any resolution with respect to a conference report on the bill in question, H.R. 3128.

Mr. JONES of Oklahoma. So it just takes a majority vote?

The SPEAKER pro tempore. Absolutely, for another rule on that conference report.

□ 1950

Mr. MICHEL. I yield to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I would simply reflect. however, that there were a lot of Members on this floor who would have defeated that very rule a little while ago if we did not have a guarantee that no resolution would come to this floor that did not excise that language.

There is going to be a tremendous break of faith with a lot of Members on this floor by the leadership of the other side if in fact a rule comes to the floor that does not excise VAT at any point.

That only reason why the rule that was just mentioned by the Chair was passed is because that agreement was made. If that agreement is not adhered to, I would have to say that it will be a direct break of faith with a lot of Members who were on the floor at the time it was taking place.

Mr. WRIGHT. Will the gentleman from Illinois yield to me?

Mr. MICHEL. Yes, I am happy to yield to the majority leader.

Mr. WRIGHT. In view of the comment just made, I think it ought to be reported; if it is necessary to report, though I should surely hope it would not be necessary, that there be no breach of faith.

The commitment was that I would personally seek that rule. I have sought that rule. The rule has been granted. It is coming to the House in precisely the manner that was agreed upon, so there is no breach of faith.

Now, whatever the House does is another matter. I have kept faith and done exactly what I said I would do, and the Rules Committee has done it as well.

Mr. DAUB. Will the gentleman yield?

Mr. MICHEL. I yield to the gentleman.

Mr. DAUB. So I understand the Chair's announcement of the prior vote, the language of the vote that allowed the waiver of the two-thirds requirement was worded in such a way that any subsequent rule out of the Rules Committee to be filed and reported to be acted upon today does not require it? It applies to all rules coming out of the Committee on Rules?

The SPEAKER pro tempore. The gentleman is correct, on the reconciliation conference report under the language of the resolution adopted by the House, the will of the House——

Mr. DAUB. That was not the understanding.

The SPEAKER pro tempore. We are talking of only this conference report, now; any rule on this conference report.

PARLIAMENTARY INQUIRY

Mr. DAUB. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state it.

Mr. DAUB. Mr. Speaker, if it is only on this conference report, then is the construction of the Chair that a series of rules that have to do with this conference report——

The SPEAKER pro tempore. Any resolution on this conference report was covered under the language adopted by this House.

Mr. DERRICK. Will the gentleman yield?

Mr. MICHEL. I yield to the gentleman.

Mr. DERRICK. Mr. Speaker, it is my understanding that that applies to any rule that comes out today dealing with reconciliation only; not any rule that comes out of the Rules Committee.

The SPEAKER pro tempore. That is what the Chair stated, on the conference report.

Mr. MICHEL. Well, there is no question but that that is exactly what we were talking about, was a rule, and that having to do with reconciliation. That was not a blanket——

Mr. DERRICK. Well, that was the answer that I gave you to the first question that the gentleman asked me about 5 minutes ago, which is the same thing; yes, it is covered. Both of the rules, if one rule comes out on reconciliation, it is necessary for another rule. The majority rule applies to both rules.

Mr. MICHEL. Well, I was not on the floor and was watching it on the monitor, having agreed earlier to that proposition, but it certainly was not our understanding that it was for anything other than that particular rule for that reconciliation proposition.

Mr. SOLOMON. Would the gentleman yield?

Mr. MICHEL. I yield to the gentleman.

Mr. SOLOMON. With all due respects to the majority leader, I would just like to recall the situation that led to the agreement by the majority leader from Texas.

Mr. HENRY HYDE and I were standing at that door, and we were lobbying for "no" votes and we were being successful with both Democrats and Republicans as they came through.

Myself on the value added tax, and Mr. HYDE on the abortion issue. About that time, the majority leader approached both of us and made the arrangement that he would seek a rule that would remove the value added tax and the abortion language; the abortion language not having been removed yet at that time by the conference.

Consequently, the both of us left the floor; we came down, we talked to our colleagues on this side of the aisle, and they agreed not to vote against the rule, for that very reason, against that piece of legislation.

Now, I do consider it a breach of faith; I am certain that between myself and others that we could have defeated that legislation, and we would not be in this position today.

I would suggest that the majority leader meet with the minority leader and our whip to work this out so that the hard feelings do not exist.

Mr. DAUB. Will the gentleman yield?

Mr. MICHEL. I yield to the gentleman.

Mr. DAUB. Mr. Speaker, I must say—I thank the gentleman for yielding, and I must say to my colleagues that I was party to what I thought was an understanding with my friend from Texas, Mr. WRIGHT, the majority leader, and I at the very least must indicate my disappointment, for it was not my understanding that in the other rule that had to do with reconciliation could be used as a method of maneuvering around the agreement which I thought was that no fat would be considered with respect to the financing mechanism of Superfund.

Mr. WRIGHT. Will the gentleman yield?

Mr. MICHEL. I yield to the gentleman.

Mr. WRIGHT. I am going to try to answer definitively one time only; I do not want to prolong this conversation, but because our word is very important in this process, I think it is desirable to say one more time, and to be absolutely precise in what was committed and what has been fulfilled; obviously, manifestly, I am powerless to make a commitment with respect to what all the Members of this House are going to do. I have long since discovered that they are not just waiting with bated breath to discover what JIM WRIGHT said they would all do.

Everybody here is an independent agent, and I think the gentleman from New York and the gentleman from Nebraska not only recognize but appreciate that fact.

Now, what I committed to them to do was to seek a rule pursuant to the vote that was then being taken and the proposition already had been presented; the text of the rule on which we were voting already long since had been laid out before the House. I was not seeking to alter that text.

I do not think anybody understood me to be altering the text of that rule.

What I committed to do was to seek and do my best to obtain a rule from the Rules Committee that does precisely what the rule does. I did that, the Rules Committee has granted, or recommended that rule.

If we will conclude this discussion, that rule will be before us, immediately, very quickly. That commitment has been fulfilled in letter and in spirit. That is all I could commit, and I have fulfilled it.

Mr. MICHEL. I yield to the gentleman from Nebraska.

Mr. DAUB. I will say to the distinguished majority leader that indeed, I certainly appreciate his explanation of what he thought the understanding was to have been.

My understanding of what I thought we were attempting to achieve was that in all matters pertinent to reconciliation and the rule in singular fashion to be granted there would not be a rule allowed to be brought before the House if a VAT were contained in it.

That was my understanding, and based upon it I changed my vote from "no" to "yes."

Mr. **FRENZEL**. Will the gentleman yield?

Mr. **MICHEL**. I yield to the gentleman.

Mr. **FRENZEL**. I would like to invite the attention of the assemblage to one of the major reasons why the Rules Committee has granted a rule excising the VAT from the report.

It has been apparent over the last week, and absolutely emphatic today, that a reconciliation bill containing a VAT will be subject to a very quick veto from the President, and those who believe that their useful purpose in staying around here so that we pass a reconciliation ought to be advised that if you pass one with a VAT in it, that is, if you defeat the rule that is pending before us, there will be no reconciliation.

I am as anxious to get out of here as anybody; I believe the Congress has stayed here 30 days too long already.

POINT OF ORDER

Mr. **SCHUMER**. Point of order, Mr. Speaker.

We have an hour's debate on the rule. All of this debate is relevant to whether there should be a rule or not.

I move that this debate end and we go to regular order and begin debate on the rule, and debate that for the hour so we can get out of here at a reasonable hour.

The **SPEAKER** pro tempore. That is not necessary.

The gentleman's 1 minute has expired.

CONFERENCE REPORT ON H.R. 3128, CONSOLIDATED OMNIBUS RECONCILIATION ACT OF 1985

Mr. **GRAY** of Pennsylvania submitted the following conference report and statement on the bill (H.R. 3128) to make changes in spending and revenue provisions for purposes of deficit reduction and program improvement, consistent with the budget process:

CONFERENCE REPORT (H. REPT. 99-453)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the amendment of the Senate to the text of the bill (H.R. 3128) to make changes in spending and revenue provisions for purposes of deficit reduction and program improvement, consistent with the budget process, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Consolidated Omnibus Budget Reconciliation Act of 1985".

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Title I. Agriculture programs.
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Title XII. Income security and related programs.
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Title XIV. Revenue sharing.
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Title XVI. Higher education programs.
Title XVII. Graduate Medical Education Council and technical amendments to the Public Health Service Act.
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Title XX. Miscellaneous provisions.

TITLE I—AGRICULTURE PROGRAMS

Subtitle A—Agricultural Program Savings

SEC. 1001. AGRICULTURAL PROGRAM SAVINGS.

The expenditures and outlays resulting from the provisions of title XI (relating to the export sales of dairy products) and title XIII (relating to emergency disaster loans and loan authorizations under the Agricultural Credit Insurance Fund) of the Food Security Act of 1985 (H.R. 2100, 99th Congress) shall be counted for purposes of determining savings under the Consolidated Omnibus Budget Reconciliation Act of 1985 as having been enacted under this Act.

Subtitle B—Tobacco Program Improvements

SEC. 1101. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the maintenance of a viable tobacco price support and production adjustment program is in the interests of tobacco producers, purchasers of tobacco, persons employed directly or indirectly by the tobacco industry, and the localities and States whose economies and tax bases are dependent on the tobacco industry;

(2) the present tobacco price support program is in jeopardy and in need of reform;

(3) under present law, the levels of price support for tobacco have resulted in market prices for tobacco that are not competitive on the world market;

(4) as a consequence, extremely large quantities of domestic tobacco have been put under loan and placed in the inventories of the producer-owned cooperative marketing associations that administer the tobacco price support program;

(5) the increased inventories have led to a significant increase in the assessments producers are required to pay to maintain the tobacco price support program on a "no net cost" basis;

(6) such increasingly large assessments are creating a severe hardship on producers;

(7) the existence of such large inventories poses a threat to the orderly marketing of future crops of tobacco;

(8) inventories of producer associations must be significantly reduced or the tobacco price support program will collapse;

(9) the Commodity Credit Corporation is threatened with substantial losses on disposition of these inventories should the tobacco price support program collapse;

(10) it is imperative that such excess inventories of tobacco be disposed of, under the supervision of the Secretary of Agriculture, in a manner that—

(A) will not disrupt the orderly marketing of new tobacco crops;

(B) will minimize any losses to the Federal Government; and

(C) will be fair and equitable to all tobacco producers and purchasers;

(11) the mutual cooperation of tobacco producers, tobacco purchasers, producer associations, and the Secretary of Agriculture is necessary—

(A) to restore the tobacco price support program to a stable condition; and

(B) to prevent substantial losses to taxpayers that would result from the collapse of the program;

(12) restoration of stability to the tobacco price support program through a sharing of the cost of that program by purchasers of tobacco along with producers of tobacco is necessary to prevent undue burdens on, or obstruction of, interstate and foreign commerce in tobacco; and

(13) the system of grading tobacco should be thoroughly reviewed to ensure that grades are assigned to tobacco that properly state the quality of such tobacco.

(b) PURPOSES.—The purposes of this subtitle are—

(1) to encourage cooperation among tobacco producers, tobacco purchasers, and the Secretary of Agriculture in reducing tobacco price support levels, assessment costs, the size of inventories of producer associations, and the exposure of taxpayers to large budget outlays;

(2) to adjust the method by which price support levels and production quotas are calculated to reflect actual market conditions;

(3) to facilitate the purchase and sale of Flue-cured and Burley tobacco presently in the inventories of producer associations through which producers of Flue-cured and Burley tobacco are provided price support;

(4) to provide that purchasers and producers of domestic tobacco share equally in the cost of maintaining the tobacco price support program at no net cost to the taxpayers; and

(5) to expedite reform of the system of grading tobacco so that grades assigned to tobacco more accurately reflect the quality of such tobacco.

SEC. 1102. PRICE SUPPORT ADJUSTMENTS.

(a) IN GENERAL.—Effective for the 1985 and subsequent crops of tobacco, section 106(f) of the Agricultural Act of 1949 (7 U.S.C. 1445(f)) is amended by striking out paragraphs (4) and (5) and inserting in lieu thereof the following new paragraphs:

"(4) For the 1985 and 1986 crops of Burley tobacco, the support level shall be $1.488 per pound.

"(5) For the 1986 crop of Flue-cured tobacco, the support level shall be $1.438 per pound.

"(6)(A) Except as provided in subparagraph (B), for the 1986 and each subsequent crop of any kind of tobacco (other than Flue-cured and Burley tobacco) for which marketing quotas are in effect or are not disapproved by producers, the support level shall be the level in cents per pound at which the immediately preceding crop was supported, plus or minus, respectively, the amount by which—

"(i) the support level for the crop for which the determination is being made, as determined under subsection (b); is greater or less than

"(ii) the support level for the immediately preceding crop, as determined under subsection (b),

as that difference may be adjusted by the Secretary under subsection (d) if the support level under clause (i) is greater than the support level under clause (ii).

"(B) Notwithstanding subparagraph (A) and subsection (d), if requested by the board of directors of an association through which price support for the respective kind of tobacco specified in subparagraph (A) is made available to producers, the Secretary may reduce the support level for such kind of tobacco to the extent requested by the association to more accurately reflect the market value and improve the marketability of such tobacco.

"(7)(A) For the 1987 and each subsequent crop of Flue-cured and Burley tobacco for which marketing quotas are in effect or are not disapproved by producers, the support level shall be the level in cents per pound at which the immediately preceding crop was supported, plus or minus, respectively, an adjustment of not less than 65 percent nor more than 100 percent of the total, as determined by the Secretary after taking into consideration the supply of the kind of tobacco involved in relation to demand, of—

"(i) 66.7 percent of the amount by which—

"(I) the average price received by producers for Flue-cured and Burley tobacco, respectively, on the United States auction markets, as determined by the Secretary, during the 5 marketing years immediately preceding the marketing year for which the determination is being made, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period, is greater or less than

"(II) the average price received by producers for Flue-cured and Burley tobacco, respectively, on the United States auction markets, as determined by the Secretary, during the 5 marketing years immediately preceding the marketing year prior to the marketing year for which the determination is being made, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period; and

"(ii) 33.3 percent of the change, expressed as a cost per pound of tobacco, in the index of prices paid by tobacco producers from January 1 to December 31 of the calendar year immediately preceding the year in which the determination is made.

"(B) For purposes of subparagraph (A)—

"(i) the average market price for Burley tobacco for the 1985 marketing year shall be reduced by $0.039 per pound;

"(ii) the average market price for Burley tobacco for the 1984 and each prior applicable marketing year shall be reduced by $0.30 per pound;

"(iii) the average market price for Flue-cured tobacco for the 1985 marketing year shall be reduced by $0.25 per pound;

"(iv) the average market price for Flue-cured tobacco for the 1984 and each prior applicable marketing year shall be reduced by $0.30 per pound; and

"(v) the index of prices paid by tobacco producers shall include items representing general, variable costs of producing tobacco, as determined by the Secretary, but shall not include the cost of land, risk, overhead, management, purchase or leasing of quotas, marketing contributions or assessments, and other costs not directly related to the production of tobacco.".

(b) Certain Grades of Flue-cured Tobacco.—Effective for the 1986 and subsequent crops of tobacco, section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is further amended by striking out subsection (g).

SEC. 1103. DETERMINATION OF MARKETING QUOTAS FOR FLUE-CURED AND BURLEY TOBACCO.

(a) Definitions.—Section 301(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1301(b)) is amended—

(1) by adding at the end of paragraph (14) the following new subparagraphs:

"(C) 'Reserve stock level', in the case of Flue-cured tobacco, shall be the greater of—

"(i) 100,000,000 pounds (farm sales weight); or

"(ii) 15 percent of the national marketing quota for Flue-cured tobacco for the marketing year immediately preceding the marketing year for which the level is being determined.

"(D) 'Reserve stock level', in the case of Burley tobacco, shall be the greater of—

"(i) 50,000,000 pounds (farm sales weight); or

"(ii) 15 percent of the national marketing quota for Burley tobacco for the marketing year immediately preceding the marketing year for which the level is being determined."; and

(2) by adding at the end thereof the following new paragraph:

"(17) 'Domestic manufacturer of cigarettes' means a person that produces and sells more than 1 percent of the cigarettes produced and sold in the United States.".

(b) Flue-cured Tobacco.—Section 317(a)(1) of such Act (7 U.S.C. 1314c(a)(1)) is amended—

(1) by striking out "'National marketing quota'" in the first sentence and inserting in lieu thereof "(A) Except as provided in subparagraph (B), 'national marketing quota'"; and

(2) by adding at the end thereof the following new subparagraphs:

"(B) For the 1986 and each subsequent crop of Flue-cured tobacco, 'national marketing quota' for a marketing year means the quantity of Flue-cured tobacco, as determined by the Secretary, that is not more than 103 percent nor less than 97 percent of the total of—

"(i) the aggregate of the quantities of Flue-cured tobacco that domestic manufacturers of cigarettes estimate the manufacturers intend to purchase on the United States auction markets or from producers during the marketing year, as compiled and determined under section 320A;

"(ii) the average annual quantity of Flue-cured tobacco exported from the United States during the 3 marketing years immediately preceding the marketing year for which the determination is being made; and

"(iii) the quantity, if any, of Flue-cured tobacco that the Secretary, in the discretion of the Secretary, determines is necessary to increase or decrease the inventory of the producer-owned cooperative marketing association that has entered into a loan agreement with the Commodity Credit Corporation to make price support available to producers of Flue-cured tobacco to establish or maintain such inventory at the reserve stock level for Flue-cured tobacco.

"(C) Notwithstanding any other provision of law—

"(i) the national marketing quota for Flue-cured tobacco for each of the 1986 through 1989 marketing years for such tobacco shall not be less than 94 percent of the national marketing quota for such tobacco for the preceding marketing year; and

"(ii) the national marketing quota for Flue-cured tobacco for each of the 1990 through 1993 marketing years for such tobacco shall not be less than 90 percent of the national marketing quota for such tobacco for the preceding marketing year.".

(c) Burley Tobacco.—Section 319 of such Act (7 U.S.C. 1314e) is amended—

(1) in subsection (c)—

(A) by striking out "The national marketing quota" in the first sentence and inserting in lieu thereof "(1) Except as provided in paragraph (3), the national marketing quota";

(B) by striking out the second sentence;

(C) by designating the third sentence as paragraph (2); and

(D) by adding at the end thereof the following new paragraphs:

"(3)(A) For the 1986 and each subsequent crop of Burley tobacco, the national marketing quota for any marketing year shall be the quantity of Burley tobacco, as determined by the Secretary, that is not more than 103 percent nor less than 97 percent of the total of—

"(i) the aggregate of the quantities of Burley tobacco that domestic manufacturers of cigarettes estimate the manufacturers intend to purchase on the United States auction markets or from producers during the marketing year, as compiled and determined under section 320A;

"(ii) the average annual quantity of Burley tobacco exported from the United States during the 3 marketing years immediately preceding the marketing year for which the determination is being made; and

"(iii) the quantity, if any, of Burley tobacco that the Secretary, in the discretion of the Secretary, determines is necessary to increase or decrease the inventories of the producer-owned cooperative marketing associations that have entered into loan agreements with the Commodity Credit Corporation to make price support available to producers of Burley tobacco to establish or maintain such inventories, in the aggregate, at the reserve stock level for Burley tobacco.

"(B) In determining the quantity of Burley tobacco necessary to establish or maintain the inventories of the producer associations at the reserve stock level under subparagraph (A)(iii)—

"(i) the Secretary shall provide for initially attaining the reserve stock level over a period of 5 years; and

"(ii) any downward adjustment in such inventories of Burley tobacco may not exceed the greater of—

"(I) 35,000,000 pounds; or

"(II) 50 percent of the quantity by which—

"(aa) the total inventories of Burley tobacco of the producer-owned cooperative marketing associations that have entered into loan agreements with the Commodity Credit Corporation to make price support available to producers of Burley tobacco; exceed

"(bb) the reserve stock level for Burley tobacco.

"(C) Notwithstanding any other provision of law—

"(i) the national marketing quota for Burley tobacco for each of the 1986 through 1989 marketing years for such tobacco shall not be less than 94 percent of the national marketing quota for such tobacco for the preceding marketing year; and

"(ii) the national marketing quota for Burley tobacco for each of the 1990 through 1993 marketing years for such tobacco shall not be less than 90 percent of the national marketing quota for such tobacco for the preceding marketing year."; and

(2) by inserting ", except in the case of Burley tobacco," after "Provided, That" in the fourth sentence of subsection (e).

(d) PURCHASE INTENTIONS.—Effective for the 1986 and each subsequent crop of tobacco, such Act is amended by inserting after section 320 (7 U.S.C. 1314f) the following new section:

"SUBMISSION OF PURCHASE INTENTIONS BY CIGARETTE MANUFACTURERS

"SEC. 320A. (a)(1) Not later than December 1 of any marketing year with respect to Flue-cured tobacco (or, in the case of the 1986 crop, 14 days after the date of enactment of the Consolidated Omnibus Budget Reconciliation Act of 1985) and January 15 of any marketing year with respect to Burley tobacco (or, in the case of the 1986 crop, 14 days after the date of enactment of such Act or January 15, 1986, whichever is later), each domestic manufacturer of cigarettes shall submit to the Secretary a statement, by kind, of the quantity of Flue-cured tobacco and Burley tobacco (for which a national marketing quota is in effect or for which the Secretary has proclaimed a national marketing quota for the next succeeding marketing year) that the manufacturer intends to purchase, directly or indirectly, on the United States auction markets or from producers during the next succeeding marketing year (hereafter in this section referred to as the 'quantity of intended purchases').

"(2) The Secretary shall aggregate the quantities of intended purchases in a manner that will not allow the identification of the quantity of intended purchases of any manufacturer.

"(b) If any domestic manufacturer of cigarettes fails to submit to the Secretary a statement of the quantity of intended purchases of the manufacturer, as required by this section, the Secretary shall establish the quantity of intended purchases to be attributed to such manufacturer for purposes of this Act, based on—

"(1) the quantity of intended purchases submitted by such manufacturer under this section for the marketing year immediately preceding the marketing year for which the determination is being made; or

"(2) if such manufacturer did not submit a statement of the quantity of intended purchases of the manufacturer for the marketing year immediately preceding the marketing year for which the determination is being made, the most recent information available to the Secretary.

"(c)(1) All information relating to the quantity of intended purchases that is submitted by domestic manufacturers of cigarettes under this section shall be kept confidential by all officers and employees of the Department of Agriculture.

"(2) Such information may only be disclosed by such officers or employees in a suit or administrative hearing—

"(A)(i) brought at the direction, or on the request, of the Secretary; or

"(ii) to which the Secretary or any officer of the United States is a party; and

"(B) involving enforcement of this Act.

"(3) Nothing in this section shall be considered to prohibit the publication, by direction of the Secretary, of the name of any person violating this Act, together with a statement of the particular provisions of the Act violated by such person.

"(4) Any officer or employee of the Department of Agriculture who violates this subsection, on conviction, shall be—

"(A) subject to a fine of not more than $1,000 or to imprisonment for not more than 1 year, or to both; and

"(B) removed from office.

"(d) Notwithstanding any other provision of law, a statement of the quantity of intended purchases that is submitted under this section shall be exempt from disclosure under section 552 of title 5, United States Code.".

SEC. 1104. MARKETING QUOTA ANNOUNCEMENT DATE; PROCLAMATION OF QUOTAS FOR FLUE-CURED AND BURLEY TOBACCO.

(a) IN GENERAL.—Section 312 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1312) is amended—

(1) by striking out "and February 1 of any marketing year with respect to other kinds of tobacco" in the matter preceding clause (1) of subsection (a) and inserting in lieu thereof "February 1 of any marketing year with respect to Burley tobacco, and March 1 of any marketing year with respect to other kinds of tobacco"; and

(2) by striking out "and not later than the first day of February with respect to other kinds of tobacco" in the first sentence of subsection (b) and inserting in lieu thereof ", not later than the first day of February with respect to Burley tobacco, and not later than the first day of March with respect to other kinds of tobacco".

(b) DARK AIR-CURED AND FIRE-CURED TOBACCO.—Section 319(b) of such Act (7 U.S.C. 1313e(b)) is amended by striking out "February 1" each place it appears in the fourth paragraph and inserting in lieu thereof "March 1".

(c) PROCLAMATION OF QUOTA FOR FLUE-CURED TOBACCO.—Section 317(d) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314c(d)) is amended by adding at the end thereof the following new sentences: "Notwithstanding any other provision of law, for the 1986 marketing year, the Secretary shall proclaim the national marketing quota for Flue-cured tobacco not later than 21 days after the date of enactment of the Consolidated Omnibus Budget Reconciliation Act of 1985. Any proclamation with respect to the national marketing quota for the 1986 marketing year for Flue-cured tobacco made by the Secretary prior to such date of enactment shall become void on enactment of such Act.".

(d) PROCLAMATION OF QUOTA FOR BURLEY TOBACCO.—Section 319(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(a)) is amended by adding at the end thereof the following new sentences: "Notwithstanding any other provision of law, for the 1986 marketing year, the Secretary shall proclaim the national marketing quota for Burley tobacco not later than 21 days after the date of enactment of the Consolidated Omnibus Budget Reconciliation Act of 1985 or February 1, 1986, whichever is later. Any proclamation with respect to the national marketing quota for the 1986 marketing year for Burley tobacco made by the Secretary prior to such date of enactment shall become void on enactment of such Act.".

SEC. 1105. REDUCTION IN EXCESS TOBACCO NOT SUBJECT TO MARKETING PENALTY.

(a) PENALTY ON EXCESS TOBACCO.—Effective for the 1986 and subsequent crops of tobacco, the Agricultural Adjustment Act of 1938 is amended—

(1) by striking out "110" in section 317(g)(1) (7 U.S.C. 1314c(g)(1)) and inserting in lieu thereof "103"; and

(2) by striking out "110" in section 319(i)(1) (7 U.S.C. 1314e(i)(1)) and inserting in lieu thereof "103".

(b) PRICE SUPPORT ON EXCESS TOBACCO.—Effective for the 1986 and subsequent crops of tobacco, section 106(c)(1) of the Agricultural Act of 1949 (7 U.S.C. 1445(c)(1)) is amended by striking out "110" and inserting in lieu thereof "103".

SEC. 1106. PURCHASE REQUIREMENTS; PENALTY.

(a) IN GENERAL.—Effective for the 1986 and subsequent crops of tobacco, the Agricultural Adjustment Act of 1938 (as amended by section 1103(d)) is further amended by inserting after section 320A the following new section:

"PURCHASE REQUIREMENTS; PENALTY

"SEC. 320B. (a)(1) At the conclusion of each marketing year, on or before a date prescribed by the Secretary, each domestic manufacturer of cigarettes shall submit to the Secretary a statement, by kind, of the quantity of Flue-cured and Burley quota tobacco purchased, directly or indirectly, by such manufacturer during such marketing year.

"(2) The statement shall include, but not be limited to, the quantity of each such kind of tobacco purchased by the manufacturer on the United States auction markets, from producers, and from the inventories of tobacco from the 1985 and subsequent crops of the producer-owned cooperative marketing associations that have entered into loan agreements with the Commodity Credit Corporation to make price support available to producers of Flue-cured or Burley tobacco.

"(b)(1) Except as otherwise provided in this subsection, any domestic manufacturer of cigarettes that fails, as determined by the Secretary after notice and opportunity for a hearing, to purchase during a marketing year on the United States auction markets, from producers, or from the inventories of tobacco from the 1985 and subsequent crops of the producer associations described in subsection (a)(2) a quantity of Flue-cured quota tobacco and a quantity of Burley quota tobacco equal to at least 90 percent of the quantity of the intended purchases of Flue-cured tobacco and Burley tobacco, respectively, submitted by such manufacturer or established by the Secretary for such manufacturer for that marketing year under section 320A (as that quantity may be reduced under paragraph (2)) shall be subject to a penalty as prescribed in subsection (c).

"(2)(A) If the total quantity of Flue-cured or Burley quota tobacco, respectively, marketed by producers at auction in the United States during the marketing year in question is less than the national marketing quota (including any adjustments for overmarketings or undermarketings) for that kind of tobacco for that marketing year, the quantity of intended purchases of each domestic manufacturer of cigarettes, for purposes of paragraph (1), shall be reduced by a percentage equal to the percentage by which the total quantity marketed at auction in *the United States during the marketing year is less than the national marketing quota (including any adjustments for overmarketings or undermarketings) for that kind of tobacco for the marketing year.*

"(B) For purposes of this section, the term 'marketed' shall include disposition of tobacco by consigning the tobacco to a producer association described in subsection (a)(2) for a price support advance.

"(c) The amount of any penalty to be imposed on a manufacturer under this section shall be determined by multiplying—

"(1) twice the per pound assessment (as determined under section 106A or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445-1 or 1445-2)) for the kind of tobacco involved; by

"(2) the quantity by which—

"(A) the purchases by such manufacturer on the United States auction markets, from producers, or from the inventories of tobacco from the 1985 and subsequent crops of the producer associations described in subsection (a)(2) of Flue-cured and Burley quota tobacco, respectively, for the marketing year; are less than

"(B) 90 percent of the quantity of intended purchases of such kinds of tobacco, respectively, submitted by the manufacturer or established by the Secretary for such manufacturer for that marketing year under section 320A (as that quantity may be reduced under subsection (b)(2)).

"(d)(1) An amount equivalent to the penalty collected by the Secretary under this section shall be transmitted by the Secretary to the appropriate producer-owned cooperative marketing association that has entered into a loan agreement with the Commodity Credit Corporation to make price support available to producers of Flue-cured or Burley tobacco, as the case may be.

"(2) Each association to which amounts are transmitted by the Secretary under this section shall deposit such amounts in the No Net Cost Fund or Account of such association in accordance with section 106A or 106B of the Agricultural Act of 1949.

"(e) The limitations on disclosure set forth in subsections (c) and (d) of section 320A shall apply to information submitted by domestic manufacturers of cigarettes under this section with respect to the quantity of purchases of Flue-cured and Burley quota tobacco during a marketing year. Any officer or employee of the Department of Agriculture who violates such limitations on disclosure shall be subject to the penalties set forth in section 320A(c)(4).

"(f) As used in this section, the term 'quota tobacco' means any kind of tobacco for which marketing quotas are in effect or for which marketing quotas are not disapproved by producers.".

(b) Conforming Amendment.—Effective for the 1986 and subsequent crops of tobacco, the last sentence of section 372(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1372(b)) is amended by striking out "The" and inserting in lieu thereof "Except as provided in section 320B, the".

SEC. 1107. LEASE AND TRANSFER OF BURLEY TOBACCO QUOTAS.

Effective with respect to the 1985 and subsequent crops of Burley tobacco, the fourth proviso of section 319(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(g)) is amended by inserting after "July 1 of that crop year" the following: "or, if such record of the transfer is filed with the county committee after July 1, the county committee determines with the concurrence of the State committee that all interested parties agreed to such lease and transfer before July 1 and that the failure to file such record of the transfer did not result from gross negligence on the part of any party to such lease and transfer".

SEC. 1108. ASSESSMENTS TO NO NET COST FUNDS OR ACCOUNTS.

(a) No Net Cost Fund.—Effective for the 1986 and subsequent crops of tobacco, section 106A of the Agricultural Act of 1949 (7 U.S.C. 1445-1) is amended—

(1) in subsection (a)—

(A) by striking out "and" at the end of paragraph (5);

(B) by redesignating paragraph (6) as paragraph (7); and

(C) by inserting after paragraph (5) the following new paragraph:

"(6) the term 'purchaser' means any person who purchases in the United States, either directly or indirectly for the account of such person or another person, Flue-cured or Burley quota tobacco; and";

(2) by inserting "or paid by or on behalf of purchasers" after "producer-members" in the second sentence of subsection (c);

(3) in subsection (d)—

(A) by striking out "and" at the end of clause (i) of paragraph (1)(A);

(B) by inserting after clause (ii) of paragraph (1)(A) the following new clause:

"(iii) each purchaser of Flue-cured and Burley quota tobacco shall pay to the appropriate association, for deposit in the Fund of the association, an assessment, in an amount determined from time to time by the association with the approval of the Secretary, with respect to purchases of all such kind of tobacco marketed by a producer from a farm (including purchases of such tobacco from the 1986 and subsequent crops from the association); and";

(C) by striking out "The" in the last sentence of paragraph (1) and inserting in lieu thereof the following: "The amount of producer contributions and purchaser assessments shall be determined in such a manner that producers and purchasers share equally, to the maximum extent practicable, in maintaining the Fund of an association. In making such determination with respect to the assessment of a purchaser, only 1985 and subsequent crops of Flue-cured and Burley quota tobacco shall be taken into account. The";

(D) by inserting "and assessments" after "contributions" in the last sentence of paragraph (1);

(E) by striking out paragraph (2) and inserting in lieu thereof the following new paragraph:

"(2) require that any producer contribution or purchaser assessment due under paragraph (1) shall be collected—

"(A) from the person who acquired the tobacco involved from the producer, except that if the tobacco is marketed by sale, an amount equal to the producer contribution may be deducted by the purchaser from the price paid to such producer;

"(B) if the tobacco involved is marketed by a producer through a warehouseman or agent, from such warehouseman or agent, who may—

"(i) deduct an amount equal to the producer contribution from the price paid to the producer; and

"(ii) add an amount equal to the purchaser assessment to the price paid by the purchaser; and

"(C) if the tobacco involved is marketed by a producer directly to any person outside the United States, from the producer, who may add an amount equal to the purchaser assessment to the price paid by the purchaser;";

(F) by striking out "producers who contribute" in the proviso of paragraph (3) and inserting in lieu thereof "producers and purchasers who contribute or pay";

(G) by striking out "and" at the end of paragraph (5);

(H) by inserting "effective for the 1982 through 1985 crops of quota tobacco," after the paragraph designation in paragraph (6);

(I) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and"; and

(J) by inserting after paragraph (6) the following new paragraph:

"(7) effective for the 1986 and subsequent crops of quota tobacco, provide, in loan agreements between the Corporation and an association, that if the Secretary determines that the amount in the Fund or the net gains referred to in paragraph (5) exceeds the amounts necessary for the purposes specified in this section, the association, with the approval of the Secretary, may suspend the payment and collection of contributions and assessments under this section on terms and conditions established by the association, with the approval of the Secretary."; and

(4) by adding at the end thereof the following new subsection:

"(h)(1)(A) Each person who fails to collect any contribution or assessment as required by subsection (d)(2) and remit such contribution or assessment to the association, at such time and in such manner as may be prescribed by the Secretary, shall be liable, in addition to any amount due, to a marketing penalty at a rate equal to 75 percent of the average market price (calculated to the nearest whole cent) for the kind of tobacco involved for the immediately preceding year on the quantity of tobacco as to which the failure occurs.

"(B) The Secretary may reduce any such marketing penalty in such amount as the Secretary determines equitable in any case in which the Secretary determines that the failure was unintentional or without knowledge on the part of the person concerned.

"(C) Any penalty provided for under this paragraph shall be assessed by the Secretary after notice and opportunity for a hearing.

"(2)(A) Any person against whom a penalty is assessed under this subsection may obtain review of such penalty in an appropriate district court of the United States by filing a civil action in such court not later than 30 days after such penalty is imposed.

"(B) The Secretary shall promptly file in such court a certified copy of the record on which the penalty is based.

"(3) The district courts of the United States shall have jurisdiction to review and enforce any penalty imposed under this subsection.

"(4) An amount equivalent to any penalty collected by the Secretary under this subsection shall be transmitted by the Secretary to the appropriate association, for deposit in the Fund of such association.

"(5) The remedies provided in this subsection shall be in addition to, and not exclusive of, other remedies that may be available.".

(b) No Net Cost Account.—Effective for the 1986 and subsequent crops of tobacco, section 106B of the Agricultural Act of 1949 (7 U.S.C. 1445-2) is amended—

(1) in subsection (a)—

(A) by striking out "and" at the end of paragraph (6);

(B) by striking out the period at the end of paragraph (7) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new paragraph:

"(8) the term 'purchaser' means any person who purchases in the United States, either directly or indirectly for the account of such person or another person, Flue-cured or Burley quota tobacco.";

(2) by inserting "and purchasers" after "producers" in subsection (c)(1);

(3) in subsection (d)—

(A) by inserting at the end of paragraph (1) the following new sentence: "The Secretary shall also require (in lieu of any requirement under section 106A(d)(1)) that each purchaser of Flue-cured and Burley quota tobacco shall pay to the Corporation, for deposit in the Account of such association, an assessment, as determined under paragraph (2) and collected under paragraph (3), with respect to purchases of all such kind of tobacco marketed by a producer from a farm (including purchases of such tobacco from the 1986 and subsequent crops from the association).";

(B) by striking out "area. Such amount" in paragraph (2)(A) and inserting in lieu thereof "area and the amount of the assessment to be paid by purchasers of tobacco. The amount of the assessment to be paid by producers and purchasers shall be determined in such a manner that producers and purchasers share equally, to the maximum extent practicable, in maintaining the Account of an association. In making such determination with respect to the assessment of a purchaser, only 1985 and subsequent crops of Flue-cured and Burley quota tobacco shall be taken into account. The amount of the assessment";

(C) by inserting at the end of paragraph (2)(A) the following: "Notwithstanding the foregoing provisions of this paragraph, the amount of any assessment that is determined by the Secretary for the 1986 and subsequent crops of Burley quota tobacco shall be determined without regard to any net losses that the Corporation may sustain under the loan agreements of the Corporation with such association with respect to the 1983 crop of such tobacco."; and

(D) by amending paragraph (3) to read as follows:

"(3)(A) Except as provided in subparagraphs (B) and (C), any assessment to be paid by a producer or a purchaser under paragraph (1) shall be collected from the person who acquired the tobacco involved from such producer, except that if the tobacco is marketed by sale, an amount equal to the producer assessment may be deducted by the purchaser from the price paid to such producer.

"(B) If tobacco of the kind for which an Account is established is marketed by a producer through a warehouseman or agent, both the producer and the purchaser assessment shall be collected from such warehouseman or agent, who may—

"(i) deduct an amount equal to the producer assessment from the price paid to the producer; and

"(ii) add an amount equal to the purchaser assessment to the price paid by the purchaser.

"(C) If tobacco of the kind for which an Account is established is marketed by a producer directly to any person outside the United States, both the producer and the purchaser assessment shall be collected from the producer, who may add an amount equal to the purchaser assessment to the price paid by the purchaser."; and

(4) by adding at the end thereof the following new subsection:

"(j)(1)(A) Each person who fails to collect any assessment as required by subsection (d)(3) and remit such assessment to the Corporation, at such time and in such manner as may be prescribed by the Secretary, shall be liable, in addition to any amount due, to a marketing penalty at a rate equal to 75 percent of the average market price (calculated to the nearest whole cent) for the kind of tobacco involved for the immediately preceding year on the quantity of tobacco as to which the failure occurs.

"(B) The Secretary may reduce any such marketing penalty in such amount as the Secretary determines equitable in any case in which the Secretary determines that the failure was unintentional or without knowledge on the part of the person concerned.

"(C) Any penalty provided for under this paragraph shall be assessed by the Secretary after notice and opportunity for a hearing.

"(2)(A) Any person against whom a penalty is assessed under this subsection may obtain review of such penalty in an appropriate district court of the United States by filing a civil action in such court not later than 30 days after such penalty is imposed.

"(B) The Secretary shall promptly file in such court a certified copy of the record on which the penalty is based.

"(3) The district courts of the United States shall have jurisdiction to review and enforce any penalty imposed under this subsection.

"(4) An amount equivalent to any penalty collected by the Secretary under this subsection shall be transmitted by the Secretary to the Corporation, for deposit in the Account of the appropriate association.

"(5) The remedies provided in this subsection shall be in addition to, and not exclusive of, other remedies that may be available.".

(c) IMPLEMENTATION.—The Secretary of Agriculture shall implement sections 1102 through 1109, and the amendments made by such sections, without regard to the provisions requiring notice and other procedures for public participation in rulemaking contained in section 553 of title 5, United States Code, or in any directive of the Secretary.

(d) CONFORMING AMENDMENT.—The section heading of section 106A of the Agricultural Act of 1949 (7 U.S.C. 1445-1) is amended to read as follows:

"PRODUCER CONTRIBUTIONS AND PURCHASER ASSESSMENTS FOR NO NET COST TOBACCO FUND".

SEC. 1108. PURCHASE OF INVENTORY STOCK.

Notwithstanding any other provision of law, in order to reduce or eliminate the excessive inventories of Flue-cured and Burley tobacco held by associations from the 1976 through 1984 crops, and in order to provide for the orderly disposition of such excessive inventories of tobacco in a manner that will not disrupt the orderly marketing of new tobacco crops and will minimize any losses to the Federal Government:

(a) SALE OF INVENTORY STOCK.—(1) The producer-owned cooperative marketing association that has entered into a loan agreement with the Commodity Credit Corporation to make price support available to producers of Flue-cured tobacco shall offer to sell the stocks of Flue-cured tobacco of the association from the 1976 through 1984 crops as provided in this section.

(2) Each producer-owned cooperative marketing association that has entered into a loan agreement with the Commodity Credit Corporation to make price support available to producers of Burley tobacco shall offer to sell its stocks of Burley tobacco from the 1982 and 1984 crops as provided in this section.

(3)(A)(i) Not later than 30 days after the date of enactment of this subtitle, the Commodity Credit Corporation shall acquire title to the Burley tobacco from the 1983 crop that is pledged as security for loans on such tobacco by calling the loans on such tobacco.

(ii) The Corporation shall, then, offer such tobacco for sale at such times, in such quantities, and subject to such conditions as the Corporation considers appropriate.

(B) If the Commodity Credit Corporation has not sold all of the stocks of the 1983 crop of Burley tobacco within 2 years from the date the Corporation calls the loans on such tobacco, the Corporation may offer to sell to domestic manufacturers of cigarettes the remaining stocks of such tobacco as provided in this section.

(b) SALE PRICES.—(1)(A) The stocks of Flue-cured tobacco from the 1976 through 1984 crops shall be offered for sale at the base prices, including carrying charges, in effect as of the date of the offer, reduced by—

(i) 90 percent for Flue-cured tobacco from the 1976 through 1981 crops; and

(ii) 10 percent for Flue-cured tobacco from the 1982 through 1984 crops.

(B) The purchasers of the stocks of Flue-cured tobacco from the 1976 through 1984 crops shall pay the full carrying charges that have accrued to such tobacco from the date of the offer made under this section to the date that such tobacco is removed from the inventory of the association.

(2)(A) The stocks of Burley tobacco from the 1982 crop shall be offered for sale at the listed base price in effect as of July 1, 1985.

(B) The stocks of Burley tobacco from the 1984 crop shall be offered for sale at the costs of the association for such tobacco as of the date of enactment of this subtitle.

(C) The purchasers of the stocks of Burley tobacco from the 1982 crop shall pay the full carrying charges that have accrued to such tobacco.

(D) The purchasers of the stocks of Burley tobacco from the 1984 crop shall pay the full carrying charges that have accrued to such tobacco from the date of enactment of this subtitle to the date such tobacco is removed from the inventories of the associations.

(3)(A) After the 2-year period specified in subsection (a)(3)(B) has expired, if the Commodity Credit Corporation offers to sell the stocks of the Corporation of Burley tobacco from the 1983 crop to domestic manufacturers of cigarettes, such stocks shall be offered for sale at the costs of the association, including carrying charges, as of the date on which the Corporation calls the loans on such tobacco, reduced by 90 percent.

(B) Neither tobacco producers nor tobacco purchasers shall be responsible for carrying charges that accrue to the 1983 crop Burley tobacco after the date on which the Commodity Credit Corporation calls the loans on such tobacco.

(c) TERMS OF AGREEMENTS.—(1)(A) Each domestic manufacturer of cigarettes may enter into agreements to purchase inventory stocks of Flue-cured and Burley tobacco, in accordance with this section.

(B) To be eligible for the reductions in price specified in this section, such manufacturer shall enter into such agreements as soon as practicable, but not later than 90 days after the date of enactment of this subtitle, except that, with respect to the 1983 crop of Burley tobacco, if the Corporation offers to sell the stocks of such tobacco pursuant to subsection (b)(3)(A), such agreements shall be entered into as soon as practicable, but not later than 90 days after the end of the 2-year period referred to in subsection (a)(3)(B).

(C)(i) Such agreements shall provide that, over a period of time, each participating domestic manufacturer of cigarettes shall purchase a percentage of the stocks of Flue-cured and Burley tobacco held—

(I) by the producer-owned cooperative marketing associations at the close of the 1984 marketing year; or

(II) in the case of the 1983 crop of Burley tobacco, by the Commodity Credit Corporation at the time the Corporation offers such tobacco for sale to domestic manufacturers of cigarettes under this section.

(ii) The period of time referred to in clause (i) may not exceed—

(I) in the case of Flue-cured tobacco, 8 years from the date of enactment of this subtitle;

(II) in the case of Burley tobacco from the 1982 and 1984 crops, 5 years from the date of enactment of this subtitle; and

(III) in the case of the 1983 crop of Burley tobacco, 5 years from the end of the 2-year period referred to in subsection (a)(3)(B).

(2)(A)(i) The percentage to be purchased by each participating manufacturer shall be at least equal to the respective percentage of the participating manufacturer of the total quantity of net cigarettes manufactured for use as determined by the Secretary of Agriculture under this paragraph on the basis of the monthly reports ("Manufacturer of Tobacco Products—Monthly Reports") submitted (on ATF Form 3068) by manufacturers of tobacco products to the Bureau of Alcohol, Tobacco and Firearms of the Department of the Treasury.

(ii) The Secretary of Agriculture shall request from the Secretary of the Treasury copies of such monthly reports necessary to make the determinations required under this section.

(iii) Notwithstanding any other provision of law, the Secretary of the Treasury may release and disclose such information to the Secretary of Agriculture.

(B) "Net cigarettes manufactured for use" shall be computed by subtracting—

(i) the cumulative figures entered for large and small cigarettes in item 16f of ATF Form 3068 ("Reduction to tobacco"); from

(ii) the cumulative figures entered for large and small cigarettes in item 7 of such form ("Manufactured").

(C)(i) The percentage to be purchased by each participating manufacturer shall be determined—

(I) on the date of enactment of this subtitle; and

(II) annually thereafter over the course of the respective buy-out periods specified in this subsection.

(ii) Such percentage shall be determined by dividing—

(I) the average net cigarettes manufactured by a manufacturer for use for the 12-month period immediately preceding the appropriate determination date (the date of enactment of this subtitle and annually thereafter over the course of the respective buy-out periods specified in this subsection); by

(II) the aggregate average net cigarettes manufactured by all domestic cigarette manufacturers for use for such 12-month period.

(D)(i) The quantity of tobacco to be purchased by each participating manufacturer shall be determined annually.

(ii) Such quantity shall be based on—

(I) the percentage of net cigarettes of a manufacturer manufactured for use, as determined under subparagraph (C); multiplied by

(II) the appropriate annual quantity to be withdrawn from the inventories of the associations or the Commodity Credit Corporation.

(iii) The appropriate annual quantity to be withdrawn from inventories shall be—

(I) 12½ percent of the inventories of Flue-cured tobacco from the 1976 through 1984 crops on hand on the date of enactment of this subtitle;

(II) 20 percent of the inventories of Burley tobacco from the 1982 and 1984 crops on hand on the date of enactment of this subtitle; and

(III) 20 percent of the inventories of Burley tobacco from the 1983 crop held by the Commodity Credit Corporation on the date that is 2 years after the call of the loans on such tobacco by the Corporation.

(E) Any purchases by a manufacturer from the inventories of the associations or from the Commodity Credit Corporation for a crop covered by this section in any year of the buy-out period that exceed the quantity of the purchases of the manufacturer required under the agreement, as determined under this section, shall be applied against future purchases required of such manufacturer.

(3) In carrying out this section, manufacturers may confer with one another and, separately or collectively, with associations, the Secretary of Agriculture, and the Commodity Credit Corporation, as may be necessary or appropriate to carry out this section and the purposes of this subtitle.

(d) APPROVAL OF AGREEMENTS.—(1)(A) Each agreement entered into under this section shall be submitted to the Secretary of Agriculture for review and approval.

(B) In the case of an agreement to purchase tobacco from the inventory of a producer association, the agreement shall be submitted by the association.

(C) No agreement may become effective until approved by the Secretary.

(2) The Secretary of Agriculture shall not approve any agreement submitted under this section unless the Secretary has determined that—

(A) the agreement—

(i) will not unduly impair or disrupt the orderly marketing of current and future tobacco crops during the term of the agreement; and

(ii) is otherwise consistent with the purposes of this subtitle; and

(B) the price and other terms of sale are uniform and nondiscriminatory among various purchasers.

(e) DISCLOSURE.—The limitations on disclosure set forth in subsections (c) and (d) of section 320A of the Agricultural Adjustment Act of 1938 (as added by section 1103(d)) shall apply to information submitted by domestic manufacturers of cigarettes under this section with respect to net cigarettes manufactured for use, including information provided on ATF Form 3068. Any officer or employee of the Department of Agriculture who violates such limitations on disclosure shall be subject to the penalties set forth in section 320A(c)(4) of such Act.

SEC. 1110. REVIEW OF TOBACCO GRADING SYSTEM AND DISASTER CROP DESIGNATION.

(a) STUDY.—(1)(A) The Secretary of Agriculture shall conduct a comprehensive study of the methods and procedures for grading tobacco marketed in the United States.

(B) In carrying out such study, the Secretary shall evaluate, among other things—

(i) the extent to which grades assigned to tobacco accurately reflect the quality of such tobacco;

(ii) the extent to which the number of grades of tobacco affects the operation of the grading system; and

(iii) the competence and independence of tobacco graders.

(2) The Secretary shall also study the feasibility and desirability of—

(A) providing for a grade that would be used to designate tobacco that is of such poor quality as a result of a natural disaster as to affect substantially the marketability of such tobacco; and

(B) establishing a price support level, if any, for such tobacco that may be adjusted by the Secretary as necessary to facilitate the sale of such tobacco and protect the no net cost funds or accounts.

(b) REPORT.—(1) Not later than 120 days after the date of enactment of this subtitle, the Secretary of Agriculture shall report the results of the studies required under subsection (a), together with any recommendations for necessary legislation, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(2) As soon as practicable after submission of the report required under paragraph (1), but not later than the opening of the marketing season for the 1986 crop of Flue-cured tobacco, the Secretary shall implement any recommendations made in such report that may be implemented by the Secretary under existing authority.

SEC. 1111. INVESTMENT OF TOBACCO INSPECTION FEES.

Section 5 of The Tobacco Inspection Act (7 U.S.C. 511d) is amended—

(1) by inserting "late payment penalties, and interest earned from the investment of such funds," after "The fees and charges," in the ninth sentence;

(2) by inserting after the ninth sentence the following new sentences: "Any funds realized from the collection of fees or charges authorized under this section and section 6 and credited to the current appropriation account incurring the cost of services provided under this section and section 6, late payment penalties, and interest earned from the investment of such funds may be invested by the Secretary in insured or fully collateralized, interest-bearing accounts or, at the discretion of the Secretary, by the Secretary of the Treasury in United States Government debt instruments. Any income realized from this activity may be used to pay the expenses of the Secretary of Agriculture incident to providing services under this Act or reinvested in the manner authorized in the preceding sentence."; and

(3) by striking out "Such fees and charges" in the tenth sentence (as it existed before the amendment made by clause (2)) and inserting in lieu thereof "The fees and charges authorized in this section".

SEC. 1112. EFFECTIVE DATE.

Except as otherwise provided in this subtitle, this subtitle and the amendments made by this subtitle shall become effective on the date of enactment of this subtitle.

TITLE II—ARMED SERVICES AND DEFENSE-RELATED PROGRAMS

SEC. 2001. COLLECTION BY THE UNITED STATES OF INPATIENT HOSPITAL COSTS INCURRED ON BEHALF OF CERTAIN PERSONS.

(a) In General.—(1) Chapter 55 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 1095. Collection from third-party payers of reasonable inpatient hospital care costs incurred on behalf of retirees and dependents

"(a)(1) In the case of a person who is covered by section 1074(b), 1076(a), or 1076(b) of this title, the United States shall have the right to collect from a third-party payer the reasonable costs of inpatient hospital care incurred by the United States on behalf of such person through a facility of the uniformed services to the extent that the person would be eligible to receive reimbursement or indemnification from the third-party payer if the person were to incur such costs on the person's own behalf. If the insurance, medical service, or health plan of that payer includes a requirement for a deductible or copayment by the beneficiary of the plan, then the amount that the United States may collect from the third-party payer is the reasonable cost of the care provided less the appropriate deductible or copayment amount.

"(2) A person covered by section 1074(b), 1076(a), or 1076(b) of this title may not be required to pay an additional amount to the United States for inpatient hospital care by reason of this section.

"(b) No provision of any insurance, medical service, or health plan contract or agreement having the effect of excluding from coverage or limiting payment of charges for certain care if that care is provided through a facility of the uniformed services shall operate to prevent collection by the United States under subsection (a).

"(c) Under regulations prescribed under subsection (f), records of the facility of the uniformed services that provided inpatient hospital care to a beneficiary of an insurance, medical service, or health plan of a third-party payer shall be made available for inspection and review by representatives of the payer from which collection by the United States is sought.

"(d) Notwithstanding subsections (a) and (b), collection may not be made under this section in the case of a plan administered under title XVIII or XIX of the Social Security Act (42 U.S.C. 1395 et seq.).

"(e)(1) The United States may institute and prosecute legal proceedings against a third-party payer to enforce a right of the United States under this section.

"(2) The administering Secretary may compromise, settle, or waive a claim of the United States under this section.

"(f) The Secretary of Defense, in consultation with the other administering Secretaries, shall prescribe regulations for the administration of this section. Such regulations shall provide for computation of the reasonable cost of inpatient hospital care. Computation of such reasonable cost may be based on—

"(1) per diem rates; or

"(2) such other method as may be appropriate.

"(g) In this section, 'third-party payer' means an entity that provides an insurance, medical service, or health plan by contract or agreement.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"1095. Collection from third-party payers of reasonable inpatient hospital care costs incurred on behalf of retirees and dependents.".

(b) Effective Date.—Section 1095 of title 10, United States Code, as added by subsection (a), shall apply with respect to inpatient hospital care provided after September 30, 1986, but only with respect to an insurance, medical service, or health plan agreement entered into, amended, or renewed on or after the date of the enactment of this Act.

SEC. 2002. EXTENSION OF DEADLINE FOR REPORT ON USE BY CHAMPUS SYSTEM OF MEDICARE PROSPECTIVE PAYMENT PROGRAM.

Section 634(c) of the Department of Defense Authorization Act, 1985 (Public Law 98-525; 98 Stat. 2544), is amended by striking out "February 28, 1985" and inserting in lieu thereof "June 30, 1986".

TITLE III—HOUSING AND COMMUNITY DEVELOPMENT PROGRAMS

SEC. 3001. SHORT TITLE AND TABLE OF SECTIONS.

(a) Short Title.—This title may be cited as the "Housing and Community Development Reconciliation Amendments of 1985".

(b) Table of Sections.—

Sec. 3001. Short title and table of sections.
Sec. 3002. Purchase of CDBG guaranteed obligations by the Federal Financing Bank.
Sec. 3003. Public housing operating subsidies.
Sec. 3004. Public and Indian housing financing reforms.
Sec. 3005. Rural housing authorizations.
Sec. 3006. Management of insured and guaranteed rural housing loans.
Sec. 3007. Extension of Federal Housing Administration mortgage insurance programs.
Sec. 3008. Extension of rehabilitation loan authority.
Sec. 3009. Extension of rural housing authorities.
Sec. 3010. Extension of flood and crime insurance programs.
Sec. 3011. Miscellaneous extensions.

SEC. 3002. PURCHASE OF CDBG GUARANTEED OBLIGATIONS BY THE FEDERAL FINANCING BANK.

(a) Prohibition.—Section 108 of the Housing and Community Development Act of 1974 is amended by adding at the end thereof the following:

"(1) Notes or other obligations guaranteed under this section may not be purchased by the Federal Financing Bank.".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on July 1, 1986.

(c) Administrative Actions.—The Secretary of Housing and Urban Development shall take such administrative actions as are necessary to provide by the effective date of subsection (a) private sector financing of loans guaranteed under section 108 of the Housing and Community Development Act of 1974.

SEC. 3003. PUBLIC HOUSING OPERATING SUBSIDIES.

Section 9(c) of such Act is amended by striking out "and by" after "1983," and by inserting after "1984" the following: ", and not to exceed $1,279,000,000 on or after October 1, 1985".

SEC. 3004. PUBLIC AND INDIAN HOUSING FINANCING REFORMS.

Section 4 of the United States Housing Act of 1937 is amended by adding at the end thereof the following new subsection:

"(c)(1) At such times as the Secretary may determine, and in accordance with such accounting and other procedures as the Secretary may prescribe, each loan made by the Secretary under subsection (a) that has any principal amount outstanding or any interest amount outstanding or accrued shall be forgiven; and the terms and conditions of any contract, or any amendment to a contract, for such loan with respect to any promise to repay such principal and interest shall be canceled. Such cancellation shall not affect any other terms and conditions of such contract, which shall remain in effect as if the cancellation had not occurred. This paragraph shall not apply to any loan the repayment of which was not to be made using annual contributions, or to any loan all or part of the proceeds of which are due a public housing agency from contractors or others.

"(2)(A) On the date of the enactment of the Housing and Community Development Reconciliation Amendments of 1985, each note or other obligation issued by the Secretary to the Secretary of the Treasury pursuant to subsection (b), together with any promise to repay the principal and unpaid interest that has accrued on each note or obligation, shall be forgiven; and any other term or condition specified by each such obligation shall be canceled.

"(B) On September 30, 1986, and on any subsequent September 30, each such note or other obligation issued by the Secretary to the Secretary of the Treasury pursuant to subsection (b) during the fiscal year ending on such date, together with any promise to repay the principal and unpaid interest that has accrued on each note or obligation, shall be forgiven; and any other term or condition specified by each such obligation shall be canceled.

"(3) Any amount of budget authority (and contract authority) that becomes available during any fiscal year as a result of the forgiveness of any loan, note, or obligation under this subsection shall be rescinded.".

SEC. 3005. RURAL HOUSING AUTHORIZATIONS.

Subsection (a)(1) of section 513 of the Housing Act of 1949 is amended to read as follows:

"(a)(1) The Secretary may insure and guarantee loans under this title during fiscal year 1986 in an aggregate amount not to exceed $2,146,600,000, of which—

"(A) $1,209,600,000 shall be for loans under section 502;

"(B) $17,000,000 shall be for loans under section 504;

"(C) $19,000,000 shall be for loans under section 514;

"(D) $900,000,000 shall be for loans under section 515; and

"(E) $1,000,000 shall be for loans under section 524.".

SEC. 3006. MANAGEMENT OF INSURED AND GUARANTEED RURAL HOUSING LOANS.

(a) Sale of Insured and Guaranteed Loans to Public.—Section 517(c) of the Housing Act of 1949 is amended by adding at the end thereof the following new sentence: "Any loan made and sold by the Secretary under this section after the date of the enactment of the Housing and Community Development Reconciliation Amendments of 1985 (and any loan made by other lenders under this title that is insured or guaranteed in accordance with this section, is purchased by the Secretary, and is sold by the Secretary under this section after such date) shall be sold to the public and may not be sold to the Federal Financing Bank, unless such sale to the Federal Financing Bank is required to service transactions under this title between

the Secretary and the Federal Financing Bank occurring on or before such date.".

(b) Interest Subsidy on Insured and Guaranteed Loans Offered for Sale to Public.—Section 517(d) of the Housing Act of 1949 is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end thereof the following new paragraph:

"(2) Each loan made by the Secretary or other lenders under this title that is insured or guaranteed in accordance with this subsection shall, when offered for sale to the public, be accompanied by an agreement by the Secretary to pay to the holder of such loan (through an agreement to purchase such loan or through such other means as the Secretary determines to be appropriate) the difference between the rate of interest paid by the borrower of such loan and the market rate of interest (as determined by the Secretary) on obligations having comparable periods to maturity on the date of such sale.".

(c) Protection of Borrowers Under Loans Sold to Public.—Section 517(d) of the Housing Act of 1949, as amended by subsection (b) of this section, is amended by adding at the end thereof the following new paragraph:

"(3) Each loan made by the Secretary or other lenders under this title that is insured or guaranteed in accordance with this subsection shall, when offered for sale to the public, be accompanied by agreements for the benefit of the borrower under the loan that provide that—

"(A) the purchaser or any assignee of the loan shall not diminish any substantive or procedural right of the borrower arising under this title;

"(B) upon any substantial default of the borrower, but prior to foreclosure, the loan shall be assigned to the Secretary for the purpose of avoiding foreclosure; and

"(C) following any assignment under subparagraph (B) and before commencing any action to foreclose or otherwise dispossess the borrower, the Secretary shall afford the borrower all substantive and procedural rights arising under this title, including consideration for interest subsidy, moratorium, reamortization, refinancing, and appeal of any adverse decision to an impartial officer.

"(4) From the proceeds of loan sales under paragraph (2), the Secretary shall set aside as a reserve against future losses not less than 5 percent of the outstanding face amount of the loans held by the public at any time.".

(d) Use of Rural Housing Insurance Fund.—Section 517(j) of the Housing Act of 1949 is amended—

(1) by striking out "and" at the end of paragraph (4);

(2) by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(6) to make payments and take other actions in accordance with agreements entered into under paragraphs (2) and (3) of subsection (d).".

(e) Eligibility for Guaranteed Loans.—Section 517 of the Housing Act of 1949 is amended by striking out subsection (n).

(f) Regulations.—Section 517(o) of the Housing Act of 1949 is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end thereof the following new paragraph:

"(2) Not later than the expiration of the 90-day period following the date of the enactment of the Housing and Community Development Reconciliation Amendments of 1985, the Secretary shall issue regulations to facilitate the marketability in the secondary mortgage market of loans insured or guaranteed under this section. Such regulations shall ensure that such loans are competitive with other loans and mortgages insured or guaranteed by the Federal Government.".

SEC. 3007. EXTENSION OF FEDERAL HOUSING ADMINISTRATION MORTGAGE INSURANCE PROGRAMS.

(a) Title I Insurance.—Section 2(a) of the National Housing Act is amended by striking out "prior to December 16, 1985" in the first sentence and inserting in lieu thereof "not later than March 17, 1986".

(b) General Insurance.—Section 217 of the National Housing Act is amended by striking out "December 15, 1985" and inserting in lieu thereof "March 17, 1986".

(c) Low and Moderate Income Housing Insurance.—Section 221(f) of the National Housing Act is amended by striking out "December 15, 1985" in the fifth sentence and inserting in lieu thereof "March 17, 1986".

(d) Section 235 Homeownership.—

(1) Assistance payments authority.—Section 235(h)(1) of the National Housing Act is amended by striking out "December 15, 1985" in the last sentence and inserting in lieu thereof "March 17, 1986".

(2) Insurance authority.—Section 235(m) of the National Housing Act is amended by striking out "December 15, 1985" and inserting in lieu thereof "March 17, 1986".

(3) Housing stimulus authority.—Section 235(q)(1) of the National Housing Act is amended by striking out "December 15, 1985" in the last sentence and inserting in lieu thereof "March 17, 1986".

(e) Co-Insurance.—

(1) General authority.—Section 244(d) of the National Housing Act is amended by striking out "December 15, 1985" and inserting in lieu thereof "March 17, 1986".

(2) Rental rehabilitation and development projects.—Section 244(h) of the National Housing Act is amended by striking out "on or after December 16, 1985" in the last sentence and inserting in lieu thereof "after March 17, 1986".

(f) Graduated Payment and Indexed Mortgage Insurance.—Section 245(a) of the National Housing Act is amended by striking out "December 15, 1985" in the last sentence and inserting in lieu thereof "March 17, 1986".

(g) Reinsurance Contracts.—Section 249(a) of the National Housing Act is amended by striking out "December 15, 1985" in the second sentence and inserting in lieu thereof "March 17, 1986".

(h) Armed Services Housing Insurance.—

(1) Civilian employees of armed forces.—Section 809(f) of the National Housing Act is amended by striking out "December 15, 1985" in the last sentence and inserting in lieu thereof "March 17, 1986".

(2) Defense housing for impacted areas.—Section 810(k) of the National Housing Act is amended by striking out "December 15, 1985" in the last sentence and inserting in lieu thereof "March 17, 1986".

(i) Land Development Insurance.—Section 1002(a) of the National Housing Act is amended by striking out "December 15, 1985" in the last sentence and inserting in lieu thereof "March 17, 1986".

(j) Group Practice Facilities Insurance.—Section 1101(a) of the National Housing Act is amended by striking out "December 15, 1985" in the last sentence and inserting in lieu thereof "March 17, 1986".

SEC. 3008. EXTENSION OF REHABILITATION LOAN AUTHORITY.

Section 312(h) of the Housing Act of 1964 is amended—

(1) by striking out "December 15, 1985" and inserting in lieu thereof "March 17, 1986"; and

(2) by striking out "prior to December 16, 1985" and inserting in lieu thereof "on or before such date".

SEC. 3009. EXTENSION OF RURAL HOUSING AUTHORITIES.

(a) Rental Housing Loan Authority.—Section 515(b)(4) of the Housing Act of 1949 is amended by striking out "December 15, 1985" and inserting in lieu thereof "March 17, 1986".

(b) Rural Area Classification.—Section 520 of the Housing Act of 1949 is amended by striking out "December 15, 1985" in the last sentence and inserting in lieu thereof "March 17, 1986".

(c) Mutual and Self-Help Housing Grant and Loan Authority.—Section 523(f) of the Housing Act of 1949 is amended by striking out "December 15, 1985" and inserting in lieu thereof "March 17, 1986".

SEC. 3010. EXTENSION OF FLOOD AND CRIME INSURANCE PROGRAMS.

(a) Flood Insurance.—

(1) General authority.—Section 1319 of the National Flood Insurance Act of 1968 is amended by striking out "December 15, 1985" and inserting in lieu thereof "March 17, 1986".

(2) Emergency implementation.—Section 1336(a) of the National Flood Insurance Act of 1968 is amended by striking out "December 15, 1985" and inserting in lieu thereof "March 17, 1986".

(3) Establishment of flood-risk zones.—Section 1360(a)(2) of the National Flood Insurance Act of 1968 is amended by striking out "December 15, 1985" and inserting in lieu thereof "March 17, 1986".

(b) Crime Insurance.—Section 1201(b)(1) of the National Housing Act is amended by striking out "December 15, 1985" in the matter preceding subparagraph (A) and inserting in lieu thereof "March 17, 1986".

SEC. 3011. MISCELLANEOUS EXTENSIONS.

(a) Community Development Block Grant Classifications.—

(1) Metropolitan city.—Section 102(a)(4) of the Housing and Community Development Act of 1974 is amended by striking out "December 15, 1985" in the second sentence and inserting in lieu thereof "March 17, 1986".

(2) Urban county.—Section 102(a)(6) of the Housing and Community Development Act of 1974 is amended by striking out "December 15, 1985" in the second sentence and inserting in lieu thereof "March 17, 1986".

(b) Section 202 Interest Rate Limitation.—Section 223(a)(2) of the Housing and Urban-Rural Recovery Act of 1983 is amended by striking out "prior to December 16, 1985" and inserting in lieu thereof "not later than March 17, 1986".

(c) Home Mortgage Disclosure Act of 1975.—Section 312 of the Home Mortgage Disclosure Act of 1975 is amended by striking out "December 16, 1985" and inserting in lieu thereof "March 17, 1986".

TITLE IV—TRANSPORTATION AND RELATED PROGRAMS

Subtitle A—Railroads

SEC. 4001. SHORT TITLE.

This subtitle may be cited as the "Amtrak Reauthorization Act of 1985".

SEC. 4002. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—Section 601(b)(2) of the Rail Passenger Service Act (45 U.S.C. 601(b)(2)) is amended—

(1) in subparagraph (A) by striking out "and" after "403(b) of this Act;";

(2) in subparagraph (B) by striking out the period and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new subparagraphs:

"(C) not to exceed $600,000,000 for the fiscal year ending September 30, 1986;

"(D) not to exceed $606,100,000 for the fiscal year ending September 30, 1987; and

"(E) not to exceed $630,300,000 for the fiscal year ending September 30, 1988.".

(b) LIMITATION.—Such section 601(b) is further amended by adding at the end a new paragraph as follows:

"(5) Unless sufficient funds are otherwise available to operate the Corporation's rail system at substantially the same level of service, maintenance, and equipment overhauls in effect on the date of the enactment of this paragraph, funds appropriated to or for the benefit of the Corporation under this section before the date of the enactment of this paragraph which the Corporation has designated for nonoperational capital projects shall be used as necessary to maintain the operations of the system at such level.".

SEC. 4003. CAPITAL ASSETS.

Section 304(c) of the Rail Passenger Service Act (45 U.S.C. 544(c)) is amended by adding at the end thereof the following new paragraph:

"(3) The preferred stock issued pursuant to paragraphs (1) and (2) of this subsection shall be deemed to have been issued as of the date of receipt by the Corporation of the funds for which such stock is issued.".

SEC. 4004. GOVERNMENT TRAVEL.

Section 306(f) of the Rail Passenger Service Act (45 U.S.C. 546(f)) is amended by inserting ", which shall include allowing the Corporation to participate in the contract air program administered by the General Services Administration in markets where service provided by the Corporation is competitive as to rates and total trip times" before the period.

SEC. 4005. REPORT CONSOLIDATION.

Section 308(a) of the Rail Passenger Service Act (45 U.S.C. 548(a)) is amended to read as follows:

"(a) The Corporation shall submit to the Congress a report not later than February 15 of each year. The report shall include, for each route on which the Corporation operated intercity rail passenger service during the preceding fiscal year, data on ridership, passenger miles, short-term avoidable profit or loss per passenger mile, revenue-to-cost ratio, revenues, the Federal subsidy, the non-Federal subsidy, and on-time performance. Such report shall also specify significant operational problems which have been identified by the Corporation, together with proposals by the Corporation to resolve such problems.".

SEC. 4006. CHARTER TRAINS.

Section 402 of the Rail Passenger Service Act (45 U.S.C. 562) is amended—

(1) by repealing subsection (g); and

(2) by redesignating subsection (h) as subsection (g).

SEC. 4007. MISCELLANEOUS AMENDMENTS.

(a) AUDITS.—Section 805 of the Rail Passenger Service Act (45 U.S.C. 644) is amended—

(1) in subsection (2)(A) by striking out "shall conduct annually a" in the first sentence and inserting in lieu thereof "may conduct"; and

(2) in subsections (2)(A) and (2)(B) by striking "audit" wherever it appears and inserting in lieu thereof "audits".

(b) REPEAL OF STUDIES AND REPORTS.—Sections 306(k), 806, 810, and 811 of the Rail Passenger Service Act (45 U.S.C. 546(k), 645, 649, and 650) are repealed.

(c) EMERGENCY ASSISTANCE.—Title VII of the Rail Passenger Service Act (45 U.S.C. 621 and 622) is repealed.

(d) NORTHEAST CORRIDOR REPORTS.—Section 703(1)(D) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 853(1)(D)) is repealed.

(e) PERFORMANCE EVALUATION CENTER.—(1) Section 305(1) of the Rail Passenger Service Act (45 U.S.C. 545(1)) is repealed.

(2) Section 305(m) of the Rail Passenger Service Act (45 U.S.C. 545(m)) is amended by striking out "Center" each place it appears and inserting in lieu thereof "Corporation".

SEC. 4008. REVENUE-COST RATIO.

Section 404(c)(4)(A) of the Rail Passenger Service Act (45 U.S.C. 564(c)(4)(a)) is amended by adding at the end the following new sentence: "Commencing in fiscal year 1986, the Corporation shall set a goal of recovering an amount sufficient that the ratio of its revenues, including contributions from States, agencies, and other persons, to costs, excluding capital costs, shall be at least 61 percent.".

SEC. 4009. LABOR-RELATED COST SAVINGS.

Amtrak and the representatives of employees of Amtrak shall negotiate changes in existing agreements between such parties that will result in substantial cost savings to Amtrak, and shall report the results of such negotiations to the Congress within six months after the date of enactment of this Act.

SEC. 4010. ROUTE DISCONTINUANCE.

Amtrak shall not, by reason of any provision of this subtitle, including section 4002, reduce the frequency of service on any line on which, as of May 1, 1985, three or fewer trains operated per week.

SEC. 4011. EMPLOYMENT VACANCY FILING.

(a) LIABILITY.—Section 704(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797c(c)) is amended—

(1) by inserting "(1)" after "VACANCY NOTICES.—"; and

(2) by adding at the end a new paragraph as follows:

"(2)(A) As soon as the Board becomes aware of any failure on the part of a railroad to comply with paragraph (1), the Board shall issue a warning to such railroad of its potential liability under subparagraph (B).

"(B) Any railroad failing to comply with paragraph (1) of this subsection after being warned by the Board under subparagraph (A) shall be liable for a civil penalty in the amount of $500 for each subsequent vacancy with respect to which such railroad has so failed to comply.".

(b) EXTENSION.—Section 704(f) of such Act (45 U.S.C. 797c(f)) is amended by striking out "4-year" and inserting in lieu thereof "6-year".

(c) EXEMPTION.—The provisions of section 703 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797b), section 8 of the Milwaukee Railroad Restructuring Act (45 U.S.C. 907), and section 105 of the Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1004) shall not apply to the National Railroad Passenger Corporation in the hiring of qualified train and engine employees who hold seniority rights to work in intercity rail passenger service in connection with the assumption by such Corporation of functions previously performed under contract by other carriers.

(d) EFFECTIVE DATES.—The amendments made by subsections (a) and (c) shall take effect on the date of enactment of this Act, and the amendment made by subsection (b) shall be effective as of August 1, 1985.

SEC. 4012. TRANSPORTATION OF USED UNOCCUPIED VEHICLES.

Section 103(3) of the Rail Passenger Service Act (45 U.S.C. 502(3)) is amended by inserting ", and, when space is available, of used unoccupied vehicles" after "and their occupants".

SEC. 4013. AMTRAK CORPORATE CITIZENSHIP.

Section 306(m) of the Rail Passenger Service Act (45 U.S.C. 546(m)) is amended by inserting "only" immediately after "citizen".

SEC. 4014. ROUTE AND SERVICE CRITERIA.

(a) ROUTE AND SERVICE CRITERIA AMENDMENTS.—The Rail Passenger Service Act is amended—

(1) in section 403(d) (45 U.S.C. 563(d))—

(A) by striking out "criteria set forth in section 404(d)(2)(B)" and inserting in lieu thereof "criterion set forth in section 404(d)(2)"; and

(B) by inserting after the first sentence thereof the following: "Beginning October 1, 1986, if such service is not projected to meet such criterion, the Corporation may discontinue, modify, or adjust such service so that the applicable criterion will be met.";

(2) in section 404(c)(3)(B) (45 U.S.C. 564(c)(3)(B))—

(A) by striking out "60" and inserting in lieu thereof "120";

(B) by striking out "either the Senate" and all that follows through "that it does" and inserting in lieu thereof "the Senate and the House of Representatives adopt a joint resolution during such period stating that they do"; and

(C) by adding at the end thereof the following: "For purposes of this subparagraph, continuity of session of the Congress is broken only by an adjournment sine die and the days on which either House is not in session because of adjournment of more than 3 days to a day certain are excluded in the computation of such 120-day period.";

(3) by amending section 404(c)(4)(B) (45 U.S.C. 564(c)(4)(B)) to read as follows:

"(B) The Corporation shall conduct an annual review of each route in the basic system to determine if such route is projected to meet the criterion appropriate to such route set forth in subsection (d), as adjusted to reflect constant 1979 dollars. If the Corporation determines on the basis of such review that such route will not meet such criterion, the Corporation shall discontinue, modify, or adjust the operation of rail passenger service over such route so that the criterion will be met.";

(4) in the first sentence of section 404(d)(1) (45 U.S.C. 564(d)(1))—

(A) by striking out "if—" and inserting in lieu thereof "if";

(B) by striking out "(A)"; and

(C) by striking out all after "mile" the second time it appears therein and inserting in lieu thereof a period;

(5) in the second sentence of section 404(d)(1) (45 U.S.C. 564(d)(1)) by striking out "and passenger mile per train mile";

(6) by striking out the last sentence of section 404(d)(1) (45 U.S.C. 564(d)(1)); and

(7) in section 404(d)(2) (45 U.S.C. 564(d)(2))—

(A) by striking out "if—" and inserting in lieu thereof "if";

(B) by striking out "(A)"; and

(C) by striking out all after "mile" the second time it appears therein and inserting in lieu thereof a period.

(b) Effective Date.—The provisions of this section shall take effect on October 1, 1986.

SEC. 4015. ICC REGULATION.

Section 306(a)(3) of the Rail Passenger Service Act (45 U.S.C. 546(a)(3)) is amended by striking out ", except as otherwise provided in this Act,".

SEC. 4016. MEANING OF "DISCONTINUANCE" FOR LABOR PROTECTION PURPOSES.

Section 405(a) of the Rail Passenger Service Act (45 U.S.C. 565(a)) is amended by adding at the end thereof the following: "For purposes of subsection (c) of this section and any agreement designed to implement the provisions of such subsection, a 'discontinuance of intercity rail passenger service' shall not include any adjustment in frequency of intercity rail passenger trains the effect of which is a temporary suspension of service unless such suspension causes a reduction of passenger train operations on a particular route to a frequency of less than three round trips per week at any time during any calendar year.".

SEC. 4017. NORTHEAST CORRIDOR COST DISPUTE DECISIONS.

(a) ICC Decisions.—(1) Section 1163(a)(2) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1111(a)(2)) is amended to read as follows:

"(2) The Commission, in making such a determination, shall consider all relevant factors, and shall not permit cross subsidization between intercity rail passenger service and commuter rail passenger service.".

(2) Any decisions of the Interstate Commerce Commission before the date of enactment of this Act under section 1163(a)(2) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1111(a)(2)) shall have no force and effect after the date of enactment of this Act.

(b) Assignment of Costs.—Section 402(a) of the Rail Passenger Service Act (45 U.S.C. 562(a)) is amended—

(1) by inserting "(1)" immediately after "(a)";

(2) by inserting "(2)" immediately before "Notwithstanding";

(3) in the second sentence of paragraph (2), as so designated by paragraph (2) of this subsection, by striking out "180" and inserting in lieu thereof "120";

(4) in the last sentence of paragraph (2), as so designated by paragraph (2) of this subsection, by striking out "shall consider all relevant factors, and shall not permit cross subsidization among intercity, commuter," and inserting in lieu thereof "shall not permit cross subsidization between intercity rail passenger service"; and

(5) by adding at the end of paragraph (2), as so designated by paragraph (2) of this subsection, the following: "The Commission, in making such a determination, shall assign to a freight railroad obtaining services pursuant to this paragraph the costs incurred by the Corporation solely for the benefit of that railroad, plus a proportionate share of all other costs of providing services covered by this paragraph that are incurred for the common benefit of the Corporation and such freight railroad. The proportionate share of such other costs assigned to a freight railroad shall be based on relative measures of volume of car operations, tonnage, or other factors that reasonably reflect the relative use of the rail properties covered by this paragraph. Nothing in this paragraph shall be construed to preclude parties from entering into an agreement under this paragraph either before or after a determination of the Commission under this paragraph.".

(c) Effectiveness of Standard.—The compensation standard established by the amendment made by subsection (b) of this section shall be effective in any proceeding instituted under section 402(a)(2) of the Rail Passenger Service Act (45 U.S.C. 562(a)(2)) after the date of enactment of this Act.

(d) Congressional Policy.—Nothing in this section, or any amendment made by this section, shall be construed to alter the Congressional policy against cross subsidization among intercity, commuter, and rail freight services expressed in the last sentence of section 402(a) of the Rail Passenger Service Act, as in effect before the date of enactment of this Act.

SEC. 4018. LOCAL RAIL SERVICE ASSISTANCE.

Section 5(q) of the Department of Transportation Act (49 U.S.C. App. 1654(q)) is amended—

(1) by inserting after "September 30, 1984." the following: "Of the funds authorized to be appropriated under this subsection, there are authorized to be appropriated not to exceed $12,000,000 for the fiscal year ending September 30, 1986, not to exceed $10,000,000 for the fiscal year ending September 30, 1987, and not to exceed $8,000,000 for the fiscal year ending September 30, 1988."; and

(2) by adding at the end thereof the following: "No funds are authorized to be appropriated under this subsection for any period after September 30, 1988.".

Subtitle B—Highway Programs

SEC. 4101. REDUCTIONS IN HIGHWAY APPORTIONMENTS.

(a) Primary System.—The first sentence of section 105(a)(1) of the Highway Improvement Act of 1982 is amended by striking out "$2,450,000,000" and inserting in lieu thereof "$2,375,000,000".

(b) Bridge Replacement and Rehabilitation.—Section 202(1) of the Highway Safety Act of 1982 is amended by striking out "$2,050,000,000" and inserting in lieu thereof "$1,900,000,000".

(c) Interstate 4R.—The first sentence of section 105 of the Federal-Aid Highway Act of 1978 is amended by striking out "$3,150,000,000" and inserting in lieu thereof "$2,975,000,000".

(d) Apportionment Adjustments.—

(1) Determination of adjustment amount.—On the first day following the effective date of this section, the Secretary of Transportation shall determine—

(A) the amount of funds that would have been apportioned to each State on October 1, 1985—

(i) for the Federal-aid primary system program if the amendment made by subsection (a) had been in effect on such date;

(ii) for the highway bridge replacement and rehabilitation program if the amendment made by subsection (b) had been in effect on such date; and

(iii) for the program to resurface, restore, rehabilitate, and reconstruct routes on the National System of Interstate and Defense Highways if the amendment made by subsection (c) had been in effect on such date; and

(B) the amount by which the amount which was apportioned to such State on October 1, 1985, for such program exceeds the amount determined under subparagraph (A) for such program.

(2) Adjustments to current apportionment.—To the extent that any funds—

(A) which were apportioned to a State on October 1, 1985, for any program referred to in paragraph (1)(A); and

(B) which are unobligated on the first day following the effective date of this section;

do not exceed the amount determined under paragraph (1)(B) for such program, such apportioned and unobligated funds shall lapse on such first day.

(3) Adjustment to future apportionment.—If the amount determined under paragraph (1)(B) with respect to the apportionment made on October 1, 1985, to any State for any program referred to in paragraph (1)(A) is greater than the amount of funds which lapse from the apportionment to such State for such program under paragraph (2), the Secretary of Transportation shall reduce the amount which, but for this paragraph, would otherwise be apportioned to such State for such program on October 1, 1986, by the amount of such excess.

SEC. 4102. OBLIGATION CEILING.

(a) General Limitation.—Notwithstanding any other provision of law, the total of all obligations for Federal-aid highways and highway safety construction programs shall not exceed—

(1) $13,125,000,000 for fiscal year 1986;

(2) $13,525,000,000 for fiscal year 1987; and

(3) $14,100,000,000 for fiscal year 1988.

(b) Exceptions.—The limitations under subsection (a) shall not apply to obligations—

(1) under section 125 of title 23, United States Code;

(2) under section 157 of such title;

(3) under section 320 of such title;

(4) under section 147 of the Surface Transportation Assistance Act of 1978;

(5) under section 9 of the Federal-Aid Highway Act of 1981;

(6) under sections 131(b) and 131(j) of the Surface Transportation Assistance Act of 1982; and

(7) under section 118 of the National Visitor Center Facilities Act of 1968.

(c) Distribution of Obligational Authority.—For each of the fiscal years 1986, 1987, and 1988, the Secretary of Transportation shall distribute the limitation imposed by subsection (a) by allocation in the ratio which sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to each State for such fiscal year bears to the total of the sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to all the States for such fiscal year.

(d) Limitation on Obligational Authority.—During the period October 1 through December 31 of each of the fiscal years 1986, 1987, and 1988, no State shall obligate more than 35 percent of the amount distributed to such State under subsection (c) for such fiscal year, and the total of all State obligations during such period shall not exceed 25 percent of the total amount distributed to all States under such subsection for such fiscal year.

(e) Redistribution of Unused Obligational Authority.—Notwithstanding subsections (c) and (d), the Secretary of Transportation shall—

(1) provide all States with authority sufficient to prevent lapses of sums authorized to be appropriated for Federal-aid highways and highway safety construction which have been apportioned or allocated to a State, except in those instances in which a State indicates its intention to lapse sums apportioned under section 104(b)(5)(A) of title 23, United States Code;

(2) after August 1 of each of the fiscal years 1986, 1987, and 1988, revise a distribution of the funds made available under subsection (c) for such fiscal year if a State will not obligate the amount distributed during such fiscal year and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during such fiscal year giving priority to those States having large unobligated balances of funds apportioned under section 104 of title 23, United States Code, and giving priority to those States which, because of statutory changes made by the Surface Transportation Assistance Act of 1982 and the Federal-Aid Highway Act of 1981, have experienced substantial proportional reductions in their apportionments and allocations; and

(3) not distribute amounts authorized for administrative expenses and Federal lands highways programs.

(f) Conforming Amendment.—Section 157(b) of title 23, United States Code, is amended by striking out the period at the end of the last sentence and inserting in lieu thereof "and section 4102(c) of the Consolidated Omnibus Budget Reconciliation Act of 1985.".

SEC. 4103. INCREASE IN THE STATE EMERGENCY REPAIR FUND LIMITATION.

The first sentence of section 125(b) of title 23, United States Code, is amended by inserting after "$30,000,000" the following: "(and $55,000,000 for projects in connection with disasters or failures occurring in calendar year 1985)".

SEC. 4104. NATIONAL MINIMUM DRINKING AGE AMENDMENTS.

(a) Extension of Penalty for Non-Compliance.—Section 158(a)(2) of title 23, United States Code, is amended by striking out "the fiscal year succeeding" and inserting in lieu thereof "each fiscal year after".

(b) Complying State Laws.—Subsection (a) of section 158 of such title is amended by adding at the end thereof the following new paragraph:

"(3) State grandfather law as complying.—If, before the later of (A) October 1, 1986, or (B) the tenth day following the last day of the first session the legislature of a State convenes after the date of the enactment of this paragraph, such State has in effect a law which makes unlawful the purchase and public possession in such State of any alcoholic beverage by a person who is less than 21 years of age (other than any person who is 18 years of age or older on the day preceding the effective date of such law and at such time could lawfully purchase or publicly possess any alcoholic beverage in such State), such State shall be deemed to be in compliance with paragraphs (1) and (2) of this subsection in each fiscal year in which such law is in effect.".

(c) Period of Availability; Effect of Compliance and Noncompliance.—Subsection (b) of section 158 of such title is amended to read as follows:

"(b) Period of Availability; Effect of Compliance and Noncompliance.—

"(1) Period of availability of withheld funds.—

"(A) Funds withheld on or before September 30, 1988.—Any funds withheld under this section from apportionment to any State on or before September 30, 1988, shall remain available for apportionment to such State as follows:

"(i) If such funds would have been apportioned under section 104(b)(5)(A) of this title but for this section, such funds shall remain available until the end of the fiscal year for which such funds are authorized to be appropriated.

"(ii) If such funds would have been apportioned under section 104(b)(5)(B) of this title but for this section, such funds shall remain available until the end of the second fiscal year following the fiscal year for which such funds are authorized to be appropriated.

"(iii) If such funds would have been apportioned under sections 104(b)(1), 104(b)(2), or 104(b)(6) of this title but for this section, such funds shall remain available until the end of the third fiscal year following the fiscal year for which such funds are authorized to be appropriated.

"(B) Funds withheld after September 30, 1988.—No funds withheld under this section from apportionment to any State after September 30, 1988, shall be available for apportionment to such State.

"(2) Apportionment of withheld funds after compliance.—If, before the last day of the period for which funds withheld under this section from apportionment are to remain available for apportionment to a State under paragraph (1)(A), the State makes effective a law which is in compliance with subsection (a), the Secretary shall on the day following the effective date of such law apportion to such State the withheld funds remaining available for apportionment to such State.

"(3) Period of availability of subsequently apportioned funds.—Any funds apportioned pursuant to paragraph (2) shall remain available for expenditure as follows:

"(A) Funds apportioned under section 104(b)(5)(A) of this title shall remain available until the end of the fiscal year succeeding the fiscal year in which such funds are so apportioned.

"(B) Funds apportioned under sections 104(b)(1), 104(b)(2), 104(b)(5)(B), or 104(b)(6) of this title shall remain available until the end of the third fiscal year succeeding the fiscal year in which such funds are so apportioned.

Sums not obligated at the end of such period shall lapse or, in the case of funds apportioned under section 104(b)(5) of this title, shall lapse and be made available by the Secretary for projects in accordance with section 118(b) of this title.

"(4) Effect of noncompliance.—If, at the end of the period for which funds withheld under this section from apportionment are available for apportionment to a State under paragraph (1), the State has not made effective a law which is in compliance with subsection (a), such funds shall lapse or, in the case of funds withheld from apportionment under section 104(b)(5) of this title, such funds shall lapse and be made available by the Secretary for projects in accordance with section 118(b) of this title.".

(d) Conforming Amendments.—Such section 158 is further amended—

(1) in subsection (a) by inserting "Withholding of Funds for Noncompliance.—" before "(1) The";

(2) in subsection (a)(1) by inserting "First year.—" before "The Secretary";

(3) by indenting paragraphs (1) and (2) of subsection (a) and aligning them with paragraph (3) of such subsection as inserted by subsection (b) of this section;

(4) in subsection (a)(1) by inserting "first" before "fiscal year" the second place it appears;

(5) in subsection (a)(2) by inserting "After the first year.—" before "The Secretary"; and

(6) in subsection (c) by inserting "Alcoholic Beverage Defined.—" before "As".

SEC. 4105. OHIO RIVER BRIDGE FUND REPROGRAMMING.

Section 147 of the Federal-Aid Highway Act of 1978 is amended by inserting "(a)" after "Sec. 147." and by adding at the end thereof the following new subsection:

"(b)(1) Of the funds which have been set aside previously pursuant to the fourth and fifth sentences of subsection (a) of this section and which are in excess of the amounts needed to complete the projects authorized by such subsection—

"(A) $65,000,000 shall be available to the Secretary of Transportation to carry out the state-of-the-art technology projects described in paragraph (2) of this subsection; and

"(B) the remainder shall be apportioned under subsection (e) of section 144 of title 23, United States Code, for carrying out projects under such section.

"(2) The state-of-the-art technology projects referred to in paragraph (1) of this subsection are the following:

"(A) Construction of a bridge (including approaches thereto) across the Ohio River between Newport, Kentucky, and Cincinnati, Ohio, to replace a bridge on a highway designated as a United States route.

"(B) Construction of a bridge (including approaches thereto) across the Ohio River between Covington, Kentucky, and Cincinnati, Ohio, to replace a bridge on a Kentucky State highway.

"(C) Construction of a bridge (including approaches thereto) across the Ohio River near Maysville, Kentucky, and Aberdeen, Ohio, to replace a bridge on a highway designated as a United States route.

"(3) In order to demonstrate the latest high-type geometric design features (including safety hardware) and new advances in highway bridge construction, the projects authorized by this subsection shall utilize state-of-the-art technology, and all design elements, including the decking, shall be designed to provide the best life-cycle costs, thereby minimizing future maintenance and rehabilitation costs.

"(4) The Secretary of Transportation may provide necessary technical assistance in the design and construction of projects under this subsection.

"(5) Not later than one year after the completion of the state-of-the-art technology projects under this subsection, the Secretary of Transportation shall submit a report to Congress, including but not limited to the results of such projects, the effects of using the best available technology on safety and other considerations, recommendations for applying the results to other bridge projects, and any changes that may be necessary by law to permit further use of such features.

"(6) In allocating funds made available to carry out the projects described in paragraph (2) of this subsection, the Secretary shall give priority to completing the projects described in subparagraphs (A) and (B) of such paragraph. At such time as the Secretary determines and certifies in writing that sufficient funds have been set aside, from the amount made available under paragraph (1)(A), to complete the projects described in subparagraphs (A) and (B) of paragraph (2), any remaining funds shall be used to carry out the project described in subparagraph (C) of paragraph (2).

"(7) Funds made available to carry out the projects described in paragraph (2) of this subsection shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code, except that such funds shall be available until expended and shall not be subject to any obligation limitation. The Federal share of the projects described in paragraph (2) of this subsection shall be that provided in subsection (a).".

TITLE V—CORPORATION FOR PUBLIC BROADCASTING AND FEDERAL COMMUNICATIONS COMMISSION

SEC. 5001. CORPORATION FOR PUBLIC BROADCASTING.

(a) PUBLIC TELECOMMUNICATIONS FACILITIES.—Section 391 of the Communications Act of 1934 (47 U.S.C. 391) is amended—

(1) by striking out "and" after "1983,"; and

(2) by inserting ", $24,000,000 for fiscal year 1986, $28,000,000 for fiscal year 1987, and $32,000,000 for fiscal year 1988," immediately after "1984,".

(b) ALLOCATION OF APPROPRIATIONS.—Section 393 of the Communications Act of 1934 (47 U.S.C. 393) is amended—

(1) by striking out subsection (c); and

(2) by redesignating subsection (d) as subsection (c).

(c) FINANCING OF CORPORATION FOR PUBLIC BROADCASTING.—(1) Section 396(k)(1)(C) of the Communications Act of 1934 (47 U.S.C. 396(k)(1)(C)) is amended—

(A) by striking out "and 1986" and inserting in lieu thereof "1986, 1987, 1988, 1989, and 1990";

(B) by striking out "and" after "fiscal year 1985,"; and

(C) by inserting ", $200,000,000 for fiscal year 1987, $214,000,000 for fiscal year 1988, $238,000,000 for fiscal year 1989, and $254,000,000 for fiscal year 1990" immediately before the period at the end thereof.

(2) Section 396(k)(3)(A)(i)(II) of the Communications Act of 1934 (47 U.S.C. 396(k)(3)(A)(i)(II)) is amended by striking out "research, training, technical assistance, engineering, instructional support, payment of interest on indebtedness,".

(3) Section 396(k) of the Communications Act of 1934 (47 U.S.C. 396(k)) is amended—

(A) by striking out paragraph (8); and

(B) by redesignating paragraphs (9) and (10) as paragraphs (8) and (9), respectively.

SEC. 5002. FEDERAL COMMUNICATIONS COMMISSION.

(a) AUTHORIZATION OF APPROPRIATIONS.—(1) Section 6 of the Communications Act of 1934 (47 U.S.C. 156) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 6. There are authorized to be appropriated for the administration of this Act by the Commission $98,100,000 for fiscal year 1986 and $97,600,000 for fiscal year 1987, together with such sums as may be necessary for increases resulting from adjustments in salary, pay, retirement, other employee benefits required by law, and other nondiscretionary costs, for each of the fiscal years 1986 and 1987.".

(2) The amendment made by paragraph (1) of this subsection shall apply with respect to fiscal years beginning after September 30, 1985.

(b) REIMBURSED EXPENSES.—Section 4(g)(2) of the Communications Act of 1934 (47 U.S.C. 154(g)(2)) is amended—

(1) in subparagraph (D), by striking out "1985" and inserting in lieu thereof "1987"; and

(2) by adding at the end thereof the following new subparagraph:

"(E) Funds which are received by the Commission as reimbursements under the provisions of this paragraph after the close of a fiscal year shall remain available for obligation.".

(c) ANNUAL REPORT.—Section 5(g) of the Communications Act of 1934 (47 U.S.C. 155(g)) is amended by striking out "January 31" and inserting in lieu thereof "March 31".

(d) ADDITIONAL SAVINGS.—For provisions of law which, through relocation of the Fort Lauderdale, Florida, Monitoring Station of the Federal Communications Commission, reduce spending for fiscal year 1986 in satisfaction of the reconciliation requirements imposed by section 2(e) of S. Con. Res. 32 (99th Congress), see the material under the heading "FEDERAL COMMUNICATIONS COMMISSION" in the Supplemental Appropriations Act, 1985 (Public Law 99-88).

(e) CHARGES FOR OPERATIONS.—The Communications Act of 1934 (47 U.S.C. 151 et seq.) is amended by inserting immediately after section 7 the following new section:

"CHARGES

"SEC. 8. (a) The Commission shall assess and collect charges at such rates as the Commission shall establish or at such modified rates as it shall establish pursuant to the provisions of subsection (b) of this section. The Schedule of Charges established under this subsection shall be implemented not later than 360 days after the date of enactment of this section.

"(b)(1) The Schedule of Charges established under this section shall be reviewed by the Commission every two years after the date of enactment of this section and adjusted by the Commission to reflect changes in the Consumer Price Index. Increases or decreases in charges shall apply to all categories of charges, except that individual fees shall not be adjusted until the increase or decrease, as determined by the net change in the Consumer Price Index since the date of enactment of this section, amounts to at least $5.00 in the case of fees under $100.00, or 5 percent in the case of fees of $100.00 or more. All fees which require adjustment will be rounded upward to the next $5.00 increment. The Commission shall transmit to the Congress notification of any such adjustment not later than 90 days before the effective date of such adjustment.

"(2) Increases or decreases in charges made pursuant to this subsection shall not be subject to judicial review.

"(c)(1) The Commission shall prescribe by regulation an additional charge which shall be assessed as a penalty for late payment of charges required by subsection (a) of this section. Such penalty shall be 25 percent of the amount of the charge which was not paid in a timely manner.

"(2) The Commission may dismiss any application or other filing for failure to pay in a timely manner any charge or penalty under this section.

"(d)(1) The charges established under this section shall not be applicable to the following radio services: Local Government, Police, Fire, Highway Maintenance, Forestry-Conservation, Public Safety, and Special Emergency Radio, or to governmental entities licensed in other services.

"(2) The Commission may waive or defer payment of a charge in any specific instance for good cause shown, where such action would promote the public interest.

"(e) Moneys received from charges established under this section shall be deposited in the general fund of the Treasury to reimburse the United States for amounts appropriated for use by the Commission in carrying out its functions under this Act.

"(f) The Commission shall prescribe appropriate rules and regulations to carry out the provisions of this section.".

(f) Until modified pursuant to section 8(b) of the Communications Act of 1934 (as added by subsection (e) of this section), the Schedule of Charges which the Federal Communications Commission shall prescribe pursuant to section 8(a) of such Act shall be as follows:

Schedule of Charges

Service	Fee amount
PRIVATE RADIO BUREAU	
1. Marine Coast Stations (New, Modifications, Renewals).	$60.00
2. Operational Fixed Microwave Stations (New, Modifications, Renewals).	135.00
3. Aviation (Ground Stations) (New, Modifications, Renewals).	60.00
4. Land Mobile Radio Licenses (New, Modifications, Renewals).	30.00
EQUIPMENT APPROVAL SERVICE	
1. Certification	
a. Receivers (Except TV & FM Receivers).	250.00
b. All Other Devices	650.00
2. Type Acceptance	
a. Approval of Subscription TV Systems.	2,000.00
b. All Others	325.00
3. Type Approval	
a. Ship (Radio Telegraph) Automatic Alarm Systems.	6,500.00
b. Ship and Lifeboat (Radio Telegraph) Transmitters.	3,250.00
c. All Others (With Testing).	1,300.00
d. All Others (Without Testing).	150.00
4. Notifications	100.00
MASS MEDIA BUREAU	
1. Commercial TV Stations	
a. New and Major Change Construction Permits Application Fees.	2,250.00
b. Minor Changes Application Fee.	500.00
c. Hearing Charge	6,000.00
d. License Fee	150.00
2. Commercial Radio Stations	
a. New and Major Change Construction Permits	
(1) Application Fee AM Station.	2,000.00
(2) Application Fee FM Station.	1,800.00
b. Minor Changes Appl. Fee-AM & FM.	500.00
c. Hearing Charge	6,000.00
d. License Fee	
(1) AM	325.00
(2) FM	100.00

Schedule of Charges—Continued

Service	Fee amount
e. Directional Antenna License Fee (AM only).	375.00
3. FM/TV Translators and LPTV Stations (New & Major Change Construction Permits)	
a. Application Fee	375.00
b. License Fee	75.00
4. Station Assignment and Transfer Fees	
a. AM, FM and TV Commercial Stations	
(1) Application Fee (Forms 314/315).	500.00
(2) Application Fee (Form 316).	70.00
b. FM/TV Translators & LPTV Stations.	75.00
5. Auxiliary Services Major Actions—Application Fee.	75.00
6. Renewals—All Services	30.00
7. Cable Television Service	
a. Cable Television Relay Service—Construction Permits, Assignments & Transfers, Renewals & Modifications.	135.00
b. Cable Special Relief Petitions—Filing Fee.	700.00
8. Direct Broadcast Satellite New & Major Change CPs	
a. Application for Authorization to Construct a Direct Broadcast Satellite.	1,800.00
b. Issuance of CP & Launch Authority.	17,500.00
c. License to Operate Satellite.	500.00
d. Hearing Charge	6,000.00
COMMON CARRIER BUREAU	
1. Domestic Public Land Mobile Stations (Base, Dispatch, Control & Repeater Stations)	
a. New or Additional Facility Authorizations, Assignments & Transfers (Per transmitter/per station).	200.00
b. Renewals and Minor Modifications (Per station).	20.00
c. Air-Ground Individual License Renewals & Modifications.	20.00
2. Cellular Systems	
a. Initial Construction Permits & Major Modification Applications (Per cellular systems).	200.00
b. Assignments & Transfers (Per station).	200.00
c. Initial covering license (Per cellular system)	
(1) Wireline carrier	525.00
(2) Nonwireline carrier.	50.00
d. Renewals	20.00
e. Minor modifications and additional licenses.	50.00
3. Rural Radio (Central Office, Interoffice or Relay Facilities)	
a. Initial Construction Permit, Assignments & Transfers (Per transmitter).	90.00
b. Renewals & Modifications (Per station).	20.00
4. Offshore Radio Service	
a. Initial Construction Permit, Assignments & Transfers (Per transmitter).	90.00
b. Renewals & Modifications (Per station).	20.00
5. Local Television or Point To Point Microwave Radio Service	
a. Construction Permits, Modifications of Construction Permits, and Renewals of Licenses.	135.00
b. Assignments & Transfers of Control (Per Station).	45.00
c. Initial License for New Frequency.	135.00
6. International Fixed Public Radio (Public & Control Stations)	
a. Initial Construction Permits, Assignments & Transfers.	450.00
b. Renewals & Modifications.	325.00
7. Satellite Services	
a. Transmit Earth Stations	
(1) Initial Station Authorization.	1,350.00
(2) Assignments & Transfers of Station Authorizations.	450.00
(3) All Other Applications.	90.00
b. Small Transmit/Receive Earth Stations (2 meters or less)	
(1) Lead Authorization.	3,000.00
(2) Routine Authorization.	30.00
(3) All Other Applications.	90.00
c. Receive Only Earth Stations	
(1) Initial Station Authorization.	200.00
(2) All Other Applications.	90.00
d. Applications For Authority To Construct a Space Station.	1,800.00
e. Applications For Authority To Launch & Operate a Space Station.	18,000.00
f. Satellite System Application	
(1) Initial Station Authorization.	5,000.00
(2) Assignments & Transfers of Systems.	1,333.00
(3) All Other Applications.	90.00
8. Multipoint Distribution Service	
a. Construction Permits, Renewals & Modifications of Construction Permits.	135.00
b. Assignments & Transfers of Control (Per Station).	45.00
c. Initial License (per channel).	400.00
9. Section 214 Applications	
a. Applications for Overseas Cable Construction.	8,100.00
b. Applications for Domestic Cable Construction.	540.00
c. All Other 214 Applications.	540.00
10. Tariff Filings	
a. Filing Fee	250.00
b. Special Permission Filings.	200.00
11. Telephone Equipment Registration.	135.00
12. Digital Electronic Message Service	
a. Construction Permits, Renewals & Modifications of Construction Permits.	135.00
b. Assignments & Transfers of Control (Per Station).	45.00
c. Initial License (First License or License Adding a New Frequency).	135.00

TITLE VI—MARITIME, COASTAL ZONE, AND RELATED PROGRAMS

Subtitle A—Boating Safety Fund

SEC. 6001. BOATING SAFETY FUND.

An amount equal to one-third of the amount transferred for fiscal year 1985 to the Boat Safety Account under section 9503(c)(4) of the Internal Revenue Code of 1954 (26 U.S.C. 9503(c)(4)) shall be deposited in the general fund of the Treasury as proprietary receipts of the department in which the Coast Guard is operating and ascribed to Coast Guard activities. Section 13106(a) of title 46, United States Code, shall be applied with respect to fiscal year 1985 by substituting "one-third" for "two-thirds" in the first sentence.

Subtitle B—NOAA Nautical and Aeronautical Products

SEC. 6011. SALE AND DISTRIBUTION OF NOAA NAUTICAL AND AERONAUTICAL PRODUCTS.

(a) Section 1307 of title 44, United States Code, is amended to read as follows:

"§1307. National Oceanic and Atmospheric Administration: nautical and aeronautical products, sale and distribution

"(a)(1) All nautical and aeronautical products created or published by the National Oceanic and Atmospheric Administration shall be sold at such prices as the Secretary of Commerce shall establish annually, in accordance with the provisions of this subsection. The Secretary shall publish annually the prices at which nautical and aeronautical products are sold to the public.

"(2)(A) Subject to subparagraph (B) of this paragraph, the prices of nautical and aeronautical products may be increased over a period of not less than three years after the date of enactment of this section so as to recover all costs attributable to data base management, compilation, printing, and distribution of such products. The prices of such products may be maintained to recover all such costs thereafter. At the end of such period and every three years thereafter, the Secretary, after consultation with the Secretary of Transportation, shall report to the Congress on the effect of imposing or maintaining such increased prices, including any impact on aviation and marine safety.

"(B) The Secretary, after consultation with the Secretary of Transportation, shall adjust the prices of nautical or aeronautical products in such manner as is necessary to avoid any adverse impact on aviation and marine safety attributable to the prices specified in subparagraph (A) of this paragraph.

"(3) This section shall not be construed to require the establishment of any price for a nautical or aeronautical product where, in the judgment of the Secretary, furnishing of that product to a recipient is a reasonable exchange for voluntary contribution of information by the recipient to a program of the National Oceanic and Atmospheric Administration.

"(4) Prices established under this section may not include costs attributable to the acquisition or processing of nautical or aeronautical data.

"(b) Fees collected from the sale of nautical or aeronautical products under this section and from any licensing of such products which is permitted under any other provision of law shall be deposited in the miscellaneous receipts fund of the United States Treasury.

"(c) The Secretary may distribute nautical and aeronautical products—

"(1) without charge to each foreign government or international organization with which the Secretary or a Federal department or agency has an agreement for exchange of these products without cost; and

"(2) at prices which the Secretary establishes, to the departments and officers of the United States requiring them for official use.

"(d) The fees provided for in this section are for the purpose of reimbursing the United States Government for the costs of creating, publishing or distributing aeronautical and nautical products of the National Oceanic and Atmospheric Administration. The collection of fees authorized by this section shall not alter or expand any duty or liability of the United States under existing law for the performance of functions for which fees are collected, nor shall the collection of fees constitute an express or implied undertaking by the United States to perform any activity in a certain manner.

"(e) For purposes of this section, the term 'nautical and aeronautical products' includes all nautical and aeronautical charts, tide and tidal current tables, tidal current charts, coast pilots, water level products, and associated data bases which are created or published by the National Oceanic and Atmospheric Administration.".

(b) The item relating to section 1307 in the analysis of chapter 13 of title 44, United States Code, is amended to read as follows:

"1307. National Oceanic and Atmospheric
Administration: nautical and
aeronautical products, sale and
distribution.".

Subtitle C—Foreign Fishing Permit Fees

SEC. 6021. FOREIGN FISHING PERMIT FEES.

Paragraph (10) of section 204(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1824(b)(10)) is amended to read as follows:

"(10) FEES.—(A) Fees shall be paid to the Secretary by the owner or operator of any foreign fishing vessel for which a permit is issued pursuant to this subsection. The Secretary, in consultation with the Secretary of State, shall establish a schedule of such fees which shall apply nondiscriminatorily to each foreign nation.

"(B) Unless subparagraph (C) applies, the fees imposed under subparagraph (A) shall be at least in an amount sufficient to return to the United States an amount which bears to the total cost of carrying out the provisions of this Act during each fiscal year the same ratio as the aggregate quantity of fish harvested by foreign fishing vessels within the fishery conservation zone during the preceding year bears to the aggregate quantity of fish harvested by both foreign and domestic fishing vessels within such zone and the territorial waters of the United States during such preceding year.

"(C) If the Secretary, in consultation with the Secretary of State, finds that any foreign nation receiving an allocation under section 201(e)—

"(i) is harvesting anadromous species of United States origin at a level that is unacceptable to the Secretary; or

"(ii) is failing to take sufficient action to benefit the conservation and development of United States fisheries;

the fees imposed under subparagraph (A) for the next fiscal year shall be at least in an amount sufficient to return to the United States an amount which bears to the total cost of carrying out the provisions of this Act during that fiscal year the same ratio as the aggregate quantity of fish harvested by foreign fishing vessels within the fishery conservation zone during the preceding year bears to the aggregate quantity of fish harvested by both foreign and domestic fishing vessels within such zone during such preceding year. If the Secretary, in consultation with the Secretary of State, finds, at any time during a fiscal year in which fees calculated under this subparagraph are in effect with respect to a foreign nation, that the conditions requiring that calculation no longer exist, the fees imposed under this paragraph with respect to that nation for the remainder of the fiscal year shall be calculated under subparagraph (B).

"(D) Before the end of each fiscal year, the Secretary, in consultation with the Secretary of State, shall review, based on the criteria established in subparagraph (C)(i) and (ii), the performance of every nation receiving an allocation under section 201(e) and provide written notice to the Congress of his findings and reasons therefor before the end of the fiscal year.

"(E) For purposes of this paragraph, the total cost of carrying out the provisions of this Act includes, but is not limited to, fishery conservation and management, fisheries research, administration, and enforcement, but excludes costs for observers covered by surcharges under section 201(i)(4).

"(F)(i) The amounts collected by the Secretary under this paragraph (except the amounts referred to in clause (ii)) shall be transferred to the fisheries loan fund established under section 4 of the Fish and Wildlife Act of 1956 (16 U.S.C. 742(c)) for so long as such fund exists and used for the purpose of making loans therefrom, but only to the extent and in amounts provided for in advance in appropriation Acts.

"(ii) The Secretary shall deposit into the general fund of the United States Treasury the difference between the amounts collected under subparagraph (C) and the amounts that would have been collected from such nations had that subparagraph not been enacted.".

Subtitle D—Ocean and Coastal Resources Management and Development Block Grant Act

SEC. 6031. DEFINITIONS.

For purposes of this subtitle—

(1) The term "block grant" means a National Ocean and Coastal Resources Management and Development Block Grant.

(2) The term "coastal population" means that term as defined in regulations issued on May 17, 1982, at 15 CFR Part 927.

(3)(A) The term "coastal-related energy facilities" means any equipment or facility that—

(i) is or will be used primarily in the exploration for, or the development, production, conversion, storage, transfer, processing, or transportation of, any energy resource or for the manufacture, production, or assembly of equipment, machinery, products, or devices that are involved in any such energy-resource activity, and

(ii) is, or is likely to be, sited, constructed, expanded, or operated in, or in close proximity to, the coastal zone of any State because of technical requirements.

(B) The term includes—

(i) electric generating plants;

(ii) facilities associated with the transportation, transfer, or storage of coal;

(iii) petroleum refineries and associated facilities;

(iv) gasification plants;

(v) facilities associated with the transportation, conversion, treatment, transfer, or storage of liquefied natural gas;

(vi) oil and gas facilities, including platforms, assembly plants, storage depots, tank farms, crew and supply bases, and refining complexes;

(vii) facilities, including deepwater ports, for the transfer of petroleum;

(viii) facilities used for alternative ocean energy activities, including those associated with ocean thermal energy conversion; and

(ix) pipelines, transmission facilities, and terminals associated with any of the foregoing.

(C) For the purposes of this subtitle, the siting, construction, expansion, or operation of any coastal-related energy facilities is "in close proximity to the coastal zone of any state" if such siting, construction, expansion, or operation has, or is likely to have, a significant effect on such coastal zone.

(4) The term "coastal state" means the Commonwealth of Puerto Rico and any state of the United States in, or bordering on, the Atlantic Ocean, the Pacific Ocean, the Arctic Ocean, the Gulf of Mexico, Long Island Sound, or one or more of the Great Lakes.

(5) The term "coastal territory" means the Virgin Islands, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, American Samoa, or Guam.

(6) The term "Fund" means the Ocean and Coastal Resources Management and Development Fund.

(7) The term "local government" means that term as defined in section 304(11) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453(11)) and, with respect to the State of Alaska, the term includes unincor-

porated communities, including Alaska Native villages.

(8) The term "outer Continental Shelf planning area" means one of the geophysical regions of the outer Continental Shelf which is so designated in the Outer Continental Shelf Leasing Program (43 U.S.C. 1344), dated July 21, 1982, or as so designated in subsequent outer Continental Shelf leasing programs.

(9) The term "proportionately" means in the same ratio as a state's allocation.

(10) The term "Secretary" means the Secretary of Commerce.

(11) The term "shoreline mileage" means that term as defined in regulations issued on May 17, 1982, at 15 CFR Part 927.

(12) The term "state" means any coastal state or coastal territory.

SEC. 6032. OCEAN AND COASTAL RESOURCES MANAGEMENT AND DEVELOPMENT FUND.

(a) There is established in the Treasury of the United States a fund to be known as the Ocean and Coastal Resources Management and Development Fund.

(b)(1) Subject to the limitations in paragraph (2), for each fiscal year after fiscal year 1987, the Secretary of the Treasury shall deposit into the Fund, not later than 60 days after the end of the previous fiscal year, an amount equal to 20 per centum of the amount, if any, by which the aggregate of the sums deposited into the Treasury of the United States pursuant to section 9 of the Outer Continental Shelf Lands Act (43 U.S.C. 1338) during the previous fiscal year exceeded $5,000,000,000.

(2) The amount in the Fund at any time during a fiscal year may not exceed the following maximum amount:

(A) During fiscal year 1988, $150,000,000.

(B) During fiscal year 1989, $300,000,000.

(C) During fiscal year 1990, an amount equal to 105 percent of the maximum amount specified under subparagraph (B).

(D) During each fiscal year after fiscal year 1990, an amount equal to 105 percent of the maximum amount applicable under this paragraph for the immediately preceding fiscal year.

(c) As provided in advance by appropriation Acts, the Secretary shall use the total amount of any amounts deposited in the Fund during each fiscal year to carry out the purposes of, and in accordance with, section 6033.

SEC. 6033. NATIONAL OCEAN AND COASTAL RESOURCES MANAGEMENT AND DEVELOPMENT BLOCK GRANTS.

(a) Subject to the provisions of section 6032(c) and this section, for fiscal year 1988 and for each subsequent fiscal year, the Secretary shall provide to each state a national ocean and coastal resources management and development block grant from amounts in the Fund.

(b)(1) No state may receive a block grant for a fiscal year unless such state has submitted to the Secretary a report for such fiscal year that—

(A) specifies the proposed allocation by such state of the block grant among coastal zone management activities, coastal energy impact activities, living marine resource activities, and natural resource preservation, enhancement and management activities under section 6034(a); and

(B) describes each proposed activity receiving funds provided by the block grant and the amounts proposed to be expended for each activity.

(2) In order to be eligible to receive a block grant pursuant to this subtitle and before submitting the report required under paragraph (1), each state shall provide opportunities for the public to review and comment on the report and shall hold at least one public hearing on such report at a site in the state convenient for encouraging maximum public participation.

(c) A block grant shall not be paid from the Fund to a state until the state has established a trust fund for the receipt of such grant.

(d) The amount of each block grant provided under subsection (a) shall be determined by the Secretary under a formula established by the Secretary which gives equal consideration to each of the following criteria:

(1) For each state, the equal combination of—

(A) the amount of actual leasing with respect to oil and gas which is carried out under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) during the previous fiscal year which occurs within the outer Continental Shelf planning area to which such state is adjacent; and

(B) the volume of oil and gas produced from outer Continental Shelf acreage leased by the Federal Government which is first landed in such state during the previous fiscal year.

(2) For each state, any proposed oil and gas lease sales specified by the outer Continental Shelf leasing program prepared under section 18(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1344(a)) and scheduled to occur within the outer Continental Shelf planning area to which such state is adjacent.

(3) The coastal-related energy facilities (including coal facilities) located within each state during the previous fiscal year. For any state for which the Secretary has not approved a coastal zone management program under section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455), this criterion shall be reduced by fifty per centum. The amounts resulting from such reduction shall be reallocated proportionately, under this paragraph, among states for which the Secretary has approved such a management program.

(4) The shoreline mileage of each state for which the Secretary has approved a coastal zone management program under section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455).

(5) The coastal population of each state for which the Secretary has approved a coastal zone management program under section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455).

(e) For purposes of paragraphs (4) and (5) of subsection (d)—

(1) the Secretary shall be presumed to have approved the coastal zone management program of any state if the Secretary determines that, in any fiscal year, such state is making satisfactory progress toward the development of a coastal zone management program which will be approvable under section 306 of the Coastal Zone Management Act (16 U.S.C. 1455). Such presumption may be renewed only once and for a period not to exceed one additional fiscal year if the Secretary makes such determination under this subsection for such additional fiscal year; and

(2) a state shall not receive in excess of 30 per centum of the amounts attributable to either criterion.

If any state would receive an allotment greater than 30 per centum, the Secretary shall reduce such allotment to 30 per centum. The amounts resulting from such reduction shall be reallocated proportionately among those states that receive less than 30 per centum of the amounts attributable to such criterion.

(f)(1) For states for which the Secretary has approved a coastal zone management program under section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455), a coastal state shall receive not less than one and sixty two one-hundredths per centum, and a coastal territory not less than one-half of one per centum, of the total amount available for block grants under section 6032(c) during any fiscal year.

(2) If, after the calculations required under subsection (d), any coastal state or coastal territory is to receive a block grant that is less than the respective minimum grant levels established under paragraph (1), the Secretary shall increase such state's block grant to the minimum level. Amounts necessary to make such increases shall be derived by reducing proportionately the block grant of each state which, as determined under subsection (d), exceeds the respective minimum level under paragraph (1).

(3) For the purposes of the implementation of section 6034(b), block grant levels may fall below the respective minimum levels established under this section.

(g) If, after the calculations required under subsections (d), (e) and (f), any state would receive a block grant which is greater than 15 per centum of the funds appropriated under section 6032(c), the Secretary shall reduce such state's block grant to 15 per centum. The amounts resulting from such reduction shall be reallocated proportionately among states receiving less than 15 per centum of such funds and more than the minimum grant levels under subsection (f).

(h)(1) After determining the amount of a block grant for any State for any fiscal year under subsections (d) through (g), the Secretary shall determine the final amount of that grant by deducting (but not below 0) from the amount determined under those subsections—

(A) an amount equal to 50 percent of the average annual amount of all Federal assistance received by that State under the Coastal Zone Management Act of 1972 during the 3 immediately preceding fiscal years; and

(B) subject to paragraph (2), an amount equal to 50 percent of the average annual amount received by that State under section 8(g) of the Outer Continental Shelf Lands Act during the 3 immediately preceding fiscal years.

(2) In calculating the average annual amount under paragraph (1)(B) for any 3-year period that includes the year in which the state received payment under section 8004 of the Outer Continental Shelf Lands Act Amendments of 1985, the Secretary shall treat the state as having received, under section 8(g) of the Outer Continental Shelf Lands Act, an amount equal to 20 percent of the payment under such section 8004—

(i) for the fiscal year in which the payment under such section 8004 was received; and

(ii) for any fiscal year in the 3-year period that preceded the fiscal year referred to in clause (i).

(3) The Secretary shall deposit moneys equal to the amounts by which block grants are reduced under paragraph (1) into the general fund of the United States Treasury as miscellaneous receipts.

SEC. 6034. REQUIREMENTS ON THE USE OF BLOCK GRANTS.

(a) Block grants provided to a state under section 6033(a) shall be used for the enhancement and management of ocean and coastal resources and for the amelioration of any adverse impacts that result from the siting, construction, expansion, or operation of coastal-related energy facilities. Such block grants shall be used only for each of the following activities:

(1) Activities of such state authorized by the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.).

(2) Activities of such state pursuant to the coastal energy impact program administered under section 308 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1457).

(3) Activities of such state for the enhancement, management and development of living marine resources.

(4) Activities of such state for the preservation, enhancement and management of its natural resources including coastal habitats.

(b) Nothing in this subtitle shall be construed to repeal or modify, by implication or otherwise, section 312 of the Coastal Zone Management Act of 1972 (16 U.S.C 1461). The Secretary shall reduce any block grant, provided under this subtitle to a state that has an approved program under section 306 of the Coastal Zone Management Act (16 U.S.C. 1455), by no more than 30 per centum of the amount of such state's block grant that is attributable to paragraphs (4) and (5) of section 6033(d), if the Secretary makes the determination provided in section 312(c) of the Coastal Zone Management Act.

SEC. 6035. LOCAL GOVERNMENTS.

(a) Each state receiving a block grant in any fiscal year under section 6033(a) shall—

(1) establish an effective mechanism for consultation and coordination with its local governments with respect to the allocation of such block grant within the state; and

(2) provide to its local governments allocations from such block grant, taking into consideration the responsibilities of the local governments in carrying out activities under section 6034(a).

(b) In carrying out its responsibilities under subsection (a)(2), the state shall give particular emphasis to the activities of local governments in—

(1) providing public services and public facilities required as a result of the siting, construction, expansion, or operation of coastal-related energy facilities; and

(2) preventing, reducing, or ameliorating any unavoidable loss of valuable environmental or recreational resources if such loss results from the siting, construction, expansion, or operation of coastal-related energy facilities.

(c) In carrying out its responsibilities under this section, each state shall provide no less than 33 1/3 per centum of each block grant received under section 6033(a) to its local governments.

SEC. 6036. AUDIT.

(a) Under regulations promulgated by the Secretary, any state receiving a block grant under section 6033(a) shall, for each fiscal year that it receives such grant, provide that amounts received under this subtitle be subject to audit in accordance with chapter 75 of title 31, United States Code, and be submitted to the Secretary. The income derived from such trust fund for each fiscal year shall be included in the audit required by this section.

(b) Each audit submitted by a state under subsection (a) shall—

(1) contain a statement of all funds provided by the block grant received by such state for the fiscal year; and

(2) include a statement of all financial assistance provided to such state's local governments pursuant to section 6035.

(c) After receiving a state's financial audit under this section, the Secretary shall—

(1) make a preliminary evaluation of each audit submitted pursuant to this section. If the Secretary determines, in the preliminary evaluation of a state's audit, that all or any part of the block grant has not been used as required by this subtitle, the Secretary shall publish notice of this finding in the Federal Register. In addition, the Secretary may suspend, and place in escrow, an amount from any future block grant which is equivalent to the amount misused, pending final determination pursuant to paragraph (3);

(2) provide the state with an opportunity for a hearing; and

(3) make a final determination.

(d) If the Secretary makes a final determination under subsection (c)(3) that all or any part of such funds were not used as required by this subtitle, the Secretary shall—

(1) provide in writing to the state the reasons for the determination and the amount of funds misused; and

(2) take appropriate action to recover an amount equal to that determined to have been misused under subsection (c), including the withholding of such amount from a State's future block grant or the amount which may have been suspended under subsection (c)(1).

(e) If no appeal of the final determination is filed within sixty days following notification to the State of the final determination, any funds withheld or recovered by the Secretary under subsection (d)(2) shall be returned to the Fund.

(f) If an appeal of the final determination is filed within the sixty-day period specified in subsection (e), any funds withheld by the Secretary shall be held in escrow until such time as a final determination is made of the appeal.

SEC. 6037. RULES AND REGULATIONS.

The Secretary shall promulgate, pursuant to section 553 of title 5, United States Code, after notice and opportunity for participation by relevant Federal agencies, State agencies, local governments, regional organizations, and other interested parties, both public and private, such rules and regulations as may be necessary to carry out the provisions of this subtitle.

Subtitle E—Amendments to the Coastal Zone Management Act

SEC. 6041. SHORT TITLE.

This subtitle may be cited as the "Coastal Zone Management Reauthorization Act of 1985".

SEC. 6042. REFERENCE.

Whenever in this subtitle an amendment or repeal is expressed in terms of an amendment, or repeal, of a section, subsection, paragraph, or other provision, the reference is to be considered to be made to a section, subsection, paragraph, or other provision of the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.) unless otherwise specified.

SEC. 6043. REDUCTION OF ADMINISTRATIVE GRANTS.

(a) Section 312(c) (16 U.S.C. 1458(c)) is amended by striking "if the Secretary determines" and all that follows thereafter and inserting in lieu thereof the following: "if the Secretary determines that the coastal state—

"(1) is failing to make significant improvement in achieving the coastal management objectives specified in section 303(2) (A) through (I); or

"(2) is failing to make satisfactory progress in providing in its management program for the matters referred to in section 306(i) (A) and (B).".

(b)(1) Subsection (a) of section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455) is amended by striking out "The Secretary may" and all that follows through "if the Secretary—" and substituting in lieu thereof the following: "The Secretary may make grants to any coastal state for the purpose of administering that state's management program, if the state matches any such grant according to the following ratios of Federal to state contributions for the applicable fiscal year: 4 to 1 for fiscal year 1986; 2.3 to 1 for fiscal year 1987; 1.5 to 1 for fiscal year 1988; 1 to 1 for any fiscal year after fiscal year 1988. The Secretary may make the grant only if the Secretary—".

(2) Section 306A is amended by striking section (d)(1) and substituting in lieu thereof the following:

"(d)(1) The Secretary may make grants to any coastal state for the purpose of carrying out the project or purpose for which such grants are awarded, if the state matches any such grant according to the following ratios of Federal to state contributions for the applicable fiscal year: 4 to 1 for fiscal year 1986; 2.3 to 1 for fiscal year 1987; 1.5 to 1 for fiscal year 1988; and 1 to 1 for each fiscal year after fiscal year 1988.".

(c) Section 306(g) (16 U.S.C. 1455) is amended by striking out the period at the end of the first sentence and all that follows thereafter and inserting in lieu thereof the following: ", and subject to the following conditions:

"(1) The state shall promptly notify the Secretary of any proposed amendment, modification or other program change and submit it for Secretarial approval. The Secretary may suspend all or part of any grant made under this section pending state submission of the proposed amendment, modification or other program change.

"(2) Within 30 days from the date on which the Secretary receives any proposed amendment, the Secretary shall notify the state whether the Secretary approves or disapproves the amendment, or whether the Secretary finds it is necessary to extend the review of the proposed amendment for a period not to exceed 120 days from the date the Secretary received the proposed amendment. The Secretary may extend this 120-day period only as necessary to meet the requirements of the National Environmental Policy Act (42 U.S.C. 4321 et seq.).

"(3) The state may not implement any proposed amendment as part of its approved program pursuant to section 306, until after the proposed amendment has been approved by the Secretary.".

SEC. 6044. NATIONAL ESTUARINE RESERVE RESEARCH SYSTEM.

Section 315 (16 U.S.C. 1461) is amended to read as follows:

"NATIONAL ESTUARINE RESERVE RESEARCH SYSTEM

"SEC. 315. (a) ESTABLISHMENT OF THE SYSTEM.—There is established the National Estuarine Reserve Research System (hereinafter referred to in this section as the 'System') that consists of—

"(1) each estuarine sanctuary designated under this section as in effect before the date of the enactment of the Coastal Zone Management Reauthorization Act of 1985; and

"(2) each estuarine area designated as a national estuarine reserve under subsection (b).

Each estuarine sanctuary referred to in paragraph (1) is hereby designated as a national estuarine reserve.

"(b) Designation of National Estuarine Reserves.—After the date of the enactment of the Coastal Zone Management Reauthorization Act of 1985, the Secretary may designate an estuarine area as a national estuarine reserve if—

"(1) the Governor of the coastal state in which the area is located nominates the area for that designation; and

"(2) The Secretary finds that—

"(A) the area is a representative estuarine ecosystem that is suitable for long-term research and contributes to the biogeographical and typological balance of the System;

"(B) the law of the coastal State provides long-term protection for reserve resources to ensure a stable environment for research;

"(C) designation of the area as a reserve will serve to enhance public awareness and understanding of estuarine areas, and provide suitable opportunities for public education and interpretation; and

"(D) the coastal State in which the area is located has complied with the requirements of any regulations issued by the Secretary to implement this section.

"(c) Estuarine Research Guidelines.—The Secretary shall develop guidelines for the conduct of research within the System that shall include—

"(1) a mechanism for identifying, and establishing priorities among, the coastal management issues that should be addressed through coordinated research within the System;

"(2) the establishment of common research principles and objectives to guide the development of research programs within the System;

"(3) the identification of uniform research methodologies which will ensure comparability of data, the broadest application of research results, and the maximum use of the System for research purposes;

"(4) the establishment of performance standards upon which the effectiveness of the research efforts and the value of reserves within the System in addressing the coastal management issues identified in subsection (1) may be measured; and

"(5) the consideration of additional sources of funds for estuarine research than the funds authorized under this Act, and strategies for encouraging the use of such funds within the System, with particular emphasis on mechanisms established under subsection (d).

In developing the guidelines under this section, the Secretary shall consult with prominent members of the estuarine research community.

"(d) Promotion and Coordination of Estuarine Research.—The Secretary shall take such action as is necessary to promote and coordinate the use of the System for research purposes including—

"(1) requiring that the National Oceanic and Atmospheric Administration, in conducting or supporting estuarine research, give priority consideration to research that uses the System; and

"(2) consulting with other Federal and State agencies to promote use of one or more reserves within the System by such agencies when conducting estuarine research.

"(e) Financial Assistance.—(1) The Secretary may, in accordance with such rules and regulations as the Secretary shall promulgate, make grants—

"(A) to a coastal State—

"(i) for purposes of acquiring such lands and waters, and any property interests therein, as are necessary to ensure the appropriate long-term management of an area as a national estuarine reserve,

"(ii) for purposes of operating or managing a national estuarine reserve and constructing appropriate reserve facilities, or

"(iii) for purposes of conducting educational or interpretive activities; and

"(B) to any coastal State or public or private person for purposes of supporting research and monitoring within a national estuarine reserve that are consistent with the research guidelines developed under subsection (c).

"(2) Financial assistance provided under paragraph (1) shall be subject to such terms and conditions as the Secretary considers necessary or appropriate to protect the interests of the United States, including requiring coastal States to execute suitable title documents setting forth the property interest or interests of the United States in any lands and waters acquired in whole or part with such financial assistance.

"(3)(A) The amount of the financial assistance provided under paragraph (1)(A)(i) of subsection (e) with respect to the acquisition of lands and waters, or interests therein, for any one national estuarine reserve may not exceed an amount equal to 50 per centum of the costs of the lands, waters, and interests therein or $4,000,000, whichever amount is less.

"(B) The amount of the financial assistance provided under paragraph (1)(A) (ii) and (iii) and paragraph (1)(B) of subsection (e) may not exceed 50 per centum of the costs incurred to achieve the purposes described in those paragraphs with respect to a reserve.

"(f) Evaluation of System Performance.—(1) The Secretary shall periodically evaluate the operation and management of each national estuarine reserve, including education and interpretive activities, and the research being conducted within the reserve.

"(2) If evaluation under paragraph (1) reveals that the operation and management of the reserve is deficient, or that the research being conducted within the reserve is not consistent with the research guidelines developed under subsection (c), the Secretary may suspend the eligibility of that reserve for financial assistance under subsection (e) until the deficiency or inconsistency is remedied.

"(3) The Secretary may withdraw the designation of an estuarine area as a national estuarine reserve if evaluation under paragraph (1) reveals that—

"(A) the basis for any one or more of the findings made under subsection (b)(2) regarding that area no longer exists; or

"(B) a substantial portion of the research conducted within the area, over a period of years, has not been consistent with the research guidelines developed under subsection (c).

"(g) Report.—The Secretary shall include in the report required under section 316 information regarding—

"(1) new designations of national estuarine reserves;

"(2) any expansion of existing national estuarine reserves;

"(3) the status of the research program being conducted within the System; and

"(4) a summary of the evaluations made under subsection (f).".

SEC. 6045. REPEALS.

The following are repealed:

(1) Section 310 (16 U.S.C. 1456c; relating to research and technical assistance programs and grants).

(2) Section 314 (16 U.S.C. 1460; establishing the Coastal Zone Management Advisory Committee).

(3) Subsection (c) of section 15 of the Coastal Zone Management Act Amendments of 1976, Public Law 94-370 (16 U.S.C. 1451 note; relating to certain additional personnel positions).

SEC. 6046. AUTHORIZATIONS OF APPROPRIATIONS.

Section 318 (16 U.S.C. 1464) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) such sums, not to exceed $35,000,000 for the fiscal year ending September 30, 1986, not to exceed $36,600,000 for the fiscal year ending September 30, 1987, $37,900,000 for the fiscal year ending September 30, 1988, $38,800,000 for the fiscal year ending September 30, 1989, and $40,600,000 for the fiscal year ending September 30, 1990, as may be necessary for grants under sections 306 and 306A, to remain available until expended;".

(2) by striking paragraph (2) and renumbering the succeeding paragraphs; and

(3) by amending paragraphs (3), (4), and (5) (as renumbered by paragraph (2) of this section) to read as follows:

"(3) such sums, not to exceed $1,000,000 for the fiscal year ending September 30, 1986, and not to exceed $1,500,000 for each of the fiscal years occurring during the period beginning October 1, 1986, and ending September 30, 1990, as may be necessary for grants under section 309, to remain available until expended;

"(4) such sums, not to exceed $2,500,000 for the fiscal year ending September 30, 1986; not to exceed $3,800,000 for the fiscal year ending September 30, 1987, $4,500,000 for the fiscal year ending September 30, 1988, $5,000,000 for the fiscal year ending September 30, 1989, and $5,500,000 for the fiscal year ending September 30, 1990, as may be necessary for grants under section 315, to remain available until expended; and

"(5) such sums, not to exceed $3,300,000 for the fiscal year ending September 30, 1986, not to exceed $3,300,000 for the fiscal year ending September 30, 1987, $3,300,000 for the fiscal year ending September 30, 1988, $4,000,000 for the fiscal year ending September 30, 1989, and $4,000,000 for the fiscal year ending September 30, 1990, as may be necessary for administrative expenses incident to the administration of this title.".

SEC. 6047. TECHNICAL AMENDMENT.

Section 308(h) (16 U.S.C. 1456a(h)) is amended by deleting "subsections (c)(1)" each place it appears and inserting instead "subsections (c)".

Subpart F—National Oceanic and Atmospheric Administration

SEC. 6051. AUTHORIZATION OF APPROPRIATIONS.

(a) For purposes of this section—

(1) The term "Administration" means the National Oceanic and Atmospheric Administration.

(2) The term "Department" means the Department of Commerce.

(b) There are authorized to be appropriated to the Department to enable the Administration to carry out its executive direction and administration functions and duties under law, $47,667,000 for fiscal year 1986 and $49,812,000 for fiscal year 1987. Moneys appropriated pursuant to this authorization shall be used to fund those functions and

duties relating to executive direction and administration authorized by the Act entitled "An Act to clarify the status and benefits of commissioned officers of the National Oceanic and Atmospheric Administration, and for other purposes", approved December 31, 1970 (33 U.S.C. 857-1 et seq.), and any other law involving such functions and duties. Such functions and duties include management, administrative support, retired pay of National Oceanic and Atmospheric Administration commissioned officers, and policy development.

(c) There are authorized to be appropriated to the Department to enable the Administration to carry out its marine services functions and duties under law, $61,791,000 for fiscal year 1986 and $64,572,000 for fiscal year 1987. Moneys appropriated pursuant to this authorization shall be used to fund those functions and duties relating to marine services authorized by the Act entitled "An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes", approved August 6, 1947 (33 U.S.C. 883a et seq.), and any other law involving such functions and duties. Such functions and duties include ship operations, maintenance, and support.

(d) There are authorized to be appropriated to the Department to enable the Administration to carry out its aircraft services functions and duties under law, $14,779,000 for fiscal year 1986 and $15,440,000 for fiscal year 1987. Moneys appropriated pursuant to this authorization shall be used to fund those functions and duties relating to aircraft services authorized by the Act entitled "An Act to increase the efficiency and reduce the expenses of the Signal Corps of the Army, and to transfer the Weather Service to the Department of Agriculture", approved October 1, 1890 (15 U.S.C. 311 et seq.), and any other law involving such functions and duties. Such functions and duties include aircraft operations, maintenance, and support.

(e) For the purpose of enabling the Administration to carry out its functions and duties under the National Advisory Committee on Oceans and Atmosphere Act of 1977 (33 U.S.C. 857-13 et seq.), there are authorized to be appropriated to the Department $500,000 for fiscal year 1986.

(f)(1) There are authorized to be appropriated to the Department to enable the Administration to carry out its nonliving marine resource functions and duties under law, $1,800,000 for fiscal year 1986 and $1,881,000 for fiscal year 1987. Moneys appropriated pursuant to this authorization shall be used to fund those functions and duties relating to nonliving marine resources authorized by the Act entitled "An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes", approved August 6, 1947 (33 U.S.C. 883a et seq.), and any other law involving such functions and duties. Such functions and duties include research, development, and licensing responsibilities pertaining to ocean thermal energy conversion and the deep seabed mining of manganese nodules, and polymetallic sulfide analyses and research.

(2) The authorization provided for under paragraph (1) of this subsection shall be in addition to moneys authorized under the Deep Seabed Hard Mineral Resources Act (30 U.S.C. 1401 et seq.), and the Ocean Thermal Energy Conversion Act of 1980 (42 U.S.C. 9101 et seq.), for the purpose of carrying out such functions and duties relating to nonliving marine resources.

(g)(1) There are authorized to be appropriated to the Department to enable the Administration to carry out its ocean research functions and duties under law, $33,884,000 for fiscal year 1986 and $35,409,000 for fiscal year 1987. Moneys appropriated pursuant to this authorization shall be used to fund those functions and duties relating to ocean research authorized by the Act entitled "An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes", approved August 6, 1947 (33 U.S.C. 883a et seq.), and any other law involving such functions and duties. Such functions and duties include undersea marine resources, air-sea interaction, and ocean and Great Lakes environmental research.

(2) The authorization provided for under paragraph (1) of this subsection shall be in addition to ocean research moneys authorized under the National Ocean Pollution Planning Act of 1978 (33 U.S.C. 1701 et seq.) for the purpose of carrying out such functions and duties relating to ocean research.

(h)(1) There are authorized to be appropriated to the Department to enable the Administration to carry out its ocean service functions and duties under law, $17,181,000 for fiscal year 1986 and $17,954,000 for fiscal year 1987. Moneys appropriated pursuant to this authorization shall be used to fund those functions and duties relating to ocean services authorized by the Act entitled "An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes", approved August 6, 1947 (33 U.S.C. 883a et seq.), and any other law involving such functions and duties. Such functions and duties include coordination of interagency research in ocean dumping and marine pollution, and provision of tide and current data for the safe and efficient use of the oceans and Great Lakes by government, commerce, and the private sector.

(2) The authorization provided for under paragraph (1) of this subsection shall be in addition to moneys authorized under the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1441 et seq.), the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.), and the National Ocean Pollution Planning Act of 1978 (33 U.S.C. 1701 et seq.), for the purpose of carrying out such functions and duties relating to ocean services.

(i) There are authorized to be appropriated to the Department to enable the Administration to carry out its mapping, charting, and geodesy functions and duties under law, $47,943,000 for fiscal year 1986 and $50,100,000 for fiscal year 1987. Moneys appropriated pursuant to this authorization shall be used to fund those functions and duties relating to mapping, charting, and geodesy authorized by the Act entitled "An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes", approved August 6, 1947 (33 U.S.C. 883a et seq.), and any other law involving such functions and duties. Such functions and duties include aeronautical and nautical mapping and charting activities, and geodetic data collection and analysis.

(j) There are authorized to be appropriated to the Department to enable the Administration to carry out its programs at current levels such sums as may be necessary to accommodate salary, pay, and other employee benefits authorized by law for fiscal years 1986 and 1987.

Subtitle G—Marine Protection, Research, and Sanctuaries Act Amendments

SEC. 6061. CONSOLIDATION OF REPORT.

Section 201 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1441) is amended by striking out all that follows "connecting waters" and inserting in lieu thereof a period.

SEC. 6062. MARINE RESEARCH REQUIREMENTS.

Section 202 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1442) is amended—

(1) by inserting "(1)" before "The Secretary" in subsection (a);

(2) by striking out "in consultation" in the first sentence of subsection (a) and inserting in lieu thereof "in close consultation";

(3) by adding at the end of subsection (a) the following new paragraph:

"(2) The Secretary of Commerce shall ensure that the program under this section complements, when appropriate, the activities undertaken by other Federal agencies pursuant to title I and section 203. That program shall include but not be limited to—

"(A) the development and assessment of scientific techniques to define and quantify the degradation of the marine environment;

"(B) the assessment of the capacity of the marine environment to receive materials without degradation;

"(C) continuing monitoring programs to assess the health of the marine environment, including but not limited to the monitoring of bottom oxygen concentrations, contaminant levels in biota, sediments, and the water column, diseases in fish and shellfish, and changes in types and abundance of indicator species;

"(D) the development of methodologies, techniques, and equipment for disposal of waste materials to minimize degradation of the marine environment."; and

(4) by striking out subsection (c) and redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

SEC. 6063. REGIONAL MANAGEMENT PLANS.

Section 203 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1443) is amended by adding at the end thereof the following new subsections:

"(c) The Administrator, in cooperation with the Secretary, the Secretary of Commerce, and other officials of appropriate Federal, State, and local agencies, shall assess the feasibility in coastal areas of regional management plans for the disposal of waste materials. Such plans should integrate where appropriate Federal, State, regional, and local waste disposal activities into a comprehensive regional disposal strategy. These plans should address, among other things—

"(1) the sources, quantities, and types of materials that require and will require disposal;

"(2) the environmental, economic, social, and human health factors (and the methods used to assess these factors) associated with disposal alternatives;

"(3) the improvements in production processes, methods of disposal, and recycling to reduce the adverse effects associated with such disposal alternatives;

"(4) the applicable laws and regulations governing waste disposal; and

"(5) improvements in permitting processes to reduce administrative burdens.

"(d) The Administrator, in cooperation with the Secretary of Commerce, shall submit to the Congress and the President,

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not later than one year after the date of enactment of this provision, a report on sewage sludge disposal in the New York City metropolitan region. The report shall—

"(1) consider the factors listed in subsection (c) as they relate to landfilling, incineration, ocean dumping, or any other feasible disposal or reuse/recycling option;

"(2) include an assessment of the cost of these alternatives; and

"(3) recommend such regulatory or legislative changes as may be necessary to reduce the adverse impacts associated with sewage sludge disposal.".

SEC. 6064. AUTHORIZATION OF APPROPRIATIONS.

Section 204 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1444) is redesignated as section 205; and such section as so redesignated is amended by striking out "and" immediately following "fiscal year 1981" and by striking out "1982." and inserting in lieu thereof the following: "1982, not to exceed $10,635,000 for fiscal year 1986, and not to exceed $11,114,000 for fiscal year 1987.".

SEC. 6065. CONSOLIDATION OF REPORTS.

Section 205 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1445) is transferred to a point immediately following section 203 of such Act and redesignated as section 204; and such section as so transferred and redesignated is amended to read as follows:

"ANNUAL REPORT

"SEC. 204. (a) In March of each year, the Secretary of Commerce shall report to the Congress on his activities under this title during the previous fiscal year. The report shall include—

"(1) the Secretary's findings made under section 201, including an evaluation of the short-term ecological effects and the social and economic factors involved with the dumping;

"(2) the results of activities undertaken pursuant to section 202;

"(3) with the concurrence of the Administrator and after consulting with officials of other appropriate Federal agencies, an identification of the short- and long-term research requirements associated with activities under title I, and a description of how Federal research under titles I and II will meet those requirements; and

"(4) activities of the Department of Commerce under section 5 of the Act of March 10, 1934 (48 Stat. 401; 16 U.S.C. 665).

"(b) In March of each year, the Administrator shall report to the Congress on his activities during the previous fiscal year under section 203.".

Subtitle H—National Ocean Pollution Planning Act Amendments

SEC. 6071. FINDINGS AND PURPOSES.

(a) Section 2(a) of the National Ocean Pollution Planning Act of 1978 (33 U.S.C. 1701) is amended by adding at the end thereof the following new paragraphs:

"(6) Numerous Federal agencies have initiated and supported research projects to study, enhance, manage, preserve, protect, or restore the resources of the Great Lakes, the Chesapeake Bay, Puget Sound, and other estuaries of national significance.

"(7) Various research projects relating to the Great Lakes, the Chesapeake Bay, Puget Sound, and other estuaries of national significance, including those conducted at the college and university level and those conducted at the State and local governmental level, can be more effectively coordinated in order to obtain maximum benefits.".

(b) Section 2(b) of the National Ocean Pollution Planning Act of 1978 (33 U.S.C. 1701) is amended by striking out "and" at the end of paragraph (2), by redesignating paragraph (3) as paragraph (4), and by inserting after paragraph (2) the following new paragraph:

"(3) to provide for the effective coordination of research conducted to support the preservation and protection of the environmental quality of the Great Lakes, the Chesapeake Bay, Puget Sound, and other estuaries of national significance, and to encourage the use of such research in determinations that affect the environmental quality of the Great Lakes, the Chesapeake Bay, Puget Sound, and other estuaries of national significance; and".

SEC. 6072. NATIONAL OCEAN POLLUTION PROGRAM OFFICE AND NATIONAL OCEAN POLLUTION POLICY BOARD.

The National Ocean Pollution Planning Act of 1978 (33 U.S.C. 1701 et seq.) is further amended as follows:

(1) Section 3 is amended—

(A) by redesignating paragraphs (3) through (6) as paragraphs (4) through (7), respectively;

(B) by inserting after paragraph (2) the following new paragraph:

"(3) The term 'Board' means the National Ocean Pollution Policy Board established under section 3A(b)."; and

(C) by adding at the end thereof the following new paragraph:

"(8) The term 'Office' means the National Ocean Pollution Program Office established under section 3A(a).".

(2) The following new section is inserted immediately after section 3:

"SEC. 3A. NATIONAL OCEAN POLLUTION PROGRAM OFFICE AND NATIONAL OCEAN POLLUTION POLICY BOARD.

"(a) PROGRAM OFFICE.—(1) The Administrator shall establish within the Administration the National Ocean Pollution Program Office.

"(2) The Office shall—

"(A) serve as the lead entity responsible for administering the program established under section 4;

"(B) be headed by a director who shall represent the Board and shall be the spokesman for the program;

"(C) serve as the staff for the Board and its supporting committees and working groups; and

"(D) review each department and agency budget request transmitted under section 4(d) and submit an analysis of the requests to the Board for its review.

The analysis described in subparagraph (D) shall include an analysis of how each departmental or agency budget request relates to the priorities and goals of the Plan established under section 4.

"(b) POLICY BOARD.—(1) The Administrator, with the cooperation of the Federal departments and agencies referred to in section 7, shall establish a National Ocean Pollution Policy Board consisting of representatives of those departments and agencies.

"(2) The Board shall—

"(A) be responsible for coordinated planning and progress review for the program established under section 4;

"(B) review all department and agency budget requests transmitted to it under section 4(d) and submit a report to the Office of Management and Budget and to the Congress concerning those budget requests;

"(C) establish and maintain such interagency groups as the Board determines to be necessary to carry out its activities; and

"(D) consult with and seek the advice of users and producers of ocean pollution data, information, and services to guide the Board's efforts, keeping the Director and the Congress advised of such consultations.

"(3) The Board biennially shall select a Chair from among its members. A Board member who is a representative of an agency may not serve as Chair of the Board for a term if an individual who represented that same department or agency on the Board served as the Board's Chair for the previous term.".

SEC. 6073. FEDERAL PLANNING TO INCLUDE GREAT LAKES.

Section 4 of the National Ocean Pollution Planning Act of 1978 (33 U.S.C. 1703) is amended—

(1) by inserting after "general research on marine ecosystems" in subsection (b)(2)(A) the following: ", including the Great Lakes, the Chesapeake Bay, Puget Sound, and other estuaries of national significance,"; and

(2) in subsection (b)(4)—

(A) by striking out "BUDGET REVIEW.—" and inserting in lieu thereof "PLAN REVIEW.—"; and

(B) by striking out "to coordinate the budget review process"; and

(3) by adding at the end thereof the following new subsection:

"(d) BUDGETING.—Each Federal agency and department included under the Plan shall prepare and submit to the Office of Management and Budget, the Office, and the Board on or before the date of submission of departmental requests for appropriations to the Office of Management and Budget, an annual request for appropriations to carry out the activities of that agency or department under the Plan during the subsequent fiscal year. The Office of Management and Budget shall review the request for appropriations as an integrated, coherent, and multiagency request, taking into account the review by the Board of those requests under section 3A(b).".

SEC. 6074. DISSEMINATION OF INFORMATION ON GREAT LAKES.

Section 8 of the National Ocean Pollution Planning Act of 1978 (33 U.S.C. 1707) is amended by adding "(a)" after "SEC. 8." and by adding at the end thereof the following new subsection:

"(b) The Administrator shall ensure that the findings and information regarding ocean pollution research activities associated with the Great Lakes identified pursuant to section 4(b) be disseminated in a timely manner and in useful forms to relevant departments of the Federal Government, State governments, and other persons with an interest in such information.".

SEC. 6075. AUTHORIZATION OF APPROPRIATION.

Section 10 of the National Ocean Pollution Planning Act of 1978, as amended (33 U.S.C. 1709), is amended by striking out "and" after "1981," and by striking out "1982." and inserting in lieu thereof "1982, and not to exceed $3,571,000 for fiscal year 1986, and not to exceed $3,732,000 for fiscal year 1987.".

Subtitle I—Weather Modification

SEC. 6081. AUTHORIZATION OF APPROPRIATIONS.

Section 6 of the Act entitled "An Act to provide for the reporting of weather modification activities to the Federal Government", approved December 18, 1971 (85 Stat. 736; 15 U.S.C. 330e), is amended—

(1) by striking "and"; and

(2) by inserting immediately after "1981," the following: "$100,000 for the fiscal year ending September 30, 1986, $100,000 for the fiscal year ending September 30, 1987,

$100,000 for the fiscal year ending September 30, 1988,".

SEC. 6082. OCEAN SATELLITE DATA.

The Administrator of the National Oceanic and Atmospheric Administration (hereinafter referred to in this subtitle as the "Administration") shall take such actions, including the sponsorship of applied research, as may be necessary to assure the future availability and usefulness of ocean satellite data to the maritime community.

SEC. 6083. AWARDING OF CONTRACTS.

The Administration may not award any contract for the performance of any "commercial activity", as defined by paragraph 6.a. of Office of Management and Budget Circular Memorandum A-76, which is performed by Administration employees until at least 30 calendar days after the Administrator of the Administration has presented, in writing, to the President of the Senate, the Speaker of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Merchant Marine and Fisheries and the Committee on Science and Technology of the House of Representatives, a full and complete description of such proposed contract, together with supporting documentation. Such documentation shall include—

(1) a comparison of the cost of such activity as performed by employees of the Administration and the cost of such activity as performed under the proposed contract;

(2) a comparison of the services performed by employees of the Administration and the services to be performed under the proposed contract; and

(3) an assessment of the benefits to the Federal Government of proceeding with the proposed contract.

SEC. 6084. NATIONAL CLIMATE PROGRAM.

(a) Section 4 of the National Climate Program Act (15 U.S.C. 2903) is amended—

(1) by redesignating paragraphs (1) through (3) as paragraphs (2) through (4), respectively; and

(2) by inserting before paragraph (2), as so redesignated, the following new paragraph:

"(1) The term 'Board' means the Climate Program Policy Board.".

(b) Section 5(c) of the National Climate Program Act (15 U.S.C. 2904(c)) is amended—

(1) by inserting "(1)" immediately before "The Secretary";

(2) by designating the third sentence as paragraph (4); and

(3) by striking the second sentence and inserting in lieu thereof the following new paragraphs:

"(2) The Office shall—

"(A) serve as the lead entity responsible for administering the program;

"(B) be headed by a Director who shall represent the Climate Program Policy Board and shall be spokesperson for the program;

"(C) serve as the staff for the Board and its supporting committees and working groups;

"(D) review each agency budget request transmitted under subsection (g)(1) and submit an analysis of the requests to the Board for its review;

"(E) be responsible for coordinating interagency participation in international climate-related activities; and

"(F) work with the National Academy of Sciences and other private, academic, State, and local groups in preparing and implementing the 5-year plan (described in subsection (d)(9)) and the program.

The analysis described in subparagraph (D) shall include an analysis of how each agency's budget request relates to the priorities and goals of the program established pursuant to this Act.

"(3) The Secretary may provide, through the Office, financial assistance, in the form of contracts or grants or cooperative agreements, for climate-related activities which are needed to meet the goals and priorities of the program set forth in the 5-year plan pursuant to subsection (d)(9), if such goals and priorities are not being adequately addressed by any Federal department, agency, or instrumentality.".

(c) Section 5(d) of the National Climate Program Act (15 U.S.C. 2904(d)) is amended—

(1) by striking the semicolon at the end of paragraph (7) and inserting in lieu thereof the following: ". Such mechanisms may provide, among others, for the following State and regional services and functions: (A) studies relating to and analyses of climatic effects on agricultural production, water resources, energy needs, and other critical sectors of the economy; (B) atmospheric data collection and monitoring on a statewide and regional basis; (C) advice to regional, State, and local government agencies regarding climate-related issues; (D) information to users within the State regarding climate and climatic effects; and (E) information to the Secretary regarding the needs of persons within the States for climate-related services, information, and data. The Secretary may make annual grants to any State or group of States, which grants shall be made available to public or private educational institutions, to State agencies, and to other persons or institutions qualified to conduct climate-related studies or provide climate-related services;";

(2) by striking "biennially" in paragraph (9) and inserting in lieu thereof "at least once every four years"; and

(3) by striking "under section 6" in paragraph (9) and inserting in lieu thereof "described in paragraph (7)".

(d) Section 5(e) of the National Climate Program Act (15 U.S.C. 2904(e)) is amended to read as follows:

"(e) Climate Program Policy Board.—(1) The Secretary shall establish and maintain an interagency Climate Program Policy Board, consisting of representatives of the Federal agencies specified in subsection (b)(2) and any other agency which the Secretary determines should participate in the Program.

"(2) The Board shall—

"(A) be responsible for coordinated planning and progress review for the Program;

"(B) review all agency and department budget requests related to climate transmitted under subsection (g)(1) and submit a report to the Office of Management and Budget concerning such budget requests;

"(C) establish and maintain such interagency groups as the Board determines to be necessary to carry out its activities; and

"(D) consult with and seek the advice of users and producers of climate data, information, and services to guide the Board's efforts, keeping the Director and the Congress advised of such contacts.

"(3) The Board biennially shall select a Chair from among its members. A Board member who is a representative of an agency may not serve as Chair of the Board for a term if an individual who represented that same agency on the Board served as the Board's Chair for the previous term.".

(e) Section 5(f)(2) of the National Climate Program Act (15 U.S.C. 2904(f)(2)) is amended by inserting "with the Office" immediately after "cooperate".

(f) The first sentence of section 5(g)(1) of the National Climate Program Act (15 U.S.C. 2904(g)(1)) is amended by inserting immediately before the period the following: "and shall transmit a copy of such request to the National Climate Program Office".

(g) Section 6 of the National Climate Program Act (15 U.S.C. 2905) is repealed.

(h) There are authorized to be appropriated to the Administration, for purposes of carrying out the provisions of the amendments made by this section, $1,897,000 for fiscal year 1986 and $1,982,000 for fiscal year 1987. Of such funds, at least 25 percent shall be made available for intergovernmental climate-related activities described in section 5(d)(7) of the National Climate Program Act (15 U.S.C. 2904(d)(7)), and at least 20 percent shall be made available during each fiscal year for experimental climate forecast centers described in section 5(d)(8) of the National Climate Program Act (15 U.S.C. 2904(d)(8)).

SEC. 6085. COOPERATIVE AGREEMENTS FOR MAPPING AND CHARTING SURVEYS.

Section 5 of the Act entitled "An Act to define the functions of the Coast and Geodetic Survey, and for other purposes", approved August 6, 1947 (61 Stat. 788, 33 U.S.C. 883e) is amended—

(1) by inserting "(1)" after "Sec. 5.";

(2) by inserting "any Federal agency," after "or subdivision thereof"; and

(3) by adding at the end thereof the following:

"(2) The Secretary of Commerce is authorized to establish the terms of any cooperative agreement entered into under this section, including the amount of funds to be received, and may contribute that portion of the costs incurred by the National Oceanic and Atmospheric Administration, including shiptime and personnel expenses, which the Secretary determines represents the amount of benefits derived by the Administration from the cooperative agreement.".

Subtitle J—Maritime Authorizations

SEC. 6091. MARITIME PROGRAMS.

(a) Funds are authorized to be appropriated without fiscal year limitation as the appropriation Act may provide for the use of the Department of Transportation for fiscal year 1986 as follows:

(1) for payment of obligations incurred for operating-differential subsidy, not to exceed $335,084,000;

(2) for expenses necessary for research and development activities, not to exceed $9,900,000; and

(3) for expenses necessary for operations and training activities, not to exceed $71,967,000, including not to exceed—

(A) $34,847,000 for maritime education and training expenses, including not to exceed $19,633,000 for maritime training at the Merchant Marine Academy at Kings Point, New York, $10,915,000 for financial assistance to State maritime academies, $3,000,000 for fuel oil assistance to State maritime academy training vessels, and $1,299,000 for expenses necessary for additional training;

(B) $9,277,000 for national security support capabilities, including not to exceed $7,932,000 for reserve fleet expenses, and $1,345,000 for emergency planning/operations; and

(C) $27,843,000 for other operations and training expenses.

(b) Funds are authorized to be appropriated for the use of the Federal Maritime Commission, in the amount of $11,940,000 for fiscal year 1986.

TITLE VII—ENERGY AND RELATED PROGRAMS

Subtitle A—Pipeline Programs

SEC. 7001. NATURAL GAS PIPELINE SAFETY AUTHORIZATIONS.

Section 17(a) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1684(a)) is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(4) $3,450,000 for the fiscal year ending September 30, 1986.".

SEC. 7002. AUTHORIZATIONS FOR FEDERAL GRANTS-IN-AID.

(a) Combined Program.—Section 17 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1684) is amended by adding at the end thereof the following new subsections:

"(c) For the purpose of carrying out the Federal grants-in-aid provisions of section 5(d) of this Act and section 205(d) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2004(d)) there are authorized to be appropriated $5,000,000 for the fiscal year ending September 30, 1986.

"(d) Not less than 5 percent of any amounts appropriated for carrying out the Federal grants-in-aid provisions for any fiscal year beginning after September 30, 1985, shall be available only for carrying out the Federal grants-in-aid provisions of section 205(d) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2004(d)).".

(b) Conforming Amendments.—

(1) Section 5(d)(2) of such Act (49 U.S.C. App. 1674(d)(2)) is amended—

(A) by striking out "authorized to be appropriated by section 17(b) of this Act" and inserting in lieu thereof "appropriated for carrying out the Federal grants-in-aid provisions of this subsection"; and

(B) by striking out "(1) of this section" and inserting in lieu thereof "(1) of this subsection".

(2) Section 205(d)(2) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2004(d)(2)) is amended by striking out "authorized to be appropriated by section 214 of this title" and inserting in lieu thereof "appropriated for carrying out the Federal grants-in-aid provisions of this subsection".

(3) Section 214(a) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2013(a)) is amended by inserting after "subsection (b)" the following: "or section 17(c) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1684(c))".

(4) Section 17(a) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1684(a)) is amended by inserting after "subsection (b)" the following: "or (c)".

SEC. 7003. REPORTS.

(a) Grants Merger Report.—

(1) Merger recommendations.—The Secretary of Transportation shall prepare a report which shall contain details of the Secretary's recommendations with respect to the potential merger and joint administration of the Federal grants-in-aid provisions of section 5(d) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1674(d)) and section 205(d) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2004(d)).

(2) Consultation.—In preparing the report required by paragraph (1), the Secretary shall consult with appropriate State authorities. The Secretary shall include in such report a summary of the views and recommendations of such State authorities.

(b) Grants Allocation Report.—

(1) Contents.—The Secretary of Transportation shall prepare a report which shall contain an explanation of the method by which the Secretary allocates funds to the States under section 5(d) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C App. 1674(d)) and section 205(d) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2004(d)).

(2) Publication.—The Secretary shall publish in the Federal Register, as a matter of public information, the explanation contained in the report required by paragraph (1).

(c) Report Deadline.—The reports required by subsections (a)(1) and (b)(1) shall be submitted to Congress no later than July 1, 1986.

SEC. 7004. HAZARDOUS LIQUID PIPELINE SAFETY AUTHORIZATIONS.

Section 214(a) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2013(a)) is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(4) $875,000 for the fiscal year ending September 30, 1986.".

SEC. 7005. PIPELINE SAFETY USER FEES.

(a) Establishment.—

(1) Schedule.—The Secretary of Transportation (hereafter in this section referred to as the "Secretary") shall establish a schedule of fees based on the usage, in reasonable relationship to volume-miles, miles, revenues, or an appropriate combination thereof, of natural gas and hazardous liquid pipelines. In establishing such schedule, the Secretary shall take into consideration the allocation of departmental resources.

(2) Collection.—The Secretary shall establish procedures for the collection of such fees. The Secretary may use the services of any Federal, State, or local agency or instrumentality to collect such fees, and may reimburse such agency or instrumentality a reasonable amount for such services.

(3) Liability.—Fees established under this section shall be assessed to the persons operating—

(A) all pipeline facilities subject to the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2001 et seq.); and

(B) all pipeline transmission facilities and all liquefied natural gas facilities subject to the jurisdiction of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1671 et seq.).

(b) Time of Assessment.—The Secretary shall assess and collect fees described in subsection (a) with respect to each fiscal year before the end of such fiscal year.

(c) Use of Funds.—Funds received under subsection (a) shall be used, to the extent provided for in advance in appropriation Acts, only—

(1) in the case of natural gas pipeline safety fees, for activities authorized under the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1671 et seq.); and

(2) in the case of hazardous liquid pipeline safety fees, for activities authorized under the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2001 et seq.).

(d) Fee Schedule.—Fees established by the Secretary under subsection (a) shall be assessed against all natural gas and hazardous liquids transported by pipelines subject to the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979 after September 30, 1985, and shall be sufficient to meet the costs of activities described in subsection (c), beginning on October 1, 1985, but at no time shall the aggregate of fees received for any fiscal year under this section exceed 105 percent of the aggregate of appropriations made for such fiscal year for activities to be funded by such fees.

Subtitle B—Strategic Petroleum Reserve

SEC. 7101. AUTHORIZATIONS OF APPROPRIATIONS FOR FISCAL YEARS 1986, 1987, AND 1988.

Funds are hereby authorized to be appropriated in accordance with section 660 of the Department of Energy Organization Act for operating expenses for the Strategic Petroleum Reserve—

(1) to carry out part B of title I of the Energy Policy and Conservation Act (including any drawdown and distribution of the Reserve), except acquisition, transportation, and injection of petroleum products, as defined for purposes of such part B, for the Reserve—

(A) for fiscal year 1986, $135,912,000;

(B) for fiscal year 1987, $358,996,000; and

(C) for fiscal year 1988, $156,692,000; and

(2) to carry out part B of title I of the Energy Policy and Conservation Act for the acquisition, transportation, and injection of petroleum products, as defined for purposes of such part B, for the Reserve and for any drawdown and distribution of the Reserve—

(A) for fiscal year 1986, $357,548,000;

(B) for fiscal year 1987, $333,695,000; and

(C) for fiscal year 1988, $357,000,000.

SEC. 7102. FILL-RATE OF THE RESERVE; LIMITATION ON UNITED STATES' SHARE OF THE NAVAL PETROLEUM RESERVE.

(a) Fill-Rate of the Reserve.—Section 160(c) of the Energy Policy and Conservation Act (42 U.S.C. 6240(c)) is amended by adding the following new paragraph at the end:

"(3) Notwithstanding paragraph (2), beginning in fiscal year 1986 and continuing through fiscal years 1987 and 1988 until the quantity of crude oil in storage within the Reserve is at least 527,000,000 barrels, the President shall carry out petroleum acquisition, transportation, and injection activities at a level sufficient to assure a minimum average annual fill-rate of at least 35,000 barrels per day in addition to any petroleum products acquired for the Reserve to replace petroleum products withdrawn from the Reserve as a result of a test drawdown and distribution.".

(b) Limitation on United States' Share of the Naval Petroleum Reserve.—Section 160(d)(1) of such Act (42 U.S.C. 6240(d)(1)) is amended—

(1) by striking out "500,000,000 barrels" in subparagraph (A) and inserting in lieu thereof "527,000,000 barrels"; and

(2) by striking out subparagraph (C) and inserting in lieu thereof the following:

"(C) acquisition, transportation, and injection activities for the Reserve are being undertaken, beginning in fiscal year 1986 and continuing through fiscal years 1987 and 1988 until the quantity of crude oil in storage within the Reserve is at least 527,000,000 barrels, at a level sufficient to assure that petroleum products in storage in the Reserve will be increased at a minimum annual average rate of at least 35,000 barrels per day in addition to any petroleum products acquired for the Reserve to replace petroleum products withdrawn from the Reserve as a result of a test drawdown and distribution.".

Subtitle C—Federal Energy Conservation Shared Savings

SEC. 7201. SHARED ENERGY SAVINGS.

(a) IN GENERAL.—The National Energy Conservation Policy Act (42 U.S.C. 8201 and following) is amended by adding at the end the following new title:

"TITLE VIII—SHARED ENERGY SAVINGS

"SEC. 801. AUTHORITY TO ENTER INTO CONTRACTS.

"The head of a Federal agency may enter into contracts under this title solely for the purpose of achieving energy savings and benefits ancillary to that purpose. Each such contract may, notwithstanding any other provision of law, be for a period not to exceed 25 years. Such contract shall provide that the contractor shall incur costs of implementing energy savings measures, including at least the costs (if any) incurred in making energy audits, acquiring and installing equipment, and training personnel, in exchange for a share of any energy savings directly resulting from implementation of such measures during the term of the contract.

"SEC. 802. PAYMENT OF COSTS.

"Any amount paid by a Federal agency pursuant to any contract entered into under this title may be paid only from funds appropriated or otherwise made available to the agency for fiscal year 1986 or any fiscal year thereafter for the payment of energy expenses (and related operation and maintenance expenses).

"SEC. 803. REPORTS.

"Each Federal agency shall periodically furnish the Secretary of Energy with full and complete information on its activities under this title, and the Secretary shall include in the report submitted to Congress under section 550 a description of the progress made by each Federal agency in—

"(1) including the authority provided by this title in its contracting practices; and

"(2) achieving energy savings under contracts entered into under this title.

"SEC. 804. DEFINITIONS.

"For purposes of this title—

"(1) the term 'Federal agency' means an agency defined in section 551(1) of title 5, United States Code, and

"(2) the term 'energy savings' means a reduction in the cost of energy, from a base cost established through a methodology set forth in the contract, utilized in an existing federally owned building or buildings or other federally owned facilities as a result of—

"(A) the lease or purchase of operating equipment, improvements, altered operation and maintenance, or technical services; or

"(B) the increased efficient use of existing energy sources by cogeneration or heat recovery, excluding any cogeneration process for other than a federally owned building or buildings or other federally owned facilities.".

(b) TABLE OF CONTENTS.—The table of contents of such Act is amended by adding the following at the end:

"TITLE VIII—SHARED ENERGY SAVINGS

"Sec. 801. Authority to enter into contracts.
"Sec. 802. Payment of costs.
"Sec. 803. Reports.
"Sec. 804. Definitions.".

Subtitle D—Biomass Energy and Alcohol Fuels Loan Guarantees

SEC. 7301. BIOMASS ENERGY AND ALCOHOL FUELS LOAN GUARANTEES.

Section 221 of the Biomass Energy and Alcohol Fuels Act of 1980 (Public Law 96-294; 42 U.S.C. 8821) is amended by—

(1) striking out "September 30, 1985" and inserting in lieu thereof "June 30, 1986"; and

(2) adding at the end thereof the following: "Notwithstanding any other provision of this subtitle, the Secretary of Energy may modify the terms and conditions of any conditional commitment for a loan guarantee under this subtitle made before October 1, 1984, including the amount of the loan guarantee. Nothing in this section shall be interpreted as indicating Congressional approval with respect to any pending conditional commitments under this Act.".

Subtitle E—Synthetic Fuels

SEC. 7401. SHORT TITLE.

This subtitle may be cited as the "Synthetic Fuels Corporation Act of 1985".

SEC. 7402. CESSATION OF FINANCIAL ASSISTANCE AUTHORITY.

Effective on the date of enactment of this Act, the United States Synthetic Fuels Corporation (hereafter in this subtitle referred to as the "Corporation") may not make any legally binding awards or commitments for financial assistance (including any changes in an existing award or commitment) pursuant to the Energy Security Act for synthetic fuel project proposals, except that nothing in this Act shall impair or alter the powers, duties, rights, obligations, privileges, or liabilities of the Corporation, its Board or Chairman, or project sponsors in the performance and completion of the terms and undertakings of a legally binding award or commitment entered into prior to the date of enactment of this Act.

SEC. 7403. TERMINATION OF THE CORPORATION.

(a) Within 60 days of the date of enactment of this Act, the Directors of the Corporation shall terminate their duties under the Energy Security Act and be discharged.

(b) Within 120 days of the date of enactment of this Act, the Corporation shall terminate, except as otherwise provided in this subtitle, in accordance with subtitle J of part B of title I of the Energy Security Act.

SEC. 7404. DUTIES OF SECRETARY OF THE TREASURY.

(a) Within 60 days of the date of enactment of this Act (or earlier, in the event of absence of a Chairman of the Board of Directors of the Corporation), the Secretary of the Treasury shall assume the duties of the Chairman of the Board of Directors of the Corporation.

(b) Notwithstanding any other provision of law, the duties and responsibilities of the Secretary of the Treasury under subtitle J of part B of title I of the Energy Security Act or this Act may not be transferred to any other Federal department or agency.

(c) Notwithstanding such termination of the Corporation, the Advisory Committee established under section 123 of the Energy Security Act (42 U.S.C 8719) shall remain in effect to advise the Secretary of the Treasury regarding the administration of any contract or obligation of the Corporation pursuant to subtitle D of part B of title I of such Act.

(d) To the extent that the Secretary of the Treasury may be required to take an action under section 131(q) of the Energy Security Act in connection with an award or commitment of financial assistance under such Act, the Secretary shall complete such action within 30 days of the date of enactment of this Act.

SEC. 7405. SALARIES AND COMPENSATION RIGHTS.

(a) The Director of the Office of Personnel Management shall, before February 1, 1986, determine the amount of compensation or benefits which each Director, officer, or employee of the Corporation shall be legally entitled to under any contract as of the date of enactment of this Act.

(b) Effective on the date of enactment of this Act, no change in any Director, officer, or employee compensation or benefits shall be allowed or permitted, unless the Director of the Office of Personnel Management agrees that such change is reasonable.

(c) Effective on the date of enactment of this Act—

(1) no officer or employee of the Corporation shall receive a salary in excess of the rate of basic pay payable for level IV of the Executive Schedule under title 5 of the United States Code; and

(2) the Corporation shall not waive any requirements in its By-Laws which are necessary for a Director, officer, or employee to qualify for pension or termination benefits under the By-Laws and written personnel policies and procedures in effect on the date of enactment of this Act.

SEC. 7406. REPORT TO THE CONGRESS.

The Corporation shall, within 60 days of the date of enactment of this Act, transmit to the Committee on Energy and Natural Resources of the Senate and to the Committee on Energy and Commerce and Committee on Banking, Housing and Urban Affairs of the House of Representatives a report—

(1) containing a review of implementation of its Phase I Business Plan dated February 19, 1985; and

(2) fulfilling the requirements of section 126(b)(3) of the Energy Security Act (42 U.S.C. 8722(b)(3)).

Subtitle F—Uranium Enrichment

SEC. 7501. AUTHORIZATION OF APPROPRIATIONS.

In accordance with section 660 of the Department of Energy Organization Act (42 U.S.C. 7270), there is authorized to be appropriated to the Department of Energy for each of the fiscal years 1986, 1987, and 1988 to carry out uranium enrichment service activities an amount equal to the difference between—

(1) the revenues to be received during each such fiscal year by the Department of Energy in providing uranium enrichment service activities, as estimated in the budget submitted by the President to the Congress for each such fiscal year; and

(2) the amount determined by the Secretary of Energy under section 7502(c)(1) for each such fiscal year.

SEC. 7502. REPAYMENTS TO UNITED STATES TREASURY.

(a) PARTIAL REPAYMENT OF UNRECOVERED COSTS.—

(1) IN GENERAL.—The Secretary of Energy shall deposit in the general fund of the Treasury of the United States, in partial repayment of unrecovered Federal Government costs for uranium enrichment service activities, an amount determined by the Secretary under subsection (c) for each of the fiscal years 1986, 1987, and 1988.

(2) REVENUES IN EXCESS OF EXPENDITURES.—In addition to the payments required under paragraph (1), the Secretary of Energy shall deposit in the general fund of the Treasury of the United States, in partial repayment of amounts identified by the Secretary under

subsection (c)(4)(B), any revenues in excess of expenditures received for the provision of such activities during the 3-year period referred to in paragraph (1).

(b) Repayment Schedule.—The Secretary of Energy may make the repayments required in subsection (a) for any fiscal year on a quarterly basis.

(c) Determination of Secretary.—

(1) In general.—The Secretary of Energy shall determine, in his or her discretion, the amount of partial repayment to be made under subsection (a)(1) for each of the fiscal years 1986, 1987, and 1988, consistent with the financial integrity of the uranium enrichment service activities program during a period of not less than 10 years. The amount of such repayment shall not adversely affect the reliability of the supply of uranium enrichment services at competitive prices for existing and potential customers. The determinations under this paragraph shall be made after notice and opportunity for public comment.

(2) Repayment goals.—The Secretary of Energy shall seek to achieve the following repayment amounts under subsection (a)(1):

(A) $110,000,000 for fiscal year 1986;

(B) $150,000,000 for fiscal year 1987; and

(C) $150,000,000 for fiscal year 1988.

(3) Schedule for determination.—The Secretary of Energy shall make the determination required in paragraph (1) for any fiscal year before the President submits to the Congress the budget for such fiscal year, except that the Secretary may make subsequent revisions in such determination.

(4) Submission to congress.—

(A) In general.—The Secretary of Energy shall submit to the Congress any determination made under paragraph (1), together with the reasons underlying such determination.

(B) Initial submission.—The Secretary shall include in the initial submission under this paragraph an estimate of the amount of prior investment in the uranium enrichment service activities program that remains unrecovered.

SEC. 7503. URANIUM ENRICHMENT REPORT.

Not later than 60 days after the date of the enactment of this Act, the Secretary of Energy shall submit to the Committee on Energy and Natural Resources of the Senate and the Committees on Energy and Commerce and on Interior and Insular Affairs of the House of Representatives a report regarding the effects of the September 19, 1985, decision of the United States District Court for the District of Colorado holding that the utility services uranium enrichment contracts of the Department of Energy are null and void (Western Nuclear Inc. v. F. Clark Huffman, Civil No. 84-C-2315). To the extent that it will not compromise the appeals process or the competitive position of the Department of Energy with regard to uranium enrichment, the report shall identify—

(1) the effects of the decision on—

(A) the operation of the uranium enrichment facilities of the Department of Energy; and

(B) the revenues of the uranium enrichment program; and

(2) how the response of the Department of Energy may mitigate such effects.

Subtitle G—Nuclear Regulatory Commission Annual Charges

SEC. 7601. NUCLEAR REGULATORY COMMISSION ANNUAL CHARGES.

(a) Submission of Report.—Within 90 days after the date of the enactment of this Act, the Nuclear Regulatory Commission shall submit to the Committee on Energy and Commerce and the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Environment and Public Works of the Senate a report evaluating the feasibility and necessity of establishing a system for the assessment and collection of annual charges from persons licensed by the Commission pursuant to the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) to fund all or part of the activities conducted by the Commission pursuant to such Act. Such report shall include an analysis of—

(1) the extent to which the Commission's existing statutory or regulatory authority to assess and collect annual charges, including the authority of the Commission to assess and collect fees pursuant to title V of the Independent Offices Appropriation Act of 1952, is adequate to enable the Commission to assess and collect fees commensurate with the value of the benefit rendered to the licensee and the cost to the Commission of rendering such benefit;

(2) the amounts currently assessed and collected by the Commission pursuant to existing statutory or regulatory authority, and the purposes for which such fees are assessed and collected; and

(3) any recommendations of the Commission for expanding the existing statutory authority to assess and collect fees, including the Commission's justification for such expansion.

(b) Assessment and Collection.—

(1) In general.—Upon the expiration of a period of 45 calendar days (excluding any day in which either House of Congress is not in session because of an adjournment of more than 3 calendar days to a day certain or an adjournment sine die) following receipt by the Congress of the report required pursuant to subsection (a), the Nuclear Regulatory Commission shall assess and collect annual charges from its licensees on a fiscal year basis, except that—

(A) the maximum amount of the aggregate charges assessed pursuant to this paragraph in any fiscal year may not exceed an amount that, when added to other amounts collected by the Commission for such fiscal year under other provisions of law, is estimated to be equal to 33 percent of the costs incurred by the Commission with respect to such fiscal year; and

(B) any such charge assessed pursuant to this paragraph shall be reasonably related to the regulatory service provided by the Commission and shall fairly reflect the cost to the Commission of providing such service.

(2) Establishment of amount by rule.—The amount of the charges assessed pursuant to this paragraph shall be established by rule.

TITLE VIII—OUTER CONTINENTAL SHELF AND RELATED PROGRAMS

Subtitle A—Amendments to the Outer Continental Shelf Lands Act

SEC. 8001. SHORT TITLE.

This subtitle may be referred to as the "Outer Continental Shelf Lands Act Amendments of 1985".

SEC. 8002. NATIONAL POLICY FOR THE OUTER CONTINENTAL SHELF.

The Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) is amended in paragraph (4) of section 3 by deleting the word "and" at the end of subparagraph (A); deleting the semicolon at the end of subparagraph (B) and inserting in lieu thereof a period; designating subparagraph (B) as subparagraph (C); and inserting after subparagraph (A) the following new subparagraph (B):

"(B) the distribution of a portion of the receipts from the leasing of mineral resources of the outer Continental Shelf adjacent to State lands, as provided under section 8(g), will provide affected coastal States and localities with funds which may be used for the mitigation of adverse economic and environmental effects related to the development of such resources; and".

SEC. 8003. REVISION OF SECTION 8(g).

Section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)) is amended to read as follows:

"(g)(1) At the time of soliciting nominations for the leasing of lands containing tracts wholly or partially within three nautical miles of the seaward boundary of any coastal State, and subsequently as new information is obtained or developed by the Secretary, the Secretary shall, in addition to the information required by section 26 of this Act, provide the Governor of such State—

"(A) an identification and schedule of the areas and regions proposed to be offered for leasing;

"(B) at the request of the Governor of such State, all information from all sources concerning the geographical, geological, and ecological characteristics of such tracts;

"(C) an estimate of the oil and gas reserves in the areas proposed for leasing; and

"(D) at the request of the Governor of such State, an identification of any field, geological structure, or trap located wholly or partially within three nautical miles of the seaward boundary of such coastal State, including all information relating to the entire field, geological structure, or trap.

The provisions of the first sentence of subsection (c) and the provisions of subsections (e)–(h) of section 26 of this Act shall be applicable to the release by the Secretary of any information to any coastal State under this paragraph. In addition, the provisions of subsections (c) and (e)–(h) of section 26 of this Act shall apply in their entirety to the release by the Secretary to any coastal State of any information relating to Federal lands beyond three nautical miles of the seaward boundary of such coastal State.

"(2) Notwithstanding any other provision of this Act, the Secretary shall deposit into a separate account in the Treasury of the United States all bonuses, rents, and royalties, and other revenues (derived from any bidding system authorized under subsection (a)(1)), excluding Federal income and windfall profits taxes, and derived from any lease of any Federal tract which lies wholly or partially within three nautical miles of the seaward boundary of any coastal State. Except as provided in paragraph (5) of this subsection, not later than the last business day of the month following the month in which those revenues are deposited in the Treasury, the Secretary shall transmit to such coastal State 27 percent of those revenues, together with all accrued interest thereon. The remaining balance of such revenues shall be transmitted simultaneously to the miscellaneous receipts account of the United States Treasury.

"(3) Whenever the Secretary or the Governor of a coastal State determines that a common potentially hydrocarbon-bearing area may underlie the Federal and State boundary, the Secretary or the Governor shall notify the other party in writing of his determination and the Secretary shall provide to the Governor notice of the current and projected status of the tract or tracts containing the common potentially hydro-

carbon-bearing area. If the Secretary has leased or intends to lease such tract or tracts, the Secretary and the Governor of the coastal State may enter into an agreement to divide the revenues from production of any common potentially hydrocarbon-bearing area, by unitization or other royalty sharing agreement, pursuant to existing law. If the Secretary and the Governor do not enter into an agreement, the Secretary may nevertheless proceed with the leasing of the tract or tracts. Any revenues received by the United States under such an agreement shall be subject to the requirements of paragraph (2).

"(4) The deposits in the Treasury account described in this section shall be invested by the Secretary of the Treasury in securities backed by the full faith and credit of the United States having maturities suitable to the needs of the account and yielding the highest reasonably available interest rates as determined by the Secretary of the Treasury.

"(5)(A) When there is a boundary dispute between the United States and a State under section 7 of this Act, the Secretary shall credit to the account referred to in section 8004 of the Outer Continental Shelf Lands Act Amendments of 1985 revenues from oil and gas lease sales in the area within three nautical miles of the boundary asserted by the State, if that money has not otherwise been deposited in the separate account established under section 7. Proceeds of the account established under section 7, and the account referred to in section 8004 of the Outer Continental Shelf Lands Act Amendments of 1985 shall be distributed as follows:

"(i) If a State is wholly successful in its claim under section 7, such claim shall be satisfied by the money deposited in the escrow account established by section 7. Any excess monies in the section 7 account attributable to such State shall be transferred to the 8(g) account, and any monies due that State, both retrospectively and prospectively, as a result of the 8(g) zone created by the newly established boundary shall be distributed to the State in accordance with the terms of section 8004 of the Outer Continental Shelf Lands Act Amendments of 1985.

"(ii) If the United States is wholly successful in its claim under section 7, the amount of money that is necessary to satisfy the State's share as set forth under section 8004 of the Outer Continental Shelf Lands Act Amendments of 1985 shall be distributed from the revenues deposited in the section 7 escrow account. The amounts remaining after the distributions described in this subparagraph shall be paid to the United States pursuant to this section.

"(iii) If the United States or the affected State is partially successful in its claim under section 7, after the distribution under that result, the amount of money that is necessary to satisfy the State as set forth under section 8004 of the Outer Continental Shelf Lands Act Amendments of 1985 shall be distributed first from the remaining monies in the section 7 escrow account, and then from the amounts deposited or credited in the account referred to in section 8004 of the Outer Continental Shelf Lands Act Amendments of 1985. For amounts credited, the distribution shall be in accordance with clause (iv). The amounts remaining after the distributions described in this subparagraph shall be paid to the United States pursuant to this section.

"(iv) If there is insufficient money from the applicable oil and gas lease sales deposited in either the account established by section 7 or the account referred to in section 8004 of the Outer Continental Shelf Lands Act Amendments of 1985, the recoupment provisions of section 8006 of the Outer Continental Shelf Lands Act Amendments of 1985 shall be applicable.

"(B) This paragraph applies to all Federal oil and gas lease sales, under this Act, including joint lease sales, occurring after September 18, 1978.

"(6) This section shall be deemed to take effect on October 1, 1985, for purposes of determining the amounts to be deposited in the separate account and the States' shares described in paragraph (2).

"(7) When the Secretary leases any tract which lies wholly or partially within three miles of the seaward boundary of two or more States, the revenues from such tract shall be distributed as otherwise provided by this section, except that the State's share of such revenues that would otherwise result under this section shall be divided equally among such States.".

SEC. 8004. DISTRIBUTION OF 8(g) ACCOUNT.

(a) Prior to January 1, 1986, the Secretary shall distribute to the designated coastal States the sum of:

(1) The amounts due and payable to each such State under paragraph (2) of section 8(g) of the Outer Continental Shelf Lands Act, as amended by this title, for the period between October 1, 1985, and the date of such distribution, and

(2) The amounts due each such State under subsection (b) of this section for the period prior to October 1, 1985.

(b)(1) The funds which were deposited in the separate account in the Treasury of the United States under section 8(g)(4) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)(4)) which was in effect prior to the date of enactment of section 8003 of this title shall be distributed in the following manner as a fair and equitable disposition of such funds derived from bonuses and rents and accrued interest thereon through September 30, 1985:

	($ million)
Louisiana	635
Texas	424
California	375
Alabama	73
Alaska	56
Mississippi	15
Florida	0.03

(2) The Secretary shall distribute to each coastal State 27 percent of the royalties derived from any lease of Federal lands within 3 miles of the seaward boundary of such coastal State and accrued interest thereon which have been deposited through September 30, 1985, in the separate account described in paragraph (1) of this subsection, as a fair and equitable disposition of such royalties.

(3) The amounts derived from bonuses, rents and royalties, and accrued interest thereon through September 30, 1985, remaining in the account after distribution to the States under this subsection shall be transmitted to the miscellaneous receipts account of the United States Treasury.

(4) The acceptance of payment under this section shall satisfy and release any and all claims against the United States arising under, or related to, section 8(g) of the Outer Continental Shelf Lands Act, as it was in effect prior to the date of enactment of section 8003 of this title.

SEC. 8005. IMMOBILIZATION OF BOUNDARIES.

Section 2(b) of the Submerged Lands Act (43 U.S.C. 1301(b)) is amended by inserting before the semicolon at the end a comma and the following: "except that any boundary between a State and the United States under this Act which has been or is hereafter fixed by coordinates under a final decree of the United States Supreme Court shall remain immobilized at the coordinates provided under such decree and shall not be ambulatory".

SEC. 8006. RECOUPMENT.

(a) As a fair and equitable disposition of revenues derived between September 18, 1978 and September 30, 1985 from all bonuses, royalties, and other revenues, and accrued interest through September 30, 1985, from any Federal leases within three miles of the seaward boundary of any coastal State, including all such revenues which should have been, but which were not, deposited in the separate account in the Treasury of the United States under section 8(g)(4) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)(4)) which was in effect prior to the date of enactment of section 8003 of this title, such coastal State shall be entitled to an additional amount equal to:

(1) 27 percent of all bonuses, rents, and royalties, and other revenues (derived from any bidding system authorized under section 8(a)(1) of the Outer Continental Shelf Lands Act), excluding Federal income and windfall profits taxes, and accrued interest through September 30, 1985, derived from any lease of any Federal tract which lies wholly or partially within three nautical miles of the seaward boundary of such coastal State, less

(2) the amounts paid to such coastal State under section 8004(b) of this title.

(b) The additional amount due each State under subsection (a) of this section shall be paid from a separate Treasury account which is constituted as set forth in subsection (c) of this section. The total amount contained in such account on the last business day of each month shall be paid to each State in an amount proportional to that State's share of the total additional amounts due to all States under subsection (a) of this section.

(c) Beginning on October 1, 1986, the Secretary shall deposit into the account described in subsection (b) of this section from the separate account described in section 8(g)(2) of the Outer Continental Shelf Lands Act, as amended by this title, 10 percent of all revenues deposited after October 1, 1986, into the account described in such section 8(g)(2) until such time as the amount due to all coastal States under subsection (a) of this section has been paid.

Subtitle B—Coordination and Consultation With Affected States and Local Governments

SEC. 8101. REVISION OF SECTION 19(c).

(a) Section 19(c) of the Outer Continental Shelf Lands Act (43 U.S.C. 1345(c)) is amended to read as follows:

"(c) The Secretary shall accept recommendations of the Governor and may accept recommendations of the executive of any affected local government if he determines, after having provided the opportunity for consultation, that acceptance of such recommendations would provide for a reasonable balance between the national interest and the well-being of the citizens of the affected State. In determining the national interest, the Secretary shall equally weigh the need for exploration, development, and production of oil and gas from the area either proposed to be leased or leased and the need to protect other resources and uses of the coastal zone and the marine environment, including living marine resources, affected by such exploration, development and production activities. The Secretary shall inform the Governor in writing of his decision together with supporting reasons and information to accept or reject a recommendation or to implement any alternative means to protect the national interest identified in consultation with the Governor. The Secretary's decision shall address each specific point contained in the Governor's recommendation. Should the Secretary reject a recommendation, he shall, no less than thirty days prior to proceeding with the proposed action, provide the Governor with the findings on which his decision is based. The scope of judicial review of the Secretary's decision shall be that set out in section 706(2)(A) of title 5, United States Code.

(b)(1) Section 19(d) of such Act is repealed.

(2) Subsection (e) of section 19 of such Act is redesignated as subsection (d).

Subtitle C—Use of American-Built Rigs For OCS Drilling

SEC. 8201. USE OF AMERICAN-BUILT RIGS FOR OCS DRILLING.

Section 5 of the Outer Continental Shelf Lands Act (43 U.S.C. 1334) is amended by adding at the end the following new subsection:

"(j)(1) Any vessel, rig, platform, or other structure used for the purpose of exploration or production of oil and gas on the Outer Continental Shelf south of 49 degrees North latitude shall be built—

"(A) in the United States; and

"(B) from articles, materials, or supplies at least 50 percent of which, by cost, shall have been mined, produced, or manufactured, as the case may be, in the United States.

"(2) The requirements of paragraph (1) shall not apply to any vessel, rig, platform, or other structure which was built, which is being built, or for which a building contract has been executed, on or before October 1, 1985.

"(3) The Secretary may waive—

"(A) the requirement in paragraph (1)(B) whenever the Secretary determines that 50 percent of the articles, materials, or supplies for a vessel, rig, platform, or other structure cannot be mined, produced, or manufactured, as the case may be, in the United States, and

"(B) the requirement in paragraph (1)(A) upon application, with respect to any classification of vessels, rigs, platforms, or other structures on a specific lease, when the Secretary determines that at least 50 percent of such classification, as calculated by number and by weight, which are to be built for exploration or production activities under such lease will be built in the United States in compliance with the requirements of paragraph (1)(A).".

TITLE IX—MEDICARE, MEDICAID, AND MATERNAL AND CHILD HEALTH PROGRAMS

SEC. 9100. SHORT TITLE; TABLE OF CONTENTS OF TITLE.

This title may be cited as the "Medicare and Medicaid Budget Reconciliation Amendments of 1985".

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Subtitle A—Medicare

PART 1—PROVISIONS RELATING TO PART A OF MEDICARE

Subpart A—Hospital Reimbursement

SEC. 9101. RATE OF INCREASE IN PAYMENTS FOR INPATIENT HOSPITAL SERVICES.

(a) Extension of Current Freeze on Payment Rates through February 28, 1986.—Section 5(c) of the Emergency Extension Act of 1985 (Public Law 99-107) is amended to read as follows:

"(c) Extension Period Defined.—

"(1) Hospital payments.—For purposes of subsection (a), the term 'extension period' means the period beginning on October 1, 1985, and ending on February 28, 1986.".

(b) Applicable Percentage Increase.—Section 1886(b)(3)(B) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(B)) is amended to read as follows:

"(B)(i) For purposes of subparagraph (A) for 12-month cost reporting periods beginning during a fiscal year and for purposes of subsection (d) for discharges occurring during a fiscal year, the 'applicable percentage increase' shall be—

"(I) for fiscal year 1986, 1 percent,

"(II) for fiscal years 1987 and 1988, a percentage determined by the Secretary pursuant to subsection (e)(4), but not to exceed the market basket percentage increase (as defined in clause (ii)), and

"(III) for fiscal year 1989 and subsequent fiscal years, the percentage determined by the Secretary pursuant to subsection (e)(4).

"(ii) For purposes of clause (i), the term 'market basket percentage increase' means, with respect to cost reporting periods and discharges occurring in a fiscal year, the percentage, estimated by the Secretary before the beginning of the period or fiscal year, by which the cost of the mix of goods and services (including personnel costs but excluding nonoperating costs) comprising routine, ancillary, and special care unit inpatient hospital services, based on an index of appropriately weighted indicators of changes in wages and prices which are representative of the mix of goods and services included in such inpatient hospital services, for the period or fiscal year will exceed the cost of such mix of goods and services for the preceding 12-month cost reporting period or fiscal year.".

(c) Conforming Amendments.—(1) Section 1886(d)(3)(A) of such Act (42 U.S.C. 1395ww(d)(3)(A)) is amended by striking out "for fiscal year 1985" and inserting in lieu thereof "for each of fiscal years 1985 and 1986".

(2) Section 1886(e)(3) of such Act is amended by striking out "(instead of the applicable percentage increase described in subsection (b)(3)(B))".

(3) Section 1886(e)(4) of such Act is amended by striking out "1986" and inserting in lieu thereof "1987".

(d) Effective Date of Freeze Extension.—The amendments made by subsection (a) shall take effect on December 19, 1985, and the amendments made by subsection (c) shall take effect on the date of the enactment of this Act.

(e) Effective Date for Increase.—

(1) PPS hospitals, DRG portion of payment.—In the case of a subsection (d) hospital (as defined in paragraph (4))—

(A) the amendments made by subsection (b) shall apply to payments made under section 1886(d)(1)(A) of such Act made on the basis of discharges occurring on or after March 1, 1986; and

(B) for discharges occurring on or after October 1, 1986, the applicable percentage increase (described in section 1886(b)(3)(B)) for discharges occurring during fiscal year 1986 shall be deemed to have been 1 percent.

(2) PPS hospitals, hospital specific portion of payment.—In the case of a subsection (d) hospital—

(A) the amendments made by subsection (b) shall apply to payments under section 1886(d)(1)(A) of the Social Security Act made on the basis of discharges occurring during a cost reporting period of a hospital, for the hospital's cost reporting periods beginning on or after October 1, 1985;

(B) notwithstanding subparagraph (A), for the cost reporting period beginning during fiscal year 1986, the applicable percentage increase (as defined in section 1886(b)(3)(B) of such Act) for the—

(i) first 5 months of the cost reporting period shall be 0 percent, and

(ii) for the remaining 7 months of the cost reporting period shall be 1 percent; and

(C) for cost reporting periods beginning on or after October 1, 1986, the applicable percentage increase (as so defined) with respect to the cost reporting period beginning during fiscal year 1936 shall be deemed to have been 1 percent.

(3) PPS-exempt hospitals.—In the case of a hospital that is not a subsection (d) hospital—

(A) the amendments made by subsection (b) shall apply to cost reporting periods beginning on or after October 1, 1985;

(B) notwithstanding subparagraph (A), for the hospital's cost reporting period beginning during fiscal year 1986, payment under title XVIII of the Social Security Act shall be made as though the applicable percentage increase described in section 1886(b)(3)(B) were equal to 7/12 of 1 percent; and

(C) for cost reporting periods beginning on or after October 1, 1986, the applicable percentage increase (as so defined) with respect to the cost reporting period beginning during fiscal year 1986 shall be deemed to have been 1 percent.

(4) Definition.—In this subsection, the term "subsection (d) hospital" has the meaning given such term in section 1886(d)(1)(B) of the Social Security Act.

SEC. 9102. ONE-YEAR EXTENSION OF PPS TRANSITION.

(a) One-year Delay of Full Implementation of Prospective Payment System.—Section 1886(d)(1)(A) of the Social Security Act (42 U.S.C. 1395ww(d)(1)(A)) is amended by striking out "1986" in clauses (ii) and (iii) and inserting in lieu thereof "1987".

(b) New Target and DRG Percentages for Remainder of Fiscal Year 1986.—Section 1886(d)(1)(C) of such Act is amended—

(1) by striking out ", or discharges occurring",

(2) by striking out "and" at the end of clause (ii),

(3) by striking out "(iii) on or after October 1, 1985, and before October 1, 1986" in clause (iii) and inserting in lieu thereof "(iv) on or after October 1, 1986, and before October 1, 1987", and

(4) by inserting after clause (ii) the following new clause:

"(iii) on or after October 1, 1985, and before October 1, 1986, the 'target percentage' is 45 percent and the 'DRG percentage' is 55 percent; and".

(c) New Blended National-Regional DRG Rate for Remainder of Fiscal Year 1986.—Section 1886(d)(1)(D) of such Act is amended—

(1) by striking out "cost reporting periods beginning, or", and

(2) by striking out "1985" and "1986" and inserting in lieu thereof "1986" and "1987", respectively, each place it appears.

(d) Effective Dates.—

(1) Delay in final transition.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

(2) Change in hospital specific percentage.—The amendments made by subsection (b) shall apply—

(A) to cost reporting periods beginning on or after October 1, 1985, but

(B) notwithstanding subparagraph (A), for a hospital's cost reporting period beginning during fiscal year 1986, for purposes of section 1886(d)(1)(A) of the Social Security Act—

(i) during the first 5 months of the period the "target percentage" is 50 percent and the "DRG percentage" is 50 percent, and

(ii) during the remaining 7 months of the period the "target percentage" is 45 percent and the "DRG percentage" is 55 percent.

(3) Change in blended rate.—The amendments made by subsection (c) shall apply to discharges occurring on or after March 1, 1986.

SEC. 9103. APPLICATION OF REVISED HOSPITAL WAGE INDEX.

(a) Application of Revised Index Prospectively.—(1) Section 2316(b) of the Deficit Reduction Act of 1984 (98 Stat. 1081) is amended to read as follows:

"(b) The Secretary shall adjust the payment amounts for hospitals for discharges occurring after March 1, 1986, to reflect the changes the Secretary has promulgated in final regulations (on September 3, 1985) relating to the hospital wage index under section 1886(d)(3)(E) of the Social Security Act. For discharges occurring after September 30, 1986, the Secretary shall provide for such periodic adjustments in the appropriate wage index used under that section as may be necessary, taking into account changes in the wage levels and relative proportions of full-time and part-time workers.".

(2) The amendment made by paragraph (1) shall be effective as if it had been included in the Deficit Reduction Act of 1984.

(b) Study of Methodology for Area Wage Adjustment for Central Cities.—(1) The Secretary of Health and Human Services, in consultation with the Prospective Payment Assessment Commission, shall collect information and shall develop one or more methodologies to permit the adjustment of the wage indices used for purposes of sections 1886(d)(2)(C)(ii), 1886(d)(2)(H), and 1886(d)(3)(E) of the Social Security Act, in order to more accurately reflect hospital labor markets, by taking into account variations in wages and wage-related costs between the central city portion of urban areas and other parts of urban areas.

(2) The Secretary shall report to Congress on the information collected and the methodologies developed under paragraph (1) not later than March 1, 1987. The report shall include a recommendation as to the feasibility and desirability of implementing such methodologies.

SEC. 9104. PAYMENTS TO HOSPITALS FOR INDIRECT COSTS OF MEDICAL EDUCATION.

(a) Payment for Indirect Costs of Medical Education.—Section 1886(d)(5)(B) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(B)) is amended to read as follows:

"(B) The Secretary shall provide for an additional payment amount for subsection (d) hospitals with indirect costs of medical education, in an amount computed in the same manner as the adjustment for such costs under regulations (in effect as of January 1, 1983) under subsection (a)(2), except as follows:

"(i) The amount of such additional payment shall be determined by multiplying (I) the sum of the amount determined under paragraph (1)(A)(ii)(II) (or, if applicable, the amount determined under paragraph (1)(A)(iii)) and the amount paid to the hospital under subparagraph (A), by (II) the indirect teaching adjustment factor described in clause (ii).

"(ii) For purposes of clause (i)(II), the indirect teaching adjustment factor for discharges occurring—

"(I) on or after March 1, 1986, and before October 1, 1988, is equal to $2x((1+r)^{.405}-1)$, or

"(II) on or after October 1, 1988, is equal to $1.5x((1+r)^{.5795}-1)$,

where 'r' is the ratio of the hospital's full-time equivalent interns and residents to beds.

"(iii) In determining such adjustment the Secretary shall not distinguish between those interns and residents who are employees of a hospital and those interns and residents who furnish services to a hospital but are not employees of such hospital.

"(iv) In determining such adjustment, the Secretary shall continue to count interns and residents assigned to outpatient services of the hospital as part of the calculation of the full-time-equivalent number of interns and residents.".

(b) Adjustment of Payment Amounts.—

(1) Restandardizing DRG payment amounts to reflect change in formula.—Section 1886(d)(2)(C)(i) of such Act is amended by inserting "(taking into account, for discharges occurring after September 30, 1986, the amendments made by section 9104(a) of the Medicare and Medicaid Budget Reconciliation Amendments of 1985)" after "medical education costs".

(2) Providing for system savings from change in formula.—Subparagraph (C) of section 1886(d)(3) of such Act is amended—

(A) by inserting "(i)" after "(C)",

(B) by inserting "FOR FISCAL YEAR 1985" after "NEUTRALITY",

(C) by striking out "The Secretary" and inserting in lieu thereof "For discharges occurring in fiscal year 1985, the Secretary", and

(D) by adding at the end the following new clause:

"(ii) Reducing for savings from amendment to indirect teaching adjustment for discharges after September 30, 1986.—For discharges occurring after September 30, 1986, the Secretary shall further reduce each of the average standardized amounts (in a proportion which takes into account the differing effects of the standardization effected under paragraph (2)(C)(i)) so as to provide for a reduction in the total of the payments (attributable to this paragraph) made for discharges occurring—

"(I) on or after October 1, 1986, and before October 1, 1988, of an amount equal to the estimated reduction in the payment amounts under paragraph (5)(B) that would have resulted from the enactment of the amendments made by section 9104 of the Medicare and Medicaid Budget Reconciliation Amendments of 1985 if the factor described in clause (ii)(II) of paragraph (5)(B) were applied for discharges occurring during such period instead of the factor described in clause (ii)(I) of that paragraph, and

"(II) on or after October 1, 1988, of an amount equal to the estimated reduction in the payment amounts under paragraph (5)(B) for those discharges that has resulted from the enactment of the amendments made by section 9104 of the Medicare and Medicaid Budget Reconciliation Amendments of 1985.".

(3) Conforming amendment.—Clauses (i)(I) and (ii)(I) of section 1886(d)(3)(D) of such Act are each amended by inserting "or reduced" after "(B), and adjusted".

(c) Effective Date.—(1) Except as provided in paragraph (2), the amendments made by this section shall apply to discharges occurring on or after March 1, 1986.

(2) The amendments made by this section shall not first be applied to discharges occurring as of a date unless, for discharges occurring on that date, the amendments made by section 9105 are also being applied.

SEC. 9105. PAYMENTS FOR HOSPITALS WHICH SERVE A DISPROPORTIONATE SHARE OF LOW-INCOME PATIENTS.

(a) Payment for Hospitals Which Serve a Disproportionate Share of Low-Income Patients.—Section 1886(d)(5) of the Social Security Act (42 U.S.C. 1395ww(d)(5)) is amended by adding at the end the following new subparagraph:

"(F)(i) For discharges occurring on or after March 1, 1986, and before October 1, 1988, the Secretary shall provide, in accordance with this subparagraph, for an additional payment amount for each subsection (d) hospital which—

"(I) serves a significantly disproportionate number of low-income patients (as defined in clause (v)), or

"(II) is located in an urban area, has 100 or more beds, and can demonstrate that its net inpatient care revenues (excluding any of such revenues attributable to this title or State plans approved under title XIX), during the cost reporting period in which the discharges occur, for indigent care from State and local government sources exceed 30 percent of its total of such revenues during the period.

"(ii) The amount of such payment for each discharge shall be determined by multiplying (I) the sum of the amount determined under paragraph (1)(A)(ii)(II) (or, if applicable, the amount determined under paragraph (1)(A)(iii)) and the amount paid to the hospital under subparagraph (A) for that discharge, by (II) the disproportionate share adjustment percentage established under clause (iii) or (iv) for the cost reporting period in which the discharge occurs.

"(iii) The disproportionate share adjustment percentage for a cost reporting period for a hospital described in clause (i)(II) is equal to 15 percent.

"(iv) The disproportionate share adjustment percentage for a cost reporting period for a hospital that is not described in clause (i)(II) and that—

"(I) is located in an urban area and has 100 or more beds, is equal to the lesser of 15 percent, or the percent determined in accordance with the following formula: (P-15)(.5) + 2.5, where 'P' is the hospital's disproportionate patent percentage (as defined in clause (vi));

"(II) is located in an urban area and has less than 100 beds, is equal to 5 percent; or

"(III) is located in a rural area, is equal to 4 percent.

"(v) In this subparagraph, a hospital 'serves a significantly disproportionate number of low income patients' for a cost reporting period if the hospital has a disproportionate patient percentage (as defined in clause (vi)) for that period which equals, or exceeds—

"(I) 15 percent, if the hospital is located in an urban area and has 100 or more beds,

"(II) 40 percent, if the hospital is located in an urban area and has less than 100 beds, or

"(III) 45 percent, if the hospital is located in a rural area.

"(vi) In this subparagraph, the term 'disproportionate patient percentage' means, with respect to a cost reporting period of a hospital, the sum of—

"(I) the fraction (expressed as a percentage), the numerator of which is the number of such hospital's patient days for such period which were made up of patients who (for such days) were entitled to benefits under part A of this title and were entitled to supplementary security income benefits (excluding any State supplementation) under title XVI of this Act, and the denominator of which is the number of such hospital's patient days for such fiscal year which were made up of patients who (for such days) were entitled to benefits under part A of this title, and

"(II) the fraction (expressed as a percentage), the numerator of which is the number of the hospital's patient days for such period which consist of patients who (for such days) were eligible for medical assistance under a State plan approved under title XIX, but who were not entitled to benefits under part A of this title, and the denominator of which is the total number of the hospital's patient days for such period.".

(b) Restandardizing DRG Payment Amounts To Reflect Disproportionate Share Payments.—Section 1886(d)(2)(C) of such Act is amended—

(1) by striking out "and" at the end of clause (ii),

(2) by striking out the period at the end of clause (iii) and inserting in lieu thereof ", and", and

(3) by adding at the end the following new clause:

"(iv) for discharges occurring on or after October 1, 1986, and before October 1, 1988, excluding an estimate of the additional payments to certain hospitals to be made under paragraph (5)(F).".

(c) CONFORMING AMENDMENT.—Section 1886(d)(5)(C)(i) of such Act is amended by striking out ", and of public or other hospitals that serve a significantly disproportionate number of patients who have low income or are entitled to benefits under part A of this title".

(d) CBO REPORT.—The Congressional Budget Office shall study, and report to Congress not later than January 1, 1987, on the impact of the implementation of this section on hospitals, including the appropriateness of the factors used in determining which hospitals are eligible for additional payments under section 1886(d)(5)(F) of the Social Security Act and the amount of the additional payments made to those hospitals.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to discharges occurring on or after March 1, 1986.

SEC. 9106. TREATMENT OF CERTAIN RURAL OSTEOPATHIC HOSPITALS AS RURAL REFERRAL CENTERS.

(a) IN GENERAL.—Section 1886(d)(5)(C)(i) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(C)(i)) is amended by inserting before the period at the end of the second sentence the following: "and which shall not require a rural osteopathic hospital to have more than 3,000 discharges in a year in order to be classified as a rural referral center".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to cost reporting periods beginning on or after January 1, 1986.

SEC. 9107. RETURN ON EQUITY CAPITAL FOR INPATIENT HOSPITAL SERVICES AND OTHER SERVICES.

(a) INPATIENT HOSPITAL SERVICES.—

(1) PHASE-DOWN IN PAYMENT FOR RETURN ON EQUITY CAPITAL.—Section 1886(g)(2) of the Social Security Act (42 U.S.C. 1395ww(g)(2)) is amended—

(A) by inserting "the applicable percentage (described in subparagraph (B)) of" before "the average of the rates of interest",

(B) by inserting "(A)" after "(2)", and

(C) by adding at the end the following new subparagraph:

"(B) In this paragraph, the 'applicable percentage' is—

"(i) 75 percent, for cost reporting periods beginning during fiscal year 1987,

"(ii) 50 percent, for cost reporting periods beginning during fiscal year 1988,

"(iii) 25 percent, for cost reporting periods beginning during fiscal year 1989, and

"(iv) 0 percent, for cost reporting periods beginning on or after October 1, 1989.".

(2) EXCLUSION FROM PROSPECTIVE PAYMENT.—The second sentence of section 1886(a)(4) of such Act is amended—

(A) by inserting "a return on equity capital," after "anesthetist,", and

(B) by inserting "other" before "capital-related costs".

(b) OTHER SERVICES.—

(1) LIMITATION ON RATE.—Section 1861(v)(1) of such Act (42 U.S.C. 1395x(v)(1)) is amended by adding at the end the following new subparagraph:

"(P) If such regulations provide for the payment for a return on equity capital (other than with respect to costs of inpatient hospital services), the rate of return to be recognized, for determining the reasonable cost of services furnished in a cost reporting period, shall be equal to the average of the rates of interest, for each of the months any part of which is included in the period, on obligations issued for purchase by the Federal Hospital Insurance Trust Fund.".

(2) CONFORMING AMENDMENTS.—Section 1861(v)(1)(B) of such Act is amended—

(A) by striking out "any fiscal period" and "such fiscal period" and inserting in lieu thereof "any cost reporting period" and "the period", respectively, and

(B) by striking out "not exceed one and one-half times" in the second sentence and inserting in lieu thereof "be equal to".

(c) EFFECTIVE DATES.—(1) The amendments made by subsection (a) shall apply to hospital cost reporting periods beginning on or after October 1, 1986.

(2) The amendments made by subsection (b) shall apply to cost reporting periods beginning on or after October 1, 1985.

SEC. 9108. CONTINUATION OF MEDICARE REIMBURSEMENT WAIVERS FOR CERTAIN HOSPITALS PARTICIPATING IN REGIONAL HOSPITAL REIMBURSEMENT DEMONSTRATIONS.

(a) CONTINUATION OF WAIVERS.—A hospital reimbursement control system which, on January 1, 1985, was carrying out a demonstration under a contract which had been approved by the Secretary of Health and Human Services pursuant to section 222(a) of the Social Security Amendments of 1972, or under section 402 of the Social Security Amendments of 1967 (as amended by section 222(b) of the Social Security Amendments of 1972), shall be deemed to meet the requirements of section 1886(c)(1)(A) of the Social Security Act if such system applies—

(1) to substantially all non-Federal acute care hospitals (as defined by the Secretary) in the geographic area served by such system on January 1, 1985, and

(2) to the review of at least 75 percent of—

(A) all revenues or expenses in such geographic area for inpatient hospital services, and

(B) revenues or expenses in such geographic area for inpatient hospital services provided under the State's plan approved under title XIX.

(b) APPROVAL.—In the case of a hospital cost control system described in subsection (a), the requirements of section 1886(c) of the Social Security Act which apply to States shall instead apply to such system and, for such purposes, any reference to a State is deemed a reference to such system.

(c) EFFECTIVE DATE.—This section shall become effective on the date of the enactment of this Act.

SEC. 9109. FOUR-YEAR TEST FOR STATE WAIVERS FOR CERTAIN STATES.

(a) IN GENERAL.—Section 1886(c) of the Social Security Act (42 U.S.C 1395ww(c)) is amended by adding at the end the following new paragraph:

"(7) In the case of a State which made a request under paragraph (5) before December 31, 1984, for the approval of a State hospital reimbursement control system and which request was approved—

"(A) in applying paragraphs (1)(C) and (6), a reference to a '36-month period' is deemed a reference to a '48-month period', and

"(B) in order to allow the State the opportunity to provide the assurances described in paragraph (1)(C) for a 48-month period, the Secretary may not discontinue payments under the system, under the authority of paragraph (3)(A) because the Secretary has reason to believe that such assurances are not being (or will not be) met, before July 1, 1986.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 9110. ASSET VALUATION FOR DONATIONS OF STATE PROPERTY TO NONPROFIT CORPORATIONS.

(a) GENERAL RULE.—Section 1861(v)(1)(O) of the Social Security Act (42 U.S.C. 1395x(v)(1)(O)) is amended—

(1) by inserting ", except as provided in clause (iv)," in clause (i) after "such regulations shall provide", and

(2) by adding at the end the following new clause:

"(iv) In the case of the transfer of a hospital from ownership by a State to ownership by a nonprofit corporation without monetary consideration, the basis for capital allowances to the new owner shall be the book value of the hospital to the State at the time of the transfer.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be applied as though they were originally included in the Deficit Reduction Act of 1984.

SEC. 9111. PAYMENTS TO SOLE COMMUNITY HOSPITALS.

(a) ADJUSTMENT TO PAYMENT AMOUNT.—Section 1886(d)(5)(C)(ii) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(C)(ii)) is amended by inserting after the second sentence thereof the following: "In the case of a sole community hospital which experiences, in any cost reporting period after the cost reporting period which was used as the base for determining the target amount for payments to such hospital under paragraph (1)(A)(i)(I), a significant increase in operating costs attributable to the addition of new inpatient facilities or services at such hospital (including the opening of a special care unit), the Secretary shall provide for such adjustment to the payment amounts under this subsection for such cost reporting period and subsequent cost reporting periods as may be necessary to reasonably compensate such hospital for such increased costs.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments for cost reporting periods beginning on or after October 1, 1983, and before October 1, 1989.

(c) STUDY.—The Secretary of Health and Human Services shall conduct a study of the effects of the amendment made by subsection (a). The Secretary shall report the results of such study, including recommendations for a permanent mechanism to take into account needed expansions of services by sole community hospitals and the hospital-specific medicare payment rates thereof, to the Congress prior to January 1, 1987.

SEC. 9112. INDIRECT TEACHING ADJUSTMENT FOR CERTAIN CLINICS.

(a) IN GENERAL.—Section 602(k) of the Social Security Amendments of 1983 (97 Stat. 165) is amended by inserting "(1)" after "(k)" and by adding at the end the following new paragraphs:

"(2) In the case of a hospital which is receiving payments pursuant to a waiver under paragraph (1), payment of the adjustment for indirect costs of approved educational activities shall be made as if the hospital were receiving under part A of title XVIII of the Social Security Act all the payments which are made under part B of such title solely by reason of such waiver.

"(3) Any waiver granted under paragraph (1) shall provide that, with respect to those items and services billed under part B of title XVIII of the Social Security Act solely by reason of such waiver—

"(A) payment under such part shall be equal to 100 percent of the reasonable charge or other applicable payment base for the items and services; and

"(B) the entity furnishing the items and services must agree to accept the amount paid pursuant to subparagraph (A) as the full charge for the items and services.".

(b) Effective Dates.—(1) Section 602(k)(2) of the Social Security Amendments of 1983 (as added by subsection (a)) shall apply to cost reporting periods beginning on or after January 1, 1986.

(2) Section 602(k)(3) of the Social Security Amendments of 1983 (as added by subsection (a)) shall apply to items and services furnished after the end of the 10-day period beginning on the date of the enactment of this Act.

SEC. 9113. REPORT ON IMPACT OF OUTLIER AND TRANSFER POLICY ON RURAL HOSPITALS.

(a) Review.—The Secretary of Health and Human Services shall review the impact of policies respecting outliers and patient transfers on payments under section 1886(d) of the Social Security Act to rural hospitals (particularly on rural hospitals with less than 100 beds).

(b) Report.—The Secretary shall report to Congress on the findings of the review not later than January 1, 1987, and shall include in the report recommendations on changes in policies respecting outliers and patient transfers to the extent they adversely affect rural hospitals.

SEC. 9114. INFORMATION ON IMPACT OF PPS PAYMENTS ON HOSPITALS.

(a) Disclosure of Information.—The Secretary of Health and Human Services shall make available to the Prospective Payment Assessment Commission, the Congressional Budget Office, the Comptroller General, and the Congressional Research Service the most current information on the payments being made under section 1886 of the Social Security Act to individual hospitals. Such information shall be made available in a manner that permits examination of the impact of such section on hospitals.

(b) Confidentiality.—Information disclosed under subsection (a) shall be treated as confidential and shall not be subject to further disclosure in a manner that permits the identification of individual hospitals.

SEC. 9115. SPECIAL RULES FOR IMPLEMENTATION OF SUBPART.

(a) Waiver of Paperwork Reduction.—Chapter 35 of title 44, United States Code, shall not apply to information required for purposes of carrying out this subpart and implementing the amendments made by this subpart.

(b) Use of Interim Final Regulations.—The Secretary of Health and Human Services shall issue such regulations (on an interim or other basis) as may be necessary to implement this subpart and the amendments made by this subpart.

Subpart B—Miscellaneous Provisions

SEC. 9121. RESPONSIBILITIES OF MEDICARE HOSPITALS IN EMERGENCY CASES.

(a) Requirement of Medicare Hospital Provider Agreements.—Section 1866(a)(1) of the Social Security Act (42 U.S.C. 1395cc(a)(1)) is amended—

(1) by striking out "and" at the end of subparagraph (G),

(2) by striking out the period at the end of subparagraph (H) and inserting in lieu thereof ", and", and

(3) by inserting after subparagraph (H) the following new subparagraph:

"(I) in the case of a hospital, to comply with the requirements of section 1867 to the extent applicable.".

(b) Requirements.—Title XVIII of such Act is amended by inserting after section 1866 the following new section:

"EXAMINATION AND TREATMENT FOR EMERGENCY MEDICAL CONDITIONS AND WOMEN IN ACTIVE LABOR

"Sec. 1867. (a) Medical Screening Requirement.—In the case of a hospital that has a hospital emergency department, if any individual (whether or not eligible for benefits under this title) comes to the emergency department and a request is made on the individual's behalf for examination or treatment for a medical condition, the hospital must provide for an appropriate medical screening examination within the capability of the hospital's emergency department to determine whether or not an emergency medical condition (within the meaning of subsection (e)(1)) exists or to determine if the individual is in active labor (within the meaning of subsection (e)(2)).

"(b) Necessary Stabilizing Treatment for Emergency Medical Conditions and Active Labor.—

"(1) In general.—If any individual (whether or not eligible for benefits under this title) comes to a hospital and the hospital determines that the individual has an emergency medical condition or is in active labor, the hospital must provide either—

"(A) within the staff and facilities available at the hospital, for such further medical examination and such treatment as may be required to stabilize the medical condition or to provide for treatment of the labor, or

"(B) for transfer of the individual to another medical facility in accordance with subsection (c).

"(2) Refusal to consent to treatment.—A hospital is deemed to meet the requirement of paragraph (1)(A) with respect to an individual if the hospital offers the individual the further medical examination and treatment described in that paragraph but the individual (or a legally responsible person acting on the individual's behalf) refuses to consent to the examination or treatment.

"(3) Refusal to consent to transfer.—A hospital is deemed to meet the requirement of paragraph (1) with respect to an individual if the hospital offers to transfer the individual to another medical facility in accordance with subsection (c) but the individual (or a legally responsible person acting on the individual's behalf) refuses to consent to the transfer.

"(c) Restricting Transfers Until Patient Stabilized.—

"(1) Rule.—If a patient at a hospital has an emergency medical condition which has not been stabilized (within the meaning of subsection (e)(4)(B)) or is in active labor, the hospital may not transfer the patient unless—

"(A)(i) the patient (or a legally responsible person acting on the patient's behalf) requests that the transfer be effected, or

"(ii) a physician (within the meaning of section 1861(r)(1)), or other qualified medical personnel when a physician is not readily available in the emergency department, has signed a certification that, based upon the reasonable risks and benefits to the patient, and based upon the information available at the time, the medical benefits reasonably expected from the provision of appropriate medical treatment at another medical facility outweigh the increased risks to the individual's medical condition from effecting the transfer; and

"(B) the transfer is an appropriate transfer (within the meaning of paragraph (2)) to that facility.

"(2) Appropriate transfer.—An appropriate transfer to a medical facility is a transfer—

"(A) in which the receiving facility—

"(i) has available space and qualified personnel for the treatment of the patient, and

"(ii) has agreed to accept transfer of the patient and to provide appropriate medical treatment;

"(B) in which the transferring hospital provides the receiving facility with appropriate medical records (or copies thereof) of the examination and treatment effected at the transferring hospital;

"(C) in which the transfer is effected through qualified personnel and transportation equipment, as required including the use of necessary and medically appropriate life support measures during the transfer; and

"(D) which meets such other requirements as the Secretary may find necessary in the interest of the health and safety of patients transferred.

"(d) Enforcement.—

"(1) As requirement of medicare provider agreement.—If a hospital knowingly and willfully, or negligently, fails to meet the requirements of this section, such hospital is subject to—

"(A) termination of its provider agreement under this title in accordance with section 1866(b), or

"(B) at the option of the Secretary, suspension of such agreement for such period of time as the Secretary determines to be appropriate, upon reasonable notice to the hospital and to the public.

"(2) Civil monetary penalties.—In addition to the other grounds for imposition of a civil money penalty under section 1128A(a), a participating hospital that knowingly violates a requirement of this section and the responsible physician in the hospital with respect to such a violation are each subject, under that section, to a civil money penalty of not more than $25,000 for each such violation. As used in the previous sentence, the term 'responsible physician' means, with respect to a hospital's violation of a requirement of this section, a physician who—

"(A) is employed by, or under contract with, the participating hospital, and

"(B) acting as such an employee or under such a contract, has professional responsibility for the provision of examinations or treatments for the individual, or transfers of the individual, with respect to which the violation occurred.

"(3) Civil enforcement.—

"(A) Personal harm.—Any individual who suffers personal harm as a direct result of a participating hospital's violation of a requirement of this section may, in a civil action against the participating hospital, obtain those damages available for personal injury under the law of the State in which the hospital is located, and such equitable relief as is appropriate.

"(B) Financial loss to other medical facility.—Any medical facility that suffers a financial loss as a direct result of a participating hospital's violation of a requirement of this section may, in a civil action against the participating hospital, obtain those damages available for financial loss, under the law of the State in which the hospital is located, and such equitable relief as is appropriate.

"(C) LIMITATIONS ON ACTIONS.—No action may be brought under this paragraph more than two years after the date of the violation with respect to which the action is brought.

"(e) DEFINITIONS.—In this section:

"(1) The term 'emergency medical condition' means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in—

"(A) placing the patient's health in serious jeopardy,

"(B) serious impairment to bodily functions, or

"(C) serious dysfunction of any bodily organ or part.

"(2) The term 'active labor' means labor at a time at which—

"(A) delivery is imminent,

"(B) there is inadequate time to effect safe transfer to another hospital prior to delivery, or

"(C) a transfer may pose a threat of the health and safety of the patient or the unborn child.

"(3) The term 'participating hospital' means hospital that has entered into a provider agreement under section 1866 and has, under the agreement, obligated itself to comply with the requirements of this section.

"(4)(A) The term 'to stabilize' means, with respect to an emergency medical condition, to provide such medical treatment of the condition as may be necessary to assure, within reasonable medical probability, that no material deterioration of the condition is likely to result from the transfer of the individual from a facility.

"(B) The term 'stabilized' means, with respect to an emergency medical condition, that no material deterioration of the condition is likely, within reasonable medical probability, to result from the transfer of the individual from a facility.

"(5) The term 'transfer' means the movement (including the discharge) of a patient outside a hospital's facilities at the direction of any person employed by (or affiliated or associated, directly or indirectly, with) the hospital, but does not include such a movement of a patient who (A) has been declared dead, or (B) leaves the facility without the permission of any such person.

"(f) PREEMPTION.—The provisions of this section do not preempt any State or local law requirement, except to the extent that the requirement directly conflicts with a requirement of this section.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first month that begins at least 90 days after the date of the enactment of this Act.

(d) REPORT.—The Secretary of Health and Human Services shall, not later than 6 months after the effective date described in subsection (c), report to Congress on the methods to be used for monitoring and enforcing compliance with section 1867 of the Social Security Act.

SEC. 9122. REQUIREMENT FOR MEDICARE HOSPITALS TO PARTICIPATE IN CHAMPUS AND CHAMPVA PROGRAMS.

(a) IN GENERAL.—Section 1866(a)(1) of the Social Security Act (42 U.S.C. 1395cc(a)(1)) is amended—

(1) by striking out "and" at the end of subparagraph (G),

(2) by striking out the period at the end of subparagraph (H) and inserting in lieu thereof ", and", and

(3) by inserting after subparagraph (H) the following new subparagraph:

"(I) in the case of hospitals which provide inpatient hospital services for which payment may be made under this title, to be a participating provider of medical care under any health plan contracted for under section 1079 or 1086 of title 10, or under section 613 of title 38, United States Code, in accordance with admission practices, payment methodology, and amounts as prescribed under joint regulations issued by the Secretary and by the Secretaries of Defense and Transportation, in implementation of sections 1079 and 1086 of title 10, United States Code.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to agreements entered into or renewed on or after the date of the enactment of this Act, but shall apply only to inpatient hospital services provided pursuant to admissions to hospitals occurring on or after January 1, 1987.

(c) REFERENCE TO STUDY REQUIRED.—For a study of the use by CHAMPUS of the medicare prospective payment system, see section 634 of the Department of Defense Authorization Act, 1985 (Public Law 98-525), the deadline for which is extended under section 2002 of this Act.

(d) REPORT.—The Secretary of Health and Human Services shall report to Congress periodically on the number of hospitals that have terminated or failed to renew an agreement under section 1866 of the Social Security Act as a result of the additional conditions imposed under the amendments made by subsection (a).

SEC. 9123. EXTENSION AND PAYMENT FOR HOSPICE CARE.

(a) ELIMINATION OF SUNSET.—Section 122(h)(1) of the Tax Equity and Fiscal Responsibility Act of 1982 (P.L. 97-248, 96 Stat. 362), relating to the end of the effective date for hospice care, is amended—

(1) in subparagraph (A)—

(A) by striking out "(h)(1)(A) Subject to subparagraph (B), the" and inserting in lieu thereof "(h)(1) The", and

(B) by striking out ", and before October 1, 1986", and

(2) by striking out subparagraph (B).

(b) INCREASE IN PAYMENT OF DAILY RATES FOR HOSPICE CARE.—(1) Subparagraph (B) of section 1814(i)(1) of the Social Security Act (42 U.S.C. 1395f(i)(1)) is amended to read as follows:

"(B) Notwithstanding subparagraph (A), for hospice care furnished on or after January 1, 1986, the daily rate of payment per day for routine home care shall be $63.17 and the daily rate of payment for other services included in hospice care shall be the daily rate of payment recognized under subparagraph (A) as of July 1, 1985, increased by $10.".

(2) Subparagraph (C) of such section is amended by striking out "1985" and inserting in lieu thereof "1986".

SEC. 9124. LIMITING THE PENALTY FOR LATE ENROLLMENT IN PART A.

(a) LIMITING PENALTY TO 10 PERCENT AND TWICE THE PERIOD DURING WHICH NOT ENROLLED.—Section 1818(c) of the Social Security Act (42 U.S.C. 1395i-2(c)) is amended—

(1) by striking out "and" at the end of paragraph (5),

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and", and

(3) by adding at the end the following new paragraph:

"(7) any percent increase effected under section 1839(b) in an individual's monthly premium may not exceed 10 percent and shall only apply to premiums paid during a period equal to twice the number of months in the full 12-month periods described in that section.".

(b) EFFECTIVE DATE.—(1) The amendment made by subsection (a)(3) shall apply to premiums paid for months beginning with April 1986.

(2) In applying that amendment, months (before, during, or after April 1986) in which an individual was required to pay a premium increased under the section that was so amended shall be taken into account in determining the month in which the premium will no longer be subject to an increase under that section as so amended.

SEC. 9125. PROMULGATION OF INPATIENT HOSPITAL DEDUCTIBLE.

(a) CHANGE IN DEADLINE.—Section 1813(b)(2) of the Social Security Act (42 U.S.C. 1395e(b)(2)) is amended by striking out "October 1" and inserting in lieu thereof "September 15".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to calendar years after 1985.

SEC. 9126. ACCESS TO SKILLED NURSING FACILITIES.

(a) OPTIONAL PROSPECTIVE RATES FOR CERTAIN SKILLED NURSING FACILITIES.—Section 1888 of the Social Security Act (42 U.S.C. 1395yy) is amended by adding at the end the following new subsection:

"(d)(1) Any skilled nursing facility may choose to be paid under this subsection on the basis of a prospective payment for all routine service costs (and capital-related costs) of extended care services provided in a fiscal year if such facility had, in the preceding fiscal year, fewer than 1,500 patient days with respect to which payments were made under this title. Such prospective payment shall be in lieu of payments which would otherwise be made for routine service costs pursuant to section 1861(v) and subsections (a) through (c) of this section and capital-related costs pursuant to section 1861(v). This subsection shall not apply to a facility for any fiscal year immediately following a fiscal year in which such facility had 1,500 or more patient days with respect to which payments were made under this title, without regard to whether payments were made under this subsection during such preceding fiscal year.

"(2)(A) The amount of the payment under this section shall be determined on a per diem basis.

"(B) Subject to the limitations of subparagraph (C), for skilled nursing facilities located—

"(i) in an urban area, the amount shall be equal to 105 percent of the mean of the per diem reasonable routine service and capital-related costs of extended care services for skilled nursing facilities in urban areas within the same region, determined without regard to the limitations of subsection (a) and adjusted for different area wage levels, and

"(ii) in a rural area the amount shall be equal to 105 percent of the mean of the per diem reasonable routine service and capital-related costs of extended care services for skilled nursing facilities in rural areas within the same region, determined without regard to the limitations of subsection (a) and adjusted for different area wage levels.

"(C) The per diem amounts determined under subparagraph (B) shall not exceed the limit on routine service costs determined under subsection (a) with respect to the facility, adjusted to take into account average capital-related costs with respect to the type and location of the facility.

"(3) For purposes of this subsection, urban and rural areas shall be determined in the same manner as for purposes of subsection (a), and the term 'region' shall have the same meaning as under section 1886(d)(2)(D).

"(4) The Secretary shall establish the prospective payment amounts for each fiscal year at least 90 days prior to the beginning of such fiscal year, on the basis of the most recent data available for a 12-month period. A skilled nursing facility must notify the Secretary of its intention to be paid pursuant to this subsection for a fiscal year within 60 days after the Secretary establishes the final prospective payment amounts for such fiscal year.

"(5) The Secretary shall provide for a simplified cost report to be filed by facilities being paid pursuant to this subsection, which shall require only the cost information necessary for determining prospective payment amounts pursuant to paragraph (2) and reasonable costs of ancillary services.

"(6) In lieu of payment on a cost basis for ancillary services provided by a facility which is being paid pursuant to this subsection, the Secretary may pay for such ancillary services on a reasonable charge basis if the Secretary determines that such payment basis will provide an equitable level of reimbursement and will ease the reporting burden of the facility.".

(b) Publication of Data Relating to Adjustments to SNF Limits.—Section 1888(c) of such Act is amended by adding at the end thereof the following: "The Secretary shall publish the data and criteria to be used for purposes of this subsection on an annual basis.".

(c) Reinstatement of Waiver of Liability Presumption.—The Secretary of Health and Human Services shall, for purposes of determining whether payments to a skilled nursing facility should be denied pursuant to section 1862(a)(1)(A) of the Social Security Act, apply the same presumption of compliance (5 percent) as in effect under regulations as of July 1, 1985. Such presumption shall apply for the 30-month period beginning with the first month beginning after the date of the enactment of this Act.

(d) Effective Dates.—(1) The amendment made by subsection (a) shall apply to fiscal years beginning on or after October 1, 1986.

(2) The amendment made by subsection (b) shall become effective on the date of the enactment of this Act.

SEC. 9127. ADDITIONAL MEMBERS OF PROSPECTIVE PAYMENT ASSESSMENT COMMISSION.

(a) Expansion of Membership.—Section 1886(e)(6)(A) of the Social Security Act (42 U.S.C. 1395ww(e)(6)(A)) is amended by striking out "15 individuals" and inserting in lieu thereof "17 individuals".

(b) Appointments.—The Director of the Congressional Office of Technology Assessment shall appoint the two additional members of the Prospective Payment Assessment Commission, as required by the amendment made by subsection (a), no later than 60 days after the date of the enactment of this Act, for terms of three years.

SEC. 9128. SENSE OF THE SENATE WITH RESPECT TO INPATIENT HOSPITAL DEDUCTIBLE.

In view of the $92 Medicare hospital deductible increase that will go into effect January 1, 1986, it is the sense of the Senate that the Committee on Finance should report legislation which will reform calculation of the annual increase in such deductible so that it is more consistent with annual increases in Medicare payments to hospitals.

SEC. 9129. MEDICARE COVERAGE OF STATE AND LOCAL EMPLOYEES.

For provision providing for medicare coverage of certain State and local employees, see section 13205 of this Act.

PART 2—PROVISIONS RELATING TO PARTS A AND B OF MEDICARE

Subpart A—Payment-related Provisions

SEC. 9201. EXTENSION OF WORKING AGED PROVISION.

(a) Extension of Secondary Payor Status Beyond Age 69.—Section 1862(b)(3)(A) of the Social Security Act (42 U.S.C. 1395y(b)(3)(A)) is amended—

(1) in clause (i), by striking out "who is under 70 years of age during any part of such month" and ", if the spouse is under 70 years of age during any part of such month", and

(2) in clause (iii), by striking out "and ending with the month before the month in which such individual attains the age of 70".

(b) Extension of Age Discrimination Provisions.—

(1) Section 4(g)(1) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623(g)(1)) is amended by striking out "through 69" and inserting in lieu thereof "or older" each place it appears.

(2) Section 12(a) of such Act (29 U.S.C. 631(a)) is amended by inserting "(except the provisions of section 4(g))" after "Act".

(3) Section 4 of such Act (29 U.S.C. 623) is amended by redesignating the second subsection (g), added by section 802 of the Older Americans Act Amendments of 1984, as subsection (h).

(c) Conforming Amendments.—

(1) Special enrollment period.—Paragraph (3) of section 1837(i) of the Social Security Act (42 U.S.C. 1395p(i)(3)) is amended to read as follows:

"(3) The special enrollment period referred to in paragraphs (1) and (2) is the period beginning with the first day of the first month in which the individual is no longer enrolled in a group health plan described in section 1862(b)(3)(A)(iv) by reason of current employment and ending seven months later.".

(2) Effective date of enrollment.—Subsection (e) of section 1838 of the Social Security Act (42 U.S.C. 1395q) is amended to read as follows:

"(e) Notwithstanding subsection (a), in the case of an individual who enrolls during a special enrollment period pursuant to section 1837(i)(3)—

"(1) in the first month of the special enrollment period, the coverage period shall begin on the first day of that month, or

"(2) in a month after the first month of the special enrollment period, the coverage period shall begin on the first day of the month following the month in which the individual so enrolls."

(d) Effective Dates.—(1) The amendments made by subsection (a) shall apply with respect to items and services furnished on or after March 1, 1986.

(2) The amendments made by subsections (b) and (c) shall become effective on March 1, 1986.

SEC. 9202. PAYMENTS TO HOSPITALS FOR DIRECT COSTS OF MEDICAL EDUCATION.

(a) Medicare Payment Methodology.—Section 1886 of the Social Security Act (42 U.S.C. 1395ww) is amended by adding at the end the following new subsection:

"(h) Payments for Direct Graduate Medical Education Costs.—

"(1) Substitution of special payment rules.—Notwithstanding section 1861(v), instead of any amounts that are otherwise payable under this title with respect to the reasonable costs of hospitals for direct graduate medical education costs, the Secretary shall provide for payments for such costs in accordance with paragraph (3) of this subsection. In providing for such payments, the Secretary shall provide for an allocation of such payments between part A and part B (and the trust funds established under the respective parts) as reasonably reflects the proportion of direct graduate medical education costs of hospitals associated with the provision of services under each respective part.

"(2) Determination of hospital-specific approved FTE resident amounts.—The Secretary shall determine, for each hospital with an approved medical residency training program, an approved FTE resident amount for each cost reporting period beginning on or after July 1, 1985, as follows:

"(A) Determining allowable average cost per FTE resident in a hospital's base period.—The Secretary shall determine, for the hospital's cost reporting period that began during fiscal year 1984, the average amount recognized as reasonable under this title for direct graduate medical education costs of the hospital for each full-time-equivalent resident.

"(B) Updating to the first cost reporting period.—

"(i) In general.—The Secretary shall update each average amount determined under subparagraph (A) by the percentage increase in the consumer price index during the 12-month cost reporting period described in such subparagraph.

"(ii) Exception.—The Secretary shall not perform an update under clause (i) in the case of a hospital if the hospital's reporting period, described in subparagraph (A), began on or after July 1, 1984, and before October 1, 1984.

"(C) Amount for first cost reporting period.—For the first cost reporting period of the hospital beginning on or after July 1, 1985, the approved FTE resident amount for the hospital is equal to the amount determined under paragraph (B) increased by 1 percent.

"(D) Amount for subsequent cost reporting periods.—For each subsequent cost reporting period, the approved FTE resident amount for the hospital is equal to the amount determined under this paragraph for the previous cost reporting period updated, through the midpoint of the period, by projecting the estimated percentage change in the consumer price index during the 12-month period ending at that midpoint, with appropriate adjustments to reflect previous under- or over-estimations under this subparagraph in the projected percentage change in the consumer price index.

"(E) Treatment of certain hospitals.—In the case of a hospital that did not have an approved medical residency training program or was not participating in the program under this title for a cost reporting period beginning during fiscal year 1984, the Secretary shall, for the first such period for which it has such a residency training program and is participating under this title, provide for such approved FTE resident amount as the Secretary determines to be appropriate, based on approved FTE resident amounts for comparable programs.

"(3) HOSPITAL PAYMENT AMOUNT PER RESIDENT.—

"(A) IN GENERAL.—The payment amount, for a hospital cost reporting period beginning on or after July 1, 1985, is equal to the product of—

"(i) the aggregate approved amount (as defined in subparagraph (B)) for that period, and

"(ii) the hospital's medicare patient load (as defined in subparagraph (C)) for that period.

"(B) AGGREGATE APPROVED AMOUNT.—As used in subparagraph (A), the term 'aggregate approved amount' means, for a hospital cost reporting period, the product of—

"(i) the hospital's approved FTE resident amount (determined under paragraph (2)) for that period, and

"(ii) the weighted average number of full-time-equivalent residents (as determined under paragraph (4)) in the hospital's approved medical residency training programs in that period.

"(C) MEDICARE PATIENT LOAD.—As used in subparagraph (A), the term 'medicare patient load' means, with respect to a hospital's cost reporting period, the fraction of the total number of inpatient-bed-days (as established by the Secretary) during the period which are attributable to patients with respect to whom payment may be made under part A.

"(4) DETERMINATION OF FULL-TIME-EQUIVALENT RESIDENTS.—

"(A) RULES.—The Secretary shall establish rules consistent with this paragraph for the computation of the number of full-time-equivalent residents in an approved medical residency training program.

"(B) ADJUSTMENT FOR PART-YEAR OR PART-TIME RESIDENTS.—Such rules shall take into account individuals who serve as residents for only a portion of a period with a hospital or simultaneously with more than one hospital.

"(C) WEIGHTING FACTORS FOR CERTAIN RESIDENTS.—Subject to subparagraph (E), such rules shall provide, in calculating the number of full-time-equivalent residents in an approved residency program—

"(i) before July 1, 1986, for each resident the weighting factor is 1.00,

"(ii) on or after July 1, 1986, for a resident who is in the resident's initial residency period (as defined in paragraph (5)(F)), the weighting factor is 1.00,

"(iii) on or after July 1, 1986, and before July 1, 1987, for a resident who is not in the resident's initial residency period (as defined in paragraph (5)(F)), the weighting factor is .75, and

"(iv) on or after July 1, 1987, for a resident who is not in the resident's initial residency period (as defined in paragraph (5)(F)), the weighting factor is .50.

"(E) FOREIGN MEDICAL GRADUATES REQUIRED TO PASS FMGEMS EXAMINATION.—

"(i) IN GENERAL.—Except as provided in clause (ii), such rules shall provide that, in the case of an individual who is a foreign medical graduate (as defined in paragraph (5)(D)), the individual shall not be counted as a resident on or after July 1, 1986, unless—

"(I) the individual has passed the FMGEMS examination (as defined in paragraph (5)(E)) before July 1, 1986, or

"(II) the individual is unable to take that examination because the individual has previously received certification from, or has previously passed the examination of, the Educational Commission for Foreign Medical Graduates.

"(ii) TRANSITION FOR CURRENT FMGS.—On or after July 1, 1986, in the case of a foreign medical graduate who—

"(I) has served as a resident before July 1, 1986, and is serving as a resident after that date, but

"(II) has not passed the FMGEMS examination before July 1, 1986,

the individual shall be counted as a resident at a rate equal to one-half of the rate at which the individual would otherwise be counted.

"(5) DEFINITIONS AND SPECIAL RULES.—As used in this subsection:

"(A) APPROVED MEDICAL RESIDENCY TRAINING PROGRAM.—The term 'approved medical residency training program' means a residency or other postgraduate medical training program participation in which may be counted toward certification in a specialty or subspecialty and includes formal postgraduate training programs in geriatric medicine approved by the Secretary.

"(B) CONSUMER PRICE INDEX.—As used in this paragraph, the term 'consumer price index' refers to the Consumer Price Index for All Urban Consumers (United States city average), as published by the Secretary of Commerce.

"(C) DIRECT GRADUATE MEDICAL EDUCATION COSTS.—The term 'direct graduate medical education costs' means direct costs of approved educational activities for approved medical residency training programs.

"(D) FOREIGN MEDICAL GRADUATE.—The term 'foreign medical graduate' means a resident who is not a graduate of—

"(i) a school of medicine accredited by the Liaison Committee on Medical Education of the American Medical Association and the Association of American Medical Colleges (or approved by such Committee as meeting the standards necessary for such accreditation),

"(ii) a school of osteopathy accredited by the American Osteopathic Association, or approved by such Association as meeting the standards necessary for such accreditation, or

"(iii) a school of dentistry or podiatry which is accredited (or meets the standards for accreditation) by an organization recognized by the Secretary for such purpose.

"(E) FMGEMS EXAMINATION.—The term 'FMGEMS examination' means parts I and II of the Foreign Medical Graduate Examination in the Medical Sciences recognized by the Secretary for this purpose.

"(F) INITIAL RESIDENCY PERIOD.—The term 'initial residency period' means the period of board eligibility plus one year, except that—

"(i) except as provided in clause (ii), in no case shall the initial period of residency exceed an aggregate period of formal training of more than five years for any individual, and

"(ii) a period, of not more than two years, during which an individual is in a geriatric residency or fellowship program which meets such criteria as the Secretary may establish, shall be treated as part of the initial residency period, but shall not be counted against any limitation on the initial residency period.

The initial residency period shall be determined, with respect to a resident, as of the time the resident enters the residency training program.

"(G) PERIOD OF BOARD ELIGIBILITY.—

"(i) GENERAL RULE.—Subject to clauses (ii) and (iii), the term 'period of board eligibility' means, for a resident, the minimum number of years of formal training necessary to satisfy the requirements for initial board eligibility in the particular specialty for which the resident is training.

"(ii) APPLICATION OF 1985–1986 DIRECTORY.—Except as provided in clause (iii), the period of board eligibility shall be such period specified in the 1985–1986 Directory of Residency Training Programs published by the Accreditation Council on Graduate Medical Education.

"(iii) CHANGES IN PERIOD OF BOARD ELIGIBILITY.—On or after July 1, 1989, if the Accreditation Council on Graduate Medical Education, in its Directory of Residency Training Programs—

"(I) increases the minimum number of years of formal training necessary to satisfy the requirements for a specialty, above the period specified in its 1985–1986 Directory, the Secretary may increase the period of board eligibility for that specialty, but not to exceed the period of board eligibility specified in that later Directory, or

"(II) decreases the minimum number of years of formal training necessary to satisfy the requirements for a specialty, below the period specified in its 1985–1986 Directory, the Secretary may decrease the period of board eligibility for that specialty, but not below the period of board eligibility specified in that later Directory.

"(H) RESIDENT.—The term 'resident' includes an intern or other participant in an approved medical residency training program.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to hospital cost reporting periods beginning on or after July 1, 1985.

(c) STUDIES BY SECRETARY.—(1) The Secretary of Health and Human Services shall conduct a study with respect to approved educational activities relating to nursing and other health professions for which reimbursement is made to hospitals under title XVIII of the Social Security Act. The study shall address—

(A) the types and numbers of such programs, and number of students supported or trained under each program;

(B) the fiscal and administrative relationships between the hospitals involved and the schools with which the programs and students are affiliated; and

(C) the types and amounts of expenses of such programs for which reimbursement is made, and the financial and other contributions which accrue to the hospital as a consequence of having such programs.

The Secretary shall report the results of such study to the Committee on Finance of the Senate and the Committees on Ways and Means and Energy and Commerce of the House of Representatives prior to December 31, 1987.

(2) The Secretary shall conduct a separate study of the advisability of continuing or terminating the exception under section 1886(h)(5)(F)(ii) of the Social Security Act for geriatric residencies and fellowships, and of expanding such exception to cover other educational activities, particularly those which are necessary to meet the projected health care needs of Medicare beneficiaries. Such study shall also examine the adequacy of the supply of faculty in the field of geriatrics. The Secretary shall report the results of such study to the committees described in paragraph (1) prior to July 1, 1990.

(d) GAO STUDY.—(1) The Comptroller General shall conduct a study of the variation in the amounts of payments made under *title XVIII of the Social Security Act with respect to patients in different teaching hospital settings and in the amounts of such payments which are made with respect to patients who are treated in teaching and nonteaching hospital settings. Such study shall identify the components of such payments (including payments with respect to inpatient hospital services, physicians' services, and capital costs, and, in the case of teaching hospital patients, payments with respect to direct and indirect teaching costs) and shall account, to the extent feasible, for any variations in the amounts of the payment components between teaching and nonteaching settings and among different teaching settings.*

(2) In carrying out such study, the Comptroller General may utilize a sample of hospital patients and any other data sources which he deems appropriate, and shall, to the extent feasible, control for differences in severity of illness levels, area wage levels, levels of physician reasonable charges for like services and procedures, and for other factors which could affect the comparability of patients and of payments between teaching and nonteaching settings and among teaching settings. The information obtained in the study shall be coordinated with the information obtained in conducting the study of teaching physicians' services under section 2307(c) of the Deficit Reduction Act of 1984.

(3) The Comptroller General shall report the results of the study to the committees described in subsection (c)(1) prior to December 31, 1987.

(e) Report on Uniformity of Approved FTE Resident Amounts.—The Secretary of Health and Human Services shall report to the committees described in subsection (c)(1), not later than December 31, 1987, on whether section 1886(h) of the Social Security Act should be revised to provide for greater uniformity in the approved FTE resident amounts established under paragraph (2) of that section, and, if so, how such revisions should be implemented.

(f) Study on Foreign Medical Graduates.—The Secretary of Health and Human Services shall study, and report to the committees described in subsection (c)(1), not later than December 31, 1987, respecting the use of physicians who are foreign medical graduates (within the meaning of section 1886(h)(5)(D) of the Social Security Act) in the provision of health care services (particularly inpatient and outpatient hospital services) to medicare beneficiaries. Such study shall evaluate—

(1) the types of services provided;

(2) the cost of providing such services, relative to the cost of other physicians providing the services or other approaches to providing the services;

(3) any deficiencies in the quality of the services provided, and methods of assuring the quality of such services; and

(4) the impact on costs of and access to services if medicare payment for hospitals' costs of graduate medical education of foreign medical graduates were phased out.

(g) Establishing Physician Identifier System.—The Secretary of Health and Human Services shall establish a system, for implementation not later than July 1, 1987, which provides for a unique identifier for each physician who furnishes services for which payment may be made under title XVIII of the Social Security Act.

(h) Paperwork Reduction.—Chapter 35 of title 44, United States Code, shall not apply to information required for purposes of carrying out this section and the amendments made by this section.

(i) Prohibiting a Limit On Increases On Direct Medical Education Costs.—(1) Section 1861(v)(1) of the Social Security Act (42 U.S.C. 1395x(v)(1)), as amended by section 9107(b) of this title, is further amended by adding at the end the following new subparagraph:

"(Q) Except as otherwise explicitly authorized, the Secretary is not authorized to limit the rate of increase on allowable costs of approved medical educational activities.".

(2) The amendment made by paragraph (1) shall apply to cost reporting periods beginning on or after July 1, 1985.

(j) Special Treatment of States Formerly Under Waiver.—In the case of a hospital in a State that has had a waiver approved under section 1886(c) of the Social Security Act, for cost reporting periods beginning on or after January 1, 1986, if the waiver is terminated—

(1) the Secretary of Health and Human Services shall permit the hospital to change the method by which it allocates administrative and general costs to the direct medical education cost centers to the method specified in the medicare cost report;

(2) the Secretary may make appropriate adjustments in the regional adjusted DRG prospective payment rate (for the region in which the State is located), based on the assumption that all teaching hospitals in the State use the medicare cost report; and

(3) the Secretary shall adjust the hospital-specific portion of payment under section 1886(d) of such Act for any such hospital that actually chooses to use the medicare cost report.

The Secretary shall implement this subsection based on the best available data.

SEC. 9203. PAYMENT FOR HOME HEALTH SERVICES.

(a) Limitations on Payment for Home Health Services.—Section 1861(v)(1)(L) of the Social Security Act (42 U.S.C. 1395x(v)(1)(L)) is amended by striking out "the 75th percentile" and all that follows through "as the Secretary may determine." and inserting in lieu thereof "for cost reporting periods beginning on or after—

"(i) July 1, 1985, and before July 1, 1986, 120 percent,

"(ii) July 1, 1986, and before July 1, 1987, 115 percent, or

"(iii) July 1, 1987, 112 percent, of the mean of the labor-related and nonlabor per visit costs for free standing home health agencies. Such limitations shall be applied on an aggregate basis for the agency, rather than on a discipline-specific basis, with appropriate adjustment for administrative and general costs of hospital-based agencies.".

(b) GAO Report.—The Comptroller General shall study and report to Congress, not later than September 1, 1986, on the appropriateness of applying the per visit cost limits for home health services under the medicare program on a discipline-specific basis, rather than on an aggregate basis for all home health services furnished by an agency.

(c) Effective Date.—The amendment made by subsection (a) shall apply to cost reporting periods beginning on or after July 1, 1985.

SEC. 9204. MORATORIUM ON LABORATORY PAYMENT DEMONSTRATION.

(a) Moratorium.—Prior to January 1, 1987, the Secretary of Health and Human Services shall not conduct any demonstration projects relating to competitive bidding as a method of purchasing laboratory services under title XVIII of the Social Security Act. The Secretary may contract for the design of, and site selection for, such demonstration projects.

(b) Cooperation in Study.—The Secretary of Health and Human Services and the Comptroller General shall assist representatives of clinical laboratories in the industry's conduct of a study to determine whether methods exist which are better than competitive bidding for purposes of utilizing competitive market forces in setting payment levels for laboratory services under title XVIII of the Social Security Act. If such a study is conducted by the clinical laboratory industry, the Secretary and the Comptroller General shall comment on such study and submit such comments and the study to the Senate Committee on Finance and the House Committees on Ways and Means and Energy and Commerce.

SEC. 9205. HOME HEALTH WAIVER OF LIABILITY.

The Secretary of Health and Human Services shall, for purposes of determining whether payments to a home health agency should be denied pursuant to section 1862(a)(1)(A) of the Social Security Act, apply a presumption of compliance (2.5 percent) in the same manner as under the regulations in effect as of July 1, 1985. Such presumption shall apply until 12 months after the date on which ten regional intermediaries have commenced operations to service home health agencies, as required under section 1816(e)(4) of the Social Security Act.

Subpart B—Other Provisions

SEC. 9211. PROVISIONS RELATING TO HEALTH MAINTENANCE ORGANIZATIONS AND COMPETITIVE MEDICAL PLANS.

(a) Financial Responsibility for Patients Hospitalized on the Effective Date of an Enrollment or Disenrollment.—(1) Subsection (c) of section 1876 of the Social Security Act (42 U.S.C. 1395mm) is amended by adding at the end the following new paragraph:

"(7) A risk-sharing contract under this section shall provide that in the case of an individual who is receiving inpatient hospital services from a subsection (d) hospital (as defined in section 1886(d)(1)(B)) as of the effective date of the individual's—

"(A) enrollment with an eligible organization under this section—

"(i) payment for such services until the date of the individual's discharge shall be made under this title as if the individual were not enrolled with the organization,

"(ii) the organization shall not be financially responsible for payment for such services until the date after the date of the individual's discharge, and

"(iii) the organization shall nonetheless be paid the full amount otherwise payable to the organization under this section; or

"(B) termination of enrollment with an eligible organization under this section—

"(i) the organization shall be financially responsible for payment for such services after such date and until the date of the individual's discharge,

"(ii) payment for such services during the stay shall not be made under section 1886(d), and

"(iii) the organization shall not receive any payment with respect to the individual under this section during the period the individual is not enrolled.".

(2) Subsection (a)(3) of such section is amended by striking out "Payments" and inserting in lieu thereof "Subject to subsection (c)(7), payments".

(3) Subsection (a)(6) of such section is amended by striking out "If" and inserting

in lieu thereof "Subject to subsection (c)(7), if".

(b) DISENROLLMENTS.—

(1) EFFECTIVE DATE.—Subsection (c)(3)(B) of such section is amended by striking out "a full calendar month after" and inserting in lieu thereof "the date on which".

(2) INFORMATION.—Such subsection is further amended by adding at the end the following: "In the case of an individual's termination of enrollment, the organization shall provide the individual with a copy of the written request for termination of enrollment and a written explanation of the period (ending on the effective date of the termination) during which the individual continues to be enrolled with the organization and may not receive benefits under this title other than through the organization.".

(c) REVIEW OF MARKETING MATERIAL.—Subsection (c)(3)(C) of such section is amended by adding at the end the following: "No brochures, application forms, or other promotional or informational material may be distributed by an organization to (or for the use of) individuals eligible to enroll with the organization under this section unless (i) at least 45 days before its distribution, the organization has submitted the material to the Secretary for review and (ii) the Secretary has not disapproved the distribution of the material. The Secretary shall review all such material submitted and shall disapprove such material if the Secretary determines, in the Secretary's discretion, that the material is materially inaccurate or misleading or otherwise makes a material misrepresentation.".

(d) PROMPT PUBLICATION OF AAPCC.—Subsection (a)(1)(A) of such section is amended by inserting after "The Secretary shall annually determine" the following: ", and shall publish not later than September 7 before the calendar year concerned".

(e) EFFECTIVE DATES.—

(1) FINANCIAL RESPONSIBILITY.—The amendments made by subsection (a) shall apply to enrollments and disenrollments that become effective on or after the date of the enactment of this Act.

(2) DISENROLLMENTS.—The amendments made by subsection (b) shall apply to requests for termination of enrollment submitted on or after February 1, 1986.

(3) MATERIAL REVIEW.—(A) The amendment made by subsection (c) shall not apply to material which has been distributed before April 1, 1986.

(B) Such amendment also shall not apply so as to require the submission of material which is distributed before April 1, 1986.

(C) Such amendment shall also not apply to material which the Secretary determines has been prepared before the date of the enactment of this Act and for which a commitment for distribution has been made, if the application of such amendment would constitute a hardship for the organization involved.

(4) PUBLICATION.—The amendment made by subsection (d) shall apply to determinations of per capita rates of payment for 1987 and subsequent years.

(5) NECESSARY MODIFICATION OF CONTRACTS.—The Secretary of Health and Human Services shall provide for such changes in the risk-sharing contracts which have been entered into under section 1876 of the Social Security Act as may be necessary to conform to the requirements imposed by the amendments made by this section on a timely basis.

SEC. 9212. CHANGING MEDICARE APPEAL RIGHTS.

(a) PERMITTING PROVIDER REPRESENTATION OF BENEFICIARIES.—Section 1869(b)(1) of the Social Security Act (42 U.S.C. 1395ff(b)(1)) is amended by adding at the end the following new sentence: "Sections 206(a), 1102, and 1871 shall not be construed as authorizing the Secretary to prohibit an individual from being represented under this subsection by a person that furnishes or supplies the individual, directly or indirectly, with services or items solely on the basis that the person furnishes or supplies the individual with such a service or item.".

(b) REVIEW OF PART B DETERMINATIONS.—(1) Section 1869 of such Act (42 U.S.C. 1395ff) is further amended—

(A) by inserting "or part B" in subsection (a) after "amount of benefits under part A",

(B) by inserting "or part B" in subsection (b)(1)(C) after "part A",

(C) by amending paragraph (2) of subsection (b) to read as follows:

"(2) Notwithstanding paragraph (1)(C), in the case of a claim arising—

"(A) under part A, a hearing shall not be available to an individual under paragraph (1)(C) if the amount in controversy is less than $100 and judicial review shall not be available to the individual under that paragraph if the amount in controversy is less than $1,000; or

"(B) under part B, a hearing shall not be available to an individual under paragraph (1)(C) if the amount in controversy is less than $500 and judicial review shall not be available to the individual under that paragraph if the aggregate amount in controversy is less than $1,000.

In determining the amount in controversy, the Secretary, under regulations, shall allow two or more claims to be aggregated if the claims involve the delivery of similar or related services to the same individual or involve common issues of law and fact arising from services furnished to two or more individuals.", and

(D) by adding at the end the following new paragraph:

"(3) Paragraph (1) shall not be construed as authorizing any administrative law or other judge to review any national coverage determination under section 1862(a)(1) respecting whether or not a particular type or class of items or services is covered under this title.".

(2) Section 1842(b)(3)(C) of such Act (42 U.S.C. 1395u(b)(3)(C)) is amended by striking out "$100 or more" and inserting in lieu thereof "at least $100, but not more than $500".

(3) Section 1879(d) of such Act (42 U.S.C. 1395pp(d)) is amended by striking out "section 1869(b)" and all that follows through "part B)" and inserting in lieu thereof "sections 1869(b) and 1842(b)(3)(C) (as may be applicable)".

(c) EFFECTIVE DATES.—(1) The amendment made by subsection (a) takes effect on the date of the enactment of this Act.

(2) The amendments made by subsection (b) shall apply to items and services furnished on or after January 1, 1986.

SEC. 9213. REMOVAL OF PROHIBITION ON COMMENTS BY MEDICARE AND SOCIAL SECURITY ACTUARIES RELATING TO ECONOMIC ASSUMPTIONS.

(a) FEDERAL OLD-AGE AND DISABILITY INSURANCE TRUST FUND.—Section 201(c) of the Social Security Act (42 U.S.C. 401(c)) is amended by striking out "; Provided, That the certification shall not refer to economic assumptions underlying the Trustee's report, and shall" and inserting in lieu thereof ". Such report shall".

(b) MEDICARE TRUST FUNDS.—Sections 1817(b) and 1841(b) of such Act (42 U.S.C. 1395i(b), 1395t(b)) are each amended by striking out "; Provided, That the certification shall not refer to economic assumptions underlying the Trustee's report".

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective on the date of the enactment of this Act.

SEC. 9214. LIMITATION ON MERGER OF END STAGE RENAL DISEASE NETWORKS.

The Secretary of Health and Human Services shall maintain renal disease network organizations as authorized under section 1881(c) of the Social Security Act, and may not merge the network organizations into other organizations or entities. The Secretary may consolidate such network organizations, but only if such consolidation does not result in fewer than 14 such organizations being permitted to exist.

SEC. 9215. EXTENSION OF CERTAIN MEDICARE MUNICIPAL HEALTH SERVICES DEMONSTRATION PROJECTS.

The Secretary of Health and Human Services shall extend, for a period of three additional years, approval of four municipal health services demonstration projects (located in Baltimore, Cincinnati, Milwaukee, and San Jose) authorized under section 402(a) of the Social Security Amendments of 1967.

SEC. 9216. AUDIT AND MEDICAL CLAIMS REVIEW.

(a) INCREASE IN ACTIVITIES FOR FISCAL YEARS 1986, 1987, AND 1988.—Section 118 of the Tax Equity and Fiscal Responsibility Act of 1982 (96 Stat. 355) is amended—

(1) by striking out "for fiscal years 1983, 1984, and 1985",

(2) by striking out "such fiscal years" and inserting in lieu thereof "fiscal years 1983, 1984, and 1985, and $105,000,000 for each of fiscal years 1986, 1987, and 1988", and

(3) by striking out "the purpose of carrying out provider cost audits and reviews of medical necessity" and inserting in lieu thereof "purposes of carrying out provider cost audits, of reviewing medical necessity, and of recovering third-party liability payments".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to fiscal years beginning with fiscal year 1986.

SEC. 9217. LIVER TRANSPLANTS.

(a) The Senate finds that:

(1) There have been more than 600 liver transplants since 1963 and the one year survival rate at qualified institutions is now greater than 70 percent.

(2) There are 4,000 to 4,700 potential candidates in the United States each year who require a liver transplant, but only a small percentage would be eligible for Medicare coverage.

(3) There are currently individuals on waiting lists for liver transplants who will die without Medicare coverage.

(4) After extensive review and consideration of all the available data, an National Institutes of Health expert panel concluded liver transplantation is "a therapeutic modality for end-stage liver disease that deserves broader application" in a limited number of centers where they can be carried out under optimal conditions.

(5) National Institutes of Health further recommended that liver transplants be done in individuals under 18 years of age.

(6) The CHAMPUS program, after considering all relevant data, determined that there was no scientific basis for limiting liver transplants to children under 18 years of age.

(7) The Department of Health and Human Services has determined that liver trans-

plantation is no longer an experimental procedure only for children under 18.

(b) Based upon the above findings, it is the sense of the Senate that:

(1) For the purposes of title XVIII of the Social Security Act, the Secretary immediately reconsider the Medicare liver transplant coverage decision and implement a policy under which a liver transplant shall not be considered to be an experimental procedure for Medicare beneficiaries solely because an individual is over 18 years of age.

(2) A liver transplant shall be covered under such title when reasonable and medically necessary.

(3) The Secretary shall place appropriate limiting criteria on coverage, including those relating to the patient's condition, the disease state, and the institution providing the care, so as to ensure the highest quality of medical care demonstrated to be consistent with successful outcomes.

SEC. 9218. STUDIES RELATING TO PHYSICAL THERAPISTS AND OTHER PROFESSIONALS.

(a) Supervision of Home Health Services.—The Secretary of Health and Human Services shall conduct a study of the advisability of changing the requirements of title XVIII of the Social Security Act to allow home health services to be provided under the supervision of a physical therapist or other health care professional, rather than requiring the supervision of a physician or registered nurse.

(b) Office Requirement.—The Secretary of Health and Human Services shall conduct a study on the advisability of deleting the requirement under such title that a physical therapist must have an office equipped with specified equipment, even if such therapist provides all such services in patients' homes.

(c) Reports.—The Secretary shall report the results of the studies to the Congress prior to October 1, 1986.

SEC. 9219. TECHNICAL CORRECTIONS.

(a) Working Aged Technical Corrections.—

(1) Premium penalty.—The second sentence of section 1839(b) of the Social Security Act (42 U.S.C. 1395r(b)), as amended by section 2338(a) of the Deficit Reduction Act of 1984, is amended by striking out "months in which" and all that follows through "clause (iv) of such section" and inserting in lieu thereof "months during which the individual has attained the age of 65 and for which the individual can demonstrate that the individual was enrolled in a group health plan described in section 1862(b)(3)(A)(iv)".

(2) Special enrollment periods.—Section 1837(i) of the Social Security Act (42 U.S.C. 1395p), as added by section 2338(b) of the Deficit Reduction Act of 1984, is amended—

(A) in paragraph (1), by amending subparagraph (A) to read as follows:

"(A) has attained the age of 65,"; and

(B) in paragraph (2), by redesignating subparagraph (C) as subparagraph (D) and by amending subparagraphs (A) and (B) to read as follows:

"(A) has attained the age of 65;

"(B)(i) has enrolled (or has been deemed to have enrolled) in the medical insurance program established under this part during the individual's initial enrollment period, or (ii) is an individual described in paragraph (1)(B);

"(C) has enrolled in such program during any subsequent special enrollment period under this subsection during which the individual was not enrolled in a group health plan described in section 1862(b)(3)(A)(iv) by reason of the individual's (or individual's spouse's) current employment; and".

(3) Effective dates.—

(A) The amendment made by paragraph (1) shall apply to months beginning with January 1983 for premiums for months beginning with the first month that begins more than 30 days after the date of the enactment of this Act.

(B)(i) The amendments made by paragraph (2) shall apply to enrollments in months beginning with the first effective month (as defined in clause (ii)), except that in the case of any individual who would have a special enrollment period under section 1837(i) of the Social Security Act that would have begun after November 1984 and before the first effective month, the period shall be deemed to begin with the first day of the first effective month.

(ii) For purposes of clause (i), the term "first effective month" means the first month that begins more than 90 days after the date of the enactment of this Act.

(b) Miscellaneous Technical Corrections.—

(1)(A) Subclause (III) of section 1842(b)(7)(B)(ii) of the Social Security Act (42 U.S.C. 1395u(b)(7)(B)(ii)), as added by section 2307(a)(2)(G) of the Deficit Reduction Act of 1984, is amended by indenting it two additionals ems to the right so as to align its left margin with the left margins of subclauses (I) and (II) of that section.

(B) Section 1861(n) of the Social Security Act (42 U.S.C. 1395x(n)), as inserted by section 2321(e)(3) of the Deficit Reduction Act of 1984, is amended by striking out "at his home" and inserting in lieu thereof "as his home".

(C) Section 1888(b) of the Social Security Act (42 U.S.C. 1395yy(b)), as added by section 2319(b) of the Deficit Reduction At of 1984, is amended by striking out "nothwithstanding" and inserting in lieu thereof "notwithstanding".

(D) The amendments made by this paragraph shall be effective as if they had been originally included in the Deficit Reduction Act of 1984.

(2)(A) Clause (iii) of section 1842(b)(7)(B) of the Social Security Act (42 U.S.C. 1395u(b)(7)(B)), as added by section 3(b)(6) of Public Law 98-617, is amended by moving its alignment two additionals ems to the left so as to align its left margin with the left margins of clauses (i) and (ii) of that section.

(B) The amendment made by subparagraph (A) shall be effective as if it had been originally included in Public Law 98-617.

(3)(A) Section 1861(v)(1)(G)(i) of the Social Security Act (42 U.S.C. 1395x(b)(1)(G)(i)), as amended by section 602(d)(1) of the Social Security Amendments of 1983, is amended by inserting, in the matter after subclause (III), "on the basis of" after "(during such period)".

(B) The amendment made by subparagraph (A) shall be effective as if it had been originally included in the Social Security Amendments of 1983.

SEC. 9220. EXTENSION OF ON LOK WAIVER.

(a) Continued Approval.—

(1) Medicare waivers.—Notwithstanding any limitations contained in section 222 of the Social Security Amendments of 1972 and section 402(a) of the Social Security Amendments of 1967, the Secretary of Health and Human Services shall continue approval of the risk-sharing application (described in section 603(c)(1) of Public Law 98-21) for waivers of certain requirements of title XVIII of the Social Security Act after the end of the period described in that section.

(2) Medicaid waivers.—Notwithstanding any limitations contained in section 1115 of the Social Security Act, the Secretary shall approve any application of the Department of Health Services, State of California, for a waiver of requirements of title XIX of such Act in order to continue carrying out the demonstration project referred to in section 603(c)(2) of Public Law 98-21 after the end of the period described in that section.

(b) Terms, Conditions, and Period of Approval.—The Secretary's approval of an application (or renewal of an application) under this section—

(1) shall be on the same terms and conditions as applied with respect to the corresponding application under section 603(c) of Public Law 98-21 as of July 1, 1985, except that requirements relating to collection and evaluation of information for demonstration purposes (and not for operational purposes) shall not apply; and

(2) shall remain in effect until such time as the Secretary finds that the applicant no longer complies with the terms and conditions described in paragraph (1).

SEC. 9221. CONTINUATION OF "ACCESS: MEDICARE" DEMONSTRATION PROJECT.

(a) Approval of Application.—The Secretary of Health and Human Services shall approve any application for a waiver of any requirement of titles XVIII and XIX of the Social Security Act necessary to provide for the continuation, through September 30, 1986, of the "Access: Medicare" demonstration project carried out pursuant to section 222 of the Social Security Amendments of 1972 and section 402(a) of the Social Security Amendments of 1967 by Monroe County Long Term Care Program, Inc.

(b) Terms and Conditions.—The Secretary's approval of an application (or renewal of an application) under subsection (a) shall be on the same terms and conditions as applied to the demonstration project as in effect on August 31, 1985.

PART 3—PROVISIONS RELATING TO PART B OF MEDICARE

Subpart A—Payment-Related Provisions

SEC. 9301. MEDICARE PHYSICIAN PAYMENT PROVISIONS.

(a) Extension of Current Freeze on Payment Rates through January 31, 1986.—Section 5(c) of the Emergency Extension Act of 1985 (Public Law 99-107), as amended by section 9101(a) of this title, is further amended by adding at the end the following new paragraph:

"(2) Physician payments.—For purposes of subsection (b), the term 'extension period' means the period beginning on October 1, 1985, and ending on January 31, 1986."

(b) Extension of Certain Provisions Through December 31, 1986.—

(1) Extension.—Section 1842(b)(4) of the Social Security Act (42 U.S.C. 1395u(b)(4)) is amended—

(A) in subparagraph (A)—

(i) by inserting "(i)" after "(4)(A)", and

(ii) by adding at the end the following new clauses:

"(ii)(I) In determining the prevailing charge levels under the third and fourth sentences of paragraph (3) for physicians' services furnished during the 11-month period beginning February 1, 1986, by a physician who is not a participating physician (as defined in subsection (h)(1)) at the time of furnishing the services, the Secretary shall not set any level higher than the same level as was set for the 12-month period beginning July 1, 1983.

"(II) In determining the prevailing charge levels under the fourth sentence of paragraph (3) for physicians' services furnished during the 11-month period beginning February 1, 1986, by a physician who is a participating physician (as defined in subsection (h)(1)) at the time of furnishing the services, the Secretary shall permit an additional one percentage point increase in the increase otherwise permitted under that sentence.

"(iii) In determining the prevailing charge levels under the third and fourth sentences of paragraph (3) for physicians' services furnished during a 12-month period beginning on or after January 1, 1987, by a physician who is not a participating physician (as defined in subsection (h)(1)) at the time of furnishing the services, the Secretary shall not set any level higher than the same level as was set for services furnished during the previous calendar year (without regard to clause (ii)(II)) for physicians who were participating physicians during that year.";

(B) in subparagraph (B)—

(i) by inserting "(i)" after "(B)", and

(ii) by adding at the end the following new clause:

"(ii) In determining the reasonable charge under paragraph (3) for physicians' services furnished during the 11-month period beginning February 1, 1986, by a physician who is not a participating physician (as defined in subsection (h)(1)) at the time of furnishing the services—

"(I) if the physician was not a participating physician at any time during the 12-month period beginning on October 1, 1984, the customary charges shall be the same customary charges as were recognized under this section for the 12-month period beginning July 1, 1983, and

"(II) if the physician was a participating physician at any time during the 12-month period beginning on October 1, 1984, the physician's customary charges shall be determined based upon the physician's actual charges billed during the 12-month period ending on March 31, 1985.";

(C) in subparagraph (C)—

(i) by inserting "(i)" after "(C)",

(ii) by striking out "(A)" and inserting in lieu thereof "(A)(i)" each place it appears, and

(iii) by adding at the end the following new clause:

"(ii) In determining the prevailing charge levels under the third and fourth sentences of paragraph (3) for physicians' services furnished during the periods beginning after December 31, 1986, by a physician who was not a participating physician on that date, the Secretary shall treat the level as set under subparagraph (A)(ii) as having fully provided for the economic changes which would have been taken into account but for the limitations contained in subparagraph (A)(ii)."; and

(D) in subparagraph (D)—

(i) by striking out "In determining" and all that follows through "subsection (h)(1))" and insert in lieu thereof "(i) In determining the customary charges for physicians' services furnished during the 11-month period beginning February 1, 1986, or the 12-month period beginning January 1, 1987, by a physician who was not a participating physician (as defined in subsection (h)(1)) on September 30, 1985", and

(ii) by adding at the end the following new clauses:

"(ii) In determining the customary charges for physicians' services furnished during the 12-month period beginning January 1, 1987, by a physician who is not a participating physician (as defined in subsection (h)(1)) on January 31, 1986, the Secretary shall not recognize increases in actual charges for services furnished during the 4-month period beginning on October 1, 1985, above the level of the physician's actual charges billed during the 3-month period ending on June 30, 1984.

"(iii) In determining the customary charges for physicians' services furnished during the 12-month period beginning January 1, 1987, or January 1, 1988, by a physician who is not a participating physician (as defined in subsection (h)(1)) on December 31, 1986, the Secretary shall not recognize increases in actual charges for services furnished during the 11-month period beginning on February 1, 1986, above the level of the physician's actual charges billed during the 3-month period ending on June 30, 1984.".

(2) CONTINUED ENFORCEMENT.—The first sentence of section 1842(j)(1) of such Act (42 U.S.C. 1395u(j)(1)) is amended to read as follows: "In the case of a physician who is not a participating physician for items and services furnished during a portion of the 30-month period beginning July 1, 1984, the Secretary shall monitor the physician's actual charges to individuals enrolled under this part for physicians' services during that portion of that period.".

(3) PERIOD FOR ENTERING PARTICIPATION AGREEMENTS.—The Secretary of Health and Human Services shall provide, during the month of January 1986, that physicians and suppliers may enter into an agreement under section 1842(h)(1) of the Social Security Act for the 11-month period beginning February 1, 1986, or terminate such an agreement previously entered into for fiscal year 1986. In the case of a physician or supplier who entered into such an agreement for fiscal year 1986, the physician or supplier shall be deemed to have entered into such agreement for such 11-month period and for each succeeding year unless the physician or supplier terminates such agreement before the beginning of the respective period. At the beginning of such 11-month period, the Secretary shall publish a new directory (described in section 1842(h)(4) of that Act, as redesignated by subsection (c)(3)(D) of this section) of participating physicians and suppliers.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to services furnished on or after February 1, 1986.

(c) INCENTIVES FOR PARTICIPATING PHYSICIAN PROGRAM.—

(1) 15-MONTH EXTENSION OF TRANSFER OF FUNDS FOR CARRIERS.—Section 2306(e) of the Deficit Reduction Act of 1984 (Public Law 98-369; 98 Stat. 1073) is amended—

(A) by striking out "and 1985" and inserting in lieu thereof ", 1985, and 1986",

(B) by striking out "the amendments made by this section" and inserting in lieu thereof "subsections (b)(4), (h), and (j) of section 1842 of the Social Security Act",

(C) by striking out "and" before "not less",

(D) by inserting before the period at the end the following: ", and not less than $18,000,000 for fiscal year 1986", and

(E) by adding at the end the following new sentences: "A significant proportion of such funds shall be used for the expansion of the participating physician and supplier program and for the development of professional relations staffs dedicated to addressing the billing and other problems of physicians and suppliers participating in that program. Such funds for fiscal year 1986 are available for obligation until December 31, 1986.".

(2) IMPROVEMENT OF PARTICIPATING PHYSICIAN DIRECTORIES.—Section 1842(i) of the Social Security Act (42 U.S.C. 1395u(i)) is amended—

(A) in the first sentence of paragraph (2)—

(i) by striking out "a directory" and inserting in lieu thereof "directories (for appropriate local geographic areas)", and

(ii) by inserting "for that area" before "for that fiscal year";

(B) in the second sentence of paragraph (2), by striking out "The directory" and inserting in lieu thereof "Each directory";

(C) in paragraph (3)—

(i) by striking out "directory" the first place it appears and inserting in lieu thereof "the directories", and

(ii) by striking out "directory" the second place it appears and inserting in lieu thereof "the appropriate area directory or directories"; and

(D) in paragraph (4)—

(i) by striking out "directory" and inserting in lieu thereof "the directories", and

(ii) by adding at the end the following: "The Secretary shall provide that each appropriate area directory is sent to each participating physician located in that area.".

(3) ELIMINATION OF PHYSICIAN ASSIGNMENT RATE LIST.—Section 1842(i) of such Act is further amended—

(A) by striking out "(i)(1)" and all that follows through the end of paragraph (1),

(B) by striking out "subsection (h)(1)" in paragraph (2) and inserting in lieu thereof "paragraph (1)",

(C) by striking out "list and" each place it appears in paragraphs (3) and (4), and

(D) by redesignating paragraphs (2) through (4) as paragraphs (4) through (6) of subsection (h), respectively.

(4) INFORMATION ON THE PARTICIPATING PHYSICIAN AND SUPPLIER PROGRAM IN EXPLANATIONS OF MEDICARE BENEFITS FOR UNASSIGNED CLAIMS.—Section 1842(h) of such Act, as previously amended by this subsection, is further amended by adding at the end the following new paragraphs:

"(7) The Secretary shall provide that each explanation of benefits provided under this part for services furnished in the United States, in conjunction with the payment of claims under section 1833(a)(1) (made other than on an assignment-related basis, described in paragraph (8)), shall include—

"(A) a reminder of the participating physician and supplier program established under this subsection (including the limitation on charges that may be imposed by such physicians and suppliers), and

"(B) the toll-free telephone number or numbers, maintained under paragraph (2), at which an individual enrolled under this part may obtain information on participating physicians and suppliers.

"(8) For purposes of this title, a claim is considered to be paid on an 'assignment-related basis' if the claim is paid on the basis of an assignment described in subsection (b)(3)(B)(ii), in accordance with subsection (b)(6)(B), or under the procedure described in section 1870(f)(1).".

(5) EFFECTIVE DATE.—Section 1842(b)(7) of the Social Security Act, as added by paragraph (4) of this subsection, shall apply to explanations of benefits provided on or after such date (not later than July 1, 1986) as the Secretary of Health and Human Services shall specify.

(d) CHANGING CUSTOMARY AND PREVAILING CHARGE UPDATES FOR PHYSICIAN SERVICES AND OTHER PART B SERVICES FROM OCTOBER TO JANUARY.—

(1) PAYMENT UPDATES.—Section 1842(b)(3) of the Social Security Act (42 U.S.C. 1395u(b)(3)) is amended—

(A) in subparagraph (F), by striking out "(ending on September 30)";

(B) in the third sentence by striking out "March 31" and all that follows through "of each year)" and inserting in lieu thereof "June 30 last preceding the start of the calendar year"; and

(C) in the eighth sentence, by striking out "the twelve-month period beginning on October 1 in".

(2) PARTICIPATION AGREEMENTS.—Section 1842(h)(1) of such Act is amended—

(A) in the second sentence—

(i) by striking out "before October 1" and inserting in lieu thereof "before the beginning",

(ii) by striking out "on the basis of an assignment" and all that follows through "1870(f)(1)" and inserting in lieu thereof "on an assignment-related basis", and

(iii) by striking out "the 12-month period beginning on October 1 of"; and

(B) in the third sentence—

(i) by striking out "after October 1" and inserting in lieu thereof "after the beginning", and

(ii) by striking out "12-month period beginning on such October 1" and inserting in lieu thereof "year".

(3) DIRECTORIES.—The first sentence of section 1842(i)(2) of such Act, (which is redesignated as section 1842(h)(4) by subsection (c)(3)(D)), is further amended by striking out "fiscal" each place it appears.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall (2) apply to items and services furnished on or after October 1, 1986.

(5) TRANSITION.—Notwithstanding any other provision of law, for purposes of making payment under part B of title XVIII of the Social Security Act, customary and prevailing charges (and the lowest charges determined under the sixth sentence of section 1842(b)(3) of such Act) for items and services furnished during the period beginning on October 1, 1986, and ending on December 31, 1986, shall be determined on the same basis as for items and services furnished on September 30, 1986.

SEC. 9302. PAYMENTS FOR DURABLE MEDICAL EQUIPMENT, OXYGEN, AND OTHER HEALTH SERVICES.

(a) TEMPORARY PAYMENT FREEZE.—Section 1842(b)(4) of the Social Security Act is amended by adding at the end thereof the following new subparagraphs:

"(E) In the case of medical and other health services (as defined in section 1861(s)) furnished during the period beginning on October 1, 1985, and ending on January 31, 1986, for which payment is based on reasonable charge, other than physicians' services and clinical laboratory services, the customary and prevailing charges under paragraph (3), and the lowest charge referred to in the sixth sentence of such paragraph may not exceed such charges recognized under this section for the 15-month period beginning on July 1, 1984.

"(F) Except as otherwise explicitly authorized under this section, the Secretary is not authorized to limit the rate of increase of charges.".

(b) LIMITATION ON CUSTOMARY AND PREVAILING CHARGES FOR RENTAL DURABLE MEDICAL EQUIPMENT AND OXYGEN.—Section 1842 of such Act (42 U.S.C. 1395u) is amended by adding at the end the following new subsection:

"(k)(1) In determining the customary and prevailing charge levels under the third and fourth sentences of subsection (b)(3) for durable medical equipment furnished on a rental basis (other than under a lease-purchase agreement), and for oxygen furnished during the 11-month period beginning on February 1, 1986, the Secretary shall not set any such level higher than the same level as was set for the 15-month period beginning July 1, 1984.".

(c) REQUIRING ACCEPTING PAYMENT OF REASONABLE CHARGE AS PAYMENT IN FULL FOR DURABLE MEDICAL EQUIPMENT FURNISHED ON A RENTAL BASIS AND FOR OXYGEN.—Section 1842(k) of such Act, as added by subsection (b), is amended by adding at the end the following new paragraph:

"(2) Payment under this part for durable medical equipment furnished on a rental basis (other than under a lease-purchase agreement) and for oxygen may only be made on a basis described in subsection (h)(8) or to a provider of services with an agreement in effect under section 1866.".

(d) LIMITING INCREASE IN PREVAILING CHARGES FOR DURABLE MEDICAL EQUIPMENT AND OXYGEN TO CONSUMER PRICE INDEX.—Section 1842(k) of such Act, as previously amended, is further amended by adding at the end the following new paragraph:

"(3) In the case of durable medical equipment and oxygen, the prevailing charge levels determined for purposes of clause (ii) of the third sentence of subsection (b) for any year may not exceed (in the aggregate) the levels determined under such clause (taking into account paragraph (1), if applicable) for the preceding 12-month period by a percentage which exceeds the percentage increase in the Consumer Price Index for all urban consumers (U.S. city average), as published by the Secretary of Labor, for the 12-month period ending in June of the preceding year.".

(e) CLARIFICATION OF PREVIOUS EFFECTIVE DATE.—Section 2306(b)(2) of the Deficit Reduction Act of 1984 is amended by striking out "to items and services furnished on or after October 1, 1985" and inserting in lieu thereof "to medical and other health services, for which payment is made on a reasonable charge basis, furnished on or after July 1, 1985".

(f) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to items and services furnished on or after October 1, 1985, and before February 1, 1986.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to durable medical equipment and oxygen furnished on or after February 1, 1986.

(3) SUBSECTION (c).—The amendments made by subsection (c) shall apply to durable medical equipment and oxygen furnished on or after April 1, 1986.

(4) SUBSECTION (d).—(A) The amendments made by subsection (d) shall apply to durable medical equipment and oxygen furnished on or after January 1, 1987, except that such amendments shall not apply to durable medical equipment which is furnished on a purchase (or lease-purchase) basis before January 1, 1988.

(B) In applying section 1842(k)(3) of the Social Security Act (as added by subsection (d)) with respect to durable medical equipment and oxygen furnished during 1987—

(i) any reference to "the preceding 12-month period" shall be deemed a reference to "the preceding 11-month period", and

(ii) any reference to "the 12-month period" shall be deemed a reference to "the 15-month period".

(5) SUBSECTION (e).—The amendment made by subsection (e) shall take effect as though it were included in the enactment of the Deficit Reduction Act of 1984.

(f) CROSS REFERENCE.—For provision changing the period of update for certain services from October to January, see section 9301(d) of this part.

SEC. 9303. PAYMENT FOR CLINICAL LABORATORY SERVICES.

(a) CHANGING MONTH OF ANNUAL UPDATE FROM JULY TO JANUARY.—

(1) IN GENERAL.—Section 1833(h) of the Social Security Act (42 U.S.C. 1395l(h)) is amended—

(A) by striking out "June 30, 1987" and "July 1, 1987" and inserting in lieu thereof "December 31, 1987" and "January 1, 1988", respectively, each place either appears, and

(B) in paragraph (2), by inserting "(to become effective on January 1 of each year)" after "adjusted annually".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to clinical laboratory diagnostic tests performed on or after July 1, 1986.

(3) TRANSITION.—The Secretary of Health and Human Service shall provide that the annual adjustment under section 1833(h) of the Social Security Act for 1986—

(A) shall take effect on January 1, 1987,

(B) shall apply for the 12-month period beginning on that date, and

(C) shall take into account the percentage increase or decrease in the Consumer Price Index for all urban consumers (United States city average) occurring over an 18-month period, rather than over a 12-month period.

(b) PROVIDING CEILING ON RATES.—

(1) CEILING ON PAYMENTS.—Paragraphs (1)(D)(i) and (2)(D)(i) of section 1833(a) of the Social Security Act (42 U.S.C. 1395l(a)) are each amended by inserting after 'lesser of the amount determined under such fee schedule" the following: ", the limitation amount for that test determined under subsection (h)(4)(B),".

(2) ESTABLISHMENT OF LIMITATION AMOUNT.—Section 1833(h)(4) of such Act is amended by inserting "(A)" after "(4)" and by adding at the end the following new subparagraph:

"(B) For purposes of subsections (a)(1)(D)(i) and (a)(2)(D)(i), the limitation amount for a clinical diagnostic laboratory test performed—

"(i) on or after April 1, 1986, and before January 1, 1987, is equal to 115 percent of the median of all the fee schedules established for that test for that laboratory setting under paragraph (1), or

"(ii) after December 31, 1986, and so long as a fee schedule for the test has not been established on a nationwide basis, is equal to 110 percent of the median of all the fee schedules established for that test for that laboratory setting under paragraph (1).".

(3) METHOD OF PAYMENT FOR NON-INDEPENDENT LABORATORIES.—Section 1833(h)(5)(C) of such Act is amended by striking out "which is independent of a physician's office or" and inserting in lieu thereof "other than".

(4) EXTENDING MEDICARE PROFICIENCY EXAMINATION AUTHORITY.—Section 1123(a) of such Act (42 U.S.C. 1320a-2(a)) is amended by striking out "September 30, 1983" and inserting in lieu thereof "September 30, 1987".

(5) EFFECTIVE DATES.—(A) The amendments made by paragraphs (1) and (2) shall apply to clinical diagnostic laboratory tests performed on or after April 1, 1986.

(B) The amendment made by paragraph (3) shall apply to clinical diagnostic laboratory tests performed on or after January 1, 1987.

(C) The amendment made by paragraph (4) shall take effect on the date of the enactment of this Act.

(c) REPORT ON MINIMUM STANDARDS FOR CLINICAL LABORATORIES THAT ARE PART OF, OR ASSOCIATED WITH, PHYSICIANS' OFFICES.—The Secretary of Health and Human Services shall report to Congress, not later than 12 months after the date of the enactment of this Act, on the standards that might be established under the medicare program for clinical laboratories which are part of or associated with a physician's office to assure the health and safety of individuals with respect to whom the laboratories perform clinical diagnostic laboratory tests for which payment may be made under the program. In recommending standards, the Secretary shall consider the differences in the scope, type, and complexity of tests performed by such laboratories and such other factors as may indicate a need for different standards for laboratories with different characteristics.

SEC. 9304. DETERMINATIONS OF INHERENT REASONABLENESS OF CHARGES AND CUSTOMARY CHARGES FOR CERTAIN FORMER HOSPITAL-COMPENSATED PHYSICIANS.

(a) REGULATIONS RELATING TO INHERENT REASONABLENESS OF CHARGES.—Section 1842(b) of the Social Security Act (42 U.S.C. 1395u(b)) is amended by adding at the end the following new paragraph:

"(8) The Secretary by regulation shall—

"(A) describe the factors to be used in determining the cases (of particular items or services) in which the application of this subsection results in the determination of a reasonable charge that, by reason of its grossly excessive or grossly deficient amount, is not inherently reasonable, and

"(B) provide in those cases for the factors that will be considered in establishing a reasonable charge that is realistic and equitable.".

(b) COMPUTATION OF CUSTOMARY CHARGES FOR CERTAIN FORMER HOSPITAL-COMPENSATED PHYSICIANS.—(1) In applying section 1842(b) of the Social Security Act to payment for physicians' services performed during the 11-month period beginning February 1, 1986, in the case of a physician who during the period beginning on October 31, 1982, and ending on January 31, 1985, was a hospital-compensated physician (as defined in paragraph (3)) but who, as of February 1, 1985, was no longer a hospital-compensated physician, the physician's customary charges shall—

(A) be based upon the physician's actual charges billed during the 12-month period ending on March 31, 1985, and

(B) in the case of a physician who is not a participating physician (as defined in section 1842(h)(1) of the Social Security Act) either on September 30, 1985, or on February 1, 1986, be deflated (to take into account the legislative freeze on actual charges for nonparticipating physicians' services) by multiplying the physician's customary charges by .85.

(2) In applying section 1842(b) of the Social Security Act to payment for physicians' services performed during the 11-month period beginning February 1, 1986, in the case of a physician who during the period beginning on February 1, 1985, and ending on December 31, 1986, changes from being a hospital-compensated physician to not being a hospital-compensated physician, the physician's customary charges shall be determined in the same manner as if the physician were considered to be a new physician.

(3) In this subsection, the term "hospital-compensated physician" means, with respect to services furnished to patients of a hospital, a physician who is compensated by the hospital for the furnishing of physicians' services for which payment may be made under this part.

SEC. 9305. PHYSICIAN PAYMENT REVIEW COMMISSION AND DEVELOPMENT OF RELATIVE VALUE SCALE.

(a) ESTABLISHMENT OF COMMISSION.—Part B of title XVIII of the Social Security Act is amended by adding at the end the following new section:

"PHYSICIAN PAYMENT REVIEW COMMISSION

"SEC. 1845. (a)(1) The Director of the Congressional Office of Technology Assessment (hereinafter in this section referred to the the 'Director' and the 'Office', respectively) shall provide for the appointment of a Physician Payment Review Commission (hereinafter in this section referred to as the 'Commission'), to be composed of individuals with expertise in the provision and financing of physicians' services appointed by the Director (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service).

"(2) The Commission shall consist of 11 individuals. Members of the Commission shall first be appointed no later than May 1, 1986, for a term of three years, except that the Director may provide initially for such shorter terms as will insure that (on a continuing basis) the terms of no more than four members expire in any one year.

"(3) The membership of the Commission shall include physicians, other health professionals, individuals skilled in the conduct and interpretation of biomedical, health services, and health economics research, and representatives of consumers and the elderly. The Director shall seek nominations from a wide range of groups, including—

"(A) national organizations representing physicians, including medical specialty organizations,

"(B) organizations representing the elderly and consumers,

"(C) national organizations representing medical schools,

"(D) national organizations representing hospitals, including teaching hospitals, and

"(E) national organizations representing health benefits programs.

"(b)(1) The Commission shall make recommendations to the Congress, not later than March 1 of each year (beginning with 1987), regarding adjustments to the reasonable charge levels for physicians' services recognized under section 1842(b) and changes in the methodology for determining the rates of payment, and for making payment, for physicians' services under this title and other items and services under this part.

"(2) In making its recommendations, the Commission shall—

"(A) consider, and make recommendations on the feasibility and desirability of reducing, the differences in payment amounts for physicians' services under this part which are based on differences in geographic location or specialty;

"(B) review the input costs (including time, professional skills, and risks) associated with the provision of different physicians' services;

"(C) identify those charges recognized as reasonable under section 1842(b) which are significantly out-of-line, based on the considerations of subparagraphs (A) and (B);

"(D) assess the likely impact of different adjustments in payment rates, particularly their impact on physician participation in the participation program established under section 1842(h) and on beneficiary access to necessary physicians' services;

"(E) make recommendations on ways to increase physician participation in that participation program and the acceptance of payment under this part on an assignment-related basis;

"(F) make recommendations respecting the advisability and feasibility of making changes in the payment system for physicians' services under this part based on (i) the Secretary's study under section 603(b)(2) of the Social Security Amendments of 1983 (relating to payments for physicians' services furnished to hospital inpatients on the basis of diagnosis-related groups) and (ii) the Office's report under section 2309 of the Deficit Reduction Act of 1984 (relating to physician reimbursement under this part);

"(G) identify those procedures, involving the use of assistants at surgery, for which payment for those assistants should not be made under this title without prior approval; and

"(H) identify those procedures for which an opinion of a second physician should be required before payment is made under this title.

"(3) The Commission also shall advise and make recommendations to the Secretary respecting the development of the relative value scale under subsection (e).

"(c)(1) The following provisions of section 1886(e)(6) shall apply to the Commission in the same manner as they apply to the Prospective Payment Assessment Commission:

"(A) Subparagraph (C) (relating to staffing and administration generally).

"(B) Subparagraph (D) (relating to compensation of members).

"(C) Subparagraph (F) (relating to access to information).

"(D) Subparagraph (G) (relating to reports and use of funds).

"(E) Subparagraph (H) (relating to periodic GAO audits).

"(F) Subparagraph (J) (relating to requests for appropriations).

"(2) In order to carry out its functions, the Commission shall collect and assess information on medical and surgical procedures and services, including information on regional variations of medical practice. In collecting and assessing information, the Commission shall—

"(A) utilize existing information, both published and unpublished, where possible, collected and assessed either by its own staff or under other arrangements made in accordance with this section,

"(B) carry out, or award grants or contracts for, original research and experimentation, where existing information is inadequate for the development of useful and valid guidelines by the Commission, and

"(C) adopt procedures allowing any interested party to submit information with respect to physicians' services (including new practices, such as the use of new technologies and treatment modalities), which information the Commission shall consider in making reports and recommendations to the Secretary and Congress.

"(d) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section. Such sums shall be payable from the Federal Supplementary Medical Insurance Trust Fund.".

(b) DEVELOPMENT OF RELATIVE VALUE SCALE FOR PHYSICIANS' SERVICES.—Section 1845 of the Social Security Act, as added by subsec-

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tion (a), is further amended by adding at the end the following new subsection:

"(e)(1) The Secretary shall develop a relative value scale that establishes a numerical relationship among the various physicians' services for which payment may be made under this part or under State plans approved under title XIX.

"(2) In developing the scale, the Secretary shall consider among other items—

"(A) the report of the Office of Technology Assessment under section 2309 of the Deficit Reduction Act of 1984,

"(B) the recommendations of the Physician Payment Review Commission under subsection (b)(3), and

"(C) factors with respect to the input costs for furnishing particular physicians' services, such as—

"(i) the differences in costs of furnishing services in different settings,

"(ii) the differences in skill levels and training required to perform the services, and

"(iii) the time required, and risk involved, in furnishing different services.

"(3) The Secretary shall complete the development of the relative value scale under this section, and report to Congress on the development, not later than July 1, 1987. The report shall include recommendations for the application of the scale to payment for physicians' services furnished under this part on or after January 1, 1988.".

SEC. 9306. LIMITATION ON MEDICARE PAYMENT FOR POST-CATARACT SURGERY PATIENTS.

(a) Determination of Separate Payment Amounts for Prosthetic Lenses and Professional Services.—Section 1842(b) of the Social Security Act (42 U.S.C. 1395u(b)) is amended by adding after paragraph (8), added by section 9304(a) of this title, the following new paragraph:

"(9) In providing payment for cataract eyeglasses and cataract contact lenses, and professional services relating to them, under this part, each carrier shall—

"(A) provide for separate determinations of the payment amount for the eyeglasses and lenses and of the payment amount for the professional services of a physician (as defined in section 1861(r)), and

"(B) not recognize as reasonable for such eyeglasses and lenses more than such amount as the Secretary establishes in guidelines relating to the inherent reasonableness of charges for such eyeglasses and lenses.".

(b) Effective Date.—The amendments made by this section shall apply to items and services furnished on or after April 1, 1986.

SEC. 9307. PAYMENT FOR ASSISTANTS AT SURGERY FOR CERTAIN CATARACT OPERATIONS AND OTHER OPERATIONS.

(a) Limitation on Payment.—Section 1862(a) of the Social Security Act (42 U.S.C. 1395y(a)) is amended—

(1) by striking out "or" at the end of paragraph (13),

(2) by striking out the period at the end of paragraph (14) and inserting in lieu thereof "; or", and

(3) by adding at the end the following new paragraph:

"(15) which are for services of an assistant at surgery in a cataract operation unless, before the surgery is performed, the appropriate utilization and quality control peer review organization (under part B of title XI) or a carrier under section 1842 has approved of the use of such an assistant in the surgical procedure based on the existence of a complicating medical condition.".

(b) Additional PRO Functions.—Section 1154(a)(8) of such Act (42 U.S.C. 1320c-3(a)(8)) is amended by inserting before the period at the end the following: "or as may be required to carry out section 1862(a)(15)".

(c) Prohibition for Submitting Bill for Which Payment May Not Be Made.—Section 1842 of such Act (42 U.S.C. 1395u) is amended—

(1) in subsection (j)(2), by inserting "or subsection (l)" after "paragraph (1)", and

(2) by adding after subsection (k), added by section 146(a) of this title, the following new subsection:

"(l)(1) If a physician knowingly and willfully bills an individual enrolled under this part for charges for services as an assistant at surgery for which payment may not be made by reason of section 1862(a)(15), the Secretary may apply sanctions against such physician in accordance with subsection (j)(2).

"(2) If a physician knowingly and willfully bills an individual enrolled under this part for charges that includes a charge for an assistant at surgery for which payment may not be made by reason of section 1862(a)(15), the Secretary may apply sanctions against such physician in accordance with subsection (j)(2).".

(d) Extension of Prohibition to Other Procedures.—The Secretary of Health and Human Services, after consultation with the Physician Payment Review Commission, shall develop recommendations and guidelines respecting other surgical procedures for which an assistant at surgery is generally not medically necessary and the circumstances under which the use of an assistant at surgery is generally appropriate but should be subject to prior approval of an appropriate entity. The Secretary shall report to Congress, not later than January 1, 1987, on these recommendations and guidelines.

(e) Effective Date.—The amendments made by this section shall apply to services performed on or after April 1, 1986.

Subpart B—Benefits and Other Provisions

SEC. 9311. OCCUPATIONAL THERAPY SERVICES.

(a) Coverage.—Subparagraph (C) of section 1832(a)(2) of the Social Security Act (42 U.S.C. 1395k(a)(2)) is amended to read as follows:

"(C) outpatient physical therapy services (other than services to which the second sentence of section 1861(p) applies) and outpatient occupational therapy services (other than services to which such sentence applies through the operation of section 1861(g));".

(b) Limitation on Payments.—Section 1833(g) of such Act (42 U.S.C. 1395l(g)) is amended—

(1) by striking out "next to last sentence" and inserting in lieu thereof "second sentence", and

(2) by adding at the end thereof the following new sentence: "In the case of outpatient occupational therapy services which are described in the second sentence of section 1861(p) through the operation of section 1861(g), with respect to expenses incurred in any calendar year, no more than $500 shall be considered as incurred expenses for purposes of subsections (a) and (b).".

(c) Certification Standard.—(1) Section 1835(a)(2)(C) of such Act (42 U.S.C. 1395n(a)(2)(C)) is amended—

(A) by inserting "or outpatient occupational therapy services" after "outpatient physical therapy services",

(B) in clause (i), by inserting "or occupational therapy services, respectively," after "physical therapy services", and

(C) in clause (ii), by inserting "or qualified occupational therapist, respectively," after "qualified physical therapist".

(2) The second sentence of section 1835(a) of such Act and section 1866(e) of such Act (42 U.S.C. 1395n(a), 1395cc(e)) are each amended—

(A) by inserting "(or meets the requirements of such section through the operation of section 1861(g))" after "1861(p)(4)(A)" and after "1861(p)(4)(B)", and

(B) by inserting "or (through the operation of section 1861(g)) with respect to the furnishing of outpatient occupational therapy services" after "(as therein defined)".

(d) Definition and Inclusion with Other Part B Services.—(1) Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended by inserting after subsection (f) the following new subsection:

"Outpatient Occupational Therapy Services

"(g) The term 'outpatient occupational therapy services' has the meaning given the term 'outpatient physical therapy services' in subsection (p), except that 'occupational' shall be substituted for 'physical' each place it appears therein.".

(2) Section 1861(s)(2)(D) of such Act (42 U.S.C. 1395x(s)(2)(D)) is amended by inserting "and outpatient occupational therapy services" after "outpatient physical therapy services".

(3) Section 1861(v)(5)(A) of such Act (42 U.S.C. 1395x(v)(5)(A)) is amended by inserting "(including through the operation of section 1861(g))" after "section 1861(p)".

(e) Effective Date.—The amendments made by this section shall apply to expenses incurred for outpatient occupational therapy services furnished on or after July 1, 1986.

SEC. 9312. VISION CARE.

(a) Defining Services an Optometrist Can Provide.—Clause (4) of section 1861(r) of the Social Security Act (42 U.S.C. 1395x(r)) is amended to read as follows: "(4) a doctor of optometry, but only with respect to the provision of items or services described in subsection (s) which he is legally authorized to perform as a doctor of optometry by the State in which he performs them, or".

(b) Effective Date.—The amendment made by subsection (a) shall apply to services furnished on or after July 1, 1986.

SEC. 9313. PART B PREMIUM.

Section 1839 of the Social Security Act (42 U.S.C. 1395r) is amended—

(1) in subsection (e), by striking out "1988" and inserting in lieu thereof "1989" each place it appears;

(2) in subsection (f)(1), by striking out "or 1986" and inserting in lieu thereof ", 1986, or 1987"; and

(3) in subsection (f)(2), by striking out "or 1987" and inserting in lieu thereof ", 1987, or 1988".

SEC. 9314. DEMONSTRATION OF PREVENTIVE HEALTH SERVICES UNDER MEDICARE.

(a) Demonstration Program.—The Secretary of Health and Human Services (hereinafter in this section referred to as the "Secretary") shall establish a 4-year demonstration program designed to reduce disability and dependency through the provision of preventive health services to individuals entitled to benefits under title XVIII of the Social Security Act (hereinafter in this section referred to as "medicare beneficiaries").

(b) Preventive Health Services Under Demonstration Program.—The preventive health services to be made available under the demonstration program shall include—

(1) health screenings,

(2) health risk appraisals,

(3) immunizations, and

(4) counseling on and instruction in—

(A) diet and nutrition,

(B) reduction of stress,

(C) exercise and exercise programs,

(D) sleep regulation,

(E) injury prevention,

(F) prevention of alcohol and drug abuse,

(G) prevention of mental health disorders,

(H) self-care, including use of medication, and

(I) reduction or cessation of smoking.

(c) CONDUCT OF PROGRAM.—The demonstration program shall—

(1) be conducted under the direction of accredited public or private nonprofit schools of public health or preventive medicine departments accredited by the Council on Education for Public Health;

(2) be conducted in no fewer than five sites, which sites shall be chosen so as to be geographically diverse and shall be readily accessible to a significant number of medicare beneficiaries;

(3) involve community outreach efforts at each site to enroll the maximum number of medicare beneficiaries in the program; and

(4) be designed—

(A) to test alternative methods of payment for preventive health services, including payment on a prepayment basis as well as payment on a fee-for-service basis,

(B) to permit a variety of appropriate health care providers to furnish preventive health services, including physicians, health educators, nurses, allied health personnel, dieticians, and clinical psychologists, and

(C) to facilitate evaluation under subsection (d).

(d) EVALUATION.—The Secretary shall evaluate the demonstration project in order to determine—

(1) the short-term and long-term costs and benefits of providing preventive health services for medicare beneficiaries, including any reduction in inpatient services resulting from providing the services, and

(2) what practical mechanisms exist to finance preventive health services under title XVIII of the Social Security Act.

(e) REPORTS TO CONGRESS.—(1) Not later than three years after the date of the enactment of this Act, the Secretary shall submit a preliminary report to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and to the Committee on Finance of the Senate on the progress made in the demonstration program, including a description of the sites at which the program is being conducted and the preventive health services being provided at the different sites.

(2) Not later than five years after the date of the enactment of this Act, the Secretary shall submit a final report to those Committees on the demonstration program and shall include in the report—

(A) the evaluation described in subsection (d), and

(B) recommendations for appropriate legislative changes to incorporate payment for cost-effective preventive health services into the medicare program.

(f) FUNDING.—Expenditures made for the demonstration program shall be made from the Federal Supplementary Medical Insurance Trust Fund (established by section 1841 of the Social Security Act). Grants and payments under contracts may be made either in advance or by way of reimbursement, as may be determined by the Secretary, and shall be made in such installments and on such conditions as the Secretary finds necessary to carry out the purpose of this section. Funding for the demonstration program shall not exceed $4,000,000 over the duration of the program.

(g) WAIVER OF MEDICARE REQUIREMENTS.—The Secretary shall waive compliance with such requirements of title XVIII of the Social Security Act to the extent and for the period the Secretary finds necessary for the conduct of the demonstration program.

SEC. 9315. EXTENSION OF GAO REPORTING DATE.

(a) EXTENSION.—Section 2326(e)(2) of the Deficit Reduction Act of 1984 (98 Stat. 1088) is amended by striking out "12 months after the date of the enactment of this Act" and inserting in lieu thereof "May 1, 1986".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply as though it were included in the Deficit Reduction Act of 1984 as originally enacted.

PART 4—PEER REVIEW ORGANIZATIONS

SEC. 9401. 100 PERCENT PEER REVIEW OF CERTAIN SURGICAL PROCEDURES.

(a) REQUIREMENT.—Section 1154(a) of the Social Security Act (42 U.S.C. 1395c-3(a)) is amended by adding at the end thereof the following new paragraph:

"(12) The organization shall perform the review, referral, and other functions required under section 1164.".

(b) ADDITIONAL PEER REVIEW FUNCTIONS.—Part B of title XI of the Social Security Act is amended by adding at the end the following new section:

"100 PERCENT PEER REVIEW FOR CERTAIN SURGICAL PROCEDURES

"SEC. 1164. (a) 100 PERCENT REVIEW FUNCTION.—

"(1) IN GENERAL.—Each utilization and quality control peer review organization shall perform the review described in section 1154(a)(1) for 100 percent of the surgical procedures specified pursuant to subsection (b).

"(2) TIMING OF REVIEW.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the review required under paragraph (1) shall be performed—

"(i) before the performance of the procedure, in the case of an outpatient procedure, or

"(ii) before admission to the hospital for the provision of services in connection with the procedure, in the case of a procedure performed on an inpatient basis.

"(B) EXCEPTION.—The review with respect to a procedure need not be performed by the time specified in subparagraph (A) in cases of a medical emergency and under such other circumstances as the Secretary may specify.

"(b) SPECIFICATION OF SURGICAL PROCEDURES AND QUALIFIED REVIEWERS.—

"(1) IN CONTRACT.—The contract with each organization under this part shall specify at least 10 surgical procedures to be covered under this section.

"(2) SELECTION GUIDELINES.—

"(A) IN GENERAL.—The specification of procedures shall be consistent with selection guidelines established by the Secretary under paragraph (3). The procedures specified shall be included among the surgical procedures which the Secretary has identified as reasonably being able to meet such guidelines.

"(B) EXCEPTION.—The Secretary may permit an organization to include among the procedures specified under paragraph (1) procedures not identified by the Secretary under paragraph (2)(A) if to do so would be cost effective and consistent with the criteria described in paragraph (3).

"(3) CRITERIA.—The Secretary shall establish such guidelines and identify such surgical procedures consistent with the following criteria:

"(A) The procedure is one which generally can be postponed without undue risk to the patient.

"(B) The procedure is a high volume procedure among patients who are covered under the programs established under title XVIII or is a high cost procedure.

"(C) The procedure has a comparatively high rate of nonconfirmation upon examination by another qualified physician, there is substantial geographic variation in the rates of performance of the procedure, or there are other reasons why pre-procedure review for 100 percent of the procedures would be cost effective.

"(4) QUALIFICATIONS FOR PHYSICIANS PROVIDING SECOND OPINIONS.—

"(A) IN GENERAL.—The Secretary shall specify, for each procedure identified under paragraphs (2) and (3), the type or types of board certified or board eligible specialists who may conduct a second opinion, required under subsection (c), based upon the nature of the procedure.

"(B) FREEDOM OF CHOICE OF PATIENT TO CHOOSE PHYSICIAN.—Subject to paragraphs (C) and (D), the patient may choose any physician of the proper specialty under subparagraph (A) to provide the second opinion.

"(C) PHYSICIANS PROHIBITED FROM PROVIDING SECOND OPINIONS.—For purposes of this section, a second opinion may not be provided by a physician who is affiliated with, or has a common financial interest with, the physician who rendered the first opinion that the procedure was necessary.

"(D) RESTRICTED LIST.—In accordance with guidelines of the Secretary, an organization may disqualify a physician from providing a second opinion under this section because of the gross unreliability of the second opinions provided.

"(c) REQUIRING A SECOND OPINION IN CERTAIN CASES.—

"(1) DETERMINATIONS BY ORGANIZATION.—In the case of a review performed pursuant to subsection (a), the organization shall determine, based on such review, that the surgical procedure—

"(A) is reasonable and medically necessary,

"(B) is not reasonable and medically necessary, or

"(C) may be considered reasonable and necessary, but, because of questions as to the medical appropriateness of performing the procedure, it is appropriate to require the patient to seek a second opinion as to the necessity and appropriateness of performing the procedure before the performance of the procedure.

The Secretary shall develop appropriate measures to ensure that second opinions are only required in situations where a second opinion is needed to resolve outstanding uncertainties as to the medical necessity of the procedure. The organization shall notify, in accordance with section 1154(a)(3), the physician, patient, and hospital or other entity furnishing the service, in the event of a determination under subparagraph (B) or (C) of this paragraph.

"(2) PROHIBITION OF PAYMENT IF REQUIRED SECOND OPINION NOT PROVIDED.—No payment may be made under part A or part B of title XVIII with respect to items or services furnished in connection with a surgical procedure for which there is a determination described in paragraph (1)(C), unless the individual undergoing the procedure obtains the second opinion required under that paragraph. The second opinion need not necessarily agree with the first opinion in order for payment to be made.

"(3) Exceptions for elective second opinions.—Paragraphs (1)(C) and (2) shall not apply to a surgical procedure if—

"(A) a delay in providing the procedure would result in a risk to the patient;

"(B) no physician is available (within such reasonable limits as the Secretary shall specify) who is (i) qualified to provide the second opinion, and (ii) a participating physician or a physician who has agreed to accept assignment for the second opinion; or

"(C) the procedure is to be performed on a patient who is a member of a health maintenance organization or competitive medical plan having a risk-sharing contract with the Secretary under section 1876.

"(d) Referral Mechanism for Second Opinions.—

"(1) Acting as referral center.—Each organization shall serve as a referral center for second opinions required under this section.

"(2) Referral of patient.—The organization shall maintain a list of physicians qualified to provide a second opinion and shall advise the patient as to which physicians are participating physicians (within the meaning of section 1842(h)) and which physicians have agreed to accept assignment to perform second opinions. The organization shall assist patients in referral to a qualified physician of the appropriate specialty for purposes of providing the opinion.

"(3) Forwarding of relevant medical records.—Each peer review organization shall, if the patient seeking the second opinion so requests, obtain the relevant medical records from the physician who rendered the first opinion that the procedure was necessary, and provide the relevant information to the physician selected by the patient to render the second opinion.

"(e) Notice to Physicians, Hospitals, and Beneficiaries.—The Secretary shall assure that notice is provided to physicians, hospitals, ambulatory surgical centers, and beneficiaries respecting the activities under this section, including the applicable list of surgical procedures specified under this section.".

(b) Waiver of Deductible and Copayments.—

(1) Deductible.—Section 1833(b) of the Social Security Act (42 U.S.C. 1395l(b)) is amended by striking out "and" before "(4)", and by inserting before the period at the end of the first sentence the following: ", and (5) such deductible shall not apply with respect to items and services furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion)".

(2) Copayments.—(A) Section 1833(a)(1) of such Act (42 U.S.C. 1395l(a)(1)) is amended by striking out "and" before "(F)", and by adding at the end thereof the following: "and (G) with respect to items and services (other than clinical diagnostic laboratory tests) furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion), the amounts paid shall be 100 percent of the reasonable charges for such items and services;".

(B) Section 1833(a)(1)(D) of such Act is amended by striking out "or under the procedure described in section 1870(f)(1)" and inserting in lieu thereof ", under the procedure described in section 1870(f)(1), or for tests furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion)".

(C) Section 1833(a)(2)(A) of such Act is amended by inserting ", to items and services (other than clinical diagnostic laboratory tests) furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion)," after "(other than durable medical equipment)".

(D) Section 1833(a)(2)(D) of such Act is amended by striking out "or to a provider having an agreement under section 1866" and inserting in lieu thereof "to a provider having an agreement under section 1866, or for tests furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion)".

(E) Section 1833(a)(3) of such Act is amended by inserting after "1861(s)(10)(A)" the following: "and for items and services furnished in connection with obtaining a second opinion required under section 1164(c)(2), or a third opinion, if the second opinion was in disagreement with the first opinion".

(F) The last sentence of section 1866(a)(2)(A) of such Act (42 U.S.C. 1395cc(a)(2)(A)) is amended by inserting after "1861(s)(10)(A)" the following: ", with respect to items and services furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion),".

(c) Conforming Amendments.—

(1) Exclusions from coverage.—Section 1862(a) of the Social Security Act (42 U.S.C. 1395g(a)), as amended by section 9307(a) of this title, is amended—

(A) by striking out "or" at the end of paragraph (14);

(B) by striking out the period at the end of paragraph (15) and inserting in lieu thereof "; or"; and

(C) by adding at the end thereof the following new paragraph:

"(16) furnished in connection with a surgical procedure for which a second opinion is required under section 1164(c)(2) and has not been obtained.".

(d) Effective Dates.—The amendments made by subsection (a) shall apply to items and services furnished on or after January 1, 1987. The Secretary of Health and Human Services shall provide for such modification of contracts under part B of title XI of the Social Security Act that are in effect on that date as may be necessary to effect these amendments on a timely basis.

(e) Study.—The Secretary of Health and Human Services shall conduct a study of the results of the amendments made by this section, and shall report the results of the study to the Congress within 36 months after the date of the enactment of this Act.

SEC. 9402. PEER REVIEW ORGANIZATION REIMBURSEMENT.

(a) Reimbursement Amounts.—Section 1866(a)(1)(F) of the Social Security Act (42 U.S.C. 1395cc(a)(1)(F)) is amended—

(1) by striking out clause (iii),

(2) by inserting "and" at the end of clause (ii),

(3) by redesignating clause (iv) as clause (iii), and

(4) by striking out "1982" in clause (iii) as so redesignated and inserting in lieu thereof "1986".

(b) Monthly Payments.—Section 1153(c)(8) of such Act (42 U.S.C. 1320c-2(c)(8)) is amended to read as follows:

"(8) reimbursement shall be made to the organization on a monthly basis, with payments for any month being made not later than 15 days after the close of such month.".

(c) Effective Dates.—(1) The amendments made by subsection (a) shall become effective on the date of the enactment of this Act.

(2) The amendment made by subsection (b) shall apply to contracts entered into or renewed on or after the date of the enactment of this Act.

SEC. 9403. DENIAL OF PAYMENT FOR SUBSTANDARD CARE.

(a) Denial Authority for PRO.—Section 1154(a)(2) of the Social Security Act (42 U.S.C. 1320c-3(a)(2)) is amended—

(1) by striking out "subparagraphs (A) and (C)" and inserting in lieu thereof "subparagraphs (A), (B), and (C)"; and

(2) by adding at the end thereof (after and below subparagraph (D)) the following:

"Determinations that payment should not be made by reason of subparagraph (B) of paragraph (1) shall be made only on the basis of criteria which are consistent with guidelines established by the Secretary.".

(b) Waiver of Liability.—Section 1866(a)(1) of such Act (42 U.S.C. 1395cc(a)(1)) is amended by striking out "and" at the end of subparagraph (G), by striking out the period at the end of subparagraph (H) and inserting in lieu thereof ", and", and by inserting after subparagraph (H) the following new subparagraph:

"(I) not to charge any individual or any other person for items or services for which payment under this title is denied under section 1154(a)(2) by reason of a determination under section 1154(a)(1)(B).".

(c) Effective Date.—The amendments made by this section shall become effective on the date of the enactment of this Act.

SEC. 9404. HEALTH MAINTENANCE ORGANIZATION MEMBERSHIP ON PEER REVIEW ORGANIZATION BOARDS.

(a) Removal of One-Member Limitation.—Section 1153(b)(2)(A) of the Social Security Act (42 U.S.C. 1320c-2(b)(2)(A)) is amended by striking out "consists only of one individual member of the governing board" and inserting in lieu thereof "consists only of members of the governing board".

(b) Effective Date.—The amendment made by this section shall become effective on the date of the enactment of this Act.

SEC. 9405. PEER REVIEW ORGANIZATION REVIEW OF HEALTH MAINTENANCE ORGANIZATIONS.

(a) Comparable Review for Health Maintenance Organizations and Competitive Medical Plans.—Section 1154(a)(1) of the Social Security Act (42 U.S.C. 1320c-3(a)(1)) is amended by inserting "(including where payment is made for such services to eligible organizations pursuant to contracts under section 1876)" after "title XVIII".

(b) Effective Date.—The amendment made by this section shall apply to items and services furnished on or after January 1, 1987.

SEC. 9406. SUBSTITUTE REVIEW PENDING TERMINATION OF A PEER REVIEW ORGANIZATION CONTRACT.

(a) Substitute Review.—Section 1153(d) of the Social Security Act (42 U.S.C. 1320c-2(d)) is amended by adding at the end thereof the following new paragraph:

"(4) During the period after the Secretary has given notice of intent to terminate a contract, and prior to the time that the Secretary enters into a contract with another utilization and quality control peer review organization, the Secretary may transfer review responsibilities of the organization under the contract being terminated to another utilization and quality control peer review organization, or to an intermediary or carrier having an agreement under section 1816 or a contract under section 1842.".

(b) Effective Date.—The amendment made by this section shall become effective on the date of the enactment of this Act.

Subtitle B—Medicaid and Maternal and Child Health

SEC. 9501. SERVICES FOR PREGNANT WOMEN.

(a) Expanded Coverage.—Section 1905(n)(1) of the Social Security Act (42 U.S.C. 1396d(n)(1)) is amended—

(1) by striking out "or" at the end of subparagraph (A);

(2) by striking out "and" at the end of subparagraph (B) and inserting in lieu thereof "or"; and

(3) by adding after subparagraph (B) the following new subparagraph:

"(C) otherwise meets the income and resources requirements of a State plan under part A of title IV; and".

(b) Optional Expansion of Pregnancy-Related Services.—Section 1902(a)(10) of such Act (42 U.S.C. 1396a(a)(10)) is amended, in the matter after subparagraph (D) thereof—

(1) by striking out "and" before "(IV)" and inserting in lieu thereof a comma; and

(2) by inserting before the semicolon at the end thereof the following: ", and (V) the making available to pregnant women covered under the plan of services relating to pregnancy (including prenatal, delivery, and postpartum services) or to any other condition which may complicate pregnancy shall not, by reason of this paragraph (10), require the making available of such services, or the making available of such services of the same amount, duration, and scope, to any other individuals, provided such services are made available (in the same amount, duration, and scope) to all pregnant women covered under the State plan".

(c) Postpartum Eligibility for Pregnant Women.—Section 1902(e) of such Act (42 U.S.C. 1396b(e)) is amended by adding at the end the following new paragraph:

"(5) A woman who, while pregnant, is eligible for, has applied for, and has received medical assistance under the State plan, shall continue to be eligible under the plan, as though she were pregnant, for all pregnancy-related and postpartum medical assistance under the plan, until the end of the 60-day period beginning on the last day of her pregnancy.".

(d) Effective Dates.—

(1) Expanded coverage.—(A) The amendments made by subsection (a) apply (except as provided under subparagraph (B)) to payments under title XIX of the Social Security Act for calendar quarters beginning on or after the April 1, 1986, without regard to whether or not final regulations to carry out the amendments have been promulgated by that date.

(B) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirement imposed by the amendments made by subsection (a), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet this additional requirement before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

(2) Optional services.—The amendments made by subsection (b) shall become effective on the date of the enactment of this Act.

(3) Continued coverage.—The amendment made by subsection (c) shall apply to medical assistance furnished to a woman on or after the date of the enactment of this Act.

SEC. 9502. MODIFICATIONS OF WAIVER PROVISIONS FOR HOME AND COMMUNITY-BASED SERVICES.

(a) Explicit Inclusion of Certain Prevocational and Educational Services.—Section 1915(c) of the Social Security Act (42 U.S.C. 1396n(c)) is amended by adding at the end thereof the following new paragraph:

"(5) For purposes of paragraph (4)(B), the term 'habilitation services', with respect to individuals who receive such services after discharge from a skilled nursing facility or intermediate care facility—

"(A) means services designed to assist individuals in acquiring, retaining, and improving the self-help, socialization, and adaptive skills necessary to reside successfully in home and community based settings; and

"(B) includes (except as provided in subparagraph (C)) prevocational, educational, and supported employment services; but

"(C) does not include—

"(i) special education and related services (as defined in section 602(16) and (17) of the Education of the Handicapped Act (20 U.S.C. 1401(16), (17)) which otherwise are available to the individual through a local educational agency; and

"(ii) vocational rehabilitation services which otherwise are available to the individual through a program funded under section 110 of the Rehabilitation Act of 1973 (29 U.S.C. 730).".

(b) Permitting Hospital Level of Care for Certain Participants.—(1) Section 1915(c)(1) of such Act (42 U.S.C. 1396n(c)(1)) is amended by inserting "or but for the provision of such services the individuals would continue to receive inpatient hospital services, skilled nursing facility services, or intermediate care facility services because they are dependent on ventilator support the cost of which is reimbursed under the State plan" before the period at the end thereof.

(2) Section 1915(c)(2)(C) of such Act (42 U.S.C. 1396n(c)(2)(C)) is amended—

(A) by inserting "hospital or" after "provided in a"; and

(B) by inserting "inpatient hospital services or" after "the provision of".

(c) Prohibiting Imposition of Certain Regulatory Limits.—Section 1915(c) of such Act (42 U.S.C. 1396n(c)) as amended by subsection (a), is further amended—

(1) in paragraph (2)(D), by inserting "100 percent of" after "does not exceed"; and

(2) by adding at the end thereof the following new paragraph:

"(6) The Secretary may not require, as a condition of approval of a waiver under this section under paragraph (2)(D), that the actual total expenditures for home and community-based services under the waiver (and a claim for Federal financial participation in expenditures for the services) cannot exceed the approved estimates for these services. The Secretary may not deny Federal financial payment with respect to services under such a waiver on the ground that, in order to comply with paragraph (2)(D), a State has failed to comply with such a requirement.".

(d) Computation of Expenditures for Certain Disabled Patients.—Section 1915(c) of such Act (42 U.S.C. 1396n(c)), as amended by subsection (c), is further amended by adding at the end thereof the following new paragraph:

"(7) In making estimates under paragraph (2)(D) in the case of a waiver which applies only to physically disabled individuals who are inpatients in skilled nursing or intermediate care facilities, the State may determine the average per capita expenditure which would have been made in a fiscal year for those individuals under the State plan separately from the expenditure for other individuals who are inpatients of those facilities.".

(e) Permitting Flexibility in Establishing Maintenance Income Standards.—Section 1915(c)(3) of such Act (42 U.S.C. 1396n(c)(3)) is amended by adding at the end the following new sentence: "A waiver may provide, with respect to post-eligibility treatment of income of all individuals receiving services under that waiver, that the maximum amount of the individual's income which may be disregarded for any month for the maintenance needs of the individual may be an amount greater than the maximum allowed for that purpose under regulations in effect on July 1, 1985.".

(f) Waiver Extensions.—The Secretary of Health and Human Services shall extend, upon request of the State, any waiver under section 1915(c) of the Social Security Act which expires on or after September 30, 1985, and before September 30, 1986. Such extension shall be for a period of not less than one year nor more than five years, subject to section 1915(e)(1) of such Act.

(g) Waiver Renewals.—Section 1915(c)(3) of the Social Security Act (42 U.S.C. 1396n(c)(3)) is amended—

(1) by striking out "additional three-year periods" and inserting in lieu thereof "additional five-year periods"; and

(2) by striking out "previous three-year period" and inserting in lieu thereof "previous waiver period".

(h) Coordinated Services Between MCH Program and Home and Community-Based Service Programs.—Section 1915(c) of the Social Security Act (42 U.S.C. 1396n(c)), as amended by subsection (d) of this section, is further amended by adding at the end thereof the following new paragraph:

"(8) The State agency administering the plan under this title may, whenever appropriate, enter into cooperative arrangements with the State agency responsible for administering the program for children with special health care needs under title V in order to assure improved access to coordinated services to meet the needs of such children.".

(i) Substitution of Participants.—(1) Section 1915(c) of the Social Security Act (42 U.S.C. 1396n(c)), as amended by subsection (h) of this section, is further amended by adding at the end thereof the following new paragraph:

"(9) In the case of any waiver under this subsection which contains a limit on the number of individuals who shall receive home or community-based services, the State may substitute additional individuals to receive such services to replace any individuals who die or become ineligible for services under the State plan.".

(j) Effective Dates.—

(1) Habilitation services.— The amendment made by subsection (a) shall be effective for services furnished on or after the date of the enactment of this Act.

(2) Hospitalized patients.—The amendments made by subsection (b) shall be effective for services furnished on or after October 1, 1985.

(3) Prohibition of regulatory limits and treatment of certain physically disabled individuals.—The amendments made by subsections (c) and (d) shall apply to applications for waivers (or renewals thereof) filed before, on, or after, the date of the enactment of this Act and for services furnished on or after August 13, 1981.

(4) Income standards.—The amendment made by subsection (e) shall apply to waivers (or renewals thereof) approved on or after the date of the enactment of this Act.

(5) Waiver extensions.—Subsection (f) shall apply to waivers expiring on or after September 30, 1985, and before September 30, 1986.

(6) Waiver renewals.—The amendments made by subsection (g) shall become effective on September 30, 1986.

(7) Coordinated services and substitution of participants.—The amendments made by subsections (h) and (i) shall become effective on the date of the enactment of this Act.

SEC. 9503. THIRD-PARTY LIABILITY.

(a) Amendments to State Plan Requirements.—(1) Section 1902(a)(25) of the Social Security Act (42 U.S.C. 1396a(a)(25)) is amended to read as follows:

"(25) provide—

"(A) that the State or local agency administering such plan will take all reasonable measures to ascertain the legal liability of third parties (including health insurers) to pay for care and services available under the plan, including—

"(i) the collection of sufficient information (as specified by the Secretary in regulations) to enable the State to pursue claims against such third parties, with such information being collected at the time of any determination or redetermination of eligibility for medical assistance, and

"(ii) the submission to the Secretary of a plan (subject to approval by the Secretary) for pursuing claims against such third parties, which plan shall—

"(I) be integrated with, and be monitored as a part of the Secretary's review of, the State's mechanized claims processing and information retrieval system under section 1903(r), and

"(II) be subject to the provisions of section 1903(r)(4) relating to reductions in Federal payments for failure to meet conditions of approval, but shall not be subject to any other financial penalty as a result of any other monitoring, quality control, or auditing requirements;

"(B) that in any case where such a legal liability is found to exist after medical assistance has been made available on behalf of the individual and where the amount of reimbursement the State can reasonably expect to recover exceeds the costs of such recovery, the State or local agency will seek reimbursement for such assistance to the extent of such legal liability;

"(C) that in the case of an individual who is entitled to medical assistance under the State plan with respect to a service for which a third party is liable for payment, the person furnishing the service may not seek to collect from the individual (or any financially responsible relative or representative of that individual) payment of an amount for that service (i) if the total of the amount of the liabilities of third parties for that service is at least equal to the amount payable for that service under the plan (disregarding section 1916), or (ii) in an amount which exceeds the lesser of (I) the amount which may be collected under section 1916, or (II) the amount by which the amount payable for that service under the plan (disregarding section 1916) exceeds the total of the amount of the liabilities of third parties for that service;

"(D) that a person who furnishes services and is participating under the plan may not refuse to furnish services to an individual (who is entitled to have payment made under the plan for the services the person furnishes) because of a third party's potential liability for payment for the service;

"(E) that in the case of prenatal or preventive pediatric care (including early and periodic screening and diagnosis services under section 1905(a)(4)(B)) covered under the State plan, the State shall—

"(i) make payment for such service in accordance with the usual payment schedule under such plan for such services without regard to the liability of a third party for payment for such services; and

"(ii) seek reimbursement from such third party in accordance with subparagraph (B); and

"(F) that in the case of any services covered under such plan which are provided to an individual on whose behalf child support enforcement is being carried out by the State agency under part D of title IV of this Act, the State shall—

"(i) make payment for such service in accordance with the usual payment schedule under such plan for such services without regard to any third-party liability for payment for such services, if such third-party liability is derived (through insurance or otherwise) from the parent whose obligation to pay support is being enforced by such agency, if payment has not been made by such third party within 30 days after such services are furnished; and

"(ii) seek reimbursement from such third party in accordance with subparagraph (B);".

(2) Section 1902 of such Act (42 U.S.C. 1396a) is amended by inserting after subsection (f) the following new subsection:

"(g) In addition to any other sanction available to a State, a State may provide for a reduction of any payment amount otherwise due with respect to a person who furnishes services under the plan in an amount equal to up to three times the amount of any payment sought to be collected by that person in violation of subsection (a)(25)(C).".

(b) Performance Standards and Review for Mechanized Claims Processing and Information Retrieval Systems.—(1) Section 1903(r)(6)(J) of such Act (42 U.S.C. 1396b(r)(6)(J)) is amended to read as follows:

"(J) develop and disseminate performance standards for assessing the State's third party collection efforts in accordance with section 1902(a)(25)(A)(ii).".

(2) Section 1903(r)(4)(A) of such Act (42 U.S.C. 1396b(r)(4)(A)) is amended—

(A) by striking out "once each fiscal year" and inserting in lieu thereof "once every three years"; and

(B) by adding at the end thereof the following: "Reviews may, at the Secretary's discretion, constitute reviews of the entire system or of only those standards, systems requirements, and other conditions which have demonstrated weakness in previous reviews.".

(c) Regulations.—The Secretary of Health and Human Services shall promulgate final regulations necessary to carry out sections 1902(a)(25) and 1903(r)(6)(J) of the Social Security Act within 6 months after the date of the enactment of this Act.

(d) ERISA Amendment.—(1) Section 514(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144) is amended by adding at the end thereof the following new paragraph:

"(8) Subsection (a) of this section shall not apply to any State law mandating that an employee benefit plan not include any provision which has the effect of limiting or excluding coverage or payment for any health care for an individual who would otherwise be covered or entitled to benefits or services under the terms of the employee benefit plan, because that individual is provided, or is eligible for, benefits or services pursuant to a plan under title XIX of the Social Security Act, to the extent such law is necessary for the State to be eligible to receive reimbursement under title XIX of that Act.".

(2)(A) Except as provided in subparagraph (B), the amendment made by paragraph (1) shall become effective on October 1, 1986.

(B) In the case of a plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified on or before the date of the enactment of this Act, the amendment made by paragraph (1) shall become effective on the later of—

(i) October 1, 1986; or

(ii) the earlier of—

(I) the date on which the last of the collective bargaining agreements under which the plan is maintained, which were in effect on the date of the enactment of this Act, terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act); or

(II) three years after the date of the enactment of this Act.

(e) Condition of Eligibility.—Section 1912(a)(1) of the Social Security Act (42 U.S.C. 1396k(a)(1)) is amended by striking out "and" at the end of subparagraph (A), and by adding at the end thereof the following new subparagraph:

"(C) to cooperate with the State in identifying, and providing information to assist the State in pursuing, any third party who may be liable to pay for care and services available under the plan, unless such individual has good cause for refusing to cooperate as determined by the State agency in accordance with standards prescribed by the Secretary, which standards shall take into consideration the best interests of the individuals involved; and".

(f) Disregard From Erroneous Payments.—Section 1903(u)(1)(D) of such Act (42 U.S.C. 1396b(u)(1)(D)) is amended by adding at the end thereof the following new clause:

"(iv) In determining the amount of erroneous excess payments, there shall not be included any error resulting from a failure of an individual to cooperate or give correct information with respect to third-party liability as required under section 1912(a)(1)(C) or 402(a)(26)(C).".

(g) Effective Dates.—(1) Except as otherwise provided, the amendments made by this section shall apply to calendar quarters beginning on or after the date of the enactment of this Act.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State

legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State Legislature that begins after the date of the enactment of this Act.

(3) No penalty may be applied against any State for a violation of section 1902(a)(25) of the Social Security Act occurring prior to the effective date of the amendments made by this section.

(4) The amendment made by subsection (c) shall become effective on the date of the enactment of this Act.

SEC. 9504. RESPIRATORY CARE SERVICES FOR VENTILATOR-DEPENDENT INDIVIDUALS.

(a) OPTIONAL SERVICES.—Section 1902(e) of the Social Security Act (42 U.S.C. 1396b(e)), as amended by section 9501 of this Act, is further amended by adding at the end thereof the following new paragraph:

"(6)(A) At the option of the State, the plan may include as medical assistance respiratory care services for any individual who—

"(i) is medically dependent on a ventilator for life support at least six hours per day;

"(ii) has been so dependent for at least 30 consecutive days or the maximum number of days authorized under the State plan, whichever is less, as an inpatient in one or more hospitals, skilled nursing facilities, or intermediate care facilities;

"(iii) but for the availability of respiratory care services, would require respiratory care as an inpatient in a hospital, skilled nursing facility, or intermediate care facility, and would be eligible to have payment made for such inpatient care under the State plan;

"(iv) has adequate social support services to be cared for at home; and

"(v) wishes to be cared for at home.

"(B) For purposes of this paragraph, respiratory care services means services provided on a part-time basis in the home of the individual by a respiratory therapist or other health care professional trained in respiratory therapy (as determined by the State), payment for which is not otherwise included within other items and services furnished to such individual as medical assistance under the plan.".

(b) WAIVER OF COMPARABILITY.—Section 1902(a)(10) of such Act (42 U.S.C. 1396a(a)(10)), as amended by section 9701 of this Act, is further amended, in the matter following subparagraph (D)—

(1) by striking out "and" before "(V)" and inserting in lieu thereof a comma; and

(2) by inserting before the semicolon at the end thereof the following: ", and (VI) the making available of respiratory care services in accordance with subsection (e)(6) shall not, by reason of this paragraph (10), require the making available of such services, or the making available of such services of the same amount, duration, and scope, to any individuals not included under subsection (e)(6)(A), provided such services are made available (in the same amount, duration, and scope) to all individuals described in such subsection".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after April 1, 1986.

SEC. 9505. OPTIONAL HOSPICE BENEFITS.

(a) COVERAGE OF HOSPICE CARE AS AN OPTIONAL MEDICAID BENEFIT.—Section 1905 of the Social Security Act (42 U.S.C. 1396d) is amended—

(1) in subsection (a)—

(A) by striking out "and" at the end of paragraph (17);

(B) by redesignating paragraph (18) as paragraph (19); and

(C) by inserting after paragraph (17) the following new paragraph:

"(18) hospice care (as defined in subsection (o)); and"; and

(2) by adding at the end thereof the following new subsection:

"(o)(1) The term 'hospice care' means the care described in section 1861(dd)(1) furnished by a hospice program (as defined in section 1861(dd)(2)) to a terminally ill individual who has voluntarily elected (in accordance with paragraph (2)) to have payment made for hospice care instead of having payment made for certain benefits described in section 1812(d)(2)(A) and intermediate care facility services under the plan. For purposes of such election, hospice care may be provided to an individual while such individual is a resident of a skilled nursing facility or intermediate care facility, but the only payment made under the State plan shall be for the hospice care.

"(2) An individual's voluntary election under this subsection—

"(A) shall be made in accordance with procedures that are established by the State and that are consistent with the procedures established under section 1812(d)(2);

"(B) shall be for such a period or periods (which need not be the same periods described in section 1812(d)(1)) as the State may establish; and

"(C) may be revoked at any time without a showing of cause and may be modified so as to change the hospice program with respect to which a previous election was made.".

(b) ELIGIBILITY.—

(1) LIMITATION TO TERMINALLY ILL INDIVIDUALS.—Section 1902(a)(10) of such Act (42 U.S.C. 1396a(a)(10)), as amended by sections 9501 and 9504 of this Act, is further amended, in the matter following subparagraph (D), by striking out "and" before "(VI)" and by inserting before the semicolon at the end thereof the following: ", and (VII) with respect to the making available of medical assistance for hospice care to terminally ill individuals who have made a voluntary election described in section 1905(o) to receive hospice care instead of medical assistance for certain other services, such assistance may not be made available in an amount, duration, or scope less than that provided under title XVIII, and the making available of such assistance. shall not, by reason of this paragraph (10), require the making available of medical assistance for hospice care to other individuals or the making available of medical assistance for services waived by such terminally ill individuals".

(2) HIGHER INCOME STANDARD PERMITTED.—Section 1902(a)(10)(A)(ii) of such Act (42 U.S.C. 1396a(a)(10)(A)(ii)) is amended—

(A) by striking out "or" at the end of subclause (V);

(B) by striking out the semicolon at the end of subclause (VI) and inserting in lieu thereof ", or"; and

(C) by adding at the end the following new subclause:

"(VII) who would be eligible under the State plan under this title if they were in a medical institution, who are terminally ill, and who will receive hospice care pursuant to a voluntary election described in section 1905(o);".

(c) PAYMENT FOR HOSPICE CARE.—

(1) USE OF MEDICARE RATES.—Section 1902(a)(13) of such Act (42 U.S.C. 1396a(a)(13)) is amended—

(A) by striking out "and" at the end of subparagraph (B);

(B) by redesignating subparagraph (C) as subparagraph (D); and

(C) by inserting after subparagraph (B) the following new subparagraph:

"(C) for payment for hospice care in the same amounts, and using the same methodology, as used under part A of title XVIII; except that a separate rate may be paid for hospice care which is furnished to an individual who is a resident of a skilled nursing facility or intermediate care facility, and who would be eligible under the plan for skilled nursing facility services or intermediate care facility services if he had not elected to receive hospice care, to take into account the room and board furnished by such facility; and".

(2) LIMITATION ON COPAYMENTS.—Subsections (a)(2) and (b)(2) of section 1916 of the Social Security Act (42 U.S.C. 1396o) are each amended—

(A) by striking out "or" at the end of subparagraph (C);

(B) by striking out "; and" at the end of subparagraph (D) and inserting in lieu thereof ", or"; and

(C) by adding at the end the following new subparagraph:

"(E) services furnished to an individual who is receiving hospice care (as defined in section 1905(o)); and".

(d) CONFORMING AMENDMENTS.—

(1) Section 1902(j) of such Act (42 U.S.C. 1396a(j)) is amended by striking out "(18)" and inserting in lieu thereof "(19)".

(2) Section 1902(a)(10)(C)(iv) of such Act (42 U.S.C. 1396a(a)(10)(C)(iv)) is amended by striking out "through (17)" and inserting in lieu thereof "through (18)".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to medical assistance provided for hospice care furnished on or after the date of the enactment of this Act.

SEC. 9506. TREATMENT OF POTENTIAL PAYMENTS FROM MEDICAID QUALIFYING TRUSTS.

(a) AMOUNTS TREATED AS BEING AVAILABLE FROM GRANTOR TRUSTS.—Section 1902 of the Social Security Act (42 U.S.C. 1396a) is amended by adding at the end thereof the following new subsection:

"(k)(1) In the case of a medicaid qualifying trust (described in paragraph (2)), the amounts from the trust deemed available to a grantor, for purposes of subsection (a)(17), is the maximum amount of payments that may be permitted under the terms of the trust to be distributed to the grantor, assuming the full exercise of discretion by the trustee or trustees for the distribution of the maximum amount to the grantor. For purposes of the previous sentence, the term 'grantor' means the individual referred to in paragraph (2).

"(2) For purposes of this subsection, a 'medicaid qualifying trust' is a trust, or similar legal device, established by an individual (or an individual's spouse) under which the individual may be the beneficiary of all or part of the payments from the trust and the distribution of such payments is determined by one or more trustees who are permitted to exercise any discretion with respect to the distribution to the individual.

"(3) This subsection shall apply without regard to—

"(A) whether or not the medicaid qualifying trust is irrevocable or is established for *purposes other than to enable a grantor to qualify for medical assistance under this title; or*

"(B) whether or not the discretion described in paragraph (2) is actually exercised.

"(4) The State may waive the application of this subsection with respect to an individual where the State determines that such application would work an undue hardship.".

(b) Effective Date.—The amendment made by subsection (a) shall apply to medical assistance furnished on or after the first day of the second month beginning after the date of the enactment of this Act.

SEC. 9507. WRITTEN STANDARDS FOR PROVISION OF ORGAN TRANSPLANTS.

(a) Denial of Federal Payments for Organ Transplants Unless Provided under Written Standards.—Section 1903(i) of the Social Security Act (42 U.S.C. 1396b(i)) is amended by inserting before paragraph (2) the following new paragraph:

"(1) for organ transplant procedures unless the State plan provides for written standards respecting the coverage of such procedures and unless such standards provide that—

"(A) similarly situated individuals are treated alike; and

"(B) any restriction, on the facilities or practitioners which may provide such procedures, is consistent with the accessibility of high quality care to individuals eligible for the procedures under the State plan.".

(b) Effective Date.—The amendments made by subsection (a) shall apply to medical assistance furnished on or after January 1, 1987.

SEC. 9508. OPTIONAL TARGETED CASE MANAGEMENT SERVICES.

(a) Exemption From Certain Requirements.—(1) Section 1915 of the Social Security Act (42 U.S.C. 1396n) is amended by adding at the end thereof the following new subsection:

"(g)(1) A State may provide, as medical assistance, case management services under the plan without regard to the requirements of section 1902(a)(1) and section 1902(a)(10)(B). The provision of case management services under this subsection shall not restrict the choice of the individual to receive medical assistance in violation of section 1902(a)(23).

"(2) For purposes of this subsection, the term 'case management services' means services which will assist individuals eligible under the plan in gaining access to needed medical, social, educational, and other services.".

(2) Section 1915(b) of such Act (42 U.S.C. 1396n(b)) is amended by adding at the end thereof (after and below paragraph (4)) the following: "No waiver under this subsection may restrict the choice of the individual in receiving services under section 1905(a)(4)(C).".

(b) Effective Date.—The amendments made by this section shall apply to services furnished on or after the date of the enactment of this Act.

SEC. 9509. REVALUATION OF ASSETS.

(a) Revaluation of Assets.—Section 1902(a)(13) of the Social Security Act (42 U.S.C. 1396a(a)(13)), as amended by section 9505 of this Act, is further amended—

(1) in subparagraph (B), by striking out "hospitals, skilled nursing facilities, and intermediate care facilities" and inserting in lieu thereof "hospitals";

(2) by striking out "and" at the end of subparagraph (C);

(3) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E); and

(4) by inserting after subparagraph (B) the following new subparagraph:

"(C) that the State shall provide assurances satisfactory to the Secretary that the valuation of capital assets, for purposes of determining payment rates for skilled nursing facilities and intermediate care facilities, will not be increased (as measured from the date of acquisition by the seller to the date of the change of ownership), solely as a result of a change of ownership, by more than the lesser of—

"(i) one-half of the percentage increase (as measured over the same period of time, or, if necessary, as extrapolated retrospectively by the Secretary) in the Dodge Construction Systems Costs for Nursing Homes, applied in the aggregate with respect to those facilities which have undergone a change of ownership during the fiscal year, or

"(ii) one-half of the percentage increase (as measured over the same period of time) in the Consumer Price Index for All Urban Consumers (United States city average);".

(b) Effective Dates.—(1) Except as provided in paragraphs (2) and (3), the amendments made by this section shall apply to medical assistance furnished on or after October 1, 1985, but only with respect to changes of ownership occurring on or after such date.

(2) The amendments made by this section shall not apply with respect to a change of ownership pursuant to an enforceable agreement entered into prior to October 1, 1985.

(3) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet the requirements imposed by the amendments made by this section before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

(c) GAO Study.—The Comptroller General shall conduct a study of the effects of the amendments made by this section, and shall report the results of such study to the Congress two years after the date of the enactment of this Act.

SEC. 9510. BEGINNING DATE OF OPTIONAL COVERAGE FOR INDIVIDUALS IN MEDICAL INSTITUTIONS.

(a) Coverage. — Section 1902(a)(10)(A)(ii)(V) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(ii)(V)) is amended by inserting "for a period of not less than 30 consecutive days (with eligibility by reason of this subclause beginning on the first day of such period)" after "are in a medical institution".

(b) Effective Date.—The amendment made by this section shall apply with respect to payment for services furnished on or after October 1, 1985.

SEC. 9511. OPTIONAL COVERAGE OF CHILDREN.

(a) State Option.—Section 1905(n)(2) of the Social Security Act (42 U.S.C. 1396d(h)(2)) is amended by inserting "(or such earlier date as the State may designate)" after "September 30, 1983".

(b) Effective Date.—The amendment made by this section shall apply to services furnished on or after January 1, 1986.

SEC. 9512. OVERPAYMENT RECOVERY RULES.

(a) Overpayment Recovery.—Section 1903(d)(2) of the Social Security Act (42 U.S.C. 1396b(d)(2)) is amended—

(1) by inserting "(A)" after "(2)";

(2) by designating the second sentence as subparagraph (B), properly indented and aligned below subparagraph (A); and

(3) by adding at the end thereof the following new subparagraphs:

"(C) For purposes of this subsection, when an overpayment is discovered, which was made by a State to a person or other entity, the State shall have a period of 60 days in which to recover or attempt to recover such overpayment before adjustment is made in the Federal payment to such State on account of such overpayment. Except as otherwise provided in subparagraph (D), the adjustment in the Federal payment shall be made at the end of the 60 days, whether or not recovery was made.

"(D) In any case where the State is unable to recover a debt which represents an overpayment (or any portion thereof) made to a person or other entity on account of such debt having been discharged in bankruptcy or otherwise being uncollectable, no adjustment shall be made in the Federal payment to such State on account of such overpayment (or portion thereof).".

(b) Effective Date.— The amendments made by this section shall apply to overpayments identified for quarters beginning on or after October 1, 1985.

SEC. 9513. HOME AND COMMUNITY-BASED SERVICES DEMONSTRATIONS.

(a) Demonstration Projects.—(1) The Secretary of Health and Human Services shall allow four States (to be selected by the Secretary) to conduct demonstration projects to determine whether, and to what extent, State controlled home and community-based service programs for elderly, disabled, and developmentally disabled individuals, who are eligible under the State's plan approved under title XIX of the Social Security Act, can reduce expenditures for the society as a whole, for the Federal Government, and for the States.

(2) At least one of such demonstration projects shall include the provision of home and community-based services for a significant number of individuals with Alzheimer's disease or related disorders, and at least one of such demonstration projects shall include the provision of home and community-based services for a significant number of individuals who are mentally retarded or developmentally disabled.

(3) The Secretary shall approve any application for a project under this section only after determining that the conduct of such project will not lower, restrict, or delay the medical assistance available under the State plan approved under title XIX of the Social Security Act to the individuals participating in the demonstration project, and will not lower or restrict the income or resource standards or methodologies used under such State plan.

(b) Duration.—Each demonstration project shall be for a period of three years.

(c) Medicaid Expenditure Levels.—Federal expenditures under the demonstration projects shall exceed the amounts which would otherwise be expended under title XIX of the Social Security Act for services provided to the same individuals by not less than $85,000,000 nor more than $88,000,000 for all four projects over the 3-year period of the projects. Such additional amounts may be used to provide additional services such

as habilitative services not otherwise covered under the State plan, or care provided in small facilities not otherwise eligible for payments under such plan, but all standards for quality of care otherwise applicable under the State plan shall apply.

(d) States Selected.—In selecting the four States to carry out the demonstration projects, the Secretary shall select programmatically and demographically disparate States.

(e) Evaluation.—The Secretary shall evaluate the demonstration projects and submit a preliminary report during the third year of the projects. There are authorized to be appropriated not less than $1,500,000 nor more than $2,000,000 for purposes of such evaluation.

SEC. 9514. REGULATIONS FOR INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED.

The Secretary of Health and Human Services shall promulgate proposed regulations revising standards for intermediate care facilities for the mentally retarded under title XIX of the Social Security Act within 60 days after the date of the enactment of this Act.

SEC. 9515. LIFE SAFETY CODE RECOGNITION.

For purposes of section 1905(c) of the Social Security Act, an intermediate care facility for the mentally retarded (as defined in section 1905(d) of such Act) which meets the requirements of the relevant sections of the 1985 edition of the Life Safety Code of the National Fire Protection Association shall be deemed to meet the fire safety requirements for intermediate care facilities for the mentally retarded until such time as the Secretary specifies a later edition of the Life Safety Code for purposes of such section, or the Secretary determines that more stringent standards are necessary to protect the safety of residents of such facilities.

SEC. 9516. CORRECTION AND REDUCTION PLANS FOR INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED.

(a) Correction and Reduction Plans.—Title XIX of the Social Security Act is amended by adding at the end thereof the following new subsection:

"CORRECTION AND REDUCTION PLANS FOR INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED

"Sec. 1919. (a) If the Secretary finds that an intermediate care facility for the mentally retarded has substantial deficiencies which do not pose an immediate threat to the health and safety of residents, the State may elect, subject to the limitations in this section, to—

"(1) submit, within the number of days specified by the Secretary in regulations which apply to submission of compliance plans with respect to deficiencies of such type, a written plan of correction which details the extent of the facility's current compliance with the standards promulgated by the Secretary, including all deficiencies identified during a validation survey, and which provides for a timetable for completion of necessary steps to correct all staffing deficiencies within 6 months, and a timetable for rectifying all physical plant deficiencies within 6 months; or

"(2) submit, within a time period consisting of the number of days specified for submissions under paragraph (1) plus 35 days, a written plan for permanently reducing the number of certified beds, within a maximum of 36 months, in order to permit any noncomplying buildings (or distinct parts thereof) to be vacated and any staffing deficiencies to be corrected (hereafter in this section referred to as a 'reduction plan').

"(b) As conditions of approval of any reduction plan submitted pursuant to subsection (a)(2), the State must—

"(1) provide for a hearing to be held at the affected facility at least 35 days prior to submission of the reduction plan, with reasonable notice thereof to the staff and residents of the facility, responsible members of the residents' familites, and the general public;

"(2) demonstrate that the State has successfully provided home and community services similar to the services proposed to be provided under the reduction plan for similar individuals eligible for medical assistance; and

"(3) provide assurances that the requirements of subsection (c) shall be met with respect to the reduction plan.

"(c) The reduction plan must—

"(1) identify the number and service needs of existing facility residents to be provided home or community services and the timetable for providing such services, in 6 month intervals, within the 36-month period;

"(2) describe the methods to be used to select such residents for home and community services and to develop the alternative home and community services to meet their needs effectively;

"(3) describe the necessary safeguards that will be applied to protect the health and welfare of the former residents of the facility who are to receive home or community services, including adequate standards for consumer and provider participation and assurances that applicable State licensure and applicable State and Federal certification requirements will be met in providing such home or community services;

"(4) provide that residents of the affected facility who are eligible for medical assistance while in the facility shall, at their option, be placed in another setting (or another part of the affected facility) so as to retain their eligibility for medical assistance;

"(5) specify the actions which will be taken to protect the health and safety of the residents who remain in the affected facility while the reduction plan is in effect;

"(6) provide that the ratio of qualified staff to residents at the affected facility (or the part thereof) which is subject to the reduction plan will be the higher of—

"(A) the ratio which the Secretary determines is necessary in order to assure the health and safety of the residents of such facility (or part thereof); or

"(B) the ratio which was in effect at the time that the finding of substantial deficiencies (referred to in subsection (a)) was made; and

"(7) provide for the protection of the interests of employees affected by actions under the reduction plan, including—

"(A) arrangements to preserve employee rights and benefits;

"(B) training and retraining of such employees where necessary;

"(C) redeployment of such employees to community settings under the reduction plan; and

"(D) making maximum efforts to guarantee the employment of such employees (but this requirement shall not be construed to guarantee the employment of any employee).

"(d)(1) The Secretary must provide for a period of not less than 30 days after the submission of a reduction plan by a State, during which comments on such reduction plan may be submitted to the Secretary, before the Secretary approves or disapproves such reduction plan.

"(2) If the Secretary approves more than 15 reduction plans under this section in any fiscal year, any reduction plans approved in addition to the first 15 such plans approved, must be for a facility (or part thereof) for which the costs of correcting the substantial deficiencies (referred to in subsection (a)) are $2,000,000 or greater (as demonstrated by the State to the satisfaction of the Secretary).

"(e)(1) If the Secretary, at the conclusion of the 6-month plan of correction described in subsection (a)(1), determines that the State has substantially failed to correct the deficiencies described in subsection (a), the Secretary may terminate the facility's provider agreement in accordance with the provisions of section 1910(c).

"(2) In the case of a reduction plan described in subsection (a)(2), if the Secretary determines, at the conclusion of the initial 6-month period or any 6-month interval thereafter, that the State has substantially failed to meet the requirements of subsection (c), the Secretary shall—

"(A) terminate the facility's provider agreement in accordance with the provisions of section 1910(c); or

"(B) if the State has failed to meet such requirements despite good faith efforts, disallow, for purposes of Federal financial participation, an amount equal to 5 percent of the cost of care for all eligible individuals in the facility for each month for which the State fails to meet such requirements.

"(f) The provisions of this section shall apply only to plans of correction and reduction plans approved by the Secretary within 3 years after the effective date of final regulations implementing this section.".

(b) Effective Date.—(1) The amendment made by this section shall become effective on the date of the enactment of this Act.

(2) The Secretary of Health and Human Services shall issue a notice of proposed rulemaking with respect to section 1919 of the Social Security Act within 60 days after the date of the enactment of this Act, and shall allow a period of 30 days for comment thereon prior to promulgating final regulations implementing such section.

(c) Report.—The Secretary of Health and Human Services shall submit a report to the Congress on the implementation and results of section 1919 of the Social Security Act. Such report shall be submitted not later than 30 months after the effective date of final regulations promulgated to implement such section.

SEC. 9517. MODIFYING APPLICATION OF MEDICAID HMO PROVISIONS FOR CERTAIN HEALTH CENTERS.

(a) Waiving Application of 75 Percent Rule and Certain Organizational Requirements.—Section 1903(m)(2) of the Social Security Act (42 U.S.C. 1396b(m)(2)) is amended—

(1) in subparagraph (A), by striking out "(B) and (C)" and inserting in lieu thereof "(B), (C), and (G)";

(2) in subparagraph (F)—

(A) by striking out "(F)(i) In the case of a contract with a health maintenance organization described in clause (ii)" and inserting in lieu thereof "(F) in the case of a contract with an entity described in subparagraph (G) or with a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act) which meets the requirement of subparagraph (A)(ii)";

(B) by striking out "such organization" and inserting in lieu thereof "such entity or organization"; and

(C) by striking out clause (ii); and

(3) by adding at the end thereof the following new subparagraph:

"(G) In the case of an entity which is receiving (and has received during the previous two years) a grant of at least $100,000 under section 329(d)(1)(A) or 330(d)(1) of the Public Health Service Act or is receiving (and has received during the previous two years) at least $100,000 (by grant, subgrant, or subcontract) under the Appalachian Regional Development Act of 1965, clauses (i) and (ii) of subparagraph (A) shall not apply.".

(b) PERMITTING 6-MONTH CONTINUATION OF BENEFITS.—Section 1902(e)(2) of such Act (42 U.S.C. 1396a(e)(2)) is amended—

(1) in subparagraph (A)—

(A) by inserting "or with an entity described in section 1903(m)(2)(G)" after "Public Health Service Act)"; and

(B) by inserting "or entity" before the period; and

(2) in subparagraph (B)—

(A) by striking out "a health maintenance organization" and inserting in lieu thereof "an organization or entity"; and

(B) by inserting "or entity" after "the organization".

(c) HEALTH INSURING ORGANIZATIONS.—(1) Section 1903(m)(2)(A) of the Social Security Act (42 U.S.C. 1396b(m)(2)(A)) is amended, in the matter before clause (i)—

(1) by inserting "(including a health insuring organization)" after "any entity"; and

(2) by inserting "(directly or through arrangements with providers of services)" after "responsible for the provision".

(2) The amendments made by paragraph (1) shall apply to expenditures incurred for health insuring organizations which first become operational on or after January 1, 1986.

SEC. 9518. EXTENSION OF MMIS DEADLINE.

(a) NEW DEADLINE.—Section 1903(r)(1)(B) of the Social Security Act (42 U.S.C. 1396b(r)(1)(B)) is amended by striking out "the earlier of" and all that follows through the end of subparagraph (B) and inserting in lieu thereof "September 30, 1985.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to payment under section 1903(a) of the Social Security Act for calendar quarters beginning on or after October 1, 1982.

SEC. 9519. REPORT ON ADJUSTMENT IN MEDICAID PAYMENTS FOR HOSPITALS SERVING DISPROPORTIONATE NUMBERS OF LOW INCOME PATIENTS.

The Secretary of Health and Human shall transmit to Congress, not later than October 1, 1986, a report that—

(1) describes the methodology used by States under section 1902(a)(13)(A) of the Social Security Act, in their making payments to hospitals, in taking into account the situation of hospitals that serve a disproportionate number of low income patients with special needs;

(2) identifies each of those hospitals that have had the amount of their payments under that title adjusted under that section; and

(3) for each of those hospitals, describes the proportion of total inpatient-days attributable to low income patients and the proportion of total inpatient-days attributable to patients entitled to medical assistance under that title.

SEC. 9520. TASK FORCE ON TECHNOLOGY-DEPENDENT CHILDREN.

(a) APPOINTMENT OF TASK FORCE.—The Secretary of Health and Human Services, within six months after the date of the enactment of this Act, shall establish a task force concerning alternatives to institutional care for technology-dependent children (as defined in subsection (e)).

(b) MEMBERSHIP.—The task force shall include representatives of Federal and State agencies with responsibilities relating to child health, health insurers, large employers (including those that self-insure for health care costs), providers of health care to technology-dependent children, and parents of technology-dependent children.

(c) FUNCTIONS OF TASK FORCE.—The task force shall—

(1) identify barriers that prevent the provision of appropriate care in a home or community setting to meet the special needs of technology-dependent children; and

(2) recommend changes in the provision and financing of health care in private and public health care programs (including appropriate joint public-private initiatives) so as to provide home and community-based alternatives to the institutionalization of technology-dependent children.

(d) REPORT.—The task force shall make a final report to the Secretary and to the Congress on its activities not later than two years after the date of the enactment of this Act.

(e) DEFINITION.—In this section, the term "technology-dependent child" means a child who has a chronic illness which makes the child dependent upon the continuing use of medical care technology (such as a ventilator).

SEC. 9521. CLARIFICATION OF MEDICAID MORATORIUM PROVISIONS OF DEFICIT REDUCTION ACT OF 1984.

(a) CLARIFICATION.—Section 2373(c) of the Deficit Reduction Act of 1984 is amended—

(1) in paragraph (1)—

(A) by inserting "(whether or not approved)" after "such State's plan",

(B) by inserting "(including any part of the plan operating pursuant to section 1902(f) of that Act), or the operation thereunder," after "Social Security Act", and

(C) by inserting "(or its operation's)" after "such plan's"; and

(2) by adding at the end thereof the following new paragraph:

"(5) In this subsection, a State plan is considered to include any amendment or other change in the plan which is submitted by a State, or for which the Secretary otherwise has notice, whether before or after the date of enactment of the Deficit Reduction Act of 1984 and whether or not the amendment or change was approved, disapproved, acted upon, or not acted upon by the Secretary.".

(b) SALE OF HOME.—Section 2373(c) of the Deficit Reduction Act of 1984 is further amended by adding at the end thereof the following new paragraph:

"(6) During the moratorium period, the Secretary shall implement (and shall not change by any administrative action) the policy in effect at the beginning of such moratorium period with respect to—

"(A) the point in time at which an institutionalized individual must sell his home (in order that it not be counted as a resource); and

"(B) the time period allowed for sale of a home of any such individual,

who is an applicant for or recipient of medical assistance under the State plan as a medically needy individual (described in section 1902(a)(10)(C) of the Social Security Act) or as an optional categorically needy individual (described in section 1902(a)(10)(A)(ii) of such Act).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply as though they were included in the Deficit Reduction Act of 1984 as originally enacted.

SEC. 9522. EXPANSION OF SERVICES UNDER DEMONSTRATION WAIVERS.

In the case of waivers granted to the State of Oregon under section 1915(b) of the Social Security Act, the Secretary of Health and Human Services may waive the requirements of section 1903(m)(2)(A) of such Act with respect to any entity providing services under any such waiver if such entity does not provide more than 5 of the services listed in section 1903(m)(2)(A) of such Act, and does not provide inpatient hospital services.

SEC. 9523. EXTENSION OF TEXAS WAIVER PROJECT.

(a) CONTINUED APPROVAL.—Notwithstanding any limitations contained in section 1115 of the Social Security Act but subject to subsection (b) of this section, the Secretary of Health and Human Services, upon application, shall continue approval of demonstration project number 11-P-97473/6-06 ("Modifications under the Texas System of Care for the Elderly: Alternatives to the Institutionalized Aged"), previously approved under that section, until January 1, 1989.

(b) TERMS AND CONDITIONS.—The Secretary's continued approval of the project under subsection (a)—

(1) shall be on the same terms and conditions as applied to the project as of the date of the enactment of this Act; and

(2) shall remain in effect until such time as the Secretary finds that the applicant no longer complies with such terms and conditions.

SEC. 9524. WISCONSIN HEALTH MAINTENANCE ORGANIZATION WAIVER.

The waiver granted to the State of Wisconsin pursuant to section 1915(b) of the Social Security Act relating to the requirements of section 1903(m) of such Act in conjunction with a waiver of the requirements of section 1902(a)(23) of such Act shall, upon request by the State, be reinstated, and shall be renewable for terms of 2 years, subject to the showings required generally under section 1915(b) of such Act.

SEC. 9525. NEW JERSEY DEMONSTRATION PROJECT RELATING TO TRAINING OF AFDC RECIPIENTS AS HOME HEALTH AIDES.

The Secretary of Health and Human Services shall continue for one additional year the demonstration project conducted by the State of New Jersey pursuant to section 966 of the Omnibus Reconciliation Act of 1980. Federal matching for such demonstration project shall be 50 percent.

SEC. 9526. REFERENCE TO PROVISIONS OF LAW PROVIDING COVERAGE UNDER, OR DIRECTLY AFFECTING, THE MEDICAID PROGRAM.

Title XIX of the Social Security Act is amended by adding at the end thereof the following new section:

"REFERENCES TO LAWS DIRECTLY AFFECTING MEDICAID PROGRAM

"SEC. 1920. (a) AUTHORITY OR REQUIREMENTS TO COVER ADDITIONAL INDIVIDUALS.—For provisions of law which make additional individuals eligible for medical assistance under this title, see the following:

"(1) AFDC.—(A) Section 402(a)(37) of this Act (relating to individuals who lose AFDC eligibility due to increased earnings).

"(B) Section 406(h) of this Act (relating to individuals who lose AFDC eligibility due to increased collection of child or spousal support).

"(C) Section 414(g) of this Act (relating to certain individuals participating in work supplementation programs).

"(2) SSI.—Section 1619 of this Act (relating to benefits for individuals who perform substantial gainful activity despite severe medical impairment).

"(3) FOSTER CARE AND ADOPTION ASSISTANCE.— Section 473(b) of this Act (relating to medical assistance for children in foster care and for adopted children).

"(4) REFUGEE ASSISTANCE.—Section 412(e)(5) of the Immigration and Nationality Act (relating to medical assistance for certain refugees).

"(5) MISCELLANEOUS.—(A) Section 230 of Public Law 93-66 (relating to deeming eligible for medical assistance certain essential persons).

"(B) Section 231 of Public Law 93-66 (relating to deeming eligible for medical assistance certain persons in medical institutions).

"(C) Section 232 of Public Law 93-66 (relating to deeming eligible for medical assistance certain blind and disabled medically indigent persons).

"(D) Section 13(c) of Public Law 93-233 (relating to deeming eligible for medical assistance certain individuals receiving mandatory State supplementary payments).

"(E) Section 503 of Public Law 94-566 (relating to deeming eligible for medical assistance certain individuals who would be eligible for supplemental security income benefits but for cost-of-living increases in social security benefits).

"(b) ADDITIONAL STATE PLAN REQUIREMENTS.—For other provisions of law that establish additional requirements for State plans to be approved under this title, see the following:

"(1) Section 1618 of this Act (relating to requirement for operation of certain State supplementation programs).

"(2) Section 212(a) of Public Law 93-66 (relating to requiring mandatory minimum State supplementation of SSI benefits program).".

SEC. 9527. CHILDREN WITH SPECIAL HEALTH CARE NEEDS.

(a) Section 501(a)(4) of the Social Security Act (42 U.S.C. 701(a)(4)) is amended by striking out "children who are crippled or who are suffering from conditions leading to crippling" and inserting in lieu thereof "children who are 'children with special health care needs' or who are suffering from conditions leading to such status".

(b) Section 501(a) of such Act is amended by striking out "crippled children" in the matter following paragraph (4) and inserting in lieu thereof "children with special health care needs".

(c) Section 501(b)(1)(A) of such Act is amended by striking out "crippled children's services" and inserting in lieu thereof "services for children with special health care needs".

(d) Section 502(a)(2)(B) of such Act is amended—

(1) by striking out "crippled children's programs" and inserting in lieu thereof "programs for children with special health care needs"; and

(2) by striking out "crippled children's services" and inserting in lieu thereof "services for children with special health care needs".

(e) Sections 504(b)(1) and 509(b) of such Act are each amended by striking out "crippled children" and inserting in lieu thereof "children with special health care needs".

Subtitle C—Task Force on Long-Term Health Care Policies

SEC. 9601. RECOMMENDATIONS FOR LONG-TERM HEALTH CARE POLICIES.

(a) ESTABLISHMENT OF TASK FORCE.—(1) The Secretary of Health and Human Services (hereinafter in this section referred to as the "Secretary") shall establish a Task Force on Long-Term Health Care Policies (hereinafter in this section referred to as the "Task Force"). The Task Force shall be established not later than 60 days after the date of the enactment of this Act and in consultation with the National Association of Insurance Commissioners.

(B) COMPOSITION OF TASK FORCE.—The Task Force shall be composed of 18 members, which shall include—

(1) two members representing the National Association of Insurance Commissioners,

(2) three members representing Federal and State agencies with responsibilities relating to health or the elderly,

(3) three members representing private insurers,

(4) three members from organizations representing consumers or the elderly, and

(5) three members from organizations representing providers of long-term health care services.

The Secretary shall designate a member of the Task Force as chair.

(c) DEVELOPMENT OF RECOMMENDATIONS.—The Task Force shall develop recommendations for long-term health care policies, including recommendations designed—

(1) to limit marketing and agent abuse for those policies,

(2) to assure the dissemination of such information to consumers as is necessary to permit informed choice in purchasing the policies and to reduce the purchase of unnecessary or duplicative coverage,

(3) to assure that benefits provided under the policies are reasonable in relationship to premiums charged, and

(4) to promote the development and availability of long-term health care policies which meet these recommendations.

(d) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Task Force shall report to the Secretary, to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate respecting—

(1) the recommendations developed under subsection (c), including an explanation of the reasons for their selection, and

(2) such recommendations for additional activities respecting long-term health care policies as the Task Force finds appropriate. The Secretary, in cooperation with the National Association of Insurance Commissioners, shall provide for the dissemination of the report to each of the States.

(e) TERMINATION OF TASK FORCE.—The Task Force shall terminate 90 days after the date of submission of the report required under subsection (d).

(f) REPORTS OF SECRETARY.—The Secretary shall transmit to the Committee on Energy and Commerce of the House of Representatives and to the Committee on Labor and Human Resources of the Senate two reports on—

(1) actions taken by the States to implement the recommendations developed under this section and to recommend additional action; and

(2) recommendations for legislative and administrative action, if any, needed to respond to issues raised by the Task Force or to improve consumer protection with respect to long-term health care policies.

The first report shall be transmitted 18 months after the date the report is made under subsection (d), and the second report shall be transmitted 18 months later.

(g) LONG-TERM HEALTH CARE POLICY DEFINED.—In this section, the term "long-term health care policy" means an insurance policy, or similar health benefits plan, which is designed for or marketed as providing (or making payments for) health care services (such as nursing home care and home health care) or related services (which may include home and community-based services), or both, over an extended period of time.

(h) ASSURANCE OF STATES' JURISDICTION.—Nothing in this section shall be construed as recommending Federal preemption of the States in overseeing the operation and regulation of insurance carriers in their respective jurisdictions.

SEC. 9528. ANNUAL CALCULATION OF FEDERAL MEDICAL ASSISTANCE PERCENTAGE.

(a) ANNUAL CALCULATION.—Section 1101(a)(8)(P) of the Social Security Act is amended—

(1) by striking out "even-numbered"; and

(2) by striking out "eight quarters" and inserting in lieu thereof "four quarters".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to the Federal percentage (and Federal medical assistance percentage) for fiscal years 1987 and thereafter. Such amendments shall apply without regard to the requirement of section 1101(a)(8)(B) of the Social Security Act relating to the promulgation of the Federal percentage prior to November 30 of the year preceding the year in which the new Federal percentage becomes applicable. The Secretary of Health and Human Services shall promulgate such new percentage for fiscal year 1987 as soon as practicable after the date of the enactment of this Act.

SEC. 9529. MEDICAID COVERAGE RELATING TO ADOPTION ASSISTANCE AND FOSTER CARE.

(a) STATE OF RESIDENCE.—(1) Section 1902(b) of the Social Security Act (42 U.S.C. 1396a(b)) is amended by adding at the end thereof the following:

"For purposes of this title, any individual receiving aid or assistance under any plan of a State approved under part E of title IV shall be deemed to be receiving such aid or assistance from the State in which the individual actually resides.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to medical assistance furnished on or after the first calendar quarter that begins more than 90 days after the date of the enactment of this Act.

(b) ELIGIBILITY OF CERTAIN ADOPTED CHILDREN.—(1) Section 1902(a)(10)(A)(ii) of the Social Security Act, as amended by section 9505 of this Act, is amended—

(A) by striking out "or" at the end of subclause (VI);

(B) by striking out the semicolon at the end of subclause (VII) and inserting in lieu thereof ", or"; and

(C) by adding after subclause (VII) the following new subclause:

"(VIII) who is a child described in section 1905(a)(i)—

"(aa) for whom there is in effect an adoption assistance agreement (other than an agreement under part I of title IV) between the State and an adoptive parent or parents,

"(bb) who the State agency responsible for adoption assistance has determined cannot be placed with adoptive parents without medical assistance because such child has special needs for medical or rehabilitative care, and

"(cc) who was eligible for medical assistance under the State plan prior to the adoption assistance agreement being entered into, or who would have been eligible for medical assistance at such time if the eligibility standards and methodologies of the State's foster care program under part E of title IV were applied rather than the eligibility standards and methodologies of the State's aid to families with dependent children program under part A of title IV;".

(2) In the case of an adoption assistance agreement (other than an agreement under part E of title IV of the Social Security Act) entered into before the date of the enactment of this Act—

(A) the requirements of subdivisions (aa) and (bb) of section 1902(a)(10)(A)(ii)(VIII) of the Social Security Act shall be deemed to be met if the State agency responsible for adoption assistance agreements determines that—

(i) at the time of adoptive placement the child had special needs for medical or rehabilitative care that made the child difficult to place; and

(ii) there is in effect with respect to such child an adoption assistance agreement between the State and an adoptive parent or parents; and

(B) the requirement of subdivision (cc) of such section shall be deemed to be met if the child was found by the State to be eligible for medical assistance prior to such agreement being entered into.

(3) This subsection, and the amendments made by this subsection, shall apply to adoption assistance agreements entered into before, on, or after the date of the enactment of this Act.

TITLE X—PRIVATE HEALTH INSURANCE COVERAGE

SEC. 10001. EMPLOYERS REQUIRED TO PROVIDE CERTAIN EMPLOYEES AND FAMILY MEMBERS WITH CONTINUED HEALTH INSURANCE COVERAGE AT GROUP RATES (INTERNAL REVENUE CODE AMENDMENTS).

(a) Denial of Deduction for Employer Contribution to Plan.—Subsection (i) of section 162 of the Internal Revenue Code of 1954 (relating to deduction for trade or business expenses with respect to group health plans) is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

"(2) Plans must provide continuation coverage to certain individuals.—

"(A) In general.—No deduction shall be allowed under this section for expenses paid or incurred by an employer for any group health plan maintained by such employer unless all such plans maintained by such employer meet the continuing coverage requirements of subsection (k).

"(B) Exception for certain small employers, etc.—Subparagraph (A) shall not apply to any plan described in section 106(b)(2).".

(b) Denial of Exclusion for Highly Compensated Individuals.—Section 106 of the Internal Revenue Code of 1954 (relating to contributions by employer to accident and health plans) is amended by inserting "(a) In General.—" before "Gross" and by inserting at the end thereof the following new subsection:

"(b) Exception for Highly Compensated Individuals Where Plan Fails To Provide Certain Continuation Coverage.—

"(1) In general.—Subsection (a) shall not apply to any amount contributed by an employer on behalf of a highly compensated individual (within the meaning of section 105(h)(5)) to a group health plan maintained by such employer unless all such plans maintained by such employer meet the continuing coverage requirements of section 162(k).

"(2) Exception for certain plans.—Paragraph (1) shall not apply to any—

"(A) group health plan for any calendar year if all employers maintaining such plan normally employed fewer than 20 employees on a typical business day during the preceding calendar year,

"(B) governmental plan (within the meaning of section 414(d)), or

"(C) church plan (within the meaning of section 414(e)).

Under regulations, rules similar to the rules of subsections (a) and (b) of section 52 (relating to employers under common control) shall apply for purposes of subparagraph (A).

"(3) Group health plan.—For purposes of this subsection, the term 'group health plan' has the meaning given such term by section 162(i)(3).".

(c) Continuation Coverage Requirements.—Section 162 of the Internal Revenue Code of 1954 is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) Continuation Coverage Requirements of Group Health Plans.—

"(1) In general.—For purposes of subsection (i)(2) and section 106(b)(1), a group health plan meets the requirements of this subsection only if each qualified beneficiary who would lose coverage under the plan as a result of a qualifying event is entitled to elect, within the election period, continuation coverage under the plan.

"(2) Continuation coverage.—For purposes of paragraph (1), the term 'continuation coverage' means coverage under the plan which meets the following requirements:

"(A) Type of benefit coverage.—The coverage must consist of coverage which, as of the time the coverage is being provided, is identical to the coverage provided under the plan to similarly situated beneficiaries under the plan with respect to whom a qualifying event has not occurred.

"(B) Period of coverage.—The coverage must extend for at least the period beginning on the date of the qualifying event and ending not earlier than the earliest of the following:

"(i) Maximum period.—In the case of—

"(I) a qualifying event described in paragraph (3)(B) (relating to terminations and reduced hours), the date which is 18 months after the date of the qualifying event, and

"(II) any qualifying event not described in subclause (I), the date which is 36 months after the date of the qualifying event.

"(ii) End of plan.—The date on which the employer ceases to provide any group health plan to any employee.

"(iii) Failure to pay premium.—The date on which coverage ceases under the plan by reason of a failure to make timely payment of any premium required under the plan with respect to the qualified beneficiary.

"(iv) Reemployment or medicare eligibility.—The date on which the qualified beneficiary first becomes, after the date of the election—

"(I) a covered employee under any other group health plan, or

"(II) entitled to benefits under title XVIII of the Social Security Act.

"(v) Remarriage of spouse.—In the case of an individual who is a qualified beneficiary by reason of being the spouse of a covered employee, the date on which the beneficiary remarries and becomes covered under a group health plan.

"(C) Premium requirements.—The plan may require payment of a premium for any period of continuation coverage, except that such premium—

"(i) shall not exceed 102 percent of the applicable premium for such period, and

"(ii) may, at the election of the payor, be made in monthly installments.

If an election is made after the qualifying event, the plan shall permit payment for continuation coverage during the period preceding the election to be made within 45 days of the date of the election.

"(D) No requirement of insurability.—The coverage may not be conditioned upon, or discriminate on the basis of lack of, evidence of insurability.

"(E) Conversion option.—In the case of a qualified beneficiary whose period of continuation coverage expires under subparagraph (B)(i), the plan must, during the 180-day period ending on such expiration date, provide to the qualified beneficiary the option of enrollment under a conversion health plan otherwise generally available under the plan.

"(3) Qualifying event.—For purposes of this subsection, the term 'qualifying event' means, with respect to any covered employee, any of the following events which, but for the continuation coverage required under this subsection, would result in the loss of coverage of a qualified beneficiary:

"(A) The death of the covered employee.

"(B) The termination (other than by reason of such employee's gross misconduct), or reduction of hours, of the covered employee's employment.

"(C) The divorce or legal separation of the covered employee from the employee's spouse.

"(D) The covered employee becoming entitled to benefits under title XVIII of the Social Security Act.

"(E) A dependent child ceasing to be a dependent child under the generally applicable requirements of the plan.

"(4) Applicable premium.—For purposes of this subsection—

"(A) In general.—The term 'applicable premium' means, with respect to any period of continuation coverage of qualified beneficiaries, the cost to the plan for such period of the coverage for similarly situated beneficiaries with respect to whom a qualifying event has not occurred (without regard to whether such cost is paid by the employer or employee).

"(B) Special rule for self-insured plans.—To the extent that a plan is a self-insured plan—

"(i) In general.—Except as provided in clause (ii), the applicable premium for any period of continuation coverage of qualified beneficiaries shall be equal to a reasonable estimate of the cost of providing coverage for such period for similarly situated beneficiaries which—

"(I) is determined on an actuarial basis, and

"(II) takes into account such factors as the Secretary may prescribe in regulations.

"(ii) Determination on basis of past cost.—If a plan administrator elects to have this clause apply, the applicable premium for any period of continuation coverage of qualified beneficiaries shall be equal to—

"(I) the cost to the plan for similarly situated beneficiaries for the same period occurring during the preceding determination period under subparagraph (C), adjusted by

"(II) the percentage increase or decrease in the implicit price deflator of the gross national product (calculated by the Department of Commerce and published in the Survey of Current Business) for the 12-month period ending on the last day of the sixth month of such preceding determination period.

"(iii) CLAUSE (ii) NOT TO APPLY WHERE SIGNIFICANT CHANGE.—A plan administrator may not elect to have clause (ii) apply in any case in which there is any significant difference, between the determination period and the preceding determination period, in coverage under, or in employees covered by, the plan. The determination under the preceding sentence for any determination period shall be made at the same time as the determination under subparagraph (C).

"(C) DETERMINATION PERIOD.—The determination of any applicable premium shall be made for a period of 12 months and shall be made before the beginning of such period.

"(5) ELECTION.—For purposes of this subsection—

"(A) ELECTION PERIOD.—The term 'election period' means the period which—

"(i) begins not later than the date on which coverage terminates under the plan by reason of a qualifying event,

"(ii) is of at least 60 days' duration, and

"(iii) ends not earlier than 60 days after the later of—

"(I) the date described in clause (i), or

"(II) in the case of any qualified beneficiary who receives notice under paragraph (6)(D), the date of such notice.

"(B) EFFECT OF ELECTION ON OTHER BENEFICIARIES.—Except as otherwise specified in an election, any election by a qualified beneficiary described in clause (i)(I) or (ii) of paragraph (7)(B) shall be deemed to include an election of continuation coverage on behalf of any other qualified beneficiary who would lose coverage under the plan by reason of the qualifying event.

"(6) NOTICE REQUIREMENTS.—In accordance with regulations prescribed by the Secretary—

"(A) the group health plan shall provide, at the time of commencement of coverage under the plan, written notice to each covered employee and spouse of the employee (if any) of the rights provided under this subsection,

"(B) the employer of an employee under a plan must notify the plan administrator of a qualifying event described in subparagraph (A), (B), or (D) of paragraph (3) with respect to such employee within 30 days of the date of the qualifying event,

"(C) each covered employee or qualified beneficiary is responsible for notifying the plan administrator of the occurrence of any qualifying event described in subparagraph (C) or (E) of paragraph (3), and

"(D) the plan administrator shall notify—

"(i) in the case of a qualifying event described in subparagraph (A), (B), or (D) of paragraph (3), any qualified beneficiary with respect to such event, and

"(ii) in the case of a qualifying event described in subparagraph (C) or (E) of paragraph (3) where the covered employee notifies the plan administrator under subparagraph (C), any qualified beneficiary with respect to such event,

of such beneficiary's rights under this subsection.

For purposes of subparagraph (D), any notification shall be made within 14 days of the date on which the plan administrator is notified under subparagraph (B) or (C), whichever is applicable, and any such notification to an individual who is a qualified beneficiary as the spouse of the covered employee shall be treated as notification to all other qualified beneficiaries residing with such spouse at the time such notification is made.

"(7) DEFINITIONS.—For purposes of this subsection—

"(A) COVERED EMPLOYEE.—The term 'covered employee' means an individual who is (or was) provided coverage under a group health plan by virtue of the individual's employment or previous employment with an employer.

"(B) QUALIFIED BENEFICIARY.—

"(i) IN GENERAL.—The term 'qualified beneficiary' means, with respect to a covered employee under a group health plan, any other individual who, on the day before the qualifying event for that employee, is a beneficiary under the plan—

"(I) as the spouse of the covered employee, or

"(II) as the dependent child of the employee.

"(ii) SPECIAL RULE FOR TERMINATIONS AND REDUCED EMPLOYMENT.—In the case of a qualifying event described in paragraph (3)(B), the term 'qualified beneficiary' includes the covered employee.

"(C) PLAN ADMINISTRATOR.—The term 'plan administrator' has the meaning given the term 'administrator' by section 3(16)(A) of the Employee Retirement Income Security Act of 1974.".

(d) CONFORMING AMENDMENT.—Paragraph (1) of section 162(i) is amended by striking out "GENERAL RULE" in the heading thereof and inserting in lieu thereof "COVERAGE RELATING TO END STAGE RENAL DISEASE".

(e) EFFECTIVE DATES.—

(1) GENERAL RULE.—The amendments made by this section shall apply to plan years beginning on or after July 1, 1986.

(2) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of the enactment of this Act, the amendments made by this section shall not apply to plan years beginning before the later of—

(A) the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act), or

(B) January 1, 1987.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section shall not be treated as a termination of such collective bargaining agreement.

SEC. 10002. TEMPORARY EXTENSION OF COVERAGE AT GROUP RATES FOR CERTAIN EMPLOYEES AND FAMILY MEMBERS (ERISA AMENDMENTS).

(a) IN GENERAL.—Subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding at the end thereof the following new part:

"PART 6—CONTINUATION COVERAGE UNDER GROUP HEALTH PLANS

"SEC. 601. PLANS MUST PROVIDE CONTINUATION COVERAGE TO CERTAIN INDIVIDUALS.

"(a) IN GENERAL.—The plan sponsor of each group health plan shall provide, in accordance with this part, that each qualified beneficiary who would lose coverage under the plan as a result of a qualifying event is entitled, under the plan, to elect, within the election period, continuation coverage under the plan.

"(b) EXCEPTION FOR CERTAIN PLANS.—Subsection (a) shall not apply to any group health plan for any calendar year if all employers maintaining such plan normally employed fewer than 20 employees on a typical business day during the preceding calendar year. Under regulations, rules similar to the rules of subsections (a) and (b) of section 52 of the Internal Revenue Code of 1954 (relating to employers under common control) shall apply for purposes of this subsection.

"SEC. 602. CONTINUATION COVERAGE.

"For purposes of section 601, the term 'continuation coverage' means coverage under the plan which meets the following requirements:

"(1) TYPE OF BENEFIT COVERAGE.—The coverage must consist of coverage which, as of the time the coverage is being provided, is identical to the coverage provided under the plan to similarly situated beneficiaries under the plan with respect to whom a qualifying event has not occurred.

"(2) PERIOD OF COVERAGE.—The coverage must extend for at least the period beginning on the date of the qualifying event and ending not earlier than the earliest of the following:

"(A) MAXIMUM PERIOD.—In the case of—

"(i) a qualifying event described in section 603(2) (relating to terminations and reduced hours), the date which is 18 months after the date of the qualifying event, and

"(ii) any qualifying event not described in clause (i), the date which is 36 months after the date of the qualifying event.

"(B) END OF PLAN.—The date on which the employer ceases to provide any group health plan to any employee.

"(C) FAILURE TO PAY PREMIUM.—The date on which coverage ceases under the plan by reason of a failure to make timely payment of any premium required under the plan with respect to the qualified beneficiary.

"(D) REEMPLOYMENT OR MEDICARE ELIGIBILITY.—The date on which the qualified beneficiary first becomes, after the date of the election—

"(i) a covered employee under any other group health plan, or

"(ii) entitled to benefits under title XVIII of the Social Security Act.

"(E) REMARRIAGE OF SPOUSE.—In the case of an individual who is a qualified beneficiary by reason of being the spouse of a covered employee, the date on which the beneficiary remarries and becomes covered under a group health plan.

"(3) PREMIUM REQUIREMENTS.—The plan may require payment of a premium for any period of continuation coverage, except that such premium—

"(A) shall not exceed 102 percent of the applicable premium for such period, and

"(B) may, at the election of the payor, be made in monthly installments.

If an election is made after the qualifying event, the plan shall permit payment for continuation coverage during the period preceding the election to be made within 45 days of the date of the election.

"(4) NO REQUIREMENT OF INSURABILITY.—The coverage may not be conditioned upon, or discriminate on the basis of lack of, evidence of insurability.

"(5) CONVERSION OPTION.—In the case of a qualified beneficiary whose period of continuation coverage expires under paragraph

(2)(A), the plan must, during the 180-day period ending on such expiration date, provide to the qualified beneficiary the option of enrollment under a conversion health plan otherwise generally available under the plan.

"SEC. 603. QUALIFYING EVENT.

"For purposes of this part, the term 'qualifying event' means, with respect to any covered employee, any of the following events which, but for the continuation coverage required under this part, would result in the loss of coverage of a qualified beneficiary:

"(1) The death of the covered employee.

"(2) The termination (other than by reason of such employee's gross misconduct), or reduction of hours, of the covered employee's employment.

"(3) The divorce or legal separation of the covered employee from the employee's spouse.

"(4) The covered employee becoming entitled to benefits under title XVIII of the Social Security Act.

"(5) A dependent child ceasing to be a dependent child under the generally applicable requirements of the plan.

"SEC. 604. APPLICABLE PREMIUM.

"For purposes of this part—

"(1) IN GENERAL.—The term 'applicable premium' means, with respect to any period of continuation coverage of qualified beneficiaries, the cost to the plan for such period of the coverage for similarly situated beneficiaries with respect to whom a qualifying event has not occurred (without regard to whether such cost is paid by the employer or employee).

"(2) SPECIAL RULE FOR SELF-INSURED PLANS.—To the extent that a plan is a self-insured plan—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the applicable premium for any period of continuation coverage of qualified beneficiaries shall be equal to a reasonable estimate of the cost of providing coverage for such period for similarly situated beneficiaries which—

"(i) is determined on an actuarial basis, and

"(ii) takes into account such factors as the Secretary may prescribe in regulations.

"(B) DETERMINATION ON BASIS OF PAST COST.—If an administrator elects to have this subparagraph apply, the applicable premium for any period of continuation coverage of qualified beneficiaries shall be equal to—

"(i) the cost to the plan for similarly situated beneficiaries for the same period occurring during the preceding determination period under paragraph (3), adjusted by

"(ii) the percentage increase or decrease in the implicit price deflator of the gross national product (calculated by the Department of Commerce and published in the Survey of Current Business) for the 12-month period ending on the last day of the sixth month of such preceding determination period.

"(C) SUBPARAGRAPH (B) NOT TO APPLY WHERE SIGNIFICANT CHANGE.—An administrator may not elect to have subparagraph (B) apply in any case in which there is any significant difference, between the determination period and the preceding determination period, in coverage under, or in employees covered by, the plan. The determination under the preceding sentence for any determination period shall be made at the same time as the determination under paragraph (3).

"(3) DETERMINATION PERIOD.—The determination of any applicable premium shall be made for a period of 12 months and shall be made before the beginning of such period.

"SEC. 605. ELECTION.

"For purposes of this part—

"(1) ELECTION PERIOD.—The term 'election period' means the period which—

"(A) begins not later than the date on which coverage terminates under the plan by reason of a qualifying event,

"(B) is of at least 60 days' duration, and

"(C) ends not earlier than 60 days after the later of—

"(i) the date described in subparagraph (A), or

"(ii) in the case of any qualified beneficiary who receives notice under section 606(4), the date of such notice.

"(2) EFFECT OF ELECTION ON OTHER BENEFICIARIES.—Except as otherwise specified in an election, any election by a qualified beneficiary described in subparagraph (A)(i) or (B) of section 607(3) shall be deemed to include an election of continuation coverage on behalf of any other qualified beneficiary who would lose coverage under the plan by reason of the qualifying event.

"SEC. 606. NOTICE REQUIREMENTS.

"In accordance with regulations prescribed by the Secretary—

"(1) the group health plan shall provide, at the time of commencement of coverage under the plan, written notice to each covered employee and spouse of the employee (if any) of the rights provided under this subsection,

"(2) the employer of an employee under a plan must notify the administrator of a qualifying event described in paragraph (1), (2), or (4) of section 603 within 30 days of the date of the qualifying event,

"(3) each covered employee or qualified beneficiary is responsible for notifying the administrator of the occurrence of any qualifying event described in paragraph (3) or (5) of section 603, and

"(4) the administrator shall notify—

"(A) in the case of a qualifying event described in paragraph (1), (2), or (4) of section 603, any qualified beneficiary with respect to such event, and

"(B) in the case of a qualifying event described in paragraph (3) or (5) of section 603 where the covered employee notifies the administrator under paragraph (3), any qualified beneficiary with respect to such event,

of such beneficiary's rights under this subsection.

For purposes of paragraph (4), any notification shall be made within 14 days of the date on which the administrator is notified under paragraph (2) or (3), whichever is applicable, and any such notification to an individual who is a qualified beneficiary as the spouse of the covered employee shall be treated as notification to all other qualified beneficiaries residing with such spouse at the time such notification is made.

"SEC. 607. DEFINITIONS.

"For purposes of this part—

"(1) GROUP HEALTH PLAN.—The term 'group health plan' means an employee welfare benefit plan that is a group health plan (within the meaning of section 162(i)(3) of the Internal Revenue Code of 1954).

"(2) COVERED EMPLOYEE.—The term 'covered employee' means an individual who is (or was) provided coverage under a group health plan by virtue of the individual's employment or previous employment with an employer.

"(3) QUALIFIED BENEFICIARY.—

"(A) IN GENERAL.—The term 'qualified beneficiary' means, with respect to a covered employee under a group health plan, any other individual who, on the day before the qualifying event for that employee, is a beneficiary under the plan—

"(i) as the spouse of the covered employee, or

"(ii) as the dependent child of the employee.

"(B) SPECIAL RULE FOR TERMINATIONS AND REDUCED EMPLOYMENT.—In the case of a qualifying event described in section 603(2), the term 'qualified beneficiary' includes the covered employee.".

"SEC. 608. REGULATIONS.

"The Secretary may prescribe regulations to carry out the provisions of this part.".

(b) PENALTY FOR FAILURE TO PROVIDE NOTICE.—Section 502(c) of such Act (29 U.S.C. 1132(c)) is amended by inserting after "Any administrator" the following: "(1) who fails to meet the requirements of paragraph (1) or (4) of section 606 with respect to a participant or beneficiary, or (2)".

(c) CLERICAL AMENDMENTS.—The table of contents in section 1 of such Act is amended by inserting after the item relating to section 514 the following new items:

"PART 6—CONTINUATION COVERAGE UNDER GROUP HEALTH PLANS

"Sec. 601. Plans must provide continuation coverage to certain individuals.
"Sec. 602. Continuation coverage.
"Sec. 603. Qualifying event.
"Sec. 604. Applicable premium.
"Sec. 605. Election.
"Sec. 606. Notice requirements.
"Sec. 607. Definitions.
"Sec. 608. Regulations.".

(d) EFFECTIVE DATES.—

(1) GENERAL RULE.—The amendments made by this section shall apply to plan years beginning on or after July 1, 1986.

(2) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of the enactment of this Act, the amendments made by this section shall not apply to plan years beginning before the later of—

(A) the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act), or

(B) January 1, 1987.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section shall not be treated as a termination of such collective bargaining agreement.

(e) NOTIFICATION TO COVERED EMPLOYEES.—At the time that the amendments made by this section apply to a group health plan (within the meaning of section 607(1) of the Employee Retirement Income Security Act of 1974), the plan shall notify each covered employee, and spouse of the employee (if any), who is covered under the plan at that time of the continuation coverage required under part 6 of subtitle B of title I of such Act. The notice furnished under this subsection is in lieu of notice that may otherwise be required under section 606(1) of such Act with respect to such individuals.

SEC. 10003. CONTINUATION OF HEALTH INSURANCE FOR STATE AND LOCAL EMPLOYEES WHO LOST EMPLOYMENT-RELATED COVERAGE (PUBLIC HEALTH SERVICE ACT AMENDMENTS).

(a) IN GENERAL.—The Public Health Service Act is amended by adding at the end the following new title:

"TITLE XXII—REQUIREMENTS FOR CERTAIN GROUP HEALTH PLANS FOR CERTAIN STATE AND LOCAL EMPLOYEES

"SEC. 2201. STATE AND LOCAL GOVERNMENTAL GROUP HEALTH PLANS MUST PROVIDE CONTINUATION COVERAGE TO CERTAIN INDIVIDUALS.

"(a) IN GENERAL.—In accordance with regulations which the Secretary shall prescribe, each group health plan that is maintained by any State that receives funds under this Act, by any political subdivision of such a State, or by any agency or instrumentality of such a State or political subdivision, shall provide, in accordance with this title, that each qualified beneficiary who would lose coverage under the plan as a result of a qualifying event is entitled, under the plan, to elect, within the election period, continuation coverage under the plan.

"(b) EXCEPTION FOR CERTAIN PLANS.—Subsection (a) shall not apply to—

"(1) any group health plan for any calendar year if all employers maintaining such plan normally employed fewer than 20 employees on a typical business day during the preceding calendar year, or

"(2) any group health plan maintained for employees by the government of the District of Columbia or any territory or possession of the United States or any agency or instrumentality.

Under regulations, rules similar to the rules of subsections (a) and (b) of section 52 of the Internal Revenue Code of 1954 (relating to employers under common control) shall apply for purposes of paragraph (1).

"SEC. 2202. CONTINUATION COVERAGE.

"For purposes of section 2201, the term 'continuation coverage' means coverage under the plan which meets the following requirements:

"(1) TYPE OF BENEFIT COVERAGE.—The coverage must consist of coverage which, as of the time the coverage is being provided, is identical to the coverage provided under the plan to similarly situated beneficiaries under the plan with respect to whom a qualifying event has not occurred.

"(2) PERIOD OF COVERAGE.—The coverage must extend for at least the period beginning on the date of the qualifying event and ending not earlier than the earliest of the following:

"(A) MAXIMUM PERIOD.—In the case of—

"(i) a qualifying event described in section 2203(2) (relating to terminations and reduced hours), the date which is 18 months after the date of the qualifying event, and

"(ii) any qualifying event not described in clause (i), the date which is 36 months after the date of the qualifying event.

"(B) END OF PLAN.—The date on which the employer ceases to provide any group health plan to any employee.

"(C) FAILURE TO PAY PREMIUM.—The date on which coverage ceases under the plan by reason of a failure to make timely payment of any premium required under the plan with respect to the qualified beneficiary.

"(D) REEMPLOYMENT OR MEDICARE ELIGIBILITY.—The date on which the qualified beneficiary first becomes, after the date of the election—

"(i) a covered employee under any other group health plan, or

"(ii) entitled to benefits under title XVIII of the Social Security Act.

"(E) REMARRIAGE OF SPOUSE.—In the case of an individual who is a qualified beneficiary by reason of being the spouse of a covered employee, the date on which the beneficiary remarries and becomes covered under a group health plan.

"(3) PREMIUM REQUIREMENTS.—The plan may require payment of a premium for any period of continuation coverage, except that such premium—

"(A) shall not exceed 102 percent of the applicable premium for such period, and

"(B) may, at the election of the payor, be made in monthly installments.

If an election is made after the qualifying event, the plan shall permit payment for continuation coverage during the period preceding the election to be made within 45 days of the date of the election.

"(4) NO REQUIREMENT OF INSURABILITY.—The coverage may not be conditioned upon, or discriminate on the basis of lack of, evidence of insurability.

"(5) CONVERSION OPTION.—In the case of a qualified beneficiary whose period of continuation coverage expires under paragraph (2)(A), the plan must, during the 180-day period ending on such expiration date, provide to the qualified beneficiary the option of enrollment under a conversion health plan otherwise generally available under the plan.

"SEC. 2203. QUALIFYING EVENT.

"For purposes of this title, the term 'qualifying event' means, with respect to any covered employee, any of the following events which, but for the continuation coverage required under this title, would result in the loss of coverage of a qualified beneficiary:

"(1) The death of the covered employee.

"(2) The termination (other than by reason of such employee's gross misconduct), or reduction of hours, of the covered employee's employment.

"(3) The divorce or legal separation of the covered employee from the employee's spouse.

"(4) The covered employee becoming entitled to benefits under title XVIII of the Social Security Act.

"(5) A dependent child ceasing to be a dependent child under the generally applicable requirements of the plan.

"SEC. 2204. APPLICABLE PREMIUM.

"For purposes of this title—

"(1) IN GENERAL.—The term 'applicable premium' means, with respect to any period of continuation coverage of qualified beneficiaries, the cost to the plan for such period of the coverage for similarly situated beneficiaries with respect to whom a qualifying event has not occurred (without regard to whether such cost is paid by the employer or employee).

"(2) SPECIAL RULE FOR SELF-INSURED PLANS.—To the extent that a plan is a self-insured plan—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the applicable premium for any period of continuation coverage of qualified beneficiaries shall be equal to a reasonable estimate of the cost of providing coverage for such period for similarly situated beneficiaries which—

"(i) is determined on an actuarial basis, and

"(ii) takes into account such factors as the Secretary may prescribe in regulations.

"(B) DETERMINATION ON BASIS OF PAST COST.—If a plan administrator elects to have this subparagraph apply, the applicable premium for any period of continuation coverage of qualified beneficiaries shall be equal to—

"(i) the cost to the plan for similarly situated beneficiaries for the same period occurring during the preceding determination period under paragraph (3), adjusted by

"(ii) the percentage increase or decrease in the implicit price deflator of the gross national product (calculated by the Department of Commerce and published in the Survey of Current Business) for the 12-month period ending on the last day of the sixth month of such preceding determination period.

"(C) SUBPARAGRAPH (B) NOT TO APPLY WHERE SIGNIFICANT CHANGE.—A plan administrator may not elect to have subparagraph (B) apply in any case in which there is any significant difference, between the determination period and the preceding determination period, in coverage under, or in employees covered by, the plan. The determination under the preceding sentence for any determination period shall be made at the same time as the determination under paragraph (3).

"(3) DETERMINATION PERIOD.—The determination of any applicable premium shall be made for a period of 12 months and shall be made before the beginning of such period.

"SEC. 2205. ELECTION.

"For purposes of this title—

"(1) ELECTION PERIOD.—The term 'election period' means the period which—

"(A) begins not later than the date on which coverage terminates under the plan by reason of a qualifying event,

"(B) is of at least 60 days' duration, and

"(C) ends not earlier than 60 days after the later of—

"(i) the date described in subparagraph (A), or

"(ii) in the case of any qualified beneficiary who receives notice under section 2206(4), the date of such notice.

"(2) EFFECT OF ELECTION ON OTHER BENEFICIARIES.—Except as otherwise specified in an election, any election by a qualified beneficiary described in subparagraph (A)(i) or (B) of section 2208(3) shall be deemed to include an election of continuation coverage on behalf of any other qualified beneficiary who would lose coverage under the plan by reason of the qualifying event.

"SEC. 2206. NOTICE REQUIREMENTS.

"In accordance with regulations prescribed by the Secretary—

"(1) the group health plan shall provide, at the time of commencement of coverage under the plan, written notice to each covered employee and spouse of the employee (if any) of the rights provided under this subsection,

"(2) the employer of an employee under a plan must notify the plan administrator of a qualifying event described in paragraph (1), (2), or (4) of section 2203 within 30 days of the date of the qualifying event,

"(3) each covered employee or qualified beneficiary is responsible for notifying the plan administrator of the occurrence of any qualifying event described in paragraph (3) or (5) of section 2203, and

"(4) the plan administrator shall notify—

"(A) in the case of a qualifying event described in paragraph (1), (2), or (4) of section 2203, any qualified beneficiary with respect to such event, and

"(B) in the case of a qualifying event described in paragraph (3) or (5) of section 2203 where the covered employee notifies the plan administrator under paragraph (3), any qualified beneficiary with respect to such event,

of such beneficiary's rights under this subsection.

For purposes of paragraph (4), any notification shall be made within 14 days of the date on which the plan administrator is notified under paragraph (2) or (3), whichever is applicable, and any such notification to an individual who is a qualified beneficiary as the spouse of the covered employee shall be treated as notification to all other qualified beneficiaries residing with such spouse at the time such notification is made.

"SEC. 2207. ENFORCEMENT.

"Any individual who is aggrieved by the failure of a State, political subdivision, or agency or instrumentality thereof, to comply with the requirements of this title may bring an action for appropriate equitable relief.

"SEC. 2208. DEFINITIONS.

"For purposes of this title—

"(1) GROUP HEALTH PLAN.—The term 'group health plan' has the meaning given such term in section 162(i)(3) of the Internal Revenue Code of 1954.

"(2) COVERED EMPLOYEE.—The term 'covered employee' means an individual who is (or was) provided coverage under a group health plan by virtue of the individual's employment or previous employment with an employer.

"(3) QUALIFIED BENEFICIARY.—

"(A) IN GENERAL.—The term 'qualified beneficiary' means, with respect to a covered employee under a group health plan, any other individual who, on the day before the qualifying event for that employee, is a beneficiary under the plan—

"(i) as the spouse of the covered employee, or

"(ii) as the dependent child of the employee.

"(B) SPECIAL RULE FOR TERMINATIONS AND REDUCED EMPLOYMENT.—In the case of a qualifying event described in section 2203(2), the term 'qualified beneficiary' includes the covered employee.

"(4) PLAN ADMINISTRATOR.—The term 'plan administrator' has the meaning given the term 'administrator' by section 3(16)(A) of the Employee Retirement Income Security Act of 1974."

(b) EFFECTIVE DATES.—

(1) GENERAL RULE.—The amendments made by this section shall apply to plan years beginning on or after July 1, 1986.

(2) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of the enactment of this Act, the amendments made by this section shall not apply to plan years beginning before the later of—

(A) the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act), or

(B) January 1, 1987.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section shall not be treated as a termination of such collective bargaining agreement.

(c) NOTIFICATION TO COVERED EMPLOYEES.—At the time that the amendments made by this section apply to a group health plan (covered under section 2201 of the Public Health Service Act), the plan shall notify each covered employee, and spouse of the employee (if any), who is covered under the plan at that time of the continuation coverage required under title XXII of such Act. The notice furnished under this subsection is in lieu of notice that may otherwise be required under section 2206(1) of such Act with respect to such individuals.

TITLE XI—SINGLE-EMPLOYER PLAN TERMINATION INSURANCE SYSTEM AMENDMENTS

SEC. 11001. SHORT TITLE AND TABLE OF CONTENTS.

This title may be cited as "Single-Employer Pension Plan Amendments Act of 1985".

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SEC. 11002. FINDINGS AND DECLARATION OF POLICY.

(a) FINDINGS.—The Congress finds that—

(1) single-employer defined benefit pension plans have a substantial impact on interstate commerce and are affected with a national interest;

(2) the continued well-being and retirement income security of millions of workers, retirees, and their dependents are directly affected by such plans;

(3) the existence of a sound termination insurance system is fundamental to the retirement income security of participants and beneficiaries of such plans; and

(4) the current termination insurance system in some instances encourages employers to terminate pension plans, evade their obligations to pay benefits, and shift unfunded pension liabilities onto the termination insurance system and the other premium-payers.

(b) ADDITIONAL FINDINGS.—The Congress further finds that modification of the current termination insurance system and an increase in the insurance premium for single-employer defined benefit pension plans—

(1) is desirable to increase the likelihood that full benefits will be paid to participants and beneficiaries of such plans;

(2) is desirable to provide for the transfer of liabilities to the termination insurance system only in cases of severe hardship;

(3) is necessary to maintain the premium costs of such system at a reasonable level; and

(4) is necessary to finance properly current funding deficiencies and future obligations of the single-employer pension plan termination insurance system.

(c) DECLARATION OF POLICY.—It is hereby declared to be the policy of this Act—

(1) to foster and facilitate interstate commerce,

(2) to encourage the maintenance and growth of single-employer defined benefit pension plans,

(3) to increase the likelihood that participants and beneficiaries under single-employer defined benefit pension plans will receive their full benefits,

(4) to provide for the transfer of unfunded pension liabilities onto the single-employer pension plan termination insurance system only in cases of severe hardship,

(5) to maintain the premium costs of such system at a reasonable level; and

(6) to assure the prudent financing of current funding deficiencies and future obligations of the single-employer pension plan termination insurance system by increasing termination insurance premiums.

SEC. 11003. AMENDMENT OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

Whenever in this ttle an amendment or repeal is expressed in terms of an amendment to or repeal of a section or other provision, the reference is to a section or other provision of the Employee Retirement Income Security Act of 1974, unless otherwise specified.

SEC. 11004. DEFINITIONS.

(a) IN GENERAL.—Section 4001(a) (29 U.S.C. 1301(a)) is amended—

(1) by striking out paragraph (2) and inserting in lieu thereof the following new paragraph:

"(2) 'substantial employer', for any plan year of a single-employer plan, means one or more persons—

"(A) who are contributing sponsors of the plan in such plan year,

"(B) who, at any time during such plan year, are members of the same affiliated group (within the meaning of subsection (a) of section 1563 of the Internal Revenue Code of 1954, determined without regard to subsections (a)(4) and (e)(3)(C) of such section), and

"(C) whose required contributions to the plan for each plan year constituting one of—

"(i) the two immediately preceding plan years, or

"(ii) the first two of the three immediately preceding plan years,

total an amount greater than or equal to 10 percent of all contributions required to be paid to or under the plan for such plan year;";

(2) in paragraph (11), by striking out "and";

(3) in paragraph (12), by striking out "corporation." and inserting in lieu thereof "corporation;" and

(4) by adding after paragraph (12) the following new paragraphs:

"(13) 'contributing sponsor', of a single-employer plan, means a person—

"(A) who is responsible for meeting the funding requirements under section 302 of this Act or section 412 of the Internal Revenue Code of 1954, or

"(B) who is a member of the controlled group of a person described in subparagraph (A), has been responsible for meeting such funding requirements, and has employed a significant number (as may be defined in regulations of the corporation) of participants under such plan while such person was so responsible;

"(14) in the case of a single-employer plan—

"(A) 'controlled group' means, in connection with any person, a group consisting of such person and all other persons under common control with such person; and

"(B) the determination of whether two or more persons are under 'common control' shall be made under regulations of the corporation which are consistent and coextensive with regulations prescribed for similar purposes by the Secretary of the Treasury under section 414(c) of the Internal Revenue Code of 1954;

"(15) 'single-employer plan' means, except as otherwise specifically provided in this title, any defined benefit plan (as defined in section 3(35)) which is not a multiemployer plan;

"(16) 'benefit commitments', to a participant or beneficiary as of any date under a single-employer plan, means all benefits provided by the plan with respect to the participant or beneficiary which—

"(A) are guaranteed under section 4022,

"(B) would be guaranteed under section 4022, but for the operation of subsection 4022(b), or

"(C) constitute—

"(i) early retirement supplements or subsidies, or

"(ii) plant closing benefits,

irrespective of whether any such supplements, subsidies, or benefits are benefits guaranteed under section 4022, if the participant or beneficiary has satisfied, as of such date, all of the conditions required of him or her under the provisions of the plan to establish entitlement to the benefits, except for the submission of a formal application, retirement, completion of a required waiting period subsequent to application for benefits, or designation of a beneficiary;

"(17) 'amount of unfunded guaranteed benefits', of a participant or beneficiary as of any date under a single-employer plan, means an amount equal to the excess of—

"(A) the actuarial present value (determined as of such date on the basis of assumptions prescribed by the corporation for purposes of section 4044) of the benefits of the participant or beneficiary under the plan which are guaranteed under section 4022, over

"(B) the current value as of such date of the assets of the plan which are required to be allocated to those benefits under section 4044;

"(18) 'amount of unfunded benefit commitments', of a participant or beneficiary as of any date under a single-employer plan, means an amount equal to the excess of—

"(A) the actuarial present value (determined as of such date on the basis of assumptions prescribed by the corporation for purposes of section 4044) of the benefit commitments of the participant or beneficiary under the plan, over

"(B) the current value as of such date of the assets of the plan which are required to be allocated to those benefit commitments under section 4044;

"(19) 'outstanding amount of benefit commitments', of a participant or beneficiary under a terminated single-employer plan, means the excess of—

"(A) the actuarial present value (determined as of the termination date on the basis of assumptions prescribed by the corporation for purposes of section 4044) of the benefit commitments of such participant or beneficiary under the plan, over

"(B) the actuarial present value (determined as of such date on the basis of assumptions prescribed by the corporation for purposes of section 4044) of the benefits of such participant or beneficiary which are guaranteed under section 4022 or to which assets of the plan are allocated under section 4044;

"(20) 'person' has the meaning set forth in section 3(9);

"(21) 'affected party' means, with respect to a plan—

"(A) each participant in the plan,

"(B) each beneficiary under the plan who is a beneficiary of a deceased participant or who is an alternate payee (within the meaning of section 206(d)(3)(K)) under an applicable qualified domestic relations order (within the meaning of section 206(d)(3)(B)(i)),

"(C) each employee organization representing participants in the plan, and

"(D) the corporation,

except that, in connection with any notice required to be provided to the affected party, if an affected party has designated, in writing, a person to receive such notice on behalf of the affected party, any reference to the affected party shall be construed to refer to such person.".

(b) TECHNICAL CORRECTION OF ERROR IN MULTIEMPLOYER PENSION PLAN AMENDMENTS ACT OF 1980.—Section 4001 is further amended by striking out the amendments made by section 402(a)(1)(F) of the Multiemployer Pension Plan Amendments Act of 1980 (94 Stat. 1297) (adding new paragraphs after a subsection (c)(1)), and, in lieu thereof, in subsection (b), by inserting "(1)" after "(b)" and by adding at the end of such subsection the following new paragraphs:

"(2) For purposes of this title, except as otherwise provided in this title, contributions or other payments shall be considered made under a plan for a plan year if they are made within the period prescribed under section 412(c)(10) of the Internal Revenue Code of 1954 (determined, in the case of a terminated plan, as if the plan had continued beyond the termination date).

"(3) For purposes of subtitle E, 'Secretary of the Treasury' means the Secretary of the Treasury or such Secretary's delegate.".

SEC. 11005. SINGLE-EMPLOYER PLAN TERMINATION INSURANCE PREMIUMS.

(a) PREMIUM INCREASE.—

(1) GENERAL RULE.—Section 4006(a)(3)(A)(i) (29 U.S.C. 1306(a)(3)(A)(i)) is amended by striking out "for plan years beginning after December 31, 1977, an amount equal to $2.60" and inserting in lieu thereof "for plan years beginning after December 31, 1985, an amount equal to $8.50".

(2) CONFORMING AMENDMENT WITH RESPECT TO PLAN YEARS AFTER 1977.—Section 4006(c)(1) (29 U.S.C. 1306(c)(1)) is amended by striking out subparagraph (A) and inserting in lieu thereof the following new subparagraph:

"(A) in the case of each plan which was not a multiemployer plan in a plan year—

"(i) with respect to each plan year beginning before January 1, 1978, an amount equal to $1 for each individual who was a participant in such plan during the plan year, and

"(ii) with respect to each plan year beginning after December 31, 1977, an amount equal to $2.60 for each individual who was a participant in such plan during the plan year, and".

(b) INCORPORATION OF CERTAIN FORMER PROVISIONS IN LIEU OF CROSS REFERENCE THERETO.—Section 4006(a) (29 U.S.C. 1306(a)) is amended—

(1) in paragraph (1), by striking out the last sentence; and

(2) by adding at the end thereof the following new paragraph:

"(6)(A) In carrying out its authority under paragraph (1) to establish premium rates and bases for basic benefits guaranteed under section 4022 with respect to single-employer plans, the corporation shall establish such rates and bases in coverage schedules in accordance with the provisions of this paragraph.

"(B) The corporation may establish annual premiums for single-employer plans composed of the sum of—

"(i) a charge based on a rate applicable to the excess, if any, of the present value of the basic benefits of the plan which are guaranteed over the value of the assets of the plan, not in excess of 0.1 percent, and

"(ii) an additional charge based on a rate applicable to the present value of the basic benefits of the plan which are guaranteed.

The rate for the additional charge referred to in clause (ii) shall be set by the corporation for every year at a level which the corporation estimates will yield total revenue approximately equal to the total revenue to be derived by the corporation from the charges referred to in clause (i) of this subparagraph.

"(C) The corporation may establish annual premiums for single-employer plans based on—

"(i) the number of participants in a plan, but such premium rates shall not exceed the rates described in paragraph (3),

"(ii) unfunded basic benefits guaranteed under this title, but such premium rates shall not exceed the limitations applicable to charges referred to in subparagraph (B)(i), or

"(iii) total guaranteed basic benefits, but such premium rates shall not exceed the rates for additional charges referred to in subparagraph (B)(ii).

If the corporation uses two or more of the rate bases described in this subparagraph, the premium rates shall be designed to produce approximately equal amounts of aggregate premium revenue from each of the rate bases used.

"(D) For purposes of this paragraph, the corporation shall by regulation define the terms 'value of assets' and 'present value of the benefits of the plan which are guaranteed' in a manner consistent with the purposes of this title and the provisions of this section.".

(c) APPROVAL BY JOINT RESOLUTION OF RECOMMENDATIONS OF THE PENSION BENEFIT GUARANTY CORPORATION.—Title IV is amended as follows:

(1) The last sentence of subsection (a)(2) of section 4006 (29 U.S.C. 1306(a)(2)) is amended by striking out "the Congress approves such revised schedule by a concurrent resolution" and inserting in lieu thereof "a joint resolution approving such revised schedule is enacted".

(2) Subsection (a)(4) of section 4006 (29 U.S.C. 1306(a)(4)) is amended by striking

out "approval by the Congress" and inserting in lieu thereof "the enactment of a joint resolution".

(3) Subsection (b)(3) of section 4006 (29 U.S.C. 1306(b)(3)) is amended by striking out "concurrent" and inserting in lieu thereof "joint", by striking out "That the Congress favors the" and inserting in lieu thereof "The", and by inserting "is hereby approved" before the period preceding the quotation marks.

(4) Subsection (f)(2)(B) of section 4022A (29 U.S.C. 1322a(f)(2)(B)) is amended by striking out "Congress by concurrent resolution" and inserting in lieu thereof "the enactment of a joint resolution".

(5) Subsection (f)(2)(C) of section 4022A (29 U.S.C. 1322a(f)(2)(C)) is amended by striking out "approved" and inserting in lieu thereof "so enacted".

(6) Subsection (f)(3)(B) of section 4022A (29 U.S.C. 1322a(f)(3)(A)) is amended by striking out "Congress by a concurrent resolution" and inserting in lieu thereof "enactment of a joint resolution".

(7) Subsection (f)(4)(A) of section 4022A (29 U.S.C. 1322a(f)(4)(A)) is amended by striking out "concurrent" and inserting in lieu thereof "joint".

(8) Subsection (f)(4)(B) of section 4022A (29 U.S.C. 1322a(f)(4)(B)) is amended by striking out "concurrent" each place it appears and inserting in lieu thereof "joint", by striking out "That the Congress favors the" and inserting in lieu thereof "The", and by inserting "is hereby approved" immediately before the period preceding the quotation marks.

(9) Subsection (g)(4)(A)(ii) of section 4022A (29 U.S.C. 1322a(g)(4)(A)(ii)) is amended by striking out "concurrent" and inserting in lieu thereof "joint", and by striking out "adopted" and inserting in lieu thereof "enacted".

(10) Subsection (g)(4)(B) of section 4022A (29 U.S.C. 1322a(g)(4)(B)) is amended by striking out "concurrent" each place it appears and inserting in lieu thereof "joint", by striking out "That the Congress disapproves the" and inserting in lieu thereof "The", and by inserting "is hereby disapproved" immediately before the period preceding the quotation marks.

(d) Effective Dates.—

(1) General rule.—Except as provided in paragraph (2), the amendments made by this section shall be effective for plan years commencing after December 31, 1985.

(2) Special rule.—The amendments made by subsection (b) shall be effective as of the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980.

SEC. 11006. NOTICE OF SIGNIFICANT REDUCTION IN BENEFIT ACCRUALS.

(a) In General.—Section 204 (29 U.S.C. 1054) is amended—

(1) by redesignating subsection (h) as subsection (i); and

(2) by inserting after subsection (g) the following new subsection:

"(h) A single-employer plan may not be amended on or after the date of the enactment of the Single-Employer Pension Plan Amendments Act of 1985 so as to provide for a significant reduction in the rate of future benefit accrual, unless, after adoption of the plan amendment and not less than 15 days before the effective date of the plan amendment, the plan administrator provides a written notice, setting forth the plan amendment and its effective date, to—

"(1) each participant in the plan,

"(2) each beneficiary under the plan who is a beneficiary of a deceased participant or who is an alternate payee (within the meaning of section 206(d)(3)(K)) under an applicable qualified domestic relations order (within the meaning of section 206(d)(3)(B)(i)), and

"(3) each employee organization representing participants in the plan,

except that such notice shall instead be provided to a person designated, in writing, to receive such notice on behalf of any person referred to in paragraph (1), (2), or (3).".

(b) Effective Date.—The amendments made by subsection (a) shall apply with respect to plan amendments adopted on or after the date described in section 11019(a).

SEC. 11007. GENERAL REQUIREMENTS RELATING TO TERMINATION OF SINGLE-EMPLOYER PLANS BY PLAN ADMINISTRATORS.

(a) In General.—Section 4041 (29 U.S.C. 1341) is amended by striking out subsections (a) through (c) and inserting in lieu thereof the following:

"Sec. 4041. (a) General Rules Governing Single-Employer Plan Terminations.—

"(1) Exclusive means of plan termination.—Except in the case of a termination for which proceedings are otherwise instituted by the corporation as provided in section 4042, a single-employer plan may be terminated only in a standard termination under subsection (b) or a distress termination under subsection (c).

"(2) 60-day notice of intent to terminate.—Not less than 60 days before the proposed termination date of a plan termination under subsection (b) or (c), the plan administrator shall provide to each affected party (other than the corporation in the case a standard termination) a written notice of intent to terminate stating that such termination is intended and the proposed termination date. The written notice shall include any related additional information required in regulations of the corporation.

"(3) Adherence to collective bargaining agreements.—The corporation shall not proceed with a termination of a plan under this section if the termination would violate the terms and conditions of an existing collective bargaining agreement. Nothing in the preceding sentence shall be construed as limiting the authority of the corporation to institute proceedings to involuntarily terminate a plan under section 4042.".

(b) Definitions Relating to Sufficiency.—Section 4041(d) (29 U.S.C. 1341(d)) is amended to read as follows:

"(d) Sufficiency.—For purposes of this section—

"(1) Sufficiency for benefit commitments.—A single-employer plan is sufficient for benefit commitments if there is no amount of unfunded benefit commitments under the plan.

"(2) Sufficiency for guaranteed benefits.—A single-employer plan is sufficient for guaranteed benefits if there is no amount of unfunded guaranteed benefits under the plan.".

SEC. 11008. STANDARD TERMINATION OF SINGLE-EMPLOYER PLANS.

(a) In General.—Section 4041 (as amended by section 11007 of this Act) is further amended by inserting after subsection (a) the following new subsection:

"(b) Standard Termination of Single-Employer Plans.—

"(1) General requirements.—A single-employer plan may terminate under a standard termination only if—

"(A) the plan administrator provides the 60-day advance notice of intent to terminate to affected parties required under subsection (a)(2),

"(B) the requirements of subparagraphs (A) and (B) of paragraph (2) are met,

"(C) the corporation does not issue a notice of noncompliance under subparagraph (C) of paragraph (2), and

"(D) when the final distribution of assets occurs, the plan is sufficient for benefit commitments (determined as of the termination date).

"(2) Termination procedure.—

"(A) Notice to the corporation.—As soon as practicable after the termination date proposed in the notice provided pursuant to subsection (a)(2), the plan administrator shall send a notice to the corporation setting forth—

"(i) certification by an enrolled actuary—

"(I) of the projected amount of the assets of the plan (as of a proposed date of final distribution of assets),

"(II) of the actuarial present value (as of such date) of the benefit commitments (determined as of the proposed termination date) under the plan, and

"(III) that the plan is projected to be sufficient (as of such proposed date of final distribution) for such benefit commitments,

"(ii) such information as the corporation may prescribe in regulations as necessary to enable the corporation to make determinations under subparagraph (C), and

"(iii) certification by the plan administrator that the information on which the enrolled actuary based the certification under clause (i) and the information provided to the corporation under clause (ii) is accurate and complete.

"(B) Notice to participants and beneficiaries of benefit commitments.—At the time a notice is sent by the plan administrator under subparagraph (A), the plan administrator shall send a notice to each person who is a participant or beneficiary under the plan—

"(i) specifying the amount of such person's benefit commitments (if any) as of the proposed termination date, expressed in terms of the normal form of benefits under the plan, and

"(ii) including the following information used in determining such benefit commitments:

"(I) the length of service,

"(II) the age of the participant or beneficiary,

"(III) wages,

"(IV) the assumptions, including the interest rate, and

"(V) such other information as the corporation may require.

Such notice shall be written in such manner as is likely to be understood by the participant or beneficiary and as may be prescribed in regulations of the corporation.

"(C) Notice from the corporation of noncompliance.—

"(i) In general.—Within 60 days after receipt of the notice under subparagraph (A), the corporation shall provide the plan administrator with a notice of noncompliance if—

"(I) it has reason to believe that the requirements of subsection (a)(2) and subparagraphs (A) and (B) have not been met, or

"(II) it otherwise determines, on the basis of information provided by affected parties or otherwise obtained by the corporation, that there is reason to believe that the plan is not sufficient for benefit commitments.

"(ii) Extension.—The corporation and the plan administrator may agree to extend the 60-day period referred to in clause (i) by a written agreement signed by the corporation and the plan administrator before the expiration of the 60-day period. The 60-day period shall be extended as provided in the agreement and may be further extended by subsequent written agreements signed by the corporation and the plan administrator made before the expiration of a previously agreed upon extension of the 60-day period. Any extension may be made upon such terms and conditions (including the payment of benefits) as are agreed upon by the corporation and the plan administrator.

"(D) FINAL DISTRIBUTION OF ASSETS IN ABSENCE OF NOTICE OF NONCOMPLIANCE.—The plan administrator shall commence the final distribution of assets pursuant to the standard termination of the plan as soon as practicable after the expiration of the 60-day (or extended) period referred to in subparagraph (C), but such final distribution may occur only if—

"(i) the plan administrator has not received during such period a notice of noncompliance from the corporation under subparagraph (C), and

"(ii) when such final distribution occurs, the plan is sufficient for benefit commitments (determined as of the termination date).

"(3) METHODS OF FINAL DISTRIBUTION OF ASSETS.—

"(A) IN GENERAL.—In connection with any final distribution of assets pursuant to the termination of the plan, the plan administrator shall distribute the assets in accordance with section 4044. In distributing such assets, the plan administrator shall—

"(i) purchase irrevocable commitments from an insurer to provide the benefit commitments under the plan and all other benefits (if any) under the plan to which assets are allocated under section 4044, or

"(ii) in accordance with the provisions of the plan and any applicable regulations of the corporation, otherwise fully provide the benefit commitments under the plan and all other benefits (if any) under the plan to which assets are allocated under section 4044.

"(B) CERTIFICATION TO THE CORPORATION OF FINAL DISTRIBUTION OF ASSETS.—Within 30 days after the final distribution of assets is completed pursuant to the termination of the plan, the plan administrator shall send a notice to the corporation certifying that the assets of the plan have been distributed in accordance with the provisions of subparagraph (A) so as to pay the benefit commitments under the plan and all other benefits under the plan to which assets are allocated under section 4044.

"(4) CONTINUING AUTHORITY.—Nothing in this section shall be construed to preclude the continued exercise by the corporation, after the termination date of a plan terminated in a standard termination under this subsection, of its authority under section 4003 with respect to matters relating to the termination. A certification under paragraph (3)(B) shall not affect the corporation's obligations under section 4022.".

(b) CONFORMING AMENDMENTS.—Section 4041(f) (29 U.S.C. 1341(f)) is amended—

(1) by inserting after "(f)" the following: "CONVERSION OF A DEFINED BENEFIT PLAN TO A DEFINED CONTRIBUTION PLAN TREATED AS A STANDARD TERMINATION.—";

(2) by striking out "subsection (a)" and inserting in lieu thereof "this section"; and

(3) by inserting "in a standard termination" after "terminated".

(c) AUTHORITY FOR 60-DAY EXTENSION.—In the case of a standard termination of a plan under section 4041(b) of the Employee Retirement Income Security Act of 1974 (as amended by this section) with respect to which a notice of intent to terminate is filed before May 1, 1986, the Pension Benefit Guaranty Corporation may, without the consent of the plan administrator, extend the 60-day period under section 4041(b)(2)(C)(i) of such Act (as so amended) for a period not to exceed 60 days.

(d) SPECIAL TEMPORARY RULE.—

(1) REQUIREMENTS TO BE MET BEFORE FINAL DISTRIBUTION OF ASSETS.—In the case of the termination of a single-employer plan described in paragraph (2) with respect to which the amount described in section 4044(d) exceeds $1,000,000, the final distribution of assets pursuant to such termination may not occur until the Pension Benefit Guaranty Corporation—

(A) determines that the assets of the plan are sufficient to provide all benefit commitments (within the meaning of section 4001(a)(16) of such Act (as amended by section 11004)) under the plan,

(B) determines that there is no amount of unfunded guaranteed benefits (within the meaning of section 4001(a)(17) of such Act (as amended by section 11004)) under the plan, and

(C) issues to the plan administrator a written notice setting forth the determinations described in subparagraphs (A) and (B).

(2) PLANS TO WHICH SUBSECTION APPLIES.—A single-employer plan is described in this paragraph if—

(A) the plan has filed a notice of intent to terminate with the Pension Benefit Guaranty Corporation—

(i) before the effective date of the amendments made by this section and for which the Corporation has not issued a notice of sufficiency before such date under section 4041 of such Act (as in effect immediately before such date), or

(ii) in a standard termination under section 4041(b) of such Act (as amended by this section) on or after the effective date of the amendments made by this section and before March 1, 1986, and

(B) the lesser of 200 participants in the plan or 10 percent of the participants in the plan have filed complaints with the Corporation regarding such termination—

(i) in the case of plans described in subparagraph (A)(i), within 15 days after the effective date of the amendments made by this section, or

(ii) in any other case, within 45 days after the date of the filing of such notice.

(3) CONSIDERATION OF COMPLAINTS.—The Corporation shall consider and respond to such complaints not later than 90 days after the date on which the Corporation makes the determination described in paragraph (1)(A). The Corporation may hold informal hearings to expedite consideration of such complaints. Any such hearing shall be exempt from the requirements of chapter 5 of title 5, United States Code.

(4) DELAY ON ISSUANCE OF NOTICE.—

(A) GENERAL RULE.—Except as provided in subparagraph (B), the Corporation shall not issue any notice described in paragraph (1)(C) until 90 days after the date on which the Corporation makes the determination described in paragraph (1)(A).

(B) EXCEPTION IN CASES OF SUBSTANTIAL BUSINESS HARDSHIP.—The preceding provisions of this subsection shall not apply (except in the case of an acquisition, takeover, or leveraged buyout) if the contributing sponsor demonstrates to the satisfaction of the Corporation that the contributing sponsor is experiencing substantial business hardship. For purposes of this subparagraph, a contributing sponsor shall be considered as experiencing substantial business hardship if the contributing sponsor has been operating, and can demonstrate that it will continue to operate, at an economic loss.

SEC. 11009. DISTRESS TERMINATION OF SINGLE-EMPLOYER PLANS.

(a) IN GENERAL.—Section 4041 (as amended by sections 11007 and 11008 of this title) is further amended by inserting after subsection (b) the following new subsection:

"(c) DISTRESS TERMINATION OF SINGLE-EMPLOYER PLANS.—

"(1) IN GENERAL.—A single-employer plan may terminate under a distress termination only if—

"(A) the plan administrator provides the 60-day advance notice of intent to terminate to affected parties required under subsection (a)(2),

"(B) the requirements of subparagraph (A) of paragraph (2) are met, and

"(C) the corporation determines that the requirements of subparagraph (B) of paragraph (2) are met.

"(2) TERMINATION REQUIREMENTS.—

"(A) INFORMATION SUBMITTED TO THE CORPORATION.—As soon as practicable after the termination date proposed in the notice of intent to terminate provided pursuant to subsection (a)(2), the plan administrator shall provide the corporation, in such form as may be prescribed by the corporation in regulations, the following information:

"(i) such information as the corporation may prescribe by regulation as necessary to make determinations under subparagraph (B) and paragraph (3);

"(ii) certification by an enrolled actuary of—

"(I) the amount (as of the proposed termination date) of the current value of the assets of the plan,

"(II) the actuarial present value (as of such date) of the benefit commitments under the plan,

"(III) whether the plan is sufficient for benefit commitments as of such date,

"(IV) the actuarial present value (as of such date) of benefits under the plan guaranteed under section 4022, and

"(V) whether the plan is sufficient for guaranteed benefits as of such date;

"(iii) in any case in which the plan is not sufficient for benefit commitments as of such date—

"(I) the name and address of each participant and beneficiary under the plan as of such date, and

"(II) such other information as shall be prescribed by the corporation by regulation as necessary to enable the corporation (or its designee under section 4049(b)) to be able to make payments to participants and beneficiaries as required under section 4049; and

"(iv) certification by the plan administrator that the information on which the enrolled actuary based the certifications under clause (ii) and the information provided to the corporation under clauses (i) and (iii) is accurate and complete.

"(B) DETERMINATION BY THE CORPORATION OF NECESSARY DISTRESS CRITERIA.—Upon receipt of the notice of intent to terminate required under subsection (a)(2) and the information required under subparagraph (A), the corporation shall determine whether the requirements of this subparagraph are met as provided in clause (i), (ii), or (iii). The requirements of this subparagraph are met if each person who is a contributing sponsor of such plan or a substantial member of such sponsor's controlled group meets the requirements of any of the following clauses:

"(i) LIQUIDATION IN BANKRUPTCY OR INSOLVENCY PROCEEDINGS.—The requirements of this clause are met by a person if—

"(I) such person has filed or has had filed against it, as of the termination date, a petition seeking liquidation in a case under title 11, United States Code, or under any similar law of a State or political subdivision of a State, and

"(II) such case has not, as of the termination date, been dismissed.

"(ii) REORGANIZATION IN BANKRUPTCY OR INSOLVENCY PROCEEDINGS.—The requirements of this clause are met by a person if—

"(I) such person has filed, or has had filed against it, as of the termination date, a petition seeking reorganization in a case under title 11, United States Code, or under any similar law of a State or political subdivision of a State (or a case described in clause (i) filed by or against such person has been converted, as of such date, to such a case in which reorganization is sought),

"(II) such case has not, as of the termination date, been dismissed, and

"(III) the bankruptcy court (or other appropriate court in a case under such similar law of a State or political subdivision) approves the termination.

"(iii) TERMINATION REQUIRED TO ENABLE PAYMENT OF DEBTS WHILE STAYING IN BUSINESS OR TO AVOID UNREASONABLY BURDENSOME PENSION COSTS CAUSED BY DECLINING WORKFORCE.—The requirements of this clause are met by a person if such person demonstrates to the satisfaction of the corporation that—

"(I) unless a distress termination occurs, such person will be unable to pay such person's debts when due and will be unable to continue in business, or

"(II) the costs of providing pension coverage have become unreasonably burdensome, solely as a result of a decline of such person's workforce covered as participants under all single-employer plans of which such person is a contributing sponsor.

"(C) SUBSTANTIAL MEMBER.—For purposes of subparagraph (B), the term 'substantial member' of a controlled group means a person whose assets comprise 5 percent or more of the total assets of the controlled group as a whole. For purposes of clauses (i) and (ii) of subparagraph (B), such term includes any member of the controlled group who does not meet the requirements of the preceding sentence but did meet such requirements as of the date of the filing of the petition referred to therein.

"(D) NOTIFICATION OF DETERMINATIONS BY THE CORPORATION.—The corporation shall notify the plan administrator as soon as practicable of its determinations made pursuant to subparagraph (B).

"(3) TERMINATION PROCEDURE.—

"(A) DETERMINATIONS BY THE CORPORATION RELATING TO PLAN SUFFICIENCY FOR GUARANTEED BENEFITS AND FOR BENEFIT COMMITMENTS.—If the corporation determines that the requirements for a distress termination set forth in paragraphs (1) and (2) are met, the corporation shall—

"(i) determine whether the plan is sufficient for guaranteed benefits (as of the termination date) or that the corporation is unable to make such determination on the basis of information made available to the corporation,

"(ii) determine whether the plan is sufficient for benefit commitments (as of the termination date) or that the corporation is unable to make such determination on the basis of information made available to the corporation, and

"(iii) notify the plan administrator of the determinations made pursuant to this subparagraph as soon as practicable.

"(B) IMPLEMENTATION OF TERMINATION.—After the corporation notifies the plan administrator of its determinations under subparagraph (A), the termination of the plan shall be carried out as soon as practicable, as provided in clause (i), (ii), or (iii).

"(i) CASES OF SUFFICIENCY FOR BENEFIT COMMITMENTS.—In any case in which the corporation determines that the plan is sufficient for benefit commitments, the plan administrator shall proceed to distribute the plan's assets in the manner described in subsection (b)(3), and take such other actions as may be appropriate to carry out the termination of the plan.

"(ii) CASES OF SUFFICIENCY FOR GUARANTEED BENEFITS WITHOUT A FINDING OF SUFFICIENCY FOR BENEFIT COMMITMENTS.—In any case in which the corporation determines that the plan is sufficient for guaranteed benefits, but further determines that the plan is not sufficient for benefit commitments (or that it is unable to determine whether the plan is sufficient for benefit commitments on the basis of the information made available to it)—

"(I) the plan administrator shall proceed to distribute the plan's assets in the manner described in subsection (b)(3), and

"(II) the corporation shall establish a separate trust in connection with the plan for purposes of section 4049.

"(iii) CASES WITHOUT ANY FINDING OF SUFFICIENCY.—In any case in which the corporation determines that the plan is not sufficient for guaranteed benefits (or that it is unable to determine whether the plan is sufficient for guaranteed benefits on the basis of the information made available to it)—

"(I) the corporation shall commence proceedings in accordance with section 4042, and

"(II) the corporation shall establish a separate trust in connection with the plan for purposes of section 4049 unless the corporation determines that all benefit commitments under the plan are benefits guaranteed by the corporation under section 4022.

"(C) FINDING AFTER AUTHORIZED COMMENCEMENT OF TERMINATION THAT PLAN IS UNABLE TO PAY BENEFITS.—

"(i) FINDING WITH RESPECT TO GUARANTEED BENEFITS ONLY.—If, after the plan administrator has begun to terminate the plan as authorized by subparagraph (B)(i) or (ii), the corporation or the plan administrator finds that the plan is unable, or will be unable, to pay all benefits under the plan which are guaranteed by the corporation under section 4022, the plan administrator shall notify the corporation of such finding as soon as practicable thereafter. If the corporation makes such a finding or concurs with the finding of the plan administrator, it shall institute appropriate proceedings under section 4042.

"(ii) FINDING WITH RESPECT TO BENEFIT COMMITMENTS WHICH ARE NOT GUARANTEED BENEFITS.—If, after the plan administrator has begun to terminate the plan as authorized under subparagraph (B)(i), the corporation or the plan administrator finds that the plan is unable, or will be unable, to pay benefit commitments which are not benefits guaranteed by the corporation under section 4022, the plan administrator shall notify the corporation of such finding as soon as practicable thereafter. If the corporation makes such a finding or concurs with the finding of the plan administrator, it shall take the actions set forth in subparagraph (B)(ii)(II) relating to the trust established for purposes of section 4049.

"(D) ADMINISTRATION OF THE PLAN DURING INTERIM PERIOD.—During the period commencing on the date on which the plan administrator provides a notice of distress termination to the corporation under subsection (a)(2) and ending on the date on which the plan administrator receives notification from the corporation of its determinations under subparagraph (A), the plan administrator—

"(i) shall refrain from distributing assets or taking any other actions to carry out the proposed termination under this subsection,

"(ii) shall pay benefits attributable to employer contributions, other than death benefits, only in the form of an annuity,

"(iii) shall not use plan assets to purchase irrevocable commitments to provide benefits from an insurer, and

"(iv) shall continue to pay all benefit commitments under the plan, except that, commencing on the proposed termination date, the plan administrator shall limit the payment of benefits under the plan to those benefits which are guaranteed by the corporation under section 4022 or to which assets are required to be allocated under section 4044.

In the event the plan is later determined not to have met the requirements for distress termination, any benefits which are not paid solely by reason of clause (iv) shall be due and payable immediately (together with interest).".

(b) CONFORMING AMENDMENTS.—Section 4041 (as amended by the preceding provisions of this Act) is further amended—

(1) by striking out subsection (e); and

(2) by redesignating subsection (f) as subsection (e).

SEC. 11010. TERMINATION PROCEEDINGS; DUTIES OF THE CORPORATION.

(a) MANDATORY COMMENCEMENT OF PROCEEDINGS UPON INABILITY OF SINGLE-EMPLOYER PLAN TO PAY BENEFITS THAT ARE CURRENTLY DUE.—

(1) IN GENERAL.—Section 4042(a) (29 U.S.C. 1342(a)) is amended—

(A) in paragraph (2), by striking out "is" and inserting in lieu thereof "will be"; and

(B) in the matter following paragraph (4), by striking out in the second sentence "The corporation" and inserting in lieu thereof the following: "The corporation shall as soon as practicable institute court proceedings under this section to terminate a single-employer plan whenever it determines that the plan does not have assets available to pay benefits that are currently due under the terms of the plan. The corporation".

(2) CONFORMING AMENDMENTS.—

(A) Section 4042(b)(1) (29 U.S.C. 1342(b)(1)) is amended, in the first sentence, by inserting "or is required under subsection (a) to institute court proceedings under this section," after "to a plan".

(B) Section 4042(c) (29 U.S.C. 1342(c)) is amended in the first sentence by striking out "If the corporation" and all that follows down through "it may," and inserting in lieu thereof the following: "If the corporation is required under subsection (a) of this section to commence court proceedings under this section with respect to a plan or, after issuing a notice under this section to a plan administrator, has determined (whether or not a trustee has been appointed under *subsection (b)) that the plan should be terminated under this section, it shall,".*

(c) CONFORMING AMENDMENT.—The heading for section 4042 is amended to read as follows:

"INSTITUTION OF TERMINATION PROCEEDINGS BY THE CORPORATION".

SEC. 11011. AMENDMENTS TO LIABILITY PROVISIONS; LIABILITIES RELATING TO BENEFIT COMMITMENTS IN EXCESS OF BENEFITS GUARANTEED BY THE CORPORATION.

(a) LIABILITY FOR DISTRESS TERMINATIONS AND TERMINATIONS BY THE CORPORATION.—Section 4062 (29 U.S.C. 1362) is amended by striking out so much as precedes subsection (e) and inserting in lieu thereof the following:

"LIABILITY FOR TERMINATION OF SINGLE-EMPLOYER PLANS UNDER A DISTRESS TERMINATION OR A TERMINATION BY THE CORPORATION

"SEC. 4062. (a) IN GENERAL.—In any case in which a single-employer plan is terminated in a distress termination under section 4041(c) or a termination otherwise instituted by the corporation under section 4042, any person who is, on the termination date, a contributing sponsor of the plan or a member of such a contributing sponsor's controlled group shall incur liability under this section. The liability under this section of all such persons shall be joint and several. The liability under this section consists of—

"(1) liability to the corporation to the extent provided in subsection (b),

"(2) liability to the trust established pursuant to section 4041(c)(3)(B) (ii) or (iii) to the extent provided in subsection (c), and

"(3) liability to the trustee referred to in section 4042(d)(1)(B) to the extent provided in subsection (d).

"(b) LIABILITY TO THE CORPORATION.—

"(1) IN GENERAL.—The liability to the corporation of a person described in subsection (a) shall consist of the sum of—

"(A) the lesser of—

"(i) the total amount of unfunded guaranteed benefits (as of the termination date) of all participants and beneficiaries under the plan, or

"(ii) 30 percent of the collective net worth of all persons described in subsection (a), and

"(B) the excess (if any) of—

"(i) 75 percent of the amount described in subparagraph (A)(i), over

"(ii) the amount described in subparagraph (A)(ii),

together with interest calculated from the termination date. Except as provided in paragraph (2), the liability to the corporation under this subsection shall be due and payable to the corporation as of the termination date, in cash or securities acceptable to the corporation.

"(2) PAYMENT OF LIABILITY.—Payment of the liability under paragraph (1)(B) shall be made under commercially reasonable terms prescribed by the corporation. The parties involved shall make a reasonable effort to reach agreement on such commercially reasonable terms. Any such terms prescribed by the corporation shall provide for deferral of 50 percent of any amount of liability otherwise payable for any year under this paragraph if a person subject to such liability demonstrates to the satisfaction of the corporation that no person subject to such liability has any individual pre-tax profits for such person's fiscal year ending during such year.

"(3) ALTERNATIVE ARRANGEMENTS.—The corporation and any person liable under this section may agree to alternative arrangements for the satisfaction of liability to the corporation under this subsection.

"(c) LIABILITY TO SECTION 4049 TRUST.—

"(1) IN GENERAL.—In any case in which there is an outstanding amount of benefit commitments under a plan terminated under section 4041(c) or 4042, a person described in subsection (a) shall be subject to liability under this subsection to the trust established under section 4041(c)(3)(B)(ii) or (iii) in connection with the terminated plan. The liability of such person under this subsection shall consist of the lesser of—

"(A) 75 percent of the total outstanding amount of benefit commitments under the plan, or

"(B) 15 percent of the total amount of benefit commitments under the plan.

"(2) PAYMENT OF LIABILITY.—

"(A) GENERAL RULE.—Except as otherwise provided in this paragraph, payment of a person's liability under this subsection shall be made for liability payment years under commercially reasonable terms prescribed by the fiduciary designated by the corporation pursuant to section 4049(b). Such fiduciary and the liable persons assessed liability under this subsection shall make a reasonable effort to reach agreement on such commercially reasonable terms.

"(B) SPECIAL RULE FOR PLANS WITH LOW AMOUNTS OF OUTSTANDING BENEFIT COMMITMENTS.—In any case in which the amount described in paragraph (1)(A) is less than $100,000, the requirements of subparagraph (A) may be satisfied by payment of such liability over 10 liability payment years in equal annual installments (with interest at the rate determined under section 6621(b) of the Internal Revenue Code of 1954). The corporation may, by regulation, increase the dollar amount referred to in this subparagraph as it determines appropriate, taking into account reasonable administrative costs of trusts established under section 4041(c)(3)(B)(ii) or (iii).

"(C) DEFERRAL OF PAYMENTS.—The terms for payment provided for under subparagraph (A) or (B) shall also provide for deferral of 75 percent of any amount of liability otherwise payable for any liability payment year if a person subject to such liability demonstrates to the satisfaction of the corporation that no person subject to such liability has any individual pre-tax profits for such person's fiscal year ending during such year. The amount of liability so deferred is payable only after payment in full of any amount of liability under subsection (b) in connection with the termination of the same plan which has been deferred pursuant to terms provided for under subsection (b)(2).

"(d) LIABILITY TO SECTION 4042 TRUSTEE.—A person described in subsection (a) shall be subject to liability under this subsection to the trustee referred to in section 4042(d)(1)(B). The liability of such person under this subsection shall consist of—

"(1) the outstanding balance of the accumulated funding deficiencies (within the meaning of section 302(a)(2) of this Act and section 412(a) of the Internal Revenue Code of 1954) of the plan (if any) (which, for purposes of this subparagraph, shall include the amount of any increase in such accumulated funding deficiencies of the plan which would result if all pending applications for waivers of the minimum funding standard under section 303 of this Act or section 412(d) of such Code and for extensions of the amortization period under section 304 of this Act or section 412(e) of such Code with respect to such plan were denied and if no additional contributions (other than those already made by the termination date) were made for the plan year in which the termination date occurs or for any previous plan year),

"(2) the outstanding balance of the amount of waived funding deficiencies of the plan waived before such date under section 303 of this Act or section 412(d) of such Code (if any), and

"(3) the outstanding balance of the amount of decreases in the minimum funding standard allowed before such date under section 304 of this Act or section 412(e) of such Code (if any),

together with interest. The liability under this subsection shall be due and payable to such trustee as of the termination date, in cash or securities acceptable to such trustee.

"(e) DEFINITIONS.—

"(1) COLLECTIVE NET WORTH OF PERSONS SUBJECT TO LIABILITY.—

"(A) IN GENERAL.—The collective net worth of persons subject to liability in connection with a plan termination consists of the sum of the individual net worths of all persons who—

"(i) have individual net worths which are greater than zero, and

"(ii) are (as of the termination date) contributing sponsors of the terminated plan or members of their controlled groups.

"(B) DETERMINATION OF NET WORTH.—For purposes of this paragraph, the net worth of a person is—

"(i) determined on whatever basis best reflects, in the determination of the corporation, the current status of the person's operations and prospects at the time chosen for determining the net worth of the person, and

"(ii) increased by the amount of any transfers of assets made by the person which are determined by the corporation to be improper under the circumstances, including any such transfers which would be inappropriate under title 11, United States Code, if the person were a debtor in a case under chapter 7 of such title.

"(C) TIMING OF DETERMINATION.—For purposes of this paragraph, determinations of net worth shall be made as of a day chosen by the corporation (during the 120-day period ending with the termination date) and shall be computed without regard to any liability under this section.

"(2) PRE-TAX PROFITS.—The term 'pre-tax profits' means—

"(A) except as provided in subparagraph (B), for any fiscal year of any person, such person's consolidated net income (excluding any extraordinary charges to income and including any extraordinary credits to income) for such fiscal year, as shown on audited financial statements prepared in accordance with generally accepted accounting principles, or

"(B) for any fiscal year of an organization described in section 501(c) of the Internal Revenue Code of 1954, the excess of income over expenses (as such terms are defined for such organizations under generally accepted accounting principles),

before provision for or deduction of Federal or other income tax, any contribution to any single-employer plan of which such person is a contributing sponsor at any time during the period beginning on the termination date and ending with the end of such fiscal year, and any amounts required to be paid for such fiscal year under this section. The corporation may by regulation require such information to be filed on such forms as may be necessary to determine the existence and amount of such pre-tax profits.

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"(3) LIABILITY PAYMENT YEARS.—The liability payment years in connection with a terminated plan consist of the consecutive one-year periods following the last plan year preceding the termination date, excluding the first such year in any case in which the first such year begins less than 180 days after the termination date.".

(b) CLERICAL AMENDMENT.—Subsection (e) of section 4062 is amended by inserting "TREATMENT OF SUBSTANTIAL CESSATION OF OPERATIONS.—" after "(e)".

(c) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1954.—

(1) TIME FOR DEDUCTION OF CERTAIN EMPLOYER LIABILITY PAYMENTS.—Paragraph (3) of section 404(g) of the Internal Revenue Code of 1954 (relating to certain employer liability payments considered as contributions) is amended to read as follows:

"(3) TIMING OF DEDUCTION OF CONTRIBUTIONS.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, any payment described in paragraph (1) shall (subject to the last sentence of subsection (a)(1)(A)) be deductible under this section when paid.

"(B) CONTRIBUTIONS UNDER STANDARD TERMINATIONS.—Subparagraph (A) shall not apply (and subsection (a)(1)(A) shall apply) to any payments described in paragraph (1) which are paid to terminate a plan under section 4041(b) of the Employee Retirement Income Security Act of 1974 to the extent such payments result in the assets of the plan being in excess of the total amount of benefits under such plan which are guaranteed by the Pension Benefit Guaranty Corporation under section 4022 of such Act.

"(C) CONTRIBUTIONS TO CERTAIN TRUSTS.—Subparagraph (A) shall not apply to any payment described in paragraph (1) which is made under section 4062(c) of such Act and such payment shall be deductible at such time as may be prescribed in regulations which are based on principles similar to the principles of subsection (a)(1)(A).".

(2) REFERENCES TO ERISA.—Subsection (g) of section 404 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new paragraph:

"(4) REFERENCES TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Any reference to a section of the Employee Retirement Income Security Act of 1974 shall be treated as a reference to such section as in effect on the date described in section 11019(a) of the Single-Employer Pension Plan Amendments Act of 1985.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to payments made after the date described in section 11019(a) in taxable years ending after such date.

SEC. 11012. DISTRIBUTION TO PARTICIPANTS AND BENEFICIARIES OF LIABILITY PAYMENTS TO SECTION 4049 TRUST.

(a) IN GENERAL.—Subtitle C of title IV is amended by adding at the end thereof the following new section:

"DISTRIBUTION TO PARTICIPANTS AND BENEFICIARIES OF LIABILITY PAYMENTS TO SECTION 4049 TRUST

"SEC. 4049. (a) TRUST REQUIREMENTS.—The requirements of this section apply to a trust established by the corporation in connection with a terminated plan pursuant to section 4041(c)(3)(B)(ii) or (iii). The trust shall be used exclusively for—

"(1) receiving liability payments under section 4062(c) from the persons who were (as of the termination date) contributing sponsors of the terminated plan and members of their controlled groups,

"(2) making distributions as provided in this section to the persons who were (as of the termination date) participants and beneficiaries under the terminated plan, and

"(3) defraying the reasonable administrative expenses incurred in carrying out responsibilities under this section.

The corporation, or its designee under subsection (b), shall serve as trustee of the trust and maintain such trust with respect to the terminated plan for such period of time as is necessary to receive all liability payments required to be made to the trust under section 4062(c) with respect to the terminated plan and to make all distributions required to be made to participants and beneficiaries under this section with respect to the terminated plan.

"(b) DESIGNATION OF FIDUCIARY BY THE CORPORATION.—

"(1) IN GENERAL.—The corporation shall designate a fiduciary (within the meaning of section 3(21)) to serve as trustee of the trust—

"(A) to the extent required under section 4062(c), for purposes of conducting negotiations and assessing and collecting liability, and

"(B) to the extent determined by the corporation to be cost-effective, for purposes of administering the trust.

"(2) FIDUCIARY REQUIREMENTS.—A fiduciary designated under paragraph (1) shall be—

"(A) independent of each contributing sponsor of the plan and the members of such sponsor's controlled group, and

"(B) subject to the requirements of part 4 of subtitle B of title I (other than section 406(a)) as if such trust were a plan subject to such part.

"(c) DISTRIBUTIONS FROM TRUST.—

"(1) IN GENERAL.—Not later than 30 days after the end of each liability payment year (described in section 4062(e)(3)) with respect to a terminated single-employer plan, the corporation, or its designee under subsection (b), shall distribute from the trust maintained pursuant to subsection (a) to each person who was (as of the termination date) a participant or beneficiary under the plan—

"(A) in any case not described in subparagraph (B), an amount equal to the outstanding amount of benefit commitments of such person under the plan (including interest calculated from the termination date), to the extent not previously paid under this paragraph, or

"(B) in any case in which the balance in the trust at the end of such year which is in cash or may be prudently converted to cash (after taking into account liability payments received under subsection (a)(1) and administrative expenses paid under subsection (a)(3)) is less than the total of all amounts described in subparagraph (A) in connection with all persons who were (as of the termination date) participants and beneficiaries under the terminated plan, the product derived by multiplying—

"(i) the amount described in subparagraph (A) in connection with each such person, by

"(ii) a fraction—

"(I) the numerator of which is such balance in the trust, and

"(II) the denominator of which is equal to the total of all amounts described in subparagraph (A) in connection with all persons who were (as of the termination date) participants and beneficiaries under the terminated plan.

"(2) CARRY-OVER OF MINIMAL PAYMENT AMOUNTS.—The corporation, or its designee under subsection (b), may withhold a payment to any person under this subsection in connection with any liability payment year (other than the last liability payment year with respect to which payments under paragraph (1) are payable) if such payment does not exceed $100. In any case in which such a payment is so withheld, the payment to such person in connection with the next following liability payment year shall be increased by the amount of such withheld payment.

"(c) REGULATIONS.—The corporation may issue such regulations as it considers necessary to carry out the purposes of this section.".

(b) TAX-EXEMPT STATUS FOR TRUSTS DESCRIBED IN SECTION 4049 OF ERISA.—Subsection (c) of section 501 of the Internal Revenue Code of 1954 (relating to list of tax-exempt organizations) is amended by adding at the end thereof the following new paragraph:

"(24) A trust described in section 4049 of the Employee Retirement Income Security Act of 1974 (as in effect on the date of the enactment of the Single-Employer Pension Plan Amendments Act of 1985).".

(c) ROLLOVERS OF PAYMENTS FROM TRUST ALLOWED.—Paragraph (6) of section 402(a) (relating to special rollover rules) is amended by adding at the end thereof the following new subparagraph:

"(G) PAYMENTS FROM CERTAIN PENSION PLAN TERMINATION TRUSTS.—If—

"(i) any amount is paid or distributed to a recipient from a trust described in section 501(c)(24),

"(ii) the recipient transfers any portion of the property received in such distribution to an eligible retirement plan described in subclause (I) or (II) of paragraph (5)(E)(iv), and

"(iii) in the case of a distribution of property other than money, the amount so transferred consists of the property distributed,

then the portion of the distribution so transferred shall be treated as a distribution described in paragraph (5)(A).".

(d) SPECIAL DELAYED PAYMENT RULE.—In the case of a distress termination under section 4041(c) of the Employee Retirement Income Security Act of 1974 (as amended by section 11009) pursuant to a notice of intent to terminate filed before January 1, 1987, no payment of liability incurred under section 4062(c)(2)(B) of such Act (as amended by this section) shall be required to be made before January 1, 1989.

SEC. 11013. TREATMENT OF TRANSACTIONS TO EVADE LIABILITY; EFFECT OF CORPORATE REORGANIZATION.

(a) IN GENERAL.—Subtitle D of title IV is amended by adding at the end thereof the following new section:

"TREATMENT OF TRANSACTIONS TO EVADE LIABILITY; EFFECT OF CORPORATE REORGANIZATION

"SEC. 4069. (a) TREATMENT OF TRANSACTIONS TO EVADE LIABILITY.—If a principal purpose of any person in entering into any transaction is to evade liability to which such person would be subject under this subtitle and the transaction becomes effective within five years before the termination date of the termination on which such liability would be based, then such person and the members of such person's controlled group (determined as of the termination date) shall be subject to liability under this subtitle in connection with such termination as if such person were a contributing sponsor of the terminated plan as of the termination date. This subsection shall not cause any person to be liable under this subtitle in connection with such plan termination for any increases or improvements in the benefits provided under the plan which are adopted after the date on which the transaction referred to in the preceding sentence becomes effective.

"(b) Effect of Corporate Reorganization.—For purposes of this subtitle, the following rules apply in the case of certain corporate reorganizations:

"(1) Change of identity, form, etc.—If a person ceases to exist by reason of a reorganization which involves a mere change in identity, form, or place of organization, however effected, a successor corporation resulting from such reorganization shall be treated as the person to whom this subtitle applies.

"(2) Liquidation into parent corporation.—If a person ceases to exist by reason of liquidation into a parent corporation, the parent corporation shall be treated as the person to whom this subtitle applies.

"(3) Merger, consolidation, or division.—If a person ceases to exist by reason of a merger, consolidation, or division, the successor corporation or corporations shall be treated as the person to whom this subtitle applies.".

(b) Effective Date.—Section 4069(a) of the Employee Retirement Income Security Act of 1974 (as added by subsection (a)) shall apply with respect to transactions becoming effective on or after the date described in section 11019(a).

SEC. 11014. ENFORCEMENT AUTHORITY RELATING TO TERMINATIONS OF SINGLE-EMPLOYER PLANS.

(a) Private Rights of Action.—Subtitle D of title IV (as amended by section 11013) is further amended by adding at the end thereof the following new section:

"ENFORCEMENT AUTHORITY RELATING TO TERMINATIONS OF SINGLE-EMPLOYER PLANS

"Sec. 4070. (a) In General.—A person who is with respect to a single-employer plan a fiduciary, contributing sponsor, member of a contributing sponsor's controlled group, participant, or beneficiary, and who is adversely affected by an act or practice of any party (other than the corporation) in violation of any provision of section 4041, 4042, 4049, 4062, 4063, 4064, or 4069, or an employee organization which represents such a participant or beneficiary for purposes of collective bargaining with respect to such plan, may bring an action—

"(1) to enjoin such act or practice, or

"(2) to obtain other appropriate equitable relief (A) to redress such violation or (B) to enforce such provision.

"(b) Status of Plan as Party to Action and With Respect to Legal Process.—A single-employer plan may be sued under this section as an entity. Service of summons, subpoena, or other legal process of a court upon a trustee or an administrator of a single-employer plan in such trustee's or administrator's capacity as such shall constitute service upon the plan. If a plan has not designated in the summary plan description of the plan an individual as agent for the service of legal process, service upon any contributing sponsor of the plan shall constitute such service. Any money judgment under this section against a single-employer plan shall be enforceable only against the plan as an entity and shall not be enforceable against any other person unless liability against such person is established in such person's individual capacity.

"(c) Jurisdiction and Venue.—The district courts of the United States shall have exclusive jurisdiction of civil actions under this section. Such actions may be brought in the district where the plan is administered, where the violation took place, or where a defendant resides or may be found, and process may be served in any other district where a defendant resides or may be found. The district courts of the United States shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to grant the relief provided for in subsection (a) in any action.

"(d) Right of Corporation to Intervene.—A copy of the complaint or notice of appeal in any action under this section shall be served upon the corporation by certified mail. The corporation shall have the right in its discretion to intervene in any action.

"(e) Awards of Costs and Expenses.—

"(1) General rule.—In any action brought under this section, the court in its discretion may award all or a portion of the costs and expenses incurred in connection with such action, including reasonable attorney's fees, to any party who prevails or substantially prevails in such action.

"(2) Exemption for plans.—Notwithstanding the preceding provisions of this subsection, no plan shall be required in any action to pay any costs and expenses (including attorney's fees).

"(f) Limitation on Actions.—

"(1) In general.—Except as provided in paragraph (3), an action under this section may not be brought after the later of—

"(A) 6 years after the date on which the cause of action arose, or

"(B) 3 years after the applicable date specified in paragraph (2).

"(2) Applicable date.—

"(A) General rule.—Except as provided in subparagraph (B), the applicable date specified in this paragraph is the earliest date on which the plaintiff acquired or should have acquired actual knowledge of the existence of such cause of action.

"(B) Special rule for plaintiffs who are fiduciaries.—In the case of a plaintiff who is a fiduciary bringing the action in the exercise of fiduciary duties, the applicable date specified in this paragraph is the date on which the plaintiff became a fiduciary with respect to the plan if such date is later than the date described in subparagraph (A).

"(3) Cases of fraud or concealment.—In the case of fraud or concealment, the period described in paragraph (1)(B) shall be extended to 6 years after the applicable date specified in paragraph (2).".

(b) Civil Actions Involving the Pension Benefit Guaranty Corporation.—

(1) Actions against the corporation.—Section 4003(f) (29 U.S.C. 1303(f)) is amended to read as follows:

"(f)(1) Except with respect to withdrawal liability disputes under part 1 of subtitle E, any person who is a fiduciary, employer, contributing sponsor, member of a contributing sponsor's controlled group, participant, or beneficiary, and who is adversely affected by any action of the corporation with respect to a plan in which such person has an interest and any employee organization which represents such a participant or beneficiary for purposes of collective bargaining with respect to such plan, may bring an action against the corporation for appropriate equitable relief in the appropriate court.

"(2) For purposes of this subsection, the term 'appropriate court' means—

"(A) the United States district court before which proceedings under section 4041 or 4042 are being conducted,

"(B) if no such proceedings are being conducted, the United States district court in which the plan has its principal office, or

"(C) the United States District Court for the District of Columbia.

"(3) In any action brought under this subsection, the court may award all or a portion of the costs and expenses incurred in connection with such action to any party who prevails or substantially prevails in such action.

"(4) This subsection shall be the exclusive means for bringing actions against the corporation under this title, including actions against the corporation in its capacity as a trustee under section 4042 or 4049.

"(5)(A) Except as provided in subparagraph (C), an action under this subsection may not be brought after the later of—

"(i) 6 years after the date on which the cause of action arose, or

"(ii) 3 years after the applicable date specified in subparagraph (B).

"(B)(i) Except as provided in clause (ii), the applicable date specified in this subparagraph is the earliest date on which the plaintiff acquired or should have acquired actual knowledge of the existence of such cause of action.

"(ii) In the case of a plaintiff who is a fiduciary bringing the action in the exercise of fiduciary duties, the applicable date specified in this subparagraph is the date on which the plaintiff became a fiduciary with respect to the plan if such date is later than the date specified in clause (i).

"(C) In the case of fraud or concealment, the period described in subparagraph (A)(ii) shall be extended to 6 years after the applicable date specified in subparagraph (B).

"(6) The district courts of the United States have jurisdiction of actions brought under this subsection without regard to the amount in controversy.

"(7) In any suit, action, or proceeding in which the corporation is a party, or intervenes under section 4301, in any State court, the corporation may, without bond or security, remove such suit, action, or proceeding from the state court to the United States district court for the district or division in which such suit, action, or proceeding is pending by following any procedure for removal now or hereafter in effect.".

(2) Limitation on actions by the corporation.—Section 4003(e) (29 U.S.C. 1303(e)) is amended by adding at the end thereof the following new paragraph:

"(6)(A) Except as provided in subparagraph (C), an action under this subsection may not be brought after the later of—

"(i) 6 years after the date on which the cause of action arose, or

"(ii) 3 years after the applicable date specified in subparagraph (B).

"(B)(i) Except as provided in clause (ii), the applicable date specified in this subparagraph is the earliest date on which the corporation acquired or should have acquired actual knowledge of the existence of such cause of action.

"(ii) If the corporation brings the action as a trustee, the applicable date specified in this subparagraph is the date on which the corporation became a trustee with respect to the plan if such date is later than the date described in clause (i).

"(C) In the case of fraud or concealment, the period described in subparagraph (A)(ii) shall be extended to 6 years after the applicable date specified in subparagraph (B) if such date is later than the date described in clause (i).".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to actions filed after the date of the enactment of this Act.

SEC. 11015. PROVISIONS RELATING TO WAIVERS OF MINIMUM FUNDING STANDARD AND EXTENSIONS OF AMORTIZATION PERIOD.

(a) SECURITY FOR WAIVERS.—

(1) ERISA AMENDMENT.—

(A) IN GENERAL.—Part 3 of subtitle B of title I is amended—

(i) by redesignating section 306 (29 U.S.C. 1086) as section 307; and

(ii) by inserting after section 305 (29 U.S.C. 1085) the following new section:

"SECURITY FOR WAIVERS OF MINIMUM FUNDING STANDARD AND EXTENSIONS OF AMORTIZATION PERIOD

"SEC. 306. (a) SECURITY MAY BE REQUIRED.—

"(1) IN GENERAL.—Except as provided in subsection (c), the Secretary of the Treasury may require an employer maintaining a defined benefit plan which is a single-employer plan (within the meaning of section 4001(a)(15)) to provide security to such plan as a condition for granting or modifying a waiver under section 303 or an extension under section 304.

"(2) SPECIAL RULES.—Any security provided under paragraph (1) may be perfected and enforced only by the Pension Benefit Guaranty Corporation or, at the direction of the Corporation, by a contributing sponsor (within the meaning of section 4001(a)(13)) or a member of such sponsor's controlled group (within the meaning of section 4001(a)(14)).

"(b) CONSULTATION WITH THE PENSION BENEFIT GUARANTY CORPORATION.—Except as provided in subsection (c), the Secretary of the Treasury shall, before granting or modifying a waiver under section 303 or an extension under section 304 with respect to a plan described in subsection (a)(1)—

"(1) provide the Pension Benefit Guaranty Corporation with—

"(A) notice of the completed application for any waiver, extension, or modification, and

"(B) an opportunity to comment on such application within 30 days after receipt of such notice, and

"(2) consider—

"(A) any comments of the Corporation under paragraph (1)(B), and

"(B) any views of any employee organization representing participants in the plan which are submitted in writing to the Secretary of the Treasury in connection with such application.

Information provided to the corporation under this subsection shall be considered tax return information and subject to the safeguarding and reporting requirements of section 6103(p) of the Internal Revenue Code of 1954.

"(c) EXCEPTION FOR CERTAIN WAIVERS AND EXTENSIONS.—

"(1) IN GENERAL.—The preceding provisions of this section shall not apply to any plan with respect to which the sum of—

"(A) the outstanding balance of the accumulated funding deficiencies (within the meaning of section 302(a)(2) of this Act and section 412(a) of the Internal Revenue Code of 1954) of the plan,

"(B) the outstanding balance of the amount of waived funding deficiencies of the plan waived under section 303 of this Act or section 412(d) of such Code, and

"(C) the outstanding balance of the amount of decreases in the minimum funding standard allowed under section 304 of this Act or section 412(e) of such Code,

is less than $2,000,000.

"(2) ACCUMULATED FUNDING DEFICIENCIES.—For purposes of paragraph (1)(A), accumulated funding deficiencies shall include any increase in such amount which would result if all applications for waivers of the minimum funding standard under section 303 of this Act or section 412(d) of the Internal Revenue Code of 1954 and for extensions of the amortization period under section 304 of this Act or section 412(e) of such Code which are pending with respect to such plan were denied.".

(B) CONFORMING AMENDMENT.—Section 211(c)(1) is amended by striking out "306(c)" and inserting in lieu thereof "307(c)".

(C) CLERICAL AMENDMENT.—The table of sections in section 1 is amended by striking out the item relating to section 306 and inserting in lieu thereof the following new items:

"Sec. 306. Security for waivers of minimum funding standard and extensions of amortization period.

"Sec. 307. Effective dates.".

(2) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1954.—

(A) IN GENERAL.—Subsection (f) of section 412 of the Internal Revenue Code of 1954 (relating to requirement that benefits may not be increased during waiver or extension period) is amended by adding at the end thereof the following new paragraph:

"(3) SECURITY FOR WAIVERS AND EXTENSIONS; CONSULTATIONS.—

"(A) SECURITY MAY BE REQUIRED.—

"(i) IN GENERAL.—Except as provided in subparagraph (C), the Secretary may require an employer maintaining a defined benefit plan which is a single-employer plan (within the meaning of section 4001(a)(15) of the Employee Retirement Income Security Act of 1974) to provide security to such plan as a condition for granting or modifying a waiver under subsection (d) or an extension under subsection (e).

"(ii) SPECIAL RULES.—Any security provided under clause (i) may be perfected and enforced only by the Pension Benefit Guaranty Corporation, or at the direction of the Corporation, by a contributing sponsor (within the meaning of section 4001(a)(13) of such Act), or a member of such sponsor's controlled group (within the meaning of section 4001(a)(14) of such Act).

"(B) CONSULTATION WITH THE PENSION BENEFIT GUARANTY CORPORATION.—Except as provided in subparagraph (C), the Secretary shall, before granting or modifying a waiver under subsection (d) or an extension under subsection (e) with respect to a plan described in subparagraph (A)(i)—

"(i) provide the Pension Benefit Guaranty Corporation with—

"(I) notice of the completed application for any waiver, extension, or modification, and

"(II) an opportunity to comment on such application within 30 days after receipt of such notice, and

"(ii) consider—

"(I) any comments of the Corporation under clause (i)(II), and

"(II) any views of any employee organization (within the meaning of section 3(4) of the Employee Retirement Income Security Act of 1974) representing participants in the plan which are submitted in writing to the Secretary in connection with such application.

Information provided to the corporation under this subparagraph shall be considered tax return information and subject to the safeguarding and reporting requirements of section 6103(p).

"(C) EXCEPTION FOR CERTAIN WAIVERS AND EXTENSIONS.—

"(i) IN GENERAL.—The preceding provisions of this paragraph shall not apply to any plan with respect to which the sum of—

"(I) the outstanding balance of the accumulated funding deficiencies (within the meaning of subsection (a) and section 302(a) of such Act) of the plan,

"(II) the outstanding balance of the amount of waived funding deficiencies of the plan waived under subsection (d) or section 303 of such Act, and

"(III) the outstanding balance of the amount of decreases in the minimum funding standard allowed under subsection (d) or section 304 of such Act,

is less than $2,000,000.

"(ii) ACCUMULATED FUNDING DEFICIENCIES.—For purposes of clause (i)(I), accumulated funding deficiencies shall include any increase in such amount which would result if all applications for waivers of the minimum funding standard under subsection (d) or section 303 of such Act and for extensions of the amortization period under subsection (e) of section 304 of such Act which are pending with respect to such plan were denied.".

(B) CONFORMING AMENDMENTS.—Section 412(f) of the Internal Revenue Code of 1954 is amended—

(i) by striking out the heading thereof and inserting in lieu thereof;

"(f) REQUIREMENTS RELATING TO WAIVERS AND EXTENSIONS.—", and

(ii) by striking out the heading of paragraph (1) thereof and inserting in lieu thereof:

"(1) BENEFITS MAY NOT BE INCREASED DURING WAIVER OR EXTENSION PERIOD.—".

(3) EFFECTIVE DATES.—The amendments made by this subsection shall apply with respect to applications for waivers, extensions, and modifications filed on or after the date described in section 11019(a).

(b) APPLICABLE INTEREST RATE UNDER ARRANGEMENTS PROVIDING FOR WAIVERS AND EXTENSIONS.—

(1) AMENDMENTS TO ERISA.—

(A) VARIANCES FROM THE MINIMUM FUNDING STANDARD.—Section 303(a) (29 U.S.C. 1083(a)) is amended by adding at the end thereof the following new sentence: "The interest rate used for purposes of computing the amortization charge described in section 302(b)(2)(C) for a variance granted under this subsection shall be the rate determined under section 6621(b) of the Internal Revenue Code of 1954.".

(B) EXTENSIONS OF THE AMORTIZATION PERIOD.—Section 304(a) (29 U.S.C. 1084(a)) is amended by adding after and below paragraph (2) the following new sentence:

"The interest rate applicable under any arrangement entered into by the Secretary in connection with an extension granted under this subsection shall be the rate determined under section 6621(b) of the Internal Revenue Code of 1954.".

(2) AMENDMENTS TO INTERNAL REVENUE CODE.—

(A) VARIANCES FROM THE MINIMUM FUNDING STANDARD.—Paragraph (1) of section 412(d) of the Internal Revenue Code of 1954 (relating to waivers in case of substantial business hardship) is amended by adding at the end thereof the following new sentence: "The interest rate used for purposes of computing the amortization charge described in section 412(b)(2)(C) for a variance granted under this subsection shall be the rate determined under section 6621(b).".

(B) EXTENSIONS OF THE AMORTIZATION PERIOD.—Subsection (e) of section 412 of such Code (relating to extension of amortization period) is amended by adding after and below paragraph (2) the following new sentence:

"The interest rate applicable under any arrangement entered into by the Secretary in connection with an extension granted under this subsection shall be the rate determined under section 6621(b).".

SEC. 11016. CONFORMING, CLARIFYING, TECHNICAL, AND MISCELLANEOUS AMENDMENTS.

(a) CONFORMING AMENDMENTS RELATING TO PLAN TERMINATIONS.—

(1) CREDITS TO PENSION BENEFIT GUARANTY FUNDS.—Section 4005(b)(1)(C) (29 U.S.C. 1305(b)(1)(C)) is amended by inserting "terminated under section 4041(c) or" after "a plan".

(2) ESTIMATED BENEFITS FOR CERTAIN SINGLE-EMPLOYER PLANS.—Section 4005(b)(2) (29 U.S.C. 1305(b)(2)) is amended—

(A) by striking out "and" at the end of subparagraph (C);

(B) by striking out the period at the end of subparagraph (D) and inserting in lieu thereof ", and"; and

(C) by adding at the end thereof the following:

"(E) to pay to participants and beneficiaries the estimated amount of benefits which are guaranteed by the corporation under this title and the estimated amount of other benefits to which plan assets are allocated under section 4044, under single-employer plans which are unable to pay benefits when due or which are abandoned.".

(3) CREDITS TO REVOLVING FUND.—Section 4005(b)(1) (29 U.S.C. 1305(b)(1)) is amended—

(A) by striking out "and" at the end of subparagraph (E);

(B) by redesignating subparagraph (F) as subparagraph (G); and

(C) by inserting after subparagraph (E) the following new subparagraph:

"(F) attorney's fees awarded to the corporation, and".

(4) APPLICABILITY OF ASSET ALLOCATION RULES.—Section 4044(c) (29 U.S.C. 1344(c)) is amended—

(A) in the first sentence, by striking out "Any" and inserting in lieu thereof "In the case of a distress termination under section 4041(c) or a termination by the corporation under section 4042, any", and by striking out "the period beginning" and all that follows down through "is to be allocated" and inserting in lieu thereof the following: "the period beginning on the date a trustee is appointed under section 4042(b) and ending on the termination date is to be allocated"; and

(B) in the second sentence, by inserting "in such a termination under section 4041(c) or 4042" after "terminated".

(5) TERMINATION DATE.—Section 4048(a) (29 U.S.C. 1348(a)) is amended—

(A) by striking out "date of termination" and inserting in lieu thereof "termination date";

(B) by redesignating paragraphs (1) through (3) as paragraphs (2) through (4), respectively;

(C) in paragraph (2) (as redesignated), by inserting "in a distress termination" after "terminated" and by striking out "section 4041" and inserting in lieu thereof "section 4041(c)";

(D) by inserting before paragraph (2) (as redesignated) the following new paragraph:

"(1) in the case of a plan terminated in a standard termination in accordance with the provisions of section 4041(b), the termination date proposed in the notice provided under section 4041(a)(2),";
and

(E) in paragraph (4) (as redesignated), by striking out "in accordance with the provisions of either section" and inserting in lieu thereof "under section 4041(c) or 4042".

(6) CONFORMING AMENDMENTS TO SPECIAL LIABILITY RULES RELATING TO CERTAIN SINGLE-EMPLOYER PLANS UNDER MULTIPLE CONTROLLED GROUPS.—

(A) LIABILITY OF SUBSTANTIAL EMPLOYER FOR WITHDRAWAL.—

(i) Section 4063(a) (29 U.S.C. 1363(a)) is amended—

(I) by striking out "plan under which more than one employer makes contributions (other than a multiemployer plan)" and inserting in lieu thereof "single-employer plan which has two or more contributing sponsors at least two of whom are not under common control";

(II) in paragraph (1), by striking out "withdrawal of a substantial employer" and inserting in lieu thereof "withdrawal during a plan year of a substantial employer for such plan year";

(III) in paragraph (2), by striking out "of such employer" and all that follows and inserting in lieu thereof "of all persons with respect to the withdrawal of the substantial employer.";

(IV) by striking out "whether such employer is liable for any amount under this subtitle with respect to the withdrawal" and inserting in lieu thereof "whether there is liability resulting from the withdrawal of the substantial employer"; and

(V) by striking out "notify such employer" and inserting in lieu thereof "notify the liable persons".

(ii) Section 4063(b) (29 U.S.C. 1363(b)) is amended—

(I) by striking out "an employer" and all that follows down through "shall be liable" and inserting in lieu thereof "any one or more contributing sponsors who withdraw, during a plan year for which they constitute a substantial employer, from a single-employer plan, to which section 4021 applies and which has two or more contributing sponsors at least two of whom are not under common control, shall, upon notification of such contributing sponsors by the corporation as provided by subsection (a), be liable, together with the members of their controlled groups,";

(II) by striking out "such employer's";

(III) by striking out "the employer's withdrawal" and inserting in lieu thereof "the withdrawal referred to in subsection (a)(1)";

(IV) in paragraph (1), by striking out "such employer" and inserting in lieu thereof "such contributing sponsors";

(V) in paragraph (2), by striking out "all employers" and inserting in lieu thereof "all contributing sponsors"; and

(VI) by striking out "the liability of each such employer" and inserting in lieu thereof "such liability".

(iii) Section 4063(c) (29 U.S.C. 1363(c)) is amended—

(I) in paragraph (1), by striking out "In lieu of payment of his liability under this section the employer" and inserting in lieu thereof "In lieu of payment of a contributing sponsor's liability under this section the contributing sponsor";

(II) in paragraph (2), by inserting "under section 4041(c) or 4042" after "terminated", by striking out "of such employer", and by striking out "to the employer (or his bond cancelled)" and inserting in lieu thereof "(or the bond cancelled)"; and

(III) in paragraph (3), by inserting "under section 4041(c) or 4042" after "terminates".

(iv) Section 4063(d) (29 U.S.C. 1363(d)) is amended—

(I) by striking out "Upon a showing by the plan administrator of a plan (other than a multiemployer plan) that the withdrawal from the plan by any employer or employers has resulted" and inserted in lieu thereof "Upon a showing by the plan administrator of the plan that the withdrawal from the plan by one or more contributing sponsors has resulted";

(II) by striking out "by employers"; and

(III) in paragraph (1), by striking out "their employer's" and inserting in lieu thereof "the".

(v) Section 4063(e) (29 U.S.C. 1363(e)) is amended—

(I) by striking out "to any employer or plan administrator"; and

(II) by striking out "all other employers" and inserting in lieu thereof "contributing sponsors".

(vi) The heading for section 4063 is amended by adding at the end thereof the following "FROM SINGLE-EMPLOYER PLANS UNDER MULTIPLE CONTROLLED GROUPS.".

(B) ALLOCATION OF LIABILITY UPON TERMINATION OF CERTAIN SINGLE-EMPLOYER PLANS.—

(i) Section 4064(a) (29 U.S.C. 1364(a)) is amended—

(I) by striking out "all employers who maintain a plan under which more than one employer makes contributions (other than a multiemployer plan)" and inserting in lieu thereof "all contributing sponsors of a single-employer plan which has two or more contributing sponsors at least two of whom are not under common control"; and

(II) by inserting "under section 4041(c) or 4042" after "terminated".

(ii) Section 4064(b) (29 U.S.C. 1364(b)) is amended—

(I) by striking out "liability of each such employer" and inserting in lieu thereof "liability with respect to each contributing sponsor and each member of its controlled group";

(II) by striking out "under section 4062(b)(1)";

(III) by striking out "each employer" the first place it appears and inserting in lieu thereof "each contributing sponsor and member of its controlled group";

(IV) in paragraph (1), by striking out "each employer" and inserting in lieu thereof "members of such controlled group";

(V) in paragraph (2), by striking out "such employers" and inserting in lieu thereof "contributing sponsors";

(VI) by striking out "5 years," in paragraph (2) and all that follows down through "employer." and inserting in lieu thereof "5 years.";

(VII) by striking out "4062(b)(1)" and inserting in lieu thereof "4062(b)(1)(A)(ii)"; and

(VIII) in the last sentence, by striking out "of each such employer" and inserting in lieu thereof "of each such contributing sponsor and member of its controlled group".

(iii) The heading for section 4064 is amended to read as follows:

"LIABILITY ON TERMINATION OF SINGLE-EMPLOYER PLANS UNDER MULTIPLE CONTROLLED GROUPS".

(C) ANNUAL NOTIFICATION TO SUBSTANTIAL EMPLOYERS.—Section 4066 (29 U.S.C. 1366) is amended—

(i) by striking out "each plan under which contributions are made by more than one employer (other than a multiemployer *plan)" and inserting in lieu thereof "each single-employer plan which has at least two contributing sponsors at least two of whom are not under common control";*

(ii) by striking out "any employer making contributions under that plan" and inserting in lieu thereof "any contributing sponsor of the plan"; and

(iii) by striking out "that he is a substantial employer" and inserting in lieu thereof "that such contributing sponsor comprises with others a substantial employer".

(7) ADDITIONAL AMENDMENTS RELATING TO RECOVERY OF AMOUNTS OF LIABILITY.—

(A) Section 4067 (29 U.S.C. 1367) is amended—

(i) in the heading, by striking out "EMPLOYER";

(ii) by striking out "employer or employers" and inserting in lieu thereof "contributing sponsors and members of their controlled groups"; and

(iii) by inserting "of amounts of liability to the corporation accruing as of the termination date" after "deferred payment".

(B) Section 4068 (29 U.S.C. 1368) is amended—

(i) in the heading, by striking out "OF EMPLOYER";

(ii) in subsection (a), by striking out "employer or employers" the first place it appears and inserting in lieu thereof "person", by striking out "neglect or refuse" and inserting in lieu thereof "neglects or refuses", by inserting "to the extent of an amount equal to the unpaid amount described in section 4062(b)(1)(A)" after "liability" and after "corporation" the second place it appears, and by striking out "employer or employers" and inserting in lieu thereof "person",;

(iii) in subsection (d)(1), by striking out "employer" and inserting in lieu thereof "liable person";

(iv) in subsection (d)(2), by striking out "employer" each place it appears and inserting in lieu thereof "liable person";

(v) in subsection (e), by striking out "employer or employers" and inserting in lieu thereof "liable person"; and

(vi) by striking out subsection (c)(1) (29 U.S.C. 1368(c)(1)) and inserting in lieu thereof the following:

"(c)(1) Except as otherwise provided under this section, the priority of a lien imposed under subsection (a) shall be determined in the same manner as under section 6323 of the Internal Revenue Code of 1954 (as in effect on the date of the enactment of the Single-Employer Pension Plan Amendments Act of 1985). Such section 6323 shall be applied for purposes of this section by disregarding subsection (g)(4) and by substituting—

"(A) 'lien imposed by section 4068 of the Employee Retirement Income Security Act of 1974' for 'lien imposed by section 6321' each place it appears in subsections (a), (b), (c)(1), (c)(4)(B), (d), (e), and (h)(5);

"(B) 'the corporation' for 'the Secretary' in subsections (a) and (b)(9)(C);

"(C) 'the payment of the amount on which the section 4068(a) lien is based' for 'the collection of any tax under this title' in subsection (b)(3);

"(D) 'a person whose property is subject to the lien' for 'the taxpayer' in subsections (b)(8), (c)(2)(A)(i) (the first place it appears), (c)(2)(A)(ii), (c)(2)(B), (c)(4)(B), and (c)(4)(C) (in the matter preceding clause (i));

"(E) 'such person' for 'the taxpayer' in subsections (c)(2)(A)(i) (the second place it appears) and (c)(4)(C)(ii);

"(F) 'payment of the loan value of the amount on which the lien is based is made to the corporation' for 'satisfaction of a levy pursuant to section 6332(b)' in subsection (b)(9)(C);

"(G) 'section 4068(a) lien' for 'tax lien' each place it appears in subsections (c)(1), (c)(2)(A), (c)(2)(B), (c)(3)(B)(iii), (c)(4)(B), (d), and (h)(5); and

"(H) 'the date on which the lien is first filed' for 'the date of the assessment of the tax' in subsection (g)(3)(A).".

(b) CLARIFICATION OF DESCRIPTION OF CERTAIN INFORMATION REQUIRED TO BE FILED IN ANNUAL REPORT.—

(1) IN GENERAL.—Section 103(d)(6) (29 U.S.C. 1023(d)(6)) is amended to read as follows:

"(6) Information required in regulations of the Pension Benefit Guaranty Corporation with respect to:

"(A) the current value of the assets of the plan,

"(B) the present value of all nonforfeitable benefits for participants and beneficiaries receiving payments under the plan,

"(C) the present value of all nonforfeitable benefits for all other participants and beneficiaries,

"(D) the present value of all accrued benefits which are not nonforfeitable (including a separate accounting of such benefits which are benefit commitments, as defined in section 4001(a)(16)), and

"(E) the actuarial assumptions and techniques used in determining the values described in subparagraphs (A) through (D).".

(2) CONFORMING AMENDMENT.—Section 104(a)(2)(A) (29 U.S.C. 1024(a)(2)(A)) is amended by striking out the second sentence.

(3) TRANSITION RULES.—Any regulations, modifications, or waivers which have been issued by the Secretary of Labor with respect to section 103(d)(6) of the Employee Retirement Income Security Act of 1974 (as in effect immediately before the date of the enactment of this Act) shall remain in full force and effect until modified by any regulations with respect to such section 103(d)(6) prescribed by the Pension Benefit Guaranty Corporation.

(c) ADDITIONAL AMENDMENTS.—

(1) DEFINITION FOR TITLE I.—Section 3(37)(A) (29 U.S.C. 1002(37)(A)) is amended by inserting "pension" before "plan".

(2) NOTICE OF REQUEST FOR WAIVERS OF MINIMUM FUNDING STANDARDS AND RIGHT TO SUBMIT RELEVANT INFORMATION.—Section 303 (29 U.S.C. 1083) is amended by inserting after subsection (d) the following new subsection:

"(e)(1) The Secretary of the Treasury shall, before granting a waiver under this section, require each applicant to provide evidence satisfactory to such Secretary that the applicant has provided notice of the filing of the application for such waiver to each employee organization representing employees covered by such application.

"(2) The Secretary of the Treasury shall consider any relevant information provided by a person to whom notice was given under paragraph (1).".

(3) NOTICE OF REQUEST FOR EXTENSIONS OF AMORTIZATION PERIOD AND RIGHT TO SUBMIT RELEVANT INFORMATION.—Section 304 (29 U.S.C. 1084) is amended by adding at the end thereof the following new subsection:

"(c)(1) The Secretary of the Treasury shall, before granting an extension under this section, require each applicant to provide evidence satisfactory to such Secretary that the applicant has provided notice of the filing of the application for such extension to each employee organization representing employees covered by such application.

"(2) The Secretary of the Treasury shall consider any relevant information provided by a person to whom notice was given under paragraph (1).".

(4) AMENDMENT TO THE INTERNAL REVENUE CODE OF 1954.—Subsection (f) of section 412 of the Internal Revenue Code of 1954 (relating to benefits may not be increased during waiver or extension period), as amended by the preceding provisions of this Act, is further amended by adding at the end thereof the following new paragraph:

"(4) ADDITIONAL REQUIREMENTS.—

"(A) ADVANCE NOTICE.—The Secretary shall, before granting a waiver under subsection (d) or an extension under subsection (e), require each applicant to provide evidence satisfactory to the Secretary that the applicant has provided notice of the filing of the application for such waiver or extension to each employee organization representing employees covered by such application.

"(B) CONSIDERATION OF RELEVANT INFORMATION.—The Secretary shall consider any relevant information provided by a person to whom notice was given under subparagraph (A).".

(5) AUDIT OF PLANS TERMINATED IN STANDARD TERMINATION.—Section 4003(a) (29 U.S.C. 1303(a)) is amended by adding at the end thereof the following new sentence: "The corporation shall annually audit a statistically significant number of plans terminating under section 4041(b) to determine whether participants and beneficiaries have received their benefit commitments. Each audit shall include a statistically significant number of participants and beneficiaries.".

(6) REPEAL OF EXPIRED AUTHORITY.—Section 4004 (29 U.S.C. 1304) is repealed.

(7) VOTING BY CORPORATION OF STOCK PAID AS LIABILITY.—Section 4005 (29 U.S.C. 1305) is amended by adding at the end thereof the following new subsection:

"(g) Any stock in a person liable to the corporation under this title which is paid to the corporation by such person or a member of such person's controlled group in satisfaction of such person's liability under this title may be voted only by the custodial trustees or outside money managers of the corporation or fiduciaries with respect to trusts to which the requirements of section 4049 apply.".

(8) EFFECTIVE YEARS.—Section 4022(b)(7) (29 U.S.C. 1322(b)(7)) is amended by striking out "following" and inserting in lieu thereof "beginning with".

(9) TREATMENT OF QUALIFIED PRERETIREMENT SURVIVOR ANNUITIES.—Section 4022 (29 U.S.C. 1322) is amended by adding at the end thereof the following new subsection:

"(d) For purposes of subsection (a), a qualified preretirement survivor annuity (as defined in section 205(e)(1)) with respect to a participant under a terminated single-employer plan shall not be treated as forfeitable solely because the participant has not died as of the termination date.".

(10) CLARIFICATION OF POWER TO COLLECT AMOUNTS DUE THE CORPORATION.—Section 4042(d)(1)(B)(ii) (29 U.S.C. 1342(d)(1)(B)(ii)) is amended by inserting after "amounts due the plan" the following: ", including but not limited to the power to collect from the persons obligated to meet the requirements of section 302 or the terms of the plan".

(11) CONFORMING AMENDMENT.—Section 4042(d)(3) (29 U.S.C. 1342(d)(3)) is amended by striking out "same duties as a trustee appointed under section 47 of the Bankruptcy

Act" and inserting in lieu thereof "same duties as those of a trustee under section 704 of title 11, United States Code".

(12) CLERICAL CORRECTIONS.—Section 4044(a)(4) (29 U.S.C. 1344(a)(4)(A)) is amended—

(A) in subparagraph (A), by striking out "section 4022(b)(5)" and inserting in lieu thereof "section 4022B(a)"; and

(B) in subparagraph (B), by striking out "section 4022(b)(6)" and inserting in lieu thereof "section 4022(b)(5)".

(13) RELEASE OF LIEN.—Section 4068(e) (29 U.S.C. 1368(e)) is amended by striking out ", with the consent of the board of directors,".

(d) STUDIES BY COMPTROLLER GENERAL.—

(1) IN GENERAL.—The Comptroller General of the United States may, pursuant to the request of any Member of Congress, study employee benefit plans, including the effects of such plans on employees, participants, and their beneficiaries.

(2) ACCESS TO BOOKS, DOCUMENTS, ETC.—For the purpose of conducting studies under this subsection, the Comptroller General, or any of his duly authorized representatives, shall have access to and the right to examine and copy any books, documents, papers, records, or other recorded information—

(A) within the possession or control of the administrator, sponsor, or employer of and persons providing services to any employee benefit plan, and

(B) which the Comptroller General or his representative finds, in his own judgment, pertinent to such study.

The Comptroller General shall not disclose the identity of any individual or employer in making any information obtained under this subsection available to the public.

(3) DEFINITIONS.—For purposes of this subsection, the terms "employee benefit plan," "participant," "administrator," "beneficiary," "plan sponsor," "employee," and "employer" are defined in section 3 of the Employee Retirement Income Security Act of 1974.

(4) EFFECTIVE DATE.—The preceding provisions of this subsection shall be effective on the date of enactment of this Act.

(e) AMENDMENTS TO THE TABLE OF CONTENTS OF ERISA.—The table of contents in section 1 is amended—

(1) by striking out the item relating to section 4004;

(2) by striking out the item relating to section 4042 and inserting in lieu thereof the following new item:

"Sec. 4042. Institution of termination proceedings by the corporation.";

(3) by inserting after the item relating to section 4048 the following new item:

"Sec. 4049. Distribution to participants and beneficiaries of liability payments to section 4049 trust.";

and

(4) by striking out the items relating to subtitle D of title IV and inserting in lieu thereof the following new items:

"Subtitle D—Liability

"Sec. 4061. Amounts payable by the corporation.
"Sec. 4062. Liability for termination of single-employer plans under a distress termination or a termination by the corporation.
"Sec. 4063. Liability of substantial employer for withdrawal from single-employer plans under multiple controlled groups.
"Sec. 4064. Liability on termination of single-employer plans under multiple controlled groups.
"Sec. 4065. Annual report of plan administrator.
"Sec. 4066. Annual notification of substantial employers.
"Sec. 4067. Recovery of liability for plan termination.
"Sec. 4068. Lien for liability.
"Sec. 4069. Treatment of transactions to evade liability; effect of corporate reorganization.
"Sec. 4070. Enforcement authority relating to terminations of single-employer plans.".

SEC. 11017. STUDIES.

(a) SINGLE-EMPLOYER PENSION PLAN TERMINATION INSURANCE PREMIUM STUDY.—

(1) IN GENERAL.—As soon as practicable after the date of the enactment of this Act, the Pension Benefit Guaranty Corporation shall conduct a study of the premiums established under the single-employer pension plan termination insurance program under title IV of the Employee Retirement Income Security Act of 1974.

(2) MATTERS TO BE STUDIED.—The Corporation shall specifically consider in its study the following matters:

(A) the effect of the amendments made by this Act on the long-term stability of the single-employer pension plan termination insurance program under title IV of the Employee Retirement Income Security Act of 1974,

(B) alternatives to the current statutory mechanism with respect to proposals for changes in the premium levels under such program,

(C) the methods currently used by the Corporation in projecting future program costs of the single-employer pension plan termination insurance program,

(D) alternative methods of projecting such future program costs and an evaluation of each such alternative method,

(E) the methods currently used by the Corporation in determining premiums needed to allocate and adequately fund such future program costs,

(F) alternative methods of making such premium determinations and an evaluation of each such alternative method, and

(G) alternative premium bases upon which some or all of such projected future program costs would be allocated on a exposure-related or risk-related computation, which may take into account the different exposures or risks imposed on the Corporation by plan sponsors with different histories and under different circumstances.

(3) SUBMISSION OF CORPORATION'S REPORT.—Not later than one year after the date of the enactment of this Act, the Corporation shall report the results of its study, together with any recommendations for statutory changes, to an advisory council, to be appointed by the chairmen of the Committee on Education and Labor and the Committee on Ways and Means of the House of Representatives and the Committee on Labor and Human Resources and the Committee on Finance of the Senate. The advisory council shall be composed of representatives of single-employer plan sponsors, employee organizations representing single-employer plan participants, and members of the general public who are experts in the matters to be considered in the study. The members of the advisory council shall serve without compensation.

(4) SUBMISSION OF COUNCIL'S REPORT TO CONGRESS.—Not later than 180 days after the date of the submission of the Corporation's report to the advisory council under paragraph (3), the advisory council shall submit the results of the Corporation's study and the Corporation's recommendations, together with the recommendations of the council, to the Speaker of the House of Representatives and the President pro tempore of the Senate.

(5) COOPERATION BY THE PENSION BENEFIT GUARANTY CORPORATION AND OTHER FEDERAL AGENCIES.—The Corporation shall cooperate with the advisory council in reviewing the results of the Corporation's study and recommendations. In order to avoid unnecessary expense and duplication, to the extent not otherwise prohibited by law, the Corporation and any other Federal agency shall provide to the advisory council any data, analyses, or other relevant information related to the matters under review.

(b) OVERFUNDED PENSION PLAN STUDY.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary of Labor shall conduct a study of terminations resulting in residual assets under section 4044(d) of the Employee Retirement Income Security Act of 1974.

(2) REPORT.—No later than February 1, 1986, the Secretary of Labor shall submit a report on the study conducted under paragraph (1), together with any recommendations for statutory changes, to the chairmen of the Committee on Education and Labor and the Committee on Ways and Means of the House of Representatives and the Committee on Labor and Human Resources and the Committee on Finance of the Senate.

SEC. 11018. LIMITATION ON REGULATIONS.

(a) REGULATORY TREATMENT OF ASSETS OF REAL ESTATE ENTITIES.—

(1) IN GENERAL.—Except as a defense, no rule or regulation adopted pursuant to the Secretary's proposed regulation defining "plan assets" for purposes of the Employee Retirement Income Security Act of 1974 (50 FR 961, January 8, 1985, as modified by 50 FR 6361, February 15, 1985), or any reproposal thereof prior to the adoption of the regulations required to be issued in accordance with subsection (d), shall apply to any asset of a real estate entity in which a plan, account, or arrangement subject to such Act invests if—

(A) any interest in the entity is first offered to a plan, account, or arrangement subject to such Act investing in the entity (hereinafter in this section referred to as a "plan investor") on or before the date which is 120 days after the date of publication of such rule or regulation as a final rule or regulation;

(B) no plan investor acquires an interest in the entity from an issuer or underwriter at any time on or after the date which is 270 days after the date of publication of such rule or regulation as a final rule or regulation (except pursuant to a contract or subscription binding on the plan investor and entered into, or tendered, before the expiration of such 270-day period, or pursuant to the exercise, on or before December 31, 1990, of a warrant which was the subject of an effective registration under the Securities Act of 1933 (15 U.S.C. 77q et seq.) prior to the date of the enactment of this section); and

(C) every interest in the entity acquired by a plan investor (or contracted for or subscribed to by a plan investor) before the expiration of such 270-day period is a security—

(i) which is part of an issue or class of securities which upon such acquisition or at any time during the offering period is held by 100 or more persons;

(ii) the economic rights of ownership in respect of which are freely transferable;

(iii) which is registered under the Securities Act of 1933; and

(iv) which is part of an issue or class of securities which is registered under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) (or is so registered within three years of the effective date of the registration statement of such securities for purposes of the Securities Act of 1933, provided that the issuer provides plan investors with such reports with respect to the offering period as are required with respect to such period by the Securities and Exchange Commission under such acts and the rules and regulations promulgated thereunder).

In the case of partnerships organized prior to enactment of this section, the requirements of subparagraphs (iii) and (iv) shall not apply to initial limited partnership interests in an entity otherwise described above provided such entity was the subject of an effective registration under the Securities Act of 1933 prior to the date of the enactment of this section, such interests were issued solely for partnership organizational purposes in compliance with State limited partnership laws, and such interest has a value as of the date of issue of less than $20,000 and represents less than one percent of the total interests outstanding as of the completion of the offering period.

(2) Maintenance of Current Regulatory Treatment.—No asset of any real estate entity described in paragraph (1) shall be treated as an asset of any plan investor for any purpose of the Employee Retirement Income Security Act of 1974 if the assets of such entity would not have been assets of such plan investor under the provisions of—

(A) Interpretive Bulletin 75-2 (29 CFR 2509.750-2); or

(B) the regulations proposed by the Secretary of Labor and published—

(i) on August 28, 1979, at 44 Fed. Reg. 50363;

(ii) on June 6, 1980, at 45 Fed. Reg. 38084;

(iii) on January 8, 1985, at 50 Fed. Reg. 961; or

(iv) on February 15, 1985, at 50 Fed. Reg. 6361,

without regard to any limitation of any effective date proposed therein.

(b) Definitions and Special Rules.—For purposes of this section—

(1) The term 'real estate entity' means an entity which, at any time within two years after the closing of its offering period has invested or has contracted to invest at least 75 percent of the value of its net assets available for investment in direct or indirect ownership of 'real estate assets' or 'interests in real property'.

(2) The term 'real estate asset' means real property (including an interest in real property) and any share of stock or beneficial interest, partnership interest, depository receipt, or any other interest in any other real estate entity.

(3) The term 'interest in real property' includes, directly or indirectly, the following:

(A) the ownership or co-ownership of land or improvements thereon;

(B) any mortgage (including an interest in or co-ownership of any mortgage, leasehold mortgage, pool of mortgages, deed of trust, or similar instrument) on land or improvements thereon;

(C) any leasehold of land or improvements thereon; and

(D) any option to acquire any of the foregoing, but does not include any mineral, oil, or gas royalty interest.

(4) Whether the economic rights of ownership with respect to a security are 'freely transferable' shall be determined based upon all the facts and circumstances, but ordinarily none of the following, alone or in any combination, shall cause the economic rights of ownership to be considered not freely transferable—

(A) any requirement that not less than a minimum number of shares or units of such security be transferred or assigned by any investor, provided that such requirement does not prevent transfer of all of the then remaining shares or units held by an investor;

(B) any prohibition against transfer or assignment of such security or rights in respect thereof to an ineligible or unsuitable investor;

(C) any restriction on or prohibition against any transfer or assignment which would either result in a termination or reclassification of the entity for Federal or State tax purposes or which would violate any State or Federal statute, regulation, court order, judicial decree, or rule of law;

(D) any requirement that reasonable transfer or administrative fees be paid in connection with a transfer or assignment;

(E) any requirement that advance notice of a transfer or assignment be given to the entity and any requirement regarding execution of documentation evidencing such transfer or assignment (including documentation setting forth representations from either or both of the transferor or transferee as to compliance with any restriction or requirement described in this section or requiring compliance with the entity's governing instruments);

(F) any restriction on substitution of an assignee as a limited partner of a partnership, including a general partner consent requirement, provided that the economic benefits of ownership of the assignor may be transferred or assigned without regard to such restriction or consent (other than compliance with any other restriction described in this section);

(G) any administrative procedure which establishes an effective date, or an event such as the completion of the offering, prior to which a transfer or assignment will not be effective; and

(H) any limitation or restriction on transfer or assignment which is not created or imposed by the issuer or any person acting for or on behalf of such issuer.

(c) No Effect on Secretary's Authority Other Than As Provided.—Except as provided in subsection (a), nothing in this section shall limit the authority of the Secretary of Labor to issue regulations or otherwise interpret section 3(21) of the Employee Retirement Income Security Act of 1974.

(d) Time Limit for Final Regulations.—The Secretary of Labor shall adopt final regulations defining "plan assets" by December 31, 1986.

(e) Effective Date.—The preceding provisions of this section shall take effect on the date of the enactment of this Act.

SEC. 11019. EFFECTIVE DATE OF TITLE; TEMPORARY PROCEDURES.

(a) In General.—Except as otherwise provided in this title, the amendments made by this title shall apply with respect to terminations pursuant to notices of intent to terminate filed with the Pension Benefit Guaranty Corporation on or after the earlier of—

(1) the date of the enactment of this Act, or

(2) January 1, 1986.

(b) Authority To Prescribe Temporary Procedures.—The Pension Benefit Guaranty Corporation may prescribe temporary procedures for purposes of carrying out the amendments made by this title during the 180-day period beginning on the date described in subsection (a).

TITLE XII—INCOME SECURITY AND RELATED PROGRAMS

Subtitle A—Old-Age, Survivors, and Disability Insurance Program

SEC. 12101. DEMONSTRATION PROJECTS INVOLVING THE DISABILITY INSURANCE PROGRAM.

(a) Extension of Waiver Authority.—Section 505(a)(3) of the Social Security Disability Amendments of 1980 is amended by inserting "which is initiated before June 10, 1990" after "demonstration project under paragraph (1)".

(b) Interim Reports.—Section 505(a)(4) of such Amendments is amended to read as follows:

"(4) On or before June 9 in each of the years 1986, 1987, 1988, and 1989, the Secretary shall submit to the Congress an interim report on the progress of the experiments and demonstration projects carried out under this subsection together with any related data and materials which the Secretary may consider appropriate.".

(c) Final Report.—Section 505(c) of such Amendments is amended by striking out "under this section no later than five years after the date of the enactment of this Act" and inserting in lieu thereof "under subsection (a) no later than June 9, 1990".

(d) Incorporation of Certain Reports Into Secretary's Annual Report to Congress.—Section 1110(b) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(3) All reports of the Secretary with respect to projects carried out under this subsection shall be incorporated into the Secretary's annual report to the Congress required by section 704.".

SEC. 12102. DISABILITY ADVISORY COUNCIL.

(a) Appointment of Council.—Within ninety days after the date of the enactment of this Act, the Secretary of Health and Human Services shall appoint a special Disability Advisory Council.

(b) Membership of Council.—The Disability Advisory Council shall consist of a Chairman and not more than twelve other persons, appointed by the Secretary without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. The appointed members shall, to the extent possible, represent organizations of employers and employees in equal numbers, medical and vocational experts from the public or private sector (or from both such sectors), organizations representing disabled people, and the public. The Council shall meet as often as may be necessary for the performance of its duties under this section, but not less often than quarterly.

(c) Duties of Council.—(1) The Advisory Council shall conduct studies and make recommendations with respect to the medical and vocational aspects of disability under both title II and title XVI of the Social Security Act, including studies and recommendations relating to—

(A) the effectiveness of vocational rehabilitation programs for recipients of disability insurance benefits or supplemental security income benefits;

(B) the question of using specialists for completing medical and vocational evaluations at the State agency level in the disability determination process, including the question of requiring, in cases involving impairments other than mental impairments, that the medical portion of each case review (as well as any applicable assessment of residual functional capacity) be completed by an appropriate medical specialist employed by the appropriate State agency before any determination can be made with respect to the impairment involved;

(C) alternative approaches to work evaluation in the case of applicants for benefits based on disability and recipients of such benefits undergoing reviews of their cases, including immediate referral of any such applicant or recipient to a vocational rehabilitation agency for services at the same time he or she is referred to the appropriate State agency for a disability determination;

(D) the feasibility and appropriateness of providing work evaluation stipends for applicants for and recipients of benefits based on disability in cases where extended work evaluation is needed prior to the final determination of their eligibility for such benefits or for further rehabilitation and related services;

(E) the standards, policies, and procedures which are applied or used by the Secretary of Health and Human Services with respect to work evaluations in order to determine whether such standards, policies, and procedures will provide appropriate screening criteria for work evaluation referrals in the case of applicants for and recipients of benefits based on disability; and

(F) possible criteria for assessing the probability that an applicant for or recipient of benefits based on disability will benefit from rehabilitation services, taking into consideration not only whether the individual involved will be able after rehabilitation to engage in substantial gainful activity but also whether rehabilitation services can reasonably be expected to improve the individual's functioning so that he or she will be able to live independently or work in a sheltered environment.

(2) For purposes of this subsection, "work evaluation" includes (with respect to any individual) a determination of—

(A) such individual's skills,

(B) the work activities or types of work activity for which such individual's skills are insufficient or inadequate,

(C) the work activities or types of work activity for which such individual might potentially be trained or rehabilitated,

(D) the length of time for which such individual is capable of sustaining work (including, in the case of the mentally impaired, the ability to cope with the stress of competitive work), and

(E) any modifications which may be necessary, in work activities for which such individual might be trained or rehabilitated, in order to enable him or her to perform such activities.

(d) PROVISION OF ASSISTANCE TO COUNCIL; COMPENSATION OF MEMBERS.—(1) The Disability Advisory Council is authorized to engage such technical assistance, including actuarial services, as may be required to carry out its functions, and the Secretary of Health and Human Services shall, in addition, make available to the Council such secretarial, clerical, and other assistance and such actuarial and other pertinent data prepared by the Department of Health and Human Services as the Council may require to carry out such functions.

(2) Appointed members of the Council, while serving on business of the Council (inclusive of traveltime), shall receive compensation at rates fixed by the Secretary, but not exceeding $100 per day, and, while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government employed intermittently.

(e) REPORTS.—The Disability Advisory Council shall submit a report (including any interim reports the Council may have issued) of its findings and recommendations to the Secretary of Health and Human Services not later than December 31, 1986; and such report and recommendations shall thereupon be transmitted to the Congress and to the Board of Trustees of the Federal Disability Insurance Trust Fund.

(f) TERMINATION.—After the date of the transmittal to the Congress of the report required by subsection (e), the Disability Advisory Council shall cease to exist.

(g) CONFORMING AMENDMENTS.—(1) Section 706 of the Social Security Act is amended—

(A) by inserting "except as provided in subsection (e)," immediately before "the Secretary shall appoint" in subsection (a); and

(B) by adding at the end thereof the following new subsection:

"(e) No Advisory Council on Social Security shall be appointed under subsection (a) in 1985 (or in any subsequent year prior to 1989).".

(2) Section 12 of the Social Security Disability Benefits Reform Act of 1984 is repealed.

SEC. 12103. TAXATION OF SOCIAL SECURITY BENEFITS RECEIVED BY CERTAIN CITIZENS OF POSSESSIONS OF THE UNITED STATES.

(a) GENERAL RULE.—Section 932 of the Internal Revenue Code of 1954 (relating to citizens of possessions of the United States) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) TAXATION OF SOCIAL SECURITY BENEFITS.—If, for purposes of an income tax imposed in the possession, any social security benefit (as defined in section 86(d)) received by an individual described in subsection (a) is treated in a manner equivalent to that provided by section 86, then—

"(1) such benefit shall be exempt from the tax imposed by section 871, and

"(2) no amount shall be deducted and withheld from such benefit under section 1441.

Any income tax imposed in a possession which treats social security benefits (as defined in section 86(d)) in a manner equivalent to section 86, and which first becomes effective within 15 months after the date of the enactment of this subsection, shall, for purposes of this section, be deemed to have been in effect as of January 1, 1984.".

(b) CROSS REFERENCE.—Paragraph (3) of section 871(a) of such Code is amended by adding at the end thereof (after and below subparagraph (B)) the following new sentence:

"For treatment of certain citizens of possessions of the United States, see section 932(c)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits received after December 31, 1983, in taxable years ending after such date.

SEC. 12104. APPLICATION OF DEPENDENCY TEST TO ADOPTED GREAT-GRANDCHILDREN FOR PURPOSES OF CHILD'S INSURANCE BENEFITS.

(a) TREATMENT OF GRANDCHILDREN AND GREAT-GRANDCHILDREN ALIKE.—Section 202(d)(8)(D)(ii)(III) of the Social Security Act is amended by inserting "or great-grandchild" after "grandchild".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to benefits for which application is filed after the date of the enactment of this Act.

SEC. 12105. ELIMINATION OF REQUIREMENT FOR PUBLICATION OF REVISIONS IN PRE-1979 BENEFIT TABLE.

Section 215(i)(4) of the Social Security Act is amended by striking out "the Secretary shall publish" and all that follows in the last sentence and inserting in lieu thereof the following: "the Secretary shall revise the table of benefits contained in subsection (a), as in effect in December 1978, in accordance with the requirements of paragraph (2)(D) of this subsection as then in effect, except that the requirement in such paragraph (2)(D) that the Secretary publish such revision of the table of benefits in the Federal Register shall not apply.".

SEC. 12106. FORMULA CLARIFICATION.

Section 709(b)(1) of the Social Security Act is amended to read as follows:

"(1) the balance in such Trust Fund as of the beginning of such year, including the taxes transferred under section 201(a) on the first day of such year and reduced by the outstanding amount of any loan (including interest thereon) theretofore made to such Trust Fund under section 201(l) or 1817(j), to".

SEC. 12107. EXTENSION OF 15-MONTH REENTITLEMENT PERIOD TO CHILDHOOD DISABILITY BENEFICIARIES SUBSEQUENTLY ENTITLED.

(a) IN GENERAL.—Section 202(d)(6)(E) of the Social Security Act is amended by striking out "the third month following the month in which he ceases to be under such disability" and inserting in lieu thereof "the termination month (as defined in paragraph (1)(G)(i)), subject to section 223(e),".

(b) CONFORMING AMENDMENT.—Section 223(e) of such Act is amended by inserting "(d)(6)(A)(ii), (d)(6)(B)," after "(d)(1)(B)(ii),".

(c) EFFECTIVE DATE.—The amendments made by this section are effective December 1, 1980, and shall apply with respect to any individual who is under a disability (as defined in section 223(d) of the Social Security Act) on or after that date.

SEC. 12108. CHARGING OF WORK DEDUCTIONS AGAINST AUXILIARY BENEFITS IN DISABILITY CASES.

(a) IN GENERAL.—(1) Section 203(a)(4) of the Social Security Act is amended by striking out "preceding" in the first sentence.

(2) Section 203(a)(6) of such Act is amended—

(A) by striking out "and (5)" and inserting in lieu thereof "(4), and (5)"; and

(B) by striking out ", whether or not" and all that follows down through "further reduced" and inserting in lieu thereof "shall be reduced".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to benefits payable for months after December 1985.

SEC. 12109. PERFECTING AMENDMENTS TO DISABILITY OFFSET PROVISION.

(a) IN GENERAL.—(1) Section 224(a)(2) of the Social Security Act is amended to read as follows:

"(2) such individual is entitled for such month to—

"(A) periodic benefits on account of his or her total or partial disability (whether or not permanent) under a workmen's compensation law or plan of the United States or a State, or

"(B) periodic benefits on account of his or her total or partial disability (whether or not permanent) under any other law or plan of the United States, a State, a political subdivision (as that term is used in section 218(b)(2)), or an instrumentality of two or more States (as that term is used in section 218(k)), other than (i) benefits payable under title 38, United States Code, (ii) benefits payable under a program of assistance which is based on need, (iii) benefits based on service all or substantially all of which was included under an agreement entered into by a State and the Secretary under section 218, and (iv) benefits under a law or plan of the United States based on service all or part of which is employment as defined in section 210,".

(2) Section 224(a)(2)(B) of such Act (as amended by paragraph (1) of this subsection) is further amended by striking out "all or part of which" in clause (iv) and inserting in lieu thereof "all or substantially all of which".

(b) EFFECTIVE DATES.—(1) The amendment made by subsection (a)(1) shall be effective as though it had been included or reflected in the amendment made by section 2208(a)(3) of the Omnibus Budget Reconciliation Act of 1981.

(2) The amendment made by subsection (a)(2) shall apply only with respect to monthly benefits payable on the basis of the wages and self-employment income of individuals who become disabled (within the meaning of section 223(d) of the Social Security Act) after the month in which this Act is enacted.

SEC. 12110. STATE COVERAGE AGREEMENTS.

(a) MAXIMUM PERIOD OF RETROACTIVE COVERAGE.—Section 218(f)(1) of the Social Security Act is amended by striking out "is agreed to by the Secretary and the State" and inserting in lieu thereof "is mailed or delivered by other means to the Secretary".

(b) POSITIONS COMPENSATED SOLELY ON FEE BASIS.—Section 218(u)(3) of such Act is amended by striking out "is agreed to by the Secretary and the State" and inserting in lieu thereof "is mailed or delivered by other means to the Secretary".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to agreements and modifications of agreements which are mailed or delivered to the Secretary of Health and Human Services (under section 218 of the Social Security Act) on or after the date of the enactment of this Act.

SEC. 12111. EFFECT OF EARLY DELIVERY OF BENEFIT CHECKS.

(a) FOR OASDI PURPOSES.—Section 708 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(c) For purposes of computing the 'OASDI trust fund ratio' under section 201(l), the 'OASDI fund ratio' under section 215(i), and the 'balance ratio' under section 709(b), benefit checks delivered before the end of the month for which they are issued by reason of subsection (a) of this section shall be deemed to have been delivered on the regularly designated delivery date.".

(b) FOR INCOME TAX PURPOSES.—Section 86(d) of the Internal Revenue Code of 1954 (relating to taxation of social security and tier 1 railroad retirement benefits) is amended by adding at the end thereof the following new paragraph:

"(5) EFFECT OF EARLY DELIVERY OF BENEFIT CHECKS.—For purposes of subsection (a), in any case where section 708 of the Social Security Act causes social security benefit checks to be delivered before the end of the calendar month for which they are issued, the benefits involved shall be deemed to have been received in the succeeding calendar month.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to benefit checks issued for months ending after the date of the enactment of this Act.

SEC. 12112. EXEMPTION FROM SOCIAL SECURITY COVERAGE FOR RETIRED FEDERAL JUDGES ON ACTIVE DUTY.

(a) AMENDMENT TO SOCIAL SECURITY ACT.—Section 209 of the Social Security Act is amended in the third to the last paragraph thereof (added by section 101(c)(1) of the Social Security Amendments of 1983) by striking out "shall, subject to the provisions of subsection (a) of this section, include" and inserting in lieu thereof "shall not include".

(b) AMENDMENT TO INTERNAL REVENUE CODE.—Section 3121(i)(5) of the Internal Revenue Code of 1954 is amended by striking out "shall, subject to the provisions of subsection (a)(1) of this section, include" and inserting in lieu thereof "shall not include".

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to service performed after December 31, 1983.

SEC. 12113. RECOVERY OF OVERPAYMENTS.

(a) OASDI PAYMENTS.—Section 204(a) of the Social Security Act is amended—

(1) by inserting "(1)" after "204(a)";

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B); and

(3) by adding at the end thereof the following new paragraph:

"(2) Notwithstanding any other provision of this section, when any payment of more than the correct amount is made to or on behalf of an individual who has died, and such payment—

"(A) is made by direct deposit to a financial institution;

"(B) is credited by the financial institution to a joint account of the deceased individual and another person; and

"(C) such other person was entitled to a monthly benefit on the basis of the same wages and self-employment income as the deceased individual for the month preceding the month in which the deceased individual died,

the amount of such payment in excess of the correct amount shall be treated as a payment of more than the correct amount to such other person.".

(b) SSI PAYMENTS.—Section 1631(b) of the Social Security Act is amended by redesignating paragraphs (2) through (4) as paragraphs (3) through (5), and by inserting after paragraph (1) the following new paragraph:

"(2) Notwithstanding any other provision of this section, when any payment of more than the correct amount is made to or on behalf of an individual who has died, and such payment—

"(A) is made by direct deposit to a financial institution;

"(B) is credited by the financial institution to a joint account of the deceased individual and another person; and

"(C) such other person is the surviving spouse of the deceased individual, and was eligible for a payment under this title (including any State supplementation payment paid by the Secretary) as an eligible spouse (or as either member of an eligible couple) for the month in which the deceased individual died,

the amount of such payment in excess of the correct amount shall be treated as a payment of more than the correct amount to such other person.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply only in the case of deaths of which the Secretary is first notified on or after the date of the enactment of this Act.

SEC. 12114. COVERAGE OF CONNECTICUT STATE POLICE.

Notwithstanding any provision of section 218 of the Social Security Act, the Secretary of Health and Human Services shall, upon the request of the Governor of Connecticut, modify the agreement under such section between the Secretary and the State of Connecticut to provide that service performed after the date of the enactment of this Act by members of the Division of the State Police within the Connecticut Department of Public Safety, who are hired on or after May 8, 1984, and who are members of the tier II plan of the Connecticut State Employees Retirement System, shall be covered under such agreement.

SEC. 12115. GENERAL EFFECTIVE DATE OF SUBTITLE.

Except as otherwise specifically provided, the preceding provisions of this subtitle, including the amendments made thereby, shall take effect on the first day of the month following the month in which this Act is enacted.

Subtitle B—Supplemental Security Income Program

SEC. 12201. AMENDMENTS RELATING TO STATE SUPPLEMENTATION UNDER SSI.

(a) PASSTHROUGH RELATING TO OPTIONAL STATE SUPPLEMENTATION.—Section 1618 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(f) The Secretary shall not find that a State has failed to meet the requirements imposed by subsection (a) with respect to the levels of its supplementary payments for the period January 1, 1984, through December 31, 1985, if in the period January 1, 1986, through December 31, 1986, its supplementary payment levels (other than to recipients of benefits determined under section 1611(e)(1)(B)) are not less than those in effect in December 1976, increased by a percentage equal to the percentage by which payments under section 1611(b) of this Act and section 211(a)(1)(A) of Public Law 93-66 have been increased as a result of all adjustments under section 1617(a) and (c) which have occurred after December 1976 and before February 1986.".

(b) FEDERAL ADMINISTRATION OF STATE SUPPLEMENTATION.—Section 1616(b) of such Act is amended by adding at the end thereof (after and below paragraph (2)) the following new sentence:

"At the option of the State (but subject to paragraph (2) of this subsection), the agreement between the Secretary and such State entered into under subsection (a) shall be modified to provide that the Secretary will make supplementary payments, on and after an effective date to be specified in the agreement as so modified, to individuals receiving benefits determined under section 1611(e)(1)(B).".

SEC. 12202. PRESERVATION OF BENEFIT STATUS FOR DISABLED WIDOWS AND WIDOWERS WHO LOST SSI BENEFITS BECAUSE OF 1983 CHANGES IN ACTUARIAL REDUCTION FORMULA.

(a) IN GENERAL.—Section 1634 of the Social Security Act is amended—

(1) by inserting "(a)" after "SEC. 1634.", and

(2) by adding at the end the following new subsection:

"(b)(1) An eligible disabled widow or widower (described in paragraph (2)) who is entitled to a widow's or widower's insurance benefit based on a disability for any month under section 202(e) or (f) but is not eligible for benefits under this title in that month, and who applies for the protection of this subsection under paragraph (3), shall be deemed for purposes of title XIX to be an individual with respect to whom benefits under this title are paid in that month if he or she—

"(A) has been continuously entitled to such widow's or widower's insurance benefits from the first month for which the increase described in paragraph (2)(C) was reflected in such benefits through the month involved, and

"(B) would be eligible for benefits under this title in the month involved if the amount of the increase described in paragraph (2)(C) in his or her widow's or widower's insurance benefits, and any subsequent cost-of-living adjustments in such benefits under section 215(i), were disregarded.

"(2) For purposes of paragraph (1), the term 'eligible disabled widow or widower' means an individual who—

"(A) was entitled to a monthly insurance benefit under title II for December 1983,

"(B) was entitled to a widow's or widower's insurance benefit based on a disability under section 202(e) or (f) for January 1984 and with respect to whom a benefit under this title was paid in that month, and

"(C) because of the increase in the amount of his or her widow's or widower's insurance benefits which resulted from the amendments made by section 134 of the Social Security Amendments of 1983 (Public Law 98-21) (eliminating the additional reduction factor for disabled widows and widowers under age 60), was ineligible for benefits under this title in the first month in which such increase was paid to him or her (and in which a retroactive payment of such increase for prior months was not made).

"(3) This subsection shall only apply to an individual who files a written application for protection under this subsection, in such manner and form as the Secretary may prescribe, during the 15-month period beginning with the month in which this subsection is enacted.

"(4) For purposes of this subsection, the term 'benefits under this title' includes payments of the type described in section 1616(a) or of the type described in section 212(a) of Public Law 93-66.".

(b) Identification of Beneficiaries.—(1) As soon as possible after the date of the enactment of this Act, the Secretary of Health and Human Services shall provide each State with the names of all individuals receiving widow's or widower's insurance benefits under subsection (e) or (f) of section 202 of the Social Security Act based on a disability who might qualify for medical assistance under the plan of that State approved under title XIX of such Act by reason of the application of section 1634(b) of the Social Security Act.

(2) Each State shall—

(A) using the information so provided and any other information it may have, promptly notify all individuals who may qualify for medical assistance under its plan by reason of such section 1634(b) of their right to make application for such assistance,

(B) solicit their applications for such assistance, and

(C) make the necessary determination of such individuals' eligibility for such assistance under such section and under such title XIX.

(c) Effective Date.—The amendment made by subsection (a)(2) shall not have the effect of deeming an individual eligible for medical assistance for any month which begins less than two months after the date of the enactment of this Act.

Subtitle C—AFDC, Adoption Assistance, and Foster Care Programs

SEC. 12301. AFDC QUALITY CONTROL STUDIES AND PENALTY MORATORIUM.

(a) Studies.—(1) The Secretary of Health and Human Services (hereafter referred to in this section as the "Secretary") shall conduct a study of quality control systems for the Aid to Families with Dependent Children Program under title IV-A of the Social Security Act and for the Medicaid Program under title XIX of such Act. The study shall examine how best to operate such systems in order to obtain information which will allow program managers to improve the quality of administration, and provide reasonable data on the basis of which Federal funding may be withheld for States with excessive levels of erroneous payments.

(2) The Secretary shall also contract with the National Academy of Sciences to conduct a concurrent independent study for the purpose described in paragraph (1). For purposes of such study, the Secretary shall provide to the National Academy of Sciences any relevant data available to the Secretary at the onset of the study and on an ongoing basis.

(3) The Secretary and the National Academy of Sciences shall report the results of their respective studies to the Congress within one year after the date of the enactment of this Act.

(b) Moratorium on Penalties.—(1) During the 24-month period beginning with the first calendar quarter which begins after the date of the enactment of this Act (hereafter in this section referred to as the "moratorium period"), the Secretary shall not impose any reductions in payments to States pursuant to section 403(i) or 1903(u) of the Social Security Act (or prior regulations), or pursuant to any comparable provision of law relating to the programs under titles IV-A and XIX of such Act in Puerto Rico, Guam, the Virgin Islands, American Samoa, or the Northern Mariana Islands.

(2) During the moratorium period, the Secretary and the States shall continue to operate the quality control systems in effect under titles IV-A and XIX of the Social Security Act, and to calculate the error rates under the provisions referred to in paragraph (1).

(c) Restructured Quality Control Systems.—(1) Not later than 18 months after the date of the enactment of this Act, the Secretary shall publish regulations which shall—

(A) restructure the quality control systems under titles IV-A and XIX of the Social Security Act to the extent the Secretary determines to be appropriate, taking into account the studies conducted under subsection (a); and

(B) establish, taking into account the studies conducted under subsection (a), criteria for adjusting the reductions which shall be made for quarters prior to the implementation of the restructured quality control systems so as to eliminate reductions for those quarters which would not be required if the restructured quality control systems had been in effect during those quarters.

(2) Beginning with the first calendar quarter after the moratorium period, the Secretary shall implement the revised quality control systems, and shall reduce payments to States—

(A) for quarters after the moratorium period in accordance with the restructured quality control systems; and

(B) for quarters in and before the moratorium period, as provided under the regulations described in paragraph (1)(B).

(d) Effective Date.—This section shall become effective on the date of the enactment of this Act.

SEC. 12302. MANDATORY PROVISION OF AID WITH RESPECT TO DEPENDENT CHILDREN IN TWO-PARENT FAMILIES.

(a) Requirement That Aid be Provided.—Section 402(a) of the Social Security Act is amended—

(1) by striking out "and" after the semicolon at the end of paragraph (38);

(2) by striking out the period at the end of paragraph (39) and inserting in lieu thereof "; and"; and

(3) by inserting immediately after paragraph (39) the following new paragraph:

"(40) provide that payments of aid will be made under the plan with respect to dependent children of unemployed parents, in accordance with section 407.".

(b) Conforming Amendments.—(1) Section 407(b) of such Act is amended by striking out "(b) The provisions" and all that follows down through "(1) requires" and inserting in lieu thereof the following:

"(b) In providing for the payment of aid under the State's plan approved under section 402 in the case of families which include dependent children within the meaning of subsection (a) of this section, as required by section 402(a)(40), the State's plan—

"(1) shall require".

(2) Section 407(b)(2) of such Act is amended by striking out "provides—" and inserting in lieu thereof "shall provide—".

(c) Quarters of Work Based on Education or Training.—(1) Section 407(d)(1) of such Act is amended—

(A) by inserting "(A)" after "means a calendar quarter"; and

(B) by inserting before the semicolon at the end thereof the following: ", or (B) if the State plan so provides (but subject to the last sentence of this subsection), in which such individual (i) was in regular full-time attendance as a student at an elementary or secondary school, (ii) was in regular full-time attendance in a course of vocational or technical training designed to fit him or her for gainful employment, or (iii) participated in an education or training program established under the Job Training Partnership Act".

(2) Section 407(d) of such Act is further amended by adding at the end thereof (after and below paragraph (4)) the following new sentence:

"No individual shall be credited during his or her lifetime (for purposes of subsection (b)(1)(C)(i)) with more than 4 'quarters of work' based on attendance in a course or courses of vocational or technical training as described in paragraph (1)(B)(ii) of this subsection.".

(3) Section 407(b)(1)(C)(i) of such Act is amended by inserting after "6 or more quarters of work (as defined in subsection (d)(1))" the following: ", including 2 or more quarters of work as defined in subsection (d)(1)(A),".

(d) Effective Date.—The amendments made by this section shall become effective January 1, 1988.

SEC. 12303. AFDC AUTOMATION REQUIREMENTS.

(a) In General.—Section 402(e)(2) of the Social Security Act is amended by adding at *the end thereof the following new subparagraph:*

"(C) If the Secretary determines that such a system has not been implemented by the State by the date specified for implementation in the State's advance automatic data processing planning document, then the Secretary shall reduce payments to such State, in accordance with section 403(b), in an amount equal to 40 percent of the expenditures referred to in section 403(a)(3)(B) with respect to which payments were made to the State under section 403(a)(3)(B). The Secretary may extend the deadline for implementation if the State demonstrates to the satisfaction of the Secretary that the State cannot implement such system by the date specified in such planning document due to circumstances beyond the State's control.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on the date of the enactment of this Act, but shall apply only with respect to sums expended by the States for the purposes described in section 403(a)(3)(B) of the Social Security Act on or after the date of the enactment of this Act.

SEC. 12304. THIRD-PARTY LIABILITY.

(a) IN GENERAL.—Section 402(a)(26) of the Social Security Act is amended—

(1) by striking out the comma at the end of subparagraph (A) and inserting in lieu thereof a semicolon;

(2) by adding "and" after the semicolon at the end of subparagraph (B); and

(3) by adding after subparagraph (B) the following new subparagraph:

"(C) to cooperate with the State in identifying, and providing information to assist the State in pursuing, any third party who may be liable to pay for care and services available under the State's plan for medical assistance under title XIX, unless such individual has good cause for refusing to cooperate as determined by the State agency in accordance with standards prescribed by the Secretary, which standards shall take into consideration the best interests of the individuals involved;".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to calendar quarters beginning on or after the date of the enactment of this Act.

SEC. 12305. PROVISIONS RELATING TO MEDICAID COVERAGE UNDER THE ADOPTION ASSISTANCE AND FOSTER CARE PROGRAMS.

(a) IN GENERAL.—Section 473(b) of the Social Security Act is amended to read as follows:

"(b) For purposes of titles XIX and XX, any child—

"(1)(A) who is a child described in subsection (a)(1), and

"(B) with respect to whom an adoption assistance agreement is in effect under this section (whether or not adoption assistance payments are provided under the agreement or are being made under this section), including any such child who has been placed for adoption in accordance with applicable State and local law (whether or not an interlocutory or other judicial decree of adoption has been issued), or

"(2) with respect to whom foster care maintenance payments are being made under section 472,

shall be deemed to be a dependent child as defined in section 406 and shall be deemed to be a recipient of aid to families with dependent children under part A of this title in the State where such child resides.".

(b) CONFORMING AMENDMENTS.—(1) Section 473(c)(2) of such Act is amended—

(A) by striking out "without providing adoption assistance" in clause (A) and inserting in lieu thereof "without providing adoption assistance under this section or medical assistance under title XIX"; and

(B) by inserting "or medical assistance under title XIX" before the period at the end thereof.

(2) Section 475(3) of such Act is amended by striking out "the adoption assistance payments and any additional services and assistance" in clause (A) of the first sentence and inserting in lieu thereof "any adoption assistance payments and any other services and assistance".

(3) Section 1902(a)(10)(A)(i)(I) of such Act is amended by striking out "or 406(h)" and inserting in lieu thereof ", 406(h), or 473(b)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to medical assistance furnished in or after the first calendar quarter beginning more than 90 days after the date of the enactment of this Act.

SEC. 12306. EXTENSION OF VOLUNTARY PLACEMENT, AND CEILING AND TRIGGER PROVISIONS, RELATING TO FOSTER CARE.

(a) Section 474(b) of the Social Security Act is amended—

(1) in paragraphs (1), (2)(B), and (4)(B), by striking out "1985" and inserting in lieu thereof "1987";

(2) in paragraph (2)(A)—

(A) by inserting "and" at the end of clause (ii), and

(B) by striking out clauses (iii), (iv), and (v) and inserting in lieu thereof the following:

"(iii) with respect to each of the fiscal years 1983 through 1987, only if the amount appropriated under section 420 for such fiscal year is equal to $266,000,000."; and

(3) in paragraph (5)(A)—

(A) by striking out "October 1, 1985" and inserting in lieu thereof "October 1, 1987", and

(B) in clause (ii), by striking out "1984 and 1985" and inserting in lieu thereof "1984 through 1987".

(b) Paragraphs (1) and (2) of section 474(c) of such Act are each amended by striking out "1985" and inserting in lieu thereof "1987".

(c)(1) Section 102(a)(1) of the Adoption Assistance and Child Welfare Act of 1980 (Public Law 96-272) is amended by striking out "1985" and inserting in lieu thereof "1987".

(2) Section 102(c) of such Act is amended by striking out "1985" each place it appears and inserting in lieu thereof "1987".

SEC. 12307. INDEPENDENT LIVING INITIATIVES.

(a) INDEPENDENT LIVING INITIATIVES.—Part E of title IV of the Social Security Act is amended by adding at the end thereof the following new section:

"INDEPENDENT LIVING INITIATIVES

"SEC. 477. (a) Payments shall be made in accordance with this section for the purpose of assisting States and localities in establishing and carrying out programs designed to assist children, with respect to whom foster care maintenance payments are being made by the State under this part and who have attained age 16, in making the transition from foster care to independent living. Any State which provides for the establishment and carrying out of one or more such programs in accordance with this section for a fiscal year shall be entitled to receive payments under this section for such fiscal year, in an amount determined under subsection (e). Such payments shall be made only for the fiscal years 1987 and 1988.

"(b) The State agency administering or supervising the administration of the State's programs under this part shall be responsible for administering or supervising the administration of the State's programs described in subsection (a). Payment under this section shall be made to the State, and shall be used for the purpose of conducting and providing in accordance with this section (directly or under contracts with local governmental entities or private nonprofit organizations) the activities and services required to carry out the program or programs involved.

"(c) In order for a State to receive payments under this section for any fiscal year, the State agency must submit to the Secretary, in such manner and form as the Secretary may prescribe, a description of the program together with satisfactory assurances that the program will be operated in an effective and efficient manner and will otherwise meet the requirements of this section. In the case of payments for fiscal year 1987, such description and assurances must be submitted within 90 days after the Secretary promulgates regulations as required under subsection (i), and in the case of payments for fiscal year 1988, such description and assurances must be submitted prior to January 1, 1988.

"(d) In carrying out the purpose described in subsection (a), it shall be the objective of each program established under this section to help the individuals participating in such program to prepare to live independently upon leaving foster care. Such programs may include (subject to the availability of funds) programs to—

"(1) enable participants to seek a high school diploma or its equivalent or to take part in appropriate vocational training;

"(2) provide training in daily living skills, budgeting, locating and maintaining housing, and career planning;

"(3) provide for individual and group counseling;

"(4) integrate and coordinate services otherwise available to participants;

"(5) provide for the establishment of outreach programs designed to attract individuals who are eligible to participate in the program;

"(6) provide each participant a written transitional independent living plan which shall be based on an assessment of his needs, and which shall be incorporated into his case plan, as described in section 475(1); and

"(7) provide participants with other services and assistance designed to improve their transition to independent living.

"(e)(1) The amount to which a State shall be entitled under section 474(a)(4) for each of the fiscal years 1987 and 1988 shall be an amount which bears the same ratio to $45,000,000 as such State's average number of children receiving foster care maintenance payments under this part in fiscal year 1984 bears to the total of the average number of children receiving such payments under this part for all States for fiscal year 1984.

"(2) If any State does not apply for funds under this section for any fiscal year within the time provided in subsection (c), the funds to which such State would have been entitled for such fiscal year shall be reallocated to one or more other States on the basis of their relative need for additional payments under this section (as determined by the Secretary).

"(3) Any amounts payable to States under this section shall be in addition to amounts payable to States under subsections (a)(1), (a)(2), and (a)(3) of section 474, and shall

supplement and not replace any other funds which may be available for the same general purposes in the localities involved.

"(f) Payments made to a State under this section for any fiscal year—

"(1) shall be used only for the specific purposes described in this section;

"(2) may be made on an estimated basis in advance of the determination of the exact amount, with appropriate subsequent adjustments to take account of any error in the estimates; and

"(3) shall be expended by such State in such fiscal year or in the succeeding fiscal year.

"(g)(1) Not later than March 1, 1988, each State shall submit to the Secretary a report on the programs carried out with the amounts received under this section. Such report—

"(A) shall be in such form and contain such information as may be necessary to provide an accurate description of such activities, to provide a complete record of the purposes for which the funds were spent, and to indicate the extent to which the expenditure of such funds succeeded in accomplishing the purpose described in subsection (a); and

"(B) shall specifically contain such information as the Secretary may require in order to carry out the evaluation under paragraph (2).

"(2) Not later than July 1, 1988, the Secretary, on the basis of the reports submitted by States under paragraph (1) for the fiscal year 1987, and on the basis of such additional information as the Secretary may obtain or develop, shall evaluate the use by States of the payments made available under this section for such fiscal year with respect to the purpose of this section, with the objective of appraising the achievements of the programs for which such payments were made available, and developing comprehensive information and data on the basis of which decisions can be made with respect to the improvement of such programs and the necessity for providing further payments in subsequent years. The Secretary shall report such evaluation to the Congress. As a part of such evaluation, the Secretary shall include, at a minimum, a detailed overall description of the number and characteristics of the individuals served by the programs, the various kinds of activities conducted and services provided and the results achieved, and shall set forth in detail findings and comments with respect to the various State programs and a statement of plans and recommendations for the future.

"(h) Notwithstanding any other provision of this title, payments made and services provided to participants in a program under this section, as a direct consequence of their participation in such program, shall not be considered as income or resources for purposes of determining eligibility (or the eligibility of any other persons) for aid under the State's plan approved under section 402 or 471, or for purposes of determining the level of such aid.

"(i) The Secretary shall promulgate final regulations for implementing this section within 60 days after the date of the enactment of this section.".

(b) CASE PLANS.—Section 475(1) of such Act is amended by adding at the end thereof the following: "Where appropriate, for a child age 16 or over, the case plan must also include a written description of the programs and services which will help such child prepare for the transition from foster care to independent living.".

(c) PAYMENTS TO STATES.—Section 474(a) of such Act is amended—

(1) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; plus"; and

(2) by adding at the end thereof the following new paragraph:

"(4) an amount for transitional independent living programs as provided in section 477.".

(d) CONFORMING AMENDMENT.—Section 470 of such Act is amended by striking out "foster care and adoption assistance" and inserting in lieu thereof "foster care, adoption assistance, and transitional independent living programs".

Subtitle D—Provisions Relating to Unemployment Compensation

SEC. 12401. RECOVERY OF UNEMPLOYMENT BENEFIT OVERPAYMENTS.

(a) IN GENERAL.—(1) Section 303(a)(5) of the Social Security Act is amended by inserting before "; and" at the end thereof the following: ": Provided further, That amounts may be deducted from unemployment benefits and used to repay overpayments as provided in subsection (g)".

(2) Section 303 of such Act is amended by adding at the end thereof the following new subsection:

"(g)(1) A State may deduct from unemployment benefits otherwise payable to an individual an amount equal to any overpayment made to such individual under an unemployment benefit program of the United States or of any other State, and not previously recovered. The amount so deducted shall be paid to the jurisdiction under whose program such overpayment was made. Any such deduction shall be made only in accordance with the same procedures relating to notice and opportunity for a hearing as apply to the recovery of overpayments of regular unemployment compensation paid by such State.

"(2) Any State may enter into an agreement with the Secretary of Labor under which—

"(A) the State agrees to recover from unemployment benefits otherwise payable to an individual by such State any overpayments made under an unemployment benefit program of the United States to such individual and not previously recovered, in accordance with paragraph (1), and to pay such amounts recovered to the United States for credit to the appropriate account, and

"(B) the United States agrees to allow the State to recover from unemployment benefits otherwise payable to an individual under an unemployment benefit program of the United States any overpayments made by such State to such individual under a State unemployment benefit program and not previously recovered, in accordance with the same procedures as apply under paragraph (1).

"(3) For purposes of this subsection, 'unemployment benefits' means unemployment compensation, trade adjustment allowances, and other unemployment assistance.".

(b) CONFORMING AMENDMENTS.—(1) Section 3304(a)(4) of the Internal Revenue Code of 1954 is amended—

(A) by striking out "and" at the end of subparagraph (B);

(B) by adding "and" at the end of subparagraph (C); and

(C) by adding at the end thereof the following new subparagraph:

"(D) amounts may be deducted from unemployment benefits and used to repay overpayments as provided in section 303(g) of the Social Security Act;".

(2) Section 3306(f) of such Code is amended—

(A) by striking out "and" at the end of paragraph (1);

(B) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new paragraph:

"(3) amounts may be deducted from unemployment benefits and used to repay overpayments as provided in section 303(g) of the Social Security Act.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to recoveries made on or after the date of the enactment of this Act and shall apply with respect to overpayments made before, on, or after such date.

SEC. 12402. SUPPLEMENTAL UNEMPLOYMENT COMPENSATION FOR CERTAIN INDIVIDUALS.

(a) IN GENERAL.—If—

(1) an individual was receiving Federal supplemental compensation for the week which includes March 31, 1985, or a series of consecutive weeks which began with such week, and

(2) such individual did not meet the consecutive-week eligibility requirements of the Federal Supplemental Compensation Act of 1982 during any period of 1 or more subsequent weeks by reason of performing temporary disaster services described in subsection (e),

weeks in such period shall be disregarded for purposes of the consecutive-week requirement of section 602(f)(2)(B) of such Act, and, notwithstanding the requirements of State law relating to the availability for work, the active search for work, or the refusal to accept work, such individual shall be entitled to payment of Federal supplemental compensation for each week of unemployment which is described in subsection (b) and for which a certification of unemployment is made by such individual in accordance with subsection (c).

(b) WEEKS FOR WHICH PAYMENT SHALL BE MADE.—A week of unemployment for which payment shall be made under subsection (a) is a week which occurred during the period which commences with the first week beginning after the close of the period described in subsection (a)(2) and ends with the beginning of the first week in which the individual was employed after the close of such period.

(c) CERTIFICATION.—The certification of unemployment referred to in subsection (a) shall be a certification—

(1) that is made on a form provided by the State agency concerned and signed by the individual; and

(2) that identifies the weeks of unemployment for which the individual is making the certification.

(d) LIMITATION ON AMOUNT OF PAYMENT.—In no case may the total amount paid to an individual under subsection (a) exceed the amount remaining in the account established for such individual under section 602(e) of the Federal Supplemental Compensation Act of 1982 after payments were made from such account for weeks of unemployment beginning before the period described in subsection (a)(2).

(e) DEFINITION.—For purposes of subsection (a), the term "temporary disaster services" means services performed as a member of the National Guard after being called up by the Governor of a State to perform services related to a major disaster that was declared on June 3, 1985, by the President of the United States under the Disaster Relief Act of 1974.

(f) Modification of Agreement.—(1) The Secretary of Labor shall, at the earliest possible date after the date of the enactment of this Act, propose to any State concerned a modification of the agreement that the Secretary has with such State under section 602 of the Federal Supplemental Compensation Act of 1982 in order to carry out this section.

(2) Pending modification of the agreement, the State may make payment in accordance with the provisions of this section and shall be reimbursed in accordance with the provisions of section 604(a) of the Federal Supplemental Compensation Act of 1982. For purposes of carrying out this paragraph, the term "this subtitle" in such section 604(a) shall include this section.

(g) Effective Date.—The provisions of this section shall apply to weeks beginning after March 31, 1985.

Subtitle E—Restoration of Civil Service Retirement and Disability Fund

SEC. 12501. APPROPRIATION TO CIVIL SERVICE RETIREMENT AND DISABILITY FUND OF INTEREST LOST FROM NONINVESTMENT IN SEPTEMBER 1984.

On December 31, 1985, the Secretary of the Treasury shall pay to the Civil Service Retirement and Disability Fund, from amounts in the general fund of the Treasury not otherwise appropriated, an amount determined by the Secretary to be equal to the sum of—

(1) the excess of (A) the amount of interest which would have been earned by such fund, during the period beginning with September 28, 1984, and ending with December 31, 1984, on all monies transferred to such fund on September 28, 1984, if all such monies had been invested on September 28, 1984, over (B) the amount of interest actually earned by such fund on such monies during such period;

(2) interest that would have been earned on the amount described in paragraph (1) during the period beginning with January 1, 1985, and ending with June 30, 1985;

(3) the excess of (A) the amount of interest which would have been earned by such fund, during the period beginning on January 1, 1985, and ending on June 30, 1985, on all monies transferred to such fund on September 28, 1984, if all such monies had been invested on September 28, 1984, over (B) the amount of interest actually earned by such fund on such monies during such period; and

(4) the interest that would have been earned on the amounts described in paragraphs (1), (2), and (3) during the period beginning with July 1, 1985, and ending with December 31, 1985.

TITLE XIII—REVENUES, TRADE, AND RELATED PROGRAMS

Subtitle A—Trade and Customs Provisions

PART I—TRADE ADJUSTMENT ASSISTANCE

SEC. 13001. SHORT TITLE.

This part may be cited as the "Trade Adjustment Assistance Reform and Extension Act of 1985".

SEC. 13002. ELIGIBILITY OF WORKERS AND FIRMS FOR TRADE ADJUSTMENT ASSISTANCE.

(a) Workers.—

(1) Sections 221(a) and 222 of the Trade Act of 1974 (19 U.S.C. 2271(a); 2272) are each amended by inserting "(including workers in any agricultural firm or subdivision of an agricultural firm)" after "group of workers".

(2) Section 222 of the Trade Act of 1974 (19 U.S.C. 2272), as amended by paragraph (1) of this subsection, is amended to read as follows:

"SEC. 222. GROUP ELIGIBILITY REQUIREMENTS.

"(a) The Secretary shall certify a group of workers (including workers in any agricultural firm or subdivision of an agricultural firm) as eligible to apply for adjustment assistance under this chapter if the Secretary determines that—

"(1) a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated,

"(2) sales or production, or both, of such firm or subdivision have decreased absolutely, and

"(3) increases of imports of articles like or directly competitive with articles—

"(A) which are produced by such workers' firm or appropriate subdivision thereof, or

"(B) to which such workers' firm, or appropriate subdivision thereof, provides essential parts or essential services,

contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

"(b) For purposes of subsection (a)(3), the term 'contributed importantly' means a cause which is important but not necessarily more important than any other cause.".

(b) Firms.—

(1) Subsections (a) and (c) of section 251 of the Trade Act of 1974 (19 U.S.C. 2341) are each amended by inserting "(including any agricultural firm)" after "a firm".

(2) Paragraph (2) of section 251(c) of the Trade Act of 1974 (19 U.S.C. 2341(c)(2)) is amended to read as follows:

"(2) that—

"(A) sales or production, or both, of the firm have decreased absolutely, or

"(B) sales or production, or both, of an article that accounted for not less than 25 percent of the total production or sales of the firm during the 12-month period preceding the most recent 12-month period for which data are available have decreased absolutely, and".

(3) Subsection (c) of section 251 of the Trade Act of 1974 (19 U.S.C. 2341(c)), as amended by paragraphs (1) and (2) of this subsection, is amended to read as follows:

"(c)(1) The Secretary shall certify a firm (including any agricultural firm) as eligible to apply for adjustment assistance under this chapter if the Secretary determines—

"(A) that a significant number or proportion of the workers in such firm have become totally or partially separated, or are threatened to become totally or partially separated,

"(B) that—

"(i) sales or production, or both, of such firm have decreased absolutely, or

"(ii) sales or production, or both, of an article that accounted for not less than 25 percent of the total production or sales of the firm during the 12-month period preceding the most recent 12-month period for which data are available have decreased absolutely, and

"(C) increases of imports of articles like or directly competitive with articles—

"(i) which are produced by such firm, or

"(ii) to which such firm provides essential parts or essential services,

contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

"(2) For purposes of paragraph (1)(C), the term 'contributed importantly' means a cause which is important but not necessarily more important than any other cause.".

SEC. 13003. CASH ASSISTANCE FOR WORKERS.

(a) Participation in Training Program Required.—

(1) Subsection (a) of section 231 of the Trade Act of 1974 (19 U.S.C. 2291(a)) is amended by adding at the end thereof the following new paragraph:

"(5) Such worker—

"(A) is enrolled in a training program approved by the Secretary under section 236(a),

"(B) has, after the date on which the worker became totally separated, or partially separated, from the adversely affected employment, completed a training program approved by the Secretary under section 236(a), or

"(C) has received a written statement certified under subsection (c) after the date described in subparagraph (B).".

(2) Subsection (b) of section 231 of the Trade Act of 1974 (19 U.S.C. 2291(b)) is amended to read as follows:

"(b) If the Secretary determines that—

"(1) the adversely affected worker—

"(A) has failed to begin participation in the training program the enrollment in which meets the requirement of subsection (a)(5), or

"(B) has ceased to participate in such training program before completing such training program, and

"(2) there is no justifiable cause for such failure or cessation,

no trade adjustment allowance may be paid to the adversely affected worker under this part on or after the date of such determination until the adversely affected worker begins or resumes participation in a training program approved under section 236(a).".

(3) Section 231 of the Trade Act of 1974 (19 U.S.C. 2291) is amended by adding at the end thereof the following new subsection:

"(c)(1) If the Secretary finds that it is not feasible or appropriate to approve a training program for a worker under section 236(a), the Secretary shall submit to such worker a written statement certifying such finding.

"(2) If a State or State agency has entered into an agreement with the Secretary under section 239 and the State or State agency finds that it is not feasible or appropriate to approve a training program for a worker pursuant to the requirements of section 236(a), the State or State agency shall—

"(A) submit to such worker a written statement certifying such finding, and

"(B) submit to the Secretary a written statement certifying such finding and the reasons for such finding.

"(3) The Secretary shall submit to the Finance Committee of the Senate and to the Ways and Means Committee of the House of Representatives an annual report on the number of workers who received certifications under this subsection during the preceding year.".

(4) Subsection (a) of section 239 of the Trade Act of 1974 (19 U.S.C. 2311(a)) is amended by striking out "and (3)" and inserting in lieu thereof "(3) will make any certifications required under section 231(c)(2), and (4)".

(b) Qualifying Weeks of Employment.—The last sentence of section 231(a)(2) of the Trade Act of 1974 (19 U.S.C. 2291(a)(2)) is amended by striking out all that follows after subparagraph (C) and inserting in lieu thereof "shall be treated as a week of employment at wages of $30 or more, but not more than 7 weeks, in case of weeks de-

scribed in paragraph (A) or (C), or both, may be treated as weeks of employment under this sentence.".

(c) Weekly Amounts of Readjustment Allowances.—Section 232 of the Trade Act of 1974 (19 U.S.C. 2292) is amended—

(1) by striking out "under any Federal law," in subsection (c) and inserting in lieu thereof "under any Federal law other than this Act",

(2) by striking out "under section 236(c)" in subsection (c) and inserting in lieu thereof "under section 231(b)", and

(3) by striking out "If the training allowance" in subsection (c) and inserting in lieu thereof "If such training allowance".

(d) Limitations.—

(1) Paragraph (1) of section 233(a) of the Trade Act of 1974 (19 U.S.C. 2293(a)(1)) is amended by striking out "52" and inserting in lieu thereof "78".

(2) Paragraph (2) of section 233(a) of the Trade Act of 1974 (19 U.S.C. 2293(a)(2)) is amended by striking out "52-week period" and inserting in lieu thereof "104-week period".

(3) Paragraph (3) of section 233(a) of the Trade Act of 1974 (19 U.S.C. 2293(a)(3)) is amended to read as follows:

"(3) If the adversely affected worker has received a written statement certified under section 231(c) after the date the worker became totally separated, or partially separated, from adversely affected employment, paragraph (1) shall be applied with respect to such worker by substituting '52' for '78'.".

(4) Subsection (b) of section 233 of the Trade Act of 1974 (19 U.S.C. 2293(b)) is amended to read as follows:

"(b) No trade readjustment allowance shall be paid to a worker under this part for any week during which the worker is receiving on-the-job training.".

SEC. 13004. JOB TRAINING FOR WORKERS.

(a) In General.—Section 236 of the Trade Act of 1974 (19 U.S.C. 2296) is amended—

(1) by striking out "for a worker" in subsection (a)(1)(A) and inserting in lieu thereof "for an adversely affected worker",

(2) by striking out "is available" in subsection (a)(1)(D) and inserting in lieu thereof "is reasonably available",

(3) by striking out "under paragraph (1)" in subsection (a)(2) and inserting in lieu thereof "under subsection (a)",

(4) by striking out "this subsection" in subsection (a)(3) and inserting in lieu thereof "this section",

(5) by redesignating paragraphs (2) and (3) of subsection (a) as subsections (e) and (f), respectively,

(6) by inserting at the end of subsection (a) the following new paragraphs:

"(2) For purposes of applying paragraph (1)(C), a reasonable expectation of employment does not require that employment opportunities for a worker be available, or offered, immediately upon the completion of training approved under this paragraph (1).

"(3) The training programs that may be approved under paragraph (1) include, but are not limited to—

"(A) on-the-job training,

"(B) any training program provided by a State pursuant to section 303 of the Job Training Partnership Act,

"(C) any training program approved by a private industry council established under section 102 of such Act, and

"(D) any other training program approved by the Secretary.", and

(7) by inserting after subsection (c) the following new subsection:

"(d) Notwithstanding any provision of subsection (a)(1), the Secretary may pay the costs of on-the-job training of an adversely affected worker under subsection (a)(1) only if—

"(1) no currently employed worker is displaced by such adversely affected worker (including partial displacement such as a reduction in the hours of nonovertime work, wages, or employment benefits),

"(2) such training does not impair existing contracts for services or collective bargaining agreements,

"(3) in the case of training which would be inconsistent with the terms of a collective bargaining agreement, the written concurrence of the labor organization concerned has been obtained,

"(4) no other individual is on layoff from the same, or any substantially equivalent, job for which such adversely affected worker is being trained,

"(5) the employer has not terminated the employment of any regular employee or otherwise reduced the workforce of the employer with the intention of filling the vacancy so created by hiring such adversely affected worker,

"(6) the job for which such adversely affected worker is being trained is not being created in a promotional line that will infringe in any way upon the promotional opportunities of currently employed individuals,

"(7) such training is not for the same occupation from which the worker was separated and with respect to which such worker's group was certified pursuant to section 222,

"(8) the employer certifies to the Secretary that the employer will continue to employ such worker for at least 26 weeks after completion of such training if the worker desires to continue such employment and the employer does not have due cause to terminate such employment,

"(9) the employer has not received payment under subsection (a)(1) with respect to any other on-the-job training provided by such employer which failed to meet the requirements of paragraphs (1), (2), (3), (4), (5), and (6), and

"(10) the employer has not taken, at any time, any action which violated the terms of any certification described in paragraph (8) made by such employer with respect to any other on-the-job training provided by such employer for which the Secretary has made a payment under subsection (a)(1).".

(b) Approval Required; Limitation on Costs.—Section 236 of the Trade Act of 1974 (19 U.S.C. 2296), as amended by subsection (a) of this section, is further amended—

(1) by striking out "may approve" in the first sentence of subsection (a)(1) and inserting in lieu thereof "shall approve",

(2) by inserting "directly or through a voucher system" after "by the Secretary" in the second sentence of subsection (a)(1),

(3) by redesignating paragraphs (2) and (3) of subsection (a) as paragraphs (4) and (5), respectively, of subsection (a),

(4) by inserting after paragraph (1) of subsection (a) the following new paragraphs:

"(2)(A) The aggregate amount of payments that may be made under paragraph (1) for any worker shall not exceed $4,000 for each partial separation or total separation.

"(B) The Secretary may issue more than one voucher under paragraph (1) to a worker with respect to any partial separation or total separation, but the aggregate value of such vouchers shall not exceed the amount of the limitation imposed by subparagraph (A) with respect to such separation.

"(3)(A) If the costs of training an adversely affected worker are paid by the Secretary under paragraph (1), no other payment for such costs may be made under any other provision of Federal law.

"(B) No payment may be made under paragraph (1) of the costs of training an adversely affected worker if such costs—

"(i) have already been paid under any other provision of Federal law, or

"(ii) are reimbursable under any other provision of Federal law and a portion of such costs have already been paid under such other provision of Federal law.

"(C) The provisions of this paragraph shall not apply to, or take into account, any funds provided under any other provision of Federal law which are used for any purpose other than the direct payment of the costs incurred in training a particular adversely affected worker, even if such use has the effect of indirectly paying or reducing any portion of the costs involved in training the adversely affected worker.",

(5) by striking out subsection (c), and

(6) by redesignating subsections (d), (e), and (f) as subsections (c), (d), and (e), respectively.

(c) On-the-Job Training Defined.—Section 247 of the Trade Act of 1974 (19 U.S.C. 2319) is amended by adding at the end thereof the following new paragraph:

"(16) The term 'on-the-job training' means training provided by an employer to an individual who is employed by the employer.".

(d) Agreements With the States.—

(1) Section 239 of the Trade Act of 1974 (19 U.S.C. 2311(a)) is amended—

(A) by inserting "but in accordance with subsection (f)," after "where appropriate," in subsection (a)(2), and

(B) by adding at the end thereof the following new subsections:

"(e) Agreements entered into under this section may be made with one or more State or local agencies including—

"(1) the employment service agency of such State,

"(2) any State agency carrying out title III of the Job Training Partnership Act, or

"(3) any other State or local agency administering job training or related programs.

"(f) Each cooperating State agency shall, in carrying out subsection (a)(2)—

"(1) advise each adversely affected worker to apply for training under section 236(a) at the time the worker makes application for trade readjustment allowances (but failure of the worker to do so may not be treated as cause for denial of those allowances), and

"(2) within 60 days after application for training is made by the worker, interview the adversely affected worker regarding suitable training opportunities available to the worker under section 236 and review such opportunities with the worker.".

(2) Subsection (f) of section 239 of the Trade Act of 1974 (19 U.S.C. 2311), as added by paragraph (1) of this subsection, is amended to read as follows:

"(f) Each cooperating State agency shall, in carrying out subsection (a)(2)—

"(1) advise each adversely affected worker to apply for training under section 236(a) at the time the worker makes application for trade readjustment allowances, and

"(2) as soon as practicable, interview the adversely affected worker regarding suitable training opportunities available to the worker under section 236 and review such opportunities with the worker.".

SEC. 13005. JOB SEARCH ALLOWANCES.

Section 237 of the Trade Act of 1974 (19 U.S.C. 2297) is amended by adding at the end thereof the following new subsection:

"(d)(1) The Secretary shall reimburse any adversely affected worker for necessary expenses incurred by such worker in participating in a job search program approved by the Secretary.

"(2) For purposes of this subsection—

"(A) The term 'job search program' means a job search workshop or job finding club.

"(B) The term 'job search workshop' means a short (1 to 3 days) seminar designed to provide participants with knowledge that will enable the participants to find jobs. Subjects are not limited to, but should include, labor market information, resume writing, interviewing techniques, and techniques for finding job openings.

"(C) The term 'job finding club' means a job search workshop which includes a period (1 to 2 weeks) of structured, supervised application in which participants attempt to obtain jobs.".

SEC. 13006. ADJUSTMENT ASSISTANCE FOR FIRMS.

(a) TECHNICAL ASSISTANCE.—

(1) Paragraph (1) of section 252(b) of the Trade Act of 1974 (19 U.S.C. 2342(b)(1)) is amended to read as follows:

"(1) Adjustment assistance under this chapter consists of technical assistance. The Secretary shall approve a firm's application for adjustment assistance only if the Secretary determines that the firm's adjustment proposal—

"(A) is reasonably calculated to materially contribute to the economic adjustment of the firm,

"(B) gives adequate consideration to the interests of the workers of such firm, and

"(C) demonstrates that the firm will make all reasonable efforts to use its own resources for economic development.".

(2) Section 252 of the Trade Act of 1974 (19 U.S.C. 2342) is amended by striking out subsection (c) and redesignating subsection (d) as subsection (c).

(3) Paragraph (2) of section 253(b) of the Trade Act of 1974 (19 U.S.C. 2343(b)(2)) is amended by striking out "such cost" and inserting in lieu thereof "such cost for assistance described in paragraph (2) or (3) of subsection (a)".

(b) NO NEW LOANS OR GUARANTEES.—Section 254 of the Trade Act of 1974 (19 U.S.C. 2344) is amended by adding at the end thereof the following new subsection:

"(d) Notwithstanding any other provision of this chapter, no direct loans or guarantees of loans may be made under this chapter after the date of enactment of the Trade Adjustment Assistance Reform and Extension Act of 1985.".

SEC. 13007. TERMINATION OF TRADE ADJUSTMENT ASSISTANCE.

(a) IN GENERAL.—Section 285 of the Trade Act of 1974 (19 U.S.C. 2271, preceding note) is amended—

(1) by striking out the first sentence thereof and inserting in lieu thereof "(a)",

(2) by striking out the section heading and inserting in lieu thereof "SEC. 285. TERMINATION.", and

(3) by adding at the end thereof the following new subsection:

"(b) No assistance, vouchers, allowances, or other payments may be provided under chapter 2, no technical assistance may be provided under chapter 3, and no duty shall be imposed under section 287, after the date that is 6 years after the date of enactment of the Trade Adjustment Assistance Reform and Extension Act of 1985.".

(b) CONFORMING AMENDMENT.—The table of contents of the Trade Act of 1974 is amended by striking out the item relating to section 285 and inserting in lieu thereof the following:

"Sec. 285. Termination.".

SEC. 13008. FUNDING OF TRADE ADJUSTMENT ASSISTANCE.

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) Section 245 of the Trade Act of 1974 (19 U.S.C. 2317) is amended by striking out "1982 through 1985" and inserting in lieu thereof "1986, 1987, 1988, and 1989".

(2) Subsection (b) of section 256 of the Trade Act of 1974 (19 U.S.C. 2346(b)) is amended—

(A) by inserting "for fiscal years 1986, 1987, 1988, and 1989" after "to the Secretary",

(B) by striking out "from time to time", and

(C) by striking out the last sentence thereof.

(b) ESTABLISHMENT OF TRUST FUND.—Chapter 5 of title II of the Trade Act of 1974 (19 U.S.C. 2391, et seq.) is amended by inserting after section 285 the following new section:

"SEC. 286. TRADE ADJUSTMENT ASSISTANCE TRUST FUND.

"(a) There is hereby established within the Treasury of the United States a trust fund to be known as the Trade Adjustment Assistance Trust Fund (hereinafter in this section referred to as the 'Trust Fund'), consisting of such amounts as may be transferred or credited to the Trust Fund as provided in this section or otherwise appropriated to the Trust Fund.

"(b)(1) The Secretary of the Treasury shall transfer to the Trust Fund out of the general fund of the Treasury of the United States amounts determined by the Secretary of the Treasury to be equivalent to the amounts received into such general fund that are attributable to the duty imposed by section 287.

"(2) The amounts which are required to be transferred under paragraph (1) shall be transferred at least quarterly from the general fund of the Treasury of the United States to the Trust Fund on the basis of estimates made by the Secretary of the Treasury of the amounts referred to in paragraph (1) that are received into the Treasury. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of, or less than, the amounts required to be transferred.

"(c)(1) The Secretary of the Treasury shall be the trustee of the Trust Fund, and shall submit an annual report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives on the financial condition and the results of the operations of the Trust Fund during the fiscal year preceding the fiscal year in which such report is submitted and on the expected condition and operations of the Trust Fund during the fiscal year in which such report is submitted and the 5 fiscal years succeeding such fiscal year. Such report shall be printed as a House document of the session of the Congress to which the report is made.

"(2)(A) The Secretary of the Treasury shall invest such portion of the Trust Fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired—

"(i) on original issue at the issue price, or

"(ii) by purchase of outstanding obligations at the market price.

"(B) Any obligation acquired by the Trust Fund may be sold by the Secretary of the Treasury at the market price.

"(C) The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund shall be credited to and form a part of the Trust Fund.

"(d) Amounts in the Trust Fund shall only be available—

"(1) for the payment of drawbacks and refunds of the duty imposed by section 287 that are allowable under any provision of Federal law, and

"(2) to the extent and in such amounts as may be provided by appropriation Acts, for making expenditures to carry out the provisions of chapters 2 and 3.

None of the amounts in the Trust Fund shall be available for the payment of loans guaranteed under chapter 3 or for any other expenses relating to financial assistance provided under chapter 3.".

(c) CONFORMING AMENDMENTS.—The table of contents for the Trade Act of 1974 is amended by inserting, after the item relating to section 285, the following new items:

"Sec. 286. Trade Adjustment Trust Fund.

"Sec. 287. Imposition of additional duty.".

SEC. 13009. IMPOSITION OF SMALL UNIFORM DUTY ON ALL IMPORTS.

(a) NEGOTIATIONS.—

(1) The President shall undertake negotiations necessary to achieve changes in the General Agreement on Tariffs and Trade that would allow any country to impose a small uniform duty on all imports to such country for the purpose of using the revenue from such duty to fund any program which assists adjustment to import competition.

(2) On the date that is 6 months after the date of enactment of this Act, the President shall submit to the Congress a report on the progress of negotiations conducted under paragraph (1).

(3) On the first day after the date of enactment of this Act on which the General Agreement on Tariffs and Trade allows any country to impose a duty described in paragraph (1), the President shall submit to the Congress a written statement certifying that the General Agreement on Tariffs and Trade allows such a duty.

(b) IMPOSITION OF DUTY.—Chapter 5 of title II of the Trade Act of 1974 (19 U.S.C. 2391, et seq.), as amended by section 13008(b) of this Act, is further amended by adding at the end thereof the following new section:

"SEC. 287. IMPOSITION OF ADDITIONAL DUTY.

"(a) In addition to any other duty imposed by law, there is hereby imposed a duty on all articles entered, or withdrawn from warehouse, for consumption in the customs territory of the United States.

"(b)(1) The rate of the duty imposed by subsection (a) shall be a uniform ad valorem rate proclaimed by the President at least 30 days prior to the date such rate takes effect which is equal to the lesser of—

"(A) 1 percent, or

"(B) a percentage that is sufficient to provide the funding necessary to carry out the provisions of chapters 2 and 3.

"(c)(1) Except as otherwise provided in this subsection, duty-free treatment provided with respect to any article under any other provision of law shall not prevent the imposition of duty with respect to such article by subsection (a).

"(2) No duty shall be imposed by subsection (a) with respect to—

"(A) any article (other than an article provided for in item 870.40, 870.45, 870.50, 870.55, or 870.60 of the Tariff Schedules of the United States) that is treated as duty free under schedule 8 of the Tariff Schedules of the United States, or

"(B) any entry which has a value of less than $1,000.".

SEC. 13010. TAXATION OF TRADE READJUSTMENT ASSISTANCE.

Section 85(c) of the Internal Revenue Code of 1954 is amended by inserting ", but not including payments of training costs, or training vouchers, provided under section 236 of the Trade Act of 1974 (19 U.S.C. 2296)" after "nature of unemployment compensation".

SEC. 13011. EFFECTIVE DATES.

(a) In General.—The amendments made by section 13002(a)(1), by paragraphs (1) and (2) of section 13002(b), by section 13003(d)(2), by subsections (a), (c), and (d)(1) of section 13004, and by sections 13006, 13007, and 13008(a), and the provisions of section 13009(a), shall take effect on the date of enactment of this Act.

(b) Additional Duty and Trust Fund.—

(1) The amendment made by section 13009(b) shall apply to any article entered, or withdrawn from warehouse, for consumption after the earlier of—

(A) the date that is 2 years after the date of enactment of this Act, or

(B) the date that is 30 days after the date on which the President submits to the Congress the written statement described in section 13009(a)(3).

(2) The amendments made by subsections (b) and (c) of section 13008 shall take effect on the earlier of—

(A) the date that is 2 years after the date of enactment of this Act, or

(B) the date described in paragraph (1)(B).

(c) Other Program Changes.—The amendments made by subsections (a)(2) and (b)(3) of section 13002, by section 13003 (other than section 13003(d)(2)), by subsections (b) and (d)(2) of section 13004, and by section 13005 shall take effect on the earlier of—

(1) the date that is 3 years after the date of enactment of this Act, or

(2) the date that is 1 year after the date described in subsection (b)(1)(B).

(d) Income Tax Amendment.—The amendment made by section 13010 shall apply to taxable years ending on or after the earlier of—

(1) the date that is 3 years after the date of enactment of this Act, or

(2) the date that is 1 year after the date described in subsection (b)(1)(B).

PART 2—AUTHORIZATION OF APPROPRIATIONS FOR TRADE AND CUSTOMS AGENCIES

SEC. 13021. UNITED STATES INTERNATIONAL TRADE COMMISSION.

The first sentence of paragraph (2) of section 330(e) of the Tariff Act of 1930 (19 U.S.C. 1330(e)(2)) is amended to read as follows: "There are authorized to be appropriated to the Commission for necessary expenses (including the rental of conference rooms in the District of Columbia and elsewhere) for fiscal year 1986 not to exceed $28,901,000; of which not to exceed $2,500 may be used, subject to approval by the Chairman of the Commission, for reception and entertainment expenses.".

SEC. 13022. UNITED STATES CUSTOMS SERVICE.

(a) Authorization of Appropriations.—Section 301 of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075) is amended as follows:

(1) Subsection (b) is amended to read as follows:

"(b)(1) There are authorized to be appropriated to the Department of the Treasury not to exceed $772,141,000 for the salaries and expenses of the United States Customs Service for fiscal year 1986; of which—

"(A) $27,900,000 is for the addition of 500 inspectors, 150 import specialists, 100 customs patrol officers, and 50 special agents;

"(B) $53,500,000 is for the operation and maintenance of the air interdiction program of the Service; and

"(C) not to exceed $14,000,000 is for the implementation of the 'Operation EXODUS' program and any related program designed to enforce or monitor export controls under the Export Administration Act of 1979.

"(2) No part of any sum that is appropriated under the authority of paragraph (1) may be used to close any port of entry at which, during fiscal year 1985—

"(A) not less than 2,500 merchandise entries (including informal entries) were made; and

"(B) not less than $1,500,000 in customs revenues were assessed.

"(3)(A) No part of any sum that is appropriated under the authority of paragraph (1) may be used for further research and development or acquisition of F-15 avionics for the P-3 aircraft and related equipment until 60 days after the Committee on Ways and Means and the Committee on Finance have received from the Secretary of the Treasury a written comparative assessment of the suitability of the P-3, E-2, or other appropriate aircraft for use by the Customs Service in its air drug interdiction program. Such assessment, which the Secretary may not submit to the Committees until the General Accounting Office study required under paragraph (7) is completed, shall include life cycle costs.

"(B) Acquisition of additional aircraft for use by the Customs Service for its air drug interdiction program after completion of the assessment required under subparagraph (A) shall be subject to competitive bidding through the use of the normal 'request for proposal' process.

"(4) No part of any sum that is appropriated under the authority of paragraph (1) may be used to consolidate the drawback liquidation centers within the Customs Service to less than 4 such centers. If a consolidation is undertaken, the Commissioner of Customs shall select the location of the centers after taking into account the drawback volume at, and the geographic dispersion of, the respective centers being considered for consolidation.

"(5) In addition to any sum authorized to be appropriated under paragraph (1), there are authorized to be appropriated to the Department of the Treasury for fiscal year 1986 not to exceed $8,000,000 from the Customs Forfeiture Fund for the making of payments under section 613A of the Tariff Act of 1930 (19 U.S.C. 1613b), of which not to exceed $5,000,000 may be used for the modification of aircraft (whether or not aircraft described in subsection (a)(5) of that section) for drug interdiction.

"(6) In addition to any other amounts authorized to be appropriated for the Customs Service for fiscal years 1987 and 1988, there are authorized to be appropriated $27,900,000 for each of such fiscal years to fund the additional personnel referred to in paragraph (1)(A).

"(7) As soon as possible after the date of the enactment of this paragraph, but not later than 12 months after that date, the General Accounting Office shall complete, and submit to the Committee on Ways and Means and the Committee on Finance, a study that evaluates the air detection and interdiction capability of the Customs Service, including assets, geographic dispersal, costs of operation, procurement practices, and the services and equipment provided by other Federal agencies. Within 6 months after commencing the study, the General Accounting Office shall consult with the Committees on the progress of the study."; and

(2) by adding at the end thereof the following new subsections:

"(f) Use of Savings Resulting From Administrative Consolidations.—If savings in salaries and expenses result from the consolidation of administrative functions within the Customs Service, the Commissioner of Customs shall apply those savings, to the extent they are not needed to meet emergency requirements of the Service, to strengthening the commercial operations of the Service by increasing the number of inspector, import specialist, patrol officer, and other line operational positions.

"(g) Allocation of Resources.—The Commissioner of Customs shall ensure that existing levels of commercial services, including inspection and control, classification, and value, shall continue to be provided by Customs personnel assigned to the headquarters office of any Customs district designated by statute before the date of enactment of this subsection. The number of such personnel assigned to any such district headquarters shall not be reduced through attrition or otherwise, and such personnel shall be afforded the opportunity to maintain their proficiency through training and workshops to the same extent provided to Customs personnel in any other district. Automation and other modernization equipment shall be made available, as needed on a timely basis, to such headquarters to the same extent as such equipment is made available to any other district headquarters.".

(b) Elimination of Sureties on Customs Bonds.—(1) The Commissioner of Customs may not publish, nor take any other action to give force and effect to, any final rule that would revise any provision in 19 CFR part 113 or section 142.4 (as in effect on March 1, 1984) relating to the requirement for sureties on customs bonds—

(A) unless the Commissioner submits to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, on the same day, a report containing—

(i) the text of the draft final rule;

(ii) an analysis of the revenue impact of the rule;

(iii) a regulatory impact analysis;

(iv) the estimated cost benefit of the rule to the Customs Service and to the importing community, and an explanation in support of those estimates; and

(v) a justification for each revision to be effected by the rule; and

(B) until the close of the first period of 90 calendar days of continuous session of Congress occurring after the date on which the report is submitted under subparagraph (A).

SEC. 13023. UNITED STATES TRADE REPRESENTATIVE.

Section 141 of the Trade Act of 1974 (19 U.S.C. 2171) is amended—

(1) by inserting before the semicolon at the end of subsection (d)(1) the following: ", except that not more than 20 individuals may be employed without regard to any provision of law regulating the employment or compensation at rates not to exceed the rate of pay for level IV of the Executive Schedule in section 5314 of title 5, United States Code"; and

(2) by amending subsection (f)(1) by striking out "$14,179,000 for fiscal year 1985" and inserting in lieu thereof "$13,582,000 for fiscal year 1986".

SEC. 13024. NOTIFICATION OF CERTAIN ACTIONS.

Section 237 of the Trade and Tariff Act of 1984 (98 Stat. 2993) is amended—

(1) by striking out "1985" in subsection (b) and inserting in lieu thereof "1986";

(2) by striking out subsection (c);

(3) by redesignating subsection (b) as subsection (c); and

(4) by inserting after subsection (a) the following new subsection:

"(b) The notice required under subsection (a) shall include—

"(1) a statement which sets forth in detail the factors taken into account in making the decision to take the action described in subsection (a) and the reasons for such action; and

"(2) an analysis of the impact such action will have on the commerce and community served by each office affected by such action.".

PART 3—CUSTOMS FEES

SEC. 13031. FEES FOR CERTAIN CUSTOMS SERVICES.

(a) Schedule of Fees.—In addition to any other fee authorized by law, the Secretary of the Treasury shall charge and collect the following fees for the provision of customs services in connection with the following:

(1) For the arrival of a commercial vessel of 100 net tons or more, $397.

(2) Subject to the limitation in subsection (b)(2), for the arrival of a commercial truck, $5.

(3) Subject to the limitations in subsection (b)(1)(B) and (3), for the arrival of each railroad car, whether passenger or freight, $5.

(4) For all arrivals made during a calendar year by a private vessel or private aircraft, $25.

(5) For the arrival of each passenger aboard a commercial vessel or commercial aircraft from a place outside the United States (other than a place referred to in subsection (b)(1)(A)), $5.

(6) For each item of dutiable mail for which a document is prepared by a customs officer, $5.

(7) For each customs broker permit held by an individual, partnership, association, or corporate customs broker, $125 per year.

(b) Limitations on Fees.—(1) No fee may be charged under subsection (a) for customs services provided in connection with—

(A) the arrival of any passenger whose journey originated in—

(i) Canada,

(ii) Mexico,

(iii) a territory or possession of the United States, or

(iv) any adjacent island (within the meaning of section 101(b)(5) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(5)); or

(B) the arrival of any railroad car that is part of a train which originates and terminates in the same country, but only if—

(i) such car is part of such train when such train departs from the United States, and

(ii) no passengers board or disembark from such train, and no cargo is loaded or unloaded from such train, while such train is within any country other than the country in which such train originates and terminates.

(2) No fee may be charged under subsection (a)(2) for the arrival of a commercial truck during any calendar year after a total of $100 in fees has been paid to the Secretary of the Treasury for the provision of customs services for all arrivals of such commercial truck during such calendar year.

(3) No fee may be charged under subsection (a)(3) for the arrival of a railroad car whether passenger or freight during any calendar year after a total of $100 in fees has been paid to the Secretary of the Treasury for the provision of customs services for all arrivals of such passenger or freight rail car during such calendar year.

(c) Definitions.—For purposes of this section—

(1) The term "vessel" does not include any ferry.

(2) The term "arrival" means arrival at a port of entry in the customs territory of the United States.

(3) The term "customs territory of the United States" has the meaning given to such term by headnote 2 of the General Headnotes and Rules of Interpretation of the Tariff Schedules of the United States.

(4) The term "customs broker permit" means a permit issued under section 641(c) of the Tariff Act of 1930 (19 U.S.C. 1641(c)).

(d) Collection.—(1) Each person that issues a document or ticket to an individual for transportation by a commercial vessel or commercial aircraft into the customs territory of the United States shall—

(A) collect from that individual the fee charged under subsection (a)(5) at the time the document or ticket is issued; and

(B) separately identify on that document or ticket the fee charged under subsection (a)(5) as a Federal inspection fee.

(2) If—

(A) a document or ticket for transportation of a passenger into the customs territory of the United States is issued in a foreign country; and

(B) the fee charged under subsection (a)(5) is not collected at the time such document or ticket is issued;

the person providing transportation to such passenger shall collect such fee at the time such passenger departs from the customs territory of the United States and shall provide such passenger a receipt for the payment of such fee.

(3) The person who collects fees under paragraph (1) or (2) shall remit those fees to the Secretary of the Treasury at any time before the date that is 31 days after the close of the calendar quarter in which the fees are collected.

(e) Provision of Customs Services.—(1) Notwithstanding section 451 of the Tariff Act of 1930 (19 U.S.C. 1451) or any other provision of law (other than paragraph (2)), the customs services required to be provided to passengers upon arrival in the United States on scheduled airline flights at customs serviced airports shall be adequately provided when needed and at no cost (other than the fees imposed under subsection (a)) to airlines and airline passengers.

(2) This subsection shall not apply with respect to any airport to which section 236(c) of the Trade and Tariff Act of 1984 (19 U.S.C. 58b(c)) applies.

(f) Disposition of Fees.—(1) Notwithstanding section 524 of the Tariff Act of 1930 (19 U.S.C. 1524), all of the fees collected under subsection (a) shall be deposited in a separate account within the general fund of the Treasury of the United States. Such account shall be known as the "Customs User Fee Account".

(2)(A) The Secretary of the Treasury shall refund out of the Customs User Fee Account to any appropriation the amount paid out of such appropriation for expenses incurred by the Secretary of the Treasury in providing overtime customs inspectional services for which the recipient of such services is not required to reimburse the Secretary of the Treasury.

(B) The amounts which are required to be refunded under subparagraph (A) shall be refunded at least quarterly on the basis of estimates made by the Secretary of the Treasury of the expenses referred to in subparagraph (A). Proper adjustments shall be made in the amounts subsequently refunded under subparagraph (A) to the extent prior estimates were in excess of, or less than, the amounts required to be refunded under subparagraph (A).

(g) Regulations.—The Secretary of the Treasury may prescribe such rules and regulations as may be necessary to carry out the provisions of this section.

(h) Conforming Amendments.—(1) Subsection (i) of section 305 of the Rail Passenger Service Act (45 U.S.C. 545(i)) is amended by striking out the last sentence thereof.

(2) Subsection (e) of section 53 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1741(e)) is repealed.

(i) Effect on Other Authority.—Except with respect to customs services for which fees are imposed under subsection (a), nothing in this section shall be construed as affecting the authority of the Secretary of the Treasury to charge fees under section 214(b) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 58a).

(j) Effective Dates.—(1) Except as provided in paragraph (2), the provisions of this section, and the amendments and repeals made by this section, shall apply with respect to customs services rendered after the date that is 90 days after the date of enactment of this Act.

(2) Fees may be charged under subsection (a)(5) only with respect to customs services rendered in regard to arriving passengers using transportation for which documents or tickets were issued after the date that is 90 days after such date of enactment.

SEC. 13032. USER FEES FOR CUSTOMS SERVICES AT CERTAIN SMALL AIRPORTS.

Section 236 of the Trade and Tariff Act of 1984 (19 U.S.C. 58b) is amended—

(1) by striking out "4 airports" in subsection (c) and inserting in lieu thereof "20 airports"; and

(2) by striking out the last sentence in subsection (e) and inserting in lieu thereof the following new sentences: "The Secretary of the Treasury is authorized and directed to pay out of any funds available in such account any expenses incurred by the Federal Government in providing customs services at such airport (including expenses incurred for the salaries and expenses of individuals employed to provide such services). None of the funds deposited into such account shall be available for any purpose other than making payments authorized under the preceding sentence.".

SEC. 13033. ADVISORY COMMITTEE.

In accordance with the provisions of the Federal Advisory Committee Act, the Secretary of the Treasury shall establish an advisory committee, whose membership shall consist of representatives from the airline, shipping, and other transportation industries, the general public, and others who may be subject to any fee or charge (1) authorized by law, or (2) proposed by the United States Customs Service for the purpose of covering expenses incurred by the Customs Service. The advisory committee shall meet on a periodic basis and shall advise the Secretary on issues related to the performance of the customs services. This advice shall include, but not be limited to, such issues as the time periods during which such services should be performed, the proper number and deployment of inspection officers, the level of fees, and the appropriateness of any proposed fee. The Secretary shall give substantial consideration to the views of the advisory committee in the exercise of his duties.

Subtitle B—Superfund and Its Revenue Sources

SEC. 13100. SPENDING OF ADDITIONAL REVENUE CONTINGENT ON ENACTMENT OF FURTHER LEGISLATION; AMENDMENT OF 1954 CODE.

(a) In General.—Notwithstanding any other provision of law, any amount transferred to any trust fund pursuant to any amendment made by this subtitie may be obligated or expended only pursuant to legislation authorizing such obligation or expenditure hereafter enacted by the Congress.

(b) Amendment of 1954 Code.—Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

Part I—Superfund and its Revenue Sources

SEC. 13101. EXTENSION OF ENVIRONMENTAL TAXES.

(a) 5-Year Extension; Termination if Funds Unspent or $10,000,000,000 Collected.—Subsection (d) of section 4611 (relating to termination) is amended to read as follows:

"(d) Application of Taxes.—

"(1) In general.—Except as otherwise provided in this section, the taxes imposed by this section shall apply after December 31, 1985, and before October 1, 1990.

"(2) No tax if unobligated balance in fund is more than certain amount.—If, on September 30, 1988, or September 30, 1989—

"(A) the unobligated balance in the Hazardous Substance Superfund exceeds $3,000,000,000 or $4,000,000,000, respectively, and

"(B) the Secretary, after consultation with the Administrator of the Environmental Protection Agency, determines that such unobligated balance will exceed $3,000,000,000, or $4,000,000,000 on September 30, 1989, or September 30, 1990, respectively, if no tax is imposed under this section at the Hazardous Substance Superfund financing rate under subsection (c) or under section 4661, 4671, or 4681 during calender year 1989 or 1990, respectively,

then no tax shall be imposed under this section during calendar year 1989 or 1990, as the case may be.

"(3) No tax if amounts collected exceed $10,000,000,000.—

"(A) Estimates by secretary.—The Secretary as of the close of each calendar quarter (and at such other times as the Secretary determines appropriate) shall make an estimate of—

"(i) the amount of taxes which will be collected under this section at the Hazardous Substance Superfund financing rate under subsection (c) and sections 4661, 4671, and 4681 and credited to the Hazardous Substance Superfund, and

"(ii) the amount of interest which will be credited to such Fund under section 9602(b)(3),

during the period beginning October 1, 1985, and ending September 30, 1990.

"(B) Termination if $10,000,000,000 credited before September 30, 1990.—If the Secretary estimates under subparagraph (A) that more than $10,000,000,000 will be credited to the Fund before September 30, 1990, no tax shall be imposed under this section at the Superfund financing rate under subsection (c) after the date on which the Secretary estimates $10,000,000,000 will be so credited to the Fund.

"(4) Procedures for termination.—The Secretary shall by regulation provide procedures for the termination under paragraph (2) or (3) of the tax under this section, section 4661, and section 4671.".

(b) Conforming Amendment.—Section 303 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (relating to expiration of revenue provisions) is repealed.

(c) Effective Date.—The amendments made by this section shall take effect on January 1, 1986.

SEC. 13102. INCREASE IN TAX ON PETROLEUM.

(a) Increase in Tax.—Subsections (a) and (b) of section 4611 (relating to environmental tax on petroleum are each amended by striking out "0.79 cent" and inserting in lieu thereof "3.85 cents".

(b) Effective Date.—The amendments made by this section shall take effect on January 1, 1986.

SEC. 13103. TAX ON CERTAIN CHEMICALS.

(a) Inflation Adjustments in Amount of Tax.—Section 4661 of such Code is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) Inflation Adjustments in Amount of Tax.—

"(1) In general.—In the case of any taxable chemical sold in a calendar year after 1986, the amount of the tax imposed by subsection (a) shall be the amount determined under subsection (b) increased by the applicable inflation adjustment for such calendar year.

"(2) Applicable inflation adjustment.—

"(A) In general.—In the case of a taxable chemical, the applicable inflation adjustment for the calendar year is the percentage (if any) by which—

"(i) the applicable price index for the preceding calendar year, exceeds

"(ii) the applicable price index for 1985.

"(B) Applicable price index.—For purposes of subparagraph (A), the applicable price index for any calendar year is the average for the months in the 12-month period ending on September 30 of such calendar year of—

"(i) in the case of organic substances, the producer price index for basic organic chemicals as published by the Secretary of Labor, or

"(ii) in the case of inorganic substances, the producer price index for basic inorganic chemicals as published by the Secretary of Labor.

"(3) Rounding.—If any increase determined under paragraph (1) is not a multiple of 1 cent, such increase shall be rounded to the nearest multiple of 1 cent (or, if the increase determined under paragraph (1) is a multiple of ½ of 1 cent, such increase shall be increased to the next higher multiple of 1 cent)."

(b) Exemption for Exports of Taxable Chemicals.—

(1) Section 4662 (relating to definitions and special rules) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) Exemption for Exports of Taxable Chemicals—

"(1) Tax-free sales.—

"(A) In general.—No tax shall be imposed under section 4661 on the sale by the manufacturer or producer of any taxable chemical for export, or for resale by the purchaser to a second purchaser for export.

"(B) Proof of export required.—Rules similar to the rules of section 4221(b) shall apply for purposes of subparagraph (A).

"(2) Credit or refund where tax paid.—

"(A) In general.—Except as provided in subparagraph (B), if—

"(i) tax under section 4661 was paid with respect to any taxable chemical, and

"(ii) such chemical, or any taxable substance (as defined in section 4672(a)) derived from such chemical, was exported by any person,

credit or refund (without interest) of such tax shall be allowed or made to the person who paid such tax.

"(B) Condition to allowance.—No credit or refund shall be allowed or made under subparagraph (A) unless the person who paid the tax establishes that he—

"(i) has repaid or agreed to repay the amount of the tax to the person who exported the taxable chemical or taxable substance (as so defined), or

"(ii) has obtained the written consent of such exporter to the allowance of the credit or the making of the refund.

"(3) Regulations.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection."

"(2) Paragraph (1) of section 4662(d) (relating to refund or credit for certain uses) is amended—

(A) by striking out "the sale of which by such person would be taxable under such section and inserting" in lieu thereof "which is a taxable chemical", and

(B) by striking out "imposed by such section on the other substance manufactured or produced" and inserting in lieu thereof "imposed by such section on the other substance manufactured or produced (or which would have been imposed by such section on such other substance but for subsection (b) or (e) of this section)".

(d) Special Rules for Certain Chemicals.—

(1) Repeal of exemption for chemicals derived from coal.—

(A) Section 4662(b) (relating to exemptions; other special rules) is amended by striking out paragraph (4) and by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

(B) Paragraph (3) of section 4662(d) is amended by striking out "subsection (b)(5)" each place it appears and inserting in lieu thereof "subsection (b)(4)".

(2) Special rules for xylene.—

(A) Subsection (b) of section 4662 (relating to exceptions; other special rules) is amended by adding after paragraph (5) the following new paragraph:

"(6) Special rule for xylene.—Except in the case of any substance imported into the United States or exported from the United States, the term 'xylene' does not include any separated isomer of xylene."

(B) The item relating to xylene in the table contained in section 4661(b) is amended by striking out "$4.87" and inserting in lieu thereof "$9.81".

(3) Special rule for nitric acid used in production of nitrocellulose.—Subsection (b) of section 4662 (relating to exceptions; other special rules) is amended by adding after paragraph (6) the following new paragraph:

"(7) Special rule for nitric acid used in production of nitrocellulose.—The tax imposed under section 4661 on nitric acid used by the producer of such acid in the production of nitrocellulose shall not exceed $0.24 per ton."

(d) EXEMPTION FOR CERTAIN RECYCLED CHEMICALS.—Subsection (b) of section 4662 (relating to exceptions; other special rules) is amended by adding after paragraph (7) the following new paragraph:

"(8) RECYCLED CHROMIUM, COBALT, NICKEL, AND LEAD.—

"(A) IN GENERAL.—No tax shall be imposed under section 4661(a) on any chromium, cobalt, nickel, or lead which is diverted or recovered in the United States from any solid waste as part of a recycling process (and not as part of the original manufacturing or production process).

"(B) EXEMPTION NOT TO APPLY WHILE CORRECTIVE ACTION UNCOMPLETED.—Subparagraph (A) shall not apply during any period that required corrective action by the taxpayer is uncompleted.

"(C) REQUIRED CORRECTIVE ACTION.—For purposes of subparagraph (B), required corrective action shall be treated as uncompleted during the period—

"(i) beginning on the date that the corrective action is required by the Administrator or an authorized State pursuant to—

"(I) a final permit under section 3005 of the Solid Waste Disposal Act or a final order under section 3004 or 3008 of such Act, or

"(II) a final order under section 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and

"(ii) ending on the date the Administrator or such State (as the case may be) certifies to the Secretary that such corrective action has been completed.

"(D) SOLID WASTE.—For purposes of this paragraph, the term 'solid waste' has the meaning given such term by section 1004 of the Solid Waste Disposal Act, except that such term shall not include any byproduct, coproduct, or other waste from any process of smelting, refining, or otherwise extracting any metal."

(e) EXEMPTION FOR ANIMAL FEED SUBSTANCES.—

(1) IN GENERAL.—Subsection (b) of section 4662 (relating to exceptions; other special rules) is amended by adding after paragraph (8) the following new paragraph:

"(9) SUBSTANCES USED IN THE PRODUCTION OF ANIMAL FEED.—

"(A) IN GENERAL.—In the case of—

"(i) nitric acid,

"(ii) sulfuric acid,

"(iii) ammonia, or

"(iv) methane used to produce ammonia,

which is qualified animal feed substance, no tax shall be imposed under section 4661(a).

"(B) QUALIFIED ANIMAL FEED SUBSTANCE.—For purposes of this section, the term 'qualified animal feed substance' means any substance—

"(i) used in a qualified animal feed use by the manufacturer, producer, or importer,

"(ii) sold for use by any purchaser in a qualified animal feed use, or

"(iii) sold for resale by any purchaser for use, or resale for ultimate use, in a qualified animal feed use.

"(C) QUALIFIED ANIMAL FEED USE.—The term 'qualified animal feed use' means any use in the manufacture or production of animal feed or animal feed supplements, or of ingredients used in animal feed or animal feed supplements.

"(D) TAXATION OF NONQUALIFIED SALE OR USE.—For purposes of section 4661(a), if no tax was imposed by such section on the sale or use of any chemical by reason of subparagraph (A), the first person who sells or uses such chemical other than in a sale or use described in subparagraph (A) shall be treated as the manufacturer of such chemical."

(2) REFUND OR CREDIT FOR SUBSTANCES USED IN THE PRODUCTION OF ANIMAL FEED.—Subsection (d) of section 4662 (relating to refunds and credits with respect to the tax on certain chemicals) is amended by adding at the end thereof the following new paragraph:

"(4) USE IN THE PRODUCTION OF ANIMAL FEED.—Under regulations prescribed by the Secretary, if—

"(A) a tax under section 4661 was paid with respect to nitric acid, sulfuric acid, ammonia, or methane used to produce ammonia, without regard to subsection (b)(9), and

"(B) any person uses such substance as a qualified animal feed substance,

then an amount equal to the excess of the tax so paid over the tax determined with regard to subsection (b)(9) shall be allowed as a credit or refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by this section."

(f) CERTAIN EXCHANGES BY TAXPAYERS NOT TREATED AS SALES.—Subsection (c) of section 4662 (relating to use by manufacturers) is amended to read as follows:

"(c) USE AND CERTAIN EXCHANGES BY MANUFACTURER, ETC.—

"(1) USE TREATED AS SALE.—Except as provided in subsections (b) and (e), if any person manufacturers, produces, or imports any taxable chemical and uses such chemical, then such person shall be liable for tax under section 4661 in the same manner as if such chemcial were sold by such person.

"(2) SPECIAL RULES FOR INVENTORY EXCHANGES.—

"(A) IN GENERAL.—Except as provided in this paragraph, in any case in which a manufacturer, producer, or importer of a taxable chemical exchanges such chemical as part of an inventory exchange with another person—

"(i) such exchange shall not be treated as a sale, and

"(ii) such other person shall, for purposes of section 4661, be treated as the manufacturer, producer, or importer of such chemical.

"(B) REGISTRATION REQUIREMENT.—Subparagraph (A) shall not apply to any inventory exchange unless—

"(i) both parties are registered with the Secretary as manufacturers, producers, or importers of taxable chemicals, and

"(ii) the person receiving the taxable chemical has, at such time as the Secretary may prescribe, notified the manufacturer, producer, or importer of such person's registration number and the internal revenue district in which such person is registered.

"(C) INVENTORY EXCHANGE.—For purposes of this paragraph, the term 'inventory exchange' means any exchange in which 2 persons exchange property which is, in the hands of each person, property described in section 1221(1)."

(g) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall take effect on January 1, 1986.

(2) REPEAL OF TAX ON XYLENE FOR PERIODS BEFORE JANUARY 1, 1986.—

(A) REFUND OF TAX PREVIOUSLY IMPOSED.—In the case of any tax imposed by section 4661 of the Internal Revenue Code of 1954 on the sale or use of xylene before January 1, 1986, such tax (including interest, additions to tax, and additional amounts) shall not be assessed, and if assessed, the assessment shall be abated, and if collected shall be credited or refunded (with interest) as an overpayment.

(B) WAIVER OF STATUTE OF LIMITATIONS.—If on the date of the enactment of this Act (or at any time within 1 year after such date of enactment) refund or credit of any overpayment of tax resulting from the application of subparagraph (A) is barred by any law or rule of law, refund or credit of such overpayment shall, nevertheless, be made or allowed if claim therefor is filed before the date 1 year after the date of the enactment of this Act.

(C) XYLENE TO INCLUDE ISOMERS.—For purposes of this paragraph, the term "xylene" shall include any isomer of xylene whether or not separated.

(3) INVENTORY EXCHANGES.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the amendment made by subsection (f) shall apply as if included in the amendments made by section 211 of the Hazardous Substance Response Revenue Act of 1980.

(B) RECIPIENT MUST AGREE TO TREATMENT AS MANUFACTURER.—In the case of any inventory exchange before January 1, 1986, the amendment made by subsection (f) shall apply only if the person receiving the chemical from the manufacturer, producer, or importer in the exchange agrees to be treated as the manufacturer, producer, or importer of such chemical for purposes of subchapter B of chapter 38 of the Internal Revenue Code of 1954.

(C) EXCEPTION WHERE MANUFACTURER PAID TAX.—In the case of any inventory exchange before January 1, 1986, the amendment made by subsection (f) shall not apply if the manufacturer, producer, or importer treated such exchange as a sale for purposes of section 4661 of such Code and paid the tax imposed by such section.

(D) REGISTRATION REQUIREMENTS.—Section 4662(c)(2)(B) of such Code (as added by subsection (f)) shall apply to exchanges made after December 31, 1985.

(4) EXPORTS OF TAXABLE SUBSTANCES.—Clause (ii) of section 4662(e)(2)(A) of such Code (as added by this section) shall not apply to the export of any taxable substance (as defined in section 4672(a) of such Code) before January 1, 1987.

SEC. 13104. REPEAL OF POST-CLOSURE TAX AND TRUST FUND.

(a) REPEAL OF TAX.—

(1) Subchapter C of chapter 38 (relating to tax on hazardous wastes) is hereby repealed.

(2) The table of subchapters for such chapter 38 is amended by striking out the item relating to subchapter C.

(b) REPEAL OF TRUST FUND.—Section 232 of the Hazardous Substance Reponse Revenue Act of 1980 is hereby repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1983.

SEC. 13105. TAX ON CERTAIN IMPORTED SUBSTANCES DERIVED FROM TAXABLE CHEMICALS.

(a) GENERAL RULE.—Chapter 38 is amended by adding after subchapter B the following new subchapter:

"SUBCHAPTER C—TAX ON CERTAIN IMPORTED SUBSTANCES

"Sec. 4671. Imposition of tax.
"Sec. 4672. Definitions and special rules.

"SEC. 4671. IMPOSITION OF TAX.

"(a) GENERAL RULE.—There is hereby imposed a tax on any taxable substance sold or used by the importer thereof.

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the amount of the tax imposed by subsection (a) with respect to any taxable substance shall be the amount of the tax which would have been imposed by section 4661 on the taxable chemicals or petroleum used as materials or process fuel in the manufacture or production of such substance if such taxable chemcials or petroleum had been sold in the United States for use in the manufacture or production of such taxable substance.

"(2) RATE WHERE IMPORTER DOES NOT FURNISH INFORMATION TO SECRETARY.—If the importer does not furnish to the Secretary (at such time and in such manner as the Secretary shall prescribe) sufficient information to determine under paragraph (1) the amount of the tax imposed by subsection (a) on any taxable substance, the amount of the tax imposed on such taxable substance shall be 5 percent of the appraised value of such substance as of the time such substance was entered into the United States for consumption, use, or warehousing.

"(c) EXEMPTIONS FOR SUBSTANCES TAXED UNDER SECTIONS 4611 AND 4661.—No tax shall be imposed by this section on the sale or use of any substance if tax is imposed on such sale or use under section 4611 or 4661.

"(d) TERMINATION.—No tax shall be imposed under this section during any period during which no tax is imposed under section 4611(a) at the Hazardous Substance Superfund financing rate under section 4611(c).

"SEC. 4672. DEFINITIONS AND SPECIAL RULES.

"(a) TAXABLE SUBSTANCE.—For purposes of this subchapter—

"(1) IN GENERAL.—The term 'taxable substance' means any substance which, at the time of sale or use by the importer, is listed as a taxable substance by the Secretary for purposes of this subchapter.

"(2) DETERMINATION OF SUBSTANCES ON LIST.—A substance shall be listed under paragraph (1) if—

"(A) the substance is contained in the list under paragraph (3), or

"(B) the Secretary determines, in consultation with the Administrator of the Environmental Protection Agency and the Commissioner of Customs, that such substance generally has more than 50 percent of its value derived (as materials or as process fuel) from taxable chemicals or petroleum (determined on the basis of the predominant method of production).

"(3) INITIAL LIST OF TAXABLE SUBSTANCES.—

Cumene
Styrene
Ammonium nitrate
Nickel oxide
Isopropyl alcohol
Ethylene glycol
Vinyl chloride
Polyethylene resins, total
Polybutadiene
Styrene-butadiene, latex
Styrene-butadiene, snpf
Synthetic rubber, not containing fillers
Urea
Ferronickel
Ferrochromium nov 3 pct
Ferrochrome ov 3 pct carbon
Unwrought nickel
Nickel waste and scrap
Wrought nickel rods and wire
Nickel powders
Phenolic resins
Polyvinylchloride resins
Polystyrene resins and copolymers
Ethyl alcohol for nonbeverage use
Methylene chloride
Polypropylene
Propylene glycol
Formaldehyde
Acetone
Propylene oxide
Polypropylene resins
Ethylene oxide
Ethylene dichloride
Cyclohexane
Isophthalic acid
Maleic anhydride
Phthalic anhydride
Ethyl methyl ketone
Chloroform
Carbon tetrachloride
Chromic acid
Hydrogen peroxide
Polystyrene homopolymer resins
Melamine
Acrylic and methacrylic acid resins
Vinyl resins
Vinyl resins, NSPF.

"(4) MODIFICATIONS TO LIST.—The Secretary may add or remove substances from the list under paragraph (2) (including items listed by reason of paragraph (3)) as necessary to carry out the purposes of this subchapter.

"(b) OTHER DEFINITIONS.—For purposes of this subchapter—

"(1) IMPORTER.—The term 'importer' means the person entering the taxable substance for consumption, use, or warehousing.

"(2) TAXABLE CHEMICALS; UNITED STATES.—The terms 'taxable chemical' and 'United States' have the respective meanings given such terms by section 4662(a).

"(c) DISPOSITION OF REVENUES FROM PUERTO RICO AND THE VIRGIN ISLANDS.—The provisions of subsections (a)(3) and (b)(3) of section 7652 shall not apply to any tax imposed by section 4671."

(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 38 is amended by adding after the item relating to subchapter B the following new item:

"Subchapter C. Tax on certain imported substances."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1987.

SEC. 13106. IMPOSITION OF SUPERFUND EXCISE TAX.

(a) IN GENERAL.—Chapter 38 is amended by adding after subchapter C the following new subchapter:

"Subchapter D—Superfund Excise Tax

"Part I. Imposition of tax.
"Part II. Taxable transaction.
"Part III. Taxable amount; exempt transactions; credit against tax.
"Part IV. Administration.
"Part V. Definitions; special rules.

"PART I—IMPOSITION OF TAX

"Sec. 4681. Imposition of tax.
"Sec. 4682. Termination.

"SEC. 4681. IMPOSITION OF TAX.

"(a) GENERAL RULE.—A tax is hereby imposed on each taxable transaction.

"(b) AMOUNT OF TAX.—Except as otherwise provided in this subchapter, the amount of the tax shall be 0.1 percent of the taxable amount.

"SEC. 4682. TERMINATION.

"(a) IN GENERAL.—No tax shall be imposed under section 4681 after March 31, 1991.

"(b) TERMINATION IF FUNDS UNSPENT OR $10,000,000,000 OF SUPERFUND TAXES COLLECTED.—No tax shall be imposed under subsection (a) during any period during which no tax is imposed under section 4611(a) by reason of paragraph (2) or (3) of section 4611(d), except that section 4611(d)(3) shall, for purposes of this subsection, be applied by substituting 'March 31, 1991' for 'September 30, 1990' each place it appears.

"(c) PROCEDURES FOR TERMINATION.—

"(1) PRORATION OVER TAXABLE PERIOD.—In the case of any taxable period during any portion of which the tax imposed by section 4681 does not apply, the tax imposed by section 4681 on taxable transactions described in paragraph (1) of section 4683(a) (and the credit allowable under section 4687) for such taxable period shall be equal to an amount which bears the same ratio to the amount of such tax (and credit) for such taxable period (determined as if such tax applied for the entire period) as—

"(A) the number of days in such taxable period during which such tax applies, bears to

"(B) the number of days in such taxable period.

"(2) TAX ON IMPORTS.—The tax imposed by section 4681 on taxable transactions described in paragraph (2) of section 4683(a) shall not apply to property imported during the period during which no tax applies under section 4681.

"(3) OTHER PROCEDURES.—The Secretary shall by regulation provide such procedures for a termination under this section as the Secretary determines necessary.

"PART II—TAXABLE TRANSACTION

"Sec. 4683. Taxable transaction.
"Sec. 4684. Taxable person.

"SEC. 4683. TAXABLE TRANSACTION.

"(a) IN GENERAL.—For purposes of this subchapter except as otherwise provided in this subchapter, the term 'taxable transaction' means—

"(1) the sale or leasing of tangible personal property by a taxable person in connection with a trade or business, or

"(2) the importing of tangible personal property into the United States by a taxable person.

"(b) EXEMPT TRANSACTIONS.—

"For exempt transactions, see section 4686.

"SEC. 4684. TAXABLE PERSON.

"(a) GENERAL RULE.—Except as otherwise provided in this subchapter, for purposes of this subchapter, the term 'taxable person' means—

"(1) in the case of a taxable transaction described in paragraph (1) of section 4683(a)—

"(A) the manufacturer of the tangible personal property, or

"(B) any person who included the costs of the tangible personal property in such person's qualified inventory costs, and

"(2) in the case of a taxable transaction described in paragraph (2) of section 4683(a), the importer of the tangible personal property.

"(b) GOVERNMENT ENTITIES AND EXEMPT ORGANIZATIONS NOT TAXABLE PERSONS.—For purposes of this subchapter, the term 'taxable person' shall not include—

"(1) the United States, any State or political subdivision thereof, the District of Columbia, a Commonwealth or possession of the United States, or any agency or instrumentality of the foregoing, and

"(2) any organization which is exempt from taxation under chapter 1 by reason of section 501(a); except that this paragraph shall not apply with respect to any transaction which is part of an unrelated trade or business (within the meaning of section 513) of such organization.

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"PART III—TAXABLE AMOUNT; EXEMPT TRANSACTIONS; CREDIT AGAINST TAX

"Sec. 4685. Taxable amount.
"Sec. 4686. Exempt transactions.
"Sec. 4687. Credit against tax on sales and leases.

"SEC. 4685. TAXABLE AMOUNT.

"(a) Sale.—For purposes of this subchapter, the taxable amount for any sale shall be the price (in money or fair market value of other consideration) charged the purchaser of the property by the seller thereof—

"(1) including items payable to the seller with respect to such transaction, but

"(2) excluding the tax imposed by section 4681 or chapter 32 with respect to such transaction.

"(b) Imports.—For purposes of this subchapter, the taxable amount in the case of any import shall be the sum of—

"(1) the customs value, plus

"(2) customs duties and any other duties which may be imposed.

If there is no such customs value, fair market value (determined in a manner similar to the determination of customs value) shall be substituted for customs value in paragraph (1).

"(c) Leases.—For purposes of this subchapter, the taxable amount in the case of any lease shall be the gross payments under the lease.

"(d) Containers, Packing, and Transportaion Charges; Constructive Sales Price.—Under regulations, rules similar to the rules of subsections (a) and (b) of section 4216 (relating to containers, packing, and transportation charges, etc., and constructive sales prices) shall apply in computing the taxable amount.

"(e) Special Rule Where Sale or Lease Payments Received in More Than 1 Taxable Period.—

"(1) Sales.—In the case of a sale of any tangible personal property where the consideration is received by the seller in more than 1 taxable period—

"(A) in the case of the seller, the taxable amount for each such taxable period shall be the portion of the taxable amount received during such period, and

"(B) in the case of the buyer, the cost of such property shall be taken into account for purposes of determining qualified inventory costs only when paid.

"(2) Leases.—In th case of a lease with a term which includes more than 1 taxable period, the taxable amount for each taxable period shall include the gross lease payments received by the taxable person during such taxable period.

"SEC. 4686. EXEMPT TRANSACTIONS.

"(a) Imports of $10,000 or Less.—No tax shall be imposed under section 4681 on any tangible personal property imported into the United States as part of a shipment (within the meaning of section 498(a)(1) of the Tariff Act of 1930; 19 U.S.C. 14989(a)(1)) the aggregate taxable amount of which is $10,000 or less.

"(b) Exports.—Under regulations, no tax shall be imposed under section 4681 on the sale of any property which is to be exported from the United States.

"(c) Certain Exempt Products.—

"(1) In general.—In the case of any exempt product—

"(A) no tax shall be imposed by section 4681 with respect to such product, and

"(B) any qualified inventory costs allocable to such product shall not be taken into account under section 4687.

"(2) Exempt product.—For purposes of this section—

"(A) In general.—The term 'exempt product' means—

"(i) any food product,

"(ii) any unprocessed agricultural or fishery product,

"(iii) any unprocessed timber, and

"(iv) any fertilizer product.

"(B) Food product.—The term 'food product' means—

"(i) any food or nonalcoholic drink for humans or animals, and

"(ii) any material, component, or packaging of such a food or drink.

"(C) Fertilizer product.—The term 'fertilizer product' means—

"(i) any product to be used as a fertilizer, and

"(ii) any material, component, or packaging of such product.

"SEC. 4687. CREDIT AGAINST TAX ON SALES AND LEASES.

"(a) General Rule.—There shall be allowed as a credit against the tax imposed by section 4681 for any taxable period on taxable transactions described in paragraph (1) of section 4683(a) an amount equal to the greater of—

"(1) 0.1 percent of the qualified inventory costs of the taxable person for the taxable period, or

"(2) $10,000.

"(b) Limitation Based on Tax Liability; Carryforward of Excess Credit.—

"(1) Limitation based on amount of tax.—The amount of the credit allowed by subsection (a) for any taxable period shall not exceed the liability for tax imposed by section 4681 on taxable transactions described in paragraph (1) of section 4683(a) for such period.

"(2) Carryforward of excess credit.—If the credit allowable under subsection (a)(1) for any taxable period exceeds the limitation imposed by paragraph (1), such credit shall be carried to the succeeding taxable period and added to the credit allowable under subsection (a)(1) for such succeeding taxable period.

"(C) Qualified Inventory Costs.—For purposes of this subchapter—

"(1) In general.—Except as provided in paragraph (2), the term 'qualified inventory costs' means, with respect to any taxable period, the costs of tangible personal property which—

"(A) are allocable to the inventory of a manufacturer under the full absorption method of accounting under section 471, and

"(B) are paid or incurred by the taxable person during such taxable period.

"(2) Special rules.—For purposes of this subsection—

"(A) Expensing rather than depreciation or amortization.—If any portion of an allowance for depreciation or amortization with respect to any property would be allocable to the inventory of a manufacturer under the full absorption method of accounting, a like portion of the cost of such property shall be included in the qualified inventory costs of the taxpayer for the taxable period in which such property is placed in service. Treatment under the preceding sentence shall be in lieu of any allowance for depreciation or amortization.

"(B) Property manufactured for lease by manufacturer.—For purposes of computing qualified inventory costs, any tangible personal property which is manufactured for lease by the manufacturer shall be treated in the same manner as property which is manufactured for sale by the manufacturer.

"(d) Carryforward Not Allowed for Costs During Periods for Which Return Not Filed.—

"(1) In general.—In determining the amount allowable as a carryforward under subsection (b)(2), the qualified inventory costs of the taxable person during any taxable period shall be taken into account only if such person files a timely return (determined with regard to extensions) of the tax imposed by section 4681 for such period.

"(2) Basis adjustment for income tax purposes.—For purposes of subtitle A, if the cost of any property of a character subject to the allowance for depreciation is taken into account in determining the amount of the qualified inventory costs of the taxable person for any taxable period, the adjusted basis of such property shall be reduced by an amount equal to 0.1 percent of the qualified inventory costs of the taxpayer attributable to such property.

"PART IV—ADMINISTRATION

"Sec. 4688. Liability for tax.
"Sec. 4689. Return requirement; taxable period; depositary requirements.
"Sec. 4690. Regulations.

"SEC. 4688. LIABILITY FOR TAX.

"The taxable person shall be liable for the tax imposed by section 4681.

"SEC. 4689. RETURN REQUIREMENT; TAXABLE PERIOD; DEPOSITORY REQUIREMENTS.

"(a) Return Requirement.—

"(1) In general.—Except as provided in this subsection, each taxable person shall file a return of the tax imposed by section 4681 for any taxable period not later than—

"(A) the due date (including extensions) for filing the taxpayer's return of tax under chapter 1, or

"(B) if no return of tax is required under chapter 1—

"(i) April 15 is the case of a taxpayer other than a corporation, and

"(ii) March 15 in the case of a corporation,

including extensions granted for purposes of this subchapter.

"(2) Exception for taxable transactions of $10,000,000 or less.—A taxable person shall not be required to file a return for any taxable period for taxable transactions described in paragraph (1) of section 4683(a) if the aggregate taxable amount for such transactions is $10,000,000 or less. For purposes of the preceding sentence, there shall not be taken into account any transaction exempt from the tax imposed by section 4681 by reason of section 4686(c).

"(3) Other exceptions.—The Secretary may by regulation exempt any taxable person from the requirement of paragraph (1).

"(b) Taxable period.—For purposes of this subchapter, the term 'taxable period' means—

"(1) The taxable person's taxable year for purposes of chapter 1, or

"(2) if there is no taxable year for purposes of chapter 1, the calendar year.

"(c) Depositary Requirements.—

"(1) In general.—In the case of any person with respect to whom a tax is imposed under section 4681 for any taxable period on any taxable transaction described in paragraph (1) of section 4683(a), such person shall make quarterly deposits of the estimated amount of such tax for the succeeding taxable period.

"(2) Special rule for 1st taxable period.—Notwithstanding paragraph (1), a deposit shall be required for the 1st taxable *period of any taxable person to which this subchapter applies if the gross receipts of such person during the 1st taxable year ending before such taxable period from the sale or leasing of tangible personal property manufactured by such person exceed $50,000,000.*

"SEC. 4690. REGULATIONS.

"The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subchapter.

"PART V—DEFINITIONS; SPECIAL RULES

"Sec. 4691. Definitions; special rules.

"SEC. 4691. DEFINITIONS; SPECIAL RULES.

"(a) Manufacturer.—For purposes of this subchapter—

"(1) In general.—The term 'manufacturer' includes any producer of tangible personal property (including raw materials).

"(2) Certain activities not taken into account.—A person shall not be treated as a manufacturer with respect to any property merely by reason of—

"(A) furnishing services incidental to the storage or transportation of such property, or

"(B) incidental preparation of property by a retailer or wholesaler (including routine assemblage).

"(b) Special Rule for Taxpayers Under Common Control.—

"(1) In general.—All persons which are—

"(A) Members of the same controlled group of corporations (within the meaning of section 52(a)), or

"(B) under common control (within the meaning of section 52(b)),

shall be treated as 1 person for purposes of the $10,000 amount specified in section 4687(a)(2), the $10,000,000 amount specified in section 4689(a)(2), and the $50,000,000 amount specified in section 4689(c)(2).

"(2) Allocation of amounts.—The amounts specified in paragraph (1) shall be allocated among persons described in paragraph (1) in such manner as the Secretary may prescribe by regulations.

"(c) Person.—For purposes of this subchapter, the term 'person' includes any governmental entity.

"(d) United States.—For purposes of this subchapter, the term 'United States' has the meaning given such term by section 4612(a)(4).

"(e) Tangible Personal Property.—For purposes of this subchapter, the term 'tangible personal property' includes gases.

"(f) Import.—Except as otherwise provided in regulations, for purposes of this subchapter, the term 'import' means the entering, or withdrawal from warehouse, for consumption.

(g) Tax on Import in Addition to Duty.—The tax imposed by section 4681 on the importing of any tangible personal property shall be in addition to any imposed on such importation.

"(h) Disposition of Revenues From Puerto Rico and the Virgin Islands.—The provisions of subsections (a)(3) and (b)(3) of section 7652 shall not apply to any tax imposed by section 4681.

"(i) Special Rule for Short Taxable Periods.—In the case of a taxable period which is less than 12 months, there shall be substituted for the dollar amounts otherwise applicable under sections 4687(a)(2) and 4689(a)(2) (determined after the application of subsection (b)) an amount which bears the same ratio to such amounts as the number of days in the taxable period bears to 365.

"(j) Sale To Include Certain Exchanges and Transfers.—For purposes of this subchapter, except as provided in regulations, the term 'sale' includes any exchange or other transfer, other than a gift (within the meaning of section 102 or section 170)."

(b) Application of Certain Penalties.—

(1) Failure to file return or pay tax.—Paragraph (1) of section 6651(a) (relating to addition to tax) is amended by inserting "section 4689 (relating to Superfund excise tax)," before "subchapter A of chapter 51".

(2) Failure to make deposits.—Section 6656 (relating to failure to make deposit of taxes or overstatement of deposits) is amended by adding at the end thereof the following new subsection.

"(c) Special Rule for Superfund Excise Tax.—For purposes of subsection (a), in the case of the tax imposed by section 4681, the tax required to be deposited shall be equal to the lesser of—

"(1) 90 percent of the tax imposed by section 4681 during the taxable period on taxable transactions described in paragraph (1) of section 4683(a), or

"(2) the amount of such tax imposed during the preceding taxable period (determined on an annual basis).

Paragraph (2) shall not apply if no tax was imposed during the preceding taxable period.".

(c) Treatment of Indian Tribal Governments.—Paragraph (2) of section 7871(a) (relating to Indian tribal governments treated as States for certain purposes) is amended by redesignating subparagraphs (A), (B), (C), and (D) as subparagraphs (B), (C), (D), and (E), respectively, and by inserting before subparagraph (B) (as so redesignated) the following new subparagraph:

"(A) Subchapter D of chapter 38 (relating to Superfund excise tax),".

(d) Clerical Amendment.—The table of subchapters for chapter 38 is amended by inserting after the item relating to subchapter C the following new item:

"Subchapter D. Superfund excise tax."

(e) Effective Dates.—

(1) In general.—Except as provided in this subsection, the amendments made by this section shall apply with respect to taxable amounts received in taxable periods ending after March 31, 1986.

(2) Special rule for imports.—In the case of imports, the amendments made by this section shall apply to articles imported after March 31, 1986.

(3) Special rule for taxable period including April 1, 1986.—In the case of any taxable period which begins before April 1, 1986, and ends on or after April 1, 1986, the tax imposed by section 4681 of the Internal Revenue Code of 1954 on taxable transactions described in paragraph (1) of section 4683(a) of such Code (and the credit allowable under section 4687 of such Code) for such taxable period shall be equal to an amount which bears the same ratio to the amount of such tax (and credit) for such taxable period (determined as if such tax and credit had been in effect for the entire taxable period) as—

(A) the number of days in such taxable period after April 1, 1986, bears

(B) the number of days in such taxable period.

SEC. 13107. HAZARDOUS SUBSTANCE SUPERFUND.

(a) In general.—Subchapter A of chapter 98 (relating to establishment of trust funds) is amended by adding after section 9504 the following new section:

"SEC. 9505. HAZARDOUS SUBSTANCE SUPERFUND.

"(A) Creation of Trust Fund.—There is established in the Treasury of the United States a trust fund to be known as the 'Hazardous Substance Superfund' (hereinafter in this section referred to as the 'Superfund'), consisting of such amounts as may be—

"(1) appropriated to the Superfund as provided in this section, and

"(2) credited to the Superfund as provided in section 9602(b).

"(b) Transfers to Superfund.—There are hereby appropriated to the Superfund amounts equivalent to—

"(1) the taxes received in the Treasury under section 4511, 4661, 4671, or 4681 (relating to environmental taxes),

"(2) amounts recovered on behalf of the Superfund under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (hereafter in this section referred to as 'CERCLA'),

"(3) all moneys recovered or collected under section 311(b)(6)(B) of the Clean Water Act,

"(4) penalties assessed under title I of CERCLA, and

"(5) punitive damages under section 107(c)(3) of CERCLA.

"(c) Expenditures From Superfund.—

"(1) In general.—Amounts in the Superfund shall be available, as provided in appropriation Acts, only for purposes of making expenditures—

"(A) to carry out the purpose of paragraphs (1), (2), (4), and (5) of section 111(a) of CERCLA as in effect on the date of the enactment of the Harzardous Substance Response Revenue Act of 1980, or

"(B) hereafter authorized by a law which authorizes the expenditure out of the Superfund for a general purpose covered by paragraphs (1), (2), (4), and (5) of such section 111(a) (as so in effect).

"(2) Exception for certain transfers, etc., of hazardous substances.—No amount in the Superfund or derived from the Superfund shall be available or used for the transfer or disposal of hazardous waste carried out pursuant to a cooperative agreement between the Administrator and the State if the following conditions apply—

"(A) the transfer or disposal, if made on December 13, 1985, would not comply with a State or local requirement, and

"(B) the transfer is to a facility for which a final permit under section 3005(a) of the Solid Waste Disposal Act was issued, after January 1, 1983, and before November 1, 1984.

"(d) Authority to Borrow.—

"(1) In general.—There are authorized to be appropriated to the Superfund, as repayable advances, such sums as may be necessary to carry out the purposes of the Superfund.

"(2) Repayment of advances.—

"(A) In general.—Advances made pursuant to this subsection shall be repaid, and interest on such advnaces shall be paid, to the general fund of the Treasury when the Secretary determines that moneys are available for such purposes in the Superfund.

"(B) Final repayment.—No advance shall be made to the Superfund after September 30, 1990, and all advances to such Fund shall be repaid on or before such date.

"(C) Rate of interest.—Interest on advances made pursuant to this subsection shall be at a rate determined by the Secretary of the Treasury (as of the close of the calendar month preceding the month in which the advance is made) to be equal to the current average market yield on out-

standing marketable obligations of the United States with remaining periods to maturity comparable to the anticipated period during which the advance will be outstanding and shall be compounded annually.

"(e) Liability of United States Limited to Amount in Trust Fund.—

"(1) General rule.—Any claim filed against the Superfund may be paid only out of the Superfund.

"(2) Coordination with other provisions.—Nothing in CERCLA or the Superfund Amendments of 1985 (or in any amendment made by either of such Acts) shall authorize the payment by the United States Government of any amount with respect to any such claim out of any source other than the Superfund.

"(3) Order in which unpaid claims are to be paid.—If at any time the Superfund has insufficient funds to pay all of the claims payable out of the Superfund at such time, such claims shall, to the extent permitted under paragraph (1), be paid in full in the order in which they were finally determined."

(b) Conforming Amendments.—

(1) Subtitle B of the Hazardous Substance Response Revenue Act of 1980 (relating to establishment of Hazardous Substance Response Trust Fund) is hereby repealed.

(2) Paragraph (11) of section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended to read as follows:

"(11) 'Fund' or 'Trust Fund' means the Hazardous Substance Superfund established by section 9505 of the Internal Revenue Code of 1954;".

(c) Clerical Amendment.—The table of sections for subchapter A of chapter 98 is amended by adding after the item relating to section 9504 the following new item: "Sec. 9505. Hazardous Substance Superfund."

(d) Effective Date.—

(1) In general.—The amendments made by this section shall take effect on January 1, 1986.

(2) Superfund treated as continuation of old trust fund.—The Hazardous Substance Superfund established by the amendments made by this section shall be treated for all purposes of law as a continuation of the Hazardous Substance Response Trust Fund established by section 221 of the Hazardous Substance Response Revenue Act of 1980. Any reference in any law to the Hazardous Substance Response Trust Fund established by such section 221 shall be deemed to include (wherever appropriate) a reference to the Hazardous Substance Superfund established by the amendments made by this section.

SEC. 13108. INDUSTRIAL DEVELOPMENT BONDS FOR HAZARDOUS WASTE TREATMENT FACILITIES.

(a) In General.—Paragraph (4) of section 103(b) (relating to certain exempt activities) is amended—

(1) by inserting ", facilities subject to final permit requirements under subtitle C of title II of the Solid Waste Disposal Act for the treatment of hazardous waste," after "solid waste disposal facilities" in subparagraph (E), and

(2) by adding at the end thereof the following new sentence: "For purposes of subparagraph (E), the terms 'treatment' and 'hazardous waste' have the meanings given to such terms by section 1004 of the Solid Waste Disposal Act.".

(b) Effective Date.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

PART II—LEAKING UNDERGROUND STORAGE TANK TRUST FUND AND ITS REVENUE SOURCES

SEC. 3121. ADDITIONAL TAXES ON GASOLINE, DIESEL FUEL, SPECIAL MOTOR FUELS, FUELS USED IN AVIATION, AND FUELS USED IN COMMERCIAL TRANSPORTATION ON INLAND WATERWAYS.

(a) General Rule.—

(1) Gasoline.—Section 4081 (relating to imposition of tax on gasoline) is amended by striking out subsections (a) and (b) and inserting in lieu thereof the following:

"(a) Tax To Fund Highway Program.—

(1) In General.—There is hereby imposed on gasoline sold by the producer or importer thereof, or by any producer of gasoline, a tax of 9 cents a gallon.

(2) Termination.—On and after October 1, 1988, the tax imposed by paragraph (1) shall not apply.

"(b) Additional Tax To Fund Leaking Underground Storage Tank Trust Fund.—

(1) In General.—In addition to the tax imposed by subsection (a), there is hereby imposed on gasoline sold by the producer or importer thereof, or by any producer of gasoline, a tax of 0.2 cents a gallon.

(2) Termination.—

(A) In General.—The tax imposed by paragraph (1) shall not apply after the earlier of—

(i) September 30, 1990, or

(ii) the last day of the termination month.

(B) Termination Month.—For purposes of subparagraph (A), the termination month is the 1st month as of the close of which the Secretary estimates that the net revenues from the taxes imposed by paragraph (1) and section 4041(d) are at least $850,000,000.

(C) Net Revenues.—For purposes of subparagraph (B), the term 'net revenues' means the excess of gross revenues over amounts payable by reason of section 950(c)(2) (relating to transfer from leaking Underground Storage Tank Trust Fund for certain repayments and credits)."

(2) Diesel and Special Motor Fuels; Fuels Used in Aviation.—Section 4041 (relating to tax on special fuels) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) Additional Taxes To Fund Leaking Underground Storage Tank Trust Fund.—

"(1) Liquids other than gasoline used in motor vehicles, motorboats, or trains.—In addition to the taxes imposed by subsection (a), there is hereby imposed a tax of 0.2 cents a gallon on benzol, benzene, naphtha, liquefied petroleum gas, casing head and natural gasoline, or any other liquid (other than kerosene, gas oil, or fuel oil, or any product taxable under section 4081)—

"(A) sold by any person to an owner, lessee, or other operator of a motor vehicle, motorboat, or train for use as a fuel in such motor vehicle, motorboat, or train, or

"(B) used by any person as a fuel in a motor vehicle, motorboat, or train unless there was a taxable sale of such liquid under subparagraph (A).

"(2) Liquids used in aviation.—In addition to the taxes imposed by subsection (c) and section 4081, there is hereby imposed a tax of 0.2 cents a gallon on any liquid—

"(A) sold by any person to an owner, lessee, or other operator of an aircraft for use as a fuel in such aircraft, or

"(B) used by any person as a fuel in an aircraft unless there was a taxable sale of such liquid under subparagraph (A).

The tax imposed by this paragraph shall not apply to any product taxable under section 4081 which is used as a fuel in an aircraft other than in noncommercial aviation.

"(3) Termination.—The taxes imposed by this subsection shall not apply during any period during which no tax is imposed by section 4081(b)."

(3) Fuel used in commercial transportation on inland waterways.—Subsection (b) of section 4042 (relating to amount of tax on fuel used in commercial transportation on inland waterways) is amended to read as follows:

"(b) Amount of Tax.—

"(1) In general.—The rate of the tax imposed by subsection (a) is the sum of—

"(A) the Inland Waterways Trust Fund financing rate, and

"(B) the Leaking Underground Storage Tank Trust Fund financing rate.

"(2) Rates.—For purposes of paragraph (1)—

"(A) the Inland Waterways Trust Fund financing rate is 10 cents a gallon, and

"(B) the Leaking Underground Storage Tank Trust Fund financing rate is 0.2 cents a gallon.

"(3) Exception for fuel taxed under section 4041(d).—The Leaking Underground Storage Tank Trust Fund financing rate under paragraph (2)(B) shall not apply to the use of any fuel if tax under section 4041(d) was imposed on the sale of such fuel or is imposed on such use.

"(4) Termination of leaking underground storage tank trust fund financing rate.—The Leaking Underground Storage Tank Trust Fund financing rate under paragraph (2)(B) shall not apply during any period during which no tax is imposed by section 4081(b)."

(b) Additional Taxes Not Transferred to Highway Trust Fund, Airport, and Airway Trust Fund, and Inland Waterways Trust Fund.—

(1) Highway trust fund.—

(A) In general.—Subsection (b) of section 9503 (relating to transfer to Highway Trust Fund of amounts equivalent to certain taxes) is amended by adding at the end thereof the following new paragraph:

"(4) Certain additional taxes not transferred to highway trust fund.—For purposes of paragraphs (1) and (2), the taxes imposed by sections 4041(d) and 4081(b) shall not be taken into account."

(B) Conforming amendment.—Subparagraph (D) of section 9503(c)(4) (defining motorboat fuel taxes) is amended by striking out "section 4081" and inserting in lieu thereof "section 4081(a)".

(2) Airport and airway trust fund.—Subsection (b) of section 9502 (relating to transfer to Airport and Airway Trust Fund of amounts equivalent to certain taxes) is amended—

(A) by striking out "subsections (c) and (d) of section 4041" in paragraph (1) and inserting in lieu thereof "subsections (c) and (e) of section 4041", and

(B) by striking out "section 4081" in paragraph (2) and inserting in lieu thereof "section 4081(a)".

(3) Inland waterways trust fund.—Paragraph (1) of section 203(b) of the Inland Waterways Revenue Act of 1978 is amended by adding at the end thereof the following new sentence: "The preceding sentence shall apply only to so much of such taxes as are

attributable to the Inland Waterways Trust Fund financing rate under section 4042(b)."

(c) Repayments for Gasoline Used on Farms, Etc.—

(1) Gasoline used on farms.—Subsection (h) of section 6420 (relating to termination) is amended by striking out "This section" and inserting in lieu thereof "Except with respect to taxes imposed by section 4081(b), this section".

(2) Gasoline used for certain nonhighway purposes or by local transit systems.—

(A) Termination not to apply to additional 0.2 cent tax.—Subsection (h) of section 6421 (relating to effective date) is amended by striking out "This section" and inserting in lieu thereof "Except with respect to taxes imposed by section 4081(b), this section".

(B) Repayment of additional tax for off-highway business use to apply only to certain vessels.—Subsection (e) of section 6421 is amended by adding at the end thereof the following new paragraph:

"(4) Section not to apply to certain off-highway business uses with respect to the tax imposed by section 4081(b).—This section shall not apply with respect to the tax imposed by section 4081(b) on gasoline used in any off-highway business use other than use in a vessel employed in the fisheries or in the whaling business."

(3) Fuels used for nontaxable purposes.—

(A) Subsection (m) of section 6427 (relating to termination) is amended by striking out "Subsections" and inserting in lieu thereof "Except with respect to taxes imposed by sections 4041(d) and 4081(b), subsections".

(B) Section 6427 is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

"(n) Payments For Taxes Imposed by Section 4041(d).—For purposes of subsections (a), (b), and (c), the taxes imposed by section 4041(d) shall be treated as imposed by section 4041(a)."

(C) Paragraph (1) of section 6427(f) (relating to gasoline used to produce certain alcohol fuels) is amended by striking out "section 4081" and inserting in lieu thereof "section 4081(a)".

(d) Continuation of Certain Exemptions From Additional Taxes, Etc.—

(1) Subsection (b) of section 4041 (relating to exemption for off-highway business use; exemption for qualified methanol and ethanol fuel) is amended by adding at the end thereof the following new paragraph:

"(3) Coordination with taxes imposed by subsection (d).—

"(A) In general.—Except as otherwise provided in this paragraph, rules similar to the rules of paragraphs (1) and (2) shall apply with respect to the taxes imposed by subsection (d).

"(B) Limitation on exemption for off-highway business use.—For purposes of subparaph (A), paragraph (1) shall apply only with respect to off-highway business use in a vessel employed in the fisheries or in the whaling business.

"(C) Termination not to apply.—Subparagraph (C) of paragraph (2) shall not apply with respect to the taxes imposed by subsection (d)."

(2) Paragraph (3) of section 4041(f) (relating to exemption for farm use) is amended by striking out "on and after" and inserting in lieu thereof "Except with respect to the taxes imposed by subsection (d), on and after".

(3) The last sentence of section 4041(g) (relating to other exemptions) is amended by striking out "Paragraphs" and inserting in lieu thereof "Except with respect to the taxes imposed by subsection (d), paragraphs".

(4) The last sentence of section 4221(a) (relating to certain tax-free sales) is amended by striking out "4081" and inserting in lieu thereof "4081(a)".

(5) Paragraph (2) of section 6416(b) is amended by inserting "or under paragraph (1)(A) or (2)(A) of section 4041(d)" after "section 4041(a)".

(e) Effective date.—The amendments made by this section shall take effect on January 1, 1986.

SEC. 13122. LEAKING UNDERGROUND STORAGE TANK TRUST FUND.

(a) In general.—Subchapter A of chapter 98 (relating to establishment of trust funds) is amended by adding after section 9505 the following new section:

"SEC. 9506. LEAKING UNDERGROUND STORAGE TANK TRUST FUND.

"(a) Creation of Trust Fund.—There is established in the Treasury of the United States a trust fund to be known as the 'Leaking Underground Storage Tank Trust Fund', consisting of such amounts as may be appropriated or credited to such Trust Fund as provided in this section or section 9602(b).

"(b) Transfers to Trust Fund.—There are hereby appropriated to the Leaking Underground Storage Tank Trust Fund amounts equivalent to—

"(1) taxes received in the Treasury under sections 4041(d) and 4081(b) (relating to additional taxes on motor fuels and gasoline),

"(2) taxes received in the Treasury under section 4042 to the extent attributable to the Leaking Underground Storage Tank Trust Fund financing rate under section 4042(b), and

"(3) amounts collected under section 9003(h)(6) of the Solid Waste Disposal Act.

"(c) Expenditures.—

"(1) In general.—Except as provided in paragraph (2), amounts in the Leaking Underground Storage Tank Trust Fund shall be available, as provided in appropriation Acts, only for purposes of making expenditures to carry out section 9003(h) of the Solid Waste Disposal Act as in effect on the date of the enactment of this section.

"(2) Transfers from trust fund for certain repayments and credits.—

"(A) In general.—The Secretary shall pay from time to time from the Leaking Underground Storage Tank Trust Fund into the general fund of the Treasury amounts equivalent to—

"(i) amounts paid under—

"(I) section 6420 (relating to amounts paid in respect of gasoline used on farms),

"(II) section 6421 (relating to amounts paid in respect of gasoline used for certain nonhighway purposes or by local transit systems), and

"(III) section 6427 (relating to fuels not used for taxable purposes), and

"(ii) credits allowed under section 34, with respect to the taxes imposed by sections 4041(d) and 4081(b).

"(B) Transfers based on estimates.—Transfers under subparagraph (A) shall be made on the basis of estimates by the Secretary, and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

"(d) Liability of the United States Limited to Amount in Trust Fund.—

"(1) General rule.—Any claim filed against the Leaking Underground Storage Tank Trust Fund may be paid only out of such Trust Fund.

"(2) Coordination with other provisions.—Nothing in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (or in any amendment made by such Act) shall authorize the payment by the United States Government of any amount with respect to any such claim out of any source other than the Leaking Underground Storage Tank Trust Fund.

"(3) Order in which unpaid claims are to be paid.—If at any time the Leaking Underground Storage Tank Trust Fund has insufficient funds to pay all of the claims out of such Trust Fund at such time, such claims shall, to the extent permitted under paragraph (1), be paid in full in order in which they were finally determined."

(b) Clerical Amendment.—The table of sections for subchapter A of chapter 98 is amended by adding after the item relating to section 9505 the following new item:

"Sec. 9506. Leaking Underground Storage Tank Trust Fund."

(c) Effective Date.—The amendments made by this section shall take effect on January 1, 1986.

PART III—OIL SPILL LIABILITY TRUST FUND AND ITS REVENUE SOURCES

SEC. 13141. INCREASE IN ENVIRONMENTAL TAX ON PETROLEUM.

(a) In General.—Subsections (a) and (b) of section 4611 (relating to environmental tax on petroleum), as amended by this Act, are each amended by striking out "of 3.85 cents a barrel" and inserting in lieu thereof "at the rate specified in subsection (c)".

(b) Increase in Tax.—Section 4611 is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new subsection:

"(c) Rate of Tax.—

"(1) In general.—The rate of the taxes imposed by this section is the sum of—

"(A) the Hazardous Substance Superfund financing rate, and

"(B) the Oil Spill Liability Trust Fund financing rate.

"(2) Rates.—For purposes of paragraph (1)—

"(A) the Hazardous Substance Superfund financing rate is 3.85 cents a barrel, and

"(B) the Oil Spill Liability Trust Fund financing rate is 1.3 cents a barrel."

(c) Credit Against Portion of Tax Attributable to Oil Spill Rate.—Section 4612 (relating to definitions and special rules) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) Credit Against Portion of Tax Attributable to Oil Spill Rate.—There shall be allowed as a credit against so much of the tax imposed by section 4611 as is attributable to the oil spill rate for any period the excess of the aggregate amount paid by the taxpayer into the Deepwater Port Liability Trust Fund and the Offshore Oil Pollution Compensation Fund over the amount of such payments taken into account under this subsection for all prior periods."

(d) Conforming Amendments.—

"(1) Subsection (d) of section 4661 (relating to termination of tax on certain chemicals) is amended to read as follows:

"(d) Application of Taxes.—No tax imposed under this section during any period during which no tax is imposed under section 4611(a) at the Hazardous Substance Superfund financing rate under section 4611(c).

"(2) Subsection (b) of section 9505 (relating to transfers to Superfund) is amended by adding at the end thereof the following:

"In the case of the tax imposed by section 4611, paragraph (1) shall apply only to so much of such tax as is attributable to the Superfund financing rate under section 4611(c)."

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1986.

SEC. 3142. OIL SPILL LIABILITY TRUST FUND.

(a) IN GENERAL.—Subchapter A of chapter 98 (relating to establishment of trust funds) is amended by adding after section 9506 the following new section:

"SEC. 9507. OIL SPILL LIABILITY TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Oil Spill Liability Trust Fund', consisting of such amounts as may be appropriated or credited to such Trust Fund as provided in this section or section 9602(b).

"(b) TRANSFERS TO TRUST FUND.—There are hereby appropriated to the Oil Spill Liability Trust Fund amounts equivalent to—

"(1) taxes received in the Treasury under section 4611 (relating to environmental tax on petroleum) to the extent attributable to the Oil Spill Liability Trust Fund financing rate under section 4611(c),

"(2) amounts recovered, collected, or received under subtitle A of the Comprehensive Oil Pollution Liability and Compensation Act,

"(3) amounts remaining on the date of the enactment of this section in the Deep Water Port Liability Fund established by section 18(f) of the Deep Water Port Act of 1974,

"(4) amounts remaining on the date of the enactment of this section in the Offshore Oil Pollution Compensation Fund established under section 302 of the Outer Continental Shelf Lands Act Amendments of 1978, and

"(5) amounts credited to such trust fund under section 311(s) of the Federal Water Pollution Control Act.

"(c) EXPENDITURES.—

"(1) GENERAL EXPENDITURE PURPOSES.—

"(A) IN GENERAL.—Amounts in the Oil Spill Liability Trust Fund shall be available, as provided in appropriation Acts, only for purposes of making expenditures for—

"(i) the payment of removal costs described in section 401(23)(A) of the Comprehensive Oil Pollution Liability and Compensation Act,

"(ii) the payment of claims under the Comprehensive Oil Pollution Liability and Compensation Act for damage which is not otherwise compensated,

"(iii) carrying out subsections (c), (d), (i), and (l) of section 311 of the Federal Water Pollution Control Act with respect to any discharge of oil (as defined in such section),

"(iv) carrying out section 5 of the Intervention on the High Seas Act relating to oil pollution or the substantial threat of oil pollution,

"(v) the payment of all expenses of administration incurred by the Federal Government under the Comprehensive Oil Pollution Liability and Compensation Act, and

"(vi) the payment of contributions to the International Fund under section 464 of such Act.

(B) SPECIAL RULES.—

"(i) PAYMENTS TO GOVERNMENTS ONLY FOR REMOVAL COSTS.—Amounts shall be available under subparagraph (A) for payments to any government only for removal costs and administrative expenses related to removal costs.

"(ii) RESTRICTIONS ON CONTRIBUTIONS TO INTERNATIONAL FUND.—Under regulations prescribed by the Secretary, amounts shall be available under subparagraph (A) with respect to any contribution to the International Fund only in proportion to the portion of such fund used for a purpose for which amounts may be paid from the Oil Spill Liability Trust Fund.

"(iii) REFERENCES TO OTHER ACTS.—Any reference in any clause of subparagraph (A) to any Act shall be treated as a reference to such Act as in effect on the date of the enactment of this section.

"(2) LIMITATIONS ON EXPENDITURES.—

"(A) $200,000,000 PER INCIDENT.—The maximum amount which may be paid from the Oil Spill Liability Trust Fund with respect to any single incident shall not exceed $200,000,000.

"(B) $30,000,000 MINIMUM BALANCE.—Except in the case of payments described in paragraph (1)(A), a payment may be made from such Trust Fund only if the amount in such Trust Fund after such payment will not be less than $30,000,000.

"(d) AUTHORITY TO BORROW.—

"(1) IN GENERAL.—There are authorized to be appropriated to the Oil Spill Liability Trust Fund, as repayable advances, such sums as may be necessary to carry out the purposes of such Trust Fund.

"(2) LIMITATION ON AMOUNT OUTSTANDING.—The maximum aggregate amount of repayable advances to the Oil Spill Liability Trust Fund which is outstanding at any one time shall not exceed $300,000,000.

"(3) REPAYMENT OF ADVANCES.—Rules similar to the rules of paragraph (2) of section 9505(d) shall apply for purposes of this subsection.

"(e) LIABILITY OF THE UNITED STATES LIMITED TO AMOUNT IN TRUST FUND.——

"(1) GENERAL RULE.—Any claim filed against the Oil Spill Liability Trust Fund may be paid only out of such Trust Fund.

"(2) COORDINATION WITH OTHER PROVISIONS.—Nothing in the Comprehensive Oil Pollution Liability and Compensation Act (or in any amendment made by such Act) shall authorize the payment by the United States Government of any amount with respect to any such claim out of any source other than the Oil Spill Liability Trust Fund.

"(f) ORDER IN WHICH UNPAID CLAIMS ARE TO BE PAID.—If at any time the Oil Spill Liability Trust Fund has insufficient funds (or is unable by reason of subsection (c)(2)) to pay all of the claims out of such Trust Fund at such time, such claims shall, to the extent permitted under such subsections, be paid in full in the order in which they were finally determined."

(b) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 98 is amended by adding after the item relating to section 9506 the following new item:

"SEC. 9507. OIL SPILL LIABILITY TRUST FUND."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1986.

Subtitle C—General Revenue Provisions

SEC. 13200. AMENDMENT OF 1954 CODE.

Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

SEC. 13201. INCREASE IN TAX ON CIGARETTES MADE PERMANENT.

Subsection (c) of section 283 of the Tax Equity and Fiscal Responsibility Act of 1982 (relating to increase in tax on cigarettes) is amended by striking out all that follows "December 31, 1982" and inserting in lieu thereof a period.

SEC. 13202. TAX ON SMOKELESS TOBACCO.

(a) IN GENERAL.—Section 5701 (relating to rate of tax) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) SMOKELESS TOBACCO.—On smokeless tobacco, manufactured in or imported into the United States, there shall be imposed the following taxes:

"(1) SNUFF.—On snuff, 24 cents per pound and a proportionate tax at the like rate on all fractional parts of a pound.

"(2) CHEWING TOBACCO.—On chewing tobacco, 8 cents per pound and a proportionate tax at the like rate on all fractional parts of a pound.".

(b) CONFORMING AMENDMENTS.—

(1) The heading of chapter 52 is amended by inserting "SMOKELESS TOBACCO," after "CIGARETTES,".

(2) Section 5702(c) (defining tobacco products) is amended by striking out "and cigarettes" and inserting in lieu thereof ", cigarettes, and smokeless tobacco".

(3) Section 5702(d) (defining manufacturers of tobacco products) is amended by striking out "cigars or cigarettes" each place it appears and inserting in lieu thereof "cigars, cigarettes, or smokeless tobacco".

(4) Section 5702 is amended by adding at the end thereof the following new subsection:

"(n) DEFINITIONS RELATING TO SMOKELESS TOBACCO.—

"(1) SMOKELESS TOBACCO.—The term 'smokeless tobacco' means any snuff or chewing tobacco.

"(2) SNUFF.—The term 'snuff' means any finely cut, ground, or powdered tobacco that is not intended to be smoked.

"(3) CHEWING TOBACCO.—The term 'chewing tobacco' means any leaf tobacco that is not intended to be smoked.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to smokeless tobacco removed after March 31, 1986.

SEC. 13203. INCREASE IN EXCISE TAX ON COAL.

(a) INCREASE IN TAX.—Subsections (a) and (b) of section 4121 (relating to imposition of tax on coal) are amended to read as follows:

"(a) TAX IMPOSED.—

"(1) IN GENERAL.—There is hereby imposed on coal from mines located in the United States sold by the producer, a tax equal to the rate per ton determined under subsection (b).

"(2) LIMITATION ON TAX.—The amount of the tax imposed by paragraph (1) with respect to a ton of coal shall not exceed the applicable percentage determined under subsection (b)) of the price at which such ton of coal is sold by the producer.

"(b) DETERMINATION OF RATES AND LIMITATION ON TAX.—For purposes of subsection (a), in the case of sales during any calendar year beginning after December 31, 1985—

"(1) the rate of tax on coal from underground mines shall be $1.10,

"(2) the rate of tax on coal from surface mines shall be $.55, and

"(3) the applicable percentage shall be 4.4 percent.".

(b) 5-YEAR MORATORIUM ON INTEREST ACCRUALS WITH RESPECT TO THE INDEBTEDNESS

OF THE BLACK LUNG DISABILITY TRUST FUND.—No interest shall accrue for the period beginning on October 1, 1985, and ending on September 30, 1990, with respect to any repayable advance to the Black Lung Disability Trust Fund.

(c) EXISTING TERMINATION RETAINED.—Paragraph (1) of section 4121(e) (relating to temporary increase in amount of tax) is amended—

(1) by striking out "$1" and inserting in lieu thereof "$1.10",

(2) by striking out "$.50" and inserting in lieu thereof ".55", and

(3) by striking out "4 percent" and inserting in lieu thereof "4.4 percent".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to sales after December 31, 1985.

SEC. 13204. ONLY RAILROAD RETIREMENT BENEFITS EQUIVALENT TO SOCIAL SECURITY BENEFITS TREATED AS TIER 1 BENEFITS.

(a) IN GENERAL.—Paragraph (4) of section 86(d) (defining Social Security benefits) is amended to read as follows:

"(4) TIER 1 RAILROAD RETIREMENT BENEFIT.—For purposes of paragraph (1), the term 'tier 1 railroad retirement benefit' means—

"(A) the amount of the annuity under the Railroad Retirement Act of 1974 equal to the amount of the benefit to which the taxpayer would have been entitled under the Social Security Act if all of the service after December 31, 1936, of the employee (on whose employment record the annuity is being pair) had been included in the term 'employment' as defined in the Social Security Act, and

"(B) a monthly annuity amount under section 3(f)(3) of the Railroad Retirement Act of 1974.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to any monthly benefit for which the generally applicable payment date is after December 31, 1985.

SEC. 13205. MEDICARE COVERAGE OF, AND APPLICATION OF HOSPITAL INSURANCE TAX TO, NEWLY HIRED STATE AND LOCAL GOVERNMENT EMPLOYEES.

(a) APPLICATION OF HOSPITAL INSURANCE TAX TO NEWLY HIRED EMPLOYEES OF STATE AND LOCAL GOVERNMENTS.—

(1) IN GENERAL.—Subsection (u) of section 3121 of the Internal Revenue Code of 1954 (relating to application of hospital insurance tax to Federal employment) is amended to read as follows:

"(u) APPLICATION OF HOSPITAL INSURANCE TAX TO FEDERAL, STATE, AND LOCAL EMPLOYMENT.—

"(1) FEDERAL EMPLOYMENT.—For purposes of the taxes imposed by sections 3101(b) and 3111(b), subsection (b) shall be applied without regard to paragraph (5) thereof.

"(2) STATE AND LOCAL EMPLOYMENT.—For purposes of the taxes imposed by sections 3101(b) and 3111(b)—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), subsection (b) shall be applied without regard to paragraph (7) thereof.

"(B) EXCEPTION FOR CERTAIN SERVICES.—Service shall not be treated as employment by reason of subparagraph (A) if—

"(i) the service is included under an agreement under section 218 of the Social Security Act, or

"(ii) the service is performed—

"(I) by an individual who is employed by a State or political subdivision thereof to relieve him from unemployment,

"(II) in a hospital, home, or other institution by a patient or inmate thereof as an employee of a State or political subdivision thereof or of the District of Columbia,

"(III) by an individual, as an employee of a State or political subdivision thereof or of the District of Columbia, serving on a temporary basis in case of fire, storm, snow, earthquake, flood or other similar emergency, or

"(IV) by any individual as an employee included under section 5351(2) of title 5, United States Code (relating to certain interns, student nurses, and other student employees of hospitals of the District of Columbia Government), other than as a medical or dental intern or a medical or dental resident in training.

As used in this subparagraph, the terms 'State' and 'political subdivision' have the meanings given those terms in section 218(b) of the Social Security Act.

"(c) EXCEPTION FOR CURRENT EMPLOYMENT WHICH CONTINUES.—Service performed for an employer shall not be treated as employment by reason of subparagraph (A) if—

"(i) such service would be excluded from the term 'employment' for purposes of this chapter if subparagraph (A) did not apply;

"(ii) such service is performed by an individual—

"(I) who was performing substantial and regular service for remuneration for that employer before January 1, 1986,

"(II) who is a bona fide employee of that employer on December 31, 1985, and

"(III) whose employment relationship with that employer was not entered into for purposes of meeting the requirements of this subparagraph; and

"(iii) the employment relationship with that employer has not been terminated after December 31, 1985.

"(d) TREATMENT OF AGENCIES AND INSTRUMENTALITIES.—For purposes of subparagraph (C), under regulations—

"(i) All agencies and instrumentalities of a State (as defined in section 218(b) of the Social Security Act) or of the District of Columbia shall be treated as a single employer.

"(ii) All agencies and instrumentalities of a political subdivision of a State (as so defined) shall be treated as a single employer and shall not be treated as described in clause (i).

"(3) MEDICARE QUALIFIED GOVERNMENT EMPLOYMENT.—For purposes of this chapter, the term 'medicare qualified government employment' means service which—

"(A) is employment (as defined in subsection (b)) with the application of paragraphs (1) and (2), but

"(B) would not be employment (as so defined) without the application of such paragraphs."

"(2) CONFORMING AMENDMENTS.—

(A)(i) Section 3125 of such Code (relating to returns in the case of governmental employees in Guam, American Samoa, and the District of Columbia) is amended by redesignated subsections (a), (b), and (c) as subsections (b), (c), and (d), respectively, and by inserting before subsection (b) (as so redesignated) the following new subsection:

"(a) STATES.—Except as otherwise provided in this section, in the case of the taxes imposed by sections 3101(b) and 3111(b) with respect to service performed in the employ of a State or any political subdivision thereof (or any instrumentality of any one or more of the foregoing which is wholly owned thereby), the return and payment of such taxes may be made by the head of the agency or instrumentality having the control of such service, or by such agents as such head may designate. The person making such return may, for convenience of administration, make payments of the tax imposed under section 3111 with respect to the service of such individuals without regard to the contribution and benefit base limitation in section 3121(a)(1)."

(ii) The section heading for such section 3125 is amended by inserting "STATES," before "GUAM".

(iii) The item relating to section 3125 in the table of sections for subchapter C of chapter 21 of such Code is amended by inserting "States," before "Guam".

(B) Subsection (b) of section 1402 of such Code is amended by striking out "medicare qualified Federal employment (as defined in section 3121(u)(2))" and inserting in lieu thereof "medicare qualified government employment (as defined in section 3121(u)(3))".

(C) Section 3122 of such Code (relating to Federal service) is amended by striking out "including service which is medicare qualified Federal employment (as defined in section 3121(u)(2))" and inserting in lieu thereof "including such service which is medicare qualified government employment (as defined in section 3121(u)(3))".

(D) Subsection (a) of 6205 of such Code (relating to special rules applicable to certain employment taxes) is amended by adding at the end thereof the following new paragraph:

"(5) STATES AND POLITICAL SUBDIVISIONS AS EMPLOYER.—For purposes of this subsection, in the case of remuneration received from a State or any political subdivision thereof (or any instrumentality of any one or more of the foregoing which is wholly owned thereby) during any calendar year, each head of an agency or instrumentality, and each agent designated by either, who makes a return pursuant to section 3125 shall be deemed a separate employer."

(E)(1) Section 6413(a) of such Code (relating to adjustment of certain employment taxes) is amended by adding at the end thereof the following new paragraph:

"(5) STATES AND POLITICAL SUBDIVISIONS AS EMPLOYER.—For purposes of this subsection, in the case of remuneration received from a State or any political subdivision thereof (or any instrumentality of any one or more of the foregoing which is wholly owned thereby) during any calendar year, each head of an agency or instrumentality, and each agent designated by either, who makes a return pursuant to section 3125 shall be deemed a separate employer."

(ii) Section 6413(c)(2) of such Code (relating to special refunds of certain employment taxes) is amended—

(I) by striking out "3125(a)", "3125(b)", and "3125(c)" in subparagraphs (D), (E), and (F), respectively, and inserting in lieu thereof "3125(b)", "3125(c)", and "3125(d)", respectively, and

(II) by adding at the end thereof the following new subparagraph:

"(G) EMPLOYEES OF STATES AND POLITICAL SUBDIVISIONS.—In the case of remuneration received from a State or any political subdivision thereof (or any instrumentality of any one or more of the foregoing which is wholly owned thereby) during any calendar year, each head of an agency or instrumentality, and each agent designated by either, who makes a return pursuant to section 3125(a) shall, for purposes of this subsection, be deemed a separate employer."

(b) ENTITLEMENT TO HOSPITAL INSURANCE BENEFITS.—

(1) REVISION OF DEFINITION OF MEDICARE QUALIFIED GOVERNMENT EMPLOYMENT.—Section 210(p) of the Social Security Act (42 U.S.C. 410(p)) is amended to read as follows:

"MEDICARE QUALIFIED GOVERNMENT EMPLOYMENT

"(p)(1) For purposes of sections 226 and 226A, the term 'medicare qualified government employment' means any service which would constitute 'employment' as defined in subsection (a) of this section but for the application of the provisions of—

"(A) subsection (a)(5), or

"(B) subsection (a)(7), except as provided in paragraphs (2) and (3).

"(2) Service shall not be treated as employment by reason of paragraph (1)(B) if the service is performed—

"(A) by an individual who is employed by a State or political subdivision thereof to relieve him from unemployment,

"(B) in a hospital, home, or other institution by a patient or inmate thereof as an employee of a State or political subdivision thereof or of the District of Columbia,

"(C) by an individual, as an employee of a State or political subdivision thereof or of the District of Columbia, serving on a temporary basis in case of fire, storm, snow, earthquake, flood or other similar emergency, or

"(D) By any individual as an employee included under section 5351(2) of title 5, United States Code (relating to certain interns, student nurses, and other student employees of hospitals of the District of Columbia Government), other than as a medical or dental intern or a medical or dental resident in training.

As used in this paragraph, the terms 'State' and 'political subdivision' have the meanings given those terms in section 218(b).

"(3) Service performed for an employer shall not be treated as employment by reason of paragraph (1)(B) if—

"(A) such service would be excluded from the term 'employment' for purposes of this section if paragraph (1)(B) did not apply;

"(B) such service is performed by an individual—

"(i) who was performing substantial and regular service for remuneration for that employer before January 1, 1986,

"(ii) who is a bona fide employee of that employer on December 31, 1985, and

"(iii) whose employment relationship with that employer was not entered into for purposes of meeting the requirements of this subparagraph; and

"(C) the employment relationship with that employer has not been terminated after December 31, 1985.

"(4) For purposes of paragraph (3), under regulations (consistent with regulations established under section 3121(u)(2)(D) of the Internal Revenue Code of 1954)—

"(A) all agencies and instrumentalities of a State (as defined in section 218(b)) or of the District of Columbia shall be treated as a single employer, and

"(B) all agencies and instrumentalities of a political subdivision of a State (as so defined) shall be treated as a single employer and shall not be treated as described in subparagraph (A)."

(2) ENTITLEMENT TO HOSPITAL INSURANCE BENEFITS.—

(A) FOR INDIVIDUALS AGE 65 OR OLDER AND FOR DISABLED INDIVIDUALS.—Section 226 of such Act (42 U.S.C. 426) is amended by striking out "medicare qualified Federal employment" in subsections (a)(2)(C)(i) and (b)(2)(C)(ii)(I) and inserting in lieu thereof "medicare qualified government employment".

(B) FOR INDIVIDUALS WITH END-STAGE RENAL DISEASE—Section 226A(a) of such Act (42 U.S.C. 426(1)(a)) is amended by striking out "medicare qualified Federal employment" in paragraphs (1)(A)(ii) and (1)(B)(iii) and inserting in lieu thereof "medicare qualified government employment".

(C) CONFORMING AMENDMENTS.—

(i) Section 1811 of such Act (42 U.S.C. 1395c) is amended by striking out "Federal employment" in clauses (1) and (2) and inserting in lieu thereof "government employment".

(ii) Section 226(g) of such Act (42 U.S.C. 426(g)) is amended by striking out "medicare qualified Federal employment" and inserting in lieu thereof "medicare qualified government employment by virtue of service described in section 201(a)(5)".

(c) OPTIONAL MEDICARE COVERAGE OF CURRENT EMPLOYEES.—Section 218 of the Social Security Act (42 U.S.C. 418) is amended by adding at the end the following new subsection:

"(v)(1) The Secretary shall, at the request of any State, enter into or modify an agreement with such State under this section for the purpose of extending the provisions of title XVIII, and sections 226 and 226A, to services performed by employees of such State or any political subdivision thereof who are described in paragraph (2).

"(2) This subsection shall apply only with respect to employees—

"(A) whose services are not treated as employment as that term applies under section 210(p) by reason of paragraph (3) of such section; and

"(B) who are not otherwise covered under the State's agreement under this section.

"(3) Payments by the State required under subsection (e) with respect to employees covered under this subsection shall be limited to amounts equivalent to the sum of the taxes which would be imposed by sections 3101(b) and 3111(b) of the Internal Revenue Code of 1954 if such services for which wages were paid to such employees constituted 'employment' as defined in section 3121 of such Code.

"(4) For purposes of sections 226 and 226A of this Act, services covered under an agreement pursuant to this subsection shall be treated as 'medicare qualified government employment'.

"(5) Except as otherwise provided in this subsection, the provisions of this section shall apply with respect to services covered under the agreement pursuant to this subsection.

"(w) Notwithstanding sections 3125(a), 6205(a)(5), 6413(a)(5), and 6413(c)(2)(G) of the Internal Revenue Code of 1954, any State shall make payments of the taxes imposed with respect to services of employees of such State and of a political subdivision thereof under sections 3101(b) and 3111(b) of such Code, and reports of such services, under the same procedures as apply to payments and reports under subsection (e) of this section, but only if any employees of such State or of such political subdivision thereof are covered under an agreement pursuant to this section.".

(d) EFFECTIVE DATES.—

(1) HOSPITAL INSURANCE TAXES.—The amendments made by subsection (a) shall apply to services performed after December 31, 1985.

(2) MEDICARE COVERAGE.—

(A) IN GENERAL.—The amendments made by subsection (b) shall be effective after December 31, 1985, and the amendments made by paragraph (3) of that subsection shall apply to services performed (for medicare qualified government employment) after that date.

(B) TREATMENT OF CERTAIN DISABILITIES.—For purposes of establishing entitlement to hospital insurance benefits under part A of title XVIII of the Social Security Act pursuant to the amendments made by subsection (b), no individual may be considered to be under a disability for any period beginning before January 1, 1986.

(3) OPTIONAL COVERAGE OF CURRENT EMPLOYEES.—The amendment made by subsection (c) shall apply to services performed after December 31, 1985.

SEC. 13206. FULL-TIME STUDENTS NOT ELIGIBLE FOR INCOME AVERAGING.

(a) In General.—Section (d) of section 1303 (defining eligible individuals for income averaging) is amended to read as follows:

"(d) Eligible Individuals Not To Include Full-Time Students.—

"(1) In general.—For purposes of the part, an individual shall not be an eligible individual for the computation year if, at any time during any base period year, such individual was a student.

"(2) Exception for married students providing 25 percent or less of joint income.—Paragraph (1) shall not apply to any individual for any computation year if—

"(A) the individual makes a joint return for the computation year, and

"(B) not more than 25 percent of the aggregate adjusted gross income individual for such computation year is attributable to such individual.

"(3) Student defined.—For purposes of this subsection, the term 'student' means, with respect to a taxable year, an individual who during each of 5 calendar months during such taxable year—

"(A) was a full-time student at an educational organization described in section 170(b)(1)(A)(ii); or

"(B) was pursuing a full-time course of institutional on-farm training under the supervision of an accredited agent of an educational organization described in section 170(b)(1)(A)(ii) or of a State or political subdivision of a State.".

(b) Repeal of Non-Full-Time Student Support Exception.—Paragraph (2) of section 1303(c) (relating to individuals receiving support from others) is amended—

(1) by striking out subparagraph (A),

(2) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), and

(3) by striking out "subparagraph (C)" in the second sentence and inserting in lieu thereof "subparagraph (B)".

(c) Effective Date.—The amendments made by this section shall apply with respect to taxable years beginning after December 31, 1985.

SEC. 13207. APPLICATION OF FRINGE BENEFIT RULES TO AIRLINES AND THEIR AFFILIATES.

(a) Parents of Airline Employees Treated as Employees in Applying Fringe Benefit Rules.—

(1) In general.—Section 132(f) (relating to certain individuals treated as employees with respect to certain fringe benefits) is amended by adding at the end thereof the following new paragraph:

"(3) Special rule for parents in the case of air transportation.—Any use of air transportation by a parent of an employee (determined without regard to paragraph (1)(B)) shall be treated as use by the employee.".

(2) Effective date.—The amendment made by this subsection shall take effect on January 1, 1985.

(b) Line of Business Test for Affiliates Providing Airline-Related Services.—

(1) In general.—Section 132(h) (relating to special rules) is amended by adding at the end thereof the following new paragraph:

"(6) SPECIAL RULE FOR AFFILIATES OF AIRLINES.—

"(A) IN GENERAL.—If—

"(i) a qualified affiliate is a member of an affiliated group another member of which operates an airline, and

"(ii) employees of the qualified affiliate who are directly engaged in providing airline-related services are entitled to no-additional-cost service with respect to air transportation provided by such other member,

then, for purposes of applying paragraph (1) of subsection (a) to such no-additional-cost service provided to such employees, such qualified affiliate shall be treated as engaged in the same line of business as such other member.

"(B) QUALIFIED AFFILIATE.—For purposes of this paragraph, the term 'qualified affiliate" means any corporation which is predominantly engaged in airline-related services.

"(C) AIRLINE-RELATED SERVICES.—For purposes of this paragraph, the term 'airline-related services' means any of the following services provided in connection with air transportation:

"(i) Catering.

"(ii) Baggage handling.

"(iii) Ticketing and reservations.

"(iv) Flight planning and weather analysis.

"(v) Restaurants and gift shops located at an airport.

"(vi) Such other similar services provided to the airline as the Secretary may prescribe.

"(D) AFFILIATED GROUP.—For purposes of this paragraph, the term 'affiliated group' has the meaning given such term by section 1504(a).".

(2) EFFECTIVE DATE.—The amendment made by this section shall take effect on January 1, 1985.

(c) TRANSITIONAL RULE FOR DETERMINATION OF LINE OF BUSINESS IN CASE OF AFFILIATED GROUP OPERATING AIRLINE.—If, as of September 12, 1985—

(1) an individual—

(A) was an employee (within the meaning of section 132 of the Internal Revenue Code of 1954, including subsection (f) thereof) of one member of an affiliated group (as defined in section 1504 of such Code), hereinafter referred to as the "first corporation", and

(B) was eligible for no-additional-cost service in the form of air transportation provided by another member of such affiliates group, hereinafter referred to as the "second corporation",

(2) at least 50 percent of the individuals performing service for the first corporation were or had been employees of, or had previously performed services for, the second corporation, and

(3) the primary business of the affiliated group was air transportation of passengers,

then, for purposes of applying paragraphs (1) and (2) of section 132(a) of the Internal Revenue Code of 1954, with respect to no-additional-cost services and qualified employee discounts provided after December 31, 1984, for such individual by the second corporation, the first corporation shall be treated as engaged in the same air transportation line of business as the second corporation. For purposes of the preceding sentence, an employee of the second corporation who is performing services for the first corporation shall also be treated as an employee of the first corporation.

(d) SPECIAL RULE FOR SERVICES RELATED TO PROVIDING AIR TRANSPORTATION.—Section 531 of the Tax Reform Act of 1984 is amended by redesignating subsections (g) and (h) as subsections (h) and (i), respectively, and by inserting after subsection (f) the following new subsection:

"(g) SPECIAL RULE FOR CERTAIN SERVICES RELATED TO AIR TRANSPORTATION.—

"(1) IN GENERAL.—If—

"(A) an individual performed services for a qualified air transportation organization, and

"(B) such services are performed primarily for persons engaged in providing air transportation and are of the kind which (if performed on September 12, 1984) would qualify such individual for no-additional-cost services in the form of air transportation,

then, with respect to such individual, such qualified air transportation organization shall be treated as engaged in the line of business of providing air transportation.

"(2) QUALIFIED AIR TRANSPORTATION ORGANIZATION.—For purposes of paragraph (1), the term 'qualified air transportation organization' means any organization—

"(A) if such organization (or a predecessor) was in existence on September 12, 1984,

"(B) if such organization is described in section 501(c)(6) of the Internal Revenue Code of 1954 and the membership of such organization is limited to entities engaged in the transportation by air of individuals or property for compensation or hire, and

"(C) if such organization is operated in furtherance of the activities of its members or owners.".

SEC. 13208. CERTAIN INSOLVENT TAXPAYERS ALLOWED TO REDUCE CAPITAL GAINS PREFERENCE ITEM FOR PURPOSES OF THE INDIVIDUAL MINIMUM TAX.

(a) IN GENERAL.—Paragraph (9) of section 57(a) (relating to capital gains as items of tax preference) is amended by adding at the end thereof the following new subparagraph:

"(E) SPECIAL RULE FOR CERTAIN INSOLVENT TAXPAYERS.—

"(i) IN GENERAL.—The amount of the tax preference under subparagraph (A) shall be reduced (but not below zero) by the excess (if any) of—

"(I) the applicable percentage of gain from any farm insolvency transaction, over

"(II) the applicable percentage of any loss from any farm insolvency transaction which offsets such gain.

"(ii) REDUCTION LIMITED TO AMOUNT OF INSOLVENCY.—The amount of the reduction determined under clause (i) shall not exceed the amount by which the taxpayer is insolvent immediately before the transaction (reduced by any portion of such amount previously taken into account under this clause).

"(iii) FARM INSOLVENCY TRANSACTION.—For purposes of this subparagraph, the term 'farm insolvency transaction' means—

"(I) the transfer by a farmer of farmland to a creditor in cancellation of indebtedness, or

"(II) the sale or exchange by the farmer of property described in subclause (I) under the threat of foreclosure,

but only if the farmer is insolvent immediately before such transaction.

"(iv) INSOLVENT.—For purposes of this subparagraph, the term 'insolvent' means the excess of liabilities over the fair market value of assets.

"(v) APPLICABLE PERCENTAGE.—For purposes of this subparagraph, the term 'applicable percentage' means that percentage of net capital gain with respect to which a deduction is allowed under section 1202(a).

"(vi) FARMLAND.—The term 'farmland' means any land used or held for use in the trade or business of farming (within the meaning of section 2032A(e)(5)).

"(vii) FARMER.—The term 'farmer' means any taxpayer if 50 percent or more of the average annual gross income of the taxpayer for the 3 preceding taxable years is attributable to the trade or business of farming (within the meaning of section 2032A(e)(5))."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to transfers or sales or exchanges made after December 31, 1981, in taxable years ending after such date.

SEC. 13209. TREATMENT OF CERTAIN POLLUTION CONTROL BONDS.

(a) GENERAL RULE.—For purposes of subparagraph (F) of section 103(b)(4) of the Internal Revenue Code of 1954 (relating to pollution control facilities), any obligation issued after December 31, 1985, shall be treated as described in such subparagraph if it is part of an issue substantially all of the proceeds of which are used by a qualified regional pollution control authority to acquire existing air or water pollution control facilities which the authority itself will operate in order to maintain or improve control of pollutants. The provisions of section 103(b)(17) of such Code (relating to prohibition on acquisition of existing property not permitted) shall not apply to any obligation described in the preceding sentence.

(b) $200,000,000 LIMITATION.—The aggregate amount of obligations to which subsection (a) applies shall not exceed $200,000,000, except that the amount of such obligations issued during calendar year 1986 to which subsection (a) applies shall not exceed $100,000,000.

(c) RESTRICTIONS.—Subsection (a) shall apply only if—

(1) the amount paid (directly or indirectly) for the facilities does not exceed their fair market value,

(2) the fees or charges imposed (directly or indirectly) on any seller for the use of any facilities after the sale are not less than the amounts charged for the use of such facilities to persons other than the seller,

(3) the original use of the facilities acquired with the proceeds of such obligations commenced before September 3, 1982, and

(4) no person other than the qualified regional pollution control authority is considered after the sale as the owner of the facilities for purposes of Federal income taxes.

(d) QUALIFIED REGIONAL POLLUTION CONTROL AUTHORITY DEFINED.—For purposes of this section, the term "qualified regional pollution control authority" means an authority which—

(1) is a political subdivision created by State law to control air or water pollution,

(2) has within its jurisdictional boundaries all or part of at least 2 counties (or equivalent political subdisivion),

(3) operates air or water pollution control facilities, and

(4) was created on September 1, 1969.

(e) REPEAL OF SECTION 103(b)(11).—Paragraph (11) of section 103(b) is hereby repealed.

SEC. 13210. TREATMENT OF THE NETTING OF GAINS AND LOSSES BY COOPERATIVES.

(a) IN GENERAL.—Section 1388 (relating to definitions and special rules applicable to cooperatives) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) SPECIAL RULES FOR THE NETTING OF GAINS AND LOSSES BY COOPERATIVES.—For

purposes of this subchapter, in the case of any organization to which part I of this subchapter applies—

"(1) OPTIONAL NETTING OF PATRONAGE GAINS AND LOSSES PERMITTED.—The net earnings of such organization may, at its option, be determined by offsetting patronage losses (including any patronage loss carried to such year) which are attributable to 1 or more allocation units (whether such units are functional, divisional, departmental, geographic, or otherwise) against patronage earnings of 1 or more other such allocation units.

"(2) CERTAIN NETTING PERMITTED AFTER SECTION 381 TRANSACTIONS.—If such an organization acquires the assets of another such organization in a transaction described in section 381(a), the acquiring organization may, in computing its net earnings for taxable years ending after the date of acquisition, offset losses of 1 or more allocation units of the acquiring or acquired organization against earnings of the acquired or acquiring organization, respectively, but only to the extent—

"(A) such earnings are properly allocable to periods after the date of acquisition, and

"(B) such earnings could have been offset by such losses if such earnings and losses had been derived from allocation units of the same organization.

"(3) NOTICE REQUIREMENTS.—

"(A) IN GENERAL.—In the case of any organization which exercises its option under paragraph (1) for any taxable year, such organization shall, on or before the 15th day of the 9th month following the close of such taxable year, provide to its patrons a written notice which—

"(i) states that the organization has offset earnings and losses from 1 or more of its allocation units and that such offset may have affected the amount which is being distributed to its patrons,

"(ii) states generally the identity of the offsetting allocation units, and

"(iii) states briefly what rights, if any, its patrons may have to additional financial information of such organization under terms of its charter, articles of incorporation, or bylaws, or under any provision of law.

"(B) CERTAIN INFORMATION NEED NOT BE PROVIDED.—An organization may exclude from the information required to be provided under clause (ii) of subparagraph (A) any detailed or specific data regarding earnings or losses of such units which such organization determines would disclose commercially sensitive information which—

"(i) could result in a competitive disadvantage to such organization, or

"(ii) could create a competitive advantage to the benefit of a competitor of such organization.

"(C) FAILURE TO PROVIDE SUFFICIENT NOTICE.—If the Secretary determines that an organization failed to provide sufficient notice under this paragraph—

"(i) the Secretary shall notify such organization, and

"(ii) such organization shall, upon receipt of such notification, provide to its patrons a revised notice meeting the requirements of this paragraph.

Any such failure shall not affect the treatment of the organization under any provision of this subchapter or section 521.

"(4) PATRONAGE EARNINGS OR LOSSES DEFINED.—For purposes of this subsection, the terms 'patronage earnings' and 'patronage losses' means earnings and losses, respectively, which are derived from business done with or for patrons of the organization."

(b) TAX-EXEMPT STATUS NOT AFFECTED BY NETTING.—Section 521(b) (relating to applicable rules) is amended by adding at the end thereof the following new paragraph:

"(6) NETTING OF LOSSES.—Exemption shall not be denied any such association because such association computes its net earnings for purposes of determining any amount available for distribution to patrons in the manner described in paragraph (1) of section 1388(j)."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1962.

(2) NOTIFICATION REQUIREMENT.—The provisions of section 1388(j)(3) of the Internal Revenue Code of 1954 (as added by subsection (a)) shall apply to taxable years beginning on or after the date of the enactment of this Act.

(3) NO INFERENCE.—Nothing in the amendments made by this section shall be construed to infer that a change in law is intended as to whether any patronage earnings may or not be offset by nonpatronage losses, and any determination of such issue shall be made as if such amendments had not been enacted.

SEC. 13211. ALLOCATION UNDER SECTION 861 OF RESEARCH AND EXPERIMENTAL EXPENDITURES.

Subsection (c) is amended of section 126 of the Deficit Reduction Act of 1984 is amended—

(1) by striking out "1985" and inserting in lieu thereof "1986"; and

(2) by striking out "3rd" each place it appears and inserting in lieu thereof "4th".

SEC. 13212. LIMITATION ON ISSUANCE OF UNITED STATES BONDS.

Subsection (a) of section 3102 of title 31, United States Code, is amended by striking out "$200,000,000,000" and inserting in lieu thereof "$250,000,000,000".

SEC. 13213. AUTHORIZATION OF ADDITIONAL FUNDS TO INTERNAL REVENUE SERVICE FOR REVENUE ENFORCEMENT AND RELATED PURPOSES, ETC.

(a) AUTHORIZATION.—There is authorized to be appropriated $46,500,000 for each of the fiscal years 1986, 1987, and 1988 for the use of the Internal Revenue Service to employ 1,550 additional agents and examination employees.

(b) RESTORATION OF PROPOSED CUTS.—It is the sense of the Congress that—

(1) the restoration of the cuts in the budget for the Internal Revenue Service for fiscal year 1986, and

(2) the further increase in such budget total,

recommended by the Committee on Appropriations of the House of Representatives are necessary for the efficient operation of the Government and to carry out the purposes of this Act.

Subtitle D.—Provisions Relating to Unemployment Taxes

SEC. 13301. RAILROAD UNEMPLOYMENT REPAYMENT TAX.

(a) RATE OF TAX.—Subsection (c) of section 3321 of the Internal Revenue Code of 1954 (relating to rate of railroad unemployment repayment tax) is amended to read as follows:

"(c) RATE OF TAX.—For purposes of this section—

"(1) IN GENERAL.—The applicable percentage for any taxable period shall be the sum of—

"(A) the basic rate for such period, and

"(B) the surtax rate (if any) for such period.

"(2) BASIC RATE.—For purposes of paragraph (1)—

"(A) FOR PERIODS BEFORE 1989.—The basic rate shall be—

"(i) 4.3 percent for the taxable period beginning on July 1, 1986, and ending on December 31, 1986,

"(ii) 4.7 percent for the 1987 taxable period, and

"(iii) 6 percent for the 1988 taxable period.

"(B) FOR PERIODS AFTER 1988.—For any taxable period beginning after December 31, 1988, the basic rate shall be the sum of—

"(i) 2.9 percent, plus

"(ii) 0.3 percent for each preceding taxable period after 1988.

In no event shall the basic rate under this subparagraph exceed 5 percent.

"(3) SURTAX RATE.—For purposes of paragraph (1), the surtax rate shall be—

"(A) 3.5 percent for any taxable period if, as of September 30 of the preceding calendar year, there was a balance of transfers (or unpaid interest thereon) made after September 30, 1985, to the railroad unemployment insurance account under section 10(d) of the Railroad Unemployment Insurance Act, and

"(B) zero for any other taxable period.

"(4) BASIC RATE NOT TO APPLY TO RAIL WAGES PAID AFTER SEPTEMBER 30, 1990.—The basic rate under paragraph (1)(A) shall not apply to rail wages paid after September 30, 1990."

(b) BASE OF TAX TO BE COMPENSATION USED FOR RAILROAD RETIREMENT TAX PURPOSES.—Subsection (b) of section 3323 of such Code (defining rail wages) is amended to read as follows:

"(b) RAIL WAGES.—

"(1) IN GENERAL.—For purposes of this chapter, the term 'rail wages' means compensation (as defined in section 3231(e) for purposes of the tax imposed by section 3201(a)) with the modifications specified in paragraph (2).

"(2) MODIFICATIONS.—In applying subsection (e) of section 3231 for purposes of paragraph (1)—

"(A) ONLY EMPLOYMENT COVERED BY RAILROAD UNEMPLOYMENT INSURANCE ACT TAKEN INTO ACCOUNT.—Such subsection (e) shall be applied—

"(i) by substituting 'rail employment' for 'services' each place it appears,

"(ii) by substituting 'rail employer' for 'employer' each place it appears, and

"(iii) by substituting 'rail employee' for 'employee' each place it appears.

"(B) $7,000 WAGE BASE.—Such subsection (e) shall be applied by substituting for 'the applicable base' in paragraph (2)(A)(i) thereof—

"(i) except as provided in clauses (ii) and (iii), '$7,000',

"(ii) '$3,500' for the taxable period beginning on July 1, 1986, and ending on December 31, 1986, and

"(iii) for purposes of applying the basic rate under section 3321(c)(1)(A), '$5,250' for the taxable period beginning on January 1, 1990.

"(C) SUCCESSOR EMPLOYERS.—For purposes of this subsection, rules similar to the rules applicable under section 3231(e)(2)(C) shall apply."

(c) USE OF TAXES.—

(1) IN GENERAL.—Paragraph (2) of section 232(a) of the Railroad Retirement Revenue Act of 1983 (relating to tax used to repay loans made to railroad unemployment insurance account) is amended to read as follows:

"(2) TAXES CREDITED AGAINST LOANS TO RAILROAD UNEMPLOYMENT INSURANCE ACCOUNT.—

"(A) TAXES ATTRIBUTABLE TO BASIC RATE TO REDUCE RAILROAD UNEMPLOYMENT LOANS MADE BEFORE OCTOBER 1, 1985.—So much of the amount transferred under paragraph (1) as is attributable to the basic rate under section 3321(c)(1)(A) of the Internal Revenue Code of 1954 shall be credited against, and operate to reduce, the outstanding balance of railroad unemployment loans made before October 1, 1985.

"(B) TAXES ATTRIBUTABLE TO SURTAX RATE TO REDUCE RAILROAD UNEMPLOYMENT LOANS MADE AFTER SEPTEMBER 30, 1985.—So much of the amount transferred under paragraph (1) as is attributable to the surtax rate under section 3321(c)(1)(B) of such Code shall be credited against, and operate to reduce, the outstanding balance of railroad unemployment loans made after September 30, 1985."

(2) TRANSFERS TO RAILROAD UNEMPLOYMENT FUND AFTER LOAN REPAID.—Subsection (c) of section 232 of such Act is amended—

(A) by striking out "the amount" in paragraph (1) and inserting in lieu thereof "the amount described in subparagraph (A) or (B) of subsection (a)(2)", and

(B) by inserting before the comma at the end of paragraph (2) "against which the amount described in such subparagraph may be credited under such subparagraph".

(d) TECHNICAL AMENDMENTS.—

(1) Subsection (a) of section 3322 of such Code (relating to taxable period) is amended—

(A) by adding "and" at the end of paragraph (1), and

(B) by striking out paragraphs (2) and (3) and inserting in lieu thereof the following:

"(2) each calendar year after 1986."

(2) Subsection (b) of section 3322 of such Code (relating to earlier termination if loans to rail unemployment fund repaid) is amended—

(A) by striking out "The tax imposed by this chapter shall not apply" and inserting in lieu thereof "The basic rate under section 3321(c)(1)(A) of the tax imposed by section 3321 shall not apply", and

(B) by inserting "made before October 1, 1985." after "no balance of transfers" in paragraph (1) thereof.

SEC. 13302. EXTENSION OF BORROWING AUTHORITY UNDER THE RAILROAD UNEMPLOYMENT INSURANCE ACT.

Section 10(d) of the Railroad Unemployment Insurance Act is amended by striking out the last sentence thereof.

SEC. 13303. CERTAIN EXEMPTIONS FROM THE FEDERAL EMPLOYMENT TAX ACT.

(a) CERTAIN AGRICULTURAL LABOR.—Paragraph (1)(B) of section 3306(c) of the Internal Revenue Code of 1954 (defining employment) is amended by striking out "January 1, 1986," and inserting in lieu thereof "January 1, 1988".

(b) FULL-TIME STUDENTS EMPLOYED BY SUMMER CAMPS.—Notwithstanding paragraph (3) of section 276(b) of the Tax Equity and Fiscal Responsibility Act of 1982, the amendments made by paragraphs (1) and (2) of such section 276(b) shall also apply to remuneration paid after September 19, 1985.

(c) Services Performed on Certain Fishing Boats.—

(1) IN GENERAL.—Section 822(b) of the Economic Recovery Tax Act of 1981 is amended to read as follows:

"(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to remuneration paid after December 31, 1980.".

(2) TECHNICAL AMENDMENT.—Paragraph (20) of section 312(b) of such Code (defining employment for purposes of Federal Insurance Contributions Act) is amended by inserting "(other than service described in paragraph (3)(A))" after "service".

TITLE XIV—REVENUE SHARING

SEC. 14001. TERMINATION OF GENERAL REVENUE SHARING.

(a) IN GENERAL.—(1) Except as otherwise provided in this section, chapter 67 of title 31, United States Code, is hereby repealed.

(2) The Secretary of the Treasury shall continue to be the trustee of the Trust Fund, which shall remain in existence until amounts all entitlement payments which are required to be made under the Revenue Sharing Act are made in accordance with the terms of such Act. Any funds remaining in the Trust Fund after all of such entitlement payments are completely made shall revert to the General Fund of the Treasury of the United States.

(3) The Secretary is authorized to take such necessary or appropriate actions, to carry out the requirements of this Act with respect to funds appropriated to the Trust Fund, as were authorized under the terms of the Revenue Sharing Act, including but not limited to enforcement of the regulatory provisions concerning nondiscrimination, audits, accounting procedures, public hearings, expenditures in accordance with State and local law, and cooperation with reasonable requests for information.

(4) The Secretary may increase or decrease a payment to a unit of general local government under the Revenue Sharing Act for the entitlement period ending September 30, 1986, to account for a prior underpayment or overpayment only if the increase or decrease is demanded by the Secretary or such unit of general local government before March 1, 1986.

(5) Amounts paid to units of general local government from the Trust Fund shall be used, obligated, or appropriated by the units of general local government before October 1, 1987, and shall continue to be subject to the terms of the Revenue Sharing Act.

(6) Subsection (a)(1) of this section shall not have the effect of releasing or extinguishing any fiscal sanction, finding, determination, compliance agreement, or other duly authorized action for the purpose of sustaining any proper action or prosecution for enforcement authorized under the terms of the Revenue Sharing Act.

(7) The Attorney General, and persons adversely affected by a practice of a local government, may bring a civil action in an appropriate district court of the United States against the applicable unit of general local government as authorized under the Revenue Sharing Act. The court is authorized to grant such relief as was authorized under the terms of the Revenue Sharing Act.

(8) The Secretary shall report to Congress on the operation and status of the Trust Fund and the implementation of this section not later than December 1 of each year the Trust Fund remains on the books of the Department of the Treasury.

(b) CONFORMING AMENDMENTS.—(1) The table of chapters for subtitle V of title 31, United States Code, is amended by striking out the item relating to chapter 67.

(2) Paragraph (2) of section 1115(b) of the Social Security Act (42 U.S.C. 1315(b)(2)) is amended—

(A) by adding "and" at the end of subparagraph (A),

(B) by striking out "; and" at the end of subparagraph (B) and inserting in lieu thereof a period, and

(C) by striking out subparagraph (C).

(3) Section 501(b)(6) of the Housing Act of 1949 (42 U.S.C. 1471(b)(6)) and section 102(a)(17) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(17)) are each amended by striking out "or under chapter 67 of title 31, United States Code" and inserting in lieu thereof "or was considered an eligible recipient under chapter 67 of title 31, United States Code, prior to the repeal of such chapter".

(4) Section 302 of the Age Discrimination Act of 1975 (42 U.S.C. 6101) is amended by striking out ", including programs or activities receiving funds under the State and Local Fiscal Assistance Act of 1972 (31 U.S.C. 1221 et seq.)".

(5) Paragraph (3) of section 3 of the Coastal Barrier Resources Act (16 U.S.C. 3502(3)) is amended by striking out subparagraph (A) and redesignating subparagraphs (B), (C), (D), and (E) as subparagraphs (A), (B), (C), and (D), respectively.

(6) Subparagraph (B) of section 119(n)(2) of the Housing and Community Development Act of 1974 (42 U.S.C. 5318(n)(2)(B)) is amended by striking out "is an eligible recipient under chapter 67 of title 31, United States Code" and inserting in lieu thereof "was an eligible recipient under chapter 67 of title 31, United States Code, prior to the repeal of such chapter".

(7) Paragraph (1) of section 248(h) of the National Housing Act (12 U.S.C. 1715z-13(h)(1)) is amended by striking out "is an eligible recipient under chapter 67 of title 31, United States Code" and inserting in lieu thereof "was an eligible recipient under chapter 67 of title 31, United States Code, prior to the repeal of such chapter".

(c) DEFINITIONS.—For purposes of this section—

(1) The term "Trust Fund" means the State and Local Government Fiscal Assistance Trust Fund established under the Revenue Sharing Act.

(2) The term "Revenue Sharing Act" means the provisions of chapter 67 of title 31, United States Code, as in effect on the day before the date of enactment of this Act and subject to the terms of any appropriation Act of fiscal year 1986.

(3) The term "Secretary" means the Secretary of the Treasury.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated for fiscal year 1987 such sums as may be necessary to administer the provisions of this section.

(e) EFFECTIVE DATES.—(1) Except as otherwise provided in this subsection, the repeal and amendments made by this section, and the provisions of this section, shall take effect on the earlier of—

(A) the date of the adjournment sine die of the 99th Congress, or

(B) December 31, 1986,

unless the provisions of chapter 67 of title 31, United States Code, are amended before the earlier of such dates to apply to any entitlement period beginning after September 30, 1986.

(2) The provisions of subsections (a)(4), (c), and (d) shall take effect on the date of enactment of this Act.

(3) Nothing in this section shall be construed to prevent the payment of any allocation for the entitlement period ending September 30, 1986.

TITLE XV—CIVIL SERVICE, POSTAL SERVICE, AND GOVERNMENTAL AFFAIRS GENERALLY

Subtitle A—Postal Service Programs

SEC. 15101. REVENUE FORGONE.

Notwithstanding subsection (c) of section 2401 of title 39, United States Code, the amount authorized to be appropriated pursuant to such subsection for fiscal year 1986 shall be $749,000,000.

SEC. 15102. DELAY OF STEP 16 RATES; ELIMINATION OF PHASING SCHEDULE; TERMINATION OF REDUCTION IN RATES OF POSTAGE FOR CERTAIN MAILERS.

(a) Delay of Step 16 Rates.—The increase in rates of postage for non-profit and certain other mailers announced by the Board of Governors of the United States Postal Service in Resolution No. 85-7 (adopted September 6, 1985) shall not take effect before January 1, 1986.

(b) Elimination of Phasing Schedule.—(1) Section 3626(a) of title 39, United States Code, is amended to read as follows:

"(a)(1) Except as provided in paragraph (2) of this subsection, rates of postage for a class of mail or kind of mailer under former section 4358, 4452(b), 4452(c), 4554(b), or 4554(c) of this title shall be established in accordance with applicable provisions of this chapter.

"(2) Rates of postage for a class of mail or kind of mailer referred to in paragraph (1) of this subsection shall be established in accordance with the requirement that the direct and indirect postal costs attributable to such class of mail or kind of mailer (excluding any other costs of the Postal Service) shall be borne by such class of mail or kind of mailer, as the case may be.".

(2) The amendment made by this subsection shall apply with respect to rates of postage taking effect after December 31, 1985.

(c) Termination of Reduction in Rates of Postage for Certain Mailers.—Section 3626 of title 39, United States Code, is amended by adding at the end thereof the following:

"(f) In the administration of this chapter, the rates for mail under former section 4358(g) of this title shall be established without regard to either the provisions of such former section 4358(g) or the provisions of this section.".

SEC. 15103. STUDY AND REPORT.

(a) Period of Study.—The Postal Rate Commission shall study and, within 6 months after the date of the enactment of this Act, transmit to the Committee on Post Office and Civil Service of the House of Representatives and the Committee on Governmental Affairs of the Senate a written report on the matters described in subsection (b).

(b) Purpose of Study.—The purpose of the study under this section is—

(1) to develop recommendations for legislation which would reduce the amount of revenue forgone with respect to former sections 4355(a), 4355(b), 4358(d), 4452(b), 4452(c), 4554(b) and 4554(c) of title 39, United States Code, by changing the eligibility requirements under which the reduced rates of postage under those sections would apply to mail which advertises or promotes the sale of, recommends the purchase of, or announces the availability of any article, product, service, insurance, or travel arrangements;

(2)(A) to identify the kinds of mailers which are the most frequent users of, or which otherwise significantly benefit from, rates for mail under subsections (a), (b), and (c) of former section 4358 of title 39, United States Code; and

(B) to examine the arguments for and against making the eligibility requirements for the rates referred to in subparagraph (A) more stringent, taking into consideration—

(i) the findings under subparagraph (A);

(ii) costs and benefits to the public; and

(iii) any other factor which may be appropriate; and

(3) to develop one or more alternatives for the method currently used by the United States Postal Service in computing revenue forgone (as determined with respect to the provisions of law referred to in section 2401(c) of title 39, United States Code) and to determine the advantages and disadvantages of each such alternative.

(c) In preparing its report under this section, the Postal Rate Commission shall invite and consider the views of interested parties.

(d) The United States Postal Service shall, upon request of the Postal Rate Commission, cooperate in the conduct of the study and the preparation of the report under this section.

SEC. 15104. RESTRICTION RELATING TO ELIGIBILITY FOR IN-COUNTY SECOND-CLASS RATES OF POSTAGE.

Section 3626 of title 39, United States Code, as amended by section 15102(c) of this Act, is further amended by adding at the end thereof the following:

"(g)(1) In the administration of this section, the rates for mail under subsections (a), (b), and (c) of former section 4358 of this title shall not apply to an issue of a publication if the number of copies of such issue distributed within the county of publication is less than the number equal to the sum of 50 percent of the total paid circulation of such issue plus one.

"(2) Paragraph (1) of this subsection shall not apply to an issue of a publication if the total paid circulation of such issue is less than 10,000 copies.".

SEC. 15105. CURBING OF SUBSIDIES FOR ADVERTISING-ORIENTED "PLUS ISSUES" MAILED TO SUBSCRIBERS AT IN-COUNTY RATES.

Section 3626 of title 39, United States Code, as amended by sections 15102(c) and 15104 of this Act, is further amended by adding at the end thereof the following:

"(h) In the administration of this section, the number of copies of a subscription publication mailed to nonsubscribers during a calendar year at rates under subsections (a), (b), and (c) of former section 4358 of this title may not exceed 10 percent of the number of copies of such publication mailed at such rates to subscribers.".

Subtitle B—Civil Service Programs

SEC. 15201. PAY ADJUSTMENTS.

(a) Limitation on Pay Adjustments for Statutory Pay Systems.—(1) The rates of pay under the General Schedule and the rates of pay under the other statutory pay systems referred to in section 5301(c) of title 5, United States Code, shall not be adjusted under section 5305 of such title during fiscal year 1986.

(2)(A)(i) For fiscal years 1987 and 1988, the President shall provide for the adjustment of rates of pay under section 5305 of title 5, United States Code, as appropriate to reduce outlays, relating to pay of officers and employees of the Federal Government, by at least $746,000,000 in fiscal year 1987 and $1,264,000,000 in fiscal year 1988 (without regard to reductions in outlays which result by reason of subparagraph (B)(ii) of this paragraph, paragraph (1) of this subsection, subsection (b) of this section, and the application of section 1009 of title 37, United States Code), computed using the baseline used for the First Concurrent Resolution on the Budget for Fiscal Year 1986 (S. Con. Res. 32, 99th Congress), agreed to on August 1, 1985.

(ii) Clause (i) of this subparagraph shall not be construed to suspend the requirements of section 5305 of title 5, United States Code, with respect to fiscal years 1987 and 1988.

(B) Each adjustment in a pay rate or schedule which takes effect pursuant to subparagraph (A) of this paragraph—

(i) shall, to the maximum extent practicable, be of the same percentage; and

(ii) shall be effective with respect to pay periods beginning on or after January 1 of the fiscal year involved.

(b) Limitation on Pay Adjustments for Prevailing Rate Employees.—(1) Notwithstanding any other provision of law, and except as otherwise provided in this subsection, in the case of a prevailing rate employee described in section 5342(a)(2) of title 5, United States Code, or an employee covered by section 5348 of such title, the total adjustment to any wage schedule or rate applicable to such employee which is to become effective (determined without regard to paragraph (2)) during—

(A) fiscal year 1986, shall (except to the extent permitted by section 616(a)(2) of H.R. 5798, incorporated by reference in section 101(j) of Public Law 98-473 (98 Stat. 1963)) be equal to zero;

(B) fiscal year 1987, shall not exceed an increase equal to the overall percentage of the adjustment (under section 5305 of title 5, United States Code) in the rates of pay under the General Schedule for such fiscal year; and

(C) fiscal year 1988, shall not exceed an increase equal to the overall percentage of the adjustment (under section 5305 of title 5, United States Code) in the rates of pay under the General Schedule for such fiscal year.

(2) Notwithstanding any other provision of law, any increase permitted by paragraph (1) which is scheduled to take effect during fiscal year 1987 or 1988 (determined without regard to this paragraph) shall take effect as of the beginning of the first applicable pay period beginning at least 90 days after the date on which such increase is so scheduled to take effect.

(3) Notwithstanding the provisions of section 9(b) of Public Law 92-392 or section 704(b) of Public Law 95-454, the provisions of paragraphs (1) and (2) shall apply (in such manner as the Office of Personnel Management shall prescribe) to prevailing rate employees to whom such section 9(b) applies, except that the provisions of paragraph (1) shall not apply to any increase in a wage schedule or rate which is required by the terms of a contract entered into before October 1, 1985.

(4) Nothing in this subsection or any provision of law governing the use of appropriated funds for the payment of employees covered by this subsection during the period covered by paragraph (1) (or any part of such period) shall be construed to permit or require the payment to any such employee at a rate in excess of the rate that would be payable were this subsection, or such provision of law governing the use of appropriated funds, not in effect.

(5) The Office may make exceptions from the limitations imposed by paragraph (1) if the Office determines that such exceptions are necessary to ensure the recruitment or retention of well-qualified employees.

SEC. 15202. PROVISIONS RELATING TO FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM.

(a) AMOUNTS TO BE REFUNDED FROM CARRIERS' SPECIAL RESERVES.—(1) The Office of Personnel Management—

(A) shall determine the minimum level of financial reserves necessary to be held by a carrier for each health benefits plan under chapter 89 of such title for the purpose of ensuring the stable and efficient operation of such plan; and

(B) shall require the carrier to refund to the Employees Health Benefits Fund (described in section 8909(a) of title 5, United States Code) any such reserves in excess of such minimum level in such amounts and at such times during fiscal years 1986 and 1987 as the Office determines appropriate.

(2) In carrying out its responsibilities under this subsection, the Office shall ensure that the aggregate amount to be refunded to the Employees Health Benefits Fund under this subsection—

(A) during fiscal year 1986 shall be not less than $800,000,000; and

(B) during fiscal year 1987 shall be not less than $300,000,000.

(3) No amount in the Employees Health Benefits Fund may be transferred to the general fund of the Treasury of the United States as a result of a refund made under this subsection.

(4)(A) Subject to subparagraphs (B) and (C), any amounts refunded to the Employees Health Benefits Fund under this subsection may be used solely for the purpose of paying the Government contribution under chapter 89 of title 5, United States Code, for health benefits for annuitants, as defined by section 8901(3) of title 5, United States Code, (including the Government contribution for former employees of the United States Postal Service) enrolled in health benefits plans under such chapter.

(B) This paragraph applies to a refund to the extent that such refund represents amounts attributable to Government contributions which were made under section 8906(b) of title 5, United States Code, (including contributions made by the United States Postal Service) as determined under regulations which the Office of Personnel Management shall prescribe.

(C) Any part of the amount in the Employees Health Benefits Fund as a result of a refund made under this subsection may be transferred—

(i) to the government of the District of Columbia, except that the amount of any such part so transferred shall not exceed the amount attributable to the contributions made by the government of the District of Columbia to subscription charges under this chapter (as determined by the Office of Personnel Management); and

(ii) to the United States Postal Service, except that the amount of any such part so transferred shall not exceed the amount attributable to the contributions made by the United States Postal Service to subscription charges under this chapter (as determined by the Office).

(5) The provisions of this subsection shall apply notwithstanding any provision of the Federal Employees Benefits Improvement Act of 1985.

(b) REPEAL OF 75 PERCENT MAXIMUM IN GOVERNMENT CONTRIBUTIONS.—(1) Section 8906(b)(2) of title 5, United States Code, is amended to read as follows:

"(2) The biweekly Government contribution for an employee or annuitant enrolled in a plan under this chapter shall not exceed 100 percent of the subscription charge.".

(2) The amendment made by paragraph (1) shall be effective with respect to pay periods commencing on or after March 1, 1986.

(c) GOVERNMENT CONTRIBUTIONS FOR RETIRED FORMER EMPLOYEES OF THE UNITED STATES POSTAL SERVICE.—Section 8906(g) of title 5, United States Code, is amended—

(1) by striking out "(g) The" and inserting in lieu thereof "(g)(1) Except as provided in paragraph (2), the"; and

(2) by adding at the end thereof the following:

"(2) The Government contributions authorized by this section for health benefits for an individual who first becomes an annuitant by reason of retirement from employment with the United States Postal Service on or after October 1, 1986, shall be paid by the United States Postal Service.".

SEC. 15203. COMPUTATION OF HOURLY RATES OF PAY.

(a) METHOD OF COMPUTATION.—Section 5504(b) of title 5, United States Code, is amended—

(1) by striking out the first sentence;

(2) in the second sentence, by striking out "When" and inserting in lieu thereof "When, in the case of an employee,";

(3) in paragraph (1), by striking out "2,080" and inserting in lieu thereof "2,087"; and

(4) in the last sentence, by striking out "title." and inserting in lieu thereof "title other than an employee or individual excluded by section 5541(2)(xvi) of this title.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective with respect to pay periods commencing on or after March 1, 1986.

SEC. 15204. COMPUTATION OF RETIREMENT ANNUITY FOR PART-TIME EMPLOYMENT.

(a) IN GENERAL.—(1) Section 8339 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(o)(1) In computing an annuity under this subchapter for an employee whose service includes service that was performed on a part-time basis—

"(A) the average pay of the employee, to the extent that it includes pay for service performed in any position on a part-time basis, shall be determined by using the annual rate of basic pay that would be payable for full-time service in the position; and

"(B) the benefit so computed shall then be multiplied by a fraction equal to the ratio which the employee's actual service, as determined by prorating an employee's total service to reflect the service that was performed on a part-time basis, bears to the total service that would be creditable for the employee if all of the service had been performed on a full-time basis.

"(2) For the purpose of this subsection, employment on a part-time basis shall not be considered to include employment on a temporary or intermittent basis.".

(2) Section 8341 of such title is amended—

(A) by striking out "and (n)" in subsection (b)(1) and inserting in lieu thereof ", (n), and (o)"; and

(B) by striking out "and (n)" in subsection (d) and inserting in lieu thereof "(n), and (o)".

(b) Section 4109(b) of title 38, United States Code, is repealed.

(c) The amendments made by this section shall be effective with respect to service performed on or after the date of the enactment of this Act.

SEC. 15205. EFFECT OF WAGE AREA SURVEY REGARDING CERTAIN FEDERAL EMPLOYEES IN TUCSON, ARIZONA.

(a) IN GENERAL.—Notwithstanding any other provision of law limiting the amounts payable to prevailing wage rate employees during the fiscal year 1986, wage schedules or rates applicable to the Tucson, Arizona, wage area shall not be reduced as a result of a wage survey conducted during fiscal year 1985.

(b) EFFECTIVE DATE.—This section shall be effective as of October 1, 1985.

SUBTITLE C—FEDERAL MOTOR VEHICLE EXPENDITURE CONTROL

SEC. 15301. MONITORING SYSTEM.

The head of each executive agency, including the Department of Defense, shall designate one office, officer, or employee of the agency to establish and operate a central monitoring system for, and provide oversight of, the motor vehicle operations of the agency, related activities, and related reporting requirements.

SEC. 15302. DATA COLLECTION.

(a) COST IDENTIFICATION AND ANALYSIS.—The head of each executive agency, including the Department of Defense, shall develop a system to identify, collect, and analyze data with respect to all costs, including obligations and outlays, incurred by the agency in the operation, maintenance, acquisition, and disposition of motor vehicles, including Government-owned vehicles, leased vehicles, and privately owned vehicles used for official purposes.

(b) REQUIREMENTS FOR DATA SYSTEMS.—The Administrator, in cooperation with the Comptroller General and the Director, shall promulgate requirements governing the establishment and operation by executive agencies of the systems required by subsection (a), including requirements with respect to data concerning the costs and uses of motor vehicles and with respect to the uniform collection and submission of such data. Requirements promulgated under this section shall be in conformance with accounting principles and standards issued by the Comptroller General. Each executive agency, including the Department of Defense, shall comply with such requirements.

SEC. 15303. AGENCY STATEMENTS WITH RESPECT TO MOTOR VEHICLE USE.

(a) CONTENTS OF STATEMENT.—The head of each executive agency, including the Department of Defense, shall include with the appropriation request of such agency submitted under section 1108 of title 31, United States Code, for fiscal year 1988 and each succeeding fiscal year, a statement—

(1) specifying—

(A) the total motor vehicle acquisition, maintenance, leasing, operation, and disposal costs, including obligations and outlays, incurred by such agency in the most recently completed fiscal year; and

(B) an estimate of such costs for the fiscal year in which such request is submitted and for the succeeding fiscal year; and

(2) justifying why the existing and any new motor vehicle acquisition, maintenance, leasing, operation, and disposal requirements of the agency cannot be met through the Interagency Fleet Management System operated by the Administrator, a qualified private fleet management firm, or any other method which is less costly to the Government.

(b) COMPLIANCE WITH REQUIREMENTS.—The head of each executive agency shall comply with the requirements promulgated under section 15302(b) in preparing each statement required under subsection (a).

SEC. 15304. PRESIDENTIAL REPORT.

(a) Summary and Analysis of Agency Statements.—The President shall include with the budget transmitted pursuant to section 1105 of title 31, United States Code, for fiscal year 1988 and each succeeding fiscal year, or in a separate written report to the Congress for each such fiscal year, a summary and analysis of the statements most recently submitted by the heads of executive agencies pursuant to section 15303(a). Each such summary and analysis shall include a review, for the fiscal year preceding the fiscal year in which the budget is submitted, the current fiscal year, and the fiscal year for which the budget is submitted, of the cost savings that have been achieved, that are estimated will be achieved, and that could be achieved, in the acquisition, maintenance, leasing, operation, and disposal of motor vehicles by executive agencies through—

(1) the use of a qualified private fleet management firm or another private contractor;

(2) increased reliance by executive agencies on the Interagency Fleet Management System operated by the Administrator; or

(3) other existing motor vehicle management systems.

(b) Applicability to Fiscal Year 1986.—The summary and analysis submitted under subsection (a) during fiscal year 1987 is not required to include a review, under the second sentence of such subsection, of the cost savings achieved for fiscal year 1986.

SEC. 15305. STUDY REQUIRED.

(a) Study of Costs, Benefits, and Feasibility.—(1) The head of each executive agency, including the Department of Defense, shall conduct a comprehensive and detailed study of the costs, benefits, and feasibility of—

(A) relying on the Interagency Management Fleet System operated by the Administrator;

(B) entering into a contract with a qualified fleet management firm or another private contractor; or

(C) using any other means less costly to the Government,

to meet its motor vehicle operation, maintenance, leasing, acquisition, and disposal requirements.

(2) Each study conducted under paragraph (1) shall compare the costs, benefits, and feasibility of the alternatives described in subparagraphs (A), (B), and (C) of such paragraph to the costs and benefits of the agency's current motor vehicle operations and, in the case of the alternatives described in subparagraphs (B) and (C) of such paragraph, to the costs, benefits, and feasibility of the use of the Interagency Fleet Management System operated by the Administrator.

(b) Submission to Director and Comptroller General.—Within 6 months after the date of enactment of this Act, the head of each executive agency shall submit a report concerning the study required under subsection (a) to the Administrator.

SEC. 15306. INTERAGENCY CONSOLIDATION.

(a) Identification of Opportunities for Consolidation.—The Administrator shall review and identify interagency opportunities for the consolidation of motor vehicles, related equipment, and facilities, and of functions relating to the administration and management of such vehicles, equipment, and facilities, in order to reduce the size and cost of the Federal Government's motor vehicle fleet.

(b) Report and Action on Findings.—Within one year after the date of enactment of this Act, the Administrator shall—

(1) submit a report to the Congress specifying the findings and recommendations of the Administrator from the review conducted under subsection (a); and

(2) take such action as the Administrator considers appropriate based on such findings and recommendations and in accordance with section 211 of the Federal Property and Administrative Services Act.

SEC. 15307. REDUCTION OF STORAGE AND DISPOSAL COSTS.

The Administrator shall take such actions as may be necessary to reduce motor vehicle storage and disposal costs and to improve the rate of return on motor vehicle sales through a program of vehicle reconditioning prior to sale.

SEC. 15308. SAVINGS.

(a) Actions by President Required.—The President shall establish, for each executive agency, including the Department of Defense, goals to reduce outlays for the operation, maintenance, leasing, acquisition, and disposal of motor vehicles in order to reduce, by fiscal year 1988, the total amount of outlays by all executive agencies for such operation, maintenance, leasing, acquisition, and disposal to an amount which is $150,000,000 less than the amount for such operation, maintenance, leasing, acquisition, and disposal requested by the President in the budget submitted under section 1105 of title 31, United States Code, for fiscal year 1986.

(b) Monitoring of Compliance and Compliance Report.—The Director shall monitor compliance by executive agencies with the goals established by the President under subsection (a) and shall include, in each summary and analysis required under section 15304, a statement specifying the reductions in expenditures by executive agencies, including the Department of Defense, achieved under such goals.

SEC. 15309. COMPLIANCE.

(a) Administrator of General Services.—The Administrator shall comply with and be subject to the provisions of this part with regard to all motor vehicles that are used within the General Services Administration for official purposes.

(b) Managers of Other Motor Pools.—The provisions of this part with respect to motor vehicles from the Interagency Fleet Management System shall be complied with by the executive agencies to which such motor vehicles are assigned.

SEC. 15310. APPLICABILITY.

(a) Priority in Reducing Headquarters Use.—The heads of executive agencies shall give first priority to meeting the goals established by the President under section 15308(a) by reducing the costs of administrative motor vehicles used at the headquarters and regional headquarters of executive agencies, rather than by reducing the costs of motor vehicles used by line agency personnel working in agency field operations or activities.

(b) Regulations, Standards, and Definitions.—The President shall require the Administrator, in cooperation with the Director, to promulgate appropriate regulations, standards, and definitions to assure that executive agencies meet the goals established under section 15308(a) in the manner prescribed by subsection (a).

SEC. 15311. COOPERATION.

The Director and the Administrator shall closely cooperate in the implementation of the provisions of this part.

SEC. 15312. REPORTS.

The Comptroller General shall evaluate the extent to which the Director, the Administrator, and executive agencies have complied with this part. By January 31, 1988, the Comptroller General shall submit a report to the Congress describing the results of such evaluation.

SEC. 15313. DEFINITIONS.

For purposes of this title—

(1) the term "executive agency" means an Executive agency (as such term is defined in section 105 of title 5, United States Code), which operates at least three hundred motor vehicles, except that such term does not include the Tennessee Valley Authority;

(2) the term "Director" means the Director of the Office of Management and Budget;

(3) the term "Administrator" means the Administrator of General Services;

(4) the term "Comptroller General" means the Comptroller General of the United States; and

(5) the term "motor vehicle" means any vehicle self-propelled or drawn by mechanical power, except that such term does not include any vehicle designed or used for military field training, combat, or tactical purposes, or any other special purpose vehicle exempted from the requirements of this part by the Administrator.

TITLE XVI—HIGHER EDUCATION PROGRAMS

SEC. 16001. SHORT TITLE; REFERENCE.

(a) Short Title.—This title may be cited as the "Student Financial Assistance Amendments of 1985".

(b) Reference.—References in this title to "the Act" are to the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.).

Subtitle A—Savings in Student Loan Program Operations

SEC. 16011. RECOVERY OF OUTSTANDING ADVANCES TO GUARANTY AGENCIES.

Section 422 of the Act is amended by adding at the end thereof the following new subsection:

"(d)(1) Notwithstanding any other provision of this section, advances made by the Secretary under this section shall be repaid in accordance with this paragraph and shall be deposited in the fund established by section 431. The Secretary shall, in accordance with the requirements of paragraph (2), recover (and so deposit) an amount equal to $75,000,000 during fiscal year 1988.

"(2) In determining the amount of advances which shall be repaid by a State or nonprofit private institution or organization under paragraph (1), the Secretary—

"(A) shall consider the solvency and maturity, as determined by the Comptroller General, of the reserve and insurance funds of the State or nonprofit private institution or organization assisted by such advances;

"(B) shall not seek repayment of such advances from any State described in subsection (c)(5)(B) during any year of its eligibility under such subsection; and

"(C) shall not seek repayment of such advances from any State if such repayment encumbers the reserve fund requirement mandated by the statutes of such State.".

SEC. 16012. DISBURSEMENT OF STUDENT LOANS TO INSTITUTIONS REQUIRED.

(a) FISL Loans Requirement.—Section 427(a)(2) of the Act is amended—

(1) by striking out clause (ii) of subparagraph (B) and by redesignating clauses (iii) and (iv) of subparagraph (B) as clauses (ii) and (iii), respectively;

(2) by striking out "or the fifteen-year period" in the matter following clause (viii) of subparagraph (C); and

(3) by amending subparagraph (I) to read as follows:

"(I) the funds borrowed by a student are disbursed to the institution by check or other means that is payable to and requires the endorsement or other certification by such student, except nothing in this subparagraph shall be interpreted to allow the Secretary to require checks to be made co-payable to the institution and the borrower or to prohibit the disbursement of loan proceeds by means other than by check; and".

(b) GSL Loans Requirement.—Section 428(b)(1)(O) of the Act is amended to read as follows:

"(O) provides that funds borrowed by a student are disbursed to the institution by check or other means that is payable to and requires the endorsement or other certification by such student, except nothing in this subparagraph shall be interpreted to allow the Secretary to require checks to be made co-payable to the institution and the borrower or to prohibit the disbursement of loan proceeds by means other than by check;".

(c) Conforming Amendment.—Section 433A(a) of the Act is amended by striking out "to a borrower" in the first sentence.

SEC. 16013. MULTIPLE DISBURSEMENTS OF STUDENT LOANS REQUIRED.

(a) Repeal of Incentives to Lenders to Make Multiple Disbursements.—Section 428(a) of the Act is amended by striking out paragraph (8).

(b) Multiple Disbursement Required in FISL Program.—Section 427(a) of the Act is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following:

"(3) in the case of a loan made for any period of enrollment of more than six months, one semester, two quarters, or 600 clock hours and for an amount of $1,000 or more, the proceeds of the loan will be disbursed directly by the lender in two or more installments, none of which exceeds one-half of the loan, with the interval between the first and second installment being not less than one-third of such period.

For purposes of paragraph (3), all loans issued for the same period of enrollment shall be considered as a single loan.".

(c) Multiple Disbursements Required in GSL Program.—Section 428(b)(1) of such Act is amended—

(1) by redesignating subparagraph (P) as subparagraph (Q); and

(2) by inserting after subparagraph (O) the following new subparagraph:

"(P) provides that the proceeds of any loan made for any period of enrollment of more than six months, one semester, two quarters, or 600 clock hours and for an amount of $1,000 or more—

"(i) will be disbursed directly by the lender in two or more installments, none of which exceeds one-half of the loan, with the interval between the first and second installment being not less than one-third of such period, or

"(ii) will be disbursed in such installments pursuant to the escrow provisions of subsection (i) of this section,

but all loans issued for the same period of enrollment shall be considered as a single loan for purposes of this subparagraph; and".

(d) Origination Fee To Be Deducted Proportionately From Each Installment.—Section 438(c)(2) of the Act is amended by striking out "which may be deducted from the proceeds of the loan prior to payment to the borrower" and inserting in lieu thereof "which shall be deducted proportionately from each installment payment of the proceeds of the loan to the borrower".

(e) Conforming Amendments.—(1) Section 425(a)(1) of the Act is amended—

(A) by inserting "and" at the end of subparagraph (A), by striking out subparagraph (B), and by redesignating subparagraph (C) as subparagraph (B); and

(B) by striking out the last sentence.

(2) Section 428(a)(3)(A) of the Act is amended—

(A) by striking out "Except as provided in paragraph (8) and subject" and inserting in lieu thereof "Subject"; and

(B) by striking out "but, except as provided in paragraph (8) of this subsection, such portion" and inserting in lieu thereof "but such portion".

(3) Section 428(b)(1)(A) of such Act is amended—

(A) by inserting "and" at the end of division (i);

(B) by striking out division (ii) and by redesignating division (iii) as division (ii); and

(C) in the matter following such division, by striking out "annual limit," and all that follows and inserting in lieu thereof "annual limit;".

SEC. 16014. PRECLAIM COLLECTION ACTIVITIES.

(a) Delay Required Before Submission of Claims by Guaranty Agencies.—(1) Section 428(c)(1)(A) of the Act is amended by adding at the end thereof the following new sentence: "In no case shall a State or nonprofit private institution or organization with which the Secretary has an agreement pursuant to subsection (b) file a claim for such reimbursement with respect to such losses prior to 270 days after the loan becomes delinquent with respect to any loan installment.".

(2) Section 430(e)(2) of the Act is amended—

(A) by striking out "one hundred and twenty days" and inserting in lieu thereof "180 days"; and

(B) by striking out "one hundred and eighty days" and inserting in lieu thereof "240 days".

(b) Supplemental Preclaims Assistance.—(1) Section 428(c)(6)(A) of the Act is amended—

(A) by inserting after "assistance for default prevention," the following: "the administrative costs of supplemental preclaim assistance for default prevention,"; and

(B) by striking out "as such terms are defined in subparagraph (B)" and inserting in lieu thereof "as such terms are defined in subparagraph (B) or (C)".

(2) Section 428(c)(6) of the Act is amended by adding at the end thereof the following new subparagraph:

"(C)(i) For purposes of this paragraph, 'administrative costs of supplemental preclaim assistance for default prevention' means (subject to divisions (ii) through (iv)) any administrative costs—

"(I) incurred by a guaranty agency in connection with a loan on which the guarantor has exercised preclaims assistance required or permitted under sections 428(c)(2)(A) and 428(f)(2), and which has been in delinquent status for at least 120 days; and

"(II) which are directly related to providing collection assistance to the lender on a delinquent loan, prior to a claim being filed by the guaranty agency,

including the attributable compensation of appropriate personnel (and in the case of personnel who perform several functions, only the portion of compensation attributable to the collection assistance), fees paid to locate a missing borrower, postage, equipment, supplies, telephone, and similar charges, but does not include overhead costs.

"(ii) The administrative costs for which reimbursement is authorized under this subparagraph must be clearly supplemental to the preclaim assistance for default prevention which the guaranty agency is required to provide pursuant to section 428(c)(2)(A) and section 428(f)(2) of this Act.

"(iii) The services associated with carrying out this subparagraph may be provided by the guaranty agency directly or under contract, except that such services may not be carried out by an organization or entity (other than the guaranty agency)—

"(I) that is the holder or servicer of the loan or an organization or entity that owns or controls the holder or servicer of the loan; or

"(II) that is owned or controlled by the same corporation, partnership, association, or individual that owns or controls the holder or servicer of the loan.

"(iv) The costs associated with carrying out this subparagraph may not exceed 2 percent of the outstanding principal balance of each delinquent loan subject to the supplemental preclaim assistance authorized by this subparagraph or $100, whichever is less.".

(3) The amendments made by this subsection shall be effective in accordance with section 16041(a) of this title without regard to whether such amendments are reflected in the regulations prescribed by the Secretary of Education.

SEC. 16015. PROMPT PAYMENT OF SUPPLEMENTAL GUARANTY ADMINISTRATIVE COST AGREEMENT.

(a) Purpose.—It is the purpose of the amendments made by this section to assure the prompt payment of the amount due under the supplemental guaranty administrative cost agreement made under section 428(f)(2) in order to encourage improved collection of student loans and preclaims assistance to prevent default on student loans.

(b) Prompt Payment Required.—(1) Section 428(f)(1) of the Act is amended—

(A) by striking out "is authorized to" and inserting in lieu thereof "shall";

(B) by striking out "shall not exceed" and inserting in lieu thereof "shall be equal to"; and

(C) by striking out the third and fourth sentences of such section.

(2) Section 428(f)(2) of the Act is amended—

(A) by striking out "is authorized to" and inserting in lieu thereof "shall";

(B) by striking out "shall not exceed" and inserting in lieu thereof "shall be equal to"; and

(C) by striking out the third and fourth sentences of such section.

SEC. 16016. GUARANTY AGENCY; LENDER OF LAST RESORT.

Section 428 of the Act is amended by adding at the end thereof the following new subsection:

"(j) In each State, the guaranty agency or an eligible lender in the State described in section 435(d)(1)(D) of this Act shall make loans directly, or through an agreement with an eligible lender or lenders, to students who are eligible to have interest benefits paid on their behalf (under subsection (a) of this section) but who are otherwise unable to obtain loans under this part. Loans made under this subsection shall neither exceed the amount of the need of the borrower, as determined under subsection (a)(2)(B), nor be less than $200.".

SEC. 16017. STUDENT LOAN CONSOLIDATION.

(a) LOAN CONSOLIDATION AUTHORIZED.—Part B of title IV of the Act is amended by inserting after section 428B the following new section:

"CONSOLIDATION LOANS

"SEC. 428C. (a)(1) For the purpose of providing loans to eligible borrowers for consolidation of their obligations with respect to student loans made, insured, or guaranteed under this part or made under part E of this title, the Secretary or a guaranty agency shall enter into agreements in accordance with subsection (b) with the following eligible lenders:

"(A) the Student Loan Marketing Association;

"(B) agencies described in subparagraphs (D) and (F) of section 435(g)(1); and

"(C) eligible lenders described in subparagraphs (A), (B), (C), and (E) of such section.

"(2) Except as provided in section 429(e), no contract of insurance under this part shall apply to a consolidation loan unless such loan is made under an agreement pursuant to this section and is covered by a certificate issued in accordance with subsection (b)(2). Loans covered by such a certificate that is issued by a guaranty agency shall be considered to be insured loans for the purposes of reimbursements under section 428(c), but no payment shall be made with respect to such loans under section 428(f) to any such guaranty agency.

"(3) For the purpose of this section, the term 'eligible borrower' means a borrower who—

"(A) has an outstanding indebtedness, at the time of application for a consolidation loan, to one or more lenders or programs under this title of not less than $5,000;

"(B) has not during the previous 4 months carried at an eligible institution at least one-half the normal full-time academic workload;

"(C) if in repayment status, is not delinquent with respect to any required payment on such indebtedness by more than 90 days; and

"(D) is not a parent borrower under section 428B(a)(1).

"(4) An individual's status as an eligible borrower under this section terminates upon receipt of a consolidation loan under this section except with respect to loans received under this title after the date of receipt of the consolidation loan. For the purpose of computing the outstanding indebtedness of such an individual, only loans received after such date shall be taken into account.

"(b)(1) Any lender described in clause (A), (B), or (C) of subsection (a)(1) who wishes to make consolidation loans under this section shall enter into an agreement with the Secretary or a guaranty agency which provides—

"(A)(i) that, in the case of lenders described in subsection (a)(1)(C), the lender will make a consolidation loan to any eligible borrower on request of that borrower, if the lender holds an outstanding loan of that borrower which is selected by the borrower for consolidation under this section, and will make such loans to other eligible borrowers only to the extent permitted by the Secretary in an agreement under subsection (d);

"(ii) that, in the case of lenders described in subsection (a)(1)(B), the lender will make, subject to the availability of funds allocated for such purpose, a consolidation loan to any eligible borrower—

"(I) who is, or was at the time of receiving a loan which is selected for consolidation, a resident of the State of such lender; or

"(II) who received loans under this title while attending an institution of higher education in the State of such lender,

except that the lender may elect to limit further the availability of its loans under this section to those borrowers for whom the lender is the holder of a loan selected for consolidation; or

"(iii) that, in the case of the Student Loan Marketing Association, the lender will make a consolidation loan to any eligible borrower on request of that borrower;

"(B) that each consolidation loan made by the lender will bear interest, and be subject to repayment, in accordance with subsection (c);

"(C) that each consolidation loan will be made, notwithstanding any other provision of this part limiting the maximum principal amount for all insured loans made to a borrower, in an amount (i) which is not less than the minimum amount required for eligibility of the borrower under subsection (a)(3)(A)(i), and (ii) which is equal to the sum of the unpaid principal, accrued unpaid interest and late charges of all loans received by the eligible borrower under this title which are selected by the borrower for consolidation;

"(D) that the proceeds of each consolidation loan will be paid by the lender to the holder or holders of the loans so selected to discharge the liability on such loans;

"(E) that, in the case of any lender, such lender will not make consolidation loans under this part from the proceeds of bonds or other obligations, the income from which is exempt from taxation under the Internal Revenue Code of 1954, issued subsequent to the enactment date of the Student Financial Assistance Amendments of 1985; and

"(F) such other terms and conditions as the Secretary or guaranty agency (whichever is party to the agreement) may specifically require of the lender to carry out this section.

"(2) The Secretary shall issue a certificate of comprehensive insurance coverage under section 429(b) to a lender which has entered into an agreement with the Secretary under paragraph (1) of this subsection. A guaranty agency may issue a certificate of comprehensive insurance coverage to a lender if the lender has entered into an agreement under paragraph (1) of this subsection. The Secretary shall not issue such a certificate under this paragraph to a lender described in clause (B) or (C) of subsection (a)(1) if the Secretary determines that such lender has reasonable access in its State, for the purpose of obtaining such a certificate, to a guaranty agency. In either case, such certificate shall, at a minimum, provide—

"(A) that all consolidation loans made by such lender in conformity with the requirements of this section will be insured against loss of principal and interest by the issuer of such certificate;

"(B) that a consolidation loan will not be insured unless the lender has determined to its satisfaction, in accordance with reasonable and prudent business practices, for each loan being consolidated (i) that the loan is a legal, valid, and binding obligation of the borrower; (ii) that each such loan was made and serviced in compliance with applicable laws and regulations; and (iii) in the case of loans under this part, that the insurance on such loan is in full force and effect;

"(C) the effective date and expiration date of the certificate;

"(D) the aggregate amount to which the certificate applies;

"(E) that, if the lender prior to the expiration of the certificate no longer proposes to make consolidation loans, the lender will so notify the issuer of such certificate in order that the certificate may be terminated (without affecting the insurance on any consolidation loan made prior to such termination); and

"(F) the terms upon which the issuer of the certificate may limit, suspend, or terminate the lender's authority to make consolidation loans under the certificate (without affecting the insurance on any consolidation loan made prior to such limitation, suspension, or termination).

"(3) A consolidation loan made pursuant to this section shall be insurable under a certificate issued pursuant to paragraph (2) only if the loan is made to an eligible borrower who has agreed to notify the holder of the loan promptly concerning any change of address and the loan is evidenced by a note or other written agreement which—

"(A) is made without security and without endorsement, except that if the borrower is a minor and such note or other written agreement executed by him would not, under applicable law, create a binding obligation, endorsement may be required;

"(B) provides for the payment of interest and the repayment of principal in accordance with subsection (c) of this section and contains notice of the possibility of a revised repayment schedule under paragraph (2) of such subsection;

"(C) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid, during any period—

"(i) during which the borrower is pursuing a full-time course of study at an eligible institution, is pursuing a course of study pursuant to a graduate fellowship program approved by the Secretary, or pursuant to a rehabilitation training program for disabled individuals approved by the Secretary;

"(ii) not in excess of 2 years during which the borrower is serving an internship, the successful completion of which is required in order to receive professional recognition;

"(iii) not in excess of 3 years during which the borrower is temporarily totally disabled, as established by sworn affidavit of a qualified physician, or during which the borrower is unable to secure employment by reason of the care required by a spouse who is so disabled; or

"(iv) which is a single period, not in excess of 12 months, at the request of the borrower, during which the borrower is seeking and unable to find full-time employment; and

that any such period shall not be included in determining the repayment period provided pursuant to subsection (c)(2) of this section;

"(D) entitles the borrower to accelerate without penalty repayment of the whole or any part of the loan; and

"(E)(i) contains a notice of the system of disclosure concerning such loan to credit bureau organizations under section 430(b)(2), and (ii) provides that the lender on request of the borrower will provide information on the repayment status of the note to such organizations.

"(c)(1) Consolidation loans made under this section shall bear interest at the rate of 10 per centum per annum on the unpaid principal balance of the loan, except that, if the consolidation loan is used for the purpose of discharging liability on a loan made *pursuant to section 428B, the consolidation loan shall bear interest at a rate per annum on such unpaid balance which is equal to the highest applicable interest rate under section 427A on any loan which is selected for consolidation by the borrower. For the purposes of payment of special allowances under section 438(b)(2), the interest rate required by this subsection is the applicable interest rate with respect to a consolidation loan.*

"(2) Notwithstanding any other provision of this part, to the extent authorized by its certificate of insurance under subsection (b)(2)(F) and approved by the issuer of such certificate, the lender of a consolidation loan, with the agreement of the borrower, may establish such repayment terms as will promote the objectives of this section, including the establishment of graduated and income sensitive repayment schedules. In each case a consolidation loan shall be repaid as follows:

"(A) in the case of a consolidation loan the original amount of which is less than $7,500, such loan shall be repaid in not more than 10 years;

"(B) in the case of a consolidation loan the original amount of which equals or exceeds $7,500 but is less than $11,000, such loan shall be repaid in not more than 13 years; or

"(C) in the case of a consolidation loan the original amount of which equals or exceeds $11,000, such loan shall be repaid in not more than 15 years.

"(3) Repayment of a consolidation loan shall commence within 60 days after all holders have, pursuant to subsection (b)(1)(D), discharged the liability of the borrower on the loans selected for consolidation.

"(4) No origination fee or insurance premium shall be charged to the borrower on any consolidation loan, and no insurance premium shall be payable by the lender to the issuer of the certificate of insurance with respect to any such loan.

"(d)(1) If, within 18 months after the effective date of this section, an eligible lender described in subsection (a)(1)(B) for a State has not entered into an agreement with the Secretary or a guaranty agency for purposes of making consolidation loans under this section, the Secretary may, after a hearing and upon a determination of need therefor, enter into an agreement for the purposes of making consolidation loans to eligible borrowers in such State with an eligible lender described in clause (B) or (C) of subsection (a)(1) from another State.

"(2) Notice of the hearing required by paragraph (1) of this subsection shall be sent to the Governor of the affected State and the eligible lenders described in subsection (a)(1)(B) for that State. At any such hearing representatives of such Governor and lenders may present evidence and testimony and examine witnesses, and full consideration shall be given to the views of such Governor and lenders with respect to the interests of the eligible borrowers in that State and with respect to the impact on programs of such lenders of allowing a lender described in clause (B) or (C) of subsection (a)(1) from another State to make consolidation loans pursuant to an agreement under this subsection in such State.

"(3) An agreement under this subsection may contain such terms and conditions as the Secretary may specifically require of the lender to carry out this section.

"(4) The requirements of paragraphs (1) and (2) of this subsection shall not apply if, in any State, an eligible lender described in subsection (a)(1)(B) from another State is functioning as a secondary market described in subparagraph (D) or (F) of section 435(g)(1) prior to the date of enactment of the Student Financial Assistance Amendments of 1985 and such lender agrees to make consolidation loans to eligible borrowers in such State.

"(e) The authority to make loans under this section expires at the close of September 30, 1991. Nothing in this section shall be construed to authorize the Secretary to promulgate rules or regulations governing the terms or conditions of the agreements and certificates under subsection (b). Loans made under this section shall not be considered to be new loans made to students for purposes of section 424(a).".

(b) Conforming Amendments.—(1) Section 427(a) of the Act is amended by striking out "A loan" and inserting in lieu thereof "Except as provided in section 428C, a loan".

(2) Section 435(g)(1) of the Act is amended—

(A) by striking out "section 439 (o) and (q)" in subparagraph (G) and inserting in lieu thereof "sections 428C and 439(q)"; and

(B) by striking out "section 428(j)" in subparagraph (H) and inserting in lieu thereof "sections 428(h) and 428C".

(3) Section 438 of the Act is amended—

(A) in subsection (b)(5)(A)(ii), by inserting ", 428C," after "428B"; and

(B) in subsection (c)(2), by striking out "section 428B and section 439(o)" and inserting in lieu thereof "sections 428B and 428C".

(4) Section 439(d)(1)(C) of the Act is amended by striking out "428(A), and except with respect to loans under section 439(o)," and inserting in lieu thereof "428A, and except with respect to loans under section 428C,".

(c) Special Allowance.—(1) Section 438(b)(2)(A) of the Act is amended by striking out "subparagraph (B)" and inserting in lieu thereof "subparagraphs (B) and (C)".

(2) The first sentence of section 438(b)(2)(B)(i) of the Act is amended—

(A) by inserting "appropriate" before "quarterly rate" the second time it appears; and

(B) by inserting "or subparagraph (C)" before the period.

(3) Section 438(b)(2) of the Act is amended by adding at the end thereof the following new subparagraph:

"(C) In the case of loans made in accordance with section 428C, the applicable per centum to be added under clause (iii) of subparagraph (A) shall be 3 per centum.".

(d) Cost Evaluation Report.—The Secretary of Education shall evaluate the cost, efficiency, and impact of the consolidation loan program established by the amendments made by this section and shall report to the Congress not later than June 30, 1988, on the findings and recommendations required by this subsection.

SEC. 16018. EXTENSION OF PROGRAM.

(a) Extension of Authority.—Part B of title IV of the Act is amended—

(1) in section 424(a)—

(A) by striking out "1986" and inserting in lieu thereof "1988";

(B) by striking out "1990" and inserting in lieu thereof "1992";

(2) in section 428(a)(5)—

(A) by striking out "1986" and inserting in lieu thereof "1988";

(B) by striking out "1990" and inserting in lieu thereof "1992"; and

(3) in section 439(l), by striking out "1988" and inserting in lieu thereof "1990".

(b) Extension of Family Contribution Schedules.—Section 9 of the Student Financial Assistance Technical Amendments Act of 1982 is amended—

(1) in subsection (a), by striking out "and from July 1, 1986, through June 30, 1987," and inserting in lieu thereof "from July 1, 1986, through June 30, 1987, from July 1, 1987, through June 30, 1988, from July 1, 1988, through June 30, 1989, and from July 1, 1989, through June 30, 1990,"; and

(2) in subsection (c)—

(A) by striking out "and" at the end of paragraph (3);

(B) by striking out the comma at the end of paragraph (4) and inserting in lieu thereof a semicolon; and

(C) by inserting after such paragraph the following new paragraphs:

"(5) April 1, 1987, for the period of instruction from July 1, 1987, through June 30, 1988;

"(6) April 1, 1988, for the period of instruction from July 1, 1988, through June 30, 1989; and

"(7) April 1, 1989, for the period of instruction from July 1, 1989, through June 30, 1990,".

SEC. 16019. SAVINGS FROM OPERATIONS OF THE STUDENT LOAN MARKETING ASSOCIATION.

(a) General Rule.—In order to contribute to carrying out the directions in the first concurrent resolution on the budget for the fiscal year 1986 (S. Con. Res. 32, 99th Congress, agreed to August 1, 1985) designed to reduce the Federal budget deficit, the Student Loan Marketing Association shall, during the fiscal year 1986, reduce the level of obligations owed to the Federal Financing Bank by $30,000,000 which, but for this section, will be paid to the Federal Financing Bank after October 1, 1986.

(b) Special Rule.—The amount described in subsection (a) may not be credited by the Student Loan Marketing Association to reduce the obligation to repay the Federal Financing Bank amounts which the Student Loan Marketing Association owes to the Federal Financing Bank in each of the fiscal years 1987 and 1988.

(c) Savings Provision.—Nothing in this section shall be construed to authorize or require the Student Loan Marketing Association or the Federal Financing Bank to renegotiate the contract or other agreement under which the Student Loan Marketing Association agreed to pay amounts made available by the Federal Financing Bank to carry out section 439 of the Higher Education Act of 1965.

SEC. 16020. DEFINITION.

Section 435 of the Act is amended by adding at the end thereof the following new subsection:

"(k) The term 'guaranty agency' means a State or nonprofit private institution or organization with which the Secretary has an agreement pursuant to section 428(b).".

Subtitle B—Savings From Improved Student Loan Collection

SEC. 16021. AGREEMENT FOR AUDITS.

Section 428(b)(2) of the Act is amended—

(1) by striking out "and" at the end of subparagraph (B);

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; and"; and

(3) by inserting after such subparagraph the following:

"(D) provide for—

"(i) conducting, except as provided in clause (ii), financial and compliance audits of the guaranty agency at least once every two years and covering the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary; or

"(ii) with regard to a guaranty program of a State which is audited under chapter 75 of title 31, United States Code, deeming such audit to satisfy the requirements of clause (i) for the period of time covered by such audit.".

SEC. 16022. RECOVERY COSTS.

Section 430(b) of the Act is amended—

(1) by striking out in paragraph (1) "(including reasonable administrative costs)" and inserting in lieu thereof the following: "(including reasonable administrative and collection costs, to the extent set forth in regulations issued by the Secretary)";

(2) by striking out paragraph (2); and

(3) by striking out "(1)".

SEC. 16023. CREDIT BUREAU REPORTS.

Part B of title IV of the Act is amended by adding immediately after section 430 the following new section:

"REPORTS TO CREDIT BUREAUS AND INSTITUTIONS OF HIGHER EDUCATION

"SEC. 430A. (a) For the purpose of promoting responsible repayment of loans covered by Federal loan insurance pursuant to this part or covered by a guaranty agreement pursuant to section 428, the Secretary, and each guaranty agency, eligible lender, and subsequent holder shall enter into agreements with credit bureau organizations to exchange information concerning student borrowers, in accordance with the requirements of this section. For the purpose of assisting such organizations in complying with the Fair Credit Reporting Act, such agreements may provide for timely response to the Secretary (concerning loans covered by Federal loan insurance) or by a guaranty agency, eligible lender, or subsequent holder (concerning loans covered by a guaranty agreement) to requests from such organizations for responses to objections raised by such borrowers. Subject to the requirements of subsection (c), such agreements shall require the the Secretary or guaranty agency, eligible lender, or subsequent holder to disclose to such organizations with respect to any loan dispersed to a student—

"(1) the date of disbursement and the amount of the loan;

"(2) the date of default and information concerning collection of the loan, including information concerning the repayment status of any defaulted loan on which the Secretary has made a payment pursuant to section 430(a) or the guaranty agency has made a payment to the previous holder of the loan; and

"(3) the date of cancellation of the note upon completion of repayment by the borrower of the loan or payment by the Secretary pursuant to section 437.

"(b) Such agreements may also provide for the disclosure by such organizations to the Secretary, a guaranty agency, eligible lender, or subsequent holder upon receipt of a notice under subsection (a)(2) that such a loan is in default, or information which may assist the Secretary, guaranty agency, eligible lender, or subsequent holder in collecting the loan.

"(c) Agreements entered into pursuant to this section shall contain such provisions as may be necessary to ensure that—

"(1) no information is disclosed by the Secretary, guaranty agency, eligible lender, or subsequent holder unless its accuracy and completeness have been verified and the Secretary, guaranty agency, eligible lender, or subsequent holder has determined that disclosure would carry out the purpose of this section;

"(2) as to any information so disclosed, such organizations will be promptly notified of, and will promptly record, any change submitted by the Secretary, guaranty agency, eligible lender, or subsequent holder with respect to such information, as required by section 611 of the Fair Credit Reporting Act (15 U.S.C. 168i);

"(3) no use will be made of any such information which would result in the use of collection practices with respect to such a borrower that are not fair and reasonable or that involve harassment, intimidation, false or misleading representations, or unnecessary communication concerning the existence of such loan or concerning such information; and

"(4) with regard to notices of default under subsection (a)(2) of this section, except for disclosures made to obtain the borrower's location, the Secretary, guaranty agency, eligible lender, or subsequent holder (A) shall not disclose any such information until the Secretary, guaranty agency, eligible lender, or subsequent holder has notified the borrower that such information will be disclosed to credit bureau organizations unless the borrower enters into repayment of the loan, but (B) shall, if the borrower has not entered into repayment within a reasonable period of time, but not less than thirty days, from the date such notice has been sent to the borrower, disclose the information required by this subsection.

"(d) A guaranty agency, eligible lender, subsequent holder, or credit bureau organization which discloses or receives information under this section shall not be considered a Government contractor within the meaning of section 552a of title 5 of the United States Code (the Privacy Act of 1974).

"(e) The Secretary and each guaranty agency, eligible lender, and subsequent holder is authorized to disclose information described in subsections (a) and (b) concerning student borrowers to the eligible institutions such borrowers attend or previously attended.

"(f) Notwithstanding paragraphs (4) and (6) of subsection (a) of section 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c(a)(4), (a)(6)), a consumer reporting agency may make a report containing information received from the Secretary, or a guaranty agency, eligible lender, or subsequent holder regarding the status of a borrower's account on a loan insured or guaranteed under this part until the later of—

"(1) seven years from the date on which the agency paid a claim to the holder on insurance or the guaranty, or

"(2) seven years from the date the Secretary, guaranty agency, eligible lender, or subsequent holder first reported the account to a consumer reporting agency.".

SEC. 16024. CIVIL PENALTIES.

Section 432 of the Act is further amended by adding at the end thereof the following new subsection:

"(f)(1) Upon determination, after reasonable notice and opportunity for a hearing on the record, that a lender or a guaranty agency—

"(A) has violated or failed to carry out any provision of this part or any regulation prescribed under this part, or

"(B) has engaged in substantial misrepresentation of the nature of its financial charges,

the Secretary may impose a civil penalty upon such lender or agency of not to exceed $15,000 for each violation, failure, or misrepresentation.

"(2) No civil penalty may be imposed under paragraph (1) of this subsection unless it is determined that—

"(A) the violation, failure or substantial misrepresentation referred to in that paragraph resulted from—

"(i) a clear and consistent pattern or practice of violations, failures, or substantial misrepresentations in which the lender or guaranty agency did not maintain procedures reasonably adapted to avoid the violation, failure, or substantial representation;

"(ii) gross negligence; or

"(iii) willful actions on the part of the lender or guaranty agency; and

"(B) the violation, failure, or substantial misrepresentation is material.

"(3) A lender or guaranty agency has no liability under paragraph (1) of this subsection if, prior to the institution of an action under that paragraph, the lender or guaranty agency cures or corrects the violation or failure or notifies the person who received the substantial misrepresentation of the actual nature of the financial charges involved.

"(4) For the purposes of paragraph (1) of this subsection, violations, failures, or substantial misrepresentations arising from a specific practice of a lender or guaranty agency shall be deemed to be a single violation, failure, or substantial misrepresentation even if the violation, failure, or substantial misrepresentation affects more than one loan or more than one borrower, or both, and the Secretary may only impose a single civil penalty for each such violation, failure, or substantial misrepresentation.

"(5) If a loan affected by a violation, failure, or substantial misrepresentation is assigned to another holder, the lender or guaranty agency responsible for the violation, failure, or substantial misrepresentation shall remain liable for any civil money penalty provided for under paragraph (1) of this subsection, but the assignee shall not be liable for any such civil money penalty.

"(6) Until a matter is referred to the Attorney General, any civil penalty under paragraph (1) of this subsection may be compromised by the Secretary. In determining the amount of such penalty, or the amount agreed upon in compromise, the Secretary shall consider the appropriateness of the penalty to the resources of the lender or guaranty agency subject to the determination; the gravity of the violation, failure, or substantial misrepresentation; the frequency and persistence of the violation, failure, or substantial misrepresentation; and the amount of any losses resulting from the violation, failure, or substantial misrepresentation. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the lender or agency charged (unless the lender or agency has in the case of a final agency determination commenced proceedings for judicial review within 90 days of the determination, in which case the deduction may not be made during the pendency of the proceeding).".

SEC. 16025. ASSIGNMENT AND REFERRAL OF NDSL LOANS FOR COLLECTION.

Section 463(a)(5) of the Act is amended to read as follows:

"(5) provide that where a note or written agreement evidencing a loan has been in default despite due diligence on the part of the institution in attempting collection thereon—

"(A) if the institution has knowingly failed to maintain an acceptable collection record with respect to such loan, as determined by the Secretary in accordance with criteria established by regulation, the Secretary may—

"(i) require the institution to assign such note or agreement to the Secretary, without recompense; and

"(ii) apportion any sums collected on such a loan (less an amount not to exceed 30 per centum of any sums collected to cover the Secretary's collection costs) among other institutions in accordance with section 462; or

"(B) if the institution is not one described in clause (A), the Secretary may—

"(i) allow such institution to transfer its interest in such loan to the Secretary, for collection, and the Secretary may use any collections thereon (less an amount not to exceed 30 per centum of any sums collected to cover the Secretary's collection costs) to make allocations to institutions of additional capital contributions in accordance with section 462; or

"(ii) allow such institution to refer such note or agreement to the Secretary, without recompense, except that any sums collected on such a loan (less an amount not to exceed 30 per centum of any sums collected to cover the Secretary's collection costs) shall be repaid to such institution no later than 180 days after collection by the Secretary and treated as an additional capital contribution;".

SEC. 16026. REPORTING BY CONSUMER REPORTING AGENCY ON NDSL LOANS.

Section 463(c) of the Act is amended by adding at the end the following new paragraph:

"(3) Notwithstanding paragraphs (4) and (6) of subsection (a) of section 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c(a)(4), (a)(6)), a consumer reporting agency may make a report containing information received from the Secretary regarding the status of a borrower's account on a loan made under this part until the later of—

"(A) seven years from the date on which the Secretary accepted an assignment or referral of a loan, or

"(B) seven years from the date the Secretary first reported the account to a consumer reporting agency, if that account had not been previously reported by any other holder of the note.".

SEC. 16027. DEFAULT PENALTY ON NDSL LOANS.

Section 463A(a)(7) of the Act is amended by inserting immediately before the semicolon at the end thereof the following: "and a description of any penalty imposed as a consequence of default, such as liability for expenses reasonably incurred in attempts by the Secretary or institutions to collect on a loan".

SEC. 16028. NDSL LOAN AGREEMENTS.

(a) Charges for Late Payments.—Section 464(c)(1)(H) of the Act is amended to read as follows:

"(H) pursuant to regulations of the Secretary, shall provide for an assessment of a charge with respect to the loan for failure of the borrower to pay all or part of an installment when due, which shall include the expenses reasonably incurred in attempting collection of the loan, to the extent permitted by the Secretary, except that no charge imposed under this clause shall exceed 20 per centum of the amount of the monthly payment of the borrower; and".

(b) Conforming Amendment.—Section 464(c)(4) of the Act is amended to read as follows:

"(4) The institution may elect—

"(A) to add the amount of any charge imposed under paragraph (1)(H) to the principal amount of the loan as of the first day after the day on which the installment was due and to notify the borrower of the assessment of the charge; or

"(B) to make the amount of the charge payable to the institution not later than the due date of the next installment.".

SEC. 16029. REFERRAL OF NDSL LOANS FOR COLLECTION.

Section 467 of the Act is amended to read as follows:

"COLLECTION OF DEFAULTED LOANS

"Sec. 467. (a) With respect to any loan—

"(1) which was made under this part, and

"(2) which is referred, transferred, or assigned to the Secretary by an institution with an agreement under section 463(a), the Secretary is authorized to attempt to collect such loan by any means authorized by law for collecting claims of the United States (including referral to the Attorney General for litigation) and under such terms and conditions as the Secretary may prescribe, including reimbursement for expenses reasonably incurred in attempting such collection.

"(b) The Secretary shall continue to attempt to collect any loan referred, transferred, or assigned under paragraph (5)(A), (5)(B)(i), or (6) of section 463(a) until all appropriate collection efforts, as determined by the Secretary, have been expended.".

Subtitle C—Savings Related to General Provisions

SEC. 16031. EXCLUSION OF LIQUIDATION PROCEEDS FROM FAMILY CONTRIBUTION COMPUTATIONS.

Section 482 of the Act is amended by adding at the end thereof the following new subsection:

"(f) The Secretary shall, within 30 days after the date of enactment of this subsection, promulgate special regulations to permit, in the computation of family contributions for the programs under subpart 1 of part A and part B of this title for any academic year beginning on or after July 1, 1985, the exclusion from family income of any proceeds of a sale of farm or business assets of that family if such sale results from a voluntary or involuntary foreclosure, forfeiture, or bankruptcy.".

SEC. 16032. ADDITIONAL ELIGIBILITY REQUIREMENTS FOR STUDENT LOANS.

(a) Student Identification.—Section 484(a) of the Act is amended—

(1) by striking out the word "such" each place it appears in paragraph (4) and inserting in lieu thereof "any"; and

(2) by striking out "(which need not be notarized)" in paragraph (5) and inserting in lieu thereof "(which need not be notarized but which shall include such student's social security number or, if the student does not have a social security number, such student's student identification number)".

(b) Eligibility Determinations.—Section 484 of the Act is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) In order to be eligible to receive any loan under this title (other than a loan under section 428B or 428C) for any period of enrollment, a student who is not a graduate or professional student (as defined in regulations of the Secretary), and who is enrolled in a program at an institution which has a participation agreement with the Secretary to make awards under subpart 1 of part A of this title, shall—

"(1) have received a determination of eligibility or ineligibility for a grant under such subpart 1 for such period of enrollment; or

"(2) have (A) filed an application with the Pell Grant processor for such institution for such enrollment period; and (B) received from the financial aid administrator of the institution a preliminary determination of the student's eligibility or ineligibility for a grant under such subpart 1.".

(c) Conforming Amendment.—Section 428(a)(2)(C)(i) of the Act is amended by striking out "subparts 1 and 2 of part A," and inserting in lieu thereof "subpart 1 of part A (as determined in accordance with section 484(b)), subpart 2 of part A,".

SEC. 16033. STATUTE OF LIMITATIONS.

Part F of title IV of the Act is amended by adding immediately after section 484 the following new section:

"STATUTE OF LIMITATIONS

"Sec. 484A. (a) Notwithstanding any provision of State law that would set an earlier deadline for filing suit—

"(1) an institution which receives funds under this title may file suit for collection of a refund due from a student on a grant made or work assistance awarded under this title during a period of time extending at least until a date six years (exclusive of periods during which the State statute of limitations period otherwise applicable to the suit would be tolled under State law) after the date the refund first became due;

"(2) a guaranty agency which has an agreement with the Secretary under section 428(c) may file suit for collection of the amount due from a borrower on a loan made under part B of this title during a period of time extending at least until a date six years (exclusive of periods during which the State statute of limitations period otherwise applicable to the suit would be tolled under State law) after the date such guaranty agency reimburses the previous holder of the loan for its loss on account of the default of the borrower; and

"(3) an institution which has an agreement with the Secretary pursuant to section 463(a) may file suit for collection of the amount due from a borrower on a loan made under part E of this title during a period of time extending at least until a date six years (exclusive of periods during which the State statute of limitations period otherwise applicable to the suit would be tolled under State law) after the date of the default of the borrower with respect to that amount; and

"(4) subject to the provisions of section 2416 of title 28 of the United States Code, the Attorney General may file suit—

"(A) for payment of a refund due from a student on a grant made under this title until six years following the date on which the refund first became due;

"(B) for collection of the amount due the Secretary from a borrower pursuant to section section 428(c)(2)(D) of this title until six years following the date on which the loan is assigned to the Secretary under part B of this title; and

"(C) for collection of the amount due from a borrower on a loan made under this part until six years following the date on which the loan is assigned, transferred, or referred to the Secretary under part E of this title.

"(b) Notwithstanding any provision of State law to the contrary—

"(1) a borrower who has defaulted on a loan made under this title shall be required to pay, in addition to other charges specified in this title, reasonable collection costs; and

"(2) in collecting any obligation arising from a loan made under part B of this title, a guaranty agency or the Secretary shall not be subject to a defense raised by any borrower based on a claim of infancy.".

SEC. 16034. PROGRAM PARTICIPATION AGREEMENTS.

(a) USE OF INTEREST ON FUNDS RECEIVED.—Section 487(a)(1) of the Act is amended to read as follows:

"(1) The institution will use funds received by it for any program under this title and any interest or other earnings thereon solely for the purposes specified in, and in accordance with the provision of, that program.".

(b) AUDIT AND RECOVERY OF FUNDS.—Section 487(b)(1) of the Act is amended by striking out subparagraph (A) and inserting in lieu thereof the following:

"(A)(i) except as provided in clause (ii), a financial and compliance audit of an eligible institution, with regard to any funds obtained by it under this title or obtained from a student or a parent who has a loan insured or guaranteed by the Secretary under this title, at least once every two years and covering the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organization, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary; or

"(ii) with regard to an eligible institution which is audited under chapter 75 of title 31, United States Code, deeming such audit to satisfy the requirements of clause (i) for the period covered by such audit;".

Subtitle D—effective dates

SEC. 16041. EFFECTIVE DATES.

(a) GENERAL RULE.—Except as otherwise provided in this section, the amendments made by this subtitle shall take effect on the date of enactment of this Act.

(b) PROSPECTIVE PROVISIONS; LOANS.—(1) The amendments made by sections 16012, 16027, and 16028 shall apply to loans to cover the cost of attendance for any period of enrollment beginning on or after January 1, 1986.

(2) The amendments made by section 16013 shall apply to loans made on or after July 1, 1986.

(c) RETROACTIVE PROVISIONS; LOANS.—(1) The amendment made by section 16015 shall apply to any fiscal year beginning after September 30, 1984.

(2) The amendments made by sections 16021 through 16026, 16029, and 16032(b) shall apply to all loans, including loans made before the enactment of this Act, and shall take effect 90 days after the enactment of this Act.

(d) PROSPECTIVE PROVISION; ALL ASSISTANCE.—The amendment made by section 16032(a) shall apply to grants, loans, or work assistance to cover the cost of attendance for any period of enrollment beginning on or after January 1, 1986.

(e) RETROACTIVE PROVISION; GRANTS.—The amendment made by section 16033 shall apply to all grants, including grants awarded before the enactment of this Act, and shall take effect 90 days after the enactment of this Act.

(f) RETROACTIVE PROVISIONS; ALL ASSISTANCE.—The amendment made by section 16034 shall apply to all grants, loans, or work assistance, including such assistance awarded before the enactment of this Act, and shall take effect 90 days after the enactment of this Act.

TITLE XVII—GRADUATE MEDICAL EDUCATION COUNCIL AND TECHNICAL AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT

SEC. 17001. COUNCIL ON GRADUATE MEDICAL EDUCATION.

Title VII of the Public Health Service Act is amended by adding at the end thereof the following new part:

"PART H—GRADUATE MEDICAL EDUCATION

"COUNCIL ON GRADUATE MEDICAL EDUCATION

"SEC. 799. (a) There is established the Council on Graduate Medical Education (hereafter in this section referred to as the 'Council'). The Council shall—

"(1) prior to July 1, 1988, and every three years thereafter, provide advice and make recommendations to the Secretary and to the Committees on Labor and Human Resources, and Finance of the Senate and the Committees on Energy and Commerce and Ways and Means of the House of Representatives, with respect to—

"(A) the supply and distribution of physicians in the United States;

"(B) current and future shortages or excesses of physicians in medical and surgical specialties and subspecialties;

"(C) issues relating to foreign medical school graduates;

"(D) appropriate Federal policies with respect to the matters specified in subparagraphs (A), (B), and (C), including policies concerning changes in the financing of undergraduate and graduate medical education programs and changes in the types of medical education training in graduate medical education programs;

"(E) appropriate efforts to be carried out by hospitals, schools of medicine, schools of osteopathy, and accrediting bodies with respect to the matters specified in subparagraphs (A), (B), and (C), including efforts for changes in undergraduate and graduate medical education programs; and

"(F) deficiencies in, and needs for improvements in, existing data bases concerning the supply and distribution of, and postgraduate training programs for, physicians in the United States and steps that should be taken to eliminate those deficiencies; and

"(2) encourage entities providing graduate medical education to conduct activities to voluntarily achieve the recommendations of the Council under paragraph (1)(E).

"(b) The Council shall be composed of—

"(1) the Assistant Secretary for Health or the designee of the Assistant Secretary;

"(2) the Administrator of the Health Care Financing Administration;

"(3) the Chief Medical Director of the Veterans' Administration;

"(4) 6 members appointed by the Secretary to include representatives of practicing primary care physicians, national and specialty physician organizations, foreign medical graduates, and medical student and house staff associations; and

"(5) 4 members appointed by the Secretary to include representatives of schools of medicine and osteopathy and public and private teaching hospitals; and

"(6) 4 members appointed by the Secretary to include representatives of health insurers, business, and labor.

"(c)(1) Members of the Council appointed under paragraphs (4), (5), and (6) of subsection (b) shall be appointed for a term of 4 years, except that the term of office of the members first appointed shall expire, as designated by the Secretary at the time of appointment, 4 at the end of one year, 4 at the end of 2 years, 3 at the end of 3 years, and 3 at the end of 4 years.

"(2) The Secretary shall appoint the first members to the Council under paragraphs (4), (5), and (6) of subsection (b) within 60 days after the date of enactment of this section.

"(d) The Council shall elect one of its members as Chairman of the Council.

"(e) Nine members of the Council shall constitute a quorum, but a lesser number may hold hearings.

"(f) Any vacancy in the Council shall not affect its power to function.

"(g) Each member of the Council who is not otherwise employed by the United States Government shall receive compensation at a rate equal to the daily rate prescribed for GS-18 under the General Schedule under section 5332 of title 5, United States Code, for each day, including traveltime, such member is engaged in the actual performance of duties as a member of the Council. A member of the Council who is an officer or employee of the United States Government shall serve without additional compensation. All members of the Council shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

"(h)(1) In order to carry out the provisions of this section, the Council is authorized to—

"(A) collect such information, hold such hearings, and sit and act at such times and places, either as a whole or by subcommittee, and request the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents as the Council or such subcommittee may consider available; and

"(B) request the cooperation and assistance of Federal departments, agencies, and instrumentalities, and such departments, agencies, and instrumentalities are authorized to provide such cooperation and assistance.

"(2) The Council shall coordinate activities carried out under this section with the activities of the National Advisory Council on Health Professions Education under section 702 and with the activities of the Secretary under section 708. The Secretary shall, in cooperation with the Council and pursuant to the recommendations of the Council, take such steps as are practicable to eliminate deficiencies in the data base established under section 708 and shall make available in its reports such comprehensive data sets as are developed pursuant to this section.

"(i) In the reports required under subsection (a), the Council shall specify its activities during the period for which the report is made.

"(j) The Council shall terminate on September 30, 1996."

SEC. 17002. SPECIAL PAY PROVISIONS.

(a) SERVICE IN THE INDIAN HEALTH SERVICE.—Section 208(a)(2)(B) of the Public Health Service Act (42 U.S.C. 210(a)(2)(B)) is amended by inserting "(other than an of-

ficer serving in the Indian Health Service)" after "Corps".

(2) The amendment made by paragraph (1) shall take effect as of October 7, 1985.

(b) EMPLOYEES AT THE GILLIS W. LONG HANSEN'S DISEASE CENTER.—Section 208(e) of the Public Health Service Act (42 U.S.C. 210(e)) is amended to read as follows:

"(e) Any civilian employee of the Service who is employed at the Gillis W. Long Hansen's Disease Center on the date of the enactment of the Consolidated Omnibus Budget Reconciliation Act of 1985 shall be entitled to receive, in addition to any compensation to which the employee may otherwise be entitled and for so long as the employee remains employed at the Center, an amount equal to one-fourth of such compensation.".

SEC. 17003. USE OF FISCAL AGENTS BY PUBLIC HEALTH SERVICE.

Title XXI of the Public Health Service Act is amended by adding at the end the following new section:

"USE OF FISCAL AGENTS

"SEC. 2116. (a) The Secretary may enter into contracts with fiscal agents—

"(1)(A) to determine the amounts payable to persons who, on behalf of the Indian Health Service, furnish health services to eligible Indians,

"(B) to determine the amounts payable to persons who, on behalf of the Public Health Service, furnish health services to individuals pursuant to section 319 or 322,

"(2) to receive, disburse, and account for funds in making payments described in paragraph (1),

"(3) to make such audits of records as may be necessary to assure that these payments are proper, and

"(4) to perform such additional functions as may be necessary to carry out the functions described in paragraphs (1) through (3).

"(b)(1) Contracts under subsection (a) may be entered into without regard to section 3709 of the Revised Statutes (41 U.S.C. 5) or any other provision of law requiring competition.

"(2) No such contract shall be entered into with an entity unless the Secretary finds that the entity will perform its obligations under the contract efficiently and effectively and will meet such requirements as to financial responsibility, legal authority, and other matters as he finds pertinent.

"(c) A contract under subsection (a) may provide for advances of funds to enable entities to make payments under the contract.

"(d) Subsections (d) and (e) of section 1842 of the Social Security Act shall apply to contracts with entities under subsection (a) in the same manner as they apply to contracts with carriers under that section.

"(e) In this section, the term 'fiscal agent' means a carrier described in section 1842(f)(1) of the Social Security Act and includes, with respect to contracts under subsection (a)(1)(A), an Indian tribe or tribal organization acting under contract with the Secretary under the Indian Self-Determination Act (Public Law 93-638).".

SEC. 17004. TECHNICAL REVISIONS RELATING TO EMERGENCY MEDICAL SERVICES FOR CHILDREN.

Section 1910 of the Public Health Service Act (42 U.S.C. 300w-9) is amended—

(1) by striking out "grant to not more than four States in any fiscal year" in the first sentence of subsection (a) and inserting in lieu thereof "not more than four grants in any fiscal year to States or accredited schools of medicine in States";

(2) by adding at the end of subsection (a) the following new sentence: "Only one grant under this subsection may be made in a State (to a State or to a school of medicine in such State) in any fiscal year.";

(3) by striking out "other States" in subsection (b) and inserting in lieu thereof "States in which grants under such subsection have not been made";

(4) by redesignating subsection (c) as subsection (d); and

(5) by inserting after subsection (b) the following new subsection:

"(c) For purposes of this section—

"(1) the term 'school of medicine' has the same meaning as in section 701(4); and

"(2) the term 'accredited' has the same meaning as in section 701(5).".

TITLE XVIII—SMALL BUSINESS PROGRAMS

SEC. 18001. SMALL BUSINESS ADMINISTRATION PROGRAM AND AUTHORIZATION LEVELS.

Section 20 of the Small Business Act is amended by adding the following new subsections:

"(u) The following program levels are authorized for fiscal year 1986—

"(1) for the programs authorized by section 7(a) of this Act, the Administration is authorized to make $60,000,000 in direct and immediate participation loans; and of such sum, the Administration is authorized to make $15,000,000 in loans as provided in paragraph (10), $25,000,000 in loans as provided in paragraph (11), and $20,000,000 in loans to disabled veterans and Vietnam era veterans as defined in section 1841, title 38, United States Code, under the general terms and conditions of title III of Public Law 97-72;

"(2) for the programs authorized by section 7(a) of this Act and section 503 of the Small Business Investment Act of 1958, the Administration is authorized to make $2,971,000,000 in deferred participation loans and guarantees of debentures; and of such sum, the Administration is authorized to make $5,000,000 in loans as provided in paragraph (10), $60,000,000 in loans as provided in paragraph (11), $15,000,000 in loans as provided in paragraph (12), $400,000,000 in loans as provided in paragraph (13) and guarantees of debentures as provided in section 503;

"(3) for the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $41,000,000 in direct purchases of debentures and preferred securities and to make $250,000,000 in guarantees of debentures;

"(4) for the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $1,050,000,000; and

"(5) for the programs authorized in sections 404 and 405 of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $75,000,000.

"(v) There are authorized to be appropriated to the Administration for fiscal year 1986, $515,000,000. Of such sum, $295,000,000 shall be available for the purpose of carrying out the programs referred to in paragraphs (1) through (3) of subsection (u); $12,000,000 shall be available for the purposes of carrying out the provisions of section 412 of the Small Business Investment Act of 1958; and $208,000,000 shall be available for salaries and expenses of the Administration. There also are hereby authorized to be appropriated such sums as may be necessary and appropriate to carry out the provisions and purposes, including administrative expenses, of sections 7(b)(1) and 7(b)(2) of this Act; and there are authorized to be transferred from the disaster loan revolving funds such sums as may be necessary and appropriate for such administrative expenses.

"(w) The following program levels are authorized for fiscal year 1987—

"(1) for the programs authorized by section 7(a) of this Act, the Administration is authorized to make $70,000,000 in direct and immediate participation loans; and of such sum, the Administration is authorized to make $15,000,000 in loans as provided in paragraph (10), $35,000,000 in loans as provided in paragraph (11), and $20,000,000 in loans to disabled veterans and Vietnam era veterans as defined in section 1841, title 38, United States Code, under the general terms and conditions of title III of Public Law 97-72;

"(2) for the programs authorized by section 7(a) of this Act and section 503 of the Small Business Investment Act of 1958, the Administration is authorized to make $3,134,000,000 in deferred participation loans and guarantees of debentures; and of such sum, the Administration is authorized to make $5,000,000 in loans as provided in paragraph (10), $63,000,000 in loans as provided in paragraph (11), $16,000,000 in loans as provided in paragraph (12), $450,000,000 in loans as provided in paragraph (13) and guarantees of debentures as provided in section 503;

"(3) for the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $41,000,000 in direct purchases of debentures and preferred securities and to make $261,000,000 in guarantees of debentures;

"(4) for the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $1,096,000,000; and

"(5) for the programs authorized in sections 404 and 405 of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $75,000,000.

"(x) There are authorized to be appropriated to the Administration for fiscal year 1987, $605,000,000. Of such sum, $381,000,000 shall be available to carry out the programs referred to in paragraphs (1) through (3) of subsection (w); $14,000,000 shall be available to carry out the provisions of section 412 of the Small Business Investment Act of 1958; and $210,000,000 shall be available for salaries and expenses of the Administration. There also are hereby authorized to be appropriated such sums as may be necessary and appropriate to carry out the provisions and purposes, including administrative expenses, of sections 7(b)(1) and 7(b)(2) of this Act; and there are authorized to be transferred from the disaster loan revolving funds such sums as may be necessary and appropriate for such administrative expenses.

"(y) The following program levels are authorized for fiscal year 1988—

"(1) for the programs authorized by section 7(a) of this Act, the Administration is authorized to make $75,000,000 in direct and immediate participation loans; and of such sum, the Administration is authorized to make $15,000,000 in loans as provided in paragraph (10), $40,000,000 in loans as provided in paragraph (11), and $20,000,000 in loans to disabled veterans and Vietnam era veterans as defined in section 1841, title 38, United States Code, under the general terms

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and conditions of title III of Public Law 97-72;

"(2) for the programs authorized by section 7(a) of this Act and section 503 of the Small Business Investment Act of 1958, the Administration is authorized to make $3,245,000,000 in deferred participation loans and guarantees of debentures; and of such sum, the Administration is authorized to make $5,000,000 in loans as provided in paragraph (10), $65,000,000 in loans as provided in paragraph (11), $16,000,000 in loans as provided in paragraph (12), $450,000,000 in loans as provided in paragraph (13) and guarantees of debentures as provided in section 503;

"(3) for the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $41,000,000 in direct purchases of debentures and preferred securities and to make $272,000,000 in guarantees of debentures;

"(4) for the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $1,142,000,000; and

"(5) for the programs authorized in sections 404 and 405 of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $75,000,000.

"(z) There are authorized to be appropriated to the Administration for fiscal year 1988, $634,000,000. Of such sum, $409,000,000 shall be available to carry out the programs referred to in paragraphs (1) through (3) of subsection (y); $13,000,000 shall be available to carry out the provisions of section 412 of the Small Business Investment Act of 1958; and $212,000,000 shall be available for salaries and expenses of the Administration. There also are hereby authorized to be appropriated such sums as may be necessary and appropriate for the carrying out of the provisions and purposes, including administrative expenses, of sections 7(b)(1) and 7(b)(2) of this Act; and there are authorized to be transferred from the disaster loan revolving funds such sums as may be necessary and appropriate for such administrative expenses.".

SEC. 18002. TECHNICAL AND CLERICAL AMENDMENTS.

Section 20 of the Small Business Act is amended—

(1) in subsection (t), as added by section 302 of Public Law 98-270—

(A) by inserting "(1)" after "(t)";

(B) by striking out "each of fiscal years 1985 and 1986," and inserting in lieu thereof "fiscal year 1985"; and

(C) by striking out "for each of such years"; and

(2) in subsection (t), as added by section 3 of Public Law 98-395—

(A) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively; and

(B) by redesignating such subsection (t) as paragraph (2).

SEC. 18003. DETERMINATION OF LABOR SURPLUS AREAS.

(a) IN GENERAL.—Section 15 of the Small Business Act is amended by adding at the end thereof the following new subsection:

"(n) For purposes of this section, the determination of labor surplus areas shall be made on the basis of the criteria in effect at the time of the determination, except that any minimum population criteria shall not exceed twenty-five thousand. Such determination, as modified by the preceding sentence, shall be made by the Secretary of Labor.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the ninetieth day after the date of the enactment of this Act.

SEC. 18004. FEDERAL FINANCING BANK PURCHASE OF GUARANTEED OBLIGATIONS.

(a) IN GENERAL.—Title III of the Small Business Investment Act of 1958 is amended by adding at the end thereof the following new section:

"GUARANTEED OBLIGATIONS NOT ELIGIBLE FOR PURCHASE BY FEDERAL FINANCING BANK

"SEC. 320. Nothing in any provision of law shall be construed to authorize the Federal Financing Bank to acquire after September 30, 1985—

"(1) any obligation the payment of principal or interest on which has at any time been guaranteed in whole or in part under this title,

"(2) any obligation which is an interest in any obligation described in paragraph (1), or

"(3) any obligation which is secured by, or substantially all of the value of which is attributable to, any obligation described in paragraph (1) or (2).".

(b) CLERICAL AMENDMENT.—The table of sections for title III is amended by adding at the end thereof the following new item:

"Sec. 320. Guaranteed obligations not eligible for purchase by Federal Financing Bank.".

SEC. 18005. ISSUANCE AND GUARANTEE OF TRUST CERTIFICATES.

(a) IN GENERAL.—Title III of the Small Business Investment Act of 1958 is amended by adding at the end thereof the following new section:

"ISSUANCE AND GUARANTEE OF TRUST CERTIFICATES

"SEC. 321. (a) The Administration is authorized to issue trust certificates representing ownership of all or a fractional part of debentures issued by small business investment companies and guaranteed by the Administration under this Act: Provided, That such trust certificates shall be based on and backed by a trust or pool approved by the Administration and composed solely of guaranteed debentures.

"(b) The Administration is authorized, upon such terms and conditions as are deemed appropriate, to guarantee the timely payment of the principal of and interest on trust certificates issued by the Administration or its agent for purposes of this section. Such guarantee shall be limited to the extent of principal and interest on the guaranteed debentures which compose the trust or pool. In the event that a debenture in such trust or pool is prepaid, either voluntarily or in the event of default, the guarantee of timely payment of principal and interest on the trust certificates shall be reduced in proportion to the amount of principal and interest such prepaid debenture represents in the trust or pool. Interest on prepaid or defaulted debentures shall accrue and be guaranteed by the Administration only through the date of payment on the guarantee. During the term of the trust certificate, it may be called for redemption due to prepayment or default of all debentures constituting the pool.

"(c) The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under any guarantee of such trust certificates issued by the Administration or its agent pursuant to this section.

"(d) The Administration shall not collect any fee for any guarantee under this section: Provided, That nothing herein shall preclude any agent of the Administration from collecting a fee approved by the Administration for the functions described in subsection (f)(2) of this section.

"(e)(1) In the event the Administration pays a claim under a guarantee issued under this section, it shall be subrogated fully to the rights satisfied by such payment.

"(2) No State or local law, and no Federal law, shall preclude or limit the exercise by the Administration of its ownership rights in the debentures constituting the trust or pool against which the trust certificates are issued.

"(f) The Administration shall—

"(1) provide for a central registration of all trust certificates sold pursuant to this section; such central registration shall include with respect to each sale, identification of each development company; the interest rate paid by the development company; commissions, fees, or discounts paid to brokers and dealers in trust certificates; identification of each purchaser of the trust certificate; the price paid by the purchaser for the trust certificate; the interest rate paid on the trust certificate; the fees of any agent for carrying out the functions described in paragraph (2); and such other information as the Administration deems appropriate;

"(2) contract with an agent to carry out on behalf of the Administration the central registration functions of this section and the issuance of trust certificates to facilitate poolings; such agent shall provide a fidelity bond or insurance in such amounts as the Administration determines to be necessary to fully protect the interests of the Government;

"(3) prior to any sale, require the seller to disclose to a purchaser of a trust certificate issued pursuant to this section, information on the terms, conditions, and yield of such instrument; and

"(4) have the authority to regulate brokers and dealers in trust certificates sold pursuant to this section.".

(b) RULES AND REGULATIONS; CONSULTATION.—(1) Notwithstanding any law, rule, or regulation, within 60 days after the date of the enactment of this Act, the Small Business Administration shall develop and promulgate final rules and regulations to implement the central registration provisions provided for in section 321(f)(1) of the Small Business Investment Act, and shall contract with an agent for an initial period of not to exceed two years to carry out the functions provided for in sections 321(f)(2) and 321(f)(3) of such Act.

(2) Notwithstanding any law, rule, or regulation, within 60 days after the date of the enactment of this Act, the Small Business Administration also shall consult with representatives of appropriate Federal and State agencies and officials, the securities industry, financial institutions and lenders, and small business persons, and shall develop and promulgate final rules and regulations to implement sections 504 and 505 of the Small Business Investment Act.

(c) CLERICAL AMENDMENT.—The table of sections for title III of such Act is amended by adding at the end thereof the following new item:

"Sec. 321. Issuance and guarantee of trust certificates.".

SEC. 18006. TERMINATION OF AUTHORITY TO MAKE CERTAIN DISASTER ASSISTANCE LOANS.

(a) In General.—The Small Business Act is amended—

(1) in section (7)(b)—

(A) by striking out "The" after "(b)" and inserting in lieu thereof "Except as to agricultural enterprises as defined in section 18(b)(1) of this Act, the,";

(B) by striking out the semicolon at the end of paragraph (2) and inserting in lieu thereof a period; and

(C) by striking out paragraphs (3) and (4);

(2) in section 7(c)(4) by striking out the last, undesignated paragraph; and

(3) in section 18(a) by striking out all that follows "Federal Government," through "Consolidated Farm and Rural Development Act".

(b) Pipeline Loans or Previous Disasters.—Notwithstanding the amendments made by this section, sections 18002 and 18016, or any other provision of law, the Small Business Administration shall continue to accept, process, and approve loan applications under paragraphs (1) through (4) of subsection 7(b) of the Small Business Act and shall obligate and disburse loan funds on account of disasters declared before October 1, 1985, even if any such application is filed after the date of the enactment of this Act.

SEC. 18007. GUARANTEE FEE.

Section 7(a) of the Small Business Act is amended by adding at the end thereof the following new sentence:

"(16) The Administration shall collect a guarantee fee equal to two percent of the amount of the deferred participation share of any loan under this subsection other than a loan repayable in one year or less or a loan under paragraph (13). The fee shall be payable by the participating lending institution and may be charged to the borrower.".

SEC. 18008. PILOT PROGRAM INVOLVING SALE OF DEVELOPMENT COMPANY DEBENTURES.

(a) Pilot Program.—Title V of the Small Business Investment Act of 1958 is amended by adding the following new section:

"Sec. 504. (a) Notwithstanding any other law, rule, or regulation, the Administration shall conduct a pilot program involving the sale to investors, either publicly or by private placement, of debentures guaranteed pursuant to section 503 of the Small Business Investment Act of 1958 as follows—

"(1) of the program levels otherwise authorized by law for fiscal year 1986, an amount not to exceed $200,000,000; and

"(2) of the program levels otherwise authorized by law for fiscal year 1987, an amount not to exceed $295,000,000.

"(b) Nothing in any provision of law shall be construed to authorize the Federal Financing Bank to acquire—

"(1) any obligation the payment of principal or interest on which at any time has been guaranteed in whole or in part under section 503 of the Small Business Investment Act of 1958 and which is being sold pursuant to the provisions of the pilot program authorized in this section,

"(2) any obligation which is an interest in any obligation described in paragraph (1), or

"(3) any obligation which is secured by, or substantially all of the value of which is attributable to, any obligation described in paragraph (1) or (2).".

(b) Report on Pilot Programs.—The Administration shall report to the President and the Congress on the conduct of the pilot program established under subsection (a) not later than 90 days after the date on which the last sale is made pursuant to such subsection in each fiscal year, and unless a report has been made not later than October 1 of 1986 and 1987, the Administration shall make an interim report by such dates.

(c) Authority for Issuance of Trust Certificates.—Such title is further amended by adding at the end thereof the following new section:

"Sec. 505.(a) The Administration is authorized to issue trust certificates representing ownership of all of a fractional part of debentures issued by State or local development companies and guaranteed by the Administration under this Act: Provided, That such trust certificates shall be based on and backed by a trust or pool approved by the Administration and composed solely of guaranteed debentures.

"(b) The Administration is authorized, upon such terms and conditions as are deemed appropriate, to guarantee the timely payment of the principal of and interest on trust certificates issued by the Administration or its agent for purposes of this section. Such guarantee shall be limited to the extent of principal and interest on the guaranteed debentures which compose the trust or pool. In the event that a debenture in such trust or pool is prepaid, either voluntarily or in the event of default, the guarantee of timely payment of principal and interest on the trust certificates shall be reduced in proportion to the amount of principal and interest such prepaid debenture represents in the trust or pool. Interest on prepaid or defaulted debentures shall accrue and be guaranteed by the Administration only through the date of payment on the guarantee. During the term of the trust certificate, it may be called for redemption due to prepayment or default of all debentures constituting the pool.

"(c) The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under any guarantee of such trust certificates issued by the Administration or its agent pursuant to this section.

"(d) The Administration shall not collect any fee for any guarantee under this section: Provided, That nothing herein shall preclude any agent of the Administration from collecting a fee approved by the Administration for the functions described in subsection (f)(2) of this section.

"(e)(1) In the event the Administration pays a claim under a guarantee issued under this section, it shall be subrogated fully to the rights satisfied by such payment.

"(2) No State or local law, and no Federal law, shall preclude or limit the exercise by the Administration of its ownership rights in the debentures constituting the trust or pool against which the trust certificates are issued.

"(f) The Administration shall—

"(1) provide for a central registration of all trust certificates sold pursuant to this section; such central registration shall include with respect to each sale, identification of each development company; the interest rate paid by the development company; commissions, fees, or discounts paid to brokers and dealers in trust certificates; identification of each purchaser of the trust certificate; the price paid by the purchaser for the trust certificate; the interest rate paid on the trust certificate; the fees of any agent for carrying out the functions described in paragraph (2); and such other information as the Administration deems appropriate;

"(2) contract with an agent to carry out on behalf of the Administration the central registration functions of this section and the issuance of trust certificates to facilitate poolings; such agent shall provide a fidelity bond or insurance in such amounts as the Administration determines to be necessary to fully protect the interests of the Government;

"(3) prior to any sale, require the seller to disclose to a purchaser of a trust certificate issued pursuant to this section, information on the terms, conditions, and yield of such instrument; and

"(4) have the authority to regulate brokers and dealers in trust certificates sold pursuant to this section.".

(d) Rules and Regulations.—(1) Notwithstanding any law, rule, or regulation, within 60 days after the date of enactment of this act, the Small Business Administration shall develop and promulgate final rules and regulations to implement the central registration provisions provided for in section 505(f)(1) of the Small Business Investment Act, and shall contract with an agent for an initial period of not to exceed two years to carry out the functions provided for in section 505(f)(2) of such Act.

(2) Notwithstanding any law, rule or regulation, within 60 days after the date of enactment of this Act, the Small Business Administration also shall consult with representatives of appropriate Federal and State agencies and officials, the securities industry, financial institutions and lenders, and small business persons, and shall develop and promulgate final rules and regulations to implement sections 504 and 505 of the Small Business Investment Act.

SEC. 18009. MISREPRESENTATION AS A SMALL BUSINESS OR MINORITY CONCERN.

Section 16 of the Small Business Act is amended by adding to the end thereof the following new subsections:

"(d) Whoever misrepresents the status of any concern or person as a 'small business concern' or 'small business concern owned and controlled by socially and economically disadvantaged individuals', in order to obtain for oneself or another any—

"(1) prime contract to be awarded pursuant to section 9 or 15;

"(2) subcontract to be awarded pursuant to section 8(a);

"(3) subcontract that is to be included as part or all of a goal contained in a subcontracting plan required pursuant to section 8(d); or

"(4) prime or subcontract to be awarded as a result, or in furtherance, of any other provision of Federal law that specifically references section 8(d) for a definition of program eligibility,

shall be punished by a fine of not more than $50,000 or by imprisonment for not more than five years, or both.

"(e) Any representation of the status of any concern or person as a 'small business concern' or 'small business concern owned and controlled by socially and economically disadvantaged individuals' in order to obtain any prime contract or subcontract enumerated in subsection (d) of this section shall be in writing.".

SEC. 18010. REPORT CONCERNING ALTERNATIVE SOURCES FOR LOAN GUARANTEES.

Not later than June 30, 1986, the Administrator of the Small Business Administration shall submit to the Committees on Small Business of the Senate and the House of Representatives an internal report concerning—

(1) the options available to provide a guarantee on loans under section 7(a) of the Small Business Act from sources outside the Federal Government, together with such recommendations as the Administrator may have with respect to such options, including an evaluation of the feasibility of establishing a corporation owned by the Federal Government to make such guarantees; and

(2) the imposition, on each participating lender in the guaranteed loan program under section 7(a) of the Small Business Act, of an annual fee of between one-quarter of one percent and one percent of the value of the unpaid balance of any loan made under such program, particularly on the revenues that could be expected and whether such revenues could be used for a loss reserve fund or to defray the cost of administration of the program.

SEC. 18011. USER FEES.

(a) REPORT ON USER FEES.—Not later than September 30, 1986, the Small Business Administration shall submit to the Committees on Small Business of the Senate and the House of Representatives a report on user fees. The report shall specify for each fee which is currently being imposed or which is under consideration—

(1) the type of service provided by the Administration for which the fee is or may be charged;

(2) the amount of fee imposed or being considered;

(3) the formula for setting the fee; and

(4) the statutory or regulatory authority for the fee.

(b) REVIEW OF APPROPRIATENESS OF FEES.—The Administration shall review all other services provided by the Administration for which no fee is currently being imposed and include in the report its findings and recommendations as to—

(1) whether or not a fee should be imposed for each service; and

(2) whether statutory authority is needed to impose the fee.

SEC. 18012. UTILIZATION OF PROGRAM AUTHORITY.

Section 20(a) of the Small Business Act is amended—

(1) by inserting "(1)" after "SEC. 20. (a)"; and

(2) by adding at the end thereof the following:

"(2) Notwithstanding any other provision of law, the Administration shall enter into commitments for direct loans and to guarantee loans, debentures, payment of rentals, or other amounts due under qualified contracts and other types of financial assistance and enter into commitments to purchase debentures and preferred securities and to guarantee sureties against loss pursuant to programs under this Act and the Small Business Investment Act of 1958, in the full amounts provided by law subject only to (A) the availability of qualified applications, and (B) limitations contained in appropriations Acts. Nothing in this paragraph authorizes the Administration to reduce or limit its authority to enter into such commitments.".

SEC. 18013. BUSINESS LENDING REFORMS.

Section 7(a)(2) of the Small Business Act is amended—

(1) by striking out "$100,000" both places it appears and inserting in lieu thereof "$155,000";

(2) by striking out "90" in subparagraph (B) and inserting in lieu thereof "85";

(3) by striking out "90" in the proviso and inserting in lieu thereof "85"; and

(4) by inserting before the period the following:

"; Provided, further, That the Administration may reduce its participation below the per centums stated in this paragraph if the lender requests the reduction under the preferred lenders program or any successor thereto. As used in this sentence the term 'preferred lenders program' means a program under which, pursuant to a written agreement between the lender and the Administration, the lender has been delegated (1) complete authority to make and close loans with a guarantee from the Administration without obtaining the prior specific approval of the Administration, and (2) authority to service and liquidate such loans".

SEC. 18014. SURETY GUARANTEES.

Section 411 of the Small Business Investment Act of 1958 is amended—

(1) in subsection (a) by striking out "$1,000,000" and inserting in lieu thereof "$1,250,000"; and

(2) in subsection (e)(2) by striking out "$1,000,000" and inserting in lieu thereof "$1,250,000".

SEC. 18015. ELIGIBILITY OF SMALL BUSINESSES OWNED BY INDIAN TRIBES.

(a) CONSIDERATION OF INDIAN TRIBES.—Section 2(e)(1)(C) of the Small Business Act (15 U.S.C. 631(e)(2)(C)) is amended by inserting "Indian tribes," after "Native Americans,".

(b) CLARIFICATION OF DEFINITION OF "SOCIALLY AND ECONOMICALLY DISADVANTAGED SMALL BUSINESS CONCERN".—Paragraph (4) of section 8(a) of such Act (15 U.S.C. 637(a)(4)) is amended to read as follows:

"(4)(A) For purposes of this section, the term 'socially and economically disadvantaged small business concern' means any small business concern which meets the requirements of subparagraph (B) and—

"(i) which is at least 51 per centum owned by—

"(I) one or more socially and economically disadvantaged individuals, or

"(II) an economically disadvantaged Indian tribe, or

"(ii) in the case of any publicly owned business, at least 51 per centum of the stock of which is owned by—

"(I) one or more socially and economically disadvantaged individuals, or

"(II) an economically disadvantaged Indian tribe.

"(B) A small business concern meets the requirements of this subparagraph if the management and daily business operations of such small business concern are controlled by one or more—

"(i) socially and economically disadvantaged individuals described in subparagraph (A)(i)(I) or subparagraph (A)(ii)(I), or

"(ii) members of an economically disadvantaged Indian tribe described in subparagraph (A)(i)(II) or subparagraph (A)(ii)(II).".

(c) DETERMINATION OF ECONOMIC DISADVANTAGE OF AN INDIAN TRIBE.—Paragraph (6) of such Act (15 U.S.C. 637(a)(6)) is amended by adding at the end thereof the following new sentence: "In determining the economic disadvantage of an Indian tribe, the Administration shall consider, where available, information such as the following: the per capita income of members of the tribe excluding judgment awards, the percentage of the local Indian population below the poverty level, and the tribe's access to capital markets.".

(d) DEFINITION OF "INDIAN TRIBE".—Section 8(a) of such Act (15 U.S.C. 637(a)) is amended by adding at the end thereof the following new paragraph:

"(13) For purposes of this subsection, the term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village or regional or village corporation (within the meaning of the Alaska Native Claims Settlement Act) which—

"(A) is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians, or

"(B) is recognized as such by the State in which such tribe, band, nation, group, or community resides.".

SEC. 18016. SIZE STANDARD FOR AGRICULTURAL ENTERPRISES.

Section 3(a) of the Small Business Act is amended by inserting the following before the period at the end of the first sentence:

: "Provided, That notwithstanding any other provision of law, an agricultural enterprise shall be deemed to be a small business concern if it (including its affiliates) has annual receipts not in excess of $500,000".

SEC. 18017. ENCOURAGEMENT OF VETERANS BUSINESS RESOURCE COUNCILS.

(a) FINDINGS.—The Congress finds that—

(1) Veterans Business Resource Councils have been established in the following ten States: California, Ohio, Texas, New York, Massachusetts, Indiana, Louisiana, Maryland, Minnesota, and Missouri;

(2) the concept of Veterans Business Resource Councils to establish networks of veterans with business experience assisting fellow veterans seeking to establish small businesses merits serious consideration; and

(3) the majority of our Nation's Vietnam era veterans fall within the thirty-five to forty-five-year-old age range, in which most people decide to enter into small business ownership.

(b) RECOMMENDATIONS.—The Congress urges the Small Business Administration—

(1) to evaluate the effectiveness of the Veterans Business Resource Councils which are currently operating and to recommend improvements in their operations;

(2) to develop guidelines to assist in the establishment of Veterans Business Resource Councils; and

(3) to work with the remaining States and any interested organizations to encourage the establishment of Veterans Business Resource Councils in those States.

TITLE XIX—VETERANS' PROGRAMS

SEC. 19001. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE.

(a) SHORT TITLE.—This title may be cited as the "Veterans' Health-Care and Compensation Rate Amendments of 1985".

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SUBTITLE A—HEALTH CARE

SEC. 19011. ELIGIBILITY FOR HEALTH CARE OF VETERANS WITH NON-SERVICE-CONNECTED DISABILITIES.

(a) HOSPITAL CARE AND NURSING HOME CARE.—(1) Subsection (a) of section 610 is amended to read as follows:

"(a)(1) The Administrator shall furnish hospital care, and may furnish nursing home care, which the Administrator determines is needed—

"(A) to any veteran for a service-connected disability;

"(B) to a veteran whose discharge or release from the active military, naval, or air service was for a disability incurred or aggravated in line of duty, for any disability;

"(C) to a veteran who, but for a suspension pursuant to section 351 of this title (or both such a suspension and the receipt of retired pay), would be entitled to disability compensation, but only to the extent that such veteran's continuing eligibility for such care is provided for in the judgment or settlement described in such section, for any disability;

"(D) to a veteran who has a service-connected disability rated at 50 percent or more, for any disability;

"(E) to any other veteran who has a service-connected disability, for any disability;

"(F) to a veteran who is a former prisoner of war, for any disability;

"(G) to a veteran exposed to a toxic substance or radiation, as provided in subsection (e) of this section;

"(H) to a veteran of the Spanish-American War, the Mexican border period, or World War I, for any disability; and

"(I) to a veteran for a non-service-connected disability, if the veteran is unable to defray the expenses of necessary care as determined under section 622(a)(1) of this title.

"(2)(A) To the extent that resources and facilities are available, the Administrator may furnish hospital care and nursing home care which the Administrator determines is needed to a veteran for a non-service-connected disability if the veteran has an income level described in section 622(a)(2) of this title.

"(B) In the case of a veteran who is not described in paragraph (1) of this subsection or in subparagraph (A) of this paragraph, the Administrator may furnish hospital care and nursing home care which the Administrator determines is needed to the veteran for a non-service-connected disability—

"(i) to the extent that resources and facilities are otherwise available; and

"(ii) subject to the provisions of subsection (f) of this section.

"(3) In addition to furnishing hospital care and nursing home care described in paragraphs (1) and (2) of this subsection through Veterans' Administration facilities, the Administrator may furnish such hospital care in accordance with section 603 of this title and may furnish such nursing home care as authorized under section 620 of this title.".

(2) Such section is further amended by adding at the end the following new subsections:

"(f)(1) The Administrator may not furnish hospital care or nursing home care under this section to a veteran who is eligible for such care by reason of subsection (a)(2)(B) of this section unless the veteran agrees to pay to the United States the applicable amount determined under paragraph (2) of this subsection.

"(2) A veteran who is furnished hospital care or nursing home care under this section and who is required under paragraph (1) of this subsection to agree to pay an amount to the United States in order to be furnished such care shall be liable to the United States for an amount equal to the lesser of—

"(A) the cost of furnishing such care, as determined by the Administrator; and

"(B) the amount determined under paragraph (3) of this subsection.

"(3)(A) In the case of hospital care furnished during any 365-day period, the amount referred to in paragraph (2)(B) of this subsection is—

"(i) the amount of the inpatient Medicare deductible, plus

"(ii) one-half of such amount for each 90 days of care (or fraction thereof) after the first 90 days of such care during such 365-day period.

"(B) In the case of nursing home care furnished during any 365-day period, the amount referred to in paragraph (2)(B) of this subsection is the amount of the inpatient Medicare deductible for each 90 days of such care (or fraction thereof) during such 365-day period.

"(C)(i) Except as provided in clause (ii) of this subparagraph, in the case of a veteran who is admitted for nursing home care under this section after being furnished, during the preceding 365-day period, hospital care for which the veteran has paid the amount of the inpatient Medicare deductible under this subsection and who has not been furnished 90 days of hospital care in connection with such payment, the veteran shall not incur any liability under paragraph (2) of this subsection with respect to such nursing home care until—

"(I) the veteran has been furnished, beginning with the first day of such hospital care furnished in connection with such payment, a total of 90 days of hospital care and nursing home care; or

"(II) the end of the 365-day period applicable to the hospital care for which payment was made,

whichever occurs first.

"(ii) In the case of a veteran who is admitted for nursing home care under this section after being furnished, during any 365-day period, hospital care for which the veteran has paid an amount under subparagraph (A)(ii) of this paragraph and who has not been furnished 90 days of hospital care in connection with such payment, the amount of the liability of the veteran under paragraph (2) of this subsection with respect to the number of days of such nursing home care which, when added to the number of days of such hospital care, is 90 or less, is the difference between the inpatient Medicare deductible and the amount paid under such subparagraph until—

"(I) the veteran has been furnished, beginning with the first day of such hospital care furnished in connection with such payment, a total of 90 days of hospital care and nursing home care; or

"(II) the end of the 365-day period applicable to the hospital care for which payment was made,

whichever occurs first.

"(D) In the case of a veteran who is admitted for hospital care under this section after having been furnished, during the preceding 365-day period, nursing home care for which the veteran has paid the amount of the inpatient Medicare deductible under this subsection and who has not been furnished 90 days of nursing home care in connection with such payment, the veteran shall not incur any liability under paragraph (2) of this subsection with respect to such hospital care until—

"(i) the veteran has been furnished, beginning with the first day of such nursing home care furnished in connection with such payment, a total of 90 days of nursing home care and hospital care; or

"(ii) the end of the 365-day period applicable to the nursing home care for which payment was made,

whichever occurs first.

"(E) A veteran may not be required to make a payment under this subsection for hospital care or nursing home care furnished under this section during any 90-day period in which the veteran is furnished medical services under section 612(f) of this title to the extent that such payment would cause the total amount paid by the veteran under this subsection for hospital care and nursing home care furnished during that period and under section 612(f)(4) of this title for medical services furnished during that period to exceed the amount of the inpatient Medicare deductible in effect on the first day of such period.

"(4) Amounts collected or received on behalf of the United States under this subsection shall be deposited in the Treasury as miscellaneous receipts.

"(5) For the purposes of this subsection, the term 'inpatient Medicare deductible' means the amount of the inpatient hospital deductible in effect under section 1813(b) of the Social Security Act (42 U.S.C. 1395e(b)) on the first day of the 365-day period applicable under paragraph (3) of this subsection.

"(g) Nothing in this section requires the Administrator to furnish care to a veteran to whom another agency of Federal, State, or local government has a duty under law to provide care in an institution of such government.".

(b) Medical Services Furnished on an Outpatient or Ambulatory Basis.—(1) Subsection (a) of section 612 is amended—

(A) by striking out the first sentence and inserting in lieu thereof the following:

"(1) Except as provided in subsection (b) of this section, the Administrator may furnish such medical services as the Administrator determines are needed—

"(A) to any veteran for a service-connected disability (including a disability that was incurred or aggravated in line of duty and for which the veteran was discharged or released from the active military, naval, or air service); and

"(B) for any disability of a veteran who has a service-connected disability rated at 50 percent or more.";

(B) by designating the sentence beginning "The Administrator may also" as paragraph (2) and in such sentence striking out "The Administrator may also furnish to any such veteran" and inserting in lieu thereof "As part of medical services furnished to a veteran under paragraph (1) of this subsection, the Administrator may furnish to the veteran";

(C) by striking out the sentence beginning "In the case of"; and

(D) by adding at the end of such subsection the following:

"(3) In addition to furnishing medical services under this subsection through Veterans' Administration facilities, the Administrator may furnish such services in accordance with section 603 of this title.".

(2) Subsection (f) of such section is amended—

(A) by striking out "The Administrator, within the limits of Veterans' Administration facilities, may" and inserting in lieu thereof "(1) Except as provided in paragraph (4) of this subsection, the Administrator may";

(B) by redesignating clause (1) as clause (A), redesignating subclauses (A) and (B) of such clause as subclauses (i) and (ii), respectively, and inserting "and" at the end of such clause;

(C) by striking out clause (2);

(D) by redesignating clause (3) as clause (B);

(E) by designating the second sentence as paragraph (2) and in such sentence striking out "The Administrator may also furnish to

any such veteran" and inserting in lieu thereof "As part of medical services furnished to a veteran under paragraph (1) of this subsection, the Administrator may furnish to the veteran";

(F) by striking out the third sentence; and

(G) by adding at the end the following:

"(3) In addition to furnishing medical services under this subsection through Veterans' Administration facilities, the Administrator may furnish such services in accordance with section 603 of this title.

"(4)(A) The Administrator may not furnish medical services under this subsection (including home health services under paragraph (2) of this subsection) to a veteran who is eligible for hospital care under this chapter by reason of section 610(a)(2)(B) of this title unless the veteran agrees to pay to the United States the amount determined under subparagraph (B) of this paragraph.

"(B) A veteran who is furnished medical services under this subsection and who is required under subparagraph (A) of this paragraph to agree to pay an amount to the United States in order to be furnished such services shall be liable to the United States, in the case of each visit in which such services are furnished to the veteran, for an amount equal to 20 percent of the estimated average cost (during the calendar year in which the services are furnished) of an outpatient visit in a Veterans' Administration facility. Such estimated average cost shall be determined by the Administrator.

"(C) A veteran may not be required to make a payment under this paragraph for services furnished under this subsection during any 90-day period to the extent that such payment would cause the total amount paid by the veteran under this paragraph for medical services furnished during that period and under section 610(f) of this title for hospital and nursing home care furnished during that period to exceed the amount of the inpatient Medicare deductible in effect on the first day of such 90-day period.

"(D) This subsection does not apply with respect to home health services under this subsection to the extent that such services are for improvements and structural alterations.

"(E) For the purposes of this paragraph, the term 'inpatient Medicare deductible' means the amount of the inpatient hospital deductible in effect under section 1813(b) of the Social Security Act (42 U.S.C. 1395e(b)).

"(F) Amounts collected or received by the Veterans' Administration under this paragraph shall be deposited in the Treasury as miscellaneous receipts.".

(3) Subsection (g) of such section is amended to read as follows:

"(g)(1) The Administrator may furnish medical services which the Administrator determines are needed to a veteran—

"(A) who is a veteran of the Mexican border period or of World War I; or

"(B) who is in receipt of increased pension or additional compensation or allowances based on the need of regular aid and attendance or by reason of being permanently housebound (or who, but for the receipt of retired pay, would be in receipt of such pension, compensation, or allowance).

"(2) As part of medical services furnished to a veteran under paragraph (1) of this subsection, the Administrator may furnish to the veteran home health services under the terms and conditions set forth in subsection (f) of this section.

"(3) In addition to furnishing medical services under this subsection through Veterans' Administration facilities, the Administrator may furnish such services in accordance with section 603 of this title.".

(4) Subsection (i) of such section is amended by adding at the end the following:

"(6) To any veteran who is in receipt of pension under section 521 of this title.".

(c) Income Thresholds for Certain Non-Service-Connected Care.—(1) Section 622 is amended to read as follows:

"§622. Determination of inability to defray necessary expenses; income thresholds

"(a)(1) For the purposes of section 610(a)(1)(I) of this title, a veteran shall be considered to be unable to defray the expenses of necessary care if—

"(A) the veteran is eligible to receive medical assistance under a State plan approved under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

"(B) the veteran is in receipt of pension under section 521 of this title; or

"(C) the veteran's attributable income is not greater than the Category A threshold.

"(2) For the purposes of section 610(a)(2)(A) of this title, a veteran's income level is described in this paragraph if the veteran's attributable income is not greater than the Category B threshold.

"(b) For the purposes of this section:

"(1) The Category A threshold—

"(A) for the calendar year beginning on January 1, 1986, is—

"(i) $15,000 in the case of a veteran with no dependents; and

"(ii) $18,000 in the case of a veteran with one dependent, plus $1,000 for each additional dependent; and

"(B) for a calendar year beginning after December 31, 1986, is the amount in effect for purposes of this paragraph for the preceding calendar year as adjusted under subsection (c) of this subsection.

"(2) The Category B threshold—

"(A) for the calendar year beginning on January 1, 1986, is—

"(i) $20,000 in the case of a veteran with no dependents; and

"(ii) $25,000 in the case of a veteran with one dependent, plus $1,000 for each additional dependent; and

"(B) for a calendar year beginning after December 31, 1986, is the amount in effect for purposes of this paragraph for the preceding calendar year as adjusted under subsection (c) of this subsection.

"(c) Effective on January 1 of each year, the amounts in effect under paragraphs (1) and (2) of subsection (b) of this section shall be increased by the percentage by which the maximum rates of pension were increased under section 3112(a) of this title during the preceding calendar year.

"(d)(1) Notwithstanding the attributable income of a veteran, the Administrator may refuse to make a determination described in paragraph (2) of this subsection if the corpus of the estate of the veteran is such that under all the circumstances it is reasonable that some part of the corpus of the estate of the veteran be consumed for the veteran's maintenance.

"(2) A determination described in this paragraph is a determination—

"(A) that for the purposes of subsection (a)(1)(C) of this section a veteran's attributable income is not greater than the Category A threshold; or

"(B) that for the purposes of subsection (a)(2) of this section a veteran's attributable income is not greater than the Category B threshold.

"(3) For the purposes of paragraph (1) of this subsection, the corpus of the estate of a veteran shall be determined in the same manner as the manner in which determinations are made of the corpus of the estates of persons under section 522 of this title.

"(e)(1) In order to avoid a hardship to a veteran described in paragraph (2) of this subsection, the Administrator may deem the veteran to have an attributable income during the previous year not greater than the Category A threshold or the Category B threshold, as appropriate.

"(2)(A) A veteran is described in this paragraph for the purposes of subsection (a)(1) of this section if—

"(i) the veteran has an attributable income greater than the Category A threshold; and

"(ii) the current projections of such veteran's income for the current year are that the veteran's income for such year will be substantially below such threshold.

"(B) A veteran is described in this paragraph for the purposes of subsection (a)(2) of this section if—

"(i) the veteran has an attributable income greater than the Category B threshold; and

"(ii) the current projections of such veteran's income for the current year are that the veteran's income for such year will be substantially below such threshold.

"(f) For purposes of this section:

"(1) The term 'attributable income' means the income of a veteran for the previous year determined in the same manner as the manner in which a determination is made of the total amount of income by which the rate of pension for such veteran under section 521 of this title would be reduced if such veteran were eligible for pension under that section.

"(2) The term 'corpus of the estate of the veteran' includes the corpus of the estates of the veteran's spouse and dependent children, if any.

"(3) The term 'previous year' means the calendar year preceding the year in which the veteran applies for care or services under section 610(a) or 612(f) of this title.

"(g) For the purposes of sections 610(b)(2) and 624(c) of this title, the fact that a veteran is—

"(1) eligible to receive medical assistance under a State plan approved under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

"(2) a veteran with a service-connected disability; or

"(3) in receipt of pension under any law administered by the Veterans' Administration,

shall be accepted as sufficient evidence of such veteran's inability to defray necessary expenses.".

(2) The item relating to such section in the table of sections at the beginning of chapter 17 is amended to read as follows:

"622. Determination of inability to defray necessary expenses; income thresholds.".

(3) The first increase under subsection (c) of section 622 of title 38, United States Code, as added by paragraph (1), shall take effect on January 1, 1987.

(d) Conforming Amendments.—(1) Section 525(a) is amended by striking out "section 612(i)(5) of this title" and inserting in lieu thereof "clauses (5) and (6) of section 612(i)".

(2) Section 601(6) is amended—

(A) in clause (A)(i), by striking out "section 612(f)(1)(A)" and inserting in lieu thereof "section 612(f)(1)(A)(i)", and

(B) in clause (B)(ii), by striking out "section 612(f)(1)(B)" and inserting in lieu thereof "section 612(f)(1)(A)(ii)".

(3) Section 610(e) is amended—

(A) by striking out "may be furnished hospital care or nursing home care under subsection (a)(5)" in subparagraphs (A) and (B) of paragraph (1) and inserting in lieu thereof "is eligible for hospital care and nursing home care under subsection (a)(1)(G)"; and

(B) by striking out "subsection (a)(5)" in paragraphs (2) and (3) and inserting in lieu thereof "subsection (a)(1)(G)".

(4) Section 612A is amended—

(A) by striking out "clause (1)(B)" in subsection (b)(1) and inserting in lieu thereof "paragraph (1)(A)(ii)"; and

(B) by striking out "612(f)(2)" in subsection (e)(1) and inserting in lieu thereof "612(a)(1)(B)".

(5) Section 620(f)(1)(A)(ii) is amended by striking out "612(f)(2)" and inserting in lieu thereof "612(a)(1)(B)".

(6) Section 663(a)(1) is amended by striking out "612(f)(2)" both places it appears and inserting in lieu thereof "612(a)(1)(B)".

(e) Reports on Furnishing of Health Care and Implementation of Changes in Eligibility.—(1) The Administrator of Veterans' Affairs shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report for each of fiscal years 1986, 1987, and 1988 concerning the implementation of the amendments made by this section.

(2) Each report under paragraph (1) shall provide detailed information with respect to the fiscal year for which it is submitted regarding—

(A) the number of veterans who received health care from the Veterans' Administration during the fiscal year concerned (shown in total and separately for hospital care, nursing home care, outpatient care, and domiciliary care);

(B) with respect to veterans who applied for health care from the Veterans' Administration during such fiscal year but did not receive such care—

(i) the number of such veterans (shown in total and separately for hospital care, nursing home care, outpatient care, and domiciliary care); and

(ii) the primary reasons why such care was not furnished;

(C) the guidelines and processes for—

(i) implementation of the income-threshold criteria for Veterans' Administration health-care eligibility established by paragraph (1)(I) and subparagraphs (A) and (B) of paragraph (2) of section 610(a) of title 38, United States Code (as added by subsection (a)), paragraph (4) of section 612(f) of such title (as added by subsection (b)), and section 622 of such title (as amended by subsection (c)); and

(ii) the collection of payments required by section 610(f) of such title (as added by subsection (a)(2)) and by section 612(f)(4) of such title (as added by subsection (b)(2));

(D) the numbers and characteristics of, and the type and extent of health care furnished by the Veterans' Administration to, veterans eligible for such care by reason of any such authorities, including—

(i) with respect to those eligible by reason of each such authority, the numbers who applied for and were furnished such care, the type and extent of such care that they were furnished, and their incomes and family sizes; and

(ii) with respect to veterans eligible by reason of section 610(a)(2)(B) of such title, the average and total payments made by such veterans for such care (shown in total and separately for hospital care, nursing home care, and outpatient care); and

(E) the numbers of, and the type and extent of health care furnished by the Veterans' Administration to, veterans eligible for such care by reason of each clause of section 610(a)(1) of such title (shown in total and separately for veterans with service-connected disabilities for each percentile disability rating).

The report for fiscal year 1986 shall include information relating only to care furnished on or after April 1, 1986.

(3) Each report under this subsection shall be submitted not later than the February 1 following the end of the fiscal year for which it is required.

(f) Effective Date.—(1) Except as provided in paragraph (2), the amendments made by this section shall apply to hospital care, nursing home care, and medical services furnished on or after April 1, 1986.

(2)(A) The provisions of sections 610 and 622 of title 38, United States Code, as in effect on the day before the date of the enactment of this Act, shall apply with respect to hospital and nursing home care furnished on or after April 1, 1986, to veterans furnished such care or services on March 31, 1986, but only to the extent that such care is furnished with respect to the same episode of care for which it was furnished on March 31, 1986, as determined by the Administrator pursuant to regulations which the Administrator shall prescribe.

(B) During the months of April and May 1986, the Administrator may, in order to continue a course of treatment begun before April 1, 1986, furnish medical services to a veteran on an ambulatory or outpatient basis without regard to the amendments made by this section.

(C) For the purposes of this paragraph, the term "episode of care" means a period of consecutive days—

(i) beginning with the first day on which a veteran is furnished hospital or nursing home care; and

(ii) ending on the day of the veteran's discharge from the hospital or nursing home facility, as the case may be.

SEC. 19012. TECHNICAL REVISION OF AUTHORITY TO CONTRACT FOR HOSPITAL CARE AND MEDICAL SERVICES.

(a) Repeal of Contract Authority From Definition of Veterans' Administration Facilities.—Section 601 is amended—

(1) in paragraph (4)—

(A) by inserting "and" at the end of clause (A); and

(B) by striking out the semicolon at the end of clause (B) and all that follows through the end of such paragraph and inserting in lieu thereof a period; and

(2) by adding at the end the following new paragraph:

"(9) The term 'non-Veterans' Administration facilities' means facilities other than Veterans' Administration facilities.".

(b) Reenactment of Contract Authority.—(1) Chapter 17 is amended by inserting after section 602 the following new section:

"§ 603. Contracts for hospital care and medical services in non-Veterans' Administration facilities

"(a) When Veterans' Administration facilities are not capable of furnishing economical hospital care or medical services because of geographical inaccessibility or are not capable of furnishing the care or services required, the Administrator, as authorized in section 610 or 612 of this title, may contract with non-Veterans' Administration facilities in order to furnish—

"(1) hospital care or medical services to a veteran for the treatment of—

"(A) a service-connected disability; or

"(B) a disability for which a veteran was discharged or released from the active military, naval, or air service;

"(2) medical services for the treatment of any disability of—

"(A) a veteran described in section 612(a)(1)(B) of this title;

"(B) a veteran described in section 612(f)(1)(A)(ii) of this title; or

"(C) a veteran described in section 612(g) of this title if the Administrator has determined, based on an examination by a physician employed by the Veterans' Administration (or, in areas where no such physician is available, by a physician carrying out such function under a contract or fee arrangement), that the medical condition of such veteran precludes appropriate treatment in Veterans' Administration facilities;

"(3) hospital care or medical services for the treatment of medical emergencies which pose a serious threat to the life or health of a veteran receiving medical services in a Veterans' Administration facility until such time following the furnishing of care in the non-Veterans' Administration facility as the veteran can be safely transferred to a Veterans' Administration facility;

"(4) hospital care for women veterans;

"(5) hospital care, or medical services that will obviate the need for hospital admission, for veterans in a State not contiguous to the contiguous States, except that the annually determined hospital patient load and incidence of the furnishing of medical services to veterans hospitalized or treated at the expense of the Veterans' Administration in Government and non-Veterans' Administration facilities in each such noncontiguous State shall be consistent with the patient load or incidence of the furnishing of medical services for veterans hospitalized or treated by the Veterans' Administration within the 48 contiguous States, but the authority of the Administrator under this paragraph with respect to the Commonwealth of Puerto Rico shall expire on September 30, 1988, and until such date the Administrator may, if necessary to prevent hardship, waive the applicability to the Commonwealth of Puerto Rico of the restrictions in this paragraph with respect to hospital patient loads and the incidence of the furnishing of medical services;

"(6) diagnostic services necessary for determination of eligibility for, or of the appropriate course of treatment in connection with, furnishing medical services at independent Veterans' Administration out-patient clinics to obviate the need for hospital admission; or

"(7) outpatient dental services and treatment, and related dental appliances, for a veteran described in section 612(b)(1)(G) of this title.

"(b) In the case of any veteran for whom the Administrator contracts to furnish care or services in a non-Veterans' Administration facility pursuant to a provision of subsection (a) of this section, the Administrator shall periodically review the necessity for continuing such contractual arrangement pursuant to such provision.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 602 the following new item:

"603. Contracts for hospital care and medical services in non-Veterans' Administration facilities.".

(c) CONFORMING AMENDMENTS.—(1) Section 612(b)(3) is amended by striking out "clause (i), (ii), or (v) of section 601(4)(C)" and inserting in lieu thereof "clause (1), (2), or (5) of section 603(a)".

(2) Section 612(b)(4) is amended by striking out "section 601(4)(C)" both places it appears and inserting in lieu thereof "section 603".

(3) Section 612A(e)(1) is amended by striking out "601(4)(C)(ii)" and inserting in lieu thereof "603(a)(2)".

(4) Section 903(a) is amended by inserting "hospital care in accordance with section 603 of this title or" after "was receiving".

(5) Section 102(b) of the Veterans' Administration Health-Care Amendments of 1985 (Public Law 99-166) is amended—

(A) by striking out "such section" in paragraph (1) and inserting in lieu thereof "section 603(a)(5)"; and

(B) by striking out "clause (v) of section 601(4)(C)" in paragraph (5) and inserting in lieu thereof "section 603(a)(5)".

SEC. 19013. RECOVERY OF THE COST OF CERTAIN HEALTH CARE AND SERVICES FURNISHED BY THE VETERANS' ADMINISTRATION.

(a) IN GENERAL.—Section 629 is amended to read as follows:

"§ 629. Recovery by the United States of the cost of certain care and services

"(a)(1) Subject to the provisions of this section, in any case in which a veteran is furnished care or services under this chapter for a non-service-connected disability described in paragraph (2) of this subsection, the United States has the right to recover or collect the reasonable cost of such care or services (as determined by the Administrator) from a third party to the extent that the veteran (or the provider of the care or services) would be eligible to receive payment for such care or services from such third party if the care or services had not been furnished by a department or agency of the United States.

"(2) Paragraph (1) of this subsection applies to a non-service-connected disability—

"(A) that is incurred incident to the veteran's employment and that is covered under a workers' compensation law or plan that provides for payment for the cost of health care and services provided to the veteran by reason of the disability;

"(B) that is incurred as the result of a motor vehicle accident to which applies a State law that requires the owners or operators of motor vehicles registered in that State to have in force automobile accident reparations insurance;

"(C) that is incurred as the result of a crime of personal violence that occurred in a State, or a political subdivision of a State, in which a person injured as the result of such a crime is entitled to receive health care and services at such State's or subdivision's expense for personal injuries suffered as the result of such crime; or

"(D) that is incurred by a veteran—

"(i) who does not have a service-connected disability; and

"(ii) who is entitled to care (or payment of the expenses of care) under a health-plan contract.

"(3) In the case of a health-plan contract that contains a requirement for payment of a deductible or copayment by the veteran—

"(A) the veteran's not having paid such deductible or copayment with respect to care or services furnished under this chapter shall not preclude recovery or collection under this section; and

"(B) the amount that the United States may collect or recover under this section shall be reduced by the appropriate deductible or copayment amount, or both.

"(b)(1) As to the right provided in subsection (a) of this section, the United States shall be subrogated to any right or claim that the veteran (or the veteran's personal representative, successor, dependents, or survivors) may have against a third party.

"(2)(A) In order to enforce any right or claim to which the United States is subrogated under paragraph (1) of this subsection, the United States may intervene or join in any action or proceeding brought by the veteran (or the veteran's personal representative, successor, dependents, or survivors) against a third party.

"(B) The United States may institute and prosecute legal proceedings against the third party if—

"(i) an action or proceeding described in subparagraph (A) of this paragraph is not begun within 180 days after the first day on which care or services for which recovery is sought are furnished to the veteran by the Administrator under this chapter;

"(ii) the United States has sent written notice by certified mail to the veteran at the veteran's last-known address (or to the veteran's personal representative or successor) of the intention of the United States to institute such legal proceedings; and

"(iii) a period of 60 days has passed following the mailing of such notice.

"(c)(1) The Administrator may compromise, settle, or waive any claim which the United States has under this section.

"(2)(A) The Administrator, after consultation with the Comptroller General of the United States, shall prescribe regulations for the purpose of determining the reasonable cost of care or services under subsection (a)(1) of this section. Any determination of such cost shall be made in accordance with such regulations.

"(B) Such regulations shall provide that the reasonable cost of care or services sought to be recovered or collected from a third-party liable under a health-plan contract may not exceed the amount that such third party demonstrates to the satisfaction of the Administrator it would pay for the care or services in accordance with the prevailing rates at which the third party makes payments under comparable health-plan contracts with facilities (other than facilities of departments or agencies of the United States) in the same geographic area.

"(C) Not later than 45 days after the date on which the Administrator prescribes such regulations (or any amendment to such regulations), the Comptroller General shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives the Comptroller General's comments on and recommendations regarding such regulations (or amendment).

"(d) Any contract or agreement into which the Administrator enters with a person under section 3718 of title 31 for collection services to recover indebtedness owed the United States under this section shall provide, with respect to such services, that such person is subject to sections 3301 and 4132 of this title.

"(e) A veteran eligible for care or services under this chapter—

"(1) may not be denied such care or services by reason of this section; and

"(2) may not be required by reason of this section to make any copayment or deductible payment in order to receive such care.

"(f) No law of any State or of any political subdivision of a State, and no provision of any contract or other agreement, shall operate to prevent recovery or collection by the United States under this section or with respect to care or services furnished under section 611(b) of this title.

"(g) Amounts collected or recovered on behalf of the United States under this section shall be deposited into the Treasury as miscellaneous receipts.

"(h)(1) Subject to paragraph (3) of this subsection, the Administrator shall make available medical records of a veteran described in paragraph (2) of this subsection for inspection and review by representatives of the third party concerned for the sole purposes of permitting the third party to verify—

"(A) that the care or services for which recovery or collection is sought were furnished to the veteran; and

"(B) that the provision of such care or services to the veteran meets criteria generally applicable under the health-plan contract involved.

"(2) A veteran described in this paragraph is a veteran who is a beneficiary of a health-plan contract under which recovery or collection is sought under this section from the third party concerned for the cost of the care or services furnished to the veteran.

"(3) Records shall be made available under this subsection under such conditions to protect the confidentiality of such records as the Administrator shall prescribe in regulations.

"(i) For purposes of this section—

"(1)(A) The term 'health-plan contract' means an insurance policy or contract, medical or hospital service agreement, membership or subscription contract, or similar arrangement, under which health services for individuals are provided or the expenses of such services are paid.

"(B) Such term does not include—

"(i) an insurance program described in section 1811 of the Social Security Act (42 U.S.C. 1395c) or established by section 1831 of such Act (42 U.S.C. 1395j);

"(ii) a State plan for medical assistance approved under title XIX of such Act (42 U.S.C. 1396 et seq.);

"(iii) a workers' compensation law or plan described in subparagraph (A) of subsection (a)(2) of this section; or

"(iv) a program, plan, or policy under a law described in subparagraph (B) or (C) of such subsection.

"(2) The term 'payment' includes reimbursement and indemnification.

"(3) The term 'third party' means—

"(A) a State or political subdivision of a State;

"(B) an employer or an employer's insurance carrier;

"(C) an automobile accident reparations insurance carrier; or

"(D) a person obligated to provide, or to pay the expenses of, health services under a health-plan contract.".

(b) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), section 629 of title 38, United States Code, as amended by subsection (a), shall apply to care and services provided on or after the date of the enactment of this Act.

(2)(A) Such section shall not apply so as to nullify any provision of a health-plan contract (as defined in subsection (i) of such section) that—

(i) was entered into before the date of the enactment of this Act; and

(ii) is not modified or renewed on or after such date.

(B) In the case of a health-plan contract (as so defined) that was entered into before such date and which is modified or renewed on or after such date, the amendment made by subsection (a) shall apply—

(i) with respect to such plan as of the day after the date that it is so modified or renewed; and

(ii) with respect to care and services provided after such date of modification or renewal.

(3) For purposes of paragraph (2), the term "modified" includes any change in premium or coverage.

(c) REPORTS.—(1) Not later than six months after the date of the enactment of this Act, the Administrator of Veterans' Affairs shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the process for and results of the implementation of section 629 of title 38, United States Code, as amended by subsection (a). Such report shall show the costs of administration (and a detailed breakdown of such costs) and the amount of receipts and collections under such section.

(2) Not later than February 1, 1988, the Administrator shall submit to such Committees a report—

(A) updating the information in the report submitted under paragraph (1); and

(B) providing information on the process and results of such implementation through at least the end of fiscal year 1987.

SUBTITLE B—COMPENSATION RATE INCREASES

SEC. 19021. DISABILITY COMPENSATION.

(a) IN GENERAL.—Section 314 is amended—

(1) by striking out "$66" in subsection (a) and inserting in lieu thereof "$68";

(2) by striking out "$122" in subsection (b) and inserting in lieu thereof "$126";

(3) by striking out "$185" in subsection (c) and inserting in lieu thereof "$191";

(4) by striking out "$266" in subsection (d) and inserting in lieu thereof "$274";

(5) by striking out "$376" in subsection (e) and inserting in lieu thereof "$388";

(6) by striking out "$474" in subsection (f) and inserting in lieu thereof "$489";

(7) by striking out "$598" in subsection (g) and inserting in lieu thereof "$617";

(8) by striking out "$692" in subsection (h) and inserting in lieu thereof "$713";

(9) by striking out "$779" in subsection (i) and inserting in lieu thereof "$803";

(10) by striking out "$1,295" in subsection (j) and inserting in lieu thereof "$1,335";

(11) by striking out "$1,609" and "$2,255" in subsection (k) and inserting in lieu thereof "$1,659" and "$2,325", respectively;

(12) by striking out "$1,609" in subsection (l) and inserting in lieu thereof "$1,659";

(13) by striking out "$1,774" in subsection (m) and inserting in lieu thereof "$1,829";

(14) by striking out "$2,017" in subsection (n) and inserting in lieu thereof "$2,080";

(15) by striking out "$2,255" each place it appears in subsections (o) and (p) and inserting in lieu thereof "$2,325";

(16) by striking out "$968" and "$1,442" in subsection (r) and inserting in lieu thereof "$998" and "$1,487", respectively;

(17) by striking out "$1,449" in subsection (s) and inserting in lieu thereof "$1,494"; and

(18) by striking out "$280" in subsection (t) and inserting in lieu thereof "$289".

(b) SPECIAL RULE.—The Administrator of Veterans' Affairs may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

SEC. 19022. ADDITIONAL COMPENSATION FOR DEPENDENTS.

Section 315(1) is amended—

(1) by striking out "$79" in clause (A) and inserting in lieu thereof "$81";

(2) by striking out "$132" and "$42" in clause (B) and inserting in lieu thereof "$136" and "$43", respectively;

(3) by striking out "$54" and "$42" in clause (C) and inserting in lieu thereof "$56" and "$43", respectively;

(4) by striking out "$64" in clause (D) and inserting in lieu thereof "$66";

(5) by striking out "$143" in clause (E) and inserting in lieu thereof "$147"; and

(6) by striking out "$120" in clause (F) and inserting in lieu thereof "$124".

SEC. 19023. CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS.

Section 362 is amended by striking out "$349" and inserting in lieu thereof "$360".

SEC. 19024. DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES.

Section 411 is amended—

(1) by striking out the table in subsection (a) and inserting in lieu thereof the following:

"Pay grade	Monthly rate	Pay grade	Monthly rate
E-1	$491	W-4	$703
E-2	505	O-1	621
E-3	518	O-2	640
E-4	552	O-3	686
E-5	566	O-4	725
E-6	578	O-5	799
E-7	607	O-6	900
E-8	640	O-7	973
E-9	[1] 669	O-8	1,067
W-1	621	O-9	1,145
W-2	645	O-10	[2] 1,255
W-3	664		

[1] "If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $722.

[2] "If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,345.";

(2) by striking out "$55" in subsection (b) and inserting in lieu thereof "$57";

(3) by striking out "$143" in subsection (c) and inserting in lieu thereof "$147"; and

(4) by striking out "$70" in subsection (d) and inserting in lieu thereof "$72".

SEC. 19025. DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN.

Section 413 is amended—

(1) by striking out "$240" in clause (1) and inserting in lieu thereof "$247";

(2) by striking out "$345" in clause (2) and inserting in lieu thereof "$356";

(3) by striking out "$446" in clause (3) and inserting in lieu thereof "$460"; and

(4) by striking out "$446" and "$90" in clause (4) and inserting in lieu thereof "$460" and "$93", respectively.

SEC. 19026. SUPPLEMENTAL DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN.

Section 414 is amended—

(1) by striking out "$143" in subsection (a) and inserting in lieu thereof "$147";

(2) by striking out "$240" in subsection (b) and inserting in lieu thereof "$247"; and

(3) by striking out "$122" in subsection (c) and inserting in lieu thereof "$126".

SEC. 19027. EFFECTIVE DATE.

The amendments made by this subtitle shall take effect as of December 1, 1985.

SUBTITLE C—MISCELLANEOUS PROVISIONS

SEC. 19031. STUDY OF EFFECT OF VIETNAM EXPERIENCE ON HEALTH STATUS OF WOMEN VIETNAM VETERANS.

(a) REQUIREMENT FOR EPIDEMIOLOGICAL STUDY.—(1)(A) Except as provided in paragraph (2), the Administrator of Veterans' Affairs shall provide for the conduct of an epidemiological study of any long-term adverse health effects (particularly gender-specific health effects) which have been experienced by women who served in the Armed Forces of the United States in the Republic of Vietnam during the Vietnam era and which may have resulted from traumatic experiences during such service, from exposure during such service to phenoxy herbicides (including the herbicide known as Agent Orange), to other herbicides, chemicals, or medications that may have deleterious health effects, or to environmental hazards, or from any other experience or exposure during such service.

(B) The Administrator may include in the study conducted under this paragraph an evaluation of the means of detecting and treating long-term adverse health effects (particularly gender-specific health effects) found through the study.

(2)(A) If the Administrator, in consultation with the Director of the Office of Technology Assessment, determines that it is not feasible to conduct a scientifically valid study of an aspect of the matters described in paragraph (1)—

(i) the Administrator shall promptly submit to the appropriate committees of the Congress a notice of that determination and the reasons for the determination; and

(ii) the Director, not later than 60 days after the date on which such notice is submitted to the committees, shall submit to such committees a report evaluating and commenting on such determination.

(B) The Administrator is not required to study any aspect of the matters described in paragraph (1) with respect to which a determination is made and a notice is submitted pursuant to subparagraph (A)(i).

(C) If the Administrator submits to the Congress notice of a determination made pursuant to subparagraph (A) that it is not scientifically feasible to conduct the study described in paragraph (1)(A), this section (effective as of the date of such notice) shall cease to have effect as if repealed by law.

(3) The Administrator shall provide for the study to be conducted through contracts or other agreements with private or public agencies or persons.

(b) APPROVAL OF PROTOCOL.—(1) The study required by subsection (a) shall be conducted in accordance with a protocol approved by the Director of the Office of Technology Assessment.

(2) Not later than April 1, 1986, the Administrator shall publish a request for proposals for the design of the protocol to be used in conducting the study under this section.

(3) In considering any proposed protocol for use or approval under this subsection, the Administrator and the Director shall take into consideration—

(A) the protocol approved under section 307(a)(2)(A)(i) of the Veterans Health Programs Extension and Improvement Act of 1979 (Public Law 96-151; 38 U.S.C. 219 note); and

(B) the experience under the study being conducted pursuant to that protocol.

(c) OTA Reports.—(1) Concurrent with the approval or disapproval of any protocol under subsection (b)(1), the Director shall submit to the appropriate committees of the Congress a report—

(A) explaining the reasons for the Director's approval or disapproval of the protocol, as the case may be; and

(B) containing the Director's conclusions regarding the scientific validity and objectivity of the protocol.

(2) If the Director has not approved a protocol under subsection (b)(1) by the last day of the 180-day period beginning on the date of the enactment of this Act, the Director—

(A) shall, on such day, submit to the appropriate committees of the Congress a report describing the reasons why the Director has not approved such a protocol; and

(B) shall, each 60 days thereafter until such a protocol is approved, submit to such committees an updated report on the report required by clause (A).

(d) OTA Monitoring of Compliance.—(1) In order to ensure compliance with the protocol approved under subsection (b)(1), the Director shall monitor the conduct of the study under subsection (a).

(2)(A) The Director shall submit to the appropriate committees of the Congress, at each of the times specified in subparagraph (B), a report on the Director's monitoring of the conduct of the study pursuant to paragraph (1).

(B) A report shall be submitted under subparagraph (A)—

(i) before the end of the 6-month period beginning on the date on which the Director approves the protocol referred to in paragraph (1);

(ii) before the end of the 12-month period beginning on such date; and

(iii) annually thereafter until the study is completed or terminated.

(e) Duration of Study.—The study conducted pursuant to subsection (a) shall be continued for as long after the date on which the first report is submitted under subsection (f)(1) as the Administrator determines that there is a reasonable possibility of developing, through such study, significant new information on the health effects described in subsection (a)(1).

(f) Reports.—(1) Not later than 24 months after the date of the approval of the protocol pursuant to subsection (b)(1) and annually thereafter, the Administrator shall submit to the appropriate committees of the Congress a report containing—

(A) a description of the results obtained, before the date of such report, under the study conducted pursuant to subsection (a); and

(B) any administrative actions or recommended legislation, or both, and any additional comments which the Administrator considers appropriate in light of such results.

(2) Not later than 90 days after the date on which each report required by paragraph (1) is submitted, the Administrator shall publish in the Federal Register, for public review and comment, a description of any action that the Administrator plans or proposes to take with respect to programs administered by the Veterans' Administration based on—

(A) the results described in such report;

(B) the comments and recommendations received on that report; and

(C) any other available pertinent information. Each such description shall include a justification or rationale for the planned or proposed action.

(g) Definitions.—For the purposes of this section:

(1) The term "gender-specific health effects" includes—

(A) effects on female reproductive capacity and reproductive organs;

(B) effects on reproductive outcomes;

(C) effects on female-specific organs and tissues; and

(D) other effects unique to the physiology of females.

(2) The term "Vietnam era" has the meaning given such term in section 101(29) of title 38, United States Code.

SEC. 19032. ADVISORY COMMITTEE ON NATIVE-AMERICAN VETERANS.

(a) Establishment of Committee.—Not later than February 1, 1986, the Administrator of Veterans' Affairs shall establish an advisory committee to be known as the Advisory Committee on Native-American Veterans (hereinafter in this section referred to as the "Committee").

(b) Duties.—The Committee shall examine and evaluate programs and other activities of the Veterans' Administration with respect to the needs of veterans who are Native Americans, including American Indians and Alaska Natives. Such examination and evaluation shall include—

(1) an assessment of the needs of such veterans with respect to health care, rehabilitation, readjustment counseling, outreach services, and other benefits and services under programs administered by the Veterans' Administration; and

(2) a review of the manner in which and the extent to which the programs and other activities of the Veterans' Administration meet such needs.

(c) Members.—The Committee shall consist of—

(1) the Secretary of Labor (or a representative of the Secretary of Labor designated by the Secretary after consultation with the Assistant Secretary of Labor for Veterans' Employment);

(2) the Chief Medical Director and Chief Benefits Director of the Veterans' Administration or their representatives; and

(3) members appointed by the Administrator from the general public, including—

(A) representatives of veterans who are Native Americans, including American Indians and Alaska Natives and such veterans with service-connected disabilities; and

(B) individuals who are recognized authorities in fields pertinent to the needs of such veterans, including the specific health-care needs of such veterans and the furnishing of health-care services by the Veterans' Administration to such veterans.

(d) Participation by Other Agencies.—The Administrator may invite representatives of other departments and agencies of the Federal Government to participate in the meetings and other activities of the Committee.

(e) Number and Pay of Members.—The Administrator shall determine the number and pay and allowances of the members of the Committee appointed by the Administrator.

(f) Reports.—(1) Not later than November 1, 1986, and November 1, 1987, the Committee shall submit to the Administrator a report containing the findings and any recommendations of the Committee regarding the matters described in subsection (b) that were examined and evaluated by the Committee during the preceding fiscal year.

(2) Not later than 60 days after receiving each such report, the Administrator shall transmit to the Committees on Veterans' Affairs of the Senate and House of Representatives a copy of the report, together with any comments and recommendations concerning the report that the Administrator considers appropriate.

(g) Alaska Native Defined.—For the purposes of this section, the term "Alaska Native" has the meaning given the term "Native" in section 3(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b)).

(h) Termination.—The Committee shall terminate 90 days after the date on which the second report is transmitted by the Committee pursuant to subsection (f)(2).

SEC. 19033. WAIVER OF CONGRESSIONAL NOTICE-AND-WAIT PERIOD FOR ADMINISTRATIVE REORGANIZATION OF CERTAIN VETERANS' ADMINISTRATION AUTOMATED DATA PROCESSING ACTIVITIES.

(a) Waiver.—The Administrator of Veterans' Affairs may undertake the administrative reorganization described in subsection (b) without regard to the requirements of section 210(b)(2) of title 38, United States Code.

(b) Covered Administrative Reorganization.—The administrative reorganization referred to in subsection (a) is a reorganization that—

(1) involves the transfer of certain functions from the Office of Data Management and Telecommunications of the Veterans' Administration to the Department of Veterans' Benefits of the Veterans' Administration; and

(2) is described in letters dated November 1, 1985, that were submitted by the Administrator to the chairmen and ranking minority members of the Committees on Veterans' Affairs of the Senate and House of Representatives.

SEC. 19034. RATIFICATION OF CERTAIN TEMPORARILY EXPIRED AUTHORITIES.

(a) Veterans' Administration Regional Office in the Republic of the Philippines.—Any action by the Administrator of Veterans' Affairs in providing, during the ratification period, for a Veterans' Administration Regional Office in the Republic of the Philippines under section 230 of title 38, United States Code, is hereby ratified with respect to that period.

(b) Contract Care Authority in Puerto Rico and the Virgin Islands.—Any action by the Administrator in entering into a contract applicable to the ratification period for furnishing care described in subclause (v) of section 601(4)(C) of title 38, United States Code, any action by the Administrator under such contract, and any waiver described in that subclause made by the Administrator that is applicable to that period, is hereby ratified with respect to that period.

(c) Alcohol and Drug Treatment and Rehabilitation Contract Program.—Any action by the Administrator in entering into a contract described in section 620A(a) of title 38, United States Code, that is applicable to the ratification period, and any action by the Administrator under such contract, is hereby ratified with respect to that period.

(d) Ratification Period Defined.—For the purposes of this section, the term "ratification period" means the period beginning on November 1, 1985, and ending on December 3, 1985.

TITLE XX—MISCELLANEOUS PROVISIONS

SEC. 20001. MISCELLANEOUS PROVISIONS.

(a) When the Senate is considering a reconciliation bill or a reconciliation resolu-

tion pursuant to section 310 of the Congressional Budget Act of 1974, upon a point of order being made by any Senator against material extraneous to the instructions to a committee which is contained in any title or provision of the bill or resolution or offered as an amendment to the bill or resolution, and the point of order is sustained by the Chair, any part of said title or provision that contains material extraneous to the instructions to said Committee as defined in subsection (d) shall be deemed stricken from the bill and may not be offered as an amendment from the floor. An affirmative vote of three-fifths of the Members, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this section, as well as to waive or suspend the provisions of this subsection.

(b) No motion to waive or suspend the requirement of section 305(b)(2) of the Congressional Budget Act of 1974, as it relates to germaneness with respect to a reconciliation bill or resolution, shall be agreed to unless supported by an affirmative vote of three-fifths of the Members, duly chosen and sworn, which super-majority shall be required to successfully appeal the ruling of the Chair on a point of order raised under that section, as well as to waive or suspend the provisions of this subsection.

(c) This section shall become effective on the date of enactment of this title and shall remain in effect until January 2, 1987.

(d)(1)(A) Except as provided in paragraph (2), a provision of a reconciliation bill or reconciliation resolution considered pursuant to section 310 of the Congressional Budget Act of 1974 shall be considered extraneous if such provision does not produce a change in outlays or revenues, including changes in outlays and revenues brought about by changes in the terms and conditions under which outlays are made or revenues are required to be collected; (B) any provision producing an increase in outlays or decrease in revenues shall be considered extraneous if the net effect of provisions reported by the Committee reporting the title containing the provision is that the Committee fails to achieve its reconciliation instructions; (C) a provision that is not in the jurisdiction of the Committee with jurisdiction over said title or provision shall be considered extraneous; (D) a provision shall be considered extraneous if it produces changes in outlays or revenues which are merely incidental to the non-budgetary components of the provision.

(2) A provision shall not be considered extraneous under (1)(A) above if: (A) it is designed to mitigate the direct effects clearly attributable to a provision changing outlays or revenues and both provisions together produce a net reduction in the deficit; (B) it will result in a substantial reduction in outlays or a substantial increase in revenues during fiscal years after the fiscal years covered by the reconciliation bill or reconciliation resolution; (C) a reduction of outlays or an increase in revenues is likely to occur as a result of the provision, in the event of new regulations authorized by the provision or likely to be proposed, court rulings on pending litigation, or relationships between economic indices and stipulated statutory triggers pertaining to the provision, other than the regulations, court rulings or relationships currently projected by the Congressional Budget Office for scorekeeping purposes; (D) such provision will be likely to produce a significant reduction in outlays or increase in revenues but, due to insufficient data, such reduction or increase cannot be reliably estimated.

And the House agree to the same.

From the Committee on the Budget, for consideration of the entire amendment and the entire House amendment to the Senate amendment, except for sections 778H, 778I, 780, 781, 783 through 789B, 789D through 789G, subpart A of part 3 of subtitle I of title VII, section 793, subsections (a), (b), (c), (f), and (g)(1) of section 794, and sections 795 and 796 of the Senate amendment, and except for sections 2502(a) and 2503 of division B of the House amendment to the Senate amendment:

William H. Gray III,
Butler Derrick,
Michael D. Barnes,
Charles E. Schumer,
Barbara Boxer,
Buddy MacKay,
Jim Slattery,
Chester G. Atkins,

From the Committee on Ways and Means, solely for the consideration of sections 144(b)(3), 204, 205, 746(e)(2)–(4), and 759, subtitles A, C–F, H, and I of title VII, part G of title IX, and part I of title IX of the Senate amendment, and of subtitles B and C of title III and section 1974 of division A, and all of division B except parts E and G of title I, of the House amendment to the Senate amendment:

Sam Gibbons,
J.J. Pickle,
Charles B. Rangel,
Jim Jones,
Harold Ford,
Ed Jenkins,
John J. Duncan,
Bill Gradison,
Carroll Campbell,
Wm. Thomas,

From the Committee on Agriculture, solely for the consideration of title I and section 536 of the Senate amendment:

E de la Garza,
Ed Jones,
Leon E. Panetta,
Tony Coelho,
Berkley Bedell,
Ed Madigan,
Bill Emerson,
James M. Jeffords,
E. Thomas Coleman,

From the Committee on Agriculture, solely for the consideration of subpart B of part 3 of subtitle I of title VII of the Senate amendment:

E de la Garza,
Charlie Rose,
Walter B. Jones,
Charles Hatcher,
Charlie Whitley,
Robin Tallon,
Robert L. Thomas,
Larry J. Hopkins,
Pat Roberts,
Webb Franklin,
Larry Combest,

From the Committee on Agriculture, solely for the consideration of section 2502(b) of division B of the House amendment to the Senate amendment:

E de la Garza,
Charlie Rose,
Charlie Whitley,
Larry J. Hopkins,
Pat Roberts,

From the Committee on Armed Services, solely for the consideration of title II and section 165 of the Senate amendment, and of title I of division A of the House amendment to the Senate amendment:

Les Aspin,
G.V. Montgomery,
Pat Schroeder,
Wm. L. Dickinson,
Bud Hillis,

From the Committee on Banking, Finance and Urban Affairs, solely for the consideration of title III of the Senate amendment and of title II of division A of the House amendment to the Senate amendment:

Fernand J. St Germain,
Parren J. Mitchell,
Stan Lundine,
Mary Rose Oakar,
Bruce Vento,
Barney Frank,
Chalmers P. Wylie,
Stewart McKinney,
Marge Roukema,
Steve Bartlett,

From the Committee on Banking, Finance and Urban Affairs, solely for the consideration of subtitle A of title IV of division A of the House amendment to the Senate amendment:

Fernand J. St Germain,
Stan Lundine,

From the Committee on Education and Labor, solely for the consideration of parts A through E of title IX of the Senate amendment, and of subtitle A of title III of division A of the House amendment to the Senate amendment:

Augustus F. Hawkins,
William D. Ford,
Mario Biaggi,
Pat Williams,
Major R. Owens,
Charles A. Hayes,
Carl C. Perkins,
Terry L. Bruce,
Jim Jeffords,
E. Thomas Coleman,
Steve Gunderson,
Paul B. Henry,

From the Committee on Education and Labor, solely for the consideration of section 746(d), subtitle H of title VII, section 782, and parts G and I of title IX of the Senate amendment, and of subtitle B and C of title III of division A, and of sections 2181 and 2505 and title VI of division B, of the House amendment to the Senate amendment:

Gus Hawkins,
William D. Ford,
Joseph M. Gaydos,
William Clay,
Mario Biaggi,
Dale E. Kildee,
Major R. Owens,
Charles A. Hayes,
Mervyn M. Dymally,
Chester G. Atkins,
James M. Jeffords,
Thomas E. Petri,
Marge Roukema,
Steve Bartlett,
Rod Chandler,
Richard Armey,
Harris W. Fawell,

From the Committee on Education and Labor, solely for the consideration of part F of title IX of the Senate amendment:

Augustus F. Hawkins,
Austin J. Murphy,
Bill Clay,
Pat Williams,
Jim Jeffords,
Tom Petri,
Steve Bartlett,

From the Committee on Energy and Commerce, solely for the consideration of sections 706 and 713–716, parts 2–5 of subtitle A of title VII (except for section 734), subtitle B of title VII (except for subsections (d) and (e)(2)-(4) of section 746), sections 769B, 770, 772, 774, and 782, and parts G and H of title IX of the Senate amendment, and of section 1974 of division A, and of section 2107, parts B-G of title I, and section 2302 of division B of the House amendment to the Senate amendment:

John D. Dingell,
Henry A. Waxman,
James H. Scheuer,
Thomas Luken,
Doug Walgren,
Barbara A. Mikulski,
Mickey Leland,
Cardiss Collins,
Ron Wyden,
Ed Madigan,
(for medicaid and maternal and child health only),
Bob Whittaker,
(for Medicare, Medicaid, and maternal and child health only),

From the Committee on Energy and Commerce, solely for the consideration of those portions of section 789C of the Senate amendment inserting subsections 9505 (c), (d), and (e) in the Internal Revenue Code:

John D. Dingell,
Dennis E. Eckart,
Ralph M. Hall,
Billy Tauzin,
Wayne Dowdy,
Tom Luken,
Al Swift,
Mike Synar,
Norman F. Lent,
Don Ritter,
Jack Fields,
Dan Schaefer,

From the Committee on Energy and Commerce, solely for the consideration of sections 501, 502, 521-524, and 536 of the Senate amendment, of subtitles A-E of title IV and subtitles B and C of title VIII of division A of the House amendment to the Senate amendment:

John D. Dingell,
Phil Sharp,
Ed Markey,
Doug Walgren,
Al Swift,
Mickey Leland
(except for strategic petroleum reserve, shared-energy, biomass loan guarantee, and synfuels programs),
Richard C. Shelby,
Mike Synar,
Billy Tauzin,
James T. Broyhill,
Bill Dannemeyer,
Carlos Moorhead,
Bob Whittaker,
Michael G. Oxley,
Fred J. Eckert,

From the Committee on Energy and Commerce, solely for the consideration of sections 403 and 404 of the Senate amendment, and subtitle F of title IV of division A of the House amendment to the Senate amendment:

John D. Dingell,
Timothy E. Worth,
James H. Scheuer,
Tom Luken,
Al Swift,
Mickey Leland,
Cardiss Collins,
Mike Synar,
Billy Tauzin,

From the Committee on Energy and Commerce, solely for the consideration of sections 401, 402, 408, 769G, 777(h)(1), and subsections (d), (e), (g)(2) and (g)(3) of section 794 of the Senate amendment, and of subtitles G and H of title IV of division A, and of sections 2252(b) and 2402 of division B of the House amendment to the Senate amendment:

John D. Dingell,
James F. Florio,
Phil Sharp,
Billy Tauzin,
Ralph M. Hall,
Wayne Dowdy,
Bill Richardson,
Jim Slattery,
Jim Broyhill,
Norman F. Lent,
Don Ritter,
Dan Coats,
Jack Fields,

From the Committee on Government Operations, solely for the consideration of subtitle G of title VII of the Senate amendment:

Jack Brooks,
Don Fuqua,
Ted Weiss,
Frank Horton,
Robert S. Walker,

From the Committee on Government Operations, solely for the consideration of section 523 and parts C and D of title VIII of the Senate amendment, and of subtitle E of title IV of division A of the House amendment to the Senate amendment:

Jack Brooks,
Don Fuqua,
Cardiss Collins,
Frank Horton,
Al McCandless,

From the Committee on Interior and Insular Affairs, solely for the consideration of sections 521, 522, and 531-535 of the Senate amendment, and of subtitle C of title IV, section 1542, title V, subtitles D and H of title VI, and subtitle C of title VIII, of division A of the House amendment to the Senate amendment:

Mo Udall
(except for Outer Continental Shelf programs),
John F. Seiberling
(except for Outer Continental Shelf programs),
Jim Weaver
(except for Nuclear Regulatory Commission fees),
George Miller,
Phil Sharp
(except for Outer Continental Shelf programs),
Nick Rahall,
Bruce F. Vento
(except for Outer Continental Shelf programs),
Jerry Huckaby,
Sam Gejdenson
(except for Outer Continental Shelf programs),
Don Young
(except for Nuclear Regulatory Commission fees),
Manuel Lujan, Jr.
(except for Nuclear Regulatory Commission fees),
Robert J. Lagomarsino
(except for Outer Continental Shelf programs, and Nuclear Regulatory fees),
Ron Marlenee
(except for Outer Continental Shelf programs, and Nuclear Regulatory fees),
Charles Pashayan, Jr.
(except for Nuclear Regulatory Commission fees),

From the Committee on the Judiciary, solely for the consideraton of section 982 and that portion of section 999 amending paragraph (2) of section 4074(c) of the Employee Retirement Income Security Act, of the Senate amendment, and of that portion of section 1458 inserting section 4041(c)(2)(B)(ii) in the Employee Retirement Income Security Act, of division A, and section 2124(b) of division B, of the House amendment to the Senate amendment:

Peter W. Rodino, Jr.,
Daniel Glickman,
Don Edwards,
Hamilton Fish, Jr.,
Thomas N. Kindness,

From the Committee on Merchant Marine and Fisheries, solely for consideration of sections 405, 406, 407, and 531-535 of the Senate amendment, and of titles V and VI of division A of the House amendment to the Senate amendment:

Walter B. Jones,
Mario Biaggi,
Glenn M. Anderson,
John Breaux,
Gerry E. Studds,
Barbara A. Mikulski,
Mike Lowry,
Douglas H. Bosco,

(In lieu of Mr. Hughes solely for consideration of sections 531-535 of the Senate amendment and title V and subtitles D and H of title VI of division A of the House amendment to the Senate amendment):

Billy Tauzin,
Norman F. Lent,
Gene Snyder,
Don Young
(except as listed below),
Bob Davis,

(In lieu of Mr. Young solely for consideraton of sections 531-535 of the Senate amendment and title V and subtitles D and H of title VI of division A of the House amendment to the Senate amendment):

William Carney,
Jack Fields
(for purposes of OCS programs only),

From the Committee on Post Office and Civil Service, solely for the consideration of section 769G and parts A and B of title VIII of the Senate amendment, and of title VII of division A of the House amendment to the Senate amendment:

William D. Ford,
Mickey Leland,
Mary Rose Oakar,
Benjamin A. Gilman,

From the Committee on Public Works and Transportation, solely for the consideration of title VI, sections 777(h)(2) and 1202, and those portions of section 789C inserting sections 9505(c), (d), and (e) in the Internal Revenue Code, of the Senate amendment, and of sections 1533, 1541, and title VIII of division A, and section 2252(c) of division B of the House amendment to the Senate amendment:

James J. Howard
(except for Superfund authorization and pipeline programs),
Glenn M. Anderson
(except for Superfund authorization and pipeline programs),
Robert A. Roe
(except for Superfund authorization and pipeline programs),
Norman Y. Mineta
(except for Superfund authorization and pipeline programs),
James L. Oberstar
(except Superfund authorization),
Henry J. Nowak
(except for Superfund authorization and pipeline programs),
Bob Edgar
(except Superfund authorization and pipeline programs),
Robert A. Young
(except Superfund authorization and pipeline programs),
Nick Rahall
(except Superfund authorization and pipeline programs),
Gene Snyder
(except Superfund authorization and pipeline programs),
John Paul Hammerschmidt
(except Superfund authorization),
Bud Shuster
(except Superfund authorization and pipeline programs),
Arlan Stangeland
(except Superfund authorization),
Newt Gingrich
(except Superfund authorization and pipeline programs),
Bill Clinger
(except Superfund authorization and pipeline programs),

(In lieu of Mr. Rahall solely for the consideration of section 1541 and subtitle B of title VIII of division A of the House amendment to the Senate amendment):

John Breaux,

From the Committee on Science and Technology, solely for the consideration of sections 406(a)-(c), (e)-(g), and (i) of the Senate amendment:

Don Fuqua,
James H. Scheuer,
Tim Worth,
Manuel LuJan, Jr.,
Claudine Schneider,

From the Committee on Small Business, solely for the consideration of title X of the Senate amendment and of title IX of division A of the House amendment to the Senate amendment:

Parren J. Mitchell,
Joseph P. Addabbo,
Joseph M. McDade,
Silvio O. Conte,

From the Committee on Veterans' Affairs, solely for the consideration of section 205 and title XI of the Senate amendment, and of title X of division A of the House amendment to the Senate amendment:

G.V. Montgomery,
Bob Edgar
(solely for requirement of Medicare providers to accept VA beneficiaries),
Douglas Applegate
(solely for requirement of Medicare providers to accept VA beneficiaries),
John Paul Hammerschmidt,
Chalmers P. Wylie,

Managers on the Part of the House.

From the Committee on Agriculture, Nutrition, and Forestry:

Jesse Helms,
Bob Dole,
Richard G. Lugar,
Thad Cochran,
Ed Zorinsky,
Patrick Leahy,
John Melcher,

From the Committee on Finance—general conferees:

Bob Packwood,
W.V. Roth, Jr.,
J.C. Danforth,
John H. Chafee,
Russell B. Long,
Lloyd Bensten,
Spark M. Matsunaga,

From the Committee on Armed Services:

Sam Nunn,

From the Committee on Veterans' Affairs:

Frank H. Murkowski,
Alan K. Simpson,
Alan Cranston,

From the Committee on Finance—for CHAMPUS Medicare Subconference only:

Dave Durenberger,
Max Baucus,

From the Committee on Banking, Housing, and Urban Affairs:

Jack Garn,
John Heinz,
Chic Hecht,

From the Committee on Commerce, Science, and Transportation:

J.C. Danforth,
Bob Packwood,
Barry Goldwater,
Larry Pressler,
Slade Gorton,
Ted Stevens,
Fritz Hollings,
Russell Long,
Daniel K. Inouye,
Wendell Ford,
Don Riegle,

From the Committee on Energy and Natural Resources—general conferees:

James A. McClure,
Pete V. Domenici,
Malcolm Wallop,
J. Bennett Johnston,
Wendell H. Ford,

From the Committee on Energy and Natural Resources—conferees on title VI, section 6701 only:

James A. McClure,
Mark O. Hatfield,
Pete V. Domenici,
J. Bennett Johnston,
Wendell H. Ford,

From the Committee on Commerce, Science, and Transportation—conferees on title VI, section 6701 only:

Bob Packwood,
Ernest F. Hollings,
Russell B. Long,

From the Committee on Environment and Public Works:

Robert T. Stafford,
John H. Chafee,
Al Simpson,
Steve Symms,
Lloyd Bentsen,
Quentin N. Burdick,
Frank R. Lautenberg,

From the Committee on Labor and Human Resources—general conferees:

Orrin Hatch,
Robert T. Stafford,
Dan Quayle,
Edward M. Kennedy,
Claiborne Pell,

From the Committee on Labor and Human Resources—for PBGC and ERISA Subconference only:

(For the purposes of subconference No. 18 only):

Orrin Hatch,
Don Nickles,
Strom Thurmond,
Edward M. Kennedy,
Howard M. Metzenbaum,

From the Committee on Finance—for PBGC and ERISA Subconference only:

Bob Packwood,
John Chafee,
John Heinz,
George Mitchell,
Daniel Patrick Moynihan,

From the Committee on Finance—for Private Health Insurance Coverage Subconference only:

John Heinz,
Dave Durenberger,
Max Baucus,

From the Committee on Labor and Human Resources—for PBGC and ERISA Subconference only:

Orrin Hatch,
Don Nickles,
Strom Thurmond,
Edward M. Kennedy,
Howard M. Metzenbaum,

From the Committee on Environment and Public Works:

(For Superfund authorization only):

John H. Chafee,
Lloyd Bentsen,

From the Committee on Governmental Affairs:

W.V. Roth, Jr.,
Ted Stevens,
William S. Cohen,
Tom Eagleton,
Carl Levin,
Albert Gore, Jr.,

From the Committee on the Budget—general conferees:

Pete V. Domenici,
W.L. Armstrong,

NANCY LANDON
KASSEBAUM,
RUDY BOSCHWITZ,
FRITZ HOLLINGS,
J. BENNETT JOHNSTON,
HOWARD M. METZENBAUM,
From the Committee on Small Business:
LOWELL P. WEICKER, Jr.,
SLADE GORTON,
DALE BUMPERS,
Managers of the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the amendment of the Senate to the text of the bill (H.R. 3128) to make changes in spending and revenue provisions for purposes of deficit reduction and program improvement, consistent with the budget process, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment to the text of the bill struck out all of the House bill after the enacting clause and inserted a substitute text.

The House amendment struck out all of the Senate amendment after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the House amendment and the Senate amendment. The differences between the Senate amendment, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE I—AGRICULTURE PROGRAMS

The Senate amendment included agriculture provisions relating to agricultural exports, food stamps and commodity distribution, and agricultural credit.

The House bill contained no similar provisions.

The Conference substitute deletes the Senate provisions and substitutes language providing that the expenditures and outlays of Titles XI and XIII of the Food Security Act of 1985 shall be counted for purposes of determining savings in this reconciliation legislation. The provisions contained in the Senate reconciliation language have been considered by the Congress within the context of the conference on H.R. 2100, the Food Security Act of 1985.

TOBACCO SUPPORT PROGRAM

(1) Findings and purposes

(a) The Senate amendment sets forth certain findings concerning the importance of maintaining a viable tobacco price support and production adjustment program and the reasons necessitating a reform in the current program. (Sec. 792.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(b) The Senate amendment states that the purposes of the bill are—

(1) to encourage cooperation among tobacco producers and purchasers and the Secretary of Agriculture in reducing tobacco price support levels, assessment costs, and the size of producer associations' inventories;

(2) to adjust the method by which price support levels and production quotas are calculated to reflect market conditions;

(3) to facilitate the purchase and sale of Flue-cured and Burley tobacco presently in the inventories of the producer associations;

(4) to provide that purchasers and producers of domestic tobacco will share equally in the cost of maintaining the tobacco price support program; and

(5) to expedite reform of the system of grading tobacco. (Sec. 792.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(2) Price support adjustments

(a) The Senate amendment establishes the price support level for the 1985 crop of Burley tobacco at $1.449 per pound. (Sec. 792A.)

The House bill contains no comparable provision.

The Conference substitute establishes the price support level for the 1985 crop of Burley tobacco at $1.488 per pound, in accordance with the provisions of Public Law 99-157, and establishes the price support level for the 1986 crop of Flue-cured tobacco at $1.438 per pound and the price support level for the 1986 crop of Burley tobacco at $1.488 per pound. The House conferees expressed concern that the level of price supports in the Senate amendment was inadequate.

(b) The Senate amendment establishes the price support level for the 1985 and subsequent crops of any kind of tobacco (other than Flue-cured and Burley tobacco) for which marketing quotas are in effect or are not disapproved by producers at the level in cents per pound at which the immediately preceding crop was supported, plus or minus, respectively, the amount by which (1) the support level for the crop for which the determination is being made, as determined under section 106(b) of the Agricultural Act of 1949, is greater or less than (2) the support level for the immediately preceding crop, as determined under such section, as that difference may be adjusted by the Secretary of Agriculture under section 106(d) of such Act if the support level under clause (1) is greater than the support level under clause (2).

The Senate amendment also provides that, if requested by the board of directors of the association through which price support for the respective kind of tobacco specified above is made available to producers, the Secretary may reduce the support level for such kind of tobacco to the extent requested by the association to more accurately reflect the market value and improve the marketability of such tobacco. (Sec. 792A.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision but makes it applicable to the 1986 and subsequent crops since the 1985 price support level for these kinds of tobacco has already been announced.

(c) The Senate amendment establishes the price support level for the 1986 and subsequent crops of Flue-cured and Burley tobacco for which marketing quotas are in effect or are not disapproved by producers. Under this provision, the support level would be the level in cents per pound at which the immediately preceding crop was supported, plus or minus, respectively, an adjustment of not less than 65 percent nor more than 100 percent of the total, as determined by the Secretary after taking into consideration the supply of the kind of tobacco involved in relation to demand, of—

(1) 66.7 percent of the amount by which the average price received by farmers for Flue-cured and Burley tobacco, respectively, on the United States auction markets, as determined by the Secretary during the 5 marketing years immediately preceding the marketing year for which the determination is being made (excluding the high and low years) is greater or less than the average market price received by farmers for such tobacco on the United States auction markets during the 5 marketing years immediately preceding the marketing year prior to the marketing year for which the determination is being made (excluding the high and low years); and

(2) 33.3 percent of the change, expressed as a cost per pound of tobacco, in the index of prices paid by tobacco growers during the calendar year immediately preceding the year in which the determination is made.

For the purposes of this provision, the average market price for Burley tobacco for the 1984 and each prior applicable marketing year would be reduced by $0.30 per pound, and the average market price for Flue-cured tobacco for the 1985 and each prior applicable marketing year would be reduced by $0.30 per pound. Also, the support level for the 1985 crop of Flue-cured tobacco would be deemed to be $1.399 per pound.

The Senate amendment specifies that the index of prices paid by tobacco farmers is to include items representing general, variable costs of producing tobacco, as determined by the Secretary. However, such index is not to include the cost of land, risk, overhead, management, purchase or leasing of quota, marketing contributions or assessments, and other costs not directly related to the production of tobacco. (Sec. 792A.)

The House bill contains no comparable provision.

The Conference substitute provides that the formula for making future adjustments in the price support levels for Flue-cured and Burley tobacco, as contained in the Senate provision, is applicable to the 1987 and subsequent crops of such tobacco. The Conference substitute establishes, for purposes of calculating future adjustments in the price support levels for Flue-cured and Burley tobacco, that the average market price for Burley tobacco for the 1985 marketing year is to be reduced by $0.039 per pound and the average market price for Flue-cured tobacco for the 1985 marketing year is to be reduced by $0.25 per pound. The Conference substitute deletes the provision that deems the price support level for the 1985 crop of Flue-cured tobacco to be $1.399 per pound.

(d) The Senate amendment, effective for the 1986 and subsequent crops of tobacco, strikes out section 106(g) of the Agricultural Act of 1949, which gives the Secretary authority to lower the price support on certain low quality grades of Flue-cured tobacco if requested by the board of directors of the producer association that makes price support available to producers of Flue-cured tobacco. (Sec. 792A)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(3) Determination of marketing quotas for Flue-cured and Burley tobacco

(a) The Senate amendment defines the term "reserve stock level" to be the greater of 100 million pounds (farm sales weight), in the case of Flue-cured tobacco, and 50 million pounds, in the case of Burley tobacco, or 15 percent of the national marketing quota for Flue-cured or Burley tobacco, respectively, for the marketing year immediately preceding the marketing year for which the level is being determined. (Sec. 792B.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(b) The Senate amendment defines the term "domestic manufactuer of cigarettes" to mean a person that produces and sells more than 1 percent of the cigarettes produced and sold in the United States. (Sec. 792B.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(c) The Senate amendment provides that for the 1986 and each subsequent crop of Flue-cured tobacco, the national marketing quota for a marketing year would be the amount of Flue-cured tobacco, as determined by the Secretary of Agriculture, that is not more than 103 percent nor less than 97 percent of the total of—

(1) the aggregate of the amounts of Flue-cured tobacco that domestic manufacturers of cigarettes estimate they intend to purchase on the United States auction markets or from producers during the marketing year;

(2) the average annual exports of Flue-cured tobacco during the 3 preceding marketing years; and

(3) the amount, if any, of Flue-cured tobacco that the Secretary, in his discretion, determines is necessary to increase or decrease the inventory of the producer-owned cooperative marketing association that makes price support available to producers of Flue-cured tobacco to establish or maintain such inventory at the reserve stock level for Flue-cured tobacco.

In determining the amount of Flue-cured tobacco necessary to establish the inventory of the producer association at the reserve stock level under clause (3) above, the Secretary must provide for attaining the reserve stock level over a period of 5 years. (Sec. 792B.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment that (1) deletes the requirement that the reserve stock level be attained over a period of 5 years; and (2) establishes that for each of the 1982 through 1989 marketing years for Flue-cured tobacco, the national marketing quota for each such marketing year will not be less than 94 percent of the national marketing quota for the preceding marketing year; and for each of the 1990 through 1993 marketing years for Flue-cured tobacco, the national marketing quota for each such marketing year will not be less than 90 percent of the national marketing quota for the preceding marketing year. The House conferees expressed concern that the national marketing quota under the Senate amendment would have resulted in large reductions annually, reflecting the impact of the "buy-out."

It is the intention of the conferees to create a quota setting formula that will establish, as nearly as possible, a quota for the marketing year equal to actual demand of purchasers from that year's crop, plus or minus the amount necessary to maintain the prescribed reserve stock level, as well as the average exports for the 3 preceding years. The conferees encourage the Secretary of Agriculture to study carefully the recordkeeping requirements necessary to determine accurate future marketing quotas for Flue-cured and Burley tobacco.

(d) The Senate amendment deletes the limitation of 10 percent on any downward adjustment in the national marketing quota for Burley tobacco. (Sec. 792B.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(e) The Senate amendment provides that for the 1986 and each subsequent crop of Burley tobacco, the national marketing quota for any marketing year would be the amount of Burley tobacco, as determined by the Secretary, that is not more than 103 percent nor less than 97 percent of the total of—

(1) the aggregate of the amounts of Burley tobacco that domestic manufacturers of cigarettes estimate they intend to purchase on the United States auction markets or from producers during the marketing year;

(2) the average annual exports of Burley tobacco during the 3 preceding marketing years; and

(3) the amount, if any, of Burley tobacco that the Secretary, in his discretion, determines is necessary to increase or decrease the inventories of the producer-owned cooperative marketing associations that make price support available to producers of Burley tobacco to establish or maintain such inventories, in the aggregate, at the reserve stock level for Burley tobacco.

In determining the amount of Burley tobacco necessary to establish or maintain the inventories of the producer associations at the reserve stock level under clause (3) above, the Secretary must provide for attaining the reserve stock level over a period of 5 years. Also, any downward adjustment in the inventories of Burley tobacco of the producer associations under clause (3) above could not exceed the greater of 35 million pounds or 50 percent of the amount by which the total inventories of Burley tobacco of the producer associations exceed the reserve stock level for Burley tobacco. (Sec. 792B.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment that (1) clarifies that the 5-year period for attaining the reserve stock level applies only to the initial attainment of the reserve stock level; and (2) establishes that for each of the 1986 through 1989 marketing years for Burley tobacco, the national marketing quota for each such marketing year will not be less than 94 percent of the national marketing quota for the preceding marketing year; and for each of the 1990 through 1993 marketing years for Burley tobacco, the national marketing quota for each such marketing year will not be less than 90 percent of the national marketing quota for the preceding marketing year.

The conferees' concern with respect to the determination of future national marketing quotas (as noted in connection with item (c) above) applies to both Burley and Flue-cured tobacco.

(f) The Senate amendment makes inapplicable to Burley tobacco the limitation of 90 percent on the minimum national factor that is used in determining the farm marketing quota for each year under a poundage quota system. (Sec. 792B.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(g) The Senate amendment requires, no later than December 1 of any marketing year with respect to Flue-cured tobacco (December 1, 1985, with respect to the 1986 crop) and January 15 of any marketing year with respect to Burley tobacco (January 15, 1986, with respect to the 1986 crop), each domestic manufacturer of cigarettes to submit to the Secretary a statement, by kind, of the amount of Flue-cured and Burley tobacco (for which a national marketing quota is in effect or for which the Secretary has proclaimed a national marketing quota for the next succeeding marketing year) that the manufacturer intends to purchase, directly or indirectly, on the United States auction markets or from producers during the next succeeding marketing year. On receipt, the Secretary would aggregate the amounts of intended purchases in a manner that would not allow the identification of any manufacturer's amount of intended purchases.

The Senate amendment also provides that if any domestic manufacturer of cigarettes fails to submit to the Secretary the required statement of its amount of intended purchases, the Secretary would establish the amount of the intended purchases to be attributed to such manufacturer based on (1) the amount of intended purchases submitted by the manufacturer for the preceding marketing year, or (2) if the manufacturer did not submit a statement of its amount of intended purchases for the preceding marketing year, the most recent information available to the Secretary.

The Senate amendment requires that all information with respect to the amount of intended purchases submitted by domestic manufacturers of cigarettes must be kept confidential by officers and employees of the Department of Agriculture. Such information may only be disclosed by such persons in a suit or administrative hearing brought at the direction, or on the request, of the Secretary, or to which the Secretary or any officer of the United States is a party, and involving enforcement of the Agricultural Adjustment Act of 1938, except that the name of any person violating any provision of the Act, together with a statement of the particular provisions of such Act that were violated, could be published. Criminal penalties of a $1,000 fine or 1-year imprisonment, or both, and removal from office, are provided for violation of this provision by Department of Agriculture employees.

The Senate amendment exempts statements of the amount of intended purchases that are submitted under this provision from disclosure under the provisions of section 552 of title 5, United States Code (Freedom of Information Act). (Sec. 792B.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment that establishes the deadline for submission of the domestic cigarette manufacturer's statement of intended purchases from the 1986 crops of Flue-cured and Burley tobacco as 14 days from the date of enactment of this Act, on January 15, 1986, whichever is later, in the case of Burley tobacco.

(4) Marketing quota announcement date

The Senate amendment changes the date by which the Secretary of Agriculture must proclaim or announce the national marketing quota for any kind of tobacco other than Flue-cured and Burley tobacco from February 1 to March 1 prior to the marketing year in question. (Sec. 792C.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment that establishes the deadline for the proclamation and announcement of the 1986 national marketing quotas for Flue-cured and Burley tobacco as 21 days from the date of enactment of this Act, or, in the case of Burley tobacco, February 1, 1986, whichever is later.

(5) Reduction in excess tobacco not subject to marketing penalty

(a) The Senate amendment, effective for the 1986 and subsequent crops of tobacco, reduces the amount of Flue-cured and Burley tobacco that may be marketed without penalty when acreage-poundage or poundage farm marketing quotas are in effect from 110 to 103 percent of the farm marketing quota for the farm. (Sec. 792D.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(b) The Senate amendment reduces from 110 to 103 percent of the farm marketing quota the amount of tobacco marketed from a farm on which price support would be made available when acreage-poundage or poundage marketing quotas are in effect. (Sec 792D.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(6) Purchase requirements; penalty

The Senate amendment requires each domestic manufacturer of cigarettes, at the conclusion of each marketing year, on or before a date prescribed by the Secretary of Agriculture, to submit to the Secretary a statement, by kind, of the amount of Flue-cured and Burley quota tobacco purchased, directly or indirectly, by such manufacturer during such marketing year. The statement must include the amount of each such kind of tobacco purchased by the manufacturer on the United States auction markets, from producers, and from the inventories of tobacco from the 1985 and subsequent crops of the producer associations that make price support available to producers of Flue-cured or Burley tobacco.

The Senate amendment subjects to a penalty any domestic manufacturer of cigarettes that the Secretary determines, after notice and opportunity for a hearing, has failed to purchase during a marketing year on the United States auction markets, from producers, or from the inventories from the 1985 and subsequent crops of the producer associations a quantity of Flue-cured and Burley quota tobacco equal to at least 90 percent of the amount of the intended purchases of such tobacco, respectively, submitted by the manufacturer or established by the Secretary for such manufacturer for that marketing year for purposes of determining the national marketing quota for such tobacco.

If the total amount of Flue-cured or Burley quota tobacco, respectively, marketed by producers at auction in the United States during the marketing year in question is less than the national marketing quota (including any adjustments for overmarketings or undermarketings) for that kind of tobacco for that marketing year, the amount of intended purchases of each domestic manufacturer of cigarettes for purposes of determining the penalty would be reduced by the percentage by which the total amount marketed at auction in the United States during the marketing year is less than the national marketing quota (including any adjustments for overmarketings and undermarketings) for that kind of tobacco for the marketing year. For purposes of this section, the term "marketed" would include disposition of tobacco by cosigning the tobacco to a producer association for a price support advance.

The Senate amendment provides that the amount of any penalty to be imposed on a manufacturer under this provision would be equal to (1) twice the per pound assessment (as determined under section 106A or 106B of the Agricultural Act of 1949) for the kind of tobacco involved, multiplied by (2) the amount by which the purchases by such manufacturer on the United States auction markets, from producers, or from the inventories from the 1985 and subsequent crops of the producer associations of Flue-cured and Burley quota tobacco, respectively, for the marketing year are less than 90 percent of the amount of intended purchases of such kinds of tobacco submitted by the manufacturer or established by the Secretary for such manufacturer for that marketing year.

The Senate amendment requires that an amount equivalent to the penalty collected by the Secretary under this provision be transmitted by the Secretary to the appropriate producer association that makes price support available to producers of Flue-cured or Burley tobacco, as the case may be, for deposit in such association's No Net Cost Fund or Account.

The Senate amendment provides that the provisions relating to confidentiality of information submitted by domestic manufacturers of cigarettes with respect to intended purchases of tobacco and exemption of such information from disclosure under the Freedom of Information Act apply to information submitted by such manufacturers with respect to the amount of purchases of Flue-cured and Burley quota tobacco during a marketing year.

The Senate amendment defines the term "quota tobacco" as used in this provision to mean any kind of tobacco for which marketing quotas are in effect or for which marketing quotas are not disapproved by producers. (Sec. 792E.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision and adds a new provision that permits, with respect to the 1985 and subsequent crops of Burley tobacco, the approval of agreements involving the lease and transfer of Burley tobacco quotas filed after July 1 if the county ASC committee determines, with the concurrence of the State ASC Committee, that (1) all interested parties agreed to such lease and transfer agreement before July 1 and (2) the failure to file a record of the lease and transfer was not a result of gross negligence on the part of any party to such agreement.

(7) Assessment to no net cost funds or accounts

(a) The Senate amendment amends section 106A of the Agricultural Act of 1949 to provide that the Secretary of Agriculture shall require that each purchaser of Flue-cured and Burley quota tobacco pay an assessment to the producer association that makes price support available to producers of that respective kind of tobacco for deposit in the association's No Net Cost Tobacco Fund. The term "purchaser" is defined to mean any person who purchases in the United States, either directly or indirectly for the person's own account or for the account of another, Flue-cured or Burley quota tobacco. The assessment would be in an amount determined from time to time by the association with the approval of the Secretary and would be paid with respect to all purchases of Flue-cured and Burley tobacco that is marketed by producers from a farm, including purchases of such tobacco from the 1986 and subsequent crops from the producer association.

The amount of the producer contributions and purchaser assessments to be paid under section 106A of the Act of 1949 is to be determined by the Secretary in such a manner that producers and purchasers share equally, to the maximum extent practicable, in maintaining an association's Fund. In making such determination with respect to purchaser assessments, however, only 1985 and subsequent crops of Flue-cured and Burley quota tobacco would be taken into account.

The Secretary is to approve the amount of purchaser assessments determined by an association only if the Secretary determine that such amount (in addition to the amount of the producer contributions to the Fund) will result in accumulation of a Fund adequate to reimburse the Commodity Credit Corporation for any net losses the Corporation may sustain under its loan agreements with the association.

The Secretary must also require that any producer contribution or purchaser assessment to be paid under section 106A of the 1949 Act is to be collected—

(1) from the person who acquired the tobacco involved from the producer, but an amount equal to the producer contribution may be deducted by the purchaser from the price paid to such producer in case the tobacco is marketed by sale;

(2) if the tobacco involved is marketed by a producer through a warehouseman or agent, from such warehouseman or agent who may deduct an amount equal to the producer contribution from the price paid to the producer and who may add an amount equal to the purchaser asssessment to the price paid by the purchaser; and

(3) if the tobacco involved is marketed by a producer directly to any person outside the United States, from the producer who may add an amount equal to the purchaser assessment to the price paid by the purchaser.

The Senate amendment also provides that, effective for the 1986 and subsequent crops, the loan agreements between the Commodity Credit Corporation and an association must provide that if the Secretary determines that the amount in the Fund or any net gains on tobacco pledged by the association as security for price support loans exceeds the amounts necessary for the purposes specified in section 106A of the 1949 Act, the association, with the approval of the Secretary, may suspend the payment and collection of contributions and assessments under section 106A of the 1949 Act on terms and conditions established by the association, with the approval of the Secretary. (Sec. 792F.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. The House conferees expressed concern that the Senate provision does not address producers' uncertainty with respect to future assessments, and fails to apply an equal assessment on imported tobacco.

(b) The Senate amendment amends section 106B of the Agricultural Act of 1949 to require that, if a No Net Cost Tobacco Account is established for an association under section 106B, the Secretary must require that each purchaser of Flue-cured and Burley quota tobacco must pay an assessment to the Commodity Credit Corporation for deposit in the association's Account. The term "purchaser" is defined to mean any person who purchases in the United States, either directly or indirectly for the person's own account or for the account of another, Flue-cured or Burley quota tobacco in the United States. The assessment would be determined by the Secretary in consultation with the association and would be paid with respect to all purchases of Flue-cured and Burley tobacco that is marketed by producers from a farm, including purchases of such tobacco from the 1986 and subsequent crop from the association.

The amount of the assessment to be paid by producers and purchasers of tobacco is to be determined in such a manner that producers and purchasers share equally, to the maximum extent practicable, in maintaining the association's Account. In making such determination with respect to purchasers assessments, however, only 1985 and subsequent crops of Flue-cured and Burley quota tobacco would be taken into account. Also, the amount of any assessment that is determined by the Secretary for the 1986 and subsequent crops of Burley quota tobacco is to be determined without regard to any net losses that the Commodity Credit Corporation may sustain under its loan agreements with associations with respect to the 1983 crop of such tobacco.

Under the Senate amendment any assessment to be paid by a producer or a purchaser under section 106B would be collected from the person who acquired the tobacco involved from such producer, but an amount equal to the producer assessment could be deducted by the purchaser from the price paid to the producer in case such tobacco is marketed by sale. However, if tobacco of the kind for which an Account is established is marketed by a producer through a warehouseman or other agent, both the producer and the purchaser assessment would be collected from such warehouseman or agent who could deduct an amount equal to the producer assessment from the price paid to the producer and who could add an amount equal to the purchaser assessment to the price paid by the purchaser. Also, if tobacco is marketed by a producer directly to any person outside the United States, both the producer and the purchaser assessment would be collected from the producer who could add an amount equal to the purchaser assessment to the price paid by the purchaser. (Sec. 792F.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

The conferees encourage the Secretary of Agriculture to use funds from the no-net-cost assessments collected from producers on the 1985 Burley tobacco crop as (provided for in P.L. 99-157) to offset the producers' liability for potential losses associated with the 1982 and 1984 crops of Burley tobacco. In the event that there are no potential losses on the 1982 and 1984 Burley tobacco crops for which producers are responsible, the boards of directors of the Burley tobacco producer associations may determine, with the approval of the Secretary of Agriculture, how such funds may be used.

(c) The Senate amendment provides that each person who fails to collect any contribution or assessment as required by section 106A or 106B of the 1949 Act and remit such contribution or assessment to the producer association or the Commodity Credit Corporation, as the case may be, at such time and in such manner as may be prescribed by the Secretary, is liable, in addition to any amount due, to a marketing penalty at a rate equal to 75 percent of the average market price (calculated to the nearest whole cent) for the kind of tobacco involved for the immediately preceding year on the quantity of tobacco as to which the failure occurs. The Secretary may reduce any such marketing penalty in such amount as the Secretary determines equitable in any case in which the failure was unintentional or without knowledge on the part of the person concerned. Any penalty may be assessed by the Secretary only after notice and opportunity for a hearing.

Any person against whom such a penalty is assessed may obtain review of such penalty in an appropriate district court of the United States by filing a civil action in such court not later than 30 days after the penalty is imposed.

An amount equivalent to any such penalty collected by the Secretary must be transmitted by the Secretary to the appropriate association or to the Commodity Credit Corporation, as the case may be, for deposit in the appropriate association's Fund or Account. (Sec. 792F.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(8) Exemption from rulemaking

The Senate amendment requires the Secretary of Agriculture to implement the provisions of the Senate amendment without regard to the provisions requiring notice and other procedures for public participation in rulemaking contained in section 553 of title 5, United States Code, or in any directive of the Secretary. (Sec. 792F(c).)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(9) Purchase of inventory stock

The Senate amendment requires the producer association that makes price support available to producers of Flue-cured tobacco to offer to sell its stocks of Flue-cured tobacco from the 1976 through 1984 crops at the base prices, including carrying charges, in effect as of the date of the offer, reduced by 90 percent for Flue-cured tobacco from the 1976 through 1981 crops and reduced by 10 percent for Flue-cured tobacco from the 1982 through 1984 crops. The purchasers of the 1976 through 1984 crops of Flue-cured tobacco are to pay the full carrying charges that have accrued to such tobacco from the date of the offer made under this provision to the date that such tobacco is removed from the inventory of the association.

The Senate amendment requires each producer association that makes price support available to producers of Burley tobacco to offer to sell its stocks of Burley tobacco from the 1982 crop at the listed base price in effect as of July 1, 1985, and to offer to sell its stocks of Burley tobacco from the 1984 crop at the assocications' costs for such tobacco as of the date of enactment of the bill. Also, purchasers of the 1982 crop of Burley tobacco are to pay the full carrying charges that have accrued to such tobacco, and purchasers of the 1984 crop of Burley tobacco are to pay the full carrying charges that have accrued to such tobacco from the date of enactment of the bill to the date such tobacco is removed from the inventories of the associations.

The Senate amendment requires no later than 30 days after the date of enactment of the bill, that the Commodity Credit Corporation acquire title to the Burley tobacco from the 1983 crop that is pledged as security for loans on such tobacco by calling the loans on such tobacco. The Corporation is then to offer such tobacco for sale at such times, in such quantities, and subject to such conditions as the Corporation deems appropriate. If this tobacco is not sold within 2 years from the date the Corporation calls the loans, the Corporation may offer to sell to domestic manufacturers of cigarettes the remaining stocks of such tobacco at the associations' costs, including carrying charges, as of the date on which the Corporation calls the loans on such tobacco, reduced by 90 percent. Neither tobacco producers nor tobacco purchasers would be responsible for carrying charges that accrue to the 1983 crop of Burley tobacco after the date on which the Commodity Credit Corporation calls the loans on such tobacco.

The Senate amendment authorize domestic manufacturers of cigarettes to enter into agreements to purchase inventory stocks of Flue-cured and Burley tobacco, as set forth in the bill. To be eligible for the reductions in price, the manufacturers would have to enter into such agreements as soon as practicable, but no later than 90 days, after the date of enactment of the bill. Such agreements must provide that, over a period of time, each participating domestic manufacturer of cigarettes must purchases a percentage of the stocks of Flue-cured and Burley tobacco held by the producer associations at the close of the 1984 marketing year, or with respect to the 1983 crop of Burley tobacco, by the Commodity Credit Corporation at the time the Corporation offers such tobacco for sale to domestic manufacturers of cigarettes under the bill. The period of time over which the purchases would be made could not exceed 8 years from the date of enactment of the bill with respect to Flue-cured tobacco, 5 years from the date of enactment of the bill with respect to Burley tobacco from the 1982 and 1984 crops, and 5 years from the date the Commodity Credit Corporation offers the 1983 crop of Burley tobacco for sale to domestic manufacturers of cigarettes with respect to the 1983 crop of Burley tobacco.

The percentage to be purchased by each participating manufacturer is to be at least equal to such manufacturer's respective percentage of the total quantity of net cigarettes manufactured for use as determined by the Secretary of Agriculture on the basis of the monthly reports ("Manufacturer of Tobacco Products—Monthly Reports") submitted (on ATF Form 3068) by manufacturers of tobacco products to the Bureau of Alcohol, Tobacco and Firearms of the Department of the Treasury.

The amount of tobacco to be purchased by each participating manufacturer is to be determined annually and would be based on the manufacturer's percentage of net cigarettes manufactured for use multiplied by the appropriate annual amount to be withdrawn from the inventories of the producer associations or the Commodity Credit Corporation. The appropriation annual amount to be withdrawn from inventories would be—

(1) 12½ percent of the inventories of Flue-cured tobacco from the 1976 through 1984 crops on hand on the date of enactment of the bill;

(2) 20 percent of the inventories of Burley tobacco from the 1982 and 1984 crops on hand on the date of enactment of the bill; and

(3) 20 percent of the inventories of Burley tobacco from the 1983 crop held by the Commodity Credit Corporation on the date 2 years after the call of the loans on such tobacco by the Corporation.

Any purchases by a manufacturer from the inventories of the associations or from the Commodity Credit Corporation for a crop covered by this provision in any year of the buy-out period that exceed the amount of the manufacturer's purchases required under the agreement would be applied against future purchases required of such manufacturer.

The Senate amendment provides that in carrying out this provision, manufacturers may confer with one another and, separately or collectively, with associations, the Secretary of Agriculture, and the Commodity Credit Corporation as may be necessary or appropriate to effectuate the provision. Each agreement entered into under this provision must be submitted to the Secretary for review and approval. Agreements with producer associations would be submitted by the association. No agreement could become effective until approved by the Secretary, and the Secretary may not approve any such agreement unless the Secretary has determined that—

(1) the agreement will not unduly impair or disrupt the orderly marketing of current and future tobacco crops during the term of the agreement and is otherwise consistent with the purposes of the bill; and

(2) the price and other terms of sale are uniform and nondiscriminatory among various purchasers.

The Senate amendment also provides that provisions relating to confidentiality of information submitted by cigarette manufacturers with respect to intended purchases of tobacco and exemption of such information from the Freedom of Information Act would apply to information submitted by domestic manufacturers of cigarettes with respect to net cigarettes manufactured for use, including information provided on ATF Form 3068. (Sec. 792G.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(10) Review of tobacco grading system and disaster crop designation

The Senate amendment requires the Secretary of Agriculture to conduct a study of the methods and procedures for grading tobacco marketed in the United States, including an evaluation of—

(1) the extent to which grades assigned to tobacco accurately reflect the quality of such tobacco;

(2) the extent to which the number of grades of tobacco affects the operation of the grading system; and

(3) the competence and independence of tobacco graders.

The Secretary is also required to study the feasibility and desirability of providing for a grade that would be used to designate tobacco that is of such poor quality as a result of a natural disaster as to affect substantially its marketability. As part of this study the Secretary would be required to look at the feasibility and desirability of establishing a price support level, if any, for such tobacco which may be adjusted by the Secretary as necessary to facilitate the sale of such tobacco and protect the no net cost funds or accounts.

Within 120 days after the enactment of the bill, the Secretary is to report the results of these studies, together with any recommendations for necessary legislation, to the House and Senate agriculture committees. As soon as practicable after submission of this report, but no later than the opening of the marketing season for the 1986 crop of Flue-cured tobacco, the Secretary is to implement any recommendations made in such report that may be implemented by the Secretary under existing authority. (Sec. 792H.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(11) Investment of tobacco inspection fees

The Senate amendment authorizes the investment of the fees and charges collected for providing inspection services under the Tobacco Inspection Act. Such fees and charges could be invested by the Secretary of Agriculture in insured or fully collateralized, interest-bearing accounts or, at the discretion of the Secretary, by the Secretary of the Treasury in United States Government debt instruments. Any income realized from this activity would be used to pay the expenses of the Secretary of Agriculture incident to providing services under the Tobacco Inspection Act or reinvested in the manner authorized in the bill. (Sec. 792I.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(12) Effective date

The Senate amendment provides that, except as otherwise provided in the subpart, the subpart and the amendments made by the subpart are to become effective on the date of enactment of the subpart. (Sec. 792J.)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

Title II—Armed Services and Defense-Related Programs

The House bill contained a provision (sec. 1101) that would authorize the United States to collect from a third-party payer the reasonable cost of care provided in medical facilities of the uniformed services. "Third-party payer" includes both insurance underwriters and private employers who offer self-insured or partially self-insured/partially underwritten health insurance plans. Such collection would be authorized only in the case of a non-active duty beneficiary.

The Senate amendment contained a provision (sec. 203) similar to section 1101 of the House bill, except the collection authority would be limited to fiscal years 1986 and 1987.

The Senate amendment also contained two provisions dealing with military retirement. Section 201 would place a ceiling on the total of basic pay and retired pay accrual charge that would require a $2.9 billion reduction in the accrual charge for the military retirement system. Section 202 would require the Secretary of Defense to submit a report (including draft legislation) proposing two separate plans to change the military retirement system: one of the proposed plans would consist only of changes in the military retirement system other than changes in the procedure for periodic cost-of-living adjustments in retired pay. Each proposal would have to be sufficient to reduce the accrual charge by $2.9 billion.

The Senate amendment also contained two provisions (sec. 204 and 205) dealing with the linkage of the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) to Medicare. These provisions are discussed under Title ——.

The House recedes with amendments.

The conferees agree to drop sections 201 and 202 of the Senate amendment because identical provisions were enacted as sections 666 and 667 of the Department of Defense Authorization Act, 1986 (Public Law 99-145).

The conferees agree to retain the provision to bill third-party payers for the cost of medical care provided to non-active duty beneficiaries in military medical facilities. This provision would become permanent law, but would be applicable only to inpatient medical care. Once the inpatient collection process is operational, the conferees intend to review the program to determine the feasibility and cost-effectiveness of extending this coordination of benefits requirement to outpatient services as well. Authority to collect would become effective on October 1, 1986, and would apply to any insurance, medical service, or health plan agreement entered into, amended or renewed on or after the date of enactment of this act.

The reasonable cost of inpatient medical care to be collected would be determined in accordance with regulations prescribed by the Secretary of Defense. In such regulations, the Secretary of Defense may utilize the per diem charge currently used for collections under the Federal Medical Care Recovery Act (42 U.S.C. 2651 et seq.), diagnosis related groups, fee schedules, or such other methodology determined appropriate by the Secretary. Regardless of the methodology, however, the reasonable cost collected from a third-party payer should not exceed an amount equal to the prevailing rate that the third-party payer can demonstrate to the satisfaction of the Secretary of Defense it would pay under valid contractual arrangements with other facilities or providers within the same geographic area for similar service or services. The conferees want to ensure that Department of Defense collection practices are consistent with and do not impede cost containment initiatives undertaken by the private sector.

For the first year, funds collected would be returned to the Treasury. When the Department of Defense and the military services successfully implement a program of collections and develop an accounting system that is capable of tracking the level of funds collected and identifying the disposition of those funds within the military medical care system, the conferees contemplate that the Congress will be prepared to review the Department of Defense's request to permit the funds to be returned to the appropriation account from which the care was provided, rather than to the Treasury. The conferees further contemplate that the progress made on such an accounting system will be reviewed next year.

U.S. Congress,
Congressional Budget Office,
Washington, DC, December 13, 1985.
Hon. Les Aspin,
Chairman, Committee on Armed Services, House of Representatives, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the attached cost estimate for the reconciliation provisions of subconferences four and five as of December 13, 1985.

The provision in subconference four authorizes the federal government to recover from third-party health insurers the cost of inpatient medical care provided to dependents of active-duty military members, military retirees, and retirees' dependents when these patients are covered by private health insurance, effective October 1, 1986.

The provision in subconference five requires institutions wishing to participate in Medicare to accept Civilian Health and Medical Care Program for the Uniformed Services (CHAMPUS) patients at the same reimbursement rates applied to Medicare users, effective January 1, 1987. The savings of both these provisions fall within function 050.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,

Sincerely,

James Blum
(For Rudolph G. Penner.)

Attachment.

ESTIMATED BUDGET IMPACT OF RECONCILIATION PROVISIONS—SUBCONFERENCE 4, CHANGE FROM RESOLUTION BASELINE

[By fiscal year, in millions of dollars]

		1986	1987	1988	1989	1990
Authorizations Third-party reimbursement						
Budget authority	0	−160	−200	−36.	−215	−235
Outlays	0	−160	−200	−360	−215	−235

SUBCONFERENCE 5, CHANGE FROM RESOLUTION BASELINE

[By fiscal year, in millions of dollars]

		1986	1987	1988	1989	1990
Authorizations CHAMPUS						
Budget authority	0	−105	−160	−265	−175	−185
Outlays	0	−85	−150	−235	−170	−185

1. Study of use by CHAMPUS of Medicare Prospective Payment System (section 204 of the Senate amendment)

Present law

Section 634 of the Department of Defense Authorization Act of 1985, Public Law 98-525, required the Secretary of Defense and the Secretary of Health and Human Services to study jointly the possible effects of the adoption for the CHAMPUS program of a prospective payment system for inpatient hospital services like the one used for medicare.

The report, with recommendations, was to be submitted to the Committees on Armed Services and Finance in the Senate, and the Committees on Armed Services and Ways and Means in the House of Representatives no later than February 28, 1985. Although the Department of Defense transmitted its portion of the study to the Department of Health and Human Services, the joint report has not yet been sent to Congress.

House bill

No provision.

Senate amendment

The Secretary of Defense and the Secretary of Health and Human Services would be required to study jointly the possible effects of the adoption for the CHAMPUS program of a prospective payment system for inpatient hospital services like the one use for medicare. The study would address: (1) the advisability and feasibility of requiring by law that a hospital participate in the CHAMPUS program as a condition of participating in medicare; and (2) the changes that might be expected, if such a system were adopted, in the CHAMPUS patient workload and the CHAMPUS aggregate payment levels to various segments of the provider community (e.g. hospitals and nursing homes).

The report with recommendations would be submitted to the Committees on Armed Service and Finance in the Senate and the Committees on Armed Services and Ways and Means in the House of Representatives no later than December 1, 1985.

Conference agreement

House recedes with an amendment. The date for submission of the report would be extended until June 30, 1986. The conferees expect the Secretaries to issue the report in a timely fashion.

2. Requirement of Medicare providers of Hospital services to participate in CHAMPUS and/or CHAMPVA programs. (section 205 of the Senate amendment)

Present law

Current law contains no requirement that medicare-participating hospitals accept beneficiaries of CHAMPUS or CHAMPVA. Current law imposes no requirement on such hospitals regarding acceptance of payment amounts under these programs as payment in full.

Section 931 of the Department of Defense Authorization Act for fiscal year 1984 included a provision authorizing CHAMPUS and CHAMPVA to utilize medicare reimbursement procedures in paying for care under these programs.

House bill

No provision.

Senate amendment

The bill would require a medicare-participating hospital to accept and also participate in the CHAMPUS and CHAMPVA programs and to accept payment made under both programs as payment in full.

The bill would be effective, generally on October 1, 1985.

Conference agreement

House recedes with an amendment. Admissions practices, payment methodologies and amounts would be prescribed in regulations jointly issued by the Secretary of Health and Human Services and the Secretaries of Defense and Transportation. It is the intent of the managers that the Secretary of Defense will identify hospitals which fail to meet this additional condition and convey that information to the Secretary of HHS for appropriate action.

The Secretary of HHS would be required to report to Congress periodically on the number of hospitals that have terminated or failed to renew an agreement as a reult of this additional requirement.

3. Requirement of Medicare providers to accept Veterans' Administration beneficiaries (section)

Present law

Current law does not require medicare-participating hospitals to accept Veteran Administration beneficiaries.

Further, the Administrator of the VA contracts individually with facilities to provide services to eligible veterans. The Office of Management and Budget is requiring the VA to cap reimbursement rates under these contracts at levels similar to rates established for medicare beneficiaries.

House bill

The bill would require medicare participating hospitals to accept Veterans' Administration (VA) beneficiaries on a basis similar to medicare and requires them to accept payment amounts determined under VA regulations as payment in full. The Secretary of HHS would be authorized to take corrective action or to terminate a provider's agreement for failure to comply.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill.

TITLE III—HOUSING AND RELATED PROGRAMS

Section 3002 prohibits The Federal Financing Bank from purchasing notes or other obligations guaranteed under Section 108 of the Community Development Block Grant Program after June 30, 1986, and requires the Secretary of HUD by July 1, 1986, to take the actions necessary to provide for the financing by the private sector of loans guaranteed under Section 108.

Section 3003 authorizes $1.279 billion in fiscal year 1986 for public housing operating subsidies.

Section 3004—Provides that loans made for public and Indian housing, as well as modernization assistance, will be forgiven at the end of each fiscal year. It also gives direction for the use of the budget authority in the HUD Independent Appropriations Act of 1986, P.L. 99-160, which provides funds for new public housing development and modernization on the basis of long-term financing. As the legislative language the conferees adopted forgives the future public housing indebtedness and as this is tantamount to capital grant financing, the conferees intend that any budget authority that becomes available due to the change in financing will be rescinded. If this approach is used the conferees intend that any budget authority not needed to fund the 7000 additional public and Indian housing units or provide the level of modernization activity assumed by the Appropriations Committee for FY 86 and any other budget authority not needed for public housing development or modernization activities will be rescinded. Further, the conferees expect that the Congressional Budget Office take this into consideration in developing the baseline for FY 1987.

Section 3005—Rural Housing Authorization. Provides that the aggregate principal amount of loans that may be guaranteed or insured in fiscal year 1986 may not exceed $2,146,600,000,000 to be allocated as follows: Sec. 502 homeownership loans $1,209.6 million; Sec. 515 rental loans $900 million; Sec. 514 farmworker housing loans $19 million;

Sec. 524 site loans $1 million; and Sec. 504 repair loans $17 million.

Section 3006—Management of Insured and Guaranteed Loans. (a) Prohibits rural housing loans made directly or by private lenders and insured or guaranteed by the Farmers Home Administration from being sold to the Federal Financing Bank. (b) Provides that each insured or guaranteed loan contain an agreement by FmHA to pay the difference between the interest rate paid by the borrower and the full private market rate of interest. (c) Provides for protection of the borrowers' rights by requiring that the loan be assigned to the Secretary in the event of a substantial default but before foreclosure. The conferees wish to make clear that Congress intends that the FmHA follow the practices of private mortgage bankers and lenders with regard to defining substantial defaults and that the full forebearance provisions under existing law be extended to the borrower. (d) Provides that the rights that were available to FmHA borrowers prior to the enactment of this provision will continue to be available. (e) Further provides for a loss reserve account of not less than 5 percent of the loans sold to the public and makes other conforming changes in existing law.

The Conference Report also contains a provision to require that not later than 90 days after enactment, regulations be issued to implement the new loan sales approach including any measures that will facilitate the marketability of such loans in the private sector; and to assure that such loans will be competitive with other federally insured or guaranteed loans.

Section 3007—Extends the insuring authorities for all FHA programs through March 17, 1986.

Section 3008—Extends through March 17, 1986, the authority of the HUD Secretary to provide Section 312 rehabilitation loans.

Section 3009—Extends through March 17, 1986, the authority for all of housing related loan and grant programs of the Farmers Home Administration.

Section 3010—Extends through March 17, 1986, the flood insurance and crime and riot insurance programs.

Section 3011(a)—Grandfathers through March 17, 1986, the eligibility of certain metropolitan cities and urban counties as entitlement communities for purposes of the Community Development Block Grant program.

Section 3011(b)—Continues through March 17, 1986, the requirement that the interest rate on Section 202 loans for the elderly and handicapped not exceed 9¼ percent.

Section 3011(c)—Extends through March 17, 1986, the requirements of the Home Mortgage Disclosure Act of 1975.

TITLE IV

SUBTITLE A—AMTRAK, LOCAL RAIL SERVICE ASSISTANCE, TRAVEL AND TOURISM

Amtrak authorization

House bill

No Provision.

Senate amendment

The Senate amendment, in section 402(a), would limit the appropriation for Amtrak to $582 million in fiscal year 1986, $606.1 million in fiscal year 1987, and $630.3 million in fiscal year 1988.

House amendment to Senate amendment

The House amendment, in section 1581(a), would authorize an appropriation not to exceed $603.5 million for Amtrak for fiscal year 1986.

Conference substitute

The conference substitute authorizes the appropriation of $600 million in fiscal year 1986, $606.1 million in fiscal year 1987, and $630.3 million in fiscal year 1988.

Use of nonoperational capital funds to maintain service

House bill

No Provision.

Senate amendment

No Provision.

House amendment to Senate amendment

The House amendment, in section 1581(b), provides that unless sufficient funds are otherwise available to operate Amtrak's rail system at substantially the same level of service, maintenance, and equipment overhauls as are in effect on the date of enactment, the carrier must use funds designated for non-operational capital projects to maintain the operations of the system.

Conference substitute

The conference substitute is the House amendment to the Senate amendment.

Capital assets

House bill

No Provision.

Senate amendment

The Senate amendment, in section 402(e), would amend section 304(c) of the Rail Passenger Service Act (RPSA) to permit Amtrak to restate its books and tax returns for years prior to fiscal year 1982 as if preferred stock had actually been issued in the years when it received certain capital grant funds. The amendment would remove an uncertainty as to the reporting of depreciation of the assets acquired with such capital gains.

House amendment to Senate amendment

The House amendment, in section 1583, contains the same provision.

Conference substitute

The conference substitute is the House amendment to the Senate amendment.

Government travel

House bill

No Provision.

Senate amendment

The Senate amendment, in section 402(g), would amend section 306(f) of the RPSA to permit Amtrak to participate in the contract air program administered by the General Services Administration (GSA) in markets where service of Amtrak is competitive with that of air carriers. Under this program, GSA lists certain carriers as "preferred carriers" for federal employee travel. The program currently is restricted to air carriers. This amendment would allow Amtrak to increase revenues by approximately $1 million annually.

House amendment to Senate amendment

The House amendment, in section 1584, contains the same provision.

Conference substitute

The conference substitute is the House amendment to the Senate amendment.

Report consolidation

House bill

No Provision.

Senate amendment

The Senate amendment, in section 402(f)(3), would amend section 308(a) of the RPSA, which currently requires Amtrak to submit monthly reports to Congress on the fully allocated itemized revenues and expenses of each train operated. This section would require Amtrak to consolidate the monthly reports into an annual report due no later than February 15 of each year. The report would incorporate the following information for the preceding fiscal year: data on ridership; short-term avoidable profit or loss per passenger miles; revenue-to-cost ratio; revenues; subsidy requirements; and, on-time performance.

The provision also would require specification of significant operational problems which have been identified by Amtrak, together with proposals to resolve such problems.

House amendment to Senate amendment

The House amendment, in section 1585, contains a similar provision, whith two differences. The House amendment also would require data on passenger miles for the preceding fiscal year and would not require specification of significant operational problems.

Conference substitute

The conference substitute is the Senate amendment, with an amendment to require information on passenger miles.

Charter trains

House bill

No Provision.

Senate amendment

The Senate amendment, in section 402(m), would repeal section 402(g) of the RPSA which requires Amtrak to enter into an industry-wide agreement with respect to the operation of charter and special trains.

House amendment to Senate amendment

The House amendment, in section 1586, contains the same provision.

Conference substitute

The conference substitute is the House amendment to the Senate amendment.

Discretionary audits

House bill

No Provision.

Senate amendment

The Senate amendment, in section 402(o), would amend section 805(2) of the RPSA to eliminate the requirement that the General Accounting Office conduct an annual performance audit of Amtrak. Under this amendment, such audits would be discretionary.

House amendment to Senate amendment

The House amendment, in section 1587(a), contains the same provision.

Conference substitute

The conference substitute is the House amendment to the Senate amendment.

Repeal of studies and reports

House bill

No Provision.

Senate amendment

The Senate amendment, in sections 403(1), (p), (q), and (r), would repeal requirements for a number of studies and reports that either have been done or are no longer necessary.

Specifically, the provision would repeal section 306(k) of the RPSA, which deals with a study the Interstate Commerce Commission (ICC) was required to do in 1977; section 806 of the RPSA, which deals with a report the Secretary of Transportation was required to do in 1973; section 810 of the RPSA, which deals with a study the Secretary of Transportation was required to do in 1980; and section 811 of the RPSA, which requires Amtrak to submit an annual report to Congress on the ratio of revenue to operating expenses on each of its routes. This last report is not necessary, because the same information would be contained in the new consolidated report described in a previous section.

House amendment to Senate amendment

The House amendment, in section 1587(b), contains the same provision.

Conference substitute

The conference substitute is the House amendment to the Senate amendment.

Emergency assistance repeal

House bill

No Provision.

Senate amendment

The Senate amendment, in section 402(j), would repeal title VII of the RPSA, which authorized interim emergency Federal financial assistance to private railroads to assist them in carrying out the operating contracts with Amtrak authorized by the Act. This financial assistance was never required or used.

House amendment to Senate amendment

The House amendment, in section 1587(c), contains the same provision.

Conference substitute

The conference substitute is the House amendment to the Senate amendment.

NECIP report repeal

House bill

No Provision.

Senate amendment

The Senate amendment, in section 402(s), would repeal section 703(1)(D) of the Railroad Revitalization and Regulatory Reform Act of 1976, which requires Amtrak and the Secretary of Transportation to submit annual reports on the progress of the Northeast Corridor Improvement Project.

House amendment to Senate amendment

The House amendment, in section 1587(d), contains a similar provision, specifying an effective date of October 1, 1986.

Conference substitute

The conference substitute is the Senate amendment.

Performance evaluation center repeal

House bill

No Provision.

Senate amendment

The Senate amendment, in sections 402(f)(1) and (2), would repeal section 305(1) of the RPSA, which requires Amtrak to maintain a Performance Evaluation Center and to report to Congress every six months on the Center's activities and recommendations.

This provision also would make a conforming change in section 305(m) of the RPSA.

House amendment to Senate amendment

The House amendment, in section 1587(e), contains a similar provision, without the conforming change to section 305(m) of the RPSA.

Conference substitute

The conference substitute is the Senate amendment.

Revenue-cost ratio

House bill

No Provision.

Senate amendment

No Provision.

House amendment to Senate amendment

The House amendment, in section 1588, would require Amtrak to set a goal of recovering at least 61 percent of its operating costs from its revenue beginning in fiscal year 1986. Currently, Amtrak is required to recover fifty percent of its operating costs from revenues.

Conference substitute

The conference substitute is the House amendment to the Senate amendment.

Labor-related cost savings

House bill

No Provision.

Senate amendment

No provision.

House amendment to Senate amendment

The House amendment, in section 1589, would direct Amtrak and the representatives of employees of Amtrak to negotiate changes in existing agreements between such parties that would result in cost savings to Amtrak. Amtrak and the representatives of Amtrak's employees would report the results of their negotiations to Congress within six months of the date of enactment.

Conference substitute

The conference substitute is the House amendment to the Senate amendment.,

House bill

No Provision.

Senate amendment

No provision.

House amendment to Senate amendment

The House amendment, in section 1590, would prohibit Amtrak, as a result of the provision of this subtitle, from reducing the frequency of service on any line which, as of May 1, 1985, had three or fewer trains operating in either direction per week.

Conference substitute

The conference substitute is the House amendment to the Senate amendment.

Employment vacancy filing

House bill

No Provision.

Senate amendment

No provision.

House amendment to Senate amendment

The House amendment, in section 1592(a), would amend section 704(c) of the Regional Rail Reorganization Act to provide a sanction when railroads fail to file job vacancy notices with the Railroad Retirement Board. The provision would require the Board to issue a warning when it becomes aware of a railroad's failure to file. Thereafter, the railroad would be liable for a $1,000 civil penalty for any failure to file a notice of a subsequent job vacancy.

Conference substitute

The conference substitute is the House amendment to the Senate amendment, with two amendments: (1) reducing the civil penalty to $500; and, (2) exempting Amtrak from certain first-right-of-hire provisions where Amtrak hires qualified train and engine employees who hold seniority rights to work in intercity rail passenger service in connection with the assumption of functions previously performed under contract by other carriers.

The conferees intend that the Railroad Retirement Board will issue appropriate regulations providing for reasonable guidelines to implement this section.

Central register of railroad employment extension

House bill

No Provision.

Senate amendment

No Provision.

House amendment to Senate amendment

The House amendment, in section 1592(b), would extend for two additional years the applicability of the provisions of section 704 of the Regional Rail Reorganization Act with respect to the maintenance of a central register of railroad employment, filing of vacancy notices, and dispute resolution procedures.

Conference substitute

The conference substitute is the House amendment to the Senate amendment.

Transportation of used unoccupied vehicles

House bill

No Provision.

Senate amendment

The Senate amendment, in section 402(b), would amend section 103(3) of the RPSA to provide that Amtrak's authority to operate auto-ferry service extends to the transportation of used automobiles regardless of whether the automobiles are accompanied by their owners. Amtrak now operates Auto Train service between Virginia and Florida. Under the current law, it only can transport an automobile if the automobile's owner is also travelling on the train regardless of whether excess space is available. This amendment would permit Amtrak to generate additional revenues of approximately $1 million annually.

House amendment to Senate amendment

The House amendment, in section 1593, would amend section 103(3) of the RPSA to provide that Amtrak's authority to operate auto-ferry service extends to the transportation of unoccupied vehicles when space is available.

Conference substitute

The conference substitute provides that Amtrak's authority to operate auto-ferry service extends to the transportation of used, unoccupied vehicles when space is available.

Amtrak corporate citizenship

House bill

No Provision.

Senate amendment

The Senate amendment, in section 402(h), would amend section 306(m) of the RPSA to specify that Amtrak shall be considered a citizen only of the District of Columbia for purposes of determining original jurisdiction in Federal district courts.

House amendment to Senate amendment

No Provisions.

Conference substitute

The conference substitute is the Senate amendment.

Route and service criteria—403(d) trains

House bill

No Provision.

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Senate amendment

The Senate amendment, in section 402(i)(1), would amend section 403(d) of the RPSA regarding Amtrak's operation of commuter trains. Under current law, Amtrak is required to operate these trains if they meet the current criterion for short-distance trains of 80 passenger miles per train mile (pm/tm), a criterion that would be eliminated by the Senate amendment. The Senate amendment provides that, effective October 1, 1986, if a train operated under this section does not meet the avoidable loss per passenger mile criterion for short-distance trains, Amtrak may discontinue the train unless the State or States involved enter into an agreement ensuring that the criterion would be met.

House amendment to Senate amendment

No Provision.

Conference substitute

The conference substitute is the Senate amendment, with an amendment giving Amtrak the flexibility to "discontinue, modify, or adjust such service" to meet the applicable criterion.

Route and service-criteria—legislative review

House bill

No Provision.

Senate amendment

The Senate amendment, in section 402(i)(2), would amend section 404(c) of the RPSA to provide that any changes proposed by Amtrak to its Route and Service Criteria shall not be effective until 120 days after they have been submitted to the Congress. This amendment is made necessary by the fact that the current law contains a one-house legislative veto declared unconstitutional by the United States Supreme Court.

House amendment to Senate amendment

No Provision.

Conference substitute

The conference substitute is the Senate amendment, with an amendment providing that the Congress may pass a joint resolution during the period which, if signed by the President (or, if vetoed, overridden by Congress), would disapprove such changes.

Route and service-criteria—short and long distance trains

House bill

No Provision.

Senate amendment

The Senate amendment, in section 402(i)(3), (4) and (5), would amend sections 404(c) and (d) of the RPSA to eliminate, effective October 1, 1986, the passenger mile per train mile (pm/tm) criterion. Under current law, each Amtrak route is required to meet both the pm/tm and short-term avoidable loss criteria. If a route is projected not to meet these criteria, Amtrak must discontinue, modify or adjust the service over the route so that the criteria will be met. Under the amendment, Amtrak would continue to be required to review each of its routes to determine whether it meets the criterion on short-term avoidable loss per passenger mile.

House amendment to Senate amendment

No Provision.

Conference substitute

The conference substitute is the Senate amendment.

ICC regulation

House bill

No Provision.

Senate amendment

The Senate amendment, in section 402(k), would amend section 306(a)(3) of the RPSA to strike an obsolete reference to the Interstate Commerce Act and ICC regulation of train discontinuances.

House amendment to Senate amendment

No Provision.

Conference substitute

The conference substitute is the Senate amendment.

Meaning of "discontinuance" for labor protection purposes

House bill

No Provision.

Senate amendment

The Senate amendment, in section 402(n), would amend section 405(a) of RPSA to clarify that the term "dicontinuance" of rail service does not include any reduction in frequency, seasonal suspension or other service modification that does not result in the elimination of all service on a route.

House amendment to Senate amendment

No Provision.

Conference substitute

The conference substitute is the Senate amendment, with an amendment. Under the conference substitute, the term "discontinuance" shall not include any adjustment in frequency the effect of which is a temporary suspension of service, unless such suspension causes a reduction of passenger train operations on a particular route to a frequency of less than three round trips per week at any time during any calendar year. In approving this substitute, the conferees understand that the term "adjustment in frequency" includes "seasonal suspension."

Northeast Corridor cost dispute decisions

House bill

No provision.

Senate amendment

The Senate amendment, in section 402(t), would repeal section 1163 of the Northeast Rail Service Act of 1981 and would amend section 402(a) of the RPSA to modify the criteria to be used by the Interstate Commerce Commission (ICC) in future determinations of the compensation to be paid Amtrak for the use of the Northeast Corridor by freight railroads (primarily Conrail) and various commuter authorities.

House amendment to Senate amendment

No provision.

Conference substitute

The conference substitute is the Senate amendment with four amendments: (1) providing that the modified criteria to be used in ICC determinations shall not apply to the commuter authorities, which shall continue to be governed by the statutory standard adopted in 1981; (2) specifying that the ICC shall make future determinations within 120 days; (3) clarifying that the conference substitute shall not preclude parties from independently entering into agreements dealing with the compensation to be paid to Amtrak by the freight carriers; and, (4) clarifying that the conference substitute shall not be construed to alter the long-standing Congressional policy against cross-subsidization among intercity, commuter, and rail freight services. That is, the conferees do not intend that intercity and freight, intercity and commuter, or freight and commuter services cross-subsidize one another.

Local rail service assistance [LRSA]

House bill

No provision.

Senate amendment

The Senate amendment, in section 401, provides that, for purposes of the LRSA program, not more than $11.8 million shall be appropriated in fiscal year 1986; not more than $12.2 million shall be appropriated in fiscal year 1987; and not more than $12.8 million shall be appropriated in fiscal year 1988.

House amendment to Senate amendment

The House amendment, in section 1571, provides that no funds are authorized to be appropriated after September 1, 1985, for grants to states under the LRSA program.

Conference substitute

The conference substitute authorizes the appropriation of $12 million in fiscal year 1986, $10 million in fiscal year 1987, and $8 million in fiscal year 1988, with a provision that no funds are authorized to be appropriated for the period after September 30, 1988.

Funds appropriated will remain available after September 30, 1988, for obligation and expenditure, subject to the same statutory criteria, guidelines, and requirements under which the program currently operates. In addition, states that have established revolving loan funds from their rail assistance grants are also unaffected by the conference substitute.

Study commission

House bill

No provision.

Senate amendment

No provision.

House amendment to Senate amendment

The House amendment, in section 1582, would establish a Study Commission, the National Railroad Passenger Corporation Financial Status Commission, to examine the ability of Amtrak to further improve its financial performance. The Commission would also be responsible for studying the short-term and long-term capital needs of Amtrak. In addition, the Study Commission would investigate alternative funding mechanisms for Amtrak. The 17-member Commission would be required to transmit its findings, conclusions and recommendations to Congress no later than March 30, 1986.

This section also would authorize the appropriation of not to exceed $1 million for the Commission to carry out its responsibilities.

Conference substitute

The conference substitute is the Senate amendment.

Relocation assistance

House bill

No Provision.

Senate amendment

No Provision.

House amendment to Senate amendment

The House amendment, in section 1591, would add a new section 812 to the RPSA to provide a procedure to submit a petition to the Department of Transportation for safety-related Amtrak relocation assistance.

Conference substitute

The conference substitute is the Senate amendment.

Rail employee taxes

House bill

No Provision.

Senate amendment

No Provision.

House amendment to Senate amendment

The House amendment, in section 1594, would exempt railroad employees from multiple state income tax liability. It would amend section 11504 of the Interstate Commerce Act to provide that railroad employees would only be subject to state income tax liability in the state where th employee earns more than 50 percent of the employee's pay from the railroad or, if there is no such state, in the state of residence of the employee.

Conference substitute

The conference substitute is the Senate amendment.

Amtrak Board representatives

House bill

No Provision.

Senate amendment

The Senate amendment, in section 402(c), would amend section 303(a) of the RPSA to provide that the two members of the Amtrak Board of Directors who are selected by the preferred stockholders shall serve until their successors are appointed.

House amendment to Senate amendment

No Provision.

Conference substitute

The conference substitute is the House amendment to the Senate amendment.

Amtrak officers' pay

House bill

No Provision.

Senate amendment

The Senate amendment, in section 402(d), would amend section 303(d) of the RPSA to strike the provision imposing a pay cap on the officers of Amtrak, leaving discretion in Amtrak's board to set the level of compensation.

House amendment to Senate amendment

No Provision.

Conference substitute

The conference substitute is the House amendment to the Senate amendment.

U.S. Travel and Tourism Administration authorization

House bill

No Provision.

Senate amendment

The Senate amendment, in section 408, would authorize the appropriation of $12 million for the U.S. Travel and Tourism Administration in fiscal year 1986, $13 million in fiscal year 1987, and $14 million in fiscal year 1988.

House amendment to Senate amendment

No Provision.

Conference substitute

The conference substitute is the House amendment to the Senate amendment.

U.S. Congress,
Congressional Budget Office,
Washington, DC, December 17, 1985.

Hon. John D. Dingell,
Chairman, Committee on Energy and Commerce, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the attached estimate of the budget impact of the reconciliation provisions within the jurisdiction of subconference 7. The enclosed table reflects the budget impact of the provisions assuming a December 31, 1985 date of enactment.

If you wish further details on these estimates, we will be pleased to provide them.

With best wishes,

Sincerely,

Rudolph G. Penner.

ESTIMATED BUDGET IMPACT OF RECONCILIATION PROVISIONS—SUBCONFERENCE 7, CHANGE FROM RESOLUTION BASELINE

[By fiscal year, in millions of dollars]

	1986	1987	1988	Total 1986-88
Authorizations				
Amtrak				
Budget authority	−113	−137	−142	−392
Outlays	−98	−126	−140	−364
Local rail service assistance				
Budget authority	−7	−10	−13	−30
Outlays	−1	−4	−8	−13
Total				
Budget authority	−120	−147	−155	−422
Outlays	−99	−130	−148	−377

Title IV

Subtitle B

Reduction in Highway Authorizations

House bill

This section reduces fiscal year 1986 highway authorizations a total of $800 million. The reduction is made by reducing authorizations for the Interstate 4R program $350 million, the Primary program $150 million, and the Bridge Replacement and Rehabilitation program $300 million, which reduces authorizations for these three programs to their fiscal year 1985 levels.

The Secretary of Transportation is directed to reduce fiscal year 1986 apportionments for these three programs on the first day following enactment of this bill. In the event that any state has obligated previously authorized funds for these three programs in excess of the reduced amounts contained in this bill, the Secretary of Transportation is directed to subtract the excess from the fiscal year 1987 apportionments made to the affected states for these three program on October 1, 1986.

Senate amendment

No comparable provision.

Conference substitute

House provision, except fiscal year 1986 authorizations would be reduced a total of $400 million—$175 million for the Interstate 4R program, $75 million for the Primary program, and $150 million for the Bridge Replacement and Rehabilitation program.

Obligation limitations

House bill

Establishes obligation ceilings for affected highway and highway safety construction programs of $13.25 billion in fiscal year 1986, $13.80 billion in fiscal year 1987 and $14.40 billion in fiscal year 1988.

Programs exempted from obligation ceilings include obligations for Emergency Relief under section 125, Minimum Allocation under section 157, Bridges on Federal Dams under section 320, all of Title 23, United States Code, Acceleration of Bridge Projects under section 147 of the Surface Transportation Assistance Act of 1978, Woodrow Wilson Bridge Improvements under section 9 of the Federal-Aid Highway Act of 1981, Pennsylvania and Illinois demonstration projects authorized in sections 131(b) and 131(j) of the Surface Transportation Act of 1982, National Visitor Center improvements authorized under section 118 of the National Visitors Center Facilities Act of 1968, and Zilwaukee Bridge project construction required as the result of construction failure.

This section further specifies that no obligation controls be placed upon ongoing emergency projects carried out under section 125 of Title 23, United States Code or section 147 of the Surface Transportation Assistance Act of 1978.

Senate amendment

Establishes obligation ceilings for affected highway and highway safety construction programs of $12.75 billion in fiscal year 1986, $13.25 billion in fiscal year 1987, and $13.80 billion in fiscal year 1988.

Programs exempted from obligation ceilings include obligations for Emergency Relief under section 125, Minimum Allocation under section 157, Bridges on Federal Dams under section 320, all of Title 23, United States Code, Acceleration of Bridge Projects under section 147 of the Surface Transportation Assistance Act of 1978, Woodrow Wilson Bridge Improvements under section 9 of the Federal-Aid Highway Act of 1981, and National Visitor Center Improvements under section 118 of the National Visitors Center Facilities Act of 1968.

Conference substitute

Establishes obligation ceilings for affected highway and highway safety construction programs of $13.125 billion for fiscal year 1986, $13.525 billion for fiscal year 1987, and $14.1 billion for fiscal year 1988.

Programs exempted from obligation ceilings are the same as the House bill, except the Zilwaukee Bridge project is not exempted.

The redundant House provision specifying that no obligation controls be placed upon ongoing emergency projects carried out under section 125 of Title 23, United States Code, or section 147 of the Surface Transportation Assistance Act of 1978 is deleted.

Distribution of obligation authority

House bill

Directs the Secretary of Transportation to distribute obligation authority to the states for each of the fiscal years 1986, 1987, and 1988 based 95 percent upon the ratio that each state's apportionments or allocations for that year bears to the total nationwide apportionments or allocations made for that year and 5 percent based upon the ratio that each state's available unobligated balance of funds previously apportioned or allocated bears to the nationwide total of such available unobligated apportionments or allocations. These latter determinations shall be made based upon each state's unobligated balance of Federal-aid highway and highway safety funds previously apportioned or allocated which remain available for obligation on the last day of the preceding fiscal year which are not subject to lapse on such last day of that fiscal year.

This section limits first quarter obligations for each state to obligation of no more than 35 percent of its total obligation authority for the year and the nationwide total obligations for the first quarter to no more than 25 percent of the total for each of fiscal years 1986, 1987, and 1988.

This section also directs the Secretary of Transportation to provide in fiscal years 1986, 1987, and 1988 all states sufficient obligation authority to prevent lapses of funds previously authorized to be apportioned or allocated, notwithstanding the previous provisions of this section, except for those instances where a state indicates its intent to lapse funds apportioned under section 104(b)(5)(A) of Title 23, United States Code.

The Secretary of Transportation is further directed after August 1 of fiscal years 1986, 1987, and 1988 to revise the distribution of obligation authority to the states if one or more states will not obligate the obligation authority amounts previously distributed to them under this section. Such redistribution shall be made giving priority to states having large unobligated balances of funds apportioned to them under section 104 of Title 23, United Stated Code and to states experiencing substantial proportional reductions in apportionments or allocations as the result of statutory changes made by the Surface Transportation Assistance Act of 1982 and the Federal-Aid Highway Act of 1981.

The Secretary may not distribute amounts authorized for administrative expenses and Federal lands highways programs.

Section 157(b) of Title 23, United States Code, is amended to make clear that Minimum Allocation funds, which are exempt from obligation ceilings, are not considered in computing the distribution of obligation authority to the states.

Senate amendment

Same as House bill except that obligation authority for each of fiscal years 1986, 1987, and 1988 is distributed to the states based strictly upon the ratio that each state's apportionments or allocations bear to the nationwide total apportionments and allocation for that fiscal year. Senate bill does not contain House bill comforming amendment to Section 157(b) regarding Minimum Allocation funds.

Conference substitute

Same as House bill except that obligation authority for each of fiscal years 1986, 1987, and 1988 is distributed to the states based strictly upon the ratio that each state's apportionments or allocations bear to the nationwide total apportionments and allocations for that fiscal year.

Emergency relief

House bill

No comparable provision

Senate amendment

This section increases the maximum amount which the Secretary may expend in any State for any single natural disaster or catastrophic failure under the provision of section 125, Emergency Relief, of Title 23, United States Code, from $30 million to $55 million for any disasters or failures occurring in calendar year 1985.

Conference substitute

Senate provision.

National minimum drinking age

House bill

No comparable provision.

Senate amendment

This section amends section 158 of Title 23, United States Code, to direct the Secretary of Transportation to permanently withhold, beginning in fiscal year 1989, ten percent of highway funds apportioned each year under sections 104(b)(1), 104(b)(2), 104(b)(5), and 104(b)(6) of this Title from any state which does not have in effect an acceptable permanent twenty-one year old minimum drinking age law in effect on the first day of fiscal year 1989.

Fiscal year 1987 and 1988 funds withheld pursuant to existing law may be restored to any state enacting a suitable minimum twenty-one year old drinking law as long as the normal lapsing period for such funds has not expired. Funds withheld under this section for fiscal year 1989 and subsequent fiscal years may not be restored.

Conference substitute

Similar to the Senate provision, except section 158 is further amended by directing that a state law containing a grandfather clause allowing those persons under 21 who had the right to drink under the state's previous law is to be considered as meeting the requirements of section 158, if such state law is enacted no later than October 1, 1986, or the tenth day following the last day that the state's legislature first meets after the date of enactment, whichever date is later. Any 21 year old minimum drinking age law containing a grandfather clause enacted after the later of those two dates will not be considered in compliance with section 158, and a state enacting such a law after such date will be sanctioned in accordance with section 158, as amended. In addition, it is also intended that a state failing to enact such a law prior to October 1, 1986, because its legislature has not met or finished its next session shall be subject to the 5 percent penalty on October 1, 1986, subject to reimbursement upon enactment of its grandfather law during such session.

Any state enacting an acceptable minimum drinking age law after September 30, 1988, will be entitled to reimbursed for only those funds withheld in fiscal year 1987 and 1988 and for no subsequent years. After FY 1988, funds withheld for succeeding fiscal years from any state that has not yet enacted a minimum drinking age law in conformance with section 158 will be considered to have permanently lapsed, except that Interstate funds would be reallocated by the Secretary under section 118(b) of Title 23, United States Code. Funds withheld from a state and remaining available for reimbursement will be allocated to such state the day after a minimum drinking age law is enacted in accordance with section 158. Reimbursable funds include only those funds withheld from apportionment in fiscal years 1987 and 1988 that, under current law, have not lapsed and remain available for apportionment. Upon apportionment, such funds shall be available for obligation for a period not to exceed the period such funds are normally available when apportioned.

The Conference Substitute also includes conforming amendments to make technical corrections in the minimum drinking age provision of P.L. 98-363.

Ohio River bridge reprogramming

House bill

This section amends section 147 of the Federal-Aid Highway Act of 1978 to permit the use of previously set aside and authorized funds, excess to the needs of the two bridge projects designated as the result of the 1978 Act, to carry out three bridge replacement projects over the Ohio River. Such projects will use state-of-the-art design and construction technology to provide the most cost-effective projects which result in minimum future maintenance and rehabilitation costs.

The Secretary is instructed to allocate sufficient funds from the available excess to carry out two Ohio River highway bridge replacement projects between Newport, Kentucky, and Cincinnati, Ohio, and between Covington, Kentucky, and Cincinnati, Ohio, before allocating any remaining available funds for the Ohio River highway bridge replacement project between Maysville, Kentucky, and Aberdeen, Ohio.

Funds allocated under this section are to be made available for obligation in the same manner and extent as if such funds were made available under chapter 1 of Title 23, United States Code except that such funds are made available until expended and are not subject to any obligation limitations.

The Federal share of such projects shall be 90 percent as specified under subsection (a) of section 147 of the 1978 Federal-Aid Highway Act.

In order to maximize the dissemination of knowledge gained from the use of advanced technology and other effects on these projects, the Secretary is directed to submit reports on these projects, together with recommendations for applying the results to other projects, and where appropriate, changes in law necessary to incorporate the beneficial results into other projects. Such reports are to be submitted one year, six years, 11 years, and 21 years after completion of the three bridge replacement projects authorized under this section.

Senate amendment

No comparable provision.

Conference substitute

Same as the House provision with technical changes, except that no more than $65 million of section 147 funds shall be available to carry out the three bridge replacement projects over the Ohio River. The balance of section 147 funds shall be redistributed to all states pursuant to section 144(e) of Title 23, United States Code.

The Conferees want to emphasize four points with respect to this provision. First, the term "replace" is used in a functional sense, meaning that the new bridge will be a substitute for the old bridge on the particular route in question. The Conferees want to make it clear that the bridges being replaced do not necessarily have to be taken down.

Second, it is the intent and expectation of the Conferees that the Secretary assure that sufficient funds are set aside from the $65 million to fully construct the bridges described in subparagraphs (2)(A) and (2)(B). In the unlikely event that the $65 million is not sufficient to fully construct the bridges described in subparagraphs (2)(A) and (2)(B), the state would have to use other Federal and state funds available to it to make up the difference. Once these projects proceed to the point where the Secretary can make a determination and certify in writing that sufficient funds have been set aside from the $65 million to complete these projects, then the Secretary is to allocate remaining funds to the project described in subparagraph (2)(C). Of course, if the $65 million is not sufficient to complete the projects described in subparagraphs (2)(A) and (2)(B), then no funds could be allocated to the project described in paragraph (2)(C). Since the projects described in paragraphs (2)(A) and (2)(B) have priority over the project described in subparagraph (2)(C), the Conferees fully recognize that the amounts allocated to the bridge described in subparagraph (2)(C) will not be sufficient to fully construct it. The state will have to use other Federal and state funds available to it to make up the difference.

Third, the Conferees have agreed to this provision with the understanding that no additional special Federal funding will be provided for any of these bridges. In that regard, it is the intent and expectation of the Conferees that the Secretary require, as a condition precedent to making an allocation from the $65 million of each project, the state to agree in writing that it will provide the necessary funds to complete such project in the event that the amount allocated under this provision is not sufficient. In other words, before receiving any funds under this provision, the state must agree to bear full responsibility for completing the project. With respect to the projects described in subparagraphs (2)(A) and (2)(B), this agreement would cover at least the following situations: (1) the state must agree to complete the projects in the event that the $65 million turns out to be insufficient; and (2) the state must agree to cover any cost overruns which might occur subsequent to the Secretary certifying that sufficient funds have been set aside to complete the project (this latter situation should be quite remote given the intent of the Conferees that the Secretary not make the required certification until he or she has a high degree of assurance as to the final cost of the project). With respect to the project described in subparagraph (2)(C), the agreement would set forth the funding arrangements that have been made by the state to assure completion of the project given the limited Federal contribution under this provision.

And fourth, the Conferees want to note the extraordinary nature of the situation that led to the need for this provision. The excess funds being reprogrammed by this provision were the result of changed circumstances, overly conservative estimates of inflation, and cost savings achieved by the Section 147 demonstration program, a one-time special program to demonstrate methods to accelerate construction of bridge projects. Thus, this provison should not in any way be viewed as a precedent with respect to cost savings that might be achieved on bridge projects funded under the normal Federal-aid programs.

U.S. Congress,
Congressional Budget Office,
Washington, DC, December 19, 1985.

Hon. James J. Howard,
Chairman, Committee on Public Works and Transportation, House of Representatives, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the attached revised estimate of the Budget impact of the reconciliation provisions within the jurisdiction of subconference 14. This supersedes the previous estimate dated December 18, 1985, and reflects additional information provided by the committee staff.

If you wish further details on this estimate we will be pleased to provide them.

With best wishes.

Sincerely,

James Blum
(For Rudolph G. Penner).

ESTIMATED BUDGET IMPACT OF RECONCILIATION PROVISIONS—SUBCONFERENCE 14, CHANGE FROM RESOLUTION BASELINE

[By fiscal year, in millions of dollars]

	1986	1987	1988	Total 1986-88
Direct spending Federal-aid highways				
Budget authority	-400			-400
Outlays	-200	-1,000	-1,300	-2,500

ESTIMATED BUDGET IMPACT OF RECONCILIATION PROVISIONS—SUBCONFERENCE 14, CHANGE FROM RESOLUTION BASELINE—Continued

[By fiscal year, in millions of dollars]

	1986	1987	1988	Total 1986-88
Total				
Budget authority	-400	....	....	-400
Outlays	-200	-1,000	-1,300	-2,500

Note.—Assumes a December 31, 1985 date of enactment

TITLE V—CORPORATION FOR PUBLIC BROADCASTING AND FEDERAL COMMUNICATIONS COMMISSION

Section 5001—Public Broadcasting authorization

House bill

The House bill contained no provision.

Senate bill

The Senate bill authorized the Corporation for Public Broadcasting (CPB) at $200 million for FY 1987, $214 million for FY 1988, $238 million for FY 1989 and $254 million for FY 1990. The Senate bill also authorized the Public Telecommunications Facilities Program (PTFP) at $24 million for FY 1986, $28 million for FY 1987 and $32 million for FY 1988, in addition to certain provisions related thereto.

Conference agreement

The Conference adopts the Senate provision.

Section 5001(c)(1) of the conference report authorizes appropriations for the operations of the Corporation for Public Broadcasting (CPB) at $200 million for fiscal year 1987, $214 million for fiscal year 1988, $238 million for fiscal year 1989, and $254 million for fiscal year 1990. Section 5001(a) of the conference report authorizes appropriations for the Public Telecommunications Facilities Program (PTFP) at $24 million for fiscal year 1986, $28 million for fiscal year 1987, and $32 million for fiscal year 1988.

The CPB is a private, nonprofit corporation organized under the laws of the District of Columbia. CPB acts as the public trustee for funds appropriated pursuant to the Public Broadcasting Act of 1967.

The PTFP provides grants for broadcast equipment and other telecommunications "hardware." This program is administered by the National Telecommunications and Information Administration (NTIA) of the Department of Commerce.

The 1981 reauthorization legislation sharply curtailed federal support for public broadcasting in view of overall federal budget constraints. For CPB, Congress authorized $130 million for each of fiscal years 1984, 1985, and 1986. For PTFP, Congress authorized $20 million for fiscal year 1982, $15 million for fiscal year 1983, and $12 million for fiscal year 1984. At the same time, Congress sought to stimulate alternatives to federal funding and allowed public broadcasting stations greater freedom to engage in commercial ventures for support. The 1981 authorization also established the Temporary Commission on Alternative Financing (TCAF) to explore financing alternative for public broadcasting.

It was hoped at the time that new sources of revenue, provided for in part by that Act, could be generated to compensate for decreasing federal funds, thereby preventing a deterioration in service. However, since that time, despite major efforts by the Public Broadcasting System, revenue has not been forthcoming in sufficient amounts to compensate for the drastic cuts. As a result, many stations have had to reduce the amount of locally produced programming, overall broadcast hours, and staff. Moreover, important cultural and educational series are being forced out of production. For example, the series "Nature: Living Wild" and "Latenight America" have been canceled due to lack of funding. Production of new shows for "Great Performances", "Frontline" and "Playhouse" has been scaled back 20 percent. Production for "Wonderworks" and "Reading Rainbow", both popular and critically acclaimed programs for children, has been cut 30 percent and 33 percent respectively. Two-thirds of all "Sesame Street" programs are now reruns of previous segments, and for the first time, no new American-produced series aired on public television last Fall.

A low level of funding for the PTFP program threatens to undermine severely the goal of assuring the availability of quality public broadcasting facilities which are vitally necessary to assure the public receives adequate access to public broadcast programming. Currently, approximately 30 percent of the country does not receive public radio signals, and approximately 10 percent of the public still does not receive a local public television signal. Many large geographic areas, particularly in the West, cannot receive a public television signal. There is no local service yet in Montana, 15 percent of Missourians do not receive public television signals, and similar problems exist in Nevada, Arizona, Alaska and Hawaii. In other areas there are particular problems where mountains and buildings interfere with signals, and equipment is needed to correct this situation in order to serve the entire community. Finally, a severe problem is developing with respect to preservation and maintenance of existing transmission and other broadcasting equipment, and it has become very clear that updating and replacing equipment and parts requires an ongoing commitment of resources if quality public broadcasting signals are going to be available to the public.

In 1983, in an attempt to prevent further decline in the system, Congress passed a supplemental authorization bill which increased the authorizations for CPB to $145 million for fiscal year 1984, $153 million for fiscal year 1985, and $162 million for fiscal year 1986 (Public Law 98-214).

In 1984, the Congress passed S. 2436, and the House companion legislation, H.R. 5541. Based upon hearings on these bills and upon the findings of the TCAF, it was clear that alternative financing mechanisms had not developed to the point where they could replace or substantially supplement federal support for public broadcasting. These bills therefore provided authorization levels that were substantially higher than those provided by the 1981 legislation. For CPB, S. 2436 and H.R. 5541 authorized $238 million for fiscal year 1987, $253 million for fiscal year 1988, and $270 million for fiscal year 1989. For PTFP, they authorized $50 million for fiscal year 1985, $53 million for fiscal year 1986, and $56 million for fiscal year 1987. On August 29, 1984, the President vetoed S. 2436.

As a result of this veto, on September 20, 1984, the Senate passed new authorizing legislation, S. 607. For CPB, S. 607 authorized $200 million for fiscal year 1987, $225 million for fiscal year 1988, and $250 million for fiscal year 1989. For PTFP, it authorized

$25 million for fiscal year 1985, $35 million for fiscal year 1986, and $40 million for fiscal year 1987. S. 607 passed the House on October 5, 1984, but was pocket vetoed by the President on October 22, 1984.

The Conference report retains strong support for our nation's public broadcasting system, recognizing that this system still needs adequate federal funding. At the same time, the conferees are aware of federal budget constraints, and have endeavored to strike an appropriate balance in this legislation. The authorization levels in the conference agreement are well below those in S. 2436 and S. 607, and the conferees believe these levels provide the minimum amount that will allow CPB and PTFP to fulfill adequately their important functions.

The funding levels contained in this measure are below the Administration's own 1985 recommendations for CPB. However, the conferees expressly reject the Administration proposal to abolish the PTFP program which is a program critically necessary to meeting the goal that public broadcasting service is available to all Americans.

In addition to reauthorizing CPB and PTFP, Section 5001(b) of the conference report amends section 393 of the 1934 Act by striking subsection (c), which provides that not less than 75 percent of program funds shall be available for new public telecommunication facilities that will reach unserved areas. By striking this 75 percent allocation guideline, the Conference Committee intends that the administrators of the program have flexibility to use a greater proportion of funds for replacement or rebuilding of equipment in existing public telecommunications facilities. The release of additional funds for this purpose will help prevent service to the public from being disrupted by failures or breakdowns in aging equipment.

In approving grants, the conferees intend that NTIA shall continue to follow the criteria set forth in section 393(b) of the 1934 Act, which remain unchanged by this legislation.

Section 5001(c)(2) of the conference report also amends section 396(k)(3)(a)(i)(II) of the Communications Act of 1934 to strike the words "research, training, technical assistance, engineering, instructional support, payment of interest on indebtedness." This amendment is intended to provide CPB with greater flexibility to use the funds allocated to it to meet the evolving needs of public broadcasting. In providing CPB with this flexibility, the Committee does not intend to preclude CPB from providing funds for research, training, technical assistance, engineering, instructional support, and payment of interest on indebtedness. Capital costs relating to telecommunications satellites, the payment of programming royalties and other fees, and the costs of interconnection facilities remain specified obligations of CPB under this subclause.

Finally, Section 5001(c)(3) of the conference reports amends section 396(k) of the 1934 Act to strike paragraph (8). Paragraph (8) currently requires that public broadcasting entities, if they file income tax returns declaring unrelated business income from commercial activities permitted under the 1934 Act, must refund to CPB an amount equal to the unrelated business income tax paid.

TCAF reviewed the possibility that additional sources of income could be generated by public broadcasters entering auxiliary commercial ventures. For example, some public television stations use spare production capacity to produce programs for cable television, others lease the satellite uplink for commercial purposes. Some public radio stations have signed agreements to lease excess satellite distribution capacity for commercial paging ventures. However, TCAF included that profits from these ventures are extremely small, and prospects for them to generate meaningful income in the forseeable future appear dim.

TCAF also concluded, that Section 396(k)(8) of the Public Broadcasting Act of 1981 is a barrier to increased entrepreneurial activities by public broadcasters. The Conference Committee agrees that the additional generation of revenues should be encouraged and adopts TCAF's recommendation to repeal the unrelated business income tax provision.

Section 5002—Federal Communications Commission

House bill

The House bill contained a cost of regulation fee schedule and certain provisions related thereto.

Senate bill

The Senate bill authorized the Federal Communications Commission at $98.1 million for FY 1986, and $97.6 million for FY 1987 with certain related provisions. The Senate bill also contained a cost of regulation fee schedule and related fee provisions.

Conference agreement

The conference adopts the Senate provision.

FCC Travel

Subsection (b) of the Conference Report amends section 4(g)(2) of the 1934 Act (47 U.S.C. 154(g)(2)) to extend the FCC's travel reimbursement program through fiscal year 1987. New subparagraph (E) is added to section 4(g)(2) to authorize the Commission to obligate travel reimbursement funds that are received after the close of a fiscal year.

Annual Report

Subsection (c) of the Conference Report changes the due date on the FCC annual report to Congress required by section 5(g) of the Communications Act. Because of circumstances beyond its control, the FCC has been unable to submit the report by January 31, as current law provides. By prescribing March 31 as the new due date, the conferees have provided more than ample time for timely submission. The conferees expect that the report will be submitted as soon after January 31 as is possible. In no case, should the report be submitted later than March 31.

Charges for operation

Section 5002(e) of the Conference Report creates a new Section 8 of the Communications Act of 1934 which requires the Federal Communications Commission (FCC) to charge fees for the regulatory services it provides to many of the communications entities within its jurisdiction. These fees have been recommended by the FCC and are based on the Commission's estimates of the cost of providing such services. The fee schedule will not subject any additional communications entities to Commission regulation.

The Conferees believe that fees based on the cost of regulation principle are an appropriate mechanism by which a portion of the FCC's regulatory expenses may be recaptured.

Non-commercial radio and TV stations will not be subject to any of the fees listed in this schedule. In addition, no provision in the fee schedule applies to petitions to deny the grant of a license to regulated communications entities filed by non-licensees.

The fee schedule shall be implemented not later than 360 days after the date of enactment of this section.

Section (8)(b) of the Communications Act requires the Commission to review these fees every 2 years, and to increase or decrease the fees to reflect changes in the Consumer Price Index (CPI). Adjustments will apply to all fees, but an individual fee shall not be adjusted until the net change in the CPI amounts to at least $5 for fees under $100, or 5 percent of fees of $100 or more. Adjusted fees will be rounded upward to the next $5 increment. The Commission shall notify Congress of any adjustments no later than 90 days before such adjustment takes effect. Adjustments to fees pursuant to this procedure shall not be subject to judicial review, because these changes merely are ministerial, nondiscretionary acts.

Subsection (c) requires the Commission to develop penalty charges that will be assessed for late payment of fees. These penalties will equal 25 percent of the late payment of fees. The Commission is authorized to dismiss applications or other filings to penalize late payment of charges.

Subsection (d) provides that the fees shall not apply to specified radio services: Local government, police, fire, highway maintenance, forestry-conservation, public safety, and special emergency radio. In addition, the charges established shall not apply to governmental entities licensed in other services. The Commission is authorized to waive or defer fee payments in specific instances, where good cause is shown and where waiver or deferment of fees would promote the public interest. The Conferees intend that the Commission's discretion to waive or defer fees shall be narrowly defined.

Subsection (e) provides that the fees collected by the Commission under this section will be deposited in the general fund of the U.S. Treasury. Although the fees collected will reimburse the United States for amounts appropriated for use by the Commission in carrying out its functions, nothing in this section shall be interpreted to affect the need for full funding of the Commission's activities through the normal appropriations process.

Subsection (f) directs the Commission to prescribe rules and regulations to implement this fee schedule.

The Conference Report requires the Commission to collect fees for the following regulatory services:

Private Radio Service

1. *Marine Corps Stations* (New, Modifications, Renewals). Maritime stations on land which are intended for the transmission of marine radionavigation information or communications for the operation of ships and for convenience of shipboard personnel and passengers. Alaska stations intended are for point-to-point communications within Alaska where no other means of communication is available.

2. *Operational Fixed Microwave Stations.* (New, Modifications, Revewals). These stations are most commonly used for point-to-point communications. These communications are associated with Aviation, Marine, Public Safety, Industrial and Land Transportation Radio Services.

3. *Aviation Ground Stations* (New, Modifications, Renewals). These stations are intended for the transmission of air radionavi-

gation communications for the operation of aircraft. This definition is applicable to the following Part 87 stations: Flight Test, Aviation Instruction, Aeronautical Search, Rescue, Radionavigation Land Test, etc.

4. *Land Mobile Radio Licenses* (New, Modifications, Renewals). These sections are used to satisfy the needs of commercial and industrial activities, state and local governments, transportation systems and religious, philanthropic and educational endeavors.

EQUIPMENT APPROVAL SERVICE

1. *Certification.*—An equipment authorization issued by the Commission for equipment designed to be operated without individual license under Parts 15 and 18. Applies mostly to low power radio frequency devices, some computing devices, receivers which tune anywhere in the band 30 to 890 MHz, CB receivers and some other kinds of Industrial, Scientific and Medical (ISM) equipment.

1.a. *Receivers (except TV and FM receivers).*—A device for receiving electrical waves and/or signals. These include CB receivers, scanning receivers, radio control and security alarms and receivers tuning between 30 and 890 MHz. TV and FM receivers are excluded as they require only *verification.* A process which allows the manufacturer to be responsible for measurement necessary to insure with appropriate technical requirements. Reports of compliance are not required unless requested by the FCC.

1.b. All other devices.—These include non-licensed transmitting devices (low-power communication devices, personal computers (PC), PC peripheral devices, telemetering devices, cordless telephones, TV interface devices, to name a few) and Industrial, Scientific and Medical Equipment (Industrial heating equipment and induction cooking ranges).

2. *Type Acceptance.*—Equipment authorization issued by the Commission for transmitting equipment to be used pursuant to a station authorization.

2.a. *Approval of Subscription TV Systems.*—Applies to encoding and decoding schemes for transmission and reception of scrambled pay TV programs over the air. Applicants must show that the requirements of Part 73 of the rules are met by the system.

2.b. *All Others.*—Applies to certain licensed transmitting equipment such as AM stereo exciter-generators, remote pick-up, low power TV, TV translators, instructional TV, FM broadcast translators/boosters, cable TV relay, mobile, maritime radio-telephone, aviation transmitters, to name a few.

3. *Type Approval.*—Equipment authorization issued by the Commission based on examination and measurement of one or more sample units by the Commission at its laboratory. This applies to some compulsorily installed marine safety-of-life equipment, and to some non-licensed devices, including certain ISM devices.

3.a. *Ship (Radio-Telegraph) Automatic Alarm Systems.*—Self-explanatory.

3.b. *Ship and Lifeboat (Radio-Telegraph) Transmitters.*—Self-explanatory.

3.c. *All others (with testing).*—Examinations and measurement testing required of new and major modification of some non-licensed transmitting devices (wireless microphones telemetering devices) and some Industrial, Scientific and Medical Equipment (ultrasonic, heating, medical disthermy).

3.d. *All others (without testing).*—Applies to equipment previously tested and approved as new equipment, however resubmitted for approval under new name or minor modification to original approval.

4. *Notification.*—Process requires manufacturers to test devices for compliance with applicable FCC regulations and to keep records of test data. Manufacturer submits brief application for authorization of device citing that all regulatory requirements have been met. Test data is not required unless requested by FCC.

Mass Media Bureau

1. *Commercial TV Stations.*—

Commerical Television Station.—Any UHF or VHF station other than those classified by the FCC as non-commercial educational stations.

Construction Permit for New Station.—The instrument authorizing construction of a broadcast facility which has not been previously authorized.

1.a. *New and Major Change Construction Permits Application Fees.*—The charge levied when filing an application for a permit to construct a new station or change frequency or station location of a previously authorized facility. The application fee does not apply to requests for Special Temporary Authority or reinstatement of expired permits.

1.b. *Minor Change Application Fee.*—The charge levied when filing an application for a construction permit to make minor changes in previously authorized facilities.

(1) Minor changes include any change involving operating power; the installation of a transmitter which has not been authorized by the FCC for use by licensed broadcast station; any change in location, height or directional radiating characteristics of the antenna or antenna system; and moving the main studio of a TV station to a location outside the principal community, or in move the studio from one location outside the principal community to another such location.

(2) Minor changes do not include extension of time to construct, reinstatement of expired permit, modifications that may be made without prior authorization from the FCC and requests for Special Temporary Authority.

1.c. *Hearing Charge.*—The charge levied when an application is designated for hearing.

1.d. *License Fee.*—The charge levied when an application is filed for a license to cover a construction permit. License fees are not applicable to any license modification that may be made without prior authorization from the FCC.

2. *Commercial Radio Station.*—

Commercial Radio Station.—Any AM or FM station other than those classified by the FCC as non-commercial educational stations.

Construction Permit for New Station.—The instrument authorizing construction of a broadcast facility which has not been previously authorized.

2.a. New and Major Change Construction Permits:

(1) *Application Fee AM Station.*—The charge levied when filing an application for a permit to construct a new station or for a construction permit for any increase in power, or any change in frequency, hours of operation or station location. The application fee does not apply to requests for Special Temporary Authority or reinstatement of expired permits.

(2) *Application Fee FM Station.*—The charge levied when filing an application for a permit to construct a new station or for a construction permit to change frequency or station location. The application fee does not apply to requests for Special Temporary Authority or reinstatement of expired permits.

2.b. *Minor Changes Application Fee—AM & FM.*—The charge levied when filing an application for a construction permit to make minor changes in previously authorized facilities.

(1) Minor changes include the installation of a transmitter which has not been authorized by the FCC for use by licensed broadcast stations; any change in the location, height, or directional radiating characteristics of the antenna or antenna system; any change involving operating power of an FM station; any decrease in nominal power of an AM station; and moving the main studio of a station to a location outside the principal community, or to move the studio from one location outside the principal community to another such location.

(2) Minor changes do not include extensions of time to construct, reinstatement of expired permit, modifications that may be made without prior authorization from the FCC, requests for Special Temporary Authority or remote control authorizations.

2.c. *Hearing Charge.*—The charge levied when an application is designated for hearing.

2.d. *License Fee:*

(1) AM. The charge levied when filing an application for a license to cover a construction permit. AM license fees are not applicable to requests to determine power by the direct method or for any license modification that may be made without prior authorization from the FCC.

(2) FM. The charge levied when filing an application for a license to cover a construction permit. FM license fees are not applicable to any license modification that may be made without prior authorization from the FCC.

Directional Antenna.—A system of one or more towers used to orient or redirect radiation in a certain direction.

2.e. *Directional Antenna License Fee* (AM Only).—The charge levied when filing for a license for a directional antenna. This charge is in addition to the AM license fee.

3. *FM/TV Translators and LPTV Stations* (New & Major Change Construction Permits).

FM Translator Station.—A station in the broadcast service operated for the purpose of retransmitting the programs and signals of an FM broadcast station, without significantly altering any characteristics of the original signal other than its frequency and amplitude, for the purpose of providing FM reception to the general public.

Television Translator Station.—A station in the broadcast service operated for the purpose of retransmitting the programs and signals of a television broadcast station, without significantly altering any characteristics of the original signal other than its frequency and amplitude, for the purpose of providing television reception to the general public.

Low Power Television Station.—A UHF or VHF station that may originate programming or provide a subscription television service. The transmitter power output is limited to a maximum of 1,000 watts for a UHF station and 10 watts for a VHF station, except where VHF operation is on an allocated channel and then 100 watts may be employed.

3.a. *Application Fee:*

(1) *FM Translators.*—The charge levied when filing an application for a permit to

construct a new station or to make major changes in previously-authorized facilities. Major changes include changes in frequency (output channel) or authorized principal community for area.

(2) *TV Translators and LPTV Stations.*—The charge levied when filing an application for a permit to construct a new station or make major changes in previously authorized facilities. Major changes include any change in frequency (output channel) assignment or any of the following changes if such changes will increase the signal range of the station in any horizontal direction.

(i) Transmitting antenna system including the direction of the radiation, directive antenna pattern or transmission line; (ii) antenna height; (iii) antenna location exceeding 200 meters; or (iv) authorized operating power.

3.b. *License Fee.*—The charge levied when filing an application to cover a construction permit for a new station or major change in previously authorized facilities.

4. *Station Assignment and Transfer Fees.*—

4.a *AM. FM. and TV Commercial Stations:*

(1) *"Long" Form Application Fees.*—The charge levied when filing an Application for Consent to Assignment of Broadcast Construction Permit or License (FCC Form 314) or an Application for Consent to Transfer of Control of Corporation Holding Broadcast Station Construction Permit or License (FCC Form 315).

(2) *"Short" Form Application Fee.*—The charge levied when filing FCC "short" form Application for Consent to Assignment of Broadcast Station Construction Permit or License or Transfer of control of Corporation Holding Broadcast Station Construction Permit or License (FCC Form 316).

4.b. *FM/TV Translators & LPTV Stations.*—The charge levied when filing Application for Transfer of Control of Corporate License or Permit or Assignment of License or Permit for an FM or TV Translator Station, or a Low Power TV Station (FCC Form 345).

5. *Auxiliary Services Major Actions—Application Fee.*—The charge levied when filing applications for new stations and changes to existing stations (equivalent to the category "New and Major Changes" in other services), including Remote Pickup, TV Auxiliary Broadcast Stations, Aural Broadcast STI and Intercity Relay, and Low Power Auxiliary Stations.

6. *Renewals—All Services.*—The charge levied when filing an application for license renewals. The license periods are five years for television broadcast stations and seven years for radio broadcast stations. Auxiliary Service license are generally held by licensees of full service AM, FM or TV stations and are renewed automatically whenever the main station license is renewed.

7. *Cable Television Service.*—

Cable Television Service.—A fixed or mobile station used in connection with the operations of cable television systems for the transmission of television, audio and other signals to a cable system or within a cable system (Section 73.5(a) of the Commission's Rules).

7.a. *Cable Television Relay Service (CARS).*—Filing fees for construction permits, assignments and transfers, renewals and modifications.

7.b. *Cable Special Relief Petitions.*—Filing fees for petitions filed by a cable television sysem, a franchising authority, an applicant, permittee or licensee of a television broadcast, translator or microwave relay station, or by any other interested party, seeking waiver of any provision of the rules relating to cable television systems, or the imposition of additional or different requirements, or the issuance of a ruling on a complaint or dispute question.

8. *Direct Broadcast Satellites.*—

Direct Broadcast Satellites.—A radio communication service in which signals transmitted or retransmitted by space stations are intended for direct reception by the general public.

8.a. *Application Fee.*—Self-explanatory.

8.b. *CP and Launch Authority.*—An applicant for a DBS facility is first granted an authorization. The applicant then has one year to demonstrate "due diligence" toward construction of the proposed satellite. If the showing is successfully made, a construction permit will be issued. The fee is for issuance of this construction permit, which specifies orbital positions and frequencies to be used, as well as granting launch authority.

8.c. *License to Operate a Satellite.*—Self-explanatory filing fee.

8.d. *Hearing Charges.*—Self-explanatory.

Common Carrier Bureau

1. *Domestic Public Land Mobile Stations (Base, Dispatch, Control & Repeater Stations).*—

Domestic Public Land Mobile Radio Service.—A public communications service for hire between land mobile stations wherever located and their associated base stations which are located within the United States or its possession, or between land mobile station in the United States and base stations in Canada.

Base Station .—A land station in the land mobile service carrying on a service with land mobile stations.

Dispatch Station.—A fixed station, operated by a subscriber, or a group of subscribers, which communicates, under the supervision and control of the base station licensee, through the base station, with the individual subscriber's own mobile station or stations.

Control Station.—A fixed station whose transmissions are used to control automatically the emissions or operations of another radio station at a specified location, or to transmit automatically to an alarm center telemetering information relative to the application of such station.

Repeater Station.—A fixed station established for the automatic retransmission of radiocommunications received from one or more mobile stations and directed to a specific location.

1.a. *New or Additional Facility Authorizations, Assignments and Trasnfers* (per transmitter/per station).—Initial authorization to construct and operate common carrier land mobile stations and their associated bases stations; approval of major modifications to an authorized facility and consent to assign or transfer control a station authorization.

1.b. *Renewals and Minor Modifications* (per station).—Renewal of an initial authorization and minor modifications effected on authorized facilities.

1.c. *Air-Ground Individual License Renewals and Modifications.*—Application for license, renewal or modification for airborne mobile stations for subscribers to a common carrier service for public correspondence.

2. *Cellular Systems.*—A mobile radio system with a high capacity to service subscriber units due to the coordinated reuse of a group of radio channels. A system in which the assigned spectrum is divided into discrete channels which are assigned in groups to geographic cells covering a cellular geographic service area.

2.a. *Initial Construction Permits & Major Modification Applications* (per cellular system).—Self-explanatory

2.b. *Assignments and Transfers* (per station).—Self-explanatory

2.c. *Initial Covering License* (per cellular system).—Initial authorization to operate a cellular system.

2.d. *Renewals.*—Self-explanatory

2.e. *Minor Modifications and Additional Licenses.*—A minor modification effected on an authorized facility Application notifying of additional sites or completion of contruction of original sites for which license to cover not yet filed, requiring additional licenses.

3. *Rural Radio (Central Office, Interoffice or Relay Facilities.*—A domestic public radio service rendered by fixed stations on frequencies below 1000 MHz used to provide (1) public message communication service between a central office and subscribes located in rural areas to which it is impracticable to extend service between landlines, or (2) public message communication service between landline central offices and different exchange areas which it is impracticable to interconnect by other means, or (3) private line telephone, telegraph, or facsimile service between 2 or more points to which it is impracticable to extend service via landline.

3.a. *Initial Construction Permits, Assignments and Transfers* (per transmitter)..—Self-explanatory

3.b. *Renewals and Modifications* (per station).—Self-explanatory

4. *Offshore Radio Service.*—A public communications service for hire betwen stations located in the offshore coastal waters of the United States and its possessions.

4.a. *Initial Construction Permits, Assignments and Transfers* (per transmitter).—Self-explanatory

4.b. *Renewals and Modifications* (per station).—Self-explanatory

5. *Local Television or Point-to-Point Microwave Radio Service.*—

Local Television.—Radio communications service for the transmission of television material and related communications.

Point-to-Point Microwave.—A service rendered on microwave frequencies by fixed stations between points which lie within the United States or between points to its possessions, or to points in Canada and Mexico.

5.a. *Construction Permits, Modification of Construction Permits, and Renewals of License.*—Self-explanatory.

5.b. *Assignments and Transfers of Authorizations.*—Self-explanatory.

5.c. *Initial License for New Fequency.*—Self-explanatory.

6. *International Fixed Public Radio (Public & Control Stations).*—

Public Stations.—Stations which are open to public correspondence and which, in general, are intended to provide radiocommunications between any one of the contiguous 48 states, Alaska, Hawaii or any U.S. possession in connection with the relaying of international traffic between stations.

Control Stations.—Stations whose transmissions are used to control automatically the emissions of operations of another radio station at a specified location, or to transmit automatically to an alarm center telemetering information relative to the operation of such station.

6.a. *Initial Construction Permits, Assignments & Transfers.*—Self-explanatory.

6.b. *Renewals and Modifications.*—Self-explanatory.

7. *Satellite Services.*—A service that provides access to any authorized satellite for communications purposes.

7.a. *Transmit Earth Stations.*—Antennas and associated transmitting and receiving equipment which gives access to a communications satellite.

(1) *Initial Station Authorization.*—Authority to construct and/or operate a transmitting earth station for regular private or common carrier communications services or for telemetry, tracking and command functions.

(2) *Assignments and Transfers of Authorization.*—Self-explanatory.

(3) *All Other Applications.*—Any other application for regular or temporary authorization, including but not limited to, modification or renewal of station authorization, temporary authorizations or waivers.

7.b. *Small Transmit/Receive Stations.*—Small antennas (two meters or less) and associated transmitting and receiving equipment which gives access to a communications satellite.

(1) *Lead Station Authorization.*—Authority to construct and/or operate a small transmit/receive earth station for regular private or common carrier communication services. A Lead Authorization is the first earth station authorization in a network of user earth stations. The Lead Authorization establishes the terms and conditions under which routine authorizations may be granted.

(2) *Routine Stations Authorization.*—Authority to construct and/or operate a small transmit and/or receive earth station for regular private or common carrier communications services under the terms and conditions of a Lead Autorization. An application for a rountine authorization must identify the Lead Authorization to which it is associated.

(3) *All Other Applications.*—Any other application for regular or temporary authorization, including but not limited to, modification or renewal of station authorizations, temporary authorizations or waivers, and transfers and assignments.

7.c. *Received Only Earth Stations.*—Stations licensed to only receive transmissions from communications satellites.

(1) *Initial Station Authorization.*—Stations licensed to only receive transmissions from communications satellites.

(2) *All Other Applications.*—Any other application or regular or temporary authorization, including but not limited to, modification or renewal of station authorizations, temporary authorizations or waivers, and transfers and assignments.

7.d. *Applications for Authority to Construct a Space Station.*—Self-explanatory.

7.e. *Application for Authority to Launch and Operate a Space Station.*—Authorization to launch a space station and assignment of an orbital location at which the space station is to be operated.

7.f. *Satellite Systems Application.*—All antennas and associate transmit and receive equipment required to operate a single satellite communications system which generally includes a main Transmit Earth Station and many Small Transmit/Receive earth stations. The application is processed as a total and complete system in bands where frequency coordination is not required for each station site.

(1) *Initial Station Authorization.*—Authority to construct and/or operate a satellite system for regular private or common carrier communications services.

(2) *Assignments and Transfers of System Authorizations.*—Self-explanatory.

(3) *All Other Applications.*—Any other application for regular or temporary authorization, including but not limited to, modifications or renewal of station authorizations, temporary authorizations or waivers, and transfers and assignments.

8. *Multipoint Distribution Service.*—One way domestic public radio service rendered on microwave frequencies from a fixed station transmitting (usually in a omnidirectional pattern) to multiple receiving facilities located at fixed points determined by the subscribers.

8.a. *Construction Permits, Renewals and Modifications of Construction Permits.*—Self-explanatory.

8.b. *Assignments and Transfers of Control* (per station).—Self-explanatory.

8.c. *Initial License (first license or a license adding a new frequency).*—Self-explanatory.

9. *Section 214 Applications.*—All circuits (channels) installed or acquired and required to be reported pursuant to Sections 63.03(e), 63.04(e) and 63.07(b) of the Commission's rules.

9.a. *Overseas Cable Construction Permits.*—Authorization to lay a new cable or cables.

9.b. *Domestic Cable Construction Permits.*—Authorization to lay a new cable or cables.

9.c. *All other 214 Applications.*—Authorization to intall or acquire a 4 kHz or 24 Kb/s channels for domestic use. Any Domestic broad band channel is considered, for free purposes, a single 4 kHz frequency. All international 214 applications other than cable construction permits.

10. *Tariff Filings.*—Published charges or regulations for one or more, but not all carriers applicable to communication service between points of a system which is subject to any provision of the Communications Act of 1934 and which participates or engages in such communications service, irrespective of whether it is a terminal or intermediate carrier.

10.a. *Filing Fee.*—A filing is a Letter of Transmittal with accompanying tariff supplement, revised page(s), additional page(s), concurrence(s), notice of revocation, adoption notice or any other schedule(s) of rates or regulations filed in accordance with Part 61 of the Commission's rules.

10.b. *Special Permission Filing.*—An application to waive any portion of Part 61 of the Commission's rules.

11. *Telephone Equipment Registration.*—Registration of equipment filed pursuant to Part 68 of the rules. (Terminal equipment and protective circuitry.)

12. *Digital Electronic Message Service.*—A two-way domestic end-to-end fixed radio service utilizing Digital Termination Systems for the exchange of digital information.

12.a. *Contruction Permits, Renewals and Modifications of Construction Permits.*—Self-explanatory.

12.b. *Assignments and Transfers of Control* (per station).—Self-explanatory.

12.c. *Initial License (first license of license adding a new frequency).*—Self-explanatory.

The FCC has previously maintained fee schedules under the general authority granted to the head of each federal agency (see section 9701 of title 31 U.S. Code). However, in 1976, the U.S. Court of Appeals (D.C. Circuit) ruled that the Commission had exceeded its authority under those provisions of law and struck down the fee schedule which was then in place (NAB v. FCC 554 F2d 1118). Since that time the FCC has not attempted to reinstitute a schedule of fees. It is the intent and understanding of Congress that the subsequent enactment of specific fee authority for meeting the actual cost of handling transactions before the FCC will supercede any authority the FCC would otherwise have under section 9701 of title 31 to impose additional fees over and above those provided for under this reconciliation Act.

Cross-Ownership Rule Waivers

The conferees are concerned with Commission enforcement of the local cross-ownership rules particularly in light of the number of recent waiver requests to these rules the Commission has considered. The Commission's purpose in granting any waiver to the cross-ownership rules should be to further the public interest; furtherance of the private interest of any applicant or licensee must be subservient to this purpose.

The conferees expect the Commission to review such requests with great scrutiny and not grant a waiver unless the applicant meets the burden of clearly demonstrating why such a waiver should be granted. Any temporary waiver granted should be limited in duration to the minimum amount of time necessary.

U.S. Congress,
Congressional Budget Office,
Washington, DC, December 13, 1985.

Hon. John D. Dingell,
Chairman, Committee on Energy and Commerce, House of Representatives, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the attached estimate of the budget impact of the reconciliation provisions within the jurisdiction of subconference 8. As requested by your staff, Table 1 reflects the budget impact of the provisions assuming an October 1, 1985 date of enactment. As requested by the Budget Committee, the estimates in Table 2 assume a December 31, 1985 date of enactment.

If you wish further details on these estimates we will be pleased to provide them.

With best wishes.

Sincerely,

James Blum
(For Rudolph G. Penner).

ESTIMATED BUDGET IMPACT OF RECONCILIATION PROVISIONS—SUBCONFERENCE 8

TABLE 1.—CHANGE FROM RESOLUTION BASELINE [1]

[By fiscal year, in millions of dollars]

	1986	1987	1988	1986-[illegible]
Direct spending: Receipts from FCC services and land sale				
Budget authority		−30.0	−36.0	−66.0
Outlays		−30.0	−36.0	−66.0
Authorizations:				
FCC				
Budget authority	0.9	−.8	[2] −.8	−.7
Outlays	[illegible]	−.8	−.7	−.7
CPB				
Budget authority	−1.0	2.0	11.0	12.0
Outlays	−.1	−.5	7.4	6.8
Total				
Budget authority	−0.1	−28.8	−25.8	−54.7
Outlays	8	−31.3	−29.3	−59.9

[1] Assumes October 1, 1985 date of enactment.

[2] Assumes authorization of the FCC at the 1987 authorization level, adjusted for inflation

ESTIMATED BUDGET IMPACT OF RECONCILIATION PROVISIONS—SUBCONFERENCE 8

TABLE 2.—CHANGE FROM RESOLUTION BASELINE [1]

[By fiscal year, in millions of dollars]

	[illegible]	[illegible]	[illegible]	[illegible] 1986-[illegible]
Direct spending Receipts from FCC services and land sale				
Budget authority		−22.5	−36.0	−58.5
Outlays		−22.5	−36.0	−58.5
Authorizations				
FCC				
Budget authority	0.9	−8	[2]−8	−7
Outlays	9	−8	−7	−.7
CPB				
Budget authority	−1.0	2.0	11.0	12.0
Outlays	−1	−5	7.4	[illegible]
[illegible]				
Budget authority	−1	−21.3	−25.8	−47.2
Outlays	8	−23.8	−29.3	−52.4

[1] Assumes December 31, 1985 date of enactment

[2] Assumes authorization of the FCC at the 1987 authorization level, adjusted for inflation

TITLE VI—WATER TRANSPORTATION PROGRAMS

SUBTITLE A—BOATING SAFETY FUND

The House bill contained a provision to transfer certain funds from the Boating Safety Account to the General Fund of the Treasury. The Senate receded to the House provision.

SUBTITLE B—NOAA CHARTS

Both House and Senate versions contained provisions authorizing the Secretary of Commerce to raise the price of nautical and aeronautical products. The House receded to the Senate with amendments.

The first amendment requires the Secretary to consult with the Secretary of Transportation concerning impacts on aviation and maritime safety before submitting required reports to the Congress and before any adjustments in prices are made.

The second amendment prohibits the Secretary from raising the price of nautical and aeronautical products in order to recover the costs of data acquisition and processing.

The third amendment defines nautical and aeronautical products.

SUBTITLE C—FOREIGN FISHING PERMIT FEES

The House bill included a provision that would amend section 204(b)(10) of the Magnuson Fishery Conservation and Management Act (MFCMA) (16 U.S.C. 1824(b)). The House would have stricken the terms "and the territorial waters of the United States" in section 204 of the MFCMA thereby altering the formula by which MFCMA costs are assigned. The effect of this change would be to increase the proportion of the costs of implementing the MFCMA allocated to foreign fishing nations. Under current law, the fees, once collected, are deposited in the Fisheries Loan Fund established under section 4 of the Fish and Wildlife Act of 1956 (16 U.S.C. 742(c)). The House bill also provided that any increase in fees collected through the new formula, over and above what would have been collected via the old formula, would be deposited in the General Fund of the United States Treasury. The Senate bill had no comparable provision.

The Senate receded to the House with amendments, which authorize the Secretary of Commerce to raise foreign fishing fees by instituting the new formula if the Secretary, in consultation with the Secretary of State, finds that any foreign nation receiving an allocation under section 201(e) of the MFCMA is: (1) harvesting anadromous species of United States origin at a level that is unacceptable to the Secretary; or (2) failing to take sufficient actions to benefit conservation and development of United States fisheries.

Under the new formula, fees that would apply if either of the above conditions are not met would be at least in an amount sufficient to return to the United States an amount which bears to the total cost of carrying out the provisions of this title during that fiscal year the same ratio as the aggregate quantity of fish harvested by foreign fishing vessels within the fishery conservation zone during the preceding year bears to the aggregate quantity of fish harvested by both foreign and domestic fishing vessels within such zone during the preceding year. Application of this new formula could be waived at any time during the year if the Secretary, in consultation with the Secretary of State, finds that remedial actions are taken by such foreign nations.

The Secretary, in consultation with the Secretary of State, would be required in each year to make a determination of the performance of foreign nations receiving an allocation and to report to the Congress on those determinations and the reasons therefor.

Any amount collected over and above what would have been collected under the existing fee formula would be deposited in the General Fund of the United States Treasury.

The Conferees wish to clarify that the term "harvesting anadromous species" means the catching and retention of such anadromous species for economic benefit and not situations where, in the course of fishing for other species, anadromous species are caught incidentially and discarded.

SUBTITLE D—OCEAN AND COASTAL RESOURCES MANAGEMENT AND DEVELOPMENT BLOCK GRANT ACT

The House bill included provisions to provide, subject to appropriations, annual block grants to coastal states from a fund consisting of a portion of annual, federal Outer Continental Shelf (OCS) receipts. Similar legislation has passed the House on several occasions (see H. Rpt. 99-300). The Senate bill contained no similar provision. The Senate receded to the House with amendments.

Section 6032(b)(1) was amended to specify that an amount equal to twenty percent of the amount, if any, by which the total OCS revenues during the previous fiscal year exceeded $5 billion shall be deposited annually into the fund. In addition, the fund is capped so that it may not contain more than $150 million at any time during fiscal year 1988, nor more than $300 million during fiscal year 1989. The cap on the fund increases by five percent per year thereafter.

The second amendment provides for the deduction from block grants of a proportion of the funds received by the state pursuant to the Coastal Zone Management Act and the Outer Continental Shelf Lands Act prior to the award of block grants. Funds not awarded as a result of these deductions are to be paid into the General Fund as miscellaneous receipts.

SUBTITLE E—AMENDMENTS TO THE COASTAL ZONE MANAGEMENT ACT

The House bill contained a slightly modified version of H.R. 2121, a bill to reauthorize and amend the Coastal Zone Management Act (CZMA). The Senate bill contained no similar provision. The Senate receded to the House with amendments.

In Section 6043(b), the expression of the federal-state grant provisions under Sections 306 and 306A of the CZMA is changed from a percentage to a ratio. The amendment clarifies that federal funds are to be provided on a matching basis without reference to the total costs for implementing any state program.

Section 6043(c) amends section 306(g) of the CZMA. The amendment requires states to promptly notify the Secretary of any proposed amendments, modifications or other program changes to their federally approved programs. It establishes deadlines for Secretarial review of proposed amendments. In addition, it stipulates that a state may not implement any proposed amendment as part of its approved program until after the amendment has been approved by the Secretary.

The Conferees note that a proposed amendment is not a part of a state's federally approved program until that amendment has received Secretarial approval. Since federal assistance under Section 306 is provided for implementation of approved programs, no federal funds may be utilized for implementation of a proposed amendment until it has been so approved.

Section 6044(g) requires certain information regarding implementation of Section 315 of the CZMA be included in the biennial report required under Section 316 of the CZMA.

The Conferees have agreed upon amendments to Section 315 of the CZMA which would, among other things, require redesignation of all existing national estuarine sanctuaries as national estuarine reserves. The Conferees do not intend that NOAA immediately require that educational and informational materials be modified to effect a redesignation if doing so would impair public recognition and acceptance of any existing sanctuary or impose undue administrative and economic burdens.

Finally, authorization figures for fiscal year 1986 have been added in Section 6046.

SUBTITLE F—NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION [NOAA]

The Senate bill incorporates the text of S. 990, the NOAA Ocean and Coastal Programs Authorizations. S. 990 was passed with amendments by the Senate on June 19, 1985, and its provisions are discussed in S. Rpt. 99-72. The House receded to the Senate with amendments.

In Section 6051, fiscal year 1986 authorizations were amended to correspond to fiscal year 1986 appropriations levels. These authorizations are increased by 4.5 percent in fiscal year 1987, consistent with the approach taken by S.990.

The final text also includes amendments to Title II of the Marine Protection, Research, and Sanctuaries Act and additional amendments to the National Ocean Pollution Planning Act set forth in Subtitles G and H.

Finally, the Senate bill included a two-year reauthorization for the National Advisory Committee on Oceans and Atmosphere (NACOA). The Conferees agreed to a one-year reauthorization at fiscal year 1986 appropriation levels, recognizing that a decision on authorizations for fiscal year 1987 and beyond should be deferred pending further consideration of the role of NACOA and the establishment of a National Ocean Policy Commission.

SUBTITLE G—THE MARINE PROTECTION, RESEARCH, AND SANCTUARIES ACT AMENDMENTS

The Senate bill contained a two-year reauthorization of Title II of the Marine Protection, Research, and Sanctuaries Act in S. 990. The final text contains a two-year reauthorization with additional amendments which were contained in H.R. 2958. For further discussion of these amendments see H. Rpt. 99-101, Part I and H. Rpt. 98-135, Part I.

SUBTITLE H—NATIONAL OCEAN POLLUTION PLANNING ACT AMENDMENTS

The Senate bill included a two-year reauthorization of NOPPA which had been incorporated into S. 990. The final text contains a two-year reauthorization with additional amendments which were contained in H.R. 1958. For further discussion of these amendments see H. Rpt. 99-101, Part II.

SUBTITLE I—WEATHER MODIFICATION

Section 6081 authorizes, for the fiscal years 1986 through 1988, NOAA's program for reporting on all public and private weather modification activities. A similar provision was included in S. 1103 (S. Rept. 99-75), which passed the Senate June 18, 1985.

Section 6082 directs the Administrator of NOAA to assure the future availability and usefulness of ocean satellite data to the maritime community. In adopting this provision, the Conferees' primary aim was to encourage NOAA to take full advantage of future ocean satellite missions flown by sister agencies, thereby facilitating the use of data and information from such missions by the maritime community. For example, the Navy intends to launch the $300 million Navy Remote Ocean Sensing System (NROSS) in 1990. For an additional modest investment, NOAA could and should establish a system for disseminating real-time NROSS data to the civilian community.

Section 6083 requires the Administrator to report to the appropriate Congressional Committees and to provide full justification before contracting any activity to the private sector pursuant to OMB Circular Memorandum A-76. The 30-day stay of the A-76 process constitutes an appropriate balance between providing an adequate opportunity for Congress to consider and act upon A-76 proposals and ensuring that desirable management efficiencies are achieved without undue delay. A provision similar to Section 6083 was included in S. 1103 (S. Rpt. 99-75), which passed the Senate June 18, 1985.

Section 6084 authorizes, for the fiscal years 1986 and 1987, the activities of the National Climate Program Office. A provision analogous to Section 6084 was included in S. 1103 (S. Rept. 99-75), which passed the Senate June 18, 1985. The key provision in section 6084 is the statutory establishment of the Climate Program Policy Board, which functions as a "Board of directors" for the Program and is responsible for long-range planning and presentation of budgetary recommendations to OMB. The Conferees' intent in enacting section 6084 is well explained in H. Rpt. 98-135 (Part I)

Section 6085 redesignates section 5 of the Coast and Geodetic Survey Act as section 5(1), and amends that section to clarify that it authorizes the Administrator to enter into cooperative agreements with other Federal agencies for joint surveys and investigations. Questions have been raised as to whether section 5(1), as redesignated, applies to agreements among Federal agencies, as well as agreements between the Secretary and other public and private organizations, such as state mapping agencies. The amendment to section 5(1) is intended to clarify that the section does authorize the Secretary to enter into cooperative agreements with other Federal agencies.

Section 6085 also adds a new paragraph (2) to section 5 that explicitly authorizes the Secretary to establish the terms of agreements entered into pursuant to this section, including the terms of reimbursements to the Administration, that reflect the amount of benefits derived by the Administration from the agreement.

SUBTITLE J—MARITIME AUTHORIZATIONS

The Senate bill contained provisions of S. 679 which was passed by the Senate on June 5, 1985 (see Senate Rpt. 99-64). The House bill contained no similar provisions. The House receded to the Senate with an amendment to strike the last subsection.

Construction Differential Subsidy

The Senate bill contained a provision citing those provisions of the Merchant Marine Act, 1936, which authorize repayment to the Federal Government of construction-differential subsidy (CDS) grants with interest. The House bill contained no similar provision. The Senate receded to the House, agreeing to delete the provision as unnecessary.

The Maritime Administration has promulgated a final rule (50 Fed. Reg. 19170-78, May 7, 1985) to allow vessel owners or operators to repay CDS grants with interest, as authorized by the Merchant Marine Act, 1936. This administration action obviates the need for legislative action to achieve the desired savings estimated by CBO at $200 million in fiscal year 1986.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, December 18, 1985.

Hon. WALTER B. JONES,
Chairman, Committee on Merchant Marine and Fisheries, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached estimate of the budget impact of the reconciliation provisions within the jurisdiction of subconference 9.

If you wish further details on these estimates, we will be pleased to provide them.

With best wishes,
Sincerely,
RUDOLPH G. PENNER.

ESTIMATED BUDGET IMPACT OF RECONCILIATION PROVISIONS—SUBCONFERENCE 9, CHANGE FROM RESOLUTION BASELINE

[By fiscal year, in millions of dollars]

	1986	1987	1988	Total 1986–88
Direct spending: Boat safety:				
Budget authority	−15			−15
Outlays	−6	−5	−3	−14
Authorizations:				
Coastal block grants:				
Budget authority			150	150
Outlays			[illegible]	50
National Oceanic and Atmospheric Administration:				
Budget authority	−51	−59	[1] −64	[1] −174
Outlays	−42	−59	−63	−164
Maritime Administration:				
Budget authority	−10	[2] −10	[2] −10	[2] −30
Outlays	−8	−10	−10	−28
Total:				
Budget authority	−76	−69	76	−69
Outlays	−56	−74	−26	−156

[1] Assumes a 1988 authorization for NOAA programs at the 1987 authorization levels, adjusted for inflation at the rate projected in the budget resolution baseline.

[2] Assumes authorization of the maritime programs for 1987 and 1988 at the 1986 authorization levels, adjusted for inflation at the rate projected in the budget resolution baseline.

Note.—Assumes a Dec. 31, 1985, date of enactment.

TITLE VII—ENERGY AND RELATED PROGRAMS

SUBTITLE A—PIPELINE PROGRAMS

Pipeline Safety Authorization User Fees

This subtitle establishes a user fee to fund the cost of the Natural Gas Pipeline Safety Act and the Hazardous Liquid Pipeline Safety Act and authorizes appropriations for FY86. The House bill contained conflicting provisions on user fees. The Public Works title prohibited pipeline safety user fees. The Energy and Commerce title required user fees. The Senate had no user fee provisions. The Conferees agreed to establish and collect user fees starting in FY86.

User fees may be based on volume-miles, miles, revenues, or any appropriate combination of these. The Conferees intend for the gas pipeline industry and liquid pipeline industry to each pay their own appropriate share of the pipeline safety program. The Conferees require that the Secretary of Transportation will take into account allocation of Department resources when setting user fees. The Secretary is allowed, but not required, to set higher fees for non-hydrocarbon pipelines such as sour crude, sour gas, or carbon dioxide if these substances require a disproportionate share of Department resources. Likewise, the Secretary could set a special fee for a facility, such as an LNG facility, if it requires a disproportionate share of Department Resources.

The Conferees clearly intend for user fees to cover all Federal costs associated with the Federal Pipeline Safety program, but do not intend for the fees to raise any funds in excess of costs.

The Conferees have not changed the normal budget, authorization and appropriations requirements for the pipeline safety program. The only change caused by the establishment of user fees is the source of funds. Annual authorization and appropriation are still required, but the cost of the program is offset by user fees.

The Conferees note that this is not a trust fund.

SUBTITLE B—STRATEGIC PETROLEUM RESERVE (SUBCONFERENCE NO. 11)

Both the House and the Senate passed bills contain very similar provisions authorizing appropriations for the Strategic Petroleum Reserve for fiscal years 1986, 1987 and 1988. Both provisions also amend sec. 160(c) of the Energy Policy and Conservation Act which currently prohibits the U.S. Government from selling its share of oil from the Naval Petroleum Reserve at Elk Hills, unless the SPR is being filled at a minimum of 100,000 barrels per day or until 500 million barrels are in storage in the SPR. The conference agreement amends that provision so as to continue the prohibition on the sale of the U.S. share of the Elk Hills oil unless an average daily SPR fill rate of at least 35,000 barrels per day is maintained for each of the fiscal years 1986, 1987 and 1988, or until 527 million barrels are in storage in the SPR. The conferees regard the storage level of 527 million barrels as an interim storage figure. Nothing in this provision alters the current objective of filling the SPR to 750 million barrels.

SUBTITLE C—FEDERAL ENERGY CONSERVATION SHARED SAVINGS

The House Budget Reconciliation legislation authorizes the federal government to enter into long-term contracts with private energy service companies for the purposes of saving energy in federal buildings. The Senate included a similar provision in its Budget Reconciliation legislation. The conferees agreed to provide Federal agencies authority to enter into shared energy savings contracts with private energy service companies for limited purposes. Such contracts are designed to facilitate reducing the cost of energy consumed in federal buildings, which totaled over $4 billion in 1984. The subtitle adds a new title VIII, consisting of four sections, to the National Energy Conservation Policy Act (NECPA).

Section 801 authorizes federal agencies to enter into long-term "shared savings" contracts for the limited purpose of reducing the cost of energy consumed in federally owned buildings or other federally owned facilities.

Typically, under such contracts, private energy service companies will install energy efficiency equipment and provide energy management services in federal buildings at no cost to the federal customer. The private company risks its own capital in return for a share of the value of energy savings resulting from the improvements. Thus far, restrictions on long-term contracting authority have prevented the Federal government from reducing the federal energy bill through shared savings contracts.

This provision would, therefore, allow the Federal government to enter into long-term contracts, not to exceed twenty-five years, without the necessity of obligating the total cost of the contract, including termination costs, at the time of the contract award. The conferees note that the type of contract permitted under this provision is unique and that such contracts are to be allowed only for the purpose of saving energy and may only be entered into within the context of federal government contracting law and regulation. The conferees further note that allowing shared energy savings contracts to be entered into for up to twenty-five years is not to be interpreted as a general endorsement of long-term contracts for goods and services. However, the conferees also intend that this legislation allow agencies to proceed with shared savings contracts, and every effort should be made to make full use of this authority wherever such contracts are expected to prove cost-beneficial to the agency.

It is understood that due to the unique and specialized nature of these contracts, they may require new contracting procedures. The conferees intend that any changes to existing contracting procedures necessitated by this title be incorporated into standard procurement regulations, such as the Federal Aquisition Regulations and the Defense Acquisition Regulations.

Although energy efficiency improvements frequently provide benefits in addition to energy savings, such as more reliable equipment or increased comfort, the contracts authorized herein are for the purpose of energy savings alone, and any other benefits which arise therefrom must be ancillary to that purpose.

As noted above, a typical contract obligates a private energy service company to risk its own capital on implementing energy savings measures. Implementaton activities might include an energy audit of the building, the purchase or lease and installation of equipment, or the training of personnel required to maintain or operate the equipment. Moreover, the contract might obligate the private contractor to provide ongoing operation and maintenance services for the life of the contract. In return, the Federal agency agrees to share the value of the energy savings, if any, which result from such measures. The "split" of the savings each year, and the method of determining the value of such savings, are specified in the contract. In a ten year contract, for example, the federal share of the savings might begin at 20 percent, but rise steadily to 50 percent by the fifth year. If no savings result, the private contractor receives no payments for savings.

The typical contract also provides the agency the opton to purchase the removable equipment at the end of the term of the contract for the remaining value of that equipment, if any. Nothing in this legislation is intended to prevent such arrangements as long as they comply with applicable federal law.

Section 802 authorizes any federal payments pursuant to such contracts representing the shared energy savings due the contractor to be made out of funds appropriated, or otherwise made available, to the agency for energy expenses and related operation and maintenance expenses. This section also authorizes the payment of termination costs, if any, to be made from such funds as long as these costs are provided for in the contract. The conferees wish to make clear that no payments are authorized by this section in excess of payments provided for in the contract and consistent with this title.

Section 803 requires each Federal agency to report periodically to the Secretary of Energy on its progress in implementing this authority. The conferees intend that such reports shall be made at least annually. This section further provides that the Secretary of Energy shall include a summary of that progress in the annual report to Congress already required under section 550 of NECPA, and shall include a description of progress made in achieving energy savings using this authority.

Section 804 defines "Federal agency" to include both civilian and military agencies. It also defines the term "energy savings" to mean a reduction in the cost of energy from a base cost established through a methodology set forth in the contract. The typical contract requires the parties to agree on the method for measuring the reduction of consumption (or, in the case of cogeneration, the production of new energy) resulting from the implemented measures, and for translating that result into dollar savings. The conferees also note that these contracts are restricted to savings energy in federally owned buildings and other federally owned facilities. In the case of congenerated electricity, the definition of "energy savings" limits the use of such electricity to federally owned facilities. However, the conferees recognize that the physical transmission of electricity among federally owned facilities may require using public or private transmission facilities in the customary manner and in accordance with applicable law.

The conferees also note that these contracts are not for saving energy in, for example, vehicles, or for the purpose of producing energy to sell to the private sector.

SUBTITLE D—BIOMASS ENERGY AND ALCOHOL FUEL, LOAN GUARANTEES

The Senate Committee on Energy and Natural Resources version contained a provision which extended the loan guarantee authority for Biomass Energy projects set forth in section 221 of the Biomass Energy and Alcohol Fuels Act of 1980. The House version contained no similar provision.

The conference agreement would amend Section 221 of the Biomass Energy and Alcohol Fuels Act of 1980 (Act), providing one final opportunity for three projects to obtain loan guarantees from the Department of Energy to construct ethanol plants in the United States. It is the clear intention of the conferees that no further administrative or legislative extensions of the conditional commitments be issued and that no loan guarantees be issued after June 30, 1986, assuming that the Department of Energy expedites consideration of these projects.

SUBTITLE E—SYNTHETIC FUELS

The House measure contained provisions terminating on the date of enactment, the United States Synthetic Fuels Corporation established under title I of the Energy Security Act.

The Senate measure contained no comparable provision.

The conference agreement provides for (1) termination of the authority of the SFC to award financial assistance as of the date of enactment; (2) termination of the Board of Directors of the SFC within 60 days after enactment of this Act; and (3) transfer, within 120 days of enactment of this Act, of the duties and responsibilities of the SFC to the Secretary of the Treasury in accordance with subtitle J of title I of the Energy Security Act.

SUBTITLE F—URANIUM ENRICHMENT

The House bill authorized the uranium enrichment program for fiscal years 1986, 1987, and 1988 at a level equal to estimated revenues less specific amounts established in the provision. Those amounts—$110 million in FY 1986, $150 million in FY 1987, and $150 million in FY 1988—were to be paid to the Treasury in partial repayment of the program's debt. The bill also permitted the Department of Energy (DOE) to resell unneeded power purchased from the Tennessee Valley Authority (TVA) to electric utilities. Savings from such transactions were to be deposited in the Treasury as further repayment.

The Senate bill authorized the uranium enrichment program for fiscal years 1986, 1987, and 1988 at a level equal to estimated revenues. Any revenues in excess of expenditures were to be deposited in the Treasury in partial repayment of the program's debt. The bill also required a report by the Secretary of Energy on the effects of a lawsuit, currently under appeal, that invalidated the utility services uranium enrichment contract between DOE and its customers.

The conference substitute is a compromise of the two bills. The substitute authorizes appropriations for the enrichment program during fiscal years 1986, 1987, and 1988 at a level equal to estimated revenues less an amount determined by the Secretary of Energy. The amount determined by the Secretary is to be paid to the Treasury in partial repayment of the unrecovered investment. In addition, any further revenues in excess of expenditures are to be deposited in the Treasury in repayment of the debt identified by the Secretary at the time he makes his first determination. The report required in the Senate bill is retained. The provision in the House bill relating to sales of TVA power is deleted.

The Secretary of Energy is given responsibility for determining the appropriate repayment amount after permitting an opportunity for notice and comment. The determination is in his discretion and is not subject to judicial review. The determination is to be consistent with the financial integrity of the uranium enrichment service activities program over a period of not less than 10 years. The provision also requires that the amount of such repayment shall not adversely affect the reliability of supply of uranium enrichment services at competitive prices for existing and potential customers. The amounts specified in the House bill are to be goals which the Secretary shall seek to achieve, but is not required to achieve.

The conference substitute recognizes that as part of comprehensive legislation to reduce the Federal deficit, the uranium enrichment program shares a responsibility to make a partial repayment of its debt, and that the amounts assumed in the First Concurrent Resolution on the Budget for FY 1986, and contained the House bill are reasonable goals. However, maximizing repayments in the next three years may impair the financial integrity of the program in the longer term, and thus, the Secretary must establish a repayment amount consistent with such financial integrity as well ensuring that the repayment will not adversely affect the reliability of supplies at competitive prices. The conferees expect the Secretary to consider a variety of factors in his determination, including the appropriate price and market share, the impact upon existing enrichment facilities and other program expenditures, the impact upon research and development of advanced technologies for additional capacity, and the deficit reduction goals in the provision.

The Secretary is to make the determination prior to the submission of the budget in each of the three fiscal years, but may make revised determinations, subject to the same standards and procedures, during such fiscal years. Since fiscal year 1986 has already begun, the Secretary should make the determination as soon as practicable. The conference report on the Energy and Water Development Appropriations Act of FY 1986 explicitly permitted a repayment if authorized. This legislation constitutes such an authorization.

The substitute also requires the Secretary to submit to Congress, along with his first determination, an estimate of the amount of prior investment in the uranium enrichment service activities program that remains unrecovered. The estimate should also include an analysis of how any of the debt should be apportioned between defense and commercial customers.

Tennessee Valley Authority [TVA] Power Sales

The House bill contained a provision entitled "Sale of Unnecessary Electric Energy". The House bill also contained a conflicting provision entitled "Sale by Secretary of Energy of Certain Unnecessary Electric Energy". The Senate bill contains no comparable provision. The House Conferees receded to the Senate in this matter.

Federal Energy Regulatory Commission Annual Charges

The House bill contained a provision requiring the FERC to assess and collect annual charges from interstate oil or natural gas pipelines and public utilities in amounts determined under the provision. The House bill also prohibits FERC from assessing or collecting charges from interstate oil or natural gas pipelines, except those charges assessed or collected pursuant to law approved before the date of enactment of this Act. The Senate bill contained no comparable provision. The House Conferees receded to the Senate on this matter.

TITLE VIII—AMENDMENTS TO THE OUTER CONTINENTAL SHELF LANDS ACT

SUBTITLE A—AMENDMENTS TO OUTER CONTINENTAL SHELF LANDS ACT

Section 8001—Short title

Neither House version contained a short title. The Senate version contained the short title, "Outer Continental Shelf Lands Act Amendments of 1985". The House Conferees receded to the Senate on the short title.

Section 8002—National policy for the Outer Continental Shelf

The Committee on Merchant Marine version, at section 6401 of H.R. 3500, contained an addition to the policy provision (Section 3 of the OCSLA) which stated that the distribution of section 8(g) receipts will provide states with funds which shall be used for the mitigation of adverse economic and environmental effects related to OCS development. Neither the House Interior Committee nor the Senate Energy Committee versions contained a comparable provision. The Senate Conferees receded to the House Merchant Marine Committee language, with an amendment. The amendment provided that the use of the funds for the mitigation of adverse economic and environmental effects would be discretionary with the State, rather than obligatory. The Conferees rejected the concept of federal control or limitation over State activities. The House Conferees agreed to change the word "shall" to the word "may".

Section 8003—Revision of Section 8(g)

Paragraph (1) of subsection (g) stipulates the type of geographical, geological, and ecological information that is to be shared with coastal states with respect to the 8(g) zone and adjacent federal areas. Both House Committee versions contained similar language and the Senate Committee had no comparable provision. The Conferees agreed to accept the language of the Committee on Merchant Marine and Fisheries on information sharing.

Paragraph (2) of subsection (g) describes the revenues to be divided between the federal government and coastal state governments. The Conferees accepted language of the House Committees, with an amendment to add the words "derived from any bidding system authorized under subsection (a)(1), excluding Federal income and windfall profits tax and" after the words "royalties and other revenues". The intent of the amendment was to assure the division of revenues received from any of the alternative bidding systems, if utilized by the Secretary of the Interior, under section 8(a). The Conferees also reasserted their intention that federal income and windfall profit taxes would not be included in such division. With the amendment noted, the Conferees agreed on the House language in paragraph (2).

The agreed upon language is clear that Federal income and windfall profits taxes are excluded. If the Secretary were to shift to an alternative bidding system, the fact that revenues may be termed "profit sharing receipts" or some other nomenclature is irrelevant. All such revenues, except federal income and windfall profits taxes, are to be included and the Federal government may not attempt to exclude any revenues by not calling them "bonus", "rent", or "royalty".

Section 8(g)(2) as amended by this title requires that the State's share of the 8(g) revenues together with accrued interest shall be transmitted "not later than the last business day of the month following the month in which these revenues are deposited in the Treasury,". The Conferees fully expect that the Department will comply with this prescribed deadline. However, under this language the Department may expedite distribution of the State's share to the State by omitting the step of investing these escrowed revenues in interest-bearing securities, which may have a maturity of 30 days or more, and by paying the State its share as soon as the 8(g) revenues can be identified among non-8(g) royalty payments by a lessee.

Under the current reporting system in place, the OCS lessee aggregates payments to the Federal Government of 8(g) and non-8(g) OCS revenues, so some period of time is required for the Department to identify the 8(g) revenues. Thus, even where the Department does invest the State's share of 8(g) revenues, the period during which interest accrues to the State will not commence until the 8(g) revenues can be segregated by the Department and actually invested. It is anticipated that the Department can meet the requirements of section 8(g)(2) as amended without substantial revision of the current OCS reporting system, reporting forms, or Treasury accounts.

Paragraph (3) provides for an agreement between the Secretary of the Interior and the Governor of the coastal State to enter into an unitization or other royalty sharing agreement for the division of revenues from the production of any common potentially hydrocarbon-bearing area. Both House Committees and the Senate Committee had similar language. However, the Senate language contained an additional provision that if no such agreement is reached, the Secretary may nevertheless proceed with the leasing of the tract or tracts. Any revenues received by the Federal Government from such leasing would be subject to the requirements of paragraph (2). The House Conferees receded to the Senate on this provision.

Paragraph (4) provides for the investment by the Secretary of the Treasury of the deposits in the 8(g) account. The Senate language was different from the two House Committee versions because, to provide some flexibility to the Secretary of the Treasury, it required the deposits be invested in securities having the highest reasonably available interest rate as determined by the Secretary of the Treasury. The House Conferees receded to the Senate.

Paragraph (5) provides for the distribution of revenues when there is a boundary dispute between the United States and a state under section 7 of the OCSLA. Both House Committees and the Senate Committee had similar language in this paragraph. The House Conferees receded to the Senate on its language in paragraph (5).

Paragraphs (6) and (7) were identical in all three versions and were not subject to change in the Conference.

During the Conference, an issue was raised as to whether revenues received by the Federal Government from tracts located in what is now the 8(g) zone, but which were leased prior to the date of enactment of the OCS Lands Act Amendments of 1978 (September 18, 1978), should be excluded from the distribution of revenues to the States under this title. The uniform position of the Senate Conferees was that the issue had been settled by a roll call vote on the Senate floor and that all such revenues were subject to such distribution under this title. The House Conferees then considered and rejected a motion to adopt Statement of managers language to exclude such revenues.

Section 8004—Distribution of 8(g) account

Subsection (a) provides that prior to January 1, 1986, the Secretary shall distribute to designated coastal States the amounts due and payable to each state under paragraph (2) of section (g), as amended, for the period between October 1, 1985, and the date of such distribution and the monies to be distributed under subsection (b) of this section. Except for technical differences, both House Committee versions and the Senate Committee version were identical and were not subject to modification by the Conference.

With respect to the requirement of the distribution of the appropriate shares of currently escrowed funds by January 1, 1986, the Conferees understand that it has been the practice of the Department of the Interior to invest such funds to obtain interest on the escrowed funds with the intent of distributing this interest to the States and the Federal Government upon distribution of the account. Because of such investment practices, the full amount of escrowed funds due to be paid under this section may not be liquid as of January 1, 1986. Therefore, the Conferees anticipate that the Secretary will make payments to the states as soon as such investments mature and money is available.

Subsection (b) provides for the fair and equitable distribution of funds in the 8(g) account, including all accrued interest thereon through September 30, 1985. Both house versions contained identical distribution figures for each of the seven states eligible for the funds. The Senate figures were identical, except for Alaska which was $10 million less than that provided in the House bills. The House Interior Committee version also provided that no more than $4.3 billion would be credited to the Federal Treasury. Any money that remained after such credit to the Federal Treasury would be paid to affected coastal States. Neither the Merchant Marine Committee nor the Senate Energy Committee versions contained a comparable provision.

Finally, the House Merchant Marine Committee and Senate Energy Committee versions provided that acceptance of payment under this section shall satisfy and release any and all claims against the U.S. arising under, or related to, section 8(g) as it was in effect prior to the date of enactment of this Act. With respect to all of the described provisions in subsection (b), the Senate receded to the House Merchant Marine Committee version.

Section 8005—Immobilization of boundaries

This section amends the Submerged Lands Act to provide that any boundary between a State and the U.S. which has been or is hereafter established by a final decree of the U.S. Supreme Court shall remain immobilized. All three Committee versions were similar, except for technical differences.

Section 8006—Recoupment

This section provides for States to recoup their share of revenues which should have been, but which were not, deposited in the 8(g) account under section 8(g)(4) of the OCS Lands Act as it was in effect prior to the date of enactment of this Act. All three Committee versions were similar. The language in the first clause relating to "bonuses, royalties, and other revenues" was taken from existing section 8(g)(4).

Section 6404—Local passthrough

The House Committee on Merchant Marine version contained a provision that would have provided a minimum of 33 percent of the funds to local coastal governments for the mitigation of economic and environmental effects related to OCS development. Neither the House Interior Committee nor the Senate Energy Committee version contained a comparable provision. The House receded to the Senate by deleting the local passthrough provision.

SUBTITLE B—COORDINATION AND CONSULTATION WITH AFFECTED STATES AND LOCAL GOVERNMENTS

Section 8101—Revision of section 19

The House Interior Committee version contained an amendment to section 19 of the OCSLA. The Merchant Marine Committee and the Senate Energy Committee versions has no comparable provision. The Conferees agreed to an amendment to the Interior Committee language.

Under existing law, section 19(c) requires that the Secretary accept the recommendations of a Governor regarding a proposed lease sale or development and production plan if the Secretary determines that acceptance of the recommendation provides a "reasonable balance between the national interest and the well-being of the citizens of the affected state."

During extensive House hearings on the OCS leasing process, including the State/Federal consultation process, several representatives of environmental groups, fishing groups, and state governments, including those from oil-producing states such as Texas and Louisiana, expressed dissatisfaction with the Secretary of the Interior's response to state recommendations. In the past, this dissatisfaction has led to lawsuits and moratoria over lease sales off several states. The development of potential hydrocarbon resources in areas with valuable fisheries resources has also been a contentious and recurring issue.

Under the amendment agreed to by the Conferees, the Secretary will be required, in determining the "national interest", to "equally weigh" the need for offshore energy activities and the need to protect "other resources and uses of the coastal zone and the marine environment, including living marine resources" affected by such offshore energy activities. Section 19, as amended, will require the Secretary to consider carefully and equitably the recommendations of the Governors of coastal states with respect to lease sales and oil and gas development and production plans. The Secretary is required to provide the Governors of affected states with a decision in writing together with reasons and information sufficient to support the decision. The Secretary's decision must also address each specific point raised in the Governor's recommendations. Further, if the Secretary rejects the Governor's recommendation, he may not implement any decision for a period of 30 days following receipt, by the Governor, of the findings on which the Secretarial decision was based.

The amendment includes new language which provides that the scope of judicial review of the Secretary's decision shall be that applied to final federal agency actions by the Administrative Procedure Act, 5 U.S.C. 706(2)(A)—"arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law".

The amendment repeals subsection (d) of existing law.

SUBTITLE C—USE OF AMERICAN-BUILT RIGS FOR OCS DRILLING

Section 8201—Use of American-built rigs for OCS drilling

The Senate receded to the House on Title VI, Subtitle H of the Merchant Marine Committee version—Use of American-built Rigs for OCS Drilling.

TITLE IX. MEDICARE, MEDICAID, MATERNAL AND CHILD HEALTH

SUBTITLE A. MEDICARE

1. Rates of increase in payments for inpatient hospital services (sec. 101)

Present law

Current law generally provides that the medicare prospective payment rates should be updated annually by the Secretary of Health and Human Services. The law states that the update for FY 1986 should take into account amounts necessary for the efficient and effective delivery of medically appropriate and necessary care of high quality, but may not exceed the rate of increase in the hospital marketbasket index (the increase in hospital input prices) plus one quarter of a percentage point. The Secretary of HHS promulgated final regulations freezing hospital medicare payments for FY 1986 at the FY 1985 levels. Public Law 99-107, the Emergency Extension Act of 1985, amended current law to provide that the payment rates in effect on September 30, 1985 should remain in effect for a further 45-day period, through November 14, 1985. Public Law 99-155 extended this requirement through December 14, 1985, and Public Law 99-181 extended the requirement through December 18, 1985.

House bill

The bill would require that the Secretary provide a 1 percent increase in the PPS payment rates for FY 1986. A similar rate of increase would be provided for PPS-exempt hospitals, which remain under a cost reimbursement system. For PPS hospitals, the provision would be effective for discharges occurring during FY 1986 for the Federal portion of the prospective payment rates. For the hospital-specific portion of the payment rates in PPS hospitals, and for PPS-exempt hospitals, the provision would take effect for the hospital's cost reporting period that begins during FY 1986.

Senate amendment

The provision would require the Secretary of Health and Human Services to provide a 0.5 percent increase in the PPS rates for fiscal year 1986 and an increase no greater than the increase in the hospital market basket index in fiscal years 1987 and 1988. Additionally, the payment limits for PPS-exempt hospitals and units would be increased by 0.5 percent for fiscal year 1986 and by an increase of no more than the hospital market basket in fiscal years 1987 and 1988.

The provision would be effective for hospital cost reporting periods beginning on or after October 1, 1985, for the hospital-specific portion of the PPS rates, and for discharges occurring on or after October 1, 1985, for the Federal portion of the PPS rates. For PPS-exempt hospitals, the provision would take effect for hospital cost reporting periods beginning on or after October 1, 1985.

Conference agreement

The conference agreement includes the House bill with the following modifications. The conference agreement extends the current freeze on the PPS payment rates and on the cost limits for PPS-exempt hospitals through February 28, 1986.

For PPS hospitals, the Secretary will be required to provide an increase of 1 percent in the PPS payment rates for the remainder of fiscal year 1986 and an increase no greater than the increase in the hospital market basket index in fiscal years 1987 and 1988. For fiscal year 1986, the increase in the Federal portion of the rates will take effect for discharges occurring on or after March 1, 1986, and the increase in the hospital specific portion of the rates will take effect with the beginning of the sixth month of the hospital's first cost reporting period beginning on or after October 1, 1985 (e.g., June 1, 1986, for a hospital with a cost reporting period beginning on January 1, 1986; and December 1, 1986 for a hospital with a reporting period beginning on July 1, 1986).

For PPS/exempt hospitals, the Secretary will be required to increase the applicable cost limits for fiscal year 1986 by seven-twelfths of 1 percent (0.5833 percent) effective for hospital cost reporting periods beginning on or after October 1, 1985 but before October 1, 1986. For fiscal years 1987 and 1988, the Secretary will be required to provide an increase in the cost limits that is no greater than the increase in the hospital market basket index. Further, in computing the cost limits for fiscal years 1987 and 1988, the increase for fiscal year 1986 shall be deemed to be 1 percent rather than 0.5833 percent.

2. One-year extension of transition to national DRG rates (sec. 102)

Present law

The Social Security Administration of 1983 (P.L. 98-21) provided for a new prospective payment system for hospital inpatient services provided to medicare beneficiaries.

Current law provides for a three-year transition from payments based on hospital specific costs to payments based on national DRG (diagnosis related group) rates. During this period, a declining portion of the total prospective payment will be based on a hospital's historical reasonable costs and an increasing portion will be based on a combination of regional and national DRG rates. In the fourth year of the program and thereafter, medicare payments will be determined under a totally national DRG payment methodology. The blend of the historical cost (hospital specific) portion of the payment rate with the Federal portion of the DRG payment rate is changed with the beginning of the hospital's cost reporting period.

The Federal DRG component is comprised, for the first three years, of a combination of national and regional rates. This phase-in takes account of current differences in hospital costs across regions; different payment levels are provided for nine census regions of the United States. Changes in the blend and the amounts of the national/regional components of the Federal DRG payment rates are made on the Federal fiscal year basis. The prospective payment rate transition started with each hospital's first cost reporting period that began on or after October 1, 1983. The current transition schedule is shown below.

For hospital cost reporting periods beginning on or after:

Fiscal year [1]	Hospital specific portion (percent)	Federal DRG portion (percent)
1984	75	25 (100 percent regional)
1985	50	50 (25 national, 75 regional)
1986	25	75 (50 national, 50 regional)
1987	0	100 (100 national)

[1] The hospital specific portion (HSP) amount and the proportional shares of the HSP and the Federal DRG amount change with the beginning of the hospital's cost reporting period. The Federal (national and regional) rates and their proportional shares change with the beginning of the Federal fiscal year.

P.L. 99-107, the Emergency Extension Act of 1985, amended current law to provide that hospital payment rates that were in effect on September 30, 1985 should remain in effect for a further 45-day period, through November 14, 1985. This change also suspends the transition at the blend of 50 percent hospital specific/50 percent Federal for the 45-day period. Public Laws 99-155 and 99-181 extended this requirement through December 18, 1985.

House bill

The bill would extend the transition period for one additional year. The 50 percent hospital specific cost/50 percent Federal DRG payment rate blend would be maintained for FY 1986. Since changes in the regional/national composition are made on a Federal fiscal year basis, the transition schedule would be revised as follows. For hospital cost reporting periods beginning on or after:

Fiscal year [1]	Hospital specific portion (percent)	Federal DRG portion (percent)
1984	75	25 (100 percent regional)
1985	50	50 (25 national 75 regional)
1986	50	50 (25 national, 75 regional)
1987	25	75 (50 national, 50 regional)
1988	0	100 (100 national)

This provision would have two effects. First, it would continue to base 50 percent of the payment on the hospital's own historical cost base for one more year. Second, it would continue to base 75 percent of the Federal portion of the payment rate on regional costs for one more year. For the blend of the regional and national portions of the Federal component of the payment rate, the provisions would be effective for discharges occurring on or after October 1, 1985. The blend of the hospital specific and Federal portions would be effective for discharges occurring during hospital cost reporting periods beginning on or after October 1, 1985.

[1] The hospital specific portion (HSP) amount and the proportional shares of the HSP and the Federal DRG amount change with the beginning of the hospital's cost reporting period. The Federal (national and regional) rates and their proportional shares change with the beginning of the Federal fiscal year.

Senate amendment

No provision.

Conference agreement

The conference agreement includes the House bill with the following modifications. Beginning with the sixth month of the hospital's cost reporting period beginning during fiscal year 1986, the hospital specific/Federal blend will be 45 percent hospital specific and 55 percent Federal. For hospital cost reporting periods beginning during fiscal year 1987 the hospital specific/Federal blend will be 25 percent hospital specific and 75 percent Federal. Effective for discharges occurring on or after March 1, 1986 and before October 1, 1986 the blend of the Federal rate components will be 75 percent regional and 25 percent national. For discharges occurring during fiscal year 1987, the blend of Federal rate components will be 50 percent regional and 50 percent national.

The conferees believe that this modification in the transition will give all hospitals more time to adjust to the prospective payment system. In addition, it would provide hospitals in higher cost regions of the country an opportunity to make the necessary changes to reduce their costs. This modification in the transition to national rates does not reflect a lack of support for the prospective payment system. The conferees do not believe that any further delay in the transition to national rates is warranted. The conferees believe that significant progress must be made in developing refinements to the DRG system to more accurately reflect the actual costs incurred in providing care. For example, the conferees, in this legislation, have requested a report on refining the hospital wage index to reflect the higher costs incurred in core city areas relative to suburban areas. In addition, the conferees anticipate that significant progress will be made toward implementing a severity of illness index.

It has come to the conferees' attention that burn center hospitals may be among these hospitals that will require special treatment because of the extensive treatment needs of their patients. For these hospitals, up to one-half of the burn patients may be outliers—far in excess of the percentage comtemplated by the PPS. The Secretary is requested to review the adequacy of the payments being made to burn center hospitals under PPS and any problems of access that the present payment method may be creating for medicare patients.

3. Application of revised hospital wage index (sec. 103)

Present Law

As an integral part of the medicare prospective payment system (PPS) for hospitals, the Federal portion of the prospective payment rates is adjusted to take into account differences in wages from area to area. This is accomplished by means of an area wage index applied to all PPS hospitals in urban and rural areas. The current hospital wage index is constructed from a national data base of hospital wage records maintained by the Bureau of Labor Statistics (BLS). There are a number of technical flaws in this index, principally that is fails to recognize differences at the local level regarding the number of part-time hospital workers.

In response to requirements in the Deficit Reduction Act of 1984, P.L. 98-369, the Health Care Financing Administration developed a new "gross hospital wage index," based on a more refined survey of hospital wage costs. This index is derived from total gross hospital wages including salaries of interns and residents, personnel employed in areas other than the inpatient area, hospital-based physicians and all other salaries paid to hospital employees. P.L. 98-369 required that any new wage index be implemented retroactive to October 1, 1983. According to the PPS final regulations published September 3, 1985, HCFA planned to implement the new wage index October 1, 1985, retroactive to October 1, 1983.

P.L. 99-107, the Emergency Extension Act of 1985, amended current law to provide that medicare hospital payments would be determined on the same basis as they were on September 30, 1985, effective through November 14, 1985. Public Law 99-155 extended this requirement through December 14, 1985, and Public Law 99-181 extended it through December 18, 1985. This means that there can be no change in the wage index until after this date.

a. New gross wage index

House bill

The Secretary would be required to implement the new "gross wage index" published in the proposed PPS regulations on June 10, 1985. The provision of current law requiring retroactive application of the new wage index would be repealed. The house bill does not preclude the Secretary from making adjustments to reflect computation errors that may have been made in calculating the specific index amounts. The provision would be effective for discharges occurring during fiscal year 1986.

The House bill requires that the gross wage index be used for FY 1986. Further, the House bill requires the Secretary to make refinements, as necessary, in the area wage index for FY 1987 and beyond.

Senate amendment

Similar provision, except references final PPS regulations published September 3, 1985. The provision would be effective for discharges that occur during FY 1986, with Secretarial authority to make periodic adjustments in the appropriate wage index for discharges occurring after September 30, 1986.

Conference agreement

The conference agreement follows the Senate amendment with a modification that the provision would be effective for discharges occurring on or after March 1, 1986.

B. Wage index study

House bill

The Secretary would be required to study, in consultation with the Prospective Payment Assessment Commission, and make a recommendation to the Congress by May 1, 1986, on refining the area wage adjustment to reflect the higher wage costs incurred by hospitals located in core city areas relative to those in surburban areas of the same metropolitan area.

Senate amendment

No provision.

Conference agreement

The conference agreement includes the House bill with a modification of the reporting date to March 1, 1987.

4. Change in formula for indirect teaching adjustment (sec. 104)

Present law

The medicare program provides reimbursement for both the direct and indirect costs of medical education incurred by teaching hospitals. The direct costs of approved medical education programs (such as salaries for residents and teachers and classroom costs) are excluded from the prospective payment system, and are reimbursed on a reasonable cost basis. The indirect costs are increased patient care costs associated with teaching programs due to such factors as increased diagnostic testing, increased numbers of procedures prescribed, higher staffing ratios, and a more severely ill patient population.

A proxy measure, defined as the hospital's ratio of the number of interns and residents divided by the number of beds (IRB), has been used to adjust medicare prospective payments for indirect medical education costs. An adjustment factor for indirect medical education costs was estimated statistically based on the increase in hospitals' costs as their ratio of interns and residents to the number of beds (IRB) increases. This factor was first used as an adjustment to the medicare limits on hospital payments under the former cost-based reimbursement system.

When Congress enacted the prospective payment system, it established the indirect teaching adjustment factor at double the factor which was in effect as of January 1, 1983. After recomputing this factor, the Health Care Financing Administration estimated, on a linear basis, that a 0.1 increase in the IRB ratio would result in a 5.79 percent increase in a hospital's cost per discharge; doubled, the indirect teaching factor was established at 11.59 percent. This adjustment is made to the Federal DRG portion of the PPS rate only. The adjustment was doubled because of concerns that the DRG system would adversely affect teaching hospitals. These concerns stemmed from doubts about the ability of the DRG case classification system to fully account for factors such as severity of illness, urban location, bed size, and increased medicare costs associated with hospitals that serve large numbers of low-income patients. The doubling of the indirect teaching adjustment from 5.79 percent to 11.59 percent was done on a budget-neutral basis, which means that the DRG payments were adjusted downwards overall to account for the doubling of the indirect teaching adjustment.

a. Adjustment reduction

House bill

The House bill would reduce the indirect teaching adjustment to 8.1 percent (for FY's 1986 and 1987) and 8.7 percent (for FY's 1988 and beyond) for each 0.1 increase in the IRB ratio, on a variable or curvilinear basis. (An adjustment made on a variable basis reflects the non-linear cost relationship; that is, each increase in residents-to-bed ratio does not result in a proportional increase in costs).

The reduction from 8.7 percent to 8.1 percent in FY 1986 and FY 1987 recognizes that a portion of the indirect teaching adjustment compensates hospitals serving a disproportionate share of low-income patients. When the disproportionate share payment provisions expire at the end of FY 1987, the indirect teaching adjustment would revert to 8.7 percent.

The savings from the reduction in the indirect teaching adjustment from 11.59 percent on a linear basis to 8.7 percent on a curvilinear basis would be total systems savings. The savings from the further reduction from 8.7 percent to 8.1 percent would be used to offset the additional costs of the disproportionate share provision.

Senate amendment

The Senate amendment would reduce the indirect teaching adjustment from 11.59 percent to 7.7 percent on a variable, or curvilinear basis, for fiscal years 1986 and 1987, and 8.7 percent for fiscal years 1988 and beyond.

Conference agreement

The conference agreement includes the House bill with an amendment to clarify effective dates (see item (g)).

b. Intern outpatient counting

House bill

The House bill would provide that interns and residents assigned to outpatient departments of a hospital would be counted for purposes of determining the indirect teaching adjustment.

Senate amendment

There is a similar provision in section 704 of the Senate amendment.

Conference agreement

The conference agreement includes the Senate amendment.

c. Restandardizing the DRG rates

House bill

The House bill would require the Secretary to restandardize the Federal DRG payment amounts by excluding, for discharges occurring after September 30, 1985, the reduced indirect medical education payment amounts based on the indirect teaching adjustment factors authorized by this provision (i.e., 8.1 percent in fiscal years 1986 and 1987, and 8.7 percent in fiscal years 1988 and thereafter) in place of the factor used under current law (i.e., 11.59 percent).

Senate amendment

No provision.

Conference agreement

The conference agreement includes the House bill with the modification that the Secretary will be required to restandardize the Federal DRG payment amounts effective for discharges occurring after September 30, 1986.

d. Reduce the standardized rates

House bill

The House bill requires that the Secretary restandardize the standardized payment amounts. In order to ensure that the budget neutrality calculation does not redistribute payment amounts among the twenty payment areas for which standardized payment amounts are calculated, the budget neutrality adjustment should be calculated to take into account the varying teaching payments in each of these regions. For each of these twenty payment areas, indirect teaching payments based on rates standardized to 8.1 percent curvilinear and paid out on the same basis (plus the disproportionate share payments) shall be neither more nor less than the payments based on rates standardized by 11.59 percent linear indirect medical education factor and paid out on 8.7 percent curvilinear basis.

Senate amendment

No provision.

Conference agreement

The conference agreement includes the House bill with the modification that the reduction in the Federal DRG payment amounts will be effective for discharges occurring on or after October 1, 1986

e. Counting of non-employee interns

House bill

No Provision.

Senate amendment

In determining the indirect teaching adjustment, the Senate amendment would prohibit the Secretary from distinguishing between interns and residents who are employees of a hospital and those who furnish services to a hospital but are not employees of the hospital.

Conference agreement

The conference agreement includes the Senate amendment.

f. Intern and resident reimbursement limitations

House bill

No provision.

Senate amendment

Effective July 1, 1986, the Senate amendment would provide that interns and residents whose costs are not recognized as reasonable for the following reasons would not be counted in determining the indirect teaching adjustment: (1) those whose training exceeds the lesser of 5 years or the minimum number of years necessary to meet initial board eligibility requirements except, however, those who begin geriatric fellowship programs prior to July 1, 1991. After July 1, 1989, if the required number of years of training changes, the Secretary may change the number of years within specified limits; (2) for the year beginning July 1, 1986, one-third of those who are not graduates of accredited or approved schools of medicine osteopathy, dentistry, or podiatry; for the year beginning July 1, 1987, two-thirds of those who are not graduates of such accredited schools; and for the year beginning July 1, 1988, none of those who are not graduates of such accredited schools; (3) for hospitals at which on October 1, 1985, more than 50 percent of their interns and residents were not graduates of accredited schools, one-third of such graduates for the 2 years beginning July 1, 1986, two-thirds of such graduates for the 3 years beginning July 1, 1988, and none of such graduates beginning July 1, 1991.

Conference agreement

The conference agreement does not include the Senate amendment.

g. Effective date

House bill

The House bill would be effective for discharges occurring on or after October 1, 1985.

Senate amendment

The Senate amendment provides an identical effective date.

Conference agreement

The Conference agreement includes the Senate amendment with the modification that the effective date will be March 1, 1986. In addition, the Secretary will be prohibited from implementing this provision until such time as the additional payments to disproportionate share hospitals are initiated.

5. Additional payment amounts for hospitals serving a disproportionate share of low income patients (sec. 105)

Present law

Under the Social Security Amendments of 1983, the Secretary of HHS is required to make adjustments to the PPS rates as the Secretary deems appropriate for hospitals that serve a disproportionate number of low income or medicare part A patients. The Deficit Reduction Act of 1984 requires the Secretary, prior to December 1, 1984, to develop and publish a definition of disproportionate share hospitals, to identify such hospitals, and to make the list available to the Committees with legislative jurisdiction over part A. The Secretary has failed, to date, to develop any criteria for defining or identifying such hospitals or otherwise make any information available to the Committees.

House bill

a. Fiscal years 1986 and 1987 payments

For FY 1986 and FY 1987, the House bill would require the Secretary of HHS to make additional payments by adjusting the Federal portion of the DRG payment, for eligible urban PPS hospitals with 100 beds or more, serving a disproportionate share of low income patients.

b. Eligible hospitals

The House bill would provide that such adjustment would be made to urban PPS hospitals with 100 or more beds meeting the disproportionate share criteria.

c. Low income patient definition

The proxy measure for low income would be the percentage of a hospital's total inpatient days attrributable to medicaid patients (including medicaid-eligible medicare beneficiaries—medicare/medicaid crossovers).

d. Mandatory payment rate

The Federal portion of the DRG payment would be increased by .7 percent for each 1 percentage point increase in the ratio of low income inpatient days to total inpatient days, above the minimum threshold of 15 percent. The maximum adjustment would be 16 percent.

A limited exceptions process would be established for urban PPS hospitals with 100 beds or more. The Secretary would be required to make disproportionate share payments where a hospital can demonstrate that more than 30 percent of its net inpatient care revenue is provided by local or state governments for inpatient care for low income patients not otherwise reimbursed by medicare or medicaid. If this threshold is met, the per DRG add-on would be 16 percent. In no case would a hospital receive an adjustment greater than 16 percent.

This bill reduces the indirect teaching adjustment from 8.7 percent to 8.1 percent to reflect the disproportionate share adjustment. When the disproportionate share adjustment expires in two years, the indirect teaching adjustment would be increased for FY 1988 and beyond to 8.7 percent. The disproportionate share provision would be budget neutral and would be accomplished by restandardizing the standardized payment amounts.

e. Restandardization of DRG rates

The House bill would require the Secretary to restandardize the DRG payment amounts to reflect the disproportionate share adjustment.

f. Data development

No provision.

g. Data use for payment

No provision.

h. Discretionary payment add-on

No provision.

i. Waiver of Paperwork Reduction Act

No provision.

j. Effective date

The House bill would be effective for discharges occurring between October 1, 1985 and September 30, 1987.

Senate amendment

a. Fiscal years 1986 and 1987 payments

Similar provision, except that additional payments would be made to qualified urban or rural hospitals regardless of bed size.

b. Eligible hospitals

The Senate amendment provides that such additional payments would be made to any PPS hospital meeting the disproportionate share criteria.

c. Low income patient definition

The proxy measure for low income patients would be the percentage of a hospital's total medicare part A patient days attributable to medicare patients who are also enrolled in the Federal Supplemental Security Income (SSI) program.

d. Mandatory payment rate

For hospitals with 100 beds or more, the Federal portion of the PPS payment would be increased by 2 percent plus .25 percent for each 1 percentage point (or portion thereof) that the proxy measure is above the 15 percent minimum threshold. The maximum adjustment would be 12 percent. PPS rates for hospitals with less than 100 beds would be increased by 12 percent if their proxy measure is 55 percent or more.

e. Restandardization of DRG rates

No provision.

f. Data development

The Secretary would be required to develop accurate data on medicare patients who are also enrolled in SSI by October 1, 1986.

g. Data use for payment

The proposal also requires the Secretary to pay hospitals where historical data is not available on the basis of similar hospitals in the region in which the hospital is located.

h. Discretionary payment add-on

The Senate amendment would provide that disproportionate share payments may be made to a hospital based on data provided by the hospital if the Secretary agrees that such data is more accurate than the data which would otherwise be used.

i. Waiver of Paperwork Reduction Act

The Senate amendment would provide that the Paperwork Reduction Act would not apply to information required for purposes of carrying out this provision.

j. Effective date

The provision would be effective for discharges occurring on or after October 1, 1985, and before October 1, 1987.

Conference agreement

The conference agreement includes the House bill with the following modifications. Additional payments will be made to urban PPS hospitals with more than 100 beds if the hospital's percentage of low income patients is 15 percent or higher. For such hospitals, the Federal portion of the hospital's payment rate will be increased by 2.5 percent plus one-half of the difference between the hospital's percentage of low income patients and 15 percent, up to a maximum increase of 15 percent. The Federal portion of the payment rate will be increased by 5 percent for urban hospitals with less than 100 beds having a percentage of low income patients of 40 percent or higher. The increase will be 4 percent for rural hospitals with a percentage of low income patients of 45 percent or more.

The percentage of low income patients will be defined as the total number of inpatient days attributable to Federal Supplemental Security Income beneficiaries divided by the total number of medicare patient days, plus the number of medicaid patient days divided by total patient days.

Additional payments to qualified hospitals will be effective for discharges occurring on or after March 1, 1986 and before October 1, 1988.

The Congressional Budget Office is required to undertake a study of the impact of payments to disproportionate share hospitals and the advisability of providing additional payments to all "Pickle" hospitals, i.e., those which can demonstrate that more than 30 percent of their revenues are derived from State and local government payments for indigent care provided to patients not covered by medicare or medicaid. The CBO is required to report the results of this study by January 1, 1987.

6. Treatment of certain rural osteopathic hospitals as rural referral centers (sec. 106)

Present law

Under present law, rural hospitals that meet certain requirements can qualify to receive the "urban standardized payment amount adjusted by the rural wage index applicable for the geographic area. The adjustment was permitted because data indicated that large rural hospitals with high case mix indices had costs which were similar to those of urban hospitals.

Under existing criteria there are approximately 146 rural referral centers. Each rural referral center is reviewed every three years by the Health Care Financing Administration to determine if the center continues to qualify. In order to qualify, a rural referral center must meet a specified case mix index, have at least 6,000 discharges in a cost reporting period, and meet other minor requirements.

House bill

The House bill would allow osteopathic hospitals to meet the rural referral center standard if they had at least 3,000 discharges in a cost reporting period and if they meet all the other requirements, as specified by the Secretary, for rural referral center designation. The provision would be effective for cost reporting periods beginning on or after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement includes the House bill. The conferees note that rural osteopathic hospitals wishing to qualify as rural referral centers must meet all other applicable requirements, in addition to the new discharge requirement established by this provision.

7. Return on equity capital for inpatient hospital services and other services (sec. 108)

Present law

A return on equity (owner) capital invested and used in providing patient care is considered a medicare allowable cost for proprietary, or for-profit, health care providers. Equity capital is the net worth of a hospital excluding those assets and liabilities not related to patient care. Specifically, equity capital includes: (1) the investment in the plant, property, and equipment (net of depreciation) related to patient care, plus deposited funds required in connection with leases; and (2) working capital maintained for necessary and proper operation of patient care facilities.

The level of payment for return on equity (ROE) formerly was set at a rate of no more than one and one-half times the average rate of return on trust fund investments. In the Social Security Act Amendments of 1983 (P.L. 98-21), Congress reduced the level of payments for hospitals to the average rate of return on trust fund investments. The rate of return for other providers was not affected.

a. Hospital return on equity payments

House bill

The House bill would provide that return on equity would not be a medicare allowable cost for inpatient hospital services beginning October 1, 1986. In addition, costs attributable to a return on equity capital would be excluded in determining national and regional DRG prospective payment rates adjusted to include capital costs.

The bill would be effective with respect to cost reporting periods beginning on or after October 1, 1986, and to DRG payments for discharges on or after October 1, 1986.

Senate amendment

No provision.

Conference agreement

The conference agreement includes the House bill with the modification that payments to hospitals for return on equity capital will be separated from payments for other elements of capital costs and phased out over a three-year period. For hospital cost reporting periods beginning in fiscal year 1987, payments for return on equity will be reduced to 75 percent of the otherwise allowable amount. For cost reporting periods beginning during fiscal years 1988 and 1989, return on equity payments will be reduced to 50 percent and 25 percent, respectively, of the otherwise allowable amounts.

The conferees expect that next year the Congress will review the entire issue of the method by which capital expenses of hospitals are reimbursed. At that time, the Congress will review, and may change, the provisions in this Act regarding return on equity.

b. Other provider return on equity payments

House bill

The House bill would reduce the rate of return for other provider services, if regulations provide for ROE, to the average rate of return on the hospital insurance trust fund beginning October 1, 1985.

The bill would be effective with cost reporting periods beginning on or after October 1, 1985.

Senate amendment

No provision.

Conference agreement

The conference agreement includes the House bill with a modification. The effective date would be March 1, 1986.

8. Continuation of medicare reimbursement waivers for certain hospitals subject to regional hospital reimbursement demonstrations (sec. 109)

Present law

Section 1886(c) permits a permanent waiver of the standard medicare reimbursement rules for States whose hospital cost containment programs meet a number of requirements, including the requirement that the costs under the State program not exceed those that would have been incurred without the waiver.

House bill

The House bill would permit a local hospital reimbursement system that had operated under a waiver to continue if the State requested the continuation and if the local project meets the requirements for States that receive a waiver, with the following change.

Such a system would have to include substantially all acute care hospitals in the area, and review a minimum of 75 percent of all revenues or expenses there for inpatient hosptial services and 75 percent of revenues or expenses for inpatient hospital services provided under the state's plan approved under title XIX. Medicare's costs could not exceed what they otherwise would be under the medicare PPS systems.

This option would be limited to reimbursement systems that were carrying out demonstration on January 1, 1985 with the approval of the Secretary of Health and Human Services. This provision would become effective upon enactment.

Senate amendment

Similar provision except (a) requires the Secretary to approve such a waiver request and (b) includes demonstrations authorized under section 402 of the Social Security Amendments of 1967, (as amended by section 222(b) of the Social Security Amendments of 1972).

Conference agreement

The conference agreement includes the Senate amendment with a modification to strike the language concerning the effective date.

In addition, the conference agreement will extend the demonstration project known as "Assessment for Community Care Services" through September 30, 1986. The conferees note that this project, carried out by Monroe County Long Term Care Program, Inc. has pioneered in the development of home based alternatives to hospital and nursing home use which allow the delivery of more appropriate and economical care to medicare beneficiaries.

9. Four-year test for state waivers for certain states (Sec. 110)

Present law

Under present law, States may request a waiver of medicare's reimbursement rules for a statewide hospital reimbursement control system under section 1886(c) of the Social Security Act. A number of requirements must be met before such a waiver request is granted. One requirement is that the State demonstrate, to the Secretary of the Department of Health and Human Services' satisfaction, that the amount of medicare payments made under the waiver would not exceed the amounts that otherwise would have been paid over a 36-month period under Title XVIII, if the State were not under a statewide reimbursement waiver.

House bill

The House bill would extend the 36-month test period under section 1886(c)(1)(C) for a further 12 months. Therefore, the comparison period would be a 48-month period. The provision would apply only to states which had made a request for a waiver under 1886(c) prior to December 31, 1984, and whose request was approved. The Secretary would be prohibited from discontinuing payments under the State's system because the Secretary has reason to believe that the assurances for meeting cost effectiveness tests are not being (or will not be) met before July 1, 1986. The only State that meets these criteria is New Jersey. The provision would be effective upon enactment.

Senate amendment

The Senate amendment would prohibit the Secretary from discontinuing a State's waiver so long as the State takes appropriate steps by July 1, 1986, to assure the Secretary that its system will continue to meet the cost-effectiveness test. The provision would apply only to States which had made a request for a waiver under 1886(c) prior to December 31, 1984. The provision would be effective upon enactment.

Conference agreement

The conference agreement includes the House bill.

10. *Special rule for treatment of depreciation and capital indebtedness for donations of State property to non-profit corporations (sec. 111)*

Present law

Section 2314 of the Deficit Reduction Act of 1984 (DEFRA), P.L. 98-369, limited the basis for which medicare depreciation is allowed when a change of ownership occurs. The new owner's basis is the lesser of (1) the historical cost, net of depreciation (cost to the previous owner), or (2) the purchase price.

House bill

The House bill would provide a special rule for treatment of certain transfers. In the case of a hospital or skilled nursing facility that is donated by a State government (donor) to a non-profit corporation (donee), the basis from which capital-related costs to the donee is calculated would be the donor's historical cost (net of depreciation).

The provision would be effective as if it had been included originally in DEFRA.

Senate amendment

Similar provision, except it applies only to hospitals.

Conference agreement

The conference agreement includes the Senate amendment.

11. *Report on impact or outlier and transfer policy on rural hospitals (sec. 112)*

Present law

Present law requires that additional payments be made under the prospective payment system for hospitals when there is either an unusually long length of stay or the stay is excessively costly (both as defined by the Secretary).

House bill

The Secretary of Health and Human Services would be required to review the impact of the outlier and transfer polices under the PPS system as they relate to rural hospitals, particularly rural hospitals with less than 100 beds.

The Secretary would be required to report to Congress on findings of the review not later than May 1, 1986, and should include in this report recommendations on changes in these policies to the extent that they adversely affect rural hospitals. The provision would be effective upon enactment.

Senate amendment

No provision

Conference agreement

The conference agreement includes the House bill with a modification to change the due date of the report to October 1, 1986.

12. *Information on impact of PPS payments on hospitals (sec. 113)*

Present law

Under the Congressional Budget Act of 1974, the Congressional Budget Office (CBO) is entitled to the most recently available cost reports submitted by medicare participating hospitals to the Department of Health and Human Services. There is no requirement that the House of Representative's Committee on Ways and Means or the Senate's Committee on Finance receive cost report information on hospitals that participate in the medicare program.

House bill

The House bill would require the Secretary of Health and Human Services to make available to the Prospective Payment Assessment Commission (ProPAC), the Congressional Budget Office, the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, the most current information on the payments being made under the prospective payment system to individual hospitals.

The hospital specific information would be treated as confidential and would not be subject to further disclosure in a manner that would permit the identification of individual hospitals. The provision would be effective upon enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement includes the House bill, with a modification to omit the House Committee on Ways and Means and the Senate Committee on Finance from, and to add the Congressional Research Service and the General Accounting Office to, the list of entities to receive current PPS payment information.

13. *Indirect teaching adjustment related to independent clinic activities (sec. 710)*

Present Law

For the first three years of the prospective payment system (PPS), a special exception is applied to hospitals which had traditionally been allowed direct billing under part B so extensively that it would have been disruptive to immediately require them to bill for all such services under part A. These hospitals are, in effect, allowed to have part of their PPS payments paid through part B billings and the remainder paid to the hospital under part A. The Health Care Financing Administration has ruled that in such split payment cases, the indirect teaching adjustment would apply only to the portion of the medicare payment that is paid through part A.

House bill

No provision.

Senate amendment

The provision would clarify that the split payment provision was only intended to provide a temporary billing accommodation for certain hospitals and that the indirect teaching adjustment should be applied as if the entire PPS payment had been made under part A. The provision would be effective upon enactment.

Conference agreement

The conference agreement includes the Senate amendment, with the following modifications. Part A services billed under part B under a waiver granted under this authority will be paid at 100 percent of the reasonable charge (or other applicable basis of payment) and the entity billing such services under part B must accept such payment as payment in full. Payment of the indirect teaching adjustment as if all services were billed under the PPS payment methods in part A, will be effective with the first hospital cost reporting period beginning on or after January 1, 1986. Payment or part A services billed under part B at 100 percent of reasonable charges and the requirement that the billing entity accept such payment as full payment will be effective for services provided on or after 10 days following enactment.

14. *Coverage of psychologists' services (sec. 711)*

Present law

Section 1861(b) of the Social Security Act includes the definition of the inpatient hospital services that are paid for by medicare "such other diagnostic or therapeutic items or services, furnished by the hospital or by others under arrangements with them made by the hospital, as are ordinarily furnished to inpatients either by such hospital or by others under such arrangements.

House bill

No provision.

Senate amendment

The provision would clarify that inpatient hospital services for which payments may be made under medicare part A would include diagnostic or therapeutic services provided by a psychologist. The provision would be effective upon enactment.

Conference amendment

The conference amendment does not include the Senate amendment.

15. *Payments to sole community hospitals (sec. 711C)*

Present law

Public Law 98-21 provided a special PPS payment formula for hospitals known as sole community hospitals that, due to special circumstances such as isolated location, are the sole source of inpatient services reasonably available in a given geographic area. Such hospitals are paid on the basis that all other PPB hospitals are paid during the fist year of the transition period: 75 percent based on the hospital specific rate and 25 percent on the national DRG rate. Unlike other hospitals under PPS, which will eventually be paid totally according to a national DRG rate, sole community hospitals will remain at the 75/25 ratio.

In a suit filed in 1984, Redbud Community Hospital, a sole community hospital in Clearlake, CA, challenged HHS's determination of its PPS rate, arguing that the rate did not take into account the costs of providing several new services that were incurred subsequent to its base year. The United States District Court for the Northern District of California issued a preliminary injunction on July 30, 1984, directing the HHS Secretary to issue regulations taking into account any extraordinary and unusual costs not necessarily reflected in a hospital's base year costs but which, if not considered in estimating the hospital specific rate, were likely to result in a distortion in that rate, and taking into account the special needs of sole community hospitals and the unique effects of their status on the hospital specific rate. HHS issued such regulations on July 1, 1985, but withdrew them on July 31, 1985, after Supreme Court Justice William Rehnquist stayed the order of the U.S. District Court. There is a small number of other sole community hospitals that also consider their PPS payments to be inadequate because of costs incurred subsequent to their base year due to the addition of new facilities or services.

House bill

No provision.

Senate amendment

a. Payment provision

The Senate amendment would require the Secretary to provide an adjustment to the PPS rates to reasonably compensate sole community hospitals that experience a significant increase in operating costs in cost reporting periods after the base period due to the addition of new inpatient facilities or services (including the opening of a special care unit). Such payment adjustment would be applied to the cost reporting period during which the cost increase was incurred and to subsequent cost reporting periods as may be necessary to reasonably compensate the hospital for the increased costs.

b. Study

The Senate amendment would require the HHS Secretary to complete a study by January 1, 1987, of the effects of this provision, including recommendations on a permanent mechanism for needed expansions of sole community hospitals' services and the hospital specfic rates of such hospitals.

The provision would be effective for payments for cost reporting periods beginning on or after October 1, 1983. The provision would expire on September 30, 1989.

Conference agreement

The conference agreement includes the Senate amendment but deletes the language relating to case mix changes, which is superfluous. The conferees intend that this provision will remedy problems for hospitals such as Redbud that have added new inpatient services subsequent to their base years.

16. Sense of the Senate with respect to inpatient hospital deductible (sec. 711B)

Present law

The Secretary of HHS announced that the inpatient hospital deductible for calendar year 1985 will be $492.

Medicare law specifies the formula to be used to determine the inpatient hospital deductible amount, based on the average costs of a day of hospital care. Reduced lengths of stay and lower hospital occupancy rates have reduced costs per admission but have increased the costs of care per day.

House bill

No provision.

Senate amendment

Expresses the sense of the Senate that the Committee on Finance should report legislation on the annual increase in the deductible so that it is more consistent with annual increases in medicare payments to hospitals. The provision would be effective upon enactment.

Conference agreement

The conference agreement includes the Senate amendment, with the understanding that this provision expresses only the sense of the Senate.

17. Promulgation of inpatient hospital deductible (sec. 716A)

Present law

The Secretary of HHS announced on September 30, 1985, that the inpatient hospital deductible for calendar year 1986 will be $492, an increase of 23 percent over the corresponding 1985 figure. Medicare law specifies the formula to be used to determine the deductible amount.

The Secretary must publish a notice of the projected increase by October 1 of each year.

House bill

No provision.

Senate amendment

The Senate amendment requires the Secretary to publish a notice of the projected increase by September 15 of each year. This provision would be effective for calendar years after 1985.

Conference agreement

The conference agreement includes the Senate amendment.

18. ProPAC expansion (sec. 142 and 734)

Present law

The Social Security Amendments of 1983 (P.L. 98-21) provided for the establishment of the Prospective Payment Assessment Commission (ProPAC) consisting of 15 members appointed by the Director of the Office of Technology Assessment, generally to serve for 3-year terms.

House bill

The House bill would expand current ProPAC membership by two, to be appointed no later than January 1, 1986. (See item 40 also for provisions relating to physician payment activities or ProPAC.)

Senate amendment

The provision would expand ProPAC membership by two, to be appointed no later than 60 days after enactment, for 3-year terms. This provision would become effective upon enactment.

Conference agreement

The conference agreement includes the Senate amendment. It is the intent of the conferees that the two new ProPAC members would represent nurses and rural hospitals.

19. Extension and payment for hospice care (sec. 121)

Present law

Under current law, individuals who are entitled to medicare part A benefits and who are certified to be terminally ill may elect to receive part A reimbursement for hospice care services, in lieu of certain other services. Public Law 97-248, the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), which authorized this hospice benefit, mandated reports to the Congress by the Secretary of Health and Human Services on September 30, 1983, (regarding the Department's hospice demonstration project) and January 1, 1986 (evaluating the hospice benefit). Current authority for the medicare hospice benefit is scheduled to sunset on October 1, 1986.

In implementing the TEFRA hospice benefit, the Department of Health and Human Services established a prospective payment system and set daily rates for each of four levels of hospice care. Public Law 98-617 increased the routine home care payment rate by approximately $7.00 per day for the fiscal year beginning October 1, 1984, and required the Secretary of HHS to review and adjust the hospice rates annually, beginning October 1, 1985.

The report on the hospice demonstration project, which was to have been submitted by September 30, 1983, has not been received by the Congress. Cost data will not be available to the Secretary in order for the rates to the updated by October 1, 1985.

House bill

The bill would repeal the sunset provision of present law. Beginning January 1, 1986, each of the daily payment rates for hospice care would be increased by $10.00, an amount which is slightly less than the Congressional Budget Office estimate of the savings per day attributable to a medicare hospice election. The Secretary would be given one additional year, until October 1, 1986, to review and adjust the hospice rates and to report to the Congress on the adequacy of the rates in insuring participation in medicare by an adequate number of hospice programs. The repeal of the sunset provision would be effective on enactment of the bill.

Senate amendment

Identical provision.

Conference agreement

The conference agreement includes the House bill.

20. Limiting the penalty for late enrollment in part A (sec. 122)

Present law

Part A coverage under medicare is available on a voluntary basis to individuals 65 or over who are not otherwise entitled to coverage. These individuals may obtain medicare part A coverage by paying a monthy premium. Anyone purchasing part A coverage after the third month after the month in which he becomes eligible is charged a late penalty of 10 percent of the standard premium for each 12 months he is late in enrolling; that is, for each 12 months during which he could have been, but was not enrolled. This penalty is paid each and every month of coverage for the rest of the beneficiary's life.

House bill

The House bill would limit the part A premium penalty to 10 percent no matter how late an individual enrolled, and the period during which the penalty is paid would be limited to twice the number of years enrollment was delayed. At the end of this period, the premium would revert to the standard monthly premium in effect at that time. For example if the individual enrolled one year late, the penalty would be 10 percent paid for two years; for late enrollment for two years, the penalty would be 10 percent a year for four years, and so on, after which it would revert to the standard premium amount.

The House bill would also apply to medicare beneficiaries currently paying a part A premium penalty. Months before, during or after January 1986, in which such an individual was required to pay a premium penalty, would be taken into account in determining the month in which the premium would no longer be subject to a penalty increase.

Senate amendment

No provision.

Conference agreement

The conference agreement includes the House bill, with a modification that the effective date will be April 1, 1986.

21. Medicare coverage of, and application of hospital insurance tax to, newly hired state and local government employees (sec. 123)

Present law

Under present law, there is no Federal requirement that state and local government employees pay the hospital insurance tax. Most state and local government employment is already covered as a result of voluntary agreements for such coverage entered into by the States. About 25-30 percent of such employment is not currently covered.

House bill

The House bill would extend medicare coverage on a mandatory basis for all state and local government employees hired subsequent to December 31, 1985. The employers and their employees would become liable for the hospital insurance portion of the FICA tax and the employees would earn credit toward medicare eligibility based on their covered earnings.

Senate amendment

The Senate amendment is similar, but would include current, as well as newly hired, employees and would become effective October 1, 1986.

22. Responsibilities of medicare hospitals in emergency cases (sec. 124)

Present Law

Hospitals that participate in medicare have to meet defined conditions of participation and enter into participation agreements. The participation agreement contains no specific requirements relating to the appropriate treatment of emergency patients, including non-medicare patients.

a. Requirements

(1) Medical screening

House bill

The House bill would require all participating hospitals with emergency departments to provide an appropriate medical screening examination for any individual who requests it (or has a request made on his behalf) to determine whether an emergency medical condition exists or if the patient is in active labor.

Senate amendment

The Senate amendment contains a similar provision, except it would require such examination or treatment only if it is within the capability of the hospital's emergency department. In addition, it provides that these medical screening requirements would not apply if providing a medical screening examination would delay or otherwise be contrary to prompt medical treatment of the individual's medical condition.

Conference agreement

The conference agreement includes the Senate amendment's provision that such examination or treatment is required of the hospital only if it is within the capability of the hospital's emergency department; the conference agreement does not include the Senate amendment's provision that the medical screening requirements would not apply if they would delay or be contrary to prompt treatment.

(2) Necessary stabilization

House bill

The House bill provides that all participating hospitals must, when a patient is found to have an emergency condition or to be in active labor (i) provide further examination and treatment within their competence to stabilize the medical condition or provide treatment for the labor, unless such treatment is refused, or (ii) provide an appropriate transfer to another medical facility in accordance with a defined standard.

Senate amendment

The Senate amendment contains a similar provision, except that such a determination could be made through an appropriate medical screening examination or otherwise. In addition, the Senate amendment does not require the hospital to provide for transfer to another medical facility if the transfer is refused.

Conference agreement

The conference agreement includes the House bill's language concerning the hospital's determination of an emergency medical condition or active labor. The conference agreement includes the Senate amendment's provision that transfer is not required if refused, with a clarifying amendment that examination, treatment or transfer could be refused by either the patient or a person responsible for the patient. The conference agreement also provides that if the individual (or a legally responsible person acting on the individual's behalf) refuses further medical examination and treatment or refuses a transfer, the hospital's obligation with respect to further examination and treatment or with repect to transfer is discharged.

(3) Restricting transfers until patient is stabilized

House bill

A hospital may not transfer a patient who has not been stabilized or is in active labor unless: (i) a physician has signed a certificate that, based on the information available at the time and using reasonable standards, the medical benefits to be obtained from appropriate medical treatment at another facility outweigh the risks of transfer, i.e., the receiving facility has agreed to accept the patient, has space and qualified personnel available for his treatment and is provided with medical examination and treatment records from the transferring hospital, and the transfer is made by proper personnel using equipment that meets health and safety standards.

Senate amendment

The Senate amendment includes a similar provision, except prohibits a hospital from transferring a patient who has not been stabilized or is in active labor unless: (i) the patient (or member of the patient's family if the patient is an unemancipated minor or is unable to communicate) or (ii) a physician or other qualified medical personnel when a physician is not available in the emergency department has made a determination that the benefits of a transfer outweigh the risks, and (iii) the transfer is an appropriate transfer.

Conference agreement

The conference agreement includes the Senate amendment provision conditioning a transfer on patient (or member of the patient's family) approval, with an amendment that a person legally responsible for the patient could also request a transfer. The conference agreement includes the House bill provision requiring physician certification for transfer, but includes the Senate amendment provision that such certification could also be made by other qualified medical personnel when a physician is not (adding the word "readily") available in the emergency department.

(4) Definition of an appropriate transfer

House bill

Defines an appropriate transfer as one:

(i) in which the receiving facility has available space and qualified personnel for the treatment of the patient, has agreed to accept transfer of the patient and to provide appropriate medical treatment, and is being provided appropriate medical records (or copies) of the examination and treatment provided by the transferring facility;

(ii) in which the transferring hospital provides the receiving hospital with appropriate medical records (or copies) of the examination and treatment affected the transferring hospital;

(iii) in which the transfer is made through qualified personnel and transportation equipment, including medically appropriate life support measures during the transfer; and

(iv) which meets other requirements the Secretary of HHS may find necessary.

Senate amendment

The Senate amendment contains a similar provision except:

(i) also provides that if the patient's medical condition is sufficiently serious to require an immediate transfer, the receiving facility must be notified of the transfer as soon as practicable under the circumstances;

(ii) no provision;

(iii) provides that the transfer be made by qualified personnel and transportation equipment as required, including necessary and medically appropriate life support measures; and

(iv) identical provision.

Conference agreement

The conference agreement includes:

(i) the House bill, which does not include notification of the transfer as soon as practicable;

(ii) the House bill, which requires the transferring hospital to provide the receiving hospital with appropriate medical records; and

(iii) the Senate amendment regarding qualified personnel and transportation equipment.

b. Enforcement

House bill

The House bill provides that a hospital that fails to meet these requirements would have its medicare participation agreement terminated. In addition, a participating hospital that knowingly violates these requirements and the responsible physician in the hospital with respect to such a violation are each subject to a civil monetary penalty of not more than $25,000 for each violation. For purposes of this section, a "responsible physician" means a physician who is employed by, or under contract with, the participating hospital, and acting as such an employee or under such contract, has professional responsibility for the provision of examinations or treatments for the individual, or transfers of the individual with respect to which the violation occurred.

Any person who suffers personal harm, and any medical facility which suffers a financial loss as a direct result of a participating hospital's violation of these requirements, may bring a civil action, in an appropriate Federal district court, against the participating hospital, for damages and other appropriate relief. No civil action may be brought more than two years after the violation.

Senate amendment

The Senate amendment provides that if a hospital knowingly and willfully, or negligently, fails to meet the requirements of this provision, the hospital would be subject to (1) termination of its medicare provider agreement, or (2) at the option of the Secretary, suspension of the medicare provider agreement for an appropriate length of time, as determined by the Secretary, after reasonable notice to the hospital and to the public.

Conference agreement

The conference agreement includes the House bill, with a modification to permit the Secretary to terminate or suspend a hospital's provider agreement for "knowingly and willfully, or negligently" failing to meet the requirements of this provision in addition to the civil monetary penalties and civil enforcements.

The civil enforcement provision was restructured to clarify its application. In addition, the courts are directed, on the issue of damages, to apply the law of the State in which the violating hospital is located, for actions brought by a harmed individual or a hospital which suffers a financial loss. The language allowing courts to grant "other appropriate relief" was also modified to read "other equitable relief as appropriate", to

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give the courts clearer direction that such relief should be within the courts regular equitable powers and should be granted for the purpose of remedying the violation or deterring subsequent violations.

c. Definitions

(1) Emergency medical condition

House bill

The House bill defines "emergency medical condition" to mean a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) that lack of immediate medical attention could result in placing the patient's health in serious jeopardy, serious impairment to bodily functions, or serious dysfunction of any bodily organ or part.

Senate amendment

The Senate amendment contains an identical definition.

(2) Active labor

House bill

The House bill defines "active labor" to mean labor when delivery is imminent, there is inadequate time to safely transfer the patient to another hospital, or a transfer could threaten the health and safety of the patient or the unborn child.

Senate amendment

The Senate amendment includes a similar definition, except provides that there is inadequate time to safely transfer the patient prior to delivery, and does not include that a transfer could threaten the health and safety of the patient or the unborn child.

Conference agreement

The conference agreement includes the House bill provision concerning the threat to the health and safety of the patient or unborn child and the Senate amendment provision regarding inadequate time to transfer prior to delivery.

(3) Participating hospital

House bill

The House bill defines "participating hospital" to mean a hospital that has a provider agreement under section 1866 of medicare and has obligated itself to comply with the requirements of this provision.

Senate amendment

No provision.

Conference agreement

The conference agreement includes the House definition of "participating hospital."

(4) To stabilize

House bill

The House bill defines "to stabilize" to mean, with respect to a medical condition, to provide such medical treatment of the condition as may be necessary to assure that no material deterioration of the condition is likely to result from the transfer of the individual from a facility.

Senate amendment

The Senate amendment defines "to stabilize" to mean, with respect to an emergency medical condition, to provide such medical treatment of the condition as may be necessary under the circumstances and within the capability of the hospital (A) so that the transfer of the individual will not, within reasonable medical probability, result in substantial risk of death or serious impairment as a direct result of the transfer, or (B) in order to determine that the benefits obtained from providing appropriate medical treatment at another medical facility, taking into account potential risks involved in the transfer, outweigh the potential benefits to the individual's medical condition from not affecting the transfer.

Conference agreement

The conference agreement includes the House bill with two modifications from the Senate amendment: the condition must be an emergency medical condition, and the assurance that no material deterioration of the medical condition is likely to result must be within reasonable medical probability.

(5) Stabilized

House bill

The House bill defines "stabilized" to mean, with respect to a medical condition, that no material deterioration of the condition is likely to result from the transfer of the individual from a facility.

Senate amendment

The Senate amendment defines "stabilized" to mean, with respect to an emergency medical condition, that such medical treatment has been provided as may be reasonably necessary under the circumstances and within the capability of the hospital (A) so that the transfer will not, within reasonable medical probability, result in substantial risk of death or serious impairment as a direct result of the transfer, or (B) in order to determine that the benefits obtained from providing appropriate medical treatment at another medical facility, taking into account potential risks involved in the transfer, outweigh the potential benefits to the individual's medical condition from not affecting the transfer.

Conference agreement

The conference agreement includes the House bill with the same two modifications described in Item (4) above.

(6) Transfer

House bill

The House bill defines "transfer" to mean the movement (including discharge) of a patient outside a hospital's facilities at the direction of any person employed by (or affiliated or associated, directly or indirectly, with) the hospital, but does not include such movement of a patient who has been declared dead or leaves the facility without the permission of any such person.

Senate amendment

The Senate amendment contains an identical definition.

d. Preemption

House bill

The House bill provides that this provision does not preempt State or local law requirements respecting hospitals, except if such requirements directly conflict with a requirement of this provision.

Senate amendment

The Senate amendment contains a similar provision, except does not specify that the State or local law requirements must apply only to hospitals.

Conference agreement

The conference agreement includes the Senate amendment.

e. GAO study

House bill

No provision.

Senate amendment

The Senate amendment requires the Comptroller General to conduct a study, and report to Congress within 2 years after enactment, on problems created by hospitals that transfer patients without providing necessary emergency medical treatment. The study must include a survey and assessment of the extent of the problems; a survey of the available remedies to such problems and an assessment of the frequency and effectiveness with which such remedies are utilized; an assessment of the effectiveness of the remedy provided by this new provision; and recommendations for changes in Federal law, including medicare and possibly medicaid.

Conference agreement

The conference agreement does not include the Senate amendment.

f. Regulations

House bill

No provision.

Senate amendment

The Senate amendment requires the Secretary of HHS to promulgate final regulations to implement this new provision within 180 days of enactment, and to report to Congress on the methods to be used for monitoring and enforcing compliance with this provision.

Conference agreement

The conference agreement does not include the Senate amendment regarding regulations, but does include the Senate amendment requiring the Secretary to report to Congress on monitoring and enforcement within 6 months after the enactment date.

g. Effective date

House bill

The House bill provides an effective date of October 1, 1985.

Senate amendment

The Senate amendment provides an effective date of April 1, 1986.

Conference agreement

The conference agreement includes the modification that the effective date would be 90 days after enactment.

23. Improve access to skilled nursing facilities (sec. 722)

Present law

Medicare provides skilled nursing facility (SNF) services under the Hospital Insurance (Part A) program.

a. Payment rates.—SNF's are reimbursed on the basis of reasonable costs actually incurred, subject to limits. Medicare's final payment to a SNF is determined retrospectively only after a SNF has itemized its costs for a full year on a medicare cost report. Separate reimbursement limits are applied to freestanding SNFs and hospital-based SNFs. For freestanding facilities, limits are established at 112 percent of the mean operating cost of urban and rural freestanding facilities respectively. Limits for urban hospital-based facilities are equal to the urban freestanding facility limits plus 50 percent of the difference between the freestanding limit and 112 percent of mean operating costs for hospital-based facilities. A similar calculation, based on costs of rural facilities, is made for rural hospital-based facilities. Cost differences between hospital-based and freestanding facilities attributable to excess overhead allocations resulting from medicare reimbursement principles are recognized as an add-on to the limit for hospital-based facilities.

b. Waiver of liability.—Current medicare law allows part A providers to collect payment from intermediaries after a claim has been denied because the items or services were found not to be medically reasonable and necessary or because services where determined to be custodial care. A finding must be made that neither the beneficiary nor the provider knew or could reasonably have been expected to know that the items or services were not covered. However, providers can earn a presumption, or waiver, that allows them not be held liable for uncovered services they provided if the provider meets five procedural criteria. By meeting the criteria, providers are essentially presumed not to have known that the service would not be covered and their liability for paying for that service therefore can be waived. This is often referred to as the "waiver of liability." Under current administrative practice, a SNF is judged to meet these criteria and to have its liability for certain uncovered claims waived if its denial rate does not exceed 5 percent. The denial rate is determined by the percentage of days billed by the provider as covered that HCFA later determines to be noncovered when the bill is reviewed. Under the waiver policy, SNFs with a denial rate of 5 percent or less are paid for these denied services.

In a proposed rule published February 12, 1985, HCFA would eliminate the criteria for a favorable presumption and determine payment on a case-by-case basis. Under the rule, SNFs would be liable for payment for 100 percent of all claims which were judged to be uncovered after HCFA review.

House bill

No provision.

Senate amendment

The Senate amendment provides that SNFs providing less than 1,500 days of care per year to medicare patients in the preceding year would have the option of being paid a prospective rate set at 105 percent of the regional mean for all SNFs in the region. The rate would be separately calculated for urban and rural areas and include all non-ancillary costs, including capital and return on investment if medicare pays SNFs for a return on equity capital. Those accepting the prospective rate would be required to file a minimal cost report. With respect to ancillary services, the Secretary would be allowed to pay for those services on the basis of reasonable costs or reasonable charges. The Secretary would be required to reduce the number of intermediaries to ten by April 1, 1987. The Secretary would be required to maintain the five percent favorable presumption waiver of liability until 30 months after enactment of this legislation. This provision would be effective upon enactment.

Conference agreement

The conference agreement includes the Senate amendment, with the following modifications. The prospective per diem rates will be adjusted to reflect wage differences between urban areas and between rural areas within each region. The prospective urban or rural regional per diem rate for a skilled nursing facility cannot exceed the per diem cost limit otherwise applicable to that facility, adjusted to include average urban or rural per diem capital costs and return on equity if medicare pays SNFs for a return on equity capital under the normal reimbursement rules. Thus, the SNF's prospective rate cannot exceed its cost limit adjusted for capital costs. Prospective payment on this basis will take effect for facilities that elect such payment for cost reporting periods beginning on or after October 1, 1986. The conference agreement does not require the Secretary to reduce the number of fiscal intermediaries serving skilled nursing facilities.

24. Limitation on direct medical education payments (sec. 107)

Present law

On July 5, 1985, the Administration issued final regulations freezing the amount medicare reimburses providers for their direct costs of approved medical education activities, for cost reporting periods beginning on or after July 1, 1985.

The freeze permits payment based on the lesser of a provider's allowable direct medical education costs for the current cost reporting period or for a base year (the provider' cost reporting period beginning on or after October 1, 1983), adjusted for changes in medicare utilization.

House bill

The House bill would retroactively prohibit implementation of the regulations imposing the one-year freeze.

Senate amendment

a. Payment level

The Senate amendment would limit payments to hospitals for their direct costs of approved medical education activities for the first cost reporting period beginning on or after July 1, 1985. The limit would be the provider's approved medical education costs during the cost reporting period ending prior to October 1, 1985, updated to reflect general increases in the cost of approved medical educational activities which took place between the end of the prior accounting period and the beginning of the freeze accounting period.

b. Residency year limitation

Beginning with the first cost reporting period beginning on or after July 1, 1986, the direct costs of medical education activities associated with those residents who are either board eligible or have completed more than five years of training will no longer be allowable, with the exception of geriatric fellowships which meet criteria established by the Secretary. The exception for geriatric fellowships expire July 1, 1991.

c. Limitations regarding certain foreign medical graduates

Also beginning with a hospital's first cost reporting period beginning on or after July 1, 1986, only 66 percent of the direct educational costs of graduates of medical schools not accredited by the Liaison Committee on Medical Education (LCME), or graduates of accredited schools of osteopathy, dentistry, or podiatry will be considered for allowable cost determinations. The allowable percent for these so-called "foreign medical graduates" would be reduced to 33 percent in the subsequent reporting and to zero percent thereafter.

d. 1986-1987 payments

For the year beginning July 1, 1986, the amounts recognized as reasonable would include, on an average cost per intern and resident basis, the lesser of (1) two-thirds the number of interns and residents who are not graduates of such accredited schools but two began their formal training required for initial board eligibility in their specialty prior to July 1, 1986, or (2) two-thirds the number of interns and residents who are not graduates of such accredited schools but for whom the hospital received direct medical education payments from medicare for the year beginning July 1, 1985.

e. 1987-1988 payments

For the year beginning July 1, 1987, the amounts recognized as reasonable would include, on an average cost per intern and resident basis, the lesser of (1) one-third the number of interns and residents who are not graduates of such accredited schools but who began their formal training required for inital board eligibility in their specialty prior to July 1, 1986, or (2) one-third the number of interns and residents who are not graduates of such accredited schools but for whom the hospital received direct medical education payments from medicare for the year beginning July 1, 1985.

f. Special 50 percent foreign medical graduate rule

Hospitals whose unaccedited medical school graduates represent more than 50 percent of their students as of October 1, 1985, would receive the 66 percent funding for the first two reporting periods beginning on or after July 1, 1986, 33 percent funding for the three subsequent periods, and no funding thereafter. The provision also requires the Secretary and the General Accounting Office to study and report on various aspects of graduate medical education. The provision would be effective for cost reporting periods beginning on or after July 1, 1985.

g. Nursing and other health professions study

The Senate amendment would require the Secretary to conduct a study and report to Congress prior to December 31, 1986, on approved nursing and other health professions educational activities for which medicare reimburses hospitals. The study must address data on the types of such programs and the number of programs and students; relationships between hospitals and the schools with which the programs are affiliated; the types and amounts of expenses for which reimbursement is made; and the financial and other contributions which accrue to the hospital as a consequence of having such programs.

h. Geriatric fellowship study

The Senate amendment would require the Secretary to conduct a study and report to Congress prior to July 1, 1990, on (1) the advisability of continuing the exemption for geriatric fellowships from the limitation on years of training for purposes of determining medicare payments for direct medical education costs, (2) the advisability of expanding the exemption to cover other educational activities, and (3) the adequacy of the supply of faculty in the field of geriatrics.

i. GAO study

The Senate amendment would require the General Accounting Office to conduct a study and report to Congress prior to December 31, 1986, on differences in medicare payments to teaching versus nonteaching hospitals, identifying the components of such payments and accounting, to the extent feasible, for any differences between the amounts of the payment components in teaching and nonteaching settings. It would provide that GAO may use a sample of teaching hospital patients and other data sources deemed appropriate, and would require GAO to control to the extent feasible for differences in a number of factors which could affect the comparability of patients and of payments between teaching and nonteaching settings. It would require that this study be coordinated with the study of teaching physicians' services required under section 2307(c) of the Deficit Reduction Act of 1984.

j. Waiver of Paperwork Reduction Act

The Senate amendment would provide that Chapter 35 of Title 44, U.S. Code (Paperwork Reduction) would not apply to information required to carry out this provision.

Conference agreement

a. Payment level

The conference agreement includes the Senate amendment with a modification as follows.

Hospital-specific approved FTE resident amounts will be determined based on data on direct graduate medical education (GME) costs and numbers of interns and residents, from hospital cost reporting periods beginning in fiscal year 1984. These amounts will then be updated according to the specifications described in the July 5, 1985 regulation (amending 42 CFR Parts 405 and 412) limiting medicare payments for direct medical education costs; and will then be increased by an additional one percent.

This methodology replaces the current reasonable cost methodology for determining hospitals allowable costs, in calculating hospitals' medicare payments for graduate medical education activities. (Medicare will continue to reimburse hospitals on a cost basis for the direct medical education costs associated with nursing and allied health training activities. This amendment prohibits the Secretary from placing limitations on the allowable costs of such activities.)

A hospital's medicare payments will be determined by multiplying its approved FTE resident amount by the number of its full-time equivalent residents, and then by multiplying that product by the proportion of total inpatient days used by medicare patients.

For those hospitals whose cost reporting periods do not coincide with the normal July 1 through June 30 residency year, the hospital's FTE count will be determined by multiplying the number of FTE residents in the first residency year falling within the cost reporting period by the proportion of the residency period falling within that cost reporting period, and adding to this the number of FTE residents in the second residency year falling within the cost reporting period multiplied by the proportion of that residency year falling within the cost reporting period.

For hospitals' cost reporting periods beginning on or after July 1, 1986, the approved FTE resident amounts will be determined by applying the increase in the Consumer Price Index for Urban Consumers to the amounts allowed in the previous cost reporting period.

b. Residency year limitations

The conference agreement includes the Senate amendment with a modification as follows.

Limitations are placed on the way in which residents are counted toward full-time equivalency, once they have reached a specified point in their training. On or after July 1, 1986, hospitals will receive 100 percent of their approved FTE resident amounts for each year of a resident's training that is within the minimum number of years of formal training necessary to satisfy specialty requirements for initial board eligibility, plus one year, to a maximum of five years.

On or after July 1, 1986, and before July 1, 1987, medicare payment for training years exceeding these limits will be made at 75 percent of the rate that would otherwise be recognized. On or after July 1, 1987, payment will be made at 50 percent of the rate that would otherwise be recognized. Up to two years of training in a geriatric residency or fellowship program will be paid for at 100 percent of the rate that would otherwise be recognized, and will be excluded from the 5-year limit.

c. Limitations regarding certain foreign medical graduates

The conference agreement includes the Senate amendment with a modification as follows.

No limitations are applied with respect to medicare payment for approved FTE resident amounts for FMGs, except as follows. Effective July 1, 1986, an FMG will not be counted as a resident unless the individual has passed the Foreign Medical Graduate Examination in Medical Sciences (FMGEMS), except under specified circumstances. A one-year transition period is provided for current FMG residents. From July 1, 1986 through June 30, 1987, such an FMG will be counted as a resident at a rate equal to one-half of the rate at which the individual would otherwise be counted. An FMG who does not pass the FMGEMS during that year would not be counted at all during subsequent years, unless he or she later passed the test.

d. 1986-1988 payments

The conference agreement does not include the Senate amendment.

e. 1987-1988 payments

The conference agreement does not include the Senate amendment.

f. Special 50 percent foreign medical graduate rule

The conference agreement does not include the Senate amendment.

g. Nursing and other health professions study

The conference agreement includes the Senate amendment.

h. Geriatric fellowship study

The conference agreement includes the Senate amendment with a modification as follows.

The conferees note that the Secretary is required by Public Law 99-158 to conduct a study of Health Personnel Needs for the Elderly. The conferees direct the Secretary to coordinate that study with the one mandated by this act.

i. GAO study

The conference agreement includes the Senate amendment with a modification as follows.

The GAO is required to study the differences in the amounts of medicare payments made with respect to patients in teaching and nonteaching hospitals, and also to study variations in such payments across teaching hospitals, taking into account the same variables and factors.

j. Waiver of paperwork reduction act

The conference agreement includes the Senate amendment.

k. Part B billing

The conference agreement includes a requirement that the Secretary establish by July 1, 1987, a system which provides for a unique identifier for each physician who furnishes services for which payment may be made under medicare. This system is required in order to enable the Secretary to effectively enforce the current law prohibition on part B billing by interns and residents in approved training programs for services within the scope of those programs. This capability is of particular importance in light of the limits on allowable direct GME costs established by this legislation.

l. Report on uniformity of approved FTE resident amounts

The conference agreement includes a requirement that the Secretary report to Congress before December 31, 1987, on the advisability of revising approved FTE resident payment amounts across hospitals to provide for greater uniformity, and on how such revisions should be implemented if advised.

m. Study on foreign medical graduates

The conference agreement includes a requirement that the Secretary study and report to Congress by December 31, 1987 on the use of FMGs for the provision of health care services to medicare beneficiaries. The study should evaluate cost, quality and access issues with respect to services provided by FMGs, and should address the impact on costs of and access to these services in the event of a phase-out of medicare direct GME payments for FMGs.

n. Changes in cost allocation methods

Certain hospital reimbursement systems that received waivers from medicare have used methods of allocating administrative and general costs that are different from those required by the medicare hospital cost reporting forms. The conferees are concerned that, where these alternative allocation methods are in use, the base year direct GME costs used to determine the approved FTE resident amounts established by other provisions of this legislation, may be understated.

The conferees direct the Secretary to permit changes in these alternative allocation methods. The conferees further direct the Secretary to adjust the regional standardized payment amounts and the hospital-specific amounts to account for the overstatement of these amounts due to the method of allocation of overhead used by teaching hospitals in the base period.

25. Moratorium on medicare laboratory payment demonstration

Present law

Pursuant to demonstration authority of present law, the Secretary has proposed to experiment with competitive bidding as a method of purchasing clinical laboratory services under the medicare program. Independent laboratories have expressed the concern that under the experiments, unsuccessful bidders might not be eligible to participate in the medicare program.

House bill

No provision.

Senate amendment

The provision would postpone the demonstrations until December 31, 1986 with the exception that the design of and site selection for such demonstrations can proceed. During this moratorium, representatives of the laboratory industry could conduct a study in collaboration with the Secretary and the U.S. General Accounting Office, to determine whether there is a less disruptive method of utilizing competitive market forces in setting medicare payment levels—e.g., by giving medicare access to laboratory fee schedules that have been established in competing for the business of other large purchasers. If the study is conducted, the

Secretary and the GAO shall provide the study and their comments on it to the committees of jurisdiction. This provision would be effective upon enactment.

Conference agreement

The conference agreement includes the Senate amendment. It is the intent of the conferees that if a study is conducted the Secretary will assist the industry in the conduct of the study by providing data and technical assistance as necessary. The GAO's role is intended to be consultative rather than participatory with respect to the conduct of the industry study.

26. Extend home health waiver of liability

Present law

Present medicare law allows part A providers to collect payment from intermediaries after a claim has been denied because the items or services were found not to be medically reasonable and necessary or because services were determined to be custodial care. A finding must be made that neither the beneficiary nor the provider knew or could reasonably have been expected to know that the items or services were not covered. Under current administrative practice, providers can be presumed to meet this test if they meet certain criteria. The principle criterion for home health agencies is that its denial rate does not exceed 2.5 percent. The denial rate is determined by the percentage of days billed by the provider as covered that HCFA later determines to be noncovered when the bill is reviewed. Under this waiver of liability policy, home health agencies with a denial rate of 2.5 percent or less are paid for these denied services.

In a proposed rule published Feburary 12, 1985, HCFA would eliminate the criteria for a favorable presumption and determine payment on a case-by-case basis. Under the rule, home health agencies would be liable for payment for claims which were judged to be uncovered after HCFA review.

House bill

No provision.

Senate amendment

The provision would require the Secretary to maintain the 2.5 percent waiver of liability policy for home health agencies from the date of enactment until 12 months after the consolidation of claims processing for home health agencies, that is, when all ten home health agency fiscal intermediaries begin operations. This provision would be effective upon enactment.

Conference agreement

The conference agreement includes the Senate amendment.

27. Home health regulation moratorium

Present law

Prior to the recent publication of final regulations, reimbursement for home health services was limited to the 75th percentile of the average costs per visit incurred by all home health agencies. Separate limits were established for each type of service (e.g., skilled nursing, home health, and physical therapy); however, they were applied in the aggregate to each home health agency based on its mix of services.

The Administration has revised, in regulations published July 5, 1985, the home health cost limit methodology. For cost reporting periods beginning on or after July 1, 1985, the limits are set at 120 percent of the mean and would be applied separately to each type of service. For cost reporting periods beginning on or after July 1, 1986, the limits are to be reduced to 115 percent of the mean. For cost reporting periods beginning on or after July 1, 1987, the limits are to be set at 112 percent of the mean.

House bill

No provision.

Senate amendment

The provision would delay implementation of the July 5 regulations until July 1, 1986. The provision would become effective July 1, 1985.

Conference agreement

The conference agreement includes the Senate amendment with a modification as follows:

The modification specifies that for cost reporting periods beginning on or after July 1, 1985, the limits are set at 120 percent of the mean. For cost reporting periods beginning on or after July 1, 1986, the limits are to be set at 115 percent of the mean and for cost reporting periods beginning on or after July 1, 1987 the limits are to be set at 112 percent of the mean. The statute also directs the Secretary to provide for an adjustment to these limits as they apply to hospital-based home health agencies, to account for the higher administrative and general costs incurred by such agencies.

The Secretary is precluded from applying the limits separately for each type of service. Instead, the Secretary would be required to continue to allow agencies to aggregate these limits and apply them to aggregated costs. The Comptroller General is required to report to Congress by September 1, 1986 on the appropriateness of applying the cost limits discipline-by-discipline, rather than through aggregation. The conferees expect to examine this issue after submission of the GAO report.

28. Studies relating to physical therapists and other professionals

a. Study of physical therapists' office requirements

Present law

Under current law, part B of medicare covers the services of a qualified physical therapist in independent practice when furnished by him or under his direct supervision in his office or in the patient's home. These services must be prescribed by a physician and furnished pursuant to a written plan of treatment established by a physician or a qualified physical therapist.

The Secretary is required, under present law, to establish conditions that an independently practicing physical therapist must meet in order to receive medicare reimbursement. The Secretary, by regulation, requires that a physical therapist in independent practice maintain an office space with the necessary equipment to provide an adequate program of physical therapy. This requirement is applied even to those therapists who operate exclusively in the beneficiary's home.

House bill

No provision.

Senate amendment

The Senate amendment is required to study the requirement that independently practicing physical therapists who operate exclusively in beneficiaries' homes maintain fully-equipped offices. The report would be due April 1, 1986. The provision would be effective upon enactment.

Conference agreement

The conference agreement includes the Senate amendment with a modification that specifies the report is due to Congress prior to October 1, 1986.

b. Study of home health agency supervision

Present law

The medicare law requires that a physician or registered nurse supervise patient care services provided by a home health agency.

House bill

No provision.

Senate amendment

The Secretary is required to examine the question of whether other health care professionals (e.g., physical therapists, occupational therapists, and speech-language pathologists) may be qualified to supervise patient care services provided by a home health agency. Further, the Secretary would be required to specify criteria and conditions for which they could fulfill the supervisory role. The report would be due April 1, 1986. The provision would be effective upon enactment.

Conference agreement

The conference agreement includes the Senate amendment with a modification that specifies the report is due to Congress prior to October 1, 1986.

29. Extension of working aged provisions to individuals over 69

Present law

The Age Discrimination in Employment act (ADEA) requires employers of 20 or more people to offer employees and their spouses age 65-69 the same health insurance coverage they offer to younger employees and under the same conditions.

If the older employee chooses the employer's plan, medicare becomes the secondary payor if the employer plan does not pay full benefits.

If the older employer chooses not to participate in the employer's plan, medicare will be the primary payor. The employer is prohibited from offering a health plan designed to supplement medicare (i.e. fill in medicare's deductible and coinsurance).

Currently, ADEA applies only to persons between the ages of 40 and 70.

House bill

The House bill would extend the health insurance requirements of ADEA to persons over the age of 69, thereby removing the upper age limit, and makes corresponding changes in medicare law.

The House bill would amend ADEA to provide that the group health insurance requirement be exempted from the age limits.

The House bill would make other conforming amendments regarding special enrollment periods and the effective date of enrollment.

The House bill generally would be effective January 1, 1986 with certain exceptions.

Senate amendment

Similar provision.

Conference agreement

The conference agreement includes the Senate amendment with a technical modification.

30. Health maintenance organizations and competitive medical plans

a. Finanical responsibility for patients hospitalized on the effective date of an enrollment or disenrollment.

Present law

Under current law it is unclear who is responsible for payment when a medicare beneficiary is an inpatient of a hopital under the prospective payment system on the effective date of his/her TEFRA HMO/CMP enrollment. A similar problem exists for disenrollment. A TEFRA HMO/CMP is a health maintenance organization or competitive medical plan with a risk contract under Section 1876 of the Social Security Act, authorized under the Tax Equity and Fiscal Responsibility Act of 1982.

House bill

Enrollment—a TEFRA HMO/CMP is not financially responsible for reimbursing covered inpatient stays in a PPS hospital for inpatient stays beginning before the effective date of the beneficiary's enrollment in the TEFRA HMO/CMP. Medicare will reimburse for the inpatient stay, if otherwise covered, as if the beneficiary were not enrolled in a TEFRA HMO/CMP. The TEFRA HMO/CMP will be responsible for any other services covered under medicare (i.e., all services except the inpatient stay, such as physician services provided to the patient during the inpatient stay) and any additional or supplemental services which would otherwise be due an enrollee, effective with the date of his/her enrollment in the TEFRA HMO/CMP.

Disenrollment—if the enrollee is an inpatient in a PPS hospital on the effective date of his/her disenrollment from the TEFRA HMO/CMP, the TEFRA HMO/CMP will be responsible for reimbursing for the full inpatient stay. Medicare will not make a monthly capitation payment nor will it pay for the inpatient stay under the regular medicare program after the effective date of disenrollment. The TEFRA HMO/CMP is not responsible for any other covered medicare services, or any additional or supplemental services to the enrollee, beginning on the effective date of disenrollment. This provision would apply only if the enrollee is an inpatient of a PPS hospital provided for or arranged by the TEFRA HMO/CMP, or if the services were emergency or urgently needed services. The provision is effective for enrollments and disenrollments effective on or after October 1, 1985.

Senate amendment

No provision.

Conference agreement

The conference agreement includes the House bill with a modification changing the effective date to enactment.

b. Disenrollment procedures

Present law

Present law specifies the effective date of disenrollment from a TEFRA HMO/CMP to be the first calendar month following a full calendar month after the request is made for termination.

House bill

Disenrollments would be effective with the first day of the first month following the month in which the disenrollment request was made. The provision would require that the beneficiary receive a copy of the disenrollment form and that materials be provided to the beneficiary explaining how long he/she must continue to use the HMO/CMP facilities in order to have the services covered. The House bill requires that information be provided to beneficiaries clearly delineating when they may begin to use the regular medicare benefit. The provision is effective for requests for termination of enrollment submitted on or after October 1, 1985.

Senate amendment

No provision.

Conference agreement

The conference agreement includes the House bill with a modification changing the effective date to February 1, 1986.

c. Review of marketing material

Present law

There are no present law provisions relating to marketing materials.

House bill

The House bill would require all TEFRA HMO/CMPs to submit all brochures, application forms, and promotional and informational material to the Health Care Financing Administration (HCFA) for approval, at least 45 days before issuance. HCFA would be required to review all these materials. If the HMO did not hear from the HCFA within the 45-day period, the organization could assume approval. The provision would apply to material for distribution on or after November 15, 1985. This provision would not apply to material which has been distributed prior to November 15, 1985.

Senate amendment

No provision.

Conference agreement

The conference agreement includes the House bill with two modifications. The effective date is changed to April 1, 1986 and the provision would not apply to materials distributed prior to April 1, 1986.

d. Prompt publication of the AAPCC

Present law

In order to establish the payment amounts to TEFRA HMO/CMPs the Secretary has developed a measure called the Average Adjusted Per Capita Cost (AAPCC). There are no current law requirements relating to the specific date of publication of the AAPCC.

House bill

The House bill would require the Secretary to publish the AAPCC no later than September 7 of each year. The provision would apply to determinations of per capita rates of payment for 1987 and subsequent years.

Senate amendment

The Senate amendment would require the Secretary to publish the AAPCC no later than 10 days after publication of the hospital prospective payment rates.

Conference agreement

The conference agreement includes the House bill.

31. Evaluation of preadmission and pre-procedure certification programs

Present law

Peer review organizations (PROs) have the general responsibility of reviewing the quality and utilization of inpatient hospital services provided to medicare beneficiaries. PROs have been directed specifically by the Secretary of the Department of Health and Human Services to reduce the rate of inappropriate admissions. As a method to accomplish this goal, all PROs do preadmission screening on some elective surgery. Four PROs are currently conducting 100% preadmission review of non-emergency surgery.

House bill

The House bill would require the Secretary of HHS to evaluate the efficacy of PRO programs with 100% preadmission elective surgery review compared with programs that include less comprehensive review.

The Secretary would be required to evaluate the feasibility of extending PRO pre-procedure certification activities to outpatient and ambulatory settings. The Secretary would also be required to consider whether other organizations, including medicare carriers, could more effectively conduct such pre-procedure screening.

The Secretary would be required to submit a report to Congress by December 31, 1986.

Senate amendment

No provision.

Conference agreement

The Conference agreement does not include the House bill.

32. Prohibition of administrative merger of renal disease networks with other organizations

Present law

Present law required the Secretary to establish network organizations to assure effective and efficient administration of the end stage renal disease (ESRD) program. The network organizations are responsible for coordinating and evaluating ESRD Services provided within assigned geographic areas. Thirty-two network organizations have been established.

House bill

Under the House bill, the Secretry is prohibited from merging any renal disease network organization into a utilization and quality control peer review organization or any other entity without express statutory authorization.

Senate amendment

Similar provision.

Conference agreement

The conference agreement includes the Senate amendment with modifications. The Secretary is permitted to consolidate the network areas and organizations in order to achieve efficiencies in the administration and operation of these organizations, provided the number of network organizations is not reduced to less than fourteen.

33. Extension of certain medicare municipal health services demonstration projects

Present law

Currentlaw permits waiver of certain medicare requirements when the Health Care Financing Administration enters demonstrations under its general demonstration authority.

House bill

Under the House bill, the Secretary would be required to extend for three additional years, the three municipal health services health maintenance organization demonstration projects (Milwaukee, San Jose and Cincinnati) currently authorized under medicare demonstration authority. These demonstrations were authorized under authority provided in the Social Security Amendments of 1967 and 1972. The provison would be effective upon the date of enactment.

Senate amendment

Similar provision, except it includes an additional project in Baltimore.

Conference agreement

The conference agreement includes the Senate amendment.

34. Technical corrections

Present law

Current medicare law contains an number of technical errors.

House bill

(a) The House bill would correct problems with the medicare special enrollment period and the premium penalty forgiveness for the working aged. The anomaly under which certain individuals who are working and covered by an employer group health plan receive only one special enrollment period and others receive more would be corrected.

(b) In addition, the House bill would clarify that an individual would be eligible for forgiveness of the medicare penalty for any period during which he or she was over 65 and covered by an employer group health plan.

The provision requiring a person to meet the eligibility requirements of part A, and to have filed for part A, would be repealed.

(c) The House bill would make certain corrections in spelling, language and indentation.

Paragraph (a) would apply to the first month that begins more than 90 days after the date of enactment with certain exceptions.

Paragraph (b) would apply to months beginning January 1983 as they effect premiums for months beginning with the first month that begins more than 30 days after the date of enactment.

Paragraph (c) generally would be effective as though they had been included in the public laws that they correct.

Senate amendment

No provision.

Conference agreement

The conference agreement includes the House bill.

35. Coverage of respiratory care services for ventilator-dependent individuals

Present law

Medicare provides limited outpatient and home services to ventilator dependent individuals.

In order to qualify for home health services, a medicare beneficiary must be confined to his or her home and under the care of a physician. In addition, the person must be need of part time or intermittent skilled nursing care or physical or speech therapy. Once an individual qualifies for medicare's home health benefit, the beneficiary becomes entitled to a range of home health services.

In order to qualify for medicare's skilled nursing facility benefit, individuals must first be hospitalized for at least three consecutive days. They must also need skilled nursing or other skilled rehabilitation services on a daily basis for treatment related to the condition for which the beneficiary was hospitalized. Medicare law specifies the range of services which are covered in the skilled nursing facility.

House bill

No provision.

Senate amendment

The provision would amend medicare law to allow qualified respiratory care patients to qualify for medicare's home health and skilled nursing facility benefits and would include among covered services respiratory care for such individuals. The provision defines "qualified respiratory care patient" as an individual who has been hospitalized for at least 30 consecutive days, dependent on a respirator for life support at least 6 hours per day during that time, and is willing and medically able to be cared for in a less intensive setting.

The provision relating to medicare would be effective for services performed on or after October 1, 1988.

Conference agreement

The conference agreement does not include the Senate amendment.

36. Increase audit effort and medical claim review (sec.)

Present law

Under current law, the Secretary contracts with intermediaries and carriers to perform the day-to-day administrative and operational tasks for the medicare program, including the review of claims and the conduct of audits.

House bill

No provision.

Senate amendment

The provision would require that medicare contractor budgets for fiscal years 1986, 1987, and 1988 be supplemented by $105 million in each year to be spent specfically for provider cost audits and medical review activities. The provision would be effective October 1, 1985.

Conference agreement

The conference agreement includes the Senate amendment with a technical modification. The Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) earmarked $45 million through FY85 for intensified review activities. This authorization is extended for three years through FY88. The $105 million under the Senate amendment represents an additional $60 million above this amount.

The conferees intend that the Secretary has the flexibility to utilize the funding amounts in whatever manner the Secretary determines would be most cost-effective.

37. Charges by physicians for services billed to an HMO

Present law

Physicians who agree to become participating physicians, that is, accept assignment for all medicare patients, must accept medicare's reasonable charge determination as payment in full (subject to applicable cost-sharing) for services rendered to beneficiaries. When a participating physician provides an emergency service to a medicare beneficiary who is enrolled in a Health Maintenance Organization (HMO), the physician may bill the HMO. In this case, a participating physician does not have to accept assignment. Further a nonparticipating physician is not limited as to the amount he or she can charge the HMO (as he or she would otherwise be under the physician fee freeze provisions).

House bill

No provision.

Senate amendment

The provision would provide that participating and nonparticipating physicians cannot charge HMOs more for emergency services rendered to a medicare beneficiary than they could charge the beneficiary. The provision would be effective for items and services provided on or after October 1, 1985, and before October 1, 1986.

Conference agreement

The conference agreement does not include the Senate amendment.

38. Sense of the Senate with respect to coverage of liver transplant procedures for persons over 18 years of age under medicare

Present law

Section 1862 excludes from medicare coverage any items or services that are not reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member. This section has been interpreted to exclude from coverage items and services that are considered to be experimental and that do not have a proven medical benefit. On February 0, 1984, the Secretary announced that liver transplants for persons under 18 years of age with certain specified conditions were no longer considered experimental and would, therefore, be covered under medicare.

House bill

No provision.

Senate amendment

The Senate amendment specifies the sense of the Senate, given available information regarding liver transplant services, that liver transplant services are to be covered under medicare and that the Secretary reconsider coverage of liver transplant services for individuals over 18 years of age.

Conference agreement

The conference agreement includes the Senate amendment with the understanding that the provision expresses only the sense of the Senate.

39. Extension of physician fee freeze for nonparticipating physicians and improvements in the participating physician program

a. Physician payments

Present law

Medicare pays for physicians' services on the basis of medicare-determined "reasonable charges". The reasonable charge for a service is the lowest of 1) a physician's billed charge; 2) the charge customarily made by the physician; or 3) the prevailing charge limit, derived from the charges made by all physicians in the geographic area for the service. The customary and prevailing charge screens are generally updated annually, on October 1. Increases in prevailing charge levels are limited by an economic index that reflects general inflation and changes in physicians' office practice costs.

Under the Deficit Reduction Act of 1984 (P.L. 98-369), the medicare customary and prevailing charges for all physicians' services provided during the 15-month period beginning July 1, 1984 were frozen at the levels that applied for the 12-month period ending June 30, 1984. The actual charges of nonparticipating physicians were also frozen during the 15-month period, at the levels in effect during April–June 1984.

The Deficit Reduction Act (DEFRA) also instituted a medicare participating physician and supplier program. Participating physicians and suppliers agree to accept assignment on all medicare claims for the 12-month period beginning on October 1 of a year. Nonparticipating physicians and suppliers can decide on a claim-by-claim basis whether or not to accept assignment.

The carriers responsible for paying medicare claims are required to monitor nonparticipating physicians' actual charges during the 15-month freeze. Physicians who knowingly and willfully bill beneficiaries in excess of what they charged during April-June 1984 can be subject to civil monetary penalties and/or exclusion from participation in medicare.

Public Law 99-107, Public Law 99-155 and Public Law 99-181 extended through December 18, 1985 the payment terms established in DEFRA. Physicians are bound during the extension period by the decisions they made regarding participation for the year beginning October 1, 1985, and are subject to the corresponding payment rules.

House bill

(sec. 141)

Under the bill, an update in customary and prevailing charges would be provided on October 1, 1985 to all physicians who, as of that date, are participating physicians. The same prevailing charge screens would apply to all physicians who are participating as of that date, regardless of their prior participation status.

For any physician who is not covered by a participation agreement as of October 1, 1985, the current freeze on customary and prevailing charges would be extended through September 30, 1986. The current freeze on the actual charges of nonparticipating physicians would also be extended, for the same period. Formerly participating physicians who withdrew from the participation program for the year beginning October 1, 1985 would be required, like continuing nonparticipating physicians, to limit their actual charges to no more than the levels they charged during April-June 1984. The monitoring of nonparticipating physicians' actual charges would be continued through FY 1986.

On October 1, 1986, physicians covered by participation agreements effective for the year beginning October 1, 1986 would receive customary and prevailing charge updates. Nonparticipating physicians for the year beginning October 1, 1986 would also receive customary and prevailing charge updates. However, they would be subject to the prevailing charge limits applied to participating physicians during the prior participation period. This one-year differential would apply in future years, establishing a permanent gap between the prevailing charge screens to which participating and nonparticipating physicians are subject.

(sec. 151)

The provision is identical to the one outlined for section 141, with the following exceptions:

Physicians who participated or took assignment on 100 percent of medicare claims during the year beginning October 1, 1984, but who are not participating as of October 1, 1985, would receive increases in their customary and prevailing charges on October 1, 1985, equal to one-half the increases they would have received had they been participating as of that date.

In addition, previously participating physicians who are not participating as of October 1, 1985 would be allowed to increase their actual charges by one-half the percentage increase in their actual charges during the July 1, 1984-September 30, 1985 period over their charges during the period April 1, 1984-June 30, 1984. These physicians' actual charges would then be monitored against these new levels. Charges in excess of the new freeze levels would not be recognized in computing customary charge updates on October 1, 1986.

Beginning October 1, 1986, the prevailing charge screens of physicians who participated or always accepted assignment in the immediately preceding year, but who do not participate in the current year, would lag behind those of participating physicians by one-half the amount that other nonparticipating physicians' prevailing charges lag.

Senate amendment

The Senate amendment is similar to section 141 of the House bill with the following modifications. Physicians who were participating in fiscal year 1985, but who withdrew from the participating program in fiscal year 1986 would have their actual charges during the 12-month period ending March 31, 1985 reflected in the calculation of their customary charges for fiscal year 1986.

The Senate amendment would afford all physicians a second opportunity to exercise their option to enter into or terminate participation agreements for fiscal year 1986, during a 30-day period following enactment.

Conference agreement

The conference agreement includes the Senate amendment with a modification as follows.

The payment rates now in effect will be extended from December 19, 1985 through January 31, 1986. The freeze on nonparticipating physicians' actual charges to beneficiaries, and the monitoring of these charges, will also be extended during this period.

During the month of January 1986, physicians will have the opportunity to decide whether or not to participate for the 11-month period beginning February 1, 1986. New participation agreements can be signed or old ones terminated during January. In order to make existing participation agreements (which apply on a fiscal year basis) consistent with the new update and participation cycles (which will be on a calendar year basis), and in order to expedite implementation of the fee screen update for participating physicians, the agreement provides that existing participation agreements will be deemed to be in effect through December 31, 1986, unless terminated by the physician during January 1986. Therefore, physicians covered by agreements effective through September 30, 1986 who, during the month of January 1986, elect to continue participation do not have to sign new agreements; and the automatic renewal clause in the existing agreements will apply on a calendar year basis. Those physicians covered by participation agreements who wish to withdraw from participation for the 11-month period beginning February 1, 1986 must notify the carrier in writing during the month of January of their wish to do so.

On February 1, 1986, physicians who are covered by participation agreements on that date will receive customary and prevailing charge updates. The prevailing charges will reflect the updated customary charges of all physicians. With respect to most nonparticipating physicians, customaries will be updated solely for the purpose of updating participating physicians' prevailing charges. However, updated customaries will be used for payment purposes for nonparticipating physicians for the 11-month period beginning February 1, 1986 if they participated during fiscal year 1985.

For physicians who are neither participating on February 1, 1986 nor were participating during fiscal year 1985, the existing freeze on customary and prevailing charges will be extended through December 31, 1986. In addition, the freeze on actual charges (at April-June 1984 base period levels) will be extended through December 31, 1986 for all nonparticipating physicians, including those who were participating during fiscal year 1985. Monitoring of these physicians' actual charges continues for the same period.

The customary and prevailing charge screens applied on February 1, 1986 for participating physicians will be those that would have been applied for the October 1, 1985 update, had they not been frozen at the levels in effect on September 30, 1985. These October 1, 1985 charge screens reflect physicians' actual charges made during the 12-month period ending March 31, 1985. Use of these screens, rather than new ones based on a more recent period of charges (July 1, 1984 through June 30, 1985), will enable the carriers to apply the payment increases to participating physicians as expeditiously as possible. Construction and application of new screens would result in delaying the update significantly.

In order to compensate participating physicians for the prevailing charge increases that they will lose during the 4-month period beginning October 1, 1985 due to the freeze, the medicare economic index (MEI) applied to prevailing charges for services provided during the 11-month period beginning February 1, 1986, will be increased by one percentage point, approximately one-third of the total MEI increase due these physicians over the 12-month period beginning October 1, 1985. This one percentage point increase is a one-time increase to be applied only during the 11-month period, and is not built into the prevailing charge levels on a permanent basis. It is to be excluded in determining nonparticipating physicians' prevailing charges for the year beginning January 1, 1987.

Beginning January 1, 1987, participation agreements will be effective on a calendar year basis. Similarly, future customary and prevailing charge updates will be moved permanently from October 1 to January 1. Following February 1, 1986, the next participation period will begin and the next payment update will occur on January 1, 1987 and on each January 1 thereafter. The data base used to calculate the fee screens will also be moved forward by one quarter, to the period July 1 through June 30; thus, updates will continue to reflect physicians' actual charges made during the 12-month period ending six months prior to the update.

During the 45-day period (November 15 through December 31) immediately preceding a new participation period, physicians will have the opportunity to enter into participation agreements effective for the year beginning January 1, or to withdraw from existing agreements.

On January 1, 1987, and on each January 1 thereafter, physicians who are participating on that date will receive customary and prevailing charge updates, based on actual charges made during the preceding July 1 through June 30. Nonparticipating physicians will also receive customary charge updates, based on their actual charges made during that period.

For purposes of the January 1, 1987 customary charge update, actual charges exceeding the April-June 1984 base period levels, billed from October 1, 1985 through January 31, 1986 by a physician who was not participating during that four-month period, will not be recognized. Likewise, for purposes of the January 1, 1987 and January 1, 1988 customary charge updates, actual charges in excess of the April-June 1984 base period levels, billed from October 1, 1985 through December 31, 1986 by a physician who was not participating at the time of providing the service, will not be recognized.

For the year beginning on January 1, 1987, physicians who elect not to participate will be subject to the prevailing charges that were applied to participating physicians during the preceding participation period, excluding the temporary one percentage point increase in the MEI. For years beginning on January 1, 1988, and each January 1 thereafter, physicians who elect not to participate will be subject to the prevailing charges that were applied to participating physicians during the preceding participation period. This permanent one-year lag or differential in prevailing charges is intended to provide an incentive to physicians to participate, and reflects the priority the conferees attach to increasing participation.

b. Transfer of funds for carriers

Present law

The Deficit Reduction Act of 1984 provided for transfer from the Federal Supplementary Medical Insurance Trust Fund to carriers of at least $8 million in fiscal year 1984 and $15 milion in fiscal year 1985 to implement the freeze and participating physician and supplier program.

House bill

The bill would extend for one year (FY 1986) the current law provision for the transfer of $15 million from the Federal Supplementary Medical Insurance trust fund. The bill would require that a significant proportion of those funds be used for the expansion of the participation program and for the development of professional relations staffs dedicated exclusively to addressing the billing and other problems of participating physicians and suppliers.

Senate amendment

Identical provision.

Conference agreement

The Conference agreement includes the House provision with a modification as follows.

In addition to the $15 million provided for in the House and Senate bills, a further $3 million (total $18 million) will be transferred from the part B trust fund to the carriers in fiscal year 1986, and will be available for obligation through December 31, 1986. These funds are intended to cover the costs of additional mailings by the carriers to physicians and suppliers explaining the changes in the fee freeze and participation program, and to cover the carriers' costs of implementing the fee freeze and participation program during the last three months of 1986.

The conferees intend that the Secretary devote sufficient funds to the carriers for maintenance of their toll-free telephone lines so that they are useful to beneficiaries seeking information about participating physicians and suppliers. Sufficient resources should also be devoted to ensure that participating physicians and suppliers enjoy the benefit of the carriers' direct lines for the electronic receipt of claims.

c. Participating physician directory

Present law

DEFRA required the Secretary to publish annually a directory identifying participating physicians by name, address, and specialty. The directory is to be organized to make the most useful presentation of information.

House bill

The Secretary would be required to publish participating physician and supplier directories (rather than a single directory) for appropriate local geographic areas, and to provide for their distribution to each participating physican located in each such area.

Senate amendment

Identical provison.

Conference agreement

The Conference agreement includes the House provision. The conferees note that the directories of participating physicians and suppliers should be organized so as to be meaningful and useful to beneficiaries. For example, if, in especially large metropolitan areas, local medical markets can be identified, these should serve as the basis of organizing the directories. The requirement that the directories be sent to all participating physicians in an area is intended to facilitate and encourage the development of referral networks among participating physicians and suppliers.

d. Physician assignment rate list (PARL)

Present law

DEFRA required the Secretary to publish annually a list of physicians and suppliers serving medicare beneficiaries. The list is to include, for each physician and supplier name, address, specialty, and percent of claims accepted on assignent during the preceding year.

House bill

The House bill eliminates the requirement for the PARL directory.

Senate amendment

Identical provision.

Conference agreement

The Conference agreement includes the House provision.

e. Explanation to benefits

Present law

Medicare carriers inform beneficiaries of actions taken on their claims through Explanation of Medicare Benefits (EOMB) notices.

House bill

The bill would require that, for all unassigned claims, the Explanation of Medicare Benefits (EOMB) include a reminder to beneficiaries of the participating physician and supplier program, and provide them with the toll-free number for information in their area. The message would also remind beneficiaries of the limitation on the charges that participating physicians and suppliers may impose.

Senate amendment

Identical provision.

Conference agreement

The Conference agreement includes the House provision with the deadline moved to July 1, 1986. The conferees note that this provides the Secretary with ample time to pilot-test messages, if necessary, to ensure that they convey information to beneficiaries in a meaningful and appropriate fashion.

f. Inapplicability of penalties

Present law

No provision.

House bill

No provision.

Senate amendment

The Senate amendment would provide that the freeze imposed on actual charges to beneficiaries would not apply in cases where a claim for payment is not filed because the patient chooses to pay the entire bill from private sources.

Conference agreement

The Conference agreement does not include the Senate amendment.

40. Physician payment assessment group and development of relative value scales

Present law

There currently exists no advisory body whose purpose it is to make recommendations regarding medicare physician payment.

(sec. 142)

The Director of the Congressional Office of Technology Assessment would appoint to the Prospective Payment Assessment Commission (ProPAC) two additional members to provide representation for rural hospitals and four nurses. In addition, the Director would appoint six new members to comprise a physician payment unit, which would function as a subcommittee of ProPAC.

The mission and ongoing duties of the physician payment subcommittee would be to make recommendations regarding medicare physician payment. Recommendations would address, among other issues, adjustments to reasonable charge levels for physicians' services, and changes in the medicare physician payment mechanism. The physician payment subcommittee would advise the Secretary on the development of a fee schedule based on a relative value scale (RVS), to be implemented by October 1, 1987.

(sec. 152)

The section would provide for establishment of a physician payment review commission of 11 members, separate from and independent of ProPAC. The duties and activities of the commission are largely identical to those of the physician payment subcommittee of ProPAC outlined in section 142.

Senate amendment

No provision.

Conference agreement

The conference agreement includes section 152 of the House bill with a modification to conform the required functions to those specified in section 142 of the House bill.

41. Part B premium

Present law

The Secretary is required to calculate and announce each September the amount of the monthly premium that will be charged in the following calendar year for people enrolled in the Supplementary Medical Insurance (part B) portion of medicare. A temporary provision of law requires that for 1986 and 1987 the premium amount be calculated so as to produce premium income equal to 25 percent of program costs for enrollees age 65 and over.

Beginning in 1988, the premium calculation would revert to an earlier method under which the premium amount is the lower of: (1) an amount sufficient to cover one-half of program costs for the aged; or (2) the current premium amount increased by the percentage by which cash benefits were most recently increased under the cost-of-living adjustment (COLA) provisions of the social security program.

House bill

The House bill would extend for one additional year the existing temporary provision whereby the portion of part B costs financed by enrollee premiums equals 25 percent of program costs. If there is no social security cost-of-living adjustment, the monthly premium would not be increased that year.

Senate amendment

Same provision.

Conference agreement

The conference agreement includes the Senate amendment with a technical modification. There is no intent to change any policy other than to extend the date to 1988.

42. Inherent reasonableness determinations and customary charges for certain former hospital-compensated physicians

a. Inherent reasonableness

Present law

Payment for items and services under part B is generally made on the basis of reasonable charges. The law provides for some flexibility in the determination of reasonable charges; the regulations at 42 CFR 405.502(a)(7) allow the use of "other factors that may be found necessary and appropriate with respect to a specific item or service . . . in judging whether the charge is inherently reasonable."

House bill

The bill would require the Secretary to promulgate regulations which specify explicitly the criteria of "inherent reasonableness." The Secretary would be required to correct both excessive and deficient charges in accordance with these regulations.

Senate amendment

No provision.

Conference agreement

The conference agreement includes the House provision.

b. Hospital-compensated physicians

Present law

Carriers established compensation-related customary charges (CRCCs) for certain hospital-based physicians when combined-billing arrangements were eliminated, effective October 1, 1983. The CRCC provision was intended to be transitional; hospital-based physicians would have received customary charge updates on July 1, 1984 based on their actual charges had it not been for the general freeze on medicare customary and prevailing charges for physicians' services instituted by the Deficit Reduction Act.

House bill

In FY 1986, participating hospital-based physicians (HBPs) whose compensation-related charges were frozen as part of the general medicare fee freeze would, like other participating physicians, receive increases in their medicare payment based on their actual charges. Participating HBPs would receive increases that reflect charges that they made during the same base period used to update other participating physicians' charges (April 1984-March 1985). Nonparticipating HBPs would receive payments that reflect their charges during April 1984-March 1985, but deflated to approximate 1982 charges. This is the same period on which other nonparticipating physicians' payment is based.

Senate amendment

The Senate amendment would provide for the recalculation of the compensated-related customary charges (CRCCs). For services rendered between October 1, 1985, and September 30, 1986, the customary charges of physicians would be determined based on the physicians' actual charges made between April 1, 1984 and March 31, 1985. If such physicians had insufficient billings during that 12-month period, the calculation would be based on the first 3-month period beginning on or after February 1, 1985 for which sufficient billings are available. In either case, in order to put these physicians in the same position as other physicians, the actual charges will be deflated to September 1, 1984 levels in the case of physicians who were participating physicians during fiscal year 1985 or 1986; or to July 1982 in the case of physicians who did not participate in either year. The provision would be effective for services rendered on or after October 1, 1985, and before October 1, 1986.

Conference agreement

The conference agreement includes the House bill with a modification as follows.

Hospital-compensated physicians who, between October 31, 1982 and January 31, 1985 were in (and within the same period terminated arrangements by which they were compensated by a hospital for part B services furnished to its patients, will have customary charges calculated based on their actual charges. On February 1, 1986, physicians covered by this provision who are participating on that date will have their customary charges updated based on their actual charges billed during the 12-month period ending March 31, 1985. Physicians who are not participating on February 1, 1986 but who participated during fiscal year 1985 will have their customary charges updated in the same fashion. Physicians who were nonparticipating in fiscal year 1985 and who are not participating on February 1, 1986 will have their customary charges updated, and then deflated by .85 to approximate 1982 charge levels, on which other continuing nonparticipating physicians' customary charges are based.

Physicians who come off compensation arrangements between February 1, 1985 and December 31, 1986 will be treated as new physicians for purposes of establishing their customary charges. However, if a group or other entity continues to bill for or on behalf of a physician who came off a compensation arrangement before January 31, 1985, the customary charges (as well as the actual charges, in the case of a nonparticipating physician) of the group or the entity billing for or on behalf of the physician would be imputed to the physician.

43. Occupational therapy services

Present law

Medically necessary occupational therapy services are covered under part A of medicare when provided as a part of covered inpatient or post-hospital extended care services in a skilled nursing facility, or as part of home health services or hospice care.

Part B coverage of occupational therapy services is limited to treatment in a hospital outpatient department, comprehensive outpatient rehabilitation facility, home health agency or when incident to a physician's service.

House bill

The House bill would extend reimbursement under part B of medicare for occupational therapy services. This therapy would be covered when provided in a skilled nursing facility (when part A coverage is exhausted), in a clinic, or a rehabilitation agency. Payment would be made on a reasonable cost basis.

The House bill would provide part B coverage of occupational therapy services when furnished in a therapist's office or a beneficiary's home. The independently practicing therapist would have to meet licensing and other standards prescribed by the Secretary. No more than $500 in incurred expenses would be eligible for coverage in a calendar year per beneficiary. Payment would be based on 80 percent of reasonable charges.

Senate amendment

No provision.

Conference agreement

The conference agreement includes the House bill.

The conferees believe that the value of occupational therapy services to beneficiaries merits a modest expansion of the program. Further, the conferees find that such services have the potential to reduce and avoid the need for institutional care while enabling the beneficiary to function more independently.

44. Payment for durable medical equipment and other nonphysician services

Present law

Payment for durable medical equipment (DME) is paid under part B on the basis of reasonable charges. In the past, payment for DME was made for both rented and purchased items, depending on the beneficiary's decision to either rent or purchase. As a result, the majority of DME was rented, even when purchase would have been more economical.

Beginning February 1, 1985, the Secretary implemented three methods for reimbursing DME under medicare: lease-purchase, lump sum purchase or rental charges. Equipment costing less than $120 is considered inexpensive equipment and payment is made only on the basis of purchase. For equipment costing more than $120, the carrier must determine which method is cost-effective based on the beneficiary's expected need for the equipment (as indicated on the physician's prescription) and reimburse accordingly. Used equipment that is purchased and that meets certain standards is reimbursed at 100 percent rather than 80 percent of the reasonable charges (applicable copayment amounts are waived).

House bill

(Section 146)

a. Fiscal year 1986 payment level

The House bill would set new reimbursement limits on rented durable medical equipment (DME). In determining medicare's customary and prevailing charges for rented DME during FY 1986, the Secretary would allow an increase of no more than one percent over the level set for rented DME furnished beginning July 1, 1984.

b. Mandatory Assignment

The House bill would provide that payment for DME provided on a rental basis would only be made on the basis of assignment.

c. Limits on annual increases in prevailing

For DME items furnished during fiscal years beginning on or after October 1, 1986 the House bill would limit the annual percentage increase in prevailing charges for rental and purchase to no more than the increase in the Consumer Price Index for all urban consumers for the 12-month period ending the preceding March.

d. Clarification of DEFRA effective date

The bill clarifies that the DEFRA provision moving updates of customary and prevailing charges to October 1 also applies to DME.

Effective Date

Paragraph (a) would be effective with respect to items or services furnished on or after October 1, 1985.

Paragraph (b) would be effective with respect to supplies or items furnished on or after January 1, 1986.

Paragraph (c) would be effective with respect to items or supplies furnished on or after October 1, 1986.

Paragraph (d) effective as though included in DEFRA.

(Section 153)

a. Fiscal year 1986 payment level

This section is similar except that it would freeze both customary and prevailing charges for rented DME and for purchases of oxygen supplies during FY 1986 at the same level for supplies furnished during the 15-month period beginning July 1, 1984.

b. Mandatory assignment

This section is similar except that payment for purchases of oxygen supplies, in addition to DME provided on a rental basis, would only be made on the basis of assignment.

c. Limits on annual increase in prevailing

This section is similar except that future increases in payment for purchases of oxygen supplies, in addition to DME provided on a rental basis, would be limited to the CPI.

d. Clarification of DEFRA effective date

Same provision.

Same effective dates.

Senate amendment

a. Fiscal year 1986 payment level

The provision would impose new reimbursement limits on nonphysician services paid on a reasonable charge basis under part B other than DME that is lump-sum purchased or furnished under a lease-purchase agreement and independent clinical laboratory services. During fiscal year 1986, medicare customary and prevailing charges for services subject to the limits would be allowed to increase by 1 percent over the level in effect for the 15-month period beginning July 1, 1984.

b. Mandatory assignment

No provision.

c. Limit on annual increase in prevailing

For items and services furnished in fiscal year 1987 and thereafter, medicare prevailing charges could rise no faster than the increase in the consumer price index. The provision would be effective October 1, 1985.

Conference agreement

The conference agreement includes section 153 of the House bill with modifications. Customary and prevailing charges and lowest charge levels will be frozen for the period October 1, 1985 through January 31, 1986 for nonphysician and nonlaboratory supplies and services. This means that medicare fee screens for all nonphysician services paid for on a reasonable charge basis under Part B are frozen at the level which was in effect for such services for the 15-month period beginning July 1, 1984.

The agreement provides that the freeze is extended for the eleven-month period February 1, 1986–December 31, 1986 for rented durable medical equipment and consumable oxygen. Beginning April 1, 1986, and thereafter, payment for those items and services would be made only on the basis of assignment; that is, suppliers would have to accept the medicare reasonable charge as payment in full (except for the deductible and copayment).

The agreement specifically precludes extension of the freeze after February 1, 1986 for purchased DME and other nonphysician services paid for on a reasonable charge basis. Thus, other nonphysician suppliers and services would receive the full update in customary and prevailing charge screens for the 11-month period beginning February 1, 1986. This is the update that would have been effective on October 1, 1985, but for regulations issued by the Secretary which froze the rates.

Future updates of customary, prevailing, and lowest charge level screens for DME and other nonphysician services will occur on January 1 of each year beginning in 1987. Beginning January 1, 1987, the annual increase in the prevailing charge screens for rented DME and consumable oxygen will be limited to the increase in the Consumer Price Index for all urban consumers (U.S. city average). Beginning January 1, 1988, the annual increase in the prevailing charge screens for purchased DME will be subject to the same limit. For the purpose of this section, purchased DME includes DME furnished on a lease-purchase basis.

The base period for calculation of customary and prevailing charge screens is the 12-month period ending the preceding June 30. The base period for the lowest charge levels is the three-month period ending the preceding September 30.

The conference agreement for the DEFRA effective date provision includes the House provision, with a modification to specify that the provision applies for all, rather than some, part B nonphysician services except lab tests.

45. Payment for assistants at surgery for certain cataract operations and other operations

Present law

Currently, medicare covers assistants at surgery during routine cataract operations. Their services are considered reasonable and necessary if it is generally accepted practice among ophthalmologists in the local community to use an assistant at surgery. Some medicare carriers restrict coverage of assistants at surgery to cases where medical necessity is established.

House bill

The House bill would deny medicare payment for assistants at surgery for routine cataract operations. In cases where complicating medical conditions exist, the Secretary would be required to establish procedures by which the primary surgeon could request prior approval from the PRO for the use of an assistant.

The House bill would prohibit the assistant at surgery (or someone on his or her behalf) from billing medicare or the beneficiary for services which did not receive prior approval. In addition, the primary surgeon (or someone on his or her behalf) would be prohibited from including charges for the assistant in his or her bill if prior approval had not been received. In order to enforce this provision, the House bill would provide the Secretary authority to impose civil monetary penalties or assessments, or exclusion for up to five years from the medicare program.

The House bill would require the Secretary, after consultation with the physician payment review group, as constituted under section 142 or 152 the House bill, to develop and report to Congress by April 1, 1986, recommendations and guidelines regarding other surgical procedures for which an assistant at surgery generally is not medically necessary. The Secretary would be required to include in this report procedures by which the primary surgeon could request prior approval from an appropriate entity for the use of an assistant at surgery when prior approval is required for those surgical procedures.

The House bill would be effective with respect to services performed on or after October 1, 1985.

Senate amendment

Similar provision.

Conference agreement

The conference agreement includes the Senate amendment with a modification to allow the Secretary discretion to require the carrier or PRO to be the entity from which the primary surgeon requests prior approval for the use of an assistant at surgery. It is the intent of the conferees that this modification would facilitate timely implementation of the provision.

The conferees reviewed the findings of the Office of the Inspector General, HHS, which stated that the use of an assistant at surgery has not medically necessary in most situations. In addition, several medicare carriers currently restrict coverage of assistants at surgery, and there has been no indication that this has an adverse effect on patients.

The agreement further specifies that the provision applies to services performed on or after April 1, 1986. The Secretary's report to Congress on the recommendations and guidelines is due no later than January 1, 1987.

46. Limitation on medicare payment for post-cataract surgery patients (sec. 148)

Present law

Medicare part B pays for certain combinations of prosthetic lenses for post-cataract surgery patients, if determined to be medically necessary by the physician, i.e. cataract contact lenses and eyeglasses. Generally, part B carriers are authorized to replace prosthetic lenses without a physician's prescription in cases of loss or irreparable damage and when supported by a physician's prescription in cases of a change in the patient's condition. Currently, there are not uniform limits on the number of replacements for which medicare will provide reimbursement.

Physicians can bill medicare for services related to cataract surgery in two ways: (1) a comprehensive service code covering the lenses, their fitting and evaluation, and short-term follow-up to assure their suitability; or (2) separate codes for the lenses and for the physician's service.

House bill

The House bill would limit medicare reimbursement with respect to replacement of lost or damaged prosthetic lenses as follows:

(1) cataract eyeglasses; one replacement each year;

(2) cataract contact lenses; one original and two replacements per eye the first year after surgery and two replacements per eye each subsequent year.

The House bill would require the Secretary to provide for separate payment amount determinations for the prosthetic lenses and for the related professional services, and to apply inherent reasonableness guidelines, in accordance with the bill, in determining the reasonableness for charges for prosthetic lenses.

The House bill would be effective for items or services furnished on or after October 1, 1985.

Senate amendment

Similar provision.

Conference agreement

The conference agreement includes the Senate amendment with respect to payment limitations with a modification specifying that the provision applies to items and services furnished on or after April 1, 1986. The conference agreement does not include the limitations on replacements of eyeglasses and contact lenses.

47. Demonstration of preventive health services under medicare

Present law

Medicare does not generally provide coverage of preventive health services.

House bill

The House bill would require the Secretary of HHS to fund at least five demonstrations, under the auspices of schools of public health, to determine whether and how it would be cost-effective to include preventive services as a medicare benefit.

The House bill would require that certain preventive health services be made available to medicare beneficiaries. Such services would include health screenings, health risk appraisals, immunizations, counseling and instruction on such matters as diet and nutrition, reduction of stress, exercise, sleep regulation, prevention of alcohol and drug abuse and mental health disorders, self-care and smoking reduction.

The Secretary would be required to submit a report to Congress describing the demonstrations in progress within three years. Within five years, the Secretary would be required to submit a final report that would evaluate the costs and benefits of providing such services and recommend whether specific preventive services should be included as a medicare benefit.

The House bill would be effective October 1, 1985.

Senate amendment

Similar provision.

Conference agreement

The conference agreement includes the Senate amendment with a modification that specifies that the demonstrations be conducted under the auspices of schools of public health and medical schools with preventive medicine departments accredited by the Council on Education for Public Health. It is the intent of the conferees that at least one of the projects include cancer screening (including breast cancer screening).

48. Ambulatory surgery

Present law

Medicare may pay for ambulatory (i.e., outpatient) surgical procedures performed in three different settings.

(a) Ambulatory Surgical Center (ASC).—The "Omnibus reconciliation Act of 1980" authorized payments for surgical procedures, to be specified by the Secretary, performed in an ASC to be made on the basis of prospectively set rates. On August 5, 1982, the Department issued final regulations and an accompanying notice identifying four groups of surgical procedures and the payment amount for each group. The payment amounts and the list of procedures has not been updated.

The prospective payment rates do not include payments for physicians' services, prosthetic devices, or laboratory services.

Under the 1980 legislation, the costs related to the use of an ASC were covered in full. The Congress waived the 20 percent copayment usually required of patients for such part B services in order to foster greater use of ambulatory surgical centers as opposed to higher cost hospitals.

(b) Hospital outpatient departments.—Medicare payments for ambulatory surgery performed in a hospital outpatient department are made on the basis of reasonable costs. As a part B service, a 20 percent copayment is required of the patient in connection with the costs related to the use of the facility.

(c) Physican's office.—The "Omnibus Reconciliation Act of 1980" also authorized payments to be made to physicians for the use of their office facilities when covered ambulatory surgical procedures were performed there. However, the legislation has not been implemented because adequate utilization and quality control peer review, which is required by law, is not available for office-based surgery.

When surgery is performed in any of these three settings, medicare reimburses 100 percent of the physician's reasonable charge, provided the physician agrees to accept assignment, otherwise the 20 percent copayment is imposed on the beneficiary.

House bill

No provision.

Senate amendment

The provision would extend the ASC prospective payment approach to hosptial outpatient surgery for all procedures which the Secretary approves for the ASC; 150 are currently approved. The rates for ambulatory surgery in all settings would be increased to include the costs associated with a given procedure, including prosthetic devices and lab work. Professional fees would not be included. The provision specifies that the pass-through for direct graduate medical education and capital costs associated with the surgery that is now paid to hospitals would be continued. Further, separately calculated payments would be provided to take into account the costs of services provided by a Certified Registered Nurse Anesthetist (CRNA).

The Secretary would be required to update the present ASC prospective rates to reflect current costs. No rate could exceed the DRG payment rate for comparable inpatient surgery. The rates would be updated annually.

The provision would require the Secretary to have PROs review outpatient surgical procedures.

Finally, the provision would eliminate the current law provisions which waive copayments in connection with both the use of the facility and the physician's charge.

The provisions relating to the updating of payments and lists of procedures would be effective January 1, 1986. Payment amounts for ambulatory procedures that are furnished in ASCs and physicians' offices would be updated prior to January 1, 1986. Other provisions would be effective October 1, 1985.

Conference agreement

The conference agreement does not include the Senate amendment.

49. Payment for clinical laboratory services

Present law

Outpatient clinical diagnostic laboratory services are reimbursed according to fee schedules established by medicare carriers. The initial fee schedules, which went into effect on July 1, 1984, were established at a percentage of the prevailing charges that would have gone into effect on that date. The fee schedules are to be updates on July 1 of each year by the percentage change in the Consumer Price Index for all urban consumers (CPI-U).

The fee schedules are currently calculated and applied on the basis of a statewide or substate geographical area. Beginning July 1, 1987, a national fee schedule is to be established for tests performed in a physician's office, by a freestanding laboratory, or by a hospital (if the test is for a person who is not a patient of that hospital). The fee schedules are to expire July 1, 1987 for hospital laboratory tests performed for outpatients of the hospital; payment for these services would revert to cost-based reimbursement. Payment may only be made to the person or entity who performed such test.

Hospital laboratories and independent laboratories are subject to standards designed to protect the health and safety of patients and to monitoring of compliance with such standards. Laboratories located in physicians' offices are not subject to such standards or monitoring.

House bill

The House bill moves the timing of the annual update to October 1, beginning in 1986. The annual update which would take effect on October 1, 1986 would take into account the change in the CPI-U occurring over the preceding 15-month period. The expiration date for the fee schedules for tests done by hospital-based laboratories would be delayed 3 months, to October 1, 1987.

The Secretary of Health and Human Services would be required to establish a ceiling on the maximum amount medicare would pay under the current fee schedules. A different ceiling would be set for each test and would be applied nationwide. The ceiling would be set at 115 pecent of the median fee for each procedure beginning on January 1, 1986, and at 110 percent of the median beginning on October 1, 1986.

The Secretary would also be required to report to Congress, within one year after the date of enactment, on standards which could be established to protect the health and safety of patients of clinical laboratories which are part of, or associated with, a physician's office. In recommending standards, the Secretary is to consider such factors as scope, type and complexity, which may indicate a need for different standards for laboratories with different characteristics.

Senate amendment

No provision.

Conference agreement

The conference agreement includes the House bill with the following modifications. The annual update of the fee schedules will occur January 1 of each beginning in 1987. The annual update which will take effect on January 1, 1987 will take into account the change in the CPI-U occurring over the preceding 18-month period. The fee schedule for laboratory tests furnished by hospitals for outpatients is extended through December , 1987.

The conference agreement further modifies the House bill to specify that the ceilings would be set at 115 percent of the median fee for the respective tests beginning on April 1, 1986 and 110 percent of the median beginning on January 1, 1987. The national fee schedule for laboratory services would go into effect on January 1, 1988.

It is the conferees understanding that there may be a limited number of lab tests where there is some discrepency in the service reported for the procedure code (such as organ or disease oriented panel tests). In these isolated cases, a reasonable delay in application of the limits on fee schedules may be appropriate.

The conference agreement further specifies that beginning January 1, 1987, medicare payments for laboratory services performed in a physician's office will only be made on the same basis as payments to independent clinical labs. Payment will be made only on the basis of assignment, and the patient's deductible and coinsurance will be waived.

The conferees continue to be concerned about the Secretary's lack of progress is simplifying the current billing requirements for laboratory services. Such simplification may include eliminating requirements that a patient diagnosis appear on clinical laboratory bill, mechanisms to ensure prompt payment, minimizing the amount of information required for claims processing and facilitating bulk or periodic billing for multiple beneficiaries.

The conference agreement reinstates section 1123 of the statute regarding proficiency testing, through September 30, 1987.

50. Vision care

Present law

Medicare pays for eye examinations furnished by a physician to a patient with a complaint or symptom of eye disease or injury. Medicare does not pay for eyeglasses or for eye examinations for the purpose of prescribing, fitting, or changing eyeglasses (except for prosthetic lenses for aphakic patients; that is, those without the natural lens of the eye). Payment is also denied for procedures performed to determine the refractive state of the eye. An optometrist who is legally authorized by the State to practice optometry is defined as a physician, but only with respect to services related to the treatment of aphakic patients.

House bill

Payment would be made under medicare for vision care services performed by optometrists, if the services are among those already covered by medicare when furnished by a physician and if the optometrist is authorized by State law to provide the services.

Senate amendment

No provision.

Conference agreement

The conference agreement includes the House bill with an effective date of July 1, 1986. The conferees are concerned that many beneficiaries are either foregoing covered eye care or are paying out-of-pocket for eye care services furnished by optometrists, because they do not have ready access to an ophthalmologist. The bill would not expand or change the current coverage and reimbursement rules in any other manner. It is the conferees' expectation that the medicare carriers, with guidance from HCFA, would use information regarding payments they make for optometrists' services under their own health plans, or other appropriate information, to establish the initial customary and prevailing charge screens.

51. Second opinions

Present law

Medicare payment will be made for medical and other health services if the services are reasonable and necessary. Although a medicare beneficiary may seek a second opinion prior to undergoing surgery, a second opinion is not required as a precondition to payment.

Utilization and quality control peer review organizations (PROs) are authorized to determine whether services and items furnished in connection with medical care are reasonable and medically necessary. PROs conduct pre-admission reviews with respect to a limited number of elective surgical procedures, but are not authorized to require a second opinion as part of the pre-admission review process.

House bill

a. Mandatory second opinions

Payment for certain elective surgeries would be denied under both part A and part B, unless the patient obtained a second opinion from a qualified physician. Payment would not be denied if the second opinion did not agree with the first.

b. Required procedures

The Secretary of Health and Human Services would be required to designate at least ten surgical procedures for which second opinions would be required, chosen from those that can be postponed without undue risk, that are high volume or high cost procedures, and that have a high rate of nonconfirmation. The Secretary could vary the list for each geographic area if available data on volume and costs suggest that it would be cost-effective to do so. The Secretary would also be required to specify which type of specialist must be consulted for each of the listed procedures.

c. PRO functions

Utilization and quality control peer review organizations (PROs) would serve as referral centers to assist patients in obtaining second opinions. The PRO would maintain a list of qualified physicians and would tell the patient which physicians are participating physicians and which have agreed to accept assignment for second opinions. At the patient's request, the PRO would refer the patient to an appropriate physician for a second opinion. The patient could choose any physician of the proper specialty to provide the second opinion, as long as the physician was not affiliated with or did not have any common financial interest with the physician who rendered the first opinion. The Secretary could enter into an agreement with a State or local agency or appropriate private entity (other than a PRO) under certain circumstances.

d. Waiver of requirements

The requirement for a second opinion would be waived if (1) delay would pose a risk to the patient; (2) no physician is reasonably available who is (a) an appropriate specialist, and (b) a participating physician or a physician who has agreed to accept assignment for the second opinion; or (3) the patient is enrolled in a health maintenance organization or competitive medical plan with a medicare risk-sharing contract.

e. Beneficiary notification responsibilities

Physicians, hospitals, and ambulatory surgical centers would be obligated to inform patients about the requirement for a second opinion and would be subject to civil monetary penalties and exclusion from the program for failing to do so.

f. Secretarial notification requirements

The Secretary would be required to notify all physicians, hospitals with medicare agreements, and ambulatory surgical centers with medicare agreements, of these second opinion requirements, including the applicable list of surgical procedures and a description of the penalties for failure to notify a patient about the requirement for a second opinion.

The Secretary would also be required to provide periodic notice to medicare beneficiaries of the second opinion requirements, including the applicable list of the surgical procedures and information about the availability of the second opinion referral services.

g. Deductible and coinsurance waiver

The deductible and coinsurance would be waived for the second opinion (and for a third opinion, if the second was in disagreement from the first).

h. Conforming amendments

The bill makes conforming amendments regarding exclusions from coverage, provider agreements, and functions of PROs.

i. Contingency procedures list

If the Secretary did not establish a list or lists of surgical procedures requiring second opinions within six months after enactment, a statutory list of procedures would go into effect.

j. Study

The secretary would be required to conduct a study of the results of the amendments made by this section. The study must include any changes in utilization of surgical procedures, changes in nonconfirmation rates of second opinions, and outcomes in cases where surgery is not done after a second opinion failed to confirm the necessity of the surgical procedure.

The provision would become effective the first month which begins more than 6 months after enactment. The Secretary must promulgate final regulations necessary to implement the amendments made by this section within six months after enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement includes the House provision with modifications as follows.

a. Mandatory second opinions

PROs would be required to perform 100 percent pre-procedure review on at least 10 elective surgical procedures whether the procedure is performed on an inpatient or outpatient basis. Pre-procedure review would be required as a condition of payment except that review would be waived in the case of a medical emergency or under other circumstances as the Secretary may specify. PROs would be authorized to require a second opinion for these procedures as part of the pre-procedure review process if a second opinion is warranted to assist the beneficiary regarding the need for the procedure.

b. Required procedures

The procedures that would be subject to pre-procedure review by a PRO pursuant to this provision would be specified in a contract negotiated between the PRO and the Secretary. Existing contracts (which are on a 2-year cycle) will expire during 1986. New contracts will be signed between June and October 1986. Therefore, implementation of this provision will require renegotiation of signed contracts.

The Secretary would be required to develop guidelines for determining whether a surgical procedure is appropriate for inclusion in the pre-procedure review program. These guidelines would be based on three general requirements. First, the procedure must be one which generally can be postponed without undue risk to the patient. Second, the procedure must be sufficiently costly, or of sufficient volume, as to make it probable that savings to the medicare program would result from effective review. Third, there must be a basis for concluding that pre-procedure review of that procedure is likely to be cost-effective. Such a basis could appropriately include data regarding the frequency with which a second opinion results in a recommendation against surgery and data regarding small area (or regional) variations in the incidence of the procedure. The Secretary is expected to apply these criteria flexibly in developing an appropriate list of procedures.

The Secretary would also be required to develop a list of procedures appropriate for inclusion in the program. The list would include substantially more than ten procedures. PROs would not be bound to include only procedures listed by the Secretary. Subject to negotiation, a PRO could include other procedures when cost-effective and consistent with general criteria specified in the provision. A PRO could review different sets of procedures in various regions of its service area. It is expected that a PRO will identify procedures for inclusion in this program based, in part, on information pertaining to patterns of medical practice within the PRO's service area.

Finally, the Secretary would be required to develop criteria specifying the type of specialist that must be consulted for each procedure, and the circumstances under which a physician may not provide a second opinion because of a common financial interest with the physician who rendered the first opinion.

c. PRO functions

A PRO could approve or disapprove a procedure as reasonable and necessary without requiring a second opinion. In addition, the PRO could require a second opinion and allow the beneficiary to decide among conflicting opinions. A second opinion should not be required if additional information could be obtained from the first physician which would resolve outstanding uncertainties as to medical necessity. Second opinions also should not be required in instances in which it is clear on the basis of available information that the procedure is not needed.

If the PRO requires a second opinion, the beneficiary generally would be free to choose any appropriately qualified physician. However, physicians with a possible conflict of interest, or physicians who have been disqualified by the PRO, would be prohibited from providing second opinions. A physician could be prohibited from providing second opinions if the PRO determines that the physician has rendered grossly unreliable second opinions.

The PRO would be required to assist the patient in identifying a qualified physician for a second opinion and would be required to forward medical records to the physician providing the second opinion. The PRO would not be required to transmit the records in a manner that would conceal the identity of the physician who rendered the first opinion.

d. Waiver of requirements

The conference agreement accepts the House provision regarding waiver of the requirement for a second opinion.

e. Beneficiary notification requirements

The detailed beneficiary notification requirements set forth under the House provision are replaced in the conference agreement by more general notice requirements. It is understood that general requirements with respect to beneficiary notification under the PRO program will apply to pre-procedure reviews under this section.

f. Secretarial notification requirements

Under the conference agreement, the Secretary would be required to arrange for appropriate notice to physicians, hospitals, ambulatory surgery centers, and beneficiaries regarding the pre-procedure review program.

g. Deductible and coinsurance waiver

The conference agreement accepts the House provision.

h. Conforming amendments

The conference agreement accepts the House provision.

i. Contingency procedures list

The conference agreement does not include the House provision.

j. Study

The conference agreement includes a study to be conducted by the Secretary. The study is to evaluate the results of the program on utilization of surgical procedures, changes in nonconfirmation rates and, where possible, outcomes. It is also to evaluate the appropriateness of the procedures actually selected for reviews and PRO patterns with respect to requiring second opinions. Finally, the study is to assess the effectiveness of reviews mandated under this section as compared with other methods of ensuring the medical necessity of surgical procedures. The study is due 36 months after enactment.

The conferees agreed that the effective date would be January 1, 1987.

52. Changing medicare appeal rights

Present law

Beneficiaries dissatisfied with a carrier's disposition of a part B claim are entitled to a review by the carrier. A fair hearing by the carrier is then available if the amount in controversy is $100 or more. The law does not provide for any further administrative appeal or judicial review for a part B claim.

Since the inception of the program, beneficiaries with disputes over claims could be represented by providers in their administrative appeals. In 1984, the Health Care Financing Administration issued a manual instruction prohibiting such representation.

House bill

The House bill provides that beneficiaries may obtain an administrative law judge hearing for part B claims if the amount in controversy is $500 or more, and a judicial review if the amount in controversy is $1,000 or more. In determining the amount in controversy, the Secretary, under regulations, must allow two or more claims to be aggregated if the claims involve the delivery of similar or related services to the same individual or involve common issues of law and fact arising from services furnished to two or more individuals. The current carrier hearing would be retained for amounts in controversy between $100 and $500.

The bill also clarifies that beneficiaries taking appeals under part A or part B could be represented by the provider who furnished the services or items in question.

Senate amendment

No provision.

Conference agreement

The conference agreement includes the House provision with a modification to specify that a national coverage determination made pursuant to section 1862(a)(1)(A) of the Act may not be reversed upon appeal. These determinations are made by the Health Care Financing Administration (HCFA), generally after consultation with the National Center for Health Service Research and Health Care Technology Assessment, and are contained in the Coverage Issues Appendix (now called Medicare Coverage Issues Manual) to the intermediary and carrier manuals.

With the additional workload that would be established under the bill, it is the conferees' expectation that HHS will give serious consideration to establishing a separate office of hearings and appeals for HCFA or otherwise creating a group of hearing officers devoted exclusively or predominately to medicare appeals.

53. Extension of On Lok waiver

Present law

The On Lok Community Care Organization for Dependent Adults provides health care services to frail elderly patients at risk of institutionalization. On Lok conducted a demonstration project from February 1979 to October 1983, with the aid of waivers of compliance with certain medicare and medicaid requirements. P.L. 98-21 required the Secretary to approve waivers for a new three-year, risk-sharing, capitated payment demonstration to be conducted by On Lok from November 1983 to November 1986.

House bill

The Secretary would be required to extend medicare waivers for the risk-sharing On Lok demonstration upon their expiration and, if the State of California applies for an extension of related medicaid waivers, to approve the State's application. The waivers would be extended on the same terms and conditions as applied to the original approval mandated under P.L. 98-21 (except that requirements for collection and evaluation of information for demonstration purposes should not apply) and would remain in effect until the Secretary found that the applicant no longer complied with those terms and conditions. The provisions would be effective upon enactment.

Senate amendment

Similar provision.

Conference agreement

The conference agreement includes the House bill.

54. Remove restriction on actuarial opinion

Present law

Annual reports required of the Board of Trustees on the financial status of the Social Security trust funds (including the medicare trust funds) must include an actuarial opinion certifying that the assumptions and cost estimates used in the report are reasonable. According to provisions in the Social Security Amendments of 1983 (P.L. 98-21), this certification may not refer to the economic assumptions underlying the trustees report.

House bill

No provision.

Senate amendment

The provision would allow the actuaries to comment on the economic assumptions underlying the trustee's report. It would be effective upon enactment.

Conference agreement

The conference agreement includes the Senate amendment.

55. Extend GAO reporting date

Present law

The Deficit Reduction Act of 1984 (DEFRA) required the General Accounting Office (GAO) to study the following aspects of medicare contracting for claims processing:

The ability of HCFA to manage competitive bidding and the relative costs of competitive arrangements compared with cost based reimbursement;

The appropriateness of removing the provider nomination requirements in the statute;

Any disparities in costs and quality of claims processing among various intermediaries and carriers;

Whether the Secretary's standards for evaluating contractor costs are adequate and properly applied; and

Whether the Secretary's authority is sufficient to deal with inefficient intermediaries and carriers either through the contract negotiation and budget review process or through the process of termination or nonrenewal of contracts.

DEFRA required submission of the report to Congress within 12 months of enactment, i.e., by July 18, 1985.

House bill

No provision.

Senate amendment

The provision would extend the reporting date to 18 months after the enactment of DEFRA (i.e. January 18, 1986) to allow the GAO to expand the scope of the study as requested by the committees of jurisdiction (i.e. Senate Committee on Finance, House Committee on Ways and Means, and House Committee on Energy and Commerce).

The provision would be effective as if originally included in the Deficit Reduction Act of 1984.

Conference agreement

The conference agreement includes the Senate amendment with a modification specifying that the GAO report is due May 1, 1986.

56. Allow greater HMO membership on PRO boards

Present law

The Secretary must enter into contracts with organizations to provide utilization and quality control peer review of the health care services paid for under medicare. The contractors are referred to as Peer Review Organizations (PROs). An applicant whose governing body has more than one member who is affiliated with a health maintenance organization (HMO) is given secondary preference to physician-sponsored or physician-assisted entities when PRO contracts are awarded.

House bill

No provision.

Senate amendment

The provision would allow PROs with more than one HMO board member to qualify as a PRO on the same basis as other organizations. The provision would be effective upon enactment.

Conference agreement

The conference agreement includes the Senate amendment.

57. Peer Review Organization Reimbursement

Present law

Section 1866(a)(1)(F)(iii) of the Social Security Act specifies that Peer Review Organization reimbursement is to be set at a level which reflects peer review rates established in fiscal year 1982 for both direct and administrative costs (adjusted for inflation). Section 1866(a)(1)(F)(iv) specifies that the aggregate reimbursement for a fiscal year may not be less than the aggregate amount expended in fiscal year 1982 (adjusted for inflation).

House bill

No provision.

Senate amendment

The provision deletes section 1866(a)(1)(F)(iii) and substitutes fiscal year 1985 for fiscal year 1982 in clause (iv). Reimbursement shall be made to the organization on a monthly basis, with payments for any month being made not later than 15 days after the close of such month. This change is to address the concern that current law provisions could be used to restrict PRO reimbursement. The provision would be effective on enactment.

Conference agreement

The conference agreement includes the Senate amendment with a modification specifying that fiscal year 1986 is the base year against which aggregate expenditures are compared.

58. PRO review of Health Maintenance Organization Services

Present law

Current law requires the Secretary of Health and Human Services to contract with Peer Review Organizations (PROs) for the review of the medical necessity, quality, and appropriateness of services provided to medicare beneficiaries. The PROs are required to review some or all of the professional services provided under medicare. Each PRO, in consultation with the Secretary, determines the types and kinds of cases over which it will exercise its review authority in order to most effectively meet its responsibilities.

On January 10, 1985, the Secretary published final regulations to implement the 1982 TEFRA health maintenance organizations (HMOs) and competitive medical plans (CMPs) contract provisions with medicare. The final regulation includes a provision that requires HMOs and CMPs with contracts under section 1876 to comply with the requirement for PRO review of services furnished to medicare enrollees.

House bill

No provision.

Senate amendment

The provision would require the Secretary to implement peer review of part A and part B services furnished by HMOs and CMPs. The provision would be effective upon enactment.

Conference agreement

The conference agreement includes the Senate amendment with a modification and changes the effective date of the provision to January 1, 1987. This clarifies an ambiguity that had been raised about current law. The conferees intend that the Secretary allocate sufficient additional funds to the PROs for the performance of the required functions and to recognize the unique features of HMO and CMP delivery of services in implementing this provision.

The conferees understand that the HMO/CMP industry is in the process of developing its own quality assurance capabilities. Conferees intend to review this approach prior to the effective date of this provision.

59. Substitute review pending termination of a PRO contract

Present law

A Peer Review Organization (PRO) which has a contract with the Health Care Financing Administration (HCFA) has exclusive authority to review utilization and quality of services as specified under Title XI of the Social Security Act. The Secretary may terminate a PRO contract for nonperformance provided certain procedures are followed. These procedures require the Secretary to "provide the organization with an opportunity to provide data, interpretations of data, and other information pertinent to its performance under the contract." The data is to be reviewed by a panel appointed by the Secretary and the findings submitted to the Secretary and made available to the organization. The Secretary may accept or not accept the panel's findings. The Secretary may, with the concurrence of the organization, modify the scope of the contract. The Secretary may terminate the contract upon 90 days after the panel has submitted a report or earlier if the organization so agrees. The law does not make provision for assigning review (or backlogged review) to another entity during termination proceedings. Thus, terminations can create a period of several months where no utilization and quality review is conducted.

House bill

No provision.

Senate amendment

The provision would authorize the Secretary to assign review authority to another entity after the PRO has been notified of an intent to terminate its contract because the PRO is not performing effectively and prior to the time when a new PRO contract is awarded. The provision would be effective upon enactment.

Conference agreement

The conference agreement includes the Senate amendment.

60. Authorize peer review organizations to deny payment for substandard care

Present law

Peer Review Organizations (PROs) may review, subject to the provisions of their contracts, the professional activities of physicians, other practitioners and institutional and noninstitutional providers in rendering services to medicare beneficiaries. The review is to focus on: (a) the medical necessity and reasonableness of care; (b) the quality of care; and (c) the appropriateness of the setting. The law specifies that the determinations of the PRO with respect to medical necessity reviews and previews of the appropriateness of the setting are generally binding for purposes of determining whether benefits should be paid. Despite the fact that PROs are required to conduct quality reviews, they are not authorized to deny payment for care of substandard quality.

House bill

No provision.

Senate amendment

The provision would authorize PROs to deny payment for care of substandard quality that is identified through criteria developed according to a plan approved by

HCFA. The provision would be effective upon enactment.

Conference agreement

The conference agreement includes the Senate amendment with a modification specifying that beneficiaries are to be protected by the waiver of liability provisions against being charged for services for which medicare payment is denied. Further, the agreement requires the criteria to be developed pursuant to guidelines established by the Secretary.

TITLE IX

SUBTITLE B—MEDICAID AND MATERNAL AND CHILD HEALTH PROVISIONS

1. Services for Pregnant Women (Section 9501)

Present law

The Deficit Reduction Act of 1984 (P.L. 98-369) requires the States to cover under Medicaid, from the date of medical verification of pregnancy, certain pregnant women, if they meet State AFDC income and resource requirements, as follows: (a) pregnant women who would be eligible for AFDC and Medicaid if their child were born; and (b) pregnant women in two-parent families where the principal breadwinner is unemployed.

House bill

(a) *Mandatory coverage.* Requires States to cover under Medicaid pregnant women in two-parent families that meet AFDC income and resource standards even where the principal beadwinner is not unemployed.

(b) *Targeted services.* Specifies that States are not required to extend comparable benefits to other beneficiaries when they provide additional services related to pregnancy (including prenatal, delivery, and post-partum services) or its complication to all covered pregnant women.

(c) *Post-partum coverage.* Requires States to provide post-partum coverage to eligible pregnant women until the end of the 60-day period beginning on the last day of their pregnancy.

Senate amendment

(a) *Mandatory coverage.* No provision.

(b) *Targeted services.* Similar provision.

(c) *Post-partum coverage.* Permits a State to provide such coverage if it does so for all pregnant women covered under the plan. Covered services for this population group may be limited to post-partum care.

Conference agreement

(a) *Mandatory coverage.* The conference agreement follows the House bill.

(b) *Targeted services.* The conference agreement follows the Senate amendment with a clarification that services relating to any other condition which may complicate pregnancy are included in this exception to the general comparability requirement.

(c) *Post-partum coverage.* The conference agreement follows the House bill.

Effective dates. The mandatory coverage provision applies to Medicaid payments for calendar quarters beginning on or after April 1, 1986, without regard to whether or not final regulations to carry out the amendments have been promulgated by that date. Delay is permitted where State legislation (other than legislation appropriating funds) is required. All other provisions take effect on the date of enactment.

2. Modifications of Home and Community-Based Waiver (Section 9502)

Present law

(a) *Eligibility for Ventilator-Dependent Persons.* Section 1915(c) of the Social Security Act authorizes the Secretary of HHS to waive certain Medicaid requirements to allow States to provide a variety of home and community-based long-term care services to individuals who would otherwise require the level of care provided in a SNF or ICF whose cost could be reimbursed under the State's Medicaid plan.

(b) *Needs Allowances.* Regulations require the income of beneficiaries of home and community-based care to be applied to the cost of this care, after deductions have been made for maintenance needs.

(c) *Habilitation Services.* States may cover the following services under waivers: case management, homemaker/home health aid services, personal care, adult day health, habilitation services, respite care, and such other services requested by the State and approved by the Secretary. With regard to habilitation sevices, final regulations excluded prevocational and vocational training and educational activities from services which may be covered.

(d) *Waiver Approval.* In order to receive approval for a waiver, States must provide a number of assurances to the Secretary, including one requiring that the estimated average per capita expenditure for medical assistance under the waiver for those receiving waivered services in any fiscal year not exceed the average per capita expenditure that the State reasonably estimates would have been incurred in that year for that population if the waiver had not been granted. This has been interpreted to require a showing by States that estimated average per capita expenditures under the waiver will not exceed 75 percent of the average per capita expenditures the State estimates would have been incurred in the absence of the waiver. Final implementing regulations published March 13, 1985, also require States to assure that the actual total expenditures for home and community-based services under the waiver will not exceed the State's approved estimated expenditures and that the State will not claim Federal matching payments for expenditures exceeding the approved estimate.

(e) *One Year Waiver Extension.* A home and community-based waiver is granted for an initial term of 3 years, and, upon the request of a State, can be renewed for additional 3-year periods, unless the Secretary determines that certain assurances have not been met.

(f) *Five Year Waiver Renewals.* Same as (e).

(g) *MCH Block Grant Coordination.* Under the waiver authority, States are providing home and community-based services to a number of groups of individuals, inlcuding children. Title V of the Social Security Act, known as the Maternal and Child Health (MCH) Block Grant, authorizes grants to the States for a variety of maternal and child health services, inlcuding services for children with special health care needs.

(h) *Substitution of Participants.* Under the waiver authority, a State may provide a variety of home and communiuty-based services to individuals who would otherwise require the level of care provided in an SNF or ICF, cost of which could be reimbursed under the State's Medicaid plan. Regulations require States, in their applications to provide home and community-based services, to describe the group or groups of individuals to whom services will be offered and to estimate the unduplicated number of recipients who will receive services in a given year. This has been interpreted to mean that individuals who receive services in a given year and who die, enter a nursing home, or otherwise drop out of the home and community-based care program during that year, cannot be replaced in that year with other individuals would be eligible to receive such services.

House bill

(a) *Eligibility for Ventilator-Dependent Persons.* Includes ventilator-dependent individuals who receive inpatient hospital services among those individuals eligible for expanded home and community-based services.

(b) *Needs Allowances.* Allows States to establish for individuals receiving waivered services in the community higher maintenance needs allowances than maximum amounts allowed under regulations in effect July 1, 1985.

(c) *Habilitation Services.* Defines habilitation services as services designed to assist individuals to acquire, retain, and improve the self-help, socialization, and adaptive skills necessary to reside successfully in home and community based settings, and includes prevocational, educational, and supported employment services. Habilitation services would not include special education and related services as defined in the Education of the Handicapped Act which otherwise are available through a local educational agency, nor would they inlude vocational rehabilitation services which otherwise are available through a program funded under the Rehabilitation Act of 1973.

(d) *Waiver Approval.* Clarifies that the estimated average per capita expenditure for medical assistance under the program in any fiscal year must not exceed 100 percent of the average per capita expenditures that the State reasonably estimates would have been incurred in that year if the waiver had not been granted.

Prohibits the Secretary from requiring that the actual total expenditures for home and community-based services under the waiver, and the associated claim for Federal matching payments, can not exceed the approved estimates for these services.

Prohibits the Secretary from denying Federal matching payments for home and community-based services on the ground that a State has failed to limit actual total expenditures for home and community-based services under the waivers to the approved estimates for these expenditures.

Allows States, in estimating the average per capita expenditures for physically disabled individuals in ICFs, to use only the expenditures associated with that group of patients and not expenditures associated with non-disabled individuals.

(e) *One Year Extension.* No provision.

(f) *Five Year Waiver Renewals.* No provision.

(g) *MCH Block Grant Coordination.* No provision.

(h) *Substitution of Participants.*—No provision.

Senate amendment

(a) *Eligibility for Ventilator-Dependent Persons.* No provision; however, section 720 of Senate amendment amends Medicaid to require States to cover respiratory services for qualified respiratory care patients.

(b) *Needs Allowance.* No provision.

(c) *Habilitation Services.* No provision.

(d) *Waiver Approval.* No provision.

(e) *One Year Waiver Extension.* Requires the Secretary to extend, for a period of 1 year at a minimum or 5 years at a maximum, any waiver that expires during the 12-

month period beginning September 30, 1985, if the State requests an extension.

(f) *Five year Waiver Renewals.* Requires the Secretary, beginning September 30, 1986, to renew home and community-based services waivers for additional 5-year periods if the Secretary approves the waiver renewal request.

(g) *MCH Block. Grant Coordination.* Amends the waiver authority to require the State Medicaid agency, whenever appropriate, to enter into cooperative arrangements with the State agency administering the MCH Block Grant program of services for children with special health care needs. These cooperative arrangements must provide that individuals under 18 who are eligible for home and community-based services will be referred to the State agency administering the MCH program for children with special health care needs.

In addition, the State MCH agency would be required to assure: (1) the establishment of an individual service plan for the child; (2) the designation of a case manager to assist the family in carrying out the plan; and (3) the monitoring of the utilization, quality, and costs of services provided for appropriateness and reasonableness.

(h) *Substitution of Participants.* Amends the home and community-based waiver authority to specify that for waivers which contain a limit on the number of individuals who will receive home and community-based services, the State may substitute additional individuals for any individuals who die or become ineligible for services.

Conference agreement

(a) *Eligibility for Ventilator-dependent Persons.* The conference agreement follows the House bill.

(b) *Needs Allowances.* The conference agreement follows the House bill.

(c) *Habilitation Services.* The conference agreement follows the House bill.

(d) *Waiver approval.* The conference agreement follows the House bill.

(3) *One Year Waiver Extension.* The conference agreement follows the Senate amendment. The conferees intend that waivers extended under this provision are subject to the same Secretarial monitoring and compliance procedures as all other home and community-based services waivers.

(f) *Five Year Waiver Renewals.* The conference agreement follows the Senate amendment.

(g) *MCH Block Grant Coordination.* The conference agreement follows the Senate amendment. The conferees intend that the use of cooperative arrangements be optional with the States and that the use of MCH agencies as case managers be optional with beneficiaries covered under the waiver.

(h) *Substitution of Participants.* The conference agreement follows the Senate amendment.

Effective dates

(a) *Eligibility for Ventilator-dependent Persons.* Effective for services furnished on or after October 1, 1985.

(b) *Needs Allowances.* Effective for waiver or renewal applications filed before, on, or after the date of enactment.

(c) *Habilitation Services.* Effective for services furnished on or after enactment.

(d) *Waiver Approval.* Effective for waiver or renewal applications filed before, on, or after the date of enactment, and for services furnished on or after August 13, 1981.

(e) *One Year Waiver Extension.* Effective for waivers expiring on or after September 30, 1985, and before September 30, 1986.

(f) *Five Year Waiver Renewals.* Effective on September 30, 1986.

(g) *MCH Block Grant Coordination.* Effective on the date of enactment.

(h) *Substitution of Participants.* Effective on the date of enactment.

3. *Home and Community-based Services Demonstrations. (Section 9513)*

Present law

No comparable provision.

House bill

No provision.

Senate amendment

Requires the Secretary of HHS to conduct demonstrations in four States to determine whether, and to what extent, State-controlled home and community-based services programs for elderly, disabled, and developmentally disabled Medicaid-eligible individuals can reduce expenditures for society as a whole, the Federal government, and/or the States. Under the demonstration, expenditures would exceed the amounts which would otherwise be expended under the States' Medicaid plans for services provided to the same individuals by not less than $85,000,000 no more than $88,000,000 for all four projects over the 3-year period of the projects. These additional amounts may be used to provide additional services such as habilitative services not otherwise covered under the State's Medicaid plan or care provided in small facilities not otherwise eligible for payments under the State plan, but all standards for quality of care otherwise applicable under the State plan would apply. In selecting the four States to carry out the demonstration projects, the Secretary would be required to select programmatically and demographically disparate States.

Requires the Secretary to evaluate the demonstration projects and to submit a preliminary report during the third year of the projects. Requires that the evaluation be funded at a level of not less than $1,500,000 nor more than $2,000,000.

Conference agreement

The conference agreement follows the Senate amendment with a modification providing that at least one of the four demonstration projects include the provision of home and community-based services for a substantial number of persons with Alzheimer's and related disorders, and that at least one of the other demonstration projects address services for mentally retarded and developmentally disabled Medicaid beneficiaries. The conference agreement also clarifies that beneficiaries participating in these demonstration projects will not experience any reduction or delay in benefits or services to which they are entitled under the regular State Medicaid plan. In addition, the conference agreement clarifies that the funding provided for these demonstrations is Medicaid entitlement funding, subject to regular State matching requirements.

The purpose of these demonstration projects is to determine the cost of expanding the availability of home and community-based services as an alternative to institutional long term care. The conferees recognize that the budget neutrality requirement of the current home and community-based waiver provision does not allow the States the flexibility to determine the cost of expansion of services because current waiver programs must be designed within existing spending levels. Under these demonstrations, however, a State's expenditures can exceed the amounts which would otherwise be spent under the State's Medicaid plan for services to the same individuals.

With regard to the demonstration concerning Alzheimer's and related disorders, the conferees intend that the project should specifically address the criteria for determining who is eligible for services as an Alzheimer's or related disorder patient, the range of services needed, and the cost of care for such patients. The conferees expect that the project relating to the mentally retarded and developmentally disabled population will address the cost, range and quality of services needed and the appropriateness of home and community-based care for this population.

Since the individuals participating in these demonstrations are otherwise eligible for Medicaid, the funds provided under this section are intended to support new and expanded benefits that are otherwise unavailable to these individuals under the State's Medicaid plan, such as habilitation services and respite care. The conferees do not intend the conduct of these demonstrations to restrict the benefits available under the State's plan, or otherwise impair and entitlement of any Medicaid-eligible individual participating in the demonstration. This section does not authorize the demonstration of a block grant for ICF/MR services.

The conferees are particularly concerned that these demonstrations attempt to assess the extent to which there are individuals in need of long-term care services who are not now receiving care, but would seek care if services in the community were expanded. The question of induced demand for services (the so-called "woodwork effect") is a major unresolved issue in current policy debates regarding the cost of expanding the availability of home and community-based services for the frail elderly and disabled. The conferees expect that one of the research objectives of these demonstrations will be to test whether a "woodwork effect" exists and, if so, to estimate its size and cost.

In determining whether and to what extent home and community-based waivers reduce expenditures, the conferees intend that the demonstration project evaluation will assess the impact of such services on the utilization and cost of both acute care and long term care services. For those participants eligible for both Medicare and Medicaid, the conferees intend that the costs and/or savings to both programs be separately evaluated.

The conferees are also interested in determing whether home and community-based services under Medicaid are newly offered services or whether they substitute for service currently available under other programs, such as Title XX of the Social Security Act. The conferees expect that the evaluation will determine whether expanding Medicaid home and community-based care improves access to such services or merely changes the financing for existing services.

Effective Date. Effective on enactment.

4. *Task Force on Technology-Dependent Children. (Section 9520)*

Present law

No comparable provision.

House bill

Requires the Secretary to establish, within 6 months after enactment of this Act, a task force concerning alternatives to institutional care for technology-dependent children. Requires the task force to submit, not later than two years after enactment of this Act, a final report to the Secretary and Congress on (1) barriers that prevent the provision of appropriate care in a home or community-setting to technology-dependent children, and (2) recommended changes in the provision and financing of health care in private and public health care programs so as to provide home and community-based alternatives for these children.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill.

Effective Date. Effective on enactment.

5. Medicaid Coverage of Respiratory Care Services for Ventilator-Dependent Individuals. (Section 9504)

Present law

States are required to cover home health services for Medicaid beneficiaries over 21 who are categorically needy. In addition, a State must provide home health services to (1) categorically needy beneficiaries under 21 if such individuals are eligible to receive skilled nursing facility services under a State's Medicaid plan, or (2) medically needy beneficiaries if SNF services are offered to that group. States may provide such services to other program beneficiaries if they are offered to all eligible beneficiaries.

House bill

No provision.

Senate amendment

Requires States to cover respiratory services in the home for individuals who (1) are medically dependent on a ventilator for life support at least 6 hours per day; (2) have been so dependent for at least 30 consecutive days or the maximum number of days authorized under the State plan, whichever is less, as inpatients in one of more hospitals, SNFs, or ICFs, and who, but for home respiratory care, would require respiratory care in these institutions; (3) have adequate social support services to be cared for at home; and (4) wish to be cared for at home.

Conference agreement

The conference agreement follows the Senate amendment with a modification providing that respiratory care services are an optional Medicaid benefit. Respiratory care services are defined as services provided on a part-time basis at the home of the eligible ventilator-dependent individual by a respiratory therapist or other health care professional trained in respiratory therapy (as determined by the State) for which payment is not otherwise made under the State plan within the payments for other items or services. The conferees expect that the Secretary, in regulations implementing this provision, will take particular care to assure that payment is not made twice for the respiratory care services, either because this service is already covered in the charge for ventilator or related equipment, or because the patient is also receiving nursing or other home care services that include the provision of respiratory care services.

Effective Date. Effective with respect to services furnished on or after April 1, 1986.

6. Optional Hospice Benefits (Section 9505).

Present law

States may cover some services that make up the hospice benefit package, such as home health care and prescription drugs. However, hospices are not recognized as providers for payment purposes, and States may not pay for comprehensive hospice services as a package. In addition, States may not offer services in the hospice package to terminally ill beneficiaries without offering those same services to all beneficiaries.

House bill

Allows States to cover hospice care as an optional Medicaid benefit. Hospice services could be provided to terminally ill individuals who have voluntarily elected to receive hospice care instead of certain other benefits. Hospice care would include the services included under Medicare. Hospice programs would be required to meet Medicare's requirements for organization and operation, and be public or nonprofit. The amount, duration, or scope of hospice services could not be less than benefits under Medicare. States choosing to cover hospice would be required to use Medicare's prospective payment methodology and reimburse at Medicare's rates. Beneficiary elections of hospice care could be for a period or periods as the State may establish. Beneficiaries could revoke election. States could apply the same eligibility standards for patients receiving hospice care outside of institutions as they apply to institutionalized patients. Cost sharing would not be imposed on hospice patients.

Senate amendment

Similar provision. However, contains no further requirements with respect to: the nature of the hospice organization; the amount, duration, or scope of benefits; reimbursement; election periods; income eligibility standards; or cost sharing.

Conference agreement

The conference agreement follows the House bill with a modification to delete the limitation on participation by otherwise qualified for-profit entities. The agreement also clarifies that, if an eligible individual who is a patient in an SNF or ICF elects hospice coverage, the payment for that individual's care in the institution during the period covered by the election will be made by the responsible hospice. The State's payment rate to the responsible hospice for each day the patient resides in an SNF or ICF must be increased by the amount attributable to the cost of room and board in the SNF or ICF; the facility will be paid by the responsible hospice, not by the State.

Effective Date. Effective for services furnished on or after enactment.

7. Medicaid Payments of Direct Medical Education Costs of Hospitals

Present law

State Medicaid payments for inpatient hospital services must be reasonable and adequate to meet the costs which must be incurred by efficiently and economically operated facilities in order to meet State and Federal laws and regulations and quality and safety standards.

House bill

(a) *Basis of payment.* Requires State Medicaid programs to pay hospitals for their direct medical education costs associated with approved medical residency training programs on the basis of a fixed amount per fulltime equivalent (FTE) resident.

(b) *Calculation of payment.* Provides that the payment to each hospital would equal the hospital's approved FTE resident amount, times the hospital's number of FTE residents, times the proportion of total inpatient days attributable to Medicaid patients.

(c) *Payment limitation.* Requires the Secretary to determine each hospital's allowable average cost per FTE resident by using data on the average reasonable direct medical education cost per FTE resident from the hospital's most recent audited Medicare cost report, updated by the actual and estimated change in the Consumer Price Index. Provides that a hospital's FTE resident amount may not exeed the following percentages of the national average FTE resident amount: 175 percent for the residency year beginning July 1, 1986; 150 percent for the residency year beginning July 1, 1987; and 125 percent for residency years beginning on or after July 1, 1988.

(d) *Counting of residents.* Requires the Secretary to establish rules for the computation of FTE residents which provide that only time spent in patient care activities be counted, that time spent in an outpatient setting be counted, and that residents who serve only a portion of their year with one or more hospitals taken into account.

(e) *Weighting factors.* Requires that for residency years beginning July 1, 1987, a weighting factor be applied in calculating the number of FTE residents as follows:

Weighting Factors

Residency year beginning in	Primary care resi-[illegible]	Other residents	
		During initial residency [illegible]	During any other [illegible]
1987	1.10	[illegible]	0.75
[illegible]	1.20	[illegible]	.50
1989 or later	1.30	.70	[illegible]

Authorizes the Secretary, beginning July 1, 1989, to change the weighting factors or to establish an alternative method for calculating the number of FTE residents, based on recommendations of the Physician Payment Review Commission (as authorized by Section 152 of the House bill).

(f) *Primary care residents.* Defines "primary care resident" to mean an individual in the first 3 years of postgraduate medical training in the fields of internal medicine, pediatrics, or family medicine, and an individual in up to 2 years of training in geriatric medicine, health, or preventive medicine.

(g) *Initial residency period.* Defines "initial residency period" to mean the minimum number of years of formal residency training necessary to satisfy the requirements for initial board eligibility in a particular medical specialty, not to exceed 5 years; excludes up to 2 years of residency in the fields of geriatric medicine, public health, and preventive health.

(h) *Foreign medical graduates.* Provides that foreign medical graduates (i.e., graduates of medical schools not accredited by a body or bodies approved by the Secretary of Education) may not be counted as residents beginning July 1, 1986, unless they have passed parts I and II of the Foreign Medical Graduate Examination in the Medical Sciences (FMGEMS). Foreign medical graduates who began serving as residents before July 1, 1986, and serve as residents during that year but have not passed the FMGEMS examination before July 1, 1986, would be counted at one-half the rate at which the resident would otherwise have been counted. Authorizes the Secretary to treat an individual as having passed the FMGEMS examination if the individual is unable to take that examination because they previously received certification from the Educational Commission for Foreign Medical Graduates.

(i) *Report.* Requires the Secretary to report to Congress, not later than Dec. 31, 1986, on whether the new Medicaid payment methodology for direct medical education costs should be revised to provide for greater uniformity in the approved FTE resident amounts and, if so, how such revisions should be implemented.

Senate amendment

No provision directly amending the Medicaid statute.

Conference agreement

The conference agreement does not include the House provision. See section 9202, concerning Medicare payments to hospitals for direct costs of medical education, which affects State Medicaid programs that elect to follow Medicare principles.

8. Treatment of Potential Payments from Medicaid Qualifying Trusts (Section 9506)

Present law

Under Medicaid, only income and resources actually available to an individual are considered in determining eligibility. The law contains no specific provision pertaining to income from trusts.

House bill

(a) *Definition of available amounts.* Specifies that for purposes of Medicaid eligibility, the distributions from certain Medicaid qualifying trusts would be considered available to the individual establishing the trust whether or not the distributions are actually made. The amount deemed available to the beneficiary is the maximum amount of payments that may be permitted under the terms of the trust assuming the full exercise of discretion by the trustee or trustees.

(b) *Definition of trust.* Defines a "Medicaid qualifying trust" as a trust or similar legal device established by an individual (or his or her spouse) under which the the individual is the beneficiary of all or part of the payments from the trust and the amount of such distribution is determined by one or more trustees who are permittted to exercise any discretion with respect to the amount to be distributed to the individual. Clarifies that the provision applies: (1) whether or not the Medicaid qualifying trust is irrevocable or is established for purposes other than to enable the individual to qualify for Medicaid; and (2) whether or not the trustee(s) actually exercise discretion with respect to the amount of funds distributed.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill with a modification authorizing States to refrain from applying this provision to individuals in cases where undue hardship will result. While the conferees intend to discourage the establishment of the specified grantor trusts for the purpose of shielding assets from the State, the conferees also would expect States to waive application of this provision in cases where undue hardship would occur. For example, the conferees do not expect a State to deny Medicaid coverage to an individual under this section if he or she would be forced to go without life-sustaining services altogether because the trust funds could not be made available to pay for the services.

This provision addresses only eligibility for Medicaid, not eligibility for Supplemental Security Income or Aid to Families with Dependent Children. The conferees do not intend that the enactment of this provision be interpreted to have any bearing on eligibility policy in either of those cash assistance programs. It is also the understanding and intent of the conferees that this provision will have no effect on current law with regard to the treatment of such trusts in the context of estate proceedings.

In those States where, pursuant to section 1634 of the Social Security Act, the Secretary is making Medicaid eligibility determinations with respect to Supplemental Security Income beneficiaries, the conferees expect that the Secretary and the States will integrate the determinations required under this section into their current arrangements in a manner satisfactory to the Secretary.

Effective Date.—Applies to medical assistance furnished on or after the first day of the second month beginning after the date of enactment.

9. Written Standards for Provision for Organ Transplants (Section 9507)

Present law

No provision.

House bill

Denies Federal matching payments for organ transplant services provided to Medicaid beneficiaries unless the State plan provides for written standards for the coverage of such services and unless the standards treat similarly situated individuals alike. If such standards impose restriction on the faciliities or practitioners who may provide such services, the restrictions must be consistent with the accessibility of high quality care by Medicaid patients.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

Effective Date.—Applies to medical assistance furnished on or after January 1, 1987.

10. Extension of MMIS Deadline. (Section 9518)

Present law

States are generally required to have mechanized claims processing and information retrieval systems, known as "Medicaid management Informtion Systems" (MMIS), that are annually reviewed and approved by the Health Care Financing Administration. The systems are designed to improve the capability of State Mediciad agencies to process claims on an accurate and timely basis and to provide data for administration of the Medicaid program.

The current deadline for a State to operate such a system is the earlier of (a) September 30, 1982, or (b) the last day of the sixth month following the date specified for operation of such systems in the States most recently approved advance planning document submitted before the enactment of P.L. 96-398 (October 7, 1980).

House bill

The deadline for State compliance with Federal performance standards for the operation of a Medicaid management information system is extended to September 30, 1985.

Senate Amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

Effective Date.—Applies to payments to States for calendar quarters beginning on or after October 1, 1982.

11. Extension of Certain Texas Waiver Project. (Section 9523)

Present law

Section 1115 of the Social Security Act provides the Secretary of HHS general authority to conduct experiments and demonstrations under Medicaid and to waive program requirements in conducting these demonstrations. Under this authority, the Secretary has approved a waiver for the demonstration project, "Modifications of the Texas System of Care of the Elderly: Alternatives to the Institutionalized Aged," for the period January, 1980, through December, 1985.

House bill

Requires the Secretary to extend until December 31, 1988, approval of the waiver for the demonstration project, "Modifications of the Texas System of Care for the Elderly: Alternatives to the Institutionalized Aged," and to continue the approval on the same terms and conditions as applied to the project as of the date of enactment of this Act. Also specifies that approval remain in effect until such time as the Secretary finds that the applicant no longer complies with these terms and conditions.

Senate amendment

Similiar provision, except requires the Secretary to extend approval of the waiver for this demonstration until January 1, 1989. Does not require the Secretary to continue the approval on the same terms and conditions as applied to the project on date of enactment of the Act.

Conference agreement

The conference agreement follows the House bill with a modification that the waiver be extended until January 1, 1989.

Effective Date.—Effective on enactment.

12. Report on Adjustment in Medicaid Payments for Hospitals Serving Disproportionate Numbers of Low Income Patients. (Section 9519)

Present law

The Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35) required States, in developing their payment rates for inpatient hospital services, to take into account the situation of hospitals which serve a disproportionate number of low income patients with special needs.

House bill

Requires the Secretary to submit to Congress a report (1) describing the methodology used by States to take into account the situation of disproportionate share hospitals when determining their Medicaid payments to hospitals, (2) identifying hospitals that have received a disproportionate share adjustment, and (3) specifying the proportion of low income and Medicaid patients at such hospitals.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill with a modification providing that the Secretary transmit the report to Congress no later than October 1, 1986.

13. References to Provisions of Law Providing Coverage Under, or Directly Affecting, the Medicaid Program. (Section 9526)

Present law

No provision.

House bill

A section is added to Title XIX (the Medicaid title) of the Social Security Act which provides references to laws directly affecting the Medicaid program. This allows readers of the title to more easily locate provisions of law that make additional individuals eligible for Medicaid, and that establish additional requirements for State plans to be approved under Medicaid.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

14. Third Party Liability Collections. (Section 9503)

Present law

(a) State Plan Requirements

Medicaid is intended to be the payer of last resort; that is, other available resources must be used before Medicaid pays for the care of an individual enrolled in the Medicaid program. The law requires the State plan to provide that:

(1) the State or local agency administering the plan will take all reasonable measures to ascertain the legal liability of third parties to pay for care;

(2) that where such agency knows that a third party has legal liability it will treat the liability as a resource of the individual for purposes of eligibility determinations; and

(3) the agency will seek reimbursement from liable third parties where payment has already been made where the expected amount of recovery exceeds the costs of recovery.

(b) Mechanized Claims Processing Systems

States are generally required to have Medicaid management information systems (MMIS) that are reviewed and approved by HCFA each year. The Secretary is required to develop performance standards, system requirements and other conditions for use in approval of such systems.

(c) Regulations

No provision.

(d) Conditions of Medicaid Eligibility

Current law requires Medicaid beneficiaries to assign their rights to medical support payments and other payments for medical care to the State.

(e) Penalties for Erroneous Excess Payments

If a State makes erroneous excess payments exceeding allowable rates, Federal financial participation is reduced.

House bill

No provision.

Senate amendment

(a) State Plan Requirements

(1) Amends the law to specify that reasonable measures for ascertaining the legal liability of third parties include:

(i) collection of sufficient information (as specified in regulations) to enable the State to pursue claims with such information collected at the point of eligibility determinations,

(ii) submission of a plan to the Secretary for pursuing claims. This plan is to be monitored by the Secretary as part of the review of the claims processing system and be subject to penalties for failing to meet conditions of approval, and

(iii) all other penalties, such as audit disallowances for third-party liability, are prohibited.

(2) Clarifies that the person furnishing the service to a Medicaid eligible may not collect cost-sharing amounts if total third-party liabilities at least equal the amount otherwise payable under Medicaid. Cost-sharing may not exceed the lesser of the amount the beneficiary would be required to pay in the absence of third-party liability or the difference between such liability and the Medicaid payment amount. Violation of this provision could subject the person to a sanction equal to up to three times the amount sought to be collected.

(3) Clarifies that a person furnishing services may not refuse to furnish services to a Medicaid eligible because of a third-party's potential liability.

(b) Mechanized Claims Processing Systems

(1) Requires the Secretary to develop performance standards for assessing States' third-party liability collection efforts which are to be integrated with and monitored as part of the Secretary's review of each State's MMIS.

(2) Provides that reviews of MMIS may be conducted once every three years and may, at the Secretary's discretion, be either total reviews or focused reviews.

c. Regulations

Requires issuance of regulations to implement (a) and (b) above within six months of enactment.

(d) Conditions of Medicaid Eligibility

Requires individuals, as a condition of eligibility, to cooperate with the State in identifying and pursuing liable third parties unless such individual has good cause for refusing to cooperate as determined by the State agency in accordance with standards prescribed by the Secretary.

(e) Penalties for Erroneous Payments

Disregards, for purposes of this calculation, errors resulting from failure of an individual to cooperate or give correct information relating to third-party liability.

Conference agreement

(a) State plan requirements

The conference agreement follows the Senate amendment with a modification that third party payments for preventive pediatric care, including Early and Periodic Screening, Diagnosis, and Treatment services, as well as those for prenatal care, must be pursued by the State, not by the provider. The conferees are concerned that the administrative burdens associated with third party liability collection efforts not discourage participation in the Medicaid program by physicians and other providers of preventive pediatric and prenatal care, since the beneficiaries in need of such services already have difficulty finding quality providers in many communities. The conference agreement therefore provides that, in the cases where preventive pediatric and prenatal services are rendered to a beneficiary for whom a third party is potentially liable, the State make payment to the provider according to the normal payment schedule and pursue the third party payment itself.

The conference agreement further provides that, in the case of beneficiaries on whose behalf a child support enforcement is being carried out by a State agency under Title IV-D, the State Medicaid agency will seek to collect from the third party if, after 30 days of delivering the services in question, the provider has not received payment. The intent of the conferees is to protect the mother and her dependent children from having to pursue the absent spouse, or his employer or insurer, for third party liability.

(b) Mechanized claims processing systems

The conference agreement follows the Senate amendment.

(c) Regulations

The conference agreement follows the Senate amendment.

(d) Conditions of Medicaid Eligibility

The conference agreement follows the Senate amendment with a modification clarifying that individuals are required to indentify, to the extent they are able, potentially liable insurers and other third parties, and to provide information to assist the State in pursuing third parties. Beneficiaries are not required to pursue the collections themselves. Pursuit is the responsibility of the provider or the State as provided elsewhere in this section.

The conferees note that the fact that an insurer or other third party is potentially liable for the costs of an individual's care does not, of course, mean that this coverage constitutes a resource for purposes of Medicaid eligibility. If the applicant or beneficiary actually receives a cash payment from a third party by way of indemnification for a medical expense, and if this payment were not somehow already assigned to the State, then the payment so received would be considered a resource for Medicaid eligibility purposes. In all other circumstances, the health insurance or benefits coverage is not to be considered a resource.

(e) Penalties for Erroneous Payments

The conference agreement follows the Senate amendment.

Effective Date.—The requirement that the Secretary promulgate regulations is effective on the date enactment. All other requirements take effect with respect to calendar quarters beginning on or after the date of enactment, except that delay is permitted where State legislation (other than appropriations legislation) is required. No penalty may be applied against a State for violations of State plan requirements occurring before the effective date of these amendments.

15. Optional Targeted Case Management Services (Section 9508)

Present law

"Case management" is commonly understood to be a system under which responsibility for locating, coordinating, and monitoring a group of sevices rests with a designated person or organization. Under current Medicaid law, case management is not included among the list of medical services which may be covered under a State's Medicaid plan. However, States may include case management services under freedom-of-choice and home and community-base services waivers authorized under sections 1915(b) and 1915(c) respectively. In addition, States may receive administrative funds under their Medicaid plans for certain case management activities (for example, preadmission screening) when offered to all Medicaid beneficiaries in all areas of the States.

House bill

No provision.

Senate amendment

Allows States to cover case management services without regard to requirements that Medicaid services be available throughout a State and that covered services be equal in amount, duration, and scope for certain Medicaid beneficiaries. Defines case management services as services which will assist individuals eligible under Medicaid in gaining access to needed medical, social educational, and other services.

Conference agreement

The conference agreement follows the Senate amendment with a modification clarifying that beneficiaries cannot be locked into designated providers under targeted case management services, whether for the case management services themselves or other services. The conferees expect that the Secretary will assure that payments made for case management services under this section do not duplicate payments made to public agencies or private entities under other program authorities for this same purpose. The conference agreement also provides that, with respect to family planning services, the right of Medicaid beneficiaries to choose their own providers may not be restricted under any waivers granted under section 1915(b) of the Social Security Act.

Effective Date.—Effective for services furnished on or after enactment.

16. Modify revaluation of Assets Provision (Section 9509)

Present law

Under section 2314 of the Deficit Reducton Act of 1984, the "revaluation of assets" provision, Medicare payments to nursing homes may not be increased to reflect higher capital costs that result solely from the sale of such facilities. Capital costs recognized for reimbursement include depreciation, interest expenses, and in the case of proprietary providers, return on equity. Capital-related costs to the new owner are based on the lesser of (1) the allowable acquisition cost to the prior owner (i.e., the historical cost, net of depreciation), or (2) the acquisition cost to the new owner. Medicaid payments are subject to a similar limit with States required to provide assurances, satisfactory to the Secretary, that methodologies used to establish rates paid to nursing homes can reasonably be expected not to increase those rates more than they would under Medicare policy as a result of a change in ownership.

House bill

No provision.

Senate amendment

Amends the Medicaid revaluation of assets provision to allow a State's aggregate capital cost payments to nursing homes to reflect increases in their valuation due to changes in ownership. The revaluation, however, would be limited to the acquisition costs of the previous owner increased by one-half the percentage increase in the Dodge Construction Index for Nursing Homes applied in the aggregate to those facilities which have changed ownership, or one-half the percentage increase in the CPI, whichever is lower.

Requires GAO to conduct a study of the effects of these amendments and to report the results of the study two years after the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment. It is the understanding of the conferees that the Senate report language regarding reduction by the previously allowed depreciation does not govern.

Effective Date.—October 1, 1985, but only with respect to changes in ownership occurring on or after such date.

17. Beginning Date of Optional Coverage for Individuals in Medical Institutions (Section 9510)

Present law

States may provide Medicaid coverage for individuals who are in medical institutions but who have too much income to qualify for cash payments under the Supplemental Security Income Program. The income standard which a State applies to this optional coverage group cannot exceed 300 percent of the SSI benefit amount payable to an aged, blind or disabled individual in his or her own home who has no other income or resources. Implementing regulations specify that the State Medicaid agency shall apply the special income standard beginning with the first full calendar month of institutionalization.

House bill

No provision.

Senate amendment

Substitutes for the full calendar month test a requirement that payment begins at the beginning of any 30 consecutive-day period of institutionalization.

Conference agreement

The conference agreement follows the Senate amendment.

Effective Date.—Applies to services furnished on or after January 1, 1985.

18. Optional Coverage of Children (Section 9511)

Present law

States are able to cover under Medicaid all, or reasonable categories of, poor children under age 18 or 19 or 20 or 21 living in two parent families. These are known as "Ribicoff children." The Deficit Reduction Act required States to cover all children born on or after October 1, 1983, up to age 5, who meet AFDC income and resources requirements. The law requires that coverage for this population group be phased-in over a 5 year period starting with the youngest children. Federal matching is not available for children under age 5 born prior to October 1, 1983, unless the State extends coverage to all Ribicoff children other than those added by the Deficit Reduction Act provision.

House bill

No provision.

Senate amendment

Allows States to cover and receive Federal matching funds for all Ribicoff children under age 5 immediately.

Conference agreement

The conference agreement follows the Senate amendment.

Effective Date.—Applies with respect to payments for services furnished on or after October 1, 1985.

19. Overpayment Recovery Rules (Section 9512)

Present law

State Medicaid agencies are allowed to pay nursing homes and hospitals at interim rates until final rates are established. The State is responsible for the collection of any "overpayment" and must refund the Federal share of such overpayment to the Federal Government. Under current program administrative instructions, the State must refund the Federal share immediately upon discovering the overpayment. Refunds must be made for all overpayments even where they are not collectible because the providers have gone into bankruptcy or out-of-business.

House bill

No provision.

Senate amendment

Allows States up to sixty days (from the date of discovery) to recover overpayments from providers and refund the Federal share. Provides that a State is not liable for the Federal share of overpayments which cannot be collected from bankrupt or out-of-business providers.

Conference agreement

The conference agreement follows the Senate amendment.

Effective Date.—Applies to overpayments for quarters beginning on or after October 1, 1985.

20. Expansion of Services Under Demonstration Waivers (Section 9522)

Present law

Section 1903(m)(2) of the Social Security Act stipulates that States cannot contract on an at-risk basis with an entity which provides a certain number and type of services unless certain conditions are met. If any entity provides: (a) inpatient hospital services and any other mandatory Medicaid service, or (b) any three mandatory services, that entity must meet the specified standards before a State can enter into a risk contract with it for the provision of Medicaid services. The Secretary may not waive these requirements under the freedom-of-choice waivers under section 1915(b).

House bill

No provision.

Senate amendment

Authorizes the Secretary, with respect to entities providing services under a freedom-of-choice waiver, to waive the specified standards under section 1903(m)(2) if the entity does not provide more than five of the mandatory services and does not provide inpatient hospital services.

Conference agreement

The conference agreement follows the Senate amendment with an amendment limiting applicability to the State of Oregon. The conferees view this waiver as a demonstration program which will be reviewed and evaluated.

Effective Date.—Enactment.

21. Life Safety Code Recognition (Section 9515)

Present law

The Secretary of the Department of Health and Human Services may establish "standards of safety and sanitation" applicable to intermediate care facilities for the mentally retarded (ICFs/MR). Section 1905(c) of the Social Security Act requires intermediate care facilities (ICFs) to meet such standards prescribed by the Secretary as he/she finds appropriate for the proper provision of care and to meet such standards of safety and sanitation as established under regulation of the Secretary. These regulations refer to the 1981 Edition of the Life Safety Code of the National Fire Protection Association.

House bill

No provision.

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Senate amendment

Requires the Secretary for purposes of section 1905(c) to specify the 1985 edition of the Life Safety Code of the National Fire Protection Association until such time as a new edition is published.

Conference agreement

The conference agreement follows the Senate amendment with an amendment limiting the provision to fire safety code requirements for ICF/MR and allowing the Secretary to use an updated life safety code or higher standards.

Effective Date.—Enactment.

22. Publication of ICF/MR Regulations (Section 9514)

Present law

At their option, States may cover in their Medicaid plans intermediate care facility services for the mentally retarded. These facilities must meet such standards as may be required by the Secretary. These standards were published in 1974 (42 CFR Subpart G).

House bill

No provision.

Senate amendment

Requires the Secretary to publish, within 60 days of enactment, proposed revisions to the standards for intermediate care facilities for the mentally retarded (ICFs/MR).

Conference agreement

The conference agreement follows the Senate amendment.

Effective Date.—Enactment.

23. Modifying Application of Medicaid HMO Provisions for Certain Health Centers (Section 9517)

Present law

(a) *Eligibility to Contract on a Risk Basis.* States can contract with certain organizations to provide health care services to Medicaid beneficiaries on a prepaid capitated basis. Among these organizations are: Community Health Centers and Migrant Health Centers, primarily funded by the Public Health Service, and certain rural health care centers known as Appalachian Health Centers, funded under the Appalachian Regional Development Act, that had existed prior to June 30, 1976.

(b) *Lock-in Provision.* States can restrict Medicaid beneficiaries from disenrolling without cause from certain organizations offering services on a prepaid capitated basis for periods of up to six months. This restriction is known as lock-in." Organizations eligible to participate in the lock-in provisions include federally qualified HMOs, and Community, Migrant and Appalachian Health Centers that are receiving, and had received in each of the two preceding years, at least $100,000 under the appropriate sections of the Public Health Service or Appalachian Regional Development Acts. In either case, the organizations must also meet the requirement that less than 75 percent of their enrolled members are receiving benefits under either Medicaid or Medicare.

(c) *Continuation of Benefits.* In the case of Medicaid beneficiaries who are enrolled in a federally qualified HMO contracting with a State Medicaid program and who would otherwise lose their Medicaid eligibility, States may deem these individuals eligible for Medicaid with respect to the services provided by the HMO for a period of up to 6 months.

House bill

No provision.

Senate amendment

(a) *Eligibility to Contract on a Risk Basis.* Allows States to contract on a risk basis with Community and Migrant Health Centers and Appalachian Health Centers that are receiving, and for the past two years have received, at least $100,000 in grants under the appropriate sections of the Public Health Service and Appalachian Regional Development Acts.

(b) *Lock-in Provision.* Permits Community and Migrant Health Centers and Appalachian Health Centers that are contracting with the Medicaid program on a risk basis, and are receiving, and had received in each of the two preceding years, at least $100,000 in grants under the appropriate sections of the Public Health Service and Appalachian Regional Development acts to participate in the lock-in provision without regard to the 75 percent rule.

(c) *Continuation of Benefits.* Allows States to provide for continuation of benefits to individuals enrolled in certain Community, Migrant and Appalachian Health Centers on the same basis as individuals enrolled in federally qualified HMOs. The eligible Community, Migrant, and Appalachian Health Centers are those that are contracting as HMOs with the Medicaid program and are receiving, and had received in each of the two preceding years, at least $100,000 under the appropriate sections of the Public Health Service and Appalachian Regional Development Acts.

Conference agreement

The conference agreement follows the Senate amendment with an amendment clarifying the applicability of current prepayment rules to Health Insuring Organizations (HIOs). According to a recent GAO Fact Sheet, "Medicaid Requirements: Health Insuring Organizations," (HRD-86-42FS, November, 1985), current HHS regulations and guidelines do not specify minimum qualifications for an HIO that arranges for the provision of services to Medicaid eligibles; do not specify the quality assurance methods that such an HIO must employ; do not specify the standards that an HIO must meet to assure access by program beneficiaries to services to which they are entitled; do not specify the amount of savings an HIO may retain for its own financial benefit; and do not specify the frequency or content of the utilization or financial reports that an HIO must submit with regard to the services for which its has arranged. In addition, the GAO Fact Sheet states that HIOs which arrange for the provision of services to Medicaid patients are not subject to specific regulatory requirements regarding financial reporting or ownership information. The conference agreement clarifies that where an HIO does more than simply act as a fiscal agent to review and process claims for payment, but actually arranges with other providers (through subcontract or otherwise) for the delivery of services to Medicaid eligibles (even though the HIO does not itself deliver services), it is subject to all of the regulatory requirements to which any health maintenance organization or similar prepaid entity is subject under current law.

Effective Date.—Enactment. The clarification with respect to HIOs applies to entities that first become operational after January 1, 1986.

24. Use of Sampling for Medical Review in Mental Hospitals, Skilled Nursing Facilities, and Intermediate Care Facilities

Present law

Requires that the care of each person receiving medical assistance in mental hospitals, SNFs, and ICFs be reviewed annually for the adequacy of services available, the necessity and desirability of continued placement in the facility, and the feasibility of alternative institutional or noninstitutional services.

House bill

No provision.

Senate amendment

Provides that medical reviews could be limited to a sample group of individuals receiving medical assistance in mental hospitals, SNFs, and ICFs, as permitted by the Secretary.

Conference agreement

The conference agreement does not include the Senate provision.

25. Wisconsin Health Maintenance Organization Waiver (Section 9524)

Present law

The Secretary of Health and Human Services may no longer waive the one-month disenrollment requirements for certain HMOs participating in a freedom-of-choice waiver.

House bill

No provision.

Senate amendment

Upon request by the State of Wisconsin, the Secretary of Health and Human Services is required to reinstate the waiver granted to the State of Wisconsin relating to HMO participation in the lock-in provision for renewable terms of 2 years, subject to the general requirements of such waivers.

Conference agreement

The conference agreement follows the Senate amendment.

Effective Date.—Enactment.

26. Clarification of Medicaid Moratorium Provisions of Deficit Reduction Act of 1984 (Section 9521)

Present law

(a) *Clarification.* The Deficit Reduction Act of 1984 prohibits the Secretary of the Department of Health and Human Services from taking any regulatory action against a State because the State uses less restrictive standards or methodologies in determining the eligibility of Medicaid beneficiaries who do not receive cash assistance than it does for those who do. The prohibition applies during a moratorium period that will end 18 months after the Secretary submits to the Congress her recommendations on the application of cash assistance eligibility standards and other methodologies to the "medically needy" and other non-cash Medicaid eligibles.

(b) *Restoration.* When it is determined that a Medicaid beneficiary who owns his or her own home could never return home, the value of his or her residence becomes a resource that can increase his or her resources beyond the permitted level. In the past, Federal Medicaid policy gave such an individual time to dispose of the property if he or she was making a bona fide effort to do so. Recent interpretations of these policies would tend to force premature sale of the homes of institutionalized Medicaid applicants and beneficiaries.

House Bill

No provision. (An identical provision regarding clarification was included in H.R. 1868 as passed by the House, H. Rept. 99-80, Part 2).

Senate amendment

(a) *Clarification.* Clarifies that the moratorium applies whether or not the less restrictive standards or methodologies applied by the State were explicitly stated and approved as part of a State's Medicaid plan.

(b) *Restoration.* Restores for the duration of the moratorium the previous Medicaid policy governing the period when home ownership by an institutionalized individual is permitted and the period of time given for the sale of a home.

Conference agreement

(a) *Clarification.* The conference agreement follows the Senate amendment.

(b) *Restoration.* The conference agreement follows the Senate amendment with a technical amendment.

Effective Date.—Apply as though included in DEFRA as originally enacted.

27. New Jersey Demonstration Project Relating to Training of AFDC Recipients as Home Health Aides (Sction 9525)

Present law

The "Omnibus Reconciliation Act of 1980" authorized the Secretary to enter into agreements for the purpose of conducting demonstration projects to train formally AFDC recipients as homemaker-home health aides. The bill authorized 90 percent Federal matching for the reasonable costs of conducting the projects. The projects were limited to a maximum of 4 years plus an additional period of up to 6 months for planning and development and a similar period for final evaluation and reporting. Several States, including New Jersey, conducted such demonstration projects.

House bill

No provision.

Senate amendment

Extends for one additional year, at 50 percent Federal matching, the demonstration project in the State of New Jersey.

Conference agreement

The conference agreement follows the Senate amendment.

Effective Date.—Enactment.

28. Correction plans for Intermediate Care Facilities for the Mentally Retarded (ICFs/MR) (Section 9516)

Present law

Section 1910(c) of the Social Security Act authorizes the Secretary to conduct validation, or "look behind," surveys to determine the validity of Medicaid certification actions taken by the designated State survey agency. Where the Secretary finds that a facility substantially fails to meet the requirements of participation in the Medicaid program, he/she is empowered to cancel the facility's provider agreement.

House bill

No provision.

Senate amendment

Provides that if the Secretary finds that an intermediate care facility for the mentally retarded (ICF/MR) has substantial deficiencies which do not pose an immediate threat to the health and safety of residents, the State may elect to submit a written correction plan. The plan must provide for (1) a timetable for completion of necessary steps to correct staffing deficiencies within 6 months, and a timetable for rectifying all physical plant deficiencies within 6 months, or (2) a timetable for permanently reducing the number of certified beds, within a maximum of 36 months, in order to permit any noncomplying buildings (or distinct parts thereof) to be vacated and any staffing deficiencies to be corrected.

If the Secretary finds at the conclusion of an initial 6-month period, or any subsequent 6-month period, that a State has substantially failed to meet its obligations established under a plan of correction, the Secretary may (1) terminate the facility's provider agreement, or (2) disallow (in the case of a planned reduction in a facility's population) an amount of Federal financial participation equal to 5 percent of allowable Medicaid cost for all eligible facility residents for each month the State fails to meet its interim goals.

Conference agreement

Under the conference agreement, if the Secretary finds that an ICF/MR has substantial deficiencies which do not pose an immediate threat to the health and safety of residents, the State has two options. It may either (1) implement a plan of correction, approved by the Secretary, to remedy any staffing and/or physical plant deficiencies within 6 months, or, (2) implement a plan, approved by the Secretary, to permanently reduce, within a maximum of 36 months, the number of certified beds in the noncomplying facility (or distinct parts thereof). If a State which has elected option (1) fails to make the necessary corrections within the 6-month period, the Secretary may terminate the provider agreement, as under current law. The conferees expect that prompt action will be taken to terminate the facility's provider agreement in such circumstances. If a State which has elected option (2) substantially fails to meets its interim reduction goals during any given 6-month period, the Secretary must either terminate the facility's provider agreement or disallow, for each month the State remains out of compliance, 5 percent of the Federal matching payments the State would otherwise receive for the cost of care of all residents in the facility.

The Secretary's authority to approve reduction plans under this section is effective only with the promulgation of final regulations implementing this provision. The Secretary is directed to publish, in the Federal Register, a notice of proposed rulemaking implementing this provision within 60 days of enactment. The notice must allow a 30-day comment period. The Secretary's authority to approve permanent reduction plans extends for 3 years from the effective date of the final regulations. States could continue implementation of permanent reduction plans approved during this 3-year period beyond the expiration date of the Secretary's authority to approve such plans, provided of course that the State continued to comply with the terms and conditions of plans as approved. The Secretary's responsibility to monitor and enforce compliance by the States with the terms of the approved plans does not lapse with the expiration of his authority to approve new plan applications.

No later than 6 months before the expiration of the Secretary's approval authority, the Secretary is directed to report to the Congress on the implementation and results of this section. The conferees expect that the Secretary will provide the Congress with information on the impact of both the correction plans and the reduction plans on the quality of life and the availability of active treatment for the Medicaid-eligible individuals who remain in the facilities in question and for those who are placed in community settings. The conferees also expect that the Secretary's report will detail the involvement of resident's families in the process of developing the correction or reduction plans and in the placement of affected patients.

During each of the 3 years that the Secretary's authority to approve reduction plans is in effect, the Secretary may approve, on a first come, first served basis, 15 plans that meet the requirements of this section. Thereafter, the Secretary may approve reduction plans that otherwise comply with this section only if the State can demonstrate, to the satisfaction of the Secretary, that the State would have to spend at least $2,000,000 in State or local funds in order to remedy the substantial physical plant deficiencies found by the Secretary. There is no limit on the number of otherwise qualified plans that the Secretary may approve where the State meets the $2,000,000 compliance cost threshhold.

When the Secretary finds that an ICF/MR has substantial deficiencies, the State has the same period allowed under current law within which to submit a written plan of correction with the Secretary. If the State chooses to submit a written plan to permanently reduce the number of certified beds, it has the same period allowed under current law plus 35 days to accommodate the public hearing requirement described below. The Secretary must allow not less than 30 day after the submission of a proposed reduction plan by the State before approving or disapproving the proposal. During this period, interested residents, family, staff, and members of the public may comment directly to the Secretary on the State's proposal. The conferees expect that the Secretary will give careful consideration to these comments in connection with his decision.

The conference agreement imposes a number of requirements on States that elect to implement reduction plans rather than correct the deficiences cited at the facility in question. The general purpose of these requirements is to assure that any such plan is well conceived; that it has had the benefit of resident, family, staff, and public input; and that the quality of life for both the residents remaining in the facility and those receiving community placements is adequately protected. While the conferees wish to allow the States some flexibility in the allocation of capital and staff resources between institutional and community settings, the conferees intend that fiscal concerns not compromise the accessibility or quality of services to Medicaid-eligible clients. Above all, it is the primary intention of the conferees that the Secretary, in administering this provision, take extreme care that reduction plans approved under this section do not lead to the "dumping" of affected residents into substandard settings.

As a condition of approval of a reduction plan, a State must provide for a hearing to be held at the affected facility at least 35 days prior to submission of the reduction plan, with reasonable notice to the staff and residents, the residents' families, and the general public. The purpose of this hearing is to facilitate discussion of a State's proposed plan by those most directly affected.

As a condition of approval, a State must also demonstrate to the Secretary that it has successfully provided home and community services similar to the services proposed to be provided under the reduction plan for similar Medicaid-eligible individuals. The purpose of this provision is to assure that the State, from direct experience, developed the technical and administrative capacity to implement a reduction plan without harming the affected residents. The conferees expect that, at a minimum, the Secretary will review carefully the experience of the mentally retarded and developmentally disabled under the State's relevant home and community-based services waivers, if any.

In addition, any reduction plan must meet the following requirements. First, the plan must identify the number of existing facility residents that are to be provided home or community services, must describe their individual services needs, and must specify the timetable for providing such services, in 6-month intervals, within the 3-year period.

A reduction plan must describe the methods to be used (1) to select such residents for home and community services and (2) to develop the alternative home and community services to meet their needs effectively. The conferees intend that, in selecting the residents and meeting their service need, the States will use an interdisciplinary team process that provides an opportunity for participation by the resident's family.

A reduction plan must describe the necessary safeguards that will be applied to protect the health and welfare of the residents of the facility who are to be placed in community settings. These safeguards must include, at a minimum, participation by residents and family members and providers. In addition, the State must assure that community residences in which affected residents are placed meet all applicable State licensure requirements and all applicable State and Federal certification requirements. The conferees are particularly concerned that any community settings to which Medicaid-eligible residents are transferred comply fully with Federal certification requirements. The purpose of a reduction plan is to move Medicaid-eligible residents out of deficient facilities into complying settings.

A reduction plan must provide that residents of the affected facility who are eligible for Medicaid while in the facility shall, at their (or their legal guardian's) option, be placed in another setting, or another part of the affected facility, that is in full compliance with Federal Medicaid requirements and therefore allows them to retain their Medicaid eligibility. It is the firm intent of the conferees that a reduction plan not impair the Medicaid eligibility of an affected resident without their consent. It the resident would have remained eligible for Medicaid had the State opted to eliminate the deficiencies in the affected facility, then the State may not, at any time, involuntarily place the resident in a setting where he or she loses the entitlement to Medicaid. The resident may elect to be placed in a setting where he or she does not retain entitlement to Medicaid. Of course, if the resident, or the resident's guardian, voluntarily chooses to move to a setting—for example, back home with his or her family—that causes the resident's countable income or resources to exceed the State's eligibilty standards, then the resident's Medicaid eligibility would be subject to termination under the same terms and procedures as applicable to all Medicaid beneficiaries.

A reduction plan must specify the actions that will be taken to protect the health and safety of the residents who remain in the affected facility while the reduction plan is in effect. The conferees wish to avoid a situation in which a State, rather than correct the deficiencies in a facility within 6 months, attempts to use the reduction plan option to delay making needed improvements for an additional 3 years. The reduction plan is intended as an alternative compliance mechanism, not a tool for avoiding compliance. The conferees expect that, before approving any reduction plan, the Secretary will satisfy himself that the health and safety of the residents remaining in the facility will be assured during the entire phase-out period.

In this connection, a reduction plan must also provide that the ratio of qualified staff to residents at the affected facility (or part thereof) will be the higher of (1) the ratio which the Secretary determines is necessary in order to assure the health and safety of the remaining residents, or (2) the ratio which was in effect at the time that the Secretary made the finding of substantial deficiencies. A State may use temporary staff to satisfy these staffing ratio requirements, but only if the staff are qualified for the patient treatment responsibilities that they are assigned.

Finally, a reduction plan must provide for the protection of the interests of employees affected by the reduction plan, including (1) arrangements to preserve employee rights and benefits; (2) training and retraining of such employees where necessary; (3) redeployment of such employees to community settings under the reduction plan; and (4) making maximum efforts to guarantee the employment of such employees. This requirement is not to be construed to guarantee the employment of any employee.

Substantial failure to meet any of these reduction plan requirements subjects the State to one of two sanctions: termination of the facility provider agreement, or disallowance of Federal Medicaid matching payments equal to 5 percent of the cost of care for all eligible individuals in the facility for each month of noncompliance. The Secretary has discretion as to which sanction to apply, but must apply one or the other. The conferees expect that the Secretary will vigorously enforce these requirements for the protection of the resident population affected by a reduction plan.

Effective Date.—Enactment.

29. Annual Calculation of Federal Percentage (Section 9428)

Present law

Between October 1 and November 30 of each even-numbered year the Secretary of HHB is required to promulgate the Federal percentage that will be in effect for 2-year period beginning the following October. The Federal percentage is used to determine the Medicaid matching rate. Each State's AFDC program may use the Medicaid rate or a separate rate derived from the Federal percentage. The percentages are based on the average per capita income of each State and the United States for the three most recent calendar years for which satisfactory data are available from the Department of Commerce. The Federal percentage for the fiscal years 1986-1987 is based on State and national per capita income for calendar years 1981-1983.

House bill

No provision.

Senate amendment

Provides for annual, rather than biennial, calculation of the Federal percentage.

Conference agreement

The conference agreement follows the Senate amendment with a modification moving the effective date forward to fiscal year 1987. The conferees recognize that this modification will cause several States to receive substantially less in Federal Medicaid and AFDC matching payments than they otherwise would have received under current law for fiscal year 1987 only. However, the conferees expect that, over the long run, the greater sensitivity to State economic conditions will benefit all States. A "hold harmless" provision was considered by the conferees, but its estimated cost of $155 million precluded its adoption. The conferees agree that the committees of jurisdiction will explore ways to relieve the hardship that may be suffered by the States that will receive substantially less in matching payments as a result of this provision.

30. Medicaid for Children Whose Adoption is Federally Aided (Section 9429)

Present law

The law extends Medicaid coverage to AFDC- or SSI-eligible children with special needs for whom Title IV-E adoption assistance payments are made. The State which entered into the adoption assistance agreement is responsible for providing Medicaid coverage to the child, even if the child and adoptive parents live in a different State. Similarly, children in foster care for which Federal funding is provided under Title IV-E are eligible for Medicaid coverage. The Medicaid coverage is provided by the State responsible for the foster care placement.

House bill

Specifies that, for purposes of Medicaid eligibility determinations, children receiving adoption assistance or foster care payments under Title IV-E of the Social Security Act are considered to be residents of the State in which they are placed even if this is not the State making the IV-E payment.

Senate amendment

In the case of children receiving adoption assistance, makes the State of the child's residence responsible for providing Medicaid coverage, even if the adoption assistance agreement was entered into with a different State.

Conference agreement

The conference agreement follows both the House bill and the Senate amendment. The conference agreement also clarifies that children with special medical rehabilitative needs who are receiving Medicaid and who are adopted by parents under a publicly-funded adoption program (other than a program funded under Title IV-E of the Social Security Act) are eligible for Medicaid regardless of the income and resource levels of the adoptive parents. States could, at their option, extend Medicaid coverage to such children if (1) an adoption assistance agreement (other than one under Title IV-E) is in effect; (2) the child was eligible for Medicaid under the State's plan before the adoption assistance agreement was entered into; and (3) the responsible State agency has determined that, because of the child's special needs for medical or rehabilitative care, the child would be difficult to place with adoptive parents without Medicaid coverage.

With the respect to the second requirement, the States may use either Title IV-A methodologies and standards, or Title IV-E methodologies and standards, in determining Medicaid eligibility for this population.

With respect to the third requirement, the conferees note that it is not necessary that the State Medicaid plan cover all of the services necessary to treat the child's special medical needs; the issue is simply whether, absent Medicaid coverage, the child would be difficult to place.

Effective Date.—The provision concerning residency is effective beginning with medical assistance furnished on or after the first calendar quarter that begins more than 90 days after the date of enactment. The provision relating to coverage of children with special needs who receive State adoption assistance applies to adoption assistance agreements entered into before, on, or after enactment.

31. Elimination of 2-Year Limit for Obligation of Funds Under Maternal and Child Health Block Grants.

Present law

Under the Maternal and Child Health (MCH) Services Block Grant, States must olbigate a fiscal year's allotment prior to the close of the following fiscal year.

House bill

No provision.

Senate amendment

Would repeal the requirement that States obligate their MCH allotments within a 2-year time frame.

Conference agreement

The conference agreement does not include the Senate provision.

32. Children With Special Health Care Needs (Section 9527)

Present law

The Maternal and Child Health Services Block Grant provides funds to States to deliver services and care for children who are crippled or who are suffering from conditions leading to crippling.

House bill

No provision.

Senate amendment

Would change the term "crippled children" to "children with special health care needs" wherever the term "crippled children" appears in Title V, the Maternal and Child Health Services Block Grant.

Conference agreement

The conference agreement follows the Senate amendment. The conferees have agreed to strike the words "crippled children" and "crippled children's services" from Title V of the Social Security Act and to substitute in their place "children with special health care needs" and "services for children with special health care needs." In so doing, the conferees have simply made technical changes in the statutory language which more appropriately describe the populations to be served under the Title V program. No substantive changes in the program are intended.

Effective Date.—Enactment.

TITLE IX

SUBTITLE C—TASK FORCE ON LONG TERM CARE HEALTH POLICIES (SECTION 9601)

Present law

No comparable provision.

House bill

The House bill requires the Secretary of the Department of Health and Human Services to establish, in consultation with the National Association of Insurance Commissioners, an 18-member Task Force on Long Term Health Care Policies. It further requires that the Task Force develop guidelines for long term health care policies. Within eighteen months after its establishment, the Task Force is to report to the Secretary and to the Congress on both the guidelines it has developed and on recommendations for any additional activities it finds appropriate. The report is to be distributed to the States through a cooperative effort between the Secretary and the National Association of Insurance Commissioners. The Secretary is required to report annually to the Congress on various activities related to the guidelines.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill with an amendment making changes in the statutory language, terminating the Task Force upon completion of its report, limiting the number of secretarial reports to two and clarifying that the recommendations do not preempt State law.

The conference agreement replaces "guidelines" with "recommendations" in each instance where it appears. In making this change, the Conferees wish to emphasize their intent that these recommendations be used only at the option of each State. Under the conference agreement, States are not required to consider, refer to, or otherwise use the recommendations of the Task Force if they do not think it appropriate to do so.

The Conferees intend the Task Force to complete its report 18 months after enactment of this legislation and to be discharged within 90 days of completion of the report. The Conferees also intend that the Department distribute the recommendations to the States in cooperation with the National Association of State Insurance Commissioners. Adoption of the recommendations is entirely voluntary.

In order to assess the usefulness of the work of the Task Force and the actions taken by the States in response to the Task Force recommendations, the conference agreement requires the Secretary of the Department of Health and Human Services to provide two reports to both the House Committee on Energy and Commerce and the Senate Committee on Labor and Human Resources on State efforts in utilizing the recommendations. The first report is due 18 months after the Task Force completes its work and the second report 18 months thereafter. The conference agreement limits the number of secretarial reports to two instead of the annual reporting required in the House bill.

Effective Date.—The Task Force is to be established not later than 60 days after enactment of this legislation.

TITLE X.—CONTINUED HEALTH COVERAGE

a. Employers required to provide continuation coverage; sanction for noncompliance

Present law

There is no requirement in the Internal Revenue Code or other Federal law that an employer-provided group health plan must include continuation or conversion options in order for favorable tax rules to apply or in order to comply with other statutory requirements.

House bill

H.R. 3128

Covered Employers

The bill amends the Internal Revenue Code to require that an employer-provided group health plan must provide continuation coverage for qualified beneficiaries. Although the bill includes no explicit exclusions for churches, or tax-exempt or governmental employers, the applicable sanction—denial of the employer's tax deduction—has no impact on such employers.

H.R. 3500

This bill amends the Employee Retirement Income Security Act (ERISA), rather than the Internal Revenue Code, to cover all employee welfare benefit plans. Although the bill includes no explicit exclusions for churches or governmental employers, its amendment of ERISA effectively excludes churches (but not other tax-exempt entities), as well as Federal, State and local governments.

Sanction for Noncompliance

If any group health plan maintained by an employer fails to provide continuation coverage, H.R. 3128 denies a tax deduction for employer contributions to any health plan; and H.R. 3500 permits employees, beneficiaries and the Secretary of Labor to sue the employer to enforce compliance. In addition, an employer may be liable under ERISA for certain monetary penalties.

Senate amendment

Covered Employers

Title VII of the Senate amendment generally follows H.R. 3128 by amending the Internal Revenue Code although it does include tax-exempt employers because of the additional sanction imposed on highly compensated employees. However, this provision of the Senate amendment provides explicit exclusions for churches, Federal, State and local governments and small employers. For this purpose, a small employer is defined as an employer that normally employs 25 or fewer employees.

Title IX of the Senate amendment amends the Public Health Services Act to require that each employer subject to the Fair Labor Standards Act must provide continuation coverage. This title provides explicit exclusions generally following Title VII of the Senate amendment. Despite the exclusion, no State or political subdivision with more than 25 employees could receive Federal funds under certain public health service programs unless plans maintained by such entities provide continuation coverage.

Sanction for Noncompliance

In addition to following H.R. 3128, Title VII of the Senate amendment denies an income exclusion to any highly compensated employee. An employee is considered highly compensated if the employee is one of the 5 highest paid officers, a 10-percent shareholder, or among the highest paid 25 percent of all employees.

Title IX generally permits suits for injunctive relief and imposes civil penalties on employers who fail to provide continuation coverage.

Conference agreement

Covered Employers

The conference agreement generally follows the House bill and the Senate amendment, by amending ERISA, the Code, and the Public Health Service Act. Under the agreement, the changes to the Code and ERISA do not apply to churches, Federal, State and local governments, and small employers. Small employers are defined as those with fewer than 20 employees. In addition, the amendments to the Public Health Service Act apply only with respect to State and local governments (other than those with fewer than 20 employees.)

To avoid the issuance of duplicate and perhaps inconsistent regulations, the conferees authorized the Secretary of Labor to promulgate regulations implementing the disclosure and reporting requirements, and the Secretary of Treasury to issue regulations defining required coverage, deductions, and income inclusions. The Secretary of Health and Human Services is to issue regulations regarding the requirement that State and local governments provide continuation coverage for qualified beneficiaries. The conferees intend that any regulations issued by the Secretary of Health and Human Services will conform (in terms of actual requirements) with those regulations issued by the Secretary of Treasury and Labor. Under the agreement, enforcement of the requirements imposed through the Public Health Service Act will be through suits for equitable relief filed by qualified beneficiaries. Of course, as under present law, all affected agencies will have the opportunity to comment before regulations are issued.

Sanctions for Noncompliance

Any regulations issued pursuant to these changes are to be effective after the date of issuance. However, pending the promulgation of regulations, employers are required to operate in good faith compliance with a reasonable interpretation of these substantive rules, notice requirements, etc.

The conference agreement generally follows H.R. 3500 and the Senate amendment except that the only sanction imposed on covered State and local governments under the Public Health Service Act are suits for equitable relief.

b. Required coverage

Present law

Otherwise deductible expenses paid or incurred by an employer for a group health plan are disallowed if the plan differentiates in benefits between individuals having end stage renal (kidney) disease and other individuals (Code sec. 162(i)).

House bill

Qualified beneficiaries

Both H.R. 3128 and H.R. 3500 provide that qualified beneficiaries include widows, divorced spouses and persons whose spouse becomes eligible for Medicare, as well as dependent childern of such beneficiaries.

Type of benefit coverage

House bill

Both H.R. 3128 and H.R. 3500 require that the continuation coverage for which a qualified beneficiary must be offered an election is coverage identical to the coverage provided under the plan to similarly situated beneficiaries.

Period of coverage

Both H.R. 3128 and H.R. 3500 require that continuation coverage be provided for 5 years. However, no coverage need be provided after the qualified beneficiary becomes eligible for coverage under another plan as a result of reemployment or remarriage.

Cost of coverage

Both H.R. 3128 and H.R. 3500 provide that some or all of the cost of continuation coverage could be charged to the qualified beneficiary, whether or not the employer otherwise subsidizes some or all of the premiums for covered employees. However, in no event may the cost charged to the qualified beneficiary exceed the total applicable premium. The applicable premium is defined as the cost to the plan for the period of coverage for a similarly situated beneficiary with respect to whom a qualifying event has not occurred (without regard to whether such cost is paid by the employer or employee).

Senate amendment

Qualified beneficiaries

In addition to those classes of qualified beneficiaries described in the House bill, Title VII of the Senate amendment provides that (1) employees are qualified beneficiaries upon termination of employment (voluntary and involuntary) and (2) dependent children are also separately considered to be qualified beneficiaries when they cease to be covered as dependents under the plan.

Title IX of the Senate amendment further expands the classes of qualified beneficiaries listed to include employees whose hours are reduced, resulting in a loss of coverage. It provides that no coverage is required for employees who are terminated for cause.

Title VII of the Senate amendment requires that the continuation coverage for which a qualified beneficiary must be offered an election is coverage identical to the coverage provided immediately before the qualifying event. In addition, if the plan otherwise permits employees and beneficiaries to modify coverage, the qualified beneficiary must be entitled to modify coverage at the same time and in the same manner as other similarly situated beneficiaries.

Title IX of the Senate amendment follows the House bill.

Duration of coverage

Title VII of the Senate amendment provides that continuation coverage must be provided for 18 months.

Title IX of the Senate amendment provides that continuation coverage must be provided for 3 years (18 months with respect to terminated employees and reduced hour workers), and provides cutoff dates similar to those in the House bill.

Cost of coverage

Although Title IX of the Senate amendment follows the House bill, Title VII provides that the cost must not exceed 102 percent of the applicable premium and provides specific rules for calculating the "cost" of the applicable premium in self-insured plans.

Conference agreement

Qualified Beneficiaries

The conference agreement generally follows the House bill and the Senate amendment except that no continuation coverage is required for terminated employees if the termination occurs by reason of the employee's gross misconduct.

Type of benefit coverage

The conference agreement generally follows the House bill with a modification so that the type of benefit coverage is identical, as of the time the coverage is being provided, to the coverage provided under the plan to similarly situated beneficiaries under the plan with regard to whom a qualifying event has not occurred.

Duration of Coverage

The conference agreement generally follows Title IX of the Senate amendment, requiring that continuation coverage provided to widows, divorced spouses, spouses of Medicare-eligible employees, and dependent children who become ineligible for coverage under the plan be provided for 3 years, while coverage for terminated employees and employees with reduced hours must be provided for 18 months. The agreement provides that the coverage period begins with the date of the qualifying event. As under the House bill and Title IX of the Senate amendment, no coverage need be provided after (1) failure to make timely payment under the plan, (2) the qualified beneficiary is covered under another group health plan as a result of employment, reemployment, or remarriage, and (3) the qualified beneficiary becomes entitled to Medicare benefits. In addition, as under the House bill and Title VII of the Senate amendment, no coverage need be provided after the employer ceases to maintain any group health plan.

Cost of Coverage

The conference agreement generally follows Title VII of the Senate amendment. For a self-insured plan, the conferees agreed that the "applicable" premium for any year generally is equal to a reasonable estimate of the cost of providing coverage for such period for a similarly situated beneficiary. The cost is to be determined on an actuarial basis and takes into account such factors as the Secretary may prescribe in regulations. Alternatively, unless there has been a significant change affecting a self-insured plan (e.g., a modification of covered benefits, a significant change in the number or composition of the covered workforce, etc.), the employer may elect to use as the applicable premium, the cost for a similarly situated beneficiary for the preceding year, adjusted to reflect cost-of-living increases as measured by the GNP deflator.

In general, similarly situated individuals are those individuals defined by the plan (consistent with Treasury regulations) to be similarly situated and with respect to which no qualifying event has occurred. The Secretary of the Treasury is to define similarly situated individuals by taking into account the plan under which the coverage is provided (e.g., high or low option), the type of coverage (single or family coverage) and, if appropriate, regional differences in health costs. The conferees do not intend that similarly situated mean medically identical (for example, all employees with heart problems); nor do the conferees intend that plans can define similarly situated beneficiaries by reference to classifications that are in violation of Title VII of the Equal Pay Act.

In addition, the conferees intend that Treasury regulations defining a plan should preclude an employer from grouping employees to inappropriately increase the cost of continuation coverage for qualified beneficiaries who are rank-and-file employees (or their beneficiaries).

c. Notice requirements; election period

Present law

No provision.

House bill

Both H.R. 3128 and H.R. 3500 require that notice of the option to continue health coverage be provided in the summary plan description. In addition, the bills require that notice of a qualifying event be given to the plan administrator (1) by the employer, in the event of the employee's death; (2) by the employee, in the event that the employee is divorced, separated, or becomes eligible for Medicare.

Under both bills, the period during which a qualified beneficiary may elect continuation coverage does not expire before 60 days after the later of (1) the termination date of coverage, or (2) the date the beneficiaries receive notice of the right to elect.

Senate amendment

Title VII of the Senate amendment provides that the Secretary of the Treasury is to prescribe notice requirements pursuant to regulations and establishes a 60-day notice period commencing with the qualifying event.

Title IX

Title IX of the Senate amendment provides that the Secretary of Health and Human Services is to prescribe notice requirements pursuant to regulations. Such regulations are to prescribe notice consistent with that required by the House bill.

Conference agreement

The conference agreement generally follows the House bill. Thus, notice of the option to continue health coverage must be provided in the summary plan description. In addition, in the event of an employee's death, separation from service, or Medicare eligibility, the employer is required to notify the plan administrator within 30 days of the qualifying event who will in turn notify the qualified beneficiary within 14 days.

In the event of other qualifying events (e.g., divorce, legal separation, or the child's becoming ineligible) the employee or qualified beneficiary affected by that event is required to notify the plan administrator. Unless the qualified beneficiary is the party providing notice, the plan administrator is in turn required to notify the qualified beneficiary. The election period begins not later than the later of (1) the date on which coverage terminates, or (2) the date on which the qualified beneficiary receives notice of the right to elect continuation coverage. Any election by a qualified beneficiary is considered an election by other qualified beneficiaries who would otherwise lose coverage by reason of the same qualifying event.

The conferees intend that the Secretary of Labor will issue regulations defining what notice will be adequate for this provision. The conferees intend that notice by mail to the qualified beneficiary's last known address is to be adequate; however, mere posting is not to be adequate. In addition, in applying these requirements to multiemployer plans, the conferees intend that the Secretary of Labor should take into account the special problems faced by those plans.

d. Conversion option

Present law

No provision.

House bill

Both H.R. 3128 and H.R. 3500 require that a conversion option be offered to qualified beneficiaries if under the plan the conversion option is otherwise available.

Senate amendment

Although Title IX of the Senate amendment follows the House bill, Title VII does not require that a conversion option be offered.

Conference agreement

The conference agreement generally follows the House bill and Title IX of the Senate amendment. Under the agreement, a qualified beneficiary must be offered a conversion option from any plan (including a self-insured plan) only if such an option is otherwise available under the plan to other participants.

Effective Date.—These provisions are effective for plan years beginning after June 30, 1986. In the case of a group health plan maintained pursuant to one or more collective bargaining agreements, the bill does not apply to plan years beginning before the later of (1) the date the last of the collective bargaining agreements terminate, or (2) January 1, 1987.

TITLE XI. PENSION BENEFIT GUARANTY CORPORATION PROVISION[1]

1. Insurance Premiums

Present law

A private defined benefit pension plan must generally pay to the Pension Benefit Guaranty Corporation ("PBGC") an annual per participant premium of $2.60. The Employee Retirement Income Security Act of 1974 (ERISA) permits the PBGC to provide for a risk-related premium (within limits).

House bill—H.R. 3128

The premium is increased to $8.00 for plan years beginning after December 31, 1985, and before January 1, 1989. For plan years beginning after December 31, 1988, the premium level returns to $2.60. The bill also provides for a study by the Treasury Department with respect to risk-related premiums.

House bill—H.R. 3500

The premium is increased to $8.50 for all plan years beginning after December 31, 1985.

Senate amendment—Title VII

The premium is increased to $8.10 for all plan years beginning after December 31, 1985. The bill also provides for a study by the Department of Labor (DOL) with respect to risk-related premiums.

Senate amendment—Title IX

No provision.

Conference agreement

The conference agreement follows H.R. 3500 except that the conferees agreed generally to require the PBGC to study the premium structure (including the feasibility of a risk-related premium) and make recommendations for change, if necessary. An advisory group appointed by the Chairman of the House Committees on Education and Labor and Ways and Means and the Senate Committees on Labor and Human Resources and Finance is required to analyze and critique the study. The study is to be filed with the Congress no later than one year from the date of enactment and the advisory group's report is due no later than six months after the PBGC submits its report to the Advisory Council.

2. Single Employer Pension Plan Amendment Act

a. Clarification of authority to freeze plans

Present law

Under present law, a plan may be amended to freeze future benefit accruals and to freeze other factors used to calculate benefits, such as compensation taken into account. In the absence of a contractual obligation, an employer is not required to provide participants with advance notice of a freeze.

House bill—H.R. 3128

No provision.

House bill—H.R. 3500

Under the bill, an amendment freezing accruals is not effective unless, subsequent to the adoption of the amendment and at least 60 days prior to the effective date of the amendment, the plan administrator gives written notice to each affected party. The term "affected party" is defined under the bill as each participant in the plan, each beneficiary of a deceased participant, each beneficiary who is an alternate payee under a qualified domestic relations order, and each employee organization representing participants in the plan and the PBGC.

Senate amendment—Title VII

No provision.

Senate amendment—Title IX

Although the bill contains no specific provisions covering plan freezes, the proposed first stage of plan termination covers similar situations (see Voluntary plan terminations—Senate amendment).

Conference agreement

The conference agreement provides that an amendment to reduce significantly future benefit accruals under a plan is not effective unless, subsequent to the adoption of the amendment and at least 15 days prior to the effective date of the amendment, the plan administrator gives written notice of the reduction to each participant in the plan, each beneficiary under the plan who is a beneficiary of a deceased participant, each beneficiary who is an alternate payee under a qualified domestic relations order, and each employee organization representing participants in the plan. This notice does not apply to any amendment (or portion thereof) to retroactively reduce plan benefits (Sec. 412(c)(8) of the Code and Section 302(c)(8) of ERISA).

The conference agreement does not affect the requirements for qualification of a plan under the Code. For example, the agreement does not change the requirement of minimum benefit accruals under a frozen top-heavy plan.

b. Voluntary plan terminations

Present law

Restrictions on plan termination.—Under present law, an employer's continued maintenance of a defined benefit pension plan is not required by statute. Thus, subject to contractual obligations, the employer generally may terminate a plan at any time upon satisfaction of the procedureal requirements described below.

Employer liability under a terminated plan.—If a single-employer defined benefit pension plan is terminated with assets sufficient to pay benefits at the level guaranteed by the PBGC (described below), the employer has no further liability to the PBGC.

If a single-employer defined benefit pension plan is terminated with insufficient assets to pay benefits at the level guaranteed by the PBGC, then the employer is liable to the PBGC for the insufficiency. However, the employer's liability is limited to 30 percent of the employer's net worth (determined as of the date of termination). The 30-percent limit applies whether or not the employer remains in business after the plan is terminated. All trades or businesses under common control are treated as a single employer.

In computing the extent to which assets are insufficient to pay guaranteed benefits, the value of any accumulated funding deficiency or outstanding waived liability under the minimum funding standard of the plan

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[1] Note: H.R. 3500 as passed by the House was added as an amendment to H.R. 3128 as amended by the Senate. The PBGC provisions of both H.R. 3128 and H.R. 3500 as passed by the House are mentioned separately to indicate the legislative background of the separate House bill provisions.

(discounted for likelihood of payment) is treated as a receivable of the plan and, thus, as a plan asset. An employer's liability for amounts due to the plan under the minimum funding standards of ERISA is not limited to 30 percent of net worth.

The full amount of the employer's liability to the PBGC is generally due and payable as of the date of plan termination. However, the PBGC, in its discretion, may grant deferred payment terms for employer liability.

PBGC guaranteed benefits.—Subject to limits, the PBGC guarantees basic benefits under a plan. Basic benefits consist of nonforfeitable retirement benefits other than those benefits that become nonforfeitable solely on account of the termination of the plan. Guaranteed benefits are limited to basic benefits of $750 per month adjusted for inflation since 1974 ($1,687.50 for 1985).

Guarantees do not apply with respect to benefits in effect for fewer than 60 months at the time of plan termination unless the PBGC finds substantial evidence that the plan was terminated for a reasonable business purpose and not for the purpose of securing increased guaranteed benefits for participants. In cases in which they apply, guarantees are phased in at the rate of $20 per month or 20 percent per year (whichever is greater) for (1) basic benefits that have been in effect for less than 60 months at the time the plan terminates, or (2) any increase in the amount of basic benefits under a plan resulting from a plan amendment within 60 months before the date of plan termination.

Notice of termination.—Under present law, an employer must file a Notice of Intent to Terminate (NOIT) a plan with the PBGC not less than 10 days prior to the proposed date of termination. Participants and beneficiaries must be notified of the termination no later than the date that the NOIT is filed with the PBGC.

Distribution.—Under present law, at least 30 days prior to the proposed date of distribution, the plan administrator must submit projected asset and liability data demonstrating that the plan holds sufficient assets to pay guaranteed benefits as of the proposed date of distribution. Under certain circumstances, the plan administrator also has the option of establishing the plan's sufficiency by certification of an enrolled actuary.

Within 90 days after the proposed termination date, the PBGC is to notify the plan administrator as to whether plan assets are sufficient to satisfy plan obligations. This period may be extended by mutual agreement of the plan administrator and the PBGC. The plan administrator may distribute plan assets 30 days after the notice of sufficiency is issued. If the PBGC fails to issue a notice of sufficiency during the 90-day statutory period and the parties fail to agree to extend the 90-day period, the employer may distribute plan assets upon the expiration of the 90-day period.

Post-distribution audit.—Within 60 days of the date of distribution, the plan administrator must certify to the PBGC that plan assets have been allocated and distributed in accordance with the requirements of ERISA. The PBGC may, in its discretion, conduct a post-distribution audit of a terminated plan.

House bill—H.R. 3128

Restrictions on plan termination.—No provision.

Employer liability upon plan termination.—Unless the employer terminating a plan goes out of business, the employer is liable to the PBGC for (1) the full amount of any funding deficiency, plus (2) the full amount of any unfunded guaranteed benefits (determined by treating any funding deficiency as an available plan asset of the terminated plan). A funding deficiency consists of any accumulated funding deficiency and the outstanding balance of any waived funding deficiency. If an employer goes out of business, its liability for the unfunded guaranteed benefits described in (2) is limited to 30 percent of the Employer's net worth.

The bill also provides that the liability of an employer to the PBGC upon plan termination is the joint and several liability of all members of the controlled group of the employer. "Controlled group" is defined as all persons who are treated as a single employer under subsections (b), (c), (m) or (o) of section 414 of the Internal Revenue Code ("Code").

The bill generally provides that the full amount of the liability to the PBGC is normally due and payable as of the date of plan termination, unless the employer elects a deferred payment schedule. An employer may pay its liability to the PBGC (1) in a lump sum payment, (2) over a period of five years, or (3) over a period of 15 years. If the employer elects deferred payments over a 5- or 15-year period, liability payments include interest. Security is required if the 15-year schedule is elected and can be required if the 5-year schedule is elected. In addition, as under present law, the employer and the PBGC may agree to a special schedule of payments. The schedule may, for example, reflect the ability of the employer to pay the liability, as well as the hazards of litigation.

Procedural requirements.—No provision.

House bill—HR. 3500

Restrictions on plan termination.—Under the bill, an employer may only terminate a single-employer defined benefit pension plan under which benefits are guaranteed by the PBGC in a "standard termination" or in a "distress termination." A standard termination is permitted only if the plan holds assets sufficient to pay all benefit entitlements.

Under the bill, "benefit entitlements" include all guaranteed benefits and all benefits that would be guaranteed but for the insurance limits on the amount or value of the benefit, or the length of time that the benefit has been in effect. In addition, benefit entitlements include certain additional benefits for which a participant has satisfied all conditions of entitlement prior to termination, irrespective of whether those benefits are guaranteed. These additional benefits are (1) early retirement supplements or subsidies, (2) plant closing benefits, and (3) death benefits. The general definition of benefit entitlements excludes those benefits that have become nonforfeitable solely by virtue of the plan's termination.

A plan with assets insufficient to provide benefit entitlements may be terminated in a "distress termination" only if the PBGC determines that (1) funding waivers have been granted with respect to the terminating plan for three of the five plan years preceding the termination date, and such a waiver has been granted to each other single employer plan maintained by each contributing sponsor (as that term is defined in the bill) of the terminating plan and each substantial member (as defined in the bill) of each contributing sponsor's controlled group in any one of the three plan years preceding the termination date; (2) a petition has been filed in bankruptcy or state insolvency proceedings seeking liquidation of each contribution sponsor of the plan and each substantial member of their controlled groups, and has not been dismissed or converted to a petition for reorganization; (3) unless a distress termination occurs, each contributing sponsor of the plan and each substantial member of each contributing sponor's controlled group will be unable to pay its debts when due and will be unable to continue in business; or (4) as a result of the decline in the number of employees covered as participants under all of the plans maintained by the contributing sponsors of the terminating plan an members of each contributing sponsor's controlled group, the costs of providing pension coverage have become unreasonably burdensome. The bill contains an objective test of "burdensomeness" relating to plan costs, payroll costs, and gross income level of contributing sponsors and members of their controlled groups.

Employer liability under a terminated plan.—If an employer terminates a plan pursuant to a standard termination, with assets sufficient to fund all benefit entitlements, the employer has no further liability to the PBGC or plan participants.

Liability to the PBGC.—If a plan is terminated pursuant to a distress termination (or if the termination is instituted by the PGBC), each contributing sponsor of the plan and each member of the controlled group of a contributing sponor is jointly and severally liable to the PBGC for (1) any unfunded guaranteed benefits, plus (2) the full amount of any funding deficiency. A funding deficiency consists of any accumulated funding deficiency and the balance of any waived funding deficiency.

Under the bill, the full amount is normally due and payable to the PBGC as of the date of plan termination. However, where the amount of unfunded guaranteed benefits exceeds 30 percent of the collective net worth of the persons subject to liability, liability for the excess amount may be satisfied by payments to the PBGC each year, over a 10-year period (specified in the bill) following the plan's termination. The required payment in any year is 10 percent of the sum of the individual annual pretax profits (if any) of all persons subject to liability in connection with the plan termination. Liability to the PBGC ceases after the earlier of the tenth annual payment or the time when the liability to the PBGC is paid in full.

Liability to participants.—If a plan has assets insufficient to fund nonguaranteed benefit entitlements, each contributing sponsor to the plan and each member of the contributing sponsor's controlled group is jointly and severally liable for payments for a 10-year period (specified in the bill) following the plan's termination, of 5 percent of the sum of the individual annual pretax profits (if any) of all persons subject to liability in connection with the plan termination. The payments are to be made to a special trustee appointed by the PBGC. Employer liability to the special trustee ceases after the earlier of the tenth annual payment or the time when the nonguaranteed benefits are fully funded. The special trust makes benefit payments to participants and beneficiaries.

Notice of termination.—Not less than 60 days prior to a proposed plan termination date, a plan administrator is required to give written notice of the proposed termination to the PBGC, plan participants and beneficiaries, and unions representing the participants.

Related adjudiciatory proceeding.—If, during the period between the date notice is given and the proposed termination date, the plan administrator learns of a "related adjudicatory proceeding" (as defined in the bill), the plan administrator is required to suspend the termination or to structure the termination so that the plan could be restored if it were later determined that the termination violated the contractural or statutory right of any affected person. The payment of benefits is restricted during the suspension period.

Distribution.—As soon as practicable after the proposed termination date, the plan adminstrator is required to provide the PBGC with certification by an enrolled actuary of the plan's sufficiency as of the plan's proposed date of distribution.

The plan administrator is permitted to distribute plan assets upon the expiration of the 60-day period following the date the certification of sufficiency is filed with the PBGC, provided that the PBGC has not issued a notice of noncompliance with respect to the plan, and the parties have not agreed to extend that period. The plan administrator is also required to notify each participant and beneficiary of such person's benefit entitlement at least 60 days prior to the plan's proposed date of distribution.

Post-distribution audit.—The plan administrator is required, within 30 days after the final distribution of assets, to file a notice with the PBGC certifying that assets have been allocated and distributed in accordance with the requirements of ERISA.

Senate amendment—Title VII

No provision.

Senate amendment—Title IX

Restrictions on plan termination.—Under the bill, an employer may only terminate a single employer defined benefit pension plan under which benefits are guaranteed by the PBGC in a "standard termination" or in a "distress termination."

A standard termination consists of two distinct stages: (1) a cessation of accruals stage, and (2) a liquidation or "closeout" stage. If the plan has sufficient assets to fund all "final benefit obligations" of the plan, the two stages may occur simultaneously. If assets are insufficient to fund final benefit obligations the plan may not complete the second stage until such obligations are fully funded or the plan qualifies for liquidation under the distress termination rules. A plan in the first stage of termination is a frozen plan to which the present-law rules regarding vesting apply. The bill also provides that the required annual contribution, during the stage-one period, is an amount not less than benefits currently due.

Under the bills, final benefit obligations include all "benefit entitlements" as defined under H.R. 3500, plus, (1) benefits which comes nonforfeitable solely by virtue of the plan's termination, and (2) certain ancillary benefits for which a participant satisfies the conditions of entitlement subsequent to the plan's termination.

In order to terminate a plan in a distress termination, a plan administator is required to demonstrate that (1) a petition in bankruptcy or other State insolvency proceedings has been filed seeking liquidation of each contributing sponsor (as defined in the bill) of the plan and each substantial member (as defined in the bill) of the contributing sponsors' controlled groups, and that the petition has not been dismissed or converted to one seeking reorganization; (2) a petition in a bankruptcy or State insolvency proceeding has been filed seeking reorganization of each contributing sponsor of the plan and each substantial member of their controlled groups, and the bankruptcy court has approved the plan termination; or (3) unless a distress termination occurs, each of the contributing sponsors and the substantial members of their controlled groups will be unable to pay its debts when due, and will be unable to continue in business.

Employer liability under a terminated plan.—These provisions of the bill are substantially the same as H.R. 3500, except that the contributing sponsors and members of their controlled groups are liable to plan participants for unfunded nonguaranteed "final benefit obligations" rather than benefit entitlements, and payment of those benefits is made directly by the employer to plan participants and beneficiaries, rather than through a special termination trust.

Notice.—Not less than 10 days prior to a "stage one" termination, a plan administrator is required to give written notice of the termination to the PBGC, plan participants and beneficiaries, and unions representing the participants.

Notice to the same parties is required at least 30 days prior to the second, closeout stage. If stages one and two occur simultaneously, the 30-day notice applies. In any event, if the plan is maintained pursuant to a collective, bargaining agreement, the plan administrator is required to notify unions representing participants at least 30 days prior to a stage one freeze or a stage two closeout filing.

Related adjudicatory proceeding.—No provision.

Distribution.—At least 30 days prior to the distribution of plan assets, the plan administrator is required to provide the PBGC with certification by an enrolled actuary of the plan's sufficiency as of the plan's proposed date of distribution. The plan administrator is permitted to distribute plan assets upon the expiration of the 30-day period, provided that the PBGC has not issued during that period a notice of noncompliance with respect to the plan.

Notice of benefit computations to participants.—At the same time as the plan administrator notifies each participant or beneficiary of the benefits to which the participant or beneficiary is entitled, the plan administrator must also notify the participant or beneficiary of the information used in computing the amount of such benefits, including (1) the length of service, (2) the age of the participant or beneficiary, (3) wages, and (4) such other information as the PBGC may require.

Post-distribution audit.—The PBGC is required to audit annually all participants in terminated plans after the final distribution of assets.

Conference agreement

The conference agreement generally follows the structure of H.R. 3500.

Restrictions on terminations.—Under the agreement, as under H.R. 3500, an employer may only terminate a single-employer defined benefit pension plan under which benefits are guaranteed by the PBGC in a standard termination or in a distress termination. An employer is permitted to terminate a plan in a standard termination only if the plan holds sufficient assets to pay all "benefit commitments" under the plan. Benefit commitments are defined under the conference agreement as all guaranteed benefits (including qualified preretirement survivor annuities) and all benefits that would be guaranteed but for the insurance limits on the amounts or value of the benefit, or the length of time that the benefit has been in effect. In addition, benefit commitments include certain additional benefits for which a participant has satisfied all conditions of entitlement prior to termination. These additional benefits, irrespective of whether they are guaranteed, are (1) early retirement supplements or subsidies, and (2) plant closing benefits.

With respect to the circumstances under which an employer may terminate a plan in a distress termination, the bill generally follows Title IX of the Senate amendment except that it provides an additional criteria permitting "distress" termination if pension costs become unreasonably burdensome due to a declining workforce. In addition, the conference agreement makes it clear that different members of a controlled group may separately satisfy different criteria for distress termination.

As under present law, to the extent a pension plan is an executory contract included within the scope of Section 365 (11 USC 365) or is included within the scope of Section 1113 of the Bankruptcy Code (11 USC 1113), these Bankruptcy Code Provisions are applicable to the court's decision on whether to approve the termination of the pension plan. The distress termination criteria are not intended to make any substantive changes in the bankruptcy laws. The conferees take no position on when or whether a pension plan is an executory contract.

Employer liability under a terminated plan.—Upon the termination of a plan, pursuant to a standard termination in which all benefit commitments are fully funded, the employer has no further liability to the PBGC or to plan participants.

Liability to PBGC.—Upon the termination of a plan pursuant to a distress termination, if the PBGC determines that plan assets are insufficient to fund guaranteed benefits, the PBGC is required to institute trusteeship proceedings for the plan. Each contributing sponsor of the plan and each member of the controlled group of each contributing sponsor is jointly and severally liable to the PBGC for the sum of (1) the total amount of all unfunded guaranteed benefits, up to 30 percent of the collective net worth of those persons liable to the PBGC; (2) an amount equal to the excess (if any) of (a) 75 percent of the total amount of all unfunded guaranteed benefits over (b) the amount described in (1); and (3) interest on the amount due calculated from the termination date. The total amount of unfunded guaranteed benefits is computed by treating any accumulated funding deficiency and the balance of any waived funding deficiency as a receivable of the plan and, thus, as a plan asset.

The full amount of the liability to the PBGC is generally due and payable as of the date of plan termination. However, if the liability to the PBGC for unfunded guaranteed benefits exceeds 30 percent of the collective net worth of the parties that are liable to the PBGC, the payment of that excess amount is to be made under commercially reasonable terms prescribed by the PBGC. The parties are to make a reasonable effort to reach agreement on such terms. Under the conference agreement, any terms prescribed by the PBGC must provide for the deferral of 50 percent of any amount of liability otherwise payable for any year if the PBGC determines that no person subject to such liability has individual pretax profits for the fiscal year ending during such year.

If a plan terminates pursuant to a distress termination and is subject to PBGC trusteeship proceedings, then each contributing sponsor and each member of their controlled groups is liable to the PBGC for the sum of (1) the outstanding balance of any accumulated funding deficiency, and (2) the balance of the amount of any waived funding deficiencies. The full amount of such liability is due and payable to the PBGC as of the date of plan termination.

The conferees take no position with respect to the treatment in bankruptcy of PBGC claims and liens. Deletion of the amendments to section 4068 that appeared in S. 1730 is not intended to express any view on the meaning of the present language in section 4068. Section 4068 has been amended, however, to assure that it applies only to the liability that was covered by section 4068 prior to these amendments, i.e., the value of unfunded guaranteed benefits up to 30 percent of the employer's net worth. Section 4068 does not apply to liability being added to section 4062 by these amendments for amounts in excess of the 30 percent of net worth cap.

Liability to participants.—If the PBGC determines that there is an outstanding amount of benefit commitments, the PBGC is required to appoint a fiduciary with respect to the termination trust. The fiduciary must be independent of the contributing sponsors (and members of a controlled group including sponsors) and generally is subject to the fiduciary requirements of ERISA (other than the prohibited transaction rules). The "outstanding amount of benefit commitments" under a plan is defined as the excess of (1) the actuarial present value of the benefit commitments of each participant and beneficiary over (2) the actuarial present value of the benefits of each participant and beneficiary that are guaranteed by the PBGC or to which assets of the plan have been allocated under the distribution procedures of section 4044 of ERISA. Each contributing sponsor of the plan and each member of the controlled group of a contributing sponsor is jointly and severally liable to the termination trust for the lesser of (1) 75 percent of the total amount of outstanding benefit commitments under the plan, or (2) 15 percent of the total amount of benefit commitments under the plan. The termination trust generally will be administered by the PBGC except in cases in which PBGC determines that delegation of this responsibility is cost effective.

Under the conference agreement, payment of liability is to be made under commercially reasonable terms prescribed by the fiduciary of the termination trust. The parties are required to make a reasonable effort to reach agreement on such terms. In addition, the conference agreement provides that if liability to the termination trust is less than $100,000, the payment of liability to the trust over 10 years in equal annual installments (with interest at the applicable rate determined under sec. 6621(b) of the Code) will satisfy this requirement even if the terms are not commercially reasonable. The PBGC is permitted to increase, by regulation, the $100,000 ceiling. To phase in this $100,000 rule, the conference agreement provides that no payment under this provision is required before January 1, 1989.

The conference agreement also provides that any payment schedule is to provide for the deferral of 75 percent of the liability otherwise payable to the termination trust for any year if no person subject to liability to the termination trust has any individual pre-tax profits for such person's fiscal year ending during such year. However, the conferees intend that the fact that one person has minimal profits should not make the benefits of deferral totally unavailable. The required payments in any year should not exceed 50 percent of the otherwise payable amount plus profits. The amount of liability so deferred is payable only after payment of any liability to the PBGC arising in connection with the terminated plan.

The conference agreement provides rules governing the allocation and distribution of assets of the termination trust to participants and beneficiaries.

Under the conference agreement, a participant or beneficiary who receives distributions from a termination trust is, subject to certain requirements, permitted to roll over the distributions to an IRA or qualified plan.

Deductibility of payments.—The conference agreement provides rules as to the deductibility of payments to the PBGC and the termination trust.

Notice.—The conference agreement follows H.R. 3500.

Related adjudicatory proceedings.—The conference agreement contains no provision dealing with related adjudicatory proceedings. However, the conference agreement provides that the PBGC is not to proceed with the voluntary termination of a plan if the termination would violate the terms and conditions of a collective bargaining agreement.

Distributions.—The conference agreement generally follows H.R. 3500. As under H.R. 3500, the conference agreement provides that the assets of a terminated plan may be distributed if the PBGC fails to issue a notice of noncompliance within 60 days after receipt of a NOIT. As under H.R. 3500, the conference agreement provides that the 60-day period may be extended by PBGC and the plan administrator and that the extension may be subject to conditions to which they have agreed. The conference agreement does not change the rules of the Code for determining the qualified status of a plan (or of a trust forming a part of a plan), or the application of the minimum funding standard to a plan. Accordingly, the conference agreement does not authorize the PBGC to waive, or otherwise modify, the requirements of the Code.

Notice of benefit computations to participants.—The conference agreement generally follows Title IX of the Senate amendment except that, in addition to the other information specified in the Senate amendment, the plan administrator must supply to participants and beneficiaries the actuarial assumptions used in computing plan benefits (including, but not limited to, the interest rate assumption).

Post-distribution audit.—The conference agreement generally follows H.R. 3500. In addition, under the conference agreement the PBGC is required to perform annually an audit of a statistically significant sample of terminated plans to determine whether participants and beneficiaries have received the benefits to which they are entitled. For each plan selected for audit, the benefits of a statistically significant sample of participants and beneficiaries are to be verified.

In addition, the conference agreement authorizes the Comptroller General of the General Accounting Office to examine certain plan documents. Any information gathered under this authority shall not be available to the public.

3. Involuntary Plan Termination

Present law

Under present law, the PBGC is permitted, but not required, to commence proceedings to terminate a plan under a variety of circumstances including the inability of the plan to pay benefits when due.

House bill—H.R. 3128

No provision.

House bill—H.R. 3500

Under the bill, the PBGC is required to commence termination proceedings if the plan does not have assets available to pay benefits that are currently due under the terms of the plan.

Senate amendment—Title VII

No provision.

Senate amendment—Title IX

As under present law, the PBGC is permitted, but not required, to terminate a plan under certain circumstances. In addition, the PBGC may appoint a temporary receiver if the plan fails to meet minimum funding requirements, is not able to pay current benefits when due, or has been abandoned.

Conference agreement

The conference agreement follows H.R. 3500.

4. Waiver of Funding Standard

Present law

Present law authorizes the Internal Revenue Service to waive the requirements of the minimum funding standard no more frequently than 5 times in any 15-year period. In addition, the amortization period for liabilities under defined benefit pension plans may be extended, and a waiver previously granted by the IRS may be modified.

The IRS may grant a waiver on condition that appropriate requirements are met.

House bill—H.R. 3128

The IRS is authorized to require that security be provided as a condition of granting a waiver of the minimum funding standard, an extension of an amortization period and modifications of a previously granted waiver. The IRS is required to notify the PBGC before granting a waiver and is to consider the comments of the PBGC. The PBGC has a 15-day comment period after the date of receipt of notice.

The new provisions apply to waivers, extensions, and modifications granted on or after the date of enactment of the bill.

House bill—H.R. 3500

The bill is similar to H.R. 3128, except that (1) a "reasonable period" rather than a 15-day comment period is provided, and (2) the security, notice, and comment provisions do not apply to cases involving less than $1 million of outstanding waived liability. The bill requires that an employer that submits a request for a waiver of the minimum funding standard notify each affected party. The term "affected party" is defined under the bill as a plan participant, a beneficiary of a deceased participant, a beneficiary that has been designated as an alternate payee pursuant to a qualified domestic relations order, an employee organization representing participants in the plan and the PBGC.

Senate amendment—Title VII

No provision.

Senate amendment—Title IX

No provision.

Conference agreement

The conference agreement clarifies that the IRS is authorized to require that security be provided as a condition of granting a waiver of the minimum funding standard, the extension of an amortization period, or modification of a previously granted waiver of the minimum funding standard with respect to a single employer defined benefit plan. The conference agreement requires that, before granting an application for a waiver, extension or modification to a single employer defined benefit plan, the IRS notify the PBGC of the receipt of a completed application for a waiver, extension, or modification, and consider the views of any interested party, including the PBGC, submitted in writing. The PBGC has a 30-day period after the date of receipt of notice to submit to the IRS comments on the application.

The conference agreement provides that the notice of the application and any other information or materials relating to the application that is sent to the PBGC by the IRS constitutes tax return information and is subject to the safeguarding and reporting requirements of section 6103(p) of the Code.

Under the conference agreement, the security, notice, and comment provisions do not apply if, with respect to the plan for which a waiver is requested, the sum of (a) the accumulated funding deficiencies (including the amount of any increase in the accumulated funding deficiency that would result if the request for a waiver were denied); (b) the outstanding balance of any previously waived funding deficiencies; and (c) the outstanding balance of any decreases in the minimum funding standard allowed under section 303 of ERISA, is less than $2 million. As under current law, the mere creation of a security interest at the direction of the Secretary of the Treasury as a condition for granting a waiver does not by itself constitute a prohibited transaction. The provisions of the conference agreement relating to security are intended by the conferees to provide appropriate rules for the future. The conferees intend that no inference is to be drawn from this provision with respect to the application of present law to such transactions.

The conference agreement also contains an amendment to the Code requiring that if the IRS grants a request for a waiver, extension, or modification, the interest on the waived amount must be computed by using a rate prescribed in section 6621(b) of the Code.

Finally, under the conference agreement, an employer that submits an application for a waiver of the minimum funding standard is required to notify any employee organization representing participants in the plan of the application.

5. Special Enforcement Rules

House bill—H.R. 3128

A nondeductible excise tax applies if termination liability payments are not made as required.

The initial tax is 5 percent of any payment not made when due. The tax increases by an additional 5 percent of any portion of such payment that is not made within 90 days of the payment's due date, and increases by an additional 5 percentage points for each 30-day period thereafter that the amount remains unpaid. The total additional tax imposed on any unmade payment is limited to the amount of such payment that has not been made within 90 days of the payment's due date.

There is allowed as a credit against the excise tax (up to the amount of the excise tax) any amount paid by the employer to the PBGC, with respect to the employer's termination liability, no later than two years after the final determination of that liability. Liability for the excise tax is the joint and several liability of the controlled group.

House bill—H.R. 3500

The bill adds a new section to ERISA that would expressly confer, upon an adversely affected plan fiduciary, employer, employee organization representing plan participants, contributing sponsor, participant or beneficiary, a private right of action to enjoin certain acts or practices of any party in violation of the employer liability provisions. Other appropriate equitable relief could also be provided by a court.

Under the bill, district courts have exclusive jurisdiction over these actions. A plan could be sued as an entity under these provisions. The bill also provides for venue and for awards of attorney's fees ad expenses under certain circumstances.

A copy of the complaint in any action under these provisions would be served on the PBGC. The PBGC could intervene in the action.

Senate amendment—Title VII

No provision.

Senate amendment—Title IX

No provision.

Conference agreement

The conference agreement generally follows H.R. 3500.

6. Evasion of Employer Liability

House bill—H.R. 3128

Certain transactions undertaken by a person would not be treated as transferring employer liability away from that person or any member of a controlled group including that person. This treatment would apply to transactions undertaken within 10 years before the date of termination of single-employer defined benefit pension plan if a principal purpose of the transaction was to fraudulently evade any employer liability to the PBGC.

House bill—H.R. 3500

If a principal purpose of any person in entering into any transaction is to evade employer liability in connection with the termination of a single-employer defined benefit pension plan, and the transaction becomes effective within 5 years before the termination date, then that person and the members of that person's controlled group (determined as of the termination date) are subject to employer liability in connection with the termination as if that person were a contributing sponsor of the terminated plan as of the termination date. Post-transaction benefit increases or improvements would not be taken into account in computing the liability such an entity.

Senate amendment—Title VII

No provision.

Senate amendment—Title IX

Rules would be provided for tracing liability in the case of certain corporate reorganizations.

Conference agreement

The conference agreement generally follows H.R. 3500, except that the conference agreement provision is effective only with respect to transactions occurring on or after the earlier January 1, 1986, or the date of enactment. The provisions of the conference agreement relating to evasive transactions are intended by the conferees to provide appropriate rules for the future. The conferees intend that no inference is to be drawn from these provisions with respect to the application of present law to such transactions. In addition, the conference agreement makes it clear that only contributing sponsors (and members of a controlled group including the contributing sponsors) are affected by this provision.

7. Special Rule for Pending Cases

House bill—H.R. 3128

No provision.

House bill—H.R. 3500

No provision.

Senate amendment—Title VII

No provision.

Senate amendment—Title IX

In the case of an employer that (1) had filed an NOIT with the PBGC prior to the date of enactment and had not yet received a notice of sufficiency or (2) files an NOIT in a standard termination subsequent to the date of enactment and prior to March 1, 1986, the bill requires that the processing of the plan be delayed if the lesser of 10 or 10 percent of plan participants file complaints with respect to the termination.

The plan administrator of such a plan is not permitted to distribute plan assets until final benefit obligations are fully funded and the PBGC a notice of sufficiency with respect to the plan. The PBGC issues generally is not permitted to issue a notice of sufficiency to the plan until 90 days subsequent to the date that the PBGC determines the plan to be sufficient, except if the employer demonstrates that it is experiencing substantial business hardship. During this additional 90-day period, the PBGC is required to consider and respond to participants' complaints. (Under a special rule, the processing of a plan can be delayed no more than 14 days if the PBGC was previously granted an extension of the period in which to determine the plan's sufficiency because of circumstances wholly within the control of the PBGC.)

Conference agreement

The conference agreement generally follows Title IX of the Senate amendment, except that (1) the processing of a plan is delayed only if the employer is to receive a reversion of surplus assets in excess of $1 million, and the lesser of 200 or 10 percent of plan participants file complaints with respect to the termination; and (2) the PBGC is not permitted to issue a notice of sufficiency for 90 days after the plan is determined to have assets sufficient to fund all benefit commitments, even if an extension period within which PBGC must determine the plan's sufficiency was granted at the request of the PBGC and because of circumstances wholly within the control of the PBGC.

8. Plan Assets

Present law

As a general rule, the assets of an employee benefit plan must be held in trust for the exclusive benefit of plan participants. Those individuals or entities with discretion over the management and disposition of plan assets are subject to a number of fiduciary duties enumerated in ERISA. In addition, ERISA prohibits any transaction in which the assets of a plan inure to the benefit of the employer, plan fiduciaries or other interested parties enumerated in ERISA.

Proposed regulations issued by DOL define plan assets for purposes of the fiduciary duty and prohibited transactions rules of ERISA. Under the regulations, if a plan acquires an equity interest in certain types of entities, the investing plan's assets are considered to include both its investment and an undivided interest in each of the underlying assets of the entity. The regulation is effective for purposes of identifying plan assets on or after 90 days after publication of the final regulation.

House bill—H.R. 3128

No provision.

House bill—H.R. 3500

No provision.

Senate amendment—Title VII

No provision.

Senate amendment—Title IX

The bill provides to certain publicly held real estate entities transitional relief from final regulations, to be issued by DOL, defining "plan assets."

Conference agreement

The conference agreement generally follows Title IX of the Senate amendment. Except as a defense, no rule or regulation adopted after date of enactment that defines the term plan assets for purposes of ERISA shall apply to any asset of certain public real estate programs if investments by plan investors in such programs occur prior to the expiration of a specified period of time following the issuance of such rule or regulation. A plan investor is any plan, account, or arrangement (including an individual retirement account).

The conference agreement does not contain a substantive amendment to ERISA but, rather, provides transitionl relief in connection with plan asset regulations that are to be issued under ERISA. This will enable public real estate programs to avoid the disruption of normal business arrangements during the development of final regulations by the DOL.

The transitional relief provided in the conference agreement for certain real estate entities is limited to regulations which the DOL currently has under consideration. The conferees have instructed, and expect, the Secretary to adopt final regulations pursuant to the proposal by December 31, 1986.

The transitional relief provided applies to a real estate program that meets certain conditions, including the requirement that the economic rights of ownership with respect to a security issued by such program are "freely transferable." Whether a particular security is "freely transferable" is to be determined based upon all the facts and circumstances; however, the conference agreement also lists several kinds of restrictions which, absent unusual circumstances, will not (either alone or in any combination) cause a security to fail to be freely transferable. The categories are based upon restrictions commonly found in public offerings of securities of real estate entities which are imposed in order to comply with State and Federal laws, to assure continued eligibility for favorable tax treatment, and to avoid certain practical administrative problems. The conferees understand that such restrictions do not, alone or in combination, present any substantial impediment to the ability of investors to readily dispose of their investments and do not prevent such securities from being described as "freely transferable" in prospectuses required under the Federal securities laws. Such a description need not be included in a prospectus in order for a security offered or acquired thereunder to be considered "freely transferable" for purposes of this section.

One of the factors listed is the requirement that transfer or administrative fees be reasonable. It is intended that a fee will not be unreasonable if it does not exceed the cost of effecting transfers of interest on the program's books and the cost of complying with State filing requirements.

It is the intention of the conferees that the requirement that every interest in a real estate entity must be registered under Federal securities laws shall not apply to interests issued to initial limited partners solely for partnership organizational purposes in compliance with State limited partnership laws, provided that such interests are nominal in amount when compared to all other interests in the partnership as of the date of the completion of the offering of such entity, and such partnership was organized prior to enactment. Generally, an interest will be considered nominal if the interest has a value as of the date of issue of less than $20,000 and represents less than one percent of the total interests outstanding as of the completion of the offering period.

Although this section only covers certain public real estate entities, no inference should be drawn concerning the status of any other entity.

9. Additional studies

House bill.—H.R. 3128

No provision.

House bill—H.R. 3500

No provision.

Senate amendment—Title VII

No provision.

Senate amendment—Title IX

The bill requires that DOL conduct a study of terminations of overfunded pension plans. DOL is required to submit a report on the study, together with any recommendations for statutory changes, to the House Committee on Education and Labor, the Senate Finance Committee, and the Senate Committee on Labor and Human Resources by February 1, 1986.

The bill also requires that the PBGC conduct a study on the purchase of insurance contracts from an insurer in satisfaction of all final benefit obligations under ERISA. The PBGC is required to submit a report on the study to various committees of Congress by one year from the date of enactment.

Conference agreement

The conference agreement requires the Secretary of Labor to conduct a study of terminations of overfunded pension plans. The report, together with any recommendations for statutory change, must be submitted to the Committees named above by February 1, 1986.

10. Effective dates

The provisions of the conference agreement relating to amendments to reduce significantly future benefit accruals apply to amendments adopted on or after the earlier of January 1, 1986, or the date or enactment.

The provisions of the conference agreement relating to voluntary plan terminations apply to terminations for which a NOIT is filed on or after the earlier of January 1, 1986, or the date of enactment. The provisions relating to involuntary plan terminations apply to terminations for which termination proceedings are instituted on or after the earlier of January 1, 1986, or the date of enactment.

The provisions relating to waivers of the minimum funding standard apply to applications for waivers, extensions of an amortization period, and modifications of a previously granted waiver, submitted to the IRS on or after the earlier of January 1, 1986, or the date of enactment.

The provisions of new ERISA section 4070 relating to enforcement apply to actions filed on or after the earlier of January 1, 1986, or the date of enactment.

As noted above, the provisions of the conference agreement relating to evasion of liability apply to transactions becoming effective on or after the earlier of Janaury 1, 1986, or the date of enactment.

Special effective dates, as described above, are provided for the provisions of the conference agreement relating to PBGC premiums, the special processing rule for pending cases, the DOL plan asset regulations, and the studies authorized.

TITLE XII—INCOME SECURITY AND RELATED PROGRAMS

1. Minor and Federal amendments

(a) Demonstration Projects Involving the Disability Insurance Program (Section 760 of the Senate amendment)

Present law

The Social Security Disability Amendments of 1980 directed the Secretary of Health and Human Services to develop and carry out experiments and demonstration projects to test the advantages of various ways to facilitate and encourage the return to employment of individuals who would otherwise remain dependent on disability benefits. A key element in conducting these demonstration projects is the authority for the Secretary to waive requirements of the Social Security Act related to the subject matter of the projects. A provision of the 1980 amendments calling for a final report within 5 years of the enactment of that statute has been interpreted as terminating the Secretary's authority to make such waivers. Without this waiver authority the Secretary is unable to carry out demonstration projects that have not yet been implemented.

House bill

No provision.

Senate amendment

Extends the waiver authority for 5 years. The deadline for a final report on the OASDI projects is extended to June 9, 1990. Since this requirement is made applicable only to OASDI, the provision could be interpreted to grant a permanent extension of authority to waive the Supplemental Security Income program rules.

Effective date.—Requires a final report to Congress by June 9, 1990.

Outlay effect (in millions):

Fiscal years:	
1986	$3
1987	5
1988	5
3-year total	13

Conference agreement

House recedes to the Senate amendment.

(b) Disability Advisory (Section 761 of the Senate amendment)

Present law

The Social Security Act requires an Advisory Council on Social Security to be appointed every 4 years, at the beginning of each Presidential term, and to report by January 1 of the second year after appointment. The disability amendments enacted in 1984 require that the Council to be appointed in 1985 make recommendations on the medical and vocational aspects of disability.

House bill

No provision.

Senate amendment

Establishes a special ad hoc Disability Advisory Council in lieu of the general council scheduled to be appointed in 1985. The ad hoc Council shall report to Congress by December 31, 1986.

Outlay effect.—None

Conference agreement

House recedes to the Senate amendment.

(c) Taxation of Social Security Benefits Received by Certain Citizens of Possessions of the United States (Section 762 of the Senate amendment)

Present law

Citizens of American Samoa are treated as non-resident aliens and are subject to withholding of taxes from their social security benefits at a 15-percent rate. Citizens of other U.S. territories are exempt from the withholding requirement.

House bill

No provision.

Senate amendment

Eliminates U.S. tax withholding on social security payments to citizens of American Samoa, to make it consistent with the tax treatment of citizens of other U.S. possessions.

Effective date.—Applies to benefits received after December 31, 1983, in taxable years ending after such date.

Revenue effect (in millions):

Fiscal years:	
1986	−$1
1987	−1
1988	−1
3-year total	−3

Conference agreement

House recedes to the Senate amendment.

(d) Application of Dependency Test to Adopted Great-Grandchildren for Purposes of Child's Insurance Benefit (Section 763 of the Senate amendment)

Present law

A grandchild (under age 18) of a social security beneficiary may be entitled to benefits if the child is adopted by and lives with the grandparent for at least 1 year before applying for benefits and received half his support from the beneficiary.

House bill

No provision.

Senate amendment

Extends the provision to great-grandchildren of the beneficiary.

Effective date.—Applies with respect to benefits for which an application is filed after the date of enactment.

Outlay effect.—None.

Conference agreement

House recedes to the Senate amendment.

(e) Elimination of Requirement for Publication of Revisions in Pre-1979 Benefit Table (Section 764 of the Senate amendment)

Present law

The Secretary is required to publish the pre-1977 Amendments table of benefit amounts as revised by each general benefit increase. (This table applies to those eligible for benefits in 1978 or earlier.)

House bill

No provision.

Senate amendment

Eliminates the requirements to publish the revised tables, but would not affect the revisions themselves.

Effective date.—The month after the month of enactment.

Outlay effect.—None.

Conference agreement

House recedes to the Senate amendment.

(f) Notification Formula Clarification (Section 765 of the Senate amendment)

Present law

Under the 1983 Amendments, the Board of Trustees is required to notify Congress whenever it determines that the reserves in any of the trust funds at the beginning of any calendar year may become less than 20 percent of expenditures

House bill

No provision.

Senate amendment

Clarifies the Congressional intent that the determination should utilize a measure of reserves which includes the taxes credited to the trust funds on the first day of each month.

Effective date.—The month after the month of enactment.

Outlay effect.—None.

Conference agreement

House recedes to the Senate amendment.

(g) Extension of 15-month Reentitlement Period to Childhood Disability Beneficiaries Subsequently Entitle (Section 766 of the Senate amendment)

Present law

Disabled individuals who complete a 9-month trial work period and still have a disabling impairment, may be automatically reinstated to active benefit status during the next 15 months for any month in which their earnings fall below substantial gainful activity (SGA) level, currently $300 per month. However, a person entitled to benefits as a disabled adult child who has used this provision once cannot subsequently be covered by it again.

House bill

No provision.

Senate amendment

Extends the subsequent 15-month reentitlement periods to reentitled childhood disability beneficiaries.

Effective date.—Applies to individuals who are disabled on or after December 1, 1980.

Outlay effect.—None.

Conference agreement

House recedes to the Senate amendment.

(h) Charging of Work Deductions Against Auxiliary Benefits in Disability Cases (Section 767 of the Senate amendment)

Present law

When a person receiving auxiliary benefits on the record of a disabled worker has earnings which exceed the exempt amount allowed under the earnings test, work deductions are imposed against the auxiliary worker's benefits which could be payable after any reduction for the family maximum limit. However, the amount withheld from the working individual is redistributed to others in the family so that the family continues to receive benefits up to the family maximum. As a result of a technical error in the 1980 amendments, this provision uses the regular (retired) family maximum formula for computing the amount to be withheld from the working family member instead of the disability family maximum formula which is used to determine the amount actually payable to the entire family.

House bill

No provision.

Senate amendment

Requires the use of the disability family maximum limit for computing the individual's deductions as well as for computing the total family entitlement.

Effective date.—Effective with respect to benefits payable for months after December 1985.

Outlay effect.—None.

Conference agreement

House recedes to the Senate amendment.

(i) Perfecting Amendments to Disability Offset Provision (Section 768 of the Senate amendment)

Present law

The 1981 Omnibus Budget Reconciliation Act expanded the social security disability offset (reduction in social security disability benefits due to receipt of other types of benefits) to include most governmental disability benefits paid to individuals. Previously, the offset was applicable only to workers' compensation payments. However, unclear wording led to confusion with regard to the continued application of the offset to certain workers' compensation benefits. Present law also treats State and local disability payments differently than similar Federal payments.

House bill

No provision.

Senate amendment

(a) Clarifies that all disability benefits paid under a Federal or State workers' compensation law or plan would continue to be subject to the disability offset.

(b) Clarifies that both Federal and State or local workers must have had substantially all their service covered by social security to be excluded from the disability offset.

Effective date.—(a) is effective as if it were in effect upon implementation of the Omnibus Budget Reconciliation Act of 1981. (b) is effective for persons becoming disabled after the month of enactment.

Outlay effect (in millions):

Fiscal years:	
1986	(*)
1987	−$1
1988	−1
3-year total	−2

*Less than −$500,000.

Conference agreement

House recedes to the Senate amendment.

(j) State Coverage Agreements (Section 769 of the Senate amendment)

Present law

Coverage of State and local employees under social security is, in most cases, effective on the date that an agreement is mailed by the State to the Secretary of Health and Human Services. However, for workers paid on a fee basis and for those whose coverage is retroactive, the agreement becomes effective on the date it is signed by both parties, which may result in complications and loss of coverage for some employees.

House bill

No provision.

Senate amendment

Makes all agreements and modifications of agreements effective on the date the agreement is mailed or delivered by other means to the Secretary.

Effective date.—For agreements or modifications mailed or delivered on or after the date of enactment.

Outlay effect.—None.

Conference agreement

House recedes to the Senate amendment.

(k) Effect of Early Delivery of Benefit Checks (Section 769A of the Senate amendment)

Present law

When the normal delivery date for social security benefits (the third day of the month) falls on a Saturday, Sunday or legal holiday, checks must be delivered on the nearest preceding banking day. This may result in checks being delivered in the previous month. If this situation arises at the end of a year, it could cause distortion of year-end trust fund balances, possibly making them low enough to trigger the stabilizer provision, which could effect the amount of cost-of-living increases. This could also result in exaggerated beneficiary tax liability in the earlier year and reduced tax liability in the later year.

House bill

No provision.

Senate amendment

Eliminates these problems by providing that, for purposes of asset-expenditure ratio calculations and taxation of benefits, Social Security benefits delivered prior to their scheduled delivery date would be deemed to have been paid on the regular delivery date.

Effective date.—For benefit checks issued for months ending after the date of enactment.

Outlay effect.—None.

Conference agreement

House recedes to the Senate amendment.

2. Exemption from Social Security coverage for retired Federal judges on active duty (Section 769C of the Senate amendment)

Present law

The 1983 Social Security Amendments (Public Law 98-21) provided that the wages of all active Federal judges would be subject to Social Security taxes beginning January 1, 1984. This provision applied to both current and future judges. P.L. 98-21 also specifically provided that amounts received by judges who achieve senior (retired) status but who continue on active duty would be subject to Social Security taxes on so much of their pay as was attributable to periods when they were performing judicial services. Those earnings would also cause reductions in the judges' benefits under the social security retirement test. (Subsequently, P.L. 98-118 delayed the effective date of this provision until January 1, 1986.)

House bill

No provision.

Senate amendment

Excludes, from the definiton of wages for Social Security purposes, the amounts received by Federal judges who meet the criteria for retirement on salary (e.g., age 65 with 15 years of service or 70 with 10 of service), who retire, and who perform active duty. The effect of this exclusion would be to exempt their pay from Social Security taxes and to preclude it from being counted for Social Security earnings test purposes.

Effective date.—Effective for services performed after December 31, 1983.

Outlay effect.—None.

Conference agreement

House recedes to the Senate amendment.

3.. Recovery of overpayments (Section 769D of the Senate amendment)

Present law

Under the Social Security Act, entitlement to Social Security benefits ends with the month before the month of death and eligibility for Supplement Security Income (SSI) benefits ends with the month of death. Under current reclamation procedures, benefits erroneously paid to a deceased individual by means of direct deposit are recovered by the Department of the Treasury from the financial organization which accept the deposit. In most cases, the financial organization debits the account to which the amounts were finally credited. When an account is debited, the financial organization is required to provide concurrent notice to any individuals shown as owners.

House bill

No provision.

Senate amendment

Provides that when (1) a payment is made to a deceased individual by means of direct deposit; (2) such payment is credited by a financial organization to an account jointly owned by the deceased individual and another person; and (3) such other person is (a) entitled to a Social Security benefit based on the same wages and self-employment income as the deceased person for the month immediately preceding the month in which the deceased person died; or (b) such other person is the surviving spouse of the deceased person and was eligible for an SSI payment (or federally administered State supplement) as an eligible spouse (including either member of an eligible couple) in the month in which the deceased individual died; such payment shall be treated as an overpayment to the surviving individual.

Effective date.—Applies to deaths of which the Secretary of Health and Human Services is first notified on or after the date of enactment.

Outlay effect.—None.

Conference agreement

House recedes to the Senate amendment.

4. Study of benefit formula notch (Section 769E of the Senate amendment)

Present law

Some workers who reach age 62 in 1979 (or later) and have their Social Security benefits determined under the computation provisions included in the 1977 Social Security amendments can get significantly lower monthly benefits than similar workers who reach age 62 in 1978 (or earlier), have similar earnings histories, retire at the same age and have their benefits computed under the old system. This difference in benefit amounts is commonly referred to as the "notch."

Because benefits are generally lower under the new system than the old one, a transitional provision was included in the 1977 amendments to smooth the differences between benefits computed under the two systems in the early years of the new system. A worker who reaches age 62 in 1979-1983 gets a benefit figured under the transitional provision if the benefit is higher than the one figured under the new system. While the transitional provision lessens the extent of the benefit differential, it does not eliminate it.

House bill

No provision.

Senate amendment

Directs the Secretary of HHS to appoint a panel to study the Social Security "notch". The panel is to study the extent of the benefit differential known as the "notch", as well as the nature and desirability of actions for addressing this benefit differential. The report is to include estimates of the short- and long-range costs of such proposals. The panel's report will be submitted to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives by December 15, 1986.

Effective date.—On enactment.

Outlay effect.—None.

Conference agreement

Senate recedes to the House bill.

5. Coverage of Connecticut State police (Section 769H of the Senate amendment)

Present law

Under the Social Security Act, only States specifically listed in the Act may extend social security coverage to policemen who are covered under other retirement programs. Connecticut is not listed. Listed States may only extend coverage in one of two ways: (1) by covering all current and future employees of the affected group; or (2) by covering all future employees and those current employees who desire coverage.

House bill

No provision.

Senate amendment

Allows Connecticut, if the Governor so requests, to cover State police hired on or after May 8, 1984 without conducting a referendum.

Effective date.—Applies to individuals hired on or after May 8, 1984 who are members of the Tier II plan of the Connecticut State Employee Retirement System, with respect to services performed after enactment of this Act.

Revenue effect (in millions):

Fiscal years:	
1986	([1])
1987	$1
1988	1
3-year total	2

[1] Less than $500,000.

Conference agreement

house recedes to the Senate amendment.

6. Removal of comment prohibition by Social Security and Medicare actuaries relating to economic assumptions (Section 735 of Senate amendment) (See also item 54 in Part I Medicare provisions)

Present law

Requires Board of Trustees annual report on the financial status of the Social Security trust funds (including the Medicare trust funds) to include an actuarial opinion certifying that the assumptions and cost estimates used in the report are reasonable. According to Section 154 of the Social Security Amendments of 1983 (P.L. 98-21), that certification may not refer to the economic assumptions underlying the Trustees' reports.

House bill

No provision.

Senate amendment

Eliminates the language of current law prohibiting Social Security and Medicare actuaries from commenting on the economic assumptions underlying the Trustees' reports.

Effective date.—Enactment.

Outlay effect.—None.

Conference agreement

House recedes to the Senate amendment.

7. Restoration of trust fund investments (Section 769G of the Senate amendment) [Related measures are contained in House and Senate amendments to H.J. Res. 372]

House bill

No provision.

Senate amendment

For Social Security Trust Funds and other retirement funds:

(a) Requires the Secretary of the Treasury, on the basis as if H.J.Res. 372 (as deemed passed by the House on August 1, 1985) had been enacted on August 1, 1985, to:

(1) immediately reissue securities redeemed on or after September 1, 1985 that would not have been redeemed;

(2) pay the interest that would have accrued but for "non-investment, redemptions, and disinvestments" on or after September 1, 1985;

(b) Requires the Secretary to pay to the trust funds the present value of the permanent interest loss resulting from limitations on the public debt from September 1, 1984 to September 1, 1985.

The determinations of interest loss for Social Security and Medicare would be made by the Secretary of the Treasury and the Commissioner of Social Security, and by the Secretary and Chairman of the Railroad Retirement Board for railroad retirement. All determinations would be certified by the Comptroller General, and also by the public members of the Board of Trustees with respect to Social Security and Medicare.

(c) Requires the Secretary to provide 15 days prior notice to Congress and to each member of the Board of Trustees of any planned action to disinvest or not invest trust fund assets due to debt limit constraints.

Effective date.—Immediately with respect to reissuance of trust fund holdings; by June 30, 1986 with respect to the payment of lost interest (with April 1, 1986 or earlier notice to Congress of any disagreements in making the interest determinations).

Outlay effect.—None.

Conference agreement

Senate recedes with amendment to restore the 1984 losses of the Civil Service Retirement trust funds.

Civil Service

On December 31, 1985, the Secretary of the Treasury shall pay to the Civil Service Retirement and Disability Fund, from amounts in the general fund of the Treasury not otherwise appropriated, an amount determined by the Secretary to be equal to the sum of—

(i) the excess of the amount of interest which would have been earned by such fund, during the period beginning with September 28, 1984 and ending with December 31, 1984 on all monies transferred to such fund on September 28, 1984, if all such moneis had been invested on September 28, 1984, over the amount of interest actually earned by such fund on such moneis during such period;

(ii) interest that would have been earned on the amount described in clause (i) during the period starting with January 1, 1985 and ending with June 30, 1985;

(iii) the excess of the amount of interest which would have been earned by such fund, during the period beginning on January 1, 1985 and ending on June 30, 1985, on all monies transferred to such fund on September 28, 1984, if all such monies had been invested on September 28, 1984, over the amount of interest actually earned by such fund on such monies during such period; and

(iv) the interest that would have been earned on the amounts described in clauses (i), (ii) and (iii) during the period starting with July 1, 1985 and ending with December 31, 1985.

Military

On March 31, 1986, the Secretary of the Treasury shall pay to the Department of Defense Military Retirement Fund, from amounts in the general fund of the Treasury not otherwise appropriated, an amount determined by the Secretary of the Treasury, in consultation with the Secretary of Defense, to be sufficient to compensate such fund, to the maximum extent practicable, for losses arising from the inability to invest, on October 1, 1984, all monies transferred to such fund on such date.

SUBTITLE B—SSI PROGRAM

1. Amendments relating to State supplementation under the SSI program

Present law

When there is an increase in the Federal SSI benefit standard, States which supplement the Federal standard are required to "passthrough" the Federal increase by not decreasing State supplementary payments. States are allowed to meet this requirement under two different options. Under the payment level option, a State can meet the passthrough requirement by not reducing the State supplementary payment levels (the net State payment over and above the Federal payment) below those in effect in March, 1983 but with a reduction in State payment levels allowed after July, 1983 to provide only a cost-of-living increase instead of the full $20 individual and $30 couple increase in the Federal SSI supplementary payment levels below their December, 1976 levels. As an alternative to the payment level option, a State can meet the passthrough requirement by spending as much in total for State supplementary payments in the 12-month period following the Federal increase as the State spent in the previous 12-month period.

House bill

No provision.

Senate amendment

The passthrough requirement under the payment level option would be modified to allow a State to meet the passthrough requirement by using either the current law's 1983 payment level base or the previous law's December, 1976 State supplementary payment level base but with a full passthrough of the July, 1983 $20/$30 increase. This would allow any State that has increased its State supplementary payment levels above those in effect in December, 1976 to reduce those levels (but not below those in effect in December, 1976). This change would be effective for months beginning after March, 1983.

Conference agreement

The Conference agreement follows the Senate bill but with the following modifications. In addition to the current methods of compliance with the passthrough requirement, a State would be found to be in compliance with the passthrough requirement for calendar years 1984 and 1985 if in calendar year 1986, the State supplementary payment levels are such that, since December, 1976, the State has increased its State supplementary payment levels (other than for residents of medical facilities) by no less than the total percentage increase in the Federal SSI benefit standard between December, 1976 and February, 1986 including the cost-of-living increase for 1986.

The Conference agreement also provides that the Social Security Administration shall, at the request of a State, administer State supplementary payments provided to residents of medical institutions who are eligible for the $25 a month Federal SSI personal needs allowance.

2. Third-party liability collections (SSI eligibility)

Present law

Medicaid recipients are required, as a condition of eligibility for Medicaid, to assign their rights to medical support payments and other payments for medical care to the State.

House bill

No provision.

Senate amendment

Requires applicants and recipients, as a condition of SSI eligibility, to cooperate with the Secretary of HHS in identifying and pursuing third parties liable for health coverage unless such individual has good cause for refusing to cooperate as determined in accordance with standards prescribed by the Secretary.

Conference agreement

The Conference agreement follows the House bill.

3. Preservation of benefit status for disabled widows and widowers who lost SSI benefits because of 1983 changes in actuarial reduction formula

Present law

The Social Security Amendments of 1983 raised the amount of benefits for disabled widows and widowers aged 50 to 59, effective January 1984. As a result of the increase, some beneficiaries lost eligibility for Supplemental Security Income (SSI) and, consequently, Medicaid.

House bill

No provision.

Senate amendment

Requires that those low-income widows and widowers who lost SSI eligibility because of the January 1984 disability benefit increase may file an application for protection with the State within 15 months after enactment and be deemed to be receiving SSI benefits for the purpose of Medicaid eligibility. The provision further directs the Secretary to inform the States of the identities of affected individuals, solicit their applications for Medicaid coverage and process their applications promptly. Effective for months starting at least 2 months after enactment.

Conference agreement

The conference agreement follows the Senate bill.

Part VI: AFDC, Adoption Assistance, and Foster Care

1. AFDC and Medicaid quality control

(Section 301 of House bill)

Present law

AFDC: Federal regulations outline AFDC quality control procedures for measuring errors in eligibility and payment, identifying causes of error, and taking corrective action. A State's error rate is determined annually from the State's full sample and a Federal subsample.

Before enactment of P.L. 97-248, regulations required States to reach a 4 percent AFDC error tolerance level, in phased stages between fiscal years 1981 and 1984. Starting in FY 1984, the law reduced the tolerance level to 3 percent for erroneous excess payments (overpayments to eligibles and payments to ineligibles).

The law prescribes fiscal sanctions (withholding of some program matching funds) for State AFDC payment error rates that exceed tolerances. Fiscal sanctions have been assessed, but not collected. By regulation, the payment error rate tolerance is 4 percent for Puerto Rico, Guam, and the Virgin Islands. The statute allows fiscal incentives to be paid to those jurisdictions for dollar error rates (including underpayments) that are below 4 percent.

The law permits the HHS Secretary to waive all or part of fiscal sanctions if a State is unable to reach the target despite a good faith effort. This finding is limited to extraordinary circumstances.

Medicaid: Federal regulations require States to operate a Medicaid quality control eligibility system that identifies, on a sample basis, erroneous payments resulting from ineligibility, incorrect beneficiary liability, or third-party liability. States are required to take action to correct any eligibility, third-party liability, or other errors found in the sample cases. A State's error rate is determined annually from a State's full sample and a Federal subsample.

Effective with calendar quarters beginning April 1, 1983, P.L. 97-248 required States to keep their Medicaid payment error rates at or below 3 percent. Payment errors are Medicaid payments made for individuals of families in the sample subject to quality control review who were ineligible or who had not met beneficiary liability requirements prior to receiving services.

Technical errors that do not affect the amount of medical assistance paid are excluded from the calculation of a State's erroneous payments. Payments made on behalf of aged, blind or disabled individuals whose eligibility determinations were made exclusively by the Social Security Administration are excluded from the calculation of a State's erroneous payments.

States with Medicaid payment error rates in excess of 3 percent are subject to a disallowance of Federal Medicaid matching funds. These reductions are imposed prospectively, using an anticipated error rate projected by the Health Care Financing Administration (HCFA) based upon a State's previous error rates. At the end of each annual period, when actual payment error rates have been determined, the appropriate adjustment in Federal matching payments is made. Fiscal sanctions have been assessed and collected.

Puerto Rico, Guam, the Virgin Islands and American Samoa are not subject to a Medicaid payment error rate standard.

The Administrator of HCFA is authorized to waive all or part of the fiscal sanctions if the State is unable to meet the 3 percent standard despite a good faith effort. This finding is limited to extraordinary circumstances.

House bill

AFDC: Establishes basic AFDC quality control procedures in law. Permits States to use 6-month or annual samples, but not to reduce sample size.

Sets a national tolerance level of 3.5 percent for erroneous AFDC payments (payments to ineligibles and overpayments to eligibles). Requires individual tolerance rates for States, which can range as high as 5 percent depending on the existence of the AFDC-UP program in the State, the share of earners among the State's AFDC families and the State's population density.

Revises calculation of a State's error rate by: excluding technical errors that do not affect the AFDC payment levels and by setting a State's error rate at the lower bound rather than the midpoint of the range within which its true error rate falls in cases where the sample size is sufficient to produce a lower bound that is no more than 2.5 percentage points below the midpoint.

Sets a State's fiscal sanction equal to the Federal portion of AFDC benefits paid above the State tolerance level, using the adjusted State error rate. Reduces a State's sanction by the Federal share of overpayments collected by the State in the fiscal year to which the sanction applies.

Requires the HHS Secretary to take into account factors beyond the State's control and other matters in replying to waiver requests. Requires the Secretary to waive fiscal sanctions if a State submits a corrective action plan that would increase its administrative costs by as much as 50 percent of the sanction. These expenditures would be a federally matched administrative expense.

Bill provisions would not apply to Puerto Rico, Guam and the Virgin Islands.

The legislation would be effective for quarters in fiscal 1983 and later, except at State option and in accordance with regulations to be prescribed by the HHS Secretary, changes may take effect for quarters in FY 1981 and 1982, or in FY 1982.

Medicaid: No provision.

Senate amendment

AFDC and Medicaid: Prohibits collection of AFDC or Medicaid fiscal sanctions, including any as yet uncollected sanctions for 1981 and later years, for 2 years after enactment. Requires sanctions for the 2-year moratorium period and for earlier times to be subsequently calculated on the basis of rules in the restructured program.

During the 2-year moratorium of fiscal sanctions, continues data collection and calculation of error rates as under current law.

Requires the HHS Secretary to conduct a study of quality control systems for AFDC and Medicaid, examining how best to operate them to improve administration and obtain reasonable data on which to base fiscal sanctions. Requires the Secretary to contract with the National Academy of Sciences to conduct a concurrent study. Sets one year after enactment as the deadline for reports on both studies.

Requires the Secretary, not later than 18 months after enactment, to publish regulations to restructure the quality control systems for AFDC and Medicaid to the extent he determines appropriate and to establish criteria for adjusting fiscal sanctions calculated for quarters before the new systems so as to eliminate penalties that would not have been imposed had the new rules been in effect then. Requires the Secretary to take into account the prescribed quality control studies in revising the systems. Requires the Secretary to implement the revised systems beginning with the first calendar year after the 2-year moratorium.

The provision would be effective on the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment.

2. Grants for teenage pregnancy program

(Section 302 of House bill)

Present law

Although some States operate pilot pregnancy service programs for teenage families, there is no specific block grant program designed to provide these services to AFDC recipients in each State.

House bill

Authorizes $50 million in fiscal year 1986 and $100 million in 1987 for grants to State AFDC agencies to operate teenage pregnancy programs for children and young parents up to age 25 who are eligible for AFDC. Limits funds to areas with high rates of teenage pregnancy or infant mortality. Requires each site receiving funds to act to discourage teenage pregnancy and to give services to teenage mothers and fathers.

Goals of pregnancy prevention program include: encouraging children to postpone sexual activity and child bearing and to develop education and employment goals; identifying factors that determine teenage contraceptive use and sexual activity.

Makes eligible for services to help them become self-sufficient: AFDC-eligible persons under age 25 who are pregnant or are parents of children under 6 and who have not completed high school (or its equivalent) and who volunteer for the program. Requires participants to seek a high school diploma (or equivalent). Requires State programs to provide each participant with academic or vocational training, job counseling, employment readiness and job placement services, and an individualized assessment and plan. Provides that States could obtain permission from the Secretary to require participation if funds are sufficient to provide all necessary services for all eligible persons.

Prohibits use of these grant funds for abortions or counseling to have an abortion except when the mother's life would be endangered if the fetus were carried to term.

Allocates funds to States on the basis of their share of national AFDC benefit spending. Provides that unused funds would be reallocated where needed.

Requires applicant States to submit a program plan with provision for specified services. Requires participating States to report on progam activities by March 1, 1987.

Requires the HHS Secretary to report to Congress on program evaluation and recommendations for the future by July 1, 1987.

Specifies that payments made and services given to program participants shall not be considered income or resources by AFDC.

The program would be effective from October 1, 1985 until September 30, 1987. (However, funds allocated to States before September 30, 1987 could be carried over to fiscal year 1988.)

Senate amendment

No provision.

Conference agreement

3. AFDC for families with unemployed parents

(Section 303 of House bill)

Present law

States have the option to provide AFDC to financially eligible two-parent families in which the principal earner is "unemployed," defined as working fewer than 100 hours per month.

For eligibility, the law requires that the unemployed parent have worked 6 or more quarters in any 13-calendar quarter period ending within 1 year before applying for AFDC-UP.

States without an AFDC-UP program are: Alabama, Alaska, Arizona, Arkansas, Colorado, Florida, Georgia, Idaho, Indiana, Kentucky, Louisiana, Mississippi, Nevada, New Hampshire, New Mexico, North Carolina, North Dakota, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, and Wyoming.

House bill

Requires all State AFDC programs to offer coverage to financially eligible two-parent families in which the principal earner is "unemployed," defined as working fewer than 100 hours per month.

Permits States to substitute for 4 of the 6 quarters of work, quarters of full-time attendance in elementary or secondary school or full-time participation in vocational training, but sets a lifetime limit of 4 quarters creditable to vocational training.

The provision would be effective October 1, 1986.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill with an amendment establishing January 1, 1988 as the effective date for the mandate.

4. Recovery of excess funding for incomplete automated AFDC systems

(Section 771 of Senate amendment)

Present law

A Federal matching rate of 90 percent is paid for the development and installation of automated claims processing and information retrieval systems for AFDC. Systems must be designed and developed in accordance with a planning document approved by the Secretary of Health and Human Services.

House bill

No provision.

Senate amendment

Requires the Secretary to recover 40 percent of the amounts spent on automated systems from any State that fails to implement those systems by the implementation date called for in the approved planning document. Authorizes the HHS Secretary to extend the deadline if the failure to meet the deadline occurs for reasons which the State cannot control. The provision would be effective on the date of enactment, but applicable only to funds spent after that date.

Conference agreement

The House recedes. The managers intend that the Secretary of Health and Human Services extend any deadlines and waive any penalty if the deadline is not met for reasons which the State cannot control. Specifically, this would include extending the deadline for contractor delays and delays in hardware delivery which cause implementation delays. The conferees also recognize that the deadlines set in the advanced planning document are established very early in the system development process. Frequently, these deadlines are unrealistic given the system design that is eventually chosen. States should be permitted to revise these deadlines, subject to the approval of the Secretary.

5. Counting certain payments to Indians as income

(Section 772 of Senate amendment)

Present law

A 1973 law, as amended in 1982, generally exempts from taxation certain per capita distributions to Indian tribal members from Indian trust funds and provides that such payments will be disregarded by Federally-funded benefit programs. As an exception to this rule, per capita payments in excess of $2,000 can be counted as income for Federally-assisted programs other than those under the Social Security Act.

House bill

No provision.

Senate amendment

Applies the $2,000 limit on uncounted income to Social Security Act programs. Calculates (for purposes of all Federally-assisted programs) the $2,000 limit on the aggregate of all per capita payments received in a year by all members of a family unit. The amendment would be effective January 1, 1986.

Conference agreement

The Conference agreement generally follows the House bill. The Conference committee believes that there is need for a thorough review and evaluation of the current provisions of law concerning the manner in which various forms of per capita income received by members of Indian tribes and organizations is taken into account in determining the eligibility for and the amount of income and medical assistance under the Social Security Act and other federal programs.

Such an evaluation needs to take into account the unique responsibility that the Federal government has to members of Indian tribes and organizations. The evaluation also needs to consider how such responsibilities should fit within the broader Federal responsibilities to provide income and medical assistance to low income individuals and in an equitable manner irrespective of membership in a particular group or historical circumstances.

The Conferees, therefore, direct the General Accounting Office (GAO) to conduct a study of the extent, size, nature and frequency of payments to Indians from various funds which are based on their status as a member of an Indian tribe or organization. The study should also describe how these payments are treated under current law for purposes of eligibility for programs authorized under the Social Security Act and other means tested programs. As part of the study, the GAO would also gather information on the justification which has been given for special exceptions in the counting of certain types of income received by members of Indian tribes or organizations.

It is intended that there port would be submitted to the Finance Committee and Agriculture Committee and Select Committee on Indian Affairs of the Senate and the Committee on Ways and Means, Committee on Energy and Commerce, Committee on Agriculture, Committee on Interior and Insular Affairs of the House. There port shall be submitted no later than one year from the date of enactment of this Conference Report.

6. Third-party liability collections (AFDC eligibility)

(Section 746 of Senate amendment)

Present law

Medicaid recipients are required, as a condition of eligibility for Medicaid, to assign their rights to medical support payments and other payments for medical care to the State.

House bill

No provision.

Senate amendment

Requires applicants and recipients, as a condition of AFDC eligibility, to cooperate with the Secretary of HHS in identifying and pursuing third parties liable for health coverage unless such individual has good cause for refusing to cooperate as determined by the State agency in accordance with standards prescribed by the Secretary. The provision would be effective for calendar quarters beginning on or after October 1, 1985, except delay is permitted where State legislation is required.

Conference agreement

The conference agreement follows the Senate amendment with a modification clarifying that individuals are required to identify, to the extent they are able, potentially liable insurers and other third parties, and to provide information to assist the State in pursuing third parties. Beneficiaries are not required to pursue the collections themselves. Pursuit is the responsibility of the provider or the State.

The Managers also note that, under current law, State child support enforcement agencies, which are required to enforce the child support obligations on behalf of all AFDC families, must also petition the court for medical support when it is available to the absent parent at a reasonable cost.

The conference agreement also follows the Senate amendment provision which excludes, from the calculation of AFDC fiscal sanctions, errors resulting from the application of this policy.

PART 1—Foster Care and Adoption Assistance

7. Provisions relating to Medicaid coverage under the adoption assistance and Foster Care Programs

Present law

Under the Title IV-E adoption assistance program, only children for whom adoption assistance payment are being made under an Adoption Assistance Agreement are deemed to be receiving AFDC and thus eligible for Medicaid.

House bill

No provision.

Senate amendment

Removes the need for an actual adoption assistance payment to be made for the adopted child to be deemed eligible for Medicaid. If an Adoption Assistance Agreement under Title IV-E is in effect, the child would be deemed eligible for Medicaid. Applies to medical assistance furnished on or after the first calendar quarter that begins more than 90 days after the date of enactment.

Conference agreement

The Conference agreement follows the Senate amendment

(b) Medicaid Eligibility in State of Residence

Present law

The State which entered into the Adoption Assistance Agreement related to a particular child is responsible for providing Medicaid coverage to that child, even if the child and adoptive parents live in a different State. Similarly, for children in foster care the Medicaid coverage is provided by the State responsible for the foster care placement.

House bill

Amends Title XIX to specify that, for purposes of Medicaid eligibility, children receiving adoption assistance or foster care payments under Title IV-E of the Social Security Act are eligible for Medicaid from the State in which they reside even if this is not the State making the Title IV-E foster care or adoption assistance payment.

Senate amendment

Amends the Title IV-E adoption assistance law to provide that in the case of a child for whom an Adoption Assistance Agreement is in effect under Title IV-E, the State of the child's residence would be responsible for providing Medicaid to the child.

Conference agreement

The Conference agreement follows both the House bill and Senate amendment with modifications. The agreement provides that for purposes of Medicaid eligibility, children with respect to whom there is an Adoption Assistance Agreement in effect under Title IV-E and foster care children for whom payments are being made under Title IV-E would be eligible for Medicaid from the State in which the child resides. The Conference agreement would amend both the Title XIX Medicaid statute and the Title IV-E adoption assistance and foster care program statute to provide for Medicaid eligibility in the State in which the child resides.

The provision is effective beginning with medical assistance furnished on or after the first calendar quarter that begins more than 90 days after the date of enactment.

(c) Medicaid Eligibility for Children Prior to Decree of Adoption

Present law

Adoption assistance and, therefore, Medicaid—to the extent that it is based on adoption assistance—are available only after a child is placed for adoption and an interlocutory decree of adoption is issued or the adoption is finalized under a judicial order.

House bill

No provision.

Senate amendment

Establishes Medicaid eligibility at the time a child is placed for adoption in accordance with applicable State law and for whom an adoption assistance agreement is in effect whether or not an interlocutory decree of adoption or a judicial decree of adoption has been issued. The amendment would apply to medical assistance furnished on or after the first calendar quarter that begins more than 90 days after the date of enactment.

Conference agreement

The Conference agreement follows the Senate amendment.

8. Extension of ceiling on AFDC foster care funds and of State authority to transfer funds to child welfare services

Present law

State-by-State ceilings on Federal AFDC foster care maintenance funds were imposed through fiscal year 1985 by Public Law 96-272, as amended, for any year in which Congress appropriated a specified sum of Title IV-B child welfare funds. Each State's ceiling was based on funding for previous years or the State's under-18 population. The mandatory ceilings were not in effect in fiscal years 1983-85 because child welfare funds remained below the trigger level ($266 million). However, many States chose to operate under a voluntary ceiling.

The law provided that through fiscal year 1985, when operating under a foster care funding limit, whether mandatory or voluntary, and under certain conditions, States could transfer at least some of their allocation of unused foster care funds to child welfare services (all unused foster care funds if a mandatory ceiling were in effect).

House bill

No provision.

Senate amendment

Extends through fiscal year 1987 the ceilings on AFDC foster care funds when annual child welfare services appropriations equal at least $266 million. Extends formulas for calculating each State's ceiling and provisions allowing States to transfer unused foster care funds to child welfare services through fiscal year 1987. Effective October 1, 1985.

Conference agreement

The Conference agreement follows the Senate amendment.

9. Extension of authority for AFDC foster care payments on behalf of children placed in foster care under a voluntary placement agreement

Present law

Title IV-E AFDC foster care payments were authorized through fiscal year 1985 by P.L. 96-272, as amended, for children removed from their home under a voluntary placement agreement, provided States met specified protections and procedures.

House bill

No provision.

Senate amendment

Extends through fiscal year 1987 provisions allowing payments for children placed in foster care under a voluntary agreement. Effective October 1, 1985.

Conference agreement

The Conference agreement follows the Senate amendment.

10. Independent living initiatives

Present law

AFDC foster care maintenance payments are intended for such essentials as food and shelter and generally end when the child reaches age 18 (although some States continue aid to high school students under age 19). Specific services to help foster children prepare for independent living as adults must be funded either by the State or by other Federal programs, such as the Title XX block grant or Title IV-B child welfare services.

House bill

No provision.

Senate amendment

Authorizes $45 million each for fiscal years 1987 and 1988 for State entitlement programs to help AFDC foster care children age 16 and over prepare for independent living. Each State's share of funds would equal its proportion of the fiscal year 1984 AFDC foster care caseload. Provides that any unused funds would be reallocated to States needing them. Requires no State matching funds, but stipulates that program funds shall not replace those already available for the same general purpose.

Cites as examples of services that would promote the program's objective: enabling children to complete high school or receive vocational training; providing training in daily living skills such as budgeting and career planning; counseling; coordinating services; outreach activities; and developing individuals plans for the transition to independent living. The services will be provided directly by the State agency or under contracts with local governmental entities or private nonprofit organizations that have children in their care.

Requires State case plans for Title IV-E foster care children, where appropriate, to include a description of programs and services that will help them prepare for independent living.

Requires States to submit a report by March 1, 1988, on the uses of program funds and the attainment of program goals. Requires the DHHS Secretary to submit to Congress by July 1, 1988, a description and evaluation of the program and recommendations for the future. The effective date except as noted, would be upon enactment.

Conference agreement

The Conference agreement follows the Senate amendment.

SUBTITLE D—UNEMPLOYMENT COMPENSATION

1. Supplemental unemployment compensation for certain individuals

Present law

The Federal Supplemental Compensation program (FSC), which provided additional weeks of unemployment compensation to individuals who had exhausted their regular State benefits, was due to expire on April 6, 1985. Public Law 99-15, enacted on April 4, 1985, allowed individuals who were receiving FSC benefits for the week of March 31-April 6, to continue to receive the remainder of their benefits. No new FSC benefits were payable after April 6, 1985. Under Public Law 99-15, the remaining weeks of FSC benefits had to be collected in consecutive weeks of unemployment. Any interruption of benefits, for whatever reason, ended an individual's eligibility for FSC benefits.

House bill

The bill allows certain individuals in the State of Pennsylvania to collect the remainder of their FSC benefits, notwithstanding the requirement in Public Law 99-15 that such benefits be collected in consecutive weeks. These individuals were receiving FSC for the week of March 31, 1985-April 6, 1985, and were eligible to collect the remainder of their benefits under Public Law 99-15. The collection of their remaining benefits was interrupted. However, when they were called up in the National Guard in early June to provide services during a major disaster.

The provision applies only to individuals who were called up for National Guard duty by the Governor in a disaster declared by the President on June 3. It applies to weeks of unemployment occurring after the individual had completed his Guard duty but during which he may not have met the work search or availability requirements of State law because he failed to file claims believing he was no longer eligible (having failed to file in consecutive weeks). It applies only until an individual's FSC benefits were exhausted or he became employed, whichever occurred earlier.

Effective date.—For weeks of unemployment beginning after March 31, 1985.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

2. Recovery of overpayments

Present law

When a State finds that it has made an overpayment of unemployment benefits, it may (after observing appropriate procedural safeguards) collect that overpayment by withholding a subsequent unemployment benefit due to the same individual.

This procedure, however, is permitted only when both the incorrect payment and the withheld payment are funded from the State's own unemployment trust fund. In some circumstances, unemployed workers receive benefits which are paid by the same State agency and appear to the worker as though they were the same type of unemployment benefit but are funded from different sources. This can occur, for example, when a worker moves from one State to another and receives some benefits from the State from which he moved. It also happens when a worker's entitlement is extended by reason of trade adjustment assistance or other Federally-financed unemployment programs.

House bill

No provision.

Senate amendment

Allows reciprocal withholding of overpaid unemployment benefits regardless of the funding source. The same procedural safeguards would be required, but an overpayment of State benefits could be recovered by withholding from subsequent Federally-funded benefits if the State also agreed that it would recover incorrect Federal benefits. Similarly, States would be allowed to withhold benefits payable under their program to recover payments of benefits incorrectly made to the same individual by other States. Implementation of this provision would be at the option of each State.

Effective date.—October 1, 1985.

Conference agreement

The conference agreement follows the Senate amendment.

The House Conferees from the Committee on Energy and Commerce were appointed solely for the consideration of issues related to authorization of expenditures from the Superfund and took no part in the consideration of the Superfund revenue aspects of the Senate amendment.

TITLE XIII—TRADE, CUSTOMS, INCOME SECURITY, AND RELATED PROGRAMS

SUBTITLE A—TRADE AND CUSTOMS PROVISIONS

Part 1—Trade Adjustment Assistance

Short title (Section 13001 of Conference Agreement).

House bill

No provision.

Senate amendment

"Trade Adjustment Assistance Reform and Extension Act of 1985."

Conference agreement

House recedes.

A. WORKER ADJUSTMENT ASSISTANCE

1. Petitions (section 13002 of conference agreement; section 778A of Senate amendment)

Present law

Section 221 permits any group of workers or their authorized representative to file a petition with the Secretary of Labor for a certification of eligibility to apply for TAA.

House bill

No provision.

Senate amendment

Provides explicitly that workers in agricultural firms or subdivisions may petition for TAA certification.

Effective date.—1 year after import fee imposed; i.e., 1 year after the earlier of 2 years after enactment or 30 days after the President certifies that the GATT allows such a fee.

Conference agreement

House recedes with an amendment to make the provision effective upon date of enactment.

2. Group eligibility requirements section 13002 of conference agreement; section 201 of House bill; section 778A of Senate amendment)

a. Agricultural workers

Present law

Any group of workers may be certified eligible to apply for TAA if they meet the statutory criteria.

House bill

No provision.

Senate amendment

Provides explicitly that workers in agricultural firms or sudivisions may be certified eligible to apply for TAA (conforms to amendment above).

Effective date.—1 year after import fee imposed.

Conference agreement

House recedes with an amendment to make the provision effective upon date of enactment

b. Component parts, services

Present law

Under section 222, the Secretary of Labor must certify a group of workers as eligible to apply for TAA benefits if he determines (1) a significant number or proportion of the workers in a firm or subdivision have been laid off or are threatened with layoff; (2) sales and/or production of the firm or subdivision have decreased absolutely; and (3) increased imports of articles like or directly competitive with articles produced by the firm or subdivision "contributed importantly" to the layoffs and sales/production declines.

House bill

No provision.

Senate amendment

Expands certification eligibility to encompass those workers in firms that supply essential parts or essential services for articles produced by directly affected firms.

Effective date.—1 year after import fee imposed.

Conference agreement

House recedes.

c. Relocation overseas

Present law

Because increased imports must be an important cause of layoffs and sales/production declines, workers laid off as a result of firm or plant relocations overseas may be certified if increased imports of the article produced by that firm or plant preceded its closing and move.

House bill

Expands certification eligibility to workers in a firm or subdivision who are laid off or threatened with layoff "by reason of the relocation of the production functions of that firm or subdivision to a foreign country or instrumentality".

Effective date.—Petitions filed after September 30, 1985.

Senate amendment

No provision.

Conference agreement

House recedes.

3. Qualifying requirements for workers (section 13003 of conference agreement; Section 202 of House bill; Section 778B of Senate amendment)

a. Cash assistance

Present law

Under section 231, individual certified workers who meet the qualifying requirements on pre-layoff employment are entitled to weekly cash payments (trade readjustment allowances) equal to the amount of their unemployment compensation (UC) after they have first exhausted all UC for the balance of 52 weeks of unemployment. Workers may receive up to 26 additional weeks (maximum of 78 weeks) of TRA benefits while in approved training.

House bill

No provision.

Senate amendment

Adds a new requirement for workers to qualify for TRA payments:

1. The worker must be enrolled in a training program approved under section 236(a); or
2. The worker must have completed such approved training after layoff.

Such workers would be entitled to up to the balance of 78 weeks of TRA benefits.

Alternatively, a worker would be entitled to TRA for up to the balance of 52 rather than the balance of 78 weeks if the worker has received a written statement after layoff from the Secretary of Labor certifying that he was unable to approve a training program under section 236(a) (Secretary must review and certify any such determination by a State or State agency). The Secretary must submit an annual report to the Ways and Means and Finance Committees on the number of certifications.

If the Secretary determines the worker has failed to begin or ceased to participate in the training program without justifiable cause, no TRA may be paid to the worker until he begins or resumes participation.

No TRA would be paid to the worker for any week he receives on-the-job training.

Effective date.—1 year after import fee imposed.

Conference agreement

House recedes with amendments: (1) to clarify that the Secretary of Labor is to certify workers for whom it is not feasible or appropriate to approve a training program under section 236(a); and (2) to remove the requirement that certification may be made only by the Secretary and to include State responsibility for such certifications in cooperative agreements under section 239.

The Conferees intend to emphasize that the purpose of the exception to the general rule requiring enrollment in retraining is to continue benefits to the worker for whom, through no fault of his own, there is no suitable or reasonably available training program. The Secretary will make the finding on the basis of the criteria under section 236(a), taking into account factors such as age and mobility of the worker, and location of retraining programs or work for which the worker could be retrained. The Conferees expect the Secretary of Labor to issue regulations setting forth guidelines and a time frame for the States and State agencies to make certifications under cooperative agreements. The Conferees also expect that the terms of any cooperative agreement will provide for prompt termination of this delegation in the event that a State or State agency fails to comply with such guidelines.

b. Employment requirements

Present law

An individual worker must have at least 26 weeks of employment at weekly wages of $30 or more in adversely affected employment during the 52 weeks preceding layoff to be eligible for TRA payments. Qualifing 26 weeks may include:

Up to 3 weeks of employer-authorized leave (e.g., vacation sickness) or to serve as full-time union representative;

Up to 7 weeks of disability covered by workmen's compensation; or

Up to 7 weeks combining disability and leave, of which not more than 3 weeks may be employer-authorized or union leave.

House bill

Increases the maximum number of weeks that may be counted as weeks of employment toward the 26-week minimum preceding layoff from 3 to 7 for employer authorized or union leave; from 7 to 26 weeks for disability; and from 7 to 26 weeks combining disability and leave, or which authorized leave cannot exceed 7 rather than the present 3 weeks.

Effective date.—Petitions filed after September 30. 1985.

Senate amendment

Identical provision.

Effective date.—1 year after import fee imposed.

Conference agreement

House recedes.

4. Limitations on trade readjustment allowances (section 13003(d) of conference agreement; section 203 of House bill)

Present law

Under section 233(a)(2) a worker may collect basic TRA only during the 52-week period beginning with the week immediately following the first week covered by the certification with respect to which the worker has first exhausted all rights to regular unemployment compensation.

House bill

Extends the collection period for basic TRA benefits from 52 to 104 weeks following exhaustion of regular unemployment compensation.

Effective date.—October 1, 1985.

Senate amendment

No provision.

Conference agreement

Senate recedes with an amendment to make the provision effective upon date of enactment.

5. Training (section 13004 of conference agreement; section 204 of House bill; section 778C of Senate amendment)

a. Approval standards

Present law

Under section 236(a) if the Secretary of Labor determines that (1) there is no suitable employment available for an eligible worker; (2) the worker would benefit from appropriate training; (3) there is a reasonable expectation of employment after such training; (4) training approved by the Secretary is available; and (5) the worker is qualified to undertake and complete such training, then the Secretary may approve training for the worker.

House bill

Adds the stipulation that a "reasonable expectation of employment" does not require that employment opportunities for a worker be available or offered immediately upon the completion of training.

Effective date.—Certifications issued after September 30, 1985.

Senate amendment

Clarifies that "no suitable employment available" criterion refers to adversely affected workers.

Amends "training approved by the Secretary" criterion to be "reasonably" available.

Effective date.—1 year after import fee imposed.

Conference agreement

House recedes to the Senate provision and Senate recedes to the House provision with amendments to make the provisions effective upon date of enactment.

b. Training approval

Present law

The Secretary may, but is not required to, approve training for a certified worker if the five criteria are met. Upon approval the worker is entitled to have the costs of training paid by the progam.

House bill

No provision.

Senate amendment

Requires approval of training for a certified worker if the five criteria for approval are met.

Effective date.—1 year after import fee imposed.

Conference agreement

House recedes.

c. Types of training

Present law

Under section 236(a), training approved by the Secretary may be available from either governmental agencies or private sources, insofar as possible on-the-job.

House bill

No provision.

Senate amendment

Includes list of types of training that may be approved, including but not limited to, on-the-job, training provided by States or approved by a private industry council under JTPA, or any other training program approved by the Secretary.

Amends section 247 to include a definition of "on-the-job training."

Effective date.—1 year after import fee imposed.

Conference agreement

House recedes with an amendment to make the provision effective upon date of enactment.

d. Training direct payment or voucher

Present law

If training is approved, the worker is entitled to have payment of costs of training paid on his behalf by the Secretary of Labor, through reimbursements to the States under cooperative agreements.

House bill

No provision.

Senate amendment

Directs the Secretary of Labor to pay training costs, up to $4,000, either directly or through a new voucher mechanism, for each worker for whom training has been approved. (There may be one or more vouchers to a qualified worker with respect to a particular separation.) Prohibits double Federal reimbursement of training costs.

Effective date.—1 year after import fee imposed.

Conference agreement

House recedes.

e. On-the-job training

Present law

Section 236(a) requires the Secretary to provide or assure training on-the-job insofar as possible, including related education necessary for occupational skills.

House bill

No provision.

Senate amendment

Applies section 143(b) of JTPA to TAA training (provisions for no displacement or infringement of promotion opportunities of currently employed workers, etc.). Permits payment of on-the-job training only if the training is not for the same occupation from which the worker was laid off and certified, the employer certifies he will employ the worker for at least 26 weeks after training completion if the worker desires and the employer does not have due cause to terminate, and the employer has not violated section 143(b) of the JTPA or any other certification of paid on-the-job training.

Effective date.—1 year after import fee imposed.

Conference agreement

House recedes with amendments: (1) to adopt actual language of the provisions of section 143(b) of the JTPA; and (2) to make the provision effective upon date of enactment.

6. Job search allowances (section 13005 of conference agreement; section 778D of Senate amendment)

Present law

Under section 237, the Secretary of Labor may provide reimbursement for 90 percent of the costs of necessary job search by a certified worker, up to $800, if the worker has been laid off, cannot reasonably be expected to secure suitable employment within his commuting area, and applies within specified time limits.

House bill

No provision.

Senate amendment

Adds a benefit of reimbursement for necessary expenses of a job search program approved by the Secretary, available to any certified worker regardless of whether the worker has enrolled in an approved training program or meets the eligibility criteria for existing job search allowances. A reimburseable job search program includes either a job search workshop (short seminar to provide participants with knowledge, e.g., interview techniques, resume writing, to enable them to find jobs) or a job finding club (the same except it includes a one-two week period of supervised activity in which participants attempt to obtain jobs).

Effective date.—1 year after import fee imposed.

Conference agreement

House recedes.

7. Agreements with States (section 13004 of conference agreement; section 205 of House bill; section 778C of Senate amendment)

Present law

Section 239(a) authorizes the Secretary of Labor to enter into cooperative agreements with any State or any State agency to receive applications, make payments of TAA benefits, and afford adversely affected workers who apply for payments testing, counseling, referral to training, and placement services.

House bill

Adds requirements that each cooperating State agency (1) advise each adversely affected worker to apply for training at the time the worker applies for TRA benefits; and (2) within 60 days after the worker applies for training, to interview and review with that worker suitable training opportunities available under section 236.

Effective date.—October 1, 1985.

Senate amendment

Adds provision that agreements may be made with one or more State or local agencies, including State employment service agencies, State agencies carrying out the JTPA dislocated worker program, or any other State or local agency (e.g., private industry council) administering job training or related programs.

Effective date.—1 year after import fee imposed.

Conference agreement

House recedes to the Senate provision and Senate recedes to the House provision with amendments to make the provisions effective upon date of enactment.

B. FIRM ADJUSTMENT ASSISTANCE

8. Petitions and determinations (section 13006 of conference agreement; section 211 of House bill; section 778A of Senate amendment)

a. Agricultural firms

Present law

Section 251 permits any firm or its representative to file a petition with the Secretary of Commerce and be certified eligible to apply for TAA if they meet the statutory criteria.

House bill

No provision.

Senate amendment

Provides explicitly that any agricultural firm may petition and be certified for TAA eligibility (conforms to amendment for agricultural workers).

Effective date.—1 year after import fee imposed.

Conference agreement

House recedes with an amendment to remake the provision effective upon date of enactment.

b. Component parts, services

Present law

Under section 251, the Secretary of Commerce must certify a firm eligible to apply for TAA benefits if (1) a significant number or proportion of the workers in such firm have been laid off or are threatened with layoff; (2) sales and/or production of such firm have decreased absolutely; and (3) increased imports of articles like or directly competitive with articles produced by that firm contributed importantly to the layoffs and sales/production declines.

House bill

No provision.

Senate amendment

Expands certification eligibility to encompass firms that supply essential parts or essential services to directly affected firms (conforms to amendment for workers).

Effective date.—1 year after import fee imposed.

Conference agreement

House recedes.

c. Significant product lines

Present law

Under present criteria, total sales and/or production of the firm must have decreased absolutely for the firm to be certified eligible to apply for TAA.

House bill

Includes an alternative sales/production criterion if sales and/or production of an article that accounts for not less than 25 percent of the firm's total sales or production decline absolutely during the 12 months preceding the most recent 12-month period for which data are available.

Effective date.—Petitions filed after September 30, 1985.

Senate amendment

No provision.

Conference agreement

Senate recedes with an amendment to make the provision effective upon date of enactment.

9. Financial assistance (section 13006 of conference agreement; section 214 of House bill; section 778E of Senate amendment)

Present law

Section 252 authorizes the Secretary of Commerce to provide a certified firm either technical assistance, financial assistance, or both, if he determines that the firm's application (including an economic adjustment proposal) meets the statutory approval criteria.

Financial assistance under section 254 consists of direct loans and/or loan guarantees to be used for fixed asset investment or as working capital to enable the firm to implement its adjustment proposal. If the Secretary determines that the required funds are not available from the firm's own resources or the private capital market and that there is a reasonable assurance of repayment, he may provide direct loans up to $1 million per firm and/or loan guarantees up to $3 million per firm.

House bill

Clarifies that single loans or a combination of loans or loan guarantees may be made for mixed uses.

Effective date.—October 1, 1985.

Senate amendment

Eliminates financial assistance, i.e., authority to provide any new direct loans or loan guarantees; conforming amendment eliminates approval criterion that the firm has no reasonable access to financing through the private capital market.

Effective date.—Enactment.

Conference agreement

House recedes.

10. Technical assistance (section 13006 of conference agreement sections 212,213 of House bill)

a. Types of technical assistance

Present law

Section 252(b) authorizes technical assistance to certified firms to implement acceptable adjustment proposals; section 252(c) authorizes technical assistance to certified firms to help them prepare adjustment proposals. Section 253 authorizes technical assistance to assist firms in preparing petitions for certification, as well as to certified firms to prepare and implement adjustment proposals.

House bill

Amends section 252 to clarify that three forms of technical assistance are available to firms, consistent with section 253.

Effective date.—October 1, 1985.

Senate amendment

No provision.

Conference agreement

Senate recedes with amendment: (1) to make conforming changes; and (2) to make the provision effective upon date of enactment.

b. Matching requirements

Present law

Section 253(b)(2) limits the U.S. Government share to 75 percent of the cost of technical assistance provided by private individuals, firms, or institutions.

House bill

Removes the 75 percent limitation on the U.S. Government share of the cost of technical assistance to assist firms in preparing petitions for certification or in preparing economic adjustment proposals (including diagnostic surveys). The matching share requirement would continue to apply to assistance for implementing economic adjustment proposals.

Effective date.—October 1, 1985.

Senate amendment

No provision.

Conference agreement

Senate recedes with amendments: (1) to retain the 75 percent limitation on the U.S. Government's share of the cost of peparing economic adjustment proposals; and (2) to make the provision effective upon date of enactment.

11. Protective provisions (section 215 of House bill)

Present law

Section 258(d) prohibits the provision of financial assistance to any firm unless the owners, partners, or officers execute an agreement binding them and the firm for 2 years after the assistance is provided not to employ or retain for professional services any person who on the date the assistance was provided or within one year prior thereto occupied a position or engaged in activities involving discretion in providing the assistance.

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House bill

Requires that the agreement bind the owners, partners, or officers on behalf of the firm, but not themselves individually.

Effective date.—October 1, 1985.

Senate amendment

No provision.

Conference agreement

House recedes.

C. EXTENSION OF TRADE ADJUSTMENT ASSISTANCE

12. *Termination date* section 13007 of conference agreement; (section 221 of House bill; section 778F of Senate amendment)

Present law

Section 285, as amended in 1983, terminated the worker and firm TAA programs on September 30, 1985. Public Law 99-107 extended the termination date until November 14, 1985; Public Law 99-155 further extended the programs through December 14, 1985.

House bill

Amends the termination date in section 285 to reauthorize the worker and firm TAA programs for 4 years through September 30, 1989.

Senate amendment

Reauthorizes worker and firm TAA for 6 years from date of enactment.

Conference agreement

House recedes.

D. FUNDING OF TRADE ADJUSTMENT ASSISTANCE

13. *Program funding (section 13009 of conference agreement; section 778H of Senate amendment)*

Present law

Worker and firm TAA are funded from general revenues.

House bill

No provision.

Senate amendment

Imposes a small fee on all imports into the United States, up to a maximum one percent, to be set at a uniform ad valorem rate sufficient to provide the necessary funding for the TAA programs and for allowable payment of drawbacks and refunds of such fee. The fee is to be assessed regardless of any duty-free treatment accorded articles under other provisions of law, except on goods or belongings of returning tourists or Americans living abroad. One year after imposition of the import fee, the entire program would be funded by the fee, rather than by general revenues.

Effective date.—Earlier of 2 years after enactment or 30 days after President certifies that GATT allows import fee.

The President is directed to undertake negotiations to achieve changes in the GATT to allow any country to impose such a small uniform fee on all imports to fund any program which assists adjustment to import competition. The President must report to Congress on the progress of negotiations within 6 months of enactment and submit a statement of certification on the date the GATT allows such a fee.

Effective date.—Enactment.

Conference agreement

House recedes with amendments to exempt from the import fee: (1) most articles treated as duty free under schedule 8 of the Tariff Schedules of the United States; and (2) entries valued at less than $1,000.

14. *Authorization of appropriations (section 13008(a) of conference agreement; section 778G(a) of Senate amendment)*

Present law

Sections 245 and 256(b) authorize to be appropriated to the Secretaries of Labor and Commerce such sums as may be necessary to carry out their program functions.

House bill

No provision.

Senate amendment

Authorizes appropriations of such sums as necessary for worker and firm TAA for fiscal year 1986 through the earlier of 1 year after imposition of the import fee or fiscal year 1989.

Conference agreement

House recedes.

15. *Trust fund (section 13008(b) of conference agreement; section 778G(b) of Senate amendment)*

Present law

No provision.

House bill

No provision.

Senate amendment

Establishes within the Treasury of the United States a Trade Adjustment Assistance Trust Fund. The Secretary of the Treasury is to transfer to the Trust Fund, from the General Fund of the Treasury, amounts equivalent to receipts from the import fee at least quarterly, adjusted for any shortfall or overage in previous transfers. The Secretary must submit an annual report to the Ways and Means and Finance Committees on the actual and expected financial condition and operation of the Fund. The Secretary must invest such portion of the Fund which is not required to meet current withdrawals; interest and proceeds would be credited to the Fund.

Effective date.—Same date as import fee is imposed.

Conference agreement

House recedes.

16. *Annual appropriations (section 13008(b) of conference agreement; section 778G(b) of Senate amendment)*

Present law

The program is funded from general revenues under annual appropriations bills for the Departments of Labor and Commerce.

House bill

No provision.

Senate amendment

Payments out of the Trust Fund would be subject to the annual appropriations process.

Effective date.—Same date as import fee is imposed.

Conference agreement

House recedes.

17. *Taxation of training benefits (section 13010 of conference agreement; section 778I of Senate amendment)*

Present law

Section 85 of the Internal Revenue Code provides a limited exclusion from gross income for amounts received by a taxpayer that are in the nature of unemployment compensation. There is no express provision exempting training cost from income.

House bill

No provision.

Senate amendment

Expressly excludes payments of training costs or vouchers entirely from gross income for purposes of income taxation.

Effective date.—Taxable years ending on or after 1 year after imposition of the import fee.

Conference agreement

House recedes.

Part 2—Authorization of Appropriations for Trade and Customs Agencies

18. *U.S. International Trade Commission (sec. 13021 of conference agreement; sec. 241 of House bill)*

Present law

Section 330(e), Tariff Act of 1930, restricts sums to be appropriated to the ITC to the amount authorized by law; no authorization exists beyond October 1, 1985. (H.R. 2965, as agreed in conference, appropriates $28, 600,000 for fiscal year 1986, including not be exceed $2,500 for official reception and representation expenses).

House bill

Authorizes appropriations of $28,901,000 for fiscal year 1986 (including for rental of conference rooms), of which not to exceed $2,500 may be used, subject to the Chairman's approval, for reception and entertainment expenses.

Senate amendment

No provision. (S. 1146, as reported but not included in this bill, authorizes appropriations of $28,901,000 for fiscal year 1986).

Conference agreement

The conferees agreed to the House Provision.

19. *U.S. Customs Service (sec. 13022 and 13024 of conference agreement; sec. 242 of House bill, section 799A of Senate amendment)*

Present law

Section 301 of the Customs Procedural Reform and Simplification Act of 1978 requires annual enactment of an authorization Act of 1978 annual enactment of an authorization of appropriation to the U.S. Custom Service.

House bill

For fiscal year 1986 the House bill authorizes appropriations for salaries and expenses of the U.S. Customs Service of an amount not to exceed $769,067,000 of which $50,425,000 if for the operation of the air interdiction program and not to exceed $14,000,000 is for the implementation of "Operation Exodus" and related programs. The authorization level approved by the House not only would restore the proposed cut of 887 positions but would also allocate $27.9 million for the hiring of 800 new frontline customs officers.

The House bill also includes provisions relating to the use of savings from administrative consolidation, criteria for closing ports, the Customs air program, consolidation of drawback liquidation centers, sureties on customs bond, appropriations for the Customs Forfeiture Fund, and user fees at certain small airports.

Senate amendment

Although the Senate amendment has no provision for overall authorization of appropriations for the U.S. Customs Service, it does provide for an additional authorization of appropriations of $27.9 million for each of fiscal years 1986, 1987 and 1988 to hire 800 additional front-line customs officers. The Commissioner of Customs is directed to ensure that sufficient resources are devoted to customs headquarters in newly created customs districts. (S. 1146, as reported but not included in this bill, would also restore Customs' proposed cut of 887 positions.)

Conference agreement

The conferees agreed to the House provision with several modifications. First, the overall authorization level and air program authorization level were changed to $772,141,000 and $53,500,000 respectively. Provisions were also added providing for the allocation of resources to statutorily created district headquarters offices; extending the application of users fees at certain small airports provided for in section 236 of the Trade and Tariff Act of 1984 to additional airports and continuing a provision requiring Customs to notify the Committees before taking certain actions. The conferees also agreed to continue the funding for new Customs personnel in fiscal years 1987 and 1988.

With regard to the provision extending the application of section 236 of the Trade and Tariff Act, the conferees urge the Secretary to give favorable consideration to the application on behalf of the airport at Pontiac/Oakland, Michigan for designation as an airport subject to this provision.

The provision relating to the allocation of resources to Customs district headquarters offices was added to provide explicit and detailed instructions to the Customs Service in the administration of a customs district designated by statute, such as the Columbia Snake Customs District designated by the Trade and Tariff Act of 1984.

20. U.S. Trade Representative (sec. 13023 of conference agreement; sec. 243 of House bill)

Present law

Section 141(f), Trade Act of 1974, authorizes to be appropriated to the USTR such sums as are provided by law (H.R. 2965, as passed by the House and Senate, appropriates $13,158,000 for fiscal year 1986, of which not to exceed $72,000 is available for official reception and representation expenses).

House bill

Authorizes appropriations of $13,582,000 for fiscal year 1986, of which not to exceed $68,000 may be used for official entertainment and representation expenses.

Senate amendment

No provision. (S. 1146, as reported but not included in this bill, authorizes appropriations of $13,582,000 for fiscal year 1986, including $80,000 for official entertainment and representation expenses.)

Conference agreement

The conferees agreed to the House provision with an amendment increasing the ceiling for official entertainment and representation expenses from "$68,000" to "$80,000".

Part 3—*Customs Fees* (Sec. 13031 of conference agreement; Sec. 251 of House bill; section 777 of Senate amendment)

1. Schedule of fees

Present law

The U.S. Customs Service does not currently have the general legal authority to collect fees for the processing of persons, aircraft, vehicles, vessels, and merchandise arriving in or departing from the United States. They do, however, have authority to charge fees under certain limited circumstances, such as when they are providing services (such as pre-clearance of passengers and private aircraft) which are of special benefit to a particular individual. They also have the authority to assess fees on operators of bonded warehouses and foreign trade zones and on the entry of vessels into ports and are authorized to receive reimbursement from carriers for overtime for services provided during non-business hours and reimbursement from local authorities for services provided to certain small airports.

House bill

Amends section 214 of the Customs Procedural Reform Act (19 U.S.C. 58a) to establish the following fee structure to cover the costs of Customs processing of arrivals of:

Commercial vessels (100 tons or over)	$425
Railroad cars	5
Commercial trucks	5
Private aircraft and boats (per year)	25
Passengers (on commercial vessels, aircraft or trains):	
From Canada, Mexico, insular possessions and adjacent islands	1
From all other countries	5

Such fees would be applicable 180 days after enactment.

Senate amendment

As a free-standing provision establishes the following fee structure in addition to any other fees authorized by law:

Commercial vessels (100 net tons or more)	$397
Commercial vessels, less than 100 net tons	25
Commercial trucks	5
(Total fees not to exceed $100 per truck in calendar year)	
(Would not apply if train originates and terminates in same country)	
Private aircraft and boats	[1] 25
(Total fees not to exceed $500 per aircraft or boat in calendar year)	
Passengers (commercial vessel or aircraft):	
From Mexico, Canada, Insular possessions and adjacent islands	0
From all other countries	5
Informal entries prepared by customs officer	5
(No fee if passenger arrival fee collected)	
Dutiable mail entries prepared by customs officer	5
In-bond shipments	10
Customs broker permits (per year)	125

[1] On arrival.

Such fees would be applicable 90 days after the date of enactment.

Conference agreement

The conferees agreed to the House provision on vessels under 100 net tons and private aircraft and boats, the Senate provisions on vessels over 100 net tons, trucks, railroad carts, passengers, broker permits and dutiable mail entries and agreed to drop the Senate provision on in-bound shipments and informal entries. The conference agreement fee schedule is as follows:

Commercial vessels (100 net tons or more)	$397
Commercial trucks	5
(Total fees not to exceed $100 per truck in calendar year)	
Railroad cars	5
(Total fees not to exceed $100 per car in calendar year)	
(Would not apply if train originates and terminates in same country)	
Private aircraft and boats (per year)	25
Passengers (commercial vessel or aircraft):	
From Mexico, Canada, Insular possessions and adjacent islands	0
From all other countries	5
Dutiable mail entries prepared by customs officer	5
Customs broker permits (per year)	125

The conferees agreed to the Senate effective date provision except that with respect to passengers fees, such fees would apply to customs services rendered to passengers using transportation for which documents or tickets were issued more than 90 days after the date of enactment.

The processing fee imposed on commercial vessels weighing 100 net tons or more is in addition to existing fees on commercial vessels. The conferees expect the Customs Service to consolidate the new processing fee with existing fees to the extent an existing fee represents a standard charge on every vessel. Overtime should not be included in such a consolidated fee since overtime charges vary according to each vessel's schedule.

Although the conferees agreed to "cap" the annual fee paid by each train car, or truck, they expect the Customs Service to administer this fee as a one-time fee. Thus, the Customs Service should develop regulations for the prepayment of such fees so that those subject to the fee may choose between paying the fee at the time of each entry, or once annually.

The fee on each truck entry is intended to apply to self-propelled vehicles designed and used for the transportation of property.

The annual fee authorized to be imposed by this legislation on private boats, like the other fees, is intended to cover Customs' processing costs in clearing such boats. The conferees recognize, however, that in border states, there are many owners of small pleasure boats (i.e., less than 30 feet) who frequently travel across the border without carrying imported goods. Since Customs processing costs are not incurred in the clearance of such boats, it is the conferees' intention that such pleasure boats should not be subject to this fee. The Secretary is therefore directed to issue regulations exempting such boats from the application of this fee so long as they are not carrying imported goods required to be declared to the U.S. Customs Service.

The conferees further agreed that the users fees provided for under section 13031 shall not apply to crew members on commercial aircraft or commercial vessels or to diplomats entering the United States.

Finally, with regard to the application of the annual fee imposed on permits for customs brokers it is noted that in Public Law 98-573, Congress provided for the imposition of fees on customs brokers to defray the costs of administration. Every individual, corporation, association, or partnership wishing to conduct customs business for those other than themselves must hold a valid customs brokers license. Every person granted a license will be subsequently issued a permit to conduct business in a particular Custom district. Thus, a license holder may have several permits depending upon the number of districts in which he conducts business. Additionally, every person granted a license must file a triennial report pursuant to the Act.

The conferees have agreed to a provision imposing an annual fee for each permit that is issued pursuant to Public Law 98-573. It is through a fee on permits that the bill will help to defray the costs of regulating the customs brokerage industry. The number of permits is a measure of the cost of regulating these brokers.

The conferees anticipate that Customs will also charge a one-time fee for the issuance of a brokers license and accompanying permits, as well as an administrative fee to accompany each filing of the triennial report. The purpose of the latter fees are exclusively to defray the costs of issuing licenses and permits and of processing the receipt and storage of the triennial reports. We understand, for example, that Customs will charge a one-time fee of $300 for licenses and $100 for permits.

The conferees expect that Customs will confine itself to these fees on brokers and avoid arbitrarily increasing the amount charged.

a. Collection of passenger fees

Present law

No provision.

House bill

Provides for passenger fees to be collected by the commercial carriers and separately identified on the ticket as a Federal inspection fee. Fees are to be remitted to the Secretary of Treasury on a quarterly basis.

Senate amendment

Same provision in substance but also provides for the collection of the fee at the time of departure from the U.S. if the ticket is issued in a foreign country and the fee was not collected as part of the original ticket price.

Conference agreement

The conferees agreed to merge the two provisions together and clarify that whoever issues the ticket is authorized to collect the fee. The Senate language was agreed to with regard to tickets issued in foreign countries and the House language was accepted on remittance of the fees.

b. Status of fees

Present law

Section 214 of the Customs Procedural Reform Act (19 USC 58a) authorizes the collection of specified fees for certain customs services.

House bill

Authorizes Secretary to continue to collect fees to cover the cost of services provided for under 19 USC 58a, as in effect before this Act to the extent not covered in the new fee schedule.

Senate amendment

Since Senate provision is a free-standing provision which does not amend 19 U.S.C. 58a, the authority to collect the fees set out in 19 U.S.C. 58a would continue to exist.

Conference agreement

The conferees agreed to merge two provisions by accepting the Senate free-standing approach and by specifically providing that the Secretary continues to have the authority to charge fees under 19 U.S.C. 58a.

c. Treatment of scheduled airline flights.

Present law

No provision.

House bill

With regard to scheduled airline flights, requires customs services to be adequately provided without additional costs (such as for overtime) to airlines or passengers other than the fees set out in the bill.

Senate amendment

Similar provision except an exception is made with respect to designated airports under section 236(c) of the Trade and Tariff Act of 1984, which provides for reimbursement for Customs services.

Conference agreement

The conferees agreed to accept the Senate provision.

d. Deposit and disposition of proceeds

Present law

Section 524 of the Tariff Act (19 USC 1524) provides for receipts for any reimbursable charges or expenses to be deposited as a refund to Customs' appropriation.

House bill

Repeals section 524 and provides for all receipts for reimbursable charges and expenses to be covered into the Treasury as miscellaneous receipts and placed in a proprietary account.

Senate amendment

Retains section 524 and provides for all the fees collected under this Act to be deposited in a separate "Customs Users Fee Account" within the general fund of the Treasury.

The Secretary is authorized and directed to refund out of this account to its appropriation an amount to cover Customs overtime inspectional services for which a reimbursement is not required. Such refunds should be made at least quarterly with appropriate adjustments, as needed.

Conference agreement

The conferees agreed to accept the Senate provision.

e. Definitions

Present law

No provision.

House bill

No provision.

Defines terms "vessel" (to exclude ferry), "arrival", "customs territory of the United States", and "customs broker permit".

Conference agreement

The conferees agreed to accept the Senate provision.

22. Promulgation of rules and regulations

Present law

Secretary has general authority (19 USC 66) to prescribe rules and regulations in carrying out provisions of law.

House bill

No provision.

Senate amendment

Grants Secretary explicit authority to prescribe rules and regulations to carry out this provision.

Conference agreement

The conferees agreed to accept the Senate provision.

23. Advisory Committee

Present law

No provision.

House bill

Provides for the establishment of an advisory committee to meet on a periodic basis and to advise the Secretary on issues relating to performance of Customs' services. The committee is to be made up of representatives from the airline, shipping and other transportation industries, the general public, and others who may be subject to the fees authorized by section 13031. It is contemplated that the advice include, but not be limited to, such issues as the time periods during which such services should be performed, the proper number and deployment of inspection offices and the level of fees. The Secretary is directed to give substantial consideration to the views of this Committee in the exercise of his duties.

Senate amendment

No provision.

Conference agreement

The conferees agreed to the House provision.

1. Railroad unemployment repayment tax

Present law

Loan authority.—The railroad unemployment insurance (RRUI) program, which provides unemployment and sickness benefits, is funded by unemployment taxes paid by rail employers. The RRUI program can borrow from the railroad retirement program as needed to pay benefits. Such loans are repaid when the Railroad Retirement Board determines that the RRUI account has sufficient funds to make such a repayment. The program's authority to borrow additional funds from the railroad retirement program is scheduled to expire after December 19, 1985.

Loan repayment tax.—The Railroad Retirement Solvency Act of 1983 established a repayment tax scheduled to begin on July 1, 1986 and to expire on September 30, 1990 (Code secs. 3321-3323). The present-law tax rate, applicable to the first $7,000 in wages paid annually to a rail employee, is as follows (sec. 3321):

	Percent
1986	2.0
1987	2.3
1988	2.6
1989	2.9
1990	3.2

House bill

Loan authority.—The House bill makes permanent the authority of the RRUI program to borrow from the railroad retirement program.

Loan repayment tax.—The rate of the present-law loan repayment tax is modified under the House bill to be as follows, beginning July 1, 1986 and expiring September 30, 1990:

	Percent
1986	4.3
1987	4.7
1988	6.0
1989	2.9
1990	3.2

Loan surtax.—Under the House bill, an automatic surcharge of 3.5 percent on the loan repayment tax base will be levied if the RRUI program must borrow from the retirement program. The surtax proceeds are to be used to repay such loans made after September 30, 1985, and is in effect for any year if on September 30 of the prior year any principal or interest from a loan after September 30, 1985 remains unpaid.

Effective date.—The tax provisions will apply to remuneration paid after June 30, 1986. The extension of borrowing authority is effective on enactment.

Senate amendment

The Senate amendment includes the same provisions on loan authority, loan repayment tax, and loan surtax as in the House bill.

In addition, under the Senate amendment a portion of the tier 2 railroad retirement tax equal to one percent of the payroll subject to that tax will be diverted from the railroad retirement program to the RRUI program. These revenues would then be returned to the railroad retirement program to help repay the principal and interest on loans made prior to October 1, 1985. This diversion provision will apply effective January 1, 1986 and will terminate on April 1, 1990.

Conference agreement

The conference agreement is the same as the House bill.

2. Extension of Medicare coverage, hospital insurance tax to State and local government employees

Present law

State and local government employees are covered for social security and Medicare benefits, and such employees and their employers are subject to the FICA tax (including the hospital insurance portion), only pursuant to voluntary agreement between the State and the Secretary of Health and Human Services (Code sec. 3121(b)(7)). Governmental units whose employees have such coverage purusant to voluntary agreement may not later withdraw their employees from coverage.

Medicare coverage (and the corresponding hospital insurance payroll tax) is mandatory for Federal employees.

For wages paid after 1985, the employer-employee hospital insurance tax rate will be 2.9 percent of the first $42,000 of wages (sec. 3101, 3111, and 3121(a)).

House bill

The House bill extends Medicare coverage on a mandatory basis to State and local government employees hired after December 31, 1985, for service performed after that date. These employees and their employers will be liable of the hospital insurance portion of the FICA tax.

Under the House bill, Medicare coverage and the hospital insurance tax are not extended to individuals hired by a State or political subdivision to relieve unemployment; patients or inmates working in a hospital, home, or other institution; temporary workers hired for certain emergencies; or certain students working in District of Columbia hospitals.

The House bill makes technical changes relating to payment of hospital insurance taxes and definition of Medicare-qualified government employment.

Senate amendment

The Senate amendment extends Medicare coverage on mandatory basis to all current and new State and local government employees, effective for service performed after September 30, 1986. These employees and their employers will be liable for the hospital insurance portion of the FICA tax. Under the Senate amendment, employees who perform State or local government service during and before October 1986 will be given credit toward Medicare eligibility for such past State or local government employment.

The Senate amendment provides that hospital insurance taxes for Medicare-qualified State or local government employment are to be collected in the same manner as in the case of such taxes paid by nongovernmental employers.

Conference agreement

The conference agreement follows the House bill, except that a State may extend Medicare coverage (without extending coverage under social security cash benefits) to State and local government employees hired prior to 1986 by voluntary agreement with the Secretary of Health and Human Services. Such employees and their employers would also be liable for the hospital insurance portion of the FICA tax. Under this provision, the collection of Medicare contributions for State and local govenment employees who are newly covered by this bill will be carried out by the State social security office in cases where the local jurisdiction (or State government) currently has in effect an agreement covering some employees of the jurisdiction under social security. Those jurisdictions (e.g., a city, county, or other government subdivision) within a state that have no employees currently covered under a section 218 agreement will be required to make their payments for Medicare coverage of their employees under the same procedures as private employers currently follow.

3. Tobacco excise tax provisions

a. Extension of present cigarette excise tax rates

Present law

A manufacturers' excise tax equal to $8 per thousand is imposed on small cigarettes; this produces a tax of 16 cents on a pack of 20 cigarettes. Large cigarettes (those weighing more than 3 pounds per thousand) are taxed at $16.80 per thousand. These tax rates are scheduled to decrease by one-half after December 19, 1985.

House bill

The House bill makes permanent the present cigarette excise tax rates (e.g., 16 cents per pack of 20 small cigarettes).

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

b. Excise taxes on smokeless tobacco

Present law

Present law does not impose any excise taxes on smokeless tobacco products (e.g., chewing tobacco and snuff).

House bill

No provision.

Senate amendment

The Senate amendment imposes an excise tax of 8 cents per pound on chewing tobacco and 24 cents per pound on snuff, effective for taxable products removed after September 30, 1985.

Conference agreement

The conference agreement follows the Senate amendment with a modification providing that the excise taxes on chewing tobacco and snuff are effective for taxable products removed after March 31, 1986.

c. Tobacco Equalization Trust Fund

Present law

Revenues from the cigarette excise tax are deposited in the Treasury as part of general revenues.

House bill

The House bill dedicates a portion of the cigarette excise tax revenues to a new trust fund to assist in defraying the costs of the tobacco price support program, through September 30, 1990.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the Senate amendment.

4. Coal excise tax; Black Lung Disability Trust Fund repayable advances

a. Coal excise tax

Present law

A manufacturers excise tax is imposed on domestically mined coal (other than lignite) sold or used by the producer (Code secs. 4121, 4218).

The tax rate is the lesser of (1) $1 per ton for coal from underground mines and 50 cents per ton for coal from surface mines, or (2) four percent of the price for which the coal is sold. These rates are to revert to pre-1982 rates (50 cents/25 cents per ton; two percent ceiling) on January 1, 1996, or, if earlier, on the January 1 as of which all principal and interest owed the Treasury by the Trust Fund have been paid.

House bill

The House bill increases the coal excise tax rate and sales price ceiling as follow, effective for sales of taxable coal on or after January 1, 1986:

For calendar years 1986–1990, the tax on underground coal will be $1.50 per ton, the tax on surface coal will be $0.75 per ton, and the ceiling will be six percent of the sales price.

For calendar years 1991–1995, the tax on underground coal will be $1.60 per ton, the tax on surface coal will be $0.80 per ton, and the ceiling will be 6.4 percent of the sales price.

For 1996 and later years, the tax on underground coal will be $1.50 per ton, the tax on surface coal will be $0.75 per ton, and the ceiling will be six percent of the sales price. However, the 1985 rates ($1/0.50 per ton; four percent ceiling) will be reinstated for 1996 or any later calendar year if throughout the two most recent fiscal years ending before the beginning of such calendar year there was no balance of repayable advaces made to the Trust Fund, and no unpaid interest on such advances.

Senate amendment

No provision.

Conference agreement

The conference agreement will increase the coal excise tax rate, effective January 1, 1986 through December 31, 1995, to the lesser of (1) $1.10 per ton for coal from underground mines and 55 cents per ton for coal from surface mines, or (2) 4.4 percent of the sales price.

b. Black Lung Disability Trust Fund repayable advances

Present law

Amounts equal to the coal excise tax revenues are automatically appropriated to the Black Lung Disability Trust Fund. The Trust Fund pays black lung disability benefits to coal miners (or their survivors) who have been totally disabled by black lung disease in cases where no coal mine operator is found responsible for the individual miner's disease.

Present law includes an unlimited authorization for advances, repayable with interest, from general revenues to the Trust Fund (sec. 9501(c)).

House bill

No provision.

Senate amendment

Under the Senate amendment, no further advances from general revenues to the

Black Lung Disability Trust Fund may be made after September 30, 1986. Under the provision, the Trust Fund may not borrow prior to October 1, 1986, amounts to be used to make expenditures after September 30, 1986, or during post-1986 years.◄

Conference agreement

The conference agreement follows the House bill, except that a one-time, five-year forgiveness of the current interest payments on the cumulative indebtedness of the Trust Fund is provided.

6. *Certain exemptions from FUTA tax*

a. Certain nonresident farm workers

Present law

An exemption from FUTA is provided for wages paid for agricultural labor performed by aliens admitted to the United States pursuant to section 214(c) and 101(a)(15)(H) of the Immigration and Nationality Act (Code sec. 3306(c)(1)(B)). This exemption is scheduled to expire on December 31, 1985.

House bill

No provision.

Senate amendment

The FUTA exemption for certain nonresident farm workers is extended on a permanent basis for wages paid on or after January 1, 1986.

Conference agreement

The conference agreement follows the Senate amendment, except that the FUTA exemption is extended only for wages paid before January 1, 1988.

b. Summer camp counselors

Present law

A one-year exemption from FUTA was provided for wages paid for 1983 by certain summer camps for employees who were full-time students (sec. 276(b) of P.L. 97-248).

House bill

No provision.

Senate amendment

The Senate amendment provides a permanent FUTA exemption for wages paid to summer camp counselors who are full-time students, effective for wages paid after September 19, 1985.

Conference agreement

The conference agreement follows the Senate amendment.

c. Fishing boat crew members

Present law

An exemption from FUTA was allowed for remuneration paid during 1981-84 to certain fishing boat crew members. This exemption applied only if the remuneration depended on the boat's catch and the crew normally consisted of fewer than 10 members (sec. 822(b) of P.L. 97-34).

House bill

No provision.

Senate amendment

The Senate amendment provides a permanent FUTA exemption for wages paid to certain fishing boat crew members, effective for wages paid after December 31, 1980.

Conference agreement

The conference agreement follows the Senate amendment.

7. *Tax treatment of railroad retirement benefits*

Present law

Under present law (Code sec. 86), a portion of Railroad Retirement system benefits computed by using the social security benefit formula (tier 1) is subject to Federal income tax in the same manner as social security benefits, i.e., for individuals whose incomes exceed certain levels (generally, $25,000 for unmarried individuals and $32,000 for married individuals filing a joint return). These benefits may be available at an earlier age under the Railroad Retirement system than under the social security system. Other benefits under the Railroad Retirement system are subject to Federal income tax for all recipients to the extent the payments exceed the amount of the individual's previously taxed contributions to the plan.

House bill

The portion of tier 1 Railroad Retirement benefits that is taxable in the same manner as social security benefits will be limited to the portion of tier 1 benefits that equals the social security benefits to which the individual would have been entitled if all of the individual's employment on which the annuity is based had been employment for social security benefit purposes. In addition, a minimum monthly annuity benefit (described in sec. 3(f)(3) of the Railroad Retirement Act of 1974) will be taxed in the same manner as social security benefits. Other tier 1 Railroad Retirement benefits will be taxed under the rules that apply to all other payments under the Railroad Retirement system.

These provisions will be effective for monthly benefits for which the generally applicable payment date is after December 31, 1985.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill. The conferees expect that the IRS will exercise its authority to waive penalties for failure to make estimated tax payments for 1986, to the extent such failure is solely attributable to increased tax liability of the taxpayer resulting from the amendments made by this provision, in light of the short time between enactment of this bill and the effective date of this provision.

8. *Income averaging for former full-time students*

Present law

An individual whose income in a year is more than 40 percent higher than his or her average income during the prior three years may use income averaging to reduce tax liability (Code sec. 1301).

To be eligible for income averaging, the individual must have been self-supporting during each of the prior three years. Subject to this requirement, an individual beginning full-time employment after completing college or graduate school is eligible for income averaging.

House bill

No provision.

Senate amendment

The Senate amendment provides that an individual is not eligible for income averaging for a year if he or she was a full-time student during any of the prior three years.

This rule does not apply to a married individual who files a joint return if 25 percent or less of the adjusted gross income of the return is attributable to that individual. Thus, income averaging will remain available where one spouse had been a full-time student during the base period, but did not contribute substantially to the current-year income to be averaged.

This provision is effective for taxable years beginning after December 31, 1985.

Conference agreement

The conference agreement follows the Senate amendment.

9. *Fringe benefit provisions*

a. Parents of airline employees; airline affiliate employees

Present law

Under the Deficit Reduction Act of 1984, the value of "no-additional-cost" services provided by an employer for use by the employee, or the employee's spouse or dependent children, is excluded from income and wages if certain conditions are met, including a line-of-business limitation (Code sec. 132).

House bill

No provision.

Senate amendment

Parents.—Under the Senate amendment, the value of the use of free or discounted airline passes by parents of an airline employee is excluded from the employee's income and wages on the same basis as where such benefits are used by the employee's spouse or dependent children, effective January 1, 1985.

Airline affiliates.—The Senate amendment excludes from income and wages the value of the use of airline passes by certain individuals who are directly engaged in providing airline-related services. This treatment applies to employees of a corporation predominantly engaged in airline-related services that is a member of an affiliated group which includes an airline. The exclusion applies on the same basis as in the case of employees of the airline corporation who perform airline services. The term airline-related service means (i) catering; (ii) baggage handling; (iii) ticketing and reservations; (iv) flight planning and weather analysis; (v) restaurants located at an airport; (vi) gift shops located at an airport; and (vii) such other similar services provided to and directly benefiting airlines as may be prescribed by Treasury regulations.

Also, a grandfather exception is provided to the line-of-business limitation for tax-free treatment of airline passes furnished (after 1984) to individuals employed, as of September 12, 1984, by Pan American World Services, Inc.

These provisions relating to certain airline affiliate employees are effective January 1, 1985.

Conference agreement

The Conference agreement follows the Senate amendment, with a modification to reflect the House airline affiliate technical corrections provision (in H.R. 3838).

b. Faculty housing

Present law

Several court cases have held that on-campus housing furnished to faculty or other employees by an educational institution does not qualify for the exclusion under Code section 119 (certain lodging furnished for the convenience of the employer), and that therefore the rental value of the housing (less any amounts paid by the employee) is includible in income and wages.

The Deficit Reduction Act of 1984 prohibits Treasury from issuing, prior to 1986, regulations treating as income the excess of the value of qualified campus lodging over the greater of (1) the operating cost paid in furnishing the lodging, or (2) the rent received, in the case of such lodging furnished in 1984 or 1985.

House bill

No provision.

Senate amendment

The Senate amendment provides that the rental value of qualified campus lodging for a year may not be treated as greater than five percent of the appraised value for the year of the lodging, provided that an independent appraisal is obtained by a qualified appraiser. Thus, the value of the lodging will be excluded from the employee's income and wages if the rent paid by him or her to the educational institution equals or exceeds (on an annualized basis) five percent of the appraised value. Also, rents charged by an educational institution to nonemployees for comparable lodging may be used to define fair rental value.

This safe-harbor valuation rule will apply for post-1985 taxable years. For prior years, the IRS also is to follow the valuation rule, except that the assessed valuation of the property for local real estate tax purposes would be treated as meeting the requirement of a qualified appraisal.

Conference agreement

The conference agreement follows the House bill.

10. Minimum tax on certain capital gains of insolvent individuals

Present law

Individuals are subject to an alternative minimum tax (Code sec. 55), applying at a 20 percent rate to a base determined by adding certain preferences to the taxpayer's regular taxable income (in addition to certain other adjustments). The minimum tax preference items include the portion of net capital gain excluded for regular tax purposes under section 1202.

House bill

No provision.

Senate amendment

The Senate amendment provides that an insolvent individual who transfers real property used in the active conduct of a trade or business of the taxpayer is not required to treat certain capital gain on the transfer as a minimum tax preference if the transfer was made to a creditor in cancellation of indebtedness or to a third party under threat of foreclosure. The amount of the capital gain exclusion that is not treated as a preference item pursuant to the new rule may not exceed the amount of the individual's insolvency immediately prior to the transfer.

The amendment is effective for transfers of real property occurring after December 31, 1981.

Conference agreement

The conference agreement generally follows the Senate amendment, except that the provision will apply only to farmers and not to other taxpayers. For this purpose, a farmer is defined as an individual more than 50 percent of whose gross income over the past three years was derived from farming. In addition, the provision applies only to transfers of farmland, not of all real property.

11. Tax-exempt bonds for a regional pollution control authority

Present law

Tax-exempt industrial development bonds (IDBs) generally may not be used to acquire a facility, if a substantial user of the facility before acquisition remains as such thereafter (Code sec. 103). Additionally, under a rule enacted in the Deficit Reduction Act of 1984, IDBs may not be used to acquire any existing facilities unless a rehabilitation requirement is satisfied.

A provision enacted in 1982 permitted the Gulf Coast Waste Disposal Authority to acquire certain existing air or water pollution control facilities with the proceeds of IDBs.

House bill

No provision.

Senate amendment

The Senate amendment authorizes up to $200 million of IDBs for acquisition of 23 specific pollution control facilities for the Gulf Coast Waste Disposal Authority. This provision perfects the authorization for these bonds as originally enacted in 1982.

Conference agreement

The conference agreement follows the Senate amendment.

12. Netting of gains and losses by cooperatives

Present law

Cooperatives may exclude from their taxable income amounts distributed to patrons in the form of patronage dividends, and certain other amounts paid or allocated to patrons, to the extent of the net earnings of the cooperative from business done with or for patrons, provided that there is a pre-existing obligation to distribute such amounts (Code sec. 1382). Cooperatives that qualify as tax-exempt farmers' cooperatives also may exclude such amounts from income to the extent of all net income, and also may deduct to a limited extent dividends paid on common stock (sec. 521).

The Code does not contain any explicit provisions regarding whether a cooperative may offset the earnings and losses of its various allocation units in computing its net earnings for the purpose of determining the amounts to be distributed or allocated to patrons, or providing that a cooperative that so computes its net earnings may qualify as a tax-exempt farmers' cooperative. Under present law, the Code does not require a cooperative to notify its patrons that it has offset earnings and losses of its various allocation in computing its net earnings.

House bill

No provision.

Senate amendment

Netting.—The Senate amendment provides that a cooperative is not ineligible for treatment as a tax-exempt farmers' cooperative if it offsets certain earnings and losses in determining any amount available for distribution to patrons. For this purpose, the losses that are attributable to one or more allocation units (including a loss that is carried over from another year) may be offset against earnings of one or more other allocation units, but only to the extent such earnings and losses are derived from business done with or for patrons. Such patronage earnings and losses may be offset without regard to whether the allocation units whose earnings or losses are offset are functional, divisional, departmental, geographic, or otherwise.

The Senate amendment also provides that the offsetting of earnings and losses may be used, at the option of the cooperative, for computing its net earnings in determining the amount of patronage dividends to be paid or allocated to patrons. In addition, the Senate amendment provides that if a cooperative acquires the assets of another cooperative in a transaction specified in section 381(a) and exercises its option to offset earnings and losses, the acquiring cooperative may not, in computing its net earnings for taxable years ending after the date of acquisition, offset losses of one or more of the allocation units of the acquiring or the acquired cooperative against earnings of the acquired or acquiring cooperative, respectively, to the extent that (a) the earnings that are offset are not properly allocable to periods after the date of acquisition, and (b) such earnings and losses could not have been offset if derived from allocation units of the same cooperative.

The provisions relating to netting generally are effective for taxable years beginning after December 31, 1962.

Notice requirement.—Cooperatives that engage in the practice of offsetting earnings and losses are required to notify their members that the amount of the member's distribution or allocation may have been affected by the cooperative's netting, effective for taxable years beginning after the date of enactment of the bill. The notice also must specify the identity of the allocation units whose earnings and losses have been offset, as well as what additional information the member is entitled to under governing law.

Conference agreement

The conference agreement generally follows the Senate amendment with modifications.

The conference agreement clarifies that if a cooperative acquires the assets of another cooperative in a transaction described in section 381(a) and exercises its option to offset earnings and losses, the acquiring cooperative may, in computing its net earnings for taxable years ending after the date of acquisition, offset losses of one or more allocation units of the acquiring or acquired cooperative against earnings of the acquired or acquiring cooperative, respectively, but only to the extent that (a) such earnings are properly allocable to periods after the date of acquisition,[1] and (b) such earnings could have been offset by such losses if such earnings and losses had been derived from allocation units of the same cooperative.

13. Extension of moratorium on application of research and experimental expense allocation regulation

Present law

The foreign tax credit is limited so that it cannot offset U.S. tax on U.S. source taxable income. In general, the Code requires allocation of all expenses between U.S. and foreign source gross income to determine U.S. and foreign source taxable income. A Treasury Regulation (sec. 1.861-8) rule generally requires taxpayers with foreign source income from products in a product area in which the taxpayers do U.S. research to allocate part of their U.S. research and experimental expense against their foreign source income. In 1981, the Congress suspended this rule for two years, so that research expenditures made for research conducted in the United States were allocated against U.S. source gross income only. In 1984, the Congress extended the moratorium for two additional years. The moratorium generally expired for taxable years beginning after August 1, 1985.

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[1] Where an acquisition takes place during a taxable year, the conferees intend that the cooperative's earnings for the entire year are to be allocated pro rata between the pre-acquisition and post-acquisition periods.

House bill

No provision.

Senate amendment

The Senate amendment effectively extends for one year, the moratcrium on the application of the research and experimental expense allocation rules of Treas. Reg. sec. 1.861-8. For taxable years beginning on or before August 1, 1986, all of a taxpayer's research and experimental expenditures attributable to research activities conducted in the United States will be allocated to U.S. source gross income for purposes of computing U.S. source and foreign taxable income and taxable income from sources partly within and partly without the United States. The extension of the moratorium applies only to the allocation of research expenses for the purpose of geographic sourcing of income. It does not apply for other purposes, such as the computation of combined taxable income of a FSC (or DISC) and its related supplier.

Conference agreement

The conference agreement follows the Senate amendment.

14. Limitation on issuance of U.S. bonds

Present law

U.S. bonds have a maturity when issued of more than 10 years. The interest rate paid on U.S. bonds may not exceed 4¼ percent, except for $200 billion of bonds specified by statute that may be issued for sale to the public, at interest rates above 4¼ percent. This exception is expected to be exhausted during the first calendar quarter in 1986.

House bill

No provision.

Senate amendment

The Senate amendment increases the exception from the interest rate limitation on U.S. bonds from $200 billion to $250 billion. The increase is expected to meet Treasury's anticipated needs through calendar year 1986.

Conference agreement

The conference agreement follows the Senate amendment.

15. Awards of attorneys fees and other court costs in tax litigation

Present law

Attorneys fees for tax litigation and other court costs of up $25,000 may be awarded to a taxpayer who prevails in the litigation in a Federal court if the taxpayer shows that the Government's position in the litigation was unreasonable (Code sec. 7430). Under present law, this provision will not apply to court proceedings commenced after December 31, 1985.

House bill

No provision.

Senate amendment

The Senate amendment makes permanent the authorization of attorneys fees and other court costs for tax litigation under section 7430. Also, the Senate amendment makes the following modifications which would apply to court proceedings commencing after December 31, 1985:

(1) If it is determined that the taxpayer prevailed in the tax litigation, the burden is on the Government to show that its position was substantially justified or that special circumstances exist that make an award of litigation costs unjust;

(2) Whether an award is made is determined based upon a "substantially justified" standard;

(3) No award is allowed to a prevailing party who unreasonably protracted the proceedings;

(4) The $25,000 cap of present law is eliminated (as under present law, recoverable costs would not include costs of the administrative process); and

(5) Limits are imposed on hourly charges by attorneys and expert witness fees recoverable under the provision.

Conference agreement

The conference agreement follows the House bill (i.e., contains no provision).

16. Increase in IRS budget

Present law

The Administration's initial budget request for fiscal year 1986 recommended a decrease in IRS funding levels as compared with fiscal year 1985. The conference report on H.R. 3036 (the Treasury, Postal Service and General Government Appropriations Act for fiscal year 1986) would have restored that decrease and provided for an increase in fiscal year 1986 of $76 million over the Administration's revised budget request. The President vetoed H.R. 3036 on November 15, 1985.

House bill

The House bill provides a sense of the Congress resolution that both the restoration of the funding cuts initially proposed by the Administration to the IRS budget for fiscal year 1986 and the further increase in the IRS budget as recommended by the House Committee on Appropriations in H.R. 3036 as reported are necessary for the efficient operation of the Government and to carry out the purposes of the budget reconciliation bill.

Senate amendment

The Senate amendment authorizes to be appropriated $46.5 million for each of fiscal years 1986, 1987, and 1988 for the use of the IRS to employ 1,550 additional agents and examination employees. This appropriation is in addition to any other amounts authorized to be appropriated to the IRS for those fiscal years.

Conference agreement

The conference agreement includes the provisions of both the House bill and the Senate amendment.

5. Superfund revenue provisions

Present law

Trust fund provisions.—Amounts equivalent to taxes on petroleum and feedstock chemicals (described below) were deposited in the Hazardous Substance Response Trust Fund ("Superfund"). These taxes expired on September 30, 1985.

In addition to taxes, $44 million was authorized to be appropriated to the Superfund from general revenues for each of fiscal years 1981-85 (an aggregate of $220 million). Total tax and general revenue appropriations were intended to equal $1.6 million over the five-year period.

Amounts in the Superfund are available for cleanup and certain other expenditures in connection with hazardous substance release.

Petroleum taxes.—An excise tax of 0.79 cent per barrel was imposed on (1) crude oil received at a U.S. refinery, and (2) imported petroleum products. The tax expired on September 30, 1985.

Tax on feedstock chemicals.—A tax was imposed on the sale of 42 organic and inorganic substances ("feedstock chemicals") by a manufacturer, producer, or importer. The tax rates ranged from 22 cents per ton to $4.87 per ton of the specified feedstock chemical. The tax expired on September 30, 1985.

Exceptions to the tax were provided for:

(1) butane or methane used as a fuel;

(2) nitric acid, sulfuric acid, ammonia, or methane used to produce ammonia, if used to produce fertilizer;

(3) surfuric acid produced solely as a by-product of (and on the same site as) air pollution control equipment;

(4) any taxable feedstock to the extent derived from coal;

(5) petrochemicals used to manufacture or produce motor fuel, diesel fuel, aviation fuel, or jet fuel, and

(6) certain compounds which exist in transitory form in the process of refining non-taxable metal ores or compounds into other (or purer) non-taxable compounds.

Post-closure Liability Trust Fund and tax.—A separate trust fund, the Post-closure Liability Trust Fund, is to assume completely the liability of owners and operators of hazardous waste disposal facilities that have been granted permits and have been properly closed under Subtitle C of the Resource Conservation and Recovery Act (RCRA). The Fund also may be used to pay certain monitoring and maintenance costs.

An excise tax of $2.13 per dry weight ton was imposed on the receipt of hazardous waste at a qualified facility, in order to finance the Post-closure Fund.

The authority to collect the Post-closure tax expired on September 30, 1985.

Tax-exempt bonds for hazardous waste treatment facilities.—Tax-exempt industrial development bonds (IDBs) may be issued to financial solid waste disposal facilities (sec. 103(b)(4)(E)). Facilities for the disposal of liquid or gaseous waste (including most hazardous wastes) do not qualify for this financing.

Hazardous waste removal costs treated as qualifying distributions by private foundations.—To avoid penalty excise taxes, a private foundation must annually make expenditures or grants for charitable purposes in an amount (the "distributable amount") equal to five percent of the fair market value of its investments (sec. 4942).

House bill

No provision in H.R. 3128. On December 10, 1985, the House passed H.R. 2005, which included Superfund revenue provisions (title V). (The Committee on Ways and Means reported H.R. 2817 on October 26, 1985 (H. Rept. 99-253, Pt. 2), which included Superfund revenue provisions (title IV).)

Senate amendment

Trust fund provisions.—The Senate amendment reauthorizes revenues for the Superfund program for five years, and generally retains present law trust fund provisions, except:

(1) amounts equivalent to revenues from the Superfund Excise Tax are appropriated to the Trust Fund;

(2) no further appropriations are authorized from general revenues; and

(3) Trust Fund provisions are placed in the Internal Revenue Code.

Cumulative Superfund revenues are intended to be $7.5 billion over the five-year period (including interest on trust fund balances).

Petroleum tax.—The Senate amendment extends the prior law for five years, through September 30, 1990, effective October 1, 1985.

The tax would be suspended or terminated earlier than September 30, 1990, if cumulative Superfund receipts from taxes and interest during the 5-year period reach $7.5 billion. The tax also would expire under certain circumstances if the unobligated balance of the Superfund exceeds $2.225 billion on September 30, 1988 or $3 billion on September 30, 1989.

Tax on feedstock chemicals.—The Senate amendment extends the present law tax for five years, through September 30, 1990 (with the same termination date provisions as for the petroleum tax).

Additional exceptions to the tax are provided for:

(i) exported feedstocks,

(ii) substances used to produce animal feed, and

(iii) domestically recycled nickel, chromium, or cobalt.

Certain inventory exchanges of chemicals are not treated as sales.

This provision generally is effective October 1, 1985. The amendment regarding inventory exchanges applies as of the original effective date of the feedstock chemicals tax. Exchanges before January 1, 1986, do not qualify for this treatment if the exchange was treated as a taxable sale by the taxpayer. Registration requirements apply to inventory exchanges on or after January 1, 1986.

Manufacturers' excise tax.—The Senate amendment imposes an excise tax on the sale, lease, or transfer of tangible personal property by the manufacturer of the property, in connection with a trade or business. The tax equals 0.08 percent of the sales price of, or gross lease payments for, the property (i.e., $8 of tax per $10,000 of taxable amount).

The tax also is imposed (at a 0.08 percent rate) on importers of tangible personal property based on the customs value plus duties (or, if no customs value is available, the fair market value) of the imported property.

The tax is deductible from Federal income taxes.

Under the Senate amendment, a credit equal to 0.08 percent of the taxpayer's qualified inventory costs is allowed against the tax. Credits may be carried forward but are not refundable. "Qualified inventory costs" are amounts paid or incurred for purchases of tangible personal property and which are allocable to the inventory of a manufacturer using the full absorption accounting method (unless otherwise provided in regulations). Property manufactured for lease is treated in the same manner as property manufactured for sale. In lieu of any allowance for depreciation or amortization, qualified inventory costs include amounts paid or incurred for depreciable or amortizable property (i.e., expensing treatment).

A manufacturer with $5 million or less of annual taxable receipts is effectively exempt from tax via a minimum $4,000 allowable credit. (The minimum credit is not available to importers, is nonrefundable, and may not be carried over).

Exemptions from the tax are provided for:

(1) Import shipments with an aggregate value of $10,000 or less.

(2) Items sold or leased (but not imported) by governmental units or organizations exempt from taxation under section 501(a) (Other than in unrelated trades or businesses).

(3) Exports from the United States.

"Manufacturing" includes mining, raw material production, and the production of tangible personal property. Manufacturing does not include services incidental to storage or transportation of property; preparation of food in a restaurant or other retail establishment; or incidental preparation of property by a wholesaler or retailer.

"Tangible personal property" includes natural gas and other gaseous products and materials. Tangible personal property does not include electricity, unprocessed agricultural products, or unprocessed food products.

The tax is effective on January 1, 1986 and terminates after December 31, 1990. The tax would be suspended or terminated earlier under similar conditions as the petroleum and feedstock chemical taxes.

GAO study.—The Senate amendment directs GAO to report to the Finance Committee by January 1, 1988, its findings on various mechanisms for financing the Superfund, including a study of the effect of a tax on hazardous waste on the generation and disposal of such waste.

Post-closure Liability Trust Fund and tax.—The Senate amendment repeals the Post-closure Liability Trust Fund and the associated waste disposal tax, effective October 1, 1985. Amounts in the Post-closure Trust Fund at that time are appropriated to the Superfund. Refunds of the tax (without interest) would be paid out of the Superfund, effective March 1, 1989, unless certain Congressional action has been taken prior to March 1, 1989.

IDB's for hazardous waste treatment facilities.—The Senate amendment allows tax-exempt IDBs to be issued to finance facilities for the treatment of hazardous waste, as these terms are defined under sec. 1004 of the Solid Waste Disposal Act. This exemption is limited to facilities which are subject to permitting requirements under RCRA.

Bonds issued under this provision would be subject to the income and other restrictions applicable to solid waste IDBs. The provision applies to bonds issued after the date of enactment.

Hazardous waste removal costs.—The Senate amendment provides that, subject to certain limitations, the distributable amount of a private foundation (under sec. 4942) is to be reduced by amounts paid or incurred by the foundation for removal or remedial action with respect to a hazardous substance release at a facility owned or operated by the foundation. This provision is effective for taxable years beginning after December 31, 1982.

Conference agreement

a. Hazardous Substance Superfund

The conference agreement redesignates the "Hazardous Substance Response Trust Fund" as the "Hazardous Substance Superfund" and continues and expands the Superfund by allocating to the fund amounts equivalent to revenues derived from expanded taxes on petroleum and chemical feedstocks; a new Superfund excise tax on manufacturers; and a tax (beginning in 1987) on imported substances derived from taxable chemical feedstocks or petroleum. Other amounts allocated to the Fund under present law (including penalties, punitive damages, amounts recovered on behalf of the fund, and interest on Trust Fund balances) are not affected by the conference agreement. Superfund revenues from taxes, general revenues, interest on Fund balances, and recoveries are estimated to total $9.5 billion over the reauthorization period.

Under the conference agreement, the expenditure purposes of the Superfund generally are amended to conform to the expanded list of Superfund activities under section 111 of CERCLA.

Termination provisions.—The petroleum tax, chemical feedstock tax, and the Superfund excise tax that finance the Superfund would terminate under either of two trigger mechanisms. First, these taxes would terminate at the end of the calendar quarter in which the Secretary estimates that the amount collected under these taxes exceeds $10 billion. Second, these taxes would terminate on September 30, 1988 (or September 30, 1989) if the Secretary determines that the unobligated balance of the Super fund exceeds $3 billion ($4 billion) and if the taxes were terminated the unobligated balance of the Superfund on September 30, 1989 (September 30, 1990) would exceed $3 billion ($4 billion).

The conference agreement generally continues the present law provisions regarding administration of the Superfund, and authorizes the Fund to borrow amounts from the Treasury as repayable advances for any authorized fund purpose. Any such advances are required to be repaid before September 30, 1990. The conference agreement also transfers the trust fund provisions to the Internal Revenue Code.

The conference agreement specifies that no funds raised for the Superfund, the Leaking Underground Storage Tank Trust Fund, or the Oil Spill Liability Trust Fund under the provisions of this agreement may be spent until authorization of these programs. The amendments to the Superfund trust fund provisions are effective on January 1, 1986. Special effective date provisions apply for certain of the Superfund taxes (as described below).

b. Excise tax on petroleum

The conference agreement re-enacts the prior law environmental excise tax on petroleum and increases the tax from 0.79 cent per barrel tax to 3.85 cents per barrel. This tax is to apply from January 1, 1986 through September 30, 1990. Thus, the conference agreement repeals the termination provisions of present law (sec. 4611(d)), which would have terminated the tax if the unobligated balance in the Superfund exceeded specified amounts, and section 303 of CERCLA, which provided for termination of the environmental excise taxes when aggregate tax collections exceed $1.38 billion.

In addition to re-enacting the petroleum tax as a Superfund financing source, the conference agreement imposes a new 1.3-cent per barrel tax on crude oil and imported petroleum products to finance the Oil Spill Liability Trust Fund (discussed below).

c. Excise tax on chemical feedstocks

Tax rates.—The conference agreement generally re-enacts the prior law environmental excise tax on chemical feedstocks. Specifically, the conference agreement provides that specified organic and inorganic substances sold by the manufacturer, producer, or importer are to be taxed in accordance with the following table (Table 1).

TABLE 1.—*Chemical feedstock tax rates under conference agreement, 1986*

[Dollars per ton]

Substance	*1986*
Organic Substances:	
Acetylene	4.87
Benzene	4.87
Butadiene	4.87
Butane	4.87
Butylene	4.87
Ethylene	4.87
Methane	3.44
Naphthalene	4.87
Propylene	4.87

Substance	*1986*
Toluene	4.87
Xylene	9.81
Inorganic Substances:	
Ammonia	2.64
Antimony	4.45
Antimony trioxide	3.75
Arsenic	4.45
Arsenic trioxide	3.41
Barium sulfide	2.30
Bromine	4.45
Cadmium	4.45
Chlorine	2.70
Chromite	1.52
Chromium	4.45
Cobalt	4.45
Cupric oxide	3.59
Cupric sulfate	1.87
Cuprous oxide	3.97
Hydrochloric acid	0.29
Hydrogen fluoride	4.23
Lead oxide	4.14
Mercury	4.45
Nickel	4.45
Nitric acid	0.24
Phosphorus	4.45
Potassium dichromate	1.69
Potassium hydroxide	0.22
Sodium dichromate	1.87
Sodium hydroxide	0.28
Stannic chloride	2.12
Stannous chloride	2.85
Sulfuric acid	0.26
Zinc chloride	2.22
Zinc sulfate	1.90

Beginning in calendar year 1987, the rates specified in Table 1 are to be adjusted for inflation. In the case of organic substances, the inflation adjustment for any year is to be the percentage by which the average producer price index for basic organic chemicals, published by the Bureau of Labor Statistics, for the 12-month period ending in September of the preceding year, exceeds the comparable average of the index for the 12 months ending in September 1985. In the case of inorganic substances the inflation adjustment for any year is to be the percentage by which the average producer price index for basic inorganic chemicals for the 12-month period ending in the preceding September exceeds the comparable average for the 12 months ending in September 1985. Tax rates would not be reduced below the levels shown in Table 1, even if the producer price index declines relative to 1985; however, if this occurs, the conferees expect to consider whether such a reduction is appropriate. It is anticipated that the Treasury Department will publish annual tables setting forth increased tax rates resulting from the inflation adjustment.

The conference has addressed a technical problem under prior law concerning the appropriate point at which to levy the tax on the production of xylene. Under the conference agreement, for purposes of this tax, xylene includes separated isomers of xylene only in the case of imported or exported xylene. The conference adopted this rule because it understands the separated isomers of xylene (meta-xylene, ortho-xylene, and para-xylene) are isolated from a mixed stream of xylenes produced in a reformation process. Accordingly, separated isomers will have been previously taxed (when the mixed stream of xylene is used in the reformation process) except when those separated isomers are imported; thus, the conference expects that no future loss of revenue will occur as a result of this provision. The conference agreement also repeals the prior law tax on xylene for periods before October 1, 1985. Manufacturers, producers, and importers of xylene who paid the tax under prior law will be permitted to obtain a refund of those taxes together with interest. To offset the resulting revenue loss, the tax rate on xylene in Table 1 incorporates an increase over the rates that would otherwise apply, in order to recapture the tax liability that had been expected under prior law for periods before October 1, 1985.

The conference agreement also includes a special rule with respect to nitric acid consumed by the manufacturer in the production of nitrocellulose. Under this rule, nitric acid used in this manner will continue to be taxed at not more than the prior law rate (24 cents per ton) applicable to that substance.

Exemptions.—The conference agreement repeals the prior law exemption for coal-derived feedstocks. The remaining prior law exemptions are retained.

In addition to prior law exceptions, the conference agreement provides three new exceptions to the chemical feedstocks tax:

Exports of taxable chemicals.—The conference agreement provides that the tax on chemical feedstocks does not apply to feedstocks that are exported from the United States. In particular, any feedstock that is sold by the manufacturer or producer for export, or for resale to a second purchaser for export is exempt from tax.[2] If the purchaser cannot certify in advance that a feedstock will be exported, or if a tax has otherwise been paid on the exported feedstock, the person who paid the tax could claim a refund or credit (without interest) for the amount of the tax previously paid. Such person would be required to pay the amount refunded or credited to the exporter, or to obtain the exporter's written consent to his receiving the credit or refund. The Treasury is authorized to prescribe necessary regulations for administering these provisions.

Substances used to produce animal feed.—An exemption from the feedstock tax is provided for nitric acid, sulfuric acid, or ammonia (or methane used to produce ammonia) used in a qualified animal feed use by the manufacturer, producer, or importer, or sold for use (or for resale for ultimate use) in a qualified animal feed use. Qualified animal feed use means any use in the manufacture or production of animal feed or animal feed supplements, or of ingredients used in animal feed or animal feed supplements. Under Treasury regulations, if tax is paid and a qualifying substance is subsequently used in a qualified animal feed use, the person so using the substance is entitled to a credit or refund (without interest) of the tax paid. Conversely, if an exemption is allowed and a substance is subsequently sold or used for a non-animal feed purpose, the person so selling or using the substance is to be subject to tax as if such person had manufactured the substance.

Certain recycled metals.—An exemption is provided under the conference agreement for nickel, chromium, or cobalt which is diverted or recovered in the United States from solid waste (as defined under section 1004 of the Solid Waste Disposal Act) as part of a recycling process (and not as part of the original manufacturing or production process). The exemption does not apply to metals which are diverted recovered from the byproduct, coproduct, or other waste of a metal refining, smelting, or other extraction process.

The recycling exemption does not apply for any period during which the taxpayer has failed to complete a corrective action required by EPA (or an authorized State program) under CERCLA or the Solid Waste Disposal Act. The exemption also does not apply to taxable substances which are recycled outside the United States.

For purposes of the credit for previously taxed chemical feedstocks, recycled metals that are exempt under this provision are treated as previously taxed (effectively preventing the imposition of further tax on the metal).

Exchanges of taxable chemicals.—The conference agreement provides that, when a manufacturer, producer, or importer exchanges a taxable chemical, as part of an inventory exchange with another person, the exchange is not to be treated as a taxable sale for purposes of the feedstock tax. Instead, the person receiving the chemical in the exchange is to be treated as the manufacturer, producer, or importer (as appropriate), and the tax is to be imposed upon the later sale (or use) by such person. Further, beginning January 1, 1986, the rule would apply only if (1) both parties to the exchange have registered with the Treasury Department as manufacturers, producers, or importers of taxable chemicals, and (2) the person receiving the chemical has notified the person exchanging the chemical of the recipient's registration number and Internal Revenue district.

For purposes of this provision, an inventory exchange is defined as an exchange of properties each of which is property described in section 1221 of the Code (relating to inventory, stock-in-trade, and property held primarily for sale to customers in the ordinary course of trade or business) with respect to both the transferor and transferee of the property. A transaction may be treated as an exchange although one or both parties pay reasonable transportation or similar costs in connection with the exchange.

The provision regarding tax-free exchanges is retroactive to the original effective date of the feedstock tax. However, for exchanges before January 1, 1986, the provision does not apply unless (1) the manufacturer, producer, or importer treated the exchange as a tax-free transaction for purposes of the feedstock tax, and (2) there was an agreement (including a blanket agreement covering a series of transactions) that the person receiving the taxable chemical would be treated as the manufacturer, producer, or importer of the chemical for purposes of the tax.

Termination date.—The chemical feedstocks tax expires after September 30, 1990.

Effective date.—The re-enactment of and modifications to the chemical feedstocks tax are effective January 1, 1986.

d. Tax on imported chemical derivatives and credit—for exported deviations

The conference agreement imposes a new tax on imported substances more than 50-percent of the value of which is derived from taxable feedstocks (as defined under sec. 4662) that are used as feedstock materials or as process fuels. The 50-percent test is determined using the predominant method of production for the product. The Treasury Department is directed to issue regulations identifying the specific products which are subject to the tax based on this criterion. The Treasury is to have authority to change this list at any time; however, only items identified in the regulations at the time of sale or use by the importer would be subject to the tax.

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[2] Rules similar to the rules of section 4221(b) (regardless of proof of export for excise tax purposes) would apply for this purpose.

The amount of tax imposed on any taxable imported substance is to be equal to the amount of tax which would have been imposed (under secs. 4662) on the component taxable feedstocks (that are used as feedstock materials or process fuels in the manufacture of the import), had these components been sold in the United States for an equivalent use. If the importer does not furnish sufficient information (as established by Treasury regulations) to determine the amount of tax under this method, then the tax is to be imposed at a rate determined by the Treasury based on the composition of imported derivatives determined by using the predominant method of production. These rates will be adjusted annually to account for indexing. If no such rates are published by Treasury and the importer does not furnish sufficient information, a rate of 5 percent of the appraised value of the imported substance at the time of import applies.

The tax is imposed on the sale or use of taxable substances by the importer thereof. Importers subject to tax include any person entering a taxable substance into the United States for consumption, use, or warehousing. The term "United States" is defined as it is for purposes of the petroleum and feedstocks taxes. If an importer uses a taxable substance, tax is imposed on the importer as if he had sold the substance. Revenues from the tax are not to be paid to Puerto Rico and the Virgin Islands under the cover over provisions of section 7652 of the Code. The tax on imported chemical derivatives does not apply to any substance if the petroleum tax (sec. 4611) or the chemical feedstock tax (sec. 4661) is imposed on the sale or use of such substance.

The tax on imported chemical derivatives and the credit for exports is effective on January 1, 1987.

A credit would be provided for exports of substances more than 50-percent of the value of which is derived from taxable feedstocks (as defined in sec. 4662) that are used as feedstock materials or process fuel. The amount of credit for any exported substance is to be equal to the amount of tax which was imposed under section 4662 on the component taxable feedstocks. If the exporter does not furnish sufficient information, then the amount of credit is to be determined by Treasury based on the composition of derivatives using the predominant method of production.

e. Study of trade impact of waste management tax

The Department of the Treasury and GAO are instructed to evaluate the effect of a waste management tax on the generation and disposal of hazardous waste and the ability of domestic manufacturers to compete in international trade, and to deliver recommendations for mitigating any adverse trade impacts to the House Committee on Ways and Means and the Senate Finance Commiittee by October 1, 1987. The study is to include recommendations regarding an export credit, an import equalization fee, and a cap on the amount of tax for economically distressed industries.

f. Superfund excise tax

General rules

The conference agreement establishes a new Superfund Excise Tax on manufacturers and importers. The tax, which is at a 0.1 percent rate, is imposed on the sale, lease, or import of tangible personal property by the manufacturer or importer of property. Exports of tangible personal property are exempt. In addition, unprocessed agricultural products, food, fertilizer, and unprocessed timber are exempt. To avoid the imposition of duplicative taxes in multi-stage production. manufacturers will be allowed a credit based on their purchases of tangible personal property (e.g., materials and equipment) allocable to the manufacturers of tangible personal property. Small manufacturers (with less than $10 million of otherwise taxable receipts) and small import shipments (under $10,000) are exempt from the tax.

Imposition of the tax

Under the conference agreement, the Superfund Excise Tax is imposed on the sale or lease (in connection with a trade or business) of tangible personal property by the manufacturer. The tax is generally imposed on the sale or leasing of tangible personal property for use, consumption, or disposition in the United States.[3] The tax is not imposed on sales or leases of tangible personal property for use outside the United States. The tax rate is 0.1 percent ($10 per $10,000 of taxable amount). The taxable amount in the case of a sale is the price (in money or the fair market value of other consideration) charged to the purchaser by the seller, including consideration) charged to the purchaser by the seller, including items payable to the seller during the taxable period with respect to the transaction (including Federal, State, and local sales and excise taxes, other than the Superfund Excise Tax and certain other specified Federal excise taxes on manufacturers, imposed on the transaction). A transfer or exchange, other than a gift within the meaning of sections 102 or 170 of the Code, is treated as a sale for purposes of the Superfund Excise Tax.

In the case of a lease by the manufacturer of the taxable property, the taxable amount is the gross lease payments received during the taxable period (including Federal and State sales and excise taxes, other than Superfund Excise Tax and certain other specified Federal excise taxes on manufacturers, imposed on the lease). The tax applies to lease payments received (or considered received under the partial year proration rules described below) during the period the Superfund Excise Tax is in effect, regardless of when the lease was entered into. The manufacturer is liable for the tax.

The sale or lease of tangible personal property by a person who included the cost of such property in qualified inventory cost is treated as a sale or lease by the manufacturer. Thus, the tax applies to the resale or sublease of tangible personal property in the same manner that the tax applies to the originalsale or lease of the tangible personal property. This rule prevents the claiming of excess credits with respect to resales or subleases.

The tax is also imposed on the import of tangible personal property into the United States by the importer of the tangible personal property. The taxable amount is the customs value plus customs duties (and any other duties) that may be imposed. The tax on imports is to be collected in the same manner as duties by the customs service. Shipments for which the taxable amount is less than $10,000 are exempt from the tax. The importer is liable for the tax.

The Superfund Excise Tax is deductible in determining Federal income tax liability.

Definitions and special rules

Manufacturer.—"Manufacturer" includes any producer of tangible personal property, including raw materials. The conferees intends that the term "manufacturer" be read broadly to include mining and extraction. The categories of mining and manufacturing establishments set forth in Divisions B and D of the Standard Industrial Classification ("SIC") Manual, published by the Office of Management and Budget, generally reflect the conferees' intent as to the proper line separating manufacturing from nonmanufacturing activity. The SIC Manual generally excludes from manufacturing agriculture, forestry, fishing and construction. The production of films, videos, tapes, discs, and records would be treated as manufacturing for purposes of the Superfund excise tax.

The following activities are not taken into account for purposes of determining whether a person is a manufacturer. Manufacturing does not include services furnished incidental to the storage or transportation of property or the incidental preparation of property by a retailer or wholesaler, including routine assemblage. For example, the incidental preparation of property would include the routine preparation of an automobile for the retail customer by a retail automobile dealer.

Tangible personal property.—Tangible personal property, for purposes of this tax, generally includes all property that is not either real property or intangible property. It includes gases, such as natural gas, and other gaseous materials, but does not include electricity.

Tangible personal property does not include mineral rights (including oil or gas rights), since these interests are themselves considered to be real property. Minerals (or oil or gas) are, however, considered to be tangible personal property after they have been mined or otherwise extracted. Additionally, tangible personal property does not include rights to or interests in intellectual property, such as copyrights or royalty payments on property such as books. These interests are considered to be intangible property. Tangible personal property does, however, include the actual property produced, such as the books or other printed material produced by the manufacturer.

Containers, transportation charges, constructive sales price.—The Secretary of the Treasury is to issue regulations specifying that charges for coverings, containers, and packing are included in the taxable amount. The regulations are also to provide that (1) transportation (including pipeline transportation) and related charges (including insurance and installation) and (2) the Superfund Excise Tax and certain other specified Federal excise taxes imposed on manufacturers (but no other excise tax) are excluded from the taxable amount (but only to the extent the amount of the transportation and related charges is established to the satisfaction of the Secretary in accordance with regulations).

The regulations are also to provide rules establishing a constructive sales price when, for example, a manufacturer sells directly at retail or sells only or primarily to related persons. If a natural gas pipeline company sells natural gas that it has produced itself ("pipeline-owned" production), these Treasury regulations should provide that the constructive sales price for purposes of the Superfund Excise Tax is the price established under the Natural Gas Policy Act and Federal Energy Regulatory Commission (FERC) regulations. These FERC regulations treat pipeline-owned production in the same manner as natural gas produced by an affiliated company. The natural gas is considered sold, for purposes of the Superfund Excise Tax, when it is transferred from the well to the pipeline.

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[3] For these purposes, the United States includes the 50 States, the District of Columbia, and any Commonwealth or possession of the United States.

These regulations are to be similar to the rules of sections 4216 (a) and (b) (relating to containers, packing, and transportation charges, and constructive sales prices for excise tax purposes).

Timing of receipt and expenses.—In computing the taxable amount and qualified inventory costs of a taxpayer, an amount shall be treated as recognized, paid, or incurred at the time it is recognized, paid, or incurred under the taxpayer's method of accounting for Federal income tax purposes.

A special rule applies to installment sales. The taxable amount of the seller includes, for a taxable period, only the principal payments received during that taxable period. The qualified inventory costs of the buyer includes, for a taxable period, only the portion of the costs corresponding to the principal paid during the taxable period. Thus, the seller is taxed, and the buyer obtains credit for the item purchased, over the term of the installment sale. This rule matches the timing of the seller's tax with the timing of the buyer's credits.

Credit against tax

The conference agreement provides manufacturers a credit against the Superfund Excise Tax that is the greater of two amounts:

(1) The first amount is equal to the Superfund Exicse Tax imposed on sales and leases (but not imports), to the extent it does not exceed $10,000.[4] Persons under common control (whether corporations, partnerships, proprietorships, or other entities) are to be treated as one taxpayer for purposes of the standard $10,000 credit. The rules of section 52 (originally drafted for purposes of the targeted jobs credit) apply to determine whether persons are under common control. Thus, a manufacturer (but not an importer) with a taxable amount of $10 million or less would be exempt from the tax ($10 million times 0.1 percent equals $10,000).

(2) The second amount is equal to the qualified inventory costs of the taxpayer multiplied by 0.1 percent.

The conferees recognize that these rules may provide the taxpayer with a credit against tax that is larger than the tax actually paid. (For example, sellers with less than $10 million of receipts are exempt, and buyers include Superfund and other manufacturers' excise taxes as well as wholesale margins in computing credits.) Excess credits could be avoided by limiting the credit to the amount of tax shown on invoices; however, the desire of the conferees to make administration of the tax as simple as possible, in conjunction with the low rate of tax, outweighs concerns about the technical perfection of the credit mechanism.

Qualified inventory costs are direct material and other costs (including the Superfund Excise Tax on such materials) of tangible personal property that are allocable to the manufacturer's inventory and are paid or incurred during the taxable period for which the manufacturer is liable for the Superfund Excise Tax. Thus, the inventory tax accounting rules used in the definition of qualified inventory costs identify the items includible in qualified inventory costs, but not the time when the cost of these items is recognized for purposes of the Superfund Excise Tax. The cost is recognized at the time it is paid or incurred by the manufacturer.

Qualified inventory costs for any taxable period are amounts paid or incurred during the taxable period for tangible personal property (other than exempt products and property used to manufacture exempt products) which is allocable to the inventory of a manufacturer under the full absorption method of accounting (sec. 471). Exempt products include food, fertilizer, and unprocessed agricultural, fishery, and timber products (see below). Taxpayers that do not use the full absorption method of inventory accounting for income tax purposes are, nevertheless, required to use the standards of full absorption accounting for purposes of determining qualified inventory costs.

In lieu of any allowance for depreciation and amortization, with respect to tangible personal property, qualified inventory costs include the amount paid or incurred for such property in the year placed in service.[5] In the case of any tangible personal property purchased under the installment method, the cost of such property shall be taken into account, for purposes of determining qualified inventory costs, only when paid (see above).

Qualified inventory costs generally include the cost of utilities subject to the Superfund Excise Tax. Thus for example, the cost of natural gas, but not the cost of electricity would be included in qualified inventory costs. Qualified inventory costs include lease payments on qualifying equipment paid or incurred during the period the Superfund Excise Tax is in effect. Qualified inventory costs do not, however, include any cost or amount with respect to an item acquired before the effective date of the tax. Additionally, qualified inventory costs do not include the inventory costs of any nonmanufacturing operation. For purposes of computing qualified inventory costs, tangible personal property that is manufactured for lease is treated in the same manner as property that is manufactured for sale.

The amount of the credit allowed to be claimed for a particular taxable period may not exceed the liability for the Superfund Excise Tax. The amount by which the credit for qualified inventory costs exceeds the liability for a particular taxable period may be carried to the next taxable period and added to the credit potentially allowable for that period. No carryover is permitted for the excess, if any, of the standard $10,000 credit over the tax liability for any taxable period.

The conference agreement also provides that the amount of the Superfund Excise Tax credit for any particular item of tangible personal property must be subtracted from the income tax basis of that item. The amount of the basis adjustment is determined as 0.1 percent of the cost of the property included in qualified inventory costs. (In the case of an installment sale, the basis adjustment is computed as 0.1 percent of the principal amount of the installment obligation). Taxpayers not otherwise required to file returns for this tax must file returns and make this basis adjustment to claim the item of tangible personal property in qualified inventory costs.

The credits will carry over in a corporate reorganization in any situation in which there is a carryover of credits under section 381.

Exempt transactions

The conference agreement exempts several types of transactions from the Superfund Excise Tax. First, the Superfund Excise Tax is not imposed on the sale of any property that is to be exported outside the United States, as provided in regulations. The conferees intend that these regulations follow the principles of section 4221(b) (relating to excise taxes), and the regulations thereunder, for purposes of proving that an article has been exported. In particular, the conferees intend that Treasury regulations adopt the rule in section 4221(b) that provides that the exemption from tax ceases to apply to the sale of an article unless, within six months of the earlier of either the date of sale or date of shipment by the manufacturer, the manufacturer receives proof that the article has been exported.

The conference agreement exempts from the Superfund Excise Tax the sale or lease of tangible personal property by the United States or any other governmental entity or by an organization that is exempt from the income tax under section 501(a) (unless the transaction is part of an unrelated trade or business within the meaning of section 513). Imports by governmental entities and organizations that are exempt from the income tax are subject to the Superfund Excise Tax.

The conference agreement exempts small imports from this tax. A small import is any shipment (whether formal or informal) the taxable amount of which is less than $10,000. The conferees intend that "shipment" be interpreted for purposes of this tax in the same manner that it is generally interpreted for customs purposes. Thus, a shipment is generally all articles on one carrier for one consignee on one day.

The conference agreement exempts from the tax food (whether for humans or animals), any product used as fertilizer, unprocessed agricultural or fishery products, and unprocessed timber. The term "food" does not include pharmaceuticals or other forms of medicine, whether available over the counter or by prescription only. Food generally includes beverages, except that it does not include alcoholic beverages. Food does include any additives. Any material, component, or packaging of food or fertilizer is considered to be part of the food or fertilizer. The conferees intend that Treasury regulations coordinate the definitions of unprocessed agricultural products and food products with the 5-digit tariff code for purposes of exempting from this tax imports of these items.

Time for filing returns and related administrative matters

Taxpayers are required to file a Superfund excise tax return annually, at the same time they file their regular income tax return. Thus, for example, a corporation that has as its taxable year the calendar year would be required to file the Superfund Excise Tax return by March 15 of the following year, which is the same date that its corporate income tax return (Form 1120) is due. As with other tax returns, the Secretary may grant a reasonable extension of time for filing a Superfund Excise Tax return (*see* sec. 6081).

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[4] This amount is prorated for taxable periods that do not include 12-full months. Thus, for example, a manufacturer subject to this tax for 6 months of a 12-month taxable year would be entitled to a maximum credit of $5,000 under this provision. The amount is also prorated for short taxable periods.

[5] If only a portion of depreciation or amortization is allocable to the inventory of a manufacturer, then the same portion of the amount paid or incurred for the property is allocable to qualified inventory costs.

The conference agreement provides that a manufacturer who has $10 million or less of aggregate receipts from the sale or lease of tangible personal property (excluding exports) is not required to file a Superfund Excise Tax return.[6] These taxpayers have no tax liability because of the credit mechanism (described above). Taxpayers who are under common control are treated as one person for purposes of this exemption from the requirement to file a return. In addition, the Secretary may provide by regulations that certain other taxpayers with more than $10 million of sales or lease receipts, but who may have no tax liability, need not file returns. Taxpayers not otherwise required to file returns must, however, file returns and make the income tax basis adustment (described above) in order to claim items of tangible personal property in qualified inventory costs to carry forward credits into future years.

The taxable period for which liability for the Superfund excise tax must be determined is the taxable person's taxable year for purposes of the income tax. If the taxpayer does not have a taxable year for purposes of the income tax, then the taxable period for purposes of the Superfund Excise Tax is the calendar year.

The penalties for failure to file a tax return or to pay tax that are applicable to the income tax (sec. 6651) are made applicable to the Superfund Excise Tax. In addition, the civil negligence penalty (sec. 6653(a)) that is applicable to the income tax is made applicable to the Superfund Excise Tax. The criminal penalties of the Code are generally applicable to the Superfund Excise Tax.

The conference agreement generally requires that the Superfund Excise Tax be deposited quarterly after the first taxable period in which a taxable sale or lease occurs. For the first taxable year that a manufacturer is potentially subject to this tax, any manufacturer is potentially subject to this tax, any manufacturer with more than $50 million of sales or lease payments determined in the prior year is required to deposit quarterly. (For this purpose, controlled groups are treated as one taxpayer.) In subsequent taxable years, any manufacturer not previously liable for a payment of Superfund Excise Tax will not be required to deposit quarterly. Thus, for example, a manufacturer who paid Superfund Excise Tax for 1986 would be required to deposit quarterly in 1987, whereas a manufacturer not required to pay any Superfund Excise Tax in 1986 would pay the Superfund Excise Tax (if any) for which the manufacturer is liable for 1987 with the manufacturer's return. The existing penalty for failure to make deposits (Code sec. 6656) applies to failures to deposit the Superfund Excise Tax. This penalty will not apply, however, if the manufacturer deposits at least the lesser of 90 percent of the tax due or 100 percent of the previous year's liability.[7]

The tax on imports is to be collected in the same manner as duties by customs agents. Consequently, the conference agreement does not specify deposit rules for the tax on imports.

Revenues from the Superfund Excise Tax are not paid to Puerto Rico or the Virgin Islands or any other possession or territory under the cover over provisions of section 7652 of the Code or similar provisions.

The Secretary of the Treasury is authorized to issue regulations to carry out the purposes of the Superfund Excise Tax.

Effective dates

The Superfund Excise Tax applies with respect to taxable amounts received or accrued after April 1, 1986. The tax will not apply with respect to taxable amounts received or accrued after March 31, 1991.

The conference agreement provides special rules for any taxable period including but not beginning on April 1, 1986 or April 1, 1991. In the case of such a taxable period, the taxpayer must, in computing its taxable amount and credit for the Superfund Excise Tax, prorate its receipts and purchases on a daily basis. For example, a taxpayer whose taxable year runs from May 1 through April 30 must, under this special rule, prorate 30/365 of its receipts and 30/365 of its purchases as representing those amounts for the period for May 1 through April 30, 1986. In addition, the $10,000 standard credit similarly would be prorated.

h. Repeal of Post-Closure Liability Tax and Trust Fund

The conference agreement retroactively repeals the tax on hazardous wastes under section 4681 of the Code, effective October 1, 1983, and terminates the Post-Closure Liability Trust Fund as of that date. Refunds (with interest) would be allowed for taxpayers who paid taxes on hazardous wastes under section 4681.

i. Leaking Underground Storage Tank Trust Fund and Tax

a. Leaking Underground Storage Tank Trust Fund

The conference agreement establishes a new trust fund, the Leaking Underground Storage Tank Trust Fund, under the Internal Revenue Code. The purpose of this trust fund is to pay for the costs of corrective actions involving leaks of petroleum and petroleum products from underground storage tanks. The Trust Fund generally is to be used to pay cleanup and related costs involving tanks where no solvent owner can be found, or the owner or operator refuses or is unable to comply properly with a corrective action order necessary to protect human health and the environment. The Trust Fund would also be available to provide grants to States authorized to carry out corrective actions. Claims filed against the Trust Fund may be paid only out of such Trust Fund. Claims in excess of the Trust Fund balance shall be paid in full (to the extent of such balance in the order in which the claim was finally determined.

The trust fund will be financed by (1) a tax on gasoline, diesel and special motor fuels (described below), (2) interest on balances in the Trust Fund, and (3) amounts recovered from responsible parties for costs incurred by the Administrator of the EPA (or by State) in undertaking a corrective action with respect to the release of petroleum and petroleum products from an underground storage tank.

The conference agreement provides that amounts in the Trust fund may not be expended until the Solid Waste Disposal Act (or other provision of law) is amended to authorize a program to clean up leaks of petroleum and petroleum products from underground storage tanks.

b. Tax on gasoline, diesel and special motor fuels

Under present law, an excise tax is imposed on gasoline sold by a producer or importer thereof (sec. 4081), and on the sale (or use) of diesel fuel and special motor fuels (sec. 4041). Special motor fuels include benzol, benzene, naptha, liquid petroleum gas, casing head and natural gasoline, and any other liquid (other than kerosenes, as oil, fuel oil, or gasoline) sold for use in motor vehicles or motor boats. No tax is imposed on diesel and special motor fuels used for use on a farm for farming purposes. Gasoline, diesel and special motor fuels sold for use as a fuel in an aircraft in noncommerical aviation are taxable. Exemptions are provided for certain aircraft museums and helicopter uses. Gasoline mixed with certain alcohol products is subject to tax at a reduced rate.

Under the conference agreement, an additional tax of 0.2 cent per gallon is imposed on the sale (or use) of gasoline, diesel and special motor fuels subject to tax under sections 4041, 4042 and 4081 of the Code Tax is also imposed on liquid fuels used in boats, planes, and trains. Revenues from this tax, or equivalent amounts, are to be deposited in the Leaking Underground Storage Tank Trust Fund.

The tax is effective on January 1, 1986. The tax terminates after September 30, 1990. Earlier termination would occur at the end of any month in which the Secretary of the Treasury first determined that cumulative net revenues equal or exceed $850 million.

j. Oil Spill Liability Tax and Trust Fund

a. Oil Spill Liability Trust Fund

Expenditure purposes.—The conference agreement establishes an Oil Spill Liability Trust Fund under the Internal Revenue Code. Amounts in the Trust Fund are available for the payment of removal costs incurred in cleaning up or preventing oil pollution from vessels or offshore facilities, including costs incurred by government officials in carrying out oil pollution cleanup requirements under the Federal Water Pollution Control Act and the Intervention on the High Seas Act. The fund may also be used to pay removal costs the liability for which is transfered to the fund from the Deepwater Port Liability Fund (established under the Deepwater Port Act of 1974) or the Offshore Oil Pollution Compensation Fund (established under the Outer Continental Shelf Lands Act Amendments of 1978). No fund moneys may be used to pay natural resource damage claims or to pay governmental entities for costs incurred other than for removal actions and related administrative costs. Funds could be used for compensating loss or income and private damage claims under certain circumstances. No amounts could be paid for loss of State and local tax revenue.

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[6] This exemption is prorated for taxable periods that do not include 12 full months. Thus, for example, a manufacturer subject to this tax 6 months of a 12-month taxable year would not be required to file a return if it had less than $5 million of sales or lease receipts in that taxable year. This exemption is also prorated for short taxable periods.

[7] A taxpayer may avoid this penalty with respect to any year the taxpayer is liable for Superfund Excise Tax by depositing at least 90 percent of the tax due for that taxable year. A taxpayer may, however, avoid this penalty with respect to a year the taxpayer is liable for this tax by depositing 100 percent of the previous year's liability for this tax only if the taxpayer prorates this amount for a full 12-month period. Thus, if a taxpayer was liable for $100,000 of Superfund Excise Tax for its taxable year July 1, 1985 through June 30, 1986, the taxpayer would be considered to have deposited 100 percent of the previous year's liability by depositing $400,000.

Amounts in the Trust Fund are available to pay contributions to the fund established by the 1984 International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, if this convention (and a related liability convention) comes into force with respect to the United States. Trust Fund moneys may also be used to pay administrative costs. However, such contributions shall be reduced to the extent that the International Fund is used for expenditure purposes that are not permissible uses of the Oil Spill Liability Trust Fund.

The liability of the Trust Fund cannot exceed $200 million for any single incident.

The conference agreement provides that amounts in the Trust Fund may not be expended until a program is authorized to clean up or prevent oil pollution from vessels or offshore facilities.

Claims against the Trust Fund can be paid only out of the Trust Fund. If the fund is unable to pay all claims, claims will be paid in full (subject to the limitations above) in the order in which the claims are finally determined.

Other financing sources

The following amounts are to be deposited in the Trust Fund:

(1) A 1.3-cents-per-barrel tax on crude oil and imported petroleum products (described below),

(2) Amounts recovered, collected, or received from responsible parties under subtitle A of the Comprehensive Oil Pollution Liability and Compensation Act, as reported by the authorizing committees,

(3) Amounts remaining in the Deepwater Port Liability Fund and the Offshore Oil Pollution Compensation Fund after the new Trust Fund and petroleum tax become effective,

(4) Income on Trust Fund investments, and

(5) The proceeds of authorized borrowing by the Fund (which is not to exceed $300 million in outstanding indebtedness at any time).

Effective date.—These provisions are effective on January 1, 1986.

b. Tax on petroleum

Imposition of tax.—The conference agreement imposes a new excise tax of 1.3 cents per barrel on domestic crude oil and on petroleum products (including crude oil) imported into the United States. The tax is imposed on the same crude oil and petroleum products, and is subject to the same definitional and other provisions, as is the Superfund petroleum tax (discussed above), and is in addition to that tax. Amounts equivalent to the revenues from the tax are to be deposited in the Oil Spill Liability Trust Fund.

The collection, enforcement, and penalty provisions that are applicable to the Superfund petroleum tax are also applicable to this petroleum tax.

Effective date.—The tax applies from January 1, 1986 through September 30, 1990.

k. Hazardous waste removal costs treated as qualifying distributions by private foundations

Senate recedes to the House (no provision).

l. IDBs for hazardous waste treatment facilities

House recedes to the Senate (Senate provision is included).

TITLE XIV.—GENERAL REVENUE SHARING

Senate amendment

The current authorization of the general revenue sharing program, which provides unrestricted grants totaling $4.6 billion annually to local governments, is scheduled to expire on September 30, 1986. The Senate amendment would terminate the program on October 1, 1986, by a repeal of the Revenue Sharing Act.

Under the Senate amendment, local governments would have until March 1, 1986 to demand an adjustment in future payments for prior underpayments or overpayments. In addition, amounts paid to local governments would have to be used, obligated or appropriated by such governments by April 1, 1987. Only such sums as are necessary for the purposes of administering the provisions of this section and the orderly phaseout of the Revenue Sharing Program are authorized for fiscal year 1987.

House amendment

No provision.

Conference agreement

Generally follows the Senate amendment, but incorporates several changes. Although the current authorization expires on September 30, 1986, the repeal of the Revenue Sharing Act would be delayed until the earlier of December 31, 1986 or adjournment sine die of the 99th Congress. In no event would an early effective date prevent the payment of any allocation for the fiscal year 1986 entitlement period, including any funds held in reserve pursuant to Section 6702(d) of Title 31, U.S.C.

In addition, local governments would be required to have used, obligated or appropriated payments to them by October 1, 1987. This allows local governments six months more to allocate such funds than was available under the Senate amendment.

As under the Senate amendment, only such sums as are necessary to administer the provisions of this section are authorized for Fiscal Year 1987.

TITLE XV.—CIVIL SERVICE, POSTAL SERVICE, AND GOVERNMENTAL AFFAIRS GENERALLY

POSTAL SERVICE ISSUES

1. Reduction of authorization for revenue forgone

House provision

The House bill (Sec. 7104(a)) limits the FY 1986 authorization for the "revenue forgone" appropriation to $749 million. (The revenue forgone appropriation subsidizes the postage rates paid by nonprofit organizations and other "preferred rate" mailers.)

Senate provision

The Senate bill (Sec. 801) contains a substantially similar provision

Conference agreement

The conference agreement contains the House language.

2. Reduction of transitional appropriation

House provision

The House bill (Sec. 7104(b)) reduces to zero the amount authorized to be appropriated for FY 1986 for the transitional appropriation to the Postal Service. (The transitional appropriation is used by the Postal Service to reimburse the Department of Labor for workers' compensation costs arising from injuries to employees of the pre-1971 Post Office Department). The House bill further provides that the amount which would have been authorized for this appropriation for FY 1986 shall be authorized for FY 1989, in addition to the amount already authorized for FY 1989 pursuant to 39 U.S.C. 2004. The House bill provides further that the Postal Service's obligations for FY 1986 shall be met using any amounts in the Postal Service Fund.

Senate provision

The Senate bill (Sec. 802) provides that no funds shall be appropriated for the FY 1986 transitional appropriation prior to FY 1989.

Conference agreement

The conferees agree to delete both provisions.

3. Delay of step 16 rates to January 1, 1986

Senate provision

The Senate bill (Sec. 803) provides that the increase in postage rates for nonprofit organizations and certain other mailers announced by the Postal Service Board of Governors on September 6, 1985, shall not take effect until January 1, 1986. The Senate bill also amends section 3626(a) of title 39, United States Code, to eliminate the rate "phasing" schedule and provide that effective January 1, 1986, the rates paid by nonprofit organizations and other affected mailers will recover the full costs attributable to their mail.

House provision

The House has no comparable provision.

Conference agreement

The House recedes and concurs with an amendment making it clear that the rate increase announced by the Board of Governors in Resolution No. 85-7 shall not take effect before January 1, 1986 and that any changes in rates shall be established in accordance with chapter 36 of title 39, United States Code. Additionally, in order to obtain needed savings, the conferees agree to eliminate the authorization for that part of the revenue forgone appropriation which makes possible the "limited circulation" second-class rate. The conferees intend that this rate be eliminated upon enactment.

4. Appropriation ceiling and study concerning third-class commercial material mailed at reduced rates

Senate provision

The Senate bill (Sec. 804) reduces by 50 percent the authorized appropriation for FY 1987 and FY 1988 for third-class nonprofit bulk rate mail which advertises or promotes the sale of, recommends the purchase of, or announces the availability of any article, product, service, insurance, or travel arrangements. The Senate bill also directs the Postal Rate Commission to prepare and transmit to Congress within 6 months of enactment a report containing legislative recommendations to achieve the required 50 percent savings. The Commission's study shall also include second-class nonprofit rate and fourth-class library rate mail. The Commission is to invite and consider the views of all interested parties.

House provision

The House has no comparable provision.

Conference agreement

The House recedes and concurs with an amendment striking the mandatory authorization reduction but directing that the Postal Rate Commission conduct an expanded study covering three subject areas. The first subject shall be the use of third-class nonprofit bulk rate mail, second-class nonprofit mail, and fourth-class library rate mail for advertising, promotion, and solicitation purposes (as provided for and defined in the Senate bill). The second subject shall be the general use of the second-class "in-county" publication rate. The focus of the Commission's inquiry in this area shall be the accumulation and synthesis of data and information concerning the number and types of publications which use this subsidized rate, the users' needs for this rate, and the potential impact both on the publications and on their readers of further modification or total elimination of the authorization for this rate. The conferees take specific note of their agreement in section 15104 to amend the Senate bill's provision concerning eligibility for the in-county rate by deleting the limit of 20,000 copies per issue. The conferees hereby direct the Postal Rate Commission to include in its study a specific determination of the number and types of publications which would have been adversely affected had the 20,000 "cap" remained in the new 39 U.S.C. 3626(f). The third subject for the Commission's study is the accuracy, or inaccuracy, of the current method of computing revenue forgone and the development and assessment of alternative methods. The Postal Service is to cooperate fully in the conduct of every phase of the study (including the provision to the Commission of adequate financial, technical, and personnel resources).

5. Restriction on eligibility for in-county second-class rates of postage

Senate provision

The Senate bill (sec. 805) amends 39 U.S.C. 3626 by limiting application of the in-county rate (which is subsidized by the revenue forgone appropriation). The rate shall not apply to an issue of a publication if the number of copies of that issue distributed within the county of publication is less than half of the issue's total paid circulation. This limitation shall not apply if the issue's total paid circulation is less than 10,000 copies. In no case shall the rate apply to more than 20,000 copies of an issue.

House provision

The House has no comparable provision.

Conference agreement

The House recedes and concurs with an amendment striking the Senate provision which would have limited applicability of the subsidized rate to not more than 20,000 copies of any issue. The conferees note that this provision will be a subject of the study to be conducted by the Postal Rate Commission pursuant to section 15103.

6. Curbing of subsidies for advertising-oriented "plus issues" mailed to subscribers at in-county rates

Senate provision

The Senate bill (Sec. 806) further amends 39 U.S.C. 3626 with regard to application of the subsidized in-county rate to nonsubscriber copies of subscription publications. The number of nonsubscriber copies to which the rate is applied in any calendar year may not exceed 10 percent of the number of copies mailed to subscribers in that year.

House provision

The House has no comparable provision.

Conference agreement

The House recedes.

CIVIL SERVICE ISSUES

1. Federal employee pay adjustments

House provision

The House bill (Sec. 7101) freezes civilian pay for FY 1986 and provides 5% pay increases effective January 1, 1987, and January 1, 1988. Prevailing rate pay adjustments are limited to 5% and are delayed 90 days in FY 1987 and 1988. Agencies are required to absorb 33% of the cost of the pay increases.

Senate provision

The Senate bill (Sec. 811) freezes pay for civilian workers of the Federal Government for fiscal year 1986 and makes the effective date of any future pay raises the first applicable pay period after January 1 of each year. In addition, the Senate bill approves legislation, previously done in the appropriations process, that provides Federal Wage System employees with the same pay increases as General Schedule workers and delays those increases for 90 days, similar to the delay for the General Schedule.

The Senate achieves out-year savings in accordance with the conference report on the First Concurrent Budget Resolution for fiscal year 1986. The Senate bill does not mandate a pay raise for fiscal years 1987 and 1988, but, rather, retains the current process for pay increases. However, any pay proposal must save at least $746 million in FY 1987 and $1,264 million in FY 1988 which is consistent with the budget resolution. The estimates are based on the resolution's pay assumptions of 3.8 percent and 4.7 percent in fiscal years 1987 and 1988, respectively.

Conference agreement

The conference agreement freezes civilian pay for FY 1986 and requires the President to exercise his authority under section 5305 of title 5, United States Code, to limit pay adjustments in FY 1987 and FY 1988 to achieve savings of $746,000,000 in FY 1987 and $1,264,000,000 in FY 1988. These savings are to be computed using the baseline for the First Concurrent Resolution on the Budget for Fiscal Year 1986 (S. Con. Res. 32, 99th Congress, 1st Session) agreed to on August 1, 1985. The conferees note that these savings could be achieved if FY 1987 and FY 1988 pay increases were each limited to approximately 5 percent and employing agencies were required to absorb approximately one-third of the cost of the pay increases. The conference agreement also delays FY 1987 and FY 1988 civilian pay adjustments until January 1, 1987, and January 1, 1988, respectively. In FY 1987 and FY 1988, prevailing rate pay adjustments are limited to the average percentage adjustment under section 5305 of title 5 and are delayed 90 days.

2. Health insurance program reserves

House provision

The House bill (Sec. 7102(a)) requires OPM to determine minimum level of necessary reserves under the FEHBP and requires each carrier to refund excess reserves to the FEHBP Fund. Required refunds may not be less than $800 million in FY 1986 and $300 million in FY 1987. The House bill prohibits transfer of any amount in contingency reserves to the general fund of the U.S. Treasury as a result of any refund of excess reserves.

Senate provision

The Senate bill (Sec. 814) is similar to the House except that it requires the Government's share of the refunds to be held in the health benefits fund and to be used to pay for future increase in Government's contributions for health insurance premiums.

Conference agreement

The conference agreement requires OPM to determine the minimum level of necessary reserves under the FEHBP and requires each carrier to refund excess reserves to the FEHBP Fund. Required refunds cannot be less than $800 million in FY 1986 and $300 million in FY 1987. The agreement further provides no funds may be transferred to the general fund of the Treasury of the United States as a result of a refund required by the conference agreement. The conference agreement specifically authorizes the use of the Government's share of refunded amounts to fund the Government's share of subscription charges for annuitants participating in the FEHBP. The conference agreement permits refunds to the Government of the District of Columbia and the United States Postal Service in amounts attributable to the employer's share of subscription charges paid by those entities. Beginning in FY 1987, the Postal Service shall be required to pay all FEHBP costs for future postal annuitants.

3. Health insurance premium cap

Health provision

Under existing law, the Government's health insurance premium contribution may not exceed 75% of the total premium for a particular plan. The House bill (Sec. 7102(b)) suspends application of the 75% cap for the 1986 and 1987 contract years.

Senate provision

The Senate has no comparable provision.

Conference agreement

The conference agreement amends section 8902(b)(2) of title 5, United States Code, to repeal permanently the 75 percent limitation on the Government contribution to FEHBP premiums. The conference agreement further provides that the amendment to section 8902(b)(2) shall be effective with respect to pay periods commencing after March 1, 1986.

4. Pay based on 2,087 hours per year

House provision

The House bill (Sec. 7103) provides for continued use of the 2,087 hour pay computation factor through FY 1988.

Senate provision

The Senate bill (Sec. 812) permanently extends use of the 2,087 hour pay computation factor.

Conference agreement

The House recedes to the Senate and concurs with an amendment which makes the provision effective beginning with pay periods which commence on or after March 1, 1986.

5. Health benefits in medically underserved areas

Senate provision

The Senate bill (Sec. 813) permanently reauthorizes a program that expired on December 31, 1984, which required FEHB plans to provide benefits for the services of any state licensed health care provider if the service is provided in a state designated as a medically underserved area.

House provision

The House has no comparable provision.

Conference agreement

The Senate recedes to the House. The conferees note that this issue is addressed in other legislation currently pending before the Senate.

6. Retirement benefits for part-time employment

Senate provision

The Senate bill (Sec. 815) provides prospectively that the total service of an employee who has performed part-time service shall be prorated to reflect such part-time service when computing the employee's civil service retirement annuity.

House provision

The House has no comparable provision.

Conference agreement

The House recedes to the Senate and concurs with an amendment making technical and clerical changes.

Wage rates of certain employees in Tuscon, Arizona

Senate provision

The Senate bill (Sec. 816) prohibits any reduction in the wage schedules or rates applicable to prevailing rate employees in the Tucson, Arizona, wage area during FY 1986.

House provision

The House has no comparable provision.

Conference agreement

The House recedes to the Senate and concurs with an amendment which takes into account the fact that reductions in wage schedules for the affected area have already occurred and back payments will be necessary in order to fully implement the conference agreement.

ESTIMATED BUDGETARY IMPACT OF RECONCILIATION PROVISIONS: SUBCONFERENCE 24 [1]

TABLE 1.—SUMMARY BY SECTION OF NET BUDGETARY EFFECTS OF SUBCONFERENCE 24 PROVISIONS

[By fiscal year, in millions of dollars]

Section and program	1986	1987	[illegible]	Total 1986-88
Section 15201 Pay adjustments				
Budget authority	−1,910	3 336	-4,039	−9,285
Outlays	−1,940	3,452	4 194	−9,587
Section 15202 Federal Employees Health Benefits Program				
Budget authority	−973	-148	-105	−1,016
Outlays	973	148	105	−1,016
Section 15203 Computation of hourly rates of pay				
Budget authority	72	-145	154	-371
Outlays	-72	-145	154	371
Section 15204 Computation of retirement annuity for part-time Federal employees				
Budget authority				
Outlays				
Section 15205 Effect of wage survey regarding Federal employees in Tucson AR				
Budget authority				
Outlays				
Section 15101-15105 US Postal Service				
Budget authority	-45	-65	−27	−137
Outlays	-45	-65	−27	−137
Total net budgetary effects				
Budget authority	−3 000	−3,694	−4,115	−10 809
Outlays	−3 030	−3,810	−4,270	−11,110

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[1] Unless otherwise specified by the bill, all estimates assume enactment of provisions by December 31, 1985

TABLE 2.—BUDGETARY EFFECTS OF PROVISIONS RELATING TO PAY COMPARABILITY ADJUSTMENTS (SEC. 15201)

[By fiscal year, in millions of dollars]

Program (budget function)	1986	1987	1988	Total 1986-88
Savings Civilian agency employees (920)				
Budget authority	−1,187	−1,991	−2,394	−5,571
Outlays	−1,232	−2,120	−2,557	5 908
Department of Defense employees (050)				
Budget authority	−919	−1,693	−2,068	4 680
Outlays	−904	−1,680	−2,061	−4,645
Subtotal, savings				
Budget authority	−2,106	−2,684	−4,462	−10,251
Outlays	−2,136	−3,800	−4,618	−10,554

TABLE 2.—BUDGETARY EFFECTS OF PROVISIONS RELATING TO PAY COMPARABILITY ADJUSTMENTS (SEC. 15201)—Continued

[By fiscal year, in millions of dollars]

Program (budget function)	1986	1987	1988	Total 1986-88
Offsettsing receipts (950)				
Budget authority	195	348	423	966
Outlays	195	348	423	966
Net budgetary effect				
Budget authority	−1,910	−3,336	−4,039	−9,285
Outlays	−1,940	−3,452	−4,194	−9,587

TABLE 3.—BUDGETARY EFFECTS OF INDIVIDUAL COMPONENTS OF PROVISIONS RELATING TO PAY COMPARABILITY ADJUSTMENTS [1]

[By fiscal year, in millions of dollars]

Program (budget function)	1986	1987	1988	[illegible] 1986-88
Freeze pay in 1986 (920, 050)				
Budget authority	−2,106	−2,405	−2,533	−7,044
Outlays	−2,136	−2,504	−2,636	−7,276
3-month delay in 1987-88 (920, 050)				
Budget authority		−543	−704	−1,247
Outlays		−550	−717	−1,267
Savings of outyear pay adjustments (920, 050)				
Budget authority		−736	−1,224	−1,960
Outlays		−746	−1,264	−2,010
Total budgetary effects				
Budget authority	−2,106	−3,684	−4,462	−10,251
Outlays	−2,136	−3,800	−4,618	−10,554

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[1] Excludes effects of offsetting receipts

TABLE 4.—BUDGETARY EFFECTS OF PROVISIONS RELATING TO FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM (SEC. 15202)

[By fiscal year, in millions of dollars]

Program (budget function)	1986	1987	1988	Total 1986-88
Function 550				
Refund excess carrier reserves				
Budget authority	−1,067	−300		−1,367
Outlays	−1 067	−300		−1,367
Reimburse Postal Service				
Budget authority	60	17		77
Outlays	60	17		77
Reimburse District of Columbia				
Budget authority	6	2		8
Outlays	6	2		8
Require Postal Service to pay health benefits for future annuitants				
Budget authority		−10	−35	−45
Outlays		−10	−35	−45
Remove limit on Government's share of health insurance premiums				
Budget authority	[illegible]	150	150	388
Outlays	88	150	150	[illegible]
Subtotal, Function 550				
Budget authority	−913	−141	115	−939
Outlays	−913	−141	115	−939
Function 370				
Refund excess carrier reserves Reimburse Postal Service				
Budget authority	−60	−17		−77
Outlays	−60	−17		−77
Require Postal Service to pay health benefits for future annuitants				
Budget authority		10	−10	
Outlays		10	−10	
Subtotal, Function 370				
Budget authority	−60	−7	−10	−77
Outlays	−60	−7	−10	−77
Total net budgetary effect				
Budget authority	−973	−148	105	1,016
Outlays	−973	−148	105	1,016

TABLE 5.—BUDGETARY EFFECTS OF PROVISION TO EXTEND PERMANENTLY METHOD OF CALCULATING CIVILIAN PAY USING 2,087 HOURS PER WORKYEAR (SECTION 15203)

[By fiscal year, in millions of dollars]

Program (budget function)	1986	1987	1988	Total 1986-88
Savings Civilian agency employees (920)				
Budget authority	−50	−101	−107	−258
Outlays	−50	−101	−107	−258
Department of Defense employees (050)				
Budget authority	−30	−59	−63	−152
Outlays	−30	−59	−63	−152
Subtotal, savings				
Budget authority	−80	−160	−170	−410
Outlays	−80	−160	−170	−410
Offsetting receipts (950)				
Budget authority	8	15	16	39
Outlays	8	15	16	39
Net budgetary effect				
Budget authority	−72	−145	−154	−371
Outlays	−72	−145	−154	−371

Note Fiscal year 1986 figures assume enactment of this provision on March 1, 1986, as specified in the bill

TABLE 6.—BUDGETARY EFFECTS OF PROVISIONS RELATING TO THE U.S. POSTAL SERVICE (SECTIONS 15101-15105)

[By fiscal year, in millions of dollars]

Program (budget function)	1986	1987	1988	Total 1986-88
Savings Cap 1986 revenue forgone (370)				
Budget authority	−83			−83
Outlays	−83			83
Eliminate phasing (370)				
Budget authority		−38		−38
Outlays		−38		−38
End subsidized rates for 2d class/limited circulation (370)				
Budget authority	−24	−18	−18	−60
Outlays	−24	−18	−18	−60
Restrict 2d class, in-county (370)				
Budget authority	−8	−9	−9	−26
Outlays	−8	−9	9	−26
Restrict "plus" mail (370)				
Budget authority				
Outlays				
Subtotal, savings				
Budget authority	−115	−65	−27	−207
Outlays	−115	−65	−27	−207
Costs Delay step 16 rates (370)				
Budget authority	70			70
Outlays	70			70
Net budgetary effect				
Budget authority	−45	−65	−27	−137
Outlays	−45	−65	−27	−137

Civilian Agency Multiyear Contracting Authority

Senate provision

The Senate bill contains a provision that amends title 3 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) by adding a new section 306 on Multiyear Contracts. This section, which is identical to S. 678, the Civilian Agency Multiyear Contracting Act of 1985, authorizes civilian procuring agencies to enter into multiyear contracts, not to exceed five years, when it is determined to be in the government's best interest.

House provision

The House bill contains no comparable provision.

Conference agreement

The Senate agrees to recede to the House provision.

Sections 15301-15303. Federal Motor Vehicle Expenditure Control

House amendment

The House amendment contains no provision relating to reduction of Federal motor vehicle expenditures.

Senate amendment

Sections 15301-15313 of the Senate amendment require executive agencies, the Administator of General Services, and the Director, Office of Management and Budget, to take a number of actions designed to reduce the costs of acquiring, operating, maintaining, and disposing of motor vehicles. Agencies would establish data collection systems, study the costs and benefits of contracting with private fleet management firms, and provide with their budget requests statements of motor vehicle costs. Appropriations otherwise available for motor vehicle expenditures would be reduced $225 million by fiscal year 1988.

Conference agreement

The conferees agreed to the Senate provision with an amendment.

The conferees agree that significant savings can be achieved by finding more efficient means to acquire, operate, maintain, and dispose of motor vehicles in Federal agencies. Therefore, the conferees support establishment of the basic mechanisms in the Senate bill to require executive agencies, the General Services Administration, and the Office of Management and Budget to improve government motor vehicle fleet management. However, the conferees believe there are insufficient data on current costs of fleet management to mandate specific dollar savings. The government's accounts do not separately identify the specific cost of motor vehicles acquisition, operation, maintenance, and disposal.

The amendment agreed to by the conferees requires the President to establish cost reduction goals aimed at reducing outlays for motor vehicle fleet management by fiscal year 1988 to an amount which is $150 million less than the amounts requested for this purpose in the fiscal year 1986 budget. While the agencies would not be required by law to actually reduce their appropriations by that cumulative amount, the conferees expect all agencies to make every effort, while giving consideration to performing their missions, to comply fully with the President's goals. The reporting requirements have been modified to assure that Congress will be fully informed not only of the projected savings in future budgets, but also progress in meeting established goals. Certain other minor changes were made in the Senate bill's study and reporting requirements to eliminate redundancy.

The conference amendment also exempts the Postal Service, the Postal Rate Commission and the Tennessee Valley Authority. These organizations in large part are not normally subject to direct Presidential control and reductions in their motor vehicle costs would not result in significant budgetary savings. In addition, the GSA Adminstrator is authorized to exempt agencies' special purpose vehicles. The conferees expect this latter authority to be used sparingly. The total savings goal was reduced from $225 million to $150 million in recognition of the exemption of the Postal Service, which bears a large percentage of government motor vehicle costs.

TITLE XXV—HIGHER EDUCATION PROGRAMS

The Senate language requires recall of state agency advances of $75 million in FY 1988. The House recedes on the amount.

The House bill states that agencies less than five years old at the time of the recall are exempt, the Secretary must take into consideration the solvency and maturity of the insurance and reserve funds of the agencies as determined by the Comptroller General in determining how much of their advances to recall. The Senate recedes with an amendment that prohibits repayment from any state if that repayment encumbers the reserve fund requirement mandated by state statute.

Both the House and Senate bills require multiple disbursement of student loans. The House language states that loans are to be multiply disbursed to students on the basis of their academic terms (i.e. semester, quarter, etc.) lenders receive subsidies only on the disbursed portion of the loan and the origination fee is charged proportionately on each disbursement. The effective date is July 1, 1986. The Senate recedes.

The Senate also recedes to the House language on the copayability of GSL checks. The Senate language requires the GSL check to be made copayable to the student and the institution the student is attending. The House language requires the check to be made payable to the student, but sent to the school the student is attending. Because some public schools are required to deposit the GSL checks made copayable to them into their state accounts, this would have resulted in the delay of disbursement of GSL money to the student. By sending the check to the school, the conferees are confident that the goals of copayability will be met, without the administrative problems and delay in giving the GSL proceeds to the student. The Senate conferees receded to the House on this language based on the administrative problem, not because of any other alleged problems with certain schools not disbursing GSL proceeds as required.

The Senate and House bills extend the period that state guarantee agencies are required to attempt to collect defaulted loans before submitting them to the Secretary for reinsurance. The House recedes with an amendment that extends to 270 days the period that loans must be held before reinsurance is collected. This period includes 180 days during which the lender or other holder must attempt to collect the loan and an additional 90 days during which the state guarantee agency must pursue collection efforts. This extends the current time period by 150 days.

Both the House and Senate bills include language to strengthen preclaims assistance activities. Lenders and guaranty agencies may be reimbursed through Federal reinsurance for use of collection agencies in reinstating delinquent loans in repayment status. The maximum allowable reimbursement is the lesser of $100 or 2% of the loan value. This section shall take effect immediately upon enactment rather than waiting until regulations are promulgated in order to accomplish savings in FY '86.

The Senate bill requires mandatory payment of administrative cost allowances. The Secretary is required to pay the full 1% ACA for each fiscal year beginning after September 30, 1984. The House recedes.

The Senate bill requires states to establish lenders-of-last resort. The House recedes with an amendment, clarifying the intent.

The Senate bill includes a new loan consolidation program. Borrowers with indebtedness in excess of $5,000 in loans made under the NDSL or GSL program may consolidate those loans at a rate of 10 percent (unless ALAS loans are also consolidated, then the rate is the rate of the highest ALAS loan). Lenders, Sallie Mae, State guaranty agencies, and secondary markets, and eligible higher education institutions may consolidate loans. The yield to lenders on consolidation loans is T-bill plus 3 percent. The House recedes.

The House bill extends the Guaranteed Student Loan program for two years, through fiscal year 1988. The GSL family contribution section of the Student Financial Assistance Technical Amendments Act of 1982 is also extended. The Senate recedes.

The Senate bill requires acceleration of Sallie Mae's repayment schedule to the Federal Financing Bank in FY 86 by $30 million. The increased FY 1986 repayment cannot be used as credit to reduce its payments in FY 1987 or FY 1988. The House recedes.

Both the House and Senate bills include language to help tighten collection efforts. Collection efforts are to be enhanced by the use of credit bureaus, stiffer penalties for late payments, increased auditing of state agencies; disbursement of GSLs through postsecondary education institutions; and a standard federal statute of limitations on collection efforts. The conferees also agreed to language in the credit bureau reporting section that would cover the Secretary of Education, guaranty agencies, eligible lenders, and subsequent holders of loans. The conferees recommend that these entities adhere to the generally accepted standards of credit bureau operations when providing information to and requesting information from these organizations. Nothing in this legislation is intended to regulate the ordinary business practices of a credit bureau.

The House bill includes language requiring discounting income from foreclosures or bankruptcy. Proceeds from the sale of farms or businesses which results from bankruptcy, foreclosure, or forfeiture cannot be counted in determining family income for the purposes of Pell Grant or GSL eligibility. The Senate recedes.

The House bill requires students to have a determination of their Pell Grant eligibility or ineligibility before applying for a GSL. The Senate recedes with a clarifying amendment.

The Senate, but not the House proposal, reduces special allowance payments by 0.25 percent. The Senate recedes.

The House, but not the Senate proposal, requires a need assessment for all students in the Guaranteed Student Loan program. The House recedes.

The House bill requires that all students be charged a 3 percent insurance premium. The House recedes.

The Senate measure contained a provision amending the Walsh-Healey Act and the Contract Work Hours and Safety Standards Act. The House had no comparable provision.

The Senate recedes because of a similar provision currently contained in Public Law 99-145.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, December 13, 1985.

Hon. AUGUST F. HAWKINS,
Chairman, Committee on Education and Labor, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached estimate of the budget impact of the reconciliation provisions within the jurisdiction of subconference 27. Table 1 reflects the budget impact of the provisions assuming an October 1, 1985 date of enactment. The estimates in Table 2 assume a December 31, 1985 date of enactment.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,
Sincerely,

JAMES BLUM,
(For Rudolph G. Penner, Director.)

ESTIMATED BUDGET IMPACT OF RECONCILIATION PROVISIONS SUBCONFERENCE 27

TABLE 1.—CHANGE FROM RESOLUTION BASELINE [1]

[By fiscal year, in millions of dollars]

	[illegible]					
	1986	1987	1988	1986–88	1989	1990
Direct spending						
Guaranteed Student Loan Program						
Budget authority	−269	−205	−292	−765	−187	−181
[illegible]	−335	−200	−297	−832	−197	−186

[1] Assumes an October 1, 1985 enactment date

ESTIMATED BUDGET IMPACT OF RECONCILIATION PROVISIONS—SUBCONFERENCE 27

TABLE 2.—CHANGE FROM RESOLUTION BASELINE [1]

[By fiscal year, in millions of dollars]

	[illegible]					
	1986	1987	1988	1986–88	1989	1990
Direct spending						
Guaranteed Student Loan Program						
[illegible] authority	−254	−200	−287	−741	−182	−181
Outlays	−319	−195	−292	−806	−192	−186

[1] Assumes a December 31, 1985 enactment date

TITLE XVII—GRADUATE MEDICAL EDUCATION COUNCIL AND TECHNICAL AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT

1. Council on graduate medical education (section 17001)

Present law

No comparable provision.

House bill

No provision.

Senate amendment

The Senate amendment establishes a permanent Council on graduate Medical Education. The Council would make recommendations to the Secretary of the Department of Health and Human Services concerning the supply of physicians, physicians needed in primary care and specialties in shortage, foreign medical graduates, appropriate Federal policies concerning graduate medical education, and efforts by schools to meet the recommendations of the Council. Membership of the Council would include Federal officials and private individuals, and would be appointed by the Secretary.

Conference agreement

Section 17001 provides for the establishment of a Council on Graduate Medical Education under Title VII of the Public Health Service Act. This Council would have the responsibility for assessing physician manpower needs on a long-term basis. It would recommend the appropriate Federal and private sector efforts necessary to address these needs and would provide a forum to enable fair consideration of changing medical personnel needs.

Specifically, the Council is charged with providing advice and recommendations to the Secretary and the appropriate House and Senate Committees concerning:

(a) The supply and distribution of physicians in the United States;

(b) Current and future needs in the medical and surgical specialties and subspecialties, in terms of both shortage and excess;

In making these determinations, the Council should consider which disciplines are the most appropriate to provide primary patient care and the supply of physicians available to fill the needs of rural and low-income inner city areas.

The Council is charged to assure, in cooperation with the Secretary of the Department of Health and Human Services, the availability of a data base for graduate physician education of sufficient detail and accuracy to carry out its mission.

(c) Issues relating to foreign medical graduates;

These include: an analysis of the extent to which the service needs of institutions with a high proportion of foreign medical graduates supersede the educational goals of their graduate medical education programs; the quality of education provided in these programs; the validity of the certification process for foreign medical graduates; the question of establishing an accreditation or approval process for schools located outside the United States and Canada; and, the ability of alien foreign medical graduates to obtain exchange visitor visas to enter U.S. training programs.

(d) Appropriate Federal policies with respect to these issues, including recommended policy changes in the financing of undergraduate and graduate medical education training programs and changes in the types of medical education training in graduate medical education programs; and

(e) Appropriate efforts to be carried out by hospitals, schools of medicine, schools of osteopathy, and accrediting bodies with respect to the matters outlined in (4), including efforts for changes in undergraduate and graduate medical education programs.

The role of the accrediting bodies and the residency review committees in assuring the quality of programs should be particularly emphasized.

In addition, the Council is expected to encourage entities providing graduate medical education to conduct activities to achieve voluntarily the recommendations of the Council.

Effective date.—Enactment.

2. Technical amendment to the Public Health Service Act (sections 17002-17004)

Conference agreement

The conference agreement includes four technical amendments to the Public Health Service Act.

Section 17002(a) of the conference agreement amends Section 208 of the Public Health Service Act providing for compensation and allowances. Section 3 of the Health Services Amendments of 1985 (P.L. 99-117) amended Section 208 of the Public Health Service Act to eliminate additional special pay for National Health Service Corps (NHSC) obligees. The purpose of that amendment was to conform the authorizing law with the language in recent Labor-HHS appropriations acts that prohibited such additional special pay. The Labor-HHS appropriations acts did not, however, prohibit the additional special pay for those NHSC obligees serving in the Indian Health Service. The Conferees agreed to correct this mistake by restoring additional special pay for NHSC obligees serving in the Indian Health Service.

Section 17002(b) of the conference agreement further amends Section 208, regarding the compensation of civilian employees of the Gillis W. Long Hansen's Disease Center. This provision is intended to ensure that current employees continue to receive the traditional special pay without interruption, rather than being frozen at current pay levels for extended periods. The language does not affect newly hired employees or those employees who cease to work at the Center. Under this arrangement, current workers will suffer no financial hardships and the special pay program will be phased out through the normal attrition of employees.

Section 17003 of the conference agreement provides authority for the Secretary of the Department of Health and Human Services to contract with fiscal agents to perform claims payment, processing and audit functions with respect to services purchased on a contact basis by the Public Health Service on behalf of eligible Indians, in the case of public health emergencies, or in the case of persons detained at the request of the Immigration and Naturalization Service. Fiscal agents must either be entities which could qualify as carriers for Medicare purposes, or Indian tribes or tribal organizations acting under Indian Self-Determination Act contracts. While the fiscal agents need not be Medicare carriers, they must meet the same requirements as Medicare carriers regarding efficiency and effectiveness of operations, surety bonds, and financial controls.

Section 17004 of the conference agreement amends Section 1910 of the Public Health Service Act authorizing grants for emergency medical services for children. This provision is intended to ensure that in addition to States, accredited medical schools may apply for grants and that only one grant may be made to a State (or to a medical school in that State) in any fiscal year.

Effective date.—Except for Section 17002 (a) which is effective as of October 7, 1985, each of these sections is effective upon enactment.

TITLE XVIII—SMALL BUSINESS PROGRAMS

CBO OUTLAY SAVINGS ESTIMATE FOR FISCAL YEARS 1986–88 RELATIVE TO THE BASELINE

[In millions of dollars]

	Fiscal year—			Total
	1986	1987	1988	
Reconciliation instruction to committees pursuant to Senate Concurrent Resolution 32	−509	−972	−998	−2,479
Total title XVIII outlay savings achieved	−484	−994	−1,049	−2,526
Breakdown of savings achieved by ac-[illegible]				
Salaries and expense	−29	−38	−47	
Pollution control	0	0	0	
Business loan and investment fund	−110	−165	−159	
Surety bond	0	−1	−2	
Business, on-budget	−139	−204	−208	
Federal Financing Bank, SBIC	−203	−189	−159	
Federal Financing Bank, 503	−13	−180	−224	
Business, off-budget	−216	−369	−383	
Total business	−355	−573	−591	
Disaster reforms	−129	−421	−457	
Total outlay savings	−484	−994	−1,048	−2,526

1. 1986 program levels

The amounts of 1986 program levels authorized by the Senate bill, the House amendment, and the Conference substitute are as follows:

[In millions of dollars]

Item	Senate	House	Conference substitute
Regular business direct	[illegible]	0	[illegible]
Regular business guaranteed	2,650	2,332	2,491
Handicapped direct	15	15	15
Handicapped guaranteed	5	[illegible]	5
Economic opportunity direct	[illegible]	45	25
Economic opportunity guaranteed	[illegible]	60	60
Energy direct	[illegible]	[illegible]	0
Energy guaranteed	15	15	15
Development direct	[illegible]	0	[illegible]
Development guaranteed	200	450	400
Small business investment company direct	41	41	41
Small business investment company guaranteed	250	250	[illegible]
Veterans loans direct	20	[illegible]	[illegible]
Veterans loans guaranteed	0	[illegible]	0
Total direct	76	121	101
Total guaranteed	3,180	3,112	3,221
Nonphysical disaster loans	[illegible]	[illegible]	[illegible]
Surety bond guarantees	1,115	[illegible]	1,050
Pollution control contract guarantees	150	50	75

2. 1987 program levels

The amounts of 1987 program levels authorized by the Senate bill, the House amendment, and the conference substitute are as follows:

[In millions of dollars]

Item	Senate	House	Conference substitute
Regular business direct	[illegible]	[illegible]	[illegible]
Regular business guaranteed	2,766	2,332	2,600
Handicapped direct	15	15	15
Handicapped guaranteed	5	5	5
Economic opportunity direct	[illegible]	45	35
Economic opportunity guaranteed	63	[illegible]	63
Energy direct	0	0	[illegible]
Energy guaranteed	16	15	16
Development company direct	[illegible]	[illegible]	0
Development company guaranteed	200	450	450
Small business investment company direct	41	41	41
Small business investment company guaranteed	261	250	261
Veterans loans direct	20	20	20
Veterans loans guaranteed	[illegible]	[illegible]	[illegible]
Total direct	76	121	111
Total guaranteed	3,311	3,112	3,395
Nonphysical disaster loans	0	0	[illegible]
Surety bond guarantees	1,164	[illegible]	1,096
Pollution control contract guarantees	157	[illegible]	75

3. 1988 program levels

The amounts of 1988 program levels authorized by the Senate bill, the House amendment, and the conference substitute are as follows:

[In millions of dollars]

Item	Senate	House	Conference substitute
Regular business direct	0	0	[illegible]
Regular business guaranteed	2,882	2,332	2,709
Handicapped direct	15	15	15
Handicapped guaranteed	[illegible]	5	5
Economic opportunity direct	0	45	[illegible]
Economic opportunity guaranteed	65	[illegible]	65
Energy direct	0	[illegible]	[illegible]
Energy guaranteed	16	15	[illegible]
Development company direct	0	[illegible]	0
Development company guaranteed	200	450	450
Small business investment company direct	41	41	41
Small business investment company guaranteed	272	250	272
Veterans loans direct	20	20	[illegible]
Veterans loans guaranteed	0	[illegible]	[illegible]
Total direct	76	121	116
Total guaranteed	3,440	3,112	3,517
Nonphysical disaster loans	[illegible]	0	0
Surety bond guarantees	1,213	900	1,142
Pollution control contract guarantees	163	[illegible]	75

4. 1986 authorizations

For 1986, the House bill authorizes the appropriation of $593.34 million, of which $376 million is for business loan programs; $12 million is for surety bond guarantees; and $205.34 million is for salaries and expenses; and such sums as may be necessary for disaster loans.

The Senate bill authorizes the appropriation of $534 million, of which $312 million is for business loan programs; $12 million is for surety bond guarantees; $210 million is for salaries and expenses; and such sums as may be necessary for disaster loans.

The conference substitute authorizes the appropriation of $515 million, of which $295 million is for business loan programs; $12 million is for surety bond guarantees; $208 million is for salaries and expenses; and such sums as may be necessary for disaster loans.

5. 1987 authorizations

For 1987, the House bill authorizes the appropriation of $627.34 million, of which $410 million is for business loan programs; $12 million is for surety bond guarantees; and $205.34 million is for salaries and expenses; and such sums as may be necessary for disaster loans.

The Senate bill authorizes the appropriation of $561 million, of which $331 million is for business loan programs; $16 million is for surety bond guarantees; $214 million is for salaries and expenses; and such sums as may be necessary for disaster loans.

The conference substitute authorizes the appropriation of $605 million, of which $381 million is for business loan programs; $14 million is for surety bond guarantees; $210 million is for salaries and expenses; and such sums as may be necessary for disaster loans.

6. 1988 authorizations

For 1988, the House bill authorizes the appropriation of $634.34 million, of which $417 million is for business loan programs; $12 million is for surety bond guarantees; and $205.34 million is for salaries and expenses; and such sums as may be necessary for disaster loans.

The Senate bill authorizes the appropriation of $566 million, of which $333 million is for business loan programs; $15 million is for surety bond guarantees; and $218 million is for salaries and expenses; and such sums as may be necessary for disaster loans.

The conference substitute authorizes the appropriation of $634 million, of which $409 million is for business loan programs; $13 million is for surety bond guarantees; $212 million is for salaries and expenses; and such sums as may be necessary for disaster loans.

7. Guaranteed loans—utilization of program guarantee authority

Existing law authorizes SBA to make loans to small businesses through its various guaranteed lending programs as established by annual program ceilings. There is no requirement that SBA utilize the entire guarantee authority provided by law.

The House bill does not change existing law.

The Senate amendment would require the SBA to enter into commitments to guarantee loans, debentures and other types of financial assistance in the full amounts provided by law, subject only to the availability of qualified applications, and limitations contained in appropriation Acts.

The conference substitute adopts the Senate provision with an amendment that this provision apply to MESBIC financings and direct loans as well as guaranteed loans, and other guarantees.

8. Guaranteed loans—percent of loan guaranteed

Existing law provides that guaranteed loans of $100,000 and less made under the 7(a) guaranteed loan program must carry at least a 90 percent guarantee; that guaranteed loans over $100,000 receive a guarantee of between 70 percent and 90 percent; and that SBA only reduce such guarantees below 90 percent on a case by case basis.

The House bill does not change existing law.

The Senate amendment would permit SBA to reduce its guarantee for loans of $100,000 and less from 90 percent to 80 percent; and for loans of more than $100,000 reduces the maximum authorized guarantee from 90 percent to 80 percent.

The conference substitute includes the Senate provision, with an amendment that guaranteed loans of $155,000 or less must carry a mandatory 90 percent guarantee. Guaranteed loans of $155,000 or more may carry a maximum guarantee of 85 percent. Any loan approved as part of the Preferred Lenders Program may carry a lesser guarantee.

9. Guaranteed loans—guarantee fee

Under its current regulations, SBA charges a 1 percent fee for loans it guarantees under the 7(a) guaranteed loan program.

The House bill would require SBA to impose on the small business borrower a 3 percent fee on any guaranteed loan with a term of more than one year.

The Senate bill would require SBA to impose on the small business borrower a 2 percent fee on any guaranteed loan with a term of more than one year.

The conference substitute adopts the Senate provision.

10. SBIC debentures—financing through the Federal Financing Bank (FFB)

Under existing law, Small Business Investment Company (SBIC) financings are funded through the Federal Financing Bank (FFB) when SBICs present their 100 percent SBA guaranteed debentures.

The House bill would prohibit the FFB from purchasing all or any part of SBIC debentures, any interest in SBIC debentures, or any obligation secured by an SBIC debenture or a share in an SBIC debenture.

The Senate bill contains an identical provision.

The conference substitute adopts this provision.

11. SBIC debentures—pooling

The conference substitute adopts this provision.

11. SBIC debentures—pooling

The House bill would provide authorization for the sale of SBIC government guaranteed debentures under the same terms and conditions established for the SBA secondary market under section 5(g) of the Small Business Act, which permits the pooling of loans for sale into the secondary market and the issuance of trust certificates.

The Senate bill contains no comparable provision.

The conference substitute adopts this provision.

11. SBIC debentures—pooling

The House bill would provide authorization for the sale of SBIC government guaranteed debentures under the same terms and conditions established for the SBA secondary market under section 5(g) of the Small Business Act, which permits the pooling of loans for sale into the secondary market and the issuance of trust certificates.

The Senate bill contains no comparable provision.

The conference substitute adopts the House provision with an amendment that would enact pooling provisions for SBIC debentures under the Small Business Investment Act of 1958 similar to the statutory pooling provisions for 7(a) guaranteed loans under section 5(g) of the Small Business Act. The conferees have established a 60-day time limit within which the Administration shall have selected an agent and issued final rules and regulations. Because of the urgent and compelling need for prompt action by the Administration, the conferees intend that the Administration's actions be exempt from standard federal procurement practices.

12. Section 503 pilot program

Under existing law, section 503 development companies receive financing for projects when they present their SBA-guaranteed debentures to the Federal Financing Bank for financing.

The House bill would establish a pilot program for the public or private sale of section 503 debentures up to $235 million and $280 million in fiscal years 1986 and 1987, respectively, and authorizes the sale of these debentures into the secondary market under the same terms and conditions as provided for under section 5(g) of the Small Business Act. SBA would be required to report on the results of the pilot program either 90 days after all pilot program debentures are sold in each year, or October 1st of each year, whichever date occurs first.

The Senate bill contains no comparable provision.

The conference substitute includes the House provision with an amendment authorizing up to $200 million and $155 million in fiscal years 1986 and 1987, respectively, to be financed through the Federal Financing Bank, and authorizing a pilot program for financing of 503 debentures through the private capital markets up to $200 million and $295 million in fiscal years 1986 and 1987, respectively. In addition, the method of financing of debentures through the pilot program is conformed to the secondary market pooling provisions adopted for the financing of SBIC debentures. Utilization of the pilot program authority for Fiscal Year 1988 was not addressed by the conferees. The conferees have established a 60-day time limit within which the Administration shall have selected an agent and issued final rules and regulations. Because of the urgent and compelling need for prompt action by the Administration, the conferees intend that the Administration's actions be exempt from standard federal procurement practices.

13. User fees

The House bill would require SBA to establish user fees as follows: (1) for SBA publications, the lesser of $5 or cost; (2) loan applications, not to exceed $100; and (3) determinations of eligibility of small concerns for assistance or preferential treatment as a small business concern, not to exceed $100. Fees would be used to offset costs to the extent provided by appropriation Acts.

The Senate bill contains no comparable provision.

The conference substitute does not include the House provision.

14. Report on feasibility of other user fees

The House bill would require SBA, within one year, to report on the feasibility of charging fees for management assistance or other counseling.

The Senate bill contains no comparable provision.

The conferees agreed to a substitute amendment requiring SBA to submit a report by September 30, 1986, specifying user fees currently being charged, and making a recommendation as to whether user fees should be charged for services where there is currently no user fee, and whether statutory authority is necessary to impose a fee.

15. Disaster loans—program levels

Existing law authorizes the appropriation of $500 million for fiscal year 1986 for the disaster loan program.

The House bill repeals the $500 million cap on the disaster loan program for FY 1986. (See item 4)

The Senate bill contains an identical provision.

The conference substitute adopts this provision.

16. Disaster loans—eligibility of agricultural enterprises

Existing law permits agricultural enterprises to apply for and receive SBA assistance if they meet eligibility criteria applied to non-agricultural enterprises, except that if the assistance sought is for a disaster loan, the agricultural enterprise must be declined for, or would be declined for emergency loan assistance at substantially similar interest rates from the Farmers Home Administration.

The House bill specifically removes agricultural enterprises from eligibility for any assistance under the disaster loan program.

The Senate bill contains an identical provision.

The conference substitute adopts this provision, with an amendment that SBA should fund qualified applicants for disasters declared in Fiscal Year 1985, both as to applications on file and applications filed in the future.

17. Duplication of assistance of other agencies

Existing law provides (1) that nothing contained in the Small Business Act shall be construed to authorize SBA to duplicate the activity of other agencies unless expressly provided in the Act; and (2) that if loan applications are being refused or loans denied by another agency due to withholding from obligations or apportionment or due to administratively declared moratorium, then no duplication shall be deemed to have occurred.

The House bill does not change existing law.

The Senate bill repeals this language.

The conference substitute does not change existing law.

18. Disaster loans—technical amendment

The House bill removes the undesignated paragraph provisions following 7(c)(4) of the Small Business Act, which have been superseded by section 7(c)(5) of the Act.

The Senate bill contains an identical provision.

The conference substitute adopts this technical amendment.

19. Nonphysical disaster loans—1986 authorization

Existing law authorizes $100 million in 1986 for the nonphysical disaster loan programs authorized by sections 7(b)(3) and 7(b)(4) of the Small Business Act.

The House bill repeals the $100 million authorization for 1986 for the nonphysical disaster loan programs.

The Senate bill contains an identical provision.

The conference substitute adopts this provision, with an amendment that SBA should fund qualified applicants for disasters declared in Fiscal Year 1985, both as to applications on file and applications filed in the future.

20. Elimination of the nonphysical disaster loan programs

Existing law established nonphysical disaster loan programs in subsections 7(b)(3) and 7(b)(4) of the Small Business Act.

The House bill repeals these nonphysical disaster loan programs and provides no new substitute.

The Senate bill contains an identical provision.

The conference substitute adopts this provision.

21. Labor surplus area

The House bill provides for a maximum population criterion of 25,000 when population criteria are used in labor surplus areas for purposes of priority of award of contracts under section 15 of the Small Business Act.

The Senate bill contains no comparable provision.

The conference substitute adopts the House provision.

22. Contract fraud

The House bill establishes a criminal violation, permitting imprisonment of up to 5 years, and a fine of up to $50,000, or both, for anyone making an intentional misrepresentation of small business status or disadvantaged status in order to obtain: prime contracts under sections 9 or 15 of the Small Business Act, subcontracts under section 8(a) of the Small Business Act, contracts included in subcontracting plans under section 8(d) of the Small Business Act, or any contract awarded under Federal law that uses criteria of section 8(d) of the Small Business Act for a definition of program eligibility.

The Senate bill contains no comparable provision.

The conference substitute adopts the House provision with an amendment specifying that this fraud provision apply only to a misrepresentation made in writing.

23. Report on 7(a) loan guarantee program

The House bill would require the SBA to report by December 15, 1985, to the Small Business Committees of the Congress on the options available for establishing a non-federal government 7(a) guaranteed loan program, specifically including an evaluation of the establishment of a federal government-owned corporation to make such loans. The House bill also required an evaluation of charging participating financial institutions an annual fee of between ¼ of 1 percent and 1 percent of the outstanding balance of all 7(a) loan guarantees to that institution, and further the feasibility of suing such fees for a loss reserve or the cost of administration.

The Senate bill contains no comparable provision.

The conference substitute adopts the House provisions.

24. Limitation on use of SBA loans

The House bill prohibits loans under section 7(a) of the Small Business Act to any applicant who performs abortions, engages in abortion research, promotes abortions or trains any individual to perform abortions, except that it allows financing of applicants involved in performing, promoting, or recommending abortions in cases where the life of the mother would be endangered if the fetus were carried to term.

The Senate bill contains no comparable provision.

The conference substitute does not include this provision.

25. Surety bond maximum contract guarantee

Existing law permits SBA to issue a surety bond guarantee to qualified applicants on a contract up to $1 million.

The House bill makes no change in existing law.

The Senate bill would increase from $1 million to $1,500,000 the contract amount that SBA may guarantee under the surety bond program.

The conference substitute adopts the Senate provision with an amendment that the maximum contract guarantee amount be set at $1,250,000.

26. Eligibility of Indian tribes as socially and economically disadvantaged small business concerns

Existing law specifically identifies persons who are Black Americans, Hispanic Americans, Native Americans, and Asian Pacific Americans among those individuals who may be considered as socially disadvantaged persons. Existing law also defines what economically disadvantaged means and provides that a "socially and economically disadvantaged small business concern" is any small business concern which is at least 51 per centum owned by one or more socially and economically disadvantaged individuals; or, in the case of any publicly owned business, at least 51 per centum of the stock of which is owned by one or more socially and economically disadvantaged individuals, and whose management and daily business operations are controlled by one or more of such individuals.

The House bill makes no change in existing law.

The Senate bill amends existing law by adding "Indian Tribes" to the list of groups that are specifically recognized as socially disadvantaged and establishes criteria that should be used and considered in determining the "economic disadvantage" of Indian Tribes and their eligibility for assistance on equal terms with other socially and economically disadvantaged businesses.

The conference substitute adopts the Senate provision. The conferees, recognizing that some tribally-owned businesses may not pay federal taxes due to the sovereign status of tribes, which may provide an advantage over other section 8(a) program participants, direct the Small Business Administration to carefully monitor this situation and, if SBA finds a problem, report its findings and recommendations to the House and Senate Small Business Committees.

27. Size standard for agricultural enterprises

By regulation, SBA has established a maximum of $100,000 in annual receipts as the size standard for eligibility of agricultural enterprises for assistance under the Small Business Act.

The House bill contains no provision pertaining to the size standard that should be used for agricultural enterprises.

The Senate bill establishes a maximum of $500,000 in annual receipts as the size standard for eligibility of agricultural enterprises for assistance under the Small Business Act.

The conference substitute adopts the Senate provision with a technical amendment. The conferees have agreed on substitute language for the Senate amendment governing eligibility of agricultural enterprises for SBA assistance, including regular business loans under section 7(a). Thus, farms having not more than $500,000 in average annual revenue will be eligible for assistance.

28. Veterans business resource councils

The House bill contains no provision regarding Veterans Business Resource Councils.

The Senate bill encourages the Small Business Administration to evaluate the effectiveness of and work toward the formation of Veterans Business Resource Councils.

The Conferees have agreed on the Senate amendment urging the Administrator to encourage the establishment of Veterans Business Resource Councils in as many districts as practical, and also to evaulate the usefulness of such councils in meeting the needs of veterans. No additional appropriation is authorized for this purpose, and the Committee expects that the financial commitment by SBA for each council should not exceed $2000.

TITLE XIX—VETERANS' PROGRAMS

On October 24, 1985, the House passd H.R. 3500, the proposed "Omnibus Budget Reconciliation Act of 1985". Title X of the bill included the provisions of H.R. 1538, ordered reported by the House Committee on Veterans' Affairs on September 11, 1985, to satisfy its reconciliation instructions contained in section 2 of the First Concurrent Resolution on the Budget for Fiscal Year 1986 (S. Con. Res. 32).

On November 14, the Senate passed H.R. 3128, the proposed "Deficit Reduction Amendments of 1985", after striking out the House-passed text and inserting in lieu thereof the text of S. 1730, title XI of which contained the legislation reported by the Senate Committee on Veterans' Affiars to satisfy its reconciliation instructions in section 2 of the FY 1986 budget resolution.

On December 5, the House amended the Senate-passed H.R. 3128 by inserting the House-passed texts of H.R. 3500 and H.R. 3128, and requested a conference with the Senate. Title X of H.R. 3500 as it originally passed the House was redesignated as Title X (sections 1951–1982) of Division A of the House amendment to the Senate amendment to H.R. 3128.

The following material refers to the Senate amendment to H.R. 3128 as the "Senate bill", to the House amendment to the Senate amendment as the "House bill", and to title XIX of the Reconciliation Act conference report as the "conference agreement".

SUBTITLE A—HEALTH CARE

Both the House bill (section 1972) and the Senate bill (sections 1101-07) would, as discussed below, amend chapter 17 of title 38, United States Code, to revise existing eligibilities for health care furnished by the Veterans' Administration, and to establish a "health-care income threshold" for purposes of determinations of eligibility based on "inability to defray" the cost of needed care.

The conference agreement (section 19011) contains such provisions as discussed below.

Hospital Care

House bill

The House bill would amend the eligibility requirements, set forth in present section 610(a) of title 38, for veterans seeking VA hospital care. The six categories of veterans eligible for such health care under current law would be revised and restated as nine separate categories, and the separate basis of eligibility for non-service-connected veterans 65 years of age or older (without regard to income) contained in current law would be eliminated.

Under the House bill, the Administrator would be required to furnish hospital care determined by the Administrator to be necessary to:

(1) any veteran for a service-connected disability;

(2) a veteran discharged for a disability incurred or aggravated in line of duty;

(3) a veteran entitled to receive disability compensation;

(4) a veteran disabled as a result of VA treatment or vocational rehabilitation;

(5) certain Vietnam veterans exposed to certain toxic substances and veterans exposed to ionizing radiation from nuclear explosions;

(6) former prisoners of war;

(7) veterans of the Spanish American War, Mexican border period, or World War I; and

(8) veterans who are unable to defray the expenses of necessary care.

The current limitation on furnishing hospital care "within the limits of Veterans' Administration facilities" would no longer be applicable to these eight categories of eligible veterans.

A veteran would be eligible for necessary medical care under category (8) if the veteran's family's income in the 12 months preceding the application for care was no greater than 3.34 times the maximum annual rate of VA pension payable to totally disabled veterans (referred to below as the "health-care income threshold"). In determining the incomes of veterans for the purpose of this category, the Administrator would be required to use the same methods and criteria used to determine annual income (including taking into account family income) for the purposes of VA improved pension eligibility under chapter 15 of title 38, United States Code. The maximum income level for health care would be increased each year by the same percentage increase applicable to the maximum pension rate. Thus, as of the time the House passed the bill, the "health care income threshold" would be $19,068 for a veteran with no dependents and $24,977 for a veteran with one dependent, plus $3,233 for each additional dependent. On December 1, 1985, the VA pension income standard increased by 3.1 percent, by virtue of present section 3112(a) of title 38, United States Code, and reference to the consumer price index.

The House bill would establish, as a ninth category of veterans eligible for hospital care, those seeking care for treatment of non-service-connected disabilities who do not fall into one of the eight other categories. Thus, this last category would consist of those veterans whose income and assets exceed the health-care income eligibility threshold. They would be required to make an annual payment equal to the Medicare deductible ($492 in 1986) in order to receive needed care. Such care could be provided only "within the limits of Veterans' Administration facilities".

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The House bill would also provide that nothing in these provisons would (1) require the Administrator to furnish hospital care in a facility other than a VA facility or to furnish care to a veteran to whom another agency of a Federal, State, or local government has a duty to provide care in an institution of that government, or (2) restrict the Administrator's discretion to determine the appropriateness of furnishing medical services, therapies, or programs under chapter 17 of title 38 or in what manner they will be furnished.

Senate bill

The Senate bill would create three categories of eligibility for hospital care. Under the first category, the Administrator would be required to furnish hospital care determined to be reasonably necessary for service-connected disabilities and for any disability of veterans who have service-connected disabilties rated at 50 percent or more. This care would be required to be furnished through VA facilities or, to the extent authorized, through non-VA facilities except in the case of a veteran under incarceration as to whom the Administrator could (1) decide not to furnish care in a VA facility if to do so would not be feasible in terms of the security that would be necessary and (2) provide care under contract in a non-VA facility to the extent authorized.

Under the second category, which would remain essentially unchanged from current law (except that the separate basis of eligibility for veterans 65 years of age or older would be eliminated), the Administrator would be authorized, through VA facilities or, to the extend authorized, through non-VA facilities, to furnish reasonably necessary hospital care to veterans with service-connected disabilities rated at less than 50 percent; veterans who, but for the receipt of retired pay, would be entitled to disability compensation; veterans who are eligible for compensation for disabilities incurred as VA patients or as participants in a VA vocational rehabilitation program; veterans who were discharged from military service for disabilities incurred or aggravated in the line of duty; former prisoners of war; Vietnam veterans exposed to certain toxic substances and veterans exposed to ionizing radiation from nuclear explosions; Spanish-American War, Mexican border period, or World War I veterans; and veterans unable to defray the cost of necessary care.

Under the third category, the Administrator would have the authority, through VA facilities or, to the extent authorized, through non-VA facilities, to furnish, to the extent facilities and resources are otherwise available, reasonably necessary hospital care for the non-service-connected disability of a veteran not included in categories one or two whose annual family income for the calendar year preceding the veteran's application for care exceeds $25,000 and who agrees to make certain payments to the United States in connection with such care. In determining the incomes of veterans for the purpose of this category, the Administrator would be required to use the same methods and criteria used to determine annual income (including taking into account family income) for the purposes of VA improved pension eligibility. Further, the Administrator would be given authority to prescribe regulations defining the circumstances under which a non-service-connected veteran having an annual income or estate above a certain level would be ineligible for VA care.

Conference agreement

The conference agreement (section 19011(a)) generally follows the House provision. It would establish two groups of VA health-care eligibilities. Under the first group, the conference agreement would require the Administrator to furnish needed hospital care through VA facilities, and authorize the Administrator to furnish needed hospital care in non-VA facilities as authorized, to the first eight categories from the House bill except that the third category from the House bill is subdivided into two categories—veterans with service-connected disabilities rated at 50 percent and above and any other veterans who have service-connected disabilities. The ninth category of veterans would consist of veterans who are unable to defray the expenses of necessary care—those who are receiving chapter 15 VA improved pensions or are eligible for Medicaid or whose annual family incomes" do not exceed the "Category A threshold" ($15,000 for veterans with no dependents and $18,000 for veterans with one dependent with an increase of $1,000—approximately equal to the amount of the VA pension allowance ($999 as of December 1, 1985)—for each additional dependent). These amounts would be increased on January 1 of each year (beginning January 1, 1987) by the same percentage by which VA chapter 15 improved pension benefits are increased on the preceding December 1 (pursuant to section 3112 of title 38).

The conferees intend that, for the categories of veterans specified in section 610(a)(1) of title 38 (as revised by this section)—those to whom the Administrator is required to furnish hospital care—the VA's sole obligation with respect to needed hospital care for these veterans is (1) if a veteran is in immediate need of hospitalization, to furnish an appropriate bed at the VA facility where the veteran applies or, if none is available there, to furnish a contract bed (as authorized under current law as recodified in new section 603) or to arrange to admit the veteran to the nearest VA medical center (VAMC), or Department of Defense facility with which the VA has a sharing agreement, with an available bed, or (2) if the veteran needs non-immediate hospitalization, to (A) schedule the veteran for admission where the veteran applied, if the schedule there permits, or (B) refer the veteran for scheduling and admission to the nearest VAMC, or DOD facility with which the VA has a sharing agreement, with an available bed and facilitate the veteran's admission there. The VA, of course, as also noted above, would also retain any existing discretionary authority to furnish health care to these veterans.

Also, if there are 2 or more veterans applying for the same bed at a particular facility on a non-emergent basis and one is seeking care for a service-connected disability or has a 50-percent-or-more service-connected disability, the conferees intend that that veteran should receive the bed. With respect to the remaining veteran, he or she, as noted above, would be scheduled for the next available bed at the VA facility where the veteran applies or, if none is available there, would be furnished a contract bed (as authorized under current law as recodified in new section 603) or arrangements would be made (1) to admit the veteran to the nearest VA medical center (VAMC), or Department of Defense facility with which the VA has a sharing agreement, with an available bed, or (2) if the veteran needs non-immediate hospitalization, to (A) schedule the veteran for admission where the veteran applied, if the schedule there permits, or (B) refer the veteran for scheduling and admission to the nearest VAMC, or DOD facility with which the VA has a sharing agreement, with an available bed and facilitate the veteran's admission there. The VA, of course, as also noted above, would also retain any existing authority to furnish health-care to that veteran.

The conference agreement (section 19011(a)) would provide for a second eligibility group as to which the Administrator "may", through VA facilities and through non-VA facilities as authorized, furnish needed hospital care to the extent that resources and facilities are available, to non-service-connected veterans with incomes above $15,000 for those with no dependents and $18,000 for those with one dependent, plus $1,000 for each additional dependent. For those non-service-connected veterans with incomes above the "Category B" threshold ($20,000 for those with no dependents and $25,000 for those with one dependent, plus $1,000 for each additional dependent), the Administrator "may", through VA facilities and through non-VA facilities as authorized, and to the extent that resources and facilities are otherwise available, furnish needed hospital care if the veteran agrees to make certain payments to the VA in connection with that care. Each of the amounts would be increased on January 1 of each year (beginning January 1, 1987) in accordance with the VA pension-COLA increase percentage.

The conference agreement further includes a provision specifying that nothing in section 610 of title 38, relating to eligibility for hospital and nursing home care (as revised by the conference agreement), requires the VA to furnish care to a veteran to whom another government entity has a legal duty to provide care in a government institution—for example, this would apply to an incarcerated veteran.

With respect to the revisions in hospital-care eligibility, the conferees intend that care be furnished to service-connected disabled veterans, low-income veterans, and, to the extent resources are available, other eligible veterans.

The conferees note with approval the statements made by the Chairman and Ranking Minority Member of the Senate Committee on Veterans' Affairs during the debate on the Senate bill (pages S 15467 and S 15471, respectively, of the CONGRESSIONAL RECORD for November 14) with respect to the effect of the use of the word "may" in providing VA health-care eligibility (in current law and the revised eligibility provisions) from the standpoint that the term does not connote discretion, on the part of the Administration, to withhold funds appropriated for the furnishing of care or, on the part of the VA, to withhold needed care that the VA has the capacity to provide. As indicated there, and the conferees agree, the amount of care that the VA provides to eligible veterans necessarily depends upon the level of funds appropriated for that purpose.

The conferees further note that this legislation would not change current law or practice regarding the beneficiary travel program.

The conferees recognize that in some cases it may not be readily determined with certainty, at the time that the veteran first applies for VA care during a calendar year, to which eligibility category the veteran belongs. Thus, where necessary to avoid delaying medical attention beyond the point at which it may be needed, the conferees intend that the VA make tentative eligibility-category determinations based on the available evidence at the time, subject to modification when a final determination can be made.

Also, in light of the uncertainties that may exist at the time of application and in view of the fact that even determinations based on apparently sufficient information may need to be changed on the basis of new evidence, the conferees expect the VA to require at least those veterans applying for VA care for the first time during a calendar year to sign an agreement to make the payments required by law if it is ultimately determined, by reason of their income during the preceding calendar year and any other matters relating to eligibility, that their eligibility is contingent upon their agreeing to make such payments. Of course, the agreement should also state what those payment amounts are.

In a similar vein, the conferees note that veterans with annual incomes above the applicable income threshold for payments would generally be eligible for care or services only upon the veteran (or someone authorized to act for him or her) agreeing to pay for those services before they are furnished. However, the VA has full authority under current section 611(b) to furnish hospital care or medical services in emergency cases and to charge appropriately for such care, and the conferees stress that this emergency authority would be applicable in the case of a veteran in this category of eligibility who is unable to execute such an agreement prior to the commencement of care. What, if any, payments the veteran would ultimately be required to make would, of course, depend on the eligibility determination made after the fact.

The conferees expect that the form used for the agreement to pay would clearly state eligibility criteria as well as potential liability

Nursing Home Care

House bill

The House bill would provide that the VA "may within the limits of Veterans' Administration facilities" furnish nursing home care to the nine categories of veterans eligible for hospital care (as discussed above) under the House bill. Those veterans having incomes above the applicable "health-care income threshold" in the House bill could be furnished nursing home care if they agreed to make certain prescribed payments in connection with their care.

Senate bill

The Senate bill would provide that the Administrator, through VA facilities or through non-VA facilities as authorized, "shall" furnish nursing home care determined to be reasonably necessary for a service-connected disability and "may" furnish nursing home care determined to be reasonably necessary for any veteran having hospital care eligibility under the Senate bill (as discussed above). Those having incomes above the applicable health-care income eligibility threshold in the Senate bill could be furnished nursing home care if they agreed to make certain prescribed payments in connection with their care.

Conference agreement

The conference agreement (section 19011(a)) makes no change in VA nursing home care eligibilities in current law except to provide that non-service-connected veterans with incomes above the "Category B threshold" would be eligible only upon agreeing to make certain payments in connection with their care.

Domiciliary Care

House bill

The House bill contained no provision regarding eligibility for VA domiciliary care.

Senate bill

The Senate bill would authorize the Administrator to furnish reasonably necessary domiciliary care through VA facilities to veterans who are determined by the Administrator to be incapacitated from earning a living and to have no adequate means of support.

Conference agreement

The conference agreement makes no change in VA domiciliary care eligibilities in current law.

In leaving current law intact regarding domiciliary-care eligibility, the conferees are not expressing their satisfaction with the status quo. Both Committees on Veterans' Affairs plan to hold hearings next year to consider appropriate revisions to the eligibility for domiciliary care as provided by section 610(b)(2) of title 38.

Outpatient Treatment and Home Health Services

House bill

The House bill would require the Administrator to furnish outpatient treatment to those veterans with outpatient treatment eligibility under current law, but would also specify that there is no requirement to furnish services to those non-service-connected disabled veterans with incomes that exceed the applicable health-care income eligibility threshold discussed above (under the heading "Hospital Care") unless they agree to make payment in connection with such services.

The House bill would make no change in eligibility for home health services except to provide that the eligibility of a non-service-connected veteran whose income exceeds the health-care income eligibility threshold would be contingent upon the veteran's agreement to make payment in connection with such services.

Senate bill

The Senate bill would amend current law to require the Administrator—"shall" rather than "may" as in current law—to furnish (directly or by contract) outpatient treatment and home health services determined to be reasonably necessary to any veteran for a service-connected disability and for any disability of a veteran with a service-connected disability rated at 50 percent or more, except in the case of a veteran under incarceration as to whom the Administrator could (1) decide not to furnish care in a VA facility if to do so would not be feasible in terms of the security that would be necessary and (2) provide care under contract in a non-VA facility to the extent authorized. Otherwise, the Senate bill would not modify current eligibilities for outpatient treatment and (except to increase the maximum amount that may be expended for home structural alterations from $600 to $2,500 for a veteran with a 50-percent-or-more-service-connected disability) home health services except to specify that non-service-connected disabled veterans with incomes above the applicable health-care income eligibility threshold would be eligible only upon agreeing to make payment in connection with such treatment or services and to the extent that resources and facilities are otherwise available.

Conference agreement

The conference agreement (section 19011(b)) would make no change in current law eligibilities relating to outpatient treatment or home health services (except with respect to the cap on home health structural alterations payments, described above) except to provide that non-service-connected veterans with incomes above the Category B threshold (discussed below under the heading "INCOME THRESHOLDS") would be eligible only upon agreeing to make payment in connection with such treatment or services and to the extent that resources and facilities are otherwise available.

Amount of Payments

Both the House and Senate bills contain provisions to specify the amounts that veterans with incomes above the income thresholds must agree to pay in order to be eligible for VA health care.

House bill

The House bill would establish payment requirements as follows:

Hospital care or nursing home care, or both: During any 12-month period, the lesser of the cost of furnishing the care or the amount of the inpatient Medicare deductible in effect at the beginning of the applicable 12-month period ($492 in 1986).

Outpatient treatment: For each visit (except for outpatient services furnished to complete treatment following hospitalization), the amount equal to 20 percent of the estimated average cost of an outpatient visit to a VA facility during the fiscal year in which the treatment is furnished.

During any 12-month period, a veteran would not be required to pay in total for any mode of care or combination of modes of care an amount greater than the amount of the inpatient Medicare deductible.

Senate bill

The Senate bill would establish payment requirements as follows:

Hospital care or nursing home care, or both: For each 60 days of care during an episode of care (a period beginning on the first day of hospital or nursing home care and ending at the close of the first period of 60 consecutive days thereafter during which the veteran receives neither hospital nor nursing home care), the lesser of the cost of furnishing the care or the amount of the inpatient Medicare deductible in effect when the care is furnished.

Outpatient treatment: For each visit, the amount equal to a percentage—the percentage that Medicare generally does not pay for such treatment (20 percent at present)—of the estimated average cost of an outpatient visit in a VA facility during the fiscal year in which the treatment is furnished.

Conference agreement

The conference agreement (section 19011(a)(2) and (b)(2)(F)) contains provisions specifying, in the cases of veterans who must agree to make payments in order to be eligible for VA health care (those with incomes above the Category B level), the amounts that they must pay, as follows:

Hospital care: During any 365-day period (1) for the first 90 days of care (or part thereof), the lesser of the cost of furnishing the care or the amount of the inpatient Medicare deductible in effect at the beginning of the 365-day period, and (2) for each succeeding 90 days of care (or part thereof), the lesser of the cost of furnishing the care or one-half of the amount of that inpatient Medicare deductible.

Nursing home care: During any 365-day period, for each 90 days of care, the lesser of the cost of furnishing the care or the amount of the inpatient Medicare deductible.

Outpatient treatment: For each outpatient or home health visit, the amount equal to 20 percent of the estimated average cost of an outpatient visit to a VA facility during the fiscal year in which the treatment is furnished, but not to exceed during any 90-day period the amount of the inpatient Medicare deductible in effect at the beginning of that period.

Combination of hospital and nursing home care: In the case of a veteran who pays the inpatient-Medicare-deductible amount in connection with VA-furnished hospital or nursing home care and who, before using 90 days of the initial mode of care (hospital or nursing home) within a 365-day period, is furnished the other mode of care, the veteran would not be required to make any payment for the second mode until either (1) the number of days of hospital and nursing home care combined exceed 90, or (2) the beginning of the next 365-day period, whichever occurs first. If the veteran pays an amount equal to one-half of the inpatient-Medicare-deductible amount in connection with receiving hospital care (as when the veteran is receiving more than 90 days of hospital care in a 365-day period) and, before using 90 days of hospital care within the applicable 365-day period, receives VA-furnished nursing home care, the veteran would be required to pay one-half of the deductible amount in connection with the number of days of nursing home care that, when added to the hospital days, do not exceed 90 within that 365-day period.

Payments for combinations of outpatient treatment and hospital and nursing home care: A veteran would not be required to pay an amount greater than the inpatient Medicare deductible in connection with any combination of outpatient and inpatient care furnished during any 90-day period.

The conferees stress that the legislation makes no change in current eligibility for contract hospital, nursing home, or outpatient care and the way that eligibility is applied and intend the Administrator to ensure that expenditures for veterans eligible for care by virtue of agreeing to make payment to the VA have the lowest priority for the use of funds available for contract care as well as the lowest priority for inpatient, outpatient, and nursing home care furnished through VA facilities.

Priorities

House bill

The House bill would repeal the provision, section 612(i) of title 38, requiring the Administrator to implement through regulations the priorities specified in that section for the furnishing of outpatient treatment.

Senate bill

The Senate bill would require the Administrator to prescribe regulations to ensure the implementation of priorities specified in the Senate bill in the furnishing of hospital, domiciliary, and nursing home care and medical services and would require the Administrator to ensure that no guideline, regulation, or other VA issuance has the effect of encouraging the furnishing of care or services in any way inconsistent with such priorities to a veteran whose eligibility is based on agreement to make payments.

Conference agreement

The conference agreement does not contain any such provisions related to priorities except a provision (in section 19011(b)(4)) adding veterans in receipt of VA improved pension under chapter 15 of title 38, as a new, sixth priority for outpatient care under present section 612(i).

Income Thresholds

House bill

The House bill would amend section 622 of title 38, relating to evidence of veteran's "inability to defray the cost of necessary expenses" in connection with establishing eligibility for VA health care, so as to provide that (in addition to veterans in receipt of any VA pension benefits or eligible for Medicaid) a veteran shall generally be presumed to be "unable to defray" the cost of care if the veteran's family income for the 12-month period preceding the veteran's application for care was equal to or less than 3.34 times the maximum annual rate of improved pension payable to totally disabled veterans under chapter 15 of title 38 (as increased annually pursuant to section 3112 of title 38). Thus, this income threshold amount at the time the House bill was passed was $19,068 for veterans with no dependents and $24,977 for veterans with one dependent, plus $3,233 for each additional dependent. In determining a veteran's annual family income, the Administrator would consider the same items and sources of income and would allow the same exclusions as are considered and allowed under the improved pension program.

Senate bill

The Senate bill would amend section 622 to provide generally that (in addition to veterans in receipt of any VA pension benefits or eligible for Medicaid) a veteran shall be determined to be "unable to defray" the cost of care if, during the calendar year preceding the date of the veterans's application for care, the veterans' family income is not greater than $25,000 and would provide for that amount to be increased by the same percentage and at the same time as each cost-of-living adjustment is made in chapter 15 VA improved pension benefits pursuant to section 3112 of title 38. In determining a veterans' annual family income, the Administrator would be required to consider the same items and sources of income and to allow the same exclusions as are considered and allowed under the improved pension program.

The Senate bill would also provide the Administrator with discretionary authority, in order to avoid hardship, to increase the above-mentioned income level for a specified geographic area.

Conference agreement

The conference agreement (section 19011(c)) would amend present section 622 to provide generally that a veteran shall be determined to be unable to defray the necessary expenses of hospital care if the veteran receives VA improved pension or is eligible for Medicaid, or if, during the calendar year immediately preceding the veteran's application for care, the veteran's family income is not greater than $15,000 for a veteran with no dependents or $18,000 for a veteran with one dependent, plus $1,000 for each additional dependent.

A veteran would be considered not unable to defray the necessary expenses of care and thus liable for making certain payments for care (discussed above under the heading, "AMOUNT OF PAYMENTS") if the veteran's family income exceeds the Category B threshold—is greater than $20,000 for a veteran with no dependents or greater than $25,000 for a veteran with one dependent, plus $1,000 for each additional dependent. Each of the above amounts would be increased on January 1, of each year (beginning January 1, 1987) by the precentage that chapter 15 VA improved pension benefits are increased, pursuant to section 3112(a) of title 38, effective the preceding December 1.

In determining a veteran's annual income, the Administrator would be required to consider the same items and sources of income and to allow the same exclusions as are considered and allowed under the chapter 15 VA improved pension program.

Consideration of Assets in Determining Eligibility

House bill

The House bill would provide that the Administrator may refuse to determine that the veteran is unable to defray necessary medical expenese if the veteran or the veteran's immediate family has sufficient assets so that, under all the circumstances, it is reasonable that some part of those assets be consumed for the veteran's maintenance.

Senate bill

The Senate bill would provide that the Administrator shall not determine that a veteran is "unable to defray" the cost of care if the veteran or the veteran's immediate family has sufficient assets so that, under all the circumstances, the Administrator would be required to consider the same items as the Administrator considers in determining the amount of assets for purposes of the chapter 15 improved pension program.

Conference agreement

The conference agreement (section 19011(c)) follows the House bill. In determining a veteran's assets for this purpose, the Administrator would be required to consider the same items as the Administrator considers in determining the amount of assets for purposes of the chapter 15 VA improved pension program.

Certain Adjustments of Income Eligibility Determinations

The conference agreement (revised section 622(b) of title 38) would enable the Administrator to adjust a veteran's income threshold status where necessary in order to avoid hardship to the veteran in certain cases in which the veteran's income has dropped off substantially from the preceding calendar year amount.

Reports

Both the Senate bill (section 1108) and the House bill (section 1975) would require the Administrator of Veterans' Affairs to submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives reports relating to the furnishing of health care to veterans after the enactment of this Act.

The conference agreement (section 19011(e)) would blend the Senate and House reporting requirements, with three annual reports due by February 1 of 1987, 1988, and 1989, and require the Administrator to include in the reports information regarding the numbers and characteristics of, and health care furnished to, veterans (and amounts of payments by them where appropriate) who are eligible for VA care by reason of any of the proposed new income threshold criteria, and the numbers of and health care furnished to veterans in each of the other categories of eligibility, with breakdowns, in the case of such veterans with service-connected disabilities, for each percentile disability rating.

Technical Revision of Authority to Contract for Hospital Care and Medical Services

The Senate but not the House bill (1) would delete section 601(4)(C) of title 38, which includes within the definition of "Veterans' Administration facilities"—and thus, in conjunction with provisions in sections 610 and 612, authorizes the VA to contract for hospital care or medical services with—private facilities in certain cases when VA facilities are not capable of furnishing economical care because of geographical inaccessibility or of furnishing the care of services required, and (2) replace that provision with a new section 603, which would recodify current law under section 601(4)(C), for purposes of clarity, without making any substantive change.

The conference agreement (section 19012) follows the Senate provision.

Recovery by the United States of the Cost of Certain Health Care and Services

Both the Senate bill (section 1111) and the House bill (section 1973) would amend present section 629 of title 38, United States Code—relating to the United States' authority to recover under workers' compensation laws or plans, from automobile accident reparation (auto no-fault) insurers, and from crime-victim compensation programs the reasonable costs of VA-furnished non-service-connected health care to the extent that the insurer or program would be liable to a non-Federal provider—so as (1) to add authority for the United States to recover from a third party under a health-plan contract (a defined term that includes, for example, health-insurance policies) the reasonable costs of VA care furnished to a veteran who does not have a service-connected disability and is entitled to care or reimbursement for care from the insurer; (2) to require the Administrator to prescribe regulations to govern determinations of the reasonable cost of care or services; (3) expressly to authorize the Administrator to compromise, settle, or waive claims of the United States under section 629; (4) to specify that money collected under section 629 shall be deposited in the Treasury; and (5) to provide for the changes in existing law made by amendments to section 629 to a apply prospectively, that is, only with respect to care furnished after the date of enactment and only with respect to heatlh-plan contracts that are entered into, renewed, or modified after the date of enactment.

The conference agreement (section 19013) contains these provisions.

The conferees note that, in revsing the wording of existing provisions of section 629 pertaining to recovery under workers' compensation laws or plans, from automobile accident reparation insurers, and from crime-victim compensation programs, the conferees do not intend to make any substantive revisions in current law or in its application or to overrule any judicial interpretations of these provisions.

The Senate bill, but not the House bill, would delete from section 629(b) provisions specifying that the amount that the United States may recover under that section may not exceed the lesser of (1) the reasonable cost of the care involved as determined by the Administrator, or (2) the maximum amount specified by applicable State or local law or by any relevant contractual provision.

The conference agreement (revised section 629(a)(1) of title 38) follows the Senate provision.

The conferees agree that, in light of the provisions in section 629(a) providing for recovery by the United States of the reasonable cost of the VA-furnished care "to the extent" that the veteran (or the provider of the care) would be eligible for payment for the care had it been furnished by a non-Federal provider, the provisions being deleted are surplusage.

The Senate bill, but not the House bill, would specify, in the case of a health-plan contract containing the requirement for payment of a deductible or copayment by the veteran, (1) that the veteran's not having paid the deductible or copayment with respect to VA-furnished care does not preclude recovery under section 629, (2) that the amount that the United States may recover under section 629 shall be reduced by the appropriate deductible or copayment amount, or both, and (3) that a veteran eligible for VA care shall not be required by reason of section 620 to make any copayment or deductible payments in order to receive such care.

The conference agreement (revised section 629(a)(3) contains these provisions.

The Senate bill, but not the House bill, would (1) require the Administrator, before prescribing the regulations for determining the reasonable cost of care or services (discussed above), to consult with the Comptroller General of the United States; (2) require the Comptroller General, within 45 days after the regulations (or any amendment to them) are prescribed, to submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives the Comptroller General's comments on and recommendations regarding such regulations (or amendments); and (3) require that the regulations provide that in no event may such reasonable cost exceed an amount equal to what the third party would pay for the care or services under the prevailing rates applicable under its contracts with non-Federal facilities in the geographic area in which the VA facility that provided the care or services is located.

The conference agreement (revised section 629(c)(2)) follows the Senate amendment.

The House bill, but not the Senate bill, would provide the Administrator with express authority to enter into agreements with health-plan contractors for the purpose of determining reasonable costs.

The conference agreement does not contain this provision.

The conferees note that the Administrator is already authorized by section 213 of title 38, relating to the Administrator's authority to enter into contracts for necessary services, to enter into such agreements.

Both the Senate and the House bills would require that the medical records of a health-plan beneficiary for the cost of whose care recovery is sought be made available for the purpose of enabling the third party to verify that the care for which recovery is sought was furnished. The Senate bill, but not the House bill, would also provide that the records shall be made available under such conditions to protect their confidentiality as the Administrator shall prescribe in regulations and that the records may also be made available to permit the third party to verify that the provision of the care involved meets criteria generally applicable under the health-plan contract.

The conference agreement (revised section 629(h)) follows the Senate bill.

The Senate bill, but not the House bill, would require the Administrator to submit to the Committees on Veterans' Affairs a 6-month report and annual reports on the process for and results of the implementation of the amendments to section 629.

The conference agreement would require two such reports, one due not later than 6 months after the date of enactment and the other, to provide information through at least the end of fiscal year 1987, due not later than February 1, 1988.

Medicare Providers' Acceptance of Veterans' Administration Beneficiaries at Medicare Rates

The House bill (section 1974), but not the Senate bill, would amend chapter 17 of title 38, United States Code, relating to VA health care, to insert a new section 625 to require non-Federal providers of hospital services under the Medicare program to accept VA beneficiaries on a basis similar to that on which they accept Medicare beneficiaries; to require those providers to accept VA payments made in accordance with VA regulations as payment in full; to authorize the Administrator to report violations of these requirements to the Secretary of Health and Human Services; and to authorize the Secretary to terminate a provider's participation in the Medicare program on the basis of such violations.

The conference agreement does not contain this provision.

SUBTITLE B—COMPENSATION RATE INCREASES

DISABILITY COMPENSATION

House bill

The House bill (sections 1962 through 1964) would amend chapter 11 of title 38, United States Code, relating to compensation for service-connected disability, to increase by 3.7 percent, effective December 1, 1985, the basic rates of service-connected disability compensation for veterans, the rates payable for certain severe disabilities, the dependents' allowances payable to veterans rated 30-percent or more disabled, and the annual clothing allowance for certain disabled veterans.

Senate bill

The Senate bill (section 1121) would limit the fiscal year 1986 disability compensation COLA to a maximum of 3.7 percent—the same percentage that the Congressional Budget Office projected for the fiscal year 1986 Social Security/VA pension cost-of-living adjustment at the time the Senate Veterans' Affairs Committee reported its reconciliation recommendations to the Senate Budget Committee. Thereafter, on December 2, 1985, the Senate passed S. 1887 providing (in sections 101 through 103) for a 3.1-percent increase, the same percentage as the actual percentage increase for the Social Security/VA pension cost-of-living adjustments, effective December 1, 1985.

Conference agreement

The conference agreement (sections 19021 through 19023) would increase these rates and allowances, effective December 1, 1985, by 3.1 percent.

DEPENDENCY AND INDEMNITY COMPENSATION

House bill

The House bill (sections 1965 through 1967) would amend chapter 13 of title 38, relating to dependency and indemnity compensation (DIC) for service-connected deaths, to increase by 3.7 percent, effective December 1, 1985, rates of DIC payable to the surviving spouses and children of veterans whose deaths were service connected.

Senate bill

The Senate bill (section 1121) would limit the fiscal year 1986 DIC increases to a maximum of 3.7 percent—the same percentage that the Congressional Budget Office projected for the fiscal year 1986 Social Security/VA pension cost-of-living adjustment at the time the Senate Veterans' Affairs Committee reported its recommendations to the Senate Budget Committee. S. 1887 as passed by the Senate provided for a 3.1-percent COLA.

Conference agreement

The conference agreement (sections 19024 through 19026) would amend chapter 13 to increase these rates, effective December 1, 1985, by 3.1 percent.

SUBTITLE C—MISCELLANEOUS PROVISIONS

Epidemiological Study of Female Vietnam Veterans

The House bill (section 1982), but not the Senate bill, would require the Administrator to provide for the conduct of an epidemiological study of any long-term adverse gender-specific health effects in female Vietnam veterans that may result from their exposure to Agent Orange or to other phenoxy herbicides and would authorize the Administrator to expand the scope of the study to evaluate any long-term adverse gender-specific health effects in females resulting from other aspects of service in Vietnam. However, the Senate, on December 2, 1985, passed a similar provision in S. 1887, the "Veterans' Compensation and Benefits Improvements Act of 1985" (section 507), that would unless determined not to be scientifically feasible, require the Administrator to provide for the conduct of a female Vietnam veterans health-experience study and permit investigation of any long-term adverse health effects which may have resulted from traumatic experiences, exposure to phenoxy herbicides (including Agent Orange), or other experience or exposure.

The conference agreement (section 19031) follows the Senate provision.

Advisory Committee on Native-American Veterans

The House bill (section 1981), but not the Senate bill, would provide for the establishment of a VA Advisory Committee on American-Indian Veterans to examine and evaluate VA programs and activities with respect to the needs of American-Indian veterans and to transmit reports on its examinations and evaluation to the Administrator of Veterans' Affairs for subsequent transmittal to the Congress. However, on December 2, 1985, the Senate passed a comparable provision in S. 1887, the "Veterans' Compensation and Benefits Improvements Act of 1985" (section 505), which would provide for the establishment of a VA Advisory Committee on Native American Veterans (including Alaska Natives).

The conference agreement (section 19032) contains such a provision, blending together aspects of the two provisions, naming the Advisory Committee the "Advisory Committee on Native-American Veterans" and specifying that representatives of American Indians and of other Native Americans each would serve on the Committee.

Waiver of waiting Period for Administrative Reorganization of Certain Veterans' Administration Automated Data Processing Activities

The conference agreement (section 19033) also contains a provision that would waive the waiting period prescribed by section 210(b)(2) of title 38—which provides, in part, that the VA may not in any fiscal year implement certain administrative reorganizations unless the Administrator, not later than the date on which the President submits the budget for that year, submits a report containing a detailed plan and justification for the reorganization—with respect to a reorganization, described in letters dated November 1, 1985, that were submitted to the chairmen and ranking minority members of the Committees, involving the transfer of certain functions from the VA's Office of Data Management and Telecommunications to the VA's Department of Veterans' Benefits and requesting a waiver of that waiting period.

The conferees have determined that the information contained in the November 1 letters, together with other information subsequently provided to the Committees, constitutes a sufficiently detailed plan and justification (as that term is proposed to be defined by section 501 of S. 1887, as passed by the Senate on December 2, 1985) for this proposed reorganization and that the reorganization will serve to improve the operations of the VA's service and benefits delivery system. Since, under the provisions of section 210(b)(2), the reorganization would not be permitted to be implemented prior to the beginning of fiscal year 1987, the conference agreement would waive the required waiting period in order to permit the Administrator to implement this reorganization prior to October 1, 1986.

In agreeing that this statutory waiver be granted, the conferees intend that the Administrator, as part of implementing the reorganization, develop and implement plans for better coordination and integration between the Department of Medicine and Surgery and the Department of Veterans' Benefits in automated data processing modernization, and are not necessarily expressing agreement with the recommendations of the October 25, 1985, report of McManis Associates. The conferees believe that the Administrator should proceed cautiously in adopting recommendations from that report (particularly those relating to procurement). In that regard, the confereees recommend that the Administrator take full cognizance of the review being conducted by the General Accounting Office, pursuant to a request from the Chairman of the House Veterans' Affairs Committee and the Ranking Minority Member of the Senate Veterans' Affairs Committee, pertaining to certain aspects of the report

RATIFICATION OF CERTAIN TEMPORARILY EXPIRED AUTHORITIES

Veterans' Administration Regional Office in the Philippines

The compromise agreement (section 19034(a)) contains a provision ratifying any action taken by the Administrator during the period beginning on November 1, 1985, and ending on December 3, 1985, in connection with the exercise of the Administrator's authority under section 230(b) of title 38, relating to the establishment of a regional office in the Republic of the Philippines. This authority to operate such an office expired on October 31, 1985, but was extended for three additional years by section 402 of Public Law 99-166.

Contract Care Authority in Puerto Rico and the Virgin Islands

The compromise agreement (section 19034(b)) also contains a provision ratifying any action taken by the Administrator of Veterans' Affairs in connection with entering into any contract to provide, during the period beginning on November 1, 1985, and ending on December 3, 1985, care described in subclause (v) of section 601(4)(C) of title 38, United States Code, relating to the Administrator's authority to provide hospital care and medical services in certain noncontiguous "States" (defined in present section 101(20) to include United States Territories and possessions and the Commonwealth of Puerto Rico), including any waiver made by the Administrator of the applicability to the Commonwealth of Puerto Rico or the Virgin Islands of the restrictions described in that subclause for that period. This authority to provide such care and services also expired on October 31, 1985, but was made permanent in the case of the Virgin Islands, and was extended (with certain limitations) for an additional three years in the case of Puerto Rico, by section 102 of Public Law 99-166, enacted on December 3, 1985

ALCOHOL AND DRUG TREATMENT AND REHABILITATION CONTRACT PROGRAM

The compromise agreement (section 19034(c)) also contains a provision ratifying any action taken by the Administrator of Veterans' Affairs in connection with entering into any contract to provide, during the period beginning November 1, 1985, and ending December 3, 1985, care described in section 620A of title 38, relating to contracts for certain care and treatment and rehabilitative services for eligible veterans suffering from alcohol or drug dependence or abuse disabilities. This authority to provide such care and services also expired on October 31, 1985, but was extended for an additional three years by section 101 of Public Law 99-166.

From the Committee on the Budget, for consideration of the entire Senate amendment and the entire House amendment to the Senate amendment, except for sections 778H, 778I, 780, 781, 783 through 789B, 789D through 789G, subpart A of part 3 of subtitle I of title VII, section 793, subsections (a), (b), (c), (f), and (g)(1) of section 794, and sections 795 and 796 of the Senate amendment, and except for sections 2502(a) and 2503 of division B of the House amendment to the Senate amendment:

William H. Gray III,
Butler Derrick,
Michael D. Barnes,
Charles E. Schumer,
Barbara Boxer,
Buddy MacKay,
Jim Slattery,
Chester G. Atkins,

From the Committee on Ways and Means, solely for the consideration of sections 144(b)(3), 204, 205, 746(e)(2)-(4), and 759, subtitles A, C-F, H, and I of title VII, part G of title IX, and part I of title IX of the Senate amendment, and of subtitles B and C of title III and section 1974 of division A, and all of division B except parts E and G of title I, of the House amendment to the Senate amendment:

Sam Gibbons,
J.J. Pickle,
Charles B. Rangel,
Jim Jones,
Harold Ford,
Ed Jenkins,
John J. Duncan,
Bill Gradison,
Carroll Campbell,
Wm. Thomas,

From the Committee on Agriculture, solely for the consideration of title I and section 536 of the Senate amendment:

E de la Garza,

Ed Jones,
Leon E. Panetta,
Tony Coelho,
Berkley Bedell,
Ed Madigan,
Ed Emerson,
James M. Jeffords,
E. Thomas Coleman,

From the Committee on Agriculture, solely for the consideration of subpart B of part 3 of subtitle I of title VII of the Senate amendment:

E de la Garza,
Charlie Rose,
Walter B. Jones,
Charles Hatcher,
Charlie Whitley,
Robin Tallon,
Robert L. Thomas,
Larry J. Hopkins,
Pat Roberts,
Webb Franklin,
Larry Combest,

From the Committee on Agriculture solely for the consideration of 2502(b) of division B of the House amendment to the Senate amendment:

E. de la Garza,
Charlie Rose,
Charlie Whitley,
Larry J. Hopkins,
Pat Roberts,

From the Committee on Armed Services, solely for the consideration of title II and section 165 of the Senate amendment, and of title I of division A of the House amendment to the Senate amendment:

Les Aspin,
G.V. Montgomery,
Pat Schroeder,
Wm. L. Dickinson,
Bud Hillis,

From the Committee on Banking, Finance and Urban Affairs, solely for the consideration of title III of the Senate amendment and of title II of division A of the House amendment to the Senate amendment:

Fernand J. St Germain,
Parren J. Mitchell,
Stan Lundine,
Mary Rose Oakar,
Bruce Vento,
Barney Frank,
Chalmers P. Wylie,
Stewart McKinney,
Marge Roukema,
Steve Bartlett,

From the Committee on Banking, Finance and Urban Affairs, solely for the consideration of subtitle A of title IV of division A of the House amendment to the Senate amendment:

Fernand J. St Germain,
Stan Lundine,

From the Committee on Education and Labor, solely for the consideration of parts A through E of title IX of the Senate amendment, and of subtitle A of title III of division A of the House amendment to the Senate amendment:

Augustus F. Hawkins,
William D. Ford,
Mario Biaggi,
Pat Williams,
Major R. Owens,
Charles A. Hayes,
Carl C. Perkins,
Terry L. Bruce,
Jim Jeffords,
E. Thomas Coleman,
Steve Gunderson,
Paul B. Henry,

From the Committee on Education and Labor, solely for the consideration of section 746(d), subtitle H of title VII, section 782, and parts G and I of title IX of the Senate amendment, and of subtitles B and C of title III of division A, and of sections 2181 and 2505 and title VI of division B, of the House amendment to the Senate amendment:

Gus Hawkins,
William D. Ford,
Joseph M. Gaydos,
William Clay,
Mario Biaggi,
Dale E. Kildee,
Major R. Owens,
Charles A. Hayes,
Mervyn M. Dymally,
Chester G. Atkins,
James M. Jeffords,
Thomas E. Petri,
Marge Roukema,
Steve Bartlett,
Rod Chandler,
Richard Armey,
Harris W. Fawell,

From the Committee on Education and Labor, solely for the consideration of part F of title IX of the Senate amendment:

Augustus F. Hawkins,
Austin J. Murphy,
Bill Clay,
Pat Williams,
Jim Jeffords,
Tom Petri,
Steve Bartlett,

From the Committee on Energy and Commerce, solely for the consideration of sections 706 and 713–716, parts 2–5 of subtitle A of title VII (except for section 734), subtitle B of title VII (except for subsections (d) and (e)(2)–(4) of section 746), sections 769B, 770, 772, 774, and 782, and parts G and H of title IX of the Senate amendment, and of section 1974 of division A, and of section 2107, parts B–G of title I, and section 2302 of division B of the House amendment to the Senate amendment:

John D. Dingell,
Henry A. Waxman,
James H. Scheuer,
Thomas Luken,
Doug Walgren,
Barbara A. Mikulski,
Mickey Leland,
Cardiss Collins,
Ron Wyden,
Ed Madigan
(for Medicaid and maternal and child health only),
Bob Whittaker
(for Medicare, Medicaid, and maternal and child health only),

From the Committee on Energy and Commerce, solely for the consideration of those portions of section 789C of the Senate amendment inserting subsections 9505 (c), (d), and (e) in the Internal Revenue Code:

John D. Dingell,
Dennis E. Eckart,
Ralph M. Hall,
Billy Tauzin,
Wayne Dowdy,
Tom Luken,
Al Swift,
Mike Synar,
Norman F. Lent,
Don Ritter,
Jack Fields,
Dan Schaefer,

From the Committee on Energy and Commerce, solely for the consideration of sections 501, 502, 521–524, and 536 of the Senate amendment, of subtitles A–E of title IV and subtitles B and C of title VIII of division A of the House amendment to the Senate amendment:

John D. Dingell,
Phil Sharp,
Ed Markey,
Doug Walgren,
Al Swift,
Mickey Leland
(except for strategic petroleum reserve, shared energy, biomass loan guarantee, and synfuels programs),
Richard C. Shelby,
Mike Synar,
Billy Tauzin,
James T. Broyhill,
Bill Dannemeyer,
Carlos Moorhead,
Bob Whittaker,
Michael G. Oxley,
Fred J. Eckert,

From the Committee on Energy and Commerce, solely for the consideration of sections 403 and 404 of the Senate amendment, and subtitle F of title IV of division A of the House amendment to the Senate amendment:

John D. Dingell,
Timothy E. Wirth,
James H. Scheuer,
Tom Luken,
Al Swift,
Mickey Leland,
Cardiss Collins,
Mike Synar,
Billy Tauzin,

From the Committee on Energy and Commerce, solely for the consideration of sections 401, 402, 408, 769G, 777(h)(1), and subsections (d), (e), (g)(2) and (g)(3) of section 794 of the Senate amendment, and of subtitles G and H of title IV of division A, and of sections 2252(b) and 2402 of division B of the House amendment to the Senate amendment:

John D. Dingell,
James J. Florio,
Phil Sharp,
Billy Tauzin,
Ralph M. Hall,
Wayne Dowdy,
Bill Richardson,
Jim Slattery,
Jim Broyhill,
Norman F. Lent,
Don Ritter,
Dan Coats,
Jack Fields,

From the Committee on Government Operations, solely for the consideration of subtitle G of title VII of the Senate amendment:

Jack Brooks,
Don Fuqua,
Ted Weiss,
Frank Horton,
Robert S. Walker,

From the Committee on Government Operations, solely for the consideration of section 523 and parts C and D of title VIII of the Senate amendment, and of subtitle E of title IV of division A of the House amendment to the Senate amendment:

Jack Brooks,
Don Fuqua,
Cardiss Collins,
Frank Horton,
Al McCandless,

From the Committee on Interior and Insular Affairs, solely for the consideration of sections 521, 522, and 531-535 of the Senate amendment, and of subtitle C of title IV, section 1542, title V, subtitles D and H of title VI, and subtitle C of title VIII, of division A of the House amendment to the Senate amendment:

Mo Udall
(except for Outer Continental Shelf programs),
John F. Seiberling
(except for Outer Continental Shelf programs),
Jim Weaver
(except for Nuclear Regulatory Commission fees),
George Miller,
Phil Sharp
(except for Outer Continental Shelf programs),
Nick Rahall,
Bruce F. Vento
(except for Outer Continental Shelf programs),
Jerry Huckaby,
Sam Gejdenson
(except for Outer Continental Shelf programs),
Don Young
(except for Nuclear Regulatory Commission fees),
Manuel Lujan, Jr.
(except for Nuclear Regulatory Commission fees),
Robert J. Lagomarsino
(except for Outer Continental Shelf programs, and Nuclear Regulatory fees),
Ron Marlence
(except for Outer Continental Shelf programs, and Nuclear Regulatory Commission fees),
Charles Pashayan, Jr.
(except for Nuclear Regulatory Commission fees),

From the Committee on the Judiciary, solely for the consideration of section 982 and that portion of section 999 amending paragraph (2) of section 4074(c) of the Employee Retirement Income Security Act, of the Senate amendment, and of that portion of section 1458 inserting section 4041(c)(2)(B)(ii) in the Employee Retirement Income Security Act, of division A, and section 2124(b) of division B, of the House amendment to the Senate amendment:

Peter W. Rodino, Jr.,
Daniel Glickman,
Don Edwards,
Hamilton Fish, Jr.,
Thomas N. Kindness,

From the Committee on Merchant Marine and Fisheries, solely for consideration of sections 405, 406, 407, and 531-535 of the Senate amendment, and of titles V and VI of division A of the House amendment to the Senate amendment:

Walter B. Jones,
Mario Biaggi,
Glenn M. Anderson,
John Breaux,
Gerry E. Studds,
Barbara A. Mikulski,
Mike Lowry,
Douglas H. Bosco,

(In lieu of Mr. Hughes solely for consideration of sections 531-535 of the Senate amendment and title V and subtitles D and H of title VI of division A of the House amendment to the Senate amendment):

Billy Tauzin,
Norman F. Lent,
Gene Snyder,
Don Young
(except as listed below),
Bob Davis,

(In lieu of Mr. Young solely for consideration of sections 531-535 of the Senate amendment and title V and subtitles D and H of title VI of division A of the House amendment to the Senate amendment):

William Carney,
Jack Fields
(for purposes of OCS programs only),

From the Committee on Post Office and Civil Service, solely for the consideration of section 769G and parts A and B of title VIII of the Senate amendment, and of title VII of division A of the House amendment to the Senate amendment:

William D. Ford,
Mickey Leland,
Mary Rose Oakar,
Gene Taylor,
Benjamin A. Gilman,

From the Committee on Public Works and Transportation, solely for the consideration of title VI, sections 777(h)(2) and 1202, and those portions of section 789C inserting sections 9505(c), (d), and (e) in the Internal Revenue Code, of the Senate amendment, and of sections 1533, 1541, and title VIII of division A, and section 2252(c) of division B of the House amendment to the Senate amendment:

James J. Howard
(except for Superfund authorization and pipeline programs),
Glenn M. Anderson
(except for Superfund authorization and pipeline programs),
Robert A. Roe
(except for Superfund authorization and pipeline programs),
Norman Y. Mineta
(except for Superfund authorization and pipeline programs),
James L. Oberstar
(except Superfund authorization),
Henry J. Nowak
(except Superfund authorization and pipeline programs),
Bob Edgar
(except Superfund authorization and pipeline programs),
Robert A. Young
(except Superfund authorization and pipeline programs),
Nick Rahall
(except Superfund authorization and pipeline programs),
Gene Snyder
(except Superfund authorization and pipeline programs),
John Paul Hammerschmidt
(except Superfund authorization),
Bud Shuster
(except Superfund authorization and pipeline programs),
Arlan Stangeland
(except Superfund authorization),
Newt Gingrich
(except Superfund authorization and pipeline programs),
Bill Clinger
(except Superfund authorization and pipeline programs),

(In lieu of Mr. Rahall solely for the consideration of section 1541 and subtitle B of title VIII of division A of the House amendment to the Senate amendment):

John Breaux,

From the Committee on Science and Technology, solely for the consideration of sections 406(a)-(c), (e)-(g), and (i) of the Senate amendment:

Don Fuqua,
James H. Scheuer,
Tim Wirth,
Manuel Lujan, Jr.,
Claudine Schneider,

From the Committee on Small Business, solely for the consideration of title X of the Senate amendment and of title IX of division A of the House amendment to the Senate amendment:

Parren J. Mitchell,
Joseph P. Addabbo,
Joseph M. McDade,
Silvio O. Conte,

From the Committee on Veterans' Affairs, solely for the consideration of section 205 and title XI of the Senate amendment, and of title X of division A of the House amendment to the Senate amendment:

G.V. Montgomery,
Bob Edgar
(solely for requirement of Medicare providers to accept VA beneficiaries),
Douglas Applegate
(solely for requirement of Medicare providers to accept VA beneficiaries),
John Paul Hammerschmidt,
Chalmers P. Wylie,

Managers on the Part of the House.

From the Committee on Agriculture, Nutrition, and Forestry:

Jesse Helms,
Bob Dole,
Richard G. Lugar,
Thad Cochran,
Ed Zorinsky,
Patrick Leahy,

John Melcher,

From the Committee on Finance—general conferees:

Bob Packwood,
W.V. Roth, Jr.,
J.C. Danforth,
John H. Chafee,
Russell B. Long,
Lloyd Bentsen,
Spark M. Matsunaga,

From the Committee on Armed Services:

Sam Nunn,

From the Committee on Veterans' Affairs:

Frank H. Murkowski,
Alan K. Simpson,
Alan Cranston,

From the Committee on Finance—for CHAMPUS Medicare Subconference only:

Dave Durenberger,
Max Baucus,

From the Committee on Banking, Housing, and Urban Affairs:

Jake Garn,
John Heinz,
Chic Hecht,

From the Committee on Commerce, Science, and Transportation:

J.C. Danforth,
Bob Packwood,
Barry Goldwater,
Larry Pressler,
Slade Gorton,
Ted Stevens,
Fritz Hollings,
Russell Long,
Daniel K. Inouye,
Wendell Ford,
Don Riegle,

From the Committee on Energy and Natural Resources—general conferees:

James A. McClure,
Pete V. Domenici,
Malcolm Wallop,
Jo Bennett Johnston,
Wendell H. Ford,

From the Committee on Energy and Natural Resources—conferees on title VI, section 6701 only:

James A. McClure,
Mark O. Hatfield,
Pete V. Domenici,
J. Bennett Johnston,
Wendell H. Ford,

From the Committee on Commerce, Science, and Transportation—conferees on title VI, section 6701 only:

Bob Packwood,
Ernest F. Hollings,
Russell B. Long,

From the Committee on Environment and Public Works:

Robert T. Stafford,
John H. Chafee,
Al Simpson,
Steve Symms,
Lloyd Bentsen,
Quentin N. Burdick,
Frank R. Lautenberg,

From the Committee on Labor and Human Resources—general conferees:

Orrin Hatch,
Robert T. Stafford,
Dan Quayle,
Edward M. Kennedy,
Claiborne Pell,

From the Committee on Labor and Human Resources—for PBGC and ERISA Subconference only:

(For the purposes of subconference No. 18 only):

Orrin Hatch,
Don Nickles,
Strom Thurmond,
Edward M. Kennedy,
Howard M. Metzenbaum,

From the Committee on Finance—for PBGC and ERISA Subconference only:

Bob Packwood,
John Chafee,
John Heinz,
George Mitchell,
Daniel Patrick
Moynihan,

From the Committee on Finance—for Private Health Insurance Coverage Subconference only:

John Heinz,
Dave Durenberger,
Max Baucus,

From the Committee on Labor and Human Resources—for PBGC and ERISA Subconference only:

Orrin Hatch,
Don Nickles,
Strom Thurmond,
Edward M. Kennedy,
Howard M. Metzenbaum,

From the Committee on Environment and Public Works:

(For Superfund authorization only):

John H. Chafee,
Lloyd Bentsen,

From the Committee on Governmental Affairs:

W.V. Roth, Jr.,
Ted Stevens,
William S. Cohen,
Tom Eagleton,
Carl Levin,
Albert Gore, Jr.,

From the Committee on the Budget—general conferees:

Pete V. Domenici,
W.L. Armstrong,
Nancy Landon
Kassebaum,
Rudy Boschwitz,
Fritz Hollings,
J. Bennett Johnston,
Howard M. Metzenbaum,

From the Committee on Small Business:

Lowell P. Weicker, Jr.,
Slade Gorton,
Dale Bumpers,

Managers on the Part of the Senate.

REPORT ON RESOLUTION PROVIDING FOR REJECTION OF CONFERENCE REPORT ON H.R. 3128, CONSOLIDATED OMNIBUS RECONCILIATION ACT OF 1985

Mr. DERRICK, from the Committee on Rules, submitted a privileged report (Rept. 99-454) on the resolution (H. Res. 349) providing for the House to reject the conference report on the bill (H.R. 3128) to provide for reconciliation pursuant to section 2 of the first concurrent resolution recede from its amendment to the Senate amendment, and to concur in the Senate amendment with an amendment; which was referred to the House Calendar and ordered to be printed.

□ 2000

CONSOLIDATED OMNIBUS RECONCILIATION ACT OF 1985

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 349 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 349

Resolved, That upon the adoption of this resolution the conference report on the bill (H.R. 3128) to provide for reconciliation pursuant to section 2 of the first concurrent resolution on the budget for fiscal year 1986 (S. Con. Res. 32, Ninety-ninth Congress) shall be considered as having been rejected, and the House shall be considered to have receded from its amendment to the Senate amendment to said bill, and to have concurred in the Senate amendment with an amendment inserting in lieu of the Senate amendment an amendment consisting of the text of the conference report, with the following modification: strike out Subtitle B of Title XIII.

The **SPEAKER** pro tempore. The gentleman from South Carolina [Mr. Derrick] is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Ohio [Mr. Latta], pending which I yield myself such time as I may consume.

Mr. Speaker, this resolution provides that upon adoption of the rule, the House is deemed to have rejected the conference report to accompany H.R. 3128, the Deficit Reduction Amendments of 1985. It further provides that the House shall be deemed to have receded from its position, and to have concurred in the Senate amendment to the bill, with an amendment.

The amendment to the Senate amendment shall consist of the substitute amendment reported from the committee on conference as modified by the deletion of certain sections of the conference's amendment. The sections which would be stricken from the conference committee's amendment are those which relate to the broad-based tax proposed by the conferees as a means of funding the Superfund Program. The adoption of the rule would effectively remove Superfund funding from the bill, leaving the other body to deal with this modified version of the conferees' decision.

Mr. Speaker, the procedure being employed by this rule is an unusual one. The Rules Committee chose to recommend this approach after sensing that the House indeed wants to see the enactment of a reconciliation measure but has indicated opposition to the use of the broad-based tax to finance the Superfund Program. The committee made its decision after hearing the concerns of several Members of the House earlier this evening who voiced strong opposition to the adoption of the manufacturers' excise tax. While the other body considers the approach an appropriate one, the House clearly rejected it during consideration of Superfund reauthorization legislation on the floor of the House. Further, it has been the position of the House to deal with the taxing provisions related to Superfund as part of the overall reauthorization of that program. And as our colleagues are aware, that issue was recently considered on the floor of the House.

Adoption of this rule, therefore, allows the reconciliation process to be concluded in the Congress tonight while leaving the issue of Superfund financing to be resolved next year by the conferees on the Superfund reauthorization bill.

Mr. Speaker, having been very much involved in the reconciliation process as chariman of the budget process and reconciliation task force of the Budget Committee. I am pleased that agreement has been reached on this very important piece of legislation. This represents the tireless efforts of 16 House committees and 12 Senate committees, working since the Congress adopted the conference report on the budget resolution on August 1. The 3-year reconciliation instructions in the budget resolution were $75.5 billion. The House passed its reconciliation measures in October and the Senate followed suit in November. This conference agreement, representing the work of 31 subconferences and over 200 Members has resulted in estimated savings of $81.6 billion over 3 years—over the target set in the budget resolution by at least $6 billion. I should note, Mr. Speaker, that this estimate does include the revenues which will be raised by Superfund. Which, by operation of this rule, will not be included in this reconciliation conference report. They will be enacted separately at a later date.

It is imperative that we pass this measure prior to adjourning so that these savings can be achieved. This is the budget process working. This is the commitment the Congress made when it passed the budget resolution last August. This is real deficit reduction, not just talk about reducing the deficit.

Mr. Speaker, this is the 11th hour. This rule provides the Members of the House a single-up-or-down vote on reconciliation for fiscal year 1986. I urge adoption of this rule.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me say I believe that this resolution lives up to the commitment that the majority leader made as far as the deletion of the funding for Superfund is concerned. The matter dealing with teenage pregnancies was removed in conference before it came to the Rules Committee.

So what will happen, if we adopt this rule, we move the funding for Superfund from the legislation, we are merely delaying this question until January or February when we can take it up again. We are doing nothing with Superfund itself, only with revenues.

So I cannot understand why there would be any opposition at this late hour to this resolution.

If you oppose the resolution, what you will be doing is, for all practical purposes, killing this reconciliation bill which saves billions of dollars.

Now I do not think anybody wants to do that. I know there are some interests that would like to see the new VAT that is being proposed in this legislation written into our tax laws. Well, let me say I do not think that is going to happen. Even if this House would turn down this resolution and come forth with another resolution, the President says he will not accept the VAT tax.

To start a new system of taxation for the American people would be absolutely wrong.

Go back and look at the history of the income tax. You know, when they came forth with that, $3,000 was the limit; $3,000, and look at how it expanded, the income tax.

The same thing could happen on VAT if we opened up this whole keg of worms.

Every time the Congress wanted more money for this program or that program, it would increase the VAT. We do not want to get into the history of VAT's in some of these other countries, how detrimental they have been to the economies of these countries. That was fully debated.

I believe that the Rules Committee has taken the proper approach, with the full support of the majority leader, to resolving this matter tonight insofar as reconciliation is concerned and putting over the question of revenues for Superfund until the next session of this Congress.

So I urge my colleagues to support this resolution.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 4 minutes to the gentleman from New York [Mr. Downey].

Mr. DOWNEY of New York. Mr. Chairman, the issues before us tonight are compelling, and I think that for those of us who have been on the VAT patrol for the last 12 hours, we need not drag this out, but it is important to understand what is at stake here tonight.

The House of Representatives has already spoken on the value-added tax; by a margin of 220-204, we turned it down. The House of Representatives has every reason to expect and demand from its conferees, whether they are new or old ones, that the House position be presented to the Senate. What happened in the naming of conferees prior to that vote, we have conferees that decided because the numbers were wrong to recede and concur with the Senate position on the value-added tax. The other body is so desperate and understands the President's opposition and that of the American people that they have decided to hide the VAT under the skirts of reconciliation. People have worked very, very hard on reconciliation. Without the VAT, it is a good bill and should be voted on.

When you vote "aye" tonight for the rule, you will be able to say a couple of things, that you are not intimidated by the other body, that you believe you can make the savings, and that you are unalterably opposed to a value-added tax.

As the gentleman from Ohio mentioned, this is the foot in the door. If we adopt, at the 11th hour, a value-added tax to finance Superfund as part of reconciliation, history will not smile on us. They will say that in a rush to go home, in a rush to close the door on this contentious problem, we found the easy way out. It is not the easy way out. It is the wrong way. Vote "aye" on the rule, send reconciliation back to the other body absent the VAT, and we will have done our job. We will have saved the money that we needed to save, and we will have shut the door once and for all on this most pernicious tax.

Please, please, vote "aye" on the rule when it comes up if you want to kill the VAT and keep reconciliation.

The last point should be an obvious one: The supreme legislator at 1600 Pennsylvania Avenue has already indicated that this legislation is history with the value-added tax. If you want to see it succeed, make sure it is not part of the legislation.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from Vermont [Mr. Jeffords].

Mr. JEFFORDS. Mr. Speaker, I am sorry to burden the House again with the question of policy and procedure. I asked, along with others, to have a provision in this rule which would allow us—those of us who come from those States that still have not been bludgeoned by the Federal Government to raise their drinking age—to have an opportunity to get all Members to vote on it, and I can understand the Rules Committee desire to protect you from that vote. But I would hope that you would remind yourselves—the next time we show that movie around this country, you know the one we all introduce on film, that shows how the process in Congress works, with Chairman John Dingell starring and with all of the hearing process—the great committee debates, the floor debates, and so forth, by comparing it as to how this law was enacted. For it did not come from those debates and hearings, it did not come from that process. It came to us without hearings. It came from a sneak attack on the House floor when we were told it was not going to come up. It came to us again as a sneak attack at 1 o'clock in the morning on a unanimous-consent request after we were told no more legislative business would be considered. And now, after we succeeded in getting it out of the continuing resolution yesterday, here it is again, right now, in this bill which will be coming before us on reconciliation, buried and untouchable.

I would like to see the civics professor or the civics teacher that is able to explain this reprehensible process to his young people, and that this is how Congress really works; or, from another perspective, how a professor of constitutional law, in defending States' rights, is able to say how this law, contrary to the Constitution and the 21st amendment—when this very aspect of Federal involvement was considered and rejected in the constitutional process—is the way the Constitution ought to work with respect to States' rights. One can only imagine where this abrogation of States' rights will lead us in other areas.

It is the saddest moment in my time here, to see this procedure is abusing those young people who have not had the courtesy to be heard, or the ability to ever be represented or meaningfully voted on in this body.

Residents of my home State of Vermont and the Vermont Legislature has passed a joint resolution which, and I quote:

> Expresses on behalf of the people of the State of Vermont its outrage and opposition to very instrusive actions by the Federal Government on the drinking age.

The 10th amendment to the U.S. Constitution states:

> The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

The 21st amendment to the U.S. Constitution states:

> The transportation or importation into any State, territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.

The legislative history of the 21st amendment shows that a proposed section 3 was deleted, and that said deleted section 3 would have stated that:

> Congress shall have concurrent power to regulate or prohibit the sale of intoxicating liquors to be drunk on the premises where sold.

One opponent of the deleted section 3 of the 21st amendment expressed the intent of Congress by saying during the 1933 congressional debate on the amendment:

> If Congress gave itself power to regulate the saloon, it would have the power to regulate the place and hours of purchase as well as the age and sex of purchasers. By striking section 3, the Congress reserved these powers to the States.

The proponents of this legislation have used every conceivable tactic to get this bill past this House with no debate and no vote. It was tacked on to the continuing resolution, and now it shows up on the budget reconciliation bill. I guess if we keep adding this amendment to every bill where it is possible to waive points of order and limit debate, eventually it will pass without Members having to vote on the issue.

This should not be in the reconciliation bill. There will be an opportunity for meaningful debate on the merits of the issue when the House considers the Surface Transportation Act next session. So why must we ramrod this amendment through the House on the reconciliation bill? Why make a mockery of the legislative process? Not only is this an unnecessary and unwarranted intrusion of rights specifically granted to States in the Constitution, it is an unnecessary and unwarranted circumvention of the legislative process. I must challenge the treatment of this issue and the process which has allowed the inclusion of this nongermaine issue in the reconciliation bill. There will be no budget savings if this amendment is included in the reconciliation bill.

Back in 1971, after prolonged national debate, the Congress voted to lower the age of voting to 18. The States followed by lowering the age of majority. We judged that those old enough to die for our country are old enough for all rights, obligations, and privileges of citizenship.

But last year, with no meaningful debate, without even a meaningful vote, the Congress approved legislation which instructs the Department of Transportation to withhold highway trust fund money from those States which do not have a 21-year-old drinking age. This is money that the taxpayers of these States have paid into the highway trust fund. Yet we say, "We know what's best for your State, so we're going to take your money away until you do what we say."

How can the Federal Government claim to know what is best for the States? What about the unique problems of the States which border Canada or Mexico? Proponents of the national minimum drinking age cite the benefits of uniformity among the States. However, this legislation creates a whole new set of problems for border States. The largest city in Vermont with a college population of 13,400 is a quick drive to the Quebec Province where the drinking age is 18. This situation exists all across the northern tier where cities such as Buffalo, Detroit, Duluth, Grand Forks, Spokane, and Seattle, with an estimated combined population of 180,000 18- to 21-year-olds, are all within striking distance of Canadian Provinces where the drinking age is less than 20. Along our Mexican border, cities such as Brownsville, Corpus Christi, El Paso, Tucson, and San Diego are all within easy reach of a drinking age less than 21. The combined population of 18- to 21-year-olds in these cities is approximately 152,000. All in all, the total 18 to 21 population that will be tempted to cross international borders is probably close to a half million. The paternal approach taken by Congress disregards the special circumstances involved in this issue, and blackmails Vermont and other border States into taking action which could cost young lives.

In taking this ill-conceived action, Congress is led to believe that it is addressing the national tragedy of drunk driving. Is it? No, because drunk driving is a national problem which cuts across the entire age spectrum.

We are all aware of the statistic that 18- to 21-year-olds make up 9 percent of the country's drinking population, yet they are involved in 17 percent of all alcohol-related accidents. This figure is high, but what of the remaining 83 percent of the accidents?

On a national basis, under 20-year-old drivers account for a high percentage of all fatal car accidents, alcohol related or not. This can be explained in part by their inexperience and propensity to drive with a "heavy foot." The insurance companies certainly see it this way and adjust their rates accordingly. I know this for a fact—I pay for my son's car insurance.

When looking at raising the drinking age to reduce the number of car accidents involving individuals under 20, I think we have to realize that this group, historically, are problem drivers. Data for all fatal car accidents in 1970 show that drivers less than 20 years old accounted for 15 percent of all accidents. This is of course prior to the time the drinking age was generally reduced to 18 across the country. In 1983, this group still accounted for 15 percent of all fatal accidents.

Proponents of the national minimum drinking age often cite statistics which show that States which have raised their drinking age to 21 have experienced reductions in alcohol related fatalities among 18- to 20-year-olds. However, many of these States have also simultaneously toughened drunk driving laws and increased enforcement. I believe that the tougher penalties and enforcement efforts had a more significant impact on the reduction of fatalities than raising the drinking age.

In some States, a higher drinking age has resulted in more fatalities among the age group concerned. Illinois, which raised its drinking age from 19 to 21 effective January 1980, saw alcohol-related fatalities among 19- and 20-year-olds increase by 15 percent in 1981, then decrease by 15 percent in 1982, then increase by 12 percent in 1983. Florida raised their drinking age from 18 to 19, effective

January 1981. Alcohol-releated fatalities among 18-year-olds dropped 5 percent in 1981, then increased 21 percent in 1982 and 26 percent in 1983. I fail to see the connection in these cases.

A few other statistics of interest are worth noting at this time. In 1983, 17- to 20-year-olds were involved in 18.8 percent of all alcohol-related fatal accidents. In this same year, 21- to 24-year-olds accounted for 22.2 percent of these accidents. Figures from my own State of Vermont show roughly the same relationship with 17- to 20-year-old drivers accounting for 22 percent of alcohol-related fatal accidents and 21- to 24-year-olds accounting for 27 percent. If the answer to drunk driving is raising the drinking age, shouldn't we be looking at raising the age to 24? Or, is not the more logical answer to direct educational and other special programs toward our younger generation?

I am concerned because this national minimum drinking age legislation is a phony solution to a very real problem. We need to find real solutions to this national problem, not raise the drinking age and pat ourselves on the back. Many States are enacting tough new drunk driving laws and increasing enforcement of drunk driving laws. State and local governments and school officials are developing innovative education programs.

In my home State of Vermont, bar and restaurant owners are implementing call-a-cab programs. Students at the University of Vermont have organized a "free ride home" for students and local residents who have had too much to drink. We should be commending these students, not taking away the opportunity to make responsible choices about alcohol. We should be educating students about the dangers of drinking and driving, and increasing public awareness of the tragedy of drunk driving with alcohol education programs.

This Congress should be looking at the approach that student groups such as the U.S. Student Association have taken to address the national tragedy of drunk driving. The U.S. Student Association has undertaken a grassroots campaign to educate young adults about the dangers of drunk driving. They have received literally thousands of requests for the pamphlet, "5 Things a Young Adult Can Do About Drunk Driving." We should be commending the efforts of student groups around the country.

I would like to commend the efforts of all individuals and groups committed to increasing awareness about drunk driving. I believe the country is now painfully aware of the tragedy of drunk driving. We are focusing our efforts, through the media and through our schools, on the young people who will be making decisions about drinking and driving.

The Congress should be looking at providing incentives to States to take actions which will have a real impact upon our drunk driving problem. States should be encouraged to adopt strict penalties such as mandatory jail terms for offenders. We should continue to provide Federal support for special drunk driving enforcement units which patrol our highways on Friday and Saturday nights, when over 50 percent of drunk driving fatalities occur. There is no better deterrent to drunk driving than strict penalties and the knowledge that there is a good chance of being arrested. Sweden and other countries with strict drunk driving laws have virtually no drunk driving problems.

Many States would not agree that raising the drinking age is the best way to address the drunk driving issue. Some States with 21-year-old drinking ages also have some of the most lax penalties for drunk driving. Tough penalties and strict enforcement will deter drunk drivers. A 21-year-old drinking age will not. What we are doing if we take this action is allowing business as usual for those over 21 who drink and drive while singling out 18 to 20 year olds for blame, even though statistics show that the majority of drunk driving arrests occur in the 21 to 24 age group.

Proponents cite statistics about how many young lives can be saved by the higher drinking age. I wonder how many more lives could be saved by mandatory installation of airbags. There are many laws we could pass that would save lives. Why must we single out a certain group of adults for discrimination?

The Congress is sticking its nose in somewhere it doesn't belong. This is a State issue. Even as we pass historic legislation which will shift massive Federal responsibilities back to the States, we choose blackmail on an issue which is unquestionably under the jurisdiction of the States. There are important considerations which each State must take into account when considering the drinking age issue. The border with Canada is one such issue.

Mr. Speaker, I resent the way this issue has been brought before the House. With no opportunity for debate, on a bill which has nothing to do with the issue, and on a bill which the House must pass to keep the Government operating, this was a prime example of bending the rules to circumvent the legislative process. What a perfect example for our young voters of how democracy should not work.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Louisiana [Mr. BREAUX].

Mr. BREAUX. Mr. Speaker, I urge a no vote on the rule. I think there is one basic reason why Members who might be for some of the provisions should vote no on the rule. The rule simply kills budget reconciliation. The other body, by a 78-to-1 version, has already passed their version of budget reconciliation. It is incredible information that we get a rule here in the House that allows us to get the Senate to accept what they have passed already.

All of those who voted no on the Downey amendment should vote no on this rule. I think that is very, very clear. For those who might have voted yes on the Downey rule and are looking for a reason to change, let me suggest that if you have any concern about the black lung program, you ought to vote no on this rule; if you have any concern about railroad retirement, you ought to vote no on this rule; if you have any concern about the coal excise tax, you ought to vote no on this rule; if you have any concern about protecting fringe benefits for airline employees, you better vote no on this rule—because all of those provisions are far better if we can get a no vote on this rule and proceed to move forward and get a new rule, which we could do in 5 minutes, and get budget reconciliation adopted.

A no vote on this rule ensures that we have a chance to do budget reconciliation and save about $25 billion over three years besides improve all of those programs that I just mentioned. A no vote on the rule does that, and I would urge my colleagues to vote no.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana [Mr. MOORE].

Mr. MOORE. Mr. Speaker, at the end of a session, we always get into this. We start doing things in a peculiar and unusual way. And this rule is precisely that. You know and I know that it is very unusual to bring a conference report to the floor minus certain provisions. I do not think I have seen that done before, nor do you. Let me tell you how serious it is. The provision we are cutting out of here is the one that funds Superfund. We all voted overwhelmingly very recently to fund Superfund. Yet in an unusual way, we are cutting that out of here tonight.

As a result, let me tell you what is going to happen. The whole reconciliation bill is going to fall. I have just been told—and there are people you can ask in this Chamber who will confirm that—that if this conference report goes back to the other body with this excised out of it, that is the end of reconciliation for this session. Then you are looking at some time in 1986 and you are looking at the Gramm-Rudman complication that is going to cause this to be an extremely unwise move on the part of the House.

I would urge each of you to think about that and to vote down this rule.

It is a mistake to do this. We are angering the other body. You are doing something that is very unusual. Let us take the reconciliation conference report and vote for it. Let us vote down the rule so that we can approve a rule that will allow us to do that.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 4 minutes to the gentleman from Oklahoma [Mr. JONES].

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would like to remind all Members they should not refer to the vote taken in the other body.

Mr. JONES of Oklahoma. Mr. Speaker, if this body is interested in passing reconciliation and taking credit for $81 billion of spending cuts—deficit cuts—the only way to do that is to vote down this rule and allow the Rules Committee to come right back with a rule that lets us vote up or down on the conference agreement.

This reconciliation package has been the subject of long and arduous conference meetings. This evening, we reached agreement. There is nothing in this conference report that is in disagreement.

The House came out very, very well. We came out essentially with what we wanted with regard to Medicare and the coverage of State and local employees. Only prospective new employees will be covered, and that helps every one of our States. The House came out in this conference report with essentially what we wanted on the Black Lung Disability Trust Fund. The House came out with the extension of the cigarette tax. The House came out with a fringe benefit program and railroad unemployment. We have gotten virtually everything we want. And the other body passed it overwhelmingly.

Now, if we vote for this rule, you have taken out $10 billion of savings. But what is even more important, the other body is not even going to consider a partial conference, and you have done away with all of the reconciliation for this year and you are going to have to go back home and say you dumped reconciliation.

Now, let me refer specifically to the point of this rule that would take out the financing of Superfund.

First of all, it is not a value-added tax. The Tax Code does not identify it as that. They have said that this would be vetoed if this funding mechanism were in there. I can assure you the other body, of the President's party, would not pass in such overwhelming numbers this funding mechanism if they thought the President was going to veto the conference report. They just would not do it. The President or people speaking on behalf of the President has said he would veto it because of trade adjustment, because of the offshore payments, because of Medicaid quality control, because of Medicare cost savings and because of this.

Why did not the Rules Committee come back and take all of those other things out? The financing mechanism for Superfund was passed by the House conferees by a vote 9 to 4. It was not even close.

Now, for rules to come in and just wipe out what 9 out of 13 House conferees said they wanted in this bill is just not right.

So if you really believe and if you want to go home and say you saved reconciliation, that you cut $81 billion over the next 3 years from the deficit, the only way you are going to be able to do that is to vote this rule down and then to vote for a rule immediately thereafter that allows an up or down vote on the conference.

Mr. CAMPBELL. Mr. Speaker, will the gentleman yield?

Mr. JONES of Oklahoma. I yield to the gentleman from South Carolina.

Mr. CAMPBELL. If this rule passes, is it your opinion, as I believe I have heard you state, that the other body would not take this mechanism and that all of reconciliation would be lost and therefore we would lose, in fact, $81 billion in reconciliation over 3 years, inclusive of the Superfund legislation?

Mr. JONES of Oklahoma. The leaders of the other body have made that explicitly clear. The gentleman is absolutely correct. The leaders of the other body, who have gone through this difficult conference and reached an agreement on all points in good faith, have said publicly that if the entire conference is not agreed to, then they will not take up a partial conference; and this session of Congress will close and there will be no reconciliation savings, and those who vote for a rule with that will be responsible for deep-sixing $81 billion of deficit reduction over the next 3 years.

Vote no on the rule.

Mr. LATTA. Mr. Speaker, I yield myself 1½ minutes, and I do so to disagree—I hate to disagree with the former chairman of the Budget Committee, my good friend, JIM JONES. But I just heard him say and the other Members did that if you vote down this rule, you destroy reconciliation, you lose *x* number of billions of dollars. Humbug. That is crazy.

We could bring back another rule or we could take the same matter up in January. He knows it. So let us not try to deceive anybody that the reconciliation is dead. We can take reconciliation up in January, we can take it up tomorrow. If you defeat the rule, that does not mean that the bill is dead. We had the same thing this week on tax reform, remember? So let us correct the record and not let that stand.

Mr. JONES of Oklahoma. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman if he wants to correct his statement.

Mr. JONES of Oklahoma. Well, I do not want to correct my statement. I want to correct the gentleman's understanding of my statement.

My statement was that if this rule passes that that will be the end of reconciliation and we can come back immediately with a new rule and pass it.

Mr. LATTA. Well, I am sure if he checks his statement that was taken down, that he will find that he said you are killing $81 billion, or some fantastic figure like that, in reconciliation if you pass this rule.

Mr. JONES of Oklahoma. Only if this particular rule passes.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. Mr. Speaker, I think the thing we ought to keep in mind, if we need a source of revenue for environmental purposes, the measure that we have agreed to in our conference committee provides for that.

We ought to accept that so that we can do something about the environmental concern.

Now, I grow weary of the constant contention of a group that says, "Oh, this is a value-added tax and we must not advance it." It is an excise tax, similar to many other approaches already in the code. And it ought to be put into place. We have long since passed the time when we are just going to fund these measures by general revenue. We ought to have a steady, reliable source of funding, and this particular approach would do it.

There is no hiding behind a contention that there is a value-added tax. It simply is not true—it is not a value-added tax and we ought not to be fooled by those who say it is.

Now, if this bill, without the Superfund element, does go back to the other side, I can tell you that there will be a filibuster, and it will go on and on. That will be the end of reconciliation. You might ask for another rule, but they are going to filibuster unless we include the Superfund. The fact of the matter is, you have got a chance, if you defeat this rule, to move reconciliation and the Superfund forward, and that is the thing that we ought to do. Keep in mind we do not have any provision for an extension for the research and development credits and other expiring provisions that are still out there and have not been touched. They are not in this bill.

So we ought to defeat this rule and we ought to allow this House to move forward on Superfund and reconciliation.

I do not know whether there is another rule in place. You sound like you already have one, but if we adopt it without Superfund, that is the end of it. And I think, therefore, in fairness, we ought to have this broad-based tax, which is going to be the avenue you are going to be following in the years to come, anyway. We ought not to throw up a bugaboo now that this is something you ought to be afraid of. That is what you are going to be faced with from now on.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. COATS].

Mr. COATS. I thank the gentleman for yielding.

Mr. Speaker, I cannot help but agree with the gentleman from Oklahoma when he says we have a good reconciliation bill, that it is almost everything the House wanted and virtually all that we worked for and effects some savings.

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Where I disagree is with his inclusions, because by the inclusion of the one provision which allows for the VAT tax or MET tax or SET tax, whatever you want to call it, the value-added tax, by that one provision I think we invite a certain veto of this bill. We have gotten a strong—more than strong—word from the White House or from the administration repeatedly for months as to their veto of any kind of a VAT, SET, MET, or whatever you want to call it, any tax on this Superfund.

What is happening here tonight is that we have taken an issue where we have a provision in the House and a provision in the Senate, and we are splitting that issue right down the middle, and by a sleight of hand we are moving the funding into a larger bill that all of us want because we want to effect these savings so that we can avoid the prospect of a conference next year.

Members should not be fooled. We are still going to have to meet to resolve the programmatic differences in this Superfund bill next year. What we are trying to do here or the attempt here this evening is to split out the tax portion so we do not have to deal with that.

What kind of a deal did the House get? The House voted for zero VAT funds. The Senate voted for $5.4 billion of a tax on manufacturers, and the reconciliation of that ends up with $5.7 billion. I do not call that a very good deal for the House. When you go from zero to even higher than what the other body voted, that is not a good deal for the House.

The House expressed its will on this matter. It defeated the VAT tax. It voted for an alternative tax, and the House is being robbed and cheated of its position by this mechanism that we are going through this evening.

Mr. Speaker, I urge support for this rule.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Ohio [Mr. ECKART].

Mr. ECKART of Ohio. Mr. Speaker, the issue is real clear here. You cannot say you are for Superfund and cleaning up hazardous waste in your back yard or in your district and vote for this rule.

The bottom line is that we have had two votes on Superfund this year. We had a vote a week or so ago when we passed by 380 to 30 a provision to create a program and to fund it, and now you have a chance. You have $10 billion in your hands to end business as usual.

Now, let us look at history here. In 1980, when this body passed Superfund, it came charging out here with $4 billion, and the other body came back with $1 billion. We left here last week with $10 billion and the other body came in with $7 billion. Now, if you want to gamble that come next February, March, April, or May we are going to come back in here with $10, $9, $8, or $7 billion against the fact that we have in our hands 10 billion real hard Gramm-Rudman-proof dollars to effect the cleanup that we know needs to be done in each of our districts, then take the bird in the hand.

This was a difficult trade and an extensive conference. I was on four parts of it. We got what we wanted on black lung. The other body had a 50-percent tax; we knocked them down to 10.

We got what we wanted on public employees on Medicare coverage by only getting new hires. In exchange for that, frankly, we got something that perhaps some of us did not appreciate, but we got our number. We got 10 billion real dollars to start that cleanup with, and I do not think I can bear to stand the crying come next January, February, March, or April when somehow we come up a little light.

When we come up a little light, remember this night here in this Chamber when we had a chance to go home with real money for a real cleanup. Remember this night when we had a chance to get black lung eradicated. Remember this night when we had a chance to protect State and public employees. Remember this night when we had a chance to give quality Medicare and Medicaid coverage for people. Reject the rule. Save your programs. Kill the rule.

Mr. Speaker, let me just simply say that killing this rule is going to save our programs. This is our vote, this is our chance, this is our night.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentlewoman from Rhode Island [Mrs. SCHNEIDER].

Mrs. SCHNEIDER. Mr. Speaker, in reference to the comments previously made by my colleagues, I would like to address the House and to assure the Members that if we are genuinely concerned about environmental cleanup, if we have in our hearts a feeling for the appropriate financing of Superfund, and our philosophy is in fact that the polluters should pay rather than having a consumer tax straight across the board to be borne by every single individual, then certainly we want to be guaranteed that we take advantage of this opportunity to excise the Superfund financing mechanism from reconciliation.

Let me assure the Members that funding for Superfund is totally extraneous to the reconciliation bill. It has nothing to do with deficit reduction. If this VAT does pass, we can be assured that the President will veto it.

But to follow up on my colleagues' comments, if you are going to return to your constituents and say that you made an environmental vote by voting "no" on this rule, you are misleading your constituents. The environmental community has made it clear that they want a "yes" vote on this rule. It is a "yes" vote only that they want.

Mr. LATTA. Mr. Speaker, I yield myself 30 seconds.

I take this time to commend the gentlewoman from Rhode Island [Mrs. SCHNEIDER] for turning the cards up. We might just as well face the issue. The question is whether or not the people who dirtied up the environment want to pay for it or whether they want everybody to pay for it. That is the issue, and I want to commend the gentlewoman for bringing it out.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Texas [Mr. FROST].

Mr. FROST. Mr. Speaker, it is with great reluctance that I rise in opposition to a rule produced by my own committee.

The issue is very, very clear. Either we want $81 billion of savings in reconciliation or we do not. If this rule passes, reconciliation is dead. As the gentleman from Oklahoma [Mr. JONES], the former chairman of the Budget Committee, pointed out, the Senate has passed one version, we will have passed another version, and we will all go home and there will be no reconciliation.

I would urge this body to defeat the rule and send it back to the Rules Committee. There is an alternative way to go. We could report out another rule providing for a separate vote on the question of the VAT. Those Members who feel strongly about the VAT would have a separate vote; those Members who feel strongly on the other side would have a separate vote.

However, by rolling this into a self-executing rule, we are killing $81 billion of reconciliation.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. THOMAS].

Mr. THOMAS of California. Mr. Speaker, it is interesting sometimes how we take an object that fills several boxes and narrow it down to one particular issue. We have 16 House committees, 12 Senate committees, and thousands of man-hours of labor over 167 items, with subheadings, so that you can multiply the 167 by 10, and you have a number of items that the House had in this provision that the Senate did not. You also have a number of items the Senate had that the House did not. And what we did was reconcile the differences.

Over every single issue that was in disagreement, we came to an agreement. A majority of the Senate conferees signed every single item. A majority of the House conferees signed every single item. There was agreement across the board. You have before you now a rule that imposes someone else's wishes on the conferees that you appointed from both the House and the Senate.

I understand the peculiarities which got this rule in front of us. A commitment was made, and in this rule that commitment is honored, but it is up to the House to decide whether or not it is appropriate.

Now, I know the deck is stacked because it has been folded into the rule. We can unfold it by voting down this rule and by allowing, at the suggestion of the gentleman from Texas, another rule which would provide a separate vote.

We have talked about whether or not the President is going to veto this measure. There was a threatened veto by the Treasury on every single item that came up. I can tell the Members that tonight there is one certainty. The one certainty that we have to hang onto is that if this rule passes and we vote reconciliation out, it is not going beyond those double doors. That is as far as it is going to go tonight. It will not cross the Capitol; it will not pass the Senate. Our only chance is to vote this rule down and let us do it right.

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Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Michigan [Mr. WOLPE].

Mr. WOLPE. Mr. Speaker, there is no way that the value added tax provision should be part of the reconciliation package we are now considering. This rule must be adopted. Not to adopt is essentially to write off the kind of taxation policy and the kind of environmental policy that this House went on record in clear and unmistakable fashion in asserting just a few days ago.

The issue is very clear. We are talking about a value added tax. Members who vote against this rule today will effectively be affirming their willingness to launch into this new uncharted course of value added taxes in this country, and that is a tax that is regressive. To those of you who are talking about saving money for the taxpayers, how about saving a dollar for the consumer?

The fact of the matter is that the value added tax is regressive. It comes down disproportionately upon the poor, upon the elderly, and it makes no sense from the standpoint of environmental policy.

Let it be understood that many of the same people who have fought diligently over many months to get a strong Superfund reauthorized in the $10 billion amount certainly do not intend to abandon the basic principle that the polluter should pay, and yet that is what we are being asked to do this evening, to forget sound taxation policy, forget sound environmental policy, and allow ourselves to be intimidated by the other body. We cannot allow that to happen.

I would argue that all of the discussion about reconciliation should be an equal concern of the other body, as it is of ours. The other body can stay in session and we can get this matter resolved, but let there be no effort at intimidation, such as we have seen this evening.

The real issue is are we going to insist that those industries principally responsible for pollution pay the bill, or are we going to spread it to other innocent parties?

Mr. LATTA. Mr. Speaker, I yield 1 minute to the gentleman from Nebraska [Mr. DAUB].

Mr. DAUB. Mr. Speaker, this body did not send to a reconciliation conference the issue of how to finance Superfund. Our conferees, I do not know how nine of them could have voted to do this when the House just rejected that method of financing Superfund; so I think they have some explaining to do; but more than that, I think we ought to recognize a point that was just made by the previous speaker.

The other body has just as much at stake in reconciliation as we do. It cannot be something that we get rolled on tonight.

So I think the question is whether or not you want a conference on Superfund with our version in the conference, where the tradeoffs can be made from the bucket of money as to whether or not the list has 600 or 600,000 toxic waste sites on it.

The dilemma that you might face if you do not get a chance to have a conference with some money in conference is whether or not we want to leave here for Christmas with the question on some people's minds, did the Congress want to satisfy oil and gas or the President of the United States?

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, we had a debate on Superfund financing not long ago in this body and the House, not by a large margin, but by a clear margin decided that it did not want what the sponsors call a manufacturers' excise tax and what the people are calling a sales tax or a VAT. Instead, we opted for an increased version of the same kind of taxes that are now being applied, plus a new waste-end tax.

Our conferees went into conference with nothing on this reconciliation bill on Superfund financing and came back with that sales tax, or VAT, and they came back with no waste-end tax, something environmentalists have been looking to for a number of years. They came back with an unreliable financing system for our Superfund activities.

We have been told tonight that the Senate will reject this if we give it back to them. I think it is far more pertinent that the President is pretty clearly ready to veto anything we give him with a VAT in it. Therefore, I think we take a much greater risk with the President than we do with the Senate.

If we do not believe that we should have a national sales tax, if we do not want to see reconciliation vetoed by the President, it is important to pass the rule. The Rules Committee when it gave us this rule understood those things. It said, "We want to preserve reconciliation. We want it to have the best possible shot. We don't want it vetoed. Therefore, we are going to give you a rule to take out the VAT from the conference report."

I believe that the Rules Committee should be sustained. We should vote aye on the rule.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from California [Mr. BOSCO].

Mr. BOSCO. Mr. Speaker, there is certainly no shortage of predictions tonight. On one side we have a group that predicts that the President will veto this measure with the broad-based tax. On the other side, we have a group that says that the other body will not take it up without the broad-based tax.

Well, I would like to say as someone who has worked very hard on this bill that Superfund or the broad-based tax is not the only issue in the bill. In fact, there are thousands of issues in this bill of importance to our entire country.

Now, 31 subconferences met in the consideration of this one bill. Hundreds of Members put in a lot of time and work. All 31 of those subconferences agreed, there is no disagreement in the conference report, and yet by some quirk of fate we have a rule before us that in effect will not allow us to vote on the conference report that was agreed to by all 31 subconferences. The only way we can vote on that conference report is to defeat this rule, to have the Rules Committee quickly bring back another one and then to vote up or down on the reconciliation bill. If we vote it up, we will be in agreement with the other body, send it to the White House, and if the President wants to veto a bill with 80 billion dollars' worth of savings in it, let him veto it.

Mr. LATTA. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Speaker, I thank my friend, the gentleman from Ohio, for yielding me this time.

I would like to talk a little bit about the substance of the reconciliation bill that is now pending before that House. It raises certain questions as to whether or not it truly is an effort to reduce the deficit that is projected for fiscal year 1986.

We all know that we began this year with the goal of some $50 billion in deficit reduction for fiscal year 1986. The bill before us suggests that we will achieve a deficit reduction of some $17.4 billion, but there is a very basic policy question that should be addressed concerning a measure that is represented to be a deficit reduction proposal; namely, whether we should permit such a vehicle to be used as a means of adding programs.

The bill before the House right now makes very clear that the answer is that we will use this deficit reduction package as a means of adding programs.

What I would like to bring to the attention of my colleagues is that in the area of health care costs, this vehicle for deficit reduction adds $222 million of new programs over a 3-year span of the bill.

Mr. Speaker, in Medicare part B, we have new spending proposals totaling $170 million. In these two areas of health care costs, the total increased programs are $392 million over the 3-year span.

In one of the committees on which I serve, the Energy and Commerce Committee, we were directed to achieve reductions of some $15 billion over the 3-year span. Our committee actually achieved $9.67 billion, leaving some $5.33 billion unachieved.

With respect to what we are doing in the area of taxes, I might point out to my colleagues that this bill represents the implementation of the second rule that drives the liberal welfare state in America; namely, "If it grows, tax it."

Now, we all know that imports have been growing by leaps and bounds over the last 2 or 3 years. In fact, the negative trade balance is in excess of $150 billion in the current calendar year, so we propose to tax it at 1 percent. I think the theory is that whatever we tax, we get less of.

I submit to my colleagues that imposing a tax on imports is not the way to serve the consumers of this country. It is not the way that we can serve the interests of free trade in the world.

Mr. OXLEY. Mr. Speaker, will the gentleman yield?

Mr. DANNEMEYER. I am happy to yield to my friend, the gentleman from Ohio.

Mr. OXLEY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, while we are on the area of taxes and also on spending add-ons, I am sure the gentleman is aware of the increased appropriations for public broadcasting of $990 million.

Mr. DANNEMEYER. I thank my colleague for pointing that out. This is supposed to be a deficit reduction bill.

I am opposed to a VAT to finance Superfund. The rule is crafted so that a yes vote on the rule means a rejection of the VAT. I would prefer a rule which would permit an unhindered vote on the reconciliation package and separately on the VAT. Therefore I suggest a no vote on the rule.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Speaker, the defeat of reconciliation will also spell the defeat of language from the other body that makes permanent the reduction in Federal highway funds for a State's failure to establish a minimum drinking age of 21.

The Rules Committee considered efforts to delete this important language and wisely decided to keep the other body's language intact.

The passage of reconciliation with the other body's language will send a message to recalcitrant States that their refusal to join in an effort to establish a national minimum drinking age of 21 will continue to cost them Federal highway funds, and the passage of reconciliation will save hundreds of lives of our children who are needlessly killed each year in the slaughter alleys between States with different drinking ages.

Members wanting a solid record on the issue of drunk driving should vote yes for the rule and yes for reconciliation.

Mr. PARRIS. Mr. Speaker, will the gentleman yield?

Mr. DURBIN. I am happy to yield to the gentleman from Virginia.

Mr. PARRIS. Mr. Speaker, contained within this reconciliation bill is a very important provision that will make permanent the restriction on a portion of Federal highway assistance funds for States which fail to pass laws raising the drinking age for alcohol in their respective States to 21. Of all times of the year to take such action, the holiday season makes perhaps the most sense—a season during which, historically, hundreds of lives are taken at the hands of drunk drivers.

Mr. Speaker, we have all come to realize in the past several years there is a horror which exists on the streets and highways of our Nation. That horror is drunk driving. Those responsible for this carnage are individuals who drink and then get behind the wheel of an automobile without any consideration given to the rights and safety of others on the road. Not one of us is safe from this menace.

This is a grassroots problem—one which can most effectively be dealt with at that level. However, leadership must be provided at the Federal and State levels. The administration and the Congress had begun this process by requiring that the States raise their minimum drinking ages to 21 by 1987, or lose a percentage of their Federal highway assistance. So far, 35 States have enacted this minimum drinking age requirement, while 15 other States and the District of Columbia have not yet followed suit.

Mr. Speaker, I cannot understand the failure of these 15 States and, particularly, the District of Columbia to enact legislation to establish this uniform drinking age. It should not be reduced to a simple revenue issue—you cannot put a price tag on the lives of our youth—you cannot deny that our future is dying out there.

The action on the reconciliation bill not only makes it more difficult for the District of Columbia and those other 15 States to resist passage of drinking age legislation, it virtually guarantees that many of the States who have enacted the 21 drinking age will not revert to 18- or 19-year-old drinking ages now that the threat of Federal highway fund loss will not be lifted.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. BILIRAKIS].

Mr. BILIRAKIS. Mr. Speaker, as a conferee on certain parts of the reconciliation conference report before us tonight, I must express my dismay at many parts of said conference report. Admittedly, there are many good items that address the needs of the elderly and the poor; however, to say that the conference committee went overboard on certain items is to say the least. We are in the midst of the most difficult deficit situation this country has ever faced. Yet, during the conference, there was a reluctance to stop the creation of expensive new spending programs. I was particularly dismayed that the Energy and Commerce conferees had to make judgments on new expensive programs that we had never had hearings on. Additionally, on the provision pertaining to the annual calculation of the Federal medical assistance percentage, outright selfishness was exhibited. Rather than accept Senate language to provide for an annual, rather than biennial calculation of the Federal medical assistance percentage effective in 1988, an amendment was accepted to accelerate this date to 1987. Some of the States that will be the biggest losers under this acceleration are: Florida, $8.4 million; Georgia, $13.3 million; and Virginia, $8.2 million. Other losing States are Arizona, Maine, Minnesota, Missouri, New Hampshire, North Carolina, Ohio, Rhode Island, South Carolina, and South Dakota. Those States which stand to gain the most are Texas, $30 million; and Louisiana, $17 million.

Whether you like Medicaid or not, it is a reality. In my own State of Florida 45 percent of the Medicaid budget is devoted to care for the elderly, and is the major source of funds for long-term care. Approximately a third of Florida's Medicaid budget is spent on nursing home care. This loss of $8-plus million in funds becomes even more crucial when one considers that Florida leads the Nation in growth of the age 65-plus population. Even though language is contained in the conference report expressing my dissatisfaction with the acceleration, it isn't strong enough. It says the conferees agree that the committees of jurisdiction will explore ways to relieve the hardship that may be suffered by the States that will receive substantially less in matching payments as a result of this provision. Mr. Speaker, I deeply regret that I must vote against this package before us. However, I was sent to Washington to represent the people and this package is not representative of my constituents.

Mr. BARNES. Mr. Speaker, as a member of the House Budget Committee and a member of the conference committee, I strongly support enactment of the reconciliation bill. I am particularly pleased by the provision which makes permanent the incentives to States to adopt a minimum drinking age of 21, an issue for which I have been an advocate for much of my career in the House. This is a goal I have long worked for.

But, Mr. Speaker, I cannot support the Senate's outrageous tactics to try to force this House to accept the value added tax provision for the Superfund. The VAT is misguided and doesn't belong in this bill. It belongs in the Superfund conference to be discussed—and hopefully rejected—there. That is why I cannot vote to concur in the Senate amendment and why I must oppose the motion offered by the gentleman from Pennsylvania [Mr. GRAY] my chairman.

The House should stand firm against the VAT, and also stand for a rational and sensible legislative process.

Mr. SKELTON. Mr. Speaker, I want to take a few minutes to bring to the attention of this body my concern about the affect Medicare's prospective payment system for hospitals is having on the rural health-care system. As chairman of the congressional rural caucus, I feel obligated to raise these concerns because flaws in the PPS threaten the access of all rural Americans to high-quality health care, not just the access of senior citizens who depend on Medicare.

While we were assured that how a hospital would fare under the PPS would depend on how efficiently it was operated, 2 years of experience have made it abundantly clear that how a hospital fares under the current system depends in a large part on its location. With certain narrow exceptions, hospitals located outside metropolitan statistical areas are forced to accept substantially lower payments from Medicare than their urban counterparts. While theoretically there may have been some justification for different urban and rural payment rates, the actual payment differences that have resulted under this arbitrary classification scheme are incomprehensible. In many instances, the rural payment rates are not sufficient to allow even the most efficient hospitals to treat Medicare beneficiaries without incurring a loss.

I cannot overstate the threat unjustifiably low Medicare payments to rural hospitals poses to the access of rural Americans to health-care services. At a time when stress brought on by the depressed farm economy is adding to the already substantial health-care problems of rural America, the current system causes increased financial pressure on the cornerstone of the rural health care system. Because Medicare patients comprise a very large proportion of their caseloads, inadequate Medicare payments threaten the continued existence of many rural hospitals. Some have already closed, including one in my own district; others will surely follow unless corrective action is taken. To make matters worse, the closing of rural hospitals encourages physicians to leave the communities involved, exacerbating the physician shortage that already exists in much of rural America.

To those of us who were raised in rural areas and who are old enough to remember what it was like to be without reasonable access to necessary hospital services, this is a most serious situation. By allowing an adjustment in Medicare payments to rural hospitals of 100 beds or more that serve a disproportionately high number of poor and elderly, this bill will provide some relief. However, I urge members of the committee to more fully address the problems of rural hospitals, and other hospitals that are suffering unwarranted losses under the current system, next session by giving consideration to price-blending legislation like that which I have already introduced. I believe there is ample evidence to show that such legislation would make the PPD fairer for all hospitals, regardless of their locations, while maintaining the incentives that have helped slow the rate of increase in Medicare expenditures for hospital care.

Mr. RAHALL. Mr. Speaker, the conference report on H.R. 3128, the Deficit Reduction Amendment Act, before us today contains a most important compromise regarding the black lung excise tax.

As passed by the House, the black lung tax on coal would have been increased by 50 percent. The other body, however, proposed to end the automatic borrowing authority between the black lung trust fund and the Treasury.

Both of these positions were unacceptable to me, and to all of us concerned with the viability of the coal industry and the welfare of those individuals suffering from the crippling effects of black lung disease.

Because of this situation, members of the coal industry and the United Mine Workers of America formulated a compromise which I adopted and diligently pursued with those members on the Ways and Means Committee assigned to the revenue subconference on this legislation.

I am pleased to say the conferees accepted this compromise and that it is contained in H.R. 3128. The bill before us today incorporates that compromise largely due to the persistent efforts on its behalf by the gentleman from Florida, a member of the Committee on Ways and Means, SAM GIBBONS. To him, the coal industry owes a debt of gratitude. As for myself, I extend my deepest appreciation to SAM GIBBONS for his work and perserverance on this matter.

Also to be commended for accepting this compromise is the distinguished chairman of the Committee on Ways and Means, DAN ROSTENKOWSKI, as well as the other House conferees.

The black lung provisions of H.R. 3128 provide for a 10-percent increase in the coal excise tax—rather than the 50-percent originally proposed by the House—and a 5-year forgiveness of the interest payments on the indebtedness of the black lung disability trust fund. In addition, the proposal of the other body to end the borrowing authority between the trust fund and the Treasury was dropped.

Mr. Speaker, this is a great victory for the coal industry and coal labor. It represents an attempt by coal management and labor to meet the responsibilities for achieving solvency in the black lung disability trust fund, which is currently $1.5 billion in debt, at the lowest possible cost to an industry which is currently in a depressed state.

Mr. HAWKINS. Mr. Speaker, I rise in support of the conference report on H.R. 3128. Title XI contains provisions urgently needed to put the Pension Benefit Guaranty Corporation [PBGC], the agency which insures that workers get their private pensions when their companies are in financial difficulty, back on a sound financial footing. The bill would strengthen the PBGC plan termination insurance program in two significant ways. First, the premium that single-employer plans pay the PBGC is raised from $2.60 per year per plan participant to $8.50, effective January 1, 1986. Second, the single-employer program is restructured to limit access to PBGC assistance only to those cases in which worker's pensions are jeopardized because their employers are in genuine financial difficulty.

The termination insurance program is administered by a self-financing Government corporation, the Pension Benefit Guaranty Corporation. The PBGC was created in 1974 to assure that pension benefits earned by workers would be paid even if the employer terminated the plan in an underfunded condition. The program covers about 30 million retired and working Americans and is financed solely by premiums paid by covered plans and by liability paid to the PBGC by employers that terminate underfunded plans.

Both the premium rate—currently $2.60 per plan participant—and the employer liability rules under current law have proven inadequate. The program is now responsible for benefit payments to about 160,000 current and future retirees in about 1,100 terminated plans and has a deficit of over $1 billion. The conference has agreed on a premium increase to $8.50 effective January 1, 1986, and reforms to protect this program against unwarranted claims.

The bill also provides an explicit provision on the important issue of transactions intended to evade liability to the PBGC for an underfunded plan. Although there is not an explicit provision under current law regarding evasive transactions intended to insulate an employer from liability, current law does not permit such abusive shifting of liability to the insurance program. In the case of *Solar* v. *PBGC*, 504 F. Supp. 1116 (D.C.N.Y. 1981), affirmed 666 F.2d 28 (2nd Cir. 1981), the court held that a transaction intended to avoid liability should be disregarded for title IV liability purposes. See also III Legislative History of ERISA of 1974 at 4741–42 (remarks of Sen. Williams); *Nachman Corp.* v. *PBGC*, 592 F.2d 947 (7th Cir. 1979), aff'd., 446 U.S. 359 (1980).

The PBGC and the courts have always been expected to look at the substance of a transaction rather than its form, and to disregard transactions where the substance, viewed in light of the purposes of title IV, indicate that a company improperly transferred its pension obligations to the insurance program. See joint report of the Senate committee, 126 Cong. Rec. 510, 117 (daily ed. July 29, 1980). The following is an example of such a transaction:

Company P has a division or subsidiary S whose employees are covered by the S pension plan. At the time of the transaction, the S plan has unfunded benefits. P sells the stock or assets of S to B, and transfers all or part of the unfunded benefits in the S plan to B's plan. B is a company that, after the transaction, does not have a reasonable prospect of funding the benefits. B's plan later terminates. At the time of the termination, the plan does not have sufficient assets to provide all PBGC-guaranteed benefits. Under current law, when substance rather than form is considered, the transaction is really a delayed termination of the transferred benefits; the seller is not exempted from title IV liability merely because the transaction, in form, provides for continuation of the plan. Under both the bill and current law, company P is liable.

Revision of the employer liability rules is also an essential part of this bill. As under current law, the bill provides for liability for unfunded guaranteed benefits, up to 30 percent of the employer's net worth, with a tax priority status in bankruptcy proceedings. The bill improves the PBGC's recoveries over current law by creating additional liability equal to the excess, if any, of 75 percent of unfunded guaranteed benefits over 30 percent of the employer's net worth. This additional liability has general unsecured status in bankruptcy proceedings. As under current law, PBGC, as plan trustee, collects unpaid contributions due the plan. The bankruptcy status of PBGC's claim for these contributions is the same under the bill as under current law; unpaid contributions that accrue after a bankruptcy petition have administrative expense priority; those that accrue within 180 days before the petition have employee benefit status—subject to the $2,000 per employee limit on priority employee wage and benefit claims—and remaining unpaid contributions have general unsecured status.

Finally, the bill contains an explicit provision requiring that PBGC not proceed with a plan termination if the termination would violate the terms and conditions of an existing collective bargaining agreement. The enactment of this provision is in no way meant to diminish the already clear meaning of section 404(a)(1)(d) of Employee Retirement Income Security Act of 1974 [ERISA] which expressly requires that a fiduciary's duties be discharged "in accordance with the documents and instruments governing the plan * * *." Rather, this provision is an endorsement of judicial decisions such as *Terones* v. *Pacific States Steel Corp.*, 526 F. Supp. 1350 (N.D. Calif. 1981), holding that a company cannot unilaterally terminate a collectively bargained pension plan, when such termination is in violation of the terms of any agreement between the parties.

Because the bill the conferees adopted is similar to the Committee on Education and Labor's provisions contained in title III of H.R. 3500, for purposes of determining congressional intent in adopting those provisions, the most authoritative source of legislative history on the single-employer termination insurance reforms can be found in the report on H.R. 3500, the Omnibus Budget Reconciliation Act of 1985 (H. Rept. 99–300, 99th Congress, 1st session, pp. 278–320).

The Committee on Education and Labor has been working for over 4 years on these issues. We are delighted that the conference report before the House today contains provisions to strengthen the PBGC program established under title IV of ERISA. I want to take this opportunity to commend the members of the Subcommittee on Labor-Management Relations, especially its chairman, Congressman BILL CLAY, and the ranking member, Congresswoman MARGE ROUKEMA, for their tireless efforts to get this legislation passed. In addition, thanks must go to the ranking Republican member of the full committee, Congressman JIM JEFFORDS, for his assistance in assuring that this critical worker protection legislation was considered this session. Finally, I want to thank the conferees for their diligent work in producing the bill before us today. We are most appreciative of the cooperation we received from or colleagues on the Committees on Ways and Means and Judiciary, as well as the Senate Committees on Labor and Human Resources and Finance.

The report on H.R. 3500 cited above also contains the committee's views on the health insurance continuation coverage provisions found in title X of bill before us today. We are pleased that the conferees have included provisions in the bill that require group health plans to offer a continuation option to certain groups of qualified beneficiaries, including widows and dependent children, divorced spouses and dependent children, Medicare-ineligible spouses and dependent children, the unemployed—and those who have a reduction of hours such that they would lose health coverage—and dependent children who no longer qualify under the plan. This is an important step forward toward meeting the pressing need for those groups to have available continued access to affordable medical care.

I urge support of the conference report.

Mr. ROSTENKOWSKI. Mr. Speaker, the provisions of law within the jurisdiction of the Committee on Ways and Means contained in H.R. 3128 represent many months of hard work. The Medicare provisions save some $11.2 billion over 3 years and were the result of bipartisan efforts of the committee. These provisions contain some important reforms in hospital reimbursement.

In AFDC, the conference agreement mandates AFDCP–UP coverage in all States. This will help some of the neediest children in this Nation a 2-year moratorium is established on the collection of fiscal sanctions.

The Trade Adjustment Assistance Program is reauthorized for 6 additional years. The Customs Service authorization for the number of personnel is increased, which will greatly strengthen the enforcement capability of the service.

The current cigarette excise tax is permanently extended. The House upheld its position on coverage of State and local employees, and consequently only new employees will be covered.

With the exception of the Superfund revenue provisions, this is an excellent agreement which saves some $25.5 billion over the next 3 years.

Mr. ROGERS. Mr. Speaker, I would like to bring to the attention of my colleagues to vitally important portions of the bill before us this evening.

First, the bill includes the legislative culmination of many months of negotiation among tobacco growers, cigarette manufacturers, tobacco congressmen and the committees of jurisdiction. These provisons provide for the drawdown of existing tobacco stocks, so we can remove this ominous burden from our tobacco growers' backs and bring the no net cost fees back down to a reasonable level.

It establishes a new system for setting tobacco marketing quotas, requires manufacturers to share in the no net cost fees now paid only by growers, and most importantly, limits the maximum reductions in marketing quotas to 6 percent per year for the next 4 years, and to 10 percent in subsequent years. This last provision is especially important, representing a substantial improvement over current year and offering our American tobacco growers some measure of protection from imports.

Tobacco is the only commodity in the United States which pays its own program at USDA. The legislation before us today continues that system, but significantly improves it by requiring the manufacturers to join in bearing these costs which up until now have been paid only by the tobacco growers.

Second, I would like to bring to my colleagues' attention an important provision relating to black lung taxes. As my colleagues know, the House version of the bill included a 50-percent increase in black lung taxes, an increase which if enacted would have caused serious hardship for American coal companies and seriously worsened their competitive position in the world market.

The conference agreement includes a compromise provision, calling for only a 10-percent increase in the black lung taxes, and enabling the black lung trust fund to remain solvent instead through a moratorium on interest payments made to Treasury.

While I would have preferred no increase at all, this is a masterful compromise which will provide for the financial wellbeing of the trust fund without placing an onerous burden on our coal operators.

I commend the members of the conference committee, most notably Mr. ROSE and Mr. HOPKINS for their diligent efforts on the tobacco agreement, and Mr. ROSTENKOWSKI and Mr. DUNCAN for their effective assistance on the black lung compromise. I urge my colleagues to support this conference agreement.

Mr. RINALDO. The reconciliation budget package (H.R. 3128) contains major spending reductions and will help to reduce the Federal deficit.

But there are other items which have no budgetary impact and which do not belong in or near this piece of legislation.

In the explanatory material accompanying H.R. 3128, there are extraneous remarks dealing with the Federal Communication Commission's local cross-ownership rules. This material is not part of the act, and is strictly superfluous.

I object to addressing such a serious matter in this fashion.

This is not a new issue. We have had, and continue to have, opportunities to deal responsibly with this question. Legislation has been introduced. The Subcommittee on Telecommunications, however, of which I am the ranking Republican member, has not held any hearings or markups on the topic: There has not even been any formal discussion by our Members regarding this question.

The FCC cross-ownership rules are designed to limit concentration of control of mass media. Generally the rules ban certain combinations, such as an ownership or control of both a radio and television station in the same market.

The Commission has granted only one permanent waiver of its local ownership rules in the last few years that did not involve a clearly de minimis overlap for the rules. In that case, involving the Capital Cities/ABC merger, it granted the waiver only after careful consideration and after the FCC fully explained its rationale.

All other recent waivers have been granted for a limited period of time, generally 18 months. Although in previous administrations such waivers had been granted for as long as 3 years. Even when considering temporary waivers, the FCC has based its decisions on public interest factors and has not rested its decisions on purely private considerations. In view of the records of these proceedings, including the showings made by the parties and the other public interest considerations set out by the FCC, it is clear that the FCC has carefully scrutinized each waiver request and determined that the applicants had provided a clear showing of the need for such waivers. In so doing, the FCC has demonstrated serious concern that the purpose of the local ownership rules be given full and appropriate weight.

The language in the report appears to be a general restatement of the existing legal standard in this area as well as the present practice of the FCC and, therefore, does not impose any different or additional obligations on the FCC.

Mr. DASCHLE. Mr. Speaker, I want to express my strong support for a provision of H.R. 3128, Deficit Resolution Amendments of 1985, which will establish an Advisory Committee on Native American Veterans in the Veterans' Administration. The purpose of this committee will be to examine and evaluate programs and other activities of the VA with respect to the needs of Native American veterans, including American Indian veterans. Special emphasis will be given to health care, rehabilitation, outreach, employment, and other programs.

Continuing the traditions of their ancestors, many American Indians served with distinction in our Nation's Armed Forces during World War I and II, the Korean conflict and during the Vietnam era. According to the 1980 census, 44,500 American Indians served during World War II, 29,700 during the Korean conflict, and 73,681 during the Vietnam era, and it has been estimated that an astonishing 23 to 26 percent of all Indians are also veterans.

I provide this background so that all of us in this body may understand the depth of patriotism demonstrated by American Indians during times of national peril. In spite of this long history of Indian participation in our Nation's military conflicts, no major scientific study regarding veterans has identified American Indian veterans as a specific group and no assessment of their particular needs has ever been conducted.

I believe that we might recognize the contribution made by American Indians and other Native Americans during times of war and the effect those wars may have had on them after their return home. Vice President Hubert Humphrey made the following observation,

> It was once said that the moral test of Government is how that Government treats those who are in the dawn of life—the children; those who are in the twilight of life—the elderly; and those who are in the shadows of life—the sick, the needy and the handicapped.

The establishment of the Advisory Committee on Native American Veterans will enable us to more accurately evaluate the status of these veterans who have so faithfully served in our Nation's armed services. Are they in the shadows of life? Do they need vital assistance that they are not now receiving? Have their particular needs been overlooked in the past? If so, we as a nation have a particular obligation to assist American Indians and other Native American veterans. The findings of the advisory committee will direct us to the actions we must take.

Membership on the advisory committee will consist of the Secretary of Labor—or a representative of the Secretary of Labor designated by the Secretary after consultation with the Assistant Secretary of Labor for Veterans' Employment—the Chief Medical Director and Chief Benefits Director of the Veterans' Administration; and members appointed by the Administrator from the general public including representatives of veterans who are Native Americans, including American Indians and Alaska Natives and individuals who are recognized authorities in the fields pertinent to the needs of Native American veterans.

The legislation will also permit the Administrator of Veteran's Affairs to invite representatives of other departments and agencies of the Federal Government to participate in the meetings and other activities of the committee. It is my expectation that representatives of the Bureau of Indian Affairs, the Indian Health Service and other agencies concerned with issues relating to American Indians will be included by the Administrator in advisory committee activities.

The advisory committee will submit reports to the VA Administrator on November 1, 1986, and November 1, 1987, regarding its findings. On January 1, 1987, and January 1, 1988, the Administrator will transmit to the Congress the committee reports together with comments and recom-

mendations the Administrator considers appropriate. The committee will terminate 90 days after the Administrator submits the final report. There are no new costs associated with the establishment of this advisory committee.

As the original proponent of this measure, I want to again express my enthusiasm and full support for the establishment of the Advisory Committee on Native American Veterans. I also want to thank SONNY MONTGOMERY, chairman of the full committee, JOHN PAUL HAMMERSCHMIDT, ranking minority member of the full committee, DOUG APPLEGATE, chairman of the Subcommittee on Compensation, Pension and Insurance, and JERRY SOLOMON, ranking minority member of that subcommittee, for their strong support for this proposal when it was considered as an amendment to H.R. 1538 and later to H.R. 3500. I believe the needs of Native American veterans have been overlooked too long, and this advisory committee will go a long way toward righting that wrong.

□ 2055

Mr. LATTA. Mr. Speaker, I yield back the balance of my time.

Mr. DERRICK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ECKART of Ohio. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 205, nays 151, not voting 78, as follows:

[Roll No. 479]

YEAS—205

Akaka
Alexander
Anderson
Annunzio
Applegate
AuCoin
Badham
Bates
Bedell
Beilenson
Bennett
Bereuter
Berman
Bilirakis
Boehlert
Boner (TN)
Bonior (MI)
Boucher
Brown (CA)
Broyhill
Burton (CA)
Byron
Carr
Chandler
Chappell
Coats
Cobey
Coble
Collins
Conte
Cooper
Coyne
Daschle
Daub
Davis
DeLay
Dellums
Derrick
DeWine
Dicks
Donnelly
Dorgan (ND)
Downey
Duncan
Durbin
Dwyer
Dyson
Edgar
Edwards (CA)
Evans (IA)
Evans (IL)
Fascell
Fawell
Fish
Foley
Ford (TN)
Frank
Frenzel
Gejdenson
Gingrich
Goodling
Green
Guarini
Gunderson
Hamilton
Hammerschmidt
Hawkins
Hayes
Henry
Hertel
Hiler
Horton
Howard
Hoyer
Hughes
Hyde
Ireland
Jeffords
Jones (TN)
Kanjorski
Kastenmeier
Kemp
Kennelly
Kildee
Kleczka
Lantos
Latta
Leach (IA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (FL)
Lightfoot
Lloyd
Lott
Lowry (WA)
Luken
Lundine
Lungren
Mack
MacKay
Madigan
Markey
Martin (IL)
Martin (NY)
Matsui
Mavroules
Mazzoli
McCain
McCloskey
McCollum
McDade
McEwen
McHugh
McKernan
McMillan
Meyers
Mica
Michel
Mikulski
Miller (WA)
Mineta
Mitchell
Moakley
Molinari
Moody
Morrison (WA)
Mrazek
Natcher
Neal
Nelson
Nowak
O'Brien
Oberstar
Obey
Owens
Oxley
Parris
Pashayan
Pease
Penny
Pepper
Perkins
Petri
Porter
Pursell
Rangel
Regula
Reid
Robinson
Rodino
Rogers
Rostenkowski
Roth
Rowland (CT)
Rudd
Sabo
Savage
Scheuer
Schneider
Schroeder
Seiberling
Sensenbrenner
Shaw
Shelby
Shuster
Skelton
Smith (FL)
Smith (NE)
Smith (NJ)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Snyder
Solarz
Solomon
Spratt
St Germain
Stark
Studds
Tauke
Taylor
Torres
Torricelli
Towns
Traficant
Udall
Valentine
Vento
Volkmer
Walker
Weber
Weiss
Wheat
Whitley
Wolf
Wolpe
Wortley
Wright
Wyden
Yates
Yatron
Young (FL)

NAYS—151

Andrews
Anthony
Archer
Armey
Bartlett
Barton
Bateman
Bentley
Bliley
Boggs
Borski
Bosco
Boulter
Breaux
Brooks
Brown (CO)
Bruce
Bryant
Burton (IN)
Bustamante
Callahan
Campbell
Carney
Carper
Chappie
Cheney
Clinger
Coelho
Coleman (MO)
Combest
Coughlin
Courter
Craig
Crane
Dannemeyer
Darden
de la Garza
Dingell
DioGuardi
Dornan (CA)
Dreier
Dymally
Eckart (OH)
Eckert (NY)
Edwards (OK)
Emerson
English
Fazio
Feighan
Fiedler
Fields
Foglietta
Fowler
Franklin
Frost
Gallo
Gekas
Gilman
Glickman
Gonzalez
Gradison
Gray (PA)
Grotberg
Hall, Ralph
Hansen
Hartnett
Hatcher
Hefner
Hendon
Hopkins
Huckaby
Hunter
Hutto
Jacobs
Jenkins
Johnson
Jones (NC)
Jones (OK)
Kasich
Kolbe
Kostmayer
Kramer
Lagomarsino
Leath (TX)
Lent
Lewis (CA)
Livingston
Long
Lowery (CA)
Lujan
Manton
McCandless
McCurdy
Miller (OH)
Mollohan
Montgomery
Moore
Moorhead
Murtha
Myers
Nielson
Oakar
Ortiz
Packard
Pickle
Rahall
Ray
Ridge
Rinaldo
Ritter
Roberts
Roe
Roemer
Rose
Roukema
Rowland (GA)
Saxton
Schaefer
Schuette
Schulze
Shumway
Siljander
Sisisky
Skeen
Slattery
Slaughter
Smith (IA)
Spence
Staggers
Stangeland
Stenholm
Strang
Stratton
Stump
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauzin
Thomas (CA)
Thomas (GA)
Vander Jagt
Visclosky
Vucanovich
Waxman
Whittaker
Wilson
Wise
Young (AK)

NOT VOTING—78

Ackerman
Addabbo
Aspin
Atkins
Barnard
Barnes
Bevill
Biaggi
Boland
Bonker
Boxer
Broomfield
Chapman
Clay
Coleman (TX)
Conyers
Crockett
Daniel
Dickinson
Dixon
Dowdy
Early
Erdreich
Flippo
Florio
Ford (MI)
Fuqua
Garcia
Gaydos
Gephardt
Gibbons
Gordon
Gray (IL)
Gregg
Hall (OH)
Heftel
Hillis
Holt
Hubbard
Kaptur
Kindness
Kolter
LaFalce
Lehman (CA)
Lipinski
Loeffler
Marlenee
Martinez
McGrath
McKinney
Miller (CA)
Monson
Morrison (CT)
Murphy
Nichols
Olin
Panetta
Price
Quillen
Richardson
Roybal
Russo
Schumer
Sharp
Sikorski
Stallings
Stokes
Traxler
Walgren
Watkins
Weaver
Whitehurst
Whitten
Williams
Wirth
Wylie
Young (MO)
Zschau

□ 2105

Messrs. McCAIN, CHAPPIE, and RINALDO changed their votes from "yea" to "nay."

Messrs. McCAIN, EVANS of Iowa, McMILLAN, COBLE, and COBEY changed their votes from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to the provisions of House Resolution 349, the conference report on H.R. 3128 is rejected, and the House recedes from its amendment to the Senate amendment and concurs with an amendment inserting in lieu of the Senate amendment an amendment consisting of the text of the conference report, with the following modifications: Strike out subtitle B of title XIII.

REQUEST TO CONSIDER H.R. 3992, EXTENSION OF CERTAIN TAX PROVISIONS FOR A TEMPORARY PERIOD

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 3992) to amend the Internal Revenue Code of 1954 to extend for a temporary period certain tax provisions which would otherwise expire at the end of 1985, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

□ 2120

Mr. WALKER. Reserving the right to object, Mr. Speaker.

Mr. Speaker, I reserve the right to object in order to ask the distinguished chairman of the Committee on Ways and Means just exactly which bill this is. Is this the one that does a number of different extensions, but also involves some changes in present law including the provisions, some provisions that were passed by the House in 3838?

Mr. **ROSTENKOWSKI.** Yes, the gentleman is correct.

Mr. **WALKER.** So, in other words, we are passing new provisions in the Tax Code if we in fact agree to this particular bill.

Mr. **ROSTENKOWSKI.** If the gentleman will yield.

Mr. **WALKER.** I am glad to yield to the gentleman.

Mr. **ROSTENKOWSKI.** The gentleman would like to point out that unless we pass something, there will be no extensions as of January 1.

Mr. **WALKER.** Well, further reserving the right to object, I do not think that there would be any problem on this side of the aisle for passing a bill that would be a simple extension of all these present programs.

However, there is concern on this side of the aisle with passing provisions that would make new law, and/or begin the enactment of 3838 before the Senate has even considered it.

I would feel constrained to object to any resolution that moves us in that particular direction. If we do a simple extension of the present code, I think that would be perfectly acceptable to me, and to a number of other Members who have similar concerns.

Mr. **ROSTENKOWSKI.** Well, if the gentleman, on his reservation, will allow me to explain just what the bill presently before the House will do, I think we can clarify a lot of language.

The gentleman would also like to point out that unless this legislation is passed, there is a revenue loss incurred; and that is one of the reasons why it is the gentleman from Illinois' opinion that should we be able to pass this, we then give an opportunity to the Senate to work on the tax reform legislation.

Mr. **WALKER.** Further reserving the right to object, Mr. Speaker, I think it is incumbent upon us on this side, in these kinds of circumstances, to be reasonable. I would suggest to the majority it is also incumbent to be reasonable.

To come here at the 11th hour and try to pass new law, and make changes in the Tax Code at the 11th hour, it seems to me is unreasonable. What we will accept as a reasonable solution is the fact that you take and you extend the present code as it now exists; we do not lose the revenue that way, and we assert ourselves in a way which assures that we do retain the present code.

That seems to me to be an entirely reasonable proposition, given the lateness of the hour and the situation we are in.

I will be glad to yield to the gentleman from Mississippi.

Mr. **LOTT.** I understand the gentleman is asking unanimous consent on this, but the gentleman does have rules that were reported by the Committee on Rules on this and two other measures that you might ask unanimous consent on?

Mr. **ROSTENKOWSKI.** The gentleman is correct.

Mr. **LOTT.** To save our Members time so that we will not drag this out, Mr. Speaker, I object.

The **SPEAKER.** Objection is heard.

PROVIDING FOR CONSIDERATION OF H.R. 3992, EXTENSION OF CERTAIN TAX PROVISIONS FOR A TEMPORARY PERIOD

Mr. **BONIOR** of Michigan, from the Committee on Rules, reported the following privileged resolution (H. Res. 350, Rept. No. 99-455) which was referred to the House Calendar and ordered to be printed.

H. Res. 350

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the bill (H.R. 3992) to amend the Internal Revenue Code of 1954 to extend for a temporary period certain tax provisions which would otherwise expire at the end of 1985, and for other purposes, the bill shall be considered as having been read, all points of order against the bill and against its consideration are hereby waived, debate on the bill shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means or their designees, and the previous question shall be considered as ordered on the bill to final passage without intervening motion except one motion to recommit.

Mr. **BONIOR** of Michigan. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 350 and ask for its immediate consideration.

The Clerk will report the resolution.

The Clerk read the resolution.

The **SPEAKER** pro tempore. The question is, Will the House now consider House Resolution 350?

The question was taken.

Mr. **WALKER.** Mr. Speaker, on that, I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 210, nays 142, not voting 82, as follows:

[Roll No. 480]

YEAS—210

Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
AuCoin
Bateman
Bates
Bedell
Beilenson
Bennett
Berman
Boggs
Boner (TN)
Bonior (MI)
Borski
Boucher
Brooks
Brown (CA)
Broyhill
Bruce
Bryant
Burton (CA)
Bustamante
Byron
Campbell
Carper
Carr
Chappell
Coelho
Collins
Conte
Cooper
Coyne
Darden
Daschle
de la Garza
Dellums
Derrick
Dicks
Dingell
Donnelly
Dorgan (ND)
Downey
Duncan
Durbin
Dwyer
Dymally
Dyson
Edgar
Edwards (CA)
Evans (IL)
Fascell
Fawell
Fazio
Feighan
Foley
Ford (TN)
Fowler
Frank
Frenzel
Frost
Gejdenson
Gilman
Glickman
Gonzalez
Gradison
Gray (PA)
Green
Guarini
Hamilton
Hatcher
Hawkins
Hayes
Hefner
Hendon
Hertel
Hopkins
Horton
Howard
Hoyer
Hughes
Hutto
Jacobs
Jeffords
Jenkins
Johnson
Jones (NC)
Jones (OK)
Jones (TN)
Kanjorski
Kennelly
Kildee
Kleczka
Kostmayer
Lantos
Latta
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Livingston
Lloyd
Lowry (WA)
Luken
Lundine
MacKay
Manton
Markey
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McEwen
McHugh
McKernan
McMillan
Meyers
Mica
Mikulski
Miller (OH)
Mineta
Mitchell
Moakley
Molinari
Montgomery
Moody
Moore
Mrazek
Murtha
Natcher
Neal
Nelson
Nowak
Oakar
Oberstar
Obey
Ortiz
Owens
Pease
Penny
Pepper
Perkins
Pickle
Rahall
Rangel
Ray
Reid
Rinaldo
Ritter
Robinson
Rodino
[redacted]
[redacted]
Rostenkowski
Rowland (CT)
Rowland (GA)
Rudd
[redacted]
Savage
Scheuer
Schneider
Schroeder
Seiberling
Sisisky
Skelton
Slattery
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Solarz
Spence
Spratt
St Germain
Staggers
Stark
Stratton
Studds
Sundquist
Swift
Synar
Tallon
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Udall
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Waxman
Weiss
Wheat
Whitley
Whittaker
Wilson
[redacted]
Wolpe
Wright
Wyden
Yates

NAYS—142

Archer
Armey
Badham
Bartlett
Barton
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Bosco
Boulter
Breaux
Brown (CO)
Burton (IN)
Callahan
Carney
Chandler
Chappie
Cheney
Clinger
Coats
Cobey
Coble
Coleman (MO)
Combest
Coughlin
Craig
Crane
Dannemeyer
Daub
Davis
DeLay
DeWine
DioGuardi
Dornan (CA)
Dreier
Eckart (OH)
Eckert (NY)
Edwards (OK)
Emerson
English
Evans (IA)
Fiedler
Fields
Fish
Franklin
Gallo
Gekas
Gingrich
Goodling
Grotberg
Gunderson
Hall, Ralph
Hammerschmidt
Hansen
Hartnett
Henry
Hiler
Huckaby
Hunter
Hyde
Kasich
Kemp
Kolbe
Kramer
Lagomarsino
Leach (IA)
Leath (TX)
Lewis (CA)
Lewis (FL)
Lightfoot
Long
Lott
Lowery (CA)
Lujan
Lungren
Mack
Madigan
Martin (IL)
Martin (NY)
McCain
McCandless
McCollum
McDade
Michel
Miller (WA)
Mollohan
Moorhead
Morrison (WA)
Myers
Nielson
O'Brien
Oxley
Packard
Parris
Pashayan
Petri
Porter
Regula
Ridge
Roberts
Roemer
Rogers
Roth

BEST COPY AVAILABLE

Roukema
Saxton
Schaefer
Schuette
Schulze
Sensenbrenner
Shaw
Shelby
Shumway
Shuster
Siljander
Skeen
Slaughter
Smith (NE)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snyder
Solomon
Stangeland
Stenholm
Strang
Stump
Sweeney
Swindall
Tauke
Tauzin
Taylor
Thomas (CA)
Vucanovich
Walker
Weber
Wolf
Wortley
Yatron
Young (AK)
Young (FL)

NOT VOTING—82

Ackerman
Addabbo
Atkins
Barnard
Barnes
Bevill
Biaggi
Boland
Bonker
Boxer
Broomfield
Chapman
Clay
Coleman (TX)
Conyers
Courter
Crockett
Daniel
Dickinson
Dixon
Dowdy
Early
Erdreich
Flippo
Florio
Foglietta
Ford (MI)
Fuqua
Garcia
Gaydos
Gephardt
Gibbons
Gordon
Gray (IL)
Gregg
Hall (OH)
Heftel
Hillis
Holt
Hubbard
Ireland
Kaptur
Kastenmeier
Kindness
Kolter
LaFalce
Lehman (CA)
Lipinski
Loeffler
Marlenee
Martinez
McGrath
McKinney
Miller (CA)
Monson
Morrison (CT)
Murphy
Nichols
Olin
Panetta
Price
Pursell
Quillen
Richardson
Roybal
Russo
Schumer
Sharp
Sikorski
Stallings
Stokes
Traxler
Walgren
Watkins
Weaver
Whitehurst
Whitten
Williams
Wirth
Wylie
Young (MO)
Zschau

□ 2130

Mr. **PASHAYAN** changed his vote from "yea" to "nay."

Messrs. **BATEMAN, RITTER, WHITTAKER, ROWLAND** of Connecticut, **LIVINGSTON, JEFFORDS** and **TALLON** changed their votes from "nay" to "yea."

So (two-thirds not having voted in favor thereof) the House refused to consider House Resolution 350.

The result of the vote was announced as above recorded.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 1538. An act to amend title 38, United States Code, to provide a 3.4 percent increase in the rates of compensation and of dependency and indemnity compensation (DIC) paid by the Veterans' Administration, and for other purposes.

□ 2145

REQUEST FOR CONSIDERATION OF SENATE AMENDMENT TO H.R. 2466, MAKING MISCELLANEOUS CHANGES IN LAWS AFFECTING U.S. COAST GUARD

Mr. **JONES** of North Carolina. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2466) to make miscellaneous changes in laws affecting the U.S. Coast Guard, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert:

That subtitle II of title 46, United States Code, is amended as follows:

(1) In section 2101(14)(C), strike "Material" and substitute "Materials".

(2) Section 2101(21) is amended as follows:

(A) In subclause (A)(ii), strike "crewmember." and substitute "crewmember or other individual engaged in the business of the vessel who has not contributed consideration for carriage on board the vessel.".

(B) Strike subclause (B)(v)–(vii) and substitute the following:

"(v) a guest on board a vessel being operated only for pleasure who has not contributed consideration for carriage on board; or

"(vi) an individual on board a towing vessel of at least 50 gross tons who has not contributed consideration for carriage on board.".

(C) At the end, add the following new subclause:

"(F) on a sailing school vessel, means an individual carried on the vessel except—

"(i) the owner or representatives of the owner;

"(ii) the master or a crewmember engaged in the business of the vessel who has not contributed consideration for carriage and who is paid for services;

"(iii) an employee of the owner of the vessel engaged in the business of the owner, except when the vessel is operating under a demise charter;

"(iv) an employee of the demise charterer of the vessel engaged in the business of the demise charterer;

"(v) a guest on board the vessel who has not contributed consideration for carriage on board; or

"(vi) a sailing school instructor or sailing school student.".

(D) Strike "or a sailing school vessel," in clause (B).

(3) In section 3302(i)(5), strike "charter" and substitute "charterer".

(4) At the end of section 3302, add the following new subsection:

"(k) Only the boiler, engine, and other operating machinery of a steam vessel that is a recreational vessel of not more than 65 feet overall in length are subject to inspection under section 3301(9) of this title.".

(5)(A) Section 3304 is amended as follows:

(i) In the section catchline, strike "Carrying" and substitute "Transporting".

(ii) In subsection (a), strike "carrying cargo that carries" and "vessel." and substitute "transporting cargo that transports" and "vessel if the vessel is otherwise subject to inspection under this chapter.", respectively.

(iii) In subsection (b), strike "Before an individual in addition to the crew is carried" and substitute "Except when subsection (e) of this section applies, before an individual in addition to the crew is transported".

(iv) In subsection (c), strike "The privilege" and substitute "A privilege".

(v) Add at the end the following new subsection:

"(e) The Secretary may by regulation allow individuals in addition to the crew to be transported in an emergency or under section 2304 of this title.".

(B) In item 3304 in the analysis of chapter 33, strike "Carrying" and substitute "Transporting".

(6) In section 3318(f), before clause (1), strike "then" wherever it appears and substitute "than".

(7)(A) Section 3503 is amended as follows:

(i) Insert "(a)" at the beginning of the section.

(ii) Strike the last sentence and substitute "Before November 1, 1993, this section does not apply to a vessel in operation before January 1, 1968, and operating only on the inland rivers.".

(iii) Add at the end the following:

"(b)(1) When a vessel is exempted from the fire-retardant standards of this section—

"(A) the owner or managing operator of the vessel shall notify prospective passengers that the vessel does not comply with applicable fire safety standards due primarily to the wooden construction of passenger berthing areas;

"(B) the owner or managing operator of the vessel may not disclaim liability to a passenger for death, injury, or any other loss caused by fire due to the negligence of the owner or managing operator; and

"(C) the penalties provided in section 3504(c) of this title apply to a violation of this subsection.

"(2) The Secretary shall prescribe regulations under this subsection on the manner in which prospective passengers are to be notified.".

(B) Until the regulations required by clause (7) of this section become effective, the owner or managing operator shall notify prospective passengers in all promotional literature and on each ticket that the vessel does not comply with those standards due primarily to the wooden construction of passenger berthing areas.

(8) In section 3714(a)(4), strike "charter" and substitute "charterer".

(9) Section 4308 is amended by striking "operator" wherever it appears and substituting "individual in charge".

(10) In section 7111, strike "Part" and substitute "part".

(11) In section 7312(e), strike "able seaman-limited" and substitute "able seamen-limited".

(12) Section 8104(k) is amended by striking "watchers" and substituting "watches".

(13) In section 8502(a)(4)(A), strike "Part" and substitute "part".

(14) Chapter 89 is amended as follows:

(A) In item 8903 in the chapter analysis, strike "Uninspected" and substitute "Self-propelled, uninspected".

(B) In the catchline of section 8903, strike "Uninspected" and substitute "Self-propelled, uninspected".

(C) In the text of section 8903, strike "An" and substitute "A self-propelled,".

(15) In section 10709(a)(1), before clause (A)—

(A) strike "then $1,500 in value, and" and substitute "than $1,500 in value, the court,"; and

(B) strike "wages, the court" and substitute "wages,".

(16) Section 12122(a) is amended by adding at the end the following sentence: "Each day of a continuing violation is a separate violation.".

(17) In section 13102(a)(4), strike "coordinate carrying the State" and substitute "coordinate carrying out the State".

(18) Section 13104(b) is amended by inserting after "Secretary" the words "for State recreational boating safety programs".

(19) Chapter 111 is amended as follows:

(A) At the end of the chapter analysis, add the following new item:

"11112. Master's lien for wages.".

(B) At the end of the chapter, add the following new section:

"§ 11112. Master's lien for wages

"The master of a documented vessel has the same lien against the vessel for the master's wages and the same priority as any other seaman serving on the vessel.".

Sec. 2. (a) The Coast Guard may enter into a lease in excess of one fiscal year to acquire a site on the State pier in New Bedford, Massachusetts, for constrcution of maintenance assistance team and vessel support facilities on that pier.

(b) Any lease under this section is effective only to the extent that amounts are provided for in appropriations laws.

(c) Notwithstanding section 322 of the Act of June 30, 1932 (40 U.S.C. 278a), and beginning in fiscal year 1986, the Coast Guard may spend appropriated amounts for the construction of fixed facilities and improvements on that portion of the State pier leased from Massachusetts for the use of a maintenance assistance team and Coast Guard vessels.

Sec. 3. Notwithstanding any other law, the Coast Guard Yard, Curtis Bay, Maryland, and the Coast Guard Aircraft Repair and Supply Center, Elizabeth City, North Carolina, are exempt from statutory and administrative personnel ceilings through September 30, 1988.

Sec. 4. The body of water known as Lawyer's Ditch located at block 5000 in the city of Newark, County of Essex, New Jersey, is declared to be a nonnavigable waterway of the United States within the meaning of the General Bridge Act of 1946 (33 U.S.C. 525 et seq.).

Sec. 5. Notwithstanding the last sentence of section 81 of title 14 of the United States Code, the Coast Guard may not, except for the installation of fixed aids to navigation, carry out by contract the determination of the location, or the placement, of aids to maritime navigation in the Introcoastal Waterway in New Jersey.

Sec. 6. The Coast Guard may enter into any agreement or letter of intent with a municipal utility within the Seventeenth Coast Guard District electricity to a Coast Guard facility without complying with the provisions of section 14 of Public Law 98-557.

Sec. 7. (a) There is established a National Offshore Vessel Operators Safety Advisory Committee (hereinafter in this section referred to as the "Committee"). The Committee shall advise, consult with, and make recommendations to the Secretary of the department in which the Coast Guard is operating (hereinafter in this section referred to as the "Secretary") on matters relating to the safety aspects of offshore oil, gas, and other mineral operations subject to regulation by the Secretary. The Secretary shall, whenever practicable, consult the Committee concerning proposed or desirable actions affecting the safety of such offshore operations. Any advice or recommendation made by the Committee to the Secretary shall reflect the independent judgment of the Committee on the matter concerned. The Committee is authorized to make available to Congress any information, advice, and recommendations which the Committee is authorized to give to the Secretary. The Committee shall meet at the call of the Secretary, but in any event not less than once during each calendar year. All proceedings of the Committee shall comply with the Federal Advisory Committee Act (5 U.S.C. App. 1 et seq.).

(b)(1) The Committee shall consist of fifteen members, who have particular expertise, knowledge, and experience regarding the transportation and other technology, equipment, and techniques that are used, or are being developed for use, in the exploration for, or the recovery of, offshore oil, gas, or other mineral resources, as follows:

(A) Two members representing enterprises engaged in the production of oil, gas, or other mineral resources, except that not more than one member may represent companies included on the list of restricted joint bidders prepared by the Department of the Interior;

(B) Two members representing enterprises specializing in offshore drilling;

(C) Two members representing enterprises specializing in the supply of offshore oil, gas, or other mineral exploration or recovery operations by water;

(D) Three members representing general support services for offshore oil and gas activities, including construction, diving, geophysical, and helicopter services;

(E) Two members representing individuals employed in offshore operations;

(F) Two members representing environmental interests; and

(G) Two members representing the general public.

(2) The Secretary shall appoint the members of the Committee after first soliciting nominations by notice published in the Federal Register. The Secretary may request the head of any other Federal agency or department to designate a representative to advise the Committee on matters within the jurisdiction of that agency or department.

(3) The Committee shall elect, by majority vote at its first meeting, one of the members of the Committee as the Chairman and one of the members as the Vice Chairman. The Vice Chairman shall act as Chairman in the absence or incapacity of, or in the event of a vacancy in, the Office of the Chairman.

(4) Terms of members appointed to the Committee shall be for three years, except that the terms of those members first appointed under subsection (c)(1) (A), (B), and (C) shall be for two years. The Secretary shall, not less often than once a year, publish notice in the Federal Register for solicitation of nominations for membership on the Committee.

(c)(1) Members of the Committee who are not officers or employees of the United States shall serve without pay and members of the Committee who are officers or employees of the United States shall receive no additional pay on account of their service on the Committee. While away from their homes or regular places of business, members of the Committee may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code. The Secretary shall furnish to the Committee an executive secretary and such secretarial, clerical, and other services as are considered necessary for the conduct of its business. There are authorized to be appropriated such sums as may be necessary to implement the provisions of this section.

(2) Unless extended by subsequent Act of Congress, the Committee shall terminate five years from the date of enactment of this section.

Sec. 8. Bayou Lafourche, in the State of Louisiana, between Canal Boulevard, city of Thibodaux, Parish of Lafourche and the Southern Pacific Railroad bridge crossing the bayou, city of Thibodaux, Parish of Lafourche, is hereby declared to be a nonnavigable waterway of the United States within the meaning of the General Bridge Act of 1946 (33 U.S.C. 525 et seq.).

Sec. 9. Notwithstanding sections 12105, 12106, 12107 and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883), as applicable on the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation for the following vessels: *Marilyn*, Maryland registration number MD 3533 AA; *Royal Star*, Michigan registration number MC 9797 J; *Alaskan Shores*, United States official number 603879; *Shearwater*, United States official number 260827; *Gypsy Rose*, California registration number CF 4291 HF; *Eliminator*, United States official number 507572; *Puka Kai*, United States official number 677462; *Lobster House*, Panama registration number 494-Pext; *Jane E.*, Bahamian official number 315924; and *Diane M.*, Bahamian official number 315925, except that such vessels *Jane E.*, and *Diane M.*, may be operated under such documentation only in the waters of the Atlantic Ocean and the Gulf of Mexico.

Sec. 10. Any use or expenditure of funds by the Coast Guard related to the alteration of the Burlington-Northern Railroad Bridge at mile 6.9 on the Willamette River in Portland, Oregon shall be subject to the first six sections of the Act of March 3, 1931 (40 U.S.C. 276a through 276a-5).

Sec. 11. Section 2(a) of the Act entitled "An Act to facilitate increased enforcement by the Coast Guard of laws relating to the importation of controlled substances, and for other purposes", approved September 15, 1980 (21 U.S.C. 955b(a)), is amended by inserting immediately before the period the following: ", except that an event otherwise qualifying as an arrangement under such section does not lose that qualification by the fact that consent to, or the terms of, such arrangement are communicated by radio, telephone, or other similar means, or by how specific such arrangement is as to the vessel to which such arrangement applies".

Sec. 12. The Coast Guard may enter into a cost-sharing arrangement with the City of Cape May, New Jersey under which the City of Cape May will provide necessary roadway improvement on and along Pennsylvania Avenue between Pittsburg and Buffalo Avenues, as abutted by housing owned by the Coast Guard. For purposes of entering into such an arrangement, the Coast Guard may expend from previously-appropriated funds an amount not to exceed $200,000 on a nonrecurring basis.

Sec. 13. Section 2103 of title 46, United States Code, is amended by striking all after "subtitle" the third time it appears and substituting. "The Secretary may prescribe regulations to carry out the provisions of this subtitle.".

Sec. 14. Section 4370(a) of the Revised Statutes of the United States (46 U.S.C. App. 316(a)) is amended—

(1) by striking all from "a certificate of registry," through "the Act of June 7, 1918, as amended (U.S.C., 1934 edition, Supp. IV, title 46, sec. 288)," and substituting "a certificate of documentation issued under sec-

tions 12106 or 12107 of title 46, United States Code."; and

(2) by striking "a vessel of foreign registry, or a vessel in distress," and substituting "a vessel in distress".

Sec. 15. Section 3 of the Shipping Act of 1984 (46 U.S.C. App. 1702) is amended—

(1) in paragraph 6, (A) by striking the period at the end of subparagraph (B) and substituting a comma, and (B) by adding at the end thereof the following: "except that the term does not include a common carrier engaged in ocean transportation by ferry boat, ocean tramp, or chemical parcel-tanker. As used in this paragraph, 'chemical parcel-tanker' means a vessel whose cargo-carrying capability consists of individual cargo tanks for bulk chemicals that are a permanent part of the vessel, that have segregation capability with piping systems to permit simultaneous carriage of several bulk chemical cargoes with minimum risk of cross-contamination, and that has a valid certificate of fitness under the International Maritime Organization Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk."; and

(2) in paragraph (18), by striking all from the semi-colon and substituting a period.

Sec. 16. (a) As used in this section, the term—

(1) "commercial fishing industry vessel" means a fishing vessel, fish processing vessel, or fish tender vessel, as those terms are defined in section 2101 of title 46, United States Code;

(2) "Committee" means the Commercial Fishing Industry Vessel Safety Advisory Committee established in subsection (b) of this section; and

(3) "Secretary" means the Secretary of the department in which the Coast Guard is operating.

(b) There is established a Commercial Fishing Industry Vessel Safety Advisory Committee as an advisiory committee of the United States Government reporting to the Secretary.

(c)(1) The Committee shall advise, consult with, and make recommendations to the Secretary on matters relating to commercial fishing industry vessels, including—

(A) navigation safety;

(B) safety equipment and procedures;

(B) marine insurance;

(D) vessel design, construction, maintenance, and operation; and

(E) personnel qualifications and training.

(2) The Secretary, and the Secretary of Commerce, shall use the information, advice, and recommendations of the Committee in consulting with other agencies and the public or in formulating policy regarding commercial fishing industry vessels.

(3) The Committee shall meet at the call of the Secretary, but not less often than once during each calendar year.

(4) Any advice or recommendation made by the Committee shall reflect the independent judgment of the Committee on the matter concerned.

(5) The Committee may make available to Congress any information, advice, and recommendations which the Committee is authorized to give to the Secretary.

(d)(1) The Committee shall consist of seventeen members with particular expertise, knowledge, and experience regarding the commercial fishing industry, as follows:

(A) ten members from the commercial fishing industry who reflect a regional and representational balance, and have experience in the operation of commercial fishing industry vessels, or have experience as a crew member or processing line worker on a commercial fishing industry vessel;

(B) two members from each of the following:

(i) underwriters engaged in insuring commercial fishing industry vessels; and

(ii) the general public, including, whenever possible, a member of a national organization composed of commercial fishing industry vessel and marine insurance interests; and

(C) one member from each of the following—

(i) naval architects or marine surveyors;

(ii) manufacturers of fishing industry vessel equipment; and

(iii) education or training professionals related to commercial fishing industry vessel safety or personnel qualifications.

(2) At least once each year, the Secretary shall publish a notice in the Federal Register and in newspapers of general circulation in coastal areas soliciting nominations for membership on the Committee. After timely notice is published, the Secretary shall appoint the members of the Committee. A member may be reappointed to any number of terms.

(3) The term of a member is three years, except that—

(A) initially, one-third of the members shall serve a term of one year and one-third of the members shall serve a term of two years, to be determined by lot at the first meeting of the Committee;

(B) initially, terms may be adjusted to coincide with the Government's fiscal year; and

(C) if a vacancy occurs, the Secretary shall appoint a member to fill the remainder of the vacated term.

(4) The Committee shall elect one of its members as the Chairman and one of its members as the Vice Chairman. The Vice Chairman shall act as Chairman in the absence or incapacity of, or in the event of a vacancy in the office of, the Chairman.

(5) The Secretary and the Secretary of Commerce shall, and any other interested agency may, designate a representative to participate as an observer with the Committee. These representatives shall, as appropriate, report to and advise the Committee on matters relating to commercial fishing industry vessels under the jurisdiction of their respective departments. The Secretary's jurisdiction of their respective departments. The Secretary's designated representative shall act as executive secretary for the Committee and perform the duties specified in section 10(c) of the Federal Advisory Committee Act (5 U.S.C. App. 10(c)).

(e)(1) The Secretary shall, whenever practicable, except regarding issues which could compromise national security, consult with the Committee concerning the following actions affecting commercial fishing industry vessels—

(A) proposing legislation;

(B) proposing or publishing a regulation;

(C) authorizing or conducting research or a study; or

(D) taking any other major action of the United States Government relating to the Committee's purpose and duties as set forth in subsection (c)(1) of this section.

(2) Consultation with the Committee shall be deemed to satisfy all requirements of title 46, United States Code, for consulting with representatives of the private sector having experience in the operation of commercial fishing industry vessels.

(f)(1) Except as otherwise provided in paragraph (3) of this subsection, a member of the Committee, when attending meetings of the Committee or when otherwise engaged in the business of the Committee, shall serve without pay. While away from their homes or regular places of business, members of the Committee may be allowed travel or transportation expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code.

(2) Any payment made under this subsection shall not render a member of the Committee a member of the uniformed services (as defined in section 101(3) of title 37, United States Code), or an officer or employee of the United States for any purpose.

(3) A member of the Committee who is a member of the uniformed services or an officer or employee of the United States may not receive additional pay on account of such member's service on the Committee, but a member of the Committee who is a member of the uniformed services shall be allowed travel or transportation expenses under section 5703 of title 5, United States Code, unless such member is otherwise entitled to such expenses under any other provision of law.

(4) The Secretary shall furnish the Committee an executive secretary and such secretarial, clerical and other services as are necessary for the conduct of the Committee's business.

(g)(1) The Committee shall terminate on September 30, 1991.

(2) Two years prior to the date of its termination, the Committee shall submit to the Congress its recommendation as to whether the Committee should be renewed and continued beyond such termination date.

(h) There are authorized to be appropriated such amounts as may be necessary to carry out the provisions of this section.

Sec. 17. Notwithstanding the provisions of the Act entitled "An Act to authorize the Secretary of Commerce to sell two obsolete vessels to Coast Line Company and for other purposes", approved June 3, 1980 (Public Law 96-260; 94 Stat. 435), the Secretary of Transportation shall permit the vessels *Pictor*, United States official number 243529, *Procyon*, United States official number 244022, and *Zelima*, United States official number 248207, to be scrapped in the foreign market if—

(1) the purchaser of such vessels and the country in which such vessels are to be scrapped are acceptable to the Secretary of Transportation; and

(2) the seller of any such vessel agrees in writing to reimburse the United States a reasonable amount, acceptable to the Secretary of Transportation, of not less than one-half of the profits realized from such sale.

Sec. 18. Notwithstanding any other provision of law or any agreement with the United States Government, the vessels *Paul Bunyan*, United States official number 602272, and *John Henry*, United States official number 599294, may be sold to a foreign purchaser or purchasers if—

(1) the person desiring to sell the vessel submits to the Secretary of Transportation and the Secretary of the Navy a written offer under which the Secretary of Transportation may elect to acquire either or both vessels for the National Defense Reserve Fleet or the Secretary of the Navy may elect to acquire either or both vessels for the Ready Reserve Fleet, under the same terms and conditions as those offered by the foreign purchaser or purchasers; and

(2) neither Secretary elects to acquire the vessel within 60 days after the date on which a written offer is submitted to the Secretaries under paragraph (1) of this subsection.

Sec. 19. The Port of Houston Authority bridge over Greens Bayou approximately two and eight-tenths miles upstream of the confluence of Greens Bayou, Texas and the Houston Ship Channel is declared to be a lawful bridge for all purposes of the Act entitled "An Act to provide for the alternation of certain bridges over navigable waters of the United States, for the apportionment of the cost of such alterations between the United States and the owners of such a bridge, and for other purposes", approved June 21, 1940 (33 U.S.C. 511 et seq.). The Secretary of the department in which the Coast Guard is operating is authorized to reimburse the owner of the bridge for work done prior to the date of enactment of this section that would be the responsibility of the United States under the Act of June 21, 1940 (33 U.S.C. 511 et seq.) if performed after the date of enactment of this section, except that such reimbursement shall not exceed $450,000.

Sec. 20. Notwithstanding any other provision of law or of prior contract with the United States, the United States flag tug *MOIR*, offical Coast Guard number 60018, shall not be subject to the requirements of section 506 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1156).

Mr. JONES of North Carolina (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment to be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

Mr. LENT. Mr. Speaker, reserving the right to object, I will not object, but I would like to have the gentleman from North Carolina [Mr. Jones] the distinguished chairman of the Committee on Merchant Marine and Fisheries, to give a short explanation of this bill, which essentially passed the House back on July 29 of this year, has come back from the other body, with what appear to be a few very technical amendments, but I think in view of the tenor of the House that it might be advantageous if the gentleman would just explain away some of these technical amendments.

Mr. JONES of North Carolina. Mr. Speaker, this bill, as passed by the House, contained miscellaneous provisions of law affecting Coast Guard operations. The bill returned from the Senate retains nearly all of these provisions in essentially the same form.

New section 9 waives the restrictions in coastwise laws for certain vessels. The House has previously approved most of these in a private bill, H.R. 739.

New section 10 makes expenditures of funds for the alteration of a bridge in Oregon subject to certain restrictions to ensure use of local labor.

New section 11 clarifies statutory provisions to facilitate drug enforcement activities of the Coast Guard.

New section 12 provides authority for the Coast Guard to share costs with Cape May, NJ, for improvement of roads.

New section 13 gives the Secretary of Transportation explicit authority to prescribe regulations relating to marine safety and seamen's welfare.

New section 14 amends the towing vessel statutes to close a loophole that allows foreign tugs to be used to tow foreign registry vessels in U.S. ports.

New section 15 resolves an ambiguity in the Shipping Act of 1984 relating to chemical parcel tankers. It clarifies that those vessels are not subject to FMC regulation as common carriers and are, therefore, not exempt from the antitrust laws.

New section 16 establishes a Commercial Fishing Industry Safety Advisory Committee. It is similar to the provisions of H.R. 3025 introduced by Mr. Lent and which I cosponsored.

New section 17 provides authority for three vessels, currently tied up and rusting, to be scrapped in foreign yards if the purchaser and country in which they will be scrapped are acceptable to the Secretary of Transportation and the Secretary is given at least one-half of the profits realized from the scrapping.

New section 18 allows two vessels to be sold to a foreign purchaser if neither the Secretary of Transportation nor the Secretary of the Navy elect to buy them at world market prices.

New section 19 is the same as in section 10 of the House bill with a minor change. It allows the Port of Houston Authority to seek up to $450,000 in reimbursement from the Coast Guard for alteration of a bridge.

New section 20 allows the sale of a tugboat free of the requirements resulting from previous CDS payments.

Mr. Speaker, I know of no controversies regarding these Senate amendments and believe that both majority and minority leaders of the Merchant Marine and Fisheries Committee are prepared to recommend that the House accept them.

Mr. LENT. Mr. Speaker, further reserving the right to object, we have had an opportunity to go over this, at least I have, on behalf of the minority on the House Merchant Marine Committee. This is essentially the bill that passed the House in July. It helps the Coast Guard, it helps the maritime industry. Essentially, we are talking about some technical amendments that were added to a bill that passed by an overwhelming majority back in July.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

Mr. BADHAM. Mr. Speaker, reserving the right to object, I do so because I am concerned about the Coast Guard. It has come to this Member's attention that there are items of legislation working around the House that are denying the Coast Guard some appropriation and some authority, and I would like to ask the chairman of the committee if this has anything to do with that, because I would certainly object, and I would like to ask the chairman of the committee what the gentleman's unanimous-consent request alludes to, as far as the powers, duties, and authorities of the Coast Guard.

Mr. JONES of North Carolina. If the gentleman will yield, as one of the real strong supporters of the Coast Guard, having served as chairman of the Coast Guard Subcommittee a year or so ago, I can assure the gentleman there is nothing in this bill that adversely affects the U.S. Coast Guard.

Mr. BADHAM. Further reserving the right of object, why, may I ask, on December 19, at almost 10 o'clock at night, is the gentleman bringing this unanimous consent up, expressing the urgency of the House to act at this late hour?

Mr. JONES of North Carolina. The Senate just passed it a couple hours ago. I was ready last week, the week before last, and the week before that.

Mr. BADHAM. Mr. Speaker, maintaining my reservation of objection, the gentleman referred to the other body. I do not see that as any particular reason at all for this body to do anything. I would suggest, maintaining my reservation of objection, that the gentleman ought to have a better reason than that.

Mr. JONES of North Carolina. That is the only reason I have.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. BADHAM. Further reserving the right to object, I yield to the gentleman from Pennsylvania.

Mr. WALKER. I want to clarify for a moment, if I can, for the record that it is my understanding that there is no money authorized by this bill, nor is there any money appropriated by the bill, that at one point in the bill, it allows someone to seek authorizations but does not specifically make authorization. Is that a correct characterization?

Mr. BADHAM. Under my reservation of objection, I yield to the chairman for a response to that query.

Mr. LENT. Mr. Speaker, will the gentleman yield to me on that point?

Mr. BADHAM. Under my reservation of objection, Mr. Speaker, I yield to the gentleman from New York.

Mr. LENT. Mr. Speaker, one of the provisions in this bill authorizes a commercial fishing industry vessel safety advisory committee. It is possible, under the terms of that legislation, at some future time an authorization might be requested, but there are no funds in this bill, which is what I think the gentleman is most concerned about.

Mr. WALKER. Mr. Speaker, will the gentleman yield further?

Mr. BADHAM. Under my reservation of objection, Mr. Speaker, I yield to the gentleman from Pennsylvania.

Mr. WALKER. Just let me clarify. There is no language with regard to the commission of such sums as may be necessary, or any of that kind of language?

Mr. LENT. If the gentleman will yield further, the only thing of that nature that would be provided in this bill is that it provides that 2 years prior to the date of the termination of the advisory council, that council should submit to the Congress recommendations as to whether the committee should be renewed and whether any funds need be authorized.

Mr. BADHAM. Mr. Speaker, under my reservation, I would ask either the chairman or the ranking minority member, is there anything in this unanimous-consent request in this bill that is going to expire if we do not act on it right now, tonight, at the 10th hour of the 12th month?

Mr. JONES of North Carolina. If the gentleman will yield, nothing that I know of.

Mr. BADHAM. Mr. Speaker, then I object.

The SPEAKER pro tempore. Objection is heard.

REVISING AUTHORITY RELATING TO PAYMENT OF SUBSISTENCE AND TRAVEL ALLOWANCE TO GOVERNMENT EMPLOYEES

Mrs. COLLINS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1840) to amend title 5, United States Code, to revise the authority relating to the payment of subsistence and travel allowances to Government employees for official travel; to prescribe standards for the allowability of the cost of subsistence and travel of contractor personnel under Government contracts; and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Illinois?

Mr. McCANDLESS. Mr. Speaker, reserving the right to object, I do so for the purpose of yielding to the gentlewoman from Illinois [Mrs. COLLINS], the chairman of the Subcommittee on Government Activities and Transportation of the Committee on Government Operations, for an explanation of the legislation.

Mrs. COLLINS. I thank the gentleman from California for yielding.

Mr. Speaker, the new travel reimbursement system under S. 1840 would allow the Administrator of General Services to establish these allowances by locality and in accordance with currently prevailing average costs, as determined by expert surveys by locality. Proposed changes in the allowances and procedures would nevertheless have to be laid before Congress for 30 days before they could become effective.

The language of H.R. 1840 and the virtually identical language of H.R. 3291 as amended and ordered reported by the Committee on Government Operations, would provide a basis for GSA's requiring a locality-based reimbursement system under which lodgings cost would have to be validated by a motel or motel receipt. There would be a specific flat allowance for meals for each locality, but without receipt requirement. In no event could total daily reimbursement exceed the established daily maximum set by regulation for the locality in question. This so-called lodgings-plus system would provide the optimum balance with administrative efficiency and economy employee accountability.

The Administrator would also have authority to allow for some increase over the daily local maximums in certain extraordinary and temporary situations, such as would occur, in a given city, if a political convention and some other major event should coincide. In that sort of situation, the Administrator would require that each and every expense claimed by the employee would have to be validated by receipt.

The bill contains additional provisions to relieve certain inequities. For instance, some reimbursement may be allowed to an employee on travel who experiences a serious emergency like a death in the immediate family. Relief would also be available to an employee in law enforcement or investigation capacity where threats to life necessitate temporary relocation of the employee and the employee's family.

Furthermore GSA would be required to collect data from major Federal agencies to permit analysis of travel and transportation expenditures.

The language also includes a provision that would supplement the provisions relating to Federal employees and assure that Government contractors who charge their employees' travel against the Government contract are not able to claim more for that travel than what a Federal employee performing the same travel could claim.

During the September 1985 hearings by the Government Activities and Transportation Subcommittee, all witnesses testified in general support of the principle this bill represents and the system it would authorize. They included Members of Congress, the new Administrator of General Services and representatives of the GAO and employee organizations.

GSA testified that agencies would be required to absorb the additional first year cost of the increased rates, and in subsequent years to monitor travel to keep it to the minimum amount necessary.

The language of the bill represents a very carefully crafted legislative product worked out in close cooperation with the Government Operations Committee's minority and GSA. I particularly appreciate the high interest and fine cooperation of the gentleman from California, the ranking minority member of the Government Activities and Transportation Subcommittee. I am confident that the measure before us will meet well the purposes and needs which prompted its introduction. I am pleased that the other body, through its adoption of the language of the Government Operations Committee's amendment to H.R. 3291, has also reached this conclusion.

It is for these reasons that I strongly urge Members of the House to approve S. 1840. Early enactment would expedite arrival of the time when GSA's implementing regulations become effective—which would be no later than 180 days from the date of the act—and Federal employees consequently could begin receiving fair and adequate reimbursement for the expenses of official travel.

Mr. McCANDLESS. Mr. Speaker, further reserving the right to object, I shall not object, I yield to the gentleman from Virginia [Mr. WOLF].

Mr. WOLF. Mr. Speaker, today I rise in support of this legislation the Civilian Travel Expenses Act of 1985. As one of the early cosponsors of this legislation, I feel its expeditious passage would benefit Federal employees, the Government and the American taxpayers.

As a Member who has worked for several years to reform the reimbursement system for Federal workers who are relocated through Government jobs, I feel it is not only an ethical issue that we cover the costs of our employees who we direct to relocate, but it also is a family issue. It becomes a family issue when financial hardships arise from inadequate compensation for required moves because that money has to come out of the pockets of Federal workers and their families.

I am also concerned about providing adequate reimbursement for travel expenses that Federal employees incur through their civil service positions. I have talked with employees who conveyed how frequently they must subsidize business trips because current government rates will not authorize payment for certain unavoidable expenses.

Employees have been concerned because of lengthy delays in getting reimbursed for travel vouchers long after they had to pay for the business expense. If a credit card is used to pay the expense, the interest on delayed repayments also goes unreimbursed.

Employees have also mentioned that traveling for the Government is no small expense, and accounting for that travel, keeping adequate records, and administration of the travel activities may account for up to 15 to 20 percent of all travel expenses the Government pays. Clearly, any effort to reduce this costly overhead, encourage accountability and provide adequate reimbursement in a timely manner should be actively pursued.

Mr. Speaker, travel per diem bill demonstrates that constructive Government reforms also can be positive changes for Federal workers. I feel this is a fair approach and urge my colleagues to support this measure.

Mr. McCANDLESS. Mr. Speaker, further reserving the right to object, I would simply like to add the minority's view of S. 1840.

The language contained in S. 1840 is virtually identical to that of H.R. 3291, which has been approved unanimously by voice vote in both subcommittee and in our full Government Operations Committee. We have worked very closely with the other body on this needed legislation, and we have something here that's being supported by both sides of the aisle in both Houses of Congress.

S. 1840 is strongly supported by the administration. Additionally, various Federal employee organizations are endorsing the legislation.

H.R. 3291 as amended and reported unanimously by the Committee on Government Operations.

The purpose of the legislation is to give the Administrator of General Services more flexibility in establishing the system of reimbursing Federal employees for the subsistence expenses of official travel. These subsistence expenses consist of lodgings, meals, and incidentals.

S. 1840 would permit the GSA Administrator to establish locality-based allowances for these expenses. These allowances would be based upon cost surveys conducted by locality. S. 1840 maintains strict congressional scrutiny of implementing regulations by providing that such regulations are not effective until 30 days after transmittal to the appropriate congressional committees.

Current law, which sets reimbursement caps on a nationwide basis, has proven inadequate to meet the needs of the Government. As a result, Federal employees must many times subsidize official Government travel.

At our hearing on H.R. 3291—which, as I say, is embodied in S. 1840—all the Federal employee organizations that testified supported the changes. H.R. 3291 was originally proposed by the administration, and or committee's amendments have their support.

What we have is legislation that's fair to the Government and fair to those traveling on official Government business. S. 1840 is responsible legislation, and it has my support.

I want to thank Chairwoman Collins, Chairman Brooks, and my ranking member, Frank Horton, for their assistance in making this legislation a reality.

U.S. Congress,
Congressional Budget Office,
Washington, DC, December 19, 1985.

Hon. Jack Brooks,
Chairman, Committee on Government Operations, U.S. House of Representatives, Rayburn House Office Building, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has reviewed H.R. 3291, the Federal Civilian Employee and Contractor Travel Expense Act of 1985, as ordered reported by the House Committee on Government Operations, December 10, 1985.

The bill would authorize the Administrator of the General Services Administration (GSA) to establish new rates for payment of federal employees' travel expenses. Based on the Administrator's testimony before the Subcommittee on Government Activities and Administration, we expect that GSA would replace the current $50 and $75 statutory limitations on per diem and actual expense reimbursements with a "lodgings-plus" system. Under that system, the per diem allowance would cover the actual cost of lodgings plus a flat rate (which would vary by location) for meals and miscellaneous expenses. Because the expected costs of lodgings and rate amounts would be greater than the $75 cap that is currently in effect for 137 cities, total travel costs would increase by an estimated $200 million annually. However, these increased costs would be partially offset by a reduction in the administrative expenses associated with reimbursing federal employees. Because the locality-based flat-rate system for meals and miscellaneous expenses would eliminate the need for processing vouchers for those expenses, annual administrative costs may decrease by $20 million to $30 million. The full effect of these increases in travel costs and decreases in administrative costs would probably not occur until fiscal year 1987 because the new travel regulations would not become effective until six months after enactment of the bill.

The bill would also require that government contractors be reimbursed for travel expenses at the same rate as federal employees. This is likely to reduce somewhat government contracting costs, but we cannot presently estimate the magnitude of such savings. In addition, the bill would require the Administrator to prepare a biennal analysis of federal travel costs for the Office of Management and Budget. Because GSA already collects most of the information required by the report, we do not expect the report to result in significant additional costs to the federal government.

Enactment of this bill would not affect the budgets of state or local governments.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,
Sincerely,
James Blum
(For Rudolph G. Penner, *Director*).

Mr. BROOKS. Mr. Speaker, will the gentleman yield?

Mr. McCANDLESS. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Texas.

Mr. BROOKS. Mr. Speaker, this bill is identical to H.R. 3291, which I introduced at the request of the administration on September 12, 1985. The bill's main purpose, very simply, is to make sure that Federal employees who are traveling on agency business are treated more fairly than under current conditions. It authorizes the Administrator of General Services to establish a per diem allowance system that more accurately reflects the true cost of away-from-home duty than the current system does. GSA intends to establish a "lodgings plus" reimbursement system that will both reimburse the employee adequately and reduce the paperwork involved in travel accounting by the agencies.

In addition, the bill contains language proposed by Mr. McCandless, which provides that allowable costs for the travel expenses of Government contractors would be required to conform to the payment for regular Government employees.

S. 1840 is a good bill that promises a fair deal both for Federal employees and for the agencies administering their travel expenses.

Mr. PARRIS. Mr. Speaker, will the gentleman yield?

Mr. McCANDLESS. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Virginia.

Mr. PARRIS. Mr. Speaker, I rise in support of the legislation.

Mr. HORTON. Mr. Speaker, will the gentleman yield?

Mr. McCANDLESS. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from New York.

Mr. HORTON. Mr. Speaker, I rise in support of this legislation.

As the gentleman from California [Mr. McCandless] stated, this legislation was unanimously adopted in the subcommittee and the full Committee on Government Operations. It is a good bill, and I urge its adoption.

Mrs. BENTLEY. Mr. Speaker, I rise in support of this legislation to ease the burden of Federal employees who are required to travel in order to accomplish their assigned work. It would be shameful to allow a state of affairs to continue in which our own Federal workers are forced to underwrite the expenses which they incur on Government business.

It seems that, in my brief time in this body, we have the unfortunate tendency to look to our own work force to find ways to cut spending. At least we should make sure, as this bill does, that they do not have to operate out of their own pockets when away from home on business.

I urge the passage of this bill to relieve these workers who are already bearing

more of the Government's rush to economize, than is, in my view, equitable. I will vote for it and ask my colleagues to do the same.

Mr. PARRIS. Mr. Speaker, I rise in support of H.R. 1840, the reported committee version of H.R. 3291. This legislation, which I have cosponsored and testified on behalf of before the House Government Operations Committee, offers much needed improvements in the travel reimbursement system for Federal employees.

As has been pointed out by the General Services Administration, the $50 and $75 statutory ceilings for domestic travel expenses have become inadequate for travel to most cities. Designated high rate areas have increased from 6 in 1975 to 379 in 1985. Food and lodging in my district surrounding the Washington, DC, area, for example, can cost up to $148 a day, according to a 1984 GSA survey. H.R. 1840 would remove these outdated ceilings on reimbursement and eliminate financial losses currently being incurred by Federal employees when they travel to many cities.

The second significant change proposed by this legislation deals with reimbursement methods. For 5 years, the General Accounting Office, Office of Management and Budget, and the General Services Administration have supported replacing the current methods of reimbursement with a system less costly, time consuming, and burdensome for the traveler as well as the agency. To accomplish this, H.R. 1840 proposes a per diem based on the cost of lodging actually incurred by the traveler plus a flat rate, which may vary by location, for meals and miscellaneous expenses. Proper implementation of this system should help reduce employee travel costs and increase administrative accountability, resulting in cost savings to the Government.

Mr. Speaker, this legislation is not the final answer to every problem in the Federal travel system. It does, however, offer major improvements in many areas, particularly in ensuring accurate travel costs to many cities.

I urge prompt and favorable House consideration of H.R. 1840.

Mr. McCANDLESS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Illinois?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1840

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. This Act may be cited as the "Federal Civilian Employee and Contractor Travel Expenses Act of 1985".

TITLE I—TRAVEL EXPENSES OF FEDERAL CIVILIAN EMPLOYEES

SEC. 101. Section 5701(4) of title 5, United States Code, is amended to read as follows:

"(4) 'per diem allowance' means a daily payment instead of actual expenses for subsistence and fees or tips to porters and stewards;".

SEC. 102. (a) Section 5702 of title 5, United States Code, is amended by striking out subsections (a), (b), (c), and (d) and inserting in lieu thereof the following:

"(a)(1) Under regulations prescribed pursuant to section 5707 of this title, an employee, when traveling on official business away from the employee's designated post of duty, or away from the employee's home or regular place of business (if the employee is described in section 5703 of this title), is entitled to any one of the following:

"(A) a per diem allowance at a rate not to exceed that established by the Administrator of General Services for travel within the continential United States, and by the President or his designee for travel outside the continental United States;

"(B) reimbursement for the actual and necessary expenses of official travel not to exceed an amount established by the Administrator for travel within the continential United States or an amount established by the President or his designee for travel outside the continential United States; or

"(C) a combination of payments described in subparagraphs (A) and (B) of this paragraph.

"(2) Any per diem allowance or maximum amount of reimbursement shall be established, to the extent feasible, by locality.

"(3) For travel consuming less than a full day, the payment prescribed by regulation shall be allocated in such manner as the Administrator may prescribe.

"(b)(1) Under regulations prescribed pursuant to section 5707 of this title, an employee who is described in subsection (a) of this section and who abandons the travel assignment prior to its completion—

"(A) because of an incapacitating illness or injury which is not due to the employee's own misconduct is entitled to reimbursement for expenses of transportation to the employee's designated post of duty, or home or regular place of business, as the case may be, and to payments pursuant to subsection (a) of this section until that location is reached; or

"(B) because of a personal emergency situation (such as serious illness, injury, or death of a member of the employee's family, or an emergency situation such as fire, flood, or act of God), may be allowed, with the approval of an appropriate official of the agency concerned, reimbursement for expenses of transportation to the employee's designated post of duty, or home or regular place of business, as the case may be, and payments pursuant to subsection (a) of this section until that location is reached.

"(2)(A) Under regulations prescribed pursuant to section 5707 of this title, an employee who is described in subsection (a) of this section and who, with the approval of an appropriate officials of the agency concerned, interrupts the travel assignment prior to its completion for a reason specified in subparagraph (A) or (B) of paragraph (1) of this subsection, may be allowed (subject to the limitation provided in subparagraph (B) of this paragraph)—

"(i) reimbursement for expenses of transportation to the location where necessary medical services are provided or the emergency situation exists,

"(ii) payments pursuant to subsection (a) of this section until that location is reached, and

"(iii) such reimbursement and payments for return to such assignment.

"(B) The reimbursement which an employee may be allowed pursuant to subparagraph (A) of this paragraph shall be the employee's actual costs of transportation to the location where necessary medical services are provided or the emergency exists, and return to assignment from such location, less the costs of transportation which the employee would have incurred has such travel begun and ended at the employee's designated post of duty, or home or regular place of business, as the case may be. The payments which an employee may be allowed pursuant to subparagraph (A) of this paragraph shall be based on the additional time (if any) which was required for the employee's transportation as a consequence of the transportation's having begun and ended at a location on the travel assignment (rather than at the employee's designated post of duty, or home or regular place of business, as the case may be).

"(3) Subject to the limitations contained in regulations prescribed pursuant to section 5707 of this title, an employee who is described in subsection (a) of this section and who interrupts the travel assignment prior to its completion because of an incapacitating illness or injury which is not due to the employee's own misconduct is entitled to payments pursuant to subsection (a) of this section at the location where the interruption occurred.".

(b) Section 5702 of such title is further amended by redesignating subsection (e) as subsection (c).

SEC. 103. (a) Subchapter I of chapter 57 of title 5, United States Code, is amended by inserting after section 5706 the following new section:

"§ 5706a. Subsistence and travell expenses for threatened law enforcement personnel

"(a) Under regulations prescribed pursuant to section 5707 of this title, when the life of an employee who serves in a law enforcement, investigative, or similar capacity, or members of such employee's immediate family, is threatened as a result of the employee's assigned duties, the head of the agency concerned may approve appropriate subsistence payments for the employee or members of the employee's family (or both) while occupying temporary living accommodations at or away from the employee's designated post of duty.

"(b) When a situation described in subsection (a) of this section requires the employee or members of the employee's family (or both) to be temporarily relocated away from the employee's designated post of duty, the head of the agency concerned may approve transportation expresses to and from such alternate location.".

(b) The analysis for chapter 57 of title 5, United States Code, is amended by inserting after the item pertaining to section 5706 the following new item:

"5706a. Subsistence and travel expenses for threatened law enforcement personnel."

SEC. 104. Section 5707 of title 5, United States Code, is amended—

(1) by inserting "(1)" immediately after "(a)";

(2) by inserting the following at the end of subsection (a):

"(2) Regulations promulgated to implement secton 5702 or 5706a of this title shall be transmitted to the appropriate committees of the Congress an shall not take effect until 30 days after such transmittal."; and

(3) by inserting at the end thereof the following new subsection:

"(c)(1) The Administrator of General Services shall periodically, but at least every 2 years, submit to the Director of the Office of Management and Budget an analysis of estimated total agency payments for such items as travel and transportation of people, average costs and duration of trips, and purposes of official travel; and of estimated total agency payments for employee relocation. This analysis shall be based on a sampling survey of agencies each of which spent more than $5,000,000 during the previous fiscal year on travel and transportation payments, including payments for employee relocation. Agencies shall provide to the Administrator the necessary information in a format prescribed by the Administrator and approved by the Director.

"(2) the requirements of paragraph (1) of this subsection shall exprie upon the Administrator's submission of the analysis that includes the fiscal year that ends September 30, 1991.".

SEC. 105. Section 5724a title 5, United States Code, is amended—

(1) by striking out "instead of" each place it appears in subsections (a)(1) and (a)(2) and inserting in lieu thereof "or";

(2) by striking out "maximum per diem rates prescribed by or under section 5702 of this title" each place it appears and inserting in lieu thereof "maximum payment premitted under regulations which implement section 5702 of this title"; and

(3) by striking out "average daily rates" in subsection (a)(3) and inserting in lieu thereof "daily rates and amounts".

SEC. 106. (a) Subchapter II of chapter 57 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 5734. Travel, transportation, and relocation expenses of employees transferred from the Postal Service

"Notwithstanding the provisions of any other law, officers and employees of the United States Postal Service promoted or transferred under section 1006 of title 39, United States Code, from the Postal Service to an agency (as defined in section 5721 of this title), for permanent duty may be authorized travel, transportation, and relocation expenses and allowances under the same conditions and to the same extent authorized by this subchapter for other transferred employes within the meaning of this chapter.".

(b) The analysis for chapter 57 of title 5, United States Code, is amended by inserting after the item relating to section 5733 the following new item:

"5734. Travel, transportation, and relocation expenses of employees transferred from the Postal Service.".

SEC. 107. (a) Section 7(e) of the Technology Assessment Act of 1972 (2 U.S.C. 476(e)) is amended by striking out "a per diem in lieu of subsistence at not to exceed the rate prescribed in sections 5702 and" and inserting in lieu thereof "payments when traveling on official business at not to exceed the payment prescribed in regulations implementing section 5702 and in".

(b) Section 636(g)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2396(g)) is amended by striking out "5702(c)" and inserting in lieu thereof "5702".

(c) Section 4941(2)(2)(G)(vii) of the Internal Revenue Code of 1954 (26 U.S.C. 4941(d)(2)(G)(vii)) is amended by striking out "5702(a)" and inserting in lieu thereof "5702".

(d) Section 456(a) of title 28, United States Code, is amended by striking out "a per diem allowance for travel at the rate which the Director establishes not to exceed the maximum per diem allowance fixed by section 5702(a) of title 5, or in accordance with regulations which the Director shall prescribe with the approval of the Judicial Conference of the United States, reimbursement for his actual and necessary expenses of subsistence not in excess of the maximum amount fixed by section 5702 of title 5" and inserting in lieu thereof the following: "payments for subsistence expenses at rates or in amounts which the Director establishes, in accordance with regulations which the Director shall prescribe with the approval of the Judicial Conference of the United States and after considering the rates or amounts set by the Administrator of General Services and the President pursuant to section 5702 of title 5".

(e) Section 326(b) of title 31, United States Code, is amended by striking out "rates" and inserting in lieu thereof "rates and amounts".

(f) Section 6 of Public Law 90-67 (42 U.S.C. 2477) is amended by striking out "rates" and inserting in lieu thereof "rates and amounts".

TITLE II—TRAVEL EXPENSES OF GOVERNMENT CONTRACTORS

SEC. 201. The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is amended by adding at the end thereof the following new section:

"TRAVEL EXPENSES OF GOVERNMENT CONTRACTORS

"SEC. 24. Under any contract with any executive agency, costs incurred by contractor personnel for travel, including costs of lodging, other subsistence, and incidental expenses, shall be considered to be reasonable and allowable only to the extent that they do not exceed the rates and amounts set by subchapter I of chapter 57 of title 5, United States Code, or by the Administrator of General Services or the President (or his designee) pursuant to any provision of such subchapter. This section shall be implemented in regulations prescribed as a part of the single system of Government-wide procurement regulations as defined in section 4 of this Act.".

SEC. 202. The Administrator for Federal Procurement Policy, in consultation with the Secretary of Defense and the Administrator of General Services, shall undertake a study to determine whether limitations should be placed on payments by executive agencies to Government contractors for costs incurred by contractor employees for transportation and relocation. The Administrator for Federal Procurement Policy shall submit within 180 days after the enactment of this Act a report thereon to the appropriate committees of the Congress.

TITLE III—EFFECTIVE DATE

SEC. 301. (a) The Administrator of General Services shall promulgate regulations implementing the amendments made by sections 101, 102, 103, 104, and 106 of this Act not later than 150 days after the date of enactment of this Act. The amendments made by title I of this Act shall take effect on the effective date of such regulations, or 180 days after the date of enactment of this Act, whichever occurs first.

(b) The amendments made by section 201 of this Act shall take effect 30 days after the effective date of the amendments made by title I.

Amend the title so as to read as follows: "To amend title 5, United States Code, to revise the authority relating to the payment of subsistence and travel allowances to Government employees for official travel; to prescribe standards for the allowability of the cost of subsistence and travel of contractor personnel under Government contracts; and for other purposes.".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

□ 2200

LEGISLATIVE PROGRAM

(Mr. WRIGHT asked and was given permission to address the House for 1 minute.)

Mr. WRIGHT. Mr. Speaker, I take this time in an effort to share with my colleagues where we are and where we expect to be. We still very earnestly expect to adjourn sine die this evening. With the cooperation of the Members, this can be done.

At this moment we are standing by while staff are drafting a mutually satisfactory agreement relating to the extensions that were discussed earlier. We will have those back again.

There will be some resolutions concerning the adjournment sine die, and those must be agreed to. We will have those rather shortly.

But I want to ask if all Members will stand by and await the action of the other body with regard to our reconciliation bill. This is the largest reconciliation bill ever passed in Congress with or without the Superfund provisions. Including the Superfund provisions, it would have been an $81 billion deficit-reduction package, the biggest we have ever had. Even without the Superfund provisions, it still amounts to approximately a $72 billion deficit-reduction package. It is surely worth waiting a little while for. What a Christmas present for the American people.

So let us stick around. We have asked the Rules Committee to stand by just in the event it were necessary for them to meet again, but we hope that will not be necessary. We trust things will go well and we will be able to adjourn sine die this evening. Then the distinguished minority leader and someone from the majority can go and make a phone call and tell our President that we are ready to leave and wish him and all of his a happy Christmas and a happy Yuletide season.

Mr. MICHEL. Mr. Speaker, will the distinguished majority leader yield?

Mr. WRIGHT. I surely will yield to the minority leader.

Mr. MICHEL. Mr. Speaker, according to my understanding, our Ways and Means Committee members are in consultation now on a general accord on all those tax provisions that would expire on December 31 to extend, generally speaking, most all of them until about March 15, and if it takes them yet a while to work out a couple of those intricacies, what do we plan to do in the interval here?

Mr. **WRIGHT**. Well, I should think we might try to pass some resolutions concerning the sine die adjournment.

Mr. **MICHEL**. Well, let us do that, then. That would be very productive.

Mr. **WRIGHT**. If the gentleman from Illinois wanted to ask unanimous consent at that point that we might allow the House to stand in recess subject to the call of the Chair, it may be that he would have better luck than the gentleman from Texas had on an earlier occasion today.

Mr. **MICHEL**. I understand. I understand that.

Mr. **WALKER**. Mr. Speaker, will the gentleman yield?

Mr. **WRIGHT**. I am happy to yield to the gentleman from Pennsylvania.

Mr. **WALKER**. Mr. Speaker, I appreciate the gentleman's yielding.

I think the one thing we want to be careful of on recesses, as I understand it, is that we have to get the bill passed with the tax provisions, past the Senate and down to the President, so he can sign it before midnight or it kicks in all of the problems that accrued because of States and their cigarette taxes, and so on. So I think we would want to be very careful with recesses to make certain we allow plenty of time to get the work done that we have to do on those provisions and get the bill down to the White House well before midnight.

Mr. **WRIGHT**. Mr. Speaker, we have no expectation of recessing prior to the passage of that particular piece of legislation. I understand the Ways and Means Committee will only require about 15 minutes to be ready here on the floor with that legislation. So we can busy ourselves with one thing and another prior to that time. And I do plead earnestly with our colleagues not to go home just yet. Let us stick around.

Mr. **MICHEL**. Mr. Speaker, I have no objection to that, other than we would like to have sufficient notice on this side of those matters that will be brought up from the majority side so that we will have the competent Members here from the respective committees to respond. I have no objection to that.

Mr. **WRIGHT**. We will try not to surprise you. We may be ourselves surprised because nobody knows what may happen, but we will try to share whatever knowledge we have with the minority just as soon as we have it.

REQUEST FOR CONSIDERATION OF S. 1574, HEALTH CONSEQUENCES OF USING SMOKELESS TOBACCO PRODUCTS

Mr. **WAXMAN**. Mr. Speaker, I ask unanimous consent, and this has been cleared with the minority, to take from the Speaker's table the Senate bill (S. 1574) to provide for public education concerning the health consequences of using smokeless tobacco products, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The **SPEAKER** pro tempore (Mr. KILDEE). Is there objection to the request of the gentleman from California?

Mr. **BLILEY**. Reserving the right to object, Mr. Speaker, earlier this week the Senate passed S. 1574 without dissent. I have told the gentleman from Oklahoma and the gentleman from California, the distinguished chairman of the Health Subcommittee, that I would be willing to accept the Senate bill as is. I have even told the gentleman that I would be willing to accept the Senate bill with an amendment that had an electronic-advertising ban, which the Senate bill does not contain and which I feel is unnecessary and wrong. But I would be willing to accept it in the spirit of accommodation.

Will the gentleman accept this offer?

Mr. **WAXMAN**. Mr. Speaker, will the gentleman yield to me?

Mr. **BLILEY** I am happy to yield to the gentleman from California.

Mr. **WAXMAN**. Mr. Speaker, if I get unanimous consent to take this bill from the Speaker's table, I have an amendment at the desk which I will offer. That amendment embodies an agreement which has been signed off by all the industry groups affected. So I would propose to amend the bill and send it back to the Senate with the expectation that they would take the bill as amended.

Mr. **BLILEY**. Further reserving the right to object, Mr. Speaker, does the gentleman's proposal include arrows, a bull's eye, and color?

Mr. **WAXMAN**. Mr. Speaker, if the gentleman will yield to me further, our proposal does try to develop a very visible way of displaying the warning label on the advertising, and it would have in its display a circle and an arrow to draw people's attention to that label. We want people to see the warning label, and hopefully they will be discouraged voluntarily from using this substance.

Mr. **BLILEY**. Reclaiming my time and further reserving the right to object, Mr. Speaker, this is a more stringent provision than is required on cigarettes at the present time, and I would be forced to object.

Mr. **ROSE**. Mr. Speaker, will the gentleman yield to me?

Mr. **BLILEY**. I am happy to yield to the gentleman from North Carolina.

Mr. **ROSE**. Mr. Speaker, My information is that the smokeless-tobacco industry has signed off on what the gentleman from California is attempting to do. Is that not correct?

Mr. **BLILEY**. That is correct, but the smokeless-tobacco industry is a small part of the industry, as the gentleman knows.

Mr. **ROSE**. But this bill only affects the smokeless-tobacco industry.

Mr. **BLILEY**. At the present time, yes, but the effects will be brought back on the others.

Mr. Speaker, I object.

The **SPEAKER** pro tempore. Objection is heard.

A LAST-MINUTE PROLIFERATION OF LEGISLATION

(Mr. **TRAFICANT** asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. **TRAFICANT**. Mr. Speaker, as a new Member, I would just like to say here that it seems at the last minute we are getting an awful lot of legislative items come before us. Perhaps it is just to spend some time. Nevertheless, I think I am going to establish a rule that, while I am in Congress, might be a general rule to guide me through the end of sessions. That is going to be basically this. Anything that is thicker than 4 inches or weighs more than 4 pounds that is brought up at the very last hour of the session, I am going to vote "no" on it.

☐ 2210

I would just like to say that I would like to encourage the leaders to look very carefully at the process that is now being undertaken, to bring back to us those measures that are pertinent and germane, and I think the House will act on them prudently.

THERE IS NO CHRISTMAS HOLIDAY IN ROMANIA

(Mr. **WOLF** asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. **WOLF**. Mr. Speaker, on December 25, 1983, in a Christmas message, Father Geza Palfy, Roman Catholic priest of Hungarian minority in Romania, made the following statement: "I believe in Romania, Christmas should be an official holiday."

For that, he was arrested by secret police, interrogated, severely beaten, and left the police station 2 days later unconscious. He died 2 months later in a hospital Tirgu-Mores. Romanian officials say he died of cancer of the liver; however, all evidence gathered by Christian Response International indicated Father Palfy died of internal injuries sustained during police beatings.

This is the same country to which we give preferential trade status—most favored nation. Can we support such religious repression and violation of human rights? As we reflect during this Christmas season on our own liberties, won't you join me and 60 of our colleagues in supporting a 6-month suspension of the MFN trade status to Romania to make a moral statement that Americans will have no part in the economy or support of such a repressive regime?

Please cosponsor H.R. 3599 to suspend MFN for 6 months in Romania.

APPOINTMENT OF COMMITTEE OF TWO MEMBERS TO INFORM THE PRESIDENT THAT THE TWO HOUSES HAVE COMPLETED THEIR BUSINESS OF THE SESSION

Mr. FOLEY. Mr. Speaker, I offer a privileged resolution (H. Res. 351) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 351

Resolved, That a committee of two Members be appointed by the House to join a similar committee appointed by the Senate, to wait upon the President of the United States and inform him that the two Houses have completed their business of the session and are ready to adjourn, unless the President has some other communication to make to them.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING DATE FOR BEGINNING OF SECOND SESSION OF 99TH CONGRESS

Mr. FOLEY. Mr. Speaker, I send to the desk a joint resolution (H.J. Res. 496) and ask unanimous consent for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 496

Resolved by the Senate and House of Representatives of the United States of America in Congress Assembled, That the second regular session of the Ninety-ninth Congress shall begin at 12 o'clock meridian on Tuesday, January 21, 1986.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AUTHORIZING SPEAKER TO ACCEPT RESIGNATIONS AND TO APPOINT COMMISSIONS, BOARDS, AND COMMITTEES, NOTWITHSTANDING ADJOURNMENT

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that notwithstanding the sine die adjournment of the 1st session of the 99th Congress, the Speaker be authorized to accept resignations, and to appoint Commissions, Boards, and committees authorized by law or by the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

PERMISSION FOR ALL MEMBERS TO REVISE AND EXTEND THEIR REMARKS AND TO INCLUDE SHORT QUOTATIONS UNTIL LAST EDITION OF CONGRESSIONAL RECORD

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that all Members of the House shall have the privilege, until the last edition authorized by the Joint Committee on Printing is published, to extend and revise their own remarks in the CONGRESSIONAL RECORD on more than one subject, if they so desire, and may also include therein such short quotations as may be necessary to explain or complete such extensions of remarks, but this order shall not apply to any subject matter which may have occurred, or to any speech delivered subsequent to the adjournment of Congress.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

PERMISSION FOR CHAIRMAN AND RANKING MINORITY MEMBER OF EACH STANDING COMMITTEE AND EACH SUBCOMMITTEE TO EXTEND REMARKS UP TO AND INCLUDING LAST PUBLICATION OF CONGRESSIONAL RECORD

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the chairman and ranking minority member of each standing committee and each subcommittee thereof be permitted to extend their remarks in the RECORD, up to and including the last publication thereof, and to include therewith a summary of the work of that committee or subcommittee.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. WALKER. Mr. Speaker, reserving the right to object, I think that is a standard item. Why is that one different than the resolution we just passed that gives broad authority for revision and extensions?

I yield to the gentleman from Washington.

Mr. FOLEY. I think it is largely traditional to specify the subcommittee chairmen and the ranking minority members, the full committee members and the ranking minority members to indicate that they may make extended remarks on the work of the subcommittees. This is sometimes a longer authority then would be given normally to Members to include extraneous material.

Mr. WALKER. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington [Mr. FOLEY]?

There was no objection.

VETERANS' COMPENSATION RATE AMENDMENTS OF 1985

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1538) to amend title 38, United States Code, to provide a 3.4-percent increase in the rates of compensation and of dependency and indemnity compensation [DIC] paid by the Veterans' Administration, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans' Compensation Rate Increase and Job Training Amendments of 1985".

TITLE I—DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION RATE INCREASES

SEC. 101. DISABILITY COMPENSATION.

(a) IN GENERAL.—Section 314 of title 38, United States Code, is amended—

(1) by striking out "$66" in subsection (a) and inserting in lieu thereof "$68";

(2) by striking out "$122" in subsection (b) and inserting in lieu thereof "$126";

(3) by striking out "$185" in subsection (c) and inserting in lieu thereof "$191";

(4) by striking out "$266" in subsection (d) and inserting in lieu thereof "$274";

(5) by striking out "$376" in subsection (e) and inserting in lieu thereof "$388";

(6) by striking out "$474" in subsection (f) and inserting in lieu thereof "$489";

(7) by striking out "$598" in subsection (g) and inserting in lieu thereof "$617";

(8) by striking out "$692" in subsection (h) and inserting in lieu thereof "$713";

(9) by striking out "$779" in subsection (i) and inserting in lieu thereof "$803";

(10) by striking out "$1,295" in subsection (j) and inserting in lieu thereof "$1,335";

(11) by striking out "$1,609" and "$2,255" in subsection (k) and inserting in lieu thereof "$1,659" and "$2,325", respectively;

(12) by striking out "$1,609" in subsection (l) and inserting in lieu thereof "$1,659",

(13) by striking out "$1,774" in subsection (m) and inserting in lieu thereof "$1,829";

(14) by striking out "$2,017" in subsection (n) and inserting in lieu thereof "$2,080";

(15) by striking out "$2,255" each place it appears in subsections (o) and (p) and inserting in lieu thereof "$2,325";

(16) by striking out "$968" and "$1,442" in subsection (r) and inserting in lieu thereof "$998" and "$1,487", respectively;

(17) by striking out "$1,449" in subsection (s) and inserting in lieu thereof "$1,494"; and

(18) by striking out "$280" in subsection (t) and inserting in lieu thereof "$289".

(b) SPECIAL RULE.—The Administrator of Veterans' Affairs may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

SEC. 102. ADDITIONAL COMPENSATION FOR DEPENDENTS.

Section 315(1) of title 38, United States Code, is amended—

(1) by striking out "$79" in clause (A) and inserting in lieu thereof "$81";

(2) by striking out "$132" and "$42" in clause (B) and inserting in lieu thereof "$136" and "$43", respectively;

(3) by striking out "$54" and "$42" in clause (C) and inserting in lieu thereof "$56" and "$43", respectively;

(4) by striking out "$64" in clause (D) and inserting in lieu thereof "$66";

(5) by striking out "$143" in clause (E) and inserting in lieu thereof "$147"; and

(6) by striking out "$120" in clause (F) and inserting in lieu thereof "$124".

SEC. 103. CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS.

Section 362 of title 38, United States Code, is amended by striking out "$349" and inserting in lieu thereof "$360".

SEC. 104. DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES.

Section 411 of title 38, United States Code, is amended—

(1) by striking out the table in subsection (a) and inserting in lieu thereof the following:

"Pay grade:	*Monthly rate*
E-1	$491
E-2	505
E-3	518
E-4	552
E-5	566
E-6	578
E-7	607
E-8	640
E-9[1]	669
W-1	621
W-2	645
W-3	664
W-4	703
O-1	621
O-2	640
O-3	686
O-4	725
O-5	799
O-6	900
O-7	973
O-8	1,067
O-9	1,145
O-10[2]	1,255

"[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $722.

"[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,345."

(2) by striking out "$55" in subsection (b) and inserting in lieu thereof "$57";

(3) by striking out "$143" in subsection (c) and inserting in lieu thereof "$147"; and

(4) by striking out "$70" in subsection (d) and inserting in lieu thereof "$72".

SEC. 105. DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN.

Section 413 of title 38, United States Code, is amended—

(1) by striking out "$240" in clause (1) and inserting in lieu thereof "$247";

(2) by striking out "$345" in clause (2) and inserting in lieu thereof "$356";

(3) by striking out "$446" in clause (3) and inserting in lieu thereof "$460";

(4) by striking out "$446" and "$90" in clause (4) and inserting in lieu thereof "$460" and "$93", respectively.

SEC. 106. SUPPLEMENTAL DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN.

Section 414 of title 38, United States Code, is amended—

(1) by striking out "$143" in subsection (a) and inserting in lieu thereof "$147";

(2) by striking out "$240" in subsection (b) and inserting in lieu thereof "$247"; and

(3) by striking out "$122" in subsection (c) and inserting in lieu thereof "$126".

SEC. 107. EFFECTIVE DATE.

The amendments made by this title shall take effect as of December 1, 1985.

TITLE II—VETERANS' JOB TRAINING AMENDMENTS

SEC. 201. EMERGENCY VETERANS' JOB TRAINING ACT AMENDMENTS.

(a) SHORT TITLE.—(1) The first sentence of section 1 of Public Law 98-77 (29 U.S.C. 1721 note) is amended to read as follows: "This Act may be cited as the 'Veterans' Job Training Act'.".

(2) Any reference in any Federal law to the Emergency Veterans' Job Training Act of 1983 shall be deemed to refer to the Veterans' Job Training Act.

(b) ELIGIBILITY.—Section 5(a)(1)(B) of the Veterans' Job Training Act, as redesignated by subsection (a), is amended by striking out "fifteen of the twenty" and inserting in lieu thereof "10 of the 15".

(c) COUNSELING.—Section 14 of such Act is amended—

(1) by inserting "(a)" before "The"; and

(2) by adding at the end the following new subsection.

"(b) The Secretary—

"(1) shall provide for a program under which periodic (not less than monthly) contact is maintained with each veteran participating in a program of job training under this Act for the purposes of avoiding unnecessary termination of employment, referring the veteran to appropriate counseling if necessary, and facilitating the veteran's successful completion of such program; and

"(2) after consultation with the Administrator, shall provide for a program of counseling services designed to resolve difficulties that may be encountered by veterans during their training under this Act and shall advise all veterans and employers participating under this Act of the avilability of such services and other related counseling services and assistance and encourage them to request such services and assistance whenever appropriate.".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 16 of such Act is amended—

(1) by inserting "and $65,000,000 for fiscal year 1986" after "1985"; and

(2) by striking out "1987" and inserting in lieu thereof "1988".

(e) TOLLING OF CERTAIN PERIOD.—Section 17 of such Act is amended—

(1) by striking out "Assistance" and inserting in lieu thereof "(a) Except as provided in subsection (b), assistance";

(2) in clause (1), by striking out "February 28, 1985" and inserting in lieu therof "January 31, 1987";

(3) in clause (2), by striking out "July 1, 1986" and inserting in lieu thereof "July 31, 1987"; and

(4) by adding at the end the following new subsection:

"(b) If funds for fiscal year 1986 are appropriated for the purpose of making payments to employers under this Act but are not both so appropriated and made available by the Director of the Office of Management and Budget to the Veterans' Administration on or before February 1, 1986, for such purpose, assistance may be paid to an employer under this Act on behalf of a veteran if the veteran—

"(1) applies for a program of job training under this Act within 1 year after the date on which funds so appropriated are made available to the Veterans' Administration by the Director; and

"(2) begins participation in such program within 18 months after such date.".

(f) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) The amendment made by subsection (e)(2) shall take effect on February 1, 1986.

SEC. 202. COORDINATION.

(a) IN GENERAL.—In carrying out section 1516(b) of title 38, United States Code, the Administrator of Veterans' Affairs shall take all feasible steps to establish and encourage, for veterans who are eligible to have payments made on their behalf under such section, the development of training opportunities through programs of job training consistent with the provisions of the Veterans' Job Training Act (as redesignated by section 201(a)(1) of this Act) so as to utilize programs of job training established by employers pursuant to such Act.

(b) DIRECTIVE.—In carrying out such Act, the Administrator shall take all feasible steps to ensure that, in the cases of veterans who are eligible to have payments made on their behalf under both such Act and section 1516(b) of title 38, United States Code, the authority under such section is utilized, to the maximum extent feasible and consistent with the veteran's best interests, to make payments to employers on behalf of such veterans.

Amend the title so as to read: "An Act to amend title 38, United States Code, to provide a 3.1-percent increase in the rates of disability compensation and of dependency and indemnity compensation paid by the Veterans' Administration; to make improvements in veterans' job training programs; and for other purposes.".

Mr. MONTGOMERY (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Mississippi?

Mr. HAMMERSCHMIDT. Reserving the right to object, Mr. Speaker, and I do not plan to object, but I would ask my distinguished friend, the chairman of the Veterans' Committee, to give us an explanation of his request.

Mr. MONTGOMERY. Mr. Speaker, will the gentleman yield?

Mr. HAMMERSCHMIDT. I yield to the gentleman from Mississippi.

Mr. MONTGOMERY. Mr. Speaker, on December 9, 1985, the House passed by a voice vote and sent to the Senate H.R. 1538, to provide service-connected veterans and their eligible dependents with a 3.4-percent cost-of-living increase effective December 1, 1985.

The Senate amended the bill to reduce the COLA to 3.1 percent, and since that amount is the same as Social Security and pension beneficiaries will receive, we will accept this reduction from 3.4 percent to 3.1 percent. That is the cost-of-living increase for service-connected veterans.

Also in the bill is an extension of the Emergency Veterans Job Training Act. The Senate amendments contain these provisions as well, the 3.1-percent COLA increase for service-connected veterans and also the Emergency Veterans Job Training Act is extended.

Mr. HAMMERSCHMIDT. Mr. Speaker, further reserving the right to object, and having heard the explanation of the chairman with respect to H.R. 1538, as amended by the other body, I urge its passage.

Many of us have stated on many occasions that compensation for service-connected disabled veterans, their survivors and dependents is the No. 1 priority of our Government. By the passage of this bill and upon its signature by the President, we will again have observed that priority.

The job training amendment to this bill was the subject of previous legislation passed by the House and Senate in different forms. It contains limited extensions of current authority. The chairman and I are in agreement with them.

Mr. Speaker, this body originally passed a compensation increase of 3.7 percent based on the then estimate of the Consumer Price Index. That index is now 3.1 percent and that is why that figure is in this legislation.

We had hoped and do hope that this legislation would have been taken care of in reconciliation. Apparently, that may not be and that is why this bill is before us in its current form. I join the distinguished chairman in urging its passage.

Mr. EDGAR. Mr. Speaker, will the gentleman yield?

Mr. HAMMERSCHMIDT. I yield to the distinguished gentleman from Pennsylvania.

Mr. EDGAR. Mr. Speaker, I would like to associate myself with the gentleman's remarks and commend the gentleman for bringing up this legislation at this time.

Mr. HAMMERSCHMIDT. Mr Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HAMMERSCHMIDT. Mr. Speaker, I ask unanimous consent to revise and extend my own remarks, and that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous material, on the legislation just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

ROMANIA'S HUMAN RIGHTS RECORD CONTINUES TO BE POOR

(Mr. SMITH of New Jersey asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of New Jersey. Mr. Speaker, on Sunday December 15, Secretary of State George Shultz and Counselor Ed Derwinski held high level talks with Romanian authorities in Bucharest. High on the agenda was a frank discussion of human rights. It is my understanding that the Romanians were advised that MFN may be in jeopardy next year unless Romania substantially improves its observance of basic human rights.

The President's seminannual report to the Commission on Security and Cooperation in Europe, on which I serve as a commissioner, makes it abundantly clear in its report released just a few weeks ago to that Romania's human rights record continues to be poor.

Mr. Speaker. There is a growing sensitivity on the part of many Members of Congress and the American people that religious repression and violation of human rights have not improved in Romania. If the conference of MFN is to have any meaning at all, only performance serves as a useful barometer. Paper guarantees, personal assurances, and public pronouncements by Romanian officials are indeed useful, but the record must correspond with to words they say. If that is not the case, I would suggest we are only kidding ourselves and doing an injustice to those Romanians who suffer beatings, imprisonment, interrogation, job loss, and other forms of harassment.

Mr. Speaker, several weeks ago, the gentleman from Virginia [Mr. WOLF], the gentleman from Ohio [Mr. HALL] and myself introduced H.R. 3599, which will suspend temporarily for 6 months MFN for Romania. I urge Members to cosponsor this. We currently have 65 cosponsors. It is a good bill and I hope that Members will cosponsor it.

REMEMBERING OUR HOSTAGES IN BEIRUT

(Mr. O'BRIEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. O'BRIEN. Mr. Speaker, in the spirit of the season, I think it would be wise to remind the House that Terry Waite is back in Beirut. He is back there to seek once more the release of our hostages.

I would remind the House that perhaps a new consideration is necessary to be brought into the equation. Heretofore hostages have been equated with prisoners. No way can they be equated with prisoners. You cannot take an innocent hostage on one side and balance against someone who has bombed two embassies, injured 85 people, killed 6 and stolen an aircraft.

It seems to me that it would be timely, and I urge the Members of the House to go back to their temples and their churches at this particular season to storm the gates of heaven and indeed to disturb the stars to shake those hostages loose. What an indescribably beautiful Christmas gift it would be to all.

HUMAN RIGHTS IN ROMANIA

(Mr. BADHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BADHAM. Mr. Speaker, I would like to join the two previous colleagues on the floor, the gentleman from New Jersey [Mr. SMITH] and the gentleman from Virginia [Mr. WOLF] who have alluded to the fact that Secretary Shultz is going to Romania to discuss, among other things, with the Romanians, human rights.

I would like to support their legislation that could cause a 6-month lapse in the most-favored-nation treatment to the nation of Romania.

The Romanian people are friends of the United States. The American people are friends of the Romanian people, but the suppression of human rights, their denial of exit visas, and various other things, would cause them to be in violation of those things which we hold dear.

Mr. Speaker, I would support their legislation and ask for its passage and I commend them for offering that legislation.

□ 2225

EXTENDING TEMPORARILY CERTAIN TAX PROVISIONS

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that the Committee on Ways and Means and the Committee on Energy and Commerce be discharged from further consideration of the bill (H.R. 4006) to extend until March 15, 1986, the application of certain tobacco excise taxes, trade adjustment assistance, certain Medicare reimbursement provisions, and borrowing authority under the Railroad Unemployment Insurance Program, and to amend the Internal Revenue Code of 1954 to extend for a temporary period certain tax provisions of current law which would otherwise expire at the end of 1985, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

Mr. FRENZEL. Mr. Speaker, reserving the right to object, I do so in order to yield to the distinguished chairman, the gentleman from Illinois [Mr. ROSTENKOWSKI] so that he can explain this new bill, which I believe is going to be satisfactory to all Members.

Mr. ROSTENKOWSKI. Mr. Speaker, if the gentleman will yield, this bill extends certain tax, Medicare, and other provisions some of which expire at midnight tonight and others the end of the year. These provisions are addressed on a permanent basis in the tax reform bill or the reconciliation conference report just adopted by the House. All of these provisions are extended as under current law until March 15, 1986, under this bill. This extension bill is necessary for several reasons:

First, the President may be unable to sign the reconciliation conference report for certain provisions which expire tonight, including the 16-cent tobacco tax, Medicare hospital and physician reimbursement provisions, and the Trade Adjustment Assistance Program. The extension is necessary for other provisions because of the time it will take the Senate to consider the tax reform bill.

The provisions extended by the bill include the following:

First, the 16-cents-per-pack cigarette excise tax;

Second, the research and development tax credit;

Third, the targeted jobs tax credit;

Fourth, research expense allocation rules;

Fifth, solar and geothermal tax credits;

Sixth, tax-free employer-provided educational assistance;

Seventh, qualified employer-provided group legal services;

Eighth, expensing of up to $35,000 annually of the cost of removing architectural barriers for the handicapped;

Ninth, the current moratorium in the 1976 act net operating loss carryover rules;

Tenth, the present law provisions for awards of attorney's fees in tax litigation;

Eleventh, tax relief provisions for Vietnam-MIA's and their spouses;

Twelfth, moratorium on faculty housing regulations;

Thirteenth, the 4-cent-per-gallon exemption from the motor vehicle fuel excise tax for taxicabs;

Fourteenth, the Medicare hospital and physician reimbursement provisions;

Fifteenth, borrowing authority for the railroad unemployment fund; and

Sixteenth, the Trade Adjustment Assistance Program.

Several points should be clearly understood by the Members of the House.

First, the extensions of current law contained in this bill are substantially more expensive than the extension bill just defeated, approximately $500 million more expensive.

Second, any further extension of these provisions must include the modifications contained in either the tax reform bill the House passed earlier this week or the reconciliation conference report just adopted by the House.

Mr. FRENZEL. Further reserving the right to object, Mr. Speaker, I yield to the distinguished gentleman from South Carolina [Mr. CAMPBELL].

Mr. CAMPBELL. I thank the gentleman for yielding.

Mr. Speaker, if I might inquire, this, if I understand it, is strictly an extension of current law on all of the items that are listed, and all of the extensions apply until March 15, 1986.

Mr. ROSTENKOWSKI. If the gentleman will yield further, the gentleman is correct.

Mr. CAMPBELL. I thank the gentleman, and I support the extension.

Mr. FRENZEL. Mr. Speaker, further reserving the right to object, I yield to the distinguished gentleman from Ohio [Mr. GRADISON].

Mr. GRADISON. I thank my colleague from Illinois for yielding and would address a question to my chairman.

It is my understanding, Mr. Speaker, that the objective of this package is to extend the provisions of current law. I would inquire specifically what this provision does with regard to the reimbursement of participating physicians; that is, those physicians who have agreed to accept assignment in all cases.

Current law has provided for some time that if they became participating physicians, their payments would be increased as of October 1, 1985. I just want to make sure that we provide the increase in the package before us.

Mr. ROSTENKOWSKI. If the gentleman will yield further, what the gentleman just explained is what we had intended and had hoped to do previously. However, the provisions of this bill continue the freeze.

Mr. GRADISON. I thank the chairman for this explanation and would like to explain to my colleagues of the House, then, that this is not an extension of the present law. It may be an extension of the freeze, but present law does not provide for a continuation of the freeze. Let me elaborate further.

What we have been trying to do in the Medicare Program is encourage physicians, instead of increasing their billings on the beneficiaries, to accept the payments made by Medicare as the payments in full for services provided to Medicare beneficiaries under the program. One of the inducements which we offered more than a year ago was that if they became participating physicians, if they agreed to accept assignment in all cases of Medicare beneficiaries who came to them, they would get a modest increase in reimbursement as of October 1, 1985.

I appreciate that the package before us is not amendable, but I would say to my chairman that I think this is clearly turning our backs on an agreement which has been made in good faith with the physicians and I think it runs the serious risk of increasing the billings which will be made directly to Medicare beneficiaries because of the likelihood that it will discourage physicians who are not required to be participating physicians from dropping out of that program.

I just want to make it clear, and I am not going to object, but if we do this it runs the serious risk, indeed I think it has the definite assurance, that between now and March 15, it is going to increase the out-of-pocket costs to the elderly for physician services provided under the Medicare Program.

I want to make one other point. I do not think it is exactly truth in advertising to bring this package forward and say that it continues present law. I have not studied all the provisions, but with regard to the one that this gentleman is inquiring about, it does not.

Mr. ROSTENKOWSKI. If the gentleman will yield further, I am sure my colleague, the gentleman from Ohio, will have to agree that if asked the question, "Is there a freeze currently?" the gentleman would have to agree that there is a freeze currently.

Mr. GRADISON. There is a freeze which is about to expire.

Mr. ROSTENKOWSKI. If the gentleman will yield further, we tried to correct that and we tried to avoid the very situation that the gentleman explained. However, we were not successful.

Mr. GRADISON. If the gentleman from Minnesota will yield further, I certainly accept the explanation of my chairman. I understand what he is saying and I understand what I am saying, and what I am saying is that this is not cost free and that if there are costs, they are going to be paid by the elderly. That is the only point I want to make so that my colleagues know what we are getting into if we go ahead with this change.

Mr. ROSTENKOWSKI. I agree with the gentleman. The gentleman makes a very good point.

Mr. FRENZEL. Mr. Speaker, further reserving the right to object, I yield to the distinguished gentleman from Indiana [Mr. Myers].

Mr. MYERS of Indiana. I thank the gentleman for yielding.

I have a brief question. Was there any consideration given to an extension of the present utility stock dividend reinvestment program?

Mr. FRENZEL. There was none given in the recent meeting that we had. We worked off of the three bills that were presented by the committee tonight. We took all of the items that were in the three bills. We extended them through the period of March 15. Those are the only items we took.

We were trying to prepare a bill that would be generally acceptable in a minimal amount of time, so we did not extend things that were not in the three bills.

Mr. MYERS of Indiana. I thank the gentleman.

Mr. FRENZEL. Mr. Speaker, further reserving the right to object, I yield to the distinguished gentleman from Texas [Mr. Pickle].

Mr. PICKLE. I thank the gentleman from yielding.

Mr. Speaker, I think the gentleman from Indiana has made a very good point, that the question of dividend reinvestment is not in any of the three proposals. It has been swallowed up. It has been lost. It is one of the most effective programs we have. Yet, in the rush of trying to take advantage of one side or the other, we are letting one of the best programs that Congress has expire.

□ 2235

It has been proven that if you allow an individual to get credit on stock options that they will take that rather than dividends. It provided capital for our utilities. I wish it could be broader, but nowhere has anybody made any attempt to do anything about dividend reinvestment, and it is a great omission, and we must correct it.

Mr. FRENZEL. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Nebraska [Mr. Daub].

Mr. DAUB. I ask the gentleman to yield for the purpose of directing a question to the chairman of the committee. I would like to ask our distinguished chairman what the situation would be with respect to the Medicare provisions, particularly those discussed by the gentleman from Ohio [Mr. Gradison] should reconciliation, as we passed it, be accepted by the other body.

Mr. ROSTENKOWSKI. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Illinois.

Mr. ROSTENKOWSKI. Mr. Speaker, it is my understanding that certainly reconciliation, if agreed to in the other body, and then is signed by the President, will supersede what we have done here.

Mr. DAUB. I thank the gentleman.

Mr. ROSTENKOWSKI. Of course, it also would meet the concerns of our good friend from Ohio.

Mr. DAUB. I thank the chairman of the committee.

Mr. FRENZEL. Mr. Speaker, further reserving the right to object, I think these discussions have been very helpful. The committee did the best that it could to resolve the difficulties that resulted in the failure of the last rule.

I hope the gentleman's request will be swiftly granted.

Mr. Speaker, I withdraw my reservation of objection.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The Clerk read the bill, as follows:

H.R. 4006

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—FIFTH EMERGENCY EXTENSION ACT OF 1985–86

SEC. 101. SHORT TITLE OF TITLE; EXPIRATION DATE OF EXTENSION PERIOD.

Short Title.—This title may be cited as the "Fifth Emergency Extension Act of 1985–86".

(b) Expiration Date of Extension Period.—For purposes of extending the provisions of certain Acts, the "expiration date of the extension period" is March 15, 1986.

SEC. 102. EXTENSION OF TRADE ADJUSTMENT ASSISTANCE PROGRAM.

Section 285 of the Trade Act of 1974 (19 U.S.C. note preceding section 2271) is amended by striking out "December 19, 1985" and inserting in lieu thereof "the expiration date of the extension period (as specified in section 1(b) of the Fifth Emergency Extension Act of 1985–86)".

SEC. 103. EXTENSION OF BORROWING AUTHORITY UNDER THE RAILROAD UNEMPLOYMENT INSURANCE ACT.

Section 10(d) of the Railroad Unemployment Insurance Act is amended by striking out "December 19, 1985" each place it appears and inserting in lieu thereof "the expiration date of the extension period (as specified in section 1(b) of the Fifth Emergency Extension Act of 1985–86)".

SEC. 104. EXTENSION OF MEDICARE HOSPITAL AND PHYSICIAN PAYMENT PROVISIONS.

Section 5(c) of the Emergency Extension Act of 1985 (Public Law 99-107) is amended by striking out "December 19, 1985" and inserting in lieu thereof "the expiration date of the extended period (as specified in section 1(b) of the Fifth Emergency Extension Act of 1985–86)".

TITLE II—MISCELLANEOUS TAX PROVISIONS EXTENSION ACT OF 1985

SEC. 201. SHORT TITLE OF TITLE; AMENDMENT OF 1954 CODE.

(a) Short Title.—This title may be cited as the "Miscellaneous Tax Provisions Extension Act of 1985".

(b) Amendment of 1954 Code.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

SEC. 202. TEMPORARY EXTENSION OF CREDIT FOR INCREASE IN RESEARCH ACTIVITIES.

(a) 2½ Month Extension.—

(1) In general.—Section 30 (relating to credit for increasing research activities) is amended by adding at the end thereof the following new subsection:

"(h) Termination.—

"(1) In general.—This section shall not apply to any amount paid or incurred after March 15, 1986.

"(2) Computation of base period expenses.—In the case of any taxable year which begins before March 16, 1986, and ends after March 15, 1986, any amount for any base period with respect to such taxable year shall be the amount which bears the same ratio to such amount for such base period as the number of days in such taxable year before March 16, 1986, bears to the total number of days in such taxable year."

(2) Conforming amendment.—Subsection (d) of section 221 of the Economic Recovery Tax Act of 1981 is amended—

(A) by striking out ", and before January 1, 1986" in paragraph (1), and

(B) by striking out the last sentence of paragraph (2)(A).

(b) Effective Date.—The amendments made by subsection (a) shall apply to taxable years ending after December 31, 1985.

SEC. 203. TEMPORARY EXTENSION OF TARGETED JOBS CREDIT.

(a) 2½ Month Extension.—Paragraph (3) of section 51(c) (relating to termination) is amended by striking out "December 31, 1985" and inserting in lieu thereof "March 15, 1986".

(b) Extension of Authorization.—Paragraph (2) of section 261(f) of the Economic Recovery Tax Act of 1981 is amended by striking out "fiscal years 1983, 1984, and 1985" and inserting in lieu thereof "fiscal years 1983, 1984, 1985, and 1986".

SEC. 204 2½ MONTH EXTENSION OF EXCLUSIONS FOR EDUCATIONAL ASSISTANCE PROGRAMS AND GROUP LEGAL PLANS.

(a) Educational Assistance Programs.—Subsection (d) of section 127 (relating to termination) is amended by adding at the end thereof the following new sentence: "Notwithstanding the preceding sentence, this section shall apply to periods before March 16, 1986, in taxable years beginning after December 31, 1985."

(b) Group Legal Plans.—Subsection (e) of section 120 (relating to termination) is amended by adding at the end thereof the following new sentence: "Notwithstanding the preceding sentence, this section and section 501(c)(20) shall apply to periods before March 16, 1986, in taxable years ending after December 31, 1985."

SEC. 205 2½ MONTH EXTENSION OF PROVISION AWARDING COURT COSTS AND CERTAIN FEES.

(a) General Rule.—Subsection (f) of section 7430 (relating to termination) is amended by striking out "December 31, 1985" and inserting in lieu thereof "March 15, 1986".

(b) Technical Amendment.—Subsection (a) of section 7430 is amended by inserting "(payable in the case of the Tax Court in same manner as such an award by a district court)" after "a judgment".

(c) Effective Dates.—

(1) Subsection (a).—The amendment made by subsection (a) shall apply to proceedings commenced after December 31, 1985.

(2) Subsection (b).—The amendment made by subsection (b) shall take effect as if included in the amendments made by section 292 of the Tax Equity and Fiscal Responsibility Act of 1982.

SEC. 206. EXTENSION OF INCREASE IN CIGARETTE TAX.

In no event shall the amendments made by section 283(a) of the Tax Equity and Fiscal Responsibility Act of 1982 be treated as having ceased to apply before March 16, 1986.

SEC. 207. 2½ MONTH DELAY IN APPLICATION OF THE NET OPERATING LOSS RULES ADDED BY THE TAX REFORM ACT OF 1976.

Subsection (g) of section 806 of the Tax Reform Act of 1976 (relating to effective dates for the amendments to sections 382 and 383) is amended—

(1) by striking out "December 31, 1985" in paragraph (2) and inserting in lieu thereof "March 15, 1986", and

(2) by striking out "January 1, 1986" in paragraphs (2)(B) and (3) and inserting in lieu thereof "March 16, 1986".

SEC. 208. 2½ MONTH EXTENSION OF ALLOCATION UNDER SECTION 861 OF RESEARCH AND EXPERIMENTAL EXPENDITURES.

Paragraph (1) of section 126(c) of the Tax Reform Act of 1984 is amended by adding at the end thereof the following: "Notwithstanding the preceding sentence, this section shall also apply to periods before March 16, 1986, in taxable years beginning after August 1, 1985."

SEC. 209. EXTENSION OF RULES FOR SPOUSES OF INDIVIDUALS MISSING IN ACTION.

(a) Extension.—Sections 2(a)(3)(B)(i), 692(b)(1), 6013(f)(1), and 7508(b)(1) are each amended by striking out "December 31, 1982" and inserting in lieu thereof "March 15, 1986".

(b) Effective Date.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1982.

SEC. 210. MORATORIUM ON ISSUANCE OF REGULATIONS RELATING TO FACULTY HOUSING.

Paragraphs (1) and (3) of section 531(g) of the Tax Reform Act of 1984 are each amended by striking out "January 1, 1986" and inserting in lieu thereof "March 16, 1986".

SEC. 211. 2½ MONTH EXTENSION OF EXPENSE TREATMENT FOR REMOVAL OF ARCHITECTURAL BARRIERS TO THE HANDICAPPED AND ELDERLY.

Subsection (d) of section 190 (relating to application of section) is amended by striking out "and" at the end of paragraph (1), by striking out the period at the end of paragraph (2) and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:

"(3) expenses paid or incurred before March 16, 1986, in taxable years beginning after December 31, 1985."

SEC. 212. EXTENSION OF RESIDENTIAL ENERGY CREDITS FOR SOLAR RENEWABLE ENERGY SOURCE EXPENDITURES.

(a) In General.—Subsection (f) of section 23 (relating to termination) is amended to read as follows:

"(f) Termination.—

"(1) In general.—Except as provided in paragraph (2), this section shall not apply to expenditures made after December 31, 1985.

"(2) Solar property.—In the case of solar property (as defined in subsection (b)(6)(B)), this section shall not apply to expenditures made after March 15, 1986."

(b) Solar Property.—Subsection (b) of section 23 (relating to qualified expenditures) is amended by adding at the end thereof the following new paragraph:

"(6) Special rules for solar property.—

"(A) In general.—In the case of renewable energy source expenditures for solar property made after December 31, 1985, and before March 16, 1986, paragraph (5)(B) shall be applied by substituting "1988" for "1987".

"(B) Solar property.—For purposes of subparagraph (A), the term 'solar property' means renewable energy source property which, when installed in connection with a dwelling, transmits or uses solar energy for the purpose of heating or cooling such dwelling or providing hot water or electricity for use within such dwelling."

(c) Effective Date.—The amendments made by this section shall apply to expenditures made after December 31, 1985, in taxable years ending after such date.

SEC. 213. EXTENSION OF ENERGY INVESTMENT CREDIT FOR SOLAR AND GEOTHERMAL PROPERTY.

(a) In General.—The table contained in subparagraph (A) of section 46(b)(2) (relating to energy percentage) is amended by adding at the end thereof the following new items:

"(viii) Solar energy property.—Property described in section 48(l)(4) (other than wind energy property)	15 percent	Jan. 1, 1986...	Mar 15, 1986
"(ix) Geothermal property.—Property described in section 48(l)(3)(A)(viii)	15 percent	Jan. 1, 1986	Mar 15, 1986"

(b) Effective Date.—The amendment made by this section shall apply to periods beginning after December 31, 1985, under rules similar to the rules under section 48(m) of the Internal Revenue Code of 1954.

SEC. 214. EXTENSION OF REDUCTION IN TAX FOR FUEL USED BY TAXICABS.

Paragraph (3) of section 6427(e) (relating to termination for use in certain taxicabs) is amended by striking out "September 30, 1985" and inserting in lieu thereof "March 15, 1986".

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PARLIAMENTARY INQUIRY

Mr. FRENZEL. Mr. Speaker, I was not in the room when the Committee on Ways and Means was meeting. I would ask the Chair if we have passed an adjournment resolution.

The SPEAKER pro tempore. The House has not passed the adjournment resolution. The House is waiting on the Senate at this point.

Mr. FRENZEL. Mr. Speaker, does the Senate have the adjournment resolution?

The SPEAKER pro tempore. We are waiting to receive that resolution from the Senate.

Mr. FRENZEL. Mr. Speaker, insofar as the Chair is aware, is there any further pending business before the House other than the adjournment resolution?

The SPEAKER pro tempore. The Chair is not aware of any business at this time other than the adjournment resolution, but cannot speak with absolute certitude. A case may arise, but I am not aware of any business at this time.

Mr. FRENZEL. I thank the Chair for the information.

The SPEAKER pro tempore. The Chair will announce that in conjunction with its previous statement and in line with that previous statement, we cannot anticipate what the other body may do or send to us.

REQUEST TO REMOVE SECTION 6403 FROM H.R. 3500, BUDGET RECONCILIATION ACT OF 1985

Mr. MOORE. Mr. Speaker, I ask unanimous consent to take section 6403, distribution of 8(g) account from H.R. 3500, the Budget Reconciliation Act of 1985, as passed by the House October 24, 1985, and ask for its immediate consideration.

Mr. AuCOIN. Mr. Speaker, I reserve the right to object.

Mr. DINGELL. Mr. Speaker, I object.

The SPEAKER pro tempore. First of all, the Chair would state to the gentleman that the Chair cannot entertain that request under the Speaker's guidelines, and furthermore, the Speaker hears an objection.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland [Mr. BARNES] is recognized for 5 minutes.

Mr. BARNES. Mr. Speaker, I wish to indicate my positions on two votes which occurred today when I was unavoidably absent.

On rollcall No. 479, the rule (H. Res. 349) providing for the passage of the budget reconciliation conference report (H.R. 3128) while dropping the "value-added tax" provisions, I would have voted "aye."

On rollcall No. 480, on the question of taking up a rule (H. Res. 350) providing for the consideration of legislation extending a variety of tax provisions, I would have voted "aye."

GENERAL LEAVE

Mr. PENNY. Mr. Speaker, I ask unanimous consent that all Members may be permitted to extend their remarks and to include extraneous material on House Resolution 349, the rule on budget reconciliation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

LET US CONDEMN THE BRUTAL OCCUPATION OF AFGHANISTAN

(Mr. BRYANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRYANT. Mr. Speaker, this month, as Americans across the Nation are celebrating the holiday season, we should also take note of the fact that this is the sixth anniversary of the Soviet Union's murderous invasion and brutal occupation of Afghanistan.

While we are enjoying this special family time of the year, millions of Afghans will be trekking across the rugged lands to flee the brutal armed aggression perpetrated by the Soviets and their Afghan puppet proxies against "everything Afghan."

The plight of the nation of Afghanistan is tragic. Millions have been forced from their homes and villages, while hundreds of thousands of Afghans—mostly innocent civilians—have been brutally murdered by Soviet and Afghan Army Forces.

The Soviets' vicious and immoral war against the Afghan nation, people, culture, food supply system, and religion is unconscionable. Virtually every form of human decency is being violated daily by the Soviets in their relentless drive to eliminate opposition to their puppet government.

Despite the oppression and use of force, Afghanistan's freedom fighters struggle to remove the Soviet occupation and restore peace and democracy to their troubled land.

As a result of the Soviet invasion, over one-fourth of the prewar population has fled the country, constituting the largest refugee population in the world.

Even though the Soviets and their puppet government have stepped up their military campaign against the civilian population, the freedom fighters have frustrated all Soviet attempts to suppress them and withstood with unmatched courage and sacrifice the unrelenting attacks by Soviet forces.

The Soviet invasion and repression of the Afghan people has earned the condemnation of the Non-Aligned Movement, the United Nations, the European Parliament, the Islamic Conference Organization, the Association of Southeast Asian Nations, and most of the countries of the world.

I have joined with many of my colleagues this holiday season in sponsoring a resolution condemning these 6 horrible years of aggression waged against the independent country and people of Afghanistan. It expresses our support for continued aid for the Afghan population both inside and outside Afghanistan and urges the prompt conclusion of a negotiated settlement based upon the complete withdrawal of Russian troops, restoration of the independent and nonaligned status of Afghanistan, self-determination for the Afghan people, and the return of the Afghan refugees to their country with safety, dignity, and honor.

It has been accurately observed that, "No one can be perfectly free until all are free." So in our hopes and prayers this special season, let us seek freedom, democratic self-government, and justice for the people of Afghanistan.

□ 2250

PARLIAMENTARY INQUIRIES

Mr. CAMPBELL. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his inquiry.

Mr. CAMPBELL. Under the provisions that we are operating for expiration of existing tax, do they expire at a time certain or at the end of the legislative day on a day like this?

The SPEAKER pro tempore. The Chair cannot interpret that. That is a matter of substantive law.

Mr. CAMPBELL. In a law on the extensions that were expiring in law today, would the hour be a time certain, or would it be the end of the legislative day?

The SPEAKER pro tempore. The Chair cannot interpret the law. That is a question of substantive law, and the Chair is not in a position to interpret the law.

The gentleman is not really stating a parliamentary inquiry.

Mr. CAMPBELL. The legislative day that we are now operating in would not come to an end until we have officially adjourned, no matter what the time on clock is. Is that correct?

The SPEAKER pro tempore. The Chair states that he can respond to that; that is correct.

THE TIME TO GO HOME IS NOW

(Mrs. MARTIN of Illinois asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MARTIN of Illinois. Mr. Speaker, it is almost 11 o'clock. It is indeed nap time at the nursery school. This is ludicrous. We know there is going to be no real business transacted; we know what is underneath this delay, which is destructive to the House as a whole, and destructive to the image and the perception of this House to the Americans who have trusted us to have accomplished what we needed to accomplish in a more efficacious and efficient way earlier this year.

Now for those who would, for their own special interests, continue to keep this House in, I beg them to remember why we should be here and why and when we should go home, and that is now.

PARLIAMENTARY INQUIRY

Mr. LOTT. Mr. Speaker, who is in charge? What are we doing here?

The SPEAKER pro tempore. The House is waiting on what business the Senate may send us, among other things. We are not sure what the Senate may send us.

Mr. LOTT. Well, do we know what they are going to send us? I mean, I understand that they are punting back the reconciliation package, insisting on the original language with the idea that they are not going to take up the unanimous consent cigarette tax and other things we just agreed to, and I do not see that as much of a bluff. So why are we here?

The SPEAKER pro tempore. The Chair is not privy to what the Senate is doing at this time.

OBSERVING THE ACTIONS OF THE OTHER BODY

(Mr. STARK asked and was given permission to address the House for 1 minute.)

Mr. STARK. Mr. Speaker, I had the joyous experience of sitting on the floor of the other body, as several of us were observing just a moment or two ago, and the other body took the original reconciliation bill and as I understand their procedures, returned it to us, period.

No; just returned it, period. No changes, no—just what was reported out of the conference before it went to Rules.

A question was raised on the floor of the other body about, might there be extenders and that was diffused; it was not answered directly as to whether they would consider it. It was mentioned on the floor of the other body that we had passed the extender bill, and that was diffused, too.

So as I understand it now, we will get that back, the original bill which we amended once before; and whether the extender which I gather we have sent to them remains in doubt. That is all I can report to the distinguished minority whip.

Mr. LOTT. Mr. Speaker, I think the burden is on them. I mean, we have done our work here; we have passed reconciliation, sent it over there; we got an unanimous-consent agreement, sent it over there. It is their problem, and I would hope that the House would move expeditiously to adjourn sine die.

PARLIAMENTARY INQUIRY

Mr. CAMPBELL. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. CAMPBELL. Is the Chair now in possession of the documents from the Senate on the reconciliation package?

The SPEAKER pro tempore. The message has not arrived.

Mr. CAMPBELL. No message has yet arrived?

FURTHER LEGISLATIVE PROGRAM

(Mr. MURTHA asked and was given permission to address the House for 1 minute.)

Mr. MURTHA. Let me explain the problem. I just went in the room where the leadership is meeting. They are trying to figure out what to do about the other body's action. They expect to be out here momentarily; hopefully they will have a solution to what action they are going to recommend to the House.

It is such an important piece of legislation they have asked me to convey to the House, to try to be patient, just a few minutes longer, and they are not eating and they are not drinking and they are not carrying on; they are trying to figure out a method to solve this delemma that we are in.

It is, I have to say, a very important issue and hopefully they will be back in a few minutes and we will be able to solve this thing.

Mr. WALKER. Will the gentleman yield?

Mr. MURTHA. I yield to the gentleman.

Mr. WALKER. We just had a conversation with a Member of the other body, who has considerable weight in these matters, who said just a few minutes ago on this floor that there is no way we are going to resolve this impasse; that we are at a complete deadlock, and that there is no way that the impasse is going to be resolved.

It seems to me that we do not need to wait a few more minutes; that we can simply adjourn now.

Mr. MURTHA. Let me say this. I know everybody is tired after 4 or 5 days of 18-hour days, and I do not blame you a bit. I mean, everybody is exhausted and frustrated and I am certainly not trying to add to that frustration.

What I am saying is, the information they have is a little bit different than what the gentleman says, and they are just trying to come up with a plan of action here, and I suggested that they come out and address the problem, but they felt they needed a few more minutes.

Mr. LOTT. Will the gentleman yield?

Mr. MURTHA. I will be glad to yield to the gentleman.

Mr. LOTT. Once again trying to find a way out of this box. I know what really is involved; some Members are still trying to find a way to pass the VAT or the MET tax, whatever you want to call it; the House has already voted on that twice; and I voted, personally, for the Downey amendment, but the House has spoken twice.

To expect at this late hour that the House is now going to turn itself around, I cannot understand that. The way to handle this issue now; we have acted responsibly, we sent it back to them; I think we ought to move to adjourn sine die.

They have our reconciliation, and they have the bobtail resolution we just passed to March 15. So if we allow this to drag out, go back to the Rules Committee so we can punt this ball back over to the other body, I do not understand why we go through this madness at this point.

Mr. MURTHA. Well, as I understand the parlimentary situation, I had understood the other body was going to take action and send it back as it was in the original conference report.

We could not amend it; we could only defeat it and go to conference. Now, they are discussing with the Parliamentarians if anything else could be done, and obviously arguing about what action should be taken in the House.

I think essentially what you are saying is true; but, when you talk to the Parliamentarian, there may be something else that can be done.

I agree with the situation as you have—you have stated it very clearly, and I am on the other side of the issue. I am just as anxious to go home, but they hope, in the spirit of Christmas, that we will be able to wait a few more days—minutes.

□ 2300

Mr. THOMAS of California. It is 11 o'clock, and for those of us or others who are looking for planes to catch, they are gone, and we have discussed the issues and made decisions and have almost brought the process to a successful culmination, not necessarily winning but wrapping up all of the loose ends so that we can leave in an organized fashion. It seems to me it would be very precipitous when we are 15, 20 minutes, half an hour away from knowing that we have concluded all of the loose ends, I think it is a little premature at this time.

Mr. Speaker, I agree totally with the gentleman that the patience of just a few more minutes will be well rewarded in making sure that we have tied up all the loose ends.

Mr. MURTHA. Mr. Speaker, I yield to the gentleman from Iowa [Mr. SMITH].

Mr. SMITH of Iowa. Mr. Speaker, we have to have permission of the other body to adjourn sine die under the Constitution. You cannot just take it on yourself that we are going to quit.

LET US STAY AND FINISH OUR WORK

(Mr. GROTBERG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GROTBERG. Mr. Speaker, I rise in support of the last speaker, the gentleman from California. Everyone here is having a good time talking, and I thought I would save mine until the end. The only thing I would say, as we urge ourselves to get out of here, is that I join in the urgency to get out but I also remember the day I filed for the office. You know why I got it, and so does everybody else here. Now one thing referred to in some earlier remarks, Mr. Speaker, was that people out there want us to go home. I think they want us to finish our job. They are a little disappointed. I have not heard any disappointed people in my district that I am down here working; it is when I am not working that they get disappointed.

So I have a kind of rebel attitude about feeling sorry for ourselves because we want to finish the day's work. If a few minutes would finish it, I would like to stay and then go home with a clear conscience.

PROVIDING FOR THE SINE DIE ADJOURNMENT OF THE CONGRESS

Mr. ROWLAND of Connecticut. Mr. Speaker, I offer a privileged concurrent resolution (H. Con. Res. 266) and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. Con. Res. 266

Resolved by the House of Representatives (the Senate concurring), That the two Houses of the Congress shall adjourn on the legislative day of Thursday, December 19th 1985, that they stand adjourned sine die, or until 12 o'clock meridian on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution.

Sec. 2. The Speaker of the House, after consultation with the minority leader of the House and the majority leader of the Senate, after consultation with the minority leader of the Senate, acting jointly, shall notify the Members of the House and Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

MOTION TO TABLE OFFERED BY MR. AU COIN

Mr. **AuCOIN**. Mr. Speaker, I move to lay the resolution on the table.

Mr. **WALKER**. Mr. Speaker, is the motion in writing?

Mr. **AuCOIN**. It is in writing, Mr. Speaker, and I send it to the desk.

The **SPEAKER** pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. AuCoin moves to lay the resolution on the table.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from Oregon [Mr. AuCoin].

The question was taken, and on a division (demanded by Mr. Walker) there was—yeas 110, nays 61.

Mr. **ROWLAND** of Connecticut, Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 229, nays 107, not voting 98, as follows:

[Roll No. 481]

YEAS—229

Akaka
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
AuCoin
Bartlett
Barton
Bateman
Bates
Bedell
Beilenson
Bennett
Bentley
Bereuter
Berman
Bilirakis
Boggs
Boner (TN)
Bonior (MI)
Bonker
Borski
Boucher
Boulter
Breaux
Brooks
Brown (CA)
Broyhill
Bruce
Bryant
Burton (CA)
Bustamante
Byron
Callahan
Campbell
Carper
Carr
Chandler
Cheney
Cobey
Coble
Coelho
Collins
Combest
Conte
Cooper
Coughlin
Coyne
Darden
Daschle
de la Garza
DeLay
Dellums
Derrick
Dicks
Dingell
DioGuardi
Donnelly
Dorgan (ND)
Durbin
Dwyer
Dymally
Dyson
Eckart (OH)
Edgar
Edwards (CA)
Edwards (OK)
Emerson
English
Evans (IL)
Fawell
Fazio
Feighan
Fields
Foglietta
Foley
Fowler
Frank
Frost
Gejdenson
Gilman
Glickman
Gonzalez
Goodling
Gordon
Gray (PA)
Grotberg
Guarini
Hall, Ralph
Hamilton
Hammerschmidt
Hatcher
Hawkins
Hayes
Hefner
Hendon
Henry
Hertel
Hiler
Hopkins
Howard
Hoyer
Huckaby
Hughes
Hutto
Jacobs
Jenkins
Johnson
Jones (OK)
Jones (TN)
Kanjorski
Kastenmeier
Kennelly
Kildee
Kleczka
Kolbe
Kostmayer
Lantos
Leath (TX)
Levin (MI)
Levine (CA)
Lloyd
Long
Lowry (WA)
Luken
Lundine
MacKay
Manton
Markey
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
Mica
Mikulski
Miller (OH)
Mineta
Moakley
Mollohan
Montgomery
Moody
Moore
Morrison (WA)
Mrazek
Murtha
Myers
Natcher
Neal
Nelson
Nielson
Nowak
Oakar
Oberstar
Obey
Ortiz
Owens
Pease
Penny
Pepper
Perkins
Pickle
Porter
Rahall
Rangel
Ray
Reid
Rinaldo
Ritter
Robinson
Rodino
Roe
Roemer
Rogers
Rose
Rostenkowski
Roukema
Rowland (GA)
Sabo
Savage
Saxton
Scheuer
Schroeder
Schuette
Seiberling
Shelby
Sisisky
Skeen
Skelton
Slattery
Smith (FL)
Smith (IA)
Smith (NJ)
Spence
Spratt
St Germain
Staggers
Stallings
Stark
Stenholm
Studds
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauzin
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Udall
Valentine
Vento
Visclosky
Volkmer
Waxman
Wheat
Whitley
Wise
Wolpe
Wright
Wyden
Yatron
Ford (MI)
Ford (TN)
Fuqua
Garcia
Gaydos
Gephardt
Gibbons
Gradison
Gray (IL)
Gregg
Hall (OH)
Heftel
Hillis
Holt
Hubbard
Jones (NC)
Kaptur
Kindness
Kolter
LaFalce
Lehman (CA)
Lehman (FL)
Leland
Lipinski
Livingston
Loeffler
Marlenee
Martinez
McDade
McGrath
McHugh
McKinney
Miller (CA)
Mitchell
Monson
Morrison (CT)
Murphy
Nichols
Olin
Panetta
Price
Quillen
Richardson
Roybal
Rudd
Russo
Schulze
Schumer
Sharp
Sikorski
Smith (NE)
Solarz
Stokes
Traxler
Vucanovich
Walgren
Watkins
Weaver
Whitehurst
Whitten
Williams
Wilson
Wirth
Wortley
Wylie
Yates
Young (MO)
Zschau

NAYS—107

Armey
Badham
Bliley
Boehlert
Brown (CO)
Burton (IN)
Chappie
Clinger
Coats
Coleman (MO)
Courter
Craig
Crane
Dannemeyer
Daub
DeWine
Dornan (CA)
Downey
Dreier
Duncan
Eckert (NY)
Evans (IA)
Fiedler
Fish
Franklin
Frenzel
Gallo
Gekas
Gingrich
Green
Gunderson
Hansen
Hartnett
Horton
Hunter
Hyde
Ireland
Jeffords
Kasich
Kemp
Kramer
Lagomarsino
Latta
Leach (IA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lott
Lowery (CA)
Lujan
Lungren
Mack
Madigan
Martin (IL)
Martin (NY)
McCain
McCandless
McCollum
McEwen
McKernan
McMillan
Meyers
Michel
Miller (WA)
Molinari
Moorhead
O'Brien
Oxley
Packard
Parris
Pashayan
Petri
Pursell
Regula
Ridge
Roberts
Roth
Rowland (CT)
Schaefer
Schneider
Sensenbrenner
Shaw
Shumway
Shuster
Siljander
Slaughter
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Snyder
Solomon
Stangeland
Strang
Stratton
Stump
Tauke
Taylor
Vander Jagt
Walker
Weber
Weiss
Whittaker
Wolf
Young (AK)
Young (FL)

NOT VOTING—98

Ackerman
Addabbo
Alexander
Aspin
Atkins
Barnard
Barnes
Bevill
Biaggi
Boland
Bosco
Boxer
Broomfield
Carney
Chapman
Chappell
Clay
Coleman (TX)
Conyers
Crockett
Daniel
Davis
Dickinson
Dixon
Dowdy
Early
Erdreich
Fascell
Flippo
Florio

□ 2315

Mr. **DUNCAN** and Mr. **VANDER JAGT** changed their votes from "yeas" to "no."

Mr. **ARCHER**, Mrs. **BENTLEY**, Mr. **REID**, and Mr. **COMBEST** changed their votes from "nay" to "yea."

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the amendment of the House to the amendments of the Senate to the bill (H.R. 3128) entitled "An act to make changes in spending and revenue provisions for purposes of deficit reduction and program improvement, consistent with the budget process," with an amendment.

The message also announced that the Senate had passed a joint resolution of the following title, in which concurrence of the House is requested:

S.J. Res. 255. Joint resolution relative to the convening of the 2d session of the 99th Congress.

CONSOLIDATED OMNIBUS RECONCILIATION ACT OF 1985

Mr. **GRAY** of Pennsylvania. Mr. Speaker, I move to take from the Speaker's table the bill (H.R. 3128) to make changes in spending and revenue provisions for purposes of deficit reduction and program improvement, consistent with the budget process, with the Senate amendment to the House amendment to the Senate amendment, and concur in the Senate amendment to the House amendment to the Senate amendment.

The **SPEAKER** pro tempore. The Clerk will report the title of the bill and the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment to the House amendment to the Senate amendment as follows:

(See Senate Proceedings in today's Record, page 38503, Part II.)

MOTION OFFERED BY MR. DAUB

Mr. DAUB. Mr. Speaker, I move to table the motion.

My motion is in writing, and it is on its way to the desk.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. Daub moves to table the motion.

The SPEAKER pro tempore. The question is on the motion to lay on the table offered by the gentleman from Nebraska [Mr. Daub].

The motion to table was rejected.

Mr. GRAY of Pennsylvania. Mr. Speaker, I move to limit debate to 15 minutes per side.

The SPEAKER pro tempore. The gentleman requests that debate be limited. Is there objection to the request of the gentleman from Pennsylvania?

Mr. DAUB. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

The gentleman from Pennsylvania [Mr. Gray] will be recognized for 30 minutes and the gentleman from Ohio [Mr. Latta] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. Gray].

□ 2330

Mr. GRAY of Pennsylvania. Mr. Speaker, I yield 2 minutes to the gentleman from South Carolina [Mr. Derrick].

Mr. DERRICK. Mr. Speaker, I thank the gentleman for yielding time.

Well, it is down to the last minute now.

We spent a good bit of time on Gramm-Rudman this year. Gramm-Rudman does not have anything to do with dollars and cents or reducing the deficit. We spent a lot of time around here on balance-the-budget amendments, and that really does not have a lot to do with balancing the budget. But we are here tonight in this last hour to talk about reconciliation, and when we are talking about reconciliation, we are talking about doing something about the budget deficit. We are talking about doing something about the budget deficit to the tune of some $81 billion.

Now, I am not going to stand up here tonight and talk to you about VAT, whether I like it or I do not like it. It is more important to some than it is to me. But I think we have to put it in perspective and remember that it is just a part of an $81 billion reconciliation bill, a reconciliation bill, a reconciliation that is the only enforcement procedure that we have in the Budget Act that we passed back in August of this year.

If we are not willing to deal with reconciliation tonight and we are not willing to concur in the Senate amendment, in my opinion what we will say to the American people is that we did not mean what we voted on in August when we passed the budget resolution, that we did not mean that we meant to enforce the budget resolution.

There is an awful lot of time and work that has gone into this. There were, I believe, some 243 conferees, not to mention the time that the Budget Committee, the Rules Committee, the Ways and Means Committee, and every other committee in this House has put into it. It is truly a consensus of this House that we come down to vote on tonight.

Mr. Speaker, let me say to the Members, if you really believe in fiscal responsibility and you really believe that we meant what we said when we passed the budget resolution in August of this year, I ask you to vote to concur in the Senate amendments.

Mr. LATTA. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, what we are about to vote on is not a question of whether we are for Gramm-Rudman or whether we are for reductions. This question is whether or not we meant what we voted on just a few hours ago and sent to the U.S. Senate. By a vote of 205 to 151 the House loudly and clearly told the other body that we did not want another tax, namely, VAT, put in the Tax Code.

That is what we voted on. How many times do we have to tell the other body that we do not want a VAT? I am ready and willing to stay here all night and all next week to get that message across to the other body. This is a matter of a battle of the wills with the other body. Are we stronger than they, or are they going to beat us down?

Well, you have spoken loud and clear. I know what this House will do. We mean what we say. They are not about to ram this down our throats. The American people do not want another tax.

So, Mr. Speaker, what are we going to do? We are going to vote it down again.

Mr. Speaker, I yield 3 minutes to the gentleman from Minnesota [Mr. Frenzel].

Mr. FRENZEL. Mr. Speaker, the issue is as described by the distinguished gentleman from Ohio [Mr. Latta]. What we have before us is the same issue that we have voted on twice before, once only a very short time ago when the House rejected the idea of the VAT, the manufacturers' excise tax, or the sales tax or whatever you might call it.

Reconciliation does not have to die. We can reconstitute the conference committee. They can excise the excise tax, and we can have it done after we come back. If we send the VAT down, we have not saved reconciliation because we have sent it forward to a certain veto.

But I think the worst of it is that we should not allow that risk to go forward. We have some responsibilities to our constituents, and one is that we will not lay an extra tax on them, which extra tax can be raised very subtly before those who are taxed know it, and those are the consumers who live in each of our districts. It can be raised before they know what has happened to them on this particular tax.

I do not think we ought to concede. If we reject this motion offered by the distinguished chairman of the Budget Committee, the gentleman from Pennsylvania, the Senate will then undoubtedly take up our tax-extension bills and we will not have to worry about a veto. We can simply, when we come back, go into conference and bring out a reconciliation bill that we can all be proud of.

It is a fundamental question, I think, of how this House wants to operate. Is it going to be driven by the Senate?

I remind the body that we had no provision for financing in the House bill. The Senate had a $5.4 billion tax. The final conference version has a $5.7 billion tax, way above the House, which had no position, and in fact above the Senate's position that they took into conference. Clearly, this goes against the will of the House, which voted by about 200 to 150 to reject the sales tax.

Mr. Speaker, I ask the House to maintain its position, to reject this motion, and, in so doing, to reject the sales tax for the people of the United States.

Mr. GRAY of Pennsylvania. Mr. Speaker, I yield 4 minutes to the gentleman from California [Mr. Waxman].

Mr. WAXMAN. Mr. Speaker, we have come to the end of the road. I think we have the decision before us whether we are going to have a reconciliation bill at all, and I think we ought to vote for a reconciliation bill.

Now, all of the things that I would like to see are not in the bill. I voted for the Downey amendment to fund the work under the Superfund Program. I would prefer that way of financing the work under Superfund. But let us face the fact that we have this provision coming from the conference, and we either agree to it or we dump the whole reconciliation proposal. This VAT proposal raises the highest figure anyone has asked for for the cleanup program under Superfund.

Now, if we reject this game and play a macho number with the Senate, we will have rejected a number of very important items in reconciliation. We have heard about the savings, and the net savings from this legislation is very important as we try to reduce the deficit—$81 billion. But we also have other important provisions in here that are very much needed.

There is an extension of prenatal care for low-income women under Medicaid. There is an extension of the hospice care program. There is a provision extending aid for dependent children in families where there is an unemployed parent, and in those States where they do not extend AFDC benefits, the father is usually forced to leave and break up the family in order for them to qualify for welfare and qualify for Medicaid.

□ 2340

I speak particularly with reference to the health programs, because that is the area in which I have been most involved. If we look at the reality of hospitals that deal with a high proportion of low-income patients and we give them a break under Medicare reimbursement.

We have many reforms in this legislation. The only time we can deal with health programs these days is in the context of a budget bill. Do not dump all the work that has gone into this bill because you prefer on balance a different way to fund the Superfund Program. I would have preferred it as well, but it is better now at the end of the road to pass reconciliation than to turn our backs and walk away on this whole legislation.

Mr. Speaker, I urge an "aye" vote.

Mr. LATTA. Mr. Speaker, I yield myself 30 seconds.

Let me just tell my good friend, the gentleman from California, who just left the well, that we just voted on all these things. We accepted them, all but one—all but one. That is the only issue here. We voted on that. We sent it back over there and let them take what we want for a change.

Mr. WAXMAN. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I am happy to yield.

Mr. WAXMAN. You do not pass a law by one House saying what the House wants alone. You must have two Houses to concur. Let it be law. The law is what we need, not rhetoric.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentlewoman from Illinois [Mrs. Martin].

Mrs. MARTIN of Illinois. Mr. Speaker, I thank the Speaker for his marvelous behavior in the chair, which I think has helped us through these difficult times.

Mr. Speaker, the tragedy is that we are here doing this and to place blame in this fashion seems unfortunate. Reconciliation should have been passed months ago. To argue that now we must do something that is inherently wrong and use as an excuse the old, the needy, Americans who want the savings of reconciliation, is, I think, both ludicrous and hypocritical.

We have here two Houses playing chicken and someone will indeed get hurt.

Sitting next to me earlier this evening was the charming and very bright chairman from the other body, who jokingly asked, "Could I speak?"

I am sure he would speak for what he believes is the right position, but I tell him with respect and liking that one does not bring in a whole new school, a type, a class, a genus of taxes, at a quarter to twelve in this part of the House deliberations, but to move to a Value-Added Tax which some people feel may well be a tax of the future, a needed and necessary tax, deserves the full discussion of both Houses, of a conference committee that has time to go and act and come back and describe to both Houses that need, and to move into that entire new era of taxation would be a dreadful mistake on a road of speeding cars like teenagers at night.

Stay with the House, not because we are necessarily more right in our conclusion, because we are right in the manner that we are trying to reach that end and we should recognize that and pass reconciliation and pause for the deep and clear examination of a new kind of tax that it deserves, not at this particular moment at this particular place and at this particular time.

Mr. GRAY of Pennsylvania. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia [Mr. Jenkins].

Mr. JENKINS. Mr, Speaker, I know that we are probably playing some brinksmanship with the other body. I do believe that we owe it to ourselves to take a look at what is in reconciliation as far as budget savings are concerned. I believe that we would be making a terrible mistake down the road, and I say to my friends on this side of the aisle that there is a lot of savings in this package. If Gramm-Rudman does go into effect, it will impact defense tremendously. It will make severe reductions in the defense budget.

We have saved a great deal in this package. I know we have a lot in dispute about the manner in which we finance Superfund and that will be debated for a long time.

I would hope that this body, even though it is late at night, would consider those things as we vote upon this issue.

In addition, as my friend, the gentleman from California pointed out, there are many programs that ought to be saved. There are many extensions, targeted job credits, and others that are worth saving. We can never be happy with all of the provisions in the tax bill. It is not perfect, but it saves a great deal of money. I would hope that my colleagues would vote to concur with the Senate action.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. Coats].

Mr. COATS. Well, Mr. Speaker, we have been over this and over this. I do not know how many times we have to send a message to the other body that the House is not in a position and not of a will to enact a new tax at the last hour on a situation that has not been fully conferenced. We all know this was attached to a very good reconciliation bill at the last minute in a attempt to squeeze it through so that it could not go to a full conference for a full airing of the positions of the two bodies that are involved.

It is a controversial tax. It passes the Ways and Means Committee by one vote and the chairman of that committee came before this body and said even he was not going to support his own committee provision.

It was taken up before the House and defeated. It was defeated again this evening and now it appears that we are faced one more time with having to demonstrate the will of the House in this matter.

It is not a good tax, but we can argue the merits of that later, and it ought to be argued later.

What we are being asked to do is reconcile the provision where we sent over zero. The Senate put up $5.4 billion and the compromise comes back at $5.7 billion of a new tax, enacted at 10 minutes of 12 on the last day of the session of this Congress. It is just not the right thing to do and we should not do it.

Finally, I want to add one thing, because as we drag on here, I think I need to say this. To my wife, to my kids, to my mother, to my father, merry Christmas. I do not think I am going to be home to see you.

Mr. GRAY of Pennsylvania. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. Frost].

Mr. FROST. Mr. Speaker, I want to direct the Members' attention to some aspects of Gramm-Rudman and to some numbers and what this means.

There is a target for fiscal year 1987 in Gramm-Rudman, enthusiastically suppported by many Members on this side of the aisle, some Members on that side of the aisle, of $144 billion that we will have to come to grips with starting in February. The President is having to come to grips with it right now.

If we do not enact these $81 billion in reconciliation savings, our job in meeting that Gramm-Rudman target early next year, because it will be done early, will be that much harder, and as the gentleman from Georgia [Mr. Jenkins] pointed out, the ax will fall that much more deeply on defense, that much more deeply on domestic programs, and inevitably will lead to that much more in tax revenues.

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The choice is very, very simple on this question. Do we want reconciliation or do we not? Are we prepared today to start implementing Gramm-Rudman that we passed just recently? If the answer to that is no, then you do not want to concur. Gramm-Rudman was a nice theory, but we are really not willing to start putting up money when it counts and we are willing and are going to require ourselves to do that much more of a difficult job come early next year.

I urge you to vote to concur, to put our first down papyment on the deficit reduction that has been embraced so enthusiastically by this House.

Mr. LATTA. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Speaker, something purgative has to take place here tonight. In the spirit of reconciliation and trying to accomplish something, and every time I look at our great Speaker at this time of the year I picture him with a white beard and it warms the cockles of my heart; so I would like to get something off my chest.

TOM DOWNEY, Merry Christmas.

Mr. GRAY of Pennsylvania. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from the great State of New York [Mr. DOWNEY], a member of the Ways and Means Committee, and a senior member of the Budget Committee.

□ 2355

Mr. DOWNEY of New York. Is it straight? Happy Near Year to you, Bob. In the spirit of the holiday season, I wish you a Happy New Year.

Mr. Speaker, there are two issues at stake here. First of all, we have an opportunity to say to the Senate that we stand for something; that we have spoken on the question of the value added tax and we have rejected their position. This is not about reconciliation. All of us are for reconciliation. We want it to go forward. It needs to go forward.

The value added tax, people have said here before, will grow and grow and grow, and change and change and change if we do. It already has. The value added tax that this House wisely turned down in the Committee on Ways and Means raised $4.3 billion. In the Senate it raised the same amount. But in the House provision we exempted food processing and fertilizer. The Senate did not.

In an attempt to raise the value added tax to pick up more money, the Senate decided to accept the exemptions for food and fertilizer and the tax grew before it was even enacted from $4.3 billion to $5.7 billion. So before our eyes, the most important lesson that we need to learn about a value added tax, that it will grow and grow, that it will be amended, excepted and changed ad infinitum and ad nauseam is already before us.

We have a chance today to vote against the value added tax, to stand on principal, to make sure that the other body understands that when they want us to blink and turn tail and run, we will not.

Please, please, on the motion to concur vote "no" and tell the other body that we will not have a supertax. We would like reconciliation without it.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. THOMAS].

Mr. THOMAS of California. I thank the gentleman for yielding this time to me.

Frankly, my colleagues, it is too late and I am too tired to be macho. I do not think we need to try to determine who is eyeballing whom on this. I think it is time to try to pass legislation.

We have a decision that we have to make and we hopefully can make it in the most enlightened manner. We have had some discussions about the fact that the Present is going to veto this. We know it because it has an excise tax in it and there is no question he has made a statement on that.

Let us take a look at what the President has to decide; not on how you view what the President is going to decide but where he is going to be. He is looking at a January 15 snapshot of the laws that are in place at that time to determine Gramm-Rudman. We have in this reconciliation an opportunity to take your side of the aisle's $10 billion. I do not like the dollar amount. That was the figure that the Democrats, basically, chose for Superfund. The Senate has agreed on your figures. You have your money. You have the polluters paying more than under current law.

But the President is not going to focus on that. He is going to focus on the decision he has to make on January 15th in terms of where is going to get the money to fund your $10 billion that you are going to put in the bill after January 15, and he has very few choices in front of him. Frankly, the area where he is going to have to get the money from that you want is going to come from your side of the ledger in terms of defense. That is what he is looking at. That is what his advisers are going to be looking at, the big picture of where we are in that first segment of Gramm-Rudman.

The question of this tax as a funding device will not be the preeminent decision that the President of the United States makes. It will be a question of whether or not he can veto this, realizing that defense is going to take an even bigger slug than he thought it was going to take when they get their $10 billion.

So vote "yes" now and your defense positions are protected.

Mr. GRAY of Pennsylvania. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Illinois [Mr. ROSTENKOWSKI], the chairman of the Committee on Ways and Means.

Mr. ROSTENKOWSKI. I thank the gentleman for yielding this time to me.

Mr. Speaker, I think my colleagues in this body deserve an explanation of just how controversial this matter really is. I do not know of any piece of legislation that we voted on in Ways and Means more frequently in a short period than the proposition of the value-added tax.

The problem here is not the money. It is how do we raise it? How do we pay for the problems of hazardous waste sites. If my memory serves me correctly, on 6 occasions in the Committee on Ways and Means during our markup on Superfund, the proposition that the House ultimately adopted was rejected. On the seventh occasion, that was reversed and the Committee on Ways and Means then reported out the funding mechanism—the VAT—in the reconciliation conference report.

The House then reversed the position of the Committee on Ways and Means, not on one occasion, but on two occasions. Most recently we did that about 25 or 35 minutes ago.

Maybe the description of playing chicken is apt. Maybe it is brinksmanship. But I will tell my colleagues one thing, we do not win them by turning and running. We win by standing up and facing up to it. If there is any area in which I despise legislating it is in crisis situations and we are doing to much of this.

This bill does not die if we do not pass it tonight. This bill does not go away if we refuse to concur. All we have to do is to disagree and send the message back to the Senate that we disagree with their position. We will come back here next January and reinstate a conference and go back and deliberate just how we want to pay for cleaning up the toxic waste sites in this country.

So the crisis is here but it is not the end. All we have to do is refuse to concur, indicate to the Senate that we disagree and wait for a conference to take place next year.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. GREEN].

Mr. GREEN. I thank the gentleman for yielding this time to me.

Mr. Speaker, we are not deciding this evening whether ultimately this country will or will not have a national value-added tax. We may have to face that next year when Gramm-Rudman and the tax bill comes back to us.

We are deciding how we should deal with pollution, and I think a very basic principle in that has always been that the polluters should pay. The effort of the Senate to sneak into our tax code this value-added tax, whatever they want to call it, manufacturers' tax via the environmental route, I think is fundamentally wrong.

We will have our debate on the value-added tax or manufacturers' tax and other excise or sales taxes in the future, but I think it is very important that this House stand by the position it has stood by in the past that the polluter pays.

I am very sad that the gentleman from California [Mr. WAXMAN] would walk away from that position tonight. I think it was unfortunate earlier that he walked away from that when we were dealing with acid rain and came up with a different scheme for dealing with that. I think that is the wrong way to go, and I think the fact that over the years we have been trying to push that and we have not been able to come up with an acid rain solution shows that that is not a valid way to deal with environmental problems.

I think we ought to stick with the position we have had. Let us hold firm. Let us vote against this value added tax tonight.

Mr. GRAY of Pennsylvania. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. I thank the gentleman for yielding this time to me.

Mr. Speaker, I concur with the chairman of the Committee on Ways and Means. We all regret very much the fact that we are here legislating under crisis at midnight, but I was told earlier that at midnight the cigarette tax will be imposed by the States across the country that have already moved to pick up that revenue source.

So we are not entirely free of having to face up to our responsibilities, even though we do not like the time or the place that we have to do it in. If we are interested in sending a message to our constituents, and I know we all are regardless of how we voted on Gramm-Rudman, that we are sincere about deficit reduction and that we are capable of doing something about deficit reduction on our own, I think we have to take the opportunity tonight to recede and concur with the Senate position.

This is the first opportunity we are going to have to make sizable, in fact historic, reductions in the deficit that is spread out before us on the landscape in 1987 and 1988. We can pick up $81 billion if we will simply relent from our macho position here tonight and go along with what I think on balance is best for the American people.

The gentleman from California [Mr. WAXMAN] spoke earlier about some of the provisions that are in here that we value. I know the people from the Northeast and the Midwest are concerned and support the "Buy American" provisions for the offshore drilling rigs, and others have a sincere concern about jobs. There are many provisions that we cannot afford to lose and we could just lose the opportunity to enact the legislation if we fool around much longer.

I think we have to show the American people that we can do something on our own, that we will not fail at the last minute to make the tough cuts that we have to make. If we do this, we deserve Gramm-Rudman, and we not only deserve the law, we deserve the kind of Draconian cuts that will occur across the spectrum making irrational decisions because we once again fail to be rational when we have the opportunity.

Mr. Speaker, I urge that we recede and concur.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. HILER].

Mr. HILER. I thank the gentleman for yielding this time to me.

My colleagues, I guess I am one of the confused people here this evening. I do not think this is a vote on Gramm-Rudman. I do not think this is supposed to be a vote on Superfund this evening.

My understanding of the procedure today was that we would have a vote on budget reconciliation. We have about 75 Members who are not here this evening who I am sure, had we told them earlier in the day that we would be taking up the value added tax and Superfund, would probably be here this evening. But unfortunately, they went home thinking this would be a simple vote on budget reconciliation which would probably pass 350 to 5.

I am one of the people who voted for Downey-Frenzel. I did not vote for Downey-Frenzel because I was overly enamored with the Downey-Frenzel approach, but I thought the Downey-Frenzel approach was far superior to a new value added tax.

□ 0005

But it was my hope that in a conference that would take place after the first of the year that the conferees from the House and the other body would sit down and have an intelligent discussion about the best way to raise this money, not to try to attach $5.7 billion of new tax at the 12th hour of the last day of this session of Congress.

So it would seem to me that the proper thing for this body to do this evening is to defeat the motion of the gentleman and to send this measure back to the other body and to adjourn sine die.

Mr. GRAY of Pennsylvania. Mr. Speaker, I yield 2 minutes to the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Mr. Speaker, resolving the differences between the House and Senate on veterans provisions in this bill was a difficult task. All Members of this body have had to make hard choices about all Federal programs during this Congress, but I doubt that any choices have been tougher than those we have made with regard to health care for our Nation's veterans. Therefore, I would be remiss if I did not at the outset of my remarks recognize the diligence of the House and Senate conferees.

Mr. Speaker, I want to acknowledge the outstanding leadership of the ranking minority member of our committee, Mr. HAMMERSCHMIDT, who joined me in introducing the proposal to carry out the mandate of the Congress in the budget resolution. Every year that I work with the gentleman from Arkansas, I am more impressed with his legislative skills, his political judgment and his commitment to our Nation's veterans. What a pleasure it is to work with him.

I especially wish to acknowledge the forbearance and cooperation of Chairman FRANK MURKOWSKI, and the ranking minority member, Senator ALAN CRANSTON, of the Senate Veterans' Affairs Committee. Without their exceptional understanding of the issues and a conscious air of complete cooperation, we could not have completed this challenging task.

On August 1, 1985, the House and Senate reached agreement on the first concurrent budget resolution for fiscal year 1986. The agreement required the Committees on Veterans' Affairs to report legislation on matters within their jurisdiction that would reduce budget authority and outlays by $300 million in fiscal year 1986, and by a total of $1.5 billion during fiscal years 1986 through 1988. I am pleased to report to my colleagues that the Committees on Veterans' Affairs have exceeded by a substantial margin our targeted savings as mandated by the House and Senate over the 3-year period. We have met the targets in a way that I believe will help veterans as they seek health care, in a way that will help the Veterans' Administration in planning and delivering medical services, and in a way that will help us as Members of Congress in our budget decisions.

Mr. Speaker, the conference agreement generally follows the House bill. The policy adopted by the House for hospital care will be maintained should the conference agreement be adopted. Under the agreement the Administrator of Veterans' Affairs would be required to furnish hospital care to: First, veterans for service-connected conditions; second, veterans discharged for disability incurred or aggravated in line of duty; third, veterans disabled as a result of VA treatment or vocational rehabilitation; fourth, service-connected veterans rated at 50 percent or greater; fifth, any other veterans who have service-connected disabilities; sixth, Vietnam veterans exposed to certain toxic substances and veterans exposed to ionizing radiation from nuclear explosions; seventh, former prisoners of war; and eighth, veterans of the Spanish American War, Mexican border period, or World War I.

In adddition, the Administrator would also be required to provide hospital care to a ninth category of veterans. This group of veterans would receive such care because of their inability to defray expenses of necessary hospital care—income less than $15,000 for veterans with no dependents and $18,000 for veterans with one dependent, with an increase of $1,000 (approximately equal to the amount of the VA pension allowance—$999 as of December 1, 1985) for each additional dependent.

In addition, the conference agreement would provide that hospital care may be provided to a second group of veterans, to the extent that resources and facilities are available. The Administrator would have discretionary authority to provide care to nonservice-connected veterans whose income exceeds $15,000 with no dependents and $ 18,000 for veterans with one dependent, plus $1,000 for each additional dependent. The VA would have discretionary authority to furnish hospital care to this second group of veterans through VA facilities and through non-VA facilities as authorized. For those veterans who may receive care and whose income exceeds $20,000 with no dependents and $25,000 with one dependent, plus $1,000 for each addtional dependent, the veteran would be required to agree to make certain payments to the VA in connection with his or her hospital, nursing home, and outpatient care. The income thresholds would be automatically adjusted beginning January 1, 1987, by the same percentage as the VA pension rates would be adjusted.

The Senate bill would have required that the Administrator provide care to only two categories of veterans—those seeking care for their service-connected disabilities and those rated 50 percent or more for any disability. The care would have been provided through VA facilities or, to the extent authorized, through non-VA facilities. For all other eligible veterans hospital care would have been furnished as it is today under current law. The Administrator would have had discretionary authority to furnish care to the extent facilities and resources are available. Some would have gotten care—some would not. Under the Senate bill the overwhelming majority of veterans would have received care according to certain priorities established by the Veterans' Administration.

The conferees rejected this policy. There will be no priorities for hospital care under the conference agreement. The Administrator would be required to provide care to all eligible veterans under section 610(a)(1) of title 38 (as revised by the agreement). In other words, Mr. Speaker, all veterans under section 610(a)(1) would be treated alike. Under current law the VA has been providing hospital care on a priority basis set out in VA regulations. Since we have now entitled certain categories of veterans to hospital care, current VA regulations (section 17.49, Code of Federal Regulations) must now be revised to reflect the major change in policy to which we have agreed.

Under the conference agreement, outpatient treatment will continue to be provided on a priority basis. The conferees rejected the changes proposed by the House and Senate. Under the House bill, the Administrator would have been required to furnish outpatient treatment to those veterans with outpatient treatment eligibility under current law. It also specified that there would be no requirement to furnish services to non-service-connected disabled veterans with incomes above a certain amount. The Senate bill would have required the Administrator to furnish—directly or by contract—outpatient treatment determined to be reasonably necessary to any veteran for a service-connected disability and for any disability of a veteran with a service-connected disability rated at 50 percent or more, with certain exceptions. Otherwise, the Senate bill would not have modified current eligibilities for outpatient treatment.

The conference agreement would make no change in current law eligibilities relating to outpatient treatment, except to provide that non-service-connected veterans with incomes above the upper income threshold contained in the bill would be eligible only upon agreeing to make payment in connection with such treatment or services and to the extent that resources and facilities are otherwise available.

The provision under current law allowing a non-service-connected veteran over the age of 65 to receive his or her hospital care without regard to income would be repealed under the conference agreement.

The conference agreement would authorize the Administrator to collect from third party insurers for the care and treatment of non-service-connected veterans who have insurance.

Finally, Mr. Speaker, the conference agreement includes a COLA increase of 3.1 percent for VA compensation and DIC payments. This provision is identical to the COLA increase passed earlier this evening.

Mr. Speaker, heretofore all eligible veterans seeking hospital care at a particular VA medical center on a given day, and who are determined by the examining physician to be in need of inpatient care, are generally admitted to the medical center. If the facility is unable to provide necessary care, the veterans may be referred to a nearby VA facility which can provide the needed care. Yet, in too many similar cases, certain non-service-connected veterans may simply be told that the facility cannot provide needed care and he or she is turned away. In addition, some veterans who present themselves at a VA medical center and do not require immediate care are requested to return at a scheduled time in order that more urgently needed care can be provided to other veterans.

The House, when it passed the provision requiring the Administrator to furnish hospital care to specified categories of eligibility, and the conferees, when they agreed to it, have established a new policy that is long overdue. We have defined a limited group of veterans who will now be assured of receiving hospital care when the admitting physician determines it to be necessary. Clearly, there is capacity for more hospital services at existing VA facilities and I refer to the committee report accompanying H.R. 1538 for details about this. (Report 99-337, page 31.) In addition to assuring that each medical center has the capacity to care for eligible veterans who require immediate care, the VA may have to improve its ability to locate bed services at other VA medical centers which can accommodate demand when it exceeds the capacity of a particular VA medical center. An expanded referral capability should not be limited to existing medical districts or even regional boundaries, since the proposed bill requires the Veterans' Administration to provide care in VA facilities. The VA will be required to treat the veteran, seek a bed in another V.A facility within reasonable distance, locate a bed in a DOD hospital nearby or, where applicable, contract for such care.

Mr. Speaker, the conference agreement makes no change in VA nursing home care eligibilities in current law except to provide that nonservice-connected veterans with incomes above the upper income threshold would be eligible only upon agreeing to make certain payments in connection with their care.

Similarly, the conference agreement makes no change in VA domiciliary care eligibilities in current law. The conference agreement would make no general change in current law eligibilities relating to outpatient treatment or home health services except to provide that non-service-connected veterans with incomes above a threshold would be eligible only upon agreeing to make payment in connection with such treatment or services and to the extent that resources and facilities are otherwise available.

Mr. Speaker, the payments described in the conference agreement are modest ones and are payable only by nonservice-connected veterans with incomes above $20,000 for a single veteran and $25,000 or more for married veterans with dependents. Incomes and assets of veterans are to be determined by considering the same items as the Administrator currently considers for purposes of the VA Pension Program.

These are only the major provisions of this bill relating to veterans' benefits and services. All provisions are explained in detail in the statement of the managers.

I urge the adoption of the conference agreement.

Mr. HAMMERSCHMIDT. Mr. Speaker, will the gentleman yield?

Mr. MONTGOMERY. I yield to the gentleman from Arkansas.

Mr. HAMMERSCHMIDT. Mr. Speaker, as the ranking member of the House Veterans Affairs Committee, I rise in strong support of H.R. 3128's provisions on veterans' programs. This bill would be of great benefit to service-connected disabled veterans and to needy veterans. It has been a year of difficult decisions in the face of the imperative for deficit reduction.

The Committee on Veterans Affairs at the outset adopted a bipartisan approach to the budget for the VA, and when the joint budget resolution instructed a savings of $300 million for the VA, the committee again acted on a bipartisan basis to achieve the savings.

The principal vehicles for meeting the budgetary goals for the VA are reform of veterans' health care eligibility and third-party reimbursement from health care insurance.

It was necessary to work out differences with the other body on much of the reform of veterans' health care eligibility. Both bodies began with their own means tests and strengthened commitments to provide health care. The third-party reimbursement proposals had only technical differences, which were easily resolved.

There is no need to report the details of the health care eligibility reform and the means test which the chairman, SONNY MONTGOMERY, has outlined. Suffice it to say, for the first time ever, the Government is formally committed to providing hospital care for service-connected and truly needy veterans. For the first time ever, the universe of veterans for whom the VA is going to provide hospital care is clearly defined.

I would have preferred the income line of the means test be drawn somewhat higher than allowed by the compromise with the other body. However, the $15,000 limitation for single veterans and the $18,000 limitation for married veterans provide a starting point and could possibly be adjusted in the future, if experience bears out my belief that they may be too low.

Mr. Speaker, I hope the reform of health care eligibility with its strengthened commitment to provide hospital care is as pleasing to our Nation's veterans as it is to me. This legislation adopts the framework of the original House bill. It is a truly historic step which confirms that the Congress intends for the Veterans' Administration hospital system to keep essentially its present form for many years to come.

The cost-of-living allowance for disabled veterans and veterans is set at 3.1 percent, the same as the Social Security and veterans' survivors pension COLA's. Rather than hold up the COLA any longer—it should have been passed prior to December 1, 1985—I believe we should accept the 3.1 percent figure upon which the other body insisted.

This important legislation in large part owes its existence to the leadership and personal dedication of my friend and colleague, SONNY MONTGOMERY, chairman of our committee. Further, the chairman of the Subcommittee on Hospitals and Health Care, BOB EDGAR; the chairman of the Subcommittee on Compensation, Pension and Insurance, DOUG APPLEGATE, and its ranking member, GERALD SOLOMON, have each been instrumental in bringing this veterans' legislation to the floor.

Also, a special note of appreciation should go to the chairman of the House Budget Committee, BILL GRAY, to its ranking member, DEL LATTA, and to MARVIN LEATH, a member of the Veterans' Affairs Committee on temporary leave of absence to the Budget Committee.

Mr. Speaker, I urge my fellow Members to support this measure, which will achieve both the desired savings in the VA budget and a significant reform of veterans' health care eligibility.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentlewoman from Rhode Island [Mrs. SCHNEIDER].

Mrs. SCHNEIDER. Mr. Speaker, I am very distressed that we are attempting to bring forward some smoke and mirrors this evening to discuss the whole prospect of reconciliation.

We have voted on reconciliation. We made it very clear that this body has already acted in support of helping the poor and needy.

Unfortunately, we are back here again because the other body has not chosen to take our message. We are here for one reason and one reason only, and that is to discuss once again the value-added tax.

This House is on record. This House has been on record each time with an increasingly larger margin of support in opposition to the value-added tax.

I believe that this is a very deceptive way of us to give with one hand through reconciliation and to take away with the other hand through a value-added tax.

My question is: Procedurally, are we here tonight to bow to the other body? Are we here this evening to react in the form of crisis management? Or are we here once again, a third time, to stand up and to be counted?

Tonight we are experiencing an endurance test of time. Sure, we are all very tired. Sure, we would like to go home. But I think that we have to make it very clear that this vote is an attempt to separate the men from the boys.

Now I do not know about the rest of you, but I happen to have taken my vitamin pills this evening. I hope all of you have also. But I think that this evening is beyond the endurance test, and it is a question as to whether or not those Members who have stood up and been counted in the past will continue to stand up and be counted and make it very clear to their constituents that we stand in strong opposition to a deceptive way to bring about a value-added tax.

We will have plenty of opportunities to increase taxes next year. And when it comes to environmental protection, there is only one approach that is appropriate, and that is the approach of having the polluter pay.

This is an opportunity for us to yet a third time make it very clear as to where we stand.

Mr. GRAY of Pennsylvania. Mr. Speaker, I yield 1 minute to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Speaker, if the cloud of Gramm/Rudman were not over us, I would not support the resolution, but it is over us. And we had better face reality.

I am telling you, there is a reality out there that we have to get some reductions in order, and at the same time, we have to speak about our priorities.

There is a lot in this bill, and I concur with the gentleman from California, HENRY WAXMAN, and frankly I did not think it was fair of my friend from New York to criticize him that much, because HENRY WAXMAN pointed out some priority areas such as Medicare, Medicaid, black lung is in here, some training programs, and other things that we care about. And we are sending a signal that we do not want those kinds of programs reduced by Gramm/Rudman, we can save it in another way.

So I reluctantly concur with this resolution. At the same time, I want to take the opportunity to commend the Speaker pro tempore who has met the test of fairness and endureness. He has been in the chair for 12 hours, and I think we ought to commend my friend from Michigan [Mr. KILDEE].

Mr. LATTA. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. MOLINARI].

Mr. MOLINARI. Mr. Speaker, I thank the gentleman for yielding me this time. I will not need a minute.

If you strip the veneer and all the rhetoric away, there is just one simply issue: Are we going to fold to the big oil interests?

I hope not.

Mr. GRAY of Pennsylvania. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. STARK].

Mr. STARK. Mr. Speaker, the issue is simple. We have in this reconciliation bill done a lot for Medicare, we have done a lot on a bipartisan basis and we have helped the average American.

You can defeat this motion, you can do away with the sales tax, you can make the oil industry, as was previously stated, pay their fair share. The bill will be considered next year with a new conference, and the majority of it, all of the good parts that we voted for three and four times will be preserved and Americans will benefit, will get better Medicare, better help, and we will not have this onerous sales tax begin at the hands of the House of Representatives.

I urge a no vote on this motion.

Mr. LATTA. Mr. Speaker, I yield such time as he may consume to the gentleman from South Carolina [Mr. HARTNETT] in order to make a unanimous consent request.

Mr. HARTNETT. Mr. Speaker, I thank the distinguished gentleman for yielding.

Mr. Speaker, I would like to make a unanimous consent request that all speeches be considered as if heard, and that the majority and the minority managers yield back the balance of their time.

Mr. GRAY of Pennsylvania. Mr. Speaker, I will be glad to support the gentleman's request.

The SPEAKER pro tempore. The two managers hold the fate of the House in their hands on that question.

Mr. LATTA. Mr. Speaker, I yield myself 15 seconds.

I would like to accede to that request, but I promised some of my colleagues here some time.

Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I yield back the balance of my time.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. WOLPE].

Mr. WOLPE. Mr. Speaker, I also will not use my 2 minutes. I just hope that the House will hold firm to its position and vote in opposition.

The issue is not whether we support reconciliation. Of course we do. The issue is not whether we support budget savings. Of course we do.

The issue is whether or not we are going to have a new tax that makes no sense from the standpoint of tax policy or environmental policy, and I might suggest from the standpoint of the principles of my own party, from the standpoint of those principles as well.

I urge a no vote.

Mr. GRAY of Pennsylvania. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, it is not often that I agree with the other gentleman from Ohio [Mr. LATTA] but on this particular matter I do.

As I have stated earlier, any piece of legislation shotgunned through at the last minute of the end of the session that is thicker than 4 inches and weighs more than 4 pounds, then I am going to vote no. This thing here would cause a hernia in the average American.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from Nebraska [Mr. DAUB].

Mr. DAUB. Mr. Speaker, almost 200 years ago, Alexander Hamilton said to a foreign visitor, "Here, sir, the people rule." I pray tonight that we will not change that statement to "Here, sir, the Senate rules."

I would like very much for my colleagues to take into account two things. This is not a discussion about Gramm-Rudman.

Reconciliation a year ago came to this body for the previous year in April, in April, so what we may do is not without precedent. We can take the matter up, as the chairman of the Ways and Means Committee said, early next year.

We have not abandoned our duties to the poor, our duties to those issues that affect health and limb and life. We have not abandoned our duties to the veterans.

We voted for reconciliation and we sent it to the other body. We have done our duty.

They have not, for their penchant with the nongermaneness of the operations of their body allows them the kind of thinking that has beset us with our difficulties tonight and that is to add something in conference that we did not send them. We should not accept it.

I urge us, I urge us with all my heart as a matter of procedure and as a matter of process to reject this motion and vote it down.

Mr. GRAY of Pennsylvania. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. ECKART].

Mr. ECKART of Ohio. Mr. Speaker, somebody said come back next year. Next year to what? Next year to Gramm-Rudman? Next year to business as usual, with Superfund cleanups being delayed all across the United States? Next year to an undone Black Lung Medical Program on the brink of bankruptcy? Next year to expanded physician charges to our senior citizens instead of a freeze?

Yes, we bowed, we got the other body to accept 33 percent more for Superfund than they originally agreed to.

The bottom line is when we come back it is not going to be business as usual, it is a whole new ballgame, and it is not going to be very pleasant.

I urge adoption of the conference committee report.

□ 2420

Mr. LATTA. Mr. Speaker, may I inquire about the time?

The SPEAKER pro tempore. The gentleman from Ohio [Mr. LATTA] has 6 minutes remaining and the gentleman from Pennsylvania [Mr. GRAY] has 7 minutes remaining.

Mr. LATTA. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, this has been a good debate. Let me say that I have been in this House now for 27 years, and I have been proud to be a Member of this House.

This House over those years has been a House that voted its convictions and stayed by those convictions; and I think tonight we have an opportunity to show that we are a proud body; that we are not going to let the other body tell us what to do when we have voted 205 to 151 on an issue so important to the American people, are we going to have a whole new tax system imposed on them?

What a fine Christmas present we could give them by backing down to the other body and putting a whole new taxing system on them? Come on, we do not want to do that. We do not want to do that.

Certainly, on reflection, the other body would not want to do that. What did we do when we voted just an hour or so ago? We voted for all of these reductions that we have heard so much about here; we voted for those—yes, we voted for a Superfund. The only thing we said to the other body was in that vote, was that we wanted to wait for another day to come up with the funding, and not to swallow a whole new taxing system; the value added tax.

So I ask my colleagues tonight to stay by their convictions and to vote down this motion.

Mr. Speaker, I yield back the balance of my time.

Mr. GRAY of Pennsylvania. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker and colleagues, someone has said tonight that we are involved in a game of political "chicken," and that is probably very accurate in the description.

Let us talk about how we got to the game. We got to the game because we went to conference on reconciliation; the conferees worked, the conferees on the subgroup number 22 voted, came out with a position. They went there knowing what the House had done on the Downey amendment earlier, but yet they acted in good faith; and now the other body, knowing that their President has said that he will veto a value added tax, does have us involved in a game of political chicken.

Before we talk about who should blink and who should run, let us talk about what the price is. The price, the price is $80 billion of deficit reduction. The only deficit reduction that we know for sure we are going to get, because we have heard it so many times from other persons.

Reconciliation. The price? Those programs: Medicaid, pension benefits, veterans programs, and others that have been reformed that are now going to be left dormant and left over to next year, when we come back.

Next year when we come back what will we have? I will tell you what we are going to have: We are going to have to learn a whole new budget process with a whole new set of dates and targets, and how to do it very quickly; and if anybody thinks we can come back to this next year for all of those spending reductions, I have news for you, I do not think it is going to happen.

We can also have Superfund coming up through the regular process. So I just simply say to the Members, we are involved in a game of political chicken. The Senate does not, does not want to resolve the problem. What they have said in essence is, "Let's challenge the President."

This House earlier said, "We don't want to do that bipartisanly." So I stand here tonight, asking you to vote to concur. Vote so that we can make the savings, vote so that we can go home and say that we have reduced the deficit. Vote so that we can come back next year, and we can come back and be on with the rest of the business; including, there will be business of reauthorization on Superfund and that issue will not be closed.

So next year for me is deficit reduction as well as reauthorization of Superfund; and that battle is not over. I say let us get the deficit reduction we can tonight. We cannot wait until next year; America cannot wait until next year. The red ink is drowning this country.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the motion.

The previous question was ordered.

The question is on the motion offered by the gentleman from Pennsylvania [Mr. GRAY] to concur in the Senate amendment to the House amendment to the Senate amendment.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. GRAY of Pennsylvania. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device and there were—yeas 137, nays 211, not voting 86, as follows:

[Roll No. 482]

YEAS—137

Anderson
Andrews
Anthony
Archer
Bartlett
Barton
Bateman
Berman
Bliley
Boggs
Bonker
Borski
Bosco
Boulter
Breaux
Brooks
Brown (CO)
Broyhill
Bruce
Bryant
Bustamante
Campbell
Carper
Cheney
Clinger
Cobey
Coble
Coelho
Combest
Coughlin
Courter
Craig
Darden
DeLay
Derrick
Dingell
DioGuardi
Dymally
Eckart (OH)
Eckert (NY)
Edwards (OK)
Emerson
English
Fazio
Feighan
Fields
Foglietta
Ford (TN)
Fowler
Frank
Franklin
Frost
Gallo
Gilman
Glickman
Gonzalez
Gray (PA)
Hall, Ralph
Hatcher
Hawkins
Hefner
Hendon
Hopkins
Huckaby
Hutto
Jacobs
Jenkins
Johnson
Jones (OK)
Kolbe
Kostmayer
Leath (TX)
Leland
Lent
Livingston
Long
Lowery (CA)
Lujan
Manton
McCurdy
McMillan
Mollohan
Montgomery
Moore
Murtha
Myers
Natcher
Nielson
Oakar
Ortiz
Perkins
Pickle
Porter
Rahall
Ray
Ridge
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rose
Roukema
Rowland (GA)
Saxton
Schaefer
Schuette
Siljander
Sisisky
Skeen
Slattery
Slaughter
Snyder
Spratt
Staggers
Stangeland
Stenholm
Strang
Stratton
Sundquist
Sweeney
Synar
Tallon
Tauzin
Thomas (CA)
Thomas (GA)
Udall
Valentine
Walgren
Waxman
Whitley
Whittaker
Wilson
Wise
Wright
Young (AK)

NAYS—211

Akaka
Alexander
Annunzio
Applegate
Armey
AuCoin
Badham
Barnes
Bates
Bedell
Beilenson
Bennett
Bentley
Bereuter
Bilirakis
Boehlert
Boner (TN)
Bonior (MI)
Boucher
Brown (CA)
Burton (CA)
Burton (IN)
Byron
Callahan
Carney
Carr
Chandler
Chappell
Chapple
Coats
Coleman (MO)
Collins
Conte
Cooper
Coyne
Crane
Dannemeyer
Daschle
Daub
Davis
de la Garza
Dellums
DeWine
Dicks
Donnelly
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dyson
Edgar
Edwards (CA)
Evans (IA)
Evans (IL)
Fascell
Fawell
Fiedler
Fish
Foley
Frenzel
Gejdenson
Gekas
Gingrich
Goodling
Gordon
Green
Grotberg
Guarini
Gunderson
Hamilton
Hammerschmidt
Hansen
Hartnett
Hayes
Henry
Hertel
Hiler
Horton
Howard
Hoyer
Hughes
Hunter
Hyde
Ireland
Jeffords
Jones (TN)
Kanjorski
Kasich
Kastenmeier
Kemp
Kennelly
Kildee
Kleczka
Kramer
Lagomarsino
Lantos
Latta
Leach (IA)
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lightfoot
Lloyd
Lowry (WA)
Luken
Lundine
Lungren
Mack
MacKay
Madigan
Markey
Martin (IL)
Martin (NY)
Matsui
Mavroules
Mazzoli
McCain
McCandless
McCloskey
McCollum
McDade
McEwen
McHugh
McKernan
Meyers
Mica
Michel
Mikulski
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Moody
Moorhead
Morrison (WA)
Mrazek
Neal
Nelson
Nowak
O'Brien
Oberstar
Obey
Owens
Oxley
Packard
Parris
Pashayan
Pease
Penny
Pepper
Petri
Pursell
Rangel
Regula
Reid
Robinson
Rodino
Rostenkowski
Roth
Rowland (CT)
Sabo
Savage
Scheuer
Schneider
Schroeder
Seiberling
Sensenbrenner
Shaw
Shelby
Shumway
Skelton
Smith (FL)
Smith (IA)
Smith (NJ)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
St Germain
Stallings
Stark
Studds
Stump
Swift
Swindall
Tauke
Taylor
Torres
Torricelli
Towns
Traficant
Vento
Visclosky
Volkmer
Vucanovich
Walker
Weber
Weiss
Wheat
Wolf
Wolpe
Wyden
Yatron
Young (FL)

NOT VOTING—86

Ackerman
Addabbo
Aspin
Atkins
Barnard
Bevill
Biaggi
Boland
Boxer
Broomfield
Chapman
Clay
Coleman (TX)
Conyers
Crockett
Daniel
Dickinson
Dixon
Dowdy
Early
Erdreich
Flippo
Florio
Ford (MI)
Fuqua
Garcia
Gaydos
Gephardt
Gibbons
Gradison
Gray (IL)
Gregg
Hall (OH)
Heftel
Hillis
Holt
Hubbard
Jones (NC)
Kaptur
Kindness
Kolter
LaFalce
Lehman (CA)
Lehman (FL)
Lipinski
Loeffler
Lott
Marlenee
Martinez
McGrath
McKinney
Miller (CA)
Mitchell
Monson
Morrison (CT)
Murphy
Nichols
Olin
Panetta
Price
Quillen
Richardson
Roybal
Rudd
Russo
Schulze
Schumer
Sharp
Shuster
Sikorski
Smith (NE)
Solarz
Stokes
Traxler
Vander Jagt
Watkins
Weaver
Whitehurst
Whitten
Williams
Wirth
Wortley
Wylie
Yates
Young (MO)
Zschau

□ 0030

So the motion was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

APPOINTMENT AS MEMBERS OF THE COMMITTEE TO INFORM THE PRESIDENT THAT THE TWO HOUSES HAVE COMPLETED THEIR BUSINESS OF THE SESSION AND ARE READY TO ADJOURN

The **SPEAKER** pro tempore. The Chair appoints as members on the part of the House to notify the President the gentleman from Washington [Mr. FOLEY] and the gentleman from Illinois [Mr. MICHEL].

MOTION TO DISAGREE TO THE SENATE AMENDMENT TO H.R. 3128, CONSOLIDATED OMNIBUS RECONCILIATION ACT OF 1985

Mr. GRAY of Pennsylvania. Mr. Speaker, I move that the House disagree to the Senate amendment to the House amendment to the Senate amendment to H.R. 3128.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania [Mr. Gray].

The motion was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR ADJOURNMENT SINE DIE OF THE CONGRESS ON FRIDAY, DECEMBER 20, 1985

Mr. FOLEY. Mr. Speaker, I send to the desk a privileged concurrent resolution (H. Con. Res. 267) and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. Con. Res. 267

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on Friday, December 20, 1985, pursuant to a motion made by the majority leader or his designee, it stand adjourned sine die and that when the Senate adjourns on Friday, December 20, 1985, pursuant to a motion made by the majority leader or his designee, it stand adjourned sine die or until 12 o'clock meridian on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution.

Sec. 2. The Speaker of the House, after consultation with the minority leader of the House, and the majority leader of the Senate, after consultation with the minority leader of the Senate, acting jointly, shall notify the Members of the House and Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 4006. An act to extend until March 15, 1986, the application of certain tobacco excise taxes, trade adjustment assistance, certain medicare reimbursement provisions, and borrowing authority under the railroad unemployment insurance program, and to amend the Internal Revenue Code of 1954 to extend for a temporary period certain tax provisions of current law which would otherwise expire at the end of 1985.

☐ 0045

PARLIAMENTARY INQUIRIES

Mr. PICKLE. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman from Texas will state his parliamentary inquiry.

Mr. PICKLE. Mr. Speaker, I understand the message from the Senate has gone to the desk. Has not the House already adjourned.

The SPEAKER pro tempore. The House has not adjourned. The House has passed a resolution stipulating that when it adjourns today, it will adjourn sine die, to meet on January 21, or subject to the call of the Chair under certain circumstances.

The Senate would also have to concur in that resolution, the Chair would advise the gentleman from Texas.

Mr. CAMPBELL. Mr. Speaker, I have a parliamentary inquiry.

On the message that came from the Senate, parliamentarily, would it take a unanimous-consent request to take that matter up?

The SPEAKER pro tempore. At this point, that is correct; it would require a unanimous-consent request.

Mr. CAMPBELL. Mr. Speaker, I ask unanimous consent that the matter be taken up.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Carolina?

Mr. FRENZEL. Mr. Speaker, reserving the right to object, under my reservation, I just want to let the House know that it is my understanding that the chairman of the Committee on Ways and Means will have a motion to offer on this, and for that reason, I am anticipating to go forward with an objection to the unanimous-consent request of the gentleman from South Carolina.

Further reserving the right to object, I yield to the gentleman from South Carolina [Mr. Campbell].

Mr. CAMPBELL. Mr. Speaker, if the chairman of the Committee on Ways and Means is preparing to make a motion on the matter, I would certainly withdraw my unanimous-consent request to defer to any motion by the chairman.

Mr. ROSTENKOWSKI. Mr. Speaker, the chairman of the Committee on Ways and Means had no intention of making any motion.

Mr. FRENZEL. In that case, Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would like to take this occasion to advise Members that the business of this session of the 99th Congress has been completed. All that remains is for us to await the formal report of the committee to notify the President and the adjournment of the Senate, as well.

Let the Chair take this occasion to express his thanks and the thanks of the leadership for the cooperation throughout this year of the Members on both sides of the aisle and to wish to all of you and all of your families a very joyous Christmas season, and may the new year bring happiness and peace to all of you.

PARLIAMENTARY INQUIRY

Mr. CARNEY. Mr. Speaker, may I make a parliamentary inquiry?

The SPEAKER pro tempore. The gentleman from New York may state his parliamentary inquiry.

Mr. CARNEY. Mr. Speaker, the resolution that we just passed, we used the date December 20. May we assume that this day, the 19th, carried into the 20th, and at the end of this business immediately we will be out sine die?

The SPEAKER pro tempore. This is calendar December 20, and when the House adjourns today, it will adjourn sine die, assuming the agreement of the Senate to the resolution.

Mr. CARNEY. I thank the Chair.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Chapman (at the request of Mr. Wright), for today, on account of illness in the family.

Mr. McKinney (at the request of Mr. Michel), for today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Lungren) to revise and extend their remarks and include extraneous material:)

Mr. Burton of Indiana, for 60 minutes, today.

Mr. Jeffords, for 10 minutes, today.

Mr. Swindall, for 60 minutes, today.

Mr. Fish, for 10 minutes, today.

Mr. Bereuter, for 15 minutes, today.

Mr. Dannemeyer, for 60 minutes, today.

Mr. Frenzel, for 60 minutes, today.

Mr. Franklin, for 30 minutes, today.

Mr. Dannemeyer, for 60 minutes, January 21.

Mr. Dannemeyer, for 60 minutes, January 22.

Mr. Dannemeyer, for 60 minutes, January 23.

(The following Members (at the request of Mr. SNYAR) to revise and extend their remarks and include extraneous material:)

Mr. ROSTENKOWSKI, for 5 minutes, today.

Mr. BROOKS, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. PEASE, for 60 minutes, today.

Mr. GONZALEZ, for 60 minutes, today.

(The following Member (at the request of Mr. AUCOIN) to revise and extend their remarks and include extraneous material:)

Mr. BARNES, for 5 minutes, today.

(The following Member (at the request of Mr. DORNAN of California) to revise and extend their remarks and include extraneous material:)

Mr. DORNAN, for 10 minutes, today.

(The following Member (at the request of Mr. DORNAN of California) to revise and extend their remarks and include extraneous material:)

Mrs. BENTLEY, for 5 minutes, today.

(The following Member (at the request of Mr. NATCHER) and include extraneous material:)

Mr. NELSON, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. WEISS, prior to the vote on House Joint Resolution 465 today.

Mr. ROSTENKOWSKI, prior to the vote on the conference report on H.R. 3128, in the House, today.

Mrs. BENTLEY, during debate on S. 1840, in the House, today.

Mr. DASCHLE, prior to passage of House Resolution 1538, in the House, today.

(The following Members (at the request of Mr. LUNGREN) and to include extraneous matter:)

Mr. MADIGAN.
Mr. BROYHILL.
Mr. WHITEHURST.
Mr. LEWIS of California.
Mr. MCKINNEY.
Mr. HYDE.
Mr. DIOGUARDI in two instances.
Mr. STANGELAND.
Mr. KASICH.
Mr. COURTER.
Mr. FRENZEL in six instances.
Mr. GUNDERSON.
Mr. CLINGER.
Mr. GALLO.
Mr. DORNAN of California.
Mr. KEMP in three instances.
Mr. GILMAN in six instances.
Mr. COATS.
Mr. WOLF.
Mr. EMERSON in five instances.

(The following Members (at the request of Mr. SYNAR) and to include extraneous matter:)

Mr. HOYER in two instances.
Mr. BARNES in two instances.
Mr. OLIN.
Mrs. LLOYD in three instances.
Mr. HOWARD.
Mr. EDWARDS of California.
Mr. HAMILTON.
Mr. MCHUGH.
Mr. KILDEE.
Mr. FASCELL in four instances.
Mr. FLORIO in three instances.
Mr. DOWNEY of New York.
Mr. RODINO.
Mr. GARCIA.
Mr. FORD of Michigan.
Mr. SIKORSKI.
Mr. RICHARDSON.
Mr. MRAZEK.
Mr. HAWKINS.
Mr. FAZIO.
Mr. PEPPER.
Mr. MANTON.
Mr. LOWRY of Washington.
Mr. YATRON.

SENATE BILL AND JOINT RESOLUTION REFERRED

A bill and joint resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1831. An act to amend the Arms Export Control Act to require that congressional vetoes of certain arms export proposals be enacted into law; to the Committee on Foreign Affairs.

S.J. Res. 231. Joint resolution to designate the period commencing January 1, 1986, and ending December 31, 1986, as the "Centennial Year of the Gasoline Powered Automobile"; to the Committee on Post Office and Civil Service.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker pro tempore.

H.R. 1603. An act to amend the Securities Exchange Act of 1934 to authorize the Securities and Exchange Commission to subject banks, associations, and other entities that exercise fiduciary powers, to the same regulations as broker-dealers, pursuant to section 14(b) of the Securities Exchange Act of 1934;

H.R. 1784. An act to authorize appropriations for fiscal year 1986 for the operation and maintenance of the Panama Canal, and for other purposes;

H.R. 2100. An act to extend and revise agricultural price support and related programs, to provide for agricultural export, resource conservation, farm credit, and agricultural research and related programs, to continue food assistance to low-income persons, to ensure consumers an abundance of food and fiber at reasonable prices, and for other purposes;

H.R. 2391. An act to authorize the Administrator of General Services to collect additional contributions of money provided to him by private individuals or organizations for the Nancy Hanks Center;

H.R. 2542. An act designating the building located at 125 South State Street, Salt Lake City, UT, as the "Wallace F. Bennett Federal Building";

H.R. 2698. An act to designate the U.S. Courthouse in Tucson, AZ, as the "James A. Walsh United States Courthouse";

H.R. 2903. An act to designate the Federal Building and U.S. Post Office in Philadelphia, PA, as the "Robert C. Nix, Sr., Federal Buiding and United States Post Office";

H.R. 2962. An act to remove certain restrictions on the availability of office space for former Speakers of the House;

H.R. 3608. An act to amend the Small Business Investment Act of 1958;

H.R. 3837. An act to extend the deadline for the submission of the initial set of sentencing guidelines by the U.S. Sentencing Commission, and for other purposes; and

H.J. Res. 465. Joint resolution making further continuing appropriations for the fiscal year 1986, and for other purposes.

SENATE ENROLLED BILL AND JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to an enrolled bill and joint resolution of the Senate of the following title:

S. 1918. An act to change the date for transmittal of a report; and

S.J. Res. 235. Joint resolution to designate the week of January 26, 1986, to February 1, 1986, as "Truck and Bus Safety Week."

SENATE ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The SPEAKER pro tempore announced his signature to enrolled bill and joint resolutions of the Senate of the following title:

S. 1884. An act to amend the Farm Credit Act of 1971, to restructure and reform the Farm Credit System, and for other purposes;

S.J. Res. 189. Joint resolution designating the week beginning January 12, 1986, as "National Fetal Alcohol Syndrome Awareness Week"; and

S.J. Res. 198. Joint resolution to designate the year of 1986 as the "Sesquicentennial Year of the National Library of Medicine."

BILLS PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that the committee did on the following day present to the President, for his approval, bills of the House of the following title:

On December 18, 1985:

H.R. 3981. An act to extend until December 19, 1985; the application of certain tobacco excise taxes, trade adjustment assistance, certain medicare reimbursement provisions, and borrowing authority under the railroad unemployment insurance program; and

. H.R. 3914. An act to preserve the authority of the Supreme Court Police to provide protective services for Justices and Court personnel.

BILLS AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, bills and a joint resolution of the House of the following titles:

On December 19, 1985:

H.J. Res. 465. Joint resolution making further continuing appropriations for the fiscal year 1986, and for other purposes;

H.R. 603. An act to amend the Securities Exchange Act of 1934 to authorize the Securities and Exchange Commission to subject banks, associations, and other entities that exercise fiduciary powers, to the same regulations as broker-dealers, pursuant to section 14(b) of the Securities Exchange Act of 1934;

H.R. 1784. An act to authorize appropriations for fiscal year 1986 for the operation and maintenance of the Panama Canal, and for other purposes;

H.R. 2391. An act to authorize the Administrator of General Services to collect additional contributions of money provided to him by private individuals or organizations for the Nancy Hanks Center;

H.R. 2542. An act designating the building located at 125 South State Street, Salt Lake City, UT, as the "Wallace F. Bennett Federal Building";

H.R. 2698. An act to designate the U.S. Courthouse in Tucson, AZ, as the "James A. Walsh United States Courthouse";

H.R. 2903. An act to designate the Federal Building and U.S. Post Office in Philadelphia, PA, as the "Robert C. Nix, Sr., Federal Building and United States Post Office";

H.R. 2962. An act to remove certain restrictions on the availability of office space for former Speakers of the House;

H.R. 3608. An act to amend the Small Business Investment Act of 1958; and

H.R. 3837. An act to extend the deadline for the submission of the initial set of sentencing guidelines by the United States sentencing Commission, and for other purposes.

RECESS

The SPEAKER pro tempore. The Chair wants to propound an inquiry.

In view of the fact that all of our business has been transacted, would there be objection to the Chair's declaring a recess pending the report of the committee to notify the President?

Without objection, the Chair declares a recess subject to the call of the Chair.

There was no objection.

Accordingly (at 12 o'clock and 56 minutes a.m.), the House stood in recess subject to the call of the Chair.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2416. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 6-114, "The George Washington University Revenue Bond Act of 1985", and report, pursuant to Public Law 93-198, section 602(c); to the Committee on the District of Columbia.

2417. A letter from the Secretary of Health and Human Services, transmitting the Surgeon General's report on the health consequences of smoking, pursuant to 15 U.S.C. 1337(a); to the Committee on Energy and Commerce.

2418. A letter from the Deputy Associate Director for Royalty Management Operations, Department of the Interior, transmitting a report on proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

2419. A letter from the General Council, Department of the Treasury, transmitting a draft of proposed legislation to amend certain provisions of title 18, United States Code, relating to firearms and explosives; to the Committee on the Judiciary.

2420. A communication from the President of the United States, transmitting notice of his intent to add Aruba to the list of beneficiary developing countries under the Generalized System of Preferences [GSP] Program, effective January 1, 1986, pursuant to 19 U.S.C. 2462(a) (H. Doc. No. 99-139); to the Committee on Ways and Means and ordered to be printed.

2421. A letter from the Secretary of Defense, transmitting a recommendation that legislation be enacted to reinstate the death penalty for persons convicted of espionage in civilian courts, pursuant to Public Law 99-145, section 1439; jointly, to the Committees on Armed Services and the Judiciary.

2422. A letter from the Under Secretary of State for Management, transmitting a draft of proposed legislation to provide for the security of U.S. diplomatic personnel, facilities and operations, and for other purposes; jointly, to the Committees on Foreign Affairs and Post Office and Civil Service.

2423. A letter from the Secretary of the Treasury, transmitting a draft of proposed legislation to resolve issues related to state use of the worldwide unitary method of taxation jointly, to the Committee on the Judiciary and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. WHITTEN: Committee of conference. Conference report on House Joint Resolution 465 (Rept. 99-450). Ordered to be printed.

Mr. BROOKS: Committee on Government Operations. H.R. 3614. A bill to restrict the use of Government vehicles for transportation of officers and employees of the Federal Government between their residences and places of employment, and for other purposes (Rept. 99-451). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. H.R. 3168. A bill to require the Director of the Office of Management and Budget to prepare an annual report consolidating the available data on the geographic distribution of Federal funds, and for other purposes; with an amendment (Rept. 99-452). Referred to the Committee of the Whole House on the State of the Union.

Mr. GRAY of Pennsylvania: Committee of conference. Conference report on H.R. 3128 (Rept. 99-453). Ordered to be printed.

Mr. DERRICK: Committee on Rules. House Resolution 349. Resolution providing for the House to reject the conference report on the bill (H.R. 3128), to recede from its amendment to the Senate amendment, and to concur in the Senate amendment with an amendment (Rept. 99-454). Referred to the House Calendar.

Mr. BEILENSON: Committee on Rules. House Resolution 350. Resolution providing for the consideration of H.R. 3992, a bill to amend the Internal Revenue Code of 1954 to extend for a temporary period certain tax provisions which would otherwise expire at the end of 1985, and for other purposes (Rept. 99-455). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ROSTENKOWSKI:

H.R. 3992. A bill to amend the Internal Revenue Code of 1954 to extend for a temporary period certain tax provisions which would otherwise expire at the end of 1985, and for other purposes; to the Committee on Ways and Means.

By Mrs. KENNELLY:

H.R. 3993. A bill to extend until March 15, 1986, the application of certain tobacco excise taxes, trade adjustment assistance, and borrowing authority under the Railroad Unemployment Insurance Program, and to extend until March 15, 1986, and December 31, 1986, the application of certain Medicare hospital and physician provisions, respectively; jointly, to the Committees on Ways and Means and Energy and Commerce.

H.R. 3994. A bill to extend until December 31, 1985, the application of certain tobacco excise taxes, trade adjustment assistance, certain Medicare reimbursement provisions, and borrowing authority under the Railroad Unemployment Insurance Program; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. MADIGAN (for himself, Mr. Scheuer, Mr. Broyhill, Mr. Sharp, Mr. Lent, Mr. Luken, Mr. Nielson of Utah, Mr. Tauke, Mr. Shelby, Mr. Ritter, Mr. Bliley, Mr. Tauzin, Mr. Whittaker, Mr. Dowdy of Mississippi, Mr. Dannemeyer, Mr. Bilirakis, Mr. Gallo, Mr. Dwyer of New Jersey, Mr. Ralph M. Hall, Mr. Oxley, and Mr. Eckart of Ohio):

H.R. 3995. A bill to amend the Federal Food, Drug and Cosmetic Act to establish conditions for the export of drugs; to the Committee on Energy and Commerce.

By Mr. ROSTENKOWSKI:

H.R. 3996. A bill to extend until March 15, 1986, the application of certain tobacco excise taxes, trade adjustment assistance, certain Medicare reimbursement provisions, and borrowing authority under the Railroad Unemployment Insurance Program; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. BROWN of California (for himself, Mr. Beilenson, Mr. Berman, Mr. Bonior of Michigan, Mr. Conyers, Mr. Crockett, Mr. Dixon, Mr. Dymally, Mr. Edgar, Mr. Fazio, Mr.

Ford of Michigan, Mr. Guarini, Mr. Hawkins, Mr. Hertel of Michigan, Mr. Levine of California, Mr. Lundine, Mr. MacKay McKinney, Mr. Mitchell, Mr. Nelson of Florida, Mr. Rangel, Mr. Torres, Mr. Udall, Mr. Waxman, and Mr. Weiss):

H.R. 3997. A bill to advance the national prosperity, quality of life, and welfare, to establish a National Policy and Technology Foundation, and for other purposes; jointly, to the Committees on Science and Technology and the Judiciary.

By Mr. CONYERS:

H.R. 3998. A bill to amend the Federal Rules of Civil Procedure with respect to offers of judgment; to the Committee on the Judiciary.

By Mr. DARDEN:

H.R. 3999. A bill to amend the Internal Revenue Code of 1954 to repeal the requirement that certain food or beverage establishments allocate a portion of its gross receipts to its employees as tips and report such allocation to the Internal Revenue Service; to the Committee on Ways and Means.

By Mr. HERTEL of Michigan:

H.R. 4000. A bill to assist in the admission into the United States of certain aliens who have fled from Poland; to the Committee on the Judiciary.

By Mr. KASTENMEIER:

H.R. 4001. A bill to amend chapters 37 and 123 of title 28, United States Code, and chapter 301 of title 18, United States Code; to the Committee on the Judiciary.

By Mr. LATTA:

H.R. 4002. A bill to amend the Tariff Schedules of the United States in order to establish equitable duty rates for sodium bicarbonate; to the Committee on Ways and Means.

By Mr. MOLINARI:

H.R. 4003. A bill to permit the reappointment of certain former air traffic controllers, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. SLATTERY:

H.R. 4004. A bill to establish a corporation to be known as Haskell Indian College and for other purposes; to the Committee on Education and Labor.

By Mr. WOLF:

H.R. 4005. A bill to amend section 8332 of title 5, United States Code, to allow periods of certain service performed as an employee of a State or an instrumentality of a State to be creditable for civil service retirement; to the Committee on Post Office and Civil Service.

By Mr. ROSTENKOWSKI:

H.R. 4006. A bill to extend until March 15, 1986, the application of certain tobacco excise taxes, trade adjustment assistance, certain Medicare reimbursement provisions, and borrowing authority under the Railroad Unemployment Insurance Program, and to amend the Internal Revenue Code of 1954 to extend for a temporary period certain tax provisions of current law which would otherwise expire at the end of 1985; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. ST GERMAIN:

H.J. Res. 495. Joint resolution to provide for the temporary extension of certain programs relating to housing and community development, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. FOLEY:

H.J. Res. 496. Joint resolution providing for the convening of the second session of the 99th Congress; considered and passed.

By Mr. SEIBERLING:

H. Con. Res. 263. Concurrent resolution to rescind the approval of House Concurrent Resolution 262, correcting the enrollment of House Joint Resolution 187, and directing the Clerk of the House of Representatives to make a correction in the enrollment of the joint resolution (H.J. Res. 187); considered and agreed to.

By Mr. de la GARZA:

H. Con. Res. 264. Concurrent resolution to correct the enrollment of H.R. 2100; considered and agreed to.

By Mrs. LLOYD (by request):

H. Con. Res. 265. Concurrent resolution expressing the sense of the Congress that all executive agencies should preferentially appoint veterans of the Armed Forces of the United States to positions in the Federal Government as provided in title 5, United States Code; to the Committee on Post Office and Civil Service.

By Mr. ROWLAND of Connecticut:

H. Con. Res. 266. Concurrent resolution providing for the sine die adjournment of the Congress; laid on the table.

By Mr. FOLEY:

H. Con. Res. 267. Concurrent resolution providing for the sine die adjournment of the 1st session of the 99th Congress; considered and agreed to.

By Mr. DERRICK:

H. Res. 349. Resolution providing for the House to reject the conference report on the bill (H.R. 3128) to provide for reconciliation pursuant to section 2 of the first concurrent resolution on the budget for fiscal year 1986 (S. Con. Res. 32, 99th Congress), to recede from its amendment to the Senate amendment, and to concur to the Senate amendment with an amendment; House Calendar No. 114. H. Rept. 99-454.

By Mr. BEILENSON:

H. Res. 350. Resolution providing for the consideration of the bill (H.R. 3992) to amend the Internal Revenue Code of 1954 to extend for a temporary period certain tax provisions which would otherwise expire at the end of 1985, and for other purposes; House Calendar No. 115. H. Rept. 99-455.

By Mr. FOLEY:

H. Res. 351. Resolution appointing a committee to notify the President concerning the proposed adjournment of the session; considered and agreed to.

By Mr. SMITH of New Jersey (for himself, Mr. Broomfield, Mr. Solomon, Mr. Porter, Mr. Solarz, Mr. Kemp, Mr. Hyde, Mr. Hall of Ohio, Mr. Barnes, Mr. Gilman, Mr. Feighan, Mr. Gejdenson, Mr. Wolf, Mr. Hoyer, Mr. Coughlin, Mr. Boulter, Mr. Biaggi, Mrs. Bentley, Mr. Badham, Mr. Moakley, Mr. Miller of Washington, Mr. McCollum, Mr. Kolter, Mr. Valentine, Mr. Vento, Mr. Gekas, Mr. Fish, Mr. DeLay, Mr. Schaefer, Mr. McDade, Ms. Fiedler, Mrs. Martin of Illinois, Mrs. Burton of California, Mr. McCain, Mr. Nelson of Florida, Mr. Denny Smith, Mr. Lagomarsino, Mr. Lantos, Mr. Zschau, Mr. Siljander, Mr. Garcia, Mr. Lowery of California, Mr. Lent, Mr. Whitehurst, Mr. Borski, Mr. Levin of Michigan, Mr. Moore, Ms. Mikulski, Mr. Roe, Mr. Frenzel, Mr. Schumer, Mr. Frank, Mr. Dwyer of New Jersey, Mr. Levine of California, Mr. Bustamante, Ms. Kaptur, Mr. Andrews, Mr. Dornan of California, Mr. Lightfoot, Mr. McGrath, Mr. Weber, Mr. Saxton, Mr. Mitchell, Mr. Wilson, Mr. Stokes, Mr. Young of Missouri, Mr. Bedell, Mr. Martinez, Mr. Scheuer, Mr. Leland, Mr. Morrison of Connecticut, Mr. LaFalce, Mrs. Boxer, Mr. Glickman, Mr. Bilirakis, Mr. DeWine, Mr. Berman, Mr. Bliley, Mr. Wortley, Mr. Gallo, Mr. Cobey, Mr. Reid, Mr. Daschle, Mr. DioGuardi, Mr. Durbin, Mr. Evans of Iowa, Mr. Boehlert, Mr. Green, Mr. Heftel of Hawaii, Mr. Weiss, Mr. Oberstar, Mr. Eckart of Ohio, Mr. Mineta, Mr. Bateman, Mr. Kramer, Mr. Carney, Mr. Manton, Mr. Burton of Indiana, Mr. Mrazek, Mr. Boucher, Mr. Frost, Mr. Matsui, Mr. Ackerman, Mr. Erdreich, Mr. Conte, Mr. Edwards of Oklahoma, Mrs. Collins, Mr. Waxman, Mr. Sweeney, Mr. Kolbe, Mr. Addabbo, Mr. Brown of Colorado, Mr. Gray of Pennsylvania, Mr. Bartlett, Mr. Sisisky, Mr. Hertel of Michigan, Mrs. Lloyd, Mr. Carper, Mr. Bryant, Mr. Donnelly, Mr. Lungren, Mr. Foglietta, Mr. Cooper, Mr. Kostmayer, Mr. Horton, Mr. Seiberling, Mr. Gradison, Mr. Synar, Mr. Robinson, Mr. Atkins, Mr. Gunderson, Mr. Eckert of New York, Mr. Strang, Mr. Swindall, Mrs. Roukema, Mr. Brown of California, Mr. Chandler, Mr. Smith of Florida, Mr. Daub, Mr. Richardson, Mr. Gingrich, and Mr. Leach of Iowa):

H. Res. 352. Resolution calling upon the Union of Soviet Socialist Republics to cease its concentrated and systematic persecution of Hebrew teachers and cultural activists, and for other purposes; to the Committee on Foreign Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 13: Mr. Richardson.

H.R. 44: Mr. Bartlett.

H.R. 385: Mr. Bateman and Mr. Jacobs.

H.R. 472: Mr. Coble, Mr. Saxton, and Mr. Slaughter.

H.R. 1052: Mr. Beilenson.

H.R. 1089: Mr. Vento, Mr. Evans of Illinois, Mr. Fish, and Mr. Neal.

H.R. 1284: Mr. Heftel of Hawaii.

H.R. 1551: Mr. Applegate, Mr. Edwards of Oklahoma, Mr. Fuster, Mr. Rowland of Connecticut, and Mr. Shumway.

H.R. 1625: Mr. Burton of Indiana.

H.R. 1748: Mr. Mavroules, Mr. Livingston and Mr. McKernan.

H.R. 1769: Mr. Sundquist.

H.R. 1946: Mr. Lujan, Mr. McCain, Mr. McDade, Mr. Mack, Mr. Martin of New York, Mr. Ridge, Mr. Skeen, Mr. Denny Smith, Mr. Tauke, Mrs. Vucanovich, Mr. Walker, and Mr. Kindness.

H.R. 2020: Mr. Evans of Illinois.

H.R. 2440: Mr. Bonior of Michigan and Mr. Boucher.

H.R. 2580: Mr. Gonzalez and Mr. Scheuer.

H.R. 2684: Mr. Boner of Tennessee and Mr. Towns.

H.R. 2978: Mr. Conyers.

H.R. 3167: Mr. Moody.

H.R. 3292: Mr. Frenzel.

H.R. 3296: Mr. Traficant and Mr. Gingrich.

H.R. 3349: Mr. Applegate, Mr. Whittaker, and Mr. Boucher.

H.R. 3378: Mr. Weiss and Mr. Nowak.

H.R. 3388: Mr. Horton, Mr. Roe, Mr. Stark, Mr. Whitehurst, Mr. Kindness, Mr. Lightfoot, Mr. Gallo, Mr. Wolf, Mr. Lagomarsino, Mr. Gingrich, Mr. Campbell, Mr. Lowery of California, Mr. Wortley, Mr. Dornan of California, Mr. Bliley, Mr. Daniel, Mr. Daub, Mr. Dyson, Mrs. Martin of Illinois, Mr. Valentine, Mr. Rudd, Mr. Porter, Mr. Rose, Mr. Carney, Mr. Chapman, Mr. Swindall, Ms. Kaptur, Mr. Parris, Mr. Frank, Mr. Nielson of Utah, Mr. Loeffler, Mr. Gunderson, Mr. Wilson, Mr. Barton of Texas, Mr. DeWine, Mr. Packard, Mr. Archer, Mr. Solomon, Mr. Bateman, Mr. McGrath, Mr. Burton of Indiana, Mr. Clinger, Mr. Edwards of Oklahoma, Mr. LaFalce, Mr. Young of Florida, Mr. Smith of New Hampshire, Mr. Saxton, Mr. Moorhead, Mr. Tauke, Mr. Luken, Mr. Bereuter, Mr. Blaz, Mr. Pursell, and Mr. Siljander.

H.R. 3408: Mr. Seiberling, Mr. Gejdenson, Mr. Conte, Mr. Shaw, Mr. Durbin, Mr. Dellums, Mr. Owens, Mr. Miller of California, Mr. Scheuer, Mr. Garcia, Mr. Donnelly, Mr. Pursell, and Mr. Panetta.

H.R. 3427: Mr. Rahall, Mr. Callahan, Mr. Torricelli, Mr. Boner of Tennessee, Mr. Oberstar, Mr. Quillen, Mr. Perkins, Ms. Mikulski, Mr. Roe, Mr. Coelho, Mr. McEwen, Mr. Young of Missouri, Mr. Bevill, Mr. Nichols, Mr. Tauzin, and Mr. Carney.

H.R. 3465: Mr. St Germain, Mr. McDade, Mr. Goodling, Mr. Vento, Mr. Martin of New York, Mr. Boner of Tennessee, Ms. Oakar, Mr. Stratton, Mr. Feighan, Mr. Wyden, Mr. Traxler, Mr. Owens, and Mr. Smith of Florida.

H.R. 3469: Mr. Morrison of Connecticut, Mr. Bosco, Mr. Dymally, Mr. Coelho, Mr. Matsui, Mr. Broyhill, Mr. Miller of California, Mr. Levine of California, Ms. Oakar, Mr. Martinez, Mr. Panetta, Mr. Lehman of Florida, Mr. Thomas of Georgia, and Mr. Lantos.

H.R. 3470: Mr. McDade, Mr. McCollum, Mr. Foglietta, Mr. Sikorski, and Mr. Spratt.

H.R. 3472: Mr. Gekas.

H.R. 3521: Mr. Luken.

H.R. 3562: Mr. Edwards of Oklahoma.

H.R. 3593: Mr. Cobey.

H.R. 3599: Mr. Armey, Mr. Badham, Mr. Bryant, Mr. DeWine, Mr. Dowdy of Mississippi, Mr. Dwyer of New Jersey, Mr. Edgar, Mr. Gallo, Mr. Garcia, Mr. Gingrich, Mr. Lehman of Florida, Mr. McCain, Ms. Mikulski, Mr. Molinari, Mr. Parris, Mr. Robinson, and Mrs. Vucanovich.

H.R. 3626: Mrs. Johnson.

H.R. 3660: Mr. Dorgan of North Dakota and Mr. Penny.

H.R. 3723: Mr. Luken.

H.R. 3733: Mr. Kolter and Mr. Levine of California.

H.R. 3739: Mr. Daschle.

H.R. 3760: Mr. Traficant and Mr. Gingrich.

H.R. 3767: Mr. Gunderson and Mr. Sharp.

H.R. 3785: Mr. Weber, Mrs. Bentley, and Mr. Roe.

H.R. 3802: Mr. Weber, Mrs. Bentley, and Mr. Roe.

H.R. 3814: Mr. Heftel of Hawaii, Mr. Lundine, Mr. Green, and Mr. Gilman.

H.R. 3842: Mr. Rodino, Mr. Rinaldo, Mr. Shumway, Mrs. Burton of California, Mr. Yatron, and Mrs. Holt.

H.R. 3894: Mr. Torres, Mr. Frank, Mr. Fauntroy, Mr. Dellums, Mr. Lagomarsino, Mr. Leach of Iowa, Mr. Rodino, Mr. Bereuter, and Mr. Stark.

H.R. 3906: Mr. Mrazek.

H.R. 3950: Mr. Morrison of Connecticut.

H.R. 3952: Mr. de la Garza and Mr. Wilson.

H.R. 3958: Mr. Bates, Mr. Hunter, and Mr. Lowery of California.

H.J. Res. 88: Mr. LaFalce.

H.J. Res. 315: Mr. McKernan, Mrs. Boxer, Mr. Rudd, Mr. Frenzel, Mr. Biaggi, Mr. Montgomery, Mr. Anderson, Mr. Dixon, Mr. Horton, Mr. Donnelly, Mr. Erdreich, Mrs. Bentley, Mr. Dyson, Mr. Gonzalez, Mr. Sunia, and Mr. Guarini.

H.J. Res. 332: Mr. Moorhead, Mr. Moore, Mr. Mrazek, Mr. Murphy, Mr. Murtha, Mr. Ortiz, Mr. Nichols, Mr. Manton, Mr. Schumer, Mr. Wylie, Mr. Morrison of Connecticut, Mr. de la Garza, Mr. Torricelli, Mr. Vander Jagt, Mr. Wolpe, Mr. Akaka, Mr. Vento, Mr. Livingston, and Mr. Gonzalez.

H.J. Res. 336: Mr. Stratton.

H.J. Res. 341: Mr. Bosco, Mr. Bates, Mr. Coelho, Mr. Shumway, Mrs. Boxer, Mr. Martinez, Mr. Panetta, Mr. Fazio, and Mr. Anderson.

H.J. Res. 345: Mr. Walgren, Mr. Panetta, Mr. Whitley, Mr. Gephardt, Mr. Durbin, Mr. Hall of Ohio, Mr. Smith of Florida, Mr. Lowry of Washington, Mr. Bustamante, Mr. Gilman, Mr. Ortiz, Mr. Staggers, Mr. Dellums, Mr. Hammerschmidt, Mr. Taylor, Ms. Oakar, Mrs. Boggs, Mr. de la Garza, Mr. Lipinski, Mrs. Lloyd, Mr. Sikorski, Mr. Foley, Mr. Neal, Mr. Bonior of Michigan, Mr. Chappell, Mr. Yatron, and Mr. Savage.

H.J. Res. 364: Mr. Pursell.

H.J. Res. 421: Mr. Fish, Mr. Packard, and Mr. Badham.

H.J. Res. 439: Mr. Pepper, Mr. Hubbard, Mr. Murphy, Mr. Bruce, Mr. Fascell, Mr. Shumway, Mr. Rose, Mr. Breaux, and Mr. Hayes.

H.J. Res. 462: Mr. Solarz, Mr. Manton, Mr. Savage, Mr. Mrazek, Mr. Ortiz, Mr. Addabbo, Mr. Moorhead, Mr. Moakley, Mr. Schumer, Mr. Rose, Mr. Lundine, Mr. Morrison of Connecticut, Mr. Bonior of Michigan, Mrs. Kennelly, and Mrs. Collins.

H.J. Res. 468: Mr. Kleczka, Mr. Thomas of Georgia, Mr. Fowler, Mr. Gingrich, Mr. Barnard, Mr. Jenkins, Mr. Broyhill, and Mr. Duncan.

H.J. Res. 470: Mr. Dwyer of New Jersey, Mr. Roe, Mr. Morrison of Connecticut, Mr. Fuster, Mr. Bevill, Mr. Barnes, Mr. Vento, Mr. Young of Missouri, Mr. Berman, and Mr. Brown of California.

H. Con. Res. 15: Mr. Berman.

H. Con. Res. 24: Mr. Edgar.

H. Con. Res. 156: Mr. Weiss, Mr. Lungren, Mr. Emerson, Mr. Levin of Michigan, Mr. DioGuardi, Mr. Bereuter, Mr. Reid, Mr. Levine of California, Mr. Hughes, and Mr. Gingrich.

H. Res. 165: Mr. Bustamante, Mrs. Lloyd, and Mr. Pursell.

H. Res. 346: Mrs. Burton of California, Mr. Annunzio, Mr. Rinaldo, Mr. Smith of Florida, Mr. Bliley, Mr. Ford of Michigan, Mr. Wilson, Mr. Sabo, Mr. Erdreich, Mr. DioGuardi, Mr. Schumer, Mr. Lagomarsino, Mr. de Lugo, Mr. Matsui, Mr. Parris, Mr. Fauntroy, and Mr. Gilman.

H. Res. 347: Mrs. Bentley, Mr. Sensenbrenner, Mr. Lagomarsino, Mr. Jeffords, and Mr. Parris.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 2451: Mr. Shaw.

SENATE—*Thursday, December 19, 1985*

(Legislative day of Monday, December 9, 1985)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Father in Heaven, we rejoice with Alan Frumin, our assistant parliamentarian, and his wife, Jill, on the birth of their little daughter last night.

Eternal Father, we have been here too long. There is a limit to what mind and body and emotion can bear—a point beyond which issues become unclear, thinking ambivalent, decision equivocal. You know, Lord, how the leadership has been tested, Members pressed and the conferees exhausted. Renew them for this day's business that what is necessary may be done and they may go home to their families.

Gracious God, family holiday plans have been hostage to tentative and uncertain agendas. Spouses and children have a right to the time and attention of the Senators. Mitigate the disappointments suffered and crown with extraordinary pleasure family togetherness in this holiday period. Protect those who travel that they may go and come in safety that these next weeks will be filled with reconciliation and love and the realization of some family dreams. In Jesus' name. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The distinguished majority leader is recognized.

SCHEDULE

Mr. DOLE. Mr. President, I share the views expressed by the Chaplain. We have been here too long but we may be here a while longer, hopefully not beyond today. We still have the continuing resolution and reconciliation. Then there will be some extensions on some of the expiring provisions that we will have to act upon. I do not think we will act on the big list that the House shipped over last night. Most of those can be done next year without any impact on anyone.

Mr. President, I suggest that at 11:30 we could either agree or not agree on what we might take up today by unanimous consent. I would like to take up the Angola resolution, but I understand it will be objected to. In any event, I am going to make the unanimous-consent request at 11:30.

There are nominations on the Executive Calendar. The Senator from Georgia, Senator MATTINGLY, would like to discuss that. On Mr. Scanlon, I would hope we could confirm his nomination today.

There are some of these matters that I thought we might as well bring up early. If they are not going to happen, they are not going to happen, so we can forget about that the remainder of the day and devote our time to matters such as the continuing resolution and reconciliation.

Senator DANFORTH would like to move ahead on the telecommunications.

(Mr. SYMMS assumed the chair.)

Mr. HOLLINGS. Mr. President, will the majority leader yield at this point?

Mr. DOLE. I know you are going to object to that, but we will do that at 11:30.

Mr. HOLLINGS. I am not going to object, but I have another little amendment on textiles.

Mr. DOLE. We have already done that once.

On low-level nuclear waste, as I understand, the principals are in agreement but Senator BOREN has now changed his mind on what he previously agreed to as far as campaign financing is concerned. He may want to object to the consideration of those matters.

Mr. President, I think it should be noted that yesterday I received a letter from Kansas Gov. John Carlin, the immediate past chairman of the National Governors' Association, asking, on behalf of all the States, that the Low-Level Waste Policy Act amendments and the regional compacts be adopted this session. I ask unanimous consent that the letter be printed in the CONGRESSIONAL RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL GOVERNORS' ASSOCIATION,
December 18, 1985.

Hon. ROBERT J. DOLE,
Senate Majority Leader,
U.S. Senate, Washington, DC.

DEAR SENATOR DOLE: I am writing to you as the Governor of Kansas and the immediate past chairman of the National Governors' Association to urge Congress to pass the Low Level Waste Policy Amendments Act and the regional compacts before the close of business this session. I cannot overemphasize the importance which states attach to this measure. Positive action by Congress will avoid a potential low level waste disposal crisis in January and will permit the states to continue to develop new low level waste disposal facilities.

In 1980, with the support of the states, Congress passed the Low Level Waste Policy Act. Since then, forty states have adopted compact legislation, and seven compacts are pending before Congress. Anticipating the need for a transition period to allow for the construction of new facilities, states have for the past three years negotiated with generators, federal agencies, environmentalists and congressional staff to create legislation which balances the interests of sited and unsited regions and which contains a series of tough but achievable milestones designed to provide regional disposal self-sufficiency by 1993.

These goals are embodied in the legislation reported out by the Senate Environment Committee, S. 1578, as well as in H.R. 1083, the legislation adopted on December 9 by the House of Representatives by a vote of 378-0.

States are uniformly supportive of the major elements of these bills. This is evidenced by the policy adopted unanimously by NGA last summer and the numerous letters signed subsequently by individual Governors representing states of various regions and political affiliations. We anticipate that if a Senate vote can be scheduled, a margin of approval similar to that in the House will result. States are proud of their achievements to date. Five years ago, they voluntarily shouldered a difficult national environmental problem and established an institutional framework for resolving it. The legislation currently before Congress will allow us to complete this task.

On behalf of all states, I ask that the Low Level Waste Policy Act Amendments be adopted this session.

Sincerely,

GOV. JOHN CARLIN.

Mr. DOLE. Mr. President, I thought it best to do it all at 11:30 because Members have other things to do. We can sort of settle that then.

Mr. MOYNIHAN. Will the majority leader yield for a question in the way of a statement?

Mr. DOLE. Yes.

Mr. MOYNIHAN. I was talking to our eminent President pro tempore yesterday and asked him to speak to our friend the distinguished Senator from Idaho, who happens to be in the chair at the moment, about his willingness to let certain legislation come forward. The Senator explained that he could not do it. Could the distinguished majority leader give us some hope that we might get to this matter early in the coming year?

Mr. DOLE. Mr. President, I support the legislation the Senator is referring to. My own view is that it should have been done by unanimous consent. The tax amendment obviously would be blue-slipped. But, yes, we will take it up early next year.

Mr. MOYNIHAN. I thank the Senator.

Mr. DOLE. Mr. President, I want to yield 5 minutes of my leader time to the Senator from Wyoming, Senator Wallop.

Mr. METZENBAUM. Mr. President, before the Senator does that, if he will yield for another question, it is my understanding he has mentioned several measures that he might bring up. I wonder whether the leader, in view of past commitments and the record made by this Congress last year, would make an effort to move the Genocide Treaty which we have been talking about but have never agreed to bring up.

Mr. DOLE. I support the convention. I want to bring it up. We went through an exercise about 10 days ago with a number of items, including Conrail which the Senator from Ohio objected to taking up, as did others.

Mr. METZENBAUM. I never had a chance to get to it, there were so many objections.

Mr. DOLE. There was a small crowd—four.

In any event, I would not be opposed to that, but I know what will happen.

I hope this is our last day. I do not really believe we are going to get into anything that is going to take a lot of time.

Mr. METZENBAUM. Let me ask one other question. This body and the House have made it unequivocally clear that we are in favor of terminating the actions of the Synthetic Fuels Corporation.

In the continuing resolution, we provided that the Synthetic Fuels Corporation could take no action until 12 o'clock meridian time. I do not know whether that is 12 o'clock noon or 12 o'clock midnight.

I have just been informed that the White House has indicated that there will be a press conference at noon at which they will indicate that they are prepared to direct the Synthetic Fuels Corporation to expend $684 million which, in turn, picks up another $300 million, which will be almost $1 billion, notwithstanding the overwhelming indication by Congress that we do not believe any further expenditures should be made.

I know $1 billion is not much money around here. It gets to be that way, as Everett Dirsken said. But the fact is, would the leader be willing to consider our passing a resolution before 12 o'clock noon extending the bar on that expenditure of funds which we did in the continuing resolution until such time as the full continuing resolution is enacted into law?

As the Senator well knows, the full continuing resolution does have that bar in it. The short continuing resolution does have that bar in it. What the White House is doing is being a party to finding a window for two projects on the basis that the parties have invested so much of their own funds. In one of them, they invested less than $20 million, in the other they have invested a substantial amount. I think congressional will should not be thwarted and I believe that Congress should keep this from occurring during this so-called window.

Mr. DOLE. I shall be happy to consult with the chairman of the Committee on Apprpriations. Again, I doubt that if we had one drafted, it could be passed by noon. I assume there would be people on the other side who would like to be heard on this resolution.

Mr. METZENBAUM. Mr. President, we will——

Mr. DOLE. I am opposed to synthetic fuels, voted against it. I know several have some genuine concern about a couple of projects. I was not a party to those negotiations.

Mr. METZENBAUM. I appreciate that, Mr. President. If there were a resolution passed here, I think the House would pass it immediately thereafter. The House has indicated by tremendous votes, like 312 to 30, their strong feeling on the subject. I would consult with them. I just learned about it but I want at least to advise the leader that I might try to bring something of that kind to the floor.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. Under the previous order, the Democratic leader is recognized.

THANKS TO THOSE WHO MAKE THE SENATE RUN

Mr. BYRD. Mr. President, as the first session of the 99th Congress comes to a close, I take this moment to express my appreciation, and I think the appreciation of all Members on our side of the aisle, to the many able and dedicated staff members who make such an important contribution to the work of the Senate.

I begin by expressing my appreciation to the Senate Democratic floor staff—Abby Saffold, Charles Kinney, and Marty Paone—who are well known to every Member of this body. Theirs are among the most demanding and difficult jobs in the Senate. Yet, they discharge their responsibilities with unfailing courtesy, patience, and good humor.

I also thank Elizabeth Baldwin, who directs scheduling for the majority party. She is as dedicated and careful with respect to detail as is the Democratic floor staff. She, likewise, is extremely competent and understands the needs of the Members on her side of the aisle. She treats the Members on our side with equal courtesy.

I compliment David Pratt, the secretary to the minority, and his fine assistants—Dianne Davies, Sue Spatz, and Betty Lou Sisson. David performs his many duties with distinction and ability. I am sure that all of my colleagues join me in expressing our thanks to him for the many services he has rendered to the Democratic conference and to the Senate.

I also express appreciation for the fine work of Patrick Hynes, deputy secretary to the minority, and the young men in the Democratic cloakroom—Robert Bean, William Norton, and Joseph Hart. The Senate is a better place for their unstinting and capable efforts in our behalf.

The pages are fine young people and they do everything they can do to assist Members in the operation and actions of the Senate. We appreciate their services.

I compliment and thank Ms. JoAnne Coe, the Secretary of the Senate, and her staff. Hers is a demanding job, but she carries it out ably.

I commend the work of Howard Greene, secretary to the majority; John Tuck, assistant secretary; and Rod Dearment, chief of staff, and Sheila Burke, deputy chief of staff, for the majority leader, all of whom perform their duties so capably.

I thank my good friend Dr. Halverson, the Senate Chaplain, for his unfailing support, kindness, and good spirit.

I am grateful to Ernest Garcia, Sergeant At Arms, whose office so ably assists us all, and to Jeanine Drysdale-Lowe, executive assistant to the Sergeant At Arms, who represents the minority in that office. The Sergeant's Office provides for the security which is, regrettably, continually a greater necessity in this dangerous world. I want to especially thank Jeanine who looks out for the interests of the Members on this side of the aisle so ably and so loyally.

I reserve a special word of commendation and appreciation for the excellent work of my executive director in the Democratic leader's office, Mrs. Barbara Videnieks. She works closely with me, with the policy staff, and with my State office staff every day, and has demonstrated outstanding ability and dedication. She is ably assisted by Patty Kirschner, Gigi Deslongchamps, and Becki Roberts.

I express my appreciation for the work of Scott Bunton, staff director of the Democratic policy committee in the Senate. I thank, also, his capable assistants, Jerri Davis and Alice Aughtry. Through their competence and dedication, they make a major contribution to the smooth running of the Democratic policy committee.

I thank Dick D'Amato, deputy director of the policy committee for defense and foreign policy, and Tom Sliter, deputy director for domestic policy, as well as the outstanding issues staff in their offices who have given unstintingly of themselves to the work of this body.

Linda Peek is the very capable director of communications on the policy staff. Linda's daily assistance to me and other Democratic Senators in conducting our relations with the news media is deeply appreciated, as are the efforts of her fine staff.

One of the most important tasks of the policy committee is to keep the Members on our side of the aisle supplied with information on the Senate's work through our legislative bulletins, special reports, vote compilations, and other committee publications. The staff members who perform this vital and demanding task, which they do excellently and diligently, are ably led by the committee's chief clerk, Elizabeth Shotwell.

My representative on the Judiciary Committee staff, Mike Epstein, works closely with me and with the policy committee staff. I value his able counsel.

I would be remiss if I did not thank the Senate Parliamentarian Bob Dove, and his assistants, Alan Frumin and Gail Cowper. Bob's knowledge and expertise—and that of his staff—and the assistance they offer to Senators and their staffs in dealing with the complex rules and precedents of the Senate are much appreciated.

I compliment the work of the official reporters of debates—Mr. Russell Walker, the editor in chief, and Mrs. Jeanie Bowles, the assistant editor, and their fine staff. Their highly specialized work helps keep the Senate running. They often work late into the night, long after the Senate has gone home, preparing the CONGRESSIONAL RECORD for printing. I thank all the official reporters of debates for their dedication and patience: William Mohr, Charles Reynolds, Frances Garro, Frank Smonskey, Ronald Kavulick, Jerald Linnell, and Raleigh Milton. I also thank the assistants to the official reporters, Mark Lacovara and Scott Sanborn.

I commend all the members of the Secretary of the Senate's staff and office and those who work at the desk—William Farmer, legislative clerk; Scott Bates, assistant legislative clerk; Vincent Del Balzo, bill clerk; Jim Thorndike, journal clerk; and William Lackey, assistant journal clerk. They are all extremely helpful and cooperative.

There are many hundreds of other people who help make the Senate run. I thank the many others whose efforts all too often go unsung: There is our Capitol physician, Dr. Cary, and his staff; the many members of the staffs of the Secretary of the Senate and the Sergeant At Arms; the doormen; the Capitol Police; the restaurant workers; the maintenance staff; the staff of the Senate reception room, and all the many, many others who contribute to the work of the Senate.

I also thank those in the Senate press galleries who follow our efforts and help to keep us accountable to our constituents.

I thank all of these fine people for their tireless efforts in our behalf and in behalf of the Nation.

Mr. President, I know that I cannot mention every person by name. But in closing, I express the hope that all who have a part in this great forum and its operation will have a restful and enjoyable holiday, and can enjoy the opportunity to prepare and be ready for the coming year, which undoubtedly will be as strenuous for Members and staff alike as this one has been.

THE ANGOLA RESOLUTION

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Mr. President, apparently, we will not even see an expression of support for Jonas Savimbi's brave fight, even through a sense of the Senate resolution.

Mr. President, the sense of the Senate resolution on Angola provided aid only to those who put real aid for Jonas Savimbi further down their list of priorities than the convenience of the Senate. While I welcomed Senate consideration of the resolution, no resolution can be used to excuse Senate failure to take concrete steps to assist the democratic freedom fighters of Angola. Their needs are arms, not words.

Those here who have been unwilling to face the truth of what has been happening in Angola and to take meaningful steps to defend United States interests there cannot and should not leave these Chambers with a clear conscience. I hope it is clear to the American people that a resolution is only words, not action, and what Savimbi and his men face are actions—brutal actions, not words. And we cannot even have that.

Mr. President, the urgency of the crisis in Angola is of such seriousness and proportions that no resolution, no matter how strong, can substitute for action. The stark truth is that the Soviet Union and its Marxist allies—Cuba, Mozambique, and North Korea—are assisting pro-Soviet groups in Angola, Zimbabwe, Ethiopia, Madagascar, Namibia, and Tanzania to try to turn Africa into a continent totally dominated by and controlled through Soviet power. This is absolutely consistent with Gorbachev's published ideology that there can be only one winner in the struggle between the West and the Marxist systems and that the Marxists will prevail.

In the case of Africa today, however, he seems also to subscribe to the theory that might makes right and that power will win because the West totally lacks the courage, the will, the foresight or the determination to draw the line or to take any action whatsoever in this Angolan crisis and the Senate epitomizes that.

Here, while we debate even whether or not to have resolutions that are not promises, the Soviets are on the march in southern Africa to advance their foreign policy goal of taking charge of Africa militarily as well as politically and psychologically. The Soviet Union wants military bases on the African continent to use as platforms for its armies, navies, and intelligence services for deployment in Africa, Central America, and the international sealanes of the South Atlantic and the Indian Ocean.

The U.S.S.R. will then use these bases, not only against Africans, but also against the strategic and political interests of the entire free world. World domination is the name of this incredible and dangerous game—but we dawdle with parliamentary feats of conscience-salving.

Mark my words that the purpose of the Soviet Union in Angola today is one thing and one thing alone. That is to moot the issue in advance of the coming summit next year. We were unable to get Gorbachev's attention on this matter during the summit, he having successfully focused our and the world's eyes on arms control.

How can we and our allies in the West be fooled into thinking otherwise? Our inaction, inattention and short-sightedness is counted upon by the Soviet policy planners. They think that all we care about is racial problems in Africa and that we cannot think of that continent in the global-strategic terms they do. And, unfortunately, they may have assessed many democratic nations correctly.

The Soviet Union has been preparing its Africa offensive carefully and deliberately for some time. These efforts have intensified since last fall at the very time when the U.S.S.R. was lulling the west into a false and foolhardy sense of security by concentrating our attention on the Geneva summit. At that meeting, as well as during the elaborate preparations for it, the Kremlin skillfully manipulated the agenda to focus on arms control, something they know the West wants. They artfully dodged the tough regional questions at the summit, which remained, as they wished, on the margins of that meeting. They know the old truism that American governments can focus on only a few front-page issues at a time. And now mark my words, by the time of the next summit, they intend to have the point moot by full control over Angola.

Mr. President, I must ask why the vast foreign and national security policy establishments of the United States and its allies can be so blind to the advancement of Soviet military power in Africa? Why have our policy planners not thought through the strategic consequences for Africans and for the interests of the West of Soviet domination of that part of the world? Why have Mr. Crocker and the African specialists in the White House, National Security Council, State Department, Pentagon, and at NATO not looked at where Africa is headed and made plans to protect our interests there? Have we learned nothing at all from our experiences in confronting Soviet power from Berlin to Afghanistan?

We know that the Soviet Union has systematically wooed, trained, or indoctrinated the military leaders of numbers of African states. These military leaders are traveling to Moscow on a virtual commuter basis. But worse, the Soviets have now sent hundreds of highly trained specialists to command the military units fighting in Angola against Dr. Jonas Savimbi and his UNITA forces. The level of sophistication of the current Soviet-Cuban offensive in Angola testifies to the statement made on November 8, 1985, in the Soviet military publication, Krasnya Zvezda as follows:

> The Soviet Union, Cuba, and other socialist countries, loyal to their international duty, are rendering Angola assistance in strengthening its national army and defending the sovereignty and territorial integrity of the country.

By the destruction of UNITA in Angola, the Soviets plan to gain access to naval and air bases in expected theaters of military operations. They are building up air defense weapons systems there and advanced C31 capabilities. Their radars and SAMS are better there than anything the Republic of South Africa has. There has been a massive Soviet airlift from the U.S.S.R. to Angola to support the Marxist MPLA. Soviet AN-22 transports, usually employed only within the U.S.S.R., have been sent to Angola.

This buildup suggests that the Soviet Union and Cuba fully intend to wipe out UNITA, the only democratic resistance force in Angola, as a prelude to enhancing their ability to conduct strategic military operations in the South Atlantic and the Indian Ocean. Meanwhile, back at the ranch, the Senate shrinks from resolve and the State Department negotiates without tools and, worse yet, without goals.

The Soviets have used Cubans in the Angola situation to divert the West from seeing through the heart of Soviet intentions there. The Cubans are Soviet proxies and are fighting their proxy war in southern Africa. From a global-strategic standpoint, this presents a serious challenge to United States and Western interests in the world and to our ability to defend those interests on the African continent and in important international sea lanes. I must note, Mr. President, my extreme disappointment at United States inaction in the Angola crisis. When we all seem to agree, as we have by Senate consideration of this Angola resolution, that the situation demands our support of UNITA, why are we unable to supply anything but words to Dr. Savimbi and his brave UNITA forces?

Mr. President, we should not go home for the Christmas holidays with any sense of comfort that we have done our best to prevent the advancement of Soviet power in southern Africa. We must know from past history that the Soviets and their proxies often mount offensives to advance their power at Christmastime, when they know we will be distracted by other things. Remember, they marched into Afghanistan right at Christmas 6 years ago, counting upon the inability of the West to react. They murdered our Ambassador while we caroled.

If the Senate of the United States continues its inaction in the Angola crisis into January and February, we will have betrayed Jonas Savimbi, UNITA, and the interests of the free world in Africa. I understand that at this very moment, the fighting in Angola is intensifying and many are dying. News from the 30 military region says that MPLA units have killed 17 UNITA forces and captured their ammunition. In light of this, it is the ultimate sophistry for us to go home to our Christmas dinners without even having considered the Angola resolution and feel comfortable for having done something. May we at least have the decency to view this as a commitment to action and not just a trip to the confessional.

I ask unanimous consent that an article for the forthcoming policy review by Jonas Savimbi, entitled "The War Against Soviet Colonialism—The Strategy and Tactics of Anti-Communist Resistance," be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

The War Against Soviet Colonialism—The Strategy and Tactics of Anti-Communist Resistance

(By Jonas Savimbi)

The age of European imperialism ended in 1975, when a military coup in Portugal led to independence for Angola, Mozambique, and Guinea-Bissau. Portugal had been the last European power to maintain sizeable colonies overseas. Now that it was relinquishing its empire, the struggles for national liberation that swept Africa and Asia during the 1950s and 1960s finally appeared to be over. The former British, French, Dutch, Belgian, Italian, and Portuguese colonies could now develop themselves free of imperial exploitation. The people of Asia, Africa, and Latin America could live at peace, for the anit-colonial guerrilla wars had at long last been won.

But this dream of peace and national self-determination could not yet be achieved. In country after country, struggles for national liberation were betrayed and hijacked, and new nations found themselves once again the victims of colonialism. The time they were assaulted by a new imperial power: the Soviet Union, acting directly or through its first overseas colony, Cuba. And so the nationalist struggles had to begin anew. People tired of years of war and sacrifice were once again turned into soldiers; their nations became battlefields once more.

For eight years, the independence movement that I founded and lead, UNITA (the National Union for the Total Independence of Angola), fought against Portuguese colonial rule. We expected to win the free elections that had been promised by the Portuguese in 1975, for we had strength in all Angola's tribes as well as overwhelming support among the Ovimbundu tribe, which accounts for 40 percent of the nation's population. By contrast, the other non-Communist independence group, the F.N.L.A. (Angolan National Liberations Front), was supported exclusively by the Bakongo people of northern Angola. And the Moscow-controlled M.P.L.A. (Popular Liberation Movement of Angola) was supported only by urban leftists and portion of the Mbundu people living near the capital city of Luanda.

But suddenly in 1975, Luanda was seized by the Soviet-controlled M.P.L.A. and hundreds and then thousands of Cuban troops. Elections were called off, and Angola was recolonized. Today our land is occupied by 45,000 Cuban troops and colonial bureaucrats (at least 17,000 of whom have taken Angolan citizenship), as well as by thousands of East Germans, Poles, Czechs, and North Koreans. The Soviets have sent $2.5 billion in arms to maintain their imperialist rule.

And so for 10 years more, UNITA has had to continue its guerrilla war—this time against the Cubans and Soviets who have replaced the Portuguese as the foreign rulers and exploiters of our people and land. Today the peoples of Afghanistan, Cambodia, Laos, Nicaragua, Ethiopia, and Mozambique are also waging wars of liberation against foreign troops and foreign secret police and the imposition of a foreign ideology on their nation. They are resisting tyrannical regimes that are kept in power only by the imperialist military force of the Soviet bloc.

This is a historic reversal of roles. For many decades, Communism was identified with nationalism in the Third World, and many Communist parties came to power playing on the nationalist sentiments of the people. But the experience of countries ranging from Afghanistan to Laos to Angola to Nicaragua shows clearly that Marxist-Leninist regimes have no respect for the traditions of a people or for the tribal customs and languages that strengthen a sense of community and of continuity with the past. True nationalists around the world are therefore rejecting the Marxist-Leninist path and taking up arms against regimes that impose this failed ideology.

The spread of anti-Communist revolutions is a historic reversal in yet another sense. Until recently, the language of revolution was written entirely by Communists. From Mao to Che Guevara to General Giap, the greatest theoreticians, practitioners, martyrs, and heroes of revolution were Communists. They wrote the texts and histories; they produced the weapons of guerrilla war. It was to the Soviet Union, China, and Cuba that would-be guerrillas turned for money, arms, training, and political support.

I know, because I received my revolutionary education in China. In 1965, as I was preparing to found UNITA, I met Hua Hua, the Chinese ambassador to Nasser's Egypt. He invited me to Peking, where I met Mao Tse-tung and the other military and political leaders of the Chinese revolution. They advised me to return with 12 recruits, and late in 1965 we began a nine-month course in guerrilla warfare.

From Mao and the Communists, I learned how to fight and win a guerrilla war. I also learned how not to run an economy or a nation. Collectivist agriculture does not work. Peasants must be able to own their own land, their own houses, and their own cattle. People must be free to practice their religions, and observe their tribal traditions.

LESSONS FROM CHAIRMAN MAO

Today we who fight for these freedoms are using the strategy and tactics of guerrilla warfare developed by the Communists. But we are using Communist military and propaganda principles in order to defeat the Soviets and their political ideology. UNITA is now in the third phase of Mao Tse-tung's classic description of a successful guerrilla war: we are waging widespread guerrilla conflict throughout our country. Our forces control one-third of the territory of Angola, and protect under our political influence some 60 percent of the 7 million Angolan people. Soon we shall liberate all Angola and bring peace, freedom, and true independence to all the Angolan people. We are achieving victory by following the five central principles of guerrilla warfare.

The first principle comes from Mao: a guerrilla must be one with the people. It is more important to win the support of the people in the countryside than to take and hold cities. In Angola, as in China, the great mass of the people are peasants living in small villages. Our first goal had to be to win their allegiance and confidence. Without the support of the people, our roads would be mined with informers. With it, we have an intelligence network alerting us to enemy troop movements out of the cities, and we do not need to carry all our food and supplies with us—critical to a guerrilla movement that has to travel thousands of kilometers by foot and possesses neither trucks nor access to rail travel.

When the people come to trust and support a guerrilla movement, they willingly share what they can. The guerrilla must therefore have strict discipline. To take food from villagers, to steal their land, to mistreat the people is to poison the waters in which the guerrilla army must swim. It is treason to the movement and is punished as such.

To gain the trust and support of the people, it is also important to establish schools and hospitals throughout liberated territory—if possible, even in areas where guerrillas operate but do not control. Today UNITA administers 6,951 primary schools with 7,127 teachers and 224,811 students. We run nine secondary schools with 80 teachers and 1,860 students. Though the main hospital in Jamba, our provisional capital, has only three doctors, the French medical group Medecins sans Frontieres has sent doctors and nurses to Angola to train our people and help administer inoculation programs. Every battalion has men assigned to treat and evacuate our wounded.

The second key to the success of a revolutionary movement is a clear political program. Soldiers cannot fight and the civilian population cannot endure the hardships of war unless the political program meets their daily concerns and is understood. We have political officers in every guerrilla unit and every village. The political program of UNITA is simple and clear. We fight for an independent Angola, free of all foreign troops. We believe that peasants, not the state, should own farm land. We favor democratic elections, freedom of religion, and respect for tribal customs and languages. We broadcast daily from a mobile radio station in Portuguese and local languages so that all Angolans know why we fight and what our goals are. The United States lost its war in Vietnam when the American people no longer understood why their sons were dying. No revolution or war can succeed unless the soldiers and their families know why they are fighting.

Unity is a third vital point in the success of any guerrilla movement. Guerrillas can only win if their military and political and propaganda efforts are all working in the same direction. Fidel Castro makes unity of command a precondition for Cuban support of guerrilla movements. We saw this in his insistence on a popular front in the struggle against Somoza in Nicaragua. Castro also insisted on unity among the guerrillas in El Salvador, withholding arms and even engineering a "suicide" or two to force the guerrillas to come together under a common command. Some anti-Communist freedom fighters have unfortunately hurt their effectiveness by a lack of coordination between guerrilla forces.

Fourth, it is essential that the guerrilla base of operations be within the territory of your own nation. This is to ensure self-reliance, as well as closeness to your own people. Another Angolan guerrilla group, the F.N.L.A., was based in Zaire, and lost its base of operations when Zaire established relations with the M.P.L.A. UNITA had bases briefly in Zambia, but we were expelled after we sabotaged the Benguela railroad through occupied Angola, over which Zambian copper is exported. Never again will we rely on bases on foreign soil.

The Afghan freedom fighters are constantly threatened with losing their bases in Pakistan should Soviet pressure on President Zia increase. The Nicaraguan resistance will face similar problems, should Costa Rica or Honduras be pressured sufficiently by the Sandinistas or the Cubans or the Soviets. By contrast, a base within Angola—we now control a third of the land—allows our guerrillas a safe haven to rest. It gives us a place to train new recruits and it provides safety for the families of our fighters. UNITA was able to survive and grow, even during years without international support, because we were self-reliant. We could grow our own food, repair weapons we captured, and strengthen our ties with the people.

The fifth challenge is to establish international political ties—to find allies who will give military, political, and propaganda support. Too often the West thinks only in terms of military support. But political support and international propaganda are just as important, as I learned from General Giap of North Vietnam when I met him in China. He said that the world must know why a guerrilla movement is fighting. A revolutionary movement's supporters around the world must know its successes.

The world must not be fooled into thinking that the M.P.L.A. truly represents the Angolan people or that it has control of the nation. That is why UNITA has representatives in Washington, London, Paris, Munich, Geneva, Portugal, Morocco, and Senegal. It is why we regularly invite members of the international press to come to our capital to see our successes, and to interview our prisoners so they may know about the demoralization of the Cubans and the M.P.L.A. Some reporters have travelled with our guerrilla forces and can report to the world the truth of our claims to travel freely throughout Angola, enjoying popular support and winning victories against the supposedly invincible Cuban forces.

At first it was difficult to get the world's attention. Anti-Soviet resistance movement were supposed to be doomed. The West has not yet learned that truly nationalistic movements can use the guerrilla tactics of Mao and Fidel Castro successfully against the Soviets. Some of our first propaganda victories came when we captured Western technicians who worked in the diamond mines on behalf of the Cubans and the M.P.L.A. Finally the West was forced to realize that UNITA was not limited, as is so often said, to the southeast corner of Angola. Governments that refused to recognize us had to come and negotiate for the release of their nationals. And prisoners who were treated well and safely transported thousands of kilometers to our base camps could report to the world that we were not bandits and that we moved freely through most of Angola. Now it is unnecessary to prove these points and we do not take Westerners when we overrun mines and power stations. But we try to warn Westerners that the Cubans and M.P.L.A. cannot guarantee their safety, and we ask them to stay out of all Angola, for it is a war zone.

GUERRILLA STRATEGY

The goals of UNITA are clear and open for the world to see. We will drive the Cubans and Soviets and Eastern-bloc personnel from Angola. We will work with all patriotic Angolans to establish an independent, democratic, and free Angola. We reject foreign ideologies that presuppose masses of industrial workers and men without souls.

Our strategy is to raise the costs of the foreign occupation of Angola until the Cubans and Soviets can no longer bear the burden. A combination of rising military, financial, and political costs will finally drive the imperialist forces from our shores. The French gave independence to Haiti, the first black republic, when Napoleon could no longer afford the financial costs of keeping the country enslaved. He had other uses for those resources. The United States won its revolution when the cost in lives and materiel led to divisions among the British about whether to continue the war. Similarly, America left Vietnam as the result of rising political costs at home. America was never defeated on the battlefield in Vietnam; in fact, the North Vietnamese strategist, General Giap, told me he never expected to defeat the American in battle. The guerrilla does not have to win decisively to drive out the foreign occupiers of his land. He simply has to raise the price of colonialism.

A central element of this strategy is to deny the colonial forces the revenues that finance their occupation. Today the Soviets and Cubans exploit Angola with a rapacity unrivalled by the Portuguese. Soviet fishing fleets have swept our coastlines, and fish has disappeared from the Angolan diet. Our diamonds, minerals, and oil from the Cabinda province are taken in Committee "payment" for arms and for support of the Cuban troops. The M.P.L.A. government pays Castro $1,000 per month for each Cuban soldier in Angola, for a total of $480 million per year. These mercenaries can afford to stay in our nation only as long as they are paid. So UNITA attacks the diamond mines, sabotages the bridges, and destroys the industries that support the Cuban occupation. This policy does not harm our brothers in occupied Angola, for the wealth produced there does not go to them. It is taken by the Cubans and Soviets to pay for their repression here and to finance Cuban expeditions in other nations.

When enough Cuban officers are returned to Cuba in coffins, then Castro must face the wrath of his own people. Already we learn from Cuban prisoners of war that the war in Angola is unpopular in Cuba. The United States can help our cause by bringing the truth to the Cuban people on Radio Marti and Voice of America, and thus weakening Castro's already endangered rule.

Our military strategy is designed to inflict casualties on Castro's troops and not, when possible, on the M.P.L.A. Some true Angolan nationalists have been forced by the Cubans to fight with the M.P.L.A. Not all German officers in World War II were crazed Nazis, so too in the M.P.L.A. there are Rommels and Von Stauffenbergs, nationalists who oppose the Cuban occupation. These kidnapped warriors are our brothers, and our goal is to treat them well when we capture them. Many M.P.L.A. prisoners now fight with UNITA. Every UNITA victory strengthens the hand of the nationalists with the M.P.L.A., and hastens the day when they will join with us in driving out the Cubans and Soviets.

COMMUNIST STRENGTHS

UNITA's guerrilla war against the Portuguese colonialists was much easier than our struggle against the Soviets and Cubans. The Portuguese were perhaps better infantrymen than the Cubans, but by comparison with Angola's new colonialists, they suffered in both the quality and quantity of arms. The Portuguese used little armor and had no more than five helicopters, whereas the Cubans and Soviets will send 15 helicopters to a single battle. The Soviet Union may not be able to feed its people or build advanced computers, but it knows how to build weapons (in fact, UNITA fighters rely on the AK-47 Kalashnikov, a low-cost automatic rifle that withstands dust and water better than anything the United States offers at comparable prices). The Soviets also deliver arms in large quantities; in Angola during the last 18 months, they have unloaded $2 billion worth of MIG 23 and MIG 21 jets, MI-25 helicopter gunships (the weapon used so effectively against the Afghan people), and T-62 and T-55 tanks, as well as trucks and armored personnel carriers.

Relative to the Soviets and Cubans, the Portuguese were as weak politically as they were militarily. They put almost no emphasis on the political side of waging war, and they had no international support. By contrast, the M.P.L.A. was winning endorsements and awards from Soviet-front groups long before it was a factor in the war against Portugal. Communist guerrillas and occupation forces benefit from an established worldwide propaganda network. And when the Cubans and Soviets seized power in Angola, sympathetic propaganda outlets immediately sprang into action in the Organization for African Unity, the United Nations, and front organizations around the world.

A third strength of the Communists in combatting nationalist resistance movements is their ability to black out news coverage with surprisingly little complaint from the West. Little television footage gets out of Cambodia or Afghanistan. And although UNITA works hard to bring Western journalists to Free Angola, the Cubans do not permit newspaper or television coverage of their atrocities in areas they control.

DEMOCRATIC V. MARXIST GUERRILLAS

In countering these important advantages of Soviet and Cuban colonialists, the anti-Communist freedom fighter has some distinctive advantages of his own. The first is the religious faith and institutions of his country's people.

Marxism-Leninism is atheistic and materialistic. By definition it attempts to crush religious belief, and Communist governments demand a monopoly on the people's loyalty. But in deeply religious countries such as Afghanistan and Nicaragua and Angola, the suppression of religion has backfired and intensified the opposition to colonial regimes. The Constitution of the M.P.L.A. forbids membership to anyone holding "any religious belief"; this is one reason why it is such a small political party, consisting of only 0.3 percent of the Angolan people. The majority of Angolans are animists, 27 percent are Catholics, and 12 percent are Protestants; all have suffered from persecution. Church property has been expropriated by the Cubans, atheism is constantly preached in hospitals, schools, and political meetings. The Cubans and Soviets taunt animists by flying to the sky with their helicopters and jets, and then telling the local population that they looked and found no God in the heavens. All this has resulted in strong opposition to the regime of occupied Angola. In August 1985, the Catholic Church of Angola endorsed UNITA's call for an end to the war and for a negotiated settlement.

The second weakness of the Communists is economic. The Soviets may provide enormous quantities of arms but they refuse economic aid. And while it is UNITA's goal to damage the export economy that finances the Cuban war against our people, the Soviets and Cubans are doing much of our work for us by nationalizing all industry and collectivizing agriculture. Around the world, Communist governments lower the standard of living, destroy chances to work, and impoverish the people in a way that guerrilla wars never do.

Once a food exporter, Angola now must import some 90 percent of its food. Diamond and gold mines that once made Angola a wealthy Portuguese colony are now actually losing money. Only the Communists could turn gold mining into a losing proposition. The economy is sustained, and the Cuban occupation is financed, only by the offshore oil produced by Gulf Oil, owned by Chevron, an American multinational corporation. Lenin said the capitalists would sell the rope with which to hang themselves. Today they are hanging the Angolan people. But tomorrow they come for you.

ON THE BATTLEFRONT

Between 1976 and the summer of 1985, UNITA was able to maintain its base securely, in spite of 10 major offensives launched against its territory by Cuban and M.P.L.A. troops. Usually we stopped these offensives within little more than a month—by going behind the lines and cutting off supplies of food, fuel, and ammunition to the advancing enemy.

The offensive of 1985, lasting from June until October, saw a change in tactics, weapons, and intensity. Prior to the offensive, the Soviet Union greatly increased both the quantity and the sophistication of weapons it was sending to Angola. And this time, the offensive was directly coordinated by Soviet officers, 15 to a brigade.

The first prong of the offensive was aimed at Cazombo, a town near the Angola-Zambia border. It appeared at first that the goal was political: to cut off UNITA's border with Zaire and Zambia, to increase the pressure on these two nations and prevent them from aiding UNITA. UNITA moved men and resources up to meet this advance and to defend Cazombo as we had successfully defended it before.

But the Soviet-Cuban strategy was a radical departure from past offensives. The Soviet, Cuban, and M.P.L.A. troops brought a much larger number of trucks and armored cars with them, and so they were able to carry much larger supplies of food, fuel, and ammunition. They were able to move faster and farther without leaving vulnerable supply lines in their wake.

For the first time, UNITA was forced to fight a conventional war, denied the ability to follow the guerrilla strategy of intercepting and cutting off supply lines. The occupation forces surrounded their "soft trucks" with armored trucks, so that we could not destroy their supplies, and then moved forward with armor in flanking moves attempting to surround our defensive positions.

Under Soviet commanders, MIG 21s and 23s and MI-25 helicopter gunships would arrive within 15 minutes of each engagement to provide air cover. Artillery shelling was also better coordinated and more accurate. It was a completely different war than we had fought in the offensives of 1982 through 1984. The Soviet troops always remained in armored cars and tanks, and their commanders stood behind three lines of M.P.L.A. and Cuban troops.

Throughout the offensive, the Soviets proved experts at using speed, maneuverability, and deception. On August 15, while the greater part of our commanders, resources, and troops were in Cazombo, 750 kilometers from Jamba, the Soviets unleashed what turned out to be the real thrust of their offensive—an assault on Mavinga, a town captured by UNITA in 1982 and located only 200 kilometers northwest of our capital. This was to be the final offensive of the war, with Jamba as its goal. For should the airport at Mavinga have been captured, the Soviets would have had a strong base from which to attack our capital.

The Soviets drove toward Mavinga with four M.P.L.A. brigades, each 1,300 men strong and fully equipped with armored personnel carriers, tanks, artillery, and air cover. Defending Mavinga, UNITA had only one regular battalion of 1,100 men and two semi-regular battalions of 600 men each. Fighting to slow the Soviet offensive, we had to call our troops back from Cazombo, and we threw up deep defensive lines and dug in in front of the Soviet advance.

Forced to bring in units from throughout southern Angola, we surrounded the Soviet-Cuban M.P.L.A. offensive. We outnumbered their four battalions by four to one, and with mortar and infantry fire we destroyed many of their trucks, tanks, and armored cars. We halted the advance 17 kilometers northwest of Mavinga.

By October 3, the Soviet officers were airlifted out by helicopter. If we had enough anti-aircraft missiles, we could have destroyed the entire Soviet high command. But they escaped by air, and the M.P.L.A. retreated, after leaving behind many tanks, Stalin Organ rocket launchers, and armored personnel carriers.

The offensive of 1985 was to have been the Soviets' final drive against UNITA. They will not give up after their defeat. It is now the rainy season in Angola, but the Soviets will come again next March or April when the ground hardens and the skies clear for their MIGs and helicopters. The next offensive, like this one, will rely on heavy armor, tanks, concentrated artillery, and airpower. We look to the West for the anti-tank and anti-aircraft weapons that will allow us to stop the next attack, to continue to build our base among the people of Angola and move northward, to drive the Cubans and Soviets from Angola, and to win the true independence that was stolen from us 11 years ago.

SUPPORT FROM ABROAD

The Soviets and Cubans and their friends around the world can be expected to continue their political and propaganda war against UNITA. Our success in defeating the offensive of 1985 will force them to redirect some of their propaganda. No longer can they claim that UNITA is weak, that we do not represent the popular will of the Angolan people. Too many journalists have travelled with our guerrillas and can testify to our support in the countryside. We have engaged the Cubans in virtually every province, and our support comes from every region and tribe in Angola.

A new tactic is to claim that UNITA is tied to the South African government. The Cuban troops, say the Communist propagandists, are in Angola to protect Angola from the South Africans. This claim may fool some in the West, but the nations of black Africa know the truth. They know that Nigeria offered to replace the Cuban and Soviet bloc troops with Nigerian troops. But the M.P.L.A. leadership refused, showing the whole world that their real fear is not the South Africans but UNITA, the Angolan people, and the nationalists within the M.P.L.A.

Yes, UNITA receives aid from the Republic of South Africa. We have also received support from China, Arab nations, and other black African countries, and much of that support has been shipped across the Namibian border. But it is hypocritical of the Soviets to claim that this means we somehow endorse the Pretoria government. We oppose apartheid. Fortunately, it is a dead ideology. It cannot be exported. Even everyone in South Africa talks about how to move away from the apartheid system.

The Lord did not ask our permission when he put Angola on the southwest coast of Africa. We need outside help, even if it has to come across the Namibian border. I would remind the Communists that Stalin's acceptance of war material from America and Britain during World War II did not constitute an endorsement of liberal democracy on Stalin's part. Nor did my acceptance of Chinese military training and aid—when no other nation would help me—make me a Maoist in economics or politics.

AMERICAN OBLIGATIONS

Angola was the first nation to begin its guerrilla war against Soviet colonialism. But we are not alone. Today the brave peoples of Afghanistan, Cambodia, Laos, Nicaragua, and Ethiopia are fighting their own wars of national liberation. We fought and carried on while the West went through a crisis of faith, wondering if its traditions, values, and civilization were worth fighting and dying for. I think that the Third World, through these struggles, has helped to give the West the courage to oppose the Soviet Union—to provide a cure for what Solzhenitsyn calls the Western disease. Our struggle in Angola, the battle of other freedom fighters, is the battle for the West and its values.

We who fight these wars of national liberation see the unity of our cause and the common enemy we face—Soviet imperialism. As a result, representatives of the freedom fighters of Angola, Laos, Afghanistan, and Nicaragua met in Jamba on June 12, 1985 to sign the Jamba Accord and announce the formation of the Democratic International. We who fight the battle for Western values of democracy, freedom of religion, freedom of speech, the right to own one's home and some land, have joined together. Now we ask the West to join us.

We in UNITA call upon the West, and the United States as the leader of the free world, to give us military and political support. The moral case is clear. UNITA is fighting for a free, independent, and democratic Angola. We are fighting the Cubans and Soviets who would deny us our nation.

The strategic case, the self-interest of the West and America, is equally compelling. Should massive Soviet air and armor attacks succeed in defeating UNITA when the dry season begins in March 1986, then 45,000 Cuban troops and advisers, thousands of Eastern-bloc "technicians," and an untold quantity of tanks, figther planes, helicopters, and artillery will stand uncontested along the borders of Zaire, Zambia, Namibia, and Botswana. Not UNITA alone, but all of central and southern Africa awaits the decision by the United States.

We were all encouraged by the decision of the United States Congress to repeal the Clark Amendment, which forbade U.S. assistance to the forces of freedom in Angola and left us for 10 years alone against the Cubans. Now the United States must take the next step and commit the military aid that will allow us to defeat the Cubans and Soviets in Angola—anti-aircraft weapons, the Red-eye missile and Stinger missile, and anti-tank weapons. With those arms we can protect our people from air and armor attacks and drive back the Cubans and Soviets through the continuation of the guerrilla war that we have waged for 11 years.

We ask also for your political and diplomatic support. We need you to insist at the United Nations and other international forums that the Cubans and Soviets leave Angola and that the promised elections be held. With your military and political support, other nations will follow your lead and give us aid. Do not underestimate the importance of your decision. For Angola is the Munich of Africa. Hesitation, the refusal to aid UNITA in its fight against the Cubans and Soviets, will be taken as a signal by all the countries in the region that the United States has abandoned them to the Soviets as the West abandoned Czechoslovakia and Eastern Europe to Hitler in 1938. Do not suppose that Zaire, Zambia, Botswana, and Namibia will remain of the West when faced with an unopposed base in Angola. They will be forced to make their political accommodations with the Soviets just as most of Eastern Europe fell under Nazi political domination without a shot being fired. The loss of the sea route around the Cape and the loss of the strategic minerals found in central and southern Africa would be a crippling blow to the economy and defense of the West. That is why I say that UNITA is the key to Angola, Angola is the key to Africa, and Africa is the key to the West.

I am not alone in this assessment. The Soviets agree.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, do Senators on my side wish some time?

Mr. HOLLINGS. Yes, Mr. President.

Mr. BYRD. Mr. President, I yield such time as he may require out of my order to the distinguished Senator from South Carolina [Mr. Hollings].

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I thank my distinguished leader and the distinguished Presiding Officer.

THE TEXTILE BILL

Mr. HOLLINGS. Mr. President, I want to respond to some claims. I want to respond to the distinguished majority leader's comments a few moments ago when he referred to textiles in expressing his hopes for unanimous consent. He said, "We have already done that one. That is enough to kill that one." On the contrary, we have just begun to fight. In essence, this entire trade matter is an educational process. It is also a parliamentary obstacle course when one is in the minority.

We presented a textile bill in an orderly fashion and that bill is not only still in the Finance Committee, but this distinguished Senator was told by the chairman of the Trade Subcommittee of the Finance Committee that it would not see the light of day. And he is right. It is still there and I have not seen the light of day on that bill.

We had to use every maneuver in the book, going from bill to bill, and every time the amendment was adopted on a particular bill, the leadership then removed the bill from further consideration. We got into a terrible snarl where we had to agree to a time agreement for a vote on textiles, with some 23 amendments to be considered. Now, of course, that has been done and been done in an orderly process.

The bill went over to the House side, which adopted the Senate amendment, our bill, and in turn it went to the White House and at the 11th hour, exactly at 11 o'clock the evening before last, the President of the United States vetoed the bill.

Now, in the minds of some, that would end it. As the majority leader stated, "That is enough to kill that one," assuming, of course, that this was a momentary initiative and a one-shot deal with respect to textiles and then we would move on to something else.

In fact, it was brought into sharp focus when my distinguished colleague from Missouri [Mr. DANFORTH], and I were speaking yesterday. He said that telecommunications had reached a crisis stage. I harkened back 30 years ago when we in textiles had reached that stage—30 years ago. I testified before the U.S. Tariff Commission. They were telling us to use the orderly procedures under the law.

In fact, the summary advice of our distinguished colleague from Florida [Mr. GIBBONS] on the House side was, that what we really should do in addition to modernizing—showing he had no knowledge whatever of the industry's modernization to the tune of some $8 billion in the last 5 years—in addition to modernizing and computerizing and getting competitive, what we should do is bring injury cases.

Our injury cases were brought back in the fifties over a 10-year period, promised by both administrations.

The fact is at the hearings the Government of Japan, where our distinguished colleague from Missouri will visit during the Christmas break, was represented by none other than the great Thomas Dewey from New York, the Republican nominee for President back in 1948. Tom Dewey ran me around the hearing room there for 2 days. We tried the injury cases. We went to the White House. Jerry Persons escorted us in to see the Chief, namely President Eisenhower, who said in March of 1960, "You will win your case; you have done the right thing." We lost the case to Dewey, and thereupon I went to my friend John F. Kennedy, then Senator Kennedy. We exchanged correspondence. We got the Seven Point Kennedy Program, and in 1962, Mr. President, we adopted the Trade Expansion Act. That was the basis for the Multi-Fiber Arrangement, the MFA, in pursuance of trade expansion, not protectionism.

I highly resent the idea expressed in the President's veto message that this is another protectionist bill. This Senator is going to stand here on this Senate floor for trade, not trying to hold up the orderly process of the Finance Committee and the duties of the Government. If they want to take up H.R. 3722 and pass on different measures that are in their particular jurisdiction, fine. But whenever we come to trade we must realize that this has been a long, hard road and greeted with a methodical message of so-called protectionism, when, in reality, it is in conformance with the objectives of the MFA and our agreements that I have now in my hand. I would not ask the CONGRESSIONAL RECORD to print all of these agreements, but I hold a deck of agreements here from 34 countries. These are bilateral agreements and that is what they said you should have, the orderly process, the orderly process of these particular agreements and enter into them, and so we did.

Now, let me follow that thought because they have not been enforced by the U.S. Government. Japan enforces their agreements. We know now of the transshipments from the Republic of Korea through Japan of textile goods, and who is this complaint referred to? To MITI, the Ministry of International Trade and Industry. That is an entity of the business leadership within the Government which controls trade, and they are studying it and we do not hear anything further.

The President's veto message talks about protectionism. What they do is go around and enforce it for their market but our Government not only does not enforce it, they do not give us the ear of the Government's representatives.

Last week it was very interesting because it was touch and go. I happen to have been one who believed that President Reagan would sign this particular measure. I get the feel now why he did not, when I looked last Saturday and I saw the headline in the business section in the Washington Post, "White House Backs Off Baldrige Plan." Well, I was not particularly interested in that one plan or Secretary Baldrige. I was interested in President Reagan. I saw where the White House had backed down temporarily from any kind of penalties against Japan for selling computer chips well below their market value. But the text of the story about dumping and penalties is really what got my attention:

> The White House reacted after aides were subjected to heavy lobbying all week by lawyers for the Japanese industry who wanted to narrow the scope of the possible penalties. We made all kinds of representation on behalf of the Japanese, said William Walker, an attorney for the New York and Washington law firm of Mudge Rose Guthrie and Alexander. He added that the Japanese felt Baldrige was being excessively aggressive.
>
> Can you imagine such nonsense? Here seven Republican Senators were imploring their President to be heard over at the White House on the textile bill and were refused; the President was too busy, but the entire staff over there was listening to Japanese representatives, same story, same act, same situation that we had years and years ago. We think we can go to Japan and implore and persuade and cajole and say we are going to get real mad and nasty now, we are going to start enforcing the law unless you equalize this semiconductor trade, this telecommunications trade. Nakasone, Tojo, every Premier, Prime Minister of Japan has been through the act down in the Fish room. They have been down in the Fish room perhaps more than maybe our Presidents. They know when they go to the Fish room it is the same act for every American delegation that goes over.

So it is my intent to educate Congress and get a vote on this bill. It is a twofold purpose, not only of educating but being blocked in the Finance Committee and not having a chance to take up our textile bill and get it back over to the House so we can bring it up again in an amended form.

As you will remember the House was helpful in taking the amendment of Senator THURMOND and myself on textiles to send over to the President. When we start on trade at the end of this year and all during the beginning of next year, whether it is the bipartisan trade bill, the Democratic trade bill, the particular trade bill here with respect to telecommunications, or otherwise, it is this Senator's intent to get a vote on something that has been blocked by the majority on the other side at every particular turn. We are not asking for time. We are not objecting to bringing up the telecommunications bill. Rather, we would implore the leadership to give us just 5 minutes to a side and let us have a vote on this particular measure so that we can get it over to the other side because under the Constitution of course all trade measures should originate on the House side. So we have to use a House title on this basis and make clear our intent.

I had to take this position. They have taken their positions in trade throughout, and have yet to report our textile bill out of committee even though it has passed overwhelming hurdles, trials and obstacles on both the House and Senate side. And we have not just killed that bill and gotten through with textiles this session. On the contrary, let us not say we are going to have a tariff in some of these bills, we are going to have this, we are going to have the next thing and subsidies, or whatever. All we are asking is a licensing system in our particular measure to enforce in an orderly way the objectives of the MFA and our 34 bilateral agreements. When they talk about rollbacks, we talk about the amounts that they agreed to. We only rollback the three largest exporters. We are talking about amounts agreed to under the MFA and our agreements, not rollbacks.

If we cannot get enforcement of trade measures, then why should the Japanese pay any attention? The automobile industry went through that. They got temporary quotas and now the temporary quotas are going off and they are going to devastate once again the automobile industry. So what we have is a bunch of corporations who went over under the inducement of the Marshall plan to spread the seeds of capitalism and found what? They found that they could produce more economically in these offshore countries and be protected by those offshore countries. And they get protection and come back into the Trilateral Commission and the big banks in New York and jump up and down and holler "protectionism, protectionism free trade, free trade," an absolute shibboleth. There is no such thing as their yearning for competitive trade. The only way we can be competitive on this score is not cajole and implore, but take a page from F.D.R. when in order to save the farms he plowed under the crops, in order to save the banks he closed their doors.

Now, in order to remove a barrier, we will have to raise these barriers, of at least enforcement on our part. If we enforce the laws in an orderly fashion, there will be no need for a textile bill. We are not enforcing our law.

So we have another message about protectionism, and the Secretary is asked to investigate. Why should the Secretary investigate? Call up the Japanese lawyers and let them investigate for you and save time. The Secretary has plenty of duties. There is no reason for him to run around, because the White House is going to back off as soon as the Japanese lawyers hit the staff over there, and they will arrange one of these silly messages about protectionism.

That is why I will not object to Senator DANFORTH's bill on telecommunications. I support it. When we move along, either move mine along with it or tell me I can get an up-and-down vote by itself. That is what I had to spend all last year on, and we are willing to spend all next year on the same point.

I yield the floor.

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. Will the Senator withhold?

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business, not to extend beyond 11:30 a.m., with statements therein limited to 5 minutes each.

The Senator from Missouri.

INTERNATIONAL TRADE IN TELECOMMUNICATIONS EQUIPMENT

Mr. DANFORTH. Mr. President, I apologize to the Senator from South Carolina, because I came in in the middle of his remarks, and I was distracted during part of his remarks.

I was pleasantly surprised when I thought I heard, at the end of the Senator's comments, that he would not object to the unanimous-consent request to be propounded by the majority leader. I hope that is correct, because I have succeeded in getting 99 Senators to sign off on the unanimous-consent request. We had a lengthy discussion on the telephone yesterday.

My hope is that the Senator from South Carolina will become the 100th Senator to allow this telecommunications bill to go forward.

Mr. HOLLINGS. It depends on the form in which the unanimous-consent request is made.

I had an exchange with the majority leader earlier this morning with respect to the fact that he wants to bring up those measures. But if he wants to bring it up and use it as a vehicle for a telecommunications bill or any other trade bill, I will ask that mine be included in the unanimous-consent request. Otherwise, I will have to object.

Mr. DANFORTH. As the Senator knows, we have been working for some days to clear the telecommunications bill. We have done so. The unanimous-consent request will be to bring up the old cigarette tax bill, strip everything after the enacting clause, and insert in lieu of the bill the telecommunications trade bill. That is the only thing we have succeeded in having cleared.

As I believe the Senator realizes, the textile bill is significantly more controversial than the telecommunications bill, and there is no possibility of clearing a unanimous-consent request to bring up the textile bill. The Senator has had several votes on the textile bill. In fact, he prevailed, and it was vetoed. The Senator did get action on the floor of the Senate. I did not support the textile bill, but I certainly supported the Senator's efforts to get a vote on the textile bill, as the Senator from South Carolina knows.

My hope is that the Senator would be equally cooperative with other Senators who are trying to get some work done.

MOSS TALKS ON LUMBER

Mr. BAUCUS. Mr. President, Thomas Mann once said:

> Time has no divisions to mark its passage, there is never a thunderstorm or blare of trumpets to announce the beginning of a new month or year.

Mr. President, Thomas Mann's observation reminds us that it is up to us to review our progress each year—or time will simply slip by.

Therefore, it is appropriate at the end of this year to examine the administation's track record on trade this year.

I would like to focus on the ongoing MOSS talks with Japan, particularly the negotiations relating to forest products.

Mr. President, this year was heralded with what seemed like a dramatic announcement by President Reagan and Prime Minister Nakasone.

On January 3, 1985, these two leaders announced that Japan had agreed to undertake further market opening measures in several product areas, including forest products.

Now we are approaching the anniversary of that announcement, and virtually no progress has been made in the forest products area.

The Japanese simply have agreed to positively consider unspecified tariff reductions, but not until 1987.

In other words, in the forest products area all we get from Japan is words, not action.

The hopeful announcement of a year ago is now a bitter disappointment.

Mr. President, the result of this inaction has been disaster for the American forest products industry.

Japan imports logs duty-free, but continues to impose a web of tariff and nontariff barriers against imports of processed forest products, like lumber, plywood, and draft linerboard.

As a result, many jobs that might exist in Missoula, Montana or Bend, Oregon are carefully protected in Sapporo or Osaka, Japan. U.S. companies lose about $1 billion a year in sales.

Mr. President, today, I call on the President to explain to this Congress why these talks have failed.

I call on the President—on or before the first anniversary of the Reagan-Nakasone announcement—to report to Congress on the progress of the forest product negotiations.

I call on the President to say what he has accomplished, what he has not accomplished, why he has failed to accomplish it and what he intends to do about it.

We cannot simply let months and years slip by without making progress in these negotiations.

The history of our trade negotiations with the Japanese are replete with examples of negotiated inaction.

We cannot let that happen again.

We must ensure that the announcement made almost a year ago does not get thrown on the ash heap of empty promises.

Mr. HOLLINGS. As we stated during the textile debate, this is just the beginning. I passed a textile bill with Senator Cotton. I passed it in the Carter-Mondale administration. Now we have passed it again, noting, of course, the veto message about protectionism; and, thinking that we can pick up more support to override a veto on the House side, we want another bill. We need another bill, and I hope in turn to educate Members of Congress and the President on this particular score. I cannot get my bill up on this floor and voted on unless it is on trade matters, and it is still in the committee of the Senator from Missouri.

Mr. DANFORTH. Mr. President, the telecommunications bill has been cosponsored by a number of Senators.

BEST COPY AVAILABLE

Action on it is supported by the AFL-CIO, the Communications Workers of America, the International Brotherhood of Electrical Workers, the Electronic Industries Association, the American Electronics Association, the Computer and Business Equipment Manufacturers Association, and the U.S. Telecommunications Suppliers Association—all of whom have worked to put together this bill.

It is opposed by the administration. I have been curious as to whether or not the administration has asked the Senator to take this position on the bill, because the effect of the Senator's position, of course, is that the telecommunications bill cannot be passed, which is doing the bidding of the administration.

I am sure that the Senator's position would also be greeted with great huzzahs by the Japanese and by other countries that are only too ready to come into this market. It will cost Americans jobs. So be it.

UNANIMOUS-CONSENT REQUEST

Mr. President, I have discussed this with the majority leader. I ask unanimous consent that the Finance Committee be discharged from further consideration of H.R. 3722, dealing with an extension of the tobacco excise taxes, and I ask for its immediate consideration. I further ask unanimous consent that on consideration of H.R. 3722, only one amendment be in order, that the amendment be in the nature of a substitute, and that that amendment consist of the text of S. 942, which is the telecommunications bill.

The PRESIDING OFFICER. Is there objection?

Mr. HOLLINGS. I object.

Mr. JOHNSTON. Mr. President, reserving the right to object——

The PRESIDING OFFICER. Objection is heard.

Mr. DOLE. Mr. President, I think the purpose of this exercise is to see whether or not some of these matters are objected to.

I agree with the distinguished Senator from Missouri that the bill should pass unanimously. We have already dealt with the textile matter. Many of us cooperated in getting that bill before the Senate. I hope we can have the same cooperation now, for the consideration of other bills. But apparently that is not going to happen today. At least, that effort has been made, and that will take care of that matter for the remainder of the year.

U.S. SUPPORT FOR THE NATIONAL UNION FOR THE TOTAL INDEPENDENCE OF ANGOLA

Mr. DOLE. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

Mr. METZENBAUM. Mr. President, will the Senator yield for a question, just to tell us what the resolution is?

Mr. DOLE. It is the Angola resolution, and there will be an objection.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Mr. President, if I may, let me indicate that I have discussed this resolution with Senator Pell. He would object, and I think that objection will be made by the distinguished minority leader on his behalf.

I commend the distinguished Senator from Wyoming, who made a statement on this matter earlier.

I do not agree with Senator Pell that the matter should go through the committee in the normal process. We have an emergency on our hands, and the longer we wait, in my view, we make it more difficult.

The PRESIDING OFFICER. Is there objection to the consideration of the resolution?

Mr. BYRD. Mr. President, on behalf of Mr. Pell, I object.

The PRESIDING OFFICER. Objection is heard.

The resolution will go over under the rule.

Mr. DOLE. Mr. President, I regret the decision of the Senator from Rhode Island to object to the Senate's consideration of my resolution on freedom fighters in Angola.

I am generally sympathetic to pursuing the normal processes of the Senate and having the appropriate committee review legislation prior to floor consideration, but there are times when expedited consideration is justified. This is one of those times.

CUBAN AND SOVIET INTERVENTION CLEAR

The substantive issue is clear and clearly drawn. In 1975, the Marxist MPLA regime in Angola seized power in violation of an agreement to which it was a party—the Alvor accord—which stipulated that all the major political forces in Angola would be offered the opportunity to contest free and fair elections to set up a permanent government. Having seized power illegally, the MPLA has invited in more than 35,000 Cuban troops and thousands of additional Soviet and East German advisers, undermining the sovereignty of the Angolan nation and representing both the most blatant foreign intervention in Africa's internal affairs and the most brutal suppression of black Africans by nonblack foreigners in the postcolonial period.

Utilizing more than $1.5 billion in military aid provided by the Soviet Union—including some of the most modern and deadly weapons and armament—the Cubans, Russians, and East Germans are spearheading an effort to wipe out the large and popular insurgency called UNITA, under the leadership of the charismatic Dr. Jonas Savimbi. That effort culminated this year in a brutal new offensive, blunted only because the badly outgunned UNITA enjoys the support of so many Angolans.

UNITA'S STRENGTH IS ITS POPULAR SUPPORT

UNITA is strong, and growing stronger, because it is struggling for the basic freedoms of the Angolan people—freedom from foreign domination, freedom from the suffering of war and its privation, freedom to determine their own political future. UNITA is also struggling to prevent the spread of Soviet imperialism, within Angola, and later throughout southern Africa.

UNITA, in short, is struggling for the same goals that we espouse, in Africa and throughout the globe: That people everywhere should be free from the yoke of foreign domination and that they should be able to determine their own future.

UNITA NEEDS OUR SUPPORT

Yet, however worthy the cause, UNITA standing alone will be hard-pressed to continue its effective struggle—a struggle serving the interests of the Angolan people and, simultaneously, the interests of all of us who oppose Soviet imperialism—if the Soviets and Cubans continue to throw in thousands of their troops and provide new weapons and enhanced firepower to the MPLA. Even now, preparations are underway in Luanda for a new offensive, at the onset of the next dry season, aimed at wiping out UNITA once and for all.

Because the issue is so clear and because the threat of a new Soviet/Cuban/MPLA offensive is so imminent, it is important that we respond and respond quickly. That is why I hoped the Senate would act today on this resolution. It represents one way we make clear our determination to meet the direct challenge to freedom, and to our own national interests, which the Soviets and their allies are mounting in Angola.

AMERICAN INTERESTS AND GOALS

The resolution lays out clearly our own interests and goals in Angola—an end to the massive foreign intervention in Angola; a withdrawal of the Cuban and Soviet forces, which threaten not only Angola but all of southern Africa; and good faith negotiations, including with UNITA, which could forge an acceptable political solution within Angola.

The resolution makes clear that we are fed up with the intrasigence of the MPLA and its Soviet and Cuban sponsors, who have refused to engage in good faith negotiations despite our efforts over several years to bring all the relevant parties to the bargaining table.

And it would serve notice that, unless the MPLA changes its course and initiates good faith talks—with us and with UNITA—the Senate is prepared to provide needed, critical material assistance to UNITA early in 1986.

These are goals, attitudes and intentions which, in my view, are shared by a large majority of the Senate. The list of cosponsors who have joined me in support of this resolution—Senators LUGAR, DURENBERGER, HATCH, DENTON, ROTH, COCHRAN, WALLOP, ARMSTRONG, MCCONNELL and DECONCINI—indicates the breadth of support the resolution would enjoy in this body, if it could be brought to a vote.

I regret that it could not. But I assure you that this is not the end of the Senate's consideration of this issue, any more than it is the end of the struggle for freedom and justice in Angola. In a few weeks, we will be back to revisit this issue, in light of developments in the interim. And I, for one, will be as determined as ever that the Senate support the freedom fighters in Angola and, through that support, further our own national interest in that critical part of the globe.

Mr. President, I ask unanimous consent that the resolution be appropriately referred.

The PRESIDING OFFICER. Is there objection? Without objection, the resolution will be appropriately referred.

Mr. DOLE. Mr. President, I ask unanimous consent that the resolution be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

S. RES. 280

Whereas the National Union for the Total Independence of Angola (hereafter in this resolution referred to as "UNITA") led by Dr. Jonas Malheiro Savimbi, represents the views and wishes of a large number of Angolans;

Whereas UNITA was denied the legitimate role in the political life of Angola envisioned for it in the Alvor Accord of 1975, an agreement among all political elements in Angola which called for free and fair elections in Angola, when the Marxist Popular Movement for the Liberation of Angola (hereafter in this resolution referred to as the "MPLA") faction, backed by Soviet and Cuban troops, illegally seized power in Angola;

Whereas since that time UNITA has waged a courageous and effective guerrila war, with the support of a large part of the Angolan population, aimed at pressuring the MPLA to live up to its commitments under the Alvor Accord, permit free and fair elections in Angola, and remove Soviet and Cuban forces from Angola;

Whereas that struggle has achieved such success that many independent observers have concluded that, in free and fair elections, UNITA and Savimbi would likely enjoy the support of a large portion of the Angolan population;

Whereas the MPLA, faced with the possibility that the popularly supported forces of UNITA could militarily defeat the forces of the MPLA, has introduced even larger numbers of Soviet and Cuban forces, so that more than 35,000 such troops and advisers are now in Angola;

Whereas this Cuban and Soviet intervention represents the most blatant foreign intervention in the post-colonial history of Africa;

Whereas the Civil war in Angola, caused primarily by the illegal acts of the MPLA and waged increasingly by Cuban and Soviet troops, has led to widespread suffering for the people of Angola;

Whereas the MPLA, at the urging and with the extensive involvement of Soviet and Cuban troops and advisers, has recently undertaken a major offensive utilizing massive new shipments of modern arms from the Soviet Union and Cuba, aimed at wiping out UNITA;

Whereas UNITA has temporarily blunted that offensive, reestablishing a practical stalemate in the military situation;

Whereas the MPLA nonetheless may seek and obtain even more modern and extensive armaments and perhaps even more combat troops from its Communist suppliers and will launch further attacks on UNITA, leading to more suffering among, and greater suppression of, the Angolan people;

Whereas the MPLA, despite being offered the opportunity to seek a solution to these problems through negotiations in which the United States Government has sought to play a facilitating role, has refused to take any meaningful steps to lessen its dependency on Soviet and Cuban forces, to end the civil war, or to grant UNITA and its followers their legitimate place in the political life of Angola;

Whereas the only practical way in the foreseeable future to achieve a viable solution to the problems within Angola would be for the MPLA to effect the removal of Soviet and Cuban forces and to enter into direct and meaningful negotiations with UNITA concerning the political future of Angola; and

Whereas the main barrier to such a solution has been and is the refusal of the MPLA and its Communist allies to agree to meaningful negotiations aimed at brining it into effect: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the legitimate aspirations of the people of Angola for democracy, justice, peace, and freedom from foreign interference deserve the support of the United States;

(2) UNITA and its leader, Dr. Jonas Malheiro Savimbi, which represent the political aspirations of a large number of the Angolan people, have the right to play a commensurate role in the political life of Angola;

(3) UNITA and Savimbi deserve the political and moral support of the people of the United States and freedom-loving people everywhere, in demanding and struggling for that right;

(4) the MPLA has violated the rights of the Angolan people through its illegal seizure of power and suppression of the population;

(5) the MPLA, further, has compromised the sovereignty of the Angolan nation by introducting large numbers of Cuban and Soviet forces into Angola;

(6) the growing intensity of the civil war, suffering of the Angolan people, presence of foreign forces in Angola, and failure of the MPLA to respond to diplomatic initiatives calling for the elimination of foreign forces and free and fair elections in Angola have given new urgency to efforts to deal effectively with the Angolan situation;

(7) the MPLA should agree promptly to a process of meaningful negotiations, to include direct and good-faith negotiations with UNITA, aimed at ending the presence of Soviet and Cuban forces in Angola, terminating the civil war, and setting up an administration which respects the rights and reflects the wishes of the Angolan people, with a mandate to organize free and fair elections for a new government; and

(8) if the MPLA, during the current rainy season in Angola, continues to be intransigent, by—

(A) refusing to engage in good faith negotiations, including negotiations with UNITA, aimed at eliminating the presence of foreign forces and reaching a just political settlement in Angola, or

(B) continuing its preparations for a new military offensive,

then the Senate would support the provision early in 1986 of material assistance to UNITA and would impose economic sanctions against those sectors of the Angolan economy which provide resources to support the Cuban troop presence.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.

UNANIMOUS-CONSENT REQUEST FOR THE NOMINATION OF RALPH E. KENNICKELL

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nomination of Ralph E. Kennickell, Jr., to be Public Printer.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Kansas?

Mr. METZENBAUM. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. MATTINGLY. Mr. President, I ask the majority leader, since there is now objection from the minority side, what would be the status now of this nomination on the Government Printing Office of Mr. Kennickell, since he has been serving, I believe, as acting administrator of the GPO for some 1 year, I think, and at least has gone through several investigations by both the Rules Committee and the FBI, which all of those investigations proved him innocent of any allegations put forth by some members of that committee, both staff and Senators? What would be the status of this now and what would be the objection, which the majority leader might ask the other side, of bringing it up for an up or down vote?

Mr. DOLE. Mr. President, if I could respond to the Senator from Georgia, I am not certain what would happen to the nomination. It could go back and require resubmission next year. There still may be time today to move to the consideration of the nomination. If we have a little slack period this afternoon, I would attempt to do that with reference to this nomination and the nomination of Terrence M. Scanlon, to be Chairman of the Consumer Product Safety Commission.

Mr. MATTINGLY. I would appreciate if the majority leader would do that. Any help I can give along that line, I would certainly give.

Mr. DOLE. I regret we could not clear the nomination. As far as I know, there is no reason it should not be cleared. There must be some reason someone has, but they are not required to state their reasons. They are only required to object.

Mr. MATTINGLY. I thank the majority leader.

Mr. DOLE. I am not certain we will have any success if we move to the nomination, but at least we could find out why there is an objection.

Mr. MATTINGLY. Then there is a possibility the majority leader may move to that nomination and the Scanlon nomination both this afternoon; is that correct?

Mr. DOLE. That is correct.

We may have some time this afternoon or evening waiting on House action on the continuing resolution and also the reconciliation matter.

Mr. MATTINGLY. I thank the majority leader. I may have further to say later with reference to this subject matter.

RESOLUTION TO IMPROVE SENATE PROCEDURES

Mr. BYRD. Mr. President, Senator DOLE and I have been discussing Senate Resolution 28, star print, the resolution to improve Senate procedures. I would hope that early next year the majority leader would be in a position to move to take up that resolution. It is a resolution which has been amended in the Senate Committee on Rules and Administration. I had, in offering the resolution, proposed several rules changes, some of which would be, I think, very important whether or not the Senate eventually votes to allow TV and radio coverage of Senate debate. In any event, those proposed rules changes, in my judgment, should be made. And I would hope that we could have a time early next year that we might proceed at least to begin the debate on Senate Resolution 28, as amended.

As amended, S. Res. 28 would provide for a trial period during which preparations would be made and equipment put into place to allow TV and radio coverage of the Senate. The Rules Committee chose to amend my resolution, Senate Resolution 28, star print, by knocking out the rules changes and just providing essentially for the trial period anent TV and radio coverage.

I have been discussing this with the distinguished majority leader. Would he at this time be prepared to give the minority leader and other interested Senators on both sides of the aisle assurance of an opportunity to debate the TV resolution early next year? I do not want to do anything at this point to attempt to go to that resolution. I could offer an amendment to the adjournment resolution setting a date or time for debate on this resolution next year, and such an amendment to the adjournment resolution would not be debatable. Of course, there could be other things happen that would be debatable. For example, a motion to refer that resolution or commit it to the Appropriations Committee would be debatable.

But I do not plan to make any such move. I only hope that I can get the assurance from the distinguished majority leader that very early in the next session the Senate will have an opportunity to debate that resolution.

Mr. DOLE. Let me respond by indicating that, as the Senator knows, we have a group, headed by Senator ARMSTRONG, of four Members on this side who have been meeting with Members on the Democratic side to work out some of the problems with TV and radio coverage, including whether or not there should be rules changes. There is some disagreement on that. There was some hope we could do it before adjournment this year. We were notified by the distinguished Senator from Louisiana, Senator LONG, that he would have to object to that for reasons that he holds very strongly. We also looked at the possibilities of amending the adjournment resolution, Senator ARMSTRONG did, and I do not believe a final judgment has been made on that.

But it would be my hope that, in any event, we could bring it up early next year, maybe as the second or third order of business, and dispose of it before or immediately after the so-called Lincoln day recess period.

Mr. BYRD. Is the distinguished majority leader indicating that he will make that effort early next year?

Mr. DOLE. I will; in fact, I am willing to make an effort this year, but that is not, I do not think, feasible at this point. The answer is yes.

I would indicate, though, for the record that there is a difference of opinion on whether or not there should be rules changes. I know Senator ARMSTRONG feels we just ought to proceed with TV and radio coverage and worry about the rules changes in the normal course of events.

My own view is that there might be some way to package some rules changes with radio and TV coverage. I know the Senator from Tennessee [Mr. GORE] has been attending those meetings.

I am not certain where that group finally came down. But the answer is yes. We will give early consideration.

Mr. BYRD. I thank the distinguished majority leader. I hope that the ad hoc groups that have been appointed on both sides of the aisle by the distinguished Senator from Kansas [Mr. DOLE] and this Senator, respectively, will be able to do some work during the break in preparation for the time when hopefully the Senate will be able to debate this measure early in the second session.

I have assured Senator LONG that I would not make an effort to amend the adjournment resolution, and he has indicated to me that he would like to discuss the matter with me during the break perhaps, and I look forward to that discussion.

I appreciate the distinguished majority leader's assurance that this resolution will be called up early during the next session.

Mr. President, is the distinguished majority leader in a position to assure Senators who are interested in debating TV in the Senate that there will be some effort made before the Lincoln day recess begins?

Mr. DOLE. That would be my hope. It depends on what may happen ahead of that time. We hope to have Conrail up when we come back. That may take 2 or 3 days, or 2 or 3 weeks. There is no way to judge. We are trying to. I think we have TV in the Senate as the No. 2 post right now.

Mr. BYRD. Then will the distinguished majority leader assure this Senator that the majority leader will call up, at least try to call up, Senate Resolution 28 immediately following whatever disposition is made on Conrail, if Conrail is to be the first item?

Mr. DOLE. Mr. President, I would like to keep some flexibility. I am not certain how Gramm-Rudman is going to fit into the activities next year. That is the same problem we are having with other matters.

If we get locked into bringing something up, as the distinguished minority leader knows, we may be in a real bind.

But let me say this: I want to get it before the Senate at the earliest possible time. There are not many objections left on our side of the aisle. Senator ARMSTRONG has done an outstanding job visiting with each Senator.

I hope we can move to it immediately after the disposition of Conrail.

Mr. BYRD. I can understand the practical problems that may prevent the majority leader from giving me a flat assurance at this moment that this will be the No. 2 item next year. But does he assure me that he will make every effort to make it the No. 2 or the No. 3, or something that comes along that will come before the Senate very early next year?

Mr. DOLE. Yes. For a couple of reasons: first of all, we want to do that; second, if we do not do it early, there are going to be some who do not want to do it at all next year. If we get into May, June, or July, there will be arguments on both sides that the year is over, we are near the election, and we may give somebody an advantage. If we do not do it early, as I have indicated to Senator ARMSTRONG, I am not certain we would do that at all next year.

So I think there is that driving force also.

Mr. BYRD. Mr. President, I know the distinguished majority leader is speaking in good faith. He has to have some flexibility because there are other items of great importance. And as of this particular point in time, he cannot foresee all the problems. I do not want to call up this as an amendment to any measure. I do not want to attempt to pull any fast end run at this time because in the event that were done, then we might incur the opposition not only of the majority leader but also of other Senators as well who might otherwise be supportive of TV in the Senate.

I am happy to take the assurance of the distinguished majority leader, in good faith, that Senate Resolution 28, TV in the Senate, will be brought before the Senate very early next year. I know he is trying to do it as early as February.

I thank the majority leader.

LOW-LEVEL NUCLEAR WASTE

Mr. DOLE. Mr. President, one of the matters that we need to discuss before we move on is low-level nuclear waste. Senator GLENN just indicated he had an amendment. He will not offer it. That is fine because without his concurrence, we would not have the unanimous-consent agreement. That is why I was indicating it.

But the other matter is how we dispose of or at least consider the request of the distinguished Senator from Oklahoma, Senator BOREN, with reference to campaign reform. When that matter was last before the Senate, on December 3, 1985, there was a vote of 84 to 7 not to table the amendment.

So the amendment is still pending under the unanimous-consent agreement. The question was when it would come back before the Senate. As I indicated at that time, January-something. We have February partially committed to. We just had another example of that with TV in the Senate.

I was trying to provide some flexibility because I also believe that we should have reform of the campaign financing system, but I must say I am not prepared to advocate public financing. That is what we are going to get out of the Rules Committee if anything comes out there. I think that is a bad idea.

So there may be merit to what the Senator from Oklahoma proposes with some modifications because there, I think, you have discrimination among PAC's. The early PAC's could contribute to your campaign. Those who did not would not be permitted under the cap. It is my hope that we might be able to resolve some of the differences on campaign financing.

Now the Senator tells me that as opposed to December 3 he wants a date certain. I indicated also on December 3, and we explored it on our side of the aisle—that we might want to go beyond the committee, and have four Senators on each side or whatever try to work out some satisfactory compromise if possible on campaign finance reform.

I am still prepared to do that. But I wanted the distinguished Senator from Pennsylvania, Senator HEINZ, to be here because he has a particular sensitive role in campaign finance, and see if we can work out some agreement with the Senator from Oklahoma. Otherwise, there would not be any low-level nuclear waste compact come up today. That is a matter of great importance. So I hope we can resolve the matter now.

(Mr. MCCONNELL assumed the chair.)

Mr. BOREN. Mr. President, will the distinguished majority leader yield?

I thank the leader.

Of course, on the 3d of December we had a conversation about when we might return to the campaign reform amendment which was not tabled. At that time I asked if the distinguished majority leader could indicate on what date we could return. He told me at that time he could not. He would endeavor to try to get back to it as soon as possible. He intended to get back to the subject. But as reflected in our conversation at that time, he was unable to give me a date certain.

The problem the Senator suggests, when we were talking about which vehicle on which we would attach this particular amendment, we first intended to attach it to the compact of free association, the Micronesia compact. We were informed by the leadership and others that could have delayed that piece of legislation. It was very important to get it done at that time. So we were told that this was also a very live vehicle. There were serious problems. There was also a piece of authorizing legislation, or transition legislation, these would be married together at some point in time, and a total package to deal with the subject had to be enacted. It was on the must list. Therefore, we were on a very live vehicle.

I want to be completely reasonable with the majority leader. I am sure he can understand having been given this vehicle and having not had the amendment tabled, the campaign reform amendment is still alive, that this Senator would feel constrained to object to any kind of a movement of the package of bills relating to this subject unless he could be assured that we would return to the campaign reform amendment at a time certain or not later than a time certain.

I have a lot of sympathy for the problems of the majority leader. I happen to be one of those in this body who believes in the leadership being able to control the schedule of the Senate. It is not fair for Members to make unreasonable demands that would impinge upon that role. But I cannot totally give away the thought of the legislation to which the campaign finance amendment would be attached.

I have always been willing to accept the amendment of the distinguished majority leader. As far as I am concerned, it would not require any unanimous-consent request. The majority leader could simply indicate to me that he would call up that bill, the campaign reform amendment, S. 365, no later than a certain date, with the full range of flexibility to the majority leader for when he would call it up. We come back from a recess on April 8 and he could call it up on April 15. He could say that we would stay on it a reasonable length of time. If we were not able to complete action, the amendment of the Senator from Oklahoma would be subject to a tabling motion because 3 days would have passed.

If it were passed, it would be subject to unlimited amendment. The Senator from Pennsylvania has indicated he would offer amendments. I am sure there would be many others who would offer amendments.

I understand the majority leader cannot commit to me to stay on that matter until it was completed. If he were in a situation that might take 2 or 3 weeks, I certainly would not want to tie the hands of the majority leader. But if he could assure me that he would call that measure back up before us, it would automatically mean that my amendment would be the pending business, say, no later than April 15, or if the majority leader wants to suggest any other date, it would be satisfactory.

I hope we can reach an agreement before then. We may end up with a campaign reform package that would have broad, bipartisan support that we could pass and hopefully this issue would be moved by whatever date is set. This Senator would just want to set a date on which it would be called up. Certainly, a personal commitment on that would satisfy me. Then I would want us to stay on it a reasonable period of time, either until it is disposed of or 2 calendar days.

This Senator would understand that, the Senator from Kansas would also have to consider other Senate business. This Senator, however, does not want to give away the vehicle. There are 10 cosponsors of this amendment.

I do hope the majority leader could give us the assurance that he would call it up at a certain date and give us a reasonable period of time on it in attempting to finish it.

Mr. DOLE. Mr. President, going back to December 3, maybe right after the vote was not a good time to try to work out an agreement. The Senator asked me if I would be willing to bring it back in the next session. I said yes. But now he is suggesting that we do it by mid-April, with the session probably going to last until October.

Again, I do want comments from the Senator from Pennsylvania, but it is my hope that we can work out a bipartisan package within or without the Rules Committee, maybe with just the Rules Committee giving its blessing. If not, maybe there would be enough on either side to have a substitute or somehow agree with all parties or a majority that we need to do certain things. We do.

I am not certain the Rules Committee would have time to fashion a compromise which would indicate what they might have in mind by mid-April.

I have asked the distinguished Senator from Pennsylvania if he would object if I would say that by not later than June 1, we would return to this matter and set aside a couple of legislative days for consideration in the hope that we might have an agreement by that time by which it would be disposed of. I would like to hear from the Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I have listened to the discussion with somewhat mixed emotions because when we were considering the Boren amendment earlier I heard our leader make a commitment to do his best to return to this and other campaign reform issues in the coming session. That was apparently acceptable to the Senate. That was my impression. The record leaves no impression to the contrary, but that that was acceptable to the Senator from Oklahoma.

I am somewhat constrained to say this has the appearance of changing the rules in the middle of the game or taking a second bite at the apple. I do not like to see a commitment by our leader in a sense questioned by somebody coming back—I will say this of anybody coming back—saying that they want different treatment of what in the judgment of many of us was clearly understood and by implication agreed to.

It is this Senator's view that the Senate should consider campaign reform in the coming session. I think it is important for us to do so. I know the Senator from Oklahoma feels it is important to do so.

It seems to me that there is an obvious problem, that we need to give the Senate Committee on Rules and Administration the appropriate amount of time to do their job.

I am at something of a disadvantage because as I look around the floor, the chairman of the Rules Committee is not here. The Rules Committee is decidedly underrepresented. I do not feel comfortable agreeing to any kind of date certain without the Rules Committee being consulted.

If I find that there is a sentiment to agree to a date certain, I would, for those reasons, feel at this point constrained to object to any unanimous-consent request for such a date certain.

It may be that we could agree on a date certain, but I do not see how we could do it at this moment.

Mr. BOREN. Mr. President, I have listened very closely. The Senator from Oklahoma certainly thought we would come back to this matter at a time certain on December 3. The Senator from Oklahoma also knows that there was a vehicle. We were promised that we would have an opportunity to put our amendment on a very live vehicle as opposed to a dead horse. Every Senator on this floor understands the difference. There was not a Senator on this floor that, if he or she had an amendment that was important to that Senator and they were able to attach it to a given vehicle, would then give away the vehicle. This Senator was perfectly content when the majority leader could not, on December 3, promise a date on which we would return to it, but this Senator rested with the knowledge that his amendment was on a package of bills that were important to be moved.

So it was the assumption of the Senator from Oklahoma that, ultimately, we would return to the matter because, ultimately, the Senate would need to return to the question of low-level radioactive waste. So, of course, the Senator from Oklahoma, knowing his rights, that would be the situation, that the Senator would have another opportunity to determine, if we could get back to this matter at a date certain, that the Senate would move to that legislation.

I have great respect for the Senator from Kansas [Mr. DOLE]. I have great respect for his legislative ability. I have served on the committee which he chaired. I have learned a great deal from him.

I see the distinguished Senator from South Carolina on the floor, the distinguished Senator pro tempore [Mr. THURMOND]. I have learned a great deal from him. I respect them. We have utilized the rules to try to make sure that the things in which we believe are fairly treated.

This Senator is being asked to do something else now, to give away a vehicle, a package of bills on which we deliberately put our amendment. We deliberately put our amendment on this particular measure because we knew there was going to be a series, a whole package of these, in legislation that would have to be married together. This Senator would certainly not be willing to give away the vehicle. This Senator would have to object. I understand it will cause problems. The Senator from Oklahoma would have to object to the unanimous-consent request that would give away his vehicle.

I do not think there is a single Member of 100 Members of the Senate who would not object to giving away a vehicle to which he had succeeded in attaching an amendment without any promise whatsoever that we would now return to the vehicle which would, by the way, lose its importance as a vehicle other than for the amendment itself. There would be nothing pushing us to return to it. We have disposed of these other problems. This Senator would have to object on that basis.

The distinguished chairman of the Rules Committee has said he plans to move very, very early, after we return from recess, to additional hearings. He is talking about this matter. This Senator has said that as far as he is concerned, he will accept the personal commitment of the majority leader without our having to ask for a unanimous-consent request. But if the distinguished majority leader would just tell me that no later than a certain date, which does not set a date certain, just says no later than an outside date, we would return to this matter and make it the pending business, that we would stay on it either until we finish it or a reasonable period of time—I am not asking the majority leader to commit to until we finish it, say a couple of calendar days.

I understand the majority leader has to push on to other things. Of course, if the Senate started attaching it, we have some subjects around here. A former Member of the Senate, Mr. Magnuson, once cataloged how many times we have discussed abortion and busing and we could face the issue of campaign financing every time we move. This Senator does not want to do that.

I ask the distinguished majority leader again. I hope he understands what I am trying to say. The Senator from Oklahoma is trying to be reasonable. He did not push for a date certain on the third of December because he still had this vehicle. The vehicle is this amendment on a package of vehicles that is important and needs to be dealt with. If we are going to give the vehicle away, I am willing to move.

The Senator from South Carolina [Mr. THURMOND] and the Senator from Washington [Mr. EVANS] are on the floor. I am willing to accommodate those Senators and their needs. I would be very happy to give flexibility. But I also want to see us act on this in enough time next year that the House would have time to act. I think it is very important. If we wait then until the next election cycle, it is going to be too late again. This bill I have introduced does not apply until the 1988 election cycle anyway. If we wait until after the 1986 elections until we act, they will say you cannot apply it to the next election cycle and we will have to wait until the 1990 election cycle. So I do not want to get into that.

I hope if the distinguished leader—we come back on the 8th of April, we go back out on recess again until the 25th of May, this would really stretch it.

I have indicated if we are not making progress—and I am going to watch to see if progress is made in the Rules Committee and elsewhere and if we are not making progress—I will begin to move as early as March. If we are not making progress—this Senator is interested in progress, a bipartisan, reasonable approach as the majority leader has said. I am optimistic. The majority leader himself has said we can work something out on this. We may end up getting something the Senator from Pennsylvania and the Senator from Oklahoma can both be for. I shall be very happy if that can be done.

If the Senator from Kansas can just indicate to this Senator that he would like to see it done no later than—I have said the 15th of April. Certainly no later than the end of April. I would be willing to say no later than the period that we are talking about here between those two recesses, the April recess and the May recess, during that period of time.

I would not consider waiting until the last day to do it. That would not be appropriate because we would not have time then. If the distinguished majority leader, during that period of time at the latest, would call that matter up before the Senate, make it the pending business and give us at least 2 calendar days to work on it or until we can complete it—it might not take 2 full calendar days—this Senator would be satisfied and not make an objection to consideration of the authorizing legislation or any of the compact legislation or to the folding-in of the provisions relating to low-level radioactive waste. Even those provisions in 655 can be put in some other bill, so far as this Senator is concerned, and considered.

If the distinguished majority leader could simply make that commitment to me, this Senator would be satisfied with it and not press for a unanimous-consent request.

Mr. DOLE. Mr. President, we have a time problem. I would rather not debate the bill today because we are going to have low-level nuclear waste compacts agreed to by the House. They are now considering the continuing resolution. I am not sure how long they will stay around after that, hopefully long enough to pass the reconciliation conference report. I am prepared, if we cannot get an agreement, to just forget it or pull out the Oklahoma-Kansas compact and go ahead and pass the others. There is no need to punish the other States because the Senator from Oklahoma feels that the campaign finance reform is more important than dealing with low-level nuclear waste. That is a judgment he has made.

There are plenty of opportunities to bring up campaign finance reform. There is more than one Senator concerned about campaign finance reform in this body. We are prepared to try to work something out, but I have to get agreement on both sides. If we cannot get agreement, let us just say we are not going to get the agreement so we can go on with something else.

Mr. BOREN. The distinguished Senator from Kansas said a while ago he is prepared to talk about the 1st of June. The Senator from Oklahoma just noted that we are in recess until then. If we could bring it up prior to the May recess. The Senator from Oklahoma has moved from the 1st of March to the 15th of April.

Mr. DOLE. He has moved from the next session, which he agreed to on December 3, to now the first few weeks we are back. He has not moved the other way.

Mr. BOREN. The Senator from Kansas knows that is not the fact.

Mr. DOLE. That is what the RECORD says.

Mr. BOREN. The Senator from Oklahoma is not willing to give away a vehicle on which the distinguished Senator from Kansas said we could attach this.

Mr. SIMPSON. Mr. President, would the Senator yield for a question?

Mr. BOREN. In just a moment.

The Senator from Oklahoma is very happy to allow this to proceed. The Senator from Oklahoma is not holding up anything. But if the vehicle on which we were promised we would have an opportunity to attach this—we were told this was a live vehicle, it was on the "must" list. The Senator from Kansas has said he would try to return to this next year.

That is perfectly fine if we know we have a vehicle that is alive. But once we allow these other things to move, we have that vehicle no more. The Senator from Oklahoma is very happy to give the Senator from Kansas full flexibility about this matter. But I think the Senator from Oklahoma is making the very minimal requirement that any Senator would make under the circumstances in saying that we would like to have assurance that the majority leader will call this matter back up. I am not requiring we stay until we finish. Every Senator can offer every amendment they want to offer to it. If the Senator from Kansas cannot complete action on it; he has other responsibilities—this Senator respects those—he can simply pull the matter down after a reasonable period of time. The Senator is willing to do that. But the Senator will be constrained to object to taking up any of the measures, the authorizing measure or any of the compacts, the Senator will object to this full range of bill numbers if he is not given some assurance that his vehicle will not have been disposed of. I think that is a very reasonable request.

I would be happy to yield to the Senator from Wyoming for a question.

Mr SIMPSON. Mr. President, I have entered into this discussion in days past. It seems extraordinary to me that the Senator from Oklahoma is not hearing what the majority leader is saying, and that is that we will have this issue on the floor of the Senate. I do not know what could be more direct or more honest. If the Senator from Oklahoma does not believe that, then it strains my knowledge of who he is and what he does. That is what the majority leader has promised. Is that not the case? It is the case in the RECORD on December 3. It is in the RECORD today. What more is it that the majority leader can tell the Senator from Oklahoma?

Mr. BOREN. Well, he can tell the Senator from Oklahoma an ending date; that he will bring it up before a certain period of time. The reason for that is the Senator from Oklahoma is perfectly willing to have a statement of feeling by the majority leader that he hopes to return to this next year, which is what he said on December 3. I certainly believe that. I accept the word of the Senator from Kansas. But now the Senator from Oklahoma is being asked to give away the vehicle. As long as the vehicle is there, pushing us to bring back this particular measure, the Senator from Oklahoma does not express much concern. But this Senator will say again—and I do not want to be quarrelsome about it. I am not quarreling with my good friend from Wyoming. I am certainly not quarreling with the distinguished majority leader——

Mr. SIMPSON. Will the Senator yield?

Mr. BOREN [continuing]. For whom this Senator has great affection and regard. All I am saying is I know the Senator from Wyoming. He is a person who fights for his convictions. I do not believe that the Senator from Wyoming would give up the vehicle on which he was told to attach his amendment because there were a whole bundle of bills that had to be married together and that that was a live bill number, because all these were going to move together, they were going to be married together and move. I do not believe he would give up that vehicle. This Senator is sorry, but I simply believe that we cannot afford to put this off.

The Senator from Kansas has said the 1st of June. We are going to be in recess another 2 weeks prior to that. The Senator from Oklahoma simply said I accept what the Senator from Kansas has said. If he would just say we will deal with it before we go out for that May recess, which is virtually the same thing he was talking about, that would give us time when we come back from the May recess to take some action. The House would then have time to work on this matter.

I understand the problems. I had wanted to bring it up before we went out in April. The Senator from Kansas has said to me—he was talking about all the pressures he is under. I respect that. We have heard about TV in the Senate. We have heard about Conrail in the Senate. The Senator from Oklahoma wants to be reasonable about it.

Mr. SIMPSON. Will the Senator yield for another question?

Mr. BOREN. I will be happy to yield for a question.

Mr. SIMPSON. The Senator is well aware that 37 States are critically affected by this transitional legislation.

The Senator asked the Senator from Wyoming what he would do if he were involved in the same situation. I could tell the Senator what I have done in the past, which is more than rhetoric. When our good colleague from West Virginia was majority leader and told me that we would hear something of mine or bring it to the floor, he kept every single commitment to do that. That is what this majority leader——

Mr. BOREN. That is what——

Mr. SIMPSON. May I just finish the question, please. I have just a critical one for the Senator. I am saying that I would then have believed the majority leader, and I would under any circumstances in this place. But I say to the Senator, we can leave the Senator with a vehicle. Indeed, we can. It will be the Senator's vehicle. He will have the fate of it in his hands. It is S. 655, which is the compact that applies to Arkansas, Iowa, Kansas, Louisiana, Minnesota, Missouri, Nebraska, North Dakota, and Oklahoma to enter into the central interstate low-level radioactive waste compact. That is the Senator's vehicle.

He will have many allies in that cause, and we will go forward with our business today while the House awaits the work product and soon will go out. If the Senator from Oklahoma wishes to have that responsibility, I say he will. If he wants to allow us to go ahead and take care of the other States in the United States who have a critical problem as of January 1, I would hope that he might defer on that basis. If not, then the Senator has his vehicle. It is here. It is S. 655. In fact, that is all the Senator's vehicle ever was. And he would still have that option in its purest form. I think it is critical to remember where exactly we are.

Mr. BOREN. The Senator from Oklahoma understands that. The Senator from Oklahoma is willing to accept that responsibility. I am perfectly willing to accept that responsibility. I think the Senator has made a very open and aboveboard offer, and I have shown great flexibility in what I am willing to accept. I am absolutely willing to accept the word of the Senator from Kansas. The Senator does not need a unanimous-consent agreement. If the Senator from Kansas tells me that he will call that bill back up sometime prior to our going out for the May recess, which is in essence what he said just a minute ago, and let us be on it for a reasonable period of time, this Senator accepts that. I understood it was the Senator from Pennsylvania who was going to object perhaps. I hope that he would not because that gives us plenty of time. I am very optimistic that the Senator from Pennsylvania and the Senator from Oklahoma and a lot of others who are interested in the subject could get together in the meantime and work out something we can all be perhaps very enthusiastic about. The Senator from Oklahoma and the Senator from Pennsylvania have done that on a number of occasions in the Finance Committee where we found ourselves allies on a number of matters. I realize that we are here at the end of the session. It has been a very hard and stressful session and tempers tend to flare and we tend to get into rather short-fuse situations in terms of our moods. The Senator from Oklahoma does not desire to contribute to that in the least.

The Senator is perfectly willing to accept the word of the Senator from Kansas if he will just simply say to the Senator—it does not require unanimous consent. I have know the Senator from Kansas long before I came to the U.S. Senate. I have the greatest regard for him and respect for him and warm personal friendship. I certainly will be glad to accept the word of the majority leader that he will return to this matter, call it back up, bring it before the Senate. I do not want to put him in any box about having to stay on it until it is disposed of, if that becomes a time problem.

So the Senator from Oklahoma feels that he has made a very reasonable, about a third counterproposal, I will say, in response to the legitimate concerns of the Senator from Kansas about scheduling. The Senator is perfectly willing to accept his personal commitment if he chooses to give it. Otherwise, I see no point in discussing it further, if the Senator from Kansas does not wish to give that commitment.

The Senator from Oklahoma will object to the consideration of any of these numbers. There it is.

Mr. SIMPSON. Will the Senator yield for another question? The only vehicle the Senator ever had in this whole situation was S. 655. Is that not correct?

Mr. BOREN. That is not correct.

Mr. SIMPSON. It is correct in the RECORD.

Mr. BOREN. It is not correct. It may be correct in the RECORD, but we have a lot of conversations——

Mr. SIMPSON. That is the best thing we can use—the RECORD.

Mr. BOREN. Mr. President, if I might respond to the Senator——

Mr. SIMPSON. Yes.

Mr. BOREN [continuing]. Of course we have what is in the RECORD, but we also have conversations that occur around here. And I think if we call the distinguished Senator from Mississippi [Mr. STENNIS] and the distinguished Senator from Arizona (Mr. GOLDWATER) to the floor, they would be happy to report conversations that we had, as the Senator from Oklahoma will. This Senator believes in operating in good faith.

This Senator accepts the word of other Senators and the understandings of other Senators.

I see that the Senator from Idaho is on the floor. I know that at some particular period of time, he was in at least a very small portion of those discussions, as the chairman of the committee.

It was explained to the Senator from Oklahoma that there were a whole series of issues dealing with low-level radioactive waste; that there was an authorizing bill; that there was a House bill number; that there were a series of Senate bill numbers; that there was a series of regional compacts, and that it was the intent of the leadership to bring all those back together at a certain point; that before the whole matter was disposed of effectively, a whole package, a whole bundle, would be put together and enacted into law; that, therefore, we would have the ability to prevent that bundle from going forward, to deal with this whole problem as we would on that piece of legislation.

I hope we can work it out. I do not know that we need to discuss it any further. I am perfectly willing to rely upon the word of the distinguished Senator from Kansas.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. BOREN. I yield.

Mr. McCLURE. I thank the Senator for yielding. Perhaps when I am finished, he will not be glad he yielded, and I apologize for that in advance.

I remember the portions of the discussions in which I was involved with respect to what the Senator from Oklahoma would do rather than attach it to the compact. I happen to be the chairman of the committee that had both the compact and the initial jurisdiction over this low-level nuclear waste matter.

I was trying to get it off the compact. In the discussions that I recall, it was suggested that the Senator from South Carolina was vitally interested in this subject matter and was willing that it be attached to one of the compact measures. In no part of the discussion in which I took part was it mentioned that it would attach to the whole package. If there was a different understanding or a different conversation, it is not an understanding the Senator from Idaho had, nor was it in a conversation of which I was part.

Mr. BOREN. I appreciate what the distinguished chairman has said, and I am not sorry I yielded to him.

I understand that this amendment would not be attached to each part of it. My understanding was that for us to have an effective, comprehensive solution to this problem, all these measures would have to be enacted and pulled together, and therefore, by attaching it to any one of them, we would be in a position to prevent movement on a solution of this problem.

A moment ago, the distinguished majority leader mentioned the 1st of June. He mentioned that he would be willing to say that he would call this matter back up prior to the 1st of June. I suppose the Senator from Oklahoma is arguing about semantics, because we will be in recess for a week prior to that, and obviously the Senator from Kansas is not going to call it up when we are in recess. The Senator from Oklahoma will be happy to accept what the distinguished majority leader just said.

Mr. HEINZ. Mr. President, will the Senator yield for a question?

Mr. BOREN. I yield.

Mr. HEINZ. There are a number of issues that I think we should get on the table if we are going to talk about anything like a date certain for the Senator's amendment. I said earlier that I was not necessarily opposed to it but that we had to have a number of uncertainties addressed.

Let me ask the Senator this: Were there to be an agreement, whether it is informal or a unanimous consent request, would the Senator also be willing to agree that if we take up the Boren amendment in some other context between now and then, or if the Rules Committee reports campaign reform legislation and the Senator has his opportunity to debate the Boren amendment, as an amendment or as part of such campaign reform, whatever agreement would have been reached would, in effect, have been overtaken by events and would have been discharged? Would he agree to that principle, in principle?

Mr. BOREN. Yes. In response to the Senator from Pennsylvania, let me say this.

As the Senator knows, when this bill number is called back up and the campaign reform amendment becomes the pending business, under the prior unanimous consent agreement it will be subject again to tabling because 3 days have passed. It would not be subject to amendment. It would be subject to amendment after it is disposed of.

For example, let us suppose it is adopted or is not. The Senator from Pennsylvania could offer his amendment, or any other amendment could be offered.

The Senator from Oklahoma would be perfectly ready, let us say, in the meantime, if the whole matter becomes moot, because a group of Senators would get together and agree on a different package, or perhaps a broadening of the Senator from Oklahoma's proposal, and there is a desire to move on, that we can move on that earlier. Of course, the Senator from Oklahoma then would be willing to release the majority leader, if he should make that commitment, from a commitment. It would be foolish to return to something that was moot.

The Senator from Oklahoma would not want to give away, if the Senator felt we had not really dealt with the matter—the Senator from Oklahoma would want to keep it at his own option to release the majority leader from a commitment. Obviously, the parliamentary situation in which we now find ourselves is that when this matter becomes pending again, it will not be subject to amendment. That gives some leverage to the Senator that he would like to keep, and I am sure that my colleagues who are cosponsors of this measure would like to keep it.

If we were going to return to that prior to the 1st of June, with that parliamentary situation, I hope it would give all of us an incentive in the meantime to work out something that is good, genuine campaign reform on which we could move forward. If we were able to get that done in the meantime, certainly I think we all recognize that we would not expect the majority leader then to do that.

This Senator does not want to say, in any petty sense, that I personally have to be satisfied; but I hope the Senator will understand that I would want to be the one to release the majority leader from that commitment.

Mr. HEINZ. I do not know of any commitment the majority leader has made, other than to consider the Senator's legislation in the next session. There was discussion of various dates, but I do not know that any commitments have been made. The majority leader is here. I have not heard any commitments made as yet.

If the Senator will yield further, I have a question for him. I urge the Senator to think through his answer very carefully because it may make a difference as to whether or not he succeeds or fails in his objective, which is to pass meaningful legislation.

Were the Boren amendment in S. 655 to be brought up at any time, the Senator knows that his amendment would not be amendable.

Mr. BOREN. That is correct.

Mr. HEINZ. And it would not be debatable. It would be voted up or down.

Mr. BOREN. I did not understand that it was not debatable. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. BOREN. It is not subject to any further debate?

Mr. HEINZ. That is correct.

As a result, the parliamentary situation is not very favorable to careful consideration of that amendment as it stands. There could be a 2-day quorum call. There could be all kinds of methods whereby somebody might force the Senator's amendment to be voted on.

Mr. BOREN Mr. President——

Mr. HEINZ. Let me ask the question. I want to make sure that we are dealing with the same set of facts.

The question is this: Would the Senator not think, as a second principle, that it would be advantageous to him, and perhaps to the rest of the Senate, if we are going to revisit this issue, to make his amendment amendable? I think the Senator knows that there was some controversy about his amendment on his side of the aisle immediately prior to the vote on the Boren amendment.

How does the Senator feel about that?

Mr. BOREN. Mr. President, let me say I appreciate the question that the Senator from Pennsylvania is asking. I hope we can resolve this matter. I think I detected a tone just now of a possibility that we will.

The Senator from Oklahoma would not want at this point to waive what he has already gained in terms of it not being amendable. It would be amendable after it was acted upon. If it fails, the amendment of the Senator from Pennsylvania would be offered. If it passes, the amendment of the Senator from Pennsylvania or amendment of any other Member of this body could be offered to it. It would totally change its nature after it was adopted.

I have said in previous discussions over the last 2 weeks when this matter first began to surface—we are suffering from the surfacing of it—that the Senator from Oklahoma would be perfectly willing to reopen the matter to debate. In other words, I do think the Senator from Pennsylvania has raised a good point.

Mr. HEINZ. I raised a question.

Mr. BOREN. It is an important matter.

The Senator from Oklahoma would be very willing to change the present parliamentary situation which if indeed it would preclude debate, and I believe that the Senator is correct. It is not the intent of the Senator from Oklahoma to preclude debate. The

Senator from Oklahoma would be very happy if the Senator from Kansas will make a commitment that we return to that matter. The Senator from Oklahoma would be very pleased to include in it unanimous consent to modify the previous consent we entered into several weeks ago on the floor to make the amendment subject to further debate, and the Senator from Oklahoma would not necessarily require any limitation on time.

Mr. HEINZ. Do I understand the Senator is willing to let the Senate work its will as to amendment? Is that right?

Mr. BOREN. The Senator would prefer, because the Senator negotiated for many, many days, weeks, and months—I am sure the Senator from Pennsylvania will understand this—with his cosponsors of this proposal the exact provisions of it.

That is the reason that the Senator entered into it, because it is a broad coalition. It stretches from the Senator from Colorado, Senator HART, Senator LEVIN from Michigan, Senator GOLDWATER from Arizona, Senator STENNIS—that it would not be amendable. It would be amendable after it is acted upon.

I think that would give the Senate an opportunity to completely work its will.

If there were no time limitation on it and if it were subject to debate, the Senator from Pennsylvania would have every opportunity to say if this amendment passes here is the next amendment I am going to offer to it, or whatever.

Let us say it passed in this form after debate, and the Senator from Pennsylvania, let us say, did not succeed on some amendment he felt was very important to make it acceptable before he was going to finally vote for passage of that bill, the Senator from Pennsylvania would have every right, without time limitation, to stop the bill from then passing.

I think all of the rights the Senator from Pennsylvania would be protected, and I think the Senator from Pennsylvania has raised a good point about allowing additional time for debate. I think that is very reasonable.

Mr. HEINZ. The Senator from Pennsylvania may think it is reasonable, if there is an opportunity to offer amendments.

Let me, if the Senator will yield further, state this. The Senator knows from the viewpoint of most of us, the Senator from Oklahoma cut a very smart sharp deal that allowed the Senate to debate for 2 days and vote up or down or on a tabling motion on his amendment. That was the deal that the Senator from Oklahoma cut. It was the deal that was followed thereon.

The Senate said what it had to say, voted the way it decided to vote, and I do not believe the majority leader having discharged his obligations, the Senate having lived up to its unanimous-consent request, the Senate being under no obligation to return to S. 655, that is, it is reasonable for any Member of the Senate to say we have to do it all over again as if we never did it.

Now, it seems to me reasonable that if we are going to visit the issue of campaign reform of which the Boren amendment is clearly an important part, we should allow the Senate to focus not just on the one provision that everyone talks about, which is limiting PAC's to less money per election than they now are able to contribute, but to all the other aspects of the Boren amendment which, frankly, were rather ill-considered, and if you review the debate on the floor and if you look at the questions that were asked of the sponsors of the legislation one would find very few answers responsive directly or indirectly to the questions posed by myself and others to the sponsors of the legislation on all those other issues.

Now, I would hope that the Senator from Oklahoma would have been persuaded by now that it would be advantageous to him to allow the Senate to do some fine tuning of his amendment because, as far as I can tell, it really needs it.

And is the Senator from Oklahoma saying, and I urge him to consider his answer very carefully, if the Senate were to return to his amendment he would simply under no circumstances permit any amendments to it? Is that his position?

Mr. BOREN. The Senator from Oklahoma would be willing if the Senate wants to return to the amendment now to vote on it; that is fine. If we want to call up S. 655 and vote on the pending amendment that was not tabled, we could do that. The Senator would be very willing to do that. We could vote on it. We could vote on the PAC amendment and everything else that would be brought up as far as the Senator is concerned. We could vote on that now and vote on the campaign reform amendment.

The Senate did not table the Senator's amendment. Therefore, it is alive. We were told that was meaningful action. I assume people knew what they were doing when they voted not to table it. It was still alive in a nonamendable form. When the matter is brought back to the Senate it would be under those conditions.

The Senator from Oklahoma would like to be in position to take credit for negotiating a time agreement. The Senator from Oklahoma would have to say that he received very substantial assistance from the distinguished Senator from Arizona, Senator GOLDWATER, and the distinguished Senator from Mississippi, Senator STENNIS, who were principal negotiators of that time agreement, and this Senator wants to give them credit for their very important role in those negotiations.

The Senator from Oklahoma has never suggested, and I want to state on the record again, that anyone has not kept their word on this matter. The Senator from Kansas did exactly what he said he would do. The measure was called up. We had that vote on the tabling motion at 2 p.m., just as he said we would.

The original unanimous-consent agreement did not then require us to stay on that legislation. The Senator from Kansas chose to pull it down. That is his prerogative. It is no breach of his word. It was exactly what we agreed to.

He then said he hoped we would return to it the next year, which the Senator was glad to hear. The Senator accepts that he hopes we can return to it next year.

Now, this Senator is being asked to allow these other vehicles to move, rather, the other parts of this bundle of provisions under separate bill numbers dealing with this subject. The Senator is willing to let it move. The Senator is willing to allow the Senator from Pennsylvania or anyone else time to debate. This Senator is willing to ask himself if the Senator from Pennsylvania would desire to make the campaign reform amendment debatable when we return to it.

Mr. SIMPSON. Mr. President, will the Senator yield for a question?

Mr. BOREN. In just a moment.

This Senator is also willing to allow us to have no time limitation on it at all, either before or after it is voted on, so that we have full opportunity for anyone to offer amendments and to allow the majority leader control over taking the bill back down after a couple of days if we are not able to complete it. He would, of course, have control over when it would be brought back.

In the meantime I hope it would become moot before that time. The Senator from Kansas is very interested in this subject. We have all been able to get together. We are all working out something in the meantime about this subject about which we can all be very enthusiastic. I think we could.

I would just say again I would be willing to move to vote on the campaign reform amendment right now if we want to. That would dispose of it. I would be willing to accept what the Senator from Kansas discussed—did not promise—he simply discussed the possibility of his simply saying he would return to that matter and call it back up for a reasonably period of time before June 1. This Senator is prepared to accept that. That was in the thinking-out-loud stage, as I understand it, from the Senator from Kansas a while ago. The Senator will accept that. If the Senator from Pennsylvania requests it, wants me to, this Senator would be very happy to move to change the unanimous-consent request entered into earlier to the extent that the amendment would be debatable if and when it returns.

(Mr. PRESSLER assumed the chair.)

Mr. SIMPSON. Will the Senator yield for a question?

Mr. BOREN. The Senator is happy to yield to the Senator from Wyoming.

Mr. SIMPSON. Mr. President, I ask this of the Senator from Oklahoma at least so that I have the record complete, because I am not obsessed with this legislation. My State will function quite well. The rest of the United States will not function quite as well as of January 1 because three of the receiving States, the only receiving States, will begin to reject the low-level waste material, which will affect my State, the hospitals in my State, and it will affect the oil and gas industry in my State as they use nuclear materials. It will affect the oil and gas industry in the State of the Senator from Oklahoma in their use of nuclear facilities and materials. It will affect every hospital, with the universities at Norman and Stillwater and Oklahoma City, because they will not be able to dispose of low-level nuclear waste. It will affect Kerr-McGee; it will affect those things that are very real. If we are going to get to this level, this is where we have to get.

Let me ask the Senator a question: Is the Senator suggesting—and I heard him say this in earlier debate—that if we were to remove the central compact, the interstate low-level radioactive compact, from this package, which is the compact that grievously affects the State of Oklahoma, is the Senator saying that then we would be left with an insignificant, an unimportant, a sterile vehicle, when that is the vehicle that has been negotiated by his Governor and others within the compact who are now asking this Congress to approve this so that the Senator's State and the other affected States can get on with low-level waste disposal? That is my question.

Mr. BOREN. The Senator from Wyoming is, as always, very adroit in selecting examples and pointing out the importance of legislation. He said exactly what was pointed out to this Senator at the time that we decided to agree not to put the amendment on the Micronesia Compact of Free Association, but to put it on a very live horse. That is exactly what was said.

The reason this Senator, and I presume the Senator from Arizona, the Senator from Mississippi, and others involved, agreed to put this on this vehicle was that it was an important vehicle, one on which we would have to act. This Senator understands that hospitals have at least a 30-day holding capacity for radioactive waste; utilities have up to 6 months. The Senator would hope we would not have to run them up to their full 30 days or 6 months. But it is certainly a matter that is not going to bring everything to a halt.

This Senator is absolutely willing—perhaps if we can put in a quorum call, I have discovered that—usually we are all people of good will—we can work something out very quickly, and I think we can.

But this Senator is not trying to score rhetorical points or anything else. This Senator simply wants to move on this and is willing to move to a vote on the campaign reform amendment now. We can vote on it now and get it over with. Then we can go on to everything else. As far as I am concerned, this Senator is willing to not even have to operate under the unanimous consent and accept the commitment of the Senator from Kansas not only for a date certain, but no later than a certain date, which means the Senator from Kansas would have a whole range of flexibility on when to call it up, flexibility on when to take it down after he called it up, as long as we had a minimum of a couple of days if we were not able to dispose of it. This Senator wants the Senator from Kansas to be able to, in essence, set the schedule of the Senator, and supports that.

This Senator is willing to modify the previous unanimous-consent agreement to make the amendment debatable and to impose no time limitations before or after the vote on the amendment so that it will be subject to further amendment after it is acted upon. So that is where we are.

Perhaps if we could put in a quorum call for a minute, or whatever the majority leader would like to do, maybe we can reach a conclusion.

Mr. DOLE. Mr. President, because I need the consent of both Senators or we are not going to do anything, this discussion has been going on for 67 minutes on a matter that could have been disposed of in 2 minutes after we had reached this agreement. This matter is very vital to this Nation and time is of the essence as it is necessary that we get this measure to the House today. The House is going to be in for some time because they are going to go to the Rules Committee later on today on reconciliation. So we still have some time.

I hope that, while we are working out some reasonable agreement, we could take up some other unanimous-consent items that have been cleared on each side.

I would note for the record, so I have some defense at home, that I have already missed my wife's party which was from 12 to 1. I hope Senators will help me out on that one. [Laughter.]

But, in any event, there are some other matters that we could do by unanimous consent. Senators D'AMATO and DODD are very interested in effective dates. They have been the principal sponsors, along with Senators WILSON, HAWKINS, and others. I became involved in that to see if we could not get it done yet this session.

I first wish to thank both Senators for permitting me not to take it over but at least to become involved. I think that matter has been cleared.

PROSPECTIVE EFFECTIVE DATE FOR TAX REFORM

Mr. DOLE. Mr. President, I send a resolution to the desk on behalf of myself, Senator D'AMATO, Senator DODD, and about 55 others, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 281) relating to prospective effective date for tax reform.

Mr. BYRD. Mr. President, I ask that the resolution be read.

The PRESIDING OFFICER. The clerk will read the resolution.

The legislative clerk read as follows:

S. RES. 281

Whereas the Senate will require adequate time to consider tax reform legislation proposed by the President and the House of Representatives, and to prepare legislation which will maximize fairness and long-term economic growth and minimize short-term economic disruption; and

Whereas, it is likely that such action will not be completed before August 1986; and

Whereas, the tax legislation as prepared in the House of Representatives by the Committee on Ways and Means contains effective dates of January 1, 1986 and earlier; and

Whereas, it is unreasonable to expect taxpayers to comply with fundamental changes in the tax laws before they are enacted and they can be certain what those changes will be; and

Whereas, uncertainty as to the future of particular tax provisions is causing taxpayers either to delay decisions that they otherwise would make or to rush into transactions that, absent tax considerations, they would enter into at a more appropriate time;

Therefore, be it *Resolved*, That it is the sense of the Senate that the effective date of any fundamental tax reform legislation should generally be January 1, 1987 while recognizing that appropriate transition rules may be necessary to avoid unintended adverse effects both on taxpayers and the United States Treasury and recognizing, further that retroacitve effective dates may be necessary to extend certain provisions which expire before January 1, 1987.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Kansas?

There being no objection, the Senate proceeded to consider the resolution.

Mr. DOLE. Mr. President, today I am introducing, along with a strong bipartisan group of my colleagues, a resolution expressing the sense of the Senate that the effective date of any major tax reform legislation enacted in this Congress should generally be January 1, 1987. The reason this resolution has such widespread support is simple—it is the right thing to do.

At the outset, I should acknowledge the leadership on this issue by my distinguished cosponsor from New York [Mr. D'AMATO]. The Senator from New York, along with the Senator from Florida [Mrs. HAWKINS] and the Senator from Connecticut [Mr. DODD] earlier introduced a resolution expressing that the effective date of tax reform legislation should be no earlier than July 1, 1986. That date was a reasonable one when the resolution was introduced, but the legislative process has taken longer than originally anticipated. The Senator from New York has continued in forcefully expressing his concern that any basic changes in tax legislation be enacted prospectively and I applaud his leadership on this issue.

SENATE SCHEDULE

Congress will not be able to complete action on tax reform before mid-1986. This is not a statement of sentiment in favor or against tax reform. It is merely a realistic estimation of how long it will take the Finance Committee and the full Senate to give fundamental tax reform the consideration it deserves.

We will not accept either the House Ways and Means Committee bill or the President's original proposal without making our independent judgment on the merits of each provision. The American people expect us to take tax reform seriously and not to treat it merely as a political issue. We will do our best to deserve their trust and meet their expectations.

But adequate consideration will take time. The Finance Committee has historically taken over a month, and sometimes substantially longer, to report major tax legislation. It will then undoubtedly require some time for drafting. Once drafting is completed, a bill of this magnitude will probably occupy the Senate floor for 4 to 6 weeks. After taking into account the need to schedule other important legislation, as well as nonlegislative periods, and the time necessary to work out differences in conference, it is highly unlikely that we will be able to get a bill to the President before next summer.

With that reality, we need to let taxpayers know what we will try to do so that they can plan their business and personal matters while we do our job.

TAXPAYERS MUST BE ABLE TO PLAN

Mr. President, this Senator certainly does not oppose tax reform. I am happy to stand on my record on tax reform during the years I was chairman of the Finance Committee. However, I am also realistic. I know that it is impossible for taxpayers to plan their economic affairs when they cannot be sure what tax rules will apply.

This is not to say that everything in our economy is tax motivated. However, we must be honest with ourselves that tax implications affect nearly all transactions and, in a substantial number of situations, may make the difference on whether a transaction will go forward or not.

Unfortunately, the bill reported by the Ways and Means Committee contains effective dates of January 1, 1986 and, in the case of some provisions, even earlier. If we in the Senate who deal with tax legislation as part of our jobs don't know at this point whether we will agree with the House on certain provisions, it should be very clear that taxpayers will have no better ability to forecast what changes will be enacted. We should not put taxpayers in the position of second-guessing Congress.

THE EFFECT ON A PROSPECTIVE DATE

Mr. President, I am sensitive to the argument that making legislation effective on some future date may have an impact on taxpayer behavior. Some taxpayers who want to take advantage of a tax benefit that will be repealed or reduced may rush to enter into a transaction that might otherwise be delayed. Others who think that they may be better off under the new law may delay decisions they otherwise may make.

However, any rush to take advantage of specific benefits in present law has been taking place at least since the Ways and Means Committee began to make preliminary decisions on tax reform. What concerns me more at this point is that, even if we enact legislation which is significantly better for our economy in the long run, uncertainty about what law will apply while we complete our deliberations could cause severe short-run economic distruption.

It seems unfair and unreasonable to me to cause prudent business people using their best judgment to decide that they should delay business investment decisions, for example, because they do not know what will happen to capital cost recovery deductions, investment tax credits, or even tax rates. It is much more reasonable to let taxpayers go about their business with some sense of certainty while we go on about ours.

A GOAL, NOT A GUARANTY

Therefore, the resolution we are now introducing today states that it is the sense of the Senate that any tax reform enacted in this Congress should generally be effective January 1, 1987. It also notes that transition from one tax system to another may necessitate special rules to protect taxpayers and the Treasury from unintended adverse impact. It also suggests that, if Congress decides to extend any provisions which will expire before January 1, 1987, those extensions should have a retroactive effective date to assure that the provisions will continue in effect without interruption.

I should emphasize that this sense of the Senate resolution provides a goal, not a guaranty. It says that we intend to work for these results but, since we cannot bind the Members of the House or the administration, it may be that the final version of the legislation will have effective dates that differ from January 1, 1987. All we can do is say that we will do our best to pass legislation with a truly prospective effective date.

This Senator, for one, is gratified that the House has adopted a resolution proposed by their distinguished Republican leader, Mr. MICHEL, instructing the chairman and ranking member of the Ways and Means Committee and Finance Committee, working with the Secretary of Treasury, to prepare a list of tax reform items which would not become effective until January 1987. However, that resolution does not obviate the need for us to express our intent. The House bill still contains effective dates that are now, or soon will be, retroactive. I hope the parties specified in the House resolution will be able to agree on what most appropriately should become effective in 1987. However, the American taxpayer deserves to know where the Senate as a whole stands on this issue.

Mr. President, I hope that this expression of our intent will be helpful to people who have to live with the Tax Code while we deliberate its future. In the final analysis, I cannot believe that Congress will decide to make fundamental changes in the tax law on a retroactive basis. We cannot promise Americans that everything in any new legislation will be prospective, but there has to be consensus that the responsible position is to make major policy changes prospective in effect.

Again, it is knowledge that this effort was initially the initiative of Senators D'AMATO, DODD, HAWKINS, and later Senator WILSON. In an effort to help expedite, I join in the effort.

I do not want to take anything away from their effort. They have been most helpful, and cooperative. We now have 56 sponsors.

Our view was if we could not pass it, at least we would have more than half the Senate on record.

Mr. D'AMATO. Mr. President, I am pleased to join the distinguished majority leader in this effort to move the effective date of tax reform to January 1, 1987.

On Tuesday, the House passed a major overhaul of the Tax Code and a resolution addressing in an inadequate manner the problem of retroactivity.

The House tax bill is generally effective on January 1, 1986, except for the rate reductions which would be effective on July 1, 1986. First of all, it is disgraceful that middle-income individuals should not enjoy the only benefit of tax reform—lower rates—until six after the repeal or alteration of many tax preferences.

The House bill now comes over to the Senate. The House took almost 12 months to pass their bill. There is no reason to think that the Senate will act faster than the House did. As a result, it is vital that Congress state unequivocally that tax reform should not be retroactive.

The House resolution dealing with retroactivity is completely inadequate. The resolution states that the chairman and ranking members of the Finance and Ways and Means Committees and the Secretary of the Treasury issue a press release stating that certain tax provisions which are crucial to the economy should be extended and not altered retroactively.

This is ridiculous. Are we going to let the Treasury Department and chairman of the Ways and Means Committee decide what is crucial to the economy and what is not? This way of dealing with retroactivity flies in the face of tax fairness and simplicity. These individuals are going to decide that certain tax preferences will be extended and that certain other preferences will not be extended. This is neither fair nor simple. The changes made by tax reform should occur at the same date and not be staggered over time.

Furthermore, Treasury and Ways and Means have a definite bias against many tax provision. For instance, Treasury proposed complete repeal of the rehabilitation tax credit. Does anyone really believe that Treasury would want to extend this credit? Another example is tax exempt bonds which the chairman of Ways and Means said last night should not be extended. This will have a serious impact on general obligation bonds. I think all Senators feel general obligation bonds should continue to be issued next year.

I believe it is imperative that the effective date of any tax reform legislation be moved to January 1, 1987, before the bill is considered any further. No one should be forced to enter the next tax year with the uncertainty of retroactive tax reform hanging over their head.

After January 1, 1986, the current Federal Tax Code will, in a sense, become irrelevant. Individuals, nonprofit entities, and corporations will not know whether to abide by current law or by proposed, but not yet enacted, tax-reform legislation. In the end, many economic transactions will be postponed until tax reform either is enacted or is laid aside.

Support for tax reform without retroactivity is support for an effective marketplace. It is not an expression of support or opposition for either tax reform, in general, or for any one specific tax-reform proposal. It is just plain common sense designed to keep America's economy moving.

To amend this inequity on October 25, I introduced with Senators HAWKINS and DODD a resolution which stated that the effective date of any tax reform legislation should be no earlier than July 1, 1986. Subsequently, my friend, the distinguished majority leader, has decided to offer an improved resolution concerning the effective date of tax reform, moving the effective date to January 1, 1987. I am an original cosponsor of this resolution and pleased to give it my complete support.

Too many times the rules have been changed in the middle of the game. I believe this is an opportunity to play fair and to set a prospective, rather than retroactive, effective date for any tax-reform legislation which may be adopted. Individuals and companies should be allowed to operate freely under current law until that time when tax reform is enacted.

I thank the majority leader for taking such a visible role in this issue and I urge my colleagues to support the proposed amendment.

Thank you, Mr. President.

Mr. President, before I begin, let me commend Senator DOLE for taking such a visible role in this matter. Senator DODD and I raised this question on effective dates of tax reform sometime last year, because we were concerned of the chilling effect that would take place in our economy. That is that the economic impact of proposed tax-reform legislation without a prospective effective date would have a devastating impact on the marketplace. No one should be forced to enter the next tax year with the uncertainty of retroactive tax reform hanging over their head.

So, Mr. President, I think it is absolutely imperative that the effective date of any tax-reform legislation be moved to January 1, 1987. We must let the economy, the Nation's marketplace, continue to operate freely. We must not impair the Nation's economy as a result of uncertainty as to when the effective date will be.

I can tell you that there are major business deals in my own State, and I dare say throughout the length and breadth of this country that will not go forward if we do not act. If we do fail to act, there will be a loss of tens of thousands of jobs.

When we talk about the economy, and what the tax bill will mean, I will tell you, that without the certainty of when effective dates will occur—that we are doing substantial damage to the economy.

I want to commend Senator DOLE; my colleague, Senator DODD; and 15 others who originally came forth and recognized the importance of this piece of legislation.

I must say that the House resolution dealing with retroactivity is completely inadequate. It is a sham. In the press release they say the ranking members of Ways and Means and the Secretary of the Treasury are going to come together, they are going to decide which provisions will be retroactive, and when the effective dates will be taking place. It seems to me, that these are the same individuals who decided on the original effective dates and what parts of the Code should be effective. This is ridiculous.

I do not think there is anything more important that we can do for the individual taxpayer, the financial community, and the working people of America, then seeing to it that the Senate is strongly on record saying that the effective date will be January 1, 1987.

I thank the majority leader and my colleagues, Senator DODD, for their strong support on this matter.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, very briefly, let me thank the distinguished majority leader.

Mr. President, the majority leader has not detracted at all by promoting this piece of legislation. He adds substantially to it with his insistence that this matter be brought up in the form of a resolution before we adjourn, as my good friend and colleague from New York has pointed out going back almost a year ago, and I think Treasury, too, first announced it.

In that particular proposition, there were a whole host of effective dates included in that proposal, and just for the introduction of that piece of legislation by the administration had a profound effect in the marketplaces.

It was a result of that particular proposal and the effective dates that were mentioned in that piece of proposed legislation that I, along with my colleague from New York, introduced the first resolution which very much approached in similarity the matter before us here in this resolution.

I think the Senator from New York accurately points out we now have two resolutions. This resolution, of course, calls for the chairman and the ranking minority member and the Secretary of the Treasury to decide what the effective dates ought to be. That goes far beyond what any of us here would like to see occur. That certainly is a responsibility I think for those of us in the Congress as a whole to make those decisions, and as a practical matter we all recognize as well by the time we finish consideration of this legislation in the coming year the effective date would be 1987 at any rate. So I am delighted to join today in this proposal.

My hope is that it will have the effect of the Senator from New York has suggested, and we will not find people engaging in certain behavior or desisting in certain behavior merely because someone has proposed a piece of legislation with an effective date that would predate, of course, the enactment of that legislation.

Mr. President, I rise as a cosponsor in strong support of the resolution being offered by the distinguished majority leader, Senator DOLE, concerning the effective dates of pending tax reform provisions. This resolution states the sense of the Congress that, as a general rule, pending tax changes will be effective no earlier than January 1, 1987. I believe that this is one of the most positive and necessary statements this Congress will make in the closing moments of this congressional session. Since the unveiling of Treasury II, I have advocated action similar to that being taken today. In January of this year, I introduced a Senate resolution setting out the general principle that changes in tax laws should take effect no earlier than enactment. My resolution further addressed the need for reasonable transition rules. Several months ago, I joined with Senator D'AMATO and HAWKINS in sponsoring a similar measure. As the tax reform debate got off the ground this year, a variety of initiatives were advanced with effective dates prior to enactment. In many instances, economic behavior was altered based not on what the Congress might do, but rather on what might be enacted being applied retroactively. This chilling effect resulted in a definite slowdown of economic activity in certain areas. Except in instances involving egregious abuse of the law, I believe the retroactive application of any law violates fundamental principles of fairness. Even where abuses exist, the Congress should move expeditiously to close the particular loophole or enact the appropriate correction. This issue of retroactivity is most inappropriate as part of a comprehensive attempt at tax reform. Such an effort can succeed only with a broad-based consensus and support from investors and the business community. How ironic to begin the debate, therefore, with proposals carrying dates of implementation corresponding to the mere introduction of an idea.

Mr. President, the resolution now before the Senate is pro tax reform and deserves our unanimous endorsement. There will be ample opportunity next session to debate the specifics of tax legislation. With this resolution, I believe we send an important signal that these deliberations begin on a note of fairness and equity.

Mr. METZENBAUM. Mr. President, I rise to comment on this resolution, not to oppose it, not to get overly enthusiastic about it either. I think the resolution is one of those that you have to think about a bit because it will impact upon the tax aspects of our laws during the year 1986, and will indicate the Senator does not believe anything should be effective until January 1987.

Since I think tax reform is very much called for, and I hope the Senate would move promptly to act with respect to the House-passed bill, I would have hoped we would be able to put this kind of tax reform provisions into effect as early as possible.

But as I thought about the subject a minute it occurred to me that if you do not have the January 1, 1987, effective date you very well may have much more difficulty in passing any tax reform provision; I think it would be an impediment. I think everybody would be down here crying with their handkerchiefs out, and tears rolling down their faces about how this deal or that deal was being killed, and that therefore we should not pass the bill at all.

I believe it is imperative that we face up to our responsibilities, and that we act with dispatch because I belive that there is a better chance of getting tax reform legislation through the U.S. Senate if we do make it prospective rather than retroactive to January 1, 1987. I think there is considerable merit in our doing that which is proposed by the resolution.

Mr. DOLE. Mr. President, Senator DOMENICI is one of the cosponsors of this resolution. However, he is necessarily absent today. Therefore, I would like to send to the desk his statement on this important resolution, and ask unanimous consent that it appear in the RECORD.

● Mr. DOMENICI. Mr. President, when it comes to changes in the Tax Code, uncertainty breeds contempt. In addition, decisionmaking becomes unduly complicated and tax planning becomes a nightmare. The Congress is getting ready to adjourn for the first session of the 99th Congress and we are leaving unresolved the fate of tax reform. Because the 1,379-page Ways and Means Committee bill, the President's plan, and the Republican package, touch just about every major provision in the code, I feel it is very important that the Congress give a clear indication about when any changes would take place. That is why this resolution is so important. By plainly stating that none of the general provisions of any tax bill passed in 1986 will be effective until January 1, 1987, the Congress accomplishes two very important objectives. First, if this resolution is passed, everyone would know what the rules will be for 1985 and 1986. This reestablishes continuity and unties individuals' and businessmen's hands because they know what the rules will be.

Second, this will end speculation about the fate of this radical tax reshuffle. I think it is wrong for Congress to leave taxpayers with no alternative but to second-guess us. A clear statement of intention is good public policy as well as good economic policy. Our economy does not need stalling, second-guessing and speculating.

I have received dozens of telephone calls, stacks of letters, and a healthy number of telegrams. Their message is best exemplified by this urgent plea:

> Whatever the outcome of the tax bill, it is urgent you do not, repeat, do not, leave a cloud of uncertainty over the economy in early 1986 by not clarifying possibilities of retroactive tax changes later in the year.

I have a county in New Mexico that needs to reissue adjustable rate bonds. They don't know whether they can issue tax-exempt bonds as they have in the past, or whether they have to issue taxable bonds that will be harder to market and more expensive for the county. Under current law the bonds could be tax-exempt. Under the Rostenkowski bill they would have to be taxable bonds. I don't have to tell you what their bond counsel thinks about the dangling tax bill. Furthermore, the county commissioners feel like they have no choice but to issue taxable bonds even though it is possible this provision will never become law. The practical result for this county is legislation regardless of whether we act or not. This is not the way our process is designed to work.

There are a group of developers in Santa Fe that are waiting to see what happens to the historic tax credit. If they knew they had until the end of 1987 they would move forward and complete a very worthwhile project. They have all the plans and certifications and were moving ahead until the potential effective dates stopped them cold. Until they know what the 1986 rules are going to be, they are not doing any historic renovation. This is the type of paralyzing effect the uncertainty is causing. This is the type of paralyzing effect that this resolution can eliminate.

Aside from the question of general effective dates, I think Congress should also make it clear that any transition rule periods would begin to be measured from the January 1, 1987, as well. This would mean that transition rules would start January 1, 1987, and be judiciously drawn so that transactions began under current law would be treated under current law.

I think we all have a stake in insuring that the economy does not slow down because of tax reform. I also think that taxpayers should not be penalized because they cannot complete their projects by the time Congress completes tax reform. We sometimes forget that business is not conducted around the congressional timetable.

I have some very serious concerns about the tax reform bill that was reported out of the House Ways and Means Committee. According to the business roundtable the provisions in the bill, if enacted, would put the United States dead last in terms of competitive incentives among its major world competitors.

The administration, by its own admission states that tax reform would increase the cost of funds for investment in business equipment by more than 40 percent and increase the tax burden for corporations by $140 billion over 5 years in order to get a 1.1-percent increase in GNP by 1996. According to Martin Feldstein, former chairman of the Council of Economic Advisers, the natural process of growth would raise real GNP by 30 to 40 percent between now and 1996 if the tax law is left unchanged. I am unconvinced that we should be increasing the cost investment when the United States is restructuring to meet the international competitive challenge.

I intend to further discuss the merits of tax reform as the process moves further along. Our task today is to pass a resolution that will clearly state congressional intent regarding the potential effective date of any tax reform bill passed in 1986.

I urge all of my colleagues to vote for this resolution. Thank you, Mr. President.●

Mr. DOLE. Mr. President, I indicate there are 66 sponsors; 14 of those are members of the 20-member Finance Committee.

Mr. PRYOR. Mr. President, I'm pleased to be an original cosponsor of the pending resolution dealing with the effective dates of any tax reform measure that might ultimately be enacted.

As I stated yesterday in a letter to the chairman of the Committee on Finance, Mr. Packwood, the present situation presents us with the worst of all worlds—a House-passed bill, no action by the Senate until sometime next year, and effective dates in the House bill spread over several months. This situation, unless corrected through resolutions, or a joint statement by the chairmen of both tax-writing committees, will create serious problems for both businesses and individuals in 1986. Business planning will be virtually impossible without some guidance as to the effective date of the tax changes.

For all of these reasons, I think it is preferable to move the effective dates until the end of 1986. I strongly support the pending resolution, and I hope it is unanimously adopted by the Senate.

Mr. LOCKWOOD. Mr. President, the Senate today considered and passed a resolution intended to ensure that no provision of the tax reform bill which the House has sent to the Senate will become effective before January 1, 1987.

The resolution has been offered by the majority leader and has been cosponsored by many Senators. The intent of the sponsors is to provide an economic environment of stability and certainty. Those are goals that we all applaud and support. There is no one in the Senate who will work harder to achieve those goals than I. There can be no question that we want to avoid uncertainty in the private sector over what provisions are going to be in the tax reform bill and when they are going to be effective.

At the same time, Mr. President, I feel it incumbent to warn the Senate and all those in the private sector and in the public sector who may be contemplating investments or making economic decisions that neither the majority leader nor I nor Chairman Rostenkowski nor any other Member of the House or the Senate can guarantee what the effective dates of legislation are going to be.

Also, if by chance we moved all the effective dates, which are now January 1, 1986, in the House bill, to January 1, 1987, there would be an extraordinary loss of revenue, which would mean that the President's tax reform would no longer be revenue neutral, and it would mean that it would be well neigh impossible to pass a bill

I am perfectly willing to state that I will do everything possible to ensure that transition rules and effective dates are fair, that they will not harm investment decisions, that they will help to ensure growth in the economy. But if anyone makes investment decisions based upon the passage of Senate resolutions or House resolutions suggesting different alternative dates than appear in the House bill, they do that at their own risk. I would not want them to come back to me or the majority leader or any members of the Finance Committee and say that they had been misled.

I do not know what the effective dates will be. I cannot guarantee what the effective dates will be. Everyone who is contemplating making economic decisions should understand that when they make them.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 281) was agreed to.

The preamble was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HEINZ. I am asking recognition on behalf of the majority leader.

The PRESIDING OFFICER. The majority leader holds the floor.

The Senator from Pennsylvania.

FEDERAL EMPLOYEES BENEFITS IMPROVEMENT ACT

Mr. HEINZ. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 3384.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 3384) entitled "An Act to amend title 5, United States Code, to expand the class of individuals eligible for refunds or other returns of contributions from contingency reserves in the Employees Health Benefits Fund; to make miscellaneous amendments relating to the Civil Service Retirement System and the Federal Employees Health Benefits Program; and for other purposes", do pass with the following amendments:

Page 1, strike out all after line 8 over to and including line 21 on page 3, and insert:

(a) Definitions.—Section 8901 of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (9);

(2) by striking out the period at the end of paragraph (10) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new paragraphs:

"(11) 'certified nurse-midwife has the same meaning given to such term in section 1905(m) of the Social Security Act; and

"(12) 'qualified clinical social worker' means an individual—

"(A) who is licensed or certified as a clinical social worker by the State in which such individual practices; or

"(B) who, if such State does not provide for the licensing or certification of clinical social workers—

"(i) is certified by a national professional organization offering certification of clinical social workers; or

"(ii) meets equivalent requirements (as prescribed by the Office).".

(b) Nurses and Nurse-Midwives.—Section 8902(k) of title 5, United States Code, is amended by striking out "or optometrist" each place it appears and inserting in lieu thereof "optometrist, nurse, or certified nurse midwife".

(c) Clinical Social Workers.—Section 8902(k) of title 5, United States Code, is further amended—

(1) by striking out "(k)" and inserting in lieu thereof "(k)(1)";

(2) by striking out the last sentence; and

(3) by inserting at the end thereof the following:

"(2) When a contract under this chapter requires payment or reimbursement for services which may be performed by a qualified clinical social worker, an employee, annuitant, family member, or former spouse covered by the contract shall be entitled under the contract to have payment or reimbursement made to him or on his behalf for the services performed. As a condition for the payment or reimbursement, the contract—

"(A) may require that the services be performed pursuant to a referral by a psychiatrist; but

"(B) may not require that the services be performed under the supervision of a psychiatrist or other health practitioner.

"(3) The provisions of this subsection shall not apply to group practice repayment plans.".

(d) Effective Dates.—The amendments made by subsections (a), (b), and (c) shall be effective with respect to contracts entered into or renewed for calendar years beginning after December 31, 1986.

Page 10, lines 1 and 2, strike out physician or nurse; and insert: physician, nurse, or other licensed health professional with training in occupational safety and health;

Page 10, line 14, strike out fitness; and insert: fitness, including weight reduction;

Page 11, lines 5 and 6, strike out physicians and dentists; and insert: physicians, dentists, and other licensed health professionals;

Page 11, line 12, strike "production", and insert: "productivity".

Page 13, line 18, after "health," insert: "school of nursing".

Page 13, after line 21, insert the following:

(B) The authority of the Director of the Office of Personnel Management to enter into contracts or to make grants under subparagraph (A) is effective for fiscal year 1986 and subsequent fiscal years only to such extent or in such amounts as are provided in appropriation Acts.

Page 13, line 22, strike "(B)" and insert in lieu thereof "(C)".

Page 14, after line 10, insert the following:

SEC. 110. ADDITIONAL TYPE OF HEALTH BENEFITS PLAN.

Paragraph (4) of section 8903 of title 5, United States Code, is amended by adding at the end thereof the following new subparagraph:

"(C) Mixed model prepayment plans.—Mixed model prepayment plans which are a combination of the type of plans described in subparagraph (A) and the type of plans described in subparagraph (B).".

SEC. 111. REPEAL OF 75 PERCENT MAXIMUM IN GOVERNMENT CONTRIBUTIONS.

(a) Repeal of 75 to Maximum.—Section 8906(b)(2) of title 5, United States Code, is amended to read as follows:

"(2) The biweekly Government contribution for an employee or annuitant enrolled in a plan under this chapter shall not exceed 100 percent of the subscription charge.".

(b) Effective Date.—The amendment made by subsection (a) shall be effective with respect to pay periods commencing on or after March 1, 1986.

SEC. 112. RESTRICTIONS RELATING TO AMOUNTS REFUNDED TO THE EMPLOYEES HEALTH BENEFITS FUND FROM CARRIERS' SPECIAL RESERVES.

(a) Prohibited Transfers.—(1) No amount in the Employees Health Benefits Fund may be transferred to the general fund of the Treasury of the United States or the United States Postal Service as a result of a refund described in paragraph (2).

(2) This subsection applies with respect to any refund made by a carrier during fiscal year 1986 or 1987 to the Employees Health Benefits Fund to the extent that such refund represents amounts in excess of the minimum level of financial reserves necessary to be held by such carrier to ensure the stable and efficient operation of its health benefits plan.

(b) Restriction Relating to Use of Certain Amounts in the Fund.—(1) Any amount which is in the Employees Health Benefits Fund, and which is described in paragraph (2), may be used solely for the purpose of paying the Government contribution under chapter 89 of title 5, United States Code, for health benefits for annuitants enrolled in health benefits plans.

(2) This subsection applies with respect to any amounts—

(A) which are referred to in subsection (a)(2); and

(B) which are attributable to Government contributions (other than contributions by the government of the District of Columbia) that were made under section 8906(b) of title 5, United States Code, as determined under regulations which the Office of Personnel Management shall prescribe.

(c) Definitions.—For the purpose of this section—

(1) the term "Employees Health Benefits Fund" refers to the fund described in section 8909(a) of title 5, United States Code;

(2) the term "carrier" has the meaning given such term by section 8901(7) of such title; and

(3) the term "health benefits plan" has the meaning given such term by section 8901(6) of such title.

Page 16, line 14, after "occurring", insert "on or"

Page 17, line 6, strike out "to" and insert: "in the case of".

Page 17, strike lines 10 through 18 inclusive, and insert:

"(B)(i) The requirement described in clause (ii) shall not apply to an election made by an employee or Member under section 8339(j)(3) of title 5, United States Code (as amended by section 2(3)(A) of this Act), in order to provide a survivor annuity under section 8341(h) of such title (as amended by section 2(4)(G) of this Act) in the case of a former spouse referred to in subparagraph (A) if the election meets the requirements of clause (iii).

"(ii) The requirement referred to in clause (i) is the requirement prescribed in section 8339(j)(3) of title 5, United States Code, for an employee or Member to make an election in the case of a former spouse under such section 8339(j)(3) at the time of retirement or, if later, within 2 years after the date on which the marriage of the former spouse to the employee or Member is dissolved.

"(iii) Clause (i) applies to an election which is made by an employee or Member who retires on or after May 7, 1985, and before the date of the enactment of the Federal Employees Benefits Improvement Act of 1985, and is received by the Office of Personnel Management within the 2-year period beginning on the date of the enactment of such Act.

Page 18, line 9, strike out "May 7, 1985," and insert: "the date of the enactment of this Act".

Page 19, line 4, strike out "(6)", and insert in lieu thereof "(5)".

Page 20, line 3, strike out "(6)", and insert in lieu thereof "(5)".

Page 22, strike out all after line 16 over to and including line 11 on page 24.

Page 24, line 12, strike out "203", and insert: "202".

Page 24, line 16, strike out "204", and insert: "203".

Page 28, line 9, strike out "205", and insert: "204".

Page 28, line 20, strike out "206", and insert: "205".

Page 29, line 14, strike out "207", and insert: "206".

Page 29, line 21, strike out "208", and insert: "207".

Page 30, line 1, strike out "209", and insert: "208".

Page 32, after line 9, add the following:

SEC. 305. MINIMUM ANNUITY UNDER THE CIVIL SERVICE RETIREMENT AND DISABILITY SYSTEM.

(a) Repeal.—Section 8345(f) of title 5, United States Code, is repealed.

(b) Savings Provision.—An annuity payable from the Civil Service Retirement and Disability Fund as of the day before the date of enactment of this Act shall not be reduced—

(1) by reason of the repeal of section 8345(f) of title 5, United States Code; or

(2) if or to the extent that the reduction is to be made for the purpose of eliminating an overpayment resulting from the manner in which such section 8345(f) has been administered by the Office of Personnel Management.

(c) Ratification of Erroneous Payments.—Any individual to whom an overpayment of an annuity has been made from the Civil Service Retirement and Disability Fund before the date of enactment of this Act shall be deemed to have been entitled to that overpayment if and to the extent that such overpayment resulted from the manner in which the Office of Personnel Management has administered section 8345(f) of title 5, United States Code.

(d) Adjustments of Certain Reductions.—(1) Effective for any month after the date of enactment of this Act, the amount of any annuity which—

(A) is payable from the Civil Service Retirement and Disability Fund; and

(B) was reduced after June 30, 1985, and before the date of enactment of this Act, to eliminate any overpayment resulting from the manner in which the Office of Personnel Management administered section 8345(f) of title 5, United States Code,

shall not be less than the amount which would have been payable as of such date of enactment if the reduction described in clause (B) had not been made.

(2)(A) The Office shall make a lump-sum payment to each individual receiving an annuity to which paragraph (1) applies.

(B) The lump-sum payment made to any individual under this paragraph shall be equal to the excess of—

(i) the total amount of the annuity payments which would have been made to the individual for the period beginning with the first month in which the reduction described in paragraph (1)(B) was made and ending on the last day of the month in which this Act is enacted if the reduction had not been made, over

(ii) the total amount of the annuity payments which have been paid to such individual for that period.

SEC. 306. CIVIL SERVICE BENEFITS FOR FORMER EMPLOYEES OF COUNTY COMMITTEES.

(a) Retention.—Section 3502(a)(C) of title 5, United States Code, is amended by striking out "who is an employee in or under the Department of Agriculture".

(b) Rate of Pay on Change of Position.—Section 5334(e) of title 5, United States Code, is amended—

(1) by inserting a comma after "may"; and

(2) by striking out "under the Department of Agriculture,".

(c) Accrual and Accumulation of Leave.—The first sentence of section 6312 of title 5, United States Code, is amended by striking out "in the case of any officer or employee in or under the Department of Agriculture".

SEC. 307. 18-MONTH PERIOD TO ELECT A SURVIVOR ANNUITY UNDER THE CIVIL SERVICE RETIREMENT AND DISABILITY SYSTEM.

(a) In General.—Section 8339 of title 5, United States Code, is amended by adding at the end thereof the following:

"(o)(1)(A) An employee or Member—

"(i) who, at the time of retirement, is married, and

"(ii) who notifies the Office at such time (in accordance with subsection (j)) that a survivor annuity under section 8341(b) of this title is not desired,

may, during the 18-month period beginning on the date of the retirement of such employee or Member, elect to have a reduction under subsection (j) made in the annuity of the employee or Member (or in such portion thereof as the employee or Member may designate) in order to provide a survivor annuity for the spouse of such employee or Member.

"(B) An employee or Member—

"(i) who, at the time of retirement, is married, and

"(ii) who, at such time designates (in accordance with subsection (j)) that a limited portion of the annuity of such employee or Member is to be used as the base for a survivor annuity under section 8341(b) of this title,

may, during the 18-month period beginning on the date of the retirement of such employee or Member, elect to have a greater portion of the annuity of such employee or Member so used.

"(2)(A) An election under subparagraph (A) or (B) of paragraph (1) of this subsection shall not be considered effective unless the amount specified in subparagraph (B) of this paragraph is deposited into the Fund before the expiration of the applicable 18-month period under paragraph (1).

"(B) The amount to be deposited with respect to an election under this subsection is an amount equal to the sum of—

"(i) the additional cost to the System which is associated with providing a survivor annuity under subsection (b)(2) of this section and results from such election taking into account (I) the difference (for the period between the date on which the annuity of the participant or former participant commences and the date of the election) between the amount paid to such participant or former participant under this subchapter and the amount which would have been paid if such election had been made at the time the participant or former participant applied for the annuity, and (II) the costs associated with providing for the later election; and

"(ii) interest on the additional cost determined under clause (i) of this subparagraph computed using the interest rate specified or determined under section 8334(e) of this title for the calendar year in which the amount to be deposited is determined.

"(3) An election by an employee or Member under this subsection voids prospectively any election previously made in the case of such employee or Member under subsection (j).

"(4) An annuity which is reduced in connection with an election under this subsection shall be reduced by the same percentage reductions as were in effect at the time of the retirement of the employee or Member whose annuity is so reduced.

"(5) Rights and obligations resulting from the election of a reduced annuity under this subsection shall be the same as the rights and obligations which would have resulted had the employee or Member involved elected such annuity at the time of retiring.

"(6) The Office shall, on an annual basis, inform each employee or Member who is eligible to make an election under this subsection of the right to make such election and the procedures and deadlines applicable to such election.".

(b) Effective Date and Application.—(1) The amendment made by subsection (a) shall take effect 3 months after the date of the enactment of this Act.

(2)(A) Subject to subparagraph (B), the amendment made by subsection (a) shall apply with respect to employees and Member who retire before, on, or after such amendment first takes effect.

(B) For the purpose of applying the provisions of paragraph (1) of section 8339(o) of title 5, United States Code (as added by subsection (a) of this section) to employees and Members who retire before the date on which the amendment made by subsection (a) first takes effect—

(i) the period referred to in subparagraph (A) or (B) of such paragraph (as the case may be) shall be considered to begin on the date on which such amendment first becomes effective; and

(ii) the amount referred to in paragraph (2) of such section 8339(o) shall be computed without regard to the provisions of subparagraph (B)(ii) of such paragraph (relating to interest).

(3) For purposes of this subsection, the terms "employee" and "Member" each has the meaning given that term in sections 8331(1) and 8331(2) of title 5, United States Code, respectively.

Mr. STEVENS. Mr. President, on September 30, 1985, the House passed H.R. 3384, the Federal Employees Benefits Improvement Act of 1985. That legislation was reviewed and amended, and approved unanimously by the Governmental Affairs Committee on November 19, 1985. The Senate passed H.R. 3384, as amended, on December 11, 1985. The House has made additional amendments to the legislation which I urge the Senate to adopt. As originally amended by the Senate, the legislation is organized into three titles.

The provisions of title I make certain amendments to the Federal Employees Health Benefits Program—including an authorization allowing retired enrollees to receive refunds from the employees health benefits fund. The provisions of title II amend the Civil Service Retirement Spouse Equity Act of 1984, Public Law 98-615. Finally, the provisions of title III make miscellaneous amendments to title 5 of the United States Code. This bill does not authorize any new budget authority for fiscal year 1986 for activities required by its provisions.

As mentioned, section 105 of title I would enable the retired enrollees in the Federal Employees Health Benefits Program to receive a refund which will be offered by 11 plans in the program. This change will benefit hundreds of thousands of Federal retirees who, like current employees, are entitled to the excess reserves that have accumulated. in the program. The excess reserves have accumulated, in part, because of declining utilization of health care by Federal employees and annuitants. It is my hope that after the passage of this legislation plans will expedite the distribution of the refunds to all eligible enrollees.

In addition to the provision authorizing refunds to eligible Federal retirees, I would like to mention briefly two other provisions of title I. Section 101 requires direct reimbursement for services provided by nurses and nurse-midwives under the Federal Employees Health Benefits Program. In other words, if a Federal health plan covers obstetrical care and a nurse-midwife performs the service, then he or she shall be entitled to payment or reimbursement. Finally, section 106 of title I permanently and retroactively reauthorizes a program that expired on December 31, 1984. That program provided that if a health plan contract provided for the reimbursement of the cost of a particular health service, the carrier was required to reimburse for such service, the carrier was required to reimburse for such service provided by any State licensed health care provider if the service was provided in a State—such as Alaska—where 25 percent or more of the State's population was located in primary medical care manpower shortage areas.

The provisions of title II amend Civil Service Retirement Spouse Equity Act of 1984 (Public Law 98-615) that we passed last fall. The majority of these amendments are technical in nature, however, several are substantive. The technical amendments affect the prospective provisions of last year's legislation which authorized, for the first time, State courts to award survivor annuities to former spouses of Federal employees. The substantive amendments generally broaden the quite narrow retroactive provisions of Public Law 98-615 which authorized survivor annuities for a small class of former spouses of Federal retirees.

The provisions of title III make certain miscellaneous amendments to title V of the United States Code. For example, section 304 would allow individuals authorized to receive hospitalization and dispensary services at naval hospitals and dispensaries outside the continental United States and in Alaska to also receive dental care. Dental treatment is prohibited under current law, except as an adjunct to inpatient hospital care. However, this prohibition applies only to naval hospitals and dispensaries, no similar prohibition applies to hospitals and dispensaries operated by the other military services.

Individuals would be required to pay for any dental care received at rates prescribed by the Secretary of Defense. The care would be provided only on a space-available basis and would not require added personnel resources at any of the locations.

Permitting this dental care in the limited circumstances described will contribute to the well-being and productivity of employees in foreign areas. Alaska is also included so that employees working at the Naval Station, Adak, in the Aleutian Islands, will not be required to fly 1,000 miles or more at great personal expense to obtain routine dental care.

Mr. President, I thank the majority leader for bringing this bill to the floor, and I ask unanimous consent that a section-by-section summary of the Senate committee amendment to H.R. 3384, and a Congressional Budget Office cost estimate for the same be printed in the RECORD following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION SUMMARY

(Committee amendment to H.R. 3384, Federal Employees Benefits Improvement Act of 1985)

TITLE I—FEDERAL EMPLOYEE HEALTH BENEFITS

Section 101, subsection (a), authorizes direct reimbursement for health services performed by nurses and certified nurse-midwives under the Federal Employees Health Benefits Program. For example, if a Federal health plan contract requires payment or reimbursement for obstetrical care, and a nurse-midwife performs the service, then he/she shall be entitled to payment or reimbursement. "Nurses" means, but shall not be limited to, nurse practitioners, clinical nurse specialists, and certified registered nurse anesthetists.

Subsection (b) authorizes direct reimbursement for services performed by clinical social workers under the Federal Employees Health Benefits Program. Federal health plans may require that the services be performed pursuant to a referral by a psychiatrist, but may not require that the services be performed under the supervision of a psychiatrist or other health practitioner.

The amendments made by subsections (a) and (b) shall take effect with respect to contracts entered into or renewed for calendar years beginning after December 31, 1986.

In addition, the Committee instructs the Director of the Office of Personnel Management, in consultation with the Comptroller General of the United States, to carry out a study to determine the feasibility of direct reimbursement for services provided by marriage and family counselors, dieticians, and nutritionists under the Federal Employees Health Benefits Program.

The Director shall transmit a report on the study to the Committee not later than 9 months after the date of the enactment of this Act.

Section 102 eliminates the requirement that group-practice prepayment plans include physicians representing at least three major medical specialties and provides that such plans shall include at least three physicians who represent one or more medical specialties.

Section 103 allows the Office of Personnel Management to waive the eligibility requirements which an annuitant must meet to continue his/her enrollment under the Federal Employees Health Benefits Program.

Section 104 requires the Office of Personnel Management to conduct an open season of not less than three weeks before the start of any contract term in which—an adjustment is made in any rates charged or benefits provided under a health benefits plan, a newly approved health benefits plan is offered, or an existing plan is terminated.

The amendments made by this section shall take effect with respect to contracts entered into or renewed for calendar years beginning after December 31, 1986.

Section 105 provides authority for the Office of Personnel Management (OPM) to reduce the contributions of enrollees to the Federal health plans.

Current law, according to a Department of Justice opinion, authorizes such reductions for employees, but not annuitants. This change will allow OPM to reduce contributions in the 1986 contract year for all enrollees—employees and annuitants.

In the 1986 contract year, eleven Federal health plans will offer refunds to their subscribers in order to reduce their excess reserves. The Committee believes that the proposed refunds are in accordance with OPM's authority to use excess reserves to reduce contributions, but that the refunds should be available to annuitants, as well as employees.

Section 106 permanently and retroactively reauthorizes a program that expired on December 31, 1984. That program provided that if a health plan contract provided for the reimbursement of the cost of a particular health service, the carrier was required to reimburse for such service provided by any state licensed health care provider if the service was provided in a state where twenty-five percent or more of the state's population was located in primary medical care manpower shortage areas.

The amendments made by this section shall take effect with respect to services provided after December 31, 1984.

Section 107 requires the Office of Personnel Management to encourage participating Federal health plans to provide adequate benefits for the treatment of mental illness, alcoholism and drug addiction (including inpatient and outpatient coverage and catastrophic protection).

Section 108 requires the Office of Personnel Management to study the adequacy of the Federal Employees Health Benefits Program information delivery system and submit a report on such to Congress not later than March 1, 1986.

Section 109 requires the Director of the Office of Personnel Management, in consultation with the Secretary of Health and Human Services to conduct a demonstration project to determine the most effective means of furnishing health protection, health promotion, and disease prevention services to Federal employees.

TITLE II—CIVIL SERVICE SPOUSE AND FORMER SPOUSE EQUITY IMPROVEMENTS

Section 201 revises the application and special elections provisions of the Civil Service Retirement Spouse Equity Act of 1984 (P.L. 98-615).

Subsection (a), of section 201, amends section 4(a)(1) of P.L. 98-615 providing that the amendments made by section 2 of that Act shall also apply to any individual who, on or after May 7, 1985, is married to a retired employee. Subsection (a) makes a technical amendment to section 4(a)(2) of that Act. Subsection (a) adds section 4(a)(3) to P.L. 98-615 providing that a widow's or widower's survivor annunity will not be terminated if she/he remarries on or after attaining the age of 55. This amendment shall apply to any such remarriage occurring on or after November 8, 1984. Subsection (a) adds section 4(a)(4) to P.L. 98-615 providing that the rules governing elections of survivor benefits upon marriage and remarriage after retirement and length of marriage requirements apply to individuals retiring before, on or after the effective date of that Act (May 7, 1985). The amendments referred to in subparagraph (A) of section 4(a)(4) shall not apply in the case of a marriage of an employee retiring before May 7, 1985, if the marriage occurred after May 6, 1985, and before the enactment date of the Federal Employees Benefits Improvement Act of 1985. Subsection (a) adds section 4(a)(5) to P.L. 98-615 providing that an employee may elect to have his/her annuity reduced in order to provide a survivor annuity to a former spouse whose marriage to such employee terminated before May 7, 1985, if such employee retires on or after May 7, 1985. Finally, subsection (a) adds section 4(a)(6) providing that the 9-month marriage requirement shall apply to any marriage occurring on or after the date of enactment of P.L. 98-615.

Subsection (b) makes amendments to Section 4(b) of the Civil Service Retirement Spouse Equity Act of 1984 (P.L. 98-615). The amendment made to section 4(b)(1) of that Act in subparagraphs (A) and (B) of paragraph 1 allows the former spouse of an employee who died in service before May 7, 1985, and who was eligible to retire on the date he or she died, to receive a survivor annuity if the former spouse meets the conditions set forth in Section 4(b)(1)(B) of P.L. 98-615, as amended by this Act. Without this change, section 4(b)(1) of P.L. 98-615 allows only former spouses of employees who actually retired before May 7, 1985, to receive survivor annuities if they meet the specified conditons.

The amendment made by paragraph (1)(C) eliminates the requirement that the former spouse of an employee who retired before May 7, 1985, or who died in service before May 7, 1985, and who was eligible to retire on the date he or she died, must not be entitled to any other retirement or survivor annuity in order to qualify for a Civil Service annuity under section 4(b)(1)(B) of P.L. 98-615, as amended by this Act. The amendment made by paragraph (2) of this Act is a technical, drafting change.

The amendment made by paragraph (3) of this Act adds section 4(b)(4) to P.L. 98-615 providing that a fomer spouse of an employee who retired before May 7, 1985, who satisfies the requirements of clauses (ii) through (v) of section 4(b)(1)(B) of P.L. 98-615, as amended by this Act, shall be entitled to a survivor annuity if there is no surviving spouse of the employee and no other former spouse of such employee who is entitled to receive a survivor annuity based on the creditable service of such employee and there is no other person who has been designated to receive a survivor annuity by reason of an insurable interest in such employee.

The amendment made by paragraph (4)(A) of this Act permits individuals who retired before May 7, 1985, to voluntarily elect to provide a full survivor annuity or a portion of a survivor annuity under section 4(b)(1)(A) of P.L. 98-615.

The amendment made by paragraph (4)(B) corrects an erroneous reference to 5 U.S.C. 8341(b)(4) which relates to the maximum Civil Service survivor annuity payable to a widow or widower. Because section (4)(b)(4) of P.L. 98-615 deals with survivor annuities for certain former spouses, the appropriate reference is to 5 U.S.C. 8341(h)(2) which limits annuities payable to former spouses.

Subsection (c) amends section 4(f) of the Civil Service Retirement Spouse Equity Act of 1984 (P.L. 98-615) allowing certain former spouses to enroll in a Federal health plan if he or she is entitled to receive either a portion of a Federal retiree's annuity or is eligible for a survivor annuity.

Subsection (d) extends the time period during which a retiree, retired before May 7, 1985, may elect to have his/her annuity reduced to provide a survivor annuity for a former spouse. Any retiree who has made such an election may modify that election within this extended period.

Section 202 amends section 4(c) of the Civil Service Retirement Spouse Act of 1984 (P.L. 98-615) allowing the surviving spouse of an employee who died without making an election under such section, to make the election to receive a survivor annuity if done so within one year after the date of the enactment of this Act.

Section 203 amends section 5 U.S.C. 8332(j) allowing a former spouse to make or complete a deposit for post-1956 military service credit. Without this amendment, such a deposit would be meaningless because 5 U.S.C. 8332(j) excludes credit for post-1956 military service from annuities of only the employee or a surviving widow or child, and not a surviving former spouse.

Section 204(a) amends 5 U.S.C. 8339(j)(3) making it consistent with 8339(j)(1) and 8339(j)(5)(C)(iv) by prohibiting a survivor election at divorce if a joint waiver as made by a couple at the time of retirement.

Section 204(b) amends section 8339(j)(5)(B) providing that an annuity reduction terminated under this section will be replaced by another appropriate reduction if the retiree has another former spouse or a current spouse who is entitled to a survivor annuity.

Section 204(c) amends 5 U.S.C. 8339(j) and 5 U.S.C. 8339(k) making certain technical changes to the insurable interest election provisions.

Section 205 amends 5 U.S.C. 8340(c)(1) providing that the first cost-of-living adjustment payable to a former spouse or individual who has an insurable interest in the decedent will be prorated, just as it is for widows and widowers or deceased employees and retirees.

Section 203(a) amends 5 U.S.C. 8341(e) correcting two anomalies in the provisions governing entitlement to children's survivor benefits. Survivor annuities for children are provided at two levels, with higher benefits being paid to parentless children (double orphans) than to those who have one surviving parent (single orphans). Section 8341(e) of title 5, U.S.C., currently provides that if a deceased employee or retiree is survived by a spouse or former spouse who is the parent of a surviving child of the employee, the child will be paid at the lower rate applicable to single orphans.

However, an inequity arises because the definition of "former spouse" in 5 U.S.C. 8331(23) requires that the former spouse must have been married for at least 9 months to an employee who completed at least 18 months of service covered by the Retirement System.

Consequently, if a deceased employee is survived by a former spouse who is the parent of his/her child, but the employee was covered by the Retirement System for less than 18 months or was married to the former spouse for less than 9 months, the surviving child will be paid at the higher rate applicable to double orphans rather than at the lower rate applicable to single orphans, even though one of the child's parents is still living and can presumably contribute to the child's support. This amendment will correct this inconsistency.

Section 206(b) amends 5 U.S.C. 8341(e) which currently provides that if a deceased employee or retiree is survived by a spouse or former spouse who is the parent of a surviving child of the employee or retiree, each surviving child of the decedent will be paid at the lower rate applicable to single orphans.

Consequently, if the decedent is survived by several children and a spouse or former spouse who is the parent of only one of the children, all of the decedent's children will be treated as if they, too, were children of the surviving spouse or former spouse.

This amendment will correct this inequity so that each child will be treated as a double orphan unless there is a surviving spouse or former spouse who is that child's natural or adoptive parent.

Section 207 amends 5 U.S.C. 8341(h)(1) which currently allows the former spouse of a deceased employee, Member of Congress, or annuitant to receive a survivor annuity under the terms of a qualifying court order. However, it extends no such right to a former spouse of a deceased former Member who was entitled to a deferred annuity, even though section 8341(f) allows the surviving spouse of such a former Member to receive a survivor annuity. These former spouses were intended to be included in section 8341(h)(1). This amendment corrects this oversight.

Section 208 amends 5 U.S.C. 8341(h)(4) which currently provides that a court order awarding a survivor annuity to a former spouse cannot be amended after the employee's retirement. However, a court order could be changed following the death of an employee who has not yet retired. This amendment corrects this inconsistency by barring changes in court orders after an employee's death as well as after retirement.

Section 209 amends 5 U.S.C. 8342(j)(1)(B) which currently bars payment of a refund of retirement contributions to a former employee if the payment would deprive a former spouse of court-ordered retirement or survivor benefits. This amendment extends the same protection to a separated current spouse of the former employee who has title to benefits under the terms of a legal separation agreement.

TITLE III—MISCELLANEOUS CIVIL SERVICE AMENDMENTS

Section 301 amends 5 U.S.C. 1103(a) providing authority for the Office of Personnel Management to incur reception and representation expenses.

Section 302 amends 5 U.S.C. 1103(b) providing that the Federal Register notice and comment requirements concerning regulations issued by the Office of Personnel Management do not apply to the routing establishment of schedules of rates to pay or allowances. They do apply, however, to the establishment of the procedures, methodology, or criteria used to establish such schedules, rates, or allowances.

Section 303 amends 5 U.S.C. 5924(2)(A) providing for the payment of temporary living expenses for Federal employees transferring from a U.S. territory to a foreign area.

Section 304 amends 24 U.S.C. 35 allowing the use of naval hospital services for space available dental care in foreign areas and remote areas of Alaska.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, December 10, 1985.

Hon. WILLIAM V. ROTH, Jr.,
Chairman, Committee on Governmental Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 3384, the Federal Employees Benefits Improvement Act of 1985, as ordered reported by the Senate Governmental Affairs Committee, December 6, 1985. Based on this review, CBO estimates that this bill would have no significant federal budgetary impact and would not directly affect the budgets of state and local governments.

This bill would enable annuitants covered under the Federal Employees Health Benefits (FEHB) program to be eligible for rebates. While this language in and of itself would not have a budget effect, it is anticipated that this legislation will enable active federal employees and annuitants to receive a share of the excess carrier reserves proposed to be refunded to the Office of Personnel Management (OPM) in 1986 and 1987. OPM estimates the refunds to be $1,067 million in fiscal year 1986, and $300 million in fiscal year 1987. Enrollees currently contribute about 40 percent to total premium costs. If enrollees were to receive 40 percent of carriers' refunded reserves, it would increase federal outlays by $427 million in fiscal year 1986, and $120 million in fiscal year 1987.

This bill also has several provisions affecting FEHB which are not expected to have a significant budget effect. Nurses and nurse-midwives would be allowed to be reimbursed without referral by another health practitioner. Non-physician health practitioners would be allowed to be reimbursed in medically underserved areas. In addition, FEHB plans could require an initial referral from a psychiatrist as a condition for reimbursement of clinical social worker services. The plans, however, could not require supervision by a psychiatrist or other health practitioner as a condition for reimbursement of such clinical social worker services. The Office of Personnel Management (OPM) would be called upon to encourage plans to provide adequate benefits for treatment of mental illness, alcoholism, and drug addiction. Requirements for group-practice prepayment plans would be made more flexible. Finally, OPM would be required to undertake studies of the adequacy of information made available to FEHB enrollees and to conduct an open season before the start of any contract year.

H.R. 3384 also amends the Civil Service Retirement Spouse Equity Act of 1984 to allow certain former spouses of civil service retirees to receive civil service survivor benefits. Specifically, this bill would expand the eligibility requirements for certain former spouses to receive survivor benefits and increase the period allowed for the election of survivor benefits. Although difficult to estimate, we assume only a small number of former spouses would be affected by this bill. Therefore, this provision is expected to have no significant budgetary impact.

In addition, this bill would require the Office of Personnel Management to conduct a demonstration project relating to health promotion for federal employees. No additional appropriation in 1986 is to be provided for this demonstration. OPM has been unable to tell us what funding, if any, would be necessary to conduct this project.

CBO prepared a cost estimate on October 1, 1985 of H.R. 3384 as ordered reported by the House Post Office and Civil Service Committee on September 26, 1985. The Senate reported bill excludes a Federal Employees Health Benefits (FEHB) provision that would eliminate the 75 percent cap on government premium contributions estimated to have a cost in the House reported bill. The other FEHB and Civil Service Retirement provisions included in the Senate version of the bill are again estimated to have no significant budgetary impact, however, some of the provision do differ.

If you have any questions, please call me or have your staff contact Anne Manley (226-2820) or Sherri Kaplan (226-2616).

With best wishes,

Sincerely,

C.J. NUCKOLS

(For Rudolph G. Penner, Director.)

Mr. HEINZ. I move that the Senate concur in the House amendments.

The **PRESIDING OFFICER.** The question is on agreeing to the motion.

The motion was agreed to.

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. METZENBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AUTHORIZING REPRESENTATION BY SENATE LEGAL COUNSEL

Mr. HEINZ. Mr. President, I send a resolution to the desk on behalf of the majority leader and Senator BYRD and ask for its immediate consideration.

The **PRESIDING OFFICER.** The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 282) to direct the Senate legal counsel to intervene in Representative MIKE SYNAR v. United States of America.

The **PRESIDING OFFICER.** Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the resolution.

Mr. DOLE. Mr. President, last week the Congress enacted the Balanced Budget and Emergency Deficit Control Act of 1985 to establish, for the fiscal years 1986–91, objectives and procedures for reducing and then eliminating the annual deficit. On signing the measure last Thursday, the President questioned the constitutionality of provisions of the act which relate to the responsibilities of the Comptroller General and the Congressional Budget Office. Later that day, Representative SYNAR filed an action in the U.S. District Court for the District of Columbia to challenge the constitutionality of the act.

The Congress anticipated that there would be challenges to the constitutionality of the act and provided for expedited judicial review. The Congress also anticipated that there would be a need for a congressional defense of the statute and provided that each House of Congress shall have the right to intervene. The Senate also has authority under title VII of the Ethics in Government Act to intervene in legal actions in which the powers and responsibilities of the Congress under the Constitution are placed in issue.

The Senate has previously directed the Senate legal counsel to intervene in the defense of the responsibilities assigned by the Congress to the Comptroller General under the Competition in Contracting Act of 1984. To date, two U.S. district courts have upheld the constitutionality of that statute against a similar challenge by the executive branch.

The Attorney General is required by statute to notify the two Houses of Congress whenever he determines not to defend the constitutionality of an act of Congress. We have not yet received a formal notification from the Attorney General but we have decided to proceed with the resolution in light of the imminent adjournment of the Congress. The act requires that judicial review be expedited. Consequently, the Senate legal counsel should receive early authorization so that he may be prepared to present to the court the Senate's defense of the act during the adjournment, if that is necessary. Also, as the constitutionality of the act may be raised in other actions, section 2 of the resolution permits an appearance by the Senate legal counsel in similar cases during the adjournment with the approval of the joint leadership group.

Mr. President, I move adoption of the resolution.

Mr. HEINZ. Mr. President, if there is no further debate, I move adoption of the amendment.

The **PRESIDING OFFICER.** The question is on agreeing to the resolution.

The resolution (S. Res. 282) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 282

Whereas, in the case of *Representative Mike Synar v. United States of America*, Civil Action No. 85-3945, pending in the United States District Court for the District of Columbia, the constitutionality of the Balanced Budget and Emergency Deficit Control Act of 1985, Public Law 99-177, has been placed in issue;

Whereas, the statement of the President, on signing the Balanced Budget and Emergency Deficit Control Act of 1985, questions the constitutionality of several of its provisions and expresses the hope of the President that these constitutional questions will be promptly resolved;

Whereas, pursuant to section 274 of the Balanced Budget and Emergency Deficit Control Act of 1985 each House of Congress shall have the right to intervene in an action to determine the constitutionality of the Act;

Whereas, pursuant to sections 703(c), 706(a), and 713(a) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(c), 288e(a), and 288l(a)(1982), the Senate may direct the Senate Legal Counsel to intervene in the name of the Senate in any legal action in which the powers and responsibilities of Congress under the Constitution are placed in issue: Now, therefore, be it

Resolved, That the Senate Legal Counsel is directed to intervene in the name of the Senate in the case of *Representative Mike Synar* v. *United States of America*.

SEC. 2. That during the adjournment of the Congress the Senate Legal Counsel is authorized to intervene or to appear as amicus curiae in the name of the Senate in other cases in which the constitutionality of the Balanced Budget and Emergency Deficit Control Act of 1985, Public Law 99-177, is placed in issue: *Provided*, That the Joint Leadership Group authorizes the Senate Legal Counsel to intervene or to appear as amicus curiae in the name of the Senate in such other cases.

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TRANSFER OF ROBERT F. KENNEDY MEMORIAL STADIUM TO THE DISTRICT OF COLUMBIA

Mr. WARNER. Mr. President, I would like to direct inquiries to the leadership with reference to calendar item 459, H.R. 2776. This is a bill providing for the transfer of the Robert F. Kennedy Stadium from the Federal Government to the District of Columbia government. Two committees in the Senate, the Committee on Energy and Natural Resources and the Committee on Governmental Affairs, have reviewed this bill and both have reported it favorably.

The House of Representatives has passed the bill, H.R. 2776.

Mr. President, it is my understanding that a single Senator has indicated a hold on this bill. It is my further understanding that his concerns relate to the history of this part of the Nation's Capital and how this transfer might affect the original plan of the Nation's

Capital as laid out by L'Enfant many years ago.

In spite of that, it is my hope that if the Senator is listening at this time, he will have a willingness to come to the floor and discuss with the leadership and me the possibility of bringing up this legislation today.

Mr. HEINZ. Will the Senator yield?

Mr. WARNER. I yield to the acting majority leader.

Mr. HEINZ. On behalf of the leadership and Senator DOLE specifically, I can say to the Senator from Virginia that it is the leadership's intention at an appropriate time later today to propound the unanimous-consent request that would permit consideration, and that any Senator who feels constrained to object to that unanimous-consent request, as is the right of any Senator, should be here on the floor.

It would be the majority leader's intention to specifically advise the office of any Senator who is known to be inclined to object to that unanimous-consent request.

Mr. WARNER. I thank the Senator. It is very important to the government of the District of Columbia because they are at this time competing for a baseball team. This transfer will enhance the likelihood of their having a more competitive position to obtain that team.

Mr. DOLE. Let me also indicate that it is my intention to deal with this early next year.

Mr. WARNER. It is hoped that we can deal with it today.

Mr. DOLE. That would be better yet.

Mr. HEINZ. The majority leader has indicated that it is his intention to have a unanimous-consent request at a very early hour this afternoon.

Mr. WARNER. I thank the Senator.

OBSERVERS TO ARMS REDUCTION CONTROL NEGOTIATIONS

Mr. DOLE. Mr. President, there is one other matter we can deal with, the so-called Geneva resolution.

I sent to the desk, on behalf of myself and the distinguished minority leader, a resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 283) relating to the Bipartisan Group of Senators designated pursuant to S. Res. 19 and S. Res. 86, 99th Congress, to act as Observers to Arms Reduction or Control Negotiations.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 283) was agreed to, as follows:

S. Res. 283

Resolved, That S. Res. 86, agreed to February 28, 1985, is amended as follows:

(a) Page 2, line 2 add: "The Chairman for Administrative purposes is the Senator from Alaska, Ted Stevens. The members of the Senate Observer Group shall include the Senator from Massachusetts, Edward Kennedy; the Senator from Wyoming, Malcolm Wallop; the Senator from New York, Daniel Patrick Moynihan; the Senator from Virginia, John Warner; the Senator from Oklahoma, Don Nickles; the Senator from Tennessee, Al Gore; the Majority Leader, Robert Dole, *ex officio;* and the Minority Leader, Robert C. Byrd, *ex officio.* Only Senators appointed as members of the Group may participate in official travel and activities of the Group. In the event that the Majority Leader or Minority Leader does not travel on an official trip of the Observer Group, he may designate one other Senator not a member of the Group to travel and participate in the activities of the Group in his stead. Any vacancy occurring in the Senate Arms Control Observer Group shall be filled in the same manner in which the original appointment was made."

(b) Page 2, Line 11: After the period, insert "Payments made under this section for receptions, meals and food-related expenses shall be authorized, however, only for those actual expenses incurred by the Senate Observer Group in the course of conducting its official duties and functions; provided, that notwithstanding any other provision of this Resolution, such amounts received as reimbursement for such expenses shall not exceed $6,000 in any fiscal year. Amounts received as reimbursement for such food expenses shall not be reported as income, and the expenses so reimbursed shall not be allowed as a deduction under Title 26 of the U.S. Code."

(c) The amendment made by subsection (a) is effective with respect to expenditures incurred on or after February 28, 1985.

Page 3, Line 9, add the following new section: "(d) All foreign travel of the Group shall be authorized solely by the Majority and Minority Leaders, upon the recommendation of the Administrative Chairman. Participation by staff members in authorized foreign travel by the Group, access to all official activities and functions of the Group during such travel, and access to all classified briefings and information made available to the Group during such travel, shall be limited exclusively to delegation members with appropriate clearances. No travel or other funding shall be authorized by any Committee of the Senate for the use of staff, other than delegation staff, in regard to above mentioned activities, without the written authorization of the Majority Leader and the Minority Leader to the Chairman of such Committee."

Mr. DOLE. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CAMPAIGN FINANCE REFORM

Mr. DOLE. Mr. President, let me indicate I believe we can work out this matter with reference to campaign finance reform and I hope we can do it very quickly so we can dispose of the low-level compact matter.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HEINZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEINZ. Mr. President, earlier this afternoon we were discussing the parliamentary situation in the next session with respect to the Boren amendment which was pending on S. 655. I am going to propound a unanimous-consent request that has three significant components to it if it is agreed to.

The first is that it would set a date certain by which the Senate would consider the Boren amendment as an amendment to a suitable vehicle, such as S. 655.

In that context, the Senate would consider it for not more than 2 calendar days. There would be a division of time for debate equally divided, 6 hours of debate on each of the 2 days.

Amendments to the Boren amendment would be in order and the Boren amendment, which is not now debatable, would clearly be subject to debate.

That seems to me, Mr. President, to be a reasonable unanimous-consent request because it allows the Senator from Oklahoma to have a date certain, an early date, in this case not later than June 1, 1986.

It allows him something he does not have now, which is the ability to speak on his amendment and for other people to join in such debate.

It permits the rest of the Senate the opportunity to offer perfecting amendments to his amendment, which was precluded under the previous consent.

It provides a great deal of debate time, 12 hours, almost the amount we used when considering reconciliation, which was 20 hours. It is almost two-thirds of that amount used on a much more complex measure.

UNANIMOUS-CONSENT REQUEST

Having explained this, I ask unanimous consent that during the 2d session of the 99th Congress, the Senate for not more than 2 calendar days, turn to the consideration of the Boren "PAC" reform issue, to a suitable vehicle, prior to June 1, 1986, and it be considered under the following time limitation: 6 hours of debate on each of the 2 days, to be equally divided, in the usual form; and that following the conclusion or yielding back of time on the second day of floor consideration, that the Senate proceed to vote on disposition of the Boren amendment or

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bill, and if the issue is not disposed of, it be placed back on the calendar.

Mr. BOREN. Mr. President, the distinguished Senator from Pennsylvania and I have discussed this matter. The Senator from Oklahoma is perfectly willing to have debate on his amendment. Once the amendment is disposed of, the Senator from Pennsylvania or any other Senator would have the right to offer amendments. There would be no time limitation on the pending bill.

The Senator from Oklahoma cannot agree to give up what has already been gained in the previous unanimous-consent request entered into and accepted on the Senate floor which provided for a vote on this amendment without being amendable.

Mr. HEINZ. The Senator has already gained that.

Mr. BOREN. That is what was agreed to. There was a vote against tabling that amendment. Under the current parliamentary situation, when the amendment returns for consideration of the Senate floor, it would not be subject to further amendment. It would be voted on up or down without further debate.

The Senator from Pennsylvania has suggested in his request that debate would be in order. The Senator from Oklahoma does not object to that part of the request. The Senator from Oklahoma, since he has negotiated with his cosponsor of this proposal, the exact language and provisions of it, and since all the cosponsors joined on it as an exact proposal to be voted on up or down in terms of the previous unanimous-consent request, the Senator from Oklahoma would be constrained to object. If the Senator from Pennsylvania would like to offer the request again, changing merely the provision that it is not be amendable, the Senator from Oklahoma would not object. But to the pending request, I object.

The PRESIDING OFFICER. The objection is heard.

Mr. HEINZ. Mr. President, I deeply regret that the Senator from Oklahoma has objected to a unanimous-consent request that would allow the Senate to consider at an early date the Boren PAC issue and other issues. It is, frankly, to my mind, ridiculous that the Senate—and every one of us knows it—is being asked to rubberstamp without amendment a package that has apparently been agreed to by six Senators without amendment. This Senator never agreed as part of any unanimous-consent request and neither did most other Senators, I expect, to any agreement that would preclude the proper consideration of this or any other issue without amendment, for example, in the next session.

I suggest that the Senator from Oklahoma rethink whether or not it is in his best interests and in the best interest of campaign reform to object to a unanimous-consent request which provides for an early date for consideration, debate where none now exists, amendment where it is necessary, and provides for that action to be taken in a way that is fair to all sides. That seems to me to be a very reasonable proposition.

I am not going to propound a second unanimous-consent request because I understand the Senator from Oklahoma does not want to agree to it. But I urge him to think about it, because it seems to me that he is blocking consideration of his own bill. He has already had the opportunity to have his legislation voted on in accordance with the unanimous consent that we all entered into many months ago.

Mr. President, I must tell the Chair that I do not think any Member can say that the Boren amendment has not had, in conformance with the unanimous-consent request of earlier this year, its day in court, that we have not in every respect met the commitment of the Senate to the Senator from Oklahoma. What he asks for is more consideration and special consideration that we do not easily grant nor should we wisely—we do not grant it because we do not like to do things hurriedly or unwisely—a special form of consideration all over again that would yield him what I gather he considers are special privileges and denies to other Members of the Senate those privileges that we are constitutionally entitled to.

Mr. President, I know the Senator from Oklahoma probably did not intend to block consideration of the Boren amendment, but that is exactly what he has done. I yield the floor.

Mr. BOREN. Mr. President, I have always believed Christmastime is a time to end quarrels, not begin them. There are Senators on the floor who wish to get on with the discussion of important matters here, the low-level radioactive waste compact. This Senator does not want to continue useless haggling ovr what the situation is.

The Senator from Oklahoma is for campaign reform. He brought up an honest, straightforward amendment under a unanimous-consent agreement carefully negotiated with the able help of Senator Goldwater and Senator Stennis, our distinguished senior colleagues. The Senator from Oklahoma is not going to give away on the floor now what those negotiators achieved earlier. I think everyone understands that. There is no point in pursuing this discussion any further. We have had a very amicable discussion with the majority leader and others involved.

Let me just say that I think the majority leader understands this. I have just discussed with the distinguished Senator from South Carolina—if I could have his attention also for just 1 minute. It is my understanding that the omnibus bill which he is moving to take up, wishes to take up, would include the transition rules and would also include the contents of compacts in all of these—I believe there are seven pieces of legislation, which includes the States covered under S. 655, the States of Oklahoma and Nebraska, Louisiana, Kansas, and Arkansas—to be dealt with in an omnibus bill. The Senator from Oklahoma does not object to that. Certainly, the Senator from Oklahoma wants the problems of Oklahoma, Kansas, Arkansas, these five States, taken care of in any omnibus solution. He does not want those five States left out.

I think the Senator from South Carolina can see, and I hope the Senator from Wyoming would understand this matter as well, if I could have his attention for a moment, that if those five States are dealt with in an omnibus bill, which of course this Senator wants—he does not want them left out of this solution—S. 655 then really becomes a shell.

All of the provisions have been taken care of in the omnibus bill, which is appropriate. The only thing left is the number, S. 655, with the pending campaign reform amendment to it. Therefore, there is nothing left to drive us to come back to it other than the commitment of the distinguished majority leader that he would return to that bill number and call it up with the campaign reform amendment pending, do that next year in sufficient time that if we were to act on it in a positive way, the House of Representatives would have sufficient time to act on it next year.

That is the reason the Senator from Oklahoma has been so concerned to get that sort of commitment so his vehicle does not become moot. I have discussed this with the majority leader and I believe the majority leader is willing to make that sort of commitment to the Senator from Oklahoma. If he is, the Senator from Oklahoma is absolutely prepared to allow the Senator from Wyoming and others to present the omnibus bill and let all those States be covered under S. 655.

Mr. THURMOND. Mr. President, as the Senator from Oklahoma has said, we have discussed this with the Senator. We have a volume of all compacts in the substitute amendment. Any unanimous-consent request the distinguished Senator from Wyoming would make, one of those included in his request is to ask unanimous consent that the following companion bills be indefinitely postponed.

That will be all of them except the vehicle upon the compact that contains the States of Oklahoma, Kansas, and others.

In other words, his amendment would be left there, but we would go ahead with the compacts in the substitute amendment and the transition language, too.

Mr. BOREN. In other words, the omnibus bill would take care of approving the compact for Louisiana, Oklahoma, and Nebraska——

Mr. THURMOND. It would take care of all seven of them——

Mr. BOREN. It would take care of all the 50 States.

Mr. THURMOND. Not all the 50 States, the 37 States that have entered into compacts.

Mr. BOREN. Then we would leave the bill number, S. 655, with the campaign reform amendment pending that the majority leader would call up at some time next year.

Mr. THURMOND. That is Calendar No. 300 and bill S. 655.

Mr. BOREN. Yes, Mr. President.

Mr. THURMOND. We are willing to do that and the Senator from Wyoming will include that in his request.

Mr. DOLE. Mr. President, I am certainly willing to indicate to the Senator from Oklahoma that there is a bipartisan interest in campaign finance reform and we shall bring up S. 655, hopefully early enough—well, early enough in our opinion—have some disposition of it. Maybe it will not pass, but it ought to be done at a stage where if it did pass or something passes, there would still be a chance for some action on the House side. The House may mover independently on finance reform. Maybe they will act on it before the Senate acts.

But I have also indicated as I did a few weeks ago that I intend to designate five Republican Senators today who have agreed to undertake responsibility for campaign finance reform. I hope when we do bring that measure up, though, that the amendment will be debatable. Otherwise, we are in a position where we either have to move to table again or use other dilatory tactics. I also would agree to keep it up for a reasonable time.

But I hope we might be able to debate the amendment. There might be some things the Senator from Oklahoma would want changed in his amendment. So on that basis I am prepared to do that, if the Senator from Oklahoma is prepared to advise the Secretary of Transportation where I have been since noon.

Mr. BOREN. Will the Senator yield?

Mr. DOLE. I will be happy to yield.

Mr. BOREN. The Senator from Oklahoma will certainly do almost anything for the Senator from Kansas, but he is not sure he wants to face the Secretary of Transportation and assume responsibility in that regard.

I appreciate the comments just made by the majority leader. The distinguished minority leader, who is on the floor, has already appointed a working group among our party to work on the subject of campaign reform, which he has asked this Senator to chair. It is my hope that we will have this kind of progress on both sides of the aisle.

As I understand what the majority leader has said, he has said that he will bring the bill, S. 655, with the pending campaign reform amendment up, call it back up for consideration early enough next year that if it were positively acted upon—and maybe it will be amended after it is adopted. Let us suppose that particular amendment would be adopted. After that it would be subject to other amendments, after it is acted upon. Whatever the product is, that we would call it up early enough next year that the House would have a reasonable chance to act upon it so that we would have a chance to get campaign reform through both Houses next year, and that S. 655, what would be left by this action merely is a skeleton with this amendment on it, really the only thing left on it since we are taking care of all 50 States.

Mr. DOLE. Right.

Mr. BOREN. The majority leader would still call back up this number under the conditions we have previously entered into. And I would say at that time, if the majority leader or someone else asks to have additional time for debate, this Senator will not object to additional time to debate the matter at that point in time.

With that assurance, Mr. President, I thank the majority leader for what he has just said. That satisifes the Senator from Oklahoma. The Senator will not lodge objection based upon that commitment of the majority leader to proceeding now to the consideration of the omnibus bill on low-level radioactive waste.

Mr. DOLE. Mr. President, I would just say very briefly in response to that, I hope in the meantime the working group on that side of the aisle and this side of the aisle might work separately for a few weeks in the next year, and then maybe come together and see if there could be a bipartisan package developed. I believe, as most Senators do, we need to take a look at it. We are prepared to do that.

I thank the Senator from Oklahoma, and I thank the Senators who have been interested in this issue. They have taken a lot of time, but we are going to give them a little more time, so I yield the floor.

LOW-LEVEL RADIOACTIVE WASTE DISPOSAL FACILITIES

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of calendar item No. 468, H.R. 1083, the low-level nuclear waste bill.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1083), to amend the Low-Level Radioactive Waste Policy Act to improve procedures for the implementation of compacts providing for the establishment and operation of regional disposal facilities for low-level radioactive waste, and for other purposes.

The Senate proceeded to consider the bill.

Mr. SIMPSON. Mr. President, before the Senator from Oklahoma leaves the Chamber, I publicly thank him for his willingness to allow us to go forward. I have had some rather rich emotions to share with the Senator from Oklahoma on this issue, going back and looking at the RECORD. And I suppose, as one would who dabbled in the practice of law for some time, I came on a bit strong in the courtroom. I apologize for any activity that would hinder that relationship with the Senator from Oklahoma and his presence here, and I want to make that quite clear.

Mr. BOREN. Mr. President, I appreciate those words from my good friend from Wyoming. He is my good friend and continues to be my good friend. I have the greatest regard for him and appreciate very much the remarks which he just made.

Mr. SIMPSON. I thank the Senator.

Mr. President, I am most pleased to present for the consideration of the Senate a bill to grant the consent of the Congress to regional interstate compacts for the disposal of low-level radioactive waste. This legislation, which has had the benefit of nearly 4 years of work by three committees of the Senate—the Committee on Environment and Public Works, the Committee on Energy and Natural Resources, and the Committee on the Judiciary—represents a milestone in our efforts to carry out the policies and objectives of the 1980 Low-Level Radioactive Waste Policy Act.

Before I go much further in explaining how we reached this point, I should like to add a special note of appreciation and congratulations to Senator THURMOND, who has pursued a just and effective solution to the crisis that faced his State and Nation in 1979, and that led to the passage of the legislation authorizing States to form regional compacts for the purpose of handling the disposal of low-level radioactive waste generated within each such region. The original act reflected a remarkable degree of equity and balance in the approach that we are now considering today on the Senate floor, and that very same degree of equity and balance has characterized the efforts of the Senator from South Carolina throughout this entire process and indeed throughout his life. I commend him for that and thank him deeply for his leadership in this area.

We now have pending before the Senate 7 regional compacts covering 37 States. Each of these compacts must be approved before they can be implemented. This legislation that I now present to the Senate, and the amendment in the nature of a substitute that Senator THURMOND and I are proposing, establishes the terms and conditions for congressional approval of all currently pending and future compacts for low-level radioactive waste disposal. It would be my intention, Mr. President, to propose that the Senate consider what has been referred to as the consent legislation, as reflected in the substitute amendment, as the first item of business. At the conclusion of our consideration of this legislation, I will propose an amendment to add the seven currently pending compacts to the end of this legislation, as a new title II, so that the consent legislation and the pending compacts can all be considered as a package. Compacts submitted in the future would, of course, require congressional approval before they could be implemented, and the consent legislation, if adopted by the Senate, would provide the framework for approval of those compacts, as well, when submitted to the Congress for the required approval.

The compacts, when approved by Congress, must be implemented in accordance with the terms and conditions established in this bill. No amendments have been made in the compacts, per se, in an effort to avoid the potential need for subsequent State reratification. Nevertheless, if any such compact is implemented in a manner inconsistent with any of the provisions set forth in this bill, the entire compact shall be deemed to be invalid, notwithstanding the severability provisions that might be contained in individual compacts.

Upon enactment of this legislation, and upon congressional approval of individual compacts, each such compact region may restrict the use of a regional disposal facility located within such compact regions, other than a regional disposal facility referred to in paragraphs (1) through (3) of subsection (b), to the disposal of a low-level radioactive waste generated within such region. Any such restriction may be imposed beginning January 1, 1993, or beginning on the date that such facility commences operation, whichever occurs first. After December 31, 1992, each compact region in which there is now located a regional disposal facility referred to in paragraphs (1) through (3) of subsection (b) of this bill, that is, the commercial disposal facilities located in South Carolina, Nevada, and Washington, may restrict the use of such facility to the disposal of low-level radioactive waste generated within such region.

Mr. President, I commend this package to my colleagues and urge their wholehearted support. We have reached, in my judgment, a fair, effective, and balanced approach to write the final chapter in transferring the responsibility for low-level radioactive waste disposal to the States, and I urge my colleagues to support this measure.

Mr. HART. Mr. President, I rise as minority floor manager for the Environment and Public Works Committee to state that I am pleased today that we finally have an opportunity to consider the Low-Level Radioactive Waste Policy Amendments Act of 1985. This legislation has been the subject of intense debate among interested parties, two House committees, and three Senate committees. The fact that we have managed to arrive here today with a package is testimony to the extraordinary amount of discussions that have taken place in the common interest of providing additional low-level waste storage facilities to relieve sites in three States that currently bear the burden for the rest of the country.

Like any compromise, this legislation is not perfect. It is, however, a workable framework for developing new disposal capacity. As such, it is a needed improvement over the 1980 act, which has had limited effect on inducing States to open up new disposal sites. This legislation improves on the 1980 act, but does not discard the essential element of that legislation; that States are to enter into interstate compacts for the development of low-level waste disposal facilities. What we have done here is expand on that concept and clarify it so States and generators are more clear about what they are expected to do.

In the third section of the bill, the responsibilities of both the Federal Government and the States is clearly defined. States are responsible for the disposal of low-level radioactive waste generated within their borders—other than that generated by the Federal Government—that consists of or contains class A, B, or C radioactive waste as defined by section 61.55 of title 10 in the Code of Federal Regulations, as in effect on January 26, 1983.

States are not responsible, for example, for the disposal of waste generated by the decommissioning of naval reactors. States are also not responsible for disposal of waste from the operation and maintenance of nuclear vessels of the U.S. Navy. In this area, for example, we have attempted to maintain existing law but clarify it so States are clear about their responsibilities.

The States' regional disposal facilities cannot be required to accept anything other than low-level waste or waste identified under the formerly Utilized Sites Remedial Action Program. States may, however, choose to accept these wastes, so long as disposal of such wastes is consistent with their license.

In addition, we have clarified the responsibility of the Federal Government under this legislation. The Federal Government is responsible for the Department of Energy's low-level waste, the Navy's waste—other than operation and maintenance—or low-level waste owned or generated by the Federal Government as a result of any research, development, testing, or production of any atomic weapon.

We have also clarified that the Federal Government is responsible for the disposal of low-level radioactive waste that exceeds the limits established by the Commission for class C radioactive waste, as defined by the regulations cited above. Such disposal is to be in a facility licensed by the Commission. This resolves a contentious issue of above class C waste, which the States were unwilling to be required to dispose of due to the uncertainty surrounding the type of disposal facility that might be required by the Commission for the safe disposal of such wastes. The bill also requires the Secretary of Energy to prepare a study on these wastes and investigate the proper methods of disposal by the Federal Government.

The framework of this legislation is familiar to those who have been working on this issue for so long. There are milestones in 1986, 1988, and 1990 that States must meet in order to retain access to existing sites and to avoid assessment of penalty surcharges.

In 1986, we expect States to have, by legislation, indicated their intent to enter into compacts with other States.

We are moving none too soon on this legislation, since the sited States, Nevada, South Carolina, and Washington, have informed us that as of January 1, 1986, they will close their borders to low-level waste unless new legislation has been enacted. Such action would clearly present a serious problem for all, since low-level radioactive waste is more ubiquitous than many of us realize.

Hospitals and laboratories, for example, generate low-level waste as part of their diagnostic and treatment procedures. These generators also normally have little ability to store their waste, and are thus tremendously dependent upon continued access to the three existing sites. Nuclear utilities are the largest generators of low-level waste, producing a fair amount of contaminated clothing and equipment.

In the legislation before us today, the sited States agree to continue to accept the waste for up to 7 years, by which time we expect other low-level waste disposal sites to be operating. As an incentive to these three States to continue to accept waste during this transition period, we have included surcharges on the waste that is to be paid by the generators to the sited States.

We have also asked utility generators to reduce their volume of waste and have included utility allocations of waste that the sited States are required to accept, so long as the State in which the utility is located is in compliance with the milestones. In this way the sited States are assured of a limit on the volume of waste they will have to receive over the next 7 years.

This legislation also provides for specific milestones the unsited States are required to meet so we will have greater assurance that at the end of the transition period we will in fact have additional low-level waste disposal sites. The sited States are extremely concerned that we not repeat the failures of the 1980 act. This legislation goes a long way to assure that such additional disposal capacity will be available by the end of the transition period.

There are several mechanisms for encouraging nonsited States to enter into compacts and develop disposal sites. First, there are specific milestones defined in the legislation so it is clear to all what is required by a date certain. In addition, there are penalty surcharges placed on the waste generated in States that fail to meet these milestones. These penalties are in addition to the surcharges paid by generators during the transition period.

Another inducement to comply with the milestones is a 25-percent rebate of the surcharge for States meeting the milestones. This rebate is paid to the State or compact commission during the first 4 years to help finance the new disposal facility and costs associated with it. The rebate is to be paid to the States, rather than the compact commission, during the last 3 years that the State is in compliance with the milestones. We have designated these two recipients of the rebate because there are no reliable cost estimates for the amount of the rebate and the cost of the facilities. The rebate has not been determined based on disposal facility cost, but merely as a compromise percentage that is agreeable to all, thus we thought it fair to designate more than just the compact commission in case the commission had a windfall of rebates and no actual need for the total rebate.

If the milestones and penalties are not enough to encourage compliance, we have added another penalty to this process, which is denial of access to the disposal sites. The sited States are empowered to deny access to States or compact regions that have not met the milestones. Recognizing that hospitals, as well as utilities, are dependent upon access to disposal capacity, we have also included a provision for emergency access.

The Nuclear Regulatory Commission is given the authority to grant emergency access to a generator "if necessary to eliminate an immediate and serious threat to the public health and safety or the common defense and security." We have included a detailed procedure for this emergency access provision to assure that it is used only during a true emergency and is not a perfunctory determination by the NRC.

Thus for each milestone, we have penalty surcharges and denial of access that may be imposed in the event that the State or compact region fails to comply with the milestone requirements in this legislation.

By July 1, 1986, for example, we expected States to have passed legislation indicating their intent to enter into compacts with other States or to have ratified compact legislation. Thirty-seven States are already in compacts, one State has clearly decided to go it alone, and the rest of the States are negotiating with other States regarding their compact. While this has been a long and frustrating process, particularly for sited regions that continue to accept all the low-level waste, I believe that the momentum among the States is finally to enter into these compacts. It is, for the first time, now the rule rather than the exceptions, for States to be in a low-level waste disposal compact. Passage of this legislation would continue to encourage States along the path.

If a State fails to meet the milestone, there is a penalty surcharge assessed. The surcharge is in effect at all times, during this transition period, although at various rates, beginning as $10 per cubic foot during 1986 and 1987. The penalty surcharge for the 1986 milestone is two times this $10 surcharge, or $20 per cubic foot, during the first 6 months after the July 1 1986, deadline. As of January 1, 1987, a State missing this deadline may be denied access by the sited States for failure to meet this milestone.

The second milestone has a January 1, 1988, deadline by which compacts must have selected a host State, the State that will have the disposal facility, or selected a developer and site. The compact region or State is also required to develop a siting plan for the facility, including detailed procedures and a schedule for site selection, application, and construction of the facility.

The standard surcharge during 1988 and 1989 is $20 per cubic foot, and the penalty surcharge for failing to meet the milestone is two times the $20 surcharge for the first 6 months after the milestone and four times the surcharge in the 6 to 12 months after the milestone. In addition, States may be denied access after January 1, 1989.

The third milestone is January 1, 1990. By this date, States are to have filed a license application with the Nuclear Regulatory Commission or the Governor of the State must certify that the State will be capable for providing for the storage, management, or disposal of the low-level radioactive waste generated within such State. The Governor's certification is also to include a description of the means by which the State is to provide such storage, management, or disposal.

If the State fails to meet this deadline, the State may be denied access to a low-level waste disposal facility outside the State.

During our negotiations, we also agreed to include a new 1992 deadline that was not included in S. 1578 as reported by the Environment Committee. By January 1, 1992, States must submit a license application for a low-level waste disposal facility to the Nuclear Regulatory Commission. This change is in essence a modification of the 1990 milestone.

If States fail to meet this milestone, there will be a penalty surcharge of three times the surcharge that is in place. Since the surcharge is $40 per cubic foot, the penalty surcharge would be $120 per cubic foot for States failing to meet this deadline.

In addition, we have decided to scrutinize the situation after the end of the transition period in 1993. Other legislation left a blank when 1993 arrived. We were concerned, however, that a State may choose to "manage" its waste by telling the waste generators that they had to develop a means of storage for their waste. Such a policy would be unacceptable from our perspective and would leave generators with no effective recourse.

In order to provide some framework for addressing this possibility, we told States that by 1993 they must take title to the waste, or the rebates to which they would have been entitled would be returned to the generators. This appeared to be a fair method since States not accepting title would be leaving generators with some serious problems. We believe that the generators should receive some compensation for their storage costs, and thus the generators receive the rebates.

We make it clear, however, that States cannot continue to rely on other entities to solve the low-level waste disposal problem and we require States to take title to the waste in 1996. We give the States up to 3 years after 1993 to take title because of two concerns. First, if States were forced to accept possession of the waste in 1993 and they had no disposal facility available, we could be creating, instead of eliminating, a public health and safety problem, by transferring possession of the waste to an entity that had no effective storage capacity. The utility generators, in particular, may be better equipped to handle temporary storage of this waste and would also receive the 25-percent rebate—the largest of all the rebates—that the State sacrificed by not taking title to the waste.

Second, we are concerned that the Nuclear Regulatory Commission may need more time than we have provided to license alternatives to shallow land burial, in which many States represented on the Environment and Public Works Committee have indicated an interest. We are clear in demanding that States take title to the waste, but there must be a reasonable deadline that all parties can meet so that we do not exacerbate an already difficult problem.

The combination of these milestones, penalties, and rebates should provide sufficient inducement to persuade even recalcitrant States to become part of the low-level compact process and work diligently to open new disposal facilities.

Since we have developed a new framework for this issue, we have also addressed other tangential issues of interest to many States. We have, as I indicated earlier, addressed the process by which a State can gain emergency access to another State's disposal facility.

We have clarified the role of the Department of Energy to provide financial and technical assistance to States so they can more effectively fulfill their responsibilities under this legislation.

Of great interest to many Environment Committee members in section 8, which considers alternative disposal methods. In this section the NRC is to publish technical guidance for such alternatives within 12 months. This deadline, we are told by the agency, is achievable and it is consistent with the milestones in the bill. We also require that within 2 years after the date of enactment, the NRC is to identify and publish all relevant technical information for alternative methods identified by the Commission in its technical guidance.

The effectiveness of this legislation rests on its deadlines and the abilities of affected parties to meet those deadlines. We are concerned that the NRC, which has not been noted for its swiftness to date, could prevent willing States from complying with the milestones because the necessary guidance or license was not issued in time. The bill addresses this problem by requiring the Commission to establish procedures and develop the technical capability to handle license applications within 15 months of receipt. There must be a thorough and careful review of the license applications, consistent with the Commission mandate to apply the Atomic Energy Act in a manner that protects the public health and safety. The importance of this health and safety responsibility cannot be emphasized enough. At the same time, the Commission should not hide behind this banner to mask its own inefficiencies. It is these inefficiencies that the Commission should reduce wherever possible so that States can meet the deadlines contained in this legislation.

The final section of this legislation concerns what is known as "mixed waste," that is, waste that is subject to regulation both under the Atomic Energy Act and under the Solid Waste Disposal Act. As those familiar with this problem are aware, the NRC and the EPA, the two agencies involved, have been unable to reach agreement on how this or similar waste should be regulated. The regulated community has expressed fears about dual regulation while the environmental community is opposed to EPA being told to abandon its responsibilities to regulate hazardous wastes. This legislation has sunwittingly poked its finger into the fray. As a result, I believe it is fair to say that as much time was spent on this one provision as was spent discussing the rest of the bill.

While this amount of time may be out of proportion to the significance of the remainder of this legislation, it has been time well spent. The compromise we have forged on this issue is an effective one that is designed to achieve results quickly. Under section 11, the NRC and the EPA are told to review the universe of mixed waste and identify the waste, its generators and volumes. In doing so, they should consult with affected States, generators, and disposal facility operators. This first step is important because our discussions over the years have clarified how little is known about this waste, other than that its quantities do not appear to be very large.

After completing this 3-month study on the waste, the agencies are to look at each specific waste stream, such as liquid from scintillation vials, and see if they can agree if the waste can go to one or more facilities already licensed by one of the two agencies. Based on our discussions with the agencies, focus on waste streams should expedite their efforts. We found that specific questions about specific wastes often produced answers in which the two agencies' work complemented, rather than conflicted, with one another.

This process allows the Administrator and the Nuclear Regulatory Commission to review disposal—or treatment and disposal—of substances listed under subsection (a), at facilities meeting only subtitle C requirements under the Solid Waste Disposal Act or NRC requirements regarding the licensing and regulation of radioactive waste disposal. This section states that facilities disposing—or treating and disposing—of such wastes shall be deemed in compliance with the relevant provisions of both the Atomic Energy Act and subtitle C of the Solid Waste Disposal Act if the NRC and EPA jointly determine that the facility in question will achieve a level of performance "adequate to protect public health and safety and to protect human health and the environment. * * *" By referencing the substantive standards of both acts, the language contemplates that such substantive standards are to be applied as performance standards. This means, for example, that in achieving the subtitle C "protect human health and environment" standard, it may not be necessary or appropriate to apply the panoply of subtitle C statutory or regulaory requirements—such as doubleliner requirements—in this context. Likewise, it is not necessary that a facility meet all the technical standards of 10 C.F.R. part 61. In some circumstances though a RCRA standard may appear to be stricter regulation than would be the case under an AEA standard, AEA concerns relating to radioactive materials should not necessarily be overlooked or overridden. Generally speaking, the language envisions that the substantive statutory standards can be met through comparable regulatory activity, not necessarily the prescriptive means appropriate in other areas of waste management.

If there are some wastes that cannot be disposed of at a facility licensed by the NRC or the EPA under existing requirements, then the EPA is to determine what requirements, in addition to the NRC's 10 CFR Part 61 requirements for low-level waste disposal facilities, are necessary in order to meet the Solid Waste Disposal Act standard of protection of human health and the environmment. NRC is required to evaluate those additional requirements and apply those that are not inconsistent with the Atomic Energy Act. This can be done on a facility-specific basis through modification of licenses or through rulemaking. A faculty meeting these modified requirements is deemed in compliance with the Solid Waste Disposal Act requirements including the permit requirements. This applies to requirements based on the Solid Waste Disposal Act in authorized States, as well.

If there are EPA additional requirements that NRC finds cannot be applied consistently with those of the Atomic Energy Act, the NRC, as a last resort, is authorized to prohibit the disposal of the waste in a licensed low-level waste disposal facility.

This approach established a framework for expedited decisionmaking between the two agencies and eliminates the possibility of dual regulation, which has been a troublesome possibility for some. At the same time, we have assured that the standards of both the Solid Waste Disposal Act and the Atomic Energy Act so we have protected human health and the environment and the public health and safety.

I am pleased that we have developed this innovative compromise that should effectively respond to concerns raised on this issue.

In conclusion, months of negotiation have been held to reach agreement on this difficult issue of providing additional low-level waste disposal capacity. I am pleased that we have an opportunity to bring this legislation before the Senate. I am sure my colleagues will agree with me that the framework provided in this legislation is a constructive, workable solution to our low-level waste problem and I strongly urge passage of the bill.

AMENDMENT NO. 1429

Mr. THURMOND. Mr. President, I send a substitute amendment to the desk. I offer this on behalf of myself and Senators Simpson, Stafford, Bentsen, McClure, Johnston, Evans, Helms, Hart, and Domenici. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. Thurmond], for himself, Mr. Simpson, Mr. Stafford, Mr. Bentsen, Mr. McClure, Mr. Johnston, Mr. Evans, Mr. Helms, Mr. Hart, Mr. Domenici, Mr. Hollings, Mr. Hecht, Mr. Bradley, Mr. Gorton, and Mr. Goldwater, proposes an amendment numbered 1429:

(The text of the amendment appears under Amendments Submitted.)

Mr. THURMOND. Mr. President, I ask unanimous consent that Senator Hollings, Senator Hecht, Senator Bradley, Senator Gorton, and Senator Goldwater be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, today, I am offering a complete substitute to H.R. 1083, the Low-Level Radioactive Waste Policy Amendments Act of 1985. This legislation will help avert a potential nationwide crisis which would be caused by the closing of the three existing disposal facilities, located in South Carolina, Washington, and Nevada, on January 1, 1986.

In the late 1970's, these three disposal sites became responsible for the disposal of the entire Nation's low-level waste. Congress realized the inequity of this situation and passed the Low-Level Radioactive Waste Policy Act of 1980, which I was pleased to work on with several of my colleagues present here today. This act encouraged States to enter into compacts to handle this waste. As an incentive for entering such regional compacts, the 1980 act authorized compact regions whose compacts have received congressional approval to exclude out-of-region waste beginning January 1, 1986.

Unfortunately, this January 1, 1986, deadline for excluding waste will not become a reality. The sited regions were among the first to enter into regional compacts. However, most of the nonsited States did not choose to enter into compacts until several years after the 1980 act was enacted. Consequently, no new regional disposal sites will be operating by January 1, 1986. For this reason, Congress has not yet approved the seven regional compacts, involving 37 States, that have been submitted for congressional approval during this session. These compacts were referred to the Judiciary Committee, of which I am chairman, and were reported out, subject to the condition that they would not be considered on the floor until joined by suitable transition language.

On August 1, 1985, I introduced S. 1578 which will allow United States continued access to the existing regional sites through December 31, 1992—7 years—while they develop their own regional disposal facilities.

This legislation was considered by the Environment and Public Works Committee, and similar legislation was considered by the Energy and Natural Resources Committee. At this time, I would like to commend Chairman Stafford, ranking member Bentsen of Environment and Public Works, and Chairman McClure, and ranking member Johnston of Energy and Natural Resources for the careful consideration and many long hours of hard work that these committees and their staffs have put into this legislation.

I would also like to thank assistant majority leader Simpson whose expertise as chairman of the Environment and Public Works Nuclear Regulation Subcommittee on this legislation was invaluable, as well as Senator Evans of the Energy and Natural Resources Committee.

The substitute that I offered today is similar to the one that I circulated earlier this week with a Dear Colleague letter with the following major changes: a 1992 milestone requiring that a license application be filed or penalties assessed; and strengthening of the emergency access provision.

This substitute is strongly supported by the Governors of the sited States—South Carolina, Washington and Nevada.

This legislation contains the following major provisions:

First. Nonsited generators would be allowed to continue to dispose of their low-level waste at the existing disposal facilities through December 31, 1992. This means the Barnwell, SC, site will be able to close after December 31, 1992.

Second. Volume caps will be placed on the amount of low-level waste each of the three disposal sites is required to take.

Third. Nonsited regions and nonsited States will be required to meet specific milestones toward developing their own facilities. If the States do not comply with these milestones, generators will be assessed a penalty surcharge during a specified grace period. If compliance is not achieved by the end of the grace period, the generators may be denied access to the existing disposal facilities.

Fourth. An escalating surcharge will be placed on all low-level waste from nonsited regions and nonsited States.

Fifth. Surcharges will be rebated to compact commissions and States that comply with the milestones.

Sixth. States that do not have an operating disposal facility by January 1, 1996, will be required to take title to and possession of all waste generated within the State or compact region. The State or compact region shall also be liable for all consequential damages incurred by the generator due to the failure of the State to take possession of the waste as soon after January 1, 1996 as they are notified that waste is available for shipment.

I strongly urge each one of my colleagues to vote to approve this legislation. When we passed the 1980 act, Congress promised the sited States that the full responsibility for the disposal of low-level waste would not continue to fall on them after January 1, 1986. The Governors of the sited States have realized that this promise will not be kept and have agreed to keep their sites open for 7 more years. These Governors have given all they are willing to give, and they have indicated they will close their sites if this legislation is not enacted by January 1, 1986. It is time for all States to make a serious commitment to be responsible for the disposal of their own low-level waste by January 1, 1993, and for Congress to keep its promise to those States which have so far shouldered this full responsibility.

Mr. BENTSEN. Mr. President, the legislation before us represents a reasonable compromise among many interested parties, including States with existing low-level waste disposal sites, States without such sites, utility generators of waste, and the non-utility generators of low-level waste, such as hospitals. I am confident that this legislation is extremely workable and that at the end of the 7-year-transition period we will see more low-level waste disposal sites in operation.

One reason for my confidence is the example with which I am most familiar the situation in Texas. Texas is well on the way to developing its own disposal facility for low-level waste. The Federal legislation we are considering today will encourage States, including Texas, to keep moving toward the development of such a disposal facility by including a matrix of milestones with penalties, denial of access, and rebates for each of the milestones.

There has been considerable debate about these milestones. I believe the milestones included in this package represent a realistic set of goals for the States, goals States can meet, but only if the States are seriously addressing the need to develop low-level waste disposal sites on their own or in compacts.

To my knowledge, Texas is the only State that has clearly decided not to enter into the compact process in developing a low-level waste disposal facility, as the State indicated in joint hearings before the Environment and Public Works Committee and the Energy and Natural Resources Committee. The State chose to follow this course for several reasons, primary among them is that the volume of expected waste would be large enough to justify a disposal site for Texas. Most other States have not chosen this route, but I am pleased that this legislation does not preclude the "go it alone" option Texas has endorsed.

This legislation also addresses the difficult issue of what to do with above class C waste, which the States are unwilling to accept. Rather than remain silent on this possible source of "orphan" waste, we declare that such waste is a Federal responsibility and must be put in a facility licensed by the Nuclear Regulatoy Commission. The Department of Energy is to conduct a study on this waste and outline the disposal options for the Federal Government, including any new legislative authority that might be necessary to exercise any of the disposal options the DOE develops.

In sum, this low-level waste legislation corrects the shortcomings of the 1980 act, while maintaining a practical framework for encouraging States to develop additional sites of their own. I strongly support passage of this legislation and encourage my colleagues to do likewise.

Mr. STAFFORD. Mr. President, I am pleased to support the Low-Level Radioactive Waste Policy Amendments Act of 1985. Enacting this legislation this year will avoid a possible shutdown of the existing low-level radioactive waste disposal facilities on January 1, 1986. I would like to commend Senator THURMOND, the distinguished chairman of the Judiciary Committee, for his leadership on this issue.

This legislation will ultimately relieve the three existing low-level radioactive waste disposal sites from their current burden of having to take the entire Nation's low-level radioactive waste. At the same time, it will guarantee that the unsited States will have access to those facilities for the next 7 years. This is expected to be the time necessary for them to develop their own storage or disposal facilities.

I believe this bill represents a fair and equitable solution to the current problem. One part of the country should not have to bear disproportionate burdens of disposing of wastes created in another part of the country. Each State or region should bear its fair share of cleaning up or disposing of the wastes that are produced by the activities in that State or region.

A key element of this legislation is that it generally reflects the compromise between the sited and unsited States on the most appropriate way to achieve this goal. This compromise includes guarantees of access during the 7-year period, volume limitations on such waste being disposed of, milestones for the unsited States to meet in order to be entitled to access, penalties for missing the milestones, surcharges imposed on waste imported into the sited regions, and rebates of such surcharges for meeting the milestones. The compromise also contains a provision allowing emergency access to any disposal facility if the Nuclear Regulatory Commission determines that there is an immediate and serious threat to the public health and safety.

These elements to the compromise were supported overwhelmingly in the testimony before the Environment and Public Works Committee and the Energy and Natural Resources Committee. Representatives from sited States, from unsited States, from generators and environmentalists all testified that the package as a whole represented a workable and fair solution to the present problem.

In particular, however, I would like to note that the milestones in the bill are considered to be achievable by all unsited States or compact regions, and that meeting the milestones will allow the unsited States to accomplish a basic purpose of the act—for the unsited States to be able to provide for the storage or disposal of their own waste after January 1, 1993. After this date the three presently sited regions will have the right to exclude waste generated outside the region.

I would also like to point out that the bill provides the flexibility for unsited States or regions to file an application for a disposal facility even after 1990, up to January 1, 1992. The bill also provides the flexibility for unsited States or regions to obtain a license for and begin operating a permanent disposal facility after January 1, 1993, up to January 1, 1996. These elements of flexibility are necessary because States may wish to pursue disposal methods other than shallow land burial. The Nuclear Regulatory Commission projects that these additional periods of time may be necessary for States wishing to pursue such alternatives.

Nonetheless, States needing such additional time would still be required by January 1, 1990, to certify that such States or regions will be able to provide for the storage, disposal, or management of waste generated within such States or regions after January 1, 1993. The sited States or regions would be able to exclude waste after January 1, 1993, but the unsited States or regions would not be penalized because they needed additional time to provide for the disposal, rather than the storage, of their own waste. The bill therefore accommodates both the interests of the sited regions and the unsited regions.

Mr. President, to date approximately 37 States have entered into compacts. I hope that the remainder of the States will follow soon. I have been impressed with the remarkable spirit among the States of compromise, cooperation, and consensus that has been evident during the consideration of this difficult national issue. I am confident that as this spirit continues the States will easily achieve the goals and purposes of this legislation.

I would like to commend Senator SIMPSON, the distinguished chairman of the Subcommittee on Nuclear Regulation of the Environment Committee, for his leadership and efforts in transforming this consensus into the bill that we are considering today. I also urge my distinguished colleagues to consider and vote for this legislation in the same spirit that was responsible for bringing this process as far along as it is today. This concludes my statement. Thank you, Mr. President.

Mr. HOLLINGS. Mr. President, I urge my colleagues to vote for the compromise low-level nuclear waste bill now before the Senate. I also urge them to vote for related legislation ratifying the regional nuclear waste compacts. To avoid a major crisis over low-level radioactive wastes, we must act now. The time available for discussion has run out.

The simple fact is this: If Congress does not pass this compromise bill soon, Governor Riley will take steps to shut off access to the nuclear waste burial facility in South Carolina. The Governors of Washington State and Nevada, the other two States with burial grounds, will do the same. Our three States will no longer indefinitely accept waste from other regions of the country. We want to carry through with the policy that Congress adopted in 1980—the principle that every State and every region is responsible for handling its own low-level nuclear wastes.

That 1980 law, the Low-Level Radioactive Waste Policy Act, encouraged the States to form regional compacts and provided that any region with a congressionally approved compact could stop accepting out-of-region waste after January 1, 1986. Frankly, I strongly believe this provision should have been implemented by now. After all, States have had more than 5 years to comply with this provision. Unfortunately, many States have failed to build their own disposal facilities. Rather, many have sought to block the compacts developed by the three States with sites until we three agreed to accept out-of-region waste past 1986.

I didn't like that position when I first heard it, and I do not like it now. The citizens of South Carolina resent it deeply. Last January, our Governor announced that he would shut our facility, if necessary, unless this issue were resolved in a form acceptable to South Carolina. I and every other member of the South Carolina congressional delegation supported him. But Governor Riley also went the extra mile, and said that he would hold good-faith discussions with those of the country that lack disposal capacity.

The bill now before the Senate is the result of those discussions. It does not give the three sited States everything we would like. In fact, it is only barely acceptable. But it protects South Carolina's most important interests, and we will support it. The legislation gives the regions without sites continued access to our three waste facilities, in return for surcharges and, most importantly, a strict schedule by which other States must build their own facilities. The last point is crucial. We don't want this whole issue to resurface again in another few years.

Mr. President, a great many people in and out of the Senate worked long and hard to hammer out this compromise. I want to thank them and compliment them for their efforts to resolve a complex and very difficult issue. I want to thank Senators JOHNSTON, EVANS, and McCLURE from the Energy Committee, and Senators SIMPSON, STAFFORD, and BENTSEN from the Environment and Public Works Committee. My distinguished colleagues from the Judiciary Committee, Senators THURMOND and BIDEN, did a great deal to move the process forward. Congressman UDALL and his colleagues worked very hard on the House side. I want to thank Patrick Windham and other members of my staff. I particularly want to compliment Gov. Richard Riley and his staff. Without Dick's leadership, we would not have a bill before us today.

Governor Riley and others have led the way on this issue. Now it is time for us in the Congress to finish the business at hand and prevent our differences on low-level nuclear waste from turning into a major confrontation.

Mr. BRADLEY. Mr. President, it is with great pleasure that I rise to support the low-level radioactive waste transition bill that is before us today. I urge my colleagues on both sides of the aisle to approve this important legislation.

Today, Mr. President, South Carolina, Washington, and Nevada contain the only active disposal sites for civilian low-level radioactive wastes. The wastes include rags, paper, protective clothing, and other trash from industry; radiopharmaceuticals and lab equipment from hospitals; and used filters and reactor parts with relatively low levels of radioactivity. These operations mostly escaped public attention until 1979, until the Governors of Washington and Nevada temporarily shut down the disposal sites in their States. About the same time, the Barnwell, SC, disposal area began to limit the amount and type of waste it would accept. Hospitals, medical research facilities, universities, and industries were severely affected by the shutdowns. These institutions have the physical ability and legal authority to store only small amounts of radioactive waste and would have had to halt all work in nuclear medicine and nuclear related research and industry if the disposal sites were closed for any length of time. The crisis eased when the Western States were persuaded to reopen their disposal sites. But those States have served notice that they will not continue to be the country's dumping grounds indefinitely.

In response Congress passed the Low-Level Radioactive Waste Policy Act of 1980. This legislation made each State responsible for providing for the disposal of low-level waste generated within its borders. The act was designed to encourage States to form regional compacts that would cooperatively plan and operate low-level waste disposal sites, thereby more equitably allocating the economic and political costs now borne alone by the States of Nevada, Washington, and South Carolina.

Since passage of the 1980 act, seven regional compacts have been established and presented to Congress for ratification. Included in this group is the Northeast compact in which my State, New Jersey, is a party. These compacts represent 37 States. However, because a number of States have so far failed to enter into compacts, and furthermore, no States have developed new disposal facilities to date, the future of low-level waste disposal is in jeopardy under the current law.

Legislation is clearly needed for the purpose of preventing a nationwide crisis in low-level radioactive waste disposal. The failure to achieve the intended result of the 1980 act can be largely attributed to the act's lack of clearly defined incentives and penalties that would induce the establishment of new disposal capacity within the nonsited compact regions. Thus, the selection of appropriate incentives and penalties with respect to new disposal-site development is an essential element of any solution to the serious problem now facing the States in the unsited regions.

Mr. President, the Energy and Natural Resources Committee and the Environment and Public Works Committee have worked together to produce a low-level radioactive waste management bill with meaningful penalties and incentives. The bill fairly represents all sides of the low-level radioactive waste disposal issue.

Mr. President, passage of the low-level radioactive waste transition bill and ratification of the compacts currently before Congress is the first important step in establishing a cooperative regional low-level waste disposal system. It is imperative that we act quickly so that the low-level waste can be safely disposed of in the future thereby assuring the health and safety of the citizens of our States.

Mr. President, I would like to take this opportunity to thank Senators McCLURE and JOHNSTON and the staff of the Energy and Natural Resources Committee, along with Senators STAFFORD and BENTSEN and the staff of the Environment and Public Works Committee. My colleagues and their committee's staffs have worked diligently and thoughtfully in preparing this legislation. The final product of their labors is a bill that fairly represents all sides of the low-level radioactive waste disposal issue.

Mr. President, when this legislation was in the Energy and Natural Resources Committee, I raised objections about the penalties for missed milestones and the associated emergency access provision. I fully support the need for meaningful penalties and incentives to ensure that low-level waste sites will be developed. However, I objected to placing the decision to grant emergency access and total control over the terms and conditions of that access in the hands of the currently sited States' Governors.

Mr. President, I appreciate the commitment of Senator McCLURE, the chairman of the Energy and Natural Resources Committee, and Senator JOHNSTON, the ranking member, to explore the problems that I raised. These issues are very important to States such as New Jersey, which have entered into regional compacts to manage the disposal of low-level radioactive waste, as well as States which have not.

Mr. President, the bill before us today reflects the hard work of my colleagues on both sides of the aisle. I appreciate the efforts of the chairmen of both Senate committees involved and their staffs to produce low-level radioactive waste management legislation with meaningful penalties and incentives and a fair emergency access provision. I urge my fellow Senators to accept this legislation.

Mr. LEAHY. Mr. President, I have a concern which I would like to raise with my colleagues from the States that are parties to the Northeast low-level radioactive waste compact.

As originally introduced by Senator Bradley, a sentence of the compact that had been ratified by the four party States was omitted. At the December 4, 1985, Judiciary Committee markup of this bill, Senator Mathias introduced an amendment which reinserted that language into the compact. The amendment was passed by the committee. Senator Simpson and I expressed reservations about the constitutionality of the language at that time, and I want to review those concerns now with my colleagues to be certain that they share my understanding of the limited purpose and effect of that language.

It would require the D.C. Circuit Court of Appeals to act within 90 days on a petition for review of a decision by the Northeast Interstate Low-Level Radioactive Waste Commission. If the court failed to do so, the Commission's decision, relative to the designation of a host State, would be deemed to be affirmed.

I am concerned about the part of the language which states "the Commisson's decision shall be deemed to be affirmed." Can Senators tell me what they understand that to mean?

Mr. MATHIAS. Yes. My understanding of the meaning of "shall be deemed to be affirmed" is that it shall be as if the court of appeals never acted on the appeal. The failure of the court to act within the 90 days would be the same as an affirmance in the limited sense that the Commission's decision would remain unchanged. But it would not be the same as an affirmance in the sense that it would not be a judgment by the court of appeals. The failure by the court to act could not be construed to be a ruling by the court on any issue in the case.

Mr. LEAHY. So the failure by the court to act on the appeal would have no precedential value of any kind?

Mr. MATHIAS. That is correct. It would not.

Mr. LEAHY. Would the Senator agree that if "the Commission's decision shall be deemed to be affirmed" was intended to mean "the court's failure to act shall be deemed to be a judgment on the merits upholding the Commission's decision," the amendment would violate the Constitution? That is what the Justice Department concluded in its memorandum on this queston. The Department concluded that such an interpretation would represent an unconstitutional exercise of the judicial function by the legislative branch.

Mr. MATHIAS. Yes. In my opinion, that would be unconstitutional. In that case the language would also violate the provisions of the congressional transition legislation, as amended. The language would thus be of no effect. But under the severability clause contained in article X of the compact, a court could strike the language and the rest of the compact would remain in effect.

"(S)hall be deemed to be affirmed" means only that the case would be ripe for review by the Supreme Court, if the aggrieved party chose to file for Review. The Supreme Court would then have within its inherent powers the right to remand the case to the court of appeals for a decision of the merits, or it could rule on the appeal itself.

Mr. President, I would also like to add that the premise of the Department of Justice letter's footnote 4 is incorrect. While I have no quarrel with the conclusions Justice has drawn, they are mistaken in assuming that this language was not a part of the compact negotiated and enacted by the States. It is for this reason that I felt constrained to offer the amendment including this language in the Judiciary Committee. In addition, I requested an analysis of the language to be prepared by the Congressional Research Service of the Library of Congress, and I ask unanimous consent that it also be included in the Record at the conclusion of this colloquy.

Mr. LEAHY. Then am I right that this language was simply intended to expedite the process for appealing a decision of the Commission to the Supreme Court? It would not limit in any way the substantive juridiction of the court of appeals, nor in any way affect the right of an aggrieved party to appeal a decision of the Commission?

Mr. MATHIAS. Yes. That is my understanding and I believe I speak for my colleagues from New Jersey as well. This is in the nature of a housekeeping measure. It would expedite these appeals and nothing more. It does not in any way narrow the jurisdiction of the court of appeals. In fact, if that were its purpose, I believe it would violate the Constitution.

All that this language says is that if the court of appeals does not act within 90 days, the Commission's decision will continue in effect. If the aggrieved party chooses to appeal to the Supreme Court, he may do so.

Mr. BRADLEY. That is also my understanding.

Mr. LEAHY. So I am correct that this language would have no effect on the right or scope of Federal review of the Commission's decision.

Mr. LAUTENBERG. The Senator is correct. I share the Senator's concerns about measures which would seek to restrict the substantive jurisdiction of the Federal courts. We would not support this language if it would in any way affect the right or scope of Federal review. This language is only intended to expedite these appeals.

Mr. BRADLEY. I am in complete agreement with Senators Mathias and Lautenberg.

Mr. LEAHY. I thank the Senators. Mr. President, I would have preferred it if the language contained in the amendment adopted by the Judiciary Committee had not been ratified by the States that are parties to this compact. At worst it is unconstitutional. At best it is confusing.

Although I would not support it myself, I believe that rather than delete this section and thereby require the States to repeat the lengthy ratification process, it is best to pass this legislation together with the judicial review amendment to the congressional transition legislation offered by the Senator from South Carolina. Assuming the judicial review language in the Northeast compact is ruled to violate the congressional transition legislation, as amended, or to be unconstitutional, it can be severed without affecting the compact as a whole. In my opinion, that would be the best result.

I ask unanimous consent that the opinion of the Department of Justice concerning the constitutionality of this provision be printed in the Record at this point.

There being no objection, the material was ordered to be printed in the Record, as follows:

U.S. Department of Justice,
Office of Legislative and Intergovernmental Affairs,
Washington, DC, December 16, 1985.

Hon. Strom Thurmond,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

Dear Mr. Chairman: This responds to your request for our review of the constitutionality of a proposed amendment to the judicial review provisions of S. 1798, a bill "[t]o grant the consent of the Senate to the Northeast Interstate Low-Level Radioactive Waste Management Compact." The amendment would set a 90-day time limit for judicial review of certain administrative decisions made by the Commission established under the Compact, and would mandate that the decision of the Commission be "deemed affirmed" if the court did not rule within that time. As we discuss below, the proposed amendment raises serious constitutional problems.

The purpose of S. 1798 is to grant the consent of Congress pursuant to the Compact Clause of the Constitution, Art. I, sec. 10, cl. 3,[1] and section 4(a)(2) of the Low-Level Radioactive Waste Policy Act, 42 U.S.C. 2021d(2), to the Northeast Interstate Low-Level Radioactive Waste Management Compact. The Compact, which was negotiated by Connecticut, New Jersey, Delaware, and Maryland, implements a regional approach to the management and disposal of low-level radioactive waste by providing a mechanism for establishment of regional waste disposal facilities and by granting to party states the right to deposit wastes at those facilities. The Compact establishes the Northeast Interstate Low-Level Radioactive Waste Commission ("Commission"), composed of members appointed by the party states. Among other responsibilities, the Commission may designate "host states" that must establish regional disposal facilities to accept wastes generated by other party states, if the states fail to pursue voluntarily the development of such facilities. Art. IV(i)(9).[2]

The Compact establishes jurisdiction in the federal courts for suits arising from actions of the Commission. Jurisdiction is provided in the United States District Court for the District of Columbia for "all actions brought by or against the Commission." Any actions initiated in a state court "shall be removed" to the federal court. Art. IV(n). In addition, the United States Court of Appeals for the District of Columbia Circuit is given jurisdiction "to review the final administrative decisions of the Commission." Art. IV(o).[3] Persons aggrieved by a final administrative decision of the Commission may obtain review of the decision by filing a petition for review within 60 days after the Commission's final decision. Art. IV(o)(1). On review, the court of appeals is precluded from substituting its judgment for that of the Commission "as to the decisions of policy or weight of the evidence on questions of fact," but may remand the case for further proceedings if it finds that the petitioner has been aggrieved because the finding, inferences, conclusions or decisions of the Commission are: (a) in violation of the Constitution of the United States; (b) in excess of the authority granted to the Commission under the Compact; (c) procedurally defective "to the detriment of any person;" or (d) arbitrary, capricious, or an abuse or clearly unwarranted exercise of discretion. Art. IV(o)(3).

As drafted, the Compact provides that the court of appeals "shall accord . . . an expedited review" to any Commission decision "relative to the designation of a host state." Art. IV(o)(2). The proposed amendment you have asked us to review would expand on the requirement for expedited review, by providing as follows:

"[I]f the Court does not rule within 90 days after a petition for review has been filed, the Commission's decision shall be deemed to be affirmed."

We assume that the purpose of this amendment is to insure that the court of appeals will expeditiously consider and rule on the designation of host states responsible for construction and operation of regional disposal facilities, so that the construction of such facilities can proceed as promptly as possible.[4] The effect of this amendment would be to establish an outside limit of 150 days (60 days for filing the petition for review and 90 days for the court's ruling) from the time of the Commission's determination to the end of review by the court of appeals. The amendment, however, would not just limit the time available to the court of appeals to rule on a petition for review; it would also effectively "affirm" any designation decision of the Commission not ruled on by the court within that time, regardless whether the court had in fact reviewed the petition and determined that affirmance was warranted under the standards set out in the Compact.

To our knowledge, this provision is virtually unprecedented. We are not aware of any comparable provision in statutes authorizing judicial review of administrative actions. The closest analogy we have found is the Speedy Trial Act, 18 U.S.C. 3161 *et seq.*, which requires that federal criminal defendants be charged and tried within certain time limits.[5] If the time limits are not met, the charges against the defendant must be dismissed by the court, either with or without prejudice.[6] The constitutionality of the Speedy Trial Act was upheld by the United States Court of Appeals for the Fourth Circuit in *United States v. Brainer*, 691 F.2d 691 (1982).[7] As discussed below, however, we believe that the purpose and effect of the Speedy Trial Act differ significantly from the purpose and effect of the proposed amendment, and therefore that the Brainer decision does not answer satisfactorily the difficult constitutional questions presented by the amendment.

Our primary concern is that the proposed amendment would violate the constitutionally mandated separation of powers between the Legislative and Judicial Branches. "Basic to the constitutional structure established by the Framers was their recognition that '[t]he accumulation of all powers, legislative, executive, and judiciary, in the same hands . . . may justly be pronounced the very definition of tyranny.'" *Northern Pipeline Co. v. Marathon Pipe Line Co.*, 458 U.S. 50, 57 (1982), quoting *The Federalist No. 47*, at 300 (H. Lodge ed. 1888) (J. Madison). Accordingly, "[t]he Constitution sought to divide the delegated powers of the new Federal Government into three defined categories, Legislative, Executive, and Judicial, to assure as nearly as possible, that each branch of government would confine itself to its assigned responsibility." *INS v. Chadha*, 462 U.S. 919, 951 (1983); *See also Buckley v. Valeo*, 424 U.S. 1, 122 (1976). "The hydraulic pressure inherent within each of the separate Branches to exceed the outer limits of its power, even to accomplish desirable objectives, must be resisted." *INS v. Chadha*, 462 U.S. at 951.

The Constitution vests all federal judicial power "in one supreme Court and in such inferior Courts as the Congress may from time to time ordain and establish." Art. III, sec. 1. "[O]ur Constitution unambiguously enunciates a fundamental principle—that the 'judicial Power of the United States' must be reposed in an independent Judiciary." *Northern Pipeline Co. v. Marathon Pipe Line Co.*, 458 U.S. at 60. As Hamilton stated in *The Federalist No. 78* at 466 (C. Rossitor ed. 1961) (citation omitted), it is necessary for the Judiciary to remain "truly distinct from the Legislature and the Executive. For I agree that 'there is no liberty, if the power of judging be not separated from the legislative and executive powers.'" Thus, it is a violation of the separation of powers for the Legislative and Executive Branches to exercise judicial power, just as it is unconstitutional for the Judiciary to engage in lawmaking or executive functions.

The core of the judicial power, which the Legislative and Executive Branches may not invade, it is the rendering of decisions in court cases, *i.e.*, the "application of principles of law or equity of [the] facts" of a particular case. *Vermont* v. *New York*, 417 U.S. 270, 277 (1974); *see also Williams* v. *United States*, 289 U.S. 553, 578 (1933); *United States* v. *Klein*, 80 U.S. (13 Wall) 128 (1872); *Murray's Lessee* v. *Hoboken Land & Improvement Co.*, 59 U.S. (18 How.) 272, 284 (1856). To be sure, Congress has the constitutional authority to enact laws establishing the framework within which judicial decisions must be made. Congress has broad authority to prescribe rules of practice and procedure,[8] to define and limit jurisdiction,[9] and to limit remedies available to litigants.[10] In addition, Congress prescribes the substantive law that governs court decisions.[11] But once that framework has been established, only the courts can render the actual decision.

Separation of powers questions regarding the exercise of the judicial power have frequently arisen in other contexts, such as cases concerning the powers of non-Article III courts. *See Northern Pipeline Co.* v. *Marathon Pipeline Co.*, 458 U.S. at 63–76. The amendment discussed here, however, presents a different—and as we have said, a virtually unique—separation of powers question. Under the proposed amendment, if the court of appeals failed to rule on a petition for review within the prescribed time limit, the Commission's decision would "be deemed to be affirmed." Such an affirmance would be tantamount to a judgment of the court of appeals and would accordingly have a legal status very different from a mere decision of the Commission.[12] Such an affirmance would plainly represent an exercise of the core judicial function of deciding cases. However, it would derive, not from any action taken by the Judiciary, but from an automatic decision-making mechanism created by legislative enactment. Therefore, by enacting this amendment, Congress would in effect be creating a mechanical substitute to do the work of the court of appeals. Because of the novelty of the proposed amendment and the consequent lack of judicial authority addressing the constitutionality of such measures, any judgment about the constitutionality of the proposed amendment must proceed from first principles relating to the separation of powers. Nevertheless, we believe that this measure would be unconstitutional.

We do not believe our conclusion is inconsistent with the Fourth Circuit's decision in *United States* v. *Brainer, supra*, holding that the time constraints and dismissal sanction of the Speedy Trial Act do not violate the separation of powers. The *Brainer* court assumed (691 F.2d at 695) that "the application of existing law to the facts of a case properly before the courts is a judicial function which the legislature may not constitutionally usurp." But the court analogized the challenged provisions of the Speedy Trial Act to "the host of other procedural requirements of unquestioned validity by which Congress regulates the courts of its creation—such measures as the Federal Rules of Civil procedure, the Federal Rules of Criminal Procedure, the Federal Rules of Appellate Procedure, the Federal Rules of Evidence, and statutes prescribing who may sue and where and for what." 691 F.2d at 696. The court added that "[s]tatutes of limitation provide perhaps the closest analogy." *Ibid.*

Whatever the merits of these inexact analogies may be in the context of the Speedy Trial Act, they have no force here. For example, we see no meaningful comparison for separation of powers purposes between a statute of limitations, which bars a party from bringing suit after the passage of a specified period of time, and the proposed amendment, which may result in the rendering by extra-judicial means of a decision in a case that is properly before the court of appeals. A statute of limitations, unlike the proposed amendment, does not create an automatic decision-making mechanism to take the place of a court. A better rationale for the result in *Brainer* is that mandatory dismissal under the Speedy Trial

Act is necessary to remedy a violation of the criminal defendant's statutory right to a speedy trial—a right that has roots in the Sixth Amendment and that plays an important role in safeguarding the accuracy of the trial process. As the Supreme Court has recognized in cases involving the Sixth Amendment speedy trial guaranty, dismissal of the action is really "the only possible remedy" for deprivation of a right to a speedy trial. *See Strunk v. United States,* 412 U.S. 434, 438-40 (1973); *Barker v. Wingo,* 407 U.S. 514, 531 (1972).[13] The proposed amendment, by contrast, does not appear to be designed to protect any particular substantive right (let alone any constitutional right), for it mandates an automatic affirmance of the Commission no matter what the Commission has decided. Although the proposed amendment demonstrates Congress' desire to have an expeditious review of the Commission's designation decisions, affirmance of such decisions cannot be viewed in any sense as a "remedy" to redress injury to other parties from delay in completion of judicial review. It is not at all clear, for example, that parties who support the Commission's decision would necessarily be injured by any further delay in review, or that affirmance of the decision would alleviate any such injury.

Moreover, under the Speedy Trial Act the court has discretion to dismiss the case either with or without prejudice, based on the court's evaluation of the reasons for and effect of the delay in the particular case. The choice whether to give the dismissal preclusive effect is therefore left to the courts, and requires the courts to conduct the sort of factfinding that is at the core of the judicial function. No such latitude is given the court of appeals under the proposed amendment; regardless of the circumstances and the merits of the petition for review, the Commission's decision is automatically deemed to be affirmed once the 90-day period has run.

In *Brainer* the court also considered a separate constitutional challenge to the Speedy Trial Act based on the time limits imposed by the Act—that those time limits, in and of themselves, "intrude upon the zone of judicial self-administration to such a degree as to 'prevent[] the [Judiciary] from accomplishing its constitutionally assigned functions.'" 691 F.2d at 698, *quoting Nixon v. Administrator of General Services,* 433 U.S. 425, 443 (1977). While expressing some doubt about the existence and scope of the Judiciary's inherent power to administer its own docket, the court concluded that the Speedy Trial Act did not unduly intrude upon that power. 691 F.2d at 698. In reaching that conclusion, however, the court cited the considerable flexibility provided by the Act, including the ability of the courts to dismiss an action without prejudice, exclusion of certain common types of delay from the time limit, and the authority of the courts to grant continuances, upon certain conditions, if "the end of justice . . . outweigh the best interests of the public and the defendant in a speedy trial." *Ibid.*

There is no such flexibility built into the proposed amendment. Moreover, it may well be unreasonable in particular cases to require that the entire process of appellate decisionmaking be completed within 90 days. Ninety days is less than the time generally allowed under the Federal Rules of Appellate Procedure just for briefing a case.[14] We note that at the present time in the District of Columbia Circuit the average case is not decided until almost seven months after the last brief is filed in the case.[15]

We do not believe that statutes prescribing a time limit for judicial decisions in particular types of cases are necessarily unconstitutional. *See, e.g.,* 28 U.S.C. 1826(c) (30-day limit for disposition of appeals under the recalcitrant witness statute).[16] As the court noted in *Brainer,* the separation of powers inquiry must focus on the extent to which such time limits actually prevent the Judiciary from accomplishing its constitutionally assigned functions, and the justification for legislative intervention.[17] Without knowing how the time limit in question here would affect the ability of the District of Columbia Circuit to conduct its business, and without additional information about the need for and purpose of the proposed amendment, we cannot predict how that balance would be struck.

In sum, we believe that the proposed amendment raises serious constitutional problems, arising from the doctrine of separation of powers. The most critical of those problems—that Congress would usurp the Judiciary's role in determining the outcome of particular cases—could be alleviated by deleting from the amendment the provision that the Commission's decision "shall be deemed to be affirmed."

We trust that this analysis has been useful to you. Please let us know if we can be of further assistance.

Sincerely,

PHILLIP D. BRADY,
Acting Assistant Attorney General.

FOOTNOTES

[1] The Compact Clause provides that, "[n]o State shall, without the consent of Congress, . . . enter into any Agreement or Compact with another State."

[2] The Commission also would exercise several other responsibilities, including approving the export or import of hazardous wastes not otherwise permissible under the Compact, accepting applications of other states to become members of the Compact, adopting a regional management plan for the disposal of low-level radioactive wastes, and overseeing implementation of the Compact. The Commission is given authority to hold hearings and to require testimony or other information from the party states, to intervene in judicial or administrative proceedings, and to impose sanctions on party states for violation of the Compact, including revocation of membership.

[3] The Compact does not define "final administrative decisions"; nor does it state expressly that jurisdiction in the court of appeals to review such decisions is exclusive of the district court jurisdiction to review "all actions brought by or against the Commission." It does state, however, that the provision granting jurisdiction to the district courts "shall not alter the jurisdiction of the United States Court of Appeals for the District of Columbia Circuit to review the final administrative decisions of the Commission . . . ." Art. IV(n).

[4] Because the Compact negotiated by the states does not include this provision, the proposed amendment would in effect be a condition imposed by Congress on its consent to the Compact. Congress may attach binding conditions to its consent to the formation of an interstate compact, provided such conditions are otherwise within Congress's authority and not in contravention of any constitutional limits. *See, e.g., Petty v. Tennessee—Missouri Commission,* 359 U.S. 275 (1952); *Tobin v. United States,* 306 F.2d 270 (D.C. Cir. 1962), *cert. denied,* 371 U.S. 902 (1963). A state that objects to such conditions may, of course, withdraw from an interstate compact in accordance with its terms.

[5] The Speedy Trial Act requires, *inter alia,* that any information or indictment charging an individual with an offense be filed within 30 days from the date of arrest, and that the trial be commenced within 70 days of the filing date of the information or indictment. 18 U.S.C. 3161(a), (b), (c). The statute excludes from the computation of time several types of delay, including delays resulting from other proceedings concerning the defendant; delays during which prosecution is deferred by agreement with the defendant; delays resulting from the absence or unavailability of the defendant or an essential witness; delays resulting from the mental incompetence or physical inability of the defendant to stand trial; delays resulting from the treatment of the defendant under 28 U.S.C. 2902; delays occasioned by the joinder of the defendant with a codefendant as to whom the time for trial has not run; and delays resulting from a continuance granted by any judge "if the judge granted such continuance on the basis of his findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial." 18 U.S.C. 3161(h).

[6] In determining whether to dismiss with or without prejudice, the judge must consider three factors: the seriousness of the offense; the facts and circumstances of the case which led to the dismissal; and the impact of a reprosecution on the administration of the Speedy Trial Act and on the administration of justice. 18 U.S.C. 3162(a)(2).

[7] *Cf. United States v. Bounos,* 730 F.2d 468, 471 & n.2 (7th Cir. 1984) (court need not reach issue).

[8] *See, e.g., Hanna v. Plumer,* 380 U.S. 460, 472 (1965); *Palermo v. United States,* 360 U.S. 343, 353 n.11 (1959); *Sibbach v. Wilson & Co.,* 312 U.S. 1, 9 (1941); *Wayman v. Southard,* 23 U.S. (10 Wheat.) 1, 43 (1825).

[9] *See e.g., Sheldon v. Sill,* 49 U.S. (8 How.) 441 (1850); *Cary v. Curtis,* 44 U.S. (3 How.) 236 (1845).

[10] *See e.g., Yakus v. United States,* 321 U.S. 414 (1944); *Lauf v. E.G. Shinner & Co.,* 303 U.S. 323, 330 (1938); *Lockerty v. Phillips,* 319 U.S. 182 (1943);

[11] *Sec, e.g., Vandenbark v. Owens-Illinois Glass Co.,* 311 U.S. 538 (1941); *Carpenter v. Wabash Ry.,* 309 U.S. 23 (1940); *United States v. The Schooner Peggy,* 5 U.S. (1 Cranch) 102 (1801).

[12] In general, an affirmance by the court of appeals of a final administrative decision would bar relitigation of the same claims, under the doctrines of res judicata and collateral estoppel. Because of the preclusive effect of an "affirmance," it is possible that an individual who had sought judicial review could mount a due process challenge to the judicial review provisions. Congress may, of course, preclude or limit judicial review in cases involving statutory rights. *See, e.g., Morris v. Gressette,* 432 U.S. 491 (1977); *Johnson v. Robison,* 415 U.S. 361 (1974); *Weinberger v. Salfi,* 422 U.S. 749, 761-2 (1975); *See generally Abbott Laboratories v. Gardner,* 387 U.S. 136, 140 (1967). An absolute bar against judicial review of constitutional claims, however, raises difficult constitutional questions that have not been fully resolved by the Supreme Court. *See, e.g., Weinberger v. Salfi,* 422 U.S. at 762 (an interpretation that absolutely precluded review of constitutional claims "would have raised a serious constitutional question of the validity of the statute"); *Briscoe v. Bell,* 432 U.S. 404, 414-15 (1977) (absolute preclusion of judicial review of Attorney General's determination under the Voting Rights Act upheld as within Congress's specific power to enforce the 14th and 15th Amendments). Although Congress could therefore preclude any judicial review of Commission determinations, leaving to the original jurisdiction of the district courts constitutional challenges to such determinations, the effect of an "affirmance" under the terms of the proposed amendment could well be to cut off the individual's right to litigate constitutional issues, because of the operation of res judicata.

[13] In *Strunk,* the Court explained, 412 U.S. at 438-40 (citations omitted): "[b]y definition, such denial is unlike some of the other guarantees of the Sixth Amendment. For example, failure to afford a public trial, an impartial jury, notice of charges, or compulsory service can ordinarily be cured by providing those guaranteed rights in a new trial. The speedy trial guarantee recognizes that a prolonged delay may subject the accused to an emotional stress that can be presumed to result in the ordinary person from uncertainties in the prospect of facing public trial or of receving a sentence longer than, or consecutive to, the one he is presently serving—uncertainties that a prompt trial removes . . . In light of the policies which underlie the right to a speedy trial, dismissal must remain, as *Barker* noted, 'the only possible remedy.'"

[14] Under the Appellate Rules, the record must be filed within 40 days after service of the petition for review; the appellant must file his brief within 40 days after filing of the record; the appellee must file his brief within 30 days after service of the appellant's brief; and the appellant has 14 days after service of the appellee's brief to file a reply. Fed. R. App. P. 17, 31.

[15] The Administrative Office of the United States Courts has informed us that as of June 1985, the

average time in the D.C. Circuit from filing of the last brief to hearing or submission is 4.5 months, and the average time from hearing or submission to final disposition is 2.4 months.

[16] "The circuits are in general agreement that the passing of the 30-day period does not deprive an appellate court of jurisdiction." *United States v. Johnson*, 736 F.2d 358, 362 n.5 (6th Cir. 1984). *See also, e.g., In re Grand Jury Proceedings*, No. 85-6258 (2d Cir. Nov. 14, 1985), slip op. 251; *Melickian v. United States*, 547 F.2d 416-420 (8th Cir.), *cert. denied*, 430 U.S. 986 (1977). *But see In re Berry*, 521 F.2d 179, 181 (10th Cir.), *cert. denied*, 423 U.S. 928 (1975) (dictum that 30-day rule is mandatory).

[17] The *Brainer* court stated (691 F.2d at 697-98, *quoting Nixon v. Administrator of General Services*, 433 U.S. 425, 443 (1977)), that "[i]n determining whether the Speedy Trial Act disrupts the constitutional balance between Congress and the courts, 'the proper inquiry focuses on the extent to which [the Act] prevents the [Judiciary] from accomplishing its constitutionally assigned functions.' A considerable degree of congressional intervention in judicial administration is constitutionally permissible if such intervention is 'justified by an overriding need to promote objectives within the constitutional authority of Congress.' "

Congressional Research Service,
The Library of Congress,
Washington, DC, December 12, 1985.

To: Senator Charles Mc. Mathias, Attention: Eileen Mayer.

From: American Law Division.

Subject: Judicial Review of Host State Designation Decisions Made by the Northeast Interstate Low-Level Radioactive Waste Management Compact Commission.

This will respond to your inquiry and our conversation relating to various legal issues concerning the judicial review of host state designation decisions made by the Northeast Interstate Low-Level Radioactive Waste Management Compact Commission. Of specific concern to you are provisions contained in S. 1798, as recently reported by the Senate Committee on the Judiciary.

We understand that the text of S. 1798, as introduced, did not contain language adopted by the legislatures of the participating states relating to the automatic affirmation of the regional commission if the U.S. Court of Appeals for the District of Columbia failed to rule on appeal within ninety days. Specifically, the entire provision of concern reads as follows:

"The United States Court of Appeals for the District of Columbia Circuit shall have jurisdiction to review the final administrative decisions of the Commission.

"1. Any person aggrieved by a final administrative decision may obtain review of the decision by filing a petition for review within 90 days after the Commission's final decision.

"2. In the event that review is sought of the Commission's decision relative to the designation of a host state, the Court of Appeals shall accord the matter an expedited review, *and, if the Court does not rule within 90 days after a petition for review has been filed, the Commission's decision shall be deemed to be affirmed.*" (Italics added.)

The underlined portion of the excerpt is the provision at issue and is the language added to S. 1798 during committee mark-up. The legislatures of the four states participating in the compact have already passed legislation containing the text of the foregoing provision—including the underlined portion.[1] We also note that the companion bill in the House of Representatives contained the text of the foregoing provision, including the underlined portion, in the H.R. 3372, as introduced.

Apparently the reason the underlined language was not included in S. 1798, as introduced, was because of concerns about the constitutional implications of the language. However, the language was restored apparently because of the perceived need for Congress to give its full approval of the same language already adopted by the four states.

You have asked that we address the constitutional implications of the underlined language.

JURISDICTIONAL ISSUES

The provision limiting the amount to time the Court Appeals has to review the regional commission decision before the decision is automatically deemed to be affirmed might be reviewed as jurisdictional. That is to say that the provision could be viewed as granting limited jurisdiction to the Court of Appeals for a ninety day period, after which the Court of Appeals would no longer have jurisdiction to review the regional commission decision.

Characterized in this fashion, the provision raises the question of the extent to which Congress may limit or restrict the jurisdiction of federal courts. Historically, this question has been raised on several occasions,[2] and question of Congressional jurisdictional limitations also have been raised in various contemporary legislative initiatives.[3] Inferior federal courts owe their creation to the Congress and several early cases are often cited in support of the proposition that Congress possesses the power to limit their jurisdiction.[4] Nevertheless, Congress' ability to restrict jurisdiction has not been viewed as unrestrained. For example, in *United States v. Klein*,[5] the Supreme Court of the United States struck down a statutory limitation of jurisdiction relating to proof of loyalty. While reaffirming the authority of Congress to control inferior courts, the Supreme Court concluded that Congress could not accomplish certain forbidden substantive acts by casting them in jurisdictional terms.

Thus, in general terms the precise limits on the power of Congress to define Federal court jurisdiction are difficult to identify. One summary makes this observation:

"There thus remains a measure of doubt that Congress' power over the Federal courts is as plenary as some of the Court's language suggests it is. Congress has a vast amount of discretion in conferring and withdrawing and structuring the original and appellate jurisdiction of the inferior federal courts and the appelate jurisdiction of the Supreme Court; so much is clear from the practice since 1789 and the holdings of many Court decisions. That its power extends to accomplishing by means of its control over jurisdiction action which it could not do directly by substantive enactment is by no means clear from the text of the Constitution nor from the cases."[6]

It does not appear that courts have ever been called upon to address a jurisdictional limitation of the sort at issue here, where the jurisdiction of a court would be withdrawn by operation of a statutory deadline for a ruling by the Court. As a consequence, a definitive statement with regard to the constitutionality of such a legislative restriction cannot be made.

Certainly, Congress has enacted, utilizing many variations of language, numerous expedited judicial review provisions that have had the effect of accelerating access to the courts without encountering constitutional objection. However, Congress recently modified many of the statutory provisions allowing for preferential or expedited judicial consideration and, instead, vested by statute broad discretion in the courts to determine the priority of hearing civil actions.[7]

It is also noteworthy that when the courts have been asked to deal with statutory deadlines for certain federal agency action, they have been reluctant in most cases to do much more than "jawbone" the agencies to move more quickly.[8] The same reluctance might result when courts, themselves, are confronted with statutory deadlines requiring final disposition of cases.[9]

Viewed from the perspective of jurisdictional limitation, it cannot be definitively asserted that Congress possesses the constitutional power to limit the amount of time the Court of Appeals has to rule on a case before the decision of the regional commission will be deemed to be affirmed.

DUE PROCESS ISSUES

From a somewhat different perspective, the language of the bill automatically affirming the Commission's host state designation decision if the Court of Appeals does not rule within ninety days may raise Fifth Amendment due process issues. A leading case that demonstrates the potential due process issue is the 1982 decision by the Supreme Court in *Logan* v. *Zimmerman Brush Co.*[10] At issue in that case was statutory procedure giving the Illinois Fair Employment Practices Commission 120 days in which to convene a fact-finding conference to obtain evidence relating to allegations of discrimination. The mandatory fact-finding conference was not held within the 120 day period, and the employing company moved that the complaint be dismissed. The Illinois Supreme Court found that the language was mandatory and held that the Commission was deprived of jurisdiction for failure to convene the fact-finding conference and rejected arguments of violations of due process and equal protection.[11] The U.S. Supreme Court made this observation:

"[We are led to conclude] . . . that appellant Logan is entitled to have the Commission consider the merits of his charge, based upon the substantiality of the available evidence, before deciding whether to terminate his claim. Logan's interests in retaining his employment, in disproving his employer's charges of incompetence or inability, and—more tangibly—in redressing an instance of alleged discrimination, are all substantial. At the same time, the deprivation here is final; Logan, unlike a claimant whose charge is dismissed on the merits for lack of evidence, cannot obtain judicial review of the Commisison action. A system or procedure that deprives persons of their claims in a random mannering . . . necessarily presents and unjustifiably high risk that meritorious claims will be terminated. And the State's interest in refusing Logan's procedural request is, on this record, insubstantial." [12]

The Court went on to observe that ". . . it has become a truism that "*some* form of hearing" is required before the owner is finally deprived of a protected property right," (emphasis in original) and cited with apprpoval *Board of Regents* v. *Roth*.[13]

We note that the regional commission under the Northeast Interstate Low-Level Radioactive Waste Management Compact is "deemed to be acting in a legislative capacity except in those instances where it decides, pursuant to its rules and regulations,

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Footnotes at end of letter.

that its determinations are adjudicatory in nature."[14] It appears that the decisions to designate a host state potentially involve an adjudicatory process by the Commission, rather than a legislative process. The Commission is authorized to conduct hearing and studies, to take evidence and testimony, to conduct public hearings in each candidate state, and to render its decision on host state designation on the basis of specified criteria that include: health, safety, and welfare considerations, environmental, ecomomic, and social effects, along with consideration of the economic benefits and costs, the volumes and types of waste generated, the minimization of transportation, the existence of regional facilities within party states.[15]

For this reason, it could be argued that the host state designation process is more akin to an administrative adjudicatory proceeding than a legislative proceeding. As a consequence, it could be said that an administrative hearing must be held by the Commission, thereby disposing of at least minimal due process hearing requirements in advance of a taking. However, in order for the administrative hearing to adequately accord full due process, the proceeding may be required to hear and rule on all of the issues that might be the subject of appeal. Otherwise, some risk of denial of due process might result.[16]

But even so, the automatic affirmation of the commission decision without a Court of Appeals ruling potentially creates disparate procedural results for different litigants—the main objection in *Logan*. Certainly, *Logan* appears to involve a procedual mechanism closely analogous to the provision at issue here—with the admitted exception of the fact that the procedure in *Logan* was found in an administrative setting rather than a judicial setting.

CONCLUSION

For the reasons set forth above, it would appear that the provision in question raises extremely novel constitutional issues for which little definitive guidance can be gleaned from judicial precedent. While there is little doubt that the Congress has broad powers to control the federal courts, it is not clear that the use of a deadline to remove jurisdiction from a court once it has been vested is a valid legislative restriction. Moreover, the disparate treatment of failing to accord all similar litigants the same right to decisions on the merits may raise due process issues under the 5th Amendment.

We note that the compact contains a severability provision that would seemingly allow the Court of Appeals, itself, to address the constitutionality of the dealine (if the issue is raise) without doing harm to the remainder of the compact. Nevertheless, the enactment of the provision may serve as precedent for similar jurisdictional restrictions on federal courts, and for that reason, it my raise important policy considerations for the Congress.

We trust that the foregoing has been responsive to your inquiry.

ROBERT D. POLING,
Specialist in American Public Law,
American Law Division.

FOOTNOTES

[1] See, Annotated Code of Maryland, Health and Environmental, Section 7-304, Art. IV, (o)(2); Delaware Code Annotated, Title 7, Section 8001, Art. IV (o)(2); Commecticut General Statutes annotated Section 22(a)-161, Sec. 4.8; and, New Jersey statutes Annotated Section 32:31-5(o)(2).

[2] See Hart, The Power of Congress to Limit the Jurisdiction of Federal Courts: An Exercise in Dialectic, 66 *Harvard Law Review* 1362 (1953).

[3] See for example, Ackerman, Congress and the Federal Courts: The Struggle for Primacy, 29 *Federal Bar New & Journal* 185 (1982).

[4] See, *United States v. Hudson & Goodwin, 7 Cr. (11 U.S.) 32(1812); and, Carry v. Curtis*, 3 How. (44 U.S.) 236 (1845).

[5] 13 Wall. (80 U.S.) 128 (1872).

[6] Killian, The Constitution of the United States of America: Analysis and Interpretation (1973) 761-762.

[7] Public Law 98-620, Title IV—Federal Courts Improvements, 98 State 3356 et seq. (1984).

[8] Compare, *Deering Miliken, Inc. v. Johnston*, 295 F.2d 856 (4th Cir. 1961); *National Labor Relations Board v. Staub Cleaners, Inc.*, 418 F.2d 1086 (2d Cir. 1969); *Poirrrier v. St. James Parish Police Jury*, 372 F. Supp. 1021 (E.D. La. 1974); *Bankameric Corp v. Board of Governors of the Federal Reserve System*, 596 F.2d 1368 (9th Cir. 1979); *Natural Resources Defense Council, Inc. v. Train*, 510 F.2d 692 (D.C. Cir. 1975); and *Ralpho v. Bell*, 569 F.2d 607 (D.C. Cir. 1977).

[9] It should be noted that the provision at issue here is somewhat ambiguous as to whether it requires the Court of Appeals to "rule" on the merits of the case, or to take some lesser action then final disposition of the case.

[10] 455 U.S. 422 (1982).

[11] *Zimmerman Brush Co. v. Fair Employment Practices Commission*, 82 Ill. 2d 99, 411 N.E.2d 277 (1980).

[12] 455 U.S. at 434-435.

[13] 408 U.S., at 570-571, n. 8.

[14] See, S. 1798, Article IV (o)(4).

[15] See generally, S. 1798, Art. V (c).

[16] See, *Brinkerhoff-Faris Trust & Savings Co. v. Hill*, 281 U.S. 673 (1930).

Mr. JOHNSTON. Mr. President, I am happy to cosponsor the compromise substitute low-level radioactive waste bill offered by Senator THURMOND. This compromise is based on a draft developed last week after many hours of very hard work by the majority and minority staffs of the Senate Committee on Energy and Natural Resources and the Senate Committee on Environment and Public Works. I also thank Senator THURMOND's staff member, Cindi Blackburns for invaluable assistance in keeping the process moving along.

The draft developed by the staff last week did not have the full support of the chairman of the Environment and Public Works Committee, and was also not fully supported by Senator EVANS, of the Committee on Energy and Natural Resources. But I believe that the compromise version offered by Senator THURMOND today does have the support of both these Senators. There is real urgency associated with this legislation. The Senate should act promptly to pass the Thurmond substitute. I believe the House can accept it.

The substitute before us today is a compromise between the approach taken by the Committee on Energy and Natural Resources, which involves tough, enforceable milestones for State action over the next 7 years to deal with low-level radioactive waste disposal, and the approach of the Environment and Public Works Committee, which involves considerable more flexibility in the near term and a potentially very tough requirement at the end of the 7-year period that any State that has failed to provide for the disposal of its low-level radioactive waste must take title to, and assume possession of, that waste.

At my suggestion, all the Senators involved agreed that this sanction would be considerably strengthened if we also made such a State liable for the consequential damages resulting from the failure of the State to comply with these two requirements. The compromise language we are introducing today incorporates this concept, which makes a State that is unable to provide for the disposal of low-level radioactive waste generated within its borders after January 1, 1996, "liable for all damages directly or indirectly incurred by the generator or owner of the waste as a consequence of the failure of the State to take possession of the waste as soon after January 1, 1996, as the generator or owner notifies the State that the waste is available for shipment."

This language insures that the State will not be able to avoid the financial consequences of failure to provide adequately for the disposal of its low-level radioactive waste, even though it may find a way to avoid taking title or possession in a timely manner. The consequential damages language ensures that, if the State does fail to take possession for whatever reason, it will not avoid liability for the damages that result directly or indirectly from that failure. This liability begins as soon after January 1, 1996, as the waste is ready for shipment, not at some indefinite date in the future when the State actually assumes possession of the waste. In the context of this amendment, the term "damages" includes both actual and punitive damages from actions taken against a generator or owner of wastes because that State has not taken possession of the waste and the costs incurred by the generator to safely manage waste that the State fails to possess.

In my opinion, this language is essential to provide the teeth to the more flexible Environment and Public Works approach. We need this language to ensure that we are not faced in the 1990's with the same situation we face today—inaction by a few generating States and no available leverage to force action. If these States were faced with liability for the consequences of inaction today, we would not have a low-level radioactive waste crisis upon us. Those States would have long ago taken the steps necessary to deal with their low-level radioactive waste so as to avoid the very liability this language would assign to them.

The liability for consequential damages is not being imposed on the States. The States that enter into compacts accept the terms of the legislation we are enacting. By entering into compacts, States assume the risk that they may incur the penalties set forth in the act for failure to comply with its provisions. In return for assumption of this risk, these States receive the benefits of the act, chief of which is the right to exclude low-level radioactive waste not generated in the compact region from any disposal facility located within the region.

Mr. President, I thank my chairman, Senator McClure, and his staff, Marilyn Meigs, K.P. Lau and Gary Ellsworth, for all their help during the development of this bill. Special thanks should also go to Jim Curtiss, Senator Simpson's counsel on the Subcommittee on Nuclear Regulation of the Committee on Environment and Public Works, who kept his head when all about him were losing theirs.

Mr. President, I congratulate all my friends who have put this bill together. It is a classic compromise, a difficult and detailed bill. But I think, in the best traditions of the Senate, staffs and principals have worked well together in this bill. I especially congratulate the two Senators from South Carolina who have been very assiduous and constant in their fidelity to this issue. They have not let us forget it for one single moment of a single day. I think it is a great monument to them to get this passed.

Mr. President, there is one provision of the bill to which I would like to make further special reference, and that is the so-called consequential damages provision. If the States do not meet the 1993 deadline, they could be responsible not only for taking title but immediate possession of the nuclear waste. If they fail to meet the 1996 deadline, they must be responsible for taking title and possession of the waste. In either case, upon failure to do so, the State becomes liable for all damages, directly or indirectly, caused by that failure.

That means that if some generator of nuclear waste must close down, for example, by reason of the failure of the State to accept possession and title to this nuclear waste, and that generator has to go out of business, then the State is responsible for all the damages.

It is a very far-reaching, difficult, and punitive provision, but we meant it to be precisely that.

As part of our compromise, in order to have this very strong provision in 1996, we relaxed a bit the provisions for the interim dates—1988, 1990, and 1992.

So, Mr. President, with that, I congratulate my friends, and I yield the floor.

Mr. THURMOND. Mr. President, I yield to the distinguished Senator from Idaho [Mr. McClure].

Mr. McCLURE. Mr. President, I thank my colleagues, and I hope that by taking a few minutes to discuss this measure, I do not burden the discussion unduly. I think it is important to make a few points that are essential to an understanding of what has happened this year.

Mr. President, earlier this year, I had the opportunity to meet with Senator Thurmond and Governor Riley of South Carolina. The purpose of this meeting was to discuss the pending crisis in commercial low-level radioactive waste disposal management. As representatives of one of three States that have assumed the entire Nation's burden of low-level waste disposal for far too long, Senator Thurmond and Governor Riley emphasized the fact that the Low-Level Radioactive Waste Policy Act that was passed in 1980 has failed to achieve its goal of development of new disposal capacity by 1986. The January 1, 1986, deadline, by which time new regional disposal facilities should have been developed, is upon us. Unfortunately, no real progress has been made by the various States charged under the act with the responsibility to develop such disposal facilities. Governor Riley stated to me in no uncertain terms that his State, along with Nevada and Washington, would close down their low-level waste disposal facilities by January 1, 1986, if significant progress were not made to resolve the present impasse. I heard the same warning later in a meeting with Governor Gardner of Washington State. Senators Evans and Hecht of my committee later reiterated sentiments similar to those voiced by Senator Thurmond.

The three Governors of the sited States subsequently proposed a compromise by which they would be willing to continue accepting a limited amount of waste for an "interim period," provided that sufficient monetary compensation were realized by their States, and more importantly, that significant, real, and measurable progress was generated on behalf of nonsited States.

I then pledged to those concerned parties my unconditional commitment to see that transition legislation was enacted by the end of this year that would achieve the goals of the Governors' compromise.

The Committee on Energy and Natural Resources has put its best efforts forward to fulfill the pledge I made. Committee members listened carefully to the testimony received during a joint hearing with the Environment and Public Works Committee held on October 8. I especially recall comments made by Gov. Booth Gardner at the hearing—

> That the original 1980 act had failed because it lacked "teeth" to ensure that States would not delay unnecessarily in accepting their disposal responsibilities.
>
> That real-time pressure would be essential to move the new-facility siting process forward.
>
> That, while the sited-State Governors could "live with" the milestones in the House-proposed transition legislation, they were aware of the fact that these milestones were easy to meet, and that they probably were too weak.
>
> That the sited States would accept "emergency access" provisions only if they were tightly drawn so as not to become major "loopholes"
>
> That it was important to consider what additional incentives we could include in the legislation so as to ensure the timely opening of new disposal facilities.

Mr. President, the actions taken in the Committee on Energy and Natural Resources met the objections and the objectives of the States point by point; and I want to underscore what the Senator from Louisiana has indicated—that it is important that we have real milestones. It is important to note that the discussions between staffs and principals have produced and agreement that does have some real teeth in it at some points.

Mr. President, the bill reported out of the Energy Committee—S. 1517—addressed every single one the points I have just listed in a way that none of the other proposals before Congress has done. In particular, I would note the following provisions of the Energy Committee bill:

The milestone requirements of S. 1517, as reported, are more rigorous than those found in H.R. 1083 or in S. 1578 or in the compromise substitute proposal. I believe, however, that the milestones in S. 1517 are not only realistic and achievable, but are also crucial to the attainment of measurable progress on behalf of the nonsited regions during the next 7 years.

The penalties contained in S. 1517 for not meeting the milestones are directed to the States at fault—rather than to the generators—as is the case in all other proposals—generators who have no direct control over the attainment of the milestones. Furthermore, flexibility—rather than rigidity—is included in the penalty system to allow the penalty to be tailored to reflect the particular circumstances leading to the missed milestone.

The incentives in S. 1517 are in the form of monetary rebates—or shall I say rewards—directed with no strings attached to the States accepting the politically unpopular burden of waste disposal on behalf of their region.

The "emergency access" provision in S. 1517, which requires a bi-State agreement, rather than relying on a federal agency bailout, eliminates the possibility of a guaranteed "loophole" in the transition legislation.

The Federal Government assumes responsibility for all classes of waste above class C low-level waste, thereby eliminating "orphan waste" categories that now exist due to the absence of any Federal law governing their disposal.

The problem of dual-agency regulation of mixed wastes at low-level waste disposal facilities is resolved in a straightforward, unencumbered manner.

I could go on to describe other features of S. 1517, as reported, that make this bill far superior to other proposals now before Congress.

But instead, I will turn to the compromise agreement reached last week after many long hours of negotiation between the staffs of the Energy and Natural Resources Committee and the Environment and Public Works Committee. This compromise is similar to Senator THURMOND's proposal in one critical respect: It contains a so-called fourth milestone, which would require each host State, by a time certain, to have filed a license application with the Nuclear Regulatory Commission for operation of a low-level waste disposal facility in the State.

I want to emphasize that the Energy Committee, in its negotiations with the Environment Committee, gave in on almost every major issue, provided that this one key—element the fourth milestone—as preserved in the final compromise. We sacrificed our bill's stiffer milestone requirements, our bill's penalty provision, our bill's incentive provision, our bill's emergency access provison, and our bill's approach to the mixed waste issue. We did this conditioned on the inclusion of this fourth milestone, without which States would be able to sail through the entire 7-year transition period without ever having to file a disposal facility license application with the NRC.

I hate to think what might happen if this fourth milestone were deleted from the bill. If I had to wager a guess, I would predict that in 1992, we'd have large numbers of States still happily shipping their waste to South Carolina, Washington, and Nevada, all guilty of inadequate efforts to develop new disposal sites, and all coming to Congress crying for mercy and begging for more time. And I'm afraid that that Congress, in its wisdom, would grant yet another extension of the current temporary arrangement, precisely because a time-clock was again turning into a time-bomb for the Senators representing those States that had failed to meet their commitment.

The Energy Committee's insistence on a fourth milestone will go a long way toward preventing such an unacceptable result. And, I reiterate, that fourth milestone was the basis for all our other concessions to the Environment Committee. This key provision is essential if we are to enact legislation that will solve the serious problem now confronting us. That is why I cannot accept anything less than the basic elements of the compromise agreement originally negotiated by staff on behalf of the two committees.

This compromise, as now offered by Senator THURMOND, is certainly not preferable to S. 1517 as reported by the Energy Committee, but it certainly is preferable to the House bill, H.R. 1083, especially in the following respects:

The inclusion of the fourth milestone will ensure actual progress during the 7-year transition period.

The post-1993 sanctions should further encourage pre-1993 diligence on the part of nonsited States.

The emergency-access provision is more tightly drawn than the one in H.R. 1083.

The mixed-waste provision is a less cumbersome process by which to resolve the current dilemma in mixed-waste disposal.

The administrative provisions are more carefully drafted, reflecting the Energy Committee's concerns about protection of proprietary information.

The incentives for meeting milestones are drafted to more accurately reflect the agreement reached by the sited-State Governors in their compromise proposal.

Several Energy Committee proposals are included in the substitute, including, in particular, Senator JOHNSTON's proposal to satisfy milestone requirements through separate agreements between States, and his proposal with respect to a States taking title to its low-level waste after the January 1, 1993, deadline.

And so, Mr. President, I must admit that I am deeply concerned and frustrated about the end result of our negotiations between the two committees. I nevertheless feel that, given the lack of time to adequately flush out the weaknesses inherent in this package, and given the sited-State Governors' unconditional endorsement for such an approach, we have no choice but to move this legislation forward at this time. I therefore urge my colleagues to support Senator THURMOND in the passage of this legislation.

I would like to thank Senator STAFFORD, Senator SIMPSON, and Senator BENTSEN of the Environment and Public Works Committee for their cooperation in arriving at this compromise. I also wish to thank Senator JOHNSTON, Senator DOMENICI, Senator HECHT, and particularly Senator EVANS for their assistance on this matter. Senator THURMOND's role, of course, has been instrumental. Finally, as always, the staff has provided invaluable assistance in putting this legislation together. I would particularly like to acknowledge the efforts of David Doane, Marilyn Meigs, K.P. Lau, and Ben Cooper of the Energy staff, Jim Curtiss and Kate Kimball of the Environment staff, Cindi Blackburn of the judiciary staff; and Phil Jones and Scott Cameron of Senator EVANS and HECHT's staff respectively. The dedication and timeless efforts of these people made this bill possible and we owe them our thanks.

Mr. EVANS. Mr. President, first, let me depart from my formal remarks to say that it has been an interesting and worthwhile experience, and particularly enjoyable, for me to be working on the same side as both Senators from South Carolina, after we crossed swords so avidly just a few weeks ago on the issue of textiles.

This is a critically important bill for the United States, particularly important for the States of Washington, South Carolina, and Nevada. It is my hope that it will be transmitted promptly to the House and that they will accept the Senate version, to put this into law before the first of the year.

Mr. EVANS. Mr. President, I have some serious reservations about the way in which a nonsited State or compact region may use the emergency access provisions in the bill. I am concerned that a nonsited State or compact region will petition the Nuclear Regulatory Commission for an emergency access waiver for a lack of diligence in attempting to meet the required milestones provided for in the act. After the 7-year transition period ends on December 31, 1992, I am also concerned that a State or compact region without a facility licensed or constructed will petition for unlimited grants and extensions of emergency access. This is especially true since the only means by which a nonsited State or region after 1992 can gain access to the sited States is through emergency access or a voluntary agreement.

Can the Senator from Wyoming assure me that emergency access will only be used in limited circumstances?

Mr. SIMPSON. The Senator is correct in his understanding that the emergency access provisions in section 8 of the full substitute are meant to be used in only very limited circumstances. The intent of the bill's language is that emergency access will only be granted by the Nuclear Regulatory Commission in rare circumstances when a real and immediate threat to public health and safety exists. The NRC is first to examine and exhaust all the possible alternatives to granting emergency access such as on-site storage, voluntary agreements with sited States, and purchasing the unused allocations of utilities.

Mr. EVANS. Is it my further understanding that ceasing to generate low-level radioactive waste shall be considered by the Commission as an equal alternative with the ones the Senator just mentioned?

Mr. SIMPSON. Yes, the Senator is correct. In fact, I think we have accommodated the concern of the Senator from Washington by including this criterion in the statutory language of the substitute. Let me clarify that such alternatives must be "consistent with the public health and safety" as defined by the NRC. There may be some benefits from the generation of low-level radioactive waste to the public health that the Commission must consider in making its determination of the need for emergency access. For example, the Commission would probably consider the benefits to the public health and safety brought about by the use of radiopharmaceutical products in cancer research and other critical medical research.

Mr. SYMMS. Mr. President, I wish to take this opportunity to compliment my distinguished colleagues, Senator McClure and Senator Simpson, for their diligent work and creative thinking in working out an acceptable compromise in a most difficult area. I support their proposal, although I realize it won't be completely acceptable to everyone.

Resolution of this issue now is absolutely imperative. As you all know, we presently have only three sites in this Nation that accept low-level nuclear wastes. These three sites are not satisfied with the present situation and their position is understandable. One of these States may cease accepting wastes in January. If this happens it will cause some real hardships. If the three States choose to refuse wastes, many institutions such as research facilities, hospitals and universities will be in a difficult situation.

Mr. President, this situation has been building since 1980. Its my understanding that today 37 States have joined compacts for waste disposal. We must provide the guidances for them to proceed to prepare to accept wastes.

Its important that any legislation on this subject has guidelines firm enough and penalties for noncompliance severe enough to assure that we won't be back here in 1992 working on this same issue.

Again, I wish to compliment my colleagues and urge that their work be recognized by passing this legislation. We need to proceed in an orderly way to facilitate the use of the technology available to us.

Mr. GORTON. Mr. President, I speak in support of S. 1578, the Low-Level Radioactive Waste Policy Act Amendments of 1985, as amended. I want to commend the chairman of the Energy and Natural Resources Committee, Senator McClure, the chairman of the Environment and Public Works Committee, Senator Stafford, and the chairman of the Judiciary Committee, Senator Thurmond, for their diligent efforts in bringing this important piece of legislation to the floor. I want particularly to commend my colleague, Senator Evans, a member of the Energy Committee, for his tireless work on, and insightful contributions to, this consensus package.

S. 1578 is necessary because several States failed to fulfill their obligations under the Low-Level Radioactive Waste Policy Act of 1980. The 1980 act gave each State responsibility for disposal of low-level waste generated within its borders, and permitted the States to enter into interstate compacts to provide for the development of new regional waste sites. A key element of the act was a provision which allowed compacts to exclude waste from outside their compact regions beginning January 1, 1986.

This date is almost upon us, Mr. President, and as of today there are still only three operating low-level waste disposal facilities, located in Washington, South Carolina, and Nevada. Seven compacts have been formed, representing 39 States, but progress toward the development of new facilities has been practically nonexistent. Since these States failed to comply with the 1980 act in a timely manner, congressional ratification of the compacts has been blocked in an attempt to prevent the three States with existing disposal sites from excluding all waste generated outside their respective regions beginning January 1, 1986.

Mr. President, Washington, South Carolina, and Nevada have shouldered all of the other States' low-level waste burden for too long. The State of Washington has done much more than its share and has cooperated in dealing with the national problem in an exemplary fashion. In 1981, Washington State, in conjunction with other Northwest States, established the first compact in the Nation. While waiting for Congress to pass S. 356, the bill I introduced to grant congressional consent to the Northwest Interstate Compact on Low-Level Radioactive Waste Management, Washington State has continued to accept for disposal over 50 percent of the low-level waste produced in the United States, although Washington itself generates only 3 percent of the Nation's waste.

To break this stalemate, the Governors of the three sited States developed a compromise legislative package in consultation with unsited States, which contained the following key elements. In exchange for congressional ratification of their compacts, they would agree to accept a limited amount of waste over a 7-year period. To ensure that States make progress in developing facilities over the 7-year period, the Governors proposed the establishment of milestones for various stages of new site development. The failure to meet such milestones would result in financial sanctions and, ultimately, the loss of access. In addition, since the sited States will only be accepting the amount of waste which they accepted in 1983, and 33 new reactors are scheduled for operation during the 7-year period, the Governors devised allocations for utility generators which would represent reductions in waste volumes which the three existing facilities would accept for disposal.

This compromise became the basis of the Low-Level Radioactive Waste Policy Act Amendments of 1985, of which I am an original cosponsor. The amended version of S. 1578 which is before us today represents a true compromise that will benefit all. Members of the Energy and Environment Committees have, through careful negotiations, crafted a consensus bill which achieves the proper balance between tough but realistic deadlines to ensure that new disposal sites are opened and limited exemptions to those deadlines to ensure public safety.

S. 1578 is being adopted in conjunction with ratification of the regional compacts which are pending before Congress. Unsited States have 7 additional years in which to develop new sites. But on January 1, 1983, regardless of whether or not those new sites have been developed, Washington, South Carolina, and Nevada will be closed to out-of-region waste.

This legislation would establish annual volume caps, which limit the amount of low-level waste which the existing sites are required to accept. In addition, it would require the utilities, who are the primary generators of low-level waste, to reduce the volume of waste they ship to the existing sites.

To provide an incentive for the development of new sites, S. 1578 would authorize the States with existing sites to impose surcharges for out-of-region waste. If the other States meet certain milestones for various stages of new site development, part of those surcharges will be rebated to them. On the other hand, if they miss the milestones, the amount of the surcharges will increase. If a State fails to meet the milestones even after generous grace periods, generators from that State may be denied access to the existing sites before the 1992 deadline.

In the unlikely possibility that an emergency might arise in which there is an immediate and serious threat to the public health and safety or our Nation's defense and security, this bill authorizes the Nuclear Regulatory Commission—under very narrow circumstances and for a limited period—to grant emergency access to a low-level waste disposal site.

S. 1578 also would provide for the resolution of conflicting regulations under the Solid Waste Disposal Act and the Atomic Energy Act relating to hazardous waste that is also low-level waste. The Environmental Protection Agency and the Nuclear Regulatory Commission would be required to resolve substantive and procedural regulatory conflicts and to consolidate procedures where practicable.

I am confident that S. 1578, in conjunction with ratification of the pending interstate compacts, is a fair and balanced package. By approving this legislation today we will have taken a vitally important step toward guaranteeing that our hospitals, our university research programs, and our industries and utilities will stay in business. I urge my colleagues to give it their full support.

Mr. HECHT. Mr. President, I thank the distinguished Senator from South Carolina [Mr. Thurmond] and the distinguished Senator from Washington [Mr. Evans], who have worked with the State of Nevada to work out this problem.

Mr. President, the Senate is considering a bill that is very important to all of our Nation's people.

Everyone who has had a friend or relative treated for cancer, or who is interested in our national defense, or who is excited about research possibilities at the frontiers of science, or who uses electricity from a nuclear powerplant has a strong interest in the passage of this bill.

This bill, the Low-Level Radioactive Waste Policy Act Amendments of 1985, has been subjected to extensive consideration by both the Senate Energy Committee and the Environment Committee. Individual committee action was followed by difficult and time consuming negotiations between the Senators on the two committees in an effort to bring a final product to the floor of the Senate for consideration. I would also like to extend my thanks to the staffs of all the committees that have struggled long and hard on this legislation.

This was all done under great time pressure, because the Nation is faced with the very real possibility that without the enactment of this legislation the three existing low-level nuclear waste disposal facilities will close indefinitely on January 1, 1986.

This time pressure stems from the fact that back in 1980 the Congress enacted legislation that called for the States to organize themselves into compact regions by 1986 to dispose of low-level radioactive waste. The problem is that only 37 States entered into these compacts, and no other States developed additional disposal facilities.

The three States with existing sites, Nevada, South Carolina, and Washington, are understandably running out of patience. This bill gives the other 47 States 6 more years to comply with the intent of the 1980 law. In return, three States with existing sites are provided assurances that all their sister States will finally meet their responsibilities. These assurances take the form of milestones, coupled with incentives for cooperation, and disincentives for noncompliance.

Nevada, South Carolina, and Washington will not indefinitely bear the full burden of the the Nation's low-level nuclear waste disposal. Existing law gives these States the right to close their sites in just 12 days. I hope all Members of Congress realize that the three governors are quite likely to exercise this right if the Congress fails to enact this legislation before we recess for the holidays.

The other body recently passed its own version of this legislation, which is marginally acceptable, but I must tell my colleagues I believe that the Senate has put together a better bill, which I hope we will very soon pass and send over to the other body for its consideration and approval.

Mr. THURMOND. Mr. President, if there are any questions, I will be glad to try to answer them at this time.

I ask unanimous consent to have printed in the Record a resume of this bill.

There being no objection, the material was ordered to be printed in the Record, as follows:

KEY POINTS OF THE THURMOND COMPROMISE PROPOSAL

(1) Non-sited generators will be allowed to continue to dispose of their low-level waste at the existing disposal facilities through December 31, 1992.

(2) Volume caps will be placed on the amount of low-level waste each of the three current disposal sites is required to take through 1992, and then current sites will be allowed to exclude out-of-region waste after 1992.

(3) Utility generators will be allocated a specific amount of this disposal space to be used at their discretion.

(4) Non-sited regions and non-sited states will be required to meet specific milestones toward developing their own facilities. If the states do not comply with these milestones, generators will be assessed a penalty surcharge during a specified grace period. It compliance is not achieved by the end of the grace period, the generators may be denied access to the existing disposal facilities.

(5) Another escalating surcharge will be placed on all low-level waste from non-sited regions and non-sited states, but these surcharges will be rebated to states that comply with the milestones.

(6) States which do not have an operating disposal facility by January 1, 1996, will be required to take title to, and possession of, all waste generated within the state. A state will also be liable for consequential damages if it fails to take possession of this waste after January 1, 1996.

(7) This proposal is essentially the draft I circulated with a Dear Colleague letter on Tuesday of this week with the following major changes:

(a) All states and compact regions will be required to file a disposal facility license application by January 1, 1992, or face a non-rebatable surcharge of three times the normal surcharge; and

(b) The emergency access provision has been strengthened.

(8) This legislation will also give consent to the seven regional compacts that were reported out of the Judiciary Committee.

Mr. THURMOND. Mr. President, this is one of the most complicated and sensitive pieces of legislation in which I have ever participated since I have been in the Senate. It is one of the most important pieces of legislation.

This legislation concerns every State in the Nation. There are only three States now that take this low-level waste: South Carolina, Washington, and Nevada. The Governors of those States have announced that they would close down the sites at the end of this year unless this action is taken. It is important that we take this action, anyway. The States should have acted before now to get these compacts ready.

This legislation contains seven compacts, and I ask unanimous consent that a list of these compacts be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

STATES THAT HAVE SUBMITTED COMPACTS FOR CONGRESSIONAL CONSENT

SOUTHEAST (SITED) (8) S. 144

Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia.

CENTRAL (5) S. 655

Arkansas, Kansas, Louisiana, Nebraska, and Oklahoma.

NORTHWEST (SITED) (7) S. 356

Alaska, Hawaii, Idaho, Montana, Oregon, Utah, and Washington.

MIDWEST (7) S. 899

Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin.

ROCKY MOUTAIN (SITED (4) S. 442

Colorado, Nevada, New Mexico, and Wyoming.

NORTHEAST (4) S. 1798

Connecticut, New Jersey, Delaware, and Maryland.

CENTRAL MIDWEST (2) S. 802

Illinois and Kentucky.

Mr. THURMOND. Mr. President, I wish to say again that I deeply appreciate the tremendous cooperation that has been given by so many people.

I do not know of any piece of legislation that has brought into being the works of so many Senators in this Senate or so many staff members.

I especially wish to express my appreciation to Senator Simpson, who is the assistant majority leader, and also he is chairman of the Subcommittee on Nuclear Regulation of the Environment and Public Works Committee. Senator Simpson has worked on this day and night. He has been a giant in this matter, and I just cannot thank him enough.

I wish to express my appreciation to Senator Stafford, the able chairman of the Environment and Public Works Committee. He has been a stalwart here. He has cooperated beautifully and worked hard on this matter.

I express my appreciation to Senator McClure, chairman of the Energy and Natural Resources Committee.

We had two big committees here that acted on this matter, and Senator McClure has been very sound on this. He has cooperated with Governor Riley and me all the way through on this, just the same as Senator Stafford has and Senator Simpson, and he has been most helpful.

I wish to express my appreciation to Senator Evans of Washington State with whom we worked so hard, and yesterday we finally got Senator Stafford, Senator Evans, and Senator Simpson in the President's pro tempore's office and overcame obstacles that I was not sure we would be able to do.

We are deeply appreciative of the consideration and the care that they gave to this legislation and came through in such fine style. I wish to also express my appreciation to Senator Bentsen, the ranking minority member of the Environment and Public Works Committee for his cooperation, so Senator Johnston, the ranking minority member of the Energy and Natural Resources Committee, for his fine cooperation, and who made many helpful suggestions and whose advice was very valuable.

I wish to also express my appreciation to Senator Hecht of Nevada who was so active and conferred with me and I am sure others from time to time and cooperated in every way we could to get through this legislation.

I wish to thank Senator Domenici, from New Mexico. Senator Domenici is a member of the Energy and Natural Resources Committee, and he has been most helpful in this matter.

I wish to thank Senator Gorton, of Washington State, who has cooperated in this effort and has been helpful.

I wish to express my appreciation to Senator Hollings, my distinguished colleague from South Carolina, for his interest in this matter and all that he did to help bring it to fruition.

I thank also the distinguished majority leader, Senator Dole. We could not have brought this matter here without his cooperation and assistance, and we are deeply grateful.

I thank Senator Byrd for his cooperation and assistance in bringing this matter to the floor and helping as he did.

Mr. President, this matter not only concerns all the Senators but it consumed many hours of work. You just do not realize how many hours went into this work by so many valuable staff members.

I wish to call their names because they deserve due credit for this.

Cindi Blackburn, of the Judiciary Committee; Jim Curtis, of the Environment and Public Works Committee under Senator Simpson; Dan Berkovitz, of the Environment and Public Works Committee under Senator Stafford; Kathy Cudlipp, of the Environment and Public Works Committee under Senator Stafford; Marilyn Meigs, of the Energy and Natural Resources Committee, under Senator McClure; Gary Ellsworth, of the Energy and Natural Resources Committee under Senator McClure; Ben Cooper, of the Energy and Natural Resources Committee under Senator Johnston; Kate Kimball, of the Environment and Public Works Committee under Senator Bentsen; Phil Jones, of the Energy and Natural Resources Committee, under Senator Evans; and K.P. Lau, of the Energy and Natural Resources Committee, under Senator Domenici.

Mr. President, I also wish to express my appreciation to Dennis Shedd, who assisted greatly in the negotiations. He is the chief counsel of the Judiciary Committee. He, and as I mentioned, Ms. Blackburn, were both very helpful.

I also express my appreciation to Wright Andrews, Libby Langworthy, and David Shelledy, lawyers with the law firm of Sutherland, Asbill, & Brennan, a law firm here in Washington. They were most helpful. They conferred with us from time to time and made suggestions. They conferred with most of the Senators here who are players in this program, and they rendered a magnificent service in connection with it.

Mr. President, again I wish to say that I do not know of any piece of legislation that has required as much skill, as much patience, and as much effort and cooperative effort to pass since I have been in the Senate as this particular piece of legislation, and I am very grateful to all who participated and assisted in connection with it.

Mr. SIMPSON. Mr. President, before we get too much farther, we probably should pass this legislation and it might be an excellent idea.

So, I say that in the best humor because Senator Thurmond has really covered what a difficult thing it had been and without his graciousness and persistence we would not be here.

Mr. LAUTENBERG. Mr. President, I am pleased that the seven interstate compacts are before the Senate today. In 1980, the Congress declared that the disposal of low-level radioactive waste is a State responsibility. To meet this responsibility safely and efficiently, the States must develop regional plans. I am gratified that 37 State legislatures have responded by enacting enabling legislation for seven interstate compacts. These seven compacts represent an important step in moving toward regional disposal of these wastes. In consenting to these compacts, the Congress gives its go ahead to the implementation of regional disposal of low-level radioactive waste.

Having ratified the northeast compact, New Jersey has taken an essential step in assuring its access to the existing sites for low-level radioactive waste generated within New Jersey. This compact provides the framework for implementing siting plans and for establishing a new facility. Two concerns were raised, however, by New Jersey during the consideration of the northeast compact: shallow land burial and institutional control. In addition, the question of judicial review is addressed in a colloquy by several Senators.

Mr. President, a provision in the low-level radioactive waste policy amendments act, legislation which establishes the institutional framework within which the compacts will operate, requires the Nuclear Regulatory Commission to provide the technical guidance needed to develop and license new facilities by alternative disposal methods. This provision, that I authored, ensures that in meeting performance objectives, attention is paid to the careful balance of the combination of institutional control and engineered factors.

Each of these seven interstate compacts contains similar provisions for policy and purpose. In addition, they provide for the regional disposal of their own low-level radioactive waste, but vary in many other aspects. I commend my colleagues for developing consent language that respects the individual State needs and, yet reinforces the underlying Federal policy of the amended act.

Mr. President, I urge my colleagues to support the adoption of this consent legislation.

Mr. McCLURE. Mr. President, I rise in support of S. 1578, the Low-Level Radioactive Waste Policy Amendments Act of 1985. This legislation requires States to develop management plans for disposal of all low-level radioactive wastes generated within their boundaries. We owe a debt of gratitude to Senator Stafford, chairman of the Environment and Public Works Committee, and other members who have moved to resolve the important question of low-level radioactive waste disposal constructively and expeditiously to ensure passage this year. Certainly there is a need to enact this legislation in 1985, however, in responding to this urgency, important environmental protections should not be neglected. Thus, several issues addressed by this bill are of special concern to me.

Radioactive substances are used widely to generate electric power, and in medicine, research and manufacturing. Each year these uses produce 75,000 cubic meters of radioactive waste. These wastes represent one of the challenges of the nuclear age: To utilize radioactive materials for the general good, but to safely manage for eons the resulting radioactive waste.

Initially, the Federal Government was responsible for all low-level radioactive waste. Then in 1962, the Atomic Energy Commission started licensing privately owned commercial burial grounds for waste disposal. Eventually some of these sites were closed for environmental reasons, leaving only three States to accept all of the Nation's waste. To resolve this situation, Congress responded by passing the 1980 Low-level Radioactive Waste Policy Act. This act requires States to develop management plans for the disposal of all waste generated within its boundaries.

The bill we are approving today ensures access to the three operating disposal sites while new facilities are constructed. During these 7 years, milestones must be met by all the States. Surcharge penalties are imposed on those States that miss deadlines. Under certain circumstances, grace periods are granted to allow the States flexibility in meeting the deadlines. Flexibility grace periods prevent jeopardizing the careful analysis necessary for constructing new facilities. Also, generators of waste must reduce the waste volume produced each year. These steps provide incentives for both State and generator compliance but, also, encourage the development of sound facilities.

The emergency provision in the bill grants all the States time-limited access to the operating sites. This important feature is necessary to eliminate any serious threat to public health. Since New Jersey produces substantial amounts of this waste, these milestones, grace periods and emergency access provisions are essential. These provisions allow New Jersey access to the operating sites while a new regional facility is constructed that is safe and environmentally sound.

Another provision in the bill, that I authored, directs the Nuclear Regulatory Commission to provide all the States with technical guidance and licensing requirements for alternative disposal methods. This information is important because many States are still selecting disposal methods. To ensure efficient licensing, the NRC shall provide information necessary for meeting the performance objectives by alternative disposal methods. The inclusion of these provisions arose from my concern that the published requirements are directed only to shallow land burial, a disposal method of questionable environmental soundness.

I am also concerned that the NRC provide guidance to all the States about the feasibility of varying the institutional control and engineered features to meet the specific needs of each State. As many State plans are still in the developmental stages, the NRC should provide this essential information to ensure timely licensing of the new facilities. We must be assured that the combination of institutional control and engineered features will adequately protect public health and the environmental over the full lifetime of the hazard of the low-level radioactive waste.

Mr. President, I urge my colleagues to support the adoption of this legislation and its companion bill containing the text of the seven separate interstate compacts.

Mr. SYMMS. Mr. President, section 5 of the bill includes a provision that authorizes the Secretary of Energy to allocate additional disposal capacity to commercial nuclear power reactors that experience unusual or unexpected operating, maintenance, repair, or safety activities. Is it your understanding that the Secretary is authorized under this provision to make available additional disposal capacity to accommodate increased waste volumes which result from operation of a reactor without discharge of radioactively contaminated water into the environment?

Mr. SIMPSON. Yes; the Senator from Idaho is correct.

Mr. McCLURE. I would like to ask the distinguished chairman of the Judiciary Committee a question regarding the relationship of the Low-Level Radioactive Waste Policy Act, as amended by our action today, and the several related compacts to which Congress is consenting. Am I correct that the compacts are consented to on the condition that they are subject to the Low-Level Radioactive Waste Policy Act, as amended?

Mr. THURMOND. The Senator is correct.

Mr. McCLURE. Am I also correct in my understanding that the consent of Congress is granted only for so long as the regional commissions, committees, or boards established in these compacts comply with all of the provisions of such act, as amended?

Mr. THURMOND. The Senator is correct.

Mr. McCLURE. Am I also correct that, when we say the consent is granted as long as all provisions of the Low-Level Radioactive Waste Policy Act, as amended, are complied with, we include the provisions of section 5(d)(2)(C) regarding the States taking title to, possession of, and liability for waste which is their responsibility?

Mr. THURMOND. The Senator is again correct.

Mr. McCLURE. Does the Senator believe there are any constitutional problems with this approach of conditioning consent in this manner?

Mr. THURMOND. None that I am aware of.

Mr. McCLURE. I thank the Senator.

Mr. LAXALT. Mr. President, the safe and permanent disposal of this Nation's low-level nuclear waste is an issue of vital importance. For too long, the burden of nationwide disposal has been borne by three States—my home State of Nevada, as well as Washington and South Carolina.

In seeking a more equitable solution to this problem, Congress in 1980 enacted the Low-level Radioactive Waste Policy Act. The objective of the act was to create a safe and efficient national system of waste disposal by encouraging States to enter into regional compacts to handle the low-level waste generated within their borders. Consequently, this would allow the States to exercise the primary responsibility for such waste disposal, either through establishment of their own disposal site or through agreement with another State that has a disposal facility. An important provision of the act provided that regions with congressionally approved compacts may exclude out-of-region waste beginning January 1, 1986.

With the January 1, 1986, deadline less than 2 weeks away, it is imperative that Congress ratify the seven compacts for several reasons. For one thing, in the past 5 years no additional storage space has been created. Furthermore, the Governors of Nevada, Washington, and South Carolina have indicated that they will close their sites at the end of this year if Congress has not satisfactorily addressed this disposal problem. National inaction regarding the creation of additional storage facilities threatens to curtail seriously medical research and other activities vital to the public health and welfare.

In an effort to avoid this impending problem, the Governors of Nevada, Washington, and South Carolina along with unsited States and other interested parties have worked out legislation to provide for a reasonable and orderly system of nationwide low-level nuclear waste disposal for the next 7 years.

Under this bill, Nevada, Washington, and South Carolina are guaranteed that by 1993 they will no longer be the only dumping ground for all low-level nuclear waste. States that do not yet belong to a regional compact with an operating site are allowed access for 7 years to existing sites under tough but reasonable conditions. Moreover, enforceable milestones toward opening new sites will ensure continued progress in creating new disposal capacity.

It is high time that States which produce significant amounts of low-level radioactive waste and refuse take meaningful steps toward their own means of disposal. It is not fair, nor is it any longer acceptable, that three States shoulder this burden for the entire country. Congress and the individual States must act, and act now. We must assure continued adequate nationwide low-level nuclear waste disposal for all States by adopting these compacts and enacting the transitional legislation.

Mr. MITCHELL. Mr. President, this legislation, the Low-Level Waste Policy Act Amendments of 1985, that sets the guidelines under which disposal of this Nation's low-level radioactive waste will be handled during the period between January 1, 1986, to January 1, 1993, when all access to low-level waste disposal sites can be terminated to unsited States or compacts.

It has been developed in order to maintain access for the disposal of low-level waste while keeping three States from having to take all the Nation's waste.

It represents a compromise which would avoid an immediate cut-off of access to generators as of January 1, but which assures the sited States that they will not have to continue accepting all of the Nation's low-level waste indefinitely.

A detailed explanation of the bill has already been given. In my statement, I would like to give a short explanation of the necessity of this legislation and its importance to all States.

Under the Low-Level Radioactive Waste Policy Act of 1980, States have the responsibility for disposing of low-level radioactive waste. The act authorizes States to organize into interstate compacts on a regional basis to handle the waste. After January 1, the act allows those regions whose compacts have been approved by Congress to exclude waste generated outside the region.

Seven regional compacts, covering 37 States, have now been submitted to Congress for the required congressional approval. Some 12 States, including my State of Maine, are negotiating possible compacts. Texas has announced its intention to build a Texas only disposal facility.

The 19 sited States in compact regions with operating low-level waste disposal sites: Southeast (Barnwell, SC), Northwest (Richland, WA), and Rocky Mountain (Beatty, NV) have been pressing Congress for quick approval of their compacts so that they can close their sites to out-of-region wastes.

Not surprisingly, the 31 "unsited" States, concerned that they will not be able to bring new regional disposal sites on line by the end of the year, have opposed action that would result in their being denied access to the only three sites currently licensed to accept low-level waste.

Earlier this year, Governors of the three sited States, Governors of many of the unsited States, and congressional leaders reached agreement on the general framework for congressional approval for all pending and future compacts. The compromise, which is embodied here, contains four basic elements.

The sited States will keep the three operating sites open for an additional 7 years. But under the compromise, the three sites do not have to accept more low-level waste than the volume currently accepted by the sites.

In exchange for the 7-year extension, the unsited States are required to meet three milestones toward opening new sites. If the milestones are not met, the States in violation may be denied access to an operating site.

Nuclear utilities, the largest generators of low-level waste, are required to reduce the volume of waste they generate over several years. Utilities in unsited States must make the largest reductions.

To encourage volume reductions by other, nonutility generators, sited States may impose surcharges on waste accepted between 1986 and 1992.

Under this bill, the sited States will keep the three operating sites open to generators from unsited States or compacts for an additional 7 years. States or compacts would be expected to have an operational low-level waste disposal facility in operation by that time. In exchange for the 7-year extension, the unsited States are required to meet three milestones toward opening new sites.

By July 1, 1986, each State legislature must ratify compact legislation or enact legislation indicating its intent to develop a disposal site within its borders.

By January 1, 1988, each compact region or State must choose a site or site developer and prepare a siting plan.

By January 1, 1990, a complete application for a disposal facility must be filed with the NRC or the Governor of a State must certify that the State will be able to provide for the disposal or storage of any low-level waste requiring disposal after January 1, 1993.

Sited States are not required to accept any volumes of waste greater than the amount they currently accept on an annual basis. Because the number of nuclear reactors is expected to increase in the next 7 years, utility generators must reduce their volume of waste based on fixed percentage reductions from the current utility industry average.

To encourage volume reductions by generators and as an economic incentive for other States to develop their own sites, sited States may impose surcharges on waste accepted between 1986-92. Under current law, States are prohibited from imposing higher surcharges on out-of-State waste.

If a State or compact region fails to meet either of the first two milestones, the sited States may impose a penalty surcharge, a doubling of the surcharge, on wastes disposed of from that State or region during the period of noncompliance, and for a limited grace period after the milestone deadline.

The sited States would be able to deny access after the grace periods. There is no grace period for the third milestone; sited States would be able to deny access immediately to States or compacts that have not met this final milestone.

This legislation also tackles the difficult problem of mixed waste, that is, waste that is subject to regulation both under the Solid Waste Disposal Act and under the Atomic Energy Act.

As those familiar with this issue know, EPA and NRC, the two agencies involved, have been struggling to resolve this apparent conflict for years. I believe the approach taken in this bill provides an effective and workable mechanism for resolving this conflict.

The agencies are first asked to focus on specific waste streams in deciding the appropriate method of handling the waste. In our discussions with the agencies, the level of conflict appeared greatly reduced when the discussion focused on specific wastes.

After the waste is identified, the agencies are to determine if the waste can be properly disposed of in a facility currently licensed by either agency. If the agencies cannot agree to send the waste to such a licensed facility, then they are to discuss what requirements in addition to the NRC's regulations would be necessary to protect the public health and safety and human health and the environment. If no accord can be reached on this issue, the NRC may prohibit the disposal of the wastes in a low-level waste disposal facility.

This provision is not perfect, but it serves the dual purpose of reducing uncertainty for the States, while not providing for mandatory years of joint rulemaking by the agencies.

States are entitled to know what kind of disposal facility they will need for mixed waste, and this provision attempts to give them a prompt answer.

I am pleased that such a practical compromise could be forged and I strongly support this provision.

This bill is important to my State of Maine. Like all other States, Maine has been grappling the questions involved with the disposal of low-level radioactive waste generated within its borders.

Maine's low-level waste siting commission (now called the Radioactive Waste Advisory Commission) has tried, without success, for several years to join with other States in forming a compact to dispose of its waste. As another alternative, Maine has explored the possibility of having its own disposal site.

Representatives from Maine State Legislature and the Governor's office have expressed support for the basic

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concepts of the umbrella legislation. I think that is a tangible demonstration of my State government's willingness to address its responsibilty for the safe disposal of low-level radioactive wastes.

I believe the State's particular concerns regarding the transition bill originally introduced by Senator Thurmond have been addressed in two provisions that were developed with the cooperation of Senator Simpson, the chairman of the Nuclear Regulatory Subcommittee and Senator Stafford, the chairman of the full Environmental and Public Works Committee during that committee's consideration of this issue.

Under the 1980 act, States have the responsibility for disposing of Federal low-level waste generated within their borders with the exception of atomic weapons and research and development activities of the Department of Energy.

Low-level waste generated through nuclear submarine overhauls at the Kittery Naval Shipyard, which accounts for about 1,000 cubic feet of low-level waste annually, or roughly 10 percent of the State's waste, is the responsibility of Maine under current law.

The transition bills passed by the House and reported by the Senate Energy Committee included language that required submarine decommissioning wastes to be sent to Federal disposal sites.

Similar language is included in this bill. That will not take all of the shipyard's low-level waste out of Maine's hands, but it will allow the State to plan on a fairly constant and consistent flow of waste.

The second Maine concern centered around the feasibility of constructing and operating a site in Maine. The State's studies have found it may be feasible to site a low-level waste disposal facility in Maine safely, if regulatory approval can be obtained from the Nuclear Regulatory Commission.

The studies indicated that it would be preferable for any facility in Maine to use engineered above-ground construction rather than shallow land burial, which is the technique now in use in the three existing sites, because of the State's high water table and deep frost line.

Section 8 of this bill will help Maine and other States and compacts deal with this problem. It has two parts.

Twelve months after enactment, the NRC would have to establish and publish technical guidance for the licensing of facilities that use methods other than shallow land burial.

Twenty-four months after enactment, the NRC would have to establish the framework under which a low-level waste site utilizing an alternative disposal methodology could be licensed by the Commission. The amendment does not limit the NRC to rulemaking in order to set the requirements.

Enactment of this language should provide reasonable assurance that the NRC will be in a position to license any type of disposal site deemed appropriate by a compact or State by the January 1, 1990, deadline for States or compacts to submit a license application for a low-level waste disposal facility.

This bill represents months of extensive negotiations involving States and both Houses of Congress in order to reach a fair compromise in this most controversial, difficult, and sensitive issue for all concerned parties.

The bill offers sited States and regions assurance that they will not have to continue to accept the low-level waste from the rest of the country with no end in sight. That is critical for those States.

Equally critical to States or compacts without presently operating sites is the question of continued access to low-level waste disposal facilities until their own disposal sites can be constructed and licensed by the NRC. That has also been included in this legislation.

The fact that the Senate has such an effective piece of legislation before it is a direct result of the very diligent work and persistence of many Members. I'd like to particularly note the efforts of the chairman of the Judiciary Committee, Senator Thurmond, who introduced the legislation and who has played a critical role in its travels through this body over the past several months.

Commendations are also deserved for the leadership of both the Energy and Natural Resources Committee, Senators McClure and Johnston, and the most able leadership of the Environment and Public Works Committee, Senators Simpson and Hart of the Subcommittee on Nuclear Regulation, and Senators Stafford and Bentsen from the full committee.

I strongly support this important legislation and I urge my colleagues in the Senate to do likewise.

Mr. LEVIN. Mr. President, this legislation is very important to all States including Michigan who must do something to properly dispose of the low-level radioactive waste generated within their borders. It is important to all of us that this waste be properly disposed of.

At the present time, this Nation has only three commercial waste disposal sites and no new disposal facilities are expected to open before the early 1990's. Consequently, the Governors of those States have threatened to close the sites to any out-of-the-region waste after January 1, 1986—a deadline set in the 1980 Low-Level Radioactive Waste Policy Act for regional compacts to take care of their own waste. That presents a very real problem to States like Michigan, whose low-level waste generation is large enough to cause interim storage problems.

Therefore, it is my assessment that States like Michigan cannot afford to take the risk of those three facilities being closed and I would not stand in the way of passage of this legislation, which gives nonsited States an extended period of time in which to open their own disposal sites.

I do, however, have strong reservations about a provision which makes the State liable for all waste generated within its borders, if it is not able to dispose of all its waste by 1996. I understand the basis for this provision, which is to provide an additional incentive to States to properly dispose of their waste. However, I feel this measure is too drastic and could cause severe waste management problems for the States. I am concerned that it may be impossible for States which generate significant amounts of low-level radioactive waste to dispose of all of the waste generated within its borders by that date due to circumstances beyond their control, such as litigation. I believe that consideration should be given to States who cannot meet that deadline if they have made every effort to meet the milestones and the process set forth in that law and flexibility should be exercised on this provision, although it is my hope no States will be unable to meet this deadline.

Mr. President, I will follow the progress of the formation of the regional compacts very closely to make sure that we have not set unreasonable milestones in the bill.

THE NEED FOR A CHANGE IN THE LOW-LEVEL WASTE POLICY ACT OF 1980

Mr. DIXON. Mr. President, I rise today to commend my colleagues for working out a solution to the serious problem 47 States will face on January 1, 1986, because of the Low-Level Waste Policy Act of 1980.

Congress passed the Low-Level Radioactive Waste Policy Act of 1980 to allow individual States to treat and dispose of low-level waste that they generate. Congress determined, in the 1980 act, that low-level waste could best be dealt with on a State or regional level.

In response to the Low-Level Radioactive Waste Policy Act, the States of Illinois and Kentucky entered into a regional compact called the central midwest interstate compact. This measure was passed by the Illinois General Assembly. Further, an executive agreement was reached between the two States and signed by Illinois Gov. James Thompson and Kentucky Gov. Martha Layne Collins a year ago. The Low-Level Radioactive Waste Policy Act of 1980 requires that Congress give its consent to such arrangements negotiated by the States.

Low-level nuclear waste is defined as any radioactive substance, but is generally confined to contaminated materials from commercial reactors, hospitals, research institutions, and industrial sites. Low-level waste decays faster than high-level waste and is measured by volume rather than radioactivity. Low-level waste is not spent reactor fuel or radioactive liquids produced by reprocessing, rock and sand from which uranium has been extracted, or transuranic waste.

Currently, all low-level waste that is privately owned in the United States is deposited at one of three sites: Barnwell, SC; Beatty, NV; or Hanford, WA. Additional sites are needed to respond to an increase in low-level waste generated from private operators, particularly from the growing field of nuclear medicine from which all Americans benefit.

Citizens of the 47 nondepository sites and the District of Columbia recognize the need to form regional compacts. In fact, the people of Illinois understand the concerns of the people from the depository States, because we have had a low-level waste site in the past. Currently, it is closed. However, the target date of January 1, 1986, as established under the 1980 act, was too optimistic. After this deadline set by Congress, a State could refuse to accept waste generated from outside its region.

The central midwest interstate compact, which would store low-level nuclear waste from Illinois and Kentucky, does not have an existing, operating site. The leadtime needed to build a site is 7 years from today. The State governments of Illinois and Kentucky are currently developing a detailed plan to be used for their site selection process.

I recognize the desire of the depository States to restrict the use of their facilities. Illinois and Kentucky State officials have been in contact with both the private operators and Federal officials to inform them of progress on the central midwest regional compact. However, the operators of the sites must realize that without the extension of the deadline for low-level nuclear waste this country will have unregulated nuclear waste at several unsanctioned sites across the country. Congress must not allow this situation to continue.

I am pleased that a 7-year extension has been worked out in a way that will ensure a more orderly transition designed to protect all Americans, as well as the citizens of Illinois and Kentucky.

Mr. BINGAMAN. Mr. President, I rise today in support of the passage of the bill amending the Low-Level Radioactive Waste Policy Act of 1980. This legislation is desperately needed to avoid the shutdown of existing low-level waste facilities.

The 1980 act was designed to encourage States to form regional compacts that would cooperatively plan and operate low-level waste [LLW] disposal sites, thereby more equitably allocating the economic and political costs now borne by just three States that host active disposal sites—Nevada, Washington, and South Carolina. The act included an exclusionary provision that enabled compacts consented to by Congress to exclude wastes from outside their region effective January 1, 1986.

Since passage of the 1980 act, seven compacts have been established and presented to Congress for eventual ratification. These compacts, representing 37 States, include the 3 sited region compacts and 4 unsited region compacts. Other States are in various stages of progress.

Because there remains a number of States that have not entered into compacts, and, no States have developed new facilities, the future of low-level waste disposal is in jeopardy unless the law is changed. Knowing that ratification of the compacts currently before Congress would allow the three existing sites to close their doors to out-of-region wastes, Congress has denied consent to any compacts.

Meanwhile, the Governors of the three States have threatened to close down the facilities January 1, 1986, if Congress does not take some action to resolve the impasse.

The legislation the Senate considers today would resolve this impasse. This legislation is the result of almost a year of effort to develop a compromise by which unsited regions would be allowed continued access to the existing disposal sites for a 7-year period. In return, the sited regions would be assured of specific volume limitations on incoming wastes, and restrictions on the access by any compact region that has failed to meet certain prescribed milestones for development of new disposal sites.

This legislation would ensure that we could continue disposing of civilian and certain Federal agency wastes at commercially operated facilities and minimize changes to the proposed interstate compacts.

I congratulate the sponsors of the bill for their diligence in keeping this issue before the Senate. I appreciate their willingness to make necessary changes in the definition of low-level waste in order to exclude certain wastes that are more appropriately the responsibility of the Federal Government.

I strongly urge my colleagues to support the bill.

It is imperative that the Senate act immediately on this legislation.

Thank you, Mr. President.

Mr. MOYNIHAN. Mr. President, the low-level nuclear waste bill before us is a well-balanced compromise, and a most necessary one. Without clear action by the Congress, the Governors of the three States that have been disposing of all of our commercial low-level nuclear wastes have threatened to shut down the disposal sites in their States. I cannot say that I blame them.

In 1980, when Congress passed the Low-Level Waste Policy Act, we thought that by now new disposal capacity would be available; such has proved not to be the case. The citizens of South Carolina, Nevada, and Washington deserve to know that a firm schedule is in place by which others will share the burden. At the same time, the rest of the Nation deserves to know that the existing sites will continue to accept these byproducts of both nuclear power and nuclear medicine until new sites are opened.

Mr. President, as a member of the Subcommittee on Nuclear Regulation of the Environment and Public Works Committee, I am pleased to report that this complex bill meets those conflicting needs very well. New Yorkers will continue to light some of their lights with nuclear electricity—and their doctors will continue to use lifesaving laboratory tests that depend on the use of radioactive materials. So will the citizens of South Carolina—and they will be able to watch New York, and the rest of the Nation, make their own arrangements to dispose of their own low-level radioactive wastes.

The timetables required by this measure are firm and realistic. It is indeed an equitable approach for all concerned, and I am pleased to support it.

Mr. SPECTER. Mr. President, it is critical that the Senate take action today to allow a transition period for States to enter into compacts for the disposal of low-level radioactive waste.

Pennsylvania is one of a number of States which would be caught in a terrible bind beginning on January 1, 1986 without passage of this legislation. Although the Commonwealth has taken strides toward arranging a compact with neighboring States, it has not been able to finalize an agreement. Acting responsibly and in good faith, Pennsylvania has simply not had enough time to establish a comprehensive and worthwhile agreement.

Because so many States are in a similar situation, the Nation will face a certain environmental crisis beginning in the new year without congressional approval of a transition period. This can be prevented.

I am convinced that the Low-Level Radioactive Waste Policy Amendments Act of 1985 will provide the necessary time for States like Pennsylvania to complete negotiations and arrangements for their respective compacts. I appreciate the diligence and persistence of my colleagues in bringing this vital legislation to the floor of the Senate before sine die adjournment.

H.R. 1083—LOW-LEVEL RADIOACTIVE WASTE

Mr. EVANS. Mr. President, I am delighted that we key Members of the Senate have been able to reach an agreement on an acceptable bill to bring to the Senate floor. It has been an interesting and challenging bill to consider, since it truly is a highly complex and technical subject. It is also a bill of immense importance to the State of Washington, which is why I have taken such an active role in this bill. The State of Washington currently accepts for disposal more than 50 percent of all commercially generated low-level radioactive waste in this country. We have a relatively large site for commercial waste at Hanford that will probably bear the brunt of the Nation's nuclear generators over this 7-year transition period unless a bill has strong and enforceable volume limitations. Furthermore, one should not overlook that fact that the Hanford site in the State of Washington also takes a large portion of our Nation's defense low-level radioactive waste—in fact, over 317,000 cubic meters of such waste has accumulated over the past several decades at the Hanford site.

There are really two fundamental parts in this bill: establishing milestones and State taking title to the waste. I am a strong believer in the importance of milestones that are both a challenge and can be enforced. In our negotiations in the Senate, I insisted that the 1988 milestone be strengthened to include a stronger definition of "siting plan." Yet it is the period from 1990 to 1993 that is critical. If a nonsited State or compact region has not filed a complete license application with the NRC by 1990, or is near filing one, it probably is not going to reach the 1993 deadline. And remember that the 1993 milestone is to have a disposal facility licensed and constructed for acceptance of waste.

Since I understood that the Senate Environment Committee was insistent on the language in the 1990 milestone, I suggested that a State or compact region which fails to reach the NRC license application deadline by January 1, 1990 be required to pay a higher surcharge. I originally intended the surcharge to be set at the discretion of the Governor of the accepting State. But I realize that some of the unsited regions have a concern that the Governor would have unlimited discretion to set the surcharge. So I agreed to limit the surcharge to a range between $40 to $120 per cubic foot. I also agreed to allow the surcharge to apply only after January 1, 1992.

The inclusion of this provision allows the market to operate more freely in setting a market-clearing price. I would like to have seen more market-oriented concepts contained in the final version passed by the Senate. We included a large number of those provisions in the bill passed by the Senate Energy and Natural Resources Committee. Indeed, this act provides that a nonsited State or compact region may at any time enter into a voluntary agreement with a State that has a disposal facility, which allows the market to operate to some degree. The voluntary agreement provisions, along with the surcharge provisions for the 1992-93 period, do introduce a healthy dose of the marketplace into the current situation.

I also had several serious reservations about the emergency access provisions in the bill. The Senate Environment Committee draft set significantly tighter provisions than the emergency access provisions in the House consensus bill. But, frankly, they were not tight enough. After 1993, there would only be two ways in which a nonsited State or region could continue to ship waste for disposal at States with disposal facilities: through voluntary agreements or through emergency access. For voluntary agreements, the Governor of the sited State would have great discretion in setting the terms and conditions for acceptance of such waste. But, for emergency access waste, I was concerned that we were giving too much authority to the NRC and too little authority to the sited States. That is why I insisted upon several changes to the emergency access provisions, including a provision that the NRC should consider ceasing to generate low-level radioactive waste as a coequal alternative before granting such access. I must stress that such alternatives must be consistent with the public health and safety. But the intent is that the NRC only grant emergency access in rare emergencies, after every other alternative has been exhausted.

In conclusion, Mr. President, I think we have crafted a good bill in the Senate. There is an appropriate balancing of equities and economic incentives and penalties. The three sited States have agreed to accept the waste for another 7 years. But they will be able to charge higher surcharges for such access, and, importantly, the generators are required to reduce the volume of waste significantly. Nonsited States are also provided a sufficient monetary incentive through the 25-percent rebate provisions.

Mr. President, we have already experienced 6 years of small progress by the States and regions without sites. We are giving them another 10 years with this bill. I am reluctant to do that, but I feel that the milestones, penalties, and incentives in this bill will prod the nonsited regions toward developing sites on schedule. Let us hope that progress is made and that we do not have to revisit this act in another 6 or 7 years.

STORAGE OF LOW-LEVEL RADIOACTIVE WASTE

Mr. DOLE. Mr. President, the Low-Level Waste Policy Act of 1980 directed each State to enter into a compact with neighboring States, by January 1, 1986, as a way to select a site for the disposal of low-level radioactive wastes. My home State of Kansas is a member of the central interstate low-level radioactive waste compact we are voting on today.

BACKGROUND

Kansas has joined with the States of Arkansas, Louisiana, Nebraska, and Oklahoma in an effort to pick an appropriate low-level radioactive waste disposal site in one of the five States. The phase I study authorized by the Central Interstate Low-Level Radioactive Waste Compact Commission has been completed and eliminates counties in each of the member States as possible disposal site locations. This study eliminated 73 counties in Kansas, thereby leaving 32 counties in contention for this dubious honor.

Once funding is approved, phase II of the study will begin. Phase II will further limit the sites down to two possible locations in each member State. At that time, it is hoped that one of the member States will volunteer to be the host State. This would be for economic reasons, of course. However, if no State volunteers, the compact will then invite developers to submit bids for a site location and the Commission members will then select the site. All of this must be completed by 1992.

KANSAS IMPLICATIONS

Since the completion of the phase I study, I have been contacted by a number of my Kansas constituents who are concerned about their counties being selected as possible waste disposal site locations. I have been contacted primarily by those living in north central Kansas and join them in urging the compact group to select a site outside of Kansas.

DEADLINE APPROACHING

Mr. President, although the Senator from Kansas has reservations about the possibility of my home State being selected as the location of a low-level radioactive waste disposal site, we are facing a deadline for the States to either have their compacts approved by Congress or have nowhere to send their low-level radioactive wastes after January 1, 1986. My State, as well as a majority of the other States, do not have the proper facilities to dispose of these wastes. Therefore, Mr. President, I urge my colleagues to approve this compact.

Mr. SIMPSON. Mr. President, I ask unanimous consent to add Senator DENTON as a cosponsor of the Thurmond amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Carolina in the nature of a substitute.

The amendment (No. 1429) was agreed to.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. THURMOND. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

Mr. SIMPSON. Mr. President, I move that we pass H.R. 1083, as amended.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 1083), as amended, was passed.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. McCLURE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SIMPSON. Mr. President, I ask unanimous consent to make technical and cross-references in connection with the bill as passed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the following companion bills be indefinitely postponed with particular emphasis on the colloquy between Senator BOREN and Senator HEINZ:

Calendar No. 297, S. 44; Calendar No. 289, S. 356; Calendar No. 299, S. 442; Calendar No. 301, S. 802; Calendar No. 302, S. 899; Calendar No. 432, S. 1798; Calendar No. 461, S. 1578; and Calendar No. 469, H.R. 3878.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, I move that we amend the title so as to read as follows:

> To amend the Low-Level Radioactive Waste Policy Act to improve procedures for the implementation of compacts providing for the establishment and operation of regional disposal facilities for low-level radioactive waste; to grant the consent of the Congress to certain interstate compacts on low-level radioactive waste; and for other purposes.

The PRESIDING OFFICER. The question is on agreeing to the title amendment.

The title amendment was agreed to.

Mr. SIMPSON. Mr. President, let me then very quickly thank the principal participants in this activity. Senator Evans has been extraordinary. He brings his engineering background to the fray. It has been a difficult thing. He has been exemplary in the leadership on this.

Senator STAFFORD, my chairman of the Environment and Public Works Committee, has been absolutely persistent and realistic, and I admire him greatly and was pleased to stick with him.

Senator McCLURE has been just as dogged and persistent, as has Senator JOHNSTON. They have both again disclosed how closely the Energy and Natural Resources Committee works with the Environment and Public Works Committee, and at this time also with the Senator from South Carolina, Senator THURMOND, and I wish to pay special tribute to Senator THURMOND, my other chairman, Senator STAFFORD being, as I indicated, the chairman.

Thanks to STROM THURMOND for his bulldog persistence, best described as, I believe, if we could say so, a Brahma bull on low-level waste matters; and to Senator JOHN GLENN for his effort in removing the very important amendment so that we will have a hearing in March; and, again, to Senator BOREN, for his extreme sensitivity to a rather crushing issue. Again I thank you.

I reiterate my thanks to the fine staff, particularly to Jim Curtis, who serves as the right hemisphere of my brain in matters nuclear and regulation of low-level waste.

With that, Mr. President, I will conclude. I thank the body.

Mr. JOHNSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE NEED FOR PROMPT ACTION ON THE GENOCIDE CONVENTION

Mr. PELL. Mr. President, I wish to express my deep regret that the Genocide Convention will not be considered during the first session of the 99th Congress.

Just 13 months ago, we briefly considered the convention in the final days of the 98th Congress, with the prospects for ratification greatly enhanced by President Reagan's strong endorsement in his September 1984 address to the B'nai B'rith International Conference. Faced with the reality of a filibuster at the end of the last Congress, the Senate suspended consideration of the convention and in its stead adopted a resolution expressing support for the principles contained in the Genocide Convention, and pledging expeditious action in the first session of this Congress.

That resolution, Senate Joint Resolution 478, passed this body by a vote of 87 to 2, and represented a commitment on the part of the Senate to at long last get this treaty to the Senate early enough in a session to give it a favorable chance of passage.

I regret that we have not kept the commitment embodied in Senate Joint Resolution 478. The Genocide Convention arose from the ashes of the Holocaust, and there could be no more fitting way for the United States to commemorate the 40th anniversary of the liberation of the Nazi death camps than by ratifying this treaty in 1985. In the words of Elie Wiesel, the Genocide Convention, when ratified, would become "not only an act of justice, but above all, a solemn and noble act of remembering."

I sincerely hope—and I know that many, many of my colleagues are of the same mind—that the convention will be made the first item of business when we return in January. It is time for the Senate to get on with the unfinished business of ratifying the Genocide Convention.

Mr. METZENBAUM. Mr. President, I wish to commend my distinguished colleague and ranking member of the Foreign Relations Committee for his remarks concerning bringing up the genocide treaty to the floor. I believe that he spoke directly to the point, that we made a commitment 13 months ago. We have not lived up to our own commitment. It was as firm and as forthright a commitment as could possibly have been made. Yet the fact is that we have dillied and dallied for 13 months and have not taken any action whatsoever.

The distinguished ranking member of the Foreign Relations Committee expresses his hope, as I have expressed mine previously, and as the Senator from Wisconsin and the minority leader have indicated, that we would like to act on the ratification of the genocide treaty. I believe it has been before this body for something like 28 years.

I wish to say—and I am sorry that the majority leader is not on the floor at the moment, but my guess is he will be advised—that all of us recognize his right to set the calendar. All of us respect the fact that the majority leader has the right and normally does decide what will be taken up and what will not be taken up.

But I believe there has been so much delay with respect to the genocide treaty that, if there is no action and no strong movement to take up the genocide treaty and make an all-out effort to bring it before this body for a vote, including, if necessary, a cloture motion, then I believe some of us may determine on our own that we will attempt to set the calendar by moving to take the matter up.

I hope we will not get to that point, but I strongly urge the majority leader to set a date and give those of us who are anxious to vote on the issue an opportunity to do so. I feel certain that in such an effort and undertaking the ranking member of the Foreign Relations Committee will be in a leadership role and I commend him for it.

Mr. PELL. I thank the Senator from Ohio for his remarks. I will only point out that the convention in its present form is really a middle ground. It contains some weakening reservations to it, perhaps, but no one on the committee voted against the convention in its present form.

It is a little too extreme for those in the extreme right, and maybe not strong enough for those on the left. But I think it represents a consensus position. It would be a symbolic act, if we passed it, and it would signify our commitment to human rights and the protection of human life against the most terrible of all crimes.

For that reason, although I sympathize with those who feel it is not strong enough, I support it in its present form. I hope the convention will be ratified, although the cannons from the right and the cannons from the left volley thunder at it.

FURTHER CONTINUING APPROPRIATIONS, 1986 CONFERENCE REPORT

Mr. HATFIELD. Mr. President, I would like to put the Senate on alert that the continuing resolution that has passed the House a little while ago will be arriving shortly in the Senate. I would like to do a number of preliminaries to taking up the conference report in order to have them out of the way and, therefore, expediting the conference report as much as possible.

Mr. President, the conference agreement was reached last night between the House and the Senate, has now been adopted by the House, has had the approval of the representatives of the White House as to the role that the White House will play in this in signing or rejecting the bill, and is recognized as House Joint Resolution 465 as a further continuing resolution for fiscal year 1986.

It provides for a total of $368,164,465,261 for programs, projects, and activities funded through the accounts of seven regular appropriation bills not yet enacted into law as separate measures, plus amounts provided by several general provisions of the joint resolution.

The seven bills not yet enacted into law and covering under this continuing resolution are Agriculture, Defense, District of Columbia, Foreign Assistance, Interior, Transportation, and Treasury. For three of these bills, District of Columbia, Agriculture, and Treasury the joint resolution references a conference report to establish the spending level with certified adjustments to Agriculture and Treasury in order to accommodate the administration's wishes on spending bills.

The four remaining bills; namely Defense, Foreign Assistance, Interior, and Transportation are incorporated into the joint resolution in their entirety.

Mr. President, I regret that this measure has been so long delayed, and that it covers so many fiscal year 1986 appropriation bills. Perhaps more than anyone in this body I deplore conducting our business in this way. For 5 years I have pushed, pulled, and urged, wheedled, and cajoled this body, striving to attain timely consideration, passage, and enactment into law the 13 regular appropriation bills.

Some years have been better than others, and this has not been a very good year. Because a budget resolution was not adopted until August 1, the Committee on Appropriations was not able to secure Senate passage of regular appropriation bills prior to the August recess except for two that were called up under a unanimous-consent agreement waiving section 330 of the Budget Act.

Once Congress returned from the August recess on September 8, the legislative calendar was cluttered with other priority items, and only one more regular fiscal year 1986 bill, the Treasury bill, was passed by the Senate before the first continuing resolution to maintain the operations of Government became necessary. That first continuing resolution was a straightforward measure unencumbered with extraneous amendments, and it passed the Senate in short order, and went straight to the White House on September 25, a week before the deadline.

I thank my colleagues again for their forbearance and cooperation in that expeditious action.

In the duration of that continuing resolution which expired on November 12, the Senate was able to make good progress on additional fiscal year 1986 appropriation bills despite extraordinary contentiousness with our colleagues on the Budget Committee on the question of outlay estimates, and the initial debate on reconciliation and the debt limit.

In that time, we passed 7 more fiscal year 1986 bills; namely, Commerce, Agriculture, HUD, District of Columbia Transportation, Labor-HHS, and Military Construction bringing the total acted upon by the Senate to 10. Unfortunately, we were not able to complete Senate consideration of the remaining three bills although we did have some debate on the Interior bill.

I really do not like that situation, Mr. President, when the Senate does not have an opportunity to consider an appropriations bill on their own as separate measures. This is true of all of them, but particularly so of the Defense bill. Senator Stevens and Senator Stennis worked long and hard to craft a bill under very difficult circumstances.

And their product was deserving of the consideration of the entire body. But that was not to be, Mr. President. And we have now before us the continuing resolution that will complete our appropriations business for this year. It is supported by the administration, as I have indicated, and it passed the House earlier this afternoon by a vote of 261 to 137, almost 2 to 1.

I will urge its adoption when it comes time for that consideration.

Mr. President, I ask unanimous consent that the statement of the administration's policy on House Joint Resolution 465 relating to the continuing resolution be placed in the Record at this point.

There being no objection, the material was ordered to be printed in the Record, as follows:

Statement of Administration Policy

H.J. RES. 465, MAKING CONTINUING APPROPRIATIONS FOR FY 1986 (HATFIELD (R) OREGON, WHITTEN (D) MISSISSIPPI)

The Administration supports Senate passage of the Conference Report to accompany H.J. Res. 465.

Mr. RUDMAN. Mr. President, will the Senator from Utah, the distinguished chairman of the Appropriations Subcommittee on HUD-Independent Agencies, have a discussion with me on the conversion and launch of NOAA weather satellites K, L, and M?

Mr. GARN. I would be pleased to do it with the acting chairman of the Commerce-State-Justice Appropriations Subcommittee.

Mr. RUDMAN. The fiscal year 1986 budget request for the National Oceanic And Atmospheric Administration assumes the launch of weather satellites K, L, and M on Air Force Titan II rockets—an assumption that was incorporated with certain reservations into the recent conference agreement for the fiscal year 1986 Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation bill, H.R. 2965. However, for a variety of reasons, the National Aeronautics and Space Administration would prefer to launch these satellites on the Space Transportation System, the shuttle. Based on my review of the most recent NASA launch proposal that would be my preference as well, assuming the distinguished ranking member of the subcommittee is agreeable.

Mr. HOLLINGS. Mr. President, I am interested in maintaining the integrity of the programs of both NOAA and NASA. It is my understanding that a letter of October 11, 1985, from NASA Administrator James Beggs to NOAA Administrator Anthony Calio, specifies the conditions under which NASA would procure, convert, and launch NOAA weather satellites K, L, and M on the Space Transportation System. It is my further understanding that NASA has agreed to modify the launch price quoted in the October 11 letter from $98.5 million to $86 million.

Mr. RUDMAN. As usual, I concur with the able ranking member. I now understand that NASA has agreed to charge NOAA $86 million for launching these three payloads. The NOAA K, L, and M launches would then be subject to the same price as DOD launches pursuant to the NASA/DOD shuttle pricing agreement finalized in accordance with National Security Directive No. 164.

Mr. HOLLINGS. I totally agree with the Senator's description of the agreement to launch NOAA K, L, and M on the shuttle.

Mr. RUDMAN. Based on the terms and conditions of the most recent NASA proposal that we have outlined, I believe there should no longer be an objection to the launch of NOAA weather satellites K, L, and M on the space shuttle.

Mr. GARN. I am pleased to see the NOAA and NASA intend to cooperate on this issue to the mutual benefit of both agencies. I support the amended NASA proposal affecting the conversion and launch of NOAA weather satellites K, L, and M and am happy to see this matter resolved. I compliment the chairman and ranking member of the Commerce-State-Justice Appropriations Subcommittee for their efforts in this matter and for their pragmatic solution to this problem.

Mr. RUDMAN. Mr. President, I thank the Senators from Utah and South Carolina for their willingness to engage in this discussion. There now appears to be no reason for the National Oceanic and Atmospheric Administration to further delay issuing a request for proposal [RFP] to procure weather satellites K, L, and M and I urge NOAA to move expeditiously in this matter.

I also ask unanimous consent that the letter of October 11, 1985, from NASA Administrator James Beggs to NOAA Administrator Anthony Calio, be reprinted in the RECORD. Recognizing of course that the launch cost in the letter should be amended to read $86 million.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION,
Washington, DC, October 11, 1985.

Hon. ANTHONY J. CALIO,
Administrator, National Oceanic and Atmospheric Administration, Department of Commerce, Washington, DC.

DEAR TONY: We have been considering for an extended period of time the question of how best to launch the NOAA spacecraft series and what steps are necessary to proceed immediately with the procurement of NOAA K, L, and M which are required for service beginning in approximately 1989.

It is my understanding that our respective staffs have been discussing the major points that are important to our two agencies and have identified the key issues which we must resolve. It is my proposal that NASA and NOAA continue their past relationship in accordance with the principles of our basic Memorandum of Understanding, with such updating modifications as may be necessary, under which we have successfully operated for almost two decades. The essence of my proposal is that: (1) we launch the NOAA polar orbiting spacecraft, NOAA K, L, and M, from the Western Test Range (WTR) on the Shuttle beginning with a nominal 1989 launch; (2) NASA will continue to provide a callup launch capability to replace inoperative NOAA satellites on the current callup schedule (120 days). We will insure that the Shuttle pricing policy will not result in a penalty to NOAA because of launch delays caused by longer than anticipated orbital lifetimes; and (3) NASA will also provide for the avoidance of sole user charges for these WTR launches. These last two points will be accomplished by entering into a fixed price launch service agreement for these three spacecraft. For the launch of NOAA K, L, and M into an orbit of the required inclination and crossing time, we will charge the sum of $98.65M in real year dollars as specified in the enclosed schedule. We believe that the NOAA K, L, and M spacecraft, modified for launch on the Shuttle, can be procured for the sum of $438.1M, and we will enter into an agreement with NOAA to procure the spacecraft for that amount. As in the case of past unmanned launches, NASA will accept responsibility for delivery of the payload to the STS on time and will hand over the spacecraft to NOAA after its injection into the final operational orbit. A Goddard facility will be available for control of the spacecraft during this period.

It is understood that the quoted Shuttle price includes related services required for the launch unless modifications, other than the conversion to STS, are made by NOAA to the spacecraft which would significantly increase our costs. In the event that additional spacecraft beyond NOAA M are required to bridge the time until the initial operating capability of the Space Station polar platform, a continuation of this agreement will be negotiated. In the meantime, we will work with you to facilitate utilization of the Space Station for the needs of the operational programs.

If this arrangement is acceptable to NOAA, we will proceed to make arrangements with RCA for the procurement of the NOAA K, L, and M spacecraft. We have included in our FY 1987 budget, as submitted to OMB, the funding requirements for the spacecraft conversion from Atlas F to STS compatibility.

I believe it is in the interest of the U.S. government to provide for the maximum use of the Shuttle as a national launch capability and, particularly, that we maintain the minimum launch rate at WTR sufficient to maintain this national capability at that location. I am hopeful that, after the NOAA conversion, the Defense Meteorological Satellite Program (DMSP), which utilizes an almost identical spacecraft, will see fit to utilize the WTR/Shuttle capability.

Sincerely,

JAMES M. BEGGS,
Administrator.

Mr. KASTEN. Mr. President, the foreign operations section of the continuing resolution totals approximately $15,025 million, about $7 million below the budget request levels for these activities and $175 million below our 302(b) allocation.

Mr. President, the agreement on foreign operations is not one that all of us are particularly happy with, a fact which is probably the best evidence that we truly compromised the very widely divergent views on this section of the continuing resolution of the two bodies. I would like to highlight several points of the agreement:

For the Philippines, the conferees agreed to a compromise military level of $55 million, as opposed to $70 million which was in the Senate bill and $25 million in the House bill.

For Greece and Turkey, the House agreed to drop legislative language which proscribed that aid to Greece and Turkey be at a 7-to-10 ratio and because of the overall reductions necessary, military aid to those two countries was reduced by 10 percent from the Senate number. The conferees in its report agree that the 7-to-10 ratio should be maintained, but it is not something we believe should be proscribed in law.

While Central America items created little controversy compared to previous years, the conferees did agree to loosen restrictions which the House had suggested on Guatemala in view of the recent elections there, and the Senate once again went along with a development assistance limitation, although at a higher level than suggested by the House. Also, report language makes it clear that should the administration need to provide more than the limitation amount, it can do so through the regular notification process.

The conferees agreed to accept the Senate initiative to establish a separate line item for the Inspector General for the Agency for International Development. This action is a long overdue reform which the conferees believe is required for a truly independent and effective Inspector General. The conferees expect that in the fiscal year 1987 budget submission to Congress that the Inspector General's activities will be requested as a separate item in accordance with this action. The conferees also agreed to report language, applicable to both the operating expenses of the agency as a whole and the Inspector General, which attempts to clarify expenditures which may be made under the operating expense account as opposed to the program account.

Mr. President, one issue which has caused some controversy relates to the so-called privateness test of private and voluntary organizations. The conferees agreed to a provision which requires private and voluntary organizations which receive AID grants to raise at least 20 percent of their total funding from non-Federal sources. The conferees have included report language further defining this provision. We believe that this is an important first step in assuring that private and voluntary organizations retain their private character, although it is, of course, not intended to prevent any PVO from competing for AID contracts.

Mr. President, the last issue I wish to highlight deals with the efforts of the Senate Foreign Operations Subcommittee to establish more realistic environmental policies in the multilateral development banks. We are pleased that the House has chosen to follow our lead on this issue, and, of course, welcome their support. The conferees agreed to the Senate provision on this matter, with some revisions which had been suggested by the House, as requested by the Department of the Treasury. The intent of the provision is, first of all, that the Treasury Department be directed to call for adding environmentally trained staff in the World Bank and inter-American development bank and to strengthen or add environmental staff in the Asian and African development banks. The words "add or strengthen" express the recognition of the conferees that the situation in the World Bank and the inter-American development bank urgently calls for the creation of more environmental review positions to be filled by qualified professionals, whereas in the two other regional development banks other measures to strengthen environmental review may be, at least initially, more appropriate.

It is the intent of the conferees that, in addition to promoting increased environmental staffing in the World Bank and IDP, the Treasury Department should also promote other measures to strengthen environmental review in those two institutions, as well as in the Asian and African development banks, such measures could include career incentives to reward professionals within those institutions for increased attention to environmental concerns in their work. We wish to emphasize that this provision calls for additional environmental review positions to be created within existing total staffing levels, and not to increase the already large bureaucracies of the banks.

The conferees also intend that environmental and public health ministers should be involved in bank activities where those activities have an indirect or direct effect on the environment and/or public health. Similarly, nongovernmental conservation and indigenous peoples' organizations in developing countries should be consulted and used by the banks. It is not the intention of the conferees to affect or change in any way the existing procurement policies and procedures of the banks.

We expect that the U.S. executive directors of the banks will also discuss the environmental performance of the banks, and ways in which this performance can be improved, in informal meetings, discussions and other fora, as well as in informal board meetings.

First priority should be given to promoting within the Inter-American Bank and International Bank for Reconstruction and Development the reviews of projects called for in the provision.

The provision calls upon the Department of the Treasury and the Department of State to use their influence through diplomatic and other channels to encourage other donor nations to the multilateral development banks to consider and promote operational and staffing reforms in the banks which will ensure systematic integration of sound management of the environmental and natural resources in bank programs and projects. In addition, other donor nations must be encouraged at every appropriate opportunity to promote environmentally beneficial projects and project components.

Mr. President, the foreign assistance section of the continuing resolution is balanced, and deserves the support of the Senate.

Mr. BAUCUS. Mr. President, the Bonneville Power Administration recently completed a study of several rate and service options that relate to its direct service industrial customers. To date, the conclusions of this options study have not been implemented.

The Bonneville Power Administration is proposing to publish in the Federal Register a strategy to implement a variable power rate sometime next week. They then propose to continue the process and move toward implementation of a variable rate for the direct service industry in the Pacific Northwest.

This proposed rate structure will operate within the laws now governing BPA's activities. At the same time, it will maintain or improve the strong, financial condition BPA has been able to achieve in the past 2 years while distributing benefits fairly among BPA's customers.

Peter Johnson, Administrator for the Bonneville Power Administration, is to be commended for his leadership in undertaking this process. It will insure a continued, strong aluminum industry in the Pacific Northwest.

The ratepayers in the Pacific Northwest have a shared interest in maintaining a strong economy. The proposal that Peter Johnson has developed goes a long way toward providing for future economic and rate stability in the region.

Implementing BPA's variable rate option will insure the continued presence of a strong aluminum industry in the region. It will preserve the industry's role as a steady electrical energy customer who can provide stability for all of BPA's ratepayers. They key to the variable rate option is that the largest block of the industry is maintained.

Currently, the Dallas Martin Marietta Plant is closed. The Spokane Kaiser Plant has expressed grave concerns over its ability to continue in the future. Columbia Falls Aluminum Plant in my own State has recently been given to an employee group and is trying to cut costs to maintain a viable operation. Only this week, Alcoa has announced an additional 25-percent cutback in aluminum production.

Mr. President, the aluminum industry is in a difficult period. The Bonneville Power Administration options-study process takes a positive step toward saving the industry, but it may not be implemented quickly enough to meet its objective.

Each State in the Pacific Northwest is dependent on the Bonneville Power Administration. All have a direct or indirect stake in the aluminum industry.

The Columbia Falls aluminum facility in my own State represents a large dependence on the aluminum industry. The approximately 1,100 jobs represented by this facility provides over 40 percent of the economy in the Flathead Valley.

Montana can ill afford to lose this industry. In 1950, per capita income in Montana was $2,664. At that time, the U.S. per capita income was $2,385. In other words, Montana's economic health was 12 percent better than our national average.

By 1984, U.S. per capita income had climbed to $4,939, while Montana's per capita income had only risn to $3,989. Now our per capita income is only 81 percent of the Nation's.

My point in recounting these figures is to show how devastating the loss of industrial jobs can be to a State. In our case, it was the decline of the copper industry.

We are now faced with the very real possibility of losing our aluminum industry. All involved parties are working hard to preserve the industry. Labor concessions have been successfully negotiated. Transportation agreements are very close to being completed. What remains is to obtain an electrical rate that will allow for the survival of this industry.

The Bonneville Power Administration option study, with its proposed variable rate, will meet this goal and allow the Columbia Falls facility to continue.

Mr. HATFIELD. Mr. President, my colleague, the able Senator from Montana, raises a concern that I share. Maintaining a viable aluminum industry is in the best interest of all the residents of the Northwest. The Bonneville Power Administration has shown tremendous leadership in moving forward with an option study to ensure a positive future for the direct service industry and all ratepayers in the Northwest.

As the Senator knows, I worked closely with Secretary Hodel and Peter Johnson to initiate the current lower-incentive rates for the DSI's which offer some short-term power rate relief and enhance the viability of the industry. In addition, I have been following the DSI options-study process very closely. In the report which accompanied the fiscal year 1986 energy and water appropriations bill, the Appropriations Committee urges Bonneville to increase its efforts in the area of industrial load stability, looking at such options as industrial modernization, conservation, increased interruptability, and variable rates. I share my colleague's interest in seeing Bonneville Power Administration move ahead to implement the results of its study.

Would the Senator comment on why action by BPA is needed expeditiously to implement the variable rate?

Mr. BAUCUS. The ability of the domestic aluminum industries to survive in the region depends upon swift action by BPA in the adoption of a properly designed variable rate. All of the aluminum industry would benefit.

The operation of two smelters in the region, Columbia Falls and The Dalles could be secured if BPA minimizes the time involved in adopting a variable rate. Both proposed sales arrangements of these smelters and their operations are heavily dependent on a workable variable rate being in place. Without assurance of a stable rate, these smelters cannot make the financial commitments necessary to secure the raw materials needed to assure operation.

BPA has been evaluating the variable rate as one of several proposals which will improve BPA's prospective revenues from the aluminum industry. The potential form and level of the rate have been widely discussed and reviewed by BPA with its customers, the regional power council and the public over the past 11 months.

Mr. HATFIELD. What impact would the proposed BPA variable rate have on other customer groups and BPA ability to meet repayment obligations?

Mr. BAUCUS. BPA studies show that BPA revenues will increase if power rates to existing regional aluminum plants vary with the price of aluminum over a limited range. The ability of BPA to repay its obligations to the Federal Treasury are improved, not reduced. There is no proposal to reduce or change BPA's statutory obligation to recover the cost of producing power to repay the Federal investment in its regional power system.

Mr. HATFIELD. The Senator from Montana raises a number of important points. He is correct in his assessment that Peter Johnson is to be commended for the fine job he is doing as Administrator for the Bonneville Power Administration. He has developed a series of options to address the serious problems facing the aluminum industry in the Northwest. I commend BPA for the public policy and involvement process that was followed during the options study. BPA does need to move as quickly as possible to implement the findings of the option study. It is my understanding that the variable rate proposal will be published in the Federal Register next week. BPA should then diligently move this process forward.

Mr. BAUCUS. The Bonneville Power Administration has agreed to move forward and do whatever is possible to have a variable rate structure in place by May 1, 1986. I believe that BPA's willingness to accelerate the process and to move as swiftly as possible with the May 1 date as a target to strive for shows the commitment of BPA to work for the good of the region.

I appreciate my colleague from Oregon's willingness to enter into this discussion.

Mr. HATFIELD. I thank the Senator from Montana for raising this issue and what to reiterate my support for BPA moving ahead with the option study process including the variable rate option.

Let me assure the Senator that I will help push BPA and FERC to take expedious action on this matter.

Mr. HATFIELD. Mr. President, I would like to make some further remarks on this continuing resolution.

Mr. President, frequently we have conveyed by various and sundry sources, political and media-wise, the impression that somehow the Congress is the big spender, and the White House is usually the fiscal constrainer to spending programs. I want to read into the RECORD at this point some basic statistics relating to this whole matter of the level of funding that the appropriations process provides the Government, that which is required under the budget resolution, and that which is basically requested by the White House.

First of all, I would like to say that this continuing resolution is $9.6 billion under the budget resolution in total.

Let me repeat, this continuing resolution is $9.6 billion under the budget resolution.

I was somewhat interested to read the morning press, filled with the actions of the appropriations conference of yesterday but more specially focusing upon what was going to happen under a new procedure we have set forth for budget reduction and deficit control. In not one line in that story on the matter of the actions of the appropriations process did it indicate where this figure was that we came out with in relation to anything, let alone to the Budget resolution.

Let me emphasize again that for the last 5 years the Congress has underappropriated the requests of the administration in the aggregate, accumulated funds that have been appropriated. So this imagery, somehow, that we are the wild, big spenders up here on the Hill just is not borne out by fact.

It is illustrative again today by this action of the conference committee between the House and the Senate on House Joint Resolution 465. We are $9.6 billion under the budget resolution.

Let me just take two other measurements. Under budget authority, the continuing resolution has $368.2 billion, as I indicated. The President requested, within the context of this continuing resolution $386.6 billion. That means that we were within budget authority $18.4 billion under the President's request.

But let us look at last year. Last year the fiscal year 1985, with the same aggregate number of appropriations matters, was $374.1 billion as against the $368.2 billion. That means that Congress has reduced the spending under the budget authority measurement by $5.9 billion under last year's level.

Now let me look at the total 1986 appropriations bill at the moment, the total bills including this resolution and the other bills that have been enacted. They total $568.6 billion. But in that same number of aggregate bills the President had requested $576.8 billion. That means, then, that in the total fiscal year 1986 we were $8.2 billion under the President's total request and compared to last year, 1985, which was a $577.2 billion aggregate level we are $8.3 billion under last year's levels of spending.

I think that illustrates again the fiscal constraints. I might say it has not just been in the last 5 years. I note the Democratic leader on the floor. I recall a time perhaps a number of months ago, maybe it is 1 year or 2 years by now, that the Democratic leader gave a recitation of 30 years of record on whether the Congress was above or below the Presidential requests. In that time, as I recall, the President was only under the final action of the Congress by 2 years; in other words, the Congress underappropriated the Presidents, Democrat and Republican alike, for at least 28 out of the 30 years, as indicated by the record.

Mr. HATFIELD. Mr. President, I submit a report of the committee on conference on House Joint Resolution 465 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

> The committee of further conference on the disagreeing votes of the two Houses on the amendments of the Senate to the joint resolution (H.J. Res. 465) making further continuing appropriations for the fiscal year 1986, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of December 16, 1985.)

Mr. HATFIELD. Mr. President, I have a copy of the CR report, indicating that its size only reflects the complexity of this whole measure.

I might say that we had two conferences on the CR after the House defeated it the first time around. We had to have the second conference. At that time the first conference consisted of 76 Members: 47 House Members and 29 Senate Members. It was indeed a very, very difficult conference.

Throughout all of this time, again the great warrior and soldier of the Senate, a man who has been surely an inspiration for many of us for many years in the Senate, was there in the battle, who never left his post, who assisted so vitally in the accomplishment of this moment when we are here to consider this, a man upon whom I have said so many times I depend so much in being able to give leadership to the whole appropriations process, the ranking member of that committee, Senator STENNIS, of Mississippi.

At this time I yield to the Senator from Mississippi for his opening remarks or any other remarks he cares to present.

Mr. STENNIS. Mr. President, I am most grateful indeed to the Senator from Oregon for his yielding at this point, and to warmly thank him for his generous remarks. I have tried to respond to his challenges and friendly leadership. This year he has been almost overwhelmed with work. His response has been the highest, and the best. He has given truly great leadership. Along with the other committee members, I very much appreciate his efforts so greatly.

Let me say this, too, that his bill is very unusual. It has been a very unusual course for legislation to take, a continuing resolution that covers for over half of the active budget. It is not the best but it was the only way that this could be handled this year. The difficulties of Government that go with the times are all here to be contended with, as I say, under a handicap. I believe this bill, itself, is perhaps the largest, most extensive appropriations bill that has been passed in the history of this Nation and carries the complications of many of the departments of the Government, being a continuing resolution.

We have enacted it in the final statutes now. It is going to be very difficult to meet. I do not say that to discredit those laws, but just stating a fact. It is going to require the patience, indulgence, and best efforts of the membership of this body, both Houses, and the President of the United States and the understanding people, the people who vote under our system of government and know something at least of some of the problems that beset us in these times. It is going to take their understanding and backing and patience.

I want to say a special word, in addition to the services here in this very difficult role that he plays, about the Senator from Alaska [Mr. STEVENS]. I have been on the Appropriations Subcommittee with him for many years and with the work he has handled every year, it has seemed as if he has had more than usual this year. The work he has in connection with the Armed Services Committee of the Senate, of which I also have a privilege to be a member, there are very sweeping duties that he has in connection with that committee's jurisdictions and problems to go along with the Appropriations Committee. The way he works at it—his thoroughness, his understanding, his terrific, inexhaustible energy and willingness to do more than his share of the work—is one of the truly fine assets of this body.

You are not dealing with learners or beginners when you have to deal with the House of Representatives' Appropriations Subcommittee on Military Affairs for military funds. I am proud of them and their record. They have worked for many years, and I tell you, Mr. President, they know their business, they know this subject. They will give you a run for your money on anything. They are well prepared. I think that the work this year of Senator STEVENS and others on that subcommittee with him paired off, as it were, with the problems which fell in Senator STEVENS' pathway as he was carrying that load and responsibility. The way he met them deserves a great deal of credit. I am glad to put it on record here.

I want to mention one item here in this huge bill. It did not come up for debate as such, but we have undertaken and have a commission already started, in operation, the commission for the celebration of the 200th anniversary of the writing and adoption and beginning of Government under our present Constitution of the United States. The Nation has been fortunate—has been blessed, I think—by the fact that the Chief Justice of the United States has agreed to serve and is already serving as chairman of that commission. They have already started on their program. We have in this bill an open-ended authorization. That has gone out of style in a way, but there is an open-ended authorization in this bill of the funds for this purpose. We have here in our body three Members, the Senator from South Carolina [Mr. THURMOND], the Senator from Massachusetts [Mr. KENNEDY] and the Senator from Alaska [Mr. STEVENS], as members of that commission.

I am just a sideline supporter, but I believe that to meet some conditions prevailing, there could not be a better chance to drill into the minds and hearts of the boys and girls, school children of our great Nation, the fundamental principles of our Constitution—why it was formulated, the reasons the provisions are there and the reasons they have stood the test of time for now these 200 years. This is a godsend of the way for us to take advantage of this anniversary and spend a relatively small amount of money under this leadership to which I have already referred. I think this body and the House of Representatives would give them any reasonable amount of money that they might suggest to us that they need. We already have here within the law an open-ended, unlimited authorization for the appropriation of funds without any further authority. We already have in this bill the sum of $12 million for this purpose.

Another far-reaching provision is an amendment which was adopted authorizing all the other departments to give this commission employees or talented people on their staffs or in their departments, an unlimited amount of their time to this commission which is, moneywise, the same as appropriating a sum of money in that amount, the amount that they may need. So these matters speak for themselves, being of strong backing and in unlimited form as far as money is concerned of this commission in its undertakings. I believe that when understood, it is just as strong support for them and their opportunity of service to the Nation is just as strong as these other things that have happened.

We want to arm them in every way with the facilities that they need to make the work of their commission really count. I point to them with pride and emphasize again that it is a highly commendable step that the Chief Justice of the United States was willing to give his time, to undertake the job to give this work meaning, his backing and the backing of his position.

I know that the product that they turn out will be a great blessing and a strength maker for our country.

Mr. President, so far as opposition to this bill from this side of the aisle is concerned, certainly, the bill does not represent everything that everybody wanted or just exactly what their position was, but I do not believe any major bill with such far-reaching complications has gotten better or more extensive consideration of all major and minor points. I do not know of any opposition here now, today, at this point in this legislative step that we are taking or anyone who wants to defeat or oppose the provisions of the bill that has been presented here by the Senator from Oregon, the chairman of our Appropriations Committee [Mr. HATFIELD].

I trust that it will get a solid, strong vote here. It represents a lot of money and a lot of work, a lot of effort, and it is a forerunner for another year of it that is going to follow. I am proud that we have a product like this, more particularly a system that can produce a product like this bill and what it represents.

I thank the Senator again for yielding to me.

Mr. HATFIELD. Mr. President, I thank the ranking member of the committee for his analysis and his continuing contribution and for his very kind remarks.

Mr. BYRD. Mr. President, this measure includes a number of provisions of particular importance to flood victims in West Virginia and other States. I have gone back home on a number of occasions and have seen firsthand the destruction wrought by the flood waters. Homes have been washed away; bridges demolished; highways and rail lines severed; and once prosperous businesses destroyed or severely damaged.

The amendments I offered to this resolution are designed to help those victims of floods start the long process that will help them to begin their lives again.

This resolution includes the following proposals which I offered to assist the States and individuals affected by the disaster:

An additional $40 million to the Soil Conservation Service for reconstruction of levees, rechanneling of streams, and rehabilitation of farm land. Not only is this funding necessary to reclaim farm lands that have been so terribly damaged, but it is money that the Soil Conservation Service indicates it needs to do the work necessary to prevent future flooding.

For the transfer of $10 million for the Small Business Administration for additional staffing to process disaster loan applications for flood victims.

Three million dollars in funding to accelerate the implementation of the integrated flood observation and flash flood warning system (inflows), which would expand this program—not only to those 29 counties in my State of West Virginia that were hit by this flood, but would also expand the program in the States of Pennsylvania, Tennessee, and North Carolina.

Authority to raise the cap on the emergency relief fund through the U.S. Department of Transportation from $30 million to $55 million for emergency road and bridge repair and reconstruction.

Authority to allow students whose parents have lost their source of income because of flooding to apply for Pell grants for the second half of the 1985-1986 school year.

Funding for emergency flood repairs at the Parsons Forest Products Laboratory, the Monongahela National Forest, and the Harpers Ferry National Historic Park.

Mr. President, the sheer magnitude of the destruction wrought by this flood in West Virginia is hard to imagine. We cannot turn back the clock, but we can provide the necessary tools to rebuild. I thank the distinguished chairmen and ranking members and other members of the Appropriations Committees of both Houses for their understanding and cooperation and support.

Mr. President, I am also pleased that this continuing resolution contains approximately $400 million for clean coal technology demonstrations that will be cost-shared jointly between the Federal Government and the private sector. The cost-sharing criteria governing this program require that the private sector provide at least 50 percent of the cost of any project. So, clearly, any technologies which are demonstrated under this program will have the strong backing and support of industry.

There has been strong support for the Clean Coal Technology Program to date. In its May 1, 1985, report, the Department of Energy noted that industry had indicated an interest in 176 projects in 29 States. Half of these expressions of interest identified levels of cost-sharing that, in the aggregate, amount to a willingness for the private sector to share 57 percent of the demonstration program costs.

In addition to industrial interest in the Clean Coal Technology Program, the Sierra Club, the Environmental Policy Institute, the Izaak Walton League, the League of Women Voters, the National Governors Association, as well as many State governments, also have indicated strong support for joint Federal-private sector development of new clean coal technologies. When the U.S. House of Representatives considered funding for this matter on July 31, 1985, it indicated, by a vote of 317-98, its overwhelming support for an immediate funding level of $500 million. The few opponents of this program in the Senate were never able to mount a credible attack on the Clean Coal Technology Program and I believe, for obvious reasons, determined not to press their disagreement to a vote. Mr. President, the Clean Coal Technology Reserve continues to authorize a full $750 million Clean Coal Technology Program. While I would have preferred that the full amount be made available in this bill, I believe that the $400 million which is included in this bill for these demonstrations represents a spartan but adequate start at a time of very necessary Federal budgetary constraint. These are not new moneys. The $400 million for the Clean Coal Technology Program comes from funds previously set aside for the Synthetic Fuels Corporation. I believe that these funds will be better spent for the development of clean coal technologies which generally improve on the previous synthetic fuels proposals in terms of economic efficiency, smaller size and environmental performance. So, Mr. President, while I regret to see the demise of the Synthetic Fuels Corporation, we are taking a positive step here today in establishing a Clean Coal Technology Program, a program that means greater energy independence, more jobs for Americans, improved energy efficiency and environmental performance and which can provide a sensible approach toward meeting the clean coal concerns of our Canadian neighbors.

Mr. President, the next step is for the administration to carry out the intent of Congress in initiating this demonstration program as quickly as possible, and, ultimately, the burden will rest with the private sector to propose sound clean coal technology proposals which will benefit all Americans. I challenge the private sector to come forward with its best proposals, and I believe that we all look forward to its response.

Mr. MURKOWSKI. Mr. President, H.J. Res. 465, the fiscal year 1986 continuing resolution, includes an appropriation to fund the first of a series of payments by the Federal Government to various Alaska Native corporations under section 1411 of the Alaska National Interest Lands Conservation Act of 1980. This appropriation was requested by the administration in an amendment to its fiscal year 1986 budget estimate. I want to thank the distinguished chairman of the Interior Appropriations Subcommittee, Senator McCLURE, and Linda Richardson of his staff for their quick response to the administration's request. I also want to commend Secretary of the Interior Don Hodel and Assistant Secretary Bill Horn for their efforts to resolve this issue.

Several disputes regarding the interpretation of section 1411 still exist. The most prominent include the accurate determination of the amounts that should have been escrowed from Alaska Railroad receipts or transactions and from economic interests acquired by Native corporations under section 14(g) of ANCSA and the determination of the portion of seal harvest revenues owed to Native corporations for the use of their land and property.

Mr. President, it is my hope—and I believe, the hope of Senator McCLURE—that the Department of the Interior will settle these disputes expeditiously so that funds can be appropriated to discharge the obligation of the Federal Government under section 1411.

Mr. McCLURE. Mr. President, I agree with the comments of my colleague from Alaska. It is important that the Federal Government move quickly to resolve this issue.

Mr. COCHRAN. Mr. President, the conference report on this continuing resolution includes funding for programs as provided in H.R. 3037, the appropriations bill for agriculture, rural development, and related agencies. This bill provides funding for the agencies of the Department of Agriculture—except the Forest Service—the Food and Drug Administration, and the Commodity Futures Trading Commission, and it places a limitation on the administrative expenses of the Farm Credit Administration.

The conference report on the agriculture appropriations bill contains a funding level of $36.5 billion in budget authority. However, the conference report on the continuing resolution reduces all appropriated accounts in the agriculture bill except child nutrition and special milk programs by six-tenths of 1 percent. This brings the total appropriated level to $36.3 billion. This is $4.3 billion under the fiscal year 1985 level, $148 million under the President's budget request, $57 million under the House-passed bill, and $1.2 billion below the Senate-passed bill. I ask unanimous consent that a table containing these reduced levels appear in the RECORD at the conclusion of my remarks. The remainder of my statement, however, will make reference to the levels contained in the agricultural appropriations conference report, rather than the reduced amounts.

Mr. President, the conference committee on this bill considered 102 Senate amendments to the House bill. There were some issues on which the House and Senate positions were vastly different, but after intense negotiations, those differences were resolved.

One of the most difficult issues to resolve was the funding approach for reimbursement of Commodity Credit Corporation net realized losses. The conferees finally agreed that $9.2 billion would be the appropriated level, and that an additional $4 billion would be available upon receipt of an official budget request. This total of $13.2 billion will not be sufficient to last throughout the year, so we expect that a supplemental appropriation will be necessary sometime next spring.

The Farmers Home Administration programs were also items in conference. The conference report contains a 35-percent cut in rural housing programs from the fiscal year 1985 level. Agricultural credit programs were maintained at levels which are near the levels available in fiscal year 1985. For farm operating loans, the conferees agreed to $2.7 billion for insured loans and $1.7 billion for guaranteed loans. For ownership loans, the conference report contains $400 million for insured loans and $250 million for guaranteed loans.

The rural development loan and grant programs of Farmers Home will be funded at a level of $540 million for loans and $169.5 million for grants. This includes $340 million for water and sewer loans and $115 million for water and sewer grants.

The nutrition programs of the Department of Agriculture will be fully funded for the first time in several years. The levels for the primary food programs are as follows:

[Dollars in billions]

Child nutrition programs	$4.11
Food stamps	11.89
Feeding program for women, infants, and children (WIC)	1.57

In the research portion of our bill, the conferees agreed to funding levels of $44.5 million for competitive research grants and $28.8 million for special grants. Overall, the conference report reflects a total of $1.12 billion for agricultural research and extension activities.

For soil and water conservation activities of the Soil Conservation Service and the Agricultural Stabilization and Conservation Service, the conferees agreed to a total of $832.7 million, which is roughly the same amount as was appropriated in fiscal year 1985.

The Rural Electrification Administration loan programs have been given strong support by both the House and the Senate. The electric and telephone loan programs will be funded at levels of $2.06 billion for loans and $30 million for the purchase of capital stock of the Rural Telephone Bank.

The conference report makes available $430,967,000 for the Food and Drug Administration. This includes $10 million for AIDS research, $4.7 million for orphan product work, and makes available, subject to the submission of a budget request, $6.7 million for increased operating and personnel costs. The conference agreement also provides a ban on the implementation of user fees during fiscal year 1986. It is my hope that the authorizing committees can reach an agreement concerning this matter, so that it will not be necessary for the Appropriations Committee to address this matter in next year's appropriations bill.

Mr. President, I have one last item I would like to mention. The conferees made sufficient funds available to the Food Safety and Inspection Service [FSIS] to perform its mandatory inspection programs.

Mr. President, while I believe that the bill as passed by the Senate was a more responsible bill, this conference report represents the best possible compromise with the House on the many issues before the conference. The totals in this bill are within the subcommittee's 302(b) allocation for budget authority and outlays.

I urge the Senate to support the conference report on the continuing resolution, which includes the provisions of the conference report on the Agriculture appropriations bill.

Mr. President, I also want to congratulate and commend the staff members who worked so hard and effectively to help develop and get approval of this conference report. Many long hours of tedious work went into this effort. I especially single out my chief clerk, Irma Hanneman, her assistant clerk, Forest Thigpen, and Koni Gleason, for their excellent work. Without them, this bill could not have been enacted.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Comparative Statement of New Budget (Obligational) Authority

	FY 1985 Enacted	FY 1986 Estimates	House	Senate	Conference	Conference Less 0.6 Percent	Difference
TITLE I - AGRICULTURAL PROGRAMS							
Production, Processing and Marketing							
Office of the Secretary	1,732,000	1,742,000	1,750,000	5,360,000	1,750,000	1,739,000	-11,000
Office of the Assistant Secretary for Administration	479,000	420,000	484,000	---	484,000	481,000	-3,000
Standard Level User Charges (USDA)	53,454,000	59,500,000	49,454,000	57,100,000	53,454,000	53,133,000	-321,000
Building operations and maintenance	13,300,000	17,800,000	17,860,000	17,200,000	17,800,000	17,693,000	-107,000
Advisory Committees (USDA)	1,385,000	1,385,000	1,323,000	1,323,000	1,323,000	1,315,000	-8,000
Departmental Administration	18,868,000	17,795,000	19,130,000	19,130,000	19,130,000	19,015,000	-115,000
Working Capital Fund	6,000,000	6,000,000	6,000,000	6,000,000	6,000,000	5,964,000	-36,000
Office of the Assistant Secretary for Governmental and Public Affairs	375,000	292,000	337,000	---	337,000	335,000	-2,000
Public Affairs	6,666,000	6,055,000	6,758,000	6,758,000	6,758,000	6,717,000	-41,000
Legislative Liaison	492,000	513,000	495,000	495,000	495,000	492,000	-3,000
Intergovernmental Affairs	467,000	470,000	467,000	467,000	467,000	464,000	-3,000
Office of the Inspector General	30,142,000	27,764,000	30,756,000	30,756,000	30,756,000	30,571,000	-185,000
(Transfer from food stamp program)	(16,355,000)	(14,710,000)	(15,924,000)	(15,924,000)	(15,924,000)	(15,924,000)	---
Total, Office of the Inspector General	(46,497,000)	(42,474,000)	(46,680,000)	(46,680,000)	(46,680,000)	(46,495,000)	(-185,000)
Office of the General Counsel	14,929,000	13,925,000	15,077,000	15,077,000	15,077,000	14,987,000	-90,000
(Transfer from food stamp program)	(974,000)	(786,000)	(786,000)	(786,000)	(786,000)	(786,000)	---
Total, Office of the General Counsel	(15,903,000)	(14,711,000)	(15,863,000)	(15,863,000)	(15,863,000)	(15,773,000)	(-90,000)
Office of the Assistant Secretary for Economics	413,000	332,000	418,000	---	418,000	415,000	-3,000
Economic Research Service	47,098,000	[illegible]	46,305,000	46,305,000	46,305,000	46,027,000	-278,000
Statistical Reporting Service	58,287,000	59,505,000	59,079,000	59,079,000	59,079,000	58,725,000	-354,000
World Agricultural Outlook Board	1,676,000	1,680,000	1,680,000	1,680,000	1,680,000	1,670,000	-10,000
Office of the Assistant Secretary for Science and Education	367,000	321,000	371,000	---	371,000	369,000	-2,000
Agricultural Research Service	493,106,000	498,753,000	492,806,000	501,043,000	501,043,000	498,037,000	-3,006,000
Special fund (reappropriation, indefinite)	2,000,000	2,000,000	2,000,000	2,000,000	2,000,000	1,988,000	-12,000
Buildings and facilities	23,250,000	---	3,600,000	3,350,000	6,350,000	6,312,000	-38,000
Scientific activities overseas (foreign currency program)	5,300,000	---	---	5,000,000	3,000,000	2,982,000	-18,000
Cooperative State Research Service	290,776,000	251,356,000	275,428,000	299,335,000	290,423,000	288,680,000	-1,743,000
Funds made available by P.L. 98-473	(700,000)	---	---	---	---	---	---
Extension Service	343,727,000	265,137,000	302,731,000	342,338,000	305,956,000	304,120,000	-1,836,000
(Transfer from food stamp program)	---	---	(38,627,000)	---	(38,627,000)	(38,627,000)	---
Total, Extension Service	(343,727,000)	(265,137,000)	(341,358,000)	(342,338,000)	(344,583,000)	(342,747,000)	(-1,836,000)
National Agricultural Library	11,464,000	11,340,000	11,340,000	11,340,000	11,340,000	11,272,000	-68,000
Total, Research and Extension	1,169,123,000	1,029,536,000	1,089,905,000	1,155,407,000	1,120,112,000	1,113,391,000	-6,721,000
Office of the Assistant Secretary for Marketing and Inspection Services	343,000	301,000	347,000	---	347,000	345,000	-2,000
Animal and Plant Health Inspection Service:							
Salaries and expenses	298,557,000	248,807,000	281,165,000	309,502,000	316,286,000	314,388,000	-1,898,000
Buildings and facilities	2,361,000	2,361,000	4,262,000	4,262,000	4,262,000	4,236,000	-26,000
Total, Animal & Plant Health Inspection Service	300,918,000	251,168,000	285,427,000	313,764,000	320,548,000	318,624,000	-1,924,000
Food Safety and Inspection Service	364,635,000	364,255,000	358,494,000	370,000,000	364,265,000	362,079,000	-2,186,000
Amount available subject to budget request	---	---	---	---	(5,735,000)	(5,735,000)	---
Federal Grain Inspection Service	6,994,000	7,045,000	7,045,000	7,045,000	7,045,000	7,003,000	-42,000
Inspection and Weighing Services (limitation on administrative expenses, from fees collected)	(36,856,000)	(36,856,000)	(36,856,000)	(36,856,000)	(36,856,000)	(36,856,000)	---
Agricultural Cooperative Service	4,675,000	3,679,000	4,713,000	4,713,000	4,713,000	4,685,000	-28,000
Agricultural Marketing Service:							
Marketing Services	31,005,000	30,626,000	31,455,000	32,208,000	32,208,000	32,015,000	-193,000
(Limitation on administrative expenses, from fees collected)	(27,253,000)	(27,253,000)	(27,253,000)	(27,253,000)	(27,253,000)	(27,253,000)	---
Funds for strengthening markets, income, and supply (Section 32) (by transfer)	(6,145,000)	(6,193,000)	(6,193,000)	(6,193,000)	(6,193,000)	(6,193,000)	---
Payments to States and possessions	990,000	---	990,000	990,000	990,000	984,000	-6,000
Office of Transportation	2,542,000	2,163,000	2,466,000	2,466,000	2,466,000	2,451,000	-15,000
Total, Agricultural Marketing Service	34,537,000	32,789,000	34,911,000	35,664,000	35,664,000	35,450,000	-214,000

Comparative Statement of New Budget (Obligational) Authority

	FY 1985 Enacted	FY 1986 Estimates	House	Senate	Conference	Conference Less 0.6 Percent	Difference
Packers and Stockyards Administration..................	9,035,000	9,201,000	9,201,000	9,201,000	9,201,000	9,146,000	-55,000
Total, Production, Processing and Marketing.....	2,146,880,000	1,978,893,000	2,046,727,000	2,163,124,000	2,123,579,000	2,110,835,000	-12,744,000
Farm Income Stabilization							
Office of the Under Secretary for International Affairs and Commodity Programs........................	501,000	444,000	502,000	---	502,000	499,000	-3,000
Agricultural Stabilization and Conservation Service:							
Salaries and expenses..............................	50,857,000	---	---	---	---	---	---
(Transfer from Commodity Credit Corporation)..	(344,199,000)	(343,199,000)	(395,119,000)	(406,524,000)	(400,821,000)	(400,821,000)	---
Total, salaries and expenses, ASCS..............	(395,056,000)	(343,199,000)	(395,119,000)	(406,524,000)	(400,821,000)	(400,821,000)	---
Dairy indemnity program............................	100,000	---	100,000	100,000	100,000	99,000	-1,000
CORPORATIONS							
Federal Crop Insurance Corporation:							
Administrative and operating expenses............	200,502,000	239,467,000	200,502,000	240,194,000	220,348,000	219,026,000	-1,322,000
Federal crop insurance corporation fund...........	223,000,000	135,000,000	135,000,000	135,000,000	135,000,000	134,190,000	-810,000
Subscription to capital stock......................	50,000,000	---	---	---	---	---	---
Total, Federal Crop Insurance Corporation.......	473,502,000	374,467,000	335,502,000	375,194,000	355,348,000	353,216,000	-2,132,000
Commodity Credit Corporation:							
Reimbursement for net realized losses 1/..........	12,285,790,000	9,396,240,000	9,195,240,000	9,396,240,000	9,195,240,000	9,140,069,000	-55,171,000
Amount available subject to budget request.......	---	---	---	---	(4,000,000,000)	(4,000,000,000)	---
General Sales Manager (transfer from Commodity Credit Corporation)..............................	(6,079,000)	(5,882,000)	(6,689,000)	(6,689,000)	(6,689,000)	(6,689,000)	---
Total, Farm Income Stabilization................	12,810,750,000	9,771,151,000	9,531,344,000	9,771,534,000	9,551,190,000	9,493,883,000	-57,307,000
Total, title I, Agricultural Programs:							
Definite appropriations..........................	14,955,630,000	11,728,044,000	11,576,071,000	11,932,658,000	11,672,769,000	11,602,730,000	-70,039,000
Indefinite appropriations........................	2,000,000	2,000,000	2,000,000	2,000,000	2,000,000	1,988,000	-12,000
(By transfer).....................................	(367,607,000)	(364,577,000)	(456,545,000)	(429,323,000)	(462,247,000)	(462,247,000)	---
(Transfer from Sec. 32)..........................	(6,145,000)	(6,193,000)	(6,193,000)	(6,193,000)	(6,193,000)	(6,193,000)	---
(Limitation on obligations)......................	(64,809,000)	(64,109,000)	(64,109,000)	(64,109,000)	(4,069,844,000)	(4,069,844,000)	---
Total, new budget (obligational) authority, Agricultural Programs..............	14,957,630,000	11,730,044,000	11,578,071,000	11,934,658,000	11,674,769,000	11,604,718,000	-70,051,000
TITLE II - RURAL DEVELOPMENT PROGRAMS							
Rural Development Assistance							
Office of the Under Secretary for Small Community and Rural Development.....................................	410,000	318,000	415,000	---	790,000	785,000	-5,000
Office of Rural Development Policy:							
Salaries and expenses..............................	2,345,000	2,246,000	2,037,000	---	---	---	---
Farmers Home Administration:							
Rural Housing Insurance Fund:							
Direct loans....................................	(17,000,000)	---	(17,000,000)	(10,200,000)	(15,000,000)	(15,000,000)	---
Insured loans..................................	(3,220,000,000)	(30,000,000)	(3,220,000,000)	(1,932,000,000)	(2,112,000,000)	(2,112,000,000)	---
Collection and servicing contracts (limitation on obligations)................................	(10,000,000)	(10,000,000)	(10,000,000)	(10,000,000)	(10,000,000)	(10,000,000)	---
Site loans......................................	(1,000,000)	---	(1,000,000)	(600,000)	(600,000)	(600,000)	---
Rent supplement authorization..................	(116,000,000)	(50,000,000)	(196,000,000)	(132,513,000)	(167,513,000)	(167,513,000)	---
Reimbursement for interest and other losses...	1,843,927,000	2,136,784,000	1,843,927,000	2,136,784,000	1,843,927,000	1,832,863,000	-11,064,000
Total, Rural Housing Insurance Fund:							
Definite appropriations......................	1,843,927,000	2,136,784,000	1,843,927,000	2,136,784,000	1,843,927,000	1,832,863,000	-11,064,000
(Loan authorization).........................	(3,354,000,000)	(80,000,000)	(3,434,000,000)	(2,075,313,000)	(2,295,113,000)	(2,295,113,000)	---
(Limitation on obligations)..................	(10,000,000)	(10,000,000)	(10,000,000)	(10,000,000)	(10,000,000)	(10,000,000)	---
Self-help land development fund (loan authorization).....................................	(2,700,000)	---	---	---	---	---	---

1/ Requested in the FY 1986 budget document as a permanent indefinite appropriation. Senate provides a current indefinite appropriation which would provide budget authority in at least the amount requested in the President's budget.

Comparative Statement of New Budget (Obligational) Authority

	FY 1985 Enacted	FY 1986 Estimates	House	Senate	Conference	Conference Less 0.6 Percent	Difference
Agricultural Credit Insurance Fund:							
Real estate loans:							
Insured	(676,000,000)	—	(526,000,000)	(276,000,000)	(426,000,000)	(426,000,000)	—
Guaranteed	(56,000,000)	—	(206,000,000)	(256,000,000)	(256,000,000)	(256,000,000)	—
Total, real estate loans	(732,000,000)	—	(732,000,000)	(532,000,000)	(682,000,000)	(682,000,000)	—
Soil conservation loans	(16,000,000)	—	(16,000,000)	(16,000,000)	(16,000,000)	(16,000,000)	—
Operating loans:							
Insured	(1,920,000,000)	(400,000,000)	(1,920,000,000)	(3,000,000,000)	(2,700,000,000)	(2,700,000,000)	—
Guaranteed	(500,000,000)	(3,000,000,000)	(1,480,000,000)	(1,772,000,000)	(1,700,000,000)	(1,700,000,000)	—
Total, operating loans	(2,420,000,000)	(3,400,000,000)	(3,400,000,000)	(4,772,000,000)	(4,400,000,000)	(4,400,000,000)	—
Emergency disaster loans, (indefinite)	(870,000,000)	(800,000,000)	(800,000,000)	(800,000,000)	(800,000,000)	(800,000,000)	—
Reimbursement for interest and other losses	1,089,943,000	1,477,565,000	1,089,943,000	1,477,565,000	1,089,943,000	1,083,403,000	-6,540,000
Total, Agricultural Credit Insurance Fund:							
Definite appropriations	1,089,943,000	1,477,565,000	1,089,943,000	1,477,565,000	1,089,943,000	1,083,403,000	-6,540,000
(Loan authorization)	(3,168,000,000)	(3,400,000,000)	(4,148,000,000)	(5,320,000,000)	(5,098,000,000)	(5,098,000,000)	—
(Loan authorization, indefinite)	(870,000,000)	(800,000,000)	(800,000,000)	(800,000,000)	(800,000,000)	(800,000,000)	—
Rural Development Insurance Fund:							
Water and sewer facility loans	(340,000,000)	(50,000,000)	(340,000,000)	(340,000,000)	(340,000,000)	(340,000,000)	—
Industrial development loans: Guaranteed	(150,000,000)	—	(100,000,000)	(100,000,000)	(100,000,000)	(100,000,000)	—
Community facility loans	(115,000,000)	—	(115,000,000)	(75,000,000)	(100,000,000)	(100,000,000)	—
Reimbursement for losses	560,005,000	612,098,000	560,005,000	612,098,000	560,005,000	556,645,000	-3,360,000
Total, Rural Development Insurance Fund:							
Definite appropriations	560,005,000	612,098,000	560,005,000	612,098,000	560,005,000	556,645,000	-3,360,000
(Loan authorization)	(605,000,000)	(50,000,000)	(555,000,000)	(515,000,000)	(540,000,000)	(540,000,000)	—
Rural water and waste disposal grants	115,000,000	25,000,000	115,000,000	115,000,000	115,000,000	114,310,000	-690,000
Very low-income housing repair grants	12,500,000	—	12,500,000	12,500,000	12,500,000	12,425,000	-75,000
Rural housing for domestic farm labor	—	—	—	10,000,000	10,000,000	9,940,000	-60,000
Mutual and self-help housing	8,000,000	—	8,000,000	8,000,000	8,000,000	7,952,000	-48,000
Rural community fire protection grants	3,250,000	—	3,250,000	3,250,000	3,250,000	3,230,000	-20,000
Compensation for construction defects	1,000,000	—	1,000,000	500,000	750,000	745,000	-5,000
Rural rental assistance payments	52,250,000	—	—	—	—	—	—
Rural housing preservation grants	5,000,000	—	—	—	—	—	—
Carryover	—	—	(20,000,000)	(20,000,000)	(20,000,000)	(20,000,000)	—
Salaries and expenses	352,297,000	240,180,000	356,297,000	394,197,000	375,297,000	373,045,000	-2,252,000
(Transfer from loan accounts)	(4,000,000)	(4,000,000)	(4,000,000)	(4,000,000)	(4,000,000)	(4,000,000)	—
Total, salaries and expenses	(356,297,000)	(244,180,000)	(360,297,000)	(398,197,000)	(379,297,000)	(377,045,000)	(-2,252,000)
Total, Farmers Home Administration	4,043,172,000	4,491,627,000	3,989,922,000	4,759,894,000	4,018,672,000	3,994,558,000	-24,114,000
Rural Electrification Administration:							
Rural electrification & telephone revolving fund:							
Direct loans:							
Insured loans:							
Electric	(850,000,000)	(500,000,000)	(650,000,000)	(650,000,000)	(650,000,000)	(650,000,000)	---
Telephone	(250,000,000)	(75,000,000)	(250,000,000)	(250,000,000)	(250,000,000)	(250,000,000)	---
Total, Insured loans	(1,100,000,000)	(575,000,000)	(900,000,000)	(900,000,000)	(900,000,000)	(900,000,000)	---
Guaranteed loans:							
Electric	(1,200,000,000)	(300,000,000)	(850,000,000)	(850,000,000)	(850,000,000)	(850,000,000)	—
Telephone	(125,000,000)	—	(125,000,000)	(125,000,000)	(125,000,000)	(125,000,000)	—
Total, Guaranteed loans	(1,325,000,000)	(300,000,000)	(975,000,000)	(975,000,000)	(975,000,000)	(975,000,000)	---
Reimbursement for interest and other losses	(215,964,000)	—	(225,395,000)	—	(100,000,000)	(100,000,000)	—
Rural telephone bank	(30,000,000)	—	(30,000,000)	(30,000,000)	(30,000,000)	(30,000,000)	—
Direct loans (limitation on obligations)	(185,000,000)	(185,000,000)	(185,000,000)	(185,000,000)	(185,000,000)	(185,000,000)	—
Rural communication development fund	841,000	1,203,000	1,203,000	1,203,000	1,203,000	1,196,000	-7,000
Salaries and expenses	30,664,000	29,668,000	30,990,000	30,990,000	30,990,000	30,804,000	-186,000
Total, Rural Electrification Administration	31,505,000	30,871,000	32,193,000	32,193,000	32,193,000	32,000,000	-193,000

Comparative Statement of New Budget (Obligational) Authority

	FY 1985 Enacted	FY 1986 Estimates	House	Senate	Conference	Conference Less 0.6 Percent	Difference
Total, Rural Development Assistance:							
Definite appropriations	4,077,432,000	4,525,104,000	4,024,567,000	4,802,087,000	4,051,655,000	4,027,343,000	-24,312,000
(By transfer)	(4,000,000)	(4,000,000)	(4,000,000)	(4,000,000)	(4,000,000)	(4,000,000)	---
(Loan authorization)	(7,129,700,000)	(3,530,000,000)	(8,139,000,000)	(7,910,313,000)	(7,933,113,000)	(7,933,113,000)	---
(Loan authorization, indefinite)	(870,000,000)	(800,000,000)	(800,000,000)	(800,000,000)	(800,000,000)	(800,000,000)	---
(Limitation on obligations)	(10,000,000)	(10,000,000)	(10,000,000)	(10,000,000)	(10,000,000)	(10,000,000)	---
Conservation							
Office of the Assistant Secretary for Natural Resources and Environment	381,000	337,000	386,000	---	386,000	384,000	-2,000
Soil Conservation Service:							
Conservation operations	347,340,000	364,798,000	345,629,000	345,400,000	345,450,000	343,257,000	-2,193,000
River basin surveys and investigations	14,956,000	11,790,000	14,906,000	14,906,000	14,906,000	14,817,000	-89,000
Watershed planning	8,922,000	7,019,000	8,922,000	8,922,000	8,922,000	8,868,000	-54,000
Watershed and flood prevention operations	183,843,000	43,482,000	187,843,000	187,843,000	183,843,000	182,740,000	-1,103,000
Resource conservation and development	26,320,000	20,180,000	26,320,000	26,320,000	26,320,000	26,162,000	-158,000
Great Plains conservation program	21,531,000	7,527,000	21,531,000	21,531,000	21,531,000	21,402,000	-129,000
Total, Soil Conservation Service	620,082,000	465,196,000	621,151,000	620,922,000	620,982,000	617,256,000	-3,726,000
Agricultural Stabilization and Conservation Service:							
Agricultural conservation program	190,000,000	---	190,000,000	165,000,000	190,000,000	188,860,000	-1,140,000
Forestry incentives program	12,500,000	---	12,500,000	12,500,000	12,500,000	12,425,000	-75,000
Water bank program	8,800,000	---	---	8,800,000	8,800,000	8,747,000	-53,000
Emergency conservation program	---	---	5,000,000	---	---	---	---
Total, Agricultural Stabilization and Conservation Service	211,300,000	---	207,500,000	186,300,000	211,300,000	210,032,000	-1,268,000
Total, Conservation							
Definite appropriations	831,763,000	465,533,000	829,037,000	807,222,000	832,668,000	827,672,000	-4,996,000
Total, title II, Rural Development Programs:							
Definite appropriations	4,909,195,000	4,990,637,000	4,853,604,000	5,609,309,000	4,884,323,000	4,855,015,000	-29,308,000
(By transfer)	(4,000,000)	(4,000,000)	(4,000,000)	(4,000,000)	(4,000,000)	(4,000,000)	---
(Loan authorization)	(7,129,700,000)	(3,530,000,000)	(8,139,000,000)	(7,910,313,000)	(7,933,113,000)	(7,933,113,000)	---
(Loan authorization, indefinite)	(870,000,000)	(800,000,000)	(800,000,000)	(800,000,000)	(800,000,000)	(800,000,000)	---
Total, new budget (obligational) authority, Rural Development Programs	4,909,195,000	4,990,637,000	4,853,604,000	5,609,309,000	4,884,323,000	4,855,015,000	-29,308,000
TITLE III - DOMESTIC FOOD PROGRAMS							
Office of the Assistant Secretary for Food and Consumer Services	346,000	303,000	350,000	---	350,000	348,000	-2,000
Food and Nutrition Service:							
Child nutrition programs	1,474,861,000	177,533,000	177,533,000	177,533,000	177,533,000	177,533,000	---
Amount available subject to budget request	---	---	(665,015,000)	(665,015,000)	(665,015,000)	(665,015,000)	---
(Transfer from sec. 32)	(2,329,819,000)	(3,250,647,000)	(3,271,592,000)	(3,271,592,000)	(3,271,592,000)	(3,271,592,000)	---
Total, Child nutrition programs	(3,804,680,000)	(3,428,180,000)	(4,114,140,000)	(4,114,140,000)	(4,114,140,000)	(4,114,140,000)	---
Special milk program	17,600,000	11,500,000	11,500,000	11,500,000	11,500,000	11,500,000	---
Feeding program for Women, Infants and Children (WIC)	1,500,000,000	1,479,000,000	1,570,000,000	1,570,000,000	1,570,000,000	1,560,580,000	-9,420,000
Commodity supplemental food program	24,910,000	34,049,000	36,999,000	36,999,000	36,999,000	36,777,000	-222,000
Food stamp program	11,768,856,000	11,871,250,000	11,891,570,000	11,891,570,000	11,891,570,000	11,820,221,000	-71,349,000
Nutrition assistance for Puerto Rico	825,000,000	825,000,000	825,000,000	825,000,000	825,000,000	820,050,000	-4,950,000
Food donations programs:							
Needy family program	23,546,000	53,007,000	61,722,000	56,773,000	56,773,000	56,432,000	-341,000
Elderly feeding program	116,000,000	121,400,000	125,900,000	137,800,000	137,800,000	136,973,000	-827,000
Total, Food donations programs	139,546,000	174,407,000	187,622,000	194,573,000	194,573,000	193,405,000	-1,168,000
Temporary emergency food assistance program	57,000,000	---	50,000,000	50,000,000	50,000,000	49,700,000	-300,000
Food program administration	84,187,000	81,523,000	82,502,000	82,502,000	82,502,000	82,007,000	-495,000
Total, Food and Nutrition Service	15,891,968,000	14,653,242,000	14,832,724,000	14,839,677,000	14,839,677,000	14,751,773,000	-87,904,000
Human Nutrition Information Service	7,533,000	13,542,000	13,542,000	13,542,000	13,542,000	13,481,000	-81,000
Total, title III, Domestic Food Programs:							
Definite appropriations	15,899,847,000	14,669,127,000	14,846,638,000	14,853,239,000	14,853,589,000	14,765,602,000	-87,987,000
(Transfer from Sec. 32)	(2,329,819,000)	(3,250,647,000)	(3,271,592,000)	(3,271,592,000)	(3,271,592,000)	(3,271,592,000)	---
Total, new budget (obligational) authority, Domestic Food Programs	15,899,847,000	14,669,127,000	14,846,638,000	14,853,239,000	14,853,589,000	14,765,602,000	-87,987,000

Comparative Statement of New Budget (Obligational) Authority

	FY 1985 Enacted	FY 1986 Estimates	House	Senate	Conference	Conference Less 0.6 Percent	Difference
TITLE IV - INTERNATIONAL PROGRAMS							
Foreign Agricultural Service	83,622,000	83,516,000	83,547,000	83,547,000	83,547,000	83,046,000	-501,000
Public Law 480:							
Title I and III - Credit sales:							
Program level	(1,021,000,000)	(1,030,000,000)	(1,030,000,000)	(1,030,000,000)	(1,030,000,000)	(1,030,000,000)	—
Appropriation	705,000,000	657,000,000	657,000,000	657,000,000	657,000,000	653,058,000	-3,942,000
Title II - Commodities for disposition abroad:							
Program level	(1,050,000,000)	(650,000,000)	(650,000,000)	(650,000,000)	(650,000,000)	(650,000,000)	—
Appropriation	1,034,000,000	650,000,000	650,000,000	650,000,000	650,000,000	646,100,000	-3,900,000
Emergency reserve for African famine relief	225,000,000	—	—	—	—	—	—
Total, Public Law 480:							
Program level	(2,071,000,000)	(1,680,000,000)	(1,680,000,000)	(1,680,000,000)	(1,680,000,000)	(1,680,000,000)	—
Appropriation	1,964,000,000	1,307,000,000	1,307,000,000	1,307,000,000	1,307,000,000	1,299,158,000	-7,842,000
Office of International Cooperation and Development	5,030,000	3,917,000	3,917,000	5,417,000	5,417,000	5,384,000	-33,000
Total, title IV, new budget (obligational) authority, International Programs (all definite appropriations)	2,052,660,000	1,394,433,000	1,394,464,000	1,395,964,000	1,395,964,000	1,387,588,000	-8,376,000
TITLE V - RELATED AGENCIES							
DEPARTMENT OF HEALTH AND HUMAN SERVICES							
Food and Drug Administration:							
Salaries and expenses	387,157,000	393,657,000	392,370,000	399,629,000	396,955,000	394,573,000	-2,382,000
Amount available subject to budget request	—	—	—	—	(6,674,000)	(6,674,000)	—
Buildings and facilities	1,450,000	1,450,000	1,450,000	1,450,000	1,450,000	1,441,000	-9,000
Standard Level User Charges (FDA)	26,072,000	25,888,000	25,888,000	25,888,000	25,888,000	25,733,000	-155,000
Collections from user fees (limitation on obligations)	—	(5,000,000)	—	—	—	—	—
Total, Food and Drug Administration	414,679,000	420,995,000	419,708,000	426,967,000	424,293,000	421,747,000	-2,546,000
INDEPENDENT AGENCIES							
Commodity Futures Trading Commission	27,564,000	27,981,000	28,416,000	30,337,000	29,416,000	29,240,000	-176,000
Farm Credit Administration (limitation on administrative expenses)	(22,092,000)	(21,175,000)	(21,175,000)	(21,175,000)	(21,175,000)	(21,175,000)	—
Total, title V, Related Agencies:							
Definite appropriations	442,243,000	448,976,000	448,124,000	457,274,000	453,709,000	450,987,000	-2,722,000
(Limitation on obligations)	(22,092,000)	(26,175,000)	(21,175,000)	(21,175,000)	(27,849,000)	(27,849,000)	—
Total, new budget (obligational) authority, Related Agencies	442,243,000	448,976,000	448,124,000	457,274,000	453,709,000	450,987,000	-2,722,000
RECAPITULATION							
Title I - Agricultural programs	14,957,630,000	11,730,044,000	11,578,075,000	11,934,658,000	11,674,769,000	11,604,718,000	-70,051,000
Title II - Rural development programs	4,909,195,000	4,990,637,000	4,853,604,000	5,609,309,000	4,884,323,000	4,855,015,000	-29,308,000
Title III - Domestic food programs	15,899,847,000	14,669,127,000	14,846,638,000	14,853,239,000	14,853,589,000	14,765,602,000	-87,987,000
Title IV - International programs	2,052,660,000	1,394,433,000	1,394,464,000	1,395,964,000	1,395,964,000	1,387,588,000	-8,376,000
Title V - Related agencies	442,243,000	448,976,000	448,124,000	457,274,000	453,709,000	450,987,000	-2,722,000
Total, new budget (obligational) authority	38,261,575,000	33,233,217,000	33,120,901,000	34,250,444,000	33,262,354,000	33,063,910,000	-198,444,000
Transfer from sec. 32 (Customs Receipts)	2,335,964,000	3,256,840,000	3,277,785,000	3,277,785,000	3,277,785,000	3,277,785,000	—
Total obligational authority	40,597,539,000	36,490,057,000	36,398,686,000	37,528,229,000	36,540,139,000	36,341,695,000	-198,444,000
Memoranda:							
Direct and insured loan level	8,473,000,000	2,040,000,000	8,053,000,000	7,548,200,000	7,600,000,000	7,600,000,000	—
Guaranteed loan level	2,031,000,000	3,300,000,000	2,761,000,000	3,103,000,000	3,031,000,000	3,031,000,000	—
Transfers from Commodity Credit Corporation	344,199,000	343,199,000	395,119,000	406,524,000	400,821,000	400,821,000	—

Comparative Statement of New Budget (Obligational) Authority

	FY 1985 Enacted	FY 1986 Estimates	House	Senate	Conference	Conference Less 0.6 Percent	Difference
CONGRESSIONAL BUDGET RECAP							
Section 12:							
Transfer (discretionary)	6,145,000	6,193,000	6,193,000	6,193,000	6,193,000	6,193,000	—
Transfer (mandatory)	2,129,419,000	[illegible]	3,271,592,000	3,271,592,000	3,271,592,000	3,271,592,000	—
Permanent (mandatory)	481,268,000	374,237,000	374,237,000	374,237,000	374,237,000	374,237,000	—
Total (including Section 12)	41,078,807,000	36,864,294,000	36,772,923,000	37,902,466,000	36,914,376,000	36,715,932,000	-198,444,000
Sec. 12 permanent	(481,268,000)	(374,237,000)	(374,237,000)	(374,237,000)	(374,237,000)	(374,237,000)	—
Amount in this bill (incl Sec. 12 transfers)	(40,597,539,000)	(36,490,057,000)	(36,398,686,000)	(37,528,229,000)	(36,540,139,000)	(36,341,695,000)	(-198,444,000)
Prior year outlays appropriated with this bill	—	—	—	—	—	—	—
Total Congressional mandatory and discretionary	41,078,807,000	36,864,294,000	36,772,923,000	37,902,466,000	36,914,376,000	36,715,932,000	-198,444,000
Mandatory (total)	(4,303,548,000)	(3,813,917,000)	(3,834,862,000)	(3,834,862,000)	(3,834,862,000)	(3,834,862,000)	—
(Mandatory current)	(4,303,548,000)	(3,813,862,000)	(3,834,862,000)	(3,834,862,000)	(3,834,862,000)	(3,834,862,000)	—
(Prior year)	—	—	—	—	—	—	—
Discretionary (total)	(36,775,259,000)	(33,050,377,000)	(32,938,061,000)	(34,067,604,000)	(33,079,314,000)	(32,881,070,000)	(-198,444,000)

1986 INTERIOR APPROPRIATIONS BILL

Mr. McCLURE. Mr. President, the portion of the conference report which funds the Department of the Interior and related agencies provides a total of $8,097,121,000 in new budget authority. This is $102,879,000 below the conference budget resolution and $290,543,000 below the fiscal year 1985 enacted level. In addition, this report is $140,956,000 below the House passed level and $22,013,000 below the Senate passed level.

The report includes language that essentially closes the Synthetic Fuels Corporation and provides for the rescission of SFC funds.

The report provides for a $400 million Clean Coal Demonstration Program to be funded from the energy security reserve. Of this amount, $100 million is available immediately, with $150 million available on October 1, 1986, and $150 million available on October 1, 1987.

For the first time in 4 years, this report does not include a moratorium on leasing in Federal waters off the coast of California. The conferees do agree that negotiations between the Secretary of the Interior and Members of Congress should continue on this long standing dispute. The Secretary will report, every 60 days, on the progress of these negotiations. Any agreement, however, is not binding on the Congress or on the Secretary but will provide the Secretary with a broad range of advice on the issue.

Other highlights of the fiscal year 1986 interior appropriations bill are contained in the accompanying conference report.

In the National Park Service construction account, the managers agree that planning for the Playalinda Beach access road, in Canaveral National Seashore, FL, should proceed, from funds available in the Federal Lands Highway Program advance project planning activity.

FISCAL YEAR 1986 DEFENSE BILL CONFERENCE AGREEMENT

Mr. STEVENS. Mr. President, we come to the floor today with a final defense bill within the continuing resolution that is a product of what I consider to be the most difficult and protracted conference negotiations in recent years. The final product, I submit, represents the best possible compromise of what appeared to be irreconcilable differences between the House and Senate. We were nearly $14 billion apart on appropriations, and that was only part of the problem. There were sharp differences over a number of major issues such as chemical weapons production, antisatellite weapon testing, inflation projections, and allocation and use of more than $6 billion in prior year savings. These and hundreds of other differences were spread over more than 200 pages of detailed conference notes that consumed 5 grueling days of negotiations.

We developed a final agreement on $281.2 billion for the defense appropriations bill, $1.5 billion below the Senate level and $12.3 billion above the House. It is $22.8 billion below the President's budget request and $4.3 billion below the defense bill allocation under the budget resolution process. This is much lower than the Senate wanted, Mr. President, and much lower than I wanted. It is also $1.3 billion below our original agreement embodied in the first conference report that was rejected by the House—rejected for a number of reasons that in my opinion did not center on the defense portion of the continuing resolution.

In terms of total defense funding in budget function 050, which includes appropriations in other bills, the total appropriation is $297.6 billion, or nearly $5 billion below the $302.5 billion target Congress agreed to in the budget resolution.

UNOBLIGATED BALANCES

There are those, Mr. President, who like to count apples and oranges and call them all apples. They are critics of defense spending for the most part, and they like to add unobligated balances of appropriations from prior years on to the new budget authority number and insist that we really approved $287.5 billion— a number much closer to the total funding calculation in the Senate-passed bill. But this $6.3 billion in prior year funds reflects real savings stemming from favorable inflation and from substantial spending reductions produced by procurement reforms and improved management practices in the Pentagon. This is a happy reversal from the situation confronting us in 1981 when it was necessary to approve a supplemental appropriations bill containing $1.6 billion to cover excessive inflation and rampant cost overruns. This remarkable achievement has gone largely unnoticed amid all the media attention to fraud and abuse that has surfaced as a result of increased attention to defense contractors practices. Now the defense critics want to turn those savings into new appropriations and accuse us of using the savings as a "slush fund" for the Department, ostensibly to cushion the impact of Gramm-Rudman sequestering.

There is a lot of misinformation being peddled in the other body on this issue, Mr. President, and I have heard criticism in the Senate as well.

Let me say that we cold simply have ignored those prior year savings in our handling of the defense appropriations bill, and they would have lain unnoticed among all the various appropriation accounts. Instead we dug up those savings and we established controls over their use. They are not a hedge against Gramn-Rudman but a reserve to cover the expenses we know will be incurred as a result of congressional action or inaction on matters such as military pay raises and retirement benefits. To satisfy the critics in the second conference report, we detailed in the bill how those funds will be committed. But to argue that this is some kind of illegitimate gift to the Pentagon simply does not recognize the facts. The Appropriations Committtees in both Houses spent long days assembling the savings and providing for their use, and we did it up front. Nothing new emerged in conference. Those savings were contained in both House and Senate bills as they moved through the congressional process.

BALANCE OF DEFENSE AGREEMENT

Mr. President, while the defense funding total is not as high as we would wish, I think we have struck the best possible agreement in view of the wide gulf between the House and Senate positions. And funding was not the only critical issue. We struck an intricate balance in conference negotiations that sustained the Senate position on several critical points including:

First. Full authorized funding for the strategic defense initiative at the level of $2.75 billion.

Second. Facility and production funding at $126 million for modernizing our chemical weapons deterrent, an urgent national security progam, in my judgment.

Third. Full funding for the deep interdiction battlefield surveillance system, commonly called JSTARS. We restored the full $180 million Senate allowance.

Fourth. A budget addition of $1.5 billion for National Guard and Reserve equipment, more than twice the House allowance.

Fifth. Nearly $50 million, or most of the Senate allowance, for enhancing the Defense Department's drug interdiction mission.

Sixth. The full $375 million proposed by the Senate for procurement of Coast Guard vessels, aircraft and equipment, much of it for drug interdiction.

In addition, we accepted the $100 million proposed by the House to bolster Coast Guard operating requirements.

And these are highlights, Mr. President. We enjoyed success in a myriad of other items and were able to protect the Senate interests to a great degree.

ASAT TESTING

The downside of this good news is the concession to the House position against space testing of the antisatellite weapons system, commonly called Asat. We fought hard on this issue, Mr. President, to preserve the Senate position allowing limited testing under specific conditions, but the House was adamant. In the end Asat testing became a key link in the overall agreement and, in effect, the price for the successful conclusion of other high prority issues. So the agreement is on a testing moratorium, but the Senate position is that this issue can be reopened at any time in future appropriation acts. We will watch the progress of arms control negotiations in Geneva, and we will watch the activities of the Soviets in Asat development to ensure that this temporary halt in testing does not jeopardize our defense posture.

CONFERENCE DELIBERATIONS

Mr. President, I should go no further without expressing my personal gratitude to the members of the conference committee on both sides. Support for the Senate position was strong among our Senate conferees and helped preserve what I considered to be an intricate and, at times, quite fragile agreement. This is due in no small regard to my stalwart colleague, the senior Senator from Mississippi. Senator Stennis is my predecessor and mentor as chairman of the Defense Appropriations Subcommittee and the senior Democrat on the Armed Services Committee. It was not his rank but his experience, leadership, patience and plain know-how—together with his willingness to stay at the conference table tnroughout the long hours—that strengthened the Senate resolve.

My commendation as well for the House conferees, in particular the chairman of the Defense Appropriations Subcommittee in the House, Congressman Joseph Addabbo, and the acting chairman during Mr. Addabbo's recent illness, Congressman William Chappell. They and their fellow conferees are hard bargainers, as I have said, but hard bargainers in good faith and in a forthright fashion. They were always willing to meet the Senate halfway without surrendering House priorities. Without their honest and skillful negotiations I, frankly, do not believe we could have achieved any agreements on these difficult issues.

DEFENSE SPENDING TREND

Mr. President, I pointed out the bill does not carry the funding level the Senate would have preferred. I think this is unfortunate because it marks the first real decline in defense spending since President Reagan entered the White House and successfully established a high priority for improving military readiness and modernizing our national defenses. Although the budget resolution established a no-growth target it did provide for inflation and avoided any actual program reductions. The final total appropriation for the defense function, however, has actually produced a real decline of nearly 2 percent for 1986 appropriations compared to the 1985 level. After sequestering under the Gramm-Rudman deficit reduction legislation just 3 short months away, the surviving appropriations will produce a real decline in defense of nearly 7 percent. This is a long way from the projected average of 7.5 percent real growth over this period and more recent projections of at least 3 percent real growth.

What alarms me most, Mr. President, is the impact this will have on future defense funding. By lowering the fiscal year 1986 base we are creating unacceptable demands in 1987. I estimate it would take real growth of nearly 10 percent from the sequestered 1986 level just to get back to our modest goal of 3 percent real growth from the current budget resolution figure. To put that in dollars, we are looking at an increase over 1986 of nearly $20 billion just to get back to the 1987 target projected by the current budget resolution. And that, too, will doubtless be subject to sequestration under Gramm-Rudman.

There is no question in my mind, Mr. President, that we are confronted with a systematic dismantling of the very initiatives for modernization and improved readiness that Congress supported so strongly at the beginning of this decade. If we cannot reverse this funding trend, I fear we must face up to difficult and dangerous decisions about our military force structure and our worldwide commitments.

What are those choices? The alternatives are not pleasant. It seems we must look to sharp reductions in the personnel of our Armed Forces and perhaps a return to the draft. Or we must consider abandoning the costly but essential modernization of military weapons and equipment and look to a realignment of the force structure. That means we must find a smaller objective than a 600-ship Navy and a 40-wing Air Force. Or we must consider again a dramatic reduction in our military commitment to NATO and reassess our expensive commitments to Middle East and Asian security.

If we don't correct this trend—forget the real growth calculations, the budget scorekeeping, and the projections that never occur. When the dollars aren't there our present military posture is simply not affordable.

If we don't correct this trend—we won't have to agonize so long over whether we test Asat in space, whether we modernize our chemical deterrent, whether we support the strategic defense initiative.

If we don't correct this trend—we can set aside the debate over MX versus Midgetman and other key elements of our strategic defenses. The dollars won't be there.

If we don't correct this trend—even the goal on which we all seem to agree, the improved readiness of conventional military forces, is put in jeopardy.

CONGRESSIONAL FUNDING PROCESS

Mr. President, I cannot end without pointing to one of the biggest villains in the defense funding scenario. It is the cumbersome and increasingly ineffective congressional process for developing funding goals, not only for defense but for all Federal programs. And the legislation we now discuss is the best example of the failure of that process. Here we are again considering a catch-all continuing resolution created simply to rescue a gaggle of appropriation bills that could not be passed in orderly fashion. And I am not pointing the finger at the Appropriations Committee. I am talking about the process as a whole that begins with a seemingly endless debate over budget resolution goals that fails to produce a budget resolution on time. This is followed by delays in authorization bills and, in turn by delays in the appropriation measures.

It is December 19, Mr. President, 2 months and 19 days into fiscal year 1986—2 months and 19 days after we should have completed action on all appropriation bills. How the Department of Defense can operate without an established budget and still do its job is beyond my understanding. The Pentagon is now trying to develop a 1987 budget, and they don't even know what the 1986 budget is. Can you imagine running a sizable private corporation with that kind of fiscal irresponsibility?

We need to bring down the deficit, but we also need to get our own house in order. We need to establish real priorities and support them in an orderly and timely fashion. Let's quit adopting budget resolutions that project 3 percent real growth when we're not willing to put up the dollars to support even a zero real growth. The Congress is simply unwilling to put money where its mouth is—to fund the level of spending authorized and required.

In closing, Mr. President, I reiterate that we came out of conference with the best agreement possible on defense spending under the circumstances. I acknowledge some will claim that we got more than our fair share of the $14 billion separating the House and the Senate. But I maintain we did not come back with enough. I maintain that this settlement may easily set the stage for more damaging reductions in 1987 and beyond. I maintain that we must reverse this trend or retreat from our foreign policy and security commitments.

We had better decide soon, Mr. President. We are adrift.

Mr. President, I ask that a comparative table displaying the conference agreement on Defense appropriations be included in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Comparative Statement of New Budget (Obligational) Authority

	1/ FY 1985 Enacted	2/ FY 1986 Estimates	House	3/ Senate	Conference	Conference compared with Enacted	Estimates	House	Senate
TITLE I									
MILITARY PERSONNEL									
Military Personnel, Army	21,437,373,000	22,712,000,000	21,761,423,000	21,189,745,000	21,078,689,000	-358,624,000	-1,633,031,000	-683,254,000	-111,056,000
(Transfer from other accounts)	(25,000,000)	—	—	—	—	(-25,000,000)	—	—	—
Military Personnel, Navy	15,660,246,000	17,221,400,000	16,172,073,000	15,838,363,000	15,917,144,000	+256,898,000	-1,304,256,000	-254,929,000	+78,781,000
(Transfer from other accounts)	(139,633,000)	—	—	—	—	(-139,633,000)	—	—	—
Military Personnel, Marine Corps	4,910,206,000	5,217,400,000	5,041,277,000	4,835,456,000	4,870,016,000	-40,190,000	-347,384,000	-171,261,000	+34,560,000
(Transfer from other accounts)	(10,000,000)	—	—	—	—	(-10,000,000)	—	—	—
Military Personnel, Air Force	17,826,830,000	19,187,900,000	18,341,188,000	17,600,387,000	17,744,770,000	-82,060,000	-1,443,130,000	-596,418,000	+144,383,000
(Transfer from other accounts)	(112,054,000)	—	—	—	—	(-112,054,000)	—	—	—
Reserve Personnel, Army	2,000,100,000	2,394,400,000	2,139,254,000	2,203,014,000	2,178,564,000	+178,464,000	-215,836,000	+39,310,000	-24,450,000
Reserve Personnel, Navy	1,132,219,000	1,333,600,000	1,297,123,000	1,264,334,000	1,267,734,000	+135,515,000	-65,866,000	-29,389,000	+3,400,000
(Transfer from other accounts)	(22,000,000)	—	—	—	—	(-22,000,000)	—	—	—
Reserve Personnel, Marine Corps	271,778,000	290,000,000	278,042,000	272,200,000	272,250,000	+472,000	-17,750,000	-5,792,000	+50,000
Reserve Personnel, Air Force	367,476,000	422,500,000	397,153,000	383,330,000	384,430,000	+16,954,000	-38,070,000	-12,723,000	+1,100,000
National Guard Personnel, Army	2,926,100,000	3,430,000,000	3,238,217,000	3,017,096,000	3,066,560,000	+140,460,000	-363,440,000	-171,657,000	+49,464,000
National Guard Personnel, Air Force	886,110,000	995,100,000	953,204,000	926,516,000	926,716,000	+40,606,000	-68,384,000	-26,488,000	+200,000
Total, title I, Military Personnel:									
New budget (obligational) authority	67,702,758,000	73,425,100,000	70,139,851,000	67,783,463,000	67,906,361,000	+203,603,000	-5,518,739,000	-2,233,490,000	+122,898,000
(Transfer from other accounts)	(308,687,000)	—	—	—	—	(-308,687,000)	—	—	—
TITLE II									
OPERATION AND MAINTENANCE									
Operation and Maintenance, Army	18,421,544,000	20,198,630,000	18,659,620,000	19,043,039,000	18,975,507,000	+553,963,000	-1,223,123,000	+315,887,000	-67,532,000
(Transfer from other accounts)	(119,300,000)	—	—	—	—	(-119,300,000)	—	—	—
Operation and Maintenance, Navy	25,133,368,000	25,717,700,000	23,822,002,000 4/	24,538,310,000	24,487,071,000	-646,297,000	-1,230,629,000	+665,069,000	-51,239,000
(Transfer from other accounts)	(188,829,000)	—	—	—	—	(-188,829,000)	—	—	—
Operation and Maintenance, Marine Corps	1,640,294,000	1,667,400,000	1,615,128,000	1,609,000,000	1,612,050,000	-28,244,000	-55,350,000	-3,078,000	+3,050,000
(Transfer from other accounts)	(8,400,000)	—	—	—	—	(-8,400,000)	—	—	—
Operation and Maintenance, Air Force	19,073,363,000	20,924,400,000	19,500,000,000	19,468,901,000	19,536,813,000	+463,450,000	-1,387,587,000	+39,141,000	+67,912,000
(Transfer from other accounts)	(90,346,000)	—	—	—	—	(-90,346,000)	—	—	—
Operation and Maintenance, Defense Agencies	7,140,699,000	7,565,900,000	7,337,096,000	7,476,956,000	7,429,569,000	+288,870,000	-136,331,000	+92,473,000	-47,387,000
(Transfer from other accounts)	(8,000,000)	—	—	—	—	(-8,000,000)	—	—	—
Operation and Maintenance, Army Reserve	721,736,000	779,600,000	774,980,000	793,100,000	780,100,000	+58,364,000	+500,000	+5,120,000	-13,000,000
Operation and Maintenance, Navy Reserve	828,581,000	954,500,000	896,415,000	896,700,000	894,950,000	+66,369,000	-59,550,000	-1,465,000	-1,750,000
Operation and Maintenance, Marine Corps Reserve	58,772,000	61,400,000	57,120,000	57,200,000	57,200,000	-1,572,000	-4,200,000	+80,000	—
Operation and Maintenance, Air Force Reserve	879,761,000	907,700,000	896,844,000	910,200,000	902,700,000	+22,939,000	-5,000,000	+5,856,000	-7,500,000
Operation and Maintenance, Army National Guard	1,437,487,000	1,605,200,000	1,646,125,000	1,656,300,000	1,652,600,000	+215,113,000	+47,400,000	+6,475,000	-3,700,000
Operation and Maintenance, Air National Guard	1,825,439,000	1,830,100,000	1,803,062,000	1,806,200,000	1,806,200,000	-19,239,000	-23,900,000	+3,138,000	—
National Board for the Promotion of Rifle Practice, Army	726,000	720,000	620,000	720,000	720,000	-6,000	—	+100,000	—
Claims, Defense	157,900,000	158,300,000	148,300,000	143,300,000	143,300,000	-14,600,000	-15,000,000	-5,000,000	—
Court of Military Appeals, Defense	3,370,000	3,700,000	3,700,000	3,700,000	3,700,000	+330,000	—	—	—
Tenth International Pan American Games	—	—	10,000,000	10,000,000	10,000,000	+10,000,000	+10,000,000	—	—
Environmental Restoration, Defense	314,000,000	—	—	429,100,000	379,100,000	+65,100,000	+379,100,000	+379,100,000	-50,000,000
(Internal O&M transfer account)	—	—	(379,100,000) 3/	—	—	—	—	(-379,100,000)	—
Total, title II, Operation and Maintenance:									
New budget (obligational) authority	77,664,654,000	82,450,150,000	77,222,862,000	78,835,626,000	78,664,480,000	+999,826,000	-3,785,670,000	+1,442,118,000	-171,146,000
(Transfer from other accounts)	(406,963,000)	—	—	—	—	(-406,963,000)	—	—	—
TITLE III									
PROCUREMENT									
Aircraft Procurement, Army	3,940,900,000	3,892,500,000	3,337,300,000	3,504,200,000	3,524,200,000	-416,700,000	-368,300,000	+186,900,000	+20,000,000
(Transfer from other accounts)	—	—	(217,600,000)	(101,800,000)	—	—	—	(-217,600,000)	(-101,800,000)
Missile Procurement, Army	3,167,000,000	3,386,700,000	2,939,232,000	3,056,050,000	2,904,332,000	-262,668,000	-482,368,000	-34,900,000	-151,718,000
(Transfer from other accounts)	—	—	(124,500,000)	(49,700,000)	—	—	—	(-124,500,000)	(-49,700,000)
Procurement of Weapons and Tracked Combat Vehicles, Army	4,548,100,000	5,739,100,000	3,749,604,000	4,629,900,000	4,684,800,000	+136,700,000	-1,054,300,000	+935,196,000	+54,900,000
(Transfer from other accounts)	—	—	(806,076,000)	(240,000,000)	—	—	—	(-806,076,000)	(-240,000,000)
Procurement of Ammunition, Army	2,646,300,000	2,635,000,000	1,858,200,000	2,588,213,000	2,497,200,000	-149,100,000	-137,800,000	+639,000,000	-91,013,000
(Transfer from other accounts)	—	—	(215,200,000)	(209,900,000)	—	—	—	(-215,200,000)	(-209,900,000)
Other Procurement, Army	5,122,450,000	5,712,800,000	4,809,975,000	5,214,730,000	5,275,554,000	+153,104,000	-437,246,000	+465,579,000	+60,824,000
(Transfer from other accounts)	—	—	(297,400,000)	(238,000,000)	—	—	—	(-297,400,000)	(-238,000,000)
Aircraft Procurement, Navy	10,903,778,000	12,062,600,000	10,446,400,000	10,289,651,000	11,175,678,000	+271,900,000	-886,922,000	+729,278,000	+886,027,000
(Transfer from other accounts)	—	—	(594,600,000)	(566,382,000)	—	—	—	(-594,600,000)	(-566,382,000)
Weapons Procurement, Navy	4,353,611,000	5,637,900,000	5,093,733,000	5,372,563,000	5,227,795,000	+874,184,000	-410,105,000	+134,062,000	-144,768,000
(Transfer from other accounts)	—	—	(109,600,000)	(15,000,000)	—	—	—	(-109,600,000)	(-15,000,000)
Shipbuilding and Conversion, Navy	11,736,000,000	11,411,600,000	8,648,900,000	9,598,900,000	10,840,400,000	-895,600,000	-571,200,000	+2,191,500,000	+1,241,500,000
(Transfer from other accounts)	(36,300,000)	—	(2,058,500,000)	(1,057,600,000)	—	(-36,300,000)	—	(-2,058,500,000)	(-1,057,600,000)
Other Procurement, Navy	5,341,614,000	6,601,200,000	5,682,674,000	6,463,560,000	6,377,630,000	+1,036,016,000	-223,570,000	+694,956,000	-85,930,000
(Transfer from other accounts)	—	—	(312,762,000)	(221,000,000)	—	—	—	(-312,762,000)	(-221,000,000)
Coastal Defense Augmentation	—	—	—	375,000,000	235,000,000	+235,000,000	+235,000,000	+235,000,000	-140,000,000
Procurement, Marine Corps	1,836,722,000	1,726,800,000	1,610,749,000	1,689,982,000	1,660,766,000	-175,956,000	-66,034,000	+50,017,000	-29,216,000
(Transfer from other accounts)	—	—	(85,717,000)	(31,056,000)	—	—	—	(-85,717,000)	(-31,056,000)
Aircraft Procurement, Air Force	26,188,266,000	26,165,500,000	20,722,700,000	24,142,651,000	23,255,424,000	-2,932,842,000	-2,910,076,000	+2,532,724,000	-887,227,000
(Transfer from other accounts)	—	—	(1,458,300,000)	(646,300,000)	—	—	—	(-1,458,300,000)	(-646,300,000)
Missile Procurement, Air Force	6,909,245,000	10,062,700,000	8,043,527,000	8,770,831,000	8,312,442,000	+1,403,197,000	-1,750,258,000	+268,915,000	-458,389,000
(Transfer from other accounts)	(1,500,000,000)	—	(155,000,000)	(64,400,000)	—	(-1,500,000,000)	—	(-155,000,000)	(-64,400,000)

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Comparative Statement of New Budget (Obligational) Authority

	FY 1985 Enacted	FY 1986 Estimates	House	Senate	Conference	Conference compared with Enacted	Estimates	House	Senate
TITLE III									
PROCUREMENT									
Other Procurement, Air Force	8,[illegible]	9,[illegible]	7,[illegible]	8,831,474,000	8,571,[illegible]	-[illegible]	-[illegible]	+[illegible]	-260,271,000
(Transfer from other accounts)	—	—	(367,476,000)	(282,000,000)	—	—	—	(-367,476,000)	(-282,000,000)
National Guard and Reserve Equipment	[illegible]	—	582,000,000	2,463,000,000	1,[illegible]	+1,[illegible]	+1,[illegible]	+[illegible]	-562,000,000
(Transfer from other accounts)	—	—	(6,000,000)	(170,400,000)	—	—	—	(-6,000,000)	(-170,400,000)
Procurement, Defense Agencies	1,[illegible]	1,[illegible]	1,101,[illegible]	1,426,914,000	1,302,740,000	+[illegible]	-[illegible]	+[illegible]	-124,174,000
(Transfer from other accounts)	—	—	(36,000,000)	(36,000,000)	—	—	—	(-36,000,000)	(-36,000,000)
Defense Production Act Purchases	10,000,000	30,000,000	—	31,000,000	31,000,000	+21,000,000	-[illegible]	+31,000,000	—
NATO Cooperative Defense Programs	—	—	—	15,000,000	15,000,000	+15,000,000	+15,000,000	+15,000,000	—
Total, title III, Procurement:									
New budget (obligational) authority	97,111,400,000	106,[illegible]	86,[illegible]	98,[illegible]	97,[illegible]	+[illegible]	-9,[illegible]	+[illegible]	-671,473,000
(Transfer from other accounts)	(1,336,200,000)	—	(6,027,[illegible])	(3,940,630,000)	—	(-1,336,200,000)	—	(-6,027,[illegible])	(-3,940,630,000)
TITLE IV									
RESEARCH, DEVELOPMENT, TEST, AND EVALUATION									
Research, Development, Test, and Evaluation, Army	4,269,015,000	5,279,900,000	4,436,475,000	4,841,169,000	4,798,172,000	+529,157,000	-481,728,000	+361,697,000	-42,997,000
(Transfer from other accounts)	—	—	(110,530,000)	(265,000,000)	—	—	—	(-110,530,000)	(-265,000,000)
Research, Development, Test, and Evaluation, Navy	9,172,622,000	11,264,300,000	9,442,631,000	10,104,594,000	10,065,239,000	+892,617,000	-1,199,061,000	+622,608,000	-39,355,000
(Transfer from other accounts)	—	—	(271,494,000)	(183,000,000)	—	—	—	(-271,494,000)	(-183,000,000)
Research, Development, Test, and Evaluation, Air Force	13,424,147,000	15,578,500,000	13,217,177,000	13,861,113,000	13,718,208,000	+294,061,000	-1,860,292,000	+501,031,000	-142,905,000
(Transfer from other accounts)	—	—	(339,000,000)	(256,000,000)	—	—	—	(-339,000,000)	(-256,000,000)
Research, Development, Test, and Evaluation, Defense Agencies	4,182,287,000	7,453,990,000	5,943,058,000	7,033,745,000	6,637,406,000	+2,455,119,000	-816,584,000	+694,348,000	-396,339,000
(Transfer from other accounts)	—	—	(179,112,000)	(51,000,000)	—	—	—	(-179,112,000)	(-51,000,000)
Director of Test and Evaluation, Defense	99,000,000	103,300,000	93,300,000	143,300,000	118,300,000	+[illegible]	+15,000,000	+25,000,000	-25,000,000
Total, title IV, Research, Development, Test, and Evaluation:									
New budget (obligational) authority	31,147,071,000	39,[illegible]	33,152,021,000	35,984,131,000	35,337,[illegible]	+4,[illegible]	-3,942,[illegible]	+2,184,404,000	-646,616,000
(Transfer from other accounts)	—	—	(920,136,000)	(755,000,000)	—	—	—	(-920,136,000)	(-755,000,000)
TITLE V									
SPECIAL FOREIGN CURRENCY PROGRAM									
Special foreign currency program	8,620,000	2,100,000	2,100,000	2,100,000	2,100,000	-6,520,000	—	—	—
TITLE VI									
REVOLVING AND MANAGEMENT FUNDS									
Army Stock Fund	366,448,000	443,000,000	293,[illegible]	393,[illegible]	293,[illegible]	-126,152,000	-49,000,000	—	—
Navy Stock Fund	673,387,000	716,500,000	616,300,000	638,500,000	638,300,000	-[illegible]	-78,000,000	+22,000,000	—
Marine Corps Stock Fund	34,900,000	42,700,000	37,700,000	37,700,000	37,700,000	+2,797,000	-5,000,000	—	—
Air Force Stock Fund	545,591,000	464,900,000	415,900,000	415,900,000	415,900,000	-132,691,000	-49,000,000	—	—
Defense Stock Fund	128,700,000	193,500,000	149,700,000	174,300,000	149,700,000	+[illegible]	-43,800,000	—	-24,600,000
Mariner Fund (Transfer from other accounts)	—	—	—	(852,100,000)	—	—	—	—	(-852,100,000)
[illegible] Fund	—	—	—	150,000,000	100,000,000	+100,000,000	+100,000,000	+100,000,000	-50,000,000
Total, title VI, Revolving and Management Funds:									
New budget (obligational) authority	1,353,926,000	1,859,600,000	1,612,000,000	1,809,600,000	1,734,000,000	+[illegible]	-126,000,000	+122,000,000	-76,000,000
(Transfer from other accounts)	—	—	—	(852,100,000)	—	—	—	—	(-852,100,000)
TITLE VII									
RELATED AGENCIES									
Intelligence Community Staff	20,971,000	22,283,000	22,083,000	22,283,000	22,083,000	+1,112,000	-200,000	—	-200,000
Central Intelligence Agency Retirement and Disability System Fund	99,300,000	101,400,000	101,400,000	101,400,000	101,400,000	+2,100,000	—	—	—
Enhanced security countermeasures capabilities	35,000,000	—	—	—	—	-35,000,000	—	—	—
Total, title VII, Related Agencies:									
New budget (obligational) authority	155,271,000	123,683,000	123,483,000	123,683,000	123,483,000	-31,788,000	-200,000	—	-200,000
TITLE VIII									
GENERAL PROVISIONS									
(Additional transfer authority, sec. 8030)	(1,200,000,000)	(1,200,000,000)	(1,200,000,000)	(950,000,000)	(950,000,000)	(-250,000,000)	(-250,000,000)	(-250,000,000)	—
TITLE IX									
Counter-Terrorism Contingency Fund	—	—	—	100,000,000	—	—	—	—	-100,000,000

Comparative Statement of New Budget (Obligational) Authority

	FY 1985 Enacted	FY 1986 Estimates	House	Senate	Conference	Conference compared with— Enacted	Estimates	House	Senate
RECAPITULATION									
Title I - Military Personnel	67,702,728,000	73,425,100,000	70,139,651,000	67,783,663,000	67,906,261,000	+203,533,000	-5,518,839,000	-2,233,390,000	+122,598,000
(Transfer from other accounts)	(509,487,000)	—	—	—	—	(-509,487,000)	—	—	—
Title II - Operation and Maintenance	77,664,634,000	82,420,150,000	77,222,362,000	78,835,626,000	78,664,480,000	+999,826,000	-3,755,670,000	+1,442,118,000	-171,146,000
(Transfer from other accounts)	(406,963,000)	—	—	—	—	(-406,963,000)	—	—	—
Title III - Procurement	97,111,404,000	106,812,300,000	86,597,212,000	98,044,417,000	97,373,146,000	+261,742,000	-9,439,154,000	+10,775,934,000	-671,271,000
(Transfer from other accounts)	(1,536,300,000)	—	(6,827,551,000)	(3,940,838,000)	—	(-1,536,300,000)	—	(-6,827,551,000)	(-3,940,838,000)
Title IV - Research, Development, Test, and Evaluation	31,107,071,000	39,280,100,000	33,152,871,000	35,904,121,000	35,237,505,000	+4,130,434,000	-3,942,595,000	+2,084,634,000	-666,616,000
(Transfer from other accounts)	—	—	(920,138,000)	(755,000,000)	—	—	—	(-920,138,000)	(-755,000,000)
Title V - Special foreign currency program	6,630,000	2,150,000	2,100,000	2,100,000	2,150,000	-4,480,000	—	—	—
Title VI - Revolving and management funds	1,333,934,000	1,859,600,000	1,612,800,000	1,809,600,000	1,734,800,000	+400,866,000	-124,800,000	+122,000,000	-74,800,000
(Transfer from other accounts)	—	—	—	(852,100,000)	—	—	—	—	(-852,100,000)
Title VII - Related agencies	135,271,000	123,683,000	123,403,000	123,683,000	123,403,000	-11,868,000	-280,000	—	-280,000
Title VIII - General provisions (additional transfer authority sec. 8020)	(1,200,000,000)	(1,200,000,000)	(1,200,000,000)	(950,000,000)	(950,000,000)	(-250,000,000)	(-250,000,000)	(-250,000,000)	—
Title IX - Counter-terrorism Contingency Fund	—	—	—	100,000,000	—	—	—	—	-100,000,000
Total, Department of Defense (NOA)	275,383,764,000	303,934,033,000	268,850,629,000	282,703,412,000	281,161,875,000	+5,778,111,000	-22,772,158,000	+12,311,246,000	-1,541,537,000
(Transfer from other accounts)	(2,452,750,000)	—	(7,747,689,000)	(5,547,138,000)	—	(-2,452,750,000)	—	(-7,747,689,000)	(-5,547,138,000)
Total funding available	277,836,514,000	303,934,033,000	276,598,318,000	288,250,550,000	281,161,875,000	+3,325,361,000	-22,772,158,000	+4,563,557,000	-7,088,675,000
(Transfer authority)	(1,200,000,000)	(1,200,000,000)	(1,200,000,000)	(950,000,000)	(950,000,000)	(-250,000,000)	(-250,000,000)	(-250,000,000)	—
Distribution by organizational component:									
Army	71,179,697,000	78,356,220,000	69,763,834,000	72,093,690,000	71,809,806,000	+630,109,000	-6,546,414,000	+2,045,972,000	-283,884,000
(Transfer from other accounts)	(144,200,000)	—	(1,772,126,000)	(1,105,200,000)	—	(-144,200,000)	—	(-1,772,126,000)	(-1,105,200,000)
Navy	93,470,138,000	102,017,200,000	91,119,207,000	95,072,013,000	95,627,123,000	+2,156,985,000	-6,390,077,000	+4,507,916,000	+555,110,000
(Transfer from other accounts)	(597,250,000)	—	(1,432,675,000)	(2,474,438,000)	—	(-597,250,000)	—	(-1,432,675,000)	(-2,474,438,000)
Air Force	97,010,829,000	107,077,300,000	92,390,142,000	97,405,903,000	95,774,986,000	-1,235,843,000	-11,302,314,000	+3,384,844,000	-1,630,917,000
(Transfer from other accounts)	(1,703,300,000)	—	(2,319,776,000)	(1,230,400,000)	—	(-1,703,300,000)	—	(-2,319,776,000)	(-1,230,400,000)
Defense Agencies/OSD	13,179,887,000	16,534,300,000	14,071,783,000	17,142,315,000	16,324,595,000	+3,144,708,000	-209,705,000	+2,252,812,000	-817,720,000
(Transfer from other accounts)	(8,400,000)	—	(215,112,000)	(979,100,000)	—	(-8,400,000)	—	(-215,112,000)	(-979,100,000)
Reserve & National Guard (procurement)	180,000,000	—	382,000,000	2,063,000,000	1,301,000,000	+1,121,000,000	+1,301,000,000	+919,000,000	-762,000,000
(Transfer from other accounts)	—	—	(6,000,000)	(170,000,000)	—	—	—	(-6,000,000)	(-170,000,000)
Related agencies	135,271,000	123,683,000	123,403,000	123,683,000	123,403,000	-11,868,000	-280,000	—	-280,000
Total, Department of Defense (NOA)	275,383,764,000	303,934,033,000	268,850,629,000	282,703,412,000	281,161,875,000	+5,778,111,000	-22,772,158,000	+12,311,246,000	-1,541,537,000
(Transfer from other accounts)	(2,452,750,000)	—	(7,747,689,000)	(5,547,138,000)	—	(-2,452,750,000)	—	(-7,747,689,000)	(-5,547,138,000)
Total funding available	277,836,514,000	303,934,033,000	276,598,318,000	288,250,550,000	281,161,875,000	+3,325,361,000	-22,772,158,000	+4,563,557,000	-7,088,675,000
(Transfer authority)	(1,200,000,000)	(1,200,000,000)	(1,200,000,000)	(950,000,000)	(950,000,000)	(-250,000,000)	(-250,000,000)	(-250,000,000)	—

1/ Includes amounts in Supplemental Appropriation Act, 1985.

2/ Includes $163,000 for the Intelligence Committee Staff (H.Doc. 99-89).

3/ Funds are included in individual appropriation accounts.

4/ Includes $100 million for Coast Guard (House section 8101).

5/ As amended on the Senate Floor during consideration of H.J. Res. 465.

Mr. JOHNSTON. Mr. President, I rise to express my appreciation and admiration for the work of Senator STEVENS on the Defense Subcommittee joint conference this past week. The joint conference on defense lasted for approximately 30 hours of the most intense negotiations. For a large portion of that time, Senator STEVENS was the only Member of the Senate at the table while the House always had many Members present. The entire Senate owes Senator STEVENS a resounding vote of thanks for his diligence and determination in representing the Senate position throughout the conference, and I particularly want him to know of my appreciation for his oustanding work.

In addition, I am very pleased that Senator STEVENS proposed and the conference approved an increased funding to enhance the Coast Guard's operational capability. It is my understanding, and I want to confirm with the Senator from Alaska, that in order to put this new equipment to work as soon as possible, the Navy and the Coast Guard should avoid developing new design changes and specifications and should proceed to acquire these items without delay and as expeditiously as possible while having due regard for competitive procurement whenever possible.

Mr. STEVENS. Mr. President, I might state to my good friend and to the Senate that that was our intent. We have included $375 million for specifically listed items to be procured by the Navy that are needed by the Coast Guard. This additional equipment will not only help the drug interdiction effort but also other law enforcement missions. This equipment is vitally needed by the Coast Guard now and would be essential to the Coast Guard's mission in the time of war or national emergency. The items ought to be procured as quickly as possible without any delay for design. There is no money in the bill for design. It is for acquisition.

Mr. JOHNSTON. I thank the distinguished Senator from Alaska.

I also wish to say, Mr. President, that our distinguished ranking minority member from the Defense Appropriations Subcommittee, Senator STENNIS, who is also, of course, the ranking minority member on the full Appropriations Committee, did his usual outstanding job in handling the Defense Appropriations Subcommittee's work. It was a grueling conference. I, myself, was there part of the time. Every time I was there, the distinguished Senator from Mississippi was there sitting with the distinguished Senator from Alaska as a great tem representing the position of the Senate.

Mr. President, we owe a great debt of gratitude to both Senators for the outstanding work they did on a very,

very difficult bill. There were literally hundreds and hundreds of items in disagreement. I think they worked well not only to represent the views and interests of the Senate, but the interests of this country and its national defense, as well.

ADVANCED FIELD ARTILLERY TACTICAL DATA SYSTEM [AFATDS]

Mr. QUAYLE. Mr. President, I would like to address a question regarding a provision of this continuing resolution as it applies to fiscal year 1986 defense spending to the Senator from Alaska and chairman of the Appropriations Committee Defense Subcommittee. I note with concern the joint conference findings with respect to the U.S. Army's Advanced Field Artillery Tactical Data System [AFATDS]. Is this a repudiation of the Army's development plan that was submitted to the Congress this past September?

Mr. STEVENS. Absolutely not. We expect that this small augmentation for near term equipment improvements is fully in consonance with the plan. We fully support and endorse the Army's plan to develop the fire support segment of the Army's Command and Control System.

Mr. QUAYLE. I thank the Senator for his clarification of this point.

CONFERENCE AGREEMENT ON MICROELECTRONIC ENGINEERING

Mr. D'AMATO. One of the serious obstacles to the revitalization of American industry and our continuing effort to maintain a strong and modern military is the shortfall of engineers trained in microelectronic engineering. The United States, over the past decade, has been losing its competitive edge in the development of microchip computer circuitry. The U.S. electronic induatry places the blame primarily on the lack of qualified microelectronic engineers.

A recent study commissioned by the Texas Instruments Corp. found that by the end of 1985, the shortfall of high technology engineers with expertise in microelectronics processing and design is expected to be approximately 2,000, with a subsequent need for 400 additional microelectronic engineers each year thereafter. Part of this increase in demand for microelectronic engineers is a result of the Defense Department's need for computer engineers in research and development of high technology weapons and defensive systems required by the military services. In recent years, Defense Department officials have expressed concern about inadequate numbers of microelectronic engineers and have been supportive of new university programs to train increased numbers of them.

The Rochester Institute of Technology has been the focus of many national corporations in the high technology field and the Department of Defense because of its advanced program of study in microelectronic engineering. A number of these corporations, interested in recruiting entry-level microelectronic engineers, worked with the university in designing our Nation's first undergraduate degree program in microelectronics. This program will be incorporated into a Center for Microelectronic Engineering and Imaging Sciences. In its first year of operation it will graduate nearly 100 microelectronic engineers; this figure is expected to increase to 300 engineers in 4 years.

Equally noteworthy is the fact that the proposed microelectronic center has already received pledges from 16 corporations for equipment and research support totaling more than $7 million. In order to take advantage of the financial pledges made to the center by private corporations, the university was forced to begin development and construction activites. The total cost of the center is $22.4 million. The Federal contribution provided under the Defense portion of this continuing resolution—$11.1 million—will be matched by private and university moneys on a two-to-one basis. The Federal contribution is intended to cover all design, construction, equipment and other development costs of the Center for Microelectronic Engineering and Imaging Sciences center, including those costs already incurred by the Rochester Institute of Technology. I would like to know whether the Senator from Alaska has the same understanding about this project?

Mr. STEVENS. I agree with the Senator from New York that it is unfortunate that the supply of microelectronic engineers has not kept pace with the demand, both in defense and in private industry. At the present time, there is a serious shortfall of microelectronics engineers. Electronics industry leaders and Defense Department officials believe that this shortfall places the United States at a serious disadvantage in the development of advanced computer circuitry and high technology systems.

For this reason, I supported funding to help establish a Microelectronic Engineering and Imaging Science Center at the Rochester Institute of Technology. This program will greatly benefit our Nation. The center and the university's undergraduate microelectronic program is designed to address the serious shortfall of microelectronic engineers by graduating 100 engineers in its first year of operation and 300 by its fourth year. A significant number of leading corporations, including Texas Instruments, IBM, Eastman Kodak, and Digital Equipment joined RIT in the development of the center and the microelectronic curricula.

This conference agreement provides $11.1 million for the design, construction, equipment and other related development costs of the Microelectronic Engineering and Imaging Science Center. Since the university had to begin construction and development activities in order to take advantage of the considerable corporate pledges made to the center, the Federal funds provided in this conference agreement also are intended to cover costs already incurred by the university as a result of this necessarily accelerated schedule. I am pleased to support this ongoing public/private partnership that will enhance our scientific capabilities, especially in the field of microelectronic engineering.

Mr. D'AMATO. I thank the Senator from Alaska for answering my question and clearly expressing the need for this program. It addresses America's shortfall of engineers trained in the high sophisticated field of microelectronic engineering.

Mr. President, the microelectronic center will address a critical national need by providing the U.S. electronics industry and the Department of Defense with increased numbers of high tech engineers. I thank the Senator from Alaska, and my distinguished colleagues, for supporting for this effort that will enhance our scientific capability and strengthen our position in science and engineering.

Mr. EXON. Mr. President, I want to ensure that one provision of this continuing resolution is made perfectly clear to everyone involved.

This continuing resolution conference report contains a section which will extend for 9 months the authority of the Department of Energy to negotiate three remaining Federal loan guarantees to construct ethanol plants of the United States.

The 1980 Biomass Energy and Alcohol Fuels Act set this Loan Guarantee Program in place. The Loan Guarantee Program initially expired on September 30, 1984. Public Law 99-24, signed by the President on April 16, 1985, extended this deadline. The extension was until September 30, 1985, for those conditional commitments which were in existence on September 30, 1984. In other words, there were four pending ethanol plant projects which had conditional committments in place on September 30, 1984, which would be allowed to continue receiving consideration for loan guarantees. This fall one of these projects, in Louisiana, received Energy Department approval for its loan guarantees. Three remaining projects, in Nebraska, Minnesota and Maine, still are being evaluated for loan guarantee approval by the Department of Energy.

Unfortunately, the Department did not complete its evaluation of these last three projects by the September 30, 1985, revised deadline. Therefore, an amendment to extend the deadline for approval to June 30, 1986, was offered and passed the U.S. Senate three times this fall—on October 15, as part of the Agriculture Appropriations Act; on November 13 on the Reconciliation Act; and on December 6 on the continuing resolution.

The section contained in this conference report to the continuing resolution being considered today will extend the authority of the Energy Department to evaluate loan guarantee applications for these remaining three pending alcohol plants—only those which had conditional commitments pending on September 30, 1984.

I also want to make clear that the "September 30, 1984" date which is to be stricken and replaced by the "June 30, 1986" date in this continuing resolution refers only to the original "September 30, 1984" expiration date of the Loan Guarantee Program and obviously not to the date by which conditional commitments for loan guarantees had to be in existence.

Clearly, this provision reflects Congressional intent that the evaluation period for these last three ethanol plant loan guarantees be extended to June 30, 1986. Congress has spoken once again. The Department of Energy must proceed expeditiously, complete its evaluation and make a decision by June 30 of next year.

DELAWARE AND OTSEGO PROJECT

Mr. LAUTENBERG. Mr. President, I rise to engage the distinguished Chairman of the Subcommittee on Tranportation, Senator Andrews, in a colloquy regarding the Redeemable Preference Shares Program.

Mr. Chairman, in the report of the conferees on the transportation portion of the continuing resolution, language was added to the Section 505 Redeemable Preference Shares Program to designate three projects, beyond those earmarked, for special consideration. These include the Massachusetts and Vermon project, the tri-county commuter project and the Delaware Otsego project in New York and New Jersey. While these projects are not earmarked, the committee indicated that they should be given "priority consideration".

I would like to ask the Senator from North Dakota two questions. First, is it the Chairman's view that the Federal Railroad Administrator will have the discretion to fund these projects as soon as he can determine that the earmarked projects either will or will not require the funding appropriated in this legislation? And second, is it the Chairman's view that the Administrator should make a determination on applications as early in the fiscal year as possible, so that the applications for the Delaware Otsego and the other two projects might be acted upon?

Mr. Andrews. The Senator is essentially correct on both counts. Given the strong interest in these rail rehabilitation funds, if the Federal Railroad Administrator and the representatives of the earmarked projects can determine that a project will not go forward or require the funding noted in the report accompanying this bill, the three projects the Senator mentions should be funded. The Delaware Otsego project, as the report specifies, should go forward as soon as it can be determined that available funding exists.

Mr. LAUTENBERG. I thank the Senator from North Dakota for that assurance. the Delaware Otsego project can enhance rail competition in New Jersey and I appreciate the Chairman's assistance in moving this project along.

Mr. ANDREWS. Mr. President, the fiscal year 1986 Transportation Appropriations bill is contained in this conference agreement. The total spending of $10.46 billion is well within the Appropriations Committee's 302(b) allocation under the budget resolution.

Balance among transportation programs is maintained: Coast Guard operations and capital acquisitions, when augmented by Defense funds, exceed the budget request. Federal Aviation Administration funds will support additional air traffic controllers, security personnel, air carrier inspectors, as well as necessary hardware improvements. The limitation on Federal-aid highway obligations is $12.75 billion, and highway safety programs have been increased.

Transit funding is continued within the parameters of the current authorization. Current law levels for operating subsidies, and formula and capital projects will be continued.

Amtrak is funded consistent with the budget resolution assumptions.

This has been a particularly challenging year for me as subcommittee chairman. The administration's insistence on dramatically reduced domestic spending clashed with the transportation priorities of both the House and Senate. We were unable to craft a separate bill which satisfied all parties. But this conference agreement represents a compromise under which our Federal transportation commitments are responsibly met.

I urge my colleagues' support for the conference agreement.

Mr. ARMSTRONG. Am I correct that under this bill the agreement between Union Oil Co. and the Synthetic Fuels Corporation will be honored by the Government and will be funded according to the terms of their October 1985 agreement?

Mr. McCLURE. Yes, you are correct.

Mr. ARMSTRONG. I also understand that the Synthetic Fuels Corporation will have authority to complete documentation necessary in accordance with its agreement with Union Oil Co. and that the Treasury is obligated to honor the Corporation's commitment. Is my understanding correct?

Mr. McCLURE. Yes, it is.

Mr. ARMSTRONG. The SFC has awarded Union an agreement committing the Corporation to make price guarantee payments and to execute a guaranteed loan agreement upon fulfillment of conditions to the satisfaction of the SFC Board of Directors. I understand that the conditions to the execution of the guaranteed loan agreement are set forth in the October 16, 1985, agreement executed by the parties.

Is this the situation contemplated by the language in the continuing resolution which states that "nothing in this act shall impair or alter the powers, duties, rights, obligations, privileges or liabilities of the Corporation (its Board or Chairman or Project Sponsor) in the preformance and completion of terms and undertakings of a legally binding award or commitment"

Mr. McCLURE. The Union amendment agreement executed by SFC and Union Oil on October 16, 1985, is in fact a commitment contemplated by the cited proviso. This proviso permits that the completion of the terms of legally binding awards or commitments previously executed by the loan guarantee agreement covered by the October 16, 1985, agreement would not increase the Government's fiscal obligation as the loan guarantee amount is within the funds obligated for this project by the SFC.

Mr. ARMSTRONG. And this is true although the actual financial documents for the loan guarantee have not been signed and completed and the agreement executed by the Corporation and Union Oil Co.?

Mr. McCLURE. That is true. It is our intent and in fact the intent of the Administration that the Union Oil Co. agreement of October 16, 1985, with the Synthetic Fuels Corporation will be fully honored.

SYNTHETIC FUELS RESCISSION

Mr. McCLURE. Mr. President, on numerous occasions since the oil embargo of 1973 I have risen to address the need for the development of a commercial synthetic fuels capability in the United States. That need continues today, and is growing.

That need, Mr. President, was reviewed in the October 4 dear colleague letter that was signed by 21 Members, which I ask unanimous consent be included at this point in my remarks.

There being no objection, the letter was ordered to be printed in the Record, as follows:

U.S. Senate,
Committee on Energy and Natural Resources,
Washington, DC, October 4, 1985.

Dear Colleague: In the near future it is expected that you will once again be asked to vote on an amendment to abolish the Synthetic Fuels Corporation (SFC), which we urge you oppose.

Last year the Congress rescinded $7.375 billion of the SFC's off-budget obligational authority and eliminated the synthetic fuels production goals in the Energy Security Act. Subsequently, the SFC Board of Directors reformulated its business plan and is renegotiating the size of individual projects so as to achieve further budgetary savings of between $1.2 and $2.5 billion. When completed, this reduced program will significantly contribute to the statutory objective of establishment of the infrastructure necessary to support a commercial synthetic fuels industry in the United States. Moreover, this critical initial commercialization objective will be achieved at less than 10 percent of the cost contemplated by the Congress in the Energy Security Act.

In requesting your opposition to this amendment we urge that you consider the following recent reports that underscore the United States' continuing economic and international oil supply vulnerability:

The Iran-Iraqi War poses a new and greater threat to U.S. interests, according to Reagan Administration oil analysts and former Ambassador Richard Helms (Washington Post, September 27, 1985);

Iran's oil exports have declined by two-thirds as a result of Iraqi's attacks (Wall Street Journal, September 27);

Significant oil price increases recently have occurred because of such factors as Iran's and the Soviet Union's temporary suspension of oil exports, and the Saudi announcement that it will take on no new contracts (New York Times, September 27); and

Recently the U.S. Geological Survey concluded that the Middle East will increasingly monopolize dwindling world petroleum supplies and the U.S. can expect to return to the energy crisis of the 1970's, experiencing regular supply interruptions with but a few decades left to enjoy the convenience of crude oil as our major energy fuel and therefore it is essential for the Nation to develop its own alternative energy resources (Washington Post, September 26).

These recent reports do indeed highlight the danger of dependence on international oil supplies. Further, they emphasize our continuing need to develop the domestic alternative of synthetic fuels which relies on our abundant supplies of coal, oil shale, heavy oil and tar sands.

The SFC is close to completing the modest, but commercial, program that the Administration agreed to last year. This program will provide the operating and environmental experience that is essential to provide the United States with a synthetic fuels capability when required to meet our energy and security needs. Now, when we are about to culminate a four-year effort to achieve the principal goal of the Energy Security Act—commercialization of synthetic fuels in the United Staes—is not the time to scrap this critical program.

Opponents of the SFC argue that significant budget savings can be achieved from its abolition, but they fail to mention that, according to the Congressional Budget Office, the outlay savings are minimal. In FY 1986, for example, the savings are only $14 million. In later years there may be additional savings, but they would not occur, if at all, until after 1990. The CBO estimate also fails to take into consideration several significant factors: namely, (a) the profit sharing provisions that have been negotiated by the SFC; (b) cancellation of the Great Plains project; (c) significantly lower outlays as a result of the SFC's rescaling of proposed projects; (d) under last year's agreement, one-half of any savings—an estimated $1.2 to $2.5 billion—will be automatically returned to the Treasury; and (e) any costs associated with SFC assistance only occur in later years after the projects achieve commercial production. But more importantly, it can be aniticipated that any funds that are released now from abolition of the SFC will not be returned to the Treasury; instead they will be redirected to other Federal programs, which will immediately contribute a greater amount to the deficit than if we let the SFC program continue.

The importance of the SFC's program to our country's energy future was recently supported unanimously by the Western Governors' Association, the Southern Governors' Association, and the Southwest Regional Energy Council. Please join us and these 34 States and 5 territories in opposing any amendment which further erodes our necessary commitment to a strong U.S. synthetic fuels effort.

Sincerely,

James A. McClure, Chairman; J. Bennett Johnston, Ranking Minority Member; Wendell H. Ford, Quentin N. Burdick, Mark Andrews, Gary Hart, Arlen Specter, Alan J. Dixon, Paul Simon, William L. Armstrong, John W. Warner, Orrin G. Hatch, Jay D. Rockefeller, John Heinz, Ted Stevens, Paul S. Trible, Jr., Peter V. Domenici, Russell B. Long, Jake Garn, Robert C. Byrd, James Abdnor.

Mr. McCLURE. But, Mr. President, there is a complacency in the United States regarding the seriousness of our long-term energy vulnerability. The current ready availability of petroleum supplies at reduced prices is misleading. The suggested abundance of supplies has diverted our attention from the fact that over the longer term these supplies are politically and economically insecure. Our complacency, while understandable, does not reduce our energy vulnerability.

I recognize that today, as a nation, we are far better prepared to cope with disruptions in the world supply of petroleum than in the recent past. The strategic petroleum reserve now has over 100 days of imports. Once drawndown, however, this oil is gone. The SPR was designed to buy us time in the event of an interruption of international oil supplies. It was not intended or designed to serve as a replacement for lost oil imports.

Meanwhile, domestic petroleum supplies are declining. This decline is documented in the President's draft 1985 national energy policy plan, as reported by the December 3 issue of Energy Daily, and I quote,

> "The United States faces a continuing long-term decline in domestic oil reserves and production, coupled with increased oil imports. This translates into spiraling costs for imported oil, from roughly $60 billion this year to more than $100 billion a year by 2000."

This is only 15 years from now.

> "In total, the United States will spend more than $2.4 trillion for oil imports from 1984–2010 * * *."

The President's draft National Energy Policy Plan presumes that in the 1990's the Organization of Petroleum Exporting Countries will regain market control, with resulting price increase. Annual oil imports costs—in constant 1984 dollars—will grow from $60 billion this year to $106 billion in the year 2000 and $182 billion in the year 2010. Only 5 years from now, in 1990, the United States will be more heavily dependent upon oil imports than it was before the 1973 oil embargo. Moreover, by the year 2000 oil imports could provide 47 percent of total U.S. oil consumption, an all time record, compared to 35 percent in 1984. I want to emphasize that these are administration figures, not mine, and the Gas Research Institute, among others, shares DOE's view of increased imports and decreased domestic production.

On the domestic front the draft National Energy Policy Plan projects that domestic oil production will decline from 10.2 million barrels per day in 1984 to 9.0 million barrels per day in the year 2000 and 7.6 million barrels per day by 2010—an overall decline of 25 percent from 1984. This decline of approximately 1.6 percent per year is projected to occur during a period when real oil prices are projected to increase at a substantial annual rate of 4.6 percent from $23 per barrel in 1990, to $30 per barrel in 1995, to $37 per barrel by the year 2000; to $47 per barrel by the year 2005; to $57 per barrel by the year 2010.

Recent events in the Middle East, as was reviewed in the October 4 "Dear Colleague" letter, argue for increased efforts toward ensuring energy security for the United States. We have made commendable progress in the area of energy conservation, but that is not enough. We have also made considerable progress in filling the strategic petroleum reserve, but that also is not enough.

Nevertheless, the United States continues to be faced with the specter of supply disruptions accompanied by precipitous price increases. Mr. President, I am convinced that foreign policy blackmail remains on the horizon.

CONFERENCE AGREEMENT

As we are all aware, Mr. President, the U.S. Synthetic Fuels Corporation was established in 1980 by the Energy Security Act to create a domestic synthetic fuels capability as an alternative to oil imports. After considerable debate and repeated attacks by its critics, the Synthetic Fuels Corporation, under this continuing resolution, will finally fall before the budgetary ax, at the very time that it is about to successfully achieve its statutory mission.

By comparison, the Senate of the United States correctly approved a further rescission of $3 billion of SFC obligational authority, but allowed the Corporation to complete implementation of its business plan. In my judgment, and that of many of my colleagues, the Senate provision offered a clear choice between maintaining a much reduced and restructured—but meaningful—synthetic fuels program that was responsive to current budget realities, while at the same time recognizing the long-term national security importance of this vital energy program.

However, the position of the House prevailed in the conference, following a change in the administration's position in favor of abolition of the Synthetic Fuels Corporation. In my judgment, this action is a tragic mistake. Under this conference agreement, the United States and American consumers will be denied a long-term national capability for achievement of the domestic production of synthetic fuels in this century. Consequently, the American people are going to be denied a major insurance policy against the real and ever widening gap between domestic consumption and production of petroleum, the very fuel that drives our economy.

The importance of synthetic fuels was endorsed in July 1985 by the Department of Energy's Energy Research Advisory Board in a draft study on "Long-range Energy R&D Strategy," which stated:

> The major domestic source of fluid fuels, both liquid and gas, which could replace imports appears to be synthetic fuels produced from coal, with significant contributions potentially available from shale and biomass.
>
> Total replacement of imported fluids by synfuels is technically feasible. However, conversion of coal and shale to liquids and gases is intrinsically expensive. Imports will remain the cheaper option for a long time. This does not imply that we should wait to pursue synfuel development projects. Only operating synfuel plants can establish synfuels as a "real option. This was the rationale which resulted in creation of the Synthetic Fuels Corporation [SFC], which was assigned the task of establishing this option.

The budgetary savings from termination of the Synthetic Fuels Corporation have been consistently overstated by its critics. For example, although the Synthetic Fuels Corporation is being terminated and over $6.5 billion is being rescinded, the fiscal year 1986 budgetary savings, according to the Congressional Budget Office, are only $96 million. The 3-year total for fiscal years 1986 through 1988 is only $491 million. This is because the principal forms of financial assistance undertaken by the Corporation are conditional awards involving either price guarantees and, in some instances, loan guarantees.

The continuing resolution would restrict the Board of Directors of the Corporation from making any new awards for financial assistance under the Energy Security Act after enactment of this provision, except that the Corporation and its successor (Department of Treasury) is to perform and complete the undertakings of the Corporation's existing, legally binding, awards or commitments. By the statutory terms of the conference agreement, nothing in this act shall impair or alter the powers, duties, rights, obligations, privileges, or liabilities or the Corporation, its Board of Directors, or project sponsors in the performance and completion of the terms and undertakings of a legally binding award or commitment entered into prior to the date of enactment.

This restriction also applies to changes in existing financial assistance awards or commitments of the Corporation. It is not intended, however, that this limitation on changes or modifications to existing financial awards or commitments restrict changes which may be necessary as part of normal contract monitoring or administration activities. This restriction on changes, in coordination with the rescission of funds in the Energy Security Reserve, does however limit the authority of the Board (or the Secretary) to make changes which would increase the maximum obligations authority established by the Corporation with respect to any such award or commitment.

The Corporation has entered into a legal binding financial assistance award for the Union Oil Parachute Creek Oil Shale project which obligates the Corporation to pay up to $500 million in price guarantee payments for the production of shale oil from new improved facilities to be constructed by Union Oil Company at its existing oil shale facility in Colorado. This award also legally commits the Corporation to use its best efforts to complete documentation of the terms of a loan guarantee, and execute the loan guarantee agreement, of up to $327 million within the $500 million in obligational authority available for the price guarantee payments. The language of the provision preserves the Corporation's obligation to complete the terms of the Union Oil loan guarantee agreement. Further, it recognizes the need for consultation with the Secretary of the Treasury on the interest rate, timing, and substantial terms of the loan guarantee, and requires that the Secretary provide such consultation within 30 days of enactment of this provision.

The Board of Directors of the Corporation is continued for 60 days after the date of enactment in order to perform these and other functions, including transmission to appropriate authorization committees of the Senate and House of a report containing a review of implementation of the Corporation's Business Plan, which also fulfills the requirements of section 126(b)(3) of the Energy Security Act.

Within 120 days of enactment the Corporation shall terminate and transfer all its functions to the Secretary of the Treasury in accordance with the provisions of existing law.

Because the Corporation is being terminated earlier than originally envisioned by the Congress, the conference agreement provides, first, that, with respect to the salaries and benefits of Directors, officers and employees of the Corporation, no officer or employee shall receive a salary in excess of the rate of basic pay payable for level IV of the executive schedule.

Second, the Director of the Office of Personnel Management shall determine the amount of compensation Directors, officers, and employees shall be legally entitled to under contracts in effect on the date of enactment. With respect to compensation and benefits not covered by contract, no change shall thereafter be allowed or permitted unless the Director of the Office of Personnel Management agrees that such change is reasonable.

While the Corporation's by-laws and written policies and procedures in effect on the date of enactment of the act will remain in effect until changed, the Corporation will not be permitted to waive any of their requirements which are necessary for a Director, officer or employee to qualify for pension or termination benefits under the Corporation's by-laws or written personnel policies and procedures in effect on the date of enactment.

CONCLUSION

Mr. President, this abolition of the Synthetic Fuels Corporation will go down in history as one of the major breaches of faith between the Federal Government and American industry. The losers, however, are the American people.

Because of an extraordinary national need, we asked American industry to step out to the frontier of energy development in the United States and undertake the significant technological and financial risks necessary to advance the commercial development of synthetic fuels. It was recognized that this was to be a joint effort in recognition of the risks involved. What was at stake was greater control of our energy future, and the resultant national security benefits energy independence would provide.

By our action today we may well be sacrificing the security of our energy future. Just as important, we are clearly sacrificing significant private sector investment that has been made and would likely not have been made at this time if it were not for the Federal synthetic fuels initiative that led to the creation of the Synthetic Fuels Corporation. Once again the Federal Government has failed to fulfill its commitment to the American people and to the companies that have relied on it.

Mr. MATTINGLY. Mr. President, if I might, I would like to address a brief question or two to my distinguished colleague, the Senator from Idaho, who chairs the Interior Appropriations Subcommittee. I am concerned that one provision of the continuing resolution has the effect of repealing a part of the Outer Continental Shelf Lands Act which requires the Government to reimburse geophysical exploration contractors who are required by the same act to furnish data to the Government. In some instances, this data includes resource assessments of frontier areas, and is collected and processed at a loss by the contractor. The reimbursement requirement deters the Government from requisitioning data it does not need. The provision in the continuing resolution could open up the doors and perhaps allow the Government to requisition huge volumes of data. That would exacerbate the losses to the geophysical contractors, and perhaps discourage them from conducting this exploration in the future. The Mineral Management Service has relied upon this source for its resource assessments in determining what offshore areas to offer for lease, and what potential resources might be located in an area which would give the Department a more accurate idea of whether to accept or reject bids at lease sales. I think we may very well have adopted a provision which will cost the Treasury more money in the long run.

Mr. McCLURE. The Interior Subconference had to make some very tough choices in order to reduce the deficit. Although the continuing resolution denies geophysical contractors the reimbursement, it is not our desire to inflict economic loss on the independent contractors who take the risks in collecting the data. Therefore, I feel it is appropriate to caution the Department to requisition no more data than they have historically required to conduct resource assessments, and not to attempt to merely build a complete library of geophysical data. We will keep a close watch on the Department to make sure that they do not abuse the provision contained in the resolution. Also, we will be examining this matter shortly to determine whether or not any further safeguards are needed to ensure that this requirement does not lead to actions which damage the commercial value of the data to the contractors.

FUNDING FOR THE EMERGENCY VETERANS' JOB TRAINING ACT OF 1983

Mr. CRANSTON. Mr. President, as the ranking minority member of the Committee on Veterans' Affairs, I want to express my great disappointment in the decision of the conferees to delete the provisions, from the third continuing resolution for fiscal year 1986, House Joint Resolution 469, as it was passed by the Senate, that would have appropriated for fiscal year 1986, $55 million for continued operations under the Emergency Veterans' Job Training Act of 1983 [EVJTA] contingent upon the enactment of a law authorizing that appropriation.

The EVJTA Program provides cash incentives to employers to hire and train certain long-term unemployed Vietnam-era and Korean-conflict veterans. The program authority has at the present time expired in one respect; the period during which veterans could apply for participation closed on February 28, 1985. However, the period during which veterans may enter training who have applied and been certified eligible for the program, which period had expired on September 1, 1985, was extended to July 1, 1986, by Public Law 99-108, enacted on September 30, 1985. The program presently has a carryover balance—from the $150 million originally appropriated for the program in the fall of 1984—of some $15 to $20 million which is being used to place previously certified eligible veterans. Since September 30, more than 750 veterans have been placed in training positions through the use of these carryover funds.

More than 403,500 applications were received from veterans for participation in training under EVJTA, and almost 52,900 employers have been approved for more than 124,000 job slots. More than 37,000 veterans have entered into training under EVJTA. According to an evaluation of the program—carried out under contract with the Veterans' Administration—those who completed the program had an average hourly wage of $6.77; the completion rate for veterans who entered training under the program was estimated to be 44 percent; and the direct cost of training per participant was estimated to be $3,000.

Although an authorization of fiscal year 1986 appropriations for EVJTA has not yet been enacted, I feel certain that it will be early next year. Both Houses have passed legislation authorizing the appropriation of additional funds.

On May 20, the House of Representatives passed legislation, in H.R. 1408, authorizing the appropriation of $75 million for EVJTA in fiscal year 1986.

And on December 2, the Senate approved an amendment to S. 1887, the proposed "Veterans' Compensation and Benefits Improvements Act of 1985", offered on behalf of the distinguished chairman of the Veterans' Affairs Committee [Mr. Murkowski] and myself, that includes a fiscal year 1986 authorization level of $55 million and program improvements designed to deal with the weaknesses outlined in the EVJTA Program evaluation. My statement on the amendment—which appears at page S16634 of the Congressional Record for December 2—discusses in detail the provisions of the amendment approved by the Senate.

I regret very much, Mr. President, that this legislation became bogged down in the negotiations between the House and Senate Committees on Veterans' Affairs over the numerous differences between our compensation, education, and other VA benefit measures embodied in S. 1887 and H.R. 1408, H.R. 2343, and H.R. 2344. Those negotiations have reached an impasse over certain provisions in the Senate bill—now endorsed by the administration—designed to improve, and enhance the fiscal stability of, the home-loan guaranty program. Although enactment of EVJTA extension legislation is not likely in the short timeframe remaining to us in this session, if we are not able to resolve our differences over the larger legislation early in the next session or proceed in some other fashion to pass—outside of S. 1887—this EVJTA extension and improvement legislation, Senator Murkowski and I have agreed to return the Senate-passed EVJTA extension legislation to the House in a separate bill by early February. Nevertheless, by making the additional funds available in this continuing resolution, we would have been able to ensure that, when the program reopens—on February 1, 1986, under the Senate-passed legislation—sufficient resources would be available to serve the eligible veterans who seek to participate. It is thus very unfortunate that the House and Senate conferees chose to drop the Senate amendment.

Mr. President, I again want to note the fine work of the distinguished Senator from Arizona [Mr. DeConcini], who serves on both the Veterans' Affairs Committee and the Appropriations Committee, for his successful efforts in persuading the Appropriations Committee to adopt his amendment to provide this funding that the House of Representatives has rejected.

I regret very much, Mr. President, that support for our provision to help unemployed veterans was not forthcoming from the other body and that the funds were, consequently, deleted from the conference agreement.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that tables showing the relationship of the conference agreement on the continuing appropriations resolution to the congressional budget, the Senate- and House-passed bills, and the president's request, and a summary of congressional action to date be printed in the Record at an appropriate place prior to final passage of the resolution.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1986—SPENDING TOTALS—CONFERENCE AGREEMENT

[Dollars in billions]

Fiscal year 1986	Budget authority	Outlays
Outlays from prior-year budget authority, bills enacted this session, and other actions completed	201.5	339 8
H.J Res. 465, conference agreement	364.5	214.8
Possible later requirements: (see attached table for details)	3 2	3 0
Adjustment to conform mandatory programs to budget resolution assumptions and other adjustments	−14.0	−2.6
Appropriations Committee total	555.3	555.0
Appropriations Committee 302(a) allocation	567 1	554 1
House-passed level	547 0	556.3
Senate-passed level	562 3	555 3
President's request	567 9	562 3
Appropriations Committee total compared to:		
302(a) allocation	−11.8	+0 9
House-passed level	+8.3	−1.3
Senate-passed level	−7.0	−0.3
President's request	−12 6	−7.3

Note.—Details may not add to totals due to rounding

FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1986—POSSIBLE LATER REQUIREMENTS

[Dollars in billions]

	Fiscal year 1986	
	Budget authority	[illegible]
Agriculture:		
Salaries and expenses	0.1	(1)
ACIF/Net realized losses	0.4	
RHIF/Net realized losses	0.3	
RDIF/Net realized losses	0 1	
Extension Service/OIG transfer	0 1	0 1
Standard level user charges	(1)	(1)
Defense: Military pay raises		0 7
HUD-Independent Agencies		
Veterans compensation COLA	0.4	0.3
Readjustment benefits	0 2	0.1
Interior: Forest firefighting	0 1	0.1
Labor-HHS		
Federal unemployment benefits	0.1	0.1
Advance to unemployment trust funds	(1)	(1)
Black lung	(1)	(1)
Payment to health care trust fund	0 9	0.9
Special benefits for coal miners	(1)	(1)
Supplemental security income	(1)	(1)
Aid to families with dependent children	0 5	0.5
Legislative Branch: Official mail costs	(1)	(1)
Total—possible later requirements	3.2	3.0

[1] Less than $50 million

Note.—Details may not add to totals due to rounding.

CONGRESSIONAL ACTION TO DATE—FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1986—H.J. RES. 465; CONFERENCE AGREEMENT

	Fiscal year 1986	
	Budget authority	Outlays
Congressional action to date	724.5	776.6
H.J. Res. 465	364.5	214.8
CCC adjustment	−11.1	
Offsetting receipts	−4.4	−4.4
Possible later requirements:[1]		
Child nutrition	0.2	0.2
Defense pay raises		0 7
Bureau of Land Management programs	(3)	(3)
Payment to air carriers	(3)	(3)
Payment to civil service retirement [2]	(0.2)	(0.2)
Total-possible later requirements	0.3	0.9
Total	1,073.7	[illegible]
Budget Resolution	1,069.7	967.6
Over (+)/under (−) budget resolution	+4.0	+20.2

[1] 1 CBO estimates that entitlements and other mandatory programs will need the additional funding shown here based on the assumptions contained in the budget resolution (S. Con. Res. 32)

[2] This is an interfund transaction that does not add to budget totals.

[3] Less that $50 million

Note—Details may not add to totals due to rounding.

Mr. QUAYLE. Mr. President, as chairman of the Defense Acquisition Subcommittee of the Committee on Armed Services, I want to make a brief statement that may be useful as legislative history on the amendments to section 2324 of title 10, United States Code that are included in this continuing resolution.

First, let me say that amendments to the Department of Defense Authorization Act for 1986 should not even have been considered in the appropriations bill. Both Houses have rules against including substantive legislation in appropriations acts, and those rules have a sound policy basis. Appropriations are difficult enough to enact without complicating them further by controversy over substantive law. However, the other body insisted on revisiting the issues that we had just resolved in the conference committee on the authorization bill and I am proud that the Senate, led by the able Senator from Alaska as chairman of the Defense Appropriations Subcommittee, resisted this undermining of proper procedure. I wish to publicly thank him for the vigor and ability with which he put and preserved the Senate position.

However, at the very end of the process, I was asked to negotiate some concessions to the House so that the continuing resolution could be passed. I want to describe the provisions that were agreed on and make clear their meaning.

First, there are two provisions requiring the Department of Defense to submit proposed regulations to specified committees before publication. I want to point out that these regulations may be submitted at any time before publication and these provisions are thus little more that a courtesy and a codification of normal practice.

Second, there are provisions for certain studies and evaluations by the General Accounting Office. These are the kinds of studies that are normally requested by committees from the GAO. I want to emphasize that, while these studies are to evaluate the regulations in the light of the legislative history of section 2324, that legislative history emphasizes the need for flexibility in the regulations to meet the variety of circumstances. See House Report 99-235 page 4490.

Third, the only substantive amendment to section 2324 provides that the Secretary may waive the requirement for certification of indirect costs in "an exceptional case." It is, of course, a truism that waivers are not for ordinary cases but rather for the unusual or the extraordinary case—and that is precisely the dictionary definition of exceptional.

In short, Mr. President, while the exigencies of the situation required that we include some provisions relating to defense acquisition in the conference report, the practical effect of these provisions is miniscule or, to be blunt about it, nil. Committees get advance copies of regulations a day or two before publication in any event; the GAO does studies requested by committees whether or not required to do so by statute; and the waiver provision merely restates the self-evident proposition that waivers should not be granted in the ordinary case.

INCREASES IN HONORARIA

Mr. DECONCINI. Mr. President, 2 weeks ago, the Senate briefly debated a bill to limit PAC contributions. I was a cosponsor to the Boren measure and the Senate should be ashamed that through various maneuverings, we did not vote passage on that reform. The intent of Senator BOREN's bill was to reduce the influence of PAC's on congressional policymaking. At the time the bill was raised, almost all Senators paidlip service to the notion of reducing PAC influence, yet 2 weeks later, we are raising the honoraria limit from $22,530 to $30,040, an increase of $7,510. In some ways, honoraria are more sinister than PAC money in that they are given in the guise of payment of a service—that is, giving a speech—when in actuality, it is a thinly disguised payoff.

When I first came to the Senate, I was surprised to discover that groups wanted to pay me money for having dinner or breakfast with them. I was raised to believe that a public servant is just that—a servant of the public and therefore should be accessible to the people he represents and that money should not be necessary to afford such access. For that reason, I have always refused personally to accept honoraria. In recent years, I have turned it over to charity.

I am sensitive to the arguments of some of my colleagues that Washington is an expensive town in which to live and for some Members, honoraria are necessary to survive. For that very reason, when confronted with a choice of increasing congressional salaries or increasing honorarium limits, I supported a proposal to increase congressional salaries as the lesser evil. And I do not begrudge my colleagues who support the honorarium increase—that is a choice they make. I do begrudge the fact that this new honoraria increase was slipped into the continuing reduction in the dead of night without a vote.

The arguments against honoraria are very similar to the ones raised 2 weeks ago on PAC's. Whether or not these honoraria actually buy anything, the public perception is that they do. Perhaps if the honoraria were limited to the traditional lecture circuit, I would not find them so offensive. But it is not the colleges and universities, the civil and religious groups that make up the lion's share of honoraria; rather it is trade associations—the same groups providing PAC contributions.

Common Cause reported that in 1984, Members of Congress reported over $5 million in honoraria payments. They further noted that approximately one-fifth of all honoraria went to the Members of the House and Senate tax-writing committees. Perhaps I am wrong, but I have trouble believing that my brethren on the Senate Finance Committee are that much more articulate than the rest of us, that their prose flows more sweetly or their thoughts are more original. I believe it is because there are more lobbyists interested in tax issues.

It is obvious to me that on the last day of the session, we are not going to get a vote on this issue. I wish we would but, being a realist, I have agreed to refrain. But this issue will not go away, and I would like to put my colleagues on notice that I do not plan to let sleeping dogs lie on this one. Not only do I believe that this honoraria increase is wrong and ill-timed but I firmly believe that we should be reducing the amount of honoraria we are allowed to take.

Last week we passed the Gramm-Rudman balanced budget package. I have serious reservation about what we did. But since we have decided that across-the-board decreases are what the rest of the country should live with, perhaps we should make a goodwill gesture and agree that honoraria should be decreased by that same percentage decrease mandated by Gramm-Rudman. I hope my colleagues will give this some thought for I plan on raising this again in the future.

I consider myself a reasonable man, and reasonable men disagree. However, those disagreements should be made in the light of day where everyone has a chance to make public their position. Therefore, I can promise my colleagues that this matter will return.

LOS ANGELES METRO RAIL PROJECT

Mr. WILSON. I would like to ask my friend from North Dakota a question about the metro rail project in Los Angeles.

As the chairman knows, mitigation measures to address the presence of methane gas along the metro rail alignment during construction and operation were first identified in 1983 in the environmental impact statement for the project. These measures were refined in the environmental assessment which was prepared specifically for the first phase, known as MOS-1, in 1984. In fact, I have a letter from the Urban Mass Transportation Administration dated November 21, 1984, which states that no further environmental work would be required on MOS-1. I ask unanimous consent that this letter be made a part of the RECORD.

This bill now before us requires a study of the existence of methane gas in an area beyond the first phase of metro rail. As I understand it, since full environmental studies and methane gas mitigation measures have been developed for MOS-1, it was not the intent of the committee to require this additional study for MOS-1.

Mr. ANDREWS. The Senator is essentially correct. In accepting this House-passed language in the bill, the conferees did not intend to either require a new methane mitigation environmental assessment for MOS-1, nor did they intend to preclude full environmental impact compliance associated with any MOS-1 construction. Regarding the methane gas study that the Senator mentions, a supplemental environmental impact statement for the area to the west of MOS-1 may be required if the geological assessment mentioned in the statement of managers generates significant changes in the project. A full alternatives analysis/environmental impact statement is not expected because the same corridor and same mode, heavy rail are assumed to be utilized.

Mr. WILSON. I thank the chairman.

OPPOSITION TO INCREASE IN HONORARIA CEILING

Mr. BUMPERS. Mr. President, I commend the distinguished chairman of the Appropriations Committee and ranking member for their tireless efforts on this continuing funding resolution. None of us likes the fact that almost 3 months into the fiscal year we are not even close to having passed all of the regular appropriations bills, and I share the chairman's distaste for this manner of governing.

But I do not rise primarily to make the point that we seem to be incapable as a Congress of getting our work done on time, although it is a point worth making time and time again. I wanted only to comment briefly on the issue.

Mr. President, the primary purpose for my seeking the floor is to express my strong opposition to the provisions of this continuing resolution which both increase the honoraria ceiling for Senators and make it easier for a congressional pay increase to be enacted at some point in the future. At a time of retrenchment, when we are asking the American people to cinch their belts, when we will probably be voting to eliminate or substantially cut many important Government programs, this kind of back door pay increase is a breach of faith with the American people. We have no business adopting these changes.

Mr. President, I just wanted to make the record clear on this point and to express my most strenuous objection to these provisions.

Mr. SARBANES. Mr. President, the continuing resolution contains an important provision that will ensure that flood damage repairs on the historic Chesapeake & Ohio Canal can get underway immediately. The measure authorizes the Park Service to use emergency funds to repair the extensive damages caused by the November floods. I want to thank the members of the Appropriations Committee and my colleague Senator MATHIAS for their efforts on this matter and for acting so expeditiously.

The C&O National Historic Park—one of our Nation's and Maryland's great public resources—suffered severe damages from the flood-swollen Potomac River last month. Portions of the C&O Canal and sections of the towpath, a popular hiking and biking trail that divides the canal and the Potomac River, were completely destroyed. Currently, only about a quarter of the 189-mile towpath remains open for recreational use. Experts estimate that the cost of making repairs and restoring the canal and towpath will exceed $10 million and could take up to a year to complete. However, emergency repairs must be made immediately to prevent even further deterioration of this important natural resource from winter storms. Any delay in acting to stabilize the canal and towpath would only mean more costly repairs in the future.

The measure approved by the Appropriations Committee will enable the Park Service to tap emergency funds immediately for necessary repairs. I urge my colleagues to join me in supporting this measure.

Mr. BURDICK. Mr. President, I am pleased to recommend to my colleagues that the continuing resolution conference report be accepted by the Senate as far as the agriculture section is concerned. I commend the chairman of the Agriculture section is concerned. I commend the chairman of the Agriculture Appropriations Subcommittee for his hard work in putting together a resolution that is fiscally responsible and enables the very important programs involving agriculture to continue.

I would, however, like to look briefly at the farm credit situation. In 1985, $5.3 billion was made available in farm loans due, in large part, to the transfer of over $2 billion from the Emergency Disaster Loan Program. The Senate recommended the same amount for 1986, but the conferees agreed to a reduced level of $5.1 billion. While this amount is considerably more than the $3.4 billion requested by the President, I am still very concerned that it will not be enough.

We have every indication that the spring of 1986 is going to be worse than the spring of 1985 as far as our farmers are concerned. The prices they receive for their produce have not increased. Their land values have fallen. The exportation of their products has decreased significantly.

Congress has agreed to a new farm bill that, over time, will reduce farmers' income instead of increasing it. Also, we recently passed a farm credit bill which saves the Farm Credit System, but does not provide additional credit or direct assistance to the farmer.

Because of these factors, the possibility exists—indeed it is a probability—that many, if not most, of our farmers will have difficulty obtaining the necessary money to put the crop in the ground next spring. When that time comes, and it will be here very soon, I hope that my colleagues will be willing to come to the assistance of the American farmer. He is the backbone of this country and there is no greater need that can be served by the American dollar than maintaining a system of productive family farmers on our land.

NAVAJO-HOPI LAND DISPUTE

Mr. **DECONCINI**. Mr. President, woven into this country's 200 year history are the lives and destinies of our Native American peoples. The United States has always recognized a governmental relationship with the Indian tribes which embodies the constitutional principles of fairness and equity envisioned by America's founding fathers. This body is vested with the responsibility to uphold those principles as it sets the policy and makes the laws which determine the circumstances under which tribal people like the Navajo and Hopi families have to live.

Since 1958, Congress has been involved in setting the stage for an ultimate settlement of a conflict in land claims by the Navajo and Hopi Tribes. I remind my colleagues here that this conflict, known as the Navajo-Hopi Land Dispute, was originally set in motion by ill-defined Federal Government actions dating back to 1882. Now over 100 years later the tribes and their members are still bearing the burden of the heart-breaking human misery and escalating fiscal costs engendered by these decisions. To date, Federal intervention has in my view served only to complicate a legal dispute which will leave a dark mark in American history. I realize the good intentions behind these past interventions were sincere. But now it appears that we are adhering to a solution which in concept appears legally reasonable but which in the face of intangible human considerations associated with the issue is a dismal failure.

The nature of the problem cries for the attention of a compassionate and just government. I have always tried to make our current policy more responsive to the families who are being buffeted around by our misguided policy. In September, the Senate Appropriations Committee rejected my proposals to eliminate all the additional money originally provided by the Senate version of the Interior Appropriation bill, H.R. 3011, for relocation activities. I strongly believe that targeting more money for moving families without first re-evaluating the situation is fiscally irresponsible. As an alternative, my proposed bill language making the expenditure of those funds conditional upon the submission of a report by the Relocation Commission to Congress was adopted by the full Senate.

I am still deeply disturbed and troubled by the course we are on now. Never has a federal policy reached so far into the lives of people. In so doing we are destroying a world critical to the survival of these native Americans while spawning additional and costly litigation that may place their lives in an even more precarious situation. And these are people who, having lived under the dark cloud cast by the legal dispute for many years, crave stability and a sense of certainly. Even those who have decided to accept the risks and uncertainty or relocation are forced to deal with a Federal agency which has demonstrated limited sensitivity to the turmoil and upheaval in their lives.

As a Government responsible equally for all citizens, we cannot ignore the indelible identification of the Navajo families with the particular lands from which they are being forced to move. As long as their cultural and tribal memory serves them, these lands have been theirs by virtue of their daily usage. In the face of this, any Government action to confer title of those lands to another tribe and mandate the removal of the residents creates an emotionally and physically life threatening set of circumstances for these families. It may resolve a legal disagreement, but it does not compassionately respond to the more critical human problem associated with the issue.

That is why I have opposed the use of relocation to attempt settlement of this problem. I do not deny the legal basis of the Hopi claim to the land in question. However, we are thrusting families, who did nothing to place themselves at the mercy of this legal dispute, into a traumatic experience. They may not all successfully withstand the emotional pain and economic hardships certain to visit them. As the Clark report states "removal from family lands to strange lands, even though to other Navajo reservation lands, creates a sense of failure accompanied by severe emotional trauma and withdrawal."

We unfortunately cannot comfort ourselves with the assumption that those who have been entrusted with the responsibility of administering the relocation program are placing equal emphasis on mitigation the impacts of relocation as on moving the people. In March of this year, a House Committee on Appropriations investigation concluded that it was apparent that "the Commission did not adequately prepare the relocatees to make the transition from life on-reservation to life off-reservation." There are families who have been relocated away from their long-term employment on the reservation, subsequently lost their replacement homes and have ended up without a permanent homeland in a state of financial hardship and mental despair.

All this confirms the difficulty and pitfalls of implementing a Government policy which goes to the core of people's existence. If indeed a relocation policy is found to be the only way to resolve this kind of problem, then it must be carried out with the utmost sensitivity and unwavering commitment to protecting the basic rights of the relocatees. Much evidence abounds today indicating that the Navajo and Hopi Relocation Program is being handled so that the political considerations of a few takes priority over the lives of the relocatees.

We have a moral responsibility not to close our eyes to this extremely difficult situation in the belief that the passage of time will lessen the inhumanity of the relocation program. A public policy which ignores the damage it brings upon a community always leaves scars which starkly stand out in history. Ultimately, the real tragedy of our refusal to face the unpleasant reality of the failed relocation policy will be the creation of a new group of dispossessed people. I am compelled to ask: What public good is served by a Government which allows this to occur? I do not believe that the people of this country can in good conscience be proud of our Government for upholding a law which is humanly unjust.

In the final analysis, the value of human life must dictate the course we take and the manner in which we finally settle this problem. As the Clark Report urged us, "The whole range of issues—not just today's relocation problem—must be addressed. Unless a comprehensive plan be thoughtfully developed and put in place, fundamental tribal disputes may persist for still another century." I am convinced that beyond the tribal disputes we will end up with a monumental human tragedy so injurious to the livelihood of families affected and to the integrity of our great Government that it is imperative for us to take another look at the matter.

I urge my colleagues to consider the findings of the eminent Judge William Clark which were filed on October 21, 1985. These findings reflect the need for a settlement which is more comprehensive in nature. Judge Clark's report fairly lays out the important elements of the dispute and gives us an excellent basis from which to proceed to a new era of understanding between the Navajo Nation, the Hopi Tribe and the Federal Government.

In the meantime, we must do everything possible to assure those families who are undergoing the relocation process the full protections of existing law. The Interior provisions of the continuing resolution incorporate new bill language which address current concerns about the volatile and sensitive nature of the situation. One provision requires the Relocation Commission to file with the Appropriations Committees of each House of Congress a report detailing the planned expenditure of the housing construction funds appropriated to the Bureau of Indian Affairs for relocatees. A second provision provides specifically:

> Provided further, the none of the funds contained in this or any other Act may be used to evict any Navajo household who, as of November 30, 1985, is physically domiciled on the lands partitioned to the Hopi Tribe until such time as a new or replacement home is available for such household.

As I understand it, this bill language is intended to permit Navajo families to continue to reside on lands partitioned to the Hopi Tribe without fear of eviction after the July 7, 1986 deadline for completion of the relocation program. The conference committee has accurately recognized the fact that hundreds of Navajo families will not be relocated from Hopi lands by the July 7, 1986 deadline. These families will not have been provided with the replacement homes and related facilities which are required to be provided to them by the mandate of the Navajo and Hopi Settlement Act of 1974, as amended.

It is my understanding that the committee by adopting this amendment, intends to ensure that all Navajo relocatees will receive the full measure of the benefits provided by Public Law 93-531 prior to their removal from Hopi lands. The benefits to be provided include compensation for their existing dwellings, replacement homes and "related community facilities such as water, sewer, roads, schools and health facilities." Finally, I would like to point out that this provision in no way alters the duty of the Navajo and Hopi Indian Relocation Commission to minimize the adverse "social, economic, cultural and other impacts" of relocation of these Navajo families.

I have grave reservations about the funding levels for relocation activities and the other provisions regarding the administration of a program which maintains current policy without reviewing the affect it is having on people. It is my hope that my colleagues will not forget that we are dealing with a human issue, not a simple real estate transaction.

Mr. GORTON. Mr. President, I want to take this opportunity to make a brief statement about the continuing resolution before us. First, I would like to congratulate all of the conferees on the agreement they have hammered out. Spending measures are a prime example of the exercise of congressional power and responsibility, and on this act, the conferees have exercised their power responsibly.

I would also like to take this opportunity to thank especially several Senators who have worked with me so thoughtfully to try to address issues of particular importance to my State. High among these is the distinguished Senator from North Dakota, Senator ANDREWS, who displayed great skill and diligence in helping meet a special concern without violating considerations of good national policy. The language contained in the act instructing the Urban Mass Transportation Administration [UMTA] to enter into a full funding contract to construct a bus tunnel in downtown Seattle is of great importance to Metropolitan Seattle. This is a project which is highly meritorious, having been ranked No. 1 in the Nation by UMTA itself. Senator ANDREWS has been consistent in his support of annual appropriations for the project.

But the instruction to enter into a full-funding contract is a special sign of support for this project, an expression which is especially valuable at this critical time. I appreciate Senator ANDREWS' diligent efforts to find a way to do this which avoided the problems inherent in the statutory letters of credit originally proposed by the House. Far from being a second-best substitute, the alternative statutory language Senator ANDREWS has drafted, together with the very strong supporting report language—which requires consummation of a contract within 90 days, or a report to Congress why the effort has not succeeded—address my constituents' needs in an even more helpful fashion. I am pleased that the Congress is taking this explicit and special step of indicating its support for this project.

There are, of course, numerous other items in this bill that are of special interest in my State, and for which I am appreciative of the hard work of the members of the Appropriations Committee in finding ways to solve the various problems I have brought to them. In particular, I appreciate the special efforts made by my good friend Senator MATTINGLY to secure both construction and planning assistance for the Everett Navy Base, as well as making repeated efforts to secure the discharge of a debt to the State of Washington—efforts which were finally successful.

My friend and neighbor Senator MCCLURE has been particularly generous and helpful on a large number of items, and Senator WEICKER was a great help in understanding and accepting changes in the freeze on indirect cost rates on HHS sponsored research—a provision that means more than a million dollars to the University of Washington.

Finally, I am elated at the generous restoration of absolutely needed funds for the Federal Aviation Administration and the Coast Guard.

I could continue on with a litany of items in the continuing resolution that are particularly important in Washington State, but I will not do so here. I have thanked those Senators who worked with me to address the problems I raised, and my not repeating that here is certainly not intended to slight the other Senators who worked with me. I merely repeat my congratulations to all of the conferees for producing a good bill in the face of great difficulties, and for having the patience to focus on small items as well as on the great.

Mr. GLENN. Mr. President, I rise to acknowledge and offer my support for the conference committee's actions regarding the Clean Coal Technology Program.

While the amount of Federal assistance committed is not as high as I had hoped, nor for as long a period as I would have wished, nevertheless, I commend the committee for its ultimate decisions on this matter. For I feel this program is vitally important if we are to establish a stable and environmentally acceptable energy supply that will sustain economic growth and competitiveness on into the next century.

Originally, both the House and Senate had approved $100 million in fiscal year 1986 for the clean coal technology reserve, but the total program approved by the House would have run for 3 years and cost $500 million, while the Senate voted for a 4-year, $750 million program.

The conference committee voted to set aside $750 million from the energy security reserve of the soon-to-be dismantled Synthetic Fuels Corporation [SEC]. However, only $400 million was actually appropriated: $100 million for fiscal year 1986 and $150 million each for fiscal year 1987 and fiscal year 1988.

I know that the Reagan administration has indicated its willingness to accept the fiscal year 1986 appropriation, but opposes the advance funding for the following 2 years. I firmly believe, however, that without a strong, multiyear commitment on the Government's part, the private sector would be reluctant to obligate the substantial investments required by the 50 percent cost-sharing provisions of this program.

Additionally, the conferees have further earmarked, through authorization, $350 million for the clean coal reserve. These funds are not available until released by a future appropriations act.

All we have to do is look at the facts in order to see why this program is vital to our national interest at this time. Eighty-two percent of the U.S. fuel energy reserves are coal, compared to just over 6 percent for natural gas and oil. Nearly 75 percent of electric power generation in our country is derived from fossil fuels, including almost 58 percent from coal, 4 percent from oil, and 12 percent from natural gas. However, recent studies have indicated that we have been overly optimistic in estimating our domestic recoverable reserves of oil and natural gas.

The United States, on the other hand, with over 470 billion tons, has the world's largest demonstrated coal reserves. This represents a supply of energy adequate for over 300 years at current and projected rates of consumption.

I would like to point out the major role Ohio plays in this regard. The Buckeye State itself has more than 15 billion tons of proven coal reserves. This amount alone would be sufficient to supply the State's current consumption level for the next 200 years and enough to power the entire country for 30 years. Moreover, Ohio has another 40 billion tons of potential coal reserves.

If we are to harness the enormous potential coal has to fuel our economic growth, we must launch a balanced and cost-effective research and development program which will pinpoint the most promising and efficient coal technologies. It seems apparent that our present generation of coal-burning techniques will not be adequate to meet our future requirements.

Conventional base-load pulverized coal units are characterized by economies of scale which require relatively large units with long construction periods and enormous capital investments. In addition, our current methods of controlling high sulfur emissions to conform with environmental regulations are costly and imperfect. Electrostatic precipitators trap flue gas particles on metal plates, like dust to a cloth, but many particles escape. Scrubbers can remove sulfur from smokestack gases by injecting limestone and water, but each year one scrubber generates enough paste-like waste from a single large plant to cover a square mile 1 foot deep. Moreover, it can also add 40 percent to a plant's cost and use up to 8 percent of the power output.

The clean coal technology reserve will help us overcome these obstacles. Its purpose is to identify emerging clean coal technologies that may be commercialized in the near term for reducing emissions from new and existing coal-burning powerplants and industrial coal uses and providing incentives to assure the earliest practicable commercial availability of these new techniques.

This program is also fiscally pragmatic. Private companies will put up at least half of the project costs. The commitment by private industry to move forward with the commercial demonstration of these technologies has already been demonstrated. More than 170 proposals have been received from project sponsors, including 14 from Ohio, representing more than $8 billion in total project costs.

Mr. President, while the funding of this program has vast benefits for the Nation as a whole, it certainly has great implications for those States with large deposits of high-sulfur coal. For instance, in 1970, my home State of Ohio, which burns more coal than any other State, produced some 55 million tons or about 9 percent of total U.S. production. By 1983, however, production had fallen to 33 million tons—just over 4 percent of our country's total. The effects in human terms have been devastating. Just between 1980 and 1983, employment in Ohio mines fell from 14,600 to 10,200.

Less than half of Ohio's consumption now is produced from Buckeye State mines. Ohioans, as consumers, are paying over $1 billion to import coal, primarily low-sulfur, from other States.

On November 5 of this year, Ohio citizens showed their determination to meet this challenge by voting to allow the State to issue up to $100 million in bonds to finance the creation of a statewide Clean Coal Research and Development Program similar to what we are now considering on the Federal level. This will assist a growing number of private companies and State institutions in Ohio that have already begun, or are planning, research, development, and demonstration activities devoted to clean coal burning processes.

It is essential that we move forward to meet the challenges of the 21st century by funding the clean coal technology reserve. Advanced power generation techniques which are modular, economic at smaller scales than conventional plants, and require shorter construction periods can better match capacity additions with actual demand and at lower costs to electric ratepayers. The Clean Coal Program will provide the necessary experience which will allow us to utilize our massive coal reserves in an environmental acceptable manner. It will bolster our energy and national security while enhancing our economic and industrial vitality. Moreover, greater reliance on domestic coal means that more of our energy dollars will support American jobs at home rather than employment in coal mines or oil fields abroad.

Mr. SPECTER. Mr. President, I rise to express my deep concern regarding the removal of funding for the Synthetic Fuels Corporation (SFC) in this year's House-Senate conference on the continuing resolution. It is with regret that I note the decision of Senate conferees to recede to the House position on the elimination of the SFC program.

If the Oil Embargo of 1973 taught America anything, it clearly proved that dependency on foreign suppliers for strategic commodities engenders economic and political vulnerability. As chairman of the Senate Coal Caucus, and Senator from Pennsylvania, a State rich in energy reserves, I believe we must maintain our Nation's energy independence through the use of coal and other domestic fuels for our energy needs.

The SFC provides an important synergism between research and development of new technologies and the commercial application of these technologies. When we created the Synthetic Fuel Corporation, we recognized that the road to commercial energy development is tenuous and expensive, but nonetheless, critical for our goal of long-term energy independence. Joint Government-industry participation is essential to the attainment of this goal.

When synthetic fuels are needed, they will be needed in quantities approaching 2 million barrels per day of production capacity. In a time of crisis, we will simply not have the time to build the necessary facilities to produce fuel in these quantities. That is why we must work now, in a time of relative energy abundance, to develop technologies which will allow us to produce the energy we will need the next time our foreign supplies are threatened.

The legislative memory of members of the House of Representatives can not be so short as to forget the economic and political chaos which followed in the wake of the 1973 oil crisis. We still feel these reverberations today. Yet, the House voted to abolish funding for the Synthetic Fuels Corporation. This action is not only historically naive; it is economically and strategically indefensible.

Although the SFC experienced initial difficulties, the program is close to completing its goal of providing the operating and environmental experience that is essential for our energy and security needs. Now, when we are about to culminate a 4-year effort to achieve synthetic fuel commercialization, is certainly not the time to eliminate this program.

In addition to the national security implications, I am also concerned over the economic impact of dismantling the SFC. Our Nation's energy industry employs thousands of people in Pennsylvania and across the United States in the research, production and extraction of fossil fuels. Many current and proposed projects, including the Keystone project near Johnstown, PA, would be terminated, resulting in layoffs and economic disruption.

With the energy surplus at the moment, we can delude ourselves into believing that we will never again be forced to deal with an energy crisis. Or we can face reality and continue to prepare for the future. Mr. President, it is my sincere hope that we can act and maintain funding for the critically important Synthetic Fuels Corporation programs, instead of having to react to a crisis at some later date.

Mr. BYRD. Mr. President, the continuing resolution, House Joint Resolution 465, was the fifth in a series of such resolutions since this past October 1. The Committee on Appropriations reported this particular resolution to the Senate 2 weeks ago, on December 5, 1985. The lengthy consideration of the measure was due in large part to the numerous and complex issues incorporated within that continuing resolution.

Throughout this wearing process, when many other tempers had shortened, I believe that the Senate was very fortunate, indeed, to have had the calm hand of Chairman Mark Hatfield guiding this measure to a fair resolution as speedily as was possible. I thank Senator Hatfield for his hard work on behalf of the Senate and for the many courtesies which he extended to me in this continuing resolution. He has exhibited true leadership and friendship.

I wish to thank Senator Stennis, as well, for his wisdom and guidance in representing the interest of those on my side of the aisle. Much of the thanks also belongs to Senators Johnston and McClure and to Representatives Yates and Regula for their tireless efforts to reach agreement on many of the tough issues in the resolution such as clean coal technology. I would also like to add a special thanks to Chairman Whitten, and to Senators Andrews, Cochran, Burdick, Rudman, and Hollings for their cooperation and understanding of the emergency needs of those many West Virginians whose possessions, homes, and communities were destroyed by the recent floods this past November. Without the assistance of these Members, the task of rebuilding would be even more difficult for these citizens. The efforts of these Members will be long remembered by those of us in West Virginia.

Mr. PROXMIRE. Mr. President, I rise reluctantly because there is a part of this bill that I think is a very, very great mistake. Last week the Senate decided to cut nearly $12 billion from the fiscal year 1986 budget. Today it is about to authorize a back door $7,510 pay increase for some Members of the Congress.

Like so many of the special provisions which bring Congress into dispute, this one was added at the last minute to an indispensable piece of legislation, this continuing resolution. Buried in the bill's fine print is a provision which allows Members to keep $30,040, an increase of $7,510 in speaking fees, honoraria.

Now, but just before we act on this, Members can keep $22,530. We are going to raise the limit on the honoraria we keep from 30 to 40 percent of our pay or to $30,000. What Congress cannot do directly it can often do indirectly.

Mr. President, the last time the Senate dealt with this issue in 1983, we voted on it. In fact, our late esteemed colleague, Henry Jackson, offered a series of amendments. Each had a different combination of pay and honoraria limits. Each amendment was the subject of a rollcall vote. Senators were counted on where they stood on increasing the honoraria.

What a difference 2 years can make.

This time neither the House nor the Senate voted to increase honoraria when each considered its version of the continuing resolution. After looking through the debate, the Senator found not one single, solitary mention of the word "honoraria," not a peep, not a chirp or even a whisper. And incidentally, Mr. President, in the conference it was made clear yesterday that the House will not go along with the Senate. As far as they are concerned, they will not take this additional 40 percent. They will keep their outside income at 30 percent.

Mr. President, for all these reasons the Senate should vote on this issue. The Senate may decide that this increase is unjustified. We may vote it down. The Senate should work its will on the issue.

Now, Mr. President, let me just speak briefly on the substance of this issue. In the spirit of the Christmas season, why should Senators and Congressmen not be generous with themselves? What is wrong with Members of this body pushing up their honoraria earnings from $22,500 to $30,000? Why should Senators not enjoy a potential increase in their total compensation? That is, their Senate salary of $75,000 plus $30,000. That would raise the compensation of Senators who want to go out and earn the maximum contribution from the present maximum potential level of $97,500 to $105,000. At $2,000 per speech, a Senator could with only 15 speeches earn the full amount each year.

Why not? There are many reasons why not, and here are a few.

First, for the first time Senators' total compensation would exceed six figures, which would mean it would put Senators in the exclusive class of less than 2 percent—in fact, about 1 percent; I just checked it out—of the American people. I am talking about American households earning $100,000 per year.

Now, many Senators are smart; all are special. There are only 100 Senators in this powerful body, so each of us has very considerable power. Why should we not have compensation to match? One reason is because this increase moves us more out of touch with our constituents who mostly have to get along on less than one-third of what we receive.

Now, most Americans still consider anyone with an income of more than $150,000 per year as rich. They consider those relatively few Americans with incomes of more than $100,000 anually as very rich. The increased honorarium levels puts Senators further than ever removed from their constituents.

No. 2, Senators do not need it. Greed knows no bounds, but certainly there is no rational basis for the arguments that Senators need to earn more than $100,000 per year to live. If the majority of Americans can secure the food they need, the housing they have to have, the transportation and recreation, clothing and education for less than $30,000 per year, why in the world does a Senator need $100,000? If Senators cannot live on less than three or four or five times as much as most taxpayers who pay their salaries live on, they are living an extravagant life which they should not expect the taxpayers to support.

No. 3, most of the honoraria earned by Members of the Senate comes from special interest groups that hire the Senators as speakers, not because those groups are thirsting for good oratory or good entertainment or inside information but because they want to win his support for their cause.

If you serve on the Senate Banking Committee, as I have for more than 28 years, you receive invitations to speak to national and State banking groups that are deeply interested in the legislation that you have a major role in drafting and amending. Your vote can make a big difference in opportunities for banks to increase their profitability. You also have a major influence on savings and loan institutions. Your vote and your influence can seriously help or hurt firms building homes and shopping centers. Construction unions have a direct interest in your position on Federal housing programs. It can literally increase or decrease total wages in the housing industry by billions of dollars. So what happens when you as a Senator speak before any of these groups? What happens is that you literally go on their payroll. You speak for a half hour or hour and get a nice tidy $1,000 or $2,000.

With the maximum honoraria lifted to 40 percent of your Senate pay, it means that of your total compensation at $105,000, more than a quarter of that total may come from special interests which have a direct pecuniary interest in whether you support or oppose legislation.

Now what happens? As a Senator, your $75,000 pay is neutral. It has no effect on how you vote on legislation. You receive that $75,000 regardless of your position on legislation. But the $30,000 you receive in honoraria may come in large part from those who believe—and with good reason—that they are getting a good and faithful employee by putting you on the payroll at $1,000 per hour or so and up. Oh, sure, once in a while a Senator will read the riot act at his audience, disagree with them and tell them their legislative interest is self-serving, blatantly against the public interest, and he intends to oppose it, and kill it if possible.

That happens occasionally but how often? Let us face it, most of us tell our audiences what they want to hear. We do not insult them or enrage them. We support them. And when the vote comes in committee or on the floor, we want to be their friend, not their enemy.

It is not that $1,000 or $2,000 buys our vote. It does not. But as they say, there are two sides to everything. And if one side has the good judgment to listen appreciatively to your speech and pay you a fancy dollar for it, well, you sure give that side very careful consideration.

Fourth and finally, Mr. President, there is the matter of time. It is possible that some Senators can get the maximum, $2,000 per speech. They can limit their speeches to 15. They even can schedule the whole kit and caboodle in a month or 2. This is true for those Senators who chair critical committees or have a reputation for wielding plenty of power. For others, $30,000 means 30 speeches. That includes travel and preparation. A conscientious Senator wants to deliver a $1,000 speech for $1,000. So it does take time to serve so many masters. And at least in some cases Senators miss crucial rollcalls or committee meetings. With this expansion in honoraria, and therefore in speeches, more of the time on the lecture circuit comes at a time that otherwise could be spent on Senate business or assisting constituents as we were elected to do.

So in summary, Mr. President, we should not increase our honoraria for these reasons: For the first time even, Senators would go over $100,000 in their potential earnings and would find themselves in the company of only 2 percent—I should say 1.2 percent—of all American households who earn such a massive sum.

Senators would be further out of touch with the world of their constituents.

Secondly, Senators do not need it. A majority of constituents get along with less than a third of the more than $100,000 Senators would earn. Taxpayers should not be required to support such extravagance.

Third, most of the honoraria comes from special interest groups who buy legislation with their honoraria. The increase makes the special interest payoff worse than ever.

Fourth, the increase in honoraria will take Senators who are paid a handsome $75,000 per year to do the Senate business away from that business, so it is unfair to constituents.

Now, Mr. President, I had intended to amend the continuing resolution, or to try to get a point of order vote so that I could strike the provision increasing the honoraria limit from 30 to 40 percent.

But after talking with the Senate Parliamentarian I have decided not to proceed for now. To do so will mean defeating the continuing resolution. Even so, I would have been willing to do so if we could have an up or down vote on the issue of increasing the honoraria limit. But there is evidently no way to get a vote on this issue.

To raise the issue, the Senate would first have to overrule the Presiding Officer on a point of order that the conferees had exceeded their authority by including this increase. If the Senate were willing to do that, then the continuing resolution would fall. You can imagine the reaction in this body. We would then have to request another conference with the House and appoint new conferees. After all this, I could offer a motion to instruct the conferees to strike the provision increasing the honoraria. In the process, of course, this could take a week or even longer. It would mean that the continuing resolution would be stalled and stopped.

Furthermore, those favoring an increase would have ample opportunity to cloud the issue. They could argue that we would be risking a shutdown of the Federal Government. They could argue that it would take another week to resolve this issue. They could argue that the House would want to reopen other issues. By raising all these points, those favoring an increase would be likely to prevail on a procedural vote.

This is the situation those of us opposed to this increase face. It is outrageous that we are so boxed in.

It is even more outrageous that we have not had a chance to vote on this. Up until last week we would not have been faced with this impasse. But we are now operating under a precedent where anything in a conference report which is even remotely relevant is germane to the conference report. For that reason, the honoraria increase was put in and cannot be taken out. It was put in although there was no discussion, no debate, no appreciation that it might happen on the floor of the Senate or on the floor of the House.

I want to put the Senate on notice that this issue is not settled. Next February or March, the Senate will be dealing with the first spending cuts mandated by the Gramm-Rudman bill. The Senate will deal with this issue then. In an election year, we will see how many Senators are willing to defend this increase, even as we are cutting programs which are beneficial to millions of Americans.

Unfortunately, I cannot offer the point of order, which would be the basis for killing the whole conference report.

Mr. WALLOP. Mr. President, I rise to object to the provision in the continuing resolution that bans antisatellite testing. During the 6 months preceding the Geneva Summit, the Soviets had a strong, worldwide public relations case to lay groundwork for attaining their major goals for the summit meeting, a limitation restricting the U.S. Strategic Defense Program to laboratory research and a broad ban on antisatellite testing.

The Soviet carrot of deep cuts in offensive weapons played on the free world's desire for peace in order to gain unilateral concessions. President Reagan resisted attempts to bargain away the strategic defense initiative. Both sides came away with statements supporting cuts in offensive systems. The world knew that the tough work of hammering out a real and verifiable arms control agreement was yet to come.

Congress apparently cannot wait for the difficult and tedious process of negotiations. The continuing resolution appropriations conferees, following the lead of the House of Representatives, banned the testing of the U.S. antisatellite systems against objects in space.

The U.S. Asat Program, ready for tests No. 2 and No. 3 is effectively put on ice for the remainder of this fiscal year. Representative GEORGE BROWN, a supporter of such action said, as reported in the Washington Post, this "gives a little breathing space for the President if he wants to enter into real negotiations" with the Soviet Union. Perhaps it is poison gas he wishes the President to breathe. Whatever else he doesn't plan to give much breathing room as the Post article further says he hopes "by next year to have enough votes to abolish the program."

Perhaps Congressman BROWN does not realize that he has not been elected President by the people of the United States nor has he been appointed by the President of the United States and confirmed by the Senate to a role of negotiaton for this Nation. Rather than putting some type of antisatellite moratorium on the bargaining table for use in gaining offensive cuts or reaching reliable verification measures, the appropriations conferees have put Asat under the Soviet Christmas tree. The Soviets are achieving a major goal without any concessions on their part.

By any reasonable standard, the President needs his full arsenal in the months ahead if he is to have any chance to negotiate a treaty with the Soviets that enhances the security of the American people. Congressionally imposed unilateral disarmament is scarcely going to enhance American safety.

The conferees did more damage than this body typically sees on appropriations bills. They exceeded the scope of the House and Senate bills and prohibited the use of fiscal year 1985 funds for the testing authorized and appropriated in that year.

What Representative BROWN and his like-minded colleagues forget is the Soviets have an operational ASAT capability that has been tested, while ours has had but one test. In a potential conflict, the Soviet Union will have quantitative data on which to gage the reliability of their ASAT capability. They will continue to test a variety of capabilities and improve their margin of safety. We will not! The appropriations conferees now give the Soviets control over our ability to obtain that data. Theirs is the decision to test or not. They can decide to sit back with the known capability to destroy our surveillance and early warning satellites when they desire and testing undetectable capabilities. Or they can continue with their own ASAT development programs, selecting the most efficient time to do their own testing. And should they decide to test, I suspect that we will hear the words of the know-it-alls saying, "It was only one test, perhaps they will do no more,—it is best we don't respond. Besides, they have no technical capability, and why should we be the ones to destroy the climate?"

Those who have looked into how satellites fit into military strategy know that the Soviets use satellites differently than we do. Their satellites are not designed to stay in orbit as long as ours, and therefore the Soviets have an impressive relaunch capability. Even equal ASAT capabilities do not have equal tactical value since they can relaunch quickly.

Some say that is a reason to ban all testing and hope that neither side does anything to interfere with the other's satellite capability. It is naive to believe in a period of high tension that the Soviets would not use their existing capability, or that they would not use their extensive missile launch capability to use direct ascent attack on satellites in addition to the tested co-orbital ASAT weapon.

Numerous reports demonstrate that the Soviets continue with a broad scope ASAT and Strategic Defense Research Program, irrespective of what we do. Yossef Bodansky reported in a special to the Washington Times on October 1, 1985 that the Soviets "Already have most or all of the components for a successful antisatellite weapon system."

Research and development has pursued two lines simultaneously. One is a large missile, with a booster based on the technology of the Soviet BL-10, a new supersonic air-launched cruise missile. The other is a smaller missile to fit on a fighter-interceptor, "Most likely the SU-27 Flanker, the Mig-25 Foxbat or the Mig-31 Foxhound." In addition to these systems, Bodansky reports that the Soviets have two military installations in central Asia that have large ground-based lasers that can already be used to blind or destroy satellities.

The Soviets believe in testing their system. To illustrate the Soviet commitment to integrated testing in an operational environment, Bodansky describes a major Soviet exercise to test their offensive-defensive capabilities. One component of that test, only a component, was the launch on June 6, 1982, on a Kosmos-1375 satellite that was subsequently destroyed by a Kosmos-1379 satellite. The entire exercise tested the launching of ICBM's and even ABM operations. If in the face of a single, fully integrated Soviet test we are unconvinced of their intentions and our national need what on Earth would convince us to start to rebuild our limited Asat Program.

The Soviet ground-based lasers illustrate a major problem with the House-initiated ban that makes United States testing contingent on Soviet action. Many Asat actions cannot be verified by present means. Tracking the Soviet coorbital satellite killer is relatively straightforward. When a United States satellite, or even one of their own, is "blinded" or made less effective by a Soviet ground-based laser, verification that a Soviet test has occurred is difficult, if not, impossible. If we cannot even be able to tell when a Soviet test has occurred, the continuing resolution contingency of allowing a United States test should the Soviets do so is of little comfort. It is an act of national thumb sucking and Americans should know what their Congress has done.

In addition to undercutting the President in arms control negotiations, a second major problem exists with the Asat testing ban, the inefficiency it causes when defense dollars are extremely scarce. The press reports describing the House rejection of the initial conference report on the continuing resolution indicate Democratic dissatisfaction with the level of defense spending. The level on that conference report was something less than a full adjustment for inflation, down from the 6-percent real growth in the President's budget request. Some speculate that the passage of Gramm-Rudman-Hollings may even cause a real decrease in future year defense spending.

The ban on the final stage of Asat testing is a most irresponsible waste of increasingly critical dollars for national defense. Scientist and technicians are paid to do nothing but wait on Congressman BROWN and others or the Soviet cat toying with his American mouse. Wake up, brothers, before breakout is on us.

The F-15 Asat Program anticipated a total of 10 intercepts against objects in space. This is not as many as the 20 the Soviets are said to have conducted, but are an adequate number. As in any technical program, many problems must be identified, fixed, and reliability assured.

Testing is necessary. Only one test has been completed, on September 13, 1985. It demonstrated that certain problems with the motors had been solved. Under the Defense authorization bill, three tests were authorized for fiscal year 1986—including the September 1985 test. Following the testing plan, on December 13, 1985, the Air Force launched two targets for use in the remaining two tests for this year. Launching these two targets cost approximately $20 million. Because these targets have a limited useful lifetime, a moratorium for fiscal year 1986 would result in the loss of $20 million. Very efficient my colleagues. Very efficient.

Presently the F-15 Asat Project is costing $10 to $15 million a month. With a moratorium, since only ground testing can be done, the test and development team is essentially on hold. The Defense Department and the Air Force have two options, cancel the program or put the project on hold at a cost of $10 to $15 million each month. This body which has raised a great outcry against waste and inefficiency in the Defense Department should be incensed at this. It is inefficiency of the worst kind, and a waste of increasingly scarce defense dollars. While the expenditure of millions of dollars per month will pay the bills, members of the technical team will undoubtedly begin to look for new, more active projects to use their talents. Restarting a program becomes harder and harder.

Perhaps more important than the dollars wasted each month to keep a technical team together is the lack of confidence that a capability which looks good on the drawing boards can perform as required in an operational sense. I would not be surprised to see in a year or two the same Members who pushed so hard for this moratorium assailing the Air Force about how we can know that Asat and SDI Systems will work as designed.

Mr. President, I object strongly to this ban on antisatellite testing. It undercuts the ability of the President to negotiate with the Soviets, it wastes scarce defense dollars, and impedes the ability of this Nation to protect itself. At this time late in the session when Members are eager to go home for the holiday, I know I am not able to do much to change this situation. Christmas pleasures must of course take precedence over national need. All of us can see that. My prayer is for a Christmas gift to the Nation. A Congress desirous of peace on Earth which is at last willing to face the dreadful challenge the Soviets thrust upon us. We did not seek that challenge and we do not wish it to be so—but it is here and it is real. Wishing will not make it go away. Wishing will make it here to stay. The clouds are dark. The hour grows ever later. Merry Christmas my colleagues. Absent courage there may not be many more.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. WALLOP. I yield the floor.

Mr. STEVENS. Mr. President, I commend the distinguished Senator from Wyoming for the statement he has just made.

One of the saddest portions of the last 2 weeks has been the vacillation of support for defense and the way that the whole fabric of our procedures has been eroded by the process of reconciliation and also by this continuing resolution.

We have not yet seen reconciliation come forward, although many of the people who were involved in our conference were taken away from the reconciliation process. It hampered us and prevented getting an earlier resolution to our problems. Then, as the Senator knows, we suffered defeat of the first conference report in the House.

The comments of the Senator from Wyoming concerning the defense portion of this bill are, in my judgment, well taken.

Mr. WALLOP. Mr. President, I thank the Senator from Alaska. I would say that the thrust of my remarks primarily is directed at those in the House. I know perfectly well of the commitment of the Senator from Alaska to the defense of this Nation, and I thank him for it. I yield the floor.

Mr. EXON. Mr. President, before the distinguished Senator from Wyoming leaves the floor, I, too, want to add my compliments to him for bringing this up. If there was one principal mistake made, it seems to me, it was yielding to the House position on antisatellite testing. I wish to generally associate myself with the remarks the Senator from Wyoming has made.

I wish to compliment the Senator from Alaska. I was glad that our conferees held, at least on the matter of chemical warfare, which is equally important and is another area where we are sorely behind the Soviets.

I hope that we will not live to regret the decision that was made. Maybe we can repair it somewhere along the line. But it seems to me that the testing of our antisatellite adventures, let me put it that way, rather than experiments, compared with what the Soviets have done in the past is something that we did not do wisely.

So I thank my friend from Wyoming for bringing up that point.

Mr. WALLOP. I thank the Senator from Nebraska. I know, too, of his commitment to it. We simply must find somehow or another to put this Nation's good above temporary political judgments, not that I am suggesting the conferees did that, but I am suggesting perhaps some in the House may have.

Mr. HATFIELD. Mr. President, if I may have the attention of the Senator from Idaho, if there is no further debate, I urge the adoption of the conference report.

The PRESIDING OFFICER (Mr. ARMSTRONG.) The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. STENNIS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PROXMIRE. Mr. President, I want to be recorded as voting "no" on the conference report.

Mr. EXON. Mr. President, I ask that I be recorded in opposition to the continuing resolution that was just passed. This Senator was on the floor very recently, 15 or 20 minutes ago, or shortly before that, and was advised the conference report had not yet come over. I did not know we were not going to have a rollcall vote. I guess myself and others assumed we would.

But in any event, I would like to have this Senator as voting no at the appropriate place in the RECORD.

Mr. GOLDWATER. Mr. President, I believe this is the fifth—I may be one short or one long—but I believe this is the fifth continuing resolution in a row to take care of the military authorization and the funds required to provide for the defense of this country. The fifth in a row for this Congress or other Congresses of the past.

Mr. President, this is no way in the world to run not only the defense of the country, but any department of our Government. Here we have been in session now nearly 12 months and we have probably done more business and spent more of the taxpayers money in the last 6 hours than we have in those whole 12 months.

Mr. President, I, as Chairman of the Armed Services Committee, am going to repeat some of the things that I have said in the years before, particularly regarding the way that we have to go about providing these funds for the operation of our Government.

We meet here approximately January 1, and we are required by law to provide by May 15 this authorization for the different departments that we are responsible for. I believe the Armed Services Committee was the only committee ready by May 15, of last year. We held more hearings, longer hearings, and heard more testimony than any other committee. When we had completed this work, the Budget Committee said, "No, that was not quite the way its should be." So we went back to work, held more hearings, had more consideration, and came up with another military authorization bill.

Now, Mr. President, when the Budget Act was passed, I believe, in 1977, I voted for it. I thought it was a splendid idea to have this additional oversight on the expending of money that this Congress does every year. I have to admit now that it was probably the worst idea, in, at least, my humble opinion, that was ever adopted by the Congress of the United States.

What we are slowly doing, Mr. President, whether we like to admit it or not, is working ourselves into a situation where we do not really need committees of this Congress to conduct the business of this Congress. Let me try to explain that.

I have taken the military authorization bill through two processes already this year where we, I believe, as the only major committee in this body, reduced the funding by $20 billion. No other committee even approached what they were supposed to reduce their spending to so that we might help reduce the deficit and bring the budget more into balance.

After the Budget Committee had raised havoc with our first efforts at authorization, then it came back to us. We rewrote the bill. It came to the floor. It was passed in the Senate. At the same time, the House of Representatives was going through these same problems, the same actions. They passed their bill and, as is customary, the Senate and the House met in conference. We had a relatively successful conference this summer. It lasted only a little over 3½ weeks.

Then the bill came back to the Senate, where it was adopted by the Senate. We thought, "Well, that was probably the end of it." No, we had not reckoned yet with the Appropriations Committee.

Now, the normal process of the passage of legislation through this body and the other body, I must remind my colleagues, is that we meet in the early days of the session. We authorize what we feel is necessary to conduct the business of our particular part of Government for the year.

It then comes to the floor, goes to the House for conference, comes back, and then the Appropriations Committee approves or disapproves. That is the old way—just what we did.

But now let us see what we do today. I have already taken the listener through one authorization attempt, then through another authorization attempt, then through a joint authorization attempt by the House and the Senate. But now we are confronted with the Appropriations Committee.

I have to say this with all due respect to the Senator from Alaska. If we did not have him on that Appropriations Committee, I do not know where the military of this country would be. Mind you, here is a subcommittee that he Chairs, made up of committee chairmen from other committees who do not have the time, and, with one or two exceptions, do not have the expertise to consider the considerably intricate subject of the military.

Then they rewrite the bill. If it were not for the Senator from Alaska, who has had military experience, and understands what he is talking about, I do not know where the military of our Government would stand.

I am afraid we would be in far, far worse condition in relation to any potential enemy than we are today.

I would also say with great respect about the Senator from Oregon, who is chairman of the Appropriations Committee, that I do not think in all of my years in politics, particularly all of my years in the Senate I have ever known a more honest man, a man whose words are as good as all the gold you will ever find. However, this fine gentleman does not agree with the military. He very rightfully, as is the right of every American, having served his country well, feels that building a military necessary to defend our freedom as not particularly necessary confronts us with another problem.

So here we are. A military affairs committee faced with the defense of this country, and we have to go through all of these actions day after day after day, hour after hour after hour after hour with the American press telling lie after lie about the expenditure of the people's money for defense purposes.

We spend around $300 billion a year. We write over 15 million contracts a year in the Pentagon to go out to construct the equipment we need. Yet, we are doing it over constantly increasing difficulties.

Mr. President, if we do not do something about this budgetary process that we are in, and I think the chairman is doing a very fine job with all the problems that he has on his shoulders connected with it, I can see the day coming—in fact, I can see it not far off—where any chairman of any committee can stand on the floor of this body, or on the floor of the other body, and make an honest suggestion, Mr. President, that we do away with committees such as Armed Services, Interior, Agriculture, and so forth, that we turn it over to the Appropriations Committee, and let them in their wisdom write the legislation, bring it to the floor, have our amendments, and then feel that we have done our job.

(Mr. WALLOP assumed the chair.)

Mr. President, I do not believe that was the way the Founding Fathers of our country designed this country to be run. It is the finest Constitution, and it is the finest idea of government that was ever conceived by man. But we are slowly turning it into chaos. We are slowly making it impossible for intelligence to come to the floor of this Senate, and say we need this piece of equipment, or we do not. We bring bills to this floor under ample rules. Mr. President, there is nothing really wrong with the rules of this Senate except one thing. We ignore them.

We are not supposed to legislate on appropriations bills nor appropriate on legislation bills. But we do it, and do it, and do it. The military authorization bill that I started off on had 117 amendments when we brought that bill to the floor, and five of them had any relation at all to the defense of our country.

There is nothing wrong with the rules of this Senate. What is wrong with the rules of this Senate is nobody pays any attention to them. Just one little matter. It does not amount to much.

We have a 15-minute voting rule. Last year we spent 12 days, 12 days, voting on 15 minutes where we do not pay any attention to it. We some days may take an hour, half an hour, some days it might even take a half a day if somebody is off flying their airplane back to get in here, and they need the vote.

Mr. President, I did not intend to get off on this. But this has been bugging me for a long, long time. I have watched this Senate for nearly 30 years of my life. I have watched it operate under the rules as it should. I have watched it operate as a wonderful body where we knew what was going on. We knew when it was going on. We had a pretty good idea of how long it would take. And here it is a week from Christmas, and I do not know anybody around here that would make me a small-sized bet that we are going to get out of here before Christmas Eve.

Why? We do not work Mondays. We work Tuesdays, Wednesdays, and Thursdays. We do not work Fridays. That is wonderful if you come from a State east of the Mississippi. But if you live out in the States like the occupant of the Chair and I do, far, far west of the Mississippi, getting away from here on Friday does not mean a hoot. You cannot get an airline reservation. You cannot get home. So we stand around here, looking at some lousy television, read—I will not use the same term for the newspapers because they do have pretty good funnypapers. But this body, this Congress, is not being run the way it should in the best interests of our country.

I have served here nearly 30 years. I do not think I have ever served in a Congress that has served so badly as this one where it is the time to go home, and the time has long since passed when we should have gone home. And we still do not know what the other House is going to do. We still do not know what we are going to do.

So, Mr. President, I merely stood up, and when I did we just passed by voice vote a bill that contains over $300 million for defense purposes—no discussion, no understanding. When it came time yesterday, and the day before and the day before that for the military affairs under this bill to be discussed, do you think anybody from the Armed Services Committee discussed it? No. Somebody from the Appropriations Committee discussed it. That is as silly as asking me to discuss the agriculture bill. I do not even know which end of the shovel goes in the ground first. By golly, I am a little different than the other 100. I will admit it.

We bring bills in here, and we watch amendments pile up, pile up, pile up. They are not germane. We will not pass a rule relative to germaneness. So anything can be passed. The bills become nothing but Christmas trees.

When I came to this body I think we had, 1,300 people working on the Hill. I think we now have over 30,000 people working on the Hill. I honestly believe that some of their jobs consist of sitting before a typewriter or a computer and doing nothing but writing amendments all day long so that somebody can stand on this floor and offer, and I have counted one day, eight different amendments by one Member.

Mr. President, that is no way to run this body.

We are fooling ourselves. We are lying to the American people when we try to tell them that we are doing the best we can for them.

We are doing a lousy job. It is time we faced up to it.

I regret that I was not here the other day when Senator BIDEN and some others began to call attention to the lack of work that we do, to the poor quality of work that we accomplish.

This country is in very, very serious trouble. We have a deficit that I doubt seriously will ever be met. I do think the Gramm-Rudman bill, contrary to what many people think, will work. At least we will try.

We will never reach a balanced budget in this body. We will not even come close to it.

I worry, Mr. President, about the future of my country. This is what I am alive for, it is what I live for, it is what I was raised for—to defend my country. When I think of the millions of men and women in uniform defending their country, and the handful of citizens in the Congress who do not seem to give a tiddly bing about whether we have defense or not, knocking out a program such as ASAT, the first real break we have had to be able to destroy an incoming missile should that sad day ever come, what are we thinking about?

I go back to the late 1930's when it took four Congresses to buy the B-17. It did not win the war for us in the 1940's but it sure was a help.

I sit now and listen to debate over whether we should buy chemicals for warfare, and whether the Russians are using it on Afghans day after day.

I have listened to debates as to whether we should allow the Chinese, the most double-crossing, undependable people—not the Chinese as Chinese people, but the Government of China, a Communist government—to allow those people to have our atomic secrets and then have the President defend it.

I hope the Glenn amendment comes up next year. I will be on that bill and I will argue my head off for it.

The greatest ally we ever had in the Pacific is Taiwan, and the perimeter of the Pacific is the future of this world, not Europe, not Asia. Someday, and I will be long gone, Asia will be one of the great productive areas, like South America. But we pay our attention to Europe and we ignore the countries of the Pacific where we have the country of Taiwan ready to defend us and yet we are arming their natural enemy, the home of the Red Chinese, not the home of the Chinese that I know and you know and we love, but the home of the Chinese Communist Government that will do everything to become the world power in this world.

I do not worry so much about the Soviets. I worry about the Chinese under a Communist form of government. I am wandering around here.

(Mr. ARMSTRONG assumed the chair.)

Mr. WALLOP. Will the Senator yield for an observation?

Mr. GOLDWATER. I yield.

Mr. WALLOP. Mr. President, it is sometimes so sad that we have speeches on the floor that miss the ears of our colleagues. We have just been in the middle of a warning that this Senate, this Congress, this President, this Nation should take to heart.

Here we sit with our closest allies, the only ones willing to fight in our behalf, and certainly willing to fight in our behalf, and we limit them to technology that we know they cannot fight with while we advance the technology of their enemy who we know they will have to confront someday.

It gives this Nation such a peculiar aura of shamefulness that it does not deserve. The country does not feel that way. The country subscribes to what the Senator from Arizona just said. I only wish more of our colleagues had heard it. I salute him for it. I wish to God we had it more often. I hope one of these days the rest will hear and the rest will heed.

Mr. GOLDWATER. I thank my friend.

I did not plan on mentioning this, but I remember the great remarks of support that President Reagan gave to Taiwan during his first time of trying to get elected President. While I happened to have liked him and I would have voted for him anyway, Taiwan is the biggest aircraft carrier we have on any ocean, anyplace in the world, and yet Taiwan has been double-crossed by our State Department. I do not believe they understand what it means to get along with countries, to have peace in the world. We have people who say anything they want and they are never challenged.

I remember the day that it was suggested that President Nixon go to China and make a deal with China. Now we have recognized a Communist government bent upon the destruction of the world—and particularly the destruction of Taiwan—and which is our enemy. Our Government does not seem to understand that Taiwan is our friend.

Mr. President, if I went through all the things I can find wrong with our Government, I would be here for a month. But I do not want to do that. I love my country. I do not like to see it kicked around. I do not like to see 535 experts on foreign policy, 535 experts on every subject in the world, get up and try to run this country.

The committee system is the way this Government was planned to be run. The committee system can run this Government. But it cannot run this Government under the budget system and sooner or later, like it or not, we are going to have to get away from the budget system and go back to the system allowing the committees of Congress to operate.

I am glad this bill was passed. I again want to congratulate the Senator from Alaska who is the only man on the Military Affairs Committee who understands military. We at least came out of it with a lot more than I ever thought we would.

Mr. President, I yield the floor.

Mr. McCLURE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. NICKLES). Without objection, it is so ordered.

THE GRAMM-RUDMAN-HOLLINGS DEFICIT REDUCTION PLAN

Mr. MOYNIHAN. Mr. President, on December 11, the Senate, as we know, adopted by a 2-to-1 vote the legislation which has come to be known as the Gramm-Rudman-Hollings deficit reduction plan. At that time I spoke at some length in opposition to the measure, having in mind a number of things. The first was that it represented a basic decision by the U.S. Congress to avoid and formally to renounce the responsibility for imposing priorities on public spending. On that occasion I recalled a statement President John F. Kennedy was fond of making when he would say that "To govern is to choose." To decide rather than choosing what to spend on, what not to spend on, and let such choices be made by kind of mechanical processes involving various bureaucracies, OMB, CBO, GAO, was an abdication of constitutional responsibility and of elemental good sense, which is that some things are more important than others, that resources are limited, and choices have to be made.

I also said at the time, Mr. President, that the way we were putting into place this automated mechanism was such that inevitably there would be large reductions in the provisions for the national defense. I spoke about this at great length and wondered what possibly could be our intention in setting in process such a reversal of what is now almost a 10-year, steady increase in the defense appropriations—a trend which has certainly restored our forces from the levels to which they had declined in the early and middle 1970's. This is a general proposition, not something we should do.

I observed that the highest levels of the Pentagon had assured that morning that the Gramm-Rudman-Hollings legislation would require a 3-percent real reduction in fiscal 1987, 5 percent in 1988, 8 percent in 1989—an accelerating decline—just at the moment when we had once again aroused 5 NATO allies to keep the commitment which we made, and we all made together, under President Carter, in 1978, to maintain a 3-percent real growth rate in defense outlays. We agreed to go up 3-percent and yet under the provisions of Gramm-Rudman-Hollings we would reduce real defense outlays by 3-percent, which is hardly promising for a conventional force.

I recalled a remark which the distinguished Senator from Colorado (Mr. HART) had made in the early stages of this debate, when we had a number of colloquys. He noted that in this context the almost necessary movement of the force posture is of greater reliance on strategic nuclear responses to crises, a formulation which in the 1950's got the somewhat baleful designation of "more bang for the buck." That is to say that no matter what degree of engagement between powers might be, any hostilities will be nuclear hostilities, which is exactly the opposite of what the world needs or we want.

Mr. President, I went further in speaking of the implications of the action we were taking for the arms negotiations in place now in Geneva, negotiations to which I have the honor to be one of the Senate observers.

I said at the time, on December 11, that the Soviets had returned to the negotiating table with us probably out of a number of considerations, of which surely one was that the President had announced the intention to launch a major initiative called the Strategic Defense Initiative. SDI envisioned as a missile defense system of enormous range and consequence, far beyond anything ever contemplated in the days of point defense of ballistic missile fields or indeed of particular cities, but, rather, a shield that would cover the whole continental United States.

I acknowledge that the United States had not made such a proposition or offer, but it seemed to me that if there were going to be an agreement, it would take the following rough form: In return for a Soviet agreement to scrap their heavy missiles, those great SS-18's, and a possibility implicit in a proposal on warhead limits which they tabled sometime ago, we would agree to scrap this SDI.

I did not say that this is something our administration had proposed. But people who follow these things say that, in that rough context, there was indeed the prospect of a major agreement which, among other things, would bring about the President's repeated and genuine and admirable proposal that we reduce the numbers of warheads and missiles and not just lower the rate of increase.

In a brilliant article in the current Foreign Affairs, Mr. Thomas C. Schelling discusses the proposition that this particular preoccupation might not be as productive as it seems. Still, it is the President's goal, and it cannot do any great harm, and it could do great good.

Then, Mr. President, I said—and I take the liberty of quoting myself on that occasion:

> What about the Strategic Defense initiative? With an estimated cost of $1 trillion, clearly it is one of the concerns that has brought the Soviets to the bargaining table. With what credibility can the spokesmen for a country that is slashing its defense expenditures look across the table and say to their negotiating partners: "You know, if we cannot reach an agreement on real reductions, we are going to put a trillion dollars into the SDI." There is no trillion dollars for the SDI. There will be no SDI, and the Soviets will know it. Any downstream possibility of negotiating a real reduction, as the President has sought, on strategic weapons disappears. It disappears on this floor today. Arms control disappears.

I had previously inserted in the RECORD an article from the Washington Post of that morning which was headed: "Pentagon Warns Anti-Deficit Would Be Comfort to Soviets."

Mr. President, we had some further comment on that score, and it occurs again today. This morning, in the Washington Post, my friend and the widely-admired political commentator Mr. Ben Wattenberg has an article which has the headline: "Deficit Plan Is a Plus for the Soviets." In a way, he repeats, restates, and adds to the argument I made on December 11.

I should like to leave that as the first part of my statement this afternoon: It is my conviction that we have jeopardized the arms talks by the measures we have adopted in the first session of the 99th Congress.

To a second point, Mr. President: In that floor statement I did say that the Republican Party had initiated this proposal, the Gramm-Rudman-Hollings proposal; that it came to the floor without hearings, without any previous announcement, and indeed without even being printed. I made what I thought was the not altogether inaccurate statement that this was probably the first privately-printed bill that had ever been enacted by the Senate.

I recall standing here that day with Senator HART and asking, "Where is the bill? Can we see a copy of the bill?" Of course we could not. We were 3 days in debate before there was even a mimeographed version in circulation.

In this morning's Washington Post, Mr. Hobart Rowen, who is surely the Capital's most respected and experienced commentator on economic matters, has a column which is headed "The Democrats Will Have To Answer For It."

It begins:

> Now that the infamous Gramm-Rudman-Hollings budget-balancing gimmickry has been enacted into law, the Democratic Party must assess its shared responsibilities for getting it through Congress.

It is a fact that in the first vote on the matter a majority of Members on this side of the aisle voted for the measure and in the final measure it was an even 22 for and 22 against. That divides us.

I think it is fair to say that indeed this side of the aisle does have to account for, and is responsible in some measure for the success of that proposition, and I think it only fair that I should acknowledge that this is the case and that it might have been more graceful of me to say so at the time.

A third observation I wish to make, Mr. President is that we have come to the end of a tumultuous session with yet once again nothing in fact done about deficits. I am led into this third portion of my remarks on this closing afternoon by the closing paragraph of Mr. Rowen's essay this morning. He said:

> The folly of the whole exercise of budget-balancing via a blind formula is matched only by the deception symbolized in 1981 by the Laffer supply-side "curve" that was supposed to yield greater tax revenues and ample national savings out of lower tax rates. What supply-side economics produced, when tested, was the giant deficit that curbed the flow of savings, sapped the Democratic Party's virility and now, finally, has given us the Gramm-Rudman era.

I say this in the context of my disappointment in this session of Congress at the repeated rejection of the effort I have made along with distinguished friend from New Jersey [Mr. LAUTENBERG] to persuade Congress to make at least a small effort at the reduction of our debt and our deficit by selling in commercial markets portions of the $245 billion loan portfolio which various agencies of the U.S. Government have accumulated over the years.

At the time this proposal was first made in the Budget Committee and on the two occasions we debated it and voted on it in the Chamber, I have been first to acknowledge that some of these debts are not really collectible and we probably never expected that they would be. Famine assistance to countries that have changes their names twice since they fought famine before the present one are not going to pay back food assistance we gave them in the 1950's or 1960's.

But it is still the case that a very great deal of that loan portfolio represents valid debts which can be paid, will be paid, are regularly paid, and could be sold to other lenders, as is the normal commercial practice of banks and other institutions.

Mr. President, I have only a few remaining remarks to be made. If one looks at that portfolio you find it is, made up of loans of high quality which are perfectly marketable. The largest single loan in our portfolio is the $2 billion loan to a Government-owned public utility in South Korea for the purchase of American generating equipment through the financing of the Export-Import Bank.

I raise this issue again for two reasons. First, the terror with which the Members of this body seemingly faced the prospect that the public would learn just how huge a subsidy these loans are to those who receive them. They are. They are made at below market rates, such that the $2 billion loan if sold would sell for about $1.6 billion.

It is not that we would make some mistake in selling it. It would be worth $1.6 billion as it was the day it was made. The difference represents the subsidy involved in the transaction.

The fact that we might have picked up, as we still can do, $100 billion or $130 billion or $140 billion, cutting into the deficit that amount and saving in perpetuity or near thereto the interest payments, $10 billion or $12 billion per year, mounting as it compounds, did not attract any interest in this body.

It does not attract any interest in this day when we are approaching the point where it will require half the revenues of the personal income tax just to pay the interest on the debt.

The transfer of wealth from labor to capital which this represents I believe has no precedent in the annals of this Republic.

But there was another reason, Mr. President, that this proposal has not been welcomed, and that is that the Office of Management and Budget fiercely opposed this measure. They opposed it here. They opposed a much more modest proposal on the House side because all along we have been dealing with a grand design in the administration—a design of incredible folly—to create a deficit that would force not just the diminishment but in some measure the dismantling of the modern American Government in its domestic aspects.

I first made this observation in an article in the New Republic 2 years ago next week, that the deficit was deliberate. At that time, this was not a proposition generally agreed to. Since then we have the testimony of persons of such distinction as Friedrich von Hayek and Norman Ornstein, and others, who testified to having been told this by high officers in the administration, by the President's close counsellors.

At some level it could be forgiven as a policy if there were in fact that degree of options available. There have not been, as this body has over and over demonstrated. There just were not that may Government programs to be reduced.

And indeed instead of reducing what could be, as we surely have done as much as there was to be done, or as much as the political disposition of this body was to do at any given time, the strange fact is that early in the administration history, the realization came that these options were not there. You could not cut that much money.

If it were there, Mr. President, one elemental event would occur: The President would have sent us a balanced budget. One elemental fact: In 1981 or 1982 or 1983 or 1984 or 1985, he would have sent us a budget that was balanced. He has never done or anything near that which is testimony to their own understanding of this reality. And yet at the level of rhetoric, it is denied.

The statements continue that Congress must do its duty and balance the budget by taking down domestic spending. Even today, this morning, Mr. President, the New York Times reports in an article on the front page and the headline is "Reagan Denies cut Will Hurt Military," "Says Budget Bill"—meaning the Gramm-Rudman-Hollings bill—"Says Budget Bill Means End of 'Wasteful' Domestic Plans."

Mr. President, this attains to the condition of fantasy—5 years, doubling the national debt. Time will not be far off when the whole of the personal income tax will be required to pay the interest on the debt, a transfer of wealth from labor to capital, from workers who pay income tax to investors who hold Treasury bills. And we still are using the rhetoric which got us into the situtation. And that was really quite unforgivable of OMB, by which time the officials who did know the reality, even resisted as simple and elemental a measure as Mr. LAUTENBERG and I have put forward.

So here we are. Come to the end of 5 years, we have doubled the debt; turned ourselves into a debtor Nation. We are about, I think, to see the wreckage of the defense program. We are about to see, I think, the loss of an opportunity for a major arms agreement, a historic arms agreement, something the President came to this city with as high of a priority of anything he had.

It is tragic, Mr. President. No one can take any pleasure in it. But it also compels us to ask: Where did this leakage of reality begin? How long can we live in a world in which what we say and what we do is at such contrast?

The Financial Times of London, in an editorial about the Gramm-Rudman-Hollings legislation, not long ago said of the President—and they admire him, as we all admire him, as a person—in describing in one wonderful sentence his first 5 years in office with respect to fiscal matters: "He said one thing, did the opposite, and got credit for both." And yet, Mr. President, the crisis does not go away; it only compounds. And we look forward to the next session.

I hope that what I have said about Gramm-Rudman-Hollings is wrong. And if it is wrong, I hope I shall have the integrity to so state. And I fear it is not. And I find when what I have to say is confirmed by as eminent an economist as Hobart Rowen and as able a political commentator as Ben Wattenberg, I look forward with even greater apprehension to the year ahead.

Mr. President, I ask unanimous consent that the articles by Mr. Rowen and Mr. Wattenberg be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[Washington Post—Dec. 19, 1985]

THE DEMOCRATS WILL HAVE TO ANSWER FOR IT

(By Hobart Rowen)

Now that the infamous Gramm-Rudman-Hollings budget-balancing gimmickry has been enacted into law, the Democratic Party must assess its shared responsibility for getting it through Congress.

In the end, 22 Senate Democrats (including Edward M. Kennedy) voted for the bill, exactly equal to the 22 who had the guts to call it a fakery. And in the House, almost as many Democrats voted for it as against—118 to 130. These Gramm-Rudman Democrats will have to live with their vote to dismember the old left-labor-liberal-inner city coalition.

To be sure, some House Democrats succeeded in amending the original Senate bill to exclude from its automatic budget-cutting ax eight programs serving low-income families and disabled veterans, including Medicaid and food stamps.

And a few Democratic senators—including Pat Moynihan of New York and Gary Hart of Colorado—bluntly told their colleagues that Gramm-Rudman was bad medicine and a shirking of their responsibilities.

But as a party, the Democrats, in their new reliance on the political payoff of "fiscal integrity," were afraid, to try to kill Gramm-Rudman outright. Meanwhile, President Reagan's willingness to accept Gramm-Rudman as his own lends credence to the charge made some weeks ago by Moynihan that from the beginning, the president and then budget director David Stockman planned the huge tax cuts of 1981, along with the boost in military spending, for the precise purpose of creating the deficit that would then allow the final assault on social programs.

Moreover, no one—Gramm, Rudman, Hollings, Reagan or Kennedy—has yet explained why a balanced budget should be a national goal in and of itself. The proper goal, of course, should be to balance the economy, one that is both compassionate and competitive. That is something that President John F. Kennedy understood when he recommended a tax cut despite the existence of a budget deficit in 1962.

Gramm, the genius behind the revolution that takes budget decision-making out of

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the hands of individual congressmen, is disarmingly candid about his objective.

"The whole genius of the American political system is imposing limits on the power of government. I think the American people want to control the growth and size and the expense of the government," he said in an interview.

Last week on PBS's "Capitol Journal," Gramm brushed aside discussion of one basic weakness of his scheme—its inadequate provisions for dealing with recession. Since Herbert Hoover turned a recession into Depression by attempting to cut government spending as an antidote to bad times, no national administration—Republican or Democratic—has repeated that mistake. But Gramm-Rudman will require budget cuts even if the economy is limping along, say at just a 2 percent real growth rate, accelerating the downturn.

The precise economic consequences of Gramm-Rudman are among the major worries. According to Data Resources, Inc., unless the Fed loosens the money supply considerably, the fiscal drag of deep, sudden budget reductions under Gramm-Rudman will push the unemployment rate sharply higher, to over 9 percent in 1987 before it retreats to around current levels.

That could provide a major surprise for congressmen who expect to brag to their constituents that they voted to balance the budget.

But Phil Gramm doesn't intend to rest on his laurels. He served notice that he'll be back next year trying to get those eight exempted programs under his budget-cutting knife, which would make it easier to meet deficit targets without excessive whacks at the military budget, or raising taxes. Even the exemption of Social Security benefits isn't safe forever.

Gramm doesn't talk much about the dangerous aspects of his brainchild. He is on the way to success in achieving his pet goal—eliminating government services—unless the courts declare the whole business unconstitutional, or a new Congress comes to its senses.

The folly of the whole exercise of budget-balancing via a blind formula is matched only by the deception symbolized in 1981 by the Laffer supply-side "curve" that was supposed to yield greater tax revenues and ample National savings out of lower tax rates. What supply-side economics produced, when tested, was the giant deficit that curbed the flow of savings, sapped the Democratic Party's virility and now, finally, has given us the Gramm-Rudman era.

[New York Post—Dec. 19, 1985]

Deficit Plan Is a Plus for Soviets

(By Ben Wallenberg)

There are more than initials that link the Gorbachev-Reagan diplomatic process with the new Gramm-Rudman budget process. In fact, the latter may emasculate the former.

You will recall that the first G-R process was featured recently in Geneva. President Reagan had said simply that America was strong again, and so we could negotiate—from strength—with the Soviets. It was simple, but probably accurate.

Apparently Gorbachev and the Soviets believed it. American military strength had increased. Then arms talks resumed; the summit occurred; two more summits were scheduled.

Perhaps something could come of it. Maybe we had forced the Soviets to behave reasonably.

Enter the second G-R. The Gramm-Rudman balanced budget bill, as you probably have heard, provides for a balanced budget by 1991, which, if you want a balanced budget, is a nice time to have a balanced budget by.

Have you been confused about Gramm-Rudman?

Confused because it forces the President to make big budget cuts, which the Congress will then change, which will then go back to the White House where a computer will do the real cutting, which will then go back to the Congress for another shot at it, which at some point may or may not involve a tax increase, all of which may or may not sharply cut defense and social programs?

You are not alone in your confusion. I am confused, too. That's all right, I am not a budget expert. But I will tell you something. The experts are confused, too. No one knows how it will work out. Including Gorbachev.

Imagine you are Gorbachev. You have decided to negotiate seriously because your adversary has demonstrated that he is serious: big arms buildup, a real push for Star Wars. Now, suddenly, everyone is talking about big defense cuts. Will the cuts really happen?

My guru on congressional matters is the scholar Norman Ornstein, a colleague at the American Enterprise Institute. Ornstein guesses—and he is guessing—that when it's all over, defense spending will probably come in at a range between no increase and a 5 percent cut.

Interesting: Recall that a year ago Reagan and Defense Secretary Caspar Weinberger were still talking about 6 percent increases.

Recall that the impact of Gramm-Rudman probably gets tougher and tougher each year until 1991, as the mandated deficit cuts go deeper and deeper.

I repeat: Imagine you are Gorbachev. What do you do? Negotiate? Or sit? Sit is not a bad strategy. You may well be able to let the U.S. give away for free what you were willing to trade for. The Soviet strategy has always been for America to unilaterally disarm.

In the end, Ronald Reagan will have to make a tough choice. New York Sen. Daniel P. Moynihan has described Gramm-Rudman as a "suicide pact." That's correct. It links defense spending to domestic spending. If one goes off the cliff—so does the other. If you save one, you have to save both.

It works out that if Reagan wants to preserve one of his dreams—promoting liberty via defense spending—he will have to give up another—cutting back the welfare state via domestic spending cuts.

One assumes that after much bluffing back and forth, much confusion, incredible boredom as three-cushion budget strategies are debated by arcane pundits—Reagan will go with the "save both" decision.

He will defend liberty and leave the welfare state alone. That means an over-his-dead-body tax increase, which he will inch up to—very, very slowly.

That G-R budget process will take a year, and perhaps two or three or four years. While that happens, it may well put the G-R diplomatic process on hold, as Gorbachev sits tight instead of backing down to a reasonable position.

Would you like to know my reaction?

Grrrr. . .

CONGRATULATIONS TO THE MEMBERS OF THE BOARD OF DIRECTORS OF THE U.S. INSTITUTE OF PEACE

Mr. MATSUNAGA. Mr. President, I rise to congratulate the nine members of the Board of Directors of the U.S. Institute of Peace who were confirmed last night shortly before the Senate recessed.

As members of the first Board of Directors of the Institute of Peace, these nine will have a most important task. It will be up to them to set the Institute's course for the next several years. They will establish the Institute's research priorities, set up its information services division and establish the Jennings Randolph Center for International Peace, named in honor of my good friend and former colleague, who was the first to cosponsor the bill which I introduced in the Senate to establish the Institute. They will be responsible for finding ways to involve Americans from all walks of life in the Institute's work, and I am sure that this is one of the areas which Congress will analyze closely when considering legislation to reauthorize the Institute in future years. To paraphrase John Norton Moore, the designated Chairman of the Institute's Board of Directors, there is nothing more important to the citizens of our country than the search for peace and human dignity.

I am confident that the nine Directors nominated by President Reagan and confirmed last night by the Senate will fulfill these duties in an outstanding manner, and I urge President Reagan to expedite his nomination of the two remaining Board members so that the Institute will be able to begin its work with a full compliment.

As one who worked for 22 years in Congress to establish the U.S. Institute of Peace, I take great pleasure and pride in congratulating its first Board of Directors. They are John Norton Moore, Chairman; Allen Weinstein, Richard J. Neuhaus, W. Bruce Weinrod, W. Scott Thompson, Evron N. Kirkpatrick, Dennis L. Bark, William R. Kintner, and Sidney Lovett.

SUSTAINING PRESIDENTIAL VETO OF TEXTILE AND APPAREL TRADE ENFORCEMENT ACT OF 1985

Mr. MATSUNAGA. Mr. President, if and when this body attempts to override the President's veto of the Textile and Apparel Trade Enforcement Act of 1985 (H.R. 1562), I strongly urge my colleagues to vote to sustain the veto.

Mr. President, I have had keen reservations about this legislation from the very outset. As a member of the International Trade Subcommittee of the Senate Finance Committee, I voiced my strong concerns about this bill when it was the subject of hearings before the subcommittee on July 15, 1985, and on September 12, 1985. On those occasions, I stated that I would filibuster against the bill on the Senate floor unless the discriminatory provisions of the bill were removed and the Hawaiian garment industry was protected from its provisions. During the Senate floor consideration of H.R. 1562 on November 13, 1985, I once again expressed my vigorous opposition to the bill as written. In keeping with my commitment to filibuster against the bill, I opposed a motion to invoke cloture to foreclose any prolonged debate. Unfortunately, the proponents of the legislation were able to garner more than the requisite 60 votes necessary to proceed to the consideration of, and final vote on, the bill.

In the hope that my colleagues who voted against the bill on final passage will vote to sustain the President's veto, I wish to reiterate the arguments I raised during that earlier debate.

Mr. President, the Textile and Apparel Trade Enforcement Act, H.R. 1562, in applying additional quota restrictions on textile and apparel imports, blatantly discriminates against Asian-Pacific nations and Brazil. The European Economic Community [ECC] is totally exempt from the bill's coverage, as is Canada, despite the fact that textile and apparel import growth from these two areas are increasing faster than from most developing countries. Imports from Multi-Fiber Arrangement [MFA] developing countries during the period October 1984 to March 1985 declined 4 percent, as compared with the same period in the preceding year, while imports from the EEC and Canada increased by 35 percent during the corresponding period, according to an international business and economic research consultants [IBERC] report. Imports from the EEC alone increased 22.5 percent from January 1984 through August 1985, while imports from Taiwan, Korea, Hong Kong, and China experienced a marked decline during this same period. Asian/Pacific rim nations, however, are the major targets of the import restrictions under the legislation.

In order to address this apparent discrimination I offered an amendment with the distinguished Senator from Alaska [Mr. MURKOWSKI] which would have expanded the coverage of the legislation to all foreign countries with which we have trade relations. The Matsunaga-Murkowski amendment would have redefined the term foreign country in order to eliminate unfair discrimination and restore American fairness to the legislation. Unfortunately, this amendment was not adopted by the Senate due to the opposition of the proponents of the bill.

The second issue which I raised on the Senate floor and which I restate today is the effect of the bill on the garment industry in Hawaii.

Mr. President, the proponents of the Textile and Apparel Trade Enforcement Act have asserted that due to textile and apparel imports into the United States, workers in domestic textile companies have lost employment and have been otherwise materially and adversely affected. Assuming the legitimacy of this assertion, the growth and development of the Hawaiian garment industry cannot be said to have caused the slightest increase in unemployment in South Carolina or any other State. Indeed, from its inception, the Hawaiian garment industry, which directly employs 2,950 workers, has depended on Asian textiles because the quality of prints and colors are available from only a few domestic mills and are not produced in sufficient quantities to meet the demand of Hawaii's industry. Since Hawaii's industry has always relied on Asian sources for textiles, jobs have not been taken away from domestic mills and no economic dislocation has occurred as a result of this reliance. In fact, the 2,950 garment workers in Hawaii, who are employed in 138 establishments with an annual gross product of $80 million, represent American jobs, which deserve to be protected from legislation which would result in the crippling of their industry.

Representatives of the Hawaii garment industry testified before the Trade Subcommittee of the Finance Committee that enactment of the Textile and Apparel Trade Enforcement Act of 1985 would mean the dismantling of the garment manufacturing industry in Hawaii and the loss of 2,950 jobs, or more—American Jobs, I repeat. Hawaiian garment industry leaders such as William S. Foster, Sr., and Gunter Von Hamm provided the subcommittee with valuable information on jobs which would be lost in Hawaii as a result of this bill. These are American jobs, I repeat, Mr. President. Certainly, if the intended purpose of the pending legislation is to save American jobs, these 2,950 jobs in Hawaii deserve saving.

Coupled with its crippling effect on the garment industry in Hawaii, this bill would also seriously harm the tourism industry, which constitutes the States largest industry. In 1983, for example, visitor expenditures on clothing and accessories totaled $417.8 million, which I must add, contributed favorably to the U.S. balance of trade. Textiles and apparel imported into the customs territory of Hawaii run at a level of 15 million square yards annually. This is an infinitesimal amount in relation to the total annual textile and apparel imports into the United States. According to the U.S. Department of Commerce, textile and apparel imports amount to approximately 7 billion square yards annually. This means that Hawaii's share of imports amount to less than one-fifth of 1 percent of the National total.

In order to prevent the Hawaiian garment industry from being harmed by this legislation, I offered an amendment on the Senate floor which would have exempted printed textiles imported for consumption and substantial transformation into the noncontiguous States from coverage of the bill. This amendment would have had minimal or no effect on our mainland domestic textile industry and would have served to maintain the economic viability of the garment industry in Hawaii. This amendment, However was not adopted as part of the Senate-passed bill due to the opposition of the Senate proponents of the bill.

Mr. President, I believe that the economic circumstances of the domestic textile industry should be addressed in the context of a comprehensive U.S. Trade Policy and not by legislation which is violative of international trade agreements. I believe this bill is discriminatory in its application to foreign countries and is harmful to our trade relations with such countries. Therefore, I will vote to sustain the President's veto of the Textile and Apparel Trade Enforcement Act of 1985, and urge my colleagues to do likewise.

Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER**. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. **STEVENS**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

DISTRICT OF COLUMBIA REVENUE BOND ACT

Mr. **STEVENS**. Mr. President, I ask unanimous consent that the Senate now turn to Calendar Order No. 460, H.R. 3718, the District of Columbia Revenue Bond Act.

The **PRESIDING OFFICER**. The bill will be stated by title.

The assistant legislative clerk read as follows:

> A bill (H.R. 3718) to waive the period of congressional review for certain District of Columbia acts authorizing the issuance of revenue bonds.

The **PRESIDING OFFICER**. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the bill which had been reported from the Committee on Governmental Affairs, with an amendment to strike out all after the enacting clause, and insert the following, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in bold face brackets, and the parts of the bill intended to be inserted are shown in italics.)

H.R. 3718

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "District of Columbia Revenue Bond Act of 1985".

SEC. 2. WAIVER OF CONGRESSIONAL REVIEW PERIOD FOR CERTAIN DISTRICT OF COLUMBIA ACTS AUTHORIZING THE ISSUANCE OF REVENUE BONDS.

(a) Waiver.—Section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act shall not apply to certain acts of the District of Columbia described in subsection (c) authorizing the issuance, sale, and delivery of revenue bonds.

(b) Effective Date of Acts.—Notwithstanding section 404(e) of the District of Columbia Self-Government and Governmental Reorganization Act and any provision in any District of Columbia act described in subsection (c), the District of Columbia acts described in subsection (c) shall take effect on the date of the enactment of this Act.

(c) Certain Acts of the District of Columbia Authorizing the Issuance of Revenue Bonds.—The District of Columbia acts authorizing the issuance, sale, and delivery of revenue bonds referred to in subsections (a) and (b) are as follows:

(1) The Georgetown University Higher Education Facilities Revenue Bond Act of 1985, District of Columbia act 6-101, transmitted to the Speaker of the House and the President of the Senate November 7, 1985.

[(2) The George Washington University Revenue Bond Act of 1985, District of Columbia act 6-76, transmitted to the Speaker of the House and the President of the Senate October 3, 1985.**]**

[(3)**]***(2)* The Sibley Memorial Hospital Revenue Bond Act of 1985, District of Columbia act 6-94, transmitted to the Speaker of the House and the President of the Senate October 23, 1985.

[(4) The Washington Hospital Center Corporation Revenue Bond Act of 1985, District of Columbia act 6-92, transmitted to the Speaker of the House and the President of the Senate October 10, 1985.**]**

(3) The American University Revenue Bond Act of 1985 (Series A) District of Columbia act 6-111, transmitted to the Speaker of the House and the President of the Senate December 4, 1985.

(4) The Forrest Marbury House Project Revenue Bond Act of 1985, District of Columbia act 6-112, transmitted to the Speaker of the House and the President of the Senate December 4, 1985.

(5) The George Washington University Revenue Bond Act of 1985 (Series A).

The provisions of subsections (a) and (b) shall not apply to the District of Columbia act described in clause (5) of this subsection unless such act is passed by the District of Columbia by December 31, 1985. If the District of Columbia act described in clause (5) is passed by the District of Columbia after the date of enactment of this Act but before January 1, 1986, the effective date of such act, notwithstanding subsection (b) of this section, shall be the date of passage by the District of Columbia.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to

AMENDMENT NO. 1430

(Purpose: To strike provisions relating to the Forrest Marbury House Project)

Mr. BYRD. Mr. President, on behalf of Mr. Metzenbaum, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. Byrd], for Mr. Metzenbaum, proposes an amendment numbered 1430.

Mr. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3 strike lines 17 through 20.

On page 3 strike "5" on lines 21 and 24 and insert in lieu thereof "4".

On page 4 strike "5" on line 2 and insert in lieu thereof "4".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1430) was agreed to.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed for a third reading and the bill to be read the third time.

The bill (H.R. 3718) was read the third time, and passed.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ARMS EXPORT CONTROL ACT AMENDMENTS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of Calendar 475, S. 1831.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1831) to amend the Arms Export Control Act to require that congressional vetoes of certain arms export proposals be enacted into law.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the bill.

Mr. CRANSTON. Mr. President, S. 1831, the pending measure, is neither complicated nor controversial. It amounts to what is really a one-word change in law—changing "concurrent" to "joint" in the legal reference to the types of arms sales disapproval resolutions which enjoy expedited procedures.

This measure has very strong bipartisan support, both on the Foreign Relations Committee and throughout the Senate. I understand this measure is supported by the chairman of the Foreign Relations Committee. And it is cosponsored by Senators Dodd, Sarbanes, Boschwitz, Kerry, Pell, Eagleton, Inouye, Hatfield, Lautenberg, Packwood, Kennedy, Heinz, Levin, Gorton, Kasten, Sasser, and Bingaman.

It would simply restore the provision in law providing expedited procedures for resolutions of disapproval introduced pursuant to section 36(b) of the AECA, in a fashion similar to the Dodd-Cranston legislation, adopted on the pending measure last Friday, which provided expedited procedures for any Jordan-specific resolution of disapproval we might consider next February.

Let me stress that our proposal would not grant Congress any new powers in this area. The AECA already provides for expedited procedures for concurrent resolutions. Since the 1981 Supreme Court decision in the *Chadha* case rejecting the legislative veto, Congress has employed joint resolutions of disapproval as means of manifesting opposition to a particular sale. The problem—which we faced recently on the Jordan arms resolution—is that while a concurrent resolution of disapproval enjoys expedited procedures preventing filibusters, a joint resolution does not.

The AECA provisions of section 36(b) for arms export reviews work best when Congress can proceed in a deliberate and timely manner. For this reason, I hope that our colleagues will join with us in supporting this important proposal to clarify procedural safeguards which was unanimously passed by the Foreign Relations Committee on December 11.

I appreciate the bipartisan spirit with which we have proceeded thus far on this issue—it is not a partisan issue, it is simply a question of Senate rulemaking prerogatives, and therefore an issue in which the executive branch really has no say.

It is my hope the full Senate will now adopt this measure so that we can have this safeguard enacted into law.

I move the adoption of S. 1831.

Mr. DODD. Mr. President, I welcome the decision by the conferees on the continuing resolution to retain the Senate provision which provides for expedited procedures to govern any joint resolution, introduced on or after February 1, 1986, objecting to the proposed arms sales to the Government of Jordan.

My colleagues will recall that on October 21, the administration officially notified Congress of its intention to sell 2 billion worth dollars of sophisticated armaments, including advanced aircraft and air defense systems, to Jordan. Three days later, the Senate acted on a resolution giving the President the authority to implement this sale after March 1, of the coming year.

I endorsed the concept of delaying this sale until next year. But, Mr. President, I could not support Senate Joint Resolution 228 because it did not guarantee this forum an opportunity to review this sale and to vote to disapprove it, should a majority of the Members determine prior to March 1, that implementing the sale after that date would not serve United States interests in helping to move the Middle East peace process forward.

As I have noted on other occasions, the sale of a variety of advanced weapons systems to the state of Jordan is simply too important to allow it to go forward without the appropriate procedural safeguards. We all recognize the volatility of the political environment of the Middle East, and because of this volatility, we all realize that we must approach arms sales to the region with great care and caution.

Like others in this Chamber, I hope such care and caution are unnecessary in this case; I hope the peace process proceeds apace; and I hope direct negotiations between Israel and Jordan begin tomorrow.

But I am also a realist, and I realize, as do others, that when it comes to the Middle East, there is an awful lot of history to suggest that our hopes will not be fulfilled, or at least, not fulfilled in the timeframe we expected.

The amendment which I offered to the continuing resolution, together with 51 cosponsors, recognized these realities and insisted on the necessary procedural safeguards with respect to the Jordan arms sales issue. The Senate adopted my amendment without objection. That amendment, I am pleased to report, has now been incorporated into the conference report on the continuing resolution.

Mr. President, because of this amendment the U.S. Senate is assured of a meaningful role in the final decision with respect to the Jordan arms sales proposal. I welcome this role, and I thank the conferees who insisted on keeping this amendment in conference report.

The **PRESIDING OFFICER**. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 1831) was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 1831

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 3(d)(2) of the Arms Export Control act is amended—

(1) in subparagraph (A), by striking out "adopt, within such 30-day period, a concurrent resolution disapproving" and inserting in lieu thereof "enact, within such 30-day period, a law prohibiting"; and

(2) in subparagraph (B), by striking out "adopt, within such fifteen-day period, a concurrent resolution disapproving" and inserting in lieu thereof "enact, within such fifteen-day period, a law prohibiting".

(b) Section 36(b) of the Arms Export Control Act is amended—

(1) in the fifth sentence of paragraph (1), by striking out "adopts a concurrent resolution stating that it objects to" and inserting in lieu thereof "enacts a joint resolution prohibiting";

(2) in paragraph (2), by inserting "joint" before "resolution" each of the four places it appears; and

(3) in paragraph (3)—

(A) by striking out "adoption of concurrent resolutions" and inserting in lieu thereof "enactment of joint resolutions"; and

(B) by striking out "such resolution" and inserting in lieu thereof "such joint resolution".

(c) Section 36(c) of the Arms Export Control Act is amended—

(1) in paragraph (2)(B), by striking out "adopts a concurrent resolution stating that it objects to" and inserting in lieu thereof "enacts a joint resolution prohibiting";

(2) in paragraph (3)(A), by inserting "joint" before "resolution"; and

(3) in paragraph (3)(B)—

(A) by striking out "adoption of concurrent resolutions" and inserting in lieu thereof "enactment of joint resolutions"; and

(B) by striking out "such resolution" and inserting in lieu thereof "such joint resolution".

(d) Section 63 of the Arms Export Control Act is amended—

(1) in subsection (a)(1), by striking out "adopts a concurrent resolution stating that it objects to" and inserting in lieu thereof "enacts a joint resolution prohibiting";

(2) in subsection (b), by inserting "joint" before "resolution"; and

(3) in subsection (c)—

(A) by striking out "adoption of concurrent resolutions" and inserting in lieu thereof "enactment of joint resolutions"; and

(B) by striking out "such resolution" and inserting in lieu thereof "such joint resolution."

Mr. **STEVENS**. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. **BYRD**. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNION STATION DEVELOPMENT

Mr. **STEVENS**. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1706.

The **PRESIDING OFFICER** laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1706) entitled "An Act to authorize the Architect of the Capitol, in cooperation with the Union Station Redevelopment Corporation, to design a building or buildings adjacent to Union Station in Washington, D.C.", do pass with the following amendments:

Strike out all after the enacting clause, and insert:

SECTION 1. STUDY OF CONSTRUCTION OF OFFICE BUILDING.

(a) REQUIREMENT FOR JOINT STUDY. The Architect of the Capitol and the Secretary of Transportation, in consultation with the Chief Justice of the United States, shall jointly study alternatives for the construction on squares 721 and 722, bounded by F Street, 2nd Street, Massachusetts Avenue, and Columbia Plaza, Northeast, in the District of Columbia, of a building or buildings to meet the current and future needs of the administrative office of the United States Courts, the Federal Judicial Center, and other judicial functions and such other commercial, governmental, cultural, educational, and recreational activities which the Architect and the Secretary determine may appropriately be located in such building or buildings. Such building or buildings shall complement the areas surrounding such squares and fulfill the goals of mixed use in the Public Buildings Cooperative Use Act of 1976.

(b) ELEMENTS OF STUDY.—The study under subsection (a) shall include—

(1) a study of alternative sizes and designs for such building or buildings and the estimated cost of each such alternative necessary to meet the current and future needs referred to in subsection (a);

(2) an analysis of other commercial, governmental, cultural, educational, and recreational activities which may appropriately be located in such building or buildings;

(3) an analysis of methods of providing security, utility, fire, and other related services for such building or buildings and allocating the cost of providing such services among the occupants of such building or buildings;

(4) an analysis of methods for financing and constructing such building or buildings in the most feasible and economical manner; and

(5) an analysis of methods of financing the construction of such building or buildings, including methods to minimize or eliminate initial capital investment by the United States through the use of public-private partnerships or nongovernmental sources of financing such construction.

(c) REPORT.—Not later than August 15, 1986, the Architect of the Capitol and the Secretary of Transportation shall submit to Congress a report on the results of the study conducted under subsection (a), together with recommendations concerning the size and design of such building or buildings and methods of financing the construction of such building or buildings.

(d) AUTHORIZATION OF APPROPRIATION.—There is authorized to be appropriated to the Architect of the Capitol $2,000,000 for fiscal year 1986 to carry out this Act. From funds appropriated to carry out this Act, the Architect shall make available to the Secretary of Transportation such amounts as may be necessary for the Secretary to carry out the Secretary's functions under this Act.

Funds appropriated to carry out this Act shall remain available until expended.

Amend the title so as to read: "An Act to authorize the Architect of the Capitol and the Secretary of Transportation, in consultation with the Chief Justice of the United States, to study alternatives for construction of a building adjacent to Union Station in the District of Columbia, and for other purposes.".

Mr. STAFFORD. Mr. President, I urge the Senate to approve this bill.

For quite some time, Congress has sought to redevelop Washington's Union Station and the area around it.

Prior to the creation of Amtrak, Congress enacted legislation to convert Union Station to a National Visitors Center. Tens of millions of dollars were spent to begin construction on a parking garage and the conversion of the Station. Following a series of cost overruns and other problems, the project was abandoned and the structure closed.

In 1981, Congress passed the Union Station Redevelopment Act as Public Law 97-125. The concept of that law was to revive Union Station as a station for Amtrak, while attracting commercial development into the building.

As a part of Public Law 97-125, Congress included a provision allowing the Department of Transportation, which is in charge of the revival of Union Station, to obtain from the Architect of the Capitol the use of two squares, 721 and 722, on the north side of Massachusetts Avenue. For the past decade, these two squares have been used as open, ground-level parking for Senate staff.

In that 1981 law, Congress took the position, which remains valid today, that development on these squares must occur in a manner that complements the revival of Union Station.

But because the Department of Transportation has not requested use of that land, control over those two squares remains somewhat uncertain. While the land continues to be a part of the Capitol Grounds, yet it is also subject to an option that has not been exercised.

When it became clear that both the Union Station Act and the Master Plan for Capitol Hill projected construction of some sort of Federal building on squares 721 and 722, discussions began to focus on the opportunity to locate there the Administrative Office of the U.S. Courts and related judicial activities.

The Administrative Office faces a severe housing problem. In this fiscal year, its 635 employees, along with another 122 persons assigned to the Federal Judicial Center, will be scattered among eight buildings in Washington, many of them several miles from the Supreme Court, to which they are responsible ultimately.

In an effort to resolve this question, I was honored to introduce S. 1706, a bill to move study of the project forward, while retaining the proper and effective degree of public control.

S. 1706 passed the Senate in October. The House later modified the bill, in no way undermining the basic intent of the Senate.

S. 1706, as amended by the House, authorizes two steps: An assessment on the size of a building that would be suitable for this site, while meeting the needs of the administrative office and other potential uses.

For example, the best proposal might be a building far larger than one needed simply to accommodate the administrative office. Such a building could include restaurants, shops, and other offices. This would be in line with the goals of the Public Buildings Cooperative Use Act—Public Law 94-541.

In this study, the Architect is also expected to review what types of tenants might be appropriate and which might be inappropriate to sharing a building with the administrative offices. It seems to this Senator, for example, that space should never be leased to law firms that might have business dealings with various components of the administrative office.

Second, the assessment will make a careful study of actual proposals for financing the building or buildings. We should expect to receive plans for alternative financing that would lessen or eliminate any need for a direct Federal capital investment.

While the study is undertaken by the Architect, in cooperation with the Department of Transportation, it is intended to be sufficiently flexible so that developers can bid at a later date to participate in the financing and construction.

While the bill does not address directly this point, I am convinced the bill also provides sufficient flexibility to the Architect to conduct a national architectual competition on the building's design.

Such a competition, as I see it, would involve selection of half a dozen or so leading architects, each of whom would be paid a sum, possibly $10,000 to $25,000, to develop a basic design.

We anticipate that the Architect and the Secretary of Transportation will have a panel of experts to help judge and select the design. Such a panel will be valuable whether we use this route, or one of the other financing alternatives.

The building's ultimate design would be selected from these submissions, with work on the drawings to begin immediately, using some of the $2 million that is authorized in this bill.

No matter how the building is to be financed, it is very important the size and design of this building fit in with the national significance of the site: Adjacent to the U.S. Capitol, near the office buildings of the U.S. Senate, and next door to Union Station. And it must also be recognized that it is across the street from an area of residences and small businesses.

The building must reflect the importance of the setting; we cannot settle for a glass box, a typical ticky-tack structure designed to turn a quick buck.

This bill offers a sound approach. But I must stress three points:

This is a cooperative venture, between the Architect and the Department of Transportation, working through its Union Station Redevelopment Corp.

This bill is intended to assure that as much of the construction financing as possible comes from non-Federal sources.

This bill is intended to meet the spirit of mixed use in the Public Buildings Cooperative Use Act, enhancing Union Station both visually and economically.

Mr. President, I move the adoption of the bill.

Mr. STEVENS. Mr. President, I move that the Senate concur on the House amendments.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

INDIAN YOUTH ALCOHOL AND DRUG ABUSE PREVENTION ACT

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate turn to the consideration of S. 1298 which deals with drug abuse among Indian youth.

Mr. BYRD. Mr. President, I have no objection to the waiver of the 3-day rule.

Mr. STEVENS. I thank the distinguished minority leader.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1298) to coordinate and expand services for the prevention, identification, and treatment of alcohol and drug abuse among Indian youth, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the bill which had been reported from the Select Committee on Indian Affairs with an amendment to strike out all after the enacting clause insert the following:

That this Act may be cited as the "Indian Youth Alcohol and Drug Abuse Prevention Act".

TITLE I—INTERDEPARTMENTAL AGREEMENT

SEC. 101. (a) The Secretary of Health and Human Services shall take action to enter into a written agreement with the Secretary of the Interior to—

(1) coordinate the Bureau of Indian Affairs and Indian Health Service Indian youth alcohol and drug abuse programs existing on the date of enactment of this Act and programs established by this Act;

(2) identify Federal, State, local, and private resources to combat Indian youth alcohol and drug abuse;

(3) delineate the responsbilities of the Bureau of Indian Affairs and the Indian Health Service to coordinate Indian youth alcohol and drug abuse-related services at the central, area, agency, and service until levels;

(4) determine the scope of the Indian youth alcohol and drug abuse problem and its estimated financial and human costs;

(5) authorize the Bureau of Indian Affairs agency superintendents and education superintendents and the Indian Health Service service unit directors to enter into agreements described in section 102; and

(6) provide for biennial review of such agreement of the Secretary of Health and Human Services and the Secretary of the Interior.

(b)(1) The Secretary of the Interior and the Secretary of Health and Human Services shall consult with, and solicit the comments of, interested Indian tribes, Indian individuals, and Indian organizations in developing the agreement under subsection (a).

(2) The agreement under subsection (a) shall be submitted to Congress and published in the Federal Register within 180 days of the date of enactment of this Act.

SEC. 102. (a) After publication in the Federal Register of the agreement entered into under section 101, any Indian tribe may submit a written request to the Secretary of Health and Human Services to coordinate resources and services related to Indian youth alcohol and drug abuse prevention, identification, education, treatment, and followup care.

(b) Within 90 days of receipt of a written request of any Indian tribe submitted under subsection (a), the Secretary of Health and Human Services, in consultation with the Secretary of the Interior, shall—

(1) enter into an agreement with such tribe to identify and coordinate the responsibilities and referral resources of all agencies and programs providing youth alcohol and drug abuse-related resources or services within the service area of such tribe; and

(2) review and modify such agreement, as necessary, to reflect changes in the availability of resources and services related to youth alcohol and drug abuse prevention, identification, education, treatment, and followup care.

TITLE II—EDUCATION

SEC. 201. (a) The Secretary of the Interior shall require Bureau of Indian Affairs schools, and schools operated under any contract entered into with the Bureau of Indian Affairs, to provide a program of instruction regarding alcohol and drug abuse to students in kindergarten and grades 1 through 12.

(b) The program required under subsection (a) shall be developed in consultation with the Indian tribe or tribes that will be served by such program and with appropriate education and health personnel at the local level.

(c) Schools providing programs of instruction under subsection (a) shall include family participation in the instruction.

SEC. 202. The Secretary of Health and Human Services shall, within 9 months of the date of enactment of this Act, begin publishing an alcohol and drug abuse newsletter in cooperation with the Department of the Interior and the Department of Education which shall report on Indian alcohol and drug abuse projects and programs. The newsletter shall be published once in each calendar quarter and shall be circulated without charge to schools, tribal offices, Bureau of Indian Affairs agency and area offices, Indian Health Service area and service unit offices, Indian Health Service alcohol programs, and other entities providing alcohol and drug abuse-related services or resources to Indian people.

SEC. 203. Subsection (a) of section 423 of the Indian Education Act (20 U.S.C. 3385b(a)) is amended by inserting "clinical psychology," afer "medicine,".

TITLE III—FAMILY AND SOCIAL SERVICES

SEC. 301. (a) Any initial training program for new community health representatives and community health aids funded under the authority of the Act of November 2, 1921 (25 U.S.C. 13) shall include not less than 80 hours of instruction in the area of alcohol and drug abuse and shall include training in crisis intervention and family relations in the context of alcohol and drug abuse, youth alcohol and drug abuse, and the causes and effects of fetal alcohol syndrome.

(b)(1) The Secretary of Health and Human Services shall, either directly or through contract, make available instructions in the area of alcohol and drug abuse, including instruction in crisis intervention and family relations in the context of alcohol and drug abuse, youth alcohol and drug abuse, and the causes and effects of fetal alcohol syndrome to—

(A) personnel at schools operated any contract entered into the Bureau of Indian Affairs,

(B) personnel of programs operated under any contract entered into with the Indian Health Service,

(C) personnel of the Bureau of Indian Affairs,

(D) personnel of the Indian Health Service, and

(E) supervisors of emergency shelters described in section 401(b)(1),

who are responsible for, or work with, Indian youth.

(2) Upon request, the Secretary of Health and Human Services shall offer the instruction described in paragraph (1) to—

(A) members of school boards or designated school personnel who—

(i) govern, or are associated with, any school at which at least 20 percent of the enrollment consists of Indian students, and

(ii) are responsible for, or work with, Indian youth;

(B) urban Indian center personnel who are responsible for, or work with, Indian youth;

(C) judges of tribal courts and courts of Indian offenses;

(D) personnel associated with any tribal, State, or Federal Court who are responsible for, or work with, Indian youth;

(E) Bureau of Indian Affairs law enforcement personnel; and

(F) members of local community and tribal organizations or educational or health institutions responsible for, or working with, Indian youth.

(3) The Secretary of Health and Human Services shall provide the instruction described in paragraph (1)—

(A) in local Indian communities, whenever practicable, and

(B) within an integrated program for all participants.

(4) The Secretary of Health and Human Services—

(A) may provide the instruction described in paragraph (1) at no expense to the participants, or

(B) may charge a fee for the provision of such instruction to a participant.

If such a fee is charged, the amount of such fee shall not exceed the direct costs incurred by the Secretary of Health and Human Services in providing such instruction to the participant.

(5) The Secretary of Health and Human Services shall coordinate the planning of the instruction described in paragraph (1) with the Secretary of the Interior.

TITLE IV—LAW ENFORCEMENT

SEC. 401. (a) The Secretary of the Interior, in consultation with the Attorney General of the United States, shall—

(1) promulgate guidelines under which any tribal or Federal law enforcement officer shall, for the benefit of any Indian youth arrested for an offense in which the abuse of alcohol or drugs was a contributing factor, place such Indian youth in an emergency shelter licensed under subsection (b), a community-based alcohol or drug abuse treatment facility, or any other medical or detention facility, and

(2) make these guidelines available to any State which exercises criminal jurisdiction over any part of Indian country pursuant to Federal law.

(b)(1) By no later than the date that is 210 days after the date of enactment of this Act, the Secretary of Health and Human Services, with the concurrence of the Secretary of the Interior, shall establish standards for the licensing of temporary emergency shelters to house, whenever appropriate, Indian youth apprehended by any law enforcement officer for any offense in which the abuse of alcohol or drugs was a contributing factor.

(2)(A) Indian tribes may elect to adopt the standards prescribed by the Secretary of Health and Human Services under paragraph (1) and issue licenses to temporary emergency shelters that qualify under such standards. If an Indian tribe does not elect to perform the function of licensing temporary emergency shelters in accordance with such standards, such function shall be performed by the Secretary of Health and Human Services.

(B) Any license issued under subparagraph (A) shall be subject to renewal on an annual basis and, if an emergency shelter fails at any time to comply with the standards prescribed under paragraph (1), such license shall be revoked by the Indian tribe that issued such license or, if the Indian tribe fails to act, by the Secretary of Health and Human Services.

(3) An emergency shelter may be licensed under paragraph (2) only if the individual supervising such shelter has completed the training described in section 301(b)(1).

(4) The costs of constructing any emergency shelter are not authorized by this Act.

TITLE V—YOUTH ALCOHOL AND DRUG ABUSE TREATMENT AND REHABILITATION

SEC. 501. When the budget for the Indian Health Service for each fiscal year succeeding the fiscal year in which this Act is enacted is submitted to the Congress, the Secretary of Health and Human Services shall submit to the appropriate committees of the Congress, a detailed estimate of the cost of providing, under existing authority, comprehensive Indian youth alcohol and drug abuse treatment services, including detoxification and counseling services, and followup care in Indian Health Service facilities and in health facilities operated under any contract entered into with the Indian Health Service.

SEC. 502. The Secretary of Health and Human Services, in consultation with Indian tribes, shall, within 1 year of the date of enactment of this Act, complete a study to determine—

(1) the size of the Indian youth population in need of residential alcohol and drug abuse treatment;

(2) the location of residential facilities at which such treatment is available or could be made available; and

(3) the cost of providing such treatment.

SEC. 503. (a)(1) The Secretary of Health and Human Services shall, in consultation with Indian tribes, identify and utilize whenever possible existing—

(A) facilities owned by the Federal Government or by an Indian tribe, or

(B) local community or private hospitals or other appropriate facilities,

that would be suitable for use as residential alcohol and drug abuse treatment centers for Indian youth in order to meet the needs identified in the study conducted under section 502.

(2) Any facility described in paragraph (1) may be used under such terms and conditions as may be agreed upon by the Secretary of Health and Human Services and the agency, or the local government unit, having responsibility for the facility.

(3) The Secretary of Health and Human Services may, directly or by contract, renovate any facility described in paragraph (1). Any such renovation shall conform with such terms and conditions as have been agreed upon under paragraph (2).

(b) The Secretary of the Interior shall identify for the Secretary of Health and Human Services any existing Bureau of Indian Affairs facilities which may be suitable for residential alcohol and drug abuse treatment centers for Indian youth.

(c) If the facilities identified and utilized under subsection (a) or (b) do not adequately meet the treatment needs identified in the study conducted under section 502, the Secretary of Health and Human Services shall, within 2 years of the date of enactment of this Act, advise the appropriate committees of Congress as to the cost required to construct such facilities as the Secretary of Health and Human Services finds necessary to meet such treatment needs.

TITLE VI—DEFINITIONS, EFFECTIVE DATE, AND AUTHORIZATION OF APPROPRIATIONS

SEC. 601. For the purposes of this Act—

(1)(A) The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians, including any Alaskan Native village or regional or village corporation as defined in or established pursuant to the Alaska Claims Settlement Act (43 U.S.C. 1601, et seq.) which is recognized as eligible for special programs and services provided by the United States to Indians because of their status as Indians.

(B) For purposes of section 102, the term "Indian tribe" includes an urban center (within the meaning of section 4 of the Indian Health Care Improvement Act (25 U.S.C. 1603)).

(2) The term "youth" means any Indian under the age 19.

(3) The term "drug abuse" includes, but is not limited to, abuse of inhalants and chemical substances.

(4) The term "service unit" means an administrative entity within the Indian Health Service serving one or more Indian tribes within a geographical area defined by regulation by the Indian Health Service.

(5) The term "service area" means the geographical area served by a service unit.

SEC. 602. The Secretary of the Interior and the Secretary of Health and Human Resources are authorized to prescribe such regulations as may be necessary to carry out the provisions of this Act.

SEC. 603. (a) There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

(b) Notwithstanding any other provision of law, the receipts from any fees charged under section 301(b)(4)(B) for the provision of instruction shall, in lieu of being deposited in the general fund of the Treasury of the United States, be credited as a refund to the appropiration from which the expenses of such instruction were paid.

SEC. 604. The Secretaries shall allocate the monies appropriated under this Act on the basis of need.

Mr. STEVENS. Mr. President, I move adoption of the committee substitute.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 1298), as amended was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AUTHORIZATION FOR INSPECTION AND RECEIPT OF TAX RECORDS

Mr. STEVENS. Mr. President, on behalf of Mr. ROTH, Mr. NUNN, and Mr. DOLE, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 284) to authorize the inspection and receipt of tax records by a subcommittee of the Committee on Governmental Affairs.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the resolution.

● **Mr. ROTH.** Mr. President, the Permanent Subcommittee on Investigations, of which I am chairman, is charged with investigating irregularities in the labor-management field and with examining instances of reported inefficiencies and improper functioning of Government operations. The subcommittee has undertaken an investigation to examine the handling by the Department of Justice, the Department of Labor, and the Federal Bureau of Investigation of a labor fraud investigation of Jackie Presser, President of the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America. As the press has widely reported, serious questions have arisen concerning coordination of the Presser investigation among the Department of Justice, the Department of Labor and the Federal Bureau of Investigation.

As part of its investigation, the subcommittee is attempting to uncover facts concerning Mr. Presser's and his associates' dealings over time with various Government agencies. This inquiry is prompted by public reports that these agencies may have established relationship with Mr. Presser and his associates that may have resulted in deferred prosecutions or other favorable treatment. For example, a Time magazine article referred to Internal Revenue Service files, allegedly containing reports of its agents that three Teamsters officials—then president Frank Fitzsimmons, William Presser, and Jackie Presser—regularly met with IRS agents between 1972 and 1974 and supplied the IRS with information about rival union members. At least one of these meetings was reportedly arranged by one Harry Hall, also known as Harry Haler, Harry Haller, and Harry Helfgot. The subcommittee believes that information contained in these IRS investigatory files may be relevant to its present investigation of the handling of the recent investigation and declined prosecution of Mr. Presser.

On advice from the permanent subcommittee's chief counsel, the ranking minority member Senator NUNN and I have determined that it is necessary for the subcommittee to inspect and receive materials held by the Secretary of the Treasury. Section 6103(f)(3) of the Internal Revenue Code of 1954, as amended, provides that a subcommittee of the Senate has the right to inspect returns or return information if the subcommittee has been specifically authorized to do so by the Senate. This resolution would provide the Permanent Subcommittee on Investigation with such authorization, and enable the subcommittee to inspect and receive information that may bear on its investigation of the Presser case.●

Mr. DOLE. Mr. President, I move the adoption of the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 284) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. Res. 284

Whereas, the Permanent Subcommittee on Investigations of the Senate Committee on Governmental Affairs is conducting an investigation of the handling by the Department of Justice, the Department of Labor, and the Federal Bureau of Investigation of a labor fraud investigation of Jackie Presser, president of the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America;

Whereas, allegations have been made that various Federal agencies, including the Internal Revenue Service, may have conducted other investigations involving Mr. Presser and other individuals that may relate to the handling of the recent investigation and declined prosecution of Mr. Presser;

Whereas, in order to conduct its investigation of the handling of the labor fraud investigation of Mr. Presser it is necessary for the Permanent Subcommittee on Investigations to inspect and receive tax returns, return information, and tax-related material held by the Secretary of the Treasury consisting of investigatory files pertaining to certain named individuals;

Whereas, information necessary for such investigation cannot reasonably be obtained from any other source; and

Whereas, under sections 6103(f) and 6104(a)(2) of the Internal Revenue Code of 1954, as amended, a committee of the Senate has the right to inspect tax returns and return information if such committee is specifically authorized to investigate tax returns and return information by a resolution of the Senate: Now therefore, be it

Resolved, That the Permanent Subcommittee on Investigations of the Senate Committee on Governmental Affairs is specifically authorized, in conducting its investigation of the handling by the Department of Justice, the Department of Labor, and the Federal Bureau of Investigation of a labor fraud investigation of Jackie Presser, to inspect and receive for the tax years 1970-1985 any tax return information, or other tax-related material held by the Secretary of the Treasury consisting of investigatory files pertaining to Jackie Presser, William Presser, Frank Fitzsimmons, and Harry Hall, alias Haler, Haller, Helfgot.

EXECUTIVE CALENDAR

Mr. STEVENS. Mr. President, I would like to inquire of the minority leader if he would be in a position now to go into executive session for the purpose of considering the nominations of Thomas A. Bolan and James R. Richards, Calendar Nos. 641 and 642.

Mr. BYRD. Mr. President, there is no objection on this side.

EXECUTIVE SESSION

Mr. STEVENS. Mr. President, I make that request, that the Senate now go into executive session to consider the nominations of Thomas A. Bolan, of New York, to be a member of the board of directors of the Overseas Private Investment Corporation, and James R. Richards, of Virginia, to be inspector general, Department of the Interior.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I ask unanimous consent that the nominations be considered and confirmed en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Without objection, the nominations are confirmed.

The nominations confirmed en bloc are as follows:

U.S. International Development Cooperation Agency

Thomas A. Bolan, of New York, to be a member of the board of directors of the Overseas Private Investment Corporation.

Department of the Interior

James R. Richards, of Virginia, to be inspector general, Department of the Interior.

Mr. ROTH. Mr. President, the nomination of James R. Richards to be inspector general of the Department of the Interior was referred to the Committee on Energy and Natural Resources on November 13, 1985, and was favorably reported by that committee on December 17, 1985. On December 17, it was referred to the Committee on Governmental Affairs, of which I am chairman, for a period not to exceed 20 calendar days.

The Committee on Governmental Affairs reviewed biographical and financial information supplied to the committee by Mr. Richards and conducted an inquiry as to his experience to serve in the position for which he has been nominated.

For the past 4 years, Mr. Richards has been the inspector general for the Department of Energy. He has been an active member of the President's Council on Integrity and Efficiency and in January of this year was named as Vice Chairman of the PCIE.

The review conducted by the committee revealed nothing which could appear to preclude confirmation of Mr. Richards. That fact, coupled with Mr. Richards experience in the inspector general community and the favorable recommendation of the Energy Committee, led committee members, both Republicans and Democrats, to determine that, in this particular instance, it was not necessary for the committee to conduct a hearing or take formal action on the matter. In order that the Senate will have an opportunity to consider Mr. Richard's nomination before the recess, the committee is requesting that it be discharged from consideration of the nomination.

This determination, however, does not in any way indicate the committee's intention not to fully consider or vote on other nominations of inspector general in various Government departments and agencies which are sequentially referred to the Committee on Governmental Affairs.

NOMINATION OF JAMES R. RICHARDS

Mr. McCLURE. Mr. President, I am pleased to support the nomination of James R. Richards to be the inspector general for the Department of the Interior. Mr. Richards has complied with all requirements of the Senate and of the Committee on Energy and Natural Resources. He appeared before the committee on December 12, 1985, and has fully responded to all questions asked of him by the committee. The committee met in open business session on December 17, 1985, and unanimously ordered his nomination favorably reported to the Senate.

Mr. Richards has previously been considered and favorably reported to the Senate by the committee, and confirmed by the Senate to be the inspector general for the Department of Energy. His performance at the Department of Energy strongly supports the decision and confidence of the President in nominating him to be inspector general for the Department of the Interior. At the Department of Energy he was responsible for the coordination, supervision, and management of investigations and audits of all departmental activities, including those of the Federal Energy Regulatory Commission, to ensure honest and efficient management.

Mr. Richards is Vice Chairman of the President's Council on Integrity and Efficiency, a member of the Administrative Conference of the United States since 1984, and a member of the board of directors of the Association of Federal Investigators since 1984. He is also a member of the American, District of Columbia, and Colorado Bar Associations. Mr. Richards brings an outstanding career to this difficult position and I strongly urge my colleagues to support is nomination.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the nominees were confirmed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominees.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate now return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I should inform the distinguished acting majority leader that a Senator has requested the yeas and nays on the conference report on reconciliation at such time as it is before the Senate.

Mr. STEVENS. Mr. President, I thank the Senator. It is my hope that we will have action on the reconciliation bill tonight and all Senators ought to be on notice that under those circumstances, there will be a rollcall vote if it is presented to the Senate.

Mr. BYRD. Mr. President, I thank the Senator.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

Mr. PRYOR. Mr. President, will the Senator withhold that?

Mr. STEVENS. I withhold that, Mr. President.

USAGE OF TIME IN THE SENATE THROUGH DECEMBER 17, 1985

Mr. PRYOR. Mr. President, from time to time during the course of this year, it has been my opportunity to point out to our colleagues how we have spent our time during the course of this year with the hope that our time can be spent better. I have through December 17, 1985, recorded certain facts and figures that I think would be interesting to my colleagues in the Senate.

The reason I wait until these last few hours of the Senate session when we are about to go home for Christmas is that next year I shall do the same thing in order that we might have a benchmark to compare our progress or nonprogress, as the case may be.

For example, Mr. President, if we assume a hypothetical 5-day, 40-hour week, the quorum calls that we have been engaged in 1985 have used over 8 full weeks this year; in fact, almost 41 days.

Using the same assumption, if you add in the amount of time spent on rollcalls in excess of 15 minutes, this equals about 9½ weeks, or 47 typical 8-hour days. Roughly one-quarter of the time, Mr. President, we spend on rollcall votes is in excess of the 15-minute regular order.

Put another way, the Senate's lost time is one full workweek, using a 40-hour week assumption for the lost time on rollcall votes.

Finally, Mr. President, when you couple the lost time—that is, the quorum calls and the time spent voting in excess of 15 minutes—with the regular time spent on votes in 1985, the U.S. Senate consumed 60 full days. That is the equivalent of 12 weeks, or 3 months, out of 1985.

I do have a table, Mr. President. I present it for my colleagues at this time. I ask unanimous consent to have this table printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

USAGE OF TIME IN THE SENATE THROUGH DECEMBER 17, 1985

Quorum calls: 327 hours 15 minutes.

Time spent voting on roll call votes: 140 hours 12 minutes.

Time lost on roll call votes (amount in excess of 15 minutes): 46 hours 52 minutes.

Total roll call votes: 377.

Average length of each vote: 22.6 minutes.

If you assume a hypothetical 5-day, 40-hour week, the quorum calls have used over eight weeks this year (almost 41 days).

Using the same assumption, if you add in the amount of time spent on roll calls in excess of 15 minutes, this equals about 9 and ½ weeks (about 47 typical 8-hour days).

Roughly one-quarter of the time spent on roll call votes is in excess of the 15 minute regular order. Put another way, the Senate's lost one full work week (using a 40-hour week) on the lost time on roll call votes.

Finally, when you couple the "lost" time (quorum calls and time spent voting in excess of 15 minutes) with the regular time spent on votes in 1985, the Senate's used 60 days. That's the equivalent of 12 weeks, or 3 months out of 1985.

Mr. PRYOR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. HECHT). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order of the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PENTAGON FRUITCAKE SPECIFICATIONS

Mr. NUNN. Mr. President, as we all know, Christmas is a time for sharing recipes, and I have one here from the Department of Defense I should like to share with my colleagues in the Senate. Normally, I would say get your pens and pencils ready, but since the recipe is 14 pages long, with an additional 4 pages of amendments, I will touch the highlights, and perhaps you can jot down some of the Pentagon's thoughts on fruitcake specifications as handy hints for your spouses.

I would call this a "Perfect Specification, Cost-Is-No-Object Fruitcake."

Let me flip through the first six pages or so, because I am sure all your kitchens surpass the MIL-STD-668 and MIL-STD-1105 sanitary standards, and that whoever does the cooking at your house meets the Workmanship Standards under item 3.7 in the recipe.

So, moving directly to the ingredients, I will pick one. Here is item 3.2.7: "Flavoring—Vanilla flavoring shall be pure or artificial vanilla in such quantities that its presence shall be organoleptically detected, but not to a pronounced degree." Or, as Julia Child has said, "Get to know your food." Here is a preparation hint, under item 3.3.1.2.1:

> Blending and Depositing . . . The fruitcake batter shall consist of equal parts by weight of cake batter specified in table I, and fruit and nut blend specified in table II blended in such a manner as to meet the requirements of 3.5. A predetermined weight of the blended fruitcake batter, sufficient to yield the specified weight, shall then be deposited into cans with liners and discs and the lids of the cans shall be clinched on loosely to allow for the escape of mositure and gasses evolved during processing. Alternatively, in lieu of paper disc and liner, the can shall have an *enamel interior possessing adequate product release characteristics* so that not more than 5.0 percent by weight of the product adheres to the interior of the can.

It goes on to say that heat retention when baking should create a vacuum in accordance with PPP-C-26.

And, to make sure the cake is good, you will want to inspect it. Here, the perfect specification, Cost-Is-No-Object Fruitcake recipe has tables galore pointing out common pitfalls in fruitcake manufacture. But this pithy paragraph cuts to the heart of the matter:

> 3.5.1 The finished product shall conform to the inside contour of the can or can liner. There shall be no point on the top lid greater than ¾ inch (19 mm) from the side of the can where the cake did not touch the lid during baking. Sealing and baking shall be so accomplished as to maintain continuity of the compound seal. The processing time shall be adjusted so that the batter portion is heated uniformly throughout to produce a finished product having no raw, stringy, or ungelatinized portions. When the cooled product is bisected vertically and horizontally with a sharp knife, it shall not crumble nor show any compression streaks, gummy centers, soggy areas, be excessively dry or over-processed, and shall display an even grain structure throughout. The fruit and nut pieces when required shall be evenly distributed throughout the sliced surface. The flavor of the finished product shall be typical of the type indicated. There shall be no off-flavors or off-odors.

Under section 4.5.1.1.2, we are told to "examine each ingredient organoleptically." I assume this means we are to lick the beaters and bowl.

Finally, as an indication that the Pentagon is ever striving to tighten their standards, I notice that amendment MIL-F-1499F increases military tolerances of candied cherries from 12.8mm to 12.7mm. Always onward and upward.

Mr. President, I am pleased to be able to share this old family recipe—and in case anyone is wondering, this really is Military Specification MIL-F-1499F, amended 1980.

In keeping with the spirit of military specifications, if your spouse prepares this recipe, the Pentagon will furnish 15 full-time inspection specialists, and they will work for 1 week to determine whether the fruitcake is in compliance. I will put the full specification in the RECORD.

Mr. President, on a serious note, I am afraid that this is typical of military specifications. It is not an exception. It goes on and on for 14 pages, plus a 4-page amendment—a total of 18 pages for making fruitcake. This is very small type, with all sorts of cross-references to other publications, so that one reading this would have to go to numerous other volumes to be able to determine the full scope of what is required. Can you imagine the specifications on an airplane or a complex weapons system?

Mr. President, Senator GOLDWATER and I have recently made a series of speeches on the floor about organizational bureaucracy and layers of command in the Department of Defense. We described how these layers have hindered our ability to conduct effective military operations. These fruitcake specifications are a wonderful example of the detailed work that the Department is capable of producing. If they go to such lengths for fruitcakes, you can just imagine what the standards and specifications would be for even the most basic weapons system.

Mr. President, I can understand the need for standards and specifications for all kinds of items. In some cases, these standards are needed for safety of performance, or to ensure compatibility with other systems. These standards are also valuable to ensure full and open competition on critical components to be incorporated into weapons systems.

So I am not suggesting here in a completely frivolous manner that there is no appropriate use for standards, but there must be some common sense applied somewhere down the line.

I am very concerned about the complexity of the Department of Defense acquisition process. I have tried and continued to seek ways to simplify this acquisition process.

I think our committee is going to have to focus on that.

I am very hopeful that the Packard Commission is focusing on it, because there is no way that you can buy items cheaply when the people who are bidding must go through this kind of maze to determine what it is they are required to do.

Recently, Deputy Secretary Taft announced a revitalization of the Department's initiative to streamline the standards and specifications being imposed on contractors.

I compliment Secretary Taft for that initiative. But until we address the need for specifications and the detailed requirements of specifications we will not have seriously begun to reform the acquisition system.

Mr. President, I ask unanimous consent to have printed in the RECORD the fruitcake recipe to which I have referred.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MILITARY SPECIFICATION: FRUITCAKE, CANNED

[Beneficial comments (recommendations, additions, deletions) and any pertinent data which may be of use in improving this document should be addressed to: US Army Natick Research and Development Command, Natick, MA 01760 by using the self-addressed Standardization Document Improvement Proposal (DD Form 1426) appearing at the end of this document or by letter.]

This specification is approved for use by all Departments and Agencies of the Department of Defense.

1. Scope:

1.1 Scope. This specification covers fruitcake (see 6.4) for use by the Armed Forces as a component of operational rations. The product may be processed by baking or steaming.

2. Applicable Documents:

2.1 Issues of documents. The following documents of the issue in effect on date of invitation for bids or request for proposal, form a part of this specification to the extent specified herein:

Specifications:

Federal:

PPP-C-26—Canned Baked, and Canned Steamed and Retorted Subsistence Items, Packaging and Packing Of.

Military:

MIL-L-1497—Labeling of Metal Cans for Subsistence Items.

Standards:

Military:

MIL-STD-105—Sampling Procedures and Tables for Inspection by Attributes.

MIL-STD-129—Marking for Shipment and Storage.

MIL-STD-668—Sanitary Standards for Food Plants.

MIL-STD-1105—Sanitary Standards for Bakeries.

(Copies of specifications, standards and publications required by contractors in connection with specific procurement functions should be obtained from the procuring activity or as directed by the contracting officer.)

Laws and regulations:

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Federal Food, Drug, and Cosmetic Act and Regulations Promulgated Thereunder.

Title 21, Code of Federal Regulations (CFR) 1977 Edition. Note: Orders for the publication should cite CFR 100-197.

(Application for copies should be addressed to the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.)

U.S. DEPARTMENT OF AGRICULTURE

Regulations Governing the Grading and Inspection of Egg Products.

U.S. Standards for grades of: Shelled Almonds, Shelled Pecans, Shelled Walnuts, Processed Raisins.

(Application for copies should be addressed to the Information Division, Agricultural Marketing Service, US Department of Agriculture, Washington, DC 20250.)

Code of Federal Regulations, Title 21, Section 113.60. Orders for the above publication should cite CFR 100-199.

(Application for copies should be addressed to the Superintendent of Documents, US Government Printing Office, Washington, DC 20402.)

2.2 Other publications. The following documents form a part of this specification to the extent specified herein. Unless otherwise indicated, the issue in effect on date of invitation for bids or request for proposal shall apply:

ASSOCIATION OF OFFICIAL ANALYTICAL CHEMISTS

Official Methods of Analysis of the Association of Official Analytical Chemists.

(Application for copies should be addressed to the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044.)

AMERICAN OIL CHEMISTS SOCIETY

Official and Tentative Methods

(Application for copies should be addressed to the American Oil Chemists Society, 508 South Sixth Street, Chicago, IL 61820.)

3. Requirements:

3.1 First article. When specified (see 6.1), a sample of the finished product shall be submitted to the contracting officer for approval before production is commenced.

3.2 Material. All materials shall be clean, sound, wholesome, and free from insect infestation or other objectionable foreign matter and off-flavors and off-odors.

3.2.1. Chemical leavening agents. Chemical leavening shall be of a commercial grade normally used in the production of baked goods and of a type which will produce the required end product.

3.2.2 Enriched flour. Enriched flour shall be wheat flour of a type which will result in the required end product. Enrichment shall be in accordance with the requirements of the Federal Food, Drug, and Cosmetic Act and regulations promulgated thereunder and may be accomplished as a part of the milling process or adding equivalent enrichment to each batch. The flour may be bleached as necessary to provide the required product.

3.2.3 Sugar. Sugar shall be white, refined, cane or beet sugar, or a combination thereof.

3.2.4 Eggs, whole, fresh, frozen or dried. The egg products shall be whole, fresh, frozen or dried or a combination thereof. Egg products shall have been produced and handled in compliance with requirements set forth in the USDA publication entitled "Regulations Governing the Grading and Inspection of Eggs and Egg Products." They shall be prepared under continuous inspection of the USDA and shall bear the inspection shield mark. If fresh eggs are used, temperatures shall be maintained at or below 40°F (4.4°C) prior to use; when thawed frozen eggs are used the temperature and time requirements of the above regulations shall be met. When dried eggs are used in formulation, and equivalency ratio of 1-part by weight of dried eggs to 3-parts by weight of water shall be maintained.

3.2.5 Shortening. The shortening shall be refined hydrogenated peanut oil or refined hydrogenated cottonseed oil or a combination of both, and shall have a stability of not less than 100 hours, as determined by the active oxygen method (AOM) (see 4.6.1). The shortening shall contain an antioxidant with an active ingredient of TBHQ at the maximum allowable level.

3.2.6 Salt. Salt shall be white, refined sodium chloride with or without anticaking agent. Iodized salt shall not be used.

3.2.7 Flavoring. Vanilla flavoring shall be pure or artificial vanilla in such quantities that its presence shall be organoleptically detected, but not to a pronounced degree.

3.2.8 Nuts. The nuts shall be US No. 1 grade of either pecan, almond or walnut pieces. The pieces shall be from ⅛ to ⅜ inches (3.2 to 9.5 mm) nominal. The walnut pieces shall be treated with a 1:1 mixture of BHA and BHT dissolved in vegetable oil, the level of BHA and BHT shall not exceed 0.02 percent, based on the amount of oil contained in the walnut pieces (approximate analysis 64 percent). The nuts shall be of the latest crop.

3.2.9 Candied cherries. Candied cherries shall be made from pitted cherries. They shall be thoroughly processed with sugars to a soluble solids content of not less than 72 percent and artificially colored with a red dye. They shall be cut to yield ¼-inch to ½-inch (6.4 to 12.8 mm) cherry pieces on the average.

3.2.10 Candied pineapple. Pineapple shall be thoroughly processed with sugars to not less than 72 percent soluble solids. The pineapple pieces shall be cut into approximately ¼-inch (6.4 mm) dice. Pineapple which has been diced through a machine equipped with blades set to yield ¼-inch (6.4 mm) cubes shall be acceptable.

3.2.11 Raisins. Raisins shall be soda dipped or bleached Thompson seedless, select size, grade B or better, as defined in the U.S. Standards for Grades of Processed Raisins. Raisins may be soaked as necessary to prevent clumping. Soak water shall be a part of the required water in the batter formulation and shall be added to the batter at an appropriate time.

3.2.12 Candied orange or lemon peel. Candied peel, as specified, shall be thoroughly deragged and processed with sugar and corn sirup to not less than 72 percent soluble solids. It shall be chopped in a dicer set for ¼-inch or ⅜-inch (6.4 mm or 9.5 mm) cut.

3.2.13 Candied citron. Citron shall have been completely fermented by commercially accepted methods and controls to remove any evidence of bitterness and treated with sugar and corn sirup to a soluble solids content of not less than 72 percent. The citron shall have a translucent appearance. It shall be diced through a dicer set for a ¼-inch (6.4 mm) cut.

3.3 Formulation.

3.3.1 Cake batter. Cake batter shall be prepared from the ingredients in the proportions shown in table I.

TABLE I.—*Cake batter*

Ingredients	*Parts by weight*
Sugar	24
Flour	26
Whole eggs [1]	[illegible]
Shortening	16
Salt	1
Water (100° to 140 °F) (38° to 60 °C) (approximately) (variable)	9
Vanilla flavoring (pure or artificial)	([2])
Chemical leavening agents	([2])

[1] For reconstitution ratio (see 3.2.4).

[2] As required.

3.3.1.1 Batter blending. All dry ingredients (flour, sugar and salt) shall be sifted prior to incorporating into the batter. The batter shall be creamed and mixed to yield a smooth homogeneous mixture.

3.3.1.2 Fruit and nut blend. Fruit and nut blend shall be prepared from the ingredients in the proportions shown in table II.

TABLE II.—*Fruit and nut blend*

Ingredients	*Parts by weight*
Raisins	30
Cherries, candied	12.5
Pineapple, candied	20
Citron, candied	10
Lemon peel, candied	8
Orange peel, candied	80
Nuts	20

3.3.1.2.1 Blending and depositing. The fruitcake batter shall consist of equal parts by weight of cake batter specified in table I, and fruit and nut blend specified in table II blended in such a manner as to meet the requirements of 3.5. A predetermined weight of the blended fruitcake batter, sufficient to yield the specified weight, shall then be deposited into cans with liners and discs and the lids of the cans shall be clinched on loosely to allow for the escape of moisture and gases evolved during processing. Alternatively, in lieu of paper disc and liner, the can shall have an enamel interior possessing adequate product release characteristics so that not more than 5.0 percent by weight of the product adheres to the interior of the can.

3.4 Processing. The filled loosely clinched cans shall be baked or steamed as necessary to meet the requirements of 3.5. Heat retention in the cans at the time of sealing shall be such that the vacuum shall be in accordance with PPP-C-26 for the baked or steamed product as applicable. Within one hour after the completion of the heating process, the product shall be cooled to an internal temperature of 100°F (38°C) or less in the center of the product or 10 degrees above ambient, whichever is greater.

3.5 Finished product.

3.5.1 The finished product shall conform to the inside contour of the can or can liner. There shall be no point on the top lid greater than ¾ inch (19 mm) from the side of the can where the cake did not touch the lid during baking. Sealing and baking shall be so accomplished as to maintain continuity of the compound seal. The processing time shall be adjusted so that the batter portion is heated uniformly throughout to produce a finished product having no raw, stringy, or ungelatinized portions. When the cooled product is bisected vertically and horizontally with a sharp knife, it shall not crumble nor show any compression streaks, gummy centers, soggy areas, be excessively dry or over processed, and shall display an even grain structure throughout. The fruit and nut pieces when required shall be evenly distributed throughout the sliced surface. The flavor of the finished product shall be typical of the type indicated. There shall be no off-flavors or off-odors. The moisture content of the end item shall be controlled within the limits of good manufacturing practice.

3.6 All deliveries shall conform in every respect to the provisions of the Federal Food, Drug, and Cosmetic Act and regulations promulgated thereunder.

3.7 Workmanship. The product shall be prepared, processed, and packaged under modern sanitary conditions and in accordance with good commercial practice. The product shall be processed in establishments meeting the requirements of MIL-STD-1105, or if produced in food establishments other than bakeries shall meet requirements of MIL-STD-668.

4. Quality Assurance Provisions:

4.1 Responsibility for inspection. Unless otherwise specified in the contract, the contractor is responsible for the performance of all inspection requirements as specified herein. Except as otherwise specified in the contract, the contractor may use his own or any other facilities suitable for the performance of the inspection requirements specified herein, unless disapproved by the Government. The Government reserves the right to perform any of the inspections set forth in the specification where such inspections are deemed necessary to assure supplies and services conform to prescribed requirements.

4.2 Classification of inspections. The inspection requirements specified herein are classified as follows:

a. Plant qualification (see 4.3).

b. First article inspection (see 4.4).

c. Quality conformance inspection (see 4.5).

4.3 Plant qualification. Product shall be rejected if produced in bakery establishments not meeting the requirements of MIL-STD-1105 or if produced in food establishments other than bakeries, not meeting the requirements of MIL-STD-668.

4.4 First article inspection. When preproduction samples of the product which the contractor intends to supply shall be inspected to assure compliance with 3.6.

4.5 Ouality compliance inspection. Sampling for inspection shall be performed in accordance with MIL-STD-105, except where otherwise indicated hereinafter.

4.4.1 Component and material inspection. In accordance with 4.1, components and materials shall be inspected in accordance with all the requirements of referenced specifications, drawings, and standards unless otherwise excluded, amended, modified or qualified in this specification or applicable purchase document.

4.5.1.1 Examination of ingredients. Examinations shall be in accordance with 4.5.1.1.1 and 4.5.1.1.2. Nonconformance with identity requirements of one or more sample units not conforming to condition or quality requirements shall indicate an unacceptable ingredient and use of such shall be cause for rejection of the involved finished product.

4.5.1.1.1 Identity. Examination shall be made of labels, invoices or other valid documents to determine conformance to identity requirements (kinds, grade, age, size, source of inspection, etc. as pertinent to the ingredient).

4.5.1.1.2 Condition. In addition, each ingredient shall be examined organoleptically, as necessary; to determine conformance to condition requirements of 3.2 and quality requirements (other than identity or analytical) that may be contained in the ingredient requirement paragraph. The sample unit for examination shall be approximately ½ pound (0.23 kg) of each ingredient from a primary container. The sample size shall be five. In the event a lot consists of less than five containers, a sample unit shall be extracted from each container in the lot.

4.5.1.1.3 Testing of components. Testing of components shall be as shown in table III. A test result not in conformance to the requirement shall indicate unacceptable component and use of such shall be cause for rejection of the involved finished product.

TABLE III.—TESTING OF COMPONENTS [1]

Component	Sample unit	Lot size expressed in	Inspection level	Characteristics	Results reported	Test reference and requirement paragraph
Shortening	One pound (0.45 kilogram) composite [2].	Pounds	S–2	Fat stability (AOM)	Pass or fail [3]	3.2.5; 4.5
Candied fruits (each kind)	½ pound (0.23 kilogram) composite of each fruit [2]	...do	S–2	Soluble solids	Nearest percent	3.2.9; 3.2.10; 3.2.12; 3.2.13; 4.5

[1] Each component or component characteristic, as applicable, which is not listed in this table, unless otherwise excepted, shall be tested in accordance with the applicable procedures contained in pertinent subsidiary specification.

[2] The composite shall be derived from the number of primary containers as indicated by the inspection level.

[3] If failure, report results to nearest hour.

4.5.2 In-process inspection. Examination shall be performed during the manufacture of the product to determine compliance with 3.3 and 3.4 as concerns formulation, procedures and processing controls, including those for dicing requirements of pineapple, orange or lemon peel, and citron. Records of formulation and moisture testing shall be maintained and made available for examination. Nonconformance to one or more requirement(s) as determined by examination of records or by actual visual examination during processing, shall be cause for rejection of the involved product.

4.5.3 End item inspection. Classification of defects found during examination shall be in accordance with tables V thru VII. The sampling plans for the above tables shall be as shown in table IV. AQLs shall be expressed as percent defective for table V, and in terms of defects per hundred units for table VI and VII.

TABLE IV.—END ITEM SAMPLING PLAN

Table	Inspection level	Sample unit	Lot size expressed in	AQL's Major	AQL's Minor	AQL's Totals
V	S–3	1 filled and sealed can.	Cans		2.5	
VI	S–2	do	do		4.0	
VII	S–2	do	do	2.5		4.0

TABLE V.—*Examination for net weight* [1]

Defect	*Category (Minor)*
Net weight more than 5 percent under specified weight (container required to have a net weight of 1 pound (0.45 kg) or less). (Report to nearest ⅛ ounce (nearest gram))	201
Net weight more than 2 percent under specified weight (container required to have a net weight more than 1 pound (0.45 kg). (Report to nearest ¼ ounce (nearest gram))	202

[1] Lot shall be rejected if sample data indicate lot average net weight is less than specified net weight.

TABLE VI.—*Examination for fill of container*

Defect	*Category (Minor)*
The distance between the side of the can and the edge of where the cake touched the top lid in baking is greater than ¾ inch (19 mm) at any point	201
Lack of continuity in compound seal [1]	202

[1] Examine only cans in which the product completely fills the can, touching the top lid at a point closer than ¼ inch from the edge. Examination of can seam and tear down procedure shall be made in accordance with the Code of Federal Regulations, Title 21, Parts 100-199, April 1977, subpart D, part 113.60.

TABLE VII.—EXAMINATION OF PRODUCT [1]

Defect	Category Major	Category Minor
Raw, stringy or ungelatinized portion present	101	
Product does not have an even grain structure throughout when cooled and bisected vertically and horizontally with a sharp knife	102	
When bisected as above, product crumbles, shows compression streaks, gummy centers, or soggy areas, or is excessively dry or overprocessed	103	
Nut pieces and fruit pieces not evenly distributed throughout the sliced surface		201
Flavor not characteristic of fruitcake, or not palatable (i.e., burnt, raw, flat, acid, stale, or other off-odor or off-flavor present)	104	

[1] Presence of foreign material such as dirt, paint, wood, metal, insect, or insect part or other foreign material, shall be cause for rejection of the lot.

4.5.3.1 Examination of preservation, vacuum, packing and marking. Examinations shall be made in accordance with the applicable quality assurance provisions of PPP-C-26.

4.5.3.2 Examination of can labeling. Examination of can labeling shall be made in accordance with the quality assurance provisions of MIL-L-1497.

4.6 Test methods.

4.6.1 Chemical analyses. Chemical analyses shall be made in accordance with the following methods from Official Methods of Analysis of the Association of Official Analytical Chemists except for fat stability. (See footnote 1).

Test	Source	Method
Candied fruits: Soluble solids	Chapter: Fruits and fruit products.	Soluble solids (by refractometer).
Shortening: Fat stability	([1])	Fat stability Cd 12–57.
Moisture	Chapter: Sugar and sugar products. Section: Sugars, syrups and molasses.	Moisture (vacuum drying).

[1] Official and Tentative Methods of the American Oil Chemists Society, Section C, Commercial Fats and Oils.

5. Packaging:

5.1 Preservation-packaging and packing. The product shall be unit packed in accordance with level A requirements and packed in accordance with level C requirements of PPP-C-26.

5.2 Labeling and marking.

5.2.1 Cans. Cans shall be labeled in accordance with MIL-L-1497.

5.2.2 Shipping containers. Shipping containers shall be marked in accordance with MIL-STD-129.

6. Notes:

6.1 Ordering data. Procurement documents should specify the following:

(a) Title, number and date of this specification.

(b) When a first article is required (see 3.1, 4.4, 6.2).

6.2 First article. When a first article is required, it shall be inspected and approved under the appropriate provisions of ASPR 7-104.55. The first article shall be a preproduction sample and shall consist of ten 4- or 5-ounce (113 to 142 g) cans of the product. The contracting officer should include specific inspections in all procurement instruments regarding arrangements for inspection and approval of the first article.

6.3 Metric equivalents. Metric equivalents, indicated in parentheses throughout this document, are based on practices, conversion factors, and symbols specified in AST, E 380 Standard for Metric Practice, and are for information only. In each instance, the value stated in US customary units shall be controlling.

6.4 Supersession data. The correlation between the types of product in the superseded MIL-P-1499E and the product specified herein is as follows:

MIL-P-1499E	MIL-F-1499F
Type I	Deleted.
Type II	Deleted.
Type III	Retained without type designation.

6.5 Changes from previous issue. The margins of this specification are marked with an asterisk to indicate where changes (additions, modification, corrections, deletion) from the previous issue where made. This was done as a convenience only and the Government assumes no liability whatsoever for any inaccuracies in these notations. Bidders and contractors are cautioned to evaluate the requirements of this document based on the entire content irrespective of the marginal notations and relationship to the last previous issue.

MILITARY SPECIFICATION—FRUITCAKE, CANNED

This amendment forms a part of Military Specification MIL-F-1499F, dated 20 August 1979, and is approved for use by all Departments and Agencies of the Department of Defense.

PAGES 1 AND 2

2.1, under "Specifications". Delete "Federal" and "PPP-C-26" and its title.

Under "Specifications, Military". Delete "MIL-L-1497" and its title and insert "MIL-C-43991—Canned Baked, Canned Steamed, Subsistence Items, Packaging of".

Under "Standards, Military". Delete "MIL-STD-129" and its title.

PAGE 4

3.2.5, line 3, after "hours". Insert "prior to the addition of antioxidant".

3.2.9, line 4, after "6.4 to". Delete "12.8 mm" and substitute "12.7 mm".

PAGE 5

Table I, footnote [1], after "ratio". Insert "(Liquid basis)".

PAGES 6 AND 7

Table II, line 3, after "Raisins". Insert", before soaking".

3.4 Delete this paragraph in its entirety and substitute the following: "*Processing.* The filled cans with loosely clinched lids shall be placed in an oven and baked at not more than 375°F (191°C) or shall be processed in saturated steam at atmospheric pressure for such time as is necessary for the finished product to meet the end item requirements of 3.5. The temperature at the center of the product at the time of sealing shall be not less than 195°F (91°C). Within 1 hour after the can is hermetically sealed, the center of the product shall be cooled to a temperature of less than 100°F (38°C) or less than 10°F (6°C) above the ambient temperature, whichever is higher. After cooling to room temperature, the internal vacuum of the oven baked product shall be not less than 25 inches of mercury gauge (not more than 16.7 kPa absolute pressure) and of the steam * * *

PAGE 10

Table V, defect 202. Delete this defect in its entirety.

Table VI, defect 201. Delete the defect and substitute: "Distance from edge of can to where cake touches the top lid exceeds ¾ inch (19 mm)."

PAGE 11

Table VIII, major defect 102. Delete this defect in its entirety.

Major defect 103, line 1. Delete "as above" and insert "vertically and horizontally with a sharp knife, the cooled".

PAGE 12

4.5.3.1 and 4.5.3.2. Delete these paragraphs in their entirety and substitute the following:

"4.5.3.1 *Packaging inspection.* The packaging inspection for the Section 5 requirements shall be in accordance with the applicable quality assurance provisions of MIL-C-43991."

Insert the following new paragraph:

"4.5.4 *Testing of finished product.* The finished product shall be tested for water activity in accordance with 4.6. Testing shall be on a unit basis. The sample unit for testing shall be one filled and closed can. Lot size shall be expressed in cans. The sample size shall be the number of sample units indicated by inspection level S-2. The AQL expressed as percent defective shall be 1.0. Results shall be reported to the nearest 0.01 unit. A test result not in conformance shall be scored as a defect."

4.6.1, lines 10-13. Delete *"Moisture"* and referenced *"Source"* and *"Method"* and substitute the following:

"Water activity.	Chapter: Vegetable Products, Processed. Section: Canned Products".	Water activity.

HABEAS CORPUS REFORM

Mr. NUNN. Mr. President, we have had a very grim reminder of a terrible tragedy in the State of Georgia that happened about the time I came to the Senate, the so-called Alday murders. These murders occurred in the early 1970's. We recently had a decision of the Fifth Circuit Court of Appeals and that decision was reversed and remanded for a new trial of the people who were convicted of those murders 12 years ago.

I have been to the small graveyard near Donalsonville, GA, where six members of one family lie side by side in their graves. They were each brutally executed over a long period of hours, one by one, in a systematic and a sadistic manner.

There is no doubt about the guilt of the people involved. I do not think the court has even considered that that was in error. They were convicted. There were confessions in some of the cases. But there was a reversal because of so-called pretrial publicity.

The tragedy, to me, is not the merits of the case or the reasoning but the time element involved. I can think of no way to explain to the American people, the people of Georgia, and particularly to those remaining members of the Alday family and their friends how it can take a system like the American system of justice 12 years to be able to come to a definite conclusion, and the tragedy of it all is now they have to go back through the same thing again.

We have to find a way to streamline our system of justice. We have a two-tier system of appeals. First of all, the appeals go through the State system, and once that happens, they come back and go the habeas corpus route through the State system. They go all the way to the Supreme Court and then they come back another time and go through the Federal habeas corpus proceedings.

This is an intolerable burden on society. It is an intolerable burden on victims and families. It is an intolerable burden on the taxpayers of our country. We have to find a better way.

I have a statement here that goes into great detail about the habeas corpus reform proposal that several of us, including the chairman of the Judiciary Committee, Senator THURMOND, Senator CHILES, and others have been pushing for a long time. We have not been able to get it passed.

There are people who object to this proposal, but I would hope that the people who have studied this will take into account the larger question of justice, and that is whether the American people perceive that we really do have a criminal justice system that works and that deters and that protects society.

I particularly have a great deal of sympathy for the Alday family, the people who have gone through this terrible ordeal once and will now be forced to go through it again in a new trial.

Each court that reviews this matter can have its own explanation but the combined court system and judicial system simply has no adequate explanation for this kind of time delay in carrying out justice.

Mr. President, I have spoken in this Chamber on many, many occasions to urge congressional action on perhaps the most critical problem facing the American criminal justice system: the need for reform of our Federal habeas corpus laws. During the course of the 97th, 98th, and 99th Congresses, I have joined with Senator THURMOND and Senator CHILES, among others, in offering numerous proposals designed to reduce the proliferation of needless, repetitive, and often frivolous habeas corpus petitions which have overburdened our courts and seriously undercut the integrity of our judicial system.

I understand that the most recent of those proposals, S. 238, is now scheduled for markup by the Senate Judiciary Committee, bringing it that much closer to eventual consideration by the full Senate. Introduced on January 21, 1985, and substantially similar to legislation which Senator CHILES and I introduced in both 1982 and 1983, S. 238 would limit the ability of career criminals to continually defer their just punishment by litigating and relitigating sound judgments of the trial courts many, many years after conviction. That legislation would serve as a major step toward restoring some semblance of finality and credibility to the American system of justice.

Unfortunately, while we still await congressional action on that legislation, the glaring misuse and abuse of our habeas corpus laws continues to wreak havoc on the American concept of justice. I feel compelled to again bring to my colleagues' attention the sad fact that the American public is rapidly losing faith in the ability of our system to mete out justice to those responsible for criminal acts. This week I have seen public shock and outrage spread throughout the State of Georgia in response to a decision by the 11th Circuit Court of Appeals. On Monday, December 9, the court reversed the convictions of Wayne Coleman, George Dungee, and Carl Isaacs for the brutal and senseless murder of six members of an honest, hardworking, farm family, the Aldays, in the town of Donalsonville, GA, in 1973. In doing so, the Federal appeals court overturned three separate jury verdicts of guilty for what has been termed the "worst crime in Georgia history." Moreover, the court did so despite acknowledging that "overwhelming evidence of the petitioner's guilt that had been adduced at trial."

One need only recall the facts of the Alday murders to understand the justifiable public anger which the 11th circuit decision has generated. During the afternoon of May 14, 1973, four individuals, three of whom had recently escaped from a Maryland prison, burglarized the Donalsonville home of Jerry Alday. While the burglary was in process, Jerry Alday and his father, Ned Alday, unsuspectedly arrived at Jerry's residence. Upon their arrival, Jerry and his father were taken into the house at gunpoint. They were then shot in the head at close range: Ned Alday was shot seven times while Jerry Alday was shot four times.

Shortly, thereafter, Jerry Alday's brother, Jimmy, also arrived at the Alday residence and was killed by a handgun fired at close range. Jerry Alday's wife, Mary, was the next family member to arrive at the residence. After being robbed of $1, she was locked in the bathroom of the house due to the arrival of yet two more members of the Alday family, Jerry's uncle Aubrey and brother, Chester. Aubrey and Chester were then taken into the Alday home and slain in similar fashion.

Mary Alday was then led from the bathroom into another portion of the house and raped while her husband, father-in-law, and other members of the Alday family lay dead. She was then taken to a wooded area where she was again raped by two of the individuals and physically tortured. She was then killed with two shots from a handgun.

Several days later, Carl Isaacs, Bill Isaacs, George Dungee, and Wayne Carl Coleman were apprehended and arrested for the slayings. Bill Isaacs confessed his role in the slayings and pled guilty while the remaining defendants pled not guilty. In January 1974, the three were found guilty of the Alday slayings in three separate jury trials. Additionally, the juries found the existence of statutory aggravating circumstances and fixed punishment in each case at death. The defendants immediately appealed their convictions and death sentences on a number of grounds, including an allegation that prejudicial pretrial publicity denied them of their right to a fair trial. In the summer of 1976, the Georgia Supreme Court affirmed the conviction and sentence of the defendants and in November 1976, the U.S. Supreme Court denied the defendants' application for a writ of certiorari. The defendants then filed an application for a State writ of habeas corpus and received an evidentiary hearing. In August 1977, the Superior Court of Georgia denied the defendants' petition for a writ and in April 1978 the Georgia Supreme Court affirmed the judgment of the superior court. In October 1978, the U.S. Supreme Court declined to review the State's denial of the defendants' application for a writ of State habeas corpus.

In 1979 and 1980, the defendants filed an application for a writ of Federal habeas corpus in Federal District Court for the Southern District of Georgia. In October 1981 the district court denied the requested relief. In December 1981, the defendants appealed this decision to the U.S. Court of Appeals in Atlanta, GA. In 1983 the court of appeals remanded the case back to the district court to receive further evidence on the issue of pretrial publicity, despite the fact that this was essentially the same issue which was raised, litigated, and decided prior to the 1974 trials. After an evidentiary hearing, the district court again reaffirmed its earlier denial of relief.

Reviewing the second district court decision, the 11th Circuit Court of Appeals has now reversed the convictions of all three defendants. Wayne Coleman, Carl Isaacs, and George Dungee, claiming that they were denied a fair trial, given extensive pretrial publicity in Seminole County, GA. The decision finds "presumed prejudice" despite noting the overwhelming evidence of the guilt of all three defendants. In so holding, the court differs from at least eight separate judicial rulings on this same issue in this case during the last 13 years: the Georgia trial court (1974); the Georgia Supreme Court—on direct appeal, 1976; the U.S. Supreme Court—cert. denied, 1976; the Georgia Superior Court—State habeas corpus petition, 1977; the Georgia Supreme Court—appeal of State habeas corpus, 1978; the U.S. Supreme Court—cert. denied on State habeas corpus, 1978; U.S. district court—Federal habeas corpus petition, 1981, and the U.S. district court again—on remand from the 11th circuit and after receipt of additional evidence, 1985. In each of those instances, the courts refused petitioners' claims for relief based on pretrial publicity.

Cases such as the Alday decision trouble me not only for the great personal tragedy and sorrow which they bring to victims and their families but also for the irreparable damage which they do to the public's faith in the criminal justice system. What does the American public see in these types of cases? They see a judicial system riddled with inconsistencies, overburdened with needless litigation, in which a crafty criminal often succeeds far more often than the honest, victimized citizen. They see a system which speaks of justice, but fails to deliver it. They see a system which denigrates the importance of a jury verdict by countless tiers of judicial review that seems to ignore, as in this case, "overwhelming" evidence of guilt.

I urge Congress to speak to this problem by considering the habeas corpus reform set forth in S. 238. Among other things, that bill imposes a 1-year statute of limitations on Federal habeas corpus proceedings brought by State prisoners. Under current law, there is no statute of limitations governing Federal habeas corpus proceedings. The bill also provides that a Federal court will not reopen issues if, in fact, the defendant had received a full and fair review of that issue in State court. Finally, the bill places rigid restrictions on the ability of a defendant to raise an issue in a Federal habeas corpus proceeding which was not previously raised in State court.

This type of legislation is one way to help insure that justice will, at least in future cases, be meted out fairly, effectively, and without years of unnecessary and costly delay. Beyond reform of the habeas corpus laws, it may well be time to seriously consider retructuring and hopefully streamlining the many avenues of criminal appeal which now exist in our legal system. Certainly the task will be a difficult one, but, in the wake of cases like the Alday murders, it is obviously an increasingly urgent and deserving one.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

REMAINING MATTERS

Mr. DOLE. Mr. President, I assume some of our colleagues may wonder how near we are to sine die adjournment.

Let me indicate that we are now trying to get a 30-minute time agreement on reconciliation. That will require a rollcall vote. We are trying to approve the nomination of Terrence Scanlon. I understand that will require a rollcall vote.

Once we finish the rollcalls, there will be other items that we will bring up in the evening. But with a little cooperation here, we could turn most Senators loose within the next hour and a half.

So, I hope we could have an agreement on reconciliation. I am sorry that there has been one Senator requesting a rollcall, but in any event, if we get a 30-minute time agreement, we could dispose of that very quickly.

Maybe while we are waiting to do that we could bring up the Scanlon nomination so we will not waste time.

Then we would be able to announce no more rollcall votes this year, and I assume most Members would take off. There would be a few of us stuck here for a while.

SECTION 506 OF THE CONFERENCE REPORT ON H.R. 2959

Mr. HARKIN. Mr. President, on October 17, the Senate approved the conference report on H.R. 2959, the energy and water development appropriations bill.

It has come to my attention that section 506 of that conference report contains a somewhat complicated provision that restricts the procurement by the Federal Power Marketing Administration and the Board of Directors of the Tennessee Valley Authority of certain types of extra-high-voltage power equipment manufactured abroad.

This provision is complex and because it is complex it should not be merely slipped in to the appropriation bill. This is the kind of issue on which there should be hearings and in which the authorizing committee or committees, be it Finance Committee, Government Operations, or Energy and Natural Resources, should have first jurisdiction and decide whether such a provision is applicable to this appropriations bill. As a member of the Appropriations Committee, I know of our ability to handle complex appropriations measures, but I still feel that the right and the jurisdiction of the authorizing committee should be protected as often as possible.

Another concern I have about the inclusion of this provision is that it is an example of what can happen when trade legislation is enacted on a piecemeal basis directed at one specific industry or one specific company or one specific area of the country. Trade legislation must be comprehensive, broad-based, in our national interest, and not destructive of our alliances with countries that are our strong friends and allies. In this instance, one of the countries that could be harmed is Sweden, a country that I understand has a balanced trade with respect to electrical equipment that favors the United States. Sweden, a small country, has recently permitted a United States company to successfully bid on one of its power projects. If Sweden were to enact a reciprocal provision, such as section 506 of the appropriations bill, then our trade deficit would be increased and not decreased by the appropriations conference report. This is the type of problem that is created when trade legislation is enacted on a piecemeal basis, in haste, and where adequate hearings are not held on the subject.

If there is a trade problem with respect to extra-high-voltage electrical equipment, and quite frankly I do not know if there is or not, then it is for the appropriate authorizing committee, and not the Appropriations Committee, to devise a legislative solution that will be in our country's best interest and reduce our trade deficit, and not as this provision may well do which is to increase our trade deficit.

THE UNITED STATES SHOULD STOP SENDING MIXED SIGNALS TO CHILE

Mr. HARKIN. Mr. President, many articles have been written over the last 12 years reviewing United States involvement in the overthrow of Salvador Allende and analyzing current United States policy toward Chile. However, I have recently read what I believe is one of the most thorough and valuable pieces written to date on the subject.

Peter D. Bell, now senior associate at the Carnegie Endowment for International Peace, was the Ford Foundation's representative in Chile from 1970 to 1974. In his writing and testimony before congressional committees, he has contributed enormously to a better understanding of the policy alternatives we face in Chile.

For a better understanding of how we can best promote a peaceful transition to democracy in Chile, I suggest that my colleagues read an article Peter Bell recently wrote for the fall 1985 edition of the World Policy Journal, "Democracy and Double Standards: The View from Chile."

Mr. President, I ask unanimous consent that this article be printed in the RECORD:

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the World Policy Journal, Fall 1985]

DEMOCRACY AND DOUBLE STANDARDS: THE VIEW FROM CHILE

(By Peter D. Bell)

Twelve years after the bloody coup that resulted in the overthrow of the Popular Unity government and the death of Salvador Allende Gossens, Chilean President Augusto Pinochet Ugarte still clings to power. Despite growing opposition, he shows no willingness to permit a democratic opening. His intransigence is the central fact of political life in Chile. Both the Chilean people and U.S. policy toward Chile must confront this reality. The longer the United States supports Pinochet, the longer before his regime fails, and the most dangerous the aftermath will be—both for Chile and for U.S. interests in South America.

Although military regimes have been falling like dominoes throughout South America in recent years, Chile—with perhaps the proudest democratic tradition in the region—has been a tragic exception to this general trend. Pinochet's recalcitrant position is bolstered by the unity of the Chilean Army and the divisions within the political opposition, but it has also been reinforced by the Reagan administration's approach to anticommunist dictatorships in the Third World. The administration has stuck to a policy of "quiet diplomacy"; it avoids weakening anticommunist dictators with public criticism and instead tries using friendly persuasion to get them to mend their repressive ways. He has been able to treat U.S. policy as a show of political support, while turning a deaf ear to any private U.S. criticism of his regime.

The Reagan administration's recent touting of the "return to democracy" in Latin America is a belated effort to identify the United States with the South American trend toward political liberalization—a trend that began before Ronald Reagan's 1980 election and prospered in spite of his administration's "quiet diplomacy." This celebration of the "return to democracy" is also a way to gain greater support, particularly in Congress, for U.S. policy in Central America, which had been widely criticized for its insensitivity to abuses of human rights and civil liberties. By declaring the promotion of democracy to be a central U.S. foreign policy goal, the administration is trying to give moral purpose to the U.S. role on the isthmus and to justify its support for the overthrow of Nicaragua's Sandinista government.

Thus the administration now insists that—as Secretary of State George Shultz put it—"democracy is precisely what is at stake in Central America." In fact, however, the driving force behind current U.S. policy toward both Central and South America is not democracy but anticommunism. Democracy is promoted only when it is judged more effective than support for a particular dictatorship in fighting communism. By encouraging the primitive anticommunism of the Pinochet regime, the administration has actually set back the cause of democracy in Chile. Because he has polarized the country between the extremes of the right and the left, Pinochet has reduced the possibility of a transition to a more open and moderate government and has consequently increased the likelihood of a totalitarian solution.

U.S. INTEREST IN CHILE

Although remote from vital U.S. interests, Chile has occupied a disproportionately large place in U.S. relations with Latin America. What sets Chile apart from its neighbors is its politics. Among Latin American countries, Chile is notable for the length and continuity of its democratic tradition. From 1830 until the military coup of September 1973, Chile suffered only three momentary interruptions in that tradition—first in 1891, and then in 1924 and 1931. Cross-cultural studies of political development in the 1960s ranked Chile among the most advanced democracies in the world, comparable to the Scandinavian countries, England, and the United States. In the decades prior to the coup, Chile's vigorous democracy, with its multiple political parties, strong trade unions, regular elections, free press, open debate, and respect for the rule of law, was a source of national pride and international admiration.

The Chilean political system is further distinguished by the strength of its leftist parties, especially the Socialists and Communists, who probably still command the loyalty of one-quarter to one-third of the population. The fortunes of the Socialists have ebbed and flowed since the founding of the party in the 1930s, and the party has always contained multiple ideological currents in uneasy confluence. The Chilean Communist party, which has often been in bitter rivalry with the Socialists, is the oldest, strongest, and most disciplined communist party in South America. On international issues, it has hewed closely to Moscow's line. At the same time over most of the 50 years prior to the current military dictatorship, the party—despite its Marxist-Leninist rhetoric—abided by the rules of Chile's democracy and participated actively and openly in the political life of the country.

While the political left, with its base in the industrial belts, shantytowns, and mining areas of the country, has been unsually strong by Latin American standards, it has never dominated Chilean politics. During most of the period following World War II, Chileans have divided more or less evenly among the political left, right, and center, coming together in unstable coalitions to elect governments. Over the past 25 years, the centrist Christian Democrats, with a heavily middle-class constituency, have been by far the largest, most broadly based political party, their own orientation—either to the left or the right of center—has been a matter of internal competition and has played a crucial role in shaping Chilean politics as a whole. Prior to the 1973 coup, the conservatives, whose strength had rested in the traditional agrarian and financial sectors, had been losing ground to parties of the center and left; but with the coup, conservative economic interests again became dominant.

The very openness of Chilean democracy, when combined with this delicate balance among its political forces, has made Chile an ideological battleground for both domestic and foreign interests. Nowhere else in Latin America has the election of a Marxist government been a repeated possibility in the postwar period. But the United States, as a world power intent on maintaining a friendly environment in its own hemisphere, has persistently sought to prevent that possibility from becoming a reality.

If there has been any constant in U.S. relations with Chile since World War II, it is this implacable U.S. opposition to the Chilean left. Anticommunism was responsible for U.S. intervention in the political life of the country long before Ronald Reagan's inauguration. In 1964, for example, the Johnson administration sank $4 million into the presidential election of Christan Democrat Eduardo Frei and then committed $600 million in aid to make Frei's "Revolution in Liberty" a showcase for the Alliance for Progress.

In 1970, when President Richard Nixon and Secretary of State Henry Kissinger awoke to Salvador Allende's electoral plurality, they tried frantically to find a way to undo it—"to save the Chileans from their own irresponsibility" as Kissinger stated at the time. Disappointed by the outcome of the democratic process, they sought to subvert it. They first plotted to bribe Chilean congressmen into voting against Allende in a runoff election in Congress and then to goad the Chilean armed forces into a coup by kidnaping Commander of the Army René Schneider. When Allende was inaugurated despite U.S. efforts, Nixon vowed "to make the economy scream." The United States subsequently cut off almost all bilateral aid and blocked most multilateral assistance, thereby sending a message to commercial lenders as well. Finally, the Nixon administration secretly paid out $7 million—worth many times that amount on the Chilean black market—to fortify opposition groups and to subvert the Popular Unity government.

The military coup occurred with a virulence and a vengeance for which the Chileans were prepared. The bombing of the presidential palace and the killing of hundreds, and perhaps thousands, of suspected leftists marked a definitive break with the civil tradition of Chilean politics. Many Chileans who had opposed the Allende regime naively hoped that the military government would be a temporary tidying-up operations, but Pinochet and his military colleagues were committed to a thorough going cleansing of Chile's social and political institutions. They were ready for a war without quarter not only against political parties of the left, but also against an entire political system that, in their view, had permitted the intrusion of alien ideologies that had brought the country to the edge of chaos and civil war.

The military junta, with Pinochet at the head as commander of the army, moved swiftly to dismantle the old political order. Civil liberties were sharply curtailed. Tens of thousands of Chileans were detained without charges; many of them, tortured. Thousands more were dismissed from their jobs in public and private institutions and forced into exile. Congress was closed; leftist political parties were banned; other parties were declared "in recess"; all union activity was suspended; universities were given over to military officers; and the press and other media were heavily censored. In addition, Pinochet established a secret police agency, the dreaded DINA, capable of making political suspects "disappear" in Chile and of assassinating rivals abroad.

Throughout the 1970s, Chileans—traumatized by the economic and political chaos of the last months of the Allende government and, neutralized by Pinochet's show of force against all opponents—manifested little open resistance to the dictatorship. The Catholic Church was the only major institution with the conscience, the independence, and the strength to openly offer assistance to the oppressed. Many Chileans, especially from the middle class, longed only for a return to "normalcy." Thanks to the rapid economic growth of the late 1970s, the military enjoyed a measure of popular support through 1980. The vote of confidence for Pinochet in the plebiscite of January 1978 was undoubtedly "manipulated," as retired air force general and former junta member Gustavo Leigh has recently charged, but it was not a total fabrication.

The Nixon and Ford administrations were satisfied that the fate of the Popular Unity government had ended the Marxist threat to Chile. Their enthusiasm about the coup inured them to the massive human rights violations that were occurring under Pinochet. When U.S. Ambassador David Popper complained to the regime about its abuses, Kissinger recommended that Popper "cut out the political science lectures." At the same time, U.S. bilateral aid increased sixfold in 1974 and tripled again in 1975, and the United States rescheduled official loans of $201 million due in 1974 and $96 million due in 1975. The World Bank, which had closed its window to Chile during the Allende years, extended new loans in 1974 and 1975, as did the Inter-American Development Bank. U.S. commercial banks took their cues accordingly.

Thus U.S. policy in the years immediately before and after the coup linked the United States with the destruction of Chilean democracy. Whether or not the Central Intelligence Agency (CIA) actually participated in plotting the coup, U.S. policy had helped to destabilize the Allende government. The coup was provoked primarily by domestic events, but the United States abetted the deterioration of the Chilean economy and the polarization of Chilean society. After the coup, U.S. generosity toward the military regime suggested gratitude and approval—an impression made so deeply on most Chileans that it could not easily be erased, even if the United States so desired.

Members of the U.S. Congress did express concern about human rights violations in Chile—concern that turned into outrage over DINA's brutal murder of Orlando Letelier, a former Chilean ambassador to the United States and minister of defense under Allende, and Ronni Moffitt, an American friend, on the streets of Washington in 1976. By the beginning of the Carter administration, Congress had passed legislation terminating all military assistance to Chile and instructing U.S. directors to vote against loans to Chile in the multilateral financial institutions. But the impact within Chile of this shift in U.S. policy was dulled by the censorship of the Chilean news media and by the enormous influx of U.S. commercial lending that more than compensated for the decline in bilateral and multilateral aid.

CHILE SINCE 1980

Today, Pinochet's main claim to legitimacy is his contention that 67 percent of Chilean voters approved a new constitution in 1980, even though the plebiscite hardly met the standards of a fair election. The constitution was designed to perpetuate Pinochet's rule as president at least until 1989, to convert the other members of the junta into a "legislative" body, and to lay the groundwork for implementing Pinochet's concept of a "protected democracy"—a "democracy" in which, among other things, the left is excluded. A key provision, aimed at eliminating leftist parties and movements, "outlaws the propagation of doctrines that attack the family, advocate violence, or put forward a concept of society . . . based on the class struggle."

Under the terms of the constitution, which is impossible to amend without the agreement of the military, the first opportunity for a change in national leadership would not occur until 1989, when the junta is to name the sole candidate—quite likely Pinochet himself—for an eight-year term. Congressional elections would occur in 1990. In the interim, it is up to Pinochet and the junta to work out the specific steps toward the "transition," including, for example, the preparation of an electoral register and the formulation of a law governing political parties. The constitution contains provisions that, if observed, would protect many civil liberties and human rights; but it also contains several "'states of exception" and "transitory" powers that have become the norm under Pinochet, legalizing a panoply of repressive measures.

Although much of the current opposition in Chile is directed against Pinochet's repression, it was the deterioration of the economy that prompted the first wave of public demonstrations against the regime in mid-1983. The radical free-market economic policies of the junta's "Chicago boys" made Chile especially vulnerable to the world recession of 1981 and 1982 and to the debt crisis that engulfed all of Latin America. In Chile, as in neighboring countries, bankruptcies proliferated, unemployment soared, and public confidence in the government's capacity to manage the crisis waned. National income, which had been growing at 7 percent annually during the economic boom of the late 1970s, plummeted 14 percent in 1982. Disaffection with the regime was exacerbated by the renewal of widespread human rights abuses, including increased numbers of detentions and instances of torture. It was also bolstered by the popular pressures for the return to democracy that were manifested in Argentina, Uruguay, and Brazil.

A series of national days of protest between May 1983 and October 1984 demonstrated the extent of opposition to the military regime. The movement, which was started by the copper-workers' union to protest the government's economic policies, quickly broadened into a campaign to defend workers' and human rights and to demand the return to democracy. It enlisted the support of other labor unions, political parties, organizations of slum dwellers, student and professional associations, and human rights groups. What seemed most ominous for Pinochet, however, was not the tens of thousands of union members and Communist, Socialist, and Christian Democratic party militants in the streets, but the presence of groups previously supportive of the regime, including shopkeepers' and farmers' associations, the truckers' union, and several conservative political parties.

The protest movements of 1983 and 1984 also showed the depth of the divisions within the opposition and the intransigence of Pinochet. In retrospect, it is difficult to assess whether, if managed differently, the movement might have succeeded in bringing down Pinochet, or at least in forcing a significant political opening. What is clear, however, is that the political parties underestimated Pinochet's tenacity and overestimated their own strength. Their failure to conduct themselves more adroitly set back the momentum for political change. In the first, heady months of protest, leaders of the political parties acted as though Pinochet's resignation was a foregone conclusion and they turned to jockeying for advantage among themselves in anticipation of a provisional government. When the regime did not fall, the Communist and other parties of the left pressed for stepped-up confrontation in the streets; the conservatives pushed for negotiation with the regime toward a gradual transition; and the Christian Democrats, now at the center of a new Democratic Alliance, equivocated, eschewing leftist violence but advocating decisive change. Despite agreement on the urgency of returning to democracy, the leaders of the major parties were divided over how to get there.

Underlying the tactical differences within the opposition—on whether to seek confrontation or to avoid violence, to negotiate with the government or to demand its resignation—were concerns about substantive issues of vital importance. The left, which had borne the brunt of military repression and free-market economic policies, sought to make the state once again serve the workers. The conservatives, many of whom had been pushed to near ruin by the agrarian and economic policies of the 1960s and early 1970s, demanded assurances of private property and social stability. The Christian Democrats and their allies wanted a mixed economy based on a new social compact. Each of the major political groups distrusted the others, remembering how they had insisted on governing alone once in power in the past. It was difficult for them to adjust to a new reality, in which reconciliation and collaboration needed to precede competition.

Pinochet responded to the pressures for change in the manner that is by now characteristic—giving the minimum ground necessary and then taking back every inch possible as soon as he could regain the advantage. For example, he appointed Sergio Onofre Jarpa, a former president of the conservative National Party, as minister of the interior, and announced that he might advance the date for congressional elections, which had been scheduled for 1990. It was widely believed that Jarpa had been charged by Pinochet to initiate a dialogue with the leaders of the moderate opposition. But the "dialogue" proved short-lived. Pinochet pulled the rug out from under Jarpa by publicly stating that he had never authorized political negotiations and that he had changed his mind about congressional elections. For their part, the political parties—which Pinochet frequently denigrates as factions useful only to ambitious, self-serving politicians—had played into his hands by appearing more interested in doctrinal and tactical disputes than in pushing him from power.

While the opposition failed to close ranks, Pinochet maintained strict command over his real base of power, the armed forces. He relied on their loyalty to censor the media, to arrest opposition leaders, and to repress demonstrations—all in an attempt to keep the semblance of order. Air force officers, including General Leigh, who had been dismissed from the junta in 1978, and General Fernando Matthei, who succeeded him, had occasionally registered dissonant notes by suggesting the need for a political opening. But the army—by far the most powerful of the armed forces—appears to have maintained unity in support of Pinochet's hard line. Schooled in the Prussian tradition, the Chilean Army is accustomed to showing complete obedience to its commanders. Besides, all of the senior officers had been promoted to their posts by Pinochet. Their loyalty could only have been stiffened by neighboring Argentina's return to democracy in 1983, and the subsequent imprisonment and trials there of high-ranking officers for human rights abuses. Short of any direct threat to the integrity and survival of the army itself, the officer corps were very unlikely to abandon Pinochet.

Once Pinochet had regained the upper hand against the opposition, he quickly reasserted his dictatorial control in the name of "restoring order." In November 1984, Pinochet abandoned any remaining pretense of flexibility, and declared a 90-day state of siege. Citing increased terrorist attacks by leftist groups, some of which were actually staged by the armed forces, he began a harsher, more systematic crackdown against his opponents. Characteristically, he struck first at the Communists and their working-class strongholds, but he also targeted Christian Democrats and other moderates whom he views as stalking horses for the left.

During the ensuing seven months, Pinochet twice extended the state of siege and used his repressive authority to impose a strict curfew, close six opposition magazines, censor reporting on political or terrorist activities, and prohibit political meetings and demonstrations. The armed forces conducted predawn security sweeps through low-income settlements, detained some 40,000 young men suspected of "antisocial" behavior, and banished 600 political organizers to remote parts of the country. Besides such "lawful" repression, the state of siege signaled the resurgence of rightwing terrorist activity, linked to the armed forces, on a scale unequaled since the years immediately following the coup. By such repressive measures, Pinochet managed to derail the opposition's plans for a national strike and to intimidate and demoralize the democratic parties. He also further polarized Chilean society and gave credence to the extreme left's insistence that only violence could remove him from power.

"EVENHANDED" POLICY

The declaration of the state of siege catapulted Chile into problem status for the Reagan administration and provoked an interagency policy reassessment. For some members of the administration, Pinochet's repressive measures had begun to conjure up images of the Somoza regime in the late 1970s. They feared the possibility of "another Nicaragua"—an escalating struggle between leftist revolutionaries and a pro-U.S. but isolated dictator, with each side reinforcing the other's intransigence. Other participants in the administration's reassessment confirmed their support for Pinochet's obdurate anticommunism. They stressed the divisions within the opposition, the unity of the army, Pinochet's ability to maintain order, and the general uncertainty about who might succeed him. Three courses seemed open: to stand by Pinochet through thick and thin, to break openly with him in favor of the democratic opposition, or to edge toward a more "evenhanded" policy between him and the opposition.

Any searching reassessment would have had to conclude that the United States had received precious little in return for its friendship toward Pinochet. At the beginning of Reagan's first term, the White House had appointed James Theberge, an early public supporter of the coup, as U.S. ambassador, and dispatched several special envoys, including Vernon Walters and Jeane Kirkpatrick, to call on Pinochet. It also announced the renewal of Chilean participation in the UNITAS joint naval exercises and the resumption of U.S. support for loans to Chile from the multilateral banks.

What did these gestures achieve? Within 48 hours of Kirkpatrick's visit, the president of the respected Chilean Human Rights Commission, with whom Kirkpatrick had refused to meet, was forced into exile. Publicly, the administration responded with silence. When protests spread during 1983 and 1984, Theberge backed Jarpa and the move toward a democratic transition that Jarpa was supposed to represent—only to discover, belatedly, that Pinochet had no intention of relinquishing any power. Instead of the political opening that Washington had meekly encouraged, Pinochet declared the state of siege—on the very day that U.S. citizens were voting in the presidential election. If in 1983 and 1984 the administration had taken a more forthright stance, publicly backing the goals of the protest movement and pushing Pinochet to reduce his repression, it might have furthered the cause of political liberalization, or at a minimum deterred Pinochet from calling the state of siege. Instead, by befriending him, trying to nudge him toward an opening but taking care not to offend him, the administration sent mixed signals, which Pinochet used to his own advantage.

Despite the ineffectiveness of its previous approach, the administration's review of relations with Chile produced little real change in U.S. policy. That policy contained four principal elements: to advocate acceptance of the 1980 constitution, including its stipulation that Pinochet remain in power through 1989, as the framework for a "transition to democracy"; to encourage dialogue between the government and the conservative-to-centrist political parties, within that framework; to cut off the left from the democratic opposition, discrediting the Communists in particular as confirmed terrorists; and to press for reforms—termination of the state of siege, preparation of an electoral register, and legalization of non-Marxist political parties—that would ready Chile for a gradual and peaceful political opening.

What did emerge from the administration's reassessment was a subtle shift from easy friendship with Pinochet to uneasy friendship. Although unwilling to risk an open break with him, the administration was no longer comfortable with being viewed as giving him unqualified support. It now knew that the credibility of its calls for democracy depended on putting more distance between itself and Pinochet. Yet—especially in view of Pinochet's worsening repression—major aspects of U.S. policy continued to reinforce the legitimacy of Pinochet's rule, to divide the opposition, and to justify both the violence of and the repression against the left.

This ambivalence has resulted in ineffective policy. U.S. actions have usually been too little, too late, and Pinochet has successfully maneuvered around them, as illustrated by his handling of the state of siege. After Pinochet's initial imposition of the state of siege, the administration issued a series of bland public statements, regretting the escalation of violence and the abridgement of human rights and calling for dialogue between the government and the democratic opposition. The White House also canceled a visit to Chile by General John A. Wickham, Jr., the U.S. army chief of staff, and disclosed Reagan's intention to replace Ambassador Theberge with Harry G. Barnes, Jr., a career diplomat then serving as ambassador to India. The impact of this last move—potentially the most important—was dissipated, at first by the efforts of conservatives to sidetrack the nomination and then by their success in delaying it. This past February, unimpressed by the U.S. pressures, Pinochet not ony extended the state of siege for a second 90-day period but also fired Jarpa as minister of the interior, thus completely closing the door on dialogue with the opposition.

The administration responded by instructing its directors as the multilateral banks to abstain from votes on loans to Chile. In none of these cases, however, did the United States actively lobby against the Chilean requests, which were approved without difficulty. The administration also sent Assistant Secretary of State A. Langhorne Motley and Deputy Assistant Secretary of Defense Nestor Sanchez on missions to Chile, but the effectiveness of their visits was questionable. What these two officials told Pinochet is still not a matter of record, but Motley's public statements seemed designed to assuage Pinochet and his most conservative U.S. supporters. Motley declared that Western democracies owed a "debt of gratitude" to Chile for carrying out the 1973 coup, downplayed the first of the U.S. abstentions on Chilean loans as a sop to congressional critics of administration policy, and assured the world that Chile's destiny was "in good hands."

In May, Pinochet extended the state of siege for yet a third 90-day period. In the words of one State Department official, this provoked the administration "to lower the boom" on the dictator. At that time, Chile had nearly completed critical negotiations with the United States, the multilateral lending institutions, and the commercial banks for a $1.4-billion package of loans to keep the Chilean economy afloat. Approval depended heavily on active U.S. support for three controversial requests to the World Bank—a $50-million loan for an energy development project, a $145-million loan for a highway construction program, and $150-million guarantee of commercial bank loans. By threatening to withhold its backing, the administration finally persuaded Pinochet to lift the state of siege in mid-June. A few days later, however, without taking time to ascertain whether the end of the state of siege meant a real reduction in repression, the administration backed World Bank approval of the Chilean requests—once again displaying the ambivalence that underlies its policy.

Although most opposition leaders in Chile welcomed the lifting of the state of siege, they were not long in realizing that, except for the return of the six previously proscribed magazines and the relaxation of the curfew, it did not mean much in practice. By declaring the continuation of a state of emergency and issuing several supplementary decrees, Pinochet effectively retained most of his repressive powers. Many Chileans wondered aloud not at the success of U.S. pressures but at how little they had actually achieved. The question was whether Pinochet had outmaneuvered the administration, whether the administration had mainly been trying to impress Congress, or whether the administration had indulged in wishful thinking. Each of those interpretations undoubtedly bears some truth.

The lifting of the state of siege—almost as much as its imposition—showed that the Reagan administration's much-vaunted "quiet diplomacy" was only half working in Chile. It had succeeded in reassuring Pinochet about the U.S. need for his friendship, but had not resulted in any significant improvement in human rights or in any movement toward a political opening. From the Chilean perspective, the shift in U.S. policy during the state of siege was scarcely noticeable. Pinochet is not a subtle man. He remained confidential that when push came to shove the Reagan administration would back his militant anticommunism. And although leaders of the democratic opposition might have detected the change from active support of Pinochet to a more ambiguous position, they were disappointed by Washington's indecisiveness. Shortly after the lifting of the state of siege, officials of the centrist parties were still asking when—and whether—the United States would come around to supporting democracy in Chile. In light of Pinochet's near monopoly over the use of force and his determination to remain in power, U.S. "evenhandedness" between the regime and the democratic opposition still looks like backing for Pinochet.

The inconsistencies in U.S. statements and actions concerning democracy in Latin America are not lost on Chileans. Many of them compare Washington's policies toward Chile today with its policies toward Chile during the Allende period and toward Nicaragua under the Sandinistas. Nixon set out to make the economy under Allende "scream" and Reagan wants to make the Sandinistas cry "uncle"—yet at the same time his administration has stressed its determination not to "muscle" into the internal affairs of Pinochet's Chile. The White House has declared unswerving support for the "restoration of democracy" in Nicaragua, a country without democratic tradition—and has made references to the "pendulum swings" between democracy and dictatorship in Chile, which governed itself democratically for more than four decades prior to 1973. Kissinger insisted on rescuing Chileans from their "own irresponsibility" (the choice they freely expressed at the polls in 1970)—while the current administration insists that Chile is in good hands today. Except on the left, Chileans have not reacted to these glaring examples of U.S. double standards with rabid anti-Americanism. But moderate Chileans do convey a deepening cynicism about the United States and about the moral basis of its claim to leadership of the "free world."

HARD LESSONS

The leaders of the democratic opposition have learned some hard lessons in the school of Pinochet's repression—lessons that make them question not just the effectiveness but also the sincerity of U.S. policy toward Chile.

First, the twelve years of Pinochets' dictatorship have made it clear that Pinochet will not negotiate a transition to democracy of his own accord. Under the pretext of fighting lefist terrorism and "protecting" democracy, he has persistently sought to dismantle and silence the entire opposition. He is implacably opposed both to the left and to democracy as such. He did not push through the 1980 constitution to pave the way for a return to democracy; rather, he was trying to legitimize the continuation of his repressive rule. When confronted with the 1983 protest movement, Pinochet designated Jarpa to negotiate a political opening with the opposition. Once he regained the upper hand, Pinochet turned his back on Jarpa, renounced dialogue, and slapped the state of siege on the country. Under U.S. pressure he finally lifted the state of siege, but then took advantage of Washington's indecisiveness by reimposing the state of emergency. The major obstacle to a democratic transition is not the constitution of 1980, deficient though it may be. The major obstacle is Pinochet himself.

Second, in order to overcome this obstacle, the opposition—now the overwhelming majority of Chileans—must forge a unified front. Throughout much of 1983 and 1984, the opposition seemed to be gathering strength. But rivalries and doctrinal disputes between political party chieftains slowed this momentum, and today opposition groups are still divided on important issues. For example, the parties of the left and center vehemently reject the 1980 constitution as a framework for a political transition. In contrast, the conservatives, though they question the constitution's legitimacy, accept it as a starting point for negotiation. The left, having suffered the most from Pinochet's repression, believes that political change will have to be forced by confrontation, whereas the conservative and centrist parties advocate peaceful resistance, refusing to ally themselves with groups committed to violence. Underlying these issues, of course, are basic conflicts of attitude toward the Pinochet legacy and the Communist party. To overcome these differences, the opposition must painstakingly construct a broad civic front, composed not only of political parties but also of the Catholic Church and organizations of workers, women, students, professionals, merchants, and farmers. In late August, with the blessing of Archbishop Juan Francisco Fresno Larrain, leaders from 11 conservative to left-of-center parties advance toward that goal in signing a "National Accord for the Transition to Full Democracy." Partisan dissension must be set aside if Chilean democracy is to be restored.

Third, in order to form the broadest possible democratic movement, the opposition must resolve the question of the Communist party's current and future role—a question that is complicated by the party's present endorsement of "all means," including violence, to combat the dictatorship. In a letter to the central committee of the Communist party last April, Christian Democratic President Gabriel Valdes made it clear that his party would not ally itself with the Communists as long as they continue to espouse violent tactics. The Communists' response justified the use of arms primarily as a way for workers to defend themselves against the regime, but it also acknowedged that reaching an "accord among all democratic forces is fundamental." Despite Pinochet's commitment "to extirpating the Marxist cancer" from Chile, the Communist Party still has deep roots in the country and probably continues to command the loyalty of about 15 percent of the population. In light of the Communists' long adherence to the rules of Chilean politics before the 1973 coup, it is widely assumed—even by conservatives—that they will eventually participate in a restored democracy. But if they want to close ranks with the rest of the opposition, they must forswear violence. In exchange, the centrists and conservatives should recognized that Pinochet must be confronted by mass mobilization.

Fourth, the cause around which Chileans are most likely to mobilize is the holding of fair and open elections, as propounded in the National Accord of last August. Despite persistent ideological differences, Chileans across the political spectrum are now disposed toward compromise and pragmatism on questions of how to organize the economy. The left recognizes the importance of spurring private investment and guaranteeing private property, and the right understands the need to regulate personal wealth and to offer all Chileans a decent livelihood. And unlike Nicaragua or El Salvador, Chile has a long history of deciding its most important questions by democratic elections. Even with the state of siege, the principal labor, student, and professional organizations all held internal elections over the past year, and in almost every case opposition groups joined forces to elect their candidates, usually moderate Christian Democrats. Without question, in a genuine plebiscite on whether to continue the dictatorship or restore democracy, Pinochet would lose. So he rejects free elections in order to ensure his political survival. The more blatantly he is forced to circumvent elections, the weaker will be the perceived legitimacy of his rule.

Finally, once the military sees that the regime is isolated and that the Chilean people seek reconciliation, not retribution, the officer crops may begin to question their loyalty to Pinochet. The National Accord makes clear that the demands for justice during a democractic transition must be in keeping with "the spirit of national reconciliation." Within that spirit, it eschews special tribunals for human rights violations, relying instead on the existing court system. If the question of vengeance is put to rest, then the opposition may be able to convince the military—by unity, by mass mobilization, and by nonviolent resistance—that a political opening is preferable to endless repression. A year ago, just before Pinochet declared the state of siege, Air Force Commander Matthei warned that if a transition to democracy did not begin soon, "we will end up destroying the armed forces more efficiently than any Marxist infiltration can." There have been suggestions of breaches in the traditional unity of the armed forces. In August, General Cesar Mendoza, long regarded as a close ally of Pinochet, was forced to resign as chief of the National Police and member of the junta after policemen were implicated in death squad activities. It was widely speculated that this purge of Mendoza and other police officers resulted from rivalry between intelligence agencies. Matthei's warning may yet prove to have been prescient.

A NEW U.S. POLICY

These lessons, which Chile's opposition has had no choice but to learn, should also be studied by Washington. For they suggest that if the United States is serious about promoting democracy in Chile, it has to change its approach. To begin with, U.S. policymakers must recognize both Pinochet's intransigence and the interest of the United States in distancing itself from him. The administration should not be overly impressed by Pinochet's ability to impose order by force, but should steadfastly commit itself to democracy as the best guarantor of political stability in Chile.

Because the fashioning of a democratic transition is first and foremost a Chilean responsibility, the U.S. role should remain limited. Nevertheless, what the United States does and says matters in Chile—as throughout Latin America. The administration can demonstrate its commitment in a variety of ways; speaking out in favor of democracy, denouncing human rights violations, backtracking on its support for the 1980 constitution, and advocating free and fair elections at an early date. In doing so, the White House would send clear signals to both Pinochet and the opposition—that it was no longer willing to appear complicit in Pinochet's repression and that it was confident in the capacity of Chileans to decide their future for themselves. The United States does not have the power to persuade Pinochet to withdraw from the presidency, but it could pressure him to reduce his repression, which would create opportunity for Chileans to express their opposition and organize themselves for a democratic transition.

Although disappointing in important respects, the U.S. role in the lifting of the state of seige gives a hint of what Washington could do with the requisite commitment. Contrary to the administration's disclaimers, the United States has not lacked leverage in Chile; it has lacked the determination to use it. To exercise this influence, Washington need not threaten special economic sanctions. It must simply implement current U.S. law that requires U.S. opposition to multilateral loans for countries that grossly violate human rights, and it must refuse to go the extra measure on Chile's behalf, as it did in June when it mobilized for Chile in the World Bank.

With the highest foreign debt per capita in South America and with its export earnings down as a result of depressed world prices for copper, Chile is in deep economic trouble that will last into the 1990s. Despite the continued orderliness of its accounts, Chile should, by most objective standards, be considered uncreditworthy. As long as it obtains active U.S. backing, it will probably keep its commercial creditors in tow. But its entire package of international credit—multilateral and commercial—could quickly unravel if Washington became uncooperative. Pinochet has made improvement in the economy a high priority for consolidating his rule. He knows that even his most conservative support might crumble if his repression became a net liability to the economy.

In addition to economic pressures, the United States should use its relations with the Chilean military, the last bastion of Pinochet's power, to convey its advocacy for the return to democracy. For example, it should suspend Chilean participation in the annual UNITAS joint maneuvers—a collaborative activity that Pinochet regards as a symbol of U.S. political support. The administration should also stop making soundings in Congress about renewing military assistance to Chile. The rationale that this would furnish the United States with leverage over Pinochet seems disingenuous. If the real goal is to increase leverage over Pinochet, the U.S.-Chilean economic relationship should be used.

In moving away from Pinochet, Washington should become more accessible to the democratic opposition. The administration has indeed made some progress since its first months in office, when Ambassador Theberge invited only the most conservative, pro-Pinochet political figures to his residence. This past July, the assistant secretary of state for inter-American affairs, Motley, was replaced by Elliot Abrams. In his previous post as head of the Human Rights Bureau, Abrams had been more accessible to the Chilean opposition than any other senior official in the State Department. Neither Secretary Shultz nor National Securities Advisor Robert McFarlane, however, has met with opposition leaders. In May, Reagan denounced Chile as one of four dictatorships—along with Paraguay, Cuba, and Nicaragua—in Latin America. If he takes that position, then to be consistent he should invite the leaders of the 11 opposition parties who signed the National Accords to meet with him at the White House, just as he invited the leaders of the Unified Nicarguan Opposition last April.

Although the United States should forthrightly support the return to democracy and demonstrate its confidence in the democratic opposition, it must not try to engineer the terms of the transition. Specifically, the administration should not interfere in the democratic opposition's relations with the Communists and other leftist elements, as Motley did when he told the Chilean press: "A front or an alliance that includes Communists or Marxists, by definition, is prodemocratic." Including the Communist party within Chilean political system poses some risks, but most Chileans believe that the risks of excluding it are greater. Washington should respect the democratic opposition's efforts to persuade the Communists to renounce their support for armed struggle and to adopt a non-violent stance. By its current policy of adamantly opposing a role for the Communists in any political transition in Chile, the Reagan administration increases the rigidity of both Pinochet and the Communist party. It also impedes the unity among opposition groups that is cruicial to restoring democracy.

The Reagan administration may not be ready to put its full weight behind the return to democracy in Chile. In this case, Congress must make a bipartisan effort to strengthen the administration's resolve and to convey U.S. support for the democratic opposition. Last spring, a resolution of such support was narrowly defeated in the House of Representatives—and the deciding factors was not so much disagreement over Chile as Republican disgruntlement over the seating of an Indian Democrat whose election was in dispute. Since then, the

Western Hemisphere Subcommitee of the House Foreign Affairs Committee has held hearings on Chile at which even Congressman Henry Hyde, an outspoken conservative, declared that Pinochet had outlived his usefulness: "He has held power much too long, and the country is ready, has been ready for a long time for a democratic election." The subcommittee, though bitterly divided on Central American issues, is near a consensus on Chile. This should be crystallized in a congressional resolution calling for early elections and, in the interim, the suspension of joint naval exercises and of U.S. economic backing for Chile.

In addition, the United States should work in concert with its democratic friends in South America and its allies in Western Europe to curb human rights abuses and advance a political opening in Chile. Unlike most of its NATO allies, the United States has opposed the naming of a special human rights reporter on Chile at the United Nations, and it has voted against U.N. condemnation of Chilean abuses. The United States should back the efforts of both the United Nations and the Organization of American States to improve human rights in Chile. Washington should also coordinate its embassy in Santiago with those of its friends and allies, so that there is joint participation in such symbolic activities as the celebration of the tenth anniversary of the Catholic Church's human rights office—an event from which the U.S. Ambassador was noticeably absent last year.

Quasi-governmental and government-funded private organizations can help as well. For example, the Inter-American Foundation, an independent government agency, has a strong record of promoting democratic values and grass-roots organizations in Chile. Last year, instead of criticizing the foundation for not supporting groups close to the regime, Ambassador Theberge should have treated its program as an expression of the commitment to pluralism and democracy shared by the United States and the Chilean people. The private but government-funded National Endowment for Democracy recently made a boldly symbolic grant to La Prensa in Nicaragua, but in Chile its activity has been timid; it has bypassed opportunities to back human rights groups and democratic political organizations. Similarly, the government-funded AIFLD, the regional institute of the AFL-CIO, should stop dividing the labor movement, as it has been doing, and should try to strengthen the capacity of all workers to secure their rights.

In short, the United States should stop sending mixed signals to Chile. The Reagan administration must make it unmistakably clear to Pinochet and to all Chileans that peaceful political activities—across the political spectrum—should be legalized, that an early date for democratic elections should be fixed, and that the civil liberties essential to democratic participation should be respected. For now, Chileans have expressed their opposition to military rule with remarkable moderation and restraint. But the longer Pinochet remains in power, the greater will be the suffering of the Chilean people. Pinochet's intransigence only wears down the reasonableness of the moderate opposition and strengthens the appeal of the militant left, increasing the likelihood of political polarization and massive civil strife.

Earlier this year, in congressional testimony on Central America, Secretary of State Shultz admonished, "If we abandon those seeking democracy, the extremists will gain and the forces of moderation and decency will be victims." His warning would more aptly apply to Chile, with its large internal opposition committed to restoring civil, democratic government. The moderate opposition there does not ask that the United States organize a rebel force on the slopes of the Andes, mine the harbors of Valparaiso, or engage in military maneuvers in neighboring Argentina. They do not want, or expect, the United States to overthrow Pinochet. What they seek is strong, consistent, and public U.S. support for ending repression and reviving political freedom.

If there is to be a democratic transition, Chileans themselves will make it. They may need years to succeed. But our being soft on Pinochet now is both morally indefensible and politically short-sighted. It alienates the great majority of Chileans from the United States and pits us against Chile's future democratic leaders. It also puts us on the side of a regime that will ultimately be viewed as an aberrant chapter in Chile's history. Finally, it cheapens U.S. support for democracy in Central America. Support for democracy, like opposition to dictatorship, is vitiated by double standards.

Mr. HARKIN. Mr. President, I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DOLE. I am just sort of killing time here. We do not seem to be getting anywhere.

COMMENDING MICHAEL STERN

Mr. LONG. Mr. President, this is the last day of the Senate session on which Michael Stern will be an employee of the Senate. Mike Stern has served as a member of the Senate Finance Committee staff for a period of 17 years. He came with us in 1968 and has served continuously since that time.

In 1973, when the late Tom Vail passed away, it was my privilege to promote Mike Stern to be the staff director, at a time when I was the chairman of the Senate Finance Committee. As fortunes changed and the Republican minority became a majority, he became the minority staff director.

During much of the time while he was the staff director, we did not have a minority and majority staff. I would, as chairman, for example, consult with the ranking Republican and the senior Republicans generally, and we would employ our staff to work for the Democrats and Republicans as well, trying to provide both sides with the best information that was available. That is no longer the practice.

But Mike Stern is a veteran of that old system on the Senate Finance Committee where the staff, and particularly the chief of staff, had an equal responsibility to be helpful to both Republicans and Democrats. Mike Stern was admired and respected and beloved by those on both sides of the aisle in that capacity.

He will be leaving us to move into the lush fields of free enterprise at the end of this session. He will find it, from a financial point of view, far more rewarding than it is as a staff member of the U.S. Senate. But I know he will miss us, as we will miss him, because I for one, and I am sure many other Senators, have relied upon Mike and have complete confidence in him.

I have never known Mike Stern to have misrepresented the facts. Every time you asked for any information, you could depend upon an honest, sincere presentation of the information as he knew it. He carried in his head a tremendous wealth of information, particularly in the area of Social Security, unemployment insurance, and social welfare, that would come under the jurisdiction of the Finance Committee. You could ask Mike about almost anything along that line and he could tell you immediately off the top of his head what the answer was.

If he did not have it in his head, somewhat like a human computer, he would have a little chart in his pocket that would have the information. He could tell you how much money was raised and spent for each program in the social welfare area during the last 10 or 20 years, and how much we both raised and spent for all these different things.

Oftentimes, he would carry with him a briefcase. And if we were managing a bill that had to do with something not in his line of complete expertise, where one would need to be a tax lawyer, for example, he had pretty well mastered all of that as well. So we would ask him about something that was not involved at all or relevant to the bill pending before us but, because it may happen to occur to us that we would like to have that information, he would reach down in his briefcase and come up with almost any information one might desire. He seemed to keep all that information at his fingertips or in his briefcase, if not in his head or pocket, available to all Senators.

Mike Stern has one of the best organized minds of any person that I have ever been privileged to know. We will very definitely miss him in the U.S. Senate. At the same time, it is good to know that he will still be in Washington and he will still be available to us from time to time if we wish to call him and have his thoughtful suggestions as to answers to some of our problems.

Mr. President, I send to the desk a resolution which commends Mike Stern for his faithful service to the U.S. Senate and to the Nation and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A resolution (S. Res. 285) commending Michael Stern for his faithful and outstanding

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service to the United States Senate and the Nation.

Mr. LONG. Mr. President, I ask unanimous consent that that resolution remain at the desk and that any Senator who wishes to do so may add his name to it.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I ask unanimous consent that the distinguished chairman of the Finance Committee, Senator Packwood, be added as a cosponsor, along with the majority leader, if that is satisfactory.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, having worked with Mike Stern for a number of years on the Finance Committee, I certainly share the views expressed by the distinguished Senator from Louisiana. Mike is a friend. He is a man of total integrity. He has been very helpful to all of us on the Finance Committee over the years. Regardless of party, the information was always the same—straight. And we appreciate it. The Finance Committee has a reputation for working well in a bipartisan fashion. Much of the credit for this must go to professional staff members like Mike Stern who always seem to be able to gather the information and present the options necessary for us to make judgments on the merits. Mike is a modest man. I cannot recall seeing him quoted much in the papers and magazines. But no one should underestimate how much he added to the efficient operation of the Finance Committee. He has been a great help and he will be missed.

I wish him well as he goes into the private sector. I have kidded him. I said, "I hope you make enough money that you can contribute to my campaign."

But the joking does not mean I have not valued his counsel. He is an outstanding public servant. I know he will do equally as well in the private sector.

Mr. DANFORTH. Mr. President, I ask unanimous consent that I be added as a cosponsor of this resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DANFORTH. Mr. President, I want to join in the comments of Senator Long and Senator Dole with respect to Mike Stern. By Mike Stern's standards and certainly by the standards of the Senator from Louisiana, I am a new kid on the block of the Finance Committee. I have only been on the committee a mere 9 years. But during that 9 years, I have found Mike Stern to be one of the most capable and decent public servants I have known.

During the time I have been on the committee, he was the chief counsel first of the committee staff and then he was the chief Democratic counsel, which he is today. So his role was not really bipartisan since I have been on the committee. He was really representing Senator Long and the Democrats. However, he was always most helpful and most cooperative with all members of the Finance Committee, particularly in my younger years when I was doing crazy things like trying to tax State royalties, things I should have known better, until I was taught a lesson by the Senator from Louisiana.

Mike Stern was always very decent and very fair in all of my dealings with him and with the committee. So I am pleased to join in this resolution and wish Mike well in his future years.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 285) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. Res. 285

Whereas Michael Stern has faithfully served the Senate of the United States as Staff Director and as Minority Staff Director of the Committee on Finance, and the Senate wishes to express its appreciation for his seventeen years of dedicated service to the Senate and to the Nation;

Whereas Michael Stern has discharged the important duties and responsibilities of his position with great distinction;

Whereas Michael Stern has helped guide the Committee on Finance through an extraordinarily active and challenging period of its history;

Whereas the loyalty, judgment, exceptional service, and continuing dedication of Michael Stern have earned for him respect, gratitude, and affection: Now, therefore, be it

Resolved, That the Senate of the United States commends Michael Stern for his faithful and outstanding service to the Senate and the Nation.

Sec. 2. The Secretary of the Senate shall transmit a copy of the resolution to Michael Stern.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MICHAEL STERN

Mr. PACKWOOD. Mr. President, the Senate is soon to lose one of its most valuable employees, Mike Stern, who is to leave the Finance Committee to go off into private enterprise.

I have known Mike since I went on the Finance Committee in January of 1973. As the most junior Republican member on the minority side, Mike would go out of his way to take time to come to my office to teach me about the goings on of the committee, to inform me about taxation, and to teach me about Medicare.

When he was then serving as the principal aid to the chairman, Russell Long, he could still find time to talk to the most junior Republican, and give him hours and hours of time. I have not met in my career a half a dozen, if that, people of his equal who worked for the Senate. I have not met any that are his superior.

I do not grieve his leaving because I understand why he is going, and after 17 years he is entitled to a respite that gives him a few opportunities to know at 9 o'clock in the morning what time he is going home at night, and a chance to share weekends with family that can be planned a week or two ahead of time.

I shall continue to count him as a close friend, and trusted adviser. I hope he will allow me without any limitation to continue to call upon him, and seek his counsel. There is no better in this town.

Mr. ARMSTRONG. Mr. President, I just want to rise to endorse what has been said by the chairman of the Finance Committee, Mr. Packwood, and by the distinguished Democratic leader of the Finance Committee, Mr. Long, about our friend and associate, Mike Stern.

I had exactly the same experience as Mr. Packwood described coming on the committee as a junior Member during the time the Democrats were in the majority, and Mr. Long was the chairman. And the way in which Mike Stern helped me as I know he has other generations of new Members on both sides of the aisle is really an example of the highest traditions of public service.

We serve on that committee as Republicans and Democrats, but I have observed over and over again under both Democratic and Republican leadership that when the chips are down the fundamental qualities of integrity and dedication to good policy, even though we may not always agree what that constitutes, run deep and strong. And one of the people who has kept those ideas alive for a long, long time in the staff and among the members of that committee is Mike Stern.

So I want to join in complimenting and congratulating Mike, and needless to say, wishing him much success as he enters the private sector.

FAREWELL TO MIKE STERN

Mr. BRADLEY. Mr. President, Mike Stern's departure is a genuine loss to the Senate and to the Finance Committee. Mike has served the committee for 17 years. He has been our institutional memory, our conscience, and our counsel all these years and we will truly miss him. His capacity for hard work, his unstinting devotion to the committee, his calm confidence under enormous pressure, and his loyalty have made a lasting impression on all of us.

I am particularly appreciative for Mike's thoughtfulness to me and to my staff when I first arrived in the Senate and to this day. He has always been available to answer questions, explain procedure, give background information, and help me to better serve my constituents. In these respects, Mike is an excellent reflection of the standards of the former chairman and ranking minority member of the Finance Committee, Senator LONG.

I am sure that those same qualities will serve him well in his new profession and I join my colleagues in wishing him every success.

Mr. CRANSTON. Mr. President, I want to take this opportunity to pay special tribute to a member of the Senate staff who is leaving after over 17 years of service in this body. Michael Stern has worked for the Senate since 1968. He has served as a longtime assistant to Senator LONG; in that capacity he has served as the staff director of the Senate Finance Committee from 1973 through 1980, and since 1981 as its minority staff director.

Michael has been an invaluable resource to Members on both sides of the aisle on the Finance Committee and in the Senate at large. His breadth of knowledge, his wise counsel, and his patience in helping carry out the will of the Senate are well-known to many, if not all, Senators.

Michael has on many, many occasions assisted me and my staff in working out complicated problems within the jurisdiction of the Finance Committee. He has always been a true professional in every sense of the word, always willing to help in an objective and thorough way and lend his considerable expertise to the tasks that needed to be performed.

Michael has left his mark upon countless measures acted on by this body, but I recall perhaps most vividly his dedication and commitment to helping gain passage of the 1980 Adoption Assistance and Child Welfare Act—legislation designed to improve the lot of America's forgotten foster children. This legislation was of special interest to me and I recall that—in sharp contrast to the interest displayed as to many other issues before the Finance Committee—there were only a handful of outside groups lobbying for its passage. Nevertheless, Michael put in countless hours and boundless energy helping make sure that his landmark legislation became law.

Michael Stern has served the Senate and the Nation extraordinarily well. My staff and I will miss him deeply. I know that his exceptional legislative and analytical skills, his vast experience and knowledge in the extremely diverse subjects under the Finance Committee's jurisdiction, his keen and insightful mind, and his deep sense of public commitment and public trust will be missed by all who have worked with him.

We wish him all possible success in his new endeavors and have no doubt he will achieve the same success in the private sector that he has achieved in his long career in public service.

Mr. MOYNIHAN. Mr. President, Michael Stern is leaving the U.S. Senate today. May I say—without exaggeration, without hyperbole, as simple description—that it is hard to imagine the Senate Finance Committee, and in consequence the U.S. Senate, going on without him.

Or at least, not as well as it has for the past 17 years—which is to say, for 8 years before this Senator joined this body—while Mike has been here.

According to the fortunes of our great political parties, Mike has served as the committee's majority staff director, and as the minority staff director. Whatever the fortunes of our parties, it was our good fortune to have Mike near our side. He is the chief aide and help to RUSSELL LONG, a giant as well in this body; but he has been much the same to me and I daresay to every member of the Finance Committee.

He brought order; he brought calm; he brought the civility of his own personal integrity to a committee of 20 and a Congress of 100 beset oftimes by crass and grasping pressures on every side in the deliberation of the tax law. To paraphrase another, he was among those blessed and those able to confer blessings.

I will miss him, and so will many others.

HONORING MICHAEL STERN ON HIS LEAVING THE SENATE FINANCE COMMITTEE, U.S. SENATE

Mr. MATSUNAGA. Mr. President, it has been said by wiser men than I, that an ideal Government worker is one who never forgets that he is a public servant, hired to serve the public. Mike Stern has measured up to that standard in all the 9 years that I have served on the Finance Committee and during which time I have known him as staff director and in recent years as chief minority counsel. His proficiency in the performance of his duties and carrying out the responsibilities of his positions have been of the highest order.

Mike will be leaving Government service for more lucrative ventures in the private sector, as announced by the senior Senator from Louisiana [Mr. LONG]. Members of the Finance Committee, and I especially, will miss Mike, for he has been not only a valuable advisor and teacher to me in matters of taxes and finances, but also a dear friend.

I join my colleagues in wishing Mike the best that he deserves in his private ventures, in the hope that our friendship will continue unchanged.

UNANIMOUS CONSENT AGREEMENT—CONFERENCE REPORT ON BUDGET RECONCILIATION

Mr. DOLE. Mr. President, I believe I am now prepared to make a unanimous consent request on the conference report on the budget reconciliation. It has been cleared with the distinguished minority leader, with one good suggestion.

Provided the Senate acts first, I ask unanimous consent that the conference report to accompany H.R. 3128, the budget reconciliation, be considered under the following time agreement: 30 minutes on the conference report, to be equally divided between the Senator from Colorado, Mr. ARMSTRONG, and the Senator from Louisiana, Mr. JOHNSTON, or their designees.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, that has been cleared on this side of the aisle. I also indicated earlier that I had a request from a Senator for a rollcall vote on this matter so that Senators might want to stick around.

Mr. DOLE. I have indicated there would be that vote and maybe a vote on a nomination.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate go into executive session in order to consider the nomination of Terrence M. Scanlon, to be Chairman of the Consumer Product Safety Commission.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nomination will be stated.

CONSUMER PRODUCT SAFETY COMMISSION

The bill clerk read the nomination of Terrence M. Scanlon, of the District of Columbia, to be Chairman of the Consumer Product Safety Commission.

Mr. SIMON. Mr. President, I rise in opposition to this nomination.

I regret taking the time of the Senate at this point in the session. But frankly, this is a nomination that does not bring credit to the administration, nor to the country. I have never met Mr. Scanlon. All I know is he is the wrong person for this kind of a job. It may very well be if he were up for some other spot, I would be standing here supporting him. I have no personal knowledge that questions his integrity. What I do know is that frankly he is to be Chairman of the Consumer Product Safety Commission, and has evidenced an interest in protecting the consumers of this country.

It would be a little bit like—I see my good friend from Colorado here, Senator ARMSTRONG—naming Senator ARMSTRONG as chairman of the Democratic National Committee. He is a fine man. But he should not be chairman of the Democratic National Committee.

Mr. Scanlon has made amply clear he has absolutely no business being Chairman of the Consumer Product Safety Commission.

I note that he was approved by the committee barely. Two members of that side of the aisle voted against approving him in the committee.

My own experience is with the permanent amusement rides where we had some debate on this floor.

I see the chairman of the committee, with whom I debated that point, the Senator from Missouri, Senator DANFORTH, for whom I have great respect. But what happened in 1981 in that huge reconciliation bill was a little line put in there stating that the Federal Government would no longer inspect permanent amusement rides. Since that time fatalities and injuries in permanent amusement rides have gone up.

That I do not blame on Mr. Scanlon. But what did happen after that piece of legislation passed was the Chairman of the Consumer Product Safety Commission, Nancy Steorts, a Reagan appointee, said we ought to be having inspections, we ought to be providing safe rides, and a member of the Commission, Mr. Scanlon, said no. That is not the business of the Federal Government. That is not the business of the Consumer Product Safety Commission.

My friends, what is the business of the Consumer Product Safety Commission? The former Chairman of that Commission, Nancy Steorts, was right. The purpose of that Commission is to protect the consumers, not the manufacturers, not the people who provide the amusement rides, and the people in all the other functions. I think fundamentally we have to ask do we want to Consumer Product Safety Commission? Do we want to protect the public? Do we want to protect the public? If the answer is in the affirmative, then we ought to get someone who is interested in protecting the public, and this gentleman clearly is not. And it is not simply the amusement ride industry where he has been on the wrong side. The Washington Post had a story November 27, 1985, just a few days ago, saying that the Consumer Product Safety Commission does not want to do the job that it ought to be doing for toys.

I ask unanimous consent to insert this article in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Nov. 27, 1985]

NEW TOYS RELATIVELY SAFE, AGAIN

(By Leah Y. Latimer)

The chairman of the Consumer Product Safety Commission had no sooner said yesterday that this year's batch of Christmas toys poses no major new safety risks than one of the commission's members blasted the agency for not looking hard enough into the area of toy safety.

Commissioner Stuart Statler said the CPSC doesn't know about new risks because it has not been vigorously monitoring the toy industry and noted the number of toy-related accidents in 1984 is up over the previous year.

Stressing previous warnings that balloons, toy chests and certain crib toys continue to pose a serious hazard to children, Chairman Terrence Scanlon said, 'There is no number one major threat this year. I am not aware on any compelling problems at this time."

Scanlon credited the scarcity of problems to the recall of 78 hazardous children's products during fiscal year 1985, 10 more than the previous year.

But Statler said budget cutbacks have meant that the commission is not up to date on information about hazardous toys.

Scanlon, a Democrat, is "speaking the truth in terms of what he's not aware of," said Statler, a Republican whose term on the commission ends in 1986. "He would be more aware if we had more resources and more monitoring."

Meanwhile, Ann Brown, head of the consumer affairs committee of Americans for Democratic Action, said her committee had identified a number of hazardous toys and products that have gone unchecked and will name them next week.

Brown said the group will seek CPSC action on the items, currently in stores, that the group's toy experts found were dangerous during a year-long study it conducts annually.

At the kickoff of its annual toy safety campaign in the atrium of the Department of Agriculture, commission and toy industry officials said vigorous enforcement and voluntary standards helped reduce the number of toy-related injuries to 126,000 last year, down from 147,000 in 1977.

In 1983, however, there were 118,000 incidents, according to Statler. "It troubles me that somebody is trying to minimize what appears to be an increase."

The CPSC yesterday stressed the importance of selecting toys suitable for the child's age, supervising children playing with toys, storing toys out of the reach of children for whom they are not intended and keeping toys in good repair.

But its emphasis on parental awareness sparked criticism from some who said the group is leaving too much of the responsibility with parents and is not moving aggressively enough to remove unsafe toys from the market.

Brown called for more mandatory standards and criticized the CPSC for relying on recalls to assure safety. "It's mostly based on when there's a death," Brown said of the recalls, calling for "more anticipation" of problems.

Brown also challenged the voluntary warning labels in place of mandatory redesign of some products, such as balloons, that account for the most toy-related deaths among young children who choke on uninflated ones or pieces of broken balloons. "All they do is keep warning parents. Did you ever try to warn a group of kids at a birthday party?"

Amendments to the Consumer Product Safety Act four years ago limited the adoption of mandatory safety standards until voluntary standards have been tried.

CPSC's Scanlon called more mandatory standards "a foolish thing" because voluntary ones can be adopted much more quickly, assuring safety precautions sooner.

Mr. SIMON. The reality is—incidentally, the person who led the fight here, and I am quoting from the Washington Post, "Chairman Terrence Scanlon said, 'There is no number one major threat this year. I am not aware of any compelling problems at this time.' " That is the general record of the nominee.

I became interested in this question and in the nominee specifically when I was contacted by some people associated with the Commission who said, "If you are going to have a commission and if there is any purpose in having a commission, you ought to have someone who wants to protect the consuming public." Clearly this nominee is not interested in protecting the consuming public. He has demonstrated that over and over and over again. So I urge my colleagues to take a good close look.

I am aware of the phone calls that are being made to the Members of this body in behalf of this nominee. Frankly, the very fact that these phone calls are being made ought to raise some questions in the minds of some people as to why everyone is so interested in having this gentleman as the Chairman of the Consumer Product Safety Commission.

Well, I think I have an idea, and it is not because he is out there fighting for the consumers. I had a phone call on another matter just a couple of days ago from Ralph Nader, and while I was on the phone I asked him what did he think about this particular nominee. What he had to say was a long way from laudatory of this nominee. He suggested that nominee has no business being Chairman of the Consumer Product Safety Commission.

The fundamental question is, Mr. President and my colleagues, Do we want the Consumer Product Safety Commission just to be some icing out there so we look like we are doing something or do we want a Consumer Product Safety Commission that really protects the public? My vote—incidentally, I am going to ask for a rollcall, Mr. President. I ask for the yeas and nays on this nomination.

The PRESIDING OFFICER (Mr. GORTON). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SIMON. The question for this body is, Do we want a vigorous Consumer Product Safety Commission?

My answer is yes. I am going to express that answer by voting "no" on the nomination of Mr. Scanlon, as did a substantial minority in the committee that approved him, including two on the other side who voted against him. If he were up for Ambassador to Luxemburg or something else, I might very well be for him. But in this kind of a position, the public ought to be protected. The public is not being protected by this nominee, who consistently is on the wrong side of things. I urge my colleagues to vote against this nomination.

Mr. PROXMIRE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I ask unanimous consent to lay aside temporarily the nomination of Mr. Scanlon.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF ENERGY

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be discharged from the further consideration of the nomination of Mary Walker. I ask unanimous consent for its immediate consideration.

Mr. BYRD. Mr. President, there is not only no objection to this request; I support it.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will state the nomination.

The assistant legislative clerk read the nomination of Mary L. Walker, of Maryland, to be Assistant Secretary of Energy (Environment, Safety and Health).

Mr. MATTINGLY. Mr. President, reserving the right to object, I would like to ask a question.

I have no objection to this nomination, but I wonder if there will be any further consideration given to the nomination for the GPO. I wonder if that has had any clearance yet at this time.

Mr. DOLE. I am not sure, Mr. President. I understand the Senator from Georgia has discussed it with the Senator from Ohio. Does he feel there might be some light at the end of the tunnel?

Mr. MATTINGLY. I hope so. I wonder if the Democratic leader may have any further information yet.

Mr. BYRD. Mr. President, what is the request?

Mr. MATTINGLY. Mr. President, I ask the Democratic leader if he has heard any more with reference to the GPO nominee, if there is any further objection to bringing his nomination up tonight?

Mr. BYRD. Mr. President, I shall have to say that that has not been cleared, so far as I know, on this side.

Mr. DOLE. There is still hope. We have not gone out yet.

Mr. MATTINGLY. Does the leader feel he might be able to make some contact toward that light at the end of the tunnel the majority leader was talking about with regard to Senator METZENBAUM'S agreement to consider this nomination?

Mr. BYRD. We will go through the normal processes and I shall be in a better position to discuss this with the Senator at that point.

Mr. MATTINGLY. I thank the Senator.

NOMINATION OF MARY L. WALKER

Mr. McCLURE. Mr. President, on December 12, 1985, the Committee on Energy and Natural Resources held a hearing to consider the nomination of Mary L. Walker to be Assistant Secretary for Environment, Safety and Health at the Department of Energy. She has fully complied with the committee's rules requiring submittal of a financial disclosure report and a detailed information statement. I am prepared to recommend Ms. Walker's confirmation.

On September 18, 1985, Secretary Herrington announced a series of initiatives designed to strengthen the environmental protection, safety and health programs of the Department of Energy. One of his actions was to create this new position at the Department. The Assistant Secretary's overall responsibility will be the management of the Department's environmental and safety programs. This will involve compliance reviews with respect to existing standards and requirements, an appraisal of all DOE nuclear facilities to identify health and safety risks, a baseline survey of all DOE facilities to identify environmental problems, and the development of new departmental policies and standards. The Assistant Secretary will also provide technical assistance to the Department's field operations in such areas as new project review and liaison with states and Federal agencies.

Ms. Walker has served as a consultant in the area of environmental and safety matters to Secretary Herrington since June 1985. Prior to that, she was the Deputy Solicitor for the Department of the Interior. In 1982, she joined the Reagan Administration as Deputy Assistant Attorney General in the Land and Natural Resources Division of the Justice Department.

During her confirmation hearing, Ms. Walker stated her view of her role in this newly created position:

> While ensuring that the Department's operations are safe and environmentally sound is the responsibility of every employee, the advice, technical assistance and oversight functions that the Assistant Secretary for Environment, Safety and Health will have are critical to ensuring a uniform Department-wide approach to environmental and safety requirements and a consistency in compliance.

She also expressed her philosophy about the use of our natural resources and the protection of the environment:

> I believe in the wise use of our resources. We should strive to achieve economic development of our energy resources, while at the same time, being careful to minimize any impact on our natural environment. Development of our resources and protection of our environment are not, in my view, inconsistent. In order to be good managers, using the resources we have most effectively, we must know the scope of our existing and potential environmental and safety problems and the priorities among them. We can then be in a position to correct what is wrong in the proper order, giving our first attention to the most critical problems. Through careful and consistent audits and appraisals, we can also take steps to reduce any potential risks.

Mr. President, on behalf of the Committee on Energy and Natural Resources, I recommend Senate approval of the Presidential nomination of Mary L. Walker for the position of Assistant Secretary for Environment, Safety and Health.

The PRESIDING OFFICER. Is there further debate on the nomination of Mary Walker to be an Assistant Secretary of Energy?

Without objection, the nomination is considered and confirmed.

Mr. DOLE. I move to reconsider the vote.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I ask unanimous consent that the President be immediately notified that the Senate has given its consent to this nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

MISCELLANEOUS CHANGES IN LAWS AFFECTING THE COAST GUARD

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 276, H.R. 2466, the Coast Guard bill.

The PRESIDING OFFICER. The bill will be stated.

The assistant legislative clerk read as follows:

A bill (H.R. 2466) to make miscellaneous changes in laws affecting the United States Coast Guard, and for other purposes.

The PRESIDING OFFICER. Is there objection to considering the bill? Without objection, it is so ordered.

The Senate proceeded to consider the bill.

AMENDMENT NO. 1431

(Purpose: To make an amendment in the nature of a substitute)

Mr. DOLE. Mr. President, I send an amendment to the desk in behalf of Senator DANFORTH in the nature of a substitute.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] for Mr. DANFORTH, proposes an amendment numbered 1431.

Strike all after the enacting clause and insert in lieu thereof the following:

That subtitle II of title 46, United States Code, is amended as follows:

(1) In section 2101(14)(C), strike "Material" and substitute "Materials".

(2) Section 2101(21) is amended as follows:

(A) In subclause (A)(ii), strike "crewmember." and substitute "crewmember or other individual engaged in the business of the vessel who has not contributed consideration for carriage on board the vessel.".

(B) Strike subclause (B)(v)–(vii) and substitute the following:

"(v) a guest on board a vessel being operated only for pleasure who has not contributed consideration for carriage on board; or

"(vi) an individual on board a towing vessel of a least 50 gross tons who has not contributed consideration for carriage on board.".

(C) At the end, add the following new subclause:

"(F) on a sailing school vessel, means an individual carried on the vessel except—

"(i) the owner or representatives of the owner;

"(ii) the master or a crewmember engaged in the business of the vessel who has not contributed consideration for carriage and who is paid for services;

"(iii) an employee of the owner of the vessel engaged in the business of the owner, except when the vessel is operating under a demise charter;

"(iv) an employee of the demise charterer of the vessel engaged in the business of the demise charterer;

"(v) a guest on board the vessel who has not contributed consideration for carriage on board; or

"(vi) a sailing school instructor or sailing school student.".

(D) Strike "or a sailing school vessel," in clause (B).

(3) In section 3302(i)(5), strike "charter" and substitute "charterer".

(4) At the end of section 3302, add the following new subsection:

"(k) Only the boiler, engine, and other operating machinery of a steam vessel that is a recreational vessel of not more than 65 feet overall in length are subject to inspection under section 3301(9) of this title.".

(5)(A) Section 3304 is amended as follows:

(i) In the section catchline, strike "Carrying" and substitute "Transporting".

(ii) In subsection (a), strike "carrying cargo that carries" and "vessel." and substitute "transporting cargo that transports" and "vessel if the vessel is otherwise subject to inspection under this chapter.", respectively.

(iii) In subsection (b), strike "Before an individual in addition to the crew is carried" and substitute "Except when subsection (e) of this section applies, before an individual in addition to the crew is transported".

(iv) In subsection (c), strike "The privilege" and substitute "A privilege".

(v) Add at the end the following new subsection:

"(e) The Secretary may by regulation allow individuals in addition to the crew to be transported in an emergency or under section 2304 of this title.".

(B) In item 3304 in the analysis of chapter 33, strike "Carrying" and substitute "Transporting".

(6) In section 3318(f), before clause (1), strike "then" wherever it appears and substitute "than".

(7)(A) Section 3503 is amended as follows:

(i) Insert "(a)" at the beginning of the section.

(ii) Strike the last sentence and substitute "Before November 1, 1993, this section does not apply to a vessel in operation before January 1, 1968, and operating only on the inland rivers.".

(iii) Add at the end the following:

"(b)(1) When a vessel is exempted from the fire-retardant standards of this section—

"(A) the owner or managing operator of the vessel shall notify prospective passengers that the vessel does not comply with applicable fire safety standards due primarily to the wooden construction of passenger berthing areas;

"(B) the owner or managing operator of the vessel may not disclaim liability to a passenger for death, injury, or any other loss caused by fire due to the negligence of the owner or managing operator; and

"(C) the penalties provided in section 3504(c) of this title apply to a violation of this subsection.

"(2) The Secretary shall prescribe regulations under this subsection on the manner in which prospective passengers are to be notified.".

(B) Until the regulations required by clause (7) of this section become effective, the owner or managing operator shall notify prospective passengers in all promotional literature and on each ticket that the vessel does not comply with those standards due primarily to the wooden construction of passenger berthing areas.

(8) In section 3714(a)(4), strike "charter" and substitute "charterer".

(9) Section 4308 is amended by striking "operator" wherever it appears and substituting "individual in charge".

(10) In section 7111, strike "Part" and substitute "part".

(11) In section 7312(e), strike "able seaman-limited" and substitute "able seamen-limited".

(12) Section 8104(k) is amended by striking "watchers" and substituting "watches".

(13) In section 8502(a)(4)(A), strike "Part" and substitute "part".

(14) Chapter 89 is amended as follows:

(A) In item 8903 in the chapter analysis, strike "Uninspected" and substitute "Self-propelled, uninspected".

(B) In the catchline of section 8903, strike "Uninspected" and substitute "Self-propelled, uninspected".

(C) In the text of section 8903, strike "An" and substitute "A self-propelled,".

(15) In section 10709(a)(1), before clause (A)—

(A) strike "then $1,500 in value, and" and substitute "than $1,500 in value, the court,"; and

(B) strike "wages, the court" and substitute "wages,".

(16) Section 12122(a) is amended by adding at the end the following sentence: "Each day of a continuing violation is a separate violation.".

(17) In section 13102(a)(4), strike "coordinate carrying the State" and substitute "coordinate carrying out the State".

(18) Section 13104(b) is amended by inserting after "Secretary" the words "for State recreational boating safety programs".

(19) Chapter 111 is amended as follows:

(A) At the end of the chapter analysis, add the following new item:

"11112. Master's lien for wages.".

(B) At the end of the chapter, add the following new section;

"S11112. Master's lien for wages

"The master of a documented vessel has the same lien against the vessel for the master's wages and the same priority as any other seaman serving on the vessel.".

Sec. 2. (a) The Coast Guard may enter into a lease in excess of one fiscal year to acquire a site on the State pier in New Bedford, Massachusetts, for construction of maintenance assistance team and vessel support facilities on that pier.

(b) Any lease under this section is effective only to the extent that amounts are provided for in appropriations laws.

(c) Notwithstanding section 322 of the Act of June 30, 1932 (40 U.S.C. 278a), and beginning in fiscal year 1986, the Coast Guard may spend appropriated amounts for the construction of fixed facilities and improvements on that portion of the State pier leased from Massachusetts for the use of a maintenance assistance team and Coast Guard vessels.

Sec. 3. Notwithstanding any other law, the Coast Guard Yard, Curtis Bay, Maryland, and the Coast Guard Aircraft Repair and Supply Center, Elizabeth City, North Carolina, are exempt from statutory and administrative personnel ceilings through September 30, 1988.

Sec. 3. The body of water know as Lawyer's Ditch located at block 5000 in the city of Newark, County of Essex, New Jersey, is declared to be a nonnavigable waterway of the United States within the meaning of the General Bridge Act of 1946 (33 U.S.C. 525 et seq.).

Sec. 5. Notwithstanding the last sentence of section 81 of title 14 of the United States Code, the Coast Guard may not, except for the installation of fixed aids to navigation, carry out by contract the determination of the location, or the placement, of aids to maritime navigation in the Intracoastal Waterway in New Jersey.

Sec. 6. The Coast Guard may enter into any agreement or letter of intent with a municipal utility within the Seventeenth Coast Guard District to provide electricity to a Coast Guard facility without complying with the provisions of section 14 of Public Law 98–557.

Sec. 7. (a) There is established a National Offshore Vessel Operators Safety Advisory Committee (hereinafter in this section referred to as the "Committee"). The Committee shall advise, consult with, and make recommendations to the Secretary of the department in which the Coast Guard is operating (hearinafter in this section referred to as the "Secretary") on matters relating to the safety aspects of offshore oil, gas, and other mineral operations subject to regulation by the Secretary. The Secretary shall, whenever practicable, consult the Committee concerning proposed or desirable actions affecting the safety of such offshore operations. Any advice or recommendation made by the Committee to the Secretary shall reflect the independent judgment of the Committee on the matter concerned. The Committee is authorized to make available to Congress any information, advice, and recommendations which the Committee is authorized to give to the Secretary. The Committee shall meet at the call of the Secretary, but in any event not less than once during each calendar year. All proceedings of the Committee shall comply with the Federal Advisory Committee Act (5 U.S.C. App. 1 et seq.).

(b)(1) The Committee shall consist of fifteen members, who have particular expertise, knowledge, and experience regarding the transportation and other technology, equipment, and techniques that are used, or are being developed for use, in the exploration for, or the recovery of, offshore oil, gas, or other mineral resources, as follows:

(A) Two members representing enterprises engaged in the production of oil, gas, or other mineral resources, except that not more than one member may represent companies included on the list of restricted joint bidders prepared by the Department of the Interior;

(B) Two members representing enterprises specializing in offshore drilling;

(C) Two members representing enterprises specializing in the supply of offshore oil, gas, or other mineral exploration or recovery operations by water;

(D) Three members representing general support services for offshore oil and gas activities, including construction, diving, geophysical, and helicopter services;

(E) Two members representing individuals employed in offshore operations;

(F) Two members representing environmental interests; and

(G) Two members representing the general public.

(2) The Secretary shall appoint the members of the Committee after first soliciting nominations by notice published in the Federal Register. The Secretary may request the head of any other Federal agency or department to designate a representative to advise the Committee on matters within the jurisdiction of that agency or department.

(3) The Committee shall elect, by majority vote at its first meeting, one of the members of the Committee as the Chairman and one of the members as the Vice Chairman. The Vice Chairman shall act as Chairman in the absence or incapacity of, or in the event of a vacancy in, the Office of the Chairman.

(4) Terms of members appointed to the Committee shall be for three years, except that the terms of those members first appointed under subsection (c)(1) (A), (B), and (C) shall be for two years. The Secretary shall, not less often than once a year, publish notice in the Federal Register for solicitation of nominations for membership on the Committee.

(c)(1) Members of the Committee who are not officers or employees of the United States shall serve without pay and members of the Committee who are officers or employees of the United States shall receive no additional pay on account of their service on the Committee. While away from their homes or regular places of business, members of the Committee may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code. The Secretary shall furnish to the Committee an executive secretary and such secretarial, clerical, and other services as are considered necessary for the conduct of its business. There are authorized to be appropriated such sums as may be necessary to implement the provisions of this section.

(2) Unless extended by subsequent Act of Congress, the Committee shall terminate five years from the date of enactment of this section.

Sec. 8. Bayou Lafourche, in the State of Louisiana, between Canal Boulevard, city of Thibodaux, Parish of Lafourche and the Southern Pacific Railroad bridge crossing the bayou, city of Thibodaux, Parish of Lafourche, is hereby declared to be a nonnavigable waterway of the United States within the meaning of the General Bridge Act of 1946 (33 U.S.C. 525 et seq.)

Sec. 9. Notwithstanding sections 12105, 12106, 12107 and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883), as applicable on the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation for the following vessels: MARILYN, Maryland registration number MD 3533 AA; ROYAL STAR, Michigan registration number MC 9707 J; ALASKAN SHORES, United States official number 603879; SHEARWATER, United States official number 260827; GYPSY ROSE, California registration number CF 4291 HF; ELIMINATOR, United States official number 507572; PUKA KAI, United States official number 677462; LOBSTER HOUSE, Panama registration number 494-PEXT; JANE E, Bahamian official number 315924; and DIANE M., Bahamian official number 315925, except that such vessels JANE E and DIANE M. may be operated under such documentation only in the waters of the Atlantic Ocean and the Gulf of Mexico.

Sec. 10. Any use or expenditure of funds by the Coast Guard related to the alternation of the Burlington-Nothern Railroad Bridge at mile 6.9 on the Willamette River in Portland, Oregon shall be subject to the first six sections of the Act March 3, 1931 (40 U.S.C. 276a through 276a-5).

Sec. 11. Section 2(a) of the Act entitled "An Act to facilitate increased enforcement by the Coast Guard of laws relating to the importation of controlled substances, and for other purposes," approved September 15, 1980 (21 U.S.C. 955b(a)), is amended by inserting immediately before the period the following: ", except that an event otherwise qualifying as an arrangement under such section does not lose that qualification by the fact that consent to, or the terms of, such arrangement are communicated by radio, telephone, or other similar means, or by how specific such arrangement is as to the vessel to which such arrangement applies".

Sec. 12. The Coast Guard may enter into a cost-sharing arrangement with the City of Cape May, New Jersey under which the City of Cape May will provide necessary roadway improvement on and along Pennsylvania Avenue between Pittsburg and Buffalo Avenues, as abutted by housing owned by the Coast Guard. For purposes of entering into such an arrangement, the Coast Guard may expend from previously-appropriated funds an amount not to exceed $200,000 on a nonrecurring basis.

Sec. 13. Section 2103 of title 46, United States Code, is amended by striking all after "subtitle" the third time it appears and substituting". The Secretary may prescribe regulations to carry out the provisions of this subtitle.".

Sec. 14. Section 4370(a) of the Revised Statutes of the United States (46 U.S.C. App. 316(a)) is amended—

(1) by striking all from "a certificate of registry," through "the Act of June 7, 1918, as amended (U.S.C. 1934 edition, Supp. IV, title 46, sec. 288)," and substituting "a certificate of documentation issued under sections 12106 or 12107 of title 46, United States Code,"; and

(2) by striking "a vessel of foreign registry, or a vessel in distress," and substituting "a vessel in distress".

Sec. 15. Section 3 of the Shipping Act of 1984 (46 U.S.C. App. 1702) is amended—

(1) in paragraph 6, (A) by striking the period at the end of subparagraph (B) and substituting a comma, and (B) by adding at the end thereof the following: "except that the term does not include a common carrier engaged in ocean transportation by ferry boat, ocean tramp, or chemical parcel-tanker. As used in this paragraph, 'chemical parcel-tanker' means a vessel whose cargo-carrying capability consists of individual cargo tanks for bulk chemicals that are a permanent part of the vessel, that have segregation capability with piping systems to permit simultaneous carriage of several bulk chemical cargoes with minimum risk of cross-contamination, and that has a valid certificate of fitness under the International Maritime Organization Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk."; and

(2) in paragraph (18), by striking all from the semi-colon and substituting a period.

Sec. 16. (a) As used in this section, the term—

(1) "commercial fishing industry vessel" means a fishing vessel, fish processing vessel, or fish tender vessel, as those terms are defined in section 2101 of title 46, United States Code;

(2) "Committee" means the Commercial Fishing Industry Vessel Safety Advisory Committee established in subsection (b) of this section; and

(3) "Secretary" means the Secretary of the department in which the Coast Guard is operating.

(b) There is established a Commercial Fishing Industry Vessel Safety Advisory Committee as an advisory committee of the United States Government reporting to the Secretary.

(c)(1) The Committee shall advise, consult with, and make recommendations to the Secretary on matters relating to commercial fishing industry vessels, including—

(A) navigation safety;

(B) safety equipment and procedures;

(C) marine insurance;

(D) vessel design, construction, maintenance, and operation; and

(E) personnel qualifications and training.

(2) The Secretary, and the Secretary of Commerce, shall use the information, advice, and recommendations of the Committee in consulting with other agencies and the public or in formulating policy regarding commercial fishing industry vessels.

(3) The Committee shall meet at the call of the Secretary, but not less often than once during each calendar year.

(4) Any advice or recommendation made by the Committee shall reflect the independent judgment of the Committee on the matter concerned.

(5) The Committee may make available to Congress any information, advice, and recommendations which the Committee is authorized to give to the Secretary.

(d)(1) The Committee shall consist of seventeen members with particular expertise, knowledge, and experience regarding the commercial fishing industry, as follows:

(A) ten members from the commercial fishing industry who reflect a regional and representational balance, and have experience in the operation of commercial fishing industry vessels, or have experience as a crew member or processing line worker on a commercial fishing industry vessel;

(B) two members from each of the following:

(i) underwriters engaged in insuring commercial fishing industry vessels; and

(ii) the general public, including whenever possible, a member of a national organization composed of commercial fishing industry vessel and marine insurance interests; and

(C) one member from each of the following—

(i) naval architects or marine surveyors;

(ii) manufacturers of fishing industry vessel equipment; and

(iii) education or training professionals related to commercial fishing industry vessel safety or personnel qualifications.

(2) At least once each year, the Secretary shall publish a notice in the Federal Register and in newspapers of general circulation in coastal areas soliciting nominations for membership on the Committee. After timely notice is published, the Secretary shall appoint the members of the Committee. A member may be reappointed to any number of terms.

(3) The term of a member is three years, except that—

(A) initially, one-third of the members shall serve a term of one year and one-third of the members shall serve a term of two years, to be determined by lot at the first meeting of the Committee;

(B) initially, terms may be adjusted to coincide with the Government's fiscal year; and

(C) if a vacancy occurs, the Secretary shall appoint a member to fill the remainder of the vacated term.

(4) The Committee shall elect one of its members as the Chairman and one of its members as the Vice Chairman. The Vice Chairman shall act as Chairman in the absence or incapacity of, or in the event of a vacancy in the office of, the Chairman.

(5) The Secretary and the Secretary of Commerce shall, and any other interested agency may, designate a representative to participate as an observer with the Committee. These representatives shall, as appropriate, report to and advise the Committee on matters relating to commercial fishing industry vessels under the jurisdiction of their respective departments. The Secretary's designated representative shall act as executive secretary for the Committee and perform the duties specified in section 10(c) of the Federal Advisory Committee Act (5 U.S.C. App. 10(c)).

(e)(1) The Secretary shall, whenever practicable, except regarding issues which could compromise national security, consult with the Committee concerning the following actions affecting commercial fishing industry vessels—

(A) proposing legislation;

(B) proposing or publishing a regulation;

(C) authorizing or conducting research or a study; or

(D) taking any other major action of the United States Government relating to the Committee's purpose and duties as set forth in subsection (c)(1) of this section.

(2) Consultation with the Committee shall be deemed to satisfy all requirements of title 46, United States Code, for consulting with representatives of the private sector having experience in the operation of commercial fishing industry vessels.

(f)(1) Except as otherwise provided in paragraph (3) of this subsection, a member of the Committee, when attending meetings of the Committee or when otherwise engaged in the business of the Committee, shall serve without pay. While away from their homes or regular places of business, members of the Committee may be allowed travel or transportation expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code.

(2) Any payment made under this subsection shall not render a member of the Committee, a member of the uniformed services (as defined in section 101(3) of title 37, United States Code), or an officer or employee of the United States for any purpose.

(3) A member of the Committee who is a member of the uniformed services or an officer or employee of the United States may not receive additional pay on account of such member's service on the Committee, but a member of the Committee who is a member of the uniformed services shall be allowed travel or transportation expenses under section 5703 of title 5, United States Code, unless such member is otherwise entitled to such expenses under any other provision of law.

(4) The Secretary shall furnish the Committee an executive secretary and such secretarial, clerical and other services as are necessary for the conduct of the Committee's business.

(g)(1) The Committee shall terminate on September 30, 1991.

(2) Two years prior to the date of its termination, the Committee shall submit to the Congress its recommendation as to whether the Committee should be renewed and continued beyond such termination date.

(h) There are authorized to be appropriated such amounts as may be necessary to carry out the provisions of this section.

Sec. 17. Notwithstanding the provisions of the Act entitled "An Act to authorize the Secretary of Commerce to sell two obsolete vessels to Coast Line Company and for other purposes", approved June 3, 1980 (Public Law 96-260; 94 Stat. 435), the Secretary of Transportation shall permit the vessels PICTOR, United States official number 243529, PROCYON, United States official number 244022, and ZELIMA, United States official number 248207, to be scrapped in the foreign market if—

(1) the purchaser of such vessels and the country in which such vessels are to be scrapped are acceptable to the Secretary of Transportation; and

(2) the seller of any such vessel agrees in writing to reimburse the United States a reasonable amount, acceptable to the Secretary of Transportation, of not less than one-half of the profits realized from such sale.

Sec. 18. Notwithstanding any other provision of law or any agreement with the United States Government, the vessels PAUL BUNYAN, United States official number 602272, and JOHN HENRY, United States official number 599294, may be sold to a foreign purchaser or purchasers if—

(1) the person desiring to sell the vessel submits to the Secretary of Transportation and the Secretary of the Navy a written offer under which the Secretary of Transportation may elect to acquire either or both vessels for the National Defense Reserve Fleet or the Secretary of the Navy may elect to acquire either or both vessels for the Ready Reserve Fleet, under the same terms and conditions as those offered by the foreign purchaser or purchasers; and

(2) neither Secretary elects to acquire the vessel within 60 days after the date on which a written offer is submitted to the Secretaries under paragraph (1) of this subsection.

Sec. 19. The Port of Houston Authority bridge over Greens Bayou approximately two and eight-tenths miles upstream of the confluence of Greens Bayou, Texas and the Houston Ship Channel is declared to be a lawful bridge for all proposes of the Act entitled "An Act to provide for the alteration of certain bridges over navigable waters of the United States, for the apportionment of the cost of such alterations between the United States and the owners of a bridge, and for other purposes", approved June 21, 1940 (33 U.S.C. 511 et seq.). The Secretary of the department in which the Coast Guard is operating is authorized to reimburse the owner of the bridge for work done prior to the date of enactment of this section, that would be the responsibility of the United States under the Act of June 21, 1940 (33 U.S.C. 511 et seq.) if performed after the date of enactment of this section, except that such reimbursement shall not exceed $450,000.

Sec. 20. Notwithstanding any other provision of law or of prior contract with the United States, the United States flag tug MOIR, official Coast Guard number 60018, shall not be subject to the requirement of section 506 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1156).

Mr. DANFORTH. Mr. President, I am offering today a committee amendment in the nature of a substitute for H.R. 2466, the Coast Guard miscellaneous provisions bill that passed the House on July 29, 1985.

The provisions of the committee amendment are the result of extensive discussions with representatives of the affected public and are supported by them. The text of the amendment also has been discussed and successfully negotiated with members of the House Merchant Marine and Fisheries Committee to ensure that it will be welcomed and considered favorably and expeditiously.

The first eight sections of the committee's substitute are those of H.R. 2466 as passed by the House with only minor changes. Similarly, section 19 of the committee's substitute is the same as section 10 of H.R. 2466, with only a minor modification.

Sections 9 through 18 and section 20 of the committee's substitute include new provisions relating to conversion, scrapping, sale, and documentation of various vessels, Coast Guard drug enforcement efforts, commercial fishing vessel safety, and other matters which have been carefully negotiated and enjoy unanimous support from the interested public.

Mr. President, the committee amendment reflects a consensus and I ask my colleagues to support it.

Mr. HOLLINGS. Mr. President, there is one provision of this Senate amendment to H.R. 2466 that is of particular value to South Carolina and other States ravaged by the influx of illegal drugs from abroad. This provision, section 12 of the amendment, addresses a question raised in the courts regarding the Coast Guard's law enforcement practices with respect to foreign-flag vessels suspected of drug trafficking.

Under international law, a foreign vessel operating outside of the U.S. 12-mile contiguous zone and territorial sea is generally subject only to the jurisdiction of its flag country. However, U.S. law allows the Coast Guard to board and seize a suspicious foreign-flag vessel on the high seas if permitted to do so by treaty or "other arrangement" with the nation whose flag the vessel is flying.

The typical situation arises after the suspect vessel's master refuses a Coast Guard cutter's request to board. The captain of the cutter then must send his boarding request and supporting information up the chain of command to Coast Guard Headquarters and the State Department. This is usually done by telephone, followed by written message. State Department in turn, through the affected American Embassy, seeks the cooperation of the country whose registry is being claimed. The necessary special arrangement for boarding and possible seizure usually consists of oral communications by the flag nation, confirmed by subsequent messages or diplomatic notes.

Some lower courts have questioned the validity of these special arrangements, asserting that the underlying law calls for a more formal agreement.

The Justice Department, Coast Guard, and other Federal agencies involved in the fight against the illegal drug trade have urged enactment of the clarification contained in section 12. Even under the special arrangements procedure, U.S. law enforcement agencies have an awesome task. As is obvious from the description of this procedure, days can pass while the Coast Guard cutter awaits the flag-country's approval to board. In the meantime rapid weather changes can hamper the cutter's ability to keep in range of the suspect vessel, enough time may elapse to allow escape into a third country's waters, and contraband drugs and other evidence can be disposed of over the side.

Section 12 makes it clear that boarding and seizure authority granted by an agreement via telephone, radio, or other similar means qualifies as a legitimate arrangement under U.S. law. This change will further strengthen Public Law 96-350, which has been very successful in facilitating the convictions of maritime drug smugglers. Prior to the 1980 enactment of that law, which I supported, only 64 percent of those arrested by the Coast Guard were accepted for prosecution, and then only 45 percent of those tried were convicted. In contrast, Coast Guard Seventh District statistics for 1984 indicate that 76 percent of those arrested were accepted for prosecution, and of those cases 85 percent resulted in guilty verdicts in Federal court.

I urge approval of this and other provisions in the Senate amendment to H.R. 2466.

COASTAL ZONE LAW REAUTHORIZATION

Mr. BIDEN. Mr. President, I am pleased to see that the conferees on the budget reconciliation bill included a reauthorization of the Coastal Zone Management Act [CZMA] in the final bill. Although this action means the Senate will not get an opportunity for a separate vote on this important measure, I support the inclusion of the CZMA reauthorization in the reconciliation bill because I believe it removes any uncertainty that may have developed over the future of this program.

The Coastal Zone Act performs a valuable role in helping States develop management plans for their coastal areas—areas that frequently contain some of the most beautiful and environmentally useful but fragile lands in that State. Congress recognized in 1972, when the original Federal Coastal Zone Act was passed, that tremendous economic pressures can be brought to bear on coastal areas because of their value to industrial and commercial interests. These are pressures that reflect the short-term value of developing coastal areas, overlooking the long-term environmental and recreational values of these lands.

Mr. President, the people of Delaware were pioneers in putting into law the mechanisms to protect their coastal areas from unwarranted or damaging development. In 1971, at the initiative of then-Governor Russell Peterson, who has received national recognition for his commitment to environmental concerns, the Delaware Legislature passed a landmark law to provide some balance to the increasing but often conflicting industrial, commercial, and recreational demands on the State's coastline.

I can assure my colleagues in the Senate that Delawareans continue to support the goals of that law, in large part because the benefits of the Coastal Zone Management Act are enjoyed by many and clear to all. I don't think you could find anyone in the State who believes the beaches and marshlands of Delaware would be in nearly the condition they are today if it wasn't for the 1971 law.

When the Federal Government followed suit in 1972 with the CZMA we are reauthorizing today, the stage was set for joint efforts between the States and the Federal Government to work for the orderly development and protection of fragile coastal areas. This is a cooperative effort that has worked well over the years, despite the efforts of some to undermine its long-term goals.

Mr. President, a recent article in the Wilmington News Journal reviewed efforts, both commercial and protective, that have occurred along the roughly 115 miles of Delaware coastline. The impact of the 1971 law has varied from one stretch to another along the coast, but the overall effect, according to a representative of the Delaware Development Office, has been beneficial: "For the nature of Delaware, it's a good idea." Under the provisions of the act, even groups that might normally be in conflict over coastal resources have been able to reach agreement.

As a headline for the article stated, "Government regulation and benevolent owners protect much of the coastline, but development efforts continue." Clearly this is a law which has succeeded in balancing the opposing interests that often arise in coastal areas.

Mr. President, the Federal Coastal Zone Act and the State's coastal zone management plan receive bipartisan support in Delaware. As an example, earlier this year I received a letter from Delaware Governor Michael Castle that goes into more detail as to the benefits that have resulted from the cooperation between Federal, State, and local governments, and the need for a reauthorization of this program. I will ask that the letter be printed at the conclusion of my remarks.

Mr. President, there are some provisions in the reauthorization that I think could be made better, but I believe it has managed to retain the thrust of the original law, and is clearly an improvement over extended uncertainty about the future of the law. The State share of grant funding for research under this act will rise over the life of the bill, but the States should be able to plan and adjust to the gradual decrease in the Federal share.

In contrast to the sudden and draconian cuts proposed year after year by the administration, the terms of the reauthorization bill will allow States to avoid the postponement or cancellation of efforts that are needed to better understand the intricacies of coastal environments, and to take the steps necessary to protect them for future generations.

Mr. President, this congressional recommitment to ensuring balanced use of our Nation's finite and fragile coastal resources will be cheered by Delawareans and more across the Nation.

Mr. President, I ask unanimous consent that the letter from Governor Castle be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

State of Delaware,
Office of the Governor,
April 8, 1985.

Hon. Joseph R. Biden,
U.S. Senate, Russell Senate Office Building, Washington, DC.

Dear Senator Biden: As you are probably aware, the federal Coastal Zone Management Act (CZMA, Public Law 92-583 as amended), was enacted in 1972 to promote the national interest through active state involvement in preservation, protection, wise development, and restoration or enhancement of coastal resources. The CZMA, reauthorized in 1980, provides for a unique partnership between the federal, state and local governments with the participation of the public in the development and implementation of coastal management plans. Federal approval of a state's coastal management plan offers financial assistance through a federal grant program and the promise that federal activities directly affecting the state's coastal zone will be consistent with the plan.

Coastal management plans have been successfully instituted in 35 eligible coastal states and territories, including Delaware (1979). These plans and the federal assistance program have produced new statutes and stricter regulations, and have supported special studies, such as the Governor's Inland Bays Task Force, to better protect critical wetlands, beaches, coastal waters, and public recreation areas. They have fostered important new research into the control of mosquitos and the spread of Phragmites, an undesirable reed which seriously reduces the value of our wetlands. State coastal programs have streamlined permitting processes, fostered closer federal-state coordination, and offered expanded opportunities for intergovernmental cooperation and public participation.

For these reasons, reauthorization of the Federal Coastal Management Program is crucial. Hearings are currently scheduled before Senate and House Committees, with reauthorization legislation before the full Congress this spring. On behalf of the State of Delaware, I urge your fullest support.

I am enclosing for your information a copy of a portion of a resolution adopted by the National Governors' Association on February 25, and a Fact Sheet prepared by the Coastal States Organization. Please contact me or Secretary Wilson if additional materials or information are needed.

Sincerely,

Michael N. Castle, *Governor.*

Coastal Zone Management

I. THE FEDERAL/STATE PARTNERSHIP

The Coastal Zone Management Act [CZMA] of 1972 authorized the framework for the wise stewardship of our Nation's coastal resources. To accomplish this, the CZMA established a unique partnership between Federal, State, and local governments to ensure the balanced consideration among the myriad of competing coastal resource uses. The CZMA encourages coastal States to develop coastal management plans, subject to review and approval by the Federal Government. In addition to its oversight function, the Federal role in the partnership consists of a combination of financial assistance to States and the assurance of consistency of Federal activities with approved State management plans.

To date, the partnership established by the CZMA has been remarkably productive. More than 90 percent of our national coastal areas now fall under a federally approved State coastal management plan. Twenty-eight of thirty-five eligible coastal States and the territories have instituted these plans, and several other States are now in the process of doing so as well.

II. NEED TO CONTINUE THE FEDERAL/STATE PARTNERSHIP

Because of their experience in managing these programs, coastal States and territories have developed a unique expertise for dealing with coastal zone management issues. This expertise will become increasingly important as pressures upon the Nation's finite coastal resources continue to increase. The Nation's coastal areas now contain more than half of our population and that percentage is expected to grow to 80 percent by the year 2000. The coastal areas of the country are increasingly called upon to support a tremendous and often conflicting array of critically important activities: Fisheries development and enhancement; commerce and industrial port development; energy exploration and production; public access and recreation; waterfront restoration and housing; wetland preservation and coastal preservation; etc. In order to provide a national framework which fairly and efficiently considers and balances among all of the uses and users of coastal resources, the State-Federal partnership established by the CZMA must continue. The National Governor's Association believes that it is important for the States to continue to take primary responsibility for implementation and improvement of coastal zone management plans. However, to continue the workable partnership established by the CZMA, it is equally important for the Federal Government to continue to provide States with regulatory incentives and financial assistance.

The PRESIDING OFFICER. The question is on agreeing to the amendment in the nature of a substitute.

The amendment in the nature of a substitute (No. 1431) was agreed to.

The PRESIDING OFFICER. If there be no further amendments to be proposed, the question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 2466), as amended, was read the third time and passed.

Mr. DOLE. I move to reconsider the vote by which the bill passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT OF TITLES 5 AND 39, UNITED STATES CODE

Mr. DOLE. I ask unanimous consent that the Committee on Governmental Affairs be discharged from further consideration of the bill numbered S. 1840 and I ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, there is no objection on this side.

The bill will be stated.

The assistant legislative clerk read as follows:

A bill (S. 1840) to amend titles 5 and 39, United States Code, to revise the authority relating to the payment of subsistence allowances to Government employees for periods of official travel, and for other purposes.

The Senate proceeded to consider the bill.

AMENDMENT NO. 1432

(Purpose: To revise the authority relating to the payment of subsistence and travel allowances to Government employees for official travel, to prescribe standards for the allowability of the cost of subsistence and travel of contractor personnel under Government contracts, and to amend the title)

Mr. DOLE. I send an amendment to the desk on behalf of Senator Stevens and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. Dole], for Mr. Stevens, proposes an amendment numbered 1432.

Strike out all after the enacting clause and insert in lieu thereof the following:

Section 1. This Act may be cited as the "Federal Civilian Employee and Contractor Travel Expenses Act of 1985".

TITLE I—TRAVEL EXPENSES OF FEDERAL CIVILIAN EMPLOYEES

Sec. 101. Section 5701(4) of title 5, United States Code, is amended to read as follows:

"(4) 'per diem allowance' means a daily payment instead of actual expenses for subsistence and fees or tips to porters and stewards;".

Sec. 102. (a) Section 5702 of title 5, United States Code, is amended by striking out subsections (a), (b), (c), and (d) and inserting in lieu thereof the following:

"(a)(1) Under regulations prescribed pursuant to section 5707 of this title, an employee, when traveling on official business away from the employee's designated post of duty, or away from the employee's home or regular place of business (if the employee is described in section 5703 of this title), is entitled to any one of the following:

"(A) a per diem allowance at a rate not to exceed that established by the Administrator of General Services for travel within the continental United States, and by the President or his designee for travel outside the continental United States;

"(B) reimbursement for the actual and necessary expenses of official travel not to exceed an amount established by the Administrator for travel within the continental

United States or an amount established by the President or his designee for travel outside the continental United States; or

"(C) a combination of payments described in subparagraphs (A) and (B) of this paragraph.

"(2) Any per diem allowance or maximum amount of reimbursement shall be established, to the extent feasible, by locality.

"(3) For travel consuming less than a full day, the payment prescribed by regulation shall be allocated in such manner as the Administrator may prescribe.

"(b)(1) Under regulations prescribed pursuant to section 5707 of this title, an employee who is described in subsection (a) of this section and who abandons the travel assignment prior to its completion—

"(A) because of an incapacitating illness or injury which is not due to the employee's own misconduct is entitled to reimbursement for expenses of transportation to the employee's designated post of duty, or home or regular place of business, as the case may be, and to payments pursuant to subsection (a) of this section until that location is reached: or

"(B) because of a personal emergency situation (such as serious illness, injury, or death of a member of the employee's family, or an emergency situation such as fire, flood, or act of God), may be allowed, with the approval of an appropriate official of the agency concerned, reimbursement for expenses of transportation to the employee's designated post of duty, or home or regular place of business, as the case may be, and payments pursuant to subsection (a) of this section until that location is reached.

"(2)(A) Under regulations prescribed pursuant to section 5707 of this title, an employee who is described in subsection (a) of this section and who, with the approval of an appropriate official of the agency concerned, interrupts the travel assignment prior to its completion for a reason specified in subparagraph (A) or (B) of paragraph (1) of this subsection, may be allowed (subject to the limitation provided in subparagraph (B) of this paragraph)—

"(i) reimbursement for expenses of transportation to the location where necessary medical services are provided or the emergency situation exists,

"(ii) payments pursuant to subsection (a) of this section until that location is reached, and

"(iii) such reimbursement and payments for return to such assignment.

"(B) The reimbursement which an employee may be allowed pursuant to subparagraph (A) of this paragraph shall be the employee's actual costs of transportation to the location where necessary medical services are provided or the emergency exists, and return to assignment from such location, less the costs of transportation which the employee would have incurred had such travel begun and ended at the employee's designated post of duty, or home or regular place of business, as the case may be. The payments which an employee may be allowed pursuant to subparagraph (A) of this paragraph shall be based on the additional time (if any) which was required for the employee's transportation as a consequence of the transportation's having begun and ended at a location on the travel assignment (rather than at the employee's designated post of duty, or home or regular place of business, as the case may be).

"(3) Subject to the limitations contained in regulations prescribed pursuant to section 5707 of this title, an employee who is described in subsection (a) of this section and who interrupts the travel assignment prior to its completion because of an incapacitating illness or injury which is not due to the employee's own misconduct is entitled to payments pursuant to subsection (a) of this section at the location where the interruption occurred.".

(b) Section 5702 of such title is further amended by redesignating subsection (e) as subsection (c).

Sec. 103. (a) Subchapter I of chapter 57 of title 5, United States Code, is amended by inserting after section 5706 the following new section:

"§ 5706a. Subsistence and travel expenses for threatened law enforcement personnel

"(a) Under regulations prescribed pursuant to section 5707 of this title, when the life of an employee who serves in a law enforcement, investigative, or similar capacity, or members of such employee's immediate family, is threatened as a result of the employee's assigned duties, the head of the agency concerned may approve appropriate subsistence payments for the employee or members of the employee's family (or both) while occupying temporary living accommodations at or away from the employee's designated post of duty.

"(b) When a situation described in subsection (a) of this section requires the employee or members of the employee's family (or both) to be temporarily relocated away from the employee's designated post of duty, the head of the agency concerned may approve transportation expenses to and from such alternate location.".

(b) The analysis for chapter 57 of title 5, United States Code, is amended by inserting after the item pertaining to section 5706 the following new item:

"5706a. Subsistence and travel expenses for threatened law enforcement personnel.".

Sec. 104. Section 5707 of title 5, United States Code, is amended—

(1) by inserting "(1)" immediately after "(a)";

(2) by inserting the following at the end of subsection (a):

"(2) Regulations promulgated to implement section 5702 or 5706a of this title shall be transmitted to the appropriate committees of the Congress and shall not take effect until 30 days after such transmittal."; and

(3) by inserting at the end thereof the following new subsection:

"(c)(1) The Administrator of General Services shall periodically, but at least every 2 years, submit to the Director of the Office of Management and Budget an analysis of estimated total agency payments for such items as travel and transportation of people, average costs and duration of trips, and purposes of official travel; and of estimated total agency payments for employee relocation. This analysis shall be based on a sampling survey of agencies each of which spent more than $5,000,000 during the previous fiscal year on travel and transportation payments, including payments for employee relocation. Agencies shall provide to the Administrator the necessary information in a format prescribed by the Administrator and approved by the Director.

"(2) The requirements of paragraph (1) of this subsection shall expire upon the Administrator's submission of the analysis that includes the fiscal year that ends September 30, 1991.".

Sec. 105. Section 5724a title 5, United States Code, is amended—

(1) by striking out "instead of" each place it appears in subsections (a)(1) and (a)(2) and inserting in lieu thereof "or";

(2) by striking out "maximum per diem rates prescribed by or under section 5702 of this title" each place it appears and inserting in lieu there of "maximum payment permitted under regulations which implement section 5702 of this title"; and

(3) by striking out "average daily rates" in subsection (a)(3) and inserting in lieu thereof "daily rates and amounts".

Sec. 106. (a) Subchapter II of chapter 57 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 5734. Travel, transportation, and relocation expenses of employees transferred from the Postal Service

"Notwithstanding the provisions of any other law, officers and employees of the United States Postal Service promoted or transferred under section 1006 of title 39, United States Code, from the Postal Service to an agency (as defined in section 5721 of this title), for permanent duty may be authorized travel, transportation, and relocation expenses and allowances under the same conditions and to the same extent authorized by this subchapter for other transferred employees within the meaning of this chapter.".

(b) The analysis for chapter 57 of title 5, United States Code, is amended by inserting after the item relating to section 5733 the following new item:

"5734. Travel, transportation, and relocation expenses of employees transferred from the Postal Service.".

Sec. 107. (a) Section 7(e) of the Technology Assessment Act of 1972 (2 U.S.C. 476(e)) is amended by striking out "a per diem in lieu of subsistence at not to exceed the rate prescribed in sections 5702 and" and inserting in lieu thereof "payments when traveling on official business at not to exceed the payment prescribed in regulations implementing section 5702 and in".

(b) Section 636(g)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2396(g)) is amended by striking out "5702(c)" and inserting in lieu thereof "5702".

(c) Section 4941(d)(2)(G)(vii) of the Internal Revenue Code of 1954 (26 U.S.C. 4941(d)(2)(G)(vii)) is amended by striking out "5702(a)" and inserting in lieu thereof "5702".

(d) Section 456(a) of title 28, United States Code, is amended by striking out "a per diem allowance for travel at the rate which the Director establishes not to exceed the maximum per diem allowance fixed by section 5702(a) of title 5, or in accordance with regulations which the Director shall prescribe with the approval of the Judicial Conference of the United States, reimbursement for his actual and necessary expenses of subsistence not in excess of the maximum amount fixed by section 5702 of title 5" and inserting in lieu thereof the following: "payments for subsistence expenses at rates or in amounts which the Director establishes, in accordance with regulations which the Director shall prescribe with the approval of the Judicial Conference of the United States and after considering the rates or amounts set by the Administrator of General Services and the President pursuant to section 5702 of title 5".

(e) Section 326(b) of title 31, United States Code, is amended by striking out "rates" and inserting in lieu thereof "rates and amounts".

(f) Section 6 of Public Law 90-67 (42 U.S.C. 2477) is amended by striking out "rates" and inserting in lieu thereof "rates and amounts".

TITLE II—TRAVEL EXPENSES OF GOVERNMENT CONTRACTORS

Sec. 201. The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is amended by adding at the end thereof the following new section:

"TRAVEL EXPENSES OF GOVERNMENT CONTRACTORS

"Sec. 24. Under any contract with any executive agency, costs incurred by contractor personnel for travel, including costs of lodging, other subsistence, and incidental expenses, shall be considered to be reasonable and allowable only to the extent that they do not exceed the rates and amounts set by subchapter I of chapter 57 of title 5, United States Code, or by the Administrator of General Services or the President (or his designee) pursuant to any provision of such subchapter. This section shall be implemented in regulations prescribed as a part of the single system of Government-wide procurement regulations as defined in section 4 of this Act.".

Sec. 202. The Administrator for Federal Procurement Policy, in consultation with the Secretary of Defense and the Administrator of General Services, shall undertake a study to determine whether limitations should be placed on payments by executive agencies to Government contractors for costs incurred by contractor employees for transportation and relocation. The Administrator for Federal Procurement Policy shall submit within 280 days after the enactment of this Act a report thereon to the appropriate committees of the Congress.

TITLE III—EFFECTIVE DATE

Sec. 301. (a) The Administrator of General Services shall promulgate regulations implementing the amendments made by sections 101, 102, 103, 104, and 106 of this Act not later than 150 days after the date of enactment of this Act. The amendments made by title I of this Act shall take effect on the effective date of such regulations, or 180 days after the date of enactment of this Act, whichever occurs first.

(b) The amendments made by section 201 of this Act shall take effect 30 days after the effective date of the amendments made by title I.

Amend the title so as to read as follows: "To amend title 5, United States Code, to revise the authority relating to the payment of subsistence and travel allowances to Government employees for official travel; to prescribe standards for the allowability of the cost of subsistence and travel of contractor personnel under Government contracts; and for other purposes."

Mr. STEVENS. Mr. President, today I am introducing, along with Senator John Warner, an amendment to my earlier bill dealing with the question of the proper per diem rate to be paid Federal employees. This bill is entitled the "Federal Civilian Employee and Contractor Travel Expenses Act of 1985". This amendment incorporates my previous bill and several added features in a similar bill in the House. It revises certain provisions of title 5 relating to subsistence allowances by removing the statutory ceilings and revising the methods of reimbursement for official travel. Title 41 will also be amended to impose the limits established under title 5 for travel costs of contractors.

Currently, per diem rates for Federal travelers are set by the Congress. The last time these rates were changed was 1980. The present maximum rate of $75 for high cost areas, $50 for other areas, is woefully inadequate. The term "high cost" has lost its meaning as has the value of the $75 limit.

Inadequate reimbursement rates require many Federal travelers to cover some of their official travel expenses out of pocket. This is not the message we want to deliver to our work force. This is even more insulting considering that we are constantly asking Federal employees to help the Nation fight the budget deficit by maintaining their current pay.

Reimbursement for travel to high cost areas, which cover 402 of the 470 areas recently studied, requires using the actual expense method. To be reimbursed, employees must submit a detailed account, item by item, of each day's expenses along with receipts. Not only is this time consuming but it is also an irritant when employees prepare the vouchers.

In addition to lifting the statutory dollar ceiling, this legislation would also eliminate the actual expense reimbursement method for travel. This bill empowers the Administrator of the GSA to prescribe the methods for reimbursement. The GSA has projected an annual reduction of administrative costs of $54 million by using the lodgings plus per diem method contained in this bill, which is favored by the GSA. Because travel costs vary considerably from city to city, the GSA will periodically conduct a survey of travel costs allowing the Administrator to administratively set reimbursement costs. The rates would be locality based. This method would require only a lodgings receipt. In fact, several agencies have already been participating in experimental programs along these lines. This legislation would establish a uniform reimbursment system for all agencies. It provides for reimbursement of transportation expenses for employees who because of illness or emergency abandon official business travel prior to completion. Subsistence and travel expense for law enforcement personnel and immediate families who have to be evacuated from their homes because of job related threats may also be reimbursed.

The amendment affecting contractor employees is to be implemented in regulations prescribed as a part of the single system of Government-wide procurement regulations. And finally, it permits the Judicial Conference to set reimbursement rates considering the rates and amounts set by the Administrator of General Services and the President. This will also correct an oversight in existing law by giving executive agencies the authority to reimburse employees transferring from the Postal Service for their travel, transportation, and relocation expenses. Prior to 1970, postal employees had this entitlement.

In summary, I am convinced these changes proposed are long overdue. They are much fairer to the Federal employee, greatly reduce administrative processes, and send a positive message to our official travelers.

I ask that the sectional analysis be printed in the Record at this time.

The material referred to follows:

Section-By-Section Analysis

Section 1. This section provides for a short title of the bill. It may be cited as the "Civilian Employee and Contractor Travel Expenses Act of 1985".

TITLE I—TRAVEL EXPENSES OF FEDERAL CIVILIAN EMPLOYEES

Section 101. This section amends section 5701(4) of title 5, the definition of "per diem allowance" to mean a daily payment instead of actual expenses for subsistence and fees or tips.

Section 102. Section 102(a) amends section 5702 of title 5 by deleting subsections (a), (b), (c) and (d) and inserting the following:

(a)(1) provides for an employee traveling on official business away from his/her duty station to be entitled to one of the following:

(A) a per diem allowance at a rate set by the Administrator of General Services for travel within the continental United States and by the President or designee for travel outside the continental United States;

(B) reimbursement for the actual and necessary expenses not to exceed an amount established by the Administrator for travel within the continental U.S. or by the President for travel outside the continental U.S.; or

(C) a combination of (A) and (B).

(a)(2) provides that a per diem allowance or maximum reimbursement be established by locality, to the extent feasible.

(a)(3) requires the Administrator of General Services through regulation to prescribe the method of payment for travel of less than a full day.

(b)(1) provides for reimbursement for an employee on official business who abandons the travel assignment prior to its completion because of emergency situations.

(b)(1)(A) provides that an employee is entitled to reimbursement for transportation and subsistence expenses to the employee's duty post, home or place of business when travel is abandoned because of an incapacitating illness or injury not due to misconduct.

(b)(1)(B) provides for reimbursement to an employee for transportation and subsistence expenses to the employee's duty post, home or place of business when travel is abandoned because of a personal emergency such as an illness or death of a family member or flood or fire. Reimbursement is subject to approval by an appropriate agency official.

(b)(2) provides for an employee described in subparagraph 3(A) and (B) with agency approval to be reimbursed for transportation expenses to a location for medical services or where the emergency situation exists, payments for subsistence until the location is reached and reimbursements and payments for return to the assignment. It also provides that the amount of reimbursement shall be the employee's actual costs of transportation to the emergency location and return to assignment from such location less the costs of transportation which would have been incurred had the travel began and ended at the employee's post of duty, home, or place of business.

Section 102(b) further amends section 5702 by redesignating subsection (e) as (c).

Section 103(a) provides for amending subchapter I of Chapter 57 of title 5 by adding after section 5706 a new section:

Section 5706(a) Subsistence and travel expenses for threatened law enforcement personnel (a) provides that the head of an agency may approve subsistence payments for employees who serve in law enforcement, investigative or similar capacity, and their immediate families when moved to temporary living accommodations because of job related threats, (b) provides that the head of an agency may approve transportation expenses for an employee referred to in (a) when the employee and/or family is temporarily relocated from his/her post of duty.

Section 103(b) provides for amending the analysis for chapter 57 by adding the new item: "5706a. Subsistence and travel expenses for threatened law enforcement personnel."

Section 104 provides that regulations implementing section 5702 or 5706a shall be transmitted to appropriate committees of the Congress and shall not take effect for 30 days after transmittal. It further provides that the Administrator of General Service shall periodically report, at least every 2 years, to the Office of Management and Budget on costs for travel, transportation and relocation. The reporting requirements expire with the fiscal year ending September 30, 1991.

Section 105 provides for several technical and conforming changes to section 5724a.

Section 106(a) provides for amending Subchapter II of chapter 57 of title 5 to add a new section, "5734. Travel, transportation and relocation expenses of employees transferred from the Postal Service." This new section provides that travel, transportation, and relocation expenses may be authorized for employees who transfer from the Postal Service to executive branch agencies.

Section 106(b) provides for amending the analysis for chapter 57 to add the new item, "5734. Travel, transportation, and relocation expenses of employees transferred from the Postal Service".

Section 107 provides for several technical and conforming amendments to the Technology Assessment Act of 1972, Foreign Assistance Act of 1961, the Internal Revenue Code of 1954, title 31 and title 42. It also provides for the Director of the Judicial Conference of the United States to prescribe rates for subsistence expenses with the approval of the Judicial Conference taking into consideration the rates or amounts set by the Administrator of General Services.

TITLE II—TRAVEL EXPENSES OF GOVERNMENT CONTRACTORS

Section 201 amends the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) by adding a new section 24, "Travel Expenses of Government Contractors", which provides that travel costs for contractor personnel under contract with any executive agency may not exceed the rates and amounts set by the Administrator of General Services or the President.

Section 202 provides for the Administrator of Federal Procurement Policy, in conjunction with the Administrator of General Services and the Secretary of Defense, to undertake a study to determine whether limitations should be placed on payments for costs for transportation and relocation for contractor employees.

TITLE III—EFFECTIVE DATE

Section 301(a) provides for the Administrator of General Services to promulgate regulations implementing sections 101, 102, 103, 104, and 106 no later than 150 days following enactment. The amendments made by Title I shall take effect on the effective date of the regulations or 180 days after enactment, whichever occurs first.

Section 301(b) provides for the amendments made by section 201 to take effect 30 days after the effective date of the Title I amendments.

The **PRESIDING OFFICER**. The question is on agreeing to the amendment.

The amendment (No. 1432) was agreed to.

The bill is open to further amendment. If there be no further amendment to be proposed the question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading and the bill to be read a third time.

The bill (S. 1840), as amended, was read the third time and passed, as follows:

S. 1840

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. This Act may be cited as the "Federal Civilian Employee and Contractor Travel Expenses Act of 1985".

TITLE I—TRAVEL EXPENSES OF FEDERAL CIVILIAN EMPLOYEES

Sec. 101. Section 5701(4) of title 5, United States Code, is amended to read as follows:

"(4) 'per diem allowance' means a daily payment instead of actual expenses for subsistence and fees or tips to porters and stewards;".

Sec. 102. (a) Section 5702 of title 5, United States Code, is amended by striking out subsections (a), (b), (c), and (d) and inserting in lieu thereof the following:

"(a)(1) Under regulations prescribed pursuant to section 5707 of this title, an employee, when traveling on official business away from the employee's designated post of duty, or away from the employee's home or regular place of business (if the employee is described in section 5703 of this title), is entitled to any one of the following:

"(A) a per diem allowance at a rate not to exceed that established by the Administrator of General Services for travel within the continental United States, and by the President or his designee for travel outside the continental United States;

"(B) reimbursement for the actual and necessary expenses of official travel not to exceed an amount established by the Administrator for travel within the continental United States or an amount established by the President or his designee for travel outside the continental United States; or

"(C) a combination of payments described in subparagraphs (A) and (B) of this paragraph.

"(2) Any per diem allowance or maximum amount of reimbursement shall be established, to the extent feasible, by locality.

"(3) For travel consuming less than a full day, the payment prescribed by regulation shall be allocated in such manner as the Administrator may prescribe.

"(b)(1) Under regulations prescribed pursuant to section 5707 of this title, an employee who is described in subsection (a) of this section and who abandons the travel assignment prior to its completion—

"(A) because of an incapacitating illness or injury which is not due to the employee's own misconduct is entitled to reimbursement for expenses of transportation to the employee's designated post of duty, or home or regular place of business, as the case may be, and to payments pursuant to subsection (a) of this section until that location is reached; or

"(B) because of a personal emergency situation (such as serious illness, injury, or death of a member of the employee's family, or an emergency situation such as fire, flood, or act of God), may be allowed, with the approval of an appropriate official of the agency concerned, reimbursement for expenses of transportation to the employee's designated post of duty, or home or regular place of business, as the case may be, and payments pursuant to subsection (a) of this section until that location is reached.

"(2)(A) Under regulations prescribed pursuant to section 5707 of this title, an employee who is described in subsection (a) of this section and who, with the approval of an appropriate official of the agency concerned, interrupts the travel assignment prior to its completion for a reason specified in subparagraph (A) or (B) of paragraph (1) of this subsection, may be allowed (subject to the limitation provided in subparagraph (B) of this paragraph)—

"(i) reimbursement for expenses of transportation to the location where necessary medical services are provided or the emergency situation exists,

"(ii) payments pursuant to subsection (a) of this section until that location is reached, and

"(iii) such reimbursement and payments for return to such assignment.

"(B) The reimbursement which an employee may be allowed pursuant to subparagraph (A) of this paragraph shall be the employee's actual costs of transportation to the location where necessary medical services are provided or the emergency exists, and return to assignment from such location, less the costs of transportation which the employee would have incurred had such travel begun and ended at the employee's designated post of duty, or home or regular place of business, as the case may be. The payments which an employee may be allowed pursuant to subparagraph (A) of this paragraph shall be based on the additional time (if any) which was required for the employee's transportation as a consequence of the transportation's having begun and ended at a location on the travel assignment (rather than at the employee's designated post of duty, or home or regular place of business, as the case may be).

"(3) Subject to the limitations contained in regulations prescribed pursuant to section 5707 of this title, an employee who is described in subsection (a) of this section and who interrupts the travel assignment prior to its completion because of an incapacitating illness or injury which is not due to the employee's own misconduct is entitled to payments pursuant to subsection (a) of this section at the location where the interruption occurred.".

(b) Section 5702 of such title is further amended by redesignating subsection (e) as subsection (c).

SEC. 103. (a) Subchapter I of chapter 57 of title 5, United States Code, is amended by inserting after section 5706 the following new section:

"§ 5706a. Subsistence and travel expenses for threatened law enforcement personnel

"(a) Under regulations prescribed pursuant to section 5707 of this title, when the life of an employee who serves in a law enforcement, investigative, or similar capacity, or members of such employee's immediate family, is threatened as a result of the employee's assigned duties, the head of the agency concerned may approve appropriate subsistence payments for the employee or members of the employee's family (or both) while occupying temporary living accommodations at or away from the employee's designated post of duty.

"(b) When a situation described in subsection (a) of this section requires the employee or members of the employee's family (or both) to be temporarily relocated away from the employee's designated post of duty, the head of the agency concerned may approve transportation expenses to and from such alternate location.".

(b) The analysis for chapter 57 of title 5, United States Code, is amended by inserting after the item pertaining to section 5706 the following new item:

"5706a. Subsistence and travel expenses for threatened law enforcement personnel.".

SEC. 104. Section 5707 of title 5, United States Code, is amended—

(1) by inserting "(1)" immediately after "(a)";

(2) by inserting the following at the end of subsection (a):

"(2) Regulations promulgated to implement section 5702 or 5706a of this title shall be transmitted to the appropriate committees of the Congress and shall not take effect until 30 days after such transmittal."; and

(3) by inserting at the end thereof the following new subsection:

"(c)(1) The Administrator of General Services shall periodically, but at least every 2 years, submit to the Director of the Office of Management and Budget an analysis of estimated total agency payments for such items as travel and transportation of people, average costs and duration of trips, and purposes of official travel; and of estimated total agency payments for employee relocation. This analysis shall be based on a sampling survey of agencies each of which spent more than $5,000,000 during the previous fiscal year on travel and transportation payments, including payments for employee relocation. Agencies shall provide to the Administrator the necessary information in a format prescribed by the Administrator and approved by the Director.

"(2) The requirements of paragraph (1) of this subsection shall expire upon the Administrator's submission of the analysis that includes the fiscal year that ends September 30, 1991.".

SEC. 105. Section 5724a title 5, United States Code, is amended—

(1) by striking out "instead of" each place it appears in subsections (a)(1) and (a)(2) and inserting in lieu thereof "or";

(2) by striking out "maximum per diem rates prescribed by or under section 5702 of this title" each place it appears and inserting in lieu thereof "maximum payment permitted under regulations which implement section 5702 of this title"; and

(3) by striking out "average daily rates" in subsection (a)(3) and inserting in lieu thereof "daily rates and amounts".

SEC. 106. (a) Subchapter II of chapter 57 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 5734. Travel, transportation, and relocation expenses of employees transferred from the Postal Service

"Notwithstanding the provisions of any other law, officers and employees of the United States Postal Service promoted or transferred under section 1006 of title 39, United States Code, from the Postal Service to an agency (as defined in section 5721 of this title), for permanent duty may be authorized travel, transportation, and relocation expenses and allowances under the same conditions and to the same extent authorized by this subchapter for other transferred employees within the meaning of this chapter.".

(b) The analysis for chapter 57 of title 5, United States Code, is amended by inserting after the item relating to section 5733 the following new item:

"5734. Travel, transportation, and relocation expenses of employees transferred from the Postal Service.".

SEC. 107. (a) Section 7(e) of the Technology Assessment Act of 1972 (2 U.S.C. 476(e)) is amended by striking out "a per diem in lieu of subsistence at not to exceed the rate prescribed in sections 5702 and" and inserting in lieu thereof "payments when traveling on official business at not to exceed the payment prescribed in regulations implementing section 5702 and in".

(b) Section 636(g)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2396(g)) is amended by striking out "5702(c)" and inserting in lieu thereof "5702".

(c) Section 4941(d)(2)(G)(vii) of the Internal Revenue Code of 1954 (26 U.S.C. 4941(d)(2)(G)(vii)) is amended by striking out "5702(a)" and inserting in lieu thereof "5702".

(d) Section 456(a) of title 28, United States Code, is amended by striking out "a per diem allowance for travel at the rate which the Director establishes not to exceed the maximum per diem allowance fixed by section 5702(a) of title 5, or in accordance with regulations which the Director shall prescribe with the approval of the Judicial Conference of the United States, reimbursement for his actual and necessary expenses of subsistence not in excess of the maximum amount fixed by section 5702 of title 5" and inserting in lieu thereof the following: "payments for subsistence expenses at rates or in amounts which the Director establishes, in accordance with regulations which the Director shall prescribe with the approval of the Judicial Conference of the United States and after considering the rates or amounts set by the Administrator of General Services and the President pursuant to section 5702 of title 5".

(e) Section 326(b) of title 31, United States Code, is amended by striking out "rates" and inserting in lieu thereof "rates and amounts".

(f) Section 6 of Public Law 90-67 (42 U.S.C. 2477) is amended by striking out "rates" and inserting in lieu thereof "rates and amounts".

TITLE II—TRAVEL EXPENSES OF GOVERNMENT CONTRACTORS

SEC. 201. The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is amended by adding at the end thereof the following new section:

"TRAVEL EXPENSES OF GOVERNMENT CONTRACTORS

"SEC. 24. Under any contract with any executive agency, costs incurred by contractor personnel for travel, including costs of lodging, other subsistence, and incidental expenses, shall be considered to be reasonable and allowable only to the extent that they do not exceed the rates and amounts set by subchapter I of chapter 57 of title 5, United States Code, or by the Administrator of General Services or the President (or his designee) pursuant to any provision of such subchapter. This section shall be implemented in regulations prescribed as a part of the single system of Government-wide procurement regulations as defined in section 4 of this Act.".

SEC. 202. The Administrator for Federal Procurement Policy, in consultation with the Secretary of Defense and the Administrator of General Services, shall undertake a study to determine whether limitations should be placed on payments by executive agencies to Government contractors for costs incurred by contractor employees for transportation and relocation. The Administrator for Federal Procurement Policy shall submit within 180 days after the enactment of this Act a report thereon to the appropriate committees of the Congress.

TITLE III—EFFECTIVE DATE

SEC. 301. (a) The Administrator of General Services shall promulgate regulations implementing the amendments made by sections 101, 102, 103, 104, and 106 of this Act not later than 150 days after the date of enactment of this Act. The amendments made by title I of this Act shall take effect on the effective date of such regulations, or 180 days after the date of enactment of this Act, whichever occurs first.

(b) The amendments made by section 201 of this Act shall take effect 30 days after the effective date of the amendments made by title I.

Mr. DOLE. I move to reconsider the vote.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VETERANS' COMPENSATION AMENDMENTS OF 1985

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of H.R. 1538.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 1538) to amend title 38, United States Code, to provide a 3.4-percent increase in the rates of compensation and dependency and indemnity compensation [DIC] paid by the Veterans' Administration.

AMENDMENT NO. 1433

Mr. DOLE. Mr. President, I send an amendment to the desk in the nature of a substitute on behalf of Senator MURKOWSKI, Senator CRANSTON, and others, and ask for its immediate consideration.

The **PRESIDING OFFICER**. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] for Mr. MURKOWSKI, Mr. CRANSTON, Mr. KERRY, Mr. HEINZ, and Mr. SPECTER, proposes an amendment numbered 1433.

Mr. **DOLE**. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans' Compensation Rate Increase and Job Training Amendments of 1985".

TITLE I—DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION RATE INCREASES

SEC. 101. DISABILITY COMPENSATION.

(a) IN GENERAL.—Section 314 of title 38, United States Code, is amended—

(1) by striking out "$66" in subsection (a) and inserting in lieu thereof "$68";

(2) by striking out "$122" in subsection (b) and inserting in lieu thereof "$126";

(3) by striking out "$185" in subsection (c) and inserting in lieu thereof "$191";

(4) by striking out "$266" in subsection (d) and inserting in lieu thereof "$274";

(5) by striking out "$376" in subsection (e) and inserting in lieu thereof "$388";

(6) by striking out "$474" in subsection (f) and inserting in lieu thereof "$489";

(7) by striking out "$598" in subsection (g) and inserting in lieu thereof "$617";

(8) by striking out "$692" in subsection (h) and inserting in lieu thereof "$713";

(9) by striking out "$779" in subsection (i) and inserting in lieu thereof "$803";

(10) by striking out "$1,295" in subsection (j) and inserting in lieu thereof "$1,335";

(11) by striking out "$2,255" in subsection (k) and inserting in lieu thereof "$1,659" and "2,325", respectively;

(12) by striking out "$1,609" in subsection (l) and inserting in lieu thereof "$1,659";

(13) by striking out "$1,774" in subsection (m) and inserting in lieu thereof "$1,829";

(14) by striking out "$2,017" in subsection (m) and inserting in lieu thereof "$2,080";

(15) by striking out "$2,255" each place it appears in subsections (o) and (p) and inserting in lieu thereof "$2,325";

(16) by striking out "$968" and "$1,442" in subsection (r) and inserting in lieu thereof "$998" and "$1,487", respectively;

(17) by striking out "$1,449" in subsection (s) and inserting in lieu thereof "$1,494"; and

(18) by striking out "$280" in subsection (t) and inserting in lieu thereof "$289".

(b) SPECIAL RULE.—The Administrator of Veterans' Affairs may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

SEC. 102. ADDITIONAL COMPENSATION FOR DEPENDENTS.

Section 315(1) of title 38, United States Code, is amended—

(1) by striking out "$79" in clause (A) and inserting in lieu thereof "81";

(2) by striking out "$312" and "$42" in clause (B) and inserting in lieu thereof "$136" and "$43", respectively;

(3) by striking out "$54" and "$42" in clause (C) and inserting in lieu thereof "$56" and "$43", respectively;

(4) by striking out "$64" in clause (D) and inserting in lieu thereof "$66";

(5) by striking out "$143" in clause (E) and inserting in lieu thereof "$147"; and

(6) by striking out "$120" in clause (F) and inserting in lieu thereof "$124".

SEC. 103. CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS.

Section 362 of title 38, United States Code, is amended by striking out "$349" and inserting in lieu thereof "$360".

SEC. 104. DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES.

Section 411 of title 38, United States Code, is amended—

(1) by striking out the table in subsection (a) and inserting in lieu thereof the following:

"Pay grade	Monthly rate	Pay grade	Monthly rate
E-1	$491	W-4	$703
E-2	505	O-1	621
E-3	518	O-2	640
E-4	552	O-3	686
E-5	566	O-4	725
E-6	578	O-5	799
E-7	607	O-6	900
E-8	640	O-7	973
E-9	[1] 669	O-8	1,067
W-1	621	O-9	1,145
W-2	645	O-10	[2] 1,255
W-3	664	xl	xl

"[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $772.

"[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,345.";

(2) by striking out "$55" in subsection (b) and inserting in lieu thereof "$57";

(3) by striking out "$143" in subsection (c) and inserting in lieu thereof "$147";

(4) by striking out "$70" in subsection (d) and inserting in lieu thereof "$72".

SEC. 105. DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN.

Section 413 of title 38, United States Code, is amended—

(1) by striking out "$240" in clause (1) and inserting in lieu thereof "$247";

(2) by striking out "$345" in clause (2) and inserting in lieu thereof "$356";

(3) by striking out "$446" in clause (3) and inserting in lieu thereof "$460"; and

(4) by striking out "$446" and "$90" in clause (4) and inserting in lieu thereof "$460" and "$93", respectively.

SEC. 106. SUPPLEMENTAL DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN.

Section 414 of title 38, United States Code, is amended—

(1) by striking out "$143" in subsection (a) and inserting in lieu thereof "$147";

(2) by striking out "$240" in subsection (b) and inserting in lieu thereof "$247"; and

(3) by striking out "$122" in subsection (c) and inserting in lieu thereof "$126".

SEC. 107. EFFECTIVE DATE.

The amendments made by this title shall take effect as of December 1, 1985.

TITLE II—VETERANS' JOB TRAINING AMENDMENTS

SEC. 201. EMERGENCY VETERANS' JOB TRAINING ACT AMENDMENTS.

(a) SHORT TITLE.—(1) The first sentence of section 1 of Public Law 98-77 (29 U.S.C. 1721 note) is amended to read as follows: "This Act may be cited as the 'Veterans' Job Training Act'.".

(2) Any reference in any Federal law to the Emergency Veterans' Job Training Act of 1983 shall be deemed to refer to the Veterans' Job Training Act.

(b) ELIGIBILITY.—Section 5(a)(1)(B) of the Veterans' Job Training Act, as redesignated by subsection (a), is amended by striking out "fifteen of the twenty" and inserting in lieu thereof "10 of the 15".

(c) COUNSELING.—Section 14 of such Act is amended—

(1) by inserting "(a)" before "The"; and

(2) by adding at the end the following new subsection:

"(b) The Secretary—

"(1) shall provide for a program under which periodic (not less than monthly) contact is maintained with each veteran participating in a program of job training under this Act for the purposes of avoiding unnecessary termination of employment, referring the veteran to appropriate counseling if necessary, and facilitating the veteran's successful completion of such program; and

"(2) after consultation with the Administrator, shall provide for a program of counseling services designed to resolve difficulties that may be encountered by veterans during their training under this Act and shall advise all veterans and employers participating under this Act of the availability of such services and other related counseling services and assistance and encourage them to request such services and assistance whenever appropriate.".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 16 of such Act is amended—

(1) by inserting "and $65,000,000 for fiscal year 1986" after "1985"; and

(2) by striking out "1987" and inserting in lieu thereof "1988".

(e) TOLLING OF CERTAIN PERIOD.—Section 17 of such Act is amended—

(1) by striking out "Assistance" and inserting in lieu thereof "(a) Except as provided in subsection (b), assistance";

(2) in clause (1), by striking out "February 28, 1985" and inserting in lieu thereof "January 31, 1987";

(3) in clause (2), by striking out "July 1, 1986" and inserting in lieu thereof "July 31, 1987"; and

(4) by adding at the end the following new subsection:

"(b) If funds for fiscal year 1986 are appropriated for the purpose of making payments to employers under this Act but are not both so appropriated and made available by the Director of the Office of Management and Budget to the Veterans' Administration on or before February 1, 1986, for such purpose, assistance may be paid to an employer under this Act on behalf of a veteran if the veteran—

"(1) applies for a program of job training under this Act within 1 year after the date on which funds so appropriated are made available to the Veterans' Administration by the Director; and

"(2) begins participation in such program within 18 months after such date.".

(f) Effective Date.—(1) Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) The amendment made by subsection (e)(2) shall take effect on February 1, 1986.

SEC. 202. COORDINATION.

(a) In General.—In carrying out section 1516(b) of title 38, United States Code, the Administrator of Veterans Affairs shall take all feasible steps to establish and encourage, for veterans who are eligible to have payments made on there behalf under such section, the development of training opportunities through programs of job training consistent with the provisions of the Veterans' Job Training Act (as redesignated by section 201(a)(1) of the Act so as to utilize programs of job training established by employers pursuant to such Act.

(b) Directive.—In carrying out such Act, the Administrator shall take all feasible steps to ensure that, in the cases of veterans who are eligible to have payments made on their behalf under both such Act and section 1516(b) of title 38, United States Code, the authority under such section is utilized, to the maximum extent feasible and consistent with the veteran's best interests, to make payments to employers on behalf of such veterans.

Amend the title so as to read: "An Act to amend title 38, United States Code, to provide a 3.1-percent increase in the rates of disability compensation and of dependency and indemnity compensation paid by the Veterans' Administration; to make improvements in veterans' job training programs; and for other purposes."

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. Mr. President, I rise in support of an amendment in the nature of a substitute to H.R. 1538, that would provide a 3.1-percent cost-of-living [COLA] for service-connected veterans and their survivors and dependents, effective December 1, 1985.

Where has the year gone? The first session of the 99th Congress is practically over and yet much remains undone. I am extemely disappointed that even though this session has lasted practically until Christmas, we have not accomplished many important goals.

The 3.1-percent COLA was originally passed by the Senate on December 2, 1985, in S. 1887, in the proposed Veterans' Compensation Benefits Improvements Act of 1985; however, unfortunately, the House and Senate were unable to resolve their differences on several provisions in this legislation. To avoid a further delay in the COLA, the House and Senate agreed to consider the provision of the 3.1-percent COLA in the proposed Omnibus Budget Reconciliation Act of 1985.

In a year when saving money has been at the forefront of everyone's mind, the conference report on the Omnibus Budget Reconciliation Act of 1985, has not been completed. Title XIX of this legislation contained provisions relating to veterans' programs which were projected to save more than $1.26 billion over the next 3 years.

Therefore, in order to expedite the provision of the COLA for service-connected disabled veterans, I am supporting the adoption of the 3.1-percent COLA in a separate bill. The House passed H.R. 1538, which would provide a 3.4-percent COLA for service-connected disabled veterans. This legislation was referred to the Senate and held at the desk, just in case a time such as this arose when the Congress might need to act expeditiously in order to ensure a COLA for service-connected disabled veterans before adjournment sine die. The House has agreed to a 3.1-percent COLA in our reconciliation conference report. The automatically indexed COLA for Social Security and VA pension recipients will also be 3.1-percent for fiscal year 1986.

In addition to the COLA, this amendment would also extend the Emergency Veterans' Job Training Act for a year beginning February 1, 1986. Both the House, in H.R. 1408, and the Senate, in S. 1887, have passed extensions of this veterans' job training program. This amendment reflects the compromise version of S. 1887. Employment for veterans is too important an issue to delay until next year. We are reminded of this by the November unemployment rates which show Vietnam veterans aged 30 to 44 with a rate three-tenths of 1 percent higher than their nonveteran counterparts.

It is with significant disappointment that I view the inability of the House and Senate to compromise on S. 1887, and related House-passed bills. The main stumbling block was the House's refusal to accept the VA loan guaranty reforms that I offered. The Loan Guaranty Program is, without question, in dire need of tighter credit underwriting standards, and other significant reforms to ensure that the program moves toward solvency. It is not the intent of this important benefit to allow a veteran to purchase a home he or she cannot afford. The numbers of foreclosures continues at approximately 2,500 a month. This year, the VA requested over $400 million to cover program losses. This practice must stop. The veteran home buyer is an important beneficiary who deserves a program that will protect his or her interests.

The Congressional Budget Office [CBO] estimated that my loan guaranty provisions would have saved over $300 million in fiscal year 1986-89. Although somewhat belatedly, this legislation was endorsed by the VA in a side-by-side submitted by the VA general counsel, as well as by the Housing Roundtable, and other housing and lending professional organizations. I intend to make the enactment of this legislation my highest priority for the second session of the 99th Congress.

The House indicated that the only reason they would not consider this legislation was because they did not have sufficient time to hold hearings. I trust that will not be the case next year.

Mr. President, I do regret that the COLA is not part of a comprehensive bill based on legislation contained in Senate-passed S. 1887; however, due to the circumstances, I endorse strongly the passage of H.R. 1538, as amended to provide, effective December 1, 1985, a 3.1-percent COLA for those veterans who are the highest priority group of VA beneficiaries—those with service-connected disabilities and their dependents and survivors.

VETERANS' COMPENSATION RATE INCREASE AND JOB TRAINING AMENDMENTS

Mr. CRANSTON. Mr. President, as the ranking minority member of the Committee on Veterans' Affairs, I rise in support of the pending amendment which Chairman Murkowski and I are offering in the nature of a substitute to H.R. 1538. This amendment is derived from S. 1887, the proposed "Veterans' Compensation and Benefits Improvements Act of 1985", which the Senate passed on December 2, 1985. It would provide for a 3.1-percent increase in the rates of disability compensation paid to service-connected disabled veterans and the rates of dependency and indemnity compensation paid to the survivors of those who die from service-connected causes. It would also extend, improve, authorize additional appropriations for, and rename the Emergency Veterans' Job Training Act of 1983.

COMPENSATION AND DIC RATE INCREASES

The VA's service-connected disability compensation program is at the very heart of our Nation's system of veterans' benefits. The priority that is attached to the needs of service-connected disabled veterans and the survivors of those who have made the ultimate sacrifice is well-known and well-established. The more than 2.2 million veterans who suffer from disabilities resulting from their service and the 342,000 survivors of those who died from service-connected disabilities are and will remain our committee's No. 1 priority. They are certainly mine.

Thus, Mr. President, I'm delighted that the pending amendment would provide for a compensation and DIC COLA equal to the increase being made this year in Social Security and VA pension benefits—3.1 percent. Consistent with the precedent we established last year in the VA compensation COLA bill, Public Law 98-543, as well as in the Reconciliation bill, Public Law 98-369, this increase would be effective on December 1, 1985, the same date as the indexed COLA's for Social Security and VA pension. As our committee has noted many times in the past and throughout this year, we continue to be committed to maintaining this approach.

I also note that, by virtue of section 156(e)(1)(A) of Public Law 97-377, a fiscal year 1983 continuing appropriations measure enacted on December 21, 1982, the enactment of this COLA would automatically result in a 3.1-percent increase, effective on December 1, in survivors' reinstated, social-security-like benefits paid under section 156 of Public Law 97-377 to certain surviving spouses with minor children.

Mr. President, the House proposed this year, as is evidenced by the underlying measure, H.R. 1538, that we proceed with a 3.4-percent COLA, splitting the difference between the 3.7-percent increase passed by the House in H.R. 3128 and the Senate's 3.1-percent increase in S. 1887. By passing this amendment, the Senate will be insisting on a 3.1-percent increase.

It should be noted, Mr. President, that it is true that last year we did not, regrettably, increase compensation rates by exactly the same percentage as the Social Security COLA. The Social Security COLA turned out to be 3.5 percent and the compensation COLA we enacted before we knew the CPI amount was 3.2 percent.

However, at that same time we moved forward by 4 months the effective date of the COLA—from April 1, 1985, to December 1, 1984. This acceleration of the COLA was a major benefit to all compensation/DIC recipients in fiscal year 1985.

In the case of veterans with disabilities rated 10-, 20-, or 30-percent disabling, there was no dollar difference in the monthly rate between a 3.1-percent COLA and a 3.5-percent COLA. However, because the effective date was moved forward by 4 months, these veterans all received more in fiscal year 1985 than they would have otherwise had the date not been moved up. In the case of 30-percent disabled veterans, this meant $24 more in fiscal year 1985 than if the effective date had been left at April 1 and a 3.5-percent COLA had been enacted.

In the case of veterans rated 40- through 70-percent disabled, the difference between the two COLA percentages was $1 per month. However, in the case of a veteran rated 60-percent disabled, for example, the earlier effective date meant $55 more in fiscal year 1985 in compensation than would have been paid with a 3.5-percent COLA increase, effective on April 1.

One last example—in the case of veterans rated 100-percent disabled, the dollar difference between the COLA's was $4 a month. The earlier effective date, however, meant $140 more in fiscal year 1985 than if a 3.5-percent COLA had been granted effective April 1, 1985.

Thus, Mr. President, in light of the effect of the earlier effective date and in consideration of the great urgency to control Federal spending, I concur in the Senate position that a 3.1-percent COLA is the appropriate adjustment.

If, in future years, there is again a disparity between the amount of the Social Security COLA and the VA compensation COLA we enact before the amount of the Social Security COLA is known, I would certainly carefully and sympathetically consider the need and justification for a restoration of the percentage-point difference in establishing the rate of a subsequent compensation increase.

EMERGENCY VETERANS' JOB TRAINING ACT AMENDMENTS

Mr. President, in addition to providing for these increases in VA compensation and DIC benefits, our amendment would extend, improve, rename, and authorize new appropriations for the Emergency Veterans' Job Training Act of 1983 (EVJTA) enacted as Public Law 98-77. A number of the provisions in the amendment are derived from legislation I introduced on October 3, S. 1733, the proposed "Veterans' Job Training Amendments of 1985." Joining with me as cosponsors of that measure—which was designed to extend, make improvements in, and authorize the appropriation of additional funds for EVJTA are the distinguished Senator from Massachusetts [Mr. Kerry] as well as three of my fellow members of the Veterans' Affairs Committee, the distinguished Senators from Hawaii [Mr. Matsunaga], Arizona [Mr. DeConcini], and West Virginia [Mr. Rockefeller], which were incorporated into an amendment that Chairman Murkowski and I offered on the floor to S. 1887, the proposed "Veterans' Compensation and Benefits Improvements Act of 1985," which the Senate approved on December 2.

As the original Senate author of Public Law 98-77—along with the distinguished former chairman of the committee [Mr. Simpson]—and of the extension of the program enacted last year in Public Law 98-543, I am intensely interested in this job training program. Indeed, on July 30, I joined with the distinguished chairman of the committee [Mr. Murkowski] in offering an amendment that was approved by the Senate in the veterans' health bill—S. 876—to extend the period of time that veterans have to enter training under this job training program. A provision derived from our amendment that would extend that period until July 1, 1986, was incorporated into S. 1671 and signed into law on Monday, September 30, as Public Law 99-108.

CURRENT STATUS OF PROGRAM

Mr. President, the EVJTA Program provides cash incentives to employers to hire and train certain long-term unemployed Vietnam-era and Korean-conflict veterans. It has at the present time expired in one respect. The period during which veterans could apply for participation in an EVJTA job training position expired on February 28, 1985. However, as I noted, the period during which veterans who have been certified as eligible for the program may enter training, which had expired on September 1, 1985, has been extended to July 1, 1986, by virtue of the enactment of Public Law 99-108, enacted on September 30, 1985.

EVJTA originally authorized the appropriation of $150 million for each of 2 fiscal years—1984 and 1985. However, only $150 million was appropriated for fiscal year 1984—approximately $142 million of which was made available for the implementation of the job training program itself. The program presently has a carryover balance from that $150 million appropriation of some $15-20 million, which is being used to place previously certified eligible veterans. Since September 30, when the program was reopened for previously certified veterans, more than 750 veterans have been placed in training positions through the use of these carryover funds.

Since its inception, more than 403,500 applications were received from veterans for participation in training under EVJTA, and almost 52,900 employers have been approved for more than 124,000 job slots. More than 37,000 veterans have entered into training under EVJTA. According to an evaluation of the program—carried out under contract with the Veterans' Administration—those who completed the program had an average hourly wage of $6.77; the completion rate for veterans who entered training under the program was estimated to be 44 percent; and the direct cost of training per participant was estimated to be $3,000.

NEED FOR LEGISLATION

During the Senate's consideration of S. 876 on July 30, the distinguished Senator from Massachusetts [Mr. Kerry] raised the issue of further extending and expanding the EVJTA Program, and the Chairman and I expressed certain reservations about proceeding with extension legislation at that time. (Cong. Rec., S10395, July 30, 1985.) The result was an agreement which led to the Committee's September 12 hearing regarding the program. Senator Kerry testified very movingly and persuasively. All testimony, except for that of the Administration, urged extension of the EVJTA Program. After careful consideration of the issues raised at that hearing, I concluded that more can and should be done under EVJTA but that certain program improvements were called for before we extend the program or provide further funding.

Thus, the measure we introduced on October 3 would reopen the program for new applications by eligible veterans and would also make a number of improvements in the program designed to overcome program weaknesses revealed by our hearings and the VA program evaluation—especially the high veteran drop-out rate—and to take into account empoyers' general satisfaction with the program.

On October 24, the distinguished Chairman introduced S. 1788, the proposed "Veterans' Benefits and Improvements Act of 1985", which contained his proposal for an extension of the program. We then worked together closely in developing the provisions that were, by virtue of our floor amendment to S. 1887, approved by the Senate on December 2.

Subsequently, during negotiations with the House Committee on Veterans' Affairs on S. 1887, H.R. 1408, H.R. 2343, and H.R. 2344, a compromise was developed, with respect to EVJTA, between the House-passed EVJTA bill, H.R. 1408, and the Senate's provisions. The amendment we are offering now embodies that compromise, which I would like to describe briefly.

AUTHORIZATION OF APPROPRIATIONS

First, Mr. President, our amendment would authorize the appropriation of $65 million for fiscal year 1986—to remain available through fiscal year 1988—for the EVJTA program. The House figure was $75 million and the Senate figure was $55 million. We split the difference. The Senate figure of $55 million when added to the President's fiscal year 1986 budget estimate for fiscal year 1986 outlays for the program, $35 million, approximated the amount estimated in that budget for fiscal year 1985 outlays under EVJTA, $88 million.

EXTENSION OF PERIODS TO APPLY FOR PARTICIPATION AND TO ENTER TRAINING

Second, the amendment contains the Senate-passed provisions from S. 1887 that would—effective on February 1, 1986—provide an additional year for veterans to apply for participation in the program and an additional 18 months for veterans to enter into job training programs under the Act. The amendment would further provide—as did the Senate bill—that in the event new funding for the program were not made available to the VA by OMB by February 1, these periods would be extended for a period of time equal to the period between that date and the date on which funds are made available.

PREVIOUSLY CERTIFIED ELIGIBLE VETERANS

One of the concerns I raised during the Senate's consideration of S. 876 and at the committee's hearings on September 12 was that a reopening of the program to new applicants would have the effect of causing those veterans already in the EVJTA pipeline who had not yet been placed in training—principally because they were more difficult to place—to be bypassed by VA and Department of Labor personnel involved with implementation of the program, including disabled veteran outreach specialists and local veterans' employment representatives, and by employers who would focus on veterans who are easier to place and more job ready. As I previously noted, under current law, veterans were required to apply for participation in the EVJTA Program by February 28, 1985, and, by virtue of the enactment of Public Law 99-108, have until July 1, 1986, to enter training. Setting the effective date at February 1 for the reopening of the program for new applicants, as our amendment would do and as the Senate bill did—coupled with permitting entry into EVJTA training by veterans who had certifications of eligibility but who have not yet been placed—is designed to enable the VA and the Department of Labor to direct their efforts for the next 2 months to assisting those veterans who are likely to be those most in need of employment assistance—those who are not job-ready and who have hardcore unemployment difficulties.

Mr. President, it should be noted that those veterans who have been certified for the program, who are still unemployed, and who have not yet been placed in training under EVJTA are quite likely to have special problems in obtaining and retaining employment. Not surprisingly, the VA's evaluation of the program found that employers tended to select the most employable among the veterans certified for program participation. Thus, I concluded that the VA and the Department of Labor needed to strengthen their efforts to assist veterans under EVJTA during the recently enacted extension and will need to explore ways to provide special types of assistance, particularly in the area of employment counseling to reduce the disturbingly high noncompletion rate. I have strongly urged both agencies to do a better job in this area.

Also, during an October 3 hearing of the Veterans' Affairs Committee I recommended to the VA's Chief Benefits Director, John Vogel, and he agreed with my recommendation that the VA send a letter to all certified veterans who had not yet been placed in training positions under EVJTA advising them the deadline for entering training had been extended and urging them, if they are still interested in the program, to contact the VA or the Department of Labor for assistance. Such an initiative was carried out and completed by the end of October. And as I previously noted, more than 750 veterans have been placed in training since the program reopened on September 30.

EFFORTS TO REDUCE THE "DROPOUT" RATE

Third, the amendment would, as did the Senate bill, respond to the unacceptably high drop-out rate for veterans placed in training positions by requiring the Labor Department to provide two new support activities: First, counseling services designed to resolve difficulties encountered by veterans during EVJTA training, and, second, a program under which periodic contact would be maintained with veterans placed in training in order to facilitate their successful completion of training.

In carrying out these new activities, the Labor Department would be required to advise all veterans and employers participating in EVJTA of the availability of the counseling services and encourage them to request appropriate services whenever necessary. In addition, the Labor Department would be required to advise each veterans placed in training of other related counseling services and assistance and encourage them to request such services and assistance whenever appropriate. This information should include information on counseling services available through the VA—including the VA's readjustment counseling, Vet Center Program, for Vietnam-era veterans—and through other appropriate agencies in the community.

In connection with the requirement to maintain periodic contact with veterans placed in training, I want to point out that an individual assigned to maintain such contact need not be, in each case, a trained or professional counselor. Rather, efforts should be made in the selection of the individual assigned as a "contact person" to a particular veteran to base the selection on the particular needs of that veteran.

In this connection, I note that the Labor Department has the resources of more than 3,300 DVOP's and local veterans' employment representatives that could be assigned responsibilities for implementing this requirement and am delighted that the Department has already taken steps to develop a case manager approach with respect to veterans placed in training. Also, I note that it may also be advantageous for the Secretary of Labor to arrange with the VA for use of a VA employee or employees to serve as the contacts in certain locations in appropriate circumstances.

Fourth, Mr. President, our amendment would, as did the Senate bill, reduce the period of unemployment required to establish eligibility for participation in the program—from 15 of the 20 weeks immediately prior to making application to 10 of the 15 weeks.

Finally, Mr. President, our amendment would change the name of the program to the "Veterans' Job Training Act", as did the Senate bill.

INTEGRATION WITH VA VOCATIONAL REHABILITATION PROGRAM

In addition to these improvements in the EVJTA authority, the amendment contains another provision derived from my proposal contained in S. 1733 and passed by the Senate in S. 1887. With respect to the VA's program of vocational rehabilitation for service-connected disabled veterans under chapter 31 of title 38, the VA would be required—for the benefit of participants in that program who are eligible to have payments made to employers in their behalf, pursuant to section 1516(b) of title 38—to take all feasible steps, utilizing section 1516(b) payments, to establish and encourage the development of training opportunities that are consistent with the provisions of EVJTA.

The VA's chapter 31 Vocational Rehabilitation Program is designed to assist service-connected disabled veterans who have employment handicaps to become employable and to obtain and maintain suitable employment. Under the section 1516(b) authority, the administrator may make payments to employers for providing on-job training to service-connected disabled veterans who have been rehabilitated to the point of employability when such payments are necessary in order for the veteran to obtain needed training or begin employment.

Pursuant to this authority, the VA has established a special chapter 31 Employer Incentives Program to facilitate the placement of veterans who are generally qualified for suitable employment but who lack work experience required by an employer or who are difficult to place due to their disabilities. Under this program, an employer who hires an eligible veteran in an approved training position may be reimbursed for the direct expenses of hiring the veteran, up to one-half of the wages paid to the veteran.

Under the amendment, the Administrator would be required to utilize EVJTA-approved job training programs under this segment of the VA's chapter 31 Vocational Rehabilitation Program and to ensure that, in the case of a veteran who is eligible for participation in both programs, maximum efforts are made, consistent with the veteran's best interests, to utilize the title 38 authority. In this manner, the VA would be able to use a program, EVJTA, with which employers are already familiar, for the benefit of VA chapter 31 vocational rehabilitation trainees and to make maximum use of title 38 benefits in lieu of limited EVJTA funds.

DELETION OF VETERANS' JOB TRAINING FUNDING FROM THE CONTINUING RESOLUTION

Clearly, enactment of an authorization of fiscal year 1986 appropriations for EVJTA is now imminent. As a result of the fine work of the distinguished Senator from Arizona [Mr. DECONCINI], a member of both the Veterans' Affairs Committee and the Appropriations Committee, who succeeded in persuading the Appropriations Committee to adopt our amendment to provide $55 million in fiscal year 1986 funding for continued operations under EVJTA, the Senate had approved new funding for the program in the third continuing resolution, for fiscal year 1986, House Joint Resolution 465. Unfortunately, these funds were rejected by the House of Representatives.

I regret very much, Mr. President, that support for our funding provision to help unemployed veterans was not forthcoming from the other body and that the funds were, consequently, deleted from the conference agreement. By seeking to make the additional funds available in that continuing resolution, we were seeking to ensure that, when the program reopens on February 1, 1986, pursuant to this legislation, sufficient resources would be available to serve the eligible veterans who seek to participate. It is thus most unfortunate that the House and Senate conferees chose to drop the Senate amendment. However, I pledge to do all that I can to secure the necessary funding as soon as possible in the Second Session.

STATUS OF NEGOTIATIONS REGARDING OTHER VETERANS' LEGISLATION

Before concluding my remarks on this measure, Mr. President, I want to comment on the negotiations between the House and Senate Committees on Veterans' Affairs over the numerous differences between our compensation, education, and other VA benefit measures embodied in S. 1887 and H.R. 1408, H.R. 2343, and H.R. 2344. I regret to note that those negotiations have reached an impasse over certain provisions in the Senate bill—now endorsed by the administration—designed to improve, and enhance the fiscal stability of, the Home-Loan Guaranty Program. As a result of that impasse, it has become clear that further action on the remaining provisions of S. 1887 will not be possible this year.

Thus, Mr. President, there are a number of provisions in which I was deeply interested that are not included in any legislation to be sent to the President this year. These include the following provisions of S. 1887 as it was passed by the Senate on December 2.

Section 108 of S. 1887—which is derived from Senate Concurrent Resolution 20, which I introduced on February 26—would declare the sense of the Congress that VA compensation should remain exempt from Federal income taxation. A majority of the U.S. Senate—52 Senators, 11 from our committee—has now endorsed this measure.

Sections 203 and 204 of S. 1887—which were derived from S. 1509, which I introduced on July 26 with Senator COHEN and which is cosponsored by Senators BUMPERS, MITCHELL, and PRYOR—would permit "New GI Bill"—chapter 30 of title 38, United States Code—benefits to be used for home-study and would add responsibility for monitoring the "New GI Bill" Program to the responsibilities of the VA's Advisory Committee on Education. In addition, section 201 contains provisions derived from S. 962, which Sentor COHEN and I introduced on April 22 and which is cosponsored by Senators MITCHELL, BUMPERS, and ROCKEFELLER, to permit veterans training under the "New GI Bill" Program to use their benefits for VA on-job training and apprenticeship programs.

Section 501 of S. 1887—which is derived from S. 1397, the proposed "Veterans' Administration Reorganization Act of 1985," which I introduced on June 27 and which is cosponsored by Senator MATSUNAGA, DECONCINI, and ROCKEFELLER—would provide necessary clarification in section 210(b)(2) of title 38 regarding the "detailed plan and justification" that the VA is required to provide to Congress with respect to certain substantial proposed reorganizations in advance of implementing them.

Section 502 of S. 1887—which is derived from section 2 of S. 6, the proposed "Veterans' Administration Health-Care Amendments of 1985," my bill introduced on January 3, 1985—would expand the definition of the "Vietnam era" for the purpose of veterans benefits and services under title 38, United States Code, to include the period beginning on February 21, 1961, and ending on August 4, 1964, in the case of those who served in Vietnam during that time.

Section 503 of the S. 1887—which is derived from section 6 of S. 6—would specify that, effective with respect to VA pensions paid on or after January 1, 1986, any remuneration provided to veterans for participation in certain VA work-therapy programs will not be counted as income for purposes of VA pension programs.

Section 202 of S. 1887 incorporated an amendment I proposed to amend the "New GI Bill" to correct an inequity that would exist in the cases of individuals who were made eligible, by the recently enacted Department of Defense Authorization Act, 1986, Public Law 99-145, both for the chapter 34, Vietnam-era GI bill and for the "New

GI Bill' and who had left the service and reentered prior to the enactment of the "New GI Bill."

S. 1887 also included, in section 205, our suggestion to permit economically disadvantaged individuals training under the "New GI Bill" program or the chapter 32 VEAP Program to participate in the VA's Work-Study Program. As the original author in 1972 of the VA's Work-Study Program for disadvantaged, full-time veteran-students, I was and am particuarly interested in getting this provision enacted.

Section 215 of S. 1887 would prohibit the implementation of any requirement for the submission of term-by-term enrollment certifications for educational assistance benefits. The OMB proposal that this provision would invalidate would, if implemented, be extraordinarily costly and time consuming for the VA and the educational institutions and would delay GI bill payments to hundreds of thousands of veterans. This year, we were proposing to put it to rest.

Section 216 of S. 1887 would establish a Commission on Veterans' Education Policy, comprised of representatives of the education community and veterans' service organizations, to be selected based on their expertise in pertinent fields, as well as ex officio representatives of the VA and the Congress. The purpose of the Commission would be to assist in identifying problem areas that need to be explored and in developing possible solutions to some longstanding, complex issues involving the VA's administration of education benefits.

Finally, at my request, section 306 of S. 1887 would provide permanent authority to transfer funds from the direct loan revolving fund to the loan guaranty revolving fund.

Mr. President, during the Senate's consideration of S. 1887, I discussed in detail each of these provisions, and my statement on that measure appears at page S16634 of the CONGRESSIONAL RECORD for December 2. At this time, I want to stress my intention to continue to pursue these matters at the earliest appropriate opportunity in the second session of this Congress and express my deep regret at our failure to be able to reach agreement on the larger package.

CONCLUSION

Mr. President, before closing, I want to take the opportunity again to note the leadership and commitment of the distinguished Senator from Massachusetts [Mr. KERRY] in the development of this legislation. As I previously noted, he first raised this issue in July and has been a vital participant in developing the EVJTA provisions.

I want especially at this time also to thank the minority staff of the Veterans' Affairs Committee, Babette Polzer, Ed Scott, and Jon Steinberg, for their fine work on this bill over the last few weeks and months. My gratitude also goes to the Senate majority staff, Chris Yoder, Julie Susman, and Tony Principi, for their hard work and cooperation on this measure.

I also wish to note the contributions of the staff of the House Committee on Veterans' Affairs, particularly Jill Cochran, Mack Fleming, and Rufus Wilson, in working with us to reach agreement on the EVJTA provisions.

Mr. President, I urge the Senate to approve the pending amendment.

Mr. THURMOND. Mr. President, I am happy to join Senator MURKOWSKI and others as a cosponsor of the Senate amendment to H.R. 1538. This important substituting amendment would make three changes to the House version of the bill.

The first change would be to give the legislation a new title. The bill would be referred to as the "Veterans' Compensation Rate Increase and Job Training Improvements Act of 1985."

The second change, more substantive than the first, would provide for a 3.1 percent cost-of-living adjustment for veterans' compensation and pension benefits as opposed to the House increase of 3.4 percent. The increase would be made retroactive to December 1, 1985. Now I don't desire for anyone to believe that the House of Representatives cares more for this Nation's veterans that I do, but the 3.1 percent increase in benefits, which the Senate has already passed once this session, is based on the Consumer Price Index and is equal to the increase agreed upon for Social Security recipients. I think that a 3.1 percent increase is fair and I am happy to see that we are able to provide it for our needy veterans.

Finally, the Senate amendment would provide for the extension and expansion of the Emergency Veterans' Job Training Act. I suggested to the chairman of the Veterans' Affairs Committee earlier this year that we move ahead with this measure. The Senate approved such action when it passed S. 1887 on December 2. Unfortunately, an agreement on that comprehensive piece of legislation has not been reached with the House. We have been able to agree, however, on the wisdom of expanding this program and providing for some type of cost-of-living adjustment.

Mr. President, I urge my colleagues to support our amendment in order that we can continue to provide our veterans with the benefits so many of them need and deserve.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1433) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Without objection, the title is amended.

OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of S. Res. 278, dealing with the Office of Juvenile Justice and Delinquency Prevention, and I ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

> A resolution (S. Res. 278) to disapprove the freeze on funds for the Office of Juvenile Justice and Delinquency Prevention.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. DENTON. Mr. President, I rise in strong support of Senate Resolution 278, a resolution introduced by the distinguished chairman of the Judiciary Subcommittee on Juvenile Justice, Senator SPECTER, which disapproves the current informal freeze of funds of the Office of Juvenile Justice and Delinquency Prevention [OJJDP]. I am pleased to join as a cosponsor of this effort.

Mr. President, on Friday, December 13, the very same day that President Reagan signed H.R. 2965 the Commerce, Justice and State Departments appropriation bill, which appropriated 1986 funds for OJJDP, the Justice Department upon the informal recommendation of the Office of Management and Budget, froze all OJJDP funds for a 45-day period at the end of which time a formal request for a rescission will be filed with the Congress.

In some quarters Friday the 13th is viewed as a very unlucky day. Little did we know how unlucky this particular Friday the 13th would be for the Nation's children.

Since Friday, my office has received countless calls from various organizations in Alabama and nationwide, which presently are recipients of

OJJDP grants. The calls relay the concern that a freeze of funds will lead to the destruction of numerous juvenile justice projects; a destruction which will slow, if not reverse, the tremendous strides made by the States in the deinstitutionalization of status offenders and the removal of juveniles from adult jail facilities. Officials in Alabama have indicated that the freeze will force the immediate shut down of approximately 90 percent of the juvenile justice projects in the State and will severely affect the State's compliance with the removal of juveniles from adult jail facilities.

Mr. President, in light of the current budget situation we are all fully aware of the need to trim individual budgets. I am sure that the juvenile justice community is willing to carry its share of budget cuts. But we must not balance the budget by disproportionately burdening juvenile justice. We must continue to keep the protection of this Nation's children a priority.

Therefore, I support Senate Resolution 278, and I commend Senator SPECTER for his leadership since 1981 in preventing the zero funding, rescission or deferral of OJJDP funds. I urge my colleagues to support the resolution and move for its expeditious consideration.

Mr. HOLLINGS. Mr. President, since 1971, I have been a member of the Appropriations Subcommittee that has jurisdiction over the funds for the Department of Justice. For the last 9 years, I have been either the chairman or the ranking minority member of the subcommittee and am well-acquainted with the Juvenile Justice, Regional Information Sharing, and the Justice Assistance Programs. This is not the first time that the Department has tried to cut off these programs but never before have we seen such a cruel impoundment procedure being instigated just before Christmas.

In view of the previous experience, we certainly expected the Department to propose that these funds be rescinded. It has been this administration's policy of proposing rescissions of appropriations that they did not originally request. But, with the Congress about to adjourn and the formal rescission not to come until the President's budget for 1987 is transmitted on February 5, 1986, the administration is proceeding in the most meanspirited manner possible. There are persons entirely dependent on these programs, such as the Regional Organized Crime Information Center that so ably serves our State and local law enforcement officials throughout the South and will be cut off on January 2 unless additional funds are granted.

Mr. President, Chief J.P. Strom of the South Carolina law enforcement division has told me many times of the vital assistance ROCIC provides. There are other multistate intelligence networks covering other parts of the Nation. ROCIC provides valuable intelligence, equipment and communications support to our police out on the front lines of the war on drug traffickers. These are the unsung heros of the daily battles against crime and they should have our full support. Instead, the Department of Justice is giving a Christmas present to the criminals by telling them to close their offices.

Congress may conclude that these programs must be reduced, but during the interim, these programs should be maintained until Congress can act. I recall that we continued the funding of the Department of Justice from October until December 13 when the President approved the fiscal 1986 appropriations bill. Fairness demands that provision be made for these grantees.

I have heard that some in the Department of Justice have indicated that this impoundment is due to Gramm-Rudman-Hollings. Nothing could be further from the truth. Gramm-Rudman-Hollings is based on reducing all programs, alike, and does not zero out some to preserve the funding of others.

Mr. HEFLIN. Mr. President, I join my colleagues in expressing my extreme concern about the Department of Justice's current freeze on funding for the Bureau of Justice Assistance, the Regional Information Sharing System, and other Department of Justice programs.

Congress has repeatedly rejected attempts by the Department of Justice to limit or eliminate these vital programs. It appears that the Reagan administration is now attempting to dismantle these programs through a back door method.

The Office of Justice programs is extremely valuable to the State of Alabama and the Nation. The Regional Information Sharing System provides funding for multijurisdictional investigations, specialized surveillance, investigative equipment sharing and a multitude of other programs. Without these funds, these and other necessary services would be unavailable to a great many local and State law enforcement agencies.

I urge the Department of Justice to comply with clear congressional intent and immediately release the funds for these vital programs before serious disruptions are created in our criminal justice system.

AMENDMENT NO. 1434

(Purpose: To amend S. Res. 278, to include programs coordinated by the Office of Justice Programs)

Mr. BYRD. Mr. President, I send to the desk an amendment on behalf of Mr. BIDEN.

THE PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for Mr. BIDEN, and Messrs. THURMOND, HEFLIN, HOLLINGS, DECONCINI, LEAHY, INOUYE, and STENNIS, proposes an amendment numbered 1434.

Mr BYRD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

THE PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

The first section of the Resolution is amended by striking the period at the end thereof and inserting in lieu thereof:

"the Office of Justice Programs, the Bureau of of Justice Assistance, the National Institute of Justice, the Bureau of Justice Statistics, the Victims of Crime Act programs, and the Regional Information Sharing System Programs".

Mr. BIDEN. Mr. President, I commend Senator SPECTER's efforts to alert the Senate of this action taken by the Department of Justice. The Senate must strongly and quickly express its objections to the Department of Justice freezing funds for law enforcement and juvenile justice programs supported by the Congress.

The manner in which the Justice Department, in the closing days before the congressional recess proposes to terminate or stop funding for valuable law enforcement and juvenile justice programs is a slap in the face to Congress and State and local criminal justice agencies.

As the ranking member of the Judiciary Committee and strong supporter of the juvenile justice program, I have worked in committee and on the floor to block repeated efforts by the President to eliminate funds for the Office of Juvenile Justice and Delinquency Prevention and State and local law enforcement.

I propose to make clear to the Department of Justice and Office of Management and Budget that the Senate is strongly opposed to freezing funds to any of the State and local juvenile justice or law enforcement assistance programs.

Therefore, I offer an amendment supported by Senator THURMOND and others that expands this resolution to include all law enforcement and juvenile justice programs for which Congress has appropriated funds.

I ask all my colleagues to support this amendment and Senator SPECTER's resolution which will send a clear message to the Department of Justice and the Office of Management and Budget of the Senate's continued support for juvenile justice and law enforcement programs both State and local.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1434) was agreed to.

BEST COPY AVAILABLE

Mr. DENTON. Mr. President, I rise in strong support of S. Res. 278, a resolution introduced by the distinguished chairman of the Judiciary Subcommittee on Juvenile Justice, Senator SPECTER, which disapproves the current informal freeze of funds of the Office of Juvenile Justice and Delinquency Prevention (OJJDP). I am pleased to join as a cosponsor of this effort.

Mr. President, on Friday, December 13, the very same day that President Reagan signed H.R. 2965 the Commerce, Justice and State Departments appropriations bill, which appropriated 1986 funds for OJJDP, the Justice Department upon the informal recommendation of the Office of Management and Budget, froze all OJJDP funds for a 45-day period at the end of which time a formal request for a rescission will be filed with the Congress.

In some quarters Friday the 13th is viewed as a very unlucky day. Little did we know how unlucky this particular Friday the 13th would be for the Nation's children.

Since Friday, my office had received countless calls from various organizations in Alabama and nationwide, which presently are recipients of OJJDP grants. The calls relay the concern that a freeze of funds will lead to the destruction of numerous juvenile justice projects; a destruction which will slow, if not reverse, the tremendous strides made by the States in the deinstitutionalization of status offenders and the removal of juveniles from adult jail facilities. Officials in Alabama have indicated that the freeze will force the immediate shutdown of approximately 90 percent of the juvenile justice projects in the State and will severely affect the State's complance with the removal of juveniles from adult jail facilities.

Mr. President, in light of the current budget situation we are all fully aware of the need to train individual bedgets. I am sure that the juvenile justic community is willing to carry its share of budget cuts. But we must not balance the budget by disproportionately burdening juvenile justice. We must continue to keep the protection of this Nation's children a priority.

Therefore, I support S. Res. 278, and I commend Senator SPECTER for his leadership since 1981 in preventing the zero funding, rescission or deferral of OJJDP funds. I urge my colleagues to support the resolution and move for its expeditious consideration.

Thank you, Mr. President.

Mr. McCONNELL. Mr. President, I join in the resolution of the Senator from Pennsylvania, and urge my colleagues to support it as well. In my judgment, the attempt by the administration to rescind the 1986 funding for the Office of Juvenile Justice and Delinquency Prevention should be soundly rejected. Similar attempts have been made in the past, and each has been disapproved.

Mr. President, last summer the members of the Subcommittee on Juvenile Justice, under the able leadership of Senator Specter, advised OJJDP that it was the unanimous judgment of the subcommittee members that all unspent funds from fiscal year 1985 appropriations for that office should be spent, as directed by the act. In a letter dated November 21, 1985, we advised the distinguished acting chairman of the Subcommittee on Commerce, Justice, State, the Judiciary and Related Agencies, that we believed that all funds for OJJDP should be retained by the Senate conferees. In that letter, we noted as follows:

> As you know, the conference report prepared by the Committee on Appropriations to accompany H.R. 2965, the Department of Commerce, Justice, and State, the Judiciary, and related agencies appropriation bill for fiscal year 1986, would provide for new appropriations to the Office of Juvenile Justice and Delinquency Prevention of only $62,100,000. This amount would be combined with some $7,900,000 in unobligated balances of funds previously appropriated to that office. In this way, the Administration seeks to provide a total appropriation for OJJDP of $70,000,000 for fiscal year 1986.
>
> While this is characterized by the Administration as level funding for OJJDP, we see it as a cut of nearly $8,000,000 in the level of appropriations from the previous year, a significant and unwarranted cut in the funding for this important office.
>
> When the Appropriations Committee's report on this bill goes to conference with the House, we respectfully request that you advise the Senate conferees that the Senate should concur with the House provision of the bill, providing for funding of the Office for fiscal year 1986 at the same level as 1985 and appropriate $70,000,000. In addition, we would ask that you advise the Senate conferees that it is the Subcommittee's belief that the $7,900,000 of funds previously appropriated and now available in unobligated balances should be redirected to the states, as currently provided for in the Senate report.

Mr. President, those letters represent the unanimous judgment of the members of the Juvenile Justice Subcommittee that the programs funded by OJJDP are vitally important, and are deserving of full funding. Happily, the Members of this body have uniformly agreed with that assessment.

Nevertheless, now the Office of Management and Budget has informally recommended to the Department of Justice the rescission of all fiscal year 1986 appropriations for the Bureau of Justice Assistance [BJA], OJJDP, and other programs. The Justice Department sought a reconsideration of the proposed rescission of appropriations for BJA. The Department did not, however, seek to avoid the rescission request as to OJJDP funds. As a result, the administration has ordered OJJDP not to spend any of its funds until the rescission issue is resolved, notwithstanding that Congress has not yet received a formal notice of a proposed deferral or rescission of OJJDP funds pursuant to the Impoundment Control Act of 1974. A formal rescission notice from the Administration is not expected to be received by Congress until the end of January 1986, at which time the 45-day time period begins for congressional action. Consequently, a variety of important programs nationwide stand to be disrupted, notwithstanding the clear congressional intent.

Mr. President, I understand the administration's position on funding for OJJDP, and while I support the administration whenever possible, on this issue I disagree most stridently. These programs are necessary, these funds are appropriate, and this resolution is a good one. I urge my colleagues to help defeat this latest attempt to delete these funds for children and adolescents who are in need.

Thank you, Mr. President.

The **PRESIDING OFFICER.** The question is on agreeing to the resolution.

The resolution (S. Res. 278), as amended, was agreed to, as follows:

S. RES. 278

Resolved, That the Senate hereby disapproves the current informal freeze, in the absence of a formal rescission request, on funds of the Office of Juvenile Justice and Delinquency Prevention, the Office of Justice Programs, the Bureau of Justice Assistance, the National Institute of Justice, the Bureau of Justice Statistics, the Victims of Crime Act programs, and the Regional Information Sharing System Programs.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SENATE SCHEDULE

Mr. DOLE. Mr. President, it is my understanding that we are about to receive the papers on reconciliation. I can advise Members that there is a 30-minute time agreement, provided we receive the papers first. The yeas and nays have been requested on the conference report.

I also advise that there will be a rollcall vote on the Scanlon nomination, and I am not certain how much longer that will take. It was our hope that we could have the votes back-to-back, so that Members could catch airplanes and do other things. That may not be possible.

So Members are on notice that there will be another vote some time before we finish our business.

Mr. President, I understand that the distinguished Senator from Colorado is prepared to make his opening statement while we are waiting for the signature sheets, and that would save time, so I yield the floor.

Mr. **ARMSTRONG**. If that is agreeable to the majority leader and to the Senator from Louisiana, who I believe will be managing the conference report for the minority, while this does not technically count against the 30 minutes, my disposition is not to use the 30 minutes but to proceed as quickly as possible.

Mr. **JOHNSTON**. Mr. President, I agree with my distinguished colleague from Colorado.

OMNIBUS BUDGET RECONCILIATION—CONFERENCE REPORT

Mr. **ARMSTRONG**. Mr. President, I send to the desk a conference report on H.R. 3128, the Consolidated Omnibus Budget Reconciliation Act of 1985, and ask for its immediate consideration.

The **PRESIDING OFFICER**. The clerk will report.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3128) to make changes in spending and revenue provisions for purposes of deficit reduction and program improvement, consistent with the budget process, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The **PRESIDING OFFICER**. Is there objection to the request of the Senator from Colorado [Mr. ARMSTRONG]?

There being no objection, the Senate proceeded to consider the conference report.

(The conference report will be printed in the House proceedings of the RECORD.)

Mr. **ARMSTRONG**. Mr. President, I have sent to the desk a conference report on the reconciliation bill for fiscal year 1986. I am pleased to do so on behalf of Senator DOMENICI, who is unavoidably away from the Chamber today, and to report to my colleagues that this legislation implements many of the savings proposed in the first concurrent budget resolution agreed to by Congress on August 1. It will save $20.5 billion in fiscal 1986 and $83 billion over the next 3 years.

Mr. President, this conference report actually comprises the work of 31 subconferences and the fruits of negotiations over the past several weeks—indeed, the past few hours—on literally hundreds of provisions covering the jurisdiction of virtually every committee of the House and Senate.

Mr. President, I ask unanimous consent to have printed in the RECORD a table summarizing the major provisions of the conference report and the savings associated with each of the subconferences.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PRELIMINARY BUDGET RECONCILIATION SAVINGS

[In millions of dollars]

	Fiscal year—			Total fiscal year 1986–88
	1986	1987	1988	
Conference totals:				
Reductions in outlays	−17,696	−22,577	−28,764	−69,036
Increase in revenues	2,819	5,011	6,172	14,002
Reduction in deficit	−20,515	−27,588	−34,936	−83,038
Subconference No. 1—Agriculture:				
Export sales of dairy products	−178	−188	−197	−563
Agricultural credit	−953	−2,413	−2,863	−6,229
Total, spending reduction	−1,131	−2,601	−3,060	−6,792
Subconference No. 2—Tobacco tax earmarking: Cigarette tax earmarking				
Subconference No. 3—Tobacco support program: Tobacco program improvements	−63	−70	−87	−220
Subconference No. 4—3d-party reimbursement: 3d party reimbursement		−160	−200	−360
Subconference No. 5—Champus/Champva: Medicare reimbursement for Champus patients		−85	−150	−235
Subconference No. 6—Banking and housing:				
Rural housing loans	−1,229	−1,801	−1,896	−4,926
Public housing operating subsidies	−144	−307	−342	−793
Sec. 108 loan guarantees	−12	−46	−78	−136
Public housing debt forgiveness	−1,807	−2,106	−3,157	−7,070
Total, spending reduction	−3,192	−4,260	−5,473	−12,925
Subconference No. 7—Railroads and USRA:				
Amtrak	−98	−126	−140	−364
Local rail service assistance	−1	−4	−8	−13
Total, spending reduction	−99	−130	−148	−377
Subconference No. 8—FCC and CPB:				
Corporation for Public Broadcasting [CPB]	−(1)	−(1)	7	7
Federal Communications Commission [FCC]	1	−23	−37	−59
Total, spending reduction	1	−24	−29	−52
Subconference No. 9—Water/transportation programs:				
Ship construction differential subsidies	−200			−200
National Oceanic and Atmospheric Administration	−42	−59	−63	−164
Maritime Administration	−8	−10	−10	−28
Boat safety	−6	−5	−3	−14
Coastal block grants			[illegible]	50
Total, spending reduction	−256	−74	−26	−356
Subconference No. 10—Pipeline programs:				
Pipeline user fees	−9	−9	−10	−28
Pipeline safety	(1)	(1)	(1)	(1)
Total, spending reduction	−9	−9	−10	−28
Subconference No. 11—Energy programs:				
Strategic petroleum reserve	−1,359	−1,331	−1,313	−4,003
Synfuels	−96	−166	−234	−496
Shared-energy savings	(1)	−2	−4	−6
Biomass loan guarantees				
Total, spending reduction	−1,455	−1,499	−1,551	−4,505
Subconference No. 12—Uranium enrichment and FERC: Uranium enrichment	−120	−209	−267	−596
Subconference No. 13—OCS: Outer Continental Shelf [OCS]	−4,501	1,685	1,413	1,403
Subconference No. 14—Highway programs: Federal-aid highways	−200	−1,000	−1,300	−2,500
Subconference No. 15—NRC fees: NRC fees	−85	−97	−101	−283
Subconference No. 16—Medicare pt. A and extended coverage:				
Spending reductions: Medicare pt. A	−1,613	−2,915	−3,735	−8,263
Revenue increases:				
Medicare pt. A	4	5	14	23
Extend medicare coverage for state and local workers (revenue increases)	53	191	293	537
Total, revenue increases	57	196	307	560
Subconference No. 17—Medicare pt. B: Medicare pt. B	−673	−942	−1,399	−3,014
Subconference No. 18—Medicaid and MCH: Medicaid and maternal and child health	25	−50	−50	−75
Subconference No. 19—Private health insurance: Extend private health insurance coverage				
Subconference No. 20—PBGC and ERISA:				
Pension Benefit Guarantee Corporation (PBGC)	−174	−231	−261	−666
ERISA				
Total, spending reduction	−174	−231	−261	[illegible]
Subconference No. 21—Income security, trade, and other:				
Spending reductions:				
AFDC, TAA, and foster care	44	43	[illegible]	285
Customs fees	−70	−220	−230	−520
Additional customs personnel	55	34	26	115
Additional IRS personnel	43	43	43	129
ITC authorization	3			3
Total spending reduction	75	−100	37	12
Revenue increases:				
Increase Customs collections	150	450	[illegible]	1,215
Increase IRS collections	365	744	[illegible]	2,037
Total, revenue increases	515	1,194	1,543	3,252
Subconference No. 22—Revenues:				
Tobacco excise tax	1,543	1,697	1,701	4,941
Superfund excise tax	702	1,348	1,433	3,483
Limit income averaging	133	541	589	1,263
Research and development tax allocation moratorium	−191	−96		−287
Railroad unemployment insurance tax		101	98	199
Tax railroad retirement benefits like social security	34	62	[illegible]	161
Coal excise tax	43	46	47	136
Alternate minimum tax for insolvents	−15	−75	[illegible]	14
Trade adjustment assistance import tax			[illegible]	[illegible]
Gulf Coast waste disposal authority to issue IDB's	−1	−2	−3	−6
Social security tax treatment for American Samoa	−1	−1	−1	−3
Total, revenue increases	2,247	3,621	4,322	[illegible]
Subconference No. 23—General revenue sharing: General revenue sharing		−3,526	−4,955	−8,481
Subconference No. 24—Federal pay and benefits:				
Civilian agency pay	−2,136	−3,800	−4,618	−10,554
2,087-hour workyear	−80	−160	−170	−410
Postal Service programs	−45	−65	−27	−137
Federal employees health benefits programs	−973	−148	105	−1,016
Total spending reduction	−3,234	−4,173	−4,710	−12,117

PRELIMINARY BUDGET RECONCILIATION SAVINGS—Continued

[In millions of dollars]

	Fiscal year—			Total fiscal year 1986–88
	1986	1987	1988	
Subconference No. 25—Administrative savings. Motor vehicle fleet reductions	1	−132	−274	−405
Subconference No 26—Procedural issues. New reconciliation rules				
Subconference No 27—Education and labor programs.				
[redacted]	−60	−265	−490	−815
Guaranteed student loans	−319	−195	−292	−806
Total, spending reduction	−379	−460	−782	−1,621
Subconference No 28—Graduate medical education. Graduate medical education	(¹)	(¹)	(¹)	(¹)
Subconference No 29—SBA programs				
SBA business programs	−301	−574	−590	−1,464
SBA disaster program	−129	−421	−457	−1,007
Total, spending reduction	−430	−995	−1,047	−2,471
Subconference No 30—Veterans' programs				
Health care reforms	−109	−420	−497	−1,026
Reduced compensation COLA	−76	−102	−104	−282
Studies	1	2	2	5
Total, spending reduction	−184	−520	−599	−1,303
Subconference No. 31—Restore retirement funds. Restore social security retirement funds				
ADDENDUM				
Total reconciliation savings	−20,515	−27,588	−34,936	−83,038
Differences between total reconciliation savings and savings in the conference bill:				
Interest impact of agricultural credit reforms ²		105	348	453
Interest impact of debt forgiveness ²	1,884	2,205	2,711	6,800
Ship construction differential subsidies ³	200			200
Pay offsets in function 950 ⁴	203	363	439	1,005
Walsh-Healey overtime provision ⁵	60	265	490	815
SBA interest offset ²		25	91	116
Total, difference	2,347	2,938	3,731	9,016
Savings in the conference bill	−18,168	−24,650	−31,205	−74,022

[1] Less than $500,000.

[2] Interest offsets related to agriculture credit savings, public housing debt forgiveness and SBA business loans were not assumed in the resolution reconciliation instructions and are therefore not counted in total reconciliation savings. These offsets are included in the scoring of the conference bill.

[3] Savings from ship construction differential subsidies were achieved through administrative action. However, these savings were assumed in the reconciliation instructions and both House and Senate reconciliation bills included language affirming the Secretary of Transportation's authority to receive CDS payments. Therefore these savings are included in total reconciliation savings but are not included in the scoring of the conference bill.

[4] Reconciliation instructions for provisions relating to pay adjustments and the extension of the 2,087-hour workyear calculation did not assume offsets in function 950, offsetting receipts. These offsets are therefore not included in total reconciliation savings but are included in the scoring of the conference bill.

[5] The Walsh-Healey overtime provision was contained in the Senate and House-passed reconciliation bills and in the defense authorization bill. It was enacted first in the defense authorization bill, Public Law 99–145. Because these savings were assumed in the reconciliation instructions, they are included in total reconciliation savings but are excluded from the estimate of the conference bill.

Note.—All outlay estimates on this table are based on preliminary estimates from the Congressional Budget Office. All revenue estimates are based on preliminary estimates from the Joint Committee on Taxation. Changes are measured against the fiscal year 1986 budget resolution baseline and assume a Dec. 31, 1985, effective date unless otherwise stated in the legislative language.

Mr. ARMSTRONG. In brief, Mr. President, when the Senate considered the reconciliation bill, we achieved a saving of $21.4 billion for 1986, $28.4 billion in fiscal year 1987, $35.9 billion in projected savings for fiscal year 1988—a total for the 3 years of $85.7 billion.

I would have to say a word of compliment to those who negotiated through the subconferences on behalf of the Senate because the final figures which we have achieved in this conference report are extraordinarily close to the targets set by the Senate. In total we are within $2 billion in 3 years of the sought-to-achieve reconciliation bill. We come up with the final total projected savings of $83 billion.

Let me just mention a couple of specific aspects of it.

Last May 10 at about 3:30 a.m. in the morning we passed the comprehensive budget resolution. The Senate sought to freeze the defense budget along with most of the cost-of-living adjustments. The budget resolution which was adopted that morning, as my colleagues will remember, eliminated about a dozen Federal programs and would have reduced deficits by $300 billion over 3 years.

This was a tough budget. It was a tough vote for most Senators. It was a plan which will withstand the test of time because it was fair. It was the right thing to do.

But as my colleagues know, the budget we passed on that morning has not come to pass and I am not going to go back and relitigate that or conjure up old demons, but after several difficult days in July the hope of deep spending cuts was dashed and the Senate was left with the task of trying to pick up the pieces.

I know that Senator DOMENICI particularly had hoped we would accomplish much more than we did this year, and I shared that hope, but under much less than optimum circumstance the decision was made to press ahead with the reconciliation process and get the most we could get and get something instead of nothing.

So I do not mean to minimize what we have. It is not everything we would like to have, but I do not believe it is either enough to fully accomplish the job ahead.

Mr. President, may I also observe that the reconciliation bill contains some provisions which I do not personally support and which I know that other Senators may not prefer, and indeed, which may not enjoy the support of the President, but it is like all major legislation, the product of negotiation and compromise among different interests. It is a product that while not perfect will save an extraordinary, indeed a stupendous amount of money over the next 3 years, $83 billion.

Now that the Gramm-Rudman Deficit Reduction Act is the law of the land, the stage is set for us to get the job done beginning in January, but this reconciliation bill is an important, indeed a critical prelude to that process because if we were to fail to enact this conference report there would be $83 billion more on the table against which Gramm-Rudman would have to operate. So this is really an important step for us, even though it is not in any sense the final step.

Mr. President, I see on the desk a stack of papers. May I inquire is that the final paperwork? If not, then let me just conclude my remarks and yield to my colleague from Louisiana.

I wish to close by recognizing the invaluable leadership and participation of our colleague, Mr. JOHNSTON, who has stepped forward to manage on behalf of the minority party in the absence of Senator CHILES, who we trust is recovering from his surgery and who we all hope will be back to pick up his role of leadership in this task next month.

I spoke to Senator CHILES a while back, and it sounded as though he was on the mend and doing well and probably doing better tonight, I would say to my colleagues, than we are. We miss him. But the Senate is fortunate that Senator JOHNSTON has been here to pick up this task.

I also wish to extend my personal thanks to the Budget Committee, especially the director, Steve Bell; the deputy director, Bill Hoagland; Richard Brandon; and many others who have worked literally day and night to bring us to this stage and deserve not only our thanks but indeed our compliments.

Mr. President, pending the arrival of the paperwork, I yield the floor and hope that my colleague from Louisiana will also have something to say about this conference report.

Mr. JOHNSTON. Mr. President, I thank my distinguished colleague for his generous remarks.

Mr. President, the distinguished Senator from Colorado [Mr. ARMSTRONG] has stepped in at a very crucial time in the reconciliation process and I think has played a key role in getting us to the point where we are.

Reconciliation has been in all its parts and in especially some of its parts like a child with a series of childhood diseases, life threatening each, and enough to make its parents despair as to whether it would pull through. Most recently it has had cancer from which we hope it will recover. It has been through diphtheria; it has been through pneumonia. It has been through the worst of diseases.

But we think finally, Mr. President, we are going to pass reconciliation here tonight and with it save $83 billion.

Mr. President, I do not speak tonight so much to my colleagues who I am quite sure will vote readily, enthusiastically, and eagerly for 83 billion dollars' worth of cuts which have been put together with such craftsmanship by those involved. I think it was a monumental job. It is recognized as such and, as I say, it will be eagerly supported.

But my few remarks tonight, Mr. President, go really to the White House because there is a lingering rumor still that in spite of the fact that this saves $83 billion they might be so foolish as to veto this legislation.

Mr. President, I would strongly urge the President that he not do so. I think it would be a tragedy in so many ways for the country and certainly for the Gramm-Rudman process.

This does, in fact, save $69 billion over 3 years in outlay cuts and $14 billion in revenues, for a total of $83 billion or $5 in spending cuts for every $1 in revenues.

There are $69 billion in outlay cuts in domestic programs, and if this is not passed, Mr. President, and I say that to the President in this body and also to the other President also, that $69 billion has to come half from his defense and, Mr. President, he and you have both said constantly and repeatedly that national defense should not be cut by Gramm-Rudman. If this is vetoed, Mr. President, you are setting the scene for having to take half of $69 billion additionally from national defense which you would not have to do so.

Mr. President, the cuts in outlays come from all parts of the budget, $6 billion from agricultural credit, $5 billion from rural housing loans, $0.4 billion from Amtrak, $4 billion from the strategic petroleum reserve, $2.5 billion from highways, $11 billion from Medicare.

Congress has met its commitments to cut these programs in very difficult times. The revenues are not general tax increases. There are no changes in the rates. They are modest taxes at best and an extension of the tobacco tax, the excise tax; $4.9 billion is not a tax increase. It is a simple extension of that tax, and there is not anyone in this body that I know of who thinks that the tax should not at least be extended.

There are $3.5 billion for the Superfund tax. Mr. President, that is a very painful and difficult subject matter. Many of us from the petrochemical States whose States have double-digit unemployment right now think if you put the value-added tax to finance Superfund that it would take our States out of deep recession and put them directly into a depression.

If you were going to make that sacrifice for States like Louisiana and Texas for the good of the Nation it would be one thing; but it would not be for the good of the Nation, Mr. President, because it would make our whole petrochemical industry noncompetitive.

In any event, Mr. President, after a very long period of time, debate, and consideration in this Senate we came up with that modest $3.5 billion tax and certainly $83 billion in outlay savings should not be sacrificed because of some ideological disagreement with what is called a value-added tax if that in fact is what it is.

Mr. President, in January when we come back, we come back the last week in January, and by February 5 the President must submit his budget. In my judgment, when the President submits his budget for fiscal year 1987, it is going to be a very acrimonious time in this body, particularly if there are no increases in taxes in that budget and if there continue to be increases in national defense, because it is going to mean that the rest of the budget is absolutely savaged and it is not going to be that kind of atmosphere where Congress and the White House can sit down and quickly put back together this package of cuts. In fact, once Humpty-Dumpty falls off that wall, if this package is vetoed, it is going to be impossible, in my judgment, to put this Humpty-Dumpty back together again. Congress will say, "Let us let sequestration do it because half of this would come from national defense." I refer particularly to our friends in the other body. They think national defense should be cut a lot more.

And the way to do it is to do it automatically under Gramm-Rudman, under sequestration. So that is really what we are talking about at the bottom. If this bill is vetoed, then you change $69 billion in outlay domestic cuts to 50-50 domestic and defense cuts. And that is exactly what the White House is going to get if this is vetoed.

Mr. ARMSTRONG. Will the Senator yield?

Mr. JOHNSTON. I certainly will.

Mr. ARMSTRONG. Mr. President, I did not mean to interrupt the Senator's statement. It is not my desire to use further time, other than to comment briefly on the possibility that the President might veto this bill.

I have also heard the rumor around this Chamber and in the lobbies beyond this Chamber that the President might have some disposition to veto this bill. I want to say, without having any inside information and without having any real way to know this, other than just having watched Ronald Reagan's public life for a long time, that he is not going to veto this. In my judgment, it would be the most unlikely act of folly for any President, let alone President Ronald Reagan, to veto this bill. You will just never make me think he is going to do that.

I know that he does not like the value-added tax provision in here. I do not like it, either. I voted against it when it came through the Finance Committee, 16 to 2. But he is not going to veto this bill over that.

There are other things he does not like, nor do I. But, Mr. President, I associate myself with the remarks of the Senator from Louisiana in saying that what is good in this bill far outweighs those things about which we might disagree.

I am just confident that, when the President focuses on it, he is going to have his pen out to sign it and do so, I believe, not grudgingly, but, in fact, will be glad to do so, even though there may be things in there he does not fully endorse.

Mr. JOHNSTON. Mr. President, I am very pleased to see this conference report on H.R. 3128, budget reconciliation, presented to the Senate. Putting this package together of budget saving measures was a remarkable achievement for which the chairmen of the respective committees should be proud.

In particular I am pleased with the provisions in title VIII, subtitle A, which settle the longstanding and contentious dispute between the coastal States and the Federal Government over the division of the so-called 8(g) OCS revenues. This provision is a modified version of S. 1653, the Outer Continental Shelf Lands Act Amendments of 1985, which I introduced on September 17, 1985, with Senator MURKOWSKI as a cosponsor. Identical language was introduced on the same day in the House by Mr. BREAUX and Mr. HUCKABY.

Let me review what is contained in this conference report in subtitle VIII A, amendments to the Outer Continental Shelf Lands Act of 1985.

SECTION 8002, NATIONAL POLICY FOR THE OUTER CONTINENTAL SHELF

This section simply adds an additional policy to those already contained in the OCS Lands Act. In effect, the policy states that the 8(g) revenues will provide coastal States and localities with funds which States or localities may in their discretion use to mitigate adverse economic and environmental effects related to the development of OCS mineral resources.

SECTION 8003. REVISION OF SECTION 8(g)

Paragraph (1) of section 8(g) of the OCS Lands Act is amended to clarify and expand the requirements on the Secretary of the Interior to provide information to the Governor of any coastal State where nominations are solicited for leasing lands wholly or partially within three nautical miles of the seaward boundary of such State.

Paragraph (2) of section 8003 revises the 8(g) provision in current law which provided for a fair and equitable disposition of certain OCS revenues to coastal States. After the date of enactment of this subtitle any bonuses, rents or royalties received by the Federal Government which are derived from any lease of any Federal tract lying wholly or partially within 3 nautical miles of the seaward boundary of a coastal State must be deposited in a separate account in the Treasury.

The conference report uses the term "all bonuses, rents, and royalties, and other revenues (derived from any bidding system authorized under subsection (a)(1)), excluding Federal income and windfall profits taxes, and derived from any lease of any Federal tract. * * *"

The parenthetical phrase simply limits "other revenues" to include only the revenues from the current OCS bidding system and the alternative bidding systems that are set out in section 8(a)(1) of the OCS Lands Act as amended. The exclusion of Federal income and windfall profits taxes from distribution under this subtitle was already recognized in the committee report on the Senate version of this bill.

The use of the term "any Federal tract which lies wholly or partially within 3 nautical miles of the seaward boundary of any coastal State" throughout this subtitle is the means by which the Department of the Interior is foreclosed from prorationing the States' share of 8(g) revenues by surface acreage.

This paragraph also requires the States' share of the 8(g) revenues to be transmitted to the State not later than the last business day of the month following the month in which those revenues are deposited in the Treasury. While the statement of managers affirms that the Department must meet this deadline, it recognizes that the Department requires some time to process the reports from lessees to distinguish 8(g) revenues from non-8(g) revenues. We certainly expect that the Department will exercise its most diligent efforts to identify the 8(g) moneys and to either distribute the States' share immediately to the States or to invest these moneys in interest-bearing securities.

There is no question but that paragraph (2) applies to revenues derived from Federal tracts lying wholly or partially in the 8(g) zone regardless of when they were leased. The language on its face says "any lease" and makes no exclusion based on the date of the issuance of the lease itself. This is in contrast to paragraph (5) of this same section which is explicitly limited to lease sales occuring after September 18, 1978, and which addresses the situation where there is a boundary dispute between the Federal Government and the State under section 7 of the OCS Lands Act.

The legislative history on this provision confirms this logical interpretation of the plain meaning of the words on this point. On November 14, 1985, Senator EVANS offered an amendment No. 1040 to the provision on section 8(g) contained in the Senate's omnibus reconciliation bill, S. 1730. The Evans amendment would have limited the application of paragraph (2) to any lease "issued after September 18, 1978."

Senator EVANS explicitly noted that the State of Louisiana was claiming that this provision on section 8(g) in S. 1730 gives Louisiana the right to revenues in the 8(g) zone on tracts leased prior to September 18, 1978. He acknowledged, "S. 1730 supports the attempts of Louisiana to claim these additional revenues."

Senator METZENBAUM cosponsored the Evans amendment and sent out a "Dear Colleague" letter on November 12, 1985, which was devoted entirely to alerting members to Louisiana's claims that the section 8(g) provision as reported in the Senate's budget reconciliation bill would apply to revenues from leases issued before the 8(g) zone was first created by legislation, September 18, 1978. The Evans-Metzenbaum amendment was defeated by a tabling motion in a vote of 54 to 45. Furthermore, in my own statement on page S. 15437 of the CONGRESSIONAL RECORD of November 14, 1985, I acknowledged that the committee-reported provision applied to future bonuses and rents from leases whenever executed and that the provision also applied to future royalties from any leases, "whether executed before or after the 1978 amendments. . .".

So there can be no doubt about it, the Senate considered limiting the sharing of revenues with the States to only those revenues from leases executed after September 18, 1978, and declined to do so. On the House side, Representative BREAUX addressed this same point when the measure on 8(g) which he sponsored was considered on the floor on October 23, 1985, as part of the House budget reconciliation bill. He said,

> So it does provide for the past inadequate escrowing activities because of the prorationing scheme that the Interior Department came up with, including post-1978 royalties from the 8(g) tracts no matter when the lease was issued.

The same issue arose again in the House-Senate conference on budget reconciliation although the House and Senate had passed bills with essentially identical language on the point in question. Representative SHARP proposed to the House conferees that they add statement of managers language to the effect that the OCS subtitle would not apply to any revenues from tracts leased prior to September 18, 1978. The House conferees considered this and rejected it by a rollcall vote.

The statement of managers is dispositive on this issue.

> During the Conference, an issue was raised as to whether revenues received by the Federal Government from tracts located in what is now the 8(g) zone, but which were leased prior to the date of enactment of the OCS Lands Act Amendments of 1978 (September 18, 1978), should be excluded from the distribution of revenues to the States under this title. The uniform position of the Senate Conferees was that the issue had been settled by a roll call vote on the Senate floor and that all such revenues were subject to such distribution under this title. The House Conferees then considered and rejected a motion to adopt Statement of Managers language to exclude such revenues.

Therefore, the plain words of this conference report coupled with the legislative history on the House and Senate side leaves no doubt that paragraph (2)—as well as section 8006 on recoupment—applies to tracts whenever they were leased.

Paragraph (3) requires the Secretary of the Interior or the Governor to notify each other whenever either determines that an area which potentially contains hydrocarbons underlies the Federal-State boundary. The Secretary and the Governor are permitted to enter into a unitization agreement or other royalty sharing agreement. Whether or not such an agreement is achieved, the Secretary may lease the tracts in question, which is consistent with the provision in current law.

Paragraph (4) requires the Secretary of the Treasury to invest the revenues deposited under this section in securities backed by the full faith and credit of the United States having maturities suitable the needs of the account and yielding the highest reasonably available interest rates as determined by the Secretary. These securities will require a short maturity period as the Department is required to distribute the States' shares of the revenues by the last business day of the month following the date of deposit. Of course this time period is measured from the date the Federal Government first receives the revenues from the lessees, whether or not the 8(g) revenues are segregated from the non-8(g) revenues.

Paragraph (5) addresses the situation where a State has a boundary dispute with the Federal Government over the location of the Federal-State boundary. Section 7 of the OCS Lands Act, as amended, controls this situation. Only since the location of the Federal State boundary is settled can the location of the 8(g) zone be established and the State's share of 8(g) revenues determined. Section 8(g)(5) of this conference report governs how escrowed funds are to be treated in such a situation. The conference report explicitly limits the application of this paragraph to tracts from lease sales occurring after September 18, 1978.

Paragraph (6) provides that any OCS bonuses, rents, or royalties received by the Federal Government beginning October 1, 1985, shall be deposited and distributed to the States under section 8(g) as revised by this conference report. Thus, the revised section 8(g) will have a retroactive effect back to October 1, 1985, for purposes of determining the amounts to be deposited in the separate Treasury account and the computation of the States' shares.

Paragraph (7) applies to the situation where Federal leases lie wholly or partially within three miles of the seaward boundary of 2 or more States. There are Federal tracts in the Sabine Pass between the States of Texas and Louisiana which fall in this category. Under this provision Texas and Louisiana will each receive 13½% of the 8(g) revenues from these tracts, and potentially an additional amount under recoupment in section 8006.

SECTION 8004. DISTRIBUTION OF 8(g) ACCOUNT

This section of the conference report determines how the funds currrently held in the 8(g) account shall be shared with the States including those 8(g) revenues which the Government receives between now and the date of actual distribution of such funds to the States.

Subsection (a) requires the Secretary of the Interior to distribute to the States prior to January 1, 1986, the States' shares of OCS revenues received beginning October 1, 1985, under the new 8(g) provision as revised by this conference report, plus the States' shares enumerated under subsection (b) from the current 8(g) escrow account held in the Treasury.

The statement of managers recognizes that some of the States' shares of 8(g) revenues have been invested in securities which will not mature until after January 1, 1986. In the past the Department has invested the escrowed 8(g) funds in 90-day Treasury notes. Therefore, there may well be some delay in paying the States all they are due by January 1, 1986. However, the Department is expected to use all available funds to pay the States their share prior to Janaury 1, 1986. As soon as the remainder of funds due becomes available as these notes mature, the States must be paid the balance they are due.

Subsection (b) determines the distribution of funds deposited in the special Treasury account through September 30, 1985, which were escrowed under the 8(g) provision as it existed prior to amendment by this conference report.

That original 8(g) provision called for a fair and equitable disposition of revenues among the States and the Federal Government. Subsection (b) is the legislative settlement establishing a fair and equitable disposition of the bonuses, rents, and royalties and accrued interest which are contained in the special Treasury account. Paragraph (1) mandates the State-by-State distribution of bonuses and rents and accrued interest royalties and accrued interest which were actually deposited into the 8(g) account through September 30, 1985.

Paragraph (2) refers to the distribution of the royalties derived from any lease of Federal "* * * lands within 3 miles of the seaward boundary * * *" of such State plus accrued interest. By this term paragraph (2) refers back to the original 8(g) language which gave rise to the need for a fair and equitable legislative settlement between the Federal Government and the States. Paragraph (2) provides each State 27 percent of the royalties plus accrued interest which were actually deposited into the 8(g) Treasury account with respect to each such State. The Treasury account currently keeps track of how much royalties were collected offshore each specific State, so the Treasury account provides the basis for identifying the amount of royalties plus interest to which each State respectively is entitled to a 27-percent share—and somewhat more in the case of recoupment.

Paragraph (3) simply gives the U.S. Treasury the balance of the moneys remaining in the 8(g) Treasury account as of September 30, 1985, after the States' shares have been distributed.

Paragraph (4) provides that a State's acceptance of the payment to which it is due under this section will satisfy and release all that State's claims against the United States under section 8(g) as it existed prior to amendment under this title. Obviously, the State's claims are not extinguished until it accepts the full payment it is due under this section. Thus, if the Federal Government pays the State in more than one installment as securities in which the 8(g) funds are invested reach maturity, then the extinguishment of the State's claim occurs only upon acceptance of the final installment.

It should be understood that section 8004 represents a fair and equitable disposition of only the funds which were actually deposited in the account or invested in securities held by the account as of September 30, 1985.

Section 8006 on recoupment addressed the remaining issue of what is a fair and equitable disposition to the States of funds which should have been escrowed by the Department of the Interior but which for a variety of reasons were not actually escrowed in the past.

SECTION 8005. IMMOBILIZATION OF BOUNDARIES

SECTION 8006. RECOUPMENT

The legislative history of the 8(g) provision in the budget reconciliation bill amply demonstrates that the Department of the Interior did not escrow all the 8(g) revenues which should have been placed in the separate Treasury account.

This section on recoupment establishes by legislation a fair and equitable disposition to the States of the revenues derived by the Federal Government between September 18, 1978, and September 30, 1985, which should have escrowed but which in fact were not placed or kept in escrow. This section accomplishes this objective by first entitling the States in section 8006(a)(2) to 27 percent of all bonuses, rents, and royalties and other revenues collected by the Federal Government plus accrued interest for the period September 18, 1978, through September 30, 1985, and which were derived from any lease of any Federal tract which lies wholly or partially within 3 nautical miles of the State. Then section 8006(a)(2) reduces the amount due the State by that which they were already paid under section 8004(b) in the distribution of the amounts actually held in escrow as of September 30, 1985. So the net amount the States receive under recoupment is that which they should have received but which they did not receive.

Here again the reference to "any lease of any Federal tract" in section 8006(a)(1) means that this section applies to any Federal leases regardless of the date of their execution.

The conferees added the term "excluding Federal income and windfall profits taxes" to ensure that these taxes are not treated as "other revenues." In fact, the term "other revenues" is limited to those revenues derived from any bidding system authorized in sectin 8(a)(1) of the OCS Lands Act.

Subsection (b) calls for establishment of a second separate Treasury account for recoupment which is funded as described in subsection (c). On the last business day of each month the total amount in this recoupment account is swept out and paid to the State's which are due recoupment payments under subsection (a). Each State receives a pro rata share—based on the amount of recoupment each State is due relative to the total amount of recoupment due to all the States—of the total amount swept out of the account.

Subsection (c) provides that an additional 10 percent share—over and above the 27 percent share the States receive under section 8003—of the revenues deposited after October 1, 1986, into the separate Treasury account established under section 8(g)(2) will be placed in the recoupment account described in section 8006(b).

Mr. President, the Congress has fashioned a legislative solution to the 8(g) controversy that is fair and equitable, which should end litigation over the issue, and which has been scored by the Congressional Budget Office as saving the Federal Government hundreds of millions of dollars. I urge my colleagues to support this conference report. I urge the President to sign this bill to put an end to the 8(g) controversy.

Mr. President, the compromise reached on the question of the Uranium Enrichment Program deserves a few comments. The Senate took the position that the Department of Energy's Uranium Enrichment Program should be made to repay to the Treasury only those revenues, if any, that exceed the program's costs. The House took the position that the Uranium Enrichment Program's costs, if effect, should include specific required repayment amounts.

Based on the record we have now we simply cannot resolve the complex factual question of how much the program can, in fact, afford to repay to the Treasury or even how much the program actually owes to the Treasury. Therefore the compromise that is proposed by the conferees sets the repayment numbers of the House as goals, and authorizes the Secretary of Energy to determine the amount that the program will repay consistent with several criteria. The Secretary is not required to make any repayment.

The criteria in the bill assume that the continued viability of the Federal uranium enrichment enterprise is in the national interest. In our view in the Senate, this viability is severely threatened by proposals that the costs of the program be artificially increased. The price that the U.S. Department of Energy charges for uranium enrichment services is far above the prices charged by competitor governments and far above the prices charged on the secondary market for enriched uranium. If the United States is to remain in the enrichment business, the U.S. price simply must be lowered. This can only be accomplished by lowering the costs of enrichment, not by increasing them. We need to invest in new, lower-cost enrichment technology—like the laser-based technology currently under development. We do not need to impose new costs on the program that will delay the time when the United States can offer enrichment services at competitive prices.

So we think that the goals for repayment set out in this bill are way too high. We think the program should lower costs and prices. We are confident that an honest determination by the Secretary under the bill will find that the repayment amount that will not adversely affect the reliability of supply of uranium enrichment services at competitive prices to existing and potential customers will be a zero repayment. We are deeply concerned by recent press reports that the Office of Management and Budget is seeking even larger repayment amounts than those in the House bill.

The only conclusion that we can draw from these reports is that someone wants the United States out of the uranium enrichment business. This is not a new proposition. In the 1970's it was proposed by President Ford and dropped when the phrase "nuclear nonproliferation" began to appear regularly in the newspapers.

If privatization of the uranium enrichment business is what we are dealing with, we should face that issue squarely and debate it. There are lots of implications to such a notion that go far beyond the provision of enrichment services to the Nation's nuclear reactors. A reconciliation bill is not the place for such a debate. Budget proposals that purposely cripple the Federal enterprise in order to set up a situation where selling it off is the only option are not the way to make policy.

Under the bill we are approving, the Secretary of Energy is required to make a determination of the size of the Uranium Enrichment Program's debt and the amount of repayment that can now be made consistent with the continued financial integrity of the program over the long term. I hope that these determinations and the process by which they are made will provide the basis for a debate on the long-term future of the Department of Energy's enrichment program. No reasonable long-term planning is possible under a threat of an undetermined and possibly crippling repayment requirement. We should settle this issue. The program can be a source of cash to reduce the deficit or it can be competitive. It cannot be both.

The stakes of guessing wrong in this planning process are very high. We should be debating this issue, and soon. If the provision we are enacting today brings the beginning of that debate closer, our work will have been worthwhile.

I reserve the balance of my time.

The PRESIDING OFFICER. Who yields time?

Mr. ARMSTRONG. Mr. President, I yield 5 minutes to the Senator from Texas, and more if he needs it.

Mr. GRAMM. Mr. President, I thank the distinguished Senator from Colorado. I rise to make several points about the conference report and about reconciliation.

I wish to begin, Mr. President, by saying that I am disappointed by the fact that reconciliation, which was a vehicle used so effectively in 1981 to reform entitlement programs, to change the spending patterns of the Federal Government, to change the direction of the American economy by changing the policies of the Federal Government, has become a catch-all vehicle for doing so many things that have nothing to do with saving money.

I am pleased that, under the Gramm-Rudman-Hollings proposal, points of order will lie against nongermane provisions; and by that we mean, in simple English that the general public understands, provisions that do not have anything to do with saving money in reconciliation. It saddens me a great deal to be forced to make a choice concerning the things in this bill that I strongly support and things in this bill that have nothing to do with saving money that I strongly oppose.

I oppose beginning a new entitlement program in this bill. And we have done that by expanding the base and reauthorizing trade adjustment assistance. We have imposed a new tax on imports, in clear violation of GATT. We have reauthorized more programs in this bill than any bill that has been adopted since I have been in Congress in 7 years. I thought reconciliation was about saving money, not reauthorizing programs.

So I believe that my strongest concern about this bill has nothing to do with how we ought to finance Superfund. In fact, I think the base of that tax has got to be a broad base if we are going to be able to afford the kind of cleanup that Congress seems committed to.

But my concern is that we have, in the process of this reconciliation bill, come very close to destroying the only vehicle that we have ever found to address the fundamental issues about Government spending. And I think that is a sad commentary on what has happened to the budget process in the 5 years that we have tried to make it work. I am hoping that next year, with a new framework, we can prevent this from happening.

Mr. ARMSTRONG. Will the Senator yield to me?

Mr. GRAMM. I am happy to yield.

Mr. ARMSTRONG. I share the concern that the Senator from Texas has expressed, because the extraneous provisions which have been added to this bill are a procedural outrage, whether you agree with the substance of them or not.

But, as reassurance, let me point out to the Senator that we have adopted a provision which will limit the addition of extraneous matter to future reconciliation bills. And it will be my purpose, following the adoption of this conference report, to offer a Senate resolution, which has been cleared on both sides, which will extend the same protection against extraneous material being added to reconciliation conference reports.

So I can say to the Senator, while the horse is out of the barn on this particular bill, I do not think we will ever again face the kind of wholesale legislation on a reconciliation bill that we have seen on this bill. I share his concern, but I think we have got that bottled up.

Mr. GRAMM. Mr. President, let me say to the Senator from Colorado that

I appreciate and wholeheartedly support that sense of the Senate. We, as a result of the Byrd amendment which has been incorporated into the Gramm-Rudman-Hollings proposal, have an additional vehicle in a point of order in the future. But I think it is unfortunate that a vehicle that was aimed at saving money has become the No. 1 reauthorization and spending vehicle in the Congress.

Finally, I would like to make an additional point that has nothing to do with whether you are for or against this bill. In the future, we have got to come up with a better accounting system so we all know what we are doing.

Let me give you an example. The biggest single savings in this reconciliation bill comes from Medicare—$11 billion. Now, you look at that $11 billion and you could say we could certainly use that $11 billion in the budget. But the truth is this reconciliation bill not only does not save any money in Medicare, it adds to spending in Medicare. And it does so because of an accounting system that really does not make sense, and I hope we will not use it in the future.

What we have done here is raised the reimbursement level for Medicare providers by 1 percent and we have scored that against the current services base to claim the largest single savings in this proposal. But there is one flaw in that process, or one hook before we run to the bank with the $11 billion, and that is, the administration, through HHS, froze the reimbursement level and, therefore, not only do we not save the $11 billion here, but we are raising spending above the level which would exist under Medicare in the absence of the adoption of this bill.

I appreciate all the work that has been done on this conference report. I do not know whether the President is going to sign it or not.

Quite frankly, I am strongly opposed to some of the provisions it contains, some of the new programs, and some of the new entitlements which we are starting on the spending bill. On the other hand, there are some savings in here.

But there are two points that I think ought to be reiterated.

No. 1, we need a vehicle, to stop reconciliation from being used to promote spending, rather than to stop it. As a result of the Byrd amendment, Gramm-Rudman-Hollings, and a resolution that will be offered here, we will prevent the abuse of reconciliation in the future.

Reconciliation is for saving money, and not for spending.

No. 2, it is vitally important in the future when we bring these kind of proposals to the floor for debate that we have an assessment by the Congressional Budget Office as to how much money is actually saved.

It is very difficult to have any kind of meaningful debate on an issue when we have the largest single savings in a vehicle which represents not savings at all but a substantial increase in spending.

So I think, No. 1, we need to go back to use reconciliation for what it was meant to do. I just wish we were going to do it this year. I would have felt a lot better about this proposal.

No. 2, we need to have an effective way of accounting so we know whether we are saving money or not. While there are savings in this bill, and I know people have worked hard to get those savings, the truth is the savings are nothing like the figures we are showing here because they do not take into account the savings that have already been undertaken.

I thank the distinguished Senator from Colorado for yielding.

I yield back the balance of my time.

Mr. BENTSEN. I would ask the distinguished Senator from Louisiana, our very able ranking member on Energy and Natural Resources and the reconciliation subconference on Outer Continental Shelf matters, if he would enter into a brief colloquy regarding the section 8(g) OCS settlement in the conference report on reconciliation. Senator Johnston, it is my understanding that the 8(g) settlement in the reconciliation conference report was, in part, necessitated by the legal dispute between the States and the Federal Government over a "fair and equitable" disposition of revenues from the 8(g) zone and that the report among other things expressly intends to settle and extinguish that legal dispute. The legislative history of this measure is replete with references to the ruling by Judge Robert Parker in the eastern district of Texas.

Judge Parker, using a concept of bonus-enhancement, held that the State of Texas was entitled to the equivalent of 27 percent of the 8(g) bonuses in question as income to which the State was fairly and equitably entitled as a result of mineral development on State lands adjacent to the 8(g) zone.

This legislation implicitly recognizes that ruling and grants the States at least 27 percent of the bonuses, rentals and royalties as the basis for a permanent 8(g) settlement that benefits the entire Nation.

Mr. JOHNSTON. I would commend my distinguished colleague from Texas for his correct interpretation of out intent in this legislation.

Mr. BENTSEN. I would also like to ask the distinguished chairman of the Energy and Natural Resources Committee, Senator McClure, if he agrees with my understanding as I have stated it.

Mr. McCLURE. I do.

PENSION BENEFIT GUARANTY CORPORATION CONFERENCE REPORT TO THE RECONCILIATION BILL

Mr. THURMOND. Mr. President, in my capacity as a conferee on the Pension Benefit Guaranty Corporation [PBGC] subconference, I found my experience as chairman of the Judiciary Committee to be extremely valuable. Because the Judiciary Committee has jursdiction over bankruptcy law, I have developed an active interest in this area. As my colleagues are aware, initial PBGC reconciliation proposals dealt with bankruptcy issues, both directly and indirectly. I am pleased that this conference report has deleted all those provisions which would have directly affected bankruptcy law and principles. Specifically, the creditor status in bankruptcy of the PBGC based on 30 percent of an employer's net worth purposefully remains the same as under existing law. The conference does not address the question of whether or not a pension plan is an executory contract. That will be decided under the law as it existed prior to this conference report. However, to the extent a pension plan is an executory contract, it is covered by the voidance provisions of section 365 of the Bankruptcy Code. Absent the consent of all involved parties, no claim by PBGC survives bankruptcy.

The conferees wisely chose to stay neutral and simply maintain current law regarding these issues. However, we did see the need to create a larger sized claim by the PBGC. While maintaining a neutral position on the status of the 30-percent net worth claim, to the extent that 75 percent of the employer's pension asset insufficiency exceeds 30 percent of the employer's net worth—the PBGC was given a general unsecured claim in bankruptcy. It is clearly understood by the conferees that although this additional claim is unsecured, no inference whatsoever should be created as to the status of the 30-percent net worth claim. The status of this new, general unsecured claim adds no evidence—one way or the other—to the issue of what status in bankruptcy PBGC has to 30 percent of the employer's net worth.

I deeply appreciate the sensitivity which the conferees have shown to the concerns of the respective Senate and House Judiciary Committees regarding these bankruptcy issues.

The current estimated deficits for the PBGC in the amount of $1.3 billion illustrate the need for immediate reforms in this system. Several provisions in current law have contributed to this present state of affairs. The premium rate has been too low. Waivers of employer funding have been granted too generously. Although the dumping of pension plans with insufficient assets to pay retirees has not been encouraged, it has been facilitated under current law. Those companies which have taken advantage of this system have exacerbated the financial problems of the PBGC.

The reforms which are provided in this legislation will put businesses on notice that in the future, responsibilities to these pension plans cannot be so easily abandoned. As a matter of fairness, I firmly believe in the concept of reasonable notice. Too many citizens, financial institutions, and other creditors have in good faith relied on the existing law. Despite prospective application of these reforms, I fear that some creditors, especially small businesses, still may be unfairly impacted by this legislation. The small businessman who has extended credit to a distressed company has done so in reliance on existing law. If the credit customers of these small businessmen file for bankruptcy after January 1, 1986, the recovery of the small creditor in Bankruptcy Court may be greatly reduced due to the increased size of PBGC's claim as an unsecured creditor. This example clearly demonstrates that retroactive application would be blatantly unfair. Nevertheless, the majority of conferees have approved one exception to the prospective application of these reforms.

The exception to which I refer involves a provision in this legislation that only applies to pension plans that have posed no threat to the solvency of the PBGC. These pension plans are full funded and seek termination to regain excess assets. Many of these plans hope to use these assets to expand their business and hire new employees. They have applied for termination in compliance with current law and do not deserve this selective retroactive treatment. Over my strenuous objection, the majority of my colleagues on the conference have imposed a possible 90-day suspension of processing these currently pending terminations.

The challenge faced by the conferees was to provide reforms without discouraging the formation of pension plans. As I have stated, this legislation has its defects. However, I believe that in most respects we have succeeded in meeting this challenge. Accordingly, I am willing to support this conference report.

Mr. SIMON. The provisions of the reconciliation bill dealing with Department of Labor plan assets regulations only provide SEC registered real estate limited partnerships and other similar real estate entities with effective date relief if the Department of Labor fails to issue final regulations or issues final regulations which would subject such real estate entities to plan asset treatment. What assurance do we have that this section will solve the problems raised by the efforts of the Department of Labor to subject such real estate entities to ERISA jurisdiction?

Mr. NICKLES. The provisions you refer to and the related conference report language were worked out in advance with the Department of Labor. The cooperative attitude on the part of the Department was reason enough to limit this section to effective date relief and reason enough for us to refrain from substantive legislation at this time.

I share your concern that the Department's regulations come out right on this point. I suggest that we all be prepared to enact substantive legislation if the Department does not clearly exclude SEC registered real estate entities from plan asset treatment in its final regulations.

Mr. SIMON. Thank you. I am satisfied. It is particularly important that the Department not disturb the highly technical free transferability exceptions which have been crafted so carefully to reflect the myriad existing state blue sky and other requirements and the administrative practices of such programs. If those exceptions are tightened in final regulations without careful attention to the impact on SEC registered real estate entities, the regulations will be fatally flawed and a legislative solution may be necessary. The proposed requirement that public real estate offerings not be primarily marketed to plans which was in the January proposal but is absent fom this bill is inappropriate. It results in undue expansion of the Department's jurisdiction through a logically flawed shortcut. That requirement would avoid a more careful analysis based upon the similarity of the characteristics of a given investment vehicle to a typical investment management relationship which is the proper focus of ERISA.

I take comfort in the Department's cooperative approach to this legislation and hope that the Department's final regulations will contain standards applicable to SEC registered real estate entities which are not more stringent than those described in subsection (A)(1)(c) of this provision.

Mr. NICKLES. I agree with your observations.

A VICTORY FOR THE COAL INDUSTRY AND COAL MINERS

Mr. ROCKEFELLER. Mr. President, today a victory was won for the coal industry and coal miners. A major compromise was reached by the Senate and House regarding the financing of the black lung disability trust fund. In the reconciliation legislation we are acting on tonight, the compromise provision is included which will restore the fiscal solvency of the fund.

I have been actively involved in this issue since the President made his original proposal to increase the excise tax on coal by 50 percent. This tax increase would have had a disastrous effect on the coal industry. Even more jobs would have been lost and the industry would have had little choice but to raise the price of domestic coal—a move which would have inevitably hurt us in the international marketplace.

At the same time, I have recognized the urgent need to deal with the $2.5 billion deficit of the black lung trust fund. We simply had to take action this year to restore the fund's solvency if we were to ensure that miners and their families would continue to receive benefits entitled to them under the law.

In the recent weeks, I have concentrated on promoting an alternative to the tax increase as well as to a measure adopted by the Senate Finance Committee which would have ended the borrowing authority of the black lung trust fund. A number of my distinguished colleagues who represent States with signficant coal mining joined me in seeking a responsible response to the fiscal problems of the fund.

Today, we succeeded in winning the support of the reconciliation conferees for a responsible alternative. The compromise plan was developed by the Bituminous Coal Operators and the United Mine Workers of America. These two groups worked cooperatively to fashion and approach to solve the black lung trust fund deficit—namely, they suggested a one-time, 5-year forgiveness of the interest payments on the cumulative indebtedness of the trust fund and a 10 percent increase in the coal excise tax.

Mr. President, I am grateful to the reconciliation conferees for agreeing to this compromise proposal. By enacting the tax increase and the forgiveness of interest payments, we project that the $2.5 billion debt of the trust fund will be retired by the year 2007. This means that we will restore the integrity and stability of the Black Lung Program, which provides critical relief to the retired miners who suffer from the crippling disease of pneumoconiosis.

I extend my heartfelt thanks to all of my colleagues who listened to the views of those who are concerned about the future of the coal industry and the Black Lung Program. Specifically, I am indebted to the distinguished chairman and ranking minority leader of the Senate Finance Committee for listening to various points of view and recommendations on this critical matter. They appropriately felt an obligation to tackle the financial problems of the black lung trust fund, and in the end helped to enact a positive and responsible approach to reach this critical objective.

Finally, I commend my fellow colleagues representing West Virginia.

The minority leader of the Senate played an active role in developing the final compromise. And in the House of Representatives Congressman Nick Joe Rahall was pivotal in enlisting the support of conferees on this matter.

I fervently hope that the provision included in the reconciliation legislation will quickly restore the financial health of the black lung trust fund. The current deficit threatens the ability of the program to meet its obligations under the law. I am proud that the parties most concerned about the fund—including representatives of coal producing States, the coal industry, and the United Mine Workers of America—have succeeded in winning congressional approval of an equitable plan for insuring the integrity and future of the Black Lung Program.

Mr. NICKLES. Mr. President, today I have the pleasure to discuss important reforms reported by the joint conference on single-employer pension plan termination insurance that are part of the budget reconciliation bill.

This important insurance program, which is administered by a self-financing Government corporation, the Pension Benefit Guaranty Corporation, was created in 1974 to assure that pension benefits earned by workers would be paid even if the employer terminated the plan in an underfunded condition. The program covers about 30 million retired and working Americans in over 100,000 defined benefit plans and is financed by premiums paid by those plans and by liability paid to the PBGC by employers that terminate underfunded plans.

Both the premium rate—currently $2.60 per plan participant—and the employer liability rules under current law have proven inadequate. The program is now responsible for benefit payments to about 160,000 current and future retirees in about 1,100 terminated plans and has a deficit of over $1 billion. The conference has agreed on a premium increase to $8.50 effective January 1, 1986, and reforms to protect this program against unwarranted claims.

A revision of the employer liability rule is central to the reform package. Under current law, an employer is liable to the PBGC for unfunded guaranteed benefits, but the amount of liability is limited to 30 percent of the employer's net worth. The PBGC has historically been able to collect only about 15 percent of plan underfunding through employer liability. The corollary is that the PBGC program affords companies with large unfunded pension obligations relative to net worth the opportunity to shift their pension funding obligations to other companies that keep their plans going and continue to pay PBGC premiums.

Several predecessor bills to increase the PBGC, employer liability recoveries and institute other needed reforms in the program have been introduced by me in the Senate and by various Members in the House over the last several years. One such bill, S. 1227, was ordered reported by the full Senate Labor and Human Resources Committee in June 1984. This proposed legislation was the basis for the reform package sent to the Budget Committee in September of this year for reconciliation purposes. The joint conference on PBGC insurance reforms had before it two employer liability formulations. The Senate bill and the House Education and Labor formulations are quite identical. They set employer liability at the full amount of unfunded guaranteed benefits. However, where the amount exceeded 30 percent of the employer's net worth, the excess unfunded guaranteed liability would be payable in annual installments equal to 10 percent of the employer's pretax profits. The profits payments would end after 10 years or upon payoff of the plan underfunding, if earlier. The profits interest payment schedule would enable uniform payment terms and minimize the need for PBGC and an employer to negotiate payment arrangements.

After consultation with bankruptcy experts, it became clear that the formulation would not produce sufficient savings for the program. In a bankruptcy proceeding the bankruptcy court is likely to liquidate the PBGC's profits interest claim using very conservative collectibility assumptions consistent with the "fresh start" principle favoring the debtor. Thus the profits interest could easily be undervalued, reducing PBGC's recovery. This is a serious problem with the proposal in view of the fact that about 75 percent of claims against the program occur in the context of bankruptcy proceedings.

Another problem with the proposal is that members of the bankruptcy bar and counsel representing bank lenders have mounted an attack on the status of PBGC's employer liability claim in bankruptcy proceedings. ERISA created an automatic lien in the PBGC's favor for the amount of employer liability that an employer neglects or refuses to pay and accorded this lien tax priority status in bankruptcy proceedings, which assures complete or very sizable recovery. The bankruptcy and bank bar members assert that the PBGC claim does not have tax priority status. They argue that changes in the Federal bankruptcy law which established the new Federal Bankruptcy Code in 1978, deny the PBGC the tax priority status that was intended under ERISA.

The Bankruptcy Code listed the specific types of taxes entitled to priority (see 11 U.S.C. §§ 503(b)(1)(B), 507(a)(7)), whereas ERISA did not specify that PBGC's claim would be treated in the same manner as a particular tax. Section 4068 was amended by the Bankruptcy Reform Act, changing it to conform to Bankruptcy Code language, but leaving the priority language as originally enacted in 1974. The PBGC therefore has continued to file those claims as tax priority claims under 11 U.S.C. §§ 503(b)(1)(B) and 507(a)(7).

The PBGC has never litigated the status of its employer liability claim under current bankruptcy law. Because 30 percent of net worth is generally a small figure, disputes over PBGC's recovery are settled through negotiation rather than litigated. PBGC did litigate the priority status of its claim in one case under prior bankruptcy law, however, and prevailed.

The conferees were concerned that PBGC's recovery would be reduced to unacceptably low levels if the profit interest were liquidated and discharged as a general creditor claim. We therefore adopted a different formulation by combining features of the Labor Committees' and Ways and Means Committees' proposals.

The conference agreement gives the PBGC, in addition to its current law tax priority claim for 30 percent of net worth, an additional claim for the excess, if any, of 75 percent of unfunded guaranteed benefits over the 30 percent of net worth amount. This additional claim has a general unsecured status in bankruptcy proceedings. Thus the conference agreement is a compromise between the House Ways and Means Committee bill, which would set employer liability at 100 percent of unfunded guaranteed benefits and apply the current law tax priority to the entire amount, and the profits formulation under the House Education and Labor and Senate bills.

The conference agreement does not alter the bankruptcy status of the claim PBGC makes, as plan trustee, for unpaid contributions. As under current ERISA law and the Bankruptcy Code, unpaid contributions that accrue after a bankruptcy petition have administrative expense priority; those that accrue within 180 days before the petition have employee benefit status—subject to the $2,000 per employee limit on priority employee wage and benefit claims—and remaining unpaid contributions have general unsecured status.

Finally, I would like to comment on the effect of ERISA and the Bankruptcy Code on an employer's right to terminate a plan in a distress termination under the conference agreement. In order to have a distress termination one of three tests must be met by each contributing sponsor and each substantial member of its controlled group. Each such person must be in a liquidation proceeding, in a reorganization proceeding in which the bankruptcy court approves the termination, or in deep financial trouble as demonstrated to the PBGC under specified criteria. The conference agreement makes no change to the existing law regarding the appropriate forum to adjudicate disputes concerning such terminations. The Bankruptcy Amendments and Federal Judgeship Act of 1984 added section 157(d) to the Judicial Code providing that a U.S. District Court shall withdraw and hear disputes where consideration of both bankruptcy law and other Federal laws, such as ERISA, is required.

BUDGET RECONCILIATION

Mr. CHAFEE. Mr. President, the reconciliation package before us represents a great deal of hard work and careful discussion. It also contains an extraordinary number of provisions which might be called extraneous by some, but which are extremely important.

MEDICAID

For several years now, I have been working to reform the Medicaid system. Specifically, I have been working to change the program so that Medicaid funds can be used for community-based long-term care services to our citizens with mental retardation and developmental disabilities.

In the long run, I believe this system is in need of a major overhaul. The current system is biased toward the use of institutional facilities—but we should be working harder to keep handicapped citizens in the community.

True Medicaid reform, such as what I have proposed in my legislation, S. 873—the Community and Family Living Amendments of 1985—may take years to accomplish. In the meantime, there are several interim changes that should be made. We were able to include some of these changes during this reconciliation process.

LIFE SAFETY CODE

Earlier this year, I received complaints about the application of an outdated Life Safety Code by the Department of Health and Human Services from parents and residential providers across the country. Consequently, in the legislation before us there is a provision to require the Secretary of HHS to accept the 1985 Life Safety Code as an acceptable standard for fire safety. This code, while still striving for fire safety, offers greater flexibility in the use of resources within a residence to promote such safety. As a result of this action the Secretary of HHS has already acted to accept the new code.

PUBLICATION OF ICF/MR REGULATIONS

People concerned about intermediate care facilities for the mentally retarded [ICF/MR], have been waiting for 2 years to see new regulations for these facilities. In the reconciliation package, we have included a provision to require the Secretary to publish for comment the current draft of the new ICF regulations within 60 days of passage. These regulations have been more than 2 years in the making, and their publication is long overdue. With this provision, I hope we can move on to a new era of planning based on these new regulations.

MEDICAID WAIVER—DENIALS AND RENEWALS

Since 1981, HHS has offered home and community based care waivers to allow Medicaid moneys to be spent in specific non-Medicaid facilities. This program, called the Medicaid Waiver Program, has allowed many severely handicapped persons to live in the community rather than in institutions.

However, the process of applying for and receiving a waiver has been so unpredictable, that it discourages many States from applying for a waiver. In an effort to build greater permanence and predictability into the waiver program, I fought for the inclusion of two related provisions: First, a provision that calls for a moratorium on all denials of waiver renewal requests from States, and second, a provision that requires the Secretary to renew those waiver requests it approves for additional 5-year periods rather than the current 3-year periods.

ICF/MR PLANS OF CORRECTION

In recent years, many States have been confronted with the need to renovate old institutions for the developmentally disabled while at the same time trying to develop community based alternatives for those individuals. In many States, this choice between institutions and the community based services has presented a financial hardship. It has forced many States to renovate buildings that they had intended to close.

One of the provisions included in reconciliation would alleviate this problem—in very limited situations. This provision that would allow an institution with a building or wing that is out of compliance to submit a plan of correction that incorporates depopulation of the building or wing over a 3-year period. Among a variety of other limitations, this would be allowed only in situations where the violations are nonlife threatening, and only with the approval of the Secretary.

I do not believe that this option will be used in many situations. The intent here is simply to allow those States which have had successful experiences with community based services the option of expanding on that success. There are many States which simply would not ask for this option, and if they did ask would be denied because they do not have a positive history of community based services and to some extent deinstitutionalization.

Some people are concerned about this provision because they think that States are given too much power. This is not so. The State must request to implement this provision, but the Secretary of HHS must approve the request. This preserves the balance of power between the State and the Federal Government.

Some are also concerned that this provision will let States dump people out of institutions with no programs. I would never introduce such a provision. As it is framed there are a wide variety of requirements and limitations on the use of this provision. For those individuals who are affected, there are a number of safeguards and requirements which must be met throughout the operation of the plan.

MEDICAID DEMONSTRATION PROJECTS

Many critics of the Medicaid system have stated for years that we can do better and more creative things with the money we are spending. Unfortunately, the Medicaid system is so rigid that it prevents trial attempts at innovative programs.

For this reason, I supported in reconciliation a provision that would allow a "pilot project" in up to four States that would allow for greater flexibility in community residential expenditures. These demonstration projects will allow community based services to be set up on an experimental basis for both the elderly and the developmentally disabled populations.

There are many other provisions dealing with the Medicaid Program in this package. Those outlined above are simply the highlights. All in all, I believe that these provisions represent a substantial step in the attempt to provide a reasonable and rational method of providing long-term care services.

MEDICARE

There were also many changes made in the Medicare Program, most of them were reasonable changes. Some, however, I believe may come back to haunt us. Very few changes in the program were made which will have a direct economic impact on beneficiaries of the Medicare Program. Most of the savings were due to freezes or other restrictions placed on the providers of health care services—such as hospitals and physicians.

I am concerned that if we continue down this path, we will have a health care program for which there are many beneficiaries needing health care services, but few professionals available to deliver those services.

This package cuts the increase in payments to hospitals to a fraction of 1 percent. In addition, it substantially reduces—by close to 50 percent—the amount of reimbursement for indirect education costs to hospitals. I will be watching the effect of these combined reductions carefully to determine whether hospitals are capable of absorbing them.

We also continued a freeze on physician payments, with the exception of a 1 percent increase to what are known as "participating physicians"—those who have agreed to accept assignment in 100 percent of their Medicare patients. I know that there is grave concern among the physicians in my State about the freeze especially because of incredible increases in malpractice premiums during the past year.

It is becoming harder and harder to offer quality health care at the same time reimbursement is reduced. This is just the beginning of the problems we will be encountering in the coming years.

I predict that this body will be spending more and more of its time debating health care issues in the coming years. The problems are just beginning to surface and they are complex and troubling. There simply are no easy answers.

Next year and the year after and the year after that, when the time comes to produce budget savings, we are going to be faced with some very difficult problems—a growing elderly population which is living longer, long-term care services for that population, rebellion among health care providers who can not continue to absorb the loss resulting from our actions to freeze reimbursement, and the list will get longer.

So, Mr. President, while I am satisfied, generally, with our recommendations in this package, I am also worried about the future. I believe these problems can be resolved, but only if all of us work together with a common goal in mind—quality health care at a reasonable price. It sounds simple, but those of us who are familiar with the problems know that it will not be simple to achieve this goal.

Mr. President, I am delighted to report that this bill includes a funding package for Superfund, the important program to clean up toxic waste sites. My colleagues and I worked long and hard to get this measure included in the bill. What we have is a tax that will raise $10 billion over the next 5 years. It is a broad-based manufacturers' excise tax. We rejected a waste end tax and have avoided the need to resort to general funds from the Treasury.

This step moves us considerably closer to our goal of completing the process of amending and expanding Superfund. My only regret, Mr. President, is that the funds collected will not be immediately available to revitalize the program. Superfund and all cleanup work has been brought to a virtual standstill since the old tax expired on September 30. These new funds will become available as soon as the House and Senate meet and complete work on a series of pending amendments to the underlying program. At best, that cannot be done until early February 1986. If that effort drags on too long, a short-term, emergency release of funds may become necessary. I am deeply worried that the Superfund Program is becoming a political football. The consequences of playing brinkmanship are unacceptable to me. While political posturing on the importance of Superfund continues, Federal cleanup work has stopped. Long-term cleanup of major sites requires long-term planning and assured funding. This bill will help and I am anxious to move forward with whatever steps are necessary to get the program for cleaning up toxic dumps back on track.

Mr. LAUTENBERG. Mr. President, I rise in support of the reconciliation bill. This bill will cut $20.5 billion from the deficit this year, $83 billion over 3 years. Those savings are significant. They are significant because they reduce the deficit. They are significant because Congress is making them.

Congress is making the decisions. It is making choices. I do not agree with every choice made. But, Congress is making them. It will have to make a great many more. The toughest decisions are yet to come. But, we have begun to make them.

Now, I was distressed to hear that Donald Regan, the President's Chief of Staff, has reportedly said he will urge the President to veto the reconciliation bill. The President is being urged to veto $83 billion in deficit reductions.

Mr. President, unfortunately, the prospect of a veto of the reconciliation bill is a sign of things to come. It is telling about what the Gramm-Rudman Act will mean.

Under Gramm-Rudman, the Congress gave its power to the President. It surrendered its prerogatives to make choices. For that reason and others, I opposed Gramm-Rudman. Because under Gramm-Rudman, the President can impose across-the-board cuts in spending, not just if Congress fails to cut the deficit, but also if Congress fails to cut the deficit the way the President would like.

Now, Congress has cut the deficit. We just passed a continuing resolution that is $18 billion below the President's request in budget authority. And now, we are about to pass an Omnibus Reconciliation Act, with program cuts and revenue measures, that will cut the deficit some $83 billion.

We will send that deficit cut to the President, and the President may veto it. If so, the President would veto deficit cuts made by the Congress, and substitute cuts made with all the care and discrimination of an electric meat slicer.

The President would veto a cigarette tax, as provided in reconciliation, and substitute across-the-board cuts in health care, cancer research, and Medicare.

If so, the President would veto a minimal tariff on imports, designed to support job training for displaced workers, and substitute across-the-board cuts in those very same.

He would veto a broad-based tax to support an enlarged and more effective Superfund, as provided in reconciliation, and substitute across-the-board cuts in toxic waste cleanup.

The President would veto cuts in what we pay banks to service guaranteed student loans, as provided in reconciliation, and substitute instead across-the-board cuts in the loans we pay students.

That is what we face, Mr. President. That would be Gramm-Rudman at work.

Mr. President, I support reconciliation because it is a significant step toward deficit reduction. It also includes changes in law that are critical to my State and to the Nation.

Mr. STAFFORD. Mr. President, I would like to say immediately that I am dismayed by the conference report on budget reconciliation as it affected Superfund. I refused to sign the conference report.

I am dismayed because of the provisions dealing with Superfund. Or, perhaps more accurately, not dealing with Superfund.

The tax which supports Superfund expired on September 30.

This bill will enact a new tax, designed to raise $10 billion over 5 years. But for reasons I do not understand, although the money will be collected it cannot be spent.

If this bill becomes law, not one red cent will be available to the Superfund Program tomorrow than is available at this very instant.

The conferees have chosen to prohibit the expenditure of that money, as it has been explained to me, to keep the pressure on the House and Senate conferees to produce a substantive reauthorization of the Superfund law. Supposedly an imminent deadline is needed to achieve this.

Mr. President, the Committee on Environment and Public Works reported a Superfund bill in September of 1984, when the taxing deadline was 1 year away. When that bill died in the Finance Committee, we reported a bill again on March 1 of this, when the deadline was 6 months away. The House last year passed a bill when the deadline was nearly 16 months away.

I suggest, Mr. President, that what is required is not deadlines, but action. The conferees had the chance to take that action, but didn't. It is a tragedy that the conferees had the opportunity to keep this program running but chose not to do so.

This unique approach of collecting taxes, but not spending them was, I have been told, first suggested by the House conferees. In that context, Mr. President, I would like to observe that even though the House passed a Superfund bill 10 days ago and requested a conference, the conferees have yet to be appointed and the Senate is yet to receive the message from the House. Because of this, it is likely that the entire holiday recess will be lost. Reportedly, the appointments have been prevented because of a struggle for representation on the conference committee.

Mr. President, the Superfund Program is dead in the water. Contracts are in jeopardy, construction has been halted, and investigations have been slowed. All we are now paying for are emergencies and salaries.

If Superfund is defined as the program that the country had on August 1, 1985, then it no longer exists. This bill presented the opportunity to revive it, but the conferees not only failed to seize opportunity, but rejected it outright.

UNIFORM MINIMUM DRINKING AGE

Mr. LAUTENBERG. Mr. President, I rise to bring the attention of my colleagues a provision in this bill which I consider to be of national importance. That provision makes permanent the Uniform Minimum Drinking Age Act of 1984. This law, Public Law 98-363, requires that States raise their minimum drinking age to 21 by October 1, 1986, or risk the loss of Federal highway assistance.

The provision included in reconciliation makes the withholding of highway funds permanent. This amendment to existing law is made necessary by the attempts of a small number of States to evade the intent of the law by sunsetting their 21 laws in 1988 when Federal withholding is scheduled to end. This provision also ends the reimbursement of withheld funds at the close of fiscal year 1988. The provision also includes two lenient provisions. One allows States to phase in their 21 laws and be in compliance with Federal law provided they do so expeditiously. The other extends the availability of highway funds withheld so that States will not simply lose funds when they lapse under the normal procedures of the highway law.

The opponents of this law and the amendments to it, included in this legislation, have stressed the punitive aspects of the law. I want to emphasize the compassionate nature of this bill. The purpose of this law is not to withhold highway funds; it is to save the lives of hundreds of young Americans every year on our highways. Its purpose is to close the blood borders that separate States with differing minimum drinking ages which provide an incentive for young people to drive in order to drink. Far too many of them do not make it home and their parents, their brothers, sisters and loved ones suffer the pain. This law does not put an end to drunk driving, but it will help hundreds of families to avoid the loss of a son or daughter.

Mr. President, this week has been designated by President Reagan as "National Drunk and Drugged Driving Awareness Week." How fitting it is that the Congress has the opportunity to close the loopholes in the Uniform Minimum Drinking Age Act this week.

Reconciliation, Mr. President, is essentially an authorization bill. This provision belongs in an authorization bill. I have worked closely with the committee of jurisdiction, the Committee on Environment and Public Works, to craft this provision. This provision is a compromise worked out by the committees of authorization in the House and Senate.

Mr. President, this provision is of critical importance to such groups as the National Safety Council, Mothers Against Drunk Driving and PTA's throughout the Nation. This provision is supported by Secretary of Transportation, Elizabeth Dole, and the Reagan administration.

Mr. President, I introduced this provision in July with the cosponsorship of my friend and colleague, Senator JOHN DANFORTH, the able chairman of the Committee on Commerce, Science and Transportation. Senator DANFORTH has been steadfast in his support for this measure.

Finally, Mr. President, I want to recognize the contribution of the chairman of the House Public Works and Transportation Committee, Representative JIM HOWARD of my State of New Jersey, for his extensive efforts to bring about a uniform minimum drinking age of 21 in this Nation. Without him, this law would not be on the books and these amendments would not be possible.

I also extend my thanks to the staff of the House Public Works and Transportation Committee. Caryll Rinehart, Dick Sullivan and Clyde Woodle have lent their expertise to this effort and I thank them.

Mr. MURKOWSKI. Mr. President, I rise today in support of the adoption of the conference report and final passage of H.R. 3218, the Omnibus Budget Reconciliation Act of 1985. As chairman of the Committee on Veterans' Affairs, I am pleased that the conferees on title XIX of H.R. 3218 regarding veterans' programs have been able to work out a fair and equitable compromise, one which will meet the savings targets required under our reconciliation mandate and which will result in significant reforms in VA health care delivery.

The provisions contained in the conference agreement include the establishment of income eligibility criteria for VA health care, the authorization of reimbursement under health insurance contracts, a 3.1 percent—percent cost-of-living adjustment [COLA] for veterans in receipt of service-connected disability compensation and related benefits, an epidemiological study of the health of women veterans, and evaluation of the needs of native-American veterans including Alaska Natives and a waiver of congressional notice-and-wait period for administrative reorganization of certain automated data processing functions within the VA.

Both the House- and the Senate-passed bills contained the establishment of new eligibility criteria and income thresholds for certain non-service-connected veterans and third-party reimbursement for non-service-connected veterans who are furnished VA health care. Both the House- and the Senate-passed versions also contained a provision related to the service-connected disability compensation COLA.

Mr. President, I am extremely pleased with the spirit of cooperation and dedication to the resolution of these issues that was evidenced by all the conferees and their staff. I particularly want to thank G.V. (SONNY) MONTGOMERY, chairman of the House Veterans' Affairs Committee, and JOHN PAUL HAMMERSCHMIDT, ranking minority member of the House Veterans' Affairs Committee, and their staffs, as well as Senator CRANSTON, the ranking minority member of this committee and his fine staff.

The most significant differences in the House- and Senate-passed bills were found in the policies contained in the proposed income eligibility criteria. The differences were especially significant in how to treat eligibility for VA health care and the level of copayment that should be required for veterans who were deemed able to pay.

HEALTH-CARE ELIGIBILITY

Mr. President, the revisions proposed by the Senate-passed bill regarding eligibility for VA health care would have prioritized the care to indicate the Nation's commitment to service-connected disabled and impoverished veterans. Inpatient and outpatient care would have been prioritized in the same manner and nursing home care would have been prioritized to ensure that VA nursing care beds would be available first for those who need the highest level of care. The Senate-passed bill would have established an across-the-board income threshold of $25,000 for non-service-connected veterans and required the medicare deductible every 60 days for veterans being furnished hospital care or nursing home care within a 1-year period. Veterans who would have been furnished outpatient care and who exceeded the income threshold would have paid 20 percent of the average cost of VA outpatient visit.

Mr. President, I believe that although we have moved toward the House's position in many aspects of this bill, the House was also willing to modify its position regarding entitlement to health care as well as the copayment for those veterans who have non-service-connected disabilities and who do have the ability to contribute toward their care.

Under the conference agreement, nine categories of veterans "shall" be furnished needed hospital care in VA facilities and may be furnished such care, if currently authorized, in non-VA facilities. These categories of veterans would include all service-connected disabled veterans, so-called special statutory categories (including POW's, veterans exposed to Agent Orange or radiation and veterans of World War I and earlier conflicts) as well as other non-service-connected veterans with incomes not exceeding $15,000 for a veteran with no dependents and $18,000 for a veteran with one dependent, plus $1,000 for each additional dependent. By establishing a new "shall" category for these veterans seeking hospital care the Congress has indicated its strong feeling that these categories of veterans should have the highest priority and that they should be furnished needed care to the extent that beds are available and funds have been appropriated. The statement of managers indicates that the conferees clearly intend that for the above-mentioned categories, the VA's sole obligation is: First, if a veteran is in immediate need of hospitalization, to furnish and appropriate bed at a VA facility where the veteran applies, or if none is available there, to furnish a contract bed if authorized in section 603 or arrange to admit the veteran to the next closest VAMC, or DOD facility with which the VA has a sharing agreement, with an available bed; or Second, if the veteran needs nonimmediate hospitalization, to schedule the veteran for admission where the veteran applied, if the schedule permits, or refer the veteran for scheduling and admission to the nearest VAMC, or DOD facility with which the VA has a sharing agreement, with an available bed and facilitate the veteran's admission there." That is the extent to which current law would be modified with respect to the word "shall". The reason that the conferees included this language in the statement of managers was to make perfectly clear that although we have taken a major step in requiring the VA to care for these high priority categories of veterans, the VA is not expected to plan additional or expanded services or space to care for such veterans. We believe the VA does have the capacity to treat these nine categories. If such a veteran applies and there is no space, the conferees expressed the view that the VA will make every attempt to ensure that such a veteran be treated at another VA facility that provides similar services. This legislation would not change current law or practice regarding the beneficiary travel program. I wish to emphasize that the intent of having veterans referred from one hospital to another was not to increase the cost to beneficiary travel but to increase the possibilities that veterans would receive needed care as soon as possible. There is no requirement that beneficiary travel be paid in such instances.

A concern has been raised that using the word "shall" would create an entitlement to VA care that would circumvent the appropriations process. The VA's general counsel has informed us that no such entitlement would be created. I ask unanimous consent that the general counsel's "white paper" on this eligibility issue be included in the Record at this point.

There being no objection, the materials was ordered to be printed in the Record, as follows:

PROPOSED AMENDMENTS TO SECTIONS 610 AND 612—IS AN "ENTITLEMENT" CREATED

Both the House and Senate versions of the Budget Reconciliation Act (H.R. 3500 and S. 1730) contain the so called "means test/third party reimbursement" legislation which would alter the eligibility of veterans to receive VA health care benefits. Both the House and Senate bills would amend 38 U.S.C. §§ 610 and 612, to provide that the Administrator "shall furnish" hospital care and outpatient medical services to certain veterans. The Senate bill also provides that nursing home care "shall" be furnished to those same veterans. Under existing law, the Administrator "may furnish" such care. Both bills also delete existing language in sections 610 and 612 providing that care may be furnished only within the limits of VA facilities. The changes made by these bills have given rise to the question: Will certain veterans be "entitled" to receive VA health care benefits, and what does that mean?

Generally, the term "entitlement" connotes a right to receive something, or to do something, with the scope of the right varying according to the legal authority creating it. See generally Words and Phrases, Volume 14A, pages 388–395 (1952 ed) and Supp. pg. 18 (1985). Entitlements may take many forms, but this paper is primarily concerned with what may be characterized as "statutory entitlements."

A review of case law reveals that the terms "entitlement" and "statutory entitlement" are used very loosely and imprecisely by the courts. Research has not revealed an instance of a court's defining the terms specifically. However, based on a review of cases using the term "entitlement," this paper posits the following definition. "Statutory entitlement" is a right, not subject to the discretion of an agency official, to receive a payment, a good, a service, or some other right from the government on the basis of meeting eligibility criteria established by statute or implementing regulations. As discussed below, however, the identification of an interest in a benefit as a statutory entitlement does not in itself indicate that the "entitled" parties have an absolute right to, and can enforce receipt of, that benefit.

The concept of a statutory entitlement appears to embody two principal elements: first, the right must be defined in a law or regulation, and, second, the law or regulation must leave little if any discretion to government officials to determine whether or not the benefit will be provided. The term "entitlement" is most commonly used in the case law in the context of constitutional procedural due process cases involving individuals or groups seeking to show the presence of a "property interest" which cannot be abridged except by due process of law. Thus in *Goldberg* v. *Kelly*, 397 U.S. 254 (1970), the court stated that welfare benefits "are a matter of statutory entitlement for persons qualified to receive them." Id. at p. 262. In *Board of Regents* v. *Roth*, 408 U.S. 564 (1972), the court states that to have a property interest, an individual must have "a legitimate claim of entitlement." Id. at 577. The *Roth* Court clearly stated that a property interest or "entitlement" is defined by the source that created the interest. Thus, the court stated:

> Thus, the welfare recipients in *Goldberg* v. *Kelly*, supra, had a claim of entitlement to welfare payments that was grounded in the statute defining eligibility for them. Id. at 577.

There is some case law to suggest that a statute or regulation which vests significant discretion in government officials in connection with provision of the benefit does not confer an entitlement. In *Ingram* v. *O'Bannon*, 534 F. Sup. 385 (E.D. Pa. 1982), a case in which plaintiffs claimed an absolute right to benefits, the court held that no entitlement existed where, despite language in the state's regulation defining eligibility for services on the basis of specific financial and medical need, other regulatory provisions vested broad discretion in Agency officials to determine how benefits would be provided. Indeed, the statutory scheme and applicable regulations in that case allowed the state to define the entitlement as permitting the decision by State officials to determine provision of the benefit under priority list which, in fact, denied the benefit to individuals otherwise meeting eligibility criteria, Id. at 389. Consequently, the Court stated, "This regulations (sic) negates any allegation that when demand surpasses availability, applicants have a legitimate expectation that the state will increase funding of the program to ensure that all applicants receive the service." Id. The statutory scheme did "not create an entitlement to the service or at most, create[d] an entitlement to receive the service as it is available." Id. Similarly, in *Riverview Investments* v. *Ottowa Community Investment Corp.*, 769 F.2d 324, 327 (6th Cir. 1985), the court held that the substantial discretion vested in State officials to administer a program (municipal bond) defeated any claim to an entitlement to have such bonds issued, even though other applicants had received the benefits of the issuance of the bonds. See also *Moore* v. *Johnson*, 582 F.2d 1228 (9th Cir. 1978). Contrast *Alexander* v. *Polk*, 572 F. Supp. 605 (E.D. Pa. 1983), a case in which plaintiffs claimed an entitlement to benefits to the extent funding is available. There the court held that an entitlement existed in a statutory supplemental food benefit program, to the extent funds were available, even though officials had authority to limit the benefit when adequate funds were not available to provide the benefit to all eligible individuals. While the *Polk* case demonstrates that the law is by no means certain with respect to what constitutes a property interest establishing a right to due process, it does not suggest that a statutory entitlement is an absolute right to that property.

The question has been posed as to whether the proposed amendments to sections 610 and 612 of title 38, United States Code, in the House and Senate Budget Reconciliation bills, create entitlements. In determining precisely what benefits are granted by the statute, and whether the individual is statutorily entitled to them, attention must be paid to all of the statutory limitations on the grant of the benefits. Existing sections 610 and 612 use the words "may furnish" in describing the Administrator's authority to provide health care benefits to veterans. Those words are susceptible to an interpretation that the Administrator has virtually unlimited discretion to determine whether or not to provide care or services to eligible veterans. That interpretation was supported in an opinion prepared by the Office of Legal Counsel, Department of Justice, dated December 7, 1982. The proposed changes to sections 610 and 612 would certainly alter and limit the Administrator's discretion to decide not to provide care to certain categories of veterans, but the changes do not foreclose all discretion, or "entitle" every otherwise eligible veteran (who "shall" be provided care) to receive whatever care or services are deemed desirable or even determined necessary. Generally speaking, we believe the proposed change from "may" to "shall" would only mandate that if VA facilities and resources are *available* and *capable* of providing *needed* care and services, the Administrator must furnish the care and services to any eligible veteran able to present himself or herself at the VA facility to receive the care.

The major limitation on the provision of benefits is the fact that VA facilities and resources are limited. At the present time, facilities simply do not exist to provide all types of health care benefits to all veterans eligible to receive those benefits, particularly under the House bill, and both the Senate and House bill continue to impose stringent limitations on the provision of contract care in non-VA facilities. Furthermore, VA's ability to acquire or construct new medical facilities is constrained by statutory provisions. For example, any significant VA construction project must be approved by the Congress pursuant to 38 U.S.C. § 5004, before money may be appropriated for the project. Finally, as discussed below, the proposed bills do not create new spending authority (entitlement authority) such that one might argue (not necessarily successfully) that Congress must appropriate funds to construct facilities to meet the needs of all eligible veterans. Accordingly, under the House bill, for example, VA will be able to provide care and services within the limits of its facilities and resources, and eligible veterans can have no clear assurance of receiving needed care in every instance.

In addition to the basic availability of resources limitation, both the House and Senate bills grant, or leave in place a significant breadth of discretion in the Administrator to determine whether to provide all eligible veterans with health care benefits. First, the care sought by a veteran must be "needed" by the veteran (House bill) or "reasonably necessary" (Senate bill). VA regulations and manual provisions treat this eligibility criteria in essentially absolute terms, i.e., a veteran either does or does not need medical care. However, the requirement that care be needed can also be viewed, particularly under the pending House bill, (which on its face places all but non-needy, non-service-connected veterans on an equal footing as to eligibility and priority for care in VA facilities) as permitting the Administrator to assess need in relative terms, e.g., degree of urgency of need in relation to VA capabilities. Thus, if resources are extremely limited, the Administrator could conceivably determine that only limited types of health care services can be said to be "needed." If an outpatient clinic is full, perhaps only emergency services could be deemed "needed" for a new applicant.

Additionally, neither the House nor the Senate bill alters the existing language of 38 U.S.C. § 621. That section grants the Administrator authority to promulgate regulations governing, and limiting, hospital, nursing home, and domiciliary care. Section 621 is generally thought of as granting necessary authority to allow efficient administration of the medical system. However, it grants significant discretion to the Administrator to determine that care will not be provided in certain instances. In instances where VA lacks the capacity or facilities to meet the demand for health care benefits, this authority would, for example, allow the Administrator, under the House bill, to deny immediate care to certain categories of veterans, and place them on waiting lists for care in the future. (The Senate bill provides specific priority provisions, of course.)

It should also be noted that the House bill proposes to add a new subsection (g) to section 610. This new provision would explicitly recognize the Administrator's existing discretion "to determine—

> (A) The appropriateness of furnishing medical services, therapies, or programs under this chapter; or
>
> (B) In what manner they will be furnished.

A veteran seeking care from the VA can only expect to receive the care and services authorized by the law. Clearly the "entitlement" to be enjoyed by the beneficiaries of these bills is encumbered by significant limitations. Although individuals have used the word "entitlement" to describe the benefit that the House-passed measure would provide, we find no basis to conclude that individual nonservice-connected veterans, e.g., can have more than a unilateral expectation of receiving VA care whenever they need it. Although we do not foresee the likelihood that service-connected veterans under the Senate bill would be denied needed VA care, it is not clear that veterans can compel the Agency to provide care as a matter of statutory entitlement.

As a final matter, we address the question of whether the proposed changes to sections 610 and 612 would invoke any legal requirement that the Congress appropriate funds sufficient to assure that VA facilities would be constructed and resources made available to provide health care benefits to all eligible veterans who seek them. We do not believe the changes invoke any such authority.

Under the Congressional Budget Act of 1974, Congress may create what is termed "entitlement authority." Entitlement authority is defined in section 401(c) of the Act (2 U.S.C. § 651(c)(2)(C)) as the authority:

> (C) to make payments (including loans and grants), the budget authority for which is not provided for in advance by appropriation Acts, to any person or government if, under the provisions of the law containing such authority, the United States is obligated to make such payments to persons or governments who meet the requirements established by such law.

The language in the above provision, "the United States is *legally obligated* to make such payments," (Emphasis added), implies that the funds must be paid to beneficiaries, and that funds for payment must be appropriated by the Congress. In our view, however, neither the proposed House or Senate changes to sections 610 and 612 would create entitlement authority, so no legal obligation can arise. The first element in the definition of entitlement authority is met in that VA health care benefits are authorized by sections 610 and 612, not by appropriations acts. However, the other statutory elements of entitlement authority are not. First, health care benefits are not payments, they are services. Second, there are limitations and areas of discretion on the provision of the health care benefits, as discussed above, not provided in the authorizing law. An individual cannot expect and is not assured of receiving the sought after benefits simply by meeting the statutory eligibility requirements.

Even if we assume that the amendments to sections 610 and 612 were to create entitlement authority, or a statutory entitlement, we question whether that would absolutely require the Congress to appropriate funds to meet the obligation. In fact, Congress might actually decide to terminate an entitlement program by failing to provide funds. Thus, in *Local 2577 AFGE* v. *Phillips*, 358 F. Supp. 60 (D.D.C. 1973), the court noted:

> An authorization does not necessarily mean that a program will continue. Congress, of course, may itself decide to terminate a program before its authorization has expired, either indirectly by failing to supply funds through a continuing resolution or appropriation, or by explicitly forbidding the further use of funds for the programs . . . *Id.* at 75.

Relying on that case, our office has held that a statutory entitlement is limited by the availability of the necessary appropriations.

The Statement of Managers also includes language to highlight the intent that title XIX of the Congressional Budget and Impoundment and Control Act of 1974 would continue to apply. Under this legislation the use of the term "shall" is intended to enhance the eligibility of the specified veterans but not intended to diminish the status of all other categories of veterans eligible for care under current law. The VA would continue to be required to provide such needed care to all eligible veterans if resources have been appropriated and remain available. But the use of the term "shall" does not require that any specified level of appropriations be made and it is certainly my intent to underline that an entitlement as defined under the Congressional Budget Act has not been created.

Except for those deemed able to defray the cost of care, other non-service-connected veterans will continue to have the same eligibility for health care as under current law that for veterans age 65, and older, age would no longer be the only factor in determining eligibility. The VA will continue to have discretionary authority to treat them on a space-available basis. Non-service-connected veterans with incomes above $20,000 for a single veteran and $25,000 for a married veteran with one dependend plus $1,000 for each additional dependent will be furnished care on the basis of an agreement to make a modest copayment, and if resources and facilities are otherwise available. The conferees categorically rejected the Administration's proposed means test and spend down theory in favor of a more equitable and less onerous approach which grants access to health-care irrespective of income.

Mr. President, under the conference agreement, outpatient care and nursing home care eligibility would remain the same as current law. I greatly regret that the House would not accept the Senate's provisions to prioritize eligibility for both inpatient and outpatient care. In my view, such an approach clearly would have provided service-connected and impoverished veterans with the highest priority for care.

Mr. President, in initiating a copayment for veterans who have been determined able to contribute a modest amount to the cost of their care, the conferees have taken a major step in redefining the parameters of VA care for certain non-service-connected veterans. It is important to remember that this country owes a great debt to veterans who served and sacrificed for their country. This legislation ensures care for veterans with service-connected disabilities and impoverished veterans. However, we also have to remember that resources are not unlimited and we face enormous deficits. The recent enactment of the so-called Gramm/Rudman balanced budget amendment certainly emphasizes the fact that the Congress and the country recognize the need to control spending and have taken an important step toward that end. I believe that this legislation responsibly meets the level of savings required of both the Senate and House Veterans' Affairs Committees.

The Administration's original proposal for a means test contained an $11,400 income cut-off for a single veteran and required a strict spend down of income by veterans above this threshold prior to becoming eligible for medical care. That approach was rejected by both the House and the Senate. Instead, we have income thresholds which are more realistic in terms of family income standards, and incorporated provisions which permit veterans with incomes over that threshold to use the VA if facilities and resources are available based on an agreement to contribute toward their care. The income threshold agreed to by the conferees combines both the Senate's across-the-board $25,000 threshold and the House's approach of having different thresholds for single and married veterans. These thresholds are clearly spelled out in the statement of managers accompanying the conference agreement.

Mr. President, under the conference agreement, a veteran being furnished hospital care and who is deemed not unable to defray the expense of care, would be required to pay the Medicare deductible, currently $492, for the first 90 days, and half of that deductible for each succeeding additional 90 days of care, within a 12-month period. The Medicare deductible would apply for each 90 days of care for veterans who are furnished VA nursing home care. The conference agreement does provide; however, that if the veteran had been transferred from a VA hospital to a nursing home, the veteran's initial $492 payment would apply for the nursing care until the expiration of the 90-day period. For outpatient and home-health care, veterans deemed able to pay would contribute a per visit payment of 20 percent of the VA average daily rate not to exceed the medicare deductible for each 90-day period. All of the inpatient payments during each 90-day period would count toward the outpatient cap. The same policy would apply regarding outpatient co-payments—they would count towards the inpatient care.

The adoption of income eligibility criteria is not only a reflection of the budgetary constraints facing the Congress, but also a commitment to continue to care for the nine categories of veterans defined by this legislation and an endorsement of the continuation of a comprehensive Va health-care system by allowing non-service-connected veterans with higher incomes to continue to have access to the VA system in return for a small partial payment.

THIRD PARTY REIMBURSEMENT

Mr. President, H.R. 3281 contains a provision, which for the first time, would achieve parity between the VA and private health care providers. This legislation would authorize prospectively reimbursement to the Federal Government under health-insurance contracts for the reasonable costs of health care and services furnished by the VA to non-service-connected veterans who have health insurance. Most health insurance plans and contracts contain exclusionary clauses which bar reimbursement to the United States for care provided by the VA. Recoveries under this provision are not intended in any way to reduce the annual appropriation for the VA health care system as all recoveries will be deposited into the U.S. Treasury. Both the House and the Senate have agreed on the basic policy on this issue and agree that a veteran who is otherwise insured must be allowed to use those insurance benefits for VA care as well as for private care.

The provisions contained in the Senate and House reconciliations bills were very similar. The conference agreement incorporates the essence of both the Senate and House provisions, several of which I would like to highlight.

The Administrator would be required to prescribe regulations which would govern the determination of the reasonable cost of care or services.

The regulations to be prescribed for determining the reasonable cost of care or services shall also provide that the determination of "reasonable cost" may not exceed an amount equal to that which the third party would pay for such care or services under prevailing rates of payment to non-Federal facilities in the same geographic area as the VA facility in which the care or services are furnished.

The establishment of a so-called third party reimbursement would not, in any way, restrict an eligible veteran's access to VA health-care, nor would it require a veteran to pay any deductible or copayment required under the terms of an insurance contract in order to receive care.

The law would also specify that a veteran's failure to pay a deductible or copayment required under the terms of an insurance contract would not preclude the Government from recovering from the third party; however, the amount of the recovery would be reduced by the amount(s) of the deductible or copayment. This provision would also authorize, subject to certain restrictions, a third party to inspect medical records of a health-plan beneficiary for whom recovery is sought, in order to enable the third party to verify that the care or services were furnished and meet the criteria generally applicable under the health-plan contract.

Finally, the VA would also be required to submit to the Congress reports on the implementation and results of the amendments made under this provision.

The third-party reimbursement provision contained in the conference agreement reflects certain recommendations made by private health insurers, concerning the constitutionality of such a provision with respect to existing insurance contracts, and the adequacy of cost-containment measures within the VA health-care system.

SERVICE-CONNECTED DISABILITY COMPENSATION COLA

Mr. President, the compromise would provide a 3.1-percent COLA to our Nation's service-connected disabled veterans and their dependents and survivors effective December 1, 1985. This COLA is the same as that provided to VA pension and Social Security recipients, also effective December 1, 1985. Due to the inability of the House and Senate to reach agreement on an omnibus compensation and veterans' benefits bill before adjournment sine die, the House and Senate Veterans' Affairs Committees have agreed to include the compensation COLA in the reconciliation bill in order not to delay any further the enactment of a COLA for service-connected veterans.

ADMINISTRATIVE REORGANIZATION

In April 1985, the VA Administrator selected McManis Associates Inc. to prepare an implementation plan for the modernization of DVB information management systems. Their plan was released on October 25, 1985. It suggested certain reforms for the modernization of the current benefits delivery system. Based on this report, the Administrator has proposed a reorganization of certain automated data processing functions. In a letter to me, as chairman of the Senate Veterans' Affairs Committee, dated November 1, 1985, (which I ask unanimous consent be inserted in the RECORD), the Administrator has requested a waiver of the "notice and wait" period required by section 210(B)(2) of title 38, United States Code. I believe giving those responsible for VA benefit payments authority over the data processing resources is a first step in the reforms necessary to improve VA data processing. I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

VETERANS ADMINISTRATION OFFICE
OF ADMINISTRATOR OF VETERANS
AFFAIRS,
Washington, DC, November 1, 1985.

Hon. Frank H. Murkowski,
Chairman, Committee on Veterans' Affairs,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The purpose of this letter is to report a planned administrative reorganization within the Veterans Administration (VA) involving the transfer of certain functions from the Office of Data Management and Telecommunications (ODM&T) to the Department of Veterans Benefits (DVB).

As you are aware, under the Congressional "report and wait" requirements of 38 U.S.C. § 210(b)(2), a detailed plan and justification must be submitted to the appropriate committees of Congress for certain VA administrative reorganizations involving a reduction during any fiscal year by 10 percent or more in the number of full time equivalent employees (FTEE) at a VA covered office or facility. The report must be made not later than the date on which the President submits his budget for the next fiscal year. Thereafter, no action can be taken to implement the reorganization until the first day of that fiscal year. Thereafter, no action can be taken to implement the reorganization until the first day of that fiscal year. This letter is submitted in order to satisfy the above-reporting requirement for a planned VA organizational transfer of certain automated data processing (ADP) functions as described below.

As you are aware, in April 1985, the Veterans Administration selected McManis Associates, Inc., to prepare an implementation plan to modernize the DVB benefits and services delivery systems. This plan was to be consistent with my policy statement mandating the full moderization of the Agency's data processing and communications systems so as to improve the quality of service provided to veterans and their families. The McManis study among other things found that there was limited end-user involvement in system design and development, limited systems training, and that there were inconsistent system utilization management practices. Based on these findings, I approved the McManis recommendations that DVB should have the authority, resources and responsibility for the systems development and greater operational oversight within overall agency standards and policy guidelines. Implementation of this recommendation requires the administrative reorganization which is the subject of this letter.

We propose to reorganize in order to move ADP program specialists closer to the DVB program specialists, and give DVB a greater role in ADP decisions. By giving DVB control of ADP resources, they will be able to better focus ADP expenditures on service delivery priorities. This reorganization will involve 362 ODM&T full time equivalent employees (FTEE). These organizational transfers will occur at VA Central Office (VACO), and at the Austin, Texas; Hines, Illinois; and Philadephia, Pennsylvania VA Data Processing Centers (DPC). The number of FTEE transferred as the result of this reorganization and the base 1986 ODM&T FTEE at each facility, are as follows: VACO—81/441; Austin—75/663; Hines—146/406; and Philadelphia—60/197.

The functions performed in the positions to be transferred are unique to the support of DVB programs and, after this transfer to DVB, ODM&T will no longer perform these functions. These functions, and the stations at which they are performed, are as follows: VACO—Benefits Automation Service, which designs all ADP programming for DVB, and some administrative support personnel; Austin DPC—Benefits Delivery System Division, which does programming for DVB in the areas of loan guaranty, the Beneficiary Identification and Records Location Subsystem (BIRLS), and debt collection (beginning in fiscal year 1986); Hines DPC—System Support Divisions, which handle programming for DVB benefits programs, such as Compensation and Pension, Education, and Vocational Rehabilitation, and which prepare the computer tapes for the Department of the Treasury to use in issuing benefits checks; and Philadelphia DPC—Systems Division, which does programming for VA applications. There will also be transferred, at each of the above stations, the functions of that part of the systems verification and testing element which performs systems quality control for the programming done by the benefits delivery system staff at each of these stations.

It is clear from the foregoing that this reorganization is simply an organizational transfer of employees. These employees will not be relocated to other stations. The great majority of them will experience no change in their functions, personnel status, immediate supervision, or even in the location of their workspace. Accordingly, there will be little or no cost impact as the result of this reorganization.

We believe that this reorganization is appropriate and advisable, and that it will have the desired effect of improving and making more efficient DVB benefits delivery systems by giving DVB direct control over the resources used for its ADP support. This reorganization has already been the subject of DVB briefings with staff of the House and Senate Veterans' Affairs Committees. Of course, we would be pleased to provide any additional information which you may desire concerning this reorganization.

I request your assistance in introducing, and supporting enactment of, a legislative waiver of the 38 U.S.C. § 210(b)(2) waiting period for this reorganization, so that these improvements in our organizational structure can be made as soon as possible. Suggested language for such a legislative waiver is enclosed. Absent such a waiver, we must wait until fiscal year 1987 to implement this reorganization.

I appreciate your support for our efforts to improve benefits delivery for our Nation's veterans.

Advice has been received from the Office of Management and Budget that there is no objection to the presentation of this letter and legislative proposal from the standpoint of the Administration's program.

Sincerely,

HARRY N. WALTERS,
Administrator.

Under current law the VA may not, in any fiscal year, implement a reorganization involving a more than 10-percent reduction in the number of full-time equivalent employees at any VA facility with more than 25 employees unless the Administrator, not later than the date on which the President submits the budget for that year, provides "A report containing a detailed plan and justification for the reorganization." The "notice and wait" provisions of section 210(b)(2) of title 38 would delay the implementation of the proposed reorganization until the next fiscal year. This bill would provide a waiver of the notice and wait requirement so that VA may proceed immediately with the proposed reorganization.

I strongly believe that DVB does have data processing problems which require immediate attention. This waiver would allow VA to reorganize immediately and to proceed with the process of implementing needed reforms. The General Accounting Office [GAO] is studying VA's data processing capabilities as well as the recommendations of McManis Associates. GAO has informally expressed concerns about hardware and software procurement plans recommended by the McManis study and the lack of comprehensive data processing planning on the part of the VA. I endorse the proposed reorganization in the belief that it will establish a structure conducive to reform. However, in doing so, I strongly urge the VA Administrator, Harry Walters, to work with the committee and the GAO to ensure that data processing reforms are well thought out and carefully planned. I will be monitoring closely DVB's process in improving its data processing systems to meet the agency's and the Congress' needs for timely and accurate information in the most cost effective and efficient manner.

SAVINGS ESTIMATE

The Congressional Budget Office has indicated that total savings from the enactment of the income eligibility criteria third party reimbursement and the 3.1-percent COLA will be in excess of $1.26 billion over the next 3 years, which is more than $100 million more than our mandated reconciliation savings. These savings have been achieved without the reduction of any program or service to our Nation's veterans and will, in fact, serve as a model of the commitment to the Nation to continuing to provide needed health care to eligible veterans.

CONCLUSION

In closing, I want to note once again my thanks to my distinguished counterpart on the House Veterans' Affairs Committee, **SONNY MONTGOMERY** as well as the ranking minority member of this committee, **ALAN CRANSTON** and **JOHN PAUL HAMMERSCHMIDT**, the ranking members of the Senate and House Veterans' Affairs Committees. The staffs have worked hard and very closely to work through the small details as well as some rather large policy differences on certain issues, to come up with a very fair and well balanced compromise. I especially want to thank Mack Fleming, chief counsel of the House Veterans' Affairs Committee, his staff, Pat Ryan, Jack McDonnell, Victor Raymond, Arnold Moon, and Charles Peckarsky; as well as Rufus Wilson, the minority chief counsel of the House Veterans' Affairs Committee and Kingston Smith; Jon Steinberg, Senator **CRANSTON'S** chief counsel and his fine staff, Ed Scott, Bill Brew, Babette Polzer, Nancy Billica, and Ingrid Post, who is one of the most dedicated workers I know of in the Senate. A special thanks to Bob Cover, House legislative counsel, who labored tirelessly to perfect the bill language. Last, but certainly not least, I want to thank my own fine staff headed by Anthony Principi, chief counsel, and including Julie Susman, Cathy McTighe, Cynthia Alpert, Chris Yoder, Lisa Moore, Judy Boertlein, Jody Sanders, and Kay Eckhardt. Mr. President, I urge the adoption of the conference report and final passage of the Omnibus Reconciliation Act of 1985.

Mr. President, I ask unanimous consent that the statement of managers of title XIX be included at the appropriate place in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

TITLE XIX—VETERANS' PROGRAMS

On October 24, 1985, the House passed H.R. 3500, the proposed "Omnibus Budget Reconciliation Act of 1985". Title X of the bill included the provisions of H.R. 1538, ordered reported by the House Committee on Veterans' Affairs on September 11, 1985, to satisfy its reconciliation instructions contained in section 2 of the First Concurrent Resolution on the Budget for Fiscal Year 1986 (S. Con. Res. 32).

On November 14, the Senate passed H.R. 3128, the proposed "Deficit Reduction Amendments of 1985", after striking out the House-passed text and inserting in lieu thereof the text of S. 1730, title XI of which contained the legislation reported by the Senate Committee on Veterans' Affairs to satisfy its reconciliation instructions in section 2 of the FY 1986 budget resolution.

On December 5, the House amended the Senate-passed H.R. 3128 by inserting the House-passed texts of H.R. 3500 and H.R. 3128, and requested a conference with the Senate. Title X of H.R. 3500 as it originally passed the House was redesignated as Title X (sections 1951-1982) of Division A of the House amendment to the Senate amendment to H.R. 3128.

The following material refers to the Senate amendment to H.R. 3128 as the "Senate bill", to the House amendment to the Senate amendment as the "House bill", and to title XIX of the Reconciliation Act conference report as the "conference agreement".

SUBTITLE A—HEALTH CARE

Both the House bill (section 1972) and the Senate bill (sections 1101-07) would, as discussed below, amend chapter 17 of title 38, United States Code, to revise existing eligibilities for health care furnished by the Veterans' Administration, and to establish a "health-care income threshold" for purposes of determinations of eligibility based on "inability to defray" the cost of needed care.

The conference agreement (section 19011) contains such provisions as discussed below.

HOSPITAL CARE

House bill

The House bill would amend the eligibility requirements, set forth in present section 610(a) of title 38, for veterans seeking VA hospital care. The six categories of veterans eligible for such health care under current law would be revised and restated as nine separate categories, and the separate basis of eligibility for non-service-connected veterans 65 years of age or older (without regard to income) contained in current law would be eliminated.

Under the House bill, the Administrator would be required to furnish hospital care determined by the Administrator to be necessary to:

(1) any veteran for a service-connected disability;

(2) a veteran discharged for a disability incurred or aggravated in line of duty;

(3) a veteran entitled to receive disability compensation;

(4) a veteran disabled as a result of VA treatment or vocational rehabilitation;

(5) certain Vietnam veterans exposed to certain toxic substances and veterans exposed to ionizing radiation from nuclear explosions;

(6) former prisoners of war;

(7) veterans of the Spanish American war, Mexican border period, or World War I; and

(8) veterans who are unable to defray the expenses of necessray care.

The current limitation on furnishing hospital care "within the limits of Veterans' Administration facilities" would no longer be applicable to these eight categories of eligible veterans.

A veteran would be eligible for necessary medical care under category (8) if the veteran's family's income in the 12 months preceding the application for care was not greater than 3.34 times the maximum annual rate of VA pension payable to totally disabled veterans (referred to below as the "health-care income threshold"). In determining the incomes of veterans for the purpose of this category, the administrator would be required to use the same methods and criteria used to determine annual income (including taking into account family income) for the purposes of VA improved pension eligibility under chapter 15 of title 38, United States Code. The maximum income level for health care would be increased each year by the same percentage increase applicable to the maximum pension rate. Thus, as of the time the House passed the bill, the "health care income threshold" would be $19,068 for a veteran with no dependents and $24,977 for a veteran with one dependent, plus $3,233 for each additional dependent. On December 1, 1985, the VA pension income standard increased by 3.1 percent, by virtue of present section 3112(a) of title 38, United States Code, and reference to the consumer price index.

The House bill would establish, as a ninth category of veterans eligible for hospital care, those seeking care for treatment of non-service-connected disabilities who do not fall into one of the eight other categories. Thus, this last category would consist of those veterans whose income and assets exceed the health-care income eligibility threshold. They would be required to make an annual payment equal to the Medicare deductible ($492 in 1986) in order to receive needed care. Such care could be provided only "within the limits of Veterans' Administration facilities."

The House bill would also provide that nothing in these provisions would (1) require the Administrator to furnish hospital care in a facility other than a VA facility or to furnish care to a veteran to whom another agency of a Federal, State, or local government has a duty to provide care in an institution of that government, or (2) restrict the Administrator's discretion to determine the appropriateness of furnishing medical services, therapies, or programs under chapter 17 of title 38 or in what manner they will be furnished.

Senate bill

The Senate bill would create three categories of eligibility for hospital care. Under the first category, the Administrator would be required to furnish hospital care determined to be reasonably necessary for service-connected disabilities and for any disability of veterans who have service-connected disabilities rated at 50 percent or more. This care would be required to be furnished through VA facilities or, to the extent authorized, through non-VA facilities except in the case of a veteran under incarceration as to whom the Administrator could (1) decide not to furnish care in a VA facility if to do so would not be feasible in terms of the security that would be necessary and (2) provide care under contract in a non-VA facility to the extent authorized.

Under the second category, which would remain essentially unchanged from current law (except that the separate basis of eligibility for veterans 65 years of age or older would be eliminated), the Administrator would be authorized, through VA facilities or, to the extent authorized, through non-VA facilities, to furnish reasonably necessary hospital care to veterans with service-connected disabilities rated at less than 50 percent; veterans who, but for the receipt of retired pay, would be entitled to disability compensation; veterans who are eligible for compensation for disabilities incurred as VA patients or as participants in a VA vocational rehabilitation program; veterans who were discharged from military service for disabilities incurred or aggravated in the line of duty; former prisoners of war; Vietnam veterans exposed to certain toxic substances and veterans exposed to ionizing radiation from nuclear explosions; Spanish American War, Mexican border period, or World War I veterans; and veterans unable to defray the cost of necessary care.

Under the third category, the Administrator would have the authority, through VA facilities or, to the extent authorized, through non-VA facilities, to furnish, to the extent facilities and resources are otherwise available, reasonably necessary hospital care for the non-service-connected disability of a veteran not included in categories one or two whose annual family income for the calendar year preceding the veteran's application for care exceeds $25,000 and who agrees to make certain payments to the United States in connection with such care. In determining the incomes of veterans for the purpose of this category, the Administrator would be required to use the same methods and criteria used to determine annual income (including taking into account family income) for the purposes of VA improved pension eligibility. Further, the Administrator would be given authority to prescribe regulations defining the circumstances under which a non-service-connected veteran having an annual income or estate above a certain level would be ineligible for VA care

Conference agreement

The conference agreement (section 19011(a)) generally follows the House provision. It would establish two groups of VA health-care eligibilities. Under the first group, the conference agreement would require the Administrator to furnish needed hospital care through VA facilities, and authorize the Administrator to furnish needed hospital care in non-VA facilities as authorized, to the first eight categories from the House bill except that the third category from the House bill is subdivided into two categories—veterans with service-connected disabilities rated at 50 percent and above and any other veterans who have service-connected disabilities. The ninth category of veterans would consist of veterans who are unable to defray the expenses of necessary care—those who are receiving chapter 15 VA improved pension or are eligible for Medicaid or whose annual family incomes do not exceed the "Category A threshold" ($15,000 for veterans with no dependents and $18,000 for veterans with one dependent with an increase of $1,000—approximately equal to the amount of the VA pension) allowance ($999 as of December 1, 1985)—for each additional dependent). These amounts would be increased on January 1 of each year (beginning January 1, 1987) by the same percentage by which VA chapter 15 improved pension benefits are increased on the preceding December 1 (pursuant to section 3112 of title 38).

The conferees intend that, for the categories of veterans specified in section 610(a)(1) of title 38 (as revised by this section)—those to whom the Administrator is required to furnish hospital care—the VA's sole obligation with respect to needed hospital care for these veterans is (1) if a veteran is in immediate need of hospitalization, to furnish an appropriate bed at the VA facility where the veteran applies or, if none is available there, to furnish a contract bed (as authorized under current law as recodified in new section 603) or to arrange to admit the veteran to the nearest VA medical center (VAMC), or Department of Defense facility with which the VA has a sharing agreement, with an available bed, or (2) if the veteran needs non-immediate hospitalization, to (A) schedule the veteran for admission where the veteran applied, if the schedule there permits, or (B) refer the veteran for scheduling and admission to the nearest VAMC, or DOD facility with which the VA has a sharing agreement, with an available bed and facilitate the veteran's admission there. The VA, of course, as also noted above, would also retain any existing discretionary authority to furnish health-care to these veterans.

Also, if there are 2 or more veterans applying for the same bed at a particular facility on a non-emergent basis and one is seeking care for a service-connection disability or has a 50-percent-or-more service-connected disability, the conferees intend that that veteran should receive the bed. With respect to the remaining veteran, he or she, as noted above, would be scheduled for the next available bed at the VA facility where the veteran applies or, if none is available there, would be furnished a contract bed (as authorized under current law as recodified in new section 603) or arrangements would be made (1) to admit the veteran to the nearest VA medical center (VAMC), or Department of Defense facility with which the VA has a sharing agreement, with an available bed, or (2) if the veteran needs non-immediate hospitalization, to (A) schedule the veteran for admission where the veteran applied, if the schedule there permits, or (B) refer the veteran for scheduling and admission to the nearest VAMC, or DOD facility with which the VA has a sharing agreement, with an available bed and facilities the veteran's admission there. The VA, of course, as also noted above, would also retain any existing authority to furnish health-care to that veteran.

The conference agreement (section 19011(a)) would provide for a second eligibility group as to which the Administrator "may", through VA facilities and through non-VA facilities as authorized, furnish needed hospital care to the extent that resources and facilities are available, to non-service-connected veterans with incomes above $15,000 for those with no dependents and $18,000 for those with one dependent, plus $1,000 for each additional dependent. For those non-service-connected veterans with incomes above the "Category B" threshold ($20,000 for those with no dependents and $25,000 for those with one dependent, plus $1,000 for each additonal dependent), the Administrator "may", through VA facilities and through non-VA facilities as authorized, and to the extent that resources and facilities are otherwise available, furnish needed hospital care if the veteran agrees to make certain payments to the VA in connection with that care. Each of these amounts would be increased on January 1 of each year (beginning January 1, 1987) in accordance with the VA pension-COLA increase percentage.

The conference agreement further includes a provision specifying that nothing in section 610 of title 38, relating to eligibility for hospital and nursing home care (as revised by the conference agreement), requires the VA to furnish care to a veteran to whom another government entity has a legal duty to provide care in a government institution—for example, this would apply to an incarcerated veteran.

With respect to the revisions in hospital care eligibility, the conferees intend that care be furnished to service-connected disabled veterans, low-income veterans, and, to the extent resources are available, other eligible veterans.

The conferees note with approval the statements made by the Chairman and Ranking Minority Member of the Senate Committee on Veterans' Affairs during the debate on the Senate bill (pages 31955 and 31958 respectively, of the Congressional Record for November 14) with respect to the effect of the use of the word "may" in providing VA health-care eligibility (in current law and the revised eligibility provisions) from the standpoint that the term does not connote discretion, on the part of the Administration, to withhold funds appropriated for the furnishing of care or, on the part of the VA, to withhold needed care that the VA has the capacity to provide. As indicated there, and the conferees agree, the amount of care that the VA provides to eligible veterans necessarily depends upon the level of funds appropriated for that purpose.

The conferees further note that this legislation would not change current law or practice regarding the beneficial travel program.

The conferees recognize that in some cases it may not be readily determined with certainty, at the time that the veteran first applies for VA care during a calendar year, to which eligibility category the veteran belongs. Thus, where necessary to avoid delaying medical attention beyond the point at which it may be needed, the conferees intend that the VA make tentative eligibility-category determinations based on the available evidence at the time, subject to modification when a final determination can be made.

Also, in light of the uncertainties that may exist at the time of application and in view of the fact that even determination based on apparently sufficient information may need to be changed on the basis of new evidence, the conferees expect the VA to require at least those veterans applying for VA care for the first time during a calendar year to sign an agreement to make the payments required by law if it is ultimately determined, by reason of their income during the preceding calendar year and any other matters relating to eligibility, that their eligibility is contingent upon their agreeing to make such payments. Of course, the agreement should also state what those payment amounts are.

In a similar vein, the conferees note that veterans with annual incomes above the applicable income threshold for payments would generally be eligible for care or services only upon the veterans (or someone authorized to act for him or her) agreeing to pay for those services before they are furnished. However, the VA has full authority under current section 611(b) to furnish hospital care or medical services in emergency cases and to charge appropriately for such care, and the conferees stress that this emergency authority would be applicable in the case of a veteran in this category of eligibility who is unable to execute such as agreement prior to the commencement of care. What, if any, payments the veteran would ultimately be required to make would, of course, depend on the eligibility determination made after the fact.

The conferees expect that the form used for the agreement to pay would clearly state eligibility criteria as well as potential liability.

NURSING HOME CARE

House bill

The House bill would provide that the VA "may within the limits of Veterans' Administration facilities" furnish nursing home care to the nine categories of veterans eligible for hospital care (as discussed above) under the House bill. Those veterans having incomes above the applicable "health-care income threshold" in the House bill could be furnished nursing home care if they agreed to make certain prescribed payments in connection with their care.

Senate bill

The Senate bill would provide the Administrator, through VA facilities or through non-VA facilities as authorized, "shall" furnish nursing home care determined to be reasonably necessary for a service-connected disability and "may" furnish nursing home care determined to be reasonably necessary for any veteran having hospital care eligibility under the Senate bill (as discussed above). Those having incomes above the applicable health-care income eligibility threshold in the Senate bill could be furnished nursing home care if they agreed to make certain prescribed payments in connection with their care.

Conference agreement

The conference agreement (section 19011(a)) makes no change in VA nursing home care eligibilities in current law except to provide that non-service-connected veterans with incomes above the "Category B threshold" would be eligible only upon agreeing to make certain payments in connection with their care.

DOMICILIARY CARE

House bill

The House bill contained no provision regarding eligibility for VA domiciliary care.

Senate bill

The Senate bill would authorize the Administrator to furnish reasonably necessary domiciliary care through VA facilities to veterans who are determined by the Administrator to be incapacitated from earning a living and to have no adequate means of support.

Conference agreement

The conference agreement makes no change in VA domiciliary care eligibilities in current law.

In leaving current law intact regarding domiciliary-care eligibility, the conferees are not expressing their satisfaction with the status quo. Both Committees on Veterans' Affairs plan to hold hearings next year to consider appropriate revisions to the eligibility for domiciliary care as provided by section 610(b)(2) of title 38.

OUTPATIENT TREATMENT AND HOME HEALTH SERVICES

House bill

The House bill would require the Administrator to furnish outpatient treatment to those veterans with outpatient treatment eligibility under current law, but would also specify that there is no requirement to furnish services to those non-service-connected disabled veterans with incomes that exceed the applicable health-care income eligibility threshold discussed above (under the heading "Hospital Care") unless they agree to make payment in connection with such services.

The House bill would make no change in eligibility for home health services except to provide that the eligibility of a non-service-connected veteran whose income exceeds the health-care income eligibility threshold would be contingent upon the veteran's agreement to make payment in connection with such services.

Senate bill

The Senate bill would amend current law to require the Administrator—"shall" rather than "may" as in current law—to furnish (directly or by contract) outpatient treatment and home health services determined to be reasonably necessary to any veteran for a service-connected disability and for any disability of a veteran with a service-connected disability rated at 50 percent or more, except in the case of a veteran under incarceration as to whom the Administrator could (1) decide not to furnish care in a VA facility if to do so would not be feasible in terms of the security that would be necessary and (2) provide care under contract in a non-VA facility to the extent authorized. Otherwise, the Senate bill would not modify current eligibilities for outpatient treatment and (except to increase the maximum amount that may be expended for home structural alterations from $600 to $2,500 for a veteran with a 50-percent-or-more-service-connected disability) home health services except to specify that non-service-connected disabled veterans with incomes above the applicable health-care income eligibility threshold would be eligible only upon agreeing to make payment in connection with such treatment or services and to the extent that resources and facilities are otherwise available.

Conference agreement

The conference agreement (section 19011(b)) would make no change in current law eligibilities relating to outpatient treatment or home health services (except with respect to the cap on home health structural alterations payments, described above) except to provide that non-service-connected veterans with incomes above the Category B threshold (discussed below under the heading "INCOME THRESHOLDS") would be eligible only upon agreeing to make payment in connection with such treatment or services and to the extent that resources and facilities are otherwise available.

AMOUNT OF PAYMENTS

Both the House and Senate bills contain provisions to specify the amounts that veterans with incomes above the income thresholds must agree to pay in order to be eligible for VA health care.

House bill

The House bill would establish payment requirements as follows:

Hospital care or nursing home care, or both: During any 12-month period, the lesser of the cost of furnishing the care or the amount of the inpatient Medicare deductible in effect at the beginning of the applicable 12-month period ($492 in 1986).

Outpatient treatment: For each visit (except for outpatient services furnished to complete treatment following hospitalization), the amount equal to 20 percent of the estimated average cost of an outpatient visit to a VA facility during the fiscal year in which the treatment is furnished.

During any 12-month period, a veteran would not be required to pay in total for any mode of care or combination of modes of care an amount greater than the amount of the inpatient Medicare deductible.

Senate bill

The Senate bill would establish payment requirements as follows:

Hospital care or nursing home care, or both: For each 60 days of care during an episode of care (a period beginning on the first day of hospital or nursing home care and ending at the close of the first period of 60 consecutive days thereafter during which the veteran receives neither hospital nor nursing home care), the lesser of the cost of furnishing the care or the amount of the inpatient Medicare deductible in effect when the care is furnished.

Outpatient treatment: For each visit, the amount equal to a percentage—the Percentage that Medicare generally does not pay for such treatment (20 percent at present)—of the estimated average cost of an outpatient visit in a VA facility during the fiscal year in which the treatment is furnished.

Conference agreement

The conference agreement (section 19011(a)(2) and (b)(2)(F)) contains provisions specifying, in the cases of veterans who must agree to make payments in order to be eligible for VA health care (those with incomes above the Category B level), the amounts that they must pay, as follows:

Hospital care: During any 365-day period (1) for the first 90 days of care (or part thereof), the lesser of the cost of furnishing the care or the amount of the inpatient Medicare deductible in effect at the beginning of the 365-day period, and (2) for each succeeding 90 days of care (or part thereof), the lesser of the cost of furnishing the care or one-half of the amount of that inpatient Medicare deductible.

Nursing home care: During any 365-day period, for each 90 days of care, the lesser of the cost of furnishing the care or the amount of the inpatient Medicare deductible.

Outpatient treatment: For each outpatient or home health visit, the amount equal to 20 percent of the estimated average cost of an outpatient visit to a VA facility during the fiscal year in which the treatment is furnished, but not to exceed during any 90-day period the amount of the inpatient Medicare deductible in effect at the beginning of that period.

Combination of hospital and nursing home care: In the case of a veteran who pays the inpatient-Medicare-deductible amount in connection with VA-furnished hospital or nursing home care and who, before using 90 days of the initial mode of care (hospital or nursing home) within a 365-day period, is furnished the other mode of care, the veteran would not be required to make any payment for the second mode until either (1) the number of days of hospital and nursing home care combined exceed 90, or (2) the beginning of the next 365-day period, whichever occurs first. If the veteran pays an amount equal to one-half of the inpatient-Medicare-deductible amount in connection with receiving hospital care (as when the veteran is receiving more than 90 days of hospital care in a 365-day period) and, before using 90 days of hospital care within the applicable 365-day period, re-

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ceives VA-furnished nursing home care, the veteran would be required to pay one-half of the deductible amount in connection with the number of days of nursing home care that, when added to the hospital days, do not exceed 90 within that 365-day period.

Payments for combinations of outpatient treatment and hospital and nursing home care: A veteran would not be required to pay an amount greater than the inpatient Medicare deductible in connection with any combination of outpatient and inpatient care furnished during any 90-day period.

The conferees stress that the legislation makes no change in current eligibility for contract hospital, nursing home, or outpatient care and the way that eligibility is applied and intend the Administrator to ensure that expenditures for veterans eligible for care by virtue of agreeing to make payment to the VA have the lowest priority for the use of funds available for contract care as well as the lowest priority for inpatient, outpatient, and nursing home care furnished through VA facilities.

PRIORITIES

House bill

The House bill would repeal the provision, section 612(i) of title 38, requiring the Administrator to implement through regulations the priorities specified in that section for the furnishing of outpatient treatment.

Senate bill

The Senate bill would require the Administrator to prescribe regulations to ensure the implementation of priorities specified in the Senate bill in the furnishing of hospital, domiciliary, and nursing home care and medical services and would require the Administrator to ensure that no guideline, regulation, or other VA issuance has the effect of encouraging the furnishing of care or services in any way inconsistent with such priorities to a veteran whose eligibility is based on agreement to make payments.

Conference agreement

The conference agreement does not contain any such provisions related to priorities except a provision (in section 19011(b)(4)) adding veterans in receipt of VA improved pension under chapter 15 of title 38, as a new, sixth priority for outpatient care under present section 612(i).

INCOME THRESHOLDS

House bill

The House bill would amend section 622 of title 38, relating to evidence of veteran's "inability to defray the cost of necessary expenses" in connection with establishing eligibility for VA health care, so as to provide that (in additon to veterans in receipt of any VA pension benefits or eligible for Medicaid) a veteran shall generally be presumed to be "unable to defray" the cost of care if the veteran's family income for the 12-month period preceding the veteran's application for care was equal to or less than 3.34 times the maximum annual rate of improved pension payable to totally disabled veterans under chapter 15 of title 38 (as increased annually pursuant to section 3112 of title 38). Thus, this income threshold amount at the time the House bill was passed was $19,068 for veterans with no dependents and $24,977 for veterans with one dependent, plus $3,233 for each additional dependent. In determining a veteran's annual family income, the Administrator would consider the same items and sources of income and would allow the same exclusions as are considered and allowed under the improved pension program.

Senate bill

The Senate bill would amend section 622 to provide generally that (in addition to veterans in receipt of any VA pension benefits or eligible for Medicaid) a veteran shall be determined to be "unable to defray" the cost of care if, during the calendar year preceding the date of the veteran's application for care, the veteran's family income is not greater than $25,000 and would provide for that amount to be increased by the same percentage and at the same time as each cost-of-living adjustment is made in chapter 15 VA improved pension benefits pursuant to section 3112 of title 38. In determining a veteran's annual family income, the Administrator would be required to consider the same items and sources of income and to allow the same exclusions as are considered and allowed under the improved pension program.

The Senate bill would also provide the Administrator with discretionary authority, in order to avoid hardship, to increase the above-mentioned income level for a specified geographic area.

Conference agreement

The conference agreement (section 19011(c)) would amend present section 622 to provide generally that a veteran shall be determined to be unable to defray the necessary expenses of hospital care if the veteran receives VA improved pension or is eligible for Medicaid, or if, during the calendar year immediately preceding the veteran's application for care, the veteran's family income is not greater than $15,000 for a veteran with no dependents or $18,000 for a veteran with one dependent, plus $1,000 for each additional dependent.

A veteran would be considered not unable to defray the necessary expenses of care and thus liable for making certain payments for care (discussed above under the heading, "AMOUNT OF PAYMENTS") if the veteran's family income exceeds the Category B threshold—is greater than $20,000 for a veteran with no dependents or greater than $25,000 for a veteran with one dependent, plus $1,000 for each additional dependent. Each of the above amounts would be increased on January 1 of each year (beginning January 1, 1987) by the percentage that chapter 15 VA improved pension benefits are increased, pursuant to section 3112(a) of title 38, effective the preceding December 1.

In determining a veteran's annual income, the Administrator would be required to consider the same items and sources of income and to allow the same exclusions as are considered and allowed under the chapter 15 VA improved pension program.

CONSIDERATION OF ASSETS IN DETERMINING ELIGIBILITY

House bill

The House bill would provide that the Administrator may refuse to determine that the veteran is unable to defray necessary medical expenses if the veteran or the veteran's immediate family has sufficient assets so that, under all the circumstances, it is reasonable that some part of those assets be consumed for the veteran's maintenance.

Senate bill

The Senate bill would provide that the Administrator shall not determine that a veteran is "unable to defray" the cost of care if the veteran or the veteran's immediate family has sufficient assets so that, under all the circumstances, the Administrator finds it unreasonable to make that determination. In determining the amount of assets, the Administrator would be required to consider the same items as the Administrator considers in determining the amount of assets for purposes of the chapter 15 improved pension program.

Conference agreement

The conference agreement (section 19011(c)) follows the House bill. In determining a veteran's assets for this purpose, the Administrator would be required to consider the same items as the Administrator considers in determining the amount of assets for purposes of the chapter 15 VA improved pension program.

CERTAIN ADJUSTMENTS OF INCOME ELIGIBILITY DETERMINATIONS

The conference agreement (revised section 622(b) of title 38) would enable the Administrator to adjust a veteran's income threshold status where necessary in order to avoid hardship to the veteran in certain cases in which the veteran's income has dropped off substantially from the preceding calendar year amount.

REPORTS

Both the Senate bill (section 1108) and the House bill (section 1975) would require the Administrator of Veterans' Affairs to submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives reports relating to the furnishing of health care to veterans after the enactment of this Act.

The conference agreement (section 19011(e)) would blend the Senate and House reporting requirements, with three annual reports due by February 1 of 1987, 1988, and 1989, and require the Administrator to include in the reports information regarding the numbers and characteristics of, and health care furnished to, veterans (and amounts of payments by them where appropriate) who are eligible for VA care by reason of any of the proposed new income threshold criteria, and the numbers of and health care furnished to veterans in each of the other categories of eligibility, with breakdowns, in the case of such veterans with service-connected disabilities, for each percentile disability rating.

TECHNICAL REVISION OF AUTHORITY TO CONTRACT FOR HOSPITAL CARE AND MEDICAL SERVICES

The Senate but not the House bill (1) would delete section 601(4)(C) of title 38, which includes within the definition of "Veterans' Administration facilities"—and thus, in conjunction with provisions in section 610 and 612, authorizes the VA to contract for hospital care or medical services with—private facilities in certain cases when VA facilities are not capable for furnishing economical care because of geographical inaccessibility or of furnishing the care of services required, and (2) replace that provision with a new section 603, which would recodify current law under section 601(4)(C), for purposes of clarity, without making any substantive change.

The conference agreement (section 19012) follows the Senate provision.

RECOVERY BY THE UNITED STATES OF THE COST OF CERTAIN HEALTH CARE AND SERVICES

Both the Senate bill (section 1111) and the House bill (section 1973) would amend present section 629 of title 38, United States Code—relating to the United States' authority to recover under workers' compensation laws or plans, from automobile accident reparation (auto no-fault) insurers, and from crime-victim compensation programs the reasonable costs of VA-furnished non-service-connected health care to the extent that the insurer or program would be liable to a non-Federal provider—so as (1) to add authority for the United States to recover from a third party under a health-plan contract (a defined term that includes, for example, health-insurance policies) the reasonable costs of VA care furnished to a veteran who does not have a service-connected disability and is entitled to care or reimbursement for care from the insurer; (2) to require the Administrator to prescribe regulations to govern determinations of the reasonable cost of care or services; (3) expressly to authorize the Administrator to compromise, settle, or waive claims of the United States under section 629; (4) specify that money collected under section 629 shall be deposited in the Treasury; and (5) to provide for the changes in existing law made by amendments to section 629 to apply prospectively, that is, only with respect to care furnished after the date of enactment and only with respect to health-plan contracts that are entered into, renewed, or modified after the date of enactment.

The conference agreement (section 19013) contains these provisions.

The conferees note that, in revising the wording of existing provisions of section 629 pertaining to recovery under workers' compensation laws or plans, from automobile accident reparation insurers, and from crime-victim compensation programs, the conferees do not intend to make any substantive revisions in current law or in its application or to overrule any judicial interpretations of these provisions.

The Senate bill, but not the House bill, would delete from section 629(b) provisions specifying that the amount that the United States may recover under that section may not exceed the lesser of (1) the reasonable cost of the care involved as determined by the Administrator, or (2) the maximum amount specified by applicable State or local law or by any relevant contractual provision.

The conference agreement (revised section 629(a)(1) of title 38) follows the Senate provision.

The conferees agree that, in light of the provisions in section 629(a) providing for recovery by the United States of the reasonable cost of the VA-furnished care "to the extent" that the veteran (or the provider of the care) would be eligible for payment for the care had it been furnished by a non-Federal provider, the provisions being deleted are surplusage.

The Senate bill, but not the House bill, would specify, in the case of a health-plan contract containing the requirement for payment of a deductible or copayment by the veteran, (1) that the veteran's not having paid the deductible or copayment with respect to VA-furnished care does not preclude recovery under section 629, (2) that the amount that the United States may recover under section 629 shall be reduced by the appropriate deductible or copayment amount, or both, and (3) that a veteran eligible for VA care shall not be required by reason of section 629 to make any copayment or deductible payments in order to receive such care.

The conference agreement (revised section 629(a)(3)) contains these provisions.

The Senate bill, but not the House bill, would (1) require the Administrator, before prescribing the regulations for determining the reasonable cost of care or services (discussed above), to consult with the Comptroller General of the United States; (2) require the Comptroller General, within 45 days after the regulations (or any amendment to them) are prescribed, to submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives the Comptroller General's comments on and recommendations regarding such regulations (or amendments); and (3) require that the regulations provide that in no event may such reasonable cost exceed an amount equal to what the third party would pay for the care or services under the prevailing rates applicable under its contracts with non-Federal facilities in the geographic area in which the VA facility that provided the care or services is located.

The conference agreement (revised section 629(c)(2)) follows the Senate amendment.

The House bill, but not the Senate bill, would provide the Administrator with express authority to enter into agreements with health-plan contractors for the purpose of determining reasonable costs.

The conference agreement does not contain this provision.

The conferees note that the Administrator is already authorized by section 213 of title 38, relating to the Administrator's authority to enter into contracts for necessary services, to enter into such agreements.

Both the Senate and the House bills would require that the medical records of a health-plan beneficiary for the cost of whose care recovery is sought be made available for the purpose of enabling the third party to verify that the care for which recovery is sought was furnished. The Senate bill, but not the House bill, would also provide that the records shall be made available under such conditions to protect their confidentiality as the Administrator shall prescribe in regulations and that the records may also be made available to permit the third party to verify that the provision of the care involved meets criteria generally applicable under the health-plan contract.

The conference agreement (revised section 629(h)) follows the Senate bill.

The Senate bill, but not the House bill, would require the Administrator to submit to the Committees on Veterans' Affairs a 6-month report and annual reports on the process for and results of the implementation of the amendments to section 629.

The conference agreement would require two such reports, one due not later than 6 months after the date of enactment and the other, to provide information through at least the end of fiscal year 1987, due not later than February 1, 1988.

MEDICARE PROVIDERS' ACCEPTANCE OF VETERANS' ADMINISTRATION BENEFICIARIES AT MEDICARE RATES

The House bill (section 1974), but not the Senate bill, would amend chapter 17 of title 38, United States Code, relating to VA health care, to insert a new section 625 to require non-Federal providers of hospital services under the Medicare program to accept VA beneficiaries on a basis similar to that on which they accept Medicare beneficiaries; to require those providers to accept VA payments made in accordance with VA regulations as payment in full; to authorize the Administrator to report violations of these requirements to the Secretary of Health and Human Services; and to authorize the Secretary to terminate a provider's participation in the Medicare program on the basis of such violations.

The conference agreement does not contain this provision.

SUBTITLE B—COMPENSATION RATE INCREASES

DISABILITY COMPENSATION

House bill

The House bill (sections 1962 through 1964) would amend chapter 11 of title 38, United States Code, relating to compensation for service-connected disability, to increase by 3.7 percent, effective December 1, 1985, the basic rates of service-connected disability compensation for veterans, the rates payable for certain severe disabilities, the dependents' allowances payable to veterans rated 30 percent or more disabled, and the annual clothing allowance for certain disabled veterans.

Senate bill

The Senate bill (section 1121) would limit the fiscal year 1986 disability compensation COLA to a maximum of 3.7 percent—the same percentage that the Congressional Budget Office projected for the fiscal year 1986 Social Security/VA pension cost-of-living adjustment at the time the Senate Veterans' Affairs Committee reported its reconciliation recommendations to the Senate Budget Committee. Thereafter, on December 2, 1985, the Senate passed S. 1887 providing (in sections 101 through 103) for a 3.1-percent increase, the same percentage as the actual percentage increase for the Social Security/VA pension cost-of-living adjustments, effective December 1, 1985.

Conference agreement

The conference agreement (sections 19031 through 19033) would increase these rates and allowances, effective December 1, 1985, by 3.1 percent.

DEPENDENCY AND INDEMNITY COMPENSATION

House bill

The House bill (sections 1965 through 1967) would amend chapter 13 of title 38, relating to dependency and indemnity compensation (DIC) for service-connected deaths, to increase by 3.7 percent, effective December 1, 1985, rates of DIC payable to the surviving spouses and children of veterans whose deaths were service connected.

Senate bill

The Senate bill (section 1121) would limit the fiscal year 1986 DIC increases to a maximum of 3.7 percent—the same percentage that the Congressional Budget Office projected for the fiscal year 1986 Social Security/VA pension cost-of-living adjustment at the time the Senate Veterans' Affairs Committee reported its recommendations to the Senate Budget Committee. S. 1887 as passed by the Senate provided for a 3.1-percent COLA.

Conference agreement

The conference agreement (sections 19034 through 19026) would amend chapter 13 to increase these rates, effective December 1, 1985, by 3.1 percent.

SUBTITLE C—MISCELLANEOUS PROVISIONS

EPIDEMIOLOGICAL STUDY OF FEMALE VIETNAM VETERANS

The House bill (section 1982), but not the Senate bill, would require the Administrator to provide for the conduct of an epidemiological study of any long-term adverse gender-specific health effects in female Vietnam veterans that may result from their exposure to Agent Orange or to other phenoxy herbicides and would authorize the Administrator to expand the scope of the study to evaluate any long-term adverse gender-specific health effects in females resulting from other aspects of service in Vietnam. However, the Senate, on December 2, 1985, passed a similar provision in S. 1887, the "Veterans' Compensation and Benefits Improvements Act of 1985", (section 507), that would, unless determined not to be scientifically feasible, require the Administrator to provide for the conduct of a female Vietnam veterans health-experience study and permit investigation of any long-term adverse health effects which may have resulted from traumatic experiences, exposure to phenoxy herbicides (including Agent Orange), or other experience or exposure.

The conference agreement (section 19021) follows the Senate provision.

ADVISORY COMMITTEE ON NATIVE-AMERICAN VETERANS

The House bill (section 1981), but not the Senate bill, would provide for the establishment of a VA Advisory Committee on American-Indian Veterans to examine and evaluate VA programs and activities with respect to the needs of American-Indian veterans and to transmit reports on its examinations and evaluations to the Administrator of Veterans' Affairs for subsequent transmittal to the Congress. However, on December 2, 1985, the Senate passed a comparable provision in S. 1887, the "Veterans' Compensation and Benefits Improvements Act of 1985" (section 505), which would provide for the establishment of a VA Advisory Committee on Native American Veterans (including Alaska Natives).

The conference agreement (section 19022) contains such a provision, blending together aspects of the two provisions, naming the Advisory Committee the "Advisory Committee on Native-American Veterans" and specifying that representatives of American Indians and of other Native Americans each would serve on the Committee.

WAIVER OF WAITING PERIOD FOR ADMINISTRATIVE REORGANIZATION OF CERTAIN VETERANS' ADMINISTRATION AUTOMATED DATA PROCESSING ACTIVITIES

The conference agreement (section 19023) also contains a provision that would waive the waiting period prescribed by section 210(b)(2) of title 38—which provides, in part, that the VA may not in any fiscal year implement certain administrative reorganizations unless the Administrator, not later than the date on which the President submits the budget for that year, submits a report containing a detailed plan and justification for the reorganization—with respect to a reorganization, described in letters dated November 1, 1985, that were submitted to the chairman and ranking minority members of the Committees, involving the transfer of certain functions from the VA's Office of Data Management and Telecommunications to the VA's Department of Veterans' Benefits and requesting a waiver of that waiting period.

The conferees have determined that the information contained in the November 1 letters, together with other information subsequently provided to the Committees, constitutes a sufficiently detailed plan and justification (as that term is proposed to be defined by section 501 of S. 1887, as passed by the Senate on December 2, 1985) for this proposed reorganization and that the reorganization will serve to improve the operations of the VA's service and benefits delivery system. Since, under the provisions of section 210(b)(2), the reorganization would not be permitted to be implemented prior to the beginning of fiscal year 1987, the conference agreement would waive the required waiting period in order to permit the Administrator to implement this reorganization prior to October 1, 1986.

In agreeing that this statutory waiver be granted, the conferees intend that the Administrator, as part of implementing the reorganization, develop and implement plans for better coordination and integration between the Department of Medicine and Surgery and the Department of Veterans' Benefits in automated data processing modernization, and are not necessarily expressing agreement with the recommendations of the October 25, 1985, report of McManis Associates. The conferees believe that the Administrator should proceed cautiously in adopting recommendations from that report (particularly those relating to procurement). In that regard, the conferees recommend that the Administrator take full cognizance of the review being conducted by the General Accounting Office, pursuant to a request from the Chairman of the House Veterans' Affairs Committee and the Ranking Minority Member of the Senate Veterans' Affairs Committee, pertaining to certain aspects of the report.

RATIFICATION OF CERTAIN TEMPORARILY-EXPIRED AUTHORITIES

VETERANS' ADMINISTRATION REGIONAL OFFICE IN THE PHILIPPINES

The compromise agreement (section 19024(a)) contains a provision ratifying any action taken by the Administrator during the period beginning on November 1, 1985, and ending on December 3, 1985, in connection with the exercise of the Administrator's authority under section 230(b) of title 38, relating to the establishment of a regional office in the Republic of the Philippines. This authority to operate such an office expired on October 31, 1985, but was extended for three additional years by section 402 of Public Law 99-166.

CONTRACT CARE AUTHORITY IN PUERTO RICO AND THE VIRGIN ISLANDS

The compromise agreement (section 19024(b)) also contains a provision ratifying any action taken by the Administrator of Veterans' Affairs in connection with entering into any contract to provide, during the period beginning on November 1, 1985, and ending on December 3, 1985, care described in subclause (v) of section 601(4)(C) of title 38, United States Code, relating to the Administrator's authority to provide hospital care and medical services in certain noncontiguous "States" (defined in present section 101(20) to include United States Territories and possessions and the Commonwealth of Puerto Rico), including any waiver made by the Administrator of the applicability to the Commonwealth of Puerto Rico or the Virgin Islands of the restrictions described in that subclause for that period. This authority to provide such care and services also expired on October 31, 1985, but was made permanent in the case of the Virgin Islands, and was extended (with certain limitations) for an additional three years in the case of Puerto Rico, by section 102 of Public Law 99-166, enacted on December 3, 1985.

ALCOHOL AND DRUG TREATMENT AND REHABILITATION CONTRACT PROGRAM

The compromise agreement (section 19024(c)) also contains a provision ratifying any action taken by the Administrator of Veterans' Affairs in connection with entering into any contract to provide, during the period beginning November 1, 1985, and ending December 3, 1985, care described in section 620A of title 38, relating to contracts for certain care and treatment and rehabilitative services for eligible veterans suffering from alcohol or drug dependence or abuse disabilities. This authority to provide such care and services also expired on October 31, 1985, but was extended for an additional three years by section 101 of Public Law 99-166.

TITLE XIX—COMMITTEE ON VETERANS' AFFAIRS

Mr. CRANSTON. Mr. President, as the ranking minority member of the Committee on Veterans' Affairs, I would like to explain and discuss the provisions of title XIX of the pending measure, which pertain to Veterans' Administration programs, so as to provide background for my colleagues and others with an interest in the actions of our committee and our counterpart committee in the House to satisfy our reconciliation instructions as set forth in the First Concurrent Resolution on the Budget for fiscal year 1986, Senate Concurrent Resolution 32.

At the outset, I note the very difficult task that our two committees had in developing this conference agreement. We were working with very complex subject matter, and the differences between the two Houses on some issues were great. However, by virtue of long and hard negotiations between conferees and the staffs of the two committees, we were finally able to reach a compromise which is reflected in the provisions in title XIX of the pending measure.

As with all compromises, the final agreement of the conferees is not completely satisfactory to either side, but I believe that the Senate's positions and concerns were fairly vindicated. I thank my fellow Senate conferees, our committee chairman [Mr. MURKOWSKI], and our former chairman [Mr. SIMPSON]. I congratulate our colleagues in the other body who served as conferees, particularly Representative MONTGOMERY, the House committee chairman, Representative HAMMERSCHMIDT, the committee's ranking minority member, and Representative EDGAR, the chairman of the Subcommittee on Hospitals and Health Care, for their steadfast dedication to the House position.

Mr. President, at the time the reconciliation legislation was before the Senate last month, I made a detailed statement on the legislation our committee developed to meet our reconciliation instructions. I refer my colleagues and others with an interest in this background information to those remarks which begin on page S15468 of the CONGRESSIONAL RECORD of November 14, 1985.

SUMMARY OF TITLE XIX AND RECONCILIATION SAVINGS

Mr. President, as I noted when the reconciliation legislation was before the Senate in November, our committee's proposed legislation—which was included in title XI of the Senate reconciliation bill, S. 1730—was composed of three parts, one revising VA health-care eligibility criteria, one authorizing the VA to recover from third-party insurers for care provided to veterans with health insurance and with no service-connected disabilities, and the last, placing a cap on the amount of the fiscal year 1986 VA disability compensation COLA. In the conference agreement, subtitle A of the title XIX, entitled "Health Care", contains provisions derived directly from the first two parts, subtitle B, entitled "Compensation Rate Increase," contains a compensation COLA rate increase below the cap we had set, and subtitle C, entitled "Miscellaneous Provisions", contains four additional provisions, two of a technical nature and two derived from provisions in the House-passed reconciliation measure for which the Senate had passed a counterpart provision in another measure, S. 1788.

Briefly, title XIX consists of the following elements:

Subtitle A would revise certain health-care eligibility criteria and establish a requirement for certain non-service-connected disabled veterans to make modest payments for VA care, and provide for recovery from health insurers of certain reasonable costs of VA-furnished care and services for veterans with health insurance coverage and with no service-connected disabilities;

Subtitle B would provide, effective December 1, 1985, for a 3.1-percent cost-of-living increase for fiscal year 1986 in VA disability compensation and DIC rates; and

Subtitle C would (1) require the VA to provide for the conduct of a female Vietnam veteran health-experience study, (2) establish a VA Advisory Committee on Native-American Veterans, (3) waive a waiting period for an administrative reorganization within the VA, and (4) ratify certain temporarily-expired authorities.

More specifically, the three elements which result in cost savings (two in subtitle A and one in subtitle B) fulfilling—indeed, as I have noted, exceeding substantially—our reconciliation instructions would provide as follows:

REVISION OF HEALTH-CARE ELIGIBILITY

SUBTITLE A

First, would revise VA health-care eligibility so as to direct—by using the word "shall" in describing access to VA care rather than the word "may" as used in current law—that VA-furnished hospital care be furnished to specified categories of veterans: namely, first, any veteran for a service-connected disability; second, a veteran with a service-connected disability rated at 50 percent or more; third, a veteran with a service-connected disability rated at less than 50 percent (including a veteran discharged for a disability incurred or aggravated in the line of duty or a veteran disabled as a result of VA treatment or vocational rehabilitation); fourth, a veteran who is a former prisoner of war; fifth, Vietnam veterans exposed to certain toxic substances or veterans exposed to radiation from nuclear detonations; sixth, veterans of the Spanish American War, Mexican Border period, or World War I; and seventh a veteran without a service-connected disability who meets a new, first-level income threshold, to be called the "Category A Threshold," by virtue of having annual family income no greater than $15,000 for a veteran with no dependents, and $18,000 for a veteran with one dependent, with adjustments of $1,000 for additional dependents; and would eliminate the existing eligibility of non-service-connected veterans over age 65 without regard to their ability to defray the cost of their care.

Second, would generally maintain the current law authorities to furnish hospital care through contract or free-basis arrangements with non-VA facilities and nursing home and outpatient care, either in VA or non-VA facilities as authorized, to the extent of available resources and facilities, to veterans in the categories mentioned above.

Third, would generally maintain current law authorities to furnish hospital and other forms of care, to the extent of available resources and facilities, to veterans who meet a new, second level income threshold, to be called the "Category B Threshold," by virtue of having annual family incomes no greater that $20,000 for a veteran with no dependents, and $25,000 for a veteran with one dependent, with adjustments of $1,000 for additional dependents, either in VA facilities or, as currently authorized in certain circumstances, through non-VA facilities at VA expense.

Fourth, would authorize the VA to furnish, within otherwise available space and resource capacity, care to veterans without service-connected disabilities and whose annual family incomes exceed the category B threshold who agree to make certain payments—approximating payments made under Medicare—in connection with their care.

The Congressional Budget Office estimates that the provisions relating to health-care eligibility criteria in this subtitle would generate net reconciliation savings of $49 million in budget authority [BA] and $46 million in outlays in fiscal year 1986, $93 million in BA and $87 million in outlays in fiscal year 1987, and $102 million in BA and $95 million in outlays in fiscal 1988.

THIRD-PARTY REIMBURSEMENT

Subtitle A would also authorize the United States to collect from third-party insurers the reasonable cost of care provided by the VA to non-service-connected-disabled veterans to the extent that the insurer would be liable to pay for the care if it had been furnished by a private facility. These provisions would have the effect of invalidating the so-called "exclusionary clauses" in health insurance contracts, which currently preclude payment for care furnished by Federal facilities, and would make the VA eligible to receive payment from a third party on the same basis and to the same extent that a non-VA health-care facility would be eligible. The VA's right to recover would, therefore, generally be contingent upon the agency's compliance with the terms and conditions of the law, contract, or other arrangement under which the veteran would be eligible for payment by the third party.

CBO estimates that these so-called "third-party" provisions in subtitle A would generate net BA and outlay savings of $203 million in fiscal year 1986, $353 million fiscal year 1987, and $402 million in fiscal year 1988.

VA COMPENSATION COLA

SUBTITLE B

Would provide, effective December 1, 1985, for a VA disability compensation COLA of 3.1 percent in fiscal year 1986—the same percentage COLA that was provided in fiscal year 1986 for VA pension and Social Security—as compared to 4.1 percent, as assumed in the CBO baseline.

CBO estimates that the provisions in subtitle B would produce savings of $84 million in BA and $76 million in outlays in fiscal year 1986, $102 million in both BA and outlays in fiscal year 1987, and $104 million in both BA and outlays in fiscal year 1988.

TOTAL THREE-YEAR RECONCILIATION SAVINGS

Altogether, then, CBO estimates that title XIX would produce savings of $336 million in BA and $325 million in outlays in fiscal year 1986, or $548 million in BA and $542 million in outlays in fiscal year 1987, and $608 million in BA and $601 million in outlays for fiscal year 1988, for a total 3-year savings of $1.492 billion in BA and $1.468 billion in outlays, $342 million in BA and $318 million in outlays in excess of our reconciliation instructions to save $1.15 billion in BA and outlays over those 3 years.

BACKGROUND

Mr. President, I wish to emphasize, as I did during Senate debate on the reconciliation legislation last month, that I concur wholeheartedly that there is an absolutely critical need to restrain Federal spending so as to make major reductions in the deficit. Although I did not support the conference report on the budget resolution—I voted for an alternative that would have made a deeper cut in the deficit—a majority of my colleagues in both Houses did support the conference report.

Under the budget resolution that the Congress adopted, our committee and our counterpart committee in the other body were mandated to act to find ways to achieve a specified level of savings. It is essential, in understanding our two committees' actions, to appreciate that if we had not met our obligations in this regard, the Budget Committees in our respective bodies would have done so. I want to stress that point to my colleagues and to others with an interest in this legislation.

In light of this background, I did my best to work in a cooperative fashion with the seven other members of our two committees who served as conferees on this legislation, and I believe that we succeeded in developing legislation that allows us to satisfy our reconciliation instructions in an appropriate fashion. In fact, as I have indicated already, the legislation that we have developed would save $342 million more in BA and $318 million more in outlays than the required amounts over the next 3 fiscal years, and $176 million in BA and $171 in outlays more than in either version of the legislation. Those added savings are due to the lower than anticipated inflation rate reflected in the Consumer Price Index increase as calculated for purposes of the Social Security cost-of-living adjustment [COLA] and applied in this measure to the VA compensation COLA.

I want to stress, however, that this compromise, as did the Senate measure, would achieve the mandated savings without requiring reductions in VA programs.

Specifically, in fiscal year 1986, $227 million in BA and outlay savings would come from added revenues to the Federal Government—a net of $203 million of which would be from third-party health insurers and a net of $24 million from small copayments from non-service-connected veterans with annual family incomes over the $20,000/$25,000 category B threshold in connection with their being furnished VA care. In addition, the CBO estimates that net savings of approximately $26 million in BA and $23 million in outlays would be realized as a result of non-service-connected veterans with family incomes above this Category B threshold choosing alternative sources for their health care.

The remainder of the fiscal year 1986 savings—$84 million in BA and $76 million in outlays—would come from providing a COLA of 3.1 percent in fiscal year 1986, effective December 1, 1985, in the rates of VA disability compensation paid to service-connected-disabled veterans and disability and indemnity compensation (DIC) paid to the survivors of those who have died from service-connected causes. As I've indicated already, that is the same percentage increase as the Social Security and VA pension COLA.

Thus, I believe that our two Committees have met our fiscal obligations under the Budget Resolution while continuing with our best efforts to keep the VA—and particularly the VA health-care system—strong and vital so that it can continue to meet the needs of those who answered our country's call in its hours of need.

As I noted when the reconciliation measure was before the Senate last month, this is unquestionably the most important piece of veterans' health-care legislation brought before the Congress since at least 1973, and I believe there is a need to touch on a number of aspects of the legislation incorporated in title XIX of the pending measure.

SUBTITLE A: ENTITLEMENTS AND ELIGIBILITIES FOR HEALTH CARE FROM THE VETERANS' ADMINISTRATION

Mr. President, the greatest differences between the approaches of the two Houses was in the area involving eligibility for VA health care. In discussing the final compromise in this area, I would like briefly to discuss the two approaches, why I believed the Senate's approach in this area was the better course, and how the compromise takes my concerns in this regard into account.

SENATE APPROACH

The Senate-passed provisions modified the eligibility status of two categories of veterans and established some clear, consistent statutory priorities for VA hospital, outpatient, and nursing home care.

The first category of veterans affected by the Senate legislation consisted of those veterans to whom we have always owed the primary obligation—veterans being treated for their service-connected conditions and also those veterans with service-connected disabilities rated at 50 percent or more disabling. Veterans in this latter category have been given special recognition by the Congress since 1976 when they were accorded eligibility for unlimited outpatient care and were given a top priority for receiving that care ahead of all but veterans seeking care for their service-connected disabilities. These two groups of veterans would have been given a comprehensive entitlement to VA care, including both hospital and outpatient care as well as, in some instances, contract services where necessary.

Those veterans in this category needing nursing home care for their service-connected disabilities would also have been entitled to that care at VA expense.

The second category of veterans directly affected by the Senate legislation would have been those non-service-connected veterans age 65 and older who had family incomes over $25,000 in the preceding calendar year. Veterans in this category would no longer have been automatically eligible for VA care without reference to their ability to pay for that care. Rather, they as well as non-service-connected veterans under the age of 65 with such family incomes, would have still been eligible to receive VA care but would have had to make a modest payment to the VA for it. The eligibility of this latter category of veterans under the Senate legislation would have been expressly conditioned on there being space and resources otherwise available for their care.

For veterans presently eligible for VA care who were in neither of these categories, eligibility for VA care would have remained essentially unchanged; the VA would have been authorized to furnish them with such care to the extent of available VA resources and facilities. However, a new, objective standard of eligibility based on income for non-service-connected veterans would have been established.

In connection with the veterans' health care generally, the amount of health care that can be furnished by the VA is a function of the level of funds appropriated for the purpose by the Congress. All such funds must, under the Budget Act, be made available to be spent for such purposes. Thus, the eligibility of veterans—other than those in the new entitlement categories because of their contract care entitlements as well—for care under the Senate approach would have depended on the outcome of the appropriations process, an area where those of us with a strong interest in the VA health-care system have enjoyed considerable success in the past.

In fact, during my 17 years in the Senate, during which time I have been either the chairman—for 12 years—or the ranking minority member, for the last 5—of the subcommittee or full committee with jurisdiction over the VA health-care system, I have been deeply involved in an ongoing effort to equip the VA to provide first-quality, modern medical care to veterans. Over that period, we have, through the appropriations process, added 66,000 health-care workers to the VA system. Although the vast bulk of that increase occurred in the 1970's, we have continued with our efforts in support of the system. Just this October, Chairman MURKOWSKI and I, in connection with the VA's fiscal year 1986 appropriation, managed to restore $100 million to the medical care account. However, in this time of budget deficits it is very difficult to predict the future success of such efforts.

Thus, the Senate measure provided generally for a three-level approach—entitlement for care for the principal beneficiaries of the VA system, maintenance of current eligibility generally for all other veterans presently eligible for VA care except those non-service-connected veterans with family income above $25,000 for the preceding calendar year, and eligibility for care for those in that last group if space and resources are otherwise available and certain payments are made by the veteran. I believe that this struck an appropriate balance and represented, in the last analysis, a promise we in the Congress could reasonably strive to realize in the current time of fiscal restraint.

Together with the statutory priorities proposed in the Senate measure—with the first priority being accorded to service-connected veterans receiving care for their service-connected conditions—that approach should have ensured that the VA health-care system would continue, in its present configuration, to meet its principal mission of providing needed health care to service-connected veterans and other veterans made eligible for such care.

HOUSE APPROACH

In contrast, the approach taken in the House bill did not seem reasonable to me. The apparent purpose of the House approach was to create an entitlement to hospital and outpatient care for all veterans presently eligible for VA care except for non-service-connected veterans whose family incomes in the 12 months immediately preceding their application for care are more than 3⅓ times the VA pension income standard.

I believe that this approach was flawed in several fundamental ways. First, it appeared to promise an entitlement to VA health care, without limit, for all but one category of veterans—that is, non-service-connected veterans with incomes above certain levels—for example, incomes over $19,659 in the case of veterans with no dependents and family incomes over $25,751 in the cases of those with one dependent, with $3,233 more added for each additional dependent. Thus, a married non-service-connected veteran with two children would, under the House bill, have been accorded VA health-care entitlement based on inability to defray the cost of care if his income was not greater than $32,217.

The House Committee has described the effect and intent of its bill in conflicting ways. For example, the committee chairman, Representative MONTGOMERY, issued, as committee chairman, a press release, dated September 30, 1985, which states in part:

> By approving the health care provisions of the House bill, the committee assured service-connected and needy veterans for the first time that, if they need health care from the VA, it will be provided. Period.

Also, the House Committee report (H. Rept. 99-300, 99th Cong. 1st Sess. 773) contained the following statement:

Under existing law, as well as under the administration's proposal, an eligible veteran is unable to predict whether care will be available when needed. This uncertainty arises by virtue of the fact that under current law and under the Administrator's proposed means test the Administrator "may" provide care "within the limits of Veterans' Administration facilities." There is no requirement that the Administrator do so. In contrast, the committee bill would require VA to provide health care to several categories of veterans.

In contrast, the committee report contained this statement of caution and limitation about the effect and content of the House bill:

> The bill would require the Department of Medicine and Surgery of the VA to plan to care for all eligible veterans under a new section 610 of title 38, United States Code. The care would be provided in the VA facility where the veteran applied for admission, or another VA medical facility within a reasonable distance.

But, this language was nowhere brought out in the House debate during consideration of the reconciliation legislation. (CONGRESSIONAL RECORD, October 23, 1985, 28626-28628.)

So, most veterans would clearly have been led to believe by press reports and other information they received that they were being guaranteed VA care by the House legislation.

In contrast, I do not believe that we in Congress can today, in good conscience, purport to be guaranteeing the VA's ability to furnish inpatient and outpatient care to all those to whom the House bill would have seemed to extend entitlement to care. And, it seems even more clear that the VA will be unable to furnish the amounts of hospital care—let alone outpatient care which is oversubscribed now—seemingly promised by the House bill in either the near- or long-term future if any of the projections prove true regarding the anticipated increase in demand for VA care that will come in the 1990's from the growing population of older veterans.

The ability of the VA system to provide care is, as I noted 1 moment ago, a function of the level of appropriations made for VA medical care. The House proposal, by its terms, could not control the outcome of the appropriations process. Its purpose would seem to have been to influence that process.

I believe, however, that it would be very unwise for Congress to suggest to all of the veterans to whom the House bill would seem to have extended entitlement that, as a result of the House-proposed legislation alone, the VA health care system would be there for them, now and in the future, whenever they may seek care. Without providing the funds—both to operate the current system with such additional staff and resources as might be needed and to repair, renovate, and modernize existing facilities, as well as to construct new facilities in those areas of the country with the greatest potential for new demand—such a result cannot be guaranteed.

I also believe the House approach was flawed to the degree that it was based on a belief that substantial increases in funding for the VA system will be forthcoming in the near future. In this time of skyrocketing Federal deficits and harsh budget realities, made more intense by the Gramm-Rudman deficit reduction legislation that was enacted last week, we will have to do everything in our collective power in our two committees just to hold onto the present VA system—just to maintain its current capacities. We cannot realistically be suggesting to America's veterans that there is room for the creation of broad new entitlements for care in a system that will almost certainly be faced with reductions in the next few years and which may well be forced by the deficit reduction process now in law to reduce its personnel by more than 5 percent over the next 3 years and possibly much more thereafter.

Another factor which highlights the flawed nature of the House approach is the lack of any merchandise in the House legislation or under current law—such as review in court—by which a veteran might seek to enforce his or her new entitlement to care. In light of the bar in section 211(a) of title 38 to court review of claims for VA benefits— a bar I am certain would apply in the case of a veteran contesting a denial of health care—the "promise" of the House approach would be unenforceable and, for the veteran denied care, empty. In this regard, it is ironic to note that the purported establishment of this "right" without "remedy" was quite deliberate. The Senate has four times passed judicial review legislation to remove this section 211(a) bar, S. 367 on July 30, 1985, S. 636 on June 15, 1983, S. 359 on September 14, 1982, and S. 330, on September 17, 1979. In the case of the first three bills the other body refused to take up that legislation just as it has with respect to S. 367 for this first session of the 99th Congress up to this point.

Mr. President, although the compromise agreement follows in many respects the House approach in the area of entitlement and eligibility for care, it was modified in a number of important ways in response to the concerns I have just outlined.

CONFERENCE APPROACH ON HEALTH CARE ELIGIBILITY

First, and most importantly, although the word "shall," rather than "may" as in current law, is used in describing the eligibility for hospital care of various categories of veterans—largely derived from the House bill—the meaning of that change in eligibility is spelled out specifically, definitively, and unambiguously by both committees in the joint explanatory statement accompanying the conference report.

In that statement, the conferees have set forth their intention regarding those veterans as to whom the Administrator "shall furnish" hospital care—any veterans for a service-connected disability; a veteran with a service-connected disability rated at 50 percent or more; a veteran with a service-connected disability rated at less than 50 percent—including a veteran discharged for a disability incurred or aggravated in the line of duty and a veteran disabled as a result of VA treatment or vocational rehabilitation; a veteran who is a former prisoner of war; Vietnam veterans exposed to certain toxic substances or veterans exposed to radiation from nuclear detonations; veterans of the Spanish American War, Mexican border period, or World War I; and veterans who are Medicaid-eligible or in receipt of chapter 15 improved VA pension and those whose family incomes are no greater than the new, first level income threshold, the $15 to $18,000 category A threshold.

As to those veterans, the conferees have stated definitively and emphatically that "the VA's sole obligation," is such a veteran is in immediate need of hospitalization, is "to furnish an appropriate bed at the VA facility where the veteran applies for care" or, if no bed is available at that VA facility, "to furnish a contract bed—as authorized under current law as recodified in new section 603—or to arrange to admit the veteran to the nearest VA medical center [VAMC], or Department of Defense facility with which the VA has a sharing agreement, with an available bed." If the veteran in one of these shall furnish categories who is seeking care is not in need of immediate hospitalization, the VA's obligation would be either to "schedule the veteran for admission where the veteran applied, if the schedule there permits," or if it does not, to "refer the veteran to the nearest VA facility, or DOD facility with which the VA has a sharing agreement, with an available bed and to facilitate the veteran's admission."

Thus, Mr. President, the apparent promise of the House bill of an unlimited entitlement to both hospital and outpatient care for a wide range of categories of veterans, including those with no service-connected disabilities and with incomes of up to more than $25,000 for a veteran with one dependent—a promise which, as I indicated earlier, I do not believe can be kept—has been recast into a far more achievable pledge with respect to hospital care only.

ENTITLEMENT OF VETERANS MEETING CATEGORY A INCOME THRESHOLD

The other major changes that have been made to the House proposal in this area to make it more workable are, first, a lowering of the income levels for those nonservice-connected veterans who would be given this form of entitlement to care—from levels of approximately $20,000 for a veteran with no dependents and $25,000 for a veteran with one dependent in the House bill, to levels of $15,000 and $18,000, respectively, with $1,000 for each dependent; and second, limiting this new form of entitlement to hospital care only, rather than to hospital and outpatient care as was provided in the House bill. This latter change was necessary because it is already clear, in many areas of the country, that the VA is unable to meet the existing demand for outpatient care. There is simply no basis for suggesting that there will be resources available to the VA to furnish outpatient care to the categories of veterans that the House sought to entitle to such outpatient care.

VETERANS AGE 65 AND OLDER

As in both the Senate and House bills, the conference agreement would provide for a change in the eligibility for VA care of nonservice-connected-disabled veterans age 65 and older who have family incomes over a certain level. Under the compromise agreement, these veterans with annual incomes—for the preceding calendar year, as in the Senate bill—of over $20,000 for veterans with no dependent, and over $25,000 of family income for those with one dependent, would no longer be automatically eligible for VA care without reference to their incomes. Rather, they, along with nonservice-connected-disabled veterans under age 65 with incomes over these level, would be required to make a modest payment to the VA—in an amount generally comparable to a corresponding deductible or copayment requirement under Medicare—in order to receive VA care. As was provided for in the Senate bill, the eligibility of these veterans with incomes above this new category B income threshold would be expressly conditioned on there being space and resources otherwise available at the VA facility where they seek care.

Another provision relating to these veterans age 65 and over which was included in the Senate bill would have established a priority for care for veterans in this age group with incomes above the $20,000 to $25,000 level ahead of veterans below that age with such incomes. Unfortunately, our House colleagues would not accept that provision and it is not included in the final agreement.

INTERMEDIATE CATEGORY OF ELIGIBILITY

The conference agreement would establish a third, intermediate category of veterans eligible for VA care in addition to the two categories that I have already described—those two being veterans with incomes no greater than the category A threshold who would be entitled to VA hospital care, and veterans with incomes above the category B threshold who would be eligible for VA care upon agreeing to make a payment to the VA in connection with their care. This new, third category would consist of those veterans with annual incomes at or above the category A, but not greater than the category B, thresholds—for a single veteran, an income above $15,000 but no greater than $20,000 and, for a veteran with one dependent, an annual family income above $18,000 but no greater than $25,000, with $1,000 added for each additional dependent. The Administrator would be authorized to provide care to these veterans within available VA resources and facilities. These veterans would make no payments in connection with their care.

DETERMINING INCOME UNDER NEW THRESHOLDS

In determining a veteran's income for the purposes of eligibility under the two new income eligibility criteria thresholds—category A and category B—the Administrator would be required to determine a veteran's annual income—taking into account family income and other assets—generally using the same methods and criteria used to determine annual income for the purposes of VA chapter 15 improved pension eligibility. This income eligibility determination would be made upon a veteran's first application for care each year on a form including income questions similar to those used for determining VA pension eligibility and would be based on the veteran's family income for the calendar year immediately preceding the application for care. Such a determination would then be applicable for the balance of the calendar year.

As I noted a moment ago, if a veteran were eligible for care only by virtue of agreeing to make a payment to the VA in connection with the needed care, the payment required would be in an amount generally comparable to a corresponding deductible for hospital care—$492 beginning in 1986—or copayment requirement for outpatient care—20 percent—under Medicare. However, the payments required under the conference agreement would be substantially less than the required payments under Medicare for episodes of inpatient hospital care beyond 60 days.

Under the conference agreement, the payment schedule would be as follows:

HOSPITAL CARE

During any 365-day period; first, for the first 90 days of care—for part thereof—the lesser of the cost of furnishing the care or the amount of the inpatient Medicare deductible in effect at the beginning of the 365-day period; and second, for each succeeding 90 days of care—or part thereof—the lesser of the cost of furnishing the care or one-half of the amount of that inpatient Medicare deductible.

NURSING HOME CARE

During any 365-day for each 90 days of care, the lesser of the cost of furnishing the care or the amount of the inpatient Medicare deductible.

OUTPATIENT TREATMENT

For each outpatient or home health visit, the amount equal to 20 percent of the estimated average cost of an outpatient visit to a VA facility during the fiscal year in which the treatment is furnished, but not to exceed during any 90-day period the amount of the inpatient Medicare deductible in effect at the beginning of that period.

COMBINATION OF HOSPITAL AND NURSING HOME CARE

In the case of a veteran who pays the inpatient-Medicare-deductible amount in connection with VA-furnished hospital or nursing home care and who, before using 90 days of the initial mode of care—hospital or nursing home—within a 365-day period, is furnished the other mode of care, the veteran would not be required to make any payment for the second mode until either: first, the number of days of hospital and nursing home care combined exceed 90; or second, the beginning of the next 365-day period, whichever occurs first. If the veteran pays an amount equal to one-half of the inpatient-Medicare-deductible amount in connection with receiving hospital care—as when the veteran is receiving more than 90 days of hospital care in a 365-day period—and, before using the 90 days of hospital care for which that payment was made within the applicable 365-day period, receives VA-furnished nursing home care, the veteran would be required to pay one-half of the deductible amount in connection with the number of days of nursing home care that, when added to the hospital days, do not exceed 90 within that 365-day period.

PAYMENTS FOR COMBINATIONS OF OUTPATIENT TREATMENT AND HOSPITAL AND NURSING HOME CARE

A veteran would not be required to pay an amount greater than the inpatient Medicare deductible in connection with any combination of outpatient and inpatient care furnished during any 90-day period.

TWO SENATE PROPOSALS NOT IN CONFERENCE AGREEMENT

Mr. President, although I am generally satisfied with the conference agreement that we worked out with the House conferees as it relates to health-care eligibility and entitlement, there were two proposed changes in the law from the Senate bill as to which I regret we were unable to gain the House conferees' agreement.

CERTAIN SERVICE-CONNECTED OUTPATIENT AND CONTRACT-CARE ENTITLEMENTS

The first of these provisions would have established a clear, comprehensive entitlement to outpatient, as well as hospital, care for veterans for their service-connected disabilities rated at 50 percent or greater and entitlement to contract outpatient care for both categories and to contract hospital care to veterans for their service-connected disabilities. I have long believed that these categories of veterans are and should be the principal beneficiaries of the VA health-care system and, as such, deserve the entitlement to care and the statutory priority for receiving that care that the Senate bill would have provided.

As I noted, however—and I must confess my surprise at this result, even though the House bill would have achieved the same result for these two categories of veterans in terms of direct VA care—we were unable to secure the support of the House conferees for this result. As a consequence, these two categories of veterans are included along with the other categories of veterans as being given the form of limited entitlement that I described as being in the conference agreement.

SPECIAL OBLIGATION TO VETERANS WITH 50-PERCENT OR MORE SERVICE-CONNECTED DISABILITIES

Nevertheless, I am pleased to note that the conference agreement does contain provisions I strongly urged to emphasize our special obligation to those veterans with service-connected disabilities rated at 50 percent or more. Specifically, these veterans are included expressly in a separate category for the entitlement to hospital care in revised section 610(a)(1)(D) of title 38—the first time that they have been given this separate recognition in the context of hospital care—and are accorded outpatient care eligibility in the provision, revised 612(a), together with veterans being treated for their service-connected conditions rather than in section 612(f), as in current law, with veterans receiving care for their non-service-connected disabilities. Their placement in section 612(a) will provide these 50 percent or more disabled veterans with eligibility for structural alterations to their residences, in connection with the provision of home health services where necessary to enable the veteran to live at home, costing up to $2,500 as opposed to the $600 limit applied to non-service-connected veterans generally under current section 612(f) and revised section 612(f)(2).

It is my strong hope that the heightened recognition being accorded to this category of veterans in the conference agreement will be reflected in VA practices and procedures, including establishing in VA regulations a priority—which current regulations, 38 CFR 17.49, do not contain—for these veterans when they seek hospital care.

STATUTORY PRIORITIES FOR CARE

The second issue as to which I regret the outcome in the conference agreement involves the establishment of statutory priorities for VA care. The Senate bill would have added a new section 612C to title 38, United States Code, to require the Administrator to establish statutory priorities for furnishing hospital, domiciliary, and nursing home care as well as, under current law in section 612(i), medical services. The Senate bill would also have required the Administrator to prescribe regulations to ensure the provision of care and services in that priority order.

Except in cases of a medical emergency, the priorities for hospital, domiciliary, and outpatient care would have been set forth, with the first two categories being as they currently are for outpatient care: First, veterans who require treatment for service-connected disabilities and, second, veterans with service-connected disabilities rated at 50 percent or more.

Establishing these priorities as proposed in the Senate bill would have constituted an expression of congressional policy as to which veterans should receive care in situations in which there may be a scarcity of resources, situations that may well be occurring with increasing frequency beginning by the end of the decade. Unfortunately, the only change to current law that the House conferees were willing to accept involved accepting my proposal to add one additional category of veterans—those in receipt of improved VA pension under section 521 of title 38—to the existing priority listing for outpatient care in section 612(i) of title 38.

Although this is far less than I wanted or believed appropriate in terms of statutory priorities for care, it is an important result in ensuring that truly needy war-time veterans in receipt of VA pension—those, for example, with incomes of no more than $5,885 for a veteran with no dependents and with family incomes of $7,709 for a veteran with one dependent—will be given a priority for outpatient care ahead of other nonservice-connected veterans with higher incomes. With further reference to veterans in receipt of pension, I note that they, as well as veterans in receipt of Medicaid, would be automatically placed in category A in terms of their eligibility for VA care and need not complete any separate income form to establish this eligibility.

CONTRAST WITH THE ADMINISTRATION-PROPOSED LEGISLATION

Mr. President, the conferees' final agreement regarding health-care eligibility issues can perhaps be best understood in contrast to the legislation that the Administration first proposed in connection with the fiscal year 1986 budget and submitted formally in late April.

That proposal involved an $11,400 income cutoff for a single veteran and generally provided no opportunity for such a veteran above that income level to become eligible for VA care except by spending down major portions of his or her income above the cutoff line and then, each time—I repeat, each time—VA health care was sought, demonstrating to the VA that such expenditures had in fact been made. That approach could well have resulted in the VA turning away sick veterans who actually would have been unable to afford the care they needed and who would be cared for by the VA under current law.

The effect of that proposal would have been that each non-ervice-connected veteran seeking care on the basis of being unable to defray the cost of care would have been required to establish and then reestablish income eligibility each time he or she applied for care. Indeed, the House bill would have required similarly that veterans reestablish eligibility each time they applied for care. The Administration's proposal would have been both individually demeaning and extraordinarily burdensome for the veteran seeking to qualify for eligibility on the basis of income—including many very elderly veterans—and administratively costly and difficult for the VA.

That is why I announced this past spring when the Administration plan first surfaced that I categorically rejected that kind of administratively complicated and burdensome and generally debasing approach, and I am pleased to say that the legislation developed by the conferees bears no resemblance to that Administration proposal.

The approach we are proposing in the conference agreement thus must be viewed against the backdrop of knowing that the Administration has existing authority to establish a means test and that, should Congress take no action, the VA would certainly do so along the lines of the totally unacceptable proposal that the VA had previously made.

TECHNICAL MATTERS

Finally, as I did when this legislation was before the Senate last month, I want to touch briefly on some technical matters regrading the changes relating the VA health-care eligibility proposed in this subtitle.

CONTRACT-CARE ELIGIBILITY

The first such point to a proposed change in the wording of the title 28 sections setting forth eligibility criteria with respect to hospital care, nursing home care, and outpatient treatment. Those sections currently provide eligibility for care "within the limits of Veterans' Administration facilities," which is defined to include both the VA's own facilities and certain other Government facilities as well as private facilities with which the VA may contract for hospital and outpatient care in the circumstances specified in current section 601(4)(C) of title 38. The contract authority for nursing home care is in section 620.

The Senate bill would have replaced the phrase "within the limits of Veterans' Administration facilities" with the phrase "through Veterans' Administration facilities or through non-Veterans' Administration facilities to the extent authorized in section 603 of this title" and would have reenacted the contract-care eligibility in a new section 603, taking it out of its current-law location as part of the definition—quite anomalously—of "Veterans' Administration facilities" in present section 601(4)(C), thus providing a more direct reference to the VA's contract authority. The conference agreement generally incorporates this approach with a redrafting and relocation—for example, to sections 610(a)(3), 612(a)(3), and 612(f)(3)—of the reference. The use of the new terminology—and the shifting to a new section 603 of the provisions in current law section 601(4)(C) specifying the circumstances under which contract care may be furnished—are not intended to change the effect of current law but rather to achieve greater clarity on the face of the statute regarding the extent of eligibility for contract care—often referred to as fee-basis care.

This new drafting formulation is also intended to make clear—as is the drafting, in revised section 610(a)(3) relating to nursing home care, by the use of the phrase "or as provided in section 620 of this title"—that the extent to which any fee-basis authority is provided is determined solely by what is in section 603, or section 620 as to nursing home, in conjunction with other provisions of chapter 17, and that the Administrator's general authority to contract under current section 213 is not available with respect to any of these chapter 17 health-care authorities. As was pointed out in our committee's report language (S. Rept. No. 99-146, 99th Cong., 1st Sess. 591-92), the committee construes the words "within the limits" used in current law as providing the same limitation as to the nonavailability of section 213, but believes that the new formulation is more definitive and clearer in this regard.

EMERGENCY CARE

A second technical point that I want to note regarding the provisions relating to revisions in VA health-care eligibility involves the relationship between the new requirement that some veterans have to agree to make payments in connection with their care, on the one hand, and the VA's existing authority to provide care in emergency situations, on the other. Although a veteran with annual family income above the category B income threshold would generally be eligible for care or services only upon the veteran—or someone authorized to act for him or her—agreeing to pay for those services before they are provided, the VA has full authority under current section 611(b) to furnish hospital care or medical services in emergency cases and to charge the veteran for the approximate amount of the VA's costs for furnishing such care. This emergency authority would be applicable in the case of a veteran in this new category of eligibility who for any reason is unable to execute such an agreement prior to the commencement of care, thereby permitting the VA to furnish whatever care is necessary in an emergency situation and thereafter, as appropriate, to charge the veteran for such care in accordance with the new payment amounts specified in the law to be paid in connection with being furnished VA care.

RECOVERY OF THE COST OF CERTAIN HEALTH CARE AND SERVICES FURNISHED BY THE VA

Mr. President, turning to the second major element in subtitle A of the legislation in title XIX—the section which would provide for the VA to recover from third-party health insurers for the cost of care provided to insured non-service-connected disabled veterans—these provisions generally follow the Senate approach. As I noted in my remarks last month, my position on such legislation has been clear for many years, dating back to 1979. I believe that such legislation does not make any sense from the standpoint of sound public policy.

It is clear beyond any question that the enactment of this legislation will not reduce the overall cost of VA health care; in fact, the opposite is true because this legislation would have an inflationary impact. This is so both because each unit of health care provided by the VA for which third-party recovery is sought would now have two additional administrative components attached—each paid for by taxpayers ultimately, and because the third parties' costs of processsing and responding to the claims would be passed on to those who pay health-insurance premiums as well as taxes.

It is also clear to me that the legislation constitutes a totally unwarranted Federal Government intrusion into private contractual relationships by rewriting some of the most basic terms and conditions of marektplace commercial insurance agreements.

In this regard, I refer my colleagues and others with an interest in this legislation to the excerpts I read into the RECORD last month from a letter written by Bernard Tresnowski, the president of the Blue Cross and Blue Shield Association, in response to a Washington Post editorial on VA third-party reimbursement legislation. As I noted then, this letter—the excerpts of which begin on page 31959 of the RECORD for November 14—is about as succinct an analysis as I've ever seen of the problems with such legislation.

Mr. President, the point that I believe is so well founded that is raised against this legislation—that it violates fundamental principles of insurance—could not be made more clear than by reading revised section 629(a)(3)(A) of title 38 in the conference agreement. This provision would permit the VA to collect under an insurance contract even where the policy is expressly contingent on the insured having satisfied a deductible or paid a copayment and the insured veteran has not satisfied those requirements. Plainly and simply, this provision proposes to rewrite insurance contracts to give the VA a right to collect in situations in which other health-care entities could not. Equally as clearly, without this provision, this third-party reimbursement legislation would not work at all as to most health insurance plans.

But the savings estimate attached to this legislation and the opportunity to point a finger at someone else, the health insurance companies, and say that they are not bearing their fair share of costs made this approach irresistible. On this latter score, as I have pointed out repeatedly, no one has been able to demonstrate to my satisfaction that insurance companies have received any windfall from the exclusionary clauses. Rather, these clauses reflect standard, sound insurance theory and practice.

However, our two committees were faced with very significant reconciliation instructions, and our being credited by CBO for savings, through third-party recoveries, of $960 million over 3 years—a hopelessly optimistic projection, I might add—through the enactment of such legislation made this an option our committee "simply could not refuse."

In view of the inevitability of the enactment of some kind of legislation in this area, I did my best to attempt to help craft it in such a way as to make it as workable and as fair as possible. In this effort, I consulted closely with the VA, representatives of various third-party insurers, and others with an interest in the legislation.

I would like to highlight two very significant points that are appropriately addressed in the conference agreement.

VA COMPLIANCE WITH CONTRACT TERMS

First, the language providing for the right of recovery of the cost of care to the extent that the veteran or a non-Federal provider would be eligible to receive payment generally leaves the Federal Government's right to recover contingent upon compliance with the terms and conditions of the law, contract, or other arrangement under which the veteran would be eligible for payment by the third party. Only where the proposed legilsation specifically overrides such terms or conditions—the provision in the legislation nullifying preclusions of liability for Va care and the provision I have just cited providing for recovery despite a deductible or copayment not being met—would such requirements be voided. Thus, contract requirements conditioning the third-party's liabililty—such as for pre-hospitalization screening for second opinions prior to surgery or other specified utilization review procedures—would apply. Likewise, provisions imposing general limitations on the third party's liability—such as contract clauses placing specific dollar limits on payments for certain procedures, limiting a carrier's liability to a percentage of certain charges, or, as in the case of health maintenance organizations, limiting coverage to care provided in specific facilities—would apply. Our committee report language—as printed on pages 577 and 578 and pages 627 and 628 of Senate Report No. 99-146—makes these points clear.

DEPOSITING COLLECTIONS IN MISCELLANEOUS RECEIPTS

Second, VA health care appropriations are not to be reduced in anticipation of collections. Rather, revenues received will be remitted directly to the Treasury to reduce the deficit. Without this provision, which was not contained in prior administration's legislative proposals, I could and would have never agreed to this legislation since deposit of the collected revenues in the VA medical care account would lead to reductions in that appropriation being made up front based on anticipated revenues. The effect of this approach would be to hold the system hostage for a result it could in no way guarantee—that insurers would agree to these payments and that the payments would be forthcoming at certain levels, both fairly readily and expeditiously. Indeed, there continues to be significant question in my mind as to whether any appreciable revenue will be produced by these third-party provisions for several years after enactment, if even that early.

SUBTITLE B—DISABILITY COMPENSATION COST-OF-LIVING ADJUSTMENTS

Mr. President, I also want to make mention of the provisions in the pending conference agreement, which are derived from S. 1887, the proposed "Veterans' Compensation and Benefits Improvements Act of 1985," which the Senate passed on December 2, 1985. These provisions include a 3.1-percent increase in the rates of disability compensation paid to service-connected disabled veterans and the rates of DIC paid to the survivors of those who have died from service-connected causes.

The VA's service-connected Disability Compensation Program is at the very heart of our Nation's system of veterans' benefits. The priority that is attached to the needs of service-connected disabled veterans and the survivors of those who have made the ultimate sacrifice is well known and well established. The more than 2.2 million veterans who suffer from disabilities resulting from their service and the 342,000 survivors of those who died from service-connected disabilities are and will remain our committee's No. 1 priority. They are certainly mine.

Thus, Mr. President, I'm delighted that the conference agreement would provide for a compensation and DIC COLA equal to the increase being made this year in Social Security and VA pension benefits—3.1 percent. Consistent with the precedent we established last year in the VA compensation COLA bill, Public Law 98-543, as well as in the reconciliation bill, Public Law 98-369, this increase would be effective on December 1, 1985, the same date as the indexed COLA's for Social Security and VA pension. As our committee has noted many times in the past and throughout this year, we continue to be committed to maintaining this approach.

I also note that, by virtue of section 156(e)(1)(A) of Public Law 97-377, a fiscal year 1983 continuing appropriations measure enacted on December 21, 1982, the enactment of this COLA would automatically result in a 3.1-percent increase, effective on December 1, in survivors' reinstated, Social Security-like benefits paid under section 156 of Public Law 97-377 to certain surviving spouses with minor children.

LAST YEAR'S COMPENSATION COLA SHORTFALL

Mr. President, the House proposed this year that we proceed with a 3.4-percent COLA, splitting the difference between the 3.7-percent increase passed by the House and the Senate's 3.1-percent increase. The Senate insisted on the 3.1-percent increase.

It should be noted, Mr. President, that it is true that last year we did not, regrettably, increase compensation rates by exactly the same percentage as the Social Security COLA. The

Social Security COLA turned out to be 3.5 percent and the compensation COLA we enacted before we knew the CPI amount was 3.2 percent.

However, at that time we moved forward by 4 months the effective date of the COLA—from April 1, 1985, to December 1, 1984. This acceleration of the COLA was a major benefit to all compensation/DIC recipients in fiscal year 1985.

In the case of veterans with disabilities rated 10-, 20-, or 30-percent disabling, there was no dollar difference in the monthly rate between a 3.2-percent COLA and a 3.5-percent COLA. However, because the effective date was moved forward by 4 months, these veterans all received more in fiscal year 1985 than they would have otherwise had the date not been moved up. In the case of 30-percent disabled veterans, this meant $24 more in fiscal year 1985 than if the effective date had been left at April 1 and a 3.5-percent COLA had been enacted.

In the case of veterans rated 40- through 70-percent disabled, the difference between the two COLA percentages was $1 per month. However, in the case of a veteran rated 60-percent disabled, for example, the earlier effective date meant $55 more in fiscal 1985 in compensation than would have been paid with a 3.5-percent COLA increase, effective on April 1.

One last example—in the case of veterans rated 100-percent disabled, the dollar difference between the COLA's was $4 a month. The earlier effective date, however, meant $140 more in fiscal year 1985 than if a 3.5-percent COLA had been granted effective April 1, 1985.

Thus, Mr. President, in light of the effect of the earlier effective date and in consideration of the great urgency to control Federal spending, I concur in the Senate position that a 3.1-percent COLA is the appropriate adjustment.

If, in future years, there is again a disparity between the amount of the Social Security COLA and the VA compensation COLA we enact before the amount of the Social Security COLA is known, I would certainly carefully and sympathetically consider the need and justification for a restoration of the percentage-point difference to their establishing rate of a subsequent compensation increase.

SUBTITLE C—MISCELLANEOUS PROVISIONS

EPIDEMIOLOGICAL OF FEMALE VIETNAM VETERANS

Mr. President, section 19021 of the conference agreement contains a provision that would require the Administrator, unless determined not to be scientifically feasible to do so, to provide for the conduct of an epidemiological study of the health of women Vietnam veterans—a so-called Vietnam-experience study. This section was derived from a provision in the House bill and from a Senate provision in section 507 of S. 1887, the "Veterans' Compensation and Benefits Improvements Act of 1985." The Senate provision was derived from one that I first introduced in S. 1616, to require a study of any long-term adverse gender-specific health effects in female Vietnam veterans that may result from their exposure to agent orange or to other phenoxy herbicides and to authorize the Administrator to expand the scope of the study to include a so-called Vietnam-experience study evaluating any long-term adverse gender-specific health effects in females resulting from any aspect of service in Vietnam.

Mr. President, at the time I introduced S. 1616 and at the time of Senate passage of S. 1887, I discussed the need for such study in detail. I refer my colleagues to my remarks in the CONGRESSIONAL RECORD of September 10, 1985, 23229-23232, and of December 2, 1985, 33639-33641.

The Centers for Disease Control is currently conducting a large study designed to learn about the health status of Vietnam veterans in general. That study includes three major research components: An agent orange study, a Vietnam-experience study, and a selected cancers study. Although it is expected that a significant level of information regarding health issues for Vietnam veterans in general will result from this effort, the CDC-conducted study will not provide any information about the unique experiences and gender-specific concerns of women Vietnam veterans.

For this reason, since early 1984, I have been urging, along with other members of the Veterans' Affairs Committee, that the executive branch utilize existing authorities to design and undertake an appropriate study of women Vietnam veterans. I am pleased that this provision has been included in the pending legislation, and look forward to having this long-overdue study of the general and specific health status of women Vietnam veterans scientifically reviewed. If not scientifically infeasible to do so, study of health effects that may have resulted from specific factors in service—such as exposure to agent orange or other toxic substances, or traumatic experiences—would also be authorized, although not required by this provision in the conference agreement.

ADVISORY COMMITTEE ON NATIVE-AMERICAN VETERANS

Mr. President, I also want to make special mention of the provisions of the conference agreement—in section 19032—that would establish within the VA an advisory committee on Native-American veterans. These provisions are derived from the provisions of section 505 of S. 1887 as it was passed by the Senate on December 2 as well as from the provisions of section 1981 of the House bill.

Native Americans have a long and distinguished record of service in the Armed Forces of the United States. Their service and subsequent readjustment, in many cases, has taken place in the context of cultural and economic conditions different from those of many other veterans. Yet no evaluation of the particular needs of native-American veterans has ever been undertaken by the VA.

I believe that the differences between native-American veterans and their nonnative veteran counterparts and the diversity within the native-American veteran population itself merit an indepth evaluation to identify situations or needs unique to native-American veterans and to assess the effectiveness of VA programs and services designed to meet those needs. This advisory committee will be charged with such an evaluation and with the responsibility of making two reports to the Administrator—on November 1, 1986, and November 1, 1987—on the committee's findings and recommendations. The Administrator, in turn, would be required to present those reports to the Congress, together with his findings and recommendations for administrative or legislative action.

Mr. President, as the Senator from the State where more native-American veterans reside than in any other State—over 27,100 American Indians reside in California, nearly 17 percent of the total U.S. native-American veteran population—and having initiated the provision in the Senate legislation for the evaluation to be carried out by an advisory committee with native-American veteran representation on it, I pressed for inclusion of this provision in the conference agreement. I look forward to receiving and reviewing with great interest the results of the advisory committee's evaluation.

WAIVER OF WAITING PERIOD FOR ADMINISTRATIVE REORGANIZATION OF CERTAIN VA AUTOMATED DATA PROCESSING ACTIVITIES

Mr. President, section 19033 of the conference agreement contains a provision that would waive, with respect to a particular proposed VA reorganization, the waiting period prescribed by section 210(b)(2) of title 38—which provides, in part, that the VA may not in any fiscal year implement certain administrative reorganizations unless the Administrator, not later than the date on which the President submits the budget for that year, provides a report containing a detailed plan and justification for the reorganization. The particular reorganization involves the transfer of certain functions from the VA's Office of Data Management and Telecommunications to the VA's Department of Veterans' Benefits.

Mr. President, as many Senators may know, on February 1 of this year, the Administrator submitted to the committee letters giving notice of the VA's decision to close down a wide range of VA activities at its 59 DVB regional offices and to consolidate those activities in three processing centers. The Administrator stated that his letters were submitted in accordance with section 210(b)(2).

Mr. President, that proposal and the lack of detail in the February 1 letter raised questions—many of which still remain unanswered—regarding the impact of the consolidation on the furnishing of various types of benefits and services to veterans and their dependents as well as on the employees affected. The opinion was thereafter expressed in both the Senate and the House—by myself and the chairman and ranking minority member of the House Committee on Veterans' Affairs—that the February letter was so lacking in detail as not to constitute a valid section 210(b)(2) "detailed plan and justification." In an undated opinion addressing this issue, the Acting General Counsel of the VA declined to state whether it did or did not.

In order to resolve the question of what specifically constituted a "detailed plan and justification," I introduced on June 27, joined by Senators Matsunaga, DeConcini, and Rockefeller, S. 1397, the proposed "Veterans' Administration Reorganization Act of 1985." This legislation set forth a definition of precisely what type of information a detailed plan and justification for a proposed reorganization must contain under section 210(b)(2). Provisions derived from this measure were incorporated into section 501 of S. 1887 as reported from the committee and were approved by the Senate on December 2.

Thus, Mr. President, despite the fact that those provisions have not yet been enacted into law and the fact that the proposed reorganization involving DVB and ODM&T in no way relates to the poorly-conceived and ill-advised proposal to consolidate regional office, I believed it was appropriate and necessary that the proposed DVB and ODM&T reorganization be supported by the kind of detailed plan and justification that section 501 of S. 1887 would expressly require, and I so notified the Administrator in a December 6 letter to him.

It was in that context that I considered and examined the Administrator's letter. So that Members can also have an opportunity to understand this proposal, I ask unanimous consent that the texts of his December 4 letter to me which is identical to the November 1 letter and of my December 6 letter to him, together with the provisions of section 501 of S. 1887, be printed in the Record at this point.

There being no objection, the material was ordered to be printed in the Record, as follows:

VETERANS' ADMINISTRATION,
Washington, DC, December 4, 1985.

Hon. Alan Cranston,
Ranking Minority Member, Committee on Veterans' Affairs, U.S. Senate, Washington, DC.

Dear Senator Cranston: The purpose of this letter is to report a planned administrative reorganization within the Veterans Administration (VA) involving the transfer of certain functions from the Office of Data Management and Telecommunications (ODM&T) to the Department of Veterans Benefits (DVB).

As you are aware, under the Congressional "report and wait" requirements of 38 U.S.C. § 210(b)(2), a detailed plan and justification must be submitted to the appropriate committees of Congress for certain VA administrative reorganizations involving a reduction during any fiscal year by 10 percent or more in the number of full time equivalent employees (FTEE) at a VA covered office or facility. The report must be made not later than the date on which the President submits his budget for the next fiscal year. Thereafter, no action can be taken to implement the reorganization until the first day of that fiscal year. This letter is submitted in order to satisfy the above-reporting requirement for a planned VA organizational transfer of certain automated data processing (ADP) functions as described below.

As you are aware, in April 1985, the Veterans Administration selected McManis Associates, Inc., to prepare an implementation plan to modernize the DVB benefits and services delivery systems. This plan was to be consistent with my policy statement mandating the full modernization of the Agency's data processing and communications systems so as to improve the quality of service provided to veterans and their families. The McManis study among other things found that there was limited end-user involvement in system design and development, limited systems training, and that there were inconsistent system utilization management practices. Based on these findings, I approved the McManis recommendations the DVB should have the authority, resources and responsibility for the systems development and greater operational oversight within overall agency standards and policy guidelines. Implementation of this recommendation requires the administrative reorganization which is the subject of this letter.

We propose to reorganize in order to move ADP program specialists closer to the DVB program specialists, and give DVB a greater role in ADP decisions. By giving DVB control of ADP resources, they will be able to better focus ADP expenditures on service delivery priorities. This reorganization will involve 362 ODM&T full time equivalent employees (FTTE). These organizational transfers will occur at VA Central Office (VACO), and at the Austin, Texas; Hines, Illinois; and Philadelphia, Pennsylvania VA Data Processing Centers (DPC). The number of FTEE transferred as the result of this reorganization and the base 1986 ODM&T FTEE at each facility, are as follows: VACO—81/441; Austin—75/663; Hines—146/406; and Philadelphia—60/197.

The functions performed in the positions to be transferred are unique to the support of DVB programs and, after this transfer to DVB, ODM&T will no longer perform these functions. These functions, and the stations at which they are performed, are as follows: VACO—Benefits Automation Service, which designs all ADP programming for DVB, and some administrative support personnel; Austin DPC—Benefits Delivery System Division, which does programming for DVB in the areas of loan guaranty, the Beneficiary Identification and Records Location Subsystem (BIRLS), and debt collection (beginning in fiscal year 1986); Hines DPC—System Support Divisions, which handle programming for DVB benefits programs, such as Compensation and Pension, Education, and Vocational Rehabilitation, and which prepare the computer tapes for the Department of Treasury to use in issuing benefits checks; and Philadelphia DPC—Systems Division, which does programming for VA applications. There will also be transferred , at each of the above stations, the functions of that part of the system verification and testing element which performs systems quality control for the programming done by the benefits delivery system staff at each of these stations.

It is clear from the foregoing that this reorganization is simply an organizational transfer of employees. These employees will not be relocated to other stations. The great majority of them will experience no change in their functions, personnel status, immediate supervision, or even in the location of their workspace. Accordingly, there will be little or no cost impact as the result of this reorganization.

We believe that this reorganization is appropriate and advisable, and that it will have the desired effect of improving and making more efficient DVB benefits delivery systems by giving DVB direct control over the resources used for its ADP support. This reorganization has already been the subject of DVB briefings with staff of the House and Senate Veterans' Affairs Committees. Of course, we would be pleased to provide any additional information which you may desire concerning this reorganization.

I request your assistance in introducing, and supporting enactment of, a legislative waiver of the 38 U.S.C. § 210(b)(2) waiting period for this reorganization, so that these improvements in our organizational structure can be made as soon as possible. Suggested language for such a legislative waiver is enclosed. Absent such a waiver, we must wait until fiscal year 1987 to implement this reorganization.

I appreciate your support for our efforts to improve benefits delivery for our Nation's veterans.

Advice has been received from the Office of Management and Budget that there is no objection to the presentation of this letter and legislative proposal from the standpoint of the Administration's program.

Sincerely,

Harry N. Walters,
Administrator.

COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC, December 6, 1985.

Hon. Harry N. Walters,
Administrator of Veterans' Affairs, Washington, DC.

Dear Harry: Thank you for your letter of November 1 in which you gave notice of a planned administrative reorganization within the VA involving the transfer of the Office of Construction (OC) to the Department of Medicine and Surgery (DM&S) and in which you request a waiver of the waiting period prescribed by section 210(b)(2) of title 38, United States Code.

As you noted, section 210(b)(2) provides, in part, that the VA may not in any fiscal year implement a reorganization involving a more-than-10-percent reduction in the number of full-time equivalent employees at any VA facility with more than 25 employees unless the Administrator, not later than the date on which the President submits the budget for that year, provides "a report containing a detailed plan and justification for the reorganization."

As you may know, in response, in part, to what I believed was an ill-conceived and potentially damaging plan to consolidate various activities of the Department of Veterans' Benefits 59 regional offices into 3 processing centers, I introduced legislation, S. 1397, the proposed "Veterans' Administration Reorganization Act of 1985", on June 27. A principal thrust of that measure was to define for purposes of section 210(b)(2) precisely what a "detailed plan and justification" for a proposed reorganization must entail.

Provisions derived from this legislation were incorporated into the compensation cost-of-living increase bill that was ordered reported by the Committee on October 31 and passed by the Senate, as S. 1887, on December 2. Specifically, section 501 (copy enclosed) of the bill as passed would define the term "detailed plan and justification" to include at a minimum a number of specific items, including—

(1) a specification of the number and responsibilities of the employees to be added to or removed from each affected office;

(2) a description of the changes in functions that would occur at the affected offices;

(3) an explanation of the reasons why it has been determined that the reorganization is appropriate and advisable in terms of the statutory missions and long-term goals of the Veterans' Administration;

(4) a description of the effects that the reorganization may have on the provision of benefits and services to veterans and dependents of veterans (including the provision of benefits and services through offices and facilities of the VA not directly affected by the reorganization); and

(5) estimates of the implementation cost and the subsequent cost impact of implementing the reorganization.

Although this provision has not yet been enacted, I believe that it likely will be in the near future. In any event, I am not able to support a waiver of the requirement for a waiting period for a section 210(b)-covered reorganization unless the Committee is provided with at least the information that would be required under section 501 of S. 1887 as passed by the Senate. In this regard, I am particularly concerned by your statement, in requesting a waiver in your letter, that "[i]t is uncertain what the organizational change will be on FTEE and costs."

I urge you to provide the Committees with a report containing adequate detail and justification (consistent with section 501 of the Senate-passed bill) in order that we may have all the information necessary to consider meaningfully your request for a waiver of the section 210(b)(1) waiting period.

Finally, with respect to your December 4, 1985, letter reporting a planned reorganization of certain functions from the Office of Data Management and Telecommunications (ODM&T) to the Department of Veterans' Benefits (DVB), I find that letter substantially complete in terms of the information called for by section 501 of S. 1887. There are, however, a few areas that I believe require further clarification under clauses (III), (IV), and (V) of the statutory provision. These items have been called to the attention of Mr. John Vogel, Chief Benefits Director. In order for us to proceed with a legislative waiver for that DVB/ODM&T reorganization, we will need the additional information not later than Wednesday, December 11.

With warm regards,

Cordially,

ALAN CRANSTON
Ranking Minority Member

CLARIFICATION OF REQUIREMENT FOR A DETAILED PLAN AND JUSTIFICATION FOR ADMINISTRATIVE REORGANIZATION

SEC. 501. (a) Subparagraph (C) of section 210 (b)(2) is amended by inserting at the end the following new division:

"(iii) The term 'detailed plan and justification' means, with respect to an administrative reorganization, a written report which, at a minimum—

"(I) specifies the number of employees by which each covered office or facility affected is to be reduced, the responsibilities of those employees, and the means by which the reduction is to be accomplished;

"(II) identifies any existing or planned office or facility at which the number of employees is to be increased and specifies the number and responsibilities of the additional employees at each such office or facility;

"(III) describes the changes in the functions carried out at any existing office or facility and the functions to be assigned to an office or facility not in existence on the date that the plan and justification are submitted pursuant to subparagraph (A) of this paragraph;

"(IV) explains the reasons for the determination that the reorganization is appropriate and advisable in terms of the statutory missions and long-term goals of the Veterans' Administration;

"(V) describes the effects that the reorganization may have on the provision of benefits and services to veterans and dependents of veterans (including the provision of benefits and services through offices and facilities of the Veterans' Administration not directly affected by the reorganization); and

"(VI) provides estimates of the costs of the reorganization and of the cost impact of the reorganization, together with analyses supporting those estimates.".

(b)(1) Except as provided in paragraph (2), the amendment made by subsection (a) shall take effect with respect to administrative reorganizations proposed to be carried out in fiscal years beginning after fiscal year 1986.

(2) The amendment made by subsection (a) applies to the administrative reorganization referred to in the letters from the Administrator of Veterans' Affairs to the Committees on Veterans' Affairs of the Senate and the House of Representatives, dated February 1, 1985, relating to the consolidation of certain Veterans' Administration Department of Veterans' Benefits activities from 59 regional offices into three processing centers.

Mr. CRANSTON. Mr. President, the information contained in this letter was subsequently supplemented by information provided by Paul Ising, the VA's Deputy Chief Benefits Director for ADP Systems Management, to the committee's minority staff on December 9. Clarification was received regarding the statement that "[t]he great majority of them (VA employees) will experience no change in their functions, personnel status, immediate supervision, or even in the location of their workspace." In this regard, I was advised that no individual will experience a change in function or in personnel status, six individuals will experience a change in immediate supervision, and one individual will move from the second floor to the third floor within the VA's Central office.

With respect to the reasons for the determination that this reorganization is appropriate and advisable in terms of the statutory missions and long-term goals of the VA, the VA provided the following material extracted from a report prepared by McManis Associates, Inc., which developed and prepared the implementation plan to modernize DVB's service delivery systems;

In our judgment the Veterans' Administration has little choice but to undertake a major DVB modernization program. Without a major overhaul to its total information management capacity, DVB will not be able to continue to provide an acceptable level of service to veterans and their families. Uncoordinated, overlapping data bases complicate data entry and retrieval. Outmoded hardware, software, and telecommunications technologies are expensive and severely limit data access and analysis capabilities. The existing hardware in the regional offices has reached the point where it must be replaced. Over time, there has been such massive modification to the Compensation and Pension software that maintenance of that system is now enormously costly, and the agency is increasingly at risk in trying to maintain it in its present form.

* * *

These recommendations were presented and approved in mid-July and provide the framework within which the modernization program will be carried out. Approval of the recommendations established the parameters to guide the implementation effort: a "modern" architecture should be developed, including appropriate decentralization of DVB systems; and DVB should assume authority and responsibility for its own benefits delivery systems. * * *

We identified two types of organization and management issues which have an impact on the effectiveness and efficiency of DVB service delivery systems. The first type relates to the process by which DVB ADP requirements have been defined and how DVB systems are designed and modified. DVB has had neither direct budget authority nor accountability for its use of ADP resources. It has been dependent upon the Office of Data Management and Telecommunications for all systems development initiatives. End users of the systems have not regularly been involved in the design or acceptance of new applications or modifications to existing applications. There has been no effective mechanism within DVB to establish priorities for systems development or enhancement, nor has there been an effective mechanism to assure ODM&T priorities were consistent with DVB priorities. Without control over the development and support of systems applications, DVB is hampered in its efforts to implement any ADP/telecommunications modernization strategy.

The second set of organizational and management issues identified are internal to DVB. Too rarely have the end users in the field offices been involved in the systems design and development process. New automated systems have been introduced and are utilized in the regional offices with limited user orientation and training. The limited involvement of field personnel in systems development has meant that the effectiveness of the system from the perspective of the veteran or the nontechnical end-user is often limited.

With respect to providing further clarification for the effects that the reorganization may have on the provision of benefits and services to veterans and dependents of veterans—including the provision of benefits and services through offices and facilities of the VA not directly affected by the reorganization—the VA further cited the McManis report as follows:

> The aim of the proposed modernization effort is to utilize improved technologies on an economically justifiable basis to remove many of the obstacles to improved efficiency and service. With the changes in processing architecture and telecommunications, a number of significant changes in the way regional offices conduct business can be expected:
>
> 1. The veteran will be able to obtain information, resolve problems, and complete processing procedures with fewer stops and by dealing with fewer people.
>
> 2. Data related to the same event, procedure, or action will be recorded (entered) once. Data transfer to other systems and organizational elements will be effected electronically without the need to reenter or transcribe the data.
>
> 3. Permanent storage of most correspondence and documentation currently maintained manually on a decentralized basis (Claims Files) will be recorded electronically either in image form or as formatted data.
>
> 4. All work stations for processing, counseling, testing, and other interactions with the veteran will be supported by multifunction intelligent terminals. Direct concurrent access to the data maintained locally in the RO as well as the very large central data bases located on mainframes will be available at the workstation. This will mean that individuals will be able to perform a variety of procedures without moving from one piece of specialized computing hardware to another.

In addition, further regarding the relationship of the DVB reorganization to other components of the agency, the VA has advised that the elements of this reorganization are consistent with the three principal strategies of the VA's agencywide ADP modernization programmatic goals, including eventually providing each authorized VA employee with access to all VA data, regardless of its location in VA computer systems.

Finally, with respect to the cost of the reorganization and its cost impact, the VA has clarified that the only cost of the reorganization is the paperwork involved in processing these changes. It is not expected to be significant, but it is not measurable at this time. The VA has indicated that there may be some savings in the future in terms of increased productivity but they are long term and, at this point, unestimated.

After careful analysis of the VA's letter, together with the additional information subsequently provided by the VA, I have concluded that the VA had submitted what constitutes a sufficiently detailed plan and justification for this proposed reorganization and that the reorganization will serve to improve the operations of the VA's service and benefits system. However, since, under the provisions of section 210(b)(2), the reorganization would not be permitted to be implemented prior to the beginning of fiscal year 1987 on October 1, 1986, I have supported and the conference agreement includes a statutory waiver of the required waiting period in order to permit the Administrator to implement this reorganization at the earliest possible opportunity.

Finally, I want to express my appreciation to the VA, particularly John Vogel, Chief Benefits Director, and Paul Ising, the VA's Deputy Chief Benefits Director for ADP Systems Management, for their cooperation and assistance in providing the information necessary for the committees to consider the proposed DVB/ODM&T reorganization and act favorably to permit it to go ahead on an official basis in the near future.

STATUS OF NEGOTIATIONS REGARDING OTHER VETERANS' LEGISLATION

Before concluding my remarks on this measure, Mr. President, I want to comment on the negotiations between the House and Senate Committees on Veterans' Affairs over the numerous differences between our compensation, education, and other VA benefits measures embodied in S. 1887 and H.R. 1408, H.R. 2343, and H.R. 2344. I regret to note that those negotiations have reached an impasse over certain provisions in the Senate bill—now endorsed by the Administration—designed to improve, and enhance the fiscal stability of, the home-loan guaranty program. As a result of that impasse, it has become clear that further action on the remaining provisions of S. 1887 will not be possible this year.

Mr. President, during the Senate's consideration of S. 1887, I discussed in detail each of these provisions, and my statement on that measure appears at page S16634 of the CONGRESSIONAL RECORD for December 2 (daily edition). At this time, I want to stress my intention to continue to pursue these matters at the earliest appropriate opportunity in the second session of this Congress and my regret at our failure to be able to reach agreement on this package.

Lastly, with respect to the provisions of S. 1887 as it was passed by the Senate on December 2 that deal with the extension and improvement of the Emergency Veterans' Job Training Act of 1983 [EVJTA] I want to make special mention of the agreement that the distinguished chairman of the committee [Mr. MURKOWSKI] and I have reached with respect to these provisions. If we are not able to resolve our differences over the larger legislation early in the next session or to proceed in some other fashion to pass and enact—outside of S. 887—this EVJTA extension and improvement legislation, Senator MURKOWSKI and I have agreed to return the Senate-passed EVJTA extension legislation to the House in a separate bill by early February.

SUMMARY OUTLINE

Mr. President, for the information of my colleagues and the public, I ask unanimous consent that a summary outline of the cost-savings provisions of subtitles A and B of the conference agreement be printed in the RECORD at the conclusion of my remarks.

CONCLUSION

Mr. President, as I noted at the outset of my remarks, reaching a final compromise with out colleagues in the House on some of the issues in this legislation—especially those provisions relating to eligibility for VA health care—was a very difficult task. Together, we had a commitment to fulfilling our reconciliation obligations while protecting the VA as much as possible from harm. However, we had very different approaches as to how to reach that shared goal.

In the end, thanks to the efforts of Senators MURKOWSKI and SIMPSON and Representatives MONTGOMERY and HAMMERSCHMIDT and the other conferees—and many long hours of work by staff of both committees—we were able finally to hammer out the compromise which is before the Senate today and which I recommend to my colleagues.

I want especially to thank the minority staff of the Veterans' Affairs Committee, Bill Brew, Babette Polzer, Ed Scott, Nancy Billica, Ingrid Post, Charlotte Hughes, and Jon Steinberg, for their outstanding efforts on this bill over the last few weeks and months. My gratitude also to the Senate majority staff, Cathy McTighe, Julie Susman, and Tony Principi, for the extraordinary spirit of cooperation and dedication they exhibited in our work together over this very pressurized and trying time period.

I also thank the House staff who worked on this legislation—Pat Ryan, Jack McDonell, Vic Raymond, Arnold Moon, Jill Cochran, Mack Fleming, Rufus Wilson, and Kingston Smith from the House Committee on Veterans' Affairs, and also, Bob Cover, of the House legislative counsel's staff who, as usual, worked tirelessly and most effectively in helping to craft the final version of the legislation.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF COST-SAVINGS PROVISIONS FROM SUBTITLES A AND B

HOSPITAL CARE ELIGIBILITY

A. VA shall in VA facilities, and may in non-VA facilities as authorized in section 603, furnish needed hospital care to:

1. Veterans for service-connected disabilities
2. Service-connected disabled veterans rated at 50% or more
3. Other service-connected disabled veterans
4. POWs
5. Veterans exposed to Agent Orange or radiation
6. Veterans of World War I and earlier conflicts
7. Veterans with no service-connected disabilities who are "unable to defray the costs of needed hospital care—meaning those who are either VA improved-pension recipients or Medicaid eligible or who have incomes not exceeding $15,000 for a veteran with no dependents and $18,000 for a veteran with one dependent plus $1,000 for each additional dependent, called the "Category A" income threshold.

In connection with the foregoing, the Joint Explanatory Statement states that:

The conferees intend that care be furnished to service-connected disabled veterans, low-income veterans, and, to the extent resources are available, other eligible veterans.

The conferees intend that for categories 1-8, the VA's sole obligation is (1) if a veteran is in immediate need of hospitalization, to furnish an appropriate bed at the VA facility where the veteran applies or, if none is available there, to furnish a contract bed if authorized in section 603 or arrange to admit the veteran to the next closest VAMC, or DOD facility with which the VA has a sharing agreement, with an available bed, or (2) if the veteran needs non-immediate hospitalization, (A) schedule the veteran for admission there if the schedule there permits, or (B) refer the veteran for scheduling and admission to the next closest VAMC, or DOD facility with which the VA has a sharing agreement, with an available bed and then facilitate the veteran's admission there.

The conferees intend that, if there are two or more veterans applying for the same bed at a particular facility and one is seeking care for a service-connected disability or has a 50-percent-or-more service-connected disability, that veteran should receive the bed.

The conferees note that the legislation makes no change in the beneficiary travel program.

B. VA may, in VA facilities and in non-VA facilities as authorized in section 603, furnish needed hospital care to the extent that facilities and resources are available, to:

1. Non-service-connected veterans with incomes above the Category A income threshold.
2. Non-service-connected veterans with income above $20,000 for a veteran with no dependents and $25,000 for a veteran with 1 dependent plus $1,000 for each additional dependent—called the "Category B" income threshold—on the basis of an agreement to make a payment (similar to the Medicare deductible) in connection with such care.

In connection with the foregoing, the Joint Explanatory Statement states that the conferees intend that those veterans making payments in connection with their care would have lowest priority for inpatient, outpatient, and nursing home care.

C. In the case of a veteran whose income in the previous year is above the Category A income threshold or the Category B income threshold, the Administrator would be authorized to make an exception to place the veteran in a higher-priority category, as appropriate, on the basis of a recent, sharp drop in income to a level substantially below the Category A or B threshold.

OUTPATIENT ELIGIBILITY

Essentially no change in current law; eligibility based on hospital-care eligibility.

NURSING HOME AND DOMICILIARY CARE ELIGIBILITY

No change in current law.

PRIORITIES FOR CARE

No change in current law except to add veterans receiving VA improved pension benefits (under section 512) as a new last priority category (in section 612(i)) for outpatient care.

CONTRACT CARE

No change from eligibility in current law.

INCOME THRESHOLDS

Category A and B as set forth above with the dollar amounts increased, beginning 1/1/87, by the preceding year's Social Security/VA pension CPI.

PAYMENTS BY VETERANS

A. Hospital Care: Payment of the Medicare deductible for the first 90 days of care, and half of the deductible for each succeeding additional 90 days of care, within a 365-day period.

B. Outpatient Care: Per-visit payment of 20% of the VA average daily rate, not to exceed the Medicare deductible for any 90-day period.

C. Nursing Home Care: Payment of the Medicare deductible for each 90 days of care.

D. Combinations of Modes of Care: Payments made for either mode of inpatient care (hospital or nursing home) would be credited toward care in the other mode. Also, a veteran would not be required to pay an amount greater than the inpatient Medicare deductible in connection with any combination of outpatient and hospital or nursing home care furnished during any 90-day period.

COMPENSATION COLA

Provide for a compensation DIC/COLA at 3.1% for FY 1986.

HEALTH-INSURANCE RECOVERY

Provide for VA recovery for health insurers for non-service-connected VA care furnished to covered veterans generally to the same extent as recovery by non-federal providers would be permitted under the health insurance plan in question.

ADOPTION ASSISTANCE AND PRENATAL CARE PROVISIONS

Mr. CRANSTON. Mr. President, I am delighted that the conference committee subconference on Medicaid issues agreed to include, in the reconciliation bill, provisions relating to the adoption assistance program and the coverage of certain groups of low-income pregnant women who have previously been excluded from Medicaid. I proposed these provisions in legislation, S. 1628 and S. 7 respectively, which I introduced earlier in this session.

ADOPTION ASSISTANCE AMENDMENTS

Mr. President, the subconference included in the Finance Committee portions of the reconciliation measure three provisions relating to the adoption assistance program established under Public Law 96-272, the Adoption Assistance and Child Welfare Act of 1980.

As one of the principal Senate authors of the 1980 legislation, I have been deeply gratified by the difference that this law has made in the lives of thousands of children who might otherwise have been left to languish in foster care. HHS has reported that by fiscal year 1984 almost 12,000 children had been moved from foster care to adoptive homes under the new adoption assistance program authorized by Public Law 96-272. Experience in operating this new program, however, brought to light several problems of a technical nature with respect to continuing Medicaid coverage for these children as they moved from foster care placements into adoptive homes. Therefore, on September 11, I introduced with the distinguished Senator from Utah [Mr. HATCH] and others, legislation, S. 1628, which would make three changes in the adoption assistance program with respect to the availability of Medicaid assistance for these children. The three changes are: first, elimination of the requirement in existing law that a special-needs child receive a token adoption assistance payment that the State in which a special-needs adopted child resides, rather than the State where the adoption took place, provide Medicaid coverage; and third, clarification that Medicaid coverage can be continued during the care and an adoption decree is actually entered.

Mr. President, as I indicated in my introductory remarks on September 11—CONGRESSIONAL RECORD, 23334 on S. 1628, had the House accepted the Senate bill language in the conference in 1980, the problems relating to continuation of Medicaid between the end of foster care status and the adoption itself would not have occurred nor would the law have required a token adoption assistance payment in order for Medicaid to be available for a special-needs child whose only needs were medical. I am pleased, 5 years later, to have been able to help correct these particular problems.

Additionally, when the 1980 legislation was enacted, I had expressed my concern that it did not adequately deal with the needs of adoptive families who moved from one State to another. During hearings I chaired on the need for adoption reform legislation during the 95th and 96th Congresses, numerous witnesses testified about the problems that territorial limitations upon then-existing State adoption assistance programs posed for their families. I was delighted when, earlier this year, the Reagan administration supported this change so that we could finally rectify this problem.

Mr. President, as I indicated at the time I introduced S. 1628, the growing, bipartisan support for these adoption initiatives begun more than a decade ago is indeed heartening. Many of those who once opposed Federal legislation to encourage adoptions have now become strong supporters and proponents of our efforts in this area. Even the Reagan administration which in 1981 and 1982 had proposed the repeal of Public Law 96-272, now supports its continuation and has launched its own special needs adoption initiative. Having been a principal author of both Federal statutes relating to adoption, Public Law 96-272 and Public Law 95-266, I welcome this support and new enthusiasm for adoption alternatives. In addition to the Senator from Utah [Mr. HATCH], S. 1628 has been cosponsored by Senators DODD, GRASSLEY, LEVIN, METZENBAUM, MOYNIHAN, RIEGLE, ROCKEFELLER, and HUMPHREY.

EXTENDING MEDICAID COVERAGE TO CERTAIN LOW-INCOME PREGNANT WOMEN

Mr. President, I am also exceedingly grateful to my good friend, the chairman of the Senate Finance Committee, the Senator from Oregon [Mr. PACKWOOD], for the Senate conferees' agreement to accept the House provisions extending Medicaid coverage to low-income pregnant women who are living with an employed spouse, but whose family income is below the AFDC income and assets eligibility standards. The Senator from Oregon and I had discussed these provisions privately when the reconciliation bill was before the Senate and he then assured me that he hoped to be able to include these provisions in the final legislation.

In January, I introduced legislation, S. 7, to close the gap in the Medicaid Program which resulted in these low-income pregnant women in a large number of States being denied the medical assistance necessary to carry their pregnancy to term and increase the likelihood of having a healthy baby. This has been an effort of mine which has gone on over a number of Congresses; each Congress we have made more progress in ensuring that low-income pregnant women are provided with the medical assistance they need during pregnancy. In the last Congress, we succeeded in Public Law 98-369 in extending Medicaid coverage to low-income pregnant women who have previously been excluded because they had no other dependent children or were living with an unemployed husband. However, provisions which would have extended the same coverage to low-income women living with an employed husband were not enacted. Enactment of the provisions in this reconciliation legislation which would extend Medicaid coverage to this group also corrects an inequity which I consider to be antifamily and antiwork. My statements explaining the history of these provisions, earlier versions of S. 7 which were introduced in the 95th, 96th, 97th, and 98th Congresses, and the cost effectiveness of providing medical assistance during pregnancy to low-income women are set forth in the CONGRESSIONAL RECORD of January 24, at 987 and July 23, 1985, at 19964. My July 23 statement includes the revised CBO cost estimates for enactment of S. 7.

Mr. President, I am very proud to say that S. 7 and my efforts in this area have always enjoyed strong support from a broad range of organizations, including child advocacy groups and health-care groups, as well as organizations with sharply differing positions on the issue of abortion. Those organizations which have endorsed S. 7 include the National Right to Life Committee, Planned Parenthood Federation of America, Children's Defense Fund, National Conference of Catholic Charities, Catholic Health Association, Association for Retarded Citizens, Family Service Association of America, Child Welfare League, National Association of Children's Hospitals and Related Institutions, California Association of Children's Hospitals, National Perinatal Association, and American Academy of Pediatrics.

Mr. President, I also want to express my appreciation to my colleagues from both sides of the aisle and with differing views on the issue of abortion, who have given their support to S. 7 and the principles it represents. Support for S. 7 represents support for an initiative that is prochoice, prolife, and profamily in a very meaningful sense. For those who support freedom of choice, nothing could be more central to that freedom of choice than the right of a low-income woman to choose to carry a pregnancy to term free from the economic pressures arising from her inability to pay for the costs of the medical care needed. For those who believe that abortion should never be permissible, making available the medical care necessary for a low-income women to carry a pregnancy to term is essential to alleviating economic pressures which might otherwise influence a decision to terminate a pregnancy.

Additionally, having been deeply involved with several of my colleagues in the efforts in the last Congress to develop the framework for a responsible and sensible approach to dealing with the so-called Baby Doe cases, I have also tried to point out the relationship between that issue and making adequate prenatal care available to all pregnant women. Although it may not be medically possible to eliminate entirely the incidence of high-risk births, there is absolutely no question that the availability of adequate care during pregnancy can be critical to reducing the likelihood that a child will be born with a serious disabling and life-threatening condition.

The cosponsors of S. 7 include Senators MOYNIHAN, MATSUNAGA, INOUYE, RIEGLE, METZENBAUM, DODD, LEVIN, KENNEDY, ANDREWS, SIMON, LEAHY, BOSCHWITZ, PROXMIRE, and ROCKEFELLER.

Again, I would like to express my appreciation to the Senator from Oregon [Mr. PACKWOOD] for his support and work on behalf of this provision, and for his commitment to helping ensure that reproductive choice includes the right to carry a pregnancy to term without the economic pressure that lack of access to medical assistance can create.

Finally, my thanks to the Senator from Texas [Mr. BENTSEN] for his efforts on the Finance Committee on behalf of both the adoption assistance provisions and the Medicaid coverage for low-income pregnant women and to the Senator from Louisiana [Mr. LONG], the ranking minority member for his support as well.

CONCLUSION

Mr. President, I am very pleased that these provisions relating to adoption assistance and medical care for low-income pregnant women have been included in this measure. I believe that both initiatives represent a significant step forward in our continuing efforts to improve the lives of countless numbers of infants, young children, and their families.

SOLE COMMUNITY HOSPITAL AMENDMENT

Mr. President, I am very pleased that S. 1730, the Consolidated Omnibus Budget Reconciliation Act of 1985, as agreed to by the conference committee includes a provision to require that certain sole community hospitals be provided with adjustments in their Medicare payments to account for services instituted after the end of the so-called base year. This provision—which derives from an amendment, amendment No. 1032 to S. 1730, that I proposed with Senator BURDICK on November 13, 1985—would correct a very serious inequity affecting Redbud Community Hospital in Clearlake, CA—and possibly a number of other sole community hospitals.

Mr. President, Redbud Hospital has been engaged in litigation for a year and a half with the Health Care Financing Administration in HHS in an attempt to obtain a fair and equitable Medicare payment rate which would take into account the three new services—intensive and cardiac care units and a new pharmacy—that the hospital instituted after the end its base year, 1982-83. As I explained during the debate on my amendment—which appears in the RECORD for November 13, beginning on page 31733—these services were instituted after many years of planning and development and are necessary for the hospital to meet the needs of the predominantly elderly community it serves. Without financial relief to meet its resulting increased operating expenses, the hospital could very well be forced to default on its State-issued bonds or reduce its services to those who depend on it for their care.

After 18 months of proceedings, the lawsuit is still pending. In the process, the hospital has nearly exhausted its resources for continued litigation.

With this legislation, Redbud will be able to bring the litigation to a close, and receive just compensation. And the residents of Clearlake Highland will be able to have access to a full range of needed life-saving hospital services.

I would like again to thank the chairman of the Finance Committee [Mr. PACKWOOD] and the ranking minority member [Mr. LONG] for their assistance when I, along with Senator BURDICK, offered the amendment and for their support of the provision in conference. My thanks also to Bob Hoyer and Michael Stern, two absolutely splendid professionals, for their help and expertise on this matter.

Mr. McCLURE. Mr. President, the Committee on Energy and Natural Resources reached conference agreements with the House on all matters within its jurisdiction. Specifically, subconference 11 on energy programs reached agreements on provisions regarding the Strategic Petroleum Reserve, Federal Energy Conservation Shared Savings, Biomass Energy and Alcohol Fuels Loan Guarantees, and synthetic fuels. Subconference 12 reached agreements on provisions regarding uranium enrichment. And, subconference 13 reached agreement on Outer Continental Shelf issues.

These conference agreements achieve savings of $6,162 million and $6,076 million in outlays in fiscal year 1986 and $6,124 million in budget authority and $6,504 million in outlays for the 3 fiscal years 1986 through 1988. The savings exceed the committee's original targets in its reconciliation instruction.

In summary, these conference agreements are consistent with the assumptions in the budget resolution in two areas: First, they achieve savings in DOE's Strategic Petroleum Reserve Program by reducing the minimum average annual fill-rate from 159,000 to 35,000 barrels per day. Second, the conference agreement includes provisions to settle the legal dispute between the Federal Government and several States regarding the disposition of certain bonuses and rents held in escrow as of March 31, 1985. As assumed in the Senate and House committee reconciliation instructions, the conference agreement distributes 27 percent of such bonuses and rents to the affected States as well as interest accrued thereon. However, as did the Senate and House passed measures, the conference agreement also includes the disposition of other OCS revenues in dispute, specifically, royalties, both retrospectively and prospectively.

In addition, the conference agreements achieve savings in budget authority and outlays in four areas not assumed in Senate and House reconciliation instructions, which are uranium enrichment, DOE energy conservation programs, DOE biomass loan guarantees, and synthetic fuels.

STRATEGIC PETROLEUM RESERVE

The Strategic Petroleum Reserve, which was authorized in 1976, continues to be the United States' principal line of defense in the event of another severe disruption of international energy supplies. When we began the new fiscal year on October 1 there were approximately 489 million barrels of crude oil in storage.

By comparison, the conference agreement provides for a minimum fill-rate of 35,000 barrels per day through fiscal year 1988. At this reduced fill-rate, at the end of fiscal year 1986 there will be approximately 500 million barrels in storage. However, the conference agreement specifically requires that a minimum average annual fill rate of 35,000 barrels per day be maintained until 527 million barrels of oil are stored in the SPR.

This change in the minimum fill-rate will achieve fiscal year 1986 outlay savings of $1,455 million. The corresponding outlay savings over the 3-year period of fiscal years 1986 through 1988 will be $4,003 million.

Similarly, the conference agreement regarding SPR facility construction, as did the budget resolution, provides for continued expansion of SPR capacity at all sites toward the objective of filling the SPR to 750 million barrels. Under the conference agreement the available SPR capacity is expected to increase to nearly 550 million barrels by the end of fiscal year 1986. By comparison, at a minimum fill-rate of 35,000 barrels per day, or 12.8 million barrels per year, the cumulative oil fill will be below 550 million barrels through fiscal year 1988. Therefore, this agreement will not constrain in the fill-rate of 35,000 barrels per day.

URANIUM ENRICHMENT

The Senate-passed bill, as did the recommendation of the Committee on Energy and Natural Resources, established an authorization for the Department of Energy's uranium enrichment program. The effect of this authorization was to require the program to operate at no additional cost to the Treasury. In addition, the Secretary of Energy is directed to make an initial repayment to the Treasury from current revenues, if any, of excess expenditures accumulated over the past several years.

By comparison the conference agreement authorizes uranium enrichment appropriations during fiscal years 1986 through 1988 at a level equal to estimated revenues less an amount determined by the Secretary of Energy, which is to be paid to the Treasury in partial repayment of unrecovered Federal investments. In addition, any revenues in excess of expenditures are to be deposited in the Treasury in repayment of the debt identified by the Secretary in accordance with the conference agreement.

The resultant budgetary savings under the conference agreement in fiscal year 1986 are $190 million in budgetary authority and $120 million in outlays. The savings over the 3-year period 1986 through 1988 are $724 million in budget authority and $596 million in outlays.

In addition, the conferees, as was the Senate, were concerned about the impact of the recent decision of the U.S. District Court for Colorado, which could have serious long-term implications for the program and its revenue flow. Therefore, the conference agreement requires a report from the Secretary within 60 days of enactment on the effect of such court decision on DOE's uranium enrichment program and steps that may mitigate those effects.

DOE ENERGY CONSERVATION PROGRAMS

The conference agreement, as did the Senate-passed bill, authorize Federal agencies to enter into certain contracts for energy efficiency improvements in Federal buildings. Under such contracts the contractors will be paid from money saved as a result of the energy efficiency improvements installed in Federal buildings.

According to the Congressional Budget Office, this shared savings program can save the Federal Government approximately $6 million over the next 3 years, with a potential of $350 million over the next 10 years.

OUTERCONTINENTAL SHELF 8(G) REVENUES

Mr. President, the conferees also agreed on language resolving the litigation over section 8(g) of the Outer Continental Shelf Lands Act. The statement of managers explains the result of the conference, and with respect to the 8(g) issue itself, I think the conference did a remarkable job given the time limitations we were under. The agreement will resolve with finality all issues with respect to the distribution of receipts from leases within the 8(g) zone.

The Senate was able to prevail in eliminating the instant recoupment provisions of the House measure. The Senate was also able to delete unacceptable provisions of the House measure which would have placed limitations on how States could spend their share of these receipts and which would have mandated a 33-percent passthrough to localities. The Senate conferees agreed to a formulation on the sharing of information which we feel adequately protects the confidentiality of certain information and which also will avoid enormous paperwork.

Consistent with the report language which had been included in the Senate, the conferees agreed to specifically exclude Federal income or windfall profits taxes from the distribution of receipts. The House agreed with the Senate position which permits the Secretary to proceed with leasing in the absence of a unitization agreement and also with the Senate position which provides some flexibility to the Secretary of the Treasury in obtaining the highest return on invested funds. The House also agreed with the Senate language on section 7 disputes involving Alaska and on the extinguishment of all claims if a State were to accept payment.

In general, Mr. President, I am happy to report that the Senate position was maintained with respect to the real issue before the conference with respect to the budget. One issue which should perhaps be mentioned is the issue of whether pre-1978 leases are included. To a great extent, as the Senator from Louisiana pointed out in the conference, the issue, if there was one, was settled in the Senate by the defeat of the Evans-Metzenbaum amendment. The House conferees raised the question as to whether the statement of managers should indicate that such leases were not included. Since the bill language was identical, statutory change was not possible. The House conferees considered and then rejected a motion to adopt such report language. As a result there should be no misinterpretation over what the language of the measure means.

There were two unrelated issues which were raised in the conference. The House had adopted an amendment to section 19 of the OCSLA with respect to State review of leasing plans. The House position would have provided an effective State veto over and Federal activities by requiring the Secretary to comply with a substantial-evidence test in rejecting any State recommendations, and then only if he were to find that the damage to the national interest outweighed the environmental consequences. It is clear that any single lease could hardly meet that test.

I regret that the Senate accepted any amendment on this section. I believe that we went further than we should have back in 1978. Because the dynamics of this budget process required it, however, we did agree to language which makes it clear that when rejecting a State recommendation, the Secretary should make a point-by-point response with his reasons. I think that is useful. The present arbitrary and capricious standard has been retained for review of the Secretary's decisions. We agreed to move the standard to section 19(c) for clarity and to specifically reference the Administrative Procedures Act so that there could be no misunderstanding. The decision is strictly that of the Secretary and there should be no implication that anyone—a Governor or a court—is to substitute its judgment for that of the Secretary, especially given the present situation in the Mideast. As a substantive matter, this amendment does not change existing law. I do agree with the procedural change which requires a point-by-point response. I think that could be read into existing law in any event, and it also seems to me to be a matter of simple courtesy.

The second nongermane issue was the so-called Buy America provision. I regret to say that the Senate conferees receded to the House on this issue. I think this is a bad amendment. It violates our international trade obligations. It will cost Americans jobs. It will increase the deficit. It will jeopardize our already imperiled energy security. It will complicate and further delay our leasing program. It will cost the taxpayers and consumers of this country money. Unfortunately once again emotion came out ahead of common sense. I think the sponsors and the rest of us will regret it.

Mr. President, with the sole exception of the last two amendments, I think that the Senate conferees have done an outstanding job and I urge my colleagues to support the work of the conference.

Under the conference agreement the resultant budget savings from this action in fiscal year 1986 are $4,501 million in budget authority and outlays, which is comparable to the committee's action and the Senate-passed bill.

SYNTHETIC FUELS

Mr. President, as I noted earlier today in my remarks on the continuing resolution for fiscal year 1986, on numerous occasions since the 1973 oil embargo I have risen to address the need for the development of a commercial synthetic fuels capability in the United States. I would refer my colleagues to that statement, rather than repeat those remarks at this time.

As we are all aware, Mr. President, the United States Synthetic Fuels Corporation was established in 1980 by the Energy Security Act to create a domestic synthetic fuels capability as an alternative to oil imports. However, the House-passed Omnibus Reconciliation Act for 1985 contained provisions terminating the Corporation, as did the House-passed continuing resolution. The Senate-passed reconciliation measure did not contain comparable provisions.

Moreover, this conference agreement contains similar provisions to those in the continuing resolution, terminating the Synthetic Fuels Corporation. As I said earlier, after considerable debate and repeated attacks by its critics, the Synthetic Fuels Corporation under this conference agreement and the continuing resolution will finally fall before the budgetary axe, at the very time that it is about to successfully achieve its statutory mission.

As I noted earlier, the position of the House prevailed in the conference, following change in the administration's position in favor of abolition of the Synthetic Fuels Corporation. The conference agreement as well as the continuing resolution, as of the date of enactment, would restrict the Board of Directors of the Corporation from making any new awards for financial assistance under the Energy Security Act after enactment of this provision, except that the Corporation and its successor (Department of Treasury) is to perform and complete the undertakings of the Corporation's existing, legally binding, awards or commitments. By the statutory terms of the conference agreement, nothing in this Act shall impair or alter the powers, duties, rights, obligations, privileges, or liabilities of the Corporation, its Board of Directors, or project sponsors in the performance and completion of the terms and undertakings of a legally binding award or commitment entered into prior to the date of enactment.

As I discussed in my remarks on the continuing resolution, this restriction also applies to changes in existing financial assistance awards or commitments of the Corporation. It is not intended, however, that this limitation on changes or modifications to existing financial awards or commitments restrict changes which may be necessary as part of normal contract monitoring or administration activities. This restriction on changes, in coordination with the rescission of funds in the Energy Security Reserve, does however limit the authority of the Board (or the Secretary) to make changes which would increase the maximum obligations authority established by the Corporation with respect to any such award or commitment.

The Corporation has entered into a legal binding financial assistance award for the Union Oil Parachute Creek Oil Shale Project which obligates the Corporation to pay up to $500 million in price guarantee payments for the production of shale oil from new improved facilities to be constructed by Union Oil Company at its existing oil shale facility in Colorado. This award also legally commits the Corporation to use its best efforts to complete documentation of the terms of a loan guarantee, and execute the loan guarantee agreement, of up to $327 million within the $500 million in obligational authority available for the price guarantee payments. The language of the provision preserves the Corporation's obligation to complete the terms of the Union Oil loan guarantee agreement. Further, it recognizes the need for consultation with the Secretary of the Treasury on the interest rate and timing, and substantial terms of the loan guarantee and requires that the Secretary provide such consultation within 30 days of enactment of this provision.

The Board of Directors of the Corporation is continued for 60 days after the date of enactment in order to perform these and other functions, including transmission to appropriate authorization committees of the Senate and House of a report containing a review of implementation of the Corporation's business plan, which also fulfills the requirements of section 126(b)(3) of the Energy Security Act.

A further indication of the effect of these provisions on the Union agreement is reflected in my colloquy with Senator ARMSTRONG on the continuing resolution, and I refer you to those remarks earlier today.

Under both this conference agreement and the continuing resolution, within 120 days of enactment the Corporation shall terminate and transfer all its functions to the Secretary of the Treasury in accordance with the provisions of existing law.

Because the Corporation is being terminated earlier than originally envisioned by the Congress, the conference agreement provides, first, that, respect to the salaries and benefits of Directors, officers and employees of the Corporation, no officer or employee shall receive a salary in excess of the rate of basic pay payable for level IV of the executive schedule.

Second, the Director of the Office of Personnel Management shall determine the amount of compensation Directors, officers, and employees shall be legally entitled to under contracts in effect on the date of enactment. With respect to compensation and benefits not covered by contract, no change shall thereafter be allowed or permitted unless the Director of the Office of Personnel Management agrees that such change is reasonable.

While the Corporation's by-laws and written policies and procedures in effect on the date of enactment of the Act will remain in effect until changed, the Corporation will not be permitted to waive any of their requirements which are necessary for a Director, officer or employee to qualify for pension or termination benefits under the Corporation's by-laws or written personnel policies and procedures in effect on the date of enactment.

Mr. President, as I discussed earlier on the continuing resolution, this abolition of the Synthetic Fuels Corporation will go down in history as one of the major breaches of faith between the Federal Government and American industry. The losers, however, are the American people.

Because of an extraordinary national need, we asked American industry to step out to the frontier of energy development in the United States and undertake the significant technological and financial risks necessary to advance the commercial development of synthetic fuels. It was recognized that this was to be a joint effort in recognition of the risk involved. What was at stake was greater control of our energy future, and the resultant national security benefits energy independence would provide.

By our action today we may well be sacrificing the security of our energy future. Just as important, we are clearly sacrificing significant private sector investment that has been made and would likely not have been made at this time if it were not for the Federal synthetic fuels initiative that led to the creation of the Synthetic Fuels Corporation. Once again the Federal Government has failed to fulfill its commitment to the American people and to the companies that have relied on it.

Mr. President, a table summarizing these savings appears at this point in my remarks.

ESTIMATED BUDGET IMPACT OF RECONCILIATION PROVISIONS COMMITTEE ON ENERGY AND NATURAL RESOURCES

[Changes from resolution baseline, in million of dollars]

	[illegible]	1987	[illegible]	[illegible]
Direct spending:				
Synthetic fuels:				
BA				
OL	–[illegible]	–166	–234	–[illegible]
[illegible]				
BA				
OL				
OCS receipts:				
BA	–4,501	1,685	1,413	–1,403
OL	–4,501	–1,685	1,413	–1,403
Authorizations:				
Strategic petroleum:				
BA	–1,471	1,185	–1,335	–3,991
OL	–1,359	–1,331	–1,313	–4,003
Shared-savings:				
BA		–2	–4	–6
OL		–2	–4	–6
Uranium enrichment:				
BA	–190	–248	–286	–724
OL	–120	–209	–267	–596
Total:				
BA	–6,162	250	–212	–6,124
OL	–6,076	–23	–405	–6,504

CONCLUSION

Mr. President, these conference agreements appear in titles VIII and VII of the Consolidated Omnibus Budget Reconciliation Act of 1985.

Mr. MATTINGLY. Mr. President, I rise to express my deep concern over a provision in this reconciliation conference report relating to the recalculation of the Federal Medical Assistance Percentage [FMAP] for the Medicaid Program. I do so primarily because my home State of Georgia is seriously hurt by the provision.

Under current law, the Federal matching rate is calculated biannually. Between October 1 and November 30 of even-numbered years, the Secretary of Health and Human Services is required to promulgate the FMAP which will be in effect for the next 2 years, beginning in October of the odd-numbered years. In other words, Medicaid matching rates for fiscal years 1986 and 1987 were promulgated in the fall of 1984, to be implemented in October of this year, and it was on the basis of these rates that States have planned their budgets.

The Consolidated Omnibus Budget Reconciliation Act of 1985 as passed by the Senate contained a provision which would provide for annual recalculation of FMAP rates, beginning in 1988. Mr. President, I did not object to this provision. It was fair, it treated all States equitably, and it would not have disrupted the current calculation and budget-planning cycle, since FMAP rates were scheduled for recalculation in 1988. Unfortunately, the House-Senate conference tampered with the provision by rolling back the effective date of the recalculation to 1987. The effect of this, in my opinion, is disastrous. For one thing, it is anticipated that this alteration in the effective date costs the Federal Government about $64 million. Twenty-six States gain by this recalculation. Their windfalls vary from over $30 million to $280,000 in 1987. Thirteen States lose Federal matching dollars. My home State of Georgia, for example, is denied $13.38 million.

I want to reiterate, Mr. President, that I have no quarrel with the concept of an annual recalculation of the FMAP or of implementing the change in 1988. But I believe that this issue has been dealt with in an inappropriate and unfair manner. As I have said, this change comes in the middle of a calculation cycle, essentially changing ground rules in midcourse. States which lose substantial funding could not have anticipated that they were at risk of losing funds. They had no opportunity to present their case on this issue. But they must live with the results. I have heard from the Governor of Georgia, Joe Frank Harris, who has stressed the hardship this will be to the Medicaid Program in Georgia. He has already prepared his budget for fiscal year 1987 which he presents to the Georgia general assembly in January. This budget, of course, was based on current FMAP rates. Because of precipitous action by the conferees, he can no longer count on the $13 million currently due the State.

Furthermore, the recalculation issue was not addressed in the House prior to conference, and the Senate did not deal with the 1987 date prior to that time. Given those facts, I question the appropriateness of the conferees' action.

The proponents of the change have argued that we must provide adequate Federal assistance to those States which benefit by the change, that is, those States whose economies have declined over the past year. I believe that equal consideration should be given to all States, based on their individual Medicaid Programs and population needs. Consider this fact, Mr. President: of the 26 States which gain from the recalculation provision—over one half of those States—14 continue to have per capita income levels higher than that of the State of Georgia. Georgia has traditionally had a per capita income level below the national average, and although the State's economy is improving, it still lags behind other States.

I want to point out as well that Georgia has always had a modest Medicaid Program. Georgia provides only 17 optional services, while other States provide as many as 31. In addition, the State has made serious and successful efforts to make its program fiscally responsible. Georgia instituted a prospective payment plan for Medicaid before the Federal Government considered and implemented such a system for the Medicare Program; it was one of the first States to have home and community-based care, a cost-effective alternative to nursing home care; and Georgia has implemented a number of other cost-containing practices such as the requirement of prior approval for elective surgery, mandatory outpatient surgery for certain procedures, restriction on emergency room use, limitation of weekend admissions to emergencies, and establishment of a cost avoidance system which anticipates ineligible claims prior to payment. Several of these practices are now being adopted by the private sector in its effort to contain rising health care costs. The point I am making, Mr. President, is that the Georgia Medicaid Program does not have fat to trim in order to compensate for the sudden, unanticipated loss of over $13 million. I find it difficult to find fairness in a half-time rules change which provides additional funding to States with more generous Medicaid Programs and higher per capita income levels while penalizing a State such as Georgia.

In 1984 I urged the Senate, and particularly my colleagues on the Finance Committee, to consider approaches which treat all States equitably and fairly when considering the Medicaid Program. In addition, I urged the initiation of a discussion of our national goals and objectives for the Medicaid Program. I vigorously renew that appeal today.

This recalculation provision is onerous for my State and for others. It is my sincere hope that we can rectify this problem next year by giving consideration to the adversely affected States and by committing ourselves to a fair-minded, even-handed treatment of all States when we deal with the Medicaid Program in the future.

Mr. BYRD. Mr. President, the conference report on the reconciliation bill on which the Senate is about to act represents a significant step toward reducing the record budget deficits created over the past 4 years. The conference agreement will reduce spending by about $69 billion over the next 3 years and raise about $14 billion in revenues over the same period. For a total deficit reduction of $83 billion over the fiscal year 1986-88 period.

This bill represents real deficit reduction, arguably the only significant, real deficit reduction bill that the Senate has enacted this year.

Mr. President, this reconciliation bill alone will not solve the deficit problems that the Nation faces. But it does show that Congress is capable of taking the necessary actions.

However, I would caution my colleagues that the budget cuts envisioned by the Gramm-Rudman amendment will be about three times greater next year than those contained in this bill. Thus, this reconciliation bill is not the end of the road, it is merely one more milestone in reducing the deficit. There is a much longer and harder road ahead of us next year.

Mr. President, there are a number of specific issues in the reconciliation bill which are of particular concern to the people of West Virginia. In general, these issues have been resolved in ways that will benefit the people of my State.

One of the provisions in this bill that especially pleases me and many of my constituents is that pertaining to the Employee Retirement Income Security Act [ERISA]. Several loopholes in the current law are closed, and additional, needed resources are provided to the pension insurance system, specifically the Pension Benefit Guaranty Corporation to care for pension beneficiaries whose plans are assumed by the PBGC due to distress of the companies for which they work or have worked.

Most important to West Virginia, the ERISA amendments are crafted in such a way that they will not disrupt the delicate steps now being taken by the Wheeling-Pittsburgh Steel Corp. to reorganize and emerge from bankruptcy. Over 4,000 jobs in West Virginia hang in the balance. I am relieved, as are those 4,000 workers, their families, and their communities, that this situation was resolved satisfactorily.

I wish to thank the conferees who were part of resolving this issue, especially the distinguished junior Senator from Ohio, Mr. METZENBAUM, and the senior Senator from Pennsylvania, Mr. HEINZ.

I would also like to thank my colleague from West Virginia, Mr. ROCKEFELLER, for helping to assure this outcome.

The conferees also adopted a provision that is a fair, reasonable, and workable solution to restore solvency to the Black Lung Trust Fund.

This compromise was developed by the joint BCOA-UMWA industry committee—composed of representatives of the major coal industry companies and the United Mines Workers of America—as an alternative to the original House and Senate proposals. It provides for a 10-percent increase in the coal excise tax coupled with a 5-year moratorium on the trust fund's interest payments.

This legislation is a responsible approach in achieving solvency of the Black Lung Trust Fund in light of the changes made in the 1981 act. The consensus legislation adopted in 1981 tightened the eligibility criteria for claims and doubled the excise tax on coal. Those amendments resulted in the rate of claims being approved dropping from 40 percent to just 3.3 percent in 1985.

I wish to commend the Senate and House conferees for their fine work this issue. In particular, I wish to commend Congressman SAM GIBBONS. I also wish to commend Senator ROCKEFELLER for this fine work in pursuit of this compromise. It is imperative to return the Black Lung Trust Fund to solvency, and I am pleased that we have taken the steps to do this in a fair and reasonable manner.

The reconciliation bill also contains provisions relating to the funding of the Superfund Program, a program designed to clean up the Nation's abandoned toxic waste dumps. Those provisions establish an equitable distribution of the burden of financing the superfund through a broad-based manufacturing excise tax and a petroleum and chemical feedstock tax. This tax structure will provide adequate resources to fund the Nation's toxic waste cleanup program without jeopardizing the competitiveness of the American chemical industry in world markets.

Mr. LAUTENBERG. Mr. President, I rise to oppose the fencing of the Superfund funding in the reconciliation bill. The funds would be collected, but not spent. They would be held back until the Superfund conference is concluded sometime next year. They would be held back from use to clean up the hundreds of toxic wastesites that plague my State and States across the country. They could be used as leverage against those members of the conference favoring strong Superfund but concerned about the fund-starved program to swallow a weaker bill. The outcome of the reconciliation conference on Superfund is very disappointing to me for these reasons.

Mr. President, while I would have preferred to see a $10 billion Superfund, I supported the taxing mechanism included in the Finance Committee's funding package. I believe in this instance that a broad-based tax is justified, because a broad-based spectrum of industry contributes to the toxic waste problem across this Nation. I withheld pushing for the inclusion of temporary Superfund tax extension pending the outcome of the reconciliation conference on the Finance package. And now, I can only express my sincere disappointment that the reconciliation conference failed to provide temporary funding for the program until we conclude the conference on the reauthorization of Superfund.

On December 10, I introduced a bill to temporarily extend the expired taxes for Superfund with the chairman of the Environment and Public Works, Senator Stafford, and Senators Durenberger, Mitchell, Baucus, and Moynihan. Since introduction, another nine Senators have cosponsored this measure.

Mr. President, I had planned to push the measure had the reconciliation conference failed to include a Superfund tax. In effect, the conference did fail to include a tax that will benefit the program at this critical time. By fencing the funds, the program will continue to suffer from funding constraints over the months ahead.

I am very concerned about the state Congress leaves the Superfund program in as we go home for the holidays. On September 30, the Superfund tax expired, and the program has been brought almost to a standstill. EPA has funding for the minimum of duties: administration of the program, emergency response actions and a limited number of site remedial investigation and feasibility studies. The Agency has had to fund these activities primarily by pulling back funds from site cleanups, studies, interagency agreements, and other activities.

As a result, EPA has stopped all cleanup activities at 16 New Jersey sites and over 100 sites nationwide. Because less than $180 million of the original $1.6 billion fund remains, more sites will be affected until we complete action on the Superfund conference. The Superfund tax included in the reconciliation bill does nothing to change this dismal situation, and I restate my opposition to the fencing of the tax in reconciliation and my disappointment that I did not have the opportunity to bring a temporary extension of the Superfund tax before the full Senate.

Mr. ARMSTRONG. Mr. President, how much time remains on each side?

The PRESIDING OFFICER. The Senator from Colorado has 5 minutes and 32 seconds remaining. The Senator from Louisiana has 14 minutes, and 44 seconds remaining.

Mr. ARMSTRONG. Mr. President, it is my understanding that the senior Senator from Louisiana wishes to speak. I would like to save a little time for the majority leader in the event he wishes to speak. Other than that, I have no further need to use time.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, my senior colleague is on the way, and will be here shortly.

If no one else wants to speak at this time, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Trible). Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I yield to my senior colleague such time as he may desire. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Louisiana has 10 minutes and 15 seconds remaining.

The distinguished senior Senator from Louisiana is recognized.

Mr. LONG. Mr. President, I do not agree with everything that is in this conference report, and I doubt many Senators agree with everything in it.

There are so many diverse provisions here, some of which even cost the Government money, though most of them will save money. On balance, this bill does what a reconciliation bill is supposed to do. It reduces the deficit by many billions of dollars.

I regret to say that it does have some provisions that are not deficit reduction provisions or reconciliation provisions. But that is a fact of life.

We have had to live with that situation in years gone by. I am sure we will have to live with it in years to come.

All factors considered, Mr. President, this bill advances the national interest, and I will be pleased to vote for the conference report.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, if no further colleague wishes to be heard, I yield back the balance of my time.

I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ARMSTRONG. Mr. President, I will be ready to yield back in just a moment. We are awaiting the pleasure of the leader to determine if he wishes to say a word before we go to a vote.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ARMSTRONG. Mr. President, I am advised that the leader does not require time to speak.

Mr. PROXMIRE. Mr. President, will the Senator yield me 30 seconds?

Mr. ARMSTRONG. I am pleased to do that.

VAT AMENDMENT

Mr. PROXMIRE. Mr. President, the principal dispute between House and Senate reconciliation conferees concerns Senate efforts to include the Superfund's value-added tax in the conference agreement. Why did the House Members wisely object to inclusion of this tax? The answer is simple.

The House has already passed a far superior Superfund revenue provision, the Downey-Frenzel amendment, which relies primarily on increased oil and chemical feedstock taxes and a new waste-end tax for funding the program.

This amendment puts the burden right where it belongs—on the companies which generate the waste. Now I can hear my colleagues ask, "Isn't that what we did with the VAT?" No way.

The VAT is a sneaky tax, hidden from public view but real nonetheless. Yet, it adds to the cost of every product taxes but it is hard for consumers to identify. Even worse, it risks taxing industries whose processes and products are benign, causing no hazardous waste.

In contrast the Downey-Frenzel amendment adopted by the other body is perfectly straightforward—the polluters pay. And why should they not? After all, they created the mess.

But while considerations of tax fairness alone should be enough to block this provision, there are other reasons for opposing inclusion of the Superfund tax in reconciliation.

First, once Congress adopts a taxing mechanism impetus disappears for conferencing on other Superfund items. Unfortunately, many needed program reforms embodied in the House and Senate bills and could disappear.

Even worse, we risk losing the benefit of the wisdom of those of our colleagues who know this program best, but were members of the Environment and not the Finance Committee and so did not participate in the conference.

Mr. President, I hope when the Superfund conference meets early next year this section can be improved and made more environmentally and economically sensitive.

Mr. ARMSTRONG. Mr. President, I thank the Senator from Wisconsin and the Senator from Louisiana. We are ready to go to a vote. I urge all Senators to support the motion.

The PRESIDING OFFICER. The question is on agreeing to the conference report. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Maine [Mr. Cohen], the Senator from New Mexico [Mr. Domenici], the Senator from Minnesota [Mr. Durenberger], the Senator from North Carolina [Mr. East], the Senator from Oregon [Mr. Hatfield], the Senator from New Hampshire [Mr. Humphrey], the Senator from Kansas [Mrs. Kassebaum], the Senator from Nevada [Mr. Laxalt], the Senator from Alaska [Mr. Murkowski], the Senator from New Hampshire [Mr. Rudman], the Senator from Connecticut [Mr. Weicker], are necessarily absent.

I also announce that the Senator from Maryland [Mr. Mathias] is absent on official business.

I further announce that, if present and voting, the Senator from Connecticut [Mr. Weicker] would vote "yea."

Mr. CRANSTON. I announce that the Senator from Oklahoma [Mr. Boren], the Senator from North Dakota [Mr. Burdick], the Senator from Connecticut [Mr. Dodd], the Senator from Massachusetts [Mr. Kennedy], the Senator from Arkansas [Mr. Pryor], the Senator from Maryland [Mr. Sarbanes], the Senator from Mississippi [Mr. Stennis], and the Senator from Nebraska [Mr. Zorinsky], are necessarily absent.

I also announce that the Senator from Florida [Mr. Chiles] is absent because of illness.

I further announce that, if present and voting, the Senator from North Dakota [Mr. Burdick] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 78, nays 1, as follows:

[Rollcall Vote No. 379 Leg.]

YEAS—78

Abdnor
Andrews
Armstrong
Baucus
Bentsen
Biden
Bingaman
Boschwitz
Bradley
Bumpers
Byrd
Chafee
Cochran
Cranston
D'Amato
Danforth
DeConcini
Denton
Dixon
Dole
Eagleton
Evans
Exon
Ford
Garn
Glenn
Gore
Gorton
Gramm
Grassley
Harkin
Hart
Hatch
Hawkins
Hecht
Heflin
Heinz
Helms
Hollings
Inouye
Johnston
Kasten
Kerry
Lautenberg
Leahy
Levin
Long
Lugar
Matsunaga
Mattingly
McClure
McConnell
Melcher
Metzenbaum
Mitchell
Moynihan
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Quayle
Riegle
Rockefeller
Roth
Sasser
Simon
Simpson
Specter
Stafford
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Wilson

NAYS—1

Goldwater

NOT VOTING—21

Boren
Burdick
Chiles
Cohen
Dodd
Domenici
Durenberger
East
Hatfield
Humphrey
Kassebaum
Kennedy
Laxalt
Mathias
Murkowski
Pryor
Rudman
Sarbanes
Stennis
Weicker
Zorinsky

So the conference report was agreed to.

Mr. ARMSTRONG. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

THE SCANLON NOMINATION

Mr. DOLE. Mr. President, may I have the attention of my colleagues?

Some of my colleagues have asked about what we are going to do for the balance of the evening, tomorrow, and the balance of the week. I need to find out first from the distinguished Senator from Illinois and the distinguished Senator from Wisconsin how soon we might vote on the Scanlon nomination.

Mr. PROXMIRE. I say to my good friend the majority leader that I certainly do not want to detain the Senate, but I feel very, very strongly that we should not vote on this nomination this year. I say that because, as I understand it, there has been an investigation of Mr. Scanlon requested of the Justice Department. We should have that investigation before us. It is a very serious charge, a charge of perjury; as a matter of fact, allegedly committed before a Senate committee.

For us to act on a nominee under those circumstances, it seems to me, would be a serious mistake. For that reason, I would expect to talk at very great length tonight and tomorrow until we can have some opportunity to at least get an understanding that we would try hard to get that investigation.

I say to my good friend, once we get the investigation from the Department of Justice, I would have no objection to a time limitation and a vote. But I think we ought to have that first.

Mr. DOLE. Mr. President, maybe I should know this, but I am not certain what happens to his nomination in the meantime. May I address that question to the Chair?

The PRESIDING OFFICER. The nomination will remain on the calendar.

Mr. DOLE. Would it take unanimous consent——

Mr. BYRD. Mr. President, is that the case? Would not a nomination that is before the Senate for 30 days, during a recess or otherwise, be returned to the President?

The PRESIDING OFFICER. The nomination would be returned to the executive branch unless unanimous consent is granted to keep it here.

Mr. DOLE. I did not hear the first part of the Chair's statement.

The PRESIDING OFFICER. The nomination would be returned to the executive branch unless unanimous consent is granted to keep it on the calendar of the U.S. Senate.

Mr. DOLE. Mr. President, I wonder if the distinguished Senator from Wisconsin, who has indicated we are not going to vote on it in any event, would have any objection to that, at least to keep it here to remain on the calendar to give the Senator an opportunity to look at whatever report it is? Otherwise, it goes back to the executive branch and has to be resubmitted.

Mr. PROXMIRE. Would the majority leader permit a very brief quorum? I would like to consult with Senator Simon.

Mr. DOLE. Maybe while the Senator is doing that, I could ask another Senator a question.

THE RECONCILIATION CONFERENCE REPORT

Mr. DOLE. Mr. President, I ask of the distinguished chairman of the Committee on Finance: We have just passed the reconciliation conference report by an overwhelming vote. It is my understanding that the House side, there will be separate vote on the value-added tax which finances superfund. If they were successful in striking out whatever tax it is—maybe not value-added tax—and it came back to the Senate, what would be the Senator's disposition? I know it would be bad.

Mr. PACKWOOD. Mr. President, first, the Senator is correct. He will recall the Senate adopted the resolution and the Senator from North Carolina said we would not adopt a value-added tax and we have not.

Second, this conference conclusion was arrived at in good faith, as all conferences, and the Senate gave a great deal. We gave up coverage of Medicare employees by the States, $4 billion. We gave a great deal on black lung—more than, in my judgment, I thought we should have given—in exchange for adopting, interestingly, what is basically the House Ways and Means Committee position on the Superfund.

If the House were to accept a conference report that has been arrived at in good faith and take out the part that they did not like to give to us and keep the parts that we were not wild about giving to them but did in a bargain for exchange, then it is my intention, Mr. Leader, to stay on the floor tonight, tomorrow, and the next night, and there will be no reconciliation, period—not on this, not on Medicare, not on Medicaid, not on Outer Continental Shelf, not on anything, and reconciliation is dead.

Mr. DOLE. Is the Senator firm? [Laughter.]

Mr. President, I think those answers are fairly decisive.

THE SCANLON NOMINATION

Let me go back now to the Senator from Wisconsin and the Senator from Illinois. Since it has been made clear that we will not act on the Scanlon nomination, can we get unanimous-consent to leave it on the calendar so we might reach that agreement early next year once they have had a chance to look at the Department of Justice report?

Mr. PROXMIRE. Mr. President, I have discussed this with my colleague from Illinois. Our decision is that we have no objection, if the majority leader will agree that the nomination will not be taken up until we get the report from the Justice Department.

Mr. DOLE. Obviously, I will not have any problem with that, if that is the desire of the Senator from Wisconsin and the Senator from Illinois.

Mr. SIMON. Mr. President, will the Senator yield?

Mr. DOLE. I yield.

Mr. SIMON. First, I want to thank my colleague from Wisconsin.

I say to the majority leader, who is in touch with the White House, that I hope that, even aside from the Justice Department, they would take another look at this nomination.

Mr. DOLE. Mr. President, I ask that further proceedings on this nomination be set aside, and I ask unanimous consent that the nomination not be returned to the President.

Mr. BYRD. What is the request?

Mr. DOLE. Mr. President, if my request did not include the implication that we would get unanimous consent to hold that nomination for more than 30 days, I intend to imply that we would hold the nomination in the remaining status quo until the Senate reconvenes on January 21 and we would not proceed to the consideration of the nomination until both Senators have had an opportunity to review the Justice Department's report.

Mr. BYRD. Mr. President, will the distinguished majority leader withhold that part of his request? Part of it was to set this aside. Will he withhold that, with respect to holding this nomination in a status quo position? Would he withhold that for now? It might be that we would agree to that, but not right at this moment.

EXECUTIVE SESSION

Mr. McCLURE. Mr. President, I understand this has been cleared on both sides of the aisle.

I ask unanimous consent that the Senate go into executive session to consider a nomination.

There being no objection, the Senate proceeded to the consideration of executive business.

Mr. McCLURE. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be discharged from further consideration of the nomination of Donna R. Fitzpatrick, and I ask for the immediate consideration of the nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination will be stated.

DEPARTMENT OF ENERGY

The assistant legislative clerk read the nomination of Donna R. Fitzpatrick, of the District of Columbia, to be Assistant Secretary for Conservation and Renewable Energy.

Mr. McCLURE. Mr. President, on December 12, 1985, the Committee on Energy and Natural Resources held a hearing to consider the nomination of Donna R. Fitzpatrick to be Assistant Secretary for Conservation and Renewable Energy of the Department of Energy. She has fully complied with the committee's rules requiring submittal of a financial disclosure report and a detailed information statement. I am prepared to recommend Ms. Fitzpatrick's confirmation.

Ms. Fitzpatrick was appointed Acting Assistant Secretary for Conservation and Renewable Energy on March 11, 1985. Prior to her appointment, she served as the Principal Deputy Assistant Secretary. Miss Fitzpatrick has also served as a consultant for the Department of Energy, and as a member of the transition team for the National Science Foundation.

The Assistant Secretary for Conservation and Renewable Energy administers research and development programs relating to alternative fuels, energy efficiency in end-use consumption, and renewable energy supplies. During her testimony before the committee, Ms. Fitzpatrick described her view of her role at the Department:

> While I believe that the most effective means of obtaining real gains in energy efficiency and the use of renewable energy is through the mechanism of the marketplace, I also believe that it is important that we as a nation pursue a stable program of research and development in these fields, while retaining the flexibility to address changing needs. I am committed to providing leadership within the government and for the public to pursue every economical opportunity to improve our energy efficiency, to conserve rather than waste, and to utilize our abundant renewable resources.

Mr. President, on behalf of the Committee on Energy and Natural Resources, I recommend Senate approval of the Presidential nomination of Donna R. Fitzpatrick for the position of Assistant Secretary for Conservation and Renewable Energy.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. DOLE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCLURE. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of this nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. McCLURE. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE 1985 FARM BILL

Mr. ARMSTRONG. Mr. President, the success of our farming families in feeding this Nation and the world is one of the most outstanding achievements of our Nation.

America is the healthiest Nation on Earth. That's because our farmers provide us with the most abundant and varied food supply in the world. Not only do we give thanks for our efficient, well-developed agricultural system, the entire world does so as well. American farmers feed the world's hungry.

Producing, processing, packaging, transporting, and distributing food comprises America's single largest industry. The production of crops and livestock account for one-fifth of the Nation's gross national product and employs 23 million people, or one out of every 5 jobs in the private sector. Farming employs 3 million workers, accounting for more jobs than the combined work forces of the transportation, steel, and automobile industries. Agriculture is also the single greatest contributor to our merchandise trade balance; last year, agriculture added $19 billion to our balance of payments.

American agriculture is also one of the most technologically advanced and productive sectors of the economy. At the turn of the century, the average farmer produced enough food to feed 7 people here and abroad. By 1974, that number had climbed to 59. Today, each farmer produces enough food for 79 people. One hour of farm labor produces 16 times as much food as it did in 1920.

As astounding as these accomplishments are, even greater progress is near. A recent report by the Office of Technology Assessment summarized the impact of technological advances that agriculture may soon adopt:

> Before the turn of the century, cattle ranchers in Texas may be able to raise cattle as big as elephants. California dairy farmers may be able to control the sex of calves and to increase milk production by more than 100 percent without increasing feed intake. Major crops may be genetically altered to resist pests and disease, grow in salty soil and harsh climate, and provide their own fertilizer. And computers and electronics will be used to increase management efficiency. . . . While it may sound like science fiction, advances in biotechnology and information technology will make these technologies a reality in the next 10 to 20 years.

This tremendous agricultural system and the productivity of our farmers stands in the stark contrast to the economic conditions in agriculture today.

American agriculture is in serious trouble. Commodity prices have declined every year this decade. Land values have plummeted so low there is hardly a variable market for land sales. Export markets that once bought 40 percent of all commodities and two-thirds of the wheat crop are being lost to foreign competition. These market conditions only exacerbate farmers' greate problem: debt. nationwide, farmers hold a staggering $200 billion in debt.

For many farmers, the root of the present difficulties lie in the events of the 1970's. First, farmers, who are great energy users, suffered energy prices that tripled in a decade. Next, the soaring, double-digit inflation, the legacy of the Carter administration, further increased operating costs. Then, interest rates hit a record 21½ percent. The only protection farmers had against this triple threat was rising land prices and, in droves, farmers, on the advice of their Government and their bankers, borrowed heavily against their land.

In 1980, agriculture was dealt a severe blow by the embargo on agricultural exports to the Soviet Union, our largest export market for wheat. The United States share of the Soviet market went from 70 percent to 20 percent, and other importing nations suddenly viewed the United States as an unreliable supplier and altered their dependence on United States crops. Other food exporting nations, naturally, increased their production.

Federal farm policy hindered farmers, rather than helped them. Federal policy set in 1981 encouraged farmers to produce for the Government and not for the market. The 1981 farm bill set price and income supports at levels anticipating inflation would continue unabated. Instead, inflation fell. Congress was wrong and our loan rates and target prices were set without consideration of market supply and demand conditions. High price and income supports encouraged production here and abroad. Acreage reduction programs also sent a signal to other exporting nations to increase their production. The result has been surpluses that depress market prices. The U.S. farmer sells his product to the Government and the foreign producer takes over markets we used to serve.

If someone designed a way to kill an industry, there probably could be no more lethal way than through our commodity programs. In no other industry do we announce production and price decisions to the rest of the world and, in effect, let foreign producers systematically undercut these prices and, thereby, take over U.S. share of the markets.

A shriveled export market, excess production, high costs and high interest rates rapidly eroded farmer's cash-flow. Once cash-flow eroded, many farmers could not meet mortgage payments, triggering a precipitous and unprecedented decline in the value of farmland. Today, many farmers are experiencing a debt/credit crunch caused by falling land values, high real interest rates and declining commodity prices. Lenders, painfully aware of the declining value of farm assets, are carefully weighing further extension of credit.

To find out how bad conditions are today in agriculture, one only needs to ask the farmers and ranchers themselves. A survey of farmers in Yuma and Washington counties in eastern Colorado was presented to my office last spring and showed these sample responses to the conditions in agriculture today:

> It has been bad for three years, and it is not getting any better.
>
> Depressed family life. It affects our health; can't buy enough food; forced into land and livestock sales.
>
> We have had to borrow more on our land to pay operating expenses and we're barely hanging on by the skin of our teeth.
>
> There is no incentive for our young people to work all their life without a future to build on.

Colorado agriculture is in trouble. A spring 1985 survey showed 17 percent of the respondents said they would not be able to remain in farming another year. Some 35 percent said they probably would be able to remain in farming another 2 to 5 years. Two-thirds of the receipts in Colorado agriculture are in the cattle industry and the livestock sector of agriculture which operates without Government support has suffered depressed economic conditions longer than other sectors of agriculture.

A more recent tragedy for agriculture in Colorado was the loss of the sugar beet industry this year due to the bankruptcy of five beet processing plants in Colorado. Sugar beets have been an integral part of Colorado agriculture since the turn of the century. Their niche was particularly important as feed for the large cattle industry, and a high value alternative crop for an agriculture dependent on too few crops. In a good year, the sugar beet crop and processing plants has added as much as $90 million to Colorado's economy. Now, rural northeastern Colorado has lost this income at the worst possible time.

Cold, hard statistics offer no insight, however, into the personal suffering farming families are experiencing. The strains and emotions of people who work so hard, with little reward or recognition, to give us an abundant, varied, and inexpensive food supply are difficult for most of us to fully understand. Now, some of these families are facing the prospect of losing their farms. The most crushing reality to the farmer may not be the impact on himself, but the knowledge that his sons and daughters may not be able to continue in farming.

What can Congress do to improve economic conditions in agriculture?

For one, it is imperative that the Federal budget deficit be reduced in order to reduce the cost of interest. The deficit requires the Federal Government to borrow money from the same markets that private citizens borrow in and thus drives up the cost of borrowing for everyone. For many farmers, the greatest cost is his interest payments and for each one point drop in interest rates, net farm income increases by 10 percent. Congress has finally taken action to insure that Federal budget deficits are reduced to zero by 1991 with the passage of the Gramm-Rudman deficit reduction bill. Congressional inaction on the budget deficits the last several years has hurt farmers more than anyone else, but now at least there is hope that deficits will ultimately be brought under control.

While providing a healthy, growing economy is the most important way the Government can help farmers, the focus in Congress is specific Federal farm policies. There are huge problems and inequities with the Federal farm program.

Rather than being part of the solution, Federal farm program create problems. For one, we have programs for such commodities, but not for others. Livestock is the largest segment of agriculture, but there is no program and, more often than not, the livestock sector suffers from the Federal farm programs for other crops. There are programs for nutritionally important crops like corn and wheat.

But, we also have programs for peanuts and honey, which have many important and nutritious uses, but are not food staples. Some programs, like dairy, we justify because of a particular quality, such as perishability, yet we don't necessarily extend programs to eggs or other commodities that are perishable. We even have programs for cotton, wool, and tobacco, which can't be eaten or what consumptive qualities they do have are harmful.

On another level, we have an entire agency at USDA to preserve our valuable soil resources in the recognition of the soil's importance to our bountiful agricultural system. The Soil Conservation Service does a good job, but their every effort is defeated by the commodity programs and the credit programs that extend benefits to farmers who plow the least productive land and the land most prone to erosion.

Even with all the talk about farm programs, they only support 25 percent of agriculture commodities. Although participation rates will be much higher this year, the fact remains that a considerable amount of agriculture production is not under a farm program. So, even if we designed the most perfect farm program we would not be able to solve the problems of most farmers.

The farm bill we are considering today does not take several steps to improve the farm programs. First, the bill contains a "sodbuster" provision that I feel is especially important in discouraging the plowout of fragile grasslands in Colorado and throughout the Nation. Over 650,000 acres of native sod, highly sensitive to wind and water erosion, have been plowed in Colorado since 1978. A typical spring in Colorado has seen 50,000 acres of fragile grasslands plowed. Even if allowed to "go back" to grass, the arid conditions make the reestablishment of sod an agonizingly slow process and not likely to be seen in our lifetime. I have introduced this legislation in Congress in each of the last 4 years and had it approved by the Senate on several different occasions, only to have the House of Representatives kill the measure or add controversial amendments that had the effect of killing it. The delay has caused thousands of acres of our soil resources to be irreparably damaged. But there are hundreds of thousands more acres that are still susceptible to damage, so I am pleased at last to see the enactment of this much needed legislation.

Next, the bill will allow loan rates to adjust to market conditions. For wheat, the loan rate will be $3 bushel in 1986 and for corn the loan rate will be $2.40 bushel. Thereafter, the loan rates can eventually drop to between 75 to 85 percent of the 5-year average market price, but cannot drop by more 5 percent a year. In general, this approach means that loan rates will not immediately drop to market clearing levels. In order to get our crops moving in the market and keep them from being stored by the Government, two special features have been added to move the crops:

> The first feature is a modification of the so called "Findlay Amendment" that will allow loan rates to drop an additional 20 percent if the loan rate exceeds 110 percent of the market price. This will help move wheat and other commodities dependent on the export market and will not come at the expense of the farmer's income, since the payment limitation for deficiency payments will not be subject to this 20 percent drop in the loan rate.
>
> The second feature, known as the marketing loan, will be employed if the the Findlay amendment is not sufficient to move our crops onto the market. This feature will allow a loan to be repaid at an amount that is as low as 70 percent of the market price. Again, this will benefit the farmer and agriculture by increasing sales, and benefit the farmer since he will not have to repay the difference between the loan rate and the market price.

The most contentious aspect of the farm bill has been the level of the target price because it is the most important aspect affecting the cost of the farm bill and it sets the level of income payments to farmers. The cost of the 1977 farm bill was $16 billion, or about $4 billion a year. Since 1981, the cost of the commodity programs has been $55 billion, or over $13 billion a year. Thus, we now almost spend in 1 year what we used to spend in 4 years on agricultural programs. In 1983 alone, we spent $19 billion on commodity programs and an additional $9 billion on the PIK Program—that's $27 billion in 1 year to support agriculture! The cost this year is about $19 billion. Under the farm bill before Congress today, the cost is estimated at $52 billion over just the first 3 years of the bill, or about $18 billion a year.

As could be expected, the debate ended up somewhere in the middle with the final bill freezing target prices for 2 years. Thereafter, the Secretary of Agriculture would have authority to reduce target prices by 2 percent in 1988 and 3 percent in 1989. For the 1990 crop, the target price could drop another 5 percent, but not go below $4 for wheat and not below $2.75 for corn.

The acreage reductions for wheat would be a maximum of 25 percent in 1986, 27.5 percent in 1987, and 30 percent for the 1988–90 crops. The minimum would be 15 percent in 1986 and the 20 percent in the remaining years of the bill. For corn and the other feed grains, the maximum acreage reduction would be 20 percent and the minimum would be 12.5 percent throughout the life of the bill.

For dairy, the program would set dairy prices in relation to the level of dairy purchases by the Government. For the first year, the price support would stay at the current level of $11.60 per hundredweight. There would also be a whole-herd buyout initiated that would last 18 months and be funded by a 40-cent-per-hundredweight assessment. After 1 year, the price support would drop by 25 cents and the assessment would drop by 25 cents. On October 1, 1987, the price support would drop another 25 cents and the assessment would end. Thereafter, if Government purchases exceed 5 billion pounds in 1 year, the price support would drop 50 cents and if Government purchases were under 2.5 billion pounds, the price support would increase by 50 cents per hundredweight.

Sugar and wool price support programs will be maintained at the current levels. For the sugar program, the 1986 sugar quota would be extended an extra 3 months. Thereafter, the sugar program would have to be operated with sugar quotas at levels to insure a "no cost" program.

There are many other important features in the bill that will help agriculture. The bill clarifies cargo preference laws in light of the court ruling earlier in the year that canceled $500 million of agricultural exports. I cosponsored legislation to exempt commercial agricultural export programs from cargo preference requirements, and am pleased to see that the bill does this. This will be of great benefit to several new export promotion programs that are included in the bill, including the export PIK and new authority for intermediate credit programs.

Beef and pork promotion boards will also be established aimed at allowing these important products to battle back from declining sales in recent years. Few realize the importance of livestock to the long-term health of agriculture. Not only does livestock account for 60 to 65 percent of agriculture income, the feeding of livestock consumes enormous quantities of feed grains that would otherwise move into surplus and add substantially to the cost of agriculture programs. Both programs will begin immediately with a refunding provision. A referendum will be held for each program within approximately 2 years to determine whether they should be continued.

Also of importance to many livestock producers and others who commonly purchase agricultural products is the inclusion of "clear title" legislation in the farm bill. This will allow the buyers of farm products to purchase an agricultural commodity without encountering the situation of paying twice for a commodity that was used to secure a loan.

A measure that I helped cosponsor to end farm program payments for 5 years for persons convicted of growing marijuana and other controlled substances is also included in this bill. Situations now occur where a person will plant illegal crops in between rows of legal crops and qualify for Federal farm program benefits. Under current law, a person convicted for harvesting the illegal crop can be denied payments for 1 year. The 1985 farm bill expands the definition to include persons convicted of growing and planting illegal crops and lengthens the penalty period to 5 years.

Finally, a matter of importance to Colorado is a program to assure the availability of funds to control grasshoppers and Mormon crickets on Federal rangeland. Under current law, the mechanism is simply not in place to make funds available when an outbreak occurs. After Congress fights with the different agencies for several weeks to get the funds, insects have already damaged crops.

It is clear that there is much good that can result from the bill, but it will also require a record amount of spending by the Federal Government for agriculture. The cost of not approving or enacting this farm bill would be far greater, however. Without a new 4-year reauthorization of the farm programs, permanent legislation enacted in 1938 and 1949 would automatically go into effect and govern most of the agriculture commodities. This permanent law would cost the Government an estimated $50 billion a year—compared to the $50 plus billion that this bill would cost over 3 years.

The permanent legislation would also wreak havoc on agriculture. Many programs, such as the research and extension service activities would expire. Commodity programs would require Government to replace the farmer and the market in just about every decision in agriculture from pricing decisions to production and marketing decisions. Agriculture would become so dependent on the Government for its income that it would be virtually impossible to ever regain an independent agriculture based on market demand for its product. This is an alternative agriculture should not have to choose, and I believe the old laws should be repealed.

In summary, agriculture faces great financial difficulties today for reasons largely beyond the farmer's control. Forces in the economy, whether high interest rates, low commodity prices, or declining markets have worked against the farmer. Federal farm programs have also contributed to these difficulties by sending conflicting and false signals to the American farmer, while simultaneously aiding the ability of foreign producers. The 1985 farm bill removes disincentives to sodbusting, adds some flexibility to our loan rates and targets prices, and clarifies cargo preference laws. These changes will provide greater protection for our agriculture resources, help increase sales of agricultural products, and makes these changes in a slow, deliberate manner in order to protect farmer's from abrupt changes in the short-run, while heading our farm programs in the direction of a stronger, more profitable agriculture in the long run. I support the 1985 farm bill.

I wish to conclude by saying, Mr. President, that while I support this legislation and voted for it, we should be under no illusions that it will solve the serious and far-reaching financial problems that threaten the producers of nearly one-half of total U.S. agricultural production. The best that this bill can do is lend some stability to some portions of the agriculture industry during an extremely severe crisis that is afflicting virtually all of the industry.

Next year we can expect the largest participation in Government programs that we have ever had as farmers attempt to assure at least minimal profitability for their operations. This will increase production of supported commodities and aggravate the surplus problems that continue to depress commodity prices. We can also expect the costs of the program to continue to escalate as a result.

The search for a program for agriculture that really works must continue. Experience of the past indicates that Government has a poor track record in solving the problems and its programs almost inevitably lead in the direction of a socialized agriculture managed from Washington. It is my hope that the farmers themselves, through their organizations and commodity groups, will redouble their efforts to find a more practical and workable approach to restoring our most basic industry to health and vitality. Every citizen of this country has a great stake in a strong and healthy agriculture.

EXECUTIVE SESSION

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations.

There being no objection, the Senate proceeded to the consideration of executive business.

NOMINATION OF TERRENCE M. SCANLON TO BE CHAIRMAN OF THE CONSUMER PRODUCT SAFETY COMMISSION

Mr. DOLE. Mr. President, again I renew my earlier request with reference to Mr. Scanlon, that the nominations be set aside, and I ask unanimous consent that the nomination remain in the Senate.

Mr. President, let me approach it a different way. I think we can accomplish the same result.

Mr. President, I ask unanimous consent that all nominations received by the Senate as of adjournment of the 99th Congress, 1st session, remain in the Senate status quo, with the following exceptions:

Raymond D. Lett (CCC); Raymond D. Lett, Assistant Secretary of Agriculture; Wayne Angell, Federal Reserve Board of Governors; Manuel Johnson, Federal Reserve Board of Governors; Kenneth Hill, NTSB; Richard Francis, Solar Bank; James Malone, Ambassador to Belize; William McGiness, FLRA; Barry Schreiber, Postal Board of Governors; Jeffrey Zuckerman, EEOC; Albert Moon, Federal judge; Danny Boggs, U.S. Circuit Court; Jefferson Sessions, Federal judge; Thomas McAvoy, Federal judge; Sidney Fitzwater, Federal judge; David Hansen, Federal judge; Walter Gex, Federal judge; Miriam Cederbaum, Federal judge; and Robert Bryan, Federal judge.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Kansas?

Mr. BYRD. Mr. President, reserving the right to object, and I shall not object, this request means that the nomination of Albert Moon, to be Federal judge, will be for all intents and purposes dead because it would go back to the White House and would have to be resubmitted by the President for any action to be taken on it. Am I correct?

Mr. DOLE. The Senator is correct.

Mr. BYRD. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, this would also by indirection take care of the request of the distinguished Senator from Wisconsin, the Senator from Illinois, and so on that basis they have no objection that he be retained in status quo pending review of the Justice Department report and then we can work out some agreement on when to bring it up depending on what may be in the report.

So on that basis, I ask unanimous consent that further——

Mr. DANFORTH. Mr. President, reserving the right to object, I do not think it is the understanding that there has to be some specific Justice Department report to trigger Senate consideration of the Scanlon nomination. There may or may not be. But, as I understand the unanimous-consent request, it is simply that the status quo be retained with respect to Mr. Scanlon.

I know that the Senator from Wisconsin is interested in an investigation that has been requested by two House Members and that investigation may or may not take place, may or may not lead to the report, probably will lead to at least some response by the Justice Department I would think to two Members in Congress.

But I would hope that it would be our understanding that there would be no formal action which would necessarily trigger action on the Scanlon nomination.

Obviously, beginning next year, if we ever try to take it up again, assuming we do, the Senator from Wisconsin would be able to object to consideration of his nomination or speak against it at that time.

Mr. PROXMIRE. Mr. President, may I say to the Senator from Missouri, I understand that argument that he is making. I feel that after all we do have a little leverage now, not very much, but a little bit, and I think we ought to get more than acknowledgement that we got a letter from the Department of Justice. It seems to me we should get the results of their investigation. They have been requested to make an investigation.

This is a very serious charge, perjury. They are in a position to give expert advice to the Senate far better than the GAO could. This is their job in the Justice Department. It seems to me that it is very reasonable for us to say we want a report, not just to say we got your letter and we have no objection, or something of that kind. We want a report. We want them to look into it and give us their best legal judgment.

Mr. DOLE. Mr. President, as I understand the nomination has been set aside and we are still in executive session.

The PRESIDING OFFICER. We are.

Mr. DOLE. Mr. President, I ask that we consider the nomination of Ralph E. Kennickell, Jr. to be Public Printer.

The PRESIDING OFFICER. The nomination will be stated.

GOVERNMENT PRINTING OFFICE

The assistant legislative clerk read the nomination of Ralph E. Kennickell, Jr., of Virginia, to be Public Printer.

Mr. MATTINGLY. Mr. President, I rise in support of the nomination of Ralph E. Kennickell, Jr., to be Public Printer of the United States. He has been serving in that position for more than 1 year and during that time he has clearly demonstrated that he has the necessary skill, talent, and energy to warrant confirmation by the Senate.

Ralph Kennickell is a native of Savannah, GA, and represents the third generation of his family to work at the family-owned printing company in Savannah. He proudly speaks of being reared in the tradition of a "printer's devil."

Mr. Kennickell has served this administration and this President in posts at the Treasury Department and at the Small Business Administration prior to assuming the Public Printer's duties at the Government Printing Office in December 1984. Further, as a graduate of the Citadel Military College in Charleston, SC, he served our country as a combat commander in the Mekong Delta of Vietnam during his 4-year Army tour of duty from 1967 to 1971. He was awarded both the Vietnamese Cross of Gallantry and the Bronze Star.

He has sought to create a service-oriented, cost-effective atmosphere at GPO. He is a man who takes pride in the job he does and he brings to the Public Printer's post a unique combination of experience, ability, and leadership.

I congratulate Ralph, his wife Barbara and their two sons, Ralph III and Jason, on his nomination and urge the consent of the Senate.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I ask unanimous consent that the President be immediately notified that the Senate has given its consent to this nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, will the majority leader yield?

Mr. DOLE. I yield the floor.

Mr. PROXMIRE. I just wanted to ask the majority leader if there will be any more votes tonight.

Mr. DOLE. There is a possibility. I hope I can make a judgment on that in the next few minutes.

In my view, reconciliation is very important, notwithstanding the statement by Senator PACKWOOD that he would discuss it at length if a certain provision is excluded on the House side. That is $2 billion out of $83 billion. So it seems to me we have to consider that seriously.

I intend to make a call to the White House to see what their hope or intention might be. I will try to make an announcement by 8:15 or 8:20.

Mr. PROXMIRE. I thank the Senator.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WILSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SOVIET VIOLATIONS OF EXISTING ARMS CONTROL TREATIES

Mr. WILSON. Mr. President, I am reliably informed that early next week the administration is going to release the latest in the annual reports which Congress requires of the President certifying as to Soviet violations of existing arms control treaties. I am advised that the report that will be released will examine a new issue. In addition to updating all of those that were reported in the last of these reports, that, which was issued last February, I am told that there will be violations reported in nine separate cases, as well as two probable violations, a likely violation and a potential violation.

Of the nine cases involving certifiable violations, one SALT II issue, that of Soviet concealment of the association between missiles and their launchers, will be examined for the first time. The Soviet Union apparently also has violated the SALT I interim agreement.

In addition, Soviet deployment of SS-25 ICBM's during 1985 constitutes a further violation of the SALT II prohibition on a second new type of ICBM.

Mr. President, what this report makes clear, in reaffirming the findings of the February 1985 report, is a pattern of ongoing Soviet violation of existing arms control agreements. It will also make known new potential violations. This report will relate to some substantial changes in three issues that have been examined: That relating to the Soviet SS-16 ICBM, to the Backfire bomber aerial refueling probes, and to the Backfire bomber production rate. These first two issues, you will recall, had been judged to be probable violations in the report of last February.

In these most recent studies, there is support for the conclusion, the inescapable conclusion, the tragic conclusion, that there is an ongoing pattern of Soviet noncompliance.

This report, as have those in the past, documents the Soviet Union's violation of its legal obligations, its political commitments to the SALT I ABM Treaty, and interim agreement, to the SALT II agreement, to the Limited Test Ban Treaty of 1963, to the Biological and Toxic Weapons Convention, the Geneva Protocol on Chemical Weapons, and the Helsinki Final Act. It also appears that the Soviet Union has violated provisions of the Threshold Test Ban Treaty.

Mr. President, this is true, notwithstanding the fact that the administration has sought the most unambiguous evidence before making these reports. They have concluded from the evidence that, with regard to the Biological and Toxin Weapons Convention and the Geneva Protocol on Chemical Weapons, the evidence is clear and compelling.

Mr. President, the significance of Soviet noncompliance is, I believe, painfully obvious. It is obvious that deliberate Soviet violations cast absolute doubt upon the ability of the Soviet Union to enter into, in good faith, any agreement. It is clearly a darkening of the atmosphere in which current negotiations are being conducted in Geneva and elsewhere.

These Soviet violations are calculated to produce military advantage for the Soviet Union. In short, they are violations which seek an advantage by allowing the Soviets to engage in activity which those very treaties being violated require the United States to forbear from engaging in.

It may be argued that some of these individual violations are of less importance than are others. And that is true. What is clear, Mr. President, is that any substantive violation calls into question the ability of the Soviet Union to be trusted.

And the plain fact, Mr. President, is that the Soviet Union cannot be trusted. That has not exempted us from the duty of having to go to Geneva, and elsewhere to negotiate with them. We are obliged to do so. They are the other superpower armed with the nuclear capability. But it absolutely underscores the necessity that we enter into no agreements under which Soviet performance is not absolutely verifiable. It makes emphatic the requirement that we insist that the verification by whatever means can be relied upon, and it makes clear, Mr. President, that we dare not enter into any agreements in which trust is required rather than verification.

We are well aware that ambiguities have existed in these treaties, and, of course, a mechanism was created to attempt to deal with and resolve ambiguities. The administration repeatedly reported its findings, not only to the Congress, but also to that mechanism, the standing consultative commission where SALT-related issues, including ABM issues, are to be discussed by the Soviet and the American representatives as well as through other diplomatic channels.

Indeed, the President as we all know expressly expressed not just concern to the Secretary-General at their recent meeting in Geneva. I think he made clear that the United States is chronicling these violations by the Soviet Union not as an academic exercise because Congress has insisted that the administration do so.

Our own ability to continue to abide by existing agreements is called into most serious question by Soviet violations. Tentatively we have decided that we forbear from outright repudiation but reserve the right through the doctrine of proportionate response to take whatever action is requried to safeguard American interests.

Mr. President, those who are shocked by these violations undoubtedly will ask what response have the Soviets made when we have gone to Geneva to the standing consultative commission and asked for explanation? Well, the answer is that with respect to all of the violations, the probable violations, the ambiguous situations, the Sovet Union has provided no sufficient explanation to alleviate our concerns. Instead, what they have done is continued to stonewall. They have asserted that they are in complete compliance with their obligations under existing treaties.

Mr. President, the Soviets must understand clearly that there will be a cost to them for violation of any agreement. We have not yet made clear to them that there will be, and we must do so.

Just as it does no good to enter into agreements, however high flown the language, however optimistic the thoughts expressed therein, if we cannot verify performance, so it does no good to monitor and verify performance if when there is in fact Soviet violation we impose no cost.

Indeed, if we exact no cost, agreements can prove a dangerous trap inviting Soviet violation. They can allow the Soviets impunity to violate treaties, virtually at will, at such time as they choose while we unilaterally abide by their constraints.

If the value to the Soviets in entering an agreement is to secure our forbearance from a particular activity, then the cost for their violations should be our abandonment of their obligation, and our resumption of that prohibited activity.

Mr. President, I hope that when we return in January, we will very early on give the most intense scrutiny, the most serious consideration to the full implications of this latest administration report.

Clearly, the implication is that at a time when they are urging us to enter into new agreements, the Soviets continue to violate existing treaties, and existing agreements. Their word, Mr. President, is not good. The subject matters of these treaties is too important for us to take them lightly. Indeed, they are matters of life and death. They are matters of survival of civilization as we have known it. And we cannot simply dismiss this latest report. We cannot ignore these violations. There must be a cost to the Soviet Union. And they must learn that very soon, and very emphatically.

Mr. President, I thank the Chair.

I suggest the absence of a quorum.

The **PRESIDING OFFICER.** The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. **HOLLINGS.** Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

GRAMM-RUDMAN-HOLLINGS

Mr. **HOLLINGS.** Mr. President, while we are pending the leadership decision to move to the next item in the Senate, we all recognize that there has been much talk relative to the budget next year and the Gramm-Rudman-Hollings balanced budget legislation.

It is understandable. Most Members of Congress don't act like they are interested in a balanced budget. So much misinformation has come out about Gramm-Rudman-Hollings that it is understandable that there is a lot of talk about cuts, frugal budgets, budgets trying to conform to pare back or to be eliminated in order to meet the requirements of Gramm-Rudman-Hollings. The phones ring off the hook that you have to cut or eliminate a particular item, like we heard and read earlier today with respect to parts of the Justice Department.

Arguing each one of those items adds to the confusion. There could well be eliminations. That would not be all bad. The President of the United States certainly has indicated that he would like to do away with agencies such as the Department of Education. That is no mystery. He indicated when he came to office that he would like to eliminate the Department of Energy; he would like to do away with the Small Business Administration. You can go on down the list of particular departments and agencies. The first budget every year is his budget. He is the one to submit it. No one should gawk in amazement that the Gramm-Rudman-Hollings initiative would require the abolition of the Departments of Education or Energy. That's Ronald Reagan—vintage 1980, and 1986.

I think the best way to bring this discussion into focus and for the understanding of the colleagues, and for the public generally who may be interested, is to place before us one particular budget approach entitled "The Deficit Reduction Plan for Fiscal Year 1987-88." I ask unanimous consent at this point to print it in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEFICIT REDUCTION PLAN FISCAL YEAR 1987–88

[In billions of dollars]

	1987	1988
Estimated deficit	190	188-198
Maximum deficit levels in Hollings-Rudman-Gramm	144	108
Required Deficit Reduction Levels	46	80-90
Potential reduction items		
1 Freeze gross level of tax expenditures for 1 year [1]	−36	−37
Potential revenue savings.		
Freeze indexing	(−5)	(−13)
5 percent minimum corporate tax	(−8)	(−12)
Reform ITC	(−15)	(−28)
2 Defense: Allow for inflation only in fiscal year 1987 and 3 percent real growth in fiscal year 1988 [2]	−18	−18
3. Nondefense discretionary: Allow for inflation only in fiscal year 1987 and fiscal year 1988 [2]	+8	+10
4 2-yr hiring freeze in Federal civilian levels (by attrition only, no firings)	−2	−3
5 Interest savings	−4	[illegible]
Total, reductions	−52	−58

[1] Assumes freeze in gross level of tax expenditures—not a freeze on each tax expenditure item.

[2] Assumes CBO August inflation projections of 4.4 percent in fiscal year 1987 and 4.2 percent in fiscal year 1988.

Note.—(1) Assumes full COLA's and no reductions in means-tested programs. (2) Proposal would provide for increases in defense as follows: 1987 budget authority +13, outlays +7; 1988 budget authority +21, outlays +18. In nondefense discretionary as follows: 1987 budget authority +7, outlays +8; 1988 budget authority +7, outlays +10. (3) Budget figures based on CBO August update. (4) Estimated deficit levels assumes general programmatic assumptions in 1986 budget resolution.

Mr. HOLLINGS. Mr. President, what I have is a table that illustrates an estimated deficit for 1987 of $190 billion. You must understand that in February or by the first of March there will be a sequester, the first cut under Gramm-Rudman-Hollings, of some $11.6 billion. When you reduce the deficit now estimated for fiscal year 1987 of some $200 billion, we will sequester this $11 billion, thus resulting in the best estimate now around for a fiscal year 1987 deficit of $190 billion.

The fiscal year 1987 deficit level we must reduce that to under Gramm-Rudman-Hollings is $144 billion, which means we must reduce by $46 billion.

How do you accomplish that? In a general sense I have outlines, without trauma, an approach that would bring not just the $46 billion but some $52 billion in savings. Further, this approach would provide a reduction in fiscal year 1988 of some $58 billion, bringing our deficits into conformance with the maximum deficit levels required by the statute.

Let me talk about the specifics of reducing the deficit. We can freeze the gross level of tax expenditures and save at least $36 billion.

Everyone is talking about the pain and devastating effect of $200 billion deficits. The way the Government must borrow to exist means we are giving $1 worth of government for 75 cents. If the deficits are truly painful—and they are—we must act now to restore credibility to the economy—and to ourselves.

We can freeze that level of tax expenditures. We can freeze tax indexing, require a minimum corporate tax of 5 percent, plus a reform of the investment tax credit which was overwhelmingly agreed to—it was not in dispute between Republicans and Democrats on the House side and pretty well agreed to by our Finance Committee. We can save over $30 billion here with no agony. Now mind you, when I say freeze tax expenditures, I mean the gross level of these, not each individual tax expenditure, because right away we would hear about home mortgage interest payments, State and local taxes, charitable contributions, and the like. I favor these deductions and would oppose actions to scuttle them. So my freeze on tax expenditures would not touch all of these items.

With respect to the Department of Defense, we could allow for inflation—estimated at 4 percent.

You can talk about the 3-percent real growth goal. Perhaps at this particular time when we are waiting for further business to be conducted on the floor of the Senate, I might remind you of a conversation we had on a Sunday afternoon 4 days before we passed Gramm-Rudman-Hollings. At that time, I got the signal that we were meeting in the Vice President's room. Senators GRAMM, RUDMAN, and myself met with the distinguished Director of the Office of Management and Budget, Mr. Jim Miller.

Mr. Miller said:

> OMB wants to go along with your particular program.

We had been imploring the people in the executive branch to do that all week long.

He said:

> The President is going along with Gramm-Rudman-Hollings but we have to be assured of the 3 percent real growth for defense. We have to be guaranteed that is protected in this plan.

I spoke up immediately and said it was not protected in this plan. We had to politically put Social Security off limits because this Congress cannot workout its will where Social Security is concerned.

I had proposed the Social Security freeze with other distinguished colleagues over the past 3 years in our balanced budget freeze plan and that was the end, we heard, of economic sense or realistic economic plans.

To prove my point, David Broder in late November said there was a way to balance the budget rather than to adopt the traumatic Gramm-Rudman-Hollings. That way was under a Chiles-Gorton proposal. Chiles-Gorton in July was nothing more than Hollings-Exon in January, along with our distinguished Republican colleagues, Senator ANDREWS of North Dakota, and Senator KASSEBAUM from Kansas. We had a bipartisan approach of a deliberate budget freeze across the board to hold the line and stop the unresponsible run down the road to a $2 trillion debt. But no one would listen.

Well, it took 3 years but finally my friend, Mr. Broder woke up—but gave credit to others. In any event, we made it clear on that Sunday afternoon, that 3 percent for defense could not pass. Senator GRAMM also spoke up, that we would lose 40 to 45 votes and lose this chance. I said, "I know you could not pass it as far as this Senator is concerned because I will take my name off and go outside and start opposing it."

So we had a clear understanding in the Vice President's room on a Sunday afternoon before we passed Gramm-Rudman-Hollings for the first time in October. Defense spending was in the package. Thus, one proposal for defense would allow for inflation in fiscal year 1987 and 3 percent real growth in fiscal year 1988.

The executive branch knew all along from the authors themselves that there was no protection for defense, so there should not be any of that talk.

Now the President wants to put in a 10-percent increase in fiscal year 1987 for defense. He is the President. It is his budget. He has to stand behind the credibility of that budget and the rationale therein. I understand that. No one is saying he cannot do it. I am just saying he cannot put in an amount on a pledge from the Congress on Gramm-Rudman-Hollings because the pledge was otherwise and the understanding was clear.

You can have a defense budget with increases. It will be running at about $290 billion in fiscal year 1986 after sequester so you can add $12 billion or more for inflation. How one asks? By holding the line and taking on initiatives that have been directed in a rather static fashion by the Armed Services Committee, by the Budget Committee, by the Defense Appropriations Subcommittee and by the House side.

I have seen many of these exercises. There is a new procurement plan, there is a new caveat here, or there. I say with great certainty that we can cut significantly the civilian bureacracy in the Pentagon and throughout the DOD and throughout Government we can establish cost-efficiency procedures.

We have the Packard Commission appointed to do these things. But the distinguished Secretary of Defense, Mr. Weinberger, does not have to wait. He can use Gramm-Rudman-Hollings as the pressure to bring order out of chaos in the Pentagon.

Mr. President, for entitlements, my plan would allow all the COLA's—whether in the retirement programs or in means-tested programs. In other words, we can have growth in aid for dependent children, women infants and children's feeding, child nutrition, food stamps, veterans pensions, veterans compensation and all the means-tested programs that were exempted by Gramm-Rudman-Hollings and everybody will gladly support that on both sides of the aisle.

Under my proposal, the Social Security would be taken care of.

For the nondefense discretionary programs, I believe we could allow for inflation in 1987 and 1988—thereby assuring at least the programmatic levels adopted in 1986. This means no cuts in education, training, science, space, law enforcement, transportation, highways below the levels of 1986. Unlike the President, we proceed with Government at a conservative pace—we don't eliminate it.

Finally, we could have a hiring freeze for civilians with no layoffs or firings. The total savings we would achieve after all of these actions would be $52 billion. Since we need only $46 billion—we could make a decision on whether to give the extra $6 billion to programs of high priority such as infants feeding. That is a way to save money. I know for every dollar expended on women infants' and children's feeding I save the Government $3.

It only covers half of the women and children in America that are eligible under the program. If the President were wanting to increase defense by 4 or 5 percent, it would be my move to come along and to increase some of these other programs in education and technology and hold the line on others.

But the point I want to make by this discussion is to let my colleagues know it is not impossible. Don't blame Gramm-Rudman-Hollings for big cuts because they are not necessary. But you can blame us for the discipline on the one hand and the truth on the other, because if we do not adopt the discipline, the truth will speak up for us after October 1.

We are going to have truth in budgeting. But we can kid ourselves and get all the headlines the media will give us all year long. But if it is not done, whatever we end up with is going to be cut or sequestered, in an even percentage across the board.

So the proposal I am discussing tonight assumes a freeze in the gross level of tax expenditures and not a freeze on each tax expenditure item. We assume the CBO August inflation projections of 4.4 percent in fiscal year 1987 and 4.2 percent in fiscal year 1988. We assume full COLA's and no reduction in means-tested programs. The proposal would provide for increases in defense, a budget authority increase in 1987 of $13 billion, and outlays increase of $7 billion; in 1988, a budget authority increase of $21 billion and outlays increase of $18 billion.

In nondefense discretionary, we would have a 1987 increase in budget authority of $7 billion and outlays increase of $8 billion; in 1988, budget authority increase of $7 billion and outlays increase of $10 billion. These figures are based on the CBO August update.

There is a plan. There is a target, I have not had a chance to consult with those who have been so diligent, particularly my colleague from Nebraska, whom I admire so much.

The Senator from Nebraska was facing a tough fight for reelection in 1984, but he bit the bullet and he voted for fiscal responsibility. He knew the role. He did not just come to it. As Governor, that was his track record. That has been his track record in the U.S. Senate. It was not a good political judgment to make at that time because it brought down the wrath of many of the voters and misunderstanding of what he was doing. But he has been a colleague in the front ranks here throughout our struggle on the Budget Committee to try to bring the Government back into the black.

I yield at this time to the Senator from Nebraska, Mr. President.

Mr. EXON. Mr. President, I really appreciate the kind remarks about this Senator's activities. Since a copy is being made, I would very much appreciate a copy of the Senator's suggested means of reaching Gramm-Rudman goals in the upcoming years. I suspect that the record would show that there probably are no other two Senators than my distinguished colleague from South Carolina and myself who have offered more realistic budget proposals to bring the budget into line. I think the record would also show that I parted company with my colleague and friend on Gramm-Rudman. If it works, fine. I suspect it will not work. Maybe I am wrong. I have been wrong before.

However, one of the faults I see with Gramm-Rudman is the false premise that it seems to hold, at least from the position of reality.

I would like very much if my friend could expand a little bit more on the meeting that was held at the White House yesterday when a prominent picture was taken with the main supporters and advocates of Gramm-Rudman.

If I read the newspapers correctly, and I ask my friend from South Carolina to correct me if I am wrong, in the newspaper reports I read of that meeting at the White House yesterday, the President of the United States further complicated what I thought was clearly understood as the discipline of Gramm-Rudman by saying there yesterday that there was no way he was going to stand for defense cuts, that we have to build up the defense of this country and that he had his veto pen in the top drawer as far as any revenue increases are concerned.

Was that the message that the President was giving to the Nation yesterday? If so, it was a message that was not used here, on the floor of the U.S. Senate, when the majority voted for Gramm-Rudman.

Is that what the President said yesterday? If so, is there some way that we can begin to reconcile that as a Christmas gift of understanding and appreciation for the people of America?

Mr. HOLLINGS. Well, the Senator is right, that was the message that the President gave. I would not allocate any different message other than to elaborate upon it. As I interpret it, it is much like an insurance company we had fighting for a winning slogan as they organized down in South Carolina. We came up with the slogan that "The Capital Life would surely pay if the small print on the back doesn't take it away."

The President of the United States on the matter of revenues talks just that way. He is very bold in print about "Make my day" when he is not for revenue increases. At the same time, he is praising DANNY ROSTENKOWSKI's tax reform bill which calls for $140 billion in new revenues. How does he think you lower the brackets if taxes aren't raised elsewhere?

So what they are saying, if you know how to read these insurance contracts, if you know how to read these political statements, they say I am for $140 billion for my purposes—namely, to lower the brackets; I am not for the $140 billon for your purposes, for expanded Government—or for paying our bills.

The Senator from South Carolina comes down not for a $140 billion increase in taxes but for $25 to $30 billion, as shown here, that is to get rid of the deficit—not for more government. We need the $25 to $30 billion not for tax reform but to maintain and pay for that inflationary increase in defense and generally hold the line on these other programs.

Another Senator and another President would have a different view of it, but I believe if we get a strong enough consensus we can do it—you see now what is happening with the discipline already with respect to reconciliation. Seventy-eight to one and we are falling into a discipline now of realism, because the cover of rhetoric has been removed because of Gramm-Rudman-Hollings. We are all now speaking from the same text, the same vocabulary, and we do not have to run around with Rose Garden figures, OMB figures, and all these others. We are going to have the same point of reference on these budgets and with respect to revenues, the Senator is right. The President reiterated, he said his pen was ready to do away with revenues, but he was also praising the wonderful progress that had been made in tax reform and now that we have gotten it to the Senate side, he hopes to proceed with it.

You look at it from the Senate side or the House side or any side—inside, outside. You find the tax reform calls for $140 billion in revenues. And, yes, it calls for decreases. It is supposed to end up tax neutral. I am not trying to misrepresent tax reform. Whether it ends up that way or not is another question.

I think Congress has now put the priority on the deficit with Gramm-Rudman-Hollings. I stated so at the time we passed it. I stated it all day that Saturday when we debated it and stayed here on Sunday in September, later in November when we argued it, and also in the conference committee, I know that Senator GRAMM, for example, believes that there will never be any need for revenues. I think one of those budgets can be drawn—but it won't be passed.

But I think looking at the considered judgment, the consensus judgment of the U.S. House of Representatives and the U.S. Senate and the President of the United States about where we have been over this 5-year period of turmoil or whether to abolish the Department of Education or give an 11-percent increase to the defense budget or give it all to cost-of-living adjustments, or just what—this is pretty well in the center.

Where the Senator and I break down finally is when we get down to the bottom line of having to promulgate a budget.

I think it is a rational kind of target to aim at and you can increase it or decrease it both ways. My point is Gramm-Rudman-Hollings does not make you do it. It is your own doing. Gramm-Rudman-Hollings only triggers after the fiscal year has passed and if you pass a budget that is not in balance in accordance with the projected revenues, then comes the Gramm-Rudman-Hollings trigger which says here are the revenues for your expenditure. If the expenditures are beyond the revenues, and the deficits exceeds the maximum deficit targets then the sequester takes place. Not now; but in March of this year and October of future years.

Mr. EXON. I really appreciate the excellent explanation that has been given by the Senator from South Carolina. I am looking down the list, and I am very interested and intrigued by some of this. However, when I look at this and when I compare this with what the President is saying, it will not wash.

Mr. HOLLINGS. Will the Senator yield at that particular point about not washing?

Mr. EXON. Yes.

Mr. HOLLINGS. The Senator is right. Last year, the President's budget did not wash in the Budget Committee. It was voted down 18 to 4. The Senator and I were there and the chairman of the Budget Committee and the Republican majority voted it down the year before, 1984, when the President was running. His budget was voted down in the Hall of the House of Representatives by a vote 420 against and only 1 for it. So it did not wash in 1984. The President's budget did not wash in 1985. And as you look at this sheet of paper here in December 1985, at Christmastime, yes, the Senator is right. If the President presents a similar budget to his eliminate the Government concept it will not wash, again.

Mr. Exon. I thank my friend. It was this Senator who made the motion in the Budget Committee, as the Senator will remember, to vote on the President's budget, and the vote came out exactly as the Senator just stated on the floor of the Senate.

Mr. HOLLINGS. The Senator is right.

Mr. EXON. In looking down this list, the President certainly would not be for cutting $18 billion out of the defense budget. I suspect that he would not be in favor of freezing indexing because I am sure he would consider that a tax increase. And certainly he would not be for a 5-percent minimum corporate tax because he said his veto pen is already out. What this does, though, above everything else, it shows that during the deliberations in the Budget Committee and on the floor of the Senate, as we come up against those snapshots or triggering mechanisms that Gramm-Rudman-Hollings forces on us, there is going to be confrontation on top of confrontation, possibly misunderstanding upon misunderstanding, as to what we are or are not doing. It is going to be an interesting year next year, is it not?

Mr. HOLLINGS. It is going to be an interesting year, and I think unfortunate but very necessary confrontation. The Senator is right. The intent was to put us all in a box—the House, the Senate, the President. The Senator could not get away with this in Lincoln, NE; they would run the Senator out of town and they would run me out of town in Columbia, SC, if we as Governors had presented budgets and the activity that we have been presenting here the last 5 years in the U.S. Capitol. We just could not get away with it, and I hope Gramm-Rudman-Hollings now will have everybody into that sort of lockstep and with these various guideposts they can measure us down the budget roads to see whether we are really adhering to the discipline on the one hand or truth in budgeting on the other.

Mr. EXON. I thank my friend from South Carolina once again. Indeed, we have constructed a very interesting box. Whether it is going to be good or bad remains to be seen. I will be equally interested in the budget presentation that is made by the President in about 60 days to see how that compares with this. I suspect it will be significantly different, but I will be interested in looking at those because if we are going to give any credence to Gramm-Rudman-Hollings at all at least we have to set the parameters. And I congratulate my friend from South Carolina for being out front, as he usually is, in coming up with the first information that I have seen with regard to how one Senator, at least the Senator from South Carolina, would meet the responsibilities that he undertook as a prime mover in the Gramm-Rudman-Hollings proposal. I only say in conclusion that I agree we have constructed a box. The question comes whether the box is going to be explored.

I thank my friend from South Carolina.

Mr. HOLLINGS. I thank the distinguished Senator.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PRESSLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROPOSED SALE OF CONRAIL

Mr. PRESSLER. Mr. President, when we resume in late Janaury, the order of business will be Conrail. The Midwestern railroads have a great deal of difficulty with the Conrail proposal.

I speak as one Senator who is very much in favor of somehow selling Conrail. But the Midwestern railroads have been concerned with the present plan because it would basically mean that a monopoly east of the Mississippi would exist. The Chicago and North Western Railroad at least has been unable to negotiate acceptable agreements for Chicago and other Midwestern gateways. The result will be that our railroads will lose traffic through diversions, and competition will decline in the Midwest if Norfolk Southern acquires Conrail.

Therefore, many of us have taken a look at the Morgan Stanley proposal, and other proposals regarding the sale of Conrail. It has been my strong feeling that the Department of Transportation and the FRA have been somewhat inflexible and insensitive to some of the problems of the smaller railroads which would be put into the position of dealing with an eastern monopoly railroad.

I am proud to say that during the upcoming recess, I shall have a series of railroad meetings in my home State; and I am happy to say that my good friend Mr. Jerry Conlon of the

Chicago and North Western Railroad will be in South Dakota to talk about some of the rail problems we have in our State.

However, aside from our particular problems, there is an overall transportation problem in moving grain out of the Midwest and moving machinery and supplies into the Midwest, and that problem involves dealing with a monopoly railroad east of the Mississippi River.

Mr. President, it is my strong feeling that railroads are best run by private enterprise; but if that private enterprise is going to be monopoly, I have a problem. There is no reason why there cannot be viable competition east of the Mississippi.

So I will join in efforts to move toward a resolution that would either provide for gateway agreements, Midwestern divestitures, or some other competitive solution.

I hope that next year we will be able to resolve this matter and be able to move toward the sale of Conrail and reach a resolution in the public interest. However, there are also some other unanswered questions about some of the related matters with Conrail.

Mr. President, the able majority leader has made it clear that Conrail will be a priority item on the Senate's agenda when we return next year. Although I objected to bringing this issue to a vote earlier this month, I made it clear that I am prepared to debate the issue when we have adequate information on the anticompetitive impacts of a Norfolk Southern/Conrail merger and the viability of the proposed divestiture.

We have explored this issue in some detail in the Commerce Committee. Chairman Danforth has done an outstanding job. But I have yet to receive an adequate answer from my continued inquiries to the Department of Justice and others. Also, because the divestiture proposal continues to change, it has been impossible to fully assess its effectiveness and viability.

Norfolk Southern and the Department of Transportation have now made a third attempt to remedy the anticompetitive consequences of the acquisition by providing for divestiture of certain lines and the grant of trackage rights to the Pittsburgh and Lake Erie Railroad and to the Guilford Transportation Industries. So far, the details of the agreements relating to the divestitures and trackage rights have not been provided to Congress or to any interested parties. Norfolk Southern has offered no explanation of this failure. The Congress cannot give its approval to a concededly anticompetitive transaction unless it has had an opportunity to examine the divestiture and trackage rights agreements that will allegedly solve the competitive problems.

There is little evidence that the divestitures and trackage rights described in the November 11, 1985, memorandum of Norfolk Southern, GTI and P&LE will solve the competitive problem created by the merger in the Midwest. Information brought to my attention shows that even after the divestitures the merger will still result in massive traffic diversions that will imperil the ability of midwestern roads to provide service, and lead to the same type of rail monopoly in the Midwest that now exists in some parts of the East. This is unacceptable to me as a midwestern Senator, and to such railroads as the Chicago and North Western which presently supplies efficient, competitive service in our part of the country.

Although they ignored the anticompetitive consequences of the merger in the Midwest, the Justice Department did, early on in the process, identify some anticompetitive problems in the Conrail service area and called for a solution by divestitures. However, even with respect to the problem markets identified by the Department of Justice last January, Congress simply has not been provided with the type of detailed information about the divestitures, or about the financial strength and plans of P&LE and Guilford which are essential in deciding whether those carriers will provide vigorous and viable competition.

I have already noted that Congress does not have the underlying divestiture and trackage rights agreements. That is only the beginning of the missing information. We have not been supplied with the detailed operating and marketing plans of Guilford or P&LE for the lines and rights to be acquired. Divestitures would be a charade if the operating and marketing plans did not contemplative vigorous competition for business in the newly acquired markets.

Perhaps most importantly, no one has come forward with detailed information regarding the financial requirements of either P&LE or Guilford, reconciled with their operation and marketing plans. Similarly, we have only the vaguest information about where P&LE and Guilford will obtain money to acquire and operate the divested properties.

Mr. President, the Department of Transportation told us that one of the principal reasons it supports the NS offer is that a stand alone Conrail, a company that has over $800 million in cash and last year earned about $500 million, is not viable in the long run. Before the Senate accepts assurances that P&LE and Guilford can provide long term viable competition to a merged Norfolk Southern/Conrail, it must inquire carefully into the financial condition and resources of these companies.

The finances of the P&LE remain a mystery. In the case of Guilford we are reassured that the estimated $55 million required will be financed by $35 million in bank debt, and a $20 million infusion of cash from its principal stockholder, Mr. Timothy Mellon.

We need to know what the present profit picture is for these companies. Are they profitable? Is the profit real, or is it the result of creative bookkeeping? We need to know the extent of the financial commitment of the backers of these companies, and about any other claims on their resources. Before the Senate accepts these divestitures as a solution to the competitive problems of the Norfolk Southern/Conrail merger, it should be sure that it is getting real rail competitors rather than a map exercise by the Justice Department.

Mr. President, I was recently provided with a disturbing article entitled "Derailing the Maine Central." It appeared in the Maine Times on November 29, 1985. Maine Central is one of three carriers owned and operated by Guilford. According to the Maine Times the Maine Central Railroad has fallen upon hard times since the Guilford acquisition in 1981. The conclusion of the article is that Maine Central profits are not based on expanding traffic but rather on substantial abandonments and circumvention of labor agreements.

The Maine Times article describes Mr. Mellon's activities, discusses Guilford's management of the Maine Central, and raises serious questions regarding the "deep pocket" commitment of Guilford to the Maine Central. In fact, the article implies that the "deep pockets" of the Maine Central have been used to support Guilford rather than the other way around.

I have no idea whether the allegations regarding Guilford management of the Maine Central are accurate. I have no personal knowledge of Mr. Mellon's other interests or activities, or what resources he is prepared to commit to the viability of an expanded Guilford system. This divestiture is relying on the personal resources and commitment of Mr. Mellon. As is the usual regulatory practice in such cases, the Senate must require disclosure to the resources from the P&LE, Guilford and Guilford's principal stockholder which are available to be committed to ensure viable competition. I intend to pursue these questions when the Senate returns.

The priniciple divestiture issue is the viability of the rail system that will be created by this divestiture. The day is long past when Congress can believe that tracks or trackage rights, and locomotives and freight cars make a viable railroad. The Penn Central had all of that when it went into bankruptcy in June 1970. These divestitures will not solve any competitive problems if the recipients of the properties become the Penn Centrals of the late 1980's.

Mr. President, I am writing a letter to Mr. Mellon today asking him to provide Congress with a full range of information on the resources that will be available to support the expanded Guilford System. This will include past and contemplated future financial arrangements among Mr. Mellon, Guilford, the rail operations and rail supply operations controlled by Mr. Mellon. I am also requesting information on arrangements between Mr. Mellon, Guilford, the Mellon Bank and other sources of financing for the Guilford enterprises. It is my intention to report back to the Senate on these matters prior to our consideration of a Norfolk Southern acquisition of Conrail.

I ask unanimous consent that the Maine Times article entitled "Derailing the Maine Central" be placed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Marine Times, Nov. 29, 1985]

DERAILING THE MAINE CENTRAL?

Earlier this month, Maine Central Railroad took the United Transportation Union to court after the union threatened to strike over plans to lease track maintenance and switching operations to Boise Cascade at its Rumford paper mill, thus removing the jobs from the trainmen's union. The night before the court date, George Lawson, a young official of the local union, stood outside a meeting and said, "If they win tomorrow, you can kiss this railroad good-bye. Every piece of equipment they own will be leased out to non-union operators."

A few days after the strike had been averted by a court injunction, Lawson's prediction was repeated to David Fink, president of both Maine Central and its parent company, Guilford Transportation Industries. "If that's how it has to go, I'll do it," said Fink. "If economics dictate it."

In the eyes of labor, Guilford is bleeding Maine Central in order to revive its anemic sister lines, the Boston & Maine and the Delaware & Hudson. They maintain that Guilford has embarked on a program of abandoning branch lines, laying off employees, and leasing out switching operations with the ultimate aim of reducing Maine Central to a single main line railroad. Management insists that tying the three railroads together and the cost-cutting measures they have taken are simply matters of economic survival. Business is business and whatever doesn't pay for itself goes. The romance of the rail is over.

Labor and management don't agree on much these days, but one thing they might agree on is that everything changed in 1981.

Two things happened in 1981 that drastically altered the rail industry. First, the Staggers Act deregulated the railroads in the United States. Accustomed to slow change by years of Interstate Commerce Commission (ICC) protection, railroads suddenly found themselves in a free market going head-to-head with a deregulated trucking industry. Second, in June 1981, Timothy Mellon purchased Maine Central. Labor and management would probably argue whether Staggers or Mellon has had the greater effect on the new Maine Central.

At first, the publicity-shunning Mellon, then 38, was viewed by some as a wealthy do-gooder. Son of philanthropist Paul Mellon and grandson of financier Andrew Mellon, Timothy Mellon might turn out to be just the sort of deep-pocket owner who could stabilize Maine Central in the volatile new age of deregulation. Long on capital, but short on railroad experience, Mellon brought with him David Fink, his Guilford, Connecticut, neighbor and his partner in Perma Treat, a Connecticut-based railway tie firm. Mellon also brought with him a reputation as radical rich. His Sachem Fund (named after Sachem Head, where Mellon lives on the Guilford gold coast) helped finance a hospital in North Vietnam during the Vietnam War, and had supported such enterprises as a feminist law firm, the American Civil Liberties Union, and various alternative energy projects. In Burton Hersh's dynastic saga of "The Mellon Family," Timothy Mellon's stepmother described the young man as "soppy, kind-hearted, and the robber baron mixed in."

After paying $18.5 million in cash for Maine Central in 1981, Timothy Mellon then purchased the bankrupt Boston & Maine (B&M) for $24.25 million in June, 1983. In January, 1984, he picked up the ruins of the Delaware & Hudson (D&H) for a mere $500,000. All three lines were then consolidated as the rail division of Guilford Transportation Industries, Mellon's holding company based in North Billerica, Massachusetts. And it was quite a train set Timothy Mellon managed to put together in just three years; 350 locomotives, 10,000 boxcars, 4,000 employees, and 4,000 miles of track stretching from Maine to Buffalo and Washington, D.C.

Back in 1981 when Mellon took over, then-president John L. Gerity, a veteran railroad man, broke the news gently in a memo to Maine Central employees:

"Mr. Mellon . . . stated that at this time he anticipates no changes in Maine Central's management or operations. He said that he is interested in running a railroad as a railroad and it is his present intention to maintain Maine Central's identity.

"It is my belief that our new association with Mr. Mellon is good for Maine Central and Portland Terminal, our employees and customers."

It is the belief of a lot of union men that Gerity, now vice chairman of the Maine Central board, should be eating his words. The new association with Mellon, the union people say, was good for Mellon and Guilford, not Maine Central, and certainly not Maine Central employees.

As Guilford expands, Maine Central contracts. Some angry union members will insist that 2,000 jobs have been lost since Guilford took over, but there haven't been 2,000 jobs on Maine Central since before 1960, the year Maine Central stopped passenger service. Through the 1960s and 1970s, employment levels on the railroad remained steadily in the 1,200 to 1,500 range. Some union officials estimate as many as 750 jobs lost during the Guilford tenure. But company officials report a drop in Maine Central employment from 1,265 in 1981 to a projected 868 by the end of this year, 400 jobs representing a 30 percent reduction in workforce. The 30 percent cut in employment is about evenly matched by a 30 percent reduction in track mileage. This year Maine Central is abandoning some 250 of its 800 miles of track in Maine including unprofitable runs from Brunswick to Rockland, Brewer to Calais, and Steep Falls to the New Hampshire border on the so-called Mountain Division.

The job losses that most outrage union employees are those resulting from the company's new practice of leasing operations to paper mills. Last June, Maine Central turned over switching operations at Woodland to Georgia Pacific, replacing Maine Central crews with crews from Springfield Terminal Company. Springfield Terminal, though represented by the United Transportation Union, does the Woodland switching at almost half the labor cost of Maine Central Springfield Terminal is a Guilford subsidiary.

This month, Maine Central turned over switching at Boise Cascade's Rumford mill, displacing 12 Maine Central employees. Under the terms of the court action taken to avert a strike, the 12 Maine Central jobs will be protected until Federal Judge Edward Gignoux issues his final decision on the merits of the case. The company maintains that the leasing arrangement constitutes a so-called "minor dispute" under union contracts and is subject only to arbitration. The unions counter that the maneuver is a "major dispute," subject to job action.

Naturally, the leasing of track and operations looks like classic union-busting to union members and officials. Ernest Phillips, the burly boss of the United Transportation Union local, charges the leasing arrangements with paper companies are "just Guilford coming through the back door." Guilford and Maine Central officials defend such actions as necessary if the railroad is to compete in a deregulated transportation market.

"It's not the same business it was three or four years ago with the great poohbahs sitting in their offices smoking cigars and the ICC protecting them," says Guilford president David Fink.

On November 5, as Maine voters went to the polls to narrowly approve an $850,000 bond issue to purchase the track Maine Central is abandoning, David Snyder, Maine Central's general supervisor, sat in his office at the South Portland Rigby Yard and explained the economic climate that forces cutbacks, lay-offs, lease-outs, and track abandonments.

"It's a Catch-22 situation," explained Snyder. "When the Staggers Act deregulated the industry, it allowed railroads the freedom to raise and lower rates at will, but this coincided with the deregulation of the trucking industry. Rate setting in all transportation areas became very volatile. Maine tracks have always had a good traffic base from pulp and paper, but also in the '60s and '70s railroad management agreed to substantial wage increases without a commensurate increase in productivity. Because the industry was regulated [then], we were able to pass the cost along to the shippers. At that time, railroad rates were lower than truck rates.

"The big turnaround in 1980-81 when deregulation took effect was that truckers were free to haul anything, anytime, at any rate. Railroad and trucking rates were coming closer together. Labor continued to negotiate for higher wages, but the railroad is unable to recoup these increases."

All labor wants to know is, Is this company making money? And, if it is, why are union members losing their jobs? The answer to the first question is yes, Maine Central is making money. Maine Central has always been profitable, primarily because it is an origination line, hauling paper and forest products to market from the source. Origination lines traditionally make more money than over-head lines, which simply pass freight along. In the four years that Guilford has owned Maine Central, the railroad has earned $18.2 million (according to its own report, as of June, 1985).

In 1980, Maine Central showed a profit of $2.4 million; in 1981, $4.4 million; in 1982, $5.1 million; in 1983, coupled with six months of B&M operations, Guilford reported a profit of $8.6 million; in 1984, all three Guilford lines showed an overall profit of $5.2 million despite the fact that the D&H lost nearly $7 million.

But Guilford officials say these statements of earnings are not what they seem. They explain that in 1983 the ICC mandated an industry-wide accounting system change in which capital expenses are no longer deducted from earnings, but are depreciated over 30 to 40 years. What that means, they say, is that the $5.1 million Maine Central profit in 1982 is a restatement of a figure that would have been closer to $1.27 million under the old ICC accounting system.

Union officials complain that Guilford plays with these numbers to its own advantage, crying poverty at contract time, but reporting glowing success when it suits their purposes, for example when little Guilford (with net assets of $66.6 million) put in a bid of $1.2 billion for Conrail last year.

David Fink still maintains that the bid for Conrail was realistic, but many in the rail industry felt the Guilford bid was a little like Jonah proposing to swallow the whale. Still, Guilford has committed $88 million to acquiring 1,000 miles of divested track if and when Norfolk Southern (the federal Department of Transportation's choice to take over Conrail) acquires Conrail. Guilford's proposed acquisition of the so-called Western Extension (lines to Chicago and St. Louis) is a result of Justice Department concerns about anti-trust violations when Norfolk Southern and Conrail merge.

Both Maine Central and Guilford have always been profit makers. In explaining Maine Central lay-offs, Guilford management cites the high cost of railway labor, suggesting that rail unions are pricing themselves out of jobs. David Fink states that the average Maine Central employee has a salary and benefit package worth $40,000 a year. He cites cases (admittedly exceptions) of engineers making $80,000 a year, janitors making more than the Governor of Maine ($35,000).

Colin Pease, Guilford's youthful vice president for government affairs, multiplies the 400 lay-offs by the average $40,000 compensation package and comes up with $16 million, a big piece of the $18.2 million Maine Central has earned in four years. Pease says the lay-offs and cutbacks are simply a matter of "adjusting expenses to revenues." In the past, Maine Central had a reputation for making a profit by deferring maintenance. The new Maine Central appears to be making a profit by cutting labor costs. In other words, Maine Central is showing a profit because people are losing their jobs.

"Unless you take the course of sacrificing the few for the many, you're not going to be around," says Guilford's David Fink.

From the point of view of Maine Central union employees, it's more a matter of sacrificing the Maine Central to the B&M, the D&H, and perhaps the Western Extension. Union leaders and union members say that de factor or by design the leasing of switching operations and the abandonment of branch lines will result in Maine Central running just a main line operation in Maine. Since even Fink acknowledges "the spine is only as good as the vessels feeding it," Guilford is obviously gambling that the state will not allow the feeder lines it abandons to wither and die. The plan is for the state to find independent short line operators for branches like the Rockland run where there is still life. Some Maine Central employees refer to this tactic of laying responsibility for feeder lines onto the state as "corporate blackmail." Despite the fact that it would be in everyone's best interests to keep branch lines alive, many Maine Central union employees voted against the recent bond issue out of spite.

Eugene Lyden, a soft-spoken former Maine Central brakeman who is now international vice president of the United Transportation Union, is perhaps the most articulate spokesman for the labor view that Guilford has weakened Maine Central in order to strengthen the B&M and the D&H.

"I think what they've done," says Lyden, "is simply streamline the railroad. It has been dramatic in Maine because of the common ownership of the three lines. I don't think it would have happened if they owned only Maine Central."

In trying to make the case that Maine Central is essentially carrying the weaker railroads, union leaders cite statements in Guilford's own June, 1985, proposal to take over the Western Extension:

"Maine Central has a strong base of originating traffic which is moving across the Guilford System in increasing volumes to the benefit of rail customers and of B&M and D&H as well.

"Affiliation with [Maine Central] has provided access to additional, profitable traffic . . .

"Thus, Guilford has taken one profitable railroad, combined it with two larger and previously unprofitable (but completely reorganized) railroads and produced a system which is providing efficient rail service and realizing profits."

Guilford president Fink adamantly denies that Maine Central is carrying the two other lines.

"Without the long haul," says Fink, "without B&M and D&H, the maine Central would be in dire straits today. It would be at the whim of every one of its connectors.".

Staggers favors the long haul," echoes vice president Colin Pease. "Business under deregulation is long haul."

Fink and Pease characterize the consolidation of the Maine Central, Boston & Maine, and Delaware & Hudson as the consummation of an idea put forth by the ICC in the 1930s and ardently pursued in the 1970s by Frederic C. (Buck) Dumaine of the Amoskeag Corporation and the Bangor & Aroosatook Railroad. Dumaine's advances were repeatedly thwarted by Maine Central's president E. Spencer Miller.

"It was [Mr. Miller's] belief that a New England railroad—the Maine Central tied to less viable railroads—would be the downfall of the Maine Central," maintains the union's Eugene Lyden. "I think his opinion was correct."

Railroad employees claim that Guilford is bleeding Maine Central by paying overhead costs for all three lines out of Maine Central revenues—buying fuel for the D&H and locomotives for the B&M, paying Guilford executive salaries. David Fink says he is one of the few executives who are on the Maine Central payroll.

Guilford officials explain the cutbacks and layoffs as functions of mechanization and lost business, not consolidation. Business is down in 1985, says Fink, primarily because production is off in the paper industry. Paper and forest products account for roughly 60 percent of Maine Central's traffic.

"It has been business," says Fink of the lay-offs. "You've got a 20 percent loss of business. If you have no business, you don't need the labor."

Railroad jobs lost to transactions such as mergers, consolidations, and abandonments are subject to a variety of job protection agreements, so it is important that lay-offs be justified in terms of mechanization and lost business, economic forces to which job protection measures do not apply. Job protection measures such as the New York Dock Agreement and Oregon Short Line Agreement call for employers to continue the salaries of discharged employees for up to six years. The ICC has imposed the conditions of the Oregon Short Line Agreement on Maine Central's abandonment of the Rockland and Calais lines, but as those abandonments have not yet actually occurred, it remains to be seen whether employees will be terminated or transferred. Bradley Peters, Maine Central's director of human resources, will say only that job protection compensation has been and is now being paid to an unspecified number of people.

Union leaders believe that some of Maine Central's lay-offs are due to the consolidation and should be subject to job protection. Again, they cite the text of Guilford's proposal to acquire trackage from Norfolk Southern:

"In addition to consolidating the management," the document states, "Guilford has given significant attention to upgrading the physical condition and facilities of the three railroads. This upgrading has been carried out in conjunction with a program to eliminate or reduce redundant or obsolete facilities."

The document does not say redundant or obsolete jobs, but Guilford is trying to eliminate jobs they view as unnecessary through contract negotiations and arbitration. The caboose will soon be a thing of the past. The company is fighting the unions over crew size, the carrier maintaining that three men (engineer and two ground crew) are sufficient to run a train, the unions trying to hold onto four and five men to a crew. Firemen, who haven't been needed in their nominal capacities since steam gave way to diesel in the 1950s, have been kept on as engineers-in-training, but the latest trainmen's national contract allows for their eliminations through attrition. (Guilford has elected this year to deal with the union rather than abide by national agreements.)

It is axiomatic in the rail industry that economies and efficiencies are achieved following mergers or consolidations either by increasing revenues (finding more business) or reducing costs (laying people off). Labor feels that Guilford has done too much of the latter and not enough of the former. Some of the company's severest critics insist that Maine Central has actively discouraged business on lines it wants to abandon by upping rates, reducing services, or by diverting and rerouting existing traffic, as in the case of the Calais branch line where Maine Central (with authorization) diverted Georgia Pacific traffic (60 percent of the line's volume) to the Canadian Pacific Railway. In such cases, labor will insist that the company didn't want to serve the customer; the company will argue that it couldn't afford to serve the customer.

David Fink says Maine Central has gone out after new business, but not always with great success. He was unable, for example, to convince Aroostook County potato farmers to ship by rail. He does believe, however, that extending Guilford's reach to Chicago and St. Louis will both create new markets for Maine goods and bring increased traffic into Maine.

Down the line, Fink sees the future of rail transport in terms of containerized cargo that can be conveniently shipped by sea, rail, and over the road (or all three). He also sees a future in intermodal transportation (rail-truck combinations) and to that end has diversified Guilford into trucking. If you can't beat'em, join'em. Traitor, say the trainmen. But then the phrase most repeated on both sides of this rail labor-management dispute is that Guilford officials "are businessmen, not railroad men." Labor uses it as condemnation. Management uses it as a statement of fact.

Guilford also operates the Boston MBTA commuter rail line on a contractural basis, and David Fink says restoring some form of passenger service to Maine is not out of the question. Guilford is currently lobbying to have Boston's North Station and South Station linked via rail (in conjunction with a major highway project aimed at relieving Boston's gridlock) in hopes of luring Amtrak (which operates out of South Station up over its lines. But to restore Boston to Main passenger service, Fink says, some form of state or federal subsidies would be required.

Despite the fact that Fink attributes most of Guilford's austerity measures to competition from truckers, he does not expect railroads to receive the kinds of government subsidies the trucking industry does ("We'd just like to see truckers pay their fair share," says Fink.

Yet Guilford is subsidized one way or another in most of the other states in which it operates, possibly to the detriment of Maine. In Massachusetts, Guilford does not have to pay fuel tax and the state maintains all overhead bridges. In Connecticut, Guilford pays no fuel tax, sales tax, right of way tax, has branch line rehabilitation subsidized, and does not have to compete with tandem trailers.

In New York, the Delaware & Hudson has received $50 million in state aid over the past 10 years. Two years ago, the D&H was awarded a $20-million grant to rehabilitate track and construct a locomotive facility. In Massachusetts, Guilford received $7 million this year to expand and improve its yard and locomotive facility in East Deerfield. Meanwhile, Maine Central's Bangor yard is gone, the Waterville yard is being phased out, and there are continuing lay-offs at the Rigby yard in South Portland.

Tied to New York's $20 million subsidy is a job protection provision that obligates Guilford to maintain the level of employment on the D&H in New York at between 800 and 1,100. New York's Department of Transportation (DOT) reports that Guilford has scrupulously met these job quotas. And in Massachusetts, a DOT spokesperson explained that the idea behind that state's $7-million aid is "keeping jobs that might have moved elsewhere."

In Maine, the recently passed bond referendum sets in motion a new state rail policy by which the state is committed to finding short line operators to lease and run abandoned feeder lines. The state will also assume half the cost of maintaining bridges and grade crossings and railroads will be exempted from a five percent sales tax on track materials.

William Fernald, who oversees all non-highway transportation for Maine's DOT, says that Maine's efforts on behalf of rail are small compared to what some states are doing, but he feels Maine has gone as far as it should go considering that the state has no dedicated tax for rail as it does for highways.

Whether Maine Central will eventually abandon all branch lines, William Fernald can't say, but what he does say is eerily consistent with such a scenario.

"Theorizing about the future of railroads," says Fernald, "you can easily come to the conclusion that the future of railroads is high speed, frequent trains operating between major population centers, and the rest all trucking."

Currently, Maine Central has begun proceedings to abandon both a section of the Lewiston Lower Road (from Lisbon to Lewiston) and the branch line to Dover-Foxcroft. How many more lay-offs will there be on Maine Central?

"How much business am I going to lose?" replies David Fink.

Mr. PRESSLER. Mr. President, I note that my speech has not drawn Senators to the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll

Mr. SIMPSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RADIOACTIVE WASTE COMPACTS

Mr. SIMPSON. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 1083.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the title of the bill (H.R. 1083) entitled "An Act to amend the Low-Level Radioactive Waste Policy Act to improve procedures for the implementation of compacts providing for the establishment and operation of regional disposal facilities for low-level radioactive waste, and for other purposes.".

Resolved, That the House agree to the amendment of the Senate to the text of said bill, with an amendment as follows:

Page 33 of the Senate engrossed amendments, strike out all after line 14 over to and including line 13 on page 36.

BARNWELL SITE CLOSURE

Mr. THURMOND. Under the terms of the Southeast Interstate Low-Level Radioactive Waste Management Compact, the commercial disposal facility at Barnwell, SC, is scheduled to close by December 31, 1992. Is it the understanding of the chairman, that this closure date is preserved by this legislation?

Mr. SIMPSON. Yes. It is my understanding that the Barnwell facility will be closed by December 31, 1992, and that nothing in this legislation could be construed to prevent its closure on that date.

HIGHER THAN CLASS C WASTES

Mr. THURMOND. Is it the understanding of the Senator from Wyoming that under the terms of this legislation, higher than Class C low-level radioactive wastes are not to be disposed of in commercial low-level radioactive waste disposal facilities such as Barnwell, Beatty, or Richland and are not to be disposed of in unlicensed Federal facilities such as the Savannah River Plant, the Hanford Reservation, or the Beatty weapons arsenal?

Mr. SIMPSON. Yes. That is my understanding. (Higher than Class C low-level radioactive wastes are to be disposed in an NRC licensed facility that is not one of the commercial low-level radioactive waste facilities subject of this legislation.)

DISPOSAL CAPACITY

Mr. THURMOND. Is it the understanding of the chairman that the phrase "shall make disposal capacity available" as used in section 5(a) (1) and (2) means only that, other than as provided in other parts of section 5, the States cannot take actions intended to interfere with the disposal of the volumes of waste stated in section 5(b). Further, the phrase does not mean that the States must act affirmatively to provide for disposal of waste generated within their borders or elsewhere. Nor does it preempt the enforcement of otherwise valid State laws and regulations, undertaken for some other purpose, that incidentally restrict access—for example, clean air and water laws, packaging and inspection requirements, tax laws, et cetera.

Mr. SIMPSON. Yes. That is exactly the meaning of that phrase as used in this legislation.

Mr. SIMPSON. Mr. President, I would like to add a couple of remarks about the action taken this evening on the House side, in passing the legislation that is now pending before us.

In considering this bill, some Members raised questions about the constitutionality of the provisions contained in the Senate-passed bill, requiring States to take title and possession of low-level radioactive waste no later than January 1, 1996, if such State, or a compact region in which such State is a member, fails to provide low-level radioactive waste disposal. I should emphasize that, in my judgment, there are no constitutional defects with this approach. If, however, a State declines to take title and possession under this provision, and asserts that the provision is unconstitutional, I should point out that the failure to comply voluntarily with the requirement that title and possession be taken—one of the principal conditions of consent to any regional compact—means that the entire compact in which such State is a member will be null and void, invalid, and cannot be implemented. Thus, a State that refuses to take title and possession under this provision does so at considerable risk that the compact will be invalid as a result.

I wonder if I could ask for the assurances from my colleagues that this is their understanding of this provision?

Mr. McCLURE. I agree with that interpretation, Mr. President.

Mr. THURMOND. That is consistent with my understanding, as well, Mr. President.

Mr. JOHNSTON. I, too, agree with the statement of the Senator from Wyoming.

Mr. SIMPSON. I should also clarify, Mr. President, the confusion that has arisen in the other body over the meaning and requirements of the language in this bill on wastes that are a Federal responsibility and the issue of the "class C institutional control rulemaking." The Senate rejected the proposal that the NRC be required to reopen its regulations for the purpose of considering whether the hazards associated with class C wastes exceeded the period of institutional control. The Senate reached the conclusion, and that conclusion is reflected in this bill, that the States are responsible for class A, B, and C wastes, and more importantly, that the Commission's existing regulations in 10 CFR part 61 provide an adequate regulatory framework for all class A, B, and C wastes. We do not intend, and in fact specifically reject in approving this bill, any implication that those regulations are inadequate or that they should be reconsidered. The Federal responsibility provision in section 3 of this bill has nothing to do with class C wastes. It is limited to those wastes above class C. Moreover, the study under section 3 is to be conducted by DOE, not the NRC, and has nothing to do with the wastes that are the responsibility of the States under this bill. Again, I reemphasize, Mr. President, that we rejected the concept of a "class C institutional control rulemaking" in this bill, and in passing this bill, disagree that any reconsideration need be given by the NRC to the part 61 regulations.

Mr. McCLURE. I concur in that statement, Mr. President.

Mr. JOHNSTON. I, too, agree with that interpretation.

Mr. THURMOND. I concur in that understanding, as well, Mr. President.

Mr. SIMPSON. Finally, Mr. President, I should emphasize that the bill before the Senate tonight, and approved earlier this evening by the House, originated in the Committees on Environment and Public Works and Energy and Natural Resources. Accordingly, the relevant legislative history for this bill are the two reports filed by these two committees, and not, as was suggested earlier this evening in the House, the reports on the House bills. In addition, I should note that the governing legislative history on this bill that we consider this evening has now been established in the respective bodies of the Congress. Any further remarks, including revised and extended remarks filed in either body, are not, in our judgment, part of the legislative history on this legislation, and should not be construed as contemporaneous legislative history, governing the manner in which this legislation should be construed. Thank you, Mr. President.

Mr. McCLURE. With respect to the House provision that was rejected by the Senate with respect to an institutional rulemaking for certain categories of class C low-level radioactive wastes, I wish to remind my colleagues that the Nuclear Regulatory Commission already has the authority—and, I might add, uses this authority—to revise any of its regulations that it judges at any time to be inadequate to protect the public health and safety.

Mr. LAUTENBERG. It is my understanding that the Environment Committee came to no conclusion regarding the adequacy of the NRC's regulatory framework under 10 CFR part 61 governing low-level radioactive waste disposal facilities.

It is also my understanding that there were remarks made in the other body this evening on this legislation suggesting that the NRC should conduct a review of its part 61 regulations. Since this provision is not included in the legislation the House passed earlier tonight, nor is it in the legislation we are now considering, I do believe we are neither requiring the NRC to conduct such a study nor suggesting that such a study is unnecessary. Is this consistent with the view of the distinguished chairman of the Environment and Public Works Committee?

Mr. STAFFORD. The distinguished Senator from New Jersey is correct. We have made no judgment as to the adequacy of these regulations. The NRC has the authority to review such regulations as it deems advisable.

Mr. EVANS. I would like to make a few additional remarks about the emergency access provisions.

I understand that the intended limitation on the use of emergency access in section 6 is to allow only one grant and one extension per generator for any particular incident related to the public health and safety. It is my understanding that if incidents which may be a threat to the public health and safety are of a substantially similar nature, the NRC should not be required to provide another grant of emergency access at another point in time. In effect, any generator or any State must choose carefully when to request the NRC for emergency access.

Mr. SIMPSON. The Senator is correct in his understanding.

Mr. EVANS. Fundamentally, it is my understanding that emergency access should be used only in rare circumstances. It should not be allowed to indirectly or directly violate the volume limitations in section 5 or to be used indiscriminately after January 1, 1993.

Furthermore, it is my understanding that the four alternatives to emergency access listed in section 6(c)(1)(B) are coequal, including the alternative of ceasing to generate low-level radioactive waste. It is my understanding this means that making a voluntary agreement with a disposal facility in a sited State should be considered fully as an alternative. Also, it is my understanding that price for disposal should not be a factor which leads the Commission to determine that a voluntary agreement is not achievable.

Mr. SIMPSON. The Senator is correct in his understanding.

Mr. LAUTENBERG. Mr. President, I thank the chairman of the Senate Environment and Public Works Committee for his reassurances. I would simply like to follow up our discussion by saying that it is my hope the NRC will review 10 CFR part 61 in regard to the guidance and licensing of a range of alternative disposal methods.

I am concerned that the current regulations are biased toward shallow land burial, which may be environmentally unsound for States with high water tables such as the States in the Northeast Compact. For that reasons, I offered an amendment when the committee took up the low-level Radioactive Waste Policy Amendments Act of 1985 that requires the NRC to publish technical guidance on alternative disposal methods within 1 year and to publish licensing requirements for these disposal methods within 2 years. This amendment, included in the bill before us, will provide the States with an unbiased full range of disposal methods from which to choose in constructing a disposal facility within their compacts.

In addition, Mr. President, I am concerned about the issue of institutional controls. It may also be appropriate for the NRC to provide additional guidance or regulation, or change the current 10 CFR part 61, to address a balance of institutional controls and engineering factors in order to adequately protect the public health and the environment for the duration of the hazard of the low-level waste deposited at waste disposal facilities.

I am particularly concerned that the NRC review the institutional control requirements for alternative disposal methods, which may require a different balance than that called for in 10 CFR part 61. I would like to point out that my concern about the NRC review of institutional control requirements in regard to alternative methods was included in the report of the Senate Environment and Public Works Committee, and was not addressed in the report of the Senate Energy and Natural Resources Committee.

Mr. SIMPSON. I move, Mr. President, that the Senate concur in the House amendment.

The motion was agreed to.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HOLLINGS. Mr. President, once again earlier today I expressed my gratitude and admiration to the distinguished Senator from Wyoming, and to my senior colleague, Senator THURMOND, for the outstanding job that was done.

There is no question I started with this some 30 years ago. The Savannah River plant is located in Tuscaloosa aquifer right near an earthquake fault, and over 30 years ago I served on the regional advisory council on nuclear energy. At the time the Honorable R.M. Cooper was chairman, and later I served as Governor trying to dispose of nuclear wastes.

At that particular time we were told that due to the danger of the location that the temporary storage would only be for a period of 2 years; 2 years became 5, 5 became 10, 10 became 20, and it is now 30.

I never dreamed it would take 30 years and Christmas Eve to bring this about. So it is with tremendous admiration, respect, and gratitude that I hail the distinguished Senator from Wyoming on his leadership, and our senior Senator, Senator THURMOND, on bringing about this reconciliation and this magnificent initiative to bring about a responsible program for the storage of low-level nuclear waste in America.

Mr. THURMOND. Mr. President, it is a great day for America. This matter has been pending and worked on now for a number of years. I am very pleased that it has finally come to culmination and has been enacted into law.

Again, I want to thank Senator HOLLINGS for his kind words and his fine cooperation. I also again want to express to Senator SIMPSON and others who have been so active in this matter and providing such outstanding leadership, my deep appreciation. Without all the people who have worked on this bill, it would not have become law.

This is a wise step the Congress is taking. I am sure as time goes by, Congress will be pleased that it did take this action and it will be to the benefit of the whole Nation.

Mr. SIMPSON. Mr. President, I thank both Senators from South Carolina for their generous remarks. I thank Senator HOLLINGS for his consistent interest and support.

Let me just say one more word about Senator THURMOND. Senator THURMOND authorized me to hold the first hearing on this matter in Seattle, WA, some 3 years ago. Because of his great interest and his support, we started at the Judiciary Committee level and tonight, at this moment, we bring all that process to fruition. It could not have been done without the generous support and the continual interest and the extraordinary persistence of the Senator from South Carolina, who is a dear and generous friend. I appreciate that very much.

Mr. THURMOND. Mr. President, I wish to thank the able Senator for his kind remarks.

WILDLIFE REFUGE CENTERS

Mr. SIMPSON. Mr. President, after conferring with the Democratic leader, I ask unanimous consent that the Senate now turn to the consideration of Calendar Order No. 494, H.R. 1404, dealing with the Eastern Shore of Virginia National Wildlife Refuge.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> A bill (H.R. 1404) to establish the Eastern Shore of Virginia National Wildlife Refuge and the National Fish and Wildlife Service Training Center at Cape Charles in Northampton County, Virginia.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the bill.

Mr. CHAFEE. Mr. President, H.R. 1404 and identical legislation (S. 585) introduced by Senator PAUL TRIBLE would establish the Eastern Shore of Virginia National Wildlife Refuge and the National Fish and Wildlife Service Training Center at Cape Charles in Northampton County, VA.

Establishment of a refuge in this area began in 1984 when the General Services Administration approved transfer of the 174-acre Cape Charles Air Station to the U.S. fish and Wildlife Service. H.R. 1404 will expand these refuge boundaries to include 396 acres owned by the Chesapeake Bay Bridge Tunnel Authority, 297 acres owned by the Wise Point Corp., plus other adjacent lands currently in State, county, and private ownership.

The lands included within this newly created Eastern Shore of Virginia National Wildlife Refuge are located on the southern end of the Delmarva Peninsula. Construction of the Annapolis Bay Bridge and Chesapeake Bay Bridge Tunnel during the past 40 years has made this area readily accessible to the populations of Washington, DC, Baltimore, and Norfolk. This increased accessibility and relatively low land prices, in turn, have made the area an attractive one for development, and recently, the Chesapeake Bay Bridge Tunnel Authority placed its 396 acres of land on the market. Fortunately, the Nature Conservancy has signed a contract to buy this property for $2.64 million to ensure that the area is preserved in its natural state. The Nature Conservancy intends to hold this land for the FWS pending authorization and appropriations of funds by Congress.

The continuing resolution, House Joint Resolution 465, provides $2.64 million in fiscal year 1986 to purchase the Bay Bridge Tunnel property. H.R. 1404 will provide the necessary authorization for the Fish and Wildlife Service to go forward with this acquisition.

The proposed refuge site is used by migrating birds to wait out unfavorable weather conditions before crossing large expanses of open water to the south. It is one of only two such major stop-over areas along the Atlantic Coast—the other is Cape May, NJ. Additionally, endangered or threatened species, such as peregrine falcons, bald eagles, and brown pelicans, utilize this habitat. Other species found in the area include least terns, black ducks, snow geese, and Atlantic brant. The proposed refuge boundaries also encompass an abundance of tidal wetlands and marshes which are important to the protection of other estuarine resources.

The National Fish and Wildlife Service Training Center will utilize, in part, facilities constructed in conjunction with the Cape Charles Air Station. It is expected that the training facility will support a broad range of Fish and Wildlife Service and non-Fish and Wildlife Service functions. The Service is the only Federal land management agency without such facilities. Annual capacity of the training center when completed is estimated at approximately 12,000 trainee-days. Current Fish and Wildlife Service training needs will require more than half of this capacity. The remaining center capacity may be used by other agencies, private organizations and educational institutions. Several major universities, including the College of William and Mary and Old Dominion University, have expressed interest in conducting environmental education programs at the refuge.

Mr. President, I believe this area will make an excellent addition to our National Wildlife Refuge System and I urge my colleagues to support it.

Mr. WARNER. Mr. President, I rise today to associate myself with the remarks of my distinguished Virginia colleague, Senator Trible, in support of his legislation, which I have cosponsored, to establish the Eastern Shore of Virginia National Wildlife Refuge in Northampton County, VA.

The purpose of this legislation is to expand the existing boundaries of the Cape Charles National Wildlife Refuge on Virginia's Eastern Shore and to utilize as a Fish and Wildlife Training Center the facilities remaining from a former Air Force base.

The continuing appropriations resolution for fiscal year 1986 which incorporates the Department of Interior and Related Agencies appropriations bill for fiscal year 1986, recommends $2.64 million to purchase additional land for the refuge to preserve the area in its natural state.

The legislation before us today authorizes the expansion of the current boundaries and utilization of existing facilities for an educational, research and training center for environmental programs.

The Secretary of Interior is authorized to acquire remaining lands and waters for the refuge by donation, easement, exchange or purchase with funds from the land and water conservation fund.

I strongly support this legislation because the Cape Charles National Wildlife Refuge preserves critical fish and wildlife habitat along the Atlantic flyway.

Specifically, the area offers food and resting habitat and acts as a "staging area" for migratory birds before they cross the Chesapeake Bay enroute south for the winter.

Endangered species, such as the peregrine falcon, bald eagle, and the brown pelican use this area.

The establishment of the Training Center utilizing existing Air Force buildings will encourage needed environmental programs that will prove valuable in aiding migratory birds, waterfowl, fish, and other endangered species native to the area or that use the refuge along their migratory route.

I congratulate my colleague Mr. Trible for his hard work which led to the passage of this important legislation and urge my colleagues to support it.

Mr. TRIBLE. Mr. President, I am pleased to bring before the Senate a measure which will grant a congressional charter to the Eastern Shore of Virginia National Wildlife Refuge and National Fish and Wildlife Training Center in Northhampton County, VA.

This refuge is a unique facility. First, it protects irreplaceable migratory waterfowl habitat. Second, it will utilize the abandoned Cape Charles Air Force Base to provide a training facility for Fish and Wildlife Service personnel after renovation.

The Fish and Wildlife Service recognized the value of the base as a refuge for various species of migratory birds and acquired the property in 1984.

Cape Charles is among the most important habitats on the east coast for migratory waterfowl, raptors and songbirds, and is home for endangered and threatened species such as the peregrine falcon, bald eagle, brown pelican and five species of marine turtles. In addition, the Delmarva Peninsula is a primary flight corridor during the annual southern migration. The peninsula narrows in the south, creating a funneling effect on the birds which culminates at Cape Charles. Because of the variety of marsh and upland habitat, the area provides excellent cover and forage for the large variety and high concentration of migratory species.

In addition to the natural attributes of the area, the former air base has a variety of buildings in relatively good condition. These are being converted to refuge use.

The Fish and Wildlife Service is examining the possibility of establishing a national training center for Service personnel and a refuge law enforcement refresher course training center utilizing some of the existing buildings at the former base. Various colleges and universities have indicated interest in using these facilities for environmental studies under contract or cooperative use agreements with the Service. The bill I bring up today will establish this center in law and facilitate its development.

The Eastern Shore of Virginia National Wildlife Refuge represents an important link in the ongoing establishment of protected wildlife habitat along the east coast's barrier island chain. It will provide shelter and forage for migratory birds, unique opportunities for training and environmental studies, and economic benefits for the citizens of the Commonwealth of Virginia. I am pleased to be able to assist in the establishment of this refuge, and I welcome my colleagues' support on the measure.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the third reading.

The bill was ordered to a third reading, read the third time, and passed.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PROCEDURE FOR THE DISPOSITION OF EXTRANEOUS MATERIAL IN RECONCILIATION CONFERENCE REPORTS

Mr. SIMPSON. Mr. President, I send a resolution to the desk on behalf of Mr. Armstrong, Mr. Roth, and Mr. Domenici, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> A resolution (S. Res. 286) to authorize a procedure for the disposition of extraneous material in reconciliation conference reports, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

Mr. PACKWOOD. What was it? I did not hear the clerk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> A resolution (S. Res. 286) to authorize a procedure for the disposition of extraneous material in reconciliation conference reports, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. ROTH. Mr. President, the purpose of this resolution is to remedy a possible unintended result of the Byrd amendment to the reconciliation bill, section 1201 of the Consolidated Omnibus Budget Reconciliation Act of 1985. That provision imposes a discipline upon this body which is not imposed on the other body. Basically, it requires that Senators not place extraneous provisions in reconciliation bills and resolutions.

However, if Members of the other body are free to load up their bills and resolutions with extraneous provisions, I fear that our body will be at a disadvantage with respect to the other body. Since we cannot tell the other body how to conduct its business, the solution is to create a new Senate procedure for handling extraneous material originating in the other body and coming to us as part of a House amendment or a conference report. The situation is analogous to that in the other body when we send provisions to them which would violate their rule on germaneness if offered there rather than here.

The other body's response to that situation has been to adopt clauses 4 and 5 of rule XXVIII of the House rules. The remedy proposed here is similar. It would permit a point of order to be raised against the extraneous material in House amendments or conference reports. With respect to a House amendment, if such point of order is sustained, the effect will be like that of a successful motion to strike out the offending language, and the Senate will be able to consider and act upon the remainder, if any, of the amendment.

With respect to a conference report, if such point of order is sustained, the effect will be like that under rule XXVIII of the House rules; the Senate will be able, for example, to request further conference or to insist on its disagreement or to recede and concur in the House amendment with an amendment incorporating the remainder of the text of the conference report or any other permissible variation which does not revive the provision deemed stricken by the successful point of order.

It should be noted that points of order may be made only with respect to two of the four categories of extraneous material in section 1201. This is because the two categories omitted are not applicable to matters to be transacted between the Houses. Moreover, it is intended that the remaining two categories be applied without reference to any instructions that may have been given to committees. Thus points of order may be raised against a provision which does not produce a change in outlays or revenues or which produces a change which is merely incidental to the nonbudgetary components of the provision.

I believe that this resolution is a necessary step to protect the prerogatives of this body. With this protection, the Byrd amendment will be able to achieve a necessary reform without disadvantaging this body.

The **PRESIDING OFFICER**. The question is on agreeing to the resolution.

The resolution (S. Res. 286) was agreed to, as follows:

S. Res. 286

Resolved, That when the Senate is considering a conference report or House amendment with respect to a reconciliation bill or reconciliation resolution pursuant to section 310 of the Budget Act, upon a point of order being made by any Senator against extraneous material meeting the definition of subsections (d)(1)(A) and (d)(1)(D) of section 1201 of the Consolidated Omnibus Budget Reconciliation Act of 1985, and such point of order is sustained, any part of such report or amendment containing such material shall be deemed stricken, but it shall be in order to continue consideration of the remainder under the Rules and practices of the Senate and applicable law. An affirmative vote of three-fifths of the Members, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this resolution, as well as to waive or suspend the provisions of this resolution.

The provisions of this resolution shall remain in effect until the date of termination of section 1201 of the Consolidated Omnibus Budget Reconciliation Act of 1985.

Mr. **SIMPSON**. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. **BYRD**. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DESIGNATION OF THE CAPTAIN JOHN FOSTER WILLIAMS COAST GUARD BUILDING, IN BOSTON, MA

Mr. **SIMPSON**. Mr. President, I ask unanimous consent that the Senate turn to the consideration of H.R. 3931, the John Foster Williams Coast Guard Building.

The **PRESIDING OFFICER**. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3931) to designate the General Services Administration building known as the "United States Appraiser's Stores Building" in Boston, Massachusetts, as the "Captain John Foster Williams Coast Guard Building."

The **PRESIDING OFFICER**. Without objection, the bill will be considered as having been read the second time at length and the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the bill.

The **PRESIDING OFFICER**. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 3931) was ordered to a third reading, was read the third time, and passed.

Mr. **SIMPSON**. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. **BYRD**. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT OF THE ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT

Mr. **SIMPSON**. Mr. President, I ask unanimous consent that the Energy and Natural Resources Committee be discharged from further consideration of H.R. 2651, to amend section 504 of the Alaska National Interest Land Conservation Act to promote the development of mineral wealth in Alaska, and ask unanimous consent that the Senate proceed to its immediate consideration.

The **PRESIDING OFFICER**. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2651) to amend section 504 of the Alaska National Interest Lands Conservation Act to promote the development of mineral wealth in Alaska.

The **PRESIDING OFFICER**. Without objection, the bill will be considered as having been read the second time at length and the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the bill.

Mr. **MURKOWSKI**. Mr. President, today I rise in support of H.R. 2651, legislation which amends section 504 of the Alaska National Interest Lands Conservation Act of 1980 (ANILCA). The basic thrust of this legislation is to extend for a period of 1 year the statutory authorization to conduct mineral exploration in the Greens Creek unit of Admiralty Island National Monument, Alaska.

Section 504 of ANILCA provided a limited authorization for the exploration and development of prior existing valid mining claims in the Greens Creek area. Since 1980, the Noranda Mining Co., as lead operator in a joint venture with other major mineral companies, has been exploring those claims under the terms and conditions of section 504. That exploration has demonstrated that Greens Creek is an extraodinarily rich deposit of zinc, lead, silver, gold and other associated minerals; and that as much as 50 percent of the deposit lies outside the area left open for exploration in section 504. Five years of exploration has also shown that full exploration of the entire deposit can not be accomplished within the 5-year period provided by section 504. Thus the need to amend section 504 is apparent.

Earlier this session, Senator Stevens and I introduced a bill to amend ANILCA to permit full exploration and development of the Greens Creek deposit in an environmentally sound manner. Congressman Don Young sponsored companion legislation in the House. This legislation was necessary because the authorization in ANILCA to conduct mineral exploration at Greens Creek expired on December 2, 1985. It was our hope that Congress would address the merits of this issue and provide the relief needed prior to the December 2, 1985 deadline.

Action on that legislation has been held up, however, by the insistence of some that it be linked to the resolution of other perceived resource management issues on Admiralty Island. One of those issues involves 23,000 acres of prime timber land owned in fee by Shee Atika, Inc., an Alaska Native corporation created pursuant to the Alaska Native Claims Settlement Act. Since August, Shee Atika, Noranda and other parties with varied interests in Admiralty Island have been negotiating in an attempt to arrive at a comprehensive settlement of all resource management issues concerning the island.

While these negotiations have been occurring the December 2 expiration date has passed. The participants in the Greens Creek mining venture now find themselves in the position of not being able to continue exploration of the deposit. Moreover, claims which had been staked prior to passage of ANILCA, but which had not been perfected because of the lack of time, are now invalid. To rectify this situation, albeit temporarily, the House has passed H.R. 2651.

H.R. 2651 does two things. First, it permits the Noranda joint venture to continue to hold and explore its unperfected mining claims in the Greens Creek area for an additional year. It does not, however, permit any additional claims to be perfected during this year. Consequently, the effect of the bill is to maintain the status quo as of December 1, 1985, as far as the Greens Creek deposit is concerned. Second, it authorizes, subject to several conditions, the Secretary of Agriculture to begin negotiations with Shee Atika, Inc., aimed at an agreement whereby Shee Atika would refrain from taking any action with respect to its lands on Admiralty Island, which would render those lands inappropriate for wilderness designation at some future date. In this regard, the Greens Creek issue remains linked to at least one other resource management issue on Admiralty Island.

Mr. President, I do not like the linkage that has been established between these two issues. The need to provide for full exploration and development of the Greens Creek deposit is an issue that can and should be addressed on its own merits. Nevertheless, I recognize the desire of others who insist that any interim relief for Noranda occur in conjunction with legislation which also addresses the Shee Atika issue.

In this regard I think it is important to express my views of the provisions in H.R. 2651 which concern Shee Atika. Those provisions authorize the Secretary of Agriculture to enter into an agreement with Shee Atika under which Shee Atika would refrain from logging or otherwise economically developing its lands on Admiralty Island. In essence they authorize the Secretary to buy timber harvesting rights.

The 1971 Alaska Native Claims Settlement Act [ANCSA] granted to Shee Atika, and approximately 160 other Native village corporations created by that Act, the right to select Federal lands in Alaska for fee ownership. To fulfill its entitlement, Shee Atika selected some 23,000 acres on Admiralty Island. Because Shee Atika's right to select on Admiralty Island was viciously challenged, Congress, in 1980 through section 506(c) of ANILCA, specifically conveyed the Admiralty Island acreage to Shee Atika. The point to be made here is that on two separate occasions, Congress has expressed its intent that Shee Atika should be permitted to own land on Admiralty Island. Despite this clear indication of congressional intent, Shee Atika's attempts to develop this acreage have been subject to unrelenting litigation by parties who believe that those lands should be part of the Admiralty Island National Monument.

It is these parties who now insist that the authorization to negotiate for timber harvesting rights be included in H.R. 2651. I do not favor this provision, especially in this time of deficits and budget reductions, because it suggests the Federal Government spend tax dollars to pay a private corporation to refrain from developing its privately owned land.

Nevertheless, despite serious reservations, I support H.R. 2651 and ask my colleagues to do likewise. I do this for the following reasons. First and foremost, the bill does provide much needed relief to the mining operation at Greens Creek and that is my primary objective. Second, I am convinced that the provision authorizing the purchase of timber harvesting rights will not result in any substantive agreement with Shee Atika.

That provision is not binding on Shee Atika. It merely obligates the Secretary of Agriculture to "undertake negotiations" with Shee Atika and then only if sufficient funds have actually been appropriated for that specific purpose. It does not obligate the Secretary to reach an agreement with Shee Atika. It does not require him to use Federal dollars from some other source, such as the Tongass Timber Fund, to fund any agreement. Nor does it require him to explore any means other than the payment of money for purposes of reaching such an agreement. Finally, by enacting this provision, we do not intend to prohibit Shee Atika from developing its lands or harvesting its timber on Admiralty Island during the time it may be negotiating with the Secretary. Likewise, this provision is not intended to provide any group or entity with a cause of action by which to challenge actions of the Secretary of Agriculture or Shee Atika on this issue or any other issue. In short, the provision is entirely voluntary on Shee Atika's part and only binds the Secretary to sit down at the negotiating table.

Mr. President, there is one other reason why I support H.R. 2651, By passing it we are keeping alive the process of attempting to craft a long-term settlement of resource management issues in Southeast Alaska. This is a commendable goal and one to which I am committed. I urge the Members of the Senate to support passage of H.R.2561.

Mr. METZENBAUM. Mr. President, over the last few months there has been an effort among a variety of diverse interests to achieve a settlement of several resource management issues on Admiralty Island. It is my understanding that while that effort has made enormous progress, a final agreement remains elusive.

The pending bill deals with concerns of two of the parties to the settlement talks, the Noranda Mining Co. and Shee Atika, Inc. Frankly, I am extremely reluctant to support passage of this limited bill absent a more comprehensive agreement involving all parties.

However, I understand that Noranda and Shee Atika, along with all other parties to the recent negotiations, have agreed to continue their efforts to achieve a comprehensive settlement in the coming months. Thus, I will not oppose this bill. But I would appreciate it if my colleagues from Alaska would give an assurance that there will not be an effort to pass additional legislation involving Admiralty Island until the ongoing negotiations I mentioned earlier are given a chance to succeed.

Mr. MURKOWSKI. I appreciate the concerns of the Senator from Ohio. While I do not favor linkage of the Admiralty Island issues, I recognize that these talks have been proceeding. It would not be my intention to push for additional legislation beyond the pending bill until those talks have had a chance to come to a positive conclusion. However, it goes without saying that I retain the right, indeed the obligation, to offer any legislation at any time which I believe is necessary to protect the rights and interests of the people of my State.

Mr. STEVENS. I agree with the remarks of my colleague from Alaska.

Mr. METZENBAUM. I thank the Senators for their comments.

Mr. MURKOWSKI. What is the purpose of this legislation? Does not the Secretary have adequate authority to acquire property when deemed necessary to protect the Monument?

Mr. McCLURE. The Secretary has a variety of authorities to acquire lands and this legislation does not affect those authorities. The purpose of section (k) of the legislation is simply to protect the wilderness character of the Shee Atika lands at Cube Cove while there is an ongoing process to develop a mutually acceptable exchange. The authority in section (k) is in addition to any other authority which the Secretary may have and the section (k) authority is intended to be used at the discretion of the Secretary to facilitate the use of the other authorities such as the section 1302(h) exchange provision of ANILCA.

Mr. MURKOWSKI. It is my understanding that Shee Atika has already harvested some of the timber at Cube Cove but has been precluded by ongoing litigation from removing the harvested material from the site. Would a protection agreement under section (k) allow the removal of this material?

Mr. McCLURE. There is nothing in the act which would preclude the Secretary from allowing the removal of

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the already harvested material subject to reasonable requirements.

Mr. MURKOWSKI. What effect would a protection agreement with Shee Atika have on any third party interests in the Shee Atika lands at the Cube Cove?

Mr. McCLURE. A protection agreement with Shee Atika would be subject to any third party interests in existence at the time of the agreement. Also, while not expressly stated in the act, I would expect that any protection agreement negotiated with Shee Atika would (1) recognize existing third party interest; and (2) prohibit Shee Atika from further encumbering the land during the life of the agreement. The potential impact of third party interest would be one of the things that the Secretary would probably want to look at in deciding whether or not it would be in the public interest to enter into a protection agreement with Shee Atika. It would probably not be in the public interest for the Secretary to enter into a protection agreement where it is likely that a third party action will thwart the purpose of the agreement.

Mr. MURKOWSKI. From where would the Secretary obtain any funds which might be required by a protection agreement with Shee Atika?

Mr. McCLURE. The funding would be subject to appropriation by the Congress. None of the funding sources currently available to the Secretary could be used as sources of funds unless specifically appropriated by the Congress.

Mr. MURKOWSKI. I note that the last paragraph in subsection 2(b) authorizes the Secretary to negotiate protection agreements with private land owners other than Shee Atika. What is the likely impact of these additional agreements?

Mr. McCLURE. I would expect very limited additional use of this authority by the Secretary if any. As I stated earlier, it is intended that the authority granted in section (k) will be used as an adjunct to other more traditional land acquisition processes. It is intended to facilitate the use of these other authorities; not to replace them.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 2651) was ordered to a third reading, was read the third time, and passed.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CORRECTING THE ENROLLMENT OF H.R. 2100

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Senate turn to the consideration of House Concurrent Resolution 264, correcting the enrollment of the farm bill.

The PRESIDING OFFICER. The concurrent resolution will be stated by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 264) to correct the enrollment of H.R. 2100.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to the consideration of the concurrent resolution.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res 264) was agreed to.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ENROLLMENT CORRECTION

Mr. SIMPSON. Mr. President, finally, I ask unanimous consent that the Senate turn to the consideration of House Concurrent Resolution 263, directing the enrollment of the Compact of Free Association.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 263) to rescind the approval of H. Con. Res. 262, correcting the enrollment of H.J. Res. 187, and directing the Clerk of the House of Representatives to make a correction in the enrollment of the joint resolution H.J. Res. 187.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the concurrent resolution.

Mr. SIMPSON. Mr. President, I move the adoption of the concurrent resolution.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. 263) was agreed to.

Mr. SIMPSON. Mr. President, I move to reconsider the vote.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

Mr. SIMPSON. Mr. President, I thank the Democratic leader for his presence so we could continue our business. He is always very thoughtful.

Mr. BYRD. Mr. President, I thank the distinguished assistant Republican leader for his charitable remark.

Mr. SIMPSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONVENING OF THE SECOND SESSION OF THE NINETY-NINTH CONGRESS

Mr. DOLE. Mr. President, I send a join resolution to the desk and ask for its immediate consideration with reference to convening the second session of the 99th Congress.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A Senate joint resolution (S.J. Res. 255) relative to the convening of the second session of the 99th Congress.

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

The Senate joint resolution (S.J. Res. 255) was considered, ordered to a third reading, was read the third time, and passed as follows:

S.J. Res. 255

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the second regular session of the Ninety-ninth Congress shall begin at 12 o'clock meridian on Tuesday, January 21. 1986.

Mr. DOLE. Mr. President, I move to reconsider the vote on the resolution.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NOTIFICATION TO THE PRESIDENT CONCERNING THE PROPOSED ADJOURNMENT OF THE SESSION

Mr. DOLE. Mr. President, I send a resolution to the desk concerning appointing a committee to notify the President of our proposed adjournment.

The PRESIDING OFFICER. The clerk will state the resolution.

The legislative clerk read as follows:

S. Res. 287

Resolved, That a committee of two Senators be appointed by the Presiding Officer to join a similar committee of the House of Representatives to notify the President of the United States that the two Houses have completed their business of the session and are ready to adjourn unless he has some further communication to make to them.

The **PRESIDING OFFICER**. Is there objection to the immediate consideration of the resolution?

There being no objection, the resolution Senate Resolution 287 was considered and agreed to.

Mr. DOLE. I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The **PRESIDING OFFICER**. The Chair appoints the Senator from Kansas [Mr. DOLE] and the Senator from West Virginia [Mr. BYRD] to join a similar committee of the House of Representatives to notify the President of the United States that the two Houses have completed their business of the session and are ready to adjourn unless he has some further communication to make to them.

THANKS OF THE SENATE TO THE VICE PRESIDENT

Mr. DOLE. Mr. President, I send a resolution to the desk expressing our thanks to the Vice President for presiding over the Senate.

The **PRESIDING OFFICER**. The resolution will be stated by title.

The legislative clerk read as follows:

> A resolution (S. Res. 288) tendering the thanks of the Senate to the Vice President for the courteous, dignified, and impartial manner in which he has presided over the deliberations of the Senate.

The **PRESIDING OFFICER**. Is there objection to the immediate consideration of the resolution?

There being no objection, the resolution (S. Res. 288) was considered and agreed to as follows:

S. RES. 288

> *Resolved*, That the thanks of the Senate are hereby tendered to the Honorable George H. W. Bush, Vice President of the United States and President of the Senate, for the courteous, dignified, and impartial manner in which he has presided over its deliberations during the first session of the Ninety-Ninth Congress.

Mr. DOLE. I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THANKS TO THE PRESIDENT PRO TEMPORE

Mr. DOLE. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER**. The Clerk will report.

The assistant legislative clerk read as follows:

> A resolution (S. Res. 289) tendering the thanks of the Senate to the President pro tem for the courteous, dignified and impartial manner in which he has presided over the deliberations of the Senate.

The **PRESIDING OFFICER**. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. HOLLINGS. Mr. President, my distinguished senior colleague has been here and on duty in the most deliberate, persistent and dignified fashion. We in South Carolina are extremely proud of our senior Senator for the way he has conducted his duties. It is no surprise to us. As the President pro tem of the U.S. Senate, we think he has been absolutely outstanding, and I join in urging adoption of the resolution.

Mr. DOLE. Mr. President, let me indicate that the resolution came from the distinguished minority leader, Senator BYRD.

Mr. BYRD. Mr. President, I thank the distinguished majority leader.

The **PRESIDING OFFICER**. The question is on agreeing to the resolution.

The resolution (S. Res. 289) was agreed to.

The resolution reads as follows:

S. RES. 289

> *Resolved*, That the thanks of the Senate are hereby tendered to the Honorable Strom Thurmond, President pro tempore of the Senate, for the courteous, dignified, and impartial manner in which he has presided over its deliberations during the first session of the Ninety-Ninth Congress.

Mr. BYRD. Mr. President, I move to table the motion.

The motion to lay on the table was agreed to.

Mr. THURMOND. Mr. President, I wish to express my deep appreciation to the able majority leader for this resolution, and I also thank my distinguished colleague from South Carolina for his kind words, and the distinguished Democratic leader for his cooperation and the opportunity we have had to work together.

Mr. BYRD. I thank the distinguished President pro tempore.

EXPRESSION OF ADMIRATION FOR DISTINGUISHED CAREER OF SENATOR JOHN C. STENNIS

Mr. DOLE. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER**. The clerk will report.

The legislative clerk read as follows:

> A resolution (S. Res. 290) expressing the Senate's admiration for the long and distinguished career of the Senator from Mississippi, the Honorable JOHN C. STENNIS.

The **PRESIDING OFFICER**. Is there objection to the presentation of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The **PRESIDING OFFICER**. The question is on agreeing to the resolution.

The resolution (S. Res. 290) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 290

> Whereas, the Honorable John C. Stennis, of Mississippi, holds the honor of being the second longest-serving Senator in the history of the United States;
>
> Whereas, the Honorable John C. Stennis, of Mississippi, has served ably and effectively as Chairman of the Armed Services Committee from 1969 to 1981;
>
> Whereas, the Honorable John C. Stennis, of Mississippi, served on the Senate Aeronautic and Space Committee and had an integral part in moving the United States toward putting a man on the Moon and competing in interplanetary exploration;
>
> Whereas, the Honorable John C. Stennis, of Mississippi, has shown great courage, strength, and dignity in the face of personal hardships and has been an inspiration to the Members of this Chamber and the public at large: Now, therefore, be it
>
> *Resolved*, That the Senate now recognizes the long and notable career of the Honorable John C. Stennis in this Chamber, during which he has proved his reputation as a statesman of integrity and fairness and a gentleman of dignity and strength, and expresses its appreciation and gratitude for his long, faithful and outstanding service to the Country.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. Mr. President, I move to table the motion.

The motion to lay on the table was agreed to.

PRINTING OF PUBLIC LAW 93-344 WITH THE RULES OF THE SENATE

Mr. BYRD. Mr. President, I ask unanimous consent that the Congressional Budget and Impoundment Control Act of 1974, Public Law 93-344, as amended, be printed as a Senate document together with the rules of the Senate, so that all these will be in one place, in one volume.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

AUTHORIZATION OF APPOINTMENTS AFTER SINE DIE ADJOURNMENT

Mr. BYRD. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER**. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 291) authorizing the President of the Senate and the President of the Senate pro tem to make certain appointments after the sine die adjournment of the present session.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 291) was agreed to.

The resolution reads as follows:

Resolved, That notwithstanding the sine die adjournment of the present session of the Congress, the President of the Senate and the President of the Senate pro tempore be, and they are hereby, authorized to make appointments to commissions or committees authorized by law, by concurrent action of the two Houses, or by order of the Senate.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. Mr. President, I move to table the motion.

The motion to lay on the table was agreed to.

APPOINTMENT OF MEMBERS TO THE NATIONAL GROUND WATER COMMISSION

Mr. DOLE. Mr. President, pursuant to Public Law 98-616, upon the recommendation of the Democratic leader, I appoint to be members of the National Ground Water Commission the following Senators: Senator MAX BAUCUS of Montana and Senator GEORGE MITCHELL of Maine.

COMMENDATION OF THE MAJORITY LEADER AND MAJORITY WHIP

Mr. THURMOND. Mr. President, I send to the desk a resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 292) commending the exemplary conduct of the distinguished majority leader and majority whip.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 292) was agreed to.

The resolution reads as follows:

Resolved, That the exemplary conduct of the distinguished Majority Leader, the Senator from Kansas, the Honorable Robert Dole, is deserving of the highest commendation of the Senate. The fair and just and able manner in which Senate business has been scheduled and managed is a source of pride to the Senate as a whole and the thanks of the Senate are hereby tendered to the Honorable Robert Dole, Majority Leader, United States Senate, and the majority whip, Senator Simpson for his able assistance.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. Mr. President, I move to table the motion.

The motion to lay on the table was agreed to.

COMMENDATION OF THE MINORITY LEADER AND MINORITY WHIP

Mr. THURMOND. Mr. President, I send to the desk another resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 293) commending the extraordinarily cooperative conduct of the distinguished minority leader and the minority whip.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 293) was agreed to.

The resolution reads as follows:

S. RES. 293

Resolved, That the Senate extends its thanks to the distinguished Minority Leader, the Senator from West Virginia, the Honorable Robert C. Byrd. The extremely cooperative and able manner in which the Minority Leader has approached his duties as protector of the rights of the minority has been duly noted and the Senate commends the Minority Leader for his understanding, his devotion to the rules of the Senate, and for his outstanding leadership, and the minority whip, Senator Cranston, for his able assistance.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXPRESSION OF THANKS TO THE PRESIDENT PRO TEMPORE

Mr. BYRD. Mr. President, I wish to thank the distinguished President pro tem for his thoughtfulness in offering the resolution. And while I am on the floor, I also wish to thank him again for the extraordinary service that he performed during this past September upon the occasion of the visit of the Senate delegation to Moscow, where the delegation spent 3½ hours in discussions with the General Secretary, Mr. Gorbachev. I feel that the work of that delegation, indeed, helped to pave the way for the President at the subsequent summit, and also gave to the Senate a better understanding of the attitude of the new Soviet leader, and hopefully gave the Soviet leader an understanding of the attitudes of the U.S. Senate and the American people.

Mr. THURMOND. Mr. President, I wish to thank the ably Democratic leader for his kind remarks. We had a very fine trip to the Soviet Union. We gained insights. We spent 3½ hours with Mr. Gorbachev, and our delegation was ably led by the distinguished Democratic leader, Senator BYRD. He did a fine job on that trip. I think the information that we gained there and passed on to the President was very helpful to him.

Mr. BYRD. Mr. President, I think that the presence of the President pro tem of the U.S. Senate, Mr. THURMOND, added much to the stature of the delegation, and certainly helped in making an impression upon the General Secretary of the Soviet Union. I personally thank him.

APPRECIATION OF THE SENATE STAFF

Mr. THURMOND. Mr. President, I send another resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 294) tendering the thanks of the Senate to the Senate staff for the courteous, dignified and impartial manner in which they have assisted the deliberations of the Senate.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 294) was agreed to.

The resolution reads as follows:

S. RES. 294

Resolved, That the thanks of the Senate are hereby tendered to the Senate Sergeant at Arms, the Secretary of the Senate, the Secretary for the Majority, the Secretary for the Minority, and the floor staff of the two parties for the courteous, dignified, and impartial manner in which they have assisted the deliberations of the Senate during the first session of the Ninety-ninth Congress.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. I move to table the resolution to reconsider.

The motion to lay on the table was agreed to.

ROBERT A. PECK

Mr. MOYNIHAN. Mr. President, this day I welcome and regret; welcome, because the business of the 1st session of the 99th Congress is at last over; regret, because it is the last day in which I will have Maj. Robert Peck near my side in the Senate.

Bob came to my staff 7 years ago, by way of the Yale Law School, the Loeb Fellows of Harvard University, the Green Berets, the National Endowment for the Arts, the Office of Management and Budget, and the White House. All necessary and perhaps even ample preparation for what he would face here in the Congress.

He was first my counsel to the Environment and Public Works Committee. There he served me and New York proudly and well; there he served our national heritage, as the chief staffer in the U.S. Senate concerned with the business of historic preservation and public buildings. The avenues of cities across this country are more beautiful, display their history more proudly, because Major Peck was here.

Two years ago, Bob became my administrative assistant, and he ran my office in the way I did not believe possible for the U.S. Senate: orderly, intelligently, and well.

I will miss him; I know that, and I know why. Others in the Senate, and across the Nation, will too; without appreciating why.

HARVESTING FEAR

Mr. GRASSLEY. Mr. President, we all are aware of the evil that is spread by various hate groups throughout the world, as well as in America. These groups exploit the fears and troubles of honest, well-meaning and innocent people who are struggling for answers for their problems. The hate groups transform these fears and anxieties into a violent energy that is directed upon easily distinguished groups, classes and races. History is littered with shameful, horrifying episodes resulting from this form of evil perpetrated by hate groups.

Therefore, Mr. President, you can understand my alarm and dismay to learn that a number of hate groups are working their way through my State of Iowa, exploiting the deep depression among rural communities and farm families. They are selling a simplistic, deadly answer that completely misses the reasons for Iowa's farm economy problems. They say that the farm economy is hurting because of an international Jewish conspiracy or because blacks and Jews are importing our former enemies—the Japanese, Chinese, and Vietnamese."

I have worked hard trying to explain to my colleagues in Washington the real causes for economic problems in rural America. It is true, farmers are hurt when their markets are destroyed by grain embargoes. They are hurt by trade policy that refuses to counter the unfair practices of foreign competitors. Farm markets are blasted when the U.S. Treasury Department allows the Customs Service to create loopholes to allow Brazilian ethanol into the United States without having to pay the legal tariff. Farmers are hurt by their spendthrift Congressmen and Senators who for years have let deficits pile higher and higher, helping to drive interest rates through the roof.

Farmers are hurt when OPEC drives the price of oil up, increasing the cost of the fertilizer and tractor fuel. Farmers are hurt by monetary policy that tries to restrict too severely the supply of money. Farmers are hurt by misguided consumer activists who scare Americans into thinking that our wholesome food supply causes diseases when in reality our scientists can't even come to a consensus. The nitrite fiasco and similar food scares cost Iowa pork producers billions of dollars. And this is only a fraction of the hurt caused by Federal policies.

Iowa's farm economy has not seen such turmoil since the Great Depression. People are desperate. They are struggling to make ends meet. They are distressed and angry, and they have a right to be. The only life they have ever known is crumbling before their eyes. It's no wonder they start believing the persuasive rhetoric of these hate groups. They want answers; but they must be given the truth, not lies.

So today I list the real causes for our farm problems to help Iowa farmers and small businessmen, as well as those throughout the country, recognize the propaganda fed to them by manipulative hate groups. If we lose our focus on the real sources of our problems then we lose all hope of ever recovering. We must resist the tempting, simplistic message offered by hate groups.

The conspiracies they tout are not the cause, and violence and hatred are not the answer. This is only poison to life in rural America and we must be aware of the damages that the purveyors of hate introduce to the heartland. We must speak out, just as responsible citizens and farm, church and government leaders have done.

We cannot remain silent while bigotry and hatred steal our hopes of recovery. They divert the much needed energy for positive solutions and divide communities and people who need so much to work together.

I am not ready to give up on Iowa's farm families and main street businesses. And I never intend to give up. I am going to continue to work hard at every possible opportunity to help improve our economy. Recovery is possible if we all work together. There is something, no matter how big or small, that everyone can do to make a positive contribution toward economic recovery in rural America. Let's not let unfounded conspiracy theories and hatred take that hope away from us.

THE PRIVILEGED ELITE THAT CONTROLS THE FOREIGN SERVICE

Mr. HELMS. Mr. President, it is evident to many of us in this body that there is a crisis in the career Foreign Service officer corps. That crisis is in part responsible for the difficulties which attended the passage of the FSO promotion list yesterday. The particular problem with that list, however, was only symptomatic of a broader problem which has been festering for some time.

That problem is whether the Foreign Service is a democratic institution, or whether it is controlled by an in-bred, self-serving clique that excludes the vast majority of Foreign Service officers from significant participation in decisions involving promotion, assignment, bonuses, and awards. There is disturbing evidence that such a clique exists, based upon social standing, family wealth, and personal connections—not only for advancing careers, but for protecting the careers of those among the elite group who falter.

It is ironic that the minority FSO elite, highly visible in the media and Government councils, likes to attack the few diplomatic appointments made from non-FSO ranks. The elite likes to complain that the Nation's diplomatic representation is somehow being compromised by the unprofessional conduct of supposedly amateur diplomats appointed from private life, rather than from the Foreign Service.

They like to portray non-FSO's who are appointed Ambassadors as purely political nominees who are appointed on the basis of wealth and social position, and not real competence. In contrast, we are told, the career officers corps is a group of especially talented individuals who are appointed and promoted solely on the basis of merit and proven performance. But there is evidence that what might be termed "the Ambassadorial Class" within the Foreign Service is open to the very criticism made against the outsiders.

MOST FSO'S ARE OUTSIDERS

Yes; Mr. President, the crisis is inside the Foreign Service. What the self-appointed spokesmen never point out is that the vast majority of members of the Foreign Service Corps are themselves outsiders when it comes to high level promotions, fat bonuses, and key posts. Appointments and promotions in the Foreign Service presumably are received for merit; but there is a pattern and practice in the Foreign Service which seems to exclude hundreds, indeed thousands, of qualified and experienced Foreign Service officers from the principal positions of power, influence, and high remuneration in the State Department.

It is true that the Foreign Service Corps is selected by examination, and intended to be an elite group of exceptional merit. The real question is whether the promotion and posting of the officers actually proceeds on a true merit basis or whether the intention of the Foreign Service Act has been distorted by an "Old Boy and Old Girl" network constituting an elite within the elite. In other words, is the Foreign Service run by a clique that promotes, supports, and protects its members in preference to vast majority of members of the corps?

AN IVY LEAGUE RULE?

This question can perhaps be answered best by studying the most recent FSO promotion list that the State Department has sent us via the President. Of the nominees to the rank of career minister—a rank by the way that is higher both in salary and in protocol status than any other career office—71 percent were graduates of only three elite, highly expensive Ivy League universities—Princeton, Yale, and Harvard.

Similarly, the list of the most recent recipients of $20,000 cash bonuses from the State Departments has the same pattern. Five out of seven of those recipients were also graduates of the Ivy League universities—three from Harvard and one each from Dartmouth and Princeton. The recipients of the lesser awards showed a more democratic and representative distribution of undergraduate schools, with only one out of three being graduates of the Ivy League universities.

According to statistics provided to me by the State Department, of those who were certified for appointment between 1957 and 1962—the age group that is now holding the top jobs in the Department—only 6.4 percent attended Harvard and only 4.7 percent attended Princeton. But fully 29 percent of the career FSO's serving as Ambassadors attended those two schools.

Looking beyond Harvard and Princeton, we see that other statistics published by the Department of State show that 20 percent—a figure which is probably exaggerated—of the FSO's entering the corps between 1954 and 1960 were from all Ivy League schools combined. Yet 47 percent of career officers serving as Ambassadors in 1984 were graduates of those schools.

Roughly speaking, Ivy League undergraduates in the Foreign Service are two and a half times more likely to be selected as Ambassadors than their fellow junior officers who took the same rigorous written and oral examinations.

Now, of course, the Ivy League universities are considered to be very fine schools. Many of our colleagues here in the Senate are graduates of these schools. It is not my purpose to cast aspersions on these graduates. But not even graduates of the Ivy League schools would be so arrogant as to assert that only the sons and daughters of the Ivy League are qualified to serve in leadership positions in the U.S. Government.

Nevertheless, the imbalance in the distribution of top positions in the State Department suggests a situation akin to inbreeding and nepotism that is repugnant to our democratic institutions. The only other explanation would be the existence of a reverse quota system requiring a disproportionate representation for those belonging to the academic and social elite of the Eastern prestige universities. Is there some kind of unwritten Ivy League rule?

The discrimination applies not only to the competition for Ambassadorships, but to the competition for the important or more pleasant postings. For example, Ivy League graduates accounted for 67 percent of the Ambassadors in European assignments. This would be an extraordinary result to come about simply from the impartial siftings of promotion and placement panels.

THE MANAGEMENT HAMMERLOCK

In investigating this system, I was struck by the hammerlock hold that the Ivy League has on the management of the State Department. When the Under Secretary of State for Management, a Princeton man, gathers around him the six Assistant Secretaries or equivalents that comprise his top management team, only two persons in the room are not graduates of an Ivy League university.

And when the Under Secretary for Management takes their recommendations to the special secret committee of FSO's that selects their fellow FSO's for Ambassadorships, only one person in the entire room is not an Ivy League graduate. For a while earlier this year, the control of the top Foreign Service assignments at the State Department was in the following hierarchy:

The Under Secretary for Management, Princeton.

The Director General, Harvard.

The Director of Foreign Service Career Assignments, Princeton.

The Deputy Director of Foreign Service Career Assisgnments, Princeton.

It is fair, therefore, to ask: Was merit the only criterion in making their recommendations?

With that sort of personnel team in place, it is easier to understand the common impression that FSO's who went to Ivy League schools tend to do better in personnel assisgnments—and in the promotions which result from better assignments—than do FSO's who went to other schools.

If a newly appointed FSO is a graduate of Princeton, then the new FSO will be assigned as a Special Assistant to the Ambassador, or to an Assistant Secretary, or even to the Secretary, while his or her non-Ivy League colleagues are assigned the less visible, but important day-to-day work of the Department. It seems to many that—with rare exceptions—the graduates of other fine schools from the South, the Midwest, and the West are being assigned to the low visibility, perhaps deadend jobs in the consular or administrative sections, while the graduates of the Eastern elite colleges are placed on the fast track to the top of the Foreign Service.

How does this happen? The Congress has demanded from the State Department over the past three decades that it change to meet the new reality of this country. Congress has required that the real America—the America of 50 States where over 3,000 colleges and universities are educating the rising generations—be fully and equitably represented among the diplomats we send abroad to represent our country.

Apparently, pressure from Congress has resulted in an opening up of the recruitment process. But this change is only a change in the the career point at which the discrimination appears. The discrimination against those who do not have wealthy parents of the Eastern establishment bent still occurs. Now, rather than keeping out entirely the graduates of the great universities of North Carolina, or of any other State lacking the noble geographic criterion of easternliness, the gnomes of the State Department simply bring them in and then treat them as second class citizens.

ALL FSO'S CHOSEN BY EXAMINATION

Let me emphasize, Mr. President, that all Foreign Service officers are selected on the basis of a rigorous written and oral examination that, according to the State Department itself, selects only the best candidates to enter the Service.

Why, then, are the ultimate rewards of the system going overwhelmingly to such a small, self-selected and self-promoting clique? Should we rename the State Department "The Princeton Club of Foggy Bottom?"

With less than one out of four FSO's making Ambassador having attended the hundreds of fine non-Ivy League colleges and universities, perhaps it's time for real America to be represented overseas. It is time for the deserving and talented sons and daughters of American taxpayers to get a fair break in the State Department.

This is not only a question of discrimination in the public service against American citizens who did not inherit their wealth or come from a well-to-do family; there are other discriminations inherent in the domination of a few private elite institutions over the State Department personnel system. If you are a graduate of one of these schools for the period up to the mid-1960's, an inquirer is already well informed about your sex, your race, and to a large extent your religion.

WAYS TO INDUCE REFORM

It should be our goal to open up the careers in the Foreign Service to citizens of all States and to talented individuals for all socioeconomic backgrounds and families. There are several ways to induce change in the Department of State and its inbred personnel system.

One way would be for the President to take advantage of the recent changes in the law that allow him to appoint as Chairman of the Board of the Foreign Service someone from outside the system. Such an individual could function outside of established cliques, and without implied or actual commitments to such cliques. Such a person could give a fair shake to all of the available talent within the Foreign Service. Certainly, there will be no reform if the ruling FSO cliques are allowed to sit in judgment upon themselves.

Another way to encourage reform would be to increase significantly the number of appointments of outside specialists to be Ambassadors, Assistant Secretaries, and Under Secretaries—men and women who do not represent this inbred elitist and undemocratic clique. We must not forget that there are career Foreign Service officers in the Department of Agriculture, and in Commerce, and in USIA who could contribute effectively as Ambassadors. As chairman of the Agriculture Committee, I am familiar with the work, in particular, of the agriculture attachés. Yet none of these have ever been chosen except for a very limited number of USIA officers—normally held to no more than two—who are chosen from time to time.

And of course, there are thousands of foreign policy specialists outside the Foreign Service—businessmen with experience in dealing with foreign countries, professors with particular expertise in foreign policy, and others form the various nonprofit groups involved in foreign policy and development activities—who are often better qualified than those in the Foreign Service who are being recommended to the President. To their failing, then, that they did not go to the right universities—an apparently unpardonable offense, whether caused by a youthful mistake in judgment or a lack of financial resources.

It is not too late, Mr. President, to reform the State Department to make it do its job of representing America overseas. What we have now, though, is not representative of our country's diversity nor, in fact, representative of the American social and political system. We are not an aristocracy, and we do not take well to those who aspire to the pretention of aristocrats.

Mr. President, the aristocrats of England have been forced, in most cases, to turn their mansions over to the public and to allow the public into the homes they inherited; perhaps it is time for the elitists at the State Department to turn the Department over to the American people.

JERUSALEM FELLOWSHIPS PROGRAM

Mr. MOYNIHAN. Mr. President, I am pleased to report that the Jerusalem Fellowships Program held its first reunion meeting on Monday, November 4, in New York City. The Jerusalem Fellowships Program brought over 100 North American college and graduate students to Israel this past summer. My distinguished colleague from Pennsylvania, ARLEN SPECTER, and I had the privilege of serving as honorary chairmen of the advisory committee that selected these fellowship recipients from over 1,000 worthy applicants.

The Jerusalem Fellows spent 6 weeks touring and studying in Israel. Their first night in Israel was celebrated with a gala private reception given by President and Mrs. Herzog at their Jerusalem residence. During the weeks that followed, they met individually with Prime Minister Shimon Peres, Defense Minister Yitzchak Rabin, former Defense Ministers Moshe Arens, Ariel Sharon, and Ezer Weizman, and half a dozen other leading Knesset members including former Israeli Army Chief of Staff Raphael Fitan; the first Israeli Ambassador to Egypt, Eliahu Elisear; Minister of Health Mordecai Gur; Deputy Foreign Minister Roni Milo; and Interior Minister Yitzchak Peretz. In almost every case, there was an opportunity for indepth dialog with these individuals—an unprecedented opportunity for a study mission for college-age students to question Cabinet Ministers. In addition, the fellows met with Israeli citizens from every walk of life and from every group in that diverse society.

Eighty of the hundred Jerusalem Fellows had never been in Israel before. They had been selected on the basis of intellectual and leadership skills and I am confident that they will articulate the insights developed during this tour now that they have returned to their campuses throughout North America.

The Jerusalem Fellowships Program was sponsored by Aish HaTorah Yeshiva in Jerusalem, a unique educational institution headed by Rabbi Noach Weinberg, a leading contemporary Jewish philosopher and educator. The program's executive director was Rabbi Philip Shore. The chairman of the advisory committee is Richard Horowitz of Los Angeles, president of the North American Board of Governors of Eish HaTorah-Jerusalem. Members of the advisory committee who interviewed and selected the fellows and helped develop their itinerary include New York State Supreme Court Justice Miryan Altman; the chairman of the New York State Board of Regents, Martin Barrell; former U.S. Assistant Attorney General Alice Daniel; former chairman of the New York City Board of Higher Education, Dr. Harold Jacobs; New York attorney and communal leader, Lydia Kess; the president of Touro College, Dr. Bernard Lander; and a distinguished Member of the House of Representatives, Congressman HENRY A. WAXMAN of California.

It is obvious from the response to this summer's program that the Jerusalem fellowships has made a significant contribution toward furthering understanding of Israel among North American young people. I salute all who were involved in this magnificent project.

THE CONSTITUTIONAL CONVENTION ACT OF 1985

Mr. MOYNIHAN. Mr. President, last week, the Congress passed, and the President signed, our latest—and most ill founded—attempt to remedy the disastrous deficits given us by fiscal policies of the present administration. I am certain that few of us had in mind the Gramm-Rudman bill when we talk of Christmas folly, but that is what we have had this season.

I am not so certain that once the full implications of what we have done become clear, that the Congress will not revisit another, equally ill-conceived, idea to address the deficit: a constitutional writ requiring that every annual budget be balanced.

Such a requirement also could be imposed by a constitutional convention proposing such and its subsequent ratification by the States. To date, 32 State legislatures have called for a convention for proposing amendments, as provided for under article V of the Constitution, for just this purpose.

The earliest application on hand is from the State of Mississippi; it is more than a decade old, dated April 29, 1975. In all, 19 applications are more than 7 years old; 16 are more than 8 years old; and 4 are 10 years old or more.

(In case of fire, or other mishap, perhaps I should record that the 32 applications are stored in the third drawer of a black, four-drawer filing cabinet, in room S-221 of the Capitol, under the supervision of the Secretary of the Senate.)

Of late, we go through the now annual exercise to see whether another two States will apply and so meet the required two-thirds of the States necessary to invoke such a convention. I make no prediction. For one thing, I do not know how long a legislature's application remains valid. Indefinitely? Article 5 is silent.

It is also important to note, Mr. President, that while these petitions for a constitutional convention nominally are part of a campaign to write a balanced budget amendment, article 5 speaks of "amendments"—plural—and there could be no containing such a convention should it take place.

We might well remember that the Philadelphia Convention assembled in 1787 because New York State was taxing firewood imported from Connecticut and other related matters. It went on to address the universe of concerns that comprise our way of government.

These are only two of the uncertainties surrounding the convening of a constitutional convention. The framers clearly believed that under certain circumstances, such a convention should have a place in our constitutional system. Unfortunately, they provided us little guidance as to what those circumstances might be.

Would it not be wise to try to address some of these matters, in a reasoned and dispassionate manner, before such answers become a political need of the moment. In this regard, I call my colleagues' attention to a bill reported by the Judiciary Committee on July 23 of this year, S. 40, the Constitutional Convention Act of 1985.

This bill provides that Congress shall call for a constitutional convention 8 months after at least two-thirds of the States have submitted, within a 7-year period, valid applications calling for a convention on the same subject. The bill also would bar the convention from proposing any amendment concerning matters different from those stated in the petitions and the concurrent resolution. S. 40 further would require the convention's presiding officer to submit any proposed amendment to Congress, which could disapprove of the amendment by concurrent resolution.

The Members of this body understand just how important are procedures in determining outcomes. Even if one disagrees with the provisions of S. 40, it is right to address the issues it raises. That is why we must consider carefully the question of how to amend the Constitution.

AFFIRMATIVE ACTION

Mr. CRANSTON. Mr. President, last week I outlined in some detail the deep concerns that I and many others in both parties, in the private sector, and in various Federal agencies, share over the future of Executive Order 11246, the 20-year-old Presidential directive mandating affirmative action efforts on the part of Federal contractors.

In my statement of December 9, 1985, at 35380 of the Congressional Record, I noted that the opposition to efforts led by the Attorney General of the United States, Edwin Meese III, to weaken critically the Executive order is bipartisan and increasingly broad in the U.S. Senate. At that time, almost two-thirds of this body had made clear such opposition. Now, 68 of my colleagues have expressed that view. I also note that our distinguished minority leader, Senator Byrd, has this last week written to the President urging that no revision to the Executive order be made.

At the end of my statement of last week, the text of a letter I coauthored to President Reagan with my good friend and colleague from California, Representative Gus Hawkins, along with Representative Jim Jeffords, the chairman and the ranking minority member, respectively, of the House Committee on Education and Labor, expressing our deep concerns over the proposed amendments to the Executive order was printed in the Record. Our letter, dated September 17, 1985, strongly urged Mr. Reagan to take no action regarding the Executive order until there has been a full public review of any proposed changes, and an opportunity to assess their potential impact upon those who look to the Federal Government to preserve their equal employment opportunity rights. The text of two subsequent letters endorsing the statements and recommendations in the September 17 letter were also printed in the Record at that time.

I now request, Mr. President, that a third letter of endorsement, which has since been sent to the President, be printed in the Record at the conclusion of my remarks.

As I emphasized last week, the proposed revisions to the Executive order threaten to destroy the tools of progress responsible for providing to qualified minority and women workers employment opportunities that had historically been denied them. I deeply hope that the President will by rejecting these proposed revisions reaffirm the commitment of the Federal Government to ending employment discrimination.

The letter follows:

Hon. Ronald W. Reagan,
President of the United States,
Washington, DC

Dear Mr. President, we wish to express our support for the statements and recommendations in the letter of September 17, 1985, endorsed by 222 members of the House of Representatives and the United States Senate, strongly urging "that no action be taken on Executive Order 11246 until there has been a full public review of the proposal, and an opportunity to assess its potential impact upon those who look to the Federal Government to preserve their equal employment opportunity rights."

Sincerely,

Russell B. Long.
Edward Zorinsky.
Dale Bumpers.
George J. Mitchell.
David Pryor.
Howell T. Heflin.

INDIANA GOODWILL AMBASSADORS

Mr. LUGAR. Mr. President, Karl Anderson, Wendy Golder, and David Large, from Frankfort Senior High School in Frankfort, IN have been invited to participate in a Youth Cultural Exchange Program in Hong Kong and the People's Republic of China in December and January. During this excursion they will run in a cross-country meet in Canton, People's Republic of China.

Programs such as this serve to improve understanding between youth in the United States and other countries. I am proud to have Karl, Wendy, and David representing the State of Indiana in their roles as goodwill ambassadors, and I want to wish each the best of luck in the cross-country meet.

AFGHANISTAN: IS IT GENOCIDE?

Mr. PROXMIRE. Mr. President, reports accusing the Soviet Union of committing genocide in Afghanistan have been circulating for some time. Now, a new United Nations report, prepared by Austrian parliamentarian and academic Felix Ermacora, entitled "Situation of Human Rights in Afghanistan," adds credence to these accusations. For the first time in the history of the United Nations, the General Assembly went on record, by a vote of 75 to 23, expressing its "profound concern" for Soviet conduct in Afghanistan well beyond what is ordinarily called human rights violations.

The Washington Post writes, "the word that comes to mind when one reads this report is genocide."

Mr. President, is the Soviet Union committing genocide in Afghanistan? This Senator would like to know.

Sadly, reports like Professor Ermacora's prove that genocide tendencies are not things of the past. These events continue to occur today. The gruesome details of murder, massacre, and mutilation remind of man's savagery and the need to prevent such human disasters from occurring in the future.

Ratification of the Genocide Convention will provide the United States with the legal authority we now lack to invoke the treaty's provisions and to call the Soviet Union to account for its behavior that is outlined in this report. No other nation has the ability to stand up to the Soviet Union and demand accountability other than this superpower and we have a moral duty to do just that.

Mr. President, I ask unanimous consent that the editorial from the Washington Post be reprinted in the RECORD and urge my colleagues, after reviewing it, to join me in seeking prompt action to ratify this important human rights treaty.

[FROM THE WASHINGTON POST]

AFGHANISTAN: THIS IS GENOCIDE

"Human rights violations" is a phrase used so often and so casually that even the most compassionate among us can take it as routine. The quick meaning in most people's minds, we suspect, centers on police abuses, roughing and locking people up, perhaps killing some of them. Something like that is what you may expect to find in a new United Nations report entitled "Situation of Human Rights in Afghanistan."

But it's different. The second report on Afghanistan by Austrian parliamentarian and academic Felix Ermacora and a companion report on Iran mark the first time the United Nations had debated human rights in those countries on the basis of official U.N. reports. By a vote of 75 to 23 with 33 abstentions—India, lamentably, was the lone democracy holding Moscow's hand—the General Assembly registered its "profound concern." Afghanistan was singled out not just because a Third World Moslem country is the victim of aggression but also because of the terrible and deepening intensity of its ordeal.

Soviet troops with their Afghan clients have driven 4 million people out of the country and perhaps another 2 million out of their homes. Massively and indiscriminately, they bomb civilians—they bomb funerals. They destroy villages, crops and agricultural facilities. For the children, they drop cute, limb-shattering booby traps disguised as harmonicas and birds. Torture is "commonplace" and the operation of the judicial system "creates an atmosphere of insecurity and anguish." "There is apparently no health care for the majority of the population. As a consequence, the infant mortality rate has reached 300 and 400 per 1,000." Civilian deaths number "approximately 500,000."

When half the population is uprooted and a third driven into exile, when infant mortality reaches plague levels, when half a million civilians die and uncounted millions of others are maimed and malnourished, when, as Prof. Ermacora reports, the situation is getting worse, all this moves Soviet conduct well beyond what is ordinarily called "human rights violations." The word that comes to mind when one reads this report is genocide.

Soviets who talk about Afghanistan with foreigners sometimes solicit a certain sympathy for their policy dilemma and their costs. This is callous and arrogant. The people who deserve the sympathy are the Soviet Union's victims. Says a desperate Prof. Ermacora, "every hour lost is detrimental to the population"—the Afghan population. Moscow is committing one of the great crimes.

MYTH OF THE DAY: WOMEN SHOULD NOT BE REQUIRED TO REGISTER FOR THE DRAFT

Mr. PROXMIRE. Mr. President, the myth of the day is that women should not be required to register for the draft. Five years ago Congress chose to require only males to register with the selective service, thereby ignoring the clear military necessity of drawing on all available manpower resources in time of emergency. Now we are beginning to pay for allowing emotionalism to carry the day in the debate over registration. We are paying with military readiness.

Today's Army faces critical shortages in medical personnel. Reserve and National Guard units also face critical shortages of surgeons and nurses. In a military emergency, we would have no mechanism for inducting medical personnel to fill the shortage. The reason for this crisis in military readiness: 98 percent of nurses in the United States are women, and women cannot be registered for the draft.

The current policy of excluding women from draft registration is rooted in the combat exclusion policy. The logic of not registering women goes something like this: In a military emergency, demand is greatest for combat personnel; women cannot serve in combat, therefore they need not be registered for the draft.

Mr. President, this is faulty logic. We face manpower shortages in areas traditionally filled by women. In addition to drafting men for combat, we would have to draft and train additional men to serve in positions for which an already trained pool of female talent exists. Registering women to serve in noncombat positions which they are qualified for would be cost-effective, save training time, and release men for combat.

The policy of registering only men is also rooted in the misconception that general mobilization would require induction of equal numbers of men and women, thus impairing military readiness. This fear is unfounded. Congress retains the power to set requirements for conscription as well as define the exemptions for compulsory service. The Armed Forces have the authority to assign individuals according to his or her qualifications and the needs of the service.

A final great underlying fear remains regarding the impact of registering women for the draft. This fear is that registering women will send the wrong signal to the Soviets. Mr. President, it is far more likely that the Soviets, who require women to register for the draft, interpret U.S. reluctance to register women as a sign that the United States does not take womanpower seriously in times of emergency. Given our increasing reliance on women in the Armed Forces, we are sending the wrong signal to our allies and the Soviets about our confidence in the capability of our standing Armed Forces by not requiring women to register.

Mr. President, both the Soviets and our allies will recognize our commitment to a strong defense if we are willing and able to draw upon the outstanding talents and patriotic dedication of young men and women in times of crisis.

THE QUINTESSENTIAL ROLE OF THE STANDING CONSULTATIVE COMMISSION IN ARMS CONTROL

Mr. PROXMIRE. Mr. President, the Standing Consultative Commission can play a crucial role in making arms control agreements with the Soviet Union work. Why is the Standing Consultative Commission so crucial to arms control? And why should arms control be a prime reliance of the United States when we have to negotiate with a hostile and sometimes treacherous adversary? Is arms control our only option? How about it?

Should the United States forget about arms control and proceed ahead with an all-out effort to surpass and stay ahead of the Soviet Union in military capability? Should we rely on our superior economic strength, the far greater strength of our NATO allies compared to the Warsaw pact, and the sharply superior competence of United States and NATO scientific capability compared to the Soviet Union and the Warsaw pact? Or should we stop the arms race? Should we strive to negotiate arms control agreements with the Soviet Union that would end the enormous explosion of military spending on both sides? Which course is most likely to prevent the supreme catastrophe of a superpower war? What's the answer? The answer is that we have to continue to spend hundreds of billions each year on building military strength. Military strength is necessary. But it's not enough. An arms race will steadily increase hostility on both sides. And that's not all. It will impose an immense burden on our economy. It will bring us closer to war and bankruptcy so we also have to work far more effectively to negotiate arms control agreements that will win mutual compliance by both superpowers. Can we negotiate effective arms control agreements without negotiating from strength? No. We cannot. Can we afford to build a military force that will stay ahead of the Soviet Union without relying on any arms control agreement? No. In fact, no way. Arms control offers the one way we can increase our chances of preventing nuclear war without crushing our economy under an impossible burden of ever exploding military spending. Arms control also offers the one basis of peaceful cooperation with our great potential adversary that can permit steady progress toward a reduction of the heavy burden of armaments. It can do more. Arms control can gradually build an increasing confidence in the compliance behavior of the adversary. Arms control can do this. But how? Here is the crucial question. If the Russians will cheat and violate arms control agreements, we obviously cannot and should not enter into them. Few Americans believe in unilateral disarmament. Certainly not this Senator.

For the United States to agree to an arms control treaty with the Soviet Union which the Soviet Union violates in a way that gives the Soviets a military advantage has precisely the same effect as unilateral disarmament. The agreement becomes worthless. The United States can become vulnerable. The Soviets may achieve a major, even a decisive military advantage. The cause of peace is not advanced. It is set back.

What does this mean? It means that compliance is absolutely quintessential to arms control. If the Soviet Union and the United States both comply with arms control treaties, arms control provides the way to greater national security, to a far greater chance of avoiding nuclear war and to a much lower burden of military spending. If the Soviet Union cheats the arms control agreement becomes a dangerous illusion that can undermine our national security. So how do we achieve compliance with arms control agreements? First, we must recognize that the strongest sanction for compliance with an arms control agreement with the Soviet Union is a recognition by both sides that the agreement is in the mutual interest of both countries. Second, both sides must also fully believe that the price of continuing the treaty is compliance. Both sides have to understand that the verification technology of the adversary will detect cheating. Both have to understand that the ultimate sanction against violation of the treaty is renunciation of the agreement. And both sides have to understand that the other side will renounce the treaty if it detects violations, confirms them, and is unable to persuade the other superpower to desist in its cheating.

So how do we resolve the violations or alleged violations that can bring a renunciation of the agreement? What is required? The first requirement is that both sides believe the agreement is in their national security interest. The second requirement is that both sides put their effective political power behind compliance with the treaty.

Third, both sides must develop reliable and effective verification technologies that can detect any cheating by the adversary. The fourth and final requirement is that the two parties create an agency manned by persons representing each super power with the authority to investigate alleged violations of the treaty. The United States and the Soviet Union created such an agency in 1972 in the Standing Consultative Commission or SCC. The SCC consists of 10 American members and 10 Soviet members. It has functioned in the 13 years since December of 1972 with varying success. Until 1981, it generally succeeded in either terminating violations or in allaying suspicions of violations. It has been less successful in the past 5 years. The reason for the early success and the later failure is instructive. Until 1981 both the Soviets and the United States referred allegations of violations of arms control treaties to the SCC. Both countries supported the findings of the SCC. In the past 5 years there have been much more frequent public allegations of cheating without attempting to secure compliance through the SCC. Nevertheless, even under these circumstances the SCC has served a useful purpose. It has permitted the exchange of information. It has provided a common ground for discussion of compliance behavior. But the SCC cannot enforce compliance with arms control agreements unless both superpower governments want to preserve the agreement sufficiently so they will respond constructively to charges of violations.

This Senator is convinced that the economic interests and the national security interests of both Russia and the United States can only be served in this nuclear world by arms control. Arms control requires compliance. Compliance requires a verification technology that can detect violations on either side. It also requires an investigative agency like the Standing Consultative Commission. The SCC must have the full support of both governments. If the SCC has that support, it can make the verification capability of both super powers not only a mutually respected instrument of detection, but an effective force to secure compliance.

Mr. President, the Air Force has published an extraordinary perceptive analysis of the Standing Consultative Commission in its December 4, 1985, Current News Special edition. That article was written by Sidney N. Graybeal who served as U.S. Commissioner at the Standing Consultative Commission from 1973 to 1977 and Michael Krepon, a senior associate at the Carnegie Endowment for International Peace and Director of its verification project. I ask unanimous consent that a copy of this article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

MAKING BETTER USE OF THE STANDING CONSULTATIVE COMMISSION

(By Sidney N. Graybeal and Michael Krepon)

Unresolved compliance problems have accumulated to the point where they have become a major impediment to the maintenance of existing agreements and the negotiation of new accords. While progress in compliance diplomacy has recently been made, major problems, such as the construction of the Krasnoyarsk radar, have not been satisfactorily resolved in the forum created by the strategic arms limitation talks [SALT] to address SALT compliance questions—the Standing Consultative Commission [SCC].

Like other negotiating bodies, the SCC has no powers of enforcement and it cannot impose sanctions; it can succeed only when the political leadership in the Soviet Union and the United States seek mutually satisfactory solutions. The SCC is a tool for Moscow and Washington to use as each sees fit. Its utility depends on effective use by both governments. Given proper instructions, high-level political support, problem-solving tactics, and sound bilateral relations, the Soviet and U.S. Commissioners can work together quite effectively. However, even the most efficacious tactics in the SCC will not bear fruit if either Commissioner is operating under unhelpful instructions, if the superpowers question each other's intentions toward past agreements, and if they do not wish to maintain the viability of those agreements.

It should therefore come as no surprise that, during the past five years, the SCC has fared no better than the general state of U.S.-Soviet relations. Nevertheless, both governments have taken care to keep the SCC channel open during periods of harsh public exchanges. Useful discussions on sensitive military subjects continued even after the Soviet Union walked out of negotiations on strategic and intermediate-range nuclear forces in 1983.

Despite its importance, very little is known about the SCC, and many misconceptions have arisen about its activities. The object of this essay is to explain the nature of the SCC and to suggest steps to improve the utility and effectiveness of its operations.

THE SCC'S MANDATE AND OPERATIONS

No arms control agreement can be written so carefully and so clearly as to prevent ambiguities and compliance questions from arising. In some instances, parties to an agreement may not wish or may not be able to arrive at precise treaty language. They may have different interpretations of their obligations under an agreement, or new military technologies may create circumstances that were not anticipated during negotiations.

Early in the SALT I negotiations, both sides recognized the need for a private forum to implement treaty provisions and to deal with ambiguities and compliance questions. As a result, there were few difficulties in drafting Article XIII of the ABM Treaty creating the SCC. The ABM Treaty, and thus the SCC, are of indefinite duration. A Memorandum of Understanding formally establishing the SCC in December 1972 extended its jurisdiction to include the Accidents Measures Agreement signed the previous year, and regulations governing the

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Footnotes at end of article.

SCC's operations were drawn up the following May.

The SCC's charter, as spelled out in both the ABM and SALT II treaties, is quite broad. It empowers representatives of the U.S. and the Soviet Union to consider, among other topics, treaty compliance questions and "related situations," questions involving interference with national technical means of verification, "possible changes in the strategic situation which have a bearing" on treaty provisions, additional measures to increase the viability of existing agreements including amendments to treaty provisions, and proposals for "further limiting strategic arms." In addition, the SCC Commissioners are authorized to exchange relevant information and to draw up procedures for dismantling or destroying offensive and defensive weapon systems.[1]

The Memorandum of Understanding establishing the SCC clarifies basic organizational matters while leaving considerable discretion to the two delegations on how the SCC shall actually operate. Each side is represented by a Commissioner, a Deputy Commissioner, an Executive Officer, and members of the delegation. Commission meetings are held no less than two times per year, and may also be convened "as soon as possible, following reasonable notice, at the request of either Commissioner." The SCC makes its own regulations, and may amend them "as it deems appropriate."[2]

In current practice, the U.S. Commissioner is chosen by the unanimous recommendation of the President's National Security Adviser, the Secretaries of State and Defense, Chairman of the Joint Chiefs of Staff, Director of Central Intelligence, and Director of the Arms Control and Disarmament Agency. Since the Commissioner is granted the title of ambassador, the Senate also passes judgment on the nomination. Sessions are usually held in Geneva during the spring and fall, each session generally lasting two months in length. Special sessions can be held at any time.

While the charter of the SCC enables it to conduct negotiations and arrive at new arms control agreements, to date neither side has chosen to operate in this fashion. New areas of negotiation generate their own negotiating teams and acronyms. Nor have the two sides used the SCC to amend agreements under its jurisdiction. The SCC has concerned itself primarily with implementation and compliance questions for the SALT accords.

Implementation, of course, can be a form of negotiation, but the SCC delegations usually operate within a narrower framework than their colleagues who actually draft provisions. The primary responsibility of the SCC delegations is to make sure that basic objectives and purposes of existing agreements within their jurisdiction are being met properly. The SCC delegations are not free agents in carrying out their responsibilities. Like other negotiating agents, SCC Commissioners are on a tight rein from their capitals. Neither side is empowered to establish government policy or to go off and solve problems on its own. SCC delegations, no less than delegations negotiating new agreements, operate under carefully drafted instructions coordinated—sometimes with considerable dispute—among the relevant government agencies.

When friction within the executive branch is pronounced, instructions tend to become increasingly rigid. If, for example, government agencies can not agree on a proposed course of action, the U.S. Commissioner at the SCC is not free to suggest one to his Soviet counterpart. What flexibility the U.S. Commisisoner has relates to his choice of tactics to implement negotiating instructions.

THE SOVIET PERSPECTIVE

The Kremlin views the SCC as an important channel of government-to-government communication. Its high level of regard for the SCC has been reflected by the quality of representation on the Soviet delegation. The Soviet Union has had two Commissioners during the entire existence of the SCC, both military officers from the General Staff—General-Majors G.I. Ustinov and Viktor P. Starodubov. Neither man has been accorded the rank of Ambassador (perhaps because of their military backgrounds) although both made it clear that they were spokesmen for the U.S.S.R., like other representatives of the Soviet government abroad.

Starodubov, the Commissioner since 1979, is an adept and highly accomplished negotiator who has also served on Soviet delegations in the SALT, START, and prior SCC negotiations. The Deputy Commissioner has always come from the Ministry of Foreign Affairs. The head of the Soviet delegation in the current Geneva talks, Viktor P. Karpov, served as Deputy Commissioner for six years, followed by Vadim S. Chulitsky in 1979. The Kremlin expects issues that fall within the purview of the SCC to be raised in this forum and not elsewhere. It clearly prefers to work within the confines of the SCC rather than to engage officials with higher rank who are less suited to the tasks at hand. The Soviet Commissioner must, of course, receive authorization to proceed from Moscow, but once authorization is received, the Soviet delegation has demonstrated its willingness to have constructive exchange and to resolve compliance questions expeditiously.

AMERICAN PERSPECTIVES ON SOVIET COMPLIANCE AND THE SCC

In contrast to the official Soviet view, American attitudes toward the SCC vary greatly, usually according to one's view of the value of arms control agreements with the Soviet Union. With experts so sharply divided on this fundamental question and with the SCC operating as a closed shop, it is difficult for even interested citizens to reach an informed judgment on the SCC's effectiveness or utility. Subjective judgments come into play on both sides of these issues, with the SCC caught in the cross fire.

The Nixon, Ford, and Carter administrations were supportive of the SCC's activities and did not denigrate its effectiveness. All three Presidents declined to assert Soviet violations in their assessments of issues reviewed in the SCC during their tenure.

For example, Secretary of Defense James Schlesinger testified before the Senate Armed Services Committee in March 1975 that "We believe that the Soviet Union has been, and today is, in compliance with the terms of the SALT agreements." Schlesinger characterized problems then the subject of considerable controversy as "ambiguities which needed to be resolved," not as violations.[3] President Gerald Ford affirmed this judgement in a June 25, 1975 press conference.[4] The Carter Administration's report—issued in the context of defending the SALT II Treaty—asserted that "in every case (of a questionable practice raised by the U.S. in the SCC) the activity has ceased, or subsequent information has clarified the situation and allayed our concern."[5] SALT critics, such as Assistant Secretary of Defense Richard N. Perle, have taken a diametrically opposed view:

> I have put emphasis on the failure of the SCC to resolve compliance concerns because previous Administrations, in efforts to sell unverifiable arms control agreements to Congress, have created a virtual mythology about it. The fact of the matter is that serious compliance problems have generally not been resolved by the SCC or in any other manner.[6]

Confusion about the role of the SCC is compounded by widely varying lists of Soviet "violations and circumventions" of past agreement. For example, the State Department's 1978 assessment of compliance questions and the Arms Control and Disarmament Agency's 1984 General Advisory Committee [GAC] Report cover four common SALT compliance issues, arriving at different judgments on every one of them. By the GAC's definition of what constitutes "material breaches" of binding arms control obligations, the Soviets cheated, and the SCC failed to resolve these problems. By the State Department's assessment in 1978, no material breaches took place, and the SCC played a positive role.[7]

A SALT I compliance question relating to what constituted permissible modernization of existing ICBM launchers provides a case study of how compliance judgments vary. During the SALT I negotiations, the U.S. attempted to constrain new Soviet "heavy" ICBMs by suggesting limits on missile throw-weight and volume to which the Soviet Union would not agree. Both sides eventually agreed to an imprecise formula on silo dimensions, which the U.S. hoped to strengthen by means of a unilateral statement using a volume constraint to distinguish between "light" and "heavy" ICBMs. The Soviets proceeded to disregard this interpretation by replacing SS-11 missiles with larger and far more capable SS-19s—as they had indicated they would do in the course of negotiations.

The Ford Administration did not characterize this Soviet activity as cheating. As Secretary of Defense Schlesinger testified, "If one reads the words of the agreement, the Soviets are doing something that is not precluded. It is inconsistent, quite clearly, I think, with our understanding of our own unilateral statement. But the Soviets do not feel bound by that unilateral statement."[8] The Carter Administration provided a similar explanation in its 1978 report. The GAC, however, cited the deployment of SS-19s as a "circumvention defeating the stated U.S. object and purpose of limiting the throw-weight of Soviet ICBMs."[9] According to the GAC's analysis, the U.S. intention behind the disputed provision was clear—to limit the growth of ICBM throw-weight—as was the Soviet circumvention.

THE RESULTS OF THE SCC'S WORK

The detailed records of SCC sessions remain closed to all but those with the proper clearances and the "need to know." These sensitive deliberations, along with other arms control negotiations, have been quite properly fenced off from public view. No American President, including Woodrow Wilson, has seen fit to pursue open covenants publicly arrived at. Unlike arms control negotiations, however, the principle of privacy also extends to the products of the SCC's deliberations.

A primary responsibility of the SCC has been to establish procedures for the destruction or dismantlement of certain strategic forces. Two Protocols on Procedures were agreed upon in the SCC in June 1974 governing the SALT I Interim Agreement and the ABM Treaty. A third Protocol was agreed upon in October 1976, relating to the ABM Treaty's Protocol that reduced permitted ABM sites from two to one per side.

For the most part, these classified procedures have not generated criticism, although the Reagan Administration's February 1985 noncompliance report expresses concern that the Soviets may not comply with the Interim Agreement's implementing procedures in the future.[10] In the past, these procedures prompted a compliance flap over the dismantlement of Soviet land-based missile launchers to compensate for the introduction of new sea-based launchers. In 1976, it became clear to American analysts that the Soviet Union was not going to meet this requirement. According to the 1984 GAC Report, this constituted a violation of the SALT I Interim Agreement: "Upon U.S. Inquiry, the Soviets admitted this excess, but failed to accelerate their dismantling activities." The GAC concluded that "the violation was probably not inadvertent, but rather was part of a deliberate Soviet effort to challenge U.S. arms control verification capabilities." [11]

In contrast, the 1978 State Department Report on SALT I compliance issues found that Soviet actions did not warrant the GAC's conclusions:

> . . . the United States decided to raise this question with the Soviets, but before we could do so, * * * the Soviet side in the SCC acknowledged that the dismantling of 41 older ICBM launchers had not been completed in the required time period. The Soviet side explained the situation and predicted that all the dismantling actions would be completed by June 1, 1976, and agreed to the U.S. demand that no more submarines with replacement SLBM launchers begin sea trials before such completion. Both conditions were met.[12]

A fourth classified protocol worked out in the SCC implements the Accident Measures Agreement. This understanding, which was updated and expanded in June 1985, facilitates and speeds the transmission of information by means of pre-positioned messages.

Another product of SCC deliberations is known as the Agreed Statement of 1978. It was prompted by a controversial Soviet practice that may have involved testing of a Soviet air-defense system radar in an ABM mode. The ABM Treaty stipulates that parties to the agreement are not to give radars other than ABM radars the capability to counter strategic ballistic missiles or their elements in flight trajectory and not to test them in an ABM mode. However, the U.S. delegation issued a unilateral statement in the SALT I negotiations that radars used for range safety or instrumentation would be permitted.

Intermittent Soviet tests of an SA-5 radar during 1973 and 1974 eventually prompted the United States to raise this issue in the SCC in February 1975. Secretary of State Henry Kissinger explained the time lapse as due partly to the necessity to protect sources and methods of intelligence but primarily to the need to have a clear picture of Soviet practices:

> The first information about any event is usually extraordinarily illusive and ambiguous, and one part of the process of the government is to refine the information until we reach a point at which senior officials can make a reasonable decision. I believe it is a good working hypothesis to assume that government is not run by conspiracy but by serious people trying to come to serious conclusions about difficult topics, especially when the charge of a violation of a formal agreement is not a minor matter to be introduced into the diplomatic discourse.[13]

According to Kissinger, seventeen days after the U.S. raised the issue at the SCC, this activity stopped, and was not resumed.[14] The SCC's 1978 Agreed Statement clarified treaty obligations regarding the use of radars in an ABM mode as well as for range safety and instrumentation purposes.[15] These obligations were further clarified in June 1985.

Supporters of the SCC cite the SA-5 radar case and the 1978 Agreed Statement as an example of the Commission's working effectively to maintain the viability of the ABM Treaty and to clarify the meaning of its provisions. President Ford and Carter did not consider Soviet SA-5 radar tests to be a violation of the ABM Treaty. Nor did the GAC Report include this episode in its bill of particulars listing seventeen "material breaches." In contrast, a number of severe critics of the ABM Treaty have concluded that Soviet SA-5 radar tests constituted a clear-cut violation of the ABM Treaty. In Richard Perle's view, "I don't think you have to be a genius to conclude they were cheating. The Standing Consultative Commission never came to that conclusion and they never would have because of their desire not to face the realities." [16]

SCC Performance Standards

The purpose of this essay is not to arbitrate the validity of contending judgments of Soviet noncompliance, but to suggest ways in which compliance questions can be handled more effectively. For those most skeptical of arms control agreements and Soviet intentions toward them, the SCC's ineffectiveness is beyond repair. For those who are more positive about the role of arms control agreements and the SCC to advance national security, there are at least two important standards to apply when gauging the SCC's effectiveness. First, the proper functioning of the SCC should result in common interpretations of binding obligations where there are none or where both sides interpret these obligations differently.

An arms control agreement, like the American Constitution, is a living document. It requires constant interpretation in order to remain viable under unforeseen circumstances or to meet unanticipated events. This is particularly true with respect to agreements governing weapon systems in fields of rapid technological advance. The Soviet Union compounds these problems by exploiting grey areas when opportunities arise.

Both sides should be playing by the same rules; otherwise, existing agreements and support for them in the United States will continually be undermined. If both sides wish to reaffirm their obligations under existing agreements and if both sides use the SCC properly, there is every reason to expect the Commissioners to be able to hammer out agreements that resolve questionable activities and establish ground rules under which both sides may operate.

Second, the public has a right to expect that common understandings reached in the SCC should clearly affirm the basic objectives and purposes of the agreement in question. In practical terms, these remedies will vary depending on the circumstances in each case. In some instances, a return to the status quo ante might be called for; in others, a complete cessation of the practice in question might be necessary; in still others, the imposition of new barriers—such as verifiable limitations on developmental and operational test practices—might preclude military advantages deriving from troubling Soviet behavior.

In the much discussed case of the SA-5 radar, for example, as soon as the evidence suggested the need for action, the SCC succeeded in bounding the problem by prompting the cessation of concurrent testing, and later by securing common understandings on permissible uses of radars in conjunction with ABM tests and for range safety and instrumentation purposes. Critics have argued that, in the time it took to raise this issue in the SCC, the Soviets could have gained the knowledge needed to give the SA-5 system an ABM capability.

This critique overlooks two important considerations. First, whatever the Soviets may have accomplished with the SA-5 radar in question, there have been no reports in the press that the SA-5 system (i.e., its radar, interceptor missile, and launcher) has been tested against any target in an ABM mode. Second, if there had been serious concern about an upgraded SA-5 system possessing a significant ABM capability, one would wonder why more resources were not devoted at the time to penetration aids for U.S. strategic ballistic missiles.

As in the case of the SA-5 radar, damage assessments and proposed SCC remedies for Soviet testing at the margins will undoubtedly vary from one observer to the next. Thus, the professional judgment of senior military officers and national security officials will be critical to an administration's selection of appropriate countermeasures, within the SCC and elsewhere.

Improving the SCC

Improvements in the SCC's operations do not require changes in the Commission's charter and regulations. These provisions are broadly drawn to provide both sides the latitude to work constructively. Since the Commission's modus operandi will always vary somewhat due to the style and personality of its Commissioners, there is no single correct way to proceed in the SCC. Numerous roads can lead to success when both parties wish to maintain the viability of existing agreements. Conversely, when each side questions the other's intentions, even brilliant tactical decisions are unlikely to produce satisfactory results.

One way to improve the utility and effectiveness of the SCC is to clarify to whom the U.S. Commissioner reports in Washington. The SCC is a bureaucratic oddity: it was created by a treaty, not by an Act of Congress. The Commissioner's role was established by the SCC's charter. He is nominated by the unanimous consent of many different bureaucracies; therefore, he has no single patron. The nature of his responsibilities as well as the interagency character of his appointment suggests that the Commissioner report directly to the President's National Security Adviser. If other responsibilities do not require the U.S. Commissoner's presence elsewhere, his office should be located with the National Security Council [NSC] staff.

The NSC's authority is critical to minimize the lengthy delays and confusion that invariably result from deep or enduring interagency disputes over the Commissioner's instructions. A direct link to the NSC would also ensure better coordination between the SCC's work and ongoing negotiations. Interested agencies would continue, as at present. to play a central role in SCC activities by participating in the formulation of the Commissioner's instructions and by being represented on the SCC delegation.

In addition, the utility and effectiveness of the SCC can be further advanced by the following list of "do's" and "don'ts."

STAY IN THE SCC CHANNEL; LOOK FOR REINFORCEMENT, NOT ESCALATION

Compliance questions should be raised first at the SCC, not at higher levels or in other forums. The SCC is best suited to address SALT compliance questions, and the Soviets can work constructively in this arena. The U.S. does not need to raise issues in back channels in order for the Kremlin to see that the U.S. government attaches extraordinary importance to those issues, since the Soviet government already attaches considerable importance to the SCC's operations. Nor would the U.S. wish to imply that issues raised first in the SCC channel are relatively unimportant.

A different set of problems can arise if issues first raised at the SCC are escalated to higher levels for resolution. These tactics can undermine the effectiveness of the SCC, occupy officials who have less time and technical expertise than the SCC staff, and result in a hardening of positions, making ultimate resolution more difficult. The flexibility of the SCC to resolve these issues is then impaired if and when de-escalation occurs.

A far better approach for the U.S. is to look for reinforcement at higher levels if problems or delays are encountered in the SCC. Private interventions by cabinet-level officials or even by the President should underline the importance the U.S. places on a satisfactory resolution, while keeping the problem within the channel best suited to resolve it.

Whenever possible, the Soviet Commissioner should be advised by his counterpart in advance of the session when a new compliance question will be raised. There is little to be gained by "surprising" the Soviets and monitoring their reactions since the Soviet delegation will have to report back to Moscow anyway and then wait for instructions. Advance notification can save time and facilitate constructive exchanges.

AVOID USING THE SCC AS A DUMPING GROUND FOR PROBLEMS THAT CAN NOT BE RESOLVED IN NEGOTIATIONS

Compliance questions will arise even when treaty partners are acting on their best behavior. Unforeseen events and technological change will generate these questions even if the practice of Soviet crowding at the margins does not. In other words, the SCC will have enough to do without becoming the depository of disputes that could not be solved in the course of treaty negotiations. Treaty texts should be as precise as possible. Where agreement can not be reached, the American Congress and public should be so advised, and Soviet deviations from the preferred U.S. interpretation should not be characterized as violations.

WHENEVER POSSIBLE, USE THE U.S. SCC DELEGATION'S EXPERTISE TO HELP AVOID TREATY LANGUAGE THAT CAN GENERATE COMPLIANCE QUESTIONS

The Soviet delegation in strategic arms control negotiations usually includes either its SCC Commissioner or his Deputy. In contrast, the American SCC delegation does not normally have the opportunity to comment on the drafting of treaty texts. The Soviet practice makes far more sense than the American system of not utilizing the expertise the U.S. has at its disposal.

The SCC Commissioner can review draft treaty texts from a unique perspective. Unlike other members of the U.S. delegation, he has had operational experience in compliance controversies that ensue from various treaty formulations. As such, the U.S. Commissioner is in a position to provide helpful suggestions to avoid potential ambiguities and compliance problems.

AVOID RAISING ISSUES IN THE SCC UNTIL THE U.S. HAS ITS FACTS STRAIGHT, AND AVOID CHARACTERIZING PROBLEMS AS VIOLATIONS UNTIL THE SCC CHANNEL HAS BEEN THOROUGHLY EXPLORED

Sometimes the collection of adequate evidence requres a maddening length of time. Once enough facts are known and can be utilized without jeopardizing sensitive intelligence "sources and methods," the issue should be raised promptly and pursued vigorously in the SCC channel. The Soviets like the U.S., will respond one way to the presentation of questions concerning compliance and another to the receipt of a bill of particulars asserting noncompliance or "violations." Once the U.S. government frames an issue as a possible, potential, or clear violation, the Kremlin will be reluctant to take positive steps that might be construed as affirmaiton of these charges. On the other hand, the Kremlin has had little difficulty explaining whatever action it takes to its own people. The choices Kremlin leaders make will hinge on their calculation of the benefits derived from the activity in question and the risks of not taking positive steps to respond to U.S. concerns. These calculations will in turn bear directly on Soviet assessments of U.S. intentions toward existing agreements and motives for raising the issue in a particular manner.

Precisely for these reasons the context of public assessments by government authorities on Soviet noncompliance is of central importance. As will be discussed below, official reports of SCC-related activities are at this point inescapable; they can also be helpful, but only if they meet far more stringent standards than those applied by individuals with political axes to grind.

The content of noncompliance reports will have much to do with Soviet reactions in the SCC and elsewhere. The Kremlin will read into premature or overstated reports an intent to set the stage for eventual withdrawal from existing agreements, rather than to contain domestic political damage and to shore up the erosion of previous agreements.

CATEGORIZE COMPLIANCE QUESTIONS WITHIN THE SCC AS TO THEIR DEGREE OF IMPORTANCE

Some compliance questions will always raise more serious concerns than others, and thus merit focused attention. Every compliance question, regardless of its military significance, should be raised in the SCC, but the Soviet side should be made aware of the relative importance the U.S. attaches to various issues. The SCC regulations expressly permit the establishment of working groups. This device can enable the Commissioners to concentrate on issues of greater importance while allowing working groups to address subsidiary questions. If technical questions can not be resolved at the working group level, they can be addressed by the Commissioners in the usual fashion, and reinforced by higher authorities as deemed appropriate.

AVOID LINKING THE RESOLUTION OF UNRELATED COMPLIANCE QUESTIONS

As former SCC Commissioner Robert W. Buchheim and Dan Caldwell have noted, "horse-trading" is a common practice in negotiating new agreements. It may also be a useful device for amending agreements. But in implementing existing agreements, very little horse-trading is desirable.[17] Sometimes linking unrelated issues may work out satisfactorily, but other times it may not. A far better approach is to address each compliance question on its merits. By adopting this standard, each side will better serve its self-interest, and the SCC will work more effectively as a result.

For the same reason, the Soviets work against themselves when they adopt a "scorecard" approach to compliance questions: whenever the U.S. raises a compliance issue, they raise a comparable issue. In private exchanges in the SCC, this tactic has little bearing on the outcome of deliberations since both sides can usually distinguish between real and cosmetic concerns. In public accusations of noncompliance, this Soviet tactic obfuscates somewhat the Reagan Administration's charges, but it also devalues the Kremlin's position on those issues about which it feels strongly.

U.S. AND SOVIET COMPLIANCE CONCERNS MAY USEFULLY BE LINKED WHEN THEY RELATE TO THE SAME OBJECTIVE OR PURPOSE OF AN AGREEMENT

When comparable Soviet allegations of U.S. noncompliance reflect serious concerns on their part, it makes sense to link the resolution of them with U.S. concerns. It will not be possible to isolate common problems in any event.

For example, both sides have raised ABM Treaty compliance issues relating to the construction of modern large phased-array radars. Each side has a common concern that these radars can undermine the objective and purpose of Article I prohibiting the parties from providing a base for a territorial defense.

Each side has also expressed concerns about the other's development of futuristic technologies that might be applicable for ballistic missile defense. Article V of the ABM Treaty prohibits each party from developing or testing ABM systems or components that are sea-based, air-based, space-based, or mobile land-based (i.e., all mobile systems). This prohibition applies to both conventional and future ABM systems or components (i.e., systems based on other physical principles). Agreed Statement D requires amendments to the treaty to accommodate the deployment of ABM systems or components based on other physical principles. However, both sides can pursue these objectives while stipulating that their development and test programs constitute less than a complete substitute for traditional ABM components—thereby making them permissible under the treaty. Test practices of this sort can raise continuous compliance questions. Unless ground rules are established governing these tests, they could undermine the objective and purpose of Article V.

In these and similar cases, common problems relating to the same treaty provisions might usefully be addressed together in the SCC. If both sides wish to reverse the erosion of the ABM Treaty, new common understandings and agreements will become necessary governing the development and testing of certain advanced technologies with direct ABM applications. Common understandings and agreements will also be necessary for modern large phased-array radars.

RELEASE MORE INFORMATION ABOUT THE SCC'S ACTIVITIES AND PRODUCTS

The regulations establishing the SCC contain the stipulation that the Commission's proceedings shall be conducted in private and should not be made public "except with the express consent of both Commissioners." This provision has been adhered to by both sides, and is still valid today. SCC deliberations must remain confidential if this forum is to produce diplomatic remedies. American Commissioners have repeatedly stressed, however, that neither the U.S. nor Soviet Commissioner has a veto power over his government. In a democratic society, American Presidents have a responsibility to inform the public and the Congress of the SCC's activities in some way. While the proceedings have remained private, limited summaries of certain SCC deliberations have been released in the past.

At the start of the SCC's operations, a strict policy of secrecy was probably wise. The Soviets were unsure of the utility of this forum and wary of confidential exchanges on sensitive subjects. At this point, however, popular misconceptions about the role and record of the SCC as well as public concern over unresolved compliance problems have reached the point at which constructive factual public reports would be useful.

Reports would be constructive if they are offered in the context of problem-solving efforts in the SCC and serious negotiations to conclude new agreements. If government reports follow thorough efforts to resolve satisfactorily compliance questions in the SCC—including the use of reinforcements when necessary—and if those reports characterize compliance problems judiciously, their publication need not impair the SCC's activities. If, on the other hand, government verdicts of noncompliance are premature or based on ambiguous evidence, U.S. intentions will be widely questioned, cases where evidence is strong of Soviet misconduct will be devalued, and the SCC's ability to resolve issues will be impaired.

At this point in time, annual government reports summarizing the Soviet record of compliance should be released to the public, after the U.S. advises the Soviet Union of its intention to do so. More detailed classified versions should be transmitted to the relevant Congressional committees. These reports should indicate where the record of Soviet compliance has been good as well as where it has been problematic. The relative significance of issues raised in the SCC should be noted, and summaries of the SCC's handling of each issue should be provided. The proceedings of SCC sessions should remain classified, thus maintaining the principle of confidentiality. These reports should be prepared and transmitted to the Congress by the President's National Security Adviser, with the assistance of the U.S. Commissioner and coordination by the usual interagency process. Annual reports of this kind could defuse speculation over the purposes behind public disclosure and substitute for ad hoc compliance reporting requirements levied by the Congress.

In some cases, the public release of new SCC common understandings or agreed statements would be unwise. The products of SCC deliberations that involve sensitive weapon system characteristics, operations, and performance—such as approved dismantling or destruction procedures—should remain classified since they could raise security problems and impair fruitful private communication on other sensitive issues. However, unclassified summaries of these understandings that do not divulge sensitive information could be released. The contents of pre-positioned messages associated with the Accident Measures Agreement should also remain secret since they could be misused and pose security problems.

On the other hand, the fruits of the SCC's labors clarifying the objectives and purposes of existing agreements should be unclassified. For example, the 1978 Agreed Statement apparently does not involve any sensitive information and provides essential meaning to ABM Treaty provisions governing tests "in an ABM mode" and the uses of air-defense radars at test ranges. Anyone attempting to interpret properly treaty obligations in these areas should have access to the SCC's 1978 Agreed Statement. Similar clarifications worked out in the future should be available in their entirety to the Congress and the public.

CONCLUSION

The Standing Consultative Commission is an indispensable channel of communication between the superpowers over SALT implementation and compliance. Other channels could be used for these purposes, but none would be as ideally suited, unencumbered, or specifically authorized to do so. If something like the SCC did not exist, it would have to be created; if it falls into disrepair, existing strategic arms control agreements with the Soviet Union will be jeopardized.

Public reports of the SCC's activities and the other suggestions offered here can help the SCC delegations carry out their responsibilities for existing agreements. No suggestions will be of much value, however, if the U.S. and the Soviet Union are ambivalent about affirming the objectives and purposes of past agreements. During periods of strained political relations, negotiations over new agreements rarely proceed smoothly. While the SCC is somewhat more insulated from the ups and downs of superpower relations, it has not been immune from them. But when political relations between negotiating partners deteriorate to the point where intentions toward existing treaty obligations are called into question, the SCC cannot be an effective, problem-solving forum. If and when bilateral relations improve and both superpowers clearly signal their desire to reaffirm existing SALT commitments, the SCC can again resolve difficult compliance problems.

FOOTNOTES

[1] *Arms Control and Disarmament Agreements, Texts and Histories of Negotiations* (Washington, D.C.: United States Arms Control and Disarmament Agency, 1982), pp. 141-142.

[2] *Documents on Disarmament—1972* (Washington, D.C.: United States Arms Control and Disarmament Agency, 1974), pp. 868-869.

[3] United States Senate, "Soviet Compliance with Certain Provisions of the 1972 SALT I Agreements," Hearing before the Subcommittee on Arms Control of the Committee on Armed Services, 94th Congress, First Session, March 6, 1975, p. 3.

[4] *Documents on Disarmament—1975* (Washington, D.C.: United States Arms Control and Disarmament Agency, 1977), p. 202.

[5] "Verification of SALT II Agreement" (Washington, D.C.: United States Department of State, Special Report No. 56, August 1979), p. 3.

[6] United States Senate, "Soviet Treaty Violations," Hearing before the Committee on Armed Services, 98th Congress, 2nd Session, March 14, 1984, p. 39.

[7] See "SALT ONE: Compliance, SALT TWO: Verification" (Washington, D.C.: United States Department of State, Selected Documents No. 7, February 21, 1978), and "A Quarter Century of Soviet Compliance Practices Under Arms Control Commitments: 1958-1983" (Washington, D.C.: General Advisory Committee on Arms Control and Disarmament, October 1984, Unclassified Summary).

[8] "Soviet Compliance with Certain Provisions of the 1972 SALT I Agreements," p. 6.

[9] "A Quarter Century of Soviet Compliance Practices Under Arms Control Commitments: 1958-1983," p. 8.

[10] "The President's Unclassified Report to the Congress on Soviet Noncompliance with Arms Control Agreements" (Washington, D.C.: The White House, Office of the Press Secretary, February 1, 1985), p. 5.

[11] "A Quarter Century of Soviet Compliance Practices Under Arms Control Commitments: 1958-1983," p. 10.

[12] "SALT ONE: Compliance, SALT TWO: Verification," p. 7.

[13] *Documents on Disarmament—1975*, p. 747.

[14] Ibid., p. 752.

[15] For a listing of the Standing Consultative Commission's agreements and a brief unclassified summary of them, see "SALT II Treaty: Background Documents," United States Senate Committee on Foreign Relations, 96th Congress, 1st Session, 1979, pp. 79-80.

[16] "Soviet Treaty Violations," p. 19.

[17] Robert W. Buchheim and Dan Caldwell, "The US-USSR Standing Consultative Commission: Description and Appraisal," Working Paper No. 2 (Providence, R.I.: The Center for Foreign Policy Development, Brown University, May 1983), p. 7.

U.S. JUJITSU TEAM WINNER

Mr. BYRD. Mr. President, on November 2, 1985, the U.S. jujitsu team won the 1985 world karate jujitsu championships that were held in Trinidad. This is the first time that this world title has been won by the United States. On the way to gaining this world title, members of the team collected 11 trophies and medals.

The head coach and team physician for the U.S. team is Dr. L. Bruce Holbrook, a West Virginian. The following is a list of those members that make up the U.S. team and the results of the competition.

Mr. President, I congratulate the U.S. jujitsu team on winning the 1985 world karate jujitsu championship.

There being no objection, the listing was ordered to be printed in the RECORD, as follows:

U.S. JUJITSU TEAM AND RESULTS FROM THE 1985 WORLD CHAMPIONSHIPS

1. Billy Blanks, VFW Parkway, Rockland, Massachusetts 02370, Heavyweight World Champion in Fighting.
2. Curtis Jordan, 7219 McKnight Road, Pittsburgh, Pennsylvania, Middleweight World Champion in Fighting.
3. Kevin "Little K.A." Thompson, 362 South 10th Street, Newark, New Jersey, 1.

Lightweight World Champion in Fighting; 2. World Champion in Hard Style Kata.

4. John T. Jenkins, 75 Park Street, Lewiston, Maine, 1. Second Place Soft Style Kata; 2. Third Place in Heavyweight Division in Fighting; 3. Fourth Place in Weapons Kata; 4. Fifth Place in Hard Style Kata.

5. Seroj Bejanian, 23 Brighton Ave., Apt. #2, Boston, Allston, Massachusetts, First Place in Soft Style Kata.

6. James McKeough, 25 Turkey Hill Lane, Hingham, Massachusetts, Competitor.

7. Robert "Sugar" Crosson, 1106 Clarkson Ave., Brooklyn, New York, World Champion in Weapons Kata.

8. Darryl Weston, 849 Inwood Street, Pittsburgh, Pennsylvania, Team Manager.

9. Dave Weston, 849 Inwood Street, Pittsburgh, Pennsylvania, Coach.

10. Dr. L. Bruce Holbrook, 1601-A MacCorkle Ave., St. Albans, West Virginia, 1. Head Coach; 2. Team Physician; 3. International Delegate for the United States of America.

The U.S. Team also won the overall championships and was awarded the team trophy for the World Karate Jujitsu Championships.

SENATE DEMOCRATS IN 1985

Mr. BYRD. Mr. President, as the first session of the 99th Congress draws to a close, I would like to take a moment to review the contributions which Senate Democrats have made to the national debate on the critical issues facing our Nation and our world.

THE BUDGET

Perhaps no more important issue confronted the Congress in 1985 than that of reducing the record deficits amassed over the past 5 years. Since 1981, there have been three record deficits, the last being in fiscal year 1985 when $211.9 billion in red ink was added to the National Ledger.

When the Senate considered the fiscal year 1986 budget resolution, Democrats offered two major budget alternatives, both of which reduced the deficit by more than did the budget supported by the majority party. The Democratic budget proposals achieved their deficit reduction in a way that encouraged economic growth and investment in the future, while providing a strong national defense and ensuring that all persons, including some major profitable corporations that currently escape Federal income taxes, would bear their fair share of the deficit reduction burden.

Beyond offering budget alternatives, as the budget debate continued, Democrats also sought to reorder the spending priorities of the Republican budget by persistent strong support for such programs as Social Security and Medicare, education, child nutrition, economic development, basic research and scientific efforts, and assistance to family farmers. While these efforts did not always meet with complete success, they often helped to moderate excessive or misdirected spending reductions advanced by the majority. As a result, the budget that ultimately passed the Senate was fairer, more progressive, and better for our Nation's future than it otherwise would have been.

HELP FOR FARMERS

The Nation's farmers entered 1985 suffering their worst distress since the Depression of the 1930's. This distress threatened—and continues to threaten—not only individual farmers and their families, but also the entire economy of those regions of our Nation where agriculture is a central economic component. Further, we are faced with the disappearance of the family farm and with the concentration of our food and fiber production in the hands of large corporations, which may pose significant and unwelcome changes in the lifestyle and well-being of many if not all of our Nation's citizens.

Democrats first came to the aid of our farmers in February with a proposal for emergency credit assistance. The administration and its allies in Congress at first resisted the need for such aid. Yet, following nationwide media attention, and the Democratic threats to delay confirmation of Presidential Assistant Edwin Meese as Attorney General, the Republicans relented and a farm credit assistance bill finally passed the Senate.

Unfortunately the President vetoed that bill, claiming that there was no need for such assistance. But before the President's veto, Democrats had succeeded in obtaining for farmers concessions in existing credit programs that the administration previously had been unwilling to provide. Thus, Democrats were successful in prodding the administration into providing at least some needed help to farmers who were in danger of losing their farms.

Democrats demonstrated their resolve to aid America's farmers later in the session during the consideration of the 1985 farm bill, the conference report on which we just acted on Wednesday. Democrats succeeded in the Agriculture Committee in resisting the administration's and Republican Senators' efforts to bring immediate reductions in Government support—by reducing crop target prices after a 1-year freeze of current targets. The bill reported from the Agriculture Committee provided for a 4-year freeze in target prices. While this would not be a panacea for distressed farmers, it would give them some time in which to help themselves out of the economic mess created by the last 4 years of this administration's farm policies.

On the Senate floor, Democrats again successfully prevented the administration and its Senate allies from dropping back to their original plan that would cut farm income after only 1 year—at a time when many farmers already are having difficulty meeting their financial commitments. Eventually, recognizing that Democrats would not be overcome, the Republican-controlled Senate passed a more nearly adequate 2-year freeze.

DEFENSE AND ARMS CONTROL

Senate Democrats began the 99th Congress by establishing that their paramount priorities in national security would be in reforming the Pentagon's wasteful procurement process, strengthening our conventional forces, modernizing our nuclear deterrent in a manner contributing to nuclear stability and arms control, and pressing our allies to bear a fairer share of the common defense burden.

Democrats have been concerned that, over the last few years, the Soviet-American relationship has been overly characterized by harsh rhetoric and unproductive finger pointing. We have made every effort to be helpful in putting that relationship back onto a more productive track.

On the first day of the 99th Congress, the Senate demonstrated the importance it attaches to the achievement of mutual, equitable and verifiable nuclear arms control agreements between the United States and the U.S.S.R. Majority Leader ROBERT DOLE and I joined in proposing, and the Senate created, a bipartisan Senate arms control observer group to monitor the Geneva negotiations on a regular basis. It was—and remains—my hope that this group will help us to avoid a repetition of the problems of the 1970's, when three successive arms control treaties were signed by three Presidents, but never ratified by the Senate.

Through the observer group's monitoring activities, the full Senate will become more knowledgeable about the many complex issues surrounding nuclear arms control, and American negotiators will have the benefit of the Senate observer group's advice and counsel, when appropriate. I believe this will contribute subtantially to the fulfillment of the Senate's constitutional role of advice and consent with respect to any treaty that emerges from the negotiations.

The group has traveled three times to Geneva to confer with our negotiators, and to meet with the negotiators from the Soviet side, and has met weekly with representatives of the executive branch while the Geneva negotiations have been underway.

In furtherance of the effort to help build a more constructive relationship with the Soviet Union, along with President pro tempore of the Senate, Mr. THURMOND, as the vice chairman of the delegation. I led a bipartisan group of Senators—six Democrats and two Republicans—to meet the new Soviet leader, General Secretary Mikhail Gorbachev. It was our goal to help prepare President Reagan for the summit meeting—which occurred last month in Geneva—to assess the viewpoints of the new Soviet leader, and to bring to his attention viewpoints, strongly held in the Senate, on a variety of important questions currently in dispute with the Soviets. I believe the trip was successful in accomplishing these specific goals. I was convinced before the summit that the channels of communication with the Soviets should be expanded if we are to make any progress on such vital issues as arms control, and I believe the trip to Moscow made a contribution to that end.

Too often, Mr. President, efforts to promote reasonable arms control have been viewed as contradictory to pursuit of a strong defense. I do not accept this interpretation, and I am confident that my Democratic colleagues share my view that prudent defense programs and careful arms control arrangements both are important components of our national security posture.

Senate Democrats underscored this principle in 1985 when they led this body simultaneously to support reasonable strategic nuclear modernization and a continuation of proarms control policies.

Senators GORE, BOREN, NUNN, and I and other Senators won Senate approval to deploy no more than 50 MX intercontinental ballistic missiles [ICBM's] in a vulnerable basing mode and to shift the administration's land-based missile priorities toward more survivable and effective forces.

The full Senate also endorsed my amendments to ensure full funding for the advanced technology [Stealth] bomber and advanced cruise missile, and to cap the B-1B bomber program at 100 aircraft. These amendments will result in wiser expenditure of taxpayer dollars by ensuring that they produce the most effective strategic weapons available, and that our weapons will be suitable and effective for the longest possible period of time.

Under the leadership of Democratic Senators LEAHY and BUMPERS, the Senate emphatically urged the President to continue in 1986 the United States policy of refraining from actions which would undercut the strategic arms limitation [SALT] accords as long as the Soviets show similar restraint and continue to negotiate in Geneva. That action also urged the President to pursue vigorously the issues surrounding Soviet noncompliance with some aspects of these accords.

In leading this effort, Senate Democrats recognized that abandonment of the no undercut policy in 1986 would hurt United States security more than Soveit security in the next year—because the U.S.S.R. no longer would be required to dismantle more strategic warheads than the United States as they are under SALT.

The 1st session of the 99th Congress found Senate Democrats pushing hard to eliminate waste, fraud, and abuse in defense programs. The long trail of cost overrun scandals and questionable budgeting procedures at the Pentagon has served to erode much of the national consensus underlying a vigorous defense program. Major weapons procurement process reforms were crafted under the leadership of Senators LEVIN and PRYOR. It is my hope that the reforms we secured will enhance our national security by stretching the defense dollar further and achieving better results.

Democrats also supported improvements to our conventional forces, including increases in our combat readiness accounts for aircraft flying hours, ship steaming days, unit field exercises, depot maintenance, and real property maintenance. These activities are critical to maintaining and improving our daily combat readiness.

Colleagues on this side of the aisle, especially the distinguished senior Senator from Mississippi, JOHN STENNIS, were instrumental in adding funds to strengthen our national guard and reserve forces. My own initiatives were adopted to increase funding for the Coast Guard, and to fund the important activities of the National Commission on the Merchant Marine and National Defense, established last year, in part, to study problems relating to transportation, cargo, and personnel for national defense purposes in time of war or national emergencies, and the capability of the U.S. merchant marine to meet the Nation's transportation needs in such crisis.

Led by our Democratic colleagues, Senators KENNEDY and GLENN, the full Senate rejected the administration's proposal to freeze military pay in fiscal 1986 at last year's level. A 3-percent increase was granted, effective October 1, 1985, in basic pay, basic allowance for subsistence, and basic allowance for quarters for military personnel. Our patriotic and capable military men and women deserved this pay raise for their sacrifices in the defense of our country.

There are few larger problems facing United States defense policy than the dilemma of how Americans can convince our allies, especially the Japanese, to shoulder an increased share of our mutual security burden. Our taxpayers are becoming increasingly impatient with the poor burden-sharing performances of several of our NATO allies and Japan.

This year, Senate Democrats focused their concerns on Japan, and, at my suggestion, the full Senate approved some of the strongest language to date—urging Japan to increase significantly its contributions to our security, and to its own self-defense, and requiring that Congress be notified annually of Japan's progress toward that goal.

FOREIGN POLICY

During 1985, Senate Democrats were in the forefront of initiatives to address the security and foreign policy challenges America faces in the Philippines, the Middle East, and Central America.

Senators SASSER and KERRY were early, thoughtful critics of the policies of the Philippine Government which prevent that Nation from defeating a growing Communist insurgency. That insurgency threatens the long-term existence of two of the United States most important overseas military bases.

Regarding the Middle East, Senators KENNEDY, DIXON, and CRANSTON highlighted the lack of a convincing national security justification for proposals by the administration to sell additional sophisticated weapons to Jordan and Saudi Arabia.

American policy in the Middle East must be guided by the need to build on the success of the Camp David process, and the hope it offers for comprehensive solutions in the region. The arms sales that this administration has been promoting for several years do not represent a policy which can contribute to this process.

Senate Democrats have been increasingly concerned over the activities of the Sandinista regime in Nicaragua. We believe that every effort must be made on both the political and diplomatic fronts to find a peaceful solution to our differences between the United States and Nicaragua—and, indeed, between that government and its own people. Therefore, we have consistently supported the Contadora process, and encouraged the reopening of negotiations between the United States and Nicaragua. Military options, we believe, should be kept on the back burner, and used only as a last resort. It is our hope that the Sandinista government will recognize the extreme foolishness of a military adventure leading to a direct confrontation with the United States.

During 1985, Democrats tried to negotiate with the White House on a reasonable program of overt humanitarian aid to those forces in Nicaragua that oppose the repressive Sandinista regime. Unfortunately, the administration rejected efforts to reach a reasonable compromise.

In 1985, South Africa was beset with tragic, growing violence. Senate Democrats sought actions that would focus that nation's leadership on the importance of remedial action. Democratic legislation was frustrated when Senate Republicans removed the conference report from the Senate Chamber in an unprecedented one-Senator veto. Senate Democrats successfully pressed for a return of those papers.

In the meantime, however, the administration accepted substantially all of the points raised in the Democratic legislation, and issued them as an Executive order. Thus the South African leaderhsip was made aware of the degree to which the United States hopes that nation will make meaningful remedial progress in resolving its underlying problems.

ENERGY AND ENVIRONMENT

Legislation expanding and reauthorizing the Nation's "Superfund" law was passed overwhelmingly by the Senate on September 26 of this year. The Senate bill contained a $7.5 billion program to protect the American public from the health threat posed by the thousands of abandoned toxic waste dumps located around the Nation. Democrats played an important role in improving and strengthening the Superfund legislation during deliberations in the committees, and during consideration on the floor.

Legislation reauthorizing and improving the Nation's Clean Water Act and the Safe Drinking Water Act was passed by the Senate in 1985. Democrats strongly supported these bills and made important contributions to their preparation and consideration both in committee and on the floor.

HUMAN SERVICES

The Major Child Nutrition Programs—the women, infants and children [WIC] feeding program, the summer school feeding programs, and parts of the school lunch and breakfast program—had been operating without authorization through most of the second session of the 98th and the first session of the 99th Congresses because the majority party that chairs the Agriculture Committee and determines the Senate floor schedule would not schedule the bill for action. During this time, the House of Representatives passed and sent to the Senate three bills in an attempt to prod the Senate into action. Finally, late this session, after several Democratic attempts to secure action on the bill, Senators HARKIN and KENNEDY were able to spotlight the issue sufficiently on the floor so that the Republicans agreed to offer a simple bill reauthorizing the programs. That bill passed the Senate and is in conference with the House-passed bill.

During consideration of the 1986 congressional budget, Democrats demonstrated unequivocally that it was necessary for any budget to meet Democratic objectives for education, employment, and other human resources programs if it were to receive any Democratic support. This push by Democrats assured that the budget passed by the Senate would not contain the very serious cuts in education and employment programs proposed by the President.

During the first session, also, a proposal surfaced to cut Social Security benefits by freezing its cost of living adjustments, in order to provide funds to reduce the budget deficit. Likewise, the administration proposed severe changes and cuts in the Medicare Program which would have drastically increased the amount beneficiaries must pay in order to participate in the program. All these changes were efforts to balance the budget on the backs of America's elderly.

Due to the degree of Democratic resistance in both the Senate and the House to cuts in Social Security benefits, it was clear that no conference agreement on the budget would include those cuts, and so the issue was removed from the list of budget cuts under consideration. Later, when the Gramm-Rudman-Hollings proposal was developed, the strength of Democratic support for protecting Social Security resulted in that proposal's sponsors excluding Social Security from automatic cuts. In Medicare, Democrats successfully assured removal from the Republican leadership budget of the most onerous proposals affecting out-of-pocket health care costs for the elderly and disabled.

On several occasions during the fall when we came close to exhausting the debt limit, the administration disinvested Social Security trust funds in order to provide operating cash for the Government. In reaction, Democrats acted to instruct the Treasury to restore to the trust funds any moneys and interest amounts which were lost during the time the funds were disinvested.

TRADE

In 1985, the trade deficit may reach $150 billion—beyond the record $123 billion of last year and by far the largest trade shortfall of any nation at any time in history. In 1985, the Reagan administration's high dollar and high deficit policies resulted in our becoming a debtor nation for the first time since World War I. Taken in conjunction, these grim records reveal this administration's fundamental failure to maintain America's global economic leadership. This failure translates into a loss of jobs, and a decline in our industrial base. Over the past year, traditional industries such as steel, textiles, autos, and footwear continued to suffer from administration indifference, but new technologies such as computers and related technologies have begun to feel the pinch. Instead of talking about competitiveness, the administration clings to tired rhetoric about free trade versus protectionism.

Senate Democrats made major contributions to the trade debate this year. Early in the year, I appointed Senator LLOYD BENTSEN to head a Democratic working group to examine current trade policy alternatives and recommend actions to his colleagues. That working group called for a strategic approach to trade in its April preliminary report entitled "The New Global Economy: First Steps in a United States Trade Strategy." Senator BENTSEN and his colleagues on the working group presented the case for an aggressive, realistic response to the current trade crisis. Their report was followed by introduction of "the Trade Policy Act of 1985." That legislation—endorsed by the Democratic caucus and cosponsored by all Senate Democrats—offers the framework for a tough, comprehensive approach to the challenge of global competition.

During 1985, also, Senators HOLLINGS and THURMOND brought the plight of our domestic textile industry, and the damage it has endured from foreign competition, forcefully to the attention of the Senate. Senator HOLLINGS provided persistent leadership in refusing to allow the issue to be forgotten, and remedial legislation passed both Houses of the Congress. Unfortunately, this bill—which also aided the hard-pressed domestic shoe industry—was vetoed by the President, who failed to offer any other means to help these industries and their workers who are confronting stiff foreign competition.

Through the actions of the working group and the initiatives of many Senate Democrats, we have forced the White House to begin to respond to the trade crisis. Senators MOYNIHAN, BAUCUS, and BRADLEY have introduced legislation to require adjustment in the over-valued dollar that acts as a tax on American exports. Over Republican objections, the Senate passed Senator BRADLEY'S resolution calling for coordination in macroeconomic policy and concerted action with our allies to reduce the artificially bloated dollar. Within months of passage of the Bradley resolution, the administration announced that it had begun negotiations with major trading partners to realign the dollar to improve American competitiveness. Senate Replicans, responding to the pressure of Democratic legislative initiatives, have included bills by Senators BRADLEY, MOYNIHAN, LAUTENBERG, BINGAMAN, BAUCUS, and others in a new omnibus trade law bill, thus joining the Democratic call for action on trade.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting a nomination which was referred to the Committee on Commerce, Science, and Transportation.

(The nomination received today is printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE RECEIVED DURING THE RECESS

ENROLLED BILL SIGNED

Under the authority of the order of the Senate of January 3, 1985, the Secretary of the Senate, on December 18, 1985, during the recess of the Senate, received a message from the House of Representatives announcing that the Speaker had signed the following enrolled bill:

H.R. 3981. An act to extend until December 19, 1985, the application of certain tobacco excise taxes, trade adjustment assistance, certain medicare reimbursement provisions, and borrowing authority under the railroad unemployment insurance program.

Under the authority of the order of the Senate of January 3, 1985, the enrolled bill was signed on December 18, 1985, during the recess of the Senate by the President pro tempore [Mr. THURMOND].

MESSAGES FROM THE HOUSE

At 11:50 a.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following joint resolutions, without amendment:

S.J. Res. 189. Joint resolution designating the week beginning January 12, 1986, as "National Fetal Alcohol Syndrome Awareness Week";

S.J. Res. 198. Joint resolution to designate the year of 1986 as the "Sesquicentennial Year of the National Library of Medicine"; and

S.J. Res. 235. Joint resolution to designate the week of January 26, 1986, to February 1, 1986, as "Truck and Bus Safety Week".

ENROLLED BILL AND JOINT RESOLUTION SIGNED

At 2:09 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bill and joint resolution:

S. 1918. An act to change the date for transmittal of a report; and

S.J. Res. 235. Joint resolution to designate the week of January 26, 1986, to February 1, 1986, as "Truck and Bus Safety Week".

The enrolled bill and joint resolution were subsequently signed by the President pro tempore [Mr. THURMOND].

At 2:22 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the report of the committee of further conference on the disagreeing votes of the two Houses on the amendments of the Senate to the joint resolution (H.J. Res. 465) making further continuing appropriations for the fiscal year 1986, and for other purposes.

At 3:48 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the amendments of the Senate bill to the bill (H.R. 3974) to amend title X, United States Code, to include in the death gratuity payable to survivors of a member of the Armed Forces who dies on active duty an amount equivalent to 2 months housing allowance.

The message also announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 98. Concurrent resolution to recognize the historical significance of the former Presidential yacht Sequoia, and express support for her donation to the United States Navy by the Presidential Yacht Trust.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 263. Concurrent resolution to rescind the approval of H. Con. Res. 262, correcting the enrollment of H.J. Res. 187, and directing the Clerk of the House of Representatives to make a correction in the enrollment of the joint resolution H.J. Res. 187.

The message also announced that pursuant to the provisions of section 276d of title 22, United States Code, the Speaker appoints as members of the United States Delegation to the Canada-United States Interparliamentary Group the following Members on the part of the House: Mr. BARNES, chairman, Mr. BOLAND, Mr. FASCELL, Mr. GIBBONS, Mr. HAMILTON, Mr. OBERSTAR, Mr. DONNELLY, Mr. BROOMFIELD, Mr. HORTON, Mr. STANGELAND, Mr. MARTIN of New York, and Mr. MILLER of Washington.

The message further announced that pursuant to title V of Public Law 99-180, the Speaker appoints as members of the Commission on the Ukraine Famine, the following Members on the part of the House: Mr. MICA, chairman, Mr. HERTEL, Mr. BROOMFIELD, and Mr. GILMAN.

At 4:45 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 495. Joint resolution to provide for the temporary extension of certain programs relating to housing and community development, and for other purposes.

At 6:33 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 264. Concurrent resolution to correct the enrollment of H.R. 2100.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

At 7:15 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolutions:

S. 1884. An act to amend the Farm Credit Act of 1971, to restructure and reform the Farm Credit System, and for other purposes;

H.R. 1603. An act to amend the Securities Exchange Act of 1934 to authorize the Securities and Exchange Commission to subject banks, associations, and other entities that exercise fiduciary powers, to the same regulations as broker-dealers, pursuant to section 14(b) of the Securities Exchange Act of 1934;

H.R. 1784. An act to authorize appropriations for fiscal year 1986 for the operation and maintenance of the Panama Canal, and for other purposes;

H.R. 2391. An act to authorize the Administrator of General Services to collect additional contributions of money provided to him by private individuals or organizations for the Nancy Hanks Center;

H.R. 2542. An act designating the building located at 125 South State Street, Salt Lake City, Utah, as the "Wallace F. Bennett Federal Building";

H.R. 2698. An act to designate the United States Courthouse in Tuscon, Arizona, as the "James A. Walsh United States Courthouse";

H.R. 2903. An act to designate the Federal Building and United States Post Office in Philadelphia, Pennsylvania, as the "Robert C. Nix, Sr., Federal Building and United States Post Office";

H.R. 2962. An act to remove certain restrictions on the availability of office space for former speakers of the House;

H.R. 3608. An act to amend the Small Business Investment Act of 1958;

H.R. 3837. An act to extend the deadline for the submission of the initial set of sentencing guidelines by the United States Sentencing Commission, and for other purposes;

S.J. Res. 189. Joint resolution designating the week beginning January 12, 1986, as "National Fetal Alcohol Syndrome Awareness Week";

S.J. Res. 198. Joint resolution to designate the year of 1986 as the "Sesquicentennial Year of the National Library of Medicine"; and

H.J. Res. 465. Joint resolution making further continuing appropriations for the fiscal year 1986, and for other purposes.

The enrolled bills and joint resolutions, except the bill S. 1884, were subsequently signed by the President pro tempore [Mr. THURMOND].

At 8:16 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the title of the bill (H.R. 1083) to amend the Low-Level Radioactive Waste Policy Act to improve procedures for the implementation of compacts providing for the establishment and operation of regional disposal facilities for low-level radioactive waste, and for other purposes, and that the House agrees to the amendment of the Senate to the text of the bill, with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House agrees to the amendments of the Senate to the bill (H.R. 3718) to waive the period of congressional review for certain District of Columbia acts authorizing the issuance of revenue bonds.

ENROLLED BILL SIGNED

At 10:13 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker pro tempore [Mr. Wright] has signed the following enrolled bill:

H.R. 2100. An act to extend and revise agricultural price support and related programs, to provide for agricultural export, resource conservation, farm credit, and agricultural research and related programs, to continue food assistance to low-income persons, to ensure consumers an abundance of food and fiber at reasonable prices, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore [Mr. Thurmond].

At 10:27 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that pursuant to the provisions of House Resolution 349, the House rejects the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (H.R. 3128) to make changes in spending and revenue provisions for purposes of deficit reduction and program improvement, consistent with the budget process, and that the House recede from its disagreement to the amendment of the Senate to the text of the bill, and agrees thereto, with an amendment, in which it requests the concurrence of the Senate.

At 11:07 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 1840. An act to amend title 5, United States Code, to revise the authority relating to the payment of subsistence and travel allowances to Government employees for official travel; to prescribe standards for the allowability of the cost of subsistence and travel of contractor personnel under Government contracts, and for other purposes.

The message also announced that the House agrees to the amendments of the Senate to the bill (H.R. 1538) to amend title 38, United States Code, to provide a 3.4-percent increase in the rates of compensation and of dependency and indemnity compensation (DIC) paid by the Veterans' Administration, and for other purposes.

The message further announced that the House has passed the following bill and joint resolution, in which it requests the concurrence of the Senate:

H.R. 4006. An act to extend until March 15, 1986, the application of certain tobacco excise taxes, trade adjustment assistance, certain Medicare reimbursement provisions, and borrowing authority under the Railroad Unemployment Insurance Program, and to amend the Internal Revenue Code of 1954 to extend for a temporary period certain tax provisions of current law which would otherwise expire at the end of 1985; and

H.J. Res. 496. Joint resolution providing for the convening of the 2d session of the 99th Congress.

At 1:23 a.m., a message from the House of Representatives, delivered by Mr. Gregory, one of its clerks, announced that the House disagrees to the amendment of the Senate to the amendment of the House to the amendment of the Senate to the bill (H.R. 3128) to make changes in spending and revenue provisions for purposes of deficit reduction and program improvement, consistent with the budget process.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 267. Concurrent resolution providing for a sine die adjournment of the 1st session of the 99th Congress.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CHAFEE, from the Committee on Environment and Public Works, without amendment:

H.R. 1404: A bill to establish the Eastern Shore of Virginia National Wildlife Refuge and National Fish and Wildlife Service Training Center at Cape Charles in Northampton County, Virginia (Rept. No. 99-226).

By Mr. ROTH, from the Committee on Governmental Affairs:

Report to accompany the bill (H.R. 3718) to waive the period of congressional review for certain District of Columbia acts authorizing the issuance of revenue bonds. (Rept. No. 99-227).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. D'AMATO:

S. 1986. A bill to amend the Securities Exchange Act of 1934; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. WALLOP (for himself and Mr. Simpson):

S. 1987. A bill to amend the Tariff Schedules of the United States in order to establish equitable duty rates for sodium bicarbonate; to the Committee on Finance.

By Mr. MELCHER (for himself, Mr. Inouye, Mr. DeConcini, Mr. Burdick, Mr. Andrews, Mr. Abdnor, and Mr. Bingaman):

S. 1988. A bill to establish a program for the prevention and control of diabetes among native Americans; to the Select Committee on Indian Affairs.

By Mrs. HAWKINS (for herself, Mr. Thurmond, Mr. Hatch, and Mr. Dixon):

S. 1989. A bill to open Japanese markets for United States semiconductors and establish fair conditions of trade in semiconductors; to the Committee on Finance.

By Mr. QUAYLE (for himself and Mr. Kennedy):

S. 1990. A bill to establish an Education and Training Partnership to administer the Wagner-Peyser Act, the Job Training Partnership Act, and the Carl D. Perkins Vocational Education Act, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. ANDREWS (for himself, Mr. Melcher, Mr. Abdnor, Mr. Burdick, Mr. DeConcini, Mr. Inouye, Mr. Murkowski, and Mr. Goldwater):

S. 1991. A bill to extend programs under the Native American Programs Act of 1974 through fiscal year 1990; to the Select Committee on Indian Affairs.

By Mr. STEVENS (by request):

S. 1992. A bill to preserve rights of certain parties with an interest in certain vessels or fishing facilities, and for other purposes; to the Committee on Commerce, Science, and Transportation.

S. 1993. A bill to preserve the rights of certain parties with an interest in aircrafts, aircrafts parts, or vessels, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. STEVENS:

S. 1994. A bill for the relief of Pedro M. Bertulfo and his wife Amalia M. Bertulfo; to the Committee on the Judiciary.

S. 1995. A bill for the relief of David Ford; to the Committee on the Judiciary.

S. 1996. A bill for the relief of Romeo Manabat and his wife Grace Manabat; to the Committee on the Judiciary.

By Mr. WALLOP (for himself and Mr. Bentsen):

S. 1997. A bill to amend the Internal Revenue Code of 1954 to impose a tax on the importation of crude oil and refined petroleum products; to the Committee on Finance.

By Mr. DOLE (for himself, Mr. Byrd, Mr. Long, Mr. Packwood, Mr. Zorinsky, Mr. Bentsen, Mr. Kerry, Mr. Warner, Mr. Lugar, Mr. Baucus, Mr. Leahy, Mr. Durenberger, Mr. Bradley, Mr. Boschwitz, Mr. Hatch, Mr. Thurmond, Mr. Hollings, Mr. Heinz, Mr. Inouye, Mr. Laxalt, Mr. Cochran, Mr. Hatfield, Mr. Johnston, Mr. Mattingly, Mr. Nunn, Mr. Pryor, Mr. Cohen, Mr. D'Amato, Mr. Dixon, Mr. Exon, Mr. Simon, Mr. Heflin, Mr. Stafford, Mr. Domenici, Mr. Trible, Mr. Moynihan, Mr. East, Mr. Matsunaga, Mr. Armstrong, Mr. Symms, Mr. Rockefeller, Mr. Gore, Mr. McClure, Mr. Riegle, Mr. Helms, Mr. Murkowski, Mr. Burdick, Mr. Goldwater, Mr. Denton, Mr. Cranston, Mr. Harkin, Mr. Andrews, Mr. Specter, Mr. Kasten, Mr. Grassley, Mr. Biden, and Mr. Gorton):

S.J. Res. 254. Joint resolution to designate the year of 1987 as the "National Year of

Thanksgiving"; to the Committee on the Judiciary.

By Mr. DOLE:

S.J. Res. 255. Joint resolution relative to the convening of the second session of the Ninety-Ninth Congress; considered and passed.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOLE:

S. Res. 280. Resolution expressing the sense of the Senate regarding support by the United States for the National Union for the Total Independence of Angola (UNITA); to the Committee on Foreign Relations.

By Mr. DOLE (for himself, Mr. D'Amato, Mr. Dodd, Mrs. Hawkins, Mr. Wilson, Mr. Mattingly, Mr. Symms, Mr. Armstrong, Mr. Durenberger, Mr. Wallop, Mr. Grassley, Mr. Pryor, Mr. Roth, Mr. Chaffee, Mr. Bradley, Mr. Heinz, Mr. Mitchell, Mr. Baucus, Mr. Boren, Mr. Kasten, Mr. Kerry, Mr. Domenici, Mr. Abdnor, Mr. Cranston, Mr. Garn, Mr. Simpson, Mr. Denton, Mr. Thurmond, Mr. DeConcini, Mr. Nickles, Mr. Laxalt, Mr. Specter, Mr. Warner, Mr. Hollings, Mr. Hecht, Mr. Andrews, Mr. Lugar, Mr. Boschwitz, Mr. Quayle, Mr. Heflin, Mr. Trible, Mr. Harkin, Mr. Cohen, Mr. Dixon, Mr. Cochran, Mr. Rudman, Mr. Weicker, Mr. McConnell, Mr. Zorinsky, Mr. Helms, Mr. Stennis, Mr. East, Mr. Bumpers, Mr. Levin, Mr. Hatch, and Mr. Ford):

S. Res. 281. Resolution relating to a prospective effective date for tax reform; considered and agreed to.

By Mr. HEINZ (for Mr. Dole (for himself and Mr. Byrd)):

S. Res. 282. Resolution to direct the Senate Legal Counsel to intervene in Representative Mike Synar v. United States of America; considered and agreed to.

By Mr. DOLE (for himself and Mr. Byrd):

S. Res. 283. Resolution relating to the Bipartisan Group of Senators designated pursuant to S. Res. 19 and S. Res. 86, 99th Congress, to act as Observers of Arms Reduction or Control Negotiations; considered and agreed to.

By Mr. STEVENS (for Mr. Roth (for himself and Mr. Nunn):

S. Res. 284. Resolution to authorize the inspection and receipt of tax records by a subcommittee of the Committee on Governmental Affairs; considered and agreed to.

By Mr. LONG (for himself, Mr. Packwood, Mr. Dole, Mr. Byrd, Mr. Danforth, Mr. Moynihan, Mr. Bentsen, Mr. Pryor, Mr. Matsunaga, Mr. Baucus, Mr. Cranston, Mr. Durenberger, and Mr. Armstrong):

S. Res. 285. To commend Michael Stern for his faithful and outstanding service to the United States Senate and the Nation; considered and agreed to.

By Mr. SIMPSON (for Mr. Armstrong (for himself, Mr. Roth and Mr. Domenici)):

S. Res. 286. Resolution to authorize a procedure for the disposition of extraneous material in reconciliation conference reports, and for other purposes; considered and agreed to.

By Mr. DOLE:

S. Res. 287. Resolution appointing a committee to notify the President concerning the proposed adjournment of the session; considered and agreed to.

S. Res. 288. Resolution tendering the thanks of the Senate to the Vice President for the courteous, dignified, and impartial manner in which he has presided over the deliberations of the Senate; considered and agreed to.

By Mr. DOLE (for Mr. Byrd (for himself and Mr. Dole)):

S. Res. 289. Resolution tendering the thanks of the Senate to the President Pro tempore for the courteous, dignified, and impartial manner in which he has presided over the deliberations of the Senate; considered and agreed to.

By Mr. DOLE (for himself and Mr. Byrd):

S. Res. 290. A resolution expressing the Senate's admiration for the long and distinguished career of the Senator from Mississippi, the Honorable John C. Stennis; considered and agreed to.

By Mr. BYRD:

S. Res. 291. A resolution authorizing the President of the Senate and the President of the Senate pro tempore to make certain appointments after the sine die adjournment of the present session; considered and agreed to.

By Mr. THURMOND:

S. Res. 292. A resolution to commend the exemplary conduct of the distinguished Majority Leader and Majority Whip; considered and agreed to.

S. Res. 293. A resolution to commend the extraordinarily cooperative conduct of the distinguished Minority Leader, and the Minority Whip; considered and agreed to.

S. Res. 294. A resolution tendering the thanks of the Senate to the Senate Staff for the courteous, dignified, and impartial manner in which they have assisted the deliberations of the Senate; considered and agreed to.

By Mr. KERRY (for himself, Mr. Simon, Mr. Pell, Mr. Kennedy, Mr. Dodd, Mr. Hollings, Mr. Cranston, Mr. Sarbanes, Mr. Riegle, and Mr. Harkin):

S. Con. Res. 100. A concurrent resolution expressing the sense of the Senate that the civil and political rights of Kim Dae Jung be restored and that true democracy be instituted in the Republic of Korea; to the Committee on Foreign Relations.

By Mr. SPECTER:

S. Con. Res. 101. A concurrent resolution calling for full freedom and independence for the Baltic States; to the Committee on Foreign Relations.

S. Con. Res. 102. A concurrent resolution expressing the sense of the Congress that the United States should seek, through diplomatic channels, the withdrawal of certain personnel of the Soviet Union from Estonia, Latvia, and Lithuania and the release by the Soviet Union of political prisoners of Estonian, Latvian, or Lithuanian descent; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. D'AMATO:

S. 1986. A bill to amend the Securities Exchange Act of 1934; to the Committee on Banking, Housing, and Urban Affairs.

EQUITY IN FOREIGN AND DOMESTIC CREDIT ACT

Mr. D'AMATO. Mr. President, in response to the Federal Reserve Board's [Fed] recent proposal to apply the margin requirements of section 7 of the Exchange Act to certain purchases of securities—commonly referred to as junk bonds, I introduce the "Equity in Foreign and Domestic Credit Act." This legislation is needed because the Fed cannot presently require that the provisions of the proposed interpretation be made applicable to foreign investors who acquire U.S. securities with foreign credit. The legislation is designed to end the unfair advantage presently enjoyed by foreign persons who acquire substantial positions in, or entire American corporations and are not subject to the margin requirements imposed by the Fed. These foreign purchasers are presently able to purchase U.S. securities by borrowing 100 percent of the cost of these securities from foreign lenders. At present, domestic persons and firms are at a distinct disadvantage because of the 50-percent margin requirements imposed upon them by the Federal Reserve Board under current law.

The legislation that I introduce today was discussed in the Securities Subcommittee of the Senate Banking Committee during hearings conducted in July, 1981. Little has changed since that time. Therefore, the legislation we considered then and the legislation that I introduced today arises out of a concern that these margin requirements do not reach transactions, where the acquiror of securities is not a U.S. citizen. This is troublesome both because of the potential disruption which could result from excess credit, and the fact that such investors have a competitive advantage over U.S. investors in corporate takeovers. It is my belief that if the margin requirements for U.S. investors are beneficial and are necessary, to protect the American investing public, then those same requirements are necessary to protect the U.S. investing public even if a foreign corporation is making an acquisition or tender offer.

The present inadequacy of the margin requirements was revealed by the FED's recent proposal regarding the application of margin requirements to certain transactions also prompted this legislation. On December 6, 1985, the FED approved for public comment a proposed interpretation of regulation G that would affect the financing of certain tender offers. This interpretation is scheduled to become effective December 31, 1985. Although I am not certain that I agree with the FED's interpretation which applies the margin requirements to junk bonds, I do not dispute the FED's authority to issue this interpretation. The Board's interpretation broadens considerably the scope of the existing margin rules and therefore may be viewed as more of a rule change than a mere interpretation. The FED's action may be premature in this area because of the lack of information concerning the impact of junk bond financed transactions on the economy. I am also concerned about the FED's reversal of an initial interpretation that has such dramatic implications on the financing of certain transactions without adequate notice and with a minimal comment period. The FED should not contemplate such a major policy shift without providing adequate notice and time for comment.

I also take time issue with the FED because in some respect its proposal may go too far and in others it does not go far enough. The FED's proposed interpretation may go too far because the language of the proposal does not necessarily reflect the intent to limit the proposed interpretation to a relatively limited factual situation; specifically, shell corporations that issue debt securities in order to acquire margin stock. While the intent of the rule may be narrow, the language of the proposed interpretation is not as narrowly confined. The language of the proposal is somewhat vague and ambiguous and as a result, the proposal is potentially applicable to a broad range of transactions. I do not consider it appropriate for the FED to be empowered to determine whether the margin rules apply to takeover financing on a case-by-case basis. The FED's use of its authority in this manner imposes undue burdens on the ability to execute transactions and will have an adverse effect upon financial markets.

The FED was not able to go far enough in its proposed interpretation because a statutory change is needed to apply the margin rules to foreign purchasers who use foreign credit to purchase U.S. Securities. The legislation remedies a glaring deficiency by applying the margin rules to foreign purchasers. The effect of the FED's proposal and the present unequal application of the margin rules may be to drive corporate takeover activity off-shore beyond the reach of the FED's existing margin rules. In order to prevent the circumvention of the existing margin rules, and the FED's proposed interpretation and to correct the inequities of a system that discriminates against domestic corporations and investors, I am compelled to introduce the Equity in Foreign and Domestic Credit Act.

I ask unanimous consent that the bill, and the explanation of the bill be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 1986

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. This title may be cited as the "Equity in Foreign and Domestic Credit Act".

Sec. 2. (a) Section 7 of the Securities Exchange Act of 1934 (15 U.S.C. (78g) is amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by striking out subsection (f) and inserting in lieu thereof the following:

"(f)(1) It is unlawful for any person to obtain, receive, or enjoy the beneficial use of a loan or other extension of credit from any lender (without regard to whether the lender's office or place of business is in the State or the transaction occurred in whole or in part within a State) for the purpose of (A) purchasing or carrying United States securities, or (B) purchasing or carrying within the United States any other securities, if under this section or rules and regulations prescribed thereunder, the loan or other credit transaction is prohibited or would be prohibited if it has been made or the transaction had otherwise occurred in a lender's office or other place of business in a State.

"(2) For purposes of this subsection, the term 'United States security' means a security (other than an exempted security) issued by a person incorporated under the laws of any State, or whose principal place of business is within a State.

"(3) The Board of Governors of the Federal Reserve System may, in its discretion and with due regard for the purposes of this section, by rule or regulation exempt any class of persons from the application of this subsection.

"(g)(1) Any issuer of securities that are being purchased or carried in violation of this section, or of any rule or regulation promulgated under this section, and any other person who is injured or threatened with injury by reason of such a violation by any other person, in connection with—

"(A) the acquisition or carrying of the beneficial ownership of more than 5 per centum of any class of an equity security, or

"(B) any tender offer for, or request or invitation for tenders of, any class of equity security, if after consummation thereof, such other person would, directly or indirectly, be the beneficial owner of more than 5 per centum of such class,

may bring an action in the proper district court of the United States or the proper United States court of any territory or other place subject to the jurisdiction of the United States to recover damages arising from such violation or for such injury or to enjoin such a violation.

"(2) No action shall be maintained to enforce any liability created under this subsection or to rescind any contract the making or performance of which involves a violation of this section unless brought within one year after the discovery of facts constituting the violation, and three years after the occurrence of the last substantial element of the violation.

"(3) For the purposes of this subsection—

"(A) The term 'person' has the same meaning provided such term by section 13(d)(3) of this title; and

"(B) the determination of the percentage of any class of security shall be made in the same manner as is required by section 13(d)(4) of this title.".

(b) Except for purposes of section 32 of the Securities Exchange Act of 1934, the amendment made by this section takes effect on December 19, 1985, and the provisions of section 7(f) of the Securities Exchange Act of 1934, as so amended, shall apply to any purchase of securities occurring on or after such date and to the carrying of such securities on or after such date if the loan or extension of credit therefor originated on or after such date or if the loan proceeds used to purchase or carry such securities were disbursed on or after such date.

EXPLANATION OF THE BILL

The provisions of this bill seek to ensure equal application of credit and borrowing restrictions in connection with foreign acquisitions of United States securities.

Section 1 of the bill states that this Act may be cited as the "Equity in Foreign and Domestic Credit Act."

Section 2(a) strikes out subsection 7(f) of the Exchange Act and inserts a new subsection (f) and new subsection (g). Section 7(f)(1), as amended, would make it unlawful for any person (including any foreign person) to obtain, receive or enjoy the beneficial use of a loan or other extension of credit from any lender for the purpose of purchasing or carrying United States securities, or purchasing or carrying within the United States any other securities, if under the margin provisions or rules issued under those provisions, the loan or other credit transaction is prohibited or would be prohibited if it had been made to the transaction had otherwise occurred in a lender's office or place of business in the United States.

The new provision is similar to the current section 7(f)(1), except that it applies to "any person" rather than "any United States person, or any foreign person controlled by a United States person or acting on behalf of or in conjunction with such person."

Currently, Section 7 of the Exchange Act authorizes the Federal Reserve Board to set limits on the amount of margin credit that may be extended in connection with securities transactions. However, the law currently applies only to persons who borrow in the United States, or to Americans who borrow abroad for the purpose of purchasing United States securities. It does not apply to foreign purchasers of United States securities who finance their purchases with funds from foreign lenders.

Testimony in previous Congresses revealed that, in some instances, foreign firms were borrowing from foreign lenders 100 percent of the acquisition costs of U.S. securities. This placed domestic persons and firms at a distinct disadvantage, because of the 50 percent margin requirements imposed on them by the Federal Reserve Board under current law.

Although the number of foreign takeovers of United States companies has remained fairly constant since 1981, the objective of this legislation and earlier legislative proposals addressing this issue remain valid: to correct an obvious gap in current law by imposing United States margin requirements on foreign firms that borrow from foreign lenders to purchase U.S. securities.

New section 7(f)(2) defines the term "United States security" as any security issued by a person incorporated under the law of any State, or whose principal place of business is within a State. Accordingly, any security issued by a foreign corporation whose principal place of business is within the United States would be a "United States security" for purposes of this subsection.

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This definition is the same as that in current section 7(f)(1)(B).

New section 7(f)(3) grants to the Federal Reserve Board, in its discretion and with due regard for the purposes of section 7, the authority to exempt any class of persons from the application of section 7(f). This new paragraph maintains existing Federal Reserve Board authority under current section 7(f)(3). Pursuant to this authority, the Federal Reserve Board would be empowered to exempt those borrowers who, because of the small size of their transactions of the insignificant impact of their transactions on United States issuers or securities markets, should not be obligated to bear the burden of assuring their compliance with margin provisions.

New subsection (g)(1) provides a private right of action on behalf of any issuer of securities that are being purchased or carried in violation of section 7 or of any rule or regulation promulgated under section 7. A private right of action also is granted on behalf of any other person who is injured or threatened with injury by reason of such violation by any other person. Application of the express private rights of action established by the new provision is limited, however, to violations in connection with: (1) the acquisition or carrying of more than 5 percent or more of any class of an equity security; or (2) any tender offer for class of equity security if, after consummation of the tender offer, such other person would, directly or indirectly, be the beneficial owner of more than 5 percent of such class.

Subsection (g)(2) specifies the statute of limitations for actions brought under new subsection (g). An action must be brought within one year after the discovery of the facts constituting the violation and within three years after the occurrence of the last substantial element of the violation.

The creation of an express private right of action under this provision should not be interpreted as impairing in any way existing implied private rights of action under other sections of the Exchange Act, including sections 13 and 14. Private rights of action may still be implied for violations of the Exchange Act, including sections 13 and 14, even though no private right of action is expressly provided. Private rights of action are a necessary supplement to Commission action to enforce these provisions.

Some courts have held that a target company may have a right of action under sections 14(d) or (e) of the Exchange Act, if there is a failure to disclose that the financing plan of the offeror may be illegal because of a violation of the margin requirements of section 7 of the Exchange Act. New section 7(g) specifies that a target company and other persons injured or threatened with injury by margin violations in connection with the acquisition of more than 5 percent of the issuer's equity securities have standing to maintain an injunctive or other action seeking relief from an acquiror's violations of the margin requirements of section 14 is also alleged. On the other hand, the legislation is not designed to accord to any potential plaintiffs a presumption of injury.

This legislation is not designed to regulate the conduct of foreign lenders. The regulation of their conduct raises a number of questions regarding the limits of U.S. jurisdiction and the consequences of such a provision on international relations. Accordingly, the bill has placed the burden of compliance on those persons who actually effect transactions in securities issued by U.S. companies—foreign borrowers. Consistent with the exclusion of foreign lenders from the scope of section 7(f), the legislation is not intended to create any new express private right of action against foreign lenders.

Section 2(b) provides that the amendments made by this bill will take effect on the date of introduction except for application of the criminal provisions of section 32 of the Exchange Act which shall be effective immediately on enactment. The amended provisions of section 7 shall apply to any purchase of securities on or after that date. In addition, they will apply to any securities carried on or after the date of introduction, if a loan or extension of credit for the securities originated on or after that date or if the proceeds of a loan used to purchase or carry the securities were disbursed on or after the effective date.

By Mr. WALLOP (for himself and Mr. Simpson):

S. 1987. A bill to amend the Tariff Schedules of the United States in order to establish equitable duty rates for sodium bicarbonate; to the Committee on Finance.

DUTY RATES FOR SODIUM BICARBONATE

● Mr. WALLOP. Mr. President, today I am introducing legislation to impose a 20-percent tariff on imports of sodium bicarbonate. This legislation is needed to place American producers on an equal footing with foreign manufacturers and ensure the continued health of the U.S. sodium bicarbonate industry.

Sodium bicarbonate is a food and chemical product familiar to most of us as the baking soda we use in our homes. But sodium bicarbonate also has hundreds of other industrial and pharmaceutical applications, such as fire extinguishers, tanning, animal feed, and oil and drilling rigs. In addition, two programs currently underway use sodium bicarbonate to alleviate environmental damage caused by acid rain.

Unequal international trade rules are hurting U.S. sodium bicarbonate producers. American manufacturers can't sell in foreign countries because of high import taxes and other import barriers, yet foreign manufacturers can sell freely in the United States without paying any duties.

As a result, imports of underpriced sodium bicarbonate, primarily from Mexico and West Germany, have been seriously damaging our domestic industry in recent years. Between 1981 and 1984, the volume of U.S. imports has increased over fivefold from 3,410 to 17,376 tons, and imports are projected to increase further in 1985. Imports from Mexico and West Germany, which account for nearly three-fourths of imported sodium bicarbonate, consistently undersell domestically produced material by as much as 35 percent.

Nations such as Mexico watch the United States markets in sodium bicarbonate, as some other products, to see what prices can guarantee sales in the United States and what amount of product they can ship here. The objective of earning foreign exchange can be as important as return on investment. In Mexico the capability to follow such an approach is enhanced because production comes from one producer.

The dramatic increase in imports of sodium bicarbonate has been assisted by duty-free entry into the United States. By contrast, Mexico imposes a 25-percent duty, West Germany collects a 10.1-percent duty, Canada imposes a 11-percent duty, and many Latin American countries impose duties of 30 percent and 35 percent. More seriously, Mexico also excludes almost all imports by denying the required import permits.

Because of this flood of duty-free imports, our domestic industry is suffering. U.S. manufacturers are sophisticated, efficient and competitive with producers throughout the world. Yet, because of increasing duty-free imports, U.S. producers have suffered from declining production, sales, revenues, prices, and employment at a time when the American economy as a whole has experienced a recovery.

Church & Dwight—the Nation's largest sodium bicarbonate producer and one of America's oldest companies—is a highly specialized operation whose growth has been based on this one basic product. Church & Dwight employs 600 people at its operations in New Jersey, New York, Ohio, and Wyoming, and has produced the familiar Arm & Hammer brand baking soda for almost 140 years. Its Green River, WY, plant is the world's largest. Other producers include Stauffer Chemical, which has operations in southwest Wyoming and Riverside Chemical Products in Georgia.

With the world's largest deposits of raw materials and with modern plants and technology, American sodium bicarbonate producers make the highest quality sodium bicarbonate in the world and sell it at low prices. They can compete in the United States and abroad if they are given fair treatment. However, because of unequal trade rules, U.S. producers are penalized in the world market.

The bill I am introducing today will restore fairness, encourage reciprocity, and ensure the continuation of a strong U.S. industry. By bringing U.S. duties in line with those of our competitors, a 20-percent import duty will allow U.S. companies to compete on an equal footing in the world market. In addition, a 20-percent duty will send a message to our competitors that we will not be taken advantage of, and will encourage them to open their markets and treat us fairly. Finally, a 20-percent duty will ensure the continued health of an important U.S. industry threatened by unfair trade rules.

Even with a 20-percent duty, the United States will still be more open than many other countries.

Congressman Delbert Latta of Ohio is introducing a similar bill in the House. I have contacted the U.S. Trade Representative's office to ask for his assistance. American sodium bicarbonate producers need our help to ensure that they are not hurt by unfair trade rules.●

By Mr. MELCHER (for himself, Mr. Inouye, Mr. DeConcini, Mr. Burdick, Mr. Andrews, Mr. Abdnor, and Mr. Bingaman):

S. 1988. A bill to establish a program for the prevention and control of diabetes among native Americans; to the Select Committee on Indian Affairs.

NATIVE AMERICAN DIABETES PREVENTION AND CONTROL ACT

Mr. MELCHER. Mr. President, today I am introducing legislation to address one of the most serious and far-reaching health problems affecting Indians, Alaskan Natives, and native Hawaiians. The incidence and prevalence of diabetes among these native Americans substantially exceeds the incidence and prevalence of diabetes among the general population in the United States. In many tribes, the incidence of diabetes exceeds 40 percent compared with 3 percent in the general U.S. population.

The consequence of this problem among the native populations is serious and long-term. Failure to prevent and control diabetes results in kidney failure, amputations, and blindness. Unless more intense and immediate steps are taken to prevent and control this disease, the costs to the Federal Government to treat the disease's long-term complications will skyrocket. Fortunately, the U.S. Indian Health Service has in place a model diabetes care program, which will be significantly strengthened and enhanced by this legislation.

The purpose of this bill is: First, to expand and coordinate Federal research programs aimed at diabetes and related complications among native Americans; second, to strengthen the Indian Health Service efforts in the treatment, prevention, and control of diabetes and related complications; and third, to achieve a reduction in the incidence of diabetes among our native populations. This bill is based upon a study conducted at the direction of the Select Committee on Indian Affairs. This study provides a preliminary sketch of the problem of diabetes among the native populations in this country, the extent of existing research programs underway to understsand the disease, and identifies ways to improve the efforts to treat, prevent and control diabetes.

The bill requires a comprehensive study by the Secretary of the Department of Health and Human Services of diabetes among the native populations, and requires the Secretary to identify and implement a program within the Indian Health Service which will, among other things, reduce the incidence of diabetes among the native populations. Further, the bill acknowledges the existing model diabetes program within the Indian Health Service and builds on this program.

The bill identifies ways to assure that prevention and treatment strategies developed by the program are disseminated widely enough to benefit all native Americans. Outreach programs, health education activities, special training for health care providers, and a uniform and comprehensive data collection system are all key parts to curbing the spread of the disease and controlling its long-term complications.

Finally the bill directs to the Department of Health and Human Services to develop a cohesive and comprehensive research program regarding diabetes and its related complications among native Americans.

Mr. President, I ask unanimous consent that the text of this bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1988

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Native American Diabetes Prevention and Control Act of 1985".

FINDINGS AND PURPOSE

Sec. 2. (a) The Congress finds that—

(1) the incident of diabetes among Native Americans (which for purposes of this Act includes Indians, Native Alaskans, and Native Hawaiians) is significantly higher than in other population groups within the United States;

(2) in several Indian tribes over 40 percent of the adults have diabetes compared with approximately 3 percent of the overall United States adult population;

(3) diabetes has become the second leading reason for outpatient visits by Native Americans to Indian Health Service facilities nationwide;

(4) serious complications of diabetes, such as kidney failure, hypertension, amputation, and blindness, are increasing in frequency among Native Americans;

(5) health care costs for treatment of diabetes and related complications among Native Americans will increase significantly in the long term unless the Department of Health and Human Services (hereinafter referred to as the "Department")—

(A) determines the cause of diabetes among Native Americans,

(B) develops early diagnosis, treatment, and prevention programs to reduce the incidence of diabetes among Native Americans, and

(C) trains, or provides for the training of, Federal and Native American health care providers in the diagnosis, treatment, and control of diabetes and related complications;

(6) a Model Diabetes Control Program exists within the Indian Health Service, consisting of seven project sites which serve only 10 percent of the Indian Health Service patients; and

(7) outreach services and the conveyance of effective treatment strategies from the model project sites need to be implemented.

(b) The purposes of this Act are—

(1) to broaden the research program of the Department relating to diabetes and related complications among Native Americans;

(2) to strengthen the efforts of the Indian Health Service for the treatment of diabetes through the implementation of a program for the prevention and control of diabetes and related complications on each Indian Reservation, for each Alaskan Native Village, and in Hawaii; and

(3) to achieve a reduction in the incidence of diabetes among Native American populations to a rate comparable to that of the general United States population.

STUDY ON DIABETES AMONG NATIVE AMERICANS

Sec. 3. (a) The Secretary of Health and Human Services (hereinafter referred to as the "Secretary") shall determine—

(1) the incidence of diabetes among Native Americans;

(2) activities the Indian Health Service should take—

(A) to reduce the incidence of diabetes among Native Americans,

(B) to provide Native Americans with guidance in the prevention, treatment, and control of diabetes,

(C) to provide early diagnosis of diabetes among Native Americans, and

(D) to ensure that proper continuing health care is provided to Native Americans who are diagnosed as diabetic; and

(3) the fiscal impact to the Federal Government of treating the long-term complications of diabetes based upon the existing prevalence and incidence of diabetes among Native Americans.

(b) The Secretary shall prepare an inventory of all health care programs and resources (public and private) within the United States that are available for the treatment, prevention, or control of diabetes among Native Americans.

(c) Within 18 months after the date of enactment of this Act, the Secretary shall prepare and transmit to the President and the Congress a report describing the determinations made under subsection (a), containing the inventory prepared under subsection (b), and describing the research activities conducted under section 6.

DIABETES CARE PROGRAM

Sec. 4. (a) Within 18 months after the date of enactment of this Act, the Secretary shall implement a program designed—

(1) to strengthen and expand the diabetes control program of the Indian Health Service;

(2) to enable all service units of the Indian Health Service to treat effectively—

(A) newly diagnosed diabetics in order to reduce future complications from diabetes,

(B) individuals who have a high risk of becoming diabetic in order to reduce the incidence of diabetes, and

(C) short-term and long-term complications of diabetes;

(3) to conduct, for Federal, tribal, and other Native American health care providers (including community health representatives), training programs concerning cur-

rent methods of prevention, diagnosis, and treatment of diabetes and related complications among Native Americans;

(4) to determine the appropriate delivery to Native Americans of health care services relating to diabetes;

(5) to develop and present health education information to Native American communities and schools concerning the prevention, treatment, and control of diabetes; and

(6) to ensure that proper continuing health care is provided to Native Americans who are diagnosed as diabetic.

(b) The Secretary shall—

(1) promote coordination and cooperation between all health care providers in the delivery of diabetes related services; and

(2) encourage and fund joint projects between Federal and tribal health care facilities and Native American communities for the prevention and treatment of diabetes.

(c)(1) The Secretary shall continue to maintain each of the following model diabetes clinics which are in existence on the date of enactment of this Act:

(A) Claremore Indian Hospital in Oklahoma;

(P) Fort Totten Health Center in North Dakota;

(C) Sacaton Indian Hospital in Arizona;

(D) Winnebago Indian Hospital in Nebraska;

(E) Albuquerque Indian Hospital in New Mexico;

(F) Terry, Princeton, and Old Town Health Centers in Maine; and

(G) Bellingham Health Center in Washington.

(2) Within 2 years after the date of enactment of this Act, the Secretary shall establish and maintain a model diabetes clinic in each of the following locations:

(A) the Navajo reservation;

(B) the Papago Reservation;

(C) Montana;

(D) Minnesota; and

(E) Hawaii.

(3) The Secretary shall develop and implement an outreach program to ensure that the achievements and benefits derived from the activities of the model diabetes clinics maintained under this section are used by all service units of the Indian Health Service in the diagnosis, prevention, and treatment of diabetes among Native Americans.

(d) The Secretary shall maintain appropriate personnel within the Indian Health Service to develop and implement the provisions of this Act and to manage and coordinate the diabetes care program of the Indian Health Service.

(e) The Secretary shall submit to the Congress an annual report outlining the activities, achievements, needs, and future goals of the diabetes care program of the Indian Health Service.

DATA COLLECTION AND ANALYSIS

SEC. 5. The Secretary shall develop and maintain a comprehensive standardized system within the Indian Health Service to collect, analyze, and report data regarding diabetes and related complications among Native Americans. Such system shall be designed to facilitate dissemination of the best available information on diabetes to Native American communities and health care professionals. Such system shall be operational within 2 years after the date of enactment of this Act.

RESEARCH

SEC. 6. The Secretary shall require each agency and unit of the Department which conducts research relating to diabetes—

(1) to give special attention to research concerning the causes, diagnosis, treatment, and prevention of diabetes and related complications among Native Americans; and

(2) to coordinate such research with all other agencies and units of the Department which conduct research relating to diabetes and related complications.

REGULATIONS

SEC. 7. The Secretary may prescribe such regulations as may be necessary to carry out the provisions of this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 8. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

Mr. DECONCINI. Mr. President, I join my distinguished colleague from Montana in introducing today a bill which addresses one of the most serious chronic health problems to plague our native American communities.

On June 1, 1985, I chaired a Senate Select Committee on Indian Affairs hearing on the need for disease prevention and health promotion programs on Indian reservations. The testimony of tribal, Federal, and medical research representatives spoke of an excessive incidence of diabetes among Indian peoples. This disease and its related complications wreak havoc upon a people whose physiology apparently may not be conditioned to safeguard itself against this dreaded disease. The failure to control this chronic health condition leaves in its trail devastating effects which are long term and frequently fatal. Those who are unfortunately affected by this health problem can suffer kidney failure, blindness, and limb amputations.

This bill is long past due. Enacting this legislation will mean the expansion and coordination of Federal research programs designed to study diabetes and its related complications among native Americans. We will also be strengthening the Indian Health Services capability to prevent, treat, and control the disease and its related complications. Most importantly, we will be taking steps to assure the reduction of the incidence of diabetes in the Indian community.

We need to enhance the fine work of the Indian Health Services as exemplified by the Model Diabetes Program. Our proposed legislation provides the Indian Health Services with numerous avenues for developing preventive and curative program strategies. The bill also includes provisions for a cohesive and comprehensive research program which will place emphasis on the cause, diagnosis, treatment and prevention of diabetes and related health problems among Indian peoples.

The long-term benefits of this bill are tremendous. The payback for the individual and for the Federal Government justify the immediate commitment of resources. We have made great strides in improving the health status of Native Americans in the past decade. However, we cannot overlook the simple fact that one in every five Indian person suffers from this terrible health problem. I urge my colleagues to join the Senator from Montana and me in responding to this critical need in the Native American community.

By Mrs. HAWKINS (for herself, Mr. THURMOND, Mr. HATCH, and Mr. DIXON):

S. 1989. A bill to open Japanese markets for U.S. semiconductors and establish fair conditions to trade in semiconductors; to the Committee on Finance.

SEMICONDUCTOR TRADE FAIRNESS ACT

● **Mrs. HAWKINS.** Mr. President, in an effort to promote the future competitiveness of the U.S. semiconductor industry and to assure our national security, today I am introducing the Semiconductor Trade Fairness Act. This much needed trade legislation provides congressional findings regarding unfair trade practices by Japan, and directs the President to take specific action to enforce the trade rights of U.S. semiconductor manufacturers.

The Government of Japan, through its anticompetitive market structure, has prohibited United States semiconductor manufacturers fair access to its market. While United States manufacturers have held 55 percent of the semiconductor market in Europe, 83 percent of the United States market, and 47 percent in all other markets, United States market share in Japan has been steadily held to 10 percent over the last 10 years. This has had a tremendous impact on the future of our semiconductor industry and our national security.

For their most recent quarters, U.S. semiconductor companies reported operating results which ranged from marginal profitability at best to major losses at worst. In aggregate, Advanced Micro Devices, Inc., reported operating losses of $180.1 million, as compared with profits of $355.8 million in the comparable quarter last year. These losses—which, on an annualized basis, would total $720.4 million—are attributable both to a substantial drop in semiconductor demand, and to the severe decline in semiconductor prices which has occurred. The semiconductor price reductions in turn can, to a large extent, be attributed to Japanese companies' pricing patterns. As W.J. Sanders III, the chairman of the board and president of Advanced Micro Devices, stated in his company's "Second Quarter Report, Fiscal Year 1986," issued November 8, 1985:

> Unfortunately, we are not able to enjoy the profits of our success [as innovative developers of EPROM's]. The reason is predatory pricing by Japanese manufacturers who have targeted this market segment for domination. These companies, parts of huge conglomerates, seem prepared to "buy" market share by setting prices extremely

low—even below manfacturing costs—in order to squeeze U.S. manufacturers out of the market. This practice is called "dumping" and it is a violation of U.S. trade law. The effect of Japanese dumping has been, for example, to force the price of 256k EPROM's down from $17 at the beginning of 1985 to less than $4 in August. That is well below manufacturing cost and, as a consequence, EPROM's were responsible for more than half of AMD's operating loss during the part quarter.

The Intel Corp. "Third Quarter Report 1985," also reported that:

> The most acute problem we face is in memory components. Japanese manufacturers have targeted the EPROM market and have driven prices down in an effort to capture market share without regard to profit. For example, the price of a 256K EPROM has fallen 75 percent this. . . . low prices also caused us to announce recently our withdrawal from the dynamic random access memory (dram) market.

Another reason for the losses posted by United States semiconductor companies is their lack of full access to the Japanese market. In National Semiconductor's "1985 Annual Report," Charles E. Sporck, chairman of the board of directors, noted:

> [W]e support the U.S. semiconductor industry's petition for action under section 301 of the Trade Act of 1974. We ask that the President of the United States adopt as policy specific objectives, including a dramatic improvement in U.S. sales in Japan commensurate with those in other world markets. . . . U.S. producers must have fair access to that important market, if they are to remain competitive and viable in the long term.

One result of these operating losses has been a substantial decline in employment by U.S. semiconductor manufacturers. In the 10 months from December 1984 to October 1985, Dataquest, Inc., estimates that employment by U.S. semiconductor companies declined by 14 percent or 63,846 workers. The attached report by Dataquest details the extent of this employment decline by individual companies and provides similar information for Japanese semiconductor producers.

Because of the increased reliance by the U.S. Department of Defense on sophisticated systems, semiconductors have become central to our national security. Increasingly, super computers, which are the heart of our national defense, rely upon foreign manufactured high-speed semiconductors.

Because the electronics portion of the U.S. defense budget is increasing, semiconductor defense sales are projected to increase from $1 billion in 1983 to $2.45 billion. Military procurement is estimated to represented 10 percent of the end-use semiconductor market.

When the United States becomes increasingly dependent upon foreign sources for vital defense assets, our national security is in jeopardy. In the event of war, our semiconductor source and supply routes could be easily disrupted. Without domestic research and development and production of the most sophisticated semiconductors, the United States is a nation at risk with regard to our national security and international competitiveness.

I would like to invite my colleagues to join me in this effort by cosponsoring my legislation, which I am pleased to indicated has been endorsed by the Semiconductor Industry Association.●

By Mr. QUAYLE (for himself and Mr. Kennedy):

S. 1990. A bill to establish an Education and Training Partnership to administer the Wagner-Peyser Act, the Job Training Partnership Act, and the Carl D. Perkins Vocational Education Act, and for other purposes; to the Committee on Labor and Human Resources.

EDUCATION AND TRAINING PARTNERSHIP ACT

● Mr. QUAYLE. Mr. President, today I am introducing a bill to establish an independent agency in the executive branch of the Federal Government called the Education and Training Partnership. The Partnership will administer the Job Training Partnership Act, the Wagner-Peyser Act, which authorized the Employment Service, and the Carl D. Perkins Vocational Education Act. Senator Roth, chairman of the Committee on Governmental Affairs that has jurisdiction over this bill, has agreed to let the Subcommittee on Employment and Productivity which I chair, hold hearings on it.

My objective is to examine the administrative structure that carries out the Federal role in the labor market. Various agencies share responsibility for carrying out the Federal role. They set Federal policy, mainly through regulations, and they have related responsibilities, such as research and data collection. I am exploring how to get these Federal agencies to work more closely together, in conjunction with the private sector.

Since 1982, Congress has revised the laws governing job training, vocational education, and the Employment Service to improve the administration of these programs. The rationale for administrative reform was to make these programs more responsive to our Nation's labor market needs by increasing the involvement of the private sector and by promoting coordination among related activities at the State and local levels. Although, these changes were mandated at the State and local levels, they did not affect Federal administration.

On April 3, Senators Hatch and Kennedy issued statements in support of my proposal to study whether the principles underlying those State and local changes also apply to the Federal Government. We want to examine whether it is desirable to improve communications among Federal agencies with related responsibilities and increase private sector involvement at the Federal level. If so, how can we do it?

Now I am coming forward with a specific plan that I hope will serve as a focal point for discussing these issues. I am pleased to have Senator Kennedy as a cosponsor of this proposal.

The Education and Training Partnership will be headed by a Board of Directors that will be composed of nine members. Five of the nine members will be private sector representatives who will be appointed by the President with the advice and consent of the Senate. Three of the five will be representatives, of employers and two will be representatives of labor. They will serve staggered, 5-year terms. One of these five private sector members will be appointed by the President to serve as Chairman.

The remaining four representatives will be the Secretaries of Labor, Education, Commerce, and Health and Human Services.

The Partnership will assume the responsibilities assigned to the Secretary of Labor under the Job Training Partnership Act [JTPA] and the Wagner-Peyser Act and the responsibilities assigned to the Secretary of Education under the Carl D. Perkins Vocational Education Act.

I would like to emphasize that this ageny will not create a new bureaucracy because the Board of Directors may delegate administrative responsibilities back to either the Secretary of Labor or to the Secretary of Education or to both. However, in order to give the Board substantial authority, it is prohibited from delegating the approval of State grant applications for JTPA, vocational education, and the Employment Service.

I plan to conduct hearings at the beginning of the next session. Comments from all interested parties are welcome and invited. To discuss this bill with a member of my staff, please contact Renee Coe at 224-6306. Her mailing address is Labor and Human Resources Committee, 428 Dirksen Senate Office Building, Washington DC 20510.

I ask unanimous consent to have the text of the bill printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1990

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Education and Training Partnership Act".

STATEMENT OF PURPOSE

Sec. 2. It is the purpose of this Act to establish an Education and Training Partnership to be headed by a Board of Directors to involve the private sector in the Federal administration of certain education and training programs.

ESTABLISHMENT OF EDUCATION AND TRAINING PARTNERSHIP

SEC. 3. (a) There is established an Education and Training Partnership as an independent agency in the executive branch of the Federal Government.

(b)(1) The Education and Training Partnership shall be headed by a Board of Directors to be composed of 9 members as follows:

(A) Three individuals appointed by the President, by and with the advice and consent of the Senate, who are representative of employers in the United States.

(B) Two individuals who are appointed by the President, by and with the advice and consent of the Senate, who are representative of labor.

(C) The Secretary of Labor.

(D) The Secretary of Education.

(E) The Secretary of Commerce.

(F) The Secretary of Health and Human Services.

(2) The President shall select one of the members of the Board who was appointed under clause (A) or (B) of paragraph (1) to serve as Chairman.

(3) Each Secretary specified in paragraph (1) may delegate the responsibility of serving on the Board under this Act only to an officer of the Department who is appointed by the President, by and with the advice and consent of the Senate.

(c) The terms of office of the members of the Board appointed pursuant to clause (A) and (B) of subsection (b)(1) shall be 5 years, except that—

(1) members of the board first taking office shall serve as designated by the President 1 for a term of 1 year, 1 for a term of 2 years, 1 for a term of 3 years, 1 for a term of 4 years, and 1 for a term of 5 year, and

(2) any member of the Board appointed to fill a vacancy shall serve for the remainder of the term for which the predecessor of the member was appointed.

(d)(1)(A) Members of the Board who are not regular full-time employees of the United States shall, while serving on the business of the Board, be entitled to receive compensation at rates fixed, without regard to the civil service and classification laws, by the President, including traveltime, for each day they are engaged in the performance of their duties as members of the Board. Such members of the Board shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out their duties under this Act.

(B) Members of the Board who are employed by the Federal Government shall serve without compensation but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out their duties under this Act.

(2)(A) The Chairman of the Board selected pursuant to subsection (b) of this section shall be a full-time employee of the United States.

(B) The President shall, without regard to the civil service and classification laws, fix the compensation of the Chairman of the Board.

FUNCTIONS OF THE EDUCATION AND TRAINING PARTNERSHIP

SEC. 4. There are transferred to the Education and Training Partnership, and the Board of Directors of the Education and Training Partnership shall perform, the functions of—

(1) the Secretary of Labor—

(A) under the Wagner-Peyser Act; and

(B) under the Job Training Partnership Act; and

(2) the Secretary of Education under the Carl D. Perkins Vocational Education Act.

DELEGATION

SEC. 5. (a) The Board of Directors of the Education and Training Partnership shall exercise all powers necessary to carry out the functions of the Eduction and Training Partnership under this or any other Act.

(b) The Board of Directors may delegate any function under this Act to the Secretary of Labor or to the Secretary of Education, or to both the Secretary of Labor and the Secretary of Education, except the approval of applications for grants under the provisions of law described in clauses (1) and (2) in section 4.

PERSONNEL OF THE BOARD OF DIRECTORS

SEC. 6. (a) The Board of Directors is authorized, without regard to civil service and classification laws, to appoint and fix the compensation of such officers and employees and describe their functions and duties as may be necessary to carry out the provisions of this Act.

(b) The Board of Directors may obtain the services of experts and consultants in accordance with provisions of section 3109 of title 5, United States Code.

TRANSFERS

SEC. 7. (a) All assets, liabilities, contracts, property, and records as are determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with any function transferred under the provisions of section 4 are transferred to the Education and Training Partnership.

(b) Only such personnel engaged in administering the provisions of law described in clauses (1) and (2) of section 4 as the Board of Directors determines are necessary to carry out its functions under this Act may be transferred by the Director of the Office of Management and Budget under this Act.

ADMINISTRATIVE PROVISIONS

SEC. 8. (a) The Board of Directors may delegate and redelegate authority to exercise the functions transferred to the Education and Training Partnership by this Act, except as provided in section 5(b), to any officer or employee of the Education and Training Partnership as the Board of Directors may designate.

(b) In order to carry out the functions of the Education and Training Partnership prescribed by this Act, the Board of Directors is authorized—

(1) to adopt, alter, and use a seal;

(2) to adopt, amend, and repeal rules and regulations governing the manner of its operations, organization, and personnel, and the performance of the powers and duties granted to or imposed upon it by law;

(3) to accept gifts or donations of services, money, or property, real, personal, or mixed, tangible or intangible;

(4) to enter into contracts or other arrangements or modifications thereof, with any government, any agency or department of the United States, or with any person, firm, association, or corporation, and such contracts or other arrangements, or modifications thereof, may be entered into without legal consideration, without performance or other bonds, and without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5);

(5) to make advance, progress, and other payments which the Board of Directors deems necessary under this Act without regard to the provisions of section 3324 of title 31, United States Code; and

(6) to take such other action as may be necessary to carry out the provisions of this Act.

(c) The Secretary of Labor and the Secretary of Education are each authorized to take such action to reduce the size of each agency, office, and division of the Department of Labor and the Department of Education, as the case may be, as necessary by reason of the transfers made by section 4 of this Act.

ANNUAL REPORT

SEC. 9. The Board of Directors shall, as soon as practicable after the end of each fiscal year, make a report in writing to the President for submission to the Congress on the activities of the Education and Training Partnership during the preceding fiscal year.

SAVINGS PROVISIONS

SEC. 10. (a) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective in the exercise of functions which are transferred under this Act, by (A) any agency or office, or part thereof, any functions of which are transferred by this Act, or (B) any court of competent jurisdiction; and

(2) which are in effect at the time this Act takes effect;

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Board of Directors, by any court of competent jurisdiction, or by operation of law.

(b)(1) This Act shall not affect any proceedings pending at the time this section takes effect before any agency or office, or part thereof, functions of which are transferred by this Act, except that such proceedings, to the extent that they relate to functions so transferred, shall be continued before the Board of Directors.

(2) To the extent that such proceedings do not relate to functions so transferred, such proceedings shall be continued before the agency or office, or part thereof, before which they were pending at the time of such transfer.

(3) In the case of paragraph (1) or (2) orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted. Orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or repealed by the Board of Directors, by a court of competent jurisdiction, or by operation of law.

(c)(1) Except as provided in paragraph (3)—

(A) the provisions of this Act shall not affect suits commenced prior to the date this section takes effect; and

(B) in all such suits proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as if this Act had not been enacted.

(2)(A) No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of any agency or office, or part thereof, functions of which are transferred by this Act, shall abate by reason of the enactment of this Act. No cause of action by or against any agency or office, or part thereof, functions of which are transferred by this Act, or by or against any officer thereof in his official capacity shall abate by reason of the enactment of this Act.

(B) Causes of actions, suits, or other proceedings may be asserted by or against the United States or such official of the Education and Training Partnership as may be appropriate. In any litigation pending when this section takes effect, the court may at any time, on its own motion or that of any party, enter an order which will give effect to the provisions of this subsection.

(3) If before the date on which this Act takes effect, any agency or office, or officer thereof in his official capacity, is a party to a suit, and under this Act—

(A) such agency or office, or any part there of, is transferred to the Board of Directors; or

(B) any function of such agency, office, or part thereof, or officer is transferred to the Board of Directors;

then such suit shall be continued by the Board of Directors (except in the case of a suit not involving functions transferred to the Board of Directors, in which case the suit shall be continued by the agency, office, or part thereof, or officer which was a party to the suit prior to the effective date of this Act).

(d) With respect to any functions transferred by this Act and exercised after the effective date of this Act, reference in any other Federal law to any agency, office, or part thereof, or officer so transferred or functions of which are so transferred shall be deemed to mean the Board of Directors of the Education and Training Partnership in which such function is vested pursuant to this Act.

(e) This Act shall not have the effect of releasing or extinguishing any criminal prosecution, penalty, forfeiture, or liability incurred as a result of any function transferred under this Act.

(f) Orders and actions of the Board of Directors in the exercise of functions transferred under this Act shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the agency or office, or part thereof, exercising such functions, immediately preceding their transfer. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by this Act shall apply to the exercise of such function by the Board of Directors.

(g) In the exercise of the functions transferred under this Act, the Board of Directors shall have the same authority as that vested in the agency or office, or part thereof, exercising such functions immediately preceding their transfer, and actions of the Board of Directors in exercising such functions shall have the same force and effect as when exercised by such agency or office, or part thereof.

DEFINITIONS

Sec. 11. For the purpose of this Act—

(1) the term "Board" means the Board of Directors of the Education and Training Partnership established under section 3 of this Act; and

(2) the term "function" includes any duty, obligation, power, authority, responsibility, right, privilege, activity, or program.

EFFECTIVE DATE

Sec. 12. (a) This Act, other than this section, shall take effect 90 days after the date of enactment of this Act or on such prior date after the effective date of this Act as the President shall prescribe and publish in the Federal Register.

(b) Notwithstanding subsection (a) of this section, any of the officers provided for in clauses (A) and (B) of section 3(b)(1) of this Act may be appointed for in the manner provided for in this Act at any time after the date of enactment of this Act. Such officer shall be compensated from the date they first take office at the appropriate rates provided for in this Act. Such compensation related expenses of such officers shall be paid from funds available for the functions to be transferred to the Education and Training Partnership under this Act.●

By Mr. ANDREWS (for himself, Mr. Melcher, Mr. Abdnor, Mr. Burdick, Mr. DeConcini, Mr. Inouye, Mr. Murkowski, and Mr. Goldwater):

S. 1991. A bill to extend programs under the Native American Programs Act of 1974 through fiscal year 1990; to the Committee on Indian Affairs.

NATIVE AMERICAN PROGRAMS ACT EXTENSION

● Mr. ANDREWS. Mr. President, I am pleased to introduce today a bill to extend through 1990 authorization for funding of programs under the Native American Programs Act of 1974. I introduce this legislation for myself and for Senators Melcher, Abdnor, Burdick, DeConcini, Inouye, and Goldwater.

Mr. President, this legislation will assure continuation of a valuable program that enhances the ability of off-reservation groups, including rural, urban, Native Alaskan, and native Hawaiian organizations, as well as reservation based Indian tribes to engage in social and economic self-sufficiency. Under the Native American Programs Act, each tribe or off-reservation native American group has the opportunity and the responsibility to decide for itself what its major social and economic priorities are, and how they will address these areas. ANA is truly a program that promotes and endorses self-determination for native Americans.●

By Mr. STEVENS (by request):

S. 1992. A bill to preserve the rights of certain parties with an interest in certain vessels or fishing facilities, and for other purposes; to the Committee on Commerce, Science, and Transportation.

S. 1993. A bill to preserve the rights of certain parties with an interest in aircrafts, aircraft parts, or vessels, and for other purposes; to the Committee on Commerce, Science, and Transportation.

ADMINISTRATION OF THE TITLE XI LOAN GUARANTEE PROGRAM

● Mr. STEVENS. Mr. President, I am introducing two bills on behalf of the administration designed to reinstate the previous authority of the Secretaries of Transportation and Commerce to to protect the interests of the Federal Government under the Loan Guarantee Program of Title XI of the Merchant Marine Act of 1936.

Under the Title XI Loan Guarantee Program, the Federal Government guarantees obligations to finance the construction, reconstruction or reconditioning of U.S.-flag commercial vessels and fishery facilities. The Secretary of Transportation administers the program for U.S.-flag commercial vessels, and the Secretary of Commerce has similar authority with respect to fishing vessels and fishery facilities.

Prior to enactment of the Bankruptcy Reform Act of 1978, both the Secretaries had the authority to foreclose on the mortgages of debtor shipowners who had filed for bankruptcy if the foreclosure were found to be in the best interest of the United States.

As a result of the enactment of the bankruptcy reforms, the Secretary of Transportation and the Secretary of Commerce are now blocked by the automatic stay provisions of the Bankruptcy Code from foreclosing on title XI securities for vessels, and must seek relief from a stay in a formal bankruptcy procedure.

We intend to schedule hearings early next year to review both the form and the substance of these bills. A preliminary analysis indicates that Congress may need to act swiftly to remove the serious disadvantage under which the Secretaries have been operating in the administration of the Title XI Loan Guarantee Program.

Mr. President, I ask unanimous consent that the text of the bills be inserted in the Record.

There being no objection, the bills were ordered to be printed in the Record, as follows:

S. 1992

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subchapter I of chapter 13 of title 11, United States Code, is amended by adding at the end thereof the following:

"§ 1308. Fishing Vessels and Facilities.

"(a) The right of a secured party with an interest arising from a preferred ship mortgage under the Ship Mortgage Act, 1920 in, or of a lessor or conditional vendor of, whether as trustee or otherwise, a vessel as defined by section 1101(b) of the Merchant Marine Act of 1936 (46 U.S.C. § 1271(b)), or the right of a secured party with an interest arising from a mortgage on, or other security interest in, a fishery facility as defined by section 1101(k) of the Merchant Marine Act of 1936 (46 U.S.C. § 1271(k)), to take possession of and foreclose on such equipment or facility in compliance with the provisions of the preferred ship mortgage, such other mortgage, security agreement, lease, or conditional sale contract, as the case may be, is not affected by section 362 or 363 of this title or by any power of the court to enjoin such taking of possession or disposition, unless—

"(1) before 60 days after the date of the order for relief under this chapter, the trustee, subject to the court's approval, agrees to preform all obligations of the debtor that became due on or after such date under such preferred ship mortgage, mortgage, security agreement, lease, or conditional sale contract, as the case may be; and

"(2) any default, other than a default of a kind specified in section 365(b)(2) of this title under such preferred ship mortgage, mortgage, security agreement, lease, or conditional sale contract, as the case may be—

"(A) that occurred before such date is cured before the expiration of such 60-day period; and

"(B) that occurs after such date is cured before the later of-

"(i) 30 days after the date of such default; and

"(ii) the expiration of such 60-day period.

"(b) Any cure under subsection (a)(2) may only be established by payment to the secured party, lessor, or conditional vendor in full in cash of an amount equal to all sums owed, plus payments of all applicable interest.

"(c) The trustee and the secured party, lessor, or conditional vendor, as the case may be, whose right to take possession is protected under subsection (a) of this section may agree subject to the court's approval, to extend the 60-day period specified in subsection (a)(1) of this section.".

(b) The chapter analysis of chapter 13 of title 11, United States Code, is amended by adding at the end of subchapter I the following: "1308. Fishing vessels and facilities.".

S. 1993

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1110(a) of title 11, United States Code, is amended to read as follows:

"(a) The right of a secured party with a purchase-money equipment security interest in, or of a lessor or conditional vendor of, whether as trustee or otherwise, aircraft, aircraft engines, propellers, appliances, or spare parts as defined in section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301) that are subject to a purchase-money equipment security interest granted by, leased to, or conditionally sold to, a debtor that is an air carrier operating under a certificate of convenience and necessity issued by the Department of Transportation under section 401 of the Federal Aviation Act of 1958 (49 U.S.C. 1371), to take possession of and foreclose on such equipment in compliance with the provisions of a purchase-money equipment security agreement, lease, or conditional sale contract, as the case may be, or the right of a secured party with an interest arising from a preferred ship mortgage as defined under the Ship Mortgage Act, 1920, in, or of a lessor or conditional vendor of, whether as trustee or otherwse, a vessel as defined by section 1101(b) of the Merchant Marine Act of 1936 (46 App. U.S.C. 1271(b)), or the right of a secured party with an interest arising from a mortgage on, or other security interest in, a fishery facility as defined in section 1101(k) of the Merchant Marine Act of 1936 (46 App. U.S.C. 1271(k)), or of a party with a security interest under any state law applicable to such vessel or facility while under construction, including, but not limited to equipment and appurtenances relating thereto, to take possession of and foreclose on such vessel or facility, or vessel or facility under construction, in compliance with the provisions of the preferred ship mortgage, such other mortgage, other security interest, lease or conditional sale contract, as the case may be, is not affected by section 362 or 363 of this title or by any power of the court to enjoin such taking of possession or disposition, unless—

"(1) before 60 days after the date of the order for relief under this chapter, the trustee, subject to the court's approval, agrees to perform all obligations of the debtor that become due on or after such date under such preferred ship mortgage, mortgage, security agreement, lease, or conditional sale contract, as the case may be; and

"(2) any default, other than a default of a kind specified in section 365(b)(2) of this title, under such preferred ship mortgage, mortgage, security agreement, lease, or conditional sale contract, as the case may be—

"(A) that occurred before such date is cured before the expiration of such 60-day period; and

"(B) that occurs after such date is cured before the later of—

"(i) 30 days after the date of such default; and

"(ii) the expiration of such 60-day period.

"Any cure under subsection (a)(2) may only be established by payment to the secured party, lessor, or conditional vendor in full in cash of an amount equal to all sums owed, plus payment of all applicable interest."●

By Mr. STEVENS:

S. 1994. A bill for the relief of Pedro M. Bertulfo and his wife, Amalia M. Bertulof; to the Committee on the Judiciary.

RELIEF OF PEDRO BERTULFO AND HIS WIFE, AMALIA M. BERTULFO

● Mr. STEVENS. Mr. President, I am introducing today a private relief bill for Pedro and Amalia Bertulfo.

Pedro served honorably on behalf of the Allied Forces in the Philippines during World War II. In return for this service, Mr. Bertulfo was promised U.S. citizenship for himself and his family. Congress passed the Second War Powers Act of 1942 expressly to liberalize the requirements for citizenship for aliens, such as Mr. Bertulfo, who served honorably on behalf of the Allied cause. However, due to incomplete efforts to implement the legislation, Mr. Bertulfo was never able to take advantage of this opportunity.

Amalia and Pedro have been residents of Alaska for several years, but are not eligible for citizenship. This bill is necessary to fulfill the promise of citizenship made to Mr. Bertulof in return for his service in the Philippines in World War II.●

By Mr. STEVENS:

S. 1995. A bill for the relief of David Ford; to the Committee on the Judiciary.

RELIEF OF DAVID FORD

● Mr. STEVENS. Mr. President, I rise today to introduce a private bill for the relief of David Ford.

Mr. Ford has been a resident of the United States for 5 years. When he entered this country, he was married to a U.S. citizen. His application for resident status was denied, however, because he falls within a statutory exclusion. An uncontested charge—brought against him in a New Zealand court in 1973—which resulted in only a $300 fine, has defeated his efforts. The difficulties he experienced in trying to obtain resident status eventually led to the dissolution of his marriage.

There is no administrative remedy available to Mr. Ford. He will not be able to achieve resident status without a private bill. He provides a useful service to the small community in which he lives—being a trained holistic health practitioner. Many people in his community have written me praising David's moral character, and his contributions to their community. I feel it is appropriate to grant Mr. Ford permanent resident status.●

By Mr. STEVENS:

S. 1996. A bill for the relief of Romeo Manabat and his wife Grace Manabat; to the Committee on the Judiciary.

RELIEF OF ROMEO MANABAT AND HIS WIFE GRACE MANABAT

● Mr. STEVENS. Mr. President, I am introducing today a private relief bill for Romeo and Grace Manabat.

This couple is being threatened with deportation because they were married when they immigrated to the United States. Romeo was allowed to immigrate to this country under the second preference—as an unmarried son of a legally admitted resident alien. During the delay between his application and the date Romeo was allowed to immigrate he and Grace were married. Romeo entered the United States in 1980. Grace followed shortly. Their resident status is now being challenged, however, because they were married at the time of their entry.

Many members of both of their families have immigrated to the United States. Romeo and Grace have provided valuable contributions to their community. They have proven hard-working, and, in fact, provide support for Romeo's father.

Removing them from the community would prove a great hardship to both themselves and their family. Without the relief which would be provided by this bill, however, this result is almost inevitable. I feel that the Manabats deserve this assistance.●

By Mr. WALLOP (for himself and Mr. BENTSEN):

S. 1997. A bill to amend the Internal Revenue Code of 1954 to impose a tax on the importation of crude oil and refined petroleum products; to the Committee on Finance.

EXCISE TAX ON IMPORTED CRUDE OIL AND REFINED PETROLEUM PRODUCTS

● Mr. WALLOP. Mr. President, today as a matter of energy policy, and not as a matter of revenue, I rise to introduce a formula for an imported energy excise tax. I have long struggled with the merits and difficult problems which may result from taxation of energy imports. It seems that, in Congress, there is never a good time to develop thoughtful and lasting energy policy: When energy is in plentiful supply, we won't focus on energy policy; when there is a shortage, we move too quickly to fix blame and punish whatever wrongdoer the witch hunt turns up.

Through the introduction of this bill, my cosponsors and I call for hearings and careful consideration of our energy policies at this time of temporary energy price volatility. The formula presented in this bill I feel makes more sense as a matter of energy policy than do many other alternatives. I am not yet convinced that an energy excise tax is the only, nor even an appropriate, course for implementation of energy policy. I am certain, however, that unless we address such policy in the discussions regarding taxation of energy imports, we will cause the Federal Government to enter an abyss from which it will be difficult to retreat. It could cause economic and energy inefficiencies from which our people may never recover.

The United States of America currently imports about 30 percent of its total energy needs. For a time after the Iranian energy crisis, development of new domestic production and conservation measures, along with the development of alternative sources of energy, caused a reduction in the percentage of our imports. From a peak of 47 percent import reliance in 1977, we were able to reduce reliance to a low of 28 percent in 1982. Once again, imports are increasing and, all estimates are that import reliance in the year 2000 will be upward of 45 percent. This trend, and falling world oil prices, indicate that we are again slipping into the blissful quagmire of undue reliance on imported energy sources.

Forty-two percent of America's energy needs are supplied by oil. The oil industry, from exploration to product delivery, is a high-risk, capital-intensive business, a business where multimillion-dollar investments become worthless overnight. It is a popular windmill for many of the tilting knights whose kingdom is Congress hallowed chambers. But it is an industry whose success in the development and delivery of energy, impacts the everyday lives of each citizen of this great Nation.

The current trends in government taxation and regulation will not advance energy security. In fact they apparently are designed, if at all, to increase reliance on foreign sources. During the tax reform hearings we learned the oil industry bears the highest tax burden among all other industries, when you combine the tax impacts of the income and Superfund taxes, the deceitfully named windfall profits tax, and the various State environmental and severance taxes. Compounding this, the current tax reform proposal now before the House proposes to eliminate percentage depletion, and impinge on the deductibility of intangible drilling costs. Thus, the costs of discovering reserves to replace our depleting proven resources will increase, boding ill for our Nation's continued energy independence.

Last week we read about the divisions and dessension within OPEC. Americans, I think heaved a sigh of relief as we watched the cartel, that has since the early 1970's had so much influence in our everyday lives, fall in disarray. Our preferred perception is that OPEC's demise is forever. Americans are an optimistic people and chose not to look forward and plan for the avoidance of future crises, but rather assume that the future will take care of itself, comforted by a bizarre twist of logic which says in effect "the future is not what it used to be!" Today, now, is the time to enter into far reaching energy policies. Policies which will protect our ability to provide the American people with the future energy independence which is so key to our everyday life, the stability of our economy and our ability to protect our cherished democracy.

OPEC's impotence is temporary. It will reign strong again. I commend for your reading the warning of Mohammed Akacem, an economist at the Saudi Fund for Development in Riyadh, which appeared in the Wall Street Journal, November 11, 1985. In that article, Mr. Akacem outlined a strategy for the recovery of OPEC. As early as the end of this decade, the poorer oil producing countries will have depleted their resources to the point that six Persian Gulf petroleum producing countries will possess a significant portion of the world oil reserves. He states that these gulf producing states will then be in a position to better control the market through "strategic flooding" if necessary. In addition, the new unity which will result among the remaining OPEC powers because of common religion and natural resource-based economies, will make it easier for them to agree on policy and share information that will allow a "relatively slow depletion rate" and "a stable growth of oil prices over time."

To ignore both the disruptive and inflationary results of our past failures in energy planning and the current warnings from OPEC and our own energy experts would be irresponsible. To the extent we jeopardize the security of our freedoms, I believe it to be criminally negligent. The structure of our Government makes it difficult to define long-term policy in terms of more than a few years. But energy policy demands statesman-like forward thinking.

There are many reasons to believe that the current world oil markets present us with a rare opportunity to develop a strategic and innovative long-term energy policy for our Nation. Our failure to examine and take advantage of opportunities now available to us assure that we will again see the time when foreign powers restrict the freedoms and economic opportunities of our people by restricting access to energy.

Today, I introduce an imported oil excise tax which is designed to assist in the implementation of sound energy policy. I personally adamantly reject any import fee whose purpose is merely revenue. All our experience indicate we will find ourselves incapable of weaning the money spenders from the energy policy cow—whatever wisdom indicates to the contrary.

Under the formula presented in this bill, an energy policy price will establish the minimum survival value which a barrel of crude oil, or refined product equivalent should bring on the domestic market. Maintaining a survival price on oil, the building block of energy pricing, has the potential benefits of sustaining reasonable levels of exploration, production, and refining of our traditional energy sources, as well as providing the economic incentives necessary to stimulate further development of alternative sources of energy, fuel switching and conservation. This excise tax seeks to be a stabilizing influence on the supply reliability of energy in America. We hope to prevent the crises in which inevitably we find ourselves when there are large fluctuations of price and supply in the markets of a basic commodity.

For purposes of the bill, I have approximated the energy policy price at $22. Hearings should indicate the appropriate survival standard. $22 is a good deal lower than the current price and perhaps lower than prices may fall though estimates vary considerably lower than that. At this moment no price standard should be fixed in concrete.

Once the energy policy price is established, the oil excise tax would float with the world price of oil. The excise tax would be collected in an amount equal to the difference between the energy policy price and the world oil price.

Thus, if the energy policy price were determined to be $22 and the world price was $20, then the oil excise tax would be $2 per barrel, adjusted for weight and quality.

There should be a differential for imported petroleum products. America's refiners are subjected to environmental requirements not placed on their foreign competition, and to the extent that these can be quantified and equalized within the excise tax we should do so. In addition we will need to consider how and if application of the fee should be adjusted to encourage retrofitting of our domestic refineries.

I propose this excise tax now because oil prices are weak and will, for a time, continue to fall. Some estimates are that the price of oil will drop to below $20 per barrel by spring and that there will be an oil glut during the foreseeable future as the OPEC members fight economic and domestic problems, and indeed wars, with petrodollars, and the Third World producers try to resolve their debts with increased production.

A carefully structured survival price stabilized by this import fee could be an important tool in the development and implementation of a sound domestic energy policy. But such an excise tax is not without its potential problems. The excise tax must be designed in a fashion which will not result in continued and direct involvement of the Government in regulation of energy prices, nor should it result in a windfall to our domestic energy—be they oil, coal, or alternative—producers or refiners. Under the terms of my bill, the excise tax would automatically terminate when survival targets are reached in the world market. If not carefully designed an oil import fee should be attacked as inflationary or protectionist, both being unacceptable results.

We will need to consider the impact of such a tax on the world oil markets, upon which many of our allies depend. I should also point out that many of those same nations are now considering oil import fees themselves. In addition, as the world's largest energy importer, we must be concerned for the excise tax's impact on OPEC itself and on the debtor nations many of which are our close allies and friends.

Some exemptions may be merited. The bill provides for an exemption for heating oil, to well help minimize regional distortions but that is not without risk. The determination and definition of what heating oil should be exempt will not be an easy task, and I expect the hearing process to aid us in this area. In my judgment, we should consider exemptions for feedstocks used in exports, process fuels, and liquid natural gas.

Energy policy is beginning to get the attention of many of our colleagues and several oil import fee structures have been introduced. I will adamantly oppose any fee that may be enacted because of its revenue-raising abilities, and whose structure is not based on sound energy policy. I intend to chair hearings in the Energy and Agriculture Taxation Subcommittee of the Finance Committee and join Senator Boren in requesting that the chairman of the full Finance Committee hold hearings. This matter is jointly within the jurisdiction of the Finance and Energy and Natural Resources Committees, the latter, chaired by my good friend Senator McClure. I would welcome the involvement of members of both committees, and other interested Members in discussing and designing sound policy. Mr. President, I call upon this body to join me and my most welcomed cosponsors in consideration of our current energy planning opportunities, and our responsibilities in providing for America's future energy security.●

● Mr. BENTSEN. Mr. President, I am pleased to join the distinguished Senator from Wyoming [Mr. Wallop] in introducing this bill to improve the energy policy of our country.

The essential import of this bill is to establish a floor price for energy in this country. It accomplishes such a price by levying an import fee on oil that varies according to the prevailing world oil price. The bill sets a trigger price of $22 per barrel under which the U.S. oil price would not be permitted to fall. When the world price falls below that price, the import fee would become effective and would be equivalent to the difference between the world price and $22 per barrel.

It is essential for American energy producers and users to be able to rely on stable energy prices. If energy producers know that prices in this country will not plummet, they will not be deterred from undertaking the risky investments in new production that are necessary to make our country energy independent. Similarly, if energy users know that prices will not plummet, they will be willing to undertake investments in energy conservation and in energy-saving machinery and processes.

This bill will help ensure that our economy will not be at the mercy of foreign energy producers. The more we rely on someone else's oil, the more we allow them to influence and even direct our own economy. Even though we are experiencing a temporary surplus in oil production, the United States continues to import nearly one-third of our domestic energy needs. If we fall into the trap of relying on foreign supplies for our oil needs, we will once again be subject to dramatic swings in oil prices set by others.

Another aspect of this approach to energy policy is its possible effects on the world oil market. The normal expectation over the past several decades is that when the oil market is glutted and prices are soft, U.S. demand will pick up, thereby firming up prices. Under this bill, that won't happen. When world oil prices fall below $22, that decline will not be felt in this country. That could mean that world prices could continue to decline instead of being firmed up by an increase in demand, and that could spell further trouble for OPEC.

It is particularly important to proceed with legislation of this type at this time. The oil market is glutted, OPEC is in disarray, and prices are falling. We cannot allow the whole market to be propped up by a large increase in U.S. demand in response to falling prices. Rather, we must prevent that from happening and do what we can to contribute to the decline in world oil prices.

We of course cannot ignore the effect of legislation like this on the budget deficit. It has been estimated that a $10 per barrel tax on crude oil and oil products would raise about $18 billion per year for the Treasury. Senator Wallop and I certainly do not expect this tax to reach that magnitude, but the point is that for every dollar of tax, a substantial contribution is made toward reducing the Federal deficits.

Last Mr. President, let me say that we will continue to refine our efforts in proposing an oil import fee. This bill leaves many of the specifics undecided. We will have to have hearings on this early next year. I am pleased that the Senator from Wyoming is taking a lead on this matter and I look forward to working with him and others in the months ahead on this issue.●

By Mr. DOLE (for himself, Mr. Byrd, Mr. Long, Mr. Packwood, Mr. Zorinsky, Mr. Bentsen, Mr. Kerry, Mr. Warner, Mr. Lugar, Mr. Baucus, Mr. Leahy, Mr. Durenberger, Mr. Bradley, Mr. Boschwitz, Mr. Hatch, Mr. Thurmond, Mr. Hollings, Mr. Heinz, Mr. Inouye, Mr. Laxalt, Mr. Cochran, Mr. Hatfield, Mr. Johnston, Mr. Mattingly, Mr. Nunn, Mr. Pryor, Mr. Cohen, Mr. D'Amato, Mr. Dixon, Mr. Exon, Mr. Simon, Mr. Heflin, Mr. Stafford, Mr. Domenici, Mr. Trible, Mr. Moynihan, Mr. East, Mr. Matsunaga, Mr. Armstrong, Mr. Symms, Mr. Rockefeller, Mr. Gore, Mr. McClure, Mr. Riegle, Mr. Helms, Mr. Murkowski, Mr. Burdick, Mr. Goldwater, Mr. Denton, Mr. Cranston, Mr. Harkin, Mr. Andrews, Mr. Specter, Mr. Kasten, Mr. Grassley, Mr. Biden, and Mr. Gorton):

S.J. Res. 254. Joint resolution to designate the year of 1987 as the "National Year of Thanksgiving;" to the Committee on the Judiciary.

NATIONAL YEAR OF THANKSGIVING

Mr. DOLE. Mr. President, the distinguished minority leader, Mr. Byrd and I are introducing a joint resolution to proclaim 1987 as the "National Year of Thanksgiving." We are joined in this effort by 55 of our colleagues on both sides of the aisle. This joint resolution has been of great interest to the National Committee on the Year of Thanksgiving. A similar joint resolution was introduced in the House earlier this year, and has strong bipartisan support in the other body.

ANNIVERSARY OF THANKSGIVING AS A NATIONAL HOLIDAY

The New Year, 1986, represents the 45th anniversary of Thanksgiving as a national holiday. The timing of Thanksgiving Day in the United States varied a great deal until, on December 26, 1941, Congress declared that it should be celebrated on the fourth Thursday of November each year.

Since that time, all Americans have joined together on this day in giving thanks for the rich national heritage that we share. The United States is a land blessed with almost unlimited personal freedom, unknown in some parts of the world. Believe it or not, the idea of setting aside a special day once a year to express gratitude and give thanks did not originate with the Pilgrims, who survived the winter of 1620 in Plymouth Colony in Massachusetts. Actually, the celebration of a regular day of Thanksgiving can be traced back to early Greek and Roman history.

However, Thanksgiving Day has special meaning for people in this country. Compared to other nations, we are a young country that has grown with the passage of time into one of the most powerful nations on Earth. We are also blessed with a great abundance of human talent and natural resources. Our form of Government has weathered the vicissitudes of history with great adaptability. It has been emulated by other nations, who have watched its success from abroad.

BICENTENNIAL OF THE U.S. CONSTITUTION

Mr. President, the year 1987 will be the 200th anniversary of the U.S. Constitution. On September 17, 1987, the convention of the Constitution of the United States adjourned with a document ready to be ratified by the States. A Commission on the Bicentennial of the Constitution was established by the Congress in 1983 (Public Law 98-101).

The Constitution of the United States remains a living document, capable of adapting to the changes of a modern world and historical events that were probably beyond the foresight of our Founding Fathers. However, they still planned well for this country's future 200 years later. Twentieth century political developments have, at times, tested the resilience of the Government of this country at home and abroad, but the inherent balance of powers has weathered the storms well.

If anything, the provisions of the Constitution, have been clarified and strengthened over the centuries. It is time to celebrate the lasting legacy given us by Thomas Jefferson, John Quincy Adams and the other men who helped create our form of government, 1987 will include a year-long celebration, with local communities celebrating the bicentennial of the U.S. Constitution in their own way.

The year 1987 will also mark the beginning of the 100th Congress. We look forward to the next 2 years and all that can be accomplished to further enhance the history of this great Nation.

I ask unanimous consent that the text of this joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordred to be printed in the RECORD, as follows:

S.J. Res. 254

Whereas the celebration of a Thanksgiving season has been a national tradition observed by the people of the United States from the days of the early settlers to the present time;

Whereas many of the great leaders of the Nation, including Presidents George Washington and Abraham Lincoln, recognized the importance of setting aside a time of Thanksgiving, and Presidential proclamations have established the last Thursday of November as a day of Thanksgiving;

Whereas in 1941, Thanksgiving was established as a permanent national holiday;

Whereas in 1987, the United States will celebrate the bicentennial of the United States Constitution and the opening of the one-hundredth Congress;

Whereas The United States Constitution has adapted to changing times and remains a living document;

Whereas it is appropriate to give thanks for the everyday freedom that the people of the United States so often take for granted;

Whereas the people of the United States should take time to appreciate a land of plenty, a Nation of vast human and natural resources; and

Whereas the people of the United States should better understand the history of the rich American heritage: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the year 1987 is designated as the "National Year of Thanksgiving", and the President is authorized and requested to issue a proclamation calling upon the governors of the several States, the chief officials of local governments, and the people of the United States to observe such year with appropriate ceremories and activities.

ADDITIONAL COSPONSORS

S. 837

At the request of Mr. GLENN, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 837, a bill to amend the Social Security Act to protect beneficiaries under the health care programs of that act from unfit health care practitioners, and otherwise to improve the antifraud provisions of that act.

S. 1134

At the request of Mr. COHEN, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 1134, a bill to amend title 5, United States Code, to provide administrative civil penalties for false claims and statements made to the United States by certain recipients of property, services, or money from the United States, by parties to contracts with the United States, or by Federal employees, and for other purposes.

S. 1544

At the request of Mr. ROTH, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 1544, a bill to extend the Trade Adjustment Assistance Program to place such program on a sound financial basis and to reform such program to emphasize the retraining of workers.

S. 1647

At the request of Mr. ROTH, the name of the Senator from Minnesota [Mr. BOSCHWITZ] was added as a cosponsor of S. 1647, a bill to amend the Tariff Act of 1930 to enhance the protection of intellectual property rights.

S. 1855

At the request of Mr. QUAYLE, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 1855, a bill to revise the provisions of the Public Health Service Act relating to health planning.

S. 1860

At the request of Mr. DANFORTH, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 1860, a bill to amend the Trade Act of 1974 to eliminate barriers and distortions to trade, to provide authority for a new round of trade negotiations, to promote U.S. exports, and for other purposes.

S. 1919

At the request of Mr. BUMPERS, his name was added as a cosponsor of S. 1919, a bill to establish a task force to examine the issues associated with abuse of the elderly.

At the request of Mr. ANDREWS, the names of the Senator from Rhode Island [Mr. PELL], the Senator from Kansas [Mr. DOLE], and the Senator from Utah [Mr. GARN] were added as cosponsors of S. 1919, supra.

S. 1923

At the request of Mr. THURMOND, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of S. 1923, a bill to provide for additional bankruptcy judges.

S. 1948

At the request of Mr. WEICKER, the names of the Senator from Hawaii [Mr. INOUYE] and the Senator from North Dakota [Mr. ANDREWS] were added as cosponsors of S. 1948, a bill to assure that high quality services are furnished to developmentally disabled individuals and mentally ill individuals in residential facilities and by providers of home and community-based services which receive funds under the Medicare or Medicaid Programs, and to amend the Developmental Disabilities Assistance and Bill of Rights Act to require that residential programs meet Medicaid standards.

S. 1966

At the request of Mrs. Kassebaum, the names of the Senator from Michigan [Mr. Riegle], the Senator from Arkansas [Mr. Bumpers], and the Senator from Mississippi [Mr. Stennis] were added as cosponsors of S. 1966, a bill to provide for efficient and equitable use of operating rights at congested airports, and for other purposes.

SENATE JOINT RESOLUTION 220

At the request of Mr. Mattingly, the name of the Senator from Alabama [Mr. Denton] was added as a cosponsor of Senate Joint Resolution 220, a joint resolution to provide for the designation of September 19, 1986, as "National POW/MIA Recognition Day."

SENATOR JOINT RESOLUTION 241

At the request of Mr. Dole, the names of the Senator from Hawaii [Mr. Matsunaga], the Senator from Indiana [Mr. Lugar], the Senator from North Dakota [Mr. Burdick], the Senator from South Carolina [Mr. Hollings], and the Senator from Virginia [Mr. Warner] were added as cosponsors of Senate Joint Resolution 241, a joint resolution designating the week beginning on May 11, 1986, as "National Asthma and Allergy Awareness Week."

SENATE JOINT RESOLUTION 244

At the request of Mr. DeConcini, the name of the Senator from New Jersey [Mr. Bradley] was added as a cosponsor of Senate Joint Resolution 244, a joint resolutoin to designate October 6, 1986, as "National Fire Fighters Day."

SENATE JOINT RESOLUTION 252

At the request of Mr. Pell, the names of the Senator from Arkansas [Mr. Bumpers], the Senator from Rhode Island [Mr. Chafee], the Senator from Connecticut [Mr. Dodd], the Senator from Massachusetts [Mr. Kerry], and the Senator from Colorado [Mr. Hart] were added as cosponsors of Senate Joint Resolution 252, a joint resolution requesting the President of the United States to negotiate controls upon and the early prohibition of nuclear explosions.

SENATE RESOLUTION 276

At the request of Mr. Lautenberg, the name of the Senator from California [Mr. Cranston] was added as a cosponsor of Senate Resolution 276, a resolution expressing the sense of the Senate regarding the Federal air traffic control system.

SENATE RESOLUTION 278

At the request of Mr. Sarbanes, his name was added as a cosponsor of Senate Resolution 278, a resolution to disapprove the freeze on funds for the Office of Juvenile Justice and Delinquency Prevention.

At the request of Mr. Byrd, the names of the Senator from Delaware [Mr. Biden], the Senator from Alabama [Mr. Heflin], the Senator from South Carolina [Mr. Hollings], the Senator from Arizona [Mr. DeConcini], the Senator from Georgia [Mr. Nunn], the Senator from Tennessee [Mr. Sasser], the Senator from Arkansas [Mr. Bumpers], the Senator from New York [Mr. Moynihan], the Senator from Vermont [Mr. Leahy], the Senator from Hawaii [Mr. Inouye], and the Senator from Mississippi [Mr. Stennis] were added as cosponsors of Senate Resolution 278, supra.

At the request of Mr. Specter, the names of the Senator from Ohio [Mr. Metzenbaum], the Senator from Maryland [Mr. Mathias], the Senator from Florida [Mrs. Hawkins], the Senator from New Jersey [Mr. Bradley], the Senator from Massachusetts [Mr. Kennedy], the Senator from Ohio [Mr. Glenn], the Senator from Missouri [Mr. Eagleton], the Senator from Massachusetts [Mr. Kerry], the Senator from Tennessee [Mr. Gore], the Senator from Michigan [Mr. Levin], the Senator from Nevada [Mr. Laxalt], the Senator from Pennsylvania [Mr. Heinz], the Senator from Michigan [Mr. Riegle], the Senator from Iowa [Mr. Grassley], the Senator from Connecticut [Mr. Dodd], the Senator from Maine [Mr. Mitchell], the Senator from Iowa [Mr. Harkin], and the Senator from Hawaii [Mr. Matsunaga] were added as cosponsors of Senate Resolution 278, supra.

At the request of Mr. Bingaman, his name was added as a cosponsor of Senate Resolution 278, supra.

SENATE CONCURRENT RESOLUTION 100—RELATING TO THE CIVIL AND POLITICAL RIGHTS ON KIM DAE JUNG

Mr. KERRY (for himself, Mr. Simon, Mr. Pell, Mr. Kennedy, Mr. Dodd, Mr. Hollings, Mr. Cranston, Mr. Sarbanes, Mr. Riegle, and Mr. Harkin) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. Con. Res. 100

Whereas, the Senate finds that one of the primary purposes of the foreign assistance programs of the United States shall be that of fostering the growth of democratic institutions, the holding of free, fair and honest elections, the respect for freedom of speech and freedom of the press, and the protection of individual civil rights and liberties through the functioning of an independent judiciary;

Whereas, the people of the United States have been more than generous in their commitment to the security and economic well-being of the Republic of Korea since its founding in 1948;

Whereas, this commitment resulted in the loss of the lives of 54,346 Americans servicemen and 103,248 American wounded during the Korean War;

Whereas, the American people have contributed more than $19 billion in economic and military assistance to the Republic of Korea since 1948 and continue to provide financial resources to support the presence of 40,000 American servicemen on Korean soil;

Whereas, recent developments including the indictments of Members of the National Assembly and a resurgence in the use of torture against prominent journalists and other democratic leaders are cause for grave concern over the government's commitment to basic democratic principles;

Whereas, the right to due process for the people of the Republic of Korea is virtually non-existent and an independent and impartial judicial system, for all intents and purposes, does not function; and

Whereas, the prospects for any relaxation in tensions between the North and South is undermined by political instability in the Republic of Korea; Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress finds and declares that the primary purpose of United States assistance to the Republic of Korea shall be to promote the return to true democracy in the Republic of Korea and to that end Congress places the highest priority on:

(1) replacing the current climate of intimidation, abuses of basic human rights and civil liberties, and other anti-democratic actions with an atmosphere of dialogue and trust between the Government of the Republic of Korea and the democratic opposition in that country in an effort to place events of 1980 behind the people of the Republic of Korea;

(2) the full restoration of the political and individual rights of Kim Dae Jung and all others whose political rights are being restricted; and

(3) the peaceful and fully democratic transfer of Presidential power in the Republic of Korea in the 1988 elections should be open to all who are committed to the democratic process.

Mr. KERRY. Mr. President, considerable attention has been focused throughout this year on the deteriorating social, economic, and political situation in the Philippines. The harshness and repression of the 20-year rule of Ferdinand Marcos has sown the seeds of a Communist insurgency which continues to gather strength with each passing day.

For those of us committed to the flourishing of democracy around the world, The Philippines crisis is cause for grave concern. Equally disconcerting is the growing crisis in the Republic of South Korea where yet another dictatorship continues its crackdown on legitimate democratic forces in that country. While the situation in the Republic of Korea has not commended the attention as has the Philippines, that country could be the next crisis area in the Far East. This will be particularly so if the democratic forces of that country continue to be frustrated by that government's continued crackdown on democratic rights.

That is the reason for my submission today of this concurrent resolution expressing the sense of the Congress that the civil and political rights of Kim Dae Jung be restored and that true democracy be instituted in the Republic of Korea. I am pleased to be joined in this effort by Senators PAUL SIMON, CLAIBORNE PELL, EDWARD KENNEDY, CHRISTOPHER DODD, FRITZ HOLLINGS, ALAN CRANSTON, PAUL SARBANES, DONALD RIEGLE, and TOM HARKIN.

As was reported in the October 20, 1985, edition of the New York Times, the political situation in the Republic of South Korea has taken a turn for the worse in recent months, precipitating expressions of concern on the part of the administration.

According to the Times report:

> In recent months, the authoritarian Government of President Chun Doo Hwan has swung away from relatively tolerant policies of the previous two years toward a new crackdown on dissidents. Students accused of being pro-Communist have been arrested. Teachers have been dismissed for writing magazine articles labeled as seditious. Three journalists were detained and beaten recently by security agents. Judges deemed overly sympathetic to activists have been reassigned.
>
> Perhaps the most vivid example of the Government's hard line was a plan to create reorientation centers for students regarded as left-wing radicals. This idea smacked of re-education camps to many people, and Mr. Chun was forced to back down before fierce political opposition. Among the critics—tactful in public, more aggressive in private—were United States diplomats and State Department officials in Washington. . . .

This crackdown comes at a time when Korean democratic opposition leader, Kim Dae Jung, continues to be denied his basic rights. Kim Dae Jung is a great friend of the United States who is staunchly anti-Communist and one of the greatest advocates of democracy we have in that area of the world.

Kim returned to his homeland in February of this year to rejoin the Korean democratic leadership and to help build a new democratic opposition party. Since his return, he has intermittently been under house arrest; he can neither become a member of a political party nor encourage others to do so; and he cannot vote, campaign, nor run for political office. He remains under a suspended 17½-year sentence on charges that the State Department maintains were fabricated in 1980.

Several hundred other political prisoners and former political prisoners suffer from the same fundamental restrictions which have been imposed on Kim Dae Jung. Until they are lifted, democracy has no genuine opportunity in the Republic of South Korea.

That is why we are submitting this concurrent resolution which details our concerns for democracy in a country which has been a close ally of the United States since its founding in 1948. We believe it is important for the millions of Koreans striving for democracy to have a clear message from the American people that we share their convictions and their aspirations.

Just as it is important for United States credibility around the world that democracy be restored in the Philippines, we believe that the democratic forces in the Republic of Korea deserve our support as well. As is the case with the Philippines, the United States has had a unique relationship with the Republic of South Korea. Some 54,346 American servicemen gave their lives in the Korean war to prevent a Communist takeover of that country and 103,248 of our countrymen were wounded in that struggle. The American people have contributed more than $19 billion in economic and military assistance to the Republic since 1948 and we continue to provide financial resources to support the presence of 40,000 American servicemen on Korean soil. Our commitment to the security of the Republic has been unswerving.

Because of this unique relationship, we believe the United States has a particular obligation to support the democratic forces in the Republic of South Korea—forces which share our own values and aspirations. And we believe the most important contribution the Congress can make at this time is to call upon the Government of the Republic of Korea to reinstate the political and individual rights of Kim Dae Jung.

If there is one thing I learned from my experience in Vietnam it is that the United States cannot save governments which are unwilling to save themselves. We cannot create legitimacy for elites whose own people are given little reason to accord them ligitimacy.

There are so many parallels between the Philippines and the Repubic of Korea. The Philippines crisis was born in 1972 when President Ferdinand Marcos, denied by the Constitution from seeking another term in office, declared martial law. The pretext was a Communist threat, allegedly exacerbated by politically chaotic conditions of the time. Washington even welcomed—as necessary to combat the threat of communism—the demise of what at one time was to have been America's "showcase for democracy" in the Far East.

In 1972, the Communist New People's Army could field only a handful of poorly armed guerrillas in the field. Yet, in the intervening 13 years, as the Marcos regime moved systematically to dismantle most democratic institutions and set about plundering the Philippines economy for the benefit of a few cronies, the insurgency grew commensurate with the abuses. Yet, as long as the illusion of stability prevailed, four American administrations ignored this unconscionable betrayal of the Filipino people.

While it is disturbing and cause for alarm, it is also understandable that the Filipino variation of Marxism/Maoism has increasing appeal, just as it has had in so many other Third World countries. In the status quo, the average Filipino sees only a future of corruption, repression, and grinding poverty. It is small wonder that by capturing the moral high ground of social and economic reform, and individual justice, that the NPA has become an increasingly attractive alternative for a growing number of Filipinos.

It has been a hard lesson to learn, but perhaps we may yet gain something from the Philippines experience that can assist us in addressing the growing crisis in the Republic of Korea. We should have realized from the very beginning that our security interests in the Philippines should have been secondary to what should have been our priority concern 13 years ago—the maintenance of democracy in that country.

In the Republic of South Korea, the democratic opposition fights for free and fair elections in a country whose survival we have guaranteed for 36 years. To sit idly by in silence while the democratic opposition in that country is crushed under the heel of authoritarian rule only invites a Korean version of the Philippines crisis.

Now is the time to act in the case of the Republic of South Korea. The democratic forces in that country need to hear us loud and clear that their well-being is of priority concern for the American people. We need to be unequivocally clear that we have not turned our back on the forces of democracy and have not abandoned them to the vissitudes of a repressive regime. To make our voices heard now will not be soon enough. But at least it will not be too late.

Mr. President, I intended to use this concurrent resolution as the vehicle for pursuing major hearings on the Senate Committee on Foreign Relations on the situation in the Republic of Korea when we return in January.

I ask unanimous consent that a number of articles addressing the situation in the Republic of Korea be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, Oct. 7, 1985]

After Pause, Seoul Renews Crackdown on Dissent

(By Clyde Haberman)

Seoul, South Korea—The authoritarian Government of President Chun Doo Hwan has begun a new crackdown on dissidents, with a long string of political arrests, indictments, dismissals and even beatings in the last few months.

Officials insist they have not abandoned "liberalization" policies begun more than a year ago. Nevertheless, foreign diplomats and political analysts say the Government has clearly swung toward a hard line after a period in which it seemed to show a greater tolerance for dissent.

Opponents of President Chun say they fear he may tighten controls still further and possibly even go back to the harsh policies that characterized his Government after he seized power in a military coup five years ago.

Perhaps the most graphic symbol of the latest crackdown is a bill that was drafted in early August to create special "reorientation" centers for South Korean college students judged to be left-wing radicals.

SIX MONTHS OF 'GUIDANCE'

The detention centers were to operate outside the normal judicial system. Committees of lawyers and professors would determine whether students should be sent away for up to six months of "guidance and enlightenment" on acceptable political behavior.

"Students should not be active in politics," Education Minister Sohn Jae Suk said in an interview. "They should study and prepare themselves for the future."

But the reaction against the proposal was angry and swift.

The chief political opposition party denounced the bill as an "evil law" and pledged to fight against it in the National Assembly. Dissident activists likened the reorientation centers to the "re-education camps" set up in some Communist countries. One young man in the southwestern city of Kwangju immolated himself in protest.

Even members of Mr. Chun's ruling Democratic Justice Party were unhappy. Two prominent critics, one of them the party's legislative floor leader, were replaced.

BILL WITHDRAWN, BUT NOT DEAD

Because of the unexpectedly harsh criticism, the Government soon withdrew the legislation. But officials say the proposal is not dead, and Mr. Sohn warns that it will be reintroduced if student protests surge again this fall.

Demonstrators are not the only Government targets, however.

At the end of August, two senior editors and a reporter for the newspaper Dong-A Ilbo were detained and beaten by officers of the National Security Planning Agency, formerly known as the Korean Central Intelligence Agency. They were picked up after publication of an article the Government considered "diplomatically sensitive." The incident was widely interpreted as a warning to all journalists.

During the summer, the Government branded a student group called Sammintu as pro-Communist, and arrested or charged 86 of its members. Thirteen were charged with violating the severe National Security Law. If convicted they could be sentenced to death.

STUDENTS ACCUSED OF SPYING

Twenty-two other people, most of them students, were arrested this month and accused of belonging to two North Korean espionage rings. Separate raids led to the arrest of 66 others in June.

For five days in August, the police put South Korea's best-known dissident politician, Kim Dae Jung, under house arrest to keep him from attending a convention of the main opposition party.

In August, Mr. Sohn's ministry ordered local education boards to dismiss 15 elementary- and high-school teachers for writing "seditious" magazine articles. Hundreds of books and other publications have been banned as subversive.

The Education Ministry also removed Lee Hyu Jae as president of Seoul National University, South Korea's most prestigious, after he refused to expel seven student activists.

Three judges regarded as too "soft" on demonstrators were transferred from Seoul to provincial posts.

In the most recent incident, two opposition members of the National Assembly were indicted two weeks ago on charges of inciting anti-Government demonstrators at Korea University.

ALTERNATING TOUGHNESS

For many years successive South Korean governments have alternated between relatively hard and soft policies toward political opponents, although tolerance for dissent has never been high, even in the best of times. That tendency has continued under President Chun.

When he seized control in 1980, he imposed martial law, arresting dissidents, banning hundreds of politicians and virtually forbidding any criticism of him or his policies. Over the last two years, however, some of the more stringent controls had been lifted.

Officials withdrew police officers from campuses, which are traditional havens of protest, and announced that they would return only if school administrators said demonstrations were out of control. Recently, however, the police have begun again to enter campuses to stop student protests.

University professors and journalists who have been forced out of their jobs soon after Mr. Chun took over were permitted to go back last year. Ousted college students were readmitted.

Gradually, blacklisted politicians were reinstated.

GAINS BY OPPOSITION PARTY

Last January many of them formed the New Korea Democratic Party, a hard-line opposition force compared with its relatively tame predecessors. Only a few weeks after it came into existence the party won a surprisingly large number of seats in National Assembly elections.

The elections did not alter the true balance of power in South Korea; essentially, the legislature remains a rubber-stamp body. But its character changed. An emboldened opposition has turned it into a forum for demands for change, and Mr. Chun seems willing to allow many critical comments to appear in the regulated press.

But lately, hard-liners seem to have won out once more in the Blue House, the official presidential residence. Now, Mr. Chun seems prepared to allow criticism if it stays in the National Assembly.

Mr. Chun's critics say his policies toward dissidents keep changing because his main interest in finding ways to keep things quiet as he approaches several critical deadlines.

This week South Korea, which has a $45 billion foreign debt, is acting as host to a meeting of the World Bank and the International Monetary Fund. Next year, the Asia Games will be held in Seoul, and in 1988 the Olympic Games are to take place here. Domestic tranquillity, or the appearance of it, is essential, many South Koreans say.

"Chun has continuously failed to control South Korean politics," Kim Dae Jung said. "So now he is not confident enough to deal with our politics in a moderate way."

A Protestant clergyman put it more bluntly. "I think the Government is panicking," he said.

RALLYING POINT FOR OPPOSITION

If Mr. Chun chooses to press the Campus Stabilization Bill, some analysts feel he could create a rallying point for disparate opposition camps.

The Government position is that the proposed law is "lenient" because it provides for reorientation, not jail or expulsion. It is "designed not to control and punish students subject to its provisions but to properly guide and protect them," an official statement said.

But even usually sympathetic people reject this argument. Among those who attacked the legislation, albeit obliquely, was the United States Ambassador Richard L. Walker.

In remarks made in mid-August, on the anniversary of Korea's liberation from Japan in 1945, the Ambassador said, "The opinions of men are not a legitimate subject for rule by civil government."

[From the New York Times, Oct. 20, 1985]

South Korea Accused of Torturing Dissidents

(By Kendall J. Wills)

A London-based human rights organization and members of a South Korean opposition group accused South Korean Government officials last week of torturing political prisoners in order to obtain false confessions of espionage and antistate activities, crimes that carry the death penalty.

Relatives of some of the prisoners made similar assertions in a tape recording that was brought out of South Korea last week by a member of the opposition group, the National Youth Alliance for Democracy.

The State Department spokesman, Bernard Kalb, said Friday that the Reagan Administration was aware of "credible reports" that three Korean journalists and a youth activist had been subjected to torture by Korean security officials. Calling the incidents "deplorable," Mr. Kalb said, "We have made known to the Korean Government our concern."

A spokesman at the South Korean Embassy in Washington, Park Johngseh, said he could not comment on the allegations of torture.

Amnesty International, the human rights organization, said in a statement that 23 South Koreans were detained in September for purportedly instigating protests and other activities against the Government.

Since the arrests, the group said it had received "frequent reports that political suspects are ill-treated after their arrest to force them to sign 'confessions' that are used in court to secure their conviction, although both torture and the use of statements obtained under duress as evidence in court are prohibited by the 1980 Constitution."

Sim Kisop, a member of the Youth Alliance who recently returned to the United States from South Korea, said he visited prisoners' relatives at the National Council of Churches' office in Seoul, where the allegations of torture were recorded. Mr. Sim said that lawyers for some of the prisoners had asked that the cases be brought to trial while the torture wounds were still visible. He said the defendants were arrested under the National Security Act, but that most of them had not been publicly charged with a crime.

According to a transcript of the tape recording, In Jae Keun, the wife of one of the prisoners, said she saw her husband at the prosecutor's office in Seoul on Sept. 26. The husband, Kim Keun Tae, was being helped by prison guards because he was having difficulty walking, Mrs. In said. She said her husband told her he was beaten, tied up, given electric shocks and forced to swallow water laced with red peppers and salt.

Mr. Kim, 38 years old, was arrested Sept. 4 by the Police Anti-Communist Bureau and was forced to sign a statement saying he was an agent for North Korea's President, Kim Il Sung, according to Mr. Sim. Mr. Kim is a founder and former chairman of the National Youth Alliance for Democracy, which has been critical of President Chun Doo Hwan.

Other prisoners who were reportedly tortured include Ho In Hoe, a 23-year-old student activist; Ahn Sang Gun, 35, a former resident of Frankfurt, where he edited a Korean-language newspaper; Lee Chin Suk, 35, an assistant professor at Taegu University and several students who attended universities in the United States.

SOUTH KOREA POLICE DETAIN KIM

SEOUL, South Korea, Oct. 19 (Reuters)—The police today confined a leading opposition politician, Kim Dae Jung, to his home to prevent him from attending a news conference where colleagues charged that South Korean dissidents had been tortured, his aides said.

They said more than 100 police officers were posted outside Mr. Kim's house. A police official had told Mr. Kim that the action was to stop him from breaking the law.

The former presidential candidate, 59 year old, who returned from two years of exile in the United States in February, is barred from political activity because of a suspended 20-year jail sentence for sedition.

CHUN MOVES TO CURB S. KOREAN DISSENT

(By Sam Jameson)

SEOUL, South Korea.—There are more than 400 political prisoners, the police have returned to college campuses and government agents are raiding bookstores and art galleries.

For four years after seizing power in 1980, President Chun Doo Hwan relied on repression to stay in power. Then, early last year, he began to tolerate a measure of dissent. Now, a new crackdown is under way.

A test of how far the confrontation between Chun and his critics might go will probably come this month, when more than 8,000 bankers, central bank presidents and finance ministers from around the world gather here for an International Monetary Fund conference. Chun's critics see the meeting as a chance to discredit him.

The chief targets of the new crackdown are on the campuses—the 2,000 to 3,000 activists among the nation's 950,000 college students. Also feeling the lash are teachers, artists, writers and workers.

Even Chun's supporters have not been spared. He fired Justice Minister Kim Suk Hui after disorder broke out in a courtroom where 20 students were on trial for taking part in the seizure last May of the U.S. Information Service library here. The students are scheduled to be sentenced Wednesday.

Chun also ousted Lee Hyun Jae, president of Seoul National University, after Lee—before the court reached a verdict—refused to expel the eight students from his university who were among the 20.

Foreign analysts are not sure why Chun has changed tactics again.

Last year, student demonstrations erupted in February when Chun withdrew plainclothes policemen from the campuses freed 360 jailed students and reinstated 1,373 others who had been expelled. This year the demonstrations increased and became more violent.

Still, they had not involved great numbers of people, usually fewer than 50. Nor had they disrupted the studies or other students or led to public unrest.

A longtime foreign resident here, who asked not to be identified by name, said he believes that the generals Chun relies on for support insisted on the crackdown to choke off demands that the military get out of politics. But a Western diplomat, who also requested anonymity, said the reason is simpler than that.

"Chun lacks a strategic plan and has no political ability," the diplomat said, "so when things got heated up, the only thing left to fall back on was the hard-line approach."

A year ago, after Chun had loosened the screws, human-rights advocates said there were only 91 dissenters in prison, the lowest number since 1972. Recently, as South Korea's prisons have been filled with political prisoners, repression has returned to the level of 1980, when Chun seized power.

The crackdown has given the students a rallying point—demanding the release of their colleagues. Most observers think it also has increased the chance of more violence.

Chun's new, hard-line approach was underscored on Sept. 19 when two opposition members of the National Assembly, Park Chan Jong and Chough Soon Hyung, were charged with violating a law that bans unauthorized assemblies. Park was also charged with inciting an illegal demonstration; he could be sent to prison for up to 10½ years.

The charges brought the ruling party into sharp confrontation with the opposition New Korea Democratic Party, which immediately began a boycott of the National Assembly, demanding that the government withdraw the charges. But Chun's party insisted that the two legislators apologize for what it called attempting to instigate student unrest.

The turning point in Chun's policy came with the seizure of the U.S. library by 72 students, who demanded that the United States apologize for allegedly authorizing Chun's use of South Korean troops in May, 1980, to put down an insurrection in the city of Kwangju. The students finally agreed to leave the library after three days, without receiving a U.S. apology, and the government released all but 20.

Then, in June and July, the government arrested 137 students in the first mass arrests since 1980. It also instructed the courts to resume stiff jail sentences after a year and a half of relative leniency; demonstrators had been getting off with only a few days in jail.

Two judges who persisted in showing leniency for student demonstrators were reassigned to minor rural courts.

In August, it appeared that Chun was ready to declare all-out war on the students. His Democratic Justice Party announced plans to convene a special session of the National Assembly to enact a "campus stabilization bill" calling for ideological "reorientation" of campus troublemakers without formal arrest or trial.

The party described the bill as an effort to avoid stigmatizing students with formal arrest records. But Chun's critics assailed it as a pretext for establishing what they called concentration camps.

The bill would also have authorized seven-year sentences for adults guilty of instigating unauthorized student activity, a provision that was widely regarded as giving carte blance for the arrest of opposition politicians.

In the end, Chun ordered the bill set aside. A forceful speech on Aug. 15 by U.S. Ambassador Richard L. Walker is believed to have played a role in his decision. Walker said, in part: "Americans insist that intellectual and religious freedom must be the foundation for legitimate rule."

Western diplomats said they think that allowing direct election of Chun's successor—as opposed to the present electoral college arrangement—would defuse campus unrest, if not eliminate the demonstrations altogether. So far, however, Chun has shown no sign of yielding to, or compromising with, the opposition on its demands for free elections.

DOCUMENT: PROTEST STATEMENT OF THE DONG-A REPORTERS; SEPT. 1, 1985

DEFINITION OF OUR POSITION

We, the members of the editorial bureau of the DongA Daily, rise against the recent violence done by the government authorities over our colleagues. Between August 30 and September 1, our chief editor, Lee Chae-Kyu; the editor on political affairs, Lee Sang-Ha: a reporter on political affairs, Kim Chung-Sik, were dragged by intelligence agents and beaten up. This fact stirred our rage.

Here, we define that the Korean government's violating reporters' human rights is no other than a serious threat to the Press itself. We also accept that part of the responsibility is our pessimism of a long time toward free press and expression.

Therefore, we demand to stop this illegal action, to provide an understandable explanation of the recent series of events, and to take a proper step. In addition, we confirm our determination to report immediately any illegal action officially executed like the present case.

Finally, we are fully determined to protect and improve our right of self-defense for Free Press and Free Expression.—The Whole Personnel of the Editorial Bureau of DongA Daily Newspaper.

SENATE CONCURRENT RESOLUTION 101—FULL FREEDOM AND INDEPENDENCE FOR THE BALTIC STATES

Mr. SPECTER submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. Con. Res. 101

Whereas the United States, since its inception, has been committed to the principle of self-determination;

Whereas this essential moral principle is also affirmed in the Charter of the United Nations;

Whereas the Union of Soviet Socialist Republics is, according to its Constitution, a voluntary federation of autonomous republics;

Whereas the three Baltic Republics (the Republic of Lithuania, the Republic of Latvia, and the Republic of Estonia) did not become member republics of the Union of Soviet Socialist Republics voluntarily, but rather were occupied militarily by Russian Armed Forces in the early days of World War II and subsequently incorporated by force into the Union of Soviet Socialist Republics and have since been governed by governments approved by, and subservient to, the Government of the Union of Soviet Socialist Republics;

Whereas the ethnic makeup of the Baltic peoples (the Lithuanians, Latvians, and Estonisans) is distinctly foreign in language, culture, common traditions, and religion from that of the Russian people;

Whereas, by deportation and dispersion of the native populations of the Baltic States of Siberia and by a massive colonization effort in which Russian colonists replace the displaced native peoples, the Soviet Union threatens complete elimination of the Baltic peoples as a culturally, geographically, and politically distinct and ethnically homogeneous population;

Whereas, despite such treatment, the spirit of the citizens of the Baltic States is not broken and the desire of the citizens of the Baltic States for national independence remains unabated;

Whereas the United States has consistently refused to recognize the unlawful Soviet occupation of the Baltic States and has continued to maintain diplomatic relations with representatives of the independent Republics of Lithuania, Latvia, and Estonia; and

Whereas the United Nations and the United States delegation to the United Nations have consistently upheld the right of self-determination of the people of those countries in Asia and Africa that are, or have been, under foreign imperialist rule: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) the President and the Secretary of State should take all necessary steps to bring the Baltic States question before the United Nations and to urge that the United Nations request the Soviet Union—

(A) to withdraw all Russian and other non-native troops, agents, colonists, and controls from the Republics of Lithuania, Latvia, and Estonia, and

(B) to return all Baltic exiles from Siberia and from prisons and labor camps in the Soviet Union;

(2) until the Baltic States become independent, the Secretary of State should, through such channels as the United States Information Agency and other information agencies of the United States Government, do his utmost to bring the matter of the Baltic States to the attention of all nations by means of special radio programs and publications;

(3) the United States should not agree to the recognition, by any international conference, of the Soviet Union's unlawful annexation of Lithuania, Latvia, and Estonia, and it should remain the policy of the United States not to recognize in any way the annexation of the Baltic States by the Soviet Union;

(4) the President should require that all government map publishers, and should request that all private map publishers, show, on all maps of Europe, the Republics of Lithuania, Latvia, and Estonia as independent states, with footnote explaining that the military occupation and forced incorporation into the Soviet Union of Lithuania, Latvia, and Estonia has never been recognized by the United States;

(5) the right of self-determination should be returned to the peoples of Lithuania, Latvia, and Estonia through free elections conducted under the auspices of the United Nations after Soviet withdrawal from the Baltic States; and

(6) the right of self-determination should be made a prime political objective of the United Nations and should be accorded through free elections under the auspices of the United Nations to all peoples now involuntarily subjugated to Soviet communism.

SENATE CONCURRENT RESOLUTION 102—RELATING TO WITHDRAWAL OF SOVIET PERSONNEL FROM THE BALTIC STATES

Mr. SPECTER submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. Con. Res. 102

Whereas the United States does not recognize the illegal annexation by the Soviet Union of the Baltic nations of Estonia, Latvia, and Lithuania;

Whereas the United States as a member of the United Nations has pledged to uphold the ideals of the United Nations Charter and "to take joint and separate action" to promote "universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion";

Whereas during the 83rd Congress, the Select Committee to Investigate Communist Aggression of the House of Representatives thoroughly investigated the seizure of the Baltic nations by the Soviet Union and, in its Third Interim Report, concluded that the "evidence is overwhelming and conclusive that Estonia, Latvia, and Lithuania were forcibly occupied and illegally annexed by the Union of Soviet Socialist Republics";

Whereas the United States, as a signatory to the Final Act of the Conference on Security and Cooperation in Europe, endorsed Principle VIII, concerning equal rights and self-determination of peoples, which states "all peoples always have the right, in full freedom, to determine, when and as they wish, their internal and external political status, without external interference, and to pursue as they wish their political, economic, social and cultural development" and the "participating States . . . also recall the importance of the elimination of any form of violation of this principle"; and

Whereas the House of Representatives in the 96th Congress, by adopting H. Con. Res. 200, reaffirmed the United States policy concerning the Baltic nations and thereby urged positive actions: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that the President should—

(1) enter into discussions with the Soviet Union—

(A) for the withdrawal of all non-Estonian, non-Latvian, and non-Lithuanian military, political, administrative, and police personnel from Estonia, Latvia, and Lithuania, respectively, and

(B) for the release of political prisoners of Estonian, Latvian, or Lithuanian nationality from prisons, labor camps, psychiatric institutions, and other detention centers within the Soviet Union and their return to Estonia, Latvia, and Lithuania, respectively;

(2) instruct the United States delegation to each review meeting of the Conference on Security and Cooperation in Europe to seek consideration of the following matters:

(A) the illegal annexation of Estonia, Latvia, and Lithuania by the Soviet Union, and

(B) the denial of self-determination and territorial integrity of Estonia, Latvia, and Lithuania by the Soviet Union; and

(3) make every effort to gain the support and cooperation of all nations to achieve the objectives of the discussions under paragraph (1) and the consideration of the matters under paragraph (2).

Mr. SPECTER. Mr. President, today, I am offering two concurrent resolutions which are the companions of House Concurrent Resolutions 65 and 66 submitted by Congressman Young of Florida.

I submit these concurrent resolutions in response to an initiative by the Pennsylvania House of Representatives. The Pennsylvania House of Representatives' resolution poignantly expresses the hopes of thousands of Estonian, Latvian, and Lithuanian Americans that their homelands may one day be free of Soviet domination, and urges the United States Congress to express these hopes to the U.S.S.R.

The first concurrent resolution I am submitting today calls for full freedom and independence of the Baltic States. The second one expresses the sense of the Congress that the United States should seek, through diplomatic channels, the withdrawal of certain personnel of the Soviet Union from Estonia, Latvia, and Lithuania, and the release by the Soviet Union of political prisoners of Estonian, Latvian, and Lithuanian descent.

Since the United States has pledged to uphold and promote the ideals of universal respect for, and observance of, human rights, fundamental freedoms and the self-determination of all peoples, it is important that we try to eliminate any form of violation of these ideals.

SENATE RESOLUTION 280—EXPRESSING SUPPORT FOR THE NATIONAL UNION FOR THE TOTAL INDEPENDENCE OF ANGOLA (UNITA)

Mr. DOLE submitted the following resolution; which was referred to the Committee on Foreign Relatons:

S. Res. 280

Whereas the National Union for the Total Independence of Angola (hereafter in this resolution referred to as "UNITA") led by Dr. Jonas Malheiro Savimbi, represents the view and wishes of a large part of Angolans;

Whereas UNITA was denied the legitimate role in the politicial life of Angola envisioned for it in the Alvor Accord of 1975, an agreement among all political elements in Angola which called for free and fair elections in Angola, when the Marxist Popular Movement for the Liberaton of Angola (hereafter in this resolution referred to as the "MPLA") faction, backed by the Soviet and Cuban troops, illegally seized power in Angola;

Whereas since that time UNITA has waged a courageous and effective guerrilla war, with the support of a large part of the Angolan population, aimed at pressuring the MPLA to live up to its commitments under the Alvor Accord, permit free and fair elections in Angola, and remove Soviet and Cuban forces from Angola;

Whereas that struggle has achieved such success that many independent observers have concluded that, in free and fair elections, UNITA and Savimbi would likely enjoy the support of a large part of the Angolan population;

Whereas the MPLA, faced with the possibility that the popularly supported forces of UNITA could militarily defeat the forces of the MPLA, has introduced even larger numbers of Soviet and Cuban forces, so that more than 35,000 such troops and advisers are now in Angola;

Whereas this Cuban and Soviet intervention represents the most blatant foreign intervention in the post-colonial history of Africa;

Whereas the civil war in Angola, caused primarily by the illegal acts of the MPLA and waged increasingly by Cuban and Soviet troops, has led to widespread suffering for the people of Angola;

Whereas the MPLA, at the urging and with the extensive involvement of Soviet and Cuban troops and advisers, has recently undertaken a major offensive utilizing massive new shipments of modern arms from the Soviet Union and Cuba, aimed at wiping out UNITA;

Whereas UNITA has temporarily blunted that offensive, reestablishing a practical stalemate in the military situation;

Whereas the MPLA nonetheless may seek and obtain even more modern and extensive armaments and perhaps even more combat troops from its Communist suppliers and will launch further attacks on UNITA, leading to more suffering among, and greater suppression of, the Angolan people;

Whereas the MPLA, despite being offered the opportunity to seek a solution to these problems through negotiations in which the United States Government has sought to play a facilitating role, has refused to take any meaningful steps to lessen its dependency on Soviet and Cuban forces, to end the civil war, or to grant UNITA and its followers their legitimate place in the political life of Angola;

Whereas the only practical way in the foreseeable future to achieve a viable solution to the problems within Angola would be for the MPLA to effect the removal of Soviet and Cuban forces and to enter into direct and meaningful negotiations with UNITA concerning the political future of Angola; and

Whereas the main barrier to such a solution has been and is the refusal of the MPLA and its Communist allies to agree to meaningful negotiations aimed at bringing it into effect: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the legitimate aspirations of the people of Angola for democracy, justice, peace, and freedom from foreign interference deserve the support of the United States;

(2) UNITA and its leader, Dr. Jonas Malheiro Savimbi, which represent the political aspirations of a large number of the Angolan people, have the right to play a commensurate role in the political life of Angola;

(3) UNITA and Savimbi deserve the political and moral support of the people of the United States and freedom-loving people everywhere, in demanding and struggling for that right;

(4) the MPLA has violated the rights of the Angolan people through its illegal seizure of power and suppression of the population;

(5) the MPLA, further, has compromised the sovereignty of the Angolan nation by introducing large numbers of Cuban and Soviet forces into Angola;

(6) the growing intensity of the civil war, suffering of the Angolan people, presence of foreign forces in Angola, and failure of the MPLA to respond to diplomatic initiatives calling for the elimination of foreign forces and free and fair elections in Angola have given new urgency to efforts to deal effectively with the Angolan situation;

(7) the MPLA should agree promptly to a process of meaningful negotiations, to include direct and good-faith negotiations with UNITA, aimed at ending the presence of Soviet and Cuban forces in Angola, terminating the civil war, and setting up an administration which respects the rights and reflects the wishes of the Angolan people, with a mandate to organize free and fair elections for a new government; and

(8) if the MPLA, during the current rainy season in Angola, continues to be intransigent, by—

(A) refusing to engage in good faith negotiations, including negotiations with UNITA, aimed at eliminating the presence of foreign forces and reaching a just political settlement in Angola, or

(B) continuing its preparations for a new military offensive,

then the Senate would support the provision early in 1986 of material assistance to UNITA and would impose economic sanctions against those sectors of the Angolan economy which provide resources to support the Cuban troop presence.

Sec. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.

SENATE RESOLUTION 281—RELATING TO THE PROSPECTIVE EFFECTIVE DATE FOR TAX REFORM

Mr. DOLE (for himself, Mr. D'Amato, Mr. Dodd, Mrs. Hawkins, Mr. Wilson, Mr. Mattingly, Mr. Symms, Mr. Armstrong, Mr. Durenberger, Mr. Wallop, Mr. Grassley, Mr. Pryor, Mr. Roth; Mr. Chafee, Mr. Bradley, Mr. Heinz, Mr. Mitchell, Mr. Baucus, Mr. Boren, Mr. Kasten, Mr. Kerry, Mr. Domenici, Mr. Abdnor, Mr. Cranston, Mr. Garn, Mr. Simpson, Mr. Denton, Mr. Thurmond, Mr. DeConcini, Mr. Nickles, Mr. Laxalt, Mr. Specter, Mr. Warner, Mr. Hollings, Mr. Hecht, Mr. Andrews, Mr. Lugar, Mr. Boschwitz, Mr. Quayle, Mr. Heflin, Mr. Trible, Mr. Harkin, Mr. Cohen, Mr. Dixon, Mr. Cochran, Mr. Rudman, Mr. Weicker, Mr. McConnell, Mr. Zorinsky, Mr. Helms, Mr. Stennis, Mr. East, Mr. Bumpers, Mr. Levin, Mr. Hatch, and Mr. Ford) submitted the following resolution; which was considered and agreed to:

S. Res. 281

Whereas the Senate will require adequate time to consider tax reform legislation proposed by the President and the House of Representatives, and to prepare legislation which will maximize fairness and long-term economic growth and minimize short-term economic disruption; and

Whereas, it is likely that such action will not be completed before August 1986; and

Whereas, the tax legislation as prepared in the House of Representatives by the Committee on Ways and Means contains effective dates of January 1, 1986 and earlier; and

Whereas, it is unreasonable to expect taxpayers to comply with fundamental changes in the tax laws before they are enacted and they can be certain what those changes will be; and

Whereas, uncertainty as to the future of particular tax provisions is causing taxpayers either to delay decisions that they otherwise would make or to rush into transactions that, absent tax considerations, they would enter into at a more appropriate time: Therefore, be it

Resolved that it is the sense of the Senate that the effective date of any fundamental tax reform legislation should generally be January 1, 1987 while recognizing that appropriate transition rules may be necessary to avoid unintended adverse effects both on taxpayers and the United States Treasury and recognizing further that retroactive effective dates may be necessary to extend certain provisions which expire before January 1, 1987.

SENATE RESOLUTION 282—AUTHORIZING REPRESENTATION BY THE SENATE LEGAL COUNSEL

Mr. HEINZ (for Mr. Dole, for himself and Mr. Byrd) submitted the following resolution; which was considered and agreed to:

S. Res. 282

Whereas, in the case of *Representative Mike Synar* v. *United States of America*, Civil Action No. 85-3945, pending in the United States District Court for the District of Columbia, the constitutionality of the Balanced Budget and Emergency Deficit Control Act of 1985, Public Law 99-177, has been placed in issue;

Whereas, the statement of the President, on signing the Balanced Budget and Emergency Deficit Control Act of 1985, questions the constitutionality of several of its provisions of expresses the hope of the President that these constitutional questions will be promptly resolved;

Whereas, pursuant to section 274 of the Balanced Budget and Emergency Deficit Control Act of 1985 each House of Congress shall have the right to intervene in an action to determine the constitutionality of the Act;

Whereas, pursuant to sections 703(c), 706(a), and 713(a) of the Ethics in Government Act of 1978, 2 U.S.C §§ 288b(c), 288e(a), and 288*l*(a) (1982), the Senate may direct the Senate Legal Counsel to intervene in the name of the Senate in any legal action in which the powers and responsibilities of Congress under the Constitution are placed in issue: Now, therefore, be it

Resolved, That the Senate Legal Counsel is directed to intervene in the name of the Senate in the case of *Representative Mike Synar* v.*United States of America*.

Sec. 2. That during the adjournment of the Congress the Senate Legal Counsel is authorized to intervene or to appear as amicus curiae in the name of the Senate in other cases in which the constitutionality of the Balanced Budget and Emergency Deficit Control Act of 1985, Public Law 99-177, is placed in issue: *Provided*, That the Joint Leadership Group authorizes the Senate Legal Counsel to intervene or to appear as amicus curiae in the name of the Senate in such other cases.

SENATE RESOLUTION 283—BIPARTISAN OBSERVERS TO ARMS REDUCTION OR CONTROL NEGOTIATIONS

Mr. DOLE (for himself and Mr. Byrd) submitted the following resolution; which was considered and agreed to:

S. Res. 283

Resolved, That S. Res. 86, agreed to February 28, 1985, is amended as follows:

(a) Page 2, line 2, add: "The Chairman for Administrative purposes is the Senator from Alaska, Ted Stevens. The other members of the Senate Observer Group shall include the Senator from Massachusetts, Edward Kennedy; the Senator from Wyoming, Malcolm Wallop; the Senator from New York, Daniel Patrick Moynihan; the Senator from Virginia, John Warner; the Senator from Oklahoma, Don Nickles; the Senator from Tennessee, Al Gore; the Majority Leader, Robert Dole, ex officio; and the Minority Leader, Robert C. Byrd, ex officio. Only Senators appointed as members of the Group may participate in official travel and activities of the Group. In the event that the Majority Leader or Minority Leader does not travel on an official trip of the Observer Group, he may designate one other Senator not a member of the Group to travel and participate in the activities of the Group in his stead. Any vacancy occurring in the Senate Arms Control Observer Group shall be filled in the same manner in which the original appointment was made."

(b) Page 2, line 11: After the period, insert "Payments made under this section for receptions, meals and food-related expenses shall be authorized, however, only for those actual expenses incurred by the Senate Observer Group in the course of conducting its official duties and functions: *Provided*, That notwithstanding any other provision of this Resolution, such amounts received as reimbursement for such expenses shall not exceed $6,000 in any fiscal year. Amounts received as reimbursement for such food expenses shall not be reported as income, and the expenses so reimbursed shall not be allowed as a deduction under Title 26 of the U.S. Code."

(c) The amendment made by subsection (a) is effective with respect to expenditures incurred on or after February 28, 1985.

Page 3, line 9, add the following new section: "(d) All foreign travel of the Group shall be authorized solely by the Majority and Minority Leaders, upon the recommendation of the Administrative Chairman. Participation by staff, members in authorized foreign travel by the Group, access to all official activities and functions of the group during such travel, and access to all classified briefings and information made available to the Group during such travel, shall be limited exclusively to delegation members with appropriate clearances. No travel or other funding shall be authorized by any Committee of the Senate for the use of staff other than delegation staff, in regard to above mentioned activities, without the written authorization of the Majority Leader and the Minority Leader to the Chairman of such Committee."

SENATE RESOLUTION 284—RELATING TO INSPECTION OF TAX RECORDS BY A SUBCOMMITTEE OF THE COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. STEVENS (for Mr. Roth, for himself and Mr. Nunn) submitted the following resolution; which was considered and agreed to:

S. Res. 284

Whereas, the Permanent Subcommittee on Investigations of the Senate Committee on Governmental Affairs is conducting an investigation of the handling by the Department of Justice, the Department of Labor, and the Federal Bureau of Investigation of a Labor fraud investigation of Jackie Presser, president of the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America;

Whereas, allegations have been made that various federal agencies, including the Internal Revenue Service, may have conducted other investigations involving Mr. Presser and other individuals that may related to the handling of the recent investigation and declined prosecution of Mr. Presser;

Whereas, in order to conduct its investigation of the handling of the labor fraud investigation of Mr. Presser it is necessary for the Permanent Subcommittee on Investigations to inspect and receive tax returns, return information, and tax-related material held by the Secretary of the Treasury consisting of investigatory files pertaining to certain named individuals;

Whereas, information necessary for such investigation cannot reasonably be obtained from any other source; and

Whereas, under sections 6103(f) and 6104(a)(2) of the Internal Revenue Code of 1954, as amended, a committee of the Senate has the right to inspect tax returns and return information if such committee is specifically authorized to investigate tax returns and return information by a resolution of the Senate: Now, therefore, be it

Resolved, That the Permanent Subcommittee on Investigations of the Senate Committee on Governmental Affairs is specifically authorized, in conducting its investigation of the handling by the Department of Justice, the Department of Labor, and the Federal Bureau of Investigation of a labor fraud investigation of Jackie Presser, to inspect and receive for the tax years 1970-1985 and tax return, return information, or other tax-related material held by the Secretary of the Treasury consisting of investigatory files pertaining to Jackie Presser, William Presser, Frank Fitzsimmons, and Harry Hall, aka Haler, aka Haller, aka Helfgot.

SENATE RESOLUTION 285—COMMENDING MIKE STERN FOR HIS SERVICE TO THE SENATE

Mr. LONG (for himself, Mr. Packwood, Mr. Dole, Mr. Byrd, Mr. Danforth, Mr. Moynihan, Mr. Bentsen, Mr. Pryor, Mr. Matsunaga, Mr. Baucus, Mr. Durenberger, and Mr. Armstrong) submitted the following resolution; which was considered and agreed to:

S. Res. 285

Whereas Michael Stern has faithfully served the Senate of the United States as Staff Director and as Minority Staff Director of the Committee on Finance, and the Senate wishes to express its appreciation for his seventeen years of dedicated service to the Senate and to the Nation;

Whereas Michael Stern has discharged the important duties and responsibilities of his position with great distinction;

Whereas Michael Stern has helped guide the Committee on Finance through an extraordinarily active and challenging period of its history;

Whereas the loyalty, judgment, exceptional service, and continuing dedication of Michael Stern have earned for him respect, gratitude, and affection: Now, therefore, be it

Resolved, That the Senate of the United States commends Michael Stern for his faithful and outstanding service to the Senate and the Nation.

Sec. 2. The Secretary of the Senate shall transmit a copy of the resolution to Michael Stern.

SENATE RESOLUTION 286—RELATING TO EXTRANEOUS MATERIAL IN RECONCILIATION CONFERENCE REPORTS

Mr. SIMPSON (for Mr. Armstrong, for himself, Mr. Roth, and Mr. Domenici] submitted the following resolution; which was considered and agreed to:

S. Res. 286

Resolved, That when the Senate is considering a conference report or House amendment with respect to a reconciliation bill or reconciliation resolution pursuant to section

310 of the Budget Act, upon a point of order being made by any Senator against extraneous material meeting the definition of subsections (d)(1)(A) and (d)(1)(D) of section 1201 of the Consolidated Omnibus Budget Reconciliation Act of 1985, and such point of order is sustained, any part of such report or amendment containing such material shall be deemed stricken, but it shall be in order to continue consideration of the remainder under the Rules and practices of the Senate and applicable law. An affirmative vote of three-fifths of the Members, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this resoution, as well as to waive or suspend the provisions of this resolution.

The provisions of this resolution shall remain in effect until the date of termination of section 1201 of the Consolidated Omnibus Budget Reconciliation Act of 1985.

SENATE RESOLUTION 287—COMMITTEE TO NOTIFY THE PRESIDENT OF THE PROPOSED ADJOURNMENT OF THE SENATE

Mr. DOLE submitted the following resolution; which was considered and agreed to:

S. Res. 287

Resolved, That a committee of two Senators be appointed by the Presiding Officer to join a similar committee of the House of Representatives to notify the President of the United States that the two Houses have completed their business of the session and are ready to adjourn unless he has some further communication to make to them.

SENATE RESOLUTION 288—EXPRESSING THE THANKS OF THE SENATE TO THE VICE PRESIDENT

Mr. DOLE submitted the following resolution; which was considered and agreed to:

S. Res. 288

Resolved, That the thanks of the Senate are hereby tendered to the Honorable George H.W. Bush, Vice President of the United States and President of the Senate, for the courteous, dignified, and impartial manner in which he has presided over its deliberations during the first session of the Ninety-Ninth Congress.

SENATE RESOLUTION 289—EXPRESSING THE THANKS OF THE SENATE TO THE PRESIDENT PRO TEMPORE

Mr. DOLE (for Mr. Byrd, for himself, and Mr. Dole) submitted the following resolution; which was considered and agreed to:

S. Res. 289

Resolved, That the thanks of the Senate are hereby tendered to the Honorable Strom Thurmond, President pro tempore of the Senate, for the courteous, dignified, and impartial manner in which he has presided over its deliberations during the first session of the Ninety-Ninth Congress.

SENATE RESOLUTION 290—EXPRESSING THE ADMIRATION OF THE SENATE FOR THE LONG AND DISTINGUISHED CAREER OF SENATOR JOHN C. STENNIS

Mr. DOLE (for himself and Mr. Byrd) submitted the following resolution; which was considered and agreed to:

S. Res. 290

Whereas, the Honorable John C. Stennis, of Mississippi, holds the honor of being the second longest-serving Senator in the history of the United States;

Whereas, the Honorable John C. Stennis, of Mississippi, has served ably and effectively as Chairman of the Armed Services Committee from 1969 to 1981;

Whereas, the Honorable John C. Stennis, of Mississippi, served on the Senate Aeronatic and Space Committee and had an integral part in moving the United States toward putting a man on the Moon and competing in interplanetary exploration;

Whereas, the Honorable John C. Stennis, of Mississippi, has shown great courage, strength, and dignity in the face of personal hardships and has been an inspiration to the Members of this Chamber and the public at large; Now, therefore, be it

Resolved, That the Senate now recognizes the long and notable career of the Honorable John C. Stennis in this Chamber, during which he has proved his reputation as a statesman of integrity and fairness and a gentleman of dignity and strength, and expresses its appreciation and gratitude for his long, faithful and outstanding service to the Country.

SENATE RESOLUTION 291—AUTHORIZING CERTAIN APPOINTMENTS AFTER SINE DIE ADJOURNMENT OF THE PRESENT SESSION

Mr. BYRD submitted the following resolution; which was considered and agreed to:

S. Res. 291

Resolved, That notwithstanding the sine die adjournment of the present session of the Congress, the President of the Senate and the President of the Senate pro tempore be, and they are hereby, authorized to make appointments to commissions or committees authorized by law, by concurrent action of the two Houses, or by order of the Senate.

SENATE RESOLUTION 292—COMMENDING THE CONDUCT OF THE MAJORITY LEADER AND THE MAJORITY WHIP

Mr. THURMOND submitted the following resolution; which was considered and agreed to:

S. Res. 292

Resolved, That the exemplary conduct of the distinguished Majority Leader, the Senator from Kansas, the Honorable Robert Dole, is deserving of the highest commendation of the Senate. The fair and just and able manner in which Senate business has been scheduled and managed is a source of pride to the Senate as a whole and the thanks of the Senate are hereby tendered to the Honorable Robert Dole, Majority Leader, United States Senate, and the majority whip, Senator Simpson for his able assistance.

SENATE RESOLUTION 293—COMMENDING THE CONDUCT OF THE MINORITY LEADER AND THE MINORITY WHIP

Mr. THURMOND submitted the following resolution; which was considered and agreed to:

S. Res. 293

Resolved, That the Senate extends its thanks to the distinguished Minority Leader, the Senator from West Virginia, the Honorable Robert C. Byrd. The extremely cooperative and able manner in which the Minority Leader has approached his duties as protector of the rights of the minority has been duly noted and the Senate commends the Minority Leader for his understanding, his devotion to the rules of the Senate, and for his outstanding leadership, and the minority whip Alan Cranston, for his able assistance.

SENATE RESOLUTION 294—TENDERING THE THANKS OF THE SENATE TO THE SENATE STAFF

Mr. THURMOND submitted the following resolution; which was considered and agreed to:

S. Res. 294

Resolved, That the thanks of the Senate are hereby tendered to the Senate Sergeant at Arms, the Secretary of the Senate, the Secretary for the Majority, the Secretary for the Minority, and the floor staff of the two parties for the courteous, dignified, and impartial manner in which they have assisted the deliberations of the Senate during the first session of the Ninety-ninth Congress.

AMENDMENTS SUBMITTED

LOW-LEVEL RADIOACTIVE WASTE DISPOSAL COMPACTS

THURMOND (AND OTHERS) AMENDMENT NO. 1429

Mr. THURMOND (for himself, Mr. Simpson, Mr. Stafford, Mr. Bentsen, Mr. McClure, Mr. Johnston, Mr. Evans, Mr. Helms, Mr. Hart, Mr. Domenici, Mr. Hollings, Mr. Hecht, Mr. Bradley, Mr. Goldwater, and Mr. Denton) proposed an amendment to the bill (H.R. 1083) to amend the Low-Level Radioactive Waste Policy Act to improve procedures for the implementation of compacts providing for the establishment and operation of regional disposal facilities for low-level radioactive waste, and for other purposes; as follows:

TITLE I—LOW-LEVEL RADIOACTIVE WASTE POLICY AMENDMENTS ACT OF 1985

SEC. 101. SHORT TITLE.

This Title may be cited as the "Low-Level Radioactive Waste Policy Amendments Act of 1985."

SEC. 102. AMENDMENT TO THE LOW-LEVEL RADIOACTIVE WASTE POLICY ACT.

The Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021b et seq.) is amended by striking out sections 1, 2, 3, and 4 and inserting in lieu thereof the following:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Low-Level Radioactive Waste Policy Act".

"SEC. 2. DEFINITIONS.

"For purposes of this Act:

"(1) **Agreement state.**—The term 'agreement State' means a State that—

"(A) has entered into an agreement with the Nuclear Regulatory Commission under section 274 of the Atomic Energy Act of 1954 (42 U.S.C. 2021); and

"(B) has authority to regulate the disposal of low-level radioactive waste under such agreement.

"(2) **Allocation.**—The term 'allocation' means the assignment of a specific amount of low-level radioactive waste disposal capacity to a commercial nuclear power reactor for which access is required to be provided by sited States subject to the conditions specified under this Act.

"(3) **Commercial nuclear power reactor.**—The term 'commercial nuclear power reactor' means any unit of a civilian light-water moderated utilization facility required to be licensed under section 103 or 104b. of the Atomic Energy Act of 1954 (42 U.S.C. 2133 or 2134(b)).

"(4) **Compact.**—The term 'compact' means a compact entered into by two or more States pursuant to this Act.

"(5) **Compact commission.**—The term 'compact commission' means the regional commission, committee, or board established in a compact to administer such compact.

"(6) **Compact region.**—The term 'compact region' means the area consisting of all States that are members of a compact.

"(7) **Disposal.**—The term 'disposal' means the permanent isolation of low-level radioactive waste pursuant to the requirements established by the Nuclear Regulatory Commission under applicable laws, or by an agreement State if such isolation occurs in such agreement State.

"(8) **Generate.**—The term 'generate', when used in relation to low-level radioactive waste, means to produce low-level radioactive waste.

"(9) **Low-level radioactive waste.**—The term 'low-level radioactive waste' means radioactive material that—

"(A) is not high-level radioactive waste, spent nuclear fuel, or byproduct material (as defined in section 11e.(2) of the Atomic Energy Act of 1984 (42 U.S.C. 2014(e)(2))); and

"(B) the Nuclear Regulatory Commission, consistent with existing law and in accordance with paragraph (A), classifies as low-level radioactive waste.

"(10) **Non-sited compact region.**—The term 'non-sited compact region' means any compact region that is not a sited compact region.

"(11) **Regional disposal facility.**—The term 'regional disposal facility' means a non-federal low-level radioactive waste disposal facility in operation on January 1, 1985, or subsequently established and operated under a compact.

"(12) **Secretary.**—The term 'Secretary' means the Secretary of Energy.

"(13) **Sited compact region.**—The term 'sited compact region' means a compact region in which there is located one of the regional disposal facilities at Barnwell, in the State of South Carolina; Richland, in the State of Washington; or Beatty, in the State of Nevada.

"(14) **State.**—The term 'State' means any State of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

"Section 3. *Responsibilities for Disposal of Low-Level Radioactive Waste.*

Section 3(a)(1) State Responsibilities.—Each State shall be responsible for providing, either by itself or in cooperation with other States, for the disposal of—

(A) low-level radioactive waste generated within the State (other than by the federal government) that consists of or contains class A, B, or C radioactive waste as defined by section 61.55 of title 10, Code of Federal Regulations, as in effect on January 26, 1983;

(B) low-level radioactive waste described in subparagraph (A) that is generated by the federal government except such waste that is—

(i) owned or generated by the Department of Energy;

(ii) owned or generated by the United States Navy as a result of the decommissioning of vessels of the United States Navy; or

(iii) owned or generated as a result of any research, development, testing, or production of any atomic weapon; and

(C) low-level radioactive waste described in subparagraphs (A) and (B) that is generated outside of the State and accepted for disposal in accordance with sections 5 or 6.

(2) No regional disposal facility may be required to accept for disposal any material—

(A) that is not low-level radioactive waste as defined by section 61.55 of title 10, Code of Federal Regulations, as in effect on January 26, 1983, or

(B) identified under the Formerly Utilized Sites Remedial Action Program.

Nothing in this paragraph shall be deemed to prohibit a State, subject to the provisions of its compact, or a compact region from accepting for disposal any material identified in subparagraphs (A) or (B).

(b)(1) The federal government shall be responsible for the disposal of—

(A) low-level radioactive waste owned or generated by the Department of Energy;

(B) low-level radioactive waste owned or generated by the United States Navy as a result of the decommissioning of vessels of the United States Navy;

(C) low-level radioactive waste owned or generated by the federal government as a result of any research, development, testing, or production of any atomic weapon; and

(D) any other low-level radioactive waste with concentrations of radionuclides that exceed the limits established by the Commission for class C radioactive waste, as defined by section 61.55 of title 10, Code of Federal Regulations, as in effect on January 26, 1983.

(2) All radioactive waste designated a federal responsibility pursuant to subparagraph (b)(1)(D) that results from activities licensed by the Nuclear Regulatory Commission under the Atomic Energy Act of 1954, as amended, shall be disposed of in a facility licensed by the Nuclear Regulatory Commission that the Commission determines is adequate to protect the public health and safety.

(3) Not later than 12 months after the date of enactment of this Act, the Secretary shall submit to the Congress a comprehensive report setting forth the recommendations of the Secretary for ensuring the safe disposal of all radioactive waste designated a federal responsibility pursuant to subparagraph (b)(1)(D). Such report shall include—

(A) an identification of the radioactive waste involved, including the source of such waste, and the volume, concentration, and other relevant characteristics of such waste;

(B) an identification of the federal and non-federal options for disposal of such radioactive waste;

(C) a description of the actions proposed to ensure the safe disposal of such radioactive waste;

(D) a description of the projected costs of undertaking such actions;

(E) an identification of the options for ensuring that the beneficiaries of the activities resulting in the generation of such radioactive wastes bear all reasonable costs of disposing of such wastes; and

(F) an identification of any statutory authority required for disposal of such waste.

(4) The Secretary may not dispose of any radioactive waste designated a federal responsibility pursuant to paragraph (b)(1)(D) that becomes a federal responsibility for the first time pursuant to such paragraph until ninety days after the report prepared pursuant to paragraph (3) has been submitted to the Congress.

"Section 4. Regional Compacts for Disposal of Low-Level Radioactive Wastes.

"(a) **In General.**—

"(1) **Federal policy.**—It is the policy of the federal government that the responsibilities of the States under section 3 for the disposal of low-level radioactive waste can be most safely and effectively managed on a regional basis.

"(2) **Interstate compacts.**—To carry out the policy set forth in paragraph (1), the States may enter into such compacts as may be necessary to provide for the establishment and operation of regional disposal facilities for low-level radioactive waste.

"(b) **Applicability to Federal Activities.**—

"(1) **In General.**—

"(A) **Activities of the secretary.**—Except as provided in subparagraph (B), no compact or action taken under a compact shall be applicable to the transportation, management, or disposal of any low-level radioactive waste designated in section 3(a)(1)(B) (i)(iii).

"(B) **Federal low-level radioactive waste disposal of at non-federal facilities.**—Low-level radioactive waste owned or generated by the federal government that is disposed of at a regional disposal facility or non-federal disposal facility within a State that is not a member of a compact shall be subject to the same conditions, regulations, requirements, fees, taxes, and surcharges imposed by the compact commission, and by the State in which such facility is located, in the same manner and to the same extent as any low-level radioactive waste not generated by the federal government.

"(2) **Federal low-level radioactive waste disposal facilities.**—Any low-level radioactive waste disposal facility established or operated exclusively for the disposal of low-level radioactive waste owned or generated by the federal government shall not be subject to any compact or any action taken under a compact.

"(3) Effect of compacts on federal law.—Nothing contained in this Act or any compact may be construed to confer any new authority on any compact commission or State—

"(A) to regulate the packaging, generation, treatment, storage, disposal, or transportation of low-level radioactive waste in a manner incompatible with the regulations of the Nuclear Regulatory Commission or inconsistent with the regulations of the Department of Transportation;

"(B) to regulate health, safety, or environmental hazards from source material, byproduct material, or special nuclear material;

"(C) to inspect the facilities of licensees of the Nuclear Regulatory Commission;

"(D) to inspect security areas or operations at the site of the generation of any low-level radioactive waste by the federal government, or to inspect classified information related to such areas or operations; or

"(E) to require indemnification pursuant to the provisions of chapter 171 of title 28, United States Code (commonly referred to as the Federal Tort Claims Act), or section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) (commonly referred to as the Price-Anderson Act), whichever is applicable.

"(4) Federal authority.—Except as expressly provided in this Act, nothing contained in this Act or any compact may be construed to limit the applicability of any federal law or to diminish or otherwise impair the jurisidiction of any federal agency, or to alter, amend, or otherwise affect any federal law governing the judicial review of any action taken pursuant to any compact.

"(5) State authority preserved.—Except as expressly provided in this Act, nothing contained in this Act expands, diminishes, or otherwise affects State law.

"(c) Restricted use of regional disposal facilities.—Any authority in a compact to restrict the use of the regional disposal facilities under the compact to the disposal of low-level radioactive waste generated within the compact region shall not take effect before each of the following occurs:

"(1) January 1, 1986; and

"(2) the Congress by law consents to the compact.

"(d) Congressional Review.—Each compact shall provide that every 5 years after the compact has taken effect the Congress may by law withdraw its consent.

"Section 5. Limited Availability of Certain Regional Disposal Facilities During Transition and Licensing Periods.

"(a) Availability of Disposal Capacity.—

"(1) Pressurized-water and boiling water reactors.—During the seven-year period beginning January 1, 1986 and ending December 31, 1992, subject to the provisions of subsections (b) through (g), each State in which there is located a regional disposal facility referred to in paragraphs (1) through (3) of subsection (b) shall make disposal capacity available for low-level radioactive waste generated by pressurized water and boiling water commercial nuclear power reactors in accordance with the allocations established in subsection (c).

"(2) Other sources of low-level radioactive waste.—During the seven-year period beginning January 1, 1986 and ending December 31, 1992, subject to the provisions of subsections (b) through (g), each State in which there is located a regional disposal facility referred to in paragraphs (1) through (3) of subsection (b) shall make disposal capacity available for low-level radioactive waste generated by any source not referred to in paragraph (1).

"(3) Allocation of disposal capacity—

"(A) During the seven-year period beginning January 1, 1986 and ending December 31, 1992, low-level radioactive waste generated within a sited compact region shall be accorded priority under this section in the allocation of available disposal capacity at a regional disposal facility referred to in paragraphs (1) through (3) of subsection (b) and located in the sited compact region in which such waste is generated.

"(B) Any state in which a regional disposal facility referred to in paragraphs (1) through (3) of subsection (b) is located may, subject to the provisions of its compact, prohibit the disposal at such facility of low-level radioactive waste generated outside of the compact region if the disposal of such waste in any given calendar year, together with all other low-level radioactive waste disposed of at such facility within that same calendar year, would result in that facility disposing of a total annual volume of low-level radioactive waste in excess of 100 per centum of the average annual volume for such facility designated in subsection (b): *Provided, however,* That in the event that all three States, in which regional disposal facilities referred to in paragraphs (1) through (3) of subsection (b) act to prohibit the disposal of low-level radioactive waste pursuant to this subparagraph, each such State shall, in accordance with any applicable procedures of its compact, permit, as necessary, the disposal of additional quantities of such waste in increments of ten per centum of the average annual volume for each such facility designated in subsection (b).

(C) Nothing in this paragraph shall require any disposal facility or State referred to in paragraphs (1) through (3) of subsection (b) to accept for disposal low-level radioactive waste in excess of the total amounts designated in subsection (b).

"(4) Cessation of operation of low-level radioactive waste disposal facility.—No provision of this section shall be construed to obligae any State referred to in paragraphs (1) through (3) of subsection (b) to accept low-level radioactive waste from any source in the event that the regional disposal facility located in such state ceases operations.

"(b) Limitations.—The availability of disposal capacity for low-level radioactive waste from any source shall be subject to the following limitations:

"(1) Barnwell, south carolina.—The State of South Carolina, in accordance with the provisions of its compact, may limit the volume of low-level radioactive waste accepted for disposal at the regional disposal facility located at Barnwell, South Carolina to a total of 8,400,000 cubic feet of low-level radioactive waste during the 7-year period beginning January 1, 1986 and ending December 31, 1992 (as based on an average annual volume of 1,200,000 cubic feet of low-level radioactive waste).

"(2) Richland, washington.—The State of Washington, in accordance with the provisions of its compact, may limit the volume of low-level radioactive waste accepted for disposal at the regional disposal facility located at Richland, Washington to a total of 9,800,000 cubic feet of low-level radioactive waste during the 7-year period beginning January 1, 1986 and ending December 31, 1992 (as based on an average annual volume of 1,400,000 cubic feet of low-level radioactive waste).

"(3) Beatty, nevada.—The State of Nevada, in accordance with the provisions of its compact, may limit the volume of low-level radioactive waste accepted for disposal at the regional disposal facility located at Beatty, Nevada to a total of 1,400,000 cubic feet of low-level radioactive waste during the 7-year period beginning January 1, 1986, and ending December 31, 1992 (as based on an average annual volume of 200,000 cubic feet of low-level radioactive waste).

"(C) Commercial Nuclear Power Reactor Allocations.—

"(1) Amount.—Subject to the provisions of subsections (a) through (g) each commercial nuclear power reactor shall upon request receive an allocation of low-level radioactive waste disposal capacity (in cubic feet) at the facilities referred to in subsection (b) during the 4-year transition period beginning January 1, 1986, and ending December 31, 1989, and during the 3-year licensing period beginning January 1, 1990, and ending December 31, 1992, in an amount calculated by multiplying the appropriate number from the following table by the number of months remaining in the applicable period as determined under paragraph (2).

Reactor type	4-yr. transition [illegible]		3-yr. transition [illegible]	
	In-sited region	All other locations	In-sited region	All other locations
PWR	1,027	871	934	685
BWR	2,300	1,951	2,091	1,533

"(2) Method of calculation.—For purposes of calculating the aggregate amount of disposal capacity available to a commercial nuclear power reactor under this subsection, the number of months shall be computed beginning with the first month of the applicable period, or the sixteenth month after receipt of a full power operating license, whichever occurs later.

"(3) Unused allocations.—Any unused allocation under paragraph (1) received by a reactor during the transition period or the licensing period may be used at any time after such reactor receives its full power license or after the beginning of the pertinent period, whichever is later, but not in any event after December 31, 1992, or after commencement of operation of a regional disposal facility in the compact region or State in which such reactor is located, whichever occurs first.

"(4) Transferability.—Any commercial nuclear power reactor in a State or compact region that is in compliance with the requirements of subsection (e) may assign any disposal capacity allocated to it under this subsection to any other person in any such State or compact region. Such assignment may be for valuable consideration and shall be in writing, copies of which shall be filed at the affected compact commissions and States, along with the assignor's unconditional written waiver of the disposal capacity being assigned.

"(5) Unusual volumes.—

"(A) The Secretary may, upon petition by the owner or operator of any commercial nuclear power reactor, allocate to such reactor disposal capacity in excess of the amount calculated under paragraph (1) if the Secretary finds and states in writing his

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reasons for so finding that making additional capacity available for such reactor through this paragraph is required to permit unusual or unexpected operating, maintenance, repair or safety activities.

"(B) The Secretary may not make allocations pursuant to subparagraph (A) that would result in the acceptance for disposal of more than 800,000 cubic feet of low-level radioactive waste or would result in the total of the allocations made pursuant to this subsection exceeding 11,900,000 cubic feet over the entire seven-year interim access period.

"(6) Limitation.—During the seven-year interim access period referred to in subsection (a), the disposal facilities referred to in subsection (b) shall not be required to accept more than 11,900,000 cubic feet of low-level radioactive waste generated by commercial nuclear power reactors.

"(d)(1) SURCHARGES.—The disposal of any low-level radioactive waste under this section (other than low-level radioactive waste generated in a sited compact region) may be charged a surcharge by the State in which the applicable regional disposal facility is located, in addition to the fees and surcharges generally applicable for disposal of low-level radioactive waste in the regional disposal facility involved. Except as provided in subsection (e)(2), such surcharges shall not exceed—

"(A) in 1986 and 1987, $10 per cubic foot of low-level radioactive waste;

"(B) in 1988 and 1989, $20 per cubic foot of low-level radioactive waste; and

"(C) in 1990, 1991, and 1992, $40 per cubic foot of low-level radioactive waste.

"(2) MILESTONE INCENTIVES.—

"(A) ESCROW ACCOUNT.—Twenty-five per centum of all surcharge fees received by a State pursuant to paragraph (1) during the seven-year period referred to in subsection (a) shall be transferred on a monthly basis to an escrow account held by the Secretary. The Secretary shall deposit all funds received in a special escrow account. The funds so deposited shall not be the property of the United States. The Secretary shall act as trustee for such funds and shall invest them in interest-bearing United States Government Securities with the highest available yield. Such funds shall be held by the Secretary until—

"(i) paid or repaid in accordance with subparagraphs (B) or (C); or

"(ii) paid to the State collecting such fees in accordance with subparagraph (F).

"(B) PAYMENTS.—

"(i) JULY 1, 1986.—The twenty-five per centum of any amount collected by a State under paragraph (1) for low-level radioactive waste disposed of under this section during the period beginning on the date of enactment of the Low-Level Radioactive Waste Policy Amendments Act of 1985 and ending June 30, 1986, and transferred to the Secretary under subparagraph (A), shall be paid by the Secretary in accordance with subparagraph (D) if the milestone described in subsection (e)(1)(A) is met by the State in which such waste orginated.

"(ii) JANUARY 1, 1988.—The twenty-five per centum of any amount collected by a State under paragraph (1) for low-level radioactive waste disposed of under this section during the period beginning July 1, 1986 and ending December 31, 1987, and transferred to the Secretary under subparagraph (A), shall be paid by the Secretary in accordance with subparagraph (D) if the milestone described in subsection (e)(1)(B) is met by the State in which such waste originated (or its compact region, where applicable).

"(iii) JANUARY 1, 1990.—The twenty-five per centum of any amount collected by a State under paragraph (1) for low-level radioactive waste disposed of under this section during the period beginning January 1, 1988 and ending December 31, 1989, and transferred to the Secretary under subparagraph (A), shall be paid by the Secretary in accordance with subparagraph (D) if the milestone described in subsection (e)(1)(C) is met by the State in which such waste originated (or its compact region, where applicable).

"(iv) The twenty-five per centum of any amount collected by a State under paragraph (1) for low-level radioactive waste disposed of under this section during the period beginning January 1, 1990 and ending December 31, 1992, and transferred to the Secretary under subparagraph (A), shall be paid by the Secretary in accordance with subparagraph (D) if, by January 1, 1993, the State in which such waste originated (or its compact region, where applicable) is able to provide for the disposal of all low-level radioactive waste generated within such State or compact region.

"(C) FAILURE TO MEET JANUARY 1, 1993 DEADLINE.—If, by January 1, 1993, a State (or, where applicable, a compact region) in which low-level radioactive waste is generated is unable to provide for the disposal of all such waste generated within such State or compact region—

"(i) each State in which such waste is generated, upon the request of the generator or owner of the waste, shall take title to the waste, shall be obligated to take possession of the waste, and shall be liable for all damages directly or indirectly incurred by such generator or owner as a consequence of the failure of the State to take possession of the waste as soon after January 1, 1993 as the generator or owner notifies the State that the waste is available for shipment; or

"(ii) if such State elects not to take title to, take possession of, and assume liability for such waste, pursuant to clause (i), twenty-five per centum of any amount collected by a State under paragraph (1) for low-level radioactive waste disposed of under this section during the period beginning January 1, 1990 and ending December 31, 1992 shall be repaid, with interest, to each generator from whom such surcharge was collected. Repayments made pursuant to this clause shall be made on a monthly basis, with the first such repayment beginning on February 1, 1993, in an amount equal to one thirty-sixth of the total amount required to be repaid pursuant to this clause, and shall continue until the State (or, where applicable, compact region) in which such low-level radioactive waste is generated is able to provide for the disposal of all such waste generated within such State or compact region or until January 1, 1996, whichever is earlier.

If a State in which low-level radioactive waste is generated elects to take title to, take possession of, and assume liability for such waste pursuant to clause (i), such State shall be paid such amounts as are designated in subparagraph (B)(iv). If a State (or, where applicable, a compact region) in which low-level radioactive waste is generated provides for the disposal of such waste at any time after January 1, 1993 and prior to January 1, 1996, such State (or, where applicable, compact region) shall be paid in accordance with subparagraph (D) a lump sum amount equal to twenty-five per centum of any amount collected by a State under paragraph (1): *Provided, however,* That such payment shall be adjusted to reflect the remaining number of months between January 1, 1993 and January 1, 1996 for which such State (or, where applicable, compact region) provides for the disposal of such waste. If a State (or, where applicable, a compact region) in which low-level radioactive waste is generated is unable to provide for the disposal of all such waste generated within such State or compact region by January 1, 1996, each State in which such waste is generated, upon the request of the generator or owner of the waste, shall take title to the waste, be obligated to take possession of the waste, and shall be liable for all damages directly or indirectly incurred by such generator or owner as a consequence of the failure of the State to take possession of the waste as soon after January 1, 1996 as the generator or owner notifies the State that the waste is available for shipment.

"(D) RECIPIENTS OF PAYMENTS.—The payments described in subparagraphs (B) and (C) shall be paid within thirty days after the applicable date—

"(i) if the State in which such waste originated is not a member of a compact region, to such State;

"(ii) if the State in which such waste originated is a member of the region, to the compact commission serving such State.

"(E) USES OF PAYMENTS.—

"(i) LIMITATIONS.—Any amount paid under subparagraphs (B) or (C) may only be used to—

"(I) establish low-level radioactive waste disposal facilities;

"(II) mitigate the impact of low-level radioactive waste disposal facilities on the host state;

"(III) regulate low-level radioactive waste disposal facilities; or

"(IV) ensure the decommissioning, closure, and care during the period of institutional control of low-level radioactive waste disposal facilities.

"(ii) REPORTS.—

"(I) RECIPIENT.—Any State or compact commission receiving a payment under subparagraphs (B) or (C) shall, on December 31 of each year in which any such funds are expended, submit a report to the Department of Energy itemizing any such expenditures.

"(II) DEPARTMENT OF ENERGY.—Not later than six months after receiving the reports under subclause (I), the Secretary shall submit to the Congress a summary of all such reports that shall include an assessment of the compliance of each such State or compact commission with the requirements of clause (i).

"(F) PAYMENT TO STATES.—Any amount collected by a State under paragraph (1) that is placed in escrow under subparagraph (A) and not paid to a State or compact commission under subparagraphs (B) and (C) or not repaid to a generator under subparagraph (C) shall be paid from such escrow account to such State collecting such payment under paragraph (1). Such payment shall be made not later than 30 days after a determination of ineligibility for a refund is made.

"(G) PENALTY SURCHARGES.—No rebate shall be made under this subsection of any surcharge or penalty surcharge paid during a period of noncompliance with subsection (e)(1).

"(e) REQUIREMENTS FOR ACCESS TO REGIONAL DISPOSAL FACILITIES.—

"(1) REQUIREMENTS FOR NON-SITED COMPACT REGIONS AND NON-MEMBER STATES.—Each non-sited compact region, or State that is not a member of a compact region that does not have an operating disposal facility, shall comply with the following requirements:

"(A) By July 1, 1986, each such non-member State shall ratify compact legislation or, by the enactment of legislation or the certification of the Governor, indicate its intent to develop a site for the location of a low-level radioactive waste disposal facility within such State.

"(B) By January 1, 1988—

"(i) each non-sited compact region shall identify the State in whch its low-level radioactive waste disposal facility is to be located, or shall have selected the developer for such facility and the site to be developed, and each compact region or the State in which its low-level radioactive waste disposal facility is to be located shall develop a siting plan for such facility providing detailed procedures and a schedule for establishing a facility location and preparing a facility license application and shall delegate authority to implement such plan; and

"(ii) each non-member State shall develop a siting plan providing detailed procedures and a schedule for establishing a facility location and preparing a facility license application for a low-level radioactive waste disposal facility and shall delegate authority to implement such plan.

"(iii) The siting plan required pursuant to this paragraph shall include a description of the optimum way to attain operation of the low-level radioactive waste disposal facility involved, within the time period specified in this Act. Such plan shall include a description of the objectives and a sequence of deadlines for all entities required to take action to implement such plan, including, to the extent practicable, an identification of the activities in which a delay in the start, or completion, of such activities will cause a delay in beginning facility operation. Such plan shall also identify, to the extent practicable, the process for (1) screening for broad siting areas; (2) identifying and evaluating specific candidate sites; and (3) characterizing the preferred site(s), completing all necessary environmental assessments, and preparing a license application for submission to the Nuclear Regulatory Commission or an Agreement State."

"(C) By January 1, 1990—

"(i) a complete application (as determined by the Nuclear Regulatory Commission or the appropriate agency of an agreement State) shall be filed for a license to operate a low-level radioactive waste disposal facility within each non-sited compact region or within each non-member State; or

"(ii) the Governor (or, for any State without a Governor, the chief executive officer) of any State that is not a member of a compact region in compliance with clause (i), or has not complied with such clause by its own actions, shall provide a written certification to the Nuclear Regulatory Commission, that such State will be capable of providing for, and will provide for, the storage, disposal, or management of any low-level radioactive waste generated within such State and requiring disposal after December 31, 1992, and include a description of the actions that will be taken to ensure that such capacity exists.

"(D) By January 1, 1992, a complete application (as determined by the Nuclear Regulatory Commission or the appropriate agency of an agreement State) shall be filed for a license to operate a low-level radioactive waste disposal facility within each non-sited compact region or within each non-member State.

"(E) The Nuclear Regulatory Commission shall transmit any certification received under subparagraph (C) to the Congress and publish any such certification in the Federal Register.

"(F) Any State may, subject to all applicable provisions, if any, of any applicable compact, enter into an agreement with the compact commission of a region in which a regional disposal facility is located to provide for the disposal of all low-level radioactive waste generated within such State, and, by virtue of such agreement, may, with the approval of the State in which the regional disposal facility is located, be deemed to be in compliance with subparagraphs (A), (B), (C), and (D).

"(2) PENALTIES FOR FAILURE TO COMPLY.—

"(A) BY JULY 1, 1986.—If any State fails to comply with subparagraph (1)(A)—

"(i) any generator of low-level radioactive waste within such region or non-member State shall, for the period beginning July 1, 1986, and ending December 31, 1986, be charged 2 times the surcharge otherwise applicable under subsection (d); and

"(ii) on or after January 1, 1987, any low-level radioactive waste generated within such region or non-member State may be denied access to the regional disposal facilities referred to in paragraphs (1) through (3) of subsection (b).

"(B) BY JANUARY 1, 1988.—If any non-sited compact region or non-member State fails to comply with paragraph (1)(B)—

"(i) any generator of low-level radioactive waste within such region or non-member State shall—

"(I) for the period beginning January 1, 1988, and ending June 30, 1988, be charged 2 times the surcharge otherwise applicable under subsection (d); and

(II) for the period beginning July 1, 1988, and ending December 31, 1988, be charged 4 times the surcharge otherwise applicable under subsection (d); and

"(ii) on or after January 1, 1989, any low-level radioactive waste generated within such region or non-member State may be denied access to the regional disposal facilities referred to in paragraphs (1) through (3) of subsection (b).

"(C) BY JANUARY 1, 1990.—If any non-sited compact region or non-member State fails to comply with paragraph (1)(C), any low-level radioactive waste generated within such region or non-member State may be denied access to the regional disposal facilities referred to in paragraphs (1) through (3) of subsection (b).

"(D) By January 1, 1992.—If non-sited compact region or non-member State fails to comply with paragraph (1)(D), any generator of low-level radioactive waste within such region or non-member State shall, for the period beginning January 1, 1992 and ending upon the filing of the application described in paragraph (1)(D), be charged 3 times the surcharge otherwise applicable under subsection (d).

"(3) DENIAL OF ACCESS.—No denial or suspension of access to a regional disposal facility under paragraph (2) may be based on the source, class, or type of low-level radioactive waste.

"(4) RESTORATION OF SUSPENDED ACCESS; PENALTIES FOR FAILURE TO COMPLY.—Any access to a regional disposal facility that is suspended under paragraph (2) shall be restored after the non-sited compact region or non-member State involved complies with such requirement. Any payment of surcharge penalties pursuant to paragraph (2) for failure to comply with the requirements of subsection (e) shall be terminated after the non-sited compact region or non-member State involved complies with such requirements.

"(f)(1) ADMINISTRATION.—Each State and compact commission in which a regional disposal facility referred to in paragraphs (1) through (3) of subsection (b) is located shall have authority—

"(A) to monitor compliance with the limitations, allocations, and requirements established in this section; and

"(B) to deny access to any non-federal low-level radioactive waste disposal facilities within its borders to any low-level radioactive waste that—

"(i) is in excess of the limitations or allocations established in this section; or

"(ii) is not required to be accepted due to the failure of a compact region or State to comply with the requirements of subsection (e)(1).

"(2) AVAILABILITY OF INFORMATION DURING INTERIM ACCESS PERIOD.—

"(A) The States of South Carolina, Washington, and Nevada may require information from disposal facility operators, generators, intermediate handlers, and the Department of Energy that is reasonably necessary to monitor the availability of disposal capacity, the use and assignment of allocations and the applicability of surcharges.

"(B) The States of South Carolina, Washington, and Nevada may, after written notice followed by a period of at least 30 days, deny access to disposal capacity to any generator or intermediate handler who fails to provide information under subparagraph (A).

"(C) PROPRIETARY INFORMATION.—

"(i) Trade secrets, proprietary and other confidential information shall be made available to a State under this subsection upon request only if such State—

"(I) consents in writing to restrict the dissemination of the information to those who are directly involved in monitoring under subparagraph (A) and who have a need to know;

"(II) accepts liability for wrongful disclosure; and

"(III) demonstrates that such information is essential to such monitoring.

"(ii) The United States shall not be liable for the wrongful disclosure by any individual or State of any information provided to such individual or State under this subsection.

"(iii) Whenever any individual or State has obtained possession of information under this subsection, the individual shall be subject to the same provisions of law with respect to the disclosure of such information as would apply to an officer or employee of the United States or of any department or agency thereof and the State shall be subject to the same provisions of law with respect to the disclosure of such information as would apply to the United States or any department or agency thereof. No State or State officer or employee who receives trade secrets, proprietary information, or other confidential information under this Act may be required to disclose such information under State law.

"(g) NONDISCRIMINATION.—Except as provided in subsections (b) through (e), low-level radioactive waste disposed of under this section shall be subject without discrimination to all applicable legal requirements of the compact region and State in which the disposal facility is located as if such low-level radioactive waste were generated within such compact region.

"SEC. 6. EMERGENCY ACCESS.

"(a) In General.—The Nuclear Regulatory Commission may grant emergency access to any regional disposal facility or nonfederal disposal facility within a State that is not a member of a compact for specific low-level radioactive waste, if necessary to eliminate an immediate and serious threat to the public health and safety or the common defense and security. The procedure for granting emergency access shall be as provided in this section.

"(b) Request for Emergency Access.—Any generator of low-level radioactive waste, or any Governor (or, for any State without a Governor, the chief executive officer of the State) on behalf of any generator or generators located in his or her State, may request that the Nuclear Regulatory Commission grant emergency access to a regional disposal facility or a non-federal disposal facility within a State that is not a member of a compact for specific low-level radioactive waste. Any such request shall contain any information and certifications the Nuclear Regulatory Commission may require.

"(c) Determination of Nuclear Regulatory Commission.—

"(1) Required determination.—Not later than 45 days after receiving a request under subsection (b), the Nuclear Regulatory Commission shall determine whether—

"(A) emergency access is necessary because of an immediate and serious threat to the public health and safety or the common defense and security; and

"(B) the threat cannot be mitigated by any alternative consistent with the public health and safety, including storage of low-level radioactive waste at the site of generation or in a storage facility obtaining access to a disposal facility by voluntary agreement, purchasing disposal capacity available for assignment pursuant to section 5(c) or ceasing activities that generate low-level radioactive waste.

"(2) Required notification.—If the Nuclear Regulatory Commission makes the determinations required in paragraph (1) in the affirmative, it shall designate an appropriate non-federal disposal facility or facilities, and notify the Governor (or chief executive officer) of the State in which such facility is located and the appropriate compact commission that emergency access is required. Such notification shall specifically describe the low-level radioactive waste as to source, physical and radiological characteristics, and the minimum volume and duration, not exceeding 180 days, necessary to alleviate the immediate threat to public health and safety or the common defense and security. The Nuclear Regulatory Commission shall also notify the Governor (or chief executive officer) of the State in which the low-level radioactive waste requiring emergency access was generated that emergency access has been granted and that, pursuant to subsection (e), no extension of emergency access may be granted absent diligent State action during the period of the initial grant.

"(d) Temporary Emergency Access.—Upon determining that emergency access is necessary because of an immediate and serious threat to the public health and safety or the common defense and security, the Nuclear Regulatory Commission may at its discretion grant temporary emergency access, pending its determination whether the threat could be mitigated by any alternative consistent with the public health and safety. In granting access under this subsection, the Nuclear Regulatory Commission shall provide the same notification and information required under subsection (c). Absent a determination that no alternative consistent with the public health and safety would mitigate the threat, access granted under this subsection shall expire 45 days after the granting of temporary emergency access under this subsection.

"(e) Extension of Emergency Access.—The Nuclear Regulatory Commission may grant one extension of emergency access beyond the period provided in subsection (c), if it determines that emergency access continues to be necessary because of an immediate and serious threat to the public health and safety or the common defense and security that cannot be mitigated by any alternative consistent with the public health and safety, and that the generator of low-level radioactive waste granted emergency access and the State in which such low-level radioactive waste was generated have diligently though unsuccessfully acted during the period of the initial grant to eliminate the need for emergency access. Any extension granted under this subsection shall be for the minimum volume and duration the Nuclear Regulatory Commission finds necessary to eliminate the immediate threat to public health and safety or the common defense and security, and shall not in any event exceed 180 days.

"(f) Reciprocal Access.—Any compact region or State not a member of a compact that provides emergency access to non-Federal disposal facilities within its borders shall be entitled to reciprocal access to any subsequently operating non-federal disposal facility that serves the State or compact region in which low-level radioactive waste granted emergency access was generated. The compact commission or State having authority to approve importation of low-level radioactive waste to the disposal facility to which emergency access was granted shall designate for reciprocal access an equal volume of low-level radioactive waste having similar characteristics to that provided emergency access.

"(g) Approval by Compact Commission.—Any grant of access under this section shall be submitted to the compact commission for the region in which the designation disposal facility is located for such approval as may be required under the terms of its compact. Any such compact commission shall act to approve emergency access not later than 15 days after the receiving notification from the Nuclear Regulatory Commission, or reciprocal access not later than 15 days after receiving notification from the appropriation authority under subsection (f).

"(h) Limitations.—No State shall be required to provide emergency or reciprocal access to any regional disposal facility within its borders for low-level radioactive waste not meeting criteria established by the license or license agreement of such facility, or in excess of the approved capacity of such facility, or to delay the closing of any such facility pursuant to plans established before receiving a request for emergency or reciprocal access. No State shall, during any 12-month period, be required to provide emergency or reciprocal access to any regional disposal facility within its borders for more than 20 percent of the total volume of low-level radioactive waste accepted for disposal at such facility during the previous calendar year.

"(i) Volume reduction and surcharges.—Any low-level radioactive waste delivered for disposal under this section shall be reduced in volume to the maximum extent practicable and shall be subject to surcharges established in this Act.

"(j) Deduction from allocation.—Any volume of low-level radioactive waste granted emergency or reciprocal access under this section, if generated by any commercial nuclear power reactor, shall be deducted from the low-level radioactive waste volume allocable under section 5(c).

"(k) Agreement states.—Any agreement under section 274 of the Atomic Energy Act of 1954 (42 U.S.C. 2021) shall not be applicable to the determinations of the Nuclear Regulatory Commission under this section.

"SEC. 7. RESPONSIBILITIES OF THE DEPARTMENT OF ENERGY.

"(a) Financial and Technical Assistance.—The Secretary shall, to the extent provided in appropriations Act, provide to those compact regions, host States, and nonmember States determined by the Secretary to require assistance for purposes of carrying out this Act—

"(1) continuing technical assistance to assist them in fulfilling their responsibilities under this Act. Such technical assistance shall include, but not be limited to, technical guidelines for site selection, alternative technologies for low-level radioactive waste disposal, volume reduction options, management techniques to reduce low-level waste generation, transportation practices for shipment of low-level wastes, health and safety considerations in the storage, shipment and disposal of low-level radioactive wastes, and establishment of a computerized data-base to monitor the management of low-level radioactive wastes; and

"(2) through the end of fiscal year 1993, financial assistance to assist them in fulfilling their responsibilities under this Act

"(b) Reports.—The Secretary shall prepare and submit to the Congress on an annual basis a report which (1) summarizes the progress of low-level waste disposal siting and licensing activities within each compact region, (2) reviews the available volume reduction technologies, their applications, effectiveness, and costs of a per unit volume basis, (3) reviews interim storage facility requirements, costs, and usage, (4) summarizes transportation requirements for such wastes on an inter- and intra-regional basis, (5) summarizes the data on the total amount of low-level waste shipped for disposal on a yearly basis, the proportion of such wastes subjected to volume reduction, the average volume reduction attained, and the proportion of wastes stored on an interim basis, and (6) projects the interim storage and final disposal volume requirements anticipated for the following year, on a regional basis.

"SEC. 8. ALTERNATIVE DISPOSAL METHODS.

"(a) Not later than 12 months after the date of enactment of the Low-Level Radioactive Waste Policy Amendments Act of 1985, the Nuclear Regulatory Commission shall, in consultation with the States and other interested persons, identify methods for the disposal of low-level radioactive waste other than shallow land burial, and establish and publish technical guidance regarding licensing of facilities that use such methods.

(b) Not later than 24 months after the date of enactment of the Low-Level Radioactive Waste Policy Amendments Act of 1985, the Commission shall, in consultation with the States and other interested persons, identify and publish all relevant technical information regarding the methods identified pursuant to subsection (a) that a State or compact must provide to the Commission in order to pursue such methods, together with the technical requirements that such facilities must meet, in the judgment of the Commission, if pursued as an alternative to shallow land burial. Such technical information and requirements shall include, but need not be limited to, site suitability, site design, facility operation disposal site closure, and environmental monitoring, as necessary to meet the performance objectives established by the Commission for a licensed low-level radioactive waste disposal facility. The Commission shall specify and publish such requirements in a manner and form deemed appropriate by the Commission.

"SEC. 9. LICENSING REVIEW AND APPROVAL

"In order to ensure the timely development of new low-level radioactive waste disposal facilities, the Nuclear Regulatory Commission or, as appropriate, agreement States, shall consider an application for a disposal facility license in accordance with the laws applicable to such application, except that the Commission and the agreement state shall—

"(1) not later than 12 months after the date of enactment of the Low-Level Radioactive Waste Policy Amendments Act of 1985, establish procedures and develop the technical capability for processing applications for such licenses;

"(2) to the extent practicable, complete all activities associated with the review and processing of any application for such a license (except for public hearings) no later than 15 months after the date of receipt of such application; and

"(3) to the extent practicable, consolidate all required technical and environmental reviews and public hearings.

"SEC. 10. RADIOACTIVE WASTE BELOW REGULATORY CONCERN.

"(a) Not later than 6 months after the date of enactment of the Low-Level Radioactive Waste Policy Amendments Act of 1985, the Commission shall establish standards and procedures, pursuant to existing authority, and develop the technical capability for considering and acting upon petitions to exempt specific radioactive waste streams from regulation by the Commission due to the presence of radionuclides in such waste streams in sufficiently low concentrations or quantities as to be below regulatory concern.

"(b) The standards and procedures established by the Commission pursuant to subsection (a) shall set forth all information required to be submitted to the Commission by licensees in support of such petitions, including, but not limited to—

"(1) a detailed description of the waste materials, including their origin, chemical composition, physical state, volume, and mass; and

"(2) the concentration or contamination levels, half-lives, and identities of the radionuclides present.

Such standards and procedures shall provide that, upon receipt of a petition to exempt a specific radioactive waste stream from regulation by the Commission, the Commission shall determine in an expeditious manner whether the concentration or quantity of radionuclides present in such waste stream requires regulation by the Commission in order to protect the public health and safety. Where the Commission determines that regulation of a radioactive waste stream is not necessary to protect the public health and safety, the Commission shall take such steps as may be necessary, in an expeditious manner, to exempt the disposal of such radioactive waste from regulation by the Commission.

"SEC. 11. REGULATION OF COMMERCIAL LOW-LEVEL WASTE SITES UNDER RCRA.

"(a) Not later than 90 days after the date of enactment of the Low-Level Radioactive Waste Policy Amendments Act of 1985, the Nuclear Regulatory Commission and the Administrator of the Environmental Protection Agency (hereinafter in this section referred to as 'the Administrator') shall jointly identify and publish in the Federal Register a list of all substances identified or listed as hazardous waste under section 3001 of the Solid Waste Disposal Act and subject to regulation under that Act that are low-level radioactive waste subject to section 3(a) of this Act or are being disposed of at low-level radioactive waste disposal facilities licensed by the Commission or by an Agreement State pursuant to an agreement with the Commission under section 274 of the Atomic Energy Act (42 U.S.C. 2021). For each such substance, the Commission and the Administrator shall jointly identify the source of generation, the volume, concentration, composition, hazard, and other relevant characteristics of such substance, and the facility or facilities at which such substance is currently or has recently been disposed of. Such list shall be periodically reviewed and revised as necessary.

"(b) If the Nuclear Regulatory Commission and the Administrator determine that disposal (or treatment and disposal) of a substance identified under subsection (a) at a facility meeting only—

"(1) the requirements of subtitle C of the Solid Waste Disposal Act, or

"(2) the requirements established by the Nuclear Regulatory Commission for the licensing and regulation of the disposal of low-level radioactive waste;

is adequate to protect public health and safety and to protect human health and the environment, disposal (or treatment and disposal) of such substance at such a facility shall constitute compliance with the requirements for proper disposal of such substance and for the licensing and regulation of such facility with respect to the disposal (or treatment and disposal) of such substance under both subtitle C of the Solid Waste Disposal Act and the Atomic Energy Act.

"(c)(1) Not later than 180 days after the date of publication in the Federal Register of the list of hazardous wastes identified pursuant to subsection (a) that may not be disposed of (or treated and disposed of) at a facility identified pursuant to subsection (b), the Administrator shall identify what specific requirements, if any, based on subtitle C of the Solid Waste Disposal Act, in addition to those established by the Commission for the licensing and regulation of low-level radioactive waste disposal facilities, are necessary for the disposal (or treatment and disposal) of each such substance to protect human health and the environment. The Administrator shall promptly transmit such identification to the Nuclear Regulatory Commission, together with a statement of the basis for such judgment and the views of the Administrator on the consistency of such requirements with the Atomic Energy Act, including the requirements established by the Commission for the licensing and regulation of low-level radioactive waste disposal facilities subject to this Act.

"(2) Not later than 90 days after receipt of information transmitted under paragraph (1), the Nuclear Regulatory Commission shall review and evaluate such information and, after considering the views of the Administrator, shall make a determination as to whether the requirements identified under paragraph (1) are not inconsistent with the Atomic Energy Act, including the requirements established by the Commission for the licensing and regulation of low-level radioactive waste disposal facilities subject to this Act. Where the Commission determines that such requirements are not inconsistent with the Atomic Energy Act, including the requirements established by the Commission for the licensing and regulation of low-level radioactive waste disposal facilities subject to this Act, not later than 90 days after such determination, the Commission shall take such steps as might be necessary, either in rulemaking or in individual licensing procedures for specific facilities, to impose such requirements on each such facility that proposes to accept any substance identified pursuant to subsection (a) for which such requirements are applicable. A facility in compliance with such modified requirements shall be deemed to be in compliance with subtitle C of the Solid Waste Disposal Act.

"(3) If the Commission determines under paragraph (2) that any requirements identified by the Administrator under paragraph (1) cannot be applied at a particular facility in a manner not inconsistent with the Atomic Energy Act, including the requirements established by the Commission for the licensing and regulation of low-level radioactive waste disposal facilities subject to this Act, the Commission is authorized to prohibit the disposal of substances for which such requirements are identified by the Administrator as necessary at such facility or in any low-level radioactive waste disposal facility licensed and regulated by the Commission or by an Agreement State.

"(d) For the purposes of judicial review, the identification of a facility under subsection (b), the imposition of requirements or failure to impose requirements in accordance with subsection (c)(2), and the prohibition of disposal under subsection (c) shall be considered final agency actions.".

TITLE II—OMNIBUS LOW-LEVEL RADIOACTIVE WASTE INTERSTATE COMPACT CONSENT ACT

SEC. 201. SHORT TITLE.

This Title may be cited as the "'Omnibus Low-Level Radioactive Waste Interstate Compact Consent Act".

Subtitle A—General Provisions

SEC. 211. CONGRESSIONAL FINDING.

The Congress hereby finds that each of the compacts set forth in subtitle B is in furtherance of the Low-Level Radioactive Waste Policy Act.

SEC. 212. CONDITIONS OF CONSENT TO COMPACTS.

The consent of the Congress to each of the compacts set forth in subtitle B—

(1) shall become effective on the date of the enactment of this Act;

(2) is granted subject to the provisions of the Low-Level Radioactive Waste Policy Act, as amended; and

(3) is granted only for so long as the regional commission, committee, or board established in the compact complies with all of the provisions of such Act.

SEC. 213. CONGRESSIONAL REVIEW.

The Congress may alter, amend, or repeal this Act with respect to any compact set forth in subtitle B after the expiration of the 10-year period following the date of the enactment of this Act, and at such intervals thereafter as may be provided in such compact.

Subtitle B—Congressional Consent to Compacts

SEC. 221. NORTHWEST INTERSTATE COMPACT ON LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT.

The consent of Congress is hereby given to the states of Alaska, Hawaii, Idaho, Montana, Oregon, Utah, Washington, and Wyoming to enter into the Northwest Interstate Compact on Low-level Radioactive Waste Management, and to each and every part and article thereof. Such compact reads substantially as follows:

"NORTHWEST INTERSTATE COMPACT ON LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT

"ARTICLE I—POLICY AND PURPOSE

"The party states recognize that low-level radioactive wastes are generated by essential activities and services that benefit the citizens of the states. It is further recognized that the protection of the health and safety of the citizens of the party states and the most economical management of low-level radioactive wastes can be accomplished through cooperation of the states in minimizing the amount of handling and transportation required to dispose of such wastes and through the cooperation of the states in providing facilities that serve the region. It is the policy of the party states to undertake the necessary cooperation to protect the health and safety of the citizens of the party states and to provide for the most economical management of low-level radioactive wastes on a continuing basis. It is the purpose of this compact to provide the means for such a cooperative effort among the party states so that the protection of the citizens of the states and the maintenance of the viability of the states' economies will be enhanced while sharing the responsibilities of radioactive low-level waste management.

"ARTICLE II—DEFINITIONS

"As used in this compact:

"(1) 'Facility' means any site, location structure, or property used or to be used for the storage, treatment, or disposal of low-level waste, excluding federal waste facilities;

"(2) 'Low-level waste' means waste material which contains radioactive nuclides emitting primarily beta or gamma radiation, or both, in concentrations or quantities which exceed applicable federal or state standards for unrestricted release. Low-level waste does not include waste containing more than ten (10) nanocuries of transuranic contaminants per gram of material, nor spent reactor fuel, nor material classified as either high-level waste or waste which is unsuited for disposal by near-surface burial under any applicable federal regulations;

"(3) 'Generator' means any person, partnership, association, corporation, or any other entity whatsoever which, as a part of its activities, produces low-level radioactive waste;

"(4) 'Host state' means a state in which a facility is located.

"ARTICLE III—REGULATORY PRACTICES

"Each party state hereby agrees to adopt practices which will require low-level waste shipments originating within it borders and destined for a facility within another party state to conform to the applicable packaging and transportation requirements and regulations of the host state. Such practices shall include:

"(1) Maintaining an inventory of all generators within the state that have shipped or expect to ship low-level waste to facilities in another party state;

"(2) Periodic unannounced inspection of the premises of such generators and the waste management activities thereon;

"(3) Authorization of the containers in which such waste may be shipped, and a requirement that generators use only that type of container authorized by the state;

"(4) Assurance that inspections of the carriers which transport such waste are conducted by proper authorities, and appropriate enforcement action taken for violations;

"(5) After receiving notification from a host state that a generator within the party state is in violation of applicable packaging or transportation standards, the party state will take appropriate action to assure that such violations do not recur. Such action may include inspection of every individual low-level waste shipment by that generator.

Each party state may impose fees upon generators and shippers to recover the cost of the inspections and other practices under this article. Nothing in this article shall be construed to limit any party state's authority impose additional or more stringent standards on generators or carriers than those required under this article.

"ARTICLE IV—REGIONAL FACILITIES

"(1) Facilities located in any party state, other than facilities established or maintained by individual low-level waste generators for the management of their own low-level waste, shall accept low-level waste generated in any party state if such waste has been packaged and transported according to applicable laws and regulations.

"(2) No facility located in any party state may accept low-level waste generated outside of the region comprised of the party states, except as provided in article V.

"(3) Until such time as paragraph (2) of article IV takes effect, facilities located in any party state may accept low-level waste generated outside of any of the party states only if such waste is accompanied by a certificate of compliance issued by an official of the state in which such waste shipment originated. Such certificate shall be in such form as may be required by the host state, and shall contain at least the following:

"(A) The generator's name and address;

"(B) A description of the contents of the low-level waste container.

"(C) A statement that the low-level waste being shipped has been inspected by the official who issued the certificate or by his agent or by a representative of the United States Nuclear Regulatory Commission, and found to have been packaged in compliance with applicable Federal regulations and such additional requirements as may be imposed by the host state;

"(D) A binding agreement by the state of origin to reimburse any party state for any liability or expense incurred as a result of an accidental release of such waste during shipment or after such waste reaches the facility.

"(4) Each party state shall cooperate with the other party states in determining the appropriate site of any facility that might be required within the region comprised of the party states, in order to maximize public health and safety while minimizing the use of any one (1) party state as the host of such facilities on a permanent basis. Each party state further agrees that decisions regarding low-level waste management facilities in their region will be reached through a good faith process which takes into account the burdens borne by each of the party states as well as the benefits each has received.

"(5) The party states recognize that the issue of hazardous chemical waste management is similar in many respects to that of low-level waste management. Therefore, in consideration of the State of Washington allowing access to its low-level waste disposal facility by generations in other party states, party states such as Oregon and Idaho which host hazardous chemical waste disposal facilities will allow access to such facilities by generators within other party states. Nothing in this compact shall be construed to prevent any party state from limiting the nature and type of hazardous chemical or low-level wastes to be accepted at facilities within its borders or from ordering the closure of such facilities, so long as such action by a host state is applied equally to all generators within the region comprised of the party states.

"(6) Any host state may establish a schedule of fees and requirements related to its facility, to assure that closure, perpetual care, and maintenance and contingency requirements are not, including adequate bonding.

ARTICLE V—NORTHWEST LOW-LEVEL WASTE COMPACT COMMITTEE

"The governor of each party state shall designate one (1) official of that state as the person responsible for administration of his compact. The officials so designated shall together comprise the northwest low-level waste compact committee. The committee shall meet as required to consider matters arising under this compact. The parties shall inform the committee of existing regulations concerning low-level waste management in their states, and shall afford all parties a reasonable opportunity to review and comment upon any proposed modifications in such regulations. Notwithstanding any provision of article IV to the contrary, the committee may enter into arrangements with states provinces, individual generators, or regional compact entities outside the region comprised of the party states for access to facilities on such terms and conditions as the committee may deem appropriate. However, it shall require a two thirds (⅔) vote of all such members, including the affirmative vote of the member of any party state in which a facility affected by such arrangement is located, for the committee to enter into such arrangement.

"ARTICLE VI—ELIGIBLE PARTIES AND EFFECTIVE DATE

"(1) Each of the following states is eligible to become a party to this compact: Alaska, Hawaii, Idaho, Montana, Oregon, Utah, Washington, and Wyoming. As to any eligible party, this compact shall become effective upon enactment into law by that party, but it shall not become initially effective until enacted into law by two (2) states. Any party state may withdraw from this compact by enacting a statute repealing its approval.

"(2) After the compact has initially taken effect pursuant to paragraph (1) of this article, any eligible party state may become a party to this compact by the execution of an executive order by the governor of the state. Any state which becomes a party in this manner shall cease to be a party upon the final adjournment of the next general or regular session its legislature or July 1, 1983, whichever occurs first, unless the compact has by then been enacted as a statute by that state.

"(3) Paragraph (2) of article IV of this compact shall take effect on July 1, 1983, if consent is given by Congress. As provided in public law 96-573, Congress may withdraw its consent to the compact after every five (5) year period.

"ARTICLE VII—SEVERABILITY

"If any provision of this compact, or its application to any person or circumstances, is held to be invalid, all other provisions of this compact, and the application of all of its provisions to all other persons and circumstances, shall remain valid; and to this end the provisions of this compact are severable."

SEC. 22. CENTRAL INTERSTATE LOW-LEVEL RADIOACTIVE WASTE COMPACT.

The consent of Congress is hereby given to the states of Arkansas, Iowa, Kansas, Louisiana, Minnesota, Missouri, Nebraska, North Dakota, and Oklahoma to enter into the Central Interstate Low Level Radioactive Waste Compact, and to each and every part and article thereof. Such compact reads substantially as follows:

"CENTRAL INTERSTATE LOW-LEVEL RADIOACTIVE WASTE COMPACT

"ARTICLE I. POLICY AND PURPOSE

"The party states recognize that each state is responsible for the management of its non-Federal low-level radioactive wastes. They also recognize that the Congress, by enacting the Low-Level Radioactive Waste Policy Act (Public Law 96-573) has authorized and encouraged states to enter into compacts for the efficient management of wastes. It is the policy of the party states to cooperate in the protection of the health, safety and welfare of their citizens and the environment and to provide for and encourage the economical management of low-level radioactive wastes. It is the purpose of this compact to provide the framework for such a cooperative effort; to promote the health, safety and welfare of the citizens and the environment of the region; to limit the number of facilities needed to effectively and efficiently manage low-level radioactive wastes and to encourage the reduction of the generation thereof; and to distribute the costs, benefits and obligations among the party states.

"ARTICLE II. DEFINITIONS

"As used in this compact, unless the context clearly requires a different construction:

"a. 'Commission' means the Central Interstate Low-Level Radioactive Waste Commission;

"b. 'disposal' means the isolation and final disposition of waste;

"c. 'extended care' means the care of a regional facility including necessary corrective measures subsequent to its active use for waste management until such time as the regional facility no longer poses a threat to the environment or public health;

"d. 'facility' means any site, location, structure or property used or to be used for the management of waste;

"e. 'generator' means any person who, in the course of or as incident to manufacturing, power generation, processing, medical diagnosis and treatment, biomedical research, other industrial or commercial activity, other research or mining in a party state, produces or processes waste. 'Generator' does not include any person who receives waste generated outside the region for subsequent shipment to a regional facility;

"f. 'host state' means any party state in which a regional facility is situated or is being developed;

"g. 'low-level radioactive waste' or 'waste' means, as defined in the Low-Level Radioactive Waste Policy Act (Public Law 96-573), radioactive waste not classified as: High-level radioactive waste, transuranic waste, spent nuclear fuel, or byproduct material as defined in section 11 e.(2) of the Atomic Energy Act of 1954, as amended through 1978.

"h. 'management of waste' means the storage, treatment or disposal of waste;

"i. 'notification of each party state' means transmittal of written notice to the Governor, presiding officer of each legislative body and any other person designated by the party state's Commission member to receive such notice;

"j. 'party state' means any state which is a signatory party to this compact;

"k. 'person' means any individual, corporation, business enterprise, or other legal entity, either public or private;

"l. 'region' means the area of the party states;

"m. 'regional facility' means a facility which is located within the region and which has been approved by the Commission for the benefit of the party States;

"n. 'site' means any property which is owned or leased by a generator and is contiguous to or divided only by a public or private way from the source of generation;

"o. 'state' means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands or any other territorial possession of the United States;

"p. 'storage' means the holding of waste for treatment or disposal; and

"q. 'treatment' means any method, technique or process, including storage for radioactive decay, designed to change the physical, chemical or biological characteristics or composition of any waste in order to render such waste safe for transport or management, amenable for recovery, convertible to another usable material, or reduced in volume.

"ARTICLE III. RIGHTS AND OBLIGATIONS

"a. There shall be provided within the region one or more regional facilities which together provide sufficient capacity to manage all wastes generated within the region. It shall be the duty of regional facilities to accept compatible wastes generated in and from a party state, and meeting the requirements of this Act, and each party state shall have the right to have the wastes generated within its borders managed at such facility.

"b. To the extent authorized by Federal law and host State law, a host state shall regulate and license any regional facility within its borders and ensure the extended care of such facility.

"c. Rates shall be charged to any user of the regional facility set by the operator of a regional facility and shall be fair and reasonable and be subject to the approval of the host state. Such approval shall be based upon criteria established by the Commission.

"d. A host state may establish fees which shall be charged to any user of a regional facility and which shall be in addition to the rates approved pursuant to section c. of this Article, for any regional facility within its borders. Such fees shall be reasonable and shall provide the host state with sufficient revenue to cover any costs associated with such facilities. If such fees have been reviewed and approved by the Commission and to the extent that such revenue is insufficent, all party states shall share the costs in a manner to be determined by the Commission.

"e. To the extent authorized by Federal law, each party state is responsible for enforcing any applicable Federal and state laws and regulations pertaining to the packaging and transportation of waste generated within or passing through its borders and shall adopt practices that will ensure that waste shipments originating within its borders and destined for a regional facility will conform to applicable packaging and transportation laws and regulations.

"f. Each party state has the right to rely on the good faith performance of each other party state.

"g. Unless authorized by the Commission, it shall be unlawful after January 1, 1986, for any person:

"1. To deposit at a regional facility, waste not generated within the region;

"2. to accept, at a regional facility, waste not generated within the region;

"3. to export from the region, waste which is generated within the region; and

"4. to transport waste from the site at which it is generated, except to a regional facility.

"ARTICLE IV. THE COMMISSION

"a. There is hereby established the Central Interstate Low-Level Radioactive Waste Commission. The Commission shall consist of one voting member from each party state to be appointed according to the laws of each state. The appointing authority of each party state shall notify the Commission in writing of the identity of its member and any alternates. An alternate may act on behalf of the member only in the absence of such member. Each state is responsible for the expenses of its member of the Commission.

"b. Each Commission member shall be entitled to one vote. Unless otherwise provided herein, no action of the Commission shall be bonding unless a majority of the total membership casts its vote in the affirmative.

"c. The Commission shall elect from among its membership a chairman. The Commission shall adopt and publish, in convenient form, by-laws and policies which are not inconsistent with this compact.

"d. The Commission shall meet at least once a year and shall also meet upon the call of the chairman, by petition of a majority of the membership or upon the call of a host state member.

"e. The Commission may initiate any proceedings or appear as an intervenor or party in interest before any court of law, or any Federal, state or local agency, board or commission that has jurisdiction over any matter arising under or relating to the terms of the provisions of this compact. The Commission shall determine in which proceedings it shall intervene or otherwise appear and may arrange for such expert testimony, reports, evidence or other participation in such proceedings as may be necessary to represent its views.

"f. The Commission may establish such committees as it deems necessary for the purpose of advising the Commission on any and all matters pertaining to the management of waste.

"g. The Commission may employ and compensate a staff limited only to those persons necessary to carry out its duties and functions. The Commission may also contract with and designate any person to perform necessary functions to assist the Commission. Unless otherwise required by the acceptance of a Federal grant, the staff shall serve at the Commission's pleasure irrespective of the civil service, personnel or other merit laws of any of the party states or the Federal government and shall be compensated from funds of the Commission.

"h. Funding for the Commission shall be as follows:

"1. The Commission shall set and approve its first annual budget as soon as practicable after its initial meeting. Party states shall equally contribute to the Commission budget on an annual basis, an amount not to exceed $25,000 until surcharges are available for that purpose. Host states shall begin imposition of the surcharges provided for in this section as soon as practicable and shall remit to the Commission funds resulting from collection of such surcharges within 60 days of their receipt; and

"2. Each state hosting a regional facility shall annually levy surcharges on all users of such facilities, based on the volume and characteristics of wastes received at such facilities, the total of which:

"(A) Shall be sufficient to cover the annual budget of the Commission; and

"(B) shall be paid to the Commission, provided, however, that each host state collecting such surcharges to cover the administrative costs of collection, and that the remainder be sufficient only to cover the approved annual budget of the Commission.

"i. The Commission shall keep accurate accounts of all receipts and disbursements. An independent certified public accountant shall annually audit all receipts and disbursements of Commission funds and submit an audit report to the Commission. Such audit report shall be made a part of the annual report of the Commission required by this Article.

"j. The Commission may accept for any of its purposes and functions any and all donations, grants of money, equipment, supplies, materials, and services, conditional or otherwise from any person and may receive, utilize and dispose of same. The nature, amount and conditions, if any, attendant upon any donation or grant accepted pursuant to this section, together with the identity of the donor, grantor or lender, shall be detailed in the annual report of the Commission.

"k. (1) Except as otherwise provided herein, nothing in this compact shall be construed to alter the incidence of liability of any kind for any act, omission, course of conduct, or on account of any casual or other relationships. Generators, transporters of waste, owners and operators of facilities shall be liable for their acts, omissions, conduct or relationships in accordance with all laws relating thereto.

"(2) The Commission herein established in a legal entity separate and distinct from the party states and shall be so liable for its actions. Liabilities of the Commission shall not be deemed liabilities of the party states. Members of the Commission shall not be personally liable for actions taken by them in their official capacity.

"l. Any person or party state aggrieved by a final decision of the Commission may obtain judicial review of such decisions in the United States District Court in the District wherein the Commission maintains its headquarters by filing in such court a petition for review within 60 days after the Commission's final decision. Proceedings thereafter shall be in accordance with the rules of procedure applicable in such court.

"m. The Commission shall:

"1. Receive and approve the application of a non-party state to become a party state in accordance with Article VII;

"2. submit an annual report, and otherwise communicate with, the Governors and the presiding officers of the legislative bodies of the party states regarding the activities of the Commission;

"3. hear and negotiate disputes which may arise between the party states regarding this compact;

"4. require of and obtain from the party states, and non-party states seeking to become party states, data and information necessary to the implementation of Commission and party states' responsibilities;

"5. approve the development and operation of regional facilities in accordance with Article V;

"6. notwithstanding any other provision of this compact, have the authority to enter into agreements with any person for the importation of waste into the region and for the right of access to facilities outside the region for waste generated within the region. Such authorization to import or export waste requires the approval of the Commission, including the affirmative vote of any host state which may be affected;

"7. revoke the membership of a party state in accordance with Articles V and VII;

"8. require all party states and other persons to perform their duties and obligations arising under this compact by an approprite action in any forum designated in section e. of Article IV; and

"9. take such action as may be necessary to perform its duties and functions as provided in this compact.

"ARTICLE V. DEVELOPMENT AND OPERATION OF REGIONAL FACILITIES

"a. Following the collection of sufficient data and information from the states, the Commission shall allow each party state the opportunity to volunteer as a host for a regional facility.

"b. If no state volunteers or if no proposal identified by a volunteer state is deemed acceptable by the Commission, based on the criteria in section c. of this Article, then the Commission shall publicly seek applicants for the development and operation of regional facilities.

"c. The Commission shall review and consider each applicant's proposal based upon the following criteria:

"1. The capability of the applicant to obtain a license from the applicable authority;

"2. the economic efficiency of each proposed regional facility, including the total estimated disposal and treatment costs per public foot of waste;

"3. financial assurances;

"4. accessibility to all party states; and

"5. such other criteria as shall be determined by the Commission to be necessary for the selection of the best proposal, based on the health, safety and welfare of the citizens in the region and the party states.

"d. The Commission shall make a preliminary selection of the proposal or proposals considered most likely to meet the criteria enumerated in section c. and the needs of the region.

"e. Following notification of each party state of the results of the preliminary selection process, the Commission shall:

"1. Authorize any person whose proposal has been selected to pursue licensure of the regional facility or facilities in accordance with the proposal originally submitted to the Commission or as modified with the approval of the Commission; and

"2. require the appropriate state or states or the U.S. Nuclear Regulatory Commission to process all applications for permits and licenses required for the development and operation of any regional facility or facilities within a reasonable period from the time that a completed application is submitted.

"f. The preliminary selection or selections made by the Commission pursuant to this Article shall become final and receive the Commission's approval as a regional facility upon the issuance of license by the licensing authority. If a proposed regional facility fails to become licensed, the Commission shall make another selection pursuant to the procedures identified in this Article.

"g. The Commission may, by two-thirds affirmative vote of its membership, revoke the membership of any party state which, after notice and hearing, shall be found to have arbitrarily or capriciously denied or delayed the issuance of a license or permit to any person authorized by the Commission to apply for such license or permit. Revocation shall be in the same manner as provided for in section e. of Article VII.

"ARTICLE VI. OTHER LAWS AND REGULATIONS

"a. Nothing in this compact shall be construed to:

"1. Abrogate or limit the applicability of any act of Congress or diminish or otherwise impair the jurisdiction of any Federal agency expressly conferred thereon by the Congress;

"2. prevent the application of any law which is not otherwise inconsistent with this compact;

"3. prohibit or otherwise restrict the management and waste on the site where it is generated if such is otherwise lawful;

"4. affect any judicial or administrative proceeding pending on the effective date of this compact;

"5. alter the relations between, and the respective internal responsibilities of, the government of a party state and its subdivisions; and

"6. affect the generation or management of waste generated by the Federal government or federal research and development activities.

"b. No party state shall pass or enforce any law or regulation which is inconsistent with this compact.

"c. All laws and regulations or parts thereof of any party state which are inconsistent with this compact are hereby declared null and void for purposes of this compact. Any legal right, obligation, violation or penalty arising under such laws or regulations prior to enactment of this compact shall not be affected.

"d. No law or regulation of a party state or of any subdivision or instrumentality thereof may be applied so as to restrict or make more costly or inconvenient access to any regional facility by the generators of another party state than for the generators of the state where the facility is situated.

"ARTICLE VII. ELIGIBLE PARTIES, WITHDRAWAL, REVOCATION, ENTRY INTO FORCE, TERMINATION

"a. This compact shall have as initially eligible parties the states of Arkansas, Iowa, Kansas, Louisiana, Minnesota, Missouri, Nebraska, North Dakota and Oklahoma. Such initial eligibility shall terminate on January 1, 1984.

"b. Any state may petition the Commission for eligibility. A petitioning state shall become eligible for membership in the compact upon the unanimous approval of the Commission.

"c. An eligible state shall become a member of the compact and shall be bound by it after such state has enacted the compact into law. In no event shall the compact take effect in any state until it has been entered into force as provided for in section f. of this Article.

"d. Any party state may withdraw from this compact by enacting a statute repeating the same. Unless permitted earlier by unanimous approval of the Commission, such withdrawal shall take effect five-years after the Governor of the withdrawing state has given notice in writing of such withdrawal to each Governor of the party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

"e. Any party state which fails to comply with the terms of this compact or fulfill its obligations hereunder may, after notice and hearing, have its privileges suspended or its membership in the compact revoked by the Commission. Revocation shall take effect one year from the date such party state receives written notice from the Commission of its action. The Commission may require such party state to pay to the Commission, for a period not to exceed five-years from the date of notice of revocation, an amount determined by the Commission based on the anticipated fees which the generators of such party state would have paid to each regional facility and an amount equal to that which such party state would have contributed in accordance with section d. of Article III, in the event of insufficient revenues. The Commission shall use such funds to ensure the continued availability of safe and economical waste management facilities for all remaining party states. Such state shall also pay an amount equal to that which such party state would have contributed to the annual budget of the Commission if such party state would have remained a member of the compact. All legal rights established under this compact of any party state which has its membership revoked shall cease upon the effective date of revocation; however, any legal obligations of such party state arising prior to the effective date of revocation shall not cease until they have been fulfilled. Written notice of revocation of any state's membership in the company shall be transmitted immediately following the vote of the Commission, by the chairman, to the Governor of the affected party state, all other Governors of the party states and the Congress of the United States.

"f. This compact shall become effective after enactment by at least three eligible states and after consent has been given to it by the Congress. The Congress shall have the opportunity to withdraw such consent every five-years. Failure of the Congress to withdraw its consent affirmatively shall have the effect of renewing consent for an additional five-year period. The consent given to this compact by the Congress shall extend to any future admittance of new party states under sections b. and c. of this Article and to the power to ban the exportation of waste pursuant to Article III.

"g. The withdrawal of a party state from this compact under section d. of this Article or the revocation of a state's membership in this compact under section 3. of this Article shall not affect the applicability of this compact to the remaining party states.

"h. This compact shall be terminated when all party states have withdrawn pursuant to section d. of this Article.

"ARTICLE VIII. PENALTIES

"a. Each party state, consistent with its own law, shall prescribe and enforce penalties against any person for violation of any provision of this compact.

"b. Each party state acknowledges that the receipt by a regional facility of waste packaged or transported in violation of applicable laws and regulations can result in sanctions which may include suspension or revocation of the violator's right of access to the regional facility.

"ARTICLE IX. SEVERABILITY AND CONSTRUCTION

"The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared by a court of competent jurisdiction to be contrary to the Constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstances is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If any provision of this compact shall be held contrary to the Constitution of any state participating therein, the compact shall remain in full force and effect as to the state affected as to all severable matters. The provisions of this compact shall be liberally construed to give effect to the purpose thereof.".

SEC. 223. SOUTHEAST INTERSTATE LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT COMPACT.

In accordance with section 4(a)(2) of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021d(a)(2)), the consent of the Congress is hereby given to the States of Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia to enter into the Southeast Interstate Low-Level Radioactive Waste Management Compact. Such compact is substantially as follows:

SOUTHEAST INTERSTATE LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT COMPACT

ARTICLE I

POLICY AND PURPOSE

There is hereby created the Southeast Interstate Low-Level Radioactive Waste Management Compact. The party States recognize and declare that each state is responsible for providing for the availability of capacity either within or outside the State for disposal of low-level radioactive waste generated within its borders, except for waste generated as a result of defense activities of the federal government or federal research and development activities. They also recognize that the management of low-level radioactive waste is handled most efficiently on a regional basis. The party states further recognize that the Congress of the United States by enacting the Low-Level Radioactive Waste Policy Act (Public Law 96-573), has provided for and encouraged the development of low-level radioactive waste compacts as a tool for disposal of such waste. The party states recognize that the safe and efficient management of low-level radioactive waste generated within the region requires that sufficient capacity to dispose of such waste be properly provided.

It is the policy of the party states to: enter into a regional low-level radioactive waste management compact for the purpose of providing the instrument and framework for a cooperative effort; provide sufficient facilities for the proper management of low-level radioactive waste generated in the region; promote the health and safety of the region; limit the number of facilities required to effectively and efficiently manage low-level radioactive waste generated in the region; encourage the reduction of the amounts of low-level waste generated in the region; distribute the costs, benefits, and obligations of successful low-level radioactive waste management equitably among the party states; and ensure the ecological and economical management of low-level radioactive wastes.

Implicit in the Congressional consent to this compact is the expectation by Congress and the party states that the appropriate federal agencies will actively assist the Compact Commission and the individual party states to this compact by:

1. Expeditious enforcement of federal rules, regulations, and laws;
2. imposing sanctions against those found to be in violation of federal rules, regulations, and laws;
3. timely inspection of their licensees to determine their capability to adhere to such rules, regulations, and laws;
4. timely provision of technical assistance to this compact in carrying out their obligations under the Low-Level Radioactive Waste Policy Act, as amended.

ARTICLE 2

DEFINITIONS

As used in this compact, unless the context clearly requires a different construction;

1. 'Commission' or 'Compact Commission' means the Southeast Interstate Low-Level Radioactive Waste Management Commission.

2. 'Facility' means a parcel of land, together with the structure, equipment, and improvements thereon or appurtenant thereto, which is used or is being developed for the treatment, storage, or disposal of low-level radioactive waste.

3. 'Generator' means any person who produces or processes low-level radioactive waste in the course of, or as an incident to, manufacturing, power generation, processing, medical diagnosis and treatment, research, or other industrial or commercial activity. This does not include persons who provide a service to generators by arranging for the collection, transportation, storage, or disposal of wastes with respect to such waste generated outside the region.

4. 'High-level waste' means irradiated reactor fuel, liquid wastes from reprocessing irradiated reactor fuel, and solids into which such liquid wastes have been converted, and other high-level radioactive waste as defined by the U.S. Nuclear Regulatory Commission.

5. 'Host state' means any state in which a regional facility is situated or is being developed.

6. 'Low-level radioactive wastes' or 'waste' means radioactive waste not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or by-product material as defined in Section 11e, (2) of the Atomic Energy Act of 1954, or as may be further defined by Federal law or regulation.

7. 'Party state' means any state which is a signatory party to this compact.

8. 'Person' means any individual, corporation, business enterprise, or other legal entity (either public or private).

9. 'Region' means the collective party states.

10. 'Regional facility' means (1) a facility as defined in this article which has been

designated, authorized, accepted, or approved by the Commission to receive waste or (2) the disposal facility in Barnwell County, South Carolina, owned by the State of South Carolina and as licensed for the burial of low-level radioactive waste on July 1, 1982, but in no event shall this disposal facility serve as a regional facility beyond December 31, 1992.

11. 'State' means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, or any other territorial possession of the United States.

12. 'Transuranic wastes' means waste material containing transuranic elements with contamination levels as determined by the regulations of (1) the U.S. Nuclear Regulatory Commission or (2) any host state, if it is an agreement state under Section 274 of the Atomic Energy Act of 1954.

13. 'Waste management' means the storage, treatment, or disposal of waste.

ARTICLE 3

RIGHTS AND OBLIGATIONS

The rights granted to the party states by this compact are additional to the rights enjoyed by sovereign states, and nothing in this compact shall be construed to infringe upon, limit, or abridge those rights.

(A) Subject to any license issued by the U.S. Nuclear Regulatory Commission or a host state, each party state shall have the right to have all wastes generated within its borders stored, or disposed of, as applicable, at regional facilities and, additionally, shall have the right of access to facilities made available to the region through agreements entered into by the Commission pursuant to article 4(e)(9). The right of access by a generator within a party state to any regional facility is limited by its adherence to applicable state and federal law and regulation.

(B) If no operating regional facility is located within the borders of a party state and the waste generated within its borders must therefore be stored, treated, or disposed of at a regional facility in another party state, the party state without such facilities may be required by the host state or states to establish a mechanism which provides compensation for access to the regional facility according to terms and conditions established by the host state or states and approved by a two-thirds vote of the Commission.

(C) Each party state must establish the capability to regulate, license, and ensure the maintenance and extended care of any facility within its borders. Host states are responsible for the availability, the subsequent post-closure observation and maintenance, and the extended institutional control of their regional facilities in accordance with the provisions of Article 5, Section (b)

(D) Each party state must establish the capability to enforce any applicable federal or state laws and regulations pertaining to the packaging and transportation of waste generated within or passing through its borders.

(E) Each party state must provide to the Commission on an annual basis any data and information necessary to the implementation of the Commission's responsibilities. Each party state shall establish the capability to obtain any data and information necessary to meet its obligation.

(F) Each party state must, to the extent authorized by federal law, require generators within its borders to use the best available waste management technologies and practices to minimize the volumes of waste requiring disposal.

ARTICLE 4

THE COMMISSION

(A) There is hereby created the Southeast Interstate Low-Level Radioactive Waste Management Commission ('Commission' or 'Compact Commission'). The Commission shall consist of two voting members from each party state to be appointed according to the laws of each state. The appointing authorities of each state must notify the Commission in writing of the identity of its members and any alternates. An alternate may act on behalf of the member only in the member's absence.

(B) Each commission member is entitled to one vote. No action of the Commission shall be binding unless a majority of the total membership cast their vote in the affirmative, or unless a greater than majority vote is specifically required by any other provision of this compact.

(C) The Commission must elect from among its members a presiding officer. The Commission shall adopt and publish, in convenient form, bylaws which are consistent with this compact.

(D) The Commission must meet at least once a year and also meet upon the call of the presiding officer, by petition of a majority of the party states, or upon the call of a host state. All meetings of the Commission must be open to the public.

(E) The Commission has the following duties and powers:

1. To receive and approve the application of a nonparty state to become an eligible state in accordance with the provisions of Article 7(b).

2. To receive and approve the application of a nonparty state to become an eligible state in accordance with the provisions of Article 7(c).

3. To submit an annual report and other communications to the Governors and to the presiding officer of each body of the legislature of the party states regarding the activities of the Commission.

4. To develop and use procedures for determining, consistent with consideration for public health and safety, the type and number of regional facilities which are presently necessary and which are projected to be necessary to manage waste generated within the region.

5. To provide the party states with reference guidelines for establishing the criteria and procedures for evaluating alternative locations for emergency or permanent regional facilities.

6. To develop and adopt, within one year after the Commission is constituted as provided in Article 7(d) procedures and criteria for identifying a party state as a host state for a regional facility as determined pursuant to the requirements of this article. In accordance with these procedures and criteria, the Commission shall identify a host state for the development of a second regional disposal facility within three years after the Commission is constituted as provided for in Article 7(d), and shall seek to ensure that such facility is licensed and ready to operate as soon as required but in no event later than 1991.

In developing criteria, the Commission must consider the following: the health, safety, and welfare of the citizens of the party states; the existence of regional facilities within each party state; the minimization of waste transportation; the volumes and types of wastes generated within each party state; and the environmental, economic, and ecological impacts on the air, land, and water resources of the party states.

The Commission shall conduct such hearings, require such reports, studies, evidence, and testimony, and do what is required by its approved procedures in order to identify a party state as a host state for a needed facility.

7. In accordance with the procedures and criteria developed pursuant to Section (e)(6) of this Article, to designate, by a two-thirds vote, a host state for the establishment of a needed regional facility. The Commission shall not exercise this authority unless the party states have failed to voluntarily pursue the development of such facility. The Commission shall have the authority to revoke the membership of a party state that willfully creates barriers to the siting of a needed regional facility.

8. To require of and obtain from party states, eligible states seeking to become party states, and nonparty states seeking to become eligible states, data and information necessary to the implementation of Commission responsibilities.

9. Notwithstanding any other provision of this compact, to enter into agreements with any person, state, or similar regional body or group of states for the importation of waste into the region and for the right of access to facilities outside the region for waste generated within the region. The authorization to import requires a two-thirds majority vote of the Commission, including an affirmative vote of both representatives of a host state in which any affected regional facility is located. This shall be done only after an assessment of the affected facility's capability to handle such wastes.

10. To act or appear on behalf of any party state of states, only upon written request of both members of the Commission for such state or states as an intervenor or party in interest before Congress, state legislatures, any court of law, or any federal, state, or local agency, board, or commission which has jurisdiction over the management of wastes. The authority to act, intervene, or otherwise appear shall be exercised by the Commission, only after approval by a majority vote of the Commission.

11. To revoke the membership of a party state in accordance with Article 7(f).

F. The Commission may establish any advisory committees as it deems necessary for the purpose of advising the Commission on any matters pertaining to the management of low-level radioactive waste.

G. The Commission may appoint or contract for and compensate such limited staff necessary to carry out its duties and functions. The staff shall serve at the Commission's pleasure irrespective of the civil service, personnel, or other merit laws of any of the party states or the federal government and shall be compensated from funds of the Commission. In selecting any staff, the Commission shall assure that the staff has adequate experience and formal training to carry out such functions as may be assigned to it by the Commission. If the Commission has a headquarters it shall be in a party state.

H. Funding for the Commission must be provided as follows:

1. Each eligible state, upon becoming a party state, shall pay twenty-five thousand dollars to the Commission which shall be used for costs of the Commission's services.

2. Each state hosting a regional disposal facility shall annually levy special fees or surcharges on all users of such facility, based upon the volume of wastes disposed of at such facilities, the total of which:

a. must be sufficient to cover the annual budget of the Commission;

b. must represent the financial commitments of all party states to the Commission;

c. must be paid to the Commission;

Provided, however, That each host state collecting such fees or surcharges may retain a portion of the collection sufficient to cover its administrative costs of collection and that the remainder be sufficient only to cover the approved annual budgets of the Commission.

3. The Commission must set and approve its first annual budget as soon as practicable after its initial meeting. Host states for disposal facilities must begin imposition of the special fees and surcharges provided for in this section as soon as practicable after becoming party states and must remit to the Commission funds resulting from collection of such special fees and surcharges within sixty days of their receipt.

I. The Commission must keep accurate accounts of all receipts and disbursements. An independent certified public accountant shall annually audit all receipts and disbursement of Commission funds and submit an audit report to the Commission. The audit report shall be made a part of the annual report of the Commission required by Article 4(e)(3).

J. The Commission may accept for any of its purposes and functions any and all donations, grants of money, equipment, supplies, materials, and services (conditional or otherwise) from any state, or the United States, or any subdivision or agency thereof, or interstate agency, or from any institution, person, firm, or corporation, and may receive, utilize, and dispose of the same. The nature, amount, and condition, if any, attendant upon any donation or grant accepted pursuant to this section, together with the identity of the donor, grantor, or lender shall be detailed in the annual report to the Commission.

K. The Commission is not responsible for any costs associated with:

(1) the creation of any facility,

(2) the operation of any facility,

(3) the stabilization and closure of any facility,

(4) the post-closure observation and maintenance of any facility, or

(5) the extended institutional control, after post-closure observation and maintenance of any facility.

(L) As of January 1, 1986, the management of wastes at regional facilities is restricted to wastes generated within the region, and to wastes generated within nonparty states when authorized by the Commission pursuant to the provisions of this compact. After January 1, 1986, the Commission may prohibit the exportation of waste from the region for the purposes of management.

M. 1. The Commission herein established is a legal entity separate and distinct from the party states capable of acting in its own behalf and is liable for its actions. Liabilities of the Commission shall not be deemed liabilities of the party states. Members of the Commission shall not personally be liable for action taken by them in their official capacity.

2. Except as specifically provided in this compact, nothing in this compact shall be construed to alter the incidence of liability of any kind for any act, omission, course of conduct, or on account of any causal or other relationships. Generators and transporters of wastes and owners and operators of sites shall be liable for their acts, omissions, conduct, or relationships in accordance with all laws relating thereto.

ARTICLE 5

DEVELOPMENT AND OPERATION OF FACILITIES

A. Any party state which becomes a host state in which a regional facility is operated shall not be designated by the Compact Commission as a host state for an additional regional facility until each party state has fulfilled its obligation, as determined by the Commission, to have a regional facility operated within its borders.

B. A host state desiring to close a regional facility located within its borders may do so only after notifying the Commission in writing of its intention to do so and the reasons therefor. Such notification shall be given to the Commission at least four years prior to the intended date of closure. Notwithstanding the four-year notice requirement herein provided, a host state is not prevented from closing its facility or establishing conditions of its use and operations as necessary for the protection of the health and safety of its citizens. A host state may terminate or limit access to its regional facility if it determines that Congress has materially altered the conditions of this compact.

C. Each party state designated as a host state for a regional facility shall take appropriate steps to ensure that an application for a license to construct and operate a facility of the designated type is filed with and issued by the appropriate authority.

D. No party state shall have any form of arbitrary prohibition on the treatment, storage, or disposal of low-level radioactive waste within its borders.

ARTICLE 6

OTHER LAWS AND REGULATIONS

(A) Nothing in this compact shall be construed to:

(1) Abrogate or limit the applicability of any act of Congress or diminish or otherwise impair the jurisdiction of any federal agency expressly conferred thereon by the Congress.

(2) Abrogate or limit the regulatory responsibility and authority of the U.S. Nuclear Regulatory Commission or of an agreement state under Section 274 of the Atomic Energy Act of 1954 in which a regional facility is located.

(3) Make inapplicable to any person or circumstance any other law of a party state which is not inconsistent with this compact.

(4) Make unlawful the continued development and operation of any facility already licensed for development or operation on the date this compact becomes effective, except that any such facility shall comply with Article 3, Article 4, and Article 5 and shall be subject to any action lawfully taken pursuant thereto.

(5) Prohibit any storage or treatment of waste by the generator on its own premises.

(6) Affect any judicial or administrative proceeding pending on the effective date of this compact.

(7) Alter the relations between, and the respective internal responsibilities of, the government of a party state and its subdivisions.

(8) Affect the generation, treatment, storage, or disposal of waste generated by the atomic energy defense activities of the Secretary of the United States Department of Energy or federal research and development activities as defined in Public Law 96-573.

(9) Affect the rights and powers of any party state and its political subdivisions to regulate and license any facility within its borders or to affect the rights and powers of any party state and its political subdivisions to tax or impose fees on the waste managed at any facility within its borders.

B. No party shall pass any law or adopt any regulation which is consistent with this compact. To do so may jeopardize the membership status of the party state.

C. Upon formation of the compact no law or regulation of a party state or of any subdivision or instrumentality thereof may be applied so as to restrict or make more inconvenient access to any regional facility by the generators of another party state than for the generators of the state where the facility is situated.

D. Restrictions of waste mangement of regional facilities pursuant to Article 4 shall be enforceable as a matter of state law.

ARTICLE 7

ELIGIBLE PARTIES; WITHDRAWAL; REVOCATION; ENTRY INTO FORCE; TERMINATION

A. This compact shall have as initially eligible parties the States of Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia.

B. Any state not expressly declared eligible to become a party state to this compact in Section (A) of this Article may petition the Commission, once constituted, to be declared eligible. The Commission may establish such conditions as it deems necessary and appropriate to be met by a state wishing to become eligible to become a party state to this compact pursuant to such provisions of this section. Upon satisfactorily meeting the conditions and upon the affirmative vote of two-thirds of the Commission, including the affirmative vote of both representatives of a host state in which any affected regional facility is located, the petitioning state shall be eligible to become a party state to this compact and may become a party state in the manner as those states declared eligible in Section (a) of this Article.

C. Each state eligible to become a party state to this compact shall be declared a party state be declared a party state upon enactment of this compact into law by the state and upon payment of the fees required by Article 4(H)(1). The Commission is the judge of the qualifications of the party states and of its members and of their compliance with the conditions and requirements of this compact and the laws of the party states relating to the enactment of this compact.

D. 1. The first three states eligible to become party states to this compact which enact this compact into law and appropriate the fees required by Article 4(H)(1) shall immediately, upon the appointment of their Commission members, constitute themselves as the Southeast Low-Level Radioactive Waste Management Commission; shall cause legislation to be introduced in Congress which grants the consent of Congress to this compact; and shall do those things necessary to organize the commission and implement the provisions of this compact.

2. All succeeding states eligible to become party states to this compact shall be declared party states pursuant to the provisions of Section (C) of this Article.

3. The consent of Congress shall be required for the full implementation of this compact. The provisions of Article 5 Section (D) shall not become effective until the effective date of the import ban authorized by Article 4, Section (L) as approved by Congress. Congress may by law withdraw its consent only every five years.

E. No state which holds membership in any other regional compact for the management of low-level radioactive waste may be considered by the Compact Commission for eligible state status or party state status.

F. Any party state which fails to comply with the provisions of this compact or to fulfill the obligations incurred by becoming a party state to this compact may be subject to sanctions by the Commission, including suspension of its rights under this compact and revocation of its status as a party state. Any sanction shall be imposed only upon the affirmative vote of at least two-thirds of the Commission members. Revocation of party state status may take effect on the date of the meeting at which the Commission approves the resolution imposing such sanction, but in no event shall revocation take effect later than ninety days from the date of such meeting. Rights and obligations incurred by being declared a party state to this compact shall continue until the effective date of the sanction imposed or as provided in the resolution of the Commission imposing the sanction.

The Commission must, as soon as practicable after the meeting at which a resolution revoking status as a party state is approved, provide written notice of the action, along with a copy of the resolution, to the Governors, the Presidents of the Senates, and the Speakers of the Houses of Representatives of the party states, as well as chairman of the appropriate committees of Congress.

G. Any party state may withdraw from the compact by enacting a law repealing the compact; provided, that if a regional facility is located within such a state, such regional facility shall remain available to the region for four years after the date the Commission receives notification in writing from the governor of such party state of the rescission of the compact. The Commission, upon receipt of the notification, shall as soon as practicable provide copies of such notification to the Governors, the Presidents of the Senates, and the Speakers of the Houses of Representatives of the party states as well as the chairman of the appropriate committees of Congress.

H. This compact may be terminated only by the affirmative action of Congress or by the rescission of all laws enacting the compact in each party state.

ARTICLE 8

PENALTIES

A. Each party state, consistenly with its own law, shall prescribe and enforce penalties against any person not an official of another state for violation of any provisions of this compact.

B. Each party state acknowledges that the receipt by a host state of waste packaged or transported in violation of applicable laws and regulations can result in the imposition of sanctions by the host state which may include suspension or revocation of the violator's right of access to the facility in the host state.

ARTICLE 9

SEVERABILITY AND CONSTRUCTION

The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared by a court of competent jurisdiction to be contrary to the Constitution of any participating state or of the United States, or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any other government, agency, person, or circumstance shall not be affected thereby. If any provision of this compact shall be held contrary to the Constitution of any State participating therein, the compact shall remain in full force and effect as to the state affected as to all severable matters. The provisions of this compact shall be liberally construed to give effect to the purposes thereof.

SEC. 224. CENTRAL MIDWEST INTERSTATE LOW-LEVEL RADIOACTIVE WASTE COMPACT.

In accordance with section 4(a)(2) of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021d(a)(2)), the consent of the Congress hereby is given to the States of Illinois and Kentucky to enter into the Central Midwest Interstate Low-Level Radioactive Waste Compact. Such compact is substantially as follows:

"ARTICLE I, POLICY AND PURPOSE

"There is created the Central Midwest Interstate Low-Level Radioactive Waste Compact.

"The states party to this compact recognize that the Congress of the United States, by enacting the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021), has provided for and encouraged the development of low-level radioactive waste compacts as a tool for managing such waste. The party states acknowledge that Congress declared that each state is responsible for providing for the availability of capacity either within or outside the state for the disposal of low-level radioactive waste generated within its borders, except for waste generated as a result of certain defense activities of the federal government or federal research and development activities. The party states also recognize that the management of low-level radioactive waste is handled most efficiently on a regional basis; and, that the safe and efficient management of low-level radioactive waste generated within the region requires that sufficient capacity to manage such waste be properly provided.

"a) It is the policy of the party states to enter into a regional low-level radioactive waste management compact for the purpose of:

"1) providing the instrument and the framework for a cooperative effort;

"2) providing sufficient facilities for the proper management of low-level radioactive waste generated in the region;

"3) protecting the health and safety of the citizens of the region;

"4) limiting the number of facilities required to manage low-level radioactive waste generated in the region effectively and efficiently;

"5) promoting the volume and source reduction of low-level radioactive waste generated in the region;

"6) distributing the costs, benefits and obligations of successful low-level radioactive waste management equitably among the party states and among generators and other persons who use regional facilities to manage their waste;

"7) ensuring the ecological and economical management of low-level radioactive waste, including the prohibition of shallow-land burial of waste; and

"8) promoting the use of above-ground facilities and other disposal technologies providing greater and safer confinement of low-level radicactive waste than shallow-land burial facilities.

"b) Implicit in the Congressional consent to this compact is the expectation by the Congress and the party states that the appropriate federal agencies will actively assist the Compact Commission and the individual party states to this compact by:

"1) expeditious enforcement of federal rules, regulations and laws;

"2) imposition of sanctions against those found to be in violation of federal rules, regulations and laws; and

"3) timely inspection of their licensees to determine their compliance with these rules, regulations and laws.

ARTICLE II. DEFINITIONS

"As used in this compact, unless the context clearly requires a different construction:

"a) 'Commission' means the Central Midwest Interstate Low-Level Radioactive Waste Commission.

"b) 'Decommissioning' means the measures taken at the end of a facility's operating life to assure the continued protection of the public from any residual radioactivity or other potential hazards present at a facility.

"c) 'Disposal' means the isolation of waste from the biosphere in a permanent facility designed for that purpose.

"d) 'Eligible state' means either the State of Illinois or the Commonwealth of Kentucky.

"c) 'Extended care' means the continued observation of a facility after closure for the purpose of detecting a need for maintenance, ensuring environmental safety, and determining compliance with applicable licensure and regulatory requirements and includes undertaking any action or clean-up necessary to protect public health and the environment from radioactive releases from a regional facility.

"f) 'Facility' means a parcel of land or site, together with the structures, equipment and improvements on or appurtenant to the land or site, which is used or is being developed for the treatment, storage or disposal of low-level radioactive waste.

"g) 'Generator' means a person who produces or possesses low-level radioactive waste in the course of or incident to manufacturing, power generation, processing, medical diagnosis and treatment, research, or other industrial or commercial activity and who, to the extent required by law, is licensed by the U.S. Nuclear Regulatory Commission or a party state, to produce or possess such waste.

"h) 'Host state' means any party state that is designated by the Commission to host a regional facility, provided that a party state with a total volume of waste recorded on low-level radioactive waste manifests for any year that is less than 10 percent of the total volume recorded on such manifests for the region during the same year shall not be designated a host state.

"i) 'Institutional control' means those activities carried out by the host state to physically control access to the disposal site following transfer of control of the disposal site from the disposal site operator to the state or federal government. These activities must include, but need not be limited to, environmental monitoring, periodic surveillance, minor custodial care, and other necessary activities at the site as determined by the host state, and administration of funds to cover the costs for these activities. The period of institutional control will be determined by the host state, but institutional control may not be relied upon for more than 100 years following transfer of control of the disposal site to the state or federal government.

"j) 'Long-term liability' means the financial obligation to compensate any person for medical and other expenses incurred from damages to human health, personal injuries suffered from damages to human health and damages or losses to real or personal property, and to provide for the costs for accomplishing any necessary corrective action or clean-up on real or personal property caused by radioactive releases from a regional facility.

"k) 'Low-level radioactive waste' or 'waste' means radioactive waste not classified as (1) high-level readioactive waste, (2) transuranic waste, (3) spent nuclear fuel, or (4) by-product material as defined in Section 11e. (2) of the Atomic Energy Act of 1954.

"l) 'Management plan' means the plan adopted by the Commission for the storage, transportation, treatment and disposal of waste within the region.

"m) 'Manifest' means a shipping document identifying the generator of waste, the volume of waste, the quantity of radionuclides in the shipment, and such other information as may be required by the appropriate regulatory agency.

"n) 'Party state' means any eligible state which enacts the compact into law and pays the membership fee.

"o) 'Person' means any individual, corporation, business enterprise or other legal entity, either public or private, and any legal successor, representative, agent or agency of that individual, corporation, business enterprise, or legal entity.

"p) 'Region' means the geographical area of the party states.

"q) 'Regional facility' means a facility which is located within the region and which is established by a party state pursuant to designation of that state as a host state by the Commission.

"r) 'Shallow-land burial' means a land disposal facility in which radioactive waste is disposed of in or within the upper 30 meters of the earth's surface; however, this definition shall not include an enclosed, engineered, strongly structurally enforced and solidified bunker that extends below the earth's surface.

"s) 'Site' means the geographic location of a facility.

"t) 'Source reduction' means those administrative practices that reduce the radionuclide levels in low-level radioactive waste or that prevent the generation of additional low-level radioactive waste.

"u) 'State' means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands or any other territorial possession of the United States.

"v) 'Storage' means the temporary holding of waste for treatment or disposal.

"w) 'Treatment' means any method, technique or process, including storage for radioactive decay, designed to change the physical, chemical or biological characteristics or composition of any waste in order to render the waste safer for transport or management, amenable to recovery, convertible to another usable material or reduced in volume.

"x) 'Volume reduction' means those methods including, but not limited to, biological, chemical, mechanical and thermal methods used to reduce the amount of space that waste materials occupy and to put them into a form suitable for storage or disposal.

"y) 'Waste management' means the source and volume reduction, storage, transportation, treatment or disposal of waste.

"ARTICLE III, THE COMMISSION

"a) There is created the Central Midwest Interstate Low-Level Radioactive Waste Commission. Upon the eligible states becoming party states, the Commission shall consist of two voting members from each state eligible to be a host state, one voting member from any other party state, and an ex officio non-voting member who is a member of the County Board of or who is a County Commissioner of each host county. The Governor of each party state shall notify the Commission in writing of its members and any alternates.

"b) Each Commission member is entitled to one vote. No action of the Commission is binding unless a majority of the total membership casts its vote in the affirmative.

"c) The Commission shall elect annually from among its members a chairperson. The Commission shall adopt and publish, in convenient form, by-laws and policies that are not inconsistent with this compact, including procedures that conform with the provisions of the Federal Administrative Procedure Act (5 U.S.C. ss. 500 to 559) to the greatest extent practicable in regard to notice, conduct and recording of meetings; access by the public to records; provision of information to the public; conduct of adjudicatory hearings; and issuance of decisions.

"d) The Commission shall meet at least once annually and shall also meet upon the call of the chairperson or a Commission member.

"e) All meetings of the Commission and its designated committees shall be open to the public with reasonable advance notice. The Commission may, by majority vote, close a meeting to the public for the purpose of considering sensitive personnel or legal strategy matters. However, all Commission actions and decisions shall be made in open meetings and appropriately recorded. A roll call may be required upon request of any member or the presiding officer.

"f) The Commission may establish advisory committees for the purpose of advising the Commission on any matters pertaining to waste management, waste generation and source and volume reduction.

"g) The Office of the Commission shall be in the first state eligible to be a host state. The Commission may appoint or contract for and compensate such staff necessary to carry out its duties and functions. The staff shall serve at the Commission's pleasure with the exception that staff hired as the result of securing federal funds shall be hired and governed under applicable federal statutes and regulations. In selecting any staff, the Commission shall assure that the staff has adequate experience and formal training to carry out the functions assigned to it by the Commission.

"h) All files, records and data of the Commission shall be open to reasonable public inspection and may be copied upon payment of reasonable fees to be established where appropriate by the Commission, except for information privileged against introduction in judicial proceedings. Such fees may be waived or shall be reduced substantially for not-for-profit organizations.

"i) The Commission may:

"1) Enter into an agreement or contract with any person, state or group of states for the right to use regional facilities for waste generated outside of the region and for the right to use facilities outside the region for waste generated within the region. No person may use a regional facility for waste generated outside the region unless both a majority of the members of the Commission and all members from the host state in which any affected regional facility is located vote in favor of permitting such use. No person in the region may use a storage, treatment or disposal facility outside the region without prior Commission approval. No such agreement or contract shall be valid unless specifically approved by a law enacted by the legislature of the host state.

"2) Approve the disposal of waste generated within the region at a facility other than a regional facility.

"3) Appear as an intervenor or party in interest before any court of law or any federal, state or local agency, board or commission in any matter related to waste management. In order to represent its views, the Commission may arrange for any expert testimony, reports, evidence or other participation.

"4) Review the emergency closure of a regional facility, determine the appropriateness of that closure, and take whatever actions are necessary to ensure that the interests of the region are protected, provided that a party state with a total volume of waste recorded on low-level radioactive waste manifests for any year that is less than 10 percent of the total volume recorded on such manifests for the region during the same year shall not be designated a host state or be required to store the region's waste. In determining the 10 percent exclusion, there shall not be included waste recorded on low-level radioactive waste manifests by a person whose principal business is providing a service by arranging for the collection, transportation, treatment, storage or disposal of such waste.

"5) Take any action which is appropriate and necessary to perform its duties and functions as provided in this compact.

"6) Suspend the privileges or revoke the membership of a party state.

"j) The Commission shall:

"1) Submit an annual report to, and otherwise communicate with, the governors and the appropriate officers of the legislative bodies of the party states regarding the activities of the Commission.

"2) Hear, negotiate, and, as necessary, resolve by final decision disputes which may arise between the party states regarding this compact.

"3) Adopt and amend, as appropriate, a regional management plan that plans for the establishment of needed regional facilities.

"4) Adopt an annual budget.

"k) Funding of the budget of the Commission shall be provided as follows:

"1) Each state, upon becoming a party state, shall pay $50,000 to the Commission which shall be used for the administrative costs of the Commission.

"2) Each state hosting a regional facility shall levy surcharges on each user of the regional facility based upon its portion of the total volume and characteristics of wastes managed at that facility. The surcharges collected at all regional facilities shall:

"A) be sufficient to cover the annual budget of the Commission; and

"B) be paid to the Commission, provided, however, that each host state collecting surcharges may retain a portion of the collection sufficent to cover its administrative costs of collection.

"l) The Commission shall keep accurate accounts of all receipts and disbursements. The Commission shall contract with an independent certified public accountant to annually audit all receipts and disbursements of Commission funds and to submit an audit report to the Commission. The audit report shall be made a part of the annual report of the Commission required by this Article.

"m) The Commission may accept for any of its purposes and functions and may utilize and dispose of any donations, grants of money, equipment, supplies, materials and services from any state of the United States (or any subdivision or agency thereof), or interstate agency, or from any institution, person, firm or corporation. The nature, amount and condition, if any, attendant upon any donation or grant accepted or received by the Commission together with the identity of the donor, grantor, or lender, shall be detailed in the annual report of the Commission. The Commission shall establish guidelines for the acceptance of donations, grants, equipment, supplies, materials and services and shall review such guidelines annually.

"n) The Commission is not liable for any cost associated with any of the following:

"1) the licensing and construction of any facility;

"2) the operation of any facility;

"3) the stabilization and closure of any facility;

"4) the extended care of any facility;

"5) the institutional control, after extended care of any facility or

"6) the transportation of waste to any facility.

"o) The Commission is a legal entity separate and distinct from the party states and is liable for its actions as a separate and distinct legal entity. Members of the Commission are not personally liable for actions taken by them in their official capacity.

"p) Except as provided under Sections (n) and (o) of this Article, nothing in this compact alters liability for any action, omission, course of conduct or liability resulting from any casual or other relationships.

"q) Any person aggrieved by a final decision of the Commission, which adversely affects the legal rights, duties or privileges of such person, may petition a court of competent jurisdiction, within 60 days after the Commission's final decision, to obtain judicial review of said final decision.

"ARTICLE IV. REGIONAL MANAGEMENT PLAN

"The Commission shall adopt a regional management plan designed to ensure the safe and efficient management of waste generated within the region. In adopting a regional waste management plan the Commission shall:

"a) Adopt procedures for determining, consistent with consideration of public health and safety, the type and number of regional facilities which are presently necessary and which are projected to be necessary to manage waste generated within the region.

"b) Develop and adopt policies promoting source and volume reduction of waste generated within the region.

"c) Develop alternative means for the treatment, storage and disposal of waste, other than shallow-land burial or under ground injection well.

"d) Prepare a draft regional management plan that shall be made available in a convenient form to the public for comment. The Commission shall conduct one or more public hearings in each party state prior to the adoption of the regional management plan. The regional management plan shall include the Commission's response to public and party state comment.

"ARTICLE V. RIGHTS AND OBLIGATIONS OF PARTY STATES

"a) Each party state shall act in good faith in the performance of acts and courses and conduct which are intended to ensure the provision of facilities for regional availability and usage in a manner consistent with this compact.

"b) Other than the provisions of Article V(f), each party state has the right to have all wastes generated within borders managed at regional facilities subject to the provisions contained in Article IX(b) and IX(c). All party states have an equal right of access to any facility made available to the region by any agreement entered into by the Commission pursuant to Article III(i)(1).

"c) Party states or generators may negotiate for the right of access to a facility outside the region and may export waste outside the region subject to Commission approval under Article III(i)(1).

"d) To the extent permitted by federal law, each party state may enforce any applicable federal and state laws, regulations and rules pertaining to the packaging and transportation of waste generated within or passing through its borders. Nothing in this Section shall be construed to require a party state to enter into any agreement with the U.S. Nuclear Regulatory Commission.

"e) Each party state shall provide to the Commission any data and information the Commission requires to implement its responsibilities. Each party state shall establish the capability to obtain any data and information required by the Commission.

"f) Waste originating from the Maxey Flats nuclear waste disposal site in Fleming County, Kentucky shall not be shipped to the regional facility for storage, treatment or disposal. Disposition of these wastes shall be the sole responsibility of the Commonwealth of Kentucky and shall not be subject to the provisions of this compact.

"ARTICLE VI. DEVELOPMENT AND OPERATION OF FACILITIES

"a) Any party state may volunteer to become a host state, and the Commission may designate that state as a host state.

"b) If all regional facilities required by the regional management plan are not developed pursuant to Section (a), or upon notification that an existing regional facility will be closed, the Commission may designate a host state.

"c) A party state shall not be selected as a host state for any regional facility unless that state's total volume of waste recorded on low-level radioactive waste manifests for any year is more than 10 percent of the total volume recorded on such manifests for the region during the same year. In determining the 10 percent exclusion, there shall not be included waste recorded on low-level radioactive waste manifests by a person whose principal business is providing a service by arranging for the collection, transportation, treatment, storage or disposal of such waste.

"d) Each party state designated as a host state is responsible for determining possible facility locations within its borders. The selection of a facility site shall not conflict with applicable federal and host state laws, regulations and rules not inconsistent with this compact and shall be based on factors including, but not limited to, geological, environmental, engineering and economic viability of possible facility locations.

"e) Any party state designated as a host state may request the Commission to relieve that state of the responsibility to serve as a host state. The Commission may relieve a party state of this responsibility only upon a showing by the requesting party state that no feasible potential regional facility site of the type it is designated to host exists within its borders.

"f) After a state is designated a host state by the Commission, it is responsible for the timely development and operation of a regional facility.

"g) To the extent permitted by federal and state law, a host state shall regulate and license any facility within its borders and ensure the extended care of that facility.

"h) The Commission may designate a party state as a host state while a regional facility is in operation if the Commission determined that an additional regional facility is or may be required to meet the needs of the region.

"i) Designation of a host state is for a period of 20 years or the life of the regional facility which is established under that designation, whichever is shorter. Upon request of a host state, the Commission may modify the period of its designation.

"j) A host state may establish a fee system for any regional facility within its borders. The fee system shall be reasonable and equitable. This fee system shall provide the host state with sufficient revenue to cover any costs including, but not limited to the planning, siting, licensure, operation, preclosure corrective action or clean-up, monitoring, inspection, decommissioning, extended care and long-term liability, associated with such facilities. This fee system may provide for payment to units of local government affected by a regional facility for costs incurred in connection with such facility. This fee system may also include reasonable revenue beyond the costs incurred for the host state, subject to approval by the Commission. The fee system shall include incentives for source or volume reduction and may be based on the hazard of the waste. A host state shall submit an annual financial audit of the operation of the regional facility to the Commission.

"k) A host state shall ensure that a regional facility located within its borders which is permanently closed is properly decommissioned. A host state shall also provide for the extended care of a closed or decommissioned regional facility within its borders so that the public health and safety of the state and region are ensured, unless, pursuant to the federal Nuclear Waste Policy Act of 1982, the federal government has assumed title and custody of the regional facility and the federal government thereby has assumed responsibility to provide for the extended care of such facility.

"l) A host state intending to close a regional facility located within its borders shall notify the Commission in writing of its intention and the reasons. Notification shall be given to the Commission at least five years prior to the intended date of closure. This Section shall not prevent an emergency closing of a regional facility by a host state to protect its air, land and water resources and the health and safety of its citizens. However, a host state which has an emergency closing of a regional facility shall notify the Commission in writing within three working days of its action and shall, within 30 working days of its action, demonstrate justification for the closing.

"m) If a regional facility closes before an additional or new facility becomes operational, waste generated within the region may be shipped temporarily to any location agreed on by the Commission until a regional facility is operational, provided that the region's waste shall not be stored in a party state with a total volume of waste recorded on low-level radioactive waste manifests for any year which is less than 10 percent of the total volume recorded on such manifests for the region during the same year. In determining the 10 percent exclusion, there shall not be included waste recorded on low-level radioactive waste manifests by a person whose principal business is providing a service by arranging for the collection, transportation, treatment, storage or disposal of such waste.

"n) A party state which is designated as a host state by the Commission and fails to fulfill its obligations as a host state may have its privileges under the compact suspended or membership in the compact revoked by the Commission.

"o) The host state shall create an 'Extended Care and Long-Term Liability Fund' and shall allocate sufficient fee revenues, received pursuant to Article VI(j), to provide for the costs of:

"1) decommissioning and other procedures required for the proper closure of a regional facility;

"2) monitoring, inspection and other procedures required for the proper extended care of a regional facility;

"3) undertaking any corrective action or clean-up necessary to protect human health and the environment from radioactive releases from a regional facility; and

"4) compensating any person for medical and other expenses incurred from damages to human health, personal injuries suffered from damages to human health and damages or losses to real or personal property, and accomplishing any necessary corrective action or clean-up on real or personal property caused by radioactive releases from a regional facility; the host state may allocate monies in this Fund in amounts as it deems appropriate to purchase insurance or to make other similar financial protection arrangements consistent with the purposes of this Fund; this Section shall in no manner limit the financial responsibilities of the site operator pursuant to Article VI(p) and the party states, or any other states which contract to dispose of wastes at the regional facility, pursuant to Article VI(q).

"p) The operator of a regional facility shall purchase an amount of property and third-party liability insurance deemed appropriate by the host state, pay the necessary periodic premiums at all times and make periodic payments to the Extended Care and Long-Term Liability Fund as set forth in Article VI(o) for such amounts as the host state reasonably determines is necessary to provide for future premiums to continue such insurance coverage, in order to pay the costs of compensating any person for medical and other expenses incurred from damages to human health, personal injuries suffered from damages to human health and damages or losses to real or personal property, and accomplishing any necessary corrective action or clean-up on real or personal property caused by radioactive releases from a regional facility. In the event of such costs resulting from radioactive releases from a regional facility, the host state should, to the maximum extent possible, seek to obtain monies from such insurance prior to using monies from the Extended Care and Long-Term Liability Fund.

"q) All party states, or any other states which contract to dispose of wastes at the regional facility, shall be liable for the cost of extended care and long-term liability in excess of monies available from the Extended Care and Long-Term Liability Fund, as set forth in Article VI(o) and from the property and third-party liability insurance as set forth in Article VI(p). A party state may meet such liability for costs by levying surcharges upon generators located in party state. The extent of such liability for such party state shall be based on the proportionate share of the total volume of waste placed in the regional facility by generators located in each such party state. Such liability shall be joint and several among the party states with a right of contribution between the party states. However, this Section shall not apply to a party state with a total volume of waste recorded on low-level radioactive waste manifests for any year that is less than 10 percent of the total volume recorded on such manifests for the region during the same year.

"ARTICLE VII. OTHER LAWS AND REGULATIONS

"a) Nothing in this compact:

"1) abrogates or limits the applicability of any act of Congress or diminishes or otherwise impairs the jurisdiction of any federal agency expressly conferred thereon by the Congress;

"2) prevents the enforcement of any other law of a party state which is not inconsistent with this compact;

"3) prohibits any storage or treatment of waste by the generator on its own premises;

"4) affects any administrative or judicial proceeding pending on the effective date of this compact;

"5) alters the relations between the respective internal responsibility of the government of a party state and its subdivisions;

"6) affects the generation, treatment, storage or disposal of waste generated by the atomic energy defense activities of the Secretary of the U.S. Department of Energy or successor agencies or federal research and development activities as defined in 42 U.S.C. 2021;

"7) affects the rights and powers of any party state or its political subdivisions, to the extent not inconsistent with this compact, to regulate and license any facility or the transportation of waste within its borders or affects the rights and powers of any state or its political subdivisions to tax or impose fees on the waste managed at any facility within its borders;

"8) requires a party state to enter into any agreement with the U.S. Nuclear Regulatory Commission; or

"9) alters or limits liability of transporters of waste and owners and operators of sites for their acts, omissions, conduct or relationships in accordance with applicable laws.

"b) For purposes of this compact, all state laws or parts of laws in conflict with this compact are hereby superseded to the extent of the conflict.

"c) No law, rule, regulation, fee or surcharge of a party state, or of any of its subdivisions or instrumentalities, may be applied in a manner which discriminates against the generators of another party state.

"d) No person who provides a service by arranging for collection, transportation, treatment, storage or disposal for waste generated outside the region shall be allowed to dispose of such waste at a regional facility unless specifically approved by the Commission pursuant to the provisions of Article III(i)(1).

"ARTICLE VII, ELIGIBLE PARTIES, WITHDRAWAL, REVOCATION, ENTRY INTO FORCE, TERMINATION

"a) Eligible parties to this compact are the State of Illinois and Commonwealth of Kentucky. Eligibility terminates on April 15, 1985.

"b) An eligible state becomes a party state when the state enacts the compact into law and pays the membership fee required in Article III(k)(1).

"c) The Commission is formed upon the appointment of Commission members and the tender of the membership fee payable to the Commission by the eligible states. The Governor of Illinois shall convene the initial meeting of the Commission. The Commission shall cause legislation to be introduced in the Congress which grants the consent of the Congress to this compact, and shall take action necessary to organize the Commission and implement the provision of this compact.

"d) Other than the special circumstances for withdrawal in Section (f) of this Article, either party state may withdraw from this compact at any time by repealing the authorizing legislation, but no withdrawal may take effect until 5 years after the governor of the withdrawing state gives notice in writing of the withdrawal to the Commission and to the governor of the other state. Withdrawal does not affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal. Any host state which grants a disposal permit for waste generated in a withdrawing state shall void the permit when the withdrawal of that state is effective.

"e) This compact becomes effective July 1, 1984, or at any date subsequent to July 1, 1984, upon enactment by the eligible states. However, Article IX(b) shall not take effect until the Congress has by law consented to this compact. The Congress shall have an opportunity to withdraw such consent every 5 years. Failure of the Congress affirmatively to withdraw its consent has the effect of renewing consent for an additional 5 year period. The consent given to this compact by the Congress shall extend to the power of the region to ban the shipment of waste into the region pursuant to Article III(i)(1) and to prohibit exportation of waste generated within the region pursuant to Article III(i)(1).

"f) A state which has been designated a host state may withdraw from the compact. The option to withdraw must be exercised within 90 days of the date the governor of the designated state receives written notice of the designation. Withdrawal becomes effective immediately after notice is given in the following manner. The governor of the withdrawing state shall give notice in writing to the Commission and to the governor of each party state. A state which withdraws from the compact under this Section forfeits any funds already paid pursuant to this compact. A designated host state which withdraws from the compact after 90 days and prior to fulfilling its obligations shall be assessed a sum the Commission determines to be necessary to cover the costs borne by the Commission and remaining party states as a result of that withdrawal.

"ARTICLE IX PENALTIES

"a) Each party state shall prescribe and enforce penalities against any person who is not an official of another state for violation of any provision of this compact.

"b) Unless otherwise authorized by the Commission pursuant to Article III(i), after January 1, 1986 it is a violation of this compact:

"1) for any person to deposit at a regional facility waste not generated within the region;

"2) for any regional facility to accept waste not generated within the region;

"3) for any person to export from the region waste which is generated within the region; or

"4) for any person to dispose of waste at a facility other than a regional facility.

"c) Each party state acknowledges that the receipt by a host state of waste packaged or transported in violation of applicable laws, rules or regulations may result in the imposition of sanctions by the host state which may include suspension or revocation of the violator's right of access to the facility in the host state.

"d) Each party state has the right to seek legal recourse against any party state which acts in violation of this compact.

"ARTICLE X. SEVERABILITY AND CONSTRUCTION

"The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared by a court of competent jurisdiction to be contrary to the Constitution of any participating state of the United States, or if the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstances shall not be affected thereby. If any provision of this compact shall be held contrary to the Constitution of any state participating therein, the compact shall remain in full force and effect as to the state affected as to all severable matters.".

SEC. 225. MIDWEST INTERSTATE LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT COMPACT.

The consent of Congress is hereby given to the States of Iowa, Indiana, Michigan, Minnesota, Missouri, Ohio, and Wisconsin to enter into the Midwest Interstate Compact on Low-level Radioactive Waste Management. Such compact is as follows:

"ARTICLE I. POLICY AND PURPOSE

"There is created the Midwest Interstate Low-level Radioactive Waste Compact.

"The states party to this compact recognize that the Congress of the United States, by enacting the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021 to 2021d), has provided for and encouraged the development of low-level radioactive waste compacts as a tool for managing such waste. The party states acknowledge that the Congress has declared that each state is responsible for providing for availability of capacity either within or outside the state for the disposal of low-level radioactive waste generated within its borders, except for waste generated as a result of certain defense activities of the federal government or federal research and development activities. The party states also recognize that the management of low-level radioactive waste is handled most efficiently on a regional basis; and, that the safe and efficient management of low-level radioactive waste generated within the region requires that sufficient capacity to manage such waste be properly provided.

"a. It is the policy of the party states to enter into a regional low-level radioactive waste management compact for the purpose of:

"1. Providing the instrument and framework for a cooperative effort;

"2. Providing sufficient facilities for the proper management of low-level radioactive waste generated in the region;

"3. Protecting the health and safety of the citizens of the region;

"4. Limiting the number of facilities required to effictively and efficiently manage low-level radioactive waste generated in the region;

"5. Encouraging the reduction of the amounts of low-level radioactive waste generated in ther region;

"6. Distributing the costs, benefits and obligations of successful low-level radioactive waste management equitably among the party states, and among generators and other persons who use regional facilities to manage their waste; and

"7. Ensuring the ecological and economical management of low-level radioactive wastes.

"b. Implicit in the Congressional consent to this compact is the expectation by the Congress and the party states that the appropriate federal agencies will actively assist the Compact Commission and the individual party states to this compact by:

"1. Expeditious enforcement of federal rules, regulations and laws;

"2. Imposition of sanctions against those found to be in violation of federal rules, regulations and laws; and

"3. Timely inspection of their licensees to determine their compliance with these rules, regulations and laws.

"ARTICLE II DEFINITIONS

"As used in this compact, unless the context clearly requires a different construction:

"a. "Care" means the continued observation of a facility after closure for the purposes of detecting a need for maintenance, ensuring environmental safety, and determining compliance with applicable licensure and regulatory requirements and including the correction of problems which are detected as a result of that observation.

"b. "Commission" means the Midwest Interstate Low-Level Radioactive Waste Commission.

"c. "Decommissioning" means the measures taken at the end of a facility's operating life to assure the continued protection of the public from any residual radioactivity or other potential hazards present at a facility.

"d. "Disposal" means the isolation of waste from the biosphere in a permanent facility designed for that purpose.

"e. "Eligible state" means a state qualified to be a party state to this compact as provided in Article VIII.

"f. "Facility" means a parcel of land or site, together with the structures, equipment and improvements on or appurtenant to the land or site, which is used or is being developed for the treatment, storage or disposal of low-level radioactive waste.

"g. "Generator" means any person who produces or possesses low-level radioactive waste in the course of or incident to manufacturing, power generation, processing, medical diagnosis and treatment, research, or other industrial or commercial activity and who, to the extent required by law, is licensed by the U.S. Nuclear Regulatory Commission or a party state, to produce or possess such waste. Generator does not include a person who provides a service by arranging for the collection, transportation, treatment, storage or disposal of wastes generated outside the region.

"h. "Host state" means any state which is designated by the Commission to host a regional facility.

"i. "Low-level radioactive waste" or "waste" means radioactive waste not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel or by-product material as defined in Section 11(e)(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2014).

"j. "Management plan" means the plan adopted by the Commission for the storage, transportation, treatment and disposal of waste within the region.

"k. "Party state" means any eligible state which enacts the compact into law.

"l. "Person" means any individual, corporation, business enterprise or other legal entity either public or private and any legal successor, representative, agent or agency of that individual, corporation, business enterprise, or legal entity.

"m. "Region" means the area of the party states.

"n. "Regional facility" means a facility which is located within the region and which is established by a party state pursuant to designation of that state as a host state by the Commission.

"o. "Site" means the geographic location of a facility.

"p. "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands or any other territorial possession of the United States.

"q. "Storage" means the temporary holding of waste for treatment or disposal.

"r. "Treatment" means any method, technique or process, including storage for radioactive decay, designed to change the physical, chemical or biological characteristics or composition of any waste in order to render the waste safer for transport or management, amenable to recovery, covertible to another usable material, or reduced in volume.

"s. "Waste management" means the storage, transportation, treatment, or disposal of waste.

"ARTICLE III. THE COMMISSION

"a. There is hereby created the Midwest Interstate Low-Level Radioactive Waste Commission. The Commission consists of one voting member from each party state. The Governor of each party state shall notify the Commission in writing of its member and any alternates. An alternate may act on behalf of the member only in that member's absence. The method for selection and the expenses of each Commission member shall be the responsibility of the member's respective state.

"b. Each Commission member is entitled to one vote. No action of the Commission is binding unless a majority of the total membership cast their vote in the affirmative.

"c. The Commission shall elect annually from among its members a chairperson. The Commission shall adopt and publish, in convenient form, bylaws, and policies which are not inconsistent with this compact, including procedures which substantially conform with the provisions of federal law on administrative procedure compiled at 5 U.S.C. 500 to 559 in regard to notice, conduct and recording of meetings; access by the public to records; provision of information to the public; conduct of adjudicatory hearings; and issuance of decisions.

"d. The Commission shall meet at least once annually and shall also meet upon the call of the chairperson or a Commission member.

"e. All meetings of the Commission shall be open to the public with reasonable advance notice. The Commission may, by majority vote, close a meeting to the public for the purpose of considering sensitive personnel or legal strategy matters. However, all

Commission actions and decisions shall be made in open meetings and appropriately recorded.

"f. The Commission may establish advisory committees for the purpose of advising the Commission on any matters pertaining to waste management.

"g. The office of the Commission shall be in a party state. The Commission may appoint or contract for and compensate such limited staff necessary to carry out its duties and functions. The staff shall serve at the Commission's pleasure with the exception that staff hired as the result of securing federal funds shall be hired and governed under applicable federal statutes and regulations. In selecting any staff, the Commission shall assure that the staff has adequate experience and formal training to carry out the functions assigned to it by the Commission.

"h. The Commission may:

"1. Enter into an agreement with any person, state, or group of states for the right to use regional facilities for waste generated outside of the region and for the right to use facilities outside the region for waste generated within the region. The right of any person to use a regional facility for waste generated outside of the region requires an affirmative vote of a majority of the Commission, including the affirmative vote of the member of the host state in which any affected regional facility is located.

"2. Approve the disposal of waste generated within the region at a facility other than a regional facility.

"3. Appear as an intervenor or party in interest before any court of law or any federal, state or local agency, board or commission in any matter related to waste management. In order to represent its views, the Commission may arrange for any expert testimony, reports, evidence or other participation.

"4. Review the emergency closure of a regional facility, determine the appropriateness of that closure, and take whatever actions are necessary to ensure that the interests of the region are protected.

"5. Take any action which is appropriate and necessary to perform its duties and functions as provided in this compact.

"6. Suspend the privileges or revoke the membership of a party state by a two-thirds vote of the membership in accordance with Article VIII.

"i. The Commission shall:

"1. Receive and act on the petition of a nonparty state to become an eligible state.

"2. Submit an annual report to, and otherwise communicate with, the governors and the appropriate officers of the legislative bodies of the party states regarding the activities of the Commission.

"3. Hear, negotiate, and, as necessary, resolve by final decision disputes which may arise between the party states regarding this compact.

"4. Adopt and amend, by a two-thirds vote of the membership, in accordance with the procedures and criteria developed pursuant to Article IV, a regional management plan which designates host states for the establishment of needed regional facilities.

"5. Adopt an annual budget.

"j. Funding of the budget of the Commission shall be provided as follows:

"1. Each state, upon becoming a party state, shall pay $50,000 or $1,000 per cubic meter of waste shipped from that state in 1980, whichever is lower, to the Commission which shall be used for the administrative costs of the Commission;

"2. Each state, hosting a regional facility shall levy surcharges on all users of the regional facility based upon its portion of the total volume and characteristics of wastes managed at that facility. The surcharges collected at all regional facilities shall:

"(a) Be sufficient to cover the annual budget of the Commission; and

"(b) Represent the financial commitments of all party states to the Commission; and

"(c) Be paid to the Commission, provided, however, that each host state collecting surcharges may retain a portion of the collection sufficient to cover its administrative costs of collection, and that the remainder be sufficient only to cover the approved annual budget of the Commission.

"k. The Commission shall keep accurate accounts of all receipts and disbursements. The Commission shall contract with an independent certified public accountant to annually audit all receipts and disbursements of Commission funds, and to submit an audit report to the Commission. The audit report shall be made part of the annual report of the Commission required by this Article.

"l. The Commission may accept for any of its purposes and functions and may utilize and dispose of any donations, grants of money, equipment, supplies, materials and services from any state or the United States (or any subdivision or agency thereof), or interstate agency, or from any institution, person, firm or corporation. The nature, amount and condition, if any, attendant upon any donation or grant accepted or received by the Commission together with the identity of the donor, grantor or lender, shall be detailed in the annual report of the Commission.

"m. The Commission is not liable for any costs associated with any of the following:

"1. The licensing and construction of any facility,

"2. The operation of any facility,

"3. The stabilization and closure of any facility,

"4. The care of any facility,

"5. The extended institutional control, after care of any facility, or

"6. The transportation of waste to any facility.

"n. 1. The Commission is a legal entity separate and distinct from the party states and is liable for its actions as a separate and distinct legal entity. Liabilities of the Commission are not liabilities of the party states. Members of the Commission are not personally liable for actions taken by them in their official capacity.

"2. Except as provided under sections m. and n.1. of this article, nothing in this compact alters liability for any act, omission, course of conduct or liability resulting from any casual or other relationships.

"o. Any person aggrieved by a final decision of the Commission may obtain judicial review of such decision in any court of competent jurisdiction by filing in such court a petition for review within 60 days after the Commission's final decision.

"ARTICLE IV. REGIONAL MANAGEMENT PLAN

"The Commission shall adopt a regional management plan designed to ensure the safe and efficient management of waste generated within the region. In adopting a regional waste management plan the Commission shall:

"a. Adopt procedures for determining, consistent with considerations for public health and safety, the type and number of regional facilities which are presently necessary and which are projected to be necessary to manage waste generated within the region;

"b. Develop and consider policies promoting source reduction of waste generated within the region;

"c. Develop and adopt procedures and criteria for identifying a party state as a host state for a regional facility. In developing these criteria, the Commission shall consider all the following:

"1. The health, safety, and welfare of the citizens of the party states.

"2. The existence of regional facilities within each party state.

"3. The minimization of waste transportation.

"4. The volumes and types of wastes generated within each party state.

"5. The environmental, economic, and ecological impacts on the air, land, and water resources of the party states.

"d. Conduct such hearings, and obtain such reports, studies, evidence and testimony required by its approved procedures prior to identifying a party state as a host state for a needed regional facility;

"e. Prepare a draft management plan, including procedures, criteria and host states, including alternatives, which shall be made available in a convenient form to the public for comment. Upon the request of a party state, the Commission shall conduct a public hearing in that state prior to the adoption of the management plan. The management plan shall include the Commission's response to public and party state comment.

"ARTICLE V. RIGHTS AND OBLIGATIONS OF PARTY STATES

"a. Each party state shall act in good faith in the performance of acts and courses of conduct which are intended to ensure the provision of facilities for regional availability and usage in a manner consistent with this compact.

"b. Each party state has the right to have all wastes generated within its borders managed at regional facilities subject to the provisions contained in Article IX.c. All party states have an equal right of access to any facility made available to the region by any agreement entered into by the Commission pursuant to Article III.

"c. Party states or generators may negotiate for the right of access to a facility outside the region and may export waste outside the region subject to Commission approval under Article III.

"d. To the extent permitted by federal law, each party state may enforce any applicable federal and state laws, regulations and rules pertaining to the packaging and transportation of waste generated within or passing through its borders. Nothing in this section shall be construed to require a party state to enter into any agreement with the U.S. Nuclear Regulatory Commission.

"e. Each party state shall provide to the Commission any data and information the Commission requires to implement its responsibilities. Each party state shall establish the capability to obtain any data and information required by the Commission.

"ARTICLE VI. DEVELOPMENT AND OPERATION AND FACILITIES

"a. Any party state may volunteer to become a host state, and the Commission may designate that state as a host state upon a two-thirds vote of its members.

"b. If all regional facilities required by the regional management plan are not developed pursuant to section a., or upon notification that an existing regional facility will be closed, the Commission may designate a host state.

"c. Each party state designated as a host state is responsibile for determining possible facility locations within its borders. The selection of a facility site shall not conflict with applicable federal and host state laws, regulations and rules not inconsistent with this compact and shall be based on factors including, but not limited to, geological, environmental and economic viability of possible facility locations.

"d. Any party state designated as a host state may request the Commission to relieve that state of the responsibility to serve as a host state. The Commission may relieve a party state of this responsibility only upon a showing by the requesting party state that no feasible potential regional facility site of the type it is designated to host exists within its borders.

"e. After a state is designated a host state by the Commission, it is responsible for the timely development and operation of a regional facility.

"f. To the extent permitted by federal and state law, a host state shall regulate and license any facility within its borders and ensure the extended care of that facility.

"g. The Commission may designate a party state as a host state while a regional facility is in operation if the Commission determines that an additional regional facility is or may be required to meet the needs of the region. The Commission shall make this designation following the procedures established under Article IV.

"h. Designation of a host state is for a period of 20 years or the life of the regional facility which is established under that designation, whichever is longer. Upon request of a host state, the Commission may modify the period of its designation.

"i. A host state may establish a fee system for any regional facility within its borders. The fee system shall be reasonable and equitable. This fee system shall provide the host state with sufficient revenue to cover any cost, including but not limited to the planning, siting, licensure, operation, decommissioning, extended care and long-term liability, associated with such facilities. This fee system may also include reasonable revenue beyond costs incurred for the host state, subject to approval by the Commission. A host state shall submit an annual financial audit of the operation of the regional facility to the Commission. the fee system may include incentives for source reduction and may be based on the hazard of the waste as well as the volume.

"j. A host state shall ensure that a regional facility located within its borders which is permanently closed is properly decommissioned. A host state shall also provide for the care of a closed or decommissioned regional facility within its borders so that the public health and safety of the state and region are ensured.

"k. A host state intending to close a regional facility located within its borders shall notify the Commission in writing of its intention and the reasons. Notification shall be given to the Commission at least five years prior to the intended date of closure. This section shall not prevent an emergency closing of a regional facility by a host state to protect its air, land and water resources and the health and safety of its citizens. However, a host state which has an emergency closing of a regional facility shall notify the Commission in writing within three working days of its action and shall, within 30 working days of its action, demonstrate justification for the closing.

"l. If a regional facility closes before an additional or new facility becomes operational, waste generated within the region may be shipped temporarily to any location agreed on by the Commission until a regional facility is operational.

"m. A party state which is designated as a host state by the Commission and fails to fulfill its obligations as a host state may have its privileges under the compact suspended or membership in the compact revoked by the Commission.

"ARTICLE VII. OTHER LAWS AND REGULATIONS

"a. Nothing in this compact:

"1. Abrogates or limits the applicability of any act of Congress or diminishes or otherwise impairs the jurisdiction of any federal agency expressly conferred thereon by the Congress;

"2. Prevents the enforcement of any other law of a party state which is not inconsistent with this compact;

"3. Prohibits any storage or treatment of waste by the generator on its own premises;

"4. Affects any administrative or judicial proceeding pending on the effective date of this compact;

"5. Alters the relations between and the respective internal responsibility of the government of a party state and its subdivisions;

"6. Affects the generation, treatment, storage or disposal of waste generated by the atomic energy defense activities of the Secretary of the U.S. Department of Energy or successor agencies or federal research and development activities as described in section 31 of the Atomic Energy Act of 1954 (42 U.S.C. 2051); or

"7. Affects the rights and powers of any party state or its political subdivisions to the extent not inconsistent with this compact, to regulate and license any facility or the transportation of waste within its borders or affects the rights and powers of any party state and its political subdivisions to tax or impose fees on the waste managed at any facility within its borders.

"8. Requires a party state to enter into any agreement with the U.S. Nuclear Regulatory Commission.

"9. Alters or limits liability of transporters of waste, owners and operators of sites for their acts, omissions, conduct or relationships in accordance with applicable laws.

"b. For purposes of this compact, all state laws or parts of laws in conflict with this compact are hereby superseded to the extent of the conflict.

"c. No law, rule or regulation of a party state or of any of its subdivisions or instrumentalities may be applied in a manner which discriminates against the generators of another party state.

"ARTICLE VIII. ELIGIBLE PARTIES, WITHDRAWAL, REVOCATION, ENTRY INTO FORCE, TERMINATION

"a. Eligible parties to this compact are the states of Delaware, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, Virginia and Wisconsin. Eligibility terminates on July 1, 1984.

"b. Any state not eligible for membership in the compact may petition the Commission for eligibility. The Commission may establish appropriate eligibility requirements. These requirements may include but are not limited to, an eligibility fee or designation as a host state. A petitioning state becomes eligible for membership in the compact upon the approval of the Commission, including the affirmative vote of all host states. Any state becoming eligible upon the approval of the Commission becomes a member of the compact in the same manner as any state eligible for membership at the time this compact enters into force.

"c. An eligible state becomes a party state when the state enacts the compact into law and pays the membership fee required in Article III.j.1.

"d. The Commission is formed upon the appointment of Commission members and the tender of the membership fee payable to the Commission by three party states. The Governor of the first state to enact this compact shall convene the initial meeting of the Commission. The Commission shall cause legislation to be introduced in the Congress which grants the consent of the Congress to this compact, and shall take action necessary to organize the Commission and implement the provision of this compact.

"e. Any party state may withdraw from this compact by repealing the authorizing legislation but no withdrawal may take effect until five years after the Governor of the withdrawing state gives notice in writing of the withdrawal to the Commission and to the Governor of each party state. Withdrawal does not affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal. Any host state which grants a disposal permit for waste generated in a withdrawing state shall void the permit when the withdrawal of that state is effective.

"f. Any party state which fails to comply with the terms of this compact or fails to fulfill its obligatons may have its privileges suspended or its membership in the compact revoked by the Commission in accordance with Article III.h.6. Revocation takes effect one year from the date the affected party state receives written notice from the Commission of its action. All legal rights of the affected party state established under this compact cease upon the effective date of revocation but any legal obligations of that party state arising prior to revocation continue until they are fulfilled. The chairperson of the Commission shall transmit written notice of a revocation of a party state's membership in the compact immediately following the vote for the Commission to the governor of the affected party state, all other Governors of the party states and the Congress of the United States.

"g. This compact becomes effective upon enactment by at least three eligible states and consent to this compact by Congress. The Congress shall have an opportunity to withdraw such consent every five years. Failure of the Congress to affirmatively withdraw its consent has the effect of renewing consent for an additional five year period. The consent given to this compact by the Congress shall extend to any future admittance of new party states under sections b. and c. of this article and to the power of the Commission to ban the shipment of waste from the region pursuant to Article III.

"h. The withdrawal of a party state from this compact under section e. of this article or the suspension or revocation of a state's membership in this compact under section f. of this article does not affect the applicability of this compact to the remaining party states.

"i. A state which has been designated by the Commission to be a host state has 90 days from receipt by the Governor of written notice of designation to withdraw from the compact without any right to receive refund of any funds already paid pursuant to this compact, and without any further payment. Withdrawal becomes effective immediately upon notice as provided in section e. of this article. A designated host state which withdraws from the compact after 90 days and prior to fulfilling its obligations shall be assessed a sum the Commission determines to be necessary to cover the costs borne by the Commission and remaining party states as a result of that withdrawal.

"ARTICLE IX PENALTIES

"a. Each party state shall prescribe and enforce penalties against any person who is not an official of another state for violation of any provision of this compact.

"b. Unless otherwise authorized by the Commission pursuant to Article III.h. after January 1, 1986, it is a violation of this compact:

"1. For any person to deposit at a regional facility waste not generated within the region;

"2. For any regional facility to accept waste not generated within the region;

"3. For any person to export from the region waste which is generated within the region; or

"4. For any person to dispose of waste at a facility other than a regional facility.

"c. Each party state acknowledges that the receipt by a host state of waste packaged or transported in violation of applicable laws, rules and regulations may result in the imposition of sanctions by the host state which may include suspension or revocation of the violator's right of access to the facility in the host state.

"d. Each party state has the right to seek legal recourse against any party state which acts in violation of this compact.

"ARTICLE X. SEVERABILITY AND CONSTRUCTION

"The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared by a court of competent jurisdiction to be contrary to the Constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If any provision of this compact shall be held contrary to the Constitution of any state participating therein, the compact shall remain in full force and effect as to the state affected as to all severable matters.".

SEC. 226. ROCKY MOUNTAIN LOW-LEVEL RADIOACTIVE WASTE COMPACT.

In accordance with section 4(a)(2) of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021d(a)(2)), the consent of the Congress hereby is given to the States of Arizona, Colorado, Nevada, New Mexico, Utah, and Wyoming to enter into the Rocky Mountain Interstate Low-Level Radioactive Waste Compact.

Such compact is substantially as follows:

ROCKY MOUNTAIN LOW-LEVEL RADIOACTIVE WASTE COMPACT

ARTICLE I. FINDINGS AND PURPOSE

(a) The party states agree that each state is responsible for providing for the management of low-level radioactive waste generated within its borders, except for waste generated as a result of defense activities of the federal government or federal research and development activities. Moreover, the party states find that the United States Congress, by enacting the "Low-Level Radioactive Waste Policy Act" (P.L. 96-573), has encouraged the use of interstate compacts to provide for the establishment and operation of facilities for regional management of low-level radioactive waste.

(b) It is the purpose of the party states, by entering into an interstate compact, to establish the means for cooperative effort in managing low-level radioactive waste; to ensure the availability and economic viability of sufficient facilities for the proper and efficient management of low-level radioactive waste generated within the region while preventing unnecessary and uneconomic proliferation of such facilities; to encourage reduction of the volume of low-level radioactive waste requiring disposal within the region; to restrict management within the region of low-level radioactive waste generated outside the region; to distribute the costs, benefits and obligations of low-level radioactive waste management equitably among the party states; and by these means to promote the health, safety and welfare of the residents within the region.

ARTICLE II. DEFINITIONS

As used in this compact, unless the context clearly indicates otherwise:

(a) "Board" means the Rocky Mountain low-level radioactive waste board;

(b) "Carrier" means a person who transports low-level waste;

(c) "Disposal" means the isolation of waste from the biosphere, with no intention of retrieval, such as by land burial;

(d) "Facility" means any property, equipment or structure used or to be used for the management of low-level waste;

(e) "Generate" means to produce low-level waste;

(f) "Host state" means a party state in which a regional facility is located or being developed;

(g) "Low-level waste" or "waste" means radioactive waste other than:

(i) Waste generated as a result of defense activities of the federal government or federal research and development activities;

(ii) High-level waste such as irradiated reactor fuel, liquid waste from reprocessing irradiated reactor fuel, or solids into which any such liquid waste has been converted;

(iii) Waste material containing transuranic elements with contamination levels greater than ten (10) nanocuries per gram of waste material;

(iv) By-product material as defined in Section 11e.(2) of the "Atomic Energy Act of 1954," as amended November 8, 1978; or

(v) Wastes from mining, milling, smelting or similar processing of ores and mineral-bearing material primarily for minerals other than radium.

(h) "Management" means collection, consolidation, storage, treatment, incineration or disposal;

(i) "Operator" means a person who operates a regional facility;

(j) "Person" means an individual, corporation, partnership or other legal entity, whether public or private;

(k) "Region" means the combined geographic area within the boundaries of the party states; and

(l) "Regional facility" means a facility within any party state which either:

(i) has been approved as a regional facility by the board; or

(ii) is the low-level waste facility in existence on January 1, 1982, at Beatty, Nevada.

ARTICLE III

RIGHTS, RESPONSIBILITIES, AND OBLIGATIONS

(a) There shall be regional facilities sufficient to manage the low-level waste generated within the region. At least one (1) regional facility shall be open and operating in a party state other than Nevada within six (6) years after this compact becomes law in Nevada and in one (1) other state.

(b) Low-level waste generated within the region shall be managed at regional facilities without discrimination among the party states; provided, however, that a host state may close a regional facility when necessary for public health or safety.

(c) Each party state which, according to reasonable projections made by the board, is expected to generate twenty percent (20%) or more in cubic feet except as otherwise determined by the board of the low-level waste generated within the region has an obligation to become a host state in compliance with subsection (d) of this article.

(d) A host state, or party state seeking to fulfill its obligation to become a host state, shall:

(i) Cause a regional facility to be developed on a timely basis as determined by the board, and secure the approval of such regional facility by the board as provided in Article IV before allowing site preparation or physical construction to begin;

(ii) Ensure by its own law, consistent with any applicable federal law, the protection and preservation of public health and safety in the siting, design, development, licensure or other regulation, operation, closure, decommissioning and long-term care of the regional facilities within the state;

(iii) Subject to the approval of the board, ensure that charges for management of low-level waste at the regional facilities within the state are reasonable;

(iv) Solicit comments from each other party state and the board regarding siting, design, development, licensure or other regulation, operation, closure, decommissioning and long-term care of the regional facilities within the state and respond in writing to such comments;

(v) Submit an annual report to the board which contains projections of the anticipated future capacity and availability of the regional facilities within the state, together with other information required by the board; and

(vi) Notify the board immediately if any exigency arises requiring the possible temporary or permanent closure of a regional facility within the state at a time earlier than was projected in the state's most recent annual report to the board.

(e) Once a party state has served as a host state, it shall not be obligated to serve again until each other party state having an obligation under subsection (c) of this article has fulfilled that obligation. Nevada, already being a host state, shall not be obligated to serve again as a host state until every other party state has so served.

(f) Each party state:

(i) Agrees to adopt and enforce procedures requiring low-level waste shipments originating within its borders and destined for a regional facility to conform to packaging and transportation requirements and regulations. Such procedures shall include but are not limited to:

(A) Periodic inspection of packaging and shipping practices;

(B) Periodic inspections of waste containers while in the custody of carriers; and

(C) Appropriate enforcement actions with respect to violations.

(ii) Agrees that after receiving notification from a host state that a person in the party state has violated packaging, shipping or transportation requirements or regulations, it shall take appropriate action to ensure that violations do not recur. Appropriate action may include but is not limited to the requirement that a bond be posted by the violator to pay the cost of repackaging at the regional facility and the requirement that future shipments be inspected;

(iii) May impose fees to recover the cost of the practices provided for in paragraph (i) and (ii) of this subsection;

(iv) Shall maintain an inventory of all generators within the state that may have low-level waste to be managed at a regional facility; and

(v) May impose requirements or regulations more stringent than those required by this subsection.

ARTICLE IV. BOARD APPROVAL OF REGIONAL FACILITIES

(a) Within ninety (90) days after being requested to do so by a party state, the board shall approve or disapprove a regional facility to be located within that state.

(b) A regional facility shall be approved by the board if and only if the board determines that:

(i) There will be, for the foreseeable future, sufficient demand to render operation of the proposed facility economically feasible without endangering the economic feasibility of operation of any other regional facility; and

(ii) The facility will have sufficient capacity to serve the needs of the region for a reasonable period of years.

ARTICLE V. SURCHARGES

(a) The board shall impose a "compact surcharge" per unit of waste received at any regional facility. The surcharge shall be adequate to pay the costs and expenses of the board in the conduct of its authorized activities and may be increased or decreased as the board deems necessary.

(b) A host state may impose a "state surcharge" per unit of waste received at any regional facility within the state. The host state may fix and change the amount of the state surcharge subject to approval by the board. Money received from the state surcharge may be used by the host state for any purpose authorized by its own law, including but not limited to costs of licensure and regulatory activities related to the regional facility, reserves for decommissioning and long-term care of the regional facility and local impact assistance.

ARTICLE VI. THE BOARD

(a) The "Rocky Mountain low-level radioactive waste board", which shall not be an agency or instrumentality of any party state, is created.

(b) The board shall consist of one (1) member from each party state. The governor shall determine how and for what term its member shall be appointed, and how and for what term any alternate may be appointed to perform that member's duties on the board in the member's absence.

(c) Each party state is entitled to one (1) vote. A majority of the board constitutes a quorum. Unless otherwise provided in this compact, a majority of the total number of votes on the board is necessary for the board to take any action.

(d) The board shall meet at least once a year and otherwise as its business requires. Meetings of the board may be held in any place within the region deemed by the board to be reasonably convenient for the attendance of persons required or entitled to attend and where adequate accommodations may be found. Reasonable public notice and opportunity for comment shall be given with respect to any meeting; provided, however, that nothing in this subsection shall preclude the board from meeting in executive session when seeking legal advice from its attorneys or when discussing the employment, discipline or termination of any of its employees.

(e) The board shall pay necessary travel and reasonable per diem expenses of its members, alternates, and advisory committee members.

(f) The board shall organize itself for the efficient conduct of its business. It shall adopt and publish rules consistent with the compact regarding its organization and procedures. In special circumstances the board, with unanimous consent of its members, may take actions by telephone; provided, however, that any action taken by telephone shall be confirmed in writing by each member within thirty (30) days. Any action taken by telephone shall be noted in the minutes of the board.

(g) The board may use for its purposes the services of any personnel or other resources which may be offered by any party state.

(h) The board may establish its offices in space provided for that purpose by any of the party states, or, if space is not provided or is deemed inadequate, in any space within the region selected by the board.

(i) Consistent with available funds, the board may contract for necessary personnel services to carry out its duties. Staff shall be employed without regard for the personnel, civil service, or merit laws of any of the party states and shall serve at the pleasure of the board. The board may provide appropriate employee benefit programs for its staff.

(j) The board shall establish a fiscal year which conforms to the extent practicable to the fiscal years of the party states.

(k) The board shall keep an accurate account of all receipts and disbursements. An annual audit of the books of the board shall be conducted by an independent certified public accountant, and the audit report shall be made a part of the annual report of the board.

(l) The board shall prepare and include in the annual report a budget showing anticipated receipts and disbursements for the ensuing year.

(m) Upon legislative enactment of this compact, each party State shall consider the need to appropriate seventy thousand dollars ($70,000.00) to the board to support its activities prior to the collection of sufficient funds through the compact surcharge imposed pursuant to subsection (a) of article V of this compact.

(n) The board may accept any donations, grants, equipment, supplies, materials or services, conditional or otherwise, from any source. The nature, amount and condition, if any, attendant upon any donation, grant or other resources accepted pursuant to this subsection, together with the identity of the donor or grantor, shall be detailed in the annual report of the board.

(o) In addition to the powers and duties conferred upon the board pursuant to other provisions of this compact, the board:

(i) Shall submit communications to the governors and to the presiding officers of the legislatures of the party states regarding the activities of the board, including an annual report to be submitted by December 15;

(ii) May assemble and make available to the governments of the party states and to the public through its members information concerning low-level waste management needs, technologies and problems;

(iii) Shall keep a current inventory of all generators within the region, based upon information provided by the party states;

(iv) Shall keep a current inventory of all regional facilities, including information on the size, capacity, location, specific wastes capable of being managed and the projected useful life of each regional facility;

(v) May keep a current inventory of all low-level waste facilities in the region, based upon information provided by the party states;

(vi) Shall ascertain on a continuing basis the needs for regional facilities and capacity to manage each of the various classes of low-level waste;

(vii) May develop a regional low-level waste management plan;

(viii) May establish such advisory committees as it deems necessary for the purpose of advising the board on matters pertaining to the management of low-level waste;

(ix) May contract as it deems appropriate to accomplish its duties and effectuate its powers, subject to its projected available resources; but no contract made by the board shall bind any party state;

(x) Shall make suggestions to appropriate officials of the party states to ensure that adequate emergency response programs are available for dealing with any exigency that might arise with respect to low-level waste transportation or management;

(xi) Shall prepare contingency plans, with the cooperation and approval of the host state, for management of low-level waste in the event any regional facility should be closed;

(xii) May examine all records of operators of regional facilities pertaining to operating costs, profits or the assessment or collection of any charge, fee or surcharge;

(xiii) Shall have the power to sue; and

(xiv) When authorized by unanimous vote of its members, may intervene as of right in any administrative or judicial proceeding involving low-level waste.

ARTICLE VII. PROHIBITED ACTS AND PENALTIES

(a) It shall be unlawful for any person to dispose of low-level waste within the region, except at a regional facility; provided, however, that a generator who, prior to January 1, 1982, had been disposing of only his own waste on his own property may, subject to applicable federal and state law, continue to do so.

(b) After January 1, 1986, it shall be unlawful for any person to export low-level waste which was generated within the region outside the region unless authorized to do so by the board. In determining whether to grant such authorization, the factors to be considered by the board shall include, but not be limited to, the following:

(i) The economic impact of the export of the waste on the regional facilities;

(ii) The economic impact on the generator of refusing to permit the export of the waste; and

(iii) The availability of a regional facility appropriate for the disposal of the waste involved.

(c) After January 1, 1986, it shall be unlawful for any person to manage any low-level waste within the region unless the waste was generated within the region or unless authorized to do so both by the board and by the state in which said management takes place. In determining whether to grant such authorization, the factors to be considered by the board shall include, but not be limited to, the following:

(i) the impact of importing waste on the available capacity and projected life of the regional facilities;

(ii) the economic impact on the regional facilities; and

(iii) the availability of a regional facility appropriate for the disposal of the type of waste involved.

(d) It shall be unlawful for any person to manage at a regional facility any radioactive waste other than low-level waste as defined in this compact, unless authorized to do so both by the board and the host state. In determining whether to grant such authorization, the factors to be considered by the board shall include, but not be limited to, the following:

(i) the impact of allowing such management on the available capacity and projected life of the regional facilities;

(ii) the availability of a facility appropriate for the disposal of the type of waste involved;

(iii) the existence of transuranic elements in the waste; and

(iv) the economic impact on the regional facilities.

(e) Any person who violates subsection (a) or (b) of this article shall be liable to the board for a civil penalty not to exceed ten (10) times the charges which would have been charged for disposal of the waste at a regional facility.

(f) Any person who violates subsection (c) or (d) of this article shall be liable to the board for a civil penalty not to exceed ten (10) times the charges which were charged for management of the waste at a regional facility.

(g) The civil penalties provided for in subsections (e) and (f) of this article may be enforced and collected in any court of general jurisdiction within the region where necessary jurisdiction is obtained by an appropriate proceeding commenced on behalf of the board by the attorney general of the party state wherein the proceeding is brought or by other counsel authorized by the board. In any such proceeding, the board, if it prevails, is entitled to recover reasonable attorney's fees as part of its costs.

(h) Out of any civil penalty collected for a violation of subsection (a) or (b) of this article, the board shall pay to the appropriate operator a sum sufficient in the judgment of the board to compensate the operator for any loss of revenue attributable to the violation. Such compensation may be subject to state and compact surcharges as if received in the normal course of the operator's business. The remainder of the civil penalty collected shall be allocated by the board. In making such allocation, the board shall give first priority to the needs of the long-term care funds in the region.

(i) Any civil penalty collected for a violation of subsection (c) or (d) of this article shall be allocated by the board. In making such allocation, the board shall give first priority to the needs of the long-term care funds in the region.

(j) Violations of subsection (a), (b), (c), or (d) of this article may be enjoined by any court of general jurisdiction within the region where necessary jurisdiction is obtained in any appropriate proceeding commenced on behalf of the board by the attorney general of the party state wherein the proceeding is brought or by other counsel authorized by the board. In any such proceeding, the board, if it prevails, is entitled to recover reasonable attorney's fees as part of its costs.

(k) No state attorney general shall be required to bring any proceeding under any subsection of this article, except upon his consent.

ARTICLE VIII. ELIGIBILITY, ENTRY INTO EFFECT, CONGRESSIONAL CONSENT, WITHDRAWAL, EXCLUSION

(a) Arizona, Colorado, Nevada, New Mexico, Utah, and Wyoming are eligible to become parties to this compact. Any other state may be made eligible by unanimous consent of the board.

(b) An eligible state may become a party state by legislative enactment of this compact or by executive order of its governor adopting this compact; provided, however, a state becoming a party by executive order shall cease to be a party state upon adjournment of the first general session of its legislature convened thereafter, unless before such adjournment the legislature shall have enacted this compact.

(c) This compact shall take effect when it has been enacted by the legislatures of two (2) eligible states. However, subsections (b) and (c) of article VII shall not take effect until Congress has by law consented to this compact. Every five (5) years after such consent has been given, Congress may by law withdraw its consent.

(d) A state which has become a party state by legislative enactment may withdraw by legislation repealing its enactment of this compact; but no such repeal shall take effect until two (2) years after enactment of the repealing legislation. If the withdrawing state is a host state, any regional facility in that state shall remain available to receive low-level waste generated within the region until five (5) years after the effective date of the withdrawal; provided, however, this provision shall not apply to the existing facility in Beatty, Nevada.

(e) A party state may be excluded from this compact by a two-thirds (⅔) vote of the members representing the other party states, acting in a meeting, on the ground that the state to be excluded has failed to carry out its obligation under this compact. Such an exclusion may be terminated upon a two-thirds (⅔) vote of the members acting in a meeting.

ARTICLE IX. CONSTRUCTION AND SEVERABILITY

(a) The provisions of this compact shall be broadly construed to carry out the purposes of the compact.

(b) Nothing in this compact shall be construed to affect any judicial proceeding pending on the effective date of this compact.

(c) If any part or application of this compact is held invalid, the remainder, or its application to other situations or persons, shall not be affected.

SEC. 227. NORTHEAST INTERSTATE LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT COMPACT.

In accordance with section 4(a)(2) of the Low-Level Radioactive Waste Policy Act, the consent of the Senate is hereby given to the States of Connecticut, New Jersey, Delaware, and Maryland to enter into the Northeast Interstate Low-Level Radioactive Waste Management Compact. Such compact is substantially as follows:

ARTICLE I. POLICY AND PURPOSE

There is hereby created the Northeast Interstate Low-Level Radioactive Waste Management Compact. The party states recognize that the Congress has declared that each state is responsible for providing for the availability of capacity, either within or outside its borders for disposal of low-level radioactive waste generated within its borders, except for waste generated as a result of atomic energy defense activities of the federal government, as defined in the Low-Level Radioactive Waste Policy Act (P.L. 96-573, "The Act"), or federal research and development activities. They also recognize that the management of low-level radioactive waste is handled most efficiently on a regional basis. The party states further recognize that the Congress of the United States, by enacting the Act has provided for and encouraged the development of regional low-level radioactive waste compacts to manage such waste. The party states recognize that the long-term, safe and efficient management of low-level radioactive waste generated within the region requires that sufficient capacity to manage such waste be properly provided.

In order to promote the health and safety of the region, it is the policy of the party states to: enter into a regional low-level radioactive waste management compact as a means of facilitating an interstate cooperative effort, provide for proper transportation of low-level waste generated in the region, minimize the number of facilities required to effectively and efficiently manage low-level radioactive waste generated in the region, encourage the reduction of the amounts of low-level waste generated in the region, distribute the costs, benefits, and obligations of proper low-level radioactive waste management equitably among the party states, and ensure the environmentally sound and economical management of low-level radioactive waste.

ARTICLE II. DEFINITIONS

As used in this compact, unless the context clearly requires a different construction:

a. "commission" means the Northeast Interstate Low-Level Radioactive Waste Commission established pursuant to Article IV of this compact;

b. "custodial agency" means the agency of the government designated to act on behalf of the government owner of the regional facility;

c. "disposal" means the isolation of low-level radioactive waste from the biosphere inhabited by man and his food chains;

d. "facility" means a parcel of land, together with the structures, equipment and improvements thereon or appurtenant thereto, which is used or is being developed for the treatment, storage or disposal of low-level waste, but shall not include on-site treatment or storage by a generator;

e. "generator" means a person who produces or processes low-level waste, but does not include persons who only provide a service by arranging for the collection, transportation, treatment, storage or disposal of wastes generated outside the region;

f. "high-level waste" means 1) the highly radioactive material resulting from the reprocessing of spent nuclear fuel, including liquid waste produced directly in reprocessing and any solid material derived from such liquid waste that contains fission products in sufficient concentration; and 2) any other highly radioactive material determined by the federal government as requiring permanent isolation;

g. "host state" means a party state in which a regional facility is located or being developed;

h. "institutional control" means the continued observation, monitoring, and care of the regional facility following transfer of control of the regional facility from the operator to the custodial agency;

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i. "low-level waste" means radioactive waste that 1) is neither high-level waste nor transuranic waste, nor spent nuclear fuel, nor by-product material as defined in section 11e(2) of the Atomic Energy Act of 1954 as amended; and 2) is classified by the federal government at low-level waste, consistent with existing law; but does not include waste generated as a result of atomic energy defense activities of the federal government, as defined in P.L. 96-573, or federal research and development activities;

j. "party state" means any state which is a signatory party in good standing to this compact;

k. "person" means as individual, corporation, business enterprise or other legal entity, either public or private and their legal successors;

l. "post-closure observation and maintenance" means the continued monitoring of a closed regional facility to ensure the integrity and environmental safety of the site through compliance with applicable licensing and regulatory requirements; prevention of unwarranted intrusion, and correction of problems;

m. "region" means the entire area of the party states;

n. "regional facility" means a facility as defined in this section which has been designated or accepted by the Commission;

o. "state" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands or any other territory subject to the laws of the United States;

p. "storage" means the holding of waste for treatment or disposal;

q. "transuranic waste" means waste material containing radionuclides with an atomic number greater than 92 which are excluded from shallow land burial by the federal government;

r. "treatment" means any method, technique or process, including storage for decay, designed to change the physical, chemical or biological characteristics or composition of any waste in order to render such waste safer for transport or disposal, amendable for recovery, convertible to another usable material or reduced in volume;

s. "waste" means low-level radioactive waste as defined in this section;

t. "waste management" means the storage, treatment, transportation, and disposal, where applicable, of waste.

ARTICLE III. RIGHTS AND OBLIGATIONS

a. There shall be provided within the region one or more regional facilities which, together with such other facilities as may be made available to the region, will provide sufficient capacity to manage all wastes generated within the region.

1. Regional facilities shall be entitled to waste generated within the region, unless otherwise provided by the Commission. To the extent regional facilities are available, no waste generated within a party state shall be exported to facilities outside the region unless such exportation is approved by the Commission and the affected host state(s).

2. After January 1, 1986, no person shall deposit at a regional facility waste generated outside the region, and further, no regional facility shall accept waste generated outside the region, unless approved by the Commission and the affected host state(s).

b. The rights, responsibilities and obligations of each party state to this compact are as follows:

1. Each party state shall have the right to have all wastes generated within its borders managed at regional facilities, and shall have the right of access to facilities made available to the region through agreements entered into by the Commission pursuant to Article IV(i)(11). The right of access by a generator within a party state to any regional facility is limited by the generator's adherence to applicable state and federal laws and regulations and the provisions of this compact.

2. To the extent not prohibited by federal law, each party state shall institute procedures which will require shipments of low-level waste generated within or passing through its borders to be consistent with applicable federal packaging and transportation regulations and applicable host state packaging and transportation regulations for management of low-level waste; provided, however, that these practices shall not impose unreasonable, burdensome impediments to the management of low-level waste in the region. Upon notification by a host state that a generator, shipper, or carrier within the party state is in violation of applicable packaging or transportation regulations, the party state shall take appropriate action to ensure that such violations do not recur.

3. Each party state may impose reasonable fees upon generators, shippers, or carriers to recover the cost of inspections and other practices under this compact.

4. Each party state shall encourage generators within its borders to minimize the volume of waste requiring disposal.

5. Each party state has the right to rely on the good faith performance by every other party state of acts which ensure the provisions of facilities for regional availability and their use in a manner consistent with this compact.

6. Each party state shall provide to the Commission any data and information necessary for the implementation of the Commission's responsibilities, and shall establish the capability to obtain any data and information necessary to meet its obligation as herein defined.

7. Each party state shall have the capability to host a regional facility in a timely manner and to ensure the post-closure observation and maintenance, and institutional control of any regional facility within its borders.

8. No non-host party state shall be liable for any injury to persons or property resulting from the operation of a regional facility or the transportation of waste to a regional facility; however, if the host state itself is the operator of the regional facility, its liability shall be that of any private operator.

c. The rights, responsibilities and obligations of a host state are as follows:

1. To the extent not prohibited by federal law, a host state shall ensure the timely development and the safe operation, closure, post-closure observation and maintenance, and institutional control of any regional facility within its borders.

2. In accordance with procedures established in Articles V and IX, the host state shall provide for the establishment of a reasonable structure of fees sufficient to cover all costs related to the development, operation, closure, post-closure observation and maintenance, and institutional control of a regional facility. It may also establish surcharges to cover the regulatory costs, incentives, and compensation associated with a regional facility; provided, however, that without the express approval of the Commission, no distinction in fees or surcharges shall be made between persons of the several states party to this compact.

3. To the extent not prohibited by federal law, a host state may establish requirements and regulations pertaining to the management of waste at a regional facility; provided, however, that such requirements shall not impose unreasonable impediments to the management of low-level waste within the region. Nor may a host state or a subdivision impose such restrictive requirements on the siting or operation of a regional facility that, along or as a whole, they serve as unreasonable barriers or prohibitions to the siting or operation of such a facility.

4. Each host state shall submit to the Commission annually a report concerning each operating regional facility within its borders. The report shall contain projections of the anticipated future capacity and availability of the regional facility, a financial audit of its operations, and other information as may be required by the Commission; and in the case of regional facilities in institutional control or otherwise no longer operating, the host states shall furnish such information as may be required on the facilities still subject to their jurisdiction.

5. A host state shall notify the Commission immediately if any exigency arises which requires the permanent, temporary, or possible closure of any regional facility located therein at a time earlier than projected in its most recent annual report to the Commission. The Commission may conduct studies, hold hearings, or take such other measures to ensure that the actions taken are necessary and compatible with the obligations of the host state under this compact.

ARTICLE IV. THE COMMISSION

a. There is hereby created the Northeast Interstate Low-Level Radioactive Waste Commission. The Commission shall consist of one member from each party state to be appointed by the Governor according to procedures of each party state, except that a host state shall have two members during the period that it has an operating regional facility. The Governor shall notify the Commission in writing of the identity of the member and one alternate, who may act on behalf of the member only in the member's absence.

b. Each Commission member shall be entitled to one vote. No action of the Commission shall be binding unless a majority of the total membership cast their vote in the affirmative.

c. The Commission shall elect annually from among its members a presiding officer and such other officers as it deems appropriate. The Commission shall adopt and publish, in convenient form, such rules and regulations as are necessary for due process in the performance of its duties and powers under this compact.

d. The Commission shall meet at least once a year and shall also meet upon the call of the presiding officer, or upon the call of a party state member.

e. All meetings of the Commission shall be open to the public with reasonable prior public notice. The Commission may, by majority vote, close a meeting to the public for the purpose of considering sensitive personnel or legal matters. All Commission actions and decisions shall be made in open meetings and appropriately recorded. A roll call vote may be required upon request of any party state or the presiding officer.

f. The Commission may establish such committees as it deems necessary.

g. The Commission may appoint, contract for, and compensate such limited staff as it determines necessary to carry out its duties and functions. The staff shall serve at the Commission's pleasure irrespective of the civil service, personnel or other merit laws of any of the party states or the federal government and shall be compensated from funds of the Commission.

h. The Commission shall adopt an annual budget for its operations.

i. The Commission shall have the following duties and powers:

1. The Commission shall receive and act on the application of a non-party state to become an eligible state in accordance with Article VII(e).

2. The Commission shall receive and act on the application of an eligible state to become a party state in accordance with Article VII(b).

3. The Commission shall submit an annual report to and otherwise communicate with the governors and the presiding officer of each body of the legislature of the party states regarding the activities of the Commission.

4. Upon request of party states, the Commission shall mediate disputes which arise between the party states regarding this compact.

5. The Commission shall develop, adopt and maintain a regional management plan to ensure safe and effective management of waste within the region, pursuant to Article V.

6. The Commission may conduct such legislative or adjudicatory hearings, and require such reports, studies, evidence and testimony as are necessary to perform its duties and functions.

7. The Commission shall establish by regulation, after public notice and opportunity for comment, such procedural regulations as deemed necessary to ensure efficient operation, the orderly gathering of information, and the protection of the rights of due process of affected persons.

8. In accordance with the procedures and criteria set forth in Article V, the Commission shall accept a host state's proposed facility as a regional facility.

9. In accordance with the procedures and criteria set forth in Article V, the Commission may designate, by a two-thirds vote, host states for the establishment of needed regional facilities. The Commission shall not exercise this authority unless the party states have failed to voluntarily pursue the development of such facilities.

10. The Commission may require of and obtain from party states, eligible states seeking to become party states, and non-party states seeking to become eligible states, data and information necessary for the implementation of Commission responsibilities.

11. The Commission may enter into agreements with any person, state, regional body, or group of states for the importation of waste into the region and for the right of access to facilities outside the region for waste generated within the region. Such authorization to import requires a two-thirds majority vote of the Commission, including an affirmative vote of the representatives of the host state in which any affected regional facility is located. This shall be done only after the Commission and the host state have made an assessment of the affected facilities' capability to handle such wastes and of relevant environmental, economic, and public factors, as defined by the appropriate regulatory authorities.

12. The Commission may, upon petition, grant an individual generator or group of generators in the region the right to export wastes to a facility located outside the region. Such grant of right shall be for a period of time and amount of waste and on such other terms and conditions as determined by the Commission and approved by the affected host states.

13. The Commission may appear as an intervenor or party in interest before any court of law, federal, state or local agency, board or commission that has jurisdiction over the management of wastes. Such authority to intervene or otherwise appear shall be exercised only after a two-thirds vote of the Commission. In order to represent its views, the Commission may arrange for any expert testimony, reports, evidence or other participation as it deems necessary.

14. The Commission may impose sanctions, including but not limited to, fines, suspension of privileges and revocation of the membership of a party state in accordance with Article VII. The Commission shall have the authority to revoke, in accordance with Article VII(g), the membership of a party state that creates unreasonable barriers to the siting of a needed regional facility or refuses to accept host state responsibilities upon designation by the Commission.

15. The Commission shall establish by regulation criteria for and shall review the fee and surcharge systems in accordance with Articles V and IX.

16. The Commission shall review the capability of party states to ensure the siting, operation, post-closure observation and maintenance, and institutional control of any facility within its borders.

17. The Commission shall review the compact legislation every five years prior to federal congressional review provided for in the Act, and may recommend legislative action.

18. The Commission has the authority to develop and provide to party states such rules, regulations and guidelines as it deems appropriate for the efficient, consistent, fair and reasonable implementation of the compact.

j. There is hereby established a Commission operating account. The Commission is authorized to expend monies from such account for the expenses of any staff and consultants designated under section (g) of this Article and for official Commission business. Financial support of the Commission account shall be provided as follows:

1. Each eligible state, upon becoming a party state, shall pay $70,000 to the Commission, which shall be used for administrative cost of the Commission.

2. The Commission shall impose a "commission surcharge" per unit of waste received at any regional facility as provided in Article V.

3. Until such time as at least one regional facility is in operation and accepting waste for management, or to the extent that revenues under paragraphs (1) and (2) of this section are unavailable or insufficient to cover the approved annual budget of the Commission, each party state shall pay an apportioned amount of the difference between the funds available and the total budget in accordance with the following formula:

(a) 20 percent in equal shares;

(b) 30 percent in the proportion that the population of the party state bears to the total population of all party states, according to the most recent U.S. census;

(c) 50 percent in the proportion that the waste generated for management in each party state bears to the total waste generated for management in the region for the most recent calendar year in which reliable data are available, as determined by the Commission.

k. The Commission shall keep accurate accounts of all receipts and disbursements. An independent certified public accountant shall annually audit all receipts and disbursements of Commission accounts and funds and submit an audit report to the Commission. Such audit report shall be made a part of the annual report of the Commission required by Article IV(i)(3).

l. The Commission may accept, receive, utilize and dispose for any of its purposes and functions any and all donations, loans, grants of money, equipment, supplies, materials and services (conditional or otherwise) from any state or the United States or any subdivision or agency thereof, or interstate agency, or from any institution, person, firm or corporation. The nature, amount and condition, if any, attendant upon any donation, loans, or grant accepted pursuant to this paragraph, together with the identity of the donor, grantor, or lender, shall be detailed in the annual report of the Commission. The Commission shall by rule establish guidelines for the acceptance of donations, loans, grants of money, equipment, supplies, materials and services. This shall provide that no donor, grantor or lender may derive unfair or unreasonable advantage in any proceeding before the Commission.

m. The Commission herein established is a body corporate and politic, separate and distinct from the party states and shall be so liable for its own actions. Liabilities of the Commission shall not be deemed liabilities of the party states, nor shall members of the Commission be personally liable for action taken by them in their official capacity.

1. The Commission shall not be responsible for any costs or expenses associated with the creation, operation, closure, post-closure observation and maintenance, and institutional control of any regional facility, or any associated regulatory activities of the party states.

2. Except as otherwise provided herein, this compact shall not be construed to alter the incidence of liability of any kind for any act, omission, or course of conduct. Generators, shippers and carriers of wastes, and owners and operators of sites shall be liable for their acts, omissions, conduct, or relationships in accordance with all laws relating thereto.

n. The United States district courts in the District of Columbia shall have original jurisdiction of all actions brought by or against the Commission. Any such action initiated in a state court shall be removed to the designated United States district court in the manner provided by Act of June 25, 1948 as amended (28 U.S.C. § 1446). This section shall not alter the jurisdiction of the United States Court of Appeals for the District of Columbia Circuit to review the final administrative decisions of the Commission as set forth in the paragraph below.

o. The United States Court of Appeals for the District of Columbia Circuit shall have jurisdiction to review the final administrative decisions of the Commission.

1. Any person aggrieved by a final administrative decision may obtain review of the decision by filing a petition for review within 60 days after the Commission's final decision.

2. In the event that review is sought of the Commission's decision relative to the

designation of a host state, the Court of Appeals shall accord the matter an expedited review, and, if the Court does not rule within 90 days after a petition for review has been filed, the Commission's decision shall be deemed to be affirmed.

3. The courts shall not substitute their judgment for that of the Commission as to the decisions of policy or weight of the evidence on questions of fact. The Court may affirm the decision of the Commission or remand the case for further proceedings if it finds that the petitioners has been aggrieved because the finding, inferences, conclusions or decisions of the Commission are:

a. in violation of the Constitution of the United States;

b. in excess of the authority granted to the Commission by this compact;

c. made upon unlawful procedure to the detriment of any person;

d. arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

4. The Commission shall be deemed to be acting in a legislative capacity except in those instances where it decides, pursuant to its rules and regulations, that its determinations are adjudicatory in nature.

ARTICLE V. HOST STATE SELECTION AND DEVELOPMENT AND OPERATION OF REGIONAL FACILITIES

a. The Commission shall develop, adopt, maintain, and implement a regional management plan to ensure the safe and efficient management of waste within the region. The plan shall include the following:

1. a current inventory of all generators within the region;

2. a current inventory of all facilities within the region, including information on the size, capacity, location, specific waste being handled, and projected useful life of each facility;

3. consistent with considerations for public health and safety as defined by appropriate regulatory authorities, a determination of the type and number of regional facilities which are presently necessary and projected to be necessary to manage waste generated within the region;

4. reference guidelines, as defined by appropriate regulatory authorities, for the party states for establishing the criteria and procedures to evaluate locations for regional facilities.

b. The Commission shall develop and adopt criteria and procedures for reviewing a party state which volunteers to host a regional facility within its borders. These criteria shall be developed with public notice and shall include the following factors: the capability of the volunteering party state to host a regional facility in a timely manner and to ensure its post-closure observation and maintenance, and institutional control; and the anticipated economic feasibility of the proposed facility.

1. Any party state may volunteer to host a regional facility within its borders. The Commission may set terms and conditions to encourage a party state to volunteer to be the first host state.

2. Consistent with the review required above, the Commission shall, upon a two-thirds affirmative vote, designate a volunteering party state to serve as a host state.

c. If all regional facilities required by the regional management plan are not developed pursuant to section (b), or upon notification that an existing facility will be closed, or upon determination that an additional regional facility is or may be required, the Commission shall convene to consider designation of a host state.

1. The Commission shall develop and adopt procedures for designating a party state to be a host state for a regional facility. The Commission shall base its decision on the following criteria:

a. the health, safety and welfare of citizens of the party states as defined by the appropriate regulatory authorities;

b. the environmental, economic, and social effects of a regional facility on the party states;

The Commission shall also base its decision on the following criteria:

c. ecomonic benefits and costs;

d. the volumes and types of waste generated within each party state;

e. the minimization of waste transportation; and

f. the existence of regional facilities with the party states.

2. Following its established criteria and procedures, the Commission shall designate by a two-thirds affirmative vote a party state to serve as a host state. A current host state shall have the right of first refusal for a succeeding regional facility.

3. The Commission shall conduct such hearings and studies, and take such evidence and testimony as is required by its approved procedures prior to designating a host state. Public hearings shall be held upon request in each candidate host state prior to final evaluation and selection.

4. A party state which has been designated as a host state by the Commission and which fails to fulfull its obligations as a host state may have its privileges under the compact suspended or membership in the compact revoked by the Commission.

d. Each host state shall be responsible for the timely identification of a site and the timely development and operation of a regional facility. The proposed facility shall meet geologic, environmental and economic criteria which shall not conflict with applicable federal and host state laws and regulations.

1. To the extent not prohibited by federal law, a host state may regulate and license any facility within its borders.

2. To the extent not prohibited by Federal law, a host state shall ensure the safe operation, closure, postclosure observation and maintenance, and institutional control of a facility, including adequate financial assurances by the operator and adequate emergency response procedures. It shall periodically review and report to the Commission on the status of the post-closure and institutional control funds and the remaining useful life of the facility.

3. A host state shall solict comments from each party state and the Commission regarding the siting, operation, financial assurances, closure, post-closure observation and maintenance, and institutional control of a regional facility.

e. A host state intending to close a regional facility within its borders shall notify the Commission in writing of its intention and reasons therefore.

1. Except as otherwise provided, such notification shall be given to the Commission at least five years prior to the scheduled date of closure.

2. A host state may close a regional facility within its borders in the event of an emergency or if a condition exists which constitutes a substantial threat to public health and safety. A host state shall notify the Commission in writing within three days of its action and shall, within 30 working days, show justification for the closing.

3. In the event that a regional facility closes before an additional or new facility becomes operational, the Commission shall make interim arrangements for the storage or disposal of waste generated within the region until such time that a new regional facility is operational.

f. Fees and surcharges shall be imposed equitably upon all users of a regional facility, based upon criteria established by the Commission.

1. A host state shall, according to its lawful administrative procedures approve fee schedules to be charged to all users of the regional facility within its borders. Except as provided herein, such fee schedules shall be established by the operator of a regional facility, under applicable state regulations, and shall be reasonable and sufficient to cover all costs related to the development, operation, closure, post-closure observation and maintenance, institutional control of the regional facility. The host state shall determine a schedule for contributions to the post-closure observation and maintenance, and institutional control funds. Such fee schedules shall not be approved unless the Commission has been given reasonable opportunity to review and make recommendations on the proposed fee schedules.

2. A host state may, according to its lawful administrative procedures, impose a state surcharge per unit of waste received at any regional facility within its borders. The state surcharge shall be in addition to the fees charged for waste management. The surcharge shall be sufficient to cover all reasonable costs associated with administration and regulation of the facility. The surcharge shall not be established unless the Commission has been provided reasonable opportunity to review and make recommendations on the proposed state surcharge.

3. The Commission shall impose a commission surcharge per unit of waste received at any regional facility. The total monies collected shall be adequate to pay the costs and expenses of the Commission and shall be remitted to the Commission on a timely basis as determined by the Commission. The surcharge may be increased or decreased as the Commission deems necessary.

4. Nothing herein shall be construed to limit the ability of the host state, or the political subdivision in which the regional facility is situated, to impose surcharges for purposes including, but not limited to, host community compensation and host community development incentives. Such surcharges shall be reasonable and shall not be imposed unless the Commission has been provided reasonable opportunity to review and make recommendations on the proposed surcharge. Such surcharge may be recovered through the approved fee and surcharge schedules provided for in this section.

ARTICLE VI. OTHER LAWS AND REGULATIONS

a. Nothing in this compact shall be construed to abrogate or limit the regulatory responsibility or authority of the U.S. Nuclear Regulatory Commission or of an Agreement State under Section 274 of the Atomic Energy Act of 1954, as amended.

b. The laws or portions of those laws of a party state that are not inconsistent with this compact remain in full force.

c. Nothing in this compact shall make unlawful the continued development and operation of any facility already licensed for development or operation on the date this compact becomes effective.

d. No judicial or administrative proceeding pending on the effective date of the compact shall be affected by the compact.

e. Except as provided for in Article III(b)(2) and (c)(3), this compact shall not affect the relations between and the respective internal responsibilities of the government of a party state and its subdivisions.

f. The generation, treatment, storage, transportation, or disposal of waste generated by the atomic energy defense activities of the federal government, as defined in P.L. 96-573, or federal research and development activities are not affected by this compact.

g. To the extent that the rights and powers of any state or political subdivision to license and regulate any facility within its orders and to impose taxes, fees, and surcharges on the waste managed at that regional facility do not operate as an unreasonable impediment to the transportation, treatment or disposal of waste, such rights and powers shall not be diminished by this compact.

h. No party state shall enact any law or regulation or attempt to enforce any measure which is inconsistent with this compact. Such measures may provide the basis for the Commission to suspend or terminate a party state's membership and privileges, under this compact.

i. All laws and regulations, or parts thereof of any party state or subdivision or instrumentality thereof which are inconsistent with this compact are hereby repealed and declared null and void. Any legal right, obligation, violation or penalty arising under such laws or regulations prior to the enactment of this compact, or not in conflict with it, shall not be affected.

j. Subject to Article III(c)(2), no law or regulation of a party state or subdivision or instrumentality thereof may be applied so as to restrict or make more costly or inconvenient access to any regional facility by the generators of another party state than for the generators of the state where the facility is situated.

k. No law, ordinance, or regulation of any party state or any subdivision or instrumentality thereof shall prohibit, suspend, or unreasonably delay, limit or restrict the operation of a siting or licensing agency in the designation, siting, or licensing of a regional facility. Any such provision in existence at the time of ratification of this compact is hereby repealed.

ARTICLE VII. ELIGIBLE PARTIES, WITHDRAWAL, REVOCATION, ENTRY INTO FORCE, TERMINATION

a. The initially eligible parties to this compact shall be the eleven states of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont. Initial eligibility will expire June 30, 1984.

b. Each state eligible to become a party state to this compact shall be declared a party state upon enactment of this compact into law by the state, repeal of all statutes or statutory provisions that pose unreasonable impediments to the capability of the state to host a regional facility in a timely manner, and upon payment of the fees requred by Article IV(j)(1). An eligible state may become a party to this compact by an executive order by the governor of the state and upon payment of the fees required by Article IV(j)(1). However, any state which becomes a party state by executive order shall cease to be a party state upon the final adjournment of the next general or regular session of its legislature, unless this compact has by then been enacted as a statute by the state and all statutes and statutory provisions that conflict with the compact have been repealed.

c. The compact shall become effective in a party state upon enactment by that state. It shall not become initially effective in the region until enactment into law by three party states and consent given to it by the Congress.

d. The first three states eligible to become party states to this compact which adopt this compact into law as required in Article VII(b) shall immediately, upon the appointment of their Commission members, constitute themselves as the Northeast Interstate Low-Level Radioactive Waste Commission. They shall cause legislation to be introduced in the Congress which grants the consent of the Congress to this compact, and shall do those things necessary to organize the Commission and implement the provisions of this compact.

1. The Commission shall be the judge of the qualifications of the party states and of its members and of their compliance with the conditions and requirements of this compact and of the laws of the party states relating to the enactment of this compact.

2. All succeeding states eligible to become party states to this compact shall be declared party states pursuant to the provisions of section (b) of this Article.

e. Any state not expressly declared eligible to become a party state to this compact in section (a) of this Article may petition the Commission to be declared eligible. The Commission may establish such conditions as it deems necessary and appropriate to be met by a state requesting eligibility as a party state to this compact pursuant to the provisions of this section, including a public hearing on the application. Upon satisfactorily meeting such conditions and upon the affirmative vote of two-thirds of the Commission, including the affirmative vote of the representatives of the host states in which any affected regional facility is located, the petitioning state shall be eligible to become a party state to this compact and may become a party state in the same manner as those states declared eligible in section (a) of this Article.

f. No state holding membership in any other regional compact for the management of low-level radioactive waste may become a member of this compact.

g. Any party state which fails to comply with the provisions of this compact or to fulfill its obligations hereunder may have its privileges suspended or, upon a two-thirds vote of the Commission, after full opportunity for hearing and comment, have its membership in the compact revoked. Revocation shall take effect one year from the date the affected party state receives written notice from the Commission of its action. All legal rights of the affected party state established under this compact shall cease upon the effective date of revocation, except that any legal obligations of that party state arising prior to revocation will not cease until they have been fulfilled. As soon as practicable after a Commission decision suspending or revoking party state status, the Commission shall provide written notice of the action and a copy of the resolution to the governors and the presiding officer of each body of the state legislatures of the party states, and to chairmen of the appropriate committees of the Congress.

h. Any party state may withdraw from this compact by repealing its authorization legislation, and all legal rights under this compact of the party state cease upon repeal. However, no such withdrawal shall take effect until five years after the governor of the withdrawing state has given notice in writing of such withdrawal to the Commission and to the governor of each party state. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to that time.

1. Upon receipt of the notification, the Commission shall, as soon as practicable, provide copies to the governors and the presiding officer of each body of the state legislatures of the party states, and to the chairmen of the appropriate committees of the Congress.

2. A regional facility in a withdrawing state shall remain available to the region for five years after the date the Commission receives written notification of the intent to withdraw or until the prescheduled date of closure, whichever occurs first.

i. This compact may be terminated only by the affirmative action of the Congress or by the repeal of all laws enacting the compact in each party state. The Congress may by law withdraw its consent every five years after the compact takes effect.

1. The consent given to this compact by the Congress shall extend to any future admittance of new party states under sections (b) and (e) of this Article.

2. The withdrawal of a party state from this compact under section (h) or the revocation of a state's membership in this compact under section (g) of this Article shall not affect the applicability of the compact to the remaining party states.

ARTICLE VIII. PENALTIES

a. Each party state, consistent with federal and most state regulations and laws, shall enforce penalties against any person not acting as an official of a party state for violation of this compact in the party state. Each party state acknowledges that the shipment to a host state of waste packaged or transported in violation of applicable laws and regulations can result in the imposition of sanctions by the host state. These sanctions may include, but are not limited to, suspension or revocation of the violator's right to access to the facility in the host state.

b. Without the express approval of the Commission, it shall be unlawful for any person to dispose of any low-level waste within the region except at a regional facility; provided, however, that this restriction shall not apply to waste which is permitted by applicable federal or state regulations to be discarded without regard to its radioactivity.

c. Unless specifically approved by the Commission and affected host state(s) pursuant to Article IV, it shall be a violation of this compact for: 1) any person to deposit at a regional facility waste not generated within the region; 2) any regional facility to accept waste not generated within the region; and 3) any person to export from the region waste generated within the region.

d. Primary responsibility for enforcing provisions of the law will rest with the affected state or states. The Commission, upon a two-thirds vote of its members, may bring action to seek enforcement or appropriate remedies against violators of the provisions and regulations for this compact as provided for in Article IV.

ARTICLE IX. COMPENSATION PROVISIONS

a. The responsibility for ensuring compensation and clean-up during the operational and post-closure periods rests with the host state, as set forth herein.

1. The host state shall ensure the availability of funds and prodecures for compensation of injured persons, including facility employees, and property damage (except any possible claims for diminution of property values) due to the existence and operation of a regional facility, and for clean-up and restoration of the facility and surrounding areas.

2. The state may satisfy this obligation by requiring bonds, insurance, compensation funds, or any other means or combination of means, imposed either on the facility operator or assumed by the state itself, or both. Nothing in this article alters the liability of any person or governmental entity under applicable state and federal laws.

b. The Commission shall provide a means of compensation for persons injured or property damaged during the institutional control period due to the radioactive and waste management nature of the regional facility. This responsibility may be met by a special fund, insurance, or other means.

1. The Commission is authorized, at its discretion, to impose a waste management surcharge, to be collected by the operator or owner of the regional facility; to establish a separate insurance entity, formed by but separate from the Commission itself, but under such terms and conditions as it decides, and exempt from state insurance regulation; to contract with this company or other entity for coverage; or to take any other measures, or combination of measures, to implement the goals of this section.

2. The existence of this fund or other means of compensation shall not imply any liability by the Commission, the non-host party states, or any of their officials and staff, which are exempted from liability by other provisions of this compact. Claims or suits for compensation shall be directed against the fund, the insurance company, or other entity, unless the Commission, by regulation, directs otherwise.

c. Not withstanding any other provisions, the Commission fund, insurance, or other means of compensation shall also be available for third party relief during the operational and post-closure periods, as the Commission may direct, but only to the extent that no other funds, insurance, tort compensation, or other means are available from the host state or other entities, under section a. of this Article or otherwise; provided, that this Commission contribution shall not apply to clean-up or restoration of the regional facility and its environs during the operational and post-closure period.

d. The liability of the Commission's fund, insurance entity, or any other means of compensation shall be limited to the amount currently contained therein; provided that the Commission may set some lower limit to ensure the integrity and availability of the fund or other entity for liability.

ARTICLE X. SEVERABILITY AND CONSTRUCTION

The provisions of this compact shall be severable, and if any phrase, clause, sentence or provision of this compact is declared by a federal court of competent jurisdiction to be contrary to the Constitution of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any other government, agency, person or circumstance shall not be affected thereby. The provisions of this compact shall be liberally construed to give effect to the purposes thereof.

Amend the title so as to read: "To amend the Low-Level Radioactive Waste Policy Act to improve procedures for the implementation of compacts providing for the establishment and operation of regional disposal facilities for low-level radioactive waste; to grant the consent of the Congress to certain interstate compacts on low-level radioactive waste; and for other purposes.".

DISTRICT OF COLUMBIA REVENUE BONDS

METZENBAUM AMENDMENT NO. 1430

Mr. BYRD (for Mr. METZENBAUM) proposed an amendment to the bill (H.R. 3718) to waive the period of congressional review for certain District of Columbia acts authorizing the issuance of revenue bonds; as follows:

On page 3 strike lines 17 through 20.

On page 3 strike "5" on lines 121 and 24 and insert in lieu thereof "4".

On page 4 strike "5" on line 2 and insert in lieu thereof "4".

CHANGES IN LAW AFFECTING COAST GUARD

DANFORTH AMENDMENT NO. 1431

Mr. DOLE (for Mr. DANFORTH) proposed an amendment to the bill (H.R. 2466) to make miscellaneous changes in law affecting the U.S. Coast Guard, and for other purposes; as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

That subtitle II of title 46, United States Code, is amended as follows:

(1) In section 2101(14)(C), strike "Material" and substitute "Materials".

(2) Section 2101(21) is amended as follows:

(A) In subclause (A)(ii), strike "crewmember." and substitute "crewmember or other individual engaged in the business of the vessel who has not contributed consideration for carriage on board the vessel.".

(B) Strike subclause (B)(v)–(vii) and substitute the following:

"(v) a guest on board a vessel being operated only for pleasure who has not contributed consideration for carriage on board; or

"(vi) an individual on board a towing vessel of at least 50 gross tons who has not contributed consideration for carriage on board.".

(C) At the end, add the following new subclause:

"(F) on a sailing school vessel, means an individual carried on the vessel except—

"(i) the owner or representatives of the owner;

"(ii) the master or a crewmember engaged in the business of the vessel who has not contributed consideration for carriage and who is paid for services;

"(iii) an employee of the owner of the vessel engaged in the business of the owner, except when the vessel is operating under a demise charter;

"(iv) an employee of the demise charterer of the vessel engaged in the business of the demise charterer;

"(v) a guest on board the vessel who has not contributed consideration for carriage on board; or

"(vi) a sailing school instructor or sailing school student.",

(D) Strike "or a sailing school vessel," in clause (B).

(3) In section 3302(i)(5), strike "charter" and substitute "charterer".

(4) At the end of section 3302, add the following new subsection:

"(k) Only the boiler, engine, and other operating machinery of a steam vessel that is a recreational vessel of not more than 65 feet overall in length are subject to inspection under section 3301(9) of this title.".

(5)(A) Section 3304 is amended as follows:

(i) In the section catchline, strike "Carrying" and substitute "Transporting".

(ii) In subsection (a), strike "carrying cargo that carries" and "vessel." and substitute "transporting cargo that transports" and "vessel if the vessel is otherwise subject to inspection under this chapter.", respectively.

(iii) In subsection (b), strike "Before an individual in addition to the crew is carried" and substitute "Except when subsection (e) of this section applies, before an individual in addition to the crew is transported".

(iv) In subsection (c), strike "The privilege" and substitute "A privilege".

(v) Add at the end the following new subsection:

"(e) The Secretary may by regulation allow individuals in addition to the crew to be transported in an emergency or under section 2304 of this title.".

(B) In item 3304 in the analysis of chapter 33, strike, "Carrying" and substitute "Transporting".

(6) In section 3318(f), before clause (1), strike "then" wherever it appears and substitute "than".

(7)(A) Section 3503 is amended as follows:

(i) Insert "(a)" at the beginning of the section.

(ii) Strike the last sentence and substitute "Before November 1, 1993, this section does not apply to a vessel in operation before January 1, 1968, and operating only on the inland rivers.".

(iii) Add at the end the following:

"(b)(1) When a vessel is exempted from the fire-retardant standards of this section—

"(A) the owner or managing operator of the vessel shall notify prospective passengers that the vessel does not comply with applicable fire safety standards due primarily to the wooden construction of passenger berthing areas;

"(B) the owner or managing operator of the vessel may not disclaim liability to a passenger for death, injury, or any other loss caused by fire due to the negligence of the owner or managing operator; and

"(C) the penalties provided in section 3504(c) of this title apply to a violation of this subsection.

"(2) The Secretary shall prescribe regulations under this subsection on the manner in which prospective passengers are to be notified.".

(B) Until the regulations required by clause (7) of this section become effective, the owner or managing operator shall notify prospective passengers in all promotional literature and on each ticket that the vessel does not comply with those standards due primarily to the wooden construction of passenger berthing areas.

(8) In section 3714(a)(4), strike "charter" and substitute "charterer".

(9) Section 4308 is amended by striking "operator" wherever it appears and substituting "individual in charge".

(10) In section 7111, strike "Part" and substitute "part".

(11) In section 7312(e), strike "able seaman-limited" and substitute "able seamen-limited".

(12) Section 8104(k) is amended by striking "watchers" and substituting "watches".

(13) In section 8502(a)(4)(A), strike "Part" and substitute "part".

(14) Chapter 89 is amended as follows:

(A) In item 8903 in the chapter analysis, strike "Uninspected" and substitute "Self-propelled, uninspected".

(B) In the catchline of section 8903, strike "Uninspected" and substitute "Self-propelled, uninspected".

(C) In the text of section 8903, strike "An" and substitute "A self-propelled,".

(15) In section 10709(a)(1), before clause (A)—

(A) strike "then $1,500 in value, and" and substitute "than $1,500 in value, the court,"; and

(B) strike "wages, the court" and substitute "wages,".

(16) Section 12122(a) is amended by adding at the end the following sentence: "Each day of a continuing violation is a separate violation.".

(17) In section 13102(a)(4), strike "coordinate carrying the State" and substitute "coordinate carrying out the State".

(18) Section 13104(b) is amended by inserting after "Secretary" the words "for State recreational boating safety programs".

(19) Chapter 111 is amended as follows:

(A) At the end of the chapter analysis, add the following new item:

"11112. Master's lien for wages.".

(B) At the end of the chapter, add the following new section:

"S11112. Master's lien for wages

"The master of a documented vessel has the same lien against the vessel for the master's wages and the same priority as any other seaman serving on the vessel.".

Sec. 2. (a) The Coast Guard may enter into a lease in excess of one fiscal year to acquire a site on the State pier in New Bedford, Massachusetts, for construction of maintenance assistance team and vessel support facilities on that pier.

(b) Any lease under this section is effective only to the extent that amounts are provided for in apporpriations laws.

(c) Notwithstanding section 322 of the Act of June 30, 1932 (40 U.S.C. 278a), and beginning in fiscal year 1986, the Coast Guard may spend appropriated amounts for the construction of fixed facilities and improvements on that portion of the State pier leased from Massachusetts for the use of a maintenance assistance team and Coast Guard vessels.

Sec. 3. Notwithstanding any other law, the Coast Guard Yard, Curtis Bay, Maryland, and the Coast Guard Aircraft Repair and Supply Center, Elizabeth City, North Carolina, are exempt from the statutory and administrative personnel ceilings through September 30, 1988.

Sec. 4. The body of water known as Lawyer's Ditch located at block 5000 in the city of Newark, County of Essex, New Jersey, is declared to be a nonnavigable waterway of the United States within the meaning of the General Bridge Act of 1946 (33 U.S.C. 525 et seq.).

Sec. 5. Notwithstanding the last sentence of section 81 of title 14 of the United States Code, the Coast Guard may not, except for the installation of fixed aids to navigation, carry out by contract the determination of the location, or the placement, or aids to maritime navigation in the Intercoastal Waterway in New Jersey.

Sec. 6. The Coast Guard may enter into any agreement or letter of intent with a municipal utility within the Seventeenth Coast Guard District to provide electricity to a Coast Guard facility without complying with the provisions of section 14 of Public Law 98-557.

Sec. 7. (a) There is established a National Offshore Vessel Operators Safety Advisory Committee (hereinafter in this section referred to as the "Committee"). The Committee shall advise, consult with, and make recommendations to the Secretary of the department in which the Coast Guard is operating (hereinafter in this section referred to as the "Secretary") on matters relating to the safety aspects of offshore oil, gas, and other mineral operations subject to regulation by the Secretary. The Secretary shall, whenever practicable, consult the Committees concerning proposed or desirable actions affecting the safety of such offshore operations. Any advice or recommendation made by the Committee to the Secretary shall reflect the independent judgment of the Committee on the matter concerned. The Committee is authorized to make available to Congress any information, advice, and recommendations which the Committee is authorized to give to the Secretary. The Committee shall meet at the call of the Secretary, but in any event not less than once during each calendar year. All proceedings of the Committee shall comply with the Federal Advisory Committee Act (5 U.S.C. App. 1 et seq.).

(b)(1) The Committee shall consist of fifteen members who have particular expertise, knowledge, and experience regarding the transportation and other technology, equipment, and techniques that are used, or are being developed for use, in the exploration for, or the recovery of, offshore oil, gas, or other mineral resources, as follows:

(A) Two members representing enterprises engaged in the production of oil, gas, or other mineral resources, except that not more than one member may represent companies included on the list of restricted joint bidders prepared by the Department of the Interior;

(B) Two members representing enterprises specializing in offshore drilling;

(C) Two members representing enterprises specializing in the supply of offshore oil, gas, or other mineral exploration or recovery operations by water;

(D) Three members representing general support services for offshore oil and gas activities, including construction, diving, geophysical, and helicopter services;

(E) Two members representing individuals employed in offshore operations;

(F) Two members representing environmental interests; and

(G) Two members representing the general public.

(2) The Secretary shall appoint the members of the Committee after first soliciting nominations by notice published in the Federal Register. The Secretary may request the head of any other Federal agency or department to designate a representative to advise the Committee on matters within the jurisdiction of that agency or department.

(3) The Committee shall elect, by majority vote at its first meeting, one of the members of the Committee as the Chairman and one of the members as the Vice Chairman. The Vice Chairman shall act as Chairman in the absence or incapacity of, or in the event of a vacancy in, the Office of the Chairman.

(4) Terms of members appointed to the Committee shall be for three years, except that the terms of those members first appointed under subsection (c)(1)(A), (B), and (C) shall be for two years. The Secretary shall, not less often than once a year, publish notice in the Federal Register for solicitation of nominations for membership on the Committee.

(c)(1) Members of the Committee who are not officers or employees of the United States shall serve without pay and members of the Committee who are officers or employees of the United States shall receive no additional pay on account of their service on the Committee. While away from their homes or regular places of business, members of the Committee may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code. The Secretary shall furnish to the Committee an executive secretary and such secretarial, clerical, and other services as are considered necessary for the conduct of its business. There are authorized to be appropriated such sums as may be necessary to implement the provisions of this section.

(2) Unless extended by subsequent Act of Congress, the Committee shall terminate five years from the date of enactment of this section.

Sec. 8. Bayou Lafourche, in the State of Lousiana, between Canal Boulevard, city of Thibodaux, Parish of Lafourche and the Southern Pacific Railroad bridge crossing the bayou, city of Thibodaux, Parish of Lafourche, is hereby declared to be a nonnavigable waterway of the United States within the meaning of the General Bridge Act of 1946 (33 U.S.C. 525 et seq.)

Sec. 9. Notwithstanding sections 12105, 12106, 12107 and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883), as applicable on the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation for the following vessels: Marilyn, Maryland registration number MD 3533 AA; Royal Star, Michigan registration number MC 9707 J; Alaskan Shores, United States official number 603879; Shearwater, United States official number 260827; Gypsy Rose, California registration number CF 4291 HF; Eliminator, United States official number 507572; Puka Kai, United States official number 677462; Lobster House, Panama registration number 494 Pext; Jane E., Bahamian official number 315924; and Diane M., Bahamian official number 315925, except that such vessels Jane E. and Diane M. may be operated under such documentation only in the waters of the Atlantic Ocean and the Gulf of Mexico.

Sec. 10. Any use of expenditures of funds by the Coast Guard related to the alternation of the Burlington, Northern Railroad Bridge at mile 6.9 on the Willamette River in Portland, Oregon shall be subject to the first six sections of the Act of March 3, 1931 (40 U.S.C. 276a through 276a-5).

Sec. 11. Section 2(a) of the Act entitled "An Act to facilitate increase enforcement by the Coast Guard of laws relating to the importation of controlled substances, and for other purposes", approved September 15, 1980 (21 U.S.C. 955b(a)), is amended by inserting immediately before the period the following:", except that an event otherwise qualifying as an arrangement under such section does not lose that qualification by the fact that consent to, or the terms of, such arrangement are communicated by radio, telephone, or other similar means, or by how specific such arrangement is as to the vessel to which such arrangement applies".

SEC. 12. The Coast Guard may enter into a cost-sharing arrangement with the City of Cape May, New Jersey under which the City of Cape May will provide necessary roadway improvement on and along Pennsylvania Avenue between Pittsburg and Buffalo Avenues, as abutted by housing owned by the Coast Guard. For purposes of entering into such an arrangement, the Coast Guard may expend from previously-appropriated funds an amount not to exceed $200,000 on a nonrecurring basis.

SEC. 13. Section 2103 of title 46, United States Code, is amended by striking all after "subtitle" the third time it appears and substituting". The Secretary may prescribe regulations to carry out the provisions of this subtitle.".

SEC. 14. Section 4370(a) of the Revised Statutes of the United States (46 U.S.C. App. 316(a)) is amended—

(1) by striking all from "a certificate of registry," through "the Act of June 7, 1918, as amended (U.S.C., 1934 edition, Supp. IV, title 46, sec. 288)," and substituting "a certificate of documentation issued under sections 12106 or 12107 of title 46, United States Code,"; and

(2) by striking "a vessel of foreign registry, or a vessel in distress," and substituting "a vessel in distress".

SEC. 15. Section 3 of the Shipping Act of 1984 (46 U.S.C. App. 1702) is amended—

(1) in paragraph 6, (A) by striking the period at the end of subparagraph (B) and substituting a comma, and (B) by adding at the end thereof the following: "except that the term does not include a common carrier engaged in ocean transportation by ferry boat, ocean tramp, or chemical parcel-tanker. As used in this paragraph, 'chemical parcel-tanker' means a vessel whose cargo-carrying capability consists of individual cargo tanks for bulk chemicals that are a permanent part of the vessel, that have segregation capability with piping systems to permit simultaneous carriage of several bulk chemical cargoes with minimum risk of cross-contamination, and that has a valid certificate of fitness under the International Maritime Organization Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk."; and

(2) in paragraph (18), by striking all from the semi-colon and substituting a period.

SEC. 16. (a) As used in this section, the term—

(1) "commercial fishing industry vessel" means a fishing vessel, fish processing vessel, or fish tender vessel, as those terms are defined in section 2101 of title 46, United States Code;

(2) "Committee" means the Commercial Fishing Industry Vessel Safety Advisory Committee established in subsection (b) of this section; and

(3) "Secretary" means the Secretary of the department in which the Coast Guard is operating.

(b) There is established a Commercial Fishing Industry Vessel Safety Advisory Committee as an advisory committee of the United States Government reporting to the Secretary.

(c)(1) The Committee shall advise, consult with, and make recommendations to the Secretary on matters relating to commercial fishing industry vessels, including—

(A) navigation safety;

(B) safety equipment and procedures;

(C) marine insurance;

(D) vessel design, construction, maintenance, and operation; and

(E) personnel qualifications and training.

(2) The Secretary, and the Secretary of Commerce, shall use the information, advice, and recommendations of the Committee in consulting with other agencies and the public or in formulating policy regarding commercial fishing industry vessels.

(3) The Committee shall meet at the call of the Secretary, but not less often than once during each calendar year.

(4) Any advice or recommendation made by the Committee shall reflect the independent judgment of the Committee on the matter concerned.

(5) The Committee may make available to Congress any information, advice, and recommendations which the Committee is authorized to give to the Secretary.

(d)(1) The Committee shall consist of seventeen members with particular expertise, knowledge, and experience regarding the commercial fishing industry, as follows:

(A) ten members from the commercial fishing industry who reflect a regional and representational balance, and have experience in the operation of commercial fishing industry vessels, or have experience as a crew member or processing line worker on a commercial fishing industry vessel;

(B) two members from each of the following:

(i) underwriters engaged in insuring commercial fishing industry vessels; and

(ii) the general public, including, whenever possible, a member of a national organization composed of commercial fishing industy vessel and marine insurance interests; and

(C) one member from each of the following—

(i) naval architects or marine surveyors;

(ii) manufacturers of fishing industry vessel equipment; and

(iii) education or training professionals related to commercial fishing industry vessel safety or personnel qualifications.

(2) At least once each year, the Secretary shall publish a notice in the Federal Register and in newspapers of general circulation in coastal areas soliciting nominations for membership on the Committee. After timely notice is published, the Secretary shall appoint the members of the Committee. A member may be reappointed to any number of terms.

(3) The term of a member is three years, except that—

(A) initially, one-third of the members shall serve a term of one year and one-third of the members shall serve a term of two years, to be determined by lot at the first meeting of the Committee;

(B) initially, terms may be adjusted to coincide with the Government's fiscal year; and

(C) if a vacancy occurs, the Secretary shall appoint a member to fill the remainder of the vacated term.

(4) The Committee shall elect one of its members as the Chairman and one of its members as the Vice Chairman. The Vice Chairman shall act as Chairman in the absence or incapacity of, or in the event of a vacancy in the office of, the Chairman.

(5) The Secretary and the Secretary of Commerce shall, and any other interested agency may, designate a representative to participate as an observer with the Committee. These representatives shall, as appropriate, report to and advise the Committee on matters relating to commercial fishing industry vessels under the jurisdiction of their respective departments. The Secretary's designated representative shall act as executive secretary for the Committee and perform the duties specified in section 10(c) of the Federal Advisory Committee Act (5 U.S.C. App. 10(c)).

(e)(1) The Secretary shall, whenever practicable, except regarding issues which could compromise national security, consult with the Committee concerning the following actions affecting commercial fishing industry vessels—

(A) proposing legislation;

(B) proposing or publishing a regulation;

(C) authorizing or conducting research or a study; or

(D) taking any other major action of the United States Government relating to the Committee's purpose and duties as set forth in subsection (c)(1) of this section.

(2) Consultation with the Committee shall be deemed to satisfy all requirements of title 46, United States Code, for consulting with representatives of the private sector having experience in the operation of commercial fishing industry vessels.

(f)(1) Except as otherwise provided in paragraph (3) of this subsection, a member of the Committee, when attending meetings of the Committee or when otherwise engaged in the business of the Committee, shall serve without pay. While away from their homes or regular places of business, members of the Committee may be allowed travel or transportation expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code.

(2) Any payment made under this subsection shall not render a member of the Committee a member of the uniformed services (as defined in section 101(3) of title 37, United States Code), or an officer or employee of the United States for any purpose.

(3) A member of the Committee who is a member of the uniformed services or an officer or employee of the United States may not receive additional pay on account of such member's service on the Committee, but a member of the Committee who is a member of the uniformed services shall be allowed travel or transportation expenses under section 5703 of title 5, United States Code, unless such member is otherwise entitled to such expenses under any other provision of law.

(4) The Secretary shall furnish the Committee an executive secretary and such secretarial, clerical and other services as are necessary for the conduct of the Committee's business.

(g)(1) The Committee shall terminate on September 30, 1991.

(2) Two years prior to the date of its termination, the Committee shall submit to the Congress its recommendation as to whether the Committee should be renewed and continued beyond such termination date.

(h) There are authorized to be appropriated such amounts as may be necessary to carry out the provisions of this section.

SEC. 17. Notwithstanding the provisions of the Act entitled "An Act to authorize the

Secretary of Commerce to sell two obsolete vessels to Coast Line Company and for other purposes", approved June 3, 1980 (Public Law 96-260; 94 Stat. 435), the Secretary of Transportation shall permit the vessels Pictor, United States official number 243529, Procyon, United States official number 244022, and Zelima, United States official number 248207, to be scrapped in the foreign market if—

(1) the purchaser of such vessels and the country in which such vessels are to be scrapped are acceptable to the Secretary of Transportation; and

(2) the seller of any such vessel agrees in writing to reimburse the United States a reasonable amount, acceptable to the Secretary of Transportation, of not less than one-half of the profits realized from such sale.

Sec. 18. Notwithstanding any other provision of law or any agreement with the United States Government, the vessels Paul Bunyan, United States official number 602272 and John Henry, United States official number 599294, may be sold to a foreign purchaser or purchasers if—

(1) the person desiring to sell the vessel submits to the Secretary of Transportation and the Secretary of the Navy a written offer under which the Secretary of Transportation may elect to acquire either or both vessels for the National Defense Reserve Fleet or the Secretary of the Navy may elect to acquire either or both vessels for the Ready Reserve Fleet, under the same terms and conditions as those offered by the foreign purchaser or purchasers; and

(2) neither Secrtary elects to acquire the vessel within 60 days after the date on which a written offer is submitted to the Secretaries under paragraph (1) of this subsection.

Sec. 19. The Port of Huston Authority bridge over Greens Bayou approximately two and eight-tenths miles upstream of the confluence of Greens Bayou, Texas and the Houston Ship Channel is declared to be a lawful bridge for all purposes of the Act entitled "An Act to provide for the alteration of certain bridges over navigable waters of the United States, for the apportionment of the cost of such alterations between the United States and the owners of such a bridge, and for other purposes", approved June 21, 1940 (33 U.S.C. 511 et seq.). The Secretary of the department in which the Coast Guard is operating is authorized to reimburse the owner of the bridge for work done prior to the date of enactment of this section that would be the responsibility of the United States under the Act of June 21, 1940 (33 U.S.C. 511 et seq.) if performed after the date of enactment of this section, except that such reimbursement shall not exceed $450,000.

Sec. 20. Notwithstanding any other provision of law or of prior contract with the United States, the United States flag tug Moir, official Coast Guard number 60018, shall not be subject to the requirements of section 506 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1156).

CIVILIAN TRAVEL EXPENSES

STEVENS (AND WARNER) AMENDMENT NO. 1432

Mr. DOLE (for Mr. Stevens, for himself and Mr. Warner) proposed an amendment to the bill (S. 1840) to amend titles 5 and 39, United States Code, to revise the authority relating to the payment of subsistence allowances to Government employees for periods of official travel, and for other purposes; as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

Section 1. This Act may be cited as the "Federal Civilian Employee and Contractor Travel Expenses Act of 1985".

TITLE I—TRAVEL EXPENSES OF FEDERAL CIVILIAN EMPLOYEES

Sec. 101. Section 5701(4) of title 5, United States Code, is amended to read as follows:

"(4) 'per diem allowance' means a daily payment instead of actual expenses for subsistence and fees or tips to porters and stewards;".

Sec. 102. (a) Section 5702 of title 5, United States Code, is amended by striking out subsections (a), (b), (c), and (d) and inserting in lieu thereof the following:

"(a)(1) Under regulations prescribed pursuant to section 5707 of this title, an employee, when traveling on official business away from the employee's designated post of duty, or away from the employee's home or regular place of business (if the employee is described in section 5703 of this title), is entitled to any one of the following:

"(A) a per diem allowance at a rate not to exceed that established by the Administrator of General Services for travel within the continental United States, and by the President or his designee for travel outside the continental United States;

"(B) reimbursement for the actual and necessary expenses of official travel not to exceed an amount established by the Administrator for travel within the continental United States or an amount established by the President or his designee for travel outside the continental United States; or

"(C) a combination of payments described in subparagraphs (A) and (B) of this paragraph.

"(2) Any per diem allowance or maximum amount of reimbursement shall be established, to the extent feasible, by locality.

"(3) For travel consuming less than a full day, the payment prescribed by regulation shall be allocated in such manner as the Administrator may prescribe.

"(b)(1) Under regulations prescribed pursuant to section 5707 of this title, an employee who is described in subsection (a) of this section and who abandons the travel assignment prior to its completion—

"(A) because of an incapacitating illness or injury which is not due to the employee's own misconduct is entitled to reimbursement for expenses of transportation to the employee's designated post of duty, or home or regular place of business, as the case may be, and to payments pursuant to subsection (a) of this section until that location is reached; or

"(B) because of a personal emergency situation (such as serious illness, injury, or death of a member of the employee's family, or an emergency situation such as fire, flood, or act of God), may be allowed, with the approval of an appropriate official of the agency concerned, reimbursement for expenses of transportation to the employee's designated post of duty, or home or regular place of business, as the case may be, and payments pursuant to subsection (a) of this section until that location is reached.

"(2)(A) Under regulations prescribed pursuant to section 5707 of this title, an employee who is described in subsection (a) of this section and who, with the approval of an appropriate official of the agency concerned, interrupts the travel assignment prior to its completion for a reason specified in subparagraph (A) or (B) of paragraph (1) of this subsection, may be allowed (subject to the limitation provided in subparagraph (B) of this paragraph)—

"(i) reimbursement for expenses of transportation to the location where necessary medical services are provided or the emergency situation exists,

"(ii) payments pursuant to subsection (a) of this section until that location is reached, and

"(iii) such reimbursement and payments for return to such assignment.

"(B) The reimbursement which an employee may be allowed pursuant to subparagraph (A) of this paragraph shall be the employee's actual costs of transportation to the location where necessary medical services are provided or the emergency exists, and return to assignment from such location, less the costs of transportation which the employee would have incurred had such travel begun and ended at the employee's designated post of duty, or home or regular place of business, as the case may be. The payments which an employee may be allowed pursuant to subparagraph (A) of this paragraph shall be based on the additional time (if any) which was required for the employee's transportation as a consequence of the transportation's having begun and ended at a location on the travel assignment (rather than at the employee's designated post of duty, or home or regular place of business, as the case may be).

"(3) Subject to the limitations contained in regulations prescribed pursuant to section 5707 of this title, an employee who is described in subsection (a) of this section and who interrupts the travel assignment prior to its completion because of an incapacitating illness or injury which is not due to the employee's own misconduct is entitled to payments pursuant to subsection (a) of this section at the location where the interruption occurred.".

(b) Section 5702 of such title is further amended by redesignating subsection (e) as subsection (c).

Sec. 103. (a) Subchapter I of chapter 57 of title 5, United States Code, is amended by inserting after section 5706 the following new section:

"§ 5706a. Subsistence and travel expenses for threatened law enforcement personnel

"(a) Under regulations prescribed pursuant to section 5707 of this title, when the life of an employee who serves in a law enforcement, investigative, or similar capacity, or members of such employee's immediate family, is threatened as a result of the employee's assigned duties, the head of the agency concerned may approve appropriate subsistence payments for the employee or members of the employee's family (or both) while occupying temporary living accommodations at or away from the employee's designated post of duty.

"(b) When a situation described in subsection (a) of this section requires the employee or members of the employee's family (or both) to be temporarily relocated away from the employee's designated post of duty, the head of the agency concerned may approve transportation expenses to and from such alternate location.".

(b) The analysis for chapter 57 of title 5, United States Code, is amended by inserting after the item pertaining to section 5706 the following new item:

"5706a. Subsistence and travel expenses for threatened law enforcement personnel.".

Sec. 104. Section 5707 of title 5, United States Code, is amended—

(1) by inserting "(1)" immediately after "(a)";

(2) by inserting the following at the end of subsection (a):

"(2) Regulations promulgated to implement section 5702 or 5706a of this title shall be transmitted to the appropriate committees of the Congress and shall not take effect until 30 days after such transmittal."; and

(3) by inserting at the end thereof the following new subsection:

"(c)(1) The Administrator of General Services shall periodically, but at least every 2 years, submit to the Director of the Office of Management and Budget an analysis of estimated total agency payments for such items as travel and transportation of people, average costs and duration of trips, and purposes of official travel; and of estimated total agency payments for employee relocation. This analysis shall be based on a sampling survey of agencies each of which spent more than $5,000,000 during the previous fiscal year on travel and transportation payments, including payments for employee relocation. Agencies shall provide to the Administrator the necessary information in a format prescribed by the Administrator and approved by the Director.

"(2) The requirements of paragraph (1) of this subsection shall expire upon the Administrator's submission of the analysis that includes the fiscal year that ends September 30, 1991.".

Sec. 105. Section 5724a title 5, United States Code, is amended—

(1) by striking out "instead of" each place it appears in subsections (a)(1) and (a)(2) and inserting in lieu thereof "or";

(2) by striking out "maximum per diem rates prescribed by or under section 5702 of this title" each place it appears and inserting in lieu thereof "maximum payment permitted under regulations which implement section 5702 of this title"; and

(3) by striking out "average daily rates" in subsection (a)(3) and inserting in lieu thereof "daily rates and amounts".

Sec. 106. (a) Subchapter II of chapter 57 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 5734. Travel, transportation, and relocation expenses of employees transferred from the Postal Service.

"Notwithstranding the provisions of any other law, officers and employees of the United States Postal Service promoted or transferred under section 1006 of title 39, United States Code, from the Postal Service to an agency (as defined in section 5721 of this title), for permanent duty may be authorized travel, transportation, and relocation expenses and allowances under the same conditions and to the same extent authorized by this subchapter for other transferred employees within the meaning of this chapter.".

(b) The analysis for chapter 57 of title 5, United States Code, is amended by inserting after the item relating to section 5733 the following new item:

"5734. Travel, transportation, and relocation expenses of employees transferred from the Postal Service.".

Sec. 107. (a) Section 7(e) of the Technology Assessment Act of 1972 (2 U.S.C. 476(e)) is amended by striking out "a per diem in lieu of subsistence at not to exceed the rate prescribed in sections 5702 and" and inserting in lieu thereof "payments when traveling on official business at not to exceed the payment prescribed in regulations implementing section 5702 and in".

(b) Section 636(g)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2396(g)) is amended by striking out "5702(c)" and inserting in lieu thereof "5702".

(c) Section 4941(d)(2)(G)(vii) of the Internal Revenue Code of 1954 (26 U.S.C. 4941(d)(2)(G)(vii)) is amended by striking out "5702(a)" and inserting in lieu thereof "5702".

(d) Section 456(a) of title 28, United States Code, is amended by striking out "a per diem allowance for travel at the rate which the Director establishes not to exceed the maximum per diem allowance fixed by section 5702(a) of title 5, or in accordance with regulations which the Director shall prescribe with the approval of the Judicial Conference of the United States, reimbursement for his actual and necessary expenses of subsistence not in excess of the maximum amount fixed by section 5702 of title 5" and inserting in lieu thereof the following: "payments for subsistence expenses at rates or in amounts which the Director establishes, in accordance with regulations which the Director shall prescribe with the approval of the Judicial Conference of the United States and after considering the rates or amounts set by the Administrator of General Services and the President pursuant to section 5702 of title 5".

(e) Section 326(b) of title 31, United States Code, is amended by striking out "rates" and inserting in lieu thereof "rates and amounts".

(f) Section 6 of Public Law 90-67 (42 U.S.C. 2477) is amended by striking out "rates" and inserting in lieu thereof "rates and amounts".

TITLE II—TRAVEL EXPENSES OF GOVERNMENT CONTRACTORS

Sec. 201. The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is amended by adding at the end thereof the following new section:

"TRAVEL EXPENSES OF GOVERNMENT CONTRACTORS

"Sec. 24. Under any contract with any executive agency, costs incurred by contractor personnel for travel, including costs of lodging, other subsistence, and incidental expenses, shall be considered to be reasonable and allowable only to the extent that they do not exceed the rates and amounts set by subchapter I of chapter 57 of title 5, United States Code, or by the Administrator of General Services or the President (or his designee) pursuant to any provision of such subchapter. This section shall be implemented in regulations prescribed as a part of the single system of Government-wide procurement regulations as defined in section 4 of this Act.".

Sec. 202. The Administrator for Federal Procurement Policy, in consultation with the Secretary of Defense and the Administrator of General Services, shall undertake a study to determine whether limitations should be placed on payments by executive agencies to Government contractors for costs incurred by contractor employees for transportation and relocation. The Administrator for Federal Procurement Policy shall submit within 180 days after the enactment of this Act a report thereon to the appropriate committees of the Congress.

TITLE III—EFFECTIVE DATE

Sec. 301. (a) The Administrator of General Services shall promulgate regulations implementing the amendments made by sections 101, 102, 103, 104, and 106 of this Act not later than 150 days after the date of enactment of this Act. The amendments made by title I of this Act shall take effect on the effective date of such regulations, or 180 days after the date of enactment of this Act, whichever occurs first.

(b) The amendments made by section 201 of this Act shall take effect 30 days after the effective date of the amendments made by title I.

Amend the title so as to read as follows: "To amend title 5, United States Code, to revise the authority relating to the payment of subsistence and travel allowances to Government employees for official travel; to prescribe standards for the allowability of the cost of subsistence and travel of contractor personnel under Government contracts; and for other purposes.".

VETERANS' COMPENSATION RATE INCREASE AND JOB TRAINING AMENDMENTS OF 1985

MURKOWSKI AMENDMENT NO. 1433

Mr. DOLE (for Mr. MURKOWSKI) proposed an amendment to the bill (H.R. 1538) to amend title 38, United States Code, to provide a 3.4 percent increase in the rates of compensation and dependency and indemnity compensation [DIC] paid by the Veterans' Administration, and for other purposes; as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans' Compensation Rate Increase and Job Training Amendments of 1985".

TITLE I—DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION RATE INCREASES

SEC. 101. DISABILITY COMPENSATION.

(a) IN GENERAL.—Section 314 of title 38, United States Code, is amended—

(1) by striking out "$66" in subsection (a) and inserting in lieu thereof "$68";

(2) by striking out "$122" in subsection (b) and inserting in lieu thereof "$126";

(3) by striking out "$185" in subsection (c) and inserting in lieu thereof "$191";

(4) by striking out "$266" in subsection (d) and inserting in lieu thereof "$274";

(5) by striking out "$376" in subsection (e) and inserting in lieu thereof "$388";

(6) by striking out "$474" in subsection (f) and inserting in lieu thereof "$489";

(7) by striking out "$598" in subsection (g) and inserting in lieu thereof "$617";

(8) by striking out "$692" in subsection (h) and inserting in lieu thereof "$713";

(9) by striking out "$779" in subsection (i) and inserting in lieu thereof "$803";

(10) by striking out "$1,295" in subsection (j) and inserting in lieu thereof "$1,335";

(11) by striking out "$1,609" and "$2,255" in subsection (k) and inserting in lieu thereof "$1,659" and "$2,325", respectively;

(12) by striking out "$1,609" in subsection (l) and inserting in lieu thereof "$1,659";

(13) by striking out "$1,774" in subsection (m) and inserting in lieu thereof "$1,829";

(14) by striking out "$2,017" in subsection (n) and inserting in lieu thereof "$2,080";

(15) by striking out "$2,255" each place it appears in subsection (o) and (p) and inserting in lieu thereof "$2,325";

(16) by striking out "$968" and "$1,442" in subsection (r) and inserting in lieu thereof "$998" and "$1,487", respectively;

(17) by striking out "$1,449" in subsection (s) and inserting in lieu thereof "$1,494"; and

(18) by striking out "$280" in subsection (t) and inserting in lieu thereof "$289";

(b) SPECIAL RULE.—The Administrator of Veterans' Affairs may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

SEC. 102. ADDITIONAL COMPENSATION FOR DEPENDENTS.

Section 315(l) of title 38, United States Code, is amended—

(1) by striking out "$79" in clause (A) and inserting in lieu thereof "$81";

(2) by striking out "$132" and "$42" in clause (B) and inserting in lieu thereof "$136" and "$43" respectively;

(3) by striking out "$54" and "$42" in clause (C) and inserting in lieu thereof "$56" and "$43", respectively;

(4) by striking out "$64" in clause (D) and inserting in lieu thereof "$66";

(5) by striking out "$143" in clause (E) and inserting in lieu thereof "$147";

(6) by striking out "$120" in clause (F) and inserting in lieu thereof "$124";

SEC. 103. CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS.

Section 362 of title 38, United States Code, is amended by striking out "$349" and inserting in lieu thereof "$360".

SEC. 104. DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES.

Section 411 of title 38, United States Code, is amended—

(1) by striking out the table in subsection (a) and inserting in lieu thereof the following:

"Pay grade	*Monthly rate*	*Pay grade*	*Monthly rate*
E-1	*$491*	*W-4*	*$703*
E-2	*505*	*O-1*	*621*
E-3	*518*	*O-2*	[illegible]
E-4	*552*	*O-3*	[illegible]
E-5	*566*	*O-4*	*725*
E-6	*578*	*O-5*	*799*
E-7	*607*	*O-6*	[illegible]
E-8	*640*	*O-7*	*973*
E-9	*[1] 669*	*O-8*	*1,067*
W-1	*621*	*O-9*	*1,145*
W-2	*645*	*O-10*	*[2] 1,255*
W-3	[illegible]		

"[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $722.

"[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,345.";

(2) by striking out "$55" in subsection (b) and inserting in lieu thereof "$57";

(3) by striking out "$143" in subsection (c) and inserting in lieu thereof "$147"; and

(4) by striking out "$70" in subsection (d) and inserting in lieu thereof "$72".

SEC. 105. DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN.

Section 413 of title 38, United States Code, is amended—

(1) by striking out "$240" in clause (1) and inserting in lieu thereof "$247";

(2) by striking out "$345" in clause (2) and inserting in lieu thereof "$356";

(3) by striking out "$446" in clause (3) and inserting in lieu thereof "$460"; and

(4) by striking out "$446" and "$90" in clause (4) and inserting in lieu thereof "$460" and "$93", respectively.

SEC. 106. SUPPLEMENTAL DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN.

Section 414 of title 38, United States Code, is amended—

(1) by striking out "$143" in subsection (a) and inserting in lieu thereof "$147";

(2) by striking out "$240" in subsection (b) and inserting in lieu thereof "$247"; and

(3) by striking out "$122" in subsection (c) and inserting in lieu thereof "$126".

SEC. 107. EFFECTIVE DATE.

The amendments made by this title shall take effect as of December 1, 1985.

TITLE II—VETERANS' JOB TRAINING AMENDMENTS

SEC. 201. EMERGENCY VETERANS' JOB TRAINING ACT AMENDMENTS.

(a) SHORT TITLE.—(1) The first sentence of section 1 of Public Law 98-77 (29 U.S.C. 1721 note) is amended to read as follows: "This Act may be cited as the 'Veterans' Job Training Act'.".

(2) Any reference in any Federal law to the Emergency Veterans' Job Training Act of 1983 shall be deemed to refer to the Veterans' Job Training Act.

(b) ELIGIBILITY.—Section 5(a)(1)(B) of the Veterans' Job Training Act, as redesignated by subsection (a), is amended by striking out "fifteen of the twenty" and inserting in lieu thereof "10 of the 15".

(c) COUNSELING.—Section 14 of such Act is amended—

(1) by inserting "(a)" before "The"; and

(2) by adding at the end the following new subsection:

"(b) The Secretary—

"(1) shall provide for a program under which periodic (not less than monthly) contact is maintained with each veteran participating in a program of job training under this Act for the purposes of avoiding unnecessary termination of employment, referring the veteran to appropriate counseling if necessary, and facilitating the veteran's successful completion of such program; and

"(2) after consultation with the Administrator, shall provide for a program of counseling services designed to resolve difficulties that may be encountered by veterans during their training under this Act and shall advise all veterans and employers participating under this Act of the availability of such services and other related counseling services and assistance and encourage them to request such services and assistance whenever appropriate.".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 16 of such Act is amended—

(1) by inserting "and $65,000,000 for fiscal year 1986" after "1985"; and

(2) by striking out "1987" and inserting in lieu thereof "1988".

(e) TOLLING OF CERTAIN PERIOD.—Section 17 of such Act is amended—

(1) by striking out "Assistance" and inserting in lieu thereof "(a) Except as provided in subsection (b), assistance";

(2) in clause (1), by striking out "February 28, 1985" and inserting in lieu thereof "January 31, 1987";

(3) in clause (2), by striking out "July 1, 1986" and inserting in lieu thereof "July 31, 1987"; and

(4) by adding at the end the following new subsection:

"(b) If funds for fiscal year 1986 are appropriated for the purpose of making payments to employers under this Act but are not both so appropriated and made available by the Director of the Office of Management and Budget to the Veterans' Administration on or before February 1, 1986, for such purpose, assistance may be paid to an employer under this Act on behalf of a veteran if the veteran—

"(1) applies for a program of job training under this Act within 1 year after the date on which funds so appropriated are made available to the Veterans' Administration by the Director; and

"(2) begins participation in such program within 18 months after such date.".

(f) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) The amendment made by subsection (e)(2) shall take effect on February 1, 1986.

SEC. 202. COORDINATION.

(a) IN GENERAL.—In carrying out section 1516(b) of title 38, United States Code, the Administrator of Veterans Affairs shall take all feasible steps to establish and encourage, for veterans who are eligible to have payments made on their behalf under such section, the development of training opportunities through programs of job training consistent with the provisions of the Veterans' Job Training Act (as redesignated by section 201(a)(1) of this Act) so as to utilize programs of job training established by employers pursuant to such Act.

(b) DIRECTIVE.—In carrying out such Act, the Administrator shall take all feasible steps to ensure that, in the cases of veterans who are eligible to have payments made on their behalf under both such Act and section 1516(b) of title 38, United States Code, the authority under such section is utilized, to the maximum extent feasible and consistent with the veteran's best interests, to make payments to employers on behalf of such veterans.

Amend the title so as to read: "An Act to amend title 38, United States Code, to provide a 3.1-percent increase in the rates of disability compensation and of dependency and indemnity compensation paid by the Veterans' Administration; to make improvements in veterans' job training programs; and for other purposes."

DISAPPROVING THE FREEZE ON FUNDS FOR JUVENILE JUSTICE AND DELINQUENCY PREVENTION

BIDEN (AND OTHERS) AMENDMENT NO. 1434

Mr. BYRD for Mr. BIDEN (for himself, Mr. HEFLIN, Mr. HOLLINGS, Mr. DECONCINI, Mr. NUNN, Mr. LAUTEN-

BERG, Mr. SASSER, Mr. BUMPERS, Mr. MOYNIHAN, Mr. LEAHY, Mr. INOUYE, and Mr. STENNIS) proposed an amendment to the resolution (S. Res. 278) to disapprove the freeze on funds for the Office of Juvenile Justice and Delinquency Prevention; as follows:

The first section of the resolution is amended by striking the period at the end thereof and inserting in lieu thereof:

"the Office of Justice Programs, the Bureau of Justice Assistance, the National Institute of Justice, the Bureau of Justice Statistics, the Victims of Crime Act programs, and the Regional Information Sharing System Programs".

EXTENSION OF CERTAIN TAXES

PACKWOOD AMENDMENT NO. 1435

Mr. PACKWOOD proposed an amendment to the bill (H.R. 4006) to extend until March 15, 1986, the application of certain tobacco excise taxes, trade adjustment assistance, certain Medicare reimbursement provisions, and borrowing authority under the railroad unemployment insurance program, and to amend the Internal Revenue Code of 1954 to extend for a temporary period certain tax provisions of current law which would otherwise expire at the end of 1985; as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. EXTENSION OF INCREASE IN TAX ON CIGARETTES.

Subsection (c) of section 283 of the Tax Equity and Fiscal Responsibility Act of 1982 (relating to increase in tax on cigarettes) is amended by striking out "and before December 20, 1985" and inserting in lieu thereof "and before March 15, 1986".

SEC. 2. EXTENSION OF TRADE ADJUSTMENT ASSISTANCE PROGRAM.

Section 285 of the Trade Act of 1974 (19 U.S.C. note preceding section 2271) is amended by striking out "December 19, 1985" and inserting in lieu thereof "March 14, 1986".

SEC. 3. EXTENSION OF BORROWING AUTHORITY UNDER THE RAILROAD UNEMPLOYMENT INSURANCE ACT.

Section 10(d) of the Railroad Unemployment Insurance Act is amended by striking out "December 19, 1985" each place it appears and inserting in lieu thereof "March 14, 1986".

SEC. 4. EXTENSION OF MEDICARE PHYSICIAN PAYMENT PROVISIONS.

Section 5 of the Emergency Extension Act of 1985 (Public Law 99-107) is amended by striking out subsection (a), and by striking out "December 19, 1985" in subsection (c) and inserting in lieu thereof "March 14, 1986".

Amend the title by striking out "December 14, 1985" and inserting in lieu thereof "March 14, 1986".

ADDITIONAL STATEMENTS

BUDGET SCOREKEEPING REPORT

● Mr. DOMENICI. Mr. President, I hereby submit to the Senate a current budget scorekeeping report brought up to date as of December 18, 1985, prepared by the Congressional Budget Office. This report also serves as the scorekeeping report for purposes of section 311 of the Congressional Budget Act.

Since the last report, Congress has cleared for the President's signature the Food Security Act of 1985, H.R. 2100. Also, the President has vetoed the Textile and Apparel Trade Enforcement Act of 1985, H.R. 1562.

I ask that the material be printed in the RECORD.

The material follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, December 19, 1985.

Hon. PETE V. DOMENICI,
Chairman, Committee on the Budget,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report shows the effects of Congressional action on the budget for fiscal year 1986. The estimated totals of budget authority, outlays, and revenues are compared to the appropriate or recommended levels contained in the most recent budget resolution, S. Con. Res. 32. This report meets the requirements for Seante scorekeeping of Section 5 of S. Con. Res. 32 and is current through December 18, 1985. The report is submitted under Section 308(b) and in aid of Section 311(b) of the Congressional Budget Act.

Since my last report Congress has cleared for the President's signature the Food Security Act of 1985, H.R. 2100, changing budget authority and outlay estimates. The President has vetoed the Textile and Apparel Trade Enforcement Act, 1985, H.R. 1562, changing estimated revenue.

With best wishes,

Sincerely,

JAMES BLUM
(For Rudolph G. Penner.)

CBO WEEKLY SCOREKEEPING REPORT FOR THE U.S. SENATE, 99TH CONGRESS, 1ST SESSION, AS OF DECEMBER 18, 1985

[Fiscal year 1986—In billions of dollars]

	Budget authority	Outlays	Revenues	Debt subject to limit
Current level [1]	1,070 0	[illegible]	793 1	1,899 7
Budget resolution, Senate Concurrent Resolution 32	1,069 7	967 6	795 7	[2] 2,078 7
Current level is				
Over resolution by	3	18 7		
Under resolution by			2.6	179 0

[1] The current level represents the estimated revenue and direct spending effects (budget authority and outlays) of all legislation that Congress has enacted in this or previous sessions or sent to the President for his approval. In addition, estimates are included of the direct spending effects for all entitlement or other programs requiring annual appropriations under current law even though the appropriations have not been made. The current level excludes the revenue and direct spending effects of legislation that is in earlier stages of completion, such as reported from a Senate Committee or passed by the Senate. Thus, savings from reconciliation action assumed in Senate Concurrent Resolution 32 will not be included until Congress sends the legislation to the President for his approval. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

[2] The current statutory debt limit is $2,078.7 billions.

FISCAL YEAR 1986, SUPPORTING DETAILS FOR CBO WEEKLY SCOREKEEPING REPORT, U.S. SENATE, 99TH CONGRESS, 1ST SESSION, AS OF DECEMBER 18, 1985

[In millions of dollars]

	Budget authority	Outlays	Revenues
I. Enacted in previous session			
Revenues			[illegible]
Permanent appropriations and trust funds	717,617	631 009	
Other appropriations		185.348	
Offsetting receipts	– 162 006	– 162 006	
Total enacted in previous session	555.610	654.351	792.800
II. Enacted this session			
Famine relief recovery in Africa (Public Law 99-10)		421	
Federal supplemental compensation phaseout (Public Law 99-15)			10
Appropriations for the MX Missile (Public Law 99-18)		368	
Contemporaneous recordkeeping repeal bill (Public Law 99-44)			13
United States-Israel Free Trade Act (Public Law 99-47)			– 8
Statue of Liberty—Ellis Island Coin Act (Public Law 99-61)	– 15	31	
International Security and Development Cooperation Act (Public Law 99-83)	– 25	– 25	
Supplemental Appropriations Bill (Public Law 99-88)	36	3,138	
State Department authorization (Public Law 99-93)			2
Emergency Extension Act of 1985 (Public Law 99-107)	– 49	– 230	210
Simplification of imputed interest rules (Public Law 99-121)			– 31
Health professions educational assistance (Public Law 99-129)		– 8	
Amendments-Special Defense Acquisition (Public Law 99-139)	100		
Energy and water appropriations, 1986 (Public Law 99-141)	15,252	8,245	
Department of Defense Authorization Act, 1986 (Public Law 99-145)	200	– 5	
Legislative branch appropriations, 1986 (Public Law 99-151)	1,599	1,385	
Temporary debt limit increase (Public Law 99-155)	– 34	– 156	140
Agricultural extension, tobacco provision (Public Law 99-157)	– 20	– 20	
HUD-Independent Agencies appropriations, 1986 (Public Law 99-160)	56.909	36,247	
Offsetting receipts	– 4,185	– 4,185	
Military construction appropriations, 1986 (Public Law 99-167)	8,498	2,151	
NASA Authorization Act of 1986 (Public Law 99-170)		107	
Labor, HHS, Education appropriations, 1986 (Public Law 99-178)	94,862	81,406	
Offsetting receipts	– 19,816	– 19,816	
Commerce, State, Justice appropriations, 1986 (Public Law 99-180)	11.926	9,711	
Offsetting receipts	– 118	– 118	
Further temporary extension (Medicare) and tobacco excise tax provisions (Public Law 99-181)		– 20	12
Total enacted this session	165,199	118.627	347
III. Continuing resolution authority			
Continuing Appropriations, 1986 (Public Law 99-184)	348.779	212.985	
Offsetting receipts	– 4,449	– 4,449	

FISCAL YEAR 1986, SUPPORTING DETAILS FOR CBO WEEKLY SCOREKEEPING REPORT, U.S. SENATE, 99TH CONGRESS, 1ST SESSION, AS OF DECEMBER 18, 1985—Continued

[In millions of dollars]

	Budget authority	Outlays	Revenues
Total continuing resolution authority	344,330	208,536	....
IV Conference agreements ratified by both Houses			
Food Security Act of 1985 (H.R. 2100)	2,525	2,549	....
Compact of Free Association (H.J. Res. 187)	87	71	−3
Total conference agreements	2,612	2,620	−3
V Entitlement authority and other mandatory items requiring further appropriation action			
Payment to the CIA retirement fund	10	10	....
Claims, defense	7	3	....
Payment to the foreign service retirement trust fund [1]	(1)	(1)	....
Range improvements	1	....	....
BLM Miscellaneous trust fund	(2)	....	....
Payment to air carriers, DOT	18	17	....
Retired pay—Coast Guard	21	19	....
Maritime, operating-differential subsidies	....	3	....
BIA Miscellaneous trust funds	(2)	(2)	....
Retirement pay for PHS	3	....	....
Medical facilities loan guarantee	2	....	....
Payment to health care trust funds [1]	(907)	(907)	....
Child nutrition programs	250	230	....
Child support enforcement	3	3	....
Advances to unemployment trust fund [1]	(51)	(51)	....
Federal unemployment benefits and allowances	65	64	....
Black lung disability trust fund	46	46	....
Special benefits (disabled coal miners)	36	36	....
Assistance payments	544	544	....
Supplemental security income	52	52	....
Veterans readjustment benefits	180	137	....
Veterans pensions	10	....	....
Payment to civil service retirement [1]	(214)	(214)	....
National wildlife refuge fund	(2)	(2)	....
Defense pay raise—military	925	897	....
Compact of Free Association	92	92	....
Total entitlements	2,267	2,154	....
Total current level as of December 18, 1985	1,070,019	986,287	793,144
1986 budget resolution (S. Con. Res. 32)	1,069,700	967,600	795,700
Amount remaining:			
Over budget resolution	319	18,687	....
Under budget resolution	....	2,556	....

[1] Interfund transactions do not add to budget totals.

[2] Less than $500 thousand

Note—Numbers may not add due to rounding.●

IMPACT OF GRAMM-RUDMAN

● Mr. **HART.** Mr. President, today's newspapers are full of evidence that the real impact of Gramm-Rudman is likely to differ greatly from the expectations of those who voted for it, and likely to meet or even exceed the fears of those of us who opposed it. First there is the report the President is intent on using Gramm-Rudman—not to achieve balanced cuts in Federal spending, not to achieve the budget priorities most Americans share—but to eliminate essential domestic programs while allowing his defense buildup to continue without limit.

Even more instructive is the excellent editorial that appears in today's New York Times by Mark Green, president of the Democracy Project, a public policy institute in New York City. Mr. Green details how Gramm-Rudman's so-called sequester budget cuts are likely to affect vital programs in New York: 166 fewer buses, 2,800 apartments not rehabilitated, 15,700 poor students unable to obtain Pell grants for attending the City University of New York, the State University of New York, or other schools. Most of all, Mr. Green achieves the difficult task of explaining in clear, human terms the central flaw of Gramm-Rudman: Its failure to establish budget priorities and then pay for them. Mr. Green writes:

> Money from spina bifida research will be cut by the same percentage as money for F-16 aircraft. Imagine if your bank, trying to limit your family's debts, chopped a fixed percentage from each of your checks, whether they went to pay the rent or buy fine wines. Priorities are now a thing of the past, having given way to the cool calculus of political deniability.

Mr. President, I heartily recommend Mr. Green's analysis to my colleagues, and I ask that his article be printed in the RECORD.

The material follows:

WHY THE BUDGET LAW IS "HORRENDOUS"—BAD FOR NEW YORK

(By Mark Green)

America is now a nation governed by clerks and computers. In perhaps the greatest abdication since the Duke of Windsor chose Wallace Simpson over the throne, Congress last week turned the power of the purse over to the Federal bureaucracy by passing the Gramm-Rudman deficit reduction plan. The consequences for New York State will be harsh.

Gramm-Rudman requires a five-year series of spending slashes. Congress approved the plan with no Senate hearings and without any official estimates of its impact. Most Senators and Representatives—including Senator Alfonse M. D'Amato and 14 members of the New York Congressional delegation—said, in effect, "Don't tell me what the damage is, just show me where to sign."

In less than four months, the first automatic cut, of $11.7 billion, will take place. A preliminary calculation by the staff of the House Budget Committee shows that some 4.6 percent of the nonexempt domestic programs will have to go. Let's assume that New York State's share of the Federal budget remains constant. What will Gramm-Rudman do to programs New Yorkers care about?

Mass transit. Our state, which gets nearly 16 percent of all Federal mass-transit money, will lose more than $26.5 million, the equivalent of 166 new buses, in 1986. By 1987, we'll lose $133 million.

Housing. In 1986, at a time when the failure of New York's housing market is apparent for all to see, we stand to lose enough Federal low-rent-housing funds to rehabilitate 2,800 apartments. By 1987, the costs will be $166 million.

Education. The first automatic cut alone will threaten Pell Grant financing for more than 15,700 poor college students, 90 percent of whom attend the City University of New York or the State University of New York. By 1987, $88 million will be lost.

The effect on national and international programs will be equally severe. Vital military training and manpower programs will be salvaged to protect the Pentagons favorite hardware purchases. Israel stand to lose roughly $172 million this spring along.

Instead of owning up to the choice they made, lawmakers have concocted a scheme to render their budget decisions untraceable. Under Gramm-Rudman, the Federal bureaucracy will now automatically impose across-the-board budget cuts in nonexempt programs. So money for spina bifida research will be cut by the same percentage as money for F-16 aircraft. Imagine if your bank, trying to limit your family's debts, chopped a fixed percent from each of your checks, whether they went to pay the rent or to buy fine wines. Priorities are now a thing of the past, having given way to the cool calculus of political deniability.

Who will do this arbitrary cutting? America's Government of clerks and computers is lead by a troika—the heads of the Congressional Budget Office, the Office of Management and Budget and the General Accounting Office—which will now program computers with the Gramm-Rudman five-year plan.

How many City University students will get college loans next year? Don't ask your Senator, talk to a bureaucrat at the General Accounting Office. Who will decide how much trade adjustment money there is for Buffalo workers hit by foreign competition? Don't write to your Congressman, he can't run the numbers. What about the city's bridges and tunnels? Sorry, the computer is down.

The worst thing about Gramm-Rudman is that it obscures Congress's misguided choices about the next five years. Thus, if Congress had the guts to slow or reverse the $30 billion to $40 billion annual increase in tax preferences for special interests, it could avoid some of the harshest medicine it is making New York swallow.

"To govern is to choose," said President John F. Kennedy. Next year, instead of choices, the automatic budget-gutting machine will go into high gear. Senators and Representatives have authorized a program of devastating cuts that they would never have signed for their names to if they had to own up to what was really in the bill. Accountability has given way to arithmetic.●

ANTITRUST EXEMPTIONS FOR NATIONAL FOOTBALL LEAGUE

● Mr. **GORE.** Mr. President, during the past few weeks the Senate has begun to address the issue of proposed new antitrust exemptions for the National Football League, embodied in S. 259.

As I have stated on the floor of the Senate, and during hearings of the Commerce and Judiciary Committees, the fundamental problem we face in expanding NFL antitrust immunity is the league's unwillingness to expand to those cities which are clearly ready to support an NFL team.

During this debate, the proponents of S. 259 have cited a resolution signed early this year by a number of mayors in support of the bill. Memphis is one of the cities represented on that resolution. However, noting that the resolution was issued long before the implications of the bill and later revisions became entirely clear, Memphis Mayor Richard C. Hackett has clarified for the record the position of Memphis on S. 259.

I would like to take this opportunity to provide my colleagues with Mayor Hackett's December 6 clarification on this matter, and I ask that his letter to me be printed in the Record.

The letter follows:

City of Memphis,
Memphis, TN, December 6, 1985.

Hon. Albert Gore, Jr.,
U.S. Senate,
Washington, DC.

Dear Senator Gore: I am in complete agreement that Senate Bill 259 should not be passed without a commitment by the National Football League to expand in a reasonable timeframe.

Any inference that my position is not in complete support of your actions is inaccurate. I did sign a petition earlier this year offered to me by Mayor George Latimer of St. Paul to encourage support of legislation to "clarify federal law with respect to team stability and revenue sharing within professional sports leagues." But, at no time did I understand the legislation to address the issue of expansion. I think it is entirely appropriate the legislation aimed at addressing the problems of cities faced with the potential loss of major league sports operations to include a promise of expansion to some of those markets not currently served by professional sports leagues.

Please let me know of anything I can do to be of assistance to you on this matter.

Sincerely,

Richard C. Hackett.●

SALUTE TO SHELDON CAMPBELL

● Mr. WILSON. Mr. President, my home town of San Diego recently grieved at the passing of Sheldon Campbell, the president of the Zoological Society, which operates the world famous San Diego Zoo and Wild Animal Park. Mr. Campbell's love affair with the San Diego Zoo began when he was a boy and continued all his life; indeed, he was attending a meeting on zoo business at the time of his death on Monday.

I will miss Sheldon Campbell. He personified the "spirit of giving," that greatest of virtues of which we are so often reminded during this holiday season. For decades, Mr. Campbell selflessly volunteered his time and energy to the zoo.

Sheldon Campbell loved wildlife for its own sake, as well as for the joy that it can bring to people, and in no small part because of his devotion and his guidance, the San Diego Zoo has brought joy to the lives of millions, as it did to his.

At this point I would like to have printed in the Record the San Diego Union's account of Mr. Campbell's life and death, by staff writer Gina Lubrano, which appeared on December 17, 1985, and the Union's editorial tribute to Mr. Campbell which appeared on the following day:

The article follows:

Sheldon Campbell Collapses, Dies

Sheldon Campbell, whose love affair with the San Diego Zoo began when he was a boy and took him to the presidency of the Zoological Society, died yesterday after collapsing at a finance meeting of the society. He was 66.

Zoo officials said Campbell was about 15 minutes late for the noon meeting, explaining that he had been delayed by a phone call, and collapsed shortly afterward. Trustees and employees applied cardiopulmonary resuscitation and called paramedics, who took him to Mercy Hospital. Doctors worked on him for 27 minutes before pronouncing him dead at 1:27 p.m.

Norman Greene, a hospital spokesman, said Campbell died of cardiopulmonary arrest.

Campbell was to have stepped down this month after three years as president of the society, which operates the Zoo and the San Diego Wild Animal Park. Tonight, he was to preside at his last board meeting. He also was to be presented with a "declaration of appreciation" lauding his accomplishments on behalf of the Zoo and the Wild Animal Park.

Zoo officials canceled a party last evening for donors in celebration of a new society publication, "Wild in the City, the Best of Zoonooz." They also canceled the social portion of tonight's board meeting and ordered the flag flown at half staff.

Douglas Myers, the Zoological Society's executive director, described the San Diego native as a tireless worker on behalf of the society. Although he was not paid for his work, Campbell devoted full time to the role, Myers said.

"That's the love he had for this place," he said. "I think the Zoo probably brought him some of his happiest moments."

"He's one of the legends that makes the San Diego Zoo great," Myers said. "He definitely will be missed and remembered by all."

Campbell, a retired stockbroker, a writer and a natualist, often regaled Zoo employees of his escapades at the Zoo as a youngster, said Carole Towne, director of marketing, and Marjorie Shaw, editor of Zoonooz.

One of his favorite stories was about how he and the late Charles Shaw, who later was to become curator of reptiles and assistant director of the Zoo, climbed a fence to get into the Zoo and were evicted. The two young men were taken under wing by C.B. "Si" Perkins, then curator of reptiles, who "reformed" them, putting them to work scrubbing the backs of tortoises. The youngsters apparently were hooked on zoo work.

Campbell also told about how he was expelled from the Zoo in the late 1930s by former Zoo director Belle Benchley over an article he wrote for The San Diego Sun, which was purchased in 1939 by the Evening Tribune, now The Tribune. The story was about a lizard and was accompanied by a photograph showing it to be much larger and more threatening than it was, Towne explained.

Although Campbell was blamed for that photograph he was innocent, according to author Robert Wade, a longtime friend. "Even then, he would bend over backward to be accurate about wildlife," said Wade, explaining that someone else selected the photograph.

By 1966, all was forgotten and long forgiven. That year, Campbell was appointed chairman of ZOO50, a citizens committee that worked on the society's golden jubilee.

Events that year included the serious—an international conservation conference—and the whimsical—the world's longest birthday cake.

Two years later, he was named a trustee of the society, and in his 17 years on the board he served on and was chairman of numerous committees.

In the declaration of appreciation prepared for tonight's meeting, Zoo officials had planned to honor Campbell for devoting his "considerable speaking and writing talents in representing the society at all levels, from international wildlife conferences to mass media interviews to one-to-one consultations with our members and the public."

They also noted his journeys around the world on behalf of the society, particularly to China in 1984 to establish a relationship with Chinese zoos and wildlife organizations. Those efforts resulted in a loan to the San Diego Zoo of Chinese golden monkeys, their first exhibit outside Asia. He hoped one day to obtain the loan of the endangered giant pandas.

Myers and other Zoo officials also credited Campbell with making major contributions toward changes at the Zoo. Under his leadership, the society developed its "Diamond Edge" plan that calls for sweeping changes by 1991, the society's 75th anniversary. The proposal addresses the philosophy and structure of the Zoo and the park.

Campbell was a graduate of Roosevelt Junior High School and San Diego High School and had a short career as a newspaperman. He served in the U.S. Army Signal Corps during World War II and earned his bachelor's degree at what is now San Diego State University and his master's at Stanford University.

In 1951, after working as an assistant instructor in English at Stanford while doing graduate work, he joined Rohr Corp. as a personnel assistant. When he left in 1960, he was director of manager development and training. He then became an account executive at the securities firm of Lester, Ryons and Co. He was a general partner when he left in 1967 to become vice president and then senior vice president at Roberts, Scott and Co.

In 1974, he became vice president of Wagenseller and Durst, retiring in 1980, when he decided to devote full time to writing.

Working with notes left by his friend Shaw, who died in 1971, Campbell completed "Snakes of the West." The book was published in 1974. Four years later, Campbell's book, "Lifeboats to Ararat," was published.

In 1979 he was named SDSU alumnus of the year in arts and letters. Two years later he was elected to Phi Beta Kappa as an alumnus of SDSU.

He was a member of numerous wildlife organizations, a fellow of the Explorer's Club, served on the board of the Wildlife Preservation Trust International and a former trustee of the San Diego Natural History Society.

Campbell is survived by his wife, Florence, a daughter, Kim Molina of San Diego, a son, Gregory of Portland, and a grandson.

Cremation is planned and services at the Zoo are pending. The family suggests donations to the Zoo.

SHELDON CAMPBELL

For much of his life, Sheldon Campbell worked tirelessly for the San Diego Zoo. Hence, there is a tragic appropriateness that he should suffer a fatal collapse during his last day as president of the Zoological Society.

A native of San Diego and a graduate of Roosevelt High and San Diego State, Mr. Campbell was appointed to the Zoo board in 1968 following his outstanding contributions to the society's golden jubilee.

Mr. Campbell proved to be an indispensable member of the board during his 17-year tenure, helping the Zoo gain increasing prominence through his public relations savvy and considerable zoological knowledge.

He was instrumental, for example, in arranging an exchange program between the Zoo and the China Wildlife Conservation Association. And enduring legacy is his book *Lifeboats to Ararat,* a seminal work on captive breeding.

Not content to rest on the laurels of the internationally acclaimed Zoo, and eager to build toward the future, Mr. Campbell made significant contributions to "Diamond Edge," a strategic five-year plan for the continued economic and zoological development of the Zoo.

Most significantly, Mr. Campbell's devotion to the Zoo since his teens personifies the dedicated volunteer spirit that is a major factor in the Zoo's world renown. His selfless, tireless efforts have placed him among a select group of San Diegans whose contributions of time, money, and self have crated a wondrous civic landscape that includes Balboa Park, Mission Bay, our museums, symphony, and opera.

The Zoo in particular and our community in general are much better places because of Sheldon Campbell. His death diminishes San Diegans in a special way.●

NOTICE OF DETERMINATIONS BY THE SELECT COMMITTEE ON ETHICS

● Mr. RUDMAN. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD this notice of a Senate employee who proposes to participate in a program, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee has received a request for a determination under rule 35 which would permit Mr. David Hill, a member of the staff of Senator PHIL GRAMM, to participate in a program in Taiwan, sponsored by the Chinese Culture University, in early January 1986.

The committee has determined that participation by Mr. Hill in the program in Taiwan, at the expense of the Chinese Culture University, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 which would permit Senator PETE WILSON to participate in a conference in Geneva, Switzerland, entitled "Security and Prospects for Disarmament in Europe," sponsored by the French Institute of International Relations, from December 16–18, 1985.

The committee has determined that participation by Senator WILSON in the conference in Geneva, Switzerland, at the expense of the French Institute of International Relations, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 which would permit Ms. Valerie Baldwin, a staff member of the Governmental Affairs Subcommittee on Energy, Nuclear Proliferation and Government Processes, to participate in a program in Taiwan, sponsored by Soochow University, from December 27, 1985 through January 6, 1986.

The committee has determined that participation by Ms. Baldwin in the program in Taiwan, at the expense of Soochow University, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 which would permit Ms. Ruth Cymber of the staff of Senator PHIL GRAMM and Ms. Eve Lubalin of the staff of Senator FRANK LAUTENBERG to participate in an educational seminar, sponsored by the Leonard Davis Institute for International Relations of the Hebrew University of Jerusalem in conjunction with Project Interchange, in Israel, from January 6 through January 16, 1986.

The committee has determined that participation by Ms. Cymber and Ms. Lubalin in the seminar in Israel, at the expense of the Leonard Davis Institute for International Relations of the Hebrew University of Jerusalem, in conjunction with Project Interchange, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 which would permit Mr. Alexander Polinsky-Lav, a member of the staff of Senator DAVE DURENBERGER, to participate in a program, sponsored by Soochow University, in Taiwan, from December 27, 1985 through January 7, 1986.

The committee has determined that participation by Mr. Polinsky-Lav in the program in Taiwan, at the expense of Soochow University, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 which would permit Mr. Tod O. Neuenschwander, a member of the staff of Senator JAMES A. MCCLURE, to participate in a program, sponsored by Tunghai University, in Taiwan, from December 31, 1985 through January 9, 1986.

The committee has determined that participation by Mr. Neuenschwander in the program in Taiwan, at the expense of Tunghai University, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 which would permit Mr. Claude Allen, a staff member of the Foreign Relations Committee, to participate in a program, sponsored by Soochow University, in Taiwan, from December 27, 1985 through January 7, 1986.

The committee has determined that participation by Mr. Allen in the program in Taiwan, at the expense of Soochow University, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 which would permit Mr. Patrick J. Sullivan, a staff member of the Committee on Energy and Natural Resources, to participate in a program, sponsored by Tunghai University, in Taiwan, from December 31, 1985 through January 9, 1986.

The committee has determined that participation by Mr. Sullivan in the program in Taiwan, at the expense of Tunghai University, is in the interest of the Senate and the United States.●

ELDERLY ABUSE ACT OF 1985—S. 1919

● Mr. BUMPERS. Mr. President, I am pleased to lend my support to S. 1919, a bill to establish a 17-member task force to investigate elderly abuse. The need for the task force is clear. Although several congressional committees have held fact-finding hearings on elderly abuse, we still have only rough estimates of the amount of abuse that occurs annually, and public awareness of this nationwide problem is limited.

The simple introduction and discussion of his legislation improves public awareness of the physical, psychological, and financial mistreatment of the elderly by family members or other caretakers. Although women are the most frequently abused senior citizens, no race, class, or sex is immune from elderly abuse. Detection of elderly abuse is especially difficult because of the fear of reprisal, shame, and guilt of the elderly.

The proposed task force is valuable because it is a partnership of public and private sector and States and the Federal Government. The task force would be comprised of the Secretary of Health and Human Services, the Director of the National Institute on Aging, five representatives from health and senior citizen organizations having experience in elderly abuse matters, and one representative from each of the 10 regions in the United States as set forth by the Office of Management and Budget. The 10 individuals would currently be involved with the administration of a State aging services program.

The task force would make a final report on its findings and recommendations in 9 months. The report would include recommendations on what can be done to address the problem of elderly abuse both administratively and legislatively.

The task force will provide us with a comprehensive body of information on elderly abuse and will suggest solutions to this tragedy. I believe this is a wise first step for the Congress to take to combat the abuse of America's senior citizens.●

JOHN J. CREEDON: HEED THE TEACHER

● Mr. **DURENBERGER**. Mr. President, John H. Creedon, chairman of the board of Metropolitan Life Insurance Co., is a business leader who understands the importance of investing in the future. In the following interview with the journal, Financier, Mr. Creedon reflects the concerns of a growing number of thoughtful Americans about the declining quality of the Nation's schools, and the need to address this problem while there is still time.

At Mr. Creedon's direction, Metropolitan recently surveyed teachers for their views on the educational system's ills. What they found was a profession demoralized by low pay and a growing reputation for mediocrity. According to Creedon, "Experienced teachers are leaving. Often they are being replaced and if they are, it is not by the caliber of teacher we require if our children are to have the best possible education."

But more than just talking about the problem, Creedon and Metropolitan are doing something about it. As an outgrowth of its survey, Metropolitan's foundation has initiated a Future Teacher and Scholarship Program to attract promising college students into the teaching profession. It has also joined the New York City Partnership in which a company adopts a local school and provides teaching and administrative help. The partnership's goal is to provide every high school graduate with a job.

Clearly, our children are our most important economic resource. This year's youngsters will be the workers we will depend upon tomorrow to keep America competitive in an increasingly global economy, to finance the massive retirement needs of the baby boom generation, and to pass on to future generations the American dream of upward economic mobility. The education of children, whose growing distress has been well documented of late, should be of vital concern to any farsighted businessman. It is heartening to see men such as John Creedon leading the corporate community toward a greater acceptance of responsibility in this essential area.

Mr. President, I ask that Williard Rappleye's interview with Mr. John J. Creedon in November's Financier be printed in the RECORD.

The material follows:

[From the November 1985 Financier]

JOHN J. CREEDON: HEED THE TEACHER

(By Willard C. Rappleye Jr.)

Amid heightened national concern over the quality of public education, Metropolitan Life has focused on the teacher as key to the solution, through its second annual survey of the profession, President John Creedon explains in an interview. Attracting better personnel, keeping them, and above all, raising the level of respect for the vital contribution they make, he insists, is essential for the health and progess of the country's school system.

The primary interest of the Metropolitan Life Foundation has long been health care, Mr. Creedon says, with education a second area of major interest, along with United Way, civic affairs, and cultural affairs. Until fairly recently, most of its activity in education had been in matching gifts and specific activities with universities and medical schools.

"But we felt that we might do more, creatively, in education, since there seemed to be so many problems," he recalls. "As you probably know there have been 180 different studies undertaken in the last three years on different aspects of the problem of education in this country, especially at the primary and secondary school levels; but we found that one of the areas where there had not been enough attention paid was among the teahers themselves."

Metropolitan had already had considerable exposure to problems of the schools, stemming from its concern with health, focused on drug abuse among the young. It supported three programs by WQED in Pittsburgh, called The Chemical People, that revealed the extent of the use of drugs and alcohol in the schools, and offered suggestions on how to deal with them by forming community groups.

"It all kind of ties in," he suggests. "We got from health care into alcohol and drugs in the schools. And then, as part of the same thrust, we got into the question of just how much business can do. It is really only a limited amount. After all, it is a public school system, paid for by taxpayer dollars. The business community can't support the system.

"On the other hand, it can't ignore it, either," he maintains. "I think it has to be supportive and helpful."

One way Metropolitan thought it could be helpful would be to learn about the problem from a primary source—the teachers themselves.

IMPORTANT PERSPECTIVE WAS MISSING

"Any rush to reform carries its own dangers," Mr. Creedom explains. "One danger is that we overlook important considerations. Not many of us—legislators, business executives, even deans of schools of education—can understand the problems of the schools from the inside. Well-informed and well-intended as we may be, it is the teachers who are on the front lines. And as the debate over what should be done to improve our schools went on, it became clear that an important perspective was missing—that of the classroom teacher.

"Nobody had done a survey to ask them their opinions on what needed to be done. So, almost two years ago, we decided to ask them.

"In back of all this is a conviction on my part that the public-school education system is a critical factor in the success of our country. If that system goes down, we're all going down.

"Aside from my strong personal conviction about its importance, in our national competitiveness in the world environment, I felt it was something to which Metropolitan Life, as leading company in New York and in the country, should contribute—a big issue we should do something with. So we decided to do the survey, hired the Lou Harris Organization, and went to it.

"Inherent in the approach we took is a recognition that the teacher is the key to a successful school system. Nothing profound about that—it is obvious.

"But if you look at what has happened to the teaching profession in the last 25 years, it has come way down. You can reflect on your own experience.

"When I was a boy I went to Catholic schools, where they had nuns, who if they were paid anything were paid very little, but who were devoted teachers. And in the public schools you had mostly women teachers, and relatively few really dedicated men—but all of them wanted to teach, more than anything else.

"For the women, they had practically no other career opportunities. They really could not go anywhere else. So if you had a bright daughter, you encouraged her to become a teacher.

"Today, a whole world has opened to women, and they are not a captive group any more. To a great extent that is what has happened to the teaching profession. They don't have the same supply of motivated bright people, and the system started to take what it could get. I think the standards have gone way down.

ONLY ADVANCE IS ON LEAVING

"The bitter truth," Mr. Creedon declares, "is that, while we may call teaching a profession, we treat teachers as if they signed on for a rather low-level job where the only hope of advancement comes with leaving.

"Experienced teachers are leaving. Often, they are not being replaced and if they are, it is not by the caliber of teacher we require if our children are to have the best possible education.

"I think what business can do—and maybe the Survey will encourage more of us to do it—is to be supportive of teachers, and their professional aspirations, and recognize how important that is.

"Most other competitive countries don't have the problems that we do in our school system. In Japan teachers are up on a pedestal, very highly regarded. So are they in Europe.

"A big part of the problem here is that they don't feel respected. There is some speculation to the point that in our day the teacher tended to be better educated than the parents of the children, so she would be respected because she had done something that the parents hadn't done.

"Today that frequently is not true. The level of education of many people has improved, and the parents tend generally to be more critical of teachers, whom they believe come from the lower college ranks."

The Survey, he believes, contributes to understanding, "and helps focus on the problem. It is significant, I think, that 74% of teachers who have seriously considered leaving the profession report that they stayed because they derive great satisfaction from their work. Clearly, we have a core of dedicated, caring professionals. We cannot discuss educational reform without listening to the teachers. To do so would be an injustice to them—and to us. They recognize that the system is in trouble and they want to do what they can to help."

INDEPENDENCE AND RESPONSIBILITY

The results indicate that teachers "are worried about a lot more than just low pay," he notes. "They are worried about not having the materials they need to do their jobs well, they are worried about working conditions that hamper their efforts, and they are worried about a lack of independence and responsibility commensurate with professional standing.

"The fact is that we are facing a severe teacher shortage," Mr. Creedon emphasizes. The recent Committee for Economic Development report estimates that we will need 1.3 million teachers by the 1990.

"Al Shanker, President of the American Federation of Teachers, told me the other day, that in order to meet the needs we face for teachers between now and 1990, the public school system would have to get at least 50% of all college graduates who had SAT scores in excess of 1,000.

"He also said that there won't be a teacher shortage, because what will happen is that they will put anybody in the job."

One outgrowth of the Survey, Mr. Creedon says, is a Metropolitan Life Foundation Future Teacher and Scholarship program. "We are trying to identify bright young people who have completed two years of college and are thinking about becoming teachers. We will support them for their final two years if they agree to become teachers when they graduate."

"Another is a program of roundtables with the CED in five major cities for members of the teaching professions, the political administrations, and members of business, just to have a dialugue about the problems of the schools in that city, and what can be done.

NOT HUGE SUMS OF MONEY

"One thing we are doing through the New York City Partnership is to arrange for every high school to have a company adopt it—in some way establish a relationship where they will either go in and teach, or help with the administration—above all, go in and find out what the problems are, find out what they can do to help. There are not huge sums of money involved—just taking an interest, recognizing the importance of it, trying to do something about it."

He accepts the fact that the results will be "very hard to measure. How can we say whether it has improved or not? The Surveys themselves, as we continue them, will give us some indication of whether or not the situation is improving, whether or not teachers begin to feel better about themselves.

"I don't think the Survey itself will attract more teachers," Mr. Creedon acknowledges. "I think a lot of other things have to be done.

"It seems to me that part of the effort on the part of business has to be a recognition that our schools are important to business as such, not only as a matter of corporate responsibility, but also as a matter of economics, because the people who will be our employees in the future are the people who will be coming out of the public schools. That's our market, and if they are not given the skills and training and the ability to learn in those schools, they won't have it.

"So it's a matter of self-preservation, in a way.

"It's a multifaceted problem that has to be approached in many ways. Look at what Ross Perot has done in Texas. He's changed the whole school system down there—changed the curriculum, compensation levels, career ladders. I don't know how that's going to work out, how far one should go.

"And it's not just one individual or one company. Bill Woodside at American Can is interested (Financier, May).

"The New York Partnership is interested. I was Chairman of their Summer Jobs program this year, which is certainly related. We got 31,462 young people into Summer jobs, almost all of them out of the city's high schools. And what we're talking about in the Partnership is whether we could guarantee a job to every graduate of a New York high school. We're working on it, and we feel it's within reach.

"Now, that sounds greater than it is," Mr. Creedon points out, "because not an awful lot of kids graduate; and among those who do, many go on to college. But this program—and I think it's a great approach—is that to every graduate of a high school in New York who wants a job, we will guarantee a job.

PARTICIPATION IN DIFFERENT FORMS

"What I am saying is that I don't view this as just Metropolitan going out alone to solve this problem; but I do view our work as a recognition that corporations both as a matter of conscience—corporate responsibility—and as a selfish matter, have to recognize the problem and be willing to participate in the solution in some way, and that can take different forms.

"I think it needs to take the form that the teacher is key. Unless we can attract teachers into the profession, and keep them in the profession, our public school system is in real trouble."

SUMMARY OF THE METROPOLITAN LIFE SURVEY

The findings of the 1985 Survey reveal that schools will lose many more teachers in the near future, unless effective measures are taken to attract talented people into the profession and contain the nationwide exodus of teachers to other professions:

51% of all teachers currently teaching in American schools say they have seriously considered leaving the profession to enter some other occupation.

74% of those who have seriously considered leaving the profession say the main reason they have stayed is the satisfaction of teaching. That satisfaction is derived mainly from their relationship with students (40%) or from seeing students mature (23%).

The main reason why teachers consider leaving are poor salaries and poor working conditions, 62% and 41%, respectively.

The most serious problem secondary school teachers confront is a lack of basic skills among students (80%). Majorities of secondary school teachers also cite drinking and drugs.

The most serious problem cited by elementary teachers is overcrowded classes, by 49%.

Teachers experience great stress. 36% of teachers say they experience great stress several days a week in comparison to 27% of all American adults (according to another Louis Harris survey).

Majorities of teachers also believe that the educational system would benefit from having business organize campaigns to build public and legislative support.●

GUADALCANAL REUNION: A COLORADAN'S REMEMBRANCE

● Mr. HART. Mr. President, this year marks a number of historically significant anniversaries. Many of them commemorate times of celebration or despair which occurred during the Second World War.

In August, for example, we remembered an event which ended an era of death and destruction. It was 40 years ago that the bombing of Hiroshima and Nagasaki brought the war in the Pacific Theatre to a long-awaited conclusion and ushered in the permanent peril of the nuclear age.

Recently, in my own State of Colorado, a group of marines, airmen, and sailors who helped wage and win the battle of Guadalcanal gathered in Colorado Springs 43 years later to remember that fierce and difficult engagement. This immensely important victory, in the minds of many, represented a turning point in the Pacific war.

One veteran of Guadalcanal, my friend Jim Ward, recorded his thoughts, and the experiences of others with whom he fought, in an evocative remembrance titled, "Guadalcanal Revisited." Jim was gracious enough to share with me his salute to the bravery, courage and patriotism of the soldiers who fought that battle with him. It is a lively account of a part of our history with which many of our colleagues are, of course, familiar.

In tribute, Mr. President, to the acts of heroism and valor which made that victory possible, and with thanks to Jim Ward for his creative work, I ask that the full text of "Guadalcanal Revisited" be printed in the CONGRESSIONAL RECORD at this point.

The statement follows:

GUADALCANAL REVISITED

(By Jim Ward)

They were the apotheosis of courage, hope and salvation for a nation and world tired of brave defeats and senseless retreats.

They were the Marines of Guadalcanal who stormed ashore on August 7th, 1942 rifles at high port and laughed at themselves when no enemy challenged their assault.

They were much older Marines when they turned the island over to their Army buddies some two months later after enduring a continuous man killing struggle against overwhelming odds. But they were never overwhelmed.

They were the sailors of the American fleet who stood up against a vastly superior Navy and lost more men than any other service in the battle.

They were the Cactus Air Force who flew round-the-clock missions off Henderson Field and defeated an alleged invincible Japanese air force.

They were the motley crew of Navajo radio men who transmitted front line information in a language indicipherable to the enemy.

They were the PT boat skippers, the bomber and fighter crews, the valiant coast watchers, the Melanisian scouts and saviours of downed pilots. These were the men who won the battle that ended Japanese domination of the Pacific in World War II and sealed their doom.

Some 600 of these veterans, who had gotten the word, came together early this week to commemorate their participation in a battle that historians now declare was a turning point in World War II. It was the beginning of the end of the Japanese dream to establish a Greater Eastern Sphere of Prosperity which meant control by the Japanese over the Pacific.

They came to Colorado Springs for this 43rd Anniversary of their battle and told tall tales, remembered old friends and looked for familiar faces of people they knew so many years ago.

Including the ghost of their own younger selves who seemed as remote as the island they conquered and whose presence conquered them forever.

Names sprang to mind and touched long dead memories.

Kahili, Tenaru, Savo Bay, Kolombangara, the Slot, Henderson Field, Bloody Ridge.

Other names filled the air of warriors worth remembering . . . Chesty Puller, Lou Diamond, the Sullivan Brothers, Ching Lee, Archy Vandergrift, Old Patch, Manilla John Bassilone, Mitch Paige and a hundred more.

And they remembered the hardware of that battle . . . The Springield .03, the Avengers, Dauntless and Wildcats and the Higgins boats and LST's and LCIs and many more.

Historian Samuel Eliot Morrison said "Guadalcanal was not so much a name as an emotion evoking a sense perception of the putrescent reek of the jungle, the sharp ache of hunger or the pulpy feeling of water-logged flesh, or those clanging, bellowing, stuttering battles—land, sea and air which were fought, night and day, to determine whether America or Japan would possess a ramshackle airfield set in the middle of 2500 square miles of malarial wilderness."

The aging men who attended the reunion in Colorado Springs could identify with what Morrison said. Malaria struck more than fifty percent of all the land soldiers and marines who served there.

"I got 70-20 vision in one eye and am damn near blind in the other" said one aging Marine, "they say it could have been caused by the high malaria fever but who knows?"

Did they realize that their victory at Guadalcanal was the linchpin to the greater victory that followed over the Japanese armed forces. Some did, but most reacted like an ex-Marine who said, "All you think of is staying alive and covering your butt." One of the men who fought through the desperate hours of near defeat and uncertain victory was Sergeant Robert Leckie whose histories of the Guadalcanal Campaign and the war in the Pacific are models for future historians.

He wrote: "Guadalcanal was the place at which the tide in the Pacific War turned against Japan." "After Coral Sea and Midway, I still had hope," said Captain Toshikazu Ohmae, operations officer of the Japanese Eighth Fleet," but after Guadalcanal I felt we could not win."

The Admiral commanding the Guadalcanal Reinforcement Force summed up the battle more succinctly, "There is no question that Japan's doom "was sealed with the closing of the struggle for Guadalcanal."

The larger question that intrigues historians today is how it was possible for a raggedy band of American marines, airmen and sailors, ill equipped and outnumbered, to beat the Japanese who had spread terror throughout the Allied forces and had defeated and destroyed the best that Britain, the Dutch and French could throw at them?

The men who attended the reunion of Veterans of the Guadalcanal Campaign did not have any answers to these heavy questions. They were content to let the chairbound military historians figure it out.

They were mainly interested in finding a familiar face or hearing a familiar story.

"I was there when Lou Diamond dropped a mortar down the stack of a Japanese destroyer," said one Marine recalling the legendary Congressional Medal of Honor winner who was the model of the go-to-hell battler. He refused to salute officers because he claimed the Nation's highest award as a privilege above rank.

There were stories of ships being sunk under sailors and planes that were cannibalized to get planes in the air to stave off the incessant bombing raids of the enemy.

And there was humor which became a kind of hidden weapon for the besieged Marines.

"I was a machine gunner and my Sergeant assigned me the job of picking bugs out of the rice we captured," recalls Duke Hallock from Detroit, then after a few days he said, "Duke just dump it in the pot the way it is cause it might be nutritious."

Hallock watched with other Marines as the Navy withdrew and Japanese ships smashed their precious supplies to smithereens on the beach.

There was a dramatic reunion at the Antlers Hotel in Colorado Springs when Patsi Lee, a Chinese matron married to an American named Fusano from St. Louis, met the two men who saved her life when she was found by natives as a six year old in the battle of the Canal.

"How lucky I am to meet and thank these men who saved my life," said the tear stained nurse as she embraced former Navy corpsmen Glen Holzer and Don Herrett.

The story was lost amid the larger carnage of Guadalcanal but it remains a poignant episode of now even the horrors of war cannot obliterate the larger well springs of humanity.

Father Gehring, the Padre of Guadalcanal, tells the story. "The natives found this little Chinese girl who was badly wounded by the Japanese and brought her to the Marines with the message, "Give her to priest man". She was turned over to Corpsman Glen Holzer who gave her first aid and then turned her over to Don Herrett who was assigned to the medical tent where she was treated and turned over finally to Father Gehring.

The priest partitioned off part of his tent and tended the young girl and finally had her shipped to a mission in one of the rear islands out of harm's way. He eventually adopted her and provided for her education in America where she became a nurse and married an American citizen.

The two corpsmen who saved her were lost in the hubbub of war. There was a picture of the two corpsmen and little Patsy shortly before the August 1st reunion. The picture was carried by a California newspaper with the caption, "Who are these two Marines?"

When Holzer saw it he called his buddy Don Herrett and said, "Those Marines are now taking credit for this action so let's go there and give them the word." And so the reunion occured before hundreds of teary veterans.

It is hard for today's average John Citizen to appreciate what Guadalcanal meant to Americans in that historic date of August 7, 1942 when the Marines landed at the Canal and her sister Island Tulagi.

A measure of this emotion was expressed when the vets were attending a dinner at the Flying W Ranch and the owner took the microphone to welcome them. He explained that he rarely does that chore, leaving it to his trained entertainment staff, but had to tell how he felt. "Nobody who was alive then will ever forget the boost we got when those young Marines landed on Guadalcanal and how it gave us all heart to believe we could win that war. So I welcome these brave men and ask you to cheer them on."

The crowd responded heartily and later when guests were asked to identify where they came from, a young Japanese family stood up and proudly declared they were from Japan, causing some wry exchanges between the veterans.

How did they beat the most formidible army then challenging the combined military forces of three nations and winning?

"We did not even have flight training when we reached Ewa, Hawaii and trained in dive bombers for the Canal invasion," said one airman from VMTB 232 which was the first element of the Cactus Air Force to land on Henderson Field in August of 1942.

The pilots were recent graduates of flight school and their commander, Major Richard Mangrum was an Old Corps pilot who inspired his raw recruits by his own courage and devotion to the squadron.

"He was like God and we would have followed him anywhere," said one aging ex-Marine aerial gunner who recalled the time Mangrum joined up with the flight after a raid on enemy shipping and his fellow airmen informed him his bomb was still in its rack. Mangrum turned back and made a single handed attack against the Japanese fleet.

Time and the largeness of other military operations have dwarfed the significance of the Battle of Guadalcanal and this irritates some of the participants.

They point out that it was the lessons learned in amphibious warfare that made possible other campaigns including the invasion of Europe.

They tell you that the survivors of the Canal became the nucleus of the expanding Marine divisions, naval fighting ships, air squadrons and specialized forces that conquered Japan.

The Japanese proudly boasted of their special spiritual strength with a dedication to the Emperor as the element that made them invincible in 350 years of battle. The Marines and other fighters on the Island proved that a more potent force of democratic belief in humanity coupled with tough training could triumph.

"The duty of a soldier is not to die for his country but to help the other so-and-so die for his" was the motto of the Marines. They were most accommodating to the frenzied horde of enemy soldiers attacking pell mell with cries of "Banzai."

Guadalcanal destroyed the superman image of the Japanese who faced defeat after an incredible string of victories against the British in Singapore, Burma and the China Sea. Against the Dutch in the East Indies and the French in Indo China. And against the Americans at Pearl Harbor and the Philippines.

The Japanese soldier was being touted as a superior warrior. The Japanese Zero was said to be the best fighter in the air. The Japanese fleet was experienced and better equipped than the American fleet, and assumed the Master of the Pacific.

All these things were partially true but Americans responded with ingenuity and courage at Guadalcanal and changed all that.

Their victory was the psychological edge that inspired the forces of a nation staggering after a series of unremitting defeats and started them on the road to victory that never changed.

Looking over the crowded ballroom as former Coastwatcher Martin Clemens regaled the troops with his reminiscences, on the final night of the reunion, the picture was that of a special kind of men.

They were all white because that is the way wars were fought then. The Honor Guard from Ft. Carson was made up of two black soldiers and they seemed right in place with the old vets.

They were hesitant to a point of shyness as many had never attended a reunion before and they acted like guests trying to find their host. It might have been a trick of memory of who these men had been and what they had accomplished, but they looked more handome, more courageous and proud and more grateful for the blessings of freedom and liberty which they helped salvage and enshrine.

Ambassador Clemens reached for the meaning of the day by paraphrasing Shakespeare's King Henry V exhortation to his troops which says that future generations would be deprived of the glory of serving with such valiant company.

But maybe the meaning of the boys of Guadalcanal was summed up by Colonel Thomas who passed on the definition of courage to Clemens during the battle when he said, "Courage is doing the thing that has to be done."

And the marines, soldiers, airmen and sailors who served in that fierce battlefield between August 7, 1942 and February 17, 1943 did what had to be done with grand style.

(Jim Ward, was part of the relief force at Guadalcanal and participated in campaigns in New Georgia, Bouganville and New Britain. He is now a private investigator in Denver, Colorado.)●

BARRIERS TO U.S. EXPORTS

● Mr. CHAFEE. Mr. President, the U.S. Trade Representative, in a report last summer to the Congress on foreign industrial targeting, concluded that our existing trade laws do not give the President adequate authority to seek the elimination of foreign anticompetitive practices which prevent market access for U.S. exports.

On November 20 I introduced S. 1862, measures to eliminate barriers to and distortions of trade, to address this very concern. This bill would amend section 301 of the Trade Act of 1974 to define unreasonable practices in that statute to include anticompetitive practices which serve as barriers to our competitive exports.

Nontariff barriers in the form of nonenforcement of antimonopoly laws are the reason some U.S. exports have long had difficulty penetrating the Japanese market. This has been true for U.S. exports of textiles and apparel, steel, semiconductors, soda ash and no doubt countless others.

The case of soda ash, the basic raw material for glass, is illustrative. In 1983 the Japan Fair Trade Commission, at the urging of the U.S. Government, found that their domestic soda ash producers had clearly violated their own monopoly laws. The major Japanese trading companies maintain an intricate link between producers and distributors. Many Japanese marketing companies refuse to represent U.S. suppliers. No punishment, damages or other measures have been taken to enforce the findings of the Japan FTC.

The Japanese system of marketing, which gives the trading companies power in selling finished products and buying raw materials, places the U.S. soda ash industry in an impossible position unless Japan's antimonopoly laws are enforced. This occurs despite the competitiveness of our industry. We have the largest reserves, the lowest costs, the world's most efficient production methods using half the energy, half the manpower required by plants elsewhere in the world and state-of-the-art technology.

Anticompetitive practices have also served as a barrier to access for the U.S. semiconductor industry in Japan. Japanese semiconductor firms—essentially a cartel—have a long history of acting collectively to block foreign penetration. The Japanese Government targeted and formally protected its semiconductor industry in the 1960's and 1970's, in order for the industry to achieve technological parity with the United States. After heavy pressure from the U.S. Government, the Japanese Government agreed in the 1970's to liberalize semiconductor and computer imports and investment.

At the same time, however, that this so-called liberalization was taking place, the Japanese Government encouraged the industry to form collusive interfirm relationships for the research, development, production, and sale of semiconductors and computers, essentially to nullify the practical effect of liberalization. This restrictive market structure remains in place today and continues to restrict U.S. semiconductor sales in Japan. U.S. market share in Japan is about the same today as it was when the industry there was formally protected.

The situation has been similar for the steel and textile industries for years. Despite market liberalization in the 1960's, trading companies refused to handle imports from the United States, Korea, Taiwan, and other countries because of the pressure they received from Japanese steel and textile manufacturers. As a result, developing-country producers like Taiwan, Korea, and Hong Kong, which have natural markets in Japan for their steel, textile, and apparel production, have always had to concentrate their marketing efforts on the United States, resulting in the tremendous import penetration and job loss complained of by our domestic industries today.

The legislation I introduced is designed to deal with these practices when we discover them, prevent irreparable damage to American industry, and ensure us market access. The bill requires the U.S. Trade Representative to take action—either negotiation of a settlement with the offending government or retaliation—in response to a finding of burdensome anticompetitive practices. As a nation we must respond swiftly to these types of nontariff barriers which prevent our products access to lucrative markets. This legislation would accomplish that goal.

In recent testimony before the Finance Committee on the distinction between fair and unfair trade, Prof. Harry First of New York University Law School discussed anticompetitive practices as unfair trade practices. Another recent article in the Journal of Commerce discusses the way in which Japan uses cartels to protect weak industries from stronger foreign competition. I ask that this testimony and the article be printed in the RECORD.

The material follows:

DISTINGUISHING BETWEEN "FAIR" AND "UNFAIR" TRADE PRACTICES OF FOREIGN COUNTRIES

(By Harry First)

Mr. Chairman and members of the Committee. I am submitting this Statement in the hope that I can assist the Committee in its effort to set an overall framework for United States trade policy. My area of specialization is antitrust law,[1] and over the past several years I have become increasingly concerned about the application of antitrust principles in an increasingly internationalized economy. In 1983–1984 I was a Fulbright Research Fellow in Japan and a Visiting Professor on the Faculty of Law of Sophia University in Tokyo. During that period I engaged in research on the content and enforcement of Japan's antitrust law; this study enabled me to gain a greater appreciation of how antitrust enforcement relates directly to US concerns over foreign trade and trade policy.

My research subsequently came to the attention of the American Natural Soda Ash Company ("ANSAC"), a Webb-Pomerene Association whose purpose is to enable US soda ash firms to compete more effectively aboard. ANSAC believes, as do I, that greater attention to the enforcement of foreign antitrust laws must be an important component of US policy. Accordingly, ANSAC requested that I prepared this Statement to elaborate on this view.

My statement is divided into three parts. In Part I, I discuss the importance of focusing on private unfair trade practices and the failure of foreign governments to invoke their own laws to stop these activities. In Part II, I suggest that US antitrust law offers some useful guidance in determining what practices should be considered "unfair." In Part III, I offer some tentative suggestions on how the United States might increase the enforcement of foreign antitrust law by foreign governments.

I

I begin with an often neglected point. Trade is carried out by business firms, not by governments. Although there is, in each country, a varying amount of governmental involvement with these firms, including, of course, outright ownership, this should not obscure the importance of examining the behavior of business firms as distinct from the behavior of government. Business firms around the world make numerous decisions which may have a significant impact on the ability of US firms to compete: these decisions can involve the purchasing of inputs, the pricing and distribution of outputs, mergers and consolidations, point ventures, the acquisition and licensing of technology, the participation in industry groups which set standards or establish the "rules of trade."

In recent years our trade policy has been concerned with such activities mainly to the extent that we could connect them to government action. Indeed, the press release calling for these hearings requests comment on how to distinguish between "fair" and "unfair" trade in the context of a legislative focus "on the 'unfair' trade practices of foreign nations" (emphasis added). This focus leads us, first, to overestimate the importance of foreign government ministries in controlling trade; and, second, to underestimate the significance of collusive behavior by private firms, which can at times effectively control foreign markets to the detriment of US firms and all consumers. The result is a deflection of our trade policy. When ministries like Japan's Ministry of International Trade and Industry (MITI) bemoan their lack of power to control today's markets we are left with no remedy other than to disagree with their assessment and ascribe to government a power which it might not have.

This brings me to my second, and even more neglected, point. To say that the conduct of foreign private firms might be at least as significant a barrier to foreign trade as foreign government policy does not mean that government policy is irrelevant to private action. On the contrary, there is a very significant relation between government policy and private firm behavior, but it is a relation we miss because it does not occur. This is the failure of foreign governments to enforce their own antitrust-type laws, laws which, if enforced, could open markets to competition. Governmental willingness to allow cartels to, for example, exclude foreign competitors, or fix high resale prices, or jointly cut prices to gain control of an industry, is just as much government policy as any decision to grant the industry a subsidy or tariff protection. Indeed, the economic benefits to the private firms are precisely the same.

Our disinterest in foreign antitrust enforcement springs from a number of factors. For one, I think we underestimate how many governments have adopted antitrust provisions. Antitrust laws have been adopted by a majority of the twenty-four members of the Organization for Economic Cooperation and Development (OECD), a group which includes not only Western European countries, but Japan, Australia, and New Zealand. The European Community has a transnational antitrust law, established in the Treaty of Rome in 1957. Other members of the antitrust club include countries as diverse as Korea, Taiwan, Argentina, Brazil and India.[2] Although many of these laws may have been adopted with US encouragement, we should not therefore assume that these antitrust laws must be legal orphans in their new foreign countries. The opposite, in fact, is true. Each country has placed its own stamp on its antitrust laws; in some countries, such as Japan, the legislatures have strengthened the original provisions. We thus need not feel embarrassed about urging these countries to enforce their own laws.

Another reason for our disinterest is that we have lost sight of how the antitrust laws can be used *for* business. The growth in foreign antitrust legislation was in part a post-World War II phenomenon, responsive to the lessons learned at the time. We saw that the private cartel movement had been allied with the growth of totalitarianism;[3] and that cartels hurt not only consumers but also deprived businesspeople of economic autonomy.[4] These concerns have faded from our view. Today, US antitrust enforcement policy views antitrust as being more often harmful than helpful to the economy or to business firms.

Current devotion to a laissez-faire antitrust policy, however, assumes a relatively open economic system. Whatever the truth of that in the US, foreign economic systems are often not vary open, particularly to outside competition. A case in point is the soda ash market in Japan. In 1983 Japan's Fair Trade Commission brought a proceeding against four Japanese firms which manufacture synthetic soda ash and import natural soda ash into Japan (the "Soda Ash Cartel case").[5] This was one of those rare cases in which Japan's government, after prodding from the US Embassy in Tokyo, took antitrust action against a cartel of Japanese competitors. This cartel had been restricting imports of natural soda ash for a decade. In the year following entry of the FTC's order, soda ash imports increased from 58,000 tons to 126,000 tons. This was testimony to the usefulness of foreign antitrust law enforcement to US business in opening markets—as well as the usefulness to Japanese consumers who were now able to buy the preferred product.

The Soda Ash Cartel case is one of the few examples where we have forced a foreign government to alter its policy of weak antitrust enforcement and police the conduct of private firms. It is also an example of how it may be as difficult to get an uncooperative government to enforce its antitrust laws as it is to get it to change other government policies which protect markets and hinder competition. It turns out that the relief order the FTC entered in the case was distressingly inadequate. The United States Trade Representative's most recent National Trade Estimates Report shows that the US industry's share of the market will decline from 17 percent in 1984 to 15 percent in 1985, and the US government must once again ask Japan's FTC to enforce adequately its antitrust law in this area. Thus, the Soda Ash cartel case stands as continuing testimony to how the combination of clearly private cartel behavior can interact with passive government enforcement, thereby creating an "unfair trade practice of a foreign nation."

II

We have spent nearly 100 years in the United States trying to distinguish "fair" and "unfair" trade practices, trying to decide what might be beyond the bounds of permissible competition. All too often in this debate the term "fair" has been a code word for protectionism. There were twenty-three volumes of Codes of "Fair Competition" adopted between 1933 and 1935 under the National Industrial Recovery Act, codes which reflected "the businessman's ethical principle that the price cutter is a 'chiseler,'[6] The "Fair Trade" movement sought to relieve small retailers from price competition by allowing resale price fixing; this departure from normal antitrust principles lasted nearly 40 years.[7] Thus, the usual antitrust view is that what some sellers perceive as "unfair" competition is really only hard competition.

"Fairness" having been given a bad name, some would perfer to delete the concept from antitrust consideration. I would take a different view. I believe that our antitrust experience shows the importance of retaining some concept of "fairness" in the operation of our economic system; but this experience also suggests the limits of the concept. More to the point here, both lessons may usefully be applied on the international level, where the concept of "fairness" similarly is threatening to become a code word for protectionism.

1. We have not had notable success in formulating a generic difinition of "fairness" in domestic antitrust legislation. When Congress enacted the Federal Trade Commission Act in 1914 it gave the FTC power to enjoin "unfair methods of competition," preferring this broad approach to specifically designating certain practices as illegal. Our experience indicates, however, that the FTC has stayed fairly close to business practices considered "anticompetitive" under traditional antitrust standards. Even when the Supreme Court affirmed the Commission's power to apply its mandate "like a court of equity" and consider "public values" beyond those of the antitrust laws, the Commission did not seize the opportunity.[8]

2. Rather than a broad generic approach to "fairness," we do better with a focus on fairness as it relates to specific practices in a system of marketplace competition. Of course, we still need some overall guidance for the concept of fairness. Dirlam and Kahn, in their book *Fair Competition*, suggest that "[f]air competiton is supposed to promote efficiency, and it is hoped that rules of fairness will ensure the preservation of competition itself."[9] This guide thus encompasses two benchmarks for fairness—the promotion of efficiency and the maintenance of a competitive process. The rules we adopt for international competition should seek efficient outcomes through the competitive process. They should be directed at providing the opportunity for all sellers to reach the market, so that competition "on the merits" can occur and the most efficient producers succeed.[10]

3. Without providing a laundry list of every practice which U.S. courts have found to be anticompetitive, I think that there are certain practices which have historically been condemned because they "deprive . . . rivals of a fair opportunity to compete."[11]

a. Boycotts—where members of an industry try to exclude competitors by jointly refusing to deal with them or by jointly using their power to coerce others to refuse to deal with them;[12]

b. Exclusive Dealing—where a significant percentage of a market is foreclosed to outside suppliers by virtue of longterm supply contracts,[13] or by virtue of ownership integration;[14]

c. Tying and Reciprocal Dealing—where sellers (tying) or buyers (reciprocity) condition sales or purchases on the acceptance of a less-desired additional product;[15]

d. Bottleneck and Monopolistic Refusals to Deal—where a monopoly buyer or seller uses it market power in the monopolized segment of the market to adversely affect competition at a potentially competitive level;[16]

e. Predatory Attempts to Monopolize—where a monopoly seller, or group of sellers, attempt to exclude an equally efficient competitor from the market, with the intent thereafter to obtain monopoly profits.[17]

4. There are, of course, many governmental policies affecting trade which do not deal directly with opportunities to compete, but can give protected firms and advantage over U.S. competitors; examples include tariffs, subsidies (whether through direct expenditures or indirectly through the tax system), access to technology, and government procurement. Whether these advantages are "unfair" often depends on the extent to which US firms receive similar advantages in US markets; this is the subject of much dispute, and our own practices often weaken our arguments against them in other countries. The antitrust view of fairness is not subject to a similar charge. All firms operating in the US are entitled to, and receive, these protections. Private cartels face severe restrictions if they attempt to exclude competitors from markets. Application of antitrust rules in foreign countries, under legislation similar to our own, can produce a fairer trading system in which we ask only the same opportunity to compete that we offer others here.

III

"Fair trade" is trade in markets where private firms are adequately policed by government to insure all the opportunity to compete. Fairness relates to the process of competition. It does not insure results.

Once we see the connection between private anticompetitive behavior and governmental policy which tolerates such behavior, several approaches suggest themselves. At a minimum, US trade negotiators must put antitrust enforcement on the agenda of trade talks. I am pleased to see that this is being done in Japan with regard to several specific issues. This approach should now be generalized by paying greater attention to private firm behavior in those countries whose markets have been difficult to penetrate.

The step after trade negotiations is trade legislation. Obviously, this presents difficult problems, both in assessing the adequacy of foreign antitrust enforcement in light of concerns over excessive intrusion into sovereign law enforcement prerogatives; and in deciding what U.S. sanctions are appropriate. Proposals to include inadequate antitrust enforcement under Section 301 of the Trade Act of 1974 are certainly one possibility. Whatever the approach, however, care must be taken to write legislation directed at specific practices rather than a generalized directive that foreign countries enforce their antitrust laws. The core unfair competitive practices described above would be a good start, and would avoid the trap of condemning nothing while appearing to condemn all.

Concentrating attention on private cartels and foreign antitrust enforcement will not solve all unfair trade problems. Industries which find it difficult to compete—whether because of unfavorable exchange rates, high labor costs, or inferior technology—will not be helped by being given a fair opportunity to compete in foreign markets. This approach will help only those U.S. firms whose products can be successful in foreign markets. These are our winners. We should give them all the help we can.

FOOTNOTES

[1] A copy of my curriculum vita is attached.

[2] Foreign antitrust legislation is described in 2 W. Fugate, "Foreign Commerce and the Antitrust Laws" 359-401 (3d ed. 1982).

[3] See, e.g., G. Stocking & M. Watkins, "Cartels or Competition?" 286-89 (1948).

[4] This point is made with great force in E. Hadley, "Antitrust in Japan" (1970).

[5] The case is explored more fully in First, "Japan's Antitrust Policy: Impact on Import Competition, in Fragile Interdependence: Economic Issues in the Japan-U.S. Relationship" (T. Pugel & R. Hawkins, eds., forthcoming): a relevant excerpt from this paper is attached to this Statement, infra.

[6] J. Dirlam & A. Kahn. "Fair Competition: The Law and Economics of Antitrust Policy" 5 (1954).

[7] The Miller-Tydings Act, passed in 1937, was repealed by the Consumer Goods Pricing Act of 1975.

[8] See "FTC v. Sperry & Hutchinson Co.," 405 U.S. 233, 244 (1972).

[9] Dirlam & Kahn, supra, at 18.

[10] Compare, e.g., Northern Pac. Ry. v. United States," 356 U.S. 1, 6 (1958) (evil of tying is that "[c]ompetition on the merits with respect to the tied product is inevitably curbed").

[11] "Brown Shoe Co. v. United States," 370 U.S. 294, 324 (1962).

[12] See, e.g., "Montague & Co. v. Lowry," 1903 U.S. 307 (1904).

[13] See, e.g., "Standard Oil Co. of California v. United States," 337 U.S. 293 (1949) (exclusive dealing).

[14] See, e.g., "Brown Shoe Co. v. United States," 370 U.S. 294 (1962) (vertical integration).

[15] See, e.g., "Jefferson Parish Hosp. Dist. No. 2 v. Hyde," 104 S. Ct. 1551 (1984) (tying); "Betaseed, Inc. v. U.&I. Inc.," 681 F.2d 1203 (9th Cir. 1982) (reciprocity).

[16] See, e.g., "Otter Tail Power Co. v. United States," 410 U.S. 366 (1973).

[17] See, e.g., "Borden, Inc. v. Federal Trade Comm'n, 674 F.2d 498 (6th Cir. 1982); R. Posner Antitrust Law: An Economic Perspective" 188 (1976).

JAPAN'S ANTITRUST POLICY: IMPACT ON IMPORT COMPETITION

(By Harry First*)

The thesis of this paper is that the failure of Japan's Fair Trade Commission to more vigorously enforce Japan's Antimonopoly Act has adversely affected the ability of imports to compete effectively in Japan. This policy of inaction is government policy. Just like tariffs or targeting, it deserves the attention of those interested in opening Japan's markets to U.S. firms as fully as U.S. markets are open to Japanese firms.

On March 11, 1983, the Fair Trade Commission issued a "Recommendation Decision" involving four firms which manufacture synthetic soda ash and import natural ash. Under the Antimonopoly Act, a Recommendation Decision is the minimal formal level of FTC procedure; it represents a "finding" by the FTC that the Act has been violated, but this finding is made prior to the initiation of any formal complaint or hearing. The decision sets out recommended appropriate remedial measures, along with the facts supporting the Commission's findings.

Footnotes at end of article.

The FTC found that the four soda ash companies had violated Section 3 of the Antimonopoly Act, which prohibits unreasonable restraints of trade, that is, agreements which affect price or limit output. These are the facts according to the FTC: The four defendants are the only soda ash manufacturers in Japan. In 1973, following liberalization of soda ash imports, the defendants entered into a memorandum agreement to prevent "disorderly importation" of inexpensive natural soda ash. They established a joint venture, along with seven trading companies, to build and operate a silo facility to receive and store natural soda ash. They then agreed to import natural soda ash, appointing four of the trading companies to handle the actual import arrangements, and the other three to distribute the ash from the silo to the defendants. The silos were made available only for soda ash imported by the four defendants through the trading companies. Equal commissions were paid to each of the trading companies regardless of the actual amount of import and domestic sales. The silo company, with a 30,000 ton capacity, began operations in 1975.

Although the four defendants agreed on an initial allocation of imports among themselves, they also met each December to set the total imports for the following year. Further, the 1973 memorandum provided that in the event additional U.S. companies wished to export natural soda ash to Japan "as new entrants," the four defendants "would cope with the problem jointly." Such an event occurred in 1979. At that time the defendants caused an alternation in the import-distribution system, switching trading company assignments around so that two new entrants could be served by one of the trading companies which was currently acting as importer (and was part-owner of the silo company).

The Recommendation Decision required the defendants, inter alia, to end the agreement on import quantities, allocations, price, and distribution channels. They were also required to "not unreasonably restrict" usage of the silos. The defendants accepted the decision. Data provided by the FTC show that imports of soda ash went from approximately 58,000 tons in 1982 to 126,000 tons in 1983; another report predicted an additional 40 percent increase for 1984.

On its face, the Soda Ash case demonstrates how a decision to require Japanese firms to follow Japanese law can aid foreign firms, giving them the opportunity to compete in Japan's markets that Japanese law is supposed to guarantee. If all the case showed, however, was a vigorous FTC policing an aberrant situation by knocking a few firms back into line, then the case would not deserve much examination. In fact, what this case shows is the timidity of antitrust enforcement. What it suggests is an unwillingness to really deal with restraints on import competition, restraints which go far beyond the soda ash agreement.

To see this point, we need to return to the beginning of the story. The memorandum was signed in 1973; the Recommendation Decision was not entered until 1983. What finally triggered FTC interest? It was not the use of its substantial investigative power. Rather, it was a complaint from the U.S. Embassy acting on complaints voiced by U.S. producers.

Next, we need to look at who was not charged—the trading companies. It is hard to avoid the conclusion that they were

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active co-conspirators. They were co-venturers in the silo company. They were importing soda ash on behalf of U.S. firms, and then selling it to the U.S. firms' competitors (all the defendants were manufacturers of synthetic soda ash). The importing trading companies accepted the import quota agreed upon by the four defendants. Each of the seven then split commissions equally without regard to individual sales, thereby diminishing incentive to increase the sales of any particular U.S. competitor. Finally, when new U.S. entrants appeared, the trading companies simply swapped clients rather than break the quota system.

Next, we need to examine the competition story set out in the FTC complaint. Why was the agreement among the four companies effective in restraining import competition? After all, the four were not the only consumers of natural soda ash; in fact, only two of them used soda ash in their manufacturing processes. Soda ash is used in a variety of industries—bottle and window glass, soap, crude oil refining. All these manufacturers were required to pay higher factor prices; presumably, they would have preferred the lower prices offered by U.S. importers. Why could not the U.S. firms have simply avoided the four defendants (and their trading companies) and dealt directly with these customers?

One explanation might be the silo facility.[2] Perhaps it was an "essential facility," access to which would be required to compete effectively. Although it seems likely that use of the facility would have made it easier for new firms to enter the Japanese markets, there is no indication either that seller-provided storage was a requirement for successful sales, or that it would have been impossible for importers to build their own storage facility.

The more likely explanation lies outside the story told in the FTC decision. Apparently, the defendants, producers of synthetic soda ash, threatened their customers with a future refusal to deal, telling them that they would not sell to those who now purchased from the importers, if import supply became unstable in the future. Without this threatened refusal to deal, the defendants could not have controlled the actions of their customers, whose normal business interests would have led them to seek cheaper supplies. These joint refusals to deal violate Section 19 of the Antimonopoly Act.[3] Failure to specifically charge the defendants on this ground, like the failure to charge the trading companies, weakens the impact of the decree. The defendants were left free to employ their most effective weapon against their competitors.

There is a final important gap in remedy. The 1977 amendment to the Antimonopoly Act made a surcharge mandatory under the following circumstance: Whenever a firm "effects an unreasonable restraint of trade . . . which pertains to the price of goods . . . or results in affecting the price of such goods . . . by curtailing the volume of supply. . . ." This, of course, is exactly what the FTC found in the Soda Ash case. But it did not impose the mandatory surcharge, nor did it explain its reasons for ignoring this statutory requirement.

Given all that the FTC did *not* do, it should not be surprising that complaints are again surfacing about the behavior of the soda ash companies. In the year following entry of the decree, Japanese newspaper reporters began telling the Commission of renewed threats by the defendents to refuse to deal with those who buy imports; the U.S.-Japan Trade Study Group made a similar report.[4] So far, however, the FTC has not done anything to deal with these allegations.

The Soda Ash case suggests the role which antitrust enforcement could play in assuring competitive access to Japan's markets. It also shows how, even in a case in which enforcement appears vigorous, enforcement is in fact far short of what the law would allow. Of course, often the FTC is not even this vigorous. It is prone to allow defendants to escape with a warning, as it did in its 1984 decision regarding an agreement among domestic synthetic rubber manufacturers to restrict imports of synthetic rubber from Taiwan.[5] Further, there is a strong belief in the business community in Japan that agreements to restrict imports, backed by threatened refusals to deal, are quite prevalent. The U.S.-Japan Trade Study Group Report states that "Japanese businessmen acknowledge that such pressure is fairly commonly applied by Japanese firms. . . ."[6] Published reports of this pressure have surfaced in the petro-chemical, fertilizer, and caustic soda industries.[7] So far, the FTC has not acted.

As important as this kind of enforcement would be, however, concerted refusals to deal with low-priced imports is not the only area of weak enforcement which affects import competition. I would like to suggest several other areas in which a change in FTC behavior could have a procompetitive effect which could benefit the position of imports.

First is the Commission's failure to pay more attention to the market for legal services, especially with regard to foreign lawyers. At present, Japan's government has attempted to deflect U.S. criticism of Japan's refusal to allow U.S. lawyers to advise clients in Japan by taking the position that this question is one for the Japan Federation of Bar Associations, a private trade association of lawyers. As might be expected, the Federation has not embraced the principle of opening its markets to new competitors.

The problem of allowing foreign lawyers to "practice law" in Japan has become enmeshed in issues of reciprocity, in the debate over whether having more lawyers in Japan will have an adverse effect on Japanese society, and even in negotiations over trade frictions. Lost in this debate has been concern with competition policy. Near total exclusion of foreign lawyers and law firms not only adversely affects these sellers of legal services. Decrease in the number of competitors affects consumer choice. All lawyers' services are not a deadweight loss to society despite the usual criticisms of lawyers, it should not be forgotten that they do act to facilitate economic transactions, and that they can be useful in assisting clients who wish to achieve their business objectives. If foreign lawyers are most likely to serve the submarket of international business clients, it may well be that an increase in supply and competition in this market will lead to an increased ability of these firms to engage in economic transactions in Japan, and to penetrate Japan's markets.

Whether new entrant law firms would assist the entry of new imports, or represent current competitors (whether Japanese or foreign) intent on blocking them, is not clear. What is clear, however, is that the FTC has not articulated the policies favoring competition in this area. Normal competitive analysis would at least be skeptical of cartel control over entry of competing lawyer and would predict gains at least in the primary lawyers market.[8] The Federation of Bar Associations does not appear to have any legally granted antitrust immunity. An investigation of the Federation's behavior might at least prod the Federation to adopt a more procompetitive policy. Instead, the FTC has left the matter to the parties "for negotiation."

This leads to a broader category of economic policy areas in which the FTC could improve the access of foreign firms to Japan's markets. It could act as "advocate for competition" in those matters of economic policy which have been given to other Ministries. This role would represent a change from the FTC's current posture of being a ministry which directs business, whether through guidance or orders, to end anticompetitive behavior; but it would not be inconsistent with the Commission's willingness to study issues of market structure and economic behavior. The role of "advocate for competition" should not be narrowly conceived in terms of advocate for foreign competition; rather the FTC should pursue a mission of seeking to increase competition generally in Japan's economy in much the same way that the U.S. Department of Justice's Antitrust Division does. Pursuit of this affirmative role, of course, would include import competition. Indeed, in many areas, imports are the most likely potential entrants.

There are many recent examples of policy issues in which an active FTC role might affect the competitive position of imports. These examples include: legislative battles over the proper structure for a privatized NTT and Japan Tobacco and Salt Monopoly Corporation; foreign access to VAN systems; the entry of commercial banks and securities brokers into the trust banking business; the type and length of protection for computer software programs. These are significant economic issues over which the FTC does not have direct jurisdiction; but the FTC's institutional posture as an advocate for competition might lead others to pay more attention to the impact on competition of their decisions.

The Commission has occasionally taken such an approach,[9] but, unfortunately, rather than acting as advocate for competition, the Commission's usual approach has been to close ranks with other Ministries when foreign criticism arises relating to opportunities to compete. This approach is exemplified by the Commission's 1983 Report on "Trade Frictions," in which it found virtually no competitive problems which particularly face foreign firms. The FTC's approach was one of looking for discriminatory barriers, rather than asking more general questions relating to the degree of competition in the markets studied. The general approach of advocate for competition, however, would have uncovered competitive problems, whose solution could benefit foreign and domestic competitors.

FOOTNOTES

[*] Professor of Law, New York University School of Law. The author would like to thank Richard W. Rabinowitz, Esq., for his helpful comments on an earlier draft.

[1] See U.S.-Japan Trade Study Group, Progress Report: 1984, at 69 (1984).

[2] The importance of the silo facility is developed in Rapp, infra.

[3] Pursuant to section 19, which forbids "unfair trade practices," the FTC has designated sixteen types of practices which fall into this category. Designation 1 covers concerted horizontal refusals to deal "without proper justification." Designation 2

covers unilateral refusals to deal under circumstances which are "unjust." Designation 11 forbids "unjustly dealing" with another party on condition that the party "shall not deal with a competitor, thereby tending to reduce transaction opportunities" for the competitor. Although it is not clear the extent to which the FTC requires proof of anticompetitive impact in such refusals (judged, for example, by the market share of the firms threatening the refusal), it would appear that the Soda Ash cartel did have sufficient market power to adversely affect competition through its threatened refusal to deal.

[4] See U.S.-Japan Trade Study Group, Progress Report: 1984, at 69.

[5] See "Warning to Synthetic Rubber Manufacturers," FTC Press Release, July 25, 1984.

[6] U.S.-Japan Trade Study Group, Progress Report: 1984, at 70.

[7] Id. at 69. See also The Japan Law Letter, Jan. 1985, at 21 (reporting that Japanese petrochemical makers are considering an arrangement whereby they would handle sales and marketing in Japan of petrochemicals soon to be produced by Saudi Arabia); id., Nov. 1984, at 41–42 (reporting MITI backing for such an arrangement, despite problems of legality under Antimonopoly Act).

[8] Note, in this regard, that restraints on entry and competition in the legal services market go far beyond restrictions on the ability of foreign lawyers to maintain offices in Tokyo. As one observer has noted, "The Japanese legal services industry is subject to a wide variety of severely anticompetitive restraints, of which the barrier to foreigners are only one segment—and an incidental one at that." Ramseyer, Rethinking Regulation in the Legal Services Industry: The Relevance and Irrelevance of Culture, at 8-9 (1985) (unpublished manuscript).

[9] See The Japan Law Letter, Jan. 1985, at 16–17 (reporting FTC opposition to Ministry of Posts' announcement that it might require Class 1 telecommunications applicants to unify their facilities prior to authorization of service).

JAPAN'S CARTELS PROTECT WEAK INDUSTRIES

(By A.E. Cullison)

TOKYO.—Ever since the Japanese began to accumulate massive annual surpluses with their trading partners early in this decade, government officials and economists in the United States and Europe have been criticizing Japan for maintaining a wide range of industrial cartels to protect their weaker sectors from foreign competition. Such criticism is bound to increase in the future as Japan's surpluses continue to expand.

Whether or not it is an accurate view, U.S. and European economists insist that if it were not for Japan's 431 officially recognized and highly protective cartels, their countries would be in a position to sell more of their manufactured goods in Japanese markets. This seems a reasonable assumption.

Therefore, the argument goes, if only Japan's Fair Trade Commission would assert itself and exercise its authority by eliminating some of the more blatant cartels it just might prove possible to provide somewhat greater access to foreign products. Another reasonable assumption.

Nevertheless, most economic analysts in Tokyo agree that it would prove diabolically difficult for the FTC, such as it is, to remove a reasonable number of domestic cartels that today protect 103 different products and services throughout the country.

Unfortunately for the FTC's authorities, the Japanese government has never permitted them to enjoy an adequate budget. Their investigative staff is always seriously undermanned and this is no accident. From the point of view of Japanese business and the country's business-oriented bureaucrats, the FTC—if not done away with entirely—should be kept as weak as possible.

Further aggravating for those who would like to see the cartels removed, is the fact that most of these defense mechanisms are not based upon Japan's Anti-Monopoly Law but on other commerical laws that provide for the Anti-Monopoly Law's exceptional applications.

If these together were not sufficient to discourage the FTC as it attempts to promote fair competition in the marketplace, it should be noted that in the past certain completely illegal cartels have turned up, leading some foreign economists to suspect that a number of secret industrial arrangements exist right now in Japan to further restrain competition.

Not all of these cartels—both legal and illegal—restrict the possibilities of foreign manufactured goods becoming competitive in Japan's markets. But a considerable number do.

And it is particularly those cartels, which defend the Japanese industries involved from competitive imports, that stand the best chance of surviving for a long time, despite the best efforts of the nearly impotent FTC.

However, FTC officials have been bitterly stung by charges in Washington and other Western capitals that they are at best ineffective. As a result, they now claim that they intend to tighten controls on the cartels. But it is duly noted that the FTC talks of tightening controls on the cartels and not phasing them out one by one as they should.

Certainly, Japan's FTC is not talking about clamping down on those cartels outside the Anti-Monopoly Law, at least not just yet. This is mainly because these laws outside the Anti-Monopoly Law are aimed at promoting stabilized growth or structural reforms in those industries that remain uncompetitive and are more or less marginal.

In effect, most of the industries in Japan protected by these notorious cartels are being bailed out by the Japanese government despite the fact that this policy is contradictory to Tokyo's insistence on the values of free trade and elimination of protectionist policies in other countries.

Put another way, by permitting so many cartels, the Tokyo government is massively intervening in the market mechanism and preventing foreign imports from gaining a foothold in those specific sectors where non-Japanese goods are most competitive, and have the best chance of gaining market penetration. ●

HEALTH FAIRS

● **Mr. GORE. Mr. President, I am an enthusiastic supporter of Health Fairs and have sponsored the House and Senate Health Fairs for the last 5 years. Health Fairs give people an opportunity to gain vital health screening and health education services at no cost. It is a program that benefits all through a partnership of corporations, the media, and volunteer organizations.**

In a recent edition of the AMA Journal, an article was interpreted by some to be critical of the Health Fair movement. The author of that article was deeply concerned that his article might have given a false impression and set the record straight in a letter to the president of the Health Fair organization, Jack Marshall. I ask to have the letter reprinted below.

Health Fairs have been of enormous benefit to Capitol Hill employees and millions of Americans across the country. The Health Fair movement has enormous potential and is worthy of our strong endorsement.

The letter follows:

INSTITUTE FOR HEALTH RESEARCH,
HARVARD COMMUNITY HEALTH PLAN, HARVARD UNIVERSITY,
Boston, MA, November 4, 1985.

JACK A. MARSHALL,
President, National Health Screening Council for Volunteer Organizations, Kensington, MD.

DEAR MR. MARSHALL: Thank you very much for your letter of October 30. I am, indeed, distressed to learn that my analysis of health fairs, published in the Journal of the American Medical Association last month, has resulted in any negative impressions of NHSCVO or of the health fair movement in general. This letter is intended to help correct any such misimpression.

Throughout my research on health fairs, I remained greatly impressed with NHSCVO and with other major leaders and sponsors in the health fair movement. The professionalism, enthusiasm, caution, and willingness to engage in self-examination that I saw especially at NHSCVO marks, in my view, an organization of the highest integrity. In what I regard as the first major phase of development for health fairs—the growth phase—your organization's leadership has been creative and highly effective, and has doubtless resulted in improved health for many participants. It is all the more remarkable that this growth has been achieved with basically volunteer workers and on a minimal budget. Your contributors' dollars have gone farther with NHSCVO than they could have in most other health-related enterprises.

During this important developmental phase, I believe that NHSCVO has been appropriately broad in searching for forms of education and screening which engage people's attention in health fairs. My research was directed toward the future development of health fairs, now that they constitute an enterprise of sufficient magnitude to focus efforts more clearly on the most efficacious procedures.

Concern over the amount of screening that is now being done at health fairs did not originate with my research. Indeed, your own staff have been attempting for some time to refine guidelines for screening based upon the best available medical research. I intended my research to support, and be continuous with, NHSCVO's own efforts to improve health fairs based on your extensive experience and sound goals. My conclusions are not far from those which I heard from many leaders in the health fair movement; namely, that it is now time to focus health fair screening efforts on a smaller number of tests and conditions, while, at the same time, continuing to develop health fairs as settings for effective health education and life-style interventions.

The exact choice of screening procedures to retain in health fairs involves difficult judgments, and depends strongly on the demographics of the participant populations. In many cases, we do not have enough information in health care research to make strong recommendations, and I see NHSCVO as potentially able and willing to play a key role in facilitating the collection of screening and follow-up data permitting us all to learn more about when and how to screen. Here, too, I found during my research a supportive and intellectually rigorous set of interests within your staff.

In understanding the thrust of my evaluation, it is also important to realize that I did not deal at all with the most significant role that health fairs play; namely, the education of participants in matters related to their own life-style and health care choices. We badly need sound educational vehicles in this country to supplement the admittedly low level of effort in education that is currently present in much of our health care system. NHSCVO has been, and should remain, a key player in developing community-based health education efforts.

NHSCVO is probably the finest volunteer organization which I have ever had the pleasure of getting to know, and I regard its efforts in the health fair movement to date with the highest respect. My *JAMA* paper was meant to stimulate some detailed scrutiny of screening strategies in health fairs—which NHSCVO had already begun on its own—and not at all to decrease the level of interest in or support for the health fair movement in general. Your sponsors should continue their good work, your contributors can be proud of what you have done and will do, and your participants will benefit from the education and, in the future, targeted screening which they can receive at the fairs you sponsor. Anyone who construes my paper to constitute an assault on the health fair as a concept is the victim of gross misinterpretation.

Please feel free to share this letter with anyone you wish, including those whose comments on my paper suggest that they have misinterpreted me. In addition, I hope that you will feel free to call on me in the future for advice or clarification.

Best wishes,

Donald M. Berwick, M.D.,
Vice President, for Quality of Care Measurement.●

NOTICE OF DETERMINATIONS BY THE SELECT COMMITTEE ON ETHICS

● Mr. RUDMAN. Mr. President, it is required by paragraph 4 of rule 35 that I place in the Congressional Record this notice of a Senate employee who proposes to participate in a program, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee has received a request for a determination under rule 35 which would permit Mr. W. Proctor Jones, a member of the staff of the Committee on Appropriations, to participate in a program in Taiwan, sponsored by the Chinese Culture University, from January 1, 1986, to January 10, 1986.

The committee has determined that participation by Mr. Jones in the program in Taiwan, at the expense of the Chinese Culture University, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 which would permit Mr. David Griswold, a member of the staff of Senator John H. Chafee, to participate in a program in Taiwan, sponsored by Soochow University, from December 27, 1985, to January 5, 1986.

The committee has determined that participation by Mr. Griswold in the program in Taiwan, at the expense of Soochow University, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 which would permit Mr. Mark Haynes, a member of the staff of the Committee on Environment and Public Works, to participate in a program in Taiwan, sponsored by Tunghai University, from January 5, 1986, to January 12, 1986.

The committee has determined that participation by Mr. Haynes in the program in Taiwan, at the expense of Tunghai University, is in the interest of the Senate and the United States.●

THE THREAT OF NUCLEAR WAR

● Mr. LEVIN. Mr. President, prior to the Geneva summit, the Washtenaw County, MI Women's Action for Nuclear Disarmament [WAND] presented me a copy of a letter they sent to President Reagan, and a petition signed by over 5,000 people deeply concerned by the threat of a nuclear war.

During this season of hope and good will, I want to share with my colleagues the letter and message WAND sent to the President. While their message is one of hope, it is also one of deep anxiety. As their letter states, the signers are united in their "concern for the lives of our children and the future of their world."

The summit has been concluded, but the ongoing effort to find a path to a safer world must continue. During these holidays, we should rededicate ourselves to seeking ways to ensure our planet's survival.

The text of the letter follows:

Washtenaw County Women's Action for Nuclear Disarmament, Inc.,
Washtenaw County, MI.

President Ronald Reagan,
The White House,
Washington, DC.

Dear President Reagan: These petitions were signed as a gesture of hope and extreme concern. They were circulated by the Washtenaw County chapter of the national organization of WAND, Women's Action for Nuclear Disarmament. Our group is made up of several hundred people, mainly women with children, all of us united in our concern for the lives of our children and the future of the world. Most are not what we would have called radicals in the 60's: many have never done anything "political" in their lives until they found WAND and realized many people were sharing their fears.

Over the course of two and a half months more than 5,000 people signed this petition to send to you. People of all ages signed and, since Ann Arbor is a place where visitors come from all over, people from all over the country signed. We decided to make this a brief project. Otherwise we could have collected many thousands of signatures, but we felt the message would be the same either way. Almost everyone who was asked was very eager to sign. In addition, our children made a wonderful 40-foot long illustrated petition of their own. They are extremely concerned about nuclear war and wanted you to know. We can't bear to part with the banner but plan to make a book of photographs based on their drawings and will send you a copy when it is done.

Our group is fairly new and we have found that many people just do not realize the threat to us all that is posed by nuclear weapons. No one would be unaffected in a nuclear war, no one would be safe. Our food, our atmosphere, our way of life would not survive. Many millions would be killed. These are facts which we believe all Americans should understand and we feel our leaders should be the ones to explain them to us. It is so easy to listen to comforting messages, and so very dangerous. We will lull ourselves right into oblivion.

You have the most important job that any American president has ever had, and that is to save our planet. When you and Secretary General Gorbachev meet in November, we pray that your meeting will be the beginning of some concrete steps to reduce and finally eliminate nuclear weapons. We now have enough to destroy life on earth 67 times over. Just one Trident submarine has the firepower of 6 World War IIs. We don't need any more submarines or any more nuclear weapons.

WAND's motto is "Children Ask the WORLD of Us." This world is shared by all of us, ours to use for as long as we are here, entrusted to our care to preserve for future generations. It is not ours to destroy just as life is not ours to destroy. We think again and again about our children, children of people we love. All those children who did not choose to be born into a world of nuclear weapons. American and Russian, man and woman, we must do what we can for them and for ourselves or we will surely all perish together.

Respectfully,

Sharron Singleton,
President,
Washtenaw County WAND.
Susan Else Wyman,
Chairperson,
Petition Campaign.●

RETIREMENT FUND SAFEGUARDS

● Mr. ROTH. Mr. President, this morning's Washington Times carried a column by the chairman of the Subcommittee on Civil Service, Post Office, and General Services of the Governmental Affairs Committee, Ted Stevens, dealing with the impact on the financial community of the recently passed Senate bill providing a retirement system for those Federal employees hired after December 31, 1983.

I commend this column to you for I believe it will put to rest the concern of some that the financial structure of this Nation may be unduly influenced by the sizable amount of funds contained in the retirement thrift plan. I submit for the Record the complete text of the column by the senior Senator from Alaska which appeared in the

December 19 edition of the Washington Times.

The material follows:

RETIREMENT FUND SAFEGUARDS

(By Ted Stevens)

In early November the Senate voted 96-1 to pass legislation establishing a new federal retirement program.

The legislation generally calls for a three-tiered retirement program for new federal employees.

The third tier is a tax-deferred voluntary savings program where employees who contribute to the plan find their contributions matched by the government. This is similar to a 401(k) plan provided by private industry, which is a form of tax-deferred savings.

The monies from the third tier are pooled in one large fund, managed by a board, composed of government and employee representatives, much like any private-company pension plan, and invested in private industry.

Recently, arguments have surfaced that the board potentially could manipulate assets of the retirement fund for political purposes. Clearly, such arguments show that their proponents do not understand the legislation.

The structure of the investment plans in the retirement legislation precludes any possibility of political manipulation. The Senate would not have passed the legislation which near-unanimity if manipulation of monies were possible.

Currently all federal retirement funds are invested in government securities. In the new federal retirement plan, the thrift-plan fund can be invested in three separate funds: a government-securities fund; a fixed-income fund; and a stock-index fund.

Who chooses where the monies are invested?

The board?

No.

Individual employees?

Yes.

Employees essentially choose how much of the total fund is allocated to the specific investment funds, but can the board manipulate where monies are invested within the individual funds?

No.

The government securities fund is composed of special issues of the Treasury. The fixed-income fund will include non-federal securities that guarantee a fixed-rate of return, such as guaranteed interest contracts with insurance companies or certificates of deposit with banks.

The stock-index fund operates by allocating funds to individual stocks within a stock index, at a ratio which is identical to the value of a particular stock to the value of the index as a whole.

For example, if the board chose the Standard & Poor's 500 Index for the fund, monies would be allocated to individual stocks, not by the board's—or anyone else's—discretion, but rather by the value of individual stock compared to the whole index. As the stocks in the index changed in value, so would the allocations from the fund.

The committee report accompanying this legislation stated the following: "Hence no individual or group of individuals [is] capable of manipulating investments. The committee finds the innate structure of the investment funds precludes political manipulation. In each case, the fund is essentially self-managed."

An alternative approach to investing pension-plan funds was proposed which would have permitted employees individually to choose their investment vehicles, comparable to individual retirement accounts (IRAs). The committee that reported the legislation considered this approach and rejected it for a number of reasons.

First: No known private-sector employer provides such a free-wheeling scheme. Instead, the approach in this legislation is patterned after private practice.

Second: Because individual institutions occasionally go bankrupt, employees investing their retirement accounts in such institutions could lose their benefits. An employer who provides a retirement plan for employees bears some responsibility for assuring the plan's integrity. That is why Congress enacted the Employee Retirement Income Security Act, applicable to private pension programs. Under the legislation, pooling employee money and diversifying such money among fixed-income instruments and through a stock index ensures its protection.

Third: There are literally thousands of qualified institutions which would bombard employees with promotional advertising for their services.

Fourth: It would be difficult to administer.

Fifth: This "retail" or "voucher" approach would give up the economic advantage of this group's wholesale purchasing power derived from the group's large size. In that case, employees individually would get less for their money.

Investment of pension funds through the vehicles provided in this legislation is common practice. The investment scheme precludes potential manipulation of pension monies, while granting employees a secure and flexible approach to retirement planning.●

MARTIN LUTHER KING, JR.

● Mr. **SARBANES**. Mr. President, on January 20, 1986, Americans all across the country will mark the first observance of the Martin Luther King, Jr., birthday national holiday. This marks the culmination of almost 18 years of effort to recognize Dr. King as one of our Nation's great leaders, a giant figure in the evolving history of the United States.

As a cosponsor of the legislation enacted in 1983 which authorized the holiday, I am proud that the State of Maryland has celebrated January 15, the actual birthday of Martin Luther King, as a legal holiday since 1974. This year for the first time, citizens in every State will join in observing the birthday as a time of commemoration, reflection, and peace.

Also this year, I hope to see enactment of legislation which I have introduced to authorize the establishment of a Martin Luther King Memorial on Federal land in the District of Columbia. I urge my colleagues who have not already done so to join in cosponsoring this measure.

The memorial is a project of Alpha Phi Alpha, Inc., the oldest black fraternity in the United States, and as such, will be established at no cost to the United States. Alpha Phi Alpha, of which Dr. King was a member, having joined on June 22, 1952, at Sigma chapter in Boston, MA, will coordinate the design and funding of the monument. The Department of the Interior, in consultation with the National Capital Park and Planning Commission and the Commission on Fine Arts, shall select the site and approve the design. The Secretary of the Interior's National Capital Memorial Advisory Committee, on November 14, 1985, voted unanimously to recommend approval of the project, after hearing testimony from representatives of Alpha Phi Alpha and receiving my statement.

The idea of a Martin Luther King, Jr. Memorial in the Nation's Capital is entirely fitting. What we hope visitors to the monument, and especially the thousands of young people who come to the District of Columbia every year, will come to understand is that it recognizes not only the enormous contribution of this great leader, but also two very basic principles for the healthy functioning of our society.

One is that change, even very fundamental change, is to be achieved through nonviolent means; that this is the path down which we should go as a nation in resolving some of our most difficult problems.

And the other basic principle is that the reconciliation of the races, the inclusion into the mainstream of American life of all its people, is essential to the fundamental health of this Nation. Dr. King preached, taught, and practiced these essential principles.

The memorial, like the holiday we will observe in January, will serve to remind us of the importance of Martin Luther King's dream which he articulated so dramatically in August 1963 in the march on Washington speech at the Lincoln Memorial, one of the most significant events in our Nation's history:

> I have a dream that one day on the red hills of Georgia, sons of former slaves and sons of former slaveowners will be able to sit down together at the table of brotherhood.

He went on to say:

> I have a dream that my four little children will one day live in a nation where they will not be judged by the color of their skin but by the content of their character.

Eighteen years after his death, America is still striving toward the fulfillment of Martin Luther King's vision. The national holiday we observe in 1986 and the National King Memorial we are working to establish not only pays tribute to him but also confirms the Nation's commitment to rededicating itself to the principles of justice and equality which Dr. King's life exemplified.●

INDIANA SMALL BUSINESSES

● Mr. LUGAR. Mr. President, today, I would like to share with the Senate the outstanding achievements of nine Indiana small businesses as reported in the December 1985, issue of Inc. magazine. These nine businesses are among a list of the 500 fastest growing private companies in the United States, and three of the companies are among the top 25 fastest growing companies. The significant growth of these companies is an indication of their commitment to quality and service and also reflects upon Indiana's favorable business climate and high level of small business support.

Every year, Inc. ranks the 500 fastest growing private companies in America on the basis of sales, employment, profitability, and growth. Nine Indiana businesses are included in this ranking. These include America Trans Air, Indianapolis, IN; North American Roofing, Carmel, IN; General Microcomputer, South Bend, IN; E&A Industries, Indianapolis, IN; DISC, Indianapolis, IN; PURE, Indianapolis, IN; Ram Graphics, Alexandria, IN; Fastec Industrial, Elkhart, IN; and Diversified Systems, Indianapolis, IN.

Two of these companies deserve special mention. America Trans Air was founded in 1973 by its current president, Capt. J. George Mikelsons, who built the company into one of the world's most successful private carriers. In 1981, ATA became a charter airline-operating flights both domestically and worldwide. In their continuing efforts to meet the travel needs of the marketplace, ATA recently received approval to serve certain commercial domestic routes. ATA did more than $139 million in sales in 1984, and experienced almost 21,000 percent growth in sales between 1980 and 1984. America Trans Air ranked seventh overall on the list.

North American Roofing, a roofing contractor in Carmel, IN, has also experienced dramatic growth and was ranked 10th on the list overall. North American Roofing has grown from a 12-person operation in 1980 to 200 employees in 1984. Their sales of $11 million in 1984 represents almost an 11000-percent growth in sales from 1980.

Critics have charged that America's job-generation reflects the replacement of high-productivity jobs with low-productivity, low-wage jobs. However, with respect to these Hoosier business concerns, the dramatic growth in employment has been accompanied by an equally dramatic increase in labor productivity. Average sales per employee for these Hoosier businesses rose from $49,426 in 1980 to $250,720 in 1984, a gain of over 500 percent.

Last year, small business provided a livelihood for over half our population and jobs for 45 percent of the Nation's total non-farm work force. That translates into jobs for over 45 million Americans. The quality management and dedicated work force of these diverse Indiana companies have strengthened our country's economic base. Their entrepreneurial spirit has fostered economic growth and job creation, and exemplifies the success of our competitive free enterprise system.

The success of these companies also demonstrates the favorable business climate Indiana has developed. In October, 1984, another Inc. article chose Indiana as the No. 1 State for business community support and implementation of measures to create a better environment for the growth and development of small businesses. State support was defined in terms of whether or not the States had small business assistance offices, ombudsmen, Governor's advisory councils, legislative committee's, statewide conferences, and procurement set-asides for small business. Indiana ranked near the top in all these areas and first overall.

This unmatched excellence exhibited by the Indiana State government and these Indiana businesses merits attention. I applaud their efforts and wish them continued success.●

THE 25TH ANNIVERSARY OF THE UNIVERSITY OF MEDICINE AND DENTISTRY OF NEW JERSEY

● Mr. BRADLEY. Mr. President, I am pleased to offer my congratulations to the University of Medicine and Dentisty of New Jersey as they celebrate their silver anniversary. As a State institution, the UNDNJ has provided educational opportunities in dentistry and dental care to all New Jersey residents. Education is the chief priority. Their services range from continuing education for practicing dentists to toothbrush training for school age youngsters. The UMDNJ was the first successful dental program in New Jersey and it has grown into the State's greatest resource for dental education and research. With its new facilities in Newark, the New Jersey Dental School's prestige and population has increased throughout its 25 years. Today, this reputable institution offers doctoral degrees in dental medicine in addition to postgraduate specialty training. I hope the UNDNJ-New Jersey Dental School continues to expand in their research and educational capabilities. I applaud their efforts and their remarkable achievements on the occasion of their silver anniversary.●

JUVENILE INDIAN DRUG AND ALCOHOL ABUSE PREVENTION

● Mr. MURKOWSKI. Mr. President, I am gratified that S. 1298, the juvenile Indian drug and alcohol abuse prevention bill has passed the Senate. As an original cosponsor of this bill, I am convinced that it is a much needed piece of legislation. S. 1298 authorizes the Indian Health Service to implement needed programs to treat and prevent alcohol and drug abuse among American Indians and Alaska Natives.

In hearings held in Washington, DC, and throughout the country including Alaska, the devastating impact of drugs and alcohol has been clearly underscored. At the hearing held in October of this year in Anchorage, AK, the Alaska Federation of Natives testified that alcohol and drug abuse threatens the very survival of Alaska Native people and the traditional way of life. The latest Indian Health Service statistics show that Indian and Alaska Native mortality related to alcoholism is 5.6 times higher than the national average. The manifestations of substance abuse are also revealed in very high incidences of domestic violence, suicides, accidental deaths, and child abuse.

Despite overwhelming evidence that alcohol and drug abuse is the No. 1 health problem of American Indians and Alaska Natives, our hearings also revealed that there are embarrassingly few Federal programs in place to deal with this problem. I learned through our hearing in Alaska that the Indian Health Service does not operate a single juvenile drug treatment center in Alaska. In fact, the Alaska Area Indian Helath Service allocates less than 1 percent of its resources for substance abuse.

Because of the seriousness of this health problem and because it is glaringly evident that neither the Indian Health Service nor the Bureau of Indian Affairs has adequately responded to it, I am very pleased that the juvenile Indian drug and alcohol prevention bill is going to receive favorable consideration in the Senate and I intend to keep working to insure that it becomes law.

Mr. President, I commend the able efforts of the Chairman of the Select Committee on Indian Affairs, Senator ANDREWS, for pursuing this legislation. I also take this opportunity to express my appreciation of Mary Jane Wrenn of the committee staff who worked so hard on this bill, and who assisted me in our Anchorage hearing.●

MARTIN LUTHER KING DAY

● Mr. BUMPERS. Mr. President, on October 19, 1983, I spoke on the Senate floor and asked my colleagues to endorse, without further delay, the bill that would name a holiday in honor of Dr. Martin Luther King, Jr. I was a proud cosponsor of the bill we enacted. As we near the first official observance of the holiday, I rise to challenge my colleagues, and the Nation as a whole, to remember Dr. King and the principles for which he stood.

Dr. King's struggle was an American struggle, a patriotic quest for social justice and racial equality. He challenged Americans to realize that the promises of "justice" and the "blessings of liberty" guaranteed by our great Constitution are meaningless unless applied equally to all. Moreover, in an era of turmoil and frustration, he steadfastly advocated nonviolent resistance to bring about change. Dr. King appealed to the decency of America and his words brought out the best in all of us. One life, even one that tragically lasts only 39 years, can dramatically change the course of human events. Dr. King sharply changed the course of American history.

On the coming first observance of the King Holiday, it is not enough simply to remember Dr. King. We must commit ourselves to the principles for which he stood—equality, peace, justice and compassion. Mr. President, the Martin Luther King, Jr. Federal Holiday Commission is circulating a pledge card, asking that on January 20, 1986, we pledge ourselves to "Loving, not hating; Showing understanding, not anger; Making peace, not war." I have signed and submitted my pledge card, and I ask every American to join me in this commitment. If somehow we could all make and keep such a pledge, our world would be a radically different place in which to live.

I also want to take the opportunity to commend Arkansas Cultural Enterprises, Inc., for its effort to make the Dr. Martin Luther King, Jr. Holiday a success.

A.C.E. is a nonprofit group organized in 1985 to foster cultural and ethnic identity and pride. On the first official observance of the King Holiday, the organization will hold a commemorative brunch, the first of what will become an annual event. Georgia State Senator Julian Bond will give the Keynote address, and A.C.E. will give awards to three Arkansans for their contributions to promoting equal rights.

A.C.E. is working with Arkansas' Martin Luther King, Jr. Holiday Commission. I am a member of the Arkansas Commission, and we are working in close concert with the Federal Holiday Commission which was also established this year. I am certain that Arkansas Cultural Enterprise's commemorative brunch will be a success, and I want to congratulate them for this fine event.●

RECOGNIZING CONTRIBUTIONS OF CARL TURNER

● Mr. BINGAMAN. Mr. President, as you know, during 1985 the 50th anniversary of the Rural Electrification Administration was observed with great acclaim and gratitude for all the good things which have been made possible because of its creation. It seems appropriate to me, Mr. President, that as this year closes, I should offer a few words of praise for one of Rural Electric's most deserving workers, Carl Turner of New Mexico.

Mr. Turner is the executive manager of the New Mexico Rural Electrification Cooperative Association. Because of his untiring efforts on behalf of the work of the association, he was recently given the Pioneer Award and Medallion by the National Rural Electrification Cooperative Association. This award is recognition not only of his service to the people of New Mexico but to the people of rural America for his years of work on their behalf. The people who work with him know of his devotion and tenacity in the cause of those issues involving all rural electric cooperatives. We in Congress who have heard him as an advocate for the movement know those same qualities in him and respect his earnest and forthright approach.

The Pioneer Award acknowledges work well done and I am very pleased to add my voice to those which have been raised to congratulate Carl Turner. His professional life has been dedicated to the goal of providing service to the people who need it the most—a goal we all appreciate.●

ANNIVERSARY OF THE BHOPAL DISASTER

● Mr. LAUTENBERG. Mr. President, December marks the anniversary of the Bhopal chemical disaster. One year ago, over 2,000 Indian citizens perished and another 200,000 sustained frightening injuries in what was the worst industrial accident in history.

In the year that has followed, chemical accidents have received front page attention, and the chemical industry, Congress, EPA, and local officials have struggled to understand the implications of Bhopal.

Mr. President, Bhopal was not an aberration of Third World management and technology. There is a common thread linking Bhopal to the United States in the many investigations and reports that have followed the Bhopal disaster. The message in these reports is quite simple: More attention must be paid to safety considerations in process design, operating procedures, and proper maintenance of equipment. Workers, residents, and emergency response personnel must be better informed about the chemical hazards that surround them.

Unfortunately, these chemical hazards are present across our country. A draft EPA report reported on this fall by the New York Times lists nearly 7,000 significant chemical releases over the past 5 years in just a handful of States. These releases have taken a tremendous toll: 139 deaths, 1,500 injuries, and the evacuation of over 200,000 citizens.

As a result, public support is growing for full disclosure of chemical hazards through the enactment of strong community right-to-know programs.

Congress has responded to this concern. Both the Senate and the House Superfund bills include provisions addressing community right-to-know and emergency planning and response. Provisions that I sponsored as a member of the Senate Environment and Public Works Committee would establish the first national inventory of chemicals handled by plants across the country. An important, and controversial, requirement of the inventories in both the Senate and House bills is the reporting of routine, as well as accidental, releases of toxic chemicals into the environment. While I anticipate spirited debate on these provisions, I am hopeful that the Senate-House conference on Superfund will include strong right-to-know and emergency response provisions, and look forward to beginning the conference when Congress returns in January.

Mr. President, the provisions included in Superfund represent important progress, but they are only the first steps in what promises to be a debate that will continue for years. More difficult questions remain to be answered. How do we come to grips with the factors causing these chemical releases? To what extent will industry voluntarily take on the responsibility to put a stop to dangerous accidental and routine chemical releases? To what extent must Congress step in and enact new legislation to regulate the chemical industry. These are all questions that we must tackle next year when we turn our attention to reauthorization of the Clean Air Act and other environmental legislation.

Mr. President, EPA has just formally released a list of 400 acutely hazardous chemicals and guidance for community right-to-know and emergency response programs. This is an important first step, but it must not be the last. More must be done.

EPA proposes to turn this list over to the States and localities without requirements that business disclose information about these chemicals. EPA expects communities to take it from there, and find out what safety equipment or emergency response plans exist at a plant. EPA expects communities to find out how chemicals are handled and transported, and find out where they are stored on-site and if they are released into the environment.

This program is entirely voluntary. It leaves the locks on the plant gates. It deprives communities of their right-to-know what chemicals exist within their borders. And it deprives us of a national data base.

There is an important role for the Federal Government. And that is why I have pursued amendments to the Superfund that would call on EDP to share these responsibilities with our communities.

Mr. President, I would like to take this opportunity to recognize the excellent contribution that Stuart Diamond of the New York Times has made to this debate over the past year. Stu traveled to India immediately after the Bhopal disaster. He traveled to Institute, WV, following the aldicarb oxime release in August at Union Carbide's sister plant. Since then, he has continued to pursue related issues, soliciting response from a broad cross-section of those involved in and affected by the chemical industry. Through his reporting and insight, we have a clearer picture of what happened in Bhopal and Institute. We can better understand how these accidents relate to chemical hazards across our country. And we have a balanced portrayal of the response in Congress and the Environmental Protection Agency.

Mr. President, I inserted an excellent series of articles on Bhopal by Stuart Diamond into the CONGRESSIONAL RECORD during the Superfund debate earlier this year. Today I ask unanimous consent that a more recent series of articles by Mr. Diamond, written by November and December, associated with emergency response and community-right-to-know issues be printed in the RECORD at the conclusion of my remarks. The focus of the first three articles is on a list of acutely hazardous chemicals and emergency response guidance proposed by EPA. The last article addresses issues related to safety in the chemical industry.

U.S. NAMES 403 TOXIC CHEMICALS THAT POSE RISK IN PLANT ACCIDENTS

(By Stuart Diamond)

The Environmental Protection Agency has concluded that 403 highly toxic chemicals, produced, sold and used throughout the United States, pose potentially serious health dangers to the public in a chemical plant accident.

At least 577 companies at thousands of locations handle these chemicals, according to an analysis of chemical industry data by The New York Times. Some of these chemicals are produced and stored in the billions of pounds near populated areas, while some are so toxic that leaks of only a few pounds could cause injuries to people near plants, the agency said.

The E.P.A. list and its associated documents, obtained from Government officials, are the first major step in a Federal effort to measure the potential for toxic chemical accidents. The documents which took months to prepare, explain how municipalities can determine whether these chemicals are handled in their midst, and offer suggestions for minimizing the prospects of major chemical accidents like those in Bhopal, India, and Institute, W.Va., in the last year.

Some of the material is to be made public this morning in a four-hour teleconference among Federal, state and local government officials and chemical company executives.

"For the first time, people will be able to identify where chemical risk exsits in their communities," Lee M. Thomas, the E.P.A. Administrator said in an interview.

Just how much risk lease substances pose to the public is as yet uncertain. Federal officials stress that the list of chemicals alone is not sufficient to assess the chance of a serious accident. The agency leaves it to residents to determine how much of the chemicals are stored at nearby plants, what the safety equipment and emergency response plans are and whether people live close enough to be harmed in an accident.

"A community should not be unduly alarmed if it funds, within its boundaries, chemicals which meet the criteria" for danger, the agency says. Nonetheless, it says, all the chemicals on the list are considered "immediately dangerous to life and health," and "can cause death or injury in the event of an accidental release into the air."

Moreover, the list does not contain all the important toxic chemicals used in the United States, Government officials say. Only chemicals for which health studies have been conducted—perhaps 20 percent of all the chemicals in commerce—appear on the list, E.P.A. officials said. The agency provided criteria to be used in further investigations of chemicals.

A spokesman for the Chemical Manufacturers Association, Thomas J. Gilroy, said last night, "The agency's objectives, protecting the public, are the same as ours." He said he could not comment on the list because he had not seen it.

MANY SUBSTANCES ON LIST

The substances identified by the agency include cyanides, acids, industrial gases, medical products, metals solvents, plasticizers and chemical intermediates—those used in the manufacture of other chemicals.

Some are widely used materials like sulfuric acid, chlorine and formaldehyde. But others are not usually thought of as toxic materials: pharmaceuticals like vitamins D and K, amphetamine and bacitracin, which are very toxic in large manufacturing quantities.

There are also chemical warfare and tear gas agents; compounds of lead mercury and cadmium; pesticides like parquat, endrin and lindane, and chemical intermediates like methyl isocyanate, which leaked at Bhopal, killing more than 2,000 people and injuring more than 200,000.

The heaviest concentrations of plants that handle the toxic chemicals are in New Jersey, Texas, Louisiana, West Virginia, the Midwest and California. But plants that handle these substances are situated in almost all parts of the country, from Connecticut to Nevada, New Hampshire to Washington State. Some of the companies that handle the largest numbers of the toxic chemicals are in the New York metropolitan area, including some on Long Island, in Brooklyn and northern New Jersey.

LARGE AND SMALL COMPANIES

Large companies like the Dow Chemical Company, Du Pont and the Union Carbide Corporation, whose pesticide plants in Bhopal and Institute caused the widely publicized accidents, often manufacture large volumes of toxic materials, but the handlers of the widest variety of toxic chemicals include many small and medium-sized companies.

The Aldrich Chemical Company in Milwaukee, with $35 million in annual sales, handled the widest variety, 97 of the toxic chemicals. The Aceto Chemical Company in Flushing, Queens, was second with 67, and four of the top 10 were in the Plainview and Smithtown region of Long Island. The Crescent Chemical Company in Hauppauge, L.I., handles more pesticides than any other company on the list, according to the analysis of chemical industry data.

Some of those companies produce relatively small quantities of toxic chemicals for sale to research and high technology concerns. But chemical experts said in interviews that some companies produced dozens of those chemicals, which together pose a significant threat in an accident.

MEASURING RISK OF CHEMICALS

Equations provided in the E.P.A. documents to determine what constitutes a potentially dangerous amount for each chemical make it clear that very small quantities may still pose threats. With chlorine, for example, as little as two-and-a-half pounds could be dangerous to someone 200 feet from a leak.

Some of the chemicals on the list are 10 times as toxic as chlorine, and many are highly unstable.

The E.P.A. suggests that municipalities form groups of local officials, experts, industry executives and ordinary citizens to seek out facilities where toxic chemicals may be used. Cooperation by chemical companies is voluntary, but Mr. Thomas said toxic waste legislation now pending in Congress will require companies to provide information on chemical storage if needed for emergency planning.

Mr. Gilroy of the Chemical Manufacturers Association said yesterday that his group would urge chemical companies to cooperate in such inquiries.

But interviews with chemical company executives last week revealed disparities in how much the companies would disclose about their operations. David R. Harvey, the president of Aldrich, said, "Our general policy is we don't make statements on chemicals we produce."

By contrast, Dr. Ervin Colton, the president of Cerac Inc., which is just down the street from Aldrich in Milwaukee, disclosed the amounts at his plant of each of the 18 chemicals on the E.P.A. list that Cerac handles. That included a few hundred pounds each of cobalt and nickel, 100 pounds of vanadium pentoxide and 15 pounds each of various mercury compounds. "We will absolutely share such information with the public," he said.

CARBIDE REDUCING INVENTORIES

Some of the large chemical companies have begun programs to reduce the amounts of very toxic chemicals they store. Robert E. Pyle, vice president at Union Carbide for chemicals and plastics, has recently reduced companywide inventories of very toxic chemicals by 74 percent. Company officials had independently identified nearly all of the 37 chemicals on the E.P.A. list that Carbide handles, he said.

But industry and Government sources said the E.P.A.'s criteria for potentially dangerous amounts of chemicals may create some difficulties. Few producers of chlorine, for example, can store as little as two-and-a-half pounds, they said. About 27.7 billion pounds of chlorine are produced each year in this country at more than 60 locations, according to SRI International, a research concern, and at least that many additional companies store it. Commercial quantities may be 100 times greater than the danger level cited by the E.P.A.

Mr. Pyle said it may be necessary to add safety equipment or even stop making some chemicals in certain locations. "We're all going to have to share in mitigating the risk," he said.

The E.P.A. also advises communities to search for toxic chemicals in outside the chemical industry. Many of the toxic materials are purchased from producers by relatively small distribution companies that sell them to users. Some utilities handle toxic chemicals, like the Tennessee Valley Authority, which deals with three sulfur compounds, and Commonwealth Edison in Illinois, which handles vanadium pentoxide.

Bell Laboratories handles the pesticides warfarin and zinc phosphite, according to the analysis of the chemical industry data. The General Electric Company deals with hydrochloric acid and phosgene, a World War II weapon now used in production of pesticides, plastics and dyes, among other products.

STEPS FOR MUNICIPALITIES

The agency suggests that municipalities seek such information by consulting several industry sourcebooks, each listing thousands of chemicals and hundreds of producers and distributors.

They also urge municipalities to ask how the chemicals are handled, what safety precautions are taken, how close they are to the edges of the plant and how they are shipped to or from the site.

The agency also plans to distribute detailed profiles of the chemicals on its list, including handling procedures.

For each chemical, the agency provided equations so that localities can calculate what quantity would pose a lethal threat to areas surrounding a plant based on distance from a leak.

State officials say they are concerned that the high number of chemicals on the list will overwhelm local resources in seeking out the most important risk. "We just don't think we can go to all 168 towns in Connecticut and provide help to each of them," said Charles J. Zieminski, an official in the state's Department of Environmental Protection.

Mr. Thomas of the E.P.A. also expressed some concern that localities will lose momentum as time passes. "This must be more than one-time effort," he said.

LARGE NUMBER OF PESTICIDES

The largest group of chemicals on the list, about 140, are pesticides and pesticide components. Included on the list is nicotine, used in various pesticides as well as in tobacco products.

There are about 15 cyanide compounds on the list, including potassium cyanide, acrylonitrile (vinyl cyanide) and hydrogen cyanide. Acryinotrile is handled in about 50 places, including several locations in New Jersey. About 2.2 billion pounds is produced each year, largely in Texas.

Besides sulfuric acid, the mostly widely produced chemical in the United States, the list also includes ammonia, the third most widely produced, and nitric acid, which ranked 11th. Common industrial gases like bromine, fluorine, phosphine and sulfer dioxide are also on the list.

There are about 90 chemical intermediates, which are used to make other substances. Many are relatively unknown, as was methyl isocyanate, the chemical that leaked at Bhopal. Some of the more well-known intermediates on the list are hydrogen peroxide, nitrobenzene and phenol. The E.P.A. said in its document that some of the most widely used substances were included even though they are less toxic than some other chemicals because of the greater potential for leaks.

The list also contains some food, flavor and fragrance chemicals, and seven chemical warfare agents.

EPA PROGRAM ON TOXIC CHEMICALS IS CRITICIZED

(By Stuart Diamond)

The Environmental Protection Agency's program for safer handling of dangerous chemicals came under fire yesterday from some legislators who attacked its voluntary nature and from some companies that said they sold quantities too small for concern.

The program includes the identification of 403 toxic chemicals that could cause injury or death from chemical plant accidents. At least 577 companies handle those chemicals at thousands of locations, according to an analysis of the list by The New York Times. The agency relies on municipalities to find the plants handling the chemicals and on chemical plants to disclose the information and make any changes to reduce excessive risks.

James J. Florio, Democrat of New Jersey, criticized those voluntary aspects. "This program hopes for the good will of the people running the plants and that people in the towns will have enough expertise to understand the chemicals," said Mr. Florio, chairman of the House Energy and Commerce Subcommittee on Commerce, Transportation and Tourism, which oversees the enforcement of various major environmental laws.

DIFFERING STANDARDS FEARED

In an interview, he said that even if such programs worked, they would result in different safety standards in different communities. "There will be no uniformity," he said.

E.P.A. officials and chemical industry executives have said that the chemical industry is so large and diverse that it is difficult, if not impossible, to have uniform standards, as there are with nuclear power plants. The Chemical Manufacturers Association, an industry group, has a program to encourage companies to cooperate with local communities in emergency planning.

Some of the companies that handle the most toxic chemicals are small concerns that sell sample quantities to laboratories and universities. Chemical experts said that the total inventory of the many small individual quantities could be significant in an explosion or fire. But some of the companies said they should not be lumped with the giant concerns that often store millions of pounds of toxic chemicals.

"We are more like a drugstore than a giant chemical plant," said Arthur J. Turco, president of the Crescent Chemical Company in Hauppauge, L.I.

PROBLEMS AT CHEMICAL PLANTS RAISE BROAD SAFETY CONCERNS

(By Stuart Diamond)

The type of management, training, equipment and response problems that characterized last December's gas leak disaster in Bhopal, India, exist in many American chemical plants, according to recent inspections and studies of the American chemical industry by a variety of experts.

These problems, confirmed in interviews with 130 people over the past six weeks, have prompted growing apprehension about safety compromises at hundreds, perhaps thousands, of places handling toxic chemicals.

Such concern is rising even as the Government and chemical industry are taking steps to improve. Last week, for example, it was disclosed that the Environmental Protection Agency had identified 403 highly toxic chemicals that could cause injury or death in a major accident, although not all are so potent as the one at Bhopal. The list was meant to help states and localities find potentially hazardous sites, prepare for emergencies and reduce risks.

An analysis by The New York Times found that 577 companies in thousands of locations handle such chemicals.

Just to measure the risks of major accidents, let alone reduce them, is a task beyond the resources of many localities, and concern has increased as a result, government officials said.

DIFFICULTIES IN THE DETAILS

The experts interviewed recently—industry consultants, government regulators, company executives and others—said there was insufficient information available to say precisely where the most serious problems might be, how likely a major accident was, or how many deaths or injuries might result. But they agreed that there were more safety weaknesses at smaller companies than at the larger ones.

Some of these problems came to public attention in August, when The Times disclosed new research concluding that emergency relief equipment was inadequate to handle an uncontrolled reaction in as many as 50,000 production processes at chemical plants.

It has since become clear, however, that the shortcomings go well beyond emergency relief equipment and touch nearly all aspects of the industry's operation, many chemcial experts said.

This broad new concern is a significant change from the weeks after the Bhopal accident, when most American chemical executives and experts pointed to the best worker safety record in manufacturing and thousands of leaks that did not result in injury as proof that neither the industry nor the public need to be alarmed about a disaster here. United States chemical facilities, they said, were generally more advanced than those in developing countries.

But many experts now believe that the safety record has masked important problems, creating a false sense of security.

"This country has been very lucky it has not had a major chemical accident killing a lot of people," said Roger J. Batstone, a chemical engineer who developed lists of hazardous chemicals for Britian and the World Bank and was consulted by American officials.

"There have been many warnings," he said. "Those who try to minimize the hazards are totally wrong. And if there aren't many changes in the next couple of years, there probably will be a major accident here."

Industry executives, while objecting to the tone of such remarks, acknowledge safety weaknesses. "We have an outstanding worker safety for record, but we have been weakest in protecting against a major accident involving the public," said George J. Sella, chairman of the Chemical Manufacturers Association and of the American Cyanamid Company.

"In the past, such accidents' were considered so improbable that it was not believed necessary to build in the protection mechanisms for them," said Mr. Sella, a chemical engineer. He said there was now "great awareness" about the need to improve emergency plans and add safety equipment.

The recent rise in concern began on Aug. 11, when a chemical leaked at a Union Carbide pesticide plant in Institute, W.Va., injuring 135 people. The accident, while not nearly so severe as the one in Bhopal, where more than 2,000 people died, showed the same kinds of human and equipment failures in a similar plant, and it happened while the Institute plant was under intense scrutiny by regulators and the industry.

Since then, audits of plants by companies and government officials have found patterns of accidents and failures that experts say pose a previously unforeseen risk to the public.

Many of the troubles have been relatively small: values operating incorrectly; overpressurized tanks; broken gauges left unrepaired. But there have been thousands of failures, often leaking toxic chemicals into the air, sometimes injuring dozens of nearby residents.

"Institute was a turning point, especially on top of Bhopal," said Robert D. Kennedy, president of Union Carbide's chemicals and plastics group. "A year ago, a one-in-a-million shot was unthinkable," he said. "Now it's thinkable. It can happen here; it can happen anywhere. It causes us to rethink everything we do."

Mr. Sella agreed, "Mr. Kennedy is 100 percent accurate," he said.

As a result of such concern, the Federal Government has expanded its interest in chemicals beyond longstanding public concerns about toxic waste sites and small, routine leaks that could cause cancer or other disease. In the past, Federal inspectors say, they almost never seriously considered the possibility of major accidents.

"Our concern about acute hazards has heightened considerably in the past year and especially since Institute," Lee M. Thomas, the E.P.A. Administrator, said in an interview. He urged "far greater awareness on the part of plant management about process system safety."

How can the risks of accidents be reduced? Those interviewed said improvement was needed in these areas:

Information. Many chemical companies have been reluctant to tell the public what hazards their plants contain. "In case after case, employers have claimed that every substance they make is a trade secret," said Margaret Seminario, a safety expert for the American Federation of Labor and Congress of Industrial Organizations.

Emergency plans. Most chemical plants and the communities around them are ill-equipped to cope with toxic accidents. John M. Jones, an official of the Dow Chemical Company who heads an industrywide effort to formulate emergency plans, said it would take two years for the average community to make adequate preparations for chemical emergencies.

Management. Safety varies widely among chemical plants because of management; cost is a main factor. "For too many companies, there is no profit in safety," said Richard H. Mays, who heads enforcement at the Environmental Protection Agency.

Training. Few chemical plants have training simulators, common among airlines and in some other industries. "In some companies, training frankly stinks," said A. Ben Clymer, a New Jersey training consultant who recently surveyed 77 plants.

Risk analysis. Relatively few chemical companies do detailed risk assessments to find and improve equipment and procedures most likely to fail. Thus while the industry says intuitively that the risk of a major accident is very small, there is little information to settle the issue.

Audits this year by Illinois officials found that 8 percent of the state's biggest chemical facilities were poor in hazard control, management, operations and emergency planning. "Too many facilities did poorly," said Roger A. Kanerva, a state environmental manager. He added, however, that some plants were clearly excellent.

Regulation. No Federal agency is charged with preventing major chemical plant accidents. There is wide disagreement on the use of regulations.

ACCIDENT HISTORIES: EXPERTS WORRY

A search through accident histories turns up many mishaps that worry experts.

In October 1982, for example, human error and equipment failure sent chlorine arching into the sky from a plant in Niagara Falls, N.Y., owned by E.I. du Pont de Nemours & Company. It came down on a crowded stadium a mile away, where a high school football game was being played. There were 76 injuries and one death, a Federal report said. "A lot of football players were falling down on the field," said Robert A. Armbrust, a state engineer familiar with the mishap.

Arthur J. Fossa, air toxics director for New York State, said plant operators did not discover the leak for 30 minutes, after which they properly operated valves they earlier misused.

Improvements were made at that plant, but accidents happen almost daily around the country. An unreleased E.P.A. study obtained last month by the New York Times listed 6,928 chemical accidents since 1980, involving 139 deaths and nearly 1,500 injuries. It was a partial listing.

Among the accidents, a pesticide leak injured 161 people in New Jersey. A nitric acid explosion killed 3 people and injured 61 in Mississippi. A solvent leak injured 40 in Queens. Ammonia, widely used for cooling, killed 4 people in San Antonio and injured more than 270 in bakeries, ice cream factories, warehouses and other businesses in many states.

About 35 incidents had important elements of Bhopal: a toxic chemical leak from a storage tank involving operator error. Other American accidents had one or more other Bhopal failures: inadequate instruments, relief equipment, training, emergency planning and safety expenditures; and workers who disbelieved or ignored alarms.

As recently as Oct. 21 a storage tank leak at an Exxon plant in Bayway, N.J. spread dilute hydrogen sulfide over hundreds of square miles. Temperature and pressure gauges that could have issued warnings were not tied to the control room. Safety devices did not destroy all the toxic gas, which caused some nausea. County officials did not reach the site for 30 minutes; state officials were not reached for two and a half hours, Exxon's chronology shows. Hydrogen sulfide is on the E.P.A. list of toxic chemicals.

SIZE OF INDUSTRY HAMPERS EFFORTS

Efforts to monitor chemical plants and reduce the chances of a major accident have been hampered by the industry's sheer size.

The United States has 12,000 chemical manufacturing plants, 400,000 major chemical storage facilities and several million businesses that use or store smaller but still potentially dangerous amounts of toxic chemicals, including hospitals, dry cleaners, paint outlets and food warehouses.

A study by the Congressional Research Service earlier this year found that there were more than 6,300 plants that manufacture chemicals and allied products in the 25 largest metropolitan areas and that 75 percent of Americans lived in these areas. Northern New Jersey had the most plants: 800. There were also 92 in Manhattan, 101 in Brooklyn, 28 in the Bronx, 79 in Queens, 68 in Nassau County, 77 in Suffolk County, 54 in Westchester County and 68 in Fairfield County, Conn.

Yet little or nothing is publicly known about two-thirds of the 54,000 chemicals in commercial use, according to the National Academy of Sciences. This is particularly true of chemicals created in intermediate stages of manufacturing, such as the methyl isocyanate that leaked at Bhopal and the aldicarb oxime at Institute. Many are not specifically regulated.

"We just can't get everything," said John B. Miles Jr., head of field inspection at the Federal Occupational Safety and Health Administration. "We try to start with the highest risk, but we may not get to a plant for 10 years. It's a big, difficult problem."

The chemical industry has started programs to improve safety voluntarily. One is the Community Awareness and Emergency Response program of the Chemical Manufacturers Association, which urges companies to work with localities to develop emergency plans. Another is the Center for Chemical Plant Safety of the American Institute of Chemical Engineers, involved in distributing technical information to improve safety in processing.

"There is a sharing of knowledge, and also peer pressure," said Gordon D. Strickland, deputy technical director of the manufacturers' association.

But such chemical risk experts as Joseph R. Fiksel of the consulting concern Arthur D. Little Inc., say the commitment to safety and improvements varies widely across the industry.

"The dozen top companies are all pretty much taking aggressive action to control risks," Mr. Fiksel said. "But most of the second-tier companies are taking a wait-and-see attitude. Many don't have the financial clout to make changes. And the mom-and-pop shops are generally doing nothing."

Most experts said better information is the starting point in reducing risks.

The E.P.A. list of 403 chemicals aims to help localities collect information on where the materials are stored, and in what amounts, and thereby assess the risks. But many companies have routinely refused to disclose such information, and some still balk at doing so, saying that the information could give competitors an economic advantage.

A New Jersey law that requires inventory disclosure, among other things, has been fought in court this year by that state's chemical producers.

"We are probably not willing to share inventory information" with the public, said Kent R. Davis, safety director of Dow Chemical U.S.A.

In contrast, Bruce W. Karrh, vice president for safety at Du Pont, said, "Our policy is to tell localities what materials we produce, the amounts and the hazards." Otto Sturzenegger, chairman of the Ciba-Geigy Corporation's United States operations, agreed: "If communities wish to be properly prepared, they have to know what amounts we have."

Today the Occupational Safety and Health Administration begins requiring companies to provide health information to workers. But efforts in Congress to force companies to provide more data have stalled.

Meanwhile, local battles continue. In Montgomery Township, N.J., Johnson & Johnson Baby Products declined for several months this year to publicly identify the 300,000 gallons of chemicals it planned to store, saying the information was proprietary.

Town experts identified the major one as acrylic acid by studying the chemical properties the company provided. The acid is common and toxic.

In response to local pressure, said Robert V. Andrews, a company spokesman, Johnson & Johnson acknowledged last month that it would store the chemical and two others.

LOCALITIES SEEK EMERGENCY PLANS

Once toxic chemicals are identified, the next step, planning for emergencies, is also a new topic for many localities, said Robert S. Wilkerson, chief of technological hazards for the Federal Emergency Management Agency. "A relatively small percentage of localities sought training in hazardous chemicals before last December," Mr. Wilkerson added. "A lot of fire departments subscribe to the saying 'If you don't know, don't go.'"

The task includes amassing and understanding complex information, developing models of chemical dispersion, buying equipment and holding drills. The estimated cost ranges from a few thousand dollars for a small site to more than $1 million for a large one.

Federal officials say localities will have to pay for much of it, but local officials say money is scarce. "Many areas will not be able to afford what is needed," said S. William Becker of the Association of Local Air Pollution Control Officials.

DEPENDING ON MANAGERS

Prevention, experts say, is better than the best emergency response plan, which only helps reduce the damage after an accident. But that depends on plant managers. Some companies, such as Du Pont, the Monsanto Company and the Union Carbide Corporation, have decreased risk by drastically cutting storage of toxic chemicals. Some plants have vapor recovery systems, double-walled tanks and computers that continually adjust reactions.

But Dr. J. Charles Forman, executive director of the American Institute of Chemical Engineers, said the problem was considerably more difficult for small companies. "A marginal plant facing a safety improvement of 15 to 20 percent of its original cost can quickly drop into a negative position," he said. "Every time you want something, you have to submit it to the cold light of financial review."

A study by Mr. Clymer, the training consultant, found that only 22 of 77 plants had full computer control of their production processes to help curb runaway reactions.

Dr. Forman's point is borne out by Elmer A. Fike, a partner of Fike Chemicals, Inc., a 45-employee company in Nitro, W.Va. "Computer process controls are out of the question," Mr. Fike said. "We just can't spend that kind of money."

But not all safety is costly. Frank B. Friedman, vice president for safety at the Occidental Petroleum Corporation, said the workers who operate plant equipment were often unable to get safety concerns to executives because of bureaucratic barriers. "That has nothing to do with resources or size, but how you manage," he said.

Irwin S. Zonis, president of Essex Industrial Chemicals, remembered a runaway reaction in a storage tank at one of its plants in Baltimore. The reaction blew out some equipment, causing a leak that injured 15 nearby residents in September 1984. The chemical, benzyl chloroformate, becomes very reactive as temperatures rise, but the tank holding it had no temperature gauge and was in fact being heated by mechanical stirring. "We were very fortunate that no one was killed," Mr. Zonis said. "The operation should never have been approved by management."

The variation in management is evident in worker training.

The best company programs, experts say, include a month of classes in safety principles and two-week refresher courses yearly. The worst have no classroom or refresher training, said David C. Pathe, a chemical engineer and training expert in Sea Girt, N.J. "They say, 'Here's your safety gear—we wear it when things go wrong,'" Mr. Pathe said.

Mr. Clymer said his survey of 77 plants using chemical processing equipment had found that only 10 percent of operators got annual refresher courses. Some plants, such as the Mobil Oil Corporation's in Paulsboro, N.J., have 100 days of training for new operators, he said, while others have less than 5 days.

Richard E. Edgington, chairman of the health and safety committee of the A.F.L.-C.I.O. in Oregon, asserted that such a plant is operated in Portland, Ore., by the Pennwalt Corporation.

Mr. Edgington, a member of the plant's labor-management safety panel, said it had three days of training for new operators, including a 90-minute safety briefing. Safety procedures are followed only about 60 percent of the time, he said, largely because of the press of production, worker inexperience and failure of middle management to enforce the rules. Some mishaps have resulted in injuries, he said.

A Pennwalt spokesman contended that the plant was safer than Mr. Edgington indicated but did not dispute the training figures.

A union survey of 400 locals last year at various companies' plants throughout the country indicated wide concern over training.

"This union believes that a Bhopal-type disaster could occur in this country in a chemical plant employing our union members," said David W. Ortlieb, health and safety director of the International Chemical Workers Union. He said intensive operator training for runaway reactions was unusual. The union has 65,000 members.

A big problem at some plants, several experts said, is work on overnight shifts and weekends. The Bhopal and Institute accidents and a 1974 cyclohexane explosion that killed 28 people in Flixborough, England, all occurred on such shifts.

One way often used to improve training is with simulators: full-size control consoles on which accident scenarios are posed for operators to control.

"With a simulator, you can let an operator practice handling an accident over and over," Mr. Clymer said. "Response becomes quicker and more accurate. It is practice an operator could not get otherwise, and in a real accident he is calmer and less frightened, because he has seen it before."

But simulators, common in the airline and nuclear power industries, are rare in the chemical industry. Lawrence P. Ricci of Atlantic Simulation, the largest supplier of chemical training simulators, said there were only about 150 plants with simulators for operators of chemical process equipment. That covers less than 10 percent of the major facilities, he said.

Mr. Davis of Dow Chemical said, "More of our resources must be directed toward training people."

Of a dozen experts interviewed on training, only one, Mr. Strickland of the Chemical Manufacturers Association, said training was adequate. "There is no serious problem with training in the industry," he said.

DEBATE ON ROLE OF GOVERNMENT

Factoring all the elements of chemical plant safety into one equation is called risk analysis. It involves calculating the failure rates of each part of the system—equipment, procedures and humans—and determining possible sequences of failure.

Risk analysis has been practiced for years by airlines and nuclear plants, said Alvin M. Weinberg, a former director of the Oak Ridge National Laboratory who is a risk expert. But the chemical industry, he said, "is way way behind."

In Britain, by contrast, the analysis is done by even small chemical plants using personal computers, said Mr. Batstone of the World Bank. "Europe is 10 years ahead of this country in hazard evaluation," he said.

The World Bank requires safety equipment more advanced than in the United States for the plants the bank finances in developing countries.

Mr. Mays of the Environmental Protection Agency says chemical companies should be required to audit their plants and analyze their risks, particularly in order to force weaker companies to improve. Such a requirement was part of a settlement earlier this year with the Diamond Shamrock Corporation under which the company agreed to pay a $900,000 fine for violating Federal notification procedures on the introduction of new chemicals.

"These audits are too important to leave to the voluntary action of individual corporate management," he said. New Jersey officials are starting to require audits of risk, and the Occupational Safety and Health Administration has begun a pilot program to inspect 80 plants for potential runaway reactions. Some governmental officials propose criminal penalties for violations involving leaks.

Fred Millar of the Environmental Policy Institute, a Washington-based lobbying and research group, suggests a tax on chemical plants to pay for inspection programs. Los Angeles has just started such a program and plans to collect $1.5 million a year.

But neither the industry nor top officials of the Environmental Protection Agency have come out in favor of mandatory programs. Milton Russell, the agency's Assistant Administrator for Policy, said it was hard to regulate plant safety in an industry with thousands of different processes and substances. He said the threat of increased liability from lawsuits was a powerful factor in persuading chemical companies to improve.

Mr. Thomas, the E.P.A. Administor, said be was considering ways to force more safety through existing regulations, such as requiring more detailed reporting of accidents or ordering safety reviews at higher levels in chemical companies.

Indeed, many experts say that regulation cannot guarantee safety, only a will to be safe can. "You can't regulate or legislate a management commitment to safety," said Mr. Karrh of Du Pont. "The company must value it."

But some say a broad commitment will not be easy to secure.

"The Institute accident occurred with hundreds of regulators looking at the plant and top management obsessed with it," said Thomas N. Gladwin, a chemical management expert at the New York University Graduate School of Business Administration. "It was where all the industry's capabilities and motivation should have been applied. It tells me that commitment to plant safety does not reach the whole industry."

"The culture of many companies must be changed," he added. "What they value, what they pay attention to, how they promote. One would have thought Bhopal would have caused those changes. It is clear that it will take a lot longer."

[The New York Times, Nov. 19, 1985]

E.P.A. Issues Advice on Avoiding Toxic Accidents

(By Stuart Diamond)

East Rutherford, NJ.—The Environmental Protection Agency today began an effort to help states, municipalities, chemical companies and unions avoid a major chemical accident like the one in Bhopal, India, last December.

Ten thousand officials, watching television monitors here and in 200 other cities, heard detailed instructions from officials in Washington on how localities can find highly toxic chemicals in their midst, assess and reduce excessive risks and plan for emergencies.

A total of 403 toxic chemicals "immediately dangerous to life and health" have been identified by the E.P.A., and the agency plans to disclose these chemicals next month along with detailed information on how to handle them. An analysis by The New York Times of the list, obtained from Government officials, indicates that at least 577 companies in thousands of locations around the nation produce, store or use the substances.

Many of the 75 people here praised the initiative, although some expressed concern that state and local governments would need a lot of extra money for training, equipment and personnel.

"The E.P.A. program, with all its publicity, will give a lot more impetus and vigor to efforts by state and local officials to plan for chemical emergencies," said Lieut. James A. Arena, chief of the Emergency Services Bureau for the New Jersey State Police.

But James F. Ross, chief of Emergency Response Preparedness for the New Jersey Department of Environmental Protection, said, "Without funding, some townships will find it particularly difficult" to locate the toxic chemicals and devise appropriate emergency plans.

E.P.A. officials said they had no money to offer for items like extra emergency equipment, but said they would provide more than 120 aids to train state and local personnel around the country. "We realize that everybody would like to have additional dollars, but the money just is not available," said Jack W. McGraw, the E.P.A.'s Deputy Assistant Administrator for emergency response.

Some of the chemical company officials who attended the session said they are especially interested in the identities of the 403 chemicals, so they can perform more detailed inspections of their plants and prepare for public questions about them. Most praised the program.

PEOPLE WANT TO KNOW

"It's almost inevitable that people today want to know what's happening in local chemical plants," said Dr. David R. Gaskill, a safety expert from the Mobil Chemical Co. "And it's prudent for us to look at our inventories of these chemicals, and perhaps reduce them."

The E.P.A. document contained methods for measuring dangerous quantities of various chemicals in an accident, and tables for determining how far from chemical plants those dangers would extend. It urges that municipalities form committees that would include local officials, fire marshals, residents near chemcial facilities, workers, medical personnel, journalists, educators, company executives and chemical experts.

The document also gives localities lists of questions to ask chemical companies like. "If you have a leak, what do you do?" In addition, it suggests people ask what measures plants have taken to prevent chemicals accidents, how their toxic chemicals are stored, and how they ship chemicals to and from the site.

The agency recommends that localities find out what kind of medical and emergency preparations chemical companies have made on their sites, as well as the quality of their systems for notifying surrounding areas of emergencies.

EMPHASIS ON COORDINATION

At various intervals, viewers from around the country expressed concern by telephone about monetary help.

But Mr. McGraw said in an interview that the success of the agency's program depended less on money than on improving coordination among officials preparing for chemical emergencies.

The need for coordination was echoed by Leonard Ledbetter, commissioner of the Department of Natural Resources for Georgia. He said that while his agency had two helicopters and 24 trained people, "the nitty-gritty is that we have not properly coordinated with local officials who responds first to a local emergency."

Mr. Ledbetter also said the importance of the E.P.A. program was to enable states and localities to begin determining the areas with the most toxic chemicals.

He said it would be "irresponsible" for municipalities to try to close down operating facilities, since, he contended, their operation had been officially sanctioned. But he added that new knowledge of the most toxic chemicals would enable zoning officials to reduce the risks from current chemcal facilities and to situate future plants in areas where they would pose much less risk.

MESHING WITH EXISTING PLANS

Mr. Ross, the New Jersey environmental official, said his state already had an extensive emergency response system, as do some other states, particularly in areas around nuclear plants. He said he was concerned whether the E.P.A. toxic chemical program could be properly integrated into New Jersey's existing program, but added that other areas without such extensive plans could benefit greatly from the E.P.A.'s suggestions.

He expressed additional concern that under the plan the chemical companies can voluntarily decide whether to give localities information about the toxic chemicals they produce. Some companies may simply refuse, he said.

"We have found that the smaller companies, the one or two tanker companies, are more defensive," Mr. Ross said. "Unlike the Du Ponts and the Exxons, they don't have large communications and safety structures. They are interested only in moving stock and saving expenses."

Mr. McGraw said the E.P.A. hopes that amendments attached to toxic waste legislation, which would require chemical companies to provide such information, will be approved by Congress.

E.P.A. Lists Dangers of More Than 400 Chemicals

(By Stuart Diamond)

The Federal Government today is to release for the first time detailed information on just how dangerous more than 400 highly toxic chemicals could be to communities in the event of an accident.

A New York Times analysis of the information shows that dozens of chemicals produced in the millions of pounds each year could pose serious health risks if only a few pounds escaped from a plant as gas, dust or droplets that carried to nearby homes or businesses.

Many chemicals on the list, compiled by the Environmental Protection Agency, are at least as dangerous as methyl isocyanate, the substance that leaked in Bhopal, India, last December, killing more than 2,000 people and injuring 200,000, the analysis found. Some of the chemicals, including some of the most widely used acids and industrial gases, can be dangerous in amounts of less than a pound at a distance of 200 feet after an accident, the data show.

A list of the 403 very toxic chemicals was obtained and was published last month by The Times, which found that at least 577 companies in nearly every state handled the substances. But without the new data, which also describe uses of the chemicals and guidelines for evacuation, communities were unable to assess the danger posed by quantities stored locally or to reduce risk, officials said.

The list, which reduces the number of chemicals to 402, is being officially released today. The health data, which run 900 pages, were obtained Friday by The Times.

MILLIONS LIVE NEAR SITES

Although millions of people live near plants handling those chemicals, experts say, few would be exposed to dangerous quantities unless an accident occurred under conditions in which wind and humidity would cause the chemical to move toward populations and disperse slowly. Those risks are considered quite small by most chemical experts and Government officials. But after the accident at Bhopal and many much smaller ones in the United States, the industry, the Federal Government and communities have begun a major attempt to identify the risks and reduce them.

The chemicals posing health problems in quantities of less than five pounds include sulfuric acid, the nation's most widely produced chemical. Manufacturers in the United States have the capacity to produce 111 billion pounds of that chemical a year, trade publications say. Also in that range of potency are chlorine and formaldehyde, both widely produced.

The list also includes many less familiar that can pose great risks. Among the most toxic is phosgene, a dye and pesticide component used as a weapon in World War I. It is now stored widely by the ton, and more than two billion pounds can be produced each year. A leak of 6.5 ounces of phosgene is considered dangerous at 200 feet, and a leak of six pounds would probably be fatal at that distance under some circumstances, the documents show.

A solvent, carbon disulfide, is so flammable "vapors may be ignited by contact with an ordinary light bulb," the report says. Lithium hydride, a catalyst used in making ceramics and electronic tubes, forms dust clouds that can spontaneously catch fire in air and "may explode on contact" with heat, the report says.

The new data enable communities to calculate the amount of various chemicals that the E.P.A. calls "immediately dangerous to life and health." That amount would help officials to judge whether quantities produced or stored are enough to justify more rigorous prevention or emergency planning, the E.P.A. said.

The report recites health problems for hundreds of pages: nerve, lung and eye damage; vomiting; kidney and liver damage; muscle collapse; coma; death. Damage can occur by inhalation, absorption through the skin, ingestion or all three. "A small drop in the eye may cause death," it says of TEPP, a rat poison.

"May cause death or permanent injury after very short exposures to small quantities," it says of selenium oxychloride, a solvent.

The materials can be spread widely by fire or explosion, it says.

"This document will enable communities to learn more about what's in their midst, how to handle it and how to lower the risk of catastrophe by emergency response and planning," said George F. Wirth, an engineer who headed the E.P.A. program.

Community officials have said they are unprepared for a major chemical accident, and some of the E.P.A. data sheets underscore that thought. "The normal full protective clothing and breathing apparatus available to the average fire department," it said, "will not provide adequate protection" against many chemicals.

COMPOUND CAN PENETRATE CLOTHING

One of them, acrylonitrile, a common plasticizing compound, can penetrate the typical protective clothing of firefighters and cause death, the report said. So can hydrogen cyanide, used in photographic processes, and nickel carbonyl, used in electronics. For each of these chemicals the report said: "Material is too dangerous to expose firefighters. A few whiffs of vapor could cause death."

For dozens of the substances, evacuations within a half mile are required after a leak, the report says; for some others, the evacuation zone is more than two miles.

The knowledge of the potential for severe health damage from relatively tiny amounts of chemicals often produced in huge quantities is bound to produce conflicts between communities and nearby chemical companies, chemical experts said.

"I think when people learn about these things, they will become very upset," said Peter F. Green, a staff member of the Oregon Legislature's committee on hazardous materials.

Dr. Eileen K. Silbergeld, director of toxic chemicals at the Environmental Defense Fund, a research and litigation group based in Washington, said localities would probably pressure companies to reduce inventories even further than they have since Bhopal.

"The natural call by the public will be to ban these chemicals as the realization grows around the country that the storage depots are everywhere," said Dr. Silbergeld. Redesigning plants to reduce inventories would be a cheaper alternative, she said.

The chemical industry has offered to help communities reduce risks, but some say it would be virtually impossible to change production processes so that the amounts of toxic chemicals are reduced to anywhere near the lowest danger levels.'

"If we have a plant producing 300 tons of chlorine a day, we can't very well operate with a two-pound inventory," said Frank B. Friedman, a vice president of the Occidental Petroleum Corporation.

Occidental has three major chlorine facilities, in Niagara Falls, N.Y., Tacoma Wash., and Taft, La. The typical tank car is 100 tons, he said. "You have to be able to fill several of those each day," Mr. Friedman said.

Of particular conern is phosgene. Its delayed symptoms may leave victims unaware for 24 hours than they have inhaled a serious or lethal dose. In Lockport, N.Y., the Van De Mark Chemical Co. has a capacity of eight million pounds. In Deepwater, N.J., the Du Pont Co. has a capacity of 80 million pounds.

"If someone next door to me had phosgene, I'd be concerned," said Mr. Wirth of the E.P.A. "A community might say it had no idea so much was stored. Well, they will now. It will be up to local industries to negotiate satisfactory solutions with communities."●

CANADA'S ACID RAIN PROGRAM

● Mr. STAFFORD. Mr. President, earlier this week, the Province of Ontario announced a major new acid rain program requiring acid-causing emissions in Ontario to be reduced by 67 percent from 1980 levels. This program implements Ontario's portion of the Comprehensive Acid Rain Control Program that the Canadian federal government announced earlier this year.

The new Ontario program will require dramatic reductions in emissions at the Inco Smelter at Sudbury, the Falconbridge Smelter at Sudbury, the Ontario Hydro utility, and the Algoma iron plant. Under the program, the Inco plant would be required to cut sulphur dioxide emissions from its 1984 level of 683 kilotons to 265 kilotons by 1994, a reduction in actual emission levels of more than 63 percent. Ontario Hydro's 1984 emissions of 444 kilotons of sulphur dioxide will be cut to 175 kilotons over the next 10 years, more than 60 percent. Similar controls will be imposed on Falconbridge, Algoma, and other emission sources in the province.

These reductions are in addition to those achieved earlier in the province. At Inco, for example, emissions at the Sudbury smelter dropped between 1965 and 1983 from 6,500 tons of sulphur dioxide per day to 1,950 tons per day, a cut of 62 percent. The further reductions announced yesterday will mean that by 1994 Inco will be emitting sulphur dioxide at less than 11 percent the level it emitted in the late 1960's.

I am told by the government of Ontario that the program is a hard and fast commitment backed by provincial regulations adopted by the government last week. The government says these regulations are not appealable, so the affected companies have no choice but to comply. I also am informed that the negotiations leading up to adoption of the new program were extremely tough, with long, hard hours of bargaining.

Mr. President, if what I am told is accurate, not only is the new program good news for Canada; it is also good news for the United States. The Ontario cuts alone will mean a reduction of some 5 to 10 percent in acidic deposition that affects the New England region, according to their estimates. When the entire Canadian federal program is taken into account, they project that the benefits to New England are approximately twice that level.

Beyond the tangible emissions reductions for the Northeast, I believe there are other reasons to be cheered by the new Ontario program. Early next year, the Senate Committee on Environment and Public Works will continue hearings on the control of acid rain. I hope the committee can complete action on and report acid rain control legislation to the Senate floor early in the year. The Canadians have committed to a strong and comprehensive Acid Rain Control Program. I very much hope that the United States will do the same.

Mr. President, I request that the article on this program which appeared in the December 18, 1985, New York Times be printed in the RECORD.

The article follows:

ONTARIO ANNOUNCES PROGRAM TO SHARPLY CURTAIL ACID RAIN

(By Philip Shabecoff)

WASHINGTON, Dec. 17.—Ontario Province in Canada, in a step that would significantly reduce acid rain in New York State and New England, announced a program today to curtail sulfur dioxide pollution sharply.

At a news conference in Toronto that was shared with Washington by closed circuit television, Environment Minister Jim Bradley of Ontario, said the province's four biggest industrial sources of sulfur dioxide had been ordered to reduce their emissions to 665,000 metric tons by 1994 from 1.9 million metric tons.

Ontario's action is part of an overall Canadian program to reduce the sources of acid rain. In Canada, the provinces have the major responsibility for environmental protection.

Sulfur dioxide is a major cause of acid rain, the name given to air pollution caused by the burning of fossil fuels that changes chemically in the atmosphere and falls to earth, often far from its point of origin, as acidic rain, snow, fog or dust. Acid rain has been found to destroy freshwater life in some lakes and streams, particularly in the eastern United States and Canada. There is debate on whether it damages forests and threatens human health.

LARGEST SOURCE IS CITED

The four sources ordered to reduce sulfur emissions include the Inco Ltd. smelter in Sudbury, which is known to be the largest source of sulfur dioxide pollution on the continent.

The other companies involved are Ontario Hydro, which operates coal-fired power plants in southern Ontario, the Falconbridge Ltd. smelter in Sudbury, and the Algoma Steel Corporation facility in Algoma.

Mr. Bradley said that the program would reduce acid rain in New York's Adirondack Mountains and in New Hampshire by about 8 percent and to a somewhat lesser extent in other parts of the northern United States.

He also said: "The effects of Ontario's acid rain production on U.S. states and other parts of Canada is minimal when compared to the effect U.S. acid rain has on us. Half of all the acid rain destroying Ontario's environment came from the U.S."

Complaints from Canada over acid rain originating in the United States have been a sore point in relations. The two Governments appointed special envoys this year to negotiate a solution to the problem and their proposal is expected early next year.

Industry officials in the United States and some Government officials here have complained that Canada has done less than this country to reduce the pollution that causes acid rain.

The Edison Electric Institute, a trade association of the private power industry, has issued a statement saying that power plants in this country have spent many billions of dollars and have made significant reductions in sulfur emissions despite a dramatic growth in the burning of coal.

Environmental groups praised Ontario's program as an important step.

Senator George J. Mitchell, Democrat of Maine, said that Ontario "has now done more in a single day to reduce acid rain than the Reagan Administration has done in five years."

The Administration has said that more needs to be learned about the causes and effects of acid rain before costly controls are mandated.●

GRAY MARKET LEGISLATION

● **Mr. INOUYE.** Mr. President, I am pleased to join my colleague from New Hampshire in rising to announce we have reached an agreement on legislation to regulate the automobile gray market. Extensive negotiations have gone into this compromise, and the assistance of the Commerce Committee has been invaluable. This legislation is quite comprehensive in an attempt to provide a solution to the diverse issues involved in the gray market. I feel it is the best approach practicable and addresses the major problems which plague the gray market, especially with regard to motor vehicle safety. It also assures that gray market importers are put on an even playing field with authorized auto dealers by requiring that they pay the gas guzzler tax and CAFE penalty. It also provides that the setup and maintenance of the gray market system does not cost the taxpayer anything, as all costs are borne by the gray marketers through user fees.

Mr. RUDMAN. The Senator from Hawaii is accurate in stating that after hours of negotiation we have agreed to a workable compromise with respect to the automobile gray market. I would like to thank my colleague for his assistance and contribution in this matter. As with all compromise packages, probably no one is completely happy with all the provisions contained therein. Nonetheless, I am pleased that we have arrived at a satisfactory resolution of this matter. By keeping the gray market open, I feel this legislation maximizes consumer choice and preserves competition in this market. This proposal also addresses the concern of the Senator from Hawaii that clear and enforceable safety guidelines be established which cover the gray market.

Mr. INOUYE. My colleague and I have worked long and hard to reach this compromise, and I have been informed by Senator RUDMAN that with this agreement as a substitute to the gray market provision in the NHTSA authorization bill, he is willing to move to expeditious floor consideration of this bill. Senator DANFORTH informs us that he will push for prompt consideration of the bill when the Senate reconvenes in January, and I am certain we will do all we can to assist him in this regard.

Mr. RUDMAN. My colleague is correct that, based on this agreement, a summary of which follows this colloquy, I would be pleased to bring the NHTSA bill to the floor for prompt consideration.

I ask that the summary be printed in the RECORD.

The summary follows:

RUDMAN-INOUYE GRAY MARKET COMPROMISE

I. Vehicle may be imported into US under bond if:

A. Importer and modifier are registered with DOT:

Fees to be assessed annually by DOT as necessary to cover costs of this program.

Facilities doing modifications must be registered with DOT. DOT shall assess fees to cover costs.

Secretary to establish requirements for registration and for revocation of registration for failure to meet requirements. Requirements include: record keeping, inspection of records and facilities, payment of gas guzzler tax and CAFE penalty. (Importer to be treated as manufacturer in both cases except that the importer is not eligible for the small volume exemption. Thus, with respect to CAFE, penalty to be assessed based soley on the fleet of the importer.)

B. Vehicle is determined to be capable of meeting safety standards:

Secretary to make determinations as to whether car is capable of meeting standard either because:

It is substantially similar to U.S. model car and can be readily modified to meet all applicable Federal safety standards; or

Importer provides test data clearly demonstrating that car is or can be modified to meet all applicable safety standards—this option only available in the case where there is no substantially similar U.S. model vehicle.

An importer will petition the Secretary to make a determination with respect to a particular model. Once a determination is made for any vehicle, any importer can bring in that car under that determination so long as it is modified in accordance with procedures described in the petition and importer certifies that to be the case.

Secretary to establish by regulation the information required in such petitions including a description of the modification to be made and evidence that such modification does not appear to create a safety defect.

Each petition will not be subject to rulemaking, however, the Secretary shall make petitions public and shall consider any information submitted by any interested parties.

Determinations published in Federal Register. Any appeal by a petitioner in the case of a negative determination also published in Register with an opportunity for further input by interested parties.

II. Importer may not sell or register vehicle until:

A. Importer certifies that vehicle was modified in accordance with procedures described in a petition for an approved determination and meets all applicable federal safety standards;

B. Importer has labeled vehicle stating its gray market status and obligations of importer;

C. Secretary has approved certification (Secretary must act within 30 days); and

D. Importer has established fuel economy rating and labeled vehicle regarding gas guzzler tax assessed for that vehicle.

III. Inspections/tests: Secretary to periodically conduct inspections and tests (including destructive tests) of vehicles to determine compliance, and shall inspect all facilities within one year from effective date.

IV. Recall:

A. Importer responsible for notice, recall and repair. A gray market car will be presumed to have any safety defect that is reported in a car to which it is substantially similar—unless proven otherwise

B. Secretary to establish by regulation requirements to ensure that the importer is financially able to carry out his responsibilities

C. Procedure established to ensure that original manufacturer provides necessary information and parts for recall

V. Exemptions:

A. Military and foreign service employees: except that such individuals must still bring cars into compliance with safety standards

B. Foreign diplomats

V. Study/tests/evaluation:

A. Annual GAO study beginning July 1987

B. DOT study after 36 months

C. Congress to make any appropriate modifications based on findings

VI. Effective date:

A. Secretary to promulgate regulations within 8 months from enactment. If the Secretary has not promulgated regulations within 8 months, civil action may be brought against the Secretary

B. Once regulations are effective, there is a 3-month grace period during which determinations will be made. Within 3-month period, once a determination is made, it is effective for that model vehicle.●

ACTION VITAL TO U.S. TRADE DEFICIT

● Mr. LEVIN. Mr. President, once againg, the Reagan administration has failed to take aggressive action to safeguard U.S. interests in international trade. The Wall Street Journal reported on December 7, 1985, that the Reagan administration had decided to retaliate against Japan for refusing to eliminate barriers against American leather and leather footwear goods. But when my staff contacted the U.S. Trade Representative's office to inquire what specific actions the President was going to take, we were told that the President had backed away from retaliatory action after receiving a personal plea from Prime Minister Nakasone. That inaction is a double negative: If President Reagan will not take strong measures on a single trade barrier costing the United States approximately $277 million, how can we expect him to take comprehensive action to attack the massive $50 billion deficit in United States-Japan trade?

At the same time, the Congress has not done nearly enough, either. Our only action on this issue this session was passage of the textile and shoe legislation, which the President vetoed yesterday. I am deeply disappointed the Senate did not consider broad trade legislation this session, although everyone seems to agree that the escalating trade deficit is a major threat to the health of the U.S. economy. And while we wait, the trade deficit continues to grow.

On the plus side, the majority leader this week delivered a rousing speech on the trade imbalance with Japan in which he said:

> This Senator believes it is time to take stronger action to address the problem. We indicated to the officials we met with in Japan that there was a brief window of opportunity to take meaningful action to open Japanese markets and to address the concerns we raised. That window is about to slam shut and no real measurable improvement has been achieved.

This was not just another trade speech delivered by a Member of Congress. It was a commitment by the most powerful Member of the Senate to enacting strong legislation which attacks the trade deficit with Japan, and it should shake up the Japanese.

But the Japanese have so far successfully disregarded warnings by Members of Congress that legislation will be enacted to reduce the trade deficit. The most recent example was last week's report that the Japanese Government has decided to allow Japanese automobile manufacturers to ship an unlimited number of cars to the U.S. market next year. This decision, if the report proves to be accurate, would follow a year of explosive growth in Japanese exports to the United States, coupled with foot dragging in the negotiations to open up Japanese markets to our goods. Japan's automobile exports to the United States have increased by nearly 25 percent this year over last year, which means that $4 billion more of additional cars and trucks made in Japan have entered our markets in 1985 than last year.

Japan cannot be so naive as to believe that the United States will continue to be taken advantage of like this. Trade is supposed to be a two-way street, but Japan is overloading its side of the street and they've got "ONE WAY" signs on the other. The Japanese, while talking two-way trade, have increasingly flooded our markets and maintained barricades around their own. Prime Minister Nakasone of Japan has declared his determination to lower the United States-Japan trade deficit and exhorted his countrymen to buy American. But, if all restraints on their auto exports are dropped, the lopsided nature of our trading relationship is bound to get worse.

An estimated 25,000 U.S. jobs are lost for every $1 billion of our trade deficit. The estimated $50 billion trade deficit with Japan this year thus has cost 1.25 million United States jobs. Concrete steps to reduce our trade deficit are long overdue. Our trade policy must concentrate on eliminating other countries' unfair barriers against our products and on restricting imports into this country if necessary to reduce the trade deficit. We must take the kind of tough action recently embodied in an amendment I introduced to the textile bill which would have required the 1986 trade deficit with Japan to be reduced by the amount of United States exports blocked by Japan through unfair trade barriers. Legislation such as this would force the administration to reduce the trade deficit regardless of its free trade philosophy.

This focus on Japanese barriers against United States products is more than justified. Japan has unfairly erected many direct and indirect barriers against our products. If ever there was any doubt on this point, a recent report prepared by the U.S. Trade Representative on National Trade Estimates of 1985, which is required by section 303 of the Trade and Tariff Act of 1984, should have erased it. The report gives an extensive list of trade barriers used by other countries against American exports. Although this report does not give an aggregate cost of the barriers, it highlights the major barriers and the estimated cost whenever possible.

The elaborate structure of mechanisms employed by Japan to restrict the exports of the United States and other countries continues to evolve. Not only are there many formal trade barriers which the Japanese fiercely protect, but also a maze of product approval standards and procedures which potential United States exporters find terrible frustrating. These include product requirements that emphasize design characteristics rather than performance qualities, inadequate advance knowledge of the standards and inspection procedures to be applied, exclusion of foreign manufacturers from participation in the establishment and promulgation of product standards, requirements that product approval be obtained through resident Japanese companies, and a general requirement that all product testing and approval occur in Japan.

Although some progress has been made in reducing formal trade restrictions such as tariffs and quotas, Japan stubbornly resists a comprehensive reduction in its informal trade barriers. Not long ago I asked the Japanese Embassy why the Japanese pay $1,227 per ton for domestically grown rice when United States farmers can produce and export rice to Japan for about $390 per ton. Prime Minister Nagasone replied that rice is a very special product in Japan and that Japan, for national security reasons, should produce enough rice domestically to satisfy its own demand. He recognized that this policy involved certain costs and the costs are very high. For example, the cost of food is 70 percent higher in Tokyo than in New York City, and there is overproduction of rice but a scarcity of other foods.

Beef, timber, and citrus products are prime examples of United States products facing Japanese barriers. A combination to tariff quotas and product-standard requirements have severely reduced the potential for sales of these products in Japan. Tariffs have averaged as high as 40 percent on United State beef and citrus exports to Japan. This is particularly troublesome since the United States has a pronounced comparative costs advantage in these products.

Japan's Government-controlled tobacco and salt monopoly has managed to restrict the United States share of tobacco to 2 percent of the Japanese market through a combination of high tariffs, distribution and advertising restrictions and investment restraints. Inconsistencies in product-additive regulations have curtailed U.S. dried fruit exports, and excessively strict product-packaging requirements have been used to restrict the exports of fruit juice concentrates. Processed food exports have had to meet excessive ingredient and product formula disclosure requirements. United States apples, apricots, cherries, peaches, nectarines, pears and plums have been totally excluded from Japan on the grounds of plant health requirements. Such exclusions are especially restrictive in cases where identical plant diseases already exist in Japan.

Although the United States has a favorable balance of trade with Japan in pharmaceutical and medical devices, United States companies continue to complain about Japan's requirements that research studies be conducted only with Japanese citizens, and that United States companies undergo expensive duplicate tests on their products. United States firms face interminable delays in gaining the required government approvals, and unclear notification procedures for product modifications.

United States telecommunications companies are fed up with Japan's procurement and product testing requirements which make it extremely difficult for United States companies to break into Japan's telecommunications market. One of the major problems has been that the testing is conducted by an association of Japanese companies, Nippon Telegraph and Telephone [NTT], the Communications Association of Japan, and Kosuai Denshin Denwa [KDD]. No foreign members have been permitted to participate in the process of equipment testing, and thus far, the United States share of the Japanese telecommunications market has been insignificant and limited to less sophisticated technological exports. And the same is true with electronics, forest products, and so forth, and so forth—the list is very long.

What has been the cost of Japan's unfair trade barriers? The most recent estimate by the Department of Commerce indicates that the combined cost in lost sales opportunities in Japan is approximately $18.7 billion. Excluding the costs of unrealized investments and services, the most significant merchandise trade costs are: Wood products ($3.4 billion); tobacco ($2.2 billion); refined oil ($2.3 billion); computers ($1.8 billion); electronic components ($1.4 billion); and chemicals ($1.5 billion).

In my judgment, the trade deficit is such a serious problem that it calls for a combination of aggressive internal and external economic adjustments which should be addressed both bilaterally and multilaterally.

The magnitude of the U.S. merchandise trade deficit—which will most likely exceed $150 billion in 1985—means that the United States cannot afford the luxury of ignoring trade restrictions placed on U.S. exports by our primary trading partners.

Some argue that market forces alone will in the long-run correct our international trade imbalances. Unfortunately, if the U.S. passively waits for long-run market corrections, more U.S. auto, steel, the textile workers will be thrown into unemployment lines, the legion of dislocated producers and bankrupt farmers will grow, and even high-technology industries will not escape the ravages of unfair international trade.

The time is long past for the United States to take actions that will send an unmistakable message to our major trading partners who continue to protect their domestic markets, a message that the United States intends to protect itself from unfair trade practices and the out-of-control trade deficit. Indeed, a major contribution of the United States since the 1930's has been to gradually move the free world toward a free trade environment. However, when free trade is not practiced by all of our major trading partners, those countries that practice free trade are penalized. That is exactly the position the United States finds itself in today.

Mr. President, we must continue to press for effective action to reduce the trade deficit. I am hopeful that the majority leader's assurances about early action on trade legislation in the second session of the 99th Congress will mean that process has finally begun in earnest.●

PASTOR AND MRS. THOMAS COURTS

● Mr. RIEGLE. Mr. President, on Friday, November 29, 1985, Pastor and Mrs. Thomas Courts, of my hometown of Flint, celebrated their retirement after 40 years of service to the Vermont Christian Church.

In 1945, Pastor Courts founded the Vermont Christian Church in the home of friends. In 1951, as the result of untiring efforts and dedication by Pastor and Mrs. Courts, the church moved into their permanent home. Since then, the building has been remodeled and expanded. In 1979, their new church was built.

Mr. President, Pastor and Mrs. Courts are very special people, deserving of our thanks. For over 40 years, both have given completely of themselves to their church, their family and their community. They have enriched the lives of thousands of Flint citizens with their caring, love, and dedication. On this joyous occasion, I wish them every happiness.

THE EFFECT OF GRAMM-RUDMAN

Mr. BYRD. Mr. President, last Thursday, the Congress adopted the Gramm-Rudman amendment to the debt limit bill. In its eagerness of disguise the fact that it was raising the Nation's debt ceiling to over $2 trillion—double what it was when this administration took control of the Federal budget—the Congress created a Pandora's box.

Unfortunately, the realization of what may be contained in that box is only now beginning to dawn on many of Gramm-Rudman's supporters. I would like to review for my colleagues one of the more serious implications of the Gramm-Rudman process that will begin next month.

Early next year, the Defense budget—a budget on which an enormous amount of time and effort has been spent—will be rewritten by a mathematical formula specified in the Gramm-Rudman amendment. That formula requires a reduction in defense outlays of up to $5.8 billion in the current fiscal year.

That means that after laboring to decide the best way to appropriate nearly $300 billion in Pentagon spending this year, the automatic sequestering process established by Gramm-Rudman could reduce that amount as much as $15 billion or more in obligational authority in order to achieve the nearly $6 billion reduction in outlays that is required.

But it does not stop there, Mr. President. At the very time that these cuts are going into effect, the Congress will begin the complex task of determining the appropriate level of defense spending for fiscal year 1987. Unless Congress has reduced the deficit projected for that year to $144 billion or lower by September 1986, the Gramm-Rudman sequestering process again kicks in—only this time with potentially more serious consequences.

While no one currently can predict with any accuracy the fiscal year 1987 deficit, it is hardly inconceivable that it could range between $180 billion and over $200 billion. To a considerable degree, whether it reaches that level or not depends on actions that may occur between now and then, such as enactment of a reconciliation conference report for fiscal year 1986—and of a reconciliation bill for fiscal year 1987.

But if the projected deficit for fiscal year 1987 is within that range next September, then the amount of the Gramm-Rudman sequestration could be $40 to $70 billion. That amount is required by the statute to be divided evenly between defense and nondefense programs. Thus, the fiscal year 1987 Defense budget could be subjected to $20 to $35 billion in outlay reductions. This could translate into a reduction in budget authority of perhaps $40 to $70 billion that year. This enormous cut could yield as much as 10 percent negative real growth, or more.

The magnitude of these reductions is highlighted by the following observations:

The Gramm-Rudman cuts in fiscal year 1986 could mean 7 to 9 percent negative real growth in defense spending this year;

The amount of budget authority that might be cut by Gramm-Rudman in fiscal year 1987 is two to four times greater than the average annual reduction of $17.9 billion that Congress has made in the five Defense budgets submitted by this administration;

If cuts of this magnitude are made in fiscal year 1987, the resulting level of budget authority for Defense activities could be substantially lower than the level President Carter projected he would spend in fiscal year 1985 (about $296 billion).

The prospect of large negative real growth should be contrasted with a recent authoritative report by retired military and civilian Defense officials. That report concluded that, even if there were 1.5 percent positive real growth in defense spending each year through 1990, the military would have to choose between expanding its force structure as planned—with a severe reduction in daily combat readiness and a return to the days of the alleged "hollow" army—or cutting back the overall size of our forces to maintain combat readiness.

WHAT DO THE GRAMM-RUDMAN CUTS MEAN FOR NATIONAL SECURITY?

Reductions in the fiscal year 1987 Defense budget which might be required under Gramm-Rudman are so large that they pose fundamentally different questions about the Nation's defense posture than those usually faced by Congress in annual budget deliberations. The issues no longer principally will be whether we buy 150 or 180 F-16 fighter aircraft, or whether we freeze or raise military pay, in any one budget year. The questions raised by Gramm-Rudman in fiscal year 1987, and thereafter, may challenge the very military, foreign policy and philosophical foundations of our present national security posture.

At the very least, Congress may have to address the following questions:

First, can this Nation maintain its present treaty and historical commitments to defend so many regions throughout the world, or will it have to reduce those commitments, and if so, which ones? For example, can we afford a credible defense of the Persian Gulf? Is an expanded military involvement in Central America affordable? Are we foreclosing involvement in Africa, particularly Angola—or in Southeast Asia, particularly Thailand? Can we maintain our troop levels even in the NATO theatre?

Second, can we afford to maintain our strategic triad or will we be required to reconfigure those forces by placing more reliance on certain nuclear delivery systems and less on other such weapons? Can we afford Midgetman? Can we afford two new manned bombers? How can we afford SDI without abandoning other major strategic weapons? By reconfiguration, will we have to rethink our traditional deterrence doctrine?

Third, can we continue to afford the All Volunteer Force, or will we have to return to some form of conscription as part of a universal national service plan? Should we reduce our active forces, or continue to restrain their growth, and rely even more on our National Guard/Reserve components?

Fourth, can we obtain increased defense contributions from our allies to relieve us of certain defense missions?

Fifth, can arms control reduce our military requirements while maintaining our security?

I wonder if any of the sponsors or supporters of the Gramm-Rudman plan envisioned the kinds of choices its enactment may force the Nation to make about its national security. As I said at the outset, the Congress has created a Pandora's box, the contents of which are only beginning to emerge.

This is but one example of the basic flaw in the Gramm-Rudman approach to budgeting. There are a number of others already coming into view, and over time, I predict many more will emerge. But it is even clearer to me now than it was a few days ago that the Congress will rue the day that it ever saw, much less passed, the Gramm-Rudman amendment.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. STEVENS). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATUS REPORT

Mr. ARMSTRONG. While we are waiting, I am not quite sure what business will transpire next. But while the leader works on that, I thought I might take a moment to explain to my colleagues what has transpired in the House, and make a couple of observations about the proceedings there.

As you all know, the House has adopted a rule the effect of which is to alter the conference report on the reconciliation bill previously agreed to by the Senate, and has returned the bill to us in an amended form.

In my view this is a most improvident action for the other body to take for a couple of reasons: First of all, because they run a heavy risk that the ultimate effect of this action will be to make it impossible to pass a reconciliation bill in which case some $66 billion in savings will be lost.

In my judgment there are two reasons why the other body took this action.

I was in the Chamber when it occurred and talked to a number of our colleagues in the other body. I discussed it with them for I guess an hour or so in little informal groups around the Chamber. There were two major themes that I heard raised over and over again.

One was they did not like the value-added tax. Well, as Senators will recall, I do not like the value-added tax either. I tried to explain to Members of the House that this was a package. There were some good things in there, some things I did not care for, but that on balance there was a lot more good than bad, and they were making a big mistake to pass up savings of a very large magnitude because of a disagreement over a relatively small element of the package which is the value-added tax.

The other great theme running through the Chamber as this was under discussion was, well, it is all moot because the President is going to veto the bill.

Since this is a matter that the Senator from Louisiana and I discussed briefly in the early evening, I want to say my assurance was that the President would not veto that based on my evaluation that the field position, Presidential history, the economics of the bill, and other considerations were not shared by others apparently including the Director of OMB who spent most of the evening calling Members of the other body and telling them if indeed this bill were passed that the President would veto it, and would do so with great enthusiasm and relish.

I am still not so sure that is true because were this bill to be presented to him either in the form that it has now been adopted by the Senate or in the form passed by the House, it would in my estimation be a foolishly irresponsible act for the President to veto it.

I do not think when he actually looked at it and focused on it that he would do such a thing.

I do not want to take too much time. I want to explain why because this is a matter when this thing all falls apart there are going to be a lot of people who will go back and try to decide who is at fault, who is to blame, what happened, where did things go off the rails after we spent all year trying to get savings, ane end up with some $66 billion savings in it. Why did we not finally get it enacted?

The reason I do not think the President personally would have ever vetoed this bill is very simple, because the savings which are made by this reconciliation bill will occur anyway. Ultimately, they will occur under Gramm-Rudman, but under the Gramm-Rudman formula half of those savings will be made out of the defense function. I do not think that is what the President would want. I think he would feel, if he reflected upon it carefully, the savings as they are made in this reconciliation bill are not only far more responsible but far more in accord with his sense of priorities.

So despite what the Director of OMB may be telling people, I do not believe in the ultimate analysis the President will veto the bill.

In any case, I judge the leader is now ready to proceed. I do not want to delay any further. I want to express my regret to what has happened, the hope we are going to be able to retrieve it, and somehow arrive at an agreeable reconciliation bill that the two Houses can pass and send to the President. And, if that happens, I for one will contact the White House and urge it be signed.

OMNIBUS BUDGET RECONCILIATION ACT

Mr. PACKWOOD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 3128.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

> *Resolved*, That pursuant to the provisions of H. Res. 349, the House rejects the conference report on the bill (H.R. 3128) entitled "An Act to make changes in spending and revenue provisions for purposes of deficit reduction and program improvement, consistent with the budget process.".
>
> *Resolved*, That the House recede from its disagreement to the amendment of the Senate to the text of the aforesaid bill, and concur therein with an amendment as follows:
>
> In lieu of the matter inserted by said amendment, insert the provisions of the conference report on the bill, with the provisions of Subtitle B of Title XIII (Superfund and Its Revenue Sources) stricken.

Mr. PACKWOOD. Mr. President, I move that the Senate concur in the House amendment with the language of the conference report on said bill as a substitute.

The PRESIDING OFFICER. The question is on the motion.

Mr. CHAFEE. Could the Senator explain exactly what that means?

Mr. PACKWOOD. Yes. We are sending back to the House the conference report as passed by the Senate.

Mr. CHAFEE. Sending back to the House the Senate——

Mr. PACKWOOD. We are sending back to the House the conference report that the House and the Senate originally agreed upon, and that we passed.

Mr. CHAFEE. Thank you.

Mr. EXON. One further question. If I understand it—and I direct my question to the Senator—this reportedly in essence is taking the same measure that we sent them before, and sending it back over to them.

Mr. PACKWOOD. Exactly.

Mr. EXON. That is another way to state it.

Mr. DOLE. They did not understand it the first time. [Laughter.]

Mr. EXON. The majority leader said they did not understand it the first time. Let us hope that is not the result.

Mr. PACKWOOD. I can assure my good friend from Nebraska that I hold the other body in the highest esteem but the majority leader's explanation of the problem carries some greater improvement.

Mr. JOHNSTON. Will the Senator yield for a question?

This reconciliation has the so-called extenders in it.

Mr. PACKWOOD. That is correct.

Mr. JOHNSTON. And the Senator is aware that the freestanding extenders are not likely to pass in this body tonight. Did the Senator get that hint from the drift of things?

Mr. PACKWOOD. Is that a drift I get from the Senator from Louisiana or somebody else?

Mr. JOHNSTON. The Senator may get it directly from me.

Mr. PACKWOOD. I do not know if any freestanding extenders are going to pass tonight or not. I think there will be some freestanding extenders offered. If the Senator from Louisiana is saying there will be no other bills passed tonight other than this report that we now sent out or are about to send out, that is in the power of the Senator from Louisiana to achieve.

Mr. JOHNSTON. I just wanted the message really to get to the House, that turning down reconciliation will not be quite as cheap as some may think it might be.

Mr. PACKWOOD. I thank my good friend from Louisiana. I hope that his psychology works.

The PRESIDING OFFICER. The question is on the motion.

The motion was agreed to.

Mr. PACKWOOD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, let me indicate to my colleagues that I am not in a position to indicate what we are going to be doing a little later on.

I hope we can come to some resolution. Let me also indicate to my House colleagues, not that they do not understand it, but we hope they understand it better——[Laughter.]

The second time because we believe we have an opportunity here to send the President a rather large savings package.

I am not excited about the tax on finances either. But neither am I excited about being here at 20 minutes to 11 with not much light at the end of the tunnel at this point. I hope that we can resolve our difference. I hope also that we can indicate to our colleagues in the next 20 or 30 minutes how much longer we will be here this evening.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. DOLE. Mr. President, I move that the Senate stand in recess subject to the call of the Chair.

The motion was agreed to; and, at 11:31 p.m., the Senate took a recess, subject to the call of the Chair.

The Senate reassembled at 11:49 p.m., when called to order by the Presiding Officer [Mr. HELMS].

EXTENSION OF CERTAIN TOBACCO EXCISE TAXES AND OTHER EXTENSIONS

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of H.R. 4006, a tax extension bill at the desk.

The PRESIDING OFFICER. Is there objection? Hearing none——

Mr. JOHNSTON. Mr. President, reserving the right to object, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I withdraw my reservation.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4006) to extend until March 15, 1986, the application of certain tobacco excise taxes, trade adjustment assistance, certain medicare reimbursement provisions, and borrowing authority under the railroad unemployment insurance program and to amend the Internal Revenue Code of 1954 to extend for a temporary period certain tax provisions of current law which would otherwise expire at the end of 1985.

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 1435

(Purpose: Extension of certain expiring provisions)

Mr. **PACKWOOD**. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER**. The clerk will report.

The legislative clerk read as follows:

The Senator from Oregon [Mr. PACKWOOD] proposes an amendment numbered 1435.

Mr. **PACKWOOD**. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. EXTENSION OF INCREASE IN TAX ON CIGARETTES.

Subsection (c) of section 283 of the Tax Equity and Fiscal Responsibility Act of 1982 (relating to increase in tax on cigarettes) is amended by striking out "and before December 20, 1985" and inserting in lieu thereof "and before March 15, 1986".

SEC. 2. EXTENSION OF TRADE ADJUSTMENT ASSISTANCE PROGRAM.

Section 285 of the Trade Act of 1974 (19 U.S.C. note preceding section 2271) is amended by striking out "December 19, 1985" and inserting in lieu thereof "March 14, 1986".

SEC. 3. EXTENSION OF BORROWING AUTHORITY UNDER THE RAILROAD UNEMPLOYMENT INSURANCE ACT.

Section 10(d) of the Railroad Unemployment Insurance Act is amended by striking out "December 19, 1985" each place it appears and inserting in lieu thereof "March 14, 1986".

SEC. 4. EXTENSION OF MEDICARE PHYSICIAN PAYMENT PROVISIONS.

Section 5 of the Emergency Extension Act of 1985 (Public Law 99-107) is amended by striking out subsection (a), and by striking out "December 19, 1985" in subsection (c) and inserting in lieu thereof "March 14, 1986".

Mr. **PACKWOOD**. Mr. President, this is a total substitute for the extension that the House sent to us. It extends four existing programs through March 15, 1986: Cigarette tax at 16 cents a pack, trade adjustment assistance, Medicare physician freeze, and railroad unemployment borrowing authority.

The **PRESIDING OFFICER**. The question is on agreeing to the amendment.

The amendment (No. 1435) was agreed to.

Mr. **PACKWOOD**. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. **THURMOND**. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The **PRESIDING OFFICER**. The bill is before the Senate and open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed for a third reading and the bill to be read a third time.

The bill (H.R. 4006), as amended, was read the third time, and passed.

The title was amended so as to read:

Amend the title so as to read:

To extend until March 15, 1986, the application of certain tobacco excise taxes, trade adjustment assistance, certain Medicare reimbursement provisions, and borrowing authority under the Railroad Unemployment Insurance Program.

Mr. **PACKWOOD**. Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER**. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. **DOLE**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. **DOLE**. Mr. President, I move that the Senate stand in recess subject to the call of the Chair.

The motion was agreed to and at 11:53 p.m., the Senate took a recess, subject to the call of the Chair.

The Senate reassembled at 2:02 a.m., when called to order by the Presiding Officer (Mr. ARMSTRONG).

[The following proceedings occurred after midnight:]

Mr. **DOLE**. Mr. President, parliamentary inquiry. This is Friday, December 20.

The **PRESIDING OFFICER**. The Senator is correct.

RECESS UNTIL 11 A.M.

Mr. **DOLE**. Mr. President, I move that the Senate stand in recess until 11 a.m. today.

The motion was agreed to; and, at 2:03 a.m., the Senate recessed until 11 a.m., today, Friday, December 20, 1985.

NOMINATIONS

Executive nominations received by the Senate December 19, 1985:

INTERSTATE COMMERCE COMMISSION

Paul H. Lamboley, of Nevada, to be a member of the Interstate Commerce Commission for a term expiring December 31, 1989, reappointment.

CONFIRMATIONS

Executive nominations confirmed by the Senate December 19, 1985:

GOVERNMENT PRINTING OFFICE

Ralph E. Kennickell, Jr., of Virginia, to be Public Printer.

DEPARTMENT OF THE INTERIOR

James R. Richards, of Virginia, to be Inspector General, Department of the Interior.

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Thomas A. Bolan, of New York, to be a Member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 1988.

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

DEPARTMENT OF ENERGY

Donna R. Fitzpatrick, of the District of Columbia, to be an Assistant Secretary of Energy (Conservation and Renewable Energy).

Mary L. Walker, of Maryland, to be an Assistant Secretary of Energy (Environment, Safety and Health).

EXTENSIONS OF REMARKS

A THREAT TO THE DENVER & RIO GRANDE RAILROAD

HON. TIMOTHY E. WIRTH

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. WIRTH. Mr. Speaker, I would like to share with our colleagues an article published in the Denver Post on December 4 telling the story of the Denver & Rio Grande Western Railroad [D&RG]. The D&RG is a regional rail carrier in Colorado and Utah that finds its very existence threatened by a proposed merger of two of the Nation's largest rail lines.

As the article describes, the proposed merger of the Southern Pacific and the Atchison, Topeka & Santa Fe Railroads directly threatens to leave the D&RG "landlocked." With track in only two States, the D&RG must have track usage rights from other, larger railroads to compete.

For many years, the Rio Grande has served the State of Colorado with distinction. It provides my home State with a crucial linkage, allowing Colorado shippers to transport their goods to the west coast efficiently and affordably. The Rio Grande and its future health and competitiveness is essential to the long-term economic wellbeing of Colorado.

I recommend the article to my colleagues, and request that it be reprinted below:

[From the Denver Post, Dec. 4, 1985]

RIO GRANDE TACKLES BIG BOYS

The Denver & Rio Grande Western Railroad would like to remain the little railroad that could.

Faced with a proposed merger of two giant lines that might threaten its existence as a regional carrier, the Rio Grande is leading a fight that could have repercussions for the rest of the industry.

With its own track in just two states, Colorado and Utah, the Rio Grande has branched out to serve shippers as far away as California and Oregon to the west and Kansas City, Mo., to the east.

The trick, familiar to many smaller railroads, was to find larger carriers that would agree to share their track.

LIFELINE JEOPARDIZED

But now the lifeline to the west provided by one of those bigger carriers, the Southern Pacific Transportation Co., may be jeopardized.

Southern Pacific's proposed merger with the Atchison, Topeka & Santa Fe Railway could result in much higher charges for using the track, says the Rio Grande, making its rates uncompetitive.

The merged carrier might even neglect portions of the track in consolidating its own operations, the Rio Grande fears.

And the Southern Pacific might also stop routing most of its own shipments over the smaller line's tracks, cutting an important source of revenue.

The Rio Grande has responded to the threat in novel ways.

It has petitioned the Interstate Commerce Commission, which must rule on the merger, for the right to buy more than 1,200 miles of Southern Pacific track.

And it has attracted the support of an unusually large number of major shippers, concerned about the increasing concentration of the industry and the impact that is having on the rates they pay.

Without the right to buy Southern Pacific track—and a related request to the ICC for the right to continue to use other portions of the Southern's line—the Rio Grande would die a slow death, top executives of the Denver-based carrier contend.

They cite a number smaller regional railroads, including the Milwaukee Road, that were dealt fatal blows by mergers.

Among other advantages the bigger carriers can offer discounts on large-volume shipments.

"If we don't get the rights, we're in the meat grinder," said W.J. Holtman, chairman and president of Rio Grande Industries, parent of the scrappy railroad.

The company is privately owned by Phillip F. Anschutz, a Colorado industrialist who made his fortune in oil and gas and acquired the railroad last year.

The line, the nation's 18th-largest, had operating revenues of $358.4 million and net income of $23.1 million in 1984.

TOUGH CHALLENGE

Holtman added that even if the commission gave the railroad what it wanted it faced a tough challenge:

It would still have to compete with the Union Pacific, the huge carrier in the West that was formed in 1982 by the merger of the Union Pacific with two other lines, the Missouri Pacific and the Western Pacific.

Holtman and his staff were worried about that merger, too.

The ICC, however, ended up giving the Rio Grande a key part of its request for track-usage rights, granting it the right to use the Missouri Pacific's line from Pueblo to Kansas City, Mo.

This enabled the smaller carrier to continue to offer service to shippers from the West Coast to the Middle West through what is known as the central rail corridor.

In the new proposed merger, the Rio Grande and three other smaller railroads that have failed requests for track-usage rights—the Kansas City Southern, the Missouri-Kansas-Texas, and the Texas-Mexican—are in a stronger position to get what they want from the ICC than in the past.

One reason is that many large corporations that are major shippers have become more concerned about keeping the smaller railroads viable.

Michael D. Petruccelli, the general traffic manager at PPG Industries of Pittsburgh, said that since 1980, when the Staggers Act deregulated the railroad industry, the number of major railroads has shrunk from 13 to 7.

As these giant systems emerge, he said, the smaller railroads sometimes provide their only "head-to-head competition."

Besides being supported by PPG, the Rio Grande's ICC petition is backed by such large companies as United States Steel Corp., American Home Foods, Cargill Inc., Ford Motor Co., and Miller Brewing Co.

The unusual nature of the proposed merger has added to the shippers' concern.

Most previous rail mergers involved systems that connected end to end.

But the 12,319-mile Sante Fe and the 13,270-mile Southern Pacific are largely parallel lines, often serving the same markets.

In addition to other routes, both carriers have lines running from southern California to the Southwest, through the southern rail corridor, and from the Southwest to the Midwest.

The two are owned by the Sante Fe Southern Pacific Corp., a holding company formed in December 1983 from the merger of the railroads' parent companies. The railroads are being operated separately pending the ICC's decision.

Because of the parallel lines, the proposal has brought the first opposition from the Justice Department to a rail merger since 1970.

In a brief filed with the ICC, the department argues that a merger will create a monopoly situation in many markets.

The Rio Grande contends that if the merger is allowed without conditions, the Southern Pacific no longer will have an incentive to use it as a connecting route in the central corridor.

Instead, the small line argues, the Southern Pacific would route its traffic by way of the southern corridor.

Such a fear is unwarranted, said Robert E. Gehrt, director of public relations for the Sante Fe Southern Pacific Corp., who added that the Southern Pacific would continue to route shipments from the Northwest over the Rio Grande lines because it is the more efficient route.

TEYON McCOY WELCOMED TO THE UNIVERSITY OF MARYLAND BASKETBALL PROGRAM

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. DYSON. Mr. Speaker, I would like to bring to the attention of my colleagues the upcoming addition of Teyon McCoy to the University of Maryland basketball program.

While some of us in Maryland may not be familiar with Teyon's sharp shooting and dominating defense, his heroics are well known by high school basketball players and coaches throughout the State of Indiana. At 6'1", Teyon plays point guard—a position well-suited to his extraordinary quickness and superb ball-handling skills.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member of the Senate on the floor.

Boldface type indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Hailing from Bishop Noll High School in Hammond, IN, Teyon is the proud recipient of the BC All-Star Camp Outstanding Player Award and the leading candidate for "Mr. Basketball" in Indiana.

As Teyon prepares to tackle both books and basketball at the University of Maryland, I wish him, as well as his future teammates, great success.

Congratulations Teyon. And congratulations Coach Driesell for providing the people of Maryland with so many years of exciting basketball. The University of Maryland basketball program has been Maryland and the Washington, DC area.

THE BAHA'IS NEED OUR HELP

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. PORTER. Mr. Speaker, last week at a special White House program commemorating International Human Rights Day, President Reagan cited Iran's religious persecution of Baha'is as one of the saddest and most serious human rights violations in the world today. He referred to the tragic experience of the Baha'is in condemning religious and racial discrimination, genocide, and torture.

The U.N. General Assembly also recently condemned Iran's human rights record in a resolution citing the Islamic regime's actions against the Baha'is. This action was the first time the United Nations debated and voted on Iran's human rights practices.

Mr. Speaker, I would like to commend the President and the U.N. General Assembly for the attention they have recently given to the Baha'is. Hundreds of Baha'is have suffered at the hand of the dangerous Khomeini regime and the community of 300,000 is living in constant pressure and fear. Time is essential and it is time that we go forward with all actions condemning the Iranian Government until the Baha'is are able to practice their own religion freely and are entitled to their basic human rights.

I would like to share with my colleagues the text of the speech that the President delivered commemorating International Human Rights Day and a statement made by Los Angeles Judge James F. Nelson, chairman of the American Baha'i community, upon presenting the President with a commemorative plate for his support of the Baha'is in Iran.

REMARKS OF THE PRESIDENT AT SIGNING CEREMONY FOR INTERNATIONAL HUMAN RIGHTS DAY

The PRESIDENT. Thank you very much. (Applause.) Thank you. Please, sit down. And I wish I knew where the light on this thing turned on. I can't find it, so I'll do it in the dark. (Laughter.) Well, good afternoon and welcome to the White House.

Today we mark the 37th anniversary of the signing of the Universal Declaration of Human Rights, a document to which virtually every nation on Earth subscribes. It's a day for us to take stock, to survey the globe with an eye not so much in—to words, as to actual deeds; to measure the world against the noble assertions of the Universal Declaration and to reaffirm our commitment to the cause of human dignity.

America has, since its founding, been a refuge for those suffering under the yoke of oppression. A belief in the dignity of man and government by the consent of the people lies at the heart of our national character and the soul of our foreign policy. I had the pleasure of explaining that to a gentleman in Geneva not too long ago. (Laughter.) But, here, the difference is our documents, such as the Constitution, say we, the people, will allow government to do the following things.

Today more than ever we're proud to be champions of freedom and human rights the world over. So in observing Human Rights Day, we celebrate our commitment to the beliefs and moral teachings on which our own nation is founded; a belief in liberty, in the dignity of man, and in the inalienable rights of free men and women to choose their destinies. We have not hesitated when these rights and freedoms have been threatened.

Last month on Veteran's Day, I visited the graves of our soliders who gave their lives so that the rest of us might know the blessings of peace and freedom. Our sons, brothers, and fathers also lie in cemeteries and fields from Flanders to Manila under undying testimony to our determination that these rights shall not perish.

We've learned from history that the cause of peace and human freedom is indivisible. Respect for human rights is essential to true peace on Earth. Governments that must answer to their peoples do not launch wars of aggression. That's why the American people cannot close their eyes to abuses of human rights and injustice, whether they occur among friend or adversary or even on our own shores. And we must be particularly appalled that, on the threshold of the 21st Century, when man has made gigantic strides in opening the universe of space and finding cures for dread diseases, millions of our fellow men still suffer the grossest abuses. There are regimes, some friendly, some adversarial, that engage in frequent violations of human rights. There are other regimes which by their very nature are built upon the denial of human rights and the subordination of the individual to the state.

In Afghanistan and Cambodia, for example, alien dictatorships with the support of foreign occupation troops, subject their peoples to unceasing warfare. Today, six years after the Soviet invasion of Afghanistan, up to 120,000 Soviet troops remain. They have slaughtered innocent women and children. They have employed poison gas. And they have loaded toys with small explosives, an attempt to demoralize the people by crippling Afghan children. Some 3.5 million Afghans, fully one-fourth of the pre-war population, have been forced to flee to Pakistan and Iran.

The communist rulers of Vietnam have launched vicious attacks upon Cambodian refugees, refugees who were fleeing a communist regime in Cambodia itself, which led to the deaths of up to one-quarter of the entire Cambodian population.

In Ethiopia, a Marxist government has used famine to punish large segments of its own population. Vice President Bush visited a camp for Ethiopian refugees in the Sudan last March. Men and women of all ages were dying. But the Vice President told me, there's something unbearably painful about seeing the eyes of the children, the huge, sad eyes of starving children. And the peoples and governments of the democracies have responded generously to those pleas with tangible evidence of our concern.

In the Western Hemisphere, where so much progress toward democracy has been made, Cuba stands out as the country where institutionalized totalitarianism has consistently violated the rights of the citizens.

Unfortunately the Sandinista regime in Nicaragua seems determined to embark on the same course.

On three continents we see brave men and women risking their lives in anti-communist battles for freedom. We cannot and will not turn our backs on them. This year the House of Representatives has heeded their call and voted aid to the freedom fighters in Cambodia, Afghanistan, and Nicaragua, and repealed a ban on aid to freedom fighters in Angola.

Elsewhere we have seen considerable progress toward observance of human rights. In El Salvador, Grenada and Honduras freely selected—or elected governments, I should say—represent the best hope of their peoples for the future.

And just over the last weekend, a new civilian president was elected in Guatemala—that's the first time in 15 years. We laud those achievements. But our concern remains for those who are still captive and oppressed. This is where our voices just speak for justice, for the force of world opinion can and does make a difference.

One of the more tragic cases today is that of the Baha'i, whose leaders are with us today. The government of Iran is engaged in rampart religious persecution, especially against the Baha'is. Since 1979, 198 Baha'is have been put to death, 767 are imprisoned, some 10,000 made homeless, and over 25,000 forced to flee their country. Only the continued world outcry can help bring an end to their suffering.

In South Africa the inhuman policy of apartheid continues. The declaration of a state of emergency has given the police in that country essentially unlimited powers to silence critics of the government. Thousands of South African citizens have been detained without cause—or charge, I should say, and denied even elementary judicial protection. I have said that apartheid is abhorrent, it's time that the government of South Africa took steps to end it, and to reach for compromise and reconciliation to end the turmoil in that strife-torn land.

In Chile and the Philippines too, we've shown our strong concern when our friends deviate from established democratic traditions. In Eastern Europe, the hopes and aspirations of millions of people for religious freedoms, civil rights, remain alive despite years of repression. The Solidarity Labor Union is still outlawed in Poland and the Polish regime has once again moved to restrict the few freedoms that its people still enjoy. In Romania, religious persecution includes the destruction of Bibles, while in Bulgaria, the repression of the Turkish minority and the Islamic faith are witness to the unyielding denial of the basic freedoms of speech, assembly, religion in this region.

I addressed human rights in my meetings with General Secretary Gorbachev, and I made it very clear to him that human rights are an abiding concern of the American people. We had a long and confidential discussion and at the conclusion of our meetings, we declared in a joint statement that humanitarian issues would be resolved in a humanitarian spirit. Americans will be

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watching hopefully to see whether that pledge is observed.

Make no mistake about it, human rights will continue to have a profound effect on the United States-Soviet relationship as a whole, because they are fundamental to our, vision of an enduring peace. President Lincoln once called America the last, best hope of man on earth. Mr. Lincoln's remark has special poignancy today when American determination and strength are central to the peace and freedom of the entire democratic world. It is therefore incumbent upon us to work for the expansion of freedom throughout the world.

In this great effort, my friends, I deeply believe we have a good cause for hope. Evidence of the triumph of the ideal of freedom and respect for human rights can be seen in every corner of the globe, and this is because freedom is not only morally right, but practical and beneficial.

Indeed, governments that rest upon the consent of the governed and the rule of law are more successful in fulfilling their people's aspirations for a better life.

Democratic government and economic freedom have turned a number of small nations into economic giants. It even appears to have roused a giant nation from its economic slumber.

Permit me in closing to return to Mr. Lincoln:

"What defined America, what gave our nation its purpose and mission," he once said, "was something in that Declaration of Independence giving liberty not alone to the people of this country, but hope to the world. It was that which gave promise that in due time, the weights should be lifted from the shoulders of all men."

Well, let us always be true to that distinctly American cause. Let us never cease to work and pray that the weights should be lifted from the shoulders of all men.

Thank you and God bless you, and I will now sign the proclamation designating December 10th as Human Rights Day and December 15th, 1985 as Bill of Rights Day, and the week beginning today is now recognized officially as Human Rights Week. (Applause.)

(The bill is signed.)

Judge Nelson. Mr. President, you have mentioned in your remarks the relentless persecution of the Baha'is in Iran, and though the Mullahs of that country may choose to perpetuate these atrocities, they must know that because of you and the voices that you will encourage to speak out against it, these cannot now be perpetrated, except in the full light of public opinion. For this, we are deeply and eternally grateful.

We are aware also, Mr. President, that this is not a one-dimensional commitment; that in addition, you are morally and spiritually committed to the establishment of the peace we all want among the nations of the world—peace, the most pressing of all issues facing humanity today and for which the Baha'is ardently pray and that this country will help lead the world out of its current predicament.

Therefore, Mr. President, in recognition of your devotion to human rights, the National Spiritual Assembly presents to you on behalf of the 100,000 American Baha'is, a commemorative plate, and in recognition of your continuous commitment to world peace, we have the honor, Mr. President, to transmit to you from the Universal House of Justice, the international governing body of the Baha'is of the world, a statement on world peace.

Thank you, Mr. President.

The President. Thank you very much. Well, thank you very much and thank all of you for what you're doing in this.

I had the pleasure of quoting a statement of Thomas Jefferson to my colleague there in Geneva and he called it after he had heard it, "Very profound," when Thomas Jefferson said, "If the people know all the facts, the people will never make a mistake." So you, the people, and all of us together I think can continue to be a tide that will prove irresistible. Thank you all very much. (Applause.)

HELPING OUT ARGENTINA

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. GARCIA. Mr. Speaker, in yesterday's New York Times, Mr. Jefferson Morley of the New Republic wrote an excellent essay on why the United States should loudly praise Argentina for bringing to trial former military leaders. His point that the Argentina example is a good one for all Latin American nations, particularly those in Central America trying to establish democracy, is well taken. Hopefully, the White House will heed Mr. Morley's message.

I am inserting his essay in the Record for my colleague's perusal:

Argentina's Trial, Latin Tribulations

(By Jefferson Morley)

The conviction last week of five Argentine military commanders for waging a "dirty war" against their own people is obviously an encouraging precedent for democracy in Latin America. But democrats elsewhere in the hemisphere, especially in Central America, who have endured similar reigns of terror still find hopes of human rights trials elusive. Not the least of their burdens is the legacy of Reagan Administration policy.

The Argentine death squads bequeathed their modus operandi to the death squads of Central America. The wave of state violence that began in Argentina in 1976—and killed at least 9,000 people before it ran its course—struck El Salvador and Guatemala in 1979 and after. The cars without license plates, the kidnappings, the assassinations, the torture and the disappearances—all were methods tried first in Argentina and later borrowed by the Central Americans.

The arraignment of high-ranking military officers who oversaw this Central American terrorism would go a long way toward establishing democracy in the region. From the start, there has been plentiful evidence that the violence in Central America—as in Argentina—has been largely directed from the highest levels of government. The problem is that many of the prime suspects have enjoyed the blessings of the Reagan Administration.

In February 1981, Secretary of State Alexander M. Haig, Jr., called for resumption of United States aid to Argentina on the grounds that it had made "dramatic, dramatic improvements" in human rights. Jeane J. Kirkpatrick, the United States' chief delegate to the United Nations, held friendly meetings with a host of Argentine officers. Gen. Roberto Eduardo Viola, who was one of the five sent to prison last week, was warmly welcomed at the White House in March 1981.

General Viola's counterparts in Central America received similar aprobation in the first half of President Reagan's term. The Reagan Administration seemed to have no qualms about doing business with Roberto D'Aubuisson, the right-wing leader said to have close ties to the Salvadoran death squads. The Administration allowed Argentine Army advisers to train anti-Sandinista insurgents in kidnapping, assassination and torture. In December 1982, President Reagan himself downplayed the death squad rampages in Guatemala.

None of this softness on terrorism has been lost on the democrats in Central America—and it surely gives them pause. After all, if President Reagan regarded mere criticism of the Guatemalan generals as a "bum rap" three years ago, how could he possibly believe that a formal indictment of those same generals would be justified today?

In some cases, the attitude in Washington may even endanger Central American moderates. A Central American who publicly calls for prosecution of military officers involved in death squads knows in any case that he may be their next victim. On top of this, indifference, if not hostility, from the United States makes it all the more prudent to keep silent.

The Assistant Secretary of State for Inter-American Affairs, Elliott Abrams, has told foreign reporters that the Administration will support Central Americans whether they "decide to have a 100 percent amnesty" for officers involved in rights abuses or "decide to try everyone." The trouble—as Mr. Abrams himself has admitted on other occasions—is that Central American leaders have not been able even to discipline their military subordinates, much less put them on trial.

A Congressional resolution, supported by the Administration, could clarify the United States' position. Such a resolution would hail Argentina for its impartial and unflinching approach to its own trial. The resolution should also state that any Latin American government that followed the Argentine example would enjoy the support of the people of the United States and, if desired, the assistance of their Government. This would underline the United States position that democracy consists not just of elections but of the rule of law.

TOM WINEBRENNER—32 YEARS OF VALUABLE SERVICE

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. EDWARDS of California. Mr. Speaker, Republican House Members do not have a monopoly on affection and admiration for Tom Winebrenner. We Democrats consider him one of us too, and we shall miss him very much.

In a partisan, adversarial atmosphere, which of necessity the House of Representatives must be, there is always need for the peacemaker, the reliable person both sides like and trust. Having such a person dulls the partisanship, makes the legislature work better, to the benefit of the public.

Tom Winebrenner has been that sort of person for all of his 32 valuable years of service in the House of Representatives. I can personally certify this truth for 23 of the 32 years, because that's how long I have had the privilege of knowing Tom.

Those of us whose offices are in the Rayburn Building or whose committees meet in Rayburn always seem to wait until the last minute to rush over to the House Chamber when the bells ring for a vote. We always look for Tom as we hurry through the entrance doors, and in a few succinct words Tom describes the vote. When the issue is clear and, if asked, Tom will politely say "Your vote is Aye, Mr. Edwards" and he's never been wrong yet.

Mr. Speaker, it's always poignant when we lose a fine institution around these historical rooms, and Tom is an institution, a useful and creative one, and so we'll be sad.

But we're sad for ourselves, not Tom, because he leaves us for exciting new work, and he leaves us with happy memories and a warm feeling for a dear friend who gave us so much.

CELEBRATING DAVID KARP'S BIRTHDAY AND HIS LOVE OF AMERICA

HON. MATTHEW F. McHUGH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. McHUGH. Mr. Speaker, the end of a congressional session is a time of frenetic activity, a time which requires great commitment and dedication. During these last days of the present session, I have become aware that on January 14, 1986, while Congress is not in session, a wonderful gentleman—who has in abundance those qualities of commitment and dedication—will be celebrating his 91st birthday.

I am speaking of my dear friend David Karp of Kerhonkson, NY, a man who has spent a lifetime loving America, honoring her achievements, and celebrating her freedoms and possibilities. During World War I, David served with distinction as a radio officer in the North Atlantic theater at a time when wireless telegraphy was in its infancy, and he was honored for his meritorious service. In later life, he remained proud of his service experiences and participated in veterans organizations and activities. He has been active in civic affairs, and is a former president of the Kerhonkson Lions Club.

As he and his devoted wife Lillian prepared to celebrate America's Bicentennial Year in 1976, David decided to sum up his vision of America's place in history by writing a stirring poem entitled "The American Spirit of Freedom." It is his beautiful gift to America, and in this season of grateful gift giving, I would like to share his gift with my colleagues by reprinting it in the RECORD. I know my colleagues join me in wishing David Karp a birthday celebration filled with great happiness and a future filled with many blessings for him and his family.

"THE AMERICAN SPIRIT OF FREEDOM"

Arise, America! . . . —Time does not wait,
Vigilance holds your freedom's fate.
Stand by your leaders in this global strife,
Alert to the noblest adventure in life.
Remember the great immortals of yore.
Behold their truths, lest ye march to war!

First came the Prophet, all-wise and divine,
Whose ethics remain an eternal shrine.
He preached this law on Sinai the Mount,
From "The Commandments," most sacred fount;
But the wrath of Cain re-echoed deeper
The cry, "Am I my brother's keeper?"

"I WAS,

Then from the East, a Shepherd appeared,
With doctrines sublime, beloved, revered:
Of a Golden Rule and Brotherhood,
Of a Kingdom come, through earthly good,
Whose precepts helped lay the cornerstone,
"Man does not live by bread alone."

Take Heed, America! . . . —Pause to reflect
Nature's immutable cause and effect.
Study man's struggle on history's page,
From Genesis, to the Space-Nuclear Age.
Outlaw, conquer, and forever eclipse
"The four horsemen of the Apocalypse."

I AM

Now, you are summoned to Judgement Hall,
Where Statesmen gathered to Freedom's call.
May your decisions wipe out all tears,
Heralding Peace for the next thousand years:
A Peace with honor, for those 'neath the sod,
Who died to uphold "Liberty under God."

Have Faith, America! . . . —Lift up thy gaze,
To His mysterious heavenly ways.
Probe "Man's inhumanity to man."
Question Destiny's ultimate plan.
Thus, as you ponder its purpose and scope,
Reason reveals this "rainbow of hope!"

I WILL BE,"

Democracy's heart shall ever be strong,
With courage to smite an aggressor's wrong.
Each citizen will have, a duty and right,
With training, directed, preserving its might;
That nations may keep "Four Freedoms" unfurled,
The symbols of Justice,—ONE GOD,—ONE WORLD!

STATE DEPARTMENT'S NEW ASSISTANT SECRETARY FOR HUMAN RIGHTS, RICHARD SCHIFTER

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. GILMAN. Mr. Speaker, along with several Members of Congress, I have called attention to the ceremony held in the White House this year commemorating Human Rights Day on December 10. Among other things I have inserted into the CONGRESSIONAL RECORD the full text of President Reagan's speech to assembled White House guests on that occasion. And I have called attention to the contrast between that ceremony and the scuffle which occurred in Moscow's Pushkin Square when a few heroic activists in that city tried to celebrate Human Rights Day peacefully. As set forth in the graphic eyewitness account provided by the Washington Post of December 11, the KGB moved in quickly taking the demonstrators away for interrogation. The vivid contrast between those two Human Rights Days speaks volumes as to the state of human rights in the U.S.A. and the U.S.S.R.

There has since come to my attention another Human Rights Day speech which also merits our consideration, the remarks delivered during the December 10th White House ceremony by the State Department's new Assistant Secretary for Human Rights and Humanitarian Affairs, Richard Schifter. Secretary Schifter took over his new human rights assignment about 2 months ago, after serving as head of the U.S. delegation to the U.N. Human Rights Commission and deputy U.S. representative in the U.N. Security Council and a distinguished career in the private practice of law.

As his remarks reveal, Mr. Schifter arrived here as a boy, a refugee from Hitler, in 1938. His parents hoped to follow him, but they never made it. I found his speech a moving testament to the cause of human rights, worldwide. I believe Dick Schifter is eminently qualified to hold his present position, not only from the viewpoint of his education and professional experience, but also as a tragic human rights victim very early in his life. His remarks should be welcome news to those who fear that our Nation does not adhere to a uniform human rights policy, applicable to all parts of the world.

Accordingly, I urge my colleagues, interested in the human rights cause, to read Dick Schifter's speech, keeping in mind his words: "It is my objective that my performance in this position will serve as a fitting memorial for my father and mother."

I know that many of my colleagues join with me in wishing Dick Schifter the best of success in his new undertaking, and that we look forward to continuing to work with him to achieve our common goals.

Mr. Schifter's speech follows:

REMARKS OF RICHARD SCHIFTER, ASSISTANT SECRETARY OF STATE FOR HUMAN RIGHTS AND HUMANITARIAN AFFAIRS, ON HUMAN RIGHTS DAY AT THE WHITE HOUSE, DECEMBER 10, 1985

The custom of celebrating the anniversary of the adoption of the Universal Declaration of Human Rights by holding a ceremony under White House auspices has by now become so well established that we may consider it a tradition. It has become equally traditional that remarks by the incumbent Assistant Secretary of State for Human Rights and Humanitarian Affairs are part of the ceremony.

I want at the outset to pay tribute to the accomplishments of my predecessor. Under the guidance of Elliott Abrams, United States human rights policy crystallized and became an essential, coherent and consistent ingredient of the United States Government's approach to foreign affairs. My task in that office, as I see it, is to build on the foundation laid by Elliott Abrams.

The position of Assistant Secretary of State for Human Rights and Humanitarian Affairs is a truly unique one. No other country in the world has elevated the person responsible for conducting human rights policy on the international scene to so high a level in its foreign policy establishment. Given the significance thus accorded to the position and, further, given the fact that this is my first opportunity to speak at an event of this kind, I want to use this opportunity to say a few words about the views and convictions which I have brought to this job.

Reporters who have interviewed me since my nomination was announced have asked whether my background has something to do with my decision to accept this position. The answer is: "Of course."

If you were to proceed to a reference library for newspapers and periodicals and were to get the New York Times of December 16, 1938, you will find in it a story on the arrival in New York harbor of yet another boatload of refugees from Hitler's Germany. The story is illustrated with a photograph. It was taken on the deck of the arriving ship. It is a picture of a group of these refugees looking out at the Statue of Liberty. One of these refugees gazing out at that great symbol of American freedom was a youngster who decades later was to become the third person to serve in the United States Government as Assistant Secretary of State for Human Rights and Humanitarian Affairs.

Many such boatloads arrived in those days. Another one of them, which had reached the United States a few weeks earlier, had numbered among its members a younster of about the same age who was then known as Heinz Kissinger.

I had come to the United States alone. Under the immigration laws then in effect, my father and mother had been placed on the visa waiting list. They had bid me good bye as I had embarked for my journey to the United States, in the expectation that we would see each other again soon.

That was not to be. Their last message to me, dated July 1942, and transmitted through the International Committee of the Red Cross, came from a place called Maidan-Tatarski. According to available records, the ghetto of Maidan-Tatarski was, to use the terminology of that period, liquidated in November 1942.

I recall reading a poem once about the victims of those times. It speaks of the millions for whom there was no funeral ceremony, no grave, no monument to mark their final resting place. The poem speaks of the cloud that emanates from the smoke stack near the crematorium and of the grave, the final resting place, in the sky.

It is my objective that my performance in this position will serve as a fitting memorial for my father and mother.

Let me also add in this context, that the President has called for Senate action on the Genocide Convention. It is my hope that the important symbolic act of United States adherence to that Convention will indeed take place in the near future.

What I believe I am able to bring to the job of Assistant Secretary of State for Human Rights is an ability to look at the world through the eyes of a victim. What a victim looks for is help, rescue, improvement in the conditions of life. What the victim does not need are pious declarations or thundering denunciations whose only effect is to make the persons uttering these declarations or denunciations feel psychologically satisfied. It is essential, I believe, that we continue a human rights policy which is result-oriented and avoids grandstanding.

Though the head of the Human Rights Bureau has the opportunity to influence policy and to exercise a certain amount of discretion, it is clear that his performance must harmonize with the general policy outlook of the Administration in which he serves.

As I have had the opportunity to represent the United States since January 1981 in international organizations concerned with human rights, I am well acquainted with our policy approach and have no doubt that my own inclinations are in full harmony with the human rights policy of this Administration. These policies, in turn, reflect the deeply-felt beliefs of the American people. My experience in recent years has served only to confirm the impression which I have held heretofore, that no other country exceeds ours in its altruism in the field of international affairs.

I would not want to suggest that we do not weigh our security interests or economic concerns as we make our foreign policy decisions. We must, and we do. But I believe that we, more than anyone else, are prepared to subordinate these narrower objectives to purely humanitarian considerations and that we do so irrespective of the political outlook of the government which is guilty of human rights violations.

Let me underline this last point most emphatically. Only this morning, on a television show, I was asked the question that is posed so often, whether we limit our human rights concerns to countries in the Soviet sphere and look the other way when human rights violations take place in countries with which we have better relations. The answer to this question, as I have already said, is that we concern ourselves with human rights violations everywhere. Now that I am no longer in the private practice of law, I do not keep a precise record any more as to the matters on which I spend my time minute-by-minute. But I can tell you nevertheless that in the six weeks that I have been on my present job, I have spent more time working on human rights problems in countries outside the Soviet sphere than on the problems that emanate from the Soviet bloc.

The reason for that difference is simple to explain. We naturally gravitate in our activities toward those situations where we can do some good in the near future. We can obviously do the greatest immediate good in a country that is likely to pay attention to an intercession on our part. Our time is then spent setting forth the fact as to the violation in question, formulating our expression on concern, determining the proper channel for communicating that concern and then communicating it. That is what is known as "quiet diplomacy." It is quiet only in that it is not made public. But it can be most emphatic and I can assure you it most often is just that. All along in choosing the words and in choosing the channel, we keep a single goal in view: to achieve the desired result.

Only where quiet diplomacy has failed or where there is no chance of even starting such a process do we resort to publicity. Obviously, the less friendly a country is toward us, the less likely that it will listen to our private entreaties. That is why it might indeed appear as if our human rights activities focus on the Soviet bloc when, in truth, we are concerned with all human rights violations.

As to this concern, there are no partisan divisions in our country. I have noted earlier that our government acts the way it does on human rights issues because in our democracy government expresses the will of the people and an affirmative human rights policy is what the American people expect of their government. The United States human rights policy, unique as it is on the international scene, truly reflects the spirit of the great civilization which the founders of this country built on the North American continent.

A final comment would be appropriate about the man from whom you will soon hear in person, the man whose word is the last word in setting our country's human rights policy. What the great majority of our people has recognized, what the world is increasingly recognizing, is that President Reagan represents the essence of the American character of decency and humanitarianism.

I have no doubt that in placing human concerns ahead of bureaucratic concerns in the exercise of our official responsibilities, we in the Bureau of Human Rights and Humanitarian Affairs carry out the policies of the President of the United States.

COUNTY COUNCIL OF HARFORD COUNTY, MD, ADOPTS RESOLUTION IN OPPOSITION TO THE REPEAL OF FEDERAL DEDUCTIBILITY OF STATE INCOME AND LOCAL PROPERTY TAXES

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. DYSON. Mr. Speaker, I would like to share with my colleagues in Congress a resolution adopted by the Harford County Council expressing their unanimous opposition to the proposed repeal of Federal deductibility of State income and local property taxes.

At a time when policymakers across the Nation are addressing the need to reduce the Federal deficit, many of us see the deductibility of State and local taxes as a central component of our campaign to provide our citizenry with essential services.

Passed on November 12, 1985, this resolution represents but one of the many strong expressions being heard across the country in favor of retaining this vital tool of effective government.

Resolution 49-85, as introduced by Council Member Fielder, follows:

WHEREAS, the County Council of Harford County, Maryland, recognizes the need to make the Maryland State income tax more progessive in order to finance the prospective growth in government expenditures and to achieve a more equitable sharing of the costs of government among income groups; and

WHEREAS, the federal government has encouraged states to assume greater responsibilities as part of the "New federalism" during a time when federal funds have been reduced for the kinds of programs of particular interest to the people and local governments in our region; and

WHEREAS, we believe that states properly have a claim to their citizens' income which is prior to that of the federal government and that the proposed changes would represent an unwarranted intrusion into states' rights; and

WHEREAS, income taxes should not be considered part of one's income, so no tax authority should include in its income tax base the taxes its citizens pay to other authorities; and

WHEREAS, state and local property taxes provide basic support for essential governmental and educational services and the lack of federal deductibility would impact local revenue-raising capacities, and the basis on which state and local governments' credit ratings are determined; and

WHEREAS, interstate transfers arising from deductibility may simply offset transfers created by the exportation of other state taxes, such as severance taxes; and

WHEREAS, deductibility improves the tax system's overall neutrality by ameliorating the bias against saving and investment; Now, therefore, be it

Resolved, That the County Council of Harford County, Maryland, wishes to go on record in opposition to the current proposal to end the federal deductibility of state and local taxes; and be it further

Resolved, That a copy of this Resolution be sent to each member of the Maryland delegation in Congress.

THE PRESIDENT'S VETO OF THE TEXTILE BILL

HON. ROD CHANDLER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. CHANDLER. Mr. Speaker, last night, the President vetoed H.R. 1562, the Textile and Apparel Trade Enforcement Act of 1985. I strongly support the President's position on this issue and I congratulate him for his actions.

I remain convinced that protectionism of the type envisioned by H.R. 1562 is bad for the country and bad for each and every American. This bill would fuel inflation, put thousands of Americans out of work, and profoundly threaten the economies of many of our trading partners to whom we look for purchase of our exports.

For a bill that advertises itself as the protector of certain domestic industries, H.R. 1562 quite curiously exempts from its coverage many of the countries which account for significant levels of foreign imports. Conversely, the bill would apply to such nations as Sweden, Norway, and Finland, which collectively account for less than one-quarter of 1 percent of the U.S. market for textiles and apparel, and which, as a group, import more textiles and apparel from the United States than they export.

I received a letter today from Sweden's Ambassador to the United States, Mr. W. Wachtmeister. His comments testify to some of the inequities caused by this bill and are, I believe, deserving of inclusion in this RECORD.

EMBASSY OF SWEDEN,
THE AMBASSADOR,
Washington, DC, December 11, 1985.

Hon. ROD CHANDLER,
House of Representatives, Washington, DC.

DEAR CONGRESSMAN CHANDLER: I noticed with pleasure a reference that you made to my country in the House debate last week on textiles and wanted to write to thank you for presenting our points of view so well. You noted that several major exporters to the United States of textiles and apparel would be exempted from the proposed restrictions while Sweden, Norway and Finland would not be, even though we hold only a minute share of the U.S. market and import more textiles and apparel from this country than we sell to you.

My government certainly feels that additional restrictions on world textile and apparel trade would be unfortunate in view of the forthcoming negotiations on a new Multifiber Agreement. Any new measures introduced should, in our view, take into consideration the conditions for production that exist in our country, where the textile industry pays high wages and in no way could be perceived as a threat to the corresponding U.S. industry.

Sincerely yours,

W. WACHTMEISTER.

THERE WAS NO NEED TO RUSH ON THE TAX BILL

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. GAYDOS. Mr. Speaker, once again we in the House have been pressured into acting with undue haste on a bill, H.R. 3838, the Tax Reform Act of 1985, that will have a tremendous impact on the lives of all Americans.

Once again, we have another example of what I call legislation by crisis. Only, as far as I can tell, no crisis exists.

There has been no clamor from my constituents for this bill or, for that matter, for any of the tax reform proposals that have been floating around this Congress for the past several months. So there was no real rush, except in the minds of some here, for dealing with this bill now while racing to adjourn.

One of the things that bothered me most as we rushed into this vote was that I really don't know what this bill contains. I only received my copies of the bill, the Ways and Means Committee report, and the committee summary last week.

And, when you consider that the bill itself is almost 1,400 pages—about the thickness of a good-sized telephone book—and weights more than 4 pounds, it's going to take more than just a couple of days to examine it thoroughly and to understand all of the implications.

But, in my cursory reading so far, I have found some good things in the bill, items that will benefit people, and I have found proposals that are so detrimental that it is impossible for me to support this measure.

I am very concerned about the provisions to tax some retirement benefits of Federal employees while exempting Members of Congress and their staffs. It's too bad the crafters of H.R. 3838 couldn't be straightforward with us by just using simple and understandable language in the bill rather than the typical convoluted language we have before us. At least then we and our constituents would know what we were dealing with.

I am concerned about the elimination of accelerated cost recovery that exists under current law. This program is a real benefit to many capital-intensive industries, such as steel and other manufacturing entities, and its elimination will do serious harm to those companies suffering most from the impact of import competition.

I am concerned about the repeal of the investment tax credit program on industry because, again, it will hurt most those companies that are struggling to regain the degree of competitiveness necessary to stave off pressure from imports.

I am concerned also about the treatment of industrial development bonds in this tax bill, bonds that are vital to depressed areas as a means of attracting new industries that will create jobs in parts of this country that have not been blessed with the fantastic recovery this adminstration says exists.

All in all, Mr. Speaker, while this tax bill may provide some benefits for some people, the negatives I have already found lead me to stand in opposition to the bill.

Further, as there seems to be no immediate need to rush into action, no pressure from the citizenry to pass the bill, I believe it would have been in our own interests to wait and look at the package more carefully before we put our seal of approval on it.

Our colleagues in the Senate are in no rush. In fact, they can't act on the tax bill until we do. Given that as a fact, there is no need for the House to rush into action on this measure when we have had only a short time to look it over.

Besides, despite the efforts by the President to convince Members to support H.R. 3838, he has already said that if the final bill contains many of its provisions, he will veto it!

Are we so involved in the political struggle that we can't see that we are being used? Let's wait, take our time and produce a tax package that will really mean something to the American people.

Quite frankly, there are too many unknowns in a measure of this size and import. I, for one, would rather say that I voted no because of not fully knowing what was in the bill rather than be criticized by my constituents later for failing to see some minor paragraph that has a negative impact on people.

I believe we should have waited rather than consider H.R. 3838. This is far too important an issue to do in a hurry. The danger now is that we have lost control and the Senate will be free to do what it is the President wants them to. After that, only the conferees will know what shape the final version will take.

RETIREMENT OF GEN. ROSCOE ROBINSON

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. CLAY. Mr. Speaker, it is with a great deal of pride and pleasure to bring to the attention of my colleagues the retirement of Gen. Roscoe Robinson, Jr., from the U.S. Army.

General Robinson, a constituent from the First Congressional District of Missouri, and a contemporary of mine, was retired from the military with honors on November 27, 1985 at Fort Meyers, Virginia with more than 30 years of dedicated service to our country. I am indeed honored to know him and to be his Representative in Congress. But, I do have some regrets about his retirement for I am no longer able to state that two of the top ranked black officers in the Armed Forces claim residence in my district.

Mr. Speaker, I submit for insertion into the CONGRESSIONAL RECORD a portion of the program from General Robinson's retirement ceremony.

The information follows:

ROSCOE ROBINSON, Jr., General, United States Army

General Roscoe Robinson was born in St. Louis, Missouri on 11 October 1928. He was commissioned a second lieutenant and awarded a Bachelor of Science degree in Engineering in 1951 from the United States Military Academy. He also completed a Masters program in International Relations from the University of Pittsburgh. His military education includes completion of the Infantry Basic and Advanced Courses, the United States Army Command and General Staff College, and the National War College.

He has held a wide variety of important command and staff position culminating in his final assignment as United States Representative to the North Atlantic Treaty Organization Military Committee. Other key assignments held recently include Commanding General, 82d Airborne Division, Fort Bragg, North Carolina; Deputy Chief of Staff for Operations, United States Army Europe and Seventh Army; and Commanding General, United States Army Japan/IX Corps.

General Robinson also served as Personnel Management Officer, Infantry Branch, Officer Personnel Directorate, Office of Personnel Operations, Washington, DC. In Vietnam, he was Deputy Chief of Staff, G4 (logistics), 1st Cavalry Division, and subsequently Commander, 2d Battalion, 7th Cavalry, 1st Cavalry Division. After completion of the National War College at Fort Lesley J. McNair, Washington, DC, he became Plans Officer, later Southeast Asia Special Actions Officer, J5 (Plans), United States Pacific Command, Hawaii and executive to the Chief of Staff, CINCPAC. He was Commander, 2d Brigade, 82d Airborne Division at Fort Bragg, North Carolina and then departed for Okinawa where he became Deputy Commander of the United States Army Garrison, later becoming Commanding General, United States Army Garrison, Okinawa.

Awards and decorations which General Robinson has received include the Distinguished Service Medal, Silver Star (with Oak Leaf Cluster), Legion of Merit (with two Oak Leaf Clusters), Distinguished Flying Cross, Bronze Star Medal, Air Medals, Army Commendation Medal, Combat Infantryman Badge (2d Award), Master Parachutist Badge, and the Joint Chiefs of Staff Indentification Badge.

He is married to the former Mildred E. Sims (Millie). They have two children: Carol Robinson Royal and Bruce (US Army).

Mr. Speaker, I ask that my colleagues join me in thanking General Robinson for his many years of dedicated and unselfish service to our nation and extend to him and his wife and family our best wishes.

PROGRESSIVE DISCIPLINE

HON. THOMAS N. KINDNESS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. KINDNESS. Mr. Speaker, we are probably all sorely aware of the depth of discipline problems in our Nation's schools. I want to call the attention of my colleagues to an innovative program meant to deal with such problems in a constructive manner.

John Lazares, assistant principal of Wilson Junior High School in Hamilton, OH, has developed a "progressive discipline code" which has received a lot of attention over the past few months. To date, the code has been implemented by schools systems in Cincinnati and Harrison, OH, as well as a school system in North Carolina.

John Lazares and his colleagues at Wilson Junior High School are to be commended for their efforts in developing this idea, which emphasizes parent-teacher communication in an era where such communication may often be lacking.

I'm sure that there are many of us who share Mr. Lazares' hope that the increased involvement of parents in the discipline of their children will be helpful in translating discipline problems into better academic performance and increased parent awareness.

The following article by Mr. Lazares explains the "progressive discipline code" in greater detail:

HAMILTON CITY SCHOOL DISTRICT,
Hamilton, OH.

At Wilson Junior High School in Hamilton, Ohio, a progressive discipline code is utilized. A minor offense by a student results in a representative punishment. As a student continues to break school rules, the punishment becomes more severe. As the severity of offenses increases, the student may eventually be suspended out of school. We have decided to add one more step to our code before a student is suspended out of school.

In this additional step, a student who has continued to exhibit undesired behavior will receive a suspension until his/her parent comes to school for a conference. At that meeting, the parent is told the next time their child is involved in an infraction of the discipline code, the parent will be required to attend school with his/her child for the entire day(s).

The rationale for this procedure is as follows:

1. Students are embarrassed by having their parents with them at school. Several students, who when faced with the prospect of having their parents attend school, have pleaded with me to do anything else. This addition to our code has drastically reduced repeat-student problems. Students see parents in the building and realize that they could be next. Thus a great "preventive discipline" factor develops.

2. If a student receives a suspension, but the parent is willing to accompany him/her to school for an entire day, the suspension will be rescinded. Because the procedure is used in lieu of an out-of-school suspension, instruction time is not lost.

3. The parents observe the school day first hand. The lines of communication between the parent and teacher are greatly improved.

This is a good way for parents to actually see what type of education their children are receiving. One parent stated, "I finally realize what a hard job teachers have". Our schools need improved public relations and this can be another method of attaining this goal.

In conclusion, this program will help to decrease discipline problems and make parents more aware of their youngster's behavior and academic progress in school.

JOHN LAZARES, *Assistant Principal,*
Wilson Junior High School.

U.S. RELATIONS WITH EASTERN EUROPE

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. GARCIA. Mr. Speaker, the Secretary of State has just completed a visit to three Eastern European nations. It is important to note that not all Eastern bloc nations are identical. There are some important differences between both the domestic and foreign policies of these nations.

Our relationship with the nations of Eastern Europe has always been overshadowed by our relationship with the Soviet Union. While it is important not to diminish the control the Soviet Union has over these nations, it is equally important not to lump them together, ignoring their differences. In that light, I am inserting in the RECORD an article from the December 15 edition of the New York Times on Secretary Shultz' trip and on United States-Eastern European relations in general.

[The New York Times, Dec. 15, 1985]

SHULTZ HEADS FOR THE OTHER SIDE OF EUROPE

(By Bernard Gwertzman)

WEST BERLIN.—The Reagan Administration is showing renewed interest in Eastern Europe, spurred by last month's Reagan-Gorbachev meeting and the knowledge that a thaw in Soviet-American relations often produces openings as Moscow's allies made the most of a Russian smile. After stopping in this Western enclave, Secretary of State George P. Shultz planned to visit Rumania and Hungary today and tomorrow. He was to spend a day in Yugoslavia before returning to Washington.

The longstanding American objective in dealing with the East Europeans has been both simple and complex. Any weakening of Communist cohesion is a military plus for the West, and—more important—a serious problem for the Russians. And beyond the security aspect, there is the perhaps sentimental hope that somehow, freedom can be brought to Eastern Europe by means short of war. But policy toward these governments has long seemed riddled with inconsistencies and dilemmas. Questions are again being asked about how to deal with the region.

Should the United States continue to follow President Lyndon Johnson's policy of "building bridges" in the hope that the East Europeans could turn westward? Or is it misleading and cynical to encourage seeds of independence, which only make clear Western importance in the face of Soviet-forced crackdowns and repression, as in Hungary in 1956, Czechoslovakia, 1968, and Poland, 1981? Would it not be more productive in the long run to treat the Soviet Union and the other European Communists as being in the same boat, perhaps with country-by-country adjustments? If relations with Moscow improved, ties with the others would, too. This might strengthen Moscow's veto over its allies but could also foster East European self-interest in change in Moscow.

The United States does not accept the incorporation of Eastern Europe "into a Soviet sphere of influence," Mr. Shultz said yesterday in West Berlin.

The Reagan Administration calls its policy "differentiation." As defined by Vice President Bush in 1983 after a similar quick trip to the region, it explains why Mr. Shultz is visiting Rumania and Hungary while leaving Bulgaria, Czechoslovakia. East Germany and Poland off his itinerary. Yugoslavia's Communist Government, which left the Soviet bloc in 1948, is a special case, while Albania belongs to no bloc and has resisted repeated American overtures.

"We look to what degree countries pursue autonomous foreign policies, independent of Moscow's direction," Mr. Bush said, "and to what degree they foster domestic liberalization, politically, economically and in their respect for human rights." He added: "The United States will engage in closer political economic and cultural relations with those countries such as Hungary and Rumania, which assert greater openness or independence."

Hungary has permitted private enterprises to flourish alongside moribund state farms and factories and has been relatively tolerant of individualism in the arts. But on foreign policy, it dutifully follows the Soviet line. The opposite is true of Rumania. Under President Nicolas Ceausescu, intellectuals and evangelical Christians are severely repressed. Living standards are the lowest in East Europe. But in foreign policy, Mr. Ceausescu has been the most independent leader in the Warsaw Pact, even refusing to participate in joint military maneuvers outside of Rumania. He also allows Jews and Germans to emigrate fairly freely, meeting United States conditions for preferential status on tariffs.

But some United States officials are concerned that Rumania's independence may not outlast Mr. Ceausescu, who will be 68 next month and is said to be in poor health. Rumania, which is in severe economic difficulty, may be tempted to return to the Soviet fold, they say, if independence is not materially encouraged.

Hungary is the only other Warsaw Pact member approved for Most Favored Nation tariff treatment. In Administration parlance, Mr. Shultz is "rewarding" Hungary, for its relative domestic leniency, and Rumania, for foreign policy independence, by singling them out on his first visit to the region.

But many critics would like to end the reward. Bills now before Congress would strip Rumania of its tariff preference because of its shoddy human rights record. And Senator Alfonso D'Amato says he may seek to revoke Hungary's preferred status because free debate was stifled during the recent forum on East-West cultural relations in Budapest.

Moreover, given the renewed concerns about espionage, there is concern that all the East Europeans may be helping Moscow gather information. Some officials, however, say the Hungarians and Rumanians are less active in spying than the other Communists. That is why they were left off the list when the Bulgarians, Czechoslovaks, East Germans and Poles were recently told to book their travel in the United States through the State Department, a procedure that helps the Federal Bureau of Investigation keep close tabs on their whereabouts.

CITY COUNCIL OF BALTIMORE ADOPTS RESOLUTION URGING SUPPORT FOR ELDERLY CITIZENS WHO NEED NURSING CARE

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. DYSON. Mr. Speaker, I would like to share with my colleagues in Congress a resolution adopted by the City Council of Baltimore pertaining to nursing care for the elderly.

Introduced by council members DiBlasi, Murphy, Myers, Ambridge, and Mfume on November 18, 1985, the resolution is entitled, "Federal and State Assistance for Elderly Citizens in Need of Nursing Care."

The resolution follows:

For the purpose of requesting the Federal and State governments to study the need for extended benefits for elderly citizens in need of nursing care.

Whereas, Elderly citizens experience a higher incidence of illnesses and accidents that require short term or long term nursing care as a course of medical treatment; and

Whereas, The cost of this nursing care has accelerated over the past 10 years and now, after a short period of time, exhausts the income and assets of all but a few; and

Whereas, People who work hard all their lives to be secure in their senior years are entitled to their personal dignity in spite of incapacitation; and

Whereas, Persons in need of nursing care should be able to rely on Medicare for this treatment but under the present rules they become economic pawns of State and Federal governments; and

Whereas, The Federal and State governments should study the issue of nursing care for elderly citizens and seek ways to build in protection for the nursing care needs of elderly citizens; now, therefore, be it

Resolved, That the President and the U.S. Congress and the Governor and General Assembly be urged to investigate the need for expanded Medicare and State support for elderly citizens who need nursing care; and be it further

Resolved, That copies of this Resolution be sent to the President of the United States, the Maryland delegation to the U.S. Congress, the Governor and the Baltimore City delegation to the General Assembly.

AFTER GENEVA

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. HAMILTON. Mr. Speaker, I insert my Foreign Affairs Newsletter for December 1985 into the CONGRESSIONAL RECORD:

AFTER GENEVA

President Reagan deserves the praise of Americans for his "fresh start" at Geneva. Although the November summit produced nothing concrete on the central issues of arms control and arms reduction, it improved the mood in U.S.-Soviet relations, reducing tension and signalling a return to diplomacy. The summit's significance depends on what happens next. It is up to the U.S. and the Soviets to try to build on its momentum.

The second summit, likely to be held next June or July, will be much tougher. It was easy this time for the leaders to meet, shake hands, exchange smiles and pledge to accelerate arms control talks. Next time the summit will be called a failure if it does not produce real movement on arms control. A summit can spur bureaucracies into action, but it can also obscure inaction. Painstaking diplomacy is not always advanced by highly visible public meetings. A second or third summit, if unproductive, could unsettle Europe and increase East-West tension.

The President has his work cut out for him. Preparation for the next meeting needs to begin now. The President must quickly assemble an arms control consensus within his own Administration, something he has so far been unable to do. He must give his negotiators guidance if progress is to occur before the next summit. He must resist pressure to compromise, which our allies will apply in coming months. He must choose whether to observe existing treaties while he accuses the Soviets of violating them. Most importantly, he will have to decide whether to accept limits on his Strategic Defense Initiative (SDI) to achieve deep cuts in Soviet nuclear weapons.

Mr. Gorbachev has his own set of problems. He must consolidate his power at the Party meetings in Moscow in February, 1986. He must decide if NATO or the Congress will induce President Reagan to make concessions, or whether Soviet compromises will be needed.

Under the domestic limits each leader faces, neither side can credibly threaten sharp increases in military spending. The outlook here is for more cuts in the President's defense budget. Mr. Gorbachev does not hide his preoccupation with the stagnating Soviet economy, or his reluctance to see military spending go up to keep pace with U.S. technological efforts.

Observers are alert for early signs of movement in superpower relations. U.S. allies have already put forward a proposal at the Vienna talks on Mutual and Balanced Force Reductions. It calls for a small reduction in U.S. and Soviet forces to precede an agreement on verification measures. U.N.-sponsored talks on Afghanistan will resume soon and could provide a post-summit test of Soviet intentions. At the Stockholm Conference on Disarmament in Europe, each side has pledged to work on "confidence building" measures and the principle of non-use of force. Bilateral talks are also planned on preventing the spread of nuclear weapons and establishing centers to reduce the risk of nuclear war.

In Geneva, nuclear and space arms talks will resume in mid-January. Both sides agreed at the summit to seek progress in areas of common agreement, including cutting strategic arms by 50% and working out an interim agreement on intermediate range weapons in Europe. Neither side budged on the central issue of spaced-based defense, but there is some room in U.S. and Soviet positions to discuss the acceptability of SDI research.

There are major differences, however, in the terms defining the reduction of U.S. and Soviet arsenals. The Soviet proposal would include U.S. weapons in Europe, and apparently allows the deployment of Soviet SS-24 and SS-25 missiles while prohibiting our MX, Trident II and the future Midgetman missile. The U.S. proposal would ban all Soviet mobile missiles including SS-24s and SS-25s and the proposed U.S. Midgetman, but permit other U.S. systems. These terms of definition alone will be difficult to negotiate.

A further difference is compliance with past arms control agreements. In June, President Reagan announced a "no undercut" policy of adhering to SALT I and II to the extent that the Soviets did. He contends, however, that the Soviets have violated SALT II by deploying two new types of land-based missiles—SALT II allowed only one new type—and by encoding data from missile tests. Some cite these as reasons for U.S. abrogation of the SALT II Treaty. Others argue that without U.S. compliance the Soviets could "break out" rapidly from SALT II, which would complicate arms talks and undermine the effectiveness of defense systems contemplated under SDI.

Another critical compliance issue concerns the Anti-Ballistic Missile (ABM) Treaty of 1977. The U.S. charges that Soviet construction of a large new radar system at Krasnoyarsk in Siberia violates the ABM Treaty. The Administration also decided this October that the testing and development of SDI technologies is not a legal violation of the ABM Treaty, reversing the U.S. position of the previous 13 years. This change led to an outcry here and in Europe, and the U.S. decided for policy reasons to return to the original Treaty interpretation. How compliance disputes such as these are resolved will greatly affect the future of arms control.

The summit's outcome on arms control has yet to be written. Will we be able to reach agreements that for the first time really cut arsenals, or will we begin an accelerated arms race? Can we keep both nations on the track started at Geneva or will the next international incident derail us? Can we translate the moment of Geneva and what the President calls American new strength into specific agreements which will manage the arms competition?

The summit did not give us a breakthrough arms control or the difficult relationship between the United States and the Soviet Union. But in an improved climate it does give us a chance to keep trying.

LIMITING ARMS TRANSFERS

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. LEVINE of California. Mr. Speaker, today I am introducing a bill to limit the sale of sophisticated conventional arms and technology to the Third World. It is identical to a bill introduced today by Senator BINGAMAN and several of his colleagues in the Senate. The bill asks the President to undertake negotiations with governments of the key arms suppliers to establish a consultative commission for multilateral arms restraint. The consultative commission would be comprised of the United States and the Soviet Union, historically the largest arms suppliers, as well as France, the United Kingdom, Italy, and West Germany.

The functions of the consultative commission would be: First, to establish guidelines to regulate the effect of multilateral limitations on arms sales on the national economies of its member countries, and second, to address other areas pertinent to limiting the sale or transfer of arms including the adoption of mechanisms to safeguard against the circumvention of the arms restraint regime by its member countries and the establishment of a procedural timetable for the purpose of creating an additional forum to facilitate deliberations between member countries of the consultative commission and other developed, as well as newly industrialized, countries on the limitation of arms transference.

This bill would also require an annual arms sales report to include certain information enumerated in section 3 of the bill.

Mr. Speaker, the need for this legislation is clear. Over the past two decades, arms sales worldwide have increased tenfold from $3 to $4 billion a year to $30 to $35 billion a year. Some $25 to $30 billion of this annual amount represents arms transfer agreements with countries of the Third World. The Congressional Research Service reports that from 1977 to 1984. Third World countries doubled their purchases of arms. Between 1980 and 1984, Third World countries contracted to buy arms from the United States, the Soviet Union, and the major West European countries totaling $40,249,000, $40,201,000, and $33,328,000, respectively.

The proliferation of arms in developing countries tends to undermine geopolitical regional balances, which have direct implications for North-South and East-West relations. Experts agree that military confrontation between the United States and the Soviet Union is most likely to result from a regional conflict in the Third World. Even as we meet here today, conflicts continue in Afghanistan, the Persian Gulf, Southeast Asia, Africa, and Central America—all fueled by a supply of new and more sophisticated arms, and all possibly provoking wider wars that could involve the two superpowers.

Consider these facts, presented in the April 19, 1985 Congressional Research Service report, "Trends in Conventional Arms Transfers to the Third World by Major Supplier, 1977–84":

> Both the Soviet Union and France substantially increased their shares of Third World arms transfer agreement values between 1983 and 1984. The value of the Soviet Union's agreements with the Third World increased to $10.4 billion in 1984 from $4.8 billion in 1983.
>
> Arms transfer agreements with Latin America became much more polarized during 1981–84 than they had been during 1977–80. The United States and the Soviet Union, which collectively accounted for 24% of the arms transfer agreements with Latin America in the earlier period, were responsible for 53% of these agreements between 1981–84. The United States' share increased from 3% to 15%, and the Soviet Union's share increased from 21% to 38%.
>
> The real issue of all non-Communist nation's arms transfer agreements with, and arms deliveries to, the Third World have exceeded that of such agreements by all Communist nations every year since 1977.

It should be of concern to us all that an increasing number of countries participate in the arms trade, and in selling arms to the Third World. Brazil, Israel, India, North and South Korea, Taiwan and China have developed arms industries.

Mr. Speaker, sophisticated conventional arms are dangerous instruments of war, made more dangerous by the fact that conflicts using conventional weapons can escalate into those using nuclear weapons. Clearly, it is in the best interest of our own country, indeed in the interest of all countries in the world, to establish a system of multilateral controls on the export and proliferation of conventional arms.

As evidence of the House Foreign Affairs Committee's and Congress' recognition of the need to control arms transfers, a provision was included in Public Law 99–83, the International Security and Development Cooperation Act of 1985, calling for discussisons with the Soviet Union and France aimed at beginning multilateral negotiations to limit and control the transfer of conventional arms to less developed countries. In addition, the law calls for a report to examine certain aspects of these arms transfers.

The bill I am introducing today goes a step further, not only by requirng an even more detailed report, but by actually establishing a formal body to consider this important problem.

The proliferation of sophisticated conventional arms is something over which all responsible nations must gain control. These weapons can and do create instability in various regions of the world, they can lead to the use of even more dangerous weapons, and their purchase is draining the scarce resources of many Third World countries—resources which could be more productively used to foster their economic growth. Surely arms exporting nations would better serve all humanity by trying to achieve a concensus on halting the proliferation of these dangerous weapons. Enactment of this bill would be a solid contribution toward this goal.

The complete text of my bill follows:

H.R. 3987

A bill to provide for multilateral limitations on arms sales, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds that—

(1) arms sales worldwide have increased from $3-4 billion per year to $30-35 billion per year over the past two decades;

(2) $25-30 billion of this annual amount represents arms transfer agreements with countries of the Third World;

(3) the accelerating pace of arms transfers to developing countries absorbs resources which could be more productively utilized to foster economic growth;

(4) the proliferation of arms in the developing world tends to undermine geopolitical regional balances;

(5) the deterioration of regional balances has direct implications for North-South relations and East-West relations;

(6) experts agree that any military confrontation between the United States and the Union of Soviet Socialist Republics, and thus another global war, is most likely to stem from a regional conflict in the Third World; and

(7) between 1980-1984, Third World countries contracted to buy arms from the United States, the Union of Soviet Socialist Republics, and the major West European suppliers totaling $40,249,000, $40,201,000, and $33,328,000, respectively.

SEC. 2. CONSULTATIVE COMMISSION FOR MULTILATERAL ARMS RESTRAINT.

(a) CALL FOR NEGOTIATIONS TO ESTABLISH.—It is the sense of the Congress that the President should undertake negotiations with governments of the key arms suppliers in order to establish a consultative commission, modeled after the Coordinating Committee for Multilateral Security Export Controls and the nuclear suppliers group, which should be called the Consultative Commission for Multilateral Arms Restraint (hereafter in this Act referred to as the "Consultative Commission").

(b) MEMBERSHIP.—The Consultative Commission should be comprised of the United States and the Union of Soviet Socialist Republics, historically the largest arms suppliers, as well as France, the United Kingdom, Italy, and the Federal Republic of Germany.

(c) FUNCTIONS.—The Consultative Commission should meet in Geneva, Switzerland, at intervals to be determined by its members in order to negotiate restrictions on sophisticated combat weaponry and the technology of conventional arms production. The Consultative Commission should—

(1) establish guidelines to regulate the effect of multilateral limitations on arms sales on the national economies of its member countries; and

(2) address other areas pertinent to limiting the sale or transfer of arms, including—

(A) the adoption of mechanisms to safeguard against the circumvention of the arms restraint regime by its member countries; and

(B) the establishment of a procedural timetable for the purpose of creating an additional forum to facilitate deliberations between member countries of the Consultative Commission and other developed, as well as newly industrialized, countries on the limitation of arms transfers.

SEC. 3. ANNUAL ARMS SALES REPORT.

Paragraph (5) of section 25(a) of the Arms Export Control Act (22 U.S.C. 2765(a)(5)) is amended—

(1) by striking out "and" at the end of subparagraph (A); and

(2) by adding after subparagraph (B) the following new subparagraphs:

"(C) the aggregage dollar value and quantity of defense articles, defense services, and design and construction services furnished by the United States to each foreign country and international organization, by category, for the preceding fiscal year, specifying whether such articles and services were furnished—

"(i) by sale under chapter 2 of this Act,

"(ii) by sale under chapter 2A of this Act,

"(iii) by commercial sale licensed for permanent export under section 38 of this Act (including separate listings for the value and quantity of the defense articles and defense services which were licensed for permanent export during that fiscal year and for the value and quantity of the defense articles and defense services which were actually exported on a permanent basis during that fiscal year), or

"(iv) by other authority;

"(D) the aggregate dollar value of all commercial manufacturing license agreements approved under section 38 of this Act during the preceding fiscal year, listed by foreign country and international organization;

"(E) the aggregate dollar value of all commercial technical assistance agreements approved under section 38 of this Act during the preceding fiscal year, listed by foreign country and international organization; and

"(F) the aggregate dollar amount of all offset agreements (as defined for purposes of section 309 of the Defense Production Act of 1950 (50 U.S.C. App. 2099)) associated with commercial licensed sales or government-to-government sales under this Act, which were entered into during the preceding calendar year by the United States suppliers of the defense articles, defense services, or design and construction services sold, listed by foreign country and international organization;".

THE TRADE ACT OF 1962

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mrs. KENNELLY. Mr. Speaker, I am today introducing legislation to correct a serious deficiency in the Trade Act of 1962, a deficiency that affects both our international trade and our national security. My bill would set a 120-day time limit on Presidential decisions under section 232, the national security provisions of this law.

Section 232 of the 1962 Trade Act provides for import relief if these imports threaten our national security. Once a petition for this relief is filed with or by the Secretary of Commerce, the Secretary has 1 year to forward his findings and to recommend whether and what type of relief should be granted. However, there is no time limit on how long the President may take to act or not act on these recommendations. As a result, trade cases with national security implications may languish for months, even years once they reach the President's desk.

At least one such case is before the President now. The machine tool industry has waited for nearly 2 years for a decision in their import relief case, despite the fact that machine tools are responsible, directly or indirectly, for almost every manufactured product; despite the fact that even in peacetime, up to 20 percent of our Nation's use of machine tools is linked directly or indirectly to our national defense, and despite the fact that no manufactured product—a tank, a gun, or even another machine can be made without a machine tool.

In the past few years, the import penetration into the machine tool market has increased and increased dramatically—from 27 to 47 percent of the market. Employment in the industry has dropped by 40 percent and is continuing to shrink. In late November of this year, I had the opportunity to tour the Pratt and Whitney Machine Tool plant in West Hartford. It was a festive occasion—the 125th anniversary celebration of Pratt and Whitney Machine Tool. Yet there was a lingering shadow over this visit: Employment had dropped from almost 1,000 people a few years ago to approximately 350 employees now.

It is difficult to say what kind of future the machine tool industry will have unless it receives some kind of relief. But at a minimum, we owe the industry, and this administration owes the industry, a decision one way or another. For this reason, my legislation also requires the President to make a determination within 120 days on pending recommendations that have been forwarded by the Secretary of Commerce, including the recommendations on machine tools.

Another industry of importance to the security of this Nation, the ball bearing industry, could also be benefited by this legislation. In early January, the International Trade Commission will send to Congress a report on the state of the ball bearing industry. Although this study is not yet available, I have seen figures that lead me to believe that we may be losing our ball bearing industry in this country to foreign imports. If that is indeed the case, and if the ball bearing industry does seek relief under the national security provisions of our trade laws, this legislation will ensure that the ball bearing industry, as well as other industries vital to our national security, will not continue to decline while their cases languish on the President's desk.

My legislation ensures that section 232 cases are decided in an expeditious manner. This legislation fills a gap in our national trade laws. I urge my colleagues to join me in supporting it.

THE NEW AMERICAN FRONTIER

HON. BEN GARRIDO BLAZ

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. BLAZ. Mr. Speaker, imagine that the American frontier did not end in 1890, but instead set sail from our west coast, reaching to Hawaii and Alaska and then advancing toward the Asian rim of the Pacific. Imagine that far, far western American frontier exists today.

Envision that frontier transformed into an oceanic State as large as the 48 contiguous United States, covering 3 million square miles between Hawaii and the Philippines. Envision 2,100 tropical islands strung in necklaces of archipelagoes along strategic lines within that expanse.

Picture a 51st State at the doorway to East Asia, a lynchpin in America's front line of defense in one of the most vital and dynamic regions of the world. Picture a new member of the American political family astride our major lines of communication to Asia during the century of the Pacific.

If you can see these images in your mind's eye, then you can appreciate how strongly I feel about the potential of Guam and Micronesia and the historic importance of the Compact of Free Association. When President Reagan signs the historic compact at a White House ceremony, he will be doing much more than ratifying a complex geopolitical agreement, paving the way for an end to our Pacific island trusteeship.

Those are the images I often see when I wing my way west from Hawaii by commercial jet, following the Sun across the vast expanse of the western Pacific to reach my congressional district, the Territory of Guam—the hub of the American presence in Micronesia.

True, the compact negotiated with the Federated States of Micronesia and the Republic of the Marshalls will fulfill our sacred international responsibility to promote the development of the farflung islands toward self-government. The President's signature will also secure our Nation's strategic interests and responsibilities in the region, ensuring that the region will be closed to the machinations of third powers and guaranteeing the continued peaceful development of the Freely Associated States' 150,000 residents.

But more importantly, the agreement paves the way for a continuing, closer and more mature relationship between the United States and these Freely Associated States. It will allow them the freedom of initiative to chart and work toward their continued social, economic, and political development. But it will also cement the bonds of friendship we have created with the Micronesians.

Indeed, one of the island groups—the Northern Marianas—has chosen to join the American family as a commonwealth. And I submit that the strong pro-American feelings of the Micronesians leave open the clear and present possibility that in time, the Freely Associated States may choose to join our family.

I offer you these images because I see them and feel them. As a Micronesian, a man born and raised in the region, I feel a unique closeness to the people of Micronesia. When I reflect on my Micronesian friends and brothers, I think of the times we sat in the rubble of our homes after World War II had swept across our lives. Then I think of the opportunities afforded me when my land became a U.S. territory and my people became American citizens. I pause, I hope not presumptuously, to ponder the opportunity that would be offered to our neighbors as full fledged members of the American political family.

I dream and I see this. And if we can see it, the philosophers say, it can be. And for those who would ask, why?, I would answer, Why not?

On this, the eve of the century of the Pacific, our country—the champion of freedom—has welcomed new friends not in aggrandizement but in association. When future authors write a sequel to James Mitchner's marvelous "Tales of the South Pacific," they will do so with the knowledge that dreams do come true. They do. They do.

EDUCATION VOUCHERS: NO SALE

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. HAWKINS. Mr. Speaker, once again the Reagan administration is trying to sell the American public on an idea which, if put in place, would seriously jeopardize our system of free public education. I am speaking of the proposal, announced earlier this year by Education Secretary William J. Bennett, to replace the successful chapter 1 compensatory education program for educationally disadvantaged children with a system of "education vouchers." Instead of funds going directly to eligible school districts for remedial programs, the Government would give vouchers to parents of children receiving chapter 1 services, with which they could "purchase" an education at the school of their choice.

The administration has embarked on a full-scale marketing effort to sell its idea. Its advertising campaign is full of catchy phrases designed to win the support of any American who values freedom and equality. The voucher system, the administration claims, would promote equality between poor children and wealthy children by giving the former an opportunity to attend "better" schools they might not otherwise have been able to afford. Vouchers, we are told, will give poor children a "choice" as to which school they will attend. And if you're not sold on choice and equality, perhaps the administration can convince you that a voucher system will promote "healthy competition" between public and private schools.

Not a bad way to try and sell an idea. Unfortunately, the product up for sale is fatally defective. Fortunately, many 'consumers' have realized that even the most rhetorically appealing promotional campaign will not save an idea that is unworkable, misleading, and will, in reality, undermine the one national institution which can best fulfill the promise of equality—the Nation's public school systems.

I would like to share with my colleagues the November 15 Clarion-Ledger Mississippi newspaper editorial in reaction to the education voucher proposal. This editorial demonstrates that it is not so easy to sell a flawed idea to the public with worn-out slogans and hollow promises. From around the country, the response is clear: No sale!

WRONG TRACK—EDUCATIONAL VOUCHER ARGUMENT FALLACIOUS

The Reagan administration, through Secretary of Education William J. Bennett, has renewed its attempt to authorize the use of vouchers that some parents could use to choose the school, public or private, their children will attend.

Congress was not persuaded to enact the proposal when an earlier version of it was proposed in 1983 and it should remain unpersuaded now.

Bennett Thursday asked Congress to give vouchers worth an average of $600 yearly to parents of poor children so they can shop for "the best possible schools for their children." He predicted approval of the plan would spur a "healthy rivalry" among public and private schools to provide a better education for disadvantaged children.

He is wrong on several counts.

For starters, private school enrollment has been going up for years, and the "rivalry" has caused public schools to suffer without noticeably improving the private schools. The competition is more for money than educational excellence.

In addition, there is the constitutional problem with using tax money for private education, particularly when the private institution is a church school.

Perhaps most important, the vast majority of Americans are educated in public elementary and secondary schools, and these schools badly need strengthening. Mississippi public school backers are especially familiar with the problems of adequately supporting public schools, financially and otherwise.

Private schools already have an advantage because they are generally well financed and can limit their enrollment. They don't have to take every student of school age, including many with serious problems.

Further, parents who pay high bills for private schools are usually cool to school bond issues and tax rates sufficient to provide the quality needed in the public school systems.

Bennett said the vouchers would be "a ticket to find the best possible schools." However, not more than a small percentage of students can get in "the best possible schools." Better to upgrade the "disadvantaged" schools educating the masses than to send some of the "disadvantaged" children to the "best schools."

Congress should give short shrift to Bennett's proposal. It's inequitable, illogical, unsound and very likely unconstitutional.

H.R. 1083, THE LOW-LEVEL RADIOACTIVE WASTE DISPOSAL ACT OF 1985

HON. THOMAS A. DASCHLE

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. DASCHLE. Mr. Speaker, I am very pleased with the strong support shown recently for H.R. 1083, the Low-Level Radioactive Waste Disposal Act of 1985. This legislation has been offered to address the nationwide disposal of low-level nuclear waste.

Nearly all low-level radioactive waste is disposed in sites located in three States—Washington, Nevada, and South Carolina. In 1980, legislation was signed into law—the Low-Level Radioactive Waste Policy Act of 1980—which encouraged States to dispose of waste generated within their own regions by entering into disposal compacts. Because these compacts were considered to be agreements covering interstate commerce, and thus a possible violation of consitutional prohibitions against States regulating interstate commerce, Congress must ratify these compacts.

While nuclear plants are responsible for most low-level radioactive contaminents, waste is generated through medical supplies, protective clothing, and mildly contaminated trash. It is estimated that 53 percent of waste is deposited in Washington, 46 percent in South Carolina, and 1 percent in Nevada.

Through adoption of this legislation, continued access to existing sites is guaranteed through 1992, provided progress is made in developing regional sites.

Progress is determined through the adherance to certain milestones, including:

By July 1, 1986, States are required to have joined a regional compact, or indicate by State legislation that the State will establish a single-State disposal site by December 31, 1992.

By January 1988, the compact must have prepared a plan describing the location of the disposal site.

Finally, a NRC license request must be filed by each compact with respect to the operation of a low-level radioactive waste site, or the single site State must certify to the NRC that it will have its own disposal site ready by December 1992.

Existing operating sites are allowed additional surcharges for acting as the host sites during this interim period. These surcharges include: maximum of $10 per cubic foot in 1986 and 1987; $20 per cubic foot in 1988 and 1989; and $40 per cubic foot in 1990 and 1992.

This legislation is necessary to continue the development of a coordinated, nationwide plan for the disposal of low level waste. Above all, H.R. 1083 provides this framework at the same time it remains sensitive to the needs and requirements of specific States. Above all, it provides States with flexibility in dealing with the disposal of low-level nuclear waste. Because it preserves the flexibility of States rights, it deserves the support of this body.

TRIBUTE TO BEN NORDMAN

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. LAGOMARSINO. Mr. Speaker, I rise today to take special note of the passing of one of the most prominent individuals of the legal community in Ventura County, CA.

Born in San Francisco in 1913, Benjamin Emil Nordman was the founder of one of the county's most influential law firms. He graduated from Oxnard High School, the University of California at Berkeley, Boalt Hall, and Hastings Schools of Law. At the onset of World War II, he joined the Army, went to Officers Candidate School and joined the Air Corps. He served in intelligence and counterintelligence functions in Britain, Switzerland, Italy, France, and Germany. For his work, he received the Bronze Star, the Legion of Merit, the Croix de Guerre and the Order of the British Empire. He left the Army as lieutenant colonel and returned to Ventura County to practice law.

A community leader, Ben Nordman served as director of United Fund, the Ventura County Economic Development Association, Seaboard Lemon Association, Bank of A. Levy, Real Estate Investment Trust of California, the Livingston Memorial Foundation, the Achille Levy Foundation, Ventura County Taxpayers Association, the Ojai Valley School District Board of Trustees, Board of Review of Oxnard and the Ventura County and California Bar Associations.

I ask all my colleagues to join me in expressing our deepest sympathy to his wife Joan, son Mark, and daughter Leslie. I will remember Ben Nordman as a good friend and one who cared about his community and about justice.

A TRIBUTE TO GORDON McKAY

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. MOAKLEY. Mr. Speaker, a few days ago Gordon McKay, senior vice president, celebrated his 20th year with the Public Affairs Department of New England Life, a Boston-based company with a solid reputation for integrity, commitment to community concerns, and a deep involvement with the critical economic and social issues facing the Nation and the Congress.

As is often said, the success of an effort relies on the achievements and efforts of many individuals. Gordon McKay has played a strategic role for these past many years in New England Life's Public Affairs Department, forming its own goals, guiding its principles and assuring that his department continues contributing significantly to the positive place New England Life has assumed in the region, on Capitol Hill, and throughout the Nation.

Gordon McKay, a resident of Lexington, MA, graduated from Ohio State, joining New England Life virtually right out of college. It was his vision, aims, and sense of purpose that were the genesis of New England Life's first Public Affairs Department 20 years ago. It is his knowledge, commitment to quality, his expertise, and superb managerial skills that are underpinning of the public affairs staff's drive for excellence. Gordon is, as well, one of the most personable, pleasant, and good-humored individuals I've ever met. I think most all of my New England colleagues would agree. Amazingly, I've seen him retain his good-nature even when the strange unknown fates that guide golf balls across the greens have conspired to drive him mad.

But with all seriousness, Mr. Speaker, I am pleased for our good friend Gordon McKay, who celebrates his 20th year with New England Life's Public Affairs Department, a department that gives substance and vigor to the concept of corporate responsibility to the community and the Nation. I add my praise to those of my colleagues from both sides of the aisle and both Chambers who sent Gordon letters praising his anniversary with the Public Affairs Department.

I am reminded of the wise old saying that the definition of an institution is merely the lengthened shadow of one man. For the Public Affairs Department at New England Life that man is and always will be Gordon McKay.

MARY TWITTY COMPLETES 24 YEARS OF GOVERNMENT SERVICE

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. DYMALLY. Mr. Speaker, in 1961 when our esteemed colleague AUGUSTUS HAWKINS was completing his last year in the California State Assembly, he hired Mary Twitty to run his office. That began a career in government for Mary that has now spanned 24 years. Mary has spent 14 of those 24 years here in Washington, serving first in Mr. HAWKIN's office and then in mine. Mary has countless dear friends among Hill staffers and Members of Congress. It is, therefore, with distinctly mixed emotions that I inform her friends that Mary will be retiring from full-time government service at the end of this year. It is with great sadness that my staff and I realize we must say goodbye to Mary as a coworker. Her effervescence has always brightened the office. And her sense of caring for her fellow workers has soothed many a ruffled staffer. She is one of those people who has put in countless hours of overtime unquestioningly year in and year out. She leaves when the work is done, not before. To Mr. HAWKINS and to myself she has been much, much more than a staffer. She has been a warm, close, and trusted friend.

Her friends know that for some time now it has been Mary's ambition to found a magazine aimed at women in their middle years. In the little free time that she has had while working for me, she has laid the groundwork for the magazine, but her full-time career in government has prevented her from devoting sufficient attention to this project of the heart. Mary is leaving government service. But those who know Mary know she could never retire. She has too much energy, too much of a zest for activity for that. When I say that we say goodbye to her with mixed emotions, I have to acknowledge our sadness at losing her daily presence in the office, but I also have to acknowledge that we are happy for Mary. She now can dedicate herself to a project that fills her with excitement.

While Mary will no longer be on the Hill, she will continue to be associated with activities that are close to my interests and the interests of a number of my colleagues. Mary has agreed to work part time for the Caribbean American Research Institute. The institute is based at Shaw University in North Carolina. But Mary will be opening a Washington office for the institute. Like I said, Mary has too much energy to retire in the way most people think of retirement. For Mary, retirement is more like transition, an opportunity to use her many talents in new and creative ways. Mary, we love you and we wish you spectacular successes in your new careers.

GRAMM-RUDMAN IS A STEP TOWARD SOLVING THE DEFICIT CRISIS

HON. TIMOTHY E. WIRTH

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. WIRTH. Mr. Speaker, I want to express my support for the conference agreement on the so-called Gramm-Rudman deficit reduction bill. Although there are some problems with this legislation, I firmly believe that sustained, multiyear deficit reduction must begin this year.

The deficit is no longer just a problem—it is a national crisis requiring immediate attention. We simply cannot afford to postpone the tough choices which must be made to bring the deficit under control.

In 1980, the national debt was about $900 billion. Today, we are considering legislation to raise the debt ceiling to $2 trillion—which means that we have borrowed more in the past 5 years than in the first 200 years of our national history.

Borrowing of that magnitude crowds out private borrowing and puts upward pressure on interest rates. Today, the Federal Government consumes about 64 percent of this country's net private savings, making it harder for businesses to expand, homeowners to pay their mortgages, and parents to send their children to college.

High interest rates also attract foreign investors, and as foreign savings are converted into dollars, the value of the dollar rises. Since 1980, the dollar has risen 60 percent against other foreign currencies and is now overvalued by 30 percent. This overvaluation acts like a 30-percent tax on American products shipped overseas and a 30-percent discount on foreign goods sold here.

The result is a record trade deficit of $130 billion added to the budget deficit of $200 billion. By 1990, we will be paying $245 billion a year just in interest on these debts—a national economic bounty of $1,000 for every man, woman, and child in the United States.

Mr. Speaker, 3 years ago as a member of the House Budget Committee, I argued that the only way to solve the deficit problem was for leaders of the House, the White House, and the Senate to negotiate a comprehensive 5-year deficit reduction plan aimed at balancing the budget. The Congress is finally getting around to doing just that. The long-term approach I have advocated has been incorporated into the Gramm-Rudman legislation. With the 5-year deficit targets agreed upon, the President and the Congress must now operate within the constraints of responsible fiscal policy.

I intend to vote for this conference agreement because we must begin cutting the deficit now, and because our country desperately needs a multiyear plan to solve this crisis. I do, however, have some serious reservations about its automatic spending reduction mechanism. Not only does this mechanism exclude half of the budget from supposedly across-the-board reductions, it also takes the pressure off Congress to conduct the critical program-by-program reviews which have always been the keystone of responsible budget policy.

As a result, many of the programs which have been scaled back substantially by past budget cutting may end up taking a disproportionate share of the cuts in the future—including those key investments in education, infrastructure, and research and development which are so vital to our long-term economic growth.

I am also concerned that the automatic cuts would fall too heavily on military readiness accounts, while wasteful procurement spending like the famous $7,600 coffee pot would go untouched. By some estimates, 70 percent of the savings in defense spending will come from reductions in training, spare parts, maintenance, and other readiness accounts. These have been the most neglected areas of the administration's defense buildup—yet they are the most important elements in winning the kind of conflict we are most likely to face.

Despite these reservations, I believe that Gramm-Rudman represents an important first step in solving the deficit crisis. It is not completely clear what affect this bill will have on this Nation; it is very much an imperfect experiment in budget policy. One thing we do know for sure, however, is that the alternative—doing nothing—is considerably worse.

Ultimately, the impact of Gramm-Rudman will depend on the actions of this and future Congresses. If we act responsibly by carefully reviewing the budget and making the tough decisions, we can meet the specified targets, and automatic spending reductions will never occur. Only if we fail will we abdicate our responsibility to the budgetary robot.

Gramm-Rudman has raised the public's expectations. Our task is to follow through on this beginning and develop a consensus on the specific changes in budget policies which will be required to meet the deficit reduction targets. No less than the future of our Nation's economy is at stake.

ECONOMIC OUTLOOK

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, December 18, 1985, into the CONGRESSIONAL RECORD:

ECONOMIC OUTLOOK

Despite recent economic growth, there is increasing uneasiness and uncertainty about our ability to sustain it. The current economic expansion is now in its fourth year, about the time most upswings begin to falter. The American economy has been listless with relatively slow and erratic growth for the last year and a half. Most signs point to modest gains again next year, with no recession, but not much vigor either.

Despite early optimism, economic performance in 1985 was a disappointment. The economy grew about 2.5%, a below average year, and lower than expected. Unemployment fell slightly from 7.2% to 7.0%, though the number of unemployed (8.2 million) remained unchanged. 2.5 million new jobs were created, most of them in service industries, but manufacturing employment declined by 250,000 jobs. The inflation rate fell from 4.0% to about 3.2%. Some goods—gasoline, dairy products, and vegetables—are cheaper than they were last year, but the cost of services is up by almost 5%. Interest rates have been relatively stable, but they are almost 3% lower than a year ago. The bad news for the year was the burgeoning trade deficit and the largest budget deficit in U.S. history.

Predicting the future of the U.S. economy is always chancy, but uncertainty about tax reform and budget deficits makes the process even riskier today. Most estimates are that the economy will do no better than continue moderate growth—about 3%—for another year, with some increase in both unemployment and inflation.

There are several promising signs for the year ahead. The stock market sets a new record almost daily. The dollar has declined by about 20%, and may slide more, making our exports more competitive in world markets. Oil prices continue to fall. With a new intensity of competition in the economy, the outlook on inflation is good. That is welcome news for consumers, but it also means that workers should expect small pay hikes and that savers will not find high interest rates. There is also hope that smaller federal deficits targeted by the recently-passed

Gramm-Rudman deficit reduction plan will lead to lower interest rates and stimulate long-term economic growth.

Several potential sources of weakness in the economy bear watching.

INTEREST RATES

Despite this year's decline, real interest rates are still high. A drop in oil prices and progress against the federal deficit could lead to further drops. Lower interest rates would ease the debt burden of developing nations, reduce the dollar's value, and encourage business investment. If real interest rates go up, the prospects for growth would suffer. Falling rates would also hurt those who rely on interest earnings; personal interest income dropped by $10 billion in the last year, the only source of household income except farm income to decline.

FARM PROBLEMS

The farm depression continues. Farm prices and income have plunged in the last 12 months. Some prices improved recently, but it is too early to tell if this trend will last. The recent drop in the dollar's value may increase exports of U.S. farm products, but if farm bankruptcies continue and land prices drop further, farm areas will continue to decline. Farm problems cannot alone cause a recession, but, by undermining banks and consumer buying in the midwest, they could lead to a general downturn in 1987.

INVESTMENT

Business investment—a major source of the recovery's strength—seems to have peaked. Spending on new equipment and factories in 1984 and 1985 grew at its fastest pace since World War II. But output has not caught up. In 1985, manufacturers met demand with factories running at only 80% of capacity. Some businesses plan to invest less in 1986, the first reduction ever in a nonrecession year. Uncertainty about tax reform is one reason: businesses are waiting to see how funds spent for new investments will be taxed.

DEBT

Another worry is the degree to which debt—in the home, on the farm, at banks and businesses, in Washington, and abroad—permeates the economy. Even with record consumer debt, buying continues, but at the cost of savings which recently fell below 3% of disposable income. The worry is that debt buildup will inhibit future purchases and hurt the economy, with large-scale defaults, inflation, or a combination of both the only remedy.

TRADE DEFICIT

In 1985, the U.S. imported some $150 billion more than it exported, our worst trade deficit ever. Imports brought lower prices, but cost jobs, especially in manufacturing. Protectionist pressure is mounting. If enacted, more jobs might result. But if other nations retaliate, a dangerous contraction of world trade could occur. A major trade war could have severe repercussions in the U.S. and abroad.

BUDGET DEFICIT

The federal budget deficit hit a record-breaking $211.9 billion last year. The deficit inhibits capital formation, leads to higher interest rates, makes us depend on foreign capital, and, by driving the dollar up, puts us at a disadvantage in world markets. Growth in the federal debt also increases the government's payments for interest on the debt, reducing federal spending on other programs. So far, the economy has suffered little from huge federal deficits. If it had, the deficits would be dealt with. Instead, their effect is long term, a gradual erosion of U.S. living standards as investment and productivity slacken.

In 1986, the economy will be sustained by massive government spending (especially on defense), lower oil prices, and generally low inflation and inventories. But high interest rates, an overvalued dollar, low savings rates, weak profits, and high excess capacity suggest only modest growth. The balance of these factors will determine if 1986 is a good year. There is a frustrating gap between what we produce and what we could produce. My impression is that the economy will limp along, but that trouble looms. While a recession is unlikely before 1987, so is sustained growth.

TRIBUTE TO THE NATIONAL CONFERENCE ON SOVIET JEWRY

HON. WYCHE FOWLER, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. FOWLER. Mr. Speaker, as a cochairman of the Congressional Coalition for Soviet Jews, it has been and is my privilege to work with the leaders of the National Conference on Soviet Jewry. Every time that I have been in touch with the Washington staff of the national conference, I have been extremely impressed by their professionalism and competence. Without their assistance and guidance, the numerous important achievements of the coalition would not have been possible. I am looking forward to continuing our vital work of helping to improve the sad plight of Soviet Jews.

An article in the December 12, 1985 edition of the New York Times aptly describes the fine work of the National Conference on Soviet Jewry and of its Washington Representative, a man whom I am proud to have had the opportunity to work with, Mr. William Keyserling. I am submitting it for your review.

The text of the article follows:

CONFERENCE ON SOVIET JEWRY REACHES OUT

(By Irvin Molotsky)

WASHINGTON, Dec. 11.—For many years, American activity in behalf of Jews in the Soviet Union has been largely centered in places like New York and Los Angeles, where there are large Jewish populations.

In recent months, however, the National Conference on Soviet Jewry has been reaching out from its Washington office to broaden its constituency, gaining allies in such regions as the South and Middle West and from people of other religious faiths.

The effort is led by William Keyserling, a former political operative who is applying many lessons learned in both winning and losing campaigns.

According to Mr. Keyserling, one consequence of this effort, at least in part, was the message that the Rev. Jesse Jackson delivered to the Soviet leader, Mikhail S. Gorbachev, at the recent summit meeting in Geneva.

The message was the one that the National Conference on Soviet Jewry has been trying to get out since 1971: that the 2.5 million Jews in the Soviet Union ought to be given the freedom to practice their religion openly and that, if they choose, they ought to have the right to emigrate.

"Jesse Jackson, without being asked specifically, chose this as the issue he selected when he met Gorbachev, and that something we appreciate," Mr. Keyserling said. "He had been given material from individuals in our organization."

It was, of course, a bit of consensus-building as well for Mr. Jackson, the black leader who offended many Jews in last year's Presidential campaign by an offhand remark that many considered anti-Semitic.

A SOUTH CAROLINIAN

Consensus-building is familiar to Mr. Keyserling, who brought his skills in that field to the national conference in 1984, after having worked for such politicians as Senator Ernest F. Hollings and former Representative John W. Jenrette Jr., both Democrats from South Carolina, as well as for Robert F. Drinan when he was a Representative from Massachusetts.

"I was reluctant to take the job at first because my past experience had been the excitement of the political campaign," said Mr. Keyserling, who is a South Carolinian himself. "This does not have the day-to-day thrill and there's not the sense of satisfaction because, when you achieve a goal, you don't take credit for it."

Politics, of course, had its frustrations, including Senator Hollings' ill-fated campaign for the Presidency, which Mr. Keyserling headed for a time.

But, Mr. Keyserling said, a political campaign always had a definable goal: election day. The campaign for the rights of Soviet Jews, Mr. Keyserling said, "has no end—it will have to go on."

Another difference, Mr. Keyserling said, is that there is no relationship between money and success in his current job, while success in politics could often be directly related to the amount of money spent.

"There is no way to spend it," Mr. Keyserling said. "You don't need a slick campaign. It is an educational effort."

An example of this lack of a need to spend large amounts of money could be seen this week when representatives from groups around the country gathered here for a meeting of the National Conference on Soviet Jewry. One of their main activities was a protest rally near the Soviet Embassy that cost little more than the rental of buses to take the participants downtown from their hotel.

Most of those participants appeared to have come from Jewish groups, but the conference has recently also received backing from the United States Conference of Catholic Bishops and the Baptist Church, from John Cardinal O'Connor of New York and fundamentalist churches. "They said that this issue was absolutely fundamental to their constituencies and the American public," Mr. Keyserling said.

Mr. Keyserling did not get into politics by accident. His mother is a member of the South Carolina Legislature, and an uncle, Leon, is familiar to many in Washington for having served as chairman of the Council of Economic Affairs in the Truman Administration.

HE KNOWS CAPITOL HILL

Because of his work in the House and Senate, Mr. Keyserling knows his way around Capitol Hill, and he knows how to win the support of Government leaders.

The National Conference on Soviet Jewry held briefings recently, for example, for most members of Congress before they took trips to the Soviet Union, and it got all 100 members of the Senate to sign a letter to President Reagan declaring that the treatment of Jews in the Soviet Union was a fundamental human rights issue.

One result of this work, Mr. Keyserling said, was an emphasis on that matter when Mr. Reagan met privately with Mr. Gorbachev in Geneva, according to reports he has received on the summit meeting.

"It's a campaign that didn't begin yesterday and won't end tomorrow." Mr. Keyserling said. "As long as Jews in the Soviet Union can't get on an airplane and leave when they want to, it cannot end."

HAROLD STEARNS—MONTANA'S TEACHER OF THE YEAR

HON. PAT WILLIAMS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. WILLIAMS. Mr. Speaker, 10,000 Montanans teach in the public schools of our State. Their responsibility is great and their achievements vital. In their classrooms, young folks are gaining the curiosity, wisdom, and hope necessary for informed citizenry.

Each fall, one of the 10,000 is chosen as Montana Teacher of the Year and graced with the respect and recognition due but not often enough accorded in their profession.

Harold J. Stearns is this year's Montana Teacher of the Year, and his selection is truly deserved. For 20 years, Harold Stearns has displayed the very best of the commitment and caring spirit that marks teaching as special.

He grew up on the wide plains and high hills of eastern Montana, the son of Harold G. and Jean Stearns. They were newspaper folks, running the Harlowton Times and Ryegate's Clarion. Now retired in Helena, they always have had a love of learning and a need to share the knowledge gained. It was a wonderfully infectious upbringing that helped lead their son to a career in teaching. He went off to the University of Notre Dame for a bachelor's degree and then returned to Missoula's University of Montana for a master's and then a doctorate.

He married Sheila MacDonald of Glendive and, together, teaching has been a shared pursuit. For 3 years, they taught at the American Dependents School in Wiesbaden, West Germany.

She now is executive director of the University of Montana Alumni Association. He now teaches history and sociology at Missoula's Sentinel High School and instructs in the Department of Education at UM. Their two children are Scott, 13, and Malin, 8.

Mr. Speaker, Harold Stearns has earned the admiration of his students and their parents, of his community and of his many teacher colleagues. It is recognition much deserved. We are proud of Harold Stearns—our Teacher of the Year.

THANK YOU, OFFICER MONTERA

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. GREEN. Mr. Speaker, on December 24, 1985, Mr. Vincent Montera, community affairs officer for the 17th precinct, will be leaving the police department to serve as a recruiting officer in the armed services.

As the Representative from the precinct's district I should like to offer my thanks to Officer Montera for a job well done. Having spoken before the officers of the 17th precinct on several occasions, I know first hand of his efforts to improve relations between the community and the police department. His work on the various problems that often arise has helped my staff to be more responsive to the needs of my district. I know that any Member of Congress would have been happy to have had Officer Montera performing such work in his district.

My warmest regards to Officer Montera in his future endeavors. He will be sorely missed.

WINE EQUITY ACT

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. THOMAS of California. Mr. Speaker, I wish to discuss a subject of serious concern to California winemakers. The U.S. wine industry has matured over the last decade, becoming one of the world's best. Currently, the quality and purity of U.S. wines and particularly California wines go unchallenged. While we read of contamination and adulteration of wines by the Austrians, Germans, Italians, and Japanese, where chemicals like diethylene glycol are added to wine at a risk to the health of the consumer, the United States winemaking industry produces high quality wine that it has been unable to sell in many foreign markets because of foreign tariff and nontariff barriers. The consumers of the world do not have the free and open opportunity to make a choice between their domestic brands and U.S. wines.

The passage of the Wine Equity Act in 1984 empowered the President to study and review barriers restricting U.S. wine sales abroad and to negotiate with designated countries for reductions in trade barriers. On September 9 of this year, six countries, including Japan, were designated under the provisions of that act. Negotiations have been conducted with officials from those countries and were concluded as of October 31, the deadline set by Congress. The President must now report to this body discussing his progress, or in the event the barriers have not been reduced, actions he proposes to take in order to seek their removal. Because of our continued interest in this subject, I have followed the development of these negotiations and it is with great regret that I have heard informally the Japanese have not responded in any meaningful way to the requests of our negotiators for a reduction in Japanese barriers restricting sales of United States wine.

Japan has only a small number of wine grape growers and the bulk of Japan's grapes are used as table grapes. Japanese producers blend the remaining portion with predominantly imported bulk wines that the Government has chosen to make eligible for tariff preference that frequently allow the importation of the bulk wines free of duty.

The nature of the Japanese tariff and taxing system discriminates against United States importers of finished wine in favor of the domestic bottlers or fillers at a time when Japanese producers are enjoying open and free access to our alcoholic beverage and other markets.

Our primary intent in passing the Wine Equity Act was to obtain greater access for U.S. wine products in foreign countries, not to impose restrictions on alcoholic beverages entering the United States. It is my hope that officials in Japan will seriously reconsider their position and at least make some positive response to the request of our negotiators. The President has authority under the Wine Equity Act to use any of his existing authorities including section 301 of the 1974 Trade Act and section 854 of the 1979 Trade Act. Certainly we would encourage the President to use these powers against those countries that do not respond in any positive way to our desire to have an open and free trading system.

We have many trade bills that have been introduced and are awaiting consideration and passage by this body. While I am sympathetic to the desire of many of my colleagues to seek new legislation, here is a case of existing legislation that can be used to improve the current trade imbalance that is of such great concern to all of us. I feel confident that you will join with me as you have in the past when we approved this legislation, to encourage the President to exercise his authority under this statute to its fullest.

THERE IS NO CHRISTMAS HOLIDAY IN ROMANIA

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. WOLF. Mr. Speaker, on December 25, 1983, in a Christmas message, Father Geza Palfy, Roman Catholic priest of Hungarian minority in Romania, made the following statement: "I believe in Romania, Christmas should be an official holiday."

For that, he was arrested by secret police, interrogated, severely beaten, and left the police station two days later unconscious. He died 2 months later in a hospital, Tirgu-Mores. Romanian officials say he died of cancer of the liver; however, all evidence gathered by Christian Response International indicated: "Father Palfy died of internal injuries sustained during police beatings."

This is the same country to which we give preferential trade status—most favored nation. Can we support such religious repression and violation of human rights? As we reflect during this Christmas season on our own liberties, won't you join me and 60 of our own colleagues in supporting a 6-month suspension of the MFN trade status to Romania to make a moral statement that Americans will have no part in the economy or support of such a repressive regime?

Please cosponsor H.R. 3599 to suspend MFN for 6 months in Romania.

DIVINE CHILD HIGH SCHOOL IS CLASS B STATE CHAMPION

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. LEVIN of Michigan. Mr. Speaker, my colleague, JOHN DINGELL, and I have the privilege of representing those young men and women who attend Divine Child High School in Michigan. Divine Child has a long reputation of offering an exceptional academic curriculum and a most respectable athletic program. This year, they provided one of the best high school football records ever in class B competition here in Michigan. The season was exciting and even more memorable than the school's last State championship in 1975.

This year's Falcons, who finished a near perfect season that registered only one game in the loss column, allowed their opponents only 41 points. They were ready when the State finals began. In the playoff games, not one team was able to score against them, and in the final's they allowed only 76 offensive yards.

Throughout the season and the playoffs, the Falcons demonstrated the poise and humility that are the marks of true champions. Mr. DINGELL and I extend our heartiest congratulations to the new class B State champs, Coach Wishart, the faculty and administration of Divine Child High School, and the Dearborn—Dearborn Heights—community on this "Divine Season."

HUMAN RIGHTS VIOLATIONS IN IRAN

HON. MIKE LOWRY

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. LOWRY of Washington. Mr. Speaker, recently, two Iranian women visited my office. Each escaped from their native country after being imprisoned and tortured. Their stories—and the physical evidence of the torture that they suffered—are appalling. I do not endorse the political views of any Iranian opposition group. But I think it is important for us to make it clear that we find no possible justification for the brutal acts described by these two women.

Mrs. Narges Shayesteh, now 27 years old, was a high school teacher. She was arrested in September 1980. During her imprisonment, her nose was broken and her knees suffered permanent damage because she was tied up and hanged from the prison ceiling for 48 hours. Prison guards also tortured her with lit cigarettes; the resulting wounds are still clearly visible. She was also forced to watch the execution of 150 other prisoners.

Ms. Mojgan Homayounfar, aged 24, was a math teacher and fine arts student. She was arrested in September 1981 and beaten severely. She lost part of her left leg when she was attacked with a matchete, and her right knee was shattered when her captors drove a car over it. She will be confined to a wheelchair for the rest of her life.

Obviously, the United States Congress has little influence on the Iranian Government. But Mrs. Shayesteh and Ms. Homayounfar are convinced that Iranian prisoners benefit from the worldwide outcery against these cruelties. If only for a while, they believe, conditions in the prisons improve in response to protests. For this humanitarian reason, I wish to add my own voice to that of the U.N. General Assembly, which has voted to condemn Iranian human rights violations, and others who have protested these violations.

AT&T'S WALT DAVIS RETIRES

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. FLORIO. Mr. Speaker, at the end of this month, New Jersey will lose one of its most dedicated and effective spokesmen for our State's industry when Walter J. Davis retires from AT&T after completing a successful multifaceted career with AT&T and the Bell System.

Walt Davis began his career at New Jersey Bell as a messenger in March 1937 and, except for his service in the U.S. Navy during World War II, has spent his entire working career in the Bell System and AT&T. During this time Walt held over 20 different positions with the company including installer, repairman, line foreman, and plant service supervisor.

In March 1971, Walt became manager of public affairs for New Jersey Bell, and I began a long and productive working relationship with him during my service in the State legislature. Following my election to Congress and the House Energy and Commerce Committee, I continued to work with Walt and his colleagues in the Bell System on the important Federal aspects of telecommunications policy.

Walt even found time to serve as mayor of Bloomfield from 1966 through 1971, supplementing this experience with service as first vice president of the New Jersey Council of Mayors.

In the past 14 years, Walt Davis has developed and earned a reputation as a visible and capable advocate for a key part of our State's business community. When Walt retires he will be missed by the entire New Jersey congressional delegation. We wish him all the best.

GRAMM-RUDMAN: AN EXERCISE IN CONGRESSIONAL SHAME

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. STOKES. Mr. Speaker, I am inserting in the CONGRESSIONAL RECORD an insightful article which appeared in the Cleveland Plain Dealer regarding the debt limit/Gramm-Rudman bill, adopted by Congress last week. This commentary, written by columnist David Broder, mirrors my own sentiments about the shameful situation Congress has wrought upon itself by the abrogation to the President of the power to determine congressional priorities.

I commend this article to the attention of my colleagues.

GRAMM-RUDMAN: AN EXERCISE IN NATIONAL SHAME

(By David S. Broder)

WASHINGTON.—The biggest gap in elective politics these days is not between Republicans and Democrats. It is between state-level officials who are meeting responsibilities and gaining confidence and federal officials who are falling down in their jobs and suffering a loss of self-esteem.

To move from a meeting of Republican governors in Wilmington, Del., to the sessions of Congress in Washington, D.C., as I did last week, was to travel backward in time and downward in scope. The governors were talking in straightforward terms about concrete achievements in their states and their hopeful plans for the future.

The legislators, debating and passing the Gramm-Rudman budget bill, were confessing their past failures in fiscal policy and warning of worse confusion and dire consequences ahead.

The spectacle of Congress voting to strip itself of the power of the purse, which has been the hallmark of legislative supremacy since the origins of Parliament, was remarkable but not reassuring.

For those with any sense of institutional history, the most poignant moment in the House debate came when Rep. Peter Rodino, D-N.J., said "This is a flagrant abdication of congressional responsibility."

Rodino gave the House one of its proudest moments, 11 years ago, as he guided the Judiciary Committee to the painful but profoundly necessary impeachment of President Richard Nixon for his violation of the Constitution and his oath of office. Now, Rodino came forward again in what he knew to be a vain effort to slow his colleagues' headlong rush to discard their own constitutional authority.

Rodino and such Republican elders as Rep. Silvio Conte, R-Mass., said they could not understand how the Congress could vote "to bring itself to its knees."

Why did it? Not because the proponents believed in the process they were creating.

"I'm going to get into specifics," said Rep. Trent Lott, R-Miss., the minority whip, speaking for Gramm-Rudman, "because I'm afraid what we might find out."

"Gramm-Rudman is going to tie the Congress in knots," said Rep. Richard Gephardt, D-Mo., chairman of the House Democratic caucus and one of the principal architects of the final compromise. "It could be a disaster."

There were ample reasons for thinking it so. Gramm-Rudman adds a whole new layer of decision-making to an already complex budget process. It sets tough and arbitrary deficit targets for each of the next five years, exempts large parts of the budget from any cuts, significantly increases the president's leverage over Congress in determining how scarce resources are spent, but ultimately subjects both the president and Congress to mandated cuts imposed by the calculations of unelected civil servants.

The reason—the only reason—that Congress voted this irresponsible and possibly unconstitutional procedure was its shame at its inability to force itself and the president to pay the bills for the defense and domestic programs both support.

Because they know that to be true, there was more embarrassment than exultation in Congress over the passage of Gramm-Rudman. By contrast, the atmosphere among the governors in Wilmington was genuinely upbeat.

It was not because they were Republicans; if anything, Republicans have reason to be hangdog about their status in the states. They control just 16 of the 50 governorships and only a baker's dozen of them were on hand for the meeting.

But, like their more numerous Democratic counterparts, these governors speak as people who measured up to their responsibilities when times were hard, and now are enjoying the benefits of that courage.

Their current hero is Gov. Tom Kean of New Jersey, who was reelected last month with 70% of the vote. Kean's first election—the closest in state history—four years ago coincided with the onset of the recession. Like many other governors of both parties, he cut spending and raised taxes in that crisis, kept his budget balanced, and now is reaping the rewards of a surging economy.

Kean said that his objection to Gramm-Rudman is that "it's a straitjacket and an avoidance of responsibility."

He is right, and because he and his fellow-governors have met their responsibilities while Washington officials from the President on down have ducked, the gap in their performance and their morale continues to grow.

IN MEMORY OF EDWARD JOSEPH: SIR KNIGHT

HON. J.J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. PICKLE. Mr. Speaker, Edward Joseph of Austin was the perfect example of the American dream come true. A son of immigrant parents from Syria, Edward Joseph became an accountant, attorney, businessman, and one of the Austin's leading citizens.

Many of Edward Joseph's friends referred to him as "Sir Knight" because he had been knighted by Pope John XXIII in 1960. And indeed he was a "Knight in Shining Armor" to those less fortunate than him and who had benefited from his philanthropy.

I am proud to say that he was one of my closest friends. There was no one I respected more in my community than Edward Joseph. Over the years, he has been a strong and loyal supporter of this office, and he never once asked for something for himself. All he wanted was good government for this country which he loved so much.

Last week, we laid Edward Joseph to rest. I would like to include in the Record the following remembrance of Edward Joseph's life and accomplishments.

EDWARD WILLIAM JOSEPH, OCTOBER 19, 1901 TO DECEMBER 12, 1985

Edward William Joseph was born in Austin, Texas on October 19, 1901. He attended St. Edward's University and The University of Texas at Austin.

Formerly the owner of a chain of indoor and outdoor theatres, Edward Joseph served on the Board of National Theatre Owner's Association. He was the Founder and Chairman of the Board of Edward Joseph Developments, Inc. which has developed many Texas properties.

Throughout his life, Edward Joseph gave unselfishly of his time to community and charitable organizations. For thirty-two years he served on the Board of Directors of the Home of the Holy Infancy. In addition, he served on the following Boards of Directors: Goodwill Industries, Child and Family Services (President for three terms), Chairman of the Board of Catholic Charities, the Catholic Student Center, United Fund, and the United States Small Business Administration. He was most recently serving on the Board of Directors of the Seton Fund, the Board of Directors of Marywood Maternity and Adoption Services, and the Board of Directors of the Institute of Texan cultures.

Edward William Joseph, baptized a Roman Catholic, was involved in religious affairs for several decades. He was honored by Pope John XXIII as a Papal Knight in 1960. He was a Knight Commander of the Order of St. Sylvester, a Private Chamberlain with Cape and Sword, a Knight of the Grand Cross (elevated by Pope Paul with Silver Cross) and a Knight of Columbus of the 4th Degree.

Education was always important to Edward Joseph. He was a life member of the Texas Ex-Student's Association and past President of the University of Men's Business Association. He was a member of the University of Texas President's Associates, the Chancellor's Council, a Bronze Member of the University of Texas College of Business Administration's Century Club, and a member of the Board of Trustees of the California College of Podiatric Medicine. He was awarded an Honorary Doctor of Science Degree from the College of Podiatric Medicine in 1984.

WALLISVILLE SALT WATER BARRIER PROJECT

HON. CHARLES WILSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. WILSON. Mr. Speaker, I would like my colleagues to be aware of an editorial that appeared in the December 1 issue of the Houston Post and two letters that were written as rebuttal to the editorial. The issue under discussion in the editorial and the letters is the Wallisville salt water barrier project for the Trinity River in Texas. The first letter was sent to the editor of the Post by the Honorable Price Daniels, former Governor of Texas. The second was written to the editor by the Honorable C. Scott Parker, mayor of Liberty, TX.

Former Governor Daniels and Mayor Parker argue a solid and reasonable case in support of completion of the Wallisville project, and I agree with them entirely. Accordingly, I insert the editorial and letters be entered at this point in the Congressional Record.

The material follows:

[From the Houston Post, Dec. 1, 1985]

DAMMED IF WE DO

If the story of the Wallisville Reservoir project were made into a film, it would have to be titled The Boondoggle That Would Not Die.

First authorized by Congress in 1962, the original project was halted by a 1973 injunction due to a faulty Army Corps of Engineers environmental review. A scaled-down $28.5 million version, less than one-third the acreage of the original, was brought back before Congress. In 1983 it won approval. This was based in part on preliminary raw data that mysteriously—and possibly illegally—found its way from the Corps to Congress.

The Corps wants the project completed. So do, among others, the Trinity River Authority and the City of Houston, which has a thirsty eye on the potential drinking water. To this end, they are asking U.S. District Judge Carl O. Bue to lift his 1973 injunction.

Congress cannot authorize a water project whose benefits do not exceed the costs. And the Corps contends this one has a yearly positive margin of $800,000, largely from controlling salinity of the Trinity River. The difficulty with the analysis is, it follows a long Corps tradition of being long on physics and short on biology.

In fact, the project appears to spell environmental trouble both above and below the dam. The lake that Houston wants would be so shallow it would soon choke with weeds, posing huge water treatment problems. The Corps plans to control the plants with a herbicide well known for its foul taste. So much for drinking.

In Galveston Bay, the U.S. Fish and Wildlife Service expects the changes in salinity and nutrients to wreak havoc on fishing. So, how big a deal is that? Only $40 million a year at dockside commercially. Only half the state's annual sport boat fishery harvest. So much—and this crucial—for the benefit-cost ratio.

If Congress had all the facts, odds are it could never have authorized this project at all. As for Houston, if our water consumption doubled we still would be within our allotment from Lake Livingston. There is plenty of time to explore alternatives.

Judge Bue's injunction is fine with us. We hope he sticks by it.

Price Daniel,
Liberty, TX, December 3, 1985.

To the Editor,
The Houston Post,
Houston, TX.

Dear Sir: As a boy I delivered the *Post* in Liberty, Texas and was proud of it. Under the Hobby ownership, Liberty and Chambers Counties were not ignored. Now at 75, with the *Post* in Canadian ownership, it has fallen in circulation in Liberty County from the most popular daily to the lowest circulation of any Houston paper, according to the Audit Bureau of Circulation for 1984. I predict it will fall lower if you continue your vigorous opposition to our life-saving Wallisville Reservoir and Salt Water Barrier on the Trinity River.

You stress only the objections of environmentalists and possible damage to commercial fishermen, ignoring completely the great damage to a 40 million dollar rice crop in Liberty and Chambers Counties and the immeasurable damage to the City of Houston if the salt water barrier is not constructed.

Your environmentalist writer, Harold Scarlett, has been fairly presenting both sides of the recent hearings in Judge Bue's court. However, your special feature by Dr. B.C. Robinson in the November 30 issue and your editorial of December 1 entitled "Damned if we do" are grossly one-sided and contain several major errors. So much so that I hope you will permit me the space to state the other side and correct one or two errors.

Having been born and reared on the Trinity in Liberty County and having served in the U.S. Senate when the salt water barrier was first conceived, I know some of the history and facts which Dr. Robinson and your editorial writer have ignored. One of my saddest days in Washington was when then Senator Lyndon Johnson and I were told by the late Guy Cade Jackson, Jr. of Anahuac that all work on the Trinity Channel would have to stop lest salt water from Trinity Bay would begin intruding upstream into the rice irrigation pumping plants at Moss Bluff and Moores Bluff, which were then watering a 50 million dollar annual rice crop in Chambers and Liberty Counties.

Also we were told that the salt water encroachment would threaten the then planned CIWA canal which would pick up Houston's allotment of water from Lake Livingston at a point on the Trinity between the two rice irrigation canals. All three of these sites are only a few miles north of Trinity Bay and the mouth of the Trinity River, and all were under dire threat of salt water intrusion which could destroy the rice crops and ruin the water which the City of Houston needed.

Thus, then Senator Johnson and I supported the construction of a salt water barrier at the mouth of the Trinity. After it was authorized, the City of Houston and the Trinity River Authority later advocated the building of the Wallisville Reservoir in connection with the salt water barrier so as to contain within the project a lake of about 19,700 acres. It was to increase the amount of water available for Houston and the Trinity River Authority. This was authorized by Congress and was three-fourths completed when stopped by Judge Bue's injunction in 1973. The environmentalists won this case after millions of dollars were spent on the nearly completed dam which now stands in Trinity Bay as a monument to the Sierra Club and the commercial fishermen.

If the same group had opposed the Houston Ship Channel when it was first conceived, it is possible that ships would never have navigated Buffalo Bayou to Houston. No one can doubt that the deepening of the Houston Ship Channel and Buffalo Bayou damaged some fish, crabs, shrimp and oysters and altered the ecology of Galveston Bay even more than the redesigned 5,600 Lake Wallisville would do. Dr. B.C. Robinson, the naturalist, if he had been around when the ship channel was being planned, would probably have railed against it as an "idiotic venture" of a "pack of troglodytes" playing engineers. At least those are his "impartial" designations of the U.S. Corps of Engineers, which built the Houston Ship Channel and maintain it for the benefit of Houston and its world-wide ocean going commerce. The Posts' predecessor supported this great project of the Corps of Engineers, and while it changed the marine environment and caused some damage in that regard, the benefits to the people of Houston have far out-weighed any such damage.

So will the redesigned smaller Wallisville Reservoir and Salt Water Barrier now authorized by Congress be a great boon to Trinity River barge line traffic to Anahuac and Liberty as well as a lifesaver for Liberty and Chambers Counties and a protection for Houston's water supply from the Trinity.

Whatever damage this causes to fish, shrimp, crabs and oysters in Trinity Bay has been reduced by nearly three-fourths (from 19,700 down to 5,600 acres) by the latest act passed by Congress as an accommodation of the conflicting interests. Yet, the environmentalists are not satisfied, and they probably would not be even if the project killed a single crab, a single fish or a single oyster. In fact, they seem to be making this fight a precedent for stopping all dams, dredging and further progress at the mouth of any stream or estuary.

Both Dr. Robinson's article and your editorial speak of the scaled-down project as though it was harmful to all of Galveston Bay. This project does not touch Galveston Bay. The Trinity River empties into Trinity Bay, which is marked on coastal maps between Smith's Point on the south and Umbrella Point on the north. Only Trinity Bay and the wetlands, north thereof, are affected by this barrier and reservoir.

The worst error in your editorial is the statement that Houston has plenty of water allotted to it from Lake Livingston, as though you could get it directly without going through the Trinity River. Do you realize that the city has no way of getting one drop of water from Lake Livingston except through the Trinity River at the CIWA lift station near the mouth of the river and just a few miles north of salt water in Trinity Bay? The Trinity River Carries your water allotment from Lake Livingston to the Houston pump station for a distance of over 100 miles before it is lifted into your canal. As heretofore stated, without the Wallisville Reservoir and Salt Water Barrier, Houston's water supply from Lake Livingston via the Trinity is in as much danger as our two rice growers pumping plants at Moss Bluff and Moores Bluff.

You write well about protection of crabs, fish, oysters and shrimp, but say nothing about protecting the people in these adjoining counties who depend upon a fresh water supply for jobs in a 40 million dollar annual rice crop or the possible threat of immeasurable damage to the City of Houston if the salt water barrier is not constructed. Congress has reached the fairest accommodation possible between environmentalists and fishermen on the one hand and the main income crop for Chambers and Liberty Counties and Houston's need for industrial water on the other hand.

Why should you or the Court express so much concern over what reports Congress had on this latest bill before it was enacted? As a former legislator and judge I have never known of any Court going behind a legislative act except to see if it is constitutional or for help in interpreting terms of the act itself. Neither issue is raised in this case. It is time the Court and your newspaper allow the latest expression of Congress to be carried out unless you want to see the economy of this area stifled and your Houston industrial water supply endangered.

Yours very truly,

Price Daniel.

City of Liberty,
Liberty, TX, December 10, 1985.

Mr. Lynn Ashby,
Editor, Houston Post,
Houston, TX.

Dear Lynn: The editorial of December 1, 1985, entitled "Damned if we do" was disconcerting to say the least. I have been intimately involved with the efforts to control flooding, provide additional fresh water for consumers, prevent saltwater intrusion, and effect the economic development of the lower Trinity River for over 20 years. I have traveled to Washington, at my own expense, every year for the past 15, to testify before House and Senate Subcommittees on funding requests for dredging, snag removal, studies, and construction of various projects on the Trinity.

The Trinity River is, in my opinion, the most important river in the State of Texas. This opinion is shared by many others also. When you consider the fact that its watershed affects over one half of the entire population of the state, I believe you will understand the truth in that belief. I have attended too many local and regional hearings to recount them, and have given oral testimony at most of them. I have heard environmental experts such as Ned Fritz and Dr. B. C. Robinson testify time after time that we must not allow one change to occur in the ecological structure. That floods are "God Made" and we should move out of flood prone areas and leave them to nature. That we should legislatively prevent additional persons from coming into an area if the natural environment will not support them through natural means. One is led to wonder which side of the advocacy they would take if a move were started to drain Lake Livingston and/or Lake Houston and return those areas to their original natural habitat. Both sides would have legitimate basis from an environmental purist's standpoint.

Certainly the construction of the Wallisville Saltwater Barrier would change that specific area, but the change would be minimal and the resulting change would better serve all interests and conditions. I cannot believe that a status quo serves anyone. We cannot continue to allow land subsidence through removal of ground water to continue unchecked. There are only a certain number of ways to obtain fresh water and not a one of these is through wishful thinking or hoping. The water from Lake Livingston that is dedicated to the City of Houston comes from the CIWA canals and pump stations located in the area that would be protected by Wallisville. An extended drought would effect the complete shutdown of this source without the protection of the barrier.

The thousands of acres of land that have subsided and are subjected to flooding by rain water or saltwater tidal surges have been adversely affected from an ecological perspective. We have learned to live in concert with nature and the pluses of these proposed changes will far outweigh the speculative negatives of these changes. Water need is real. Saltwater encroachment is real. Flooding is real.

The issue is not a narrow scoped or parochial one. Literally millions of lives are affected. The issue is not a boondoggle for some local land owner. The facts are well documented in the reams of testimony available to all interested persons as to the far reaching economic advantages and the minimal environmental impact. We all must plan for and look to the future and stop being tunnel visioned or knee-jerking reactionaries. The development of the Wallisville Barrier is vital and must be allowed to proceed within the confines of good sense and judgement.

I offer this letter as a rebuttal to your editorial. I would further be pleased to submit a more detailed and factual rebuttal to Dr. Robinson's article if you would allow such.

Sincerely yours,

C. Scott Parker,
Mayor.

LANDMARK NEW JERSEY SUPREME COURT RULING WILL HELP PROTECT WORKERS FROM ASBESTOS

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. FLORIO. Mr. Speaker, a ruling made earlier this month by the New Jersey Supreme Court will likely have profound effects in terms of protecting workers from the hazards of asbestos. The ruling will enable injured workers in certain cases to sue their employers for damage. The ruling will likely provide greater compensation to afflicted workers while making employers more responsible regarding employee exposure to hazardous substances like asbestos.

It is estimated that as many as 750,000 public buildings contain potentially friable asbestos. Friable or flaking asbestos is a known human carcinogen which can cause lung cancer, asbestosis or mesothelioma, among other deadly diseases.

The court ruled that injured workers can sue their employers for exposure to asbestos or other hazardous materials when they can prove that the employers intended to harm them. The plaintiffs who bought the class action suit are 32 former or current Du Pont employees And their spouses. They argued that Du Pont and the company's doctors intentionally and deliberately exposed them to asbestos, concealed the risk of exposure and fraudulently concealed medical information that revealed diseases contracted by the workers.

The court's ruling enables workers to demand one of their most basic rights—the ability to work under safe conditions. Employers have been put on notice that knowingly exposing workers to hazardous substances, like asbestos, will no longer be tolerated in the State of New Jersey.

I commend to my colleagues a most informative article in the Camden Courier-Post detailing this most recent New Jersey Supreme Court ruling.

[From the Courier-Post, Wednesday, Dec. 11, 1985]

COURT OK'S SUITS FOR ASBESTOS ILLS—DU PONT FACES FIVE CIVIL CASES

TRENTON.—A New Jersey Supreme Court ruling that opened the door for injured workers in certain cases to sue their employers for damages will provide greater compensation and make employers more responsible, an attorney who represented injured workers said yesterday.

"This is another step in the line of protecting workers," said attorney David Jacoby, the Haddonfield lawyer who represented 32 current and former Du Pont workers and their spouses.

"It potentially affects every man and woman in the state who works for an employer."

The Supreme Court decision came on five lawsuits filed by workers against E.I. du Pont de Nemours & Co. of Wilmington, Del., its company doctors and asbestos manufacturers.

The employees worked at Du Pont's Chambers Works in Deepwater, Salem County, or Repauno plant in Gibbstown for more than 20 years. They contracted asbestos-related ailments from inhaling asbestos fibers from insulation that at one time coated pipes, the court said.

Jacoby explained that it will send a message to employers that they face the threat of civil damages if they are cavalier about workers' health and safety.

The ruling court could affect every worker in the state by giving injured employees a new forum to seek substantial damages for injuries beyond the "miserly" benefits provided in workers compensation court, Jacoby said.

The workers initially filed a civil suit against Du Pont four or five years ago, he said. In that time, some of them have died, but some are still working for Du Pont, Jacoby said.

"They have varying stages of asbestos-related disease. Because it (the disease) takes 15 to 20 years to show itself, the men generally are in their late 40s and older."

Until yesterday's decision, Du Pont did not have to legally answer the lawsuit, he said. The case will be scheduled sometime in the future in Superior Court in Camden County, he said.

The plaintiffs argued that Du Pont and company doctors intentionally and deliberately exposed them to asbestos, concealed the risk of exposure and fradulently concealed medical information that revealed diseases contracted by the workers.

The justices said workers can sue their employers and company doctors for concealing that the workers had contracted health problems associated with asbestos exposure and sending them back into the workplace, where their conditions were aggravated.

Only courts in California and Ohio have allowed such suits, Jacoby said.

But New Jersey's high court said inured workers cannot sue their employers for exposure to asbestos or other hazardous substances unless they can prove that the employers intended to harm them.

At issue was whether the employees' only remedy was collecting workers' compensation. The state Workers' Compensation Act usually serves as an employee's exclusive remedy for work-related injuries.

But under the law, workers can sue in civil court if they can prove an "intentional wrong."

The Supreme Court narrowly interpreted the exception to the law. While "defendants' conduct in knowingly exposing plaintiffs to asbestos clearly amounts to deliberately taking risks with employees' health," the mere knowledge and appreciation of a risk is not intentional, said Associate Justice Robert Clifford, who wrote the majority's 39-page opinion.

"We acknowledge a certain anomaly in the notion that employees who are severely ill as a result of their exposure to asbestos in their place of employment are forced to accept the limited benefits available to them through the Compensation Act," Clifford said.

Four other justices sided with Clifford while two agreed in part and dissented in part.

But the court said the Legislature could not have intended to insulate corporate doctors who deceive employees about their health. The court said workers could seek damages from the doctors because it was proper that they "be held to answer for their misconduct."

Likewise, Du Pont was also subject to be sued, the court said.

LAUREL GIRLS CROSS COUNTRY TEAM—STATE CHAMPIONS

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. HOYER. Mr. Speaker, there are a group of young women in my congressional district who are superstars. They are the members of the Laurel High School Girls Cross Country Team, and this fall they experienced what Bruce Springsteen would call their glory days. They went from underdog status to the Maryland Class AA State Championship. For the first time since 1980, and for the first time ever in cross country, Laurel High has a State championship, and the whole community is very proud.

After a perfect 9–0 season, the Laurel cross country squad won the Prince Georges County Championship, the Region II AA Championship, and finally, on November 9, the State AA Championship. On the way, the team also won three invitational meets—Broadneck/South River, Palotti, and Salesianum—and came in second in the Hereford Invitational.

The Community of Laurel has every reason to be proud of this group which has worked so very well together. One most frequently thinks of cross country as a sport of individuals, but these young women have operated truly as a team. Always, they run

together in practice and support each other through their various competitions.

The squad's coach is Peter Adams, and he is obviously an inspiring, innovative, and gifted leader. This year, his team was made up of young women who, as he said, "have what it takes." Coach Adams is a lucky man as well, because only one team member is a senior. The community of Laurel can expect to hear much more from the cross country team next year.

The following young women make up the 1985 Laurel High School Cross Country Maryland State Championship Team: Cocaptain Diane Huber, Cocaptain Carole Anne "E.T." Parish, Jenny Athey, Donna Driver, Christy Peters, Catherine Repass, Jodi Shindle, and Kenice U'ren.

Coach Adams' three able assistant coaches are: Jim Sampson, Eric Morton, and Nancey Rose.

Mr. Speaker, I know all of the Members of the House will want to join me in extending congratulations to the team on their championship season.

HARRIS POLL SUPPORTS VOLUNTARY FAMILY PLANNING

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. PORTER. Mr. Speaker, I would like to bring to the Members' attention the remarks by Dr. Louis Harris, chairman of Louis Harris & Associates who recently conducted a public opinion survey of teen pregnancy, family planning, and abortion.

The survey results overwhelmingly support family planning efforts both in the United States and abroad, and show exceptional support for relevant education on television and in schools. Dr. Harris presented his findings last week to the members and staff of the Congressional Coalition on Population and Development. The following are his remarks for the benefit of those Members of Congress who did not attend:

REMARKS OF LOUIS HARRIS, CHAIRMAN, LOUIS HARRIS & ASSOCIATES, PLANNED PARENTHOOD FEDERATION OF AMERICA, INC.

In many ways, we live in an era of quick and easy poll results. Members of Congress, people in politics, reporters grab a couple of poll numbers and run. Thus, a common experience is to get the results of 3 or 4 quick questions on abortion, sex education, and birth control. This survey does not just ask 6 or 10 questions. It asks more than 60 different questions and is the most detailed and comprehensive analysis of a wide range of issues relevant to these subjects. It includes many questions never before even asked.

This survey is not only comprehensive. I believe any reasonable person will find it fair and unbiased. Our firm has stringent rules about all surveys on important public issues. They insist that all of the relevant questions must be asked, no matter how tough the answer for our own clients. We are adamant about including tests of questions and arguments used by both sides. In this study, for example, you will find a question that equates abortion with murder. Our hope is that anyone going over this study in fine detail would not be able to tell whether our clients were Planned Parenthood, the Right-to-Life movement, or a group which might have avoided partisanship on any of these issues.

Here is what we set out to test in this study:

What exactly do parents feel must be done to prevent their teenage children from becoming pregnant or causing pregnancy?

To what extent parents have discussed sex and birth control with their kids?

What are attitudes toward the proposed so-called Squeal Law?

How do people feel about television programing on the subject of birth control, specifically giving information on how to avoid pregnancy?

What about sex education in the schools, including a requirement that a link should be established between the schools and family planning clinics where young people can find out about and can obtain contraceptives?

How do people feel about the proposed constitutional ban on abortion and the 1973 U.S. Supreme Court decision legalizing abortion?

Do the American people favor or oppose the U.S. providing aid for developing countries with birth control programs?

Given this roster of questions, it is unlikely that any single group, including our own clients in this case, will be pleased with all of the results. In all, we surveyed a representative cross-section of 2,500 adults across the nation in August and September of this year.

Well, what about public attitudes about teenage pregnancy, sex education, and contraception?

An overwhelming majority of 84 percent of the American people recognize that teenage pregnancy is a serious problem in this country. In the view of 64 percent the problem arises fundamentally from the fact that parents have little or no control over their teenagers' sexual activity. As a consequence, they are convinced that something needs to be done. Help is needed.

One key, of course, is what parents can do themselves? And the answer there overwhelmingly is that they can have frank and open communications with teenagers about sex and birth control. But in the past, such discussion has not taken place for the most part. Only one in four adults recall having learned about sex from their own parents. Most learned from friends or sexual partners, which may have been a bit late.

Today's parents want to change that pattern. A substantial 76 percent with children 6–18 years of age say a parent has talked to their children about sex. The median age for this is 10. But note: only 1 in 3 say the subject of birth control has been part of the discussion. That casts some doubt about just how candid those discussions have been.

In fact, many parents seem to be crying out for outside help when it comes to dealing with teenage pregnancy and informing children about birth control. At the same time, many also want to keep some control over what their children learn and do. That is why they are so deeply divided over the so-called "Squeal Law." This would prohibit family planning clinics from giving contraceptives to anyone under 18 without written permission from their parents. The country now splits right down the middle: 48 percent favoring such a law and 47 percent opposing it. This latest result shows a four point, modest drop in opposition to the Squeal Rule and a comparable pick-up in support of it.

You see, parents would like to know about these things and be in on the decisions governing them. But, at the same time, a clear 53–47 percent majority also hold the view that "if it became more difficult for teenagers to obtain contraceptives," there would be more teenage pregnancies.

Perhaps the most decisive findings of this study emerged on the subject of sex education. A substantial 62 percent are convinced that more open discussion of sexual subjects would lead to fewer teenage pregnancies. And two of the chief channels of communication they want to see change on are television and the schools.

TV is widely believed to give a biased, wholly unreal portrayal of sex, of pregnancy, and of contraception. By 68–18 percent, a big majority think TV gives an exaggerated picture of people making love. Some 45 percent say that TV just doesn't deal with the subject of pregnancy and the consequences of sex. A higher 68 percent believe television ignores family planning to prevent pregnancy and to control family size. And 63 percent are convinced that television also just doesn't deal with information about sexually transmittal diseases, although this might be changing with the furor over AIDS. Put bluntly, television is heavily criticized for either ignoring or romanticizing the consequences of sex and of birth control. By an overwhelming 78–18 percent, a big majority give a powerful mandate that there be messages on TV about birth control. The reason for this strong feeling is that the very young people who are least inclined to be influenced by home life or the classroom are precisely the ones who are most likely to be reached through television.

Now if the networks and TV stations say there is simply no mandate out there for their carrying targeted and effective birth control messages, as we understand they have told prominent medical professional groups, then the answer is that such a claim is patent nonsense.

Indeed, by an overwhelming 85–14 percent, a big majority of adult Americans believe that sex education should be taught in the public schools. And by 54–45 percent, a clear majority are convinced that elimination of sex education in the schools woud lead to more pregnancies among teenagers not fewer.

The American people are playing for keeps on this one. They want sex education to be not only blunt and to the point, but they want it to be practical. By 67–29 percent, better than 2–1, a substantial majority want to require that public schools establish links with family planning clinics, so that as our question read "teenagers can learn about contraceptives and obtain them." This is the first time any poll has ever asked this question. Mark it well, it is a clear and decisive mandate for sex education in the schools that both explicitly informs students about contraceptives, but also refers sexually active students to sources to contraceptives.

The incredible part of these results is that they are not even close. They are decisive and overwhelming. They are not controversial. They indicate a broad and growing consensus, born at least in part of the quiet desperation of parents of all types and stripes of family backgrounds in America today. Those who oppose sex education and birth control are at best a highly vocal but very small minority in the USA today. Instead, the desire, the demand for real leadership out of the establishment in this area is widespread, real and abiding.

By contrast, abortion is by any measure highly controversial. In fact, there is some evidence of slippage in support of the 1973 U.S. Supreme Court decision (*Roe* v. *Wade*). The current division is 50–40 percent in support of that decision nationwide, but that is down 6 points from our previous measurement. The slippage may not be as great as this, however, since the biggest shift on this trend question is among Blacks. And there is other Harris evidence that Blacks have veered from having high faith in the Supreme Court in the past to showing a massive erosion in faith in the High Court, as, indeed, Blacks have come to distrust most of the Washington Governmental establishments these days—a complete turnabout compared with the 1060's and 1070's. On other measures of pro or con on abortion, for example, Blacks are slightly more pro-abortion than Whites. But not on the Supreme Court measurement.

A more accurate measure of the slippage in pro-abortion sentiment can be obtained on the issue of constitutional ban on abortion. A majority of adults nationwide oppose such a ban by a decisive 55–37 percent. However, a year ago, as slightly higher 58–33 percent majority opposed such a ban. Thus, slippage of 3–4 points.

A key reason for the slight slippage may well be the exposure given to the film, "The Silent Scream." Fully 42 percent say they have read about or heard about the film, and 44 percent have seen it. Of those who saw it, 45 percent say it made them more opposed to abortion. That adds up to 6 percent of all adults in the country. Of course, it is dangerous to therefore conclude that 6 percent have in fact shifted their views. There is no way of telling how may of these people were opposed to abortion in the first place, and merely had their underlying convictions reinforced. On the other side, by 56–39 percent, a sizable majority of those who saw the "Silent Scream" felt it was biased and not mostly objective.

In fact, when the negative consequences of particular types of pregnancies are discussed with people, then to opposition to any ban on abortions rises to over 7 in every 10 adults across the USA. For example, if a women's life or physical health were endangered by a pregnancy, then sizable majorities would oppose a ban on abortion. Similar majorities feel the same if pregnancy results from rape or incest, or if a woman might have to go on welfare if she had the child, or when a child would be unwanted or unloved. Or if a woman's mental health were endangered or if the child was found to be deformed or retarded or if a teenage mother's future life would be seriously affected by having the baby.

Of course, as time goes by, an increasing number of people know someone who has had an abortion. Half the country now reports knowing someone and 3 in 10 say that someone is close to them, meaning in their own family or in a friend's family. As it becomes a more personalized experience, then the consequences of not allowing abortions troubles people all the more. A bottom line, therefore, is that 58 percent of the public rejects the claim that abortion is an immoral act. Indeed, by 74–19 percent, a big majority are now convinced that society in this country has decided this issue and they doubt that abortion will ever be outlawed again.

Finally, allow me to dwell on yet another important issue we tested for the first time: U.S. Governmental aid for birth control overseas. That is a subject you have heard much heat and controversy on. By an overwhelming 74–23 percent, a sizable majority favors this government helping with birth control in developing countries. And when the smoking gun is added, "even if those countries have abortion programs," a substantial 61–35 percent majority still would favor our sending the aid and assistance on birth control. The sadness and shock of the Ethiopean famine and the consequences of birth rates out of control have dismayed the American people and touched them deeply.

Perhaps the most striking result of all in this in-depth and comprehensive survey is that the American people do not want the highly serious problems of teenage pregnancies swept under the rug or made the object of selective attention by religious or parents along, but instead they want society as a whole, including the government, including the schools, including the media to open doors of candor and to spell out the consequences and also to take the load in explaining pragmatically what can be done to relieve the problem. They are saying the job must be done today not tomorrow and that procrastination is no longer acceptable. The highest irony is that most of what I have reported are broad consensus findings. I would not stand here and say that because large numbers of the American people want something, you must therefore automatically do it. But, I do say to you that if you do not do something in this area, then you will find that your own constituents will increasingly want an explanation of why you did oppose action. For these are not subjects and are not attitudes that are likely to disappear or to change or to grow less concerned any time soon. Mark that well.

ENHANCEMENT OF LOBSTER CONSERVATION LAWS

HON. JOHN R. McKERNAN, JR.

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. McKERNAN. Mr. Speaker, today, along with my colleagues, Mr. STUDDS and Mrs. SCHNEIDER, I am introducing legislation which will help to preserve the integrity of our fishery conservation laws. Specifically, it is a bill to enhance the enforcement of laws and regulations conserving American lobster—Homarus americanus.

This legislation is intended to make the conservation measures imposed upon the domestic fishermen by the American lobster fishery management plan [FMP] (50 C.F.R. 649) more enforceable by stopping the trade in sublegal-sized, egg-bearing, and "scrubbed" lobsters which currently takes place in the United States. It is action necessary because of a "loophole" in United States law which permits foreign exporters, primarily Canadian, to ship into this country lobsters which fishermen and dealers in producing States are prohibited from handling.

This legislation is not an attempt to avoid the legal obligations of the United States under the General Agreement on Tariffs and Trade [GATT]. Article XX(g) of the GATT allows for the kind of trade restrictions that would be imposed by the bill because of the relationship of those restrictions to the domestic production and consumption restrictions which are imposed on fishermen and dealers by the conservation laws of the producing States and the lobster FMP.

By January 1, 1987, all of the States with fishermen who harvest American lobster will have enacted laws which coincide with the possession standards of the Federal lobster management plan. Although some American lobster is legally harvested in Canada at a size smaller than the minimum size allowed by the FMP, the laws of the producing States and the Lacey Act combine to create a Federal prohibition against a trade in small lobsters in the Northeast and Middle-Atlantic regions. These laws also work to restrict a trade in egg-bearing and scrubbed lobsters in these States. However, because other States, which import but do not produce lobster, have not enacted similar possession laws, the Lacey Act restrictions do not apply and a trade exists in these States which is illegal in the producing States.

Lobster fishermen believe that this situation decreases the effectiveness of the conservation laws and regulations they are required to abide by. Further, they are concerned that this has encouraged an illegal or "black market" trade in lobster harvested by domestic fishermen in violation of State possession laws and the lobster FMP. While others argue that such a black market trade does not exist, and that no U.S.-harvested illegal lobster is being sold in this country, it is very difficult to obtain data on the amount or origin of the sublegal-sized, egg-bearing, and scrubbed lobsters that are sold here.

It is for this reason that we are introducing this legislation today. By restricting the importation of all American lobster that does not meet the standards of the FMP, the bill would strengthen domestic laws that are designed to conserve a valuable, exhaustible natural resource. The legislation that we are introducing today is a straightforward approach to solving this problem and is a remedy that is available to the lobster industry through our international trading agreements. I urge the House to expedite its passage.

HELPING OUR TOBACCO GROWERS

HON. HAROLD ROGERS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. ROGERS. Mr. Speaker, I recently came across an article which I think really shows how committed the people of my region are to the preservation of the tobacco program.

I recently visited several tobacco warehouses on the opening day of the annual burley sales in Kentucky, including one in London, KY, run by Graham Cole. Thanks to his work and those of men like him, this year's tobacco sales are going extremely well under trying circumstances.

I enclose the article for my colleagues, so that they too can come to understand the warmth of feeling for tobacco which permeates Kentucky and the tobacco belt. And I salute Graham Cole for his leadership in keeping our proud tobacco tradition alive.

[From the Lexington Herald-Leader, Dec. 18, 1985]

WAREHOUSEMAN'S EFFORT HAS KEPT BURLEY FROM "POOL"

(By Roger Nesbitt)

LONDON.—A burley tobacco warehouseman—by cutting his profit to benefit growers and the federal price-support program—has helped London compile the most impressive statistic of the 1985-86 market season.

The London market is the only one in Kentucky—and four other states—that has had no burley go to the program's surplus "pool" of leaf that fails to bring a price above the government support level, according to government statistics.

And the success at the small London market can be traced to Graham Cole's crusade to improve sales.

Cole, a co-owner and general manager of London's three auction warehouses, has kept tobacco out of the pool by buying it on behalf of the warehouse.

If tobacco buyers fail to bid the required price of at least 1 cent above the support rate, Cole makes the bid. He then resells the leaf at a later auction or stores it until he can find a buyer.

Thus far, Cole has bought 1.2 million pounds, or about 20 percent of leaf sold in London. He estimates a loss of between $25,000 and $30,000 on the resale of that burley. But he says that's a small price to pay to satisfy his customers and help preserve a tobacco program threatened by a huge debt on surplus leaf.

"If the farmer sees you're doing the very best you can to help him get top dollar, then you've got a satisfied customer who will come back. We lost a little money, but it's good public relations," he said yesterday.

It's not uncommon for a warehouse to buy tobacco to protect customer interest. But few warehouses take 20 percent of the offerings, said Ben Crain, the president of the Burley Auction Warhouse Association.

Crain said he would buy from 10 percent to 12 percent at his two Lexington warehouses. "But with the high (priced) grades you find in this area, you can't afford to buy much more," he said.

Before yesterday, pool receipts were 32.3 million pounds, or 10.6 percent of sales in Kentucky, Indiana, West Virginia, Missouri and Ohio.

"We've taken tobacco from every market except London," said A.R. Beckley, the executive secretary of the Burley Tobacco Growers Cooperative Association of Lexington, which handles the surplus in those states.

Cole, 51, has been in the warehouse business for 26 years in Moultrie and Pelham, Ga. This is his second year as co-owner of the London warehouses and, under his leadership, customers have come to expect a strong sale.

"I've seen years when most of the crop went to the pool around here, but not with Cole. I don't know of any grower who has left here dissatisfied with what he got," said Lonnie Robinson, a warehouse employee for 15 years.

Last year, when 30 percent of the nation's burley crop went into surplus, London's 8 percent was the lowest among the 80 markets throughout the eight-state Burely Belt, Cole said.

"And most of that went after Christmas. I was trying to keep it all out (of the pool), but there was just too much for me," he said.

Cole said he wants to do his part to help the program because "it has served us well for nearly 50 years."

In sales volume, London ranks 22nd among Kentucky's 30 markets. Its customers come from 15 counties in the region, with most from Laurel, Clay, Knox and Whitley counties, said Chester McCracken, a warehouse employee for 30 years.

Charlie Chappel, a 76-year-old Jackson County grower, said he had sold tobacco for 38 years in London and never had much go to the pool.

"These boys have always stuck with me," he said. "I've been satisfied. I wouldn't be here today if I wasn't."

Cole acknowledged that he buys a lot of lower-grade leaf and that the quality of tobacco from the area pales in comparison with the Bluegrass region.

Statistics, however, indicate that London has its share of good burley. Its average market price of $180.46 a hundredweight is slightly above the state average.

"Our overall quality doesn't match some other areas, but most of our growers are at a disadvantage because they are small, part-time farmers," Cole said. "This is not like the Lexington area, where you have a lot of big growers who are in this for most of their income. That makes a difference."

Cole said he hopes to keep his "pool record" intact for the Christmas recess that follows Thursday's sales. But he doubts he can go through the whole market season this way.

"It gets harder (to resell the burley) after Christmas," he said. "You can't cut your own throat, you know."

OPPOSITION TO THE McCLURE-VOLKMER BILL

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. STOKES. Mr. Speaker, Federal gun control legislation has been debated in each succeeding Congress since the 91st session. With the McClure-Volkmer bill working its way through Congress, it has come to my attention that our Nation's law enforcement community has been misrepresented by certain lobbying organizations concerning their views on this issue. Contrary to information you may have received, our Nation's law enforcement community is unanimously opposed to the McClure-Volkmer bill.

As individuals charged with the responsibility of ferreting out crime, it is the law enforcement communities view that passage of this bill will result in easier accessibility to these weapons by criminals, juveniles, and other high risk individuals. Every day, members of the law enforcement community place their lives in peril so that you and I might enjoy a safer community. By opposing the McClure-Volkmer bill we have an opportunity not only to assist our friends in law enforcement, but to help ourselves in providing for the safety of our communities.

I fully support the right of responsible individuals to keep and bear arms. However, legislation such as that passed by the Senate and presently before the House of Representatives, will seriously undo many of the recent advances made in the area of curbing handgun violence, and will result in easier accessibility to these weapons by criminals and irresponsible citizens.

I strongly encourage members of this body to oppose the McClure-Volkmer bill and vote for the safety of our communities and our law enforcement officers. With these concerns in mind, I commend the following Cleveland Plain Dealer article on the Fraternal Order of Police and their views on the McClure-Volkmer bill, to my colleagues in Congress.

FOP HEAD HOLDS GUN BAN A BOON

(By Robert Boyd)

At a time when killing of police officers is on the increase, it would be wrong to weaken federal handgun laws. But legislation now before Congress would do just that, and a strong gun lobby is pushing hard for enactment—even to the extent of misrepresenting the stated positions of law-enforcement groups.

Most Law-enforcement organizations believe that law-abiding citizens have the right to own handguns. But at the same time, there must be legislative safeguards to keep handguns from falling easily into criminal hands. Retaining current federal laws regarding handguns is vital to effective law enforcement. Laws to protect the police and the public from the threat of additional handguns in the hands of criminals, such as waiting periods and criminal records checks for handgun purchasers and a ban on armor-piercing bullets, will make society safer.

In recent months, the Fraternal Order of Police, which represents more than 170,000 American police officers and other law-enforcement leades have been misused by gun lobbyists who are spearheading a drive to allow interstate sale of handguns and permit the continued sale of armor-piercing bullets.

Leading the gun lobbyists' attack is the National Rifle Association, with which law enforcement has a history of strong ties. In our relationship over current federal legislation, however, the views of the law-enforcement community, and the Fraternal Order of Police in particular, have been distorted and misrepresented.

In the House of Representatives, gun lobbyists are crusading for quick passage of the McClure-Volkmer bill, which would allow interstate handgun sales. The bill, sponsored by Sen. James A. McClure, R-Idaho, and Rep. Harold L. Volkmer, D-Mo., was pushed through the Senate without any public hearings, and is now lodged in a House Judiciary subcommittee on crime. Supporters in the House are petitioning to have the bill discharged from the subcommittee and brought to the House floor; its sponsors say that could happen by spring.

The NRA portrays the bill as a pro-law-enforcement measure and has convinced members of Congress and the public that

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police are for the bill. While aware of our opposition, the NRA sent material to Capitol Hill erroneously stating that both the Fraternal Order of Police and the National Sheriffs' Association were in favor of the bill.

As president of the Fraternal Order of Police, I attempted to set the record straight several times. Every major law-enforcement organization in America solidly opposes the McClure-Volkmer bill. Yet the NRA and other proponents of the bill have persisted in naming our group as one of its supporters. The fact that law enforcement opposes the bill appears to make little difference to the NRA.

Our reasons for involvement in this legislative debate are simple. As law-enforcement officers, we are charged with enforcing the law. We live with that responsibility every day. Despite the NRA's claims to the contrary, this bill is against our interests. McClure-Volkmer will make it easier for criminals to get handguns.

In 1968, Congress passed the Safe Streets Act to aid state and local law enforcement in their fight against violent crime. The centerpiece of the act was the prohibition on the interstate sale of handguns, which enhances the ability of states and localities to keep handguns out of criminal hands. McClure-Volkmer would authorize gun dealers to sell to out-of-state customers if the sale would be lawful under the laws of the buyer's and seller's states. As a practical matter, this provision is unenforceable and would only serve to encourage illegal handgun sales.

Because handgun laws vary not only from state to state but city to city, it would be virtually impossible for a dealer to make sure that sales to out-of-state purchasers conform to law. Local laws are constantly changing and although several states may have similarly worded provisions, the actual application of those statutes may vary greatly according to individual state court decisions. Allowing interstate handgun sales destroys the ability of law enforcement to enforce state and local handgun laws.

Gun lobbyists also are working against law enforcement on another front, by campaigning for the continued availability of armor-piercing ammunition—bullets that easily penetrate bulletproof vests. Every day, officers risk their lives protecting citizens from criminal attack, and yet the NRA refuses to support these officers by working to ban the sale of such bullets. In fact, NRA lobbyists have blocked the bill for nearly four years.

As officers, we look to Congress to give us the tools to make society safer. To that end, the law-enforcement community, especially the Fraternal Order of Police, is asking members of Congress to resist the pressure to make our jobs more difficult. We want armor-piercing bullets banned. We need the continued prohibition on interstate handgun sales. And we want a national waiting period and background check for handgun purchases to help screen out those criminals who are buying handguns, and to eliminate the possibility of the heat-of-passion purchase of handguns.

Our legislators have heard the views of the Fraternal Order of Police, the National Sheriffs Association, the International Association of Chiefs of Police, the National Troopers Coalition, the Police Executive Research Forum, the Police Foundation, the National Organization of Black Law Enforcement Executives and the Major City Police Chiefs Association. We all hope that Congress will listen to the law-enforcement community and put the interests of a safer society ahead of the goals of the National Rifle Association.

STATES ACTIVE ON CHEMICAL DISASTER LEGISLATION

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. FLORIO. Mr. Speaker, as my colleagues know, the Superfund legislation just passed by the House (H.R. 2817) contained landmark provisions designed to encourage local officials and industry to develop emergency preparedness plans for possible chemical disasters.

The tragedy in Bhopal, India, a little over a year ago raised the Nation's consciousness about the need to institute comprehensive emergency response plans to cope with potentially catastrophic accidents. Dozens of smaller-scale incidents across the country over recent months have underscored the importance of such planning. Many State legislatures are beginning to recognize the need to establish disaster prevention and response programs.

My own State of New Jersey has been in the forefront of such developments and the State senate recently passed a bill entitled the "Toxic Catastrophe Prevention Act." I commend a recent article from the Philadelphia Inquirer describing the legislation to my colleagues' attention.

Senate Approves Bill Aimed at Averting a Chemical Disaster

(By Paul Horvitz)

Trenton.—Legislation designed to prevent a disastrous chemical leak at New Jersey manufacturing plants received final legislative approval yesterday in the state Senate.

The bill, titled the Toxic Catastrophe Prevention Act, calls for chemical plants that generate, store or handle certain extraordinarily hazardous chemicals to develop plans demonstrating what safety steps they would take to prevent a minor accident from turning into a chemical disaster like the one that occurred last year in Bhopal, India. In that accident, 2,000 people were killed when methyl isocyanate leaked from a Union Carbide plant.

The bill won Senate approval on a vote of 38–0, without debate, and now goes to Gov. Kean.

Its Senate sponsor, Sen. Paul Contillo, a Bergen County Democrat, said that, under the legislation, the state Department of Environmental Protection could impose its own risk-reduction plan if it believed the one submitted by the manufacturer was inadequate. The companies would have 18 months to submit a plan.

Contillo said the bill applied only to certain highly toxic substances, including phosgene, a poisonous liquid that has been used in chemical warfare. It also is used in some chemical-manufacturing processes and in dye-making.

LAUNCHING OF VOYAGER SPACECRAFT

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. HOYER. Mr. Speaker, 1986 will be a truly momentous year in space exploration. NASA will launch a Voyager spacecraft which will travel past Uranus, and a Galileo spacecraft destined to explore Jupiter. Our Nation can be especially proud of NASA's contribution to this latest step by the United States in the "Age of Discovery."

To highlight these events our colleague Congressman Wyche Fowler of Georgia, on October 8–10, 1985 sponsored the Space Caucus Conference on the Future of Space Science. Many eminent scientists from all space science disciplines participated, sharing their insights with Members and congressional staff. One conference participant of particular note was Dr. Noel Hinners, Director of NASA's Goddard Space Flight Center which is located in my congressional district. Dr. Hinners has a Ph.D. in Geochemistry and Geology and is a specialist in planetary geology. From 1979 to 1982 he served as the Director of the National Air and Space Museum and in 1982 began his tenure as the Director of the Goddard Space Flight Center.

I would like to share the remarks made by Dr. Hinners at the conference for the benefit of my colleagues:

Statement of Noel W. Hinners

I welcome this opportunity to address the topic of Space Science in an atmosphere of inquiry and desire to learn. That is, after all the basis of the scientific endeavor—a quest for knowledge. That quest is unbounded and never ending, attributes inherently harmless, yet the world of budget constraints, competing societal and individual needs, and occasional misgivings about the practical value of scientific inquiry result in the establishment of limits and priorities. My challenge is to provide you with views of space science relevant to your decision process, a process crucial to creating the means by which space science progresses.

I worry about whether or not I am up to the task; what can I bring to you today that couldn't better be done by my colleagues actively involved in the hands-on conduct of space research? Perhaps a different perspective, for though trained as a scientist I have made a career of science management and administration, the rewards of which flow from helping create the opportunities for "practicing" scientists to be innovative and productive. That career has seen a progression of incarnations ranging from student to technical contractor to NASA to NASA Associate Administrator for Space Science to Goddard Center Director. In that time I've been exposed to a spectrum of scientific, budgeting, political, and social issues associated with space science and which span its history as measured from the launch of Sputnik in 1957.

I also had the good fortune to spend (1979–1982) a rather pleasant and informative interlude as Director of the National Air and Space Museum, an unparalleled opportunity to assess and contribute to public knowledge of and interest in space science and exploration. A side-benefit, or possibly a side-effect, was the acquisition of think-time, in which to dwell on what had transpired over the past 20 years and to sort out what in my career to do next. The end result was a re-commitment to space exploration. I just could not think of anything more rewarding, exciting or worthwhile. Let this pre-amble be fair warning that you are listening to a devotee, albeit one tempered with a conviction that it is our obligation to assure quality science and to share the excitement and fruits of our ventures with those who pay for it—the U.S. public through you, its representatives.

I will give you my thoughts on the essential character of space science, examples of its contributions to knowledge and national well-being, its role vis-a-vis technology, and international cooperation and competitiveness. Along the way, I'll also given my assessment of future trends and needs. This could be dismissed as interesting, but just another look into a cloudy crystal ball. Possibly, but I believe that the future is largely under our control rather than subject to whims of "random events" or the wiles of nature: many things will happen because the initial steps are already in motion or because someone wants them too; let us therefore plan determinedly for our future.

Best to begin with a definition of Space Science: as stated by Homer Newell in his excellent book "Beyond the Atmosphere", space science consists of . . . "those scientific investigations made possible or significantly aided by rockets, satellites and space probes." Thus it is that existing scientific disciplines and more narrowly focused subdisciplines in astronomy, physics, and earth and planetary science gained opportunity to expand by dint of new technology enabling escape from the earth-bound laboratory.

For astronomy the vantage point of space opened up new regions of the spectrum quite simply by astronomers ridding themselves of the obscuring effect of earth's atmosphere. Completely new discoveries involving basic physics and hard-to-believe phenomena commenced immediately and continue to this day to come forth as we peer into new parts of the spectrum with detectors of increasing sensitivity and resolution. There appears to be no end in sight for the potential of yet further discoveries, ones helping elucidate answers to such basic questions as how did the universe and its features begin and how did it evolve, what are quasars and black holes, do black holes really exist?

For what use, you say? "Knowledge for sake of knowledge" might be a typical response but I personally find that to be a flip answer, repugnant, and providing fuel for those who accuse scientists of elitism. Rather, there is incredible excitement and elation involved in learning about the power, complexities and wonders of nature on such a cosmic scale; this is mimicked no less on the other end of the size scale by today's discoveries in the biological sciences. Obviously there is emotion involved in this; excellent! D. H. Lawrence in his 1931 "Apocalypse" rightly complained "Men are far more fools today, for stripping themselves of their emotional and imaginative reactions, feeling nothing." While Lawrence bemoans the loss of the sun as the mythological entity of old civilizations . . . . "All we see is a scientific little luminary, dwindled to a ball of blazing gas", had he today's knowledge and scientific understanding I think he could have found a new awe and mystery far more satisfying than the make-believe of old. It is our imperative to bring the excitement and emotion of discoveries about nature to the masses who by necessity participate second-hand. My museum experience convinces me that it is possible to do so, that the public wants to understand and will support our research if we but successfully convey to them the results and their inherent excitement.

For space physics, space platforms have provided not only new places from which to peer but they allow immersion and measurement in the new medium of magnetic and electrical fields, particles, solar wind, cosmic rays and the like. The picture we now have of earth's envelope in the solar system is one for which there was only a hint pre-1957. Basic discoveries abounded in the 1960's; in the 70's and 80's the challenge has changed from one of discovering "what's there?" to a greater one of deciphering and understanding details of how the physical processes work. A mature science, some would call it, sometimes with a hint of derision. If realizing that a topic is complex, that interactions among components are strong, and that the easy discoveries are over defines maturity, so be it. But to some of us near the age of 50, maturity means wisdom, careful selection and prioritization of tasks, calling upon experience to select a fruitful experiment, and recognition of the broader implications and significance of what we do.

The results of space physics studies are, like those of astronomy largely of pure scientific interest. However, because our earth is embedded in the magnetosphere, phenomena occuring there have direct bearing on closer-in events such as aurora, disturbances in the ionosphere which disrupt radio communications, radiation damage to satellites, and quite possibly on long-term weather and climate trends. To obtain a better understanding of the environment in which we live is an added inducement for the study of space physics. So is the fact that basic processes occur there which cannot be duplicated in the laboratory but which are of great interest for such things as fusion energy research—in this sense we can use the space environment as an in-situ laboratory.

The study of space physics also occurs in our planetary exploration program. The detailed knowledge built up by studying the earth's physical environment has allowed us to greatly increase our understanding of similar phenomenon at Jupiter and Saturn where the data has been limited mostly to that obtained by a few transits by the Voyager and Pioneer spacecraft. In a grander extrapolation, we are beginning to see in astronomical data that some of the phenomenon observed near earth may be occurring on a galactic scale.

Earth science—geology, planetology, call it what you will. If space physics is mature, earth science by the same measures would be senile, being over 200 years old by any accounting. We know the earth to be exceedingly complex and in contrast to the space physics environment, most of the solid earth is hidden from direct view. Yet the last twenty years have seen a revolution in our understanding of the earth, how it may have formed and evolved, how its engine is fueled and moves major chunks of crust about willy-nilly. Rebirth? Rejuvenation? Yes. Made possible by several factors: the tedious buildup of immense detail over the years by many plodders (and far fewer big thinkers), detail waiting for the integrating framework of: plate tectonics; new technology allowing us to "see" the ⅔ of the earth's surface hidden under the oceans and to peer into the interior via geophysical probing; meteorite studies; and remote and in-situ investigations of the other planets of the solar system.

The latter is a unique contribution from the space science program. Just as physical laws seem to be the same everywhere in the universe, so do fundamental geological and geophysical processes. But what we see in the earth and planets is a summation of billions of years of evolution and of a multitude of processes working at different rates on different starting materials. The ability to decipher the history of any one of the resulting complex bodies in isolation is not as good as one might wish. Our overall understanding can be enhanced however, if one has a spectrum of planets to study, each of which has evolved in a different manner. You can think of this as analagous in some sense to mathematics which requires multiple equations to solve for multiple unknowns. This approach has some times been termed comparative planetology and brings renewed focus to thinking of our earth in a planetological sense. It is not only the study of the origin and evolution of the earth that benefits from the use of space techniques; over two decades of evolution of earth-orbiting weather, atmospheric and oceanic research satellites has led to a dependence on them for making progress in eventually, obtaining a global-scale comprehension of earth systems.

Just as one learns about the general properties of terrestrial evolution from planetary studies, so too do atmospheric scientists gain greater insight into earth's atmospheric circulation and chemistry from planetary data. One does not, however, study the planets primarily to understand the earth. It is to arrive at a comprehension of the basic origin and evolution of planets per se; planetary studies are complementary to meteorite studies and to space-and ground-based astronomical investigations which are just beginning to tell us how stellar origins involve the formation of planets. For example, NASA's Infrared Astronomy Satellite has detected what is probably a disc of dust or rocky material surrounding a young star and which appears to be a progenitor of planetary formation.

The convergence of the astronomical and geological lines of evidence regarding planetary or solar system formation is a bonus of our times, brought to us solely because of our new capabilities in space. Equally astonishing is the sheer beauty of the discoveries from our planetary exploration—the scientific beauty of the likes of the volcanism of Io, the canyons of Mars, the Red Spot on Jupiter, the rings of Saturn. Likewise, their aesthetics. Human artistry pales when compared to what nature produces—so much so that we often seem linguistically incapable of expressing adequately the impact on our senses and emotions, reducing ourselves to primitive, feeble utterances of "wow, gee-whiz."

Where are we headed in the space sciences? Is anything new really happening or is it just more of the same thing? Not at all. In astronomy, we see that the traditional approach of labelling and behaving as "wavelength bin" astronomers (e.g., IR astronomers, X-ray astronomers) makes less and less sense. The attack on fundamental problems more and more requires observing the same event or object in a multitude of wavelengths. Our goal, then, is to create a set of long-life space observatories (physics dictates multiple detectors and telescopes) complemented by ground-based facilities, which will enable an astronomer to pick a problem, easily access any of the telescopes and make the coordinated observations. We would like those to be made from the home university or laboratory location, where the scientist interacts with the students and where the environment is most conducive to scientific productivity. The Hubble Space Telescope, to be launched in 1986, is the first of the long-life observatories, with gamma-ray, X-ray and Infrared observatories to follow. We are making progress on distributed or remote access to space observatories, the International Ultraviolet Explorer and the Upper Atmospheric Research Satellite leading the way. The remote access advances are enabled by the technology of modern communications and computers; the advent of the Space Shuttle and the Space Station make or will make possible the long-term maintenance, repair and experiment up-grade of our space observatories. The conduct of space science is rapidly evolving in style towards that traditional for other sciences.

In space physics, we clearly see that one part of the environment interacts or is closely coupled with other parts. The opportunities for major advancement in understanding thus arises in the possibility of making multiple, simultaneous space measurements in the various regions: the solar wind, the auroral zones, the electrical arcs, the radiation belts and magnetic tail. The types of measurements needed are well known, guided by the previous experiments and by a firmer theory and computational modeling than existed in the past. Theory and computational modeling are deeply rooted in work going on in understanding basic plasma (fully ionized gas) physics for purposes additional to the direct needs of space science (e.g., fusion research).

The earth sciences present a special challenge which we are beginning to comprehend: that is, interconnections, feedbacks, cause and effect dominate the behavior of the atmosphere and oceans. For very practical reasons we are trying to understand the global dynamics of earth's environment sufficiently well that we can construct predictive models of its behavior. To do so requires global-scale multiple and sumultaneous observations of the atmosphere, hydrosphere, ice caps, biota, and land masses. Space techniques using polar orbiting satellites and space station polar platforms are the sine qua nons to accomplish our objectives.

It is evident by now that technology has been and will always be key to new discoveries in space or anywhere else. Space science has not just benefitted from technological developments but has been a puller of technology. The scientist has a need and looks to the engineer to provide him with the means. The resulting new basic discoveries then become part of our store of basic knowledge from which future technologies and applications will evolve—the two are connected and the eventual health of our U.S. technology, which inarguably is necessary to a healthy U.S. economic competitiveness, demands a healthy scientific underpinning. Where does space science fit into the overall scheme of U.S. science?

Space science is a forefront science. By that I mean it involves the making of fundamental new discoveries or significant advances in understanding non-trivial physical processes. Obviously judgments are involved here and differences of opinion abound about what is significant and what is trivial. One measure among many however, impresses me: where do the young bright students go? Science students are pretty smart—they'll go where the intellectual action is (given reasonable financial return.)

Space science and exploration has historically attracted excellent students and researchers. It excites youth at an early age and is a stimulant to the career choices into science and engineering. It continues to do so but there are strom warnings: the U.S. historically has been a world leader. The rest of the world has progressed rapidly and collectively may pass the U.S.

Should we care? After all, science is universal, and international cooperation is traditional and has paid dividends in terms of more science results than if we were to go it alone. And science results from other free-world nations are available to us.

Mr. Chairman and Members of the Subcommittee: I do care and am worried. I favor international cooperation and healthy open national endeavors from other countries. In structuring future cooperations, however, and in prioritizing our own programs we need to look carefully at how to maintain a strong element of U.S. space science leadership. We need to assess the pace of our programs and to think more about how scientific leadership relates to technological leadership and eventual economic competitiveness. Competition is inherently healthy and stimulating and, because we cannot do everything, we must assess our national strengths and weaknesses and put our resources behind the winners. I believe that U.S. space science has served the country well both intellectually and in bringing about practical applications. Prospects are excellent for continuing to do so. It is gratifying to work with you towards that goal.

INTRODUCTION OF UNITARY TAX LEGISLATION (H.R. 3980) ON BEHALF OF THE ADMINISTRATION

HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. DUNCAN. Mr. Speaker, I am introducing today, at the request of the administration, legislation designed to deal with a long-standing issue: the unitary tax.

As of now, I have not had a chance to complete an examination of this bill; therefore, I am in no position to comment specifically with respect to its merits. After I have reviewed it carefully, it may well be that I will be able to endorse the legislation. The reverse, also, might be true. My purpose in introducing the bill today is to get it before the House prior to the close of this session of the Congress. Members will be able to judge it, as I will, after a close look at its provisions.

Generally, the legislation introduced today would: First, prohibit States from imposing a corporate income tax on a worldwide unitary basis; second, limit the ability of States to tax dividends received by U.S. companies from foreign corporations; and third, provide States with Federal assistance in gathering information necessary to administer their tax laws relating to multinational businesses. The legislation has been prepared in cooperation with the Treasury Department and at the express direction of the President.

Over the past 2 years, the administration has worked closely with States and affected businesses in an attempt to arrive at a voluntary resolution of the unitary tax problem. The Treasury Department organized a worldwide unitary taxation working group which, in 1984, agreed on principles for the voluntary resolution of the unitary issue at the State level. A number of States responded by ceasing to use the worldwide unitary method. Other States have not yet acted.

The absence of voluntary compliance by all States with the working group principles, plus increasing international difficulties caused by continued adherence by a few States to the worldwide unitary method, have combined to cause this Federal legislation.

While leading foreign commerce issues raised by State worldwide unitary taxation would be resolved if States were to agree that they would not impose such a tax on foreign controlled entities, that kind of limited resolution would cause other serious problems. If a "foreign only" solution were adopted, domestically controlled businesses could be disadvantaged. For this main reason: the foreign income of foreign controlled multinationals would not be subject to tax by the States, whereas the foreign income of domestically controlled multinationals would continue to be subject to tax at the State level, either on a worldwide unitary combination basis or when repatriated in the form of dividends. The working group recognized expressly the need for competitive balance for domestic multinationals, foreign multinationals and purely domestic businesses in any resolution of the unitary issue. That principle requires that legislation restricting State worldwide unitary taxation also must address the question of equitable State taxation of foreign source dividends.

This legislation does not require that any specific method of dividend taxation be imposed by the States. Arguments of State fiscal sovereignty strongly indicate that States should have leeway to tailor their own systems of taxing to the extent that they do not cause serious foreign commerce difficulties and do not result in systematic overtaxation and double taxation of U.S. business in contravention of strong Federal policy. The legislation, therefore, provides in broad terms for the equitable taxation of dividends and suggests certain guidelines that States could follow in satisfying that standard. Many States, including a number of former worldwide unitary States, already comply with these guidelines.

I hope the legislation will be scheduled for prompt consideration in the second session of the 99th Congress.

NORTON, MA, LANCERS SCORE BIG WIN

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. FRANK. Mr. Speaker, December 7 was a day to remember for the residents of Norton, MA. The Norton High School Lancers rose to the occasion to win the Eastern Massachusetts State Division 5 Superbowl championship when they defeated the Dorchester High School football team by a score of 25–20.

Head coach Larry Larocque, a member of Norton's first football team, is to be congratulated for putting together an excellent squad that distinguished itself by its tenacity, sportsmanship, and mental toughness. This victory clearly affirms the faith that the Town of Norton has had in its football program.

The following article from the Taunton Daily Gazette tells the story well:

[From the Taunton Daily Gazette, Dec. 9, 1985]

THE LANCERS PREVAIL IN DIVISION 5

LANCERS ENJOY A 'SUPER' SATURDAY—NORTON BATTLES BACK IN 4TH PERIOD TO RALLY PAST THE BEARS, 25–20

(By Ron Lancaster)

BOSTON.—At approximately 12:15 on Saturday afternoon, the years of frustration suffered on the football field by the Lancers of Norton High School were vindicated.

Head coach Larry Larocque's Purple and White, enjoying only their second winning season in their 20-year history, became champions by defeating Dorchester High, 25–20, in the EMASS state Division 5 Super Bowl match-up staged here at Boston University's Nickerson Field.

"Our kids played just super today," an elated Larocque stated after the game. "What really surprised me was how our guys kept their composure throughout the game. They never got down and never gave up on themselves. This is definitely a 'team' win in the true sense of the word."

A contest, pre-game, built up to be a match-up that would feature two of the toughest teams to score on in the division, both teams displaying their hard-hitting style throughout the morning. Add that to the subfreezing temperature at game time and you had the setting for a ball game that would be hampered by turnovers.

In all, the Lancers coughed up the ball a total of three times, all via fumbles while the Bears relinquished control of the pigskin to their foe seven times. Four of those came on fumbles and three by way of interceptions.

"There were a lot of bodies hitting each other pretty hard out there today," noted Larocque. "That, along with the conditions, contributed to the high number of turnovers both teams made."

Linebacker David Shaw and defensive ends Rich Defreitas led in the takeaway department for the Lancers with the former picking off two passes, running one back for a touchdown while the latter recovered two fumbles.

A light covering of snow coupled with a gametime temperature of 30 degrees made the field more like the ice surface at Walter Brown Arena. This gave the Lancers a slight advantage as they relied on the balance and straight-ahead running of Jim Sicard.

The senior managed to lead all rushers in the half with 36 yards, before an injury forced him to sit out the rest of the game. The Bears meanwhile, who relied on speed and quick cuts, found the field not to their liking and managed a total of only 13 yards in the half.

After shutting down Dorchester on the game's opening series, Norton put together a respectable drive moving the ball all the way down to the Bear 27. However, on a third down play, defensive end Nate Johnson stormed in and dropped quarterback Scott Shambre for a eight yard loss, forcing the locals to surrender the ball.

Late in the opening quarter, Dorchester's Reggie Usher recovered a fumble on the Lancer 26 to give the Bears its first great field position of the day. The Boston District champions ventured as far as the eight yard line, but on fourth down, quarterback Jerome Davis' pass fell incomplete to kill the drive.

The Red and White defense then managed to keep the Lancers deep in their own territory and after forcing the Mayflower League champs to punt, regained possession of the football on the Norton 40.

The Bears went to the halfback option with success as Tony Norman fired a 29-yard strike to Johnson which put them back in scoring distance at the 11. A bad snap dropped them back to the 15, but a Davis-to-Ivan Caesar pass put the ball on the two yard line where they faced a fourth down situation.

Dorchester decided to hand the ball to the usually-reliable Norman, but the Lancers read the play perfectly and led by Bill Burgess, dropped the senior back for a yard loss and once again prevented them from scoring.

Norton turned the game's first big break into a score with some three-and-a-half minutes to play in the first half.

Davis went back to pass and after getting some pressure from the Lancer line, underthrew the ball right into the arms of Shaw. The Lancer linebacker moved left and sped down the sideline and into the endzone untouched for the game's first score. Steve Peck added the extra point and that would prove to be all of the scoring that would be done in the first half.

The second half saw the temperature rise a bit, allowing the field to thaw out. It also saw a rejuvenated Bear team take the field and dominate the entire third period, scoring 14 points to vault into the lead.

It started on the opening series, with the Red and White traveling 60 yards in just three plays for their first points of the game. After two runs netted a total of six yards, Davis rolled left on a keeper and rambled down the field all the way to the endzone to make it 7–6. The Bears tried for a two-point conversion, but Davis' pass was knocked down by defensive back Steve Nuttall to keep the Lancers out in front.

The Lancers gave the ball right back to their foe as Johnson recovered a fumble at the Lancer 22. Once again, the Bears would nearly travel the distance. They got as close as the four yard line, but on a crucial fourth down situation, the Norton defense came up with the big play to keep them out of the endzone. This time, on an attempted reverse to Derek Wright, Shaw came up and hammered him for a two-yard loss.

However, another fumble recovery by Jason Randall later in the period, put the Red and White back into scoring position at Norton's 27. This time the Bears would not be denied. It took four plays and a little bit of luck, but they were able to reach the endzone and take the lead.

The drive's first play saw Norman gain five yards and also saw Norton's Sicard leave the game on a stretcher (it was reported after the game that he suffered a hip pointer, with a possible bruised kidney).

Then, from the six, Norman ran left fumbled, but Caesar pounded on the ball in the endzone for the touchdown. Davis rushed in the two point conversion to put Dorchester out on top 14–7 and it stayed that way through period three.

The next 11 minutes would be a living nightmare for the Bears and their faithful. It seemed that the Boston District champ wanted to give their Mayflower League counterpart every opportunity to stage a comeback.

It started on the period's opening play, when Caesar, after catching a pass, coughed up the ball and Defreitas fell on the pigskin at the Bear 48. Norton could not move the ball and was forced to punt, but got the ball back when Davis pitched the ball to no one and Dave Rich came up with the recovery.

Still the Purple and Gold could not move the ball and was forced to punt it away again. This time however, the Lancers got down the field and forced the punt returner to fumble, with Chris Gaddy recovering on the Bears' 12 yard line.

Two plays later, Shambre borrowed a play from the Steve Grogan bag of tricks, by faking a handoff, bootlegging left and rambling eight years for the touchdown. But, a bad snap from center made the usually automatic Peck miss and kept the Bears on top, 14–13.

Now it was time for the Lancer defense to rise to the occasion and they did so getting the ball back into the offense's hands. Led by two fine plays by Rich and John Pinch, Dorchester's three plays netted a loss of three yards and forced the Bears to punt. That exchange left the Lancers the ball on their own 38.

A five yard penalty was negated by a seven yard run by Shaw, putting the ball at the 40. Then came surprise play No. 2 from Shambre.

The senior signal-caller took off on a quarterback draw and after breaking several would-be tackles, found his way into the clear before turning on the afterburners. he streaked 60 yards for the score to stake Norton to a 19–14 advantage with just over four minutes left to play.

TRAGEDY IN NEWFOUNDLAND

HON. HAROLD E. FORD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. FORD of Tennessee. Mr. Speaker, the 248 men and women of the 101st Airborne Division who were lost tragically in Gander, Newfoundland, had just finished 6 months of peacekeeping as part of the Multinational Force in the Sinai Desert. They contributed greatly toward maintaining the peace, a thankless job in a faraway land. The 101st represented their country admirably.

Words cannot express the deep grief I feel about this loss of life, particularly during the holiday season. These men and women were on their way home to spend a special time with loved ones. They never had a chance to defend themselves, their fate sealed when they stepped on that charter plane. I only hope the families can take some solace in the fact that all Americans grieve with them. Their sadness is shared by all of us.

Out of this tragedy, we should start thinking about how to prevent similar disasters in the future. There is no reason for our service people to be traveling on inferior aircrafts. While it may be cheaper to move military personnel on charter flights, we have learned too late that it is safety, and not price, that must remain the bottom line when the Pentagon plans future troop movements.

ANOTHER TEST OF TRUTH FOR THE ARMY

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. LEVINE of California. Mr. Speaker, for the last 3 years, I have attempted to get the Pentagon to conduct realistic live-fire tests on the Bradley fighting vehicle. I have been concerned about whether the Bradley could, under actual battlefield conditions, perform the tasks which the Army has used to justify the program.

The Bradley results are in, although the jury is still out as to whether the tests were accurate and meaningful.

In an editorial entitled "Another Test of Truth for the Army," the New York Times provides an exceptionally insightful summary of the situation.

I commend this editorial to the attention of my colleagues and ask that it be printed in the RECORD.

ANOTHER TEST OF TRUTH FOR THE ARMY

Another major weapons program seems to be in serious technical trouble. It's the Army's $13 billion program to buy an armored troop carrier known as the Bradley Fighting Vehicle. With almost 2,000 Bradleys already produced, the Army has discovered they are extremely flammable when hit by a standard Soviet antitank round.

An armored truck is a good way to transport infantry to a battle zone. But the Army wanted much more than a battle taxi. It intended the Bradley to go right into battle, fighting and shooting alongside its new M-1 tank. So it put on a roof, and a gun turret on the roof, and a missile launcher to back up the gun. Combined effect: A rolling fortress that costs $1.6 million and is so crammed with ammunition and equipment it holds only seven riflemen.

Even before the Bradley went into production, critics worried that it would be a mobile powder keg. They noted that its fuel tanks and ammunition are located in and around the tightly packed occupants. Also, its armor is made of aluminum, which, when hit, creates explosive vapor and hazardous fragments inside.

The Army ignored these warnings. It refused even to conduct a realistic test of the Bradley by firing live Soviet ammunition at a combat-laden vehicle. When required to do so last year by an Air Force colonel in the Pentagon's testing program, it rigged the test to avoid discovering how flammable the Bradley is. The colonel said shots were changed from agreed positions to "the only-possible entry point where the shaped charge would not penetrate stowed ammunition containers" and the test dummies and their sleeping bags "were watered down with a hose to prevent any fires." The colonel was notified he would be posted to Alaska.

Sickened by the Army's behavior, Representatives Mel Levine of California and Denny Smith of Oregon won an amendment requiring that the Bradley be tested realistically. Last week Lieut. Gen. Louis Wagner announced the Army's interpretation of the tests, but not the results.

He said the critics had been proved wrong but that half a billion dollars' worth of safety improvements would be made. That sounds like the critics had a point. Some say the results are even more damning—so serious that the Army has decided to keep the Bradley off the battlefield.

"It would be a pretty dumb commander who would . . . have his Bradleys right behind his tanks." That's what Maj. Gen. John Foss, the Army's chief of infantry, now says. But the Bradley was sold to Congress on just that premise. "The Army feels rather strongly there is an urgent requirement for [Bradley] Fighting Vehicles to fight side by side with the XM-1 tank," Brig. Gen. Stan Sheridan told Congress in 1978.

If the Bradley is now to be just a battle taxi, it doesn't need to cost $1.6 million. An armored truck, costing $100,000, would do the job just as well—in fact much better. Closed vehicles intensify blast, fire and injury when hit by shaped charges or mines, and they can't be easily evacuated. The Bradley is half battle taxi, half light tank, a hybrid inadequate in either role.

Like the inadequate Sergeant York gun, which Secretary Weinberger canceled in August, the Bradley should never have gotten so far into production. As with the Sergeant York, realistic tests, honestly conducted, would have stopped it cold. When will the Army learn? A habit of evading the truth guarantees disaster in battle.

A MOST TRAGIC LOSS

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. GAYDOS. Mr. Speaker, today in this Chamber we, the House, adopted a resolution expressing our sorrow at the tragic loss of those members of the 101st Air Assault Division who died while returning home from their duty stations in the Middle East.

This resolution expresses the sorrow not only of the Congress, but also that of the American people and their condolences to the families of those soldiers who were returning home from their tour of peacekeeping duty in the Sinai Peninsula where, as part of the multinational force and observers, under the constant threat of terrorist attacks, they labored to insure peace for the peoples of Israel and Egypt.

One of the young people who died in that tragic crash on December 12 after taking off from Gander International Airport in Newfoundland, Canada, was Sgt. Peter Schremp, whose family lives in my congressional district.

To Mrs. Schremp, David, Lisa, and the family and friends of Sgt. Peter Schremp, I extend my condolences, those of my colleagues, and, through this resolution passed by the Congress, those of the American people.

Normally, the death of a loved one is a private affair, a time when family and friends gather together to comfort and strengthen one another.

But, a tragedy of the magnitude which claimed the life of Sergeant Schremp and the more than 200 of his comrades in arms knows no such boundary. At such a time, all America grieves.

Yet no one has the words to ease your pain; no one has the means to fill the void that has suddenly occurred in your lives.

And, the anxiety you feel comes at a time when most of the world is preparing to observe the most joyous of seasons—Christmas—and the birth of Christ.

However, it is through His birth that Christians find the words, find the means, and find the faith that sustains them through any crisis, including the death of a loved one.

"I am the resurrection and the life," Christ said, "he who believes in me though he die, yet shall he live and whoever lives and believes in me shall never die."

Sergeant Schremp died serving his country; he lives again serving his God.

CONGRESSIONAL SALUTE TO RABBI DR. EUGENE MARKOVITZ IN COMMEMORATION OF THE 50TH ANNIVERSARY OF OUTSTANDING SERVICE TO THE JEWISH COMMUNITY OF CLIFTON, NJ

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. ROE. Mr. Speaker, on Saturday, January 11, 1986, residents of the city of Clifton, my congressional district and State of New Jersey will join with the Jewish community and congregation of the Clifton Jewish Center in testimony to the most distinguished Rabbi Dr. Eugene Markovitz in commemoration of the 35th anniversary of his outstanding service as the spiritual leader of this most prestigious synagogue center. I know that you and our colleagues here in the Congress will want to join with me in extending our warmest greetings and felicitation to Dr. Markovitz, his good wife Klara, daughters: Rachel Lea and husband Sandford Lurie; Geraldine and husband Cantor Morris Wolk; Heidi Markovitz and husband Steven Stern; and Susan Barbara and husband Brett Walver; son Raphael Sam; and grandchildren: Michael Stefan Wolk; Stephanie Marie and Morgan Stern;

Calanit and Margaret Sarah Walver on this most joyous occasion and join with his family in great pride of his lifetime of achievement in devotion and dedication to the Jewish community and to all of our people.

Mr. Speaker, Dr. Eugene Markovitz has served with distinction in promulgating, enhancing, and preserving the richness of the Hebrew religious and cultural heritage redounding to the spiritual and moral integrity of those of his religious belief as well as materially contributing to the ecumenical spirit of brotherhood, the truth of knowledge, and cultural enrichment of all of our people.

Rabbi Markovitz was ordained at Rabbi Isaac Elcanan Theological Seminary in 1946. He received his B.A. degree from Yeshiva University, his M.A. degree from the University of New Hampshire, and his doctorate from the Bernard Revel Graduate School of Yeshiva University. He also received a postmaster's degree in gerontological practice from Wurzweiler School of Social Work. His advanced degrees in education were acquired in history and political science with American and American-Jewish history as specialties.

As an author and educator, he has earned the highest respect and esteem of all of us. Rabbi Markovitz has served as instructor in American history at Fairleigh Dickinson University and is adjunct professor in history at Seton Hall University. The thesis he advanced as a candidate for his academic degree is entitled, "Henry Pereira Mendes, Architect of Modern Orthodox Judaism in America." Among his many scholarly papers which have been published in national periodicals, we are especially proud of his publications entitled, "The American-Jewish Historical Quarterly," "Jewish Life," and the "Jewish Experience in America" edited by Abraham J. Karp, five volumes.

A gifted speaker, he has lectured before a variety of synagogue centers as well as non-Jewish groups in the field of American-Jewish history as well as current Jewish problems. He has read scholarly papers before the American Jewish Historical Society of Rhode Island, the American Jewish Historical Society and many other prominent institutions of learning and higher education.

Mr. Speaker, there is so much that can be said about Rabbi Markovitz as an ordained spiritual leader and his outstanding record of service to his congregational families, to the entire Jewish people, to Israel, and to the larger community. He served as rabbi at Temple Israel, Dover, NH, for 3 years and has been with the Clifton Jewish Center since September 1949. As a member of Rabbinical Council of America, he has served on many of its committees including: the Israel Commission, Family Life Commission as well as college youth. As a member of the Rabbinic Alumni of Yeshiva University, he has served as vice president and currently as treasurer. He served as chairman of Special Conference on College Youth and is a member of New York Board of Rabbis.

During the three decades-plus that Rabbi Dr. Eugene Markovitz has been with the Clifton Jewish Center he has guided its growth increasing its stature as a fledgling congregation to a strong, unified and prestigious congregation. Two building campaigns during his tenure saw the center's development from a modest edifice at its present site to an imposing beautiful building housing every conceivable Jewish and communal activity.

Dr. Markovitz has been a staunch supporter and active participant in many civic and community programs and we applaud his leadership endeavors in the vanguard of service to people's needs. He is senior chaplain of the police and fire departments in Clifton. He served as a member of the juvenile conference committee and is a founding member and former president of the Family Mental Health Clinic, Clifton. He is a member, human relations commission, the social studies commission for planning sex education for the school system in Clifton, the board of directors of the Senior Citizens Housing Corp., of Clifton, served as vice chairman of the bicentennial commission for the city of Clifton and is a member of the Historical Commission of Clifton.

Mr. Speaker, with the deepest respect and admiration for the honoree, it is a pleasure to call to the attention of you and our colleagues this gala celebration that is taking place in my congressional district in testimony to the good works of Dr. Markovitz whose richness of wisdom and quality leadership have immeasurably contributed to the spiritual, cultural and educational endeavors of our community, State, and Nation. In commemoration of his 35th anniversary as a distinguished spiritual adviser with the Clifton Jewish Center, we do indeed salute a good friend, outstanding community leader, distinguished rabbi and great American—Rabbi Dr. Eugene Markovitz of Clifton, NJ.

REDUCING THE FEDERAL DEFICIT

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. MANTON. Mr. Speaker, when President Reagan took office in 1981, the annual Federal deficit was $78 billion. The deficit for fiscal year 1985 which just ended was a whopping $211.9 billion, up from $185 billion last year. The total Federal debt of almost $2 trillion has more than doubled from $914 billion in 1981. The 1985 Federal deficit is larger than the entire Federal budget was just 14 years ago. this uncontrolled growth in the Federal deficit is a serious threat to the continued economic health of this nation.

On December 11, after months of negotiations, Congress approved legislation that is designed to bring our serious deficit crisis under control. The balanced budget measure signed into law by the President establishes maximum allowable deficits declining by $36 billion each year to reach zero by 1991. If the President and the Congress fail to enact a budget that meets the annual deficit targets, the bill requires automatic across the board spending cuts to reach the deficit goal.

I strongly opposed the original version of the Gramm-Rudman proposal passed by the Senate in October. Under that legislation, the President would have been given broad discretionary power to rework congressional spending priorities, dismantle vital domestic programs, and shield the Defense Department from its fair share of cuts.

The final compromise version of the balanced budget measure passed by Congress closely resembles the first Democratic alternative to Gramm-Rudman overwhelmingly approved by the House in a number of important areas.

First, like the Democratic alternative, the compromise bill requires that one-half of any automatic cuts come from defense programs. Second, the measure exempts the following important domestic programs future automatic cuts: Social Security cost-of-living adjustments; Medicaid; Aid to Families with Dependent Children; Child Nutrition; Food Stamps; Supplemental Security Income; Veterans' Pensions; Veterans' Compensation; and the special supplemental food program for women, infants, and children. Finally, the agreement requires that any automatic cuts must be uniform and across the board. The measure specifically states that it is not intended to give the President any authority to alter budget priorities established by Congress.

Mr. Speaker, I voted for the final compromise version of the balanced budget measure because I believe we must take immediate action to reduce the Federal deficit.

These huge deficits have forced massive borrowing by the Federal Government. As a result, real interest rates have remained far too high, restricting the ability of businesses to expand, modernize, and create jobs. These high interest rates have also contributed to a dramatic decline in homeownership. In addition, high real interest rates have resulted in an extraordinary increase in the value of the U.S. dollar on foreign exchange markets. The overvalued dollar is the primary cause of last year's recordbreaking $123 billion trade deficit which cost approximately 2.5 million Americans their jobs.

Furthermore, interest payments on the Federal debt have risen dramatically over the past several years due to growing deficits. In fiscal year 1986, interest payments on the Federal debt will cost $142 billion, or 15 percent of the entire Federal budget. Barring action on the Federal deficit, interest payments are expected to rise 77 percent between 1985 and 1990, making it the fastest growing item in the Federal budget. These rising interest payments mean fewer Federal dollars are available to fund important domestic programs.

Mr. Speaker, the growing Federal deficit is one of the most serious economic issues facing the Nation. Failing to address the deficit crisis could result in an economic catastrophe that would cost millions of American jobs and impact each and every Federal program. I believe that the threat of automatic budget cuts will force President Reagan and the Congress to take action to reduce the Federal deficit.

One way to meet these reductions is to bring runaway defense spending under control. I believe in a strong national defense. But defense spending must be based on a sound and consistent policy aimed at assuring our military readiness while modernizing vital strategic forces. Nevertheless, despite the largest ever peacetime increase in defense spending, there are serious questions pertaining to our military readiness. Furthermore, the administration has failed to effectively prioritize our defense needs while allowing defense contractors to waste taxpayers' dollars. We cannot afford to throw billions of dollars at wasteful and needless weapons systems like the MX missile. Nor can we afford to pay contractors $7,000 for a coffee pot or $600 for a toilet seat.

However, another way for Congress to reach the deficit targets established by the balanced budget measure is to provide for revenue enhancement along with reductions in defense spending. In that regard, I support a tough minimum tax on profitable corporations and wealthy individuals that have escaped paying their fair share of taxes over the past several years.

Over the past several years, the Federal tax burden has dramatically shifted from the wealthy and corporations to the middle class. In the 1960's when the economy grew at record levels, corporate taxes accounted for 25 percent of Federal revenues. Last year corporate taxes financed just 8.8 percent of Government spending. As a percentage of GNP, corporate income taxes fell from 4.3 percent in 1960 to 1.6 percent in 1984.

Between 1981 and 1984, almost half of the Nation's 275 most profitable companies paid no taxes at all or actually received cash rebates from the Treasury for at least 1 year. In fact, 50 major U.S. corporations not only paid no income taxes from 1981 to 1984, but actually received $2.4 billion in tax refunds even though they made $57 billion in profits during that period. In order to reduce the Federal deficit, these profitable corporations must be required to pay their fair share of taxes. If the Congress will close tax loopholes for wealthy corporations and individuals, and bring defense spending to a more realistic level, the Federal Government will not be forced to cut important domestic programs.

Mr. Speaker, I will continue to work closely with my colleagues to develop a realistic and compassionate Federal budget that brings the deficit under control without imposing unfair cuts on important safety net programs. The Nation's elderly and less fortunate are not responsible for our existing deficit crisis, and they should not be forced to bear the brunt of further budget cuts.

The President and the Congress have an opportunity and a duty to make meaningful reductions in the Federal deficit without resorting to automatic budget cuts. We must take advantage of this opportunity.

THE AMERICAN INSTITUTE FOR FREE LABOR SPEAKS THE TRUTH ABOUT THE SANDINISTAS

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. BROOMFIELD. Mr. Speaker, I commend Mr. William C. Doherty of the American Institute for Free Labor Development [AIFLD] for his frank comments on what the Sandinistas are doing to freedom in Nicaragua. I salute Mr. Doherty for his deep commitment to the development and promotion of free labor in Central America.

In a recent Washington Times article, Mr. Doherty noted that the Sandinista regime has co-opted the revolution and has completely oppressed the people of that poor country. The original goals and democratic orientation of the Sandinista revolution are gone. The Communists in that revolution pushed out the real democrats after the Sandinistas came to power. Those true democrats who backed the Sandinista revolution are now with the Contras and other democratic groups actively opposing the Sandinista government. It is clear that the early revolution was betrayed.

What do the Sandinistas think about a free labor movement? After coming to power, they expelled all AIFLD personnel from that country. The Communist junta then proceeded to take over the entire labor movement. They ordered all workers to become members of a government-sponsored union. Those who refused to join that government union have reportedly been harassed, and others imprisoned.

All of us know of the fine work of AIFLD. It was founded in 1962 with the goal of training and developing Central American labor union leaders. Also included in AIFLD's efforts are the development of labor-related programs and community improvement efforts. That organization supports the concept of letting workers organize freely. AIFLD supports the international free trade union movement, and has promoted its growth. Much progress has been made in Central American countries. In El Salvador, progress in free trade union development has been particularly noteworthy. Unlike the Sandinistas, the Duarte government in El Salvador has welcomed free union development in that country.

I believe that the evidence is abundant. The Sandinistas in every respect are consolidating their Communist revolution in nearby Central America. By any standard, Nicaragua is becoming another Cuba. It is ready, willing, and able to deprive its people of human rights as it undermines neighboring governments and U.S. interests in the region.

With these concerns in mind, I commend the following Washington Times article to my colleagues in the House:

[From the Washington Times, Dec. 16, 1985]

AFL-CIO LEADER HITS SANDINISTA ABUSES

(By Tom Diaz)

Nicaragua's Marxist Sandinista regime is worse than the dictatorship it replaced, says the head of the AFL-CIO's operating arm in Central America.

"The Sandinista dictatorship is even worse than the [Anastasio] Somoza dictatorship," William C. Doherty, executive director of the American Institute for Free Labor Development [AIFLD], said in an interview.

"Slowly but surely . . . day by day the Sandinistas are closing down what few freedoms remain," he said.

Mr. Doherty, who has been active in labor union organizing in Central America for more than 30 years, said he gives the Sandinista regime a grade of "F," compared to a "high C or B" for the Christian Democrat government of Jose Napoleon Duarte in El Salvador.

"Somoza was a bad guy . . . no question about that," Mr. Doherty said of the ruler who was toppled in 1979 by a broad-based revolution and later assassinated in Paraguay by a Sandinista death squad. "He was a selfish, gluttonous and evil person. He denied democracy to his people. There was good reason to have a Sandinista revolution."

But, he said, Marxist-Leninist elements in the Sandinista directorate that now rules the country co-opted the revolution and "completely oppressed the people."

"The majority of the people who were in that revolution were democrats, they believed in democracy," Mr. Doherty said.

Now, he said, "There are more Sandinistas, the true Sandinistas, fighting in the freedom forces than there are in the Sandinista militia. . . . Most of the people who fought in the mountains against Somoza are back in the mountains, fighting against the new Somoza."

The AIFLD, founded in 1962, trains central American labor union leader and works with them in developing labor-related programs, such as community development and credit projects.

The organization, and its officials, from time to time have been thrown out of Central American countries by both right- and left-wing governments offended by its activities.

The Sandinista government expelled AIFLD in 1980, even though the organization worked with labor unions oppressed by then-dictator Somoza.

"We're against fascism . . . and we're very much against communism or any other form of 'ism' that deprives workers of their rights to associate freely," Mr. Doherty said.

The AFL-CIO—which is the parent of the AIFLD—adopted a resolution at its biennial convention in October that asked the international free trade union movement to "condemn the Sandinista regime's violations of trade union rights" and compared Sandinista treatment of labor unions to "Fidel Castro's subjugation of Cuba's trade union movement."

The resolution also condemned "the Nicaraguan government's censorship of the media, its establishment of 'block committees' to enforce political conformity, its massive military buildup, its alignment with Soviet foreign policy, and other activities leading to the consolidation of totalitarian power."

Mr. Doherty said that "within 24 hours of coming into power" the Sandinista government "did what all communists do."

"They took over the whole labor movement and said, now all workers will by order of the government be a member of a government-sponsored union," he said. "Typical communism, in the same way there are no unions in the Soviet Union. They're appendages of the state . . . apparatus."

Mr. Doherty said in recent months the Sandinista government increased pressure on labor organizations and workers who refused to join the official state unions.

"There are hundreds of workers in jail today, the only accusation against them being that they have been disloyal because they're members of free trade unions," he said. "They have been tortured, they have been beaten, their human rights have been totally violated."

On the subject of El Salvador, Mr. Doherty said the country has "evolved into a legitimate, true democracy" led by a popular president, Mr. Duarte.

"The people have spoken and elected their leader," he said. "He continues to try to improve the economic and social conditions of his people and guarantee them liberty, while fighting a full scale civil war which is supported by Nicaragua, Cuba, and the Soviet Union."

He said the "right-wing death squads have been mostly eliminated" in El Salvador and "terrorism in 1985 is coming from the left . . . the communists."

"Labor leaders . . . have to travel with bodyguards and security protection [because of] . . . threats and almost daily signs that the communists would like to knock them off," Mr. Doherty said.

He said the communists are "making new attempts" to take over the Salvadoran trade movement" to "strike politically against the Duarte regime."

Although he generally praised the Duarte government, Mr. Doherty said the country still has a "totally corrupt" judicial system.

Two AIFLD workers—Michael Hammer and Mark Pearlman—were gunned down in a San Salvador coffee shop in January 1981. Mr. Doherty blamed judicial corruption for the country's failure to bring to justice military officers he said are responsible for the slayings.

"The judges are either intimidated by the oligarchy or bought off by them," he said. "That's why no Army officers have ever been convicted."

The labor leader said the United States should continue the Reagan administration's policy of giving aid to El Salvador conditioned on continued progress in human rights and representative government.

He said he opposed a military solution in Nicaragua and called for a world-wide economic and political boycott of Nicaragua.

"If the Sandinistas were revealed to be the pariah that they are . . . the government would fall and you wouldn't have to have any type of outside armed intervention," he said.

Mr. Doherty said the Sandinistas have an effective propaganda organization, and that "some well-intentioned but misguided religious groups in this country," along with a "very strict minority" in the labor movement have been used by the Sandinista regime to promote its cause.

The record of the government in Guatemala still is under study, he said. But the country has made enough progress in its recent election of Christian Democrat Vinicio Cerezo to merit U.S. aid if the president-elect actually is installed, he said.

WATCH ON SURINAME

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 18, 1985

Mr. COURTER. Mr. Speaker, Libya is an African country of modest size and only 3 million people, but its reigning dictator has used oil money surpluses and Soviet bloc support to build international networks of global proportions. Sponsorship of international terrorists and the provision of military training to citizens and armies of the Third World are Colonel Qadhafi's two specialties.

The colonel may now be reaching across the Atlantic into the small coastal country of Suriname, according to reports of recent months. The reigning dictator in former Dutch Guiana is a pro-Castro military officer like Qadhafi; his name is Lt. Col. Desi Bouterse. In spite of continuing and generous Dutch assistance—$100 million a year until 1990, according to Jack Anderson—Bouterse is apparently incapable of carrying on without other aid, and has recently been promised $100 million by Qadhafi.

According to Michael van Notten, a consultant to a Surinamese opposition party based in Holland, money is only part of a Libyan package for the Governor of Suriname. He states that there are 243 Libyans in the country, some of whom are training troops and others who may be training non-Surinamese guerrillas. The United States State Department is aware of 14 Surinamese training in Libya at present, though for unknown purposes.

While these charges are extremely important, none of them is very surprising. We all recall the varied internationalist mix of Eastern Europeans, Cubans, Soviets, North Koreans, and so forth, present in Grenada when that Caribbean country was ruled by Marxist-Leninists. Colonel Qadhafi has been involved with radical movements and guerrilla and terrorist organizations in Central America, and once praised the revolutionaries there "who are going to follow the Vietnamese and Nicaraguan precedents and destroy the bases of U.S. fascism." The President of Costa Rica has complained of both Libyan and PLO interference in his democratic country. Qadhafi's relations with the Sandinistas are particularly warm, and have been the subject of a State Department study of last August; they include weapons transfers to Nicaragua.

The recent reports about Suriname thus deserve to be taken with gravity. Allow me to introduce into today's Record two articles detailing some of them in order that my colleagues will notice this quiet geopolitical change. The first is by the columnist Jack Anderson, as carried by the Washington Post. The second was an exclusive report by Vicki Rivera of the Washington Times.

The articles follow:

[From the Washington Post, Dec. 2, 1985]

Suriname Becoming Another Cuba

(By Jack Anderson and Dale Van Atta)

Suriname is developing into another Cuba-style dictatorship in the Western Hemisphere. Marxist strongman Desi Bouterse, desperate for cash to keep his repressive regime afloat, has turned to two tainted sources of money: Libya's dictator and Colombia's drug dealers. But he's learning that there's no free lunch in foreign aid.

When the Netherlands granted its South American colony independence in 1975, the Dutch promised $100 million a year in aid until 1990. The stipend continued even after Bouterse's military coup in 1980 and his growing leftward tilt.

Bouterse cultivated and modeled himself after Maurice Bishop, then the Marxist prime minister of Grenada. At Bishop's suggestion, Bouterse succumbed to Fidel Castro's overtures and welcomed a Cuban ambassador to Paramaribo in September 1982.

Cuban aid soon followed, as did the quid pro quo, Dozens of Cubans arrived in Suriname to assist Bouterse in setting up a Marxist dictatorship—which would be under Castro's control. The Cubans trained Bouterse's bodyguards, and even acted in that capacity themselves. Surinamese officials were sent to Cuba for indoctrination.

Both the Dutch and U.S. governments (the United States was also sending Suriname some modest aid) grew increasingly uneasy at the blossoming Bouterse-Castro relationship. In December 1982, when Bouterse rounded up and executed 15 opposition leaders, Dutch and American aid was cut off.

Castro, himself dependent on Moscow gold to bolster the shaky Cuban economy and his foreign adventures, proved slow in providing the money he had promised Bouterse. So, according to our CIA sources, the Surinamese dictator accepted the offer of a loan from Colombian marijuana and cocaine traffickers.

Meanwhile, Brazil, which borders Suriname on the south, woke up to the danger of this Castro foothold and sent a military force across the border in April 1983. Literally under the gun, Bouterse agreed to decrease the Cuban presence in his country in return for a $300 million aid deal with Brazil.

Bouterse dragged his feet on the bargain, until Bishop was deposed and murdered by Cuban-backed Grenadan Marxists. Blaming Castro for the death of his friend and mentor, and fearing for his own neck after the U.S.-led invasion of Grenada, Bouterse sent his Cuban advisers packing. Though he had previously claimed that there were only 15 Cubans in Suriname, about 100 were kicked out (leaving only eight, according to our sources).

This left Bouterse with nothing but his own poverty-stricken populace and the Brazilians to support his dictatorship. He needed more money, and gratefully accepted a promise of $100 million from Libyan dictator Muammar Qaddafi.

What does Qaddafi expect for his money? Our sources say he hopes to expand his influence in South America. He also wants Surinamese passports for Libyan assassination squads, and hopes to supply them to his Palestinian terrorist sidekicks as well.

[From the Washington Times, Oct. 24, 1985]

LIBYA REPORTED DRILLING TERRORISTS IN SURINAME

(By Vicki Rivera)

In return for the promise of $100 million in badly needed aid, Suriname strongman Desi Bouterse is permitting Libya to train terrorists in his country to use against other Caribbean nations, according to a Dutch political analyst.

With the cutoff of Dutch aid after the 1982 execution of 15 prominent opposition leaders and the falloff in revenues from bauxite, the main export commodity of Suriname, Bouterse's regime is desperate for cash, said Michael van Notten, a consultant to the Council for the Liberation of Suriname, based in the Netherlands.

Mr. van Notten was to accompany a delegation of Surinamese resistance leaders in exile on a visit to Washington, but the members of the delegation were apparently intimidated after seeing some of Mr. Bouterse's men in New York and decided to return to the Netherlands.

Mr. Bouterse, a former sergeant who took power in a 1980 coup, addressed the U.N. General Assembly in New York on Tuesday.

The agreement between Libya and Suriname was reached in February, Mr. van Notten said, and a Libyan's People Bureau was set up in July. A total of 243 Libyans are now reported to be in Suriname, 30 of whom came from neighboring Guyana, where they were believed to have conducted training in subservice activities, and 50 from Chad.

However, the State Department said it had no information to verify what it characterized as "rumors" of Libyan activities in Suriname.

"The Surinamese government is well aware of our concern about the development of relations with Libya," a State Department official said. "We made a point of saying that we don't want to see Libya using Suriname as a base of operations. They appear to be taking our concerns into consideration."

"The Libyans had learned to speak the local language, so they obviously planned a long stay," Mr. van Notten said.

About 40 Libyans are training Surinamese troops in the main airport, and another 200 set up a military camp in the midwestern part of the country where they are reported to be training non-Surinamese, he said.

"Most likely they are training rebels from [neighboring] French Guiana who are opposed to French rule. We also assume they're in contact with the independence movement in Guadeloupe."

A number of terrorist bombings have occurred in Guadeloupe in the past year.

The Libyans have established contacts with sympathizers in Aruba and Curacao and are believed to be building up a network that would use Aruba (an island off the Venezuelan coast) as a springboard from which to launch operations in Venesuela and Colombia, Mr. van Notten said.

A BULLISH PERSPECTIVE ON THE ECONOMY

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. KEMP. Mr. Speaker, the critics of Reaganomics are confused and in disarray. Despite their dire warnings of economic catastrophe, the U.S. economy keeps growing, generates record new jobs, and reaches closer to full employment without inflation. Tax rate reductions have begun a sea change in economic thinking about incentives and economic growth—a change in thought as sweeping as in 1932.

In a recent speech, William F. Gorog, president of the Magazine Publishers Association, has contributed to this revolution in economic thinking. His speech not only reviews the strength of this recovery, but he also punctures some common myths about jobs, interest rates, and deficits. My colleagues will be interested in Mr. Gorog's predictions of 5 to 5½ percent economic growth next year, and will find persuasive his reasons for optimism.

Bill Gorog's speech is an insightful, lucid, and intelligent look at today's economy, and I insert it into the RECORD for the attention of my colleagues and others.

REMARKS OF WILLIAM F. GOROG, PRESIDENT, MAGAZINE PUBLISHERS ASSOCIATION BEFORE THE 1985 AMERICAN MAGAZINE CONFERENCE

THE MAGAZINE INDUSTRY IN 1986 AND BEYOND

Several months ago, two of our board members suggested that it might be valuable for me to devote my time at this magazine conference to a forecast for the magazine industry for the year 1986. It brought to mind a comment that I frequently hear from my friends in Washington concerning the need for economists to cloak themselves in Heller's law—which simply stated is, "Never put a forecast and a date in the same sentence".

I find myself trapped in this instance by the title of the speech and will be forced to look at the specific time frame of 1986 but first will spend some time trying to analyse the confusing factors that must be considered before we can say that 1986 will be rare, medium, or well-done for the magazine industry.

It is apparent from recent published articles that the state of the art of economic forecasting is in total disarray. To show you what I mean, let's examine what we have read over the last few years concerning federal deficits, strength of the U.S. dollar, debtor nation status, and the problem of our international trade imbalance. We have been hearing doom and gloom for over three years on all of these subjects, and yet as my friend, Sid Jones, Under Secretary for Economic Affairs at Commerce said recently, "The U.S. economy appears to be running on an empty tank and has been doing so for three years—but without any impairment".

Let's first look at the issue of the deficit. Our leading prognosticators, both inside of the administration and out, stridently told us that huge government deficits would cause an inflation crowding-out, high interest rates, lack of funds for private capital investment and high unemployment. What in truth has happened? Inflation is now down to the lowest point since 1972, crowding-out has not happened—apparently because of the massive influx of foreign investment, interest rates have dropped, and the unemployment rate, rather that rising, has been falling. All of which is unexplainable in normal economic terms.

We have also read a great deal about the problems of the U.S. dollar. Everyone wants to bring its value down and no one quite seems to understand why it's staying up. At one point we were told that the dollar was strong because of high inflation and high interest rates, sucking investment dollars from the rest of the world to the United States for treasuries and other commercial paper.

Strangely enough, when inflation rates went down and treasury rates went down accordingly, the dollar ascended to an all-time high, blowing that theory of why the dollar is overvalued. It's interesting to point out that many of these analysts seem to adapt their theories to the current situation, because there was a time when the strength of the dollar was based on sound U.S. fiscal and monetary practices, low inflation rate, and high GNP growth—the reverse of the explanation that is now being given for the same situation.

Let's look for a moment at the confusion picture concerning the U.S. trade imbalance. Again many analysts tell us that we're on the verge of absolute disaster because of the trade deficit. The imbalance should be pulling massive numbers of manufacturing jobs out of the United States creating high unemployment. A short trip through history, however, points at some unusual statistics. Our worst unemployment picture in history was during the great depression of the '30's when we had a relatively high trade surplus and the dollar was very competitively positioned. The largest trade deficit in history occurred in recent months and interestingly enough, unemployment has gone down. We have actually added nine million new jobs since 1979. In the same time period Japan added three million and Europe lost one million. In August of this year, the total number of manufacturing jobs rebounded in a major way.

Let's talk for a moment about our debtor nation status. Columns have been filled with the story of our sudden shift not only to a debtor nation status but they also predicted that we will shortly become the biggest debtor nation in the world—with the insinuation that the United States has suddenly become a banana republic with credit stature similar to many of the lesser developed nations. But what do those numbers really mean? The numbers reflect what foreigners have invested in the United States, and what we have invested overseas—in plant, equipment and properly as well as in commercial paper. Part of the underlying story, however, hasn't been told. Most major capital investments on the part of U.S. companies overseas were made several decades ago. These numbers represent our book value dollar investments made 10, 20 or 30 years ago. It's interesting to note that the major foreign investment in the United States has taken place in the last 10 years, with the bulk of the investment in the last 6. Which means on the basis of calculating value, what's carried at book two or three decades ago does not reflect the huge appreciation in value of those assets. When balanced to current value, we probably have a positive balance in the range of 300 billion dollars rather than being a debtor nation.

What does all this analytical confusion mean, as far as 1986 is concerned? Attempting to forecast for our industry on the basis of the prediction we've just discussed would be futile. I fully expect anytime now to hear Irving R. Levine state on the evening news that "There's bad economic news tonight—in the last quarter meaningless statistics were up five percent!" I would, then, suggest that the current econometric models don't work, that looking at any single piece of the picture can be very dangerous, and that we are entering a period of global economics that will require us to reevaluate our entire system for predicting the future.

Interestingly enough, with much talk about looking at the world economy, almost all of the issues that I have discussed, result from forecasts based on historical data from the sample of the American economic system. Our experts tell us, for example, that we can't have a strong economy if we don't have a strong base of manufacturing jobs. If this is true on a national and international scale, why wouldn't it also be true state by state? Why is it possible for North Dakota, Idaho and Wyoming to be relatively prosperous states without a manufacturing base? The answer given quickly of course, is that the U.S. economy is an entity; it works together and balances. But if this is true and we have truly entered a global economic environment, what's wrong with manufacturing in Taiwan, using the product at a lower price, providing a higher standard of living or U.S. consumers and moving U.S. workers to service industries? I am not proposing this as a solution and an answer. But I am suggesting that there are forces at work defining our future that are much too complex for mere computers looking at historical statistics to solve.

Let's forget the meaningless statistics and try to apply some common sense to estimate the 1986 business environment. Looking at the economy, '86 and beyond, and specifically what it means to our industry, I would suggest that if we're going to have a good 1986, we need three fundamentals: (1) a continued low rate of inflation, (2) interest rates which are lower than they are today, and (3) a major resurgence in a major sector of our economy.

Let's ask ourselves the question before we forecast 1986—What are our chances that these fundamentals can be in place? First, let's consider inflation. Contrary to predictions of some significant forecasters, I cannot believe that we're going to see an increase in inflation in 1986. These forecasts, I believe, are based on all of the fears we just discussed: the deficit, crowding-out, strength of the dollar, our international trade imbalance and our so-called debtor nation status. But going back to the fundamentals we spoke of before, let's really think through the inflation issue. How can we have accelerated inflation in 1986 when there is a world abundance of everything: beef, cotton, corn, soy beans, copper, steel, automobiles, VCR's telephones, semi-conductors, oil, gas, coal, and an international over-supply of labor. There is also an abundance of money and banks are shopping for loans. Think about our own industry, there is not a single thing that we purchase that isn't terrifically competitive and even our fears of a paper shortage have disappeared.

Therefore, basic #1 for 1986 says to me, forget the econometric models—we will continue to have a low inflation rate through the entire year. We may see deterioration of corporate profits of manufacturing companies but in the sea of oversupply, the inflation rate will remain steady.

This in turn, means that we should see a drop in long-term interest rates. Historically, long-term rates should not be more than 3 to 3½ percentage points above the inflation rate, but for a long period of time, we have experienced artificially high rates because of national concern about the resurgence of inflation. If the prognosticators are wrong and I am right, we should see a drop in long-term rates as early as the beginning of the first quarter 1986. When those rates descend below 11½ percent, I believe we'll see the third needed factor for 1986 falling into place—and that is, we will experience a major housing boom. The 11½ percent point seems to be a psychological barrier for many and a real barrier for most concerning the ability to either up-grade or buy new housing. When that barrier passes, the pent-up demand for housing will energize the forest products, appliance, plumbing, electrical, and the construction industries. This in turn will accelerate GNP growth in all other segments of the economy. Now, I am not suggesting that 1986 is going to be a boom year. As a matter of fact, I would hope that it's not, for what we need more that anything is a continued period of stability without major fluctuations. But if I have to pin myself to a GNP forecast for 1986, I would suggest that we will see between a 5 and a 5½ percent growth for the year.

Now that I have stuck my neck out on the subject of the economy as a whole, what can we expect for magazines in 1986? We've done a lot of hand-wringing in 1985 with the current outlook being a flat year for lineage and no more than a 5 percent increase for advertising revenues. Again you have to be careful about being too pessimistic about these results. The numbers are flat, but compared to what? You have to remember that we have just come off two incredible years. 1983 and 1984 represented a 33 percent increase in ad revenues for our industry—up 1 billion, 200 million in total dollars. 1984 also had the Olympics and the elections, causing a major lift in ad lineage. So in perspective, '85 is slightly up over '84 but it is still going to be the best year in magazine history in revenues.

More important, however, is how we can position ourselves as an industry to put ourselves back on the growth track of 10 to 12 percent a year. I suggest we can only accomplish that objective if we reevaluate our marketing programs, recognize the major change that has taken place in consumer demographics, and seize the opportunities that this change offers our industry.

We were recently present at a sales meeting of a major consumer magazine that happens to be #1 in pages and ad revenue in its field. The sales manager was complaining about a slight loss in pages for the first seven months and exhorted his sales people to get after the competition to make up the deficit. Think just a moment about that kind of solution to his problem. He's already #1 on everybody's schedule, and a reduction in pages probably means that his advertisers were reducing expenditures for media across the board. His opportunity for improving his position is not in growth at the expense of other magazines in his class—the opportunity for growth is in convincing major clients and advertising agencies that they need to spend a larger portion of their total media budget in magazines. Our research has shown that when clients increase their print budget, everybody wins, the schedule gets longer and the original magazines get additional pages. When budgets are cut, schedules are shortened, and pages diminish. The bottom line is that we must place more emphasis on greater use of magazines and then everyone wins.

MPA's efforts and emphasis in 1985 have been devoted to major presentations to clients who have the potential of making major changes in their media mix. Included have been presentations to Pontiac. Oldsmobile, Kraft Foods, Tandy/Radio Shack, IBM, and Compaq. Our message is simple—consumer demographics have changed dramatically. 51 percent of the adult women are now in the work force. Women in the 35 to 44 age group, have reached the phenomenal level of 67 percent in the work force. These families have more discretionary income—are watching less television and reading more magazines. When this message reaches clients, they can be convinced that more effective use of their advertising dollar can be made if they change their media mix to reach their lost audience through magazines. In the case of Kraft for example, we pointed out that a shift in media mix from 20 percent magazines and 80 percent television to 50/50 would create a major increase in gross rating points at no additional dollar cost.

These messages are powerful and effective. As you know 18 months ago we made major presentations of this nature to 24 cosmetics and toiletries companies. We tracked their magazine expenditures very carefully over the following 12 month period and some startling facts were apparent. The companies who heard our presentations on media mix increased their magazine spending by 25 percent—a total of 34 million dollars in the 12 month period. A control group of companies that did not have the presentation had less than a 5 percent increase in the same period. The story is loud and clear. If we all start to sell magazines generically, we'll not only get more pages for our own books but the results will increase schedules down the line.

In 1986, MPA will continue to emphasize presentations to major package good manufacturers, continue efforts in the computer field, and start a new effort in financial services. You have to understand, however, that MPA's resources are limited, and while we have a better opportunity to reach clients who may be cautious of individual sales reps, everyone has to start selling above the level of the print buyer. The story of the new American consumer demographics has to reach advertising executives who make media planning decisions and the client's major advertising executives.

This is our challenge for 1986 and beyond. We can expect a 5 or 6 percent growth if we just roll with the economy but if we want to get up to the 10 to 12 percent range in 1986, we're going to have to do it by creative selling and by understanding that we need to sell as an industry.

We have the best research, authentic audience data, and the best trained sales force in the media business. I'm not satisfied with a 21 percent share of total national media revenue. Let's make it change in 1986.

REDUCING FEDERAL SPENDING

HON. DICK CHENEY

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. CHENEY. Mr. Speaker, earlier this year, Mr. James Rouse of Saratoga, WY, came up with the idea of sponsoring an essay contest with cash prizes for the best essays on what the average citizen can do to reduce waste of the Government's money. Using his own money, Mr. Rouse paid $1,000 for the first prize, $500 for the second, and $250 for the third prize, to three young people in his community who researched and wrote essays on this important subject.

I am pleased today to submit for publication in the RECORD an essay entitled, "What the Average American Can Do to Reduce Our National Debt," by Alysia Andrikopoulos of Encampment, WY, who received first prize for her work. I hope it serves as an inspiration to others to take an interest in the affairs of their Government.

WHAT THE AVERAGE AMERICAN CAN DO TO REDUCE OUR NATIONAL DEBT

(By Alysia Andrikopoulos)

Can you fathom 90 million miles? In inches, that is 5.5 trillion—or the number of dollars our federal goverment will spend in the year 2000 if it maintains its present policies. The result of spending more than the government takes in means that by the year 2000 our federal deficit could reach $2 trillion. That affects each American taxpayer—$18,000 a year in interest alone. Government waste and spending inefficiency has contributed to a present deficit of $195.4 billion.

If the government continues to spend as it currently does, it will erode the American social and economic systems. The deficit burden will effect future generations; if nothing is done now, the deficit will cause higher taxes, inflation, interest rates and unemployment. To resolve these problems, the government must assess priorities and make government programs more efficient. This essay will discuss the Grace Report and the ways that we, as average citizens, have the opportunity to influence these problems by publicizing them and organizing pressure groups, keeping in mind the resources available to us and the progress that has been made, remembering that hard work, sacrifice and perserverance will be absolutely necessary.

In 1982, President Reagan appointed J. Peter Grace head of the President's Private Sector Survey on Cost Control to suggest ways to eliminate excessive federal expenditures. The Grace Commission Report produced ninety-eight pounds of reports and 2,478 proposals for reducing waste, overspending and inefficiency. Their main recommendations were: correcting organizational defects, reducing program waste and inefficiency, improving management of federal work force, overcoming systems management. If implemented, these programs would save $424.4 billion in only three years.

Now that the Grace Report has been concluded, the urgency to resolve this Armageddon of spending, waste and inefficiency is extremely tangible. The American people need to realize this urgency and work toward stimulating government action. The average American citizen has a responsibility to demand a halt to wasteful government operations and spending.

The United States has a democracy that works of, by and for its people; and people should become more involved in making the government work! This must occur through a return to active communication with our local representatives. As the central portion of our federal government seems so distant, Americans don't always think of how they can influence it. Before the Grace Commission reported its findings, Americans thought their government worked efficiently. Now we know better, and can, from the local level, demand greater efficiency and governance in the spending of our tax dollars. Our federal government consists of representatives from states; the state governments consist of local representatives. It works like nature's good chain pyramid; therefore, if we demand action at the base, the top will be effected and know how to represent us. Let us cultivate at our local levels an attitude and a desire to save and be more efficient. More directly in this pyramid, we can elect the representatives and officials that we know will work toward our demands; with the present problem at hand, we can make the government deficit, spending waste and inefficiency a major part of campaigns. As seventy-three percent of the Grace Report's proposals will require direct congressional action, and the remaining proposals can be influenced by Congress, the citizens of this country need to take advantage of the freedom to voice their opinions.

The people aware of the Grace Commission's survey need to increase public awareness of the report. One can do this in many ways: essay contests, book and resource distribution, public speaking, letters to news editors, etc. There is no end to the things an individual can do to increase public awareness of the Grace Report. Organizing pressure groups will have a snowballing effect and make a greater impact on Congress to reduce the federal debt. Our Constitution provides us with many means of communicating our thoughts: petitioning, lobbying, freedom of speech and press. Organizations should take advantage of these freedoms in working toward their common goal.

One thing to keep in mind, is the fact that much has been accomplished in working toward reducing government inefficiency: Don't reinvent the wheel. First of all, the Grace Commission has already researched everything one need to know on the subject; use their pamphlet, books and leaflets—they are for us. Next, groups have already been formed; become directly involved with them to make their force stronger. Peter Grace and Jack Anderson formed a group in which one goal is a petition of 50 million signatures urging fiscal discipline. Citizens Against Waste is another Grace-inspired pressure group. Finally, economists have proven advice that could better our economy and eliminate a deficit; read about such outside information to direct yourself or organization toward accomplishment. Creative use of available resources will expediate work toward government efficiency.

People need to be prepared to sacrifice something to put this country on the right track. Whether this sacrifice be social security, farm subsidies, defense spending, welfare or food stamps, we all know that something will inevitably have to be given up. However, what an individual gives up is small compared to the good it will do the national economy.

A large federal debt has been pinpointed as an economic problem to the U.S.; this is something that we cannot afford to be apathetic about; this is something that in a democracy we can do something about. There are many things one can do to work toward the reduction of this debt: demand government efficiency through our representatives, elect people to represent our ideas, publicize our ideas, join groups, use available resources.

As a Taxpayer Survey of the Grace Commission Report says, "If everyone who read this book did just one thing to help implement the Grace proposals, the impact on Congress would be overwhelming."

This is the problem, this is a democracy, we are the people, and we can help.

JAPAN-TARGET OF UNFAIR TRADE PRACTICES

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. DORNAN of California. Mr. Speaker, we are all concerned about the unfair trade practices of other countries that rob American manufacturers of overseas markets. But I was recently reminded of one particular case of unfair trade being practiced by one of our closest allies, Japan, against another of our closest allies, Israel. It has very little to do with trade and everything to do with blackmail, cowardice, and anti-Semitism.

Our former colleague, Mayor Ed Koch of New York City, for whom I have strong admiration and respect for his guts and plain talk, recently wrote me a letter outlining what surely is Arab blackmail of Japan, which imports all its oil, is engaging in a boycott of Israeli made products at the request—read "demand"—of Arab oil countries. That this also adversely affects American companies put on an Arab boycott list for doing business with Israel is reason enough for American anger and action. But that Japan, our close friend and ally, remains content to submit to this blackmail—as it did during the Arab oil embargo of our country—is a source of great disappointment and frustration. It is my fervent hope that our Japanese friends will soon realize that Israel is our most reliable ally in the Middle East and have the guts to end their embargo against Israel.

Mr. Speaker, I urge all my colleagues to read the following remarks by Mayor Koch and the transcript of his conversation with Norishige Hasegawa, vice chairman of the Keidanren, the Japanese equivalent of the Chamber of Commerce.

THE CITY OF NEW YORK,
OFFICE OF THE MAYOR,
New York, NY, December 6, 1985.

Hon. ROBERT K. DORNAN,
U.S. House of Representatives,
The Capitol,
Washington, DC.

DEAR BOB: I just returned from eight days in Japan. While there I met with a number of government officials, from Yasuhiro Nakasone, the Prime Minister of Japan, to Shunichi Suzuki, the Governor of Tokyo. I also met with a number of businessmen including members of the economic business council known as Keidanren.

On every occasion there was a discussion about free trade and Japan's fear that the United States might in some way restrict access to its markets through protectionist legislation. In each instance I was asked for my opinion on the subject. In sum, I responded as I think many other Americans would with the opinion that I do not believe Japan practices what it preaches. Japan, itself, does not engage in free trade. I pointed out the following three illustrations to underscore that point, although I am sure there are others.

First, Japan engages in cartel operations where businesses receive substantial government support. Indeed, government/bank financing is arranged in a way that would not only be unacceptable practice in the United States but indeed would be an illegal restraint of trade. This support structure gives Japanese companies inordinate advantage in their competition with United States firms.

Second, there is an inbred predisposition among the Japanese to buy Japanese made goods, in preference to foreign made goods whenever they are available. Culturally, the Japanese aren't moved by the concept of free trade and open markets when it comes to their own buying decisions. This is not meant to be a criticism of the Japanese, in fact to the contrary, I wish more Americans felt the same way about our own products.

Third, the Japanese government allows, and I believe engages in, a boycott of Israel at the request of Arab oil countries. The boycott has been extremely effective in limiting purchases by Japanese firms of Israeli-made merchandise to minimal proportions. It has also had the effect of severely limiting the sale of high-technology products produced by Japanese firms, which are available for sale to other countries of the world.

I raised these three illustrations with Norishige Hasegawa, who is the Vice Chairman of the Keidanren, which is the counterpart of the National Association of Manufacturers here in the United States. It is perceived as the most important business group in Japan. Mr. Hasegawa conceded that all three of my accusations had substance. He personally believed that these circumstances should be addressed and corrected. The actual conversation that I had was recorded, and I'm attaching a transcript which I believe you will find of interest.

I raised the subject the next day with Prime Minister Nakasone. While he was willing to concede the need to address the first two issues, he was adamant in his refusal to take any action to eliminate Japan's support of the Arab boycott against Israeli firms.

The brazenness of the Japanese companies was recently demonstrated when Mazda, a major Japanese automobile company, announced that since the Ford Motor Company had been removed from the Arab boycott list, it would now work with Ford in some collaborative effort.

What we are now seeing by Japanese companies, and I believe it is with the full support of the Japanese government, is not only a boycott of Israeli manufacturers, but a boycott of American companies complying with American law prohibiting submission to such Arab blackmail. Such a circumstance must enter into any consideration of our trade relations with Japan. American companies should be protected against unfair competition and it is hypocritical for the Japanese to hide behind the principles of free trade in opposing such legislation, when their business practices are quite the opposite.

If to date you have been guided by your beliefs in free trade or were undecided on the issue of protectionism vis-a-vis the Japanese, I urge you to consider what I have said.

All the best.

Sincerely,

Edward L. Koch,
Mayor.

Ed Koch and Keidanren

First let me say to you Mr. Hasegawa, and the members of the various firms who are here: I appreciate the opportunity to talk to you and answer a few questions. Let me also say at the outset that most people of America by virtue of Japan's economy believe that Japan won the war.

Secondly, let me say about the strength of the dollar when I'm in New York City, I get so upset that the dollar is so strong and so adversely affects our exports—but when I am in Japan as a tourist I am so upset that the dollar is so weak.

Just a word on the relationship that affects the United States from my vantage point. Obviously I am not a member of the federal government, but I think I know the thinking of a lot of people in the United States just by being mayor of the largest city in the United States.

People are upset, rightly or wrongly, that the United States has such an adverse balance of trade with Japan and what they see is that unlike the U.S. where we have true total free economy that the economy we believe that Japan is so organized with the government—with the banks and with the industry, that you are able to use business methods, cartels, dumping of products, subsidizing of products that we are not able to do under our law. We may be wrong about it but that's the general feeling.

That may be totally wrong and probably the true answer is that the Japanese businessman happen to be the best businessman in the world. But you're going to have to get us a little handicap. If in fact it is only attributable to your business ability even though you would believe that that's simply an asset we have to deal with vis-a-vis you, the perception is that it is not the reason—perceptions are the prior reasons I gave you, and you have to deal with that.

Two other things that affect the Congress as it now discusses taking measures that relate to our export/import relations with Japan are: One, the perception that in Japan the Japanese citizen is conditioned to just buy Japanese whereas in America the American citizen is conditioned to buy foreign. The American citizen when he buys a piece of junk (never from Japan because Japan does not sell junk)—but when he buys a piece of junk that has the name of a foreign country on it, he shows it off with pride. So you have to condition Japanese citizens not to buy American junk but to buy American good things and show them off with pride.

The third thing that is on the minds of a number of people in the Congress and elsewhere, mine included, is the lack of rationality in the argument that the Japanese use to support free trade. They say free trade is food for the world and you in America should not be protectionists.

We say that the argument of the Japanese is flawed because they don't engage in free trade yet some people will say—look at the boycott they have of Israel. They don't buy Israeli products in any large amount nor do they sell the top line technology to Israel because of the Arab boycott. That's unacceptable to Americans who believe that you may not, if you believe in free trade, engage in anti-free trade with a friendly country like Israel with which you have diplomatic relations and with which we have diplomatic relations.

I would urge you to ask your government to address all of those issues because I think it is important to the good relations between Japan and the United States from an economic point of view.

One last word by way of invitation coming from the City of New York and then if you have questions I will be delighted to respond.

I, as Mayor of the City of New York, have established a climate in that City that is helpful to business.

Alair Townsend, who is the deputy mayor on economic development, each and every day does what she can with my support to cut business taxes, to reduce the price of energy and to make it easy for you to acquire large plots of land cheaply where you can build factories.

Let me give you one industry that if you could get people to come to New York City to create you have no competitors in a lot of businesses.

We have in New York City a vacancy rate for residential buildings of less than 2 percent. We need private, one or two family homes to be built and apartment houses, not necessarily skyscrapers, but 6–8 stories high and to be built cheaply.

We do not have in New York City a factory that creates prefabricated housing. We need one. If you came there and built such a factory, it's unlimited the number of apartment units that we would be able to buy if you sold them cheaply.

Why don't I stop there and take questions:

Firstly, we have in the City of New York foreign trade zones where you can build a factory, and you're not taxed on what you create there unless you bring it in to the country for sale. But if it's for sale in other countries—there's no tax—and the benefit we get out of it is that you use our workers.

If you want to build a real factory not in a foreign trade zone for transmission to some other country, but because you want to sell in our country it's not just simply in the north part of the city that you referred to that land is available. The most attractive property in the City of New York today was formerly the Brooklyn army base which is right along the water, has wharves that your ships can come to and has 5 million sq. ft. of vacant space that is available today, and she has got the lease to it. Four dollars a square foot.

In the same Brooklyn army base you can get 5 million sq. ft. or any part you want at $4.00 a ft. The energy costs have been reduced for the first 5 years by 48 percent of what anybody else pays in Manhatten and then after 5 years it's 30 percent. That's a real bargain, and I don't know how long I'm going to be able to offer it.

Now I want to turn to the subject of the boycott of Israel which you can see is in effect here in Japan, and I know it to be so. It is unacceptable from an American point of view that the great country of Japan would knuckle under. The western European countries have not knuckled under. They do not permit the boycott. In addition, there may have been a time when Japan worried about the purchase of Arab oil. Today the Arab counties beg you to buy their oil, because there is a world surplus of oil. So today is the day when you should say to the Arabs—we have the same courage—we have the same philosophy as our allies in America and as our allies in Europe. They did not submit to your blackmail. We will not any longer.

HASEGAWA. We feel that the requests that you mentioned are very correct and that you wisely mentioned the oil situation has been changed so I think this gives a good chance at present to make that sort of assertion which you mentioned.

So we will work on our part to talk to our colleagues and also work on the Japanese government. I am embarrassed to confess that we were not aware of some of the points that you have mentioned so we would like to relay the points that you mentioned to our colleagues and like to give it serious thought.

When are you next coming to New York? I want to take you to a nice Japanese restaurant.

PROFILE: GERALD GIDWITZ

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday December 19, 1985

Mr. HYDE. Mr. Speaker, one of America's most patriotic and energetic citizens is Gerald Gidwitz of Chicago, IL.

I am proud to know him and count him as a good friend and to provide for my colleagues a profile of his career that appeared in the Chicago Tribune of December 16, 1985:

GIDWITZ CLAN GENERATES GOOD BUSINESS

(By Sally Saville Hodge)

Gerald Gidwitz speaks with mock self-pity. He has started various businesses—most notably Helene Curtis Industries Inc. and Continental Materials Corp.—and brought his family into them, as any good father would.

"I let them run the companies," he said of his sons Ronald, 40, chief executive of Helene Curtis, and James, 39, who, along with his uncle Joseph, 80, runs Continental Materials. "And they took my jobs away."

But he shrugs it off with a grin: "So I just start something else."

At 79, when most men have long since given up the grind for a life of leisure in the Sun Belt, the patriach of these old-line Chicago businesses is actively pursuing business and civic interests.

On the business end, he has bought several small, ailing farm equipment companies, consolidating them in one plant for better operating margins or greater productive efficiencies.

On the civic side, his interests range from fighting Communism—through pamphlets he writes and his involvement in the Jamestown Foundation, an organization dedicated to helping Communist defectors—to education, particularly to help people get off welfare.

It keeps Gidwitz busy enough that he's trying to hire an assistant.

In his office at the downtown headquarters of Helene Curtis, a hair care product firm, he gestures at a pile of books and papers cluttering a table. They all relate to a farm equipment company, whose sales have plummeted to $8 million from $25 million and is verging on reorganization under Chapter 11 bankruptcy laws.

Gidwitz is trying to decide whether the company is salvageable.

Why the interest in farm equipment companies? "I look at things all the time, farm machinery among others," he said.

Besides, Gidwitz added with a smile, he has not lured his youngest son, Tom, into business. He expresses exasperation that his persuasive powers have not budged the 32-year-old aspiring novelist but modest pride that some of his literary leanings have been passed on. Two other children, Nancy 37, and Peter, 35, also aren't in family-related business.

Gidwitz got into the farm machinery business several years ago when he acquired a Mankato, Minn., manufacturer. He later acquired a second company and consolidated operations in one plant in Minnesota.

He's undecided whether the latest manufacturer to come to his attention will join the fold. "This company doesn't have the margins," he said. "The question is what has to be done to improve them. Maybe their prices are too low. If so, a 10 percent increase might help. Could they cut costs? Is it an efficient plant?"

He doesn't sound optimistic. He has seen the plant and considers it efficient. Most farm-related companies have cut their costs to the bone, and low prices are about the only way to achieve the little selling done by the industry, he says.

Gidwitz's interest in such companies is part of his larger concern for the country, including its defense posture, economy, competitive edge and social consciousness.

"You can't get off the world," he said, explaining his efforts. "We [the U.S.] don't have a plan. And unless we find a way to cure our problems, we're going to be in real trouble—like England, only they weren't as bad off in the educational area as we are."

Education, or the nation's shortcomings in that area, has long been a concern of Gidwitz.

Thirty or 40 years ago, he said, Helene Curtis held after-hours educational programs for workers. At first, he said, classes were established in any subject in which enough people expressed an interest.

"One year, though, they asked for tap dancing and pastry making classes," he said. "After that, we made it more restrictive."

When the Russians launched Sputnik and the space race in the late 1950s, workers developed an interest in Russian language lessons. Twenty-seven signed up for classes. Roosevelt University, which saw a similar interest among its students, contacted Gidwitz to see if its students could be sent to Helene Curtis' class.

At the same time, Gidwitz began a national organization known as "Education for Survival Foundation." According to press clippings from 1957, he said the purpose was "to make every school district in the nation aware of the grim fact that we are engaged in a battle of the classroom with Russia."

"Education for Survival" has long since died. "You need money for these things, Gidwitz said. "How much could I afford to spend?"

His interest in education, however, still is going strong.

He combined his concern over education with his concern over the welfare population to devise a program under which welfare recipients would be re-educated by their peers to gain basic qualifications to join the work rolls.

His literacy program, conducted with Roosevelt University, has been in pilot stages since 1982. Gidwitz is attempting to cut through bureaucratic red tape to expand it.

"His basic thrust is that those on welfare will always be on it unless we can re-educate them," said Michael Woelffer, director of the Illinois Department of Commerce and Community Affairs, which has funded Gidwitz's program in the past.

"Everything points to education as being the No. 1 priority of business in the future," Woelffer said.

Gidwitz's program sprang from an article he read in 1977 that said 50 percent of welfare recipients boasted high school degrees. It got his creative juices running.

"I went to Roosevelt Univesity—I'm on the board—and asked if they could take these high school graduates on welfare and teach them to be tutors, so they would work with others on welfare, those who didn't learn when they went to poor schools," he said.

The answer was positive, and Gidwitz worked to get the funding for a pilot. As he explained in a 1982 proposal to Gov. James Thompson and Peter Fox, then Commerce and Community Affairs director: "Both groups are on the welfare rolls. The talents of the educated would be better applied than in ordinary social service work or charity work.

"The [proposed] 100 hours of learning time would not only improve the skills of the uneducated, but would keep them off the streets. Emphasis should be on teaching ordinary skills . . . and the need to participate in our democracy in order to make it work," he said.

The program showed mixed results the first year with 60 tutors overseeing 5 students. The state budget crunch in 1983 disrupted the program, because some tutors and students stopped attending sessions when their workfare funds were cut off and didn't return when the funds were released.

Even including the dropouts, though, the average student showed a median two-year gain in reading proficiency, in keeping with the program's goals.

Curtis, C. Melnick, the late dean of Roosevelt's College of Education, pointed out in a memo to Gidwitz that literacy gains—or, in some cases, losses—were correlated to attendance, as one might expect.

Gidwitz said, however, that many students discovered they would receive their workfare payments whether they attended the program or not. "It underscored to me the fact that you really need a carrot-and-stick approach," he said. "There was no check on truancy and no threat if they didn't attend."

Now, after several years of pilot programs, Gidwitz and Roosevelt would like to see the literacy program expanded outside of the university.

As George Olson, dean of the College of Education, said in a recent memo, the city's community colleges are undertaking literacy programs, and he would like to see the efforts linked.

The program recently received another $50,000 from the state for another six months of operations.

Gidwitz is appreciative but his plans for the program are bigger than another pilot. He is seeking $30 million to $40 million of funding.

"Well, sure," he says in defense of such numbers. "We need enough money to raise the general level of education of our population to meet the competition that we're now facing from better educated countries such as Japan."

HAZARD MANAGEMENT

HON. MARILYN LLOYD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mrs. LLOYD. Mr. Speaker, in a separate entry in the RECORD, I voiced my concern over the growing problems of effective decisionmaking with regard to public risks and pointed to the increasing costs of this problem and its close association with science and technology. For an excellent perspective on the generic nature of this critical situation, I recommend to the Members' attention the section entitled "Managing Hazards" in the fall issue of Issues in Science and Technology. In this series of four thoughtful essays, geographer Robert Kates, physicist Alvin Weinberg, attorney and engineer Peter Huber, and psychologist Baruch Fishchoff, discuss the increasing intensity of the stresses being placed on science to identify hazards and assess their associated risks, the difficulties of our judicial and regulatory institutions in responding to the physical and economic realities of public risks with balanced rational procedures, and the barriers to obtaining meaningful resolution of conflicts between the public and technical experts.

The costs of this dilemma to society, which include the unintentional increases of public exposure to hazards through inadequate appreciation of the relative risks presented by various alternatives, and relatedly, the deterrence of risk-reducing technology through fear of inappropriate judicial decisions on liability and compensation, are high. In my opinion, the challenge of resolving the imperative for public management of public risks with the current problems of public decisionmaking institutions is today's key issue in tranferring the benefits of science and technology to society.

The activities associated with the Superfund bill, including the development and application of technologies to clean up toxic waste sites, the setting of standards for cleanup, and the allocation of costs and of present and future liabilities among the involved parties, furnish a timely example of these complex and generic problems. The escalating frequency with which these problems occur in an increasingly technical world will soon foreclose on the luxury of dealing with them on the ponderous case-by-case basis characteristic of our current efforts. An active search for generic approaches to improving the efficiency with which we address these issues must, in my opinion, be given our highest priority in all three branches of Government.

EDDIE BOLAND, THE HOUSE'S "MR. INTELLIGENCE," RECEIVES WELL-DESERVED CIA RECOGNITION

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. HAMILTON. Mr. Speaker, on Monday, our colleague EDDIE BOLAND, who chaired the Permanent Select Committee on Intelligence from its inception in 1977 until the end of the 98th Congress, was presented the CIA's Agency Seal Medallion by Director William J. Casey. The seal medallion is the Agency award presented to those from outside the Agency who render distinguished service to the U.S. intelligence effort. The Agency could not have presented this award to a more deserving American than EDDIE BOLAND.

Quite simply, EDDIE BOLAND made the House Intelligence Committee what it is today. His leadership, integrity, fairness, and understanding of the need for secrecy firmly established the excellent reputation of the Permanent Select Committee on Intelligence in the House and in the intelligence community for good judgment and good security. He recognized early that to be effective, the committee's work, which must remain secret, would have to be trusted implicitly by House Members. He recognized further that the intelligence community would not cooperate with a congressional oversight committee that did not pay strict attention to security and whose judgments were not based on a firm factual predicate. EDDIE BOLAND gave the committee that legacy. He was, as the CIA recognized, a firm supporter of the need for strong U.S. intelligence effort, but at the same time, he was never a captive of the intelligence community. When he disagreed with intelligence policy, he said so and he led the committee very effectively in making important improvements in our U.S. intelligence planning and capabilities. Oversight got a good name from EDDIE BOLAND and from the committee that he led.

Mr. Speaker, the award EDDIE BOLAND received on Monday was recognition by intelligence professionals of the real contributions that the Permanent Select Committee on Intelligence made under EDDIE BOLAND's leadership. But, it is not the intelligence community alone which recognized his contributions. The Vice President of the United States, GEORGE BUSH, attended the ceremony. His presence and his praise of EDDIE BOLAND showed that he and the President recognize that, while there may be disagreement at times, by far the greater share of issues raised in the oversight process result in agreement and strong congressional support. This administration, with whom EDDIE has had his disagreements, recognizes bipartisan support was the rule under his chairmanship. The administration recognizes that its emphasis on improvements in intelligence capabilities received steady, strong support from the House Intelligence Committee under the leadership of a man whose Democratic credentials cannot be challenged but whose bipartisan support for every President since Eisenhower is unquestioned.

As his remarks in accepting the award reflect, EDDIE continues to be a strong supporter of intelligence oversight and remains the committee's ambassador to the intelligence community in explaining the important and useful role that intelligence oversight can play within our frame of government.

Mr. Speaker, I ask unanimous consent to insert at this point the citation that accompanied the award of the CIA's Seal Medallion and a copy of EDDIE BOLAND's remarks.

CENTRAL INTELLIGENCE AGENCY CITATION

Edward P. Boland is hereby awarded the Agency Seal Medallion in recognition of his outstanding accomplishments as Chairman of the House Permanent Select Committee on Intelligence from 27 July 1977 to 29 January 1985. His superb leadership established oversight of intelligence which was and is today in the finest spirit of bipartisan government. Consistently adhering to the highest standards of personal and professional integrity in furtherance of the national security interests of the United States, Congressman Boland clearly demonstrated that effective oversight of intelligence can be realized in a democratic nation without risk to the intelligence process. Serving with full knowledge that his achievements would never receive public recognition, he chose to align himself with the thousands of men and women who have devoted their lives to support the intelligence needs of our country. Congressman Boland's extraordinary contributions and exemplary dedication as the first Chairman of the House Permanent Select Committee on Intelligence reflect great credit on himself and the Congress of the United States.

REMARKS OF THE HONORABLE EDWARD P. BOLAND

Thank you for those kind remarks.

I am delighted to be able to bring some Christmas cheer to Langley.

It is the season of joy and thanksgiving after all, and I want you to know that your joy over the fact that Congress will adjourn tomorrow or the next day, nearly matches my thanksgiving at the same prospect.

I am thankful as well for the honor you have accorded to me this evening.

The United States intelligence service is the finest in the world, and your good opinion is something that I deeply appreciate.

In fact, the good opinion of the intelligence community is an indespensible element of good congressional oversight.

You can't do one without the other, and that reminds me of a story the bishop of Springfield tells.

He was flying to Rome. As his flight was nearing Rome, the pilot reported that one of the engines had quit and that they were operatiing on only three. There would be no problem, however, because, Rome wasn't too far away.

So he said he would keep them informed. A little while later, he said that they were still going strong. They only had the three engines, but there was no problem, they would land safely. "In fact," he said, "I have some good news. There are four bishops aboard. We'll get to Rome all right." Bishop

McGuire then heard a woman sitting behind him say, "I'd feel better if we had four engines and only three bishops."

Some would say we haven't been running on all four engines in the intelligence community lately.

We have been rocked by espionage scandals, confused by two-way defectors, and genuinely concerned about serious leaks.

I understand that leaks lead some in the community to suggest we would be better off without congressional oversight.

I truly believe that sentiment is mistaken—intelligence needs oversight.

Oversight which is sensitive to the extraordinary difficulty of intelligence work and the need for secrecy in it but oversight which is nonetheless independent!

Sir William Stephenson, the wartime head of British intelligence, summarized the great conundrum of intelligence oversight in two questions: How can we wield the weapons of secrecy without damage to ourselves? How can we preserve secrecy without endangering constitutional law and individual guarantees of freedom?

Stephenson knew that the resolution of the inherent conflicts between the need for secrecy in intelligence and the dictates of a free society was essentially a human problem noting with respect to intelligence that "as in all enterprise, the character and wisdom of those to whom it is entrusted will be decisive."

I believe that if I did anything in 7 years as chairman of the Permanent Select Committee on Intelligence, I helped put the committee in a posture of good, honest inquiry, good security, and hopefully, good judgment.

There will be those who question the committee's record in one or more of these areas.

Today, security looms as the largest legitimate concern.

What isn't legitimate is undermining the institution itself.

I don't see critics of the oversight committees suggesting the elimination of the NSC staff or the State Department.

This isn't because they have impeccable security.

They clearly don't.

Rather, they are thought to be permanent. If not always useful, institutions of Government.

Well, the intelligence committees are also permanent institutions.

Further, they can be very useful.

Theirs is a broad overview shared by few outside the Director's Office.

They are small and they can, given the kind of leadership Lee Hamilton and Bob Stump now exercise, provide the necessary security for the very sensitive matters they review.

It is my judgment that, in balance, oversight has been good for the intelligence community, for this Agency.

Your numbers and your budget have increased in time of fiscal austerity.

You are now more capable and more confident to perform an ever broadening array of intelligence tasks.

Congress played a major, supportive role in that build-up.

It did so with its eyes wide open.

Sometimes opponents of covert action provided resources to conduct covert action.

And critics of some intelligence operations supported many others.

I believe members and staff of the Intelligence Committees deserve the recognition that they too are part of the national intelligence community.

As to the difficulties that now confront the intelligence community, I have no doubt that you'll come through in good shape.

Perhaps on only three engines from time to time, but you'll land safely.

You'd better, because the Congress is now on board.

RISK ASSESSMENT AND PUBLIC DECISIONMAKING

HON. MARILYN LLOYD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mrs. LLOYD. Mr. Speaker, I would like to share with my colleagues my growing concern regarding the effectiveness with which we, as a society, are addressing the issue of risks in our decisions on the development and applications of technology. A list of topics which have or will require some form of risk assessment and subsequent public decision would include: The release of genetically engineered microorganisms for agricultural disease control, nuclear plant safety, siting of a nuclear waste repository, selection of an acid rain abatement strategy, food irradiation in lieu of chemical perservatives, and the establishment of standards for toxic waste cleanup projects. The benefits of new technologies seem inevitably accompanied by some degree of risk and our technological health depends increasingly on the skill with which we are able to address and resolve such issues.

There is a broad feeling in the technical community that the general public, including many public opinion and decisionmakers, is hampered in arriving at meaningful resolutions of questions in this critical area by an unfamiliarity with the fundamental concepts employed in scientific risk assessment. The emphasis here is not on an understandable lack of specific technical knowledge or theoretical insight in a particular instance, but rather, the generic lack of a qualitative appreciation for the significance, implications, and limitations of the methodology for rational treatment of risks.

As an illustration, I quote the following excerpt taken from an editorial by Daniel E. Koshland, Jr., entitled "Scientific Literacy," which appeared in a recent issue of Science magazine:

> * * * scientists in every discipline understand that certain decisions that must be made are associated with some level of risk, but we watch with consternation as society acts as if zero risk could be achieved. The same parents, for instance, who drive their children to school without seat belts demand a flat statement of certainty about the risk posed to their children by being in school with a child with AIDS. The ever-rising levels of malpractice awards are based on the premise that if doctors are punished enough they will become perfect, but ignore the possible outcome that the consequent fee increases will inhibit those with marginal incomes from going to the doctor. Living near a nuclear powerplant may be safer than attending a rock concert, but what television viewer would believe that?

There is a diversity of opinion among competent technical authorities on many of the specific issues I have mentioned. However, the framework in which they are discussed by the technical community is qualitatively different from that used in the media, in many public forums, and often in the courts, and is significantly more effective in leading to balanced, rational, and productive decisionmaking. The costs of our inability to follow a similar approach in the public decisionmaking process on these same issues are increasingly high. In my opinion, this represents one of the most formidable generic problems facing us today and one which pervades essentially all areas of science and technology. As such, it is clearly a problem of intense concern to me as chairman of an energy subcommittee, and I feel that we must assume the responsibility to actively seek and encourage responsible approaches to its alleviation.

REDUCING FEDERAL SPENDING

HON. DICK CHENEY

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. CHENEY. Mr. Speaker, earlier this year, Mr. James Rouse of Saratoga, WY, came up with the idea of sponsoring an essay contest with cash prizes for the best essays on what the average citizen can do to reduce waste of the Government's money. Using his own money, Mr. Rouse paid $1,000 for the first prize, $500 for the second, and $250 for the third prize, to three young people in his community who researched and wrote the best essays on this important subject.

I am pleased today to submit for publication in the RECORD an essay titled, "The Deficit Budget," by Stephanie Bartholomew of Saratoga, WY, who received the third place prize for her work. I hope her essay serves as an inspiration to other young people to take an interest in their affairs of their Government.

THE DEFICIT BUDGET

(By Stephanie Bartholomew)

Irresponsibility has led the American economy into its most serious crisis ever: massive deficits. The deficit is the gap between what the government spends and what it takes in. If this irresponsibility in government spending is allowed to continue, the high standard of living Americans have grown accustomed to could easily become a part of the past. We are at a critical point affecting the future of the American economy, and the federal deficit must be reduced now.

In 1960 and 1970 the United States had a balanced budget. The federal deficit now stands at approximately $222 billion. That is approximately $1,000 for every man, woman, and child in the United States. Without action, the deficit will continue to rise, and will reach almost $300 billion by the end of the decade. How did such preposterous deficits, that were unimaginable just a few years ago, come to exist? The irresponsibility of the politicans, local, state, and federal governments, and all those who benefit from government-sponsored programs have carried us into such a debt. This irresponsibility must be corrected. Reduction in spending, cutbacks on government programs, and a structured change in the tax rules are all possibilities that could help reduce the deficit.

The first step in reducing the deficit is the most obvious and most necessary; the United States must cut back on government spending. Total government spending has increased ridiculously within the last ten years. If this spending rate is allowed to continue, the government will be spending more than $1 trillion by 1990; an increase in spending that in this decade alone is greater than the entire increase in the 200 years our nation has prospered.

Americans will find that there are no easy cuts left; these cuts are federal programs that most often benefit the middle class. One proposed budget, that includes only slight defense trims, contains $40 billion in cuts in domestic programs. These domestic programs that are being considered for budget cuts are housing loans, community services programs, general revenue sharing (provides funds to local governments), Job Corps, library grants, student loans, the Small Business Administration, federal farm subsidies, and research and education grants. Unfortunately, this deficit package is still $175 billion short of a balanced budget.

President Reagan claims that the deficit can be treated without raising taxes, without altering social security benefits, and without tampering with the monies alloted for the United State's massive defense program. I believe it is necessary to make a cut, or at least a freeze, in social security benefits. Lately, there has been a rapid rise in social security and medicare benefits; in the past decade, social security benefits have tripled. Currently, $175 billion is spent on social security. These benefits are being paid without regard to financial need, though; and much of this money goes to individuals who are certainly not poor.

Cuts being made on government spending should not be restricted to non-defense programs such as social security benefits and the domestic programs as mentioned above. In recent years there has been a sharp increase in defense outlays. The fact is that although Congress wishes to continue military spending, the need to reduce the deficit has become very great. We cannot have it both ways; reduced government spending means reduced defense spending. Our present deficit situation cannot be resolved otherwise, as Washington Senator Slade Gorton states, "We simply can't get from here to there without a defense freeze."

The above actions of tough domestic program cuts, a reduction in defense spending, and a freeze of social security benefits could create a savings of up to $160 billion. After Congress has completed a thorough search for federal spending cuts, it will be time to turn to the responsibility of raising revenue.

New sources of revenue have to be found if the budget is ever to come closer to being balanced. I believe it is inevitable that taxes will have to go up. Some well-structured changes in the tax rules will become necessary. President Reagan firmly states that a tax increase need not be a part of the deficit reduction plan. The American economy has reached a critical point, though; and what we want may be in contradiction to what we need to do. Taxes, as a source of revenue, will not be used until all the loopholes can be closed by a simplified tax program. There is much talk, and perhaps much need, about and for new taxes; but there is poor probability of any action soon. Are we shirking yet another responsibility?

One possibility for an increased revenue is a proposed 5 percent tax on energy. This relatively small tax could produce, by the end of the decade, an annual $15 billion. Another way to increase revenue would be a tax that places an extra ten cents on each gallon of gasoline. This increase in price only offsets half of the twenty cents per gallon decline in price that has occurred over the past four years. A gasoline tax such as this would produce a revenue of approximatley $10 billion a year.

The Great Budget Battle of 1985, a political battle, has begun. Characteristic of all battles, it will result with "winners" and "losers." The "losers" include the poor, middle-income families with children in elementary school through college, the elderly, federal workers and retirees, school systems and libraries, city dwellers, suburbanites, rural residents, farmers, veterans, subway riders, Amtrak passengers, small businesses, and the list goes on until each and every one of us is included. This battle will cause pain, but a pain that must be endured. A loss of benefits for each of the above mentioned groups is small in comparison to the losses that would be caused by the destruction of our economy. "It's a burden on future generations," says Jack Albertines, president of the American Business Conference in Washington, D.C. "If deficits are not reduced, we will leave our children with a legacy of high taxes, reduced federal services, and slower growth."

The deficit problem cannot be solved overnight. Gradually, though, with the response of the people, the ugly deficit can be controlled, and our children can continue to live prosperously. "I am proud of the state of the economy," President Reagan declares. The President and all Americans do indeed have the right to be proud of the present economy. What Americans don't realize is that while the present seems comfortable, the future economy could be destroyed because of the irresponsibility surrounding the national debt. We, the people of the United States, need to take the above actions to cure the ills caused by years of fiscal irresponsibility.

AIR POLLUTION AND ACID RAIN

HON. MARILYN LLOYD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 1985

Mrs. LLOYD. Mr. Speaker, and Members, I would like to call your attention to a recent editorial appearing in Science magazine entitled, "Air Pollution and Acid Rain." In this editorial, Philip Abelson gives an excellent sketch of the direction of our evolving understanding of the complex chemistry associated with acid rain—a phenomenon which has been popularly perceived almost entirely in the context of sulfur emissions from the combustion of coal. In his comments on ongoing research, Abelson points out the increasing refinement this work is providing in demonstrating the importance of NO_x emissions and ozone, both as significant pollutants in their own right and because of their key roles in the overall atmospheric chemistry associated with deleterious effects. As he notes, this emerging picture seriously questions the effectiveness of an acid rain control strategy which focuses exclusively on limiting the SO_x emissions from coal-fired electric utility plants.

In the past, many of us have joined in opposing an immediate mandate for such a simplistic strategy and instead have vigorously supported the accelerated assessment program whose benefits, in terms of improved understanding of critical acid rain phenomena, are now beginning to be realized. While this understanding is still far from complete, it is clear that our improved knowledge already suggests the possibility of more effective avenues for addressing this issue than by the imposition of costly SO_x controls on coal-fired boilers as has been prematurely proposed as a solution to the acid rain problem. It is my opinion that only continued research can proivde the crucial guidance necessary for developing a balanced and affordable strategy for acid rain abatement.

The effectiveness of an acid rain control strategy will necessarily be dictated by the degree to which it recognizes the effects of all relevant pollutants and all sources in balancing the benefits of given levels of emissions control against the cost of achieving those levels. I am confident that the current research will ultimately provide a firm basis for such an assessment.

I recommend Dr. Abelson's editorial to all Members as an authoritative and balanced perspective on these issues.

[From Science Magazine, Nov. 8, 1985]

AIR POLLUTION AND ACID RAIN

(By Philip H. Abelson)

Research being conducted on air pollution and acid rain is leading to a changing picture of the relative importance of SO_2 and NO_x. Political and regulatory efforts have been focused on sulfur oxides because they produced about twice as much acid as NO_x. However, that emphasis disregards the role of NO_x in the formation of toxic photochemical oxidants. Controlled studies at experimental facilities and observations in the field have identified effects of ozone and NO_x as more damaging to vegetation than SO_2 alone.

In sunlight a complex series of reactions occurs in the troposphere, including photolysis of NO_2 to produce excited atomic oxygen and thence ozone. Additional reactive species formed include hydrogen peroxide, methyl hydroperoxide, peroxyacetic acid, and reactive free radicals, including OH, NO_3 and HO_2. Maxima in the amounts of these species usually occur between 9:00 a.m. and 4:00 p.m. in midsummer. Monitoring has revealed considerable variability in concentrations of the oxidizing pollutants related to abundance of the input substances. Some oxone may be present that originates in the stratosphere.

It has been know that SO_2, NO_x and O_3 can have toxic effects on plants. In the early days, experiments tended to be performed "scientifically"; that is, plants were exposed in chambers in which the chemicals were tested one at a time. Under those circumstances, it was noted that concentrations of SO_2 and NO_2 greater than ambient were required to produce notable pathology.

Indeed, low concentrations of NO_2 were sometimes beneficial (perhaps a fertilizer effect). However, in the real world, pollutants are present together. When experiments were conducted with ambient midday levels of ozone present (for example, 50 to 100 parts per billion), toxicity was noted. When the ozone was supplemented with NO_2, there was usually a substantial additional toxicity attributable to NO_2. Similar results were noted when ozone was supplemented with SO_2.

The deleterious effects of ozone on agricultural crops has been documented and analyzed in a report issued by the Environmental Protection Agency. It is estimated that a reduction in ambient ozone levels of 25 percent would produce nearly $2 billion in benefits, while a 25 percent increase in ozone would lead to an additional $2.3 billion in crop losses.

The photochemical oxidants, particularly OH, have an important role in the oxidation of SO_2 leading to H_2SO_4. In the summer, with abundant OH present, the oxidation proceeds much more rapidly than in winter. Sulfur dioxide emissions in winter and summer are about the same, but the total deposition of sulfate in January and February at stations in northeastern states was found to be a third or less than what it was in midsummer. Deposition of nitrate showed little seasonal effect. Thus, at the critical time of the spring runoff, the contribution of nitric acid was about equivalent to that of sulfuric acid.

Initiatives to reduce acid rain tend to be centered on the electrical utilities and on their emissions of SO_2. When new coal-fired plants are built, they are required to include facilities for flue gas desulfurization. This adds substantially to the cost of the plant, decreases the efficiency of energy conversion to electricity, and diminishes overall reliability. While the process is effective in capturing SO_2, it is ineffective in removing NO. Any program aimed at reducing acid rain should take into consideration the total air pollution problem, including NO_x. Efforts to reduce SO_2 emissions should be accompanied by a corresponding emphasis on reducing NO_x, whatever the source. For the electrical utilities, this would mean providing more flexibility to use technologies that reduce both SO_2 and NO_x. But in addition, the other large contributors to NO_x, such as motor vehicles, should come under scrutiny.

REENGAGING IN GUATEMALA

HON. MICHAEL D. BARNES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. BARNES. Mr. Speaker, we have been presented with a historic opportunity in Guatemala. Because of the election of Vinicio Cerezo to the Presidency, that unfortunate country has its first opportunity in a generation to insitute truly democratic government. And if Guatemala succeeds in developing a stable democracy that is responsive to its people, that will be the best possible guarantee of U.S. security in the area.

Whether President Cerezo and the Guatemalan people succeed in this historic endeavor will depend a great deal on the policies of the United States. There is an enormous danger that we will fail to understand that the crucial contribution that we must make is, above all, to give political support—and I emphasize the word "political"—to President Cerezo as he attempts to consolidate his power, exercise authority, and produce benefits for his people. "They—the military—will give us the office," he said at a news conference the other day. "We are going to have to recover the power." In doing so, President Cerezo will require the support of fellow democrates throughout the region and the world. But, as he also said at the news conference, "If you are a leftist you can get support, and if you are a rightist you can get support, but the hardest thing to get support for is democracy."

Mr. Speaker, there is a lot of talk of increasing aid to Guatemala, and I am for that. But we can double, triple, quadruple aid, but if we do not do it in a way that helps President Cerezo politically, it will do no good. An insightful editorial in today's Washington Post captured the importance of keeping "full solidarity with the democratic cause," and "taking—our—cues in these matter directly from Mr. Cerezo." There is going to be a temptation in the administration to punish Mr. Cerezo for failing to line up behind U.S. Nicaragua policy. But, as the Post correctly points out, "No direct support that Guatemala might conceivably lend to U.S. policy in Nicaragua could serve Americans more than stability within Guatemala itself."

I urge my colleages to pay careful attention to this editorial which follows:

Reengaging in Guatemala

Guatemala defies the common image of Central America as a place where nothing important happens without an American hand. On its own—true, with a viciousness that repelled the United States—Guatemala beat down a guerrilla challenge in the 1970s. Again on its own—and with a promise that is attracting the United States now—Guatemala is putting an elected civilian government atop the country's military-run power structure. The question is how the United States ought to reengage in this dominant Central American land.

The prime requirement is to keep full solidarity with the democratic cause. President-elect Vinicio Cerezo, 42, a man of courage and vision, won a huge popular mandate, and his Christian Democratic party controls the legislature. This gives him a foundation on which, necessarily by degrees, to assert the claims of democracy and law against a military unaccustomed to acknowledging either.

Some suggest the armed forces are ready to yield their traditional privileged but demeaning role as the far right's gendarme and to become a self-respecting professional army. But it's a long way from happening. The United States can help a bit by taking its cues in these matters directly from Mr. Cerezo—in particular, by deferring all talk of military and police aid until he indicates interest. In Washington this week, he put this matter off. The United States also needs to be responsive to Guatemala's economic needs. Brazil's drought, pushing up Guatemalan coffee prices, won't be enough.

The second requirement for Washington is to subordinate its concern about Nicaragua to the American interest in a democratic Guatemala. A country whose whole modern history was bent by the American-directed coup of 1954, Guatemala has pursued neutrality in Central America's raging conflicts. Mr. Cerezo visited Managua before coming to Washington. He looks to a policy of "active neutrality," a vague concept but one that the apparent eclipse of the Contadora process may leave a little room for. Guatemala shares no border with Nicaragua, feels beyond the reach of its guerrillas, and hopes to gain both in trade and in regional standing by keeping lines open to Managua. In any event, no direct support that Guatemala might conceivably lend to U.S. policy in Nicaragua could serve Americans more than stability within Guatemala itself.

Guatemala has been a metaphor for state violence. Four hundred members of Mr. Cerezo's party have been assassinated, and yet men and women like him are still willing to put their lives on the line. His election is a moment of rare potential to a country that desperately needs democracy and peace. The United States must help him, carefully, to use it well.

SOME WELL-DESERVED PRAISE FOR GUATEMALA'S DEMOCRATS

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. GARCIA. Mr. Speaker, today's Washington Post ran an editorial on Guatemala, saying that the recent election of Vinicio Cerezo, as that nation's President, "is a moment of rare potential."

In an article in yesterday's New York Times, reporter Stephen Kinzer called Guatemala's recent elections, "one of the most orderly * * * ever held in Central America."

All of this praise is not undeserved, nor should it go unnoticed. This is a historic opportunity for Guatemala, a chance to establish an authentic, indigenous democracy. Certainly, one election does not a democracy make. Nonetheless, Mr. Cerezo's victory is auspicious, if for no other reason than an honest election actually took place, and a popular political leader has been allowed to claim victory.

This is a tribute to Mr. Cerezo's tenacity and to the tenacity of those who have believed in the possibility of democracy taking root in Guatemala. Both the democrats in Guatemala and members of the staff at the Guatemalan Embassy in Washington have held on to that belief, asking over the past few difficult years only that others listen to them. They too must share in their new President's victory.

None of this is to say that suddenly all will be well in Guatemala, that the military will suddenly behave like the U.S. military, that the oligarchy will suddenly be open to taxation and land reform. It is only to say that this is an abertura, or opening, for those democrats in Guatemala who have never lost sight of or veered from their worthy purpose.

I am submitting the Post editorial and the Times article for the RECORD.

[From the Washington Post, Dec. 19, 1985]

Reengaging in Guatemala

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[From the New York Times, Dec. 18, 1985]

After 30 Years, Guatemala Tests Democracy

(By Stephen Kinzer)

Guatemala, Dec. 15.—Just five years ago, Francisco Villagrán Kramer resigned his post as Vice President of Guatemala and fled the country.

"Death or exile is the fate of those who fight for justice in Guatemala," he said at the time.

Today, Mr. Villagrán's apartment in the capital is a gathering place for young activists eager to discuss what the future holds for Guatemalan democracy. He himself is said to be a possible candidate to head the Supreme Court.

The military has run Guatemala for more than 30 years, and during that period Guatemalans have suffered some of the harshest repression in Latin America. Tens of thousands of people, many of them Indians descended from Mayan tribes, have died violently. During some periods, street-corner killings of students, businessmen, political organizers, university professors and trade unionists were common.

Yet Guatemalans elected a President last week in one of the most orderly elections ever held in Central America. They overwhelmingly chose an attractive young leader of the center-left Christian Democratic Party, Marco Vinicio Cerezo Arévalo, who has built his career on demands that the military return to their barracks and leave the task of governing to civilians.

The dramatic evolution of Guatemalan politics over the last three years, according to diplomats and other political analysts here, was the product of antimilitary sentiment that was becoming explosive and of the recognition by senior officers that the army was losing popular support.

The trend toward civilian governments in Latin America, which has all but eliminated rightist military dictatorships on the continent, was also said to have strongly, if belatedly influenced Guatemalan generals to call elections.

"What Guatemala is living through now is almost a miracle, and what a thrill it is," wrote a newspaper columnist who reflected the excitement many people felt after last week's election. "This process of being able to choose the candidate one prefers after a free election like we have never seen before, and of being sure that the one who wins will actually take over the presidency, is completely new to us, but we love it!"

There have been voices of caution amid the self-congratulations. The afternoon newspaper La Hora, which has been critical of the military, warned that the nation was facing "a long and slow process" in establishing democracy, but agreed that moderate optimism" was justifiable.

NEW CHORUS OF HISTORY

With Guatemala about to inaugurate a civilian President, only two Latin American countries, Paraguay and Chile, remain under the rule of rightwing generals. A decade ago, the group included the Dominican Republic, Honduras, El Salvador, Ecuador, Argentina, Bolivia, Uruguay and Brazil, all of which have since elected civilian governments.

"Beginning in 1983, there has been a new democratic opening in Guatemala," wrote Julio Godoy, one of the country's rising young political commentators, in a recent analysis.

"The opening was made necessary by the new chorus of history in Latin America," Mr. Godoy wrote. "Fascist military regimes have become unthinkable in the region, their basis eroded by their isolation from the people they sought to rule. Corruption and official crime turned them into violators of the very state of law they were supposed to represent.

For Guatemala, the darkest period of recent history was the regime of Gen. Fernando Remeo Lucas García, who held the presidency from 1978 to 1982. He was the third general in a row to have been chosen in elections generally considered fraudulent, and during his presidency political terror reached levels that drove many Guatemalans to despair for their country's future.

In 1982, General Lucas tried to impose his Defense Minister, Gen. Angel Aníbal Guevara, as President in yet another rigged election. But a group of young officers, sensing the level of public frustration and outrage, deposed General Lucas in March 1982 and declared the election results null. They named Efrain Ríos Montt, a retired general who had been cheated of the presidency in 1974, to head the Government.

General Ríos Montt pledged to hold free elections and in a step that was to prove decisive he called on law school deans and bar association officials to nominate 20 distinguished jurists for an electoral tribunal that would supervise the transition to democracy. From the list of 20, the Supreme Court chose 10—5 members and 5 alternates.

HERO OF ELECTORAL PROCESS

The tribunal's president, Arturo Herbruger Asturias, who had been Guatemala's Chief Justice during the civilian governments that ruled in the late 1940's and early 1950's, was to become one of the heroes of the electoral process.

"I took on the job as a kind of adventure," Mr. Herburger said. "We didn't know how serious Rios Montt was, but we decided at the beginning that we would all resign if anyone in power tried to obstruct our work."

General Rios Montt revealed himself as a religious visionary and something as an eccentric, and he alienated many officers with his moralistic crackdown on corruption. He also began to hint that he wanted to stay in power for many years before holding elections. On March 23, 1983, he was overthrown by his Defense Minister, Gen Oscar Mejia Victores, who as his first official act visited the electoral tribunal and pledged his full support for its plan to hold early elections.

"I think General Mejia was taking into account that the country was at a real turning point," Mr. Herbruger said in an interview. "He wants to leave a good name in the history books. I think he has been able to convince his comrades that their job is not to govern anymore."

In many ways, the Mejia Government was not unlike its predecessors. Political killings and kidnappings continued, many thousands of peasants were kept in protective villages, corruption was said to be rampant, and human rights and church workers reported continuing abuses in the countryside. But in his determination to allow free elections, General Mejia proved different from previous military leaders.

PRESSURE FROM ABROAD

The civilian adviser closest to the Mejia Government, Foreign Minister Fernando Andrade Diaz-Duran, said last week that General Mejia was very much affected by the continental trend toward democracy.

"Rios Montt was behaving like a Savonarola who wanted to burn all the sinners, and the officers were horrified when he started to say he would need seven or eight years in power to set the country right," Mr. Andrade said in an interview. "After Mejia took over and said he would call elections, people assumed he would support his own candidate and them impose him, as had been done in the past.

"But Mejia traveled a lot, and he was received by people like Alfonsin, Belisario, Felipe Gonzalez and de la Madrid," said Mr. Andrade, referring to the elected leaders of Argentina, Colombia, Spain and Mexico.

"They treated him like a statesman and impressed upon him what a historic responsibility he had. It made a great impact on him.

The trend toward democracy in Latin America, which began in the mid-1970's, was the product of various factors, including public discontent, economic crisis and international pressure.

"You can't discount the contribution of Jimmy Carter while he was President," said Edgar Ponce Villela, a political activist who ran for Mayor of the capital city in municipal elections last month. "Carter was very firm against dictatorships, and he helped to set this process in motion."

NICARAGUAN INFLUENCE FEARED

Mr. Ponce said the consolidation of a leftist regime in nearby Nicaragua has also contributed to fears among some Guatemalan officers that if they refused to allow a transition to democracy, Marxist revolutionaries aligned with Nicaragua might grow in strength here.

Guatemalans voted for a constituent assembly in July 1984 and the election went remarkably smoothly. But twice this year, once in April and again in September, right-wing politicians linked to entrenched business interests tried unsuccessfully to seize power and disrupt the political process.

"The most serious attempt was in April, when there was street violence protesting new tax laws," Mr. Andrade recalled: "These groups actually reached the point of appealing to certain commanders to join them in a coup, but the commanders remained loyal to Mejia."

General Mejia has been traveling to military bases in all parts of the country to meet with officers. This weekend he was at bases in the eastern provinces of Zacapa and Jutiapa. Aides said he was urging his men to support the incoming Government.

"Let us hope the army never again has to participate in rescue actions because of problems in the government," the general said at a news conference after last week's election. Some took his choice of words to imply a warning that the military was not abandoning politics altogether.

GENERAL TO RETIRE

General Mejia will automatically pass into retirement when he turns power over to Mr. Cerezo on Jan. 14.

Mr. Cerezo has warned repeatedly that there will be constraints on his freedom to act. Diplomats say there are certain steps, such as beginning broad prosecutions of officers implicated in human rights abuses, that the army might view as provocative.

"There are groups in this country which are insatiable," said Mr. Andrade. "No one can assume anything, but I myself doubt there will be any adventure by the military."

Diplomats in Guatemala had high praise last week for the efficiency of the electoral process, and expressed guarded hope for the country's future.

SECURITY COUNCIL RESOLUTION ON HOSTAGE-TAKING

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. YATRON. Mr. Speaker, it is with special pride that I join in the chorus of praise for the outstanding work done by our colleagues, the Honorable DANTE B. FASCELL, chairman of the House Foreign Affairs Committee, and the Honorable DAN MICA, chairman of the Subcommittee on International Operations, in mobilizing the international community against terrorism and the taking of innocent hostages.

Their action in this cause resulted yesterday in a historic vote by the United Nations Security Council to unanimously condemn hostage-taking, which follows the recent action on a resolution voted unanimously by the United Nations General Assembly which condemns all acts of terrorism wherever they are committed and by whomever. Our U.N. Ambassador, Vernon Walters, credited our two colleagues with the success of this effort. He praised their initiatives and the meetings they arranged with the representatives of 36 member states for mobilizing the resolve of the civilized nations to condemn such criminal acts.

I certainly share Ambassador Walters' appreciation of their great work, and I have inserted the full text of the Ambassador's statement and resolution as well.

STATEMENT BY AMBASSADOR VERNON A. WALTERS

We are extremely pleased that the Security Council has unanimously gone on record in condemning all acts of hostage-taking. This is a historic step, almost without precedent in the entire 40 years of the United Nations. This resolution reflects positively on the United Nations organization; it is an act in which all members states can take pride. It is a fitting climax to this important 40th Anniversary year of the United Nations.

By condemning unequivocally all acts of hostage-taking, the Security Council has clearly stated the world community's abhorrence of such criminal acts. We can only hope that all states, all parties, that have any influence over groups now holding hostages, will take to heart today's clear and unanimous message and work for the immediate and safe release of all hostages, wherever and by whomever held.

We also hope that this Security Council resolution bodes well for improved cooperation between and among states, an essential condition for combatting terrorism. Only by concerted worldwide action can we hope to put an end to the repugnant practice of hostage-taking. It is clear from the resolution that no "cause," no "excuses," can justify such threats to human rights and human lives.

My government fully supports the Security Council's call for all states to consider, promptly and favorably, becoming parties to the International Convention Against the Taking of Hostages and other related international conventions. The United States will continue its efforts to have the world community adopt additional effective measures to protect the innocent lives of all people. As recent history has so sadly proven, international terrorism knows no boundaries.

Today's resolution re-inforces the October 9 Security Council statement on terrorism and the December 9 General Assembly resolution condemning all acts of terrorism. Together, these texts place the entire United Nations firmly on record against all terrorist crimes. While we cannot expect the lunatic fringe to desist from such acts, we do expect all law-abiding states to take all practicable measures to prevent terrorism, and to prosecute and punish all terrorists, wherever they are, in the spirit of these clear statements by the United Nations.

The United States is proud of its leadership role in today's action by the Security Council. It could not have been done without the broad support of all Security Council members which represent every sector of the globe. I thank my colleagues on the Council for the essential role they played with us in accomplishing this historic act. And let me pay special tribute to Congressman Dante Fascell, Chairman of the House Foreign Affairs Committee, and Congressman Daniel Mica, Chairman of the Subcommittee on International Operations and member of the U.S. Delegation to the 40th General Assembly, for their strong initiatives in the United States Congress and in meetings here at United Nations Headquarters toward this end. We look forward to concrete actions by all states to put into effect the resolution adopted today.

I cannot close without saying one word of thanks to my colleagues of all countries on the Security Council: The permanent members of the Security Council—China, France, the United Kingdom, the Soviet Union—for their help and cooperation in achieving this result today. Obviously, to achieve the kind of unanimous result which we achieved required a high degree of cooperation and work, work at all levels, work between the staffs of the representatives and the staffs from the non-permanent members, who also cooperated in making possible this quite extraordinary resolution passed unanimously in less than three minutes. Needless to say, a lot of work went before. But we were able to achieve the kind of agreement that enabled us this morning to produce this document, which I think represents the conscious of all mankind. Thank you.

TEXT OF U.N. SECURITY COUNCIL RESOLUTION PASSED UNANIMOUSLY DECEMBER 18

Deeply disturbed at the prevalence of incidents of hostage-taking and abduction, several of which are of protracted duration and have included loss of life;

Considering that the taking of hostages and abductions are offenses of grave concern to the international community, having severe adverse consequences for the rights of the victims and for the promotion of friendly relations and cooperation among states;

Recalling the statement of 9 October 1985 by the President of the Security Council (S/17554) resolutely condemning all acts of terrorism, including hostage-taking;

Recalling resolution 40/61 of December 11, 1985 of the General Assembly;

Bearing in mind the international convention against the taking of hostages adopted on 17 December 1979, the convention on the prevention and punishment of crimes against internationally protected persons, including diplomatic agents, the convention for the suppression of unlawful acts against the safety of civil aviation, the convention for the suppression of unlawful seizure of aircraft, and other relevant conventions.

1. Condemns unequivocally all acts of hostage-taking and abduction;

2. Calls for the immediate safe release of all hostages and abducted persons wherever and by whomever they are being held;

3. Affirms the obligation of all states in whose territory hostages or abducted persons are held urgently to take all appropriate measures to secure their safe release

and to prevent the commission of acts of hostage-taking and abduction in the future;

4. Appeals to all states that have not yet done so to consider the possibility of becoming parties to the international convention against the taking of hostages, convention on the prevention and punishment of crimes against internationally protected persons, including diplomatic agents, and other relevant conventions;

5. Urges the further development of international cooperation between states in devising and adopting effective measures which are in accordance with the rules of international law to facilitate the prevention, prosecution and punishment of all acts of hostage-taking and abduction as manifestations of international terrorism.

WHY I VOTE AGAINST GUN CONTROL

HON. JOHN R. KASICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. KASICH. Mr. Speaker, as the House continues to debate the gun control issue, I call to the attention of my colleagues an outstanding article from Outdoor Life entitled "Why I Vote Against Gun Control" by Congressman FRED ECKERT of New York.

I urge my colleagues and anyone else concerned with the gun control issue to take a few minutes to read this thoughtful article. Congressman ECKERT has written a clear and concise piece that uses commonsense reasoning to show why gun control does not work. If you read nothing else on gun control, I urge you to read this excellent piece

[From Outdoor Life, May 1982]

WHY I VOTE AGAINST GUN CONTROL

(By Fred J. Eckert, New York State Senator)

No, I'm not a gun nut. Sure, I do own one shotgun. Yes I do hunt—on opening day of deer season, sometimes the next day, on opening day of duck season and, once in a great while, I do some pheasant hunting. I never hunted until I was 22 years old, and I started mainly to be sociable with my wife's family. I didn't become interested enough in hunting to buy a gun of my own until I was 33 years old. I grew up in an urban area in a fairly liberal community. I am a native Northeasterner, reasonably well educated, and I collect books, not guns.

I make these points because hostile news media foster the inane notion that those who oppose gun control are pistol-packing fanatics with next to no brains while all crusaders for gun control are intelligent, sophisticated and reasonable.

Let me tell you something. Some of the least intelligent and unreasonable arguments I have come across in nine years as a state legislator were and are made by gun-control fanatics.

A lawmaker who opposes gun control? It must be because I live in fear of the "gun lobby." That's the usual (and simplistic) explanation. Can't hang that on me. In 1978, the National Rifle Association sent out a circular just before election day portraying me as sympathetic to gun control. I was re-elected with 67 percent of the vote. They were wrong—the NRA, not the voters—but the mistake was not caught until after election day. In 1980, the NRA correctly portrayed me as an opponent of gun control, I was re-elected again with 67 percent of the vote. The point is that gun control isn't a big issue in my district and the "gun lobby" isn't a potent political force here.

Now we can look at the real issue. And just what is the real issue? The gun-control zealots see the real issue as gun control; I see it as *crime* control. It's an important distinction.

The zealots would have the public believe that gun control and crime control are the same. It is this myth that makes gun control so attractive to liberal politicians, whose soft views on such real crime-control issues as capital punishment, stiffer sentences and preventive detention are so squarely at odds with the strong views of the public. Favoring gun control is their way of appearing tough on something they falsely label as crime-fighting.

In nine years as a state legislator, I have seen volumes of conflicting statistics, witnessed plenty of emotional outbursts and sat through hours of arguments—but I have yet to find any convincing evidence that gun-control laws ever have or could effectively curb crime.

Is there any convincing evidence that gun control laws curb crime?

There isn't. There are claims, arguments and speculation but not real evidence.

Let me share with you the arguments that I hear and my answers.

"We've got to do something!" That's the emotional plea. Any reasonable person can understand the anxiety caused by crime.

Isn't it awful that so many people are killed with guns in America? Of course it's awful.

Aren't you concerned about violence and crime? Of course I'm concerned about violence and crime.

Then do something! Pass a gun control law! Simple? No, it's simplistic. The stark reality is that the great bulk of crimes do not involve guns. For instance, guns are not involved in most burglaries, muggings or rapes.

Well, they sure are used in a lot of murders! True. But do you really believe that the kind of person who commits murder would hesitiate to obtain a gun illegally?

Am I saying that gun-control laws don't deter anyone from obtaining a gun? Not at all. They do deter some people. People like honest shopkeepers who have been repeatedly robbed by gun-carrying thugs; innocent people who fear for their lives and property and need a gun for security and protection. But gun-control laws do not deter nuts bent on assassination; dangerous terrorists or professional criminals and organized crime. Gun control is no threat to them.

They will always know how to obtain guns illegally. And it's a safe bet that they relish laws that make it more difficult for law-abiding citizens to obtain the protection a gun provides.

Senator, that's the "gun lobby" line. You should listen to the facts. Do you realize it is a proven fact that in many murders involving the use of a gun, the killer and the victim knew each other, that lots of them involve friends or relatives, that some of them are caused by lovers' quarrels? Don't you see that a lot of these spontaneous killings would be prevented if guns were not so readily available? Isn't that a good reason for gun control laws? No and no again. Why should we be surprised because many killers know their victims? Why should we assume that a murder was "spontaneous" rather than planned just because the killer knew the victim? Shouldn't we expect a killer to claim he didn't plan to kill his friend or relative or sweetheart? Would we expect a killer to ask for a stiffer sentence by admitting premeditation?

But crimes of passion do occur and some people do shoot people during a rage! Gun-control laws would stop some of this! The would-be killer would have time to cool off if a gun wasn't so handy!

I realize that some people temporarily lose control of themselves, and that they may cool off and not kill or harm if a weapon is not available. But that is not a case for gun control. It's a case for praying that no lethal weapon is handy. An enraged person does not care if he kills with a gun or a knife or a baseball bat or whatever. And you can't prevent such killings unless you can guarantee the absence of anything that could help him kill. That can't be done.

Senator, be reasonable! Certainly you must realize that controlling guns just has to help prevent killings and other crimes? When gun-control proponents are hard pressed, they invariably fall back on repeating this unsubstantiated claim in a way that suggests it is a self-evident truth. What does seem obvious to me is that gun-control laws do not control the criminal use of guns. If gun control works, how do you explain the extremely high rate of firearms killings and other crimes in a place that has had the most strict gun-control law and the most strict gun-control enforcement in the nation for decades—New York City?

You don't think New York City is a fair example? OK. What about Detroit, Boston, Washington, Los Angeles, Miami, Newark, St. Louis? They all have very strict gun laws. Yet each of these cities has an extremely high homicide rate and an extremely high robbery rate. If gun-control laws curb crime, how do you explain that?

They're big cities? Is that why? Then how is it that many other big cities that do not have strict gun control laws—Denver, Milwaukee, San Diego, Jacksonville—have considerably lower homicide and robbery rates?

You want proof that gun control works? Just compare us with some of the foreign countries. Fine. Go right ahead.

Great Britain has gun laws more strict than the strictest American laws. And the rate of violent crime involving firearms is far less in Great Britain than in the United States, right? If Great Britain has strict gun control and a low rate of violent crime involving firearms, and the United States has far less restrictive gun control and a higher rate of firearms violence, doesn't that tell us something? Sure, it tells us that England has fewer violent crimes involving firearms. Period. It makes no more sense to jump to the conclusion that Great Britain's lower rate of violent crime is caused by its strict gun-control laws than it would to believe that New York City has a higher rate of violent crime than Great Britain just because it has stricter gun laws.

There is absolutely no proof that Great Britain's lower rate of firearms violence is a result of its gun laws. It is far more reasonable to conclude that it is a result of cultural differences between Americans and Englishmen.

Oh, yeah, then how do you explain Japan? Japan has strict gun control and a far lower rate of firearms violence than we do. True, but, there is no evidence that the reason for the lower rate is gun control rather than cultural differences, just as the fact that the rate of firearms violence among Japa-

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nese-American citizens is lower than the rate in Japan itself certainly does not prove that living in a country with less restrictive gun laws makes persons of Japanese descent even less prone to violence.

Both Great Britain and Japan, incidentally, have criminal justice systems that produce a significantly greater conviction rate than ours. Certainly that has to be considered a factor in their lower crime rates.

Senator, think! Doesn't it stand to reason that the more guns there are in private hands, the more gun-related crimes we are going to have? No. Gun-control advocates who like to point to the experiences of foreign countries should try explaining why the country with the highest per capita possession of guns in the world—Switzerland—has one of the lowest rates of violent crime. Israel, too, has extremely high per capita possession of firearms and a very low rate of violent crime. Despite the nearly universal availability of firearms in both Switzerland and Israel, those two countries have crime rates comparable to that of Great Britain.

Senator, at least admit that more and more people are buying guns and we are having more and more crime. Doesn't that mean something to you? Sure it does, but not what you think it means. I don't believe there is more and more crime because more and more people are buying guns. The reverse is true—more and more people are buying guns because they are scared by more and more crime.

What about the statistics? What about the studies? There are mountains of statistics and volumes of studies on the subject of gun control—much of it conflicting. I have ploughed through a great deal of it. My conclusion is that there are no statistics or studies to prove that the imposition of gun control can reduce the rate of violent crime. Indeed, the well-known Cambridge University study of the early 1970s concluded that gun-control laws have had no effect on the crime rate in Great Britain. And the University of Wisconsin study (1975) also concluded that ". . . gun control laws have no individual or collective effect in reducing the rate of violent crime."

What about the police? Isn't it true that many heads of law-enforcement agencies support gun control? Yes, just as true as it is that many of them *oppose* gun control. Neither the proponents nor the opponents of gun control can honestly claim that law-enforcement leaders stand squarely on their side. Look at Los Angeles, where the sheriff of Los Angeles County spoke out *for* gun control at the same time the chief of police of the City of Los Angeles was speaking out *against* it. If we want to cite law-enforcement leaders, why not point out that the superintendent of Scotland Yard has said that gun control in the United States is not practical.

How about this compromise? Let the people retain their ownership of guns, but let's secure all guns in safe places such as armories. The gun owners can check them out when they want to go hunting or target shooting. Next to the idiotic claim that gun owners are trying to prove their masculinity, the most foolish idea about guns is the push to round up thousands and thousands of guns and place them all in central locations where screwballs or terrorists could instantly acquire a massive arsenal that could be used against our ill-equipped police and a totally disarmed public!

Senator, are you going to stand there and say that gun control laws are not necessary? I am going to stand here and say that gun-control laws are futile and that they are totally impractical. They are only a minor inconvenience to the criminal and they are an unconstitutional infringement on the rights of law-abiding citizens.

Let's deal with the constitutional issue for a moment. The Constitution of the United States specifically states, in the Second Amendment, part of our Bill of Rights, that the right of the people to keep and bear arms shall not be infringed.

Senator, you know what the Second Amendment says! It says: "A well-regulated Militia being necessary to the security of a free State, the right of the people to keep and bear Arms shall not be infringed." Now certainly you know what that really means? Yes, I do. It means that the Founding Fathers deliberately withheld monopolistic power over firearms from the government as part of their brilliant system of checks and balances against excessive power in the hands of the government. The Second Amendment was conceived in order to preserve and protect our individual liberties.

No! No! All it means is that a militia—like the National Guard—can have guns. I think that if the Founding Fathers meant that, they would have said that. To them, the militia meant the people. I believe that they included the Second Amendment in the Bill of Rights as a check against domestic tyranny.

Even if I did not object on constitutional grounds, I would still oppose gun control because it is no more than a totally impractical illusion.

Do you know there are from 125 million to 200 million firearms in the United States today, depending on whose estimate you choose to believe? Anyone who honestly believes that we would have less violent crime if only guns were not so readily available has to believe in taking away 125 million to 200 million firearms from the citizens.

Generally speaking, gun-control proponents avoid saying that, but the views they hold logically compel them to take such a position sooner or later. How could we round up 125 million to 200 million firearms? It's impossible!

How much do you think it would cost for the government to buy up all the guns, even just all the handguns, in the country? Billions! Imagine the massive bureaucracy it would require. And who among us doubts for an instant that most guns would never be surrendered? No wonder the superintendent of Scotland Yard said that gun-control is just not practical in the United States!

Gun-control proponents usually fall back to a position that holds, in effect, that we can at least make a start by restricting possession of guns, or at least handguns, but their real long-range goal is to ban private possession of all firearms. That is a threat to individual liberty.

We know from experience and from common sense that gun-control laws don't work. We can make it impossible for the law-abiding citizen to obtain a gun, but there is no possible law that could prevent criminals from obtaining guns illegally. We can restrict cheap guns, but all that accomplishes is to increase the profits of gun dealers. We can ban short-barrel guns, but what's to prevent people from buying long-barrel guns and cutting them down? We could totally outlaw the manufacture of firearms in the United States, but that would simply create a massive gun-smuggling industry. We could severely restrict sale and possession of ammunition, but illicit ammunition makers would flourish.

Given the enormous number of firearms in private hands in the United States and the widespread support for the private ownership of firearms, real gun control in the United States today is about as practical as abolition of free speech.

I vote against gun control for three basic reasons:

(1) It is an unconstitutional infringement on a basic American right.

(2) There is no convincing evidence that gun control reduces crime.

(3) It is totally impractical.

Massachusaetts passed the kind of gun-control law that many of my colleagues tried to pass and are continuing to try to pass here in New York State. Their law imposes a minimum mandatory jail sentence for illegal possession of a handgun. The legislators who voted for these laws claimed they did so to fight crime. Interesting! Massachusetts did not impose a mandatory minimum sentence for armed robbery, burglary, rape, or even murder! Ask a gun-control proponent to explain that.

Crime—that's what we need to control. We need tougher crime-control laws, tougher courts and tougher corrections systems.

The answer to crime in America today isn't to take guns away from law-abiding citizens who feel a gun affords them protection. The answer is to put more criminals where they belong.

ESCALATION IN NICARAGUA

HON. MICHAEL D. BARNES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. BARNES. Mr. Speaker, during the past several years many of us have lamented the fact that the Reagan administration seems determined to keep United States-Nicaraguan relations on a escalatory cycle. Our entreaties have not yet been successful in changing administration policy to one of seeking peaceful settlements in the region. But we must continue to speak out on this matter. I continue to hope that some way can be found to stop the escalation and seek peace.

In that spirit, I wish to share with my colleagues a recent column on the subject by the respected columnist of the Christian Science Monitor, Joseph C. Harsch. There is much calm wisdom in this column, in marked contrast to the administration's overheated rhetoric. I hope my colleagues will give Mr. Harsch's column their careful attention:

STRUGGLE FOR NICARAGUA: ESCALATION

According to the back files of the International Institute for Strategic Studies (IISS), there were 200 Cuban soldiers deployed in Nicaragua in 1981 when Ronald Reagan came to Washington and took over American foreign policy.

The number went to 1,000 in 1983 and then to 3,000 in 1984. The latest edition of the annual IISS report on "The Military Balance" again carries the figure of 3,000.

In other words, the presence of Cuban troops in Nicaragua in support of the present Sandinista government of Nicaragua is not new. But it climbed as the Reagan administration in Washington organized and deployed a counterrevolutionary force against that Sandinista government in Nicaragua.

There was a flurry of excitement in Washington last week over those Cuban troops in Nicaragua. United States Assistant Secretary of State Elliott Abrams, testifying before a congressional committee on Dec. 5, said that the Cubans were, and had been for some time, taking part in combat. Surprisingly, he used the figure of 2,500 for Cubans in Nicaragua. Normally in such matters, United States government officials use the highest figure available, particularly when they want more money from Congress.

The flurry of renewed interest in the story of the United States vs. Nicaragua had started earlier in the week, on Monday, Dec. 2, when the U.S.-backed rebels, or "contras," successfully shot down a Soviet-built helicopter. The contras used a Soviet-built SA-7 guided missile for the shooting.

The Soviet SA-7 is a lightweight hand-held anti-aircraft weapon. It has been deployed for over 10 years. It is widely used in the armed forces of the Soviet Union and its clients worldwide. Apparently it can be bought on the open market. The story offered in Washington of how the contras obtained a Soviet built SA-7 is that it was probably bought in Portugal.

The use of the SA-7 by the contras was apparently a shock to the Nicaraguans. Nicaraguan President Daniel Ortega Saavedra promptly denounced it as an act of "escalation."

That takes us back a ways. There has been steady escalation in and around Nicaragua for some time. It began with the 1981 decision of the Reagan administration to organize and mount an anti-Sandinista force. Deployment of that force in Honduras began in 1982. It reached its peak of effectiveness in mid-summer of 1984. At that time, contra raids penetrated within some 40 miles of the capital.

That phase of contra activity had been made possible by light planes capable of supplying the rebels well inside Nicaragua. They could, with supply by air, stay "inside" for days, even weeks at a time. But in war there is often a new answer to a new move.

The United States supplied the supply planes to the contras. The Soviets responded by sending helicopter gunships to the Sandinistas. Those gunships put the contras into a winter lull. Their supply planes fell easy victim to the Sandinista gunships. The contras have had a quiet season in which to regroup.

They were revived when Congress reluctantly authorized $27 million for "humanitarian" help. How "humanitarian" help got translated into Soviet SA-7 weapons is a story that lies hidden in that realm of action called covert in the current jargon of Washington. But obviously the SA-7s are an answer to the gunships.

So there has been steady escalation back and forth ever since 1982. The United States built the contra force. The Cubans sent 3,000 soldiers to help the Nicaraguans. The United States provided the contras with the capability of supply by air. The Soviets answered with gunships. The contras got SA-7s.

Where does it lead? U.S. Secretary of State George P. Shultz has gone off on a trip to Europe, leaving behind a hint that he might come back and ask Congress to provide overt United States military aid to the contras on the ground that the Cubans have escalated their role by going into combat with the Nicaraguans.

It begins to look as though the Sandinista regime in Nicaragua can be brought down only by actual overt use of U.S. troops. So long as United States aid is supposedly "clandestine" and "covert," it is possible for Moscow and Havana to countermove by a new move.

At some point, Mr. Reagan will probably either have to give up in Nicaragua or send in the United States Marines, plus a big chunk of the United States Army. The Sandinistas now have about 60,000 men under arms, with steadily improving training and equipment.

REDUCING FEDERAL SPENDING

HON. DICK CHENEY

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. CHENEY. Mr. Speaker, earlier this year, Mr. James Rouse of Saratoga, WY, came up with the idea of sponsoring an essay content with cash prizes for the best essays on what the average citizen can do to reduce waste of the Government's money. Using his own money, Mr. Rouse paid $1,000 for the first prize, $500 for the second, and $250 for the third prize, to three young people in his community who researched and wrote essays on this important subject.

I am pleased today, Mr. Speaker, to submit for publication in the RECORD an essay entitled, "To Spend or Not To Spend?" by Miss Jennifer Justice of Encampment High School in Encampment, WY. Jennifer received $500 for her excellent work. I hope it serves as an inspiration to other young people to take an interest in the affairs of their Government.

TO SPEND OR NOT TO SPEND?

(By Jennifer Justice, Encampment High School, Encampment, WY)

We live in a time period that has been called the "Me Generation". The Eighties are an era in which people have come to realize the importance of personal incentive and the consequential profits. Unfortunately, this success can result in greed. This applies to the United States' government as well as individual citizens. By 1984, the U.S. government had built up a $184 billion deficit. There are three essential factors in reducing this incredible deficit: identification, information, and interest.

J. Peter Grace, prominent businessman and author of "Burning Money," a report on government waste, found in his recent research that nearly every governmental operation has an element resulting in waste and inefficiency. Grace claims that we can " 'fix it' (excessive government spending) by identifying and eliminating that waste and inefficiency." Throughout his report, Grace identifies the problems with specific examples:

1. He tells of routine Social Security payments made to some 8,000 American people who are deceased.

2. Grace says that the Veteran's Administration spends twice as much per hospital bed and four times as much per nursing home bed as the private medical sector.

3. The Pentagon purchases 3-cent screws for $91, 25-cent compressor caps for $100, 9-cent batteries for $114, and 60-cent light bulbs for $511. The government pays $436 for a $7 hammer. A retired Air Force officer I know describes waste in the military. He tells the story of a large quantity of new street lights being buried at the base dump before an inspection. They were not listed on the inventory and therefore caused a problem. Two years later, a contest was held to get suggestions on how to light the missile complex parking lot at low cost. This officer turned in the suggestion to dig up the "unknown" streetlights. Not only did the officer win $100, the parking lot was lit entirely by the "problem" lamps. Had it not been for one scavenger officer, the government would have again succeeded in abusing taxpayers' money.

4. Repeatedly, we see absurd waste of the taxpayers' money. Federal travel expenses for 1984 were $4.8 billion. Had the government taken the time to centralise travel procurement and take advantage of large-business accounts, it would have saved taxpayers $984 million over a period of three years.

5. There are 4,000 military bases in the United States, but only 312 of them are considered significant; the rest are considered support facilities with less than 150 employees each. If efforts to close unecessary bases were successful, it would result in a potential savings of $2 billion per year.

6. The formula used to calculate food stamp benefits has not changed since 1971, though the American economy has. This results in $1 billion a year of taxpayers' money again being abused.

The abuse and waste goes on and on. Simply stated in the words of J. Peter Grace, "The problem is too much Federal spending, and neither ignoring it nor covering it up will make it go away."

The next factor in reducing government waste involves information. The problems lie in Federal operations. The information that is necessary for efficiency is usually inaccurate, out-of-date, unavailable, or incomplete. For the American people to really make a difference on the issue of government waste, they have to be informed as to how their government is spending their money. Unfortunately, usable data is hard to come by because of the lack of organization in the United States government. For instance, the Veterans' Administration pays $15 billion per year to six million claimants, and while they know that over $500 million is paid in error, they have no formal system to correct the problem and therefore the American people pay once more for the government's misuse of information. To truly make the American people aware of the huge waste of funds in the U.S. government, hence causing them to take steps to make a change in policy, careful study must be done on the subject of governmental waste and abuse. The citizens of the United States need to be familiar with the things taking place in their "democratic" government.

The third and final step toward reducing government waste is to peak the interest of the people. The United States government was founded on the democratic ideals; ideals that said that the people took a strong interest in their government and its operation. Grace calls for a "crusade of the people" to form a more efficient and productive government by forcing Congress to get rid of government waste and abuse. Congress is the key toward making these improvements because the legislature has the power to control spending. It is the American people who lose when the government misuses its finances. The people must show their concern for the future of America by demanding that their Congress waste less in its functioning. Grace claims that one of the most important ways to do this is by requiring Congress to grant the President the item veto. Millions of dollars are wasted each year on "riders" attached to larger bills that the President has no control over without the item vote. This step starts with personal letters from the people.

Wyoming Congressman Dick Cheney said at a recent youth leadership seminar that one of the most effective ways to influence the government is to write personal letters to members of the Congress. Cheney stressed the significance in government, so the people should become personally involved and interested in the government of their country.

Identification, information, and interest; three important steps toward reducing government waste and abuse. The concerned citizens of the United States must first identify where the problem lies, become informed on the problem subjects, then act on what they know because of their genuine interest in the stability of the American government. If the question really is, "To spend or not to spend?", I choose not to spend and follow through by making a commitment to be a conscientious, well-informed voter, voting only for those politicians whom I have seen in action in events such as political forums, and who will recognize my concerns as a voter and taxpayer.

I commit myself to the task of writing my representatives to express those concerns. In the words of J. Peter Grace, "By taking action as an individual citizen, voter, and taxpayer, you reject the fashionable cynicism that says that the American democracy is no longer workable. We have the best, most envied form of government in the world. It is so, precisely because it does respond to the will of the people."

PROTECTIONISM COULD LEAD TO WORLD WAR III

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. FRENZEL. Mr. Speaker, a noted former professor of political science at the University of Minnesota and consultant to the well-respected Minnesota International Center, Mr. William C. Rogers, has written a short paper which paints a rather stark scenario on how passage of extreme protectionist bills, such as the textile bill, could lead to a major trade war that could actually result in isolation of the United States, a turn by our allies toward the Soviet Union and possibly the start of World War III.

I would recommend the paper to my colleagues as one worth reading.

PROTECTIONISM AND THE COMING OF WORLD WAR III

(By William C. Rogers)

For the last year the possible dire economic consequences of the current rise of protectionist pressures in the United States Congress have been trumpeted from the administration in Washington, from the media, and from practically every university economics department in the country. The message is: new barriers to U.S. imports would harm consumers, especially the poorest of our people, as well as hurt the economy of other countries including our allies and many recipients of American aid programs.

One example of this danger can be drawn from the textile bill passed by Congress. It is one of over 300 protectionist bills before Congress. Estimates are that each American textile job saved would cost our economy $42,000 for every $11,000 a year job saved. Lower income people would have to pay more for their clothes and would have less money to spend on other consumer goods, thus hurting industries such as agriculture and manufacturing. More serious, would be the inevitable retaliation from other countries injured by the proposed new barriers. Would they continue to be willing to buy U.S. products in these circumstances? Not if they could help it, we are told. Multiply the damage of the textile bill by 50 or 100 and the U.S. might find itself in the place it occupied in the 1930s when it had the dubious honor of having the highest tariffs in the world after Spain.

The Great Depression can be traced in a very direct way to the Smoot-Hawley Tariff of 1930, the highest in our history. It was signed by President Hoover to satisfy the demands of farmers and scores of industries which blamed "foreign devils" for their economic plight. Farmers who benefited from World War I food shortages which increased U.S. exports from $2.5 billion in 1913 to $8.2 billion in 1920, wanted the good days to continue. But after the war Europe began to grow its own food again and U.S. agriculture slumped. Far from helping, the new tariffs helped bring on a farm depression.

While the economic arguments against protectionism are fairly well known, against protectionism, a far more dangerous military argument against protectionism is seldom voiced. It must be faced, however. World War III could well result from a new tariff war. Bad as World War II was, it would be child's play compared to nuclear warfare. World War II had some of its deepest roots in the protectionism that developed in the 1920s and the 1930s and we shall suggest trade barriers could fuel World War III.[1] We will attempt to trace the relationship between protectionism and war as it worked in the past before examining the possible path from today's protectionism to tomorrow's disaster.

The years immediately before and after World War I are probably about as well known to most of us as the rise and fall of the Assyrian Empire. World War II is this generation's war. Yet the decade before 1914, when "the lights went out all over Europe," saw a great expansion and improvement in the world economy. Trade was very free and open as was the movement of people. The United States and Venezuela were among the few countries which even bothered with passports. The world banker was London and the British luxuriated in their vaunted free trade policy. The United States and Japan were becoming world powers. Unfortunately the search for military power and the rise of nationalism triumphed over the relatively harmless pursuit of profits. The Kaiser's Germany wanted her "place in the sun." The Czar's Russia was pursuing Pan Slavism. France wanted revenge for her 1870 humiliation and America happily isolationist and nearly disarmed after the Civil War was content to "twist the lion's tail" at election times while enjoying the open world economy, protected by the British Navy and our two oceans.

The period immediately after World War I saw a revival of high tariff policies among the victorious allies but most notably in the United States. High tariffs had been a fixture in the USA since after the Civil War when the cry was raised to protect our newly developed "infant industries." They were finally effectively opposed by Woodrow Wilson when he was elected. The needs of World War I made them obsolete. But after the war in 1920 the high tariff Republicans were in office again. According to Morrison and Commager's classic American history text, "Within a month of his accession to the Presidency, Harding announced "the urgency for an instant tariff cannot be too much emphasized."[2] Congress responded with the Emergency Tariff of 27 May, 1921, historically important because of its prohibitive agricultural schedules. "More important was the Fordney-McCumber Tariff of September, 1922, which established rates higher than ever before in our history. Duties on sugar, textiles, pig iron, rails, and chinaware were restored to the old Paine-Aldrich level while increases on toys, hardware, chemicals, dyes and lace ranged from 60-400%." The United States led the way to a protectionist world after the first world war. (Do these protectionist triumphs have a familiar ring to them? Sugar, textiles, and steel are certainly items that Congressmen in the 1980's are eager to protect once again).

Meanwhile, across the Pacific, Japan's military, which had been on the Allied side against Germany, was willing to give the newly developed Japanese business classes a try at governing. In a respite from its Samurai inspired military adventures, Japan gave peaceful economic growth a chance, but the going was hard. Britain was recovering from the War and passed an Empire Preference Trade Act in 1923. The U.S. fearing both the "yellow peril" of Japanese immigration and a flood of "cheap Japanese goods" enacted an humiliating Japanese exclusion act. The Japanese military fumed with anger but stayed confined to barracks, waiting and hoping that the business interests would fail in their peaceful commercial methods of improving the Japanese economy.[3] The army hoped to solve Japan's economic problems by conquest.

Violent reaction to the impact of protectionism across the Atlantic came from two militaristic demagogues in central Europe. Mussolini had triumphed in Italy in 1922 with his "March on Rome." He called for a new Roman Empire to meet Italy's economic needs. Adolph Hitler, frothing at the mouth in a prostrate Germany had launched his famous "beer hall pustch" in 1923 and ten years was Chancellor. Neither dictator had any faith in peaceful trade and commerce as a cure for their nations ills—quite the contrary. Hitler scorned the attempts of "bourgoise" leaders to restore Germany's economy after the war, and when they had nearly succeeded after the Locarno Pact and the first London Economic Conference he continued to demand "lebensraum" and "autarki" instead of a restored world economy. While the world economy was beginning to recover in the 1920's the Wall Street crash of 1929 gave powerful new support for the protectionist route. This tariff war eventually led to the seizure of power by military tyrants in Italy, Japan and Germany. The invasions of Manchuria, Ethiopia and Poland, and eventually the bombing of Pearl Harbor followed. If the world had regained a free and open trading system after 1919, such as we have had for the last 40 years since World War II, there is a good chance World War II could have been prevented. And what does all of this have to do with today?[4] The Allies in 1945 were determined to avoid the economic disasters following World War I. The Bretton Woods Conference of 1944 established a new open world economic order which has made the world more prosperous than at anytime in history. But will it last?

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[1] Some details about Annie Wilson and her run into Mexico have been altered to protect her anonymity.

The current alarming trade protectionist developments aimed by Congress at the Pacific Basin must remind us of the march of events which took Japan from being a peaceful trader in 1919 to taking the road to military conquest in 1931. American and European protectionism was a major cause of this tragedy.

What is the scenario by which protectionism could lead to World War III? The Soviet Union's main objective since the end of World War II has been to split the United States from its allies in Europe and from Japan. This would isolate the United States and make the Soviet Union the dominant world power. Would Soviet world hegemony lead to world peace? Some might hope so, but most would doubt it. A recent issue of the Naval Institute "Proceedings" examines the possible American military response to such a Soviet triumph in the Pacific.[5] Some may reply that this is a typical militaristic Pentagon response to an imaginery threat used as a ploy to gain bigger appropriations, yet a trade war which would cause Japan's standard of living to drop precipitously could cause her to look elsewhere than to America and Europe for economic salvation. For a long time the Russians have been wanting technical help to develop Siberia. They could get it from Japan. China, of course, remains a natural market for Japan and indeed is a large trading partner already. An arrangement of this sort would be on China's terms now, unlike the period of Japanese dominance ending in 1945. The potential of a Japanese-Chinese-Russian relationship in the Pacific should be a cause of apprehension in California at least! (See Edwin P. Hoyt's new book "The Militarists: The Rise of Japanese Militarism Since WWII" for just such a scenario).

Even more alarming than the possibility of losing our strongest and oldest ally in the Pacific is the damage we may be doing to a new friend in the area—China. Singapore Prime Minister Lee Kuan Yew spelled it out in an October 1985 speech to a joint session of Congress. He said "China is seeking growth through trade, not territorial aggrandizement . . . For nearly 30 years . . . China was a ceaseless spoiler of other countries' economic plans as she undermined their stability. She was an exporter of revolution". He pointed out that China had reduced her army by one million men to take advantage of trade with the West. He then asked "Is America willing to write off the peaceful and constructive developments of the last 40 years that she has made possible . . . when she has nearly won this contest for the hearts and minds of the Third World?"

And what about Europe? Europe in modern times has always lived on exports. Without being to able to sell to America she would have difficulty buying many of the things that are necessary for her standard of living. Again Russia and Eastern Europe beckon as a market place of last resort, again on Communist terms. Much has been written over the years about the possible "Finlandization" of Europe. A trade war would certainly make this much more of a possibility. If the Europeans were faced with the possibility of maintaining their own defenses and their own economies without the participation of the United States and with a loss of our trade there would certainly be a temptation to neutrality. A Soviet offer for a united and disarmed Germany might under these conditions have great appeal.

A growth in anti-Americanism would feed nationalism and its twin brother militarism in the Third World where the impact of a protectionist America can only be imagined. If Cuba and Nicaragua are a problem now, what would be the effect on the rest of Central America and Mexico of a new America protectionist wall?

The bogey man of world communism has been used to explain many excesses of U.S. foreign policy, but in a protectionist world it is reasonably clear which of the two super powers would benefit the most. The Soviets have lived with protectionism since the Stalin years. Their market has been virtually closed to the world for 50 years and they now have learned to live with this situation.

Would the United States accept a Soviet dominated world without resistance? Certainly the "Fortress America" concept of former President Hoover would have overwhelming support. The Strategic Defense Initiative would also be looked to for salvation. But would a purely defensive posture be acceptable to the American people even when faced with Armageddon? Would not some incident or groups of incidents trigger small armed conflicts before this scenario of "America Isolated" came to pass? With American troops in Europe and our navy in the Pacific, would we stand by as one former ally after another was absorbed willingly or unwillingly into the Soviet sphere of influence? The fate of the 300 protectionist bills in the U.S. Congress may hold the answer to the question which we failed to ask ourselves in the 1930s—"can protectionism lead to war"?

CHRONOLOGY

1921—"Emergency Tariff" in U.S.A.

1920's—Victorious allies raise tariffs.

1922—U.S. Fordney-McCumber Tariff.

1923—British Imperial Preference Act.

1924—End of rise of PW Trade barriers (Kirk and Sharp, Contemporary Politics, 1940).

1925—Locarno Pact.

1927—French-German commercial treaty.

1927—League of Nations International Economic Conference report ("excellent but not adapted").

1928—French troops leave Rhine.

1929—Midsummer "extremely promising"—U.S. German Young Plan.

1929—October—Wall Street crash.

1930—London Economic Conference I—moratorium.

1930—Smoot-Hawley Tariff Act passes.

1931—Manchuria invaded by Japan.

1933—Hitler becomes Chancellor.

1934—London Economic Conference failure partly due to U.S.'s refusal to cooperate.

1934—Ethiopian invasion by Italy.

1936—Italy, Japan and Germany in Anti Comintern Pact against USSR.

1936—German troops in Rhineland.

1941—Pearl Harbor.

1944—Bretton Woods Conference establishing Bank and Fund and new post-World War 11 open world economic order.

1945—Surrender of Axis Powers.

1985—300 protectionist bills before Congress.

FOOTNOTES

[1] Of course there is a case for "the level playing field" approach to selective protectionism. Other countries take advantage of America with their own trade barriers. The Reagan Administration has a new and aggressive policy to "even the tile" although some say it is mainly for show to stop the protectionist excesses of the Congress. The arguments for protecting our basic industries voiced by the AFL-CIO in strident terms is less convincing. (See any issue of "AFL-CIO NEWS" 815 16th Street, Washington, D.C. 20006).

[2] Morrison, Samuel Eliot Morrison and Comager, Henry Steel, The Growth of the American Republic, Vol. II, Oxford University Press, (1962) New York, N.Y. p. 635.

[3] Shigenori, Togo, The Cause of Japan, Simon and Schuster, (1956) New York, N.Y. "Already in the years 1918 and 1932—the 'period of normal government'—three premiers and assorted other public figures had met death by violence" and by 1931 "any who opposed aggrandizement and militarism were stigmatized as "corrupt politicans" or "selfish financial magnates," who must be silenced."

[4] In the modern age, few if any wars have been fought for purely economic reasons, Marxist explanations to the contrary. Wars are fought for many reasons. Chief among them in contemporary times has been nationalism and ideology. Nevertheless, economic reasons have been used to justify armed conflict and real and genuine economic injustices and hardships which can be used to justify acts of force. (See Quincy Wright, A Study of War, for a definitive treatment of the causes of war). Other factors and fancies used by the Axis powers to gain power and mobilize public opinion for war included the desire for revenge, fear of Communism, racial hatred, "Socialism," and "population pressures." On this last point, the Japanese military complained that a nation of 75 million in 1930 could not exist without colonies. Now Japan has 100 million people living in astonishing prosperity.

[5] Proceedings," U.S. Naval Institute, August, 1985. The first article states "The Soviets have increased the size of their Pacific Ocean Fleet by more than 50 ships and submarines since 1983." Other articles deal with Japan, Oceania, New Zealand, Southeast Asia, Guam and the Pacific Coast. It warns of a world in which U.S. influence is not felt past the mid-Pacific.

NATIONAL ASSOCIATION OF HOUSING COOPERATIVES

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. HAWKINS. Mr. Speaker, nearly 500 housing cooperators from around the Nation convened in my city of Los Angeles to hold the 25th Annual Conference of the National Association of Housing Cooperatives, October 16–20. The theme of the conference was "a celebration of knowledge and experience."

Housing cooperatives are the cornerstone of providing economic democracy to our Nation, affordable, nonprofit, housing ownership. NAHC is the primary professional and consumer association for housing cooperatives in the United States. NAHC members share a belief in the principles of cooperative enterprise, and a dedication to the interests of cooperative housing communities.

NAHC's annual conference consisted of 3 days of intensive workshops designed to improve the operation and quality of life of housing cooperatives. Among the 34 workshops were such interesting subjects as cooperatives for the elderly, crisis in commercial insurance, disaster planning and recov-

ery, newsletters for your co-op, and energy conservation and rehabilitation.

At the NAHC annual meeting, members of the board of directors were elected or reelected. These were: Charles Flannagan of Brooklyn, OH; Peter Merrill of Portland, ME; Paul Fisher of Bronx, NY; Roger Willcox of Norwalk, CT; and Lydia Joseph of Sausalito, CA. At the board of directors organizing meeting the following officers were elected: chairman emeritus, Charles Rappaport of Queens, NY; president emeritus, Roger Willcox; chairman, Marlene Cooper, Atlanta, GA; president, Herbert H. Fisher of Chicago, IL; executive vice president, Terry Lewis of Ann Arbor, MI; treasurer, Paul Fisher, secretary, Dean McKennon of Beverly, MA; immediate past president, Lydia Joseph, and members of the executive committee, Bill Magee of Chicago, IL and Kenneth Mordaunt of Brooklyn, NY.

Mr. Speaker, the keynote speech at the NAHC annual conference was delivered by the association's president, Herbert H. Fisher, a Chicago attorney. In his address he stated:

NAHC exists to serve, to provide leadership and to maintain integrity in today's cooperative housing market based upon the interests of the housing cooperators and their need and desire for decent housing operated on a democratic basis.

I commend Mr. Fisher's keynote speech to my colleagues, for it contains many words of wisdom.

Keynote Speech (Excerpts), by Herbert H. Fisher, President, National Association of Housing Cooperatives

It is with utmost pleasure, pride and satisfaction that I am called upon to welcome you to this 25th Annual Conference of the National Association of Housing Cooperatives being held in this, its 35th year of organizational existence.

It is only with recognition of the significant contributions of those who have served this organization and the housing cooperative community of our Nation in the past, both housing cooperators and professionals serving housing cooperatives, many still making their contributions, that we are today able—without reservation and with legitimate recognition—engage in a "A Celebration of Knowledge and Experience" the theme of this Conference.

There is no place else in this country that anyone interested in housing cooperatives or needing information or support can turn for reliable knowledge and experience than to the National Association of Housing Cooperatives and its members.

NAHC exists to serve, to provide leadership and to maintain integrity in today's cooperative housing market based upon the interests of the housing cooperators and their need and desire for decent housing operated on a democratic basis. NAHC is dedicated to that service and to the protection of those interests—protection of housing cooperatives and you, their cooperators—present and future. As was the slogan of the labor movement of the 30's—"In Unity There is Strength", we must face the future with such strength as comes from our unity. We must soothe dissesion and avoid disunity by common and mutual efforts.

Also, with pride I can review what we have accomplished during the past year—since our most successful conference in Boston. We have contributed 4 NAHC members to the National Cooperative Bank Board. We have called our member's attention to the eligibility of GNMA certificates as investment vehicles. We have called attention to pending legislation which would require housing cooperatives to report the pass-through of mortgage interest. We warned of content in the FNMA drafted recognition agreements used by the Share Loan Service Corporation. We have sought to contribute to housing cooperatives generally by offering a definition for housing cooperatives. We have allied ourselves with the Low Income Coalition to find a solution to our Nation's housing problems. We co-sponsored with the Cooperative Housing Foundation a dinner in recognition of attendees at the International Cooperative Alliance Meeting in Washington, DC. We reinstituted our Cooperative Housing Newsletter competition. We made input into HUD's evolvement of Section 203 (n) (insured share loan program) regulations. We are seeking a definition or allowable expenses for Board functioning, conference attendance and education which all HUD offices will recognize. We published Alex Miller's work on Marketing Cooperative Memberships. We perpetuated the memory of Jerry Voorhis by continuing the Jerry Voorhis Award. We reminded cooperatives of the increased penalties for failing to provide 1099 forms for non-employees doing contracted work for the cooperative and if patronage dividends of over $10 are declared. We also got our Cooperative Housing Bulletin back on a regular bi-monthly publication and distribution schedule.

Of greater long term significance is our having reinstituted the publication of the Cooperative Housing Journal after a few years of suspended publication. We are proud of that accomplishment in reducing to writing our Knowledge and Experience into articles of lasting value for leaders of housing cooperatives—and for the entire membership.

In a most important legislative activity, NAHC took the initiative, not to dictate, but to secure the consensus upon which we can eventually defeat threatening Federal Legislation and secure the modernization of Section 216 of the Internal Revenue Code through which housing cooperatives pass through the Cooperative's mortgage interest and real estate tax expense to their cooperators' individual tax returns.

It is only NAHC, together with its affiliated associations, which is trying to find a solution to the attempts of IRS to tax reserve interest income under Section 277 of the Internal Revenue Code.

You have all proven you can survive against the most adverse economic conditions to be imposed upon housing—inflation, unemployment, utility and fuel costs escalating, increasing employee wage levels, and even internal member/shareholder dissension. Your cooperatives remain as bastions of democratic economic entities providing safe, sanitary and decent housing for your member/shareholders. You are now being asked to look outward and truly join with other housing cooperatives and their housing cooperators to fight some common battles which transcend whether or not you are a cooperative related to HUD programs or not; whether you provide housing for upper income families or for families of modest incomes; whether you are located in suburban dales or in inner city canyons.

The Internal Revenue Service and proposed changes in the Internal Revenue Code now threaten all of us. Low and moderate income families, who may not now be concerned about reserve income being taxed or about the pass through of the cooperative's real estate tax and interest expense on individual cooperator's tax returns, may be facing the day when now depleted reserves are replenished or when economic integration of their cooperatives may be their only chance at survival; or the upwardly mobile member/shareholders may desire, to remain in the cooperative and are willing to pay surcharges in order to do so because of the pass through of deductions to their own individual tax returns. Cooperatives with Section 8 contracts must plan for the day those Housing Assistance Payments contracts will expire.

Cooperators must recognize that we must all work to finding a solution to our Nation's ignored housing problems to avoid cooperatives from becoming fortresses striving to survive against the onslaughts of the housing disadvantaged. All cooperators must support NAHC's effort to find solutions, cooperative or otherwise, to the housing shortage facing the majority of our nation—a shortage due to the lack of affordable housing available today.

It is only NAHC, knowing the increased educational needs of housing cooperatives and of groups seeking to create housing cooperatives for individually tailored educational and training programs, which has in place training programs in Los Angeles and Philadelphia. We have the knowledge and experience with our own expanding resources, together with our membership and our regional associations, to do what is needed.

DICK SULLIVAN

HON. JAMES J. HOWARD

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. HOWARD. Mr. Speaker, Members of Congress often rise to recognize an act of bravery, eulogize a patriotic constituent or pay tribute to the heroic or unselfish acts of good samaritans. But all too often, we overlook the heroes with whom we work every day.

We owe a great debt of gratitude to the individuals who staff our personal offices and the committees on which we serve. These public servants do much of the work in this institution but get little of the recognition.

For 29 years, the Public Works and Transportation Committee has benefited from the loyal and enlightened leadership of its chief counsel, Dick Sullivan. Five full committee chairmen before me relied on Mr. Sullivan's sound advice to steer landmark legislation through hearings, markups, floor debate, and often arduous conferences. Dick Sullivan has never shrunk from a showdown and is always eager and willing to defend the jurisdiction of the Public Works and Transportation Committee.

The phrase, "fiercely loyal" was never more appropriately applied than to describe Dick Sullivan. He has been loyal to his staff and to me without exception, he

has been loyal to Congress and its traditions and he has been loyal to our country.

It is for these reasons that I would like to share the attached Wall Street Journal article which provides a rare and I think, accurate, insight into Dick Sullivan as a man and as a great professional. The article follows:

[From the Wall Street Journal, Dec. 12, 1985]

A Changing Congress Is Shown by Stories Of Two Staff Members

(By David Rogers)

WASHINGTON. Richard J. Sullivan remembers Jack Benny at New York's palace theater, the Ninth Infantry in World War II and the old Bronx Democratic machine. "I survived Cathopic School," reads a sign on his cluttered desk.

James D. Bond's war was Vietnam; his home, North Dakota. From the first came a certain fatalism; from the second, a Midwest Republican loyalty nurtured by his late grandfather, a Fargo newspaper publisher. "I believe in burning communist crops," he jokes, puffing on a Cuban cigar.

Generations apart, Mr. Sullivan and Mr. Bond symbolize two eras of Congress.

As the veteran counsel to the House Public Works Committee, the 68-year-old Mr. Sullivan reached the zenith of his power during a period when ambitious legislation—for public works or social policy—was Washington's agenda. Today, though, times are tougher for Mr. Sullivan; and it is the 40-year-old Mr. Bond, clerk to the Senate Appropriations subcommittee for foreign operations, who is ascendant. He is a creature of leaner times; the limits on resources in recent years have given his panel extraordinary clout because of its power to allocate those resources.

The Gramm-Rudman budget bill, that Congress passed last night, both dramatizes and accelerates the change in political eras. With its progressively lower deficit targets and mandatory spending cuts, the measure assures that limited resources will be the reality for the foreseeable future. And if Mr. Sullivan represents an era that said "yes," Mr. Bond's job more often is to say "no."

SHIFTING POWER

Together, the two men offer an unusual portrait of a changing Congress in the age of deficit politics. Their story shows how power within the institution has shifted—from the authorizing committees that set policy to the appropriations committees that control the purse strings, and from a generation of builders to one of budgeteers.

On a more personal level, a close look at the two men offers a glimpse of the little-known world of House and Senate staffers, men and women who both influence power and are its instruments.

White-haired and irascible, Dick Sullivan is the model of an urban, ethnic Democrat. His expansive style matches his view of an activist New Deal government. In nearly three decades as chief counsel, he has served six chairmen; with his gruff, theatrical manner, he has dominated the panel as few staff members ever have.

Says Frederick Salvucci, Massachusetts' transportation secretary, who has sometimes dealt with Mr. Sullivan: "This guy could be called a committee staffer, but I wish to hell he was a senator. He is a guy who has been around a long time and believes in public investment."

Mr. Sullivan's committee career stretches back to 1957, corresponding with the period in which landmark highway, water and environmental legislation was enacted. Those years of federal commitment and largess suited not only Mr. Sullivan's own political skills but also the ambitions of influential members.

SIGN OF THE TIMES

Today, however, the committee must struggle simply to protect its basic jurisdiction, let alone initiate huge new projects. A pending water bill, for instance, would mark the first major authorization of new projects in a decade. Another sign of the times: neither Public Works Chairman James Howard, a New Jersey Democrat, nor any other chairman of a major authorizing committee could initially get a seat on the House-Senate conference on the Gramm-Rudman bill.

Mr. Sullivan "is one of the finest politicians I know, but in a sense he is out of style," says George Mead, a North American Van Lines lobbyist. "When you can't get big highway and water legislation through. Dick doesn't know what to do."

The son of a New York City policeman, Mr. Sullivan went from World War II and Fordham Law School into the Bronx Democratic clubhouses. There, he "met the judges," a ritual for a politically minded young attorney, and ultimately won a job as counsel to Democratic Rep. Charles Buckley, the Bronx political chieftain who was then Public Works chairman.

Mr. Sullivan never fulfilled his ambition of succeeding Mr. Buckley in the House, but today he sometimes almost unconsciously slips into the phrasings of a congressman in floor debate. Once, during an angry meeting over the 1982 Environmental Protection Agency scandals, he delivered a long attack on uncooperative Justice Department lawyers and then exploded: "I yield back the balance of my time!"

"His flipping into member's parlance was accepted by everyone," remembers Stanley Brand, then counsel to the House clerk. "It illustrated his deep feelings about the committee. The members expected that of him—to be so committed to their position . . . to fall into that role."

Mr. Sullivan's sway within his domain can make him many friends. Back in 1975, for instance, he almost singlehandedly rewrote a legislative amendment that has since been worth hundreds of millions of dollars to mass transit systems such as the one in Boston, the home of House Speaker Thomas O'Neill. The committee had already cleared the provision, but aides drafting its precise wording differed with the phrasing sought by Massachusetts officials. In the final minutes before the bill was filed for action on the House floor, Mr. Sullivan made changes to meet the State's concerns. "It was literally Sullivan who saved that," says Mr. Salvucci, the Massachusetts transportation secretary.

Mindful of such influence, private interests sometimes have paid to hear Mr. Sullivan's views. House disclosure forms from the past six years show that Mr. Sullivan has received frequent honorariums from appearances before trade and corporate groups with a stake in legislation before Public Works. This income, though, has declined from approximately $9,490 in 1978 to $1,000 in 1984, the most recent year for which disclosure reports have been filed. "Part of it was for charity, part of it was for educating six kids," says Mr. Sullivan, who now earns $71,050 but went through years of salary freezes because of Congress's reluctance to raise its own pay or that of senior staffers.

Today, Mr. Sullivan's power is challenged by younger, specialized subcommittee chairmen. The House and Senate changes that brought about this decentralization of committee power coincided with the emergence of a formal budget process. The net effect of all these changes is a more technical, less emotional staff, and because of budget constraints, a greater preoccupation with oversight than new legislation. The attraction of higher salaries outside adds to the turnover among staff members.

Even Mr. Sullivan's hard-charging style seems a bit old-fashioned. "I have not yet gotten a call from Dick that was not 'urgent' or 'important,'" says Chairman Howard. The same impatience can chafe others.

If Mr. Sullivan seems a legend past his time, his knowledge of the past may remain his greatest asset. "He has the institutional memory that is lacking in many of the staff people," says Rep. James Oberstar, a Minnesota Democrat who once worked with him on the Public Works staff and who now chairs the investigations and oversight subcommittee. "When he retires it will be the end of an era, the once dominant staff power figure [giving way] to a network of selfless professionals."

Rep. Oberstar's description notwithstanding, Jim Bond is no wallflower. He is a man of arched eyebrows and his own peppery brand of bluster, with a taste for the good life. "He starts at the top of the menu," says one lobbyist who knows him.

In other ways, though, Mr. Bond typifies the new breed of congressional staffer. He is self-conscious about bending his activism to the wishes of the senators he serves. "To the extent I'm out front. I'm nervous," he says, and this hesitancy reflects the perils of the power he enjoys in the budget wars. In fractioning out foreign aid, he walks between what he calls the "Rambo" and "misery" lobbies of the right and left.

Mr. Bond earns $66,350 a year as an Appropriations Subcommittee clerk, a role that has grown vastly more important since the 1980 Republican takeover of the Senate and the wave of budget crises since. Officially, the far better known Senate Foreign Relations Committee is responsible for authorizing foreign-aid programs. But to an extraordinary degree, it is the Appropriations Subcommittee, whose chairman is Wisconsin Republican Robert W. Kasten, that has taken the lead in pushing the Reagan administration's policies

Indiana's Richard Lugar, the new Foreign Affairs chairman, is seeking to reassert his panel's importance, most recently in private talks on foreign aid last week. But in an era of limits, the budget process works to the advantage of the appropriations panel. "The botton line really in foreign assistance is not authority," says William Schneider, the undersecretary of state for security assistance. "The problem is resources, and this has focused on the appropriations committees."

A former House aide, Mr. Schneider knew both Mr. Bond and Sen. Kasten before they knew each other. Now, they form an unusual three-man axis that has had marked success in shaping foreign aid. Working together, they pushed the subcommittee to take the lead in directing military aid to El Salvador during the administration's first years. While satisfying Sen. Kasten's—and Mr. Bond's—pro-Israel stance the committee's annual bills have reshaped foreign-aid priorities, nearly tripling the level of security assistance abroad since 1981.

"Jim has been very good at holding the ladder steady while Kasten climbs to success," says one Democratic observer. After eight years, he has learned the budget rules—and accounting tricks—he needs to serve his panel's interests.

His boldest ploy came this fall. To stay below budget, the panel eliminated all financing for new Export-Import Bank loans to U.S. exporters. But it then moved forward more than $3 billion in unused money from last year, spreading it over fiscal 1986 and 1987 to keep the bank in business. The maneuver allowed Sen. Kasten to please the business interests that support the Ex-Im Bank. And it even left him enough leeway to forge an alliance with Hawaii Democrat Daniel Inouye to provide up to $531 million to help Israel meet its debt costs on past U.S. loans.

In both cases, the subcommittee ultimately retreated, but only after first winning approval from the full appropriations panel and making its point with the administration. Senate financing for Ex-Im loans is still twice the House-passed level, and the State Department has promised to expedite its review of the debt problems facing Israel.

Mr. Bond's style in these dealings is often combative and impatient. But some call him "the Iron Marshmallow." His gruff exterior belies a compassion and good humor, and he has matured with the job after walking with what one colleague calls "heavy shoes" in his first years. After being so long in the minority, Republicans had to relearn the intricacies of governing, and there is a certain irony that a Vietnam infantry veteran should be the staffer to help lead foreign-aid appropriations.

His stated policy—"to reflect the views of the people I work for"—is easier said than done. Though Mr. Kasten is his immediate superior. Mr. Bond has a longer-standing relationship with Appropriations Committee Chairman Mark Hatfield of Oregon, who appointed him to his job. The two senators come from separate wings of the party, and Mr. Bond feels tugged by conflicting personal and political loyalties.

"Kasten is a political guy who will carry the administration's water on things that Mark Hatfield is flat-out opposed to," says a Senate GOP aide. There have been deeply felt differences on issues ranging from El Salvador arms to financing for aid to small farmers in developing nations.

At a 40th-birthday party at Mr. Bond's home last spring, though, such conflicts seemed far away. Guests included not just staff and administration friends, but also representatives of the American-Israel Public Affairs Committee and lobbyists representing major beneficiaries of U.S. aid.

One of Mr. Bond's gifts was a limerick celebrating the power of his panel to vote money each year after having brushed aside the old authorizing panels with the magic words, "notwithstanding any other provision of law."

Says Mr. Bond of the Appropriations Committee: "It's where all the action is."

JUSTICE REBORN IN ARGENTINA

HON. MICHAEL D. BARNES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. BARNES. Mr. Speaker, the sentencing of five former junta leaders and the acquital of four others by the Argentine courts has completed the first stage of the crucial and sensitive process by which the Government and people of Argentina must come to terms with their own past. Some in Argentina are pleased with this outcome and some are not, and some are more confident than others that justice will continue to be done with respect to the many other cases of abuse of authority by previous military governments. There is ample scope for legitimate disagreement on these matters which, of course, must ultimately be worked out by the Argentine people themselves. But all friends of Argentina must rejoice at the process itself—the rebirth of justice under the leadership of a courageous and skillful democratic government. I know all my colleagues, on both sides of the aisle, join me in paying tribute to the government of President Raul Alfonsin for its dedicated work to return justice in Argentina.

I wish to share with the House the following three sensitive editorials on this subject:

[From the New York Times, Dec. 11, 1985]

JUSTICE REBORN IN ARGENTINA

Formal justice played little role in Jorge Videla's dictatorship in Argentina. Those who offended his regime were abducted, tortured or murdered. In the new Argentina of President Raul Alfonsin, justice is back. After a fair trial, Mr. Videla, along with Adm. Emilio Massera, was sentenced to spend the rest of his life in prison. Three other military collaborators drew lessser sentences.

During a seven-year dictatorship, General Videla and his military accomplices demoralized and bankrupted Argentina. Then, the army that had fought a dirty war against its own population launched a foolish war against Britain and ended in humiliating defeat. Mr. Alfonsin, the elected civilian successor to three military juntas, boldly ordered those junta leaders to trial for sowing "terror, pain and death throughout Argentine society."

That was a remarkably brave step. Even in retreat, the military apparatus of conspiracy and repression frightened the country. Of all the elected Presidents since World War II, the army had permitted only the ex-soldier Juan Perón to complete a full term. And he too was overthrown before completing his second mandate. When Mr. Alfonsin assumed office two years ago this week, the structures of military power were intact. In similar situations, other democrats have equated survival with deference to the generals.

Mr. Alfonsin understood that democracy would have to be audacious to survive. When military courts stalled the junta trials, they were transferred to civilian jurisdiction. He moved boldly on other fronts as well, challenging the unelected and antidemocratic labor bosses of the Peronist opposition and applying successful shock treatment to an economy previously thought incurable.

There have been some wobbles too, including a 45-day state of siege that ended this week. And more tests lie ahead in the four remaining years of Mr. Alfonsin's term: further trials and appeals and a second-stage economic strategy among them. Still, those practical challenges seem more manageable because of what underlies the sentencing of Mr. Videla and four of his military collaborators: the return of justice and self-respect to Argentina.

[From the Washington Post, Dec. 11, 1985]

VERDICT ON THE JUNTA

The Argentine court's verdict is a ringing assertion of the rule of law and the standards of public morality. It found five defendants guilty of crimes committed when they were running the country and sentenced two of them, including a former president of the country, to life imprisonment. The acquittal of four other defendants is generating further cotroversy in Argentina; in seven years, from 1976 to 1983, some 9,000 people disappeared, most of them murdered in military prisons. But the court showed discrimination in assessing the evidence against each of these men as individuals, and the salutary influence of this example of justice will reach far beyond Argentina.

The generals and admirals claimed, by way of defending themselves, that they were saving the country from communism and from revolution at the hands of urban guerrillas and subversives. The urban guerrillas and subversives were not a figment of the generals' imagination. They killed dozens of people in the early and middle 1970s. And they succeeded in bringing revolution of a sort to Argentina—one that carried to power their enemies in the military, who embarked on a hysterical and vengeful campaign against not only radical gunmen but, as time passed, against almost anyone who held any opinion that the generals and admirals took to be unorthodox. To defend even the most rudimentary concept of civil rights brought a person into dire jeopardy. The junta thought of all opposition as communism, and to stamp it out they engaged in endless brutality, torture and murder. Among the great achievements of this long trial is full and accurate public record of all that had happened.

One of the enduring inanities of politics is the assertion that, whatever its defects in principle, authoritarian government is at least strong and efficient. Is it? In Argentina, over seven years, the junta mindlessly ran down a national economy that is potentially one of the world's richest. It rolled up the gigantic foreign debts with which the country is now struggling. It spent lavishly on its own armed forces and started a war in the Falklands in which it was rapidly defeated.

In heartening contrast, there is the current democratic government under President Alfonsin. It has led the country into a series of necessary but drastic economic reforms, of a sort that the junta always dodged on grounds that they would be unpopular. The current government has now given its predecessors a fair trial with scrupulous regard to its own high standards of justice under the junta's standards, all of these men would have been shot in a barracks basement without so much as a magistrate's hearing. Argentina's democracy is providing a memorable demonstration of moral courage and strength.

[From the Christian Science Monitor, Dec. 11, 1985]

ARGENTINA'S DEMOCRATIC PROGRESS

This week's conviction of five former top junta leaders is the latest—and most dramatic—example of the extraordinary progress Argentina has made in the two years, this week, since Raúl Alfonsín became its President.

Civilian rule then replaced military dictatorship; the armed forces, preeminent for eight years, are held in check at present. The rule of law has superseded state-led terrorism. Labor unions, previously able to defeat, anti-inflation efforts, have been faced down. And inflation, running last June at an annual rate of 1,000 percent, has been chopped to 25 percent.

From being considered a pariah in the Western Hemisphere, for human rights and economic reasons, Argentina has become an example to the world's many troubled nations of the progress that can be achieved, given strong national support for change and a determined leader with well-considered programs.

This week's convictions also sent a second message—that the day of judicial judgment may lie ahead for repressive regimes in any nation, no matter how secure they may now consider themselves. In numerous countries of the third world the armed forces have long operated with near-impunity to violating human rights, offering security reasons as an excuse. An insidious concept takes root in many nations that the demand for order justifies such repression; but this view is false.

The Argentine court's president correctly said that the military effort to combat insurgency "should never have overstepped the bounds of law."

The five junta leaders were essentially convicted of responsibility for human rights crimes by the military, passed off then as part of an effort against left-wing urban terrorists. The trial of the former top leaders, which graphically depicted torture and kidnapping, was virtually unprecedented in Latin America.

In human rights, other nations can, and should, follow Argentina's model.

Argentina's economic progress stems in large measure from having followed its own program, rather than just the more-restrictive IMF approach. Other nations should also consider devising their own programs then gaining the confidence of the international financial community.

CORNELL UNIVERSITY'S COMMITMENT TO MERIT REVIEW

HON. MATTHEW F. McHUGH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. McHUGH. Mr. Speaker, I would like to call to the attention of my colleagues the following telegram that I received from Dr. Frank H.T. Rhodes, president of Cornell University.

As my colleagues will see, Dr. Rhodes and the faculty of Cornell University continue to support independent, merit review for all projects for which Federal funds are available. Even though the university is an indirect beneficiary of earmarked research and development funds, it remains the policy of the university to accept funds only for those projects on which a merit review has been conducted.

DECEMBER 19, 1985.

DEAR MATT: Amendment No. 1378 to the Continuing Resolution for the Department of Defense provides $10 million for supercomputer development. These funds were later identified in the Conference Report with Cornell University. Cornell respects the responsibility of Congress to set priorities in broad policy areas such as access to supercomputers and restoring U.S. leadership in supercomputer technologies. The University attaches equal importance to the merit review processes used by funding agencies to select specific projects for support.

Cornell University will not accept funding awards which bypass normal review procedures. We are told that Amendment No. 1378 was intended to help restore U.S. leadership in supercomputer technology, a purpose we fully support, and was not intended to circumvent such merit review. The University did not develop or support any initiative intended to bypass merit review.

With all good wishes.

Sincerely yours,

FRANK H.T. RHODES,
President, Cornell University.

DEFENSE INTELLIGENCE COMMERCIAL ENTITIES ACT

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. WHITEHURST. Mr. Speaker, on December 16, 1985, I introduced H.R. 3963, the Defense Intelligence Commercial Entities Act. To assist those who review the legislation, I am inserting the section-by-section explanation of the legislation in the CONGRESSIONAL RECORD:

DEFENSE INTELLIGENCE COMMERCIAL ENTITIES ACT

SECTION-BY-SECTION EXPLANATION

The bill consists of three sections. Section 1 provides that the short title of the Act is the "Defense Intelligence Commercial Entities Act." Section 2 enacts a new chapter 19, entitled "Department of Defense Intelligence Commercial Entities," in part I of Subtitle A of title 10, United States Code, and makes conforming amendments to tables of chapters in title 10. Section 3 provides that the amendments made by the legislation to title 10 take effect ninety days after enactment of the legislation.

The provisions of chapter 19 of title 10 enacted by Section 2 of the bill are explained below:

Section 391

Subsection 391(a)(1) grants to the Secretary of Defense the authority, with the concurrence of the Attorney General and the Director of Central Intelligence, to establish and operate commercial entities to provide cover for foreign intelligence collection activities of the Department of Defense.

The requirement for the concurrence of the Attorney General ensures an independent high-level legal review of plans for establishment and operation of a DOD intelligence commercial entity, and ensures the harmony of the plans with the intelligence, counterintelligence, and law enforcement functions of components of the Department of Justice. The requirement for the concurrence of the Director of Central Intelligence ensures that the plans will be consistent with national intelligence needs and ensures the harmony of the plans with the intelligence, counterintelligence and special activities of other elements of the United States Intelligence Community.

To exercise his authority to establish a commercial entity, the Secretary of Defense must certify in writing that establishment and operation of that entity is essential to the conduct of an authorized foreign intelligence collection activity of the Department of Defense. Thus, the Secretary may authorize establishment of a commercial entity only when no reasonable and effective alternative method exists for carrying out an authorized DOD foreign intelligence collection activity.

The Secretary may initially authorize the establishment and operation of a commercial entity for any period not to exceed two years.

Subsection 391(a)(2) permits the Secretary of Defense to renew the authority to operate a commercial entity at the expiration of the previous period for which he has authorized its operation. The renewal requires the concurrence of the Attorney General and the Director of Central Intelligence and the written certification of the Secretary of Defense that the operation of the entity is essential to the conduct of an authorized foreign intelligence collection activity of the Department of Defense. The Secretary may renew the authority to operate the commercial entity for any period not to exceed two years. The number of successive periods for which operation of the commercial entity may be authorized is not limited.

Subsection (b) provides that the Secretary of Defense may terminate a commercial entity at any time. His authority to terminate a commercial entity is not conditioned upon any concurrence or certification.

Section 392

Section 392 grants to the Secretary of Defense authority to acquire, use and dispose of items needed in the establishment, operation and termination of DOD intelligence commercial entities. The broad authority granted ensures that the Secretary can provide the necessary administrative support for such commercial entities.

In addition to requiring administrative support comon to any governmental organization, such as workspace, equipment, and personal services, a DOD intelligence commercial entity will require special administrative support due to its commercial functions and appearance. Thus, for example, the entity may require private legal services, commercial, and occupational licenses from a State or foreign government, private liability insurance, and private banking services. Section 392 ensures that the Secretary of Defense can meet the administrative support needs of a defense intelligence commercial entity, including its unusual needs stemming from its ostensibly commercial status.

The authority granted by Section 392 is independent of, and in addition to, any other acquisition, use or disposal authority which the Secretary of Defense possesses.

Section 393

Section 393 ensures that the handling and use of funds in connection with defense intelligence commercial entities will be consistent with the ostensible commercial status of those entities. Section 393 displaces several limitations contained in Section 3302 of title 31, United States Code, on governmental use of funds. Observance of the limitations contained in Section 3302 of title 31 would be inconsistent with the ostensible commercial status of defense intelligence commercial entities.

Subsection 393(a) permits the Secretary of Defense to establish and maintain commercial banking accounts in the establishment, operation, and termination of defense intelligence commercial entities. The authority to use commercial banking services applies both with respect to appropriated funds used in connection with a defense intelligence commercial entity and with respect to funds generated by the commercial activities of that entity.

Subsection 393(b) permits use of funds generated by the commercial activities of a defense intelligence commercial entity to offset the necessary and reasonable expenses incurred by that entity. The funds generated by a particularly entity may only be used to offset the expenses of that particular entity.

Subsection 393(c) provides that funds generated by a defense intelligence commercial entity that are no longer needed for the conduct of the activities of that entity shall be remitted to the Treasury as miscellaneous receipts.

Subsection 393(d) provides for the disposition of the proceeds generated by termination of a defense intelligence commercial entity. After all outstanding obligations of the entity are met, the remaining proceeds revert to the Treasury.

Section 394

Section 394 provides that the establishment, operation, and termination of a defense intelligence commercial entity; any acquisition, use or disposition with respect to such entity; and any deposit, withdrawal or use of funds with respect to such entity, will be carried out in accordance with prevailing commercial practices, consistent with the protection of intelligence sources methods and activities from unauthorized disclosure, and without regard to certain requirements of federal statutes.

To maintain its usefulness as a cover for foreign intelligence collection activities, a defense intelligence commercial entity must maintain commercial credibility. The entity must appear to anyone who scrutinizes it to be a bona fide commercial entity, rather than an entity of the United States Government. Accordingly, the entity must conduct all aspects of its activities in the same manner as would a private sector commercial entity. Circumstances may arise, however, in which observing prevailing commercial practices would not be consistent with the protection of intelligence sources, methods or activities from unauthorized disclosure, and in such cases prevailing commercial practices would not be observed.

The section grants extraordinary authority to waive the applicability of requirements in a broad spectrum of federal statutes to the extent necessary to protect intelligence sources, methods and activities from unauthorized disclosure. Without the waiver authority, a defense intelligence commercial entity would be obliged to observe federal statutes that normally apply to U.S. Government entities but do not apply to a bona fide commercial entity. Such inconsistency between the conduct of an entity and its ostensible status might reveal to an interested observer that the entity is not what it claims to be, risking the compromise of commercial cover and of the intelligence activities conducted by the entity.

A federal statute within one of the enumerated categories (federal appropriations, federal receipt and use of funds other than appropriated funds, federal acquisitions, federal property management, federal services management, federal information management, federal tort claims, federal employment or federal government corporations) ceases to apply if, and to the extent that, the Secretary of Defense certifies that compliance with the statute would be inconsistent with the protection of intelligence sources, methods and activities from unauthorized disclosure. The section provides that a statute is waived only to the extent that compliance would be inconsistent with such protection. Thus, the Secretary's authority extends not to blanket waiver of the applicability of the statute, but only to the waiver of the applicability of the particular requirements of that statute which would be inconsistent with the protection of intelligence sources, methods and activities from unauthorized disclosure (which may in some circumstances amount to waiver of the applicability of the entire statute).

The section makes clear that the Secretary's waiver authority does not apply with respect to the chapter enacted by this legislation (chapter 19 of title 10, United States Code), Title V of the National Security Act of 1947 (which relates to congressional oversight of intelligence activities) and the War Powers Resolution. Thus, nothing in the statute in any way limits the role of the Congress in oversight of intelligence activities and military activities.

Section 395

Subsection 395(a) makes clear that the chapter enacted by the legislation (chapter 19 of title 10, United States Code) provides authority only for establishment and use of commercial entities as cover for DOD foreign intelligence collection activities, and does not provide the authority for those underlying foreign intelligence collection activities.

Subsection 395(b) establishes clear limitations on the activities of defense intelligence commercial entities and their personnel within the United States. They may engage within the United States only in (1) training, (2) administration, and (3) recruitment of non-U.S. persons to serve outside the United States as intelligence sources. Administration includes the full range of support activities necessary to establish, operate and terminate a commercial entity, such as finance, logistics, and procurement, which may be performed by establishment and operation within the United States of defense intelligence commercial entities solely to provide such support. The subsection ensures that the activities of defense intelligence commercial entities will have a foreign focus and will not be used to conduct domestic intelligence activities.

Subsection 395(c) provides that no defense intelligence commercial entity may have as its overt activity communications media activity, religious activity, or traffic in arms or security-related services.

The prohibition against establishing a defense intelligence commercial entity to engage in communications media activity protects against the possibility of media activity by such an entity having an accidental or intentional effect on the domestic political processes of the United States. The prohibition prevents establishment of defense intelligence commercial entities to engage in radio broadcasting, television broadcasting, newspaper publishing, book or magazine publishing, wire services and similar activities. The prohibition against the overt activity of a defense intelligence commercial entity being communications media activity does not prevent incidental commercial use of communications media by such an entity if prevailing commercial practices so require. Thus, for example, if a defense intelligence commercial entity is engaged in a cover business of a type in which one would normally place commercial advertisements or solicitations in a local newspaper, the entity may do so.

The prohibition against establishing a defense intelligence commercial entity to engage in religious activity protects the integrity of religious freedom and religious institutions.

The prohibition against establishing a defense intelligence commercial entity to engage in traffic in arms or security-related services prevents the possibility of using defense intelligence commercial entities to circumvent United States arms transfer policies or to implement those policies. The Arms Export Control Act, the Foreign Assistance Act, and the statutory mechanisms for covert arms transfers govern the transfer of arms and defense services. The prohibition does not in any way prohibit the personnel of a defense intelligence commercial entity from defending themselves, nor does it prevent the use of such personnel on detached duty in military operations, consistent with the War Powers Resolution.

Subsection 395(d) requires that every U.S. person employed by, or assigned or detailed to, a defense intelligence commercial entity be informed prior to employment, assignment or detail that the entity as an entity of the United States Government engaged in intelligence activities. The provision thus prohibits unwitting employment, assignment or detail of United States persons.

Section 396

Subsection 396(a) authorizes and directs the Secretary of Defense, after consultation with the Attorney General and the Director of Central Intelligence, to issue regulations to implement the legislation, and specifies a number of requirements which those regulations must satisfy.

The Secretary's regulations must provide for effective centralized Department of Defense oversight of activities related to defense intelligence commercial entities. The requirement for centralization of the internal oversight role promotes consistency among DOD components in establishing policies and practices involving defense intelligence commercial entities and also facilitates oversight of defense intelligence commercial acitivities by non-DOD entities, such as the Congress. The requirement that the internal oversight role occur at the departmental level, rather than at the lower level of individual DOD components, ensures appropriate high-level attention within the Department of Defense to any problems which may come to light in the course of internal oversight activities.

The Secretary's regulations must provide effective management, operational, security, legal, and accounting controls for all matters relating to defense intelligence commercial entities. The Secretary's careful design and establishment of strict controls will be of critical importance, especially given that such controls often will replace statutory controls which the legislation authorizes the Secretary to waive in certain circumstances.

The Secretary's regulations must provide for coordination of defense intelligence commercial entity activities with the Department of State, the Federal Bureau of Investigation, and the Central Intelligence Agency.

The Secretary's regulations must ensure compliance with the chapter enacted by the legislation (chapter 19 title 10, United States Code), Title V of the National Security Act of 1947 (relating to congressional oversight of intelligence activities), and the War Powers Resolution.

Subsection 396(b) authorizes and directs the Department of Defense Inspector General to conduct, at least annually, a program and operations review and evaluation and a financial audit of all activities relating to defense intelligence commercial entities and to report thereon to the Secretary of Defense and the intelligence committee of the Congress.

Section 397

Subsection 397(a) provides that defense intelligence commercial entities are entities of the United States Government. As such, defense intelligence commercial entities will enjoy within the constitutional scheme any immunities and privileges enjoyed by the other federal entities. Thus, for example, the sovereign immunity of the United States Government to suit, to the extent not otherwise waived by statute, will extend to defense intelligence commercial entities.

Subsection 397(b) explicitly preempts the applicability of State laws to, and the jurisdiction of State courts over, defense intelligence commercial entities. Thus, defense intelligence commercial entities will be subject exclusively to federal law. Subsection 397(b) provides that, although defense intelligence commercial entities are not subject to State laws and State court jurisdiction, they may engage in conduct which appears to comply with State laws and State court jurisdiction if the Secretary of Defense determines that doing so is necessary to protect intelligence sources, methods and activities from unauthorized disclosure or is necessary in the interests of justice.

Under the authority granted in subsection 397(b), with the appropriate certification, a defense intelligence commercial entity may engage in conduct which appears to comply with State laws in the same manner as would a bona fide commercial entity. Thus, for example, if the Secretary of Defense certifies that protection of intelligence sources, methods and activities requires doing so, he might authorize a defense intelligence commercial entity to incorporate within a particular State, even though that State's incorporation laws do not provide for incorporation by federal entities. Similarly, even though federal agencies are not subject to State taxation, the Secretary of Defense, based upon the appropriate certification, may authorize the entity to file State tax returns and remit State taxes.

Also, under the authority granted in subsection 397(b), a defense intelligence commercial entity may engage in conduct which appears to submit to State court jurisdiction in the same manner as would a bona fide commercial entity. Thus, for example, if the Secretary of Defense certifies that protection of intelligence sources, methods and activities or the interests of justice require doing so, he might authorize a defense intelligence commercial entity to participate in a lawsuit in a State court based on breach of a commercial contract in the same manner as would a bona fide commercial entity.

The Department of Defense may well make substantial use of the authority to authorize defense intelligence commercial entities to engage in conduct appearing to comply with State commercial laws, since it may become the Department's practice to establish such entities by incorporation or registration under the laws of the several States. In contrast, the Department should only rarely need to use the authority to authorize defense intelligence commercial entities to engage in conduct appearing to submit to the jurisdiction of a State court, as the authorized activities of such entities within the United States are quite restricted, and thus are not likely to give rise to many situations in which submission to State court jurisdiction would be appropriate.

Section 398 provides that the Secretary of Defense may delegate only to the Deputy Secretary of Defense the Secretary's authority, functions and duties under subsections 391(a), 394(b), 396(a) and 397(b) of title 10, United States Code, as enacted by this legislation. By requiring the Secretary or Deputy Secretary of Defense to exercise the authority, duties, and functions set forth in these subsections, the legislation ensures high-level attention to sensitive decisions involving defense intelligence commercial entities.

Under Section 398, the Secretary of Defense may delegate only to the Deputy of Secretary of Defense the authority to authorize and renew authorization for the establishment and operation of defense intelligence commercial entities based upon the requisite certification (§ 391(a)); the authority to waive the applicability of certain federal statutes based upon the requisite certification (§ 394(2)); the authority to issue implementing regulations (§ 396(a)); and the authority to authorize defense intelligence commercial entities to appear to comply with State commercial laws and court jurisdiction to which they are not subject. Authorities, duties and functions provided in the legislation, other than in the subsections specifically cited by Section 398, are subject to delegation in accordance with subsection 133(d) of title 10, United States Code.

The limitation on delegation of certain specified authorities, duties and functions will not place an inordinate administrative burden on the Secretary and Deputy Secretary. Exercise of the authority to authorize establishment and operation of a commercial entity will occur only once for each entity, and subsequent renewals to operate will occur only occasionally. Exercise of the authority to waive various federal statutory requirements applicable to an entity, to authorize apparent compliance with State statutes, and to authorize apparent submission to State court jurisdiction, will often accompany the authorization to establish and operate the entity, although changes may be necessary with respect to an entity from time to time. Exercise of the authority to issue implementing regulations should occur once, with changes to such regulations thereafter occurring only occasionally, as experience demands. The greatest burden upon the Secretary and Deputy Secretary will thus occur at the time of creation of a defense intelligence commercial entity, when the nature and scope of its activities and the legal regime governing it are established. Cabinet-level involvement in decisions of such sensitivity at that time is appropriate.

Section 399

Section 399 defines the terms "commercial entity," "foreign intelligence collection activities," "intelligence activities," and "United States person" used in the new chapter 19 of title 10, United States Code, enacted by the legislation.

The definition of "commercial entity" comprehends all forms of non-governmental legal entities, within or outside the United States, established and operated solely to conceal DOD foreign intelligence collection activities under cover of its overt function. The definition makes clear that the legislation authorizes establishment of DOD commercial entities only to provide cover for DOD foreign intelligence collection activities. The legislation does not authorize establishment of such entities to engage in any intelligence activities other than foreign intelligence collection activities, nor to provide cover for any intelligence activities other than foreign intelligence collection activities. Thus, for example, DOD may not establish such entities to engage in the conduct of, or to provide cover for, counterintelligence operations (as distinguished from the collection of counterintelligence information) or covert action. The term "commercial entity" is used throughout the legislation.

The definition of "foreign intelligence collection activities" comprehends only collection by the Department or Defense or the armed forces of foreign intelligence or counterintelligence information, and related support activities. It does not include any other types of intelligence activities, such as counterintelligence operations or covert action. The legislation authorizes the establishment of defense intelligence commercial entities only to provide cover for "foreign intelligence collection activities." The term "foreign intelligence collection activities" is used in Sections 391, 395, and 399.

The definition of "intelligence activities" comprehends all intelligence and intelligence-related activities of the United States Government. The term "intelligence activities" is used in Section 395.

The term "United States person" means only citizens of the United States and aliens admitted to permanent residence in the United States. The term "United States person" is used is Sections 395 and 399.

IMPACT OF INSURANCE CRISIS WIDESPREAD

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. FLORIO. Mr. Speaker, the crisis in the unavailability of liability insurance is widespread, affecting all kinds of activities. I am inserting in the RECORD an article from the Newark Star-Ledger regarding the impact of the crisis on charter and fishing boats.

[From the Newark (NJ) Star-Ledger, Dec. 8, 1985]

BOAT INSURANCE CRISIS TRIGGERS INDUSTRY SOS

(By Vincent R. Zarate)

Up to now the state officials had thought their insurance liability crisis existed only on land.

Not so, they have learned.

The state's insurance problem has now gone to sea.

The owners and skippers of 200 charter and fishing boats fear they are heading for rough waters because soaring insurance costs and a scarcity of firms offering the coverage.

The problem with the charter and fishing boats was revealed to state officials and legislators by the United Boatmen of New Jersey, representing party and charter boatmen from Hoboken to Cape May.

They have asked the insurance commissioner and the Legislature to come to their aid to do something about rates and to pass laws protecting them from cancellations and nonrenewal of existing policies.

Further, the Independent Agents Association of Somerset County has urged Insurance Commissioner Hazel Gluck to include ocean marine policies in the new emergency rules that require state approval before companies can cancel or refuse to renew existing liability insurance policies for commercial land-based operations and municipalities.

"We need help immediately with some sort of a retroactive price ceiling because our insurance rates have increased from 50 to 90 percent in one year, and we expect that next year it will get worse." David Bramhall of Brielle, executive director of the United Boatmen, wrote in a letter to state officials.

"Within the past six months the rates being charged have gone right through the ceiling, with no end in sight," wrote Bramhall.

And he warned, "The premiums have already reached the point where they will be driving many of us out of business."

Bramhall estimates the charter and fishing boat industry in New Jersey is a $120 million a year industry, but he fears that if the state ignores the insurance plight, "Many skippers will be unable to afford the costs."

In their letter to the officials and legislators, the boatmen complain the average rates for typical liability and hull coverage on a 24-year-old, 65-foot boat has gone up $5,000 in one year.

The group contends the insurance costs for a 20-year-old boat that is 70 feet long was $7,750 in 1984 and now costs $11,250 and will increase substantially next year. A 70-footer built in 1984 costs $18,000 to insure, an increase of $5,000 from a year ago.

The boatmen contend that while premiums continue to rise, companies have reduced the liability coverage from the once average $500,000 an incident down to $300,000.

Bramhall and Howard Bogan, the other executive director of the boatmen's group, wrote:

"When you attempt to shop and find another company it is always the same story—no one is writing policies, or the rates are sky high."

Many Luftglass, an insurance broker from Somerville who handles insurance coverage for 30 charter boats, said, "New business is very hard to place for ocean marine coverage and it is becoming extremely expensive."

He added, "We are afraid the second shoe may drop and companies will refuse to renew or pull out of the business entirely."

Luftglass estimated that average insurance on party boats can range from $15,000 all the way to $100,000 a year depending on how much liability protection a shipowner wants.

He said he feared, "A lot of boats are going out that are uninsured because the skipper cannot afford it, or cannot find any company to sell it to them . . . particularly the older boats built 20 to 50 years ago."

He said that five to six years ago when companies "wrote almost anything to get money for high investments," the company paid the bill for the appraisal of the boat before it was insured.

"Now that there is a tight market again, the boatowner must pay the usual $500 fee to have his boat appraised," said Luftglass.

The boatmen's association directors said all the charter and party boats undergo strict U.S. Coast Guard inspection every year to 18 months.

They noted that if a boat does not pass a Coast Guard or survey inspection, "It should not be insurable."

But they contended that if a boat does pass the strict examination standards of the Coast Guard then the boat should be "insurable at a realistic rate."

Gluck said she has been made aware of the problem but noted that ocean marine insurance historically has been unregulated in the state because of the special nature of that type of insurance.

She said the department is "very concerned" about companies refusing to renew existing policies or threatening cancellation of existing policies. She said the department would investigate the complaint of the boatmen.

If the Legislature finds there is a major crisis in insurance coverage for the charter fishing fleet of the state, the Legislature could pass laws to give the department greater authority over the ocean marine insurance business, she said.

Several insurance company executives said that the rising prices for premiums for the boatmen is part of the entire national problem of commercial insurance and its availability.

Officials from CIGNA and Hartford Insurance Co. said the cost of that type of insurance was underpriced but was sold so companies could obtain cash for the high investment returns dominant in the market about five years ago.

James Beatty of CIGNA said that companies are being more selective in writing new business. But many are keeping existing business but at higher rates.

LATIN DEBT DILEMMA

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. FASCELL. Mr. Speaker, I would like to bring to the Members' attention a series of editorials on the external debt crisis facing Latin America which appeared in December 1985, issues of the Miami Herald.

These editorials succinctly point out the extent which the Latin debt crisis imperils, not just the political and economic stability of the Latin debtor nations, but also our own interests here in the United States. Their political and economic prosperity is linked to our own financial and economic prospects—as we learned all too well when the economic retrenchment in Mexico and other Latin countries in 1983–84 resulted in a significant fall-off in U.S. exports to the region—and also to our foreign policy interests in promoting democracy in Latin America. The series also points out that the success in dealing with the debt crisis in 1982–83 unfortunately was only a temporary solution and did little more than postpone the day of reckoning, which increasingly looks to be just around the corner.

The impending igniting of the debt time-bomb has increased the urgency of taking action to preempt that explosion. The editorials suggest such measures as writing off debt which is clearly uncollectable, further reschedulings on equitable terms, and new infusion of foreign capital. They also suggest a process for reinvesting debt service payments. Consideration should be given to other proposals, such as a limitation on debt service payments, a World Bank role in commercial lending, and pooling of commercial lending. What is needed now is open, innovative thinking—open even to radical solutions—and goodwill by all parties—the debtors, the commercial lenders, and Western governments—in order to arrive at mechanisms that will protect the interests of the existing order: That will permit the debtor nations to service the debt, while rekindling economic growth, and permit the lending institutions to secure their financial stability.

I have enclosed also a companion editorial from the December 17, 1985, New York Times which notes the role being played by the decline in international commodity prices and the need for the principal industrial countries to implement their unfulfilled decision to coordinate economic policy, with the United States reducing its budget deficit and Japan and Western Europe reducing taxes and increasing Government spending and economic expansion.

What we have to date on the debt situation and economic malaise is rhetoric and proposed action plans, but no concrete measures. We must act soon before the political/economic cost becomes unsustainable.

[From the Miami Herald, Dec. 2, 1985]

U.S. BUYS TROUBLE

Much of Latin America is bankrupt. Euphemistic "reschedulings" and "renegotiations" of the region's $380-billion foreign debt no longer can conceal these debtors' near-insolvency or the precarious state of the U.S. banks to which most of the money is owed. So far, the lenders' bookkeeping ingenuity in disguising unsound loans as healthy assets has allowed Federal banking authorities to look the other way. But investors are not so easily fooled: Depressed bank-stock prices reflect the market's anxiety about the biggest lenders' long-term solvency.

If the fallout from an abrupt bursting of the Latin debt bubble could be confined to a few thousand bank stockholders and a handful of tinhorn *generalissimos*, the U.S. Government's *laissez-faire* policy might seem reasonable enough. After all, the banks and the debtor governments share responsibility for their current debacle. Why not let them play out their mutual hostage crisis, and may the fittest survive?

But fate is not so just as that. In the mid-1970s, banks eager to recycle petro-dollar deposits from history's largest oil-price hike embarked on a Latin American lending binge. The aggregate Latin debt has grown since then until no one in this hemisphere is immune to its disastrous potential consequences.

In the United States, questionable loans on their books exceed the total capital of some of the largest money-center banks. Most U.S. regional banks maintain large deposits and correspondent relationships with one or more of these "megabanks." That interdependency means that the collapse of one or two megabanks would reverberate throughout the land. If Federal regulators interceded to avert such a failure, taxpayers would foot the bailout bill.

In Latin America, the debt crisis already has spawned or aggravated widespread suffering. Most debtor countries have sacrificed a full decade of domestic economic growth in their largely unsuccessful efforts to keep current on interest payments. Several military regimes that accepted massive loans during the '70s—and invested the money imprudently or stole it outright—have given way to democratically elected governments. Those governments now face a double burden: bankrupt domestic economies and a population demanding compensation after years of privation. In 1985, several newly elected Latin American leaders have warned that their people will not tolerate indefinite economic hardships if their only reward is to see their nation's scant wealth transferred abroad.

Ordinary Americans will share in the costs whether the debtor countries repudiate their debts to U.S. banks, oust democratic leaders in favor of anti-U.S. regimes, or continue to trade long-term economic growth for marginal short-term solvency. The relevant question is not whether, but when and under what circumstances, the American people and their elected national leaders will confront a crisis that has become inescapable.

[From the Miami Herald, Dec. 3, 1985]

Mexico Struggling

Although analysts should have seen trouble coming much earlier, the Latin debt crisis can be said to have begun officially in August 1982. That's when Mexico suspended payments of principal on its $86-billion foreign debt. Within days, financial markets from New York to Tokyo were buzzing with rumors that Latin America's second-largest debtor was about to go bankrupt—and trigger the biggest banking disaster since the Depression. Jolted from their complacency, U.S. banks, Federal regulators, and the International Monetary Fund (IMF) joined to rescue Mexico from insolvency.

The elements of the Mexican rescue plan, and of the avalanche of similar plans designed for other troubled debtors, were straightforward enough. With IMF assistance, banks extended short-term loans to enable the debtor country to resume paying interest on its debts. Amortization of principal typically was postponed or stretched out. In return, the debtor country pledged to implement economic reforms—starting by immediately reducing government spending—designed to produce a trade surplus. By exporting more than it imports, a debtor country would earn the foreign exchange—principally dollars—needed to make debt payments.

In lending strapped countries money for interest payments, U.S. banks of course were effectively digging themselves—and troubled debtors—into a deeper hole. But perpetuating the fiction that Latin loans are being repaid allows banks to skirt Federal regulations that require them to set aside loss reserves sufficient to cover any "troubled" loan—and to subtract the amount of those reserves from current earnings.

By 1984, Mexico had imposed harsh austerity measures, and the Mexican trade surplus increased sooner than expected. Those signs were being heralded as evidence that the IMF's prescription was working—and that the worst of the Latin debt crisis was over.

The underlying reality was not so sanguine. Mexican exports did grow modestly, but most of the improvement in Mexico's trade surplus resulted from a sharp drop in imports. The resulting scarcity of imported goods fueled a 59-percent rise in Mexico's inflation. That in turn prompted outraged cries from Mexicans already reeling under austerity's impact.

In 1985, moreover, a worldwide economic slowdown and tumbling oil prices have curtailed the growth of Mexican exports. In the first seven months of the year, Mexico's trade surplus plunged 47 percent from the year-ago level. September's catastrophic earthquake quashed all hopes that Mexico might be able to meet its newly rescheduled debt payments. Even before that, however, it was evident that the IMF's "magic formula" for ending the Latin debt crisis had only postponed the day of reckoning for U.S. banks.

[From the Miami Herald, Dec. 4, 1985]

Small Debtors Pinched

Borrow $1,000, goes the old saw, and the bank owns you. Borrow $1 billion, and you own the bank. Thus it sometimes seems in Latin America, where large debtors have been able to demand favorable rescheduling terms while uncompromising lenders force smaller borrowers to the wall.

Four nations—Brazil, Mexico, Argentina, and Venezuela—account for about four-fifths of U.S. banks' outstanding Latin loans. A default by any of these "megadebtors" could send several lenders into a tailspin. So U.S. bankers have been quick to back off, if only temporarily, whenever any of the Big Four appeared to be near the breaking point. But debtors such as Peru and Bolivia, whose loan balances don't imperil any major U.S. bank, have found their negotiations with lenders more difficult.

The consequences of that discriminatory treatment have so far been short of catastrophic—at least for the lenders. In May 1984, Bolivia claimed the dubious distinction of being the first Latin debtor to announce formally that it would no longer pay interest on its foreign debt. That event passed "almost unnoticed. Peruvian President Alan Garcia made a bigger splash last July when he declared that his country henceforth would limit debt payments to 10 percent of its foreign-exchange earnings. But Peru hasn't paid that much in years.

Even so, the perils of continuing to give small debtors short shrift are many. For creditors, the danger is that one desperate debtor's decision to repudiate its obligations will trigger a chain reaction of small-debtor defaults whose cumulative impact is far from insignificant. For the U.S. Government, the much-greater risk is that long-suffering Latin peoples will replace democratic governments with militant regimes hostile to the International Monetary Fund's dictates—and to the interests of the lending nations generally.

Americans need look no further than Cuba or Nicaragua to be reminded of how much political mischief such economic bantams can stir up. Countries that constitute only a small blip on the major lenders' balance sheets may prove menacing to neighbors whose security is threatened by the activities of a revolutionary government in their midst.

Lenders have consistently downplayed the political risks inherent in holding small-debtor governments to unrealistic payment schedules. But Peru's President Garcia, whose own government's stability is imperiled by a continuing struggle with Maosit guerrillas, scarcely overstates the perils. For the smaller Latin nations, he argues, the choice is simple: debt, or democracy.

[From the Miami Herald, Dec. 5, 1985]

Flawed Fixes

In prescribing stringent austerity measures for Mexico and other troubled Latin American debtors, U.S. banks and the International Monetary Fund (IMF) made two critical mistakes. Unless both are rectified soon, lenders will forfeit the last opportunity to salvage their investment in Latin America. Worse, the debtor nations will be doomed to another decade of negative economic growth and political upheaval.

The first flaw in the lenders' quick-fix scheme was its failure to anticipate the political risks inherent in any effort to reduce government spending. When the debt crisis began, standards of living in many debtor countries already had been plummeting for years. Lenders ought to have foreseen that no government—much less democratic regimes dependent on broad popular support—could exact many more sacrifices from constituents already ravaged by economic adversity.

Even if their people remained stoic about their sacrifices, however, the debtor nations' recovery would founder on the second serious deficiency in the lenders' rescue plan. The plan siphons away in interest payments 6 to 8 percent of the region's gross domestic product. That simply smothers what little productive capacity the debtor countries retained. Deprived of new investment, these debtors' existing export industries languish. Thus the debtors' ability to meet their interest obligations in the years ahead grows ever more doubtful.

Encouragingly, more and more policy makers are recognizing the obvious: Latin America cannot starve itself out of debt. After preaching the gospel of austerity for years, the Reagan Administration recently did an abrupt about-face. It declared that henceforth growth would be the watchword of U.S. economic policy toward the region.

In an October speech before the annual meeting of the World Bank in Seoul, Treasury Secretary James Baker outlined a new U.S. plan. It de-emphasizes short-term lending to finance debt-service payments in favor of longer-term loans to foster export-oriented productive enterprises. Like the IMF's balance-of-payments loans, these longer-term development loans would require debtor governments to make lender-prescribed changes in economic policy.

But no multilateral lending agency boasts resources sufficient to revive Latin economies constrained to export more than half of their foreign-exchange earnings as interest payments. With new foreign investment dwindling, domestic capital fleeing to industrialized countries, and import restrictions choking supplies of raw materials, spare parts, and machinery, many debtor countries simply are wasting away. For Latin America, any hope of resuming economic growth or achieving political stability hinges on initiatives far more dramatic than any yet proposed by this country's bureaucrats and bankers.

[From the Miami Herald, Dec. 6, 1985]

REDUCING THE BURDEN

In an ordinary corporate bankruptcy, creditors have two options:

They can liquidate the debtor's assets and divide the proceeds, or they can give the debtor breathing room to restore its profitability. Latin America's primary assets—land, labor, and natural resources—do not lend themselves readily to liquidation. Therefore, U.S. creditors and Latin debtors inevitably must sink or swim together.

But the handful of banks whose lending exposure exceeds their total capital aren't the only players with vital interests in Latin America's economic viability. The collapse of one or more money-center banks would jeopardize smaller financial institutions' own solvency. U.S. manufacturers sell nearly one-fourth of their exports to the Latin debtor countries. Industrialized nations import the region's commodities. The ability of democratically elected Latin leaders to govern is being undermined by lender-mandated austerity measures. The physical security of ordinary Americans is diminished whenever extremism takes root in the hemisphere. All of these interests thus have a stake in solving the debt conundrum.

There are ways out. As in a Chapter 11 reorganization, the creditors' first priority should be to preserve and enhance the debtor countries' productive capacity. Existing loans must be rescheduled to permit longer repayment periods and lower interest spreads. Small debtors must be accorded terms no less generous than those extended to the Big Four. Where no reasonable scenario for eventual repayment exists—Bolivia is one example—a negotiated debt cancellation may be the best alternative to a sudden, unilateral repudiation. The U.S. Government should take the lead in determining where writeoffs are appropriate, and the Treasury Department should be prepared to take necessary steps to protect the integrity of banks whose balance sheets are affected.

Reducing the burden of debt-service payments is only half of the solution though. To expand its productive sector, Latin America needs new infusions of foreign capital. But how can banks already suffering from overexposure be persuaded to extend new loans? And wouldn't that amount to throwing good money after bad?

On Sunday, in concluding this series on Latin debt, *The Herald* will outline one scholar's bold plan to recycle foreign investment in productive enterprises calculated to return the region to long-term solvency.

[From the Miami Herald, Dec. 8, 1985]

A NOVEL SOLUTION

Before a bank lends money to an individual or a business, it ordinarily wants to know how the loan will be used and how the debtor will raise sufficient funds to pay it back. But in the mid-1970s, when U.S. banks made most of their bad loans in Latin America, many lenders ignored these fundamental precepts. For most banks, any ranking minister's signature was deemed sufficient to guarantee that a sovereign government's debt would be repaid.

Today those lenders can only guess at where their money went. But it seems safe to conclude that only a fraction of it was invested in enterprises calculated to yield a return, much less profits sufficient to support any debtor country's soaring interest "nut."

Robert Wesson, director of Latin American studies at the Hoover Institution, says that much of the money lent in Latin American simply has been lost—through inefficient subsidies, bloated bureaucratic salaries, and outright theft. Suppose there were a way, over time, for banks and debtor countries to make those funds reappear. Wouldn't it be in everyone's best interest to pursue it?

Dr. Wesson proposes a way. His plan would require each Latin debtor to make payments into a fund held and managed by creditors and restricted to reinvestment within the debtor country. Lenders have learned the price of sloppy loan supervision the hard way. They could be relied upon to support only the most promising enterprises. "It would mean putting money where it should have gone in the first place," Dr. Wesson says, "into productive undertakings, instead of largely covering goverment deficits and state enterprises."

As Dr. Wesson sees it, political realities preclude debtor countries from imposing harsh austerity measures solely to make money available for interest payments. But fiscal self-discipline might appear more attractive if the fruits of their sacrifices were reinvested in these debtor's own economies.

The banks of course would demand part of any profits from their compulsory investments. And it might be prudent to give each debtor government a small equity stake in its reinvestment fund. Debtors whose fortunes were tied explicitly to the success of private enterprises would be far likelier to undertake the structural changes—in trade policy, banking practices, exchange rates—needed to enhance those enterprises. And new jobs and improved living standards would allow democratic leaders to disarm nationalist critics waiting to make political hay of lender-inspired reforms.

In concert with the Reagan Administration's plans for increased World Bank participation, this reinvestment scheme offers the best hope for restoring Latin America to solvency. The Administration has at its disposal many levers to encourage the lenders' participation—its bank-regulating authority and ability to influence interstate-banking laws come readily to mind—and it should not hesitate to work them. As all parties move toward an inevitable reckoning of the Latin debt crisis, it's past time for the U.S. Government to assert its citizens' own overriding interest in an equitable resolution.

[From the New York Times, Dec. 17, 1985]

A WORLD ECONOMY IDLING IN NEUTRAL

The prices of raw materials—rubber, copper, sugar—are in a worldwide nosedive. It's the 1970's in reverse: OPEC can't hold the line against declining oil prices. The international cartel that guarded the price of tin collapsed in a flurry of uncollectible i.o.u.'s in October.

It's hard not to cackle over chickens coming home to roost, but commodity deflation is a mixed blessing. The gains for the industrialized economies are mirrored by the losses of raw-materials exporters, many of them very poor and deeply in debt to Western banks. Common decency and self-interest require something better than gloating.

An array of raw materials that cost $100 in 1980 now costs only $74.30. Even after adjusting for the distortions created by a strong dollar, most commodity exporters' purchasing power has plummeted. According to The Economist, the decline in one year saved the industrialized economies $65 billion. Part of that is at the expense of wealthy oil producers. But oil prices have fallen less than those of most metals and farm products. The big losers include Bolivia, Ghana and the Philippines.

One direct consequence is a shorter fuse on the debt bomb. Interest rates have declined by a third in the last three years. But declining commodity prices have offset the debtors' gain. Some, including Peru, Chile, the Ivory Coast and Morocco, owe more of their export earnings for debt service than in 1982. Their living standards are declining. Worse, they must reduce imports of capital equipment, losing the growth route out of debt.

If low commodity prices are the problem, why not just raise them? In theory, both producers and consumers could benefit from "buffer stock" agreements that soak up commodity surpluses when prices are low and relieve shortages when prices are high. The Carter Administration was inclined to cooperate in their creation. Even more market-oriented Reaganites have quietly blessed a buffer-stock agreement in coffee. But it is rarely possible to satisfy both buyers and sellers for very long; these arguments usually fall apart.

Treasury Secretary Baker suggests that the quickest remedy is to reopen the loan windows of Western banks. That makes sense for debtors like Brazil and Argentina, which could use the extra capital productively. But loading more debt onto overburdened economies is a palliative at best. More effective relief requires more demand for third-world commodities, and lower interest rates.

The Federal Reserve could serve those objectives by liberalizing credit. But relying only on America's monetary policy runs the risk of re-igniting inflation. The more prudent path would be for the advanced nations to coordinate economic policies. The United States' contribution would have to be to reduce its budget deficit markedly, easing the Government's demand for private capital and letting interest rates fall. Japan and Western Europe would have to reduce taxes or increase government spending, stimulating imports of raw materials from the third world.

The industrial countries agreed in principle to this division of responsibility last fall. But their good intentions have not been translated into policy. That's understandable; the Japanese Diet is as reluctant to increase spending as Congress has been to reduce ours. But with half the world's economy idling in neutral, the inaction by all is indefensible.

GUATEMALAN ELECTIONS—A FIRST NOT A FINAL STEP TOWARD DEMOCRACY

HON. ROBERT J. MRAZEK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. MRAZEK. Mr. Speaker, the recent elections in Guatemala truly represent a positive step toward that nation's return to democratic government. While I believe we in Congress should make every possible effort to support the new leader, Mr. Vinicio Cerezo, the recent elections are not, as this administration has claimed, the "final step in the reestablishment of democracy."

Thousands upon thousands of Guatemalans were killed or disappeared since the imposition of military rule in 1954. Thousands of people have been uprooted from their native homes—especially the Indians in the highlands. We should not expect civilian trust of Guatemala's new leaders to become embedded in the society overnight—especially because we should not anticipate that the military will readily abrogate its immense power over Guatemalan society to civilian leaders.

Guatemala's return to democracy will be a slow and arduous process, which can be hastened—or stalled—by United States policy. Mr. Cerezo has declared that Guatemala will continue its policy of neutrality toward the war in Nicaragua, and will actively seek resolution of all the conflicts in the region. If the United States tries to push Mr. Cerezo into supporting the United States position regarding Nicaragua, or if we drop millions of dollars of military aid into Mr. Cerezo's hands while the military still retains control over key elements of the government, we will only exacerbate tensions in Guatemala and impede Mr. Cerezo's efforts to establish real democratic rule in his beleagured nation.

Joseph Aldridge, director of the Washington Office on Latin America, a human rights and foreign policy educational organization, has written an excellent piece in Newsday on the significance of the Guatemalan elections. Mr. Eldridge has been following events in Guatemala for years and his observations should be taken into account by any one who truly believes that the recent elections signify the final stage—rather than an important first stage—of Guatemala's return to civilian, democratic rule.

GUATEMALA AND CIVIL RULE

(By Joseph T. Eldridge)

On Sunday, Guatemala elected its first civilian president in almost two decades. Christian Democrat Vinicio Cerezo, in an overwhelming electoral mandate, won the final round of voting by a landslide. In defeating the candidate of a center-right party, he and his center-left party garnered 68 percent of the votes, more than any other candidate in Guatemalan history.

The Reagan administration, in its briefing documents for Guatemala elections, declared the voting the "final step in the re-establishment of democracy." Unfortunately, this optimistic view seems to be limited to the White House and its faithful followers. At the very best, the Nov. 3 general election and Sunday's runoff represent only the first step. When he assumes the presidency in January, Cerezo will face the daunting task of asserting control over the military, improving the abominable human rights situations and stabilizing a disastrous economic decline.

The elections themselves were reluctantly permitted by the armed forces—who still control Guatemala—for several compelling reasons. First, the military government's dismal human rights record has eroded internal and international legitimacy. According to a British parliamentary group's findings, "The Guatemalan military has created a nation of widows and orphans. Over the past 30 years, over 100,000 people have been killed and 38,000 [have] disappeared."

Nowhere has the violence been more insidious than in the highlands. Every aspect of the Indians' lives is watched and supervised by military-appointed "interinstructional coordinators." Almost 1 million Indian males have been regimented into civil patrol, extending the military's eyes and ears into almost all rural communities.

The most pressing factor in the military's decision to convene elections, however, was that the Guatemalan economy has been verging on total collapse. Over the past year, the *quetzal* has been devalued by 300 percent, inflation is rampant and unemployment soaring. The downward spiral of the economy has sparked generalized popular unrest. In September, the government's decision to increase bus fares from the equivalent of 10 U.S. cents to 15 provoked large spontaneous demonstrations. Ten days of protests left two dead, close to 2,000 were arrested and about 60 "disappeared."

In addition, the bulk of Guatemala's short-term debt, currently estimated at $700 million, comes due by the middle of next year. At least $300 million in foreign assistance will be required for Guatemala to meet its financial obligations. Conservative business sectors, acutely affected by the economic crunch and realizing that outside help would not be forthcoming without an improvement in Guatemala's image, joined unions, political parties and religious, neighborhood and professional organizations in urging elections.

All of the presidential candidates, however, refrained from tackling issues directly related to the military. There was virtually no discussion about the need to establish an effective system of justice or to bring to trial those responsible for tens of thousands of civilian murders over the last several years. Nor did the candidates broach the subject of civilan supervision of the military's sophisticated mechanism of surveillance and control of the large Indian population in the highlands. In fact, Guatemala's new constitution institutionalizes the military's control over the rural development programs as well as the ministries of defense and communications.

Whether the results of Sunday's elections can begin to reverse decades of human rights abuses and patch up a hemorrhaging economy has yet to be determined. The Reagan administration, however, is clearly optimistic that Guatemala has reached a watershed, and is hoping that the elections will convince a skeptical Congress that Guatemala will now be a worthy recipient of military aid and more substantial economic assistance. Former U.S. Ambassador to the UN Jean Kirkpatrick observed that "a confident democratic Guatemala can be expected to play a far more important role on the Central American political scene."

Despite repeated pressure from administration officials, the Guatemalan military has remained aloof from the White House's efforts to join in the crusade against the Sandinista government of Nicaragua.

Clearly the Reagan administration feels that military and economic aid programs would give them more leverage with Guatemala's prideful military. Congress, however, has resisted repeated White House pressure to renew military aid, suspended in 1977.

In his new job as president, Cerezo will have to summon up all the skill he has accumulated in 20 years of public life to coax the military into relinquishing aspects of its monopoly power. Whatever authority he may succeed in grasping, he will have no possibility of addressing the country's urgent need for sweeping economic and social changes. Issues as basic as tax reform and land tenure were prudently, never discussed by candidate Cerezo.

The United States can, however, assist this fragile beginning. Congress must resist the Reagan administration's pressure to give Guatemala immediate and unconditional aid. Guatemala's generals do not merit even consideration of military aid.

All economic assistance, except emergency aid for basic human needs, should be made available only after the newly elected civilian government curbs human rights violations, moves toward establishing an independent judiciary, and othewise demonstrates effective control over the military. Cerezo wants and needs nothing less.

WOMEN OF THE SANCTUARY MOVEMENT

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. TOWNS. Mr. Speaker, as we move through the holiday season it is important to remember those who have made a personal sacrifice to ensure the safety and freedom of others. Many Americans throughout the Southwest have made a personal decision to protect the rights of refugees from El Salvador by assisting them in a modern-day version of the "Underground Railroad." Most of the people involved in the "sanctuary movement" are women. Just as the Quakers and black American leaders like Harriet Tubman who risked imprisonment and/or a return to slavery, these women risk imprisonment to smuggle refugees to the United States.

Because of the administration's refusal to grant "extended voluntary departure" to Salvadorans or Guatemalans, these American women feel compelled to smuggle and harbor these refugees to prevent them from being deported to an uncertain fate and possible death in violation of the U.N. Protocol on Refugees. Glamour magazine recently featured an article by Claudia Dreifus, "Women of the Sanctuary Movement," which described the movement and the women who participate in this extraordinary struggle which has become "one of the largest demonstrations of civil disobedience since the Vietnam war." In this season, where we will share the holidays with family and friends, I commend this article to my collegues as an example of Americans who have chosen to struggle for the freedom of others at great personal risk to themselves. Their commitment only provides more impetus for the Congress to move forward with the Moakley-DeConcini legislation, H.R. 822, to protect the rights of these refugees.

WOMEN OF THE SANCTUARY MOVEMENT

The twenty-eight-year-old woman we'll call "Annie Wilson" does not want to tell me very much about her life.

"Just tell your readers that I'm not very different from them," she suggests as we motor along the dirt roads of Northern Mexico on a warm spring morning. "I am a fulltime homemaker, a practicing Presbyterian, a college graduate, the mother of three children, the wife of a businessman. It's not that I'm coy about myself—it's just that I have young children and, for their sake, I try to be careful. Oh sure, I know that at some point I'm going to get caught at what I do, but when you have a four-year-old at home, you try to make sure that date comes later rather than sooner. So, yes, I've agreed to let you come along on this trip to show you what we do and what it means—but no, I don't want to be interviewed." [1]

What Annie Wilson does is illegal and dangerous: She crosses political refugees from Central America into the United States. A member of the Sanctuary Movement, she is one of a network of religious activists and layworkers who are risking imprisonment by running a modern-day Underground Railroad, smuggling aliens into the country, harboring them in churches and synagogues near the border, and then transporting them north where other Sanctuary workers help them settle into new lives. One of the largest demonstrations of civil disobedience since the Vietnam War, the movement is composed primarily of male clerics and women volunteers.

"The family we're picking up today is from El Salvador," says Annie Wilson as we head toward a "safe house" in a certain Mexican town approximately a hundred miles from Tucson. "The Quaker who's been leading them up through Mexico says they're 'high risk.' The husband was a union organizer in San Salvador, and he's on death lists. The wife's brother was accused of being a guerrilla, and he was picked up by the police and 'disappeared.' They had a difficult trip. The wife contracted tyhoid en route, and the baby is sick, too. We have a church in the north lined up to take responsibility for them. But first we have to get them into the United States, and that's always complicated. Over the years, I must have brought seventy people through, and on each run something goes wrong."

We arrive at the safe house where the refugees are waiting. "Ah, you have come for us," a thin dark man says in halting English. He is Carlos Diaz, thirty, a former teacher and father of the family. "We have waited many days for you, and now we must leave at once. Some men have been following us, perhaps since Mexico City."

"I'm not sure I can cross you today," Annie answers. "Maybe tomorrow. Driving down, we saw many Border Patrol cars. I've never seen so many. You know it's best for all if we don't take unnecessary risks."

"No, no . . . we must go soon," demands Carlos Diaz. "To stay is dangerous."

Annie looks outside and spots a spooky-looking stranger, loitering and watching. "Okay, we'll try it," she says to Carlos. "I'll have to check the holes in the fence first to find the best route."

For the next hour, Annie drives her borrowed yellow Datsun station wagon along the U.S.-Mexico frontier, searching for the safest point of entry. Though the ten-foot-high-steel-mesh barrier is loaded with electronic sensors that trigger alarms when jarred, the fence has many gaping holes. Annie picks an opening concealed from a nearby road, then drives to the official border checkpoint.

"What was the purpose of your visit to Mexico?" a U.S. Customs official inquires.

"Shopping," Annie answers nonchalantly.

Back in the U.S. Annie checks the road on the other side of her crossing spot. Noting that a Border Patrol squad car cruises by every three minutes or so, she concludes that her move will have to be fast. "I'd rather not be doing this here and in this way, but going seems to be safer than staying," she says. She telephones a Sanctuary supporter in Mexico, informs him in code of the location of the crossing point and asks him to guide the group there.

At the appointed moment, Annie is waiting on the American side of the border, her car's motor running. With lightning speed, five refugees dash through the fence and into the small Datsun with the tinted windows. Annie takes off. She is no more than a hundred yards down the road when a Border Patrol paddy wagon speeds toward her.

"La Migra! La Migra!" the refugees scream, calling the slang name of the immigration police.

"Down, back there!" Annie shouts in Spanish. "Get to the floor."

The paddy wagon roars past the Datsun, ignoring Annie and her passengers.

"The Lord protects . . ." Annie exclaims. It is as much a wish as a hope.

To smuggle or harbor an illegal alien is a crime punishable by up to five years in prison per count. Nevertheless, Sanctuary has brought more than three thousand Central Americans into the United States. Officially, the congregations of two hundred churches and synagogues from coast to coast—nearly fifty thousand individuals—have committed themselves to this act of conscience.

Who are the Sanctuarians?

"They are individuals who do not agree with United States policy in Central America and who have found an effective and media-attractive way of publicizing their opinions," charges Ambassador H. Eugene Douglas, U.S. coordinator for Refugee Affairs. "While some supporters' motivations may be innocent and nonpolitical, others are not."

"Quite the contrary," countercharges New Mexico Congressman Bill Richardson, chair of the Hispanic Caucus. "The Sanctuary Movement is a religious and moral reaction to a grave injustice—the deportation of Central American refugees back to conditions of civil war."

Sanctuary founder John Fife, forty-five, pastor of Tucson's Southside Presbyterian Church, describes his group more simply: "We are citizens who saw refugees in our midst, who saw that the laws were being administered unfairly against them, and who realized that to save lives we had to become civilly disobedient against the administration of those laws."

The Sanctuary Movement is one response to the civil and military disorders currently shaking Central America. In Guatemala, El Salvador and Nicaragua, where civil wars rage, nearly a million and a half people, by conservative estimate, have left their countries as refugees or been displaced. Many of them exist in refugee camps within their own countries or in Mexico and Honduras; hundreds of thousands have made their way to greater safety within the United States. Though overt acts of war have created part of the refugee problems, severe human rights violations, particularly in Guatemala and El Salvador, have also contributed; death squads, torture and disappearances of citizens are everyday facts of life in those countries. The Sanctuarians say that international law and human compassion require Americans to provide safe harbor for these refugees. The official voice of the U.S. government contends that most Central Americans come to the U.S. not as political refugees, but as economic ones.

Speaking against a law that would ban deportations to El Salvador, Elliott Abrams, Assistant Secretary of State for Human Rights and Humanitarian Affairs, recently stated: "El Salvador is a country troubled by poverty, violence, overpopulation and a history of oppression. For a number of years, Salvadorans have looked for economic opportunity elsewhere. . . . Some groups argue that illegal aliens who are sent back to El Salvador meet persecution and often death. Obviously, we do not believe these claims or we would not deport these people."

But Annie Wilson, who risks prison on a weekly basis to bring Salvadorans into the United States, believes the claims. "The refugee issue has become politicized," she says. "Our government welcomes the victims of communist regimes, but it turns a blind eye to the Guatemalans and Salvadorans because we are friends with their governments. In Sanctuary, we try only to bring across Central Americans who have been threatened and who stand a good chance of being killed if they remain at home—dissenters, peasants who have witnessed massacres, church workers serving the poor. Almost none of these people can get into the United States legally because our government rarely grants political asylum to the victims of terror committed in countries that we're aligned with. About 3 percent of all Salvadorans and fewer than one percent of all Guatemalans who apply are granted political asylum and are able to remain in the U.S., as compared with 12 percent of Nicaraguans and 33 percent of Poles. I'm not a partisan political type. I've helped refugees who came here escaping Southeast Asian communism. I . . . we . . . do this as caring human beings, as Christians who put our faith into action. As neighbors."

The Sanctuary Movement developed under the burning Arizona skies in 1980 after thirteen middle-class Salvadorans died in the desert just west of Tucson. After walking from Mexico, they had been abandoned there by a "coyote," a professional smuggler. This incident brought to the surface something that Tucsonans had long been suspecting: Thousands of Central Americans were suddenly flooding into the United States, some of them literally appearing on Tucsonans' own front lawns.

"What can we do to help these sojourners?" Tucson's clerical community asked. Different people came up with different answers. Jim Corbett, a retired rancher and a Quaker, responded by assisting Central Americans across the border; Rev. John Fife visited the prisons and provided funding for legal aid to captured Salvadorans and Guatemalans hoping to remain in the United States as political refugees.

Fife saw countless Central Americans deported back into war zones. It wasn't that the U.S. didn't have legal provision for the admission of these refugees, he decided it was that the laws were being administered without regard to the realities of the lives of Guatemalans and Salvadorans. "In a situation of routinized terror, Central Americans were being asked to provide detailed documentation of threats against them," Fife recalls. "It wasn't unusual to hear of cases where a Salvadoran would be asked to produce a copy of the 'death list' he was supposed to be on. It struck me that Central Americans stand a better chance of surviving in the United States, and of not being deported, if they don't apply for political asylum."

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[1] Some details about Annie Wilson and her run into Mexico have been altered to protect her anonymity

Thus, Fife joined Corbett's smuggling operation. Together, the two men went out and organized a movement that was nonviolent, ecumenical, and staffed by male clergy and women—dozens of women.

"Women are Sanctuary's unsung heroes," says John Fife. "Oh, the newspapers give a lot of attention to clergymen like myself, but those who've done the riskiest jobs, at the border have been the women." (Of sixteen indicted in January, eleven were women.) "Our women are particularly heroic because they have the most to lose—the young mother with children risking jail."

Annie Wilson herself often ponders the dilemma of putting her liberty on the line for a moral issue. "Sometimes, what I'm doing scares me," she says."In church the other day, I wondered, 'Am I being selfish? Will my children have to pay for my conscience?' Sometimes my husband says, 'Stop—it's too dangerous.' But then I think about what the refugees are going through, that they could be killed if they are deported to their home countries. Besides, I'm not the only woman in this situation doing this."

Mary K. Doan-Espinoza, thirty-one, mother of four, coordinator of religious education of the Sacred Heart Parish of Nogales, Arizona, daughter of the former mayor of that border town, wife of a diesel parts salesman, joined Sanctuary precisely because she is a woman and a mother. One morning in 1983, Mary K. was sitting in her church office when she was approached by a sad, foreign woman, who appeared out of nowhere.

"May I kindly have a glass of water for myself and my two children?" this woman asked. When Mary K. returned with milk and cookies, the woman burst into tears.

"Do you see these little ones?" she asked. "I used to have five. One day, some people came to my house and told me to come to the school right away. They said something had happened to my children. When I got there, I saw many, many children's bodies stacked up in a row. The soldiers had shot them because someone said the son of a guerrilla was going to that school. They did not know which child they were looking for so they killed many children—including mine."

Full of impassioned anger, Mary K. contacted a Sanctuary member who'd visited her church. "I've lived in Nogales all my life and the border is nothing to me," she said. "Call me whenever you need help."

Mary K. Doan-Espinoza soon became a kind of underground legend. She "helped" in a thousand ways, legal and illegal: bringing food and clothing to Central Americans detained in Mexican jails, making trips into Mexico for refugees, offering shelter to all who appeared at the door of her church.

With time, rumors of Mary K.'s clandestine activities began to circulate. A clerk working at the Sacred Heart quit rather than labor alongside the notorious Mrs. Doan-Espinoza. The Brownie Scouts asked Mary K. to resign as troop leader. Mary K.'s husband complained: "My friends are making fun of me because of you. If we ever get a divorce, you'll know why. You shouldn't be doing this. You should just do your job and come home."

"If these people were your cousins and your brothers, you'd want me to do this," Mary K. answered. "If there were a war here, we would want strangers to act like Christians and to help us. Try to understand."

And when neighbors refused to understand, she told them this: "If you knew that your wife and your children were going to be killed, you'd look for a safe haven, too. If we all start wondering about what everybody thinks, then we'll never do what's right."

Doing the moral thing was also the roof of Peggy Hutchison's motivation. Hutchison, thirty, a Methodist layworker, graduate student at the University of Arizona and staff member of Tucson Metropolitan Ministries, became involved with Sanctury in the early 1980's. She went to the local prisons to interpret for attorneys aiding captured Salvadorans and Guatemalans. "Working in the prisons was shattering," Peggy Hutchison recalls. "I'd help these innocent, frigthened people with their applications for political asylum and nothing happened. I witnessed a lot of rights abuses—terrified Guatemalans not knowing what they were doing, signing papers agreeing to voluntary departure. I was working with an awful lot of people who told me that they'd be killed if they got deported to Salvador or Guatemala and, of course, they were deported."

After visting the prisons for several months, Peggy began to have nightmares. Finally: "I felt I had no choice. If I was to be true to my faith and my morals, then I had to go beyond the paralegal ministry." Peggy joined Jim Corbett's underground railroad.

The smuggling was hard for her: Between a full-time job, graduate school and an ongoing relationship with her fiance, Michael Elsner, no week ever had enough hours in it. Despite the hardship, Peggy felt an obligation to continue to help the refugees: On one of the first trips, we were rescuing young people from El Salvador, people my age, and they began to talk about everyone they knew back home. 'Did you know Manuel?' 'Oh, yes he was found dismembered with his eyes gouged out.' 'And did you know Carmen?' 'Oh, yes, she was the pregnant woman the National Guard picked up and disappeared.' These people moved me so much I came to feel that no exertion was too great for them."

Meanwhile, the government had begun to act against the Sanctuary Movement. "There is no provision in American law for 'sanctury,' "Ruth Ann Meyers, district director of the Immigration and Naturalization Service in Phoenix says. "The law does not say that it's okay for good people to violate the law for 'good reasons,' but not okay for bad people."

In 1983, Jesus Cruz, a citizen of Mexico and now a lawful permanent resident of the U.S. was hired by the Immigration and Naturalization Service as an informant, and infiltrated the Sanctuary Movement. His body wired with a hidden tape recorder, Cruz began to attend services at Tucson's Southside Presbyterian Church and to drive down to Nogales where he spent time with Mary K. Doan-Espinoza. He expressed his extreme concern for clandestine activities on behalf of Sancturay. "I thought he was a very kind man," Mary K. says, but there was always something strange about him—he was always pushing things that meant trouble. He was always asking questions about who was involved—and how."

On January 14, 1985, Donald Reno, Special Assistant U.S. Attorney in Phoenix, announced indictments against sixteen Sanctuarians on seventy-one separate charges of smuggling, harboring and conspiracy; twenty-four other members of the movement were named as unindicted co-conspirators. Of those indicted, most had spoken with Jesus Cruz—Mary K. Doan-Espinoza, Jim Corbett, several other women and the Reverend John Fife were among those named. Peggy Hutchison, who'd never worked with Cruz, was also indicted.

Mary K.'s reaction was fiery: "How dare the government go into churches to spy on people? Churches are for shelter and peace. We did what the Lord wanted us to do. There's protection in that." But just in case the Lord did not protect, Mary K. began to make provision for her children, in the event she had to go to prison.

For Peggy Hutchison, the indictment brought on a period of introspection. What would happen to her if she had to do a long prison term? ("It's hard to think of myself as a criminal.") Would she be able to marry Michael and have children with him? ("I'm thirty years old—what if the sentence is long?") Was there a way to make the best of a prison experience? ("Perhaps I could use the time to finish my master's degree?")

Two weeks after her indictment, Peggy flew out to Los Angeles to give a speech on Sanctuary at L.A. City College. After her talk, she was approached by a young Salvadoran woman, who asked, "Peggy, do you remember me?" Peggy did. Years ago, when she had first begun to make her runs into Mexico, Peggy had brought this woman, her mother, aunts and sisters into the United States. Theirs was a heartbreaking story. They were catechists—religious teachers using the catechism to instruct the poor—persecuted for their religion. The father of the family had been taken away, tortured and killed; soldiers had raped the mother in front of the children. After six months of wandering from convent to convent in El Salvador and Mexico, the family was finally sent to Sanctuary. "I came here today because you must know what has happened to us," said this young Salvadoran as she hugged Peggy Hutchison in the college lecture hall. "We are safe. The babies are well. And we want you to know that we will never forget what you've done for us. We want you to know that we love you and that we are your sisters."

When Peggy returned to Tucson later that week she was cheerful, optimistic. "My friend reminded me of something that the refugees all know," Peggy says. "That it's important to feel pain, but also important to celebrate joy—and most of all, it's urgent to make connections, no matter what is in the way." It was in that spirit that, on May 26, 1985, Peggy married Michael Elsner.

When Peggy Hutchison, John Fife, Mary K. Doan-Espinoza and their colleagues go to trial in Phoenix this month, Peggy will particularly remember something her Salvadorian friend told her that afternoon in Los Angeles: "To have courage. Because in Central America, the last part of a person to die is their hope."

SUPERFUND REAUTHORIZATION

HON. THOMAS N. KINDNESS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. KINDNESS. Mr. Speaker, last week the House considered a compromise Superfund reauthorization bill. I, for one, was pleased that we finally brought this critical legislation to the floor and wish to compliment those members and staff of the committees involved for the excellent work that was done. Within the parameters of what we were able to consider on the Judiciary Committee, I felt we made significant progress in addressing several key issues. However, I would be remiss if I did not mention those areas in which I believe additional work could still be done.

Perhaps one of the most important issues within the entire Superfund Program was the establishment of a citizen suit provision. Although I supported the compromise bill on this and all other points, I feel the House might want to call special attention to certain portions of this provision in its conference negotiations with the other body. Although the Commerce and Public Works Committees, along with Judiciary, all reported citizen suit provisions, they were vastly different in scope and impact. The substitute bill contains portions of each of the three committee versions and attempts to balance the rights of citizens with the need to have prompt cleanup of sites without needless and expensive litigation.

Despite the substantial efforts of those involved in the compromise negotiations to encourage and facilitate greater use of preenforcement settlement negotiations as an element of the Government's cleanup program, the substitute approach still could leave some question as to whether citizens can bring their actions during active negotiations by the Federal Government or by a State which has given notice of its intent to bring suit. States and private citizens are not obliged to observe the negotiation procedures applicable to the Federal Government. Time prohibited us from adding appropriate language in the compromise substitute to address this issue, but I would hope language to solve the problem could be worked out in conference with the Senate.

Mr. Speaker, you will recall that there was at least one remaining area of disagreement concerning the critical issue of the claims being created by this new citizen suit language. The Judiciary amendment to the orginal bill provided grounds for citizens suit against any person is "has contributed or is contributing to the actual or threatened release of any hazardous substance from a facility, if such release may present an imminent and substantial endangerment to health or the environment." The compromise version provides for suit against any person who "has contributed or is contributing to the release or threatened release of any hazardous substance from a hazardous waste disposal site, if such release or threatened release may present an imminent and substantial endangerment to public health or the environment." Our colleague from Kansas, Mr. GLICKMAN, offered an amendment to return to the original language as reported by the Judiciary Committee. Unfortunately, I had to oppose his amendment as I believe the compromise approach better serves the interests of balancing the rights of citizens with the need to assure prompt cleanup of waste sites.

The substitute bill also included several bars to citizens suits. These bars would wisely prohibit suit in cases where they would impede prompt cleanup. Although the substitute bill makes constructive changes from the citizen suit provision reported by the Judiciary Committee, it still may present the opportunity for abuse based on the "imminent and substantial endangerment" language. I believe the House conferees should attempt to limit any attempts to expand the readings of what may present an "imminent and substantial endangerment," A mere risk of injury to health or the environment, which need not be immediate or irreparable, has been held sufficient to substain a cause of action for mandatory injunctive relief. Clearly, such readings should be discouraged in light of the potential impact they have on Federal court case load and on the parties involved.

Absent this, such precedents might be used under the substitute citizens suit language to bring claims involving very limited, attenuated or remote environmental dangers posing no significant or even potential danger to human health. Various estimates of the number of unpermitted, uncontrolled waste sites in the United States—many or most of which pose no danger to health—run as high as 25,000 to 30,000. I am concerned that these sites will afford a ready vehicle for frivolous or vague Federal claims to which pendent State personal injury claims, requiring jury trials in Federal courts, might also be added.

My second principal concern is that of liability affecting response action contractors—those people who clean up our Nation's hazardous waste disposal sites.

At present, insurance availability for contractors is diminishing, limits of coverage have been reducing, and premium rates have been increasing—some by as much as 50 to 200 percent. Insurance industry sources estimate that only 10 percent of contractors market needs are currently being met and that by January 1986 no insurance will be available at all. The present lack of insurance is already causing a reduction in the number of qualified contractors willing to participate in Superfund cleanups. As insurance becomes increasingly unavailable over the next year, availability of qualified contractors could diminish to the point of being acute. As a result, the Superfund Cleanup Program could come to an abrupt halt.

Although the substitute bill still requires fine tuning, it goes a long way toward addressing most of the concerns I have and it is still my hope, as well as my understanding, that what is in the bill will be maintained through conference with the Senate. The substitute bill would authorize the EPA Administrator to indemnify contractors—including subcontractors—against any liability arising out of the contractor's performance, provided that reasonable efforts are made to obtain liability insurance. The indemnification covers only liability which was not the result of gross negligence, or intentional misconduct on the part of the contractor. Therefore, the amendment allows EPA to provide contractors with indemnity coverage equivalent to liability insurance. This provision in combination with the existing standard of liability for contractors contained in the substitute should provide adequate incentive for contractors to continue to participate in Superfund cleanups.

Furthermore, numerous safeguards are built in to insure the provision does not become a serious drain to the Treasury, including mandatory deductibles and ceilings on indemnification.

Mr. Speaker, during the recent House consideration of the bill, my good friend from Nebraska, Mr. DAUB, offered an amendment which attempted to put some teeth into the causal nexus requirements in Superfund. Although I was constrained to vote against the amendment, I felt, given the way in which courts around the country have interpreted Superfund's existing causal nexus requirements, this amendment had special importance if Superfund's liability scheme is to be brought into line with traditional notions of American tort law.

Two especially important and widely quoted cases, U.S. versus Wade and U.S. versus South Carolina Recycling & Disposal, Inc. set forth the notion that traditional causal nexus is not required under section 107 of Superfund. In the introduction to the court's opinion in South Carolina Recycling, it was noted that direct causal connection between a generator's substances and the costs was not required. In Wade, the court stated that:

> The only required nexus between the defendant and the site is that the defendant have (sic) dumped his waste there and that the hazardous substances found in the defendant's waste are also found at the site.

Inasmuch as traditional notions of proximate cause require a far greater connection than this, I have concern that innocent parties—especially small business—could be held unfairly liable under such a scheme given the combination of it with joint and several liability. Such liabilty schemes can serve to frustrate, rather than encourage, proper waste disposal. Such a burden is particularly harsh when it is imposed on small businesses who do not have the resources to maintain long and costly court battles. This is unfair, Mr. Speaker, and should be addressed in conference.

Finally, Mr. Speaker, I must state my strong opposition to a Federal cause of action for personal injury and property damage. Our colleague from Massachusetts, Mr. FRANK, offered an amendment to provide such a cause of action and I was pleased to see this House again reject this ill-conceived notion as it did in last year's Superfund legislation.

To begin, my opposition to a Federal cause of action is based on the fact that Superfund is a cleanup law, not a compensation law. The bill being considered by the House today is focused on cleanup activities and all of the committees which worked on the bill specifically excluded a Federal cause of action. Such a proposal should have had an airing in the Committee on the Judiciary.

Additionally, I might just note a couple of other points I consider important for the House to examine:

First, proponents fail to recognize that liability under the Frank proposal would be triggered by such nonevents as the mere deposit or storing of a hazardous substance. Consequently, given the liability standard of near absolute, joint and several liability imposed by the amendment, liability could attach to a party without that party having contributed to the event that actually causes the harm.

Second, one of the so-called defenses provides relief from liability if the defendant established by a preponderance of the evidence that it took precautions against foreseeable acts or omissions of any (such) third party and the consequences that could foreseeably result from such acts or omissions.

This effectively casts each party to a site in the role of insurer of all other site users/participants. This is almost certainly an impossible task to meet and provides absolutely no meaningful relief. In fact, each site user not only becomes liable for the actions of all concurrent users but all past users—over which control is absolutely impossible.

Third, persons held liable under the amendment include:

> Any person who owned or operated the facility at which the release occurred at the time any hazardous substance was disposed of at such facility.

This means that past site owners/operators can be held liable for damages for substances that were not even disposed of when they owned or operated the site.

Fourth, pain and suffering are compensable except to the extent that they are a result of an individual's unreasonable fear of physical injury, illness, or death. This departs from long-established tort law which has never granted relief for speculative damages. The Frank amendment language would cast Federal courts into the role of determining what reasonable fear might be in any given circumstance, hence requiring them to speculate as to what any persons damages may or may not be.

Fifth, the Frank amendment would effectively repeal rule 23 of the Federal Rules of Civil Procedure. By requiring that actions under the title arising from the same release be certified as a class, differences between each individual's condition "in the class" are ignored.

Sixth, lastly, proponents of this cause of action have specifically exempted the United States, States and local governments from liability under this statement. The Congressional Budget Office last year stated that the potential liability of the United States under such a cause of action would be impossible to estimate and could add significantly to the costs of the Federal Government. By specifically removing the United States, States and local governments from this liability, the proponents have admitted that liability under this title is essentially indefensible given its scheme of near absolute, joint, several and noncausal nexus liability. Given this admission, can Congress truly entertain such a proposal?

Thank you, Mr. Speaker.

S. SGT. THOMAS DAVIS' LOSS FELT BY MANY

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. FLORIO. Mr. Speaker, 1 week ago today the airliner carrying members of the Sinai Peacekeeping Force crashed in Newfoundland, Canada. On that plane was S. Sgt. Thomas E. Davis of Woodbury, NJ.

Thomas Davis was a constituent of mine in the First Congressional District of New Jersey. He had joined the Army 12 years ago and was a proud member of the 101st Airborne Division, the "Screaming Eagles" based at Fort Campbell, KY. The loss of 28-year-old S. Sgt. Davis will be felt by many of us in the First District and I, too, want to offer my condolences to the Davis family. All of us, here in this House and in south Jersey share their grief in these difficult times.

Mr. Speaker, I would like to share the following article with my colleagues. It is from the Gloucester County Times. The words offer a small insight into the sacrifices and pain being felt by the many who loved Thomas Davis. He was a soldier on a mission of peace and we all share in his family's feelings.

The article follows:

[From the Gloucester County (NJ) Times, Dec. 15, 1985]

FOR DAVISES, TIME TO GRIEVE

(By Jim Six)

WOODBURY.—An officer and a sergeant from Fort Dix knocked on the door of Donnell Davis' Ford Avenue home here about 1:30 a.m. Friday bearing the sad news they had been waiting for.

Many hours after a woman at the Army Casualty Desk had told them Thursday afternoon their son, Staff Sgt. Thomas E. Davis, has been on the Arrow Airlines DC-8 that crashed in Newfoundland, the Army representatives had come to confirm the news personally.

Since then, the family has heard no more from the military.

"It's just a matter of waiting," Davis said Saturday. "We have a phone number to call, but they said they'd contact us within 72 hours, so I guess I'll wait until Sunday to call."

The only news he's heard about the arrival of the crash victims at Dover Air Force Base in Delaware has come from television, Davis said.

"We're playing everything by ear," he admitted. He does not know whether the family will go to Dover when the time comes. The bodies of those killed in the accident are not expected to begin arriving at the military base until at least Monday.

Media attention had subsided by Saturday, he said.

"The television people were very nice. They admitted it was terribly awkward to come here," he said.

Davis, who is vice president of the Woodbury Board of Education, said he and his wife and four other sons had been keeping as busy as possible.

"It has taken our minds off it to talk. We've had people at the house since Thursday. By the time we go to bed, we're very tired. It's better than sitting around alone," Davis said.

Rep. James J. Florio, D-1st Dist., called to offer condolences on Saturday, Davis said.

Davis' 28-year-old son, Thomas, joined the Army almost 12 years ago and served about eight of those years in Germany. Davis said he called his son's finance, Marian Lanio, in West Berlin Thursday night to break the news to her.

Thomas had been stationed in a remote outpost in the Sinai Desert for five months as part of a peace-keeping mission. Members of the 3rd Batallion, 502nd Infantry, 101st Airborne Division's "Screaming Eagles" were being returned to Fort Campbell, Ky., in three groups. One flight arrived more than a week ago, and another is scheduled to arrive in Kentucky on Wednesday.

Thomas Davis had called his parents only 35 minutes before the chartered jetliner crash on takeoff at Gander International Airport Thursday morning. In his letters, Thomas wrote that the Sinai duty had been frightening and that servicemen often had to remain armed everywhere they went.

Davis last saw his son on July 4 for a party before he left for Egypt. He had sent his son a plane ticket so he could return from Kentucky on Dec. 21.

TIME FOR THE UNITED STATES TO GET SERIOUS ABOUT NAMIBIA

HON. MARK D. SILJANDER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. SILJANDER. Mr. Speaker, United States policy in Africa in general, and in southern Africa in particular, appears to have blown in the direction of every fresh burst of oratory in the United Nations. U.S. interests, both national and strategic, appear to have been ignored at every turn. Given the fact of increasing chaos and impotence of the United Nations as well as its tilt toward the Communist world, it is increasingly apparent to all that it is high time for a change. It is certainly to be hoped that President Reagan and his administration will take a new look at Namibia and see where United States interests lie and alter our foreign affairs approach accordingly. Among these interests are the rich mineral wealth of the areas as well as the strategic port of Walvis Bay. For that

reason, I include at this point in the RECORD a letter I received from a Cabinet minister of Namibia's Government of National Unity on the subject of Namibia which I think bears repeating to the American people.

MINISTRY OF INFORMATION,
Windhoek, December 18, 1985.

Hon. MARK SILJANDER,
Member of Congress, Washington, DC.

DEAR CONGRESSMAN SILJANDER: The people and government of Namibia appeal to you and other members of Congress, who, like yourself, have achieved positions of power and leadership. We know the leadership position you enjoy did not happen by chance—the American political system distributes its rewards and honors only to those who earn them.

South Africa transferred to Namibia's Multi-Party Conference of internal political leaders all its governmental powers over the territory, on June 17, 1985, and Namibia's people exercised their God-given and inalienable right of self-determination, established their own legislative assembly and established a cabinet of ministers to administer Namibia's Transitional Government of National Unity (TGNU).

Namibia needs your help and advice. That is why I make bold to write this letter to you. We believe U.S. national security and, to some extent, American prosperity are linked to the fate of our country. Such matters are too important to be left exclusively in the hands of the United Nations and the diplomatic bureaucracy.

The United Nations General Assembly in recent years has become dominated by the mob rule of a Third World majority in close alliance with the Soviet bloc. U.S taxpayers contribute 25 percent of the annual U.N. budget (over $6 billion for this year).

The noted Washington Post editorialist Philip Geyelin, in a column captioned "United Nations: An Outrage" (Wash. Post, Aug. 19, 1980), described the United Nations as:

". . . a brawling, sprawling global bureaucracy whose governing bodies routinely violate their own rules—an institution in which a full two-thirds of its 159 General Assembly votes represents less than 10 percent of the world population and for which a small minority of 30 practicing democracies contributes more than two-thirds of its financial support. The United Nations, in short, is an institutional outrage, a moral swamp. It operates much of the time by the mob rule of a Third World majority in close alliance with its Communist bloc."

The U.N. helps finance (using in part U.S. dollars) the South West Africa People's Organization (SWAPO), a Soviet bloc terrorist force based in Marxist Angola across our North border.

SWAPO was once a legitimate internal liberation movement, but has become a senseless anachronism. SWAPO, armed by Russia, is trying to seize Namibia (and its vast uranium, gold, diamond, copper, zinc, gas and other mineral resources) by violence and terrorist attacks. The deep water port on our West coast could be used as a base for Russian nuclear submarines to bisect the oil lifeline from the Persian Gulf to the U.S. and NATO countries in Europe. Namibia is clearly the target of a Soviet takeover campaign. SWAPO terrorists use Russian land mines and automatic rifles to commit violent atrocities against the black civilian population of Namibia. Murder and abduction are standard SWAPO methods of operation. If SWAPO succeeds, Namibia will be dragged behind the Soviet "iron curain" which has fallen around Angola and other countries in Africa.

Nothing better illustrates the moral bankruptcy of the U.N. than its current obsessive and racist campaign to force a U.N. supervised election in Namibia rigged so that SWAPO, the Soviet-bloc terrorist cat's paw and surrogate, can win control in Namibia. U.S. taxpayers and the free world will be the losers if Namibia is forced by violence into the Russian orbit. Namibians prefer their existing government to SWAPO and the Russians, pending the time when a truly impartial U.N. can supervise the election of a constituent assembly. Namibia's 11 major population groups (who speak 8 languages, 29 dialects, and of whom the white group is only 11 percent of the total) are all proportionally represented in the present government and will never accede to a U.N. election which favors SWAPO. Ultimately we want full independence and international recognition.

As Churchill once said to Hitler, we say to SWAPO and its Soviet surrogates: "We will have no truce or parley with you or the grisly gang who work your wicked will. You do your worst, we will do our best, until in God's good time the U.S. and the West come, in their own interest, to our aid and support."

Namibia was first colonized by Germany in the 1880's, then taken over by the British in 1915 during World War I, later in 1920 mandated by the League of Nations as a trust territory to South Africa. The U.N. has no lawful jurisdiction over Namibia, any more than it has jurisdiction over U.S. territories, except as we Namibians may agree. Neither the U.N. charter nor the League of Nations Covenant provides any mechanism for involuntary transfer of a League trust territory to the U.N. which nonetheless for years has sought such control. Our interim government has all legislative and executive powers enjoyed by American territories.

Vital national security interests of Namibia as well as the United States are being seriously endangered by the last ditch effort of the United Nations General Assembly to stage a "human rights spectacular" at the U.N. by threatening sanctions unless Namibia agrees to a U.N. supervised election "rigged" for a victory by the South West Africa People's Organization (SWAPO). We refuse to be a pawn in the game of Soviet geopolitics.

We say, wake up, America! Today it is Namibia, yesterday Central America, Cuba, Afghanistan, and Vietnam, tomorrow—where next? U.S. taxpayers in aiding SWAPO are financing their own destruction. The United Nations General Assembly to some extent has become an enemy of the United States, as it is of Namibia. It is time to blow the whistle on the U.N.—and save millions a year for U.S. taxpayers.

Can you discuss with your colleagues in the U.S. Congress our hope that they will stop the flow of U.S. tax dollars through the U.N. to SWAPO? By helping our people and government, you will be serving the national security interest of the U.S. and all Americans. We are your friends. We admire the U.S. as a symbol of hope and freedom in the world. God bless America and its good works.

Sincerely yours,

—— ——.

THE ASBURY PARK PRESS ON THE SAKHAROV CASE

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. COURTER. Mr. Speaker, I would like to call my colleagues' attention to the following editorial from the Asbury Park (NJ) Press, which concerns the treatment of the Andrei Sakharov and Yelena Bonner at the hands of the Soviet KGB. The Sakharov case is a shocking demonstration of perhaps the most inhuman aspect of an inhuman regime: the systematic denial of freedom of internal movement and departure from the Soviet Union. The Soviet commentator, Georgi Arbatov, recently admitted, in a rare moment of candor, that this policy is necessary to prevent a large-scale exodus from the Socialist paradise. The Soviet defector comedian, Yakov Smirnov, jokes about this situation when he asks his audience to compare American and Soviet credit cards: the advertisement for the American Express card is "Don't leave home without it," but with the Soviet Express Card, it's simply "Don't leave home." It is black humor, to be sure, but it helps to ensure that we never forget the 300 million unfortunate souls who are prisoners in their own homeland.

[From Asbury (NJ) Park Press]

A CHILLING PICTURE: SOVIET "HUMANITARIAN" ACT IS A SHAM

The Soviet government, which has always controlled its own domestic media, has discovered the art of manipulating the world press to its own benefit. Among a number of actions instigated by Mikhail Gorbachev prior to his summit meeting with Ronald Reagan, was the announcement that Yelena Bonner Wife of Nobel Prize winner Andrei Sakharov, would be released from exile in Gorky to receive medical treatment in the West.

The world community was supposed to be favorably impressed by this 'humanitarian' gesture, even though the permission to travel had been granted only after frequent hunger strikes by Dr. Sakharov and was long overdue by any standard of civilized decency. The fact that the action was taken in conjunction with the summit meetings only underscores the blatant attempt by the communists to influence world opinion.

While part of the agreement for Mrs. Bonner to travel includes a ban on speaking to the press, the couple's relatives in the West have been able to give a chilling picture of Sakharov's life in Gorky. The KGB monitors every move, and during hunger strikes he is force-fed by holding his nose shut until his mouth opens, an excruciatingly painful procedure. Witnesses say he looks greatly aged and has lost more than 40 pounds.

Despite the recent cosmetic attempts to improve thier totalitarian image, the Soviets still preside over one of the most repressive governments in the world, unable to tolerate dissident opinions from even the most distinguished of its citizens. If they really want the trust of the world community, let them release Dr. Sakharov and give more than lip service to the issue of human rights. Only then will the West begin to take seriously the rectitude of Soviet intentions.

A TRIBUTE AND FAREWELL TO TOMMY WINEBRENNER

HON. JOHN P. HAMMERSCHMIDT

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. HAMMERSCHMIDT. Mr. Speaker, I am pleased to join with my colleagues in expressing my deep appreciation for the valuable assistance Tommy Winebrenner has given to many of us over the years. Throughout his service of 32 years, Tommy has proven to be loyal, hardworking, and dependable. He could always be counted on to keep us abreast of the latest floor action and to give his insightful predictions as to when other matters would be coming up. Always able to provide an explanation, his comprehensive understanding of floor procedure so often helped us to get done what needed to be done. And when faced with a barrage of questions amid the ongoing, complex and sometimes harried floor activity and a multitude of conversations flowing about the room, Tommy's worthy answers were always offered with much patience and a pleasant demeanor.

During my period of service on the hill—being 13 years shy of Tommy's 32—I have never known a day on Capitol Hill without him. Indeed, I hold a personal respect for Tommy, both as a human being and a coworker, who so willingly guided me through moments of uncertainty, which, I think, every Member encounters, especially during those early years. Tommy, I will be forever appreciative of your stabilizing, but unimposing, presence over the past 19 years. I wish you much luck in all you endeavor. You will be missed.

A BILL TO CREDIT YEARS OF SERVICE TO THE CIVIL SERVICE RETIREMENT SYSTEM FOR SERVICE IN AGRICULTURE EXPERIMENT STATIONS

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. WOLF. Mr. Speaker, during my tenure in Congress, I have been a strong supporter of fair and equitable retirement benefits for all Federal employees. It is extremely important that we reward our career Federal employees for their contribution and dedication to the operation of this great Nation's Government.

In this spirit, I am introducing legislation today which would permit Federal employees and retirees to receive Federal retirement credit for years of employment in Department of Agriculture agricultural experiment stations. These Federal employees received little, if any, retirement credit of any type for their vital service to the Federal Government.

The eligible Federal employees and retirees who would be able to take advantage of this legislation join other groups, such as members of the Peace Corps, Radio Free Europe employees, and County Agricultural Stabilization and Conservation Committee members in receiving this type of credit. This group, like predecessor groups who have received civil service retirement credit, were funded by, supervised by, and given assignments by Federal agencies and employees to such an extent that they were treated as Federal employees. This legislation would help correct the benefit deficiency situation encountered by these Federal workers during noncreditable service periods of employment for the Federal Government.

I urge my colleagues to join me in this important effort.

SECTION-BY-SECTION ANALYSIS

(A bill to credit years of service to the Civil Service Retirement System for Service performed in Agriculture Experiment Stations.)

SECTION 1—SERVICE FOR WHICH CREDIT MAY BE ALLOWED

This bill credits, under coverage of the Civil Service Retirement System, years of service done in Agriculture Experiment Stations.

The Office of Personnel Management will request confirmation of service for persons covered in this act from the employing state agenices. Service performed before January 1, 1984, will be entitled to receive Civil Service Retirement Credit.

SECTION 2—ANNUITY REDUCTION

This section explains annuity reductions and calls for offset of any retirement funds received from other retirement fund sources as a result of years of service credited under this legislation.

SECTION 3—EFFECTIVE DATE

The section designates the effective date of this legislation as the first day of the first month after expiration of the 30-day period beginning on the date of enactment of this legislation. It also explains computation of annuities commencing before, on, or after the effective date.

H.R. 4005

A bill to amend section 8332 of title 5, United States Code, to allow periods of certain service performed as an employee of a State or an instrumentality of a State to be creditable for civil service retirement

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SERVICE FOR WHICH CREDIT MAY BE ALLOWED.

(a) SERVICE MADE CREDITABLE.—Section 8332(b) of title 5, United States Code, is amended—

(1) by striking out "and" after the semicolon at the end of paragraph (12);

(2) by striking out the period at the end of the second paragraph (13) and inserting in lieu thereof "; and"; and

(3) by adding after such paragraph (13) the following:

"(15) subject to sections 8334(c) and 8339(l) of this title and subsection (n)(2) of this section, service performed before January 1, 1984, by an individual in the employ of a State whose principal duties related to the carrying out of a Federal-State cooperative program described in subsection (n) of this section, only if he later becomes subject to this subchapter.".

(b) CERTIFICATION.—Section 8332(b) of title 5, United States Code, is further amended by adding at the end thereof the following new sentence: "The Office of Personnel Management shall accept the certification of the head of the appropriate State employing agency, or his designee, concerning the service referred to in paragraph (15) of this subsection.".

(c) FEDERAL-STATE COOPERATIVE PROGRAM.—Section 8332 of title 5, United States Code, is amended by adding at the end thereof the following:

"(n)(1) The Federal-State cooperative program described in this subsection for which creditable service is allowable under subsection (b)(15) of this section is the Federal-State cooperative program of agricultural experiment stations authorized by the Act entitled 'An act to establish agricultural experiment stations in connection with the colleges established in the several States under the provisions of an act approved July second, eighteen hundred and sixty-two, and of the acts supplementary thereto, approved March 2, 1887 (7 U.S.C. 361a–361i).

"(2) Service creditable under subsection (b)(15) of this section with respect to any employee shall not exceed the lesser of—

"(A) the aggregate period of creditable service performed by such employee under this section before the effective date of this subsection; or

"(B) ten years.

"(3) For the purpose of this subsection and subsection (b)(15) of this section, 'State' includes the fifty States and Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territories of the Pacific Islands, the territories of Hawaii and Alaska prior to statehood, and the District of Columbia.".

SEC. 2. ANNUITY REDUCTION.

Section 8339 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(o) An annuity which is computed in part on the basis of service described in section 8332(b)(15) of this title shall be reduced by the portion of any annuity the annuitant or his survivor receives from a State on account of such service or by that portion of any social security benefits the annuitant or his survivor receives on account of such service.".

SEC. 3. EFFECTIVE DATE.

(a) EFFECTIVE DATE.—The amendments made by this Act shall take effect the first day of the first month which begins after the expiration of the 30-day period beginning on the date of the enactment of this Act.

(b) COMPUTATION OF ANNUITIES COMMENCING ON OR AFTER EFFECTIVE DATE.—An annuity or survivor annuity—

(1) which is based on the service of an individual who performed service described in section 8332(b)(15) of title 5, United States Code, as amended by this Act, and

(2) which commences on or after the effective date of the amendments made by this Act,

shall be computed in accordance with such amendments.

(c) COMPUTATION OF ANNUITIES COMMENCING BEFORE EFFECTIVE DATE.—

(1) An annuity or survivor annuity—

(A) which is based on the service of an individual who performed service described in

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section 8332(b)(15) of title 5, United States Code, as amended by this Act, and

(B) the commencement date of which is before the effective date of the amendments made by this Act.

shall be recomputed in accordance with the amendments made by this Act, if application therefor is made to the Office of Personnel Management within 12 months after the date of the enactment of this Act.

(2) Any change in an annuity or survivor annuity resulting from a recomputation under paragraph (1) shall be effective beginning on the first day of the first month which begins after the expiration of the 30-day period beginning on the date such application is made.

(d) TERMS.—For purposes of this section, a reference to an "annuity" or "survivor annuity" shall be considered to be a reference to an annuity or survivor annuity under subchapter III of chapter 83 of title 5, United States Code.

NATIONAL FETAL ALCOHOL SYNDROME AWARENESS WEEK

HON. DAN COATS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. COATS. Mr. Speaker, the week of January 12 will be commemorated as "National Fetal Alcohol Syndrome Awareness Week." Fetal alcohol syndrome is the name given to the combination of birth defects seen in those newborns suffering from the effects of the high levels of alcohol absorbed into their developing systems directly from their mother's bloodstream. It is the third most common cause of mental retardation. It increases both the risk of a baby being born at low birth weight, and of that baby's failure to catch up during the entire developmental process. It affects thousands of babies born each year, and tens of thousands more are born suffering from less severe fetal alcohol effects. Millions of dollars each year are spent caring for the infants born suffering from this syndrome, and for the children who carry the effects of these births defects with them throughout their lives. And yet, it is entirely preventable.

Representatives from several national groups that are concerned with women's and children's health have formed a coalition to bring greater attention to this problem. Just as recent efforts that have publicized the dangers of drinking and driving have helped to reduce the number of alcohol related traffic accidents, so too can public awareness help to prevent the high incidence of babies born suffering the tragic effects of fetal alcohol syndrome.

As the House sponsor of this legislation, I would like to commend the representatives of the National Council on Alcoholism, the National Institute on Alcohol Abuse and Alcoholism, the National Clearinghouse on Alcohol Information, the American Academy of Pediatrics, the American Medical Association, the March of Dimes, the Healthy Mothers/Healthy Babies Coalition, the Public Health Service of the Surgeon General's staff, the Center for Science in the Public Interest and all of the people who have worked in this effort to reduce the incidence of alcohol related birth defects.

Many efforts are underway to highlight the importance of alcohol awareness for pregnant women. Public service announcements will be aired, information pamphlets will be distributed to doctors' offices, and, in some States, warning signs, similar to those seen on cigarette packages, will be posted in bars and liquor stores. This is one instance where, simply by calling attention to the problem, we can do much to solve the problem itself.

A TRIBUTE TO ANTONIO MEUCCI

HON. JOSEPH J. DioGUARDI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. DIOGUARDI. Mr. Speaker, it is with immense pride and pleasure that I rise today to pay tribute to a great American, Antonio Meucci, an Italian immigrant scientist.

The telephone is undoubtedly one of the greatest inventions of the 19th century. Picturing the United States and the world today without telephones is unfathomable. And when Americans ponder this invention's development, usually only one name comes to mind: Alexander Graham Bell. However, I believe that the name Antonio Meucci should ring a bell.

According to the Italian Historical Society, on December 28, 1871, Antonio Meucci visited the patent office and filed a temporary patent for his "telefono" invention, 5 years before Alexander Graham Bell. In 1874, Meucci did not have the money for renewal, and his temporary patent expired. Twelve years later, in 1886, it was ruled by the Supreme Court that Meucci had priority to the invention of the telephone. However, the Court's decision was ultimately set-aside.

Mr. Speaker, I believe that Antonio Meucci should be provided the credit and recognition he so richly deserves for his contribution to the development of modern day communications. The next time someone considers the origin of the telephone the name Antonio Meucci should come to mind.

On December 28, 1985, the Italian Historical Society of America will be hosting the 15th Annual Antonio Meucci Testimonial Luncheon. I join those attending this event in saluting this great Italian American.

Thank you, Mr. Speaker.

HUMAN RIGHTS IN IRAN

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. TOWNS. Mr. Speaker, one of the most moving experiences I have had as a Member of this body was listening to the accounts of three Iranian citizens who escaped from various prisons in Iran. While the human rights reporting in Iran is very sketchy, it is important to give broad exposure to the testimony of actual victims who have managed to escape the country. I am enclosing for my colleagues' review a recent statement made in conjunction with their visit to the Washington, DC area. I commend it to my colleagues' attention.

Tuesday, December 10, marked the anniversary of the adoption and proclamation of the Universal Declaration of Human Rights by the United Nations General Assembly.

Several international human rights organizations have cited the Khomeini regime as having the worst record of gross violations of human rights, the degree of horror and brutality of which are unprecedented in Iranian history. Since June 1981, 50,000 dissidents have been executed, and 140,000 political prisoners are subjected to systematic and repeated torture.

Rarely does a better opportunity present itself to understand the crucial importance of respect for human rights than that of meeting and talking with actual victims of torture and imprisonment by the Khomeini regime, Mr. Hossein Dadkhah, Ms. Narges Shayesteh and Ms. Mojgan Homayounfar, recently testified before the U.N. Commission on Human Rights and the European Parliament. Their testimony was instrumental in the subsequent adoption on December 6 by the U.N. General Assembly, which rarely examines the human rights situation of a particular country, of a resolution condemning human rights abuses in Iran.

These three victims, in their own words, "represent the pain and suffering being inflicted upon 140,000 others." They are here to "tell the stories of those who have gone before the firing squads."

Mr. Hossein Dadkhah, born November 1, 1955, still suffers from the effects of the tortures he endured while in Tehran's Evin Prison. His feet were particularly affected and several toes had to be amputated as a result of irreperable injury. Mr. Dadkhah's wife and brother were both executed by the regime. His parents were arrested and severely beaten, the psychological trauma causing both to suffer nervous breakdowns. His eighteen-month-old child has been taken by the regime, and his wereabouts are unknown.

Ms. Narges Shayesteh, a former teacher, was born on May 15, 1959. She was imprisoned for two and a half years. The effects of torture are still evident on her nose, hands, knees, and chest, where during a five hour session Khomeini's Guards branded her with fifteen cigarettes.

Ms. Mojgan Homayounfar, born on October 24, 1961, is a former student of fine arts and a teacher. During her three year imprisonment one of her legs was amputated and the other crushed. Confined to a wheel chair, Ms. Homayounfar suffers a variety of effects as a result of her ordeal.

These three victims are concerned that international exposure of the Khomeini regime's atrocities plays a crucial role on reducing the number of executions and the extent of torture. In Ms. Shayesteh's words, "If because of a brief speech in a foreign parliament or an interview, one person is going to receive fewer lashes or one less person is executed, it is worth all the effort." She adds, "I have been in those prisons."

Ms. Homayounfar urges, "every humanitarian individual and organization to expose these atrocities, and thus contribute to the cause of humanity."

Mr. Dadkhah emphasizes that, "We are the exceptions; we have gotten out. But 50,000 others have been executed, and 140,000 more may also be executed unless we do something about it."

HONORING CLAUDE J. FARINHA

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. FAZIO. Mr. Speaker, I rise today to pay tribute to a close personal friend and outstanding civil servant, Mr. Claude Farinha. After 35 years of distinguished service in the Federal Government, Claude recently announced his plans to retire on February 28, 1986.

Claude Farinha's record in the Federal work force speaks for itself. Not only have his skills, dedication, and commitment made him one of our Nation's leading civil servants, they have also resulted in his selection for two prestigious awards. In 1977, Claude received the Air Force Association's Citation of Honor as its "Outstanding Civilian of the Year." Furthermore, in September 1980, President Carter recognized Claude's numerous achievements by conferring upon him the highest recognition a Federal employee can receive—the Distinguished Executive Rank.

Serving as Deputy Director of Materiel Management at the Sacramento Air Logistics Center since 1975, Claude has developed McClellan Air Force Base into the most progressive center in the logistics command system. During this 10-year tenure, he has also masterfully directed a work force of 2,300 and managed an immense annual logistics budget. While Claude's leadership skills will be sorely missed, there is no question that his efforts have built a solid framework for continued growth and success at McClellan.

Mr. Speaker, Claude Farinha has been a tremendous asset to the Federal Government, McClellan Air Force Base, and the Sacramento community. I would like to extend my personal thanks and appreciation to Claude, his wife, Shirley, and their three daughters—Jana Lee, Lori Lee, and Sheri Ann. I wish all of them the very best of luck.

BOMBING AND ARSON AT ABORTION CLINICS AND FAMILY PLANNING CENTERS

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. EDWARDS of California. Mr. Speaker, for the past 3 years, abortion clinics and family planning centers across the country have been plagued by numerous bombings and arson incidents. These violent actions are deplorable, regardless of one's view on abortion and birth control. I recommend for my colleagues' attention two recent articles on this matter, one an editorial in the New York Times and the other a column by Judy Mann in the Washington Post.

[From the New York Times, Dec. 18, 1985]

Abortion Bombers' Christmas Message

The Christmas season is many things to many people. To America's domestic terrorists it is, as it was last year, prime time to escalate the battle against a woman's legal right to a safe abortion.

Last week a small bomb went off at the Manhattan Women's Medical Center. Because a caller had warned the police bomb squad, the building was evacuated in time.

No anonymous caller, however, warned a Portland, Ore., women's health center that the large package in its mail a few weeks ago was a bomb big enough to kill. Fortunately a staff worker had been trained to spot suspicious packages and called the police. Portland's postal authorities then found three other mail bombs, addressed to two abortion clinics and a Planned Parenthood clinic that doesn't even perform abortions.

The Portland police believe the bombs are intended to rally opposition to Senator Bob Packwood, a supporter of abortion rights who will be seeking a fourth term next year. The Senator has won sufficient popularity that he can probably survive the attacks, but the staffs and patients at those clinics have no such defense. Except for chance, the anti-abortion bombers might now be claiming their first fatalities.

During the last two years, there have been 50 bombing and arson incidents at abortion and family-planning clinics, nearly twice as many as in the previous six years. Those responsible claim to be championing life. What they're really doing with their explosives, fires and threats is saying to women: "Not your choice, lady Ours."

[From the Washington (DC) Post, Dec. 18, 1985]

An Upsurge of Violence

(By Judy Mann)

On the Monday after Thanksgiving, a package about the size of a shoebox arrived at the Women's Feminist Health Center in Portland, Ore. It carried a Portland postmark. The center has been the target of threats, vandalism and frequent demonstrations by antiabortionists, and workers have been trained to watch for suspicious packages and envelopes. They called the police, who defused a bomb that a police spokesman said was powerful enough to kill.

Police defused three similar bombs in packages at Portland's main post office. One package was address to Dr. Peter Bours of suburban Forest Grove, wo was the topic of a major magazine article recently on the harassment he was getting for performing abortions. He is a member of the board of Oregon's chapter of the National Abortion Rights Action League. Another package was addressed to the Lovejoy Surgicenter in Portland, where abortions are performed, and the third to a Planned Parenthood clinic, which does not perform abortions, but which dispenses contraceptives.

"To our knowledge, it's the first time there's been a letter bomb," said a NARAL spokeswoman.

She also said clinic bombings resumed in October, with little or no media coverage. She cited four incidents; On Oct. 30, the Delta Women's Clinic in Baton Rouge was burned to the ground by arsonists, and another clinic was burned. On Oct. 26, the Hallmark Clinic in Charlotte, N.C., was the target of arsonists, and on Oct. 19, the Coram Women's Center in Suffolk County, N.Y., was bombed.

"We consider it terrorism," said the NARAL spokeswoman. "We consider it legitimate news. This is very, very serious."

Indeed, it is. On Dec. 10, the Manhattan Women's Medical Center was bombed. A NARAL spokeswoman said the incident occurred in midafternoon while procedures were being performed. She said someone called the police emergency number and asked them to evacuate the clinic. Then police got a second call and were told the clinic was not being evacuated fast enough. Shortly thereafter, a bomb went off in a second-floor bathroom. Damage was not extensive, she said, and no one was injured, although a receptionist was still in the building.

"You're torn between hoping this is an isolated nut in Oregon and the memory of what was happening this time of year a yeasr ago," said Nanette Falkenberg, executive director of NARAL. "Is this a re-escalation of what was going on?" There were at least 24 bombing or arson attacks on abortion facilities in 1984, with the attacks increasing in frequency and severity during the Christmas season, prompting President Reagan to order an all-out federal effort in early January to find those responsible. He did not, however, order the FBI to take over the investigations, which have been the responsibility of the Bureau of Alcohol, Tobacco and Firearms. The FBI investigates bombings when terrorist groups are suspected.

"Two things are different about the Oregon and Manhattan [incidents]," Falkenberg said. "Both involved tactics we haven't seen before. They were both clearly targeted to hurt people in the clinics. Before, they [the bombs] went off at night," when the clinics were empty. "In Manhattan they called, but it came very close to having people in the clinics."

She said the Oregon NARAL affiliate had called for a moratorium on picketing at clinics through the New Year to "tone down the level of debate" during the season but that the suggestion had been declined.

"I think as you increase the tone and level of hysteria around the issue, as you push the edge of the mainstream of a movement, the people who are already on the fringe, it gives them permission to move further and further out," said Falkenberg.

Her explanation for the turn to violence against the clinics that has occurred in the past couple of years makes sense. Prochoice organizations have documented numerous incidents of harassment outside clinics and of people who work in clinics. Peaceful dissent has given way to threats and intimidation. In Fairfax County, for example, antiabortionists are trying to organize a boycott of Fairfax Hospital and have urged sympathizers not to donate to its blood bank in an attempt to stop abortions from being performed at the hospital. This is nothing less than an attack on the community's blood bank.

Extremism has bred fanaticism, and with the incidents in Oregon and Manhattan it has bred terrorism. Before somebody gets killed, we had best be willing to recognize that this is what we're dealing with now, and address the problem as the threat to the social order that it is.

A BALANCED BUDGET BILL THAT SAYS YES

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. GUNDERSON. Mr. Speaker, for the past few months we have been engaged in a fierce struggle with the proponents of negativism, the advocates of "no." They say, "No, we can't balance the budget; no, we can't guarantee our children and grandchildren that they will not be saddled with trillions and trillions of dollars of debt; no, we can't assure our senior citizens that we will be responsible today so that tomorrow there will be funds for pensions and retirement programs; and, no, we can't find a way to responsibly take control of a budget process that has run wild."

Last week, Congress and the President met the pessimists head on by passing and signing a balanced budget bill that says "yes." Yes, we can make Government work. Yes, we can solve our problems. We can ensure an economically secure nation. We can make the hard choices and the difficult sacrifices necessary to ensure that our Nation will move forward to meet the challenges of the future, instead of sliding back into the irresponsible policies of the past.

It takes only a moment to see that those past policies would provide America with an unacceptable future. Those policies have already resulted in:

A Government spending $24 for every $19 it raises in taxes and other forms of revenue;

A national debt that would require $7,000 from every single man, woman and child living in the United States, if it were to be paid off today;

A Federal Government that removes from the private sector, because of borrowing needs, an amount every year equivalent to 5 percent of all produced and all services rendered in the United States; and

The $130 billion in interest payments on the debt for 1985 alone.

While there are parts of Gramm-Rudman that I am less than pleased with, the fact remains that the bill will contribute in a number of important ways to the battle against the Federal deficit:

Fiscal responsibility will be a part of the budget process from the very outset as the President will be required to submit annual budgets in which the projected deficits do not exceed specified levels. Starting with a budget proposal that is already within reasonable funding limits will make it all that much easier for Congress to come up with a finished product that stays within the deficit guidelines. These specified levels will be gradually decreased, until 1991, when the maximum allowable Federal budget deficit will be zero.

The bill includes provisions establishing a new, accelerated timetable for the budget process. In recent years, Congress has dragged its feet, oftentimes waiting until as late as October to finally pass a budget. Time after time, temporary extensions must be passed so that Government agencies won't have to close their doors. At this very moment, Congress is preparing to pass its fourth continuing resolution of the year, required because of its inability to complete the appropriation process in a timely manner. The result has been increased costs, inefficient expenditures, and an inability for agencies and departments to adequately plan for the fiscal year. Under Gramm-Rudman, Congress would complete action on the budget by April 15, with the House completing action on regular appropriations bills by June 30.

Up to now, there has been a lot more talk about deficit reduction than concrete action to bring down the deficit. With the passage of Gramm-Rudman, we will see more than just talk. The first major event under the budget regime will come February 1, when automatic cuts for fiscal year 1986 are announced. These automatic cuts will take effect March 1, unless Congress and the President come to terms and voluntarily enact cuts based on agreed upon spending priorities.

While it is important that the United States maintain a strong and effective military, it is also important that the Pentagon do its fair share for deficit reduction. If nondefense programs alone had to shoulder the burden of budget cuts, hundreds of worthwhile programs would have to be axed. Under Gramm-Rudman, any automatic cuts would be divided equally between defense and nondefense programs.

As long as Congress did nothing to discourage the notion that the Federal Government had a magic money tree with an infinite supply of greenbacks, there was little incentive to cut wasteful and inefficient spending practices. Why cut the fat when all you have to do is get Uncle Sam to dole out more money? The Gramm-Rudman bill makes it clear that Uncle Sam's pockets have been picked clean. Knowing that they will not be rewarded for waste with increased appropriations, agencies receiving Federal funds will hopefully have all the incentive they need to put an end to $600 toilet seats, inefficient procurement practices, and duplication of services.

In passing Gramm-Rudman, Congress is not forsaking those individuals most in need of Government help. A variety of programs for children, elderly and the Nation's poorest will be protected from automatic cuts. Social Security benefits, child nutrition programs, Medicaid and veterans' compensation are among the programs that are exempted from automatic cuts. Certain critical health programs are protected, through provisions that set maximum permissible reductions at no more than 1 percent in fiscal year 1986 and 2 percent in fiscal year 1987.

It is my hope that automatic cuts will not become necessary. Each year Congress will have at least two opportunities to do its job by making careful and rational choices about the programs that will receive cuts. Only if Congress fails to meet the deficit-reduction objectives, will automatic cuts come into play.

America today is at a turning point. For too long we've been stalled in history, repenting mistakes of yesterday because our leaders have been afraid to see a new tomorrow. That tomorrow is upon us. We must not let the pessimists convince us otherwise. The future will be ours if we dare to work for it. The people of this Nation are ready to move forward and effectively address the problem of the deficit. With the signing of Gramm-Rudman, Congress has made it known that it too is ready to do its part in moving our Nation ahead.

ILL-CONCEIVED AND ARBITRARY CUTS MUST BE FOUGHT

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. DOWNEY of New York. Mr. Speaker, the Gramm-Rudman budget slashing has begun; arbitrary and ill-conceived cuts in the vital Juvenile Justice and Delinquency Prevention Program have already been announced.

No one could ever accuse this Justice Department of failing to respond to congressional action. When it comes to cutting funds they are so quick off the mark that they've started slashing even before the Congress has mandated any cuts. They are freezing dollars appropriated by the elected representatives of the people of this country. The administration is usually a bit more subtle in promoting its true intentions; it is rare that we can see such a blatant example of their priorities.

Prevention. We all know that it's the best way to avoid the slippery slope of crime, drug abuse, and wasted lives that too many of our young people find themselves on. But those who talk a good anticrime game at the White House and Justice Department have, over the past 5 years, managed to gut a program whose goals they supposedly support.

Those who receive grants from the juvenile justice and delinquency office—the YMCA, Girl Scouts, and Children's Defense Fund, to name just a few—will find themselves without the funds to pursue needed crime prevention programs.

Is this administration writing off America's youth? We have been told again and again that it is morning in America. But let's face the facts. Our youth are our most precious resource. If this philosophy of government continues unabated, it's time for mourning in America.

PHARMACEUTICAL EXPERT AMENDMENTS OF 1985

HON. DEAN A. GALLO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. GALLO. Mr. Speaker, I am pleased to be joining my distinguished colleague, Congressman MADIGAN, in cosponsoring the Pharmaceutical Export Amendments of 1985, legislation that establishes conditions for the export of drugs.

It is clear that our current policy prohibiting the export of new drugs and other important pharmaceuticals has had an adverse impact on the U.S. economy and more specifically, on the competitive position of American firms in the international market.

This restrictive policy has cost the United States jobs, capital investment, and has forced American pharmaceutical companies to conduct important research and develop new technology outside the United States.

The United States is the only country that is prohibited from exporting drugs that are lawfully marketed in the importing country but which are not yet approved in the United States. There seems to be little sense to this policy when the drugs in question are available to the importing country by other foreign manufacturers. As supporters of this legislation in the House and in the Senate have pointed out, this policy does not prohibit foreign consumers from gaining access to these drugs, it only locks the United States out of the competition for jobs and revenues.

Specifically, my district and the State of New Jersey has many pharmaceutical companies that are eager to serve the world market and to devote adequate resources to develop drugs that address the needs of other countries.

While questions have been raised about the ethical and health implications of exporting new drugs, this legislation has been carefully crafted to provide numerous safeguards to protect foreign consumers.

I commend Congressman MADIGAN for introducing this legislation, and Senator HATCH for moving swiftly on similar legislation in the Senate, and I urge my colleagues to support it.

MAYOR KENNETH A. GIBSON HONORED BY THE JEWISH NATIONAL FUND

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. RODINO. Mr. Speaker, it is with great pride that I bring to your attention a special event that will take place in West Orange, NJ, early next year. On January 12, 1986, the Jewish National Fund will be honoring a very close friend of mine—Mayor Kenneth A. Gibson of my hometown of Newark. This tribute is in recognition of Mayor Gibson's steadfast opposition to anti-Semitism, his strong commitment to advancing harmony and understanding among the different peoples and ethnic groups of our Nation, and his loyal support of the democratic state of Israel.

As the mayor of Newark since 1970—which gives him the longest tenure as mayor in the city's history—Kenneth Gibson has emerged as a national spokesman and advocate for urban America. In Newark, he has successfully initiated programs in housing, health, public works and welfare, and he has been singularly responsible for increasing the efficiency and capabilities of the city's departments and agencies. Just as important, Mayor Gibson has set a tone in our city—of fairness, tolerance, progress, and compassion. He is always ready to promote good and ever alert to condemn injustice.

The Jewish National Fund is an agency dedicated to what one might call the greening of Israel. It is responsible for land reclamation, soil improvement, afforestation, and laying the infrastructure for new communities in Israel. The proceeds from Mayor Gibson's tribute will go toward the purchase of trees to be planted in Israel's Independence Park—in honor of Mayor Gibson.

It is only fitting that the Jewish National Fund has chosen Kenneth Gibson as its honoree. For Mayor Gibson is an unyielding proponent of the same principles of democracy, freedom, and human rights which undergird the State of Israel and make it a close ally of the United States. I have known Ken Gibson for a good many years, and I admire the strength of his convictions and his abiding sense of justice. There are few men in public life more worthy of recognition than he, and the Jewish National Fund deserves great praise that I extend my congratulations to my good friend and mayor, Kenneth A. Gibson.

CONFERENCE AGREEMENT ON 1985 FARM BILL

HON. J. ROY ROWLAND

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. ROWLAND of Georgia. Mr. Speaker, after many months of deliberation, Congress has finally passed the 1985 farm bill.

I commend the House and Senate conferees for their diligence in bringing this agreement before us today. Although the bill leaves a great deal to be desired in addressing the problems which face our farm economy, I do hope it will at least help keep some family farmers going.

Everyone will not be in agreement with all sections of the bill; however, it will give our farmers some idea in making plans for their farming operations. Farmers have been working in an atmosphere of uncertainty for too long, and now we can provide them with some guidance for future actions.

As maintained in the farm bill agreement, I, along with peanut producers in Georgia, am pleased to see this program continued without any major changes. This is one farm program that, is safe to say, has worked well.

Also, in the agreement is the "whole herd buyout" which I supported in the House due to the support of the Georgia dairy farmers. Until the rules and regulations of this concept are developed by the Secretary of Agriculture, we will not be able to predict its success. However, what I do know, Mr. Speaker, is that my dairy farmers were behind this plan because it seemed to be the best approach offered, and a way to help them through these hard-pressed times.

What I heard from my soybean farmers was disappointment when they learned that the Senate proposal to provide payments based on $1 a bushel or $35 an acre for the 1985 crop was not maintained in the conference agreement. Due to the adverse weather conditions caused by Hurricane Kate, our soybean crop, along with cotton and pecans, suffered a great loss, and additional funding would have assisted them in dealing with Mother Nature's wrath which they face this year.

On a positive note, as a supporter of the conservation reserve program, I am pleased we have agreed on this concept which will protect one of our valuable resources, our Nation's soil, by returning the land to less-intensive uses with the planting of grasses and trees.

These past few weeks, Congress has dealt with many crucial issues. Today is no exception. With this action, we will be offering our farmers, if not a solution, at least hope for the future.

SYRIAN SAM MISSILES: A THREAT TO ISRAEL AND MIDEAST PEACE

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. WOLPE. Mr. Speaker, reports from Israel confirming the placement by Syria of advanced Soviet-made surface-to-air [SAM] missiles is a dangerous development that threatens peace in the region. I wholeheartedly endorse Israel's expressed concern that the missiles be removed from Lebanon and the Syrian-Israeli border.

Syria's actions are an extreme provocation. By extending a hostile air warfare shield over the Galilee and southern Lebanon, the Syrian SAM's inhibit Israel's ability to patrol its northern frontier in order to deter terrorist attacks.

Israel poses no threat to Lebanon or Syria. Israel has withdrawn unilaterally from Lebanon. Israel has scrupulously observed the 1974 disengagement agreement with Syria on the Golan Heights. Israel has no interest but the protection of its civilian population. Syria and radical forces in Lebanon, however, give every encouragement to terrorist attacks on Israeli civilian and military targets.

Recently, Syrian President Assad has hinted that he may be prepared to enter the peace process, in conjunction with Jordan. But by deploying the most sophisticated missiles on Israel's borders, threatening Israel's security, Assad is engaging in dangerous intimidation that undercuts any contention that Syria is interested in peace with Israel.

The United States should back Israel fully in this latest crisis—these missiles should be removed.

VERN SCHAFER CELEBRATES 30 YEARS

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. LEWIS of California. Mr. Speaker, Mr. Vern Schafer, founder and president of Colton Piano and Organ Supermarts, is celebrating his 30th anniversary.

It all started in 1950, when Vern was helping his uncle deliver pianos. Soon, Vern was buying old pianos and repairing them to sell to dealers.

Eventually, Vern opened his first store in a converted radiator shop in Colton, CA. As the business grew up, he recognized the need for a larger facility, so he purchased an old dance hall and bowling alley to expand his operation. As his business continued to grow, this enterprising young man took over a Ford agency dealership site, and ultimately bought the old city hall and jail in Colton. When the redevelopment started in the downtown area, Vern was forced to relocate his lucrative business. He seized the opportunity to invest in some land close to Interstate 10. At this location, close to the San Bernardino Freeway, Vern built the first piano supermart, a building which presently covers more than 31,000 square feet. This piano supermart concept was so successful in Colton that, with Vern's business talents, there are now 10 supermarts in California.

In spite of this extraordinary expansion, Vern has been insistent upon keeping his business a family business. His oldest son, Charles, was his right-hand man for many years before his death a few years ago. Currently, Vern is assisted in his operations by his four children: Vern III, James, Debbie, and Virginia.

Vern started manufacturing the Schafer & Sons piano and they have been given as prizes on many quiz shows. His pianos have been spotlighted on the Johnny Carson Tonight Show, featuring the NBC Orchestra, on the popular television series Dynasty, and countless other television productions. Eighty-five percent of his sales are Schafer & Sons products.

Vern has always been a fan of old Western towns and has, therefore, collected Western type memorabilia over the years. When he recalled that Wyatt Earp was the marshal of Colton, Vern built an authentic replica of an old Western town there and named it Movie Frontier Town. Many television films and commercials have been filmed at this location in Colton. The San Bernardino County Sheriff's rodeo and numerous other Western events take place in there as well.

Mr. Speaker, it is indeed an honor for me to represent this truly remarkable man. I ask you and my colleagues here in the House of Representatives to join with me, family, and friends in wishing a happy 30 years to Mr. Vern Schafer, a man who has brought music into the lives and homes of millions.

TAX REFORM BILL

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. CLINGER. Mr. Speaker, the analysis of the changes made to the intangible drilling cost [IDC] deduction in the Rostenkowski tax reform proposal should be clarified to recognize an important point.

The blanket statement that 85 percent of the IDC deduction is retained by the oil and gas industry is only partially true. In a large percentage of wells drilled in the United States today, a significant portion of the IDC's are spent for activities which occur after the casing point but before production from the well is assured. For example, in the Appalachian Basin, roughly 35 percent of the IDC expenses are attributed to such costs. This means that the actual percentage of IDC's retained for oil and gas wells in the East under the Rostenkowski proposal actually equals only 65 percent of the current deduction.

Specifically, wells throughout the Appalachian Basin must be worked through a process which requires perforation of the casing and stimulation of the potential producing zone to determine whether the well will actually produce commercial volumes of oil and gas.

The failure of the Ways and Means Committee to recognize this important distinction between oil and gas drilling practices in various regions of the country must be raised and should be addressed before this legislation is ultimately approved, and I intend to bring this problem to the attention of the other body when they begin consideration of the tax bill next year.

"ZERO TOLERANCE—THE NAVY'S MISGUIDED APPROACH"

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday December 19, 1985

Mr. FISH. Mr. Speaker, it is reported that Secretary of the Navy John Lehman has cracked down on drug abuse by Navy personnel, successfully reducing the incidence of drug abuse from 48 to 3 percent. Urinalysis is required of all Navy personnel. Punishment followed positive findings; discharge for repeaters. However, those who admitted drug use before a test have been offered amnesty and rehabilitation. This tough policy, therefore, has allowed an individual a chance for rehabilitation and continued useful service.

It has come to my attention that Secretary of the Navy Lehman has instituted an additional drug policy known as "Zero Tolerance," resulting in court martial and possible dishonorable discharge for a first offense by senior enlisted and officer personnel.

Mr. Speaker, chemical dependence is a disease, recognized as such by the American Medical Association, the American Psychiatric Association, and all State medical associations and licensing boards. Rehabilitation, not punishment, is the accepted, recognized response. The Navy's policy is contrary to good medical practice, self-defeating and unnecessarily costly.

The zero tolerance policy is particularly disturbing as applied to Navy health care professionals. Talented individuals in whom the taxpayers have a substantial investment can be separated from the service in disgrace. This policy is not only costly, but it is not a deterrent to others. The particular vulnerability of physicians to chemical dependence is unquestioned. Those Navy physicians reluctant to seek help because of the harsh consequences, continue to practice to the jeopardy of patients in their care.

The zero tolerance policy is directly contradictory to the expressed goal of the Assistant Secretary of Defense for Health Affairs, Dr. William Mayer. In a publication "HEALTH MATTERS," Vol. 1, No. 3, July 1985, entitled "Health Care Providers," Dr. Mayer cites Public Law 92-129 as requiring that DOD identify, treat and rehabilitate all military personnel who are considered chemically dependent. He supports the claim that physicians are a high risk to develop the disease and argues the folly of separating additional health care professionals who could be successfully rehabilitated, and in their place recruit from a population at equal risk. Despite the excellent rehabilitation programs provided by the Navy, current policy opts for court martial rather than rehabilitation.

The Army's program for impaired health care professionals is progressive, realistic, compassionate and provides a method of closely monitored re-entry. The Navy would be well-advised to pursue the Army's policy of early intervention, which keeps the chemically dependent within the system.

Mr. Speaker, Dr. Mayer's memorandum entitled "HEALTH MATTERS" follows in full.

HEALTH MATTERS

VOLUME 1, NUMBER 3, JULY 1985

Impaired Health Care Providers

This is another in a series of reports and commentaries on a wide range of issues in military medicine which concern and affect those of us who serve in DOD Health Affairs. Your own suggestions and input are welcomed in future issues.

The American Medical Association has stated ". . . it is the ethical responsibility of any physician who knows of an apparent problem in a colleague to take affirmative action to seek treatment or rehabilitation for his fellow physician." Fifty State medical associations either have developed or are developing an impaired health care provider program. Public Law 92-129 requires that DOD identify, treat and rehabilitate all military personnel who are considered chemically dependent.

Physicians, as a result of their training and professional experience, have been shown to be particularly vulnerable to becoming addicted because of the propensity for self-diagnosis and self-medication. The daily accessibility of prescription drugs creates fertile ground for misuse. In addition, medical professionals are often no better educated about the disease of alcoholism and other addictive disorders than other professionals.

We must do more than simply eliminate people from the Services who become impaired emotionally or chemically. To separate physicians, nurses and other health care professionals who have become addicted but could be successfully rehabilitated, and then recruit from a population that will be at equal risk is shortsighted.

Prevention to reduce the incidence and occurrence of new cases, identification of impairment, and intervention and treatment of providers to eliminate the potentially destructive consequences of chemical dependency and emotional impairment are of the highest priority in our efforts to maintain quality of care. Guidance regarding impaired health care providers should be incorporated into service quality assurance programs.

Impairment can become progressive if ignored. Medical and professional societies across the country recognize that only with coercion and confrontation will treatment be effective. When legal action is not required, a nonpunitive approach with emphasis on confidentiality will help promote effective impaired health care provider programs.

It is important to publicize the legitimacy of prevention, identification and treatment. Impaired physicians, nurses and other health care professionals are sometimes reluctant to seek help on their own accord. Too often, we have failed to accept the ethical responsibility of an affirmative posture. Hesitancy to act fosters denial of the problem and could result in needless tragedy.

A DOD Directive providing further guidance will be developed by a Joint-Service group in the near future regarding incorporation of a health care provider program into MTF quality assurance programs. In the meantime, I am communicating through this medium to alert you to the importance of this issue and to enlist your help.

William Mayer, M.D.,
Assistant Secretary of Defense (Health Affairs), Washington, DC.

Mr. Speaker, I urge Secretary Lehman, at the very minimum, in simple fairness, to put a hold on the continued implementation of the zero tolerance policy as it pertains to health providers, until the study alluded to by Mr. Mayer is finalized.

HOUSE OF REPRESENTATIVES—*Friday, December 20, 1985*

(*Legislative day of Thrusday, December 19, 1985*)

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. Wright] at 1 o'clock and 30 minutes p.m. on Friday, December 20, 1985.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Let us pray in the words of St. Francis:

Lord, make me an instrument of thy peace,
Where there is hatred, let me sow love;
Where there is injury, pardon;
Where there is doubt, faith;
Where there is despair, hope;
Where there is darkness, light; and
Where there is sadness, joy.
O, Divine Master, grant that I may not so much seek to be consoled as to console;
To be understood as to understand;
To be loved as to love.
For it is in giving that we receive;
It is in pardoning that we are pardoned.
And it is in dying that we are born to eternal life.

Amen.

AUTHORIZING THE CHAIR TO DECLARE RECESSES ANY TIME DURING THIS LEGISLATIVE DAY

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that it shall be in order for the Chair to declare recesses any time during this legislative day.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

CONVENING OF 2D SESSION OF THE 99TH CONGRESS

Mr. FOLEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate joint resolution (S.J. Res. 255), relative to the convening of the 2d session of the 99th Congress, and I ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. Res. 255

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the second regular session of the Ninety-ninth Congress shall begin at 12 o'clock meridian on Tuesday, January 21, 1986.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WEISS. Mr. Speaker, I ask unanimous consent that all Members be permitted 5 legislative days in which to extend their remarks and to include therein extraneous material on the Senate bill, S. 1840, travel allowance to Government employees.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

EXTENDING FOR A TEMPORARY PERIOD CERTAIN TAX PROVISIONS

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4006) to extend until March 15, 1986, the application of certain tobacco excise taxes, trade adjustment assistance, certain Medicare reimbursement provisions, and borrowing authority under the Railroad Unemployment Insurance Program, and to amend the Internal Revenue Code of 1954 to extend for a temporary period certain tax provisions of current law which would otherwise expire at the end of 1985," with Senate amendments thereto, and concur in the Senate amendments with an amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendments and the House amendment to the Senate amendments, as follows:

Senate amendments:

Strike out all after the enacting clause and insert:

SECTION 1. EXTENSION OF INCREASE IN TAX ON CIGARETTES.

Subsection (c) of section 283 of the Tax Equity and Fiscal Responsibility Act of 1982 (relating to increase in tax on cigarettes) is amended by striking out "and before December 20, 1985" and inserting in lieu thereof "and before March 15, 1986".

SEC. 2. EXTENSION OF TRADE ADJUSTMENT ASSISTANCE PROGRAM.

Section 285 of the Trade Act of 1974 (19 U.S.C. note preceding section 2271) is amended by striking out "December 19, 1985" and inserting in lieu thereof "March 14, 1986".

SEC. 3. EXTENSION OF BORROWING AUTHORITY UNDER THE RAILROAD UNEMPLOYMENT INSURANCE ACT.

Section 10(d) of the Railroad Unemployment Insurance Act is amended by striking out "December 19, 1985" each place it appears and inserting in lieu thereof "March 14, 1986".

SEC. 4. EXTENSION OF MEDICARE PHYSICIAN PAYMENT PROVISIONS.

Section 5 of the Emergency Extension Act of 1985 (Public Law 99-107) is amended by striking out subsection (a), and by striking out "December 19, 1985' in subsection (c) and inserting in lieu thereof "March 14, 1986".

Amend the title so as to read: "An Act to extend until March 15, 1986, the application of certain tobacco excise taxes, trade adjustment assistance, certain medicare reimbursement provisions, and borrowing authority under the railroad unemployment insurance program.".

House amendment to the Senate amendments:

In lieu of the matter proposed to be inserted by the amendment insert the following:

SECTION 1. EXTENSION OF INCREASE IN TAX ON CIGARETTES.

Subsection (c) of section 283 of the Tax Equity and Fiscal Responsibility Act of 1982 (relating to increase in tax on cigarettes) is amended by striking out "December 20, 1985" and inserting in lieu thereof "March 15, 1986".

SEC. 2. EXTENSION OF MEDICARE HOSPITAL AND PHYSICIAN PAYMENT PROVISIONS.

Section 5(c) of the Emergency Extension Act of 1985 (Public Law 99-107) is amended by striking out "December 19, 1985" and inserting in lieu thereof "March 14, 1986".

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall take effect on December 19, 1985. As an exercise of authority under the commerce, taxation, and other powers under the Constitution, the amendment made by section 1 shall be treated for purposes of all Federal and State laws as enacted on December 19, 1985.

Mr. FRENZEL (during the reading). Mr. Speaker, I ask unanimous consent that the amendments be considered as read and printed in the Record.

The SPEAKER pro tempore (Mr. Alexander). Is there objection to the request of the gentleman from Minnesota?

Mr. PICKLE. Mr. Speaker, reserving the right to object, I want to ask the chairman of the Committee on Ways and Means or the gentleman on the minority side what this motion does so that we can understand what our options are.

Mr. ROSTENKOWSKI. Mr. Speaker, will the gentleman yield?

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Boldface type indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Mr. PICKLE. Under my reservation, I yield to the gentleman from Illinois, the chairman of the Committee on Ways and Means.

Mr. ROSTENKOWSKI. I thank the gentleman for yielding.

Mr. Speaker, yesterday the House approved and sent to the Senate a bill, H.R. 4006, that extended through March 15, 1986, certain tax, Medicare and other provisions which expired either at midnight last night and others that expire at the end of this year. These provisions are addressed on a permanent basis in the tax reform bill or the reconciliation conference report also adopted by the House yesterday.

The Senate passed H.R. 4006 with an amendment that stripped out all of the House extensions but the four provisions that expired last night: First, the 16-cent tobacco tax; second, the Trade Adjustment Assistance Program; third, borrowing authority for the railroad unemployment fund; and fourth, Medicare reimbursement provisions for physicians. However, the Senate amendment did not include the extension of Medicare hospital reimbursement provisions that also expired last night, and which were included in the House passed bill. Unfortunately, the Senate amendment did not include the extension of many important tax provisions which are scheduled to expire at the end of this year.

Mr. Speaker, I am asking that the House return H.R. 4006 to the Senate with a further amendment which would include: First, the extension of the Medicare hospital reimbursement provision previously passed by the House; and second, make the extension of the cigarette excise tax effective as of midnight last night. This latter provision is necessary to prevent imposition of automatic cigarette excise taxes increases under various State laws. These provisions are identical to two of the provisions included in the version of H.R. 4006 originally passed by the House last night. In fact, this will be the fifth time we have extended these identical two provisions. The House amendment does not extend the railroad unemployment fund or trade assistance amendments.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

Mr. PICKLE. Further reserving the right to object, Mr. Speaker, apparently this resolution extends only two parts of the previous legislation, the tax on cigarettes and the Medicare provision. I take it then there is no inclusion, no intent to do anything about the research and development credits, or solar credits, or other energy credits, or the targeted job credits, or other expiring provisions that we had asked for and so desperately need.

Mr. Speaker, can the gentleman tell me why they are not included in this particular package?

Mr. ROSTENKOWSKI. Mr. Speaker, will the gentleman yield?

Mr. PICKLE. I yield to the chairman of the committee.

Mr. ROSTENKOWKSI. I thank the gentleman for yielding.

Mr. Speaker, we tried last night to provide relief for not just the two items that the gentleman mentioned, but many other amendments, and the other body just refused to accept those. It is my understanding that these two will be accepted and that the others, for some reason unknown to me, are not acceptable.

Mr. FRENZEL. Mr. Speaker, will the gentleman yield?

Mr. PICKLE. Further reserving the right to object, I yield to the gentleman from Minnesota.

Mr. FRENZEL. I thank the gentleman for yielding.

I want to second what the chairman has suggested. We had, I think, 13 items in our extender bill including some very important items, and the most important to me was the extension of the R&D tax credit.

The other body rejected those, sent us back the four. There have been some extended telephone negotiations and some face-to-face negotiations today. We are led to believe that these two, that is, the amendment offered by the gentleman from Illinois, will likely be accepted by the other body. They are important, they are all that we can accomplish at this time before the House adjourns, and, like the gentleman from Texas, I mourn the fact that we cannot do the R&D tax credit, and I hope that we will be able to extend it retroactively when the House meets next year.

Mr. PICKLE. Further reserving the right to object, I do not think there is anything more important to the Nation than a continuation of these R&D credits. There seemed to be general consensus among both sides that they ought to be renewed. Some 240 Members on the House side endorsed legislation to extend the R&D credits, and yet in the offer going over today we have none of those except the two that have been mentioned. I wonder if the chairman of the committee or the gentleman from the minority could tell us if there is any prospect that the other body might add some of these credits instead of just the two listed?

Mr. ROSTENKOWSKI. Mr. Speaker, will the gentleman yield further?

Mr. PICKLE. Further reserving the right to object, I yield to the chairman.

Mr. ROSTENKOWSKI. I thank the gentleman for yielding.

Mr. Speaker, I cannot make a judgment about what the other body will do. I do not think they can make a judgment about what they are going to do. But I certainly understand the gentleman's position, and I would only suggest that when we return next year, we can, if it is agreeable, make retroactively the R&D credits and whatever other provisions are neglected to be accepted by the other body. That is only a commitment that I can make.

Mr. PICKLE. I appreciate that, and I am going to remember that and read the RECORD carefully, because I appreciate that cooperation.

Mr. ROSTENKOWSKI. If the gentleman will yield further, is the gentleman suggesting that the Chair does not cooperate with the gentleman from Texas?

Mr. PICKLE. The gentleman is concerned that this is not in the legislation. The gentleman said he is going to try to get this renewed early next year if we do not do it this afternoon, and to make the renewal retroactive. Now that is a comment given in the spirit of Christmas, and I appreciate that.

Mr. RANGEL. Mr. Speaker, will the gentleman yield?

Mr. PICKLE. Further reserving the right to object. I yield to the gentleman from New York.

Mr. RANGEL. I thank the gentleman for yielding.

Mr. Speaker, I assume our distinguished chairman is including the targeted jobs credit for consideration of this type of priority in the New Year. But the reason I asked the gentleman to yield was because I do not understand who is talking with the other body. It seems as though there are two different issues that they are considering in the other body. One, of course, is the extensions, and I have to accept the chairman's word that he has done the best he could, and we have no control over the decisions that they have made, and it has to stop somewhere. But right now somebody in this House is negotiating with the other body as relates to the reconciliation bill. Right now somebody in this House is talking about the value-added tax, they are talking about programs that are essential to the poor of this country, to the sick of this country, and decisions are being made now as to whether or not some agreement can be fashioned that would allow both Houses to conclude their work.

What I am hoping my chairman would be able to respond is: Are we included in those negotiations? Are the extensions included in those negotiations? Or are we operating just on two separate tracks, one for the extension of the tax provisions and the other with Senator PACKWOOD as relates to reconciliation?

Mr. PICKLE. I cannot respond to that. I can ask the gentleman, though, since I yielded to him from my time and he made reference to the fact that somebody is talking about the value-added tax, that I would request the gentleman not to use that phrase on my time. It is an excise tax, just like about a dozen other excise taxes, and I acknowledge the little chicanery used yesterday to defeat this measure on that score. But I do not want it on my time.

Mr. DAUB. Mr. Speaker, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from Nebraska.

Mr. DAUB. I thank the gentleman for yielding.

I know in our mind the results of the debate last night and early this morning are still fresh in our memory. I am sympathetic to what my friend from New York said relative to other negotiations that may be ongoing at the present time, particularly with respect to programs that will resolve in reconciliation with still yet the opportunity for the other body to recede and allow that measure to go to the White House. I understand how important those provisions are to the gentleman from New York. They are important to me.

But on the particular matter before the House at this time, I say to the gentleman from Texas I, too, was very much interested in the R&D credit. I was particularly interested in the energy credits, and I was particularly interested in railroad unemployment and in the educational assistance provisions that the chairman was kind enough to include in the extender of present law to March 15 that we had sent from this body to the other body last might.

I understand negotiations at this point leave us with only the two in an amendment to the amendment which we are now considering. My question, Mr. Pickle, to the chairman, if I might have the ability to do that through the gentleman, is whether or not there is a likelihood that the other body may, once we conclude our business now, add other matters to this amendment.

Mr. PICKLE. I would be happy to yield to the chairman, the gentleman from Illinois [Mr. Rostenkowski].

Mr. ROSTENKOWSKI. I thank the gentleman for yielding.

Mr. Speaker, once again I say to my colleagues I have no idea; in the discussions that I have had, it has never been indicated that they will. These two items that I am bringing up are brought up mainly because of a disruption that would be caused should we not extend the provisions of Medicare and of the cigarette tax.

Mr. DAUB. I thank the gentleman. I do intend to support this particular unanimous-consent request and say in conclusion to my friend from Texas I share his concern and would imagine that we are not at this point able to predict what the other body may do with this amendment, but perhaps there is still some room for encouragement before the conclusion of the House's business.

I thank the gentleman for his time.

□ 1355

Mr. PICKLE. Further reserving the right to object, I will yield to the gentleman from New York and then I will make a concluding statement.

Mr. RANGEL. Would the gentleman from Texas be kind enough to yield to our chairman to see whether I can get some response to my question; and that is, is the extension bill included in the negotiation as relates to the reconciliation package which is being considered by both bodies?

Mr. ROSTENKOWSKI. I have not negotiated in any other area but here, Mr. Rangel. I do not know of any other negotiations that are taking place. I am not a part of them.

Mr. FRENZEL. Will the gentleman yield?

Mr. PICKLE. I will yield in just a minute. Can the gentleman from New York indicate to me what negotiations are going on?

Mr. RANGEL. Well, it is clear to me that we had a reconciliation bill going on right now that certain parts of the bill the Senate has disagreed with the House and that we are trying to work out something right now to see whether or not agreement can be reached.

Now, the gentlemen on the other side of this aisle are fully aware of the fact, because some of the Members from the other side have come over here to talk with them.

I do not know what is on the bargaining list, but it is abundantly clear that some of these extensions are not on it; and if the chairman of the committee that has jurisdiction over these programs that affect the lives of our sick and poor, are not incorporated in the discussion on the other side, then I do not know who the devil is doing the talking.

Mr. PICKLE. I yield to the gentleman from Minnesota.

Mr. FRENZEL. I thank the gentleman for yielding.

As far as the minority is concerned, the reconciliation is a dead duck, and it is not our intention over here to do any more work on that or to accept other items from the Senate which would require careful review and analysis. We obviously are lacking in numbers here today.

There is a question of a veto on the reconciliation and it seems to me that at least from our standpoint over here, we are not looking to revive the reconciliation until next year.

So I think the gentleman could expect that there would be an objection, were a unanimous-consent request made and in the case of a motion, there would be a request for a rollcall vote.

Mr. PICKLE. Mr. Speaker, further reserving the right to object, I will conclude on this statement.

It seems to me a tragedy that the two bodies could not agree on a reconciliation bill. We have a possibility to make savings to start now and in the next 3 years; a savings of approximately $75 to $80 billion.

That opportunity is lost; at least, it is delayed for 30, 60, 90 days. I personally do not believe that the American people are going to understand that, and they are going to take us to task; and they ought to, because we have not met our responsibilities.

It is my further hope that as this measure advances, that the other body would consider adding to this particular request those expiring items or the principal items that we had sent to them, as the chairman had outlined originally.

That would specifically include the research and development credits and the solar energy and geothermal energy credits, and the targeted job credit. I would hope the other body would consider that, because if we do not, we leave here on Christmas Eve, so to speak, not having done our duty; and I think that the American people are going to ask us why.

Mr. FRENZEL. Reserving the right to object, Mr. Speaker, I yield to the gentleman from California.

Mr. MATSUI. I thank the gentleman from Minnesota for yielding.

Mr. Speaker, what I would like to find out, if anybody who has been negotiating with the Senate can tell me is, what rationale was given for not accepting the targeted jobs credit, the R&D credits and the solar energy credits.

Was there any rationale given, or was it just that they felt that they did not want to talk about it?

Mr. FRENZEL. It is beyond my ability to ascribe any rationale to actions of the other body. I think they are going to have to explain their own temporary dimentia. I cannot.

Mr. MATSUI. I thank the gentleman.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Illinois?

Mr. FRENZEL. Mr. Speaker, I reserve the right to object, and I yield to my colleague from Louisiana.

Mr. ROEMER. I thank my colleague for yielding.

The gentleman made an interesting statement that, as far as the minority is concerned, reconciliation is dead.

Mr. FRENZEL. Well, if I might interrupt for a moment, perhaps I overstated that in spreading to the minority; but I do know that there are Members here who are going to object if some new version is brought back.

So it seems to me that it is practically dead if not technically dead.

I yield to the gentleman.

Mr. ROEMER. I thank the gentleman for his statement. I wonder if, in addition, the gentleman inferred or maybe said explicitly, that one of the reasons for reservations on the part of the minority was the fact that there was a veto lurking in the part of reconciliation. Am I right in saying that?

Mr. FRENZEL. No; that was simply an explanation of the conditions. It was not a rationale for a decision to do something or not do something here.

Mr. ROEMER. If the gentleman will yield further, the gentleman speaks so well——

Mr. FRENZEL. No; just so often.

Mr. ROEMER. Well, that, too. For the minority, I wonder if the gentleman could assess the minority's feeling on the dollars involved in reconciliation, an involvement that we are not taking advantage of for another 30, 60, 90 days or longer.

For example, if there are $65 billion or $70 billion in savings in the bill, and we delay that kind of savings for a certain length of time, the interest costs on that loss of opportunity savings is enormous; and I know the minority has established an excellent reputation of being concerned about how we spend our money around here.

It seems that we are spending money now by dilly-dallying on the reconciliation, and it could amount to more than the proposed savings from the veto on the part of the President.

Mr. FRENZEL. I thank the gentleman for his contribution; and he has been a great opponent of deficits; and so I know the gentleman means what he is saying.

All we are trying to do in the bill that is pending before us is to save a half a billion dollars which will occur by reason of extending the cigarette taxes.

With respect to the reconciliation bill, I think we can probably talk about that later on 1 minute or whatever. My personal feeling has been I do not speak for the minority, first of all. My personal feeling is that the bill saves not $80, not $65, but $27 billion over 3 years. I think it has lots of flaws in it.

My personal objection to bringing it back is that we have move to between the two Houses I think three times in the last 24 hours. It is beginning to get complicated. We need the time to look it over; the whole House deserves a chance to make decisions about it; it would have to be done under unanimous consent. My judgment is that that is a bad way to do it.

Mr. ROEMER. Would the gentleman yield for a final question, and I will leave him alone, I promise.

Mr. FRENZEL. Well, I do not feel you are harassing me. I yield to the gentleman for as long as he wants.

Mr. ROEMER. I would not do that. Where I am from, $27 billion is a lot of money. We ought to save it.

Mr. FRENZEL. I thank the gentleman. I yield to the distinguished gentleman from Nebraska [Mr. Daub].

☐ 1400

Mr. DAUB. Mr. Speaker, I say in response to the gentleman from Louisiana [Mr. Roemer], who is so articulate and who has been such a champion of the opportunity to save and reduce our deficit, that indeed the opportunity to do all that is not lost, for just as we passed reconciliation for fiscal year 1985 in April 1986, we still have the same opportunity to do so again. It does seem to me, however, that reconciliation was resolved by this body. We decided, but for the broad-based excise or value-added tax and the proponents of that idea here in this body, that those savings should go forward. But for that occurrence last night in this debate, I think we would have the savings the gentleman was seeking.

Mr. FRENZEL. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois for concurrence in the Senate amendment with an amendment?

There was no objection.

The SPEAKER pro tempore. Without objection, the Senate amendment to the title of the House bill is concurred in with an amendment reflecting the action just taken by the House, as follows: "An act to extend until March 15, 1986, the application of certain tobacco excise taxes and certain Medicare reimbursement provisions."

There was no objection.

A motion to reconsider was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment bills and concurrent resolutions of the House of the following titles:

H.R. 1404. An act to establish the Eastern Shore of Virginia National Wildlife Refuge and the National Fish and Wildlife Service Training Center at Cape Charles in Northampton County, VA;

H.R. 2651. An act to amend section 504 of the Alaska National Interest Lands Conservation Act to promote the development of mineral wealth in Alaska;

H.R. 3931. To designate the General Services Administration building known as the "United States Appraiser's Stores Building" in Boston, MA, as the "Captain John Foster Williams Coast Guard Building";

H. Con. Res. 263. Concurrent resolution to rescind the approval of H. Con. Res. 262, correcting the enrollment of H.J. Res. 187, and directing the Clerk of the House of Representatives to make a correction in the enrollment of the joint resolution, H.J. Res. 187; and

H. Con. Res. 264. Concurrent resolution to correct the enrollment of H.R. 2100.

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate to the text of the bill (H.R. 1083) "An act to amend the Low-Level Radioactive Waste Policy Act to improve procedures for the implementation of compacts providing for the establishment and operation of regional disposal facilities for low-level radioactive waste, and for other purposes."

A RAGING EPIDEMIC THAT CAN BE STOPPED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. Pepper] is recognized for 5 minutes.

Mr. PEPPER. Mr. Speaker, today 52 Americans will die from burns. Seventeen of them are children. Burns, in fact, are the second leading cause of accidental death among children under the age of 14. A majority of the others who will die today are the disabled and the elderly. Their danger of dying of burns are five times higher than the chance of our other citizens.

Another 2,740 Americans will be injured with 371 of them suffering serious enough injuries to require hospitalization. The property damages to American homes and businesses from fires today will amount to $57.7 million. And no one can estimate the psychological harm that the survivors endure as they set about rebuilding their shattered lives and property. Many of the most seriously injured will never fully recover even after rehabilitation. Burn victims have an alarming record of suicide even long after the fire.

This is a terrible record. It is the worst of any industrialized nation in the world.

Our country faces many serious problems. Fortunately, we can do something about this epidemic. We can save lives, eliminate suffering by educating our citizens. Recent studies conclude that 75 percent of all burns could be prevented if children and adults knew about proper safety precautions.

For this reason I have introduced House Joint Resolution 481, designating the week of February 9 through February 15, 1986, as "National Burn Awareness Week". I hope that my colleagues will join me in sponsoring in this important measure.

A SUGGESTED CHANGE IN THOMAS JEFFERSON'S RULE

(Mr. FRANK asked and was given permission to address the House for 1 minute.)

Mr. FRANK. Mr. Speaker, I know it is premature to be discussing the question of rules changes of this body for the next session, but I do not want to let the opportunity pass without suggesting that the time has come for us to change that rule which provides that when this House is in session, we are the only people in America who cannot tell the truth about the U.S. Senate, and vice versa. The constraints in this debate have been obvious, and they are unnecessary.

A couple of hundred years ago there was a proposal that said the Houses ought not to comment on each other. It has become very clear that it has become difficult to transact business and impossible to transmit intelligent information while we have that constraint.

So I hope that in the session that begins in 1987 we will change that archaic rule and we will be able in the House and Senate to talk about each other and to stop this pretense that each is off on some other planet somewhere uninfluenced by and uninfluenceable by the other.

Mr. Speaker, it is clear the time has come, without any disrespect to the great memory of Thomas Jefferson, to change his rule.

RECESS

The SPEAKER pro tempore. Pursuant to the order of the House earlier today, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 2 o'clock and 3 minutes p.m.), the House stood in recess subject to the call of the Chair.

☐ 1830

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. WRIGHT] at 6 o'clock and 30 minutes p.m.

REPORT OF COMMITTEE TO INFORM THE PRESIDENT

The SPEAKER pro tempore. The Chair will receive the report of the committee to call upon the President. The committee will please come forward and report to the House its findings.

Mr. FOLEY. Mr. Speaker, your committee appointed to join the committee of the Senate to inform the President that Congress is ready to adjourn and to ask him if he has any communications to make to the Congress has performed that duty. The President has directed us to say that he has no further communications to make to the Congress.

The SPEAKER pro tempore. Did the President seem disappointed that we were adjourning?

Mr. FOLEY. Mr. Speaker, I am sure that my colleague, the gentleman from California [Mr. LEWIS], will agree that the President seemed delighted that we were adjourning.

The SPEAKER pro tempore. I hope you wished him a merry Christmas for all of us.

Mr. FOLEY. Mr. Speaker, in addition to saying that he had no further communications to make to the Congress, the President asked us to express to all the Members of the House of Representatives his warmest wishes from himself and Mrs. Reagan for a Merry Christmas, happy holidays, and a happy new year.

Mr. LEWIS of California. And he particularly wished us to convey his warmest wishes to you, Mr. Speaker.

The SPEAKER pro tempore. I am thrilled and delighted. It warms the cockles of my heart, and it makes me feel better in the Christmas season.

FURTHER ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair could recognize any Member who is swollen up with speech to address the House for 1 minute.

While waiting for a message from the Senate, let me express on behalf of all the Members to all of the staff our grateful thanks for your dedicated and diligent work all year long. You labor in the dim dusk beyond the glamour and glitter of applause and recognition, but without you this institution could not function. So on behalf of all the Members, I want to express to all those who make the work go on from day to day and keep this place functioning our appreciation. It is so infrequently expressed. We wish all of you and all your families and loved ones a very happy holiday season and a successful year.

The gentleman from Mississippi [Mr. MONTGOMERY] has just returned from Fort Campbell, and the Chair wonders if he might have a report to give us about his journey there.

REPORT ON CEREMONIES FOR 248 AMERICAN SOLDIERS KILLED IN NEWFOUNDLAND AIR CRASH

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MONTGOMERY. Mr. Speaker, you appointed me, as well as Congressman SKELTON of Missouri and Representative BLAZ of Guam to represent you, Mr. Speaker, and the House of Representatives at a ceremony today, the last ceremony for the 248 Americans who lost their lives in Newfoundland in the airplane crash.

This was a memorial service, and, Mr. Speaker, it was very, very impressive. We did get to meet the families and talk to some of the families. Of course, it was with great sadness, but I saw a lot of strength in the families there. It was very, very cold weather; it was snowing. The ceremonies took place outside in Kentucky and Tennessee, but all of the families were there.

There were 17,000 101st Airborne Division personnel lined up in front of us at the platform, and the families of those Americans who had lost their lives were there. The Secretary of the Army made a splendid address, as well as the Chief of Staff of the Army and the commander of the 101st Infantry Division.

Mr. Speaker, let me say that what I saw there today would touch all people of this country that a terrible tragedy like this happened, yet the families have in effect accepted their sadness that has come to them. I saw no bitterness toward anyone pertaining to what happened.

I might say that I saw some of our finest American soldiers and troops there. Not only can they do their jobs, but when something comes up like this, they know how to take care of their own. It was a great privilege for me to go there, and I want to thank you, Mr. Speaker, for giving me the opportunity.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a joint resolution and concurrent resolution of the House of the following titles:

H.J. Res. 495. Joint Resolution to provide for the temporary extension of certain programs relating to housing and community development, and for other purposes; and

H. Con. Res. 267. Concurrent Resolution providing for a sine die adjournment of the 1st session of the 99th Congress.

The message also announced that the Senate agrees to the amendments of the House to the amendments of the Senate to the bill (H.R. 4006) "An Act to extend until March 15, 1986, the application of certain tobacco excise taxes, trade adjustment assistance, certain Medicare reimbursement provisions, and borrowing authority under the Railroad Unemployment Insurance Program, and to amend the Internal Revenue Code of 1954 to extend for a temporary period certain tax provisions of current law whch would otherwise expire at the end of 1985."

The message also announced that the Senate insist upon its amendment to the amendment of the House to the bill (H.R. 3128) "An Act to make changes in spending and revenue provisions for purposes of deficit reduction and program improvement, consistent with the budget process," and request a conference with the House on the disagreeing votes of the two Houses thereon, and appoints the following Senators to be conferees on the part of the Senate:

Senate committee	Republican conferees	Democratic conferees
Budget—general conferees	Domenici, Armstrong, Kassebaum, Boschwitz, Symms	Chiles, Hollings, Johnston, Sasser, Metzenbaum
Agriculture	Helms, Dole, Lugar, Cochran	Zorinsky, Leahy, Melcher
Armed Services	Goldwater	Nunn
Banking	Garn, Heinz, Hecht	Proxmire, Reigle
Commerce	Danforth, Packwood, Goldwater, Pressler, Gorton, Stevens	Hollings, Long, Inouye, Ford, Riegle
Environment and Public Works	Stafford, Chafee, Simpson, Symms	Bentsen, Burdick, Lautenberg
Finance—general conferees	Packwood, Roth, Danforth, Chafee	Long, Bentsen, Matsunaga
Finance—for PBGC and ERISA subconference only	Packwood, Chafee, Heinz	Mitchell, Moynihan
Finance—for CHAMPUS, Medicare, subconference only	Durenberger	Baucus.
Finance—for private health insurance [illegible] subconference only	Heinz, Wallop, Durenberger	Baucus, Pryor
Governmental Affairs	Roth, Stevens, Mathias, Cohen	Eagleton, Levin, Gore.
Labor and Human Resources—general conferees	Hatch, Stafford, Quayle	Kennedy, Pell
Labor and Human Resources—for PBGC and ERISA, subconference only	Hatch, Nickles, Thurmond	Kennedy, Metzenbaum
Small Business	Weicker, Gorton	Bumpers
Veterans' Affairs	Murkowski, Simpson	Cranston
Energy Committee—general conferees	McClure, Domenici, Wallop	Johnston, Ford.
Energy Committee conferees on title VI, sec 6701 only	McClure, Hatfield, [illegible]	Johnston, Ford
Commerce conferees on title VI, sec. 6701 only	Danforth, Packwood, Goldwater	Hollings, Long.

DESIGNATION OF MEMBERS TO RESOLVE OUTSTANDING CONFLICTS RELATING TO THE CALIFORNIA OUTER CONTINENTAL SHELF

The SPEKAER pro tempore. Pursuant to section 149 of Public Law 99-190, the Chair, without objection, designates the following Members of the House to resolve the outstanding conflicts with respect to the future leasing and protection of lands on the California Outer Continental Shelf for oil and gas exploration and development with the Secretary of the Interior:

Mr. YATES;
Mr. UDALL;
Mr. LOWRY of Washington;
Mr. PANETTA;
Mr. BOSCO;
Mrs. BOXER;
Mr. LEVINE of California;
Mr. REGULA;
Mr. LUJAN;
Mr. FIELDS;
Mr. DANNEMEYER;
Mr. LUNGREN; AND
Mr. LOWERY of California.

There was no objection.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. WEISS) to revise and extend their remarks and include extraneous material:)

Mr. PANETTA, for 5 minutes, today.

Mr. PEPPER, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. WEISS) and to include extraneous matter:)

Mr. FASCELL.
Mr. KASTENMEIER.
Mr. LEHMAN of Florida.
Mr. HOYER.
Mr. BARNES in three instances.
Mr. MINETA.
Mr. SIKORSKI.

ENROLLED BILLS SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker pro tempore:

H.R 1890. An act to provide for an equitable waiver in the compromise and collection of Federal claims.

H.R. 3974. An act to provide for temporary family housing or temporary housing allowances for dependents of members of the Armed Forces who die on or after December 12, 1985, and for other purposes; and

H.R. 4006. An act to extend until March 15, 1986, the application of certain tobacco excise taxes and certain Medicare reimbursement provisions.

SENATE ENROLLED BILL SIGNED

The SPEAKER pro tempore announced his signature to an enrolled bill of the Senate of the following title:

S. 1706. An act to authorize the Architect of the Capitol and Secretary of Transportation, in consultation with the Chief Justice of the United States, to study alternatives for construction of a building adjacent to Union Station in the District of Columbia, and for other purposes.

ADJOURNMENT SINE DIE

Mr. FOLEY. Mr. Speaker, pursuant to the provisions of House Concurrent Resolution 267, I move that the House do now adjourn sine die.

The SPEAKER pro tempore. The question is on the motion to adjourn.

Those in favor say "aye," those opposed "no."

In the opinion of the Chair, the "ayes" have it.

Mr. DAUB. Mr. Speaker, would it be in order to request a division on that particular matter?

The SPEAKER pro tempore. Those in favor will rise and remain standing until counted.

The "ayes" will be seated. The "noes" will rise.

There being a considerable number of "ayes" and no "noes," the "ayes" have it.

So the motion was agreed to.

The SPEAKER pro tempore. In accordance with the provisions of House Concurrent Resolution 267, the Chair declares the 1st session of the 99th Congress adjourned sine die.

Thereupon (at 6 o'clock and 40 minutes p.m.), pursuant to House Concurrent Resolution 267, the House adjourned sine die.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2424. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed lease of defense articles to the Federal Republic of Germany (Transmittal No. 11-86), pursuant to 22 U.S.C. 2796(a); to the Committee on Foreign Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ST GERMAIN: Committee on Banking, Finance and Urban Affairs. H.R. 3498. A bill to stabilize international currency markets in support of fair global competition; with an amendment Rept. 99-456. Referred to the Committee of the Whole House on the State of the Union.

Mr. ST GERMAIN: Committee on Banking, Finance and Urban Affairs. H.R. 3667. A bill to eliminate unfair and predacious export financing practices; with an amendment. (Rept. 99-457 Pt. 1) Ordered to be printed.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, the following action was taken by the Speaker:

H.R. 3667. Referred to the Committee on Foreign Affairs for a period ending not later than February 7, 1986 for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(i), rule X.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CONYERS:

H.R. 4007. A bill to amend section 3500 of title 18, United States Code, to provide more useful discovery rights for defendants in criminal cases; to the Committee on the Judiciary.

By Mr. STANGELAND:

H.R. 4008. A bill to stimulate employment through the creation of rural enterprise zones; jointly, to the Committees on Ways and Means, the Judiciary, and Banking, Finance and Urban Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BROWN of Colorado:

H.R. 4009. A bill for the relief of Isaako Uili; to the Committee on the Judiciary.

By Mr. LELAND:

H.R. 4010. A bill to provide that section 6248 of title 10, United States Code, shall not apply to an award of a medal of honor to Francisco R. Cortez or Richard G. Perez, and for other purposes; to the Committee on Armed Services.

By Mr. SEIBERLING:

H.R. 4011. A bill for the relief of Robert Julius Funesti; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 97: Mr. Stump and Mr. McCain.

H.R. 469: Mr. Franklin and Mr. Armey.

H.R. 471: Mr. Jones of North Carolina.

H.R. 864: Mr. Petri.

H.R. 983: Mr. Levin of Michigan, Mrs. Byron, Mr. Dowdy of Mississippi, Mr. Gingrich, Mr. Aspin, and Mr. Barnard.

H.R. 1069: Mr. Lagomarsino.

H.R. 1345: Mr. Denny Smith.

H.R. 1625: Mr. Wolpe.

H.R. 2620: Mr. Fish.

H.R. 3024: Mr. Slaughter.

H.R. 3260: Ms. Oakar.

H.R. 3465: Mr. Hayes, Mr. Barnes, Ms. Mikulski, Mr. Guarini, and Mr. Luken.

H.R. 3479: Mr. Gilman.

H.R. 3751: Mr. Anderson, Mr. Bevill, Mr. Biaggi, Mr. Crockett, Mr. Dymally, Mr. Fuster, Mr. Hawkins, Mr. Hayes, Mr. Heftel of Hawaii, Mr. Hughes, Ms. Kaptur, Mr. Kolter, Mr. Levin of Michigan, Mr. Matsui, Ms. Mikulski, Mr. Mitchell, Mr. Morrison of Connecticut, Mr. Mrazek, Mr. Seiberling, Mr. Towns, and Mr. Weiss.

H.J. Res. 7: Mr. Nielson of Utah and Ms. Snowe.

H.J. Res. 101: Mr. St Germain and Mr. Edwards of Oklahoma.

H.J. Res. 127: Mr. Jones of North Carolina.

H.J. Res. 336: Mr. Hamilton.

H.J. Res. 345: Mr. Murtha, Mr. Breaux, Mr. Anderson, Mr. Rogers, Mr. Mavroules, Mr. Reid, Mr. Nelson of Florida, Mr. Wright, Mr. Valentine, and Mr. Robinson.

H.J. Res. 385: Mr. Taylor, Mr. O'Brien, Mr. Akaka, Mr. Gilman, Mr. Scheuer, Mr. Rodino, Mr. Sabo, Mr. Morrison of Connecticut, Mr. Fowler, Mr. Hefner, Mr. Panetta, Mr. Smith of Florida, Mr. Dixon, Mr. Lehman of Florida, Mr. Seiberling, Mr. Chappell, Mr. Coughlin, Mr. Alexander, Mr. Fascell, Mr. Mavroules, Mrs. Collins, Mr. Wolpe, Mr. McHugh, Mr. Lantos, Mr. Natcher, Mr. Neal, Mrs. Holt, and Mr. Pickle.

H.J. Res. 439: Mr. Frank, Mr. Green, Mr. Hoyer, Mr. Solarz, Mr. McKernan, and Mr. Carney.

H.J. Res. 462: Mr. Rogers.

H.J. Res. 468: Mr. Erdreich.

H. Con. Res. 180: Mr. Conyers, Mr. Seiberling, Mr. Shaw, Mr. Lewis of Florida, and Mr. Frenzel.

H. Con. Res. 243: Mr. Owens, Mr. de Lugo, and Mr. Garcia.

H. Res. 346: Mr. Solarz and Mr. Andrews.

SENATE ENROLLED BILL AND JOINT RESOLUTION SIGNED AFTER SINE DIE ADJOURNMENT

The **SPEAKER** pro tempore announced his signature to an enrolled bill and joint resolution of the Senate of the following titles:

S. 1840. An act to amend title 5, United States Code, to revise the authority relating to the payment of subsistence and travel allowances to Government employees for official travel; to prescribe standards for the allowability of the cost of subsistence and travel of contractor personnel under Government contracts; and for other purposes; and

S.J. Res. 255. Joint resolution relative to the convening of the 2d session of the 99th Congress.

BILLS AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT AFTER SINE DIE ADJOURNMENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on the following dates present to the President, for his approval, bills and a joint resolution of the House of the following titles:

December 20, 1985:

H.R. 2100. An act to extend and revise agricultural price support and related programs, to provide for agricultural export resource conservation, farm credit, and agricultural research and related programs, to continue food assistance to low-income persons, to ensure consumers an abundance of food and fiber at reasonable prices, and for other purposes;

H.R. 1890. An act to provide for an equitable waiver in the compromise and collection of Federal claims;

H.R. 3974. An act to provide for temporary family housing or temporary housing allowances for dependents of members of the Armed Forces who die on or after December 12, 1985, and for other purposes; and

H.R. 4006. An act to extend until March 15, 1986, the application of certain tobacco excise taxes and certain Medicare reimbursement provisions.

December 24, 1985:

H.J. Res. 495. Joint resolution to provide for the temporary extension of certain programs relating to housing and community development, and for other purposes; and

H.R. 3718. An act to waive the period of Congressional review for certain District of Columbia acts authorizing the issuance of revenue bonds.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Pursuant to the order of the House of Dec. 19, 1985, the following report was filed on Dec. 30, 1985.]

Mr. BROOKS: Committee on Government Operations. Report on investigation of civil rights enforcement by the Office for Civil Rights at the Department of Education (Rept. 99-458). Referred to the Committee of the Whole House on the State of the Union.

SENATE—*Friday, December 20, 1985*

(Legislative day of Monday, December 9, 1985)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Gracious God, our Holy Father, we should not be here today. But here we are! Some Senators went home last evening thinking voting was over and adjournment imminent. We need You, Lord—Your guidance—Your grace—Your wisdom. Help the Senators find a way which will prevent inordinate delays and frustrated purposes. Help the Senate to understand itself. It is almost as if it is victim of its own power—as though it uses its own power against itself. Here are 100 leaders, each trusted and sent by the people of his State—each, one among millions. It seems inconceivable, Lord, that a body with such resources cannot find a way to remedy a process with which all are dissatisfied. Great God, for whom nothing is impossible, work Your will in our midst. The Senators desperately need rest and change. They need their families and their families need them. Intervene, gracious Lord, transform this next week—this next month—into a bright, happy, beautiful time of renewal and restoration for Senators and their families. In the name of Him who promised rest unto our souls. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The distinguished majority leader is recognized.

THE BUDGET RECONCILIATION CONFERENCE REPORT

Mr. DOLE. Mr. President, under the standing order, the leaders have 10 minutes each. We are down to one major item. That is, how we deal with the reconciliation conference report. The RECORD will reflect the House rejected the report on two occasions. We are now in the process of determining how many Senators are in the area. Surprisingly, there is a great number. Many spend Christmas here and then go home.

I can only tell my colleagues that we are meeting at this very moment discussing the present situation with the White House, OMB, and others concerning their objections to material that is now in the reconciliation conference report.

We would hope to dispose of the matter early, but I would not make any prediction. By early, I mean by 1 or 2 o'clock.

I would guess, based on conversations with the Republican leader in the House, Mr. MICHEL, and the Democratic leader of the House by telephone, that they might have difficulty in finding a quorum of House Members today. But, again, that is a matter that they will have to address if, in fact, the conference report is returned to the House with some amendment. We would appear to have a couple of options; one would be to table the Senate amendment and send it to the White House, and the other would be to insist on our amendments, as I understand. Another would be to amend it and send it back. There are probably several additional options of which I am not aware.

I can only tell my colleagues we appreciate their willingness to help resolve this matter. In my view, it is very important. It represents a year's work for many in this Chamber, particularly the Budget Committee; also, every other committee, committee chairman, and ranking member who have been working on Federal spending and the budget process since last January.

So it is not something about which we can say, "Well, we can just put it off. It does not make any difference." So far as I am concerned, there are real savings in this package.

There probably are a number of programs and other things tucked into the reconciliation that should not be there. But, overall, it does reflect and represent substantial savings. We hope we can resolve our differences so that we can leave here knowing we have made a contribution to reducing the deficit and reducing Federal spending.

Mr. President, I reserve the remainder of my time.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The distinguished minority leader is recognized.

Mr. BYRD. Mr. President, I sympathize with the distinguished majority leader, certainly. I also sympathize with all the rest of us. Not only the majority has a responsibility to do whatever is doable, but the rest of us have some responsibilities also.

For the benefit of the majority leader, I think he should know that, on our side we could produce, in a half-hour or maybe an hour, 21 Senators. We might be able to raise that to 30 or 31, but I am beginning to doubt it. I told the press here this morning that I thought we could produce somewhere between 30 and 35 Democrats. But two Senators that we thought we might be able to count on, have since peeled off. So I do not think we can gamble too far or too long and hope to get a quorum. I would guess that within a couple of hours we will not only have reached our top strength on this side but we may, by then, be in danger of losing Senators.

Several Senators have stayed overnight but some of them will be leaving today and others will not be leaving today. If that information will help the distinguished majority leader, fine.

I personally think that while we may have a quorum—or we probably can get a quorum within a half-hour—I would think we ought not delay beyond that or there will not be a quorum.

We have sent this package to the House twice, and twice they have rejected it. I personally feel that to send it back again will be just love's labor lost. It will be an act in futility. In the meanwhile, we here will continue to lose bodies.

We can recede from the Senate's amendment or we can table the Senate's amendment, if we have the votes. If the distinguished majority leader would want to go either of those ways, that would be an action which, if it succeeded, would send the package straight down to the President for his consideration. It would save $79.5 billion, I am told.

The distinguished ranking Member, the Senator from Louisiana, [Mr. JOHNSTON] can go into the details far better than I can. He has been in the conference and I am not a conferee. But here is an opportunity to reduce the deficit by $79.5 billion over the next 3 years. It is the surest thing within our immediate reach that we can do to reduce the deficit. I am afraid that if we miss that chance and wait until we come back on January 21, Gramm-Rudman will be staring us right in the face and we will have lost our golden opportunity to reduce the deficit by a very sizable figure.

We have experienced similar problems at the end of a session with the House before. It is not anything new from that standpoint.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

While I favored the resolution as it went to the House, and I voted for it twice, I do not think there is anything to be gained by continuing to engage in what, up to now, have been very conscientious and sincere efforts but futile ones. I think the handwriting is pretty much on the wall. It seems to me we ought to grasp the opportunity, if we really want to reduce the deficit—and do it now—and send this bill down to the White House, either by receding from the Senate amendment or tabling the Senate amendment, and get out of here.

Mr. President, how much time do I have remaining?

The **PRESIDENT** pro tempore. The distinguished Democratic leader has 4 minutes.

Mr. **BYRD**. I thank the distinguished President pro tempore, the Chair.

I yield to the distinguished Senator from Louisiana [Mr. JOHNSTON], the ranking member of the Committee on Finance.

Mr. **JOHNSTON**. I thank my distinguished leader.

Mr. President, it is an interesting and peculiar phenomenon, the extent to which personal and physical limitations affect the course of this country—things like pride and anger and fatigue greatly affect the procedings, both here and in the other body. Late last night, as our pride was somewhat hurt in the Senate, feeling that the House had backed out on a deal, the anger at that having been done and the fatigue overlaying the whole thing made this whole exercise look almost fruitless and it was easy last night for some of us to say in the deeper reaches of our minds and beings, "To heck with it, let's say no, bury this piece of legislation, and go home and forget it, and blame them for it"—them being the House. And indeed, the House was pointing similar fingers at the Senate, talking about "We cannot let the other body do that to us."

It was really, frankly, Mr. President, somewhat of a sorry spectacle, when you consider the stakes that this Nation has in this piece of legislation.

We have here maybe not our last best chance to cut the budget, but certainly our first best chance to cut the budget since Gramm-Rudman: $83 billion in cuts over 3 years or, if you take out the so-called value-added tax, $79.5 billion in cuts in the budget. That represents a real and substantial opportunity to get that deficit down.

I think what we need to understand is that we are not going to have unlimited opportunities in terms of time to cut the deficit, to cut the budget. This is a capitalistic economy and every capitalistic economy ever known in the history of the world and that ever will exist in the history of the world has been a cyclical one with relative booms and relative busts. The average time of a recovery in this country, I am told, is some 44 months. There are others postwar that have stretched, if I recall correctly, for 8½ or 9 years. This recovery has already stretched for a much longer time than the average and we all hope it will last a lot longer. But the lesson of history is strong and it indicates that we do not have an unlimited time to cut this deficit because the only time you can cut the deficit is when you are in a recovery.

Once you get on the downswing, once you get in a recession and slow down, the advice from economists is unanimous: You can no longer raise taxes, you can no longer cut spending because to do so would sink you deeper and deeper into the morass of a recession. So here, in late December 1985, we have a chance to cut $79 billion to $83 billion depending on whether you include the VAT in a package that has been agreed to that has been carefully crafted, that has involved hundreds of hours of Senators' work and thousands of hours of staff work, and has been carefuly put together.

It is not perfect. It has some flaws, of course. No major piece of legislation in the history of this body has ever moved through here without flaws and imperfections. It is as close to a really good bill as we are capable, with our human frailties, of doing. Because of the lateness of the hour, because we are all wanting to get home for Christmas, because of our pride or because of our anger or because of a whole range of human emotions, I hope neither we nor the House will allow ourselves to miss the opportunity to cut $79.5 billion from this deficit.

When the history of 1985 is written, they will not talk about who was right or who was wrong and whether they live up to their deal between the Finance Committee and the Ways and Means Committee but they may write that this was the Congress that squandered its opportunities, that this was the administration that came in with a strong economy and a relatively small deficit and squandered it, spent money they did not have, lived on borrowed money, and with every opportunity that came along, they let politics interfere. That is what could be written on the history of 1985 and of this Congress.

I hope that will not be so. It needs not be so. There are ways to work this out. I am not exactly sure—I have my own views of how it can be done, how it should be done. But as far as I am concerned, Mr. President, there are a number of acceptable ways and I expect there are a number of acceptable ways in the House that they would accept.

The point is, Mr. President, we dare not lose this opportunity because if this reconciliation bill does down, we will have lost the opportunity for reconciliation. We will be coming back here on January 21 and we really will not get going, as Congresses never do get going, for at least a week. The first week we get going, on February 5, the President will drop his bomb. That is the first budget post-Gramm-Rudman, where you are going to see programs wiped out and where you are going to see, I believe, a degree of deep acrimony—at least, if not acrimony, then strong ideological confrontation between the White House and the Congress about spending priorities.

In the process of that, you will have lost the opportunity for reconciliation. No one who knows this process with whom I have talked thinks you can reconstruct reconciliation in January or February. You can have it in December. You can have it today, if we will. You cannot have it in January or February. All you can have in January or February is a deep ideological fight about Gramm-Rudman, and in the meantime for every day that you lose this opportunity you lose a $50 million cut in the deficit. I hope we will not lose that opportunity, Mr. President. I stand ready, as do colleagues on this side of the aisle, to support any reasonable action to get this bill. Time is awasting. I hope we will not lose our opportunity.

Mr. **BENTSEN**. Mr. President, I ask unanimous consent to proceed for an additional 5 minutes.

The **PRESIDENT** pro tempore. Is there objection? Without objection, it is so ordered.

Mr. **BENTSEN**. Mr. President, I share the concern of my friend from Louisiana concerning reconciliation. There is no question but what we have brought about some very major savings in the budget and closed the deficit substantially by what we have done. We are talking about a situation where if we do not pass a reconciliation bill, you are going to have a $52-million-a-day savings that will be lost until the time when we might reconvene and reconsider this bill. We have gone into some areas that are very contentious, changes on Medicare, on education, on black lung. The whole list of such things has been fought out in countless subconference meetings during the reconciliation process. At this point, reconciliation has worked, if we can wrap it up. The unfortunate part of it is that what you have seen happen on the House side is that they have stripped out Superfund and the means by which to pay for it. They have chosen to try to put that burden on a very limited number of industries and companies.

Actually, toxic waste happens to be a societal problem, and you have an incredible number of companies and industries which contribute to it. People say, "Well, let's put it on the oil industry" or "Let's put it on the chemical industry." That is not where it stops.

Now, what you saw in the bill that was passed in the Senate and passed in the Finance Committee was one that kept a major part of the burden of paying for the cleaning up of toxic waste still on the chemical industry, but, then, it spread the rest of the burden across all manufacturing companies. What you saw come out of the conference is a bill that excluded companies that were manufacturing less than $10 million a year. We cut out the small manufacturers.

The excise tax is a very limited application and will have less than 30,000 companies affected by it. People will say it is a value-added tax. Well, if it is like a value-added tax, it is not like value-added taxes I have ever seen. I worked on this piece of legislation, as the principal sponsor in the Finance Committee. The model that I chose to start with is the Canadian manufacturers' excise tax, and that is what we worked on.

These toxic waste sites have to be cleaned up, and to see the House version of the Superfund come through with a good amount of it from general revenue is highly irresponsible. To talk about a situation where you have an enormous deficit like we have now and then raise the amount of money from $1.5 billion to $10 billion and say you are going to get a bunch of it from general revenue does not make sense to me.

I think we ought to clean up these toxic waste sites. We ought to address it promptly. We ought to move ahead on it. We ought to accelerate what the EPA has done in that regard but pay for it as we go, and that is what the Senate version did.

Unfortunately, you have the opposition of thousands and thousands of companies which were on the EPA list as contributors to toxic waste and said, "We do not want to pay for it." Take food companies like General Foods, like Beatrice, and you can see toxic wastes that are contributed. You can go to a so-called clean industry, high technology, like you see out in Silicon Valley, and you will find one of the worst toxic waste sites in the entire United States, the Stringfellow site. Much of the waste there was created by acid and solvents being used to make computer chips. I can give you example after example across this Nation.

So we said, "You ought to pay your share." And we talked about eight one-hundredths of 1 percent. That is not a heavy burden for any of these companies.

Then we did another thing. We said, "All right, if we are talking about cleaning up these sites and we are having our companies pay for it, then those companies that send in competing products to them ought to pay some of the burden also." So we said that the tax will go on those imports from other countries' manufactured products that would normally contribute to toxic waste in their manufacturing. And we said on those products that are manufactured by our companies which are shipped abroad, it would be taken off. When you see the kind of trade deficit we have in this country today, approaching $140 billion, $150 billion—$120 billion last year and $70 billion the year before that, you can see the trend line it is on. It is important that we do as we have been doing, adding additional environmental controls to try to see that we have clean air and clean water in this country. We do things that other countries are not doing in that regard. Then, we ought to try to even the playing field. This kind of an excise tax does just that.

Now, after we agree to the excise tax on this side and we agree to it in the conference, then the House digs in its heels and rejects it. I think that is unfortunate. I think they do a disservice when they take that point of view. So I feel very strongly that once you give in on a number of things, as we did as Senate conferees—some of us would want to move to a national standard on DRG's, on what is paid under Medicare and move as quickly as we can, but we slowed down on that to take care of the concerns of the House Members. That is just one measure of the concessions we made in arriving at a compromise to try to get something on which we could agree. In turn, they gave in to us in a good part of the Superfund. That was the trade. Now what they are saying in effect, when they say, "Let's take apart Superfund," they are saying, "Well, now, you gave us all those things. We want to keep those, but we want to refight the deal on Superfund."

We may end up having to do that at some point because we are losing Members on both sides, and the pressures are with them. The pressures are always with those who want to stall. That is what we are being subjected to. I have a serious question in my mind whether you still have a quorum on the House side. As this thing continues today, I am sure we will end up without a quorum in the Senate. So those kinds of pressures may force us to yield, and we may end up having to have an additional conference next year on Superfund and the means by which we raise the tax to pay it. But if we do that, we will certainly be keeping in mind what we did in this conference and the price we have had to pay to arrive at this result.

CLARIFICATION OF STATUS OF TEXTILE LEGISLATION

Mr. HOLLINGS. Mr. President, I rise momentarily, while the leadership is about to arrange the business for the day, to correct the record relative to an Associated Press story in the morning Washington Post, entitled "Telecommunications Bill Throttled in the Senate," whereby—and I quote—"HOLLINGS said his objection represented retaliation for DANFORTH's refusal to help him get the textile bill approved in the Missouri Senator's Trade Subcommittee."

Mr. President, I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks the Associated Press article to which I have referred.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit No. 1.)

Mr. HOLLINGS. Mr. President, that is the exact opposite. That is what Senator DANFORTH said. What I had tried to do in my interview with the author of that particular AP story, Mike Robinson, is relate to him exactly what has been occurring in trade and tell him my objection was not to calling the telecommunications bill. On the contrary, I encouraged its call because it was my opportunity, when the bill is called, to thereupon add the textile amendment and get a vote.

My intent and my purpose is one of serious intent and serious purpose.

After the veto of the textile bill by the President of the United States, a coalition of industry and labor—the business leadership and the labor leaders—have convened once again, with the hope of submitting a slightly changed bill which would enhance the support for the bill on the House side, in the hope of producing a bill that would be veto proof. This is a matter of ongoing negotiations and draftsmanship. It's currently underway. Pending the drafting of that particular bill, to be presented as early as we possibly can in January, it is the intent of this Senator to get the vehicle through this so-called filibuster on the Senate side. That vehicle will be our current textile bill.

We faced a filibuster from the word go, since we introduced this bill in March of this year. The article is correct, that the textile trade bill has been bottled up in the subcommittee of the Finance Committee chaired by the Senator from Missouri.

I relate back now to July, because what we are being accused of and is now called retaliation was not labeled so in July. What really occurred is that, back in July, the distinguished Senator from Missouri said: "Your textile bill will not see the light of day." The distinguished Senator from Missouri is exactly right. It has not seen the light of day, in the sense that it is still in his subcommittee.

I thereupon said: "Well, Senator, playing this game on top of the table, my only recourse is to put my textile bill as an amendment to another bill. Under a constitutional provision, revenue measures originate in the House. Necessarily, we have to have a House-passed bill or a House title. So you have a trade bill, S. 1404. I put the amendment on the desk, to be printed, to S. 1404."

I put the amendment on the Micronesia bill. And I so informed the majority leader, Senator DOLE, so that he would be aware of it, that we would offer our textile bill when that particular measure was called. And I so notified the distinguished chairman of the Commerce Committee and the chairman of the Subcommittee on Trade, the Senator from Missouri [Mr. DANFORTH].

I also added this particular point, as I have just stated: He is my chairman in Commerce, and I am the ranking minority member, and we have had the best of working relationships. The truth is that he is very angry. I do not have any doubt that he says it is retaliation, because he told me that over the telephone.

I said: "Jack, you just don't understand that the fight has just begun. I told you at the time, we first discussed this, that we were going to continue to try."

I have been on this particular issue for some 30 years now, and the distinguished Presiding Officer, my senior colleague, Senator THURMOND, has been working on this particular problem for years.

When Senator DANFORTH said that the telecommunications industry has hit a crisis, I said, "Welcome to the club." We hit a crisis back in the 1950's, under the Eisenhower administration. But, be that as it may, I said, "Our only recourse is to get that kind of measure."

To substantiate the statement I made then to Senator DANFORTH, who was taking it personally as a matter of anger and retaliation, he had the distinguished Senator from Texas [Mr. BENTSEN], who is the ranking minority member on Finance, call me. Senator BENTSEN was on the floor earlier this morning.

I said: "LLOYD, I'm going to call the textile amendment on our Democratic trade bill." We had a Democratic caucus on a trade measure earlier in the year, under the leadership of the Senator from Texas. A good portion of the bill, I think a substantial part, is the trade council measure I've offered for some time now.

I said that on that particular bill, if we call it, I would want to call my textile amendment. I would call my textile amendment on S. 1404. I would call my textile amendment on any other trade measure, because what we need is one more vote to get it over to the other body.

The purpose is not to delay. The delay is not with the Senator from South Carolina who is now speaking. The delay is a filibuster on the other side of the aisle.

The request of this Senator is to bring up the telecommunications bill, not throttle it in the Senate. Any thing else is absolutely false. Bring it up, call it now, give me the opportunity, give me 5 minutes to a side, give me a voice vote. I am trying to get the telecommunications bill called up for consideration, not stop it. I am not trying to retaliate. That would be stupid, that would be foolish, that would hurt our textile cause, if, on one particular turn, in the course of legislation in Congress, we became spiteful and sat back and said, "If we can't pass ours, nobody is going to pass theirs." That's not my approach and I renounce it. If trade is to be discussed on the Senate floor, then I intend to call up my textile bill. The attitude is on this Senator's part, please call your trade bill, so that we will have an opportunity. Because I do not get that opportunity, as a member of the minority, because the majority is holding my bill up in the Finance Committee and have held it up all year long, and they informed me, "It will not see the light of day."

So we are not trying to be spiteful or to retaliate. On the contrary, I pursued this particular course in July. I went to the Senator from Missouri, notified him of my intention, and I then put my bill on his bill that was on the desk, S. 1404. No sooner had I left the Chamber, than the distinguished Senator from Missouri took the floor and asked unanimous consent that in the consideration of S. 1404, only amendments that pertain to Japan would be in order. It was he who made the unanimous-consent request at that particular time, in midsummer, that no other amendments would be in order. Since I had told him about my textile amendment, which would affect all the trading partners, some 34 countries, his request was, ipso facto, that the textile bill would be out of order. He was the one who made the unanimous-consent request at that particular time, and the leadership on the Democratic side objected for me thank goodness because I had left the floor and was walking back to my office.

So much for that. It was not retaliation then. It was a maneuver to try to bring to the floor for consideration a measure we have, of serious intent and purpose, to present one more time so that in the beginning of next year, we can ultimately pass a stronger bill, in the sense of it being veto proof and perhaps approved. And, on the other hand, we seek to continue the educational process in this body, in the other body, in the administration in the National Government if you will, Mr. President with respect to international trade.

There is a terrible misunderstanding. The whole idea of free trade is out of the whole cloth. It is not free; it is not fair. It is competitive trade—competition.

It was competitive trade under David Ricardo in 1817 when he was talking about the comparative advantage. He was talking about the comparative advantage with producing countries.

A century later, when talked about under Smoot-Hawley, it was the competitive advantage there, and our friend Cordell Hull picked up the call in reciprocity competition, reciprocal free trade.

The goal is always to free the atmosphere and free up the competition as much as possible.

I am for free trade. You are for free trade. Everybody is for free trade. How do you obtain it?

Since World War II, fat, rich, and happy United States of America thought the way to do it was set the example. That if we did not put up any kind of barriers, if we did not retaliate to the barriers placed against us, to the trade practices, to the governmental provisions, to the protectionisms of the trading partners, but if we sat back and said we are not going to retaliate, what we are going to do is set the example, maybe that would bring about free trade. It's been a failure, clear and simple. And it's become progressively worse. Witness the record high trade imbalance. We cannot let it get go much longer or it will doom us all.

It is almost like arms control. If we do not build any arms—like monkeys on the treadmill—the Soviets will not build any arms.

We know from bitter experience in arms control it was only when we voted the ABM that we obtained the ABM Treaty. It was only when we said that we are going to build up the SDI and continue with it that they came back to the peace table.

Now in a corresponding way, in international trade we have tried all the cajoling, persuading, imploring, and visits to Japan and the high-level meetings between the heads of state. It does not work. We are going down the tubes internationally in this particular competition. Clearly we need a different response.

So it has been my suggestion to emulate the example set by Franklin Delano Roosevelt in the days of the Depression when in order to keep the banks open he closed the doors, in order to save agriculture he plowed under the crops.

Herein, in order to remove a barrier, we are going to have to raise a barrier and then remove them both. We are going to have to get down on the playing field and compete through our Government. Competitive trade, not free trade, not fair trade. Let us talk realistically. This is a very dynamic international competition in which we now persist. We must engage ourselves in it.

Our trouble is the United States is not down on the playing field at the behest of the multinationals. We are up in the grandstands, shouting free trade, free trade, protectionism, protectionism, and trade war, when the trade war down on the field is in the fourth quarter and we are about to lose it all. We must join the competition.

Why do the multinationals take their plants and jobs offshore? Because it is to their economic benefit. They are not only producing economically without the requirement of a standard of living over in their offshore facilities. They receive protection from Taiwan, where they produce. Protection where they have joined up in coproduction with the Japanese. Protection in Singapore. Protection in Hong Kong. And, instead of retaliation on their part what we find, for example, looking at what happens is that the Japanese, for example, taking Japanese textiles as an example, is that the Japanese sell $1.5 billion in textiles to Hong Kong. But, they import zero dollars in texiles from Hong Kong. Where's the reciprocity in that arrangement? What's fare about that trade?

The United States of America imports 1.05 billion square yards of textile products from Hong Kong, and we export nearly zero to the "free trade country," said the Senator from Missouri, "of Hong Kong." Hong Kong is a trading dock out there. That is not a country. It is a shipment point, it is a warehouse and a dock and a boat facility to off load the production of the People's Republic of China. And we import millions of square yards from the PRC in addition to the billion plus from Hong Kong.

To talk spuriously about free competition and let the market forces operate, do not forget the governmental and the political requirements in the cost of production.

Speaking to those requirements, let's use the example before us. We are debating today about toxic waste on the reconciliation bill. I think now it is approximately $7½ billion, or whatever it is, that we are going to put on American industry. As we put the $7½ billion, it is an additional cost of production that will go on the American textile manufacturer, and any other manufacturer in the Nation. Republicans and Democrats all agree we should clean up the toxic waste. Just as we all agree that there should be a minimum wage. We should all agree to social security. We should all agree to unemploment compensation, to a safe place to work, safe machinery, clean air, clean water. This is the American standard of living. We're proud of it. Our people enjoy tremendous benefits because of it. Our Nation is widely respected because of it. I don't want to see our standard of living diminished.

Incidentally, we had no standard of living in 1930 under Smoot-Hawley. You cannot give a historical sense to our colleagues in Congress when they jump up and down and say we are going back to Smoot-Hawley if you pass my textile bill. We did not have clean air, clean water, minimum wage, Social Security. None. We did not mandate a standard of living in 1930 as we do today.

But over the 50-year period, beginning with Social Security in 1935, we have enunciated over those 50 years an American standard of living.

Under this American standard, that we all believe in so strongly, in the world of international competition, we must give protection to it. There must be a substantial base so there will not be any dumping, so we will not have any selling at less than cost, or pretatory pricing, or other "sharp practices," in governmental trade barriers to us. Otherwise we just continue to force America's industry to go overseas.

Mr. President, we take that particular standard of living and we talk about protection. That is the fundamental of government here. We have Social Security to protect us from the ravages of old age. We have unemployment compensation to protect us from the loss of a job. We have safe machinery and other laws to protect the worker in the workplace. We have clean air, clean water, to protect the air we breathe, the water we drink; the Army to protect us from without; the FBI to protect us from enemies from within.

The fundamental of government is to protect, with the oath of the Senator and the President as he took in the rotunda earlier this year down the hall in the Capitol, "I hereby pledge to preserve and protect and defend." He takes that solemn oath, we understand, in the rotunda but we walk 100 yards down the hall to the Senate Chamber and if you mention the word "protect," a bunch of Senators just go into a stitch, "Oh, heavens no, we cannot have protectionism, protectionism," because the multinationals through the editorialists have sold that shibboleth. No such thing as free trade exists. It is competitive trade. But as long as they can continue to persuade the uneducated that it is just a simple thing and all we need to do is set the example we will continue to slide—that all we need to do is to put in a bill like this telecommunications bill which says, "Go to Japan, just to Japan, and in 18 months if Japan does not do something about this, then we are going to start enforcing our laws." That says to the Japanese competitor, and I do not blame Japan, "I have 18 more months to continue to violate, to continue to protect, to continue to give advantage, to continue to extinguish American markets that have been established over this 30-year period." It's a green light to continue.

So that is the wrong message to send to MITI, the Ministry of International Trade and Industry in Japan. They know how to translate all of these so-called high-level meetings and implorations and so-called threats. They just take it out of the whole cloth and they watch the legislation, and as long as the Japanese lawyers can get into the White House, as reported in the press on last Saturday morning less than a week ago, and change around the decision of the Secretary of Commerce; as long as they continue to run through the halls of Congress and into the various hearing rooms, and protect Japanese production and do it so successfully, the Japanese will continue to prevail, take over the international market, destroy the American standard of living and our capacity as a world power. That's the threat we face.

We are not a third world country. On the contrary, Mr. President, we are a world power and there are certain capacities that we must maintain if we are going to continue as a world power. We must have the capacity to produce steel, glass, rubber, and textiles. Under the Kennedy administration we had a series of hearings at the Cabinet level, and the executive finding was that next to steel, textiles was the most important to our national security. We could not send the American soldier to war in a Japanese uniform.

So it is, that we have to maintain this production capacity and not go the way of England as the Ivy League economists tell us. That we should look forward to a service economy and quit producing wealth but handle it and be a big financial center for the rest of the world.

We are losing out, not in textiles alone. It is telecommunications, it is leather, it is steel, shoes, rubber, sporting goods, hand tools, machine tools, semiconductors.

It is the productive capacity of America and Americans out there, and I have traveled the 50 States, see it, understand it, appreciate it, and they are totally frustrated and nonplussed by the actions here of their Washington Government.

They could not understand how we, a competitive group, and the only way you get into this Senate and Congress and into the Presidency is that you are a competitor. You fundamentally start the day either tempting fate too much or his dessert is small who fails to put it to the test and win or lose it all. That is the creed of competition here. That is what made America great and continues to hold it strong. Competitive free enterprise.

But, we have the wrong leadership on this particular score. They think it is a momentary political thing, perhaps, against the President. They think it is a momentary Democratic issue for the 1986 or 1988 campaigns. They think it is a little, old, small industry bill that comes from a Southern State.

We had the distinguished Senator from the State of Washington, stand up and say we are pitting the East against the West, starting a civil war. That is a total misunderstanding.

This is a national industry of labor and management, of East and West, North and South, and that is why it has overcome all of these particular parliamentary obstacles and obstacle courses they have put in our way—these procedural hurdles. That is why we have succeeded thus far.

So, Mr. President, in correcting this particular record, as the AP writer writes, in his story, he says, "But bickering in the aftermath"—this is not the aftermath, this is the "foremath." This is the beginning, not the aftermath. This is the beginning of the textile debate. It continues on. We are just starting the fight.

The article stated that Senator DANFORTH said that he would "be curious to know whether or not the administration asked the Senator to take this position."

The administration has asked this Senator to take his position outside of the U.S. Senate. The President of the United States has been on the telephone trying to get an opponent to replace this Senator from South Carolina. So that is the position that the White House has asked this Senator to take—not any position whatever on trade and competition and textiles and jobs. I have never conferred with them. I am not granted that opportunity with respect to these important matters.

"Hollings said his objection represented retaliation for Danforth's refusal to help him get the textile bill approved," says the article. The truth is that is what the Senator from Missouri said. He feels like it is personal and it is retaliation. I can assure him it is not. Call up a Democrat trade bill, call up S. 1404, call up the bipartisan bill. I put everybody on notice. This is the only recourse, when you are a Member of the minority, to take every opportunity to get a vote. When the U.S. Senate discusses trade then this Senator will being up textiles. It's too important and integral to trade not too.

It is not to hold up the bill of the Senator from Missouri. He is holding up his own bill. All he has to do is agree I get a vote. He can call up telecommunications. It is not my filibuster. It is not a filibuster on this side of the aisle. I am not holding it in his subcommittee. I am not holding it in the Finance Committee. My request is reasonable. Give me a vote. No time, just vote on both sides; take a voice vote. You can pass the telecommunications bill and I would welcome it. I am not throttling it. I would welcome the telecommunications bill to be called up, then it would afford an opportunity just to get me a vote on what has been voted upon already five times, up or down, after long debate in this U.S. Senate.

So my request is not to throttle or to retaliate, but to go along and help some trade bill get to the floor. It is the Senator from Missouri that is throttling his own measure by throttling me in that particular subcommittee. We have overwhelming support for my bill and we cannot even get it reported out.

Mr. President, I thank the distinguished Presiding Officer any my colleagues in the Senate on the floor this morning.

THE RECONCILIATION BILL

I commend the Senator from Louisiana on another point in his handling of our reconciliation bill. This is a serious matter that fits right into our Gramm-Rudman-Hollings initiative. If we are going to start—and that was the decision made by both bodies and the President of the United States, that we are going to return the fiscal affairs of this Government to the black—here we have, some say $66 billion, others say $79 billion, but there is no doubt that there are many billions of dollars to be saved in this reconciliation bill. And we should press forward with this bill and get those critical budget savings, and not bog it down to a peripheral matter with respect to a highly contested, highly inflammatory issue like toxic waste.

We should keep our eye on the target. And the target is to follow through and keep the word, say what we mean and mean what we say. The U.S. House of Representatives and the U.S. Senate both said we should save these moneys. So 98 percent of reconciliation really is ready to be agreed upon. This particular body has voted overwhelmingly, with only two dissenting votes.

So I appreciate the Senator from Louisiana the Senator from Texas, and those handling the reconciliation bill for sticking to their guns and seeing if we cannot compromise in the context of at least rescuing these savings. If not, dreadful and really traumatic action will be required at the very, very beginning here of 1986, in January and in February—draconian is the word they use in Washington—of cuts that have to be made and that sets us off on almost, again, another impossible political task.

We want to see Gramm-Rudman-Hollings work. We want to see the discipline get set. Let us not upset this possibility for success here at the last minute with respect to throwing over a $66 billion savings in reconciliation that both bodies have agreed upon. Let us try our dead level best to get together here, if nothing else but under the Christmas spirit.

I noticed in the news reports where some prisoners escaped from the prison yard on yesterday afternoon or yesterday morning in Greenville, SC, with the use of a helicopter. Maybe my wife can hijack a helicopter and get me out of this "prison" and get me home for Christmas. I do not know how you get out of this place. I am going to stick with you, I say to the Senator from Louisiana, but I do not know how long. This body does believe in Christmas, does it not?

I have a note from the distinguished Presiding Officer, and I ask unanimous consent that the various amendments that I have placed on the desk to these bills with my particular name also include my senior Senator's name, the Senator from South Carolina, and our President pro tempore, the present Presiding Officer.

The **PRESIDENT** pro tempore. Without objection, it is so ordered.

(EXHIBIT NO. 1)

[From the Washington Post, Dec. 20, 1985]

TELECOMMUNICATIONS BILL THROTTLED IN SENATE

(By Mike Robinson)

Last-minute efforts to bring up legislation to aid the telecommunications industry were swiftly throttled in the Senate yesterday in the aftermath of a fight over textile imports.

The move followed a call Wednesday by Majority Leader Robert J. Dole (R.-Kan.) for quick action on the telecommuncations bill because "the trade imbalance with Japan has been escalating at an alarming rate" and that nation's import barriers "remain in place."

But bickering in the aftermath of the textile debate defeated efforts by Sen. John Danforth (R.-Mo.), chairman of the Senate Finance Committee's international trade panel, to bring up the telecommunications bill for a vote.

Under Senate rules, action on the bill, sponsored by Danforth and Sen. Lloyd Bentsen (D-Tex.), was impossible without unanimous consent. Sen. Ernest Hollings (D-S.C.), who was a chief sponsor of the vetoed textile bill, objected to consideration of the measure, in effect killing chances of any further major trade action before the Senate's recess.

"Some of the senator's positions will be greeted with delight by the Japanese," said Danforth, who is planning to visit Japan. He said he would "be curious to know whether or not the administration asked the senator to take this position."

Hollings said he agreed that telecommunications equipment exporters need help from Congress in penetrating the Japanese market. "I'm a cosponsor of this bill," Hollings said. But he added that the telecommunications industry was one of many, including textile and apparel makers, that deserve trade relief.

Hollings said his objection represented retaliation for Danforth's refusal to help him get the textile bill approved in the Missouri senator's trade subcommittee.

President Reagan vetoed the textile bill Tuesday after the Senate bypassed Danforth's subcommittee and passed the measure.

The telecommunications bill, opposed by the White House, would require the administration to open talks aimed at breaking down alleged Japanese barriers to U.S. equipment imports and retaliate unless they produced results.

THE BUDGET RECONCILIATION CONFERENCE REPORT

Mr. JOHNSTON. Mr. President, if I may answer my distinguished colleague, first of all I would like to thank him for his generous remarks, which I am sure were activated by the spirit of the Christmas season. I do appreciate that generosity.

Yes, we do believe in Christmas. But there is a grinch around here somewhere that is trying to steal the spirit of Christmas and kill this reconciliation bill. I hope, instead, that we can bury Mr. Grinch, in the spirit of not only the holiday season but in the spirit of trying to help this country out, which needs a nice present in the form of a cut in its gargantuan-sized deficit. The best Christmas present we could give this country, its economy and its people, is to pass the instant legislation.

Mr. President, I might say that there are a number of motions that can be made at this time, the first of which, of course, would be to move to the conference report, which is highly privileged and nondebatable. There is also a motion that can be made to table the Senate amendment, which also would be nondebatable. And through two quick slices we could be at the question at hand. I would like to say we are not doing that, and we are not doing that because there is a bipartisan effort to try to find a way to pass this bill.

So I want simply to remark to my colleagues who are listening on the squawk boxes that we are trying every way possible to find a way to pass reconciliation that will be both agreeable to the House, that will preserve the great savings—some $79 billion altogether, if you take out the value-added tax, or $83 billion if you leave it in—to keep those savings and to allow us to pass the legislation.

And I simply want to underline the fact that it is bipartisan, that it is an effort where on this side of the aisle we are not trying to use any legislative tricks, and certainly not even the arsenal of weapons that are available, and legitimate. And, indeed, our friends on the other side of the aisle, I think, are totally confident that we will not, which is the reason they have left the floor to go off to negotiate, and leave us to our own devices.

But I simply mention that because we want to find a way to make this bill become law, and to do it I hope before we lose too many more of our colleagues to the holiday travel schedules.

Mr. President, I see the distinguished Senator from Nebraska.

I yield the floor.

Mr. EXON. Mr. President, I think we are all too much short-tempered today, due to the fact that we have been working very long and very hard to come to some kind of an agreement, to still handle a series of measures. This Senator, as the Senate knows very well, was most unhappy, and not pleased with the farm bill that was passed. There was some consideration given at that time whether or not to have extended debate on the farm bill.

It seemed to me while that might have attracted some headlines around the country and it may have been good for publicity back home, it was not the rational, reasonable thing to do because at one time or another after we exhaust all the parliamentary procedures of the U.S. Senate and all of the parliamentary procedures of the House of Representatives in that regard, when the two parliamentary procedures of the two Houses get into the middle of a fray, we have the debacle that we have right now.

I think this whole procedure is very unfair. It is very unfair to the principals. It is very unfair, I think, to those of use who have stayed here while, according to some of the remarks on the floor this morning, maybe we would have difficulty in even getting a quorum in the U.S. Senate.

Last night the parade of our colleagues in the House of Representatives who were over here tuning in on what we were doing, and justifiably so because they were concerned, told me that after the gavel fell last night, even though the House of Representatives has not adjourned sine die, there is no way that they could get a quorum in that body. It seems to me this is, indeed, telltale lesson in how not to legislate.

It seems to me the suggestion that was made earlier this morning on the floor of the U.S. Senate by the minority leader, the distinguished Senator from West Virginia, is the only way out of the morass that we are in at the present time. I simply do not understand—and I would like to ask the question of the Senate and the Senate leadership. Why are we not taking the reasonable way out of this difficult situation as outlined by the minority leader this morning?

I simply say the same suggestion was made last evening, but we could not do that because of some strongly held views and some strongly held wills relating back, of course, primarily to some disagreement with regard to what the conference committee did or did not do, and who was in good faith and who was in bad faith with regard to agreements that were supposedly tentatively worked out in the conference between the House and the Senate.

There are an awful lot of personalities involved in this, Mr. President, I am not sure that personalities should be that strongly involved when we are taking meaningful legislation of this type.

During the debacle and countering debacles last night, this Senator had the first chance ever to watch the debate in the House of Representatives on television. While this Senator has generally been a supporter of television in the U.S. Senate, after watching the so-called debate in the House of Representatives last night where there were cheers, there were hisses, there were boos, and there was handclapping, I do not know about television in the U.S. Senate. If it is as bad as that, then I am very fearful there may be some youngsters around the United States that stayed up late enough last night to see that program. If they did, it probably had more of an ill-effect on them as far as representative government is concerned than if they stayed up late watching X-rated movies. [Laughter.]

It just seems to me, Mr. President, very seriously that the system here, checks and balances, if we will, between the House and the Senate have deteriorated primarily as a result of the clash of strong personalities, and that we are almost threatening to break down the system.

I wonder what the Founding Fathers would have thought of a system today where we may or may not have a quorum in the U.S. Senate, and we probably do not have a quorum in the House of Representatives if we were considering passage and how to get around the passage of a fundamental piece of legislation.

This piece of legislation would make, I guess, the largest cuts in Government, and we are all concerned about reducing the deficit and getting on with the business of attacking reduction in the national debt, but it seems to me that the founders would have been shocked. They would have been surprised. They would have been dismayed. They probably would have taken time out even if the Christmas Day was upon them to make corrections to stop the kind of nonsense that seems to be going on here between the supposedly most deliberative body in the world, the U.S. Senate, and our colleagues across the way.

Another thing strikes my mind in that regard. Basically, it has been my feeling that fundraising measures should basically originate in the House of Representatives. Here we are in the U.S. Senate tied up today on whether

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or not we are going to have a value-added tax for the first time in our history as a part of our fundraising mechanism.

I have not made any final determination as to whether I am for or against a value-added tax per se. But I remind all that it is a significant step across a significant line that we have never done before. Here we are still moving to see if we cannot by hook or crook or parliamentary procedures, or one chicken being stronger than the other chicken in our game of chicken not before Easter, but before Christmas, try to do things that we should not be doing.

It seems to me whether you are for or against a value-added tax, that pales by comparison with the situation that confronts us. The reconciliation package that has been generally agreed on—and while it is not perfect, I support it, and I think Members in both bodies support reconciliation—has in it other important legislation.

I wonder how it looks to the people of America today when by failure to act by midnight last night we have in effect repealed the 8-cent tax on tobacco products now at a time when we need more revenue in this Government. Are we wise in not acting to preserve at least a tax on tobacco products as a means of legitimate revenue? That is not new revenue. That is revenue that we have had for a long, long time. But by our fumbling, by our bungling, and by our failure to at some time recognize the Congress has to work its will, we fumbled that away.

I do not know what all of the controversies are with regard to this legislation. But I would just say that there seems to be quite a test of wills. It is not of any interest to this Senator whether Mr. PACKWOOD or Mr. ROSTENKOWSKI becomes the next Speaker of the House of Representatives. I do not believe that should be a legitimate part of a discussion, if it is, as to whether or not we continue to pitter and patter, and mumbling and bumbling through here now.

It seems to me, with a questionable lack of a quorum in the U.S. Senate, that we could simply suggest that we could probably dispense of this whole matter in a hurry if someone insisted on seeing whether or not we have a quorum present.

Likewise, such action could be taken in the House of Representatives.

So before someone comes up with that particularly wise move that might be necessary, I would think it would be in the interest of all parties to move as expeditiously as possible on the suggestion made by the majority leader.

The suggestion made by the majority leader would only allow us to pass reconciliation as generally agreed to by both bodies. The only thing it would eliminate would be the value-added tax.

Once again, I think that is a tax that deserves a lot of consideration, a lot of committee action, first in the House of Representatives and then over here in the Senate.

It seems to me that we would best follow the dictates of the procedures and best follow the dictates of wisdom if we would take action quickly on the suggestion made by the majority leader and then move about our business, which is sine die adjournment.

Having said that, like all of my colleagues I would very much like to go home to Nebraska where all of the family will be gathered this evening, except the father and the grandfather. That is important.

But more important, Mr. President, is the obligation that we assumed when we took our oath of office to move ahead with the business of the Senate. It seems to me that until we move on the suggestion made by the minority leader, which is the only way out of the morass that we are presently in as far as is known at this moment, until maybe something else is hatched in the closed-door sessions going on right now, we are going to continue to be looked upon as a body that seems never to know where it is going and when it gets to a place where it thinks it is does not know what to do.

Mr. President, although some of the remarks I have made this morning are in jest, it does seem to me that we ought to try and destroy, if we possibly can, the videotape recordings of the House of Representatives last night. I think we should, as best we can, assure that the people would not see things of that nature. I believe the people of the United States, while in polls they do not seem to hold the Members of Congress in particularly high esteem, expect us, by and large, in retrospect, to do a more manageable job of passing laws than they saw last night in the House of Representatives and which they will be hearing about through actions or no actions today on the floor of the Senate.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. WARNER). Without objection, it is so ordered.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. DOLE. Mr. President, I move that the Senate stand in recess subject to the call of the Chair.

The motion was agreed to, and at 12:59 p.m., the Senate took a recess, subject to the call of the Chair.

The Senate reassembled at 3:52 p.m., when called to order by the Presiding Officer [Mr. GORTON].

OMNIBUS BUDGET RECONCILIATION ACT

Mr. DOLE. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 3128.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

> *Resolved*, That the House disagree to the amendment of the Senate to the amendment of the House to the amendment of the Senate to the bill (H.R. 3128) entitled "An Act to make changes in spending and revenue provisions for purposes of deficit reduction and program improvement, consistent with the budget process.".

Mr. DOLE. Mr. President, first, let me apologize to my colleagues for this Friday afternoon session. I hope we can dispose of the remaining business in a fairly brief time because I know the weather is not good and I know many Members have to change their plans. This is, I think, a most important issue, one that I understand we shall have some debate on. We shall have the experts on both sides who have been the real principals in this effort over the past 11 months speak to some of these specific issues.

We have had a series of meeting today, and a series of conversations with White House officials and, OMB officials. I have just spoken with Don Regan, the President's Chief of Staff, in an effort to determine what the President's attitude might be toward this bill in its present form.

The President is presently on his way by car to Camp David because of weather. Shortly before he left the White House, less than 30 or 40 minutes ago, there was a staff discussion with the President about the reconciliation conference report. I am at liberty to indicate that the President advised the staff, in particular the Chief of Staff, Don Regan, that if, as he said before, certain objectionable provisions are removed from the conference report, he would accept it, with one caveat. Apparently, there are a number of little new entitlement programs buried in the conference report and they may not have all been discovered—a new vision care program, other Medicaid Programs for unwed parents, and perhaps a number of programs that they are not quite certain of. But basically, these are the same programs that the President has called to our attention a number of times: The trade adjustment tariff, the OCS Lands Act, section 8(g), AFDC, Medicaid and food stamp quality control revisions, elimination of Medicare cost-saving regulations, the value-added tax on Superfund, Medicaid Program expansion which will increase State and Federal costs; and, as I said, the ones that we cannot quite identify completely are the various expansions of Medicare and Medicaid that may have been added by Representative WAXMAN in the conference.

Mr. President, this has been a bipartisan effort and I hope it continues to be a bipartisan effort—most of us in the Senate have struggled with this process all year long. Too long—I think most of us would agree, particularly the distinguished chairman of the Budget Committee and the distinguished Senator from Florida [Mr. CHILES], who is necessarily absent, and also Senator JOHNSTON, who has been substituting for Senator CHILES since his illness.

We have three or four options. Probably none of them are very good. I assume the easiest one, which would get us out of here the quickest, would be simply either to recede to the House or to strike the Senate amendment and send it to the President. But, based on information that I have, that would probably mean a Presidential veto. It would mean that our efforts and the efforts of all the others on the House side, Democrats and Republicans, would have been for naught.

There may be other options. One would be to have unanimous consent, which I shall propose in a few moments, that the Senate recede from its amendments and concur in the House amendment with a further amendment consisting of the conference report on H.R. 3128 with the following sections stricken—then I shall repeat those later.

That would take unanimous consent and I am advised that we not obtain such consent. I believe the option that we should pursue, then, because I still hope we can achieve some savings, the third option. That would be to insist on the amendment—and request a conference with the House.

That is not for the purpose of going back and trying to sustain our position or the Senate position on financing the Superfund. As the distinguished Senator from Oregon, the Chairman of the Finance Committee (Mr. PACKWOOD) will explain, that issue has been decided. He is willing to give that up. But it is an effort to go back to conference with Members of the House to try to resolve these five issues—five out of hundreds—that will permit the President to sign this bill and permit us to achieve some savings.

To be very realistic, there is a rather broad difference between OMB figures and our figures on the savings in the reconciliation conference report. We are advised that OMB has advised the President that the total savings over a 3-year period is around $8 billion, and maybe another $8 billion in revenues.

Well, we have been advised by the CBO and the Budget Committee that the savings amount to about $55 billion now based upon the fact that the farm bill is passed and there are $7 billion savings in the farm bill that can no longer be credited here. There are a couple of other similar instances, as the budget chairman will discuss later. So our range goes from $55 billion to as high as $82 billion. But we have to keep in mind that some of those have already been achieved in other legislation, so they have to be subtracted.

We happen to believe that we may be more accurate than OMB, but they are the ones who advise the President. So the President is faced with the decision on whether or not to sign a bill which saves only $8 billion over 3 years and has about the same amount of increased revenues—whether he should sign that bill if it includes a lot of new programs and goes back and undoes a lot of the reforms we made in 1981.

He does not believe that is very good policy. There has been a black lung provision added that not only raises taxes but provides forgiveness that costs about $2 billion this was never passed by the Senate. It was part of the agreement the distinguished chairman of the Senate Finance Committee made in the conference, and those who made the agreement in effect undercut the agreement on the House floor last evening. But in an effort to resolve it, that is the process, the procedure that we will attempt to follow.

Now, I know that other things can be done, maybe others have other plans. I know the motion to table the Senate amendment has priority and that may be made.

At the present time, I would ask unanimous consent that the Senate recede from its amendment and concur in the House amendment with a further amendment consisting of the conference report on H.R. 3128, with the following sections stricken: First, section 12301 relating to AFDC and medicaid quality control studies and penalty moratorium; second, sections 13001 through 13011 relating to trade adjustment assistance; third, section 13203(b) relating to a 5-year moratorium on interest accruals with respect to the indebtedness of the black lung disability trust fund; fourth, subtitle B of title XIII relating to Superfund and its revenue sources; and fifth, sections 8001 through 8101 relating to Outer Continental Shelf Lands Act.

The PRESIDING OFFICER (Mr. GORTON). Is there objection?

Mr. JOHNSTON. Mr. President, reserving the right to object——

The PRESIDING OFFICER. The Senator from Louisiana reserves the right to object.

Mr. JOHNSTON. For the last almost 24 hours, we have been engaged in this negotiation about how we were going to get this deficit down. On this side of the aisle, I do not think there is anyone who can say we have not been cooperative. We have not been particularly brought into the process, I must say, but to the extent we have, we have offered the hand of cooperation, repeating that over and over again privately, here on the floor, and in the majority leader's office, when permitted to come at our request—at every instance of the time offering the hand of cooperation. It was not Senators on this side of the aisle who made the decision as to the strategy last night in sending back to the House the bill with the same amendment which they had turned down previously. This strategy was available to us last night when we could still amend. Rather than using that strategy of amending and putting these amendments back on the bill and sending it back to the House, we used up on motion of the majority leader and the chairman of the Senate Finance Committee our chance to amend by insisting again upon the same amendment.

Full cooperation, we tried that. It did not work. It lost by an even larger margin.

Now, this morning, we came in again offering full cooperation, saying, "We need a bill; the American people need a bill. We will do what we can to get it."

This strategy was suggested to us earlier. I personally said, "I will do what I can to help get it"—not because I like these amendments. Indeed, it was a different package when previously discussed. This is the first time I have even heard about all the elements of this package.

That is the kind of bipartisanship you get. You get something sprung at you out on the floor of the Senate without even discussing it with you. Nevertheless, as the package last existed, we were asked, "Will you try to sell it?" I said, "I will do the best I can." The leader, BOB BYRD, said he would do the best he could, and indeed we convened a caucus for that purpose. In the meantime, we called the leadership of the House and they say they have lost a quorum, it takes unanimous consent, and a number have already announced publicly and others privately. Congressman FRENZEL has already made a speech saying he would object to any change.

So, Mr. President, make no mistake about it, this strategy, however good it might have been at any one time, is no strategy now. It does not get you a bill. It is some kind of tactic, and I do not know what the tactic is or what its purpose is other than to elicit an objection from us, which will soon be coming because we are not going to be a party to bearing this bill, not after all the time and effort we have put in on this side of the aisle, not to mention the gargantuan efforts that Senator DOMENICI and others have put in in fashioning what is not a perfect bill but it is a good bill.

It is $79 billion worth of savings without the so-called Superfund tax. And if all it is $8 billion, I want to tell you we better shut down the CBO, do away with that agency of Government because it is not worth what we are paying them if they are that far off.

In any event, Mr. President, with that reservation and for those reasons, I object.

The PRESIDING OFFICER. Objection is heard. The majority leader.

Mr. DOLE. Mr. President, I regret that there is objection. I must say it was no surprise. We have had some prior discussion of this matter. We met in the minority leader's office, so there has been bipartisan discussion. My own view is that we are going to be gone for 30 days. It is not our problem if the House may not have a quorum. We have a quorum. We have about 40 of our Members here and I think there are 30-some Democrats here, so that is not our problem. We are here prepared to go to conference this afternoon on five very minor issues that can be resolved in 30 minutes. Now, if the House is gone, they say, "Oh, we can't do it, we left town." I do not believe that is our problem. We have enough problems of our own, but that is not one of them.

Do we want a bill? I hope so. I think so, because there has been a strong bipartisan effort following the May 10 vote, which was 50 to 49, with only one member of the other party voting for real deficit reduction. We can argue that at a later time. But it seems to me that now we need to try to complete the process, keep it alive, see if we can salvage something, if not today, when we come back or maybe even prior to that time the conferees could meet and see if they could resolve it.

I assume the conferees could meet informally while the rest of us are working at other places in January.

But in any event, I move that we insist on the Senate amendment.

Mr. JOHNSTON. Mr. President, point of order. Is that a 1-hour time agreement?

The PRESIDING OFFICER. It is a 30-minute motion equally divided.

Mr. JOHNSTON. That is to insist on the Senate amendment and return it to conference?

Mr. DOLE. It is the first part. Then I would request the conference, appointment of conferees following this.

The PRESIDING OFFICER. Who yields time?

Mr. PACKWOOD addressed the Chair.

Mr. DOLE. Mr. President, let me yield such time as he may consume to the Senator.

First, let me designate the distinguished Senator from New Mexico to allocate the time.

Mr. DOMENICI. How much time does the Senator desire? Fifteen minutes?

Mr. PACKWOOD. Five or 6 minutes.

Mr. DOMENICI. I yield 5 or 6 minutes.

Mr. PACKWOOD. Mr. President, let me explain partially the situation we find ourselves in today and why we got here and why the Senate feels a bit unfairly treated.

I feel very bad that we are going to give up not only just the Superfund funding, we are giving up on the Superfund Program. It is out, gone. It is going to be funded. It is not going to be funded under the tax that expired for the last 5 years. It is not going to be funded under the taxes for the next 5 years until it is resolved. That the funding of Superfund is now out, the Senate is not going to insist on its position on this issue when we go back to conference.

But as we were bargaining in conference with the House, as in all conferences, there is a give and take.

The House had very close votes in committee and on the floor on its method of funding the Superfund. In committee, the chairman of the Ways and Means Committee lost the vote as to the way he wanted to fund Superfund. On the floor of the House, as I recall, by only a 14-vote margin, he won it.

There was a slight anomaly, I thought, in the entire reconciliation process when there was no Superfund provision at all in the House bill, but under the rules, the Ways and Means Committee was credited with the revenues toward meeting their total. No bill, no revenues, a credit toward meeting their total.

So, if anyone wonders how you can come up from $3 to $13 billion, understand how funny money moves very easily in this body.

We went into negotiations and had the Superfund provision in our reconciliation bill.

In what I would imagine to have been a very dicey situation among the House conferees on Superfund, by a 9-to-4 vote, the House conferees offered to the Senate in essence what had been very close to the Ways and Means Committee position, absent only the fact that there was no funding out of general funds and no waste end tax.

The House said, "We will go along with the Senate," and the Senate really was going along with the House Ways and Means Committee position.

Involved in all these situations were the issues of black lung; Medicaid; AFDC; poor persons in families with unemployed parents and whether they were going to be eligible for welfare; whether or not State and local employees were going to be covered under Medicare; and trade.

There were other issues which the President does not like, such as intercontinental shelf, but I had nothing to do with that.

There was give and take, and the Senate gave on positions it would not otherwise have given on, such as black lung, State and local government coverage under Medicare, in which the Senate position raised $4.7 billion and the House provision $500 million. But in the give and take, we gave. We concluded the conference.

As with all conferences, you win some and you lose some. We came back to the Senate and we acted on the conference report, 78 to 1.

The House then went back and, in an irritation and fit of pique because they were mad, having lost their Superfund tax method among their own conferees, the majority asked for a rule in the House to strip out the method of Superfund financing that had been agreed to in the conference—stripping only that out—sending to the Senate a bill that now had things in it that the Senate would not have agreed to had the bargain of the conferees not been broken.

We gave up things to get things; and the House said, "No, we're going to throw out the things we gave up because we didn't like it anyway, and you can take it or leave it, with all the provisions you never would have given."

It is going to make it difficult for the Finance Committee and the Ways and Means Committee and other committees to reach honorable conclusions if, at the end, one can say, "We are not going to honor the contract.

So I am prepared to give up on the Superfund. That is for another day. We will fight that another day. But we need to go back to conference now basically on spending issues that were added in the conference, which would not have been added but for the Superfund financing agreement, and see if we can undo those so that the bill is acceptable to the President. I hope we can. I hope the conference concludes an agreement and that the agreement will be honorably kept by both sides.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. I yield myself 7 minutes.

Mr. President, in recent days and weeks, we have had a lot of conversation in this body about the quality of life, about the deterioration in the Senate and its customs and its great traditions. We all feel, in a very real sense, that that which has made this the greatest deliberative body in the world has somehow been lost or degraded or destroyed or that, in the process of modern times somehow we are losing it.

I can tell you that last night, as I watched the House of Representatives, I was not proud of that institution. All the pettiness of politics, it seems to me rose to the surface last night in the House of Representatives—personal interest, deep partisanship, a challenge to the Senate, like the comment over and over again, "We are not going to let them do that to us," and that kind of thing.

The national interest, it seems, got lost last night in the House of Representatives—somehow buried in what seemed to be a political contest or personal contest, will against will, political future against political future. The tiredness of the moment or the emotion of the moment seemed to have gotten lost last night, and we all know what happened in the votes.

It seems, Mr. President, that, in a little more dignified way, we may be ready to do that and again demonstrate that in the U.S. Senate today. I hope not. My words today would go to appeal to the national interest, to appeal to Senators on the basis of not whether it is good for the President or whether it is good for this party or that, but whether it is good for the country.

In my judgment, the motion that the majority leader has made would kill this bill. Make no mistake about it. You can argue that. You might sell it to such part of the American people as reads newspapers. Maybe it would not be interpreted like that. But we know that is so.

Why is that so? Because it comes back in February or late January or early February, and then what happens? February 5, the President's budget comes up. Prior to that time there will be all kinds of leaks about all these programs that will have to be eliminated or decimated because of the requirements of Gramm-Rudman. We all know that. We know the acrimonious atmosphere, the deep ideological differences.

We are going to be at a watershed, a crossroad, when we come back in January or February, and we are going to decide, for the first time, whether all this rhetoric about cutting budgets is real, whether people can really measure up to that. It is not going to be easy.

All these easy things we have done in these past few years, like cutting taxes, raising defense, spreading the goody bag out for everyone and not really cutting anything, all that is in the past. Now it is going to be tough, and it is in that kind of atmosphere that this conference committee would have to deal.

What is the House going to do? The House would be asked in that conference to cut further, to do away with such goodies, if that is the word, that are contained in this bill in order that you can have a lower starting point for Gramm-Rudman. Are they going to want to do that? The House thinks that domestic programs have been cut too much already. And so what happens if they turn this conference down? You move it from about 95 to 1, domestic over defense cuts, to 50-50 domestic-defense so you can move a lot of these uncomfortable cuts over to defense just by defeating this conference report.

In the atmosphere of January and February, do you not think that is going to be done? Do you not think someone along the way is going to figure this out? Of course, they are.

We are going to be well into the budget process by January and February, and it is going to be impossible to cut this thing.

If your real motive is to save the President embarrassment of having to veto, go along with it. It is a nice cute way. I mean, it is a nice neat sort of way. Say let us go back and cut some more and go to conference.

But we know that is not so. We know it is going to kill the bill if we do that.

We are going to have a chance when this debate is over in one fell swoop to send this bill to the President. By moving to table, and we will at the end of this debate, you can, without going to the House; it will go straight to the President. You would pass any other intervening action. And that bill would save $79.5 billion, according to CBO, and it would not contain the Superfund tax which is the President's No. 1 objecton. It may not be his whole objection. But it is his No. 1 objection.

Many of us have talked privately and publicly to the effect that the President would not dare veto this bill, not $79½ billion right on the eve of the inauguration of Gramm-Rudman. I do not believe he would unless he gets very bad advice.

Mr. President, we are going to have a chance to do that, $79½ billion. Oh, you can call it $8 billion. If you call it only $8 billion, do you realize what that says about the reputation of CBO? Has CBO been denigrated in their reputations around this place?

The PRESIDING OFFICER. The Senator is recognized for 3 additional minutes.

Mr. JOHNSTON. So far we say their $79 billion in savings are only $8 billion. I mean, do we really believe that? Of course we do not.

We have been acting on the recommendations of CBO bipartisan and with a solid track record around here the whole while. They say $79½ billion. It is $50 million a day savings. For every day we wait, just since last night we lose $50 million. In another 30 days we will have lost $1½ billion.

You say that is not much. Well, it is a lot more than we have saved lately. Mr. President, we have a chance to have some real savings, not phony savings, real savings, savings now, not savings off somewhere in the future. That has been our problem around here. It is always talk savings now but not save now, not cut now. This is a cut now today, December 20. We can cut today. Or at least we can give the President the chance to sign these cuts.

If we miss the opportunity, Mr. President, we have hurt this country, in my judgment.

You may be able to escape the political blame for it by saying "I didn't mean to kill this bill, I only wanted to make a better bill. I wanted to make it a better bill, send it back to conference." Inside the beltway, at least inside this body, we know that means kill the bill.

Mr. President, I hope we will not do that. It is not a perfect bill. There never was a complicated perfect bill that I know anything about that has passed this body.

If you want to wait for a perfect bill, you will not get it between now and next Christmas. They do not come like that. They are political compromises. But this one meets the targets. It has been a great bipartisan product.

The distinguished Senator from New Mexico has led us well on this matter. I hope we will not let it go down the drain here on the eve of Christmas.

I reserve the remainder of my time.

Mr. DOMENICI. Mr. President, let me make a couple of points. First of all, the distinguished Senator from Louisiana makes one point that I think we ought to all agree on. It is in the national interest that a substantial portion of this bill become law.

I am convinced. I was beginning to wonder about it 10 or 12 days ago, but I am convinced totally today that unless we do what the distinguished majority leader recommends here, the national interest will not be served because I am convinced we will not get a bill. We must send this bill to conference, even if that conference may not begin until late January or early February.

I am now absolutely convinced that regardless of what we say and regardless of what we contend, the President will veto this bill if we adopt the amendment, if we follow the path he suggests, and that is when the motion to table is made, if we vote for it, we are all finished. I am convinced we well may have no bill.

I am not one who shies away from a legitimate confrontation with the President. But I do not think we gain an awful lot by running around for 3 or 4 months and say he should not have vetoed it.

Let me tell you, ladies and gentlemen of the Senate, we are somewhat to blame for the position we are in.

Do you remember late in the debate when the distinguished minority leader raised the concern about extraneous material? He was concerned that he said we ought to amend the Budget Act because, as a matter of fact, the reconciliation bill has no limits as to what people can do with it in their respective committees so long as they add some and subtract some and perform the accounting and estimating pursuant to the CBO baseline rules.

And we and the House, aside from the problem that the distinguished chairman of the Finance Committee raises that we have $4 billion in program add-ons as a compromise for the now removed Superfund program, but with the spending increases still in the bill, aside from that, there are literally scores of programs that do not belong in this bill.

As I say, some will say, "Well, where have you been?" Let me tell you the way the rules are there is nothing we could do about it.

The distinguished chairman of the Budget Committee and his entire entourage of Members turned this bill over to the committees and they worked their will. I might say, considering the nature of the problem, there is an awful lot of good reform in this bill that is going to go down the drain if we do not send it back to conference and at least let them try to salvage a substantial portion in January.

There is reform in the veterans' program that is totally acceptable to the House that will never be done in an election year. There is reform that was done by the Government Operation Committee with reference to the Federal employees that will never occur, and I could go through a list of 15 or 20 like that that are gone. As a matter of fact, let me talk a moment about the argument about how much do you save. Frankly, the $8 billion that the OMB director is talking about in savings and $8 billion in taxes for a total of $16 billion in reduction are patently absurd, but they do make a point, that since we have now passed three or four other bills that take credit for portions of these savings and change the law, it is probably somewhere between $50 billion and $60 billion, including the taxes, that we will save if we pass this bill.

But I am convinced that when we added scores of new programs, in particular those that the distinguished majority leader suggests we take out of this bill by unanimous consent, which was objected to, we put this in the position where the President not only will veto it but I think he will have at least an equal opportunity and perhaps more convincing the American people that we should not have put all those things in this bill and that to some extent by doing it the way we have, and the House is guilty also—I am not saying just the Senate—that we have made somewhat of a mockery out of a process that is supposed to be saving money and curtailing programs of this Government.

If I were not convinced of that, I would be here arguing the other way.

I ask unanimous consent to have printed in the RECORD for anyone who is interested a list of the disputes as to how much we are actually saving and how much they contend in the White House through OMB that we are saving, and I will repeat that I think the savings is about $50 billion over the next 3 years giving credit to some things that have already passed in appropriations or in the farm bill that should have been in this when we started this process.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Possible disputes on scoring resolved

Savings (gross)	$83.038
Offsets and minor registration already passed	-9.016
Subtotal	74.022
Agricultural credit (in farm bill)	-6.8
Subtotal	67.2
OCS (8g): (not a policy change)	-1.4
Subtotal	65.8
Highways (in app. bill)	-2.5
Subtotal	63.3
Medicare hospital reimbursement (can be done by regulation)	-4.0
Subtotal	59.3
IRS and Customs collections (dispute on scoring)	-3.3
Subtotal	56.0
Out-year civilian pay (can be done later, in theory)	-5.0
Total savings (if all allowances made for scorekeeping)	51.0
Net revenues	10.2

Mr. DOMENICI. Having said that, I do not want to mislead anyone. It will be very difficult in January and February to get this job done. We will be engulfed in a new budget. Gramm-Rudman will be staring us in the face in terms of a $144 billion deficit target for fiscal year 1987. The President will have already sent us a budget, but I am convinced that even if there is a slight chance we should do it, we should. Because I do not think there is any chance that we will get it by passing this bill as it now stands.

So I believe that, while there are many good reforms in it, we clearly should not have passed trade adjustment in confrontation with a 6-week-old letter of the President saying, "Do not put it in." I do not think we should have passed the 5-year moratorium on interest and accruals on the black lung indebtedness that will cost $2 billion. I do not think we should have changed the quality control under Medicaid and AFDC. Those were savings. We changed them.

I do not think we should have put the Superfund, as we planned to do it in this bill, in the manner that it originally came to us. But we did not take the President very seriously until about now. I think that is kind of too bad. I think we have to do what the majority leader suggested and give it at least a chance to survive.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 1 minute remaining.

Mr. DOMENICI. I reserve the remainder of my time.

Mr. JOHNSTON. Mr. President, I yield 1 minute to the distinguished Senator from Colorado.

Mr. ARMSTRONG. Mr. President, I think the chairman of the Finance Committee got a raw deal, but that is not the issue. I think there is a lot of junk in this bill and I pointed that out last night just before we all voted on it, and that is not the issue, because we knew there were a lot of things in there that were not so good.

There are two issues. One is that by sending this back to a conference committee, do we avoid a Presidential veto? And the answer to that is, no. If we send it to the conference, the bill is going to be dead. It is a new form of Presidential veto. It is a veto without sending a bill to the White House. Some of the President's people come up and say, "Look, we are going to veto this," so we shunt it off to conference.

The real issue, as far as I am concerned, and the reason I am going to vote for the motion to be propounded by the Senator from Louisiana, is very simple. This is the same bill we voted for last night 78 to 1, except for one thing. We are taking out a tax provision. It is, in every other respect, the same bill we voted for last night.

So the only reason to vote against it is that we are that much in love with the tax provision, and I am not. So I am going to support the Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I yield 1 minute to the distinguished Senator from Nebraska.

Mr. EXON. Mr. President, obviously we are so restricted on time that we cannot debate this. I cannot begin to say what I wanted to say in 1 minute, but then that will make everyone happy.

I associate myself with the remarks of my distinguishd colleague and member of the Budget Committee, the Senator from Colorado. If you vote the way the leadership has asked you to vote, you kill the bill. I cannot understand how the same people that recommended that we vote for this 78 to 1, the same people who asked us to send this back over there twice—and I was here both times and agreed to send it back by voice vote, although I had some serious concerns about the value-added tax—the same people now are telling us this would be a disaster unless we make three or four changes that the President of the United States has to have before he signs the bill. It is all nonsense. Let us not go along with the majority leader.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. STEVENS. Will the Senator from Louisiana yield to me for a question to him?

Mr. JOHNSTON. Yes, I yield.

Mr. STEVENS. Mr. President, the Senator from Louisiana has worked long and hard to solve some of the problems for the States that have substantial oil and gas production. But I would ask him this question: If we do not find a way to get this bill down to the President, it is my understanding that, when he submits his budget in January, all of the savings that would come by virtue of the entitlement changes that are in this bill must go into his budget, because he is compelled to spend that money. When he does that, he has to make corresponding changes to the budget in order to comply with the target of Gramm-Rudman-Hollings, as I understand it. That means that the Coast Guard is going to lose money, all of the parks in the Bureau of Land Management, all of the civilian agencies that the Senator from Louisiana and I have worked very hard on, and the Department of Defense, also, that he and I worked very hard on, are going to be cut, cut down because of the real savings in this bill.

Now, is there not some way that we can find a way to get together here before we vote on the majority leader's motion and find some way to see if we can get this bill in a fashion that we can agree on in a bipartisan way to accomplish the objective the minority leader wanted to accomplish weeks ago and take advantage of the reduction in that budget that is going to come in January? Has the Senator really thought about the impact on the programs we have worked so hard on if this bill is not signed?

The President says he is not going to sign it. The Senator from Louisiana says, "Send it down to him so he will veto it." I happen to believe that man at 1600 Pennsylvania Avenue. He never told me he was going to do something and then did not do it. I tell you, I think he will veto it. I think the Senator from Louisiana would like to see a solution and I would like to see a solution. Is there not some way we can work out that solution tonight?

Mr. JOHNSTON. Mr. President, I believe the answer to that question is by voting for the motion to table the Senate amendment and sending this bill down to the President, I believe that cooler heads and he will sign the bill.

Mr. President, I yield the remainder of my time to the distinguished Senator from West Virginia.

The PRESIDING OFFICER. The Democratic leader is recognized.

Mr. BYRD. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 2 minutes.

Mr. BYRD. Mr. President, in 2 minutes, let me just say that twice we on this side have supported the effort to send the Senate amendment to the House of Representatives for conference action. Twice the House has rejected the Senate amendment, and the House is going to reject it if we send it back again. It is a way to kill this bill. It is a way to let Mr. Reagan avoid having to face up to the question as to whether he will sign a bill making budget deficit reduction now.

A motion now to table the Senate amendment will send this measure to the White House immediately. We are fast losing a quorum. We may still have a quorum here now. But this is the 20th day of December. Does anyone around here really believe that there will be more Senators here tomorrow; that there will be more Senators here on Monday; that there will be more Senators on Tuesday? Does anyone here really believe the House of Representatives will take this up again? They have twice spoken. They have twice rejected this amendment. Does anyone really believe the House will establish a quorum and take this amendment up again? No.

If we send this back to conference, that is the end of this measure, because the House is not going to accept this Senate amendment. In the meantime, we will have lost a quorum.

I say, let the President veto this measure if he wishes to do so. He has that power under the Constitution. But we have a responsibility, too. This is our chance to pass a budget deficit reduction that will amount to $79 billion, according to the CBO; there is some question, but what baselines are the OMB using? That is what I would like to know. They can come up with different positions and different figures anytime it suits their convenience.

But I say the responsibility is on this Senate now to act and to act decisively. I hope the distinguished Senator from Louisiana will move, when the time has expired on both sides, to table the Senate amendment. We have tried it. We have stood by it. We do not want to see this bill killed.

The question is: Do we want deficit reduction, and do we want it now? This is our chance.

The PRESIDING OFFICER. The time of the Senator from Louisiana has expired. The Senator from New Mexico has 1 minute remaining.

Mr. DOMENICI. Mr. President, I am going to use my 1 minute and tell the Senate I do not think anybody around here has worked harder to make this process work than the Senator from New Mexico. I did not put all these provisions in this bill, and everybody knows that. Our procedure is that the committees do their work. If there is any blame, it is that we, 3 or 4 weeks ago, on this side and on that side, decided we could use this reconciliation to do anything we wanted. We decided we would add new programs so long as the addition of programs did not eat up the savings that we found somewhere. Maybe we have learned a lesson; maybe we have not.

Frankly, the issue is no longer the Superfund tax. It is the five or six or seven programs that we probably either should not have put in or went a little bit overboard on. But, at least, I believe the President will veto it and we will not get a chance to realize any of those.

I want to say to the Senator from Louisiana that I appreciate his work. He did a masterful job all the way through. I wish we could be here today getting it finished. I think we might in January and February.

So I hope the Senator's motion does not prevail.

The PRESIDING OFFICER. All time on the motion has expired.

Mr. JOHNSTON. Mr. President, I move to table the Senate amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that the Chair secure order, maintain order, and that the clerk announce the vote of each Senator as it is called.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the motion of the Senator from Louisiana to lay on the table the amendment of the Senate to the reconciliation bill. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Maine [Mr. COHEN], the Senator from Alabama [Mr. DENTON], the Senator from Minnesota [Mr. DURENBERGER], the Senator from North Carolina [Mr. EAST], the Senator from Washington [Mr. EVANS], the Senator from Utah [Mr. GARN], the Senator from Iowa [Mr. GRASSLEY], the Senator from Oregon [Mr. HATFIELD], the Senator from Florida [Mrs. HAWKINS], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from Idaho [Mr. MCCLURE], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Virginia [Mr. TRIBLE], and the Senator from Connecticut [Mr. NICKLES] are necessarily absent.

I also announce that the Senator from Maryland [Mr. MATHIAS] is absent on official business.

I further announce that, if present and voting, the Senator from Florida [Mrs. HAWKINS] would vote "nay."

Mr. BYRD. I announce that the Senator from Delaware [Mr. BIDEN], the Senator from Oklahoma [Mr. BOREN], the Senator from North Dakota [Mr. BURDICK], the Senator from California [Mr. CRANSTON], the Senator from Illinois [Mr. DIXON], the Senator from Connecticut [Mr. DODD], the Senator from Missouri [Mr. EAGLETON], the Senator from Colorado [Mr. HART], the Senator from Massachusetts [Mr. KENNEDY], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Montana [Mr. MELCHER], the Senator from Ohio [Mr. METZENBAUM], the Senator from New York [Mr. MOYNIHAN], the Senator from Georgia [Mr. NUNN], the Senator from Rhode Island [Mr. PELL], the Senator from Arkansas [Mr. PRYOR], the Senator from Michigan [Mr. RIEGLE], the Senator from Maryland [Mr. SARBANES], the Senator from Illinois [Mr. SIMON], and the Senator from Nebraska [Mr. ZORINSKY] are necessarily absent.

I also announce that the Senator from Florida [Mr. CHILES] is absent because of illness.

I further announce that, if present and voting, the Senator from Rhode Island [Mr. PELL] and the Senator from North Dakota [Mr. BURDICK] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 29, nays 35, as follows:

[Rollcall Vote No. 380 Leg.]

YEAS—29

Armstrong
Baucus
Bentsen
Bingaman
Bradley
Bumpers
Byrd
DeConcini
Exon
Ford
Glenn
Gore
Harkin
Heflin
Hollings
Inouye
Johnston
Kerry
Leahy
Levin
Long
Matsunaga
McConnell
Mitchell
Nickles
Proxmire
Rockefeller
Sasser
Stennis

NAYS—35

Abdnor
Andrews
Boschwitz
Chafee
Cochran
D'Amato
Danforth
Dole
Domenici
Goldwater
Gorton
Gramm
Hatch
Hecht
Heinz
Helms
Kassebaum
Kasten
Laxalt
Lugar
Mattingly
Packwood
Pressler
Quayle
Roth
Rudman
Simpson
Specter
Stafford
Stevens
Symms
Thurmond
Wallop
Warner
Wilson

NOT VOTING—36

Biden
Boren
Burdick
Chiles
Cohen
Cranston
Denton
Dixon
Dodd
Durenberger
Eagleton
East
Evans
Garn
Grassley
Hart
Hatfield
Hawkins
Humphrey
Kennedy
Lautenberg
Mathias
McClure
Melcher
Metzenbaum
Moynihan
Murkowski
Nunn
Pell
Pryor
Riegle
Sarbanes
Simon
Trible
Weicker
Zorinsky

So the motion to lay on the table was rejected.

Mr. DOLE. Mr. President, I move to reconsider the vote.

Mr. GRAMM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question recurs on the motion to insist.

Mr. BYRD. Mr. President, how much time remains on the vote?

The PRESIDING OFFICER. All time has expired on the vote.

The question is on agreeing to the motion.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask that further proceedings under the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. the Senate will be in order.

The question is on agreeing to the motion to insist.

Mr. JOHNSTON. Mr. President, I move to recede from the Senate amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DOLE. Mr. President, I ask that there be a time agreement of 10 minutes, 5 minutes on a side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, what this motion would do would be to have the Senate concur in the action of the House of Representatives, which is to say we would adopt the action the Senate approved here by 79 to 1, with one exception, and that is to excise or take from our bill the so-called Supefund tax, the excise tax that was objectionable in the House of Representatives. That is all this motion would do. If passed, this motion would send to the President a bill directly so that he by his signature could save $79½ billion. Every day delayed is $50 million in the meantime.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, we are going to check to see if the distinguished chairman of the Finance Committee desires some time but let me just say to the Senate, if I understand this correctly, this is just another way of voting on the same issue we disposed of on the motion to table. If the motion of the distinguished Senator from Louisiana prevails, and if the House approves it, this bill goes to the President just as it would have gone to the President had the motion to table prevailed. I think we made the arguments that that would be an act of futility and in the national interest we ought to salvage whatever opportunity we have to get a major reconciliation bill and that it is far better served if we send this bill back to conference.

They will have time in January and February to decide whether we can get a conference report that would salvage substantial portions of the amount of money saved and taxes imposed in this measure.

I reserve the remainder of my time.

Mr. JOHNSTON. Mr. President, I yield 1 minute to the distinguished Senator from Texas.

Mr. BENTSEN. Mr. President, what we are talking about is that if we do not do it this way and we come back and try to change this reconciliation measure in any way, we are told that there is no quorum in the House of Representatives. They are operating under unanimous consent. So what we have done in this situation, I think, is a rather cynical move to get it over there and let it die. When you do that, you give up 74 billion dollars' worth of savings. It is the same vote we had the other day by 78-to-1, and we are sending it there to die, supposedly, to put the responsibility on the House of Representatives.

Frankly, that is what brought about Gramm-Rudman. I saw a lot of people who voted for it and said they were against it but had to vote for it to exercise discipline. This shows that we are not exercising our responsibility in the U.S. Senate, and it brings discredit to this institution.

I can tell you what the press is going to write: "Once again, the Congress of the United States ended up quarreling with itself and would not face up to making the cuts that have to be made in a responsible way to save money for the taxpayers of this country."

Mr. LONG. Mr. President, will the Senator yield?

Mr. BENTSEN. I yield.

Mr. LONG. If this motion carries, we will be receding on the amendment of the Senate. That is the Superfund tax.

Mr. BENTSEN. That is right. I say to my friend that I do not think anyone worked harder than I did on the Superfund. I feel very strongly about it. But I feel that we will fight that one another day. I think that with all the work we have done in the subcommittees, and arriving finally at a compromise and an agreement, we should carry it out.

Mr. LONG. I supported the Senator in that matter every step of the way, as did most of us on this side of the aisle, but it is obvious to me that we cannot preavail on that. There is no way on Earth we can prevail on that matter. The House voted on it twice and defeated it by a larger vote the second time. Apparently, the House is not going to have a quorum, anyway. That means it is the end of it.

Mr. BENTSEN. We should understand that, as we cast this vote, we are sending it over there to die, because they do not have a quorum.

Mr. EXON. Mr. President, the inconsistency of the Senate Republican leadership on this issue is amazing.

Last night, the Republican leadership in the House successfully led the effort to knock out the VAT, thus making it possible for the President to consider signing the bill to cut up to $80 billion.

Now, today, the confused Republican Senate leadership lead the Senate fight to scuttle the Republican leadership in the House. These are the same people who claim they want budget reductions and balanced budgets. They invented and gave birth to the Gramm-Rudman fraud.

The Republican Senate leadership, when it came to put their votes where their rhetoric was, ignored these budget cuts and put it all off again.

Budget reduction leadership is not talk and posturing. It can only be accomplished by the courage to do and not delay.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. I yield to the Senator from Oregon.

Mr. PACKWOOD. Mr. President, let us not be mistaken about this being sent to die. It is being sent to conference, and there are four or five issues. This is not something that is going to take weeks and weeks, and it is not going to take the legion-sized number of conferees we had to do it. Will the House recede on AFDC, quality control? Will they recede on unemployed parents? Will they recede on some of the new spending programs that were added? I do not know. But this is not being sent back to die, so far as this conferee is concerned. I hope it is going back to strike an honest bargain.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. I yield the remainder of our time to the majority leader.

Mr. DOLE. Mr. President, I want to indicate that I hope we will all vote "no" on this and see what we can salvage in another conference.

I think the President made it rather clear that he would like to accommodate us if we would knock out some of these spending programs.

I think that those talking about Gramm-Rudman should be looking at spending programs, the additional money for black lung. It was a House provision. A lot of new programs were added on the House side in reconciliation.

So I hope the motion will not prevail.

I want to determine whether or not we can assume that this will be the last rollcall vote. Members on both sides have been asking me, and I do not know. We are prepared to suggest that we can do all the rest by voice vote. I am not certain.

Mr. JOHNSTON. Mr. President, we are prepared to state that on this side.

Mr. DOLE. If we prevail on this vote, I will request a conference and the appointment of conferees, and I do not think we need rollcall votes on that. I do not want anybody to leave and wonder why they were not properly advised.

Mr. FORD. Does this mean we will voice vote the black lung provision that you want to take out of the House bill?

Mr. DOLE. No, we are going to conference.

Mr. FORD. We are going to conference on that. We do not vote on black lung.

Mr. DOLE. We are not going to vote on the cigarette tax extension, either.

Mr. FORD. I understand that, but it comes next, I hope.

Mr. DOLE. Maybe.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. One minute.

Mr. JOHNSTON. Mr. President, I yield to the distinguished minority leader.

Mr. BYRD. Mr. President, let there be no doubt about it: If this loses, we will go to the motion to insist, and that will send the reconciliation package back over there, and that will be the cemetery. That is where reconciliation will die.

The distinguished majority leader said it is "not our problem" as to whether the House has a quorum. It is a problem for those of us who want to see budget deficit reduction now.

Some Senators say the President will veto this bill if it goes to him. We can say that is "not our problem"; let the President make the decision. Is that what we are trying to avoid?

If we want budget reduction now, this is the easiest and quickest way of getting it. If we vote it down, remember, Gramm-Rudman will be here, and it will be all the tougher because we did not take the right action to send this bill immediately to the President of the United States.

I will not press for rollcall vote, but I will have the record show that I voted against the motion to insist.

Mr. DOLE. That would be true on the request for a conference and the appointment of conferees.

Mr. BYRD. On the motion to insist. I will vote "no" on the motion to insist.

Mr. DOLE. I assure my colleagues that following that, I will request a conference.

Mr. BYRD. I will support the motion to name conferees. The die will have been cast. The Senate will have to reappoint them.

Mr. DOLE. After this vote, there will be a voice vote on a motion to insist, and a voice on requesting a conference, and a voice vote on appointing conferees.

Mr. BUMPERS. Mr. President, I do not presume to take over the job of the majority leader, but would he entertain the suggestion to have unanimous consent, so that some of us can leave, so that we will know that this is the last rollcall vote?

Mr. DOLE. Yes. I make that unanimous consent request, that following the disposition of—well, I do not know whether we can do that. I do not know who is going to prevail.

Mr. BYRD. That is a constitutional matter. I do not think we can enter into any consent agreement that the vote must be by voice. I will not insist on rollcall votes. I want the record to show that I will vote against the motion to insist on the Senate amendment and go back to conference.

Mr. DOLE. Let us all keep our hands down, and nobody will get the yeas and nays.

Mr. LONG. Mr. President, will the Senator yield?

Mr. DOLE. I yield.

Mr. LONG. I will support the idea of a voice vote, but can we have it understood that we will simply have the same conferees we had before? That way, there will be no need for a vote.

Mr. DOLE. There is a slight difference, because I think Senator CHILES, at the request of that side, has been substituted. He will be here in January. That is the only change.

Mr. LONG. That is fine.

The PRESIDING OFFICER. All time having expired, the question is on agreeing to the motion of the Senator from Louisiana.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Maine [Mr. Cohen], the Senator from Alabama [Mr. Denton], the Senator from Minnesota [Mr. Durenberger], the Senator from North Carolina [Mr. East], the Senator from Washington [Mr. Evans], the Senator from Utah [Mr. Garn], the Senator from Iowa [Mr. Grassley], the Senator from Oregon [Mr. Hatfield], the Senator from Florida [Mrs. Hawkins], the Senator from New Hampshire [Mr. Humphrey], the Senator from Idaho [Mr. McClure], the Senator from Alaska [Mr. Murkowski], the Senator from Virginia [Mr. Trible], and the Senator from Connecticut [Mr. Weicker] are necessarily absent.

I also announce that the Senator from Maryland [Mr. Mathias] is absent on official business.

Mr. BYRD. I announce that the Senator from Delaware [Mr. Biden], the Senator from Oklahoma [Mr. Boren], the Senator from North Dakota [Mr. Burdick], the Senator from California [Mr. Cranston], the Senator from Illinois [Mr. Dixon], the Senator from Connecticut [Mr. Dodd], the Senator from Missouri [Mr. Eagleton], the Senator from Colorado [Mr. Hart], the Senator from Massachusetts [Mr. Kennedy], the Senator from New Jersey [Mr. Lautenberg], the Senator from Montana [Mr. Melcher], the Senator from Ohio [Mr. Metzenbaum], the Senator from New York [Mr. Moynihan], the Senator from Georgia [Mr. Nunn], the Senator from Rhode Island [Mr. Pell], the Senator from Arkansas [Mr. Pryor], the Senator from Michigan [Mr. Riegle], the Senator from Illinois [Mr. Simon], and the Senator from Nebraska [Mr. Zorinsky] are necessarily absent.

I also announce that the Senator from Florida [Mr. Chiles] is absent because of illness.

I further announce that, if present and voting, the Senator from North Dakota [Mr. Burdick] and the Senator from Rhode Island [Mr. Pell] would each vote "yea."

The PRESIDING OFFICER (Mr. Wallop). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 30, nays 35, as follows:

[Rollcall Vote No. 381 Leg.]

YEAS—30

Armstrong
Baucus
Bentsen
Bingaman
Bradley
Bumpers
Byrd
DeConcini
Exon
Ford
Glenn
Gore
Harkin
Heflin
Hollings
Inouye
Johnston
Kerry
Leahy
Levin
Long
Matsunaga
McConnell
Mitchell
Nickles
Proxmire
Rockefeller
Sarbanes
[redacted]
Stennis

NAYS—35

Abdnor
Andrews
Boschwitz
Chafee
Cochran
D'Amato
Danforth
Dole
Domenici
Goldwater
Gorton
Gramm
Hatch
Hecht
Heinz
Helms
Kassebaum
[redacted]
Laxalt
Lugar
Mattingly
[redacted]
Pressler
Quayle
Roth
Rudman
Simpson
Specter
Stafford
Stevens
Symms
Thurmond
Wallop
Warner
Wilson

NOT VOTING—35

Biden
[redacted]
Burdick
Chiles
Cohen
Cranston
Denton
Dixon
[redacted]
Durenberger
Eagleton
[redacted]
[redacted]
Garn
Grassley
Hart
Hatfield
Hawkins
Humphrey
Kennedy
Lautenberg
Mathias
McClure
Melcher
Metzenbaum
Moynihan
Murkowski
Nunn
[redacted]
Pryor
Riegle
Simon
Trible
Weicker
Zorinsky

So the motion was rejected.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. BOSCHWITZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The quesion now is on the motion to insist.

Mr. BYRD. Mr. President, we have a general understanding that no one who was present at the time will make a request for the yeas and nays.

I ask that the Record show that I will vote no on the motion to insist and there are other Senators who want that same privilege. I ask unanimous consent that they may show that in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

The following Senators asked that they be recorded as voting "No" on the motion to insist: Senators Rockefeller, Exon, Johnston, and DeConcini.

The PRESIDING OFFICER. The question is on agreeing to the motion to insist.

The motion was agreed to.

Mr. DOLE. Mr. President, I request a conference with the House and that the Chair be instructed to appoint conferees.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Clerk will state the names of the conferees.

Mr. DOLE. Mr. President, are the conferees the same as has previously been appointed, with one exception?

The PRESIDING OFFICER. With one exception, they are——

Mr. DOLE. I ask that they be approved without further reading.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER (Mr. Wallop) appointed:

From the Committee on the Budget—General conferees: Messrs. Domenici, Armstrong, Mrs. Kassebaum, Messrs. Boschwitz, Symms, Chiles, Hollings, Johnston, and Sasser.

From the Committee on Agriculture, Nutrition and Forestry: Messrs. Helms, Dole, Lugar, Cochran, Zorinsky, Leahy, and Melcher.

From the Committee on Armed Services: Messrs. Goldwater and Nunn.

From the Committee on Banking, Housing and Urban Affairs: Messrs. Garn, Heinz, Proxmire, and Riegle.

From the Committee on Commerce, Science and Transportation: Messrs. Danforth, Packwood, Goldwater, Pressler, Gorton, Stevens, Hollings, Long, Inouye, Ford, and Riegle.

From the Committee on Commerce, Science, and Transportation for the consideration of sec. 6701 of title VI only: Messrs. Danforth, Packwood, Goldwater, Hollings, and Long.

From the Committee on Energy and Natural Resources: Messrs. McClure, Domenici, Wallop, Johnston, and Ford.

From the Committee on Energy and Natural Resources for the consideration of sec. 6701 of title VI only: Messrs. McClure, Hatfield, Domenici, Johnston, and Ford.

From the Committee on Environment and Public Works: Messrs. Stafford, Chafee, Simpson, Symms, Bentsen, Burdick, and Lautenberg.

From the Committee on Finance—General Conferees: Messrs. Packwood, Roth, Danforth, Chafee, Long, Bentsen, and Matsunaga.

From the Committee on Finance—For PBGC and ERISA Subconference only: Messrs. Packwood, Chafee, Heinz, Mitchell, and Moynihan.

From the Committee on Finance—For CHAMPU's Medical Subconference only: Messrs. Durenberger and Baucus.

From the Committee on Finance—For private health insurance coverage subconference only: Messrs. Heinz, Wallop, Durenberger, Baucus, and Pryor.

From the Committee on Governmental Affairs: Messrs. Roth, Stevens, Mathias, Cohen, Eagleton, Levin, and Gore.

From the Committee on Labor and Human Resources—General conferees: Messrs. Hatch, Stafford, Quayle, Kennedy, and Pell.

From the Committee on Labor and Human Resources—For PBGC and ERISA subconference only: Messrs. Hatch, Nickles, Thurmond, Kennedy, and Metzenbaum.

From the Committee on Small Business: Messrs. Weicker, Gorton, and Bumpers.

From the Committee on Veterans' Affairs: Messrs. Murkowski, Simpson, and Cranston.

Conferees on the Part of the Senate.

Mr. DOLE. Mr. President, I want to thank again my colleagues for their patience and understanding. I really believe that we have reached the right result. I know it is difficult for those who have been conferees to look forward to going back to conference. But I am advised by the distinguished chairman of the Finance Committee, and the chairman of the Budget Committee that they believe there may be some opportunity to still achieve some savings.

The President is on record now of indicating that he will sign the measure if we take care of these six programs, with one caveat. There may be some more entitlement programs which are added that have not yet been discovered by the President's advisers.

So it seems to me that we have an opportunity, and I hope we can reach a quick agreement when we come back. Or, if the House is prepared to go to conference now, I assume we can round up a few people that might even do that. But that would be highly unlikely.

In praise of Senators ROCKEFELLER and BYRD for their efforts to achieve compromise on financing of Black Lung Trust Fund.

Mr. MATSUNAGA. Mr. President, as a member of the Senate Finance Committee, I have worked long and hard with my colleagues on the reconciliation legislation that we are attempting to pass in final form today. One issue that has been especially difficult is the large deficit of the Black Lung Disability Trust Fund. For many months, Senate and House members have disagreed over what approach should be taken to solve this problem.

My distinguished colleague, the junior Senator from West Virginia, Mr. ROCKEFELLER, entered into the deliberations as soon as the problem was identified. For many months, he has played a pivotal role in bringing concerned Members of Congress, coal industry officials, and the United Mine Workers of America together to form a consensus on an equitable and responsible solution to the Black Lung Trust Fund deficit.

As a conferee on reconciliation legislation, I was constantly briefed by Senator ROCKEFELLER in the recent months on this important matter. Although the coal industry and coal miners are not part of my fine State of Hawaii, I have sympathized with my colleagues who represent States whose economies are directly linked to the coal industry. In particular, I felt that our Nation should not retreat from its obligation to provide relief to the victims of the crippling disease of black lung.

With Senator ROCKEFELLER's advice and assistance, I decided to back a compromise that is now in the final reconciliation bill. It was nuclear whether the Senate and House leadership would agree to the compromise until the final hours of our deliberations. But fortunately, the arguments on behalf of the compromise plan convinced the conferees to adopt it.

I supported this compromise because I was convinced it will restore the solvency of the Black Lung Trust Fund. Thanks to the leadership of concerned Senators including Senator ROCKEFELLER, we have taken responsible action in time to avoid significant harm to the Black Lung Program.

There are others to congratulate for the efforts that were made on behalf of this provision of the reconciliation legislation. In particular, our distinguished minority leader, the senior Senator from West Virginia, Mr. BYRD, who helped a great deal to reach this positive outcome.

The people of West Virginia are indeed well represented in the U.S. Senate.

Mr. SASSER. Mr. President, as we now await final resolution of the conference report on the budget reconciliation bill, I would like to take just a few minutes to talk about one provision in the bill that I feel is both a major disappointment and ill-advised; namely, the banking provisions dealing with the Urban Development Action Grant Program.

I support the reconciliation bill. Overall, it represents much needed deficit reduction to the tune of some $83 billion over the next 3 years; $20 billion this year alone.

Differences between the House and Senate banking conferees regarding major housing authorization provisions has led to a situation where UDAG formula changes, which have tediously been negotiated over an extended period of time, are basically being held hostage. This is most unfortunate to the many communities around this Nation which have been bypassed over the past several years by a formula which unduly works to the advantage of cities in certain regions of the country to the detriment of other regions such as cities in the sunbelt, including my State of Tennessee.

A tremendous amount of time and effort has gone into assuring formula changes which will guarantee both the continuation and effectiveness of this important public/private partnership initiative. Those of us who wanted to restore UDAG's original mission, to restore its definition as a truly action-oriented program, undertook these negotiations some 2 years ago. We have finally produced a compromise which is a compromise in the truest sense of the word, it is bipartisan, spans all regions of the country, and crosses philosophical and ideological lines.

UDAG's original mission has not changed. It is to provide a chance for distressed ubran communities to stem the tide of decay, and to do it with a unique public-private partnership approach. It is "to assist cities and counties which are experiencing severe economic distress to help stimulate economic development activity needed to aid in economic recovery." This commitment would come from a community's own citizens, its own businesses, its own State and local governments.

In times of fiscal and budgetary austerity, this is exactly the kind of initiative that we should be striving for. I regret that the changes that I and others including Senators RIEGLE, HEINZ, GRASSLEY, and D'AMATO have worked so hard to achieve are not included in this bill.

I do not know whether this reconciliation bill will be passed before we adjourn sine die today. But I would just like to state for the record that whatever happens here today, I will be back on this floor at the earliest possible time next year pressing for changes which will preserve the essential mission of the UDAG Program while at the same time trying to make changes in the distribution formula which are fairer and more equitable.

Mr. GORTON. Mr. President, one of the provisions of the reconciliation bill is intended to control Federal motor vehicle costs, so as to produce budget savings. I am concerned about the impact of this proposal on the Bonneville Power Administration (BPA). The BPA is principally financed by electric rate charges, and so reductions in its costs would be passed on through lower rates, rather than showing up as Federal budget savings. Given the exemption of the Tennessee Valley Authority and the Postal Service from this provision, as well as report language indicating that the purpose of the provision is to produce budget savings, I would anticipate that the Administrator of General Services would apply the act's requirements to vehicles the elimination of which would produce budget savings.

In addition, many of the vehicles of the BPA are special purpose vehicles used for electric system operation and maintenance, and are not supplied by GSA nor readily available for lease in the private sector. Such vehicles are clearly intended to be exempt from the act.

I ask unanimous consent that a letter from myself to Senator ROTH, the chairman of the Government Affairs Committee, and his reply to me, agreeing with this point, appear at this point in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, December 6, 1985.

Hon. WILLIAM V. ROTH, Jr.,
U.S. Senator, Washington, DC.

DEAR BILL: I'm writing to let you know my concern that Amendment 857 to the Senate budget reconciliation bill—dealing with federal motor vehicle expenditure control—would have a substantial adverse effect on the Bonneville Power Administration [BPA], an effect that I don't believe the sponsor of the amendment intended. For these reasons I'm asking your support for a clarification of the definition of "motor vehicles" contained in the amendment.

As you know, the BPA is one of six federal power marketing agencies. It constructs, operates and maintains the electrical transmission system in the Pacific Northwest. Approximately 90% of its fleet is off-road and special purpose vehicles, used in the field.

These vehicles are required by the BPA in order to provide a reliable regional transmission network.

It is BPA policy to turn first to the General Services Administration [GSA] for their vehicle needs, and to purchase only those vehicles which GSA does not have available. There is no private sector alternative source for such specialized equipment. In addition, BPA is already in the process of conducting an A-76 study of its motor vehicle maintenance activities, to analyze whether these could be contracted to the private sector.

Given the unique characteristics of the BPA fleet, applying the requirements of Amendment 857 would result in a substantial paperwork burden to the agency with no real benefits through lower vehicle costs. I therefore ask your help in modifying the language to exclude such specialized field vehicles required by the six federal power marketing agencies from this amendment.

Attached is proposed bill and report which would seem to solve the problem.

Thank you for your attention.

Sincerely,

SLADE GORTON.

U.S. SENATE,
Washington, DC, December 17, 1985.

Hon. SLADE GORTON,
U.S. Senate, Washington, DC.

DEAR SLADE: I am responding to your December 6, 1985 letter regarding the Federal motor vehicle expenditure control provision included in the Senate budget reconciliation bill. You said this provision could have a substantial adverse impact on the paperwork burden to the agency with no real benefits through lower vehicle costs. We have reached agreement with the House, and I wanted to let you know the result now because of the uncertainty about when the conference report will be approved by the Congress.

The motor vehicle expenditure control provision in the final bill contains modifications that should allay your concerns. First, we simplified the data collection, study and reporting requirements which should reduce the paperwork burden, not only on BPA but also all Federal agencies subject to the provision. Second, we provided in the definition of "motor vehicle" that the Administrator of General Services could exempt from the provision's requirements "any other special purpose vehicle." This language was included to permit exclusion of field vehicles such as those required by Bonneville Power and the other five power marketing agencies. Therefore, I would expect the Administrator to act favorably on any request from these agencies for an exemption of their special purpose vehicles.

Sincerely,

WILLIAM ROTH, JR.
Chairman.

Mr. BENTSEN. Mr. President, there is no one in this Chamber more disturbed than I am by the failure of the other body to abide by the conference agreement, which was negotiated in good faith over many weeks.

But we must be realistic and deal with the options that confront us, and from what I can see those options are very limited. To be more precise, I believe they have been narrowed down to two.

We can either send a budget reconciliation bill to the White House or not.

Let me tell you what it means if the U.S. Senate fails to send a bill to the White House.

It means that the U.S. Senate will be responsible for adding $52 million to the Federal deficit every day that legislation is not signed into law.

We're talking here, after all, about legislation that will reduce the Federal deficit by more than $18 billion during the current fiscal year and by $74 billion over the next 3 years.

(So far as my own State of Texas is concerned, the budget reconciliation bill also ends a long controversy over revenues from offshore oil and gas. My State's economy is struggling and our State finances are strained. This legislation would provide $456 million to our State treasury immediately—money we need immediately—and a total of $772.4 million over the next 10 years. I fought hard in the Senate to insure Texas a fair share of these funds. We won that debate and we should carry out that decision.

It was only 1 week ago that the Senate approved legislation intended to eliminate the Federal deficit by 1991. Yesterday we voted for this legislation by a vote of 78 to 1. We are today facing our first hard choices on budget reduction since Gramm-Rudman was signed into law and a failure to act now—however persuasive the arguments might seem—would get this effort off on the wrong foot.

Mr. President, in my view we have no choice but to bring about this saving to the taxpayers and approve the budget reconciliation legislation sent to the Senate by the House of Representatives.

Thank you.

ROUTINE MORNING BUSINESS

Mr. DOLE. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business for not to extend beyond the hour of 6:30 p.m. this evening.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONRAIL

Mr. DOLE. Mr. President, when we return in January, unless there is something unforeseen which happens, and I do not anticipate anything, it will be the intention of the majority leader to turn to Conrail as the first order of legislative business.

That is a matter of extreme interest to many of my colleagues, and to the Secretary of Transportation.

I think the distinguished chairman of the Commerce Committee wanted to make some comments.

Mr. DANFORTH. Mr. President, let me express my appreciation to the majority leader for that announcement.

The offer of Norfolk Southern Corp. to buy Conrail expires at the end of the year. I met recently with the CEO of Norfolk Southern, Robert B. Claytor, to discuss the status of the sale of Conrail legislation (S. 638). I told Mr. Claytor that while the Senate will not have time to consider the matter fully this session, it is my intention to bring S. 638 to the floor as the pending business when we reconvene in January. On the basis of this assurance, Mr. Claytor has indicated that he considers this to be substantial progress and has committed that Norfolk Southern is willing to extend its agreement with the Department of Transportation long enough to allow the necessary consideration and a vote on S. 638.

SINE DIE ADJOURNMENT

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate turn to the consideration of House Concurrent Resolution 267, the adjournment resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The bill clerk read as follows:

A concurrent resolution (H. Con. Res. 267), providing for a sine die adjournment of the first session of the 99th Congress.

There being no objection, the Senate proceeded to the immediate consideration of the concurrent resolution.

Mr. BYRD. Mr. President, may I ask the distinguished majority leader a question?

Does this resolution have in it the common provisions that have been put into such adjournment resolutions recently allowing the House and Senate to call themselves back?

Mr. DOLE. It does contain that language.

Mr. BYRD. I thank the distinguished majority leader.

Mr. DOLE. Mr. President, can we have that portion of it read? I think it is important.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

SEC. 2. The Speaker of the House, after consultation with the Minority Leader of the House, and the Majority Leader of the Senate, after consultation with the Minority Leader of the Senate, acting jointly, shall notify the Members of the House and Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 267) was agreed to.

Mr. DOLE. Mr. president, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDERS FOR TUESDAY, JANUARY 21, 1986

Mr. DOLE. Mr. President, I ask unanimous consent that when the Senate convenes the 99th Congress, the 2d session, on Tuesday, January 21, 1986, that the reading of the Journal be dispensed with, that no resolution come over under the rule, and that the call of the calendar be dispensed with.

THE PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF SENATOR PROXMIRE

Mr. DOLE. Mr. President, I ask unanimous consent that after the recognition of the two leaders under the standing order, the Senator from Wisconsin, Mr. PROXMIRE, be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. DOLE. Mr. President, I ask unanimous consent that following the special order, there be a period for the transaction of routine morning business not to extend beyond the hour of 1 p.m., with Senators permitted to speak therein for not more than 5 minutes each, and, provided further, that the morning hour be deemed to have expired.

THE PRESIDING OFFICER. Without objection, it is so ordered.

FILING OF COMMITTEE REPORTS

Mr. DOLE. Mr. President, I ask unanimous consent that during the adjournment of the Senate over until January 21, 1986, that committees be authorized to file reports between the hours of 10 a.m. and 3 p.m. on Wednesday, January 8, 1986.

THE PRESIDING OFFICER. Without objection, it is so ordered.

TEMPORARY EXTENSION OF CERTAIN PROGRAMS RELATING TO HOUSING

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate turn to the consideration of House Joint Resolution 495, relating to housing programs.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 495), to provide for the temporary extension of certain programs relating to housing and community development, and for other purposes.

There being no objection, the Senate proceeded to the immediate consideration of the joint resolution.

The PRESIDING OFFICER. The question is on the joint resolution.

The joint resolution was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the joint resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TEMPORARY EXTENSION OF CERTAIN TAX PROVISION

Mr. DOLE. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 4006.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 4006) entitled "An Act to extend until March 15, 1986, the application of certain tobacco excise taxes, trade adjustment assistance, certain medicare reimbursement provisions, and borrowing authority under the railroad unemployment insurance program, and to amend the Internal Revenue Code of 1954 to extend for a temporary period certain tax provisions of current law which would otherwise expire at the end of 1985", with the following amendments:

In lieu of the matter inserted by the amendment of the Senate to the text of said bill, insert:

SECTION 1. EXTENSION OF INCREASE IN TAX ON CIGARETTES.

Subsection (c) of section 283 of the Tax Equity and Fiscal Responsibility Act of 1982 (relating to increase in tax on cigarettes) is amended by striking out "December 20, 1985" and inserting in lieu thereof "March 15, 1986".

SEC. 2. EXTENSION OF MEDICARE HOSPITAL AND PHYSICIAN PAYMENT PROVISIONS.

Section 5(c) of the Emergency Extension Act of 1985 (Public Law 99-107) is amended by striking out "December 19, 1985" and inserting in lieu thereof "March 14, 1986".

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall take effect on December 19, 1985. As an exercise of authority under the commerce, taxation, and other powers under the Constitution, the amendment made by section 1 shall be treated for purposes of all Federal and State laws as enacted on December 19, 1985.

In lieu of the matter inserted by the amendment of the Senate to the title of the aforesaid bill, insert: "An Act to extend until March 15, 1986, the application of certain tobacco excise taxes and certain medicare reimbursement provisions.".

Mr. DOLE. Mr. President, I move that the Senate concur in the House amendments.

The motion was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MATSUNAGA. Mr. President, will the majority leader yield?

Mr. DOLE. I am happy to yield to the distinguished Senator from Hawaii.

Mr. MATSUNAGA. Mr. President, I had intended to offer to this bill an amendment to extend the tax credits for renewable energy such as solar and geothermal projects. But, after consulting with the chairman of the Finance Committee, with the majority leader, and with the minority leader, I decided against offering the amendment because it would have put the tobacco and Medicare tax extensions in jeopardy. This is true because the House does not have a quorum, and it would have taken just one single voice to defeat the bill.

I was told that we could take up the matter of the renewable energy credits early next year which would be made retroactive to January 1 anyway.

I wish to express my deep appreciation to the chairman.

Mr. PACKWOOD. Mr. President, could I address the point raised by the Senator from Hawaii? As he knows, I have been a long supporter of this program. There are a good many other programs that are expiring. It would be my hope that any of those that are kept would be kept retroactive when they expire at the end of this year.

Mr. MATSUNAGA. I thank the chairman. I yield the floor.

EXECUTIVE CALENDAR

Mr. DOLE. Mr. President, I would like to inquire of the distinguished minority leader if he is in a position to confirm the following military nominations for posthumous promotions reported from the committee today: In the Army, to be captain, Lt. John K. Kosh, Lt. Paul D. Long, Lt. Joey McCarty, and Lt. Barry C. Powell.

To be chief warrant officer 4, CWO-3 Robert A. Bowen.

Mr. BYRD. Mr. President, I believe that these were officers who were on the plane which crashed. Not only do we not have any objection on this side, but we also support the request that the nominations be confirmed for posthumous promotion.

Mr. DOLE. Mr. President, I want to join the distinguished minority leader in urging the confirmation of the promotions.

EXECUTIVE SESSION

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate go into executive session to consider and confirm the nominations just identified.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I ask unanimous consent that the nominations be considered and confirmed en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Without objection the nominations are considered and confirmed en bloc.

The nominations confirmed en bloc are as follows:

The following named officers for posthumous promotion to the grade indicated under the provisions of article II, section 2, clause 2 of the Constitution of the United States of America:

ARMY

To be captain

Lt. John K. Kosh, 202-44-7672
Lt. Paul D. Long, 422-80-7593
Lt. Joey McCarty, 457-96-4868
Lt. Barry C. Powell, 226-08-0757

To be CWO-4, CWO-3 Robert A. Bowen, 231-64-9922.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the nominations were confirmed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I ask unanimous consent that the President be immediately notified that the Senate has given its consent to these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

YEAR-END WRAP-UP

Mr. DOLE. Mr. President, I know that most everyone is tired and anxious to leave. But before we adjourn, I would like to say a word of thanks to some of the many, many people who help lighten my workload, and make being majority leader, if not a cakewalk, a more pleasant experience.

First, ALAN SIMPSON, the assistant majority leader, whose ready sense of humor and canny insights have helped us out of many legislative thickets. And whose willingness to step in for me, when necessary has been of immeasurable help.

All of the Republican leadership, STROM THURMOND, President pro tempore, JOHN CHAFEE, the chairman of the Republican Conference, BILL ARMSTRONG, the chairman of the Republican Policy Committee, and JOHN HEINZ, the chairman of the Senatorial Committee, all have been of enormous assistance through this session.

And while we have had our differences, I want to offer my gratitude to the Democratic leader, the distinguished Senator from West Virginia BOB BYRD. Throughout the session he has been both approachable and forthright. Because of this and his willingnesss to act as a mediator we were able to come to resolution on many difficult issues.

Thanks also to the Secretary of the Senate, Jo-Anne Coe and her staff, including those in the office of the official reporters and those in the Parliamentarian's office who work under the fine direction of Bob Dove; the Sergeant at Arms, Ernest Garcia and everyone in his office; the secretary to the majority, Howard Greene and his staff, John Tuck, Elizabeth Baldwin, and the entire legislative scheduling and Cloakroom staff. And or course, the pages.

Rev. Richard Halverson, the Senate Chaplain, provides solace and inspiration to us day after day, and for this I offer my appreciation.

Finally, a special word of thanks to my staff, both those in my personal office and the majority leader's staff. Without their efforts, many of the achievements the Senate can point to would not have come about, or fallen short.

ACCOMPLISHMENT OF 1985

Mr. President, I think the Senate, and Congress for the matter, has many reasons to leave Washington feeling proud. This was a year when Congress took the initiative, set the agenda, and grappled with difficult, controversial, but imperative issues.

When we convened last January each of us had our personal legislative agendas. But, I believe all of us shared one overriding goal—a goal imposed upon us, I might add, by the American public. That was to finally come to terms with the perilous Federal deficit.

For some months, it may have looked like the Senate was on the road to nowhere. But, after many twists and turns, we finally adopted a budget resolution calling for historic deficit reductions. And in response to continued frustration over the deficit, passed the Gramm-Rudman-Hollings balanced budget plan. The capstone to the year's deficit-cutting efforts came just today, when we agreed to the budget reconciliation package—putting into effect as much as $83 billion in deficit reductions—approximately $69 billion in outlays over 3 years, and $14 billion in additional revenues. I am very disappointed that we were unable to reach final agreement with the House because of the debate on the financing of Superfund.

The whole tone and tenor of this session was set by the deficit. Almost every action we took, whether it was authorizing defense programs, or providing credit for American farmers, was touched by the deficit.

Gone are the days when Congress had the luxury of creating new Federal programs. Today we must live with the realities of retrenchment. We, like it or not, are charged with deciding what the Federal Government's role really is. Those decisions are not easy ones. And we have only just begun to confront them.

Next year's challenges will be monumental. But we should not give short shrift to what Congress, through its determination, achieved this year. No longer can the American people doubt that we are serious about putting our fiscal house in order; 1981 marked a turning point in our Nation's economic history. Congress did not change course in 1985, but it shifted into high gear. And we will stay in high gear until we have guaranteed, through responsible fiscal policies, that economic growth and prosperity are here to stay.

While economic concerns were the focus of this session, questions of national and world-wide security were also central. And I believe our record, on the defense budget, aid to the Nicaraguan Contras, South Africa, the Jordan arms sale, the compact of free associations, and many others, is one that sustains our country's commitment to perserving world peace.

Congress also passed historic reforms in agriculture policy. The farm bill, which we cleared yesterday, sets a new direction by reducing support for basic commodities, increasing funds for export promotion and farm credit programs, and extends the Food Stamp Program. And the farm credit bill, should provide farmers with the credit aid they need by shoring "P," the multibillion dollar Farm Credit System.

The Senate also dealt with issues long overdue for action—the foreign aid authorization bill, gun control, nominations to the Legal Services Corporation. And while Congress did not complete work on several major issues, the Senate-passed Superfund, immigration, and clean water legislation.

Mr. President, the list of measures and issues, considered or adopted by the Senate is long and impressive. And rather than go on, at this point I would ask unanimous consent to insert in the RECORD a summary, prepared by each of the committees, of this session's accomplishments.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF ACTIVITIES OF THE COMMITTEE ON AGRICULTURE, NUTRITION AND FORESTRY DURING THE 1st Session of the 99th CONGRESS

The Committee on Agriculture, Nutrition, and Forestry guided by its distinguished chairman, Senator JESSE HELMS, has developed in the first session of the 99th Congress agricultural programs that will signficantly affect the Nation and the world. Congress has an important role to play as partner with the farm community in strengthening the farm economy and in assuring farmers and ranchers the greatest possible opportunities for operating profitable farm and ranching businesses.

During the first session of the 99th Congress, the committee conducted nine confirmation hearings on Presidential appointments, and reported favorably on every nomination.

The committee received and reviewed 25 reports on various Department of Agriculture functions: 99 bills, resolutions, and amendments were referred to the committee and its six subcommittees; and six reports on legislation were filed. The committee conducted 27 hearings, six field hearings, and four subcommittee hearings relating to farm legislation and executive branch appointments. The committee conducted 49 legislative drafting sessions over 38 different days, and 12 sessions in conference over 8 days.

The committee's work during the first session of the 99th Congress was centered around the Food Security Act of 1985, otherwise known as the farm bill. Other legislation included a bill to defer the wheat referendum, and the reporting of several measures which were subsequently incorporated into the farm bill.

The farm bill reauthorized price and income support and production control programs for the 1986-90 crops of wheat, feed grains, unplant cotton, rice, soybeans, sugar and peanuts, as well as for production of dairy products, honey and wool and mohair. It also included major legislation and reauthorization for:

Public Law 480, the Food for Peace Program;

Other key farm export programs, including authorization of an intermediate farm credit program;

Authorization of a 40-million acre conservation reserve to retire highly erodible acres from producing a compromise on the status of clear title regarding mortgaged commodities;

The Food Stamp and Nutrition Programs;

Major modifications in annual welfare legislation; and

The first restructuring in legislation governing application of the cargo preference laws to agricultural exports.

In addition, the committee reported legislation fulfilling its obligations under the reconciliation procedures of the Budget Act, reducing spending in agricultural functions by $7.9 billion over 3 years. This legislation included modifications in export programs, agricultural credit programs, and the Food Stamp Program. These provisions were subsequently included in the farm bill.

Also, legislation reforming the Farm Credit System was passed by the Senate under committee direction. This legislation provided for the restructuring of the Farm Credit System revamped and increased the regulatory authority of the Farm Credit Administration and authorized Federal assistance to the system should that prove necessary.

Further, under the committee direction the Senate-passed legislation to extend certain expiring child nutrition programs, with a conference on similar legislation passed by the House of Representatives to be held early in the second session of the 99th Congress.

SUMMARY OF ACTIVITIES OF THE COMMITTEE ON APPROPRIATIONS DURING THE 1ST SESSION OF THE 99TH CONGRESS

The 1st session of the 99th Congress has been an extremely busy one for the Committee on Appropriations. During the year, 18 separate appropriations measures were considered and passed by the Senate.

Although none of the 13 regular appropriations bills were enacted prior to the start of the fiscal year, 6 of these measures have subsequently become law. These included: the energy and water development; Commerce, Justice, State, judiciary; legislative, Housing and Urban Development; Transportation; Labor, Health and Human Services; and finally, the military construction appropriations bills. Extreme budgetary constraints confronting the Congress, and the attendant difficult choices and priorities, have resulted in prolonged delays in the consideration of budget and appropriation legislation.

It was not until September that the guidance on overall budgetary allocations was provided to the committee. This allocation represented an unprecedented degree of expenditure stringency. The committee met this challenge and has succeeded in reporting to the Senate all 13 regular appropriations bills, and 10 of these bills were subsequently passed by the Senate. In addition to the six appropriations bills noted above, the Senate also passed the following appropriations bills: Agriculture, rural development, and related agencies; Housing and Urban Development; Treasury; Postal Services; and finally the District of Columbia appropriations bill.

Unfortunately, the very heavy Senate schedule this fall precluded final action on all these separate measures. During debate on the final continuing resolution, however, the Senate was able to express its will on the remaining appropriations legislation and again the actions recommended by the committee have yielded appropriations for fiscal year 1986 within the total budget allocation for budget authority within its jurisdiction.

SUMMARY OF ACTIVITIES—1985 OF THE SENATE COMMITTEE ON ARMED SERVICES DURING THE 1st Session of the 99TH CONGRESS

The Senate Committee on Armed Services consists of 19 members: Senator Barry Goldwater (R-AZ), Strom Thurmond (R-SC), John W. Warner (R-VA), Gordon J. Humphrey (R-NH), William S. Cohen (R-ME), Dan Quayle, (R-IN), John P. East (R-NC), Pete Wilson (R-CA), Jeremiah Denton (R-AL), Phil Gramm (R-TX), Sam Nunn (D-GA), John C. Stennis (D-MS), Gary Hart (D-CO), J. James Exon (D-NE), Carl Levin (D-MI), Edward M. Kennedy (D-MA), Jeff Bingaman (D-NM), Alan J. Dixon (D-IL), and John Glenn (D-OH). There are currently six subcommittees: Military Construction, Strategic and Theater Nuclear Forces, Preparedness, Sea Power and Force Projection, Manpower and Personnel, and Defense Acquisition Policy.

There were 66 Senate bills, resolutions and joint resolutions and 6 House bills referred to the Committee in 1985. Five of these bills were enacted into public law.

The Committee devoted a great deal of time to an analysis of the FY 1986 Department of Defense Authorization Bill. A total of 59 hearings and 14 markups were held by the Committee and its subcommittees on this bill. Conference was completed on July 26, 1985, after two weeks of intense deliberation. The bill was signed into law by the President on November 8, 1985. The bill includes authorizations for procurement, research and development, operation and maintenance, stock funds, special foreign currency programs, and various other legislative provisions for the Department of Defense. When combined with the effects of other defense funding legislation, the conference bill authorized appropriations of approximately $302.5 billion in budget authority for the FY 1986 National Defense function, a reduction of $19.7 billion from the President's request. This amount is consistent with the funding level approved by the Congress in the First Concurrent Budget Resolution, and represents inflation-only growth over final funding approved for FY 1985.

During the meetings of the Committee to discuss tactical warfare issues the focus was to continue the essential modernization of our conventional forces and to strive to achieve the most efficient and economic production rates of tactical systems.

The Subcommittee on Strategic and Theater Nuclear Forces conducted 12 hearings during February and March in connection with the FY 1986 Defense Authorization bill. These hearings focused on U.S. strategic offensive force programs; the Strategic Defense Initiative; strategic command, control and communications; theater nuclear forces; and the binary chemical modernization program. The members received several classified briefings on Soviet capabilities.

This Subcommittee also conducted two hearings on the serious issue of Soviet treaty violations. These hearings addressed the actual violations and their implications for U.S. national security. The Subcommittee began to focus on the issue of how the U.S. should respond to Soviet treaty violations, and will continue to study this issue next year.

The meetings of the Subcommittee on Preparedness concentrated on the readiness of the United States military capability. The readiness review was conducted in conjunction with the oversight of the operation and maintenance and ammunition portions of the DOD budget request. In making recommendations on the level of DOD authorizations for these two areas of the budget, military capability was also examined. Specific areas of the concern upon which this subcommittee focused during 1985 were: the increasing overhead costs involved in supporting the expanded defense buildup; the shortfalls in ammunition stockpiles and production base; procedures for estimating current and future O&M funding requirements, trends in military capability; force readiness and force sustainability; and review of potential cases of waste and abuse in the accounts under the responsibility of the Preparedness Subcommittee.

There were 8 hearings of the Subcommittee on Sea Power and Force Projection in 1985. The full Committee was also briefed in January on the Navy's "Forward Maritime Strategy." During February and March, the Sea Power and Force Projection Subcommittee held additional hearings beginning with a classified assessment of the current global maritime threat to U.S. interests. Subsequent hearings addressed such issues as the Navy's global commitments, the U.S. fleets' readiness and sustainability, and the Air Force airlift program. The subcommittee also held a hearing in October to consider Senate Bill S. 535, the "National Shipbuilding Industrial Base Act of 1985."

In the 15 meetings of the Subcommittee on Manpower and Personnel, the Committee embarked upon a course to make more efficient use of compensation funds. The committee recommended that military retirement be restructured so that more compensation would be available for use during active duty careers. Specific legislation to effectuate these changes will be considered by the Committee early in 1986. At the same time, the Committee took action to improve a number of special and incentive pays and to improve the quality of life for military personnel. The Committee also conducted a number of hearings on the military health care system, and continues to work with the Department of Defense in the formulation of programs which will improve that system's ability to provide top quality health care to military personnel and their families.

The Defense Acquisition Policy Subcommittee held ten hearings in 1985 on defense acquisition issues. The first two hearings, on January 30 and February 20, were devoted to receiving testimony on the strengths and weaknesses of the defense acquisition system from defense industry executives and procurement experts. Four additional hearings in March addressed the issues of increasing the professionalism of the acquisition workforce, the audit practices of the Department of Defense, the employment of former DOD acquisition personnel and the cost estimating procedures used by the Department of Defense. Finally, the Subcommittee held four oversight hearings during October and November on the implementation of the 1984 defense acquisition legislation.

The Subcommittee on Military Construction analyzed the Fiscal Year 1986 Military Construction Authorization Bill, which, as enacted, authorized $9.2 billion to replace outmoded and dilapidated operations, maintenance and training facilities as well as much needed family housing. Construction in support of new weapons as well as new missions accounted for $3.5 billion of the total. This year the Congress also passed legislation making it easier to close down unneeded and inefficient military bases and legislation promoting innovative alternative financing methods.

In May 1985, Senator Goldwater and Senator Nunn formed a Task Force on Defense Organization to focus the work of the Armed Services Committee on the organization and decision-making procedures of the Department of Defense and the Congress. The Task Force is co-chaired by Senator Goldwater and Senator Nunn and consists of Senators Cohen, Quayle, Wilson, Gramm, Bingaman, Levin and Kennedy. Almost two years earlier, Senator John Tower and the late Senator Scoop Jackson, directed the Committee staff to prepare a comprehensive study of this complex issue. Under the guidance of the Task Force, the staff completed and released its study, entitled Defense Organization; The Need for Change, on October 16, 1985.

In November, the Armed Services Committee initiated a lengthy series of hearings on the organization of the Defense Department and the Congress. The Committee held a total of 10 hearings in which it took testimony from 27 witnesses, and expects to consider legislation on this issue early in the second session of the 99th Congress.

Over the course of the past year the Committee reviewed the qualifications of and made recommendations to the Senate on thirteen Presidential nominees. Among these nominees were Admiral William J. Crowe, Jr. to be Chairman of the Joint Chiefs of Staff and John E. Krings to be the Director of Operational Test and Evaluation, a new position created by Public Law 98-94. The Committee also acted on 52,310 military nominations in the Army, Navy, Marine Corps and Air Force. All of these nominations were confirmed by the Senate.

Summary of Activities of the Committee on Banking, Housing, and Urban Affairs

During the first session of the 99th Congress the Senate Committee on Banking, Housing, and Urban Affairs, under the Chairmanship of Senator Jake Garn (R-Utah) continued its efforts to address significant issues raised in the rapidly changing financial services marketplace.

At the end of the 98th Congress the Senate Banking Committee brought together S. 2851, The Financial Services Competitive Equity Act, which passed the Senate 89 to 5, and sent the passed version on to the House but ended with the adjournment of the 98th Congress.

The size of the passing margin reflects the pressing need for legislation to continue addressing the competitive issues, consumer protection, and the regulatory issues raised by the constant changes in our financial services industry.

Chairman Garn says the Senate Banking Committee does not have to start all over again. Most of the issues defined in S. 2851 have not changed since the 89 to 5 vote last September. Modifications, if any, will be considered.

Members of both Houses consider the deposit insurance reform issue as the priority in the 2nd session and will command detailed attention at the full Committee level.

During the 1st session of the 99th Congress the full Committee and its Subcommittee held a total of 52 days of oversight and legislative hearings, having 289 witnesses testifying and contributing ideas to proposed legislation.

The Senate Banking Committee continued its oversight hearings on monetary policy for the first session of the 99th Congress in the calendar year of 1985. Two hearings were held, the first on February 20, 1985 and the second on July 16, 1985. Discussions were centered on Domestic and International economic developments, monetary aggregates, interest rates and velocity. The Committee continued its practice of inviting officials from the regulatory agencies and private economists to assist the members in their deliberations. Reports of the two hearings conducted by the Committee are:

Senate Report 99-22, April 2, 1985.
Senate Report 99-149, October 4, 1985.

The 52 days of hearings not only included the deposit insurance reform issue but also 9 days of oversight hearings on the Comprehensive Reform in the Financial Services Industry, etc.

In view of the fact that no banking legislation passed into law during the 1st session of the 99th Congress, the Senate and House Banking Committees emphasize that the legislative pace during the 2nd session will pick up around April 1987, with a bill hopefully being signed into law by the President in July 1986.

Activities of the Subcommittee on Housing and Urban Affairs

During the first half of the 99th Congress the Subcommittee focused its attention on all areas of housing and urban affairs. Every aspect of the issues charged to the Housing Subcommittee was examined in light of the President's budget proposal and the crippling deficits currently facing the United States.

The full Committee held three hearings: March 22, March 25 and April 15, on housing and urban affairs. Numerous representatives of transportation, community development, rural housing, as well as the Secretary of HUD and the head of the Office of Management and Budget testified before the Committee.

Under the Budget Reconciliation Act (S. 1730), four issues within the Subcommittee's area of responsibility were addressed:

(1) Section 108 Community Development Loan Guarantee Program: This saves the Federal Government $250 million annually, the same result as eradicating the program (the Administration's original proposal). It prohibits the Federal Financing Bank from purchasing notes or other obligations guaranteed under Section 108 of the Community Development Block Grant Program after June 30, 1986, and requires the Secretary of HUD by July 1, 1986, to take the actions necessary to provide for the financing by the private sector of loans guaranteed under Section 108. It also authorizes $1.279 billion in fiscal year 1986 for public housing operating subsidies.

(2) Rural Housing Authorization: This section provides that the aggregate principal amount of loans that may be guaranteed or insured in fiscal year 1986 may not exceed $2,146,600,000 to be allocated as follows: Sec. 502 homeownership loans $1,209.6 million; Sec. 515 rental loans $900 million; Sec. 514 farmworker housing loans $19 million; Sec. 524 site loans $1 million; and, Sec. 504 repair loans $17 million.

Management of Insured and Guaranteed Loans: (a) Prohibits rural housing loans made directly by private lenders and insured by the Farmers Home Administration from being sold to the Federal Financing Bank; (b) Provides that each insured or guaranteed loan contain an agreement by FmHA to pay the difference between the interest rate paid by the borrower and the full private market rate of interests. (c) Provides for protection of the borrowers' rights by requiring that the loan be assigned to the Secretary in the event of a substantial default but before foreclosure. Congress intends that the FmHA follow the practices of private mortgage bankers and lenders with regard to defining substantial defaults and that the full forebearance provisions under existing law be extended to the borrower; (d) Provdes that the rights available to the borrower prior to the enactment of this provision will continue; (e) further provides for a loss reserve account of not less than 5 percent of the loans sold to the public and makes other conforming changes in existing law.

(3) Operating Subsidies: The level of funding for public housing operating subsidies for fiscal year 1986 was set at $1.279 billion (the same amount as provided in the HUD Appropriations Act 99-160).

(4) Public and Indian Housing Loan Debt Forgiveness: Provides that loans made for public and Indian housing, as well as modernization assistance, will be forgiven at the end of each fiscal year. It also gives direction for the use of the budget authority in the HUD Independent Appropriations Act of 1986, P.L. 99-160, which provides funds for new public housing development and modernization on the basis of long-term financing through sales of tax-exempt securities issued by public housing authorities. The conferees action in meeting the reconciliation directive concerning public housing debt forgiveness leaves open the possibility that if tax-exempt financing is not possible in the future the financing mechanism provided for in this section will be used. if this approach is used the conferees intend that any budget authority not needed to fund the 7,000 additional public and Indian hous-

ing units or provide the level of modernization activity assumed by the Appropriations Committee will be rescinded.

These matters were settled when the Budget Reconciliation Act was voted on and passed, December 19, 1985.

Many of the Federal Housing Act mortgage programs, Home Mortgage Disclosure Act, crime and flood insurance programs, and entitlement communities were scheduled to, and did expire on September 30, 1985. The Senate voted on a temporary extension of these programs on October 20 to extend through November throught November 14 and 15. When that extension ran out, the Senate once again extended the same programs through December 15 and 16.

A third proposal to extend these programs through March 17, 1986 was voted and passed on December 19, along with the other requirements under the Budget Reconciliation.

The Subcommittee did not consider any Presidential nominations. Any nominations considered were taken up by the full Committee on Banking, Housing and Urban Affairs.

Subcommittee on International Finance and Monetary Policy

REAUTHORIZATION AND AMENDMENT OF THE EXPORT ADMINISTRATION ACT OF 1979

Authorities under the Export Administration Act of 1979 expired on March 30, 1984. The Committee gave priority to enactment of reauthorization legislation early in this session. On July 12, 1985, the President signed Public Law 99-64, renewing authorities under the EAA through September 30, 1989 and making numerous amendments to the Act. These amendments would significantly tighten up the enforcement of national security export controls, improve the organization among Government agencies for administering and enforcing export controls, remove outdated controls, streamline the processing of export license applications, and provide greater predictability to export administration, thereby promoting the reliability of U.S. exporters.

The legislation adopted reflected work begun in the 98th Congress but which was still in conference at the time of sine die adjournment in 1984. These amendments represent the most extensive revision of our export control laws since the adoption of the Export Control Act of 1948.

ANTI-APARTHEID ACT OF 1985

One of the first items of business before the subcommittee was consideration of legislative options to address the growing problem of apartheid in South Africa. One hearing was held in the full committee, on April 16, and two hearings were held in the Subcommittee on International Finance and Monetary Policy, on May 24 and June 13. Legislation reported by the Committee on Foreign Relations and adopted by the Senate, and the imposition of sanctions against the Government of South Africa by President Reagan, made further action by the Committee during the Session unnecessary.

LENDING TO SOVIET BLOC COUNTRIES

The dramatic resumption of private bank lending to the Soviet Union and its allies—totaling approximately $1.7 billion loaned or syndicated by U.S. banks in 1985—and the lack of non-emergency authority for the President to regulate such lending prompted Senators Garn, Proxmire, D'Amato, Mattingly, and Hecht to sponsor S. 812, the Financial Export Control Act. This bill, introduced on March 28, would amend the Export Administration Act of 1979 to give the President discretionary authority to control the making of loans and other transfers of capital to the countries to which exports are prohibited for national security purposes under the Act.

Two hearings were held on the legislation in the Full Committee, on September 26 and December 4, with further action to be taken in the Second Session.

MIXED CREDIT WARCHEST

Significant progress has been achieved in recent years to limit official export credits as elements in international export competition. One area where progress has not been seen is in efforts to eliminate the practice of promoting export sales by offering credits with very concessional terms, made possible by mixing foreign aid grant money with the official export credit. As competition has been regulated in other areas of official export credits recourse to mixed credits has increased. The United States, which traditionally has offered very few mixed credits, has failed to obtain progress in negotiations on mixed credits within the Organization for Economic Cooperation and Development (OECD). France, Italy, and Belgium in particular have opposed efforts to raise the minimum allowable grant element in mixed credits, which would make them truly foreign aid and too expensive to be used as a tool for commercial purposes.

In September President Reagan adopted an approach to this problem that had been proposed in legislation by Members of the Committee as early as the 97th Congress. The President submitted legislation to the Congress that would authorize the creation of a $300 million warchest to allow the United States to combat mixed credit offers by initiating a temporary mixed credit program of our own.

The legislation was introduced on October 10 by Committee Members Heinz, Garn, and Dixon, as well as by Senators Danforth and Chafee. A hearing was held on October 30, in the Subcommittee on International Finance and Monetary Policy. Further action is expected early in the Second Session.

EXPORT-IMPORT BANK PROGRAMS

On February 5, the Subcommittee on International Finance and Monetary Policy held an oversight hearing on the programs of the Export-Import Bank. The President's FY 1986 budget submission had called for the elimination of the Bank's direct loan programs, replacing them with an interest subsidy program. Witnesses in the hearing focused on this proposal in particular. No action was taken on the proposal during the Session, the Congress choosing instead to continue with the Bank's direct loan program, thought at a level less than one-third of the authorization for fiscal year 1985.

EXCHANGE RATE MISALIGNMENT

The Subcommittee on International Finance and Monetary Policy conducted a hearing on October 23 on the exchange value of the dollar, the causes of its high value, the consequences for U.S. trade, and proposals for addressing the identified problems. The United States is experiencing record trade deficits, caused in large part by a high value of the dollar that acts as a tax on U.S. exports and as a subsidy for imports. This erosion in our international competitive position jeopardizes the industries with a major dependency on export sales, among which are industries important to our national security and defense production.

Legislation was introduced (S. 1860, and S. 1866) on November 20, which would support the steps undertaken by the Administration to enhance coordination of macroeconomic policies by the major industrial countries and also encourage coordinated intervention by these countries in the foreign exchange markets. That legislation will be taken up in the Second Session.

JAPANESE TARGETING OF U.S. SEMICONDUCTOR INDUSTRY

The United States semiconductor manufacturing industry is in the midst of a major recession. The Subcommittee on International Finance and Monetary Policy held a hearing to review allegations that this business decline was due in large part to unfair Japanese trade practices, both in terms of closed access to the Japanese domestic market for U.S. producers and in terms of unfair marketing practices by Japanese companies in the U.S. market. Substantial evidence was presented to substantiate these claims, and a strong record was established.

In a related step, the Commerce Department announced on December 6 that it was self-initiating an anti-dumping investigation on 256K Dynamic Random Access Memory Components (DRAMs) from Japan, which situation had been discussed in detail in the Subcommittee hearing.

Subcommittee on Securities

IMPACT OF CORPORATE TAKEOVERS

One of the first items of business before the subcommittee was consideration of legislation to halt corporate raiders resort to coercive and unfair tactics in takeover attempts.

The subcommittee held 4 days of oversight hearings with Chairman D'Amato presiding and with a distinguished group of witnesses that appeared for these hearings, helped to indicate the magnitude of these problems and suggested ways that can better protect hostile takeovers.

REGULATION OF GOVERNMENT SECURITIES

On May 9, 1985 Senator D'Amato called to order a hearing to consider legislation on the recent problems associated with auditing practices and accounting standards of the Government securities market. The current problems include customer education, possible changes in accounting practices, as well as a regulatory scheme to require registration and changes in standards for capital adequacy in dealer practices.

REAUTHORIZATIONS FOR THE SECURITIES AND EXCHANGE COMMISSION, 1986-88

On April 17, 1985, Senator D'Amato chaired a hearing to consider the SEC request for reauthorization for fiscal years 1986-88.

The second purpose of the hearing was to use it as a forum to explore some of the recent problems associated with the Government securities market such as the series of failures in the unregulated Government securities market.

S. 919 was introduced by Senator D'Amato to help prevent bankruptcies and save the depositors' confidence in the securities market. Legislation is still pending.

THE SHAREHOLDER COMMUNICATION ACT OF 1985—S. 918

S. 918 passed the Senate on December 18, 1985, this legislation that invests the Securities and Exchange Commission with the authority to promulgate rules regarding the dissemination of proxy materials to shareholders whose shares are held in certain trust accounts by bonus and other financial institutions. Prior to the enactment of this legislation, the SEC did not have the authority to promulgate regulations in this area that applied to banks. The House passed identical legislation (H.R. 1603) this

AMENDMENT TO THE PUBLIC UTILITY HOLDING COMPANY ACT—S. 727

S. 727 exempts three natural gas companies from the provisions of PUHCA by allowing them to engage in cogeneration activities. This legislation was needed to realize the legislative intent of the Public Utilities Regulatory Policy Act. The Senate passed S. 727 in November and identical legislation was passed by the House in December.

Bills introduced and referred to the Committee totaled 235 with 12 being reported out of the committee and 7 becoming public law as of December 19, 1985.

PUBLIC LAWS ENACTED IN THE FIRST SESSION OF THE 99TH CONGRESS

Public Law 99-4: H.R. 1251.—Mass Transportation projects for fiscal years 1984 and 1985 enacted March 13, 1985.

Public Law 99-61: H.R. 47.—Coin commemoration of the centennial of the Statue of Liberty enacted July 9, 1985.

Public Law 99-64: S. 883.—To extend the Export Administration Act of 1979 enacted July 12, 1985.

Public Law 99-86: H.J. Res. 251.—Enacted August 9, 1985. Gold medal honoring George Gershwin.

Public Law 99-120: H.J. Res. 393.—Enacted October 8, 1985. To provide for temporary extension of certain programs relating to housing and community development.

Public Law 99-156: H.J. Res. 449.—Enacted November 15, 1985. To provide for the temporary extension of certain programs relating to housing community development.

Public Law 99-185: S. 1639.—To provide for the minting of four gold bullion coins enacted December 17, 1985.

SUMMARY OF THE ACTIVITIES OF THE COMMITTEE ON THE BUDGET

The Budget Committee faced perhaps the most difficult challenges of any committee in the Senate. If we have the will to follow through on our 1985 achievements, 1985 may prove to the year that launched the final assault on our number one domestic problem: the Federal budget deficit.

As early as January, Senator Domenici began working with the leadership in establishing the budget deficit as the top priority for the 99th Congress. We introduced S. 1, which set firm deficit goals for the Congress, getting the budget deficit down to 2% of GNP by 1988. That legislative proposal laid the groundwork for the extended negotiations over the 1986 budget—including the submission of the President's budget, the development of a Senate budget, and very detailed discussions with our committee chairman about how we could achieve our budget targets.

In May of this year, by a one-vote margin the Senate agreed to a very tough—but realistic—budget that would have met our deficit goals with real spending cuts. That budget would have terminated many programs and put real restraint on entitlements, as well as restraining defense and other discretionary spending.

There is no point at this late date in lamenting the Senate budget of last spring. Many members remain disappointed that we could not reach agreement with the House and the White House on the kind of deficit-reduction plan we needed. But the Senate showed courage and determination in tackling the budget issue.

The disappointment of our first try at the budget was not the last word for 1985. In consultation with the leadership, the Senate conferees on the budget decided to go for whatever savings we could get out of the budget process. In so doing, the Senate produced the largest reconciliation bill in history. The savings in that bill were reduced by the conference agreement we passed today, but that does not diminish the magnitude of the Senate's achievement.

FOLLOWING THROUGH

We also followed through on the budget—at times with considerable difficulty, because the role of the Budget Committee necessarily generates friction with other Members—by working to ensure that the appropriations bill came in line with the budget targets we set for ourselves. The large majority of the appropriations measures we have passed have been kept within the budget targets because of the work of the Budget Committee and with the cooperation of our colleagues.

Finally, the Budget Committee played an important role in setting the stage for a major deficit reduction effort over the next 5 years. The Budget Committee gave critical advice and counsel in developing and refining the Gramm-Rudman-Hollings deficit control measure, and in working with the Finance Committee to secure agreement with our House colleagues on this important reform of the way we do our budget business.

Whatever happens from this point, it is gratifying to note that, despite the ups and downs we have seen on the budget this year, we have ended up very close to our original budget goals. The mandatory deficit targets of Gramm-Rudman-Hollings will bring us essentially to the deficit targets we set at the beginning of the year. Following through to meet those targets is the challenge of 1986.

SUMMARY OF THE ACTIVITY OF THE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION FOR THE 1ST SESSION OF THE 99TH CONGRESS

During the 1st Session of the 99th Congress a total of 139 Senate Bills and Resolutions, 4 amendments and 14 House passed measures were referred to the Committee on Commerce for consideration.

The Committee has reported 34 different measures. Ten have become public law. One bill is in conference. Ten measures have passed the Senate and await House action. Twelve bills reported out of Committee remain on the Senate Calendar awaiting Senate Consideration. Several bills reported or passed will be part of the report on Budget Reconciliation.

The Committee held 26 days of hearings on legislation referred to the Committee and 70 days of hearings were in connection with the Committee's oversight responsibilities and on Presidential nominations before the Committee.

A total of 30 nominations, excluding routine National Oceanic and Atmospheric Administration and Coast Guard nominations, were referred to the Committee in the 1st Session of the 99th Congress. Twenty-seven of these nominations were reported out of the Committee and twenty-six were confirmed by the Senate; one nomination remains pending on the Senate Calendar.

The Committee held 13 days of markup sessions to consider and report out matters within its jurisdiction.

A complete listing of the Commerce Committee's activities follows:

PUBLIC LAWS ENACTED DURING THE 1ST SESSION OF THE 99TH CONGRESS

Public law, bill, date, and title.

99-5, H.R. 1093, March 15, 1985, Pacific Salmon Treaty Act of 1985.

99-36, S. 597, May 15, 1985, Technical and Conforming Changes in the Shipping Laws.

99-45, S. 661, March 24, 1985, George Milligan Control Tower.

99-59, S. 413, July 3, 1985, War Risk Insurance Act.

99-62, H.R. 2800, July 11, 1985, Land Remote-Sensing Commercialization Act Reauthorization.

99-73, H.R. 1617, July 29, 1985, National Bureau of Standards Authorization Act for Fiscal Year 1986.

99-97, S. 818, September 26, 1985, Federal Fire Prevention and Control Act Authorization.

99-105, S. 817, September 30, 1985, National Earthquake Hazards Reduction Act Authorization.

99-159, H.R. 1210, November 22, 1985, National Science Foundation Authorization Act for Fiscal Years 1986 and 1987.

99-170, H.R. 1714, December 10, 1985, National Aeronautics and Space Administration Authorization Act, 1986.

99-171, H.R. 3235, December 10, 1985, Mississippi Technology Transfer Center Act.

BILLS IN CONFERENCE

S. 1078 (Federal Trade Commission Act Amendments of 1985)—A bill to amend the Federal Trade Commission Act to provide authorization of appropriations, and for other purposes.

PASSED SENATE AND AWAITING HOUSE ACTION

The following Commerce Committee bills have passed the Senate and are pending in the House of Representatives:

S. 63 (In-Flight Medical Emergencies Act)—A bill to encourage the rendering of in-flight emergency care aboard aircraft by requiring the placement of emergency first aid medical supplies and equipment aboard aircraft and by relieving appropriate persons of liability for the provision and use of such equipment and supplies.

S. 475 (Motor Vehicle Information and Cost Savings Act Amendments)—A bill to amend the Motor Vehicle Information and Cost Savings Act to require certain information to be filed in registering the title of motor vehicles, and for other purposes.

S. 679 (Maritime Appropriation Authorization Act for FY 1986)—A bill to authorize the appropriation of funds for certain maritime programs for fiscal year 1986.

S. 813 (Pipeline Safety Programs Authorization)—A bill to amend the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979 to authorize appropriations for fiscal years 1986 and 1987, and for other purposes.

S. 990 (National Oceanic and Atmospheric Administration Program Support Authorization Act)—A bill to consolidate and authorize program support and certain ocean and coastal programs and functions of the National Oceanic and Atmospheric Administration under the Department of Commerce.

S. 1073 (Japanese Technical Literature Act of 1985)—A bill to amend the Stevenson-Wydler Technology Innovation Act of 1980 for the purpose of improving the availability of Japanese science and engineering literature in the United States, and for other purposes.

S. 1077 (Consumer product Safety Commission Authorization Act of 1985)—A bill to amend the Consumer Product Safety Act to provide authorization of appropriations for 1985.

S. 1103 (National Oceanic and Atmospheric Administration Atmospheric and Satellite Program Authorization of 1985)—A bill to authorize certain atmospheric and satellite programs and functions of the National Oceanic and Atmospheric Administration, and for other purposes.

S. 1574 (Comprehensive Smokeless Tobacco and Health Education Act of 1985)—A bill to provide for public education concerning the health consequences of using smokeless tobacco products.

H.R. 2796 (Foreign Air Travel Security Act of 1985)—A bill to improve security standards for international air transportation.

PENDING ON SENATE CALENDAR

The following Commerce Committee measures were reported out of Committee and are pending on the Senate Calendar at the end of the 1st Session of the 99th Congress:

S. 259 (Professional Sports Community Protection Act of 1985)—A bill to protect the public interest in stable relationships among communities, professional sports teams and leagues and in the successful operation of such terms in communities throughout the Nation, and for other purposes.

S. 374 (U.S. Travel and Tourism Administration Authorization)—A bill to provide authorization of appropriations for the U.S. Travel and Tourism Administration.

S. 638 (Conrail Sale Amendments Act of 1985)—A bill to amend the Regional Rail Reorganization Act of 1973 to provide for the transfer of ownership of the Consolidated Rail Corporation to the private sector, and other purposes.

S. 863 (National Highway Traffic Safety Administration Authorization Act of 1985)—A bill to amend the National Traffic and Motor Vehicle Safety Act of 1966 and the Motor Vehicle Information and Cost Savings Act to authorize appropriations for fiscal years 1986 and 1987, and for other purposes.

S. 958 (Magnuson Fishery Conservation and Management Act Reauthorization)—A bill to provide authorization of appropriations for activities under the Magnuson Fishery Conservation and Management Act.

S. 959 (Coastal Zone Management Act Reauthorization)—A bill to amend the Coastal Zone Management Act of 1972 to provide authorization of appropriations, and for other purposes.

S. 999 (Federal Communications Commission Authorization Act of 1985)—A bill to amend the Communications Act of 1934 to provide authorization of appropriations for the Federal Communications Commission, and for other purposes.

S. 1017 (Metropolitan Washington Airports Transfer Act of 1985)—A bill to provide for the transfer of the Metropolitan Washington Airports to an independent airport authority.

S. 1079 (National Telecommunications and Information Administration Authorization)—A bill to provide authorization of appropriations for activities of the National Telecommunications and Information Administration.

S. 1084 (Corporation for Public Broadcasting Authorization Act of 1985)—A bill to authorize appropriations of funds for activities of the Corporation for Public Broadcasting, and for other purposes.

S. 1097 (Methanol and Ethanol Vehicle Incentives Act of 1985)—A bill to amend the Motor Vehicle Information and Cost Savings Act to provide for the appropriate treatment of methanol.

S. 1218 (International Air Transportation Protection Act of 1985)—A bill to amend the Federal Aviation Act of 1958 to provide for the revocation of certain certificates for air transportation, and for other purposes.

COMMITTEE HEARINGS

Full committee (also includes National Ocean Policy Study [NOPS])

S. 259, S. 287—Professional Sports Community Protection Act of 1985 (S. Hrg. 99-36).

S. 516—Pacific Salmon Treaty Act of 1985 (S. Hrg. 99-25).

S. 959—Coastal Zone Management Act Reauthorization and S. 990—National Oceanic and Atmospheric Administration Program Support Authorization Act (S. Hrg. 99-173).

S. Res. 178, S. 1097—Auto Fuel Economy and Methanol Fueled Vehicles.

S. 1097, S. Res. 178—Methanol Fueled Vehicles and Automobile Fuel Economy Standards.

S. 1312—Federal Communications Commission Network Acquisition Approval Act of 1985 (S. Hrg. 99-292).

S. 747, S. 1245, Amendment No. 529 to S. 1245, S. 1386—Magnuson Fisheries Conservation and Management Act.

S. 1310—Clean Campaign Act of 1985.

Oversight hearing on the use of pelagic driftnets by Japanese, Korean and Taiwanese fisherman in the North Pacific Ocean and their adverse impacts on fish, seabirds and marine mammals.

Oversight hearings on the problem of escalating costs for insurance for commercial fishing vessels.

Aviation

S. 586—International Air Route Certificates (S. Hrg. 99-200).

S. 1218—International Air Transportation Protection Act of 1985 (S. Hrg. 99-192).

S. 1321, S. 1326, S. 1343, H.R. 2796—Anti-Hijacking and Airport Security.

S. 1017, S. 1110—Transfer of National and Dulles Airports.

Oversight hearing on airline computer reservation systems (CRS).

Oversight hearing on international airport security and terrorism.

Oversight hearing on aviation safety, and the Federal Aviation Administration's (FAA) efforts to improve it.

Oversight hearing on safety issues in the regional airline industry.

Oversight hearing on aviation labor issues.

Business, Trade, and Tourism

S. 193, S. 374—U.S. Travel and Tourism Administration Authorization (S. Hrg. 99-95).

Oversight hearing on the promotion of domestic tourism.

Oversight hearing to examine the availability and affordability of insurance in various property and casualty lines.

Communications

Oversight hearing on the issue of explicit rock music and proposals that sound recordings be rated or labeled to inform consumers of potentially objectionable content.

The Communications and Science Subcommittees held a joint oversight hearing on the results of the first of two World Administrative Radio Conferences on use of the geostationary satellite orbit for radio communications.

Consumer

On March 21, 1985, the Subcommittee on Consumer held a hearing on S. 100, the Product Liability Act. A motion to report this measure was defeated at a Commerce Committee executive session on May 16, 1985, by a vote of 8-8. On June 18 and June 25, 1985, the Subcommittee on Consumer held hearings on amendments to S. 100 that had been introduced by Senator Dodd and Senator Gorton. Subsequently, at the direction of the Chairman of the Commerce Committee, Senator Danforth, the Subcommittee staff prepared a working draft of product liability reform legislation. This staff draft was released for public comment on July 15, 1985. After review of the comments received from the public, a second staff working draft was released for comment on November 27, 1985.

Merchant Marine

S. 679—Maritime Administration Authorization and FMC Authorization and S. 102—Construction of Differential Subsidy Authorization. (S. Hrg. 99-80).

S. 664—Competitiveness of U.S. Agricultural Exports (S. Hrg. 99-269).

S. 1461—Documentation of Certain U.S.-flag Vessels Act.

S. 1832. S. 1833—Establishment of Merchant Ship Revolving Fund Act.

Science, Technology and Space

S. 240. S. 1433. H.R. 2095—Extension of Daylight Saving Time.

The oversight hearings on the effect of new technologies on economic competitiveness.

Oversight hearing on the earthquake in Mexico and its implications for our domestic Earthquake Hazards Reduction Program.

Oversight hearing on the state of the satellite insurance industry.

Oversight hearing on the commercialization of the Landsat earth remote sensing system.

Surface Transportation

Three oversight hearings on trucking deregulation.

Oversight hearing on Motor Carrier Safety Act of 1984.

Two oversight hearings on the Staggers Rail Act.

SUMMARY OF THE ACTIVITIES OF THE COMMITTEE ON ENERGY AND NATURAL RESOURCES DURING THE FIRST SESSION OF THE 99TH CONGRESS

(James A. McClure, Chairman)

During the 1st Session of the 99th Congress a total of 177 bills and resolutions were referred for consideration to the Senate Committee on Energy and Natural Resources (129 Senate bills, 3 Senate Resolutions, 19 Senate Joint Resolutions, 29 House bills, and 6 House Joint Resolutions). Three over bills and resolutions under the Committee's jurisdiction were considered and passed by the Senate without Committee referral. The Committee reported a total of 21 measures to the Senate. An additional measure has been ordered reported by Committee, but no written report has been filed to date.

The Committee held 64 days of public hearings (including 9 field hearings) during the 1st Session of the 99th Congress. These hearings encompassed 33 days of oversight hearings, 19 days of legislative hearings, and 12 days of hearings on nominations. The Committee also held 24 business meetings and one conference.

Twenty-two measures within the Committee's jurisdiction passed the Senate, and of these, the Congress enacted five public laws. In addition, there are six measures awaiting the President's signature. Some five other measures reported by the Committee were pending on the Senate Calendar.

Measures enacted into law

Public Law 99-24 (S. 781) Amends the Biomass Energy and Alcohol Fuels Act of 1980 to extend through September 30, 1985, all conditional commitments for loan guarantees which were in existence on September 30, 1984

Public law 99-58 (H.R. 1699) Energy Policy and Conservation Amendments Act of 1985

Public Law 99-68 (H.R. 1373) Designates the Wilderness in the Point Reyes National Seashore in California as the Phillip Burton Wilderness

Public Law 99-96 (S. 444) Alaska Native Claims Settlement Act Amendment

Public Law 99-110 (H.J. Res. 299) Recognizing the accomplishments over the past 50 years resulting from the passage of the Historic Sites Act of 1935

Nominations

During the 1st Session of the 99th Congress, 26 nominations were submitted by President Reagan and referred to the Committee. Of these, 21 were reported favorably by the full Committee, and 22 were confirmed by the Senate.

Presidential messages

Fifteen Presidential messages were transmited to the Committee during the 1st Session of the 99th Congress dealing with a variety of subjects within the Committee's jurisdiction.

Executive communications

The Committee received a total of 195 Executive communications transmitting legislative recommendations and relating to the Committee's oversight responsibilities.

Reports and publications

During the 1st Session of the 99th Congress the full Committee filed 21 Senate Reports on measures reported by the Committee.

The Committee also published 23 hearing records. Five of these dealt with Presidential appointees, and the remaining 18 publications provided background material pertinent to the Committee's legislative activities and oversight responsibilities.

In addition, the Committee published one committee print dealing with the Committee's rules, membership and jurisdiction.

OVERSIGHT ACTIVITIES

During the 1st Session of the 99th Congress, the Committee on Energy and Natural Resources conducted 33 days of oversight hearings on a variety of issues pertinent to the jurisdiction of the Committee.

Budget oversight

The full Committee conducted three days of hearings on the President's proposed budgets for the Departments of the Interior and Energy, the Synthetic Fuels Corporation, the U.S. Forest Service, and the Federal Energy Regulatory Commission for fiscal year 1986. In addition, the Subcommittee on Energy Research and Development conducted five days of hearings on the Department of Energy Research and Development Programs. Following this review of the proposed budgets, the Committee filed its report to the Senate Budget Committee. The report set forth the anticipated legislative program of the Committee for the First Session of the 99th Congress and reflected the Committee's concern regarding the Budget Committee's assignment of committee jurisdiction, specifically over activities, including construction, on the national forest system lands created from the public domain.

On September 26, 1985, the Committee, in accordance with S. Con Res. 32, the First Budget Resolution for Fiscal Year 1986, reported the legislative recommendations necessary to comply with its reconciliation instructions. The savings exceeded the Committee's targets in its reconciliation instruction for fiscal year 1986 by $575 million in budget authority and $516 million in outlays. In addition, the savings exceeded the targets for the aggregate 3-year period of fiscal years 1986 to 1989 by $550 million in budget authority and $476 million in outlays.

The recommendations of the Committee were consistent with the assumptions in the Budget Resolution in two areas. First, the Committee suggested achieved savings in DOE's Strategic Petroleum Reserve program by reducing the minimum average annual fill-rate from 159,000 to 35,000 barrels per day. Second, the recommendations of the Committee included legislation to settle the legal dispute between the Federal Government and several States regarding the disposition of escrowed revenues from the 8(g) zone of the Outer Continental Shelf. In the midst of considering this legislative proposal, the Committee scheduled a hearing to receive testimony regarding this 8(g) issue. Secretary of the Interior Donald P. Hodel and Governor Mark White of Texas appeared. As assumed in its reconciliation instruction, the recommendation of the Committee distributed 27 percent of such bonuses and rents to the affected States as well as interest accrued thereon. The Committee recommendation also included the disposition of other OCS revenues in dispute, specifically, royalties, both retrospectively and prospectively.

In addition, the recommendations of the Committee achieved savings in budget authority and outlays in two areas not assumed in its reconciliation instruction. First, the Committee suggested an authorization for the Department of Energy's uranium enrichment program, requiring the program to operate at no addition cost to the Treasury. Second, the Committee achieved savings in the DOE energy conservation programs by authorizing Federal agencies to enter into certain contracts for energy efficiency improvements in Federal buildings. Under such contracts the contractors will be paid from money saved as a result of the energy efficiency improvements installed in Federal buildings. The Committee recommendations also imposed a limitation on certain Energy Regulatory Commission rulemaking; however, the provision was removed by amendment on the Senate floor. A provision tending the loan guarantee authority for Biomass Energy projects set forth in section 221 of the Biomass Energy and Alcohol Fuels Act of 1980 was added as an amendment on the Senate floor.

The Committee did not report a legislative proposal regarding FERC fees and annual charges as assumed in its reconciliation instruction. We were able to achieve the instructed savings without need for such legislation.

In conference on the reconciliation measure, the Senate receded to a House provision terminating the United States Synthetic Fuels Corporation. The conference agreement provides for (1) termination of the authority of the SFC to award financial assistance as of the date of enactment; (2) termination of the Board of Directors of the SFC within 60 days after enactment of this Act; and (3) transfer within 120 days of enactment of this Act, the duties and responsibilities of the SFC to the Secretary of the Treasury in accordance with subtitle J of title I of the Energy Security Act.

Archeological and paleontological sites

The Subcommittee on Public Lands, Reserved Water and Resource Conservation held a field hearing (1 day) in Albuquerque, New Mexico on the Preservation of Archeological and Paleontological Sites and Objects.

Coal imports

The Committee held a hearing on the impact of coal imports on the domestic coal industry. The hearing was precipitated by the signing of contracts with Columbia for 500,000 tons of coal per year for power generation. The threat was perceived to be twofold—displacement of domestic coal production by imports, and the direct loss of employment attributable to imports. The Committee examined the public policy implications of additional coal imports, including trade policy, energy policy, employment policy and transportation policy.

DOE's Nuclear Mission Plan

The Subcommittee on Energy Research and Development held a hearing (1 day) on DOE's Mission Plan for the Civilian Radioactive Waste Management Program. The "Mission Plan" is a comprehensive report which shall provide sufficient information to permit decisions to be made in carrying out the repository program for acceptance of nuclear waste by January 1998. As a result of this hearing, a number of questions garnered from the testimony have been submitted to the DOE. It is expected that the answers will provide the department and Congress with the necessary information to insure that the plan addresses all the concerns of those parties most affected. The GAO has also been requested to identify early on weaknesses in the program and to address communications between the states and the federal government.

IMPACT OF IMPORTED PETROLEUM PRODUCTS ON THE DOMESTIC PETROLEUM INDUSTRY

The Subcommittee addressed concerns by major oil companies and independents alike that imports of petroleum products—gasoline in particular—are adversely affecting the domestic refining industry and U.S. energy security. These concerns are based on the fact that more than 100 U.S. refineries with a capacity of 2.5 million barrels per day have shut down since 1981, and many others are now idle or running at partial capacity.

The hearing addressed (a) trends in U.S. refining capacity; (b) what types of refineries are closing—old and inefficient, or new, efficient refineries; (c) do these closings provide us with any indication as to what we may expect in the future; (d) at what point will a decline of U.S. refinery capacity have material impact on our energy security; (e) trends in foreign refining capacity, and how much of this is for exports; (f) impact of foreign experts capacity on U.S. refiners; (g) are foreign countries subsidizing petroleum product exports; and (h) what, if anything, should be done to assure the United States an adequate amount of refining capacity, and what would be the costs and benefits of such action.

NATIONAL PARK SERVICE

The Subcommittee on Public Lands, Reserved Water and Resource Conservation held a hearing (1 day) which focused on issues affecting the National Park Service.

First, the Conservation Foundation, a nonprofit environmental research organization, issued a major report on National Parks. Second, a new Director of the National Park Service was appointed in June of 1985 and upon his taking office issued a "12-point plan" for the future of the system. Third, after a legislative impasse with the House over "Park Protection" legislation, the Department of the Interior made a series of recommendations on June 21, 1985, to address the issue of managing lands adjacent to limits of the National Park Service. And fourth, the President's Commission on Outdoor America was expected to be appointed. This commission has the opportunity to use the proceedings of the Subcommittee hearings as a tool in compiling their report where it applies to the National Park Service.

OCS leasing and revenue sharing

The Committee conducted two days of oversight hearings related to Outer Continental Shelf oil and gas leasing. One day was dedicated to leasing moratoria and one to the division of revenues from the Section 8(g) the zone. On leasing, for the past four years, the Department of the Interior has been forbidden from leasing OCS tracts off the California coast by a Congressionally mandated moratoria. The hearing was to discover whether such an agreement was in the national interest. On revenue sharing, under Section 8(g) of the OCSLAA of 1978 states were to receive a "fair and equitable" share of revenues derived from OCS leasing in a zone extending from the boundary of state submerged lands extending three miles into federal submerged lands. The hearing solicited testimony on the Committee-proposed distribution formula.

Office of Surface Mining permit fees

One day of hearings was dedicated to examining the effects of proposed permit fees by the Office of Surface Mining on the domestic coal industry. The Committee reviewed the coal industry's contention that these additional costs would only exacerbate the problems of the already depressed coal market and whether such a charge has public policy implications beyond the collection of fees.

Recreation fees

The Subcommittee on Public Lands, Reserved Water and Resource Conservation held a hearing (1 day) on Recreation fees as authorized in the Land and Water Conservation Fund Act of 1965, as amended. The purpose of the hearing was to provide an opportunity to examine the matter of increasing the money received by the Federal Government and its park, forest, reservoir and public land areas used for recreation purposes. Because budget recommendations submitted to the Congress this year placed heavy reliance upon the increase of existing fees and the imposition of new fees upon recreation users as a means of generating additional income, the hearing would serve to prepare Congress to deal with an Administrative legislative proposal to implement these budget recommendations, should it be forthcoming.

Stockpile "modernization"

The Full Committee held a hearing (1 day) on the President's July 8 National Defense Stockpile "Moderization" Proposal and its Potential Impact on the Domestic Mining Industry. Chairman McClure addressed two concerns regarding the proposal: (1) The stockpile goals in the President's Tier I which purportedly consists of those materials that would be required during a protracted military conflict, and (2) The reationale behind creating a "Supplemental Reserve" on Tier II.

Water supply in mid-Atlantic region

The Committee held three days of hearings on water supply issues in the mid-Atlantic states; one in Washington and two field hearings in New Jersey. The three major foci: were water availability, water quality and institutional and management issues in each of the States. The hearings were precipitated by the serious drought conditions in the Delaware basin and efforts to mitigate its effects.

Summary of the Activities of the Committee on Environment and Public Works During the First Session of the 99th Congress

During the first session of the 99th Congress, the Committee on Environment and Public Works reported a total of twenty-four bills to the Senate, including major legislative initiatives in both the areas of environment and public works. The Committee also reported eleven nominations and conducted 20 days of oversight hearings, including four days of budget hearings on those programs which fall within the jurisdiction of the Committee.

The Committee focused particular attention on several environmental programs. On March 18 the Committee reported the "Superfund Improvement Act of 1985," which was passed by the Senate on October 1. Major legislation amending the Clean Water Act (S. 1128) and the Safe Drinking Water Act (S. 1241) were also reported and were passed by the Senate.

Legislation providing authorizations for programs under the Disaster Relief Act, the John F. Kennedy Center Act, and for the Public Buildings Service of the General Services Administration were reported and were passed by the Senate.

In the area of nuclear regulation, the Committee reported, and the Senate passed, authorizations for the Nuclear Regulatory Commission and Legislation for the disposal of low-level nuclear waste.

The Committee also reported an omnibus water resources development bill (S. 1567) and legislation providing funding for the nation's system of interstate highways.

During the year, the Subcommittee on Regional and Community Development held oversight hearings to review the programs and policies of the Tennessee Valley Authority. The Toxic Substances and Environmental Oversight Subcommittee conducted five days of oversight hearings on ground-water problems in the United States. The Committee also conducted field hearings on acid rain, exposure to radon gas, endangered species, and highways.

At the end of the first session the Senate had passed a total of 14 of the bills reported by the Committee. It is expected that in the second session the Committee will continue to direct its attention toward completion of much of the work commenced in the first session.

Summary of Activities of the Finance Committee During the First Session of the 99th Congress

From January through December, 1985 was, indeed, a year of great activity and landmark legislation for the Senate Committee on Finance.

The Committee on Finance played a major role in House Joint Resolution 372, or the Gramm-Rudman-Hollings amendment, as we have come to describe that truly historic piece of legislation.

Just last year, the Committee was called on four occasions to report out legislation increasing the public debt.

This year, though, when the time came for the lid to be lifted once more, the Committee on Finance found itself squarely in the middle of the Gramm-Rudman-Hollings amendment, or the Balanced Budget and Emergency Deficit Control Act of 1985, as it is more properly called.

And, it ws no small role in the legislative process attendant to that bill that Senator Packwood, the Chairman of the Committee, and Senator Long, the Ranking Minority Member of the Committee, as well as its other Members, played in forging the law of the land signed just last week by the President.

Furthermore, as this final week of the first session of the 99th Congress came and went, it was again the Committee on Finance which was solidly in the midst of the business of this body, laboring long and hard to complete its conference on the Deficit Reduction Amendments of 1985.

In support of efforts to reduce the deficit as required by the reconciliation instructions of the Congressional Budget Resolution, the Committee's contribution included 19 savings and 18 revenue raising provisions. Those actions touched nearly every program under the jurisdiction of the Committee on Finance.

Additionally, the Committee provided for needed program reforms by adopting more than 70 other provisions under the reconciliation act.

Consequently, the Committee was able to meet its deficit reduction target of $37.9 billion over three years, covering Fiscal Years 1986 through 1988.

The Committee's effort provided more than 50 percent of the deficit reductions sought by the reconciliation instructions.

Beyond its work in the deficit reduction and budget areas, the Committee shepherded six significant pieces of legislation through the process into public law.

Those bills included: H.R. 2475, a bill to amend the Internal Revenue Code of 1954 to simplify the imputed interest rules of Section 1274 and 483 of the Internal Revenue Code; Senate Concurrent Resolution 15, relating to United States-Japan trade; Senate Joint Resolution 77, the Compact of Free Association, extending certain benefits to the Marshall Islands and Micronesia; H.R. 1866, a bill to phase out the Federal Supplement Compensation Program; H.R. 1869, a bill to repeal the contemporaneous recordkeeping requirements added by the Tax Reform Act of 1984; and H.R. 2268, the U.S.-Israel Free Trade Area Implementation Act of 1985.

In this legislative 12-months, the Committee continued its work on health care financing issues which directly affect over 30 million of our fellow Americans.

While the majority of the Committee's time was devoted to budget-related concerns, the Committee also exercised its over-

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sight prerogative on programs within its purview.

The Subcommittee on Health conducted eight hearings, addressing a wide range of health policy questions. These included: Medicare payments for Graduate Medical Education, Medicare payments for hospitals serving a disproportionate share of poor and elderly patient, the status of Peer Review Organizations, health promotion and disease prevention, patient abuse and anti-fraud legislation, expansion of Medicare beneficiary appeal rights, capital payment reform, and options for Medicare physician payment reform.

Beyond the activities of the Subcommittee on Health, the full Committee on Finance conducted two hearings to examine health policy concerns. The first of those dealt with third-party liability for Medicaid recipients and the second examined Medicare's skilled nursing facility (SNF) benefit.

One the tax front, the Committee on Finance conducted 33 hearings in preparation for its markup of the long-awaited tax reform bill from the other body. The distinguished Senator from Oregon, Mr. Packwood, personally chaired all of these hearings. Between May 9 and October 10, over 350 witnesses from virtually every state in the Union and every segment of society came to air their views on the proposed changes in our tax code.

In addition to the previously-mentioned tax bills which have become law after clearing the Committee on Finance, the panel also wrote the revenue component of S. 51, a bill to extend the Comprehensive Environmental Response, Compensation and Liability Act of 1980, or Superfund.

While 1985 certainly was not a slow year in the tax area for the Committee on Finance, it is a fair understatement to suggest 1986 will be the year of tax for the 20 Members on that panel.

In the area of income maintenance and Social Security, the Committee on Finance conducted two hearings, one reviewing foster care and adoption assistance, and the other reviewing the disinvestment of securities held by the Social Security Trust Funds.

Confronted with the specter of our runaway trade deficit, the Committee on Finance and its Subcommittee on International Trade conducted several rounds of key hearings and reported out two important trade bills, S. 1404 and S. 942. S. 942 promotes the expansion of international trade in telecommunications equipment and services while S. 1404 requires the President to respond to the unfair trade practices of Japan.

The Committee's trade hearings included those on the report of the President's Commission on Industrial Competitiveness, the role of floating exchange rates in the international trading system and on U.S. trade policy toward fair and unfair trade.

Summary of Activities of the Committee on Foreign Relations During the Session of the 99th Congress

The Committee began its first session of the 99th Congress with a series of hearings devoted to "Outlines of American Foreign Policy" which provided a comprehensive review and analysis of foreign policy goals, limitations and opportunities for the United States.

The Committee reported out a comprehensive International Security and Development Cooperation Act in May 1985; this legislation was enacted on August 8, 1985 and is the first such authorization bill for foreign assistance in four years.

On regional issues, the Committee and sub-committees held extensive hearings on Central America, particularly on a supplemental authorization to combat terrorism within the region. It held numerous hearings and received several briefings by the administration on Middle East arms sales and the role of arms transfers in promoting stability in this volatile region. Several hearings were also held on the Philippines on the difficult political, economic and security problems it faces. Several hearings preceded passage of legislation defining U.S. economic relations with South Africa.

In the arms control area, the Committee conducted hearings on U.S. nuclear strategy, the Geneva Summit and on the nuclear agreement with the People's Republic of China.

The Committee and subcommittee also held hearings on a range of subjects pertaining to U.S. trade, regional turmoil, financing of foreign military sales, international narcotics, embassy security, international terrorism, African famine relief and many other international issues.

The following is a summary of the Committee's workload during the last session:

BILLS AND JOINT RESOLUTIONS: REPORTED

S. 457: Sub-Saharan assistance.

S. 684: International Bank for Reconstruction & Development, International Finance Corporation and African Development Fund.

S. 947: Overseas Private Investment Corporation.

S. 960: Amending Foreign Assistance Act.

S. 998: Sanctions against South Africa.

S. 995: Opposition to apartheid in South Africa.

S. 1003: State Department, USIA, BIB, National Endowment for Democracy authorization.

S. 1132: Supplemental appropriations for FY '85 and authorizing appropriations for '86 & '87 for ACDA.

S. 1166: Claims against Iran.

S. 1308: Economic assistance for Jordan.

S. 1831: Congressional vetoes of arms export proposals.

S. 1915: Counterterrorism assistance.

S.J. Res. 98: Condemning U.N. Resolution 3379.

S.J. Res. 161: Release of Soviet Jewery.

S.J. Res. 177: International Space Year in 1992.

S.J. Res. 277: Commending Switzerland.

S.J. Res. 238: Nuclear Cooperation Agreement with China.

S.J. Res. 240: Soviet invasion and occupation of Afghanistan.

CONCURRENT RESOLUTIONS AND SIMPLE RESOLUTIONS: REPORTED

S. Con. Res. 46: Americans missing in Southeast Asia.

S. Con. Res. 76: Rights of Polish People.

S. Con. Res. 82: Support for Chile's National Accord.

S. Con. Res. 87: Restoration of democracy in Philippines.

S. Con. Res. 93: Commending Ireland & U.K. regarding peaceful resolution.

S. Res. 68: Congratulating people of Cyprus.

S. Res. 73: Waiving section 402(a) of Congressional Budget Act.

S. Res. 80: Authorizing expenditures by Committee on Foreign Relations.

S. Res. 158: Authorizing printing.

S. Res. 161: Waiving section of Congressional Budget Act.

S. Res. 185: Emigration from Cuba.

S. Res. 227: Worldwide disease immunization.

S. Res. 237: American concerns with Soviet presence in Afghanistan.

S. Res. 244: Authorizing printing.

S. Res. 268: Waiving section of Congressional Budget Act.

S. Res. 271: Regarding assistance to Liberia.

(As of December 18, 1985)

Treaties: Reported and approved (6):

Protocols for further extension of International Wheat Agreement.

Tax Convention with Italy.

Tax Convention with Cyprus.

Treaty with Canada concerning Pacific salmon.

International Telecommunication Convention and Final Protocol.

Treaties: Reported—not approved (4):

Genocide Convention.

Tax Convention with Denmark.

Protocol to amend 1980 Tax Convention with Denmark.

Tax Agreement with People's Republic of China.

NOMINATIONS

Referred	117
Reported/confirmed	102
Withdrawn by President	1
Representatives to conferences:	
Referred	14
Confirmed	14
Foreign Service promotions:	
Preferred	[1] 1342
Confirmed	[2] 1341

[1] Includes 1 nomination for Career Ambassador.

[2] Foreign Service nomination of Edwin G. Corr, received by the Senate on October 28, 1985 as part of list of Bremer et al, expected when overall list was confirmed on December 18, 1985. Therefore, Corr nomination is still pending before the Senate.

Summary of Activities of the Governmental Affairs Committee During the First Session of the 99th Congress

In the first session of the 99th Congress, the Senate Governmental Affairs Committee pursued numerous legislative and oversight activities in a broad range of areas. The Committee focused its attention on new aspects of familiar topics such as government management and defense, and initiated new activities on such subjects as the recommendations of the Grace Commission. The first session of the 99th Congress also saw the Governmental Affairs Committee at the forefront of a successful effort to craft a new supplemental retirement plan for federal workers hired after January 1, 1984.

LEGISLATIVE ACTIVITIES

Federal retirement reform

The "Federal Retirement Reform Act of 1985" began as S. 1527, introduced on July 30 by Chairman Roth and Senator Stevens. The bill establishes a comprehensive retirement plan, in conjunction with social security, to cover all federal workers hired after January 1, 1984. In a strong bipartisan effort, S. 1527 was unanimously reported by the Governmental Affairs Committee on October 2, 1985. Upon consideration by the full Senate, H.R. 2627 was reported in lieu of S. 1527 and subsequently passed by a vote of 96-1 on November 7, 1985. At the close of the first session of the 99th Congress, H.R. 2672 is currently in conference committee awaiting further action.

Benefits to former Presidents

S. 1047 was introduced by Senators Roth and Chiles on May 1, 1985. This legislation, in three parts, provided for reductions in office and staff allowances and Secret Service protection afforded to former Chief Executives. It also established limits and guidelines pertaining to the size and maintenance of all future Presidential libraries. On October 2, the Presidential libraries section was reported, with H.R. 1349 inserted in lieu of the Senate bill. The remaining two sections of S. 1047 were ordered reported by the Committee on November 19, 1985.

Program fraud civil remedies

S. 1134, the "Program Fraud Civil Remedies Act," is the latest version of legislation which was first initiated by the Governmental Affairs Committee in 1981. The bill provides executive branch agencies with the means to independently pursue settlement in cases of false claims and statements entered against the government. S. 1134 allows agencies to utilize administrative law judges for the purpose of regaining revenues lost through false claims, and provides stiff monetary penalties for those found guilty of perpetrating such claims and statements. S. 1134 was introduced by Senators Roth and Cohen on May 15. The Committee favorably reported the bill on December 10, 1985.

Federal employees health benefits refunds

H.R. 3384, a bill to include federal retirees in the group of individuals eligible for refunds under the Federal Employees Health Benefits Program (FEHBP), was referred to the Governmental Affairs Committee on October 1, 1985. The Committee reported this measure on December 6, and the Senate passed it on December 19.

Federal flexitime schedules

H.R. 1534 was referred to the Governmental Affairs Committee on May 22, 1985. This measure converts the temporary authority to allow federal employees to work on flexible or compressed work schedules to permanent authority. On July 11, the Committee reported H.R. 1534, and the bill passed the Senate on December 11, 1985.

OTHER REFORM MEASURES

Budget reconciliation

In its budget reconciliation activities during the first session of the 99th Congress, the Governmental Affairs Committee was mandated to derive $12.6 billion in savings over the next three fiscal years. When the Committee reported its recommendations on October 2, the total savings in the Committee package totaled $13.2 billion over three years. The major areas from which these savings were achieved included a federal employee pay freeze for fiscal year 1986 and reforms in the postal subsidies program. The Committee also reported recommendations for improvements in civilian contracting practices through multi-year contract agreements. After the conference agreement, the total savings from the Committee's budget reconciliation activities was $12.5 billion over the next three fiscal years.

NOMINATIONS

The Committee received a total of 25 nominations during the first session of the 99th Congress, of which 22 were confirmed by the Senate. They are as follows:

Julius Becton, Director of the Federal Emergency Management Agency.

Jerry Lee Calhoun, member of the Federal Labor Relations Authority.

Terence C. Golden, Administrator of the General Services Administration.

John N. Griesemer, Governor of the U.S. Postal Service.

Constance J. Horner, Director of the Office of Personnel Management.

James P. McNeill, Associate Director of the Federal Emergency Management Agency.

Barbara Jean Mahone, Chairman of the Special Panel on Appeals.

James C. Miller III, Director of the Office of Management and Budget.

John M. Steadman, Associate Judge, District of Columbia Court of Appeals.

Associate Judges of the Superior Court of the District of Columbia; Harold L. Cushenberry, Jr., Herbert B. Dixon, Richard A. Levie, Curtis E. Von Kann, Michael L. Rankin.

Commissioners of the Postal Rate Commission: Henrietta F. Guiton, Patti Birge Tyson.

Inspectors General: Paul A. Adams, Department of Housing and Urban Development; William R. Barton, General Services Administration; Bill D. Colvin, National Aeronautics and Space Administration; James L. Richards, Department of Energy.

Members of the Board of Governors of the U.S. Postal Service: J.H. Tyler McConnell, Robert Setrakian.

OVERSIGHT ACTIVITIES

The Committee undertook a variety of oversight activities during the first session of the 99th Congress. These included hearings on the recommendations of the Grace Commission, federal retirement reform, infant mortality, non-smokers' rights, and continuing investigations into the deglamorization of drugs and the effect on our nation's youth, money laundering, and U.S. involvement in the United Nations.

CONCLUSION

The Governmental Affairs Committee experienced a slight shift in the emphasis of its activities during the first session of the 99th Congress, with the focus on executive branch nominations and more first-time investigations. During the second session of this Congress, the Committee will continue its efforts in these areas, but it also plans to step up its activities in other oversight areas such as defense, waste and fraud, and management improvement.

SUMMARY OF ACTIVITIES OF THE SELECT COMMITTEE ON INDIAN AFFAIRS DURING THE 1ST SESSION OF THE 99TH CONGRESS

In the first session of the 99th Congress 19 bills were referred to the Select Committee on Indian Affairs; 7 Executive Communications were received; and one Presidential nominee was referred. Bills before the Committee included legislation to extend the Indian Health Care Improvement Act of 1976; two bills to amend existing legislation relating to educational programs operated by the Bureau of Indian Affairs; a bill to regulate gaming activities within Indian reservations; a bill to decommercialize and regulate the fishing of steelhead trout; a bill to extablish a program for the detection and prevention of alcohol and drug abuse among Indian youth; a bill to resolve clouds on title to certain lands on the White Earth Indian Reservation in the State of Minnesota; a bill to provide for settlement of water claims of tribes on the Truckee, Carson and Walker Rivers in the State of Nevada; and legislation to provide for the use and distribution of judgment funds awarded various Indian tribes in the States of Minnesota, Wisconsin, and Michigan.

Of the 19 bills referred to the Select Committee on Indian Affairs, 11 were reported out of Committee and 9 favorably acted upon by the Senate. Two bills, one amending the Indian Education Act of 1965 and the other providing for the use and distribution of judgment funds awarded the Mdewakanton and Wahpekute Eastern or Mississippi Sioux, have been signed into law. The nomination of Ross O. Swimmer to be Assistant Secretary of Indian Affairs was reported by the Committee and he was confirmed by the Senate by unanimous consent.

SUMMARY OF ACTIVITIES OF THE COMMITTEE ON THE JUDICIARY DURING THE 1ST SESSION OF THE 99TH CONGRESS

During the 1st Session of the 99th Congress, reflecting the wide variety of subjects within its jurisdiction, the Committee on the Judiciary considered, deliberated, and acted upon an impressive array of matters.

Fifty-seven hearings were conducted by the full Committee and Subcommittees on legislation. In addition, 47 oversight hearings were held. The Committee met in Executive Session on 28 occasions, reporting to the Senate 149 of the Senate and House bills and resolutions which had been referred to it.

Again in the 99th Congress, the Committee reported, and the Senate passed by a vote of 69 to 30, the Immigration Reform and Control Act, S. 1200. Still central to the bill are employer sanctions against those who knowingly hire illegal aliens and a legalization program for certain illegal aliens who can demonstrate they have resided in the United States continuously prior to January 1, 1980. S. 1200 contains no change in the existing legal immigration system, nor does it deal with immigration asylum procedures. In addition, S. 1200 contains a temporary seasonal worker provision based on the compromise reached by the conference committee in the 99th Congress. The Committee also favorably reported S. 1262, the Refugee Assistance Extension Act of 1985.

In recognition of the problems facing the Nation with regard to the budget deficit, as in the last two Congresses, the Committee reported "balanced budget" constitutional amendment legislation. The two measures reported in this Congress are S.J. Res. 13 and S.J. Res. 225, both of which are pending on the Senate calendar.

Another social issue dealt with by the Committee was school prayer. On October 29th, the Committee reported S.J. Res. 2, proposing an amendment to the Constitution of the United States relating to voluntary silent prayer or reflection, to the full Senate. That measure is also pending on the Senate calendar.

Pursuant to the Low-Level Radioactive Waste Policy Act of 1980, seven regional compacts (Southeast, S. 44; Northwest, S. 356; Rocky Mountain, S. 442; Central Interstate, S. 655; Central Midwest, S. 802; Midwest, S. 899; and Northeast, S. 1798) were introduced in the 99th Congress. The full Committee held a hearing on three of these measures in March. All seven were reported to the Senate. Since the cut-off date contained in the 1980 Policy is near, these measures were part of a substitute amendment offered to H.R. 1083 and sent back to the House for approval.

In the area of criminal law, the Committee reported S. 104, to regulate the manufacture and importation of armor-piercing bullets; S. 1437, the "designer drug" bill; S. 850, the "intoxicated common carrier" bill; and H.R. 3511, the Bank Bribery Amendments Act of 1985. Both S. 1437 and S. 850 have passed the Senate by unanimous consent. In addition, the Committee has ordered reported S. 1236, which would make technical amendments to provisions of the Comprehensive Crime Control Act of 1984. That measure will be reported to the Senate during the 2nd Session of this Congress.

Due to the increase in the number of hijackings and terrorism conducted against Americans abroad, the Committee participated in three days of hearings held jointly with the Committee on Foreign Relations on international terrorism. In addition to the hearings, the Committee reported S. 274, the Nuclear Power Plant Security and Anti-terrorism Act of 1985, and has ordered reported S. 1429, the Terrorist Prosecution Act of 1985.

In the area of juvenile issues, the Committee reported S. 1174, to amend the Juvenile Justice and Delinquency Prevention Act of 1974 to provide States with assistance to establish or expand clearinghouses to locate missing children, and S. 1818, to prevent sexual molestation of children in Indian country. Both of these measures have passed the Senate.

The patent, copyright, and trademark areas were addressed by the Committee with the reporting of S. 1002, to amend the Lanham Act to improve provisions relating to concurrent registrations, and S. 1230, to amend the patent laws implementing the Patent Cooperation Treaty.

Holding hearings concerning several antitrust issues, including the sale of Conrail, the vertical restraint guidelines of the Justice Department, and treble damage liability, the Committee has approved for reporting S. 412, the Malt Beverage Interbrand Competition Act.

In the area of administrative practice and procedure, the Committee reported H.R. 1890, to provide for an equitable waiver in the compromise and collection of Federal claims, and has approved for reporting S. 1562, the False Claims Reform Act of 1985.

Even though the Committee did not have a sufficient time of referral in which to act, the Committee held two days of hearings on S. 51, the Superfund legislation, and offered a package of amendments on the Senate floor dealing with the right to contribution, pre-enforcement review, and judicial review. These amendments were adopted and became a part of the final measure adopted by the Senate.

In addition to the foregoing, the Committee reported S. 40, the Constitutional Convention Implementation Act of 1985, S. 86, the Sex Discrimination in the United States Code Reform Act, and S. 1916, preserving the authority of the Supreme Court Police. S. 86 has passed the Senate. The text of S. 1916 was inserted in the House companion measure, H.R. 3914, which now has been approved by both Houses of Congress and will soon become public law. The Committee also reported four Federal charter bills, two measures amending interstate compacts and two private relief bills.

During the 1st Session of the 99th Congress, the Committee received, and the Senate confirmed 128 executive nominations for the following positions: 22 for U.S. Circuit Judgeships; 62 for U.S. District Court Judgeships; 1 for U.S. Claims Court Judgeship; 1 for International Trade Court Judgeship; 13 for U.S. Attorney; 7 for U.S. Marshal; 1 for Attorney General; 1 for Deputy Attorney General; 1 for Associate Attorney General; 1 for Solicitor General; 5 for Assistant Attorney General; 1 for Administrator, DEA; 7 for membership on the Sentencing Commission (including Chairman); 1 for membership on the Foreign Claims Settlement Commission; 2 for membership on the Copyright Royalty Tribunal; 1 for Chairman of the Administrative Conference of the United States; and 1 for Commissioner of Patents and Trademarks.

Summary of Activities of the Labor and Human Resources Committee During the First Session of the 99th Congress

During the first session of the Ninety-Ninth Congress, the Senate Labor and Human Resources Committee has held more than forty hearings on a broad spectrum of issues. The subjects ranged from labor union violence, youth unemployment, barriers to special needs adoptions, the role of the United States as a member of the International Labor Organization, nutrition and fitness and their effects on health promotion and disease prevention, to the impact of space technology on human resources. Fourteen measures referred to the committee for action have subsequently been signed into public law. (see attached list) A total of 133 nominations were referred and of these 105 received Senate confirmation. Thirty-one bills under the committee's jurisdiction were approved by the Senate.

Some of the major pieces of legislation to become public law include the Orphan Drug Act Reauthorization, S. 1174/P.L. 99-91; Nurse Training Reauthorization, S. 1284/P.L. 99-92; Health Professions Education Reauthorization S. 1283/P.L. 99-129; Health Research Extension Act, H.R. 2409/P.L. 99-158; Walsh-Healy amendment to the DoD authorization, P.L. 99-145; Fair Labor Standards Public Employee Overtime Compensation Act, S. 1570/P.L. 99-150; and the National Science Foundation Authorization, S. 801/P.L. 99-159. (see news releases for description of measures)

Significant items reported by the Committee which were approved by the Senate but not yet acted upon by the House (excluding those mentioned above) Primary Care Block Grant/Community Health Centers and Migrant Health Centers, S. 1282; National Health Service Corps Amendments, S. 1285; Adoption Assistance Amendments of 1985, S. 1628 (incorporated in the Deficit Reduction Act) and the Comprehensive Smokeless Tobacco and Health Education Act, S. 1574.

Major nominations to be acted upon by the Committee include: William Brock to be Secretary of Labor; Dr. Everett Koop to be U.S. Surgeon General; William Bennett to be Secretary of Education;

1985 PUBLIC LAWS (AS OF DECEMBER 13, 1985)

1. S.J. Res. 4/H.J.Res. 85/P.L. 99-6. Skin Cancer Prevention Week (OGH)., Page 3, item 1.
2. S. 484/P.L. 99-46. Saccharin Extension Act (OGH). Page 3, item 2.
3. S. 1174/P.L. 99-91. Orphan Drug Act Reauthorization (OGH/EMK). Page 3, item 3.
4. S. 1284/P.L. 99-92. Nurse Training Reauthorization (OGH/EMK). Page 3, item 4.
5. S. 1283/P.L. 99-29. Health Professions Education Reauthorization (OGH/EMK). Page 3, item 5.
6. H.R. 2409/S. 1309/P.L. 99-158. NIH Reauthorization. Page 3, item 6.
7. S.J. Res. 51/P.L. 99-153. National Adoption Week. Page 3, item 8.
8. S.J. Res. 36/P.L. 99-2. "National DECA Week" (Cochran-OGH). Page 13, item 1.
9. S.J. Res. 186/P.L. 99-100. "Nationally Historically Black Colleges Week" (Thurmond/ OGH). Page 13, item 2.
10. S.J. Res. 158/P.L. 99-128. "National Community Colleges Month" (Murkowski/OGH). Page 13, item 3.
11. S.J. Res. 218/H.J. Res. 386/P.L. 99-135. Resolution for National Day of Fasting. Page 19, item 1.
12. S. 1570/P.L. 99-150. Bill to overturn Garcia. Page 19, item 4.
13. P.L. 99-145. Walsh Healy. Page 19, item 4.
14. S. 801/P.L. 99-159. NSF Authorization for FY 86. Page 24, item 1.

1985 NOMINATIONS

15. Dr. Everett C. Koop, Surgeon, Public Health Service confirmed 11/1/85. Page 14, item 1.
16. John Erthein, National Council on Handicapped, confirmed 10/25/85. Page 14, item 2.
17. Francis Hodsoll, Chairman, National Council for the Arts, confirmed 10/28/85. Page 17, item 5.
18. Barbara Taylor, Member, National Commission on Libraries and Information Sciences, confirmed 11/30. Page 18, item 7.
19. Lee Edwards, Member, National Commission on Libraries and Information Sciences, confirmed 11/30. Page 18, item 7.
20. Frank Gannon, Member, National Commission on Libraries and Information Sciences, confirmed 11/30. Page 18, item 7.
21. Jim Stephens, Member, NLRB, confirmed 10/16. Page 23, item 1.
22. Roger Semerad, Asst. Secretary DoL, confirmed 10/16. Page 23, item 2.
23. Joyce Doyle, Member, MSHA, confirmed 10/25. Page 23, item 3.
24. Dennis Whitfield, Under Secy. of Labor, confirmed 10/25. Page 23, item 4.
25. Dennis Kass, Asst. Secy, for Pensions, DoL, confirmed 11/14. Page 23, item 7.
26. William Merrell, Asst. Director, N.S.F., confirmed 10/16. Page 25, item 1.
27. Charles Hosler, N.S.F. Board Member, confirmed 10/16. Page 25, item 1.
28. Craig Black, N.S.F. Board Member, confirmed 10/16. Page 25, item 1.

AWAITING PRESIDENT'S SIGNATURE

29. S.J. Res. 139, National Home Care Week. Page 4, item 9.
30. S.Con. Res. 71, Commemorate 10th Anniversary of P.L. 94-142. Page 3, item 11.
31. S. 1264, National Foundation of Arts & Humanities of 1985. Page 13, item 4.

Those that have passed the Senate from LHR Committee:

S.J. Res. 4, Skin Cancer Prevention Week.

S. 484, Saccharin Extension Act.

S. 1174, Orphan Drug Act Reauthorization.

S. 1284, Nurse Training Reauthorization.

S. 1283, Health Professions Education Reauthorization.

S. 1309, National Institutes of Health Reauthorization.

S. 425, Arthritis Institute (included in S. 1309)

S.J. Res. 51, National Adoption Week.

S.J. Res. 139, National Home Care Week.

S. 1282, Primary Care Block Grant/Community Health Centers.

S. 1285, National Health Service Corps.

S. 415, Handicapped Children's Protection Act.

S. 974, Weicker Mental Health Initiative.

S.J. Res. 147, National Infection Control Week.

S.J. Res. 189, Fetal Alcohol Syndrome Awareness Week.

S.J. Res. 202, American Liver Foundation National Liver Awareness Month.

Am. to farm b, Cholesterol/Calcium Studies by USDA.

S.J. Res. 36, National DECA Week.

S.J. Res. 186, National Historically Black Colleges Week.

S.J. Res. 158, National Community Colleges Month.

S. 1264, National Foundation on the Arts and Humanities Amendments of 1985.

S.J. Res. 52, National School Library Month.

S.J. Res. 48, Year of the Teacher.

S.J. Res. 219, National Humanities Week.

S. 1570, To Overturn the Garcia Decision.

Am. to DOD au, Walsh-Healy.

S.J. Res. 386, National Fast Day.

S. 801, NSF Authorization for FY 86.

S. Con. Res. 71, Commemorate 10th Anniversary of PL 94-142.

S. 1628, Adoption Medicaid Legislation.

S. 1574, Comprehensive Smokeless Tobacco & Health Education Act.

Significant nominations:

Dr. Everett C. Koop, Public Health Service.

John Erthein, National Council on Handicapped.

Francis Hodsoll, National Council for the Arts.

Ford B. Ford, Chairman, Mine Safety and Health Review Administration.

William Brock, Secretary of Labor.

Summary of Activities of the Committee on Rules and Administration During the 1st Session of the 99th Congress

During the 1st session of the 99th Congress, the Committee on Rules and Administration, under Chairman Charles McC. Mathias, Jr., considered and sent to the Senate a number of bills and implemented various measures and policies that affected the daily management of the Senatorial, committee, and support offices. The following summaries highlight the Committee's actions during 1985.

FEDERAL ELECTION CAMPAIGN ACT OVERSIGHT

Seven bills proposing changes in the campaign finance provisions of the Federal Election Campaign Act have been introduced and referred to the Senate Committee on Rules and Administration in the first session of this Congress. Three of these bills, S. 59 by Senator Goldwater, S. 1072 by Senator Gorton and S. 1891 by Senator Heinz, are legislative proposals for the most part identical to bills on which the Committee received testimony during hearings in the 98th Congress.

S. 59 proposes to place expenditure limits on all candidates, political parties and PACS and also proposes a repeal of the presidential public funding program. S. 1072 would allow candidates to declare that independent spending had become a part of their campaign and thus bring such spending under the contribution limits. This legislation also would triple the amount of expenditures political party committees could make on behalf of their Senate and House candidates. When Senate and House candidates spend more than certain amounts of personal funds, the contribution limits would be tripled for individuals and PAC'S contributing to their opponents. S. 1891 proposes to strengthen the role of political parties in the financing of campaigns by increasing the contributions and expenditures they may make on behalf of federal candidates. This legislation would also change current audit and enforcement procedures at the Federal Election Commission. Under its provisions, committees receiving and expending funds to draft individuals as candidates would be brought under the limits of the FECA.

S. 297, introduced by Senator Boren in January, is identical to a bill he introduced in the previous Congress.

The other bills are S. 1563, Senator Helms' bill on union dues and a later version of Senator Boren's bill S. 1806.

A hearing was held on S. 1787, Senator Mathias' bill proposing to finance general elections to the Senate, on November 5, 1985.

The Committee reported out an original bill, S. 1117, authorizing appropriations in the amount of $12,605,000 for the Federal Election Commission in FY 1986.

PUBLIC PRINTER NOMINATION

On January 3, 1985, Mr. Ralph E. Kennickell, Jr., of Virginia, was nominated by President Reagan to be Public Printer, and his nomination was received by the Rules Committee.

Following an extensive background check by the Committee staff, on June 12, 1985, a public hearing was held on the nomination. At a June 20, 1985, business meeting to consider the nomination, the Committee determined that further investigation into Mr. Kennickell's background was warranted. Subsequently, the Department of Justice was asked to investigate certain questions regarding the nominee's background. The Justice Department had the FBI conduct the investigation, and on November 14, 1985, the Department of Justice submitted the FBI's findings to the Rules Committee.

At a business meeting of the Rules Committee on December 10, 1985, a rollcall vote was taken on a motion to favorably report the nomination of Mr. Kennickell to be Public Printer. The nomination was ordered reported by a vote of 8 to 4.

As of this writing (December 19, 1985), Mr. Kennickell's nomination is pending on the Executive Calendar.

SMITHSONIAN INSTITUTION OVERSIGHT

In exercising its oversight over the Smithsonian Institution, the Rules Committee considered and favorably reported the following measures: S. 583, a bill to authorize renovations to the Cooper-Hewitt Museum in New York City; S. 582, a bill to reauthorize museum suppport activities under the National Museum Act; H.R. 1483, a bill to authorize construction and repair of facilities for the Smithsonian Tropical Research Institute in Panama and the Whipple Observatory in Arizona.

Hearings were held on S. 1311, a bill to authorize the construction of a museum for very large aircraft and spacecraft at Dulles Airport, but no further action was taken.

The committee held hearings on an original measure to authorize new construction at the Freer Gallery of Art.

The Committee also considered and favorably reported the following joint resolution: S.J. Res. 214, reappointing Carlisle Humelsine to be a member of the Smithsonian Board of Regents, and S.J. Res. 215, reappointing William G. Bowen to be a member of the Smithsonian Board of Regents.

LIBRARY OF CONGRESS OVERSIGHT

The Chairman and other members of the Rules and Administration Committee conducted an oversight meeting (as Senate members of the Joint Committee on the Library) on the Library of Congress—specifically the plans and progress of the Library with the renovation and restoration of the Jefferson and Adams buildings, construction of the book deacidification facility at Fort Detrick, Maryland, and the Library's printed card, microform, and computerized catalogs—the U.S. Botanic Garden Park, renamed the Frederick Auguste Bartholdi Park, in honor of the sculptor of the park's fountain—and the final plans for the dedication of the Dr. Martin Luther King, Jr., memorial sculpture in the United States Capitol.

BROADCAST OF SENATE FLOOR PROCEEDINGS

The Committee on Rules and Administration reported favorably Senate Resolution 28 with amendments and recommended that the resolution as amended be agreed to.

S. Res. 28, as reported by the Committee on Rules and Administration, provides for a test period implementation of live, gavel-to-gavel radio broadcast coverage of all proceedings in the Senate Chamber, and a closed circuit test of television coverage of all proceedings, except, in both cases, when a closed-door session is ordered. The Architect of the Capitol, the Sergeant at Arms and Doorkeeper of the Senate, the Librarian of Congress, the Archivist of the United States, and the Committee on Rules and Administration are given certain specified duties by this resolution. Regulations for this coverage are also provided, and a sum not to exceed $3,500,000 for the Architect of the Capitol to carry out the purposes of this resolution is authorized to be expended from the contingent fund of the Senate.

LINE ITEM VETO

Senate Bill 43, which provides that each item of any general or special appropriation bill and any bill or joint resolution making supplemental deficiency, or continuing appropriations that is agreed to by both Houses of Congress in the same form shall be enrolled as a separate bill or joint resolution for presentation to the President, was referred to the Rules and Administration Committee on January 3, 1985. This measure, which was introduced on January 3, 1985, by Senator Mattingly, was co-sponsored by 46 Senators, six of whom, Senators McClure, Helms, Warner, Dole, Stevens, and Garn, are members of the Rules and Administration Committee.

The Committee held two days of hearings on this measure (May 14 and May 20, 1985) receiving testimony in favor of the measure from Senator Mattingly and Senator Evans and testimony in opposition to the bill from Senator Hatfield and a panel of experts (Dr. Louis Fisher, Specialist in American National Government in the Congressional Research Service; Dr. Allen Schick, Professor of Public Policy at the University of Maryland as a visiting fellow of the American Enterprise Institute; and Dr. Norman Ornstein, AEI Resident Scholar.) Senators Mathias, Ford, and Inouye raised questions, and spoke in opposition to S. 43, when questioning the various witnesses.

Statements in favor of the bill were received from Senator Thurmond, Senator Dole, Howard Jarvis (American Tax Reduction Movement), John C. Datt on behalf of the American Farm Bureau Federation, 13 groups and associations led by the U.S. Chamber of Commerce, and Professor Judith Best of the State University of New York at Cortland. Statements for the Record in opposition to S. 43 were received from Common Cause, the AFL/CIO Executive Council, and the National Council, and the National Council of Conservation Districts. Also received for the record was a statement from Johnny H. Killian, CRS Specialist in American Public Law, who concluded that the courts would decide the contitutionality of S. 43, if enacted and implemented by the Congress, on the basis of how much power shifted from Congress to the President.

The Rules Committee held a mark-up session on Thursday, June 20, 1985, and voted to report S. 43 unfavorably, without amendments, and with a written report.

The motion to proceed to consideration of S. 43 was debated in the Senate from July 17 to July 24, 1985. After three unsuccessful cloture votes, the motion to proceed was withdrawn on July 24.

SENATE COMMITTEE OVERSIGHT

S. Res. 85 the Omnibus Committee Funding Resolution of 1985

The Rules Committee reported annual authorization for the expenditures of the Standing, Select, and Special Committees of the Senate for the period of March 1, 1985, through February 28, 1985, of $44,878,358.

PRINTING FOR THE SENATE

The Rules Committee reported favorably the following printing resolutions for Senate committees:

S. Res. 30, to authorize the printing of the report entitled "Developments in Aging: 1984" for the Special Committee on Aging; S. Res. 244, authorizing the printing of background information on the Committee on Foreign Relations for that committee; S. Res. 181, authorizing the printing of the report entitled "Highway Bridge Replacement and Rehabilitation Program, Sixth Annual Report to Congress" for the Committee on Environment and Public Works; S. Res. 231, authorizing the printing of a revised edition of the "Standing Rules of the Senate" for the Committee on Rules and Administration; S. Con. Res. 80, to authorize the printing of 2,000 additional copies of the print entitled "Defense Organization: The Need for Change" for the Committee on Armed Services; and S. Con. Res. 85, to authorize the compilation and printing of the Bicentennial Edition of the Biographical Directory of the United States Congress for the Committee on Rules and Administration.

THE CAPITOL

The Ninth Edition of *The Capitol*, a pictorial history of the Capitol and of the Congress, is now in production. Delivery to Members is scheduled for early 1986.

U.S. CAPITOL HISTORICAL SOCIETY CALENDARS

The Rules Committee conducted a survey of all Members of the Senate regarding their preference on the "We The People" Historical Society calendar. With 89 Senators responding to the questionnaire, the results indicated that the overwhelming majority of Senators desired delivery of the 1,000 calendars that have traditionally been provided them. A number of Senators expressed their opinion that the calendars are an excellent constituent relations tool. Committee staff is currently in the process of distributing the calendars to Senator's offices.

ADMINISTRATION OF THE SENATE

Office automation systems for Senators' offices

As of December 19, 1985, office automation equipment has been installed in the Washington offices of 94 Senators. The staff of these offices believes this program has been a great help in providing them with tools for increasing their productivity. There are now requests for an expansion of this program in Washington and for an extension of these services to home state offices.

The committee received and considered office automation plans for twenty committees and offices of the Senate. 15 of these plans have been approved and are installed or in the process of being installed. The remaining five are still being reviewed.

Procurement of new telephone system for the Senate

A Request for Proposals (RFP) for a new telephone service was issued by the Committee on Rules and Administration on October 1, 1984. Responses were received from 6 vendors on January 31, 1985.

The Senate was joined in its investigation of new phone services by the House Administration Committee at the request of Chairman Annunzio. (May, 1985) House and Senate staff and consultants and representatives of the Architect and the Office of Technology Assessment formed a joint evaluation team. The joint team attended all formal contacts with bidders, such as oral presentations, demonstrations and site visits.

Upon completion of site visits both House and Senate reviewed the original RFP. An amended RFP containing revised specifications, reflecting increased capacity to accommodate the House and other purposes was issued on June 4, 1985. Responses to the amended RFP were received on July 24, 1985. Of the 6 original bidders, two declined to submit bids on the amended request and withdrew.

The four remaining bidders were asked to appear before the joint evaluation team to describe their products and installation plans on August 22-26, 1985.

Demonstrations were arranged and conducted in the Washington offices of three customers to permit AAs, office managers, and receptionists to review desk sets in a working environment. (August 28-29) Their comments were considered in the evaluation.

All bidders were asked to review their proposals in the light of discussions and submit best and final cost proposals by September 5, 1985. All complied.

All contracts with bidders were coordinated by the contracting officer and meetings with bidders were held with representatives of both houses in attendance. The two teams performed their evaluations separately, concentrating on aspects of the bids that affected their respective house and items that were related to coordination of services between the two houses.

The Sergeant at Arms presented his recommendation for telephone service for the Senate on Nov. 12, 1985. Additional information meetings were held for the committee members.

The Committee considered the recommendations on Dec. 4 and Dec. 10. After prolonged discussion, the Committee voted to reject all the pending bids, to rebid it within 90 days, and to specify that on evaluations the technical points would receive 80 percent of the weight and the cost 20 percent, as opposed to the 75/25 ratio in the previous bid.

MASS MAIL REGULATIONS

The committee amended the regulations governing mass-mail with the following provisions: (1) increased the minimum paper allotment from 1.2 million to 1.8 million sheets per year per senator, (2) excluded town meeting notices from the paper allotment if the Senator is at the town meeting, (3) excluded "dear friend" letters in response to organized mail campaigns from the paper allotment, (4) provided for the publication on a quarterly basis of Senators' individual mass/mail costs, (5) defined a paper allotment year, and (6) provided for the printing of pictures of missing children on Senate mass-mail and on letters prepared with the Senate Correspondence Management system.

The committee also reported an original measure, Senate Concurrent Resolution 91, to provide for the quarterly reporting of the mass-mail costs of members, committees and offices of the House of Representatives and the Senate.

Contingent fund expenditures

The Rules Committee auditors processed 40,000 vouchers this year for contingent fund expenditures, representing a 5% increase over the previous year.

Administration of Senate Office Buildings

Under the direction of the Rules Committee, with the assistance of the Office of the Architect of the Capitol, the following administrative actions concerning the Senate Office Buildings occurred in 1985:

New modular office furniture was assigned to 10 Senators in the Hart Building;

Plans to locate the Senate Employees' Child Care Center from the Immigration Building to a new location were finalized;

Capitol offices were reassigned to 42 Senators; a total of 78 Senators have now been provided with office space in the Capitol.

New space in the Capitol for the media is presently nearing completion;

Studies associated with acquiring the Old Post Office Building at Massachusetts Avenue and North Capitol have been completed.

SUMMARY OF ACTIVITIES OF THE SENATE SMALL BUSINESS COMMITTEE DURING THE 1ST SESSION OF THE 99TH CONGRESS

I. SBA AUTHORIZATION LEGISLATION

The Committee reported out and the Senate passed, by vote of 94–3, a three-year authorization bill to fund the Small Business Administration's (SBA's) basic core of credit, management assistance and disaster loan programs for fiscal years 1986–1988, while achieving substantial agency savings of $2.5 billion. The bill, S. 408, was then incorporated into the Omnibus Reconciliation Act, which passed the Senate on December 19, 1985.

The final budget plan for the SBA attains significant outlay savings through a budget freeze in fiscal year 1986, termination of SBA's Direct Loan Program (except for economic opportunity loans, loans to MESBICs veterans and, the handicapped), elimination of the Non-physical Disaster Loan Program, and the following policy changes: removing farmers from SBA's Disaster Loan Program and requiring them to obtain assistance from the Farmers Home Administration for disasters declared after September 30, 1985, and permitting the Small Business Investment Company (SBIC) Program to be financed through private capital markets instead of through the Federal Finance Bank.

The following programs were maintained through FY 1988:

Credit programs

The *7(a) Loan Guarantee Program* will continue to allow banks to provide long-term financing, otherwise unavailable, to small firms. These loans can be up to $500,000 with terms usually 7–10 years in length. Two important reforms were made in this program. First, the fee to the borrower was increased from 1% to 2%; and second, SBA's maximum loan guarantee was decreased to 85% for FY 1986 program levels: $2.5 billion.

Small Business Investment Company (SBIC) and Minority Enterprise and Minority Enterprise Small Business Investment Company (MESBIC) Programs will continue to fill the critical void in the availability of small business equity financing by providing small firms with venture capital through SBA-licensed private lending companies. FY 1986 program levels: $20 million for SBICs and $41 million for MESBICs.

The 503 Certified Development Company Loan Program will continue making "bricks and mortar" financing available to healthy small businesses for planned expansion and job creation through a partnership among federal, state and local governments, and the private sector. FY 1986 program level: $400 million.

Through its *Surety Bond Guarantee Program*, SBA will continue to assist qualified small businesses by extending a guarantee to a surety of up to 90% against loss, thereby making bonding more easily obtainable for them. This is important as small business contractors and subcontractors must often furnish surety bonds in order to obtain public and private sector construction contracts. FY 1986 program level: $1 billion.

All the FY 1986 levels for the loan guarantee programs described above will be adjusted for inflation in the outyears.

Disaster assistance

Through its *Physical Disaster Loan Program*, SBA will continue to provide critical and timely assistance to businesses and homeowners who are victims of physical disasters. SBA will continue making loans at favorable terms to property owners to cover uninsured losses resulting from natural disasters. Farmers, however, will be removed from this program as of October 1, 1985.

Management assistance

SBA's management assistance programs, including *Small Business Development Center (SBDC), Small Business Institute (SBI), Service Corps of Retired Executives (SCORE), and Active Corps of Executives (ACE)*, will continue to utilize private sector resources to meet the wide-ranging needs of small businesses. These programs, through a delivery system composed of retired volunteers, universities and the private sector, will continue to provide affordable training and counseling to small business entrepreneurs, which will be funded through the salaries and expenses portion of SBA's budget.

II. TAX HEARINGS

The Committee conducted 13 field hearings in seven states as part of a comprehensive series of forums to examine the impact of tax reform on small business. The hearings focused on the Administration's November, 1984 tax simplification proposal and the most updated version of their package, as well as the Bradley-Gephardt and Kemp-Kasten tax reform proposals. Of particular interest to the Committee and to the witnesses who testified were those provisions which affect small business' ability to attract and retain capital. Examples of such provisions include those dealing with the Investment Tax Credit (ITC), depreciation, and the taxation of capital gains. A Committee report detailing the proceedings will be issued in January.

III. NATIONAL ADVISORY COUNCIL ANNUAL MEETING

The Committee's National Advisory Council, at its annual meeting on October 23, unanimously approved eight resolutions, including measures calling for the President and Congress to take immediate action on the budget crisis, endorsing cuts in all areas, including entitlement programs, social security, defense spending and tax increases, if necessary; to oppose comprehensive tax reform, with the exception of a minimum corporate tax; and to maintain the Small Business Administration as an independent agency. In its fifth annual meeting, the Council, which is composed of 25 small business persons from around the nation, also declared its support for vigorous enforcement of U.S. antitrust laws; stronger implementation of the Prompt Payment Act; called for hearings and a federal standard on the issue of liability insurance, in light of the current crisis in availability and affordability for small firms; and asked the President, the U.S. Trade Representative, the International Trade Commission and the Commerce Department to reduce imports from any country whose unfair trade practices contribute to our trade deficit with that country.

IV. PROMPT PAYMENT ACT OVERSIGHT

The Committee conducted the first of two hearings to oversee the implementaton of the Prompt Payment Act of 1982 to ensure that small contractors doing business with the federal government receive timely payment. The initial hearing took place in Norfolk, Virginia, with the second planned for early next year in Washington, DC. The hearings were called in response to reports from small business contractors that some federal agencies are failing to fully carry out the objectives and Congressional intent of the Prompt Payment Act.

V. OVERSIGHT OF SBA'S VETERANS PROGRAM

The Committee conducted an oversight hearing into the veterans assistance programs and Office of Veterans Affairs at the Small Business Administration on November 13. The hearing was held in order to determine whether SBA has been fulfilling its mandate to give "special consideration" to veterans in all agency programs, as directed by Public Law 93-237. The Committee is formulating recommendations to the agency for improving their veterans outreach efforts based on the hearing record and responses to follow-up questions.

SUMMARY OF ACTIVITIES OF THE COMMITTEE ON VETERANS' AFFAIRS ACTIVITIES DURING THE FIRST SESSION OF THE 99th CONGRESS

I. INTRODUCTION

During the First Session of the 99th Congress the Senate Committee on Veterans' Affairs was active in addressing many important issues and concerns which face the Nation's veterans. During the past year the Committee has continued its efforts to be responsive to the needs of veterans through improving health-care and benefits programs provided by the Veterans' Administration as well as veterans' programs administered by the Department of Labor.

The Committee held 18 days of hearings on legislative and oversight matters and the legislative recommendations of veterans' service organizations. Among those hearings were 4 days of hearings concerning VA health care and medical facility construction programs and related matters; 1 day of hearings on the VA fiscal year 1986 budget; 2 days of hearings concerning veterans' exposure to ionizing radiation; 3 days of hearings concerning veterans' compensation and employment matters; 2 days of hearings on the VA home loan guaranty program; and 1 day of hearings on the nomination of Donald Shasteen to be the Assistant Secretary of Labor for Veterans' Employment.

The Committee met in open session 5 times and reported 5 bills to the Senate, the provision of one of which, with modifications, was ultimately enacted into 1 public law.

(1) The Veterans' Administration Health-Care Amendments of 1985, Public Law 99-166, December 3, 1985.

Those not yet enacted are:

(1) H.R. 752, the proposed "New GI Bill Amendments of 1985" reported by the Committee on June 27, 1985 (S. Rept. 99-17).

(2) S. 367, the proposed "Veterans' Administration Adjudication Procedure and Judicial Review Act" reported by the Committee on July 8, 1985 (S. Rept. 99-100) and passed by the Senate on July 30, 1985.

(3) S. 1730, the proposed "Consolidated Omnibus Budget Reconciliation Act of 1985" Title XI reported by the Senate Committee on Veterans' Affairs on September 26, 1985 (S. Rept. 99-146).

(4) S. 1887, the proposed "Veterans' Compensation and Benefits Improvement Act of 1985" reported by the Committee on November 26 (S. Rept. 99-200) and passed by the Senate on December 2, 1985.

On March 7, 1985, the Majority of the Committee transmitted to the Budget Committee, pursuant to section 301(c) of Public Law 93-334, its recommendations for the fiscal year 1986 budget for veterans' benefits and services. The Minority of the Committee transmitted, separately, its recommendations on March 6, 1985.

LEGISLATIVE ACTIVITIES

Veterans' health care

During the First Session of the 99th Congress, 4 days of hearings were held and a major legislative initiative was enacted which concerned veterans' health-care programs.

On June 12, 1985, the Committee ordered reported favorably S. 876 which was ultimately enacted on December 3, 1985, as Public Law 99-166, the Veterans' Administration Health-Care Amendments of 1985. Public Law 99-166, an omnibus bill including 27 separate provisions, among other things:

(1) Requires the Administrator to conduct a 3 year pilot program under which the VA would increase the range of services provided to Vietnam-era veterans at 10 existing VA readjustment counseling centers, otherwise known as "Vet Centers".

(2) Extends through Fiscal Year 1989, the period of time which those veterans exposed to ionizing radiation from a nuclear detonation or toxic substances in Vietnam would be eligible to receive priority VA health-care services for disabilities not determined to be unrelated to such exposure.

(3) Requires the Administrator to establish a comprehensive quality-assurance program to monitor the quality of VA health care.

(4) Requires the VA to submit to the Committee on Veterans' Affairs of the Senate and House of Representatives a five-year strategic plan detailing the mission and goals of VA medical facilities and a construction plan based on those goals.

(5) Approves the VA's requested individual medical facility construction projects although not the dollar levels requested by the VA, in the fiscal year 1986 budget submission. For fiscal year 1986 the President requested $417.2 million for major construction projects and $194.4 million for minor construction projects.

In addition to the aforementioned legislative activities, the Committee held hearings to review other important health-care issues including oversight of existing health-care programs including the VA's construction planning programs and the consideration of legislation concerning veterans exposure to Agent Orange and ionizing radiation.

Education and related matters

H.R. 752, as reported by the Senate Veterans' Affairs Committee would accelerate the effective date of the educational assistance programs for active duty and Selected Reserves personnel established by P.L. 98-525. In addition H.R. 752 would:

(1) Extend the deadline for enrollment in the "Veterans' Educational Assistance (VEAP)" by six months from July 1, 1985, until December 30, 1985.

(2) Allow the Secretary of Defense to offer benefits under the "New GI Bill" to individuals who return to active duty after a break in service.

The Senate Armed Services Committee reported unfavorably the aforementioned legislation and no further action has been taken.

Judicial review

On July 8, 1985, the Committee reported S. 367, the proposed "Veterans' Administration Adjudication Procedure and Judicial Review Act" which would provide for judicial review of final agency decisions on veterans' claims for VA benefits and which would modify the $10 statutory limitation on the fee payable to an attorney representing a claimant before the VA. On July 30, 1985, the Senate passed the text of S. 367, as reported. No further action was taken on this legislation during the First Session of the 99th Congress.

Reconciliation

The Committee met on June 20, 1985, to consider Administration's legislative proposals which included a means test, and reimbursement from health insurers for the cost of health care furnished by the VA.

Pursuant to section 2(1) of S. Con. Res. 32, the First Concurrent Resolution on the Budget for Fiscal Year 1986, the Committee, on September 26, 1985, ordered reported favorably legislation and report language recommending certain budget savings. Pursuant to its reconciliation instructions, the Committee recommended changes in the law sufficient to reduce budget authority and outlays for veterans' programs by $1.15 billion during FY 1986-FY 1988.

Among other things, this legislation would:

(1) Clarify eligibility categories and priorities for health care provided for or furnished by the VA, would establish expanded eligibility for such health care for certain service-connected disabilities, and establish an income eligibility criterion for non-service-connected veterans.

(2) Authorize prospectively the United States to recover reasonable costs of care and services furnished through VA or non-VA facilities at VA expense for veterans with no service-connected disability, who are covered under health-plan contracts.

The above mentioned provisions were included in S. 1730, the proposed "Consolidated Omnibus Budget Reconciliation Act of 1985" as passed on November 14, 1985, as an amendment in the nature of a substitute to H.R. 3128. The Conference agreement on H.R. 3128, is expected to be considered by the House and the Senate on December 19, 1985. The statement of managers outlines the Conference agreement.

Compensation and related issues

During the First Session of the 99th Congress, the Senate Veterans' Affairs Committee reported, and the full Senate approved, on December 2, 1985; S. 1887, the proposed "Veterans' Compensation and Benefits Improvement Act of 1985" a bill with 49 sections in 5 titles. It would provide that veterans in receipt of compensation for service-connected disabilities dependents and survivors in receipt of dependency and indemnity compensation would receive an across-the-board cost-of-living increase of 3.1 percent effective December 1, 1985. In addition to increasing the rates of compensation, other important provisions of S. 1887 would:

(1) make improvements in the Home Loan Guaranty Program, including the establishment of stricter credit underwriting standards.

(2) make changes in the various educational assistance programs available to veterans.

(3) extend and expand the Emergency Veterans' Job Training Act and provide an authorization for additional funding for that program.

(4) provide the option of marking gravesites in national cemeteries with upright markers.

The Senate and House were unable to reach a compromise on an omnibus compensation bill prior to the end of the 1st session of the 99th Congress. In order to ensure that a cost-of-living adjustment (COLA) would be provided to veterans in receipt of compensation for service-connected disabilities, dependents, and the survivors of veterans whose deaths were due to service, a 3.1% COLA rate increase was included in both a Senate amendment to H.R. 1538, the Veterans' Compensation Rate Increase and Job Training Improvement Act of 1985, and in the conference report of H.R. 3218, the Omnibus Budget Reconciliation Act of 1985 which was passed by the Senate and House on December 19, 1985. H.R. 1538, as amended, and passed by the Senate on December 19, 1985, also renamed and extended for one year the Emergency Veterans' Job Training Act.

Expected action by the committee during the 2d session of the 99th Congress

During the next session of Congress, the Committee will continue its oversight of the major programs administered by the VA.

Special emphasis is expected to be placed on several program areas including:

(1) alternatives to institutionalization for aging and chronically mentally ill veterans.

(2) a continued review of the VA's loan guaranty program.

(3) a review of the VA's financial management and resource allocation system and the use of, among other things, diagnostic-related-groups (DRG's).

(4) an examination of the VA's automatic data processing (ADP) system.

AMENDMENT TO INCREASE LIMIT ON DISTILLED SPIRIT PLANTS EXEMPT FROM BOND REQUIREMENTS

Mr. DOLE. Mr. President, during a recent town meeting in Garden City, KS, I was approached by two men who own a small alcohol fuel producing plant in Leoti, KS. These men were concerned that as of January 1, 1986, they would be forced to close their plant and lay off approximately 12 employees because of a Federal law requiring them to furnish a $110,000 bond. Officials with the Bureau of Alcohol, Tobacco and Firearms inform me that this bonding requirement is to guarantee that an alcohol fuel producing plant will pay any Federal tax liability accruing on the distilled spirits produced by the plant. It seems rather strange to me, Mr. President, that such a bonding requirement should result in the closing of an alcohol fuel producing facility, as there is no Federal tax liability on alcohol fuel.

According to the two men operating this plant, it has been impossible for them to obtain the federally mandated bond. Their bank is a small agricultural-oriented facility and due to the sad shape of the agricultural economy these bonding companies have no interest in underwriting such a bond.

I do understand, Mr. President, that at one stage in the alcohol distillation process there is some concern that the alcohol produced by an alcohol fuel plant could be diverted and used for beverage purposes. Should this happen there would be Federal excise taxes due on the product. However, Mr. President, I have been assured by officials with the Bureau of Alcohol, Tobacco and Firearms, that Public Law 96-223 sets out specific criminal penalties for any such illegal activities—thereby providing the Government with a form of recourse against those diverting the product illegally.

Today, I would have offered an amendment to increase the limit on distilled spirit plants exempt from bonding requirements when producing alcohol fuels if there had been a realistic chance for enactment. This amendment would have raised the bonding threshold for those plants in operation for at least 2 years, from the 10,000-proof gallon level to a 2,500,000-proof gallon level, for 1 year. It will allow those small alcohol fuel production plants experiencing bonding problems to remain open next year, and would have given Congress enough time to fully discuss the merits of the bonding requirement.

Unfortunately, it was not possible to get the House to consider this measure today. I hope to be able to move this legislation very quickly in the next session.

I ask unanimous consent that the text of the amendment I intended to offer be printed immediately following my remarks.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . In the case of any distilled spirits plant which, for each calendar quarter during 1984 and 1985, was required to obtain, and obtained, a bond under section 5181 of the Internal Revenue Code of 1954, section 5181(c) of such Code shall, for each calendar quarter during 1986, be applied by substituting "2,500,000 proof gallons" for "10,000 proof gallons".

APPOINTMENTS BY THE CHAIR

The PRESIDING OFFICER (Mr. Wallop). The Chair, on behalf of the President pro tempore, pursuant to Public Law 94-118, appoints the Senator from Hawaii [Mr. Inouye] to the Japan-United States Friendship Commission.

The Chair, on behalf of the President pro tempore, pursuant to Public Law 99-83, appoints Rabbi Chaskel Besser to the Commission for the Preservation of America's Heritage Abroad.

The Chair, on behalf of the President pro tempore, pursuant to Public Law 99-93, as amended by Public Law 99-151, appoints the following Senators to the United States Senate Caucus on International Narcotics Control: the Senator from Delaware (Mr. Biden), Co-Chairman; the Senator from Arizona [Mr. DeConcini]; and the Senator from Illinois [Mr. Dixon].

The Chair, on behalf of the Vice President, pursuant to Executive Order 12131, signed by the President on May 4, 1979, as extended, appoints the Senator from Texas [Mr. Bentsen] to the President's Export Council.

APPLAUDING ADOPTION FACTBOOK DEVELOPED BY UTAH CITIZEN

Mr. HATCH. Mr. President, I am pleased to bring to the attention of my colleagues an important resource related to the adoption of children. Recently, the national news media have been talking about adoption statistics—data that has not been collected by the Federal Government since 1975. As it turned out, it took the efforts of a national voluntary organization, the National Committee for Adoption, to gather this important data and make it available to policymakers, to those who offer services to women with crisis pregnancies, and to the tens of thousands of families who would like to adopt but can't. This data was published as part of the "Adoption Factbook."

The person who is primarily responsible for the data gathering is Ione J. Simpson. She found the right resources and worked with States to obtain this information without a costly and cumbersome Federal program. Ione is a career social worker and long-time employee of the LDS Social Service system who did the data-gathering design, while on sabbatical, as a staff member of the National Committee for Adoption. Ione is a resident of Salt Lake City, and my staff and I had the opportunity to meet and work with her while she was in Washington for a year's work as Director of Public Policy and Professional Practice for the National Committee.

Those of us in Utah take pride in our willingness to look at all the facts and make decisions based on those facts. In the case of adoption, thanks to Utah resident Ione Simpson, we now have the facts we need to make better decisions affecting all children who need homes—healthy infants, special needs children, and children from other lands who look to America as their only chance for permanence.

IN SUPPORT OF THE INCREASE IN BENEFITS OF SERVICEMEN'S GROUP LIFE INSURANCE

Mr. COCHRAN. Mr. President, I support enthusiastically the proposal to increase the servicemen's group life insurance benefits from $35,000 to $50,000. I think this increase should be retroactive to include those brave Americans who were killed in the Beirut bombing in 1983.

The recent tragedy in Gander, Newfoundland, which took the lives of 250 members of the 101st Airborne Division, including 2 young soldiers from my State of Mississippi, is being felt by families throughout the Nation. This increase in insurance benefits would not replace the departed loved ones, but could help provide for those families now facing an uncertain future.

Each and every day, American soldiers, sailors, airmen, and marines risk their lives for their country. Major tragedies such as the Gander crash and the Beirut bombing focus our attention, but there are lives lost by service men and women almost daily which do not receive the Nation's attention. The loss of the surviving families, however, is just as real.

On August 19, 1981, two Navy F-14's from the U.S.S. *Nimitz* were attacked and subsequently shot down two Libyan fighters. The F-14 squadron commander and lead pilot was Comdr. Hank Kleeman. A 1965 Naval Academy graduate, he had served his country wherever he was needed, and when called upon this August night, he did not hesitate. His actions made all Americans, including his wife and four children, proud. He was subsequently promoted to captain and assigned as commanding officer of Air Test and Evaluation Squadron Four in California. On the morning of December 3, 15 days ago, Capt. Hank Kleeman was killed in an aircraft accident.

The increased insurance will not provide financial security for the survivors of Hank Kleeman, but it will help to provide a promise of education for his four children. It will do the same for the families of those who were killed at Gander, at Beirut, and throughout the world. This legislation would have a major positive impact on the families who deserve our support the most.

THE OIL BUST

Mr. BOREN. Mr. President, as I have previously mentioned on the floor, I have written Finance Committee Chairman Senator Robert Packwood requesting hearings early next year on my proposal to put in place an oil import fee.

Mr. President, as I said then, we should be prudent and put in place a safety net for the goals we have achieved in energy conservation, for America's domestic energy, and the country's financial system which funds that industry.

We should act now to prevent the disastrous effect sudden sharp drops in the price of oil would have on our economy. Prices may not fall dramatically, and the tiers of an oil import fee may not ever be necessary. But we should protect against the possibility of that happening, and not wait until a potential problem becomes a full-blown crisis.

Mr. President, I urge my colleagues to read the column written by Charles Krauthammer and printed today in the Washington Post, and I ask that the column be printed in the Record.

There being no objection, the column was ordered to be printed in the Record, as follows:

The Oil Bust

If the strain of all the good will, cheer and generosity of the season has left you thoroughly exhausted, I offer relief: a few minutes of sweet, unmitigated vindictiveness. OPEC is dead. Time for rejoicing.

Astute observers detected the first sign of the end of the oil era not in the financial pages, but in the sudden disappearance from TV screens of the Santa Gertrudis cattle. You remember: the Exxon ads that, years ago, showed the happy herd milling about in peaceful coexistence with a Texas refinery, living proof of Big Oil's neighborliness.

When oil was king, ads could disdain anything so crude as product promotion. No more tigers in the tank. Ads were for image. Seen the ads lately? The Santa Gertrudis are gone. And the tiger, promising better performance and symbolizing good old grasping competition, is back. So is the oil market.

For almost 10 years OPEC *was* the market. No longer. Earlier this month OPEC collapsed as a cartel. The beauty is that OPEC destroyed itself. The massive oil shocks of 1973 and 1979-80 stimulated so much energy conservation and non-OPEC production that OPEC now sells only a third of the free world's oil, down from almost two-thirds in its heyday. Thanks to its greedy formula of curtailing production to raise prices, OPEC gratuitously forfeited much of its market share—*the* measure of economic power—to others, such as Mexico, Britain and Norway.

Ah, greed. A recent analysis by the London-based Economist shows that had

OPEC raised prices merely non-extortionately, say, in accord with GNP increases in the West, it would over the past six years have accumulated exactly the same total income ($1.3 trillion). But it would now have (1) a steadier and higher price, (2) a one-third greater, and probably controlling, share of the world market and (3) reason to smile. Instead of being at the edge of a rising income curve, it is now at the edge of a cliff. Who says there is no justice in the world?

OPEC, of course, has another word for greed. At the December OPEC meeting, Tamunoeni David-West, Nigeria's oil minister, said, "Nigeria has made enough sacrifices to promote the ideals of OPEC." The beneficiaries of past OPEC idealism—the battered economies of the West and the ruined economies of the oil-poor Third World—welcome OPEC's retreat from highmindedness.

The news, however, is not unequivocally good. Oil prices, now at $28 per barrel, are perched for a free fall. Since Persian Gulf crude costs about $2 per barrel to produce, there is no telling how great the fall could be.

That is very good news for the world's economies, but it carries a threat.

Chevron Chairman, George Keller, once called it the Velvet Trap scenario: a sharp drop in oil prices leads to an increase in consumption, a slowdown in energy substitution out of oil, and a decrease in marginal production from expensive non-OPEC, wells, such as those in the Arctic and the North Sea. Gas is guzzled, wells shut down, the market tightens, and, in the 1990s, the trap closes: a crisis, a panic, another oil shock.

What to do? The solution is an oil import fee. Let it go into effect only if the price falls below the current $28. If the world price is $18, the tax is $10. If it is $23, the tax is $5. If it is $28, the tax is zero. That way no one pays a penny more for gas or heating oil than he does today. Adjusted, say, every three months to reflect the average world price, such a tax would soak up windfall only.

The effects are clear. It would keep consumption from rising. (In 1984, with prices falling, U.S. oil consumption rose 3.2 percent.) And, by maintaining at $28 the price offered domestic producers, it would keep a lot of marginal wells from shutting down. (Already the expectation of lower oil and gas prices has caused the number of U.S. rotary drill rigs in operation to fall to the lowest level since 1976.)

Why would anyone oppose such a boon? The president because he has a tax allergy and supply-siders because they don't want to take away the stimulative effect of an oil price drop.

Tax allergies are incurable, but perhaps one can reason with supply-siders. An oil import fee does not abolish the stimulate effect of an oil price drop. It merely reallocates it. The money—at $10 per barrel, $15 billion per year—is not lost. It simply gets collected by government instead of being passed on directly to oil users as a reward for energy waste.

The point of an oil import fee is to raise the (relative price of oil. The windfall does not disappear, nor the stimulative effect. In theory, the oil tax money could be refunded in the form of lower income tax rates. The Gramm-Rudman era, even the most starry-eyed supply-sider will concede, is not a very good time for that. Well, then, an oil fee could narrow the deficit and obviate the need for corresponding—anti-stimulative—spending cuts.

If there ever was a best-of-both-worlds idea, this is it. The last time it was broached in Congress was by Senate Budget conferees in July. One colleague put it to Sen. David Boren: "The oil import fee makes so much sense that Congress probably won't pass it." It didn't. It should.

MYTH OF THE DAY: TERRORISM, IT CAN HAPPEN HERE

Mr. PROXMIRE. Mr. President, the myth of the day is something very basic to all of us. To you, to me, to all Americans, namely the threat of international terrorism and the feeling that it can't happen here.

Terrorism, I'm sorry to say, is going to be a fact of life for us and will loom like a dark, deadly shadow over the international political landscape for the rest of the century. And that is not a happy thought.

Am I being some sort of Cassandra, bringing warnings that no one heeds? I sincerely hope not. Let's take a look at the facts.

From 1975 to early 1985, terrorists struck more than 5,000 times worldwide. And the tragic legacy: 4,000 dead and 8,000 wounded. Last year alone, the U.S. Government counted nearly 600 international terrorist acts.

Now, if those numbers are not grim enough consider this: a recent study by the Rand Corp. says terrorist acts are rising at an annual rate of 12 to 15 percent. And in that same report there is something that could be even more ominous: that terrorism is becoming commonplace, even routine or ordinary. What an outrageous thought that something as heinous as the hijacking of the cruise ship *Achille Lauro* and killing of an elderly, paralyzed American could become routine. No decent person, anywhere on this, planet, can accept such acts as routine.

And we have other things to worry about: state sponsored terrorism. I guess it is not enough that individual madmen murder the innocent, now we have the specter of outlaw states aiding and abetting these blood-thirsty killers.

Share another nightmare with me: nuclear terrorism. Preposterous, you say? I think not. Nuclear proliferation has brought atomic materials and the knowledge of how to build a bomb to more countries. Now imagine for a moment an outlaw nation giving a terrorist band an atomic bomb. That would be a catastrophe! If you added all the world's terrorist acts from Munich 1972, to the *Achille Lauro*, it could never equal the horror of a city-destroying atom bomb in the hands of terrorists.

The fact is we have grown complacent about terrorism. That could be tragic.

We see the pictures from Lebanon and assume what happens there can't happen here. I wish that were true. Alas, it is not.

How many remember last year's terrorist bombing right here in the U.S. Capitol? We have been very fortunate so far. The U.S. Capitol bombing killed no one. But what about next time? There is absolutely no indication that terrorism will vanish overnight.

So, what is to be done? Do we cower in fear, ignoring the problem, hoping it will go away? Hardly! There are several concrete, relatively simple steps we can take.

We should continue to beef up physical security. That means checking more bags, inspecting more briefcases. Inconvenient? Sure it is. But it is far simpler and far cheaper to make these checks rather than wishing we had after some strategy.

We need better security for our Americans abroad. The United States is always going to be a prime target with our extensive official and commercial ties overseas. We don't need another Lebanon with an Embassy destroyed or Marines blown up.

Better intelligence efforts to root out these enemies of decent people is another step. And based on that close cooperation with other countries to identify terrorists before they strike. We must label those rogue nations who help terrorists.

Most of all we must realize it can happen to us. Terrorism can strike here. That doesn't mean living in fear. Absolutely not! It does mean being aware that we could have serious problems if we don't work vigorously to stamp out this scourge of international terror.

"STAR WARS" WILL INCREASE THE LIKELIHOOD OF NUCLEAR WAR

Mr. PROXMIRE. Mr. President, there are a series of reasons why the SDI or "star wars" program can develop into one of the most tragic mistakes in this country's history. First, it now seems clear that there is an overwhelming consensus on the part of the most knowledgeable supporters of this program that it can never protect American cities. The President has said that SDI can eventually do this. He apparently believes it. But the President is virtually alone in this conviction. In December in a series of three lengthy reports Charles Mohr wrote a detailed analysis of the SDI or star wars in the New York Times. Mohr talked with virtually all the top experts on star wars both in the administration and outside of the administration. He concluded that whereas 18 months ago some star wars supporters still thought that a "near perfect" defense was possible, this is no longer the case. Mohr reports:

> Instead of stressing the goal of a defense that is nearly perfect by the standard of how many Soviet nuclear warheads it could shoot down, Administration figures now

> stress that if "Star Wars" could only deny the Russians the ability to destroy the key military targets, which the Administration perceives to be the Russians' only goal, it would be good enough.

The study by the Office of Technology Assessment found a series of reasons why the SDI would be more likely, not less likely, I repeat more likely to bring on a superpower nuclear war. First, if both superpowers had similar but limited defenses, whichever superpower struck first would have a major advantage because it could knock out much—though not all of its opponent's nuclear arsenal.

Why is this? Consider: What does the SDI need to succeed? Any chance of a successful star wars defense depends on a sharp reduction of the adversary's nuclear arsenal. How can this be achieved most surely? Answer: A preemptive attack could provide precisely that. This is why the Office of Technology Assessment has concluded that if both sides deploy and SDI system, as the President has proposed, the prospect of a preemptive Soviet strike would sharply increase. As OTA observes:

> Even a limited Soviet defense would have to deal only with a "ragged response" from a diluted United States retaliatory arsenal.

Of course a dangerous possibility is a situation in which the defenses of each nation are vulnerable to a preemptive strike by the other side. What happens under those circumstances? What happens is that whichever adversary strikes first has a huge advantage. Result: mutual deployment of SDI will make a super power nuclear war far, far more likely.

Mr. President, one of the most revealing disclosures in the OTA report as described by Charles Mohr in the New York Times is the result of a war games scenario that simulates star wars defenses. One Soviet affairs specialist described it this way:

> We found we were playing against defense contractor personnel and others who know nothing about Soviet doctrine. It took our whole team, the Red team, less than 20 minutes to agree that our first counter to "Star Wars" would be to increase offensive missile numbers. Their team, the Blue team, said, "No, that is not how the Soviets think." Every step we took surprised them.

In a later speech I intend to discuss the cost of "star wars" as it will affect not only the research, the production and the deployment of immensely expensive hardware, but the additional cost of supplementing an SDI system with a new immensely costly air defense and a vast new, hugely expensive civil defense system. What a tragedy! We may be on the verge of pouring the economic, scientific, and manpower resources of this great Nation into far-and-away the most costly system the world has ever seen. What happens when we have it? We will find it will not work except on one terrible condition. It will work only if we initiate the first strike. We will know that our adversary, the Soviet Union, will face the same dilemma. They too will have some kind of an SDI which they also know means their best chance of survival will be to strike before the United States does. What does that kind of situation do to the prospect of nuclear war? Will we be better off? Consider what the President's preeminent spokesman on foreign policy, our Secretary of State George Shultz, said just last December 10. He said:

> In the 1980's and beyond, most likely we will never see a world in a total state of peace or a state of total war. The west is relatively very well prepared to deter an all-out war, or a Soviet attack on western Europe or Japan; that's why these are the least likely contingencies.

The Secretary of State was telling us that the prospect of super power nuclear war right now is remote, and it will remain remote for years to come. But all that changes with Star Wars. The real tragedy is that our multitrillion-dollar folly will sharply increase the likelihood of nuclear war. What a way to throw away a few trillion dollars.

GENOCIDE CONVENTION: ANOTHER MISSED OPPORTUNITY

Mr. PROXMIRE. Mr President, as the gates of 1985 begin to close, we see once again that Congress has failed to act upon the Genocide Convention. This should have been the year for passage. The administration had given its full support. Ominous developments abroad in the form of brutal human rights abuses indicated that ratification was vital and absolutely necessary. The year 1985 even marked the 40th anniversary of the end of the Second World War and the Holocaust. If ever there seemed an opportune time, it was this year.

The legislative agenda for next year appears busier than ever. Looking ahead, we can expect to face such heavyweight issues as Conrail, tax reform, campaign reform spending, and provisions implementing Gramm-Rudman.

Is there any room for the Genocide Convention, which has been sidestepped and brushed aside for more than three decades?

We must make room for this treaty. We must demand a firmer commitment for ratification of the Genocide Convention. For what we need now more than at any time before is stronger leadership in the cause of human rights and against genocide around the world.

Mr. President, it is essential that we move ahead early next year if the Genocide Convention is to have a realistic chance for consideration next year. We need a commitment here and now from the leadership of the Senate to set a date certain for consideration of the treaty. We need a commitment now from the White House to put the full weight of the President's authority behind this effort.

We have waited an entire generation for the Senate to act on this treaty. We must not wait any longer.

DEATH OF FRANK ARTHUR CAMPBELL

Mr. FORD. Mr. President, it is with great sadness that I relay to the Senate news of the untimely death of Mr. Frank Arthur Campbell. Since 1978, Frank served within the Educational Services and Support Division of the Senate Computer Center. As an instructor and consultant for the Senate's legislative computer applications, Frank was well known and highly esteemed by staff members from many corners of Capitol Hill.

Frank distinguished himself as an honors graduate of Paul Quinn College in his native Waco, TX. He later became an elementary school teacher, first in Waco and later within the Waterloo, IA, school system. His teaching expertise and personable manner were well applied in his years at the Senate; many a staff member learned how to use the Senate's LEGIS system under Frank's careful and caring guidance.

Painful as they were, Frank's last days were considerably brightened by the closeness of the many family members and friends who traveled to be with him in illness. On behalf of the Senate, I wish to extend special condolences to Frank's mother, Mrs. Dora L. Campbell, and to his sister Alma Faye and brother Larry who traveled from Waco to comfort Frank.

I am sure I speak for the entire Senate in saying that Frank's warmth and compassion will be sorely missed.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 2 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the Speaker pro tempore [Mr. WRIGHT] has signed the following enrolled bill:

S. 1706. An Act to authorize the Architect of the Capitol and Secretary of Transportation, in consultation with the Chief Justice of the United States, to study alternatives for construction of a building adjacent to Union Station in the District of Columbia, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore [Mr. THURMOND].

At 2:40 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the text of the bill (H.R. 4006) to extend until March 15, 1986, the application of certain tobacco excise taxes, trade adjustment assistance, certain Medicare reimbursement provisions, and borrowing authority under the Railroad Unemployment Insurance Program, and to amend the Internal Revenue Code of 1954 to extend for a temporary period certain tax provisions of current law which would otherwise expire at the end of 1985, with an amendment, in which it requests the concurrence of the Senate, and that the House agrees to the amendment of the Senate to the title of the bill, with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following joint resolution, without amendment:

S.J. Res. 255. Joint resolution relating to the convening of the second session of the Ninety-ninth Congress.

ENROLLED BILL SIGNED

The Vice President announced that on today, December 20, 1985, he signed the following enrolled bill, which had previously been signed by the Speaker of the House of Representatives:

S. 1884. An act to amend the Farm Credit Act of 1971, to restructure and reform the Farm Credit System, and for other purposes.

ENROLLED BILLS AND JOINT RESOLUTIONS PRESENTED

The Secretary of the Senate reported that on today, December 20, 1985, she had presented to the President of the United States the following enrolled bills and joint resolutions:

S. 1706. An act to authorize the Architect of the Capitol and Secretary of Transportation, in consultation with the Chief Justice of the United States, to study alternatives for construction of a building adjacent to Union Station in the District of Columbia, and for other purposes.

S. 1884. An act to amend the Farm Credit Act of 1971, to restructure and reform the Farm Credit System, and for other purposes;

S. 1918. An act to change the date for transmittal of a report;

S.J. Res. 189. Joint resolution designating the week beginning January 12, 1986, as "National Fetal Alcohol Syndrome Awareness Week";

S.J. Res. 198. Joint resolution to designate the year of 1986 as the "Sesquicentennial Year of the National Library of Medicine"; and

S.J. Res. 235. Joint resolution to designate the week of January 26, 1986, to February 1, 1986, as "Truck and Bus Safety Week".

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. GOLDWATER, from the Committee on Armed Services:

The following named officers for posthumous promotion to the grade indicated under the provisions of article II, section 2, clause 2 of the Constitution of the United States of America:

ARMY

To be captain

Lt. John K. Kosh, 202-44-7672.
Lt. Paul D. Long, 422-80-7593.
Lt. Joey McCarty, 457-96-4868.
Lt. Barry C. Powell, 226-08-0757.

To be chief warrant officer W-4

CWO3 Robert A. Bowen, 231-64-9922.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. ABDNOR:

S. 1998. A bill to amend the Internal Revenue Code of 1954 to provide for the repayment of the tax imposed on fuel in diesel-powered automobiles or light trucks; to the Committee on Finance.

By Mr. DANFORTH:

S. 1999. A bill to regulate interstate commerce by providing for a uniform product liability law, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BYRD (for Mr. ROCKEFELLER (for himself and Mr. BYRD)):

S. 2000. A bill to clarify the exemptive authority of the Securities and Exchange Commission; to the Committee on Banking, Housing, and Urban Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ABDNOR

S. 1998. A bill to amend the Internal Revenue Code of 1954 to provide for the repayment of the increased tax imposed on fuel used in diesel-powered automobiles or light trucks; to the Committee on Finance.

REPAYMENT OF INCREASED TAX ON DIESEL FUEL

● Mr. ABDNOR. Mr. President, when the 1984 Deficit Reduction Act was passed, the diesel fuel tax was raised 6 cents per gallon to repair the damage created by large trucks on our highways. Unfortunately, this tax was also levied against owners of automobiles and small trucks. This places an unneeded financial burden on these owners.

My legislation would correct this injustice by providing a rebate to consumers who own diesel-powered autos and light trucks of the tax they pay. Damage to our highways cannot be attributed to these people at all, and corrective action must be taken.

These people bought these diesel-powered vehicles when the energy crunch was real. They now wind up paying for their innocent attempt to conserve fuel. I urge my colleagues to support this measure, so the injustice can be corrected. My colleague on the House side, Mr. SCHULZE already has legislation introduced. If we want fairness in our legislation, then this bill will receive the due consideration it deserves.●

By Mr. DANFORTH:

S. 1999. A bill to regulate interstate commerce by providing for a uniform product liability law, and for other purposes; to the Committee on Commerce, Science, and Transportation.

PRODUCT LIABILITY VOLUNTARY CLAIMS AND UNIFORM STANDARDS ACT

● Mr. DANFORTH. Mr. President, I rise today to discuss the issue of product liability reform. As chairman of the Senate Committee on Commerce, Science, and Transportation, I believe that there is no more important subject before the committee than the cost and scarcity of liability insurance, and the underlying need for product liability reform.

Traditionally, product liability has been a matter left to State law, but today the morass of product liability law is a problem of national concern that requires congressional action. The product liability system is costly, slow, inefficient, confusing, and unpredictable. It hurts business, consumers, and our competitive position in world markets.

The present patchwork of inconsistent, often contradictory State laws makes it difficult for manufacturers to know what standards they will be held to in manufacturing a product. It delays justice to those victims truly deserving compensation, and it encourages lawyers to solicit half-hearted plaintiffs in the hope of recovering windfall contingent fees.

The confusion in product liability laws leads not only to excessive litigation but to unpredictable insurance costs. The result is that an increasing number of American firms cannot purchase insurance coverage that is adequate to protect against potential liability. At the same time, many consumers who are injured by defective products and deserve compensation are unable to recover damages or must wait years for recovery. They find themselves caught in a legal lottery in which identical cases can produce different results in different jurisdictions. When they recover, they sometimes find that they receive less in damages than the total legal costs and expenses involved in the case.

Manufacturers seek certainty about the scope and extent of their liability. Consumers seek swifter, more certain recovery, and both groups seek to avoid the high transaction costs of litigation. It is time for a new approach to the problems of our product liability system that unites manufacturers and consumers, in recognition of the fact that their interests, while different, are not necessarily conflicting.

After Senator Kasten's product liability reform bill, S. 100, became deadlocked in the Commerce Committee, the Committee held hearings on alternatives to S. 100 proposed by Senator Dodd and Senator Gorton. I then directed the Commerce Committee staff to begin the formulation of such a new approach to product liability reform that combines uniform product liability standards, along the lines of the Kasten bill, with an alternative claim or compensation system, similar to those proposed by Senator Dodd and Senator Gorton.

I did so, because I believe that such an approach is essential to product liability reform and the only way to develop viable legislation that would have a broad base of support from manufacturers, consumers, and labor. The basic idea is to establish uniform Federal standards for product liability litigation and, at the same time, to get as many people as possible out of the courts and into a simple, expedited claim system that provides swift and more certain recovery without the costs of protracted litigation.

Mr. President, this approach now is embodied in a staff working draft of product liability legislation that originally was released for public comment last July. This draft, which since has been revised, gives a person injured by a defective product a choice between a new, expedited claim system and traditional litigation. If the injured person chose to litigate, he could seek recovery for damages, including pain and suffering and punitive damages, in a traditional lawsuit that would be governed by uniform Federal standards that preempt State law and that would be based primarily on negligence or fault—not strictly liability. As an alternative, without going to court, a person seeking recovery for harm caused by a product could file a claim directly with the manufacturer to recover only net economic loss—actual out-of-pocket expenses incurred as a result of the harm, which are not reimbursed by other sources.

No recovery would be permitted within the claim system for pain and suffering or punitive damages, but the burden of proof for recovery would be much lower than that of the traditional litigation system. This would not be an absolute "no-fault" claim system, but the standard for recovery would be much easier to meet and there would be greater certainty of recovery.

Under this proposal, once a claim is submitted, a manufacturer must respond within 90 days. If the manufacturer only disputes the amount to be paid for net economic loss, this issue goes to binding arbitration. If the manufacturer denies liability or fails to respond to the claim, the claimant has a choice. The claimant may initiate a traditional lawsuit under new uniform Federal standards. As an alternative, the claimant may seek expedited limited judicial review within the claim system. Such review would be under the claim system liability standard without a jury and with recovery limited to net economic loss. Once judicial review has been sought within the claim system, it cannot be pursued in traditional litigation for the same harm. Likewise, once traditional litigation has been initiated, a person cannot use the claim system to seek recovery for the same harm.

Mr. President, this staff working draft also gives special treatment to toxic harm caused by long-term exposure to products. The particular concern here is to address the problems many individuals have with respect to identification of the manufacturer and with respect to proof of causation in long-term latency disease cases, particularly those involving occupational diseases. We are seeking a simplified mechanism to resolve the disputes as to causation that now make it very difficult and costly to assess liability in such cases.

The response to this proposal has been encouraging. A very constructive approach was taken by all those who commented on the first draft, and after these comments were reviewed, a second staff working draft was released on November 27. This draft clarifies the provisions of the original and addresses concerns raised in many of the comments on the first draft submitted to the committee by manufacturing, labor, and consumer groups, as well as by others.

Of course, it is important to remember that this is only a staff working draft and it still would be premature to endorse specific provisions of the draft, but I think that we are making real progress in addressing the problems of product liability in a fair and comprehensive manner, and I ask unanimous consent that the second staff working draft be printed in the Record for review by my colleagues and all those interested in product liability reform.

The current crisis with respect to the availability of liability insurance only underscores the urgent need for product liability reform. It is my hope that the Commerce Committee can begin hearings on this new draft early in the next session and that we can move ahead as expeditiously as possible to fashion product liability reform legislation that efffectively and fairly addresses the problems of manufacturers, product sellers, workers, and consumers. It is my hope, as well, that those who study this draft proposal will share their views and concerns with the committee as soon as possible.●

ADDITIONAL COSPONSORS

S. 837

At the request of Mr. Heinz, the name of the Senator from Arkansas [Mr. Bumpers] was added as a cosponsor of S. 837, a bill to amend the Social Security Act to protect beneficiaries under the health care programs of that act from unfit health care practitioners, and otherwise to improve the antifraud provisions of that act.

S. 1378

At the request of Mr. Durenberger, the name of the Senator from Minnesota [Mr. Boschwitz] was added as a cosponsor of S. 1378, a bill entitled the "Long Term Care Insurance Promotion and Protection Act of 1985."

S. 1710

At the request of Mr. Byrd, his name was added as a cosponsor of S. 1710, a bill to establish a motor carrier administration in the Department of Transportation, and for other purposes.

S. 1721

At the request of Mr. Riegle, the name of the Senator from Hawaii [Mr. Inouye] was added as a cosponsor of S. 1721, a bill to amend the Social Security Act to provide for improved procedures with respect to disability determinations and continuing disability reviews and to modify the program for providing rehabilitation services to individuals determined under such act to be under a disability, and for other purposes.

S. 1855

At the request of Mr. Quayle, the name of the Senator from Iowa [Mr. Grassley] was added as a cosponsor of S. 1855, a bill to revise the provisions of the Public Health Service Act relating to health planning.

S. 1860

At the request of Mr. Moynihan, the name of the Senator from Tennessee [Mr. Gore] was added as a cosponsor of S. 1860, a bill to amend the Trade Act of 1974 to eliminate barriers and distortions to trade, to provide authority for a new round of trade negotiations, to promote U.S. and for other purposes.

S. 1880

At the request of Mr. Gorton, the name of the Senator from Indiana [Mr. Quayle] was added as a cosponsor of S. 1880, a bill to amend the Internal Revenue Code of 1954 to clarify the treatment of travel expenses in the case of construction workers.

S. 1889

At the request of Mr. DENTON, the names of the Senator from Nevada [Mr. LAXALT], the Senator from North Carolina [Mr. EAST], the Senator from North Carolina [Mr. HELMS], and the Senator from Idaho [Mr. SYMMS] were added as cosponsors of S. 1889, a bill to amend title 11 of the United States Code, relating to bankruptcy, to prevent discharge of administratively ordered support obligations.

S. 1912

At the request of Mr. DANFORTH, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 1912, a bill to provide for a 6-month extension of certain temporary provisions relating to the Internal Revenue Code of 1954.

S. 1940

At the request of Mr. DENTON, the name of the Senator from Idaho [Mr. SYMMS] was added as a cosponsor of S. 1940, a bill to protect the security of the United States by creating the offense of international terrorism, and for other purposes.

S. 1941

At the request of Mr. DENTON, the name of the Senator from Idaho [Mr. SYMMS] was added as a cosponsor of S. 1941, a bill to protect the security of the United States by providing for sanctions against any country that provides support for perpetrators of acts of international terrorism.

S. 1942

At the request of Mr. DENTON, the name of the Senator from Idaho [Mr. SYMMS] was added as a cosponsor of S. 1942, a bill to amend title 10, United States Code, to improve the security of U.S. military installations.

S. 1966

At the request of Mrs. KASSEBAUM, the names of the Senator from South Dakota [Mr. PRESSLER], and the Senator from Tennessee [Mr. GORE] were added as cosponsors of S. 1966, a bill to provide for efficient and equitable use of operating rights at congested airports, and for other purposes.

SENATE JOINT RESOLUTION 237

At the request of Mr. GRAMM, the names of the Senator from Illinois [Mr. DIXON], and the Senator from North Carolina [Mr. HELMS] and the Senator from South Carolina [Mr. HOLLINGS] were added as a cosponsors of Senate Joint Resolution 237, a joint resolution to designate the month of January 1986 as "United States Savings Bonds Month."

SENATE JOINT RESOLUTION 249

At the request of Mr. DENTON, the name of the Senator from Idaho [Mr. SYMMS], was added as a cosponsor of Senate Joint Resolution 249, a joint resolution to proclaim October 23, 1986, as "A Time of Remembrance" for all victims of terrorism throughout the world.

SENATE CONCURRENT RESOLUTION 94

At the request of Mr. DENTON, the name of the Senator from Idaho [Mr. SYMMS] was added as a cosponsor of Senate Concurrent Resolution 94, a concurrent resolution expressing the sense of the Congress that the President should declare a State of national emergency with respect to terrorist acts committed against nationals of the United States.

AMENDMENT NO. 1423

At the request of Mr. HOLLINGS, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of amendment No. 1423, intended to be proposed to S. 1404, an original bill to require the President to respond to unfair trade practices of Japan.

AMENDMENT NO. 1424

At the request of Mr. HOLLINGS, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of amendment No. 1424 intended to be proposed to S. 1860, a bill to amend the Trade Act of 1974 to elimate barriers and distortions to trade, to provide authority for a new round of trade negotiations, to promote U.S. exports, and for other purposes.

AMENDMENT NO. 1425

At the request of Mr. HOLLINGS, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of amendment No. 1425 intended to be proposed to S. 1837, a bill to establish a National Trade Data Bank, to provide authority to revise certain trade and financial agreements, and for other purposes.

AMENDMENT NO. 1426

At the request of Mr. HOLLINGS, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of amendment No. 1426 intended to be proposed to H.R. 3722, a bill to extend until December 14, 1985, the application of certain tobacco excise taxes, trade adjustment assistance, certain Medicare reimbursement provisions, and borrowing authority under the Railroad Unemployment Insurance Program.

AMENDMENT NO. 1427

At the request of Mr. HOLLINGS, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of amendment No. 1427 intended to be proposed to S. 942, a bill to promote expansion of international trade in telecommunications equipment and services, and for other purposes.

ADDITIONAL STATEMENTS

CARGO PREFERENCE

● Mr. BOSCHWITZ. Mr. President, I want to take this opportunity to clarify one point concerning the cargo preference provisions in the farm bill. As one who was quite involved in the last minute negotiations with the House Members, I feel it is important to share my understanding of the intent of the final legislation.

The one issue I wish to specifically address is that of the definition of availability. The initial Senate amendment stated that the Secretary of Transportation shall "give due consideration to the availability of U.S.-flag vessels to transport the commodities."

The House amendment that was then adopted eliminated this language as a technical amendment because it was not necessary to redefine availability—as it is already defined in the Merchant Marine Act, and we are amending that act with the compromise.

In fact Mr. President, the description of the amendment circulated by the Merchant Marine Committee's Chairman WALTER JONES, stated both the purpose and the reason for the change, and I quote from his text: "Strike redundant paragraph; covered in Merchant Marine Act."

Given this, I want to make the point clear that nothing in this bill should be construed as changing the definition of availability, and further, this legislation is not intended to interfere with any pending litigation dealing with the legal issues surrounding the availability exception of the act.●

THE CONGRESS-BUNDESTAG YOUTH EXCHANGE PROGRAM

● Mr. LUGAR. Mr. President, I would like to share with you several letters which were received from high school students from Germany who spent a year in the United States as participants in the Congress-Bundestag Youth Exchange Program. Each student lived with a host family and attended an American high school. These letters are evidence that youth exchange programs such as the Congress-Bundestag Youth Exchange Program encourage a better understanding between young people throughout the world.

> First of all I want to express again my thanks for making my stay here in the United States possible. It has been a fantastic experience and I'm especially grateful because I would not have been able to come as an exchange student if it wouldn't have been with the Congress-Bundestag Youth Exchange Program.
>
> Since I'm very interested in politics, this year has been a fortunate one with the election last fall, the arms talks, discussions about Central America, the 40th anniversa-

ry of WW11 or President Reagan's visit to the cemetery in Bitburg. It was great to get to know so many vital political issues of the American point of view (that is often similar as it was regarding farm problems for example) because I got to see a whole new span of aspects in most of them (American involvement in Central America). This is so extraordinarily great because U.S. politics are so world-important! If I came to America with a neutral position towards this country I go back as Pro-American, in most respects anyway, and say that our relation in the Western Alliance is an enormous valuable one!

But I did not only get to love America, I got to love my own country also. After the first few weeks I saw my own background so clearly, I got to understand my own culture and it became so obvious how I became what I am. It became evident how much each country's culture develops and how each country is the immediate product of its history.

During this period of understanding I started for the first time in my life to be proud to be German—because we are in a way unique and special . . . At the same time I accepted the American way for here but still felt more comfortable with our way and was glad Germany is the way it is . . .

Pretty soon my attitude changed into loving this country, its uniqueness, its originality. I love it because it is so young and consists of so many different peoples-which are all Americans. You could not judge or determine somebody's nationality by race or skin color . . . there's such a variety of Americans. (Unfortunately I understand that there's a lot of racism especially in the South though . . . I myself did not meet many black people in the Midwest.)

There's so much space around here-you go miles and miles without seeing anybody else . . . (In Nebraska anyway . . .) And I was so much "into America" that I forgot my own language to a large degree . . . By now this extreme mood has gone over into loving both countries, this and mine. There are negative things here and there and I feel "in place" in both nations.

I don't think my personality has changed very much during my stay, but this is difficult to judge for myself! If it has, it will show as soon as I am home . . . I am more self-aware though and know more about myself as where or what I want to be and I'm more comfortable in asking favors of other people. Going back I'll leave a home and many friends and since I'm pretty attached to everything I'm going to miss it a lot. But I'm looking forward to going home, too.

I feel like I served my country in a unique way mainly through sharing attitudes, experiences, etc. And I feel that every exchange student does. But I believe that I also added a lot to the knowledge of American people. Exchange programs like this are certainly very special and an excellent way for Americans to get acquainted with other cultures and countries. I'm happy to be part of its cause. There's a time when the world must come together as one!

Sincerely,

MELANIE GRIMM.

Melanie Grimm from Worth, West Germany, 17 years old, hosted by Mr. and Mrs. Tim Mattson, Holdridge, Nebraska.

There were times in this year when I couldn't understand why the people acted different than I expected them to act. But this was because the difference in culture is not only "Levi's", "Coke, and McDonald's", culture is also the way people live together. I made the experience that the people here are very friendly and I think that friendliness is the highest culture any country can have. I am of the opinion that you can't judge a country because of the things you have heard or seen of it. To study a country, you have to live there for a while. Only if you live there for a while can you understand the people living there, because you are a part of them.

Norbet Czech from Regensburg, West Germany, hosted by Mr. and Mrs. John Kohout, Bellevue, Nebraska.

My being an exchange student will have a great impact on my further life. I am now decided that my future work will have to do with foreign countries. I want to work as much as possible for the understanding of the world. Even though this might not have great effect directly, but I believe if everybody tries this both countries can associate closer and understand each other better.

Frederic Pflanz from Ludwigshafen, West Germany, 17 years old, hosted by Mr. and Mrs. David Dyer, Kankakee, Illinois.

First of all, this year will be unforgettable for me. This year was a full success. I experienced a new way of life, very different from the way at home. I have made new friends. I have a second family which loves me as much as my family at home in Germany. . . .

It is very good that the Congress of the United States and the German Bundestag support such student exchange. I like to thank YFU and the Congress-Bundestag Program for a wonderful, filled with experiences year.

Cordula Buengener from Stukenbrock, West Germany, 17 years old, Richard and Kathy Fitzgerald, Wyoming, MI.●

THE CHANGING VIEWS ABOUT FOREIGN RELATIONS IN KANSAS CITY

● Mr. SIMON. Mr. President, whether we want to acknowledge it or not, people in our country are gradually acquiring more and more of an international sensitivity just as people in other countries are.

I visited recently with Eugene Trani, vice chancellor for academic affairs at the University of Missouri-Kansas City, and he handed me a document about Kansas City and foreign relations.

While Kansas City is some distance from my State of Illinois, my guess is that what he has written about Kansas City could be written about cities in every State in the Nation.

The more open our citizens are to this type of international development, the more likely they are to advance economically.

I believe my colleagues will be interested in Dr. Trani's comments. I ask that they be printed in the RECORD.

The comments follows:

THE CHANGING VIEWS ABOUT FOREIGN RELATIONS IN KANSAS CITY

(By Eugene P. Trani)

Because the Royals won the World Series, the American people have just discovered Kansas City. But in this discovery the Americans have finished behind the Russians and the Chinese. The Soviet people learned about Kansas City in an hour-long documentary, "In the Middle of America," shown on Soviet television in 1983, and the Chinese from a documentary, "Edgar Snow's Hometown," shown earlier this year on Chinese T.V. Therein lies a tale worth analyzing. Kansas City is in some ways better known outside the United States than in New York City, San Francisco, or Los Angeles. And certainly Kansas City is more heavily involved in foreign relations and demanding a greater voice in the making of the foreign policy than ever before.

Years ago this section of the country prided itself on its isolationist tendencies. It was the center of the isolationism that was so influential in the 1920s and 1930s. Active opposition to the spread of Communism was generally supported in Kansas City and surrounding communities, as were the activities of Senator Joseph McCarthy and his colleagues. Even though President Harry Truman, a major architect of modern American foreign policy, came from the Kansas City surburb of Independence, people here in 1940s, 1950s, and 1960s had little interest in foreign policy and little involvement in foreign relations themselves. What involvement they had was based primarily on moral, idelogical, cultural, or ethnic considerations.

All that has changed in the 1970s and 1980s. Today, Kansas City and the two states—Missouri and Kansas—which make up the metropolitan area now have multiple foreign interests and a great stake in foreign policy.

Much of today's interest and involvement is, of course, economic. Kansas City is the home of the Board of Trade, the world's leading hard red winter wheat trading center. At least 50 percent of U.S. wheat exports are in hard red winter wheat, and the U.S. accounts for 30 percent of the world wheat export trade. The Board of Trade has attracted a complex of agricultural enterprises to Kansas City; all multinational grain companies have offices here. In addition, Kansas City is the home of the Milling and Banking News, the weekly "bible" of the grain industry, which in 1972, first reported the large grain purchases of the Soviet Union. American grain sales—or embargoes—to the Soviet Union or The People's Republic of China are thus a major concern in Kansas City. Agricultural exports from this section of the country have in fact increased dramatically. According to the latest available State Export Reports of the International Trade Administration of the U.S. Department of Commerce, Missouri's agricultural exports grew from $174,000,000 in FY 1968 to $1,404,000,000 in FY 1982, while Kansas' agricultural exports rose from $296,000,000 in FY 1968 to $1,628,000,000 in FY 1982. In both states, $1 out of every $3 in agriculture came from farm exports. There also has been significant growth of exports of manufactured goods for both Missouri and Kansas ($634,000,000 in 1969 to $3,013,000,000 in 1981 for Missouri and $241,000,000 in 1969 to $1,517,000,000 in 1981 for Kansas, according to the same source).

This economic interest in exports has led to the creation of a Foreign Trade Zone in Kansas City, and international division of the Kansas City Chamber of Commerce, and the establishment of a number of diplomatic consuls in Kansas City. Kansas City's

Foreign Trade Zone, one of the ten largest and the first inland Foreign Trade Zone in the United States, now totals more than three million square feet and is operated totally by private enterprise, with no government funding. The increased importance of exports has also led to annual trade missions by the Governors of Kansas and Missouri, with Kansas's John Carlin just returning from Europe and Missouri's John Ashcroft just coming back from the Orient. It also has led to much greater interest in foreign policy on the part of Senators Thomas Eagleton, John Danforth, Robert Dole and Nancy Kassebaum and Missouri's and Kansas's members in the House of Representatives. Senator Dole, for example, was a major force in the decision of the United States to drop its grain embargo against the Soviet Union, instituted by President Carter because of Afghanistan and strongly objected to in Kansas City because of damage to Midwestern agriculture. Senator Danforth has become a leading spokesman on the issue of domestic protection. Finally there has been a significant increase in direct foreign investment in both Kansas and Missouri.

But it is not just in the economic area that this increased involvement in foreign affairs is obvious. Kansas City has a very active International Relations Council, with more than 1,000 members, Sister City relationships with a number of cities around the world, including Seville in Spain, Kurashiki in Japan, Tainan City in Taiwan, Freetown in Sierra Leone, and Morelia in Mexico, and a number of cultural and educational relationships. Kansas City's Missouri Repertory Theatre has recently presented the English-language premiers of major Soviet and Chinese plays. And Kansas City, like the states of Missouri and Kansas more generally, has a significant number of foreign scholars studying at its institutions of higher education.

Nowhere is the changing attitude towards foreign relations more obvious than in Kansas City's attitude toward The People's Republic of China. In 1949, Kansas City was a hotbed of criticism for "America's loss of China to the Communists," criticism that extended to favorite son Harry Truman. But Kansas City was also the hometown of the journalist Edgar Snow, author of "Red Star Over China" and a revered figure in modern China. Snow's origin, as well as the activities of some significant Kansas Citians, has led to a special relationship with The People's Republic of China. Thousands of Kansas Citians have visited China and Kansas City is a pilgrimage for many Chinese visiting the United States, leading to close personal relationships.

Kansas City and Xian are in the final stages of formalizing a sister city relationship, and grammer schools, high schools, the University of Missouri-Kansas City (UMKC), hospitals, art galleries, theatres, and many other Kansas City institutions have formal relationships with similar institutions in China. UMKC has formal exchange relationships with such leading Chinese Universities as Peking University, Wuhan University, the Beijing Foreign Studies University, the Central Conservatory of Music, and the University of Science and Technology of China. UMKC has a significant number of Chinese students and professors studying and doing research in Kansas City, including the son of a former foreign minister, the daughter of Deng Xiaoping's personal physician, and the son of China's leading actor. Even Kansas City's Chinese community, which has strong ties to Taiwan, supports Kansas City's relationship with "Communist China."

What do all these Kansas City-based contacts with China and other sections of the world mean? To be sure, they are not unique. All across America, individuals, companies, marketing associations, colleges and universities, cities, and states are involved in similar activities. These involvements have certainly lessened the "control" of the State Department over American foreign policy Collectively, all these non-Washington relationships are beginning to affect the formulation and implementation of American foreign policy. As economic considerations become an even more critical factor in foreign relations, the private, institutional, and corporate involvements with the world can only grow in significance. The old Logan Act, which prohibits private individuals from negotiating with foreign governments, needs to be updated. Kansas City, and many cities in this section of the country, are beginning to develop foreign policies. Watch out Foggy Bottom!●

INTERNATIONAL EDUCATION EXCHANGES

● Mr. SIMON. Mr. President, my predecessor, Charles Percy, had an article in a special international education supplement to the Christian Science Monitor.

It is an excellent commentary pointing out the importance of international education exchanges.

I urge my colleagues, and the former colleagues of Charles Percy, to read it.

I ask that the article be inserted in full in the Record.

The article follows:

Study Abroad: We Still Have a Lot to Learn

(By Charles H. Percy)

As a student at the University of Chicago in the 1940s, I experienced first-hand the excitement that the university's International House and its foreign residents brought to our campus and community.

From heading the early international efforts of Bell & Howell Co. to heading the US Senate Foreign Relations Committee, my interest and commitment to the value of international cultural and education exchange has remained steadfast.

There is no question of the tremendous impact international educational exchange can have in the field of foreign policy. I have seen time and again how a positive study-abroad experience, no matter how brief or modest, can have a life-long impact on an individual's attitudes toward the host country. If those individuals one day become world leaders, the impact is even more striking. In Japan, for example, more than 30 of the 100 current Japanese ambassadors around the world are graduates of programs sponsored by the Institute of International Education (IIE). Japanese Prime Minister Yasuhiro Nakasone knows personally the value of exchange programs through his daughter Meika's experience as an exchange student at Elston High School in Indiana some 20 years ago.

These private- and public-sector experiences have afforded me the opportunity to devote a great deal of time to two international educational organizations—IIE, which through its 14 offices worldwide offers services to foreign students studying in the United States and to US students abroad, and the Hariri Foundation, which sponsors thousands of undergraduate, graduate, and postgraduate Lebanese students in the United States, Canada, and Europe who need financial assistance and who will contribute a whole new generation of leadership to rebuild Lebanon.

Through my association with these two groups, I have seen international students achieve greater awareness of our culture and their own. I have seen students reach for a better understanding of societies in the world, and I have seen students gain a new perspective on their own personal values.

Yet, while more than 340,000 international students are taking advantage of educational programs in the United States, fewer than 1 percent of American students are advancing their own international awareness through study-abroad programs or cross-cultural education.

This apparent lack of interest and awareness is manifest throughout American society:

The United Nations surveyed 30,000, 10- and 14-year-olds in nine different countries, and the results placed the Americans next to last in their comprehension of foreign cultures.

A recent poll also found that 49 percent of Americans apparently believe that foreign trade is either irrelevant or harmful to the United States.

A California professor of world geography was shocked to find the results of a map quiz given to freshman students. One-third of the class did not know where France is, 74 percent could not find El Salvador, 47 percent could not find Japan (many students confused it with New Zealand), 45 percent could not find Iran, and 54 percent could not find Atlanta.

This lack of cross-cultural awareness, however, comes at a time when our social, cultural, and economic environment is becoming increasingly international and interdependent.

Four out of five new jobs in the United States are generated as a direct result of foreign trade. In agriculture, one out of three acres of US farmland is cultivated for export, and approximately one-third of all US corporate profits come from international activities.

Government officials and academics warn that US security and international standing are increasingly threatened by our own inability to train individuals in diplomacy, area studies, and languages.

Clearly, all levels of American education, business, and government need individuals who can successfully function in an international setting.

New and creative ways of raising the American public awareness of the goals and benefits of foreign-exchange programs must be found.

In the field of education, American youth must be exposed to international education and language at an earlier age. New York City has launched a pilot project to teach French, Spanish, and Italian to kindergarten, first-, and second-grade students.

Many major US cities now require all high-school graduates to complete at least one year of foreign-language study. The New York State Board of Regents recently passed a proposal that is aimed at making 50 percent of all high-school students in the state proficient in a foreign language.

In higher education, many colleges and universities are reinstituting language requirements for graduation.

Across the US, educators are trying to broaden the base of cultures and areas students choose for study abroad. Traditionally, international education has been oriented toward Europe. Emphasis now is also being directed to study-abroad programs in third-world countries.

Private organizations like the IIE can help to increase community participation in international educational exchange and provide information and funding for public understanding of the rewards.

Organizations that have country-specific goals, such as the Hariri Foundation, can help bear the responsibility for financing and directing the career development of their own students.

US multinational companies can increase their contribution by developing scholarship programs for students in countries in which they are doing business.

All of us can help create a resurgence of volunteer efforts, including international student houses and home-stay programs.

Advanced technology is also working to improve the environment of international education. Groups such as the National Committee for International Education through Satellites (NCIES) are helping to internationalize education by using live, interactive satellite broadcasts to teach applied skills and theoretical knowledge across national and cultural boundaries.

The NCIES learning system provides for live interaction by placing students in contact with other cultures via two-way television. Native speakers are shown in an overseas marketplace, school, farm, factory, religious celebration, or home. In language education, for example, Spanish classes in Maryland can be linked with Spanish-speaking communities in Miami, or German classes in Pennsylvania can be linked with Bremen, West Germany. The NCIES system can work both ways—by teaching American English to foreign students or by teaching foreign languages to American students.

This innovative technology may prove as valuable to international education as computer technology has been for American industry.

Through efforts like these and other initiatives, we can significantly increase public awareness and understanding of the importance of cross-cultural training. We can also more fully appreciate our own place in a global society.

In recent years our nation's defense budget has increased faster than any other area. But what better "defense" can this nation, or any other, build than through investment in future good will and understanding between our people and future generations of other nations?●

INNA MEIMAN

● Mr. SIMON. Mr. President, I call attention to the case of Inna Meiman, a personal friend of mine in the Soviet Union. Inna's health is poor and deteriorating quickly. She needs medical attention that only the West can provide.

To increase public awareness of Inna's plight, a young Minnesota woman is conducting a hunger strike. Lisa Paul spent 2 years in Moscow and struck up a friendship with Inna. Lisa has been so preoccupied by Inna's situation that she decided to make a public protest.

I commend Lisa for this courageous act of friendship and wish her well.

I ask to print the following article from the Minneapolis Star and Tribune in the RECORD.

The article follows:

[From the Minneapolis Star and Tribune, Dec. 14, 1985]

"U" STUDENT STARTS HUNGER STRIKE FOR A SICK SOVIET FRIEND

(By Neal Gendler)

Inna Meiman of Moscow is dying of cancer, unable to get treatment in the West, and Lisa Paul of Minneapolis is starting a hunger strike today in protest.

Paul, 23, is a University of Minnesota senior from Appleton, Wis., majoring in Russian-area studies. She met Meiman, who is about 55, while in Moscow for two years working as a nanny for an American business executive. Meiman was Paul's Russian-language tutor and, soon, her friend and entree into the world of "refusniks," people who have been refused visas to emigrate.

Paul said that Meiman became ill in 1983. She has had four operations on a growth on the back of her neck, but the tumor continues to grow.

"She has been invited by several hospitals in the West," Paul said this week. "Sweden, Israel, France and the U.S. all have offered her treatment, so the action I'm taking is to protest this refusal. It's not to starve myself until they let her go." Paul will take fruit juice and vitamins, and she plans to end her fast Jan. 4, in time for winter quarter; by then, she hopes that Americans will be more aware of Meiman's situation.

Meiman already is known to Soviet authorities. Paul said that in 1979, when more Jews were being allowed to leave, Meiman and her son applied. They were refused. In 1981, Paul said, her friend married Naum Meiman, a mathematician who belonged to the persecuted and disbanded Helsinki Watch Committee that monitored Soviet compliance with the Helsinki accords.

He, too, had applied to leave and been refused. The Meiman's own problems might be characterized in their remarks in the Dec. 16 Newsweek about Yelena Bonner, also a member of the watch committee and wife of exiled physician Andrei Sakharov.

"The very fact that a big man like Sakharov had to starve himself to get his wife treatment is indicative of how things are in the Soviet Union," Naum Meiman is quoted as saying.

"Her release is not a concession," Inna Meiman is quoted as saying. "We have not seen a single concession yet."

Inna Meiman needs a concession.

"What this is really all about is about Inna, all labels aside," Paul said. "It's about this woman who is very involved in the society, and not come across these people.

"I don't think you should live there and not meet these people because then you can't come back and talk about Moscow and all its people." One of the people she met was a woman who'd spent years in prison and exile for protesting the 1968 Soviet invasion of Czechoslovakia.

"She stood up, with everything to lose—and she did lose it all," Paul said. "That's what those refusniks are about. Inna said that in some respects those people are the bravest people in the world. You're standing up because you're totally committed to something but you know you'll lose everything . . . it makes what I'm doing relatively easy in comparison.

"People here have told me they admire me, and that's nice to hear, but having those people as a comparison, it's not that hard to make a commitment."

Paul has been training for about three weeks, reducing intake of certain foods. She's also talked with a physician who once fasted for 40 days. Paul said that her family supports her plans.

"My mother met Inna when she visited me in Moscow, so she really understands," Paul said. Paul plans to go home for Christmas and hopes to get into the news there, too.

"I encourage other people getting sick. . . . Inna has thanked the Soviet doctors and said they've done all they can, but medical technology in the West offers advanced treatment and hope that this can be cured. Now, the woman has hardly any neck muscles left.

"She has applied to leave for treatment." Paul said. "They said you can't do that unless you have a note from the Ministry of Health. The Ministry of Health said they don't give out such notes."

Paul said that the Soviet authorities "probably consider her to be so sick that they think she'll die, hopefully sooner rather than later, so they won'd have to deal with this . . . also, like Yelena Bonner coming to the United States, it might say that the Soviet medical system is inadequate, so why embarrass yourself when you can just let someone go without?"

Paul has been preoccupied with Meiman's plight since leaving Moscow six months ago. She has written to U.S. politicians, but "I felt I needed to do something on this level" both for Meiman and "to draw attention to me so I can talk about the injustice that's going on."

Paul said that her protest "is centered on Inna—my cause—but it's also the whole issue behind this." That issue wasn't something with which Paul grew up as a Catholic in Appleton.

Paul said the issue became hers because she lived in Moscow. She didn't seek "refuseniks," she said, but "I don't think you can live in the Soviet Union two years, trying to get involved by writing Inna directly—a letter of support, encouragement and/or New Year's greetings," Paul said. "How great it would be for Inna to know the concern others feel for her." Whether Meiman receives all the letters, they would make Soviet authorities learn of the interest in her in the West.

"That's where the potential is in this hunger strike," Paul said. "If public interest picks up, more people write, potentially something could happen." She encouraged people to write, using the Russian address style that puts the country on the top line and the name on the bottom: USSR; RSFSR; Moscow, 113127; Naberezhnaya Gorkogo, 4/22, Apt. 57; Inna Meiman. Postage is 44 cents.

Concerned that Meiman might not have received her letter about the hunger strike and that she understand and respect what she is doing. Paul telephoned Meiman last week.

"My concern was that she might be really concerned about this burden she's placed on my life. But she said that she understands why I'm doing it and that she's very touched by my thoughts and what I'm doing.

"She was very quick to tell me to be careful, don't endanger my health. I really feel good about that because from me to her it's a gift of love."●

THE SOCIAL SECURITY SYSTEM

● Mr. **SIMON**. Mr. President, our Social Security system has received a great deal of attention recently. While the 1983 amendments assured the viability of the system, there are those who would dismantle this crucial program. One of their often-used reasons is that the young and the employed are saddled with the burden of supporting those who do not work. This argument smacks of both greed and ignorance.

A long-time authority, Elizabeth Wickenden, of the study group on Social Security has recently published an excellent overview of the Social Security system.

I ask that the following factsheet be published in the RECORD.

IS IT TRUE WHAT THEY SAY ABOUT SOCIAL SECURITY? OPEN LETTER TO YOUNG WORKERS

INTRODUCTION

The passage of the Social Security Act in 1935 not only established a landmark institution but also launched a national debate about its financial soundness that continues to this day. Particularly at this time, where concern about the growing national deficit is high, social security becomes a favorite—however irrelevant—target. It is natural for young people, whose future seems to stretch indefinitely before them in a fog of uncertainty, to be among the first to raise these questions and sound these alarms. This paper is, therefore addressed primarily to young workers though it concerns everyone who receives or hopes to receive social security when the family income from wages or other work stops.

Part of this alarm seems to spring from the very success of the program which has undergone successive changes since 1935 through amendments that undertook to broaden protection against economic insecurity. Today, fifty years later, it is hard to remember or imagine the time when impoverished old people had only the poor house or the reluctant generosity of their children to carry them through hard times. Widows, orphans and the disabled were also reduced to the humiliation of charity, begging, or the poor house for their survival. Today nearly 37 million individuals receive monthly checks from the federal Old Age, Survivors and Disability program while over 30 million older and disabled persons have part of their medical and hospital bills paid through the federal program, Medicare.

Entitlement to all of these benefits derives from special trust funds financed by contributions from workers and/or their employers. 122 million workers today contribute to the OASI, Disability and Medicare trust funds. All of these millions of persons are bound together by a compact of mutual confidence that rests on statutory provisions governing payments by those now working and benefits to those now retired. This represents an unprecedented social partnership. Still there are questions, especially from younger workers.

WHY THIS PAPER?

Like others concerned with social security I am sometimes confronted by angry young friends. They say something like this: "Why do I have to pay these high social security taxes when everyone knows the system is going bankrupt and won't be there when I get old?" or "Young people like me are being ripped off to pay for benefits to old people who don't need them." or "Why can't I provide for my old age with IRAs or other investments? I can get a better return on my money than they can." or "Why should I be forced to worry about my old age when I need the money now that I'm young?"

The point of view reflected in these questions (even though that of a vocal minority)[1] seriously challenges a system which depends for its vitality and survival on intergenerational continuity, financing and confidence. No one takes it lightly. This "Open Letter" seeks to reply to this challenge.

WHAT IS THE SOCIAL SECURITY SYSTEM?

The social security system is a lifetime social insurance program that protects virtually all working people and their families against loss of earnings due to death of a family breadwinner (life insurance), long-term disability, old age retirement or widowhood.[2] It also pays for part of the health costs for the elderly and long-term disabled.[3] These programs are financed by a charge against earnings (payroll tax), half paid by the employee and half by the employer (except for the self-employed who pay a comparable amount in their own behalf.) Unemployment insurance protecting against loss of earnings due to involuntary unemployment is also a form of compulsory social insurance but since it does not involve an employee's contribution it does not raise the same kind of questions. In all cases the worker receives part of his compensation in cash and part in entitlement to future benefits.

Taxes

Unless they have the misfortune to lose a parent in childhood most people initially encounter the social security system with their first job. For many it is a shock, for which they were little prepared, to find that their first paycheck has been reduced by a somewhat mysterious tax called FICA[4]—for social security. At the present time this amounts to 7.05% for the employed on earnings up to a present maximum of $39,600. 5.7% of this goes into trust funds for Old Age, Survivors and Disability Benefits and 1.35% for hospital insurance for people over sixty-five and the long-term totally disabled. This is matched by an equal amount from employers. The self-employed must pay a total of 9.9%—8.55% for cash benefits and 1.35% for Medicare.

The money in these trust funds may only be used for paying social security benefits as specified in the Act and the administrative costs of the program. Any surplus must be invested in obligations of the Federal government. Recent rates on special social security issues have paid between 11 and 13.75% interest. At the present time the Social Security system is showing an excess of income over outgo and this trend is expected to continue. Some people predict the accumulative effect of this difference may reach as high as 12 trillion dollars before it begins to decline owing to an increase in beneficiaries as a result of the baby boom generation. Even by January 1, 1985 this reserve fund had reached 47 billion dollars.

Benefits

Most workers and their dependents are entitled to benefits based on their average earnings—after they have worked a minimum of 10 years or 40 quarters—when these earnings are interrupted by death, long-term disability or old age retirement. Full benefits are first payable at 65 but people may choose or be forced to retire at 62 with an actuarially reduced benefit. Persons who choose to retire later than 65 receive a somewhat higher benefit. For retirement up to age 70 benefits are payable only to those with limited earnings. This requirement is known as the "retirement test", the limit on what may be earned without reduction of benefit. Above these exempt amounts benefits are reduced one dollar for each dollar of earnings. Dependent spouses who have not earned higher benefit entitlements by their own work, receive 50% of primary benefit and widows over 65 receive 100%.

Women's benefits

A very considerable debate goes on surrounding women's benefits. Owing to the treatment of women both as dependents and earners they may be entitled to benefits on both fronts but receive only the higher of the two. Many favor some modified plan of "earning sharing', combining the earnings of husbands and wives, dividing them equally for purposes of social security credit. This may benefit the two-earner family but reduce benefits for the non-working wife and some couples. To make such a plan fair to present contributors would require complicated modifications and long transitional requirements which would considerably increase its cost to the program. It should also be noted that women benefit under the social security system by their greater longevity.

Benefit formula

The workers' (primary) monthly benefit is figured in terms of his average indexed monthly earnings (AIME) on the following basis: 90% of the first $280 of earnings, 32% of the next $1,411 and 15% of any remainder. In addition it is important to note that an individual's average earnings are adjusted to reflect an increase in over-all national earnings (and thus productivity). This is achieved through an automatic upward adjustment in these components (also known as "bend points") of the benefit formula and—for higher earners—an automatic upward adjustment in the wage base. This benefit level, once established, is adjusted to reflect cost-of-living increases (popularly known as the COLA).

IS SOCIAL SECURITY INSURANCE?

A favorite charge of those opposed to social security is that it is not "insurance" at all but really a "welfare" program. Since these are both rather elastic terms it is necessary to break them down into specific components.

Pooled risk

Social security is insurance in the sense that it pools funds in order to provide protection against shared risks. Some of these risks involve situations one hopes will never occur: i.e. early death, long-term disability and hospitalization. The contributors who never get their money back from these funds are the lucky ones just as never recovering money invested in fire insurance is considered highly desirable.

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[1] A recent survey, conducted by Yankelovich, Skelly and White showed a majority approval rate by young persons under 34 years of age but some doubts about the future of the program. A substantial majority said they would remain in the system even with an option to get out.

[2] Social security has been made increasingly gender-free so whenever a sex-related term is used it should be interpreted as applying to both sexes.

[3] For definitional purposes Medicare has been included here even though it is not discussed in the paper since its problems are different from those of cash benefits.

[4] Federal Insurance Contributions Act.

Old age retirement

Old age is different since it is generally regarded as a goal to be desired. People want to live beyond sixty-two and most look forward to retirement. They are willing to pay the price for a reasonable level of wage replacement. In this sense it is like an annuity, also a form of insurance. The risk here lies in the question of longevity: Those who die early pay the prices for those who live longer.

Entitlement

It is also typically insurance in that only those who have made payments into the joint fund or are dependent on someone who has done so are entitled to draw benefits from it. The "entitlement" is based on prior contributions which are in turn tied to work. The beneficiary is drawing down on the "protection" he earned while he was working. This is one of the primary differences from "welfare" as we commonly use the term, where "entitlement" is based on current "need", a much less easily defined concept. Entitlement to welfare payments is qualified by how the public is willing to define "need" which in turn depends on how much it is willing to pay. Hardly an "entitlement" at all one might say.[5] Social security benefits, on the other hand, are based on and related to loss of earnings, a far more acceptable basis for higher payments.

Full funding

Opponents say that it is not true insurance because the rights of neither the individual nor the collective of individuals are fully "funded". In private insurance the insuring company must have enough money laid by to be able to pay off all the benefit rights of all insured individuals at any one time. As an independent voluntary entity its continuity, and hence its continuing income from new policies, cannot be assured in any other way. Government, on the other hand, is assumed to be continuous. Thus, in social security, current contributions from those currently working pay the current beneficiaries, while it is assumed that they, in their turn, will be sustained by future working generations.

Until about 2030 these current contributions will be enough to cover current costs; after that time the accumulated surplus and interest will supplement. It is the good faith of the government, plus the continuing calculations of future obligations and income by qualified actuaries, that sustains the system. A program as huge as social security would require much more than the present trust fund to be "fully funded" and could totally disrupt the capital market. Wall Street would be the first to complain while contributions would have to be substantially raised to sustain such a large capital fund.

A conservative system

Actually, compared to other systems, the American social security system is extremely conservative. It is a self-contained system and virtually no general revenue funds have been used to pay benefits. In many other systems the financing of social security is shared on a three-way basis: worker, employer and government funds from other sources. We also base our financing on seventy-five year actuarial predictions of future needs and income, longer than any other country except Canada. These are subject to constant review by the Board of Trustees, regular advisory councils mandated by statute, special commissions (as in 1983) and the Congress.[6] At the present time the system is running a surplus, as planned in anticipation of a growing aged population.

Social Security and the deficit

To anyone who knows the care and caution with which social security financing is monitored and fine-tuned (as evidenced in the adjustments made by Congress in 1983 to meet a temporary financing problem) the widespread fear that "social security is going bankrupt" seems totally unreasonable. It seems rather to reflect carefully nurtured propaganda by those who don't like the idea of government-sponsored support for those outside the labor force, however financed.

This is also true of the present effort to make social security the scapegoat for a budget deficit largely caused by skyrocketing defense-related expenditures and ill-advised tax cuts. Social security, as a self-financed and actuarially determined program cannot, under present provisions of law, contribute to the real deficit. Present law requires that all social security taxes be deposited in the trust funds and all social security payments be made from the trust funds. Only the unrealistic inclusion of the funds in the Federal Unified Budget makes it appear otherwise and even President Reagan has recommended that they be removed. Should funds ever run short, despite all the care taken to assure their solvency, it is unthinkable that Congress would permit a program on which so many people depend for present or future benefits to go bankrupt. To raid its trust funds for purposes unrelated to social security needs (including those deemed necessary to its own future solvency) betrays the basic provisions of the Social Security Act.

BUT WILL I GET MY MONEY BACK?[7]

Social Security as protection

In part this question reflects a lack of understanding that insurance involves protection against risks that, though universal, are not equally incurred. Obviously the man with a dependent wife and four children who dies at thirty-five will get more in benefits than the single man who dies, without prior interruption of his working career, at sixty-seven. Protection as a positive good is not always well understood in a social security context even by those who pay high premiums for private life insurance and other forms of insurance on which they hope never to realize. Moreover, younger workers bear a greater risk of leaving young children in case of premature death or disability and hence have a special stake in these aspects of the program.

Social aspect

But probably more important is the fact that social security as social insurance includes a social component that weights the benefit formula in favor of low earners, those with dependents and early entrants into the system.

Of special interest to young earners are its life insurance and disability provisions which offer them immediate protection. Even more important to most is the assurance that their parents are adequately provided for rather than, as was so common in earlier days, having to turn to their children for help. I am not one who thinks the present generation of young workers is more materialistic, self-centered and selfish than its predecessors but I do think it is confronted by a barrage of propaganda that makes no distinction between earned benefits based on an objective statutory formula and welfare assistance based on an individual determination of need.

It is also important to bear in mind the significant role of the employers' contributions to the financing of the system. Some difference of opinion exists about the nature of this contribution. Economists tend to see it as an aspect of the labor cost of the system but workers tend to think only of the amount deducted from their own paychecks. In the aggregate this makes little difference in the financing of the system but it does make for a difference of perception to the worker. While it is natural for young people to be carefree about the future, the society in which they live is not risk-free. Along with the rewards of entering the work force, they need to share its responsibilities or, as Justice Holmes wrote, "Taxes are what we pay for a civilized society."

WHY CAN'T I OPT OUT?

The Heritage Foundation, the CATO Institute and other sources of conservative thinking, including even Ronald Reagan himself before his presidential aspirations changed his utterances if not his mind, have advocated that individuals be permitted to withdraw from the system. Sometimes this is accompanied by a requirement that they purchase equivalent protection through IRAs (Individual Retirement Accounts) or other private means.

A multigenerational system

This may sound like a reasonable idea to some innocents but for those who know the dynamics of the American system it is a clear death sentence. It would be more straightforward and honest simply to recommend repeal of the program. For it is the contributions of those who are working that simultaneously build their own entitlements and provide the funds for current benefits. For the individual it is a transfer from his working years to his non-working years. Collectively it is a transfer from production to those no longer producing. To the extent that the majority of these latter are retirees or their widow it is an intergenerational transfer. It assumes continuity, reciprocity and a sense of responsibility for the common weal.

Without the contributions of younger workers there would not be enough money to pay benefits to those whose contributions had "earned" them and the self-financing character of the system would be destroyed. Since it is hard to believe that this vast number of people would be totally abandoned by society, general revenue funds would have to be provided in this case. At this point a true intergenerational conflict would ensue and a means test to winnow out all but the most needy would become almost inevitable.

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[5] See fact sheet No. 13, Social Security: Why Not a Means Test?

[6] See also: *Social Security: A Declaration of Confidence and Support by Private Pension Professionals* (enclosed).

[7] Attached herewith is a paper "Do Young People Get Their Money's Worth From Social Security?" by Robert J. Meyers, former chief actuary for the Social Security Administration and a highly respected expert in this field.

Potential loss to young workers

The young worker would have purchased his freedom from FICA taxes at a heavy price, including the many protections afforded by the social security system. IRAs, for the most part, involve a substantial risk and are not available—as is social security—for loss of income prior to old age. They involve no dependents' benefits, no productivity adjustment and no COLA. Many young workers would not be able to make such purchases voluntarily and would of course lose the employers' contribution.

The public interest

From the point of view of the public interest there are two perspectives. On the one hand foregoing social security taxes on a substantial share of earned income as the source of support for the system is a luxury we can ill afford, especially in this deficit period. IRA income is taxable only after retirement and the interim loss is a heavy sacrifice of badly needed revenue. If IRSs were treated as the primary provision for retirement their level and extent (and hence the revenue loss) would necessarily be greatly expanded. This can be described either as a tax shelter or a tax expenditure (social benefit tied to the tax system) or both but in any case the public is the loser. Given any option on their use, the middle or upper income group would be the gainer; lower income workers would not be able to afford this luxury.

WHAT KIND OF SOCIETY DO WE WANT?

This brings us to the second point of interest, i.e. What kind of society do we want anyway? We are not, as we often boast, the most generous country in the world. Twelve other industrial countries[8] spend more on public social programs in terms of percentages of their gross national product than we do. The self-contained nature of social security financing has served all generations well in protecting benefit levels. Young people do not have the advantage of their elders like me in remembering what life was like before the Social Security Act was passed fifty years ago and subsequently extended in coverage and protections. The passing of a predominantly agricultural society deprived older family members of the protections farm ownership provided. Increasingly the widowed, disabled, and elderly were forced into choosing between the ignominy of poor house or poor law relief and putting on their children a burden they could usually ill afford, often depriving grandchildren of educational opportunity.

Our social security system, starting from small beginnings in 1935, has followed the intentions of its original designers[9] by developing into a program that protects most workers against the major reasons for loss of earnings at a level which—while far from lavish—is increasingly adequate. It is a brilliantly integrated system, balancing income with outgo over the years, equity with social purpose, and preserving the dignity of objective entitlement based on earned rights. It seems inconceivable that it should be destroyed either directly or by equally damaging amendment. It seems equally inconceivable that it should not continue to develop as needs and resources make that possible.●

TRIBUTE TO DR. FRANCES KEPPEL

● Mr. SIMON. Mr. President, I rise today to pay tribute to Dr. Francis Keppel, distinguished professor of education at Harvard University, former commissioner of education and chairman of the National Student Aid Coalition. Most of my friends and colleagues are unaware of the important role played by Frank Keppel and the National Student Aid Coalition in formulating student aid policies over the last 5 years. On December 12, the coalition held its final meeting and Frank Keppel provided a report to the coalition on its activities from 1981-85.

It seems appropriate that the coalition would conclude its formal activities on the same day that the Senate Subcommittee on Education, Arts and Humanities took the first step—by marking up—toward reauthorizing the Higher Education Act in the 99th Congress. Much of what we have done is attributal to the fine work undertaken by the coalition. As the former chairman of the House Subcommittee on Postsecondary Education and a member of the Senate subcommittee, I have seen first hand the work of the coalition, the contribution of its executive director Linda Berkshire, and the outstanding leadership of Frank Keppel.

The report to the coalition follows:

REPORT OF THE CHAIRMAN OF THE NATIONAL STUDENT AID COALITION, 1981-85

It is salutary, if often embarrassing, to go back to first purposes in presenting a final report on a project. The story of the National Student Aid Coalition is no exception. So let us start by quoting from the 1980 request to the Carnegie Corporation and Ford Foundation for financial support—documents which are not likely to understate the hopes of those seeking the funds.

". . . The provision and delivery of financial assistance to students seeking education after high school in the United States traditionally has been a "joint venture" involving the federal and state governments, secondary and postsecondary institutions, private organizations, and students and their families. That fact is recognized in the multiple sources from which student aid funding comes and in the multiple agencies involved in moving the aid through the system to the students. In the areas of policy determination and procedural implementation, however, there has not been a consistently effective reflection of the roles and concerns of all of the parties to the process . . ."

". . . it is intended to provide a mechanism for coordinating the efforts of thirty-one organizations with an interest in student aid. It is not intended to preempt the activities or voice of those organizations but rather to provide them with a place to debate issues, reach consensus, and pursue that consensus with the appropriate policy-making bodies . . ."

". . . One of the important outcomes that can be expected from the support requested of private foundations by this proposal is the development of mechanisms by which that support can be obtained for subsequent years from sources other than foundations . . ."

Put in less elegant language, this means that the Coalition, made up of a cluster of educational organizations, was to watch over the "mechanism" of delivering student aid, to try to maintain a partnership in doing so, and stay out of "policy" matters more suited to those with greater competence and authority. Ironically, however, the Coalition project was started at a time of the changing of the tide, and it became almost impossible to separate mechanism from policy. The Coalition had to wrestle with the following paradoxes:

Established to monitor the system of delivering student financial aid for the poor, the Coalition found itself entangled in the effects of the 1978 federal loan program to help the middle class meet rising college costs—a program which absorbed federal appropriations like a sponge. The Coalition, therefore, had to give major attention to adjust measures of parental financial responsibility to the demands of political winds and a changing economy, a duty perhaps more suited to the political sector.

Established to help maintain a partnership between federal, state, institutional, and private sources of student aid, the Coalition had to spend time trying to remind the Washington establishments that there was life beyond the Potomac. Even though the Administration's policy apparently was to transfer many federal decisions to the states and the private sector, the Administration's actions seemed insensitive to the reasoning of the Federalist Papers.

Established at least in part from a concern that the poor must find access to higher education, the Coalition soon discovered that many institutions were becoming more concerned with maintaining enrollments by attracting as many students as they could, young or old, poor or well to do. Student financial aid became interpreted by some as aid to institutions of higher education.

Established at a time that inflation had outrun college charges, increases in college charges soon outran inflation, thereby raising doubts about the wisdom of a federal policy that tied appropriations to prices set by the colleges themselves. In New England, for example, between 1978 and 1985, inflation was reported to rise 69 percent while costs at public institutions rose 113 percent and private, 120 percent.

Established in the context of an Act of 1965 designed to provide equality in access to higher education to the poor and minorities, the Coalition found that progress toward that goal had either levelled or even begun to reverse. This development did not seem to be of the comparable concern in 1985 that it was in 1965.

Established to advise both the Executive and the Legislative branches, the Coalition soon discovered that the massive distrust that developed between them on student financial aid resulted in delayed decisions and inefficient delivery systems to students and institutions. Since it was scarcely the Coalition's position to deal with the root problem, it found itself having to treat the symptoms.

Established to consider student financial aid at both the undergraduate and the graduate and professional levels, the Coalition found that it was not properly constituted for dealing with post-baccalaureate issues, and had to try to persuade others to take on the task.

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[8] These are figures from the Organization for Economic Cooperation and Development which includes nineteen of the most industrialized countries outside the Soviet bloc.

[9] See Factsheet No. 11 Original Intentions, by Dr. Eveline Burns. See also the 50th Anniversary Edition of the Report of the Committee on Economic Security published by the National Council on Social Welfare.

Established as a forum which included associations representing different types of institutions of postsecondary education, the Coalition found it easy to reach consensus in recommending ways to improve the service if the pie was made larger. However, it found that its membership preferred to separate into competing groups when there was less pie. And when it came to calculating the size of the pieces of the pie and the quality of service, the Coalition, which was not established to deal with such issues, became, on occasion, immobile and downcast.

Despite the original intent in establishing the Coalition, which planned for participation by leaders of organizations from outside Washington, in practice, those attending the meetings as representatives of the membership organizations turned out to be Washington staff members.

In an effort to carry out its task under these circumstances, the Coalition reorganized the Committee on Need Assessment and Delivery which annually proposed changes in the (euphemistically titled) Uniform Methodology and saw those proposals accepted by appropriate authorities. It sought to strengthen understanding of the complex partnership of federal, state, private, and institutional sources that provide student financial aid by putting them on a chart. The result described a period of 18 months, printed in four colors, with three kinds of boxes as symbols of points of decisions, and in its original form, required a chart of almost 18 feed in width. It had its desired effect—to show that delay in decisions anywhere along the line results in some students somewhere being unable to get to college. The Coalition also was able to document the case that those in greatest need of information about student aid received the least and at the least appropriate time.

However, efforts to obtain financial support for the Coalitions's continuation from its membership failed.

The Coalition's competent, energetic and well-informed staff did yeoman work in finding out what was going on, telling about it to those who needed to know, and pulling together data from a myriad of sources. The result was that the Coalition became a trusted source of information that was used by both the Legislative and Executive branches, both political sides of the aisle, and even by competing educational interests. The Chairman came to feel that the work of the staff alone justified the generous grants of Carnegie and Ford, even though it might be tactless to document the numberless instances in which they helped to accomplish the sensible or stop the foolish.

The hearings of the Congress in 1984 and 1985 on reauthorization of the Higher Education Act of 1965, however, provided the Coalition an opportunity to pull its effort together to seek ways to carry on some of its functions and make some suggestions that could improve the delivery system of student financial aid. At the time of writing, the following seem to have some chance of emerging in the legislation now making its way in Congress:

1. Congressionally appointed and funded Advisory Committees to review methods of establishing student and parental responsibility and ability to pay the costs of undergraduate and graduate education; to comment on regulations designed to carry out programs; and to undertake other studies and analyses on the instruction of Congress. If established, these Committees could carry on part of the Coalition's work.

2. A new need analysis system for federal Title IV programs.

3. A program designed to provide information and advice to students in high school, particularly in the early years, about available student aid and how to benefit from it—a program aimed primarily at the poor, minorities and what has come to be called non-traditional students. Evidence obtained by the Coalition suggested strongly that lack of such programs was a serious block to achieving equality of access to higher education for those groups.

4. A Master Calendar mandated by Congress governing decisions on issues related to the delivery of student aid. The Calendar is designed to avoid delays in providing information and in developing and distributing student aid forms needed by students, parents, and institutions.

5. A considerable number of technical amendments to Title IV intended to provide oil or grease to the machinery of delivering student aid where experience had shown the need of reducing friction.

This final report must therefore include a mix of some tasks accomplished, some untouched, some failed, some barely started (such as improving the access of poor and minorities in the last four years), and some still in the stage of hope.

But on one topic there can be no doubt—the loyal and intelligent work of thousands of financial aid administrators has been a major factor in delivering assistance to millions of young men and women, and for this, the Nation should be grateful. It should be even more grateful for the continued willingness of parents and students of all economic classes to provide funds from their own resources to finance postsecondary education—a willingness that is not matched anywhere overseas. The Coalition may not have played much of a part in maintaining this magnificent tradition, but it can at least report that it tried.●

SENATOR ROCKEFELLER'S QUIET DILIGENCE

● Mr. LEVIN. Mr. President, on November 19, Senator JAY ROCKEFELLER spoke to the Senate about lessons that could be learned from the settlement of the Wheeling-Pittsburgh steel strike. Senator ROCKEFELLER's speech was a reasoned and eloquent call for labor-management cooperation as the indispensable cornerstone for revitalizing steel and other critical industries to meet the challenges of international competition.

Those of us who heard the speech valued it because we knew that it grew out of JAY ROCKEFELLER's personal experience in West Virginia as Governor and Senator and his familiarity with the Wheeling-Pittsburgh situation. What too few of us knew, however, was how deeply and consistently involved Senator ROCKEFELLER has been in the effort to save Wheeling-Pittsburgh Steel.

An editorial in the Charleston Gazette, dated November 27, entitled "Quiet Diligence," provides a detailed picture of Senator ROCKEFELLER's extraordinary mediating efforts. The editorial observes that he "labored behind the scenes for 9 months, sweating out compromises, coping with problems, rarely grabbing the news spotlight in the manner of most politicians."

I commend my colleague for his unique role in the Wheeling-Pittsburgh situation, and I ask that the editorial from the Charleston Gazette entitled "Quiet Diligence" be printed in the RECORD.

The editorial follows:

QUIET DILIGENCE

Most of West Virginia's economic news lately has been bad. Volkswagen will phase out 871 workers in South Charleston. FMC closed a 400-worker unit in the same city. Union Carbide is offering psychological help to hundreds of laid-off employees. Mason Glass at Jane Lew closed when its 60 workers wouldn't surrender half their pay.

But there's an encouraging note: Wheeling-Pittsburgh Steel has been pulled back from the brink of doom and 8,200 employees—751 of them West Virginians—are at work under a cooperative contract that gives them a voice in management.

The Wheeling-Pitt reprieve happened partly because Sen. J.D. Rockefeller IV, D-WV, labored behind the scenes for nine months, sweating out compromises, coping with problems, rarely grabbing the news spotlight in the manner of most politicians.

Last February, communication had ceased between former Wheeling-Pitt chief Dennis Carney—a brilliant but difficult executive—and United Steel Workers leader Paul Rusen. Teamwork between union and management was needed to induce banks to refinance the desperate firm. Rockefeller called both men to his office and they resumed talks.

Later, when the truce faltered, Rockefeller flew to Pittsburgh, brought the antagonists together, and brokered a wage package and debt restructuring plan. He accompanied Wheeling-Pitt leaders to New York banks. He urged General Motors chiefs to renew steel orders from Wheeling-Pitt.

When the suffering firm went to bankruptcy court and workers struck, Rockefeller's staff logged thousands of hours in the salvage effort. Aide Phil McGance manned what became known as Rockefeller's "full-time Wheeling-Pitt desk." A key concern during the dark days of the strike was to prevent cancellation of the Follansbee mill being created jointly with Nisshin Steel and to avoid loss of its $8.7 million federal grant.

A turnaround came after major stockholder Allen Paulson deposed Carney and brought in a new chief executive gifted at wringing compromise from chaos. The contract that evolved was based on partnership, with workers accepting a pay cut in return for decisionmaking power. A Rockefeller proposal—an escalator to increase wages if the company prospers—was incorporated in the contract.

In a Senate speech last week, Rockefeller didn't tout his own role but lauded the "visionary" contract for its "virtually unprecedented commitment to partnership between workers and management in sharing the future of this company."

A multimillion-dollar payroll has resumed pumping life into West Virginia's Northern Panhandle. It didn't happen through boosterish Commerce Departments or dramatic news announcements. (Gov. Arch Moore

BEST COPY AVAILABLE

reaped more publicity in one day of flying to Follansbee to hand out unemployment checks than Rockefeller did in nine months of quiet effort.)

Wheeling-Pitt isn't out of the woods. The corporation is $500 million in debt and its pension plan must be bailed out by federal insurance. But the cooperative labor contract signed Friday is a hopeful step—one reflecting plenty of backstage work by Sen. Rockefeller.●

BEYOND ECONOMICS

● Mr. MOYNIHAN. Mr. President, I rise today to bring to my colleagues' attention an article written by the distinguished senior Senator from Colorado, my friend Mr. HART. The essay, entitled "Beyond Economics," appeared in the autumn issue of the Journal of Family and Culture.

The Senator has distinguished himself once again by looking beyond the limits of conventional wisdom for insights into the social forces we in Government are charged to deal with. He refuses to limit his thinking to that acceptable to any rigid doctrine, left or right. A small testament to such can perhaps be inferred from the fact that the Journal of Family and Culture has seen fit to publish Mr. HART's views.

As for his observations, let me say simply that Mr. HART has once again lucidly delineated a reasoned response to a matter troubling to all of us: The shortcomings of economics. His is a prescription for a "new, broader, more fundamental framework that includes economics, but that places it in a larger context built of our values, our culture, and our nonmaterial needs."

I encourage my colleagues to spend a few minutes considering Mr. HART's views. It is, most assuredly, important reading.

Mr. President, I ask that a copy of Mr. HART's article be included in the RECORD.

The article follows:

BEYOND ECONOMICS

(By Gary Hart)

Among the things prudent politicians usually avoid is putting forth ideas that are tentative, perhaps incomplete, and almost certainly controversial. But the times we are living in demand new thinking. We cannot develop the national policies we need for the remainder of this century and the beginning of the next by endlessly debating the respective merits of Herbert Hoover and F.D.R. We need new approaches, and these seldom spring full-grown from the head of Jupiter. They require politicians, among others, to put forward some hypotheses, some tentative conclusions, some ideas that may or may not ultimately be right but that move us along the road toward some new perspectives on our world and where it is going.

This article attempts to do that in reference to a subject that concerns every citizen: economics. The ideas offered here are in a formative stage, and they are tentative. Some may be obscure, and there may be some false leads among them. But they constitute an attempt to move beyond the usual economic debate over tax structures, interest rates, the money supply, and the deficit. These are all important subjects. But taken alone or together, they seem in many ways to miss the core economic issue: the quality of our lives.

How can we see more deeply into the "dismal science" of economics? A good starting point might be the realization that in a larger cultural and social sense, all economic policies have been failing for at least a century and possibly longer. Time and time again, nations have succeeded economically—both in terms of growth and distribution of wealth—only to find social dissatisfaction growing, not diminishing. The economic success of the Victorian period in Europe bred enormous dissatisfaction in virtually every social class, leading to serious internal instability. In America, the economic success of the 1950's was followed by the widespread social turmoil of the 1960's. And the dissatisfaction was led by many of those who had benefited most from the economic gains.

Something fundamental has gone wrong; success does not succeed. "More" is not enough. The science of producing and getting more is not sufficient as a guiding principle. Economic growth is important, but it is important because it provides the means with which to do things. It is not a sufficient goal in itself.

We need an economic reform movement—a movement with the goal of going to the heart of the nature of society and of human behavior. How do we go about defining the new questions we need to ask—questions which may lead to reform in the way of economics is used in governing? History remains the only real "data base" of human behavior, and economic reform must begin with history.

Prior to the industrial revolution, western societies were characterized by a high degree of stability over time. People were born, lived, and died in the same village or town, among the same neighbors, often following a family craft or profession. This stability, a stability over generations, created many dependable, general relationships. For one's entire life, the same people were friends, co-workers, co-religionists, and so on. Traditional society was well described by Edmund Burke's analogy to a great, old tree. The relations among people were as mutually supporting as those among the many roots of that tree.

But industrialism shattered traditional society. With its demand for physical and social mobility, its disruption of agrarian societies, its segregation of home life from life at work, its mixing of people from different origins, and its lack of concern for anything other than quantitative output, it substituted *functional* relationships for general relationships. We now see some people at home, others at work; we move frequently; the extended family becomes obsolete; children live in a different world from that of their parents. Many of us live in several different worlds through the course of our lives. While industrialism brought wealth, it also brought an impoverishment of the individual and collective spirit.

But industrialism did create a new discipline: economics. Consideration of production, consumption, and distribution of goods and services as matters of state policy did not begin with the Industrial Revolution, of course. But economics in its modern sense was born along with industrialism in the 18th century. It defined man as an economic creature—a creature driven almost exclusively by material wants, who makes rational decisions, in the words of the 19th century economist Stanley Jevons "to satisfy (his) wants to the utmost with the least effort."

Unfortunately for economics, this "economic man" does not exist. We are not defined by our possessions. Our vision reaches beyond the material plane. The quantitative instruments of economics cannot circumscribe the human spirit. The desire for goodness, the search for truth, and the love of beauty all soar above the narrow bounds of materialism.

Without economic prosperity, of course, we cannot meet the needs of our own people and others throughout the world. But material prosperity does not provide purpose. It is not, of itself, a worthwhile vision. Tennyson wrote: "Thou hast made us, we know not why. We think we were not made to die." And he might have added, in this industrial age: "We think we were not made merely to possess, or to be governed only by the static measure of a discipline confined to the principles of production and consumption."

As the industrial age evolves, the discipline it produced, economics, is increasingly looked to for new theories to keep the giant engine running. But at the same time, we sense economics to be deficient as the foundation of government. To use to the language of economists, traditional economics is necessary but not sufficient.

What would be sufficient? Perhaps we need, in the words of Theodore Roszak, "a nobler economics that is not afraid to discuss spirit and conscience, moral purpose and the meaning of life, an economics that aims to educate and elevate people, not merely to measure their low-grade behavior."

In a sense, an economics of such richness and depth would be so different from economics as we know it today that perhaps a new term is needed. Certainly, we need a broader term than economics to describe the overall foundation for government and public policy. A good term might be "statecraft." Such statecraft should attempt to make national policies sensitive to deeper motivations than the desire for a paycheck. It should be an attempt to confront the question, what does it profit a society to conquer inflation, reduce interest rates and create new jobs, if we don't enjoy what we have or what we are doing or sense some greater national or cultural purpose?

A definition of statecraft should start by identifying human aspirations that go beyond material needs. Four such aspirations might provide a starting point:

A sense of purpose and vision. We all need a perspective on our existence in time and place, and a sense of direction as individuals and as a nation;

Opportunity for creativity. There is a growing demand throughout society for participation in the workplace and redefinition of our jobs to include shaping and guiding our institutions;

Opportunity for individual growth, for continuing and recurring education and exposure to new information and new experiences;

Autonomy or individuality—the need to be able to shape our own lives, as individuals and as communities, within the context of our constitutional liberities.

To give us a chance to achieve these aspirations—and to give some content to the notion of statecraft—we must take a number of other themes into consideration:

First, decentralization. Room for human growth can be provided best within small units. As one sociologist, wiser than most, said, "You cannot study men; you can only get to know them." Local control in politics, in social and cultural issues, and in the business world must be a central theme.

Second, community. To have richness instead of isolation in our personal lives, we must allow communities to grow. Economic policies—public or private—which shatter community are destructive to the human spirit, however "efficient" they may be.

Third, a manageable pace of change. Change is unavoidable. But future historians may wonder if the 20th century drove itself to collective madness with its desperate velocity of change. We must control the pace of change, rather than letting it control us. Continuity must be given a chance to grow between generations. Technology must adapt to human realities, not vice versa.

Fourth, we must question modernity's most sacred cow: the notion that "you can't turn back the clock." Of course, in many areas we would not want to return to past practices. We have made genuine progress in everything from civil rights to sanitation. But in some areas, including such divergent fields as public transportation and the arts, a reasonable argument can be made that what we had once was better than what we have now. Even in these areas, attempts to turn back the clock will not precisely reproduce the past. But a look backward can give us a reference point. Historically, many great movements forward have been attempts to return to the past. The Renaissance is a good example.

Fifth, we must give more thought to aesthetics. Anyone who lives with the architectural monstrosities in our cities or the "Vegas Strips" that foul our towns and suburbs knows aesthetics is important. John Ruskin's attempt to blend economics and aesthetics may not have been the blind alley most classical economists think it to be.

Sixth, we must give greater consideration to the human side of the industrial process. We cannot expect our society to be successful if most people's jobs reward them only with a paycheck. The medieval guilds may have known something we have forgotten: the reward of a job well done, a job that gives reign to creativity, that requires and shows forth real skill, may be as important as the company's bottom line. In fact, it may even increase the bottom line. Giving workers a greater voice in their workplace may yield more gains in productivity than replacing them with robots.

Finally, we must think differently about education. This is perhaps the most important consideration of all. Ortega y Gasset, in his classic The Revolt of the Masses, warned that 20th century man was becoming a technologically competent barbarian. We can punch the buttons on our machines, but we cannot see ourselves or our world in any context, because we have not been educated. Education is not training, though training is also valuable. Education is essentially the classical education, intended to give us understanding of our culture and our values, of why our values are valuable, of the edifice our ancestors have built upon which we stand. It is rooted primarily in the study of history and literature. It teaches us mathematics and science, not to make us technicians, but to teach us to think logically. It must be revived—first, among our educators. Without it, we cannot hope for a society that does more than lurch blindly from crisis to crisis, unable to see where it has been, and thus know where it can go.

As we evolve the qualities that constitute statecraft, what should we seek to do with them? Our principal task is to relate them to the technology, wealth and growth that must remain important parts of our social order. The task is not to overthrow technology or growth, but to use them within the framework of statecraft—to drive them and control them, rather than being driven and controlled by them. One might say, our task is to civilize them.

Can we really use these seven themes in devising policy in the real world? Why shouldn't we? Would it not make more sense to design an urban transportation system that took into account our needs for community and aesthetics rather than just what works technically? Would not our job training programs work better if they were based on a broader view of what people want from their jobs? We have already seen, in numerous cases, that decentralized decision-making, both in government and business, leads to greater satisfaction and better results.

A great nation must have a great framework by which it is to govern itself. Traditional economics, with its one dimensional "economic man", is simply insufficient. We must think through a new, broader, more fundamental framework that includes economics, but that places it in a larger context built of our values, our culture, and our non-material needs. That is much more than this brief article can possible do. But it is, perhaps, a beginning, and a call to face the task.●

PROPOSED ARMS SALES

● Mr. LUGAR. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $50 million or, in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon such notification, the Congress has 30 calendar days during which the sale may be reviewed. The provision stipulates that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

In keeping with the committee's intention to see that such information is immediately available to the full Senate, I ask to have printed in the RECORD the notification which has been received. The classified annex referred to in the covering letter is available to Senators in the office of the Foreign Relations Committee, room SD-423.

The notification follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, DC, December 18, 1985.

Hon. RICHARD C. LUGAR,
Chairman, Committee on Foreign Relations,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 86-21 and under separate cover the classified annex thereto. This Transmittal concerns the Department of the Army's proposed Letter(s) of Offer to Turkey for defense articles and services estimated to cost $206 million. Shortly after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

You will also find attached a certification as required by Section 620C(d) of the Foreign Assistance Act of 1961, as amended, that this action is consistent with Section 620C(b) of that statute.

Sincerely,

PHILIP C. GAST,
Lieutenant General, USAF, Director.

Attachments: Separate Cover: Classified Annex.

TRANSMITTAL No. 86-21

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(B)(1) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective purchaser: Turkey.

(ii) Total estimated value: Major defense equipment as defined in Section 47(6) of the Arms Export Control Act: $0 million; other: $206 million; total: $206 million.

(iii) Description of articles or services offered: Seven hundred sixty conversion kits each consisting of tank thermal sights, add on stabilization, solid state ballistic computers necessary to convert M48A5 tanks, and associated defense services.

(iv) Military Department: Army (USV and USX).

(v) Sales commission, fee, etc., paid, offered, or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: See annex under separate cover.

(vii) Section 28 report: case not included in Section 28 report.

(viii) Date report delivered to Congress: December 18, 1985.

POLICY JUSTIFICATION

TURKEY—TANK CONVERSION KITS

The Government of Turkey has requested the purchase of 760 conversion kits each consisting of tank thermal sights, add on stabilization, solid state ballistic computers necessary to convert M48A5 tanks, and associated defense services. The estimated cost is $206 million.

This sale will contribute to the foreign policy and national security objectives of the United States by improving the military capabilities of Turkey in fulfillment of its NATO obligations; furthering NATO rationalization, standardization, and interoperability; and enhancing the defense of the Western Alliance.

These conversion kits will be used by the Government of Turkey in their Tank Modernization Program. These components, when installed on the M48A5 tanks, will greatly increase the fire power capabilities of the Turkish Land Forces Command. The tank thermal sight provides enhanced night fighting capability by using Long Range Infra/Red detectors that enable the tank gunner to detect enemy tanks through darkness, fog or battlefield smoke. The add-on stabilization system allows the tank to fire its main armament while on the move. The procurement of 760 conversion kits would upgrade approximately one-third of the Turkish M48 tank inventory. These kits will be provided in accordance with, and subject to the limitations on use and transfer provided for under the Arms Export Contrl Act, as embodied in the terms of sale. This sale will not adversely affect either the military balance in the region or U.S. efforts to encourage a negotiated settlement of the Cyprus question. Turkey will have no difficulty absorbing these tank conversion kits into its armed forces.

There are three prime contractors: Texas Instruments, Dallas, Texas; Control Data Corporation, Alexandria, Virginia; and Cadillac Gage, Warren, Michigan.

Implementation of this sale will require the assignment of two additional U.S. Government personnel for one month and two contractor representatives for one year to Turkey.

There will be no adverse impact on U.S. defense readiness as a result of this sale.●

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

OMB'S PROPOSAL TO CUT OFF METRO

● Mr. MATHIAS. Mr. President. The Office of Management and Budget has made a preliminary recommendation to eliminate funding in the 1987 budget for the Washington area rapid rail system. The consequences of such an action for one of the Nation's most exemplary and efficient transit systems would be disastrous.

The three jurisdictions that compromise the Washington metropolitan area—Maryland, Virginia, and the District of Columbia—have worked tirelessly over the years with the Federal Government to develop a construction schedule to complete the Metro system in a rational, well-planned way, with the strictest funding requirements. Now, one of the parties to the agreement—the Office of Management and Budget—wants to pull the rug out from under them, by halting all Federal funding and thereby throwing the entire construction schedule out of kilter. It is particularly unfortunate that one of the lines placed in jeopardy is a key element in serving low income residents who rely heavily on public transportation. Such last minute changes in construction schedules and contract negotiations inevitably increase costs.

Our standing in the world and our position as a great power are measured in many ways that go beyond the stocks of arms in our arsenals or the volume of transactions in our economy. The quality of life that we provide for our people is also a measure of our maturity as a nation. Every great power in the world today provides a modern system of public transportation for its capital. The subways in Moscow, London, and Paris serve to illustrate this point. The possibility that the United States should shirk this responsibility is not to be considered seriously by thoughtful people. As highways become more congested it will not be considered seriously by practical people.

I agree that we have to look for new ways to reduce the deficit, but we should not single out programs such as the Washington rapid rail system to shoulder an unfair share of the burden. It is an ideal model for other transit systems around the country. Its ridership is high and increasing, its operating costs are being held in check and its service reliability is among the best in the Nation. No one expects Metro to escape the budget scalpel when the transportation programs are put on the chopping block, but a guillotine is far too drastic a tool.

The Washington Post, in an editorial of December 13, set forth some cogent, well reasoned arguments in favor of providing a more rational adjustment. I commend it to my colleagues and ask that it be printed in the RECORD.

The editorial follows:

OMB's PROPOSAL TO CUT OFF METRO

Greater Washington's subway system—the grand and often imperiled mass transportation project for the capital that has enjoyed the support of every president since Dwight Eisenhower—is now in its deepest trouble ever. The Reagan Administration's Office of Management and Budget has recommended cutting out all federal spending for completion of the system as envisioned, negotiated and brought along through years of cooperative efforts by federal, state and local governments. It's called "zeroing out" and would take effect in the next fiscal year. The result: routes patiently awaited might never be built. The biggest losers would be the residents of low-income neighborhoods who depend most on mass transit—and who have had to wait the longest.

There's no question that under Gramm-Rudman-Hollings plenty of harsh adjustments are in the offing and that Metro faces its share. But OMB's proposal would undercut delicately negotiated agreements reached by this very administration and all the other participating governments. They already had worked out schedules for keeping subway construction as orderly and economical as possible, within strict financial limitations. That is the only fair way to treat those parts of the region that over the years have committed and pooled their state and local money for other routes while theirs had to wait.

It isn't as if this administration had been mindlessly tossing dollars at some high-speed plaything for the locals. Secretary of Transportation Elizabeth Dole and Ralph L. Stanley, the administration's mass transit chief, have won agreements with metro that are considered models of sensible austerity. And if they believe in what they have accomplished so effectively for a balanced mass transportation system in the capital, they should appeal in the strongest terms for a more rational adjustment. It would be a recognition within the administration of what they have achieved on its behalf already.●

ECONOMIC BENEFITS OF THE STRATEGIC DEFENSE INITIATIVE: SPEECH BY GIANNI AGNELLI, CHAIRMAN OF FIAT

● Mr. WALLOP. Mr. President, I offer for my colleagues' review and study a speech delivered by Gianni Agnelli. Delivered on November 21, 1985, in Brussels, it reviews the potential economic benefits to Europe of participation in the strategic defense initiative. I, myself, as most of us in this body, have concentrated primarily on strategic military and political reasons for SDI. This address adds an important new dimension to discussions of the benefits of research into strategic defense technologies. While his arguments are meant to apply to Europe, they are very relevant to the U.S. economy.

A Chase Econometrics study in 1976 made the following estimates on the economic impact of the U.S. space programs: For every billion dollars invested in space research and exploration, the American gross national product increased by $23 billion; more than 800,000 new jobs were created; and the money multiplier effect was between three and eight. Extrapolating on the technology development resulting from NASA space programs, Mr. Agnelli forecasts major technological benefits to the economy from SDI.

Primary economic benefits derive directly from the transfer of SDI technology into the industrial base. Mr. Agnelli gives likely examples from across the spectrum of the SDI research program. One from the directed energy area is adaptive optics in the mirror systems used to focus lasers and compensate for atmospheric distortion. This technology can be used in industry to control lasers as cutting tools, to permit the use of lasers for long-distance communications, and to develop microscopic imaging systems for the design and inspection of microelectronic circuitry and other miniaturized components. Secondary benefits result from activities needed to implement the results of basic SDI research and could be even greater than the primary ones. They derive from the necessary space infrastructure which would support large-scale industrial development in space. Finally the tertiary benefits accrue. There are alloys, composites, and crystals which can only be manufactured in microgravity. There are pharmaceuticals which can be produced in purities and quantities required only in space. As an indicator of the magnitude of potential benefits, Mr. Agnelli refers to studies estimating revenues for satellite communications alone in the range of $50 to $100 billion annually, with growth rates of 20 to 40 percent.

I hope my colleagues will look carefully at the reasoning and examples that Mr. Agnelli uses. They will be very relevant during the review of the 1987 SDI funding requests.

The material follows:

Ladies and Gentlemen, etc.: Thank you for the honor of addressing this distinguished gathering on the topic of the American Strategic Defense Initiative. As an Italian and a European, I am deeply concerned about the effect of the Strategic Defense Initiative on the security of my country, and the entire Western European Community. However, there are others here, better suited by training and inclinations to penetrate the byzantine intricacies of global strategy.

Therefore, I would like to address you as an industrialist, a European industrialist, on what I perceive as the opportunities the Strategic Defense Initiative offers for European Economic development.

As you are undoubtedly aware, European industry is suffering from the phenomenon of "high technology lag". Although we excel in the design and manufacture of products based in traditional industrial techniques and mature technologies, we have not kept abreast of the cutting edge technologies. Neither have we been as adept as we might be in exploiting advanced technology developed outside of Europe. In a global market which demands goods of increasingly advanced technology, we run the risk of stagnation and the loss of sizable portion of international trade to those nations which offer state-of-the-art products.

Although beset by structural dislocations inherent in the transition from a traditional, industrial economy to a modern, post-industrial economy, the United States has, in the last five years, created more than eight million new jobs, while Europe has lost several million. The United States has demonstrated its superiority over Europe in the development and application of high technology; it is high technology which is responsible for the majority of the new employment in America. Why should this be the case, when our universities and technical institutions are capable of producing scientists and engineers equal to any in America?

There are two basic causes. First, the American economy remains remarkably unstructured when compared to those of Europe, leading to the establishment of thousands of entrepreneurial companies in what has been termed the "high innovation sector". These small-to-medium sized companies seek out new markets and create their own demand by applying new ideas and advanced technology to the solution of old and emerging problems. The high innovation economy is characterized by rapidly shifting trends; to survive, these companies place a premium on flexibility and creativity. The lack of a large entrepreneurial class in Europe mitigates against the rapid development and exploitation of new ideas. Our whole business, labor and governmental structure is too conservative, too obsessed with security, to compete effectively against companies willing to take major risks on unproven concepts (which, if they succeed, often have spectacular payoffs).

The second major contributor to American success in high technology is the use of major government-sponsored applied research and development programs which act as focusing agents for the creative energies of high technology firms. Daily business activity is sufficient to provide incremental improvements in technology, or new discoveries in narrowly specialized fields. However, a quantum breakthrough to a new level of technology requires a broader, more coherent, effort. Just as ordinary light can be made coherent and focused as a laser to cut through steel, so too can technological development be made coherent and focused to cut through technological barriers which might otherwise seem insurmountable.

In our century, war has often been this kind of focusing agent. The quest for new, efficient instruments of destruction, the threat to individual and national survival, provide the impetus for technological research which, paradoxically, provides the wherewithal for better living peace.

I believe the United States has found a peaceful substitute for warfare as a focus for technological development. Such a program must present broad and challenging technical goals, requiring solutions to new and unforeseen problems in diverse, but related, areas. The program must have goals cast in a Promethean mold, to capture the imagination of scientists and laymen alike, and thereby mobilize the physical and moral resources of the nation in the same manner that the threat to survival mobilizes the nation in war.

I believe that space exploration has provided this role for America. The space program has been the lasting medium for the engineering and entrepreneurial inclinations of the American people, resulting in achievement of extraordinary scope and importance. Consider: in 1958 the United States managed, with great difficulty, to place a two kilogram satellite in low earth orbit; a decade later, men are walking on the moon and returning safely to Earth. Today they are demonstrating the ability of man to live and work in space, and sending unmanned probes to the most remote corners of the solar system.

However, if the only results of the space program were solutions to the immediate technical problems of space flight and the expansion of our abstract knowledge of the cosmos, there would be little economic benefit beyond the aerospace firms involved. But within the solutions to the major problems reside countless minor problems, the solutions to which may have much broader applications than anticipated. These tangential applications, or "spinoffs", have been unanticipated economic windfall, and fully justify the expenses of programs like Apollo or the Space Shuttle by virtue of the new industries and employment they have created.

The full range of technological spinoffs from the space program is too vast to recount here. Those who are interested should investigate the "Spinoff Reports", published by NASA annually. It is sufficient, though, to say that few, if any basic areas of advanced technology which do not owe some or all of their development to the demands of the Space Program.

A few specific examples should prove this point, beginning with fields of microelectronics and computers. If we live in the age of the computer revolution, we may thank the space program. The demands for highly reliable electronic components packaged in the minimum mass and volume were essential for both manned and unmanned space probes, leading directly to the integrated circuit. Missile guidance control, the development of complex navigational algorithms and ballistic computations requiring the execution of many thousands of mathematical operations per second, led to the development of powerful, high speed digital computers. To place these computers aboard weight and volume constrained spacecraft, the computers were made smaller which in turn demanded integrated circuits of much greater density and speed. Today computers found in households and offices are far more capable than any which were available even to military organizations in the early 1960s. The cost of computers has decreased, even as capabilities have increased several orders of magnitude, thanks to improved manufacturing techniques developed out of the American space program.

As secondary spinoff of computers and the space program: computer assisted design and computer assisted manufacturing. Aerospace and automotive manufacturers have eliminated thousands of manhours of precision model making, wind tunnel and prototype testing by using complex computer simulations in the design process. Design changes which previously took months to implement are today tested and verified in hours by feeding the desired parameters into a computer. This technique was first developed in the space program to validate design concepts without the expense of building hundreds of test vehicles.

We also use computers on the assembly line for hundreds of repetitious precision tasks previously done by hand. We at Fiat use many robots in the manufacture and assembly of our automotive products. The technology for these machines was spun off of the remote planetary probe and image processing programs of the space program. Highly realistic cockpit simulators are being used to train and refresh aircrew, and develop responses to inflight emergencies. These simulators, first developed to train astronauts, save the airlines millions of dollars in fuel and maintenance each year, while improving pilot proficiency and safety. Computers and other technologies developed from the space program have revolutionized biomedical science. CAT and ultrasound scans used image processing techniques from space probes. Advanced biomedical sensors were developed out of the space program's need for remote physiological monitoring of astronauts from space.

The need to minimize structural weight and maximize spacecraft payloads led to the invention of a wide range of composite materials with many times the strength of steel at a fraction of the weight. These composites are now being used in aerospace and automotive manufacturing to reduce structural weight and improve the efficiency of aircraft and vehicles. These composites demonstrate many new and existing characteristcs which permit the exploitation of theoretical designs previously deemed impractical due to the lack of available materials. The forwardswept wing now in testing on the X-29 was first conceived in Europe in 1945; but until stiff, high strength carbon-boron epoxy was available, this revolutionary aircraft technology could not be developed. The X-29, along with many of the latest military and commercial aircraft, employ digital fly-by-wire flight control systems first used on manned spacecraft, which reduce pilot workloads, and permits highly efficient flight for reduced cost, and difficult maneuvers throughout the flight regime.

Indeed, space technology has entered our mundane lives so pervasively that it is impossible to pass a single day without encountering some article developed out of the space program.

The effect all this has had on industrial economies is enormous. The entire Apollo program cost the American taxpayer some twenty-three billion dollars over twelve years. The return on that investment has been staggering. NASA conservatively estimated that the direct return on every dollar invested in the space program is on the order of eight-to-one. On top of this, one must consider secondary and tertiary applications. Example: earth observation satellites. Billions of dollars are saved annually by the advance warning given when hurricanes, blizzards or floods threaten, thanks to weather satellites. Earth resource satellites enable us to spot oil, water and valuabel minerals in remote locations without the time and expense of sending survey teams to the area. The same satellites help locate and combat agricultural diseases by infrared analysis of foliage. The source and effects of pollution can be mapped in the same manner.

In fact, it would not be far from wrong to state that the impact of the space program has been practically incalculable in monetary terms. However, a Chase Econometrics study of 1976 made the following estimates: For every one billion dollars invested in space research and exploration, the American gross national product increased by twenty-three billion dollars; more than eight hundred thousand new jobs were created; the money multiplier effect was between three and eight. It is probably no coincidence that the period of 1972 to 1980, during which America had no ongoing large-scale space program, was a period of economic malaise for the United States. Nor is it entirely coincidence that the American economy has revived in conjunction with a revitalized space program.

What has this to do with the Strategic Defense Initiative? I believe that SDI is potentially the same sort of focusing program as Apollo or the Space Shuttle. Although it has a military purpose, this purpose is purely defensive; indeed, its ostensible goal is the prevention of mass destruction. The technical problems in developing a ballistic missile defense are vast, and push the limits of our present capabilities. The concept is broad and daring enough to capture the imagination and mobilized the kind of support needed to propel a technological breakthrough. Most important, for the first time, the United States is actively seeking multinational European support and participation in this effort.

Whether one supports the strategic goals of SDI is immaterial to the fact that the program presents European industry with the opportunity to participate in what could become the greatest research and development program of the decade. Through exposure to the technology, attitudes and environment of the program, we may be able to translate the experience into the revitalized high technology economy which we desparately need. As presently structured, it is intended only to investigate the technological possibilities of strategic defense. The question of implementation cannot be answered reasonably until such a technical investigation is completed. In any event, implementation is a military-political question outside the realm of industrial policy.

The nature of economic benefits to be derived from SDI research can be characterized as primary, secondary, and teriary.

Primary economic benefits are those derived directly by the transfer of SDI technology into our industrial base; spinoffs of this nature will show the greatest return on investment in the near term. The Strategic Defense Initiative is organized to investigate three major areas of technology: kill mechanisms, such as lasers, kinetic energy weapons, etc.; SATKA, or the Surveillance, Acquisition, Tracking and Kill Assessment sensors and Battle Management, the data processing and communications system required for coordination, fire control and resource management. The technical challenges in each of these research areas are formidable; it may turn out that some are insurmountable in foreseeable future. Nonetheless, coordinated, coherent research will advance the state of technology in all fields involved in the research effort, even if a strategic defensive system is never deployed. The Strategic Defense Initiative Organization recently recognized the economic importance of technological spinoffs by opening an office to identify civilian applications of SDI research and disseminate them to the public. Let me identify just a few of the industrial applications of primary SDI research.

In the field of lasers and directed energy weapons, SDI has already succeeded in improving the efficiency of high energy beam generation. This making the industrial use of lasers as cutting and welding tools more economical. The free electron laser under development for SDI has numerous potential applications in industrial and medical processes because of its capability to alter the frequency of the beam it emits. Lasers are under consideration for tracking and targeting sensors. Laser radar, due to its very short wavelength, has much higher resolution than radio frequency radars to transmit data along lines of sight at much greater densities than are possible with microwave systems. Adaptive optics used to control beam focus and compensate for atmospheric distortion, can be used in industry to control lasers as cutting tools, to permit the use of lasers for long distance communications, and to develop microscopic imaging systems for the design and inspection of microelectronic circuitry and other miniaturized components.

Particle beam technology, especially the neutral particle beam, is exploring areas of particle acceleration and beam control essential to the development of controlled fusion technology, and the technology of ion propulsion.

In kinetic energy weapons, the electromagnetic "rail gun" is considered one of the most promising areas of investigation, capable of accelerating small to moderate sized masses to velocities of over three thousand meters per second in the space of dozen meters, using controlled magnetic pulses. This technology can be used to improve the capabilities of magnetic levitation mass transit systems now under development in Germany and Japan.

The entire realm of SATKA is replete with technological spinoffs. The basic problem of SATKA is developing sensors capable of detecting small objects, of being able to discriminate between legitimate targets and decoys designed to dilute the effectiveness of the defenses. The sensors must also be able to detect minute changes in the state of the target to determine if the defenses have neutralized it. Accomplishing these objectives will require sensors many times more sensitive than those presently in use. New infrared and optical sensors will be used in earth observation satellites to survey and locate resources more effectively even than those in use today. It may be possible, through improved image processing technology, to identify marine resources, such as fish, or plankton, or even submerged mineral resources on the continental shelves. These same image processing techniques will also be used in industrial processes, for monitoring and quality assurance. It has been suggested that particle beams of relatively low power can be used as mass detectors, to determine the density of objects.

Battle Management, however, may be the area in which we see the most important and immediate spinoffs of SDI. Integration of the thousands of separate elements in a ballistic missile defense requires extraordinary data processing rates. For a boost phase intercept, potentially the most cost effective form of defense, processing rates on the order of one hundred million bits per second are needed, several orders of magnitude beyond the capability of all but the most powerful computers available today. Computers for battle management, however, must be cheaper and more compact than the present generation of supercomputers. The requirement for ultra-high speed date processing will give birth to a new generation of computers which will make today's models obsolete. These new computers will probably use parallel, rather than sequential processing, which will require entirely new methods of programming. These computers will be able to process much larger volumes of data and run increasingly complex simulations, which will reduce design and manufacturing costs for industry.

The immense amount of data being processed, and the very short times available for decision making, requires the battle management system to be much more automated than any previous military system. Man is a monitor, an override, a fail-safe component. The dynamic interplay of offense and defense during an engagement implies that the two-dimensional stochastic models used in earlier automated systems will be wholly inadequate. Instead, artificial intelligence and expert systems will be improved greatly to permit rapid, correct responses to unique and rapidly evolving tactical situations. The civilian applications for artificial intelligence of this calibre are awesome. To give but a few examples:

Assembly lines can be more fully automated, and much more flexible. Industry would then be able to shift from the production of a few models with limited variations, to smaller runs of a more diverse product line specifically tailored to consumer needs, without incurring prohibitive expense, by using artificial intelligence to coordinate the subcomponents and processes required for each item in response to programmed inputs.

In aviation, artificial intelligence and expert systems can function as "pilot's associates", monitoring system performance and reducing pilot workloads. In resource exploration or hazardous material processing, remote land rover vehicles or unmanned submersibles will be able to go places too dangerous for humans, without relying on remote control inputs. Such vehicles will be able to maneuver in their environment, equipped with manipulator devices enabling them to carry out their programmed tasks the face of unexpected conditions.

Consider the effect which the computer has had in industry to date, and then imagine the impact of a tenfold or hundredfold improvement in computer performance. Think of the power of a Cray-II packaged to fit atop a desk, and the concomitment reduction of data processing costs when such capability becomes widespread.

Battle management also requires secure, high-speed telecommunications capability, to pass targeting and tracking data, system status, and command signals across global distances. This will require a new generation of communications satellite of much greater power than now exist. Not only will individual satellites be able to carry a greater number of signals, but, as power increases, the complexity of ground receiver stations will decrease. Within a decade, it may be possible to transceive signals via satellite using ground stations of only a few watts power and dishes less than a meter in diameter.

Electronic, cybernetics, signal and data processing, optical sensors, laser and particle beam technology, telecommunications and material processing, are but a few of the areas which will be advanced by the inherent requirements of a ballistic missile defense system. Even if such a system is never deployed, the benefits of coordinated, coherent research in these areas will spin off into numerous civilian applications.

But from these primary benefits we can also discern a wide range of secondary benefits, resulting from activities needed to implement the results of basic SDI research, may have even greater impact, over the long term, than the primary spinoffs. For example, almost every system architecture described to date requires a large, space-based segment. To emplace this segment will require an integrated space logistics system, including efficient, low cost, space transportation; orbital transfer vehicles; heavy lift vehicles; permanently manned construction and repair stations; and the ground facilities to control them. In addition, space-based weapons will require high density power sources several orders of magnitude beyond any yet deployed. Implementation of space-based defense, therefore, requires the development of a space infrastructure, which is also essential for the large scale industrial development of space. While it is possible that this infrastructure will be developed independent of SDI, there can be little doubt that the connection to strategic defense will accelerate and ensure its development by providing a national (or international) security rationale. With a space infrastructure in place, we will begin to reap the teriary benefits of SDI through the industrialization of space. The markets for space are huge, untapped treasures waiting to be mined. There are alloys, composites and crystals which can only be manufactured in microgravity. There are pharmaceuticals which can be produced in purities and quantities required only in space. There is free and abundant energy for industrial processes, free and available vacuum and radiation. There are literally thousands of applications which we have not even imagined. The economic potential of this market is practically unlimited. Studies have shown that revenues for satellite communications alone will be in the range of fifty to one hundred billion anually, with growth rates of twenty to forty percent. It is estimated that by the year 2000, space industrialization will create between two and three billion new jobs in the United States alone, even at the unambitious pace now being pursued. The Aerospace Industries Association estimates that every million dollars spent on space activities creates one hundred direct new jobs, which does not include the service industries which will evolve to support rapidly expanding space industries.

In the short term, however, I believe that the primary benefits of SDI basic research justify European participation in the program. Failure to participate will concede a monopoly to American firms on any technologies emerging from SDI, which can only harm our competitive position. Fortunately, the United States is actively soliciting our participation in the venture, obviously for political reasons. But their motivation should not deter us from taking advantage of a situation which will benefit the economics of all who participate.

Unfortunately, there are several impediments to successful European participations, some of which are the fault of the Americans, but others which can be laid at our own door.

European industry has been sceptical of the Strategic Defense Initiative as a means of acquiring new technology. Some do not see the benefits as being as important and far-reaching as I have described. All that can be said is that every day brings forth evidence that, if anything, the description I have given you is not visionary enough.

More European industrialists are sceptical of the willingness or ability of America to have a meaningful European segment to SDI. I believe this is due in part to a misappreciation of the size and nature of the present program. Numbers are being tossed about, such as twenty, fifty, or one hundred billion dollars, as the ultimate budget of SDI. In fact, at this point, the SDI is working on a very slender budget. General Abrahamson's request this year was for 3.7 billion dollars; he received 2.9. Budgets for the next few years will run between six and ten billion dollars. If the contracts being offered are not for very large amounts, blame the total program budget, not American unwillingness to offer money to Europeans.

You will also note that of the money authorized for the program, the majority of the funding has gone to a relative handful of large American firms. A European might well ask what is left for him? How can he compete against a large, incumbent contractor? This is again a misperception of the program. The large contractors awarded to date have gone to companies involved in the development of large-scale demonstration hardware, the laser test beds, particle beams, or interceptors. These programs predate SDI by as much as a decade, having originated with the individual American services, and were brought under the SDI umbrella in 1983. As the programs nearest to fruition, it is natural that funding be allocated to them as a top priority. But as the overall funding level of the program expands, and new areas of investigation begin to mature, there will be many opportunities for European involvement. There will be areas in support and ancillary functions which do not receive the attention of major American companies, which provide us with opportunities to acquire new technology without direct competition with America's aerospace giants. As SDI matures, additional problems, not previously forseen, will require solutions. In that arena we will start on the same footing as the Americans; if we have competitive ideas, we will win a share of the budget.

But in this regard, I will remind you that the direct funding we receive from SDI will never be a large enough amount (barring actual deployment of a ballistic missile defense) to justify a major commitment of resources on our part. It is the acquisition of the technology and our ability to spin off marketable applications that is our major benefit.

Aside from the level of scepticism in European business, there are several other significant impediments to overcome. At the highest level, there is the irreducible fact that SDI is a military program with a political and strategic dimension. The factor of national interest makes the normal customer-contractor relationship inadequate for this program. Since each nation in the Alliance has a different perception of its security needs and the effects of SDI upon them, there will be widely divergent positions on the issue; a consistent policy is unlikely.

The strategic dimension also introduces the problems of security and technology transfer. We are all aware of the efforts of the Soviet Union in the realm of technical and scientific espionage, and of the efforts of the United States to halt what it perceives as a hemorrage of technological secrets to the Eastern Bloc. We are also aware that American actions in this direction have in the past caused friction within the Alliance. Since the areas investigated by SDI will have critical military applications, it is obvious that the United States will attempt to control their dissemination. However, if technology transfer controls are too strict, the effect may be discouragement of the European participation the United States ostensibly wishes to foster. Many European firms probably will defer any decision on participation until definitive technology transfer guidelines have been negotiated between the respective governments.

At a lower level of policy-making, Europeans face a number of bureaucratic hurdles to meaningful participation. At the root of our problems is our lack of experience in programs of this nature. We do not know the ground rules, nor do we have the personal contacts of American high technology firms. Therefore, we are disadvantaged simply trying to get in the door. Compounding our difficulties is the well known predilictions of the U.S. Department of Defense against the procurement of non-American material. There is a two way street, but the traffic is much heavier from west to east than vice versa. The American Congress must share the blame for this, through the enactment of "Buy American" legislation, which effectively bars our participation in research and development programs. Significant European participation in SDI may also have an adverse effect on American public opinion, if it is perceived as depriving American companies of work.

In addition, European industry will be entering the SDI market several years behind American companies. We will need special assistance to assimilate the progress which has been made to date, and to identify market areas in which we can make significant contributions. How, then, can European participation in SDI be implemented successfully? There are four basic approaches which may be taken.

First, efforts may be made in a decentralized manner through the private sector. Individual firms may bid on SDI research projects without any coordination with other companies or their own governments. Companies would enter the program with small contracts and grow from within. This approach offers speed and flexibility, but an individual firm lacks major bargaining leverage when facing opposition from American companies and the previously noted bureaucratic impediments. In addition, companies may be reluctant to commit their resources in the absence of a public commitment to SDI, especially when one considers the skepticism with which the entire program is viewed.

A second approach would involve coordinated action by several firms, without any formal governmental backing. A consortium would bid competitively for contracts, using their combined resources to gain bargaining power. However, coordination within a consortium is relatively poor, leading to longer response times and higher costs. The track record of large corsortium programs is not good—witness the Concorde, Jaguar, Alpha Jet and other aerospace programs. In addition, as a purely private venture, the consortium would still lack the governmental support needed to coordinate between national authorities and to mitigate some of the risks involved.

The third approach involves formal bilateral agreements between the United States and individual European governments. Under the terms of such an agreement, areas of cooperation would be established, and the European government involved would distribute contracts among its industrial firms. An arrangement of this nature is not practical at this moment due to the limitations of the American procurement system. The American system is based on competition for all but a few categories of procurement, and it is not at all clear if existing laws and regulations would permit relegation of a sizeable portion of the SDI budget to European governments for distribution to their industries. In addition, there is need for close, direct contact between the contractor and the sponsoring agency, which will inevitably lead to the creation of a dual level bureaucracy, with intergovernmental coordination layered above the technical interface, causing unnecessary duplication of administration, delays, and increased costs.

The fourth option is a multilateral intergovernmental arrangement based either within the NATO Alliance or the EEC. The agreement would apportion the work to be done by each nation; the national governments would then distribute contracts to individual firms. This is the least plausible alternative. Aside from its unnecessary complexity, it is probably impossible to arrive at such an agreement due to the differing political and strategic positions among the allies.

Each of the four options individually has some major disadvantage. It appears, though, that a combination of the first and third options offers the best available compromise. Initially, European companies should attempt to penetrate the SDI market on their own, using relatively small projects to build confidence and a base of experience. At some later point, direct bilateral agreements must be worked out by the respective governments to coordinate higher policy issues and provide bargaining leverage for industry. This approach offers flexibility to take advantage of the fluid state of SDI research, and would, at a later stage, provide some of the bargaining leverage and security which a European firm would need prior to committing major resource to SDI.

It will be difficult to implement such an arrangement. The problems are twofold, involving both European and American governments. From the perspective of a European government, the initial contract amounts are very small, rarely more than a few million dollars. It will be difficult to convince a government to commit its political capital for what appears to be a program of minor economic consequence. In response, it must be noted again that the dollar amounts awarded for SDI contracts will increase over time, but more importantly, that the direct cash outlays for SDI are not the major rationale or benefit of European participation. Rather, by exposure to new technologies and directed research, European industry will be able to spin off applications which will be many times greater than the profit from direct SDI payments.

There are several problems from the American side, related to the unique manner in which the United States manages military procurement. If we are going to commit ourselves to SDI, we must have assurance that contracts will actually be awarded for the projects on which we bid. Unlike agreements between European governments, cooperative agreements with the United States carry no guarantees, no multiyear or fixed dollar procurements. In addition, American procurement regulations requiring competitive bidding on all but a few contracts places us at a disadvantage. The divided responsibility for foreign policy in the American system also hinders our cooperation. We have no assurance that agreements negotiated with the Executive branch will be ratified by the Legislature, or that Congress will not abrogate or repeal an existing agreement. We have participated in many programs in which the contractual rug have been pulled out from under us.

If the United States truly wishes our participation in SDI, then direct diplomatic negotiations are required to map our new procedures for administering international programs. This is an unprecedented undertaking, and existing laws and regulations do not meet their unique conditions. We need guarantees that we will be able to penetrate the SDI market on a large scale, either by blocking out funds reserved for European ventures, or by delegating particular areas of investigation to European firms. We require guarantees that contract awards will actually be made, and that the United States has a long-term commitment to SDI which justifies a major investment of resources on our part. American procurement laws must be amended for greater flexibility, or some form of waiver used to exempt European participants from elements of a system to which they are not adapted.

In return, we Europeans must become more entrepreneurial. We must have the vision, creativity and flexibility to exploit the new areas of technology which will be opened, if we are to reap real benefits from our participation. The space research and development activities being initiated in the United States today will revolutionize the technology products of the near future. It is vital that European industry not be left behind as the rest of the world moves into a new industrial revolution.

Europeans in government and industry must be less sceptical of American motivations and capabilities. For more than forty years the United States has been a steadfast ally and firm friend to Europe. During that same period we have seen American genius bring about industrial and technological changes which a half century ago seemed mere fantasy. The United States has once more set forth on a major technological undertaking. They ask for our cooperation and participation. I believe it is in our best interest to accept this truly generous offer. It is in our best interest to see that any cooperative program succeeds. It is the responsibility of all parties, European and American, to work in good faith to remove the roadblocks preventing quick and meaningful participation in the Strategic Defense Initiative.●

PRODUCT LIABILITY REFORM

● Mr. DANFORTH. Mr. President, on December 20, I made a statement for the record concerning a new staff working draft of product liability reform legislation. Unfortunately, this draft was mistakenly printed as a new bill, S. 1999.

I want to take this opportunity to emphasize that this text is still in the drafting stages and will be subject to further changes and much discussion among members of the Commerce Committee. While it is premature to endorse specific provisions of this draft, I am confident that hearings early in 1986 will lead to prompt committee consideration of legislation to address the serious need for product liability reform.

Also, on December 20, I asked that this staff working draft be printed in the Record to facilitate discussion of these latest proposals. Since this was not done, I renew my request that the new staff working draft of product liability reform legislation be printed in the Record immediately following these remarks.

The material follows:

[Staff Working Draft—No. 2]

S. —

A bill to regulate interstate commerce by providing for a uniform product liability law, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I

SHORT TITLE

Sec. 101. This Act may be cited as the "Product Liability Voluntary Claims and Uniform Standards Act".

DEFINITIONS

Sec. 102. As used in this Act, the term—

(1) "capital good" means any product, other than a motor vehicle, or a vessel, aircraft, or railroad used primarily to transport passengers for hire, or any component of any such product, if it is also of a character subject to allowance for depreciation under the Internal Revenue Code of 1954 and was—

(A) used in a trade or business;

(B) held for the production of income; or

(C) sold, leased, or donated to a governmental or private entity for the production of goods, for training, for demonstration, or other similar purposes;

(2) "claimant" means any person who submits an expedited product liability claim or brings a civil action subject to title II or III of this Act, and any person on whose behalf such a claim is submitted or such an action is brought; if such a claim is submitted or such an action is brought through or on behalf of an estate, the term includes the claimant's decedent, or if it is brought through or on behalf of a minor or incompetent, the term includes the claimant's parent or guardian;

(3) "clear and convincing evidence" is that measure or degree of proof that will produce in the mind of the trier of fact belief or conviction as to the truth of the allegations sought to be established; the level of proof required to satisfy such standard is more than that required under preponderance of the evidence, but less than that required for proof beyond a reasonable doubt;

(4) "commerce" means trade, traffic, commerce, or transportation (A) between a

place in a State and any place outside of that State; or (B) which affects trade, traffic, commerce, or transportation described in clause (A);

(5) "commercial loss" means economic injury, whether direct, incidental, or consequential, including property damage and damage to the product itself, incurred by persons regularly engaged in business activities consisting of providing goods or services for compensation;

(6) "exercise of reasonable care" means conduct of a person of ordinary prudence and intelligence using the attention, precaution and judgment that society expects of its members for the protection of their own interests and the interests of others;

(7) "exposure" means proximity permitting absorption, ingestion or inhalation of a substance through any body surface;

(8) "harm" means (A) personal physical illness, injury, or death of the claimant; (B) mental anguish or emotional harm of the claimant caused by or causing the claimant's personal physical illness or injury; and (C), for purposes only of title III of this Act, physical damage to property other than the product itself; the term does not include commercial loss;

(9) "manufacturer" means (A) any person who is engaged in a business to produce, create, make, or construct any product (or component part of a product) and who designs or formulates the product (or component part of the product) or has engaged another person to design or formulate the product (or component part of the product); (B) a product seller with respect to all aspects of a product (or component part of a product) which are created or affected when, before placing the product in the stream of commerce, the product seller produces, creates, makes, or constructs and designs or formulates, or has engaged another person to design or formulate, an aspect of a product (or component part of a product) made by another; or (C) any product seller not described in clause (B) which holds itself out as a manufacturer to the user of a product:

(10) "person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity (including any governmental entity);

(11) "preponderance of the evidence" is that measure or degree of proof which, by the weight, credit, and value of the aggregate evidence on either side, establishes that it is more probable than not that a fact occurred or did not occur;

(12) "product" means any object, substance, mixture, or raw material in a gaseous, liquid or solid state (A) which is capable of delivery itself or as an assembled whole, in a mixed or combined state or as a component part or ingredient, (B) which is produced for introduction into trade or commerce, (C) which has intrinsic economic value, and (D) which is intended for sale or lease to persons for commercial or personal use; for the purposes of this Act, the term does not include (i) industrial waste, atmospheric pollutants, and water contaminants, (ii) human tissue, blood and blood products, or organs, or (iii) tobacco or alcoholic beverages sold for human consumption; and for the purposes of title II of this Act, any product purchased by the United States Government which is manufactured to United States Government design specifications for use in an aerospace or defense application.

(13) "product seller" means a person who, in the course of a business conducted for that purpose, sells, distributes, leases, prepares, blends, packages, labels, or otherwise is involved in placing a product in the stream of commerce, or who installs, repairs or maintains the harm-causing aspect of a product; the term does not include—

(A) a seller or lessor of real property;

(B) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(C) any person who—

(i) acts in only a financial capacity with respect to the sale of a product; and

(ii) leases a product under a lease arrangement in which the selection, possession, maintenance, and operation of the product are controlled by a person other than the lessor;

(14) "relevant point in time" means, for the purposes of title III of this Act, the earlier of the time of manufacture of a product or certification of an aircraft or its parts or accessories by the Federal Aviation Administration;

(15) "Secretary" means the Secretary of Commerce;

(16) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States, or any political subdivision thereof;

(17) "toxic agent" means an object, substance, mixture, raw material, or physical agent producing or capable of producing toxic harm in humans; the term does not include genetic or other physiological predisposition to toxic harm or environmental background factors to which general population is exposed;

(18) "toxic harm" means harm which is functional impairment, illness, or death of a human being resulting from exposure to an object, substance, mixture, raw material or physical agent of particular chemical composition.

PREEMPTION

SEC. 103. (a) This Act governs any civil action brought against a manufacturer or product seller, or any theory, for personal injury or property damage caused by a product. A civil action brought against a manufacturer or product seller for loss or damage to a product itself or for commercial loss is not subject to this Act and shall be governed by applicable commercial or contract law.

(b) No civil action may be brought in any Federal or State court against a manufacturer or product seller for personal injury or property damage caused by a product other then an action for recovery for harm brought pursuant to this Act.

(c) This Act supersedes any State law regarding recovery for any injury or damage caused by a product only to the extent that this Act establishes a rule of law applicable to any such recovery. Any issue arising under this Act that is not governed by any such rule of law shall be governed by applicable State or Federal law.

(d) Nothing in this act shall be construed to—

(1) waive or affect any defense of sovereign immunity asserted by any State under any provision of law;

(2) supersede any Federal law, except the federal Employees Compensation Act;

(3) waive or affect any defense of sovereign immunity asserted by the United States;

(4) affect the applicability of any provision of the foreign Sovereign Immunities Act of 1976 (28 U.S.C. 1602 et seq.);

(5) preempt State choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation;

(6) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground of inconvenient forum; or

(7) supersede any statutory or common law, including an action to abate a nuisance, that authorizes a State or person to institute an acton for civil damages or civil penalties, clean up costs, injunctions, restitution, cost recovery, punitive damages, or any other form of relief resulting from contamination or pollution of the environment, or the threat of such contamination or pollution.

(e) As used in this section, "environment" has the meaning given to such term in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(14)).

(f) This Act shall be construed and applied after consideration of its legislative history to promote uniformity of law in the various jurisdictions.

RECORD RETENTION

SEC. 104. (a) A manufacturer of a product for which recovery may be sought under title II or subject to title III of this Act shall retain for a period of twenty-five years one copy of all studies or reports within the manufacturer's possession, custody, or control, which assess the risks or hazards posed by the design or formulation of the product. A manufacturer of such a product also shall retain for a period of twenty-five years a record of each reported incident of death, injury, or illness resulting or alleged to have resulted from the use of the product.

(b) Any claimant and any person who is a party to a civil action governed by this Act or who has notice that he or she may be made a party to such an action shall retain all material, documents and other data (including, in the case of the claimant, the product alleged to have caused the claimant's harm) within that person's possession, custody or control that are relevant or may lead to the discovery of evidence relevant to the claim or action.

(c) In any action governed by this Act, if the court determines that a party has willfully disposed of, destroyed, concealed, altered or removed any material, document or data in violation of subsection (a) or (b) of this section, there shall be a rebuttable presumption that the facts to which the material, document or data relate are established in a manner adverse to the position of the party who has committed the violation. The court shall assess a civil penalty against such party in an appropriate amount not less than $1,000 and order such party to pay the other party's costs, including reasonable attorney's fees, incurred in proving the violation.

(d) In any action governed by this Act, if the court determines that a party has nonwillfully violated subsection (a) or (b) of this section, and that no other means are available to establish the facts to which the unavailable material, document or data relate, the court may, in the interest of justice, establish a rebuttable presumption that the facts to which the material, document or data relate are, for the purposes of such action, established in a manner adverse to the party who has committed the violation.

ATTORNEY DISCLOSURE

SEC. 105. (a) As used in this section, the term—

(1) "attorney" means any natural person, professional law association, corporation, or partnership authorized under applicable State law to practice law; and

(2) "client" means any person who consults or seeks to retain an attorney in connection with a claim or civil action brought under or subject to this Act.

(b) An attorney who is contacted by a client inquiring about rights of recovery for harm caused by a product or seeking to engage the attorney's services in connection with a claim or civil action brought under or subject to this Act shall provide the client with—

(1) an explanation of the options specified in titles II and III of this Act for recovery for harm caused by a product, including—

(A) the elements of proof and potential recovery under such options;

(B) the time periods specified in this Act for payment if the client submits an expedited claim under title II of this Act;

(C) the length of time that is likely to be required for the client's recovery in a civil action under title II or title III of this Act; and

(D) an estimate of the likelihood of the client's recovery pursuant to such options; and

(2) an estimate of the attorney's time, fees, and expenses, and all other potential costs, expenses, and penalties payable or to be paid by the client seeking recovery under title II or pursuant to title III of this Act.

(c) If an attorney fails to disclose to a client the information required by this section, the client may bring a civil action for damages in the court in which an action under title III of this Act was or could have been brought. An attorney who fails to make the disclosure required by this section shall be liable for any loss caused the client by such failure and for exemplary damages in the amount of the client's net economic loss, as defined in section 202 of this Act. The provisions of this section shall be in addition to and not in lieu of any other available remedies or penalties.

SERVICE OF PROCESS

SEC. 106. The summons and complaint in any action brought under or subject to this Act shall be served as provided by the applicable law or rules of the court where such action is brought, except that the delivery of the summons and complaint upon the defendant or the defendant's agent as required by applicable State or Federal rules may be made by certified mail, return receipt requested, whether within or beyond the territorial limits of the State in which the action is brought.

ADMISSIBILITY OF CERTAIN EVIDENCE

SEC. 107. Evidence that a manufacturer or product seller has admitted liability, expressly or impliedly, or has made payment to a claimant for harm caused by a product under title II of this Act shall not be admissible in any other action brought under or subject to this Act or otherwise by another claimant.

EXPERT OPINION

SEC. 108. For the purposes of this Act, expert scientific or medical opinion is not sufficient evidence to establish any fact unless such opinion has support in peer-reviewed scientific or medical studies.

SUBSEQUENT REMEDIAL MEASURES

SEC. 109. In an action governed by this Act, evidence of any measure taken by a manufacturer or product seller after the occurrence of a claimant's harm which, if taken previously, would have made the harm less likely to occur is not admissible to prove liability. Such evidence may be admitted when offered for another purpose, such as proving ownership, control, or feasibility of precautionary measures, if controverted, or impeachment.

PRODUCT LIABILITY REGISTRY

SEC. 110. (a) Any manufacturer who is not incorporated or registered to do business under the law of a State shall appoint an agent for service of process in the United States upon whom service of process may be made pursuant to section 106 of this title and claims presented pursuant to section 201 of title II of this Act. Any such manufacturer shall transmit notice of the appointment of such an agent and of the agent's address to the Secretary, in accordance with regulations promulgated by the Secretary.

(b) The Secretary shall maintain a registry of agents appointed pursuant to subsection (a) of this section, and shall furnish the name and address of any agent to any person requesting such name and address for the purpose of making service of process or submitting a claim under this Act.

(c) Not later than twelve months after date of enactment of this Act, the Secretary shall promulgate regulations establishing financial-responsibility requirements for manufacturers who are required by subsection (a) of this section to appoint an agent for service of process. Financial responsibility may be established in accordance with such regulations by insurance, guaranty, surety bond, or letter of credit, or any combination thereof.

(d) Any manufacturer who fails to comply with a provision of this section or a regulation issued under this section shall be liable to the United States for a civil penalty in an amount not to exceed $5,000 for each day of such non-compliance. Such civil penalty shall be assessed by the Secretary by the issuance of an order made on the record after opportunity for a hearing in accordance with section 554 of title 5, United States Code. The amount of such penalty when finally determined may be deducted from any sums owed by the United States to the person charged. Any person who requested a hearing respecting the assessment of a civil penalty and who is aggrieved by an order assessing a civil penalty may file a petition for judicial review of such order with the United States Court of Appeals for the District of Columbia Circuit within the 30-day period beginning on the date the order making such assessment was issued. If any person fails to pay such an assessment the order to pay such penalty becomes a final order or, where a petition for judicial review has been filed, after the court has entered final judgment in favor of the Secretary, the Attorney General shall recover the amount assessed, plus interest at currently prevailing rates, in an action brought in an appropriate district court of the Unites States. In such an action, the validity, amount and appropriateness of the penalty shall not be subject to review.

PRODUCT LIABILITY REVIEW PANEL

SEC. 111. (a) In order to carry out the purposes of this section, there shall be established a Product Liability Review Panel (hereinafter referred to as the "Review Panel"). The Review Panel shall be composed of three members selected by the Judicial Conference of the United States on the basis of their expertise regarding civil actions and recovery for personal injury or property damage caused by products, and four members selected by the National Academy of Sciences on the basis of their expertise regarding economic, medical, and scientific aspects of the subject matter of the study. A chairman and a reporter shall be elected from among the seven members of the Review Panel.

(b) The Review Panel shall conduct a study to assess the expedited procedures and remedies provided by title II of this Act. As part of such study, the Review Panel shall evaluate—

(1) the adequacy of such procedures and remedies in providing fair compensation in a prompt and cost-effective manner for harm caused by products, including toxic harm caused by exposure to products, and harm, whether toxic or non-toxic, caused by drugs and medical devices used in human health care, as well as by other products;

(2) the scope of the evidentiary burdens placed on claimants under title II of this Act in proving the causes of harm, including toxic harm, particularly in light of scientific uncertainty regarding causation of certain human health effects;

(3) the availability and cost of product liability insurance for claims under title II of this Act;

(4) the costs imposed on claimants, manufacturers, and the judicial system by the procedures and remedies provided by title II of this Act; and

(5) the success of the procedures and remedies set forth in titles II and III of this Act in providing both incentives for product safety and adequate compensation for persons harmed by defective products.

(c) The Review Panel shall conduct such hearings, conferences or public forums as are necessary to assure adequate public participation in its proceedings.

(d) Within thirty-six months after the date of enactment of this Act, the Review Panel shall submit to the Congress a report containing the results of the study required by this section, with appropriate recommendations. Such recommendations shall address specifically the need to amend or supplement the provisions of this Act.

(e) A member of the Review Panel who is not an officer or employee of the Federal Government shall be entitled to receive compensation at a rate not to exceed the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule pursuant to section 5332 of title 5, United States Code, for each day (including traveltime) during which the member is engaged in the actual performance of the duties of the Review Panel.

(f) There are authorized to be appropriated for the purpose of this section such sums as may be necessary. Such sums shall remain available until expended.

EFFECTIVE DATE

SEC. 112. (a) This Act shall be effective on the date of its enactment and shall apply to all expedited claims submitted pursuant to title II of this Act on or after that date and all civil actions subject to title III of this Act commenced on or after that date, including any claim or action in which the harm or the conduct which caused the harm occurred before the effective date.

(b) If any provision of this Act would shorten the period during which a manufacturer or product seller would otherwise be exposed to liability, the claimant may, notwithstanding the otherwise applicable time period, submit an expedited claim to such a manufacturer or bring any civil action governed by this Act within one year after the effective date of this Act.

TITLE II

EXPEDITED PRODUCT LIABILITY CLAIMS PROCEDURE

SEC. 201. (a) A person who has suffered harm caused by a product, other than an employee of the product's manufacturer who suffers such harm in the course of his employment, may submit an expedited claim under this title to the nanufacturer, except that no claim for harm occurring outside of the United States may be brought under this title by a person who is not a citizen of the United States.

(b) A person who submits such a claim under this title for harm caused by a product may not seek recovery for damages arising from the same harm in a civil action governed by title III of this Act, if the manufacturer—

(1) makes payment of net economic loss to the claimant, pursuant to section 206(b) or 209(a) of this title;

(2) declines to make full payment solely because of a dispute over the amount of net economic loss, pursuant to section 206(d) or 209(b) of this title; or

(3) declines liability for the claimant's harm or fails to respond as required by section 206(a) of this title, and the claimant seeks recovery for the harm pursuant to section 208 of this title.

(c) No person may submit an expedited claim to a manufacturer under this title if there is pending against the manufacturer a civil action brought by such person under any theory, under any law, to recover damages for the same harm.

(d) In the absence of a prior written agreement to the contrary, a manufacturer who makes payment under this title for damages caused by a product or who is found not liable for such harm under section 208 of this title may not be made a defendant in any action brought by any other party for contribution, reimbursement, or indemnity for damages arising from the same harm.

(e) Payment of an expedited claim for harm under this title or a finding of nonliability under this title shall not bar an action governed by title III of this Act for associated harm which is physical damage to property other than the product itself.

MANUFACTURER'S LIABILITY FOR NET ECONOMIC LOSS

SEC. 202. (a)(1) As used in this title, the term "net economic loss" means—

(A) reasonable expenses incurred for reasonably needed and used medical and rehabilitation care and services;

(B) lost income from work which the claimant would have performed if the claimant had not suffered harm, reduced by any income earned from substitute work actually performed by the claimant or by income the claimant would have earned in available appropriate work which the claimant was capable of performing but unreasonably failed to undertake;

(C) reasonable expenses incurred in obtaining ordinary and necessary services in lieu of those the claimant would have performed, not for income, but for the benefit of the claimant or the claimant's immediate family, if the claimant had not suffered the harm;

(D) lost earnings of a deceased person who suffered fatal harm caused by a product which, if the person had not died, would have been contributed to claimants who are entitled to received benefits by reason of such person's death under the law of the place where the deceased person was domiciled; and

(E) reasonable expenses incurred by the claimant in preparation and submission of a voluntary expedited claim prior to the date on which notice is given by the manufacturer pursuant to section 206(b), 206(d), or 209 of this title, including a reasonable attorney's fee,

less the total amount of compensation for economic loss paid or payable to the claimant by reason of the same harm from any other source, including any such compensation paid or payable under any government program (including workers' compensation) or employee benefit plan, or pursuant to any private insurance policy or program or any prepaid medical benefit plan.

(2) The lost income taken into account under paragraph (1)(B) of this subsection shall be reduced by the amount of all Federal, State, and local income taxes and any Social Security or other payroll taxes which would be applicable to such income, but which would not be applicable to compensation paid under this title.

(b) A manufacturer's liability under this title for harm caused by a product is limited to the claimant's net economic loss resulting from such harm.

(c) Where harm occurs in circumstances that might entitle a claimant to benefits (including workers' compensation benefits) which would reduce the amount of the claimant's net economic loss in accordance with subsection (a)(1) of this section and it cannot reasonably, within the time provided for payment of net economic loss under section 206(a) of this title or any reasonable extension of such time, be determined whether or in what amount such benefits will be payable, the manufacturer shall place in an interest-bearing escrow account that portion of the economic loss which the manufacturer reasonably anticipates the claimant will receive from such other sources, until the claimant's right to such benefits and the amount of such benefits finally has been determined under applicable law.

(d) The total amount of compensation for economic loss paid or payable to a claimant from any other source shall, for purposes of subsection (a) of this section, be reduced by the amount of legal fees and other costs incurred by the claimant in collecting such compensation.

(e) Attorney's fees may be on a contingent basis but, for the purposes of subsection (a) of this section, shall be calculated on the basis of an hourly rate which should not exceed that which is considered acceptable in the community in which the attorney practices, considering the attorney's qualifications and experience and the complexity of the case.

(f) Except as otherwise provided by any provision of Federal law, no program of compensation, whether public or private, the benefits of which would be deducted from claimant's economic loss in order to calculate net economic loss under this section, may make payment of benefits secondary to payment of net economic loss by a manufacturer under this title.

SUBMISSION OF AN EXPEDITED CLAIM

SEC. 203. (a) Within ten days of receipt of notice of injury alleged to have been caused by a product, a manufacturer shall provide persons seeking to recover for harm caused by a product with a clear and comprehensive written explanation of their rights under this Act, including their right or representation by counsel, and with any forms required for filing an expedited claim. Within one hundred twenty days of the effective date of this Act, the Secretary shall make available a model explanation of such rights and model forms. A manufacturer who provides a claimant with copies of such explanation and forms shall be deemed to have satisfied the requirements of this subsection.

(b) A person seeking to recover under this title from a manufacturer for harm caused by a product shall submit an expedited claim by certified mail, return receipt requested, to the manufacturer.

(c) In order to be deemed a complete claim for purposes of section 206 of this title, a claim submitted to the manufacturer pursuant to subsection (b) of this section must be accompanied by—

(1) except as provided in subsection (d) of this section, reasonable proof that the manufacturer made the individual product unit that caused the harm;

(2) full information regarding the date, place, and time of the harm's occurrence, the cause, nature and extent of the harm, and the nature and the amount of economic loss caused by the harm;

(3) copies of all bills for which payment is sought, including medical bills;

(4) copies of all medical reports or records within the possession of the claimant relating to the harm for which recovery is sought;

(5) a statement of lost income for which recovery is sought;

(6) the name and address of any other source of compensation paid or payable to the claimant for such economic loss, and the amount of any such compensation; and

(7) an affirmation or declaration, under penalties of perjury, that, to the best of the claimant's knowledge, the information provided with the claim is accurate.

(d) Any person seeking to recover under this title for toxic harm of a kind which manifests itself only many years after exposure may, where it is not possible for such person, despite every reasonable effort, to identify the manufacturer of the individual product unit that caused the harm, submit a product liability claim in accordance with the provisions of this section to any manufacturer of a product that is identical and chemically indistinguishable from the product which caused the harm if that manufacturer's product was available at the time when, and in the market in which, the product that caused the harm was purchased. In addition to the information required by subsection (c) of this section, the claimant shall provide the manufacturer with an adequate explanation of its inability to identify the manufacturer of the individual product unit which caused the toxic harm.

(e) An expedited claim under this section must be submitted within two years of the time the claimant discovered or in the exercise of reasonable care should have discovered the harm and its cause, except that a claim of a person under legal disability may be submitted within two years after the disability ceases.

DUTY TO DISCLOSE INFORMATION

Sec. 204. (a) A claimant shall, as a condition to recovery under this title—

(1) cooperate fully and expeditiously with the manufacturer in its reasonable investigation of the circumstances of the harm and of the net economic loss claimed as a result of such harm; and

(2) promptly update during the course of the manufacturer's investigation all medical information and information relevant to the calculation of net economic loss previously furnished pursuant to section 203(c) of this title.

(b) In addition to the information to be furnished pursuant to section 203(c) of this title, the claimant shall, upon request, deliver to the manufacturer a copy of every written report made before or after the date of request, which is available to the claimant and is not otherwise available to the person making the request, concerning any relevant medical treatment or examination of the claimant. In addition, the claimant shall, upon request, deliver to the manufacturer the names and addresses of all physicians, hospitals and other persons examining, diagnosing, treating, or providing services to the claimant in connection with the harm or any other relevant past injury. The claimant shall authorize the person making such request to inspect all relevant records made by such persons.

(c) Any person (other than the claimant) providing information pursuant to this section shall be entitled to reimbursement from the requesting party for costs reasonably incurred in providing such information.

LIABILITY FOR HARM

Sec. 205. (a) Where an expedited claim has been submitted to a manufacturer in accordance with section 203 of this title, the manufacturer is liable to the claimant, to the extent provided in section 202 of this title, if—

(1) the product, when it left the control of the manufacturer, was unreasonably dangerous; and

(2) the unreasonably dangerous aspect of the product was a proximate cause of the claimant's harm while the product was being used in a manner and for a purpose intended by the manufacturer or which could be reasonably anticipated by the manufacturer,

unless the claimant acted in some material respect in a manner which was a gross failure to exercise reasonable care.

(b) A product is unreasonably dangerous for purposes of this section unless the manufacturer of the product establishes by a preponderance of the evidence that—

(1) the product's utility so outweighs the risk of the harm caused the claimant that a person knowing of such risk would, nonetheless, in the exercise of reasonable care, be justified in placing a product so constructed, designed, or formulated in the stream of commerce; and

(2)(A) the risk of the harm caused the claimant would either have been apparent to a reasonably observant person or would have been a matter of common knowledge to persons in the claimant's situation; or

(B) if the risk of the harm caused the claimant would not have been apparent to a resonably observant person or would not have been a matter of common knowledge to persons in the claimant's situation, that (i) if the risk in question was avoidable, the manufacturer provided a warning or instruction adequate to enable a person exercising reasonable care to avoid the risk, or (ii) if the risk in question was unavoidable, the manufacturer provided information adequate to permit a person exercising reasonable care to make an informed decision whether to assume the risk.

(c)(1) A product which is a drug or a device which may only be or is, in fact, only administered, applied, used or dispensed by a practitioner licensed by law to administrates, apply, use or dispense such drugs or devices is not unreasonably dangerous for purposes of this section, if the manufacturer has taken reasonable steps to provide such practitioner with warnings and instructions with respect to the harm in question which are in compliance with the requirements of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.)

(2) For the purposes of this subsection, the term—

(A) "device" has the meaning given to such term in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)); and

(B) "drug" has the meaning given to such term in section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1)).

(3) A determination by the Food and Drug Administration that a warning or instruction complies with the requirements of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) is conclusive evidence of such compliance.

(d)(1) If a claimant has suffered toxic harm of a kind which manifests itself only many years after exposure, a product shall be presumed conclusively for purposes of subsection (a) of this section to have been a proximate cause of the claimant's toxic harm, if—

(A) the claimant was exposed to the product at a relevant time; and

(B) in the best available scientific opinion, the claimant's exposure to a product of such chemical composition, in the circumstances, would significantly increase the risk of incurring the toxic harm suffered by the claimant, unless another toxic agent is more likely than the product at issue to have independently produced claimant's toxic harm.

(2) An increase in the risk of incurring a particular toxic harm as a result of a particular exposure would be significant for the purposes of this subsection if the incidence of such harm in an exposed population were to exceed the incidence in nonexposed populations by 30 percent or more.

(e) A determination of the National Toxic Health Effects Panel established by section 213 of this title that, in the best available scientific opinion, exposure to a product of a certain chemical composition would or would not in particular circumstances significantly increase the risk of incurring a particular toxic harm shall be conclusive evidence of that fact for purposes of subsection (d) of this section, in the absence of fraud or similar misconduct on the part of such Panel or one or more of its members. In the absence of such a relevant determination of such Panel, the claimant must establish by a preponderance of the evidence that, in the best available scientific opinion, exposure to a product of a certain chemical composition, in the circumstances of the claimant's case, significantly increased the claimant's risk of incurring the toxic harm suffered by the claimant.

PAYMENT OR REJECTION OF AN EXPEDITED CLAIM

Sec. 206. (a) Within ninety days of receipt of a complete expedited claim submitted under section 203 of this title (unless a longer period is agreed to by the claimant), a manufacturer shall determine whether it is liable for the harm complained of by the claimant and give notice to the claimant as provided in this section.

(b) If a manufacturer decides not to contest liability for such harm, it shall so notify the claimant and either (1) make payment to the claimant for such net economic loss payable pursuant to section 202 of this title as has arisen to date from that harm, or (2) enter into an agreement with the claimant for other mutually acceptable disposition of the claim and any supplemental claims that might be filed under section 209 of this title.

(c) If the manufacturer determines that it is not liable for such harm, it shall give the claimant written notice of rejection of the claim and the reasons for such rejection, together with a written explanation of the claimant's rights under section 208 of this title. Within one hundred twenty days of the effective date of this Act, the Secretary shall make available a model explanation of such rights. A manufacturer who provides a claimant with copies of such explanation shall be deemed to have satisfied the requirements of this subsection.

(d) If a manufacturer decides not to contest liability for such harm but declines to make full payment of the claim because of a dispute over the amount of net economic loss, the manufacturer shall notify the claimant of such determination. The manufacturer shall pay the undisputed portion of the claim, if any, and provide the claimant with a written explanation of the claimant's rights under section 207 of this title. Within one hundred twenty days of the effective date of this Act, the Secretary shall make available a model explanation of such rights. A manufacturer who provides a claimant with copies of such explanation shall be deemed to have satisfied the requirements of this subsection.

RIGHTS UPON DENIAL OF FULL PAYMENT

Sec. 207. (a) If a manufacturer has advised a claimant that it declines to make full payment of an expedited claim submitted under this title solely because of a dispute over the amount of net economic loss, the claimant may, within ninety days of such notice, initiate binding arbitration proceedings by requesting the Federal Mediation and Conciliation Service to appoint an arbitrator from a roster of arbitrators maintained by the Services for such purpose. The manufacturer shall submit to such arbitration and shall be bound by any final determination of such proceedings.

(b)(1) The Service shall adopt procedures and rules applicable to the selection of arbitrators and to the conduct of arbitration proceedings under this section. In order that such proceedings may be expeditious, informal, and reasonably inexpensive in cost, the Service's rules shall provide, among other provisions, that unless agreed otherwise by the parties—

(A) no prehearing discovery shall be permitted;

(B) any hearing shall be held in the community in which the claimant resides;

(C) the matter may, upon the request of the claimant, be submitted to the arbitrator for decision without written posthearing briefs;

(D) the arbitrator shall hear the case within 60 days after the date of the arbitrator's appointment and render a decision within 30 days after submission of the case for decision; and

(E) in a case in which a claimant is represented by counsel, the arbitrator may award the claimant only either the amount sought by the claimant at the start of the hearing or the amount last offered by the manufacturer at the start of the hearing.

(2) The findings and determinations of the arbitrator shall be in writing and shall be final and conclusive. Such findings and determinations shall be enforceable in any court of competent jurisdiction. No official or court of the United States shall have power or jurisdiction to review any such findings and determinations except where there is alleged fraud, misrepresentation, or similar misconduct by one of the parties to the arbitration or the arbitrator and where there is a verified complaint with supporting affidavits attesting to specific instances of fraud, misrepresentation, or other misconduct.

(c) If the arbitrator finds that the claimant was the substantially prevailing party, the arbitrator shall increase the amount of net economic loss payable to the claimant by reasonable attorney's fees and expenses incurred in connection with the arbitration proceeding.

(d) The manufacturer shall pay the fee and expenses of the arbitrator, except that if the arbitrator finds that the manufacturer was the substantially prevailing party, the manufacturer shall be entitled to recover from the claimant all such sums paid to the arbitrator.

(e) Arbitration under this section shall be a claimant's exclusive remedy where the manufacturer declines to make full payment of an expedited product liability claim because of a dispute over the amount of claimant's net economic loss.

RIGHTS UPON DENIAL OF LIABILITY

SEC. 208. (a) If a manufacturer gives notice to a claimant pursuant to section 206(c) of this title that it is not liable for the claimant's harm, or if a manufacturer fails to respond to a claim as required by section 206(a) of this title, the claimant may bring a civil action for an order enforcing the claimant's rights under this title. If notice of rejection has been provided to a claimant in accordance with section 206(c) of this title, the issues at trial shall be limited to those issues raised by the claimant and set forth in such notice. All issues shall be tried by the court without jury. Such an action must be brought within one year of the date of submission of the claim under section 203 of this title or within ninety days of the manufacturer's rejection of the claim, whichever is later.

(b) A claimant may bring an action under subsection (a) of this section—

(1) in an appropriate court of the State in which the harm occurred or in which the claimant resides, and such action shall be governed by the provisions of this Act; or

(2) in accordance with section 1332 of title 28, United States Code, in the district court of the United States for the district in which the claimant resides or in which the harm occurred, but the district courts of the United States shall not, by virtue of section 1331 or 1337 of title 28, United States Code, have jurisdiction over any civil action brought under this title.

(c) An action brought under subsection (a) of this section shall be expedited in every way and, if brought in a State court, may be removed by the plaintiff to the district court of the United States for the district and division embracing the place where such action is pending if such action is not called for trial within 180 days after the date of commencement of such action. Upon such removal, the parties shall be limited to 30 days for discovery, unless the parties agree otherwise.

(d) If, in an action brought under subsection (a) of this section, the claimant establishes by a preponderance of the evidence either that the manufacturer failed to respond to the claim in the manner and within the time required by section 206 of this title, or that the manufacturer is liable to the claimant under section 205 of this title, the court shall—

(1) enter an order enforcing the claimant's rights under this Act and directing arbitration pursuant to section 207 of this title of any dispute over the amount of net economic loss payable to the claimant; and

(2) award reasonable attorney's fees and expenses incurred in connection with the action and interest on the amount of the claimant's net economic loss (subject to the arbitrator's determination) equal to two percent per month for each month after the notice period specified in section 206(a) of this title that net economic loss remains upaid.

(e)(1) If, in action brought under subsection (a) of this section, the court finds that there was not good cause for the manufacturer's—

(A) denial of liability to a claimant pursuant to section 206(c) of this title; or

(B) failure to respond to the claim in the manner and within the time required by section 206 of this title,

the court shall, without regard to whether it enters an enforcement order, award exemplary damages in an amount not to exceed twice the amount of the net economic loss sought by the claimant or $10,000, whichever is greater.

(2) If, in an action brought under subsection (a) of this section, the court finds that there was not good cause for the claimant to file such action, the court shall require the claimant to file such action, the court shall require the claimant or claimant's attorney to pay all of the manufacturer's costs of investigating and defending the claim.

(3) For the purposes of this subsection, the term "good cause" means that cause which, to a person of ordinary intelligence and care, and irrespective of any ordinary intelligence and care, and irrespective of any subsequent judicial determination with respect to the manufacturer's liability to a claimant, would be a reason sufficient to justify the manufacturer's denial of liability to a claimant or failure to respond to a claim, or the claimant's filing of a claim under this title.

(f) A person who willfully violates an enforcement order entered under this section or an order of an arbitrator entered under section 207 of this title shall upon conviction be subject to a fine of not more than $2000 for each day of such violation, or imprisonment not to exceed two years, or both.

(g) Any settlement of a claim to which the parties agree after an action has been brought under this section must be approved by the court, which may adjust the amount of settlement by the amount of any penalties which the court finds appropriate in accordance with subsections (d)(2), (e) and (f) of this section.

SUPPLEMENTAL EXPEDITED CLAIMS

SEC. 209. (a) If, after a manufacturer has acknowledged liability or has been determined to be liable on an expedited claim submitted under section 203 of this title, the claimant incurs additional net economic loss arising from the same harm, the claimant may, unless barred by the terms of a settlement agreement entered into pursuant to section 206(b) of this title, submit to that manufacturer supplemental expedited claims for net economic loss. Within seventy-five days after receipt of a supplemental expedited claim, the manufacturer shall determine whether, under the applicable standards of this title, it is obliged to make payment of the additional net economic loss described in the claim. If the manufacturer decides not to contest liability for such payment, it shall proceed in accordance with the provisions of section 206(b) of this title. If the manufacturer determines that it is not liable for such payment, it shall proceed in accordance with the provisions of section 206(c) of this title, and the claimant shall have such rights and remedies as are provided by section 208 of this title.

(b) If a manufacturer does not contest liability but declines to make full payment of a supplemental expedited claim submitted under this section, the manufacturer shall advise the claimant of the fact in writing. The claimant may, within ninety days of such notice, initiate arbitration under the procedures specified in section 207 of this title.

TIME LIMITATION ON LIABILITY

SEC. 210. Any civil action under section 208 of this title shall be barred, if a product which is a capital good is alleged to have caused harm which is not toxic harm, unless the expedited claim was submitted within twenty-five years of the date of delivery of the product to its first purchaser or lessee who was not engaged in the business of selling or leasing the product or using the product as a component in the manufacture of another product.

REIMBURSEMENT OF MANUFACTURER

SEC. 211. (a)(1) Subject to the provisions of this subsection, any manufacturer who has paid an expedited claim or supplemental claim for harm caused by a product under this title may, within two years of such payment, seek and obtain contribution, reimbursement, or indemnity on the basis of comparative responsibility from any other person (other than the claimant's employer or fellow employees) from whom the claimant might have had recovery for the harm, whether under this Act or otherwise. Recovery of damages under this section shall be in proportion to the percentage of such person's responsibility for the harm.

(2) If an action is brought under this section against another manufacturer (other than the claimant's employer) who would have been liable to the claimant under section 205 of this title, such action shall be governed by the standards of liability set forth in section 205 of this title.

(3) If an action is brought under this section against any other person (other than the claimant's employer or fellow employee) and such action is a product liability action, as defined in section 301 of this Act, such action shall be governed by the standards of liability set forth in sections 302 and 303 of this Act; however, in order to prevail against a product seller who is not a manufacturer, the manufacturer must establish by a preponderance of the evidence that the failure of such product seller to exercise reasonable care was a proximate cause of the harm complained of by the claimant and that such product seller's percentage of responsibility for the harm was greater than the manufacturer's percentage of responsibility for the harm.

(4) If an action is brought under this section against another person (other than the claimant's employer or fellow employee) whose failure to exercise reasonable care was a proximate cause of the harm complained of by the claimant and the action is not a product liability action, as defined in section 301 of this Act, such action shall be governed by applicable standards of liability under State or Federal law.

(b) With respect to an expedited claim for toxic harm paid pursuant to section 203(d) of this title, a manufacturer may recover on an equitable basis from any other manufacturer of a product that is identical to and indistinguishable in chemical composition from the product of the manufacturer who paid such claim, if the product of such other manufacturer was available at the time when, and in the market in which, the product that caused the claimant's toxic harm was purchased.

(c) A manufacturer may seek such contribution, reimbursement, or indemnity—

(1) where a claim was paid pursuant to section 203 of this title, either in the appropriate court of a State in which jurisdiction over the parties may be had or, if the requirements of section 1332 of title 28, United States Code, are satisfied, in an appropriate district court of the United States; or

(2) where payment was made as a result of a final judgment in a civil action under this title, in the court which had jurisdiction over such civil action.

(d) Neither the claimant's employer nor any insurer shall have any right of subrogation, contribution, or indemnity against the manufacturer or product seller or any lien on the claimant's recovery from the manufacturer or product seller, nor shall the manufacturer or product seller have any right of contribution or indemnity against the claimant's employer or fellow employee, except as provided in section 202 of this title.

COLLECTIVE PROCESSING OF CLAIMS

Sec. 212. Nothing in this title or in the antitrust laws of the United States or of any State shall preclude manufacturers or product sellers from establishing and maintaining collective means of and facilities for processing claims which are submitted under this title.

NATIONAL TOXIC HEALTH EFFECTS PANEL

Sec. 213. (a) The National Toxic Health Effects Panel (hereinafter referred to as the "Health Effects Panel") shall be composed of nine members who shall be career employees of the Public Health Service within the Department of Health and Human Services. Such members shall be appointed by the Secretary of Health and Human Services. The Secretary shall designate one of the members of the Panel to serve as Chairman. Each member shall be a person who, as a result of medical or other scientific training and experience, is exceptionally well qualified to analyze and assess the risks to human health associated with exposure to toxic substances. The members of the Health Effects Panel shall include at least one epidemiologist, one toxicologist, one industrial hygienist, and one physician.

(b)(1) Except as provided in paragraph (2) of this subsection, three of the members first appointed under this section shall be appointed for a term of two years, three for a term of four years and three for a term of six years, the term of each to be designated by the Secretary. Each of their successors shall be appointed for a term of six years from the date of expiration of the term for which his predecessor was appointed.

(2) Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall serve only for the remainder of such term. A member may continue to serve after the expiration of this term until his successor has taken office. A vacancy on the Health Effects Panel shall not impair the right of the remaining members to discharge their responsibilities under this section.

(c)(1) The Health Effects Panel shall—

(A) compile and evaluate relevant information and issue guidance, after opportunity for public comment, for use by claimants, manufacturers and the courts in processing claims for toxic harms under this title; and

(B) determine generically, on its motion or in response to a petition submitted to it under subsection (d) of this section, whether in the best available scientific opinion, taking into account epidemiological studies, histological data, experimental evidence, and other relevant scientific data, exposure to a product of particular chemical composition, in particular circumstances, would or would not significantly increase the risk of incurring a toxic harm.

Such determination shall be made by a division of three members of the Health Effects Panel, except that the Health Effects Panel may, by a vote of four of its members, order reconsideration of any determination by the entire Health Effects Panel.

(2) An increase in the risk of incurring a particular toxic harm as a result of a particular exposure would be significant for the purposes of this subsection if the incidence of such harm in an exposed population were to exceed the incidence in nonexposed populations by 30 percent or more.

(d)(1) Any claimant, prior to making a claim under this title, and any manufacturer, immediately upon the filing of a claim under this title, may petition the Health Effects Panel for a determination or for reconsideration of a previous determination. When a petition has been submitted by a potential claimant within two years of the time the claimant discovered or, in the exercise of reasonable care, should have discovered the harm and its cause, the period for filing a claim under section 203 of this title shall be extended by the period of the Health Effects Panel's proceeding. When a petition has been submitted by a manufacturer, the ninety-day period for payment or rejection of the claim specified in section 206(a) of this title shall commence with completion of the Health Effects Panel's proceeding, but not later than six months from the date of submission of a claimant's claim under section 203 of this title, unless otherwise agreed by the claimant.

(2) Any petition shall be accompanied by a disclosure, in such form as the Health Effects Panel specifies, of all relevant information known to the petitioner concerning the toxicity of the product in question.

(3) In any judicial proceeding or arbitration under this title, findings of the Health Effects Panel shall be conclusive and shall not be subject to collateral challenge, except for fraud or similar misconduct on the part of the Health Effects Panel or one or more of its members.

(e) The Secretary shall provide the Health Effects Panel with such administrative support services as may be necessary for carrying out its functions under this Act.

(f) Notwithstanding any other provision of law, agencies and departments of the Federal Government shall provide the Health Effects Panel with such information and data as the Health Effects Panel, through the Secretary, may request. The Health Effects Panel may also, through the Secretary, require the production by States, industry and other private sources of such information as it may require to carry out its responsibilities. In the case of contumacy, or failure or refusal of any person to obey such an order, any district court of the United States or the United States Court of any territory or possession within the jurisdiction of which such person is found, resides or does business, shall, upon application of the Secretary, have jurisdiction to issue to such person an order to produce such information. Any failure to obey such order of the court shall be punishable by such court as contempt thereof.

(g) There are authorized to be appropriated for the purposes of this section such sums as may be necessary. Such sums shall remain available until expended.

TITLE III

CIVIL ACTIONS

Sec. 301. A person seeking to recover for harm caused by a product may bring a civil action against the product's manufacturer or product seller pursuant to applicable State or Federal law, except to the extent such law is superseded by this title. By bringing such a civil action, a person waives all rights to recovery for the same harm under the expedited claim procedure of title II of this Act.

UNIFORM STANDARDS OF MANUFACTURER LIABILITY

Sec. 302. (a) In a civil action subject to the provisions of this title, a manufacturer is liable to a claimant only if the claimant establishes by a preponderance of the evidence that—

(1) an individual product unit manufactured by the manufacturer was a proximate cause of the harm complained of by the claimant; and

(2)(A) the manufacturer was negligent in constructing the product (as provided in subsection (b) of this section), in designing or formulating the product (as provided in subsection (c) of this section), or in providing warnings or instructions about a danger connected with the product or about the proper use of the product (as provided in subsections (d) and (e) of this section), or

(B) that the product did not conform to an express warranty made by the manufacturer with respect to the product (as provided in subsection (g) of this section).

(b) A manufacturer has been negligent in constructing a product if, when the product left the control of the manufacturer—

(1) it deviated in a material way from the design specifications or formula of the manufacturer or from otherwise identical units manufactured to the same specifications or formula; and

(2) the manufacturer does not establish by clear and convincing evidence that it exercised reasonable care in the product's construction.

(c) A manufacturer has been negligent in designing or formulating a product if, at the relevant point in time—

(1) the manufacturer knew or, in the exercise of reasonable care, should have known about the danger which caused the claimant's harm; and

(2) a manufacturer exercising reasonable care would not have used the design or formulation that the manufacturer used.

(d) A manufacturer has been negligent in providing warnings or instructions, if, at the time the product left the control of the manufacturer, the manufacturer—

(1) knew or, in the exercise of reasonable care, should have known about a danger connected with the product that caused the claimant's harm; and

(2) failed to provide the warnings or instructions that a person exercising reasonable care would have provided with respect to the danger which caused the harm alleged by the claimant, given the likelihood that the product would cause harm of the type alleged by the claimant and given the seriousness of the harm, unless those warnings or instructions, if provided, would not have materially affected the conduct of the product user.

(e) A manufacturer has been negligent in providing post-manufacture warnings or instruction if, after the product left the control of the manufacturer, the manufacturer—

(1) knew or, in the exercise of reasonable care, should have known about the danger which caused the claimant's harm; and

(2) failed to take reasonable steps to provide post-manufacture warnings or instructions which would have been provided by a person exercising reasonable care, given the likelihood that the product would cause harm of the type alleged by the claimant and given the seriousness of the harm.

(f) Where warnings or instructions are required under subsection (d) or (e) of this section, such warnings and instructions shall be given to the product user, unless—

(1) a person exercising reasonable care would have given such warnings or instructions to a third person, including an employer, who could be expected to take action to avoid the product user's harm or to assure that the risk of harm is explained to the product user; or

(2) the product is one which may be legally used only by or under the supervision of a using or supervising expert, in which case the manufacturer has exercised reasonable care if warnings or instructions are provided to such expert.

(g) A manufacturer is liable under this title because a product does not conform to an express warranty made by the manufacturer if—

(1) the warranty relates to the harm-causing aspect of the product;

(2) the product failed to conform to such warranty; and

(3) the failure of the product to conform to such warranty caused the claimant's harm.

(h) When the injury-causing aspect of the product was, at the time of the manufacture of the product, in compliance in all material respects with standards, conditions, or specifications established, adopted, or approved by the Congress or by an agency of the Federal Government responsible for the design, formulation, labeling or performance of the product, its manufacturer shall not be considered to have been negligent for purposes of this section unless the claimant establishes by a preponderance of the evidence that a person exercising reasonable care could and would have taken additional precautions. A determination by an agency of the Federal Government that a product is in compliance with its standards, conditions, or specifications is conclusive evidence of such compliance.

(i) It shall be a complete defense to any civil action subject to the provisions of this title that—

(1) the product at issue was acquired from the manufacturer or product seller by an agency of the Federal Government for an aerospace or defense application;

(2) the Federal Government established or approved reasonably precise contract specifications material to the claim; and

(3) the product conformed to such specifications in all respects material to the claim,

unless the claimant proves by a preponderance of the evidence that the Federal Government was not informed by the manufacturer or product seller of dangers material to the claim which were known to the manufacturer or product seller but not to the Federal Government. A determination by an agency of the Federal Government that a product conforms to its contract specifications is conclusive evidence of such conformance.

UNIFORM STANDARDS OF PRODUCT SELLER LIABILITY

SEC. 303. (a) Notwithstanding the provisions of section 301 of this title, in any civil action for injury or damage caused by a product, a product seller other than a manufacturer is liable to a claimant, only if the claimant establishes by a preponderance of the evidence that—

(1)(A) the individual product unit which allegedly caused the harm complained of was sold by the defendant, (B) the product seller failed to exercise reasonable care with respect to the product, and (C) such failure to exercise reasonable care was a proximate cause of the claimant's harm; or

(2)(A) the product seller made an express warranty, independent of any express warranty made by a manufacturer as to the same product, (B) the product failed to conform to the warranty, and (C) the failure of the product to conform to the warranty caused the claimant's harm.

(b)(1) In determining whether a product seller is subject to liability under subsection (a)(1) of this section, the trier of fact may consider the effect of the conduct of the seller with respect to the construction, inspection, or condition of the product, and any failure of the seller to pass on adequate warnings or instructions from the product's manufacturer about the dangers and proper use of the product.

(2) A product seller shall not be liable in a civil action subject to the provisions of this title based upon an alleged failure to provide warnings or instructions unless the claimant establishes that, when the product left the possession and control of the product seller, the product seller failed—

(A) to provide to the person to whom the product seller relinquished possession and control of the product any pamphlets, booklets, labels, inserts, or other written warnings or instructions received while the product was in the product seller's possession and control; or

(B) to make reasonable efforts to provide users with those warnings and instructions which it received after the product left its possession and control.

(3) A product seller shall not be liable in a civil action subject to the provisions of this title except for breach of express warranty where there was no reasonable opportunity to inspect the product in a manner which would or should, in the excerise of reasonable care, have revealed the aspect of the product which allegedly caused the claimant's harm.

(c) A product seller shall be treated as the manufacturer or a product and shall be liable for harm to the claimant caused by a product as if it were the manufacturer of the product if—

(1) the manufacturer is not subject to service of process under the laws of any State in which the action might have been brought; or

(2) the court determines that the claimant would be unable to enforce a judgment against the manufacturer.

UNIFORM STANDARDS FOR OFFSET OF WORKERS' COMPENSATION BENEFITS

SEC. 304. (a) In any civil action subject to the provisions of this title in which damages are sought for harm for which the person injured is or would have been entitled to receive compensation under any State or Federal workers's compensation law, the judgment entered against each defendant and third-party defendant found liable shall be reduced by the sum of the amount paid as workers' compensation benefits for that harm and the present value of all workers' compensation benefits to which the employee is or would be entitled for the harm. The determination of workers' compensation benefits by the trier of fact in a product liability action shall have no binding effect on and shall not be used as evidence in any other proceeding.

(b) In any civil action subject to the provisions of this title in which damages are sought for harm for which the person injured is entitled to receive compensation under any State or Federal workers' compensation law, the action shall, on application of the claimant made at claimant's sole discretion, be stayed until such time as the full amount payable as workers' compensation benefits has been finally determined under such workers' compensation law.

(c) Unless the manufacturer or product seller has expressly agreed to indemnify or hold an employer harmless for harm to an employee caused by a product, neither the employer nor the workers' compensation insurance carrier of the employer shall have a right of subrogation, contribution, or implied indemnity against the manufacturer or product seller or a lien against the claimant's recovery from the manufacturer or product seller if the harm is one for which a product liability action may be brought under this Act.

(d) In any civil action subject to the provisions of this title in which damages are sought for harm for which the person injured is or would have been entitled to receive compensation under any State or Federal workers' compensation law, no third-party tortfeasor may maintain any action for implied indemnity or contribution against the employer, any co-employee or the exclusive representative of the person who was injured.

(e) Nothing in this Act shall be construed to affect any provision of a State or Federal workers' compensation law which prohibits a person who is or would have been entitled to receive compensation under any such law, or any other person whose claim is or would have been derivative from such a claim, from recovering for harm caused by a product in any action other than a workers' compensation claim against a present or former employer or workers' compensation insurer of the employer, any co-employee or the exclusive representative of the person who was injured. Any action other than such a workers' compensation claim shall be prohibited, except that nothing in this Act shall be construed to affect any State or Federal workers' compensation law which permits recovery based on a claim of an intentional tort by the employer or co-employee, where the claimant's harm was caused by such an intentional tort.

(f) Without regard to when the harm giving rise to the claim occurred, the provisions of this section shall not apply to any person subject to or covered by the Longshore and Harbor Worker's Compensation Act (33 U.S.C. 901 et seq.).

UNIFORM STANDARDS FOR AWARD OF PUNITIVE DAMAGES

SEC. 305. (a) Punitive damages may, if otherwise permitted by applicable law, be awarded to any claimant who establishes by clear and convicing evidence that the harm suffered was the result of conduct manifesting a manufacturer's or product seller's conscious, flagrant indifference to the safety of those persons who might be harmed by a product. A failure to exercise reasonable care in choosing among alternative product designs, formulations, instructions or warnings is not of itself such conduct. Except as provided in subsection (e) of this section, punitive damages may not be awarded in the absence of a compensatory award.

(b) The trier of fact shall first determine whether compensatory damages are to be awarded. After such determination has been made, the trier of fact shall, in a separate proceeding, determine whether punitive damages are to be awarded. In determining whether punitive damages are to be awarded, the trier of fact shall consider—

(1) the manufacturer's or product seller's awareness of the likelihood that the serious harm at issue would arise from manufacture or sale of the product;

(2) notwithstanding the provisions of section 302(b)(2) of this title, the conduct of the manufacturer or product seller upon learning that the product caused harm; and

(3) the duration of the conduct and any concealment of it by the manufacturer or product seller.

(c) Punitive damages may not be awarded where the unsafe aspect of the product which caused the claimant's harm complies in material respects with standards, conditions, or specifications established, adopted, or approved by the Congress or by an agency of the Federal Government responsible for the safety of the design, formulation, labeling or performance of a product.

(d) If the trier of fact determines under subsection (a) of this section that punitive damages should be awarded to a claimant, the court shall determine the amount of those damages. In making that determination, the court shall consider—

(1) all relevant evidence relating to the factors set forth in subsection (b) of this section;

(2) the profitability of the conduct to the manufacturer or product seller; and

(3) the total effect of other punishment imposed upon the manufacturer or product seller as a result of the misconduct, including punitive damage award to persons similarly situated to the claimant and the severity of other penalties to which the manufacturer or product seller has been or may be subjected.

(e) In any civil action in which the alleged harm to the claimant is death and the applicable State law provides, or has been construed to provide, for damages only punitive in nature, a defendant may be liable for any such damages pursuant to the provisions of this title regardless of whether a claim is asserted under this section. The recovery of any such damages shall not bar a claim under this section.

UNIFORM STANDARDS OF LIMITATION AND REPOSE

SEC. 306. (a) Any civil action subject to the provisions of this title shall be barred unless the complaint is filed within two years of the time the claimant discovered or, in the exercise of reasonable care, should have discovered the harm and its cause, except that any such action of a person under legal disability may be commenced within two years after the disability ceases. If the commencement of such an action is stayed or enjoined, the running of the statute of limitations under this section shall be suspended for the period of the stay or injunction.

(b) Any civil action subject to the provisions of this title shall be barred if a product which is a capital good is alleged to have caused harm which is not a toxic harm unless the complaint is served and filed within twenty-five years of the date of delivery of the product to its first purchaser or lessee who was not engaged in the business of selling or leasing the product or using the product as a component in the manufacture of another product.

(c) Nothing in this section shall affect the right of any person who is subject to liability for harm under this Act to seek and obtain contribution or indemnity from any other person who is responsible for that harm.

APPLICATION OF OTHER LAW

SEC. 307. Except as otherwise provided in this Act, nothing in this title shall be construed to affect any statutory or common law rule governing recovery by a claimant, or any statutory or common law rule governing the effect of the comparative responsibility of the claimant upon the recovery.

TITLE IV

RISK RETENTION

SEC. 401. Section 2(a)(3) of the Product Liability Risk Retention Act of 1981 (15 U.S.C. 3901(a)(3)) is amended by inserting "including liability for payments under title II of the Product Liability Voluntary Claims and Uniform Standards Act," immediately after "a product,".●

REPORT OF COMMITTEE TO NOTIFY THE PRESIDENT

Mr. DOLE. Mr. President, I wanted to report that we have made contact with the President. He has indicated he has no further work for us this year. He said he was looking forward to a very productive session next year. He did mention tax reform specifically. We were both silent—not that we indicated disapproval but to indicate that we were sort of happy this year was over. He was very pleasant. He wished us a happy holiday season, as we did him, and we are now prepared to wrap it up for this year.

EXPRESSIONS OF THANKS

Mr. DOLE. Mr. President, as I leave, I certainly want to thank many people, as I did in my statement, but particularly the distinguished minority leader for his friendship and his many, many courtesies and for his tolerance at times while I catch on to some of the things he has known for years. I appreciate the staff, all the senatorial staff, those who watch us, watch over us. We appreciate the Chaplain's daily scolding and look forward to a good year next year.

Mr. BYRD. Mr. President, as the 1st session of the 99th Congress enters its final moments, I would be remiss if I did not acknowledge that the distinguished senior Senator from Kansas now has served a full year—his first year—as majority leader of the Senate.

Mr. President, I know something about the problems that face the majority leader of this body. I know about the long hours that he must put in. I know first hand the difficulties of contending first with differences of perspective and opinion on one's own side of the aisle before one can then contend with the differences of perspective and opinion between the two parties. I know the distinguished majority leader will know what I mean when I say that the job, while it surely has its rewarding moments, is not all sweetness and light.

After having observed the very capable Senator in action in his new assignment since the beginning of the year, however, I can say that he has worked very hard at his responsibilities; he has applied himself and his considerable skills with diligence in an effort to assure that the Senate satisfactorily discharges its responsibilities.

After what has been at times an arduous session—and, in fact, after what has been a tedious period during the recent days as we tried to complete the work of this first session in order to depart for the holidays. I am confident that the majority leader is ready as I am ready to be with his family and loved ones. I hope his holidays will be restful and reinvigorating—pleasant in every way—and that they will equip him for the challenges that await all of us who serve in this body when we return in January for the second session.

I hope the majority leader and his esteemed wife will accept the personal best wishes that Erma and I offer to them for this holiday season and for a very happy New Year.

Mr. President, I have nothing to add to what the distinguished majority leader has said with respect to our calling upon the President in compliance with the resolution that has been passed by the Senate. I do want to take this opportunity to thank the distinguished majority leader for his kind comments and to say that he has worked hard. It has been a pleasure working with him.

I look forward to being back in January to be with him again as we do our work in the Senate.

I want to say the same thing about the distinguished Senator from Wyoming, who is the assistant Republican leader. Our relationship has been excellent. It has been a pleasure to work with him. He is always very courteous and understanding. Nothing better can be said of anyone, may I say in the first person, if I can violate the rules of the Senate for a moment, than thank you, ALAN. It has been good to work with you. I have enjoyed it, and I look forward to working with you in 1986.

Mr. SIMPSON. Mr. President, I do indeed appreciate those remarks of the Democratic leader. It has been a very interesting relationship with this gentleman since I met him in 1963 when my father was in the U.S. Senate.

He has been especially patient with me, especially this year as I assumed my new tasks. It is a great honor, and a great privilege, indeed, that my colleagues would elect me to do this. And from the early beginning of January and February when I was somewhat defensive and short in my tasks—and I remember that distinctly—you were most extraordinary patient in that situation and I appreciate it very much. I think they refer to all of this type of thing as a "growth experience." I believe that is the phrase. Indeed, it is, and you have made it a pleasant one and I appreciate it. I have sought your counsel and you have given it without question, and I deeply appreciate that. In every situation, you have never misled me or mistrusted me, and that makes for a very much nicer job situation for me. I also appreciate that.

Mr. BYRD. Mr. President, I thank the very able and cordial and dedicated assistant Republican leader.

Mr. SIMPSON. Mr. President, just quickly, let me say that working with Senator DOLE has been a very special privilege. He is a man who gets things done. It is a pleasure to watch him. He is not easily intimidated, nor cowed by the task he has. He handles his job with precision and great wit and skill. You cannot "spook him up." I believe that is a trait that is much needed in this place as we conduct our business.

PROGRAM FOR JANUARY 21, 1986

Mr. SIMPSON. Mr. President, the Second Session of the 99th Congress will convene at 12 noon on January 21, 1986.

Under the standing order, the two leaders will have 10 minutes each.

There will be a special order in favor of Senator PROXMIRE for not to exceed 15 minutes. That will start the new year properly. It is a ritual that is as appropriate as the opening and closing sine die, with Senator PROXMIRE, who pays attention to his duties.

There will be routine morning business not to extend beyond 1 p.m., with Senators permitted to speak therein for not more than 5 minutes each.

Following morning business, it is the intention of the majority leader to proceed to the consideration of S. 638, the Conrail bill.

I say to the occupant of the Chair [Mr. WALLOP] that I shall see him in our native State of Wyoming in a few short days.

Mr. BYRD. Mr. President, I expressed my appreciation and gratitude to all on yesterday.

I have no further action to recommend. I thank the Senator.

Mr. SIMPSON. I thank the Senator from West Virginia.

I thank the remarkable staff of the Senate. I appreciate their patience in a rather tiring situation, and I appreciate their work.

ADJOURNMENT SINE DIE

Mr. SIMPSON. Mr. President, after conferring with the Democratic leader, I move, in accordance with the provisions of House Concurrent Resolution 267, that the Senate stand in adjournment sine die for the 99th Congress, 1st session.

The motion was agreed to, and at 6:28 p.m., the Senate adjourned sine die.

NOMINATIONS

Executive nominations received by the Senate December 20, 1985:

IN THE ARMY

The following-named officers for posthumous promotion to the grade indicated under the provisions of article II, section 2, clause 2 of the Constitution of the United States of America:

To be captain

Lt. John K. Kosh, 202-44-7672
Lt. Paul D. Long, 422-80-7593
Lt. Joey McCarty, 457-96-4868
Lt. Barry C. Powell, 226-08-0757

To be chief warrant officer 4

CWO3 Robert A. Bowen, 231-64-9922

DEPARTMENT OF EDUCATION

Frances M. Norris, of Virginia, to be Assistant Secretary for Legislation and Public Affairs, Department of Education, vice Anne Graham.

CONFIRMATIONS

Executive nominations confirmed by the Senate December 20, 1985:

IN THE ARMY

The following-named officers for posthumous promotion to the grade indicated under the provisions of article II, section 2, clause 2 of the Constitution of the United States of America:

To be captain

Lt. John K. Kosh, 202-44-7672
Lt. Paul D. Long, 422-80-7593
Lt. Joey McCarty, 457-96-4868
Lt. Barry C. Powell, 226-08-0757

To be chief warrant officer 4

CWO3 Robert A. Bowen, 231-64-9922

MESSAGES FROM THE HOUSE RECEIVED DURING ADJOURNMENT

ENROLLED BILLS SIGNED

Under the authority of the order of the Senate of January 3, 1985, the Secretary of the Senate, on December 20, 1985, subsequent to the sine die adjournment of the Congress, received a message from the House of Representatives announcing that the Speaker pro tempore [Mr. WRIGHT] had signed the following enrolled bills:

H.R. 1890. An act to provide for an equitable waiver in the compromise and collection of Federal claims;

H.R. 3974. An act to provide for temporary family housing or temporary housing allowances for dependents of members of the Armed Forces who die on or after December 12, 1985, and for other purposes; and

H.R. 4006. An act to extend until March 15, 1986, the application of certain tobacco excise taxes and certain medicare reimbursement provisions.

Under the authority of the order of the Senate of January 3, 1985, the enrolled bills were signed on December 20, 1985, during the sine die adjournment of the Congress by the President pro tempore [Mr. THURMOND].

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

Under the authority of the order of the Senate of January 3, 1985, the Secretary of the Senate, on December 24, 1985, during the sine die adjournment of the Congress, received a message from the House of Representatives, announcing that the Speaker pro tempore [Mr. WRIGHT] had signed the following enrolled bills and joint resolutions:

S. 1840. An act to amend title 5, United States Code, to revise the authority relating to the payment of subsistence and travel allowances to Government employees for official travel; to prescribe standards for the allowability of the cost of subsistence and travel of contractor personnel under Government contracts; and for other purposes;

H.R. 1404. An act to establish the Eastern Shore of Virginia National Wildlife Refuge and the National Fish and Wildlife Service Training Center at Cape Charles in Northampton County, Virginia;

H.R. 1538. An act to amend title 38, United States Code, to provide a 3.1-percent increase in the rates of disability compensation and of dependency and indemnity compensation paid by the Veterans Administration; to make improvements in veterans' job training programs; and for other purposes;

H.R. 2651. An act to amend section 504 of the Alaska National Interest Lands Conservation Act to promote the development of mineral wealth in Alaska;

H.R. 3718. An act to waive the period of congressional review for certain District of Columbia acts authorizing the issuance of revenue bonds;

H.R. 3931. An act to designate the General Services Administration building known as the "United States Appraiser's Stores Building" in Boston, Massachusetts as the

"Captain John Foster Williams Coast Guard Building";

S.J. Res. 255. Joint resolution relating to the convening of the second session of the Ninety-ninth Congress; and

H.J. Res. 495. Joint resolution to provide for the temporary extension of certain programs relating to housing and community development, and for other purposes.

Under the authority of the order of the Senate of January 3, 1985, the enrolled bills and joint resolutions were signed on December 24, 1985, during the sine die adjournment of the Congress by the President pro tempore [Mr. THURMOND].

ENROLLED BILL AND JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on December 24, 1985, she had presented to the President of the United States the following enrolled bill and joint resolution:

S. 1840. An act to amend title 5, United States Code, to revise the authority relating to the payment of subsistence and travel allowances to Government employees for official travel; to prescribe standards for the allowability of the cost of subsistence and travel of contractor personnel under Government contracts, and for other purposes; and

S.J. Res. 255. Joint resolution relative to the convening of the second session of the Ninety-ninth Congress.

NEW PUBLIC LAWS

(For last listing of Public Laws, see Daily Digest, p. D1559)

H.J. Res. 485, waiving the printing on parchment of enrolled bills and joint resolutions during the remainder of the First Session of the 99th Congress. Signed December 18, 1985. (P.L. 99-188)

H.R. 3981, to extend until December 19, 1985, the application of certain tobacco excise taxes, trade adjustment assistance, certain Medicare reimbursement provisions, and borrowing authority under the railroad unemployment insurance program. Signed December 18, 1985. (P.L. 99-189)

H.J. Res. 465, making further continuing appropriations for fiscal year 1986. Signed December 19, 1985. (P.L. 99-190)

H.R. 1789, relating to the authorization of funds for certain components of the National Wildlife Refuge System. Signed December 19, 1985. (P.L. 99-191)

H.R. 3735, to designate the pedestrian walkway crossing the Potomac River at Harpers Ferry National Historical Park as the "Goodloe E. Byron Memorial Pedestrian Walkway". Signed December 19, 1985. (P.L. 99-192)

H.J. Res. 424, to designate the year of 1986 as the "Year of the Flag". Signed December 19, 1985. (P.L. 99-193)

S. 1264, National Foundation on the Arts and the Humanities Amendments of 1985. Signed December 20, 1985. (P.L. 99-194)

H.R. 664, to amend the Panama Canal Act of 1979 with respect to payment of interest on the investment of the United States. Signed December 23, 1985. (P.L. 99-195)

H.R. 1534, to convert the temporary authority to allow Federal employees to work on a flexible or compressed schedule under title 5, United States Code, into permanent authority. Signed December 23, 1985. (P.L. 99-196)

H.R. 1627, to designate certain national forest system lands in the State of Kentucky for inclusion in the National Wilderness Preservation System, and to release other forest lands for multiple use management. Signed December 23, 1985. (P.L. 99-197)

H.R. 2100, Agriculture, Food, Trade, and Conservation Act of 1985. Signed December 23, 1985. (P.L. 99-198)

H.R. 2976, to direct the Secretary of Agriculture to release the condition requiring that a parcel of land conveyed to New York State be used for public purposes and to convey United States mineral interests in the parcel to New York State. Signed December 23, 1985. (P.L. 99-199)

H.R. 3085, clearing title to certain lands along the California-Nevada boundary. Signed December 23, 1985. (P.L. 99-200)

H.R. 4006, to extend until March 15, 1986, the application of certain tobacco excise taxes, trade adjustment assistance, certain Medicare reimbursement provisions, and borrowing authority under the railroad retirement insurance program, and to amend the Internal Revenue Code of 1954 to extend for a temporary period certain tax provisions of current law which would otherwise expire at the end of 1985. Signed December 23, 1985. (P.L. 99-201)

H.J. Res. 436, to designate 1986 as "Save for the U.S.A. Year". Signed December 23, 1985. (P.L. 99-202)

H.J. Res. 450, authorizing and requesting the President to issue a proclamation designating April 20-26, 1986, as "National Organ and Tissue Donor Awareness Week". Signed December 23, 1985. (P.L. 99-203)

S. 947, Overseas Private Investment Corporation Amendments Act of 1985. Signed December 23, 1985. (P.L. 99-204)

S. 1884, Farm Credit Restructuring and Regulatory Reform Act of 1985. Signed December 23, 1985. (P.L. 99-205)

S.J. Res. 32, authorizing and requesting the President to designate September 21, 1986, as "Ethnic American Day". Signed December 23, 1985. (P.L. 99-206)

S.J. Res. 70, to proclaim March 20, 1986, as "National Agriculture Day". Signed December 23, 1985. (P.L. 99-207)

S.J. Res. 213, to designate January 19-25, 1986, as "National Jaycee Week". Signed December 23, 1985. (P.L. 99-208)

H.R. 729, to amend the Panama Canal Act of 1979, in order that claims for vessels damaged outside the locks may be resolved in the same manner as those vessels damaged inside the locks. Signed December 23, 1985. (P.L. 99-209)

H.R. 2694, designating the United States Post Office Building located at 300 Packerland Drive, Green Bay, Wisconsin, as the "John W. Byrnes Post Office and Federal Building". Signed December 23, 1985. (P.L. 99-210)

EXTENSIONS OF REMARKS

TRIBUTE TO DR. O. URCILLE IFILL, SR.

HON. WILLIAM H. GRAY III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. GRAY of Pennsylvania. Mr. Speaker, I should like today to bring the attention of my colleagues in the House of Representatives to a most distinguished Philadelphian, Dr. O. Urcille Ifill, Sr. Dr. Ifill has been the pastor of the African Methodist Episcopal Union Church for the past 7 years. He will be honored by his congregation at a testimonial appreciation banquet on January 3.

Dr. Ifill's commitment, not only to his church, but to the Philadelphia community, has been totally untiring and unselfish. While sitting on numerous boards and committees of the African Methodist Episcopal Church, Dr. Ifill served as president of the Black Clergy of Philadelphia and Vicinity, a position he filled with inspiration and unswerving dedication. Despite the considerable demands of this crucial leadership position, he has also served as a member of the Funding Policy Committee of United Way, a member of the National Council of Christians and Jews, a member of the Pennsylvania Public Interest Coalition, a member of the Metropolitan Council of Christian Churches of Philadelphia, cochairman of the Ecumenical Council of Philadelphia Tribune Charities, Inc., and a member of the Pan Methodist Fellowship.

Mr. Speaker, I have known Dr. Ifill for many years. His ministry and community activities have served as a model for my own calling. Since coming to the African Methodist Episcopal Church in 1978, Dr. Ifill never has been too busy to halt his hectic schedule and help the individuals and groups who look to him for guidance. I, as well as every Philadelphian, am indebted to Dr. Ifill for his contribution to the improvement of not only our spiritual lives but also to the betterment of our neighborhoods and our city.

A TRIBUTE TO MR. JOSEPH HOFHEIMER

HON. JOSEPH J. DioGUARDI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. DioGUARDI. Mr. Speaker, it is my privilege to rise today to pay tribute to Mr. Joseph Hofheimer, a great humanitarian and civic leader. On January 15, 1986, an event will be held at the White Plains Hotel to honor Mr. Hofheimer for the volunteer services that he has provided to the residents and State of New York.

Mr. Hofheimer is currently president of the Richard Bower Co., headquartered in New York City. Despite the demands of this job, he makes time to participate in a variety of community activities. His participation touches all bases of voluntarism: he actively and unselfishly dedicates his time to the Jewish community, while promoting better education and health care for his neighbors.

As a life trustee of various Jewish philanthropies and a past president of the Jewish Community Center in White Plains, Mr. Hofheimer has proven to be an influential and effective leader in the Jewish community.

Mr. Hofheimer has gone to great lengths to enhance our education system. Presently, he sits on the board of directors at Barnard College. Prior to his involvement with this respected college, he served on the Scarsdale Board of Education, which included 1 year as president of the board.

Currently, Mr. Hofheimer is a member of the board of directors of the Blythedale Children's Hospital and chairman of the board of the White Plains Hospital. I commend Mr. Hofheimer for his desire to provide quality health care for all Westchester residents.

It is not surprising that Mr. Hofheimer's dedication to public good carries over to his private life, where he and his devoted wife Natalie have raised four lovely children.

I applaud Mr. Hofheimer's dedication to bettering the lives of all of us. His efforts are the embodiment of the American spirit of voluntarism that has made our Nation what it is today. New York is very fortunate to claim Mr. Hofheimer as a resident. I wish him the best of luck in all of his endeavors. Mr. Speaker, I ask that you and my colleagues join me in saluting Mr. Hofheimer, a concerned humanitarian and great American.

Thank you Mr. Speaker.

FRANK FEDERAL CAUSE OF ACTION

HON. THOMAS N. KINDNESS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. KINDNESS. Mr. Speaker, I realize that I have already made some brief remarks to the House regarding my concerns with the Federal cause of action for personal injury and property damage recently put forth by our colleague from Massachusetts, Mr. FRANK. In those remarks, I tried to highlight my concerns in the interest of time. I would now, however, like to revisit the issue for the benefit of the Members and make a more extensive comment on this ill-conceived amendment and on the general problems of putting Federal causes of action in all our Nation's laws.

To begin with, I must say that my most serious general objection to the Frank proposal was the lack of evidence of its necessity. Indeed, the Superfund 301(e) Study Group, the recent Keystone Conference and other groups have consistently acknowledged the fact that there is little evidence to prove that injured parties are frustrated in recovering for their losses under the existing tort law regime.

SECTION 501 DEFINITIONS

First. Release—the term would not have excluded federally permitted releases of exposure due to use of pesticides—a major issue for farm States. Additionally, claims by those who allegedly lost profits or diminution in the value of property from such things as acid rain might have been available under this language. Since States apparently would have been able to sue to recover for such losses, the provision might have been argued to vastly expand natural resource damage claims under Superfund and consequently triggered a wave of litigation between heavy industry and certain States, despite the limitation of liability contained in existing section 107(f).

SECTION 502 LIABILITY

(A) LIABILITY

This provision had several onerous aspects, perhaps the worse of which was the exclusivity of the defenses set forth in subsection (d). The provision probably would have precluded such obviously appropriate defenses as contributory or comparative negligence by the plaintiff and voluntary contributing activities of the plaintiff, such as smoking, drinking, or exposure during unrelated nonworkplace activities. Although some "apportionment" among defendants was provided, no equitable reduction in damages was contemplated. Thus, a jury called upon to determine whether the plaintiff had met the burden of proving that the release "caused" damage may have been compelled to grant a favorable verdict, or none at all. This runs in contrast to the tort law of some States which recognizes the availability of a comparative negligence—of the plaintiff—defense in tort actions involving strict liability.

A second problem was the ambiguity of the word "causes." By using the present tense rather than the more logical and customary past tense, the author arguably meant to allow recovery upon a showing of damages—an injury or disease—of a type which are caused by exposure to the substance or substances to which the plaintiff has been exposed—thus relieving the plaintiff of the traditional burden of proving that his or her damages actually were

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member of the Senate on the floor.
Boldface type indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

caused by the release. Such a standard would have constituted a drastic departure from traditional tort norms and might have prevented the defendant from introducing highly relevant information regarding other potential causes—except to the extent that they "solely" caused the harm and the defendant was prepared to prove his due care "in light of all relevant facts and circumstances."

(B) PERSONS LIABLE

Subsections (b)(1) and (b)(2) would have created liability for persons who had no connection with the release which caused injury, other than mere inclusion in the chain of title to the facility. For example, one who would have brought a facility which had been the source of a past release but which has not been the source of a release during his ownership nonetheless would have been liable, by operation of law, for a vast range of injuries arising out of prior events. The third-party defense apparently would have been unavailable, since a direct or indirect contractual relationship would have existed. This is a major departure from current personal injury law. Thus, property from which a known release has occurred probably would have been rendered unmarketable for a very long time—encouraging abandonment to governmental entities of otherwise marketable property which had been retroactively rendered unmarketable. A similar result would have been obtained under (b)(2) for a subsequent, responsible site owner or operator—even one who took appropriate remedial measures and indeed had removed all hazardous substances during his stewardship. Thus, no previously used facility would have been an attractive investment to a responsible, reputable hazardous waste disposal site operator. In a similar vein, subsections (b)(3) and (b)(4) may have created liability for those who could conclusively prove that the substances with which they were connected, though of "a type" which "causes the type of damages incurred," could not have been released from the facility and, thus, could not have cause the plaintiff's damages. For example, assume industrial solvents have been buried in four large disposal areas at a facility to which the defendant sent wastes. If data and records proved conclusively that the damaging release was from a disposal area which was closed prior to the defendant's transportation or generation of wastes or that the release took place entirely before transport, the defendant would nonetheless be without any apparent defense to strict, joint, and several liability. Finally, the last sentence of subsection (b) appeared ambiguous and potentially unfair. This is because the phrases "type of hazardous substance" and "type of damages incurred" are subjects of obvious, sometimes contentions scientific uncertainty. Plaintiffs simply should not recover unless "the hazardous substance" released caused "the damages incurred"—especially if toxicological profiles on specific substances will be generated under new CERCLA provisions.

(C) STRICT; JOINT AND SEVERAL

The express strict, joint, and several liability provisions presented go beyond the provisions of sections 107 and 101(32) of CERCLA, which have not been rigidly construed to always require such liability. (See, e.g., *U.S.* v. *A&F Materials Co.,* 578 F. Supp. 1249 (S.D. Ill. 1984) (apportionment criteria should be applied); *Bulk Distribution Centers, Inc.* v. *Monsanto Co.,* 589 F. Supp. 1437, n. 15 (S.D. Fla. 1984) (strict liability may apply); and *United States* v. *Stringfellow,* 20 ERC 1912 (C.D. Cal. 1984) apportionment criteria should be applied under section 107, and joint and several liability is inappropriate under section 106). Overt codification of this now discretionary policy would have greatly hamstrung the ability of small business to insure against such liabilities and would have created strong incentives for improper disposal.

(D) DEFENSES

All of the defenses except subsections (3) and (4) are identical to the defenses set forth in comparable language under section 107(b) of CERCLA, which have been very narrowly construed. The new defense for de minimis PRP's, set forth in subsection (d)(3) is an interesting and novel addition to Federal cause of action proposals, but adds nothing to the traditional common law defense already available under State law. Furthermore, it was not made applicable to persons liable under subsection (b)(2), despite the obvious fairness of such an application. For example, if a person were to buy a facility from which a release has already occurred, disposes of a de minimis volume of waste of the same "type" as that which "causes" the damages and then sells the facility, he would still be jointly and severally liable under the proposed language. This result is certainly a drastic departure from present law and is arguably a denial of due process. Finally, there was no obvious reason to require that a defendant prove that both the volume of his waste was de minimis and that the toxicity of his waste was de minimis. It is difficult to see how a waste of de minimis toxicity would be of a "type" which "causes" injuries sufficient to give rise to a cause of action. Conversely, if the volume of his waste was de minimis "in comparison to other hazardous substances involved," why should the defendant remain a party to the litigation and be subject to joint and several liability? This aspect of the defense of de minimis contribution to injury was also a substantial departure from existing law. Furthermore, defendants might have been required to address the measure of toxicity of substances of the type involved, rather than that actually involved.

The "new" defense for unknowing, diligent subsequent purchasers of facilities at which wastes have been disposed—section 502(d)(4)—is better than no defense at all, but is, in many, perhaps most, jurisdiction, more limited than its common law counterpart. Some jurisdictions do not recognize the liability of a subsequent purchaser of land for injuries arising out of nuisances created by his predecessor, unless the subsequent purchaser takes action to abate the nuisance or clearly commits himself to abatement. Mere "omission" of abatement does not always give rise to liability. The proposed defense would seem to have cleared the way for such liability.

(E) CONTRIBUTION

Although an express right of contribution is a fair concommitant to Federal legislation creating joint and several liability, the proposed provision would have required that contribution claims be raised in a "separate action"—thus stripping Federal courts of the authority to hear directly related claims against third parties in the same action. This is a power now clearly enjoyed under the Federal Rules of Civil Procedure and Exercised in existing CERCLA suits and by most State jurisdictions having modern rules of procedure. Through it, courts prevent wasted judicial resources and the filing of sequential actions and actions only against "deep pockets," whether or not equitable. Furthermore, it is difficult to understand how the court would have been able to implement fairly and meaningfully the "apportionment among parties held jointly and severally liable" called for in subsection (f), if named defendants were forbidden from joining other potentially responsible parties in the case in chief through contribution claims. The general language of subsection (g) probably was not sufficient to assure that timely joinder of other responsible parties by existing defendants occurred. Further, it is inconceivable, in any event, that a court should hear evidence relating to all of the apportionment factors listed in subsection (f), but be barred from simultaneously adjudicating contribution claims among the same parties.

Oddly, the provision apparently would not have prohibited claims against third parties for indemnity, restitution, or declaratory relief. Thus, only contribution claims would have been handicapped.

(F) APPORTIONMENT

The apportionment proposal had some attractive features, but several substantial deficiencies.

The apportionment called for was entirely discretionary. Furthermore, consideration of the factors provided was entirely discretionary. Although most courts might be expected to use these factors, they could have declined to do so.

Regarding the factors themselves, conspicuously absent was "the care exercised by the parties"—a factor mentioned by courts and others as an appropriate criterion in Superfund suits.

Subsection (f)(5) allowed consideration of the damages "which should justly be attributed" to those "who are not, and could not be, brought before the court"—an illogical clause, since those who could not be brought before the court will never be before the court. Certainly, the United States and the State and local governments would have been included, since section 514 seemed to give them a blanket exemption from liability. In addition, defendants who could not be reached under the long-arm statute of the State in which the action was brought would also be included, since there was no nationwide service of process granted for the new Federal cause of action. Of course, those who enjoyed the protection of a stay under the Bankruptcy Act would have also been included. All of this having been said, why is the allocation of responsibility to parties who "could not be brought before the court" a relevant factor, when the court's discretion apparently is limited to apportioning "damages among parties held jointly and severally liable" in the action in chief; and why would the Congress wish to take special, arguable unnecessary pains to note, in proposed subparagraph (g) that:

> Joinder of claims and persons in actions under this section shall be in accordance with the Federal Rules of Civil Procedure?

No apparent claim for apportionment has been created, and contribution claims apparently must be filed as separate actions. The intentions of the author with regard to contribution, apportionment and joinder were a hopeless muddle—one which was not likely to be unraveled in last minute activity on the floor. Such things deserve and demand the proper scrutiny of the Judiciary Committee.

SECTION 503. REALLOCATION OF UNCOLLECTED APPORTIONED SHARES

The most serious problem with the provision was that it was unclear what effort must be made or circumstances must exist for a judgment to be "uncollectible." A "good faith" or "diligent" effort should be made to execute on the judgment as a prerequisite to the motion. What if the defendant were in bankruptcy? Would the plaintiff be required to bring an action against an insolvent party's insurance carrier? Would some effort be required to locate a party who has relocated? Because the interests of solvent defendants will be dependent on the plaintiff's effort, some standard of conduct should have been imposed on the moving party, supported by thoughtful legislative history as to the type of effort which might be sufficient to justify reallocation.

SECTION 504. EVIDENCE

Substantial uncertainly and dispute prevails in the scientific community concerning the actual relevance of many of the categories of studies which would have been declared relevant by the proposed amendment to many types of illness or injury which might have been the subject of litigation. It is bad law and bad science to unequivocally declare their admissibility if they merely "tend to establish" causation or contribution to "damages compensable * * * of the type or class allegedly suffered by an individual." Such evidence may be of no probative value to the specific injury involved. Some forms of cancer may be linked to or suspected to be associated with exposure to a specific substance. This does not mean that a court should be compelled to admit broad categories of studies involving that substance in a case alleging a form of cancer which has never been associated with the substance, just because the court may feel constrained to view cancer as a "class" of damages. Even more questionable would have been the admissibility of every study showing any form of damage to "micro-organisms" or abnormal "tissue cultures" in support of a plaintiff's claim that his "fear of injury, illness, or death" to himself, his spouse, child, or friend, was not "unreasonable."

SECTION 505. COMPENSABLE DAMAGES

Unlike some previous proposals for a Federal cause of action, this proposal contained no limitations on categorical or aggregate liability. The most dangerous provisions were those dealing with pain and suffering awards, which could have been made not only for actual injuries, but also for "fear of injury, illness or death" to one's self or to another—no matter how attenuated the relationship. This claim could have been sustained so long as the fear was not "unreasonable." Arguably, the defendant would have been required to assert the "unreasonableness" of the fear as an affirmative defense, which would have had to have been sustained by a preponderance of the evidence. Fear of injury claims are highly novel and generally not recognized as valid—for obvious reasons. Given this provision, it can be almost certain that this new cause of action would have probably given rise to numerous claims. At a minimum, it would have provided ready access to Federal courts to anyone who had been exposed to a hazardous substance, regardless of actual injury. To their "Federal fear claim," they might have easily added pendent State claims for injunctive or other relief. The defendant would not have only had to fear fear itself, but also costs of litigation.

Finally, compensable damages described in section 505(1) appeared as though they were intended to be "medical costs" as defined in section 501(1). This use of different descriptive terms was bound to create ambiguity.

SECTION 508. LIMITATIONS

The formulation chosen was one of the most favorable to potential plaintiffs. Probably the most onerous aspect of the proposal was that it created new rights of recovery for "damages * * * incurred" up to 10 years prior to the enactment of the amendment. Presumably, parties who had litigated or even settled claims for other damages during the period in question could have relitigated their claim under the proposed language—recovering damages not previously compensable under State law, or sustaining liability having failed in the past to show any failure to exercise due care. The creation of such retroactive civil liability is highly disfavored—especially where it is not remedial in purpose.

Curiously, the word "expense" was used in subparagraph (a)(1). Apparently, the word "damages" was intended. Otherwise, the statute would not apply to damages other than those for injury, illness, or death.

Subparagraph (d) would have had virtually no practical effect, since to bar an action, the previous State law claim would have had to have been essentially identical to the unprecedented proposed claim.

SECTION 511. ADDITIONAL RECOVERY

Subparagraph (a) appeared to prevent settlements reached in any litigation under this title from including a release as to any future health damages not foreseen at the time of settlement. Thus, this provision might have greatly discouraged settlement in any cases other than those involving death.

Subsection (b) would have honored the finality of judgments reached in prior litigation only as to the specific damages which were the subject of that litigation. Additional damages allowed under the proposal, no matter what their amount or novelty, could have been sought despite prior litigation.

SECTION 512. CLASS ACTIONS

There is no apparent need for superseding application of rule 23 with a provision which apparently prevented consideration of numerosity, the representative nature of the named plaintiff or his ability to represent the class.

SECTION 513. PUNITIVE DAMAGES

The retroactive imposition of liability of punitive damages was extraordinary and arguably unconstitutional. Deterrence could have been served entirely by prospective imposition of such liability. Since its purpose was entirely punitive, and since individuals who may have been subject to its imposition could not change the conditions giving rise to their liability, it arguably constituted a bill of attainder, an ex post facto law, and may have constituted a prima facie violation of due process as well.

Curiously, the provision would have allowed awards in cases involving "pollutant(s)"—which were not the subject of other provisions of the proposed title and, depending on other provisions of the bill, may not have been defined for purposes of this title.

SECTION 514. LIABILITY OF THE UNITED STATES

Of all the provisions of the proposal, this was probably the most extraordinary and unfair. Since the title would have established strict, joint and several liability, private citizens would have been made to compensate individuals for damages to which a governmental entity or entities clearly and obviously contributed. Furthermore, the proposal apparently would have precluded subsequent actions by liable parties to obtain contribution from such entities for their part in the matter. Since a substantial percentage of all sites which have received hazardous wastes were owned and/or operated by local governments, and since the United States—often the EPA itself—has sent hazardous wastes to sites and has leased land to corporations which, with the knowledge of the United States, disposed of hazardous wastes on the property, the liabilities which private citizens would have been made to bear under this proposal would have been very great indeed. This approach is fundamentally inconsistent with every other liability created under CERCLA with regard to the United States and some State liabilities as well. Thus, ironically, at many sites, the United States

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might have been compelled to shoulder a significant share of any response costs which might have been ordered, but would have passed on to other generators all personal injury obligations created under this new title. In addition, liability for toxic waste exposure which the United States might have had under the Federal Tort Claims Act—not predicated on strict liability—probably would have been ignored by plaintiffs whenever a "deep pocket" might have been sued for a full recovery under the proposed strict liability claim. The passage of such fundamentally self-serving and unfair legislation by the United States is not only patently unfair, but arguably unconstitutional.

Finally, the provision purported to bar any recovery against the United States and State and local governmental entities "through indemnification." This language may have been intended to prevent recovery in situations in which a governmental entity has expressly or, under State law, impliedly subjected itself to rightful claims for indemnification arising out of contractual relationships with private citizens. Unsettling such well-settled, and even vested, contractual rights of private parties might have been unconstitutional or constituted a taking for which just compensation might have been due. Furthermore, the provision would have tended to chill entry into any contract with a governmental entity in which the generation, transportation, or disposal of hazardous substances was involved, and may have completely prevented such entities from selling real property which had been the site of hazardous waste disposal, regardless of promises to assume liability for injuries or to indemnify the buyer from any claims which might have arisen.

Finally, some proposals now pending would have authorized the Administrator of the EPA to indemnify waste cleanup contractors for any claims which arise out of their strict liability, or even their negligence. The proposed section apparently would have barred such agreements from having any effect with respect to damages compensable under the proposed title. Furthermore, local and State governments have been precluded from offering any indemnity to contractors which would have protected them from the full force of new claims created under the proposal.

In conclusion, the proposal contained sufficient serious technical defects and questionable substantive ramifications which more than justified its overwhelming defeat.

ANNE FRANK DAY

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. LEHMAN of Florida. Mr. Speaker, on December 15, 1985, the international exhibition, "Anne Frank in the World: 1929–1945," officially opened at the main branch of the Dade County Public Library.

On this occasion, Metropolitan Dade County Mayor Stephen P. Clark and the board of county commissioners officially declared this day "Anne Frank Day" in honor of this event.

Under the able leadership of the Miami Anne Frank Exhibition Committee coordinator Merle Saferstein and committee member Adele Sandberg, this event brought together a diverse representation of people throughout the Dade County community to share in understanding an important series of events in world history and to learn of the impact and legacy of Anne Frank.

I offer my congratulations to all that were involved in this significant and demanding undertaking that benefited our entire south Florida community.

DEAN OF PRESS CORPS RETIRES

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. FRANK. Mr. Speaker, I take this opportunity to pay tribute to Edward Justin Sullivan, the retiring dean of the Fall River, Massachusetts press corps. "Jud" Sullivan was honored at a recent party held at the Venus de Milo in Swansea, MA. In the 3 years I have represented the greater Fall River area, I have developed a great deal of respect for the newspapers which serve this part of the State. Edward Sullivan joined the Providence Journal, one of the area's leading organs, in 1951 when he was named manager of the Fall River Bureau. Over the next 35 years he upheld the highest standards for responsible journalism and consistently produced well-written, informative news and feature articles about a wide variety of subjects of interest to the Journal's readers. His only break during in service there occurred in the late 1960's when he was appointed the first executive director of Citizens for Citizens, a local community action organization which continues to provide important human services to the people of Fall River. "Jud" Sullivan's unique blend of journalistic integrity and community service will certainly be missed by everyone who lives in Fall River or who reads the Providence Journal.

Another excellent newspaper in the area, the Fall River Herald News printed an article discussing the important contribution that "Jud" Sullivan has made and also that of Lester Boyd—an excellent Journal writer in their Attleboro office who was also honored at the retirement party. The Fall River Herald is to be commended for recording the contribution of another newspaper's reporters. I ask that the Fall River Herald article be reprinted in the RECORD.

DEAN OF PRESS CORPS RETIRES

(By James N. Dunbar)

Journalist Edward J. "Jud" Sullivan was honored by some 200 persons Saturday at a retirement party held at the Venus de Milo, Swansea.

Sullivan had a long and distinguished career with the Providence Journal-Bulletin and has been a mainstay of the fall River office for many years.

Also honored at the retirement party was veteran Journal writer Lester Boyd of the Attleboro office.

Edward Justin Sullivan was the dean of the local press corps. He would gladly share his expertise when asked. He did it with accuracy, clarity and kindness.

His deftness in phrasing questions gave clear notice to political candidates that he was politically astute. If pertinent answers didn't come, he dug in skillfully until he was satisfied with the response.

While always a competitor, he would share his notes if another reporter arrived late for a meeting.

After he and Boyd were given tributes and gifts by their colleagues and public officials, Sullivan remarked that he knew he hadn't adjusted to retirement yet because his first thought when he looked around and saw all the "newsmakers" present was, "And here I am without my pad."

Sullivan extended "a very sincere thank you" to all those who came to honor him, as well as to his "very loving and tolerant wife." Observing that "in Fall River we have had great relationships," Sullivan said what he treasures most about his career is the mutual respect between himself and the public.

Mayor Carlton M. Viveiros, terming Sullivan and Boyd "two fine gentlemen who are well respected and trusted," said he treasures his relationship with "Jud" Sullivan because Sullivan's agenda was always to get the story and to give the public the facts, honestly and without malice.

"I don't know where this community would be without guys like you making sure we stay on our toes," said Viveiros.

James V. Wyman, the Journal's deputy executive editor, told the gathering that both Sullivan and Boyd established strong personal profiles and lived up to principles that caused people to trust them.

He added that both Sullivan and Boyd have set standards that will be followed for years to come.

Also paying tribute to the retiring journalists were Bernie Sullivan, Massachusetts news editor for the Journal, and Dave Crombie, a reporter for the newspaper. Bernie Sullivan thanked "Jud" Sullivan and Boyd "for the honor of learning from them and working with them."

The master of ceremonies, reporter and columnist Bob Kerr, said he expects that there will be many occasions when he and his colleagues in the Fall River office will say, "If only 'Jud' were here." He praised Sullivan and Boyd as the kind of professionals who were generous in teaching young reporters and in letting them develop and find themselves.

Both retirees were given citations and proclamations from their respective cities and the state Legislature and portraits of themselves by Frank Lanning, retired Journal artist.

Jud Sullivan could bang out an interesting story from the most meager information. In a 32-year career with the Journal he covered events of every kind in a crisp, clear style, writing stories ranging from fast-breaking news to such "brights" as how many Sullivans or Medeiroses were in the phone book.

His career spanned the old school of typewriters, glue pots and pasted copy marked "30," to the era of video display terminals. He always maintained a fresh approach and continued tracking stories.

He wrote honestly and in good taste about people and a city he knows well. As a kid he lived on Forest Street, and he graduated from B.M.C. Durfee High School in 1939. Jud Sullivan pitched for St. Mary's in the CYO League. He graduated from the Boston University School of Journalism in 1943. That June he was inducted into the Marine Corps.

The service gave the young Marine a good chance to hone his skills. Sullivan served as a combat photographer for the 2nd Marine Division in the South Pacific for most of World War II while attached to public relations and division intelligence.

Returning from the military in 1946, Sullivan was news director at WALE until joining the Journal in 1948. In 1951 he was named manager of the Fall River bureau.

In 1965, then Mayor Roland Desmarais named Sullivan to lead the new Community Action Program. A year later it became Citizens for Citizens. He organized it and served as its first executive director until 1970, when he returned to the Journal and became local bureau manager.

Married to the former Mary Lou Maurer, he is the father of eight children.

He wrote his last story at the bureau newsroom on Nov. 30.

About retirement? "I'll just sit around and relax for a month or so, enjoy getting away from having to meet deadlines and then decide what I'll do after that," Sullivan commented.

DOUBLE LOSS—DOUBLE GAIN

HON. BILL SCHUETTE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. SCHUETTE. Mr. Speaker, like her husband, Mrs. Nancy Addleman has served the people of her community well, and I commend her for her active involvement.

Nancy Addleman's activity in the General Federation of Women's Clubs of Michigan culminated with her election as president of the Big Rapids Intermediate Women's Club. During her presidency, the club was elected club-of-the-year in the State of Michigan. Her activity in this organization also gave her the opportunity to become the assistant director of the Hugh O'Brian Leadership Seminar held at Central Michigan University in 1985.

Nancy Addleman was also active in the Girl Scouts of America. She and her family were long, active members of the United Church in Big Rapids, MI.

In addition to holding her elected position in the GFWC, Nancy Addleman's leadership capabilities were also recognized by the people of Mecosta County, for she was elected to the Big Rapids School Board and rose to the presidency of that board.

Although the people of her community will miss her, it is with great pleasure that I recommend Mrs. Nancy Addleman to the people of Missouri.

CONGRESSMAN GEORGE MILLER LAUDS FOOTBALL CHAMPIONS

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. MILLER of California. Mr. Speaker, I am very proud of two outstanding high school football teams from my district in Contra Costa County, CA, which this year won their respective championships in the north coast section. I know that all Members of the House of Representatives will want to join me in saluting the achievements of these young athletes and their coaches.

De La Salle High School ended a perfect 10-0 season with a victory in the North Coast Section 2A Championship, and even the opposing coach from Marin Catholic admitted that the Spartans were "the best team" he'd ever seen. That same sentiment was shared by De La Salle's own head coach, Bob Ladouceur.

Pittsburg High capped a year of impressive victories and a 10-3 record in winning the North Coast Section 3A Championship. I also want to call attention to the accomplishments of this very fine team, and their coach, Larry Rodriguez.

It is a great honor for me to have two championship football teams within my own congressional district, and I am delighted to take this opportunity to congratulate the members of those teams, and their coaching staffs, on their outstanding seasons.

ARCHBISHOP MOELLER HIGH SCHOOL CHAMPIONS

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. McEWEN. Mr. Speaker, it is with great pride that I take this opportunity to express my congratulations to Archbishop Moeller High School regarding their seventh Division One State Football Championship.

Their recent 35-to-11 victory over Canton-McKinley High School was impressive to say the least. This win illustrates the hard work and perseverance of these players to be the best football team in Ohio.

During the football season this championship team had the strong support of their fellow students, parents and friends to achieve this coveted state crown. In my view, this kind of dedication is the hallmark of school spirit.

Mr. Speaker, the Moeller High School football team has players from four different congressional districts. We all share their joy in this noteworthy accomplishment and wish them future successes. I have provided the names of this formidable organization for the consideration of my colleagues:

MOELLER HIGH SCHOOL STATE CHAMPIONSHIP FOOTBALL TEAM 1985 VARSITY PLAYERS

Ashbrock, Frank, Jr, LB. Back, Don, Sr, LB. Baele, John, Jr, LB. Bates, Doug, Sr, LB Bauman, Eric, Sr, G. Bayer, Tony, Jr, LB. Braig, Kevin, Sr, DB. Bratten, Tom, Sr, TE. Brisben, Brent, Sr, WB. Carney, Chip, Sr, LB. Clark, Brian, Jr, LB. Cline, Hal, Jr, DT. Codner, Drew, Jr, TE.

Dawson, Tony, Sr, DT. Dunn, Don, Jr, T. Eckert, Charlie, Sr, G. Ennis, Ed, Sr, T. Fisher, Rob, So, DT. Francisco, Shawn, Sr, FB. Friends, Nathan, Jr, DT. Fulmer, Kyle, Sr, DT. Gallagher, John, Jr, DT. Gahr, Steve, Jr, FB. Gillen, Vince, Jr, SE. Griffey, Ken, Jr, SE. Grossheim, Rob, Sr, T.

Henry, Greg, Sr, DB. Henson, Dan, Jr, T. Hilvert, Ray, Sr, WB. Hounchell, Eric, Jr, DB. Hunter, Mike, Sr, DB. Jackson, Tony, Sr, TB. Jacobs, Brad, Sr, G. Jennings, Tim, Jr, DB. Kadnar, Matt, Jr, LB. King, Terry, Jr, DB. Knecht, Jim, Jr, LB. Knepler, Carl, Jr, WB. Konard, Ken, Sr, SE. Kovalik, Dan, Sr, LB. Krimmer, Jeff, Jr, LB.

Latzy, Matt, Jr, DT. Lemmel, Mark, Jr, G. Lewis, Chris, Jr, T. Lewis, Ken, Jr, TB. Logan, Jim, Jr, DT. Lohr, Chris, Jr, T. Lyon, Todd, Sr, DB. Madden, Jeff, Jr, WB. Marklay, Tim, Sr, LB. Marshall, Scott, Sr, FB. McKenna, Mike, Sr, TE. Murphy, Bryan, Sr, TB. Murray, Vada, Sr, DB.

Neierrt, Todd, Sr, DT. Nicholson, Tom, Sr, QB. Papes, Jason, Sr, SE. Parchman, Chris, Jr, DT. Pisciotta, Hal, Sr, K. Powell, Bob, Jr, DT. Powell, Mike, Jr, LB. Purvis, Tim, Jr, T. Rawls, Chris, Jr, DB. Ringle, Tom, Sr, TE. Russell, Jim, Sr, LB. Ryals, Trevor, Sr, C. Rytel, Larry, Sr, LB.

Sagrati, Joe, Jr, DB. Schaffner, Scott, Jr, QB. Schaffner, Todd, Jr, C. Shaw, Alan, Sr, T. Stephens, Matt, Sr, C. Stricker, Eric, Jr, LB. Sturgis, Mike, Sr, DT. Teuschl, Tom, Jr, K. Weible, Eric, Sr, LB. Weis, Steve, Sr, DT. Whigham, Cliff, Jr, TB. Willging, Dave, Jr, LB. Williams, Brian, Sr, DB. Williams, Darrell, Sr, LB. Williams, Keno, Jr, FB.

Captains: Chip Carney, Roy Hilvert, Vada Murray, Trevor Ryals.

Coaches: Steve Klonne, Head Coach.

Jeff Liebert, Athletic Director and Offensive Backfield Coach.

Pat Orloff, Offensive Line Coach.

Marc Bjelac, Defensive Backfield Coach.

Bob Tull, Offensive Line Coach.

Jim Lippincott, Defensive Coordinator, Assistant Athletic Director.

Gary Leibold, Defensive Line Coach.

Jim Nienaber, Head Reserve Coach.

Tom Stellman, Reserve Offensive Line Coach.

Tim Schira, Reserve Linebacker Coach.

Mike Shibinski, Reserve Defensive Back Coach.

Dan Bjelac, Head Freshman Coach.

Bob Kolkmeyer, Freshman Linebackers Coach.

Carl Kremer, Freshman Offensive Back Coach.

Team physicians: Dr. Frank Cianciolo, Dr. John Gillen, Dr. Paul Kollman, Dr. Edward Kremcheck, Dr. David Schlueter.

Team chaplains: Rev. John Putka, S.M., Rev. Joseph Tedesco, S.M., Bro. Robert Flaherty, S.M.

Managers: John Belle, Mike Bramble, Dave Beutel, Joe Beyer, Mark Dornoff, Mick Eck, Mike Habegger, Mike Rauckhorst.

Trainers: Steve Damico, Mike Frank.

Statisticians: John Dombacher, Rory Ingram.

Equipment managers: Joe Asbrock, Harry Becker, Cliff Kemp.

Administrative assistants: Don Goff, Bill Straub.

Special projects coordinators: Zip Montag, Ralph Petering.

Athletic secretaries: Carol Campbell, Mary Rice.

Rally coordinator: Bob Hotze.

Cheerleaders: Jody Liebert.

Band director: Rick Hagee.

TAX REFORM

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Ms. MIKULSKI. Mr. Speaker, on Tuesday night, by voice vote, the House passed the 1985 tax-reform bill. I have always believed voters have the right to know where their Members stand on issues. I don't think Members of Congress should ever hide behind a voice vote.

I supported the bipartisan majority to keep the tax-reform steam engine on track and allow it to pick up more passengers. I believe the principle of tax reform is important. I believe that tax fairness is essential. And I believe our efforts to achieve these goals must continue.

The tax bill passed by the House has good news and bad news in it. The good news is that it compresses the number of tax brackets, increases personal exemptions, keeps deductions for State and local taxes, does not tax fringe benefits, closes loopholes, and has a minimum corporate tax to ensure that corporations that profit off democracy help pay the cost of democracy.

But there is bad news in the tax bill, too. In fact, there are several parts of the bill that cause me great alarm, and which I tried during the last few days to correct through parliamentary initiatives. I hope these concerns will be corrected in the Senate.

Chief among my concerns is the fact that I do not like the new way in which municipal, State, and Federal employee pensions are taxed. I don't think it's fair to penalize police officers, teachers, FBI agents, Social Security workers, and others who already make major contributions to our society through the work they do.

That's why I voted with the entire Maryland delegation for the parliamentary opportunity to remove this provision. We lost that vote, but I will continue to do whatever I can to ensure that when the final bill reaches the House again that this provision will not be included in it.

Another concern deals with economic growth. I think Congress should do everything it can to encourage businesses to invest in America. Research and development stimulates American ideas for American jobs, and we need investment tax credits to encourage businesses to buy American equipment and machinery.

Finally, I believe it's absolutely essential for us to reduce the Federal deficit. I want to see revenues from the new minimum corporate tax specifically targeted for deficit reduction. These new revenues should not just be put back into the Federal checkbook.

In the coming months, the U.S. Senate will be taking a look at this tax-reform bill. I will be watching very closely to see what changes they make. I will be doing everything I can to see this bill is improved by correcting the concerns I have just outlined.

Mr. Speaker, on Tuesday night the House voted to keep the issue of tax reform on track. The steam engine has left the station but there is a long way to go before the train reaches its final destination at the President's desk.

I am one Member of Congress who wants to make sure there are changes in the route so that more passengers can climb aboard as this train moves toward economic growth and prosperity.

MICHIGAN'S LOSS, MISSOURI'S GAIN

HON. BILL SCHUETTE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. SCHUETTE. Mr. Speaker, I rise today to commend the character and dedication of Dr. Duane Addleman. Over the years, Dr. Addleman has served the students and staff of Ferris State College, Big Rapids, MI, in various capacities. His most recent position was acting dean of the school of allied health, a position he has held since 1982.

Upon leaving Ferris State College to accept a position at Southwest Missouri State University, Dr. Addleman's many friends honored him by acknowledging his career accomplishments and community service. Prior to becoming acting dean of the school of allied health, Dr. Addleman served as associate dean, assistant dean for administration, and assistant to the dean. He also served as the acting head of the department of dental health, and administrative intern for Allied Health Education.

Not only was Dr. Addleman chosen for advancement at Ferris, he was also elected by his peers to be president of the American Society of Allied Health Professions. He held many positions in this important organization. Serving as chairman of the Council of Educational Institutions, as a member of the National Accrediting Agency for the Clinical Laboratory Association, and chairing several other committees, Dr. Addleman was chosen to be a Fellow of this prestigious society.

As Dr. Addleman's career is highly impressive, his community involvement is equally so. Dr. Addleman served as president of the Mecosta County Area United Way; was a member of the Mecosta-Osceola Youth Attention Board; served on the board of directors of the Retired Senior Volunteer Program; was a member of the 99th District Club; taught Sunday school at the United Church in Big Rapids, MI; and was extremely active in the Boy Scouts of America.

It is for these reasons, and because I know the character of Duane Addleman, that I wold like to recommend Dr. Duane Addleman to the citizens of Missouri. The loss of the people of Ferris State and the surrounding communities is the gain of the people of Missouri.

BILL NELSON'S IMPENDING RIDE ON THE SPACE SHUTTLE

SPEECH OF

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 16, 1985

Mr. BENNETT. Mr. Speaker, it seems that it was just a few years ago that man first set foot on the Moon. Since then, our exploits in space have grown.

Expanding our horizons—exploring the final frontier—is still very much ingrained in America's fabric. To explore is in our blood—to reach out to the unknown is what this country is about. Inquisitiveness dwells in our hearts.

Now a friend of mine—a colleague has a chance to be a part of this exploration. Congressman BILL NELSON is set for a journey that will surely be with him for as long as he lives. I congratulate Mr. NELSON for his opportunity—an opportunity that comes to very few. To be part of the action, the action of space exploration.

Sally Ride, the first woman in space—Senator GARN, the first politician in space—now BILL NELSON. Who wouldn't want the chance to travel in space? BILL NELSON, a truly fine person, deserves this honor.

I'll conclude by saying that my best wishes are with Congressman NELSON as he partakes in this marvelous moment. The State of Florida and Congress should be proud for this moment, as we were proud when Senator GARN took his place on the shuttle. Perhaps the day will come when everyone will have the chance to go into outer space. Until that time, those of us left behind can only congratulate those chosen, knowing full and well our hearts and our best wishes will be aboard, if not our bodies. In the case of BILL NELSON, he is a man of great spiritual strength and natural leadership. He is the kind of person who deserves this opportunity.

CONGRATULATIONS TO LAFAYETTE HIGH SCHOOL

HON. LARRY J. HOPKINS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. HOPKINS. Mr. Speaker, I would like to take this opportunity to congratulate Lafayette High School from Lexington, KY, for its recent tie for first-place in the Knowledge Master Open, a national academic competition covering a variety of subjects from science to music. In addition, Tates Creek High School and Henry Clay High School, also of Lexington, were 58th and 60th, respectively, in the 600 school nationwide competition.

This accomplishment by Lafayette students Chris Mullins, Neil Scheurich, Alex Reese, Pukar Patel, Brian Reed, Greg Peterson, Larry Taylor, and Eric Brooks signifies the discipline and sacrifice that has been the hallmark of our Nation since its inception. Their dedication to their studies is similar to our forefathers' desire to obtain an education.

One of the most important investments we continue to make for our national security, our economic stability, and our continued strength as a world leader is in education. When young people make an effort at excelling in academics, we cannot help but be optimistic about the foundation we are laying for America's future by this investment.

I salute these students and their teachers, and feel proud that they are in my district. And, I commend to my colleagues our continued support for excellence in education and in our Nation's future.

FREEZING FUNDS OF JUVENILE PROGRAMS

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. LEVINE of California. Mr. Speaker, I am outraged by the action of the OMB in freezing funding for juvenile justice programs. This is technically an impoundment of funds; it defunds vital programs which reduce juvenile crime, and it is an alarming precedent for future possible funding freezes. Further, the timing of this action, coming as Congress is preparing to recess, clearly indicates the intention of the OMB to foil the budget process.

I am alarmed because this action is an impoundment of funds under the Budget and Impoundment Control Act, which states that Congress must be notified of any proposed rescission or delay of funding. In the absence of such notification, the appropriated funds must be spent. Congress has appropriated funds for the Office of Juvenile Justice and Delinquency Prevention, and has received no notification of rescission or delay. Consequently, this funding freeze constitutes impoundment of funds, and a violation of Congress' prerogative in the appropriation of funds.

Additionally, I am outraged because this action de-funds programs which work to divert the troubled and high-risk youth who often become career criminals. The South Bay Juvenile Diversion project, in my district, works with approximately 500 first-time youth offenders a year. Eighty percent of the youth who work with this project have no further trouble with the legal system. The funds we spend on juvenile justice programs we receive back again as these youth become productive adult citizens. The funds we cut from juvenile justice programs, we lose in future spending on police, courts, and jails. Mr. Speaker, this spending cut is no savings.

Finally, I am alarmed by the ramifications of this action. Does the OMB plan to de-fund other programs in this way? If this action goes unchecked I am concerned that the funds for other vital programs will be impounded equally capriciously. The Nation's elected Representatives have the responsibility for appropriating funds in the best manner to serve the needs of the country and its citizens. This responsibility cannot be adequately exercised when Congress' decisions can be so easily circumvented.

I strenuously object to this action, and I call for the immediate release of these funds.

TRAGEDY OVER TETERBORO

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. HUGHES. Mr. Speaker, as many will recall, the illegal strike by the Professional Air Traffic Controllers Organization [PATCO] in 1981, drew a tough response from the Reagan administration, which fired some 11,500 striking employees.

At that time, I did not criticize the administration's firm stance because I felt that, as a nation, we should not condone illegal strikes by public employees whose service is vital to protecting the public safety.

The functions for the fired PATCO members were taken over by supervisory personnel as new controllers were recruited and trained. Unfortunately, despite the effort to fill the void left by the fired controllers, it is apparent that the air traffic control system has simply not kept up, even after the passage of 4 years. By and large, today's air traffic controllers are overworked and in many instances underexperienced, as the volume of air traffic continues to grow and grow.

Although the Department of Transportation has recently decided to hire 1,000 new controllers in 1986 and 1987, this action, by itself, will not be enough.

For every 100 new controllers hired, experience has shown that less than half will reach full performance level status. Even in the best of cases, it will take years for a new controller to reach the desired level of proficiency.

On the other hand, it would take only months to retrain selected controllers who were released in 1981—controllers who have proven records and many years of experience.

The administration has made its point that illegal strikes will not be tolerated. I don't think that there's anyone in the world who doubts that at this point.

I feel it would be appropriate, at this time, for the administration to review on a case-by-case basis the status of former air traffic controllers to determine whether they have the qualifications to be rehired and are truly willing to abide by the rules and obey the law.

Having been denied their careers for a full 4 years is punishment enough. There are persons convicted of serious crimes who have been placed on probation for a shorter period of time than that.

I don't think it would be possible to make the fired controllers suffer any more than they have already, but it is clear that the quality of our air traffic control system continues to suffer from not having enough seasoned controllers.

I was recently contacted by a constituent, Mrs. Marie Miller of Brigantine, NJ, whose son was killed in a tragic mid-air collision over the Teterboro, NJ, airport. He was a pilot of a Nabisco corporate jet at the time.

Certainly, it is impossible to say whether this tragedy could have been avoided if there were more highly experienced air traffic controllers on the job today—the indications are that it would have made no difference in this case.

I have discussed this incident personally with Federal Aviation Administrator Donald Engen, who is firmly committed to maintaining the highest standards of air safety. Administrator Engen strongly believes that the system is adequate and that in any event, this unfortunate accident resulted from other causes.

Nevertheless, Mrs. Miller's points are well taken concerning the increased congestion and flights by inexperienced pilots, combined with greater overall air traffic and substantially fewer controllers. I want to share Mrs. Miller's letter with my colleagues at this time:

BRIGANTINE, NJ,
December 5, 1985.

Hon. WILLIAM HUGHES,
Northfield, NJ.

DEAR CONGRESSMAN HUGHES: In 1980, you made us very happy by offering an appointment to our son, Douglas, to the U.S. Naval Academy. He was also offered an R.O.T.C. scholarship from Harvard at the same time. As it happened, he chose the Harvard scholarship and has been happy with his decision. However, we will always be grateful to you for seeing his potential and for making us such proud parents.

I am writing to you, not about Douglas, but about our other son, Greg, who was just as capable and had accomplished so much in his short life span of 36 years. He was killed in a fiery collision of a corporate (Nabisco) jet and a small Piper Cherokee on Nov. 10, at the Teterboro, NJ, airport. We buried him on Dec. 3, after the investigators had released his remains.

It is a terrible thing to lose a loved one, and even more terrible to lose one's child, but to lose a wonderful, talented, bright son with so much to offer, and in the prime of his life, through a needless accident makes the sorrow so much more difficult to bear.

We have learned, since Nov. 10 that the place where he was killed is an unsafe place. Many people in high places apparently are aware of the dangers, but so far, nothing is being done. We are appalled to find out that:

1. Air travel grows more dangerous daily.
2. There were 90 percent more misses in 1984 than in 1981.

3. The system has 5,147 fewer air traffic controllers than it had at the time of the strike.

4. Controllers are overworked and inexperienced.

5. In 1984, 1,897 operational errors were made, in which aircraft were permitted to come closer than safety rules allow.

6. Air traffic has increased 8 percent since 1981.

7. It now takes only 2 years for a controller to become fully qualified, instead of 5 years.

8. The union, which was responsible for the strike no longer exists and there is no reason not to rehire the experienced controllers.

9. At Teterboro Airport, on week-ends, it is a "zoo", with many pilots with few hours and little experience, taking off and landing in the same areas with the large planes.

Greg was the Chief Pilot for Nabisco Brands and one of their best. When the Chairman of the Board flew, it was our son whom he wanted in the Captain's seat. Greg had flown 9,000 hours and had a perfect safety record. He was always aware, cautious, and determined to keep his passengers, his co-pilot, the plane and himself safe. We know in our hearts that he died because of someone's mistake, but not his.

Senator Paul Simon, on the "Today" show spoke of this accident in North Jersey and said that if measures are not taken to right the wrongs that now exist, we can expect to see more air disasters than ever before.

I urge you to use your influence in the Congress to see that changes are brought about so that more lives are not needlessly wasted.

Respectfully yours,

(Mrs.) MARIE MILLER.

LEGISLATION TO BAN THE SALE OF COOK INLET OIL

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. MANTON. Mr. Speaker, I recently introduced legislation, H.R. 3817, along with my colleague from Maryland, Mrs. BENTLEY, to place the export of crude oil from Alaska's Cook Inlet on the same terms and conditions as Alaskan North Slope oil.

Earlier this year, Congress reauthorized the Export Administration Act. That measure, which was approved by an overwhelming margin, reaffirms a 10-year congressional commitment that oil produced from the Alaskan North Slope must be devoted to domestic use. The ban on the export of Alaskan crude oil benefits American consumers, provides much-needed maritime jobs, strengthens our national security and promotes energy independence.

Despite this strong statement against the export of Alaskan crude oil, this administration apparently intends to ignore the wishes of Congress. On October 28, the White House announced that in the coming months the President plans to authorize the export of Cook Inlet oil to Japan.

This administrative action is possible because technically the Export Administration Act only prohibits the export of Alaskan oil that is produced at Prudhoe Bay along the Alaskan North Slope and flows through the Trans-Alaskan Pipeline (TAPS). Cook Inlet oil is not transported through TAPS, but rather is carried from the production field Cook Inlet by U.S. tankers to refineries in California and along the Gulf Coast.

Although the 6,000 barrels per day of oil produced at Cook Inlet is a small amount when compared to the amount being extracted from the North Slope, the administration's decision is nonetheless a bad one for the following reasons.

First, proponents of the sale of Cook Inlet oil contend it will help to reduce our trade deficit. Nothing could be further from the truth. In order to replace the special quality of crude oil produced from Cook Inlet, United States refineries would have to buy more expensive crude oil from Indonesia, Norway, or other less stable foreign sources. The United States imports too much oil as it is. Given our serious trade deficit, it makes absolutely no sense to export this precious natural resource which would have to be replaced by more expensive imports.

Second, the export of Cook Inlet oil to Japan sends the wrong message at the wrong time. It's time to get tough on our trading partners that refuse to play by the rules and continue to deny U.S. exporters equal access to their markets. Last year, the United States trade deficit was a record $123 billion costing more than a million American's their jobs. This year the trade deficit is expected to exceed $150 billion. We must work toward a level playing field in international trade. Japan continues to flood our market with cheap imports while denying access to an array of United States products. We should not reward Japan's closed market policies by selling them our national resources which they refuse to carry on United States-flag ships. We must make it clear to Japan and to our other trading partners that we are dead serious about putting an end to unfair trade practices.

Third, the transport of Alaskan oil is the life blood of the American merchant marine industry. The administration's actions show that the planned export of Cook Inlet oil is merely the first step in an effort to totally eliminate the current restrictions on the export of all Alaskan oil. Our maritime industry, already struggling to survive against unfair foreign competition cannot afford to have the door opened for the export of Alaskan oil. Nor can the U.S. afford to be without a strong merchant marine industry to provide for our shipping needs in time of peace and our defense needs in the event of a national emergency.

Any movement toward the export of Alaskan oil will lead us back into a dependence on far less stable foreign energy sources. During the past decade, we have seen our Nation's economy wrecked by Middle East oil embargoes. This was one of the main reasons why the Congress voted to ban the export of Alaskan oil. We should be no less committed to promoting energy independence today.

Mr. Speaker, the legislation I have introduced would simply extend the ban on the export of Alaskan North Slope oil to also cover oil produced from Cook Inlet. We must close the door on the export of any Alaskan oil before it has a change to open any further. I urge my colleagues to cosponsor this important legislation.

CLARIFICATION OF A PROVISION OF THE BEEF PROMOTION AND RESEARCH ACT

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. COELHO. Mr. Speaker, I wish to clarify a statement regarding the Beef Promotion and Research Act of 1985. This is a provision within the 1985 farm bill which will establish an orderly procedure for financing and carrying out a coordinated program of promotion and research designed to strengthen the beef industry's position in the marketplace. This promotion and research order is strongly supported by the National Cattlemen's Association.

I strongly support the establishment of this program; however, recently, my colleague from Iowa, the Honorable BERKLEY BEDELL, brought to my attention his concerns regarding the rate of assessment on imported beef and beef products. As chairman of the House Agriculture Subcommittee on Livestock, Dairy, and Poultry, I would like to clarify the intent of this program in regard to this particular provision. When this particular provision was brought to the subcommittee's attention, it was the intent that domestically produced cattle would be assessed a rate of $1.00 per head of cattle each time the animal was marketed. In the case of imported beef and edible beef products, the rate of assessment is to be the equivalent of $1.00 per head, as determined by the Secretary. This assessment on imported beef and edible beef products is to be made only on the single transaction that occurs when the imported beef enters into the commerce of the United States. In making this determination, the Secretary of Agriculture is expected to establish fair and equitable rates that do not discriminate against foreign producers or violate international trade agreements.

AUTO EXPORT QUOTAS

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. TRAFFICANT. Mr. Speaker, March 31, 1986, is rapidly approaching. In a little over 3 months the Japanese Government must once again make a decision on whether to limit the export of Japanese automobilies to the United States. Currently, mixed signals are being received from the Japanese Government.

Shortly, Japanese manufactures and the Government are expected to begin closed-door discussions on this very important issue. Many believe the Japanese are likely to either partly or completely remove the quota limitation of 2.3 million cars as established in 1985.

The Japanese claim that the quotas have served their purpose and should be removed. They believe the U.S. Automobile industry has recovered completely and is now able to complete effectively against all international exports. I believe that is simply not true. Many of my colleagues in both the House and Senate share this opinion and believe the United States must take appropriate action to stimulate fair and free trade in the international market.

I believe the topic of fair trade policy should be given primary consideration during the second session of the 99th Congress. The Japanese and other foreign traders must be informed that the United States will no longer tolerate any type of restrictive trade policy.

In my view the Japanese have several alternatives. One would be to retain the quotas at the present level as a positive signal to the Congress and the American people. Secondly, the Japanses could allow the quotas to expire and instead seek some other kind of trade remedy. I believe this proposal is highly unlikely. Finally, the Japanese could not only maintain the current quotas, but further reduce the present car levels.

Though a finial decision on this issue is unlikely for sometime, I can only hope that the Japanese Government will realize the true economic shape of our U.S. automobile industry and maintain the current import quota limitations.

[From the Washington Post]

JAPAN GRAPPLES AGAIN WITH ISSUE OF AUTO EXPORT QUOTAS

(By John Burgess)

TOKYO. December 18.—Japan has reluctantly begun to grapple again with an issue that has few rivals in terms of its potential to poison trade relations with the United States: whether to extend quotas on exports of automobiles.

The current program, which holds sales to the United States to 2.3 million cars a year, expires March 31. But manufacturers and the government are preparing for closed-door consultations that could continue until then.

They hope to avoid a replay of last spring, when Japan's announcement that it would raise the quota by 24 percent provoked angry cries from Congress and helped push trade relations to their lowest point in years.

Many officials here concede that the timing and tone of that announcement was a public relations fiasco. But they insist that the decision was fundamentally just a step toward free trade.

"We should learn from history and experience," said Makoto Kuroda, head of trade policy at the Ministry of International Trade and Industry. He said no consultations were under way yet and refused to comment further, noting the sensitivity of the issue. "Better to keep quiet," he said.

To date, however, events are unfolding much like they did a year ago. The Japanese appear to be underestimating the emotional wallop the issue carries in Congress, and critics in the United States seem to be assuming that a double-cross is being prepared.

Last week, Japanese newspapers carried brief articles on inside pages quoting an unnamed senior official at the trade ministry as saying that quotas would not be extended, although he said Japan would reconsider in the event of unspecified "big changes" in the general situation.

The story attracted only minor attention in Tokyo. In many ways it simply reiterated Japan's official position that the quotas are an aberration and must end as soon as possible. The reported reference to "big changes" left adequate leeway for continuing the restraints.

In Congress, however, it drew strong condemnation and seems to have been read as a formal decision for a new "export wave" across the Pacific that would worsen a trade deficit that this year is expected to reach a record $50 billion.

A ministry spokesman denied that any decision had been made. Spokesmen pleaded ignorance about who made the statement. But industry and government sources said privately it was the top man, International Trade Minister Keijiro Murata, talking on background with the reporters who regularly cover him.

Some foreign analysts here called it a trial balloon. But one Japanese official, saying Murata's statement was in response to a reporter's question, called it a case of politician firing off emotional words without thinking them through.

The quotas began five years ago to give the U.S. automobile industry time to recover from the dark years of the 1970s. Originally a three-year program, the quotas were extended twice for a year each.

The Japanese contend that the quotas' purpose is now accomplished. "The U.S. automobile manufacturers have completely regained their strength, and the unemployed rate is going down," Soichiro Toyoda, president of the Toyota Motor Corp., said at a press conference yesterday.

Toyoda and others complain that the restraints are in force at a time when the United States is strong-arming Japan to dismantle barriers to imports in its own market. Quotas are a fundamental blemish on the principle of free trade, they say.

Last year, Japanese officials depicted it as a concession when they raised the quota from 1.85 million units to 2.3 million. They could have eliminated it altogether, they said.

As of Oct. 31, seven months into the current program, Japanese companies had shipped 1,471,000 cars to the United States and are expected to reach the full 2.3 million. The United States remains their most profitable market, helping them weather intense competition at home that has wiped out most earnings there.

Japanese companies already have opened a campaign for more access. Following the trade ministry official's words last week, many issued calls for an end to quotas. "Trade imbalance should be solved by looking forward, by stimulating domestic demand in Japan and opening its market," said a spokesman for the Nissan Motor Co., the country's second-largest producer.

At the same time, however, auto executives continue to talk of a need for "orderly marketing," a catch-all phrase meaning the avoidance of torrential exports by less formal means, perhaps self-restraint by individual companies.

Japan has several choices. One would be to retain a quota, as a gesture to Congress, but to raise the numbers again. Or, the quota might be allowed to expire, with Japan switching to behind-the-scenes "administrative guidance." Totally free trade in autos is not commonly considered possible.

At least one analyst, however, predicts that Japan will not only keep the quotas but cut the numbers somewhat. Toshio Obi, an economist who is Japan's representative of Columbia University's East Asia Institute, says Prime Minister Yasuhiro Nakasone cannot risk a blowup two months before he hosts President Reagan and other leaders of the industrialized West at an economic summit meeting here in May.

A TRIBUTE TO THE NATIONAL COUNCIL OF JEWISH WOMEN, PRESIDENT BARBARA MANDEL

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. FEIGHAN. Mr. Speaker, nothing captures the spirit of this time of year—a time of hope and celebration, of family and goodwill—as the work of people who have committed themselves year round to the goals of fairness, compassion, and peace. Such is the purpose of the National Council of Jewish Women, which recently celebrated its 93d year with a conference in Washington. I would like to take this opportunity to give well-deserved recognition to the NCJW, which has been headed for the past 2 years by a friend and fellow Clevelander, Barbara Mandel.

The NCJW, now 100,000 members strong, has for almost a century promoted a multifaceted program of education, advocacy, and community service. Focusing on the rights of women and children, the NCJW has fought on behalf of abused and neglected children, the elderly, and the disadvantaged. The group has also maintained a reasoned and compassionate voice for the future of Israel, the United States-Israel relationship, and the plight of Jews in the Soviet Union.

Embodying the best of the National Council of Jewish Women, Barbara Mandel's contribution began over 30 years ago when she joined as a member of the Cleveland chapter. In 1971, Barbara was elected as president in Cleveland, later moving on to be national recording secretary and national vice president.

She now volunteers her time on the board of the American Joint Distribution Committee, chairs the National Women's Division of the United Jewish Appeal, and sits on the board for the Council of Jewish Federations. Her voluntary efforts have earned her the Mayor's Citation for Exemplary Community Leadership, and seen her inducted into the 1985 Ohio Women's Hall of Fame. The hall, established in 1978 by the Women's Division of the Ohio Bureau of Employment Services, honors women who have excelled in their efforts to improve the status of women.

As president of the NCJW, Barbara's efforts turned to an effort to further promote the rights of children. Under her guidance, the council established their center for the child which now conducts research on social programs and provides needed information on policies affecting children in our country.

For this, and for all the tireless efforts of the NCJW's corps of volunteers, I hope all my colleagues will join me in commending the National Council of Jewish Women and wishing Barbara the best of luck in her second term as national president.

COURTHOUSE BECAME THE WHITE HOUSE

HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 1985

Mr. DUNCAN. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following:

Courthouse Became the White House

(By Chuck Redfern)

For about one hour and fifteen minutes, on Tuesday, September 24, 1985, the McMinn County Courthouse, in Athens, Tennessee, became the White House, of the United States of America. Believe it or not.

You can tell your grandchildren that there was a special day that occurred in Athens when the President of our Land came to town and they moved the Whitehouse to the Courthouse. This is a fact, as the communications systems were in place and if the President needed to make a decision of international magnitude, he would have done it in Athens. If the "hot line" had sounded, it would have sounded in the Courthouse in Athens. If those Russians had decided to "wipe us from the face of the Earth" he would have had to do some fast thinking and talking from the Courthouse. Every office in the Courthouse had about three extra phones for the Secret Service with special numbers and special significance.

This exciting event occurred because Congressman John Duncan convinced President Reagan that if he wanted to visit the rural areas of the United States and see the down-to-earth folks who make up much of our country, then he should come to Athens, Tennessee. There is little doubt that the President was pleased with what he saw and what he heard. By the same token, if there is one McMinn Countian who isn't proud that their county and the Friendly City of Athens was selected as the small community to visit in the State of Tennessee, then I'm sorry for them as it was indeed a momentous occasion for our community.

It was obvious that all citizens, of all political parties, Republican, Democrat, Independent or Mugwhamps joined together to proudly welcome the President and show the United States that we are one of the finest small communities in the country. The publicity and exposure we obtained is beyond the financial capabilities we could muster to buy in the news media. Pictures of our lovely Courthouse, decorated by Jerry Harrill and his crew, to the President holding the Ralide saddle from Plastic Industries, made the pages of newspapers throughout the country, including USA TODAY (a nationally distributed paper). Even the television newtworks showed the same scenes.

The handling of the trip of our President was so well coordinated that it answered the question from some envious cities in our state who asked, "Why Athens?", to which Representative Clyde Webb answered, "Why not Athens?" In one week's time, citizens joined together to put on a showplace for our President that according to Whitehouse and Secret Service personnel was one of the smoothest and most efficiently run visits the President has ever made. Every battle of event needs a General and the unsung hero of this show must go to City Manager Marvin Bolinger, whom the Whitehouse staff labeled as the "Benevolent despot general," meaning he handled the show in a kindly, absolute ruler, commanding manner. He had been elected as event chairman and he accepted the responsibility with dedication.

As Marvin Bolinger asked, "It would take a book to list all the real unsung heroes of this special day as there are hundreds of unpublicized volunteers who contributed of their time and talents to provide the President with an impressive trip to our fair City." From the Rescue Squads, the local and neighboring law officials, the firemen, the Boy Scouts, the Utility Board workers, the City and County employees, the merchants, industrial concerns, Tennessee Wesleyan, the vocational students, the bands and chorus groups, the man on the street (and ladies) plus goodness knows who else, all jumped in and worked night and day to present a great image of rural America and especially Athens, TN. of McMinn County. There were hundreds more who would and could have helped, and wanted to help, but time did not permit to contact everyone. Many were asked to help while standing as onlookers of the work. We appreciate them all.

The fact that some twenty-two to thirty thousand folks were in our City and millions more saw it on television and through the newspapers, makes it the most spectacular event that has ever occurred here. No one can say we didn't do ourselves proud on this day. There may never be another day to match this as far as most of us will see. The crowd was orderly, the program went smoothly, the sun came out at the right time. The President was impressed, the media was impressed and if your "kin" folks and friends living around the country weren't impressed, I'll be surprised.

There are numerous stories to tell that occurred during the hectic days of preparation. It was not until eight a.m. Tuesday morning that the decision was made whether to have it at the Courthouse or the McMinn High gym. Crews had been up all Monday night to decorate the gym in case the rains persisted in falling on Tuesday: Apparently the Reagan charm worked as the weatherman said it was O.K. to keep on "GO" with the courthouse, Tuesday morning at 8 a.m.

No event turns out to be perfect and there will be someone's nose out of joint, but doggone it, you just have to admit there was a special day in Athens, when the Courthouse became the Whitehouse and a President of the United States came here to speak to us. Proud? Yessir, everyone is!

U.S. COMPANIES DESERVE TO COMPETE IN THE INTERNATIONAL PHARMACEUTICAL MARKET

HON. EDWARD R. MADIGAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. MADIGAN. Mr. Speaker, I am very pleased today to introduce the Pharmaceutical Export Amendments of 1986. I am joined in introducing this bill by several of my colleagues from the Committee on Energy and Commerce, including Congressmen SCHEUER, BROYHILL, SHARP, and LENT. I am hopeful that the strong, bipartisan support for this legislation will assure its quick passage by the House.

Mr. Speaker, it is currently illegal for American firms to export pharmaceutical products which have not been approved by the Food and Drug Administration [FDA]. This is true, despite the fact that the FDA often moves at a snail's pace, and it can take several years for a drug to be approved. Furthermore, oftentimes a drug has been approved by another country and is desperately needed there, but still cannot be supplied because of this senseless restriction.

This restrictive policy has clearly had an adverse impact on the U.S. economy and more specifically, on the competitive position of American firms in the international market. It has cost us jobs and capital investment by forcing American pharmaceutical companies to conduct important research and to develop and manufacture new drugs outside of the United States.

Ours is the only country that is prohibited from exporting drugs that are lawfully marketed in the importing country but which are not yet approved in the exporting country. This policy makes little sense when the drugs in question may well be available to the importing country from other foreign manufacturers. Our current policy does not prohibit foreign consumers from gaining access to these drugs, it simply locks the United States out of the competition for jobs and revenues.

The bill I have introduced today is very narrow, and contains numerous safeguards to guarantee that the health of citizens in foreign countries is not jeopardized by the lifting of the export ban. The Senate Committee on Labor and Human Resources has already overwhelmingly approved a bill, which was introduced by Senators HATCH and KENNEDY, that is almost identical to this legislation.

I urge my colleagues to look closely at this bill and to give it their full support. A summary of the Pharmaceutical Export Amendments of 1986 follows:

Summary of the Pharmaceutical Export Amendments of 1986

The legislation permits the export from the United States of drugs which are made in this country but not yet approved by the Food and Drug Administration (FDA) to developed nations which have approved the drugs. Under very limited circumstances, such drugs which are intended for the treatment of tropical diseases and similar conditions may be shipped to developing nations.

COUNTRIES TO WHICH DRUGS APPROVED ABROAD MAY BE EXPORTED

(1) Developed countries with sophisticated drug approval systems comparable to that of the FDA.

(2) Other developed countries with authority: (i) to assure that information provided to physicians, pharmacists, and patients is consistent with the drug's labeling; (ii) to detect safety problems with a drug; and (iii) to remove unsafe drugs from the market.

(3) Countries not listed in #1 or #2 if the Secretary determines on the basis of human testing and other scientific evidence that shipment of the drug is justified to treat a disease or condition in the importing country which does not exist to a significant extent in the United States.

The Secretary is required to establish two lists of the countries described in #1 and #2 above. The legislation suggests the following countries for inclusion on list #1: Australia, Austria, Belgium, Canada, Denmark, Federal Republic of Germany, Finland, France, Japan, Netherlands, New Zealand, Norway, Sweden, Switzerland, and the United Kingdom.

CONDITIONS FOR EXPORT

Such a drug may be shipped if:

(1) The drug accords to the specifications of the foreign purchaser;

(2) Sale of the drug is not in conflict with the laws of the importing country;

(3) The drug contains a label on the outside of the shipping package indicating that it is intended for export;

(4) The outside of the shipping package is labeled: "This drug may be sold or offered for sale only in the following countries:" and lists the countries in which sale is authorized;

(5) The drug has not been sold or offered for sale in the U.S.;

(6) Approval of the drug has not been denied, suspended or withdrawn in the U.S. for reasons of safety and effectiveness;

(7) In the case of a drug to be shipped to a country on list#2, the drug has been approved by a country on list #1; the labeling of the drug is consistent with the labeling approved by a country on list #1; the lable has been translated into the language of the importing country; and approval of the drug has not been denied or withdrawn for reasons of safety by any country on list #1;

(8) In the case of a drug to be shipped to a country described in #2 or #3, the drug is the subject of an NDA, IND, or a master file containing the safety information required for an IND;

(9) The notification of first shipment of the drug is given to the Secretary.

NOTIFICATION OF INTENT TO EXPORT

Prior to the first shipment of an unapproved drug, the shipper must give to the Secretary a notice which:

(1) Identifies the drug to be shipped;

(2) Identifies the establishment in which the drug has been or will be made;

(3) Identifies the country or countries to which the drug will be shipped;

(4) In the case of a drug to be shipped to a country on list No. 2, includes a copy of the drug's labeling; and

(5) Includes assurances that the shipper will report to the FDA any serious adverse drug reactions.

ADDITIONAL SAFEGUARDS

(1) The U.S. shipper must obtain from each of its importers an agreement not to ship the drug into countries other than those authorized under this law. This agreement must be renewed annually.

(2) If a U.S. shipper or its subsidiary ships a drug to a country in violation of any provision of this Act, then the Secretary may prohibit the shipping of the drug and the Secretary has authority to seize the drug, to seek an injunction to halt any proscribed activity, and to impose criminal penalties.

(3) If an importer ships to a drug a country in violation of any provision of this Act, then the Secretary may prohibit the shipping of the drug to such importer.

(4) If the drug poses an imminent hazard in any country authorized to receive it under this Act, the Secretary may immediately prohibit the shipping of a drug to such country.

(5) If an importer ships a drug to an unauthorized country and the drug poses an imminent hazard in the unauthorized country, the Secretary may immediately prohibit the shipping of a drug to such importer.

(6) If a U.S. shipper ships in violation of an imminent hazard order or continues shipping to an importer knowing that the importer is reshipping to an unauthorized country, then the Secretary may prohibit the shipping of the drug and the Secretary has authority to seize the drug, to seek an injunction to halt any proscribed activity, and to impose criminal penalties.

(7) The GAO is required to monitor compliance with the Act and to report to Congress within 2 years of enactment and every 2 years thereafter.

TRIBUTE TO TWO MEMBERS OF THE 101ST AIRBORNE DIVISION

HON. LARRY E. CRAIG

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. CRAIG. Mr. Speaker, it is with profound sadness that I rise to honor the memory of two members of the 101st Airborne Division who lost their lives in the tragic crash at Gander, Newfoundland, on December 12, 1985. I would like to express my deep gratitude for the service these fine young men gave to our country as part of the multinational forces in Egypt—a difficult and important mission in the cause of world peace.

Sp4c. Steven J. Bradshaw of Boise graduated from Boise High School in 1983, where he was a member of the ROTC praised by his commanders. He was headed for his reassignment to Fort Leonard Wood in Missouri, the training base for the Army Corps of Engineers.

Pvt1c. Paul M. Crawford graduated from Nampa High School in 1984. He had recently been married, intended to make his career in the military, and hoped to go to Germany in his next tour of duty.

Although it does little to lessen the sorrow at this loss, I want their families to know that the First District of Idaho, and all Americans, will remember with pride the sacrifice these two young men made in the service of our country.

FALLEN SOLDIERS WHO MIGHT NOT HAVE DIED

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. RANGEL. Mr. Speaker, it is sad when a solider dies. It is sad when he has represented his country well, defended our Nation, kept the peace. It is especially sad when he might not have died.

These soliders did what soliders do best: They kept the peace. The Army's 101st Airborne Division, one of the elite units of our Armed Forces, served ably in the Middle East, as they have many times before, and in many places.

While we honor all the soldiers who died, I would like to make particular mention of those soliders from New York State: Pvt. Paul J. Bostwick, Pvt. William Brilya, Pvt. Trevor Campbell, Pfc. Bobby Coleman, Sgt. Paul Hemmingway, Pvt. Kenneth Nelson, S. Sgt. Ronald Sears, and Sgt. Theodore Travis. I would also like to express my sorrow to the family of Sgt. Francisco Ocasio, of Juana Diaz, Puerto Rico.

While we do not yet know the cause of the crash in Gander, Newfoundland, our sense of loss leads to many questions. It highlights for me the need to intensify our efforts in improving airline safety, both for soldiers and civilians traveling on commercial airliners. We know that deaths in aircraft accidents are at an all-time high in the last several years. Perhaps this is due to chance, but perhaps not. Many aircraft accidents are not due to wind shear or other currently unforeseeable weather abnormalities. Many are due to mechanical or human error. Both can be improved through maintenance, inspection, and training.

I was pleased that the Federal Administration is now ordering a broad inspection of jet engine repair facilities. I commend that action, which was planned before the Gander crash, and I would urge an even more aggressive approach to aircraft maintenance and personnel training, both in the air and on the ground.

Again, I would like to express my sorrow at this terrible tragedy, and I would like to extend my sympathy to all of those families who lost a loved one in the service of the United States.

CONFERENCE REPORT HAS WIPED OUT MOST MILITARY PROCUREMENT REFORMS

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. SCHEUER. Mr. Speaker, today I voted against the conference report on the fiscal year 1986 continuing appropriations bill.

It would wipe out nearly all of the military procurement reforms in our original version of the legislation the House passed in June of this year, including: The revolving door employment reform; the application of competition and multiple cost sourcing for major weapons systems; and the use of the should cost estimating system.

The only procurement reform left in the bill is the so-called allowable cost amendment.

A combination of these four reforms would have put the Government in a far stronger, more effective position in business negotiations with defense contractors.

Assistant Air Force Secretary A. Ernest Fitzgerald has stated in testimony before the Joint Economic Committee, on which I serve, that we could cut our $100 billion procurement budget by $25 to $50 billion annually if we got our procurement process under discipline and control. We've blown it for this year.

This conference report also represents an increase of $4.8 to $11.1 billion, depending on whose figures you use, over the original House-approved level of fiscal year 1986 defense spending. This dramatic increase in defense spending comes at the expense of what is left of our frayed and tattered social services safety net.

While we cut the minimal funds still available to help the elderly, the poor, and the infirm, we continue to cater to the whims of the defense industry and those in the Pentagon who continue to insist upon gold-plated Cadillac-type weapons when simple Chevys would do.

By passing this bill while operating under the specter of Gramm-Rudman, Congress has chosen voluntarily to fall on its own sword.

Mr. Speaker, I am not denigrating my colleagues who served as conferees on this bill because I know how hard they fought to hold the line on defense spending. They did the best they could faced with tight deadlines and an unyielding Senate.

TENTH ANNIVERSARY OF THE ITALIAN-AMERICAN FOUNDATION DECEMBER 18, 1985

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. OBERSTAR. Mr. Speaker, the 10th anniversary of the Italian-American Foundation offered a unique opportunity to review the contributions Americans of Italian descent made to our great Nation and to give special recognition to some of our colleagues of Italian descent whose roles have been particularly significant. It was my great privilege to attend the October 19, 1985, foundation gala, during which I was deeply moved by the thoughtful comments offered by Congressman FRANK ANNUNZIO, founding father of the foundation, and Senator PETE DOMENICI, who served as master of ceremonies for the gala.

Congressman ANNUNZIO spoke from the heart and with only a sketchy, written outline about the contributions Americans of Italian descent have made to our country througout its history. It is virtually impossible to reconstruct the tenor of Representative ANNUNZIO'S comments because they were delivered with such warmth and depth of feeling, but at my request he has recreated that speech in condensed form and I include the remarks at this point in the RECORD:

ITALIAN-AMERICAN FOUNDATION 10TH ANNIVERSARY, REMARKS OF HON. FRANK ANNUNZIO.

The Italian story is literally the story of America, for from the very beginning of this Nation, Italian Americans have made monumental contributions to the greatness of America. Yes, the story of Italian immigrants is the story of America—and of their courage, enterprise, and loyalty, all given freely in the building of America's life and freedom, from the discovery of this continent in 1492 by Christopher Columbus, as well as from 1776 to the present time. The vast contributions made by Italians and those of Italian descent to the physical, intellectual, cultural, and spiritual development of this Nation are legendary.

Christopher Columbus discovered America. John Cabot explored the mainland. Giovanni D'Verrazzano discovered New York Bay. Filippo Mazzei, a close friend of Thomas Jefferson, inspired many of the ideas expressed in our Declaration of Independence. William Paca, the delegate from Maryland, signed the Declaration of Independence, and served as governor of Maryland.

Italians fought in the Continental Army during the Revolutionary War. They served with honor in the Civil War and again in the U.S. Armed Forces during each of the World Wars as well as in the Korean and Vietnam conflicts.

Charles J. Bonaparte was Secretary of the Navy and Attorney General of the United States. He created by executive order in 1909 the Federal Bureau of Investigation. Fiorello LaGuardia was elected Mayor of New York in 1933 after having served as a Congressman for 14 years. Enrico Caruso and Arturo Toscanini were legends in their own time.

Lee Iacocca, Chairman of the Chrysler Corporation, and Edward J. DeBartolo, Sr., Youngstown, Ohio businessman and sports magnate, Joseph Cardinal Bernardin, Archbishop of Chicago, A. Bartlett Giamatti of Yale University, Frank Sinatra, Joe DiMaggio, Rocky Marciano, whose heavyweight unbeaten record remains intact, Enrico Fermi, Benjamin Civiletti, former U.S. Attorney General in the Carter Administration, and the list of luminaries goes on and on.

One thing is certain—Italian Americans who now comprise 10% of the American population, have attained affluence, education, aspiration, and acceptance. They have contributed so much, but the challenge is still there for us today—as Italian Americans—to apply to our own America—with the same vigor and unity of purpose—those energies and that inspiration which have so often and for so long made Italy a center of civilization. By so doing, we will help to guarantee a new Renaissance of freedom and dignity that will continue to fulfill the American promise of hope to men of every nation throughout the world.

Let us now go forward with renewed vigor and enthusiasm to build on the firm foundation of a solid decade of accomplishment by the National Italian American Foundation. Let us pledge to each other tonight that we shall support the Foundation in its goal to create an endownment fund that will ensure that this organization shall continue in perpetuity.

We want to insure that this organization shall remain the watchdog over those who try to defame us, to cripple us and our children through guilt by association, innuendoes, and smear tactics. We have no room in America for these peddlars of lies and defamation. We are proud as human beings to enunciate the great heritage of America so that our children and grandchildren who follow us can be equally proud of a country that will ensure peace and tranquility for all eternity.

This is our goal—this is your goal—and together we shall accomplish this goal, not only for Italo-Americans but for all Americans, for we must continue to live in a society that will respect the dignity of all men.

The name PETER RODINO transcends ethnic lines because he represents the ideal of the immigration experience of America and because he represents integrity personified, integrity that reminded America throughout the Watergate era that the Constitution of this country stands above man, even when that person is the highest elected official in the land. The Italian-American Foundation has honored Chairman RODINO by establishing a legislative internship in his name, a program which will be administered by the Marianna Stango Rodino Foundation. Recipients will be awarded a 3-month internship of a congressional committee; eligible applicants will be Italian-American students from the State of New Jersey.

Senator DOMENICI perhaps best summed up Chairman RODINO's contribution to our constitutional system with these introductory remarks, which I ask unanimous consent to include at this point in the RECORD:

Peter Rodino is the only major figure in the Watergate hearings who didn't make a fortune writing a book. Congressman Peter Rodino was one of the founders of the National Italian American Foundation. And just today, he received the first of our association's public service awards which carries with it the first of our foundation internships which will be known in his name. It will be known as the Fiorello LaGuardia Internship and there will be many to follow but we are very proud that he is the first.

Because, indeed, in terms of our organization—what we stand for in our pride and our tremendous commitment to our country and our heritage—he is unequaled. One of the strengths of this great American system which somehow seems almost to be on the one hand accidential, on the other may be providential is that this political system has produced people of extraordinary talent who have happened to find their way to be at the right place at critical times. Such leaders have come from the most diverse of places and diverse of backgrounds such as Abraham Lincoln from a little town of Springfield, Illinois and Franklin Roosevelt from the aristocratic Protrun family of the Hudson Valley. In that tradition is Peter Rodino from Newark, New Jersey * * *.

Mr. Speaker, I consider it a great privilege to serve in the Congress with Chairman RODINO, Congressman ANNUNZIO, Senator DOMENICI, and 30 Members of Congress of Italian descent with whom I share the Italian heritage. I am also particularly pleased that the chairman and cofounder of the Italian-American Foundation, industrialist Jeno F. Paulucci, is a native of my northeastern Minnesota Congressional District. Jeno Paulucci has risen from the humblest of economic beginnings to make an enormous contribution to the economy of our northeastern Minnesota region and to the Nation as a whole. Still, he makes time to contribute his energies and creativity to the interests of the Italian-American Foundation and is one of the most persuasive and effective spokesmen for our ethnic heritage in this country.

I offer my congratulations to Jeno Paulucci, Congressman ANNUNZIO, and all the dedicated staff of the Italian-American Foundation in making this 10 anniversary celebration such a memorable event.

HOUSE FOREIGN AFFAIRS COMMITTEE—1985 A RECORD OF ACCOMPLISHMENT

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. FASCELL. Mr. Speaker, as the first session of the 99th Congress draws to a close, I would like to take this opportunity to inform the Members of the House of the activities during 1985 of the Committee on Foreign Affairs and its subcommittees.

Thanks to the hard work and bipartisan cooperation of the committee members we have compiled an outstanding record of accomplishment. We have met the goals we set for ourselves at the start of this Congress. Moreover, we responsibly dealt with the many unexpected and unpredictable events that developed during the year involving our nation's foreign affairs.

I am particularly proud of the fact that we enacted into law the first regular foreign aid authorization bill since 1981, including House passage of the conference report by a margin of more than 100 votes. This 2-year bipartisan measure authorized international development and security assistance programs necessary for American interests abroad. Other important initiatives in the bill included provisions for stronger antiterrorism assistance and airport security, strengthening of the international narcotics control effort, increased aid to anti-Communist freedom fighters' efforts, and enhancement of the Peace Corps.

Another major accomplishment was passage of the measure authorizing funds for the Department of State and U.S. Embassies abroad, U.S. Information Agency, and the Board for International Broadcasting. Other provisions in this bill included a U.S. scholarship program for undergraduate students from developing countries; authorizations for the Arms Control and Disarmament Agency; further strengthening of efforts to combat illicit drugs; strengthening of counterespionage efforts; measures to increase protection for foreign missions; and new arms control initiatives.

Early in the year we took the lead on emergency relief legislation for Africa famine victims which resulted in the saving of countless lives. We won House passage of an anti-apartheid bill which prompted Presidential restrictions on South Africa. We strengthened U.S. security through enactment of an improved Export Administration Act bill, and we helped promote U.S. international economic interests through the reauthorization of the Overseas Private Investment Corporation [OPIC]. We aided U.S. agriculture in our participation in the export and foreign affairs provisions of the farm bill, including extension of the Public Law 480 Food for Peace Program. We have passed resolutions extending the offer of assistance to Mexico and Colombia following the natural disasters in those countries.

Particularly significant and productive in 1985 was the committee's extensive activities in three key areas: arms control, antiterrorism, and antinarcotics. By way of sharing with my colleagues the wide range of accomplishments on those three subjects, I elaborate below the details of the committee's work.

ARMS CONTROL ACTIVITIES

Among the issues dealt with by the committee on the question of arms control were: The President's Strategic Defense Initiative [SDI] and antisatellite [ASAT] weapons policy; the United States-Soviet arms control negotiations, a committee-sponsored CRS study on nuclear arms control and seminars on the fundamentals of nuclear arms control; proposals to ban nuclear testing; preservation of SALT II and the ABM Treaty; and binary chemical nerve gas weapons. Much of the detailed work and initial effort in these areas was undertaken by the Arms Control Subcommittee.

ARMS CONTROL IN SPACE

As part of its series of hearings on arms control in space beginning in the 98th Congress and continuing into the 99th Congress, the committee examined the arms control, technical feasibility, and budgetary implications of the President's SDI and ASAT policy. Testimony was heard from former Secretaries of Defense Robert McNamara and Clark Clifford as well as the authors of a report describing the adverse arms control implications of United States and Soviet space defense efforts. From these hearings emerged the view that the ABM Treaty is fundamental to preventing an arms race in defensive systems and to averting the acceleration of the arms race in offensive systems. Moreover, the likely Soviet response to the SDI, as cited in a Pentagon SDI Report to Congress last spring, will be to build up their offensive forces to penetrate and overwhelm our upgraded defenses. These hearings have been published under the title "Implications of the President's Strategic Defense Initiative and Antisatellite Weapons Policy."

In October, the committee examined the administration's new interpretation of the ABM Treaty which would permit the development and testing of air-based, sea-based, space-based, and mobile land-based ABM systems and components based on new physical principles. Testimony was received from Gerard Smith, the negotiator of the ABM Treaty, and John Rhinelander, the legal counsel to the ABM Treaty negotiations. Both maintain that the 13-year longstanding interpretation of the ABM Treaty is the accurate interpretation of the Treaty and that from the negotiating record it is clear that the ABM Treaty prohibits the development and testing of space-based, etc. ABM systems and components based on new physical principles. At this same hearing, Ambassador Paul Nitze, Special Advisor to the President and the Secretary of State for Arms Control Matters, assured the committee that the policy of the President and the administration was to continue to adhere to the longstanding interpretation of the ABM Treaty.

In December, the Subcommittee on Arms Control, International Security, and Science, along with the Subcommittee on Europe and the Middle East and on International Economic Policy and Trade, explored in greater detail the influence of the SDI on our allies, in particular, the issue of technology transfer between the United States, our NATO allies, and Japan, as it relates to SDI.

Within the last few days, I have been particularly gratified by an action of the conference committee on the continuing resolution regarding ASAT. The decision to suspend United States-ASAT testing provided the Soviets do not resume their ASAT testing is a wise one. This is a practical arms control achievement that complements the Foreign Affairs Committee's efforts to avert an arms race in space.

Relatedly, I was also encouraged by the conference committee's decision to preclude funding for binary nerve gas weapons during fiscal year 1986. In this connection, I would emphasize that binary production after fiscal year 1986 will not be automatic, especially in the sense that going forward would be conditioned upon NATO approval and further review by Congress. My own views regarding the binary are unchanged: We should not fund a system that does not work, is not proven safe for our troops, which needlessly adds billions of dollars to the deficit, harms the NATO alliance, and undermines joint pledges at the summit to eliminate chemical weapons.

COMPREHENSIVE UNITED STATES-SOVIET ARMS CONTROL NEGOTIATIONS

As part of its effort to keep Members apprised and up to date on the status of the Geneva arms control negotiations, the committee received regular briefings by Ambassador Kampelman, the chief U.S. arms control negotiator, as well as the other negotiators, and from Ambassador Nitze, the President's arms control adviser.

In preparation for the November 19–20 summit between President Reagan and

Soviet General Secretary Gorbachev, I prepared a statement analyzing United States and Soviet arms control proposals tabled in Geneva with a chart comparing those proposals, and a summary of regional, human rights, and bilateral issues. The analysis and chart appeared in the November 13, 1985, CONGRESSIONAL RECORD on pages E5142–44.

After the summit, the committee was briefed by Secretary of State Shultz on what transpired at the summit.

NUCLEAR TEST BAN PROPOSALS

The committee conducted several hearings on proposals to bring an end to nuclear testing. After extensive discussion, the committee in May marked up and approved for floor action House Joint Resolution 3, legislation to prevent nuclear explosive testing. House Joint Resolution 3 urges the President to seek Senate ratification of two treaties that limit nuclear testing, and to bring negotiations on a comprehensive test ban treaty. With over 200 cosponsors, this resolution has widespread support in the Congress. These hearings are published under the title "Proposals To Ban Nuclear Testing."

NUCLEAR ARMS CONTROL WORKSHOPS

In 1985, the subcommittee sponsored a series of nine workshops on a wide variety of arms control topics. The workshops were held in conjunction with a year-long study by the Congressional Research Service on the fundamentals of arms control. The workshops were open to all Members of Congress. Some of the most notable personalities in the arms control field were invited to be guest experts and give presentations at the workshops. The workshops were organized to encourage more Members of Congress to become more actively involved in arms control matters.

1986 ARMS CONTROL AGENDA

In the second session of the 99th Congress, the Foreign Affairs Committee and the Subcommittee on Arms Control, International Security and Science will continue to examine this wide range of arms control and foreign policy issues. In the area of space arms control, we will further monitor and evaluate the arms control implications of the administration's SDI and ASAT policy. In particular, we will continue to urge the President to proceed with the SDI Program in full compliance with the ABM Treaty. The committee will also seek continued United States-Soviet compliance with SALT II.

In the area of United States-Soviet arms control negotiations the committee will continue to keep Members fully informed on the status of the Geneva arms control negotiations which are scheduled to resume on January 16. We will also keep Members informed of matters regarding the upcoming June summit between President Reagan and Soviet General Secretary Gorbachev. In this area, the committee will also assess legislation calling for tradeoffs between offensive reductions and defensive controls.

Concerning nuclear test ban proposals, the committee is prepared to take House Joint Resolution 3 to the floor of the House.

The committee plans to continue the arms control workshops in 1986 with the same informal, relaxed, and informative format followed in 1985. The workshops will focus on key problems in arms control with the general objective of improving the congressional role in the arms control policymaking process.

FOREIGN ASSISTANCE LEGISLATION ON ANTITERRORISM

The tragic events of the past year have reinforced the need to take effective action against the threat of international terrorism. The committee has responded by strengthening U.S. policy in a number of ways. As a result of our efforts, the foreign assistance legislation authorized an antiterrorism assistance program and prohibited assistance to countries supporting terrorism.

In the area of airport security, the bill provided for the suspension of air service to and from countries with inadequate airport security standards and puts in place a trigger mechanism which would result in mandatory suspension of foreign aid to countries with high terrorist threat airport facilities.

The legislation also urged the President to establish an International Antiterrorism Committee with a mandate to enhance international cooperation on terrorism and to serve as a crisis management mechanism during terrorist incidents.

MARITIME SECURITY

In addition, we are in the process of examining the status of international maritime security. The committee intends to see that the executive branch has the statutory authority to enforce adequate security standards and to ensure prosecution of those who commit acts of terrorism at ports and on the seas. We have also called attention to the need to review and revise extradition treaties and other bilateral and multilateral agreements so that prosecution of terrorists can go forward with due process.

DIPLOMATIC SECURITY

I would also bring to my colleagues' attention the committee's efforts to protect our diplomatic posts abroad from the threat of terrorism. The committee has carefully reviewed the recommendations of the Advisory Panel on Overseas Security, chaired by Adm. Bobby Inman. As appropriate, we expect to consider legislation necessary to implement these recommendations and intend to carry out thorough oversight of the administration's progress in this regard.

U.N. ACTION ON TERRORISM

On the multilateral front, I am pleased to report that on December 9 the United Nations adopted a landmark resolution which condemns all acts of terrorism as criminal. The Congress has been urging the United Nations to adopt such a resolution. The passage of this measure, which unequivocally condemns all acts of terrorism, is a first for the United Nations.

The resolution also provides for improving international aviation and maritime prosecution of terrorists an bringing domestic laws in conformance with existing international conventions.

ANTITERRORISM AGENDA FOR 1986

The frightening prospect of nuclear terrorism requires our immediate attention. We intend to conduct extensive hearings on the threat of nuclear terrorism and call on the International Atomic Energy Agency (IAEA) to pursue the improvement of safeguards of nuclear material and facilities in order to prevent terrorism against such facilities and to avoid the theft of nuclear materials by terrorists.

As mentioned above, we plan to work for full implementation of the Inman Panel recommendation in order to secure our diplomatic facilities to the maximum extent possible.

We intend to enact legislation establishing minimum international maritime security standards. As I have already stated, we are also looking at a tightening of extradition treaties and other measures involving international cooperation in the apprehension and prosecution of terrorists.

We will continue to press in every forum for the establishment of an International Coordinating Committee on Terrorism.

I will also continue to urge that the topic of international terrorism be included on the agenda of the upcoming June summit meeting.

In conclusion, the committee will continue to give high priority to the safety of our citizens from terrorist threats, as well as those Americans in the Foreign Service and the military who are serving our country's interests in high-threat areas. They surely deserve all the protection we are able to provide.

LEGISLATION ON INTERNATIONAL NACROTICS CONTROL ACTIVITIES

During 1985 the committee initiated major new legislation aimed at steming the production of illicit drugs overseas, and improving the management of U.S.-funded narcotics control programs. The foreign assistance legislation included the International Narcotics Control Act of 1985, which increased funding for overseas narcotics control, strengthened the requirement on suspending assistance to countries which have not taken adequate steps to control drug production and trafficking, and conditioned aid to certain countries on a demonstration of improved efforts in the anti-narcotics area.

The State Department authorization legislation also included provisions to improve the narcotics personnel system in the Department of State, directed appropriate Federal agencies to increase their cooperation and information-sharing on narcotics traffickers, and required the Secretary of State to increase his efforts to negotiate updated extradition treaties with major narcotics-producing countries.

In addition, the committee's Task Force on International Narcotics Control held exhaustive hearings and briefings on a wide range of drug-related issues, and met with numerous leaders from drug-producing and drug transhipment countries.

U.N. ACTION ON NARCOTICS

The committee sponsored a meeting at the United Nations to meet with major drug-producing and drug transshipment countries to discuss ways in which multilateral efforts could contribute to more effective actions against illicit narcotics. The U.N. General Assembly subsequently approved the Secretary-General's call for a U.N. sponsored conference on international narcotics issues, as well as a proposal for a new international treaty on illicit narcotics.

INTERNATIONAL NARCOTICS CONTROL AGENDA FOR 1986

The committee will continue its oversight activities in 1986 on U.S.-funded narcotics control programs overseas in order to ensure that they are as effective as possible. We also intend to explore the increasing connections between narcotics trafficking and terrorism, and to continue our review of foreign government involvement in drug trafficking. And in an effort to ensure that all U.S. Government agencies are involved in the antinarcotics fight overseas, we will explore ways in which the U.S. Armed Forces can contribute to these activities through interdiction and intelligence-gathering.

We are also preparing a comprehensive handbook of narcotics-related legislation for the use of Members during the next session. I believe this is the first time that an effort has been made to gather in one place the major laws and international treaties governing illicit narcotics. I am sure that it will be useful not only to Members, but to U.S. Government agencies and law enforcement personnel as well.

In short, we will continue to search for ways in which we can fight the influx of illicit drugs from overseas, and to improve the coordination and cooperation of our Federal agencies in this effort.

THE PHARMACEUTICAL EXPORT AMENDMENTS OF 1986

HON. JAMES T. BROYHILL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. BROYHILL. Mr. Speaker, I am pleased to join our colleagues, ED MADIGAN, JIM SCHEUER, PHIL SHARP, NORM LENT, and others in introducing the Pharmaceutical Export Amendments of 1986. It is vital that Congress consider this legislation as soon as possible.

The Federal Food, Drug, and Cosmetic Act prohibits the export of drugs which have not yet been approved in the United States, even to countries which have approved the drugs. Unfortunately, significant drug therapies are frequently approved abroad first. In 1980, the General Accounting Office reported that 13 of 14 important drugs it reviewed were approved by at least one foreign country before they were available in the United States.

When a drug is approved in a foreign country first, a U.S. drugmaker has only three choices under the present law: First, not selling the drug in the foreign country even though it has been approved there, until the drug is approved in the United States; second, manufacturing the drug in a foreign country with a loss of jobs in this country; or third, if the U.S. company cannot afford to build a plant overseas to manufacture the drug, which is the case for biotechnology companies and small pharmaceutical companies, licensing the technology to a foreign competitor with a loss not only of U.S. jobs but also of our technological advantage.

The Pharmaceutical Export Amendments of 1985 would permit the export from the United States of human and animal drugs and biologicals which are made in this country, but are not yet approved by the Food and Drug Administration, only to developed nations which have approved the drug. Mr. Speaker, it is time that we stop throwing U.S. jobs, and investment dollars away because of this unfair, senseless, restrictive policy. The Senate Committee on Labor and Human Resources has already approved a near-identical measure.

I urge my colleagues to support this legislation.

CZECH DISSIDENT REFUSES TO GIVE UP

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. KEMP. Mr. Speaker, despite the repression suffered by citizens of Czechoslovakia, it is encouraging to note that flame of freedom still burns in the hearts of many Czechs.

I would like to bring to the attention of my colleagues an article which appeared in yesterday's Wall Street Journal about Anna Marvanova, spokeswoman for Czechoslovakia's human rights movement, Charter 77.

It is interesting to note that Charter 77 sent a message to the Budapest Cultural Forum and detailed the extreme repression practiced in Czechoslovakia in all cultural areas, particularly that of publishing. I applaud Anna and her colleagues for having the courage to continue the fight in the face of such tremendous obstacles.

CZECH DISSIDENT REFUSES TO GIVE UP

(By Ken Seigneurie)

PRAGUE.—Anna Marvanova, 57 years old, is an active member of Charter 77, Czechoslovakia's independent human-rights movement. Although in poor health, Mrs. Marvanova has been the group's spokesman twice and has taken part in the publication of some of its best documents. She was interviewed in her small flat.

How do you make your living?

I'm a retired journalist. I worked for 20 years at Prague radio and was chief of foreign broadcasts to underdeveloped countries until 1968. After 1968 I worked in a restaurant washing vegetables and then as a cleaning lady.

What did you do in 1968 to put yourself in disfavor with the authorities?

We refused to make broadcasts declaring that our government had invited the Warsaw Pact forces into the country.

Is your case unusual?

The Czechoslovak Communist Party purged 500,000 people in the aftermath of 1968.

Most of these people, as I understand it, have led quiet lives since then. You, on the other hand, have been at the forefront of the human-rights movement and have suffered greatly for it. You've been in police custody in countless occasions; you've seen your children's careers and personal lives disrupted, not to say ruined. Why didn't you just keep your beliefs to yourself after 1968—buy yourself a little house in the country and garden on the weekends—instead of drafting Charter 77 documents?

My father taught me to read and to think. He was a member of the party—I was, too, until 1968—but he respected the truth beyond all else. He taught me to think critically, to ask the embarrassing question.

For example, how can I accept the notion that there are two kinds of nuclear missiles and that only Pershings are bad while SS-20s are good? It should not be possible to let such a lie be passed off. Somebody has got to say something about it.

Charter 77, the oldest human-rights movement in Eastern Europe, is sometimes said to be falling into a "ghetto existence," that is, tolerated by the authorities as long as its activities and documents remain isolated. The chartists, in turn, the thinking goes, "oblige" the authorities by not seeking to become a popular movement. Is there any truth to this speculation?

First, you speak of the Charter as if it's supposed to be in opposition to the government. It's not. Political power has never been an aim of the charter movement. Its signatories want only respect for human rights.

As for the Charter's "ghetto existence," we don't want that—closed societies are ghetto enough if you ask me. The work of the charter goes on. It's the authorities' reaction that changes. In 1982, my first year as spokesman, I was summoned to the police station at least once a week from 8 a.m. until 1 p.m. for the first six months of the year. In 1983 I was again spokesman but the police left me alone. How do you explain that?

If the Charter rejects banishment to the ghetto, are there any plans to reach a wider audience?

That's something the police would like very much to know as well.

What keeps people from joining?

Fear. They are afraid for their jobs, their standard of living and for their children's opportunities in life.

Is there anything that can be done to attract people to the movement in spite of the consequences?

There are now about 1,300 signatories to Charter 77. If we wanted sheer numbers, we could probably get more, but that's relatively unimportant.

A young man came to me not long ago asking to sign the Charter. He was a student. I told him, "Finish your studies first." He'd have certainly been expelled from the university for signing and then he'd have been given a job cleaning sinks and toilets. . . . In fact, even if he decides later not to sign, he can still contribute greatly to the human-rights movement by being an active sympathizer.

What can be done in the West to help the human-rights movement in Eastern Europe?

Without a doubt, official contacts with Charter 77 and other human-rights representatives is the most important help we can get. Recently, we have had visits by foreign ministers of both Britain and France. both of these diplomats made an effort to see Charter signatories. . . . These meetings do not go unnoticed by the authorities. Public opinion is important to our government and the mere fact that a foreign diplomat wants to meet with us implies that we are a legitimate movement.

What do you think is the greatest threat to independent thought in Czechoslovakia today?

The indoctrination of children. today, the average 20-year-old has only a vague idea of what happened in 1968. Even [older people] are terribly uninformed about the recent history of their own country.

The schools teach children a "history" that never existed. As a result, the nation is losing its memory.

THE LEADERSHIP OF JOHN W. McCORMACK

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. JACOBS. Mr. Speaker, our former colleague, James Quigley has given a fine biography of our dearly departed former Speaker of the House, John McCormack. It is right that it be recorded for history.

(By James M. Quigley, President of the Association of Former Members of Congress)

I am pleased and proud to be here. It is an honor to be inivited to be part of this evening set aside to remember John McCormack.

I suspect that many, perhaps most, of you knew John McCormack longer and better than was my privilege. My association with him was in the Congress of the United States. All the time I served in the House, John McCormack was my leader. That is the way I think of him and remember him. Yet that view provides only a snapshot of his long and distinguished career.

John McCormack had served in the U.S. House of Representatives 26 years before I got there and he served for another 10 years after my constituents qualified me for membership in the Association of Former Members of Congress. When I was a freshman Congressman, John McCormack had already served as House Majority Leader for over a decade. And his career as Speaker did not begin until two years after I left the House.

All of this may suggest that, if this were a court of law, objections might well be heard that your speaker this evening is not qualified to testify as an expert witness on the life and career of John W. McCormack. Having come this far, I can only hope that the ruling from the bench might be, "let's hear what the witness has to say and we'll let it in for what it is worth.

I can begin by testifying to the truth that, for all practical purposes, John McCormack's entire career was in politics. As a young man before and after World War I he practiced law, but I suspect that even then his mind and heart were in politics. When he was elected to Congress at the age of 36 he was already an experienced legislator; having served two years as a state representative and four years in the Massachusetts State Senate.

John McCormack ran unsuccessfully for Congress in 1926. That statement is technically correct but not accurate. That campaign was only unsuccessful in the sense that he did not win. But John McCormack conducted himself with such impressive civility during the campaign and after his defeat that it all but assured his election to the House 18 months later when the incumbent Congressman died.

As I hope to be able to demonstrate, the fact that John McCormack went to the Congress in 1928 was a highly determinative factor in his career. Had he been first elected to the House in 1930, his career, might have taken a different path. I am certain this would have been true had he not become a Congressman until 1932 or '34. We might still be here paying tribute to him but remembering him, perhaps, as the Mayor of Boston or Governor of Massachusetts rather than as Speaker McCormack.

I can testify further that John McCormack's political career was in the House. As he himself put it, "My life was in the U.S. House of Representatives. I was a legislator, and mightly proud of the fact. That was the life I loved."

And thanks to the appreciation and good judgment of his constituents, not to mention a strong Democratic party organization, John McCormack was able to live that life and pursue that love from 1928 until he retired in 1970.

The 42 years he served in Congress represents approximately ⅕ of our history as a nation. And what a slice of history it was. John McCormack came to the House a year and a half after Lindy flew to Paris. Thirty years later, in the wake of sputnik, McCormack was the chief sponsor of legislation which created NASA and established a House Committee on Science and Astronautics. It was my privilege to serve with him on that committee as we set about laying the foundations for what ultimately became this nation's very successful ventures into space.

From Lindy to walking on the moon suggest the size of the frame that encompassed this man's remarkable career. When John McCormack first came to Washington, Herbert Hoover was about to replace Calvin Coolidge in the White House and both houses of the Congress were firmly in the hands of the Republicans. All indications were that this was a situation that could only endure.

Question: What if it had? What would John McCormack's career have been? Would he have remained in the House indefinitely? Or would he, chafing under seemingly perpetual minority status, ultimately decide to run for mayor or governor or the U.S. Senate or, might we be remembering him tonight as Judge McCormack? In my lifetime I have watched scores of Congressional careers turn, for better or for worse, in such directions.

We know that this did not happen to John McCormack. This was not his fate because shortly after he arrived in the House of Representatives a revolution happened and the young Congressman from Massachusetts was quickly caught up in it. His life and the nation's would never be the same.

John McCormack was in Congress for less than 13 months when the stockmarket crashed and the fuse was lit on a political bombshell. The first shock wave was felt in the midterm election of 1930 when the Democrats took control of the House. It was not fully understood at the time but this was the beginning of one of the nation's historic political realignments. With F.D.R. in 1932 the Democratic tide became a tidal wave. The Democrats kept increasing their House seats in each subsequent election. By 1936 the ranks of the Republicans in the House had been reduced to a corporals guard of just 89 members.

Having only eighty-nine Republicans meant one thing: an awful lot of Democrats on the other side of the aisle. Many of these new members never expected to find themselves in Congress. Very few had any legislative experience. Those that did were mostly from the South.

Looking back, it is obvious why John McCormack would at this point in time become one of the small cadre of leaders who would form the power structure in the House for the next generation. McCormack's unique qualifications were abundant. He was an experienced, intelligent, legislator from the North. He came from and had an understanding of big city organization politics. And, on top of all this, he was a good Catholic and a true progressive in a group that was basically Southern, Protestant, and conservative.

In ways that will never be known, John McCormack through all of his years in the House, served as a bridge between the poles that divided the Democrats. It was often a thankless job, one frequently not understood and one which all too often invited criticism of him from all sides. He rode out many a storm. But he loved it. He was a legislator. He knew that compromise is the essense of the legislative process.

In ways large and small, John McCormack helped shape much of the legislation that changed this nation and the world. The legislation that created much of the New Deal, the Fair Deal, the New Frontier, and the Great Society worked their way through the Congress when John McCormack was either the House Majority Leader or its Speaker.

For 30 of his 42 years in Congress, John McCormack was a leader in the House. From 1940 on, except for the 4 years—during the Republican controlled 80th and 83rd Congresses—he served as House Majority Leader. In 1962, he was elected Speaker of the House. McCormack's span of leadership covered the years of World War II; the Marshall Plan; setting up the United Nations. He served through the Cold War with its varying temperatures; Korea and McCarthysim to detente. His hand was on the Congressional tiller as the nation moved through the turbulent waters churned by the Warren court, the Civil Rights movement, and as the nation moved into and began to move out of Vietnam. I submit that any nation that could work its was through that agenda has an element of greatness. And the one national leader who was there helping America work its way through it all was John McCormack. He also had an element of greatness.

It was a greatness that was not always readily apparent. John McCormack's role as a national leader is both underestimated and unappreciated. It is likely to remain that way. The explanation for this contradiction is bound up in a combination of two things: personalities and geography.

John McCormack served in Congress under F.D.R., Truman, Ike, Jack Kennedy, Lyndon Johnson, and Richard Nixon. Whatever the merits or demerits of their respective administrations, all of them were Presidents who knew how to use the "Bully Pulpit" that is the White House and each, in his own way, managed to pretty much dominant events in Washington.

It was also John McCormack's fate to have been Majority Leader in the House during the years when Sam Rayburn was Speaker. Rayburn served longer as Speaker than anyone in history and in the process managed to put his imprint on the job. Speaker Rayburn may not have dominated events in Washington, but he clearly was a dominate force in the House of Representatives for a full generation.

Last, but not least, on the matter of personality was the fact that John McCormack served all but the last two years of his Speakership during the presidencies of John Kennedy and Lyndon Johnson. Both strong personalities. Kennedy was a master of the media and Lyndon was a past master of the legislative process. As a consequence, credit for the much legislative accomplishments of the early and mid-sixties tended to be given to—or grabbed by—the White House. In all candor, this process was enabled by the fact that up on Capitol Hill the leadership was in the hands of two quiet Irishmen, Mike Mansfield on the Senate side and John McCormack in the House. By training and temperament both were deferential gentlemen not given to hogging the spotlight.

And then there was the matter of geography. The reality is that John F. Kennedy and John W. McCormack both happened to come from Massachusetts. In this auditorium and to this audience, I do not have to dwell on the tremendous impact that J.F.K's life and death had, not just on this city and this state, but the entire nation and much of the world. A thousand years from now students and playwrights may still be combing through the ruins of Camelot seeking meaning and purpose and reason for that brief moment in history. They are not likely to be doing the same with the long, productive career of John McCormack. And to all of that I can only recall President Kennedy's sage observation; "Life is not fair."

And mentioning fairness, causes me to remember the criticism that was directed at John McCormack as House Speaker. At the bottom much of that criticism seemed to be that he wasn't Sam Rayburn. And he wasn't! And that he didn't run the House the way Rayburn did. He did not! Nor has anybody. Nor is anybody likely to ever again. Check with Carl Albert and Tip O'Neill to verify this new reality.

Once again a revolution has occurred. The House of Representatives is a dramatically differenct institution than the one in which I served a generation ago. It was then an institution sorely in need of change. It is now an institution that many believe has changed much too much for its own and the nation's good.

Not unlike Pope John the 23rd, John McCormack sensed the need for change in an institution he loved. In 1958, the youner liberal Democratic House members brought into being something we called "The Democratic Study Group". Ostensively the role of the new organization was to inform its members about issues and to study ways by which the House could be made to operate more efficiently. Its founders had other goals in mind and I, for one, am sure that John McCormack sensed what they were. From the beginning, the Democratic Study Group had McCormack's left-handed blessing and during his speakership it more and more became involved in the process of change that has been the hallmark of the House for the last 25 years. Just how involved is demonstrated by the fact that in 1977 Tip O'Neill, one of the charter members of the Study Group, was elected Speaker of the House.

It is fair to say that as Speaker, John McCormack underestimated the momentum for change that was finally unleashed after 20 years of being under Sam Rayburn's tight reign. He was not alone in this regard. When John McCormack became Speaker in 1962, he was seventy-one. A wild decade of sit-ins, demonstrations, riots, and assassinations was about to burst upon us. Men half McCormack's age failed to sense the velocity of the winds of change that were about to sweep through our country and all of its institutions, including the government.

There was one other possible flaw in John McCormack as Speaker of the House. John could be kind, fair, and considerate and that's exactly what he was 99% of the time. But, boy, could John be partisan! Many a time during his 18 years as his party's leader he would go into the well of the House and deliver one of his stem winders, a powerful speech which would not only stem the tide of opposition but roll it back. this was a wonderful ability for a Majority Leader but it may have handicapped him as Speaker.

A final note. One of life's most difficult decisions is knowing when to get off stage. In show business there is always the urge to sing one more song, tell one more joke. In sports it is the temptation to play one more season, fight one more fight. In politics there is always the lure to run for one more term. With the benefit of 20/20 hindsight it might have been better if John McCormack had resisted that lure. In any case, his was a long and distinguished career, his was a lifetime devoted to public service.

Maybe the hardest decision of all is knowing when to end a speech. So let me conclude by confessing that as I look back on my own unplanned and less than distinguished career, the most satisfying years were the ones spent in public service. I am proud to have been part of the Kennedy Administration. I can say the same about my Johnson years. But most of all I am proud of having had the privilege of serving in the U.S. House of Representatives. It was there that I knew John McCormack. I benefited from his friendship and leadership. So did our country.

IMPROVING CHILD SUPPORT ENFORCEMENT

HON. JOHN H. CHAFEE

OF RHODE ISLAND

IN THE SENATE OF THE UNITED STATES

Thursday, December 19, 1985

● Mr. CHAFEE. Mr. President, I am pleased to cosponsor and lend my fullest support to S. 1889, a bill to prevent the discharge of certain child support debts.

This bill represents another long stride toward ensuring that child support obligations are met. By closing a loophole in bankruptcy law which allows some absent parents to escape their financial responsibilities, it caps recent congressional actions to tighten child support enforcement.

Last year, as part of its amendments to Federal bankruptcy law, Congress broadened the category of child support obligations that may not be dismissed in the event of bankruptcy. This change has afforded much-needed protection to many children of absent parents.

Simply through oversight, however, the bankruptcy amendments did not extend this protection to cases in which a child support debt is established through administrative—as opposed to judicial—proceedings.

This bill aims to correct that oversight, thus closing a loophole which seriously undermines child support enforcement.

Sixteen States now use administrative proceedings to establish child support debts. Other States are being encouraged to follow suit, in order to reduce costs and lighten overloaded court schedules.

If we do not adopt this measure, more and more children will be left unprotected as a growing number of States adopt administration process, an efficient and cost-effective means of securing child support. In addition, by allowing this loophole to persist, we will inadvertently deter States from taking this step.

S. 1889 would protect children in all States—even in those that have not yet adopted administrative process. Many such children are covered under the administratively ordered child support arrangements of neighboring States. This bill would ensure that these children as well are provided for in the event of bankruptcy.

Mr. President, Congress last year took a giant step toward better child support in adopting a series of amendments to the Federal child support enforcement program. This bill would cap those efforts by giving administratively ordered child support obligations the same protection that court-ordered obligations now enjoy. For that reason, I urge my colleagues to give this proposal their overwhelming approval.●

TRANSPORTING MILITARY PERSONNEL SAFELY

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. VISCLOSKY. Mr. Speaker, I wish to bring attention to an excellent point made by my colleague from Indiana, ANDREW JACOBS, JR., regarding the need to improve safety in transporting our military personnel. I am submitting an article from the Indianapolis Star in order that my colleagues in the House may consider this fine idea.

[From the Indianapolis Star, Dec. 19, 1985]

Jacobs Urges Military Not to Use Charters

WASHINGTON.—Rep. Andrew Jacobs Jr., D-Ind., proposed Wednesday to Secretary of Defense Caspar Weinberger that loss of life in chartered airline crashes could be avoided if the Air Force were to fly United States military personnel.

Jacobs recalled being a 19-year-old Marine going to Korea in 1951 aboard a privately owned World War II victory ship.

"The contractor made the unjust portion of his profits by virtually feeding the Marines nothing at all for two weeks," Jacobs said.

"That outrage was one of the principal reasons I ran for Congress the first time . . . I thought that if I could go to Congress I might be able to find that contractor. I never did find that contractor, but I believe I heard from his shirt-tail cousin in the crash of the contractor's airplane in Canada and the unnecessary death of our young soldiers," the congressman said.

Jacobs observed that, considering the size of the federal deficit and outlay for defense, the country should have enough military transport places with pilots in need of regular flying time.

"It is quite clear that our own military personnel have major incentives to do proper maintenance on our own military aircraft. It is equally apparent that these fly-by-night contract airlines do not," he said.

"Surely, it is time to adopt a safer policy for our young men in uniform."

ARTHUR SCHLESINGER ANALYZES FUTURE OF THE PHILIPPINES

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. MILLER of California. Mr. Speaker, the continuing deterioration of the Marcos regime in the Philippines offers a textbook example of how U.S. foreign policy strategy repeatedly places this Nation at variance with popular anger toward governments which are vicious toward their own people, while amiable toward Washington.

Past administrations have followed the same sadly mistaken course now pursued by President Reagan toward the Marcos government. This myopia knows no ideological or party limits. In each case, it has pushed America toward an unholy alliance with an unloved dictator whose preeminant attribute is his undiminishable affection for American weaponry and dollars.

The embarrassingly bogus trial of those accused of murdering opposition leader Benigno Aquino demonstrated "justice, Marcos-style." In a few months, in all likelihood, we are going to be treated to "elections, Marcos-style." As the commission which just returned from Manila has reported, there is a slim possibility that the forthcoming elections will afford Filipinos an opportunity to demonstrate their attitude toward the Marcos government. More likely, the election will supply the veneer of democracy that Marcos desperately is seeking to dilute growing condemnations of his rule.

Of course, the elections are flawed by their very nature. If they were truly free and open, they would obviously violate a cardinal axiom of the political absolutism by which Mr. Marcos rules: Never yield power. Respect for that axiom is why Mr. Marcos has declined to vacate the presidential office, as required by the constitution, prior to the election. It is highly unlikely that Mr. Marcos will permit any outcome which threatens to disrupt his authority.

We in the Congress must keep in mind that the election in February will not seriously address the complex problems which are endangering the future of the Philippines as a democratic nation and an important ally of this country. If the growing insurgency of the New Peoples Army represents a threat to those goals, so, too, does the continued stewardship of Marcos. Yet after years of propping him up, there is little the United States can do at this point to change either his policies or the leadership of Philippine politics.

The distinguished historian Arthur Schlesinger, Jr., of the City University of New York, has recently reviewed with his typical astuteness the dilemma which now confronts the United States with respect to the future of the Philippines. I would like to share Professor Schlesinger's insights with my colleagues on this subject, which certainly will be one of the key issues in our own foreign policy in the new year.

[From the Wall Street Journal, Dec. 18, 1985]

Send Marcos Packing

(By Arthur Schlesinger, Jr.)

There is a certain grim irony in the vacillations of the Reagan administration as it confronts the decomposing Marcos regime in the Philippines. Only five years ago during the presidential campaign, Mr. Reagan and his neoconservative intellectuals condemned President Carter for abandoning our great "friends" the shah of Iran and Anastasio Somoza and in consequence "losing" Iran and Nicaragua. The implication was that a stronger president would have pursued tougher policies and that these policies could easily have preserved those wonderful friends of the U.S.

A conservative administration in Washington, the argument ran, would never have undermined pro-American regimes by insistence on human rights, social reforms, a peaceful transition to democratic government and other such sentimental nonsense. It would have given these friends of America unconditional support and would have done whatever was necessary to rescue them. If only there had been a Republican president, the shah and Somoza would still be in power, and their countries would still be in the Western camp.

BY NO MEANS CLEAR

This line of argument raised questions, then and now. Assuming for the moment that it might have been in the national interest of the U.S. to preserve thieving despots in Iran and Nicaragua, it is by no means clear that it lay within U.S. power to do so. Rhetorical assistance will not do it. Mr. Carter tried that, congratulating the shah in 1977 on "the admiration and love which your people give to you" and praising Somoza as late as 1979 for his progress on human rights. Military assistance will not do it. The U.S. sold $19.5 billion in arms to Iran from 1972 to 1979, and Somoza's National Guard never languished from lack of weapons.

We always overrate the capacity of the U.S. to shape the destiny of other countries. The balance of internal forces generally decides the future of nations. If President Carter had never opened his mouth on the subject of human rights, the shah and Somoza would have fallen all the same. It seems most doubtful that any U.S. policy short of military occupation could, have saved them. And one wonders whether it serves long-term American interests for the U.S. to intervene militarily in other countries in order to protect hated regimes against the wrath of their own people.

These questions remain speculative in relation to Iran and Nicaragua. But the Reaganite assumption that there was an easy alternative to the Carter policy now comes to the test in the Philippines. For Ferdinand Marcos is in the same position today that the shah and Somoza were in during the late 1970s. This surely is the time for those brave solutions that, according to neoconservative myth, Mr. Carter so softheadedly rejected a few years back. Instead, one finds the Reagan administration pursuing the same policy toward the Philippines that the Carter administration pursued toward Iran and Nicaragua.

Ronald Regan, like Jimmy Carter, began with an effort to reform a disintegrating regime by fulsome rhetorical blandishment. This is the famous policy of "constructive engagement" with repressive governments. Vice President George Bush declared that he loved President Marcos for his "adherence to democratic principles." President Reagan said in last year's presidential campaign that the choice was between Mr. Marcos and "a large communist movement to take over the Philippines." Mr. Marcos naturally interpreted such tender words not as a signal to change his ways but as a license to intensify his course of domestic plunder and repression.

But the more his men have harassed and murdered political opponents, the more money they have stolen from their country, the stronger the opposition has become. As disintegration continues, the Reagan administration, like the Carter administration before it, is changing its course. Now we are urging on Mr. Marcos the need for human rights, social reform and a peaceful transition to democratic government. Mr. Reagan today is duplicating in the Philippines the policy for which he so righteously denounced Mr. Carter in the cases of Iran and Nicaragua.

He is doing so because he has no more real choice in 1985 than Mr. Carter had in 1979. He is learning now what Mr. Carter learned then: that there is no virtue in tying the U.S. to a despotic regime doomed to collapse. The course of unconditional commitment to unpopular despots is not likely, in the absence of military intervention, to save the despots—and it is quite certain to alienate the inevitable successor regime and in the meantime to strengthen Marxist revolutionaries.

Can reform pressure salvage the situation? The best hope in the Philippines would be the orderly transfer of power to the moderate opposition. So the U.S. is calling on Mr. Marcos, as President Carter called on the shah and Somoza, to do things that, if he carries them out, will destroy the bases of his power. It would be foolish to count on Mr. Marcos to collaborate in bringing about his own downfall. His interest lies not in strengthening the moderate opposition but in destroying it. His hope lies in polarizing the nation so that he can present himself as the only alternative to communist takeover.

Mr. Reagan, like Mr. Carter before him, is impaled on a dilemma. The longer he waits in the vain expectation that Mr. Marcos will voluntarily undertake reforms and relinquish power, the more radicalized the situation will become and the less likely it is that the moderate opposition will inherit. Mr. Carter waited too long in Iran and Nicaragua. The democratic alternative, such as it may have been, melted away, and we were left with Ayatollah Khomeini and the Sandinistas.

But what can we effectively do to help the democratic alternative in the Philippines? Secretary of State George Shultz in London the other day delivered a paean in praise of covert action. By this he meant aid for guerrilla bands in Nicaragua, Angola, Cambodia and Afghanistan. Actually the history of covert action shows that it has had its enduring triumphs when employed for political rather than for military ends—not to kill communists but to support democrats, as in Western Europe in the late 1940s.

There is not much the U.S. can do to control the destiny of the Philippines. The moderate opposition, though it has finally agreed on a ticket in the presidential election, has not shown much unity of purpose so far. But it does enjoy widespread popular support. The U.S. should distance itself even more unequivocally from the Marcos disaster and do what it discreetly can to help democratic Filipinos make a strong showing in the elections that the regime at this very moment is planning to rig against them.

EXPLOITED FAVOR AND AID

I trust we will not be diverted from a realistic course by talk about how much the U.S. "owes" to Mr. Marcos. Talk about sentimentality! Mr. Marcos has never sacrificed his own interests to help the U.S., anymore than the shah and Somoza did before him. Like the shah and Somoza, Mr. Marcos has systematically exploited the favor and aid of the U.S. to amass personal power and wealth. Rep. Stephen Solarz's House Foreign Affairs Subcommittee on Asian and Pacific Affairs is documenting this point in its current hearings. As The Economist crisply puts it: "The only aid (or 'rent for a base') that should be given to people like Mr. Marcos is a one-way ticket to an anti-assassin-guarded holiday resort."

It has taken the Reagan administration a long time to learn the lesson the Carter adminstration learned so painfully about the unprofitability of trying to prop up doomed despots. As the Reagan people begin to learn the lesson in the Philippines, one hopes that they will apply it in other parts of the world.

There is every indication that Gen. Augusto Pinochet in Chile stands today about where Mr. Marcos stood in, say, 1983. Constructive engagement will not reform Gen. Pinochet any more than it did Mr. Marcos. Effusive words will only encourage him in a course of repression. Let us move to divorce the U.S. from the brutal dictator in Chile before the situation is hopelessly radicalized and while there is still time for a democratic alternative to emerge.

THE AMERICAN PEOPLE WILL ALWAYS SUPPORT FREEDOM FOR THOSE WHO ARE OPPRESSED

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. KILDEE. Mr. Speaker, I would like to express my personal outrage over the Government of South Africa's apparent refusal to allow a message of freedom from more than 1,000 citizens of my district into their country.

Several weeks ago, I joined with many of my colleagues in obtaining the signatures of concerned Americans on a letter expressing our outrage over the system of apartheid in South Africa and our dedication to seeking an end to that abhorrent practice. This freedom letter was to be personally delivered to the South African Anglican Bishop Desmond Tutu and the people of South Africa by the Free South Africa Movement. But the South African Government has been unwilling to act on visa requests by anyone who is planning to deliver the freedom letter. Over 50 United States citizens have volunteered to deliver the petitions to South Africa. However, none of them have been able to obtain the required visas to enter the country. Bishop Tutu has now decided to come to the United States to accept the freedom letter petitions in Washington, DC, in front of the South African Embassy on January 8, 1986.

Regardless of how hard the Government of South Africa tries, it will never be able to isolate its immoral policies from the scrutiny of world opinion. The policy of apartheid in South Africa has resulted in unbelievably cruel, repressive, and inhumane acts by the South African Government against the overwhelming majority of the South African people. Such state-perpetrated activity is in direct conflict with the ideals of self determination and personal freedom which we Americans hold dear. The American people will always support freedom for those who are oppressed, including those in South Africa.

GE BRINGS GOOD THINGS, FOR GE, TO LIFE

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. BROWN of California. Mr. Speaker, three events this past week, not at first glance obviously related, reveal the unfair and destructive fiscal policies of the Reagan administration:

General Electric's purchase of RCA;

Congressional passage of the Deficit Control Act of 1985 (the so-called Gramm-Rudman-Hollings bill); and

The House passage of the Tax Reform Act of 1985.

The GE purchase of RCA illustrates in microcosm the unfair fiscal policies of the Reagan administration. Citizens for Tax Justice has found that in the 1981, 1982, and 1983 tax years GE paid no taxes, and in fact received some Federal tax refunds. In 1984 it paid some taxes, but for the 4-year period the Government owed GE $98 in tax refunds. Had GE been taxed at the pre-1981 tax rates it would have paid about $4.5 billion in taxes instead of receiving refunds. By taking advantage of accelerated depreciation rates, purchase of tax losses by other businesses and other tax credits, it was able to accumulate nearly enough cash for the purchase of RCA.

Such tax preferences are unfair both to ordinary taxpayers and to other corporations. Salaried taxpayers, who usually cannot participate in such attractive benefits, have in effect made a direct transfer payment to GE for its RCA purchase—it's unfortunate that they cannot be part owners. Furthermore, other companies such as Whirlpool, a corporation with similar product lines similar to GE, paid 42 percent of its profits in taxes during the same period.

It is not clear that the GE purchase will increase jobs, capital spending for new equipment, or productivity. In fact Citizens for Tax Justice has shown that GE, again contrasted with Whirlpool, invested very little in capital equipment during the 1981-84 period. A merger, of course, will cost jobs over the near term where there is considerable duplication between GE and RCA. The long term remains unclear.

GE's purchase has been made possible because of the Reagan administration's tax cuts of 1981 which permitted the generous depreciation allowances and purchase of "tax losses" from other companies.

These tax benefits combined with greatly increased defense spending (from which GE, a major defense contractor, has benefited) has created record annual Federal budget deficits, more than three times larger than the largest deficits in the Carter administration, and his doubled the total Federal deficit from $1 trillion to $2 trillion in the 5 years of the Reagan administration. To the extent that present taxpayers have not paid for the GE/RCA merger, future taxpayers will have to by paying on the budget deficit.

In turn, record deficits, used to date with destructive effect on domestic programs, have forced on the administration and Congress the need for deficit reduction measures passed this week in the form of the Deficit Control Act. This bill, agreed by all, including most of its supporters, to be bad legislation, is certain to create more chaos in fiscal planning and to provide further excuses to cut many domestic programs. Congress and the administration have spent most of the past year wrangling over budget matters, and the Deficit Control Act seems certain to intensify such debates in the future to the exclusion of consideration of other legislation for the welfare of the country.

Funds for cities, education, scientific research, the Nation's infrastructure, health care, environmental and workplace health protections will be under tremendous budget cutting pressure. We should note where these funds will have gone should the domestic budget cutting occur: for military spending and for tax loopholes such as those of which GE took advantage.

Finally, the above facts indicate the desperate need for legitimate tax reform to correct entrenched unfairness, as well as more recent inequities created by the administration. The House Ways and Means Committee found that 3,000 millionaires paid no taxes in 1984 and half of the largest and most profitable corportions in the country paid no taxes in at least 1 of the last 4 years. The present tax bill which just passed the House is a considerable improvement on the status quo. But whether its virtues will survive Senate consideration remains to be seen. Let us hope the worst loopholes stay closed and some measure of equity, so flagrantly outraged by the tax preferences from which GE profited, is brought into the Tax Code.

Although events of the last week are of greater moment than "Death Valley Days," GE does bring good things, for GE, to life.

MRS. MAYBELL VINCENT, 94-YEAR-OLD TRENTONIAN SEWS, CANS, QUILTS

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. JONES of Tennessee. Mr. Speaker, I rise today to share with my colleagues what I think is an inspiring story. It recently appeared in the Trenton Tennessee Herald Gazette. It is about Mrs. Maybell Vincent. She is 94 years old and she is blind.

Despite her handicaps, she makes aprons, pillowcases, and has quilted eight quilts since the spring of this year. She cans her food, cleans, cooks, and washes herself. I think all of those things are remarkable for a woman of her age and even more remarkable when we consider that she is also blind.

Mrs. Vincent is an excellent example of someone who has determined that she is going to care for herself. She even tells representatives of the Gibson County Department on Aging that there are others that need help more than she does. I want to take this oppportunity to insert in the RECORD the story about Mrs. Vincent and hope that my colleagues will share with me great pride in what this American has accomplished and continues to accomplish.

BLIND SINCE AGE SEVEN—94-YEAR-OLD TRENTONIAN SEWS, CANS, QUILTS

It's an amazing phenomenon that Mrs. Maybell Vincent makes her own clothes on a sewing machine. She makes aprons, pillow cases and has pieced 25 quilt tops and quilted eight quilts since spring of this year. She cans her food, prepares food for the freezer, she cleans, cooks and washes for herself and prefers to hang her clothes on the line rather than using her dryer.

Why is this so unusual? Mrs. Vincent is 94 years old and has been blind since she was seven.

Lana Robinson, social service outreach coordinator for Gibson County Dept. on Aging, said she has visited and assisted Mrs. Vincent on several occasions, offering the department's services. "Mrs. Vincent feels that there are other senior citizens who need the homemaker and nutrition service more than she does," the coordinator said. "Her general health is excellent, and she takes no prescribed medication," she added.

Mrs. Vincent grew up near Birmingham and moved to Trenton in 1961. She has a stepdaughter and a stepson who live in Michigan.

She has traveled extensively and appeared on the Grand Ole Opry several times with the Carter Family. She is a member of the Church of God of Prophecy on Factory St. in Trenton where she attends services regularly.

Mrs. Vincent said she has to keep moving to keep her muscles active, because if she gives up, she woud not last long.

She is truly a remarkable woman.

BITTER HARVEST II: A STATUS REPORT ON THE NEED FOR EMERGENCY ASSISTANCE IN AMERICA

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. SCHEUER. Mr. Speaker, as the business of this session draws to a close and Members of Congress prepare to return to their respective homes for the holidays, we would do well to remember those in our society who are hungry and have an urgent need for nutritional assistance.

Earlier this week, the Food Research and Action Center released a report entitled "Bitter Harvest II: A Status Report on the Need for Emergency Food Assistance in America." This report clearly demonstrates that the number of Americans in need of nutritional assistance has increased under the policies of this Administration. One can only wonder how these individuals will fare under the bitter fruit of Gramm-Rudman in the next few years.

I commend to the attention of my colleagues the Executive Summary of this important report which is printed below along with two articles which appeared in the New York Times and the Baltimore Sun on December 17, 1985.

EXECUTIVE SUMMARY

Bitter Harvest II: A Status Report on the Need for Emergency Food Assistance in America provides an up-to-date look at the demand for emergency food assistance in the United States in 1985.[1] In Bitter Harvest II we have confirmed our earlier research (Bitter Harvest I) that the faces of hunger are varied and the numbers are growing. Emergency food providers tell us that people who come to their agencies most frequently are: families with children, people who have long since "given up looking for work" in communities of high unemployment, recently unemployed people who are experiencing hunger for the first time in their lives.

We received responses from 370 food banks, soup kitchens and emergency food providers in 47 states and the District of Columbia. The respondents are geographically distributed nationwide.[2] Since we were analyzing the status of "emergency food providers;" e.g., food pantries giving out bags or boxes of food on a periodic basis, our findings are based upon the 290 respondents who are in fact emergency food providers. All providers did not answer or complete every question. We have noted the actual number of respondents for each finding. Our primary findings are as follows:

(1) There was an average increase of 17 percent between 1984 and 1985 in the average monthly number of households served by these emergency food providers. 76.3 percent of providers reported that the average monthly number of households served increased from 1984 to 1985, 5.7 percent reported no change in caseload and 18 percent reported a decrease. The average increase in the number of households served per month by each survey participant between 1984 and 1985 was 37.1 (262 respondents). In Bitter Harvest I, in 1984 we found a 21.9 percent increase between 1983 and 1984 from a different group of emergency food providers.

(2) 89.8 percent of the respondents indicated that a significant number of people came for emergency food assistance because Food Stamps and other financial resources that they receive do not provide enough food to last the whole month (285 respondents). We did not ask this question in 1984, hence no comparison is available.

(3) 69 percent of the respondents stated that 50 percent or more of their caseload is made up of families with children (290 respondents). This compares with 61 percent in 1984.

(4) Almost two thirds (63.9 percent) of the emergency food providers responded that private charity cannot meet the current need for food assistance in their communities (277 respondents). This compares with 71 percent in 1984.

(5) 86.0 percent of all respondents received household referrals from Social Service agencies (285 respondents). The reason given for the referral 80.9 percent of the time was that the household was not eligible for expedited (immediate) issuance of Food Stamps. (256 respondents). This compares with 84 percent in 1984.

[From the Baltimore Sun, Dec. 17, 1985]

HUNGER RISING DESPITE DROP IN POVERTY RATE, GROUP SAYS

(By Mark Matthews)

WASHINGTON.—Increasing numbers of Americans are seeking help from emergency food programs despite a drop in the nation's overall poverty rate and stabilized unemployment, a Washington-based advocacy group reports.

The Food Research and Action Center released a survey yesterday showing a 17 percent increase between 1984 and 1985 in the number of people served by emergency food providers.

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[1] All data is for 1984 and first 9 months of 1985.

[2] Respondents are listed by U.S. Department of Agriculture, Food and Nutrition Service Region (I—New England and New York, (II—Mid-Atlantic, (III—Southeast, (IV—Midwest, V—Southwest, VI—Mountain Plains and VII—West).

It attributed to the increase to what it called inadequate food-stamp allotments, rigid eligibility standards for emergency government food aid, a still-high poverty rate among some sections of the population and exhaustion of unemployment benefits among the jobless.

Nearly 70 percent of the food providers said that more than half their caseloads involved families with children, the center said.

"Hunger in America was increasing in 1985," said Michael R. Lemov, executive director of the center, a non-profit research and advocacy group that lobbies for increased government food aid. Even though the number of emergency food outlets appears to be increasing, many report turning people away.

The report, Bitter Harvest II, drew from results of a survey distributed to 1,000 food banks, soup kitchens and emergency-food providers, 370 of whom responded. This group included providers in 47 states and the District of Columbia. Five Maryland groups responded.

The report was based on responses from 290 agencies that are called emergency food providers, meaning those who give out bags or boxes of food on a periodic basis.

The biggest increase between 1984 and 1985 was found in the New York-New England area. The lowest was found in the Southwest.

The survey followed an earlier report. Bitter Harvest I, that showed an increase of 21.9 percent between 1983 and 1984 in the number of people getting emergency food aid. The center said that it did not attach much significance to the slower rate of increase this year over last year.

Mr. Lemov said the latest report showed a continuation of "an alarming trend in malnutrition and hunger in the United States, even in a seemingly good economic year. We fear what will happen if the economy slows or turns downward."

The nation's robust economic growth and surging employment has stabilized the jobless rate at about 7 percent. The improved economy is also reflected in the poverty rate, which made its first major drop last year since 1976.

But with those improvements has also come an increase in two groups with high poverty rates—female-headed households and individuals living alone.

The center blamed the number of families with children seeking emergency food assistance on cuts in the federal food-stamp program. It cited Congressional Budget Office figures showing $7 billion in cuts between fiscal years 1982 and 1985.

"The effect of these cuts has been devastating to low-income families, particularly children, who make up over 50 percent of the food-stamp caseload," the report said.

The new multiyear farm program agreed to over the weekend by House and Senate negotiators calls for a small increase in the program of about $350 million over four years, according to a congressional source familiar with the agreement. Mr. Lemov described this as "an exceedingly modest restoration" of benefits.

No statewide figures have been kept in Maryland on the number of people seeking help from emergency-food programs—nor even of the exact number of such programs that exist—according to Ann Miller, director of the Maryland Food Bank.

Ms. Miller said, however, that volunteers from many of the more than 600 programs served by the Food Bank tell of higher demand this year.

Among them is Dominic Jollie, president of the Carroll County Food Sunday program, which distributes emergency groceries from centers in Westminster, Sykesville and Taneytown. Mr. Jollie said the centers provided food to roughly 115 families a week in 1984; this year, they are serving an average of 150 families a week.

In contrast, the food pantry run by Worcester County Hunger Action on the Eastern Shore has seen a drop in the number of clients this year. Catherine Walston, coordinator of the program, said she isn't sure what to make of the numbers.

[From the New York Times, Dec. 17, 1985]

17% Rise in Demand for Food From Private Groups Found

WASHINGTON, December 16.—A report showing a 17 percent increase in the demand for food provided by private assistance programs was made public today by the Food Research Action Center, a Washington public interest organization.

The report surveyed 290 of 16,000 emergency food providers across the country, including churches and community groups that distribute food to the poor, according to the group's executive director, Michael R. Lemov. The survey did not include soup kitchens and other programs that serve prepared meals to the hungry.

But John W. Bode, Assistant Secretary of Agriculture for Food and Consumer Services, criticized the report as flawed by "deficient methodolcgy and statistical unreliability." He said:

"The survey was not conducted in a scientific manner. Of the 1,000 surveys sent out, 63 percent did not reply."

BIGGEST RISE SEEN IN NORTHEAST

According to the survey, the Northeast showed the highest increase in demand for emergency food, 54.8 percent over 1984 levels, primarily due to increased demand for emergency food in New York City.

"Major segments of the population in New York are being bypassed by the economic recovery," Mr. Lemov said.

The survey reported that the total number of households receiving food from private assistance programs increased to 83,576 households served by 282 providers in 1985 from 71,510 served by 263 food providers in 1984. Over 70 percent of the agencies surveyed reported a limit on the number of people they could serve, and 42.8 percent reported turning people away for lack of food.

Sixty-nine percent of the respondents reported that more than half of the households they served include children, and 89.8 percent indicated that a significant number of people asked for emergency food assistance because their food stamps did not suffice.

FIGURES ON FOOD STAMP USE

Mr. Bode of the Agriculture Department said one out of nine Americans each month received food stamps, totaling approximately $1 billion a month, in addition to free school lunches available to low income children.

"The increased amount of food provided through emergency food outlets indicates an increase in charitable food activities that augment Government assistance," he said.

Congressional conferees working on the farm bill agreed Saturday to increase the amount of money given to the food stamp progam by $350 millon above current levels, over four years, restoring a portion of the $7 billion cut from the program in 1981 and 1982.

The bill now goes to the House and Senate.

MOURNING OUR SOLDIERS AND DEMANDING BETTER AIR SAFETY

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. DYSON. Mr. Speaker, today I rise in memory of the 248 American soldiers who were killed last Thursday, December 12, in a tragic airplane crash in Newfoundland. These soldiers were returning home to their loved ones after spending 6 months as peacekeepers in the volatile Middle East. These men who had served their country when asked, are now dead, perhaps unnecessarily.

Mr. Speaker, these men were flying home in a plane that may not have been safe to fly. The Federal Aviation Agency has stated that the airline involved, Arrow Air, was fined $34,000 earlier this year after failing to meet certain safety standards. I have watched the television news in recent days and listened to a tape recording that one serviceman sent home. I listened in shock and disbelief as this soldier told his family that he hoped he made it home from the Middle East. He was not afraid of dying in his role as a peacekeeper, he feared flying on the airplane because it was in such frightful condition. Today that soldier is dead.

The horror of this crash has left many questions which must now be answered. We do not know if this crash could have been prevented by proper maintenance or if it was due to a mechanical malfunction which was unavoidable. What we do know is that this was not a military aircraft. It was a chartered jet, chartered not by our military command but by the Multinational Force and Observers, an independent, international group which coordinates soldiers in the Sinai Peninsula.

Why was this airline chosen? Why are we risking our soldiers' lives as peacekeepers and then sending them home on the cheapest airline available, regardless of its safety record? Why doesn't our military command take responsibility for the movement of our troops?

Our Defense Department wastes billions of dollars on weapon systems that do not work. We cannot allow the Defense Department to pay for the worthless Sergeant York and other defense disasters by cutting corners in airline safety at the cost of American lives. We must adhere to stringent safety requirements if we are to avoid such air catastrophes in the future. We must review the current regulations and make all necessary changes to insure that the safety of our soldiers who defend world peace is not being compromised for any reason.

Mr. Speaker, this tragedy raises many questions of airline safety in the public sector as well. How many of these dangerous airplanes are currently in use? Are our air travelers risking their lives when they board planes across the country? In this era of airline deregulation, I have serious reservations about the condition of many of the planes we use on a daily basis. I believe that now is the time to reevaluate the aviation rules governing the airlines, both large and small. We must ensure that these rules are enough to insure air safety and we must also ensure that these rules are being followed.

There is nothing we can do for the soldiers of the 101st Airborne who perished last Thursday. Their time on this Earth ended approximately 1 minute and 40 seconds after their plane took to the air. This loss of life is mourned by the families of those involved and by our Nation as a whole. We cannot lessen the pain felt by those who loved these soldiers. We can only remember them as we seek to provide safe air travel in the future. We must not let these deaths go silently past us.

DIARY OF A CANCER PATIENT

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. KEMP. Mr. Speaker, I would like to share with you and our colleagues the diary of a courageous fighter and a good friend, Nathan Perlmutter, director of the Anti-Defamation League of B'nai Brith. Nate started keeping this diary when he discovered that he had cancer last June, and excerpts were published in the New York Times magazine on November 24, 1985. It is these excerpts which follow.

Nate's diary reflects the thoughts and observations of a person who is looking back on his life from a new perspective. He is funny and witty and incisive. He chronicles his reaction, and the reactions of those around him, to the increasingly bad news about his health in the manner of a true scholar, and lets us share his experience.

Best of all, the treatment Nate received was successful, and the growth was arrested. Nate continues to work full tilt at B'nai Brith, and his story should give heart to those who are diagnosed as having cancer, and insight to their loved ones.

Thanks, Nate, for your great example to all of us of courage and dedication to the cause of civil and human rights.

[From the New York Times, Nov. 24, 1985]

DIARY OF A CANCER PATIENT

(Last June, Nathan Perlmutter, national director of the Anti-Defamation League of B'nai B'rith, was told by his family physician, Dr. Elias R. Stoller, that he had lung cancer, a disease that is almost always fatal. For nearly two months he kept a diary, but stopped after X-rays showed the cancer's growth had been arrested. "Maybe the upbeat news relaxed the drama in my head and eased my need for an attentive, unquestioning confidant—my diary," Mr. Perlmutter says. "Maybe though, it was something else. Maybe stunned by the positive biopsy, the sheer act of talking with myself assisted my self-control. And now, 'accustomed' to my cancer, like people who adapt to living by live volcanoes, the drama has ebbed and my fascination with my stranger self too." In his entries, Mr. Perlmutter, author of three books and many articles on social issues, reflects on his medical experiences, his friendships, and his relationship with his wife of 42 years, Ruth, and their children, Nina and Dean.)

(By Nathan Perlmutter)

FRIDAY, JUNE 14, 1985

Yesterday Ellie Stoller told us it was malignant, cancer in the lung, but possibly elsewhere too. So Monday a CAT scan to look around.

Interestingly—at least to me—I'm so cool about it. Is that "strength" or just dumb?

I do have, or briefly had, a problem telling people. I'm so visible in the agency. And for weeks, the cough, the exams, and so they ask and I've been saying, truthfully, I'm taking tests. So now the tests have given an answer. At first I lied, but right away saw I couldn't. It was transparent. So you tell them: malignancy. And that's sticky too. The pity look is heavy.

I've got to start thinking about preparations. Does Ruthie own the bonds, stocks, etc., with me jointly? Do I own them alone? Tax implications? After the CAT and bone scans, maybe it'll wait, maybe it'll need acting on right away. We'll see.

SATURDAY, JUNE 22

So many callers. Touching. Funny how they sort themselves out, and not in predictable ways. Some are truly helpful in their conversation. Some can't handle it themselves. However, they still want to reach out, and the result isn't a good touching. And some you love are in the latter category, and some who are casual friends are in the former.

To go to Beth Israel or to Sloan-Kettering? To race at Garden State or Belmont? But it's not that simple. At Beth Israel, I have Ellie Stoller, and he's all for me on a personal level, all for Ruthie, who in so many ways needs him more than I do. But the Sloan-Kettering plant is better. Go to the man or to the plant. We'll see Monday. Meanwhile, time is pressing—I've got to start the treatment.

I'm not sure I really expected the direct—too definitive—answer I got to my question. I asked Dr. [John C.] Brown how long, on the average, do people at my age with this form of cancer live? And the guy answers me! A year and a half to two years is the average. Some do not live that long, some longer, it depends. It's like some soap opera, only you don't have a dial to turn the station.

From this news, I cabbed to the office to preside over Bob Kohler and Ben Zafrin's retirement party. It went well enough: me funny, talky, again just like the movies and the show-must-go-on script. I don't mean to be sarcastic. If you don't have a show to go on with, what would you do? Cry?

We went to dinner with Kenny and Ann and Harold and Denise after the party. It was nice, but, God, I was tired. Then to bed and no show to perform at, no friends to socialize with, and Ruthie in her own sadness in the den, I was left to myself and a deep sadness. I'm not "afraid." I do feel I've lived a "full life." God knows that in Ruthie and in my job I've had the best; more than most would have if they had it good till 90. But I went to bed sad, woke up several times feeling sad and was sad this morning.

It's good that we're getting so many calls. All day, dozens, repeat calls and new ones. I take few. It's good that Ruthie takes them, because it binds the caller closer to her and shows her the caring for her. She needs and will need it. Among all the good things of my work, the number of people who know me and care about me—whether for myself or for what I represent—is, in human terms, a real treasure. And Ruthie's so straight, and it's plain. Now it's coming back to her in affection and caring.

The last two days I've been sad. Probably predictable as a normal stage. Likely, in time, lightheartedness and depression, bravado and fear will set in. Funny how your uniqueness fades when you realize your reactions are all on graphs that can be predicted. I sure, however, don't feel like a "fighter." I seem resigned to it—with the feeling that I sure as hell don't want to hang on, medicated to senselessness, just to stay "alive." So it's not a feeling of "Why me?" or "I'm too young to die." But I am sad. I'd have to be a dummy to be glad.

TUESDAY, JUNE 25

Now [IN another doctor's opinion] it could be no more than six months. I smiled at my towel this morning. One with a small hole in it, and I've been waiting to make rags of it. Now it's going to outlast me. I will, however, return the N.Y.R.A. [New York Racing Association] form for check-cashing privileges at the track. These may be the longest odds I've played.

The calls are so good. Me who never was comfortable with expressions of warmth too plainly said, and now I am so moved. It's nice. Real nice.

WEDNESDAY, JUNE 26

Likely will have a bed tomorrow. Sloan-Kettering requires pajamas. I haven't worn pajamas in 50 years. Ah, modesty. I read the release. I can take traditional treatment or, being an advanced case of a malignant tumor, I can take experimental treatment. Sign here, guinea pig.

That's not fair. A big reason for choosing Sloan-Kettering is that it's experimental. Still, why are the warnings of side effects more resonant than the prospect of recovery? Because I really don't feel I'm going to recover?

"Advanced." How'd I get "advanced" so quickly? Two weeks ago, they concluded it was a tumor. For months, the doctors were 95 percent sure it was a pneumonia, and suddenly, so mind-bogglingly quick, I'm an advanced cancer statistic. It's so hard to grasp. Still, no anger, no "why me?" no fear (except of the side effects of chemotherapy), but sadness and wonder at how quickly such a storm forms, how quickly life darkens.

You're supposed to see your life go by at times like this. What did I do with mine? Funny, as my mind is smiling, what I feel I've accomplished. I married the prettiest girl. I made it to Marine infantry officer, wrote a few books and became director of the A.D.L.—my hill. What's amusing about it is that these are elemental, rawly physical achievements I think of, rather than accomplishments of the mind. I married Ruthie, and that's hardly an intellectual achievement. A million kids have become marines. That's hardly being a von Clausewitz, and besides I didn't even see action. The books? One was on horse racing!

It's not the "contributions" I'm pleased with as much as just having done them. I take pleasure in simply having made it to the top, simply having written the books and articles, simply having passed the Parris Island and Quantico tests, simply being Ruthie's husband. Well, I never claimed to be an intellectual or a do-gooder.

THURSDAY, JUNE 27

And so the call, early this morning. Check-in time 12:15 P.M. I was going to go to the office with my overnight bag, stayed home instead. I feel that I'm on a ship, waiting to wade ashore and engage in battle. Battle? Yes. The chemotherapy scares me, and somehow the cancer (the Japanese?) is holed up in bunkers. . . . My point is that I'm waiting, like on a ship, feeling somehow suspended but hollow-bellied and nervously anticipating.

Yesterday's call from Abner was a good bracer. His telling me of Phoebe's having taken chemotherapy for four years strengthened me. She was loaded with dignity and displayed courage you had to be drawn to. His reminding me of her gave me a role model—for dignity and for bravery. Good friend.

SATURDAY, JUNE 29

And so I am landed—in Sloan-Kettering. Is it 24 hours now? I'm not sure. Eventful. The biopsy of lymph node is positive. Then I couldn't urinate. So I have a contraption connected to my penis and bladder. If I can't go when it's disconnected, then more surgery—prostate. That would put chemotherapy on a back burner.

I never did put much hope in the lymph node being clean. It would've been nice, but more than half believed it to be cancerous, too. I keep thinking you can't lose them all—and keep losing.

Such pleasurable luck in a roommate. Kossover is straight, intelligent, a Williamsburg boy and easily the best medicine I've had here.

I was feeling much better before I checked in than I do now or since I checked in—and it's all been preliminaries, without "chemo" having even begun.

MONDAY, JULY 1

Why am I keeping this diary? Is it the conceit or, more accurately, the ego of even a doomed man to be planning on being published? It likely is more this ego than any new insight for society. It amuses me. Like a sick woman who wants to look pretty for visitors, old cancerous me is writing not for posterity but for possible posthumous publication.

And these selections. Got to be careful. No cliches—self-pitying or macho. Also have to avoid making it an accounting of anatomical tsoris (Let me tell you about my prostate. Oh, do I have a prostate!). So you try to pick items you think will be of interest to those interested in you. And you hope you'll come through candidly, insightfully, real. Hoo, ha.

MONDAY, JULY 8

Been a long time, diary. Nothing personal. Just didn't feel like it. Seems less important than it did when we started meeting this way. But it's time now, I'm waiting to start, at long last, the chemotherapy. Signed away today all rights to complain later. I'm an advanced case (you only just told me!), and no guarantees—it's experimental. Fair enough, but please be gentle.

So what's happened since last we met? I forget. Had I told you I had a second operation? Prostate. It seems successful.

One day was memorable. When they took the catheter out following the lymph-node operation, I could urinate. I was elated, manic almost. Look, Ma, I can go by myself. And then that night, the bottom, the dark, deep bottom—couldn't urinate. Back again with the catheter.

But that's all over with, and now the main attraction: Cancer attacks Nate Perlmutter. Perlmutter fights back. We'll watch with interest, as they say.

What has been extraordinary has been Dean and Nina. We've not had our kids together forever it seems, and they're such good people—and wise. No surprise with Nina. She always was the steady girl scout. But Dean. Fantastic change. And what a warm comfort to know that Ruthie will have them.

MONDAY, JULY 15

Well, progress of sorts. I'm an outpatient now. Even in the cancer ward, as in the bakery, I had to take a number and waited to be called to get treatment.

In the obituary pages, which—surprise, surprise—I've been reading closer, 62 is a young age. Here in my bakery line, I seem to be older than the average.

So when I'm called, I have to remember what to tell Dr. [David P.] Kelsen:

(1) Gained back 8 of the 10 pounds I lost.
(2) Excellent appetite.
(3) Wall-climbing itch in my rectum.
(4) Light beard.

Coming back to work has been so interesting. Touching, more accurately.

WEDNESDAY, JULY 17

It wasn't a good day emotionally. It started with philosophical smiling and ended with my first cry. (Well, I've choked up several times, not in sadness but in affectionate response to expressions of love.) And what was the big deal?

Monday, the doctor told me I would be bald in two weeks. O.K., no tragedy. By yesterday, it began to sink in that although I'm prepared to play Yul Brynner, people coming into my office, seeing me bald, are going to well up with emotion. Who needs those kinds of heavy feelings? So we decided—to save friends embarrassment and my having to comfort them—I would get a toupee.

Today, Ruthie and I went to a wig impresario, a character right down to being Hungarian. I was fitted for a wig, and what started so casually. . . .

It was the ludicrousness of me in the mirror that I found so humiliating, even debasing. I looked like some Beatle or a Three Stooges character. I tried to be casual in saying I'm 62 and I didn't have such a thick mop of hair when I was 22. The woman kept assuring me to wait till they shaped it. Just waiting, and the mirror more than testifying to her bull—my image laughing at me—was heavy going. She finally saw that I was upset and, to her credit, backed off. Backed off? Sold me a $1,500 wig in place of the $325 she was trying to palm off on me.

So why talk about it in the diary? I've felt sadness and spoken of it. I've felt love, oh such love and gratitude, for Ruthie and the kids and for so many friends, more than I realized I had, and I've noted that, too. But humiliation is new to me. I looked and felt like a crazy, a clown. I've grown accustomed to my bald spot; I've grown accustomed to my thinning hair; I've grown accustomed, I suppose, to me—with my hair, my bowed legs, my paunch. They're all authentically, if imperfectly, me.

But the mop of hair—thick like an 18-year-old's or an overly virile gorilla's—was a mockery of me. It was there to avoid causing others embarrassment, and I would end up humiliating myself. If it hadn't been for Ruthie's sensing it all and acting accordingly, I might well have cried there, rather than later at home. But now that has been experienced and over with. I walked a mile today, and that has to be a good sign.

FRIDAY, JULY 19

I have the impression that these entries have all been about mundane things. A wig, operations, urinating. Curious. Here you are with one doctor saying you have six months, another a year and a half, and you really occupy yourself doing business as usual. I don't recall that I've pondered "the meaning of life," vowed saintly behavior in the time left me, etc. Inasmuch as I'm "honestly" revealing my thoughts (Isn't there something in law about a dying man's testimony being considered true?), is it that the mundane—the bladder and urination—occupies us more than questions of The Meaning of Life, Truth, The Hereafter? Maybe it's just a reflection of me. Maybe I'm dying. We'll see.

In any event, I'll ask Dr. Kelsen Monday about the odds on my going into remission.

SUNDAY, JULY 21

Yesterday drove to East Hampton and partied with the Bialkins. Today lunched with Kenny and Ann and the Wiesels and drove back to New York. I sure as hell don't feel like a dying man.

Nina's letter arrived with tape re how to have the right frame of mind—I'll not play it. No particular principle involved, just not interested. My frame of mind seems to surprise people. I'm naturally not a moper. It's just inherently me, like the color of my eyes.

Interesting the way some skirt the word cancer and others offer the experiences of friends who had cancer (I suppose to subtly let me know their friends are alive). I find it quite easy to talk about it, but at times, when the conversations follow one another too closely, I get bored.

Something I haven't been confronting: Dr. Kelsen had said that in six to eight weeks we'd know if the chemotherapy had arrested the cancer's growth. That's like setting a date for sentencing. Two weeks ago when he said it, six to eight weeks was a long way off. Now it's a month off. What if the cancer has grown? Will I be as strong emotionally as I feel I have been? Or is my "strength" just me thinking, really, this isn't happening to me—I'm just witnessing it as an observer. If it is still growing, do we change the chemo? The doctor? The hospital? I drove both ways to East Hampton this weekend, I'm scribbling these notes now. I'm on top of my office work. . . . I really don't believe I'm dying.

THURSDAY, JULY 25

I have to push myself to enter these diary notes. Loss of interest? Boredom? The germinating thought that it is another conceit of another dying man?

Am I dying? I mean, soon? Saw in yesterday's Washington Post that only 12 of 100 lung-cancer patients live longer than five years after being diagnosed. Doesn't leave me much time to go over the scrapbooks I've been saving for retirement—all those accounts of wins (and losses), press clips and pictures of Ruthie's Native.

[For a few years, Mr. and Mrs. Perlmutter raced thoroughbreds; Ruthie's Native won the 1977 Florida Derby.]

I'm tired today, and it's early morning as I write. Must be the chemotherapy's effect on

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my red corpuscles, which carry oxygen. If they're out of whack because of the chemo, it would account for this enervation. Also, dear diary, my rectum still itches.

FRIDAY, JULY 26

I'm not sure but that I'm not beginning to "play on" this cancer thing. David [a colleague] asked me at lunch what chemicals I was getting. I explained, vindesine and carboplatin, and threw in that I wasn't being charged. Why? I signed up as a guinea pig. But why? Traditional chemotherapy wouldn't, the doctors feel, be as good a bet.

Boom, boom, boom. All the heavy implications of the dying man making a desperate stab at magical potions. I really don't think I did it to get pity—more likely to seem heroic. That's interesting. I mean the odds do say I'm not a good bet for making advance paid reservations. And I show off about being on experimental drugs. We don't much change, do we, even in these circumstances? Mamma used to say the older we get, the more we get like what we are. I wouldn't have thought that it was true down to the wire. What on earth is the big deal in impressing people with your medication and its desperation prescription? The pleasure of attention, the habit of subtly showing off—see how brave I am no matter the overwhelming odds, no matter the life-and-death stakes? Cue the soft and schmaltzy music.

SATURDAY, JULY 27

I looked long at Ruthie today, and she looked sad. I felt so bad for what I'm doing to her. She's having it tougher than me in some real ways.

I look at my shoes. The top of one of the browns is beginning to crack. Do I postpone buying new ones? I mean why spend $70 for shoes that may outlive me? Cheapo.

Now to watch the Mets-Astro game. That's interesting to me. I keep reading The Times, keep caring about the Mets and Yanks, keep caring about the office and the people there. Death, or the contemplation of it, is much heavier for the young.

Just a second, 62 ain't all that old. Mature enough though to not go into a tailspin and to still care about the Mets and the news of the day.

SUNDAY, JULY 28

Sunday, and I took walks. It's good to get out of the house. The sense of being an invalid feeds on itself when you sit and sleep, sit an sleep. Being outside, like being with people, takes you out of yourself—and when yourself is in this shape, that's good.

I note something interesting in my response to people I pass in the street. At the beginning of knowing I had cancer, when I passed young people, I felt smilingly kind toward them—youth, innocence, that kind of thing—and I quietly wished them well. I still do, but now I'm conscious of people older than I. I indulge in what it has to be called—self-pity. "They're that old, and I'll likely not make it" stuff. I'm not really resentful, just mildly self-pitying.

I'm also conscious that I've been reading the obits closer than ever before. Looking for the deceased's age and if he, she, died of cancer? Lung cancer? Sloan-Kettering? Long illness? Short illness?

MONDAY, JULY 29

Well, we're in a stretch of sorts. Monday, a week from this afternoon's therapy, I get the full treatment. The X-ray will tell us whether the tumor is growing still, stopped growing or in remission. Countdown week.

Got the calendar of treatments through August today, structured around our Maine vacation. It'll make a difference in Maine what the pictures show on Monday.

I feel good. Walked home from the hospital, 17 blocks. But on the other hand, the cough is worse. I'll not be devastated if the picture is bad news. I hate the thought, but I can't fall apart. I have to be strong for Ruthie, for the kids who have been such beautiful discoveries for us. Hell, got to be strong for me, too. If it's bad, we'll have to try a new protocol.

THURSDAY, AUG. 1

I suppose it was comical. At least, I sure hope that in retrospect it will seem that way. But I was furious. Ruthie even wondered how sick could I really be if I had the strength to be so angry.

Dr. Kelsen finally referred me for an examination with a rectum and colon specialist. Before seeing this guy, you may not eat dinner the preceding night and you have to take a strong laxative and you have to take an enema. I go to sleep starving. Next morning, no breakfast and another enema. I'm ravenously hungry, and added to the chemotherapy's effect on my red corpuscles, I'm faint.

Finally the appointed hour, 1:15 P.M. By 1:30, the doctor makes his grand entrance, tells me to undress from the waist down and that he'll be right back. Forty-five minutes later he still hasn't returned. For 45 minutes, I'm standing around like a half-dressed baboon, shirt, bow tie on and everything else taking the breeze. Twenty-five hours of no eating, and this strutting pomposity disappears. His nurse doesn't know what happened to him; his secretary doesn't either; he doesn't answer pages.

We left. More accurately, I stormed out.

He might have been called on an emergency, but if he wasn't callous to dependent patients, if he wasn't indifferent to the dehumanizing effects of nakedness waiting for word — more cancer?—more surgery? — if he wasn't indifferent to my aching hunger, he would have told someone, "Look, I've run into an emergency call."

This morning, I wrote him a letter — I laid on him what was on my heart, copy to Sloan-Kettering's president. Ninety-nine percent of the time, after a night's sleep, you don't write "Dear Sir: you cur" letters. This was the 1 percent. In some measure, it was self-pity; in larger measure, virtuous indignation.

Now I have to get another doctor, more not eating, more enemas and let's hope, not more cancer.

Countdown: three more days to Monday and the new X-rays for comparing with the old.

SUNDAY, AUG 4

I'll say this for cancer. It gives you time to arrange your life, gives Ruthie and the kids time in which to adjust to the possibilities, not like getting hit by a car or a heart attack. How lucky can you get!

Tomorrow, D-Day, verdict. Sentencing? Reprieve? What?

MONDAY, AUG 5

Good news. Not great news, but still good news. The cancer did not grow. Didn't recede but didn't grow. First good news on the cancer we've had.

Why do I say "not great news?" Of course, it's great news?" It could have easily been terrible news. And so two cheers for Dr. Kelsen, two cheers for carboplatin and for vindesine. And three cheers for Ruthie, the kids, all the caring people who've cheered me and prayed for me. And now, let's go to work on the next month's chemotherapy—and, yes, don't be embarrassed, to thinking positively.

POSTSCRIPT

X-rays taken of Mr. Perimutter this month continue to show no additional tumor growth.

THE SEEP RIDGE PROJECT

HON. JAKE GARN

OF UTAH

IN THE SENATE OF THE UNITED STATES

Thursday, December 19, 1985

● Mr. GARN. Mr. President, before members of this Congress leave to go home for Christmas, I want to outline for my colleagues the way in which the overzealous and misguided efforts of some Members of the Congress have raised new questions about the credibility of the U.S. Government and its ability to keep its word.

Five years ago, when the Congress reacted to the energy crises by creating the U.S. Synthetic Fuels Corporation [SFC], SFC was supposed to be the answer to our energy problems through a process of open solicitations of private sector synthetic fuel technologies on a commercial scale. Since that time however, several things have happened to dash the hopes of a credible synthetic fuels industry in the United States. First, until this year, the SFC failed miserably to take the initiative and move forward with a clear plan of intentions for the development of synthetic fuels. Second, the declining price of oil made the economic viability of the several projects which it considered, very unattractive. Those projects died. But, some projects, like the Geokinetics/Peter Kiewit Seep Ridge oil shale project weathered all of this and still moved forward with a very credible project proposal. The Seep Ridge project sponsors invested over $4 million over a period of 3 years in an effort to meet the stringent SFC requirements. On September 19, 1985, the department of the Treasury responded to SFC's announced intention to move forward with Seep Ridge and certified that sufficient unencumbered appropriations were available for SFC to go forward and approve the project.

I should point out, that throughout the discussion of SFC, opponents have claimed that killing the Corporation will somehow help reduce this year's budget. This simply isn't so. The fact is that in the case of Seep Ridge, we are talking about $184 million in a combination of loan and price guarantees. Any expense to the Government would come after the project was constructed to pay the difference between the market price at that time and the guaranteed price, assuming the market price continued to be lower. The loan guarantees would only be paid if the project defaulted. So, I hope it is clear that no money has been saved in this budget year and probably none saved for several years until the price guaranteed are utilized.

Unfortunately, on September 17, 1985, the Tenth Circuit Court of Appeals in Denver, CO, overturned a lower court judge and held that the late 19th century boundaries of the Ute Indian Reservation were in fact, still valid. The effect of this decision was to triple the size of the modern Indian Reservation boundary, and call into question, the title to State, Federal, and private lands within the reservation. Included within that boundary are the State leases for oil shale held by the Seep Ridge Project.

The Department of the Interior after 2 months of investigation concluded that the leases in question were still valid State leases and that the SFC need not be concerned that its investment would be in question. That problem resolved, the SFC in November of this year announced its intention to consider the Seep Ridge project for approval on December 17, 1985, during a regularly scheduled board meeting.

With that, the people of the Uinta basin in Utah finally thought they would receive their long-awaited oil shale project. They thought the new roads and schools they had built in anticipation of this development would be worth the investment their community planners had made.

Mr. President, Utah did more than any other State to encourage development of this kind because we believed the Federal Government would keep its word and support projects that met the requirements. Certainly, the sponsors of the Seep Ridge project thought the U.S. Government would keep its word or they would not have risked over $4 million of their own money.

Sadly, they were wrong.

On December 12, 1985, OMB Director James Miller sent to the Congress a letter specifying that the administration would no longer support any activity by the Synthetic Fuels Corporation. This action sparked an almost lynch-mob atmosphere in the Congress which resulted in legislative actions which had the effect of undermining commitments the Government had previously made and to pull the rug out from under the SFC.

Portraying the regularly scheduled meeting of the Synfuels board as an 11th-hour attempt to raid the Treasury by approving projects in the final days of the board's existence, House members secured the passage of an amendment to the continuing appropriations resolution adopted on Monday of this week. That amendment prohibited the board from acting on any projects during the life of that resolution.

Naturally, the board cancelled its scheduled meeting, in the face of that mandate, which was also accepted by Senate conferees.

At that point, several of my western State colleagues and I began an effort to reverse what was, in fact, the real 11th-hour move: The OMB letter and the related action on the continuing appropriations legislation. We stressed to the administration and to our colleagues that these actions were a violation of good-faith efforts to close down the Synfuels Corporation in an orderly manner, as had been previously agreed to by the administration. In addition, we pointed out the inequity of denying due process to the projects under consideration by the Board, which were not dreamed up overnight to raid the Treasury, as has been suggested, but had been carefully considered and brought to the threshold of approval, as I have described in the case of the Seep Ridge project.

The administration recognized the value of its prior commitments, and eventually stated that fact in a follow-up letter to the Appropriations Committee chairman of both bodies. Unfortunately, due to questionable and, I believe, deliberate, delays in the Office of Management and Budget, that statement came as too little, too late. The damage had been done by Members in the House and Senate who refused to listen to the merits of Seep Ridge in their frenzy to attack the Synfuels Corporation. Certain House Members literally resorted to threats and intimidation of Synfuels Board members, when they thought a loophole had been found in the restrictive language adopted by the Congress, with regard to the expiration date of that language.

Mr. President, several of these Members even recognized that they were doing an injustice to the Seep Ridge project. They called me personally to apologize, but to say that they felt they had no alternative but to attack the whole process, without regard to the merits of an individual situation. And without regard to what their action would mean about the credibility of the Federal Government.

This situation is deplorable; it is unconscionable, and should not be allowed to have the effect of destroying the hopes and plans of people who answered the call of their Government, at a time of crisis with respect to the availability of oil products, and invested their time, talents and millions of dollars, only to see the train leaving the station as they stepped onto the platform.

I will not let this matter rest here. There is nothing that can be done, now, to allow the Seep Ridge project to be approved by the Synfuels Board, short of asking the President to delay signing the new continuing resolution until after the present one expires and the Board can meet. But that would be roundly denounced as some sort of skullduggery and would raise again the spectre of the Government operating for a day without appropriations.

But I believe strongly that the honor and integrity of the U.S. Government is tarnished by this series of events. I will do everything I can to right the wrong that has been committed. And I will ask those who committed it, who have admitted to me their personal regret for the outcome for Seep Ridge, to join me in finding a way, through some other program, to demonstrate that the Federal Government can be counted on to keep its word.●

GILMAN LEGISLATION TO REINSTATE BURIAL BENEFITS FOR VETERANS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. GILMAN. Mr. Speaker, I would like to call my colleagues' attention to H.R. 3926, the Veterans' Burial Benefits Act of 1985, legislation which I have recently introduced, extending and improving the funeral benefits currently provided to our deserving veterans.

Prior to 1981, section 902 of title 38 of the United States Code provided for a burial allowance of up to $300 in all cases where a veteran died: First, of service-connected disability; second, who was a veteran of any war; third, who was discharged for a disability incurred or aggravated in the line of duty; or fourth, who was in receipt of—or but for the receipt of retirement pay would have been entitled to—disability compensation. The Omnibus Reconciliation Act of 1981 (P.L. 97–35), however, severely limited eligibility for the $300 burial benefit to veterans who at the time of death "were in receipt of compensation—or but for receipt of retirement pay would have been entitled to compensation—or in receipt of pension, or who die in a VA hospital or facility."

My legislation: First, restores the pre-1981 eligibility for veterans for the purposes of receiving funeral benefits; second, increases the amount of those benefits from $300 to $400; and, third, increases the plot allowance from $150 to $250. It is my sincere hope that this legislation will help our veterans and their families defray a portion of today's escalating funeral costs, easing the added financial burden that so many of these families find themselves facing. It seems only right that we reinstate these benefits and meet the obligation that we made to these veterans at the time of their commission into the service of their country, to provide them with reasonable compensation for their funeral costs. Veterans have been dealt a severe injustice; an injustice that is within the power of this body to rectify.

Since 1981 countless veterans have been denied a proper burial. Current law does

not extend funeral benefits to our most impoverished veterans, only those veterans who at the time of their death were receiving disability compensation or retirement pay are eligible for the benefits. There is no safety net for the poor and working poor who die without insurance.

When testifying on behalf of the American Legion before the House and Senate Committees on Veterans' Affairs, Robert E. Lyngh best expressed the indignance of the veterans community when he stated:

> The reduction [of the burial benefit] placed an economic value on a benefit that was freely given by Congress to insure that all veterans would be buried with dignity and respect, regardless of their income or social standing at time of death. The present restrictions violate the Legion's long-held principle of equal benefits for equal service.

It is important to bear in mind that the average cost for a funeral, not including a casket, headstone, or grave, is $1,980. While State and local governments sometimes provide funds for indigent funerals, this by no means covers all of our veterans and is not a viable option for the families of many of our veterans.

The death of a loved one is always a difficult, trying time. Whether that individual suffered from a long, lingering illness or was taken suddenly, it is very difficult for families to prepare emotionally and financially for such a loss. By reinstating the eligibility for funeral benefits, and increasing that allowance from $300 to $400 to reflect current costs, we would be meeting our obligation and be alleviating, in part, some of the burden being felt by the families of veterans. The increase in the burial allowance from $150 to $250 is necessary and long-overdue.

Following is the text of H.R. 3926, "the Veterans' Burial Benefits Act of 1985" which I commend to my colleagues' attention and which I hope that they will share with the veterans groups in their congressional district. I invite the support of my colleagues of this important legislation.

H.R. 3926

A bill to amend title 38, United States Code, to extend eligibility for burial allowance to certain additional veterans and to increase the burial plot allowance for veterans from $150 to $250

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans' Burial Benefits Act of 1985".

SEC. 2. ELIGIBILITY FOR BURIAL ALLOWANCE.

Subsection (a) of section 902 of title 38, United States Code, is amended to read as follows:

"(a) Where a veteran dies—

"(1) of a service-connected disability; or

"(2) who was—

"(A) a veteran of any war;

"(B) discharged from the active military, naval, or air service for a disability incurred or aggravated in line of duty; or

"(C) in receipt of (or but for the receipt of retirement pay would have been entitled to) disability compensation;

the Administrator, in the Administrator's discretion, having due regard to the circumstances in each case, may pay a sum not exceeding $400 to such person as the Administrator prescribes to cover the burial and funeral expenses of the deceased veteran and the expense of preparing the body and transporting it to the place of burial. For the purpose of this subsection, the term "veteran" includes a person who died during a period deemed to be active military, naval, or air service under section 106(c) of this title.".

SEC. 3. INCREASE IN THE BURIAL PLOT ALLOWANCE.

Paragraphs (1) and (2) of section 903(b) of title 38, United States Code, are amended by striking out "$150" each place it appears and inserting in lieu thereof "$250".

BILL NELSON'S SPACE SHUTTLE

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. BONKER. Mr. Speaker, on January 4, 1986, our colleague, Representative BILL NELSON of Florida, will be orbiting our planet on the space shuttle *Columbia*. He is uniquely qualified to be the first House Member astronaut because of his position as chairman of the Subcommittee on Space Science and Applications. Appropriately enough, BILL NELSON also represents Florida's 11th Congressional District, location of the Kennedy Space Center, so he has spent much of his life in the shadow of the launching pad.

The space shuttle is destined for a 5-day mission during which BILL NELSON will participate in a total of 12 experiments, some unique in the history of the American Space Program.

First, BILL will attempt to grow protein crystals in space for the Cancer Research Program at the University of Alabama at Birmingham. Protein crystallography is an important technique in determining protein structure and function, knowledge which may enable scientists to understand the causes of molecular malfunctioning which can lead to cancer and other diseases. Growing crystals in a gravity-free environment should produce larger crystals with fewer imperfections, characteristics that are helpful to researchers using x-ray diffraction equipment. BILL will be expanding on techniques developed during earlier missions as he attempts to grow 40 protein crystals that can survive reentry and landing.

In another experiment, which has never been performed by the American Space Program, BILL will be given a medical stress test in space. He will be wired to sensors on his chest for an EKG reading which will be sent to Houston via a data link on the TDRSS satellite. BILL will increase his heart rate to 70 percent of its maximum rate by running on a treadmill aboard the shuttle. Medical researchers have already observed that space flight causes occasional abnormal heartbeats during both rest and the exertion of space walking. They hope to determine reasons for this phenomenon by monitoring Mr. NELSON'S heart. BILL was instrumental in developing this experiment after a recent trip to the Space Medicine Institute in Moscow where he learned that the Soviet cosmonauts presently in orbit take a stress test every 10 days to monitor their heart condition.

In another first experiment, BILL will monitor his blood pressure during space flight. To do this, he will listen to his jugular vein blood flows with a listening Doppler device and will interrupt blood flow by blowing into a pressure gauge. Using this technique, researchers have been able to measure the central venous pressure.

Our colleague will also participate in a number of experiments to monitor the human physiological response to zero gravity. In one experiment, Mr. NELSON will measure the circumference of his legs to determine the microgravity effect which causes bodily fluids to move out of the legs and into the upper torso. Mr. NELSON will also be monitored to determine how quickly he adjusts to and recovers from a lack of bodily signals which are dependent on gravity and give us our sense of vertical and horizontal planes.

Finally, BILL will monitor an experiment designed to find an explanation for the rapid deterioration of human blood. Deterioration of blood is thought to be caused by numerous factors including cell damage from the Earth's gravitational pull which brings heavier elements of the blood to the bottom of blood storage bags. By putting blood in space, researchers can eliminate the effects of gravity, enabling them to determine other important factors in the deterioration of blood. A total of 42 tests will be done on the blood samples immediately after the *Columbia* lands.

I know my colleagues in the House join me in wishing BILL NELSON and his fellow astronauts a successful and safe flight on the space shuttle *Columbia*.

CONGRESSMAN GILMAN INTRODUCES LEGISLATION TO IMPROVE HOME HEALTH CARE FOR OUR ELDERLY VETERANS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. GILMAN. Mr. Speaker, as our population ages, we, as a Congress, and as a nation, will have to find ways to improve the delivery of health care. One health care option that has become increasingly attractive over the past few years has been home health care. In that regard, I have recently joined my colleagues in the Senate, Senators HEINZ and SPECTER, in introducing legislation, H.R. 3927, the Elderly Veterans Care Act, to insure that our veterans will be able to receive health care in their homes.

H.R. 3927 will allow our older, chronically ill veterans to take a credit against their taxes for the expenses they and their families incur in providing home-based health care. My legislation covers respite care, nursing care, adult day care, home health aides, and medical or health related equipment and supplies. Similar to the dependent care tax credit as mandated under the Economic Recovery Act of 1981, credit amounts under H.R. 3927 are determined by a sliding scale based on annual income. In accordance with this formula, the families most in need receive the greatest relief and home health care becomes more equally accessible.

Under H.R. 3927, families with $10,000 or less in income receive a credit for 30 percent of their home-health care expenses, up to a maximum of $1,050. The maximum amount of the credit is gradually reduced for families with income in excess of $10,000. Families with adjusted gross income of over $50,000 are not eligible for a credit under my bill. Low-income families who do not pay enough taxes to reap the full benefit of the credit, would have any unused credit refunded directly to them.

Mr. Speaker, numerous studies have shown us that home health care is not only cost-effective, but patients receiving care in their homes are happier and in that regard, healthier. As we see our veterans' hospitals and other health facilities strain under this Nation's increasing health care needs, it is important that we continue to explore and utilize viable options for providing these services. By providing our veterans a tax credit for home health care, these deserving individuals who so bravely served our country will be able to choose the type of health care service which best suits their particular needs.

Accordingly, I urge my colleagues to join in sponsoring this important health care initiative. Following is a copy of the Elderly Veterans Care Act which I commend to my colleagues' attention:

H.R. 3927

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Elderly Veterans Care Act of 1985".

SEC. 2. CREDIT FOR CARE OF ELDERLY VETERANS.

(a) In General.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to refundable credits allowable against tax) is amended by inserting after section 34 the following new section:

"SEC. 34A. EXPENSES FOR CARE OF ELDERLY VETERAN.

"(a) Allowance of Credit.—

"(1) In general.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the applicable percentage of qualified elderly care expenses paid by such individual for the care of a qualifying veteran during the taxable year.

"(2) Applicable percentage defined.—For purposes of paragraph (1), the term 'applicable percentage' means 30 percent reduced (but not below 20 percent) by 1 percentage point for each $2,000 (or fraction thereof) by which the adjusted gross income of the taxpayer (and the spouse of the taxpayer in the case of a married individual filing a separate return) for the taxable year exceeds $10,000.

"(b) Limitations.—For purposes of this section—

"(1) Limit on income of taxpayer.—No credit shall be allowable under subsection (a) for a taxpayer with an adjusted gross income of $50,000 or more for the taxable year ($25,000 or more in the case of a married individual filing a separate return).

"(2) Dollar limitations on amount of credit.—

"(A) Maximum qualified elderly care expenses taken into account.—The amount of qualified elderly care expenses taken into account under subsection (a) by any taxpayer for any taxable year shall not exceed $7,000 and not more than $3,500 of qualified elderly care expenses may be taken into account with respect to any qualifying veteran.

"(B) Special rules for married individuals filing separate returns.—In the case of a married individual filing a separate return, paragraph (1) shall be applied by substituting '$3,500' for '$7,000' and '$1,750' for '$3,500'.

"(C) 2 or more individuals making expenditures with respect to same qualifying veteran.—If 2 or more individuals have qualified elderly care expenses with respect to any qualifying veteran during any calendar year, then—

"(i) the amount of the qualified elderly care expenses taken into account with respect to such qualifying veteran shall be determined by treating all of such individuals as one taxpayer whose taxable year is such calendar year, and

"(ii) the amount of such expenditures taken into account by each of such individuals for the taxable year in which such calendar year ends shall be equal to the amount which bears the same ratio to the amount determined under subparagraph (A) as the amount of such expenditures made by such individual during such calendar year bears to the aggregate of such expenditures made by all of such individuals during such calendar year.

"(c) Definitions and Sepcial Rules.—For purposes of this section—

"(1) Qualifying veteran.—The term 'qualifying veteran' means any individual (other than the spouse of the taxpayer) who—

"(A) is a veteran within the meaning of section 101(2) of title 38, United States Code,

"(B) is related to the taxpayer by blood or marriage,

"(C) is at least 65 years of age, and

"(D) has a family income of $15,000 or less for the taxable year.

"(2) Family income.—The term 'family income'—

"(A) in the case of an individual who is not married, the adjusted gross income of such individual; and

"(B) in the case of a married individual, the adjusted gross income of such individual and his spouse.

"(3) Qualified elderly care expenses.—The term 'qualified elderly care expenses' means payments by the taxpayer for home health agency services (but only if provided by an organization certified by the Health Care Financing Administration), homemaker services, adult day care, respite care, or health-care equipment and supplies which—

"(A) are provided to such qualifying veteran,

"(B) are provided by an organization or individual not related to the taxpayer or to the qualifying veteran, and

"(C) are not compensated for by insurance or otherwise.

"(4) Application with other credits.—Notwithstanding any provision of this part, the amount of the credit allowable under subsection (a) shall be allowed as a credit against the tax imposed by this chapter before any other credit allowed by this part.

"(d) Denial of Double Benefit.—No deduction or credit shall be allowed under any other provision of this chapter with respect to any amount for which a credit is allowed under subsection (a).".

(b) Conforming Amendments.—

(1) The table of sections for subpart C of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 34 the following new item:

"Sec 34A. Expenses for care of elderly veteran.".

(2) Paragraph (4) of section 6201(a) of such Code (relating to assessment authority) is amended—

(A) by striking out "or section 32 (relating to earned income)" and inserting in lieu thereof ", section 32 (relating to earned income), or section 34A (relating to expenses for care of elderly veteran)", and

(B) by striking out the heading and inserting in lieu thereof the following:

"(4) Overstatement of certain credits.—

".

(3) Section 6513 of such Code (relating to time return deemed filed and tax considered paid) is amended by adding at the end thereof the following new subsection:

"(f) Time Tax Is Considered Paid for Elderly Veteran Care Credit.—For purposes of section 6511, the taxpayer shall be considered as paying an amount of tax on the last day prescribed by law for payment of the tax (determined without regard to any extension of time and without regard to any election to pay the tax in installments) equal to so much of the credit allowed by section 34A (relating to expenses for care of elderly veteran) as is treated under section 6401(b) as an overpayment of tax.".

(4) Subsection (d) of section 6611 of such Code is amended by striking out the heading and inserting in lieu thereof the following:

"(d) Advance Payment of Tax, Payment of Estimated Tax, Credit for Income Tax Withholding, and Expenses for Care of Elderly Veteran.—".

SEC. 3. EFFECTIVE DATE: REPORTS.

(a) Effective Date.—The amendments made by this Act shall apply to taxable years beginning after December 31, 1984.

(b) Reports.—

(1) In general.—The Secretary of the Treasury shall prepare a report for taxable years ending in 1985 (and each of the 4 calendar years thereafter) which states—

(A) the number of individuals who were allowed a credit under section 34A of the Internal Revenue Code of 1954 for taxable years ending during such calendar year,

(B) the utilization of such credit by income group for such calendar year,

(C) the utilization of such credit by category of qualified elderly care expenses (as defined in paragraph (3) of subsection (c) of section 34A of such Code) during such calendar year, and

(D) the total effect on the revenues of the United States of allowing such credit during such calendar year.

(2) Time for filing.—Any report required under paragraph (1) shall be submitted to the Congress no later than September 15 of the calendar year following the calendar year for which it is required.

H.R. 2466

HON. MIKE LOWRY

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. LOWRY of Washington. Mr. Speaker, I rise in support of H.R. 2466. H.R. 2466 makes a variety of changes in laws administered by or affecting the Coast Guard which includes the following:

First, extends for 5 years the current exemption for the *Delta Queen* riverboat;

Second, waives personnel ceilings at the Coast Guard Yard in Maryland and the Aircraft Repair and Supply Center in North Carolina. This waiver will increase the Coast Guard's flexibility in determining the most efficient use of its personnel and repair facilities;

Third, permits the Coast Guard to make improvements to a State-owned pier in New Bedford, MA, for the purpose of preparing to receive newly constructed medium endurance cutters that will be based there;

Fourth, creates an Offshore Vessel Safety Advisory Committee to study the adequacy of existing safety and health regulations;

Fifth, permits the Coast Guard to enter into a contract with a municipal electrical utility in Alaska;

Sixth, prohibits the Coast Guard from contracting out certain aids to navigation work on the New Jersey Intracoastal Waterway;

Seventh, issues certificates of documentation to several vessels; and

Eighth, modifies a condition for the conversion for two obsolete vessels.

I am very pleased that the provision that modifies a condition for conversion of two obsolete vessels is included. This provision is identical to H.R. 3978 which I introduced. One of these vessels, the *Arctic Storm*, is owned by ProFish International, Inc. of Seattle. The owners of this vessel plan to convert this vessel into the first U.S.-flag surimi factory trawler.

The Japanese are already heavily involved in surimi development in the North Pacific. Time is running out for getting the U.S. fishing industry into surimi production in the North Pacific. A U.S. operator needs to take the first step to prove once and for all that U.S. operators can successfully produce surimi on the high seas.

Because of the perceived financial risk of surimi production, favorable financing for conversion work done in a U.S. yard is not available at this time. However, if the conversion work is done in a foreign yard, with foreign financing and lower conversion costs, the project becomes possible. Enactment of this legislation will allow the U.S. fishing industry to enter the surimi business, and capture a share of a rapidly growing market for surimi-based products.

Some may argue that because the conversion work is not being done in a U.S. yard, jobs are lost. I believe just the opposite. If the conversion work cannot be done in a foreign yard, the work won't be done, so no jobs will be lost. However, if the vessel is converted, a million dollars worth of annual maintenance will have to be done in U.S. yards. But more importantly, this venture would provide a prototype to demonstrate that the United States can compete in the processing of surimi which would make available financing for other participants in the future. Because this vessel will prove that the United States can operate a vessel engaged in the production of surimi, from 15 to 20 surimi vessels could be built or converted in U.S. shipyards. In addition, each surimi vessel will provide 150 jobs in the fishing industry.

There is no cost to the taxpayer of this provision. U.S. taxpayers will only benefit. This provision will create jobs and allow the United States to compete more effectively with the Japanese surimi industry and will enable the U.S. fishing industry to more fully utilize the vast quantities of pollock fisheries resources which are available in the North Pacific and from which high-quality surimi can be produced. I am concerned that if this provision was not included, the Japanese would gain complete control of the surimi market and that at some time in the future we would be asked to pass protectionist measures to enable the U.S. industry to compete with the Japanese. It makes sense to let U.S. fishermen and shipyards get in on the ground floor so we can compete with the Japanese now and in the future.

THE IMPASSE ON GRAZING ON THE PUBLIC LANDS

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. SEIBERLING. Mr. Speaker, last year I, along with my distinguished colleague and friend Mo Udal, and Senators Malcolm Wallop of Wyoming and James McClure of Idaho, decided to try to work together to address some of the key issues affecting the management or our Federal rangelands in the West.

As the chairmen of the committees and subcommittees responsible for these issues in the House and Senate, we realized that two important legislative authorities affecting the management of the public rangelands were going to expire at the end of 1985. We agreed that this represented an important opportunity to work together to build a consensus for rangeland legislation amongst the many parties interested in and affected by these issues, by appealing to everyone's shared interest in improving the productivity of the Federal rangelands.

To that end, we asked the Congressional Research Service to convene a conference of all the parties interested in the public rangelands—ranchers, wildlife groups, wild horse protection interests, environmental protection advocates, the U.S. Forest Service and Bureau of Land Management, and many others. And through that process we came up with an outline of a package that would go a long way toward addressing the major concerns of all of those groups, to the benefit of all.

That package would provide for:

Increasing public participation in the management of Federal rangelands, by requiring the Bureau of Land Management to proceed with an open planning process—as provided for under the Federal Land Policy and Management Act—in a timely manner, and by restructuring the advisory boards and councils on Federal rangelands to insure representation of all interests;

A positive program to improve the range condition of riparian areas on public lands, including use of a portion of the grazing fee to fund that program; and

An agreement to continue the existing grazing fee formula, and to increase the amount of that fee to be returned to the agencies for on-the-ground range improvements.

When we got down to trying to transfer this outline to legislation, we found that it was not an easy task. Every time we tried to put our aims into legislative language, we found it under assault from all sides. Neither the environmental community nor the ranching community was able to put aside their fear that our intent was not to build consensus, but to take advantage of one group for the benefit of another.

Representatives of the environmental community were critical of the conditional agreement to keep the present fee formula. There is a large body of evidence showing that the present formula sells grazing on Federal lands for far less than its market value. The conservationists believe that this provides economic disincentives to good land management. But we believed that, in exchange for improvements in environmental policy, compromise on the fee issue was reasonable.

My response to my friends in the environmental movement who told us that no bill was preferable to one that did not raise the grazing fee was that I believe that it is far more important to protect the basic resources of the public lands, and to improve their overall productivity, than it is to raise the fee—because no fee, no matter how high, could adequately compensate the Nation for lost productivity of public lands.

On the other hand, what I thought were reasonable and moderate proposals to improve our environmental policy on rangeland management, met with similar resistance from representatives of the ranchers who graze their livestock on public lands.

These proposals were to set high goals for a riparian improvement program, and to require that the Secretaries of Agriculture and Interior manage grazing on public lands in strict compliance with the principles of multiple-use and sustained yield.

Riparian areas are not only critical for western wildlife and fisheries—they are also the areas of the public rangelands that are most capable of increasing their productivity under good management. Not all of that improvement would go to livestock and the rancher. It will be shared, by all the users, and uses, of the public lands. But the rancher—as the person who lives adjacent to these lands, and whose livelihood depends on them, will unquestionably be the biggest beneficiary from improvements in the productivity and ecological health of the public lands.

Many public lands ranchers are in economic trouble. I firmly believe that the only hope for the long-term survival of public lands ranching lies in improving the productivity of the public lands. And the only way to achieve such a program, in this era of budget deficits and program cutbacks, is to build a coalition of all those who have a stake in improving the condition of the public rangelands.

I believe that acceptance by the ranching community of the strict application of the principles of multiple-use and sustained yield to public lands grazing, as well as to all other users and uses of the public lands, would be a key to the construction of such a coalition.

In the end, after more than a year of effort, a consensus was not achieved. I continue to believe that the proposals which evolved from this long process are something both ranchers and conservationists can live with. The ranchers would get the extension of a grazing fee formula that is highly favorable to them, and the continuation of the grazing advisory boards, through which ranchers exert considerable influence over Federal range management. The conservationists would get a new commitment of the Federal range managing agencies to act to improve the ecological condition of the public rangelands, particularly riparian lands. Both groups would share in the increased productivity of public lands.

I would like to encourage both these groups to look at those proposals in the new year, and consider whether they aren't reasonable, and in their respective interests. If they do find them so, or if they found some other package on which they could agree, I would be happy to help get range legislation moving forward again.

UNEMPLOYED VIETNAM ERA VETERANS NEED THE EMERGENCY VETERANS' JOB TRAINING ACT

HON. THOMAS A. DASCHLE

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. DASCHLE. Mr. Speaker, on May 20, 1985, the House passed H.R. 1408, the Veterans' Employment Amendments of 1985, by unanimous voice vote. This bill would extend and improve the Emergency Veterans' Job Training Act (Public Law 98-77) and provide $75 million in appropriations for fiscal year 1986. Although the other body did not act on H.R. 1408, I am pleased that similar legislation has finally received the support of both Houses and title II of H.R. 1538 will give new life to this important program for unemployed veterans.

The goal of EVJTA is to address the problem of severe and continuing unemployment among certain groups of veterans by providing payments to defray the cost of training to employers who hire and train long-term unemployed veterans. Since the program's inception, nearly 300,000 Vietnam era and Korean conflict veterans have been certified to participate; over 37,000 have gone to work under the program; and over 53,000 employers have been approved for participation.

On June 7, 1985, the Veterans' Administration submitted an extensive report regarding EVJTA, in accordance with Senate Report 98-275, which called for an evaluation of the program. The evaluation, which was conducted under contract by Centaur Associates, Inc., had high praise for virtually every aspect of EVJTA. Clearly, this program has been effective and is accomplishing its goal of reestablishing long-term unemployed veterans in our Nation's workforce.

Mr. Speaker, I am disappointed that the other body would not accept certain provisions approved by the House in H.R. 1408. This House-passed bill would have provided an authorization of $75 million for EVJTA and would have reduced the unemployment criteria for participation in the program from 15 to 5 weeks' unemployment. Additionally, H.R. 1408 would have made significant improvements to the Veterans Readjustment Appointment [VRA] program.

We on the Veterans' Affairs Committee are proud of the Emergency Veterans' Job Training Act, which originated in our committee in 1983. The House has consistently demonstrated its commitment to assist unemployed veterans and passed legislation reported by our committee to extend and improve this job training program. The Subcommittee on Education, Training and Employment has held seven hearings, in Washington and in the field, to monitor the implementation and effectiveness of EVJTA. It is a good, cost-effective program that deserves to be extended and adequately funded. The measure before us today, despite the shortcomings I have already mentioned, will continue this valuable program and assist thousands of unemployed veterans in their efforts to find meaningful employment.

WATCH ON SURINAM

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. COURTER. Mr. Speaker, Libya is an African country of modest size and only 3 million people, but its reigning dictator has used oil money surpluses and Soviet bloc support to build international networks of global proportions. Sponsorship of international terrorists and the provision of military training to citizens and armies of the third world are Colonel Qadhafi's two specialties.

The Colonel may now be reaching across the Atlantic into the small coastal country of Surinam, according to reports of recent months. The reigning dictator in former Dutch Guiana is a pro-Castro military officer like Qadhafi; his name is Lt. Col. Desi Bouterse. In spite of continuing and generous Dutch assistance ($100 million a year until 1990, according to Jack Anderson) Bouterse is apparently incapable of carrying on without other aid, and has recently been promised $100 million by Qadhafi.

According to Michael van Notten, a consultant to a Surinamese opposition party based in Holland, money is only part of a Libyan package for the governor of Surinam. He states that there are 243 Libyans in the country, some of whom are training troops and others who may be training non-Surinamese guerrillas. The U.S. State Department is aware of 14 Surinamese training in Libya at present, though for unknown purposes.

While these charges are extremely important, none of them is very surprising. We all recall the varied internationalist mix of Eastern Europeans, Cubans, Soviets, North Koreans, et cetera present in Grenada when that Caribbean country was ruled by Marxist-Leninists. Colonel Qadhafi has been involved with radical movements and guerrilla and terrorist organizations in Central America, and once praised the revolutionaries there "who are going to follow the Vietnamese and Nicaraguan precedents and destroy the bases of U.S. fascism." The President of Costa Rica has complained of both Libyan and PLO interference in his democratic country. Qadhafi's relations with the Sandinistas are particularly warm, and have been the subject of a State Department study of last August; they include weapons transfers to Nicaragua.

The recent reports about Surinam thus deserve to be taken with gravity. Allow me to introduce into today's RECORD two articles detailing some of them in order that my colleagues will notice this quiet geopolitical change. The first is by the columnist Jack Anderson, as carried by the Washington Post. The second was an exclusive report by Vicki Rivera of the Washington Times.

[From the Washington (DC) Post, Dec. 2, 1985]

SURINAM BECOMING ANOTHER CUBA

(By Jack Anderson and Dale Van Atta)

Surinam is developing into another Cuba-style dictatorship in the Western Hemisphere. Marxist strongman Desi Bouterse, desperate for cash to keep his repressive regime afloat, has turned to two tainted sources of money: Libya's dictator and Colombia's drug dealers. But he's learning that there's no free lunch in foreign aid.

When the Netherlands granted its South American colony independence in 1975, the Dutch promised $100 million a year in aid until 1990. The stipend continued even after Bouterse's military coup in 1980 and his growing leftward tilt.

Bouterse cultivated and modeled himself after Maurice Bishop, then the Marxist prime minister of Grenada. At Bishop's suggestion, Bouterse succumbed to Fidel Castro's overtures and welcomed a Cuban ambassador to Paramaribo in September 1982.

Cuban aid soon followed, as did the quid pro quo. Dozens of Cubans arrived in Surinam to assist Bouterse in setting up a Marxist dictatorship—which would be under Castro's control. The Cubans trained Bouterse's bodyguards, and even acted in that capacity themselves. Surinamese officials were sent to Cuba for indoctrination.

Both the Dutch and U.S. governments (the United States was also sending Surinam some modest aid) grew increasingly uneasy at the blossoming Bouterse-Castro relationship. In December 1982, when Bouterse rounded up and executed 15 opposition leaders, Dutch and American aid was cut off.

Castro, himself dependent on Moscow gold to bolster the shaky Cuban economy and his foreign adventures, proved slow in providing the money he had promised Bouterse. So, according to our CIA sources, the Surinamese dictator accepted the offer of a loan from Colombia marijuana and cocaine traffickers.

Meanwhile, Brazil, which borders Surinam on the south, woke up to the danger of this Castro foothold and sent a military force across the border in April 1983. Literally under the gun, Bouterse agreed to decrease the Cuban presence in his country in return for a $300 million aid deal with Brazil.

Bouterse dragged his feet on the bargain, until Bishop was deposed and murdered by Cuban-backed Grenadan Marxists. Blaming Castro for the death of his friend and mentor, and fearing for his own neck after the U.S.-led invasion of Grenada, Bouterse sent his Cuban advisers packing. Though he had previously claimed that there were only 15 Cubans in Surinam, about 100 were kicked out (leaving only eight, according to our sources).

This left Bouterse with nothing but his own poverty-stricken populace and the Brazilians to support his dictatorship. He needed more money, and gratefully accepted a promise of $100 million from Libyan dictator Muammar Qaddafi.

What does Qaddafi expect for his money? Our sources say he hopes to expand his influence in South America. He also wants Surinamese passports for Libyan assassination squads, and hopes to supply them to his Palestinian terrorist sidekicks as well.

[From the Washington (DC) Times, Oct. 24, 1985]

LIBYA REPORTED DRILLING TERRORISTS IN SURINAM

(By Vicki Rivera)

In return for the promise of $100 million in badly needed aid, Surinamese strongman Desi Bouterse is permitting Libya to train terrorists in his country to use against other Caribbean nations, according to a Dutch political analyst.

With the cutoff of Dutch aid after the 1982 execution of 15 prominent opposition leaders and the falloff in revenues from bauxite, the main export commodity of Surinam, Bouterse's regime is desperate for cash, said Michael van Notten, a consultant to the Council for the Liberation of Surinam, based in the Netherlands.

Mr. van Notten was to accompany a delegation of Surinamese resistance leaders in exile on a visit to Washington, but the members of the delegation were apparently intimidated after seeing some of Mr. Bouterse's men in New York and decided to return to the Netherlands.

Mr. Bouterse, a former sergeant who took power in a 1980 coup, addressed the U.N. General Assembly in New York on Tuesday.

The agreement between Libya and Surinam was reached in February, Mr. van Notten said, and a Libyan's People's Bureau was set up in July. A total of 243 Libyans are now reported to be in Surinam, 30 of whom came from neighboring Guyana, where they were believed to have conducted training in subversive activities, and 50 from Chad.

However, the State Department said it had no information to verify what it characterized as "rumors" of Libyan activities in Surinam.

"The Surinamese government is well aware of our concern about the development of relations with Libya," a State Department official said. "We made a point of saying that we don't want to see Libya using Surinam as a base of operations. They appear to be taking our concerns into consideration."

"The Libyans had learned to speak the local language, so they obviously planned a long stay," Mr. van Notten said.

About 40 Libyans are training Surinamese troops at the main airport, and another 200 set up a military camp in the western part of the country where they are reported to be training non-Surinamese, he said.

"Most likely they are training rebels from [neighboring] French Guiana who are opposed to French rule. We also assume they're in contact with the independence movement in Guadalupe."

A number of terrorist bombings have occurred in Guadalupe in the past year.

The Libyans have established contacts with sympathizers in Aruba and Curacao and are believed to be building up a network that would use Aruba (an island off the Venezuelan coast) as a springboard from which to launch operations in Venezuela and Colombia, Mr. van Notten said.

A TRIBUTE TO MARK EDWARD WINTER

HON. RICHARD C. SHELBY

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. SHELBY. Mr. Speaker, I would like to take this opportuntiy to congratulate Mark Winter on his recent appointment as vice president and director—national operations for Steward Title Guaranty Co., a title insurance underwriter headquartered in Houston, TX. For the last 9 years Mark was the chief lobbyist of the American Land Title Association and through his efforts the title insurance industry's views and positions were skillfully presented.

In addition to Mark's lobbying responsibilities, he also edited the title insurance industry's newsletter, "Capital Comment." My colleagues and I found the newsletter to be an insightful source for insurance and housing legislative matters.

But, first and foremost, Mark is a government relations specialist—a person that can be counted on to provide a forthright assessment on legislative proposals. I understand that one of the responsibilities Mark will undertake in his new position will be to represent Stewart Title on Federal and State initiatives.

I wish Mark every success in his new position and look forward to his Capitol Hill visits.

THE NATIONAL BUREAU OF STANDARDS COMES IN FIRST IN THE NATION IN SIGNIFICANT NEW TECHNICAL PRODUCTS

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. WALGREN. Mr. Speaker, one of the most important honors awarded in the international scientific community is to be included in the list of E-R 100 awards, a list of the 100 most imporant technological developments of the preceding year selected by Research and Development magazine.

This year, Research and Development magazine chose eight developments by the National Bureau of Standards for E-R 100 awards. These eight awards for work done by the National Bureau of Standards represents more than any other organization in the world, including the largest Fortune 500 companies heavily involved in research like IBM and other major international research companies.

NBS's achievement is all the more remarkable in light of the unfortunate budget cuts this agency has faced in recent years. When the 1986 NBS authorization bill came before the Rules Committee one member of that panel asked the rhetorical question: "If we cannot cut the National Bureau of Standards, what can we cut?" These awards should prove that NBS is a world-class laboratory which we cannot afford to undermine. Instead, we should hope that sometime there will be enough understanding of the critical role of the National Laboratories in keeping American competitive that we will ask ourselves the question: "How can we afford not to support Laboratories like the National Bureau of Standards."

The following press release announcing these awards further explains the breadth of this unique laboratory's accomplishments.

FEDERAL LAB WINS HIGHEST NUMBER OF RESEARCH AWARDS IN COMPETITION SPONSORED BY NATIONAL MAGAZINE

Inventions in computer science, microelectronics, and automated manufacturing were among the eight entries of the Commerce Department's National Bureau of Standard (NBS) given I-R 100 awards today in Chicago. Those eight awards represent the highest number given to any single participant in this year's competition.

I-R 100 awards are given annually by Research & Development magazine to honor the "100 most significant" new technical products of the preceding year. They are selected by a panel of technical experts from around the country.

Description of the award-winning projects follow.

TEST SYSTEM LINKING COMPUTERS

In July 1984, 14 computer manufacturers and communications companies demonstrated for the first time how computers from different manufacturers could communicate using international networking standards. A test system developed by an NBS-led team helped make that demonstration possible. The system, the first of its kind, is a set of complex software programs that allows vendors and users to self-test their computer systems to make sure they conform to international computer networking standards.

The winners of this I-R 100 award are Richard J. Linn, Jr., Wayne McCoy, J. Stephen Nightingale, Daniel Rorrer, and Jeffrey Gura, all from the NBS Institute for Computer Sciences and Technology, and Thomas P. Blumer and John C. Burruss from Bolt, Beranek and Newman, Inc.

AUTOMATED DEVICE FOR MEASURING COMMERCIALLY IMPORTANT "THIN FILMS"

George A. Candela and Deane Chandler-Horowitz of the NBC Center for Electronics and Electrical Engineering were honored for developing a fully automated, high-accuracy device, known as an "ellipsometer," for measuring the optical properties of thin films on various materials. The device—built mainly from commercially available components—can determine the thickness and refraction index of thin films more accurately and with greater ease than previously possible. This is important to industries such as semiconductor manufacturers which need accurate ellipsometers to produce quality products. The NBS instrument makes reliable measurements of commercially important films in integrated circuits that are not accessible to existing equipment.

IMPROVED ELECTRON GUN

A team of NBS researchers earned an I-R 100 award for the development of a new type of electron gun—a device to produce a beam of electrons—that is expected to have wide application in surface science, electron spectroscopy, and electron lithography, all areas of growing industrial importance. The new gun circumvents a power limit inherent in conventional devices, and has been tested to perform five times better than the closest competitive project.

The "high-current monochromatic electron gun" was developed by Daniel T. Pierce, Robert J. Celotta, Charles S. Feigerle, and Alfred Seiler of the NBS Center for Radiation Research.

ELECTRICAL MEASURING DEVICE TO AID IN CHEMICAL MEASUREMENTS

Ronald W. Shideler, an electronics engineer in the NBS Center for Analytical Chemistry, received his award to inventing a device designed to measure extremely low levels of current through the computer-controlled data collection systems of mass spectrometers. These chemical measurement instruments are used widely for medical, environmental, and industrial analyses. The NBS-developed electrometer is more sensitive than others and will help in performing highly precise and accurate mass spectrometric chemical analysis at low levels (parts per million or lower).

HIGH-PRECISION ELECTICAL CAPACITANCE DEVICE

Robert D. Cutkosky and Lai H. Lee of the NBS Center for Basic Standards earned an I-R 100 award for design of an automated, high-precision "capacitance bridge." Capacitance bridges are used in laboratories around the world for calibrating standards of electrical capacitance. Their device is the first such fully automatic instrument capable of the precision and accuracy required by standards laboratories. It operates at a basic accuracy 1,000 times better than that of its closest competitor, something that is critical for those performing work in a wide range of electronics.

FASTER CALIBRATIONS WITH ELECTRICAL STANDARD

Physicist Raymond S. Turgel of the NBS Center for Electronics and Electrical Engineering received an I-R 100 award for his development of a standard for phase meters that improves the speed of calibrations ten times or more. This device is designed to ensure reliable measurements of phase in applications such as testing aircraft navigational instruments, tracking satellites, and checking the operation of electrical power lines. The technology developed for the invention forms the basis for further developments in precision waveform generation.

ERROR-COMPENSATION SYSTEM FOR COMPUTERIZED MACHINE TOOLS

As part of their study of measurement and control systems for automation, NBS researchers in the Center for Manufacturing Engineering developed a microcomputer-based error-compensation system for automated machine tools that has earned an I-R 100 award.

Most computer numerical controlled (CNC) machine tools have software that automatically corrects for some positioning errors, but they are limited in several respects. The NBS system overcomes critical limitations in that process. The system has been tested on two different commercial machine tools demonstrating accuracy enhancements of eight to 10 times. It also makes it possible to eliminate the machine-tool warm-up period—up to 10 hours of unproductive operation—that was previously required for precision machining.

The CNC machine tool error-compensation system was developed by Kang B. Lee, Thomas Charlton Jr., James R. Shaver, Ralph C. Veale, and Bruce R. Borchardt of NBS, Alkan Donmez and C. Richard Liu of Purdue University, and William Zinn of Hardinge Brothers.

ABSOLUTE RADIOMETRIC STANDARD

Physicist Edward F. Zalewski of the NBS Center for Radiation Research, together with Richard Duda of United Detector Technology, Inc., earned an I-R 100 award for the development of a visible light detector and measuring device with a 100 percent quantum efficiency. Such a device converts all of the photons of light striking it into an electric current which can then be amplified and measured. The photodector greatly simplifies the task of making extremely accurate measurements of radiant light. It is expected to have wide application in the lighting industry and in related fields such as photographic equipment, lasers, photocopying and lithography.

P. ANTHONY RIDDER

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. MINETA. Mr. Speaker, my colleague, Don Edwards, and I would like to ask you and our distinguished colleagues to join us in saluting P. Anthony Ridder, president and publisher of the San Jose Mercury News. Tony will be honored at a dinner on January 16, 1986, marking his departure from our newspaper in Santa Clara and Alameda Counties, the San Jose Mercury News, to new duties in Miami.

In 9 years as publisher of the San Jose Mercury News, Tony has distinguished himself as an expert administrator, concerned with balanced journalism, the integrity of the press, and an unrelenting commitment to the betterment of life in Santa Clara County. Under his leadership, daily readership increased from 200,000 to 260,000. His direction was instrumental in guiding the Mercury News into becoming a widely respected newspaper, known regionally and nationally for its balanced news reporting. The Mercury News will miss him.

The impact of Tony's departure can be assessed only in light of his numerous contributions to our community. Perhaps more than anyone else, Santa Clara County has turned to Tony Ridder for advice, guidance, and support for numerous civic and community projects. It was his determination that ignited support for the Technology Center for Silicon Valley, which in time will be a showplace for the Nation's high technology industry. His influence was instrumental in advancing a wealth of worthy projects, ranging from the bolstering of the San Jose Museum of Art to the construction of the Guadalupe light rail corridor.

He is a member of many boards and organizations—among them the Santa Clara County Manufacturing Group, the California Chamber of Commerce, and Santa Clara University. He is an ardent supporter of education, and was closely involved with a program of corporate sponsorship in area schools. In short, Tony has set an excellent example of corporate responsibility within the community.

His generous devotion of time and resources to our area is a reflection of his own personality. Don and I have known Tony for many years, and we've always been impressed with his sincerity, his spirit, and his high regard for the people around him. We've also come to know Tony as a friend—a friend willing at any time to devote himself to the betterment of our community and our Nation.

Mr. Speaker, on the occasion of the banquet honoring P. Anthony Ridder, he can be confident that our country is most grateful for his contributions and accomplishments. Therefore, Don and I ask you, Mr. Speaker, and our colleagues to join us in expressing our thanks and congratulations to Tony Ridder and to wish him continuing success.

AN ARMED FORCES MEMORIAL

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. ORTIZ. Mr. Speaker, I rise today to commend and pay tribute to a group of patriotic citizens from Brownsville, TX. This group of citizens, from all walks of life, have seen fit to publicly recognize the past, present, and future sacrifices of our men and women in the armed services of this great Nation of ours in the form of an Armed Forces Memorial. The memorial is to be erected in the "Armed Forces Memorial Xericape Park" at the Fort Brown Historical Site, just as you cross the Rio Grande at the Memorial Bridge, in Brownsville, TX. It is being funded not by the Government, but by donations from its local citizens.

I can think of no more appropriate time than this, based upon the events of a week ago today when 248 U.S. Army soldiers of the 101st Airborne Division and other Fort Campbell units were killed in the crash of a chartered DC-8 aircraft, soon after takeoff from the Gander Newfoundland Airport. As you know, these soldiers were enroute to Fort Campbell and home, after completing 6 months of duty with the Multinational Force and Observers in the Sinai Peninsula, Egypt, to spend Christmas with their families and loved ones. Such is the nature of this memorial to not only recognize the supreme sacrifice of our men and women in time of war, but to recognize the sacrifices of the living and the dead in time of peace as well. My heart and wishes of God's blessings go out to the families of these brave soldiers, of comrades fallen in wars and conflicts of the past, as well as the many living service personnel whose scars and suffering are not as visible.

Expressed in a letter I recently received from Jose "Sparky" Esparza, historian for the group of volunteers embarked upon funding and having erected this Armed Forces Memorial, are these words: "Such a structure . . . would not only be fitting for members who participated in our Armed Forces, but appropriate to those who sacrificed their valiant blood for the cause of liberty. Their devotion to the democratic ideals of America carved their courage on those parts of the world that requested our help. Soldiers may inwardly complain, but never in the political arena of decisive discussions. They will obey the call, live for our flag, and if need be, die for our flag . . . Our system of government, despite varying opinions, is the most feasible structure in the preservation of justice, well-being and dignity. To all who trained, fought or died, there gently echoes the silent words of a great general, General Douglas MacArthur, 'Always for them . . . Duty, Honor, Country.' In such spirit we must not let patriotism become a shadow in the twilight of oblivion; nor, forget those who are active, were active, or are no longer there to answer rollcall. Soldiers are special . . . they are the guardians of our country, our freedom, and our lives. Could we do less than honor them with a memorial?"

The site for the memorial was approved on October 15, 1985, by the Brownsville City Council. The memorial itself will be pentagon shaped, approximately 5 feet high and 16 feet across with a base approximately 22 feet in diameter. The base, top, and each of the 5, 4 by 8 foot sides of the memorial, will be faced in blue-grey granite. A seal representing one of the five branches of the Armed Services will be affixed to each side of the memorial and the flag of that branch of service will be flown on a staff located on that service's side of the memorial. The flag of the United States of America will be flown on a staff erected from the top center of the memorial.

I appreciate the efforts of all the people of Brownsville and some of the following memorial committee members who have been instrumental in promoting this memorial, the unveiling of which is expected to occur on July 4, 1986: Jose "Sparky" Esparza; chairman Oliver Butler (COL USA Ret); secretary/treasurer, Jerry V. Ingle (SGT MAJ USMC Ret); Navy representative, Donnie R. Boykin (CPO USN Ret); Army representative, David L. Ervin (MAJ USA Ret); Air Force representative, John Cutney (LTC USAF Ret); and Coast Guard representative, Fred D. Mann (CPO USCG Ret).

Again, I commend the citizens of Brownsville who through their unselfish efforts have joined together to erect an Armed Forces Memorial honoring those who have served their country in the past, the present, and who will serve in the future. God bless each of you and each of the men and women who have, do, and will serve our country and the liberty for which we stand. God bless America.

KILDEE HONORS BISHOP ROGER LEE JONES OF FLINT, MI

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. KILDEE. Mr. Speaker, today I would like to take a moment to recognize Bishop Roger Lee Jones of Flint, MI, who has attained the highest position possible in the Church of God in Christ. On November 11, 1985, approximately 30,000 persons witnessed as he was consecrated bishop of the Third Ecclesiastical Jurisdiction of Southwestern Michigan during the Church's 78th Holy Convocation in Memphis, TN, by Presiding Bishop James O. Patterson, Sr. His diocese headquarters is located in Lansing, MI, and includes churches in Flint, Saginaw, Ann Arbor, Niles, Benton Harbor, Muskegon, Lansing, Jackson, and South Haven.

Bishop Jones, the son of Donnie and Lena Jones, began his ministry at the age of 18 at the St. Paul Church of God in Christ in Rocky Mount, NC. Prior to being called to the ministry, he was a devoted lay church worker. During his teens he served the church in many capacities from junior deacon, who kept the church clean and the coal stove heated for a 500-member church, to junior Sunday school superintendent.

He was ordained an elder in 1958 by the late Bishop Wyoming Wells in Southern Pines, NC. He conducted his first revival at Bishop Well's church in Greensboro, NC, prior to being ordained.

At the age of 22, the future Bishop Roger L. Jones, already a nationally known evangelist, began his leadership role in the national church. He was appointed youth leader for the International Youth Congress in 1959. In 1961, he was appointed national platform chairman of the International Youth Congress, a position he held until 1965.

In November of 1963, the future Bishop Jones came to Flint, MI, where he became the founder-pastor of the Greater Holy Temple Church of God in Christ.

Bishop Jones not only became a very successful local leader, but also a very prominent figure in the State and national church. In 1977, he was elected chairman of the board of trustees of the national church, a position to which he was again elected in 1980 and 1984. On the State level he served as cochairman of the finance committee, chairman of the expediting committee, and vice chairman of the State elders council. In 1980, the late Bishop John S. Bailey appointed him chairman of the elders council, and in 1982 to the board of administrative assistants.

In the Flint community Bishop Jones has served as past vice president of the Concerned Pastors for Social Action and as a member for the City Advisory Council for Project Followthrough. He is a member of the Greater Flint Council of Churches and has served as youth minister for the Flint Chapter of Teen Challenge.

Bishop Jones completed high school and Saints College in Lexington MS. He has also studied at Mott Community College, Baker Junior College, Detroit College of Business and the University of Michigan—Flint. He and his wife, Margaret are the parents of three sons.

During his 29 years as a minister, Bishop Jones, through God's guidance and with His abundant blessings, has grown from a young man delivering his trial sermon into an eloquent and articulate messenger for the Lord. We in the Flint area are better because of his guidance and proud to be associated with him.

REEXAMINATION OF CONSENT DECREE

HON. THOMAS J. TAUKE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. TAUKE. Mr. Speaker, last Thursday, December 12, 1985, Commissioner Mimi Dawson of the Federal Communications Commission delivered the following speech to the Practising Law Institute. The speech sets forth strong arguments as to why the consent decree in the AT&T divestiture case needs to be reexamined. I call it to my colleagues' attention as they consider during the next session the various bills which would change the consent decree.

The speech follows:

Remarks of Commissioner Mimi Dawson, Federal Communications Commission

Thank you. I'm delighted to be here today to share my views with you on the evolving telecommunications marketplace. As you know, the industry, the Government and users have been greatly involved during the last several years in transitioning to a competitive arena. This process has generally focused on AT&T and the OCCs, and its history includes the Execunet decisions, ENFIA, the MTS/WATS docket, the divestiture, a number of court proceedings and equal access arrangements.

This morning the speakers addressed the issues of equal access and interexchange competition. Other sessions will address accesss tariffs, Computer Three, new lines of business for the BOCs and non-Federal issues. I would like to devote my remarks today to an issue which is extremely important to all the players in the marketplace: the future competitive role of the local exchange carriers and particularly the Bell Operating Companies.

What I would like to present to you is a slightly *different view of why* the restraints of the MFJ and certain FCC regulations need to be re-examined—if we are to bring additional service choices to American consumers and enhance our ability to rely on marketplace forces rather than governmental restrictions.

My "brief"—if you will—is that the nature and scope of competition in the provision of telecommunications services has gone through a substantial metamorphosis. Competition is not horizontal. It is not characterized by discrete and severable areas of competition—despite the inclination of many to view it that way.

The MFJ and the FCC have attempted to segregate services into distinct categories: manufacturing, exchange service, interexchange service, information service, enhanced services. And with the probable exception of exchange service, regulators assumed that competition would develop in each of those discrete categories.

But that doesn't fully explain the dynamics of telecommunications after the AT&T divestiture. It's true enough that competition has developed in these separate areas. But it's also true that competition is now being characterized more than ever by the integration of transmission, CPE and intelligence.

Perhaps the integration—or more accurately, the re-integration—of these services is inevitable—simply because many large users are not willing to separately shop for the exchange, interexchange, CPE and intelligence segments of their networks. Large users are demanding "one-stop shopping" and end-to-end offerings: Virtual private line networks, for instance, which integrate exchange and interexchange transmission functions with software and CPE.

In more traditional antitrust terms, it seems that the relevant product market or submarket for larger users has changed from the horizontal to the vertical. That is, the product market has changed from the provision of discrete services to the provision of integrated end-to-end packages.

What the market may be telling us today is that the ability and need to integrate all services into a users' network has changed the shape of competition from horizontal to vertical. Competition today is increasingly among providers of integrated offerings which include CPE, intelligence and transmission facilities.

There are several interesting aspects to this. One is the formation of strategic alliances—MCI & IBM, for example—between providers of "different" services in order to be able to offer an integrated product.

In addition, the most intense competition may occur over location of the intelligence in the network—whether the intelligence is placed in CPE, the exchange carrier's central office or the interexchange carrier's switch. It may well be that he who controls the intelligence has a significant marketing advantage and has perhaps captured the customer—or at least has a hand deep into the customer's pocket.

But, as is too often the case, the government's ability to regulate is two or three steps behind technology's ability to innovate.

As I alluded to a moment ago, the FCC now takes a horizontal approach to analyzing competition and classifying carriers as dominant or non-dominant. Thus, interexchange service is one playing field, and the cast of characters includes AT&T, MCI, Sprint, US Telecom and others. CPE providers, although generally unregulated, are on a second horizontal, and local exchange carriers are on a third horizontal.

If users have indeed changed the product market, then the Commission must be willing to modify its policies if it desires to rely on competition and market forces rather than regulation to drive down costs and maximize service options for users. New entry in the provision of these integrated service offerings must be encouraged, and existing yardsticks for identifying and regulating carriers with different levels of market power must be revised. It may now be appropriate to measure market power on an integrated services basis rather than on a component by component basis.

To promote competition in this evolving market, it is important to identify the existing participants as well as the possible entrants. Some interexchange carriers are obviously one group already offering—*or at least able and permitted to offer*—integrated, end-to-end services which combine intelligence with transmission. In an integrated service offering provided by the interexchange carrier, the local exchange carrier may be bypassed or merely used as a pipeline.

CPE providers form another group—limited somewhat in their participation since they generally do not own transmission facilities.

A third group is the local exchange carriers—and particularly the BOCs. But, unfortunately, the BOCs are restricted in their provision of transmission facilities, CPE and intelligence by the MFJ and the FCC's Computer two decision.

The solution—or at least one of the solutions needed—is to increase competition by giving the BOCs some flexibility to compete in this integrated end-to-end market. In some cases direct entry may be appropriate. In other cases forming strategic alliances with other service providers may be appropriate.

I have no doubt that the BOCs will be able to use their capital, expertise and operational efficiencies to provide a variety of services including some which may enable smaller interexchange carriers to better compete with larger interexchance carriers. And, ultimately that's good for consumers. The BOCs would also be able to keep large users on the local network, and lessen pressures on local rates.

That will benefit consumers, too. BOC entry into the integrated services product market, coupled with reasonable interconnection and access requirements, will reduce the cost of service for users. It will decrease the probability of the BOCs becoming the price victim of the upstream dominant carrier, and will lessen the BOCs dependence on their major competitors for carrier common line revenues. And all of these things ultimately will rebound to the benefit of the telecommunications consumer.

But what about the risks? BOC entry need *not* foreclose the operational choices *of other carriers* or users, need *not* increase market concentration, need *not* result in a supply squeeze and need *not* raise barriers to entry for other carriers. Of course, the FCC as well as the Department of Justice and the decree court will be able to and should monitor the BOC's entry to assure no anticompetitive results.

In looking to the BOCs to provide integrated service offerings, I do not necessarily conclude that the other interexchange carriers cannot provide these services. I merely conclude that additional entry would increase user options and would be *accompanied* by manageable downside risk to the public. The decree court would, of course, have to modify the MFJ and the FCC would have to revise its Computer two policies.

Having redefined, or at least refined, the product market and having removed artificial barriers to fuller entry for the BOCs, a new analysis may be appropriate to determine market power. This analysis would necessarily *also* address the issue of whether the relevant geographic market has changed. It is not impossible that the geographic market may now be regional rather than national. The market power analysis would identify dominant and non-dominant firms and regulatory requirements would be crafted for each classification. Additional policies could be fashioned for a transitional period if the market structure so warranted.

Assuming that AT&T and the BOCs,—are found to be dominant for the provision of integrated end-to-end services, the question then presented is at what point should those carriers be declared non-dominant.

I think that several things would set the stage for this eventual determination: curing the problems relating to the implementation of equal access; the easing of restrictions on the BOCs to lay the groundwork for their entry into the market. The exact timing would depend on the rate of development of competition and the loss of market power by AT&T or the BOCs.

Freeing the BOCs from operating restrictions should not be confused with giving the BOCs carte blanche to operate all segments of their business as they please. Accounting and reporting requirements should be fashioned to segregate the competitive large business services from the monopoly small business and residential services. The FCC must assure that all cost allocations are correct. And, state regulation would not be supplanted.

A further *quid pro quo* for permitting the local exchange companies to provide a full range of offerings is the achievement of equal access, not only in terms of physical feature group D facilities but also in terms of making sure that equal access works. After all, the OCCs are also viable competitors in this new environment. The BOCs must fully respond and remedy all legitimate complaints raised by the interexchange carriers. Some of these technical and operational issues are before the Commission in the TDX petition. The Carrier Liaison Committee also has an important role to play in making sure that equal access works—not to mention the possible creation of the Commission's own equal access task force.

If our purpose is to maximize benefits to users through the introduction of competition, the full development of technology and the operation of market forces, then all carriers must be given the freedom and flexibility to compete in supplying the integrated product demanded by consumers. We must recognize that the competition is again becoming vertical rather than horizontal and assure that our policies and actions toward all carriers reflect this reality. Thank you.

IMPOUNDMENT OF JUVENILE JUSTICE FUNDING

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. KILDEE. Mr. Speaker, as you are aware, the fiscal year 1986 Commerce, Justice, State, and Judiciary appropriations bill was signed into law 1 week ago, on December 12. This measure provides $70,282,000 for the Office of Juvenile Justice and Delinquency Prevention [OJJDP]. During the same time period that the appropriations bill was being approved, the Office of Managment and Budget developed a proposal to rescind the entire fiscal year 1986 appropriations.

The proposed rescission has not yet been sent to the Congress as required under the Impoundment Control Act of 1974. Yet, OJJDP has been prohibited from making any further program expenditures pending congressional consideration of the rescission proposal. This constitutes an illegal impoundement of funds.

I am strongly opposed to the Justice Department's actions. Congress, through both authorization and appropriations bills, has repeatedly demonstarated its support for the Federal leadership role which the Juvenile Justice and Delinquency Prevention Act provides in juvenile justice matters. Despite this strong bipartisan congressional support, this administration has consistently requested zero funding for juvenile justice programs, and opposed reauthorization of the Juvenile Justice and Delinquency Prevention Act. In every instance, the Congress refused to go along with their request to end assistance for troubled youth. Nevertheless, in the face of a recently signed appropriations act, the administration has refused to release the funds. Apparently they are trying to shelter this money until such time as a Gramm-Rudman sequestration order goes into effect. In the meantime, there are State agenices and private organizations which have successfully applied for assistance, need that assistance desperately, but have been told they cannot receive any money.

Mr. Speaker, I am strongly opposed to the rescission of OJJDP funds. I am also extremely concerned over the administration's disregard of the orderly process established by the Congress to consider the rescission of appropriations funds. Since the administration has not complied with the Impoundment Control Act, I strongly urge that the Department immediately release these funds for obligation.

DEADLINE EXTENSION FOR MINERAL LEASING

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. RAHALL. Mr. Speaker, the conference report on the continuing appropriation for fiscal year 1985 contains an amendment offered by the other body which delays the effective date of August 4, 1986, to December 31, 1986, after which holders of undeveloped Federal coal leases issued prior to 1976 will be prohibited from being issued new Federal onshore mineral leases under the Mineral Lands Leasing Act of 1920.

I did not object to this intrusion on the jurisdiction of the authorizing committee. In the Committee on Interior and Insular Affairs, we have been working on legislation in this area and will continue to pursue this matter during the next session of Congress. However, I must reiterate at this time my strong opposition to any further attempt to amend section 2(a)2(A) of the Mineral Lands Leasing Act of 1920 through the appropriation process. It is my expectation the authorizing committee in the other body will begin consideration of legislation regarding this matter and follow the normal course of deliberation. It is my strong desire to see this issue resolved next year, and to that end, I will continue with the effort commenced by the Subcommittee on Mining and Natural Resources.

AND JUSTICE TO ALL

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. SOLARZ. Mr. Speaker, last Friday five Maryland rabbis went to prison for conducting a peaceful vigil in front of the Soviet Embassy. They are serving a 15-day prison sentence at the Federal Correctional Institute at Petersburg, VA. In addition, several others were fined and put on probation. The rabbis were protesting the harsh treatment of six Soviet Jewish prisoners of conscience.

Not only is this an excessive punishment, offensive to our moral conscience and sensibilities, but it is unfair and unjust, more in line with Soviet legal policy than with American. For nearby, outside the South African Embassy, similar protests are conducted against that Government, and there arrests also take place. But, unlike the protests at the Soviet Embassy, in these cases, all charges are dropped. This is selective justice, and it does a great disservice to both the American system of justice and to those Americans who fight to preserve justice for people in other societies.

Clearly we need to reexamine our laws surrounding peaceful demonstrations outside other nation's embassies. Alan Dershowitz, a professor of law at Harvard University recently wrote about this subject. I would like to insert his cogent article here and commend it to the attention of my colleagues.

The article follows:

Something is rotten in the city of Washington. Recently, two groups of demonstrators were arrested for violating the exact same law. But the cases against one group have been dismissed, while the cases against the other have been brought to trial.

The law in question prohibits anyone from demonstrating within 500 feet of any foreign embassy. The first group of protesters deliberately violated that law by demonstrating near the South African Embassy against that country's horrendous system of apartheid. The second group violated the same law by demonstrating near the Soviet Embassy against that nation's abominable treatment of Jews, especially Jewish "refuseniks," who have been denied permission to join their families in other countries.

Members of both groups were arrested, but all charges were dropped against those demonstrating near the South African Embassy. Those demonstrating against the Soviet Union were brought to trial, convicted and sentenced to 15-day suspended jail sentences, six-month probations, and fined $50.

Few are complaining about the severity of the sentences, but there is widespread outrage at the different treatment accorded the two groups.

Members of the anti-Soviet group have been found to be criminals, while members of the anti-South Africa group have been treated as law-abiding. Indeed, 35 members of the House Judiciary Committee have argued in a letter to Attorney General Edwin Meese that it was unfair to prosecute the anti-Soviet protesters, since it was decided not to prosecute the anti-South Africa demonstrators.

Certainly, the Justice Department can't hold the position that one group is more justified in its protests than the other. Both South Africa's treatment of its blacks and the Soviet Union's treatment of its Jews are inexcusable violations of human rights. It's futile to try to decide which is the worse evil, since each has its uniquely devilish aspect: the pervasiveness of apartheid's legalization of primitive racism condemns it in the eyes of the entire world; the Soviet Union's state-supported anti-Semitism, combined with its refusal to allow any but a handful of Jews to leave, has earned it a distinctive place on the dishonor roll of human-rights violators.

Nor is there any claim that one set of demonstrators was noisier or more disruptive than the other. Both groups were engaging in peaceful acts of civil disobedience to bring their views directly to the doorsteps of those diplomats who represent their countries' evils in our nation's capital.

The justification apparently offered by prosecutors in defense of their selective prosecution is that South Africa has decided not to press charges, while the Soviet Union insists that those who protest within 500 feet of its embassy must be prosecuted.

There could be no worse reason for the prosecutors to have acted as they have. It cannot be our country's policy to allow foreign governments to dictate who we shall prosecute under our laws and within our legal system. For us to accede to the policy preferences of racist and anti-Semitic regimes is to abdicate our responsibility for making decisions about our laws.

What if the South African Embassy pressed charges only against black demonstrators, and not against white ones? Surely, we would pay no attention to their preferences. Why, then, should we pay attention to a public relations decision made in Pretoria and designed to produce a propaganda victory for the apartheid regime by showing how "sensitive" South Africa is to the rights of U.S. protesters? Let President Willem Botha show the same solicitude for protesters in South Africa.

Nor should we pay any attention to Soviet insistence that those Americans who protested near its embassy—mostly rabbis—be selected for prosecution. Either everyone or no one who protests within 500 feet of any embassy must be prosecuted. That is what "equal protection of the law" means.

But Judge Colleen Kollar-Kotelly of the District of Columbia Superior Court rejected all legal arguments made by the rabbis this month and convicted them. She turned down their claims of selective prosecution, as well as their argument that the defense of "necessity" permitted them to engage in non-violent peaceful protest within earshot of the diplomats, since all legal recourse had been denied. The judge also rejected the prosecutors' recommendation that no fine be imposed, and sentenced the defendants to pay $50 each, in addition to the suspended jail terms and the probation.

Several of the rabbis, acting in the spirit of the Rev. Martin Luther King Jr., refused to pay the fine or promise to stay away from the Soviet Embassy. These rabbis were then sent to jail for 15 days and were denied bail, pending appeal.

It is sad—indeed, a rotten—day for American law when our prosecutors adopt the very inequality against which all the Washington protesters were demonstrating. The anti-South Arica demonstrators can't be any happier that their fate was determined by Pretoria's racists than are the anti-Soviet protesters that their fate was determined by Moscow anti-Semites.

UNITED STATES HAS NO RATIONAL TRADE POLICY

HON. ROBIN TALLON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. TALLON. Mr. Speaker, the President's decision last week to veto the textile and apparel trade bill was the culmination of misguided, ill-conceived trade policy that America has pursued for 5 years. This trade policy is causing the erosion of America's manufacturing base and our status as a world power.

As Roger Milliken, chief executive officer for Milliken and Co. observed, "We are talking today about the transfer of economic strength to other nations and the resulting decline in American power."

Our decline in economic strength is largely the result of a war of words on American trade policy taking place in Washington. On one side are the free traders; on the other side are the protectionists. They are both creating a great deal of noise, but unfortunately, both are defending a myth.

They argue textbook theories and ancient history without regard to the real economic world marketplace.

As a result, the United States has no rational trade policy that might reduce our $150 billion trade deficit and enable us to compete in new and constantly changing world trade.

First, to dispell the myth, pure free trade does not exist now and never has. Neither does its ideological opposite, pure protectionism.

To look at the real world:

At least one-half of world trade is affected by some sort of protectionism—tariffs, quotas, subsidies, or other measures that distort trade by preventing its free flow.

Fully 40 percent of the world trade is not between countries but between branches of multinational companies.

Almost every nation except the United States has a trade policy, and makes it part of its overall foreign policy.

In view of these practical realities, the administration's blind faith in free trade is ridiculous. Yet, on the other side, protectionists take a meat ax approach by proposing a blanket 25-percent tariff, as though all imports are equal and all countries deserve the same treatment.

The free trade theory stems from an idea of comparative advantage formulated almost 200 years ago. Under this theory, each nation has certain products it can make cheaper than other nations.

Thus, a nation should sell what it makes best and buy abroad what other nations make. In the perfect scheme, each nation uses its comparative advantage to its own profit.

But with today's technology and communications systems, modern factories can be built around the world, taking advantage of the lowest wages, while being directed by headquarters in New York.

Therefore, "comparative advantage" is no longer a natural occurrence, but can be created by any country or multinational corporation willing to go to the trouble. This is the biggest cloud on the U.S. trade horizon.

Some of our problems will disappear as the dollar weakens, but the threat of low-wage competition will continue. There is nothing inherently unfair about this. No simple, single measure aimed at "fair trade" will work here.

This is why we need a full fledged trade policy, based on world realities. Our Government policies on taxes, industry, and investment must be shaped to promote trade and expand industry and jobs.

Does this imply some protectionism? Yes, but aren't our industries, jobs, communities, our standard of living worth protecting? In economic defense, like in military defense, the question is not if, but how.

We have an arsenal of offensive and defensive weapons—duties, quotas, subsidies, tax incentives, bilateral agreements. The key is a set of rational, practical trade policies using what works best in specific situations.

A trade policy for our Nation is long overdue. It is time to jettision the myths and start dealing with the real world. If "protectionism" offends the ear, we can call it "managed trade" or "organized free trade" or some other fancy name. At this stage, what we call it is less important than whether we do it.

"ACCURACY IN ACADEMIA" ASSAILED

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. BIAGGI. Mr. Speaker, recently a group claiming to be a watchdog of the "liberal bias" of campus professors, has come to the attention of a number of us concerned about educational issues.

Specifically, this group, calling itself "Accuracy in Academia," contends that it has signed up 150 college students from schools across the country to monitor professors who are giving one-sided lectures. This group is also publishing a newsletter which will name those it considers "violators".

I am pleased to note that a number of distinguished leaders in the educational field—from conservatives to liberals—have joined to denounce this ill-advised propoganda machine. Last month, in a Washington speech, the chancellor of the City University of New York, Joseph Murphy, this group nothing more than a "corps of thought police." Joining in this denunciation was Secretary of Education William Bennett, who called this group "a bad idea" in a speech before 300 college deans in Baltimore.

The most recent information on this group has surfaced in the form of an article in the New Republic, which details the inner working of this group. For the benefit of my colleagues who might be confronted by the issues raised by this group, I wish to insert this article into the RECORD.

[From the New Republic, Dec. 30, 1985]

I WAS A SPY FOR ACCURACY IN ACADEMIA—CAMPUS DOUBLE AGENT

(By James Ledbetter)

Professors to be monitored for leftism. That *Washington Post* headline caught my eye on August 4, 1985. I read that a new group called Accuracy in Academia (AIA) planned to weed out "10,000 known Marxists" on American college campuses. Malcolm Lawrence, president of AIA, vowed to publicize "political bias based on incorrect information" in the classroom. I found it hard to believe that there were that many Marxist professors in American universities, and wondered how AIA would decide which courses to monitor. So the next day I called Lawrence at home, told him that I was a senior at Yale, and asked if they planned to be active on my campus.

"You're a student?" he replied. "Would you be interested in being our Yale contact?" Lawrence didn't ask whether I knew of any instances of Marxism. He didn't ask if I approved of the group. He didn't even ask about my political leanings. Not thinking it would amount to anything, I agreed, and gave him my phone number and school address. Lawrence assured me someone from the group would get in touch. For the next four months, I would be a spy for Accuracy in Academia.

AIA is a spin-off of Accuracy in Media (AIM), an organization created in 1969 to combat the purported liberal bias of the American media. AIM devotes its $1.7 million annual budget to monitoring the press and television for slanted coverage. AIM president Reed Irvine has gained respectability through appearances on ABC's "Nightline" and other television programs. Though best known for its two-hour rebuttal to the PBS series "Vietnam: A Television History" (which was labeled "good propaganda for the communists"), AIM is active on many fronts. For example, noting that polls reveal American women to be more liberal than men, AIM suggests that "one possible explanation . . . is the popularity among women of the Phil Donahue show."

In August AIM announced that it was "going to the source" of the media tilt—leftist academia—and created a new arm to "end the brainwashing." The group has thus far cited a dozen or so "biased" professors. The first student report concerned Dr. Mark Reader, a professor of political science at Arizona State University, who teaches a survey course of political ideologies. AIA's first newsletter, leaked to the press weeks before it was published, charges Reader with teaching only his own "obsessions: . . . anti-nuclear propaganda and fringe economics." An anonymous student also quoted Reader as saying that "the Soviet Union is no threat compared to the United State's imperial aggressions." Reader denied that he had said this, though he claims if he did, he had every right to do so. (AIA claims that "young, impressionable students" are reluctant to criticize a professor who might flunk them, so it promises to keep the identity of its students. . . .

Csorba told me that the "paranoid" professors resisting AIA's calls for "balance" weren't going to force the group out of business. "In a year or two we'll just be a standing presence and people will accept what we're doing as legitimate. We're not going to go away." He's probably right. The group's annual budget is $162,000, covering ten newsletters per year and the small staff. AIA's figurehead president is now John LeBoutillier, the author of an "expose" of alleged decadence at Harvard who once served a term in Congress. Scully was brought on as national director mainly to write about Reader. Thus he and Csorba alone lead the battle against the army of 10,000 Marxist academicians.

Csorba said that each issue of the newsletter would be sent to 40,000 people. Subtracting staff fees from the budget, there is no way AIA can affort mailing that many newsletters every month. It plans to charge nonstudents $25 a year for the newsletter, but it's doubtful it will get many subscribers. Other backers will have to be found, and no doubt will. There is plenty of conservative foundation money to be had.

Somewhat less secure is AIA's guise of fairness. If AIA is careless enough to allow a mole into its inner sanctum, imagine how it might misrepresent a professor it's already out to persecute for views expressed outside the classroom. As Marx, always the great social commentator, once said: "I wouldn't want to be a part of any club that would have me as a member."

THE SECRETARY OF STATE CALLS FOR INTERNATIONAL COOPERATION AGAINST TERRORISM

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. BROOMFIELD. Mr. Speaker, I commend Secretary of State George Shultz for forcefully speaking out on the issue of terrorism during his trip to Yugoslavia. I encourage him and other Government officials to take a firm stand against the scourge of international terrorism. Hard-hitting comments such as his do help and are appreciated. Well done, George.

As my colleagues know, our Secretary of State is visting a number of Eastern European countries. During his visit to Yugoslavia, he clearly spoke his mind about the threat of international terrorism. He was responding to comments made by the Yugoslavian Foreign Minister. In an emotional presentation, Mr. Shultz told the news conference that the hijacking of the Italian liner, *Achille Lauro*, was not justified. He also said that terrorist acts were wrong and that the international community must face up to the problem of terrorism.

As we all know, Abu Abbas, the Palestinian who masterminded the hijacking of the *Achille Lauro* and the tragic murder of Leon Klinghoffer, was allowed by Italian authorities to go to Yugoslavia. Later, Yugoslavian officials allowed that terrorist to quietly leave the country for Iraq. Unfortunately, the Yugoslavian Government rejected a United States request for the arrest and extradition of Abu Abbas.

All of us must face the fact that terrorism cannot be justified as an expression of the frustrations of those who believe they have been wronged. Negotiations are the best way to resolve standing problems. Terrorism in all of its forms is criminal activity which cannot be justified by any country or any group of people. Terrorists are international bandits and pirates. They must not be given shelter in any country. We must do all that we can to have terrorists extradited and brought to justice. Abu Abbas and others like him must receive the punishment which they deserve. International cooperation among the nations of the world that have been affected by the scourge of terrorism is necessary. The Congress recently passed legislation calling for the establishment of an International Coordinating Committee on Antiterrorism. This organization would provide an international forum for combined action against terrorism. The group could serve as a coordinating body for antiterrorism efforts by concerned governments. Intelligence sharing and coordinated political action against terrorism could be discussed by the group.

Terrorism is an international problem and an international solution will be required to face up to this growing menace. I encourage our Secretary of State to call for the creation of this International Coordinating Committee. The time for concerted efforts against international criminals masquerading as heroes is now.

With these thoughts in mind, I commend the following Washington Post article on the Secretary's comments on terrorism to my colleagues in the Congress.

SHULTZ AMPLIFIES TERRORISM COMMENT

(By John M. Goshko)

Secretary of State George P. Shultz said yesterday that he was "speaking for the American people" when he angrily told a news conference in Belgrade on Tuesday that the hijacking of the cruise ship Achille Lauro was a terrorist act and had no political justification.

Shultz created a stir in Belgrade when he pounded a table and publicly disputed Yugoslav Foreign Minister Raif Dizdarevic's statements that incidents like the Achille Lauro piracy must be viewed in the context of the Palestinian people's struggle against colonialism.

Shultz, who had been sharing the podium with Dizdarevic, immediately interrupted to say that the hijacking, in which Palestinian terrorsts killed an elderly American and terrorized others, "is not justified by any cause that I know of."

Yesterday, while flying home after a 10-day European visit, Shultz said, "I just want people to see that in the United States we feel very strongly about this subject. I felt that by making an interjection at that point I was very much really speaking for the American people."

"I think that in the past year, we in the United States have seen the menace of terrorism more clearly. So support for doing something about it is stronger," added Shultz, who has been the most outspoken member of the administration in advocating a tough stance against terrorism.

He also insisted that there is no contradiction between his call Tuesday in Belgrade for giving terrorists "no place to hide" and the administration's reluctance to take measures against Iraq for harboring Mohammed Abbas, a Palestinian leader who allegedly masterminded the Achille Lauro piracy in October.

Shultz acknowledged to reporters Tuesday that Abbas, a member of the Palestine Liberation Organization executive committee, has been in Iraq and that the Iraqi government has refused U.S. requests for his arrest.

When he was asked yesterday whether Abbas is still in Iraq, the secretary replied, "I don't have any information otherwise." A State Department spokesman said yesterday that the United States would request Abbas' extradition if it is determined with certainty that he is in Iraq.

Although acknowledging that Iraq's apparent harboring of Abbas is "a problem," the secretary said, "I don't think we should feel that every time we identify a problem, we have to fire off a gun or break relations with someone. There are gradations."

Shultz again linked the PLO to terrorist acts in the Middle East.

He denied that his criticism of the PLO is at cross purposes with the efforts of Jordan's King Hussein to win PLO backing for a Jordanian-Palestinian delegation to enter peace talks with Israel. Shultz said the United States continues to back Hussein's search for those Palestinians who could play a role in the peace process.

However, the secretary added, "We have seen individuals who have associations with the PLO, including members of the executive committee, be associated with hostage-taking, acts of terror and murder. So you have to put that in the picture."

FOURTH MARTIAL LAW ANNIVERSARY IN POLAND

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. HOYER. Mr. Speaker, December 13 marked the fourth anniversary of the declaration of martial law in Poland. For 4 years, the Polish people have lived under a state of seige by their own government. The initial violent aftermath of the imposition of martial law, the dark days when water cannon and riot batons were trained on peaceful demonstrators, has given way to pervasive and insidious efforts by the regime to institutionalize repression and eradicate all independent associations and activities.

Members and supporters of the outlawed union Solidarity, including activist priests, frequently fall victim to mysterious deaths, beatings, and kidnappings and threats by unknown assailants. Despite periodic, highly conditional amnesties, there are at least 265 prisoners of conscience in Poland today. The Jaruzelski government has passed a new law on higher education, aimed at suppressing free intellectual exchange and the development of independent culture. Last week, seventy university rectors and deans were fired for political reasons. All of this was done in the name of normalization and restoring order. Ironically, General Jaruzelski has taken to travelling abroad to the West to seek the legitimacy that the Polish people steadfastly refuse him at home. Jaruzelski is literally banking on the premise that memories in the West have faded about the devastating events of only 4 years ago. But for the Polish people, martial law is no mere memory. They cannot forget. Daily life serves as a painful reminder.

Yet, Mr. Speaker, 4 long years after the crackdown, Solidarity is still very much in operation above—and underground. It remains the inspiration for extensive unofficial publishing and other independent cultural and educational activity. As co-chairman of the U.S. Helsinki Commission, I would take the occasion of the grim December 13 anniversary to share with my colleagues the concluding paragraph from a report prepared for the Budapest Cultural Forum of Helsinki signatory states by the Committee of Culture of Underground Solidarity. It consists of a quote by Leszek Szaruga, that appeared in the independent literary publication Obecnosc from Wroclaw:

> We live in a divided Europe brimming with steel and explosive devices, capable of wiping out the most minute trace of life from this continent. We can oppose this arsenal only with the delicate structure of culture which is always a structure of understanding. It is easily destroyed, and not only by force. One can easily destroy it by destroying lively and searching thought, which frequently goes astray, but which constitutes the only realistic chance for survivial.

Lively and searching thought is the target of regime repression in Poland and in other countries around the world today. Solidarity's tragic experience and its urgent message holds deep meaning for us all. We would do well to listen and to heed it. Thank you, Mr. Speaker.

MARTIN ANDERSON ON THE NEED FOR AN ABM SYSTEM

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. COURTER. Mr. Speaker, Martin Anderson's essay from the Washington Post points once again the very real need for some form of defenses against ballistic missiles, even if such a defense is only partial or preferential in scope. We currently have no defenses whatsoever against any type of ballistic missile attack, a fact which many Americans find both astounding and profoundly disturbing. The SDI opponents have made a centerpiece of their attack the insistence that any system be 100 percent effective, virtually leakproof against an all-out Soviet first strike. In the same breath, they contend that such a system is impossible to construct and operate. Little attention is paid to the most likely nuclear threats, which are posed by accidental Soviet or Chinese launches and intentional launches by some future Third World nuclear weapons state. We dismantled the one ABM system we were permitted under the ABM Treaty, an action not met in kind by the Soviets. Certainly the Soviets know better than we that even an imperfect, limited system can have important utility against less than robust nuclear threats; this is a compelling case for initiating ABM deployments as soon as possible.

[From the Washington Post, Nov. 26, 1985]

WE NEED AN INSURANCE MISSILE DEFENSE SYSTEM

(By Martin Anderson)

The results of the Geneva summit prove that President Reagan's often lonely approach to dealing with the deadly issue of nuclear weapons is the right one. The final statement endorsing "the principle of 50 percent reductions in the nuclear arms of the U.S. and the U.S.S.R. appropriately applied" was an extraordinary achievement.

Even the combined foreign policy wizardry of Nixon and Kissinger could produce only a controlled, but farily high rate of growth in the nuclear arsenals of the two superpowers. And the most radical proposal the international left has seriously proposed in the last decade was a mere freeze on existing nuclear stockpiles. Yet here were the two great nuclear powers endorsing the idea of a one-half reduction.

The weeks and months ahead will tell whether our negotiators have the skill and patience to fashion an arms control agreement that is in our national interest. In the meantime there is something we can and should do that would reduce the degree to which the United States is at risk from nuclear attack and would also give added momentum to the arms control talks. We need to build an insurance missile defense. It is something the Soviet Union has already done.

Under the terms of the ABM Treaty signed in 1972, both the United States and the Soviet Union have the right to build a limited missile defense system with up to 100 interceptor missile launchers. Almost immediately after the signing of the treaty, the Soviet Union began to deploy interceptor missiles around Moscow. Today they have the only operational missile defense system in the world.

Almost 100 interceptor missiles, mostly brand-new SH-08s, tipped with nuclear warheads, stand poised to blast off at a moment's notice. Because they intercept their targets high above the earth's surface, they can effectively protect a very large part of the Soviet Union from a limited missile attack. They cannot protect the Soviet Union from the combined assault of hundreds or thousands of nuclear missiles, but they can and do guarantee Soviet rulers that they need never fear the chilling assault of a nuclear missile launched accidentally, or being held hostage to a threat from a Third World power that has managed to build a few nuclear ICBMs.

In the early 1970s we began to build a defensive missile site to defend our regular missiles stationed in Grand Forks, N.D. In 1975 we stopped and tore down what had been built. Today we have nothing. If a nuclear missile or two, for whatever reason, were launched toward the United States today, we would be helpless.

Take the worst case. A Soviet missile targeted on Washington is fired accidentally. The Soviets frantically notify the White House on the hot line. The North American Defense Command in Colorado tracks the incoming missile with its sophisticated computers and informs the Pentagon that it will strike the city in 14 minutes. What should our response be? Do we answer with a nuclear attack of our own, even though the Soviets are apologizing profusely for their mistake? Do we passively wait while our country is "decapitated?" What would you do if you were president?

The real answer is that we should not even have to contemplate such questions and all their ramifications. The Soviets don't. If we mistakenly fired a nuclear missile at Moscow, they could tell us not to worry and blast it harmlessly out of the sky with one of their interceptor missiles. The tragedy of our situation today is that we cannot do the same.

Last year the U.S. Army successfully tested an interceptor missile that proved we could destroy an incoming ICBM more than 100 miles up in space and that we could do it by simple collision—without using a nuclear warhead. And that is something the Soviet cannot do. Today the technology is on U.S. shelves that would enable us to build an effective limited missile defense system, one totally permitted under the ABM Treaty, that could ensure the United States against the possibility of the most terrible accident in history.

The fact that we have not built any missile defense must be incomprehensible to the Soviets. Building and deploying a limited missile defense now would place us on a par with the Soviet Union in terms of operational missile defenses. Beyond that it would give the American people a chance to live in a nuclear world where at least you could protect yourself from an accidental attack.

And if both the United States and the Soviet Union possessed an insurance missile defense system, all of us just might find that we had created a measure of stability that we have not had since the Soviet Union developed nuclear weapons.

CONGRATULATING L.W. (BILL) LANE

HON. CECIL (CEC) HEFTEL

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. HEFTEL of Hawaii. Mr. Speaker, it gives me great pleasure to congratulate L.W. (Bill) Lane on his appointment as the new U.S. Ambassador to Australia.

Bill Lane, publisher and chairman of the board of Sunset Magazine, has long been a friend of Hawaii. He has promoted tourism in Hawaii and the Pacific through such positions as U.S. Commissioner General to the International Ocean Exposition in Okinawa and U.S. Government representative to the Pacific Area Travel Association. Bill Lane's familiarity and expertise with the Pacific Basin make him an excellent choice for the next ambassador to Australia. An editorial column about Bill Lane appeared in The Honolulu Advertiser on December 17, 1985, and I would like to share it with my colleagues.

The article follows:

U.S. AMBASSADOR LANE

L.W. (Bill) Lane, board chairman and publisher of Sunset Magazine and a longtime friend of Hawaii and the Pacific, soon goes to Canberra as the new U.S. ambassador to Australia.

He is an excellent choice, especially at a time when New Zealand's sag in relations with us makes the joint security alliance of America and Australia all the more important. Bill Lane has the talents and the knowledge of the region to further that bilateral commitment.

With a growing Soviet presence in the Pacific, Australian leaders are hopeful that the recent Geneva summit will lead to arms control, including nuclear non-proliferation and limits on chemical weaponry.

In commenting on the summit in speeches to Parliament late last month, both Prime Minister Bob Hawke and Foreign Affairs Minister Bill Hayden reaffirmed Australia's commitment to its alliance with the U.S.

The New Zealand issue has helped to focus more American attention on our relationship with Australia, with the realization that what we had largely taken for granted is really vital to our strategic interest in the region.

Of mutual benefit is a warm friendship of more than two centuries based on a common dedication to freedom and democracy. The founders of the Australian federation got the idea of federalism from this country and studied the American Constitution in drawing up their own.

Names of some Americans unfamiliar to most of us are important figures in Australian history—George Chaffey, who pioneered irrigation Down Under; J.C. Williamson, who played a major role in the development of the theater; and Walter B. Griffin, who designed the national capital.

Aussies have fought alongside Yanks in every war in this country in which we've been engaged—World War I, World War II, Korea and Vietnam. Australia is the only country to have done that.

Thousands of Americans own land in Australia. Many have business connections there. Bilateral trade is substantial, with Australia running a deficit with us but, interestingly, a surplus with Japan.

We have important military facilities in Australia, ranging from naval communications stations to a joint defense space research base.

Anzus, if New Zealand withdraws its rebuff of U.S. nuclear vessel visits, or a new bilateral treaty between Canberra and Washington will contribute to be the heart of Australia's defense structure.

That is as true of the Labor Party now in power as of the Liberal Party (which is conservative). When the late Arthur Calwell led Labor, he said, "We want the American presence, strong and powerful, in Asia and the Pacific. We want it because Australia needs it until all nations are prepared to disarm." Obviously, we need it there, too.

As the new U.S. ambassador, Bill Lane has links with Australia that go back to World War II when he was a gunnery and communications officer on troop transports in the Pacific.

Presidents Carter and Reagan named him the U.S. government representative to the Pacific Area Travel Association. He had ambassadorial rank when, on appointment by President Ford, he served as U.S. Commissioner General to the International Ocean Exposition in Okinawa 10 years ago. He has been active in the Pacific Basin Economic Council.

He and his magazine have staunchly promoted Pacific tourism. He is a supporter of the Travel Industry Management School at the University of Hawaii and of the HVB. He and his wife Jean, who is on the board of the Pacific Tropical Botanical Garden on Kauai, will be worthy representatives of the U.S. in Canberra.

NEW HUNGER STRIKE BEGINS IN NORTHERN IRELAND

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. BIAGGI. Mr. Speaker, as chairman of the bipartisan ad hoc Congressional Committee for Irish Affairs, I am deeply concerned over reports that a new wave of hunger strikes may be beginning in Northern Ireland.

This concern is based on the decision yesterday by a prisoner, Robert Tohill, age 26 to begin a hunger strike. Mr. Tohill was one of 27 men convicted in a highly controversial "supergrass" trial conducted in Northern Ireland. The supergrass process has come under fire from a number of international organizations and legal experts. It is a procedure by which the uncorroborated testimony of paid informants is made admissible and is often the main vehicle leading to conviction. Such was the case in Mr. Tohill's trial. His decision to embark on a hunger strike is in protest over this procedure which shows contempt for due process and makes a mockery of justice.

It is imperative that the British Government moved expeditiously to allow an appeal to be filed in this case. Such an appeal should also allow for a ruling on the use of supergrass and its degree of being inimical to the ideals of a democracy. Almost 4 years ago hunger strikes took the lives of 10 young men in Northern Ireland. British indifference and inaction contributed to this. Let us not allow history to repeat itself again in Northern Ireland.

TRAGEDY IN ETHIOPIA

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. ROTH. Mr. Speaker, I would like to read to my colleagues two headlines that have appeared in the Washington Times and the Washington Post in the last few days: "Ethiopian Officials Accused of Undermining Relief Work"; "Ethiopian Reported Missing: Relief Official Said to Seek U.S. Asylum."

We are silently standing by and witnessing a tragedy of historic proportions. Over a million Ethiopians are being forced at gunpoint to leave their homes and families and are being transported south under cruel and inhumane conditions. So far, over 100,000 Ethiopians have died in this death march. About half of the victims rounded up and placed in these concentration camps have died. However, and I quote from a December 17 Washington Post article:

> Western relief officials fear that any public criticism of the relocation scheme could result in their expulsion from Ethiopia and cancellation of relief programs, many of which recently have spent millions of dollars in the country.

It is no coincidence that the head of Ethiopia's famine relief organization, Dawit Wolde Giorgis is seeking political asylum in the West, as once again the pace of this horrifying resettlement program has intensified. Undoubtedly even Mr. Wolde could no longer stomach the atrocities of his government.

I urge my colleagues to take a moment and review these three articles which are reproduced below. We cannot sit idly by and witness this holocaust. We must rally world opinion around this tragedy. And we must consider tough sanctions against this evil government.

[From the Washington Times, Dec. 19, 1985]

ETHIOPIAN OFFICIALS ACCUSED OF UNDERMINING RELIEF WORK

(By Curtis Cate)

PARIS.—Ethiopian officials more concerned with fighting rebels than combating famine constantly undermined the efforts of a French charity that was expelled from the country, a nurse who worked for the charity says.

And Claire Couquiaud, a 24-year-old nurse working for the French medical-aid group Medicins Sans Frontieres (Doctors Without Borders), says she saw government officials force peasants into a resettlement scheme under conditions so harsh that many died each day.

Miss Couquiaud, a blonde Parisienne who says she went into nursing because she was inspired by her sister who is a doctor, volunteered in September to spend six months working in Ethiopia for MSF. Soon after her arrival, Miss Couquiaud found herself caught in a dispute between the Ethiopian government and the charity group, which organizes medical relief efforts around the world.

The dispute broke into the open with charges by the head of MSF, Dr. Rony Brauman, that the Ethiopian government had blocked the group from opening a children's nutrition center because it might interfere with the government's controversial resettlement program.

In a press conference yesterday, Dr. Brauman charged that forced migration has killed more than 100,000 people in Ethiopia and is leading to another 300,000 people being threatened with death. He said refugee centers in Ethiopia resemble concentration camps and said the camps for famine victims in northern regions are "the No. 1 cause of death in the country."

Angered by MSF's repeated allegations, the Ethiopian government has charged the charity is more interested in politics than relief. More than a score of MSF doctors, nurses and other staff were expelled from the country this month.

In an interview with The Washington Times, Miss Couquiaud rejected Ethiopian allegations that MSF was "politically motivated." She described how her assignment became "disheartening"—and even "nightmarish"—as she and her colleagues saw how Ethiopian officials dealth with peasants.

She and her team—which included one doctor, two nurses, and a "logistician" whose job it was to clean out dirty wells and water holes and to build latrines—operated at Kelala in northern Wollo region, about 250 miles north of the capital. There, she says, their efforts were thwarted by the refusal of the Ethiopian authorities to let them open a clinic where critically undernourished infants could be allowed to stay overnight for emergency feeding.

"All we were allowed to do in our feeding center was to give the most critically famished a ration of 'hypercaloric' food—an enriched powder composed of dried milk, sugar, and oil which we had to mix with water into a kind of porridge—to supplement the normal daily pancake diet, after which the poor devils were sent back to the villages they had come from," she said.

"As a result, of the 10,000 persons who came to see us every month—some of them having had to walk seven full hours from their village homes—3,000 are estimated to have died," she said.

Miss Couquiaud, who arrived at the village on Oct. 12, said about a month after her arrival tents began to spring up around Kelala's main building—a small, dirt-floored hall known as the "theater." Soon the tents were filled with a haggard group of some 500 "voluntary migrants" for the resettlement program.

But far from being volunteers, she said, the "migrants" had been singled out by village mayors, often as a way of settling personal scores, and rounded up by armed Ethiopian troops.

"These poor people, many of them husbands arbitrarily separated from their wives and families, were kept pinned up in the theater and surrounding tents for almost two weeks in utterly appalling conditions," she said. "There were no lavatory facilities, there was excrement everywhere, and the stench was indescribable.

"Every morning we saw a score or two of litters carrying out the corpses of people who had died during the night."

On the night of Nov. 27, Benoit Tullen, the Geneva-born doctor who headed the MSF team, visited the theater. Appalled by the spectacle of excrement and lice-infested straw, he persuaded the local administration to let him remove the most stricken cases for emergency treatment.

"By this time, people were no longer trekking in from the countryside with their starving children to receive our emergency rations, being scared stiff of being rounded up by militiamen for shipment south to some resettlement area, " she said.

Miss Couquiaud said that other "voluntary migrants" were encountered by another MSF team near the northern Wollo village of Sekota. The team came upon a group that had been locked into a church, where many of them were dying. While trying to obtain their release, a French nurse was assaulted by an Ethiopian militiaman who knocked her to the ground with his rifle butt, Miss Couquiaud said.

"Right up to the last moment, we had trouble with the militiamen," she said. On Dec. 13, when she and her colleagues were informed they were being expelled from Ethiopia, the militiamen would not let them distribute any of their food stocks to the 50 local helpers in the relief effort.

She said a militiaman broke a leg of one helper.

[From the Washington Post, Dec. 16, 1985]

ETHIOPIAN REPORTED MISSING—RELIEF OFFICIAL SAID TO SEEK U.S. ASYLUM

(By Blaine Harden)

NAIROBI, KENYA, December 15.—Dawit Wolde Giorgis, head of the Ethiopian government's famine relief program, is reported to have been missing for more than three weeks since completing a fund-raising tour in Western Europe and the United States.

Western relief officials in Ethiopia, who are in contact with senior members of the government there, said Dawit is widely believed to be seeking political asylum in the United States.

A spokesman for the the U.S. Embassy in Addis Ababa said it had no information on Dawit's where-abouts and is not aware if he has asked for asylum. [At the State Department, a spokeswoman said she had no report of Dawit being in the United States.]

As commissioner of Ethiopia's Relief and Rehabilitation Commission, Dawit has become one of the most visible and widely quoted officials in Marxist Ethiopia during the past year. He has been an outspoken critic of western governments, charging they responded too slowly last year to Ethiopia's famine.

His defection would be likely to embarrass the Ethiopian government, which is a close ally of the Soviet Union and a frequent critic of the United States.

Dawit left Ethiopia Oct. 25 for a trip intended to raise aid donations for the famine, which is expected to continue through 1986. He reportedly visited Britain, Belgium, West Germany and the United States. He met officials in Washington and at the United Nations in New York. He was last heard from in Belgium and was expected to return to Ethiopia Nov. 23, relief officials in Ethiopia said.

Dawit's brother defected from Ethiopia to the United States in September, according to diplomatic sources. The sources said he went to New York where his wife had been given a job, through Dawit, with the Relief and Rehabilitation Commission.

Dawit's absence from Addis Ababa has delayed planning among the 35 countries and 47 nongovernmental organizations working there for next year's relief effort, aid officials say. The Ethiopian government has not made an official statement on Dawit.

A graduate of Columbia University Law School and a major in the Ethiopian Army, Dawit has been important to the government headed by his friend, Lt. Col. Mengistu Haile Mariam. During the early 1980s, Dawit served as governor of Eritrea, where rebels have been fighting the government since 1962.

Dawit headed the "Red Star" campaign against the rebels, which was unsuccessful and in which there were more than 30,000 government casualties. He subsequently was named to the number two position in the Ministry of Foreign Affairs.

Two years ago, Mengistu named Dawit as head of the government's agency responsbile for coordinating famine relief. As commissioner of the Relief and Rehabilitation Commission, he was widely respected by western relief officials, who said he worked hard and was decisive.

In recent months, however, these relief officials said Dawit's influence in the government had waned. They said regional leaders of the ruling Workers' Party frequently overrode decisions made by the relief commission.

Dawit, who is divorced, is believed by relief officials to own a home in California.

A MARTIAL ARTS LEGEND

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. McEWEN. Mr. Speaker, for the past two decades Al Conaway of Hillsboro, OH, has been a master teacher or Sensei of martial arts. His record of accomplishment which follows speaks for itself, but as someone who has known and followed Mr. Conaway's career I can personally attest to this legend of Ohio martial arts.

Following are a few of Al Conaway's martial arts achievements: Over 100 trophies and personal awards; personally trained 60 black belt 1; recognized by 2 U.S. Presidents, the Ohio House and Senate and the Governor of Ohio; trained Ohio State karate grand champion (1983); and named one of the most outstanding Senseis of mid-America (1976–85).

Mr. Speaker, to enter an endeavor, a field of study, a business and do the best you can is the mark of a successful career. On his retirement from the martial arts field, Al Conaway can feel comfortable in the fact that he did his best.

THE SMOKING LADA: NICARAGUAN SUBVERSION IN ACTION

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. BROOMFIELD. Mr. Speaker, Concrete evidence is finally available showing Nicaraguan support for the rebels in El Salvador. A Russian-built vehicle crashed in Honduras earlier this month. The war materiel and other equipment cleverly hidden in that vehicle provide proof that Managua is assisting rebel groups in El Salvador. The claims that the administration has been making over the years are true. Commundante Ortega and the Sandinistas are involved in actively supporting and supplying the Communist insurgency in El Salvador. The Nicaraguan Government is intentionally promoting subversion and terrorism in the region.

According to one of the men injured in the wreck, the vehicle came from Managua and was going to El Salvador. The driver of the vehicle admitted that he had been trained in Cuba and had made a similar delivery run earlier this year.

The wrecked car contained six hidden compartments stuffed with $27,000 in U.S. dollars and 450 pounds of clandestine military equipment. Included in this equipment were 7,000 rounds of ammunition, 21 grenades, 12 radios, and 86 blasting caps. Also found were cypher pads for putting secret messages in one-time-only codes that are impossible to break. Medical supplies, written instructions to FAL—Armed Liberation Forces—rebel field commanders and letters to rebel soldiers from relatives in several countries, to include Cuba and the Soviet Union, were found. The letter from the Soviet Union was apparently written to a rebel soldier. It was written in Russian which indicates that the soldier was probably trained in the Soviet Union long enough to learn the language. I also understand that there is a videotape showing Honduran officials opening up the secret compartments in the car and removing the hidden equipment.

In spite of Nicaraguan claims that it has not provided arms or ammunition to the guerrillas in El Salvador, the truth has finally come out. Even Miguel D'Escoto, the Nicaraguan Foreign Minister, had denied to the World Court that his government was assisting the Salvadoran rebels.

For 5 years, the administration has been telling the American public that the Sandinistas have been arming and supplying the Salvadoran rebels. While sensitive intelligence sources and methods have always clearly shown the close support which Managua gives to the groups which make up the FMLN, unclassified concrete evidence was admittedly scanty.

I commend Honduran authorities for their professionalism in detecting the arms cache in the "Smoking Lada" and the administration for quickly calling this convincing evidence to the attention of Congress.

With these thought in mind, I suggest that all Members read the following press briefing concerning this incident by Elliott Abrams, Assistant Secretary of State for Inter-American Affairs. This entire affair is food for thought.

SUMMARY—EVIDENCE OF NICARAGUAN SUBVERSION IN CENTRAL AMERICA

An auto accident in Honduras on December 7 led to the discovery by Honduran authorities of ammunition, grenades, communications and encrypotion material, and other items being sent from Managua to guerrillas fighting in El Salvador. The evidence, which came to light only by chance, provides further proof of the continuing role of Nicaragua in support of regional armed subversion and terrorism and factually demonstrates that Sandinista Foreign Minister Miguel D'Escoto and his government lied to the World Court when they said they are not engaged in provision of supplies to the guerrillas in El Salvador.

INTRODUCTION

Honduran authorities have already issued a statement concerning the incident we address today. On December 7, in Honduras, a serious accident occurred involving a Soviet-built Lada automobile. As Honduran investigators at the scene of the accident discovered, the vehicle had six concealed compartments containing grenades, ammunition, communications and encryption materials, instructions, money, medical supplies, and personal letters to guerrillas fighting in El Salvador from relatives in the Soviet Union, Cuba, and other countries. The documents, including instructions addressed specifically to nine guerrilla commanders, revealed that the shipment came from the Managua headquarters of the Armed Liberation Forces or FAL, the military wing of the Communist Party of El Salvador and one of the five main guerrilla groups that make up the FMLN. The other four groups are the National Armed Resistance Forces (FARN), the Popular Liberation Forces (FPL), the Central American Revolutionary Workers Party (PRTC), and the Popular Revolutionary Army (ERP).

The shipment we are discussing today was sent by the FAL Communications Section in Managua and was destined to nine field communications chiefs in El Salvador. The text of the FAL letter of instructions is being made available.

BACKGROUND: ARMS TRANSFERS

Since the Sandinistas took power in Managua, arms and other supplies, including dollars, have been shipped from communist bloc countries and elsewhere through Nicaragua to the guerrilla groups of the Farabundo Marti National Liberation Front (FMLN) in El Salvador. Nicaragua and Cuba are the central participants in this support network. The Sandinistas provide warehouses for storing arms, ammunition and other supplies awaiting onward transportation to El Salvador. Nicaragua territory is used for training camps for guerrillas from El Salvador and other Latin American countries. The FMLN central command's radio and logistics system is in Managua.

It was no accident that the negotiations with the Salvadoran guerrillas for the release of President Duarte's daughter and twenty-two mayors and municipal officials has to be conducted via the FMLN's central radio in Managua.

The pattern of arms shipments through Nicaragua to El Salvador has gone through several stages since 1979. From small-scale deliveries early in 1980, the shipments became massive in period November 1980 to January 1981, when large arms shipments from the communist bloc, particularly Vietnam, were sent to Nicaragua for transshipment to El Salvador. It was at this time and for this reason that President Carter suspended U.S. economic aid to Nicaragua and commenced military aid to El Salvador. At that time three rather open methods were used for shipping arms: aircraft—for both airdrops and landings in El Salvador; large semi-trailers—for the overland route from Nicaragua through Honduras; and small vehicles for transport into El Salvador. (Photographs of one of these trailer trucks are printed in the State Department publication, "The Sandinista Military Build-up.")

After the arms shipments of late 1980 and early 1981 were exposed, the Nicaraguans and Salvadoran guerrillas turned to other means. The emphasis switched to transportation over the Gulf of Fonseca, and automobiles and small vans on the overland route. As with the earlier trailer trucks, license plates and vehicles registered in other countries, such as Costa Rica, Guatemala and Honduras were frequently used to allay suspicions of border guards.

As Salvadoran surveillance on the Gulf of Fonseca improved and arms were seized after landings, the Sandinistas and the FMLN have again changed the sea routes, using larger boats on blue water outside the Gulf of Fonseca, then transferring shipments under cover of darkness to small boats which are unloaded at safe locations on the Salvadoran coast. The arms smugglers are informed by guerrilla radio of the locations of Salvadoran army patrols as the boats approach the coast.

Today, the transport of arms by vehicle has become quite sophisticated. In Managua, there is a shop for modifying vehicles to add small secret compartments like those found in the Lada. Frequently, vehicles begin their trip in Costa Rica, pick up their cargo in Nicaragua, pass through Honduras into El Salvador or go to Guatemala before going to El Salvador, and finally, after unloading, on to Mexico. Then after a week or two the vehicle returns to Costa Rica. For example, according to its driver, the Lada vehicle captured on December 7 would have gone into El Salvador after passing through Honduras. Another variant on the routes used is to off-load the arms and supplies in Honduras for storage and subsequent shipment to El Salvador via small vehicles, pack animals, and in backpacks.

THE ACCIDENT

On December 6, a Lada automobile bearing Costa Rican plates crossed the border of Costa Rica into Nicaragua. On December 7, the same vehicle entered Honduras from Nicaragua on the Panamerican Highway between Nicaragua and El Salvador. Shortly thereafter, it suffered a blowout and crashed in the small town of La Leona, Honduras. Both the driver, Elias Solis Gonzalez, and his passenger, Martha Espinoza Espinoza, were injured, and the woman is hospitalized in serious conditon in Honduras.

Local police, noting the Costa Rican plates, notified the Costa Rican consular representative. During the police inspection of the vehicle several wires were discovered protruding from the air conditioning duct. The wires turned out to be parts of blasting caps. Later, in the course of a more detailed examination in Tegucigalpa, the authorities found several concealed compartments in the Lada, which contained ammunition, grenades, communications and encryption material, money—$27,400 in U.S. currency—medical supplies, personal letters to individual guerrillas fighting in El Salvador from relatives in the USSR, Cuba and other countries, and instructions to the front communications officials from the head of the FAL Communications Section.

The driver of the Lada was a Costa Rican and a member of Costa Rica's communist Popular Vanguard Party. He was acting as a courier for the Salvadoran Armed Forces of Liberation, the FAL. The driver, now under detention, has admitted to having been trained in Cuba in "political subjects" from September 1981 to June 1982, and to having made an earlier courier run in the same vehicle in July 1985. His route on the previous run went from Costa Rica to Nicaragua, to Honduras to El Salvador.

These photographs show the concealed compartments and the following materials contained in them:

Ammunition: 7,000 rounds, sufficient to equip a platoon sized unit (30–50 men) for a major assault or several smaller operations;

86 electric blasting caps, which can be used to make 86 home-made bombs or improvised explosive devices. There have been over 400 bombings in El Salvador in 1985 alone, with an increasing shift to urban actions;

20 fragmentation grenades used to kill or incapacitate personnel, or as mines and boobytraps. Also a terhmite grenade used to destroy machinery or as an incendiary device;

17 grenade fuses;

Communication gear: Two base station radios used for communication over long distances with units in the field and ten walkie-talkies for use between platoon leaders. Computer-generated Encryption pads: used to encrupt and decode communications;

US$27,400 in hundred dollar bills. Worth over a quarter million Salvadoran colones on the black market, enough to support 250–500 combatants for a month;

Medical materials, typically associated with combat field hospitals; and

Over 20 assorted documents, mostly personal letters from Argentina, Spain, Nicaragua, Cuba, and the Soviet Union.

The use of autos and other vehicles for the transport of explosives and communications equipment, as well as ammunition and other small-scale items, has been known for some time. The sophisticated construction of the concealed compartments, as seen in the photos, has eluded normal detection measures. Short of the actual dismantling of every vehicle crossing a border, it is hard to identify which vehicles are smuggling materials for the guerrillas. It is, in fact, completely fortuitous that this physical evidence of something we have known through intelligence for a long time has come to light.

In a similar incident last month, Guatemalan authorities picked up an individual, arriving by air from El Salvador, who had in his possession $30,000 in U.S. $100 bills. He was turned over to Salvadoran authorities, who have determined that he is an intelligence officer for the Communist Party of El Salvador (PCES) and was trained in the USSR and Cuba. He had been a resident of Managua for five years at the time of his arrest, and since September 1984 had been traveling to Guatemala City approximately every three months to deliver between $20,000 to $30,000 to the PCES. He is continuing to cooperate with Salvadoran authorities, and we cannot share with you all the information he has provided thus far. However, what is clear is that he was a highly trusted member of the guerrilla movement, and no mere courier for the Salvadoran Communist Party.

The Sandinista regime will undoubtedly deny its involvement in this incident, as it has always denied any involvement in logistical support for subversion, from arms transfers to provision of command and control facilities for various terrorist groups.

In his April 21, 1985, affidavit to the International Court of Justice in the Hague, Foreign Minister Miguel D'Escoto claimed that his government "is not engaged, and has not been engaged, in the provision of arms or other supplies to either of the factions engaged in the civil war in El Salvador." He insisted that the policy and practice of the Sandinista regime is to prevent the use of Nicaraguan territory as a conduit for arms or other military supplies to guerrillas, and assured that the policy would continue in force. Nevertheless, the evidence that puts the lie to those denials and assertions continues to mount. The vehicle that I have shown you is only the latest evidence which demonstrates that D'Escoto and the Sandinista regime simply lied to the World Court. The Sandinista regime is the vital link in the transfer of weapons, supplies, and money to the Salvadoran guerrillas.

STANLEY BURNS

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. HOYER. Mr. Speaker, I would like to bring to my colleagues' attention the attached article from the Baltimore Sun magazine on Stanley Burns of Chase Manhattan Bank. As you are probably aware, Maryland has had a significant problem in the past months with the failure of a few savings and loans. The Governor and the Maryland General Assembly have been working diligently to remedy the problem and have looked to the banking and savings and loan industry for assistance. During a special session of the Maryland General Assembly the Chase Manhattan Bank was given banking privileges in Maryland in return for their assuming control over and the liabilities of three of the State's troubled savings and loans.

The attached article is an excellent story about Chase's new president in Maryland, Mr. Stanley Burns. We in Maryland welcome both Mr. Burns and Chase to our State and look forward to a productive and longlasting relationship with them.

CHASE'S MAN IN MARYLAND

(By Susan Antilla)

NEW YORK.—It was the start of the July 4th weekend, and Stanley T. Burns and an entourage from Chase Manhattan Corp. had one thing on their minds: to get back to their families in New York and carry through on promises of weekends in the mountains or at the shore. Late negotiations with S&L officials in Bethesda caused them to miss the last shuttle out of Washington on Wednesday night. The trip to National Airport the next day meant even further frustration as the ride through the capital placed them in the middle of a 6 a.m. traffic jam—the Beach Boys were setting up for a July 4th concert. They finally got to National Airport only to discover there would be no flights for another 2½ hours.

"There were other times when we missed the last shuttle or train out, and those things get to be wearing," Mr. Burns says. "You get into a long negotiating process and it burns up a lot of mental energy."

Mr. Burns, 41, was chief of the Chase team that finally tied up deals with the Maryland State Legislature, Friendship Savings and Loan of Bethesda, Chesapeake Savings and Loan of Annapolis, and Merritt Commercial Savings and Loan of Baltimore. The three banks have been merged into the new Chase Bank of Maryland, now headquartered at 300 N. Charles St.

His long hours and personal frustrations apparently paid off: Chase honchos named the Tennessee native president of the new Chase Bank of Maryland on Oct. 31, rewarding the 19-year Chase veteran for his moves to quicken the bank's entry into the lucrative Maryland market.

"He endeared himself with all of those with whom he was working," said senior vice president Joseph Harkins, Mr. Burns' boss, who had a big say in the decision to tap him for the job. "Stan was always the guy to run it. He's got managerial capacity and a warm, comfortable style that fits in with the community. He knows the innards of the banks he acquired. And he is familiar with the network in Chase Manhattan."

A big plus boosting Mr. Burns was his quintessential Chase style. For this interview, his pinstriped suit, white button-down collared shirt and tasseled loafers left little doubt that he favors a classic banker's uniform. His office in New York is a textbook example of what ex-Chasers refer to as "the Chase Look"—a spartan, no-frills image that dictates everything down to the paintings on the wall.

The image is also that of the totally organized person: blank yellow legal pad, message slips neatly stacked and sharpened pencils, all pointing up from a nondescript pencil holder. A polished apple offers a lone splash of color in Mr. Burns' otherwise stark surroundings. Even Mr. Burns jokes that one friend at Chase has said he'd prefer having emergency surgery on Mr. Burns' immaculate desk to any other flat surface.

Current and former Chase insiders say the corporate culture dictates other behavioral principles. "You'll find that Chase will tell you nothing about anything—you'll never know where anyone stands," said one defector. Indeed, Mr. Burns, who launched the Chase ethics program, would not discuss his views on ethics in American business generally. And despite his involvement with programs that marry the liberal arts graduate and the corporation, he did not wish to talk about any business world shortcomings in the hiring of liberal arts grads, either. One former Chase manager describes Mr. Burns as the ultimate Chase politician—an exec who's made it his business never to step on toes or make an enemy.

Right now, it is in Mr. Burns' interest to make sure that things go smoothly—perhaps to rock the boat even a little could distract from a high corporate priority. The Maryland venture is extremely important in a larger Chase plan to expand regionally, and many management eyes will be focused on Mr. Burns as he develops his plan to make this region profitable.

Said Mr. Harkins, "This is a very significant step [for Mr. Burns] simply because it is on the cutting edges of the way in which the bank is moving to expand itself nationally." Chase recently announced an agreement to acquire Continental Bancor of Arizona, which owns Arizona's sixth largest bank. New York-based Chase Manhattan Corp. owns the Chase Manhattan Bank, which is the third largest bank in the United States, with more than 300 branches in New York state. The bank has assets of $88 billion and is represented in more than 100 countries.

Stanley Burns first became involved in a potential acquisition of the Maryland S&Ls because, as vice president and eastern regional manager of Chase's commercial sector, Maryland was within his jurisdiction. (The appointment to president of Chase of Maryland is considered a significant step because it puts him in charge of all banking activity in a major market.) His group already had decided that the Maryland market would be a priority for bank expansion, so when the S&L crisis erupted last May, they saw it as "an alternative entry route," Mr. Burns says. Chase representatives testified at the special legislative session from the very start, and both the bank and the government set ground rules.

"We were told we would have to acquire either Old Court or Merritt," Mr. Burns remembers, explaining that Merritt became Chase's choice because Old Court "was a lot bigger and more complicated." The ground rules set by Chase for the state were that the bank wanted more than one S&L, "in order to put together a reasonable package" with a mix of assets, geographic diversity and a strong deposit base.

In the months between May and the end of October, when Chase's deal was finally sealed, a big point of disagreement was whether Chase should get $25 million from the Maryland Deposit Insurance Fund Corporation.

On Oct. 17, which happened also to be Mr. Burns' birthday, the deal's potential took a negative turn, as a frustrated Chase group picked up and returned to New York. "We finally got to the point in Annapolis of saying our deal is on the table and it's our best deal," Mr. Burns remembers. "There was a certain view that Chase was unwilling to compromise. . . . But there had been quite a lot of compromise from the beginning."

Some colleagues of Stan Burns say it was a particularly tough time for him. "When you're a business person and you see logical business reasons for doing things, but you're operating in a political environment, it can be frustrating," said Chase senior vice president Fredric Figge II, who started his Chase career with Mr. Burns 19 years ago.

While the slow-moving political process continued to threaten Stan Burns' business plans, the chorus of those accusing him of an uncompromising stance grew louder. Mr. Burns, however, says many compromises had been made along the way. "It was very hard for me personally to hear people say that Chase wouldn't compromise when I had spent two months negotiating and we really had done a lot in that regard," he says. "For one thing, we did not want the Merritt Tower and ended up agreeing to take it."

Chase did not want to take over an unfinished, unleased building, Mr. Burns explained. But Chase went along with the state's request anyway, agreeing to take Merritt if no bidder could be found for a minimum of $30 million. Ultimately, the building was sold for $31.5 million to a New York construction company.

Although Mr. Burns will tell you, "I believed we would be back" after heading back to New York and leaving a Chase deal on the legislative table, Mr. Harkins confesses "it was very hard to tell if it would go through." State Senate President Melvin A. Steinberg, D-Baltimore County, challenged the idea of Chase getting $25 million from the Maryland Deposit Insurance Fund, part of the deal agreed to by state officials.

The negotiations became such a regular part of weekend conversation that Mr. Burns' young son became familiar with the players. "One weekend Bryant, who's 4, came in and handed me his toy phone," mimicking the familiar weekend scene of seeing his father in constant business discussions. "He said, 'Dad, it's Mickey [Steinberg],'" Mr. Burns remembers. "Bryant started carrying his own phone around the house," he says—in classic child-imitating-parent style.

All the Burnses—Sarah, 8; Anna, 2; Bryant, and Mr. Burns' wife, Christa—are looking forward to the move to Maryland, he says. Though Mr. Burns is already spending most of his time in Maryland, the rest of the family will head south in January, after Mrs. Burns leaves her job as minister of the Plymouth Congregational Church in Brooklyn Heights, where they now live. (The two met at the Madison Avenue Presbyterian Church, where Mr. Burns was an elder 10 years ago. Christa was a graduate student at Union Theological Seminary. He says the family has "a very strong commitment to the church," but lest their zeal be misunderstood, a friend adds, "They're normal, level-headed people. They are not handing out pamphlets on the corner.")

To Mr. Burns, the new project is a natural, because it draws on his natural business instincts to build—something that has gained him professional recognition from Day 1 at Chase. Consider these roles: Mr. Burns revamped an out-of-date Chase training program to turn the focus from old-fashioned commercial lending to a more up-to-date financial services orientation; he walked into Chase's real estate investment trust mess in the 1970s and helped clean that up, and he built a financial analysis division in the late 1970s to examine problem loans in the bank's portfolio and decide how to handle them.

In fact, Mr. Burns likes to describe himself as a builder, and says that Chase—which hired him right out of Duke University (B.A., political science) in 1966, gives him the chance to do what he does best. "One of the things I like about Chase is that you can go into different kinds of places and do different kinds of things. It's different than going to one place and becoming a master of one thing and doing that same thing better than anyone else year after year after year."

In this project, he plans to zero in on medium-sized Maryland companies for corporate lending, he will expand real estate construction lending on the commercial side, and shoot for "a variety" of products to woo the retail customer, from auto loans to mortgages to deposit-based offerings.

While the Maryland move means the tradeoff of leaving New York (riding the Beltway each day as opposed to walking across the Brooklyn Bridge) and relocating a wife who is advancing in her ministerial career, Mr. Burns says it's the perfect opportunity right now. "I like moving around a little bit and doing new and different kinds of things. I enjoy building new things no matter what the new thing is. And Chase Maryland is clearly gonna be a new thing."

EXTEND GRAZING FEES

HON. THOMAS A. DASCHLE

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. DASCHLE. Mr. Speaker, I rise to call the attention of this body to the need for an extension by the President of the grazing fee formula for livestock on Forest Service and Bureau of Land Management lands, as set forth in Public Law 95-514, Section 6(a).

The grazing fee formula, which expires on December 31, was devised in 1978, after extensive negotiations involving agriculture, environmental groups, Congress, and the executive branch. It is designed so that as livestock industry income increases, so does the fee received by Government. In difficult times when the income of the industry is down, the fee is adjusted downward so the industry can survive.

Bipartisan negotiations have been going on in the Congress for many months, involving interest groups as well as public officials, in an attempt to devise a legislative solution for future grazing fee policy. These negotiations, which affect grazing fees and rights on more than 307 million acres of Federal land, have not been successful. It is my concern that the lack of a fruitful outcome to these negotiations not have a negative impact on an important part of our economy already facing hard times.

I know that other Members feel as I do, and have joined in the effort to persuade the President to direct that the fee system be extended. I hope that other Members will add their voices to this end as well. Livestock producers who are dependent on access to publicly owned grazing lands have not escaped the problems facing other segments of agriculture. The livestock industry is undergoing its worst economic condition since the Great Depression. Extension of the current grazing fee formula would provide it with the opportunity to plan for the future and find ways to survive the current crisis.

FAIR LABOR STANDARDS AMENDMENTS

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. HAWKINS. Mr. Speaker, the House recently adopted the Fair Labor Standards Amendments of 1985 following the resolution of certain differences in the committee of conference which are discussed in the conference report (report No. 99-357). As

you know, the President has signed this legislation into law.

As chairman of the Education and Labor Committee and the chairman of the conference, I played a lead role in the drafting of the language of the bill. Throughout that process, I was particularly concerned about the antidiscrimination provision in section 8. Specifically, I and other members of the committee wanted to ensure that the new language contained in the Fair Labor Standards Amendments of 1985 did not result in a narrowing of the current court interpretations of section 15(a)(3) of the Fair Labor Standards Act. That provision has been consistently construed to protect victims of discrimination or retaliation who had, prior to such treatment, taken formal steps to challenge alleged violations of that act as well as individuals who had not taken such steps.

A number of discussions were held concerning the rights and protections afforded employees under section 8 of the bill and under section 15(a)(3) of the Fair Labor Standards Act. It was, and is our intent that these statutory provisions be applied in a liberal fashion to safeguard employees from discrimination, consistent with the remedial purposes of the statute.

In this regard, I wish to include in the record a letter I received from the office of the general counsel, International Association of Fire Fighters, which examines the liberal construction given to section 15(a)(3) by the courts. I believe the analysis in this letter, and the courts' decisions mentioned in the letter, properly reflect the broad coverage and intent of section 15(a)(3). The letter follows:

INTERNATIONAL ASSOCIATION
OF FIRE FIGHTERS,
Washington, DC, November 8, 1985.

Hon. AUGUSTUS F. HAWKINS,
Rayburn House Office Building,
Washington, DC.

DEAR CHAIRMAN HAWKINS. I am writing to confirm discussions held with members of your staff during the last several weeks concerning H.R. 3530 and S. 1570 in which the general viewpoint was expressed that a liberal construction should be given to the employee protections against discrimination afforded under Section 15(a)(3) of the Fair Labor Standards Act (FLSA). This viewpoint is supported by the remedial purposes of the FLSA and a growing body of court decisions.

Although the precise statutory language in Section 15(a)(3) addresses discrimination against an employee who has filed a complaint with the U.S. Department of Labor of instituted proceedings or given testimony in proceedings under the law, the courts have broadly interpreted Section 15(a)(3) and extended its protections to the victims of employer discrimination who have not taken such formal steps. In essence, a number of courts have determined that the important safeguards available under Section 15(a)(3) should be applied to an employee's unofficial assertion of rights, such as complaints to his or her employer.

Court rulings in cases brought by the Labor Department and individual workers illustrate the liberal reading given to Section 15(a)(3) in a wide variety of circumstances. For example, in *Marshall* v. *Georgia Southwestern College*, 489 F.Supp. 1322 (M.D. Ga. 1980), a plaintiff complained to her employer of a possible violation of the Equal Pay Act (a part of the FLSA). The employer fired her husband who was also an employee. The Court agreed with the Secretary of Labor's position that the discharge contravened Section 15(a)(3), expanding that provision to encompass not only a complaint to one's employer, but also retaliation aimed at the worker's spouse. In *Hodgson* v. *Yinger*, 20 WH Cases 78 (S.D. Fla. 1971), the court held that the FLSA protected employees who merely declined to return their back pay checks which were given to them as a consequence of their employer's earlier violation of the Act. In *Berry* v. *Andrews*, 535 F. Supp. 1317 (M.D. Ala. 1982), the plaintiff worker had "contacted" the Labor Department about nonpayment of wages but there was no indication that he had filed a complaint with the agency. Nevertheless, the court ruled that the employee could maintain an action for wrongful discharge under Section 15(a)(3). Similarly, in *Bonham* v. *Cooper Celler Corp.*, 475 F.Supp. 98 (E.D. Tenn. 1979), the district court concluded that Section 15 (a)(3) is violated if a factor in an employee's termination is the individual's assertion of rights, either officially or in complaints at work.

The circuit courts of appeal have also construed Section 15(a)(3) in a broad manner. in *Love* v. *RE/MAX of America, Inc.* 738 F.2d 383 (10th Cir. 1984), an employee sent a written note to the employer's president alleging that men were being paid more than women and appended a copy of the Equal Pay Act. The court found that her subsequent firing violated Section 15(a)(3) because that provision covered an employee's unofficial assertion of statutory rights including complaints to an employer that later turn out to be mistaken. In *Marshall* v. *Parking Co. of America-Denver, Inc.*, 670 F.2d 141 (10th Cir. 1982), the court held that Section 15(a)(3) safeguards workers who refused to release their employer from back pay claims and were terminated. The Eighth Circuit Court of Appeals determined in *Brennan* v. *Maxey's Yamaha, Inc.*, 513 F.2 179 (8th Cir. 1975) that Section 15(a)(3) governed a situation where an employee was fired following her refusal to endorse her back pay to the employer. In *Bush* v. *State Indus, Inc.*, 599 F.2d 780 (6th Cir. 1979), the Sixth Circuit indicated approval of Section 15(a)(3) protection where an employee was discharged after he complained to his employer about not being given overtime compensation.

The foregoing decisions are consistent with the well-established principle that the FLSA, in general, is a remedial statute which should be construed broadly in favor of the employees it was designed to protect. As the Supreme Court has stressed, the rights guaranteed by the FLSA should not be applied in a narrow, grudging manner. *Tennessee Coal, Iron & R.R. Co.* v. *Muscoda Local No. 123,* 321 U.S. 590, 597 (1944). Accord: *Goldbert* v. *Bama Mfg. Corp.*, 302 F.2d 152 (5th Cir. 1962); *Wirtz* v. *Home News Publishing Co.*, 341 F.2d 20 (5th Cir. 1965).

In the context of section 15(a)(3), it would clearly be inappropriate if an employer was insulated from liability if it quickly retaliated against a worker prior to the individual's actual pursuit of enforcement measures with the Labor Department. Carrying that notion to its logical extremes, an employee who first informed his or her employer about possible FLSA violations would not be protected from discrimination as long as the employer acted before the filing of a formal complaint. The provision, however, would protect an employee who chose not to try to resolve the matter first with the employer and instead submitted a complaint directly to the Labor Department. Such a result defies common sense and is plainly inimical to the purposes of Section 15(a)(3).

As stated in the discussion with your staff, the language adopted in Section 8 of H.R. 3530 providing protections against discrimination to employers who "asserted coverage" under the FLSA should be given at least the same liberal construction that the courts have generally given to Section 15(a)(3). Accordingly, the second sentence added in Section 8 of the bill as reported out of the Conference Committee (concerning the scope of protection after August 1, 1986 for employees who have taken actions described in Section 15(a)(3)) will not reduce the range of employee protections in light of the broad reading the courts have given to Section 15(a)(3).

We trust this confirming letter will be helpful to you and the other representatives who fashioned the anti-discrimination provisions of H.R. 3530.

Sincerely yours,

THOMAS A. WOODLEY,
Office of the General Counsel, International Association of Fire Fighters, AFL–CIO.

THE TEXTILE BILL

HON. ROBIN TALLON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. TALLON. Mr. Speaker, during recent weeks, the attention of the American public has been focused on critical legislation involving tax reform and a balanced budget which will have an effect on the lives of all Americans. And, Mr. Speaker, in the midst of all the rhetoric and debate, the tragic and costly decision to veto the textile bill went almost unnoticed.

With one stroke of a pen, the jobs of thousands of American textile workers and the well-being of their families and communities were sacrificed. The bill that the President vetoed was a bill of practicality—a bill which would merely protect and enforce already existing trade agreements. To justify this sacrifice, the administration summoned up the tired and outdated myth of free trade.

The theory of free trade has been made a mockery by the unfair trade practices of other nations and the reluctance of our own Government to enforce our existing trade laws. Where do unemployment, foreign quotas, controlled foreign markets, and unenforced customs regulations fit into this theory of free trade? The administration needs to understand that the stakes involved in this struggle to pass the textile and apparel trade bill are much larger than theory. I would like to refer you to remarks made by Roger Milliken, chairman of Milliken & Co., on Friday of last week.

We are talking about the transfer of economic strength to other nations and the resulting decline in American power. Our

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cause is the cause of two million workers in textiles and apparel and two million more who gain their livelihood from serving them. The majority of elected representatives from all over the United States have supported the textile/apparel bill. We may be ahead of our time with this bill, but I think not. If the bill is vetoed, and I pray it will not be, we, the coalition, are determined not to stop fighting. We will go back and try to get an override, first in the House and then in the Senate. This will be very difficult. If we cannot, we will be there all next year. I want you to know this is a total commitment. We will prevail.

Mr. Speaker, this veto suggests an uncaring attitude toward this tragic situation. More than 300,000 American workers have lost their jobs over the last 5 years due to the surge in imports of textiles and apparel. The veto also completely ignores the workers in our Nation's remaining textile and apparel factories—many of which are barely holding on against the tide of imports flooding our markets.

I believe the President got some very bad advice this time. His advisers claim that the bill is protectionist. I don't know about you, but it doesn't bother me at all to try to protect our communities and standards of living. I don't see it as protectionism; it really is bordering on desperation now.

In South Carolina alone, over the past 5 years, 56 textile manufacturing plants have closed and 33 apparel plants have been forced to shut down. Moreover, 45,000 people have lost jobs in the industry over the last 10 years. It is clear to anyone that we have got to do something or we are not going to have a textile and apparel industry.

I want to go back to the question of protectionism, which seems to be the administration's biggest problem with this bill. Last year, imports captured nearly 60 percent of the U.S. apparel market. With all the agreements in place, combined imports of textiles and apparel increased by 32 percent. In 1983, imports increased by 25 percent. Meanwhile, the big five exporters still control over half of the U.S. textile and apparel fabric market at the expense of developing countries that were to benefit from the agreements. Obviously the agreements are not working. They cover only about 65 percent of imports and set quotas only on some products from certain countries.

The agreements are full of loopholes allowing fraud, mislabeling, transshipment of garments from one country to another and other violations of the letter and spirit of international trade agreements. This legislation just closes some of those loopholes and enforces existing agreements.

Sadly, I watched the national news reports with stories from countries like Singapore, Hong Kong, and Taiwan, and they were all praising the President's decision. There sure isn't anything for the American textile and apparel worker to be happy about. This is an absolute tragedy, not only for their industry, but for the entire Nation as well.

It's up to the President now. He has promised that he will look into the charges that our trading partners are not living up to the original agreements. He said he would tighten administrative and enforcement procedures if the charges are found to be true. The ball is entirely in his court now, but I can promise you that I am going to be watching closely to see if the administration lives up to its promises. If they don't, I for one, will be working hard to get my colleagues to join me in a bipartisan effort to override this veto.

A SALUTE TO TOM WINEBRENNER

SPEECH OF

HON. CLARENCE E. MILLER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. MILLER of Ohio. Mr. Speaker, it was with mixed emotions that I treated the recently announced retirement of my good friend Tom Winebrenner.

I can recall, as if it were only yesterday, my first visit to the Cloak Room as a newly elected Member. Like most new Members without past legislative experience, the system at first appears a little overwhelming. There are a lot of questions to ask and a lot of rules and procedures to learn. I found early on that a good person to guide me through the maze was Tom. Always accessible, always available to lend a helping hand, Tom quickly proved to be a reliable and responsible source of information and assistance, and he has remained so ever since.

But, as they say, all good things must come to an end, and so it is with Tom's outstanding and dedicated service to the House of Representatives and to the minority party with which he was associated. Tom has richly earned the retirement upon which he is about to embark. I wish him nothing but the best as he leaves this body.

May his retirement be as rewarding as his many years of service here in the House have been.

THE WALL STREET JOURNAL'S REJOINDER IN THE YELLOW RAIN DEBATE

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. COURTER. Mr. Speaker, an important extension of the debate over Soviet and Vietnamese use of chemical warfare was published recently by the editors of the Wall Street Journal, and the essay deserves the attention of all the Members of the House. I ask that it be read into today's RECORD.

[From the Wall Street Journal, Nov. 4, 1985]

WHO SPEAKS FOR SCIENCE?

Several science magazines have been beating up on us for having the presumption to notice that a prominent scientist wears no clothes. They demand to know what credentials we have for making such a statement.

The scientist in question is Harvard biochemist Matthew Meselson, intellectual godfather of the 1972 biological-weapons treaty and also of the "bee feces" thesis. This holds that "yellow rain" in Southeast Asia is nothing but bee droppings and therefore the Soviets haven't violated Prof. Meselson's treaty.

Mr. Meselson and his co-authors recently reasserted this thesis in Scientific American. But in "The 'Bee Feces' Theory Undone" (Sept.6), our William Kucewicz observed the real significance of this article: that the Meselson group had failed in its efforts to find yellow-rain toxins in bee droppings, that it failed to report these negative findings in its article, and that the notion that the toxins were natural products had collapsed.

This "materially misrepresented" the article, wrote Scientific American editor Jonathan Piel in a complaining letter. Mr. Piel denies that "Prof. Meselson once took the position that trichothecenes are a naturally occurring contaminant of bee feces. Prof. Meselson cited this as one of several possibilities in 1983."

"The Journal has succeeded in missing the main points of the scientific arguments involved," Chemical & Engineering News editor Michael Heylin wrote in an editorial. "As indicated in the Scientific American article, there is no clear proof of widespread mycotoxin poisoning in Southeast Asia from any source."

"The Wall Street Journal, widely acclaimed as one of the best newspapers in the world, seems to have a quirky streak that it should exorcise," advised an editorial in Nature magazine. In Journal editorials, it observed, "President Reagan often comes through as a kind of 'pinko.'" It concluded, "What the bee theory does however do is to discredit the investigations on which allegations of the Soviet use of biological weapons have been based."

The wisdom of science, as recorded by these magazines, then is this: (1) The theory that bee feces contained trichothecene mycotoxins never existed, (2) there were no trichothecenes, and (3) no one died.

Now, part of the problem here is epistemological. The methods of science are very good at dealing with the replicable events of nature, but we do not usually apply the scientific methods of evidence to practical human affairs. Unlike planets or atoms, humans can change their behavior. The yellow-rain attacks have apparently stopped, for example, an accomplishment for which the Reagan administration and The Wall Street Journal can claim some credit. In dealing with the deviancies of human behavior, mankind has not usually applied science but has over the centuries evolved different systems of proof and evidence.

The American Bar Association convened its House of Delegates in July, and among the business was a report and recommended resolution from its Standing Committee on Law and National Security. For two years the committee has had a working group studying the treaties on chemical and biological warfare. The resolution, unanimously approved, expressed concern over "the substantial evidence" of chemical attacks in Afghanistan and Iran, and "of the illegal use of lethal and incapacitating chemical weapons and toxins by Vietnam and Laos in Southeast Asia."

Lawyers, unlike scientists, are accustomed to dealing with human testimony. The

Standing Committee's report details the accounts of H'Mong tribesmen being attacked by airplanes and helicopters showering them with sprays of various hues, but mostly yellow ones. It describes hcw the symptoms reported by these stone-age peoples correspond to those of obscure trichothecene poisoning. It descibes the detection of trichothecenes in environmental samples from attack sites. It notes that "blood and urine samples of H'Mong refugees who had reported exposure to yellow rain and experienced the symptoms were found to contain traces of these toxins."

By the standards of evidence we usually apply to human affairs, this is an overwhelming case. The ABA report notes that "Dr. Meselson's theory is that yellow rain is nothing more than pollen excreted by bees in their cleansing flights and trichothecenes are probably a natural phenomenon infecting good in Southeast Asia." But it adds that this does not explain away the testimony: "there never have been a single, report of bee feces causing deleterious effects to humans or animals in Southeast Asia, or any other region of the World."

In all, the Standing Committee concluded, "A review of the available evidence indicates that a variety of chemical and toxin agents have been used against the H'Mong people in Laos, the Khmer groups fighting the Vietnamese in Kampuchea since 1979, and the Mujaheddin in Afghanistan." This conclusion—which to our knowledge is shared by a bipartisan consensus of informed congressmen, throughout the political spectrum of the defense community and privately by foreign governments—is what any practical man would conclude after looking at the body of evidence.

Some questions do seem worth debating. For whom do these science magazines speak? What is science, anyway? Can it really be so dense?

The burden of the Meselson Scientific American article is this: The H'Mong testimony is not consistent. The number of samples testing positive for trichothecenes is small, only six environmental samples. Positive tests have not been achieved in Army laboratories, only by two university investigators. Indeed, one positive sample tested a year later by the Army came up negative. The samples include pollen. Cleansing flights of bees result in pollen deposited in yellow spots. Therefore, "We conclude that yellow rain is the feces of honeybees, not an agent of warfare."

Let us first of all record a few facts: The Army lab has found trichothecenes on a Soviet gas mask taken in Afghanistan; it has not been examined for pollen. Chemical & Engineering News itself reported a finding that a related mycotoxin decays in samples held for long periods. In addition to the six environmental samples there are blood, urine and other biological samples from at least 20 people, briefly mentioned but never discussed in the Meselson article. But cavils aside, what in the Scientific American article can be proved one way or another by science?

The one thing readily accessible to the methods of science is whether trichothecenes were found by the university laboratories. This is of course no small point, especially now that everyone agrees that the trichothecenes found in Southeast Asia are not a natural product. Indeed, the real question becomes, How did trichothecenes get into the blood of the same people who say they were attacked by yellow rain? To deal with this, the Scientific American article has to suggest that the university scientist may have detected trichothecenes where none existed. How does a scientific discipline determine such an issue?

First, science would examine the credentials of the scientists for relevant expertise. The Meselson group had to send its samples out for analysis because none of its members claimed the laboratory competence. Chester Mirocha of the University of Minnesota, who ran the positive tests for the government, has long been recognized as a leading authority on trichothecenes. Joseph Rosen of Rutgers, who also got positive tests, was first involved in the issue when ABC News chose an independent scientists solely on the basis of laboratory skill. Their labs routinely test dummy control samples and have never reported a false positive.

Second, science would submit the results of the experts' tests to review by their peers—that is, by other scientists with a similar kind of expertise. If the tests passed peer review, they would be published in the scientific journal dedicated to the particular specialty involved. If all this happened, we could say that the findings had been authenticated by the best standards of science.

Mr. Mirocha's basic results have been published, along with the Army's Sharon Watson's, in the Journal of the Association of Official Analytical Chemists and in Fundamental and Applied Toxicology. Mr. Rosen's results have been published in Biomedical Mass Spectrometry. Also, an autopsy report on a yellow-rain victim by Charles Stahl and Christopher Green, formerly of the Army and the CIA, respectively, has been published in the Journal of Forensic Science.

The editors of some magazines that profess to speak for "science," it seems, are too busy to read the peer-review journals. Perhaps they are spending too much time scouring our columns for accusations that Ronald Reagan is a "pinko." Alongside we publish the abstracts or relevant excerpts from the appropriate journals, in the hope that the science editors may find them here. Other readers may want to take a peek as well, if only to judge how much credence to lend to the claim that our critics are above political viewpoints or clan interests and speak from a purely objective expertise mere laymen dare not challenge.

TRIBUTE TO IRISH AMERICAN ORGANIZATIONS FOR THEIR EFFORTS IN DERAILING THE UNITED STATES-UNITED KINGDOM EXTRADITION TREATY

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. BIAGGI. Mr. Speaker, in anticipation of the sine die adjournement of the 1st session of the 99th Congress, I wish to take note of something which the Congress did not give final approval to and fortunnately so. I refer to the proposed Supplementary Extradition Treaty between the United States and the United Kingdom of Great Britain and Northern Ireland.

As chairman of the bipartisan Ad Hoc Congressional Committee for Irish Affairs, I have worked very closely with a coalition of our Nation's leading Irish American organizations to keep this tready from being ratified by the full Senate. This effort has resulted in the tready, despite being signed by our two governments in late June, remains pending before the Senate Foreign Relations Committee.

I wish to especially salute three Irish American organizations for their effective and hard work in raising concerns about this treaty to the members of the Senate Committee and to all the Congress. The first of these groups is the Irish National Caucus. This organization headed by Father Sean McManus methodically and with great depth analyzed this treaty and presented its many flaws in such a way as to create deep concerns about its ratification. Similarly, the Ancient Order of Hibernians, the Nation's oldest and largest Irish American organization, has been outspoken in their opposition and resistance to this treaty. I would especially salute their fine national president, Joseph P. Roche, for his leadership in this effort. Last but certainly not least is the Irish American Unity Conference under the leadership of James Delaney. They were the central organizing and driving force behind the coordinated undertaken by Irish American groups in opposition to this treaty.

It was this unprecedented degree of unity among Irish American groups which I feel played a key role in the successful nonconsideration of this treaty.

The Supplementary Extradition Treaty is legally, morally and politically flawed. It is an unprecedented effort on the part of the British Government to try and overturn recent United States court decisions which have recognized the right of a political offense exception as part of an Extradition Treaty between our two nations. The Supplementary Treaty has no disguise. It is an out and out effort to have the political offense category eliminated despite it being common to 90 other extradition agreements we are party to.

It is expected that the Senate will resume consideration of this treaty in the second session and may move to an early vote. However we will continue to work to have the treaty shelved or at the very least modified to reflect significant changes.

PERSONAL EXPLANATION

HON. BILL NELSON

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. NELSON of Florida. Mr. Speaker, due to official business, I was unable to be present and voting for certain rollcall votes on December 17 and December 19, 1985. Had I been present, I would have voted "aye" on rollcall No. 468, McHugh amendment to H.R. 3838, tax reform; "nay" on rollcall No. 470, Duncan amendment to H.R. 3838; "nay" on rollcall No. 471, motion to recommit H.R. 3838; and "aye" on rollcall No. 475, motion to approve the Journal.

RESTAURANT OWNERS SHOULD HELP IN KEEPING DRUNK DRIVERS OFF ROADS

HON. GERRY SIKORSKI

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. SIKORSKI. Mr. Speaker, Minnesota Mothers Against Drunk Driving [MADD] recently held a candelight vigil of remembrance and hope for those who have died at the hands of drunk drivers on Minnesota's roads and highways. More than 600 family members and friends attended the vigil to speak words of remembance and sorrow for their loved ones. Through diligent and heartfelt grassroots efforts, MADD has made the public more aware of the devastatign effects of drunk driving. Their efforts have served as a catalyst for tougher State and Federal laws and tighter local enforcement of those laws to keep drunk drivers off the roads.

MADD's efforts have encouraged other groups such as DADD (dads), SADD (students), TADD (teachers), and most recently BADD (bartenders) to spearhead efforts to eliminate drunk driving. I would like to share with my colleagues an article from the Minnesota Star and Tribune by the president of TGI Friday's, Inc., Daniel Scoggin, which addresses the increased responsibilities restaurant owners and bartenders alike are taking upon themselves to reduce irresponsible consumption of alcohol. I commend the initiatives of TGI Friday's and hope that their efforts will serve as a precedence for increased involvement of restaurants and bars in reducing alcohol consumption and keeping drunk drivers off our roads.

The article follows:

Restaurant Owners Should Work To Promote Responsible Drinking

The urgency for tougher drinking laws is as simple as it is shocking: More than 25,000 Americans are killed each year in drunk-driving accidents. Congress has responded to that urgency by requiring all states to legislate a minimum drinking age of 21 by October 1987 or risk losing federal highway funds. Eight states have done so, and four have gone further, banning "happy hours" and other promotions that encourage irresponsible drinking.

Leading the push for new drinking laws on the national and state level are grassroots organizations such as Mothers Against Drunk Driving (MADD) and its acronymical relatives: DADD (dads), SADD (students), TADD (teachers). These organizations' names reveal their emphasis on teens and young adults, the age group whose members are most often killed—and kill others—in drunk driving accidents.

Not coincidentally, 18- to 30-year-olds also are the core-customer group for many restaurants and bars. They are the ones targeted by the drink discounters and "come on, get happy" advertisers. But as these young adults adopt more healthful life styles and express outrage over their friends' deaths on the roadside, restaurateurs may see their brisk sales drying up.

The pressure for the restaurant industry to reform its promotion of alcoholic beverages has been immense. Recently, owners have taken all of the painless steps to reduce alcohol-related traffic deaths: more training on how to prevent customers from getting drunk, designated-driver programs, free food and taxi rides when customers become intoxicated. The problem is that restauranteurs cite these meager, voluntary steps as the reason why tougher drinking laws are unnecessary.

I have a modest proposal for American restaurant and bar owner; Ban all promotions that encourage the rapid or irresponsible consumption of alcohol, then lobby your state legislatures to make such promotions illegal.

"Why would I want to cut my beverage sales?" restauranteurs may ask. The best and most obvious reason is that the customers are good for business only as long as they are alive. Another reason is that responsible demand for alcohol remains fairly constant. Through drinking promotions such as two-for-ones and all-you-can-drink specials, some restaurants derive more than half of their sales from beverages. Restaurants that do not rely on discount drinks typically maintain a steady food-to-beverage ratio.

A third reason for backing responsible-drinking laws is that social trends create business opportunities. For example, when consumers moderate their drinking habits. They create a demand for nonalcoholic beverages and low-alcoholic beers and wines.

A few months ago, another acronym joined the ranks of this cause: BADD, Bartenders Against Drunk Driving. BADD's common-sense position is to care for restaurant customers because, without customers, bartenders don't have jobs.

BADD also could be interpreted as Business Against Drunk Driving. Perhaps restaurant owners will pick up on what their bartenders have begun—accepting part of the responsibility to end drunk driving. After all, it is inside restaurants that customers decide how much they will drink.

Tougher drinking laws will not prevent all alcohol-related traffic accidents, but raising the drinking age to 21 and banning happy hours are easy, reasonable steps toward significantly reducing those accidents. It's a sober, healthy position.

—Daniel R. Scoggin, Dallas, Texas, President and chief executive office of TGI Friday's Inc.

SURPRISE MASS LAYOFF OF THE MONTH

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 19, 1985

Mr. FORD of Michigan. Mr. Speaker, last month's narrow defeat of H.R. 1616, known by many as the plant closings bill, will not end my efforts or those of the bill's many supporters to enact legislation to protect American workers against sudden mass layoffs and plant closings. Sooner or later, a majority in Congress will respond to the desire of their constituents for the modest protections embodied in H.R. 1616, the most basic of which is 90 days' advance notice of the permanent loss of 50 or more jobs. Polls show that more than two-thirds of the American people support legislation that would require a full year's notice of a plant closing. The special interests and high-paid business lobbyists whose campaign of hysteria and distortion defeated H.R. 1616 will not be able forever to stifle the very conservative legislation we proposed and brought to the floor this year.

Officials of the Chamber of Commerce claim that the defeat of H.R. 1616 was a defeat for "union bosses." It is true that many union leaders were disappointed that H.R. 1616 did not pass, but their concern was for their members, not themselves. Union leaders don't need advance notice of plant closings any more than Members of Congress do. They lose their jobs by being voted out of office or by retiring, not through layoffs. The people who need advance notice are average working Americans whose jobs are threatened by imports, by plant relocations, by recessions, by subcontracting, and by technological change. They need advance notice because they depend on their jobs to feed their families, pay their rent and pay their medical bills. They need to know and deserve to know when their jobs and incomes are about to be eliminated.

In an effort to help my colleagues understand the need for advance notice legislation such as H.R. 1616, I am placing in the Congressional Record the first example in a series that might be called the "surprise mass layoff of the month."

Eastmet Corp., a Baltimore employer, is terminating 450 employees with less than a week's notice, 3 days before Christmas, leaving them in "utter confusion" and "bitter, to say the least."

I would ask my colleagues to take special note of the fact that the president of Eastmet knew "in recent weeks" that the layoffs would occur but refused to tell the employees, who finally learned of the mass layoffs through news reports.

Mr. Speaker, this kind of callous treatment is not rare. Businesses of all kinds shut down facilities and lay off hundreds of thousands of employees each year without any notice at all. To help bring this fact home to our colleagues, Mr. Clay and I intend to present "surprise plant closings and layoffs of the month" each month until the House shows enough concern for American workers to pass legislation like H.R. 1616.

I request that the following two articles from the Washington Post be printed in the Record.

The articles follow:

[From the Washington Post, Dec. 19, 1985]

Christmastime Layoffs of 450 Stun Workers at Baltimore Area Steel Plant

(By Susan Schmidt and Michael Abramowitz)

Workers at the Eastern Stainless Steel plant just outside of Baltimore got an unseasonal jolt yesterday when Eastmet Corp. announced that 450 of its employees at the plant should be laid off Sunday, three days before Christmas.

"I feel sorry for the people with families and kids who believe in Christmas," said Jim Kyle, a 54-year-old plant electrician who said he does not yet know whether he will be among those laid off. Kyle and several co-workers who gathered at Ruggieros bar near the plant after their shift ended yesterday said they did not expect to learn who would be laid off until today, when next week's schedules are posted.

The work force is in "confusion, utter confusion, because nobody knows what's going on," said Kyle.

Eastmet, which has been forced to the brink of insolvency in recent years by the high costs of production and soft demand for American steel, said the layoffs were an effort to scale back operations and cut costs. The cuts will leave 500 people employed at the plant.

William F. Dausch, Eastmet's president, said in a statement that the company "deeply regrets this action but believes it is required in order to provide the company the opportunity to return to profitability."

The cuts were especially bitter for workers at the plant because, in an effort to bolster the ailing firm, they accepted a $4.50 an hour reduction in wages last year.

David Wilson, district director in Baltimore for the Steel Workers of America, the union representing many of the Eastmet workers, said grimly, "Even if we worked for nothing, it wouldn't matter."

"There's just a feeling of total frustration," he added. "The problem, as I see it, is that people in Washington don't understand what is happening in the country or just don't give a damn."

That frustration showed through at Ruggieros yesterday. Edward Morris, 50, a switchman who has been with the company for 33 years, said he was upset that the employes learned of the planned layoffs through news reports.

"I think the company should have notified the unions to let the men know ahead of time," he said.

Jim Chmielewski, a 51-year old millwright, said many of the younger workers who are likely to be laid off "are bitter to say the least. They've made commitments that they're not going to be able to meet by the company doing what it's doing."

Chmielewski, who lives in Dundalk with his wife and 17 year-old son, also said he does not expect to be cut from the work force. But he and other Eastmet workers said they are concerned about the company's prospects for long-term survival.

Eastmet President Dausch said that the company had hoped that an agreement with its lenders would have allowed "the survival of the entire operations of the company." But he added that the "inability of the company to maintain certain price increases and other factors made it clear in recent weeks that the plan . . . would not be achieved."

A company spokesman said Eastmet losses were running at $14.5 million through the first nine months of the year, compared with losses of $5.1 million for the same period in 1984.

And the workers feared that the layoffs were another sign of a growing exodus of manufacturers from Baltimore and especially from its industrial area of Sparrows Point.

"All these industries are leaving this town—Western Electric, Esskay, Black and Decker, the Point's down to nothing," said Chmielewski. He said he faults the Reagan administration for failing to restrict foreign imports. "This country is turning into scrooges," he said.

A Joyless Season at Steel Plant: Maryland Layoffs Jar Holiday

(By Susan Schmidt)

Baltimore, Dec. 19.—It's going to be a blue Christmas for steelworker Donald Bobbitt and his family.

Bobbitt, 37, had back surgery after he was injured on the job a year ago, and recently returned to work after 10 months of recuperation. But earlier this week, he and his co-workers at the Eastern Stainless Steel plant here learned that 450 of them won't have jobs to come back to after the holidays.

Bobbitt, who is married and has a 12-year-old son, said he has been working at Eastern Stainless for eight years and earns about $13.50 an hour, one of the highest wages in the plant. He and other workers said they have been told that employes hired since 1972 will be laid off.

To all appearances, it was business as usual this afternoon, as employes trickled out of the giant Eastern plant, a faded structure with stacks belching steam into the frigid air. But many of the workers, including Bobbitt, said the layoffs spell the end to their days as steelworkers.

"I have no way of figuring out how I'm going to pay my bills," said Bobbitt, as he left the plant at the end of his shift. "Its sad, and I know I'm not the only one in this position."

He said he hopes his family can get by on his wife's salary and his unemployment insurance while he takes courses in air conditioner and refrigeration repair.

Richard Bosnick, 31, said he has no illusions about the difficulty of finding another job as a steelworker. Bosnick, who has also worked for the credit union during his 12 years at Eastern, said he will look for work with a bank or finance agency.

But, with his wife in college and a 9-year-old son to support, Bosnick said he expect hard times ahead. "We're just not going to be able to make it," he said, adding that there won't be any money for college tuition next semester.

"My standard of living may never be back to where it has been," he said.

Some employes, including 30-year-old Ray Wrarthen, said they expect that, eventually, the company may recall some of the younger workers with little seniority who are being laid off.

Wrarthen said he believes many of the older workers who remain will be forced into retirement because they will be assigned to tough, physically demanding jobs to replace those laid off.

"They're going to take all those old timers and put them on jobs like the shears," said Wrarthen, referring to the dangerous and difficult job of cutting steel plates with pneumatic shears. The plant will continue to make steel plates but is discontinuing the making of steel and strip steel, used in the manufacturer of automobiles and appliances.

Eastern Stainless Steel, a division of Eastmet Corp., has been beset by the high cost of production and the diminishing demand for American steel. The company said the layoffs were an effort to cut costs and "provide the company with its best chance for long-term survival."

Many workers said they think Eastern Stainless Steel will soon go under, and they fear remaining 500 workers, many of whom are 50 or older, will find themselves in even worse straits than those being laid off now, Bobbitt said he has those fears for his father, who has worked at the Eastern plant for 29 years.

"I can find something else somewhere," he said, "I'm young. But my father—if the company doesn't stay around—he's too old to get retrained."

THE ELDERLY DESERVE FAIR PLAY

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 20, 1985

Mr. WEISS. Mr. Speaker, 1985 marks the 50th anniversary of Social Security and the 20th anniversaries of Medicare and Medicaid and the Older Americans Act. But it was also a year that has seen the continuation of the Reagan administration's persistent and malicious attempts to undermine these very basic programs.

In blatant disregard of his election year promises, President Reagan joined with Senate Republicans in proposing a 1-year freeze in the Social Security cost-of-living adjustment [COLA]. This proposal would have thrust hundreds of thousands of senior citizens into poverty. Yet the Reagan administration avidly supported a full increase for the cost of inflation for the Defense Department. These are the actions of an administration with a very distorted sense of priorities and I joined with House Members in firmly rejecting this administration's proposals for Social Security.

The Reagan administration's policy of attempting to reduce the deficit by cutting Social Security and Medicare benefits is morally misguided and cruel. Throughout the last year I have directed my best efforts not only to rescind such policies but to put forward solutions that are both equitable and workable and that look toward creating a balanced and better society for all of us.

CARING FOR VICTIMS OF DISEASE

In the area of diseases more likely to affect the elderly, I support the establishment of regional centers for the treatment of Alzheimer's disease and the passage of the Cancer Patients Employment Rights Act prohibiting discrimination on the basis of a cancer history. I have also joined with other House Members in overriding a Presidential veto to create a National Institute for Arthritis and Musculoskeletal and Skin Diseases as part of National Institutes of Health.

IMPROVING SOCIAL SECURITY

The Social Security trust funds should be removed from the unified budget in order to safeguard the Social Security system from reckless and shortsighted budget cuts and the Treasury Department should restore the money it borrowed from the Social Security trust funds.

I have introduced a bill guaranteeing a Social Security cost-of-living increase if inflation falls as low as 1 percent. Currently, COLA's are only paid in a given year if inflation is 3 percent or above. This year's COLA increase was 3.1 percent which

amounts to over $150 a year, but if inflation had fallen below 3 percent, there would have been no increase paid this year.

My bill would also prevent manipulation of the issue of Social Security COLA increases for purely political reasons. During President Reagan's reelection campaign, he raised the concern that the trigger in 1985 might fall below 3 percent, preventing an increase in Social Security benefits. He proposed a guaranteed increase but only for 1 year. His suggestion came in July, a full 3 months before any reliable data was available. It was not difficult to discern that the announcement was motivated by the upcoming Presidential election and not by a new found interest in preserving the Social Security system. After all, this is the man who proposed devastating cuts of more than $88 billion in Social Security soon after he took office in 1981.

HEALTH CARE REFORMS NEEDED FOR ELDERLY

In 1984, elderly individuals spent a higher proportion of their income on health care than they were paying before Medicare and Medicaid were enacted, and by 1989, the elderly will spend more than 18 percent of their income for health care. Today, more than 28 million older persons and 3 million disabled persons are covered under Medicare, the largest personal health care financing program in the United States. While Medicare provides millions of older and disabled Americans with the most basic of health care services, many services of vital importance are still not covered. Medicare should be expanded to cover the costs of annual checkups, routine vision, dental and hearing care, and prescription drugs in addition to long-term care programs such as adult day care and nonemergency medical transportation services for patients who use a wheelchair. Under a Medicare bill this year, I voted in favor of improved procedures for appealing denial of Medicare claims, payments for second opinions in the case of some elective surgical procedures, and incentives to doctors who accept Medicare payments. This bill imposes stiff new penalties on hospitals and doctors who fail to provide emergency care for poor patients.

The new Medicare financing system known as diagnosis-related groups or DRG's is also of concern to older Americans. Under this system, the Government pays hospitals a predetermined rate for each specific DRG rather than a share of the actual cost of treating the individual Medicare patient. Problems associated with this system include early hospital discharges, poor quality care, and denial of admission to the hospital. I am monitoring hearings on the problems associated with DRG's and am investigating legislative solutions.

In addition, I voted against the Gramm-Rudman budget balancing bill which I believe will hurt many Americans through the destruction of health, education, and other vital Federal programs. The new law exempts from cuts Social Security and low-income programs such as Medicaid, supplemental security income, food stamps, and veterans' compensation and pensions. Spending for a category of programs that include Medicare, veterans' health and community health could only be cut by 1 percent in 1986 and 2 percent in following years. But, essential programs like subsidized elderly and handicapped housing, the Older Americans Act, mass transit, pollution control, and law enforcement are likely to come under the budget ax.

Finally, many constituents are understandably concerned with the upcoming increase in Medicare's hospital deductible from $400 to $492, an increase of 23 percent. I have cosponsored legislation to limit increases in the hospital deductible and nursing home coinsurance.

I believe resisting the current administration's efforts to undermine the Social Security and Medicare systems and ensuring a respectable future for the elderly are among the most pressing issues confronting this Congress. These have been two of my highest priorities throughout my tenure in Congress and will continue to be so.

MY THANKS TO TOMMY WINEBRENNER

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. McKINNEY. Mr. Speaker, with the end of this session the House of Representatives sees the retirement of one of its most respected and well-loved individuals—Tommy Winebrenner. He has become an institution in his own right and the intuition of how this body operates which Tommy developed during his 32 years working in and around the Chamber will be sorely missed.

I dare not estimate how many times I have come to Tom during our 15 years of acquaintance. He has often been an island of tranquillity, a quiet voice of reason during tumultuous sessions.

In recent days so many Members have tried to put into words our feelings of what Tommy Winebrenner has been to each of us. However, there has been a redundancy because there are not enough words to give him the credit that Tommy so richly deserves. It seems woefully inadequate to say simply "thank you," but for your help, your advice, and your friendship, Tommy, I am deeply grateful.

I hope we will continue to see you often around the Hill. I wish you great success in your next career. Finally, I wish you a long and healthy life with your wife and children. No one deserves the best of everything good more than you.

ADMINISTRATION'S NEW ABM INTERPRETATION: DEFECTIVE AND COUNTERPRODUCTIVE

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 20, 1985

Mr. FASCELL. Mr. Speaker, the viability of the Anti-Ballistic Missile [ABM] Treaty of 1972 was recently challenged by an unprecedented new legal interpretation of its provisions issued by the administration this past October. I want to take this opportunity to provide my colleagues with information that I believe will help clarify the issues and events surrounding the administration's unsubstantiated new legal interpretation of the ABM Treaty.

As you know, the traditional, longstanding interpretation of the ABM Treaty—which bans the development, testing, and deployment of all air-based, sea-based, space-based, and mobile land-based anti-ballistic systems based on new physical principles—was first challenged publicly by National Security Adviser Robert McFarlane on a "Meet the Press" television interview—October 10, 1985. During the course of the interview, McFarlane volunteered the view that development and testing of anti-ballistic missile systems based on new physical concepts were approved and authorized by the ABM Treaty rather than banned. At an October 8 press briefing, McFarlane asserted that the new, broader interpetation was a fixed position of the administration.

McFarlane's statement was provocative: In effect, a highly placed Government official had reversed 180 degrees the 13-year-old reading of the treaty, which had been interpreted by every administration since 1972, including President Reagan's, as prohibiting the development, testing, and deployment of air-based, sea-based, space-based, and mobile land-based systems based on new physical principles. This new interpretation, if agreed to by both signatories, would allow the two countries to develop and test any space-based, air-based, sea-based, and mobile land-based ABM system right up the point of final deployment. This revision was immediately criticized by many of us in Congress, our key NATO allies, and the actual negotiators of the ABM Treaty.

A week later, in an apparent retreat from the policy espoused by McFarlane, Secretary of State Shultz announced in a speech before the North Atlantic Assembly, San Francisco, CA, October 14, 1985, that, while the administration stood by its new legal interpretation of the ABM Treaty, the SDI program would continue to be conducted in accordance with a restrictive interpretation of the treaty's obligation. Secretary Shultz' statement made it clear that the Reagan administration had formally declined to adopt as policy its new legal interpretation of the treaty. The Secretary of State announced that the President had affirmed as administration policy that the treaty would once again be interpreted as prohibiting the development, testing, and deployment of SDI programs based on new and exotic physical principles. While the administration has indicated that, as a matter of policy, it would continue to abide by the longstanding interpretation, its assertion that a broader interpretation is legally justified leaves the door open for subsequent reversals—a prospect of grave concern to many of us in Congress as well as our NATO allies.

The administration's apparent attempt to stand the ABM Treaty on its head left many of us in Congress shocked and amazed. Accordingly, as chairman of the Committee on Foreign Affairs and its Subcommittee on Arms Control, International Security, and Science, I felt it imperative that a hearing be held to address the serious political and arms control implications of the administration's legal interpretation.

At the October 22 hearing conducted by my subcommittee, we received testimony from Ambassador Paul Nitze, special adviser to the President and Secretary of State on Arms Control Matters; Mr. Abraham Sofaer, legal advisor to the Secretary of State; the Honorable Gerard Smith, former chief of the U.S. delegation to the ABM Negotiations; the Honorable Ralph Earle, former director of the Arms Control and Disarmament Agency; and John Rhinelander, former legal advisor to the ABM negotiating team.

Mr. Speaker, the hearing raised a number of important issues that may be of interest to my colleagues:

First. During the hearing, it became evident that the administration had based its justification for the new, legal interpretation not only on a partial review of the negotiating record but also on an incomplete negotiating record. For example, the State Department's legal advisor, Abraham Sofaer, noted that no single agency had systematically collected and preserved the entire record in a readily useful form. Moreover, he told the subcommittee that, because we are still in the process of collecting material, I cannot tell you with certainty every step of the process. Mr. Sofaer's admission begs the question: Shouldn't a major realignment in administration policy, with far-reaching foreign policy and arms control implications, be based on a thorough, systematic, and painstaking reading of the negotiating record?

Later in the hearing, John Rhinelander, former legal advisor to the ABM negotiating team, informed the subcommittee that the Arms Control and Disarmament Agency [ACDA] could not locate his extensive files on the ABM Treaty negotiations.

Second. Ambassador Nitze and Mr. Sofaer alleged that the ABM Treaty is ambiguous on the issue of whether development, testing, and deployment of futuristic ballistic missile defense systems are allowed. In spite of this assertion of ambiguity, none of the former members of the ABM negotiating team or high-level officials of any administration, from the Nixon through Reagan administrations, have contended that this part of the ABM Treaty is ambiguous. Even Ambassador Nitze appears to have only recently accepted the administration's new legal interpretation when he stated at the hearing:

> It is hard to be clear about one's recollection, but I have gone over part of the negotiating record, and from that, I agree with Judge Sofaer [State Department Legal Advisor].

Third. Numerous statements exist in the public record that express the view that development, testing, and deployment of space-based, sea-based, air-based, and mobile land-based systems based on new physical principles are forbidden by the ABM Treaty. For example, former Secretary of Defense Melvin Laird unequivocally expressed this point of view during Senate ratification hearings. This view was also clearly understood even by the treaty's critics like Senator Jackson, who ultimately voted for the treaty, and Senator Buckley, who voted against it largely because he recognized that article V "should have the effect, for example, of prohibiting the development and testing of a laser type system based in space * * *." This point of view was corroborated by every single public witness at the hearing as the correct reading of the treaty.

Fourth. Key former administration officials responsible for negotiating the ABM Treaty have made statements in opposition to the administration's new legal interpretation, ranging from Ambassador Gerard Smith, head of the U.S. delegation to the ABM Treaty negotiations, to John Rhinelander, former legal advisor to the U.S. ABM negotiating team, to Ralph Earle, former director of ACDA, to Spurgeon Keeny, former deputy director of ACDA, to Albert Carnesale, former member of the ABM negotiating team, and to Lt. Gen. Royal B. Allison, a former senior military official on the ABM delegation.

In addition, six former Secretaries of Defense—Harold Brown, Clark Clifford, Melvin R. Laird, Robert S. McNamara, Elliot L. Richardson, and James R. Schlesinger—recently signed a joint statement in support of the ABM Treaty that calls upon the United States and Soviet Governments to avoid actions that would undermine the treaty.

Fifth. The subcommittee learned during the hearing that every administration since the ratification of the ABM Treaty in 1972 has advocated the longstanding interpretation of the ABM Treaty. This fact is corroborated by every arms control impact statement [ACIS] since their inception as reflected in a CRS chart which follows my remarks. The chart illustrates that every ACIS prepared and submitted by the Reagan administration affirms acceptance of the longstanding interpretation of the ABM Treaty.

Sixth. Administration witnesses did not provide the subcommittee with any evidence that the Soviet Union had ever interpreted the treaty in a manner that permitted the development, testing, and deployment of space-based, air-based, sea-based, and mobile land-based ABM systems based on new physical principles or that the United States had ever encouraged such an interpretation of the treaty. Moreover, a recent statement made by Marshall Akhromeyev, the Soviet Union's Chief of General Staff of the Armed Forces and First Deputy Minister of Defense, further indicates that the Soviet Union adheres to the longstanding interpretation. On October 19, Akhromeyev said:

> Such [re]interpretations of the ABM Treaty are, to put it mildly, deliberate deceit. They contravene reality. Article V of the treaty absolutely, unambiguously bans the development, testing, and deployment of ABM systems or components of space or mobile ground (systems) . . . that are based on existing or future technology.

Since the United States and the Soviets have operated under the longstanding interpretation of the ABM Treaty, which prohibits the development, testing, and deployment of space-based, air-based, sea-based, and mobile land-based ballistic missile defense systems based on new physical principles, a U.S. unilateral declaration to the contrary, 13 years later, is legally unsound and diplomatically untenable.

Seventh. It became clear from the subcommittee hearing that the administration's proposed new legal interpretation of the ABM Treaty raises several adverse consequences for arms control. Ironically, it could unwittingly result in undermining the administration's stated objective of reaching a negotiated transition to a defense dominated world.

Under the administration's new legal interpretation, the Soviets could develop and test a nationwide exotic ABM system while still claiming adherence to the ABM Treaty, an option not presently available to them under the longstanding interpretation. This would leave the United States with no other alternative than to increase its offensive nuclear forces, which is in complete contradiction to the administration's stated objectives of the SDI program. This is similar to what happened two decades when the United States, in response to Soviet ABM activities, deployed MIRV'd systems. We now find ourselves, two decades later, trying to rid ourselves of these destabilizing offensive weapons.

Eighth. Under the ABM Treaty, a joint United States-Soviet Standing Consultative Commission [SCC] was established "to promote the objectives and implementation of the provisions of the ABM Treaty" and "to consider questions concerning compliance with the obligations assumed and relative situations which may be considered ambiguous." Although issues considered by the SCC are properly classified, the testimony of administration witnesses at the October 22 hearing suggested that the administration has not vigorously pursued this avenue in an attempt to resolve questions surrounding the development, testing, and deployment of space-based, air-based, seabased, and mobile land-based ballistic missile defense systems based on new physical principles. When asked whether the issue would be discussed in the SCC, Ambassador Nitze responded that the suggestion would be taken under advisement.

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In conclusion, Mr. Speaker, many of us in Congress fully support the administration's reaffirmation of the longstanding interpretation of the ABM Treaty as expressed by Secretary Shultz on October 14 and Ambassador Nitze during our October 22 hearing. Our concern remains, however, over the acceptance of this reaffirmation as a permanent policy of the Reagan administration. This concern was most graphically reflected in the now-infamous November 13 letter by Secretary of Defense Weinberger to the President in which the Secretary characterized the administration's ABM policy as "wrong." As every administration since 1972 has concluded, the longstanding interpretation of the ABM Treaty is the right policy because it best serves U.S. national security and arms control interests. It is my hope that in the post-Geneva summit atmosphere of good will that the United States and Soviet Union will reaffirm their joint commitment to the longstanding interpretation of the ABM Treaty. I call upon the administration to pursue that effort and pledge my cooperation and support.

SUMMARY OF ARMS CONTROL IMPACT STATEMENTS CONCERNING PERMISSIBILITY OF RESEARCH, DEVELOPMENT, TESTING, AND DEPLOYMENT OF BALLISTIC MISSILE DEFENSE SYSTEMS [1]

Fiscal year	Research	Development	Testing	Deployment	Other comments
1979		Yes fixed land based (LB) [99, 231] No as to all others [231] Art. V	Yes fixed land based [99] [231] No as to all others [231] Art. V	No Art. III & Agreed Statement (AS) E. No as to everything other than fixed land basedc. Art. V [231].	BMD program provides hedge against Soviet abrogation; if U.S. made technical advances with appearance of breakout capability, U.S. could prompt destabilizing competition in defensive systems. [98–99]
1980	Yes [100]	Yes fixed LB [76] [100] No as to all others Art. V. [100]	Yes fixed LB [76] [100] No as to all others Art. V. [100]	No Art. III & AS–E [76] [100] No as to fixed LB [100]	Should either side make substantial technical advances that give the appearance of an impending breakout capability, a destabilizing situation could result. [76]
1981	Yes [452]	Yes fixed LB [452] No as to all others Art. V. [452]	Yes fixed LB [452] No as to all others Art. V. [452]	No Art. III & AS–E [228] [452] No as to fixed LB [452]	The BMD potential of future DE weapons could eventually create a conflict with the obligations assumed by the U.S. under the provisions of the ABM Treaty. [451]
1982	Yes [393]	Yes fixed LB [195] [393] No as to all others (i.e. sea based etc.) [393].	Yes fixed LB [195] [393] No as to all others [353]	No Art III & AS–E [195–96] [353] No as to fixed LB [394]	Like other arms control treaties signed by the U.S., the ABM treaty makes provisions for withdrawal [93]. Absent the U.S. BMD R&D program, the prospects for Soviet advantage in BMD technology, or perceptions of Soviet advantages, could be increased. This would undermine strategic stability & could lead to an interactive offense-defense competition. [197]
1983	Yes [321]	Yes fixed LB [141] No as to all others [321]	Yes fixed LB [141] No as to all others [321]	No Art. III & AS–E [141] [321] No as to fixed LB [321–42]	U.S. BMD program hedges against Soviet breakout from ABM Treaty, & provides future deployment options. [139]
1984	Yes [265]	Yes fixed LB [133] No as to all others [266] No as to spaced-based when enters field-test stage [266–67].	Yes fixed LB [133] No as to all others [266] No as to spaced-based [266]	No Art. III & AS–E [133–34] [266] No as to fixed LB [266] No as to spaced based [266]	At the most recent 5-year review of the ABM Treaty in Dec. 1982, neither side proposed amendments to the Treaty at this time. [134]
1985	Yes [251]	Yes fixed LB [212] No as to spaced-based when enters field-test stage [252].	Yes fixed LB [212] No as to spaced-based [252]	No Art. III & AS–E [218] No as to space base [252]	U.S. BMD R&D program reduces possibility of U.S.S.R. gaining a meaningful advantage in BMD technology to match their unilateral and growing advantage in deployed capability. [214]
1986	Yes [38]	Yes fixed LB [36] No as to all others when entering field testing stage [36, 37] Art. V.	Yes fixed LB [36] No as to all others [36] Art. V	No as to sea based, space based etc Art. V. No as to fixed LB Art. III, AS–E [36]	The conditions under which the U.S. would consider withdrawal from the ABM Trety have never been fully elaborated. However, it is clear that in signing the ABM Treaty, the U.S. envisioned a relationship between offensive weapons & ballistic missile defense. Any SDI related deployment, in view of Treaty obligations, would have to be a matter for negotiation. [37–38]

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[1] Bracketed numbers refer to appropriate ACIS pages.

TRIBUTE TO TOMMY LEE WINEBRENNER

HON. BILL EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 11, 1985

Mr. EMERSON. Mr. Speaker, I join my many colleagues in paying tribute to a very valued and distinguished employee of this House, Tom Winebrenner, who, after 33 years of service, is taking leave of this institution.

With the exception of the Speaker, Mr. WHITTEN, the dean of the House, and several other Members of great tenure, Tom was here for the arrival of each of us and has seen the departure of many hundreds of our predecessors.

It is not unlikely that Tom has heard more words spoken in this Chamber than any other living person, with the possible exception of Luke Hicks and Lee Thomas, because the nature of his job required his constant attendance here. Members come and go to office and committee, but Tom was the constant "floor person," and he always knew what was "going on." "Part of the job," I'm sure he regarded it, but what a valuable service he has performed in his intimate knowledge of the workings here, his ability to sense the House, his knowledge of its history, the interaction of personalities, his ability to predict, to predict even the unpredictability of this sometimes temperamental body.

Tom's Hoosier upbringing is a matter of pride to him and well known to most who come in contact with him. It surprises many, therefore, when I tell folks that he and I first knew each other in high school. They say, "Oh, I thought you were from Missouri, not Indiana," or "If Tom is from Missouri, why does he tout being a Hoosier?" The fact is we both landed right here in this Chamber as teenage boys, pages in the 83d Congress. That was 1953. Ike was just beginning his Presidency. Our Speaker was a freshman that year, having taken the seat of John F. Kennedy who, as a result of the 1952 election, had just moved over to the other body. Speaker Joe Martin was commencing his second nonconsecutive term as Speaker, and Tom's benefactor, Charles Halleck, was the majority leader. The legendary Sam Rayburn was minority leader and the future Speaker, John McCormack, was the minority whip. Lyndon Johnson was a Senator, Richard Nixon the Vice President, Gerald Ford a four-term Representative, and the names of Jimmy Carter and Ronald Reagan were not yet exactly household words.

I cite this to establish more in terms of personalities than in years the frame in history during which Tom has served here in the people's House. What change he has observed from this special vantage. And what a wonderful, exciting role he has played, a part of it all, as a part of the unique fabric of the House.

Tom, you carry a wonderful lode of history with you, which I know you cherish. Your service will be missed. Please accept my heartiest congratulations on the accomplishment of such an outstanding first career, and all good wishes for all of your future endeavors.